PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

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

RECEIVED

26 FEB 18 P1:12

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

- **The Planning Commission Meeting will be at:**

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

- **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 or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department at least **24 hours prior** to the meeting will be posted as testimony to the Planning Commission's website prior to the meeting (https://www.kauai.gov/Government/Boards-and-Commissions/Planning-Commission). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.

IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR 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.

PLANNING COMMISSION MEETING NOTICE AND AGENDA
Tuesday, February 24, 2026
9:00 a.m. or shortly thereafter
Līhu'e Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Līhu'e, Kaua'i, Hawai'i

RECEIVED

26 FEB 18 P1:12

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUA'I

SWEARING IN OF NEW PLANNING COMMISSION MEMBER

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

1. December 9, 2025.

E. RECEIPT OF ITEMS FOR THE RECORD

F. COMMITTEE REPORTS

1. Subdivision Committee Report.

   a. Subdivision Application No. S-2026-1
   Hōkūala Resort Subdivision 1
   Tower Kaua'i Lagoons Sub 1, LLC.
   Proposed 10-Lot Consolidation and Re-Subdivision into 16-Lots
   TMKs: (4) 3-5-004: 100 – 109, Kalapakī, Līhu'e, Kaua'i

   b. Subdivision Application No. S-2026-2
   Hōkūala Resort Subdivision 1A
   2014 Tower Kaua'i Lagoons Golf, LLC. / Tower Kaua'i Lagoons Land, LLC. / Tower Kaua'i Lagoons Sub 7, LLC.
   Proposed 2-Lot Consolidation and Re-Subdivision into 15-Lots
   TMKs: (4) 3-5-001: 027 and 168, Kalapakī, Līhu'e, Kaua'i

G. HEARINGS AND PUBLIC COMMENT

1. **Continued Agency Hearing**

   a. None for this meeting.

2. **New Agency Hearing**

a. **CLASS IV ZONING PERMIT (Z-IV-2026-8) and VARIANCE PERMIT (V-2026-2)** involving a 20-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for parcels immediately adjacent to the Koloa Estate Subdivision, situated along the western side of Lopaka Paipa Boulevard in Koloa, , further identified as Tax Map Keys: (4) 2-6-014:041 & 046; 2-6-015:005, and containing a total area of 6.064 acres = **MAKAI KOLOA LLC. [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

1. Director's Report Pertaining to this Matter.
2. Transmittal of Agency Comments to Planning Commission.

b. **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-4)** to allow construction of a new single-family residence and associated site improvements on a parcel situated on the mauka side of Kūhiō Highway in Wainiha, approximately 350 feet west of the Alamihi Road/ Kūhiō Highway intersection, further identified as Tax Map Key: (4) 5-8-011:024 containing a total area of 5,940 square feet = **TIMOTHY J. QUINN. [Hearing Postponed, 2/10/2026].**

1. Director's Report Pertaining to this Matter.
2. Transmittal of Supplemental Information to Planning Commission.
3. Transmittal of Agency Comments to Planning Commission.

c. **CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3)** involving a 18-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for a parcel situated along the makai side of Ala Kukui'ula in the Kukui'ula Master Plan Community, approximately ¾-mile west of its intersection with Ala Kalanikaumaka, further identified as Tax Map Key: (4) 2-6-023:040, and containing a total area of 114.47 acres = **BBCP KUKUIULA DEVELOPMENT LLC. [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

1. Director's Report Pertaining to this Matter.
2. Transmittal of Agency Comments to Planning Commission.

d. **CLASS IV ZONING PERMIT (Z-IV-2026-11), USE PERMIT (U-2026-8) and SPECIAL PERMIT (SP-2026-3)** to conduct a guided agricultural tour operation involving a 5.4 mile excursion and associated improvements on parcels situated on the mauka side of Kaumualii Highway in Puhi, approximately 1,100 feet north of the Kaumualii Highway/Nuhou Street intersection, further identified as Tax Map Keys: (4) 3-4-001:002 (Por.), 3-4-005:003 (Por.), 3-8-018:002 & 003, and containing a project area of approximately 8.98 acres = **KILOHANA EXPEDITIONS INC. (KEI) [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

1. Director's Report Pertaining to this Matter.
2. Transmittal of Public Testimony to Planning Commission.

3. **Continued Public Hearing**

   a. Proposed amendments to the Special Management Area (SMA) Rules and Regulations. **[Director's Report Received, Hearing Continued, 1/13/2026].**

4. **New Public Hearing**

   a. None for this meeting.

H. CONSENT CALENDAR

1. **Status Reports**

   a. None for this meeting.

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

   a. **CLASS IV ZONING PERMIT (Z-IV-2026-12), USE PERMIT (U-2026-9) and SPECIAL PERMIT (SP-2026-4)** to construct and operate a solar utility facility on lands located on the mauka side of Kaumualii Highway in Makaweli, directly across of the Makaweli Post Office facility, further identified as Tax Map Keys: (4) 1-7-006:006 (Por.) and 010 (Por.), and containing a project area of approximately 269 acres = **KAAWANUI SOLAR LLC.**

      1. Director's Report Pertaining to this Matter.

   b. **CLASS IV ZONING PERMIT (Z-IV-2026-13), USE PERMIT (U-2026-10) and SPECIAL PERMIT (SP-2026-5)** to conduct a guided agricultural tour operation involving Unit 71 of the Moloaʻa Hui I Condominium, on a parcel situated along the makai side of Kuhio Highway in Moloaʻa, approximately 1,000 feet east of the Koʻolau Road/Kūhiō Highway intersection, immediately adjacent to the Green Earth composting facility, further identified as Tax Map Key: (4) 4-9-009:012 (Por.), and affecting a portion of a larger parcel containing 281+ acres = **JOSEPH SCHWARTZ.**

      1. Director's Report Pertaining to this Matter.

   c. **Amendment to SPECIAL MANAGEMENT AREA USE PERMIT SMA(U)-92-5, CLASS IV ZONING PERMIT Z-IV-92-22, USE PERMIT U-92-23, and VARIANCE PERMIT V-92-6** to allow renovations that would accommodate a mixed-use facility containing a banking operation, community event space, retail uses, and five (5) apartment units, and to allow deviations from the commercial development standards involving the existing facility on a parcel situated on the makai side of Kuhio Highway in Kapaa Town, further identified as Tax Map Keys: (4) 4-5-012:021, 022 & 043, and containing a total area of 26,998 square feet = **KAUAI FEDERAL CREDIT UNION.**

      1. Director's Report Pertaining to this Matter.

3. **Class III Zoning Permits**

   a. None for this meeting.

I. GENERAL BUSINESS MATTERS

1. Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's First Notice of Violation[s] for the operation of a Commercial Retreat in the Open Zone District, and Eight (8) Notice of Violation & Order to Pay Fines for the reestablishment of a Homestay Operation on the property located outside of a designated Visitor Destination Area, ***Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust,*** Tax Map Key (4)49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Boards & Commission as Contested Case File No. ***CC-2026-2.*** **[Deferred, 12/9/2025; Postponed, 2/10/2026].**

    a. Cheryl Cowden Schenck, Kauai Kai Diamonds Irrevocable Trust's Appeal of Orders of Violation of Violation:
        - Order 1 (Date referenced in Notice)
        - Order 2 (Alleged infraction on December 3, 2024)
        - Order 3 (Alleged infraction on September 23, 2025)
        - Order 4 (Alleged infraction on September 24, 2025)
        - Order 5 (Alleged infraction on September 25, 2025)
        - Order 6 (Alleged infraction on September 26, 2025)
        - Order 7 (Alleged infraction on September 27, 2025)
        - Order 8 (Alleged infraction on September 28, 2025)
        - Order 9 (Alleged infraction on September 29, 2025)
        - Order 10 (Alleged infraction on September 30, 2025)

    b. Transmittal of Additional Information to Planning Commission.

2. Request for time extension of **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2021-8)** for the development of an affordable housing project involving the construction of seventeen (17) housing units containing 8 duplexes and a single-family residence, and associated site improvements involving 2 parcels in Waipōuli, located along the makai side of Kūhiō Highway in the vicinity of property identified as 4-870 Kūhiō Highway, further known as Tax Map Keys: 4-3-009:051 & 071, and containing a total area of 36,861 square feet = ***Kaua'i Habitat for Humanity.***

    a. Director's Report Pertaining to this Matter.

3. Clerk of the Commission's Recommendation to Refer Appeal of the Planning Director's Cease and Desist and Forfeiture of TVRNCU #4219 and Special Permit SP-2011-13 (The Sugar House) for the Failure to timely renew by November 25, 2025, ***We Belong LLC,*** 3525 Anini Road, TMK: 53004029, Kilauea, Kauai, appeal dated December 19, 2025, for referral to Boards & Commission as Contested Case File No. ***CC-2026-6.***

    a. Appeal of TVR-NCU Renewal Cancellation (12/18/2025) from Hally Lazo, Kauai Island Vacations, INC.

4. Planning Director Kaaina S. Hull's Petition to Revoke Applicant ***Kimberly Bayless*** Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, TMK: (4)5-5-002:18, Hanalei, Kauai and Issue an Order to Show Cause and Set Hearing.

    a. Letter (2/6/2026) in response to the January 16, 2026, Petition to Revoke Non-Conforming Use Certificate TVNCU #1108 from Harvey L. Cohen, Attorney at Law on behalf of Ms. Kimberly Bayless.

    b. Letter (2/12/2026) from Harvey L. Cohen, Attorney at Law requesting Ms. Bayless' appearance be waived at the 2/24/2026 Planning Commission meeting with the understanding and consent that, referral as a contested case, is the action that the Commission may take in Ms. Bayless' absence.

J. COMMUNICATIONS

1. None for this meeting.

K. UNFINISHED BUSINESS (For Action)

1. **CLASS IV ZONING PERMIT (Z-IV-2026-9) and PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7)** to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/Waikomo Road intersection in Koloa, further identified as Tax Map Key: (4) 2-8-011:001 and containing a total area of 9.436 acres = **SK INVESTORS LLC. [Director's Report Received, 12/23/2025; Hearing Closed, Deferred, 1/13/2026].**

    a. Director's Report Pertaining to this Matter.
    b. Transmittal of Public Testimony to Planning Commission.
    c. Transmittal of Agency Comments to Planning Commission.
    d. Petitioners Friends of Maha'ulepu and Save Koloa's Petition to Intervene and, Alternatively for Denial of Applications; Declaration of Elizabeth Okinaka; Declaration of Bridget Hammerquist; Declaration of Llewelyn (Billy) Kaohelauli'i; Declaration of Gordon Labedz, M.D.; Declaration f Peg Ebata; Declaration of Laureen Naumu-Balocon; Declaration of Greg Iten; Exhibits "01"-"02"; Certificate of Service.
    e. Transmittal of Supplement No. 1 to Application; Revised Exhibit "E" to Planning Commission.
    f. Supplement #1 to the Director's Report Pertaining to this Matter.

L. NEW BUSINESS (For Action)

1. **CLASS IV ZONING PERMIT (Z-IV-2026-8) and VARIANCE PERMIT (V-2026-2)** involving a 20-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for parcels immediately adjacent to the Koloa Estate Subdivision, situated along the western side of Lopaka Paipa Boulevard in Koloa, , further identified as Tax Map Keys: (4) 2-6-014:041 & 046; 2-6-015:005, and containing a total area of 6.064 acres = **MAKAI KOLOA LLC. [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

2. **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-4)** to allow construction of a new single-family residence and associated site improvements on a parcel situated on the mauka side of Kūhiō Highway in Wainiha, approximately 350 feet west of the Alamihi Road/ Kūhiō Highway intersection, further identified as Tax Map Key: (4) 5-8-011:024 containing a total area of 5,940 square feet = **TIMOTHY J. QUINN. [Hearing Postponed, 2/10/2026].**

3. **CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3)** involving a 18-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for a parcel situated along the makai side of Ala Kukui'ula in the Kukui'ula Master Plan Community, approximately ¾-mile west of its intersection with Ala Kalanikaumaka, further identified as Tax Map Key: (4) 2-6-023:040, and containing a total area of 114.47 acres = **BBCP KUKUIULA DEVELOPMENT LLC. [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

4. **CLASS IV ZONING PERMIT (Z-IV-2026-11), USE PERMIT (U-2026-8) and SPECIAL PERMIT (SP-2026-3)** to conduct a guided agricultural tour operation involving a 5.4 mile excursion and associated improvements on parcels situated on the mauka side of Kaumualii Highway in Puhi, approximately 1,100 feet north of the Kaumualii Highway/Nuhou Street intersection, further identified as Tax Map Keys: (4) 3-4-001:002 (Por.), 3-4-005:003 (Por.), 3-8-018:002 & 003, and containing a project area of approximately 8.98 acres = **KILOHANA EXPEDITIONS INC. (KEI) [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

M. EXECUTIVE SESSION

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

1. Subdivision Application No. S-2026-1
   Hōkūala Resort Subdivision 1
   Tower Kaua'i Lagoons Sub 1, LLC.
   Proposed 10-Lot Consolidation and Re-Subdivision into 16-Lots
   TMKs: (4) 3-5-004: 100 – 109, Kalapakī, Līhu'e, Kaua'i

2. Subdivision Application No. S-2026-2
   Hōkūala Resort Subdivision 1A
   2014 Tower Kaua'i Lagoons Golf, LLC. / Tower Kaua'i Lagoons Land, LLC. / Tower Kaua'i Lagoons Sub 7, LLC.
   Proposed 2-Lot Consolidation and Re-Subdivision into 15-Lots
   TMKs: (4) 3-5-001: 027 and 168, Kalapakī, Līhu'e, Kaua'i

3. **CLASS IV ZONING PERMIT (Z-IV-2026-8) and VARIANCE PERMIT (V-2026-2)** involving a 20-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for parcels immediately adjacent to the Koloa Estate Subdivision, situated along the western side of Lopaka Paipa Boulevard in Koloa, , further identified as Tax Map Keys: (4) 2-6-014:041 & 046; 2-6-015:005, and containing a total area of 6.064 acres = **MAKAI KOLOA LLC. [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

4. **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-4)** to allow construction of a new single-family residence and associated site improvements on a parcel situated on the mauka side of Kūhiō Highway in Wainiha, approximately 350 feet west of the Alamihi Road/ Kūhiō Highway intersection, further identified as Tax Map Key: (4) 5-8-011:024 containing a total area of 5,940 square feet = **TIMOTHY J. QUINN. [Hearing Postponed, 2/10/2026].**

5. **CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3)** involving a 18-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for a parcel situated along the makai side of Ala Kukui'ula in the Kukui'ula Master Plan Community, approximately ¾-mile west of its intersection with Ala Kalanikaumaka, further identified as Tax Map Key: (4) 2-6-023:040, and containing a total area of 114.47 acres = **BBCP KUKUIULA DEVELOPMENT LLC. [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

6. **CLASS IV ZONING PERMIT (Z-IV-2026-11), USE PERMIT (U-2026-8) and SPECIAL PERMIT (SP-2026-3)** to conduct a guided agricultural tour operation involving a 5.4 mile excursion and associated improvements on parcels situated on the mauka side of Kaumualii Highway in Puhi, approximately 1,100 feet north of the Kaumualii Highway/Nuhou Street intersection, further identified as Tax Map Keys: (4) 3-4-001:002 (Por.), 3-4-005:003 (Por.), 3-8-018:002 & 003, and containing a project area of approximately 8.98 acres = **KILOHANA EXPEDITIONS INC. (KEI) [Director's Report Received, 1/28/2026; Hearing Postponed, 2/10/2026].**

7. **CLASS IV ZONING PERMIT (Z-IV-2026-12), USE PERMIT (U-2026-9) and SPECIAL PERMIT (SP-2026-4)** to construct and operate a solar utility facility on lands located on the mauka side of Kaumualii Highway in Makaweli, directly across of the Makaweli Post Office facility, further identified as Tax Map Keys: (4) 1-7-006:006 (Por.) and 010 (Por.), and containing a project area of approximately 269 acres = **KAAWANUI SOLAR LLC**.

8. **CLASS IV ZONING PERMIT (Z-IV-2026-13), USE PERMIT (U-2026-10) and SPECIAL PERMIT (SP-2026-5)** to conduct a guided agricultural tour operation involving Unit 71 of the Moloa'a Hui I Condominium, on a parcel situated along the makai side of Kuhio Highway in Moloa'a, approximately 1,000 feet east of the Ko'olau Road/Kūhiō Highway intersection, immediately adjacent to the Green Earth composting facility, further identified as Tax Map Key: (4) 4-9-009:012 (Por.), and affecting a portion of a larger parcel containing 281+ acres = **JOSEPH SCHWARTZ.**

9. **Amendment to SPECIAL MANAGEMENT AREA USE PERMIT SMA(U)-92-5, CLASS IV ZONING PERMIT Z-IV-92-22, USE PERMIT U-92-23, and VARIANCE PERMIT V-92-6** to allow renovations that would accommodate a mixed-use facility containing a banking operation, community event space, retail uses, and five (5) apartment units, and to allow deviations from the commercial development standards involving the existing facility on a parcel situated on the makai side of Kuhio Highway in Kapaa Town, further identified as Tax Map Keys: (4) 4-5-012:021, 022 & 043, and containing a total area of 26,998 square feet = **KAUAI FEDERAL CREDIT UNION**.

10. Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's First Notice of Violation[s] for the operation of a Commercial Retreat in the Open Zone District, and Eight (8) Notice of Violation & Order to Pay Fines for the reestablishment of a Homestay Operation on the property located outside of a designated Visitor Destination Area, ***Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust,*** Tax Map Key (4)49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Boards & Commission as Contested Case File No. ***CC-2026-2.*** **[Deferred, 12/9/2025; Postponed, 2/10/2026].**

11. Request for time extension of **SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2021-8)** for the development of an affordable housing project involving the construction of seventeen (17) housing units containing 8 duplexes and a single-family residence, and associated site improvements involving 2 parcels in Waipōuli, located along the makai side of Kūhiō Highway in the vicinity of property identified as 4-870 Kūhiō Highway, further known as Tax Map Keys: 4-3-009:051 & 071, and containing a total area of 36,861 square feet = ***Kaua'i Habitat for Humanity.***

12. Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Cease and Desist and Forfeiture of TVRNCU #4219 and Special Permit SP-2011-13 (The Sugar House) for the Failure to timely renew by November 25, 2025, ***We Belong LLC,*** 3525 Anini Road, TMK: 53004029, Kilauea, Kauai, appeal dated December 19, 2025, for referral to Boards & Commission as Contested Case File No. ***CC-2026-6.***

13. Planning Director Kaaina S. Hull's Petition to Revoke Applicant ***Kimberly Bayless*** Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, TMK: (4)5-5-002:18, Hanalei, Kauai and Issue an Order to Show Cause and Set Hearing.

14. **CLASS IV ZONING PERMIT (Z-IV-2026-9) and PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7)** to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/Waikomo Road intersection in Koloa, further identified as Tax Map Key: (4) 2-8-011:001 and containing a total area of 9.436 acres = **SK INVESTORS LLC. [Director's Report Received, 12/23/2025; Hearing Closed, Deferred, 1/13/2026].**

N. ANNOUNCEMENTS

1. Topics for Future Meetings.

   The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter, on March 10, 2026. The Planning Commission anticipates this meeting to be held in-person at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii. The Commission will announce its intended meeting method via an agenda electronically posted at least six days prior to the meeting date.

O. ADJOURNMENT

SPECIAL MANAGEMENT AREA (SMA) Minor Determinations

Date (Action)	SMA Minor Permit number	Location (TMK)	Activity/ structure
02.11.2026 (Approved)	SMA(M)-2026-19	Keālia (4-7-007:023)	Construction/ Gazebo and path.
02.13.2026 (Approved)	SMA(M)-2026-20	Wainiha (5-8-008:026)	Construction/ Individual Wastewater System (IWS)

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

February 24, 2025

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Development/Reasons
SSD-2026-20	John Murray Trust	2-6-003:015	Kōloa	Construction/ Single-family residence and associated site improvements. / Shoreline Certified 2/13/2025.

KAUA'I PLANNING COMMISSION
REGULAR MEETING
December 9, 2025
DRAFT

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Chair Francis DeGracia at 9:10 a.m. - Webcast Link: https://www.kauai.gov/Webcast-Meetings

The following Commissioners were present:

Mr. Gerald Ako
Ms. Helen Cox
Mr. Francis DeGracia
Ms. Glenda Nogami Streufert
Mr. Jerry Ornellas
Ms. Lori Otsuka

Excused or Absent

The following staff members were present: Planning Department - Director Ka'aina Hull; Staff Planner Romio Idica; Staff Services Leila Kim; Planning Secretary Shanlee Jimenez; Office of the County Attorney - Deputy County Attorney Laura Barzilai, Office of Boards and Commissions - Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Chair Francis DeGracia: Good morning. The time is 9:10. I'd like to call to order the Planning Commission meeting for December 9, 2025. Roll call vote, Mr. Clerk.

ROLL CALL

Planning Department Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Ako?

Commissioner Gerald Ako: Here.

Mr. Hull: Commissioner Cox:

Commissioner Helen Cox: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Jerry Ornellas: Here.

Mr. Hull: Commissioner Otsuka?

Commissioner Lori Otsuka: Here.

Mr. Hull: Commissioner Streufert?

Commissioner Glenda Nogami Streufert: Here.

Mr. Hull: Chair DeGracia?

Chair Francis DeGracia: Here.

Mr. Hull: You have a quorum, Mr. Chair. 6:0.

APPROVAL OF AGENDA

Mr. Hull: For Approval of the Agenda, the department would recommend an amendment to the agenda, whereby we're recommending Agenda Item K.1. be moved to directly follow G.3, those are both that would align the Kapalawai applications together.

Ms. Streufert: I move to accept the agenda as amended.

Ms. Cox: Second.

Chair DeGracia: Okay, Commissioners, motion on the floor is to accept the agenda as amended by the clerk. Any discussion before we go to a vote? Hearing none, could we get a roll call vote, Mr. Clerk?

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

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

MINUTES OF THE MEETING(S) OF THE PLANNING COMMISSION

Mr. Hull: Next, we have Minutes of the Meeting, the Planning Commission from September 23rd, 2025.

Ms. Otsuka: Motion to approve the Minutes of the Meeting of the Planning Commission dated September 23, 2025.

Ms. Cox: Second.

Chair DeGracia: Commissioners, motion has been made and seconded to approve the minutes for September 23rd, 2025. Any discussion before we go to a voice vote? Hearing none, let's take a voice vote. All in favor say aye. Aye (unanimous voice vote). Opposed. Hearing none, motion carries. 6:0.

RECEIPT OF ITEMS FOR THE RECORD

Mr. Hull: Next, Receipt of Items for the Record. We did receive a number of testimonies after the agenda was published, which reflected on the agenda notice, but at the Chair's discretion, you want to take a recess to review the testimonies received after publication of the agenda.

Chair DeGracia: Okay. Thank you. It looks like the Commission would like to take a 20-minute recess to review the, all of the testimony we just received this morning. Thank you.

Mr. Hull: We're reconvening at 9:30.

The Commission went into recess at 9:12 a.m.
The Commission reconvened from recess at 9:31 a.m.

Chair DeGracia: Thank you for your patience. I'd like to reconvene the Commission meeting.

Mr. Hull: Next up we…(audio was cut off).

COMMITTEE REPORTS

Subdivision Committee Chair Gerald Ako: Good morning. The Subdivision Committee met this morning. We had four items on the agenda, I think two of them were commercial properties, two were private properties, all were approved. One item of, that may be of, I guess of interest would be, was the Subdivision of the Sueoka Store Expansion Project. So, with that, if you have any questions.

Chair DeGracia: Okay, Commissioners, seeking a motion.

Ms. Streufert: Is this too…I move to approve the minutes of the Sub Committee, Subdivision Committee Report.

Deputy County Attorney Laura Barzilai: Just the report. You move to approve the report, Commissioner?

Ms. Streufert: Oh, yes.

Ms. Barzilai: Thank you.

Ms. Cox: Second.

Chair DeGracia: Okay, Commissioners, motion on the floor is to approve the report for the Subdivision Committee meeting. We'll take a voice vote for this one, if there's no further discussion. Okay, we'll take a voice vote. All in favor say aye. Aye (unanimous voice vote). Opposed. Hearing none, motion carries. 6:0.

HEARINGS AND PUBLIC COMMENT

Continued Agency Hearing (None)

New Agency Hearing

Mr. Hull: Next up we have Item G.2. New Agency Hearing.

> SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-3) involving the construction of a single-family residence, garage, and associated site improvements within Lot A, involving a parcel situated along the makai side of Lawai Road in Kukui'ula, approx. 800 feet east of Spouting Horn Park, further identified as Tax Map Key: (4) 2-6-003:015 containing a total area of 8,118 square feet = **JOHN H. MURRAY TRUST**.
>
> 1. Director's Report pertaining to this matter.

Mr. Hull: We have one member of the public signed up to testify. Roslyn Cummings. Ros Cummings.

Unknown Male: She coming.

Ms. Roslyn Cummings: Aloha and good morning. My name is Roslyn Nicole Manawai'akea Malama Mare Cummings. Noho au Kalāheo ahupua'a. I'm here to testify and petition this matter, 2.a., the parcel known as the John H. Murray Trust. I wanted to make sure that I bring in the law, so I work and make sure that the hierarchies of law, which is God's and nature's law come first, then you have international law, where treaty law comes in, and the Hawaiian Kingdom Law, and then everything follows after, especially domestic law (inaudible) constitution. I'm here to put it on the record, for the record that all attorneys that hold a bar license will be held liable if any law is broken and violated. Ignorance to the law is no excuse, maximums of law. I'm bringing in the revolution of law because this area is culturally sensitive. It's literally 800 feet in Spouting Horn, this will be used at record and evidence. Under the evidence of law and rule of law. I just want to make sure you guys understand, this is in the Kōloa ahupua'a, on Lawa'i Road. When they first started doing construction in the area, and I'm pretty sure the county is well

aware if they're not, I'm going to put you guys on notice right now, the entirety of that area was iwi because it's an old village site, fishing site, and not only that, multiple units in the area breach on a cave systems. And how I know this is because of the septic and cesspool conversions. So, a lot of the units surrounding this entirety of the coastline breach caves about 20ft in depth, and you guys know this because they had to update a lot of the systems since Covid. And what happened was when they dropped all the systems in, they could see that the water was…and the waste was leaking right into the ocean. So, that's already a violation of law. Another one is, I would like to county to start submitting title reports and have it in the actual agenda for us to review as a, as a public. So, that's all I want to say about that. And then the cultural practices, it's in the State Constitution, Article 12, Section 7, the State of Hawai'i has no right to take away a practice that they did not give us. The Constitution supersedes any county ordinances. So, I just want to put that on the record. Mahalo.

Chair DeGracia: Thank you for your testimony.

Mr. Hull: We don't have anyone else signed up to testify on this agenda item. Is there any member of the public who would like to testify on this agenda item? Seeing no further testimony, the department will recommend closing the agency hearing.

Ms. Streufert: I move to close the agency hearing.

Ms. Cox: Second.

Chair DeGracia: Commissioners, motion on the floor is to close the hearing for this agenda item. We'll take a voice vote. All in favor, say aye. Aye (unanimous voice vote). Opposed. Hearing none, motion carries. 6:0.

Mr. Hull: And this agenda item will be, this item will be further reviewed at a subsequent portion of the agenda. Given the rest of the matters before the Murray case are leading to potential litigation, will turn the clerking over to the attorney. Thank you.

Continued Public Hearing

Ms. Barzilai: Good morning. We're on Item G.3., Continued Public Hearing.

> County Zoning Amendment (ZA-2026-2): A petition for a bill to rezone approximately 171.72 acres of real property situated at Kapalawai, Makaweli, Island of Kaua'i, State of Hawai'i, identified by Kaua'i Tax Map Key (4) 1-7-005:001 from the resort district to the agricultural and open districts, the zoning designations that existed prior to Ordinance No. PM-2001-356, as amended = **COUNTY OF KAUAI, PLANNING DEPARTMENT. [Hearing continued, 11/10/2025)**.
>
> 1. Petition for Zoning Amendment; Declaration of Kaaina S. Hull; Exhibits "A" - "X", Certificate of Service.
> 2. Respondent Kerzner International Management Services Hawaii, lnc.'s Consolidated Statement of Opposition to (1) the Petition to Rezone; and (2) the Petition to Revoke Permits and Request for Contested Case

Hearing; Exhibits 1-23; Declaration of James Ratkovich; Declaration of Jeffrey Overton; Declaration of Max W.J. Graham; Certificate of Service.

3. Respondent Robinson Family Partners Opposition to Petition for Zoning Amendment.
4. Transmittal of Public Testimony to Planning Commission.
5. Transmittal of Agency Comments to Planning Commission.

Ms. Barzilai: And at this time, we will call up those who have registered for public testimony.

Chair DeGracia: Just like to say a couple of words concerning the testimony. We'd like for everyone to have an opportunity to testify this morning on this agenda item. So, and I also don't want to interrupt anybody. You'll be allowed three minutes for testimony, but we will give you a 30-minute signal so you guys can close up your testimony…oh, 30-second, I'm sorry, 30-second signal, so you can close up your testimony. Also, if you run out of time, we are going to be asking if you'd like to testify one additional time after everyone else has testified.

Ms. Barzilai: Thank you, Chair. First, we have Steve Parsons. Please state your name for the record.

Mr. Steve Parsons: Yes. Good morning. My name is Steve Parsons. And yeah, I have submitted some written testimony. I'm testifying as an individual today, although I volunteer with a lot of environmental groups, Surfrider and Kaua'i Climate Action and Kaua'i Board of Realtors and a national one too. So, I am, you know against Pakala resort for just, you know, I don't think anybody's keeping up with the science very well here and got a couple little hashtags here for reef sake, you know, no building there. I have submitted some testimony there, written and just breezing through that super quick. But I am super proud of our county, our Planning Department in particular. They are recognized as world leaders in smart planning. And they do look at the science, and they try to create win wins. So, I thank and commend that department in particular, and then the county in general for supporting these amendment changes. A lot's changed since the zoning was originally switched, right. Sea level rise. Even since the last hearing we have a sea level rise disclosure item that's developed by U.H. and it was sort of set with stale data at 3.2ft of sea level. In between our last hearing and this hearing, it's already gone up to four, but it's not static. So, every couple of years it'll be going up. So, the area that we're talking about doing is just it's not feasible. And I know there's some EIS' out there, but I'm not sure those EIS' are keeping up with the latest science, you know, we're bringing in like twice the trash and plastics every year or so on our beaches more than the state of Washington. And that's just what's hitting our beaches, right. Nobody's seeing what's happening with the coral underneath. And coral, again, worldwide are sort of at a tipping point and anything that's going to harm them, one, the development and there's some kind of catastrophic rain event that we have seen here multiple times that could just completely destroy whatever is hanging out, lingering on the coral reefs there. So, we've already had a lot of beach loss to where, in fact, we're, there's a report from our government that basically within a year, it says, 81% of sandy shorelines could be lost by the end of the century, and 40% of that loss occurring within the next five years. So, we have tremendous erosion going on. And the counter to that is to actually build dunes and plant…

Chair DeGracia: 30 seconds.

Mr. Parsons: …with native, you know, soils. So, as I as I wrap up here, I think, certainly not opposed to something mauka, not makai. And I would just encourage, I just feel like the family's gotten bad advice over time, you know, they've got posturing attorneys here that just, that doesn't feel good. I would just, I'd encourage the Robinson family just to fire their attorneys, go have a beer with the mayor, drink some coffee and try to figure out something that could work, some kind of eco resort…

Chair DeGracia: Time.

Mr. Parsons: …upcountry, that's zero, zero impact. Thank you so much for your time.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Next, Bruce Pleas. Bruce, are you here? Please state your name for the record. Mr. Pleas, if you have exhibits, you have to make them available for the public as well. Do you have extra copies?

Mr. Bruce Pleas: Just a second. I could not hear you.

Ms. Barzilai: If you have exhibits to offer, you have to make them available to the public as well. I'm happy to forego my copy. Do you have extra copies?

Mr. Pleas: I have 15 to you and I hope this is not my three minutes.

Ms. Barzilai: No.

Mr. Pleas: I have 15 to you. If there's extras, they'll go out. I have one with me and they are just for your information, they are what he was talking about. You can put this on the three minutes, then. Okay, Bruce Pleas for the record. First, I'd like to thank the Planning Commission and staff. You guys, anybody that thinks you don't do anything, has to read the 5,717 pages that were in the packet, 20 years ago, they were 200. So, we'll go from there. Okay. This deals with directly with this item. This info is from the October 12th, 2007 Annual Status Report. One, it says the Shoreline Survey revised was submitted on February 23rd, 2006. This is, and the farther down they go on April 2006, which was actually, I submitted this in May, a certified shoreline was appealed. This says that the shoreline was certified on April by April 2006. That is one of the questions we have here. Certified shoreline is good for one year, in this time my appeal put a hold on the one year. My appeal by law is only good for 60 days, can be extended to 120. I never received anything from DLNR, (inaudible), anything after I submitted my appeal, so therefore I assume that was denied. Therefore, this was resolved back then. This should have been before the Planning Commission 18 months after this was done. We are now 18 years later. There is no way these shoreline surveys, my appeal, can even exist. And so there we go, you know, everything should have stopped and there's no information on it. So, as far as I see, it's been 17 years since this should have happened. As for what I put out to you, is the latest flood of that area. It shows that at least 80% of the proposed buildings will be in a flood zone. I've been down there since 1970, used to have to walk in…

Chair DeGracia: 30 seconds.

Mr. Pleas: …that you used to have to walk in. I have seen water cover almost the entire area. I have seen walking down 10, 12ft of water, come over the streams and go in. So, you know, I'll just leave it at that. I will request three more minutes later on. And, but the basic I have presented to you is that it should have been done decades ago.

Chair DeGracia: Three minutes.

Mr. Pleas: Thank you.

Chair DeGracia: Thank you.

Ms. Barzilai: I'm sorry if I can't read your first name. Ponoha Kekaualua III?

Mr. Punohu Kekaualua III: Aloha, Punohu Kekaualua III. My testimony. My name again, konohiki descendant and ho'olina era of these lands. I stand here with the weight of my kūpuna behind me. Kapalawai is not a development parcel. It is an ancestral estate, a burial ground, a loko i'a, kauhale, a place where generations live, fed their families and return to the earth. And let me say this clearly, Kapalawai is not defined by the borders or assumptions of any modern entity. This 'aina existed long before the state was created, and our kuleana to protect it comes from the mo'oku'auhau from our ancestors, not from political lines on paper. When decisions are made here, you are not just touching land, you are touching the resting places and responsibilities of our people. The permits were issued over 20 years ago under outdated standards, incomplete studies and without the protections that today's laws demand. And let us be clear, there is no clear metes and bounds. There is no verified chain of title. There is no complete cultural of burial record. Any developer or investor attempting to move forward under these shaky foundations is setting themselves up for failure, legally, financially and morally. You are entering a place where the 'aina, the ancestors and the people will push back, and once iwi are disturbed, no corporation, no fund and no insurance policy can shield you from that consequences. If you proceed without truth, without respect, and without lawful clarity, you will be building on liability, not land, and you will carry the burden long after today. Our konohiki descendants and families are protectors. We protect the resources, the people and the generations who are not yet born. Our kuleana is inherited and vested and we do not walk away from it. So, I am demanding. I'm not suggesting that this Commission revoke the permits, open a contested case hearing, protect Kapalawai, protect the people and protect the unborn. Do not let your names or your legacy be tied to the irreversible harm to this 'aina. Mahalo.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Gordon Labedz.

Mr. Gordon Labedz: Good morning, Council, I mean, Planning Commission, Planning staff. My name is Gordon Labedz. I spoke to you last month about the pollution at Pakala Bay, but for this particular vote, I was thinking about how I remember 20 years ago when the Council made the vote to put a kill switch on this zoning. And I wanted to share that with you because many of you weren't here at that time. What the Council was thinking was they drove by Coco Palms regularly. Coco palms is a problem for you guys because they've got the zoning and they also, there was like a couple thousand vacation units already approved that hadn't been built and the thinking was, we don't want to another Coco Palms and we've got enough vacation rentals. And

that's why I think this is an important vote, just as a precedent is like, if you're not going to build something, you lose the zoning. That's a good system. So, I just wanted to share that little two cents. Thanks for listening.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Nicole McKamey.

Ms. Nicole McKamey: Hi. Thank you. My name is Nicole McKamey. I'm here to testify on behalf of the surfers and surfing culture. I grew up in surfing culture. Different in different places, but there's a couple of things that are really important. As surfers, we have a deep history of adventure and exploration, finding waves, finding places, word of mouth, going with friends, building community, right. We have a respect and a reverence for our surf spots and the places and the beauty and the nature that's around them, this is very, very important to us. I've traveled many places in the world and have friends that travel to places that have surf resorts, okay, so with surf resorts, you really taint the surfing culture, the true culture of the history of surfing becomes tainted when people feel entitled, entitled to a spot, entitled to just show up and surf the waves, you know, you see people. So, what's going to happen when Pakala goes flat and all those surfers that are there at the surf report…at the surf resort, they're going to load up in their vans and they're going to be taken, shuttled around to all the other different spots. Large amounts of people just being, here you go. You know, when I grew up, we had to earn our spot in the lineup through skill, through community building, you know, friendships, camaraderie, etiquette. With these surf resorts, you see things like, for example, like in Indonesia, you see people getting pushed in by their coaches that don't even belong out there. You know, you see people with low skills. You know what if, what if you get a van load of people that come from Pakala and they go to surf Polihale and somebody drowns, right?

Chair DeGracia: 30 seconds.

Ms. McKamey: Thank you. I think that's about it. I think it's really important to consider what it would mean to our island. Also, as far as the algorithm, when we have a surf resort on our island, we're going to have people coming openly, being shown all of the places. So, that's really important to us as a community. Thank you.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Ken Denton. There are copies available for the public if anybody is interested. Thank you, Mr. Denton.

Mr. Ken Denton: Hello, my name is Ken Denton. Kenneth Denton, 49-year resident, family man, surfer, paddler, construction worker. Listening to all the testament from the last couple meetings, one can really see how much emotion and westside community has on the value of this coastline, recreational resource, Pakala surf spot, cultural significance. Sometimes you see entire family out there, three generations, so it's a very special place and there's not many places like it, not many open, undeveloped beaches anymore. We really need to save this one for the future, for preserved future generations to enjoy. I'm not for development, but we need it in some fashion to keep our economy going here. I'd like to enter into this discussion kind of a win-win idea. If they're going to have to build something somewhere on the west side, there's other, other and

better locations along their coastline that have safer building sites to make a resort, out of risk of floods, tsunami and higher building costs of building in such areas and won't have the negative impact that this place will offer the west side community. Like many people, I do feel the Robinsons deserve to have the right to develop somewhere on their property along their coastline. They have other. They've been good guardians of their land. Diversified could help the west side economy, if done right, but this isn't the spot to do it, too valuable, it's a spiritual and recreational resource. Looking on the map, paddling along the coastline many times, there's several really good other options along their coast. Both sides of Kaumakani, especially just east, little valley, where the sailboats anchor, is an option, you could build on high ground, close to the ocean, views in all directions, see all the way to the south shore, to the west side, out to Ni'ihau and your cost would be protected, you wouldn't be in a tsunami zone. You actually have room for a golf course and other activities, possibly a walking…

Chair DeGracia: 30 seconds.

Mr. Denton: …path to Salt Pond. So, there are opportunities in this area if we're going to develop. That's the point I want to throw out for people to listen to and save this coastline. Maybe it could be rezoned to a conservation area for cultural significance, recreational and spiritual, just open space. So, that's just my opinion after listening to everybody's testimony over the last two meetings. Thank you very much for your time.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Bonnie Bator.

Ms. Bonnie Bator: For the record, Bonnie Bator, matriarch of my ohana, Keana`aina, Keli`ikoa, Ka`aokamalie, and Kai and Overo, I'm a great grandmother. I don't want to take away my three minutes to apologize for you guys that I only have one copy, but moving forward. Mahalo plenty, all y'all, for supporting the petition for bill to rezone to agriculture and open the 171.72 acres at Kapala. Excellent. The zoning design prior to the Ordinance No. PM 2001-356, as amended by the County of Kaua'i Planning Department. Again, mahalo to support the Zoning Amendment TMK 41-7-005;001 from resort district to ag district and open districts which existed prior to the ordinance number PM-2001-356, as amended by the County of Kaua'i Planning Department. Mahalo for the opportunity to present our mana'o. And last but not least, I see this on your da kine, Number 2, is like the respondent, Kertzer International Management Services, Jeffrey Overton, good ole G70, who's been the consultant. So, there's big bucks in this. And you know I speak for our first responders. I don't know about you guys. You don't hear them going 24/7. These...we have enough resorts. Our children are taking their lives. I worked in the DOE for 20 years and went to multiple memorial services for our children taking their lives. There is not enough K-PAL, wrestling. I had my granddaughter in that keiki junior lifeguard. We need something for our children. Enough resorts. Let's focus on our keiki. It might not be our biological children, but our children need stuff and we have plenty resorts. The traffic gridlock, like that tsunami drill. Truth in July, there's enough cars on this island to be bumper to bumper from Hā'ena all the way to Polihale. We have enough resorts. We don't need any more.

Chair DeGracia: 30 seconds.

Ms. Bator: …let's focus on our keiki. Mahalo nui, and I'm going to give you my measly, I hope you guys can read it. It's kind of horrible handwriting. Happy holidays. (Inaudible) Makahiki. Mahalo.

Ms. Barzilai: Helena Huffman.

Ms. Helena Huffman: I have nothing to add at this time. I'd like to just (inaudible).

Ms. Barzilai: Thank you, Philip Keat.

Mr. Philip Keat: Thank you very much for allowing me to testify. I'm Philip Keat. I'm the Vice Chair of Robinson Family Partners. I didn't, knowing I had three minutes. I didn't get to finish my testimony last month. And I just wanted to say that in my written testimony, I addressed why this project has taken so long. So, if you could read that, it tells you in great detail what's happening. I just want to say again that we are an agricultural company. We're not a resort company, but we do need this resort to keep us and help keep us in agriculture and to give us some money to preserve the 300 affordable housing units that are in, in rough condition that we need to keep, keep those things in good shape for our employees and other people that work for us. So, saying that we are in agri…well, you know, that we're, that agriculture is a…it's a tough business. And I want to say that we just recently lost our largest agricultural tenant. They've moved away. So, this resort, if you help us with this, this will help keep us in agriculture, food security. So, thank you very much.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Rick Robinson.

Mr. Rick Robinson: Good morning. My name is Rick Robinson, but I am not a member of the Robinson family. I just have the same name, but I just want to clarify that. I got involved with Kapalawai in 2019. Fortunately, my career has been in leasehold property in Hawai'i, been doing that for 40 years, and I know Phil Keat. Phil Keat said that they had this property at Kapalawai. It had requests for development on the property, and the Robinson family was committed to keeping it in a leasehold condition. They did not want to sell the property. And so, I worked with Phil and we talked to Hyatt, Miravalle, McWhinney, collective retreats. There was tent camping, six senses, but everybody there that came in with a proposal wanted somebody else to build it, and then they would operate it. So, there was not the commitment to fund. I asked in 2001, I asked Phil, can I go out and find you a developer who will also be an operator? And the Robinson family agreed, and I approached Kerzner. Kerzner has a series of hotels throughout the world called One and Only, and they had always wanted to be in Hawai'i, they had always wanted to be in the United States and had never done it, never pushed forward with that. I reviewed the general plan, I reviewed your regional plan and the entitlements for the property, and I proposed it to Kerzner. And Kerzner got very excited. They really liked the opportunity of developing on Kaua'i. They really liked the property. And so, they came, they toured the property, and when I say, they came, not the higher ups, but the people that do the day to day work. In touring, they were very much impressed. And so, they, they said, but we're going to need a developer. Fortunately, we're able to connect them with Mana Olana, who's done a lot of development here in Hawai'i and understands the process. And so, they got involved and we

worked together through Covid. It's kind of interesting. We were able to use the Zoom call capabilities to work together with Kerzner from Dubai, where they are, and then London, and then also some people in New York as well as us. We would have calls and work through this, and we created a lease and a development agreement, and then it gives a certain period of time to comply with the development agreement before the lease is issued, although it's signed. And so, there were…

Chair DeGracia: 30 seconds.

Mr. Robinson: Okay. And in looking at this, they wanted to decrease the number of units. They wanted to create a resort that would integrate with the environment. And they were very much impressed with all the activities around the property. So, I hope you give it good consideration. It would be a good economic engine for the people in Waimea and help them instead of standing in that long line of traffic every morning. Thank you.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Donald Goddard.

Mr. Donald Goddard: Good morning. Aloha. Thank you for listening to me. I just like to say that I'm a transplant. I got here in like 1972, and during that time I drove a tour bus for 44 years. When I first came here, there was something about Kaua'i that was familiar to me. And then it finally dawned on me that I grew up in Orange County, California, and if you just transposed all those orange trees and replaced the sugarcane with orange trees, reminded me very much about how I grew up, small, rural community. Believe it or not, that's how Orange County was at one time. So, you can see what happens when agriculture goes out and development comes in. We've heard testimony that agriculture is very difficult, and I agree it probably is. But there's also agrivoltaics, and what I suggest that they might consider is a solar farm, and underneath the solar panels, you can herd sheep and cattle. And it's, it's, it's a good combination of technology and agriculture. During my time here, I've been fortunate to be able to build a home and so I'm a little bit familiar with building requirements and zoning and I just couldn't ignore the requirements of my zoning. In other words, if my zoning and my property says I can only build two houses, I can't build three and then just ignore, you know, maybe they'll forget about it, you know. I don't see how this could be a surprise to the…

Chair DeGracia: 30 seconds.

Mr. Robinson: …developers of this project. They knew from the get go, that they had 18 months, is it, to complete their project. So, I mean, why do they think they couldn't, they could just keep going and then spend millions of dollars and just ignore, ignore this kind of a building requirement. I just don't understand how that, that could escape their note. So, thank you for listening to me, aloha.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Roslyn Cummings.

Ms. Roslyn Cummings: Kala mai, sorry. Aloha. My name is Roslyn Cummings. I'm a ho'o elina, hoa'āina, mo'opuna wahine of Makaweli ahupua'a. I appear today under special appearance as a non-consenting party. I'm here to petition this agenda item because of Violation No. 1, failure to disclose conflict of interest under my rights of the Hawaiian Kingdom Law, HRS Section 1-1, Hawaiian uses, HRS Section 7-1, Native Tenant Rights, HRS Section 172-11, LCA Heirship Rights. Article 12, Section 7, 1860 Kingdom Burial Law, Ka Pa'akai, (inaudible), jurisprudence. The violation, Commissioners have not disclosed conflicts involving Robinson family partners, developers, or prior SMA zoning approvals that directly affect the Makaweli ahupua'a, known as the area of Kapalawai. The law violated HRS Section 92 Transparency, Fiduciary Duty Under Equity, and Kingdom Konohiki Law, Bar RPC 1.71.88.4 conflict, dishonesty and misconduct. I will utilize this meeting with the public, and I'm going to gather the public signatures out there as witnesses to this testimony petition that this violation not only violates the native tenant objection, the burial evidence introduced, and land title challenges. So, I know from fact that the attorney representative stated that this land was given to the Robinsons or sold to the Robinsons from Victoria Kamamalu, that is not possible. In the great Mahele of 1848, the land division was konohiki, Crown lands and government lands that all belong to the Hawaiian Kingdom and Hawaiian Kingdom is a people, doesn't belong to the ali'i. The ali'i's kuleana was to oversee, and I know this as a descendant of these people in specific categories. So, there's no way that the Robinsons have clear title to this land. And the only reason why I state this on the record is because I want to make the record known. Hopefully this is transcribed. I also want to bring in the fact that it was told to me and shared with me through my family, who's no longer in the area, the Robinsons in the year, yeah, they have removed burials because the burials along the shoreline were bones that turned into 'ōne, and those sands was used to make the paint for the construction of the houses and the reconstruction of the houses, what's called remodeling. So, there's no way that on family that's been here for about a hundred years can say that they have a kuleana to stewardship. That means they have no respect to our ancestral burials.

Chair DeGracia: 30 seconds.

Ms. Cummings: If you have no respect to our ancestors, that means you have no respect towards us. Now, the county has an obligation to us as kānaka to protect the burials. And in the past years, I've noticed the county's ignorance towards the protection of our burials. And it's written in the Law of 1860, the Law of (inaudible). And if you want to bring in God's law, let's talk about this, in the Bible of the foreigners, yeah, there's Genesis, for us, we have the Kumulipo. It didn't say anything in there that says you take ownership, it says dominion. Please look that up in law. What I'm here to protect is the waiwai natural resources that surround this. And please look at my testimony because I explained everything in there. Mahalo for your time.

Chair DeGracia: Okay. Thank you for your testimony.

Ms. Barzilai: Okay. There's no one else signed up. Is there anybody else who would like to speak right now? Public testimony. Please, sir. Thank you. Please state your name.

Dr. Carl Berg: My name is Dr. Carl Berg, Senior Scientist of the Surfrider Foundation, Kaua'i Chapter. I have submitted testimony in advance. I would just like to point out that Surfrider admission here is the protection and enjoyment of the ocean, the waves and the beaches. The…looking at this area as a scientists, we find that this coastline is not sustainable for any kind

of development because it is so permeable, so that any kind of development in there, the wastewater runoff, fertilizer, pesticides would percolate directly down into the sand and into the water and go out on the reefs and kill the reefs. We think here that this development is not protected by future development. From the EIS that was filed 20 years ago, legally, something that old cannot be used again to justify the development. So, before any other kind of development is proposed, besides the agriculture, I think a EIS must be produced to show in light of the new knowledge of climate change, infrastructure problems, and especially wastewater problems, that this is not a suitable place for any sort of development. Thank you for the ability to testify, and you do have my written testimony.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Thank you. Before we open it up for an additional three minutes, is there anyone else who would like to speak? Yes, sir.

Mr. Randy Uyehara: For the record, my name is Randy Uyehara, and 40 years ago, over 40 years ago, I started working for the Gay & Robinson Plantation. I worked in the ranch. I retired when my wife became ill and I was, I still am a member of the Kaua'i County Farm Bureau. Because of the Kaua'i County Farm Bureau, I had to volunteer and serve on the Public Access Open Space Commission from 2007 to 2009, I served with him when he was a, I guess, assistant, but we had issues where companies or landowners would try to take away access, and in this case, access has been granted, but will be improved with, I'm told, parking area, showers and a public restroom. So, I've been surfing Pakala for 50 years. I was able to raise my family. Working for the plantation and the ranch, and I've learned some things. I was called many times in the middle of the night to go help put that cattle that got out of the pastures because the gates fell down, or someone had pushed the fence down because they wanted to go surf. And I remember my brother telling me when he was young, they had to walk from Waimea River on the sand to go surf Pakala. I remember having to dig holes, make a gate so surfers could walk through and go to Pakala and I wasn't too happy about that, but at the time, I guess they felt it was better to just have people using one path instead of trespassing all over…

Chair DeGracia: 30 seconds.

Mr. Uyehara: …the different areas. I think we need some kind of business on the west side. We only have less than 1% of all visitor accommodations on the west side. Businesses in Waimea and Hanapēpē need the additional support. Our schools and our hospital are now improved and able to handle more people. Thank you.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Chair, you'd like to open it up for a second, three minutes?

Chair DeGracia: Yes.

Ms. Barzilai: Okay. If you'd like another opportunity to speak for an additional three minutes. Somebody wants to speak for the first time? Please. Thank you.

Mr. Teddy Rentrop: My name is Teddy Rentrop. I've lived on the west side for over 40 years. I submitted a letter in November with my views. I recognize that the Robinson family needs an income to sustain their agriculture business. However, it's my belief that some of the, what's proposed for development be…remain in agriculture, that if Robinson wants to develop west of A‘akukui Stream. It's my opinion they should be allowed to do that. The area between A‘akukui and Mahai Kona Stream, which is that one low land, really low land area, they should leave it undeveloped for the agriculture conservation. Have you ever walked down the trail and looked west? It is spectacular. You could be somewhere else in the world and not recognize that you're on Kaua'i. It's one of the last long beaches that is left on the west side, besides the desolate, you know, Kekaha to Polihale. So, those are my opinions that that area between A‘akukui and Mahai Kona be left as is. Thank you.

Chair DeGracia: Thank you for your testimony. Okay. Do we have anyone in the audience that would like to testify for the first time? Please approach the mic, state your name and you have three minutes.

Mr. Koa Young: Hello, my name is Koa Young. I was here last time. I don't know if that's still on the record, but it should be. I just want to add that everything's crowded and it's crowded with tourists. We don't need more tourism. Even the west side has a ton of tourists. That's...you see a bunch of businesses that use tourists as their primary source of income. So, we have a lot of tourism already. And another hotel isn't the answer. It's not going to make things better. Thank you.

Chair DeGracia: Okay. Thank you for your testimony. Okay, anyone would like to testify for the first time, please approach the mic, you have three minutes. Okay. Seeing none, if there's anybody in the audience would like an additional three minutes, please. I believe, gentleman in the back.

Mr. Pleas: Bruce Pleas for the record. This will deal with the SMA Use Permit, SMA(U)-2002-6, The…they…from what I understand and what I've read, they have a two year time period and it expired, this one in 2004. The SMA extension request was made after the fact, one year after it was over and it was for one year. It was made after the fact. So, they already had gone over, they…the SMA was void and they had got an extension. They were late in coming, I think it was 18 months they were late in coming and they got extension out to 2008 and that was it. That's as far as it got. And also has there been annual reports to the Land Use Commission, State Planning Office and the County of Kaua'i Planning Department since 2007? Those are mandated by both by the LUC and the Planning Department. If you haven't received those, then to me that means they gave up on this. And also to, you talk about the economy. They say that the resort failed a few times because the economy and tourism went down. Guess where we're at again, look at the numbers going down. Why are we thinking of building anything right now? And I am…Robinson's, I agree, they could use a third leg on their stool, but this is not the place to build it. I…they said 2000 General Plan, I participated in that, (inaudible) was there, you can look at the record. I was one of the main participants in the public was there, this and Waimea Plantation Cottages were inserted as resort areas. We tried to get them out, couldn't, they were inserted, they stayed there. The EIS, 20 years ago, of course it needs to be redone, they're not good after 20 years, but it stated 3 million gallons of fresh water went into the bay. And look at the reef configuration. The reef comes in Pakala, po’o, it comes in. There's no reef in there. How

does that happen? Look at anywhere where the fresh water goes out. That was a fresh water stream there. There's no coral out there quarter, half mile out there, some coral. But that was fresh water. If an event happens, such as Hanalei, the event in Hanalei, Hāʻena, 49 inches of rain, you get 40 inches, 20 inches of rain, as (inaudible), there'll be nothing left, that road will be gone, it will be gone. What I gave you, was…

Chair DeGracia: 30 seconds.

Mr. Pleas: …what I gave you was the latest State of Hawai'i, it shows where the flood zones are and everything. Economic, Kikiaola Harbor, remember I said last time, there were cars going to the east? That's where they're going. That is an economic driver. That economic helps Waimea. I have testified and have pushed for 40 years. If Waimea wants to exist and have viable tourism, which we have tons of people, it looks like Hanalei in the 80's. They need parking.

Chair DeGracia: Three minutes, sir.

Mr. Pleas: Imagine a…I'll take just one second. Imagine a shopping center with only two, one lane and two places to park around it, it doesn't work. Waimea doesn't work until it has parking. Thank you.

Chair DeGracia: Thank you for your testimony. Is there anyone, anyone here that's already testified that would like an additional three minutes? Please approach the mic.

Unknown Male: I would like to thank Bruce. He's a good friend of mine, as are several of the other surfers here. We do need more business in Waimea. Community members have worked hard to improve the hospital…

Chair DeGracia: I'm sorry, real quick. Please restate your name.

Mr. Uyehara: Oh. Randy Uyehara back, again. So, I live in Waimea, and I've watched community members work hard for the hospital. We now have equipment and doctors that take care of the people, as well as any other hospital in the state. We have good schools. We don't have too many local residents. A lot of people moved out after the plantation closed. We need opportunities for work. I'm not saying we all are going to get a job at the resort, but it would provide additional sources of income for some of the businesses and associated, I guess, industries that come with the development of a resort. It's a small resort. It's single-story cottages. It's not four stories, it's not six stories. It's not a huge resort like a beach resort on the east side. I've been through all those buildings. I've seen what needs to be preserved. I've pulled cows out of the pond that they're talking, about restoring the fishpond. And I was told there used to be ulu and stuff in there that would provide an opportunity for maybe the first aquaculture venture by this family. There's many other reasons why I feel that this plan, I mean, this permit should be extended because the details of the development can be worked out later. But to deny the company the opportunity to get started would be a mistake for the west side community. I would like my granddaughter to be able to live and work on the west side. My kids, my daughter's going to move back from the mainland. She's, you know, she had to move because of her work and my…

Chair DeGracia: 30 seconds.

Mr. Uyehara: …son recently had to close a company, agricultural company, because I guess it just wasn't feasible anymore in Kekaha. And the community is going to be building more sports facilities or improvements to our fields, and we're going to have tournaments, and families need places to stay. I never thought I'd go and stay…

Chair DeGracia: Three minutes.

Mr. Uyehara: …at the cottages, but every graduation and holiday season it's hard to get a room there. So, we do need more accommodations on the west side.

Chair DeGracia: Thank you.

Mr. Uyehara: Thank you.

Chair DeGracia: And as a quick reminder to the audience, this agenda item we're talking about the zoning amendment. You will have additional time to discuss the revocation of the permits for testimony. Is there anyone else in the audience that would like an additional three minutes? Okay, okay. Please state your name for the record.

Ms. Bator: For the record, Bonnie Bator. Keli`ikoa, Keana`aina, , Ka`aokamalie, and Kai and Overos. One of the Robinson family members was speaking earlier about, oh, it's going to be a small thing, but here on the number K, which is further down, it says it's going to have a 250 unit resort with restaurants, pavilion, luau grounds, museum, bar, swimming pools, spa, sports courts, clubhouse, activities areas and public amenities. That doesn't sound like a small little, tiny little coral reef that used to be a local family. I totally support Roslyn Cummings, all the kānaka maoli, the burials, the desecration, sacrilegious of the iwi kūpuna turning into 'ōne, into sand to build, to paint their little houses. Ag, we need it for consumption locally and there are a lot of restaurants. I don't really think there's too many local businesses that own these businesses everybody's crying about, you know, 2015, life was still good around here, you know, but then the onslaught of the tourism, way too much overkill. Someone mentioned Kikiaola Harbor, my granddaughter, who I was her guardian from three, and she's now 18, going to Oregon State. Anyways, Kawaikini graduate, well, actually, she went there for five years and then Kamehameha grade 11 and 12, but anyways, with Kawaikini, New Century Public Charter School, they went on many stream assessments and all that good stuff, and they went out of Kikiaola Harbor to Nualolo and stuff. I mean, I remember that harbor was a tiny little place. There was like so much industry of the whatever they call it, those boats, tour boats. It's like three ring circus. The poor little kids, the local kids, they weren't little, but the teenagers, they were pushed aside by the elitist tourists and the boat companies or the industries. It ain't local people like braddah said over here. It ain't the guys that have been here for generations working in the cane before cane went down or pine, pineapple. It's all these newcomers that have these businesses. We need local businesses. Maybe we should support County Council to get more grants for local people to have businesses, cause that isn't in the local people's…

Chair DeGracia: 30 seconds.

Ms. Bator: …industries, that are going, that need help, it's the elitists that have moved here. Mahalo nui, e kala mai ia'u. I didn't mean to, you know, you guys are doing good. This is a great agenda item. Revoke that permit. Mahalo. Thank you.

Chair DeGracia: Thank you for your testimony. Anyone else would like an additional three minutes? Please approach the mic. State your name.

Mr. Robinson: My name again, Rick Robinson. And I just wanted to clarify one thing. Mr., I don't know, police or whatever talked about the submission of the reports to the State Land Use Commission on an annual basis, and those have been produced to the State Land Use Commission. All copies of it go to the Office of State Planning, as well as court counsel for the County of Kaua'i and the Planning Department as well. It details all the activity that's been taken in relation to the zoning and entitlements that are on the property, and those have been submitted on an annual basis, and they are available, like I say, at the Office of State Planning, State Land Use Commission, County of Kaua'i Planning Department, and then also the Court Counsel's office. And every time we had people that were interested, those are detailed in their discussions that are being had with those folks as we went forward. So, I just wanted to clarify that point. And also, somebody said 250 rooms, it's actually 136 units that are being proposed in the current configuration. So, I just wanted to be clear on that. Thank you very much.

Chair DeGracia: Thank you for your testimony. Okay. Anyone else would like an additional three minutes for testimony? Please approach the mic. State your name. Once again, you have three minutes.

Mr. Renthrop: Teddy Renthrop again. So, between the two streams, A‘akukui and Mahai Kona, there's only, on the map I saw, 16 units in that area. If you go west of there, that's the bulk of the 70 plus units or whatever or what I counted on the map. I agree with Surfrider, an EIS has to be done in the area, whether it goes back to agriculture or not. Okay. I've surfed Pakala reef over the number of years, and this year I've noticed that live coral is starting to grow back on the reef. Maybe that's because of the drought we're going through, or because the lack of agriculture. I don't know the reason for that, but an EIS should be done for that whole area. Thank you.

Chair DeGracia: Okay. Thank you for your testimony. Once again, anybody else would like an additional three minutes for testimony? Anyone outside would like additional three minutes? Okay. Seeing none, before we move into the next part of this agenda, I'd like to take a quick ten-minute recess. Okay. Thank you.

The Commission went into recess at 10:35 a.m.
The Commission reconvened from recess at 10:48 a.m.

Chair DeGracia: I’d like to call the Commission meeting back to order.

Ms. Barzilai: Excuse me, we’re ready to begin. Gavel in?

Chair DeGracia: Yeah, I did. Okay, Commission meeting is back to order. At this time, I’d like to invite the party up, as we have the department up already.

Ms. Barzilai: So counsel can approach, in other words. Please. Counsel for parties, please. Whoever is going to speak today. Thank you.

Unknown Male: Aloha, Chair, members of the Commission.

Ms. Barzilai: I think that Chair would like to say something first…

Chair DeGracia: I'd like to make a statement real quick.

Ms. Barzilai: …Mr. Louie, so just take direction from the Chair. Thank you.

Chair DeGracia: Okay, we have received and reviewed all petitions and oppositions. When we last met, we heard public testimony and arguments from the attorneys. The matter was deferred to today. We'd like to now take final statements from counsel before we move to action. Okay.

Ms. Barzilai: Hear from the department first.

Chair DeGracia: Okay.

Unknown Person: (Inaudible).

Ms. Barzilai: No. I don't recommend. It's okay, I think it'll be short.

Chair DeGracia: Okay, department please proceed.

Deputy County Attorney Chris Donahoe: Good morning, Commission. Good morning, Chair. Deputy County Attorney Chris Donahoe, on behalf of the Planning Department. Relating to agenda item G.3., the request for a contested case hearing that was previously made by counsel on November 10th, 2025, (inaudible) both counsel regarding the consideration of the petition for zoning amendment under the currently approved permits and conditions. Planning Departments position is that the petition for zoning amendment contain sufficient evidence through the described chronology of events, as well as all the attached exhibits to support granting of the petition. However, without, and I have reviewed and with my client, the Department has reviewed in full the opposition and all the exhibits that were submitted by both, counsel from both parties regarding both the petition for the zoning amendment and the petition for revocation, without addressing or conceding the merits of any arguments and assertions contained in the Multiple Memorandum in Opposition submitted by the counsel. For purposes of due process, the Planning Department is recommending the Planning Commission grant counsel's previous request for a contested case hearing and refer this matter out for that contested case hearing. It's Planning Department's position, additionally, that any new proposals to be made on the plans or proposed modifications to the plans by the developer not be allowed to be presented or considered at the this contested case hearing. The contested case hearing should only address the petition for zoning amendments based on the currently approved permits and permit conditions. The reason for that position is that any new modification request to the current permit, permits would necessitate a new and a separate public notice and public testimony before the Planning Commission for any modification to any permit, the SMA or new SMA permit, which would then possibly open the matter up for petition to intervention and further contested case hearing. So, with that, that's the recommendation of the Planning Department. Thank you.

Chair DeGracia: Okay. Thank you. Counsel for the applicant.

Mr. David Louie: Thank you. Chair. My name is David. Thank you. My name is David Louie. I represent Kerzner International Management.

Mr. David Abitbol: Good morning. I'm David Abitbol, I represent the Robinson Family Partnership.

Mr. Louie: So, on behalf of Kerzner, let me note and appreciate Mr. Donahoe, counsel's statement about this. We did request a contested case hearing in our pleadings and the filings that we have, and as far as a final statement, we'll just stand on everything that we have already submitted, as far as written testimony, we believe in the merits of what we have presented. I also testified at the last hearing, I won't bore you folks with that, we acknowledge what counsel has said and believe that a contested case hearing is appropriate. We, of course, reserve all of our rights on behalf of Kerzner and as set forth in the filings of this matter, we look forward to further proceedings in front of this body with regard to the matters that we have raised in our filings. I understand that a future zoning amendment or a future revision to the plans is not before you now, it's part of our papers, but that's not part of your consideration now. And I understand that, but we look forward to coming back to discuss all of those matters with you as was noted by Mr. Overton in the hearing last month. This is an exceptionally good project for the west side, for the Robinson family and for Kaua'i, and so, we'll await referral to contested case. Thank you.

Chair DeGracia: Okay. Thank you. Commissioners, hearing…

Ms. Barzilai: I think the other attorney would like to speak.

Chair DeGracia: Oh, I'm sorry.

Mr. Abitbol: Sorry. Nothing much to add other than on behalf of the Robinson family. We're in agreement with what Mr. Louie just said. And likewise, we just reserve all our rights and without waving any objections that we might have, we do agree and acknowledge with Mr. Donahoe's recommendation to refer this to a hearings officer. Thank you.

Chair DeGracia: Thank you. Commissioners, hearing from both counsels, I'd like to open up any further discussion. And I believe what we have before us, is the position on both parties to send this to a contested case hearing. But at this point, if you'd like to have any discussion or if you'd like to go into executive session, that's all on the…some of our options at the moment.

Mr. Ako: Mr. Chair. I think at this point, you know, hearing the position of two parties that we have, knowing the complexity of all of this, and without getting into the nitty gritty of what this case is all about here, I think I'm ready to make a motion.

Chair DeGracia: Okay.

Mr. Ako: So, with that, regarding the County Zoning Amendment, ZA-2026-2, I move to refer the matter to County Boards and Commission for assignment to a hearings officer to commence an evidentiary contested case.

Mr. Ornellas: Second.

Chair DeGracia: Commissioners, motion on the…motion has been made and seconded to refer this agenda item to Boards and Commissions for contested case. Any discussion before we go to a roll call vote? Okay. Seeing none, could we get a roll call vote?

Ms. Barzilai: Yes, Mr. Chair. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair DeGracia?

Chair DeGracia: Aye.

Ms. Barzilai: Motion carries referral to Boards and Commissions. Thank you.

Chair DeGracia: Thank you.

Ms. Barzilai: Next agenda item. K.1.

UNFINISHED BUSINESS (For Action)

Petition to Revoke Special Management Area (SMA) Use Permit SMA(U)-2002-6, Project Development Use Permit PDU-2002-15, and Class IV Zoning Permit Z-IV-2002-20 to develop a 250 unit resort with restaurants, pavilion, luau grounds, museum, bar, swimming pools, spa, sport courts, club house, activities area, and public amenities at Kaua'i Tax Map Key (4) 1-7- 005: 001, Kapalawai, Makaweli, Island of Kaua'i, State of Hawai'i. **[Deferred, 11/10/2025]**.

a. Petition for the Revocation of Special Management Area Use Permit SMA(U)-2002-6, Project Development Use Permit PDU-2002-15, and Class IV Zoning Permit Z-IV-2002- 20 and Report; Declaration of Kaaina S. Hull; Exhibits "1" - "21"; Certificate of Service.
b. Respondent Kerzner International Management Services Hawaii, lnc.'s Consolidated Statement of Opposition to (1) the Petition to Rezone; and (2) the Petition to Revoke Permits and Request for Contested Case Hearing; Exhibits 1-23; Declaration of James Ratkovich; Declaration of Jeffrey Overton; Declaration of Max W.J. Graham; Certificate of Service.

c. Respondent Robinson Family Partners Opposition to Petition for Revocation.
d. Transmittal of Public Testimony to Planning Commission.
e. Transmittal of Agency Comments to Planning Commission.

Ms. Barzilai: Is there anybody who would like to testify? I do have some signed up. I'm going to start with Koa Young, Koa Young. Please be reminded when you testify you have three minutes. If you would like to speak for an additional three minutes, the Chair can consider that. State your name for the record and be reminded that we are talking about the Petition for Revocation of permits, not the zoning amendment. Thank you.

Mr. Young: Koa Young. This is for the permit, right? Tourism is not the answer. We don't need more hotels. Sorry, it's not really helping things anyway, where you do see tourism prices go up and everything gets crowded. There's a bunch of other issues like, you know, environmental, cultural and so forth, but it's already been stated. Thank you.

Chair DeGracia: Okay. Thank you for your testimony.

Ms. Barzilai: Nicole McKamey. And please be reminded that we are not taking duplicative testimony. If you have something to add to your prior testimony, please do so. Nicole McKamey. McKamey. Thank you.

Ms. McKamey: Hello. Thanks again, Nicole McKamey for the record, I just wanted to come up and testify again, piggybacking on my previous testimony that so far on Kaua'i, we do not have any surf resorts, right. We do not have, we haven't opened that door like it's been opened. And so many third world countries and, you know, you see a lot of problems with these things. Groups of people coming in, partying, drugs, alcohol, prostitution, all those kind of things that come along with certain groups of surfers from certain places that come, right. So, it's just an important thing to consider. And that's all I have to say. Thank you.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Thank you, Steve Parsons.

Mr. Parsons: Aloha, Steve Parsons, just super briefly on resorts and construction, I think one of the representatives for the construction company last time said, we do, we have a light touch, and I can't overestimate how delicate like our, our ecosystem is and how many levels of, you know, tipping points. There's like 15 massive ones out there and we've breached at least one, if not two. So, we're very, it's a different world than it was just 20 years ago because we just haven't taken care of things. So, any kind of resort, you know, I mean, we talk about light, touch, any construction, even the solar farm, I think mauka side of the highway, like, I hope they're doing like, 100% like electric vehicles because that smog goes right into the ocean. Same thing with any kind of eco resort, there's the water piece of it, but just yeah, the runoff and everything else, we just are, we, it's like killing the golden goose, right? That laid the golden egg, right? If we killed our reefs or we kill our natural resources, like, that's one of the many things that keep, you know, Kaua'i special. So, I don't think there's, they have an idea about what light, you know, construction and zero and maybe no gasoline vehicles. And I think there is opportunity with that

too, with like leasehold properties and affordable housing, biodiesel and electrifying their own operations currently and save half of what, you know, they're on, on, on whatnot. And again, commending the Planning Commission, they've switched their fleet to all electric vehicles, and I think we're saving like $2,000 a year per vehicle over time. So, just some quick and dirty thoughts on that, I know and I'll end it and say, thank you all so much for your consideration.

Chair DeGracia: Okay. Thank you for your testimony.

Ms. Barzilai: Bruce Pleas. Testifying on the Petition for Revocation.

Mr. Pleas: Yes. Petition for Revocation. Testifying on it.

Ms. Barzilai: Please state your name.

Mr. Pleas: Bruce Pleas. First, I request to be included in the contested case hearing. There is probably very few people that have gone through this entire process from day one. I attended LUC meetings, most of them, if not all. I have submitted testimony, Planning Commission, County Counsel. I have met with the developers before and I hope I can meet with the developers this time, because I believe this is a super historic and…place. In the last 138 years, you have a house there that has been maintained to a point because it is private. You open this up to public, it will be destroyed. On what they show, it's…we won't go into that. This is not the area for it. It…I don't think it would reach special management area qualifications now. I mean with what I've seen of what you have to go through to the Planning Commission to go through the Planning Department. I mean, if you build a house in the mountains, you have to get, you have to have, you have to click the boxes for a shoreline certifications that you're outside of that area. And right now, last month we lost one foot, this much of where I paddle out to go surfing of grass. This summer we have lost, this much. There are trees 20 years ago that were ten feet back from the ocean. They are now in the ocean. That's just some examples of what's going on here. I think there are better places. Hopefully the developer will go talk to the family, and the family will be open to it. To…if they want to build a resort, let's build it where it's safe, build it where in 70 years the…what I gave you, in 70 years the place is underwater on any event. And that I gave you, you're supposed to, they estimate you go a 70 years, 400 or 200ft past the 70 year line, 200ft that's across the road. The kānaka maoli influence in that area, it is spiritual. It is beyond anything….

Chair DeGracia: 30 seconds.

Mr. Pleas: …you have seen. I hope you listened to what I let you last time. (played Hawaiian music). Listen to this while you read. This is from (inaudible).

Chair DeGracia: Thank you for your testimony, sir.

Ms. Barzilai: Mr. Pleas, are you making a motion to intervene?

Mr. Pleas: Excuse me?

Ms. Barzilai: I believe that you made a motion to intervene. You said that you want to be admitted into the contested case, correct?

Mr. Pleas: I would like to be.

Ms. Barzilai: Okay. Please don't go anywhere because the Commission is going to have to talk to you.

Mr. Pleas: I'm here. I haven't left for 25 years.

Ms. Barzilai: (Inaudible). Let’s go through the public testimony first, and then we'll review this.

Mr. Pleas: Thank you very much.

Ms. Barzilai: You didn’t submit a written petition, but on the other hand, you didn't know how the Commission was going to vote. So, you just learned of the contested case essentially. So, if you could just stay.

Mr. Pleas: I'm here.

Ms. Barzilai: Thank you. Randy Uyehara.

Mr. Uyehara: Hi, Randy Uyehara back again. And there's a few things I probably forgot to mention. The Robinson family has two hydro plants, not one, but two. They reuse the water from the first one and they help provide electricity to the County of Kaua'i. They maintain their own well, I've been to the bottom of that well, to help fix the pump, 800ft down. They also have hundreds of homes that are being used by local people from Wainiha to Waimea. All of that costs money. They have to maintain their own sewage treatment plant. And I've had to work there to, it was a learning experience. What it takes to provide the community with that much housing and infrastructure is very expensive. Also, the developers would like to provide, again, access parking off the highway and showers and restrooms for the public. I see parents surfing with their kids on their back and mothers and babies that walk down the trail, and they like to hang out on that beach. Right now Salt Pond on any given summer day is hard to find parking because there's so many people on that one stretch of beach. This would help to open up some of the area. The other lifeguarded beach on the west end now has showers and but it does not have toilets, so it has only porta potties, porta potties. I don't know why so many of my…

Chair DeGracia: 30 seconds.

Mr. Uyehara: …friends are against this development, but I'm a surfer and I had to realize that I'm actually not what I think I am because I'm for the environment, yet I use a surfboard with fiberglass and non-bio biodegradable materials, everything I use wetsuits, nylon shorts…

Chair DeGracia: Three minutes, sir.

Mr. Uyehara: …is all non-biodegradable, and when I get in my car and turn on the ignition to go drive to the surf spot, sometimes, well, not anymore, I don't drive across the island, but…

Ms. Barzilai: Sir, you’re at three minutes, 20 seconds. If you'd like another three minutes, we can think about that.

Mr. Uyehara: Okay, but I just want to say that burning gas to go surf is not good for the environment. Every time all these guys go and surf Pakala, they're just burning more gas. So, thank you.

Chair DeGracia: Okay.

Ms. Barzilai: Gordon Labedz.

Mr. Labedz: Commissioners, staff, thanks. I just want to add two things that haven't been said. One is reminder that the last meeting the endangered Hawaiian bat lives in that forest. That's a big environmental issue, that that's going to be a big problem for the Robinson Sinclair. You don't see many of those little guys. They're little teeny bats like this. The other thing I wanted to say is dispel some of the nonsense about what a great thing this would be for the west side economy. I'm friends with the restaurant owners in Waimea. They can't get workers. My daughter-in-law has a restaurant there. She can't get workers. I mean, restaurants are closing because they're…a lot of it is the whole illegal alien deportation, blah, blah, blah thing, but a lot of it is, these are not good jobs. I'm, it's not going to be a boom to the west side economy. Thanks.

Chair DeGracia: Okay. Thank you for your testimony.

Ms. Barzilai: Dr. Carl Berg.

Unknown Male: He's left.

Ms. Barzilai: Thank you, Ken Denton. Bonnie Bator.

Ms. Bator: Aloha. Happy holidays. Bonnie Bator. Ka`aokamalie, Keana`aina, Ka`aokamalie, Keli`ikoa, Kai and Overos. We support and mahalo the Planning Commission Petition to Revoke the SMA Use Permit, SMA U-2022-6 and Project Development Use Permit, PDU-2002-15, and Class 5 Zoning Permit, Z-5-2002-20, to develop a 250-unit resort and associated resort three-ring circus. It's not ma'a to the astounding natural beauty created by akua. Enough is enough. Someone mentioned the shortage of workers. Wherever you go, even if you're on the phone, you know there's no workers, nowhere, it’s even before the ICE thing. So, the whole thing about, oh, we need jobs, that's not true. The wildfires, you know, devastation, we've had our poor firefighters, we have that problem here. There's not enough water I don't know about, if you folks took notice, but we lost our trade winds here on Kaua'i about, like 20 years ago. We get winds from the southeast and Kona winds, and it doesn't bring the rain. We have a lack of water here. Someone mentioned about hospital, well, we don't have enough hospitals, especially, like, you know, even when I went to see my ophthalmologist for my post cataract surgery, whatever, the poor ophthalmologist was like, so strange because they have to take every single tourist referral that goes to the ER or to urgent care. So, our, our healthcare providers are overwhelmed and overworked. Agriculture an idea for the Robinsons. They could go to a fact finding field trip to Kapa'a High School. Behind there between Easter Seals there's like five acres and one of the teachers there with the students made five acres of a Garden of Eden. There's everything there, achote, jackfruit, ulu, kalo. I don't know if anyone's heard about jackfruit, but you know, I know it tastes like banana bubble gum if you eat it ripe, but when it's green, it's a huge product in all the health food stores. Even in…

Chair DeGracia: 30 seconds.

Ms. Bator: …Times, they have jackfruit that's frozen, canned, packaged, it's cottage industries. Kintaro's, that housing there that was for the people. That was just like for 15 years. So, if they're doing any kind of thing like that, it shouldn't expire like those people that got kicked out of that low-income housing or the housing for certain parcels of it was assigned for Section 8 or something. Boys and Girls Club, oh yes…

Chair DeGracia: Three minutes.

Ms. Bator: …they just finally got a toilet after two years.

Chair DeGracia: Three minutes.

Ms. Bator: The Boys and Girls Club behind Kapa'a High. Our kids have jack, so thanks for really putting the brakes on this. We have too much traffic and too much elitist that go way…

Chair DeGracia: We'll give you an additional three minutes.

Ms. Bator: …one more second. KPD could make lots of money for the county if they enforce the speed limit, man, I mean, it's dangerous out there.

Ms. Barzilai: Thank you, Ms. Bator.

Ms. Bator: Take care. Mahalo.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Roslyn Cummings. Miss Cummings, we've received your Petition to Intervene.

Ms. Cummings: Yes.

Ms. Barzilai: In the Department's Petition for Revocation.

Ms. Cummings: Yes.

Ms. Barzilai: So, now you're being invited up to give public testimony.

Ms. Cummings: Yes.

Ms. Barzilai: If you want to speak on your intervention.

Ms. Cummings: No.

Ms. Barzilai: You don't?

Ms. Cummings: No.

Ms. Barzilai: Okay.

Ms. Cummings: Yeah.

Ms. Barzilai: So, you are withdrawing your Petition for Intervention?

Ms. Cummings: No, I'm not going to speak on that. I just want this for the public. But my intervention, I'm going to ask for be part of the contested case.

Ms. Barzilai: Okay. Then you'll have to stay afterwards.

Ms. Cummings: Yeah, that's fine.

Ms. Barzilai: So that the Commission can ask you some questions.

Ms. Cummings: Yeah.

Ms. Barzilai: Okay, so now you have three minutes of public testimony only, but not with regard to your, the grounds of your petition.

Ms. Cummings: Yeah.

Ms. Barzilai: Thank you.

Ms. Cummings: Thank you. So, I'm here because my name is Roslyn Cummings, and I just want to bring in what the public is bringing in so that future generations, when they read this, I want to give them a map. My tūtū man, William Liola Waikaka Kuwalu was an actual surveyor for the Robinson, so he survey, and I believe they actually have this map. That map talks about all the traditional names of the villages of the wai, the pikos, the po'o's. So, someone brought up the trails, so there is a what we call (inaudible). There is a, it's not necessarily just nightmarchers, the 'aumakua travel on it. My grandmother guys grew up in Pakala, (inaudible) talk about it. So, my grandma never like that road, the four-way fork, yeah, because in between where Kapalawai is, specifically where that point is all the way down towards where the road is, when the cars come through and the path happens, they open up, that's why always get accidents in that area. So, that's something that comes from generations. This is not when the families arrived in 1850. I mean, I would never go to any other nation and tell them what their practices is. My tūtū man, were not only lawai'a, they were also people who navigated the mountains. So, our family and the families from those areas originally and know that Makaweli is so sacred, that that's considered kāne waters, and the Robinson's are very aware of it because they took our knowledge and they wing them because that water is how people live till past 100 years old. And so, I'm glad somebody brought up the hydros, in federal law, it's called the Clean Water Act. I don't understand how you get federal, state and county and they cannot even uphold one federal law. But in the Clean Water Act, there's one thing that talks about it is United States navigable waters. Prove to me how that is United States navigable waters, number one. Number two, how is it that the county is not putting public safety first? So, my thing is an objection to this Commission Chair placing this body on that jurisdictional notice regarding the expired operation of law, environmental cultural data over 23 years old, cannot form a valid basis for any present day decisions. Once a permit expires or becomes unsupported by current evidence, this Commission loses subject matter jurisdiction over the application. This Black Letter Law under HRS 205a., SMA Law, HRS 343 Environmental Review, Hawai'i Supreme Court, Waiāhole

Ditch, (inaudible) not rely on state outdated or incomplete evidence to make a decision, equity maxim still claims are void and fraud (inaudible) everything. Now going back to your guys' bathrooms, and I'm glad Salt Pond was mentioned, you know…

Chair DeGracia: 30 seconds.

Ms. Cummings: …Salt Pond leaks when it's overused, just like anything down in Kōloa. I like how you guys all support Kōloa because I'm very strong in the protection of Kōloa. The whole entire ecosystem is ruined because of development. Whether you like put into, that's the same dream the Knudsens had, that the Robinsons get today, regardless of what they say, but when you do two hydros that you got to take everybody's cell phone away because you're doing something pono that makes you question, what are you guys doing, it's definitely illegal. But when you take water and you divert it, you better make sure that water goes back into its natural path and I can guarantee you it's not. And when somebody mentioned the (inaudible), I'll tell you why that reef had come back, is because they need the temperature water, the water gotta be cold on certain temperature.

Chair DeGracia: Three minutes.

Ms. Cummings: So, this is all kānaka values, our waiwai. Mahalo.

Ms. Barzilai: So, that's it for registered testifiers. If you want to open it up to the floor.

Chair DeGracia: Okay. Is there any members of the public that wishes to have an additional three minutes for testimony? Okay.

Unknown Woman: (Inaudible).

Ms. Barzilai: Ms. Bator, you can give it to our assistant, to our clerk.

Ms. Bator: Thank you so much.

Chair DeGracia: Okay, I believe in the back. Mr. Pleas. Please state your name once again, and you have three minutes of additional testimony.

Mr. Pleas: Bruce Pleas, for the record, I figured out the microphones. Jobs, well, this provide a income so that my son can buy $1 million house. I don't think so. Water, is following the forecast line 360 inches, Mount Wai'ale'ale, 20, 25 years ago. We're down to under 300 now. It's forecast to be down to 180 within 10 to 15 years. There is no water resources. The water resources are going to go away. Also, if you do not revoke this, allow this to be built, a tsunami comes through, these thousand dollar, minimum, a night units, which somebody coming to the Waimea ballpark to go play baseball is going to stay there for three days. Uh-huh. Who's going to be sued? A tsunami comes, I live in the same zone. (Inaudible), flood, tsunami inundation, evacuation and hurricane zone. I've lived there for 45 years. I've seen what's happened. I've had to leave. What happens when you're paying $1,000 a night and all of a sudden tsunami goes, you all have to get up and leave, nothing happens, you come back, somebody's going to get up. Who's going to be sued? The developer, landowner, the Planning Commission, the county, these people that come there, they're talking $1,000 a day, 3,000. Who's going to get sued? There is a

possibility of that. This place, if you've walked down there and felt what it is before the Robinsons were there, when Captain Cook came in, there were some reports up to 30,000 people lived in this area. This was a royal fishpond. This was not a little hamlet there. This was a giant city. There were more people on Kaua'i when Captain Cook came than we have here now. When the second boat came in after Captain Cook, guess what, 70% of them are gone. So, therefore it's deserted, let's take this over. Back to the fishpond, with the testimony from Dr. Kikuchi at the Planning Commission, that the Kekupua fishpond is indeed a royal fishpond, in the words…

Chair DeGracia: 30 seconds.

Mr. Pleas: …kapu to development, kapu to development and uses other than a fishpond with a fact that a heiau burial site and associated habitation layers have been found at Kapalawai, this should be enough to begin to raise doubts as to the land use of Kapalawai as a resort. I would suggest that this be rezoned, open, special treatment, conservation, archeological, historical, this will provide more of a base for money on the west side and employment as a historical place for people to go privately, not publicly.

Chair DeGracia: Three minutes.

Ms. Barzilai: Three minutes. Mr. Pleas.

Chair DeGracia: Thank you.

Ms. Barzilai: If you would like to stay, so that we can discuss your motion.

Mr. Pleas: Oh, right now or later?

Ms. Barzilai: Later.

Mr. Pleas: Yeah, I'm here.

Ms. Barzilai: Thank you.

Mr. Pleas: Thank you very much.

Ms. Barzilai: Any other testimony?

Chair DeGracia: Okay. Any other members of the public who already testified, additional three minutes. Please state your name. You'll have an additional three minutes of testimony.

Ms. Cummings: Aloha. Commissioners, Chair and legal representatives. My name is Roslyn Cummings. And again, I'm a descendant of not just William Kuwalu, but our Namu Ohana. My children still ride horse throughout the mountains. Not in Makaweli because everything is privatized, but I want to bring this up, this is a cultural aspect. This entirety of Makaweli is our ancestral estate. It's an ancestral estate in law because we are mo`opuna of them and we inherit their practices and it's written in State Law, HRS Section 1-1. 172-11, 172-12, 7-1, all of our access rights is in 7-1. But I want to remind everybody, kānaka means the people and what I'm hearing and what I'm seeing from the support and the opposing parties, we cannot put the benefit

of 1% above the 99%. We've got to have one balance. That's where equity comes in. So, I going bring in equity because equity means pono, and pono means balance. So ultimately, when you look at it, right, this whole entire area has cultural layers. The cultural aspect gotta be protected because if it's not and you protect the hale, the house is a historic property over the historical property that existed way more years and years and generations prior to that hale, that's prejudice, that's being biased. You already get what's called unjust enrichment. So, I'm here to make sure that the members of the public understand your rights and understand what enrichment means when any government agencies and its agents put public safety below corporations and developers and investors, and the dream of a resort that's unjust enrichment. Crimes of omission is when they're not even given an option. So, in the contested case, there has to be an option. So, for me, I just want to make sure that everybody knows everybody has a balance of equal right. Mahalo.

Chair DeGracia: Thank you for your testimony.

Ms. Barzilai: Anybody else? Okay. At this time we'd like to invite up counsel for the parties again, on the Petition for Revocation. If you'd like to state your positions, starting with the department.

Mr. Donahoe: Thank you, Commission. Deputy County Attorney Chris Donahoe for the department. Again, similar to Agenda Item G.3., this request for the contested case came in was previously made on November 10th, 2025, on the Petition for Revocation as it relates to revocation of the current permits and failure to perform under the currently approved Permits and Conditions. Planning Department's position is that the, again, the Petition for Revocation on its face contains sufficient evidence through the described chronology of events and attached exhibits to warrant granting of the petition. However, without addressing or conceding to the merits of counsel's or both counsel's objections and memorandum in opposition to the Petition for Revocation for purposes of due process, the Planning Department is recommending that the Commission set this matter out for separate contested case hearing. It referred this matter out to Boards and Commissions for contested case hearing. Again, just to clarify, any new proposals to be made on the plans of proposed modifications to the plans by the developer should not be allowed to be presented or considered at this contested case hearing regarding revocation of the currently approved permits, and whether or not there was failure to perform under those specific permits and the conditions of those specific permits. And the reason is that any modification request would require new public notice, new public hearing, and potentially petitions to intervene in a further contested case hearing. So, with that, the recommendation is that the Commission grant the request, the previous request by counsel, to refer this matter out to Boards and Commissions for contested case hearing on the revocation of permits. Thank you.

Chair DeGracia: Okay. Thank you. Department. I'd like to hear from the applicant's counsel.

Mr. Louie: Aloha Chair. David Louie, on behalf of Kerzner International Management. First off, let me just thank the members of the Planning Commission and yourself for all the time that you've taken on these matters. They're very important matters. We did request in our joint filing, we made a request for a contested case hearing, and we believe it is appropriate that the county council has recommended that that occur and that and therefore that a contested case hearing occur. We want to make sure that we are clear on the record. We are reserving all of our rights

and objections, as are stated in our previous filings. As far as the merits of the matter, I'm not going to argue that here. We've, I testified last month and, you know, it's part of the record and our filings are all part of the record as far as our position on the merits of this matter. But we will, we acknowledge a contested case hearing and we'll be happy to proceed forward with that. We also, as I mentioned before, while I understand the issue of a amended zoning ordinance and a new project, which is a smaller project is not before you in this proceeding, it, we look forward to coming back to the Planning Commission in the future to discuss those matters, as well as the all of the issues that that are here, because we believe that the project as being proposed, is a very exceptional project that is good for the west side, good for the Robinson family, good for the island of Kaua'i. Thank you very much.

Chair DeGracia: Thank you.

Mr. Abitbol: Thank you. David Abitbol for Robinson Family Partners. Again, I would just like to state our agreement with Mr. Louie's position and Kerzner's position. We acknowledge that a contested case is appropriate at this time, and we do so without waiving any of our objections and reserving all our rights. And that's all I have to say for today. Thank you.

Chair DeGracia: Thank you.

Ms. Barzilai: Okay. Before the Commission makes a decision, I would like to poll you to see if you are inclined to grant a contested case, if you'd like to speak, to say whether you are inclined before you vote on that matter, you'll have to entertain the intervention to see if the intervenors are coming with the parties into the contested case. So, if you are not inclined to grant a contested case, then you can move on to a different decision, which would be to deny the petition. If you are inclined to accept the petition and send it out for a contested case. If you could let me know your feeling on that by making a comment on the record, at which time we'll take argument from the intervenors on their standing and counsel will have an opportunity to argue against that, or concede or whatever it is they want to do.

Mr. Ako: Okay. I would be inclined to move towards a contested case. This revocation permit.

Ms. Otsuka: (Inaudible, microphone not on).

Ms. Barzilai: Does it seem that this is the direction that the Commission is heading in? Okay. So, then at this time we're going to hear from the intervenor. So, counsel, I'm sorry we didn't anticipate this. We don't have enough chairs. So, we're going to have to share the space. At this time the procedure would be to invite the intervenors to come up one by one in separate motions, and the commissioners can interview them with regard to standing. You have to demonstrate your standing to bring a petition to intervene. Mr. Pleas, would you like to come up first.

Ms. Streufert: Before we do that, I would like to ask for an Executive Session, please.

Ms. Barzilai: Sure.

Mr. Ako: I'll second that.

EXECUTIVE SESSION

Ms. Barzilai: Okay. Okay. We're going to enter into Executive Session. I'm sorry everyone is going to have to step out. I don't know how long it will take, but I'll read the item into the record and then we'll take a vote.

> 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:
>
> Petition to Revoke Special Management Area (SMA) Use Permit SMA(U)-2002-6, Project Development Use Permit PDU-2002-15, and Class IV Zoning Permit Z-IV-2002-20 to develop a 250 unit resort with restaurants, pavilion, luau grounds, museum, bar, swimming pools, spa, sport courts, club house, activities area, and public amenities at Kaua'i Tax Map Key (4) 1-7-005: 001, Kapalawai, Makaweli, Island of Kaua'i, State of Hawai'i. **[Deferred, 11/10/2025]**.

Ms. Barzilai: At this time, I'll take a vote of the Commissioners after a motion is made. Chair, if you'd like to entertain a motion.

Ms. Streufert: I move to move to Executive Session.

Ms. Barzilai: We already had a second on that, right?

Chair DeGracia: Yeah.

Ms. Barzilai: Sorry about that. Okay. Motion on the floor is to enter Executive Session. Would you like a roll call vote?

Chair DeGracia: Yeah. Can we get a roll call vote?

Ms. Barzilai: Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair DeGracia?

Chair DeGracia: Aye.

Ms. Barzilai: Okay. Thank you. At this time we're going to enter into Executive Session with the Commissioners, and you will all be invited to return. Thank you. 6:0.

The Commission entered into Executive Session at 11:33 a.m.
The Commission reconvened from Executive Session at 12:52 p.m.

Chair DeGracia: I'd like to call this meeting back to order.

Ms. Barzilai: Thank you. I have a statement under the Sunshine Law that I would like to read. This is a mandatory statement under Sunshine Law, pursuant to Act 19, relating to Public Agency meetings. A board is required to report a summary of its discussion or any final action taken during an executive session, after reconvening to the public portion of the meeting. The Commission has concluded its executive session on Item K.1. This item involved a discussion for the purpose stated on the agenda. Disclosure of the discussion would defeat the purpose of convening the executive session, which was held pursuant to HRS Section 92-5. A.4., the commissions right to consult with its attorney on questions and issues pertaining to the commissions powers, duties, privileges, immunities, and liabilities. No final action was taken during the executive session. Final discussion and action will now commence. Thank you.

Chair DeGracia*:* Okay. Thank you. Commissioners, so at this point, before we move forward with the agenda item, we did receive two requests for interventions. Requests for intervention, one, through the testimony we received this morning and one orally. So, at this point, Commissioners, if we'd like to have any general discussion concerning these petitions.

Mr. Ako: I'll go ahead and try to start.

Chair DeGracia: Okay.

Mr. Ako: I'll just paraphrase it this way first, yeah. I think I spent the last 37 years of my life as working for HGEA, working for a union and being an advocate for workers and just being able to support people in positions that they believe in. And I know today we have people here that believe in certain things and have made the request to intervene in this case that we have right here. At the same time, I think we have Commission rules in terms of how you intervene and what it takes to intervene. And in just in my mind, as much as I will advocate for people trying to advocate for positions, you know, I think for the sake of consistency, of being objective as well as being, you know, having some kind of stability within the Commission here. In my mind, there has been part of the rules that have not been adhered to. One of them has been, I guess if we stating the rules itself, it would come down to whether a written statement was filed, was one, another one would have to be, you know, whether that $300 deposit was paid. And third would be an issue of timeliness, in terms of the intervention. And because of these reasons, I think I would have a hard time allowing these people or voting for these individuals to become intervenors if these rules are not followed. And I really believe that some of these rules were not

followed. And I think in those cases, which I think we have two requests right now, I see deficiencies in that in applying to become intervenors in both of them. So, I think in this one right now, my current feeling is to deny standing as intervenors.

Chair DeGracia: Commissioners, any further discussion? Okay. Well, listening to the intervenors myself and through the oral and also the written, you know, part of me had hopes that, you know, during this process in my thoughts that it's unfortunate that we didn't have it presented to us in a formal manner, because I believe that there is content in here that would be, would help us make this, ultimately make this decision to grant or not to grant intervention. But I tend to lean and agree with Commissioner Ako that there is a process for submitting Petition for Intervention and that the oral and this, and the last minute testimony that we received requesting, does not fit the form and factor of it.

Ms. Barzilai: So, Chair, are you addressing form and content?

Chair DeGracia: Correct, form and content.

Ms. Barzilai: And Commissioner Ako is addressing timeliness, under Rule 4.

Mr. Ako: Yeah, as well as form too though.

Ms. Barzilai: As well as form.

Mr. Ako: Yeah. Form and content.

Ms. Barzilai: Okay. The next step would be to decide if there is an extenuating circumstance which allows for a finding of excusable neglect, for failure to follow form, content, timeliness, or pay the filing fee.

Ms. Streufert: I don't claim to have any legal background on this, and it appears that if we do it on the basis of the rules, then there's, it has to be rather substantial reason in order to, to suspend the rules. So, I'm inclined to follow the rules in this particular case.

Ms. Barzilai: So, does the Commission find excusable neglect?

Mr. Ako: You know, at this point, I'm not sure whether I have enough information to determine whether there is excusable neglect unless we hear from the intervenors themselves on that, because right now I don't see any. There's nothing that I have been exposed to.

Ms. Barzilai: (Inaudible) we take a statement from the intervenor?

Chair DeGracia: We could.

Ms. Barzilai: So, I think in, in order of how it was filed, then we would hear from Ros Cummings first.

Chair DeGracia: Yes.

Ms. Cummings: Aloha. Roslyn Cummings, as an intervenor, as a petitioner, it's pretty obvious that someone's relying on the law. But it sounds like assumption is happening. And so, what I want to make sure is that I'm bringing in what's called a point of order. Please, please do not use that as an excuse, but please look it up. I'm bringing a point of order, because you have to give me the law that you guys are basing your standards on when you make your final decision. What I want to know is, if you guys can understand the constitution and cultural standing cannot be denied based on a failure to follow a county created form, your form cannot supersede Article 12, Section 7 or HRS Section 7-1, therefore, the Commission has no legal authority to deny standing on that basis alone. This forces the Commission to stop and consult counsel right away. I have a right to petition and a right to remedy. The supremacy of the constitutional rights and ancestral burial protection is not subject to county paperwork. The law is higher than the form. And I hope you guys can understand the perspective of law. Mahalo.

Chair DeGracia: Okay. Thank you.

Ms. Cummings: Am I waiting for a response?

Ms. Barzilai: You wanted to ask questions of the potential intervenors on excuse the issue of excusable neglect.

Mr. Ako: Yeah, I think for me, one of the reasons why I would be denying your ability to intervene would be, one would be an issue of timeliness. I think we have four days from the date of the hearing to file any type of petition, intervention petition in there. Is there any reason why we need to hear in terms of why you were not able to file the petition in a timely manner?

Ms. Cummings: It's just due to my understanding of the hierarchy of law. So, basically you're basing yourself on something that violates the Constitution.

Mr. Ako: Right. And I think that's where we may disagree I think, right, because…

Ms. Cummings: Yeah. So, I want you guys to understand that these laws are based on actual decisions, as case referenced, I'll give you guys a case reference, because I will warn this board and commission that I will pursue the highest standard of law, including the attorneys. So, this is a notice.

Ms. Barzilai: Ros, first of all, we're not going to accept threats here at Commission.

Ms. Cummings: No, this is not a threat.

Ms. Barzilai: If you want to talk about why you didn't file…

Ms. Cummings: This is a standing.

Ms. Barzilai: …timely.

Ms. Cummings: Correct.

Ms. Barzilai: Excuse me, I'm speaking. If you want to discuss why you didn't file timely or why you didn't pay the filing fee, or why you didn't follow the actual rule to outline what it is that you wanted to do, please give the commissioner something to encourage (inaudible).

Ms. Cummings: In my notices I gave you guys the constitutional law, and I'm hoping and praying that you guys can hear what I'm saying. Based on law, the standards of law. So, my standing is a case reference PASH this is on the record right? PASH versus Hawai'i County 1995, Ka Pa'akai versus LUC, Waiahole Ditch 2000, HRS Section 7-1, HRS Chapter 6E. Burial Law, the law of (inaudible), Native Hawaiians, Hawaiians asserting cultural practice or burial protection cannot be denied participation due to procedural defects. This includes missed deadlines, nonpayment of fees, incorrect form, late filing, administrative errors, failure to use county's template, incorrect delivery method, and standing exists by law, not by timing. This is not a threat. This is my standing and cannot apply with iwi kūpuna are at risk. So, when iwi kūpuna, ancestral remains, cultural practices are trust property are implicated, agencies must allow participation regardless of administrative deadline. This is directly from HRS Section 6E-43, SHPD rules, Ka Pa'akai line of cases, and it's a mandatory rule. The 40 rule cannot override due process, administrative deadlines cannot restrict due process, public trust rights, constitutional rights, native Hawaiian rights, cultural rights, burial protections. A procedural deadline cannot nullify due process rights under Article 1, Section 5, and cannot restrict constitutional participation on Article 12, 6 and 7. The county did not provide sufficient notice. Therefore, the four-day rule is void. If any of the following happened the agenda was unclear. Supporting documents were not available. Staff failed to notify the public properly. SMA documents were incomplete, which is where I stand. The SMA documents were incomplete. Cultural assessment is not fully available because of the testimonies that were being heard based on what was submitted. Public was confused regarding agenda items and that the four-day rule cannot be enforced. The public cannot be held to a four-day deadline when the county has not provided full, timely or accurate notice, you cannot enforce what you did not properly disclose. Standing cannot be denied based on a four-day administrative deadline when higher constitutional, cultural, burial and public trust laws impose a mandatory duty of participation. Any denial on the timelines grounds is void and constitute an abuse of discretion. So, this is my final statement. Please record my formal objection. Denial of standing based on timeless timelessness violates Article 12, Section 7, HRS Section 7-1, HRS 6E, and the Supreme Court precedents. Any ruling made under this defect is void and subject to judicial review, appeal and personal liability. Thank you guys for your time.

Chair DeGracia: Thank you Ros.

Ms. Barzilai: So, at this point, because at this point, because legal arguments have been made, you can hear from the applicant if you want a counterargument.

Chair DeGracia: I guess at this point, maybe my…

Ms. Barzilai: Or if you're ready to move on.

Chair DeGracia: …fellow Commissioners, I am kind of feel like I'm in over my head and not understanding a lot that was stated on the floor by the, by Ms. Cummings. Commissioners, would you guys like to enter into...

Mr. Ako: Mr. Chair, I just feel that we have rules that we have, you know, commission rules. If we understand the rules as it is within, as written here, then I think we should move forward.

Chair DeGracia: Yeah.

Mr. Ako: If there is an interpretation, a question about the way it's being interpreted then I do not believe that this is the forum for it, and that needs to be forwarded on to another, another avenue, but not here.

Chair DeGracia: Commissioners, any…

Ms. Otsuka: I have a question, Mr. Chair. Are we supposed to at least ask Mr. Pleas to come up separately?

Ms. Barzilai: I would recommend, Commissioner, that since Ms. Cummings spoke first, that you take a vote on Ms. Cummings intervention first and then maybe move on to Mr. Pleas. Thank you.

Ms. Otsuka: Okay.

Chair DeGracia: Commissioners, any further discussion? Are we ready to make a motion?

Mr. Ako: I'm not real sure how, but I'll just say that regarding the, I guess, the Petition to Intervene by Ms. Cummings regarding this case here, yeah, Kapalawai. That I move that we deny standings to intervene.

Ms. Barzilai: Commissioner, are you addressing standing or are you addressing procedural issues under Rule because the conversation didn't go…

Mr. Ako: I'm sorry. Yeah.

Ms. Barzilai: Towards standing?

Mr. Ako: No, I think procedurally. Procedurally, why we would deny intervention.

Ms. Streufert: Second. Second.

Chair DeGracia: Okay. Commissioners, motion on the floor is to deny the petitioners intervention due to procedural reasons.

Ms. Barzilai: Motion on the floor is to deny petition to enter…motion on the floor is to deny petition to intervene. Submitted by Roslyn Cummings. Would you like a roll call vote?

Chair DeGracia: Yes, please.

Ms. Barzilai: Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair DeGracia?

Chair DeGracia: Aye.

Ms. Barzilai: 6:0. Okay, now moving on to address the oral motion to intervene by Bruce Pleas.

Chair DeGracia: Commissioners, any general discussion regarding Mr. Pleas' request for intervention that he made orally?

Ms. Otsuka: I believe that Mr. Pleas has a lot of knowledge on this topic as he was a part of it from day one. However, if we denied Roslyn Cummings for the same reason, it is only fitting that we deny his also because it was not in written form and it did not follow the proper rules, is that the Commission rules? Commission rules to intervene.

Chair DeGracia: Okay, Commissioners, any further discussion or are we ready to make a motion? Or...

Ms. Otsuka: Do we need him…offer him to come up?

Ms. Barzilai: I think you should state your reasoning.

Ms. Otsuka: Yes. To state his reasoning.

Ms. Barzilai: Yes. And he can state whether or not he, you have a finding of excusable neglect.

Chair DeGracia: Yes. Mr. Pleas, would you like to…

Mr. Pleas: Bruce Pleas for the record. In other words, from what I understand, I have no time to apply to intervene. Is that something that is thwarting my privileges as a person of the State of Hawai'i, of the United States government? To be able to do this? You're not giving me any time to go through the process to do it? That is a taking. You're taking away my rights. You must at least allow me to go through the process, since I just initiated it today. Your next meeting is a month away. You denied somebody who's going to be a problem for you. You can deny me. I

won't be a problem. Because I don't have the money to do that. But I will be here publicly on every meeting. And you better make sure that you cover what you're doing, because there are people that are going to be watching. This is on YouTube. This is throughout the United States. There are people in Georgia, Washington, Minnesota that come surfing here that are lawyers that will dedicate their time freely. So…

Ms. Barzilai: Mr. Pleas…

Mr. Pleas: …all I ask is that you allow us until the next meeting, or myself or anybody else that wishes to intervene, time to go through the process. You have not allowed me time to go through the process.

Ms. Barzilai: Mr. Pleas, the Commissioners are trying to comply with their rules, and I think what they're asking you is if you could explain your difficulty with complying with the rules.

Mr. Pleas: I had no intention of anything. I just asked to be included in the contested case hearing. I assumed that the county would call me in because I know what it is to be part of this.

Ms. Barzilai: Do you mean as a witness during the contested case?

Mr. Pleas: I can be a witness. I can be whatever.

Ms. Barzilai: Thank you.

Mr. Pleas: I don't have to do a contested case, you know, this intervention. I just want to let you know that I have probably some of the best knowledge of what has happened in this area. I have talked to Dr. Kikuchi. I have talked to many, many people. I have researched everything. I know what is there.

Chair DeGracia: Mr. Pleas, could I make a quick statement?

Mr. Pleas: Yes.

Chair DeGracia: I think as a Commission we all do recognize and through all the materials that we've read, you are mentioned numerous times and we all feel that you are and should be included in, in the decision making. You're the one, I'm not going to go through all the history, but what triggered everything was you wanting to be a party to intervene. So, which is why we are making the decision whether or not your intervention has status. Now, according to the commission rules, there are a process and a procedure for you to submit paperwork for us to discuss and become a legal party to the contested case in itself. However, I believe that all the parties are going to be reaching out to you and they should be reaching out to you for your experience and your knowledge throughout all of these years. So, I don't feel that you're going to be excluded from this process. But what we're addressing here is whether or not you're going to be party to the contested case hearing. But we, I don't think we have intentions of leaving you out on this.

Mr. Pleas: Yes, I understand what you're saying. I have no reason to be an intervention. I just want to be a witness so that you have what my outlook is of this area. And I do. I did have

standing for the appeal from the state. They decided that I had standing because I go down there every day.

Ms. Barzilai: Mr. Pleas, how do you know that they decided that you had standing? Do you have a written order?

Mr. Pleas: From the shoreline, from the appeal? No, I don't.

Ms. Barzilai: Were you ever contacted?

Mr. Pleas: I was never cont…I was never contacted. I take that back. So, you know, all I remember and this is, in all honesty, I'm telling you the truth. I do not lie. I try not to. On, you know, but I remember one day I came into the bedroom at 7 or 8:00, and I told my wife that I just was informed that I have standing for the Shoreline Certification Appeal. We have looked everywhere for it. I can't find it. There's no record at DLNR/DOBOR. So, all you have to take me is what I was at one time. So, I don't know, you know, it's if you feel confident that I will be called as a witness, it would be nice, if you feel that I will not be called as a witness, you'll be missing out on some information.

Ms. Cox: I think we feel very confident that you will be called. And that was part of our discussion, is that we recognize you're very important to this, and there was no attempt at all, I don't think among any of us to sort of shut you out. We, I think there may have been a misunderstanding that that's what you were saying, is you wanted to be a witness, and what somehow got heard was you wanted to be an intervenor. And so that's what we were wrestling with, but we totally understand that you should be a witness because you've been involved from the beginning.

Mr. Pleas: Thank you very much. And then I will withdraw what was an ad libbed deal to intervene. So, therefore you do not have to vote on that. I will withdraw that. I will take you and it is on YouTube that I will be a witness on one end or the other. I know I've already been approached by the developer to talk to me, so I thank you very much for your time, and I sure hope you don't get another 5,000-page packet again. I, like I say that's it's out there. So, everybody that's looking, it's that thick that these Commissioners have to look through. Thank you very much. If you have no more questions.

Ms. Barzilai: Mr. Pleas, thank you so much.

Chair DeGracia: Thank you Mr. Pleas.

Ms. Barzilai: Mr. Pleas has withdrawn his oral motion to intervene. That concludes the portion of discussion of intervention. You have to decide now on Rule 12, Commission rules. Whether you are going to issue an order to show cause today and refer for contested case, or whether you are going to deny the petition. Those are your final decisions that you have to make now.

Chair DeGracia: Commissioners, would you like to invite the applicant back up or are we good? Are you guys ready for a motion? Actually, I'd like to invite the applicant and counsel back up for something really quick. Got a quick question.

Mr. Louie: Hello, David Louie, on behalf of Kerzner International Management.

Chair DeGracia: Okay. Thank you. This…go ahead.

Mr. Abitbol: David Abitbol, on behalf of Robinson Family Partners.

Chair DeGracia: Thank you. Thank you for coming back up. But this is just in regard to Mr. Pleas', what we stated on the floor here. We're hoping that and I believe I, you know, have the sentiment of the rest of the Commission. We're hoping that you're going to be including him in this contested case and reaching out to him for, to be informed, as for information.

Mr. Louie: We've already approached Mr. Pleas to discuss matters. When he earlier made his possible oral motion to intervene, he said he was also open to discussing matters with the developer. We're open to discussing matters with him and understanding, one, what is his historical knowledge and also, two, what is, what are his positions? So, we intend to do that.

Chair DeGracia: Okay. Thank you very much for entertaining me and placing this on the record.

Mr. Louie: Sure. And then as, as let me just be clear as I understood what Mr. Donahoe had placed on the record was that this matter was going to be referred to a hearings officer.

Chair DeGracia: I believe that's for the Commission to make a motion shortly.

Mr. Louie: Okay. So, that had not been done yet?

Chair DeGracia: Not yet.

Mr. Louie: Okay.

Chair DeGracia: So, Commissioners, while we got the both parties up here, do you guys have any further questions?

Ms. Otsuka: Yeah, I had a question. Mr. Louie, I'm just curious. You mentioned that you're going to have discussions with Mr. Pleas, but I don't know how the system works. Is he allowed to speak at the contested hearing?

Mr. Louie: Well, if there's a contested hearing.

Ms. Otsuka: I'm sorry, if there is a contested hearing.

Mr. Louie: Then that is convened by the hearings officer. And then generally, what will happen is evidentiary presentations will be made during the contested case proceeding. And at that time, either party, the county could call him as a witness, the developer could call him as a witness. The hearings officer can set the procedures for how evidence will be taken. Evidence could be taken from him and that would be, to be determined.

Ms. Otsuka: Okay. Thank you.

Mr. Louie: Certainly.

Chair DeGracia: Commissioners, are we ready for a motion?

Ms. Barzilai: Why don't we ask counsel. We can ask counsel to step down, unless Mr. Donahoe has anything he'd like to say.

Mr. Donahoe: Deputy County Attorney Chris Donahoe. Nothing further. Thank you.

Ms. Barzilai: We can invite counsel to step down, and you can continue with your discussion.

Chair DeGracia: Okay.

Mr. Louie: Yeah. And the only thing that I was, I was curious about was whether or not there was going to be, there was a mention about an order to show cause, I was under the impression that this matter was just being referred to the hearings officer without an order.

Ms. Barzilai: So, that's the vehicle, Mr. Louie, how it gets to the hearing officer…

Mr. Louie: Okay.

Ms. Barzilai: …is via order to show cause. So, that's the title of the order. If the Commission does vote to refer it out, that will be the title of the order. Order to show cause and referral to Boards and Commissions.

Mr. Louie: All right. Okay. Thank you.

Chair DeGracia: Okay.

Mr. Louie: And let me just state just to renew, and I apologize for that. Just to renew all of our prior reservation of rights as noted in our filings. Thank you.

Chair DeGracia: Okay. Thank you very much. Commissioners, are we ready for a motion?

Mr. Ako: Okay. Mr. Chair, let's see regarding the Revocation of Special Management Area Use Permit, SMA U-2002-6, Project Development Use Permit, PDU-2002-15, and Class IV Zoning Permit, Z-IV-2002-20, I move to issue an order to show cause and refer this case to the Boards and Commission for assignment to a hearings officer for a contested case hearing.

Ms. Cox: Second.

Chair DeGracia: Okay. Commissioners, motion on the floor is to refer this agenda item to Boards the Commission and to a hearing officer. Could we take a…any further discussion before we go to a roll call vote?

Mr. Ornellas: Just a procedural question. Do we have to do this for both parties, separately?

Ms. Barzilai: I believe both parties are joining in one contested case.

Mr. Ornellas: Okay. Thank you.

Mr. Donahoe: And just for the record, Deputy County Attorney Chris Donahoe. There's no objection to containing both parties as one party in one contested case for this this agenda item.

Ms. Barzilai: And that's something that the attorneys will work out once they get before a hearing officer.

Chair DeGracia: Okay, okay. Roll call vote, please.

Ms. Barzilai: Yes, Mr. Chair. Motion for order to show cause and referral to Boards and Commissions to commence a contested case on Petition for Revocation. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair DeGracia?

Chair DeGracia: Aye.

Ms. Barzilai: Motion carries. 6:0. Thank you. That concludes this item. We'll take a five-minute recess. Thank you.

The Commission went into recess at 1:23 p.m.
The Commission reconvened from recess at 1:36 p.m.

Chair DeGracia: Call this meeting back to order.

Ms. Barzilai: (Inaudible) is going to be litigation oriented too, so I'm going to go ahead and run through a couple of the agenda items for Mr. Hull.

New Public Hearing (None)

Ms. Barzilai: New Public Hearings, we have none.

CONSENT CALENDAR (None)

Ms. Barzilai: Consent Calendar, none at this time.

Status Report (None)

Director's Report for Projects(s) Scheduled for Agency Hearing (None)

Ms. Barzilai: Director's Report for Projects Scheduled for Agency Hearing, none.

Class III Zoning Permits (None)

Ms. Barzilai: Class III Zoning Permits, none.

GENERAL BUSINESS MATTERS

Ms. Barzilai: That brings us to I. General Business Matters.

Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's First Notice of Violation[s] for the operation of a Commercial Retreat in the Open Zone District, and Eight (8) Notice of Violation & Order to Pay Fines for the reestablishment of a Homestay Operation on the property located outside of a designated Visitor Destination Area, **Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust**, Tax Map Key (4) 49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Boards & Commission as Contested Case File No. **CC-2026-2**.

a. Cheryl Cowden Schenck, Kauai Kai Diamonds Irrevocable Trust's Appeal of Orders of Violation of Violation:

- Order 1 (Date referenced in Notice)
- Order 2 (Alleged infraction on December 3, 2024)
- Order 3 (Alleged infraction on September 23, 2025)
- Order 4 (Alleged infraction on September 24, 2025)
- Order 5 (Alleged infraction on September 25, 2025)
- Order 6 (Alleged infraction on September 26, 2025)
- Order 7 (Alleged infraction on September 27, 2025)
- Order 8 (Alleged infraction on September 28, 2025)
- Order 9 (Alleged infraction on September 29, 2025)
- Order 10 (Alleged infraction on September 30, 2025)

b. Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust's Request for Continuance of Planning Commission Hearing for 3720 Moloaa Road, TMK: 4-9-012-050.

Ms. Barzilai: Do we have anybody here to testify from the public? Not the parties, but anybody here to testify? Are you Ms. Schenck?

Unknown Woman: I am.

Ms. Barzilai: Okay, so the department's probably going to speak based on Chair's preference, but there's no one here from the public to testify. So, we can move on to the substance.

Chair DeGracia: Okay. Can we hear from the department?

Ms. Barzilai: Sure.

Mr. Donahoe: Good afternoon again, Chair, Commissioners. Deputy County Attorney Chris Donahoe, on behalf of the department. We support the recommendation, the request for referrals to the Boards and Commissions to set this matter for contested case hearing. It's the department's understanding that a letter was received from Ms. Schenck requesting a 60-day deferral so that she could continue to make efforts to retain counsel. It should be noted that she's had 60 days. So, one caveat that the department would like answered is what efforts that she made up to this point to obtain counsel and has regarding contacting, meeting with, what is the status and if the Commission was so inclined to provide her that opportunity. And it's fully understood that during the holiday season, attorney schedules can vary, but that, if it if the deferral is granted to the February 10th, 2026, meeting, that the, it's going to be the department's position that that be the last continuance or the last deferral. And then we would recommend that we move forward with the referral for contested case at that next date. That's all. Thank you.

Chair DeGracia: Okay. Thank you. I'd like to invite the applicant, Ms. Schenck.

Ms. Barzilai: Just tell us your name.

Ms. Cheryl Schenck: My name is Cheryl Schenck.

Chair DeGracia: Hi. Ms. Schenck. Would you like to add anything for the Commissioners?

Ms. Schenck: I have…I have been with three and a half years doing home care with my husband. I was in O'ahu at Saint Francis Hospice through all this. I…my house has been in the hospice tour in the old days. I built a hotel in Bali, so the house is very big and I just, I keep paying because I just want no problems, but you know, I got to be able to find an attorney and it's very hard. I have many friends that are attorneys in Kaua'i, but, you know, due to the situation where they deal with the Planning Department, you know, they recommend going out to O'ahu. So, I have been in contact. I'm trying my best. I just lost my husband after 50 years, so I'm doing my best, but I just wanted to be clear, you know, my home has been on the hospice home tours, everyone's got pictures of my house, they've got contracts. You know, my house was rented before the TVR came. I had an opportunity to do TVR, and I didn't because it was my home, my love. I put everything in it, due to the fact. I just wanted you to know that my husband had just passed so I'm more able to function and get a, get some help on this because it's a lot of money and I'm, you know, by myself now.

Chair DeGracia: Ms. Schenck, do you know what a contested case is?

Ms. Schenck: I just know that I did all the appeals. I asked for an extension. They told me just to say simply, you know, I'll tell you what they...I filed for a continuance within the time frame put forth by the Planning Department during the time of alleged violation, and they kept saying that that's what I should say.

Ms. Barzilai: So, Ms. Schenck, are you asking for a continuance to have this sent out? Because I think the Commission probably would send it out for an evidentiary hearing. So, you can put on evidence in your matter, and that would be before…

Ms. Schenck: Yes, that's what I…do, have affidavits. And, you know, from the community and…

Ms. Barzilai: Okay.

Ms. Schenck: …doctors and, you know, I just want to do my best so that I don't look like I'm a continual violator, because what was happening when my husband was sick, I just kept paying it and I'd show, you know, long term renter in my house and just, I don't know, it was just not good. So, my husband would always say, just pay him, you know, because we had a good relationship with the Planning Department in the old days, you know? So anyway, I'm just trying to come from my heart. I just need an extension…

Ms. Barzilai: We just want to understand what it is that you want. Do you…would you want to be heard by a hearing officer or would you like an evidentiary hearing?

Ms. Schenck: I would like to have an extension so I can provide all my…

Ms. Barzilai: An extension before...

Ms. Schenck: To February.

Ms. Barzilai: …a hearing is established or an extension…

Ms. Schenck: Whatever…

Ms. Barzilai: …once you get to the hearing…

Ms. Schenck: …that I can show my…

Ms. Barzilai: …then ask the hearing officer for an extension. Are you asking now for the extension?

Ms. Schenck: Yes.

Ms. Barzilai: Okay…

Ms. Schenck: So that I…

Ms. Barzilai: …you don’t want it to be sent out for an evidentiary hearing today?

Ms. Schenck: I don't know what it means.

Ms. Barzilai: I see. Okay.

Ms. Schenck: I don't know what that means. Yeah. Like I was just told get an extension so that you can be represented in February, you know, so we can look through all your documentations and then come back, you know, we'll go to hearing.

Ms. Barzilai: Okay.

Ms. Schenck: So, I think and that's the only thing I understood, you know.

Ms. Streufert: Does this mean a deferral? I mean is that what, it sounds like a deferral…

Ms. Barzilai: I think we're hearing a deferral.

Ms. Streufert: … for a little longer…

Ms. Schenck: And they you know, I filed all the right…

Ms. Streufert: …time so she can respond.

Ms. Schenck: I'm so sorry. I filed all the documents, the appeals for each violation. I asked for an extension one day before this hearing. Finally, I…or two days before they said, just show up. And then the attorney who was really clear that said, you can't, you know, you'll have an extension on the hearing. So, if that's what you're asking me.

Ms. Streufert: Okay.

Ms. Barzilai: Have you moved toward retaining somebody? Is…

Ms. Schenck: Yes, I have, so I have so many friends that are attorneys too. But at this point, it's either Christmas or even during the time when this first happened, a lot of people don't want to go in front of the Planning Department because they have building permits going. So, I don't know, I, but I want to just defend myself and show all my, you know, all the evidence I have because before I just, for three and a half years, I took care of Mike, you know, and we were married 50 years. So, to me, 10,000 just pay it, you know, if they aren't going to look at my long-term rental agreements, they didn't look at the renter that came in.

Ms. Barzilai: Ms. Schenck, we don't want to talk about…

Ms. Schenck: Okay.

Ms. Barzilai: …you know…

Ms. Schenck: I'm sorry.

Ms. Barzilai: …you're defense in the matter right now, but what we're trying to establish right now is that you don't even want it to go to a hearing, you want it to, right now you want a more time. You want a deferral, basically.

Ms. Schenck: I want to go, I want to be able to provide an attorney…

Chair DeGracia: Okay.

Ms. Schenck: …all my documents…

Chair DeGracia: Right.

Ms. Schenck: …you know, and do the best, you know, the truth.

Chair DeGracia: Okay.

Ms. Schenck: So, if that means I lose, I lose, you know? But I want to provide what I have and what they have because I've heard some other stuff.

Chair DeGracia: Okay. Ms. Schenck, on this we're reading that you're, you'd like to request a deferral of this over to February 10th.

Ms. Schenck: That's right.

Chair DeGracia: Okay.

Ms. Schenck: Thank you so much. Because I haven't even buried him yet. (Inaudible).

Chair DeGracia: Commissioners, do we have anything for the department or the applicant?

Ms. Otsuka: I was just curious. Mrs. Schenck, did you ever think about looking for an attorney from December 2024…

Ms. Schenck: Yes.

Ms. Otsuka: …the first violation?

Ms. Schenck: I've been looking for an attorney since this happened. Yeah, but then I have to say that, you know, Mike died during these dates that they're saying I was up in O'ahu at Queen's and Saint Francis Hospice. After that, I got notice, and so I have been looking for an attorney the whole time, but I get hope, even my best friends, I travel with are attorneys and they didn't want to do it. So, I got, there's no other avenue than get, you know, my family from a mainland or O'ahu. I tried Greg from O'ahu. He's no longer, a lot of people are retired that are my age. It's frustrating really, and I think I'm just getting, I'm getting strong again, you know.

Ms. Barzilai: We understand. Thank you, Mrs. Schenck. But we also have a request from the department that this be the final extension of time. So, both of those things are before you. So, whether this warrants a deferral to allow Mrs. Schenk an opportunity to retain an attorney and whether or not you agree that this is the final deferral.

Ms. Otsuka: I'm just trying to understand if for over a year she's been trying to contact an attorney, if the 60-day deferral will make a difference.

Ms. Barzilai: Well, the other option is that you do refer it to Boards and Commissions today. And she'd have to make that motion before the hearing officer to allow her for more time.

Ms. Streufert: How does the department feel about this?

Mr. Donahoe: Again, the Deputy County Attorney, Chris Donahoe. Thank you, Commissioner Streufert, the department understands the circumstances that, you know, and shares its condolences for, for her loss, but also would like to move it forward, but there is some hesitation in just setting it for a contested case hearing without giving the opportunity of having an attorney explain what that process is and also giving that that even prior to it being referred out to the hearing officer, that attorney being able to reach out to myself or someone from the Planning Department to maybe resolve it before that. So, I'm a little hesitant to recommend a straight referral at this point. So, I would, I would agree with the deferral until the February 10th, 2026, date to allow time to retain counsel. And again, once it's set out, things can also be addressed with the hearing officer.

Chair DeGracia: Commissioners, any further discussion or questions? If not, I'll entertain a motion.

Mr. Ako: You know, just for my clarification again.

Chair DeGracia: Sure.

Mr. Ako: The deferral will be till February 10th to allow her to get an attorney and try to resolve it by the February, before the February 10th meeting. Is that the…

Ms. Barzilai: I don't know if it's necessarily for resolution, but if so…

Mr. Ako: It might be just to get an attorney.

Ms. Barzilai: Just to bring you back to what you can do today. So, normally you would have to hear this within 60 days if you're going to send it out, right. So, that's not under consideration at this time because a longer period may be applied with agreement from Ms. Schenck. So, if she doesn't want to make sure that her rights are asserted within 60 days, you're okay to do the deferral, but I think it's just so that Mrs. Schenck can have an attorney determine if they even want to take her contested case, and then she'd come back here and explain to you what happened. And at that time, you decide if you want to send it out for a contested case. She wants you to suspend your decision right now.

Ms. Schenck: I'm a bit confused. Like, are you saying that you can hear someone's history of what's going on without an attorney, or can I get an extension to February so that I can have an attorney go before the board?

Ms. Barzilai: Yes. So…

Ms. Schenck: I'm sorry to ask questions.

Ms. Barzilai: No, that's okay. No problem. We understand. So, what you, what we, what the Commission thinks that you have asked is for additional time just to leave it and suspend it, leave it as is…

Ms. Schenck: Okay.

Ms. Barzilai: …to have an attorney even say if you want to go to an evidentiary hearing, which probably will not be before the Commission, it would be before a hearing officer, an administrative law judge.

Ms. Schenck: Yeah, that's…I think that would be the way to go because I have, I just have so much that I need to present and I think if I have an attorney who said possibly at the end of January, he's got time, you know, to represent me. So, I think that that might be if I'm understanding, right, that that might be my best, at least I can present everything, right?

Unknown Male: Yes.

Ms. Schenck: Okay. Thank you for helping me.

Ms. Streufert: My condolence. And I think our condolences…

Ms. Schenck: Yeah, it's hard.

Ms. Streufert: …for your death of your husband and we understand, excuse me, that this is a very, it's a difficult time for you, but it's also a difficult process if you don't understand all the words and the concepts…

Ms. Schenck: Exactly.

Ms. Streufert: …because sometimes it's very confusing, even for us. So, a deferral seems to make most sense. And since the county attorney is inclined to agree with that kind of a deferral.

Ms. Schenck: Does that mean February 10th, that I would go before the board again or what?

Ms. Streufert: Well, you would at least have to make some kind of, some kind of progress.

Ms. Schenck: Yes.

Ms. Streufert: To getting this thing resolved.

Ms. Schenck: Thank you.

Ms. Streufert: I'm not sure what would, is there something that would suffice for the county?

Mr. Donahoe: Deputy County Attorney Chris Donahoe. No, it's my understanding that on the February 10th date, if there's been no contact but there is an attorney, the attorney would come in and then at that point it would be referred out for…well, it'd be it would be our recommendation to refer it out to Boards and…well, it would be our recommendation to refer it out to Boards and…for the Commission to refer it out to Boards and Commission for a contested case hearing, but that doesn't prevent if she meets with an attorney and an attorney takes the case to contacting us prior to February 10th.

Ms. Streufert: Is that understandable?

Ms. Schenck: Oh, I see. It’s a before.

Mr. Donahoe: To speak, to speak about it, but this, the whether it gets referred out or not would be deferred until February 10th. And then hopefully at that time an attorney will come in, well, she'll be represented by an attorney, and we can refer it out at that point for the evidentiary hearing. The evidentiary hearing, just to be clear, can I, because…

Ms. Schenck: Yes, yes.

Mr. Donahoe: …I know that the legalities are kind of confusing, that the contested case hearing wouldn't happen on February 10th.

Ms. Schenck: Okay.

Mr. Donahoe: And you wouldn't, we wouldn't come in, hey, we're ready to go. It would be the opportunity to set it out through your representative, if you're able to get an attorney, at that point, then we set it out. Okay?

Ms. Schenck: Thank you.

Mr. Donahoe: Sure.

Ms. Streufert: Is that understandable at this point?

Ms. Schenck: Thank you.

Ms. Streufert: Okay. All right.

Ms. Schenck: Sorry.

Ms. Barzilai: Chair, anything else?

Chair DeGracia: Nope. Commissioners, I'll entertain a motion.

Ms. Streufert: I'm moved to defer the Appeal of the Planning Director's first Notice of Violation for operation of a Commercial Retreat in the Open Zone District until the February 10th, 2026, Commission meeting. Does that approve?

Mr. Ako: I'll second.

Chair DeGracia: Okay. Commissioners, motion has been made and seconded to defer this agenda item to the February 10th, 2026 meeting. Any further discussion before we go to a roll call vote? Okay. Seeing none, roll call vote, please.

Ms. Barzilai: Thank you, Mr. Chair. Thank you, Mr. Chair. Motion to defer to February 10, 2026. Commissioner Ako?

Mr. Ako: Aye.

Ms. Barzilai: Commissioner Cox?

Ms. Cox: Aye.

Ms. Barzilai: Commissioner Ornellas?

Mr. Ornellas: Aye.

Ms. Barzilai: Commissioner Otsuka?

Ms. Otsuka: Aye.

Ms. Barzilai: Commissioner Streufert?

Ms. Streufert: Aye.

Ms. Barzilai: Chair DeGracia?

Chair DeGracia: Aye.

Ms. Barzilai: Motion carries. 6:0. Thank you, Mrs. Schenck.

Ms. Otsuka: Good luck in finding an attorney.

Ms. Cox: Good luck.

Ms. Schenck: Thank you.

Ms. Otsuka: So, ask all of your attorney friends to find you an attorney.

Ms. Schenck: Yeah.

Ms. Cox: Yeah.

Ms. Otsuka: All my best.

Ms. Schenck: Thank you very much.

Ms. Barzilai: Moving on to item General Business. I.2.

Petition to Appeal Planning Director's Decision Related to the Planning Director's 8/7/23 Cease and Desist and Forfeiture of TVRNCU #1184 ('Ae Kai Le'a) for the Failure to Renew by March 6, 2023, for the property located at 2652-A Puuholo Road, Koloa, Kauai, Hawaii, identified by Kauai TMK no. (4)2-6-007:012 containing 6,377.0 square feet, **CHARLES SMITH AND DEANI HIGASHI**.

a. Stipulation and Order for Withdrawal of Petitioners' Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVRNCU #1184 and Dismissal of Contested Case with Prejudice.

Ms. Barzilai: Is there anyone here to testify on this matter? Nobody else is here. Chair, take it away.

Chair DeGracia: Okay. Commissioners, any discussion?

Ms. Barzilai: I think maybe the department wants to say something. And I think we have Mrs. Higashi? Are you Deani Higashi, ma'am?

Unknown Woman: No.

Ms. Barzilai: Okay. The party's not here, so maybe…

Chair DeGracia: Department.

Ms. Barzilai: …the department.

Mr. Donahoe: Oh, thank you, Chair. Good afternoon again, Commission. Deputy County Attorney Chris Donahoe. And I did speak with counsel. Mr. Yamamoto, who works with Greg Kugel in this matter. This matter was set for to go forward with a contested case hearing in the interim, while we were preparing for the contested case hearing, there were settlement negotiations and we reached a resolution as contained in the, with conditions regarding the subject property. In exchange, the parties agreed that the Petition to Appeal would be withdrawn and the contested case hearing would be vacated. And so, this was presented and signed by Mr. Kimura, and the department is satisfied with the terms and conditions that are set forth in the stipulation. And I believe the only addition, and would be to add, we forgot to add the Chair's signature.

Ms. Barzilai: Yeah. Probably better instead of, you don't really need an order.

Mr. Donahoe: Yes.

Ms. Barzilai: Just have Chair signing.

Mr. Donahoe: So, apologies to the Commission.

Ms. Barzilai: So, it's actually just a motion to receive.

Chair DeGracia: Motion to receive. Okay, Commissioners, if there's no further discussion or questions. Be seeking a motion to receive the stipulation.

Ms. Cox: I move we accept the Stipulation and Order for Withdrawal for the Petitioners' Petition for Cease and Desist and Forfeiture of TVRNCU #1184.

Ms. Otsuka: Second.

Chair DeGracia: Commissioners, motion has been made and seconded to receive this Stipulation and Order. Any further discussion before we take a voice vote? Okay, seeing none, let's take a voice vote. All in favor, say aye. Aye (unanimous voice vote). Opposed? Hearing none, motion carries. 6:0.

Ms. Barzilai: Okay. Welcome back Clerk of the Commission, Ka'aina Hull.

Mr. Donahoe: Thank you, Commission.

Ms. Barzilai: Thank you, Mr. Donahoe.

COMMUNICATIONS (None)

NEW BUSINESS (For Action)

Mr. Hull: Anything interesting happen? Down to second to final agenda item. We have New Business L.1.

> SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2026-3) involving the construction of a single-family residence, garage, and associated site improvements within Lot A, involving a parcel situated along the makai side of Lawai Road in Kukui'ula, approx. 800 feet east of Spouting Horn Park, further identified as Tax Map Key: (4) 2-6-003:015 containing a total area of 8,118 square feet = **JOHN H. MURRAY TRUST**.

Mr. Hull: We didn't close the agency hearing on this agenda item in the morning, but being that this is technically a separate agenda item. Are there any members of the public that want to testify on this agenda item? Seeing none, I'll turn it over to Romio for the Director's Report.

Staff Planner Romio Idica: Good afternoon. Chair, Commissioners.

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

Ms. Streufert: I do have a question on this. Excuse me, on the application, I have it as page seven. I'm not sure if it's the application or the Director's Report. It says that under cultural and historic resources, the shallow depth of the footing will not have an impact upon the, upon any archeological artifacts or Hawaiian artifacts or iwi, but how deep does a septic tank have to be?

Mr. Idica: Generally, the septic tank is usually about maybe 48 inches below grade. However, it depends on, like, reaching groundwater. So, I would have to rely more on the engineering drawings to kind of actually show how deep the septic tank is.

Ms. Streufert: And the only reason for asking that, not because I need to know the depth, I don't. It's really a question of, if they find any archeological or historic it's not minor because the footings may not be very deep, but if you have to dig for a septic tank, that would, that could potentially expose iwi or…

Mr. Idica: Yes.

Ms. Streufert: …any other kind of thing…

Mr. Idica: Yes.

Ms. Streufert: …any other habitation that might have been there.

Mr. Hull: Romio, SHPD hasn't responded to this one yet, right?

Mr. Idica: No, there was no public comments yet received.

Mr. Hull: Septic systems on the coastline have become a particularly, you know, hot flashpoint when it comes to cultural impacts.

Ms. Streufert: Yes.

Mr. Hull: For a lot of these now SHPD is doing requiring upfront before the building permit is approved to have 100% of that site excavated for the purposes of archeological surveys. I can't say that that's what they're going to put on this. I know certainly cultural properties next to sandy coastlines are getting that requirement outright across the board. I'm not sure if SHPD would still hold that same scrutiny when it's near a rocky shoreline, but we're waiting to see what SHPD is going to provide.

Ms. Streufert: So, we would go with the SHPD?

Mr. Hull: Correct.

Ms. Streufert: Okay.

Mr. Idica: Yeah. And it also marks in Condition No. 5, that the applicant must receive a letter from DLNR and SHPD before any ground disturbance occurs.

Ms. Streufert: Right, but I was just referring to that particular thing, that there was not going to be deep ground disturbance…

Mr. Idica: Yes.

Ms. Streufert: …but there would be with a septic tank. Okay.

Mr. Ako: Mr. Chair, question. This is one that property that is vacant that has not had a Ka Pa'akai Analysis, yeah, and that's because it was developed before. So, once it's developed, then the need of a Ka Pa'akai is no longer required.

Mr. Hull: The Ka Pa'akai, yeah, previously undeveloped, essentially undeveloped properties, previously undeveloped properties.

Mr. Ako: That need a Ka Pa'akai, right?

Mr. Hull: Correct.

Mr. Ako: So, this one was developed at one time and therefore we don't want (inaudible).

Chair DeGracia: Commissioner Ornellas, you had a question.

Mr. Ornellas: I moved to approve a Special Management Area Use Permit, SMA-U-2026-3.

Ms. Barzilai: I mean, the applicant is here if you want to hear from him, Commissioner, or are you ready to move?

Mr. Ornellas: It’s been a long day.

Ms. Barzilai: Commissioner is ready.

Chair DeGracia: We're almost there. We're almost there.

Ms. Barzilai: Ian, keep it short, please.

Mr. Ian Jung: Good afternoon, Chair and members of the Commission, Ian Jung, on behalf of the applicant, John Murray Trust. Jack Murray is with me here. I've never had that happen before. It's just to be, to be real brief, to address the two points that were raised. We did have an archeological literature review prepared for this property. The archeological consultant did recommend in there when it gets routed to SHPD, that no further studies be done, because this property is one of those backfilled properties on top of dirt or, sorry, dirt on top of rock layer about four feet deep. The septic system would be set about 3 to 4 feet deep on the plans and Exhibit E.2., and the depth of the footings are about 18 inches to 2 feet for the stem walls. So, it's not too deep on there, but we did have some test pits dug on the property as a part of the Exhibit F.2. in our application.

Ms. Streufert: So, the top of the septic tank will be 3 to 4 feet.

Commission Support Clerk Lisa Oyama: Commissioner Streufert.

Ms. Streufert: So, the top of the septic tank will be 3 to 4 feet below surface.

Mr. Jung: Correct.

Ms. Streufert: But the bottom of it would be like, 20 feet.

Mr. Jung: It'd be right on the rock base.

Ms. Streufert: It'd be on the rock base.

Mr. Jung: Correct. And it's the same with the leach field.

Ms. Streufert: Well, as long as SHPD is, you're going to rely on SHPD, then I don't have a problem with that.

Mr. Jung: Yeah. The new protocol that the Director outlined is, we anticipate SHPD is going to come back and tell us, you got to do what's called a 100% AIS. So, you, when the house is constructed, you have a full excavation of the septic system area. They will have an archeological consultant on site. We'll review everything. If nothing is found, take photos,

document it, put a report back to SHPD, and they have said in the past they'll respond within five working days to clear it, but we're still hoping for five days versus maybe 80. So, that's the issue. The other (inaudible) issue, it was the first home there that was built in 1970. It was demoed in 1994 post Hurricane Iniki. And it the footprint of the home will go primarily on what previously existed there. And we had to reconfigure the home to make sure it stays within the shoreline setback confines. So, with that, we'll open it up for any other questions you may have for us.

Chair DeGracia: Commissioners, any questions, or are we ready for a motion?

Ms. Otsuka: There…wait…we don't have to…

Mr. Hull: There wasn't a second.

Ms. Otsuka: Oh.

Ms. Streufert: Second.

Ms. Otsuka: We don't have to hear from Romio?

Chair DeGracia: No…yeah.

Ms. Otsuka: His final…

Chair DeGracia: Recommendation.

Ms. Otsuka: …recommendation.

Chair DeGracia: We're all jumping ahead today.

Mr. Idica: Okay. Based on the foregoing evaluation and conclusion, it is hereby recommended that the proposed development involving the construction of a two story, two-bedroom, single family dwelling with an attached garage through Special Management Area Use permit, SMA-U-2026-3, be approved, subject to the following conditions as listed in the Director's Report.

Chair DeGracia: Thank you. I believe we are now ready for a motion. Or do we have a motion on the floor?

Mr. Hull: We have a motion.

Chair DeGracia: Now, we need a second.

Ms. Streufert: I did.

Chair DeGracia: Okay. Commissioners, motion has been made and seconded for approval of this agenda item. Could we get a roll call vote, Mr. Clerk?

Mr. Hull: Roll call. Commissioner Ako?

Mr. Ako: Aye.

Mr. Hull: Commissioner Cox?

Ms. Cox: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Commissioner Otsuka?

Ms. Otsuka: Aye.

Mr. Hull: Commissioner Streufert?

Ms. Streufert: Aye.

Mr. Hull: Chair DeGracia?

Chair DeGracia: Aye.

Mr. Hull: Motion passes, Mr. Chair. 6:0.

Chair DeGracia: Thank you.

Mr. Jung: Thank you, Commissioners, appreciate it. I was going to say a 250-bedroom residence, I refrained.

ANNOUNCEMENTS

Mr. Hull: Next, we just have our Announcements. Just a, we have the next scheduled meeting January 13th, 2026. It's not too packed of an agenda. We have an anticipated 144 residential unit being proposed as part of a Project Development Use Permit, and then we also have the long awaited Special Management Area Rule amendments. So, it's kind of a policy discussion as well. Those are the two main things on that agenda. Oh, sorry, and we have one, a Use Permit for a base yard, but right now it's shaping up to be three potential listings unless there's anything the Commissioners want in the new year to be briefed up or agendized.

Ms. Cox: I hate to bring this up, but whatever happened to Coco Palms? Did I somehow miss the annual, I thought the report came in a while ago.

Mr. Hull: That's…yeah…there was, there was…they have submitted their annual reports. There was discussion about putting it on this agenda and thought that to somewhat lighten the load.

Ms. Cox: Oh, okay. I'm not going to complain. I just (inaudible)…

Mr. Hull: But we do anticipate that happening in February.

Ms. Cox: Okay.

Mr. Ornellas: (Inaudible).

Ms. Cox: I just wanted to know when to schedule my vacation. No, no.

ADJOURNMENT

Chair DeGracia: All right. Commissioners, if nothing further, I'll seek a motion to adjourn.

Ms. Otsuka: Motion to adjourn.

Ms. Cox: Second.

Chair DeGracia: Okay, Commissioners, motion has been made and seconded to adjourn this meeting, we'll take a voice vote. All in favor, say aye. Aye (unanimous voice vote). Opposed? Hearing none, Motion carries. 6:0. Meeting is adjourned.

Chair DeGracia adjourned the meeting at 2:11 p.m.

Respectfully submitted by:

Lisa Oyama

Lisa Oyama,
Commission Support Clerk

( ) Approved as circulated (date of meeting approved).

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

DEPARTMENT OF PLANNING
STANDARD ZONING PERMIT APPLICATION
Fees vary based on permits required.

This application shall be filled out by all seeking Class I, II, and III Zoning permits pursuant to the Kauai County Code, Hawai'i Revised Statutes Chapter 205A and all relevant rules and regulations of the Planning Commission and Department.

DEPARTMENT USE ONLY				
Zoning	X			Intake By:
Use				
Variance	X			Intake Date:
SMA				
PDU				Acceptance Date/By:
TOTAL FEE:				
Additional Fees:				
Receipt Number				
Building Permit No.				

Permitting fees may be made via cash, check or online payment. All checks shall be made out to: **"Director of Finance"**

Complete Information Below			
Tax Map Key Number	2-6-015:005 & 2-6-014:041&046	**Condominium Number**	n/a
Property Owner Name(s)	Makai Koloa LLC		
Property Owner Mailing Address	5174 Lopaka Paipa Blvd, Koloa, Haw 96756		
Property Owner Email	lindsaykoloa@gmail.com	**Property Owner Phone**	808-652-9379

If you are an authorized agent for the property owner, complete the following:			
Authorized Agent Name(s)	Lindsay Crawford		
Authorized Agent Mailing Address	PO Box 1695, Koloa, Haw 96756		
Authorized Agent Email	lindsaykoloa@gmail.com	**Authorized Agent Phone**	808-652-9379

What is the proposed construction and/or intended use of the structure or parcel (may attach additional info)?
Variance Permit to waive sidewalks and instead pay in lieu fee - Subdivision Lot 5-A (S-2025-2)

Applicant Declarations (incorrect responses may slow your permit review)
Please place an "X" under Yes or No under the following:

		YES	NO	Staff Verification
1	Is there a structure on the property that is 50 years old or older?		x	
2	Is this a permit for an after-the-fact construction or activity?		x	
3	Are there known burials on the site?		x	
4	Will the project involve ground disturbance?	x		
5	Is this a conversion of a legally existing single-family dwelling unit into a multi-family two dwelling unit?		X	

Submittal Checklist

Please **INITIAL** under "Yes" or not applicable "N/A" regarding each of the statements:

		YES	NA	Staff Verification
1	All plot plans I have submitted are drawn to scale.	LJC		
2	I have ensured all TMK numbers are visible on all plan sheets.	LJC		
3	Any plans I have submitted clearly show all structures		n/a	

Acknowledgements - Please INITIAL next to each of the statements:

I UNDERSTAND:	Initial Here
Additional fees and/or the submittal of other application forms may be necessary to complete this application for acceptance and processing.	LJC
Tender of fees by the County does not imply acceptance of this application.	LJC
Errors in self-declaration or missing or incomplete information will delay acceptance and processing of your application.	LJC
Any purposeful misrepresentations in this application may result in delay, denial, permit revocation, violations, fines and even criminal prosecution.	LJC

The owner and/or authorized representative is hereby made aware that the construction, work, use or activity approved in this permit shall be subject to inspection by the Planning Department personnel. The applicant is advised that inspection may occur prior to or during construction and use to ascertain the activity is conducted in compliance with the law. Further, I am a duly authorized agent or have 100% ownership rights.

WARNING: if you are a property owner of a Unit within a Condominium Property Regime (CPR), you are obligated to acknowledge and understand your rights and duties under the documents governing your CPR. The Kaua'i County Planning Department (Department) has no duty or obligation to enforce CPR Documents. By submitting this application [or, authorization for], you hereby indemnify and hold harmless the Department from any and all liability arising from disputes or actions resulting from the interpretation or enforcement of your CPR documents.

OWNER/AGENT SIGNATURE: _____ DATE: 11/18/2025

FOR PLANNING DEPARTMENT USE ONLY (THIS CONSTITUTES PERMIT IF FILLED OUT BY DEPT.):

APPROVED ☐ DENIED ☐ BY: _____ DATE: _____

DIRECTOR'S CONDITIONS OF APPROVAL (staff to **initial** next to applicable conditions):

This permit shall expire if no building permit is issued within one (1) year after the approval date and/or if construction does not start within one (1) year of building permit issuance.	
Should any archaeological or historic resources be discovered during ground disturbing/construction work, all work in the area of the find 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.	
Additional Conditions (State):	

APPLICATION

MAKAI KOLOA LLC hereby submits the following Application for a **Variance** and **Class IV Zoning Permit** to modify the requirements set forth in §9-2.3(e)(3) of the County of Kauai Subdivision Ordinance, as amended, relating to the requirement to install dual sidewalks on proposed residential roadways and alternatively to waive said requirement and instead pay an in-lieu fee in an amount equal to 100% of the cost to construct said sidewalks as determined by the County Engineer.

This application is being made pursuant to CSO §§9-4.1 to 9-4.3, the Comprehensive Zoning Ordinance for the County of Kauai §§ 8-3.1(f) and 8-3-3, Condition No. 1(i) of Preliminary Subdivision Map Approval S-2025-2 letter dated April 10, 2025.

SUBDIVISION PROJECT DESCRIPTION AND BACKGROUND

MAKAI KOLOA LLC was granted Preliminary Subdivision approval for their Kukui'ula Parcel Q Subdivision on **April 10, 2025**. (*see Exhibit 1*). This Preliminary Subdivision map consolidates existing residential Lot 5-E and Lot 41 (an existing landscape strip lot) of the existing Koloa Estates Subdivision and Lot 5-A (known as Kukui'ula Parcel Q) and re-subdivides said consolidation into (15) new residential lots, (1) existing but enlarged residential lot, **(2) new short cul-de-sac residential roadway lots** that will be dedicated to the County of

Kauai and (2) remnant lots that will continue to be utilized by the Koloa Estates HOA for privately maintained landscaping strips along Lopaka Paipa Boulevard. (*see Exhibit 2*). Emphasis is given on the **(2) new short cul-de-sac residential roadway lots** as this is where the applicant is seeking to waive the requirement for dual sidewalks and instead pay an in-lieu fee.

APPLICANT

TMK 2-6-015:005 Owner of 'Parcel Q' - Makai Koloa LLC

TMK 2-6-014:046 Owner existing residential Lot 5-E - Lindsay J Crawford III

TMK 2-6-014:041 Owner landscape Lot 41 – Koloa Estates Community Association

As "Authorized Agent" to the above property owners, Lindsay Crawford is acting as their "Agent" in making this Application for a **Variance** and **Class IV Zoning Permit**, as evidenced by the attached notarized authorization to act form (*see Exhibit 3*).

Agent contact information:

Lindsay Crawford

Email address - lindsaykoloa@gmail.com

Phone number – (808) 652-9379 cell

Mailing address – PO Box 1695, Koloa, Hawaii 96756

PROPERTY INFORMATION

TMK's - 2-6-015:005, 2-6-014:046 & 2-6-014:04

LOCATION – the project site is adjacent to and accessed from both Lopaka Paipa Boulevard and Ala Kalanikaumaka Street (*see Exhibit 4*)

LAND USE DESIGNATIONS AND CONSTRAINTS

SLUD – Urban

Kaua'i General Plan – Residential Community (if Variance granted property conforms)

CZO – Residential R-4

Development Plan Area – South Kaua'i Planning District

SMA – the property is not within the Special Management Area

Constraint District – the property is not within any Constraint District

Special Treatment District – the property is not within any Special Treatment District

Heritage Resources – there are no cultural features or historic sites within the project area

Flood Zone – Zone X

Shoreline Setback – (in applicable) the property is more than 500 feet from the shoreline

Violations – there are no known violations on the property

VDA – the entire project is within the Visitor Destination Area

PAST AND CURRENT USES

In the past Lot 5-A (known at the Planning Department as Kukui'ula Parcel Q) has been, and is currently today, vacant undeveloped land that was previously a part of the adjacent 1000 acre master planned Kukui'ula project. Lot 5-A carries the same former and existing State and County urban and residential land use designations as Kukui'ula. As such Lot 5-A benefits from

some of the entitlements granted under Kukui'ula's Zoning Ordinance PM-2004-370 (*see Exhibit 5*).

However, Lot 5-A (Parcel Q) has always been intended to be used as an expansion and completion of the adjacent Koloa Estates Subdivision, and NOT a part of Kukui'ula master planned community. Towards that end, in 2023 Makai Koloa LLC purchased Lot 5-A from Kukui'ula and is now facilitating the development (15) new single family residential lots towards said expansion and completion of Koloa Estates.

KA PA'AKAI ASSESSMENT

A Ka Pa'akai Analysis was prepared by Exploration Associates Ltd addressing native Hawaiian traditional and customary practices. Said report was submitted to and excepted by the County of Kauai Planning Department with the above described Preliminary Subdivision Map.

IMPACTS OF DEVELOPMENT

As stated above, Lot 5-A was previously a part of the adjacent 1000 acre master planned Kukui'ula project that received entitlements granted under Kukui'ula's Zoning Ordinance PM-2004-370. As such, all impacts related to archaeology, biology, air quality, traffic, utilities, storm runoff, environmental impact and affordable housing have **already been addressed (and mitigated where needed) with the Kukui'ula Ordinance PM-2004-370** (*see Exhibit 5)*.

Additionally, at the time the applicant acquired Parcel Q from Kukui'ula, the Kauai County Housing Authority provided a letter dated July 24, 2023 confirming that Parcel Q (Lot 5-A) was not subject to further workforce housing conditions (see Exhibit 6).

JUSTIFICATION FOR APPROVAL OF VARIANCE

1.1 History and Development of the existing Koloa Estates Community

Koloa Estates is an upper scale neighborhood with unique design characteristics and conditions that ensure it fits into the historic rural and agricultural identity of the Kōloa district. Built back in 1998, the Koloa Estates subdivision does not contain any curbs, gutters or sidewalks. Instead, to maintain its rural character, County approved 10' wide grassed swales were implemented for

drainage and pedestrians utilize the four asphalt cul-de-sac streets when walking the frontage of their lots.

Prior to 2013 CSO §9-2.3(e)(3) did not require curbs, gutters and sidewalks on all proposed or existing streets within or abutting subdivisions in the R-4 zoning district, therefore none were built in Koloa Estates.

1.2 Complete Streets Resolution and Ordinance

In 2010, the County Council passed Resolution No. 2010-48, Draft 1, "A Resolution Establishing a Complete Streets Policy for the County of Kauai" ("**Complete Streets Resolution**"). The Complete Streets Resolution provides the County's policy of, *inter alia*, promoting safe access for pedestrians, bicyclists, motorists, and public transportation users of all ages and abilities, and advocates for the integration of all travel modes in the design of streets and highways, "especially in and around town cores."

In 2013, the County Council passed Ordinance No. 946, amending the CSO to allow for multimodal transportation principles for subdivisions (the "**Complete Streets Ordinance**"). In relevant part, the Complete Streets Ordinance requires curbs, gutters and sidewalks on both sides of all proposed or existing streets within or abutting the subdivision in Residential Districts where the density permitted is four (4) units or more per acre [CSO §9-2.3(e)(3)]. However, the Complete Streets Ordinance further provides that swales may be constructed in lieu of curbs and/or gutters '*if designed in accordance with County drainage standards*' [CSO §9-2.3(e)(3A)] and that '*sidewalks may be waived if said sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character and an alternative method of pedestrian circulation will be provided*' [CSO §9-2.3(e)(3B)].

The Complete Streets Ordinance goes on to say that '*an in-lieu fee for waived sidewalks must be paid by the subdivider at the time of Final Subdivision Map approval*' [CSO §9-2.3(e)(3C&D)].

1.3 Agreement to Pursue a Variance Permit.

After diligent review and study, the applicant has determined that consistent with past practice and given the nature and character of the proposed subdivision the strict provisions for dual sidewalks and for curbs & gutters required by CSO §9-2.3(e) are not appropriate and may be waived pursuant to CSO §9-2.3(e)(3)(A-D). The applicant has worked with the Planning Department and the Department of Public Works pursuant to Condition 1(i) of the preliminary subdivision map approval for S-2025-2, and the Planning Department has determined that the applicant may submit this application for Variance and Class IV Zoning Permit to vary the requirements relative to the provision of curbs, gutters and sidewalks as set forth in CSO §9-2.3(e)(3).

1.4 Description of Proposal and Reasons for Deviation.

The proposed subdivision consists of two residential cul-de-sac roadways. (*see Exhibit 7*). As stated above, the current CSO requirements compel the construction of curbs, gutters and sidewalks on both sides of these two proposed roadways. However, instead of curbs and gutters, the applicant has requested to construct grassed swales on both sides of the two proposed residential cul-de-sac streets that conform to the standards established by the Department of Public Works, and the applicant has **already been granted said request by the Department**. This will maintain the rural feel of the community and allow the subdivision to effectively address storm water runoff by allowing the swales to slow down water flow allowing for sedimentation, soil filtration and/or conveyance to the downstream inlet.

Further, the applicant requests to pay the appropriate fee in lieu of any required sidewalk not constructed as determined by the County Engineer per CSO §9-2.3(e)(3)(C). The exact location of sidewalks not to be built (and an in lieu fee paid) are as shown. (*see Exhibit 7*).

For the following reasons, the applicant's request to <u>not build sidewalks</u> complies with the standards to grant said Variance.

A. <u>Due to special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations deprives the property of privileges enjoyed by other property in the vicinity and within the same District, and the applicant cannot make a reasonable use of the property if the regulations are applied</u>.

As previously explained above, this Lot 5-A Subdivision has always been intended to be used as an expansion and completion of the adjacent Koloa Estates Subdivision and therefore the applicant desires <u>to match the existing rural character of Koloa Estates</u>. The attached photos from the Koloa Estates Community (*see Exhibit 8*) show the current lot frontage conditions at Koloa Estates – specifically, the location and interaction of existing drainage inlets/swales, driveway aprons, street lights & signage, water meters, fire hydrants and various electrical utility boxes, all contained in the ten foot wide parkway area. When no street curb is present a sidewalk would typically need to be positioned adjacent the residential lot in order to separate pedestrians from the vehicular travel way (ie, sidewalk not positioned adjacent to the edge of road). Because of the somewhat already congested condition of the ten foot wide parkway (in both the current Koloa Estates and similarly in the new 15 lots of Parcel Q to be added to Koloa Estates), an attempt to now design and 'force fit' sidewalks into the limited space left in this ten foot wide area is not reasonable as it will:

1) Create potential tripping hazards at drainage inlets, water meter boxes and electrical utility boxes that must be set flush with the proposed sidewalk surface.

2) Force pedestrians to navigate around street light poles and road sign posts in the walk path.

3) Deprive the residents in Parcel Q of their privilege of an aesthetically pleasing (ie, less congested) and rural lot frontage consistent with that of the rest of the Koloa Estates community.

All of the above described ten foot wide parkway conditions (and potential walking hazards) are demonstrated in detail in the following attachments taken from the applicant's subdivision improvement plans and the County's standard details (*see Exhibit 9*).

Therefore, in conclusion, by not building sidewalks in Parcel Q the result is a better, safer and more open rural looking community that maintains view planes by minimizing the use of concrete hardscape.

B. The applicant's request is the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and to facilitate a reasonable use.

The applicant is requesting the minimum departure from the Complete Streets Ordinance as necessary to avoid the deprivation of privileges enjoyed by other properties in the area - specifically the urban character privileges of the adjacent existing Koloa Estates Community.

The applicant's Variance is no different than prior requests for 'modification of requirements' submitted after the Complete Streets Ordinance passed in 2013, and the design and layout of the proposed Variance is consistent with the integration and connection to existing Koloa Estates and to other residential developments in the south shore area.

C. The applicant's request will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences.

Approving this Variance will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences. To the contrary, the applicant believes this Variance will result in less environmental impacts and effects because the reduced use of concrete hardened surfaces (ie, sidewalks) which will lead to reduced storm water runoff and less reflective surfaces. There will also be a decrease in visual impacts from various vantage areas and view planes (as seen by both the resident lot owners and visiting general public).

Most importantly, given that there will only be 7-8 homes fronting each of the two proposed residential cul-de-sac roadways, pedestrian traffic instead walking the asphalt roadway will be very minimal – usually limited to the homeowners themselves.

Therefore, in conclusion, allowing the sidewalk deviation proposed by the applicant is consistent with both the criteria required in any Variance Permit approval process and the sidewalk waiver requirements noted in CSO Section 9-2.3(e)(3B-D).

PERMITS REQUESTED AND REQUIRED

Variance Permit

A Variance Permit is being requested pursuant to CZO §8-3.3 and CSO §9-4.3 to allow the applicant to modify the curbs, gutters, and sidewalk requirements contained in CSO §9-2.3(e)(3). Variances shall be granted if it is found that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations deprives the property of privileges enjoyed by other property in the vicinity and within the same District, and the applicant shows that the landowner cannot make a reasonable use of the property if the regulations are applied. CZO §8-3.3(b). Where these conditions are found, the Variance permitted shall be the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other properties and to facilitate a reasonable use, and which will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences.

Class IV Zoning Permit.

Applicant is requesting a Class IV Zoning Permit as part of the procedural requirements of a Variance pursuant to CZO § 8-3.3(e)(1). To obtain a Class IV zoning permit, an applicant must show that the request conforms to the standards established by the CZO. CZO §8-3.1(f)(2).

CONCLUSION

Pursuant to the above, the applicant respectfully requests the Planning Department and the Planning Commission:

1. Find that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations deprives the property of privileges enjoyed by other property in the vicinity and within the same District.

2. Find that the applicant cannot make reasonable use of the property if the dual sidewalk regulations are applied.

3. Find the Variance requested is the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and will facilitate a reasonable use, and will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences. .

4. Approve the issuance of a Variance Permit and a Class IV Zoning Permit as requested and described herein, subject to such reasonable conditions as the Planning Department and Planning Commission shall impose.

Lindsay Crawford
Applicant

Authorized Agent for
MAKAI KOLOA, LLC.

EXHIBIT LIST

Exhibit #	Description
1.	Parcel Q Preliminary Subdivision Map Approval letter
2.	Parcel Q Subdivision Map
3.	Authorization to Act
4.	Location Map(s) and County Website TMK image
5.	Kukui'ula Zoning Ordinance PM 2004-370
6.	Parcel Q Housing Authority letter
7.	Overview of Parcel Q Sidewalks not to be built
8.	Koloa Estates photos
9.	Parcel Q Parkway conditions

EXHIBIT 1

PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISION

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

APR 10 2025

Mr. Lindsay Crawford
P.O. Box 1695
Kōloa, Hawai'i 96756

Subject: **Kukui'ula Parcel Q Subdivision**
Consolidation of Lot 5-A, Lot 5-E and Lot 41 Resubdivision of said consolidation into Lots 1 to 20, inclusive and designation of Easements S-1, D-1, D-2, and D-3 being portions of R.P. 7765, L.C. Aw. 3611 to Kananoula, R.P. 3757, L.C. Award 3418 to Pelekai, R.P. 4250, L.C. Award 5401 to Hanaole, R.P. 6714, L.C. Award 7714-B, Apana 2 to Mose Kekuaiwa no M. Kekuanaoa, R.P. 3213, L.C. Award 10638 to Poka, and L.C. 5456 to Mataio, & R.P. 4312, L.C. Award 5313, Apana 1 to Kenoi at Kōloa, Kaua'i, Hawai'i.
(**S-2025-2**, Makai Kōloa, LLC. Et Al.)

Dear Mr. Crawford,

The subject subdivision was granted **PRELIMINARY SUBDIVISION MAP APPROVAL** by the Planning Commission at their meeting held on APRIL 08, 2025. Final approval will be granted subject to the following conditions:

1. Requirements of the County 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. Pursuant to Section 9-3.8 (c) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended, the Applicant shall file fifteen (15) copies of the subdivision final map with the Planning Department within one (1) year after approval of the preliminary subdivision map. If no filing is made, the approval of the preliminary subdivision map

and construction plan shall become void unless an extension of time is granted by the Planning Commission.

e. Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:

1) An Environmental Impact Assessment Fee of Eight Thousand Dollars ($8,000) shall be paid to the County of Kaua'i; and

2) The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.

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

f. Relative to Condition No. 1.e. 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:

<u>Conditions of Ordinance No. PM-2004-370:</u>

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

g. The Applicant is made aware that the streets designated within the subdivision must be officially named before the Department approves the construction plans. Street names

should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.

h. The Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

i. Pursuant to Section 9-2.3(e) of the Subdivision Ordinance, Kaua'i County Code (1987), as amended, curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Residential Districts where the density permitted is four (4) units or more per acre. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.

Prior to final subdivision approval, the Applicant shall work with the Planning Department and Department of Public Works to determine if the provision of curbs, gutters and sidewalks is necessary. If it is determined necessary, the Applicant shall comply with the requirements of Section 9-2.3(e)(3) prior to final subdivision approval. Further, if the requirement of sidewalks is waived, the Applicant shall comply with Sections 9-2.3(e)(3)(C) and 9-2.3(e)(3)(D) prior to final subdivision approval.

Section 9-2.3(e)(3) states:

"(3) Curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Commercial, Industrial and Resort Districts; in Residential Districts where the density permitted is four (4) units or more per acre; and in any other Zoning Districts within the State Land Use-Urban District that are located within one-half (1/2) mile from any elementary, intermediate, high school, or college. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.

(A) In Residential Districts, swales may be constructed in lieu of curbs and/or gutters in accordance with the drainage standards and design guidelines established by the Department of Public Works.

(B) In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character, and an

alternate method of pedestrian circulation exists or will be provided by the applicant.

(C) If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six (6) lots. The fee in lieu of required sidewalk construction shall be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer. There is hereby established and created a "sidewalk/shared use path fund" for the deposit of fees collected in lieu of required sidewalk construction. The fees collected pursuant to this Subsection (C) are hereby deemed appropriated upon receipt and shall be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance. The County Engineer shall submit an annual written report to the Council of each fiscal year's expenditures and balance of the sidewalk/shared use path fund on or before the 15th day of March of each year. If the 15th day of March falls on a Saturday, Sunday, or legal holiday, the report shall be submitted on the prior working day. The fees collected shall not lapse at the close of the fiscal year.

(D) Payment of said fees shall be made in a lump sum at the time of final subdivision map approval or payment shall be made according to the following schedule: fifty percent (50%) at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval. When funds are needed for sidewalk or shared use path planning, design, land acquisition, construction and/or repair, the County Engineer shall submit a written request to the Planning Director and Mayor for approval. Upon approval, the Finance Director shall be authorized to release monies from the fund."

j. 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 within the Kukui'ula Parcel Q Subdivision, shall be counted towards the total amount approved through Ordinance No. PM-2004-370.

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.

l. The subdivider is made aware that Ala Kalanikaumaka is classified as a "Major Street" and relative to the requirement in Section 9-2.3(b)(2) of the Kaua'i County Code (1987), there shall be no direct access permitted onto Ala Kalanikaumaka from Lots 1 and 8. Semi-circles denoting "No Direct Access Permitted" shall be shown on the final subdivision map. These provisions shall be incorporated as a restrictive covenant for the

subject lots, draft copies of which shall be submitted to the Planning Department for review and approval.

Additionally, there shall be no direct access permitted onto Lopaka Paipa Boulevard from Lot 9. Semi-circles denoting "No Direct Access Permitted" shall be shown on the final subdivision map. These provisions shall be incorporated as a restrictive covenant for the subject lot, draft copies of which shall be submitted to the Planning Department for review and approval.

m. Prior to final subdivision approval, the Applicant shall address and resolve matters related to the failure of a patent issuance on Land Commission Award Number 5456 Apana 1 to Mataio, as outlined in Item 12 of the Applicant's Title Insurance Policy (Policy No. 5021915-34793) for the subject property. The Applicant shall submit documentation verifying the resolution of this matter to the Planning Department for review and approval.

2. Requirements of the Department of Public Works – Engineering Division:

a. The applicant shall comply with all provisions of the "Sediment and Erosion Control Ordinance No. 808" to safeguard public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County's Sediment and Erosion Control Ordinance, which is required if any of the following conditions apply:

- The work area exceeds one (1) acre.
- Grading involving excavation or embankment, or combination thereof exceeds 100 cubic yards.
- Grading exceeds five (5) feet in vertical height or depth at its deepest point.
- The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.

b. During construction, 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 for ensuring that BMPs are satisfactorily implemented at all times.

c. Based on Panel 1500020314F Dated November 26, 2010, the property is located within Zone X, which is not within the Special Flood Hazard Area; therefore, we have no comments with respect to the County's Floodplain Management Ordinance No. 831.

d. For the proposed access from Ala Kalanikaumaka the applicant shall provide a left-turn lane from Ala Kalanikaumaka.

e. The lineweights for boundaries between Lot 18 and Lots 19 and 20 do not appear to match the lineweights between other lots.

f. The semicircles indicating no vehicular access permitted at Lopaka Paipa Boulevard appear to be incorrectly placed.

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

a. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:

1) A Facilities Reserve Charge (FRC) subject to Condition Nos. 3.e. to 3.g.

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

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

c. 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.

d. For Lots 16 – 18: Installation of service connections will not be required until a request for water service is made. The applicant for service will be required to complete all Department of Water's requirements existing at that time, including full payment of the applicable facilities reserve charge. A statement to this effect shall be clearly lettered on the final subdivision map.

e. Submit an amendment to the Kukui'ula Water Master Plan, if applicable.

f. Locate and show existing water meter (with appropriate meter number) on the subdivision map for the Department of Water's review and approval. Also identify the proposed subdivision lot the existing water meter will be assigned to. The Department of Water's comments may change depending on the approved subdivision map.

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

i. Submit an updated Kukui'ula Water Demand System Capacity Tracking Matrix.

ii. 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.

iii. Identify the proposed subdivision lots that will not be assigned water service. The Department of Water's comments may change depending on the approved subdivision map.

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

a. 18.2.3.2.1 A Fire Department access road shall extend to within fifty (50) feet of at least one exterior door that can be opened from the outside and that provides access to the interior of the building. For one- or two-family dwellings, this distance shall be increased to three hundred (300) feet.

b. 18.2.3.4.1.1.1 A Fire Department access road serving less than twenty (20) residential units shall be a minimum unobstructed width of sixteen (16) feet with a minimum twelve (12) feet wide driving surface.

c. For one- or two-family dwellings, when a water supply to be used for firefighting acceptable to the AHJ is farther than six hundred (600) feet to the structure, an automatic fire sprinkler system may be required by the AHJ.

d. <u>Fire Flow:</u>
Agriculture: 250 GPM, Duration 1 Hour, hydrant spacing 500 feet.

Single Family, Duplex, PUD Townhouses, Apartments: Fire flow, Duration, and Hydrant Spacing shall be dictated by the following zoning district designations described in the Kaua'i County Code.

R-2 — 500 GPM, Duration 1 Hour, hydrant spacing 500 feet.
R-4 — 750 GPM, Duration 2 Hours, hydrant spacing 500 feet.
R-6 — 1,000 GMP, Duration 2 Hours, hydrant spacing 500 feet.
R-10 — 1250 GPM, Duration 2 Hours, hydrant spacing 350 feet.
R-20 — 1500 GPM, Duration 2 Hours, hydrant spacing 350 feet.

RR-10 — 1500 GPM, Duration 2 Hours, hydrant spacing 350 feet.
RR-20 — 2000 GPM, Duration 2 Hours, hydrant spacing 350 feet.

5. Requirements of the County Housing Agency:

   a. Based upon the Housing Agency's preliminary assessment, the applicant's proposed consolidation and subdivision constitutes "a subdivision or consolidation of land...for residential development in any zoning district in which the overall density would allow more than 10 residential dwelling units," triggering a workforce housing requirement under Kauai County Code (KCC) § 7A-1.4.1(c).

   Per KCC § 7A-1.5(a) the applicant must resolve the project's workforce housing assessment for the project with the Housing Agency "prior to final subdivision approval or zoning permit approval, whichever occurs first...".

6. Requirements of the State Department of Health (DOH):

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

   Clean Air Branch

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

   Clean Water Branch

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

page/cwb-standard- comments/.

Hazard Evaluation & Emergency Response Office

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

Indoor and Radiological Health Branch

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

Safe Drinking Water Branch

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

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters

339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.

3. Underground Storage Tank Program - The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.

4. Standard comments for the Solid & Hazardous Waste Branch can be found at: https://health.hawaii.gov/epo/landuse/.

Wastewater Branch

Wastewater Branch will require applicant to provide a Will Serve Letter from Makai Water Company for sewer service and DOH approval with submitted Engineering drawings for any sewer improvements.

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 Toolkitrecommends thatstate 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.

7. Requirements of the U.S. Department of the Interior, Fish and Wildlife Service:

Our data indicate the following federally listed species may occur in or around the proposed project area: the endangered 'ōpe'ape'a (Hawaiian hoary bat, *Lasiurus cinereus semotus*); endangered 'ua'u (Hawaiian petrel, *Pterodroma sandwichensis*), threatened 'a'o (Newell's shearwater, *Puffinus newelli*), and endangered Hawai'i Distinct Population Segment (DPS) of the 'akē'akē (band-rumped storm-petrel, *Hydrobates castro*) (hereafter collectively referred to as Hawaiian seabirds); the endangered ae'o (Hawaiian stilt, *Himantopus mexicanus knudseni*), 'alae ke'oke'o (Hawaiian coot, *Fulica alai*), 'alae 'ula (Hawaiian gallinule, *Gallinula galeata sandvicensis*), and koloa maoli (Hawaiian duck, *Anas wyvilliana*) (hereafter collectively referred to as Hawaiian waterbirds); and the threatened nēnē (Hawaiian goose, *Branta sandvicensis*). The Service recommends you implement the conservation measures below to avoid and minimize impacts to federally listed species.

a. To avoid and minimize impacts to the 'ōpe'ape'a, we recommend you incorporate the following applicable measures into the proposed development:

1) Do not disturb, remove, or trim woody plants greater than 15 feet tall during the 'ōpe'ape'a birthing and pup rearing season (June 1 through September 15).

2) Do not use barbed wire for fencing.

b. To avoid and minimize potential project impacts to Hawaiian seabirds, we recommend you incorporate the following measures into the proposed development:

1) Fully shield all outdoor lights so the bulb can only be seen from below.

2) Install automatic motion sensor switches and controls on all outdoor lights or turn off lights when human activity is not occurring in the lighted area.

3) A void nighttime construction during the seabird fledging period, September 15 through December 15.

4) Where fences extend above vegetation, integrate three strands of polytape into the fence to increase visibility.

5) For powerlines, guy-wires and other cables, minimize exposure above vegetation height and vertical profile.

c. To avoid and minimize potential project impacts to Hawaiian waterbirds, we recommend you incorporate the following measures into the proposed development:

1) In areas where waterbirds are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.

2) If water resources are located within or adjacent to the project site, incorporate applicable best management practices regarding work in aquatic environments into the project design (see enclosure).

3) Have a biological monitor that is familiar with the species' biology conduct Hawaiian waterbird nest surveys where appropriate habitat occurs within the vicinity of the proposed project site prior to project initiation. Repeat surveys again within 3 days of project initiation and after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest). If a nest or active brood is found:

i. Contact the Service within 48 hours for further guidance.

ii. Establish and maintain a 100-foot buffer around all active nests and/or broods until the chicks/ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.

iii. Have a biological monitor that is familiar with the species' biology present on the project site during all construction or earth moving activities until the chicks/ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely impacted.

d. To avoid and minimize potential project impacts to nēnē, we recommend you incorporate the following measures into the proposed development:

1) Do not approach, feed, or disturb nēnē.

2) If nēnē are observed loafing or foraging within the project area during the breeding season (September through April), have a biologist familiar with nēnē nesting behavior survey for nests in and around the project area prior to the resumption of any work. Repeat surveys after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest).

3) Cease all work immediately and contact the Service for further guidance if a nest is discovered within a radius of 150 feet of proposed project, or a previously undiscovered nest is found within the 150-foot radius after work begins.

4) In areas where nēnē are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.

8. Requirements of the State Historic Preservation Division (SHPD):

   a. The subdivider shall comply with the requirements of the State of Hawai'i, Historic Preservation Division, if any, prior to construction plan approval. The subdivider shall be notified upon receipt of their report.

9. Requirements of the State DLNR Division of Forestry and Wildlife (DOFAW):

   a. The subdivider shall comply with the requirements of the State of Hawai'i, Department of Land and Natural Resources, Division of Forestry and Wildlife, if any, prior to construction plan approval. The subdivider shall be notified upon receipt of their report.

10. 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 to determine mitigation measures.

11. 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).

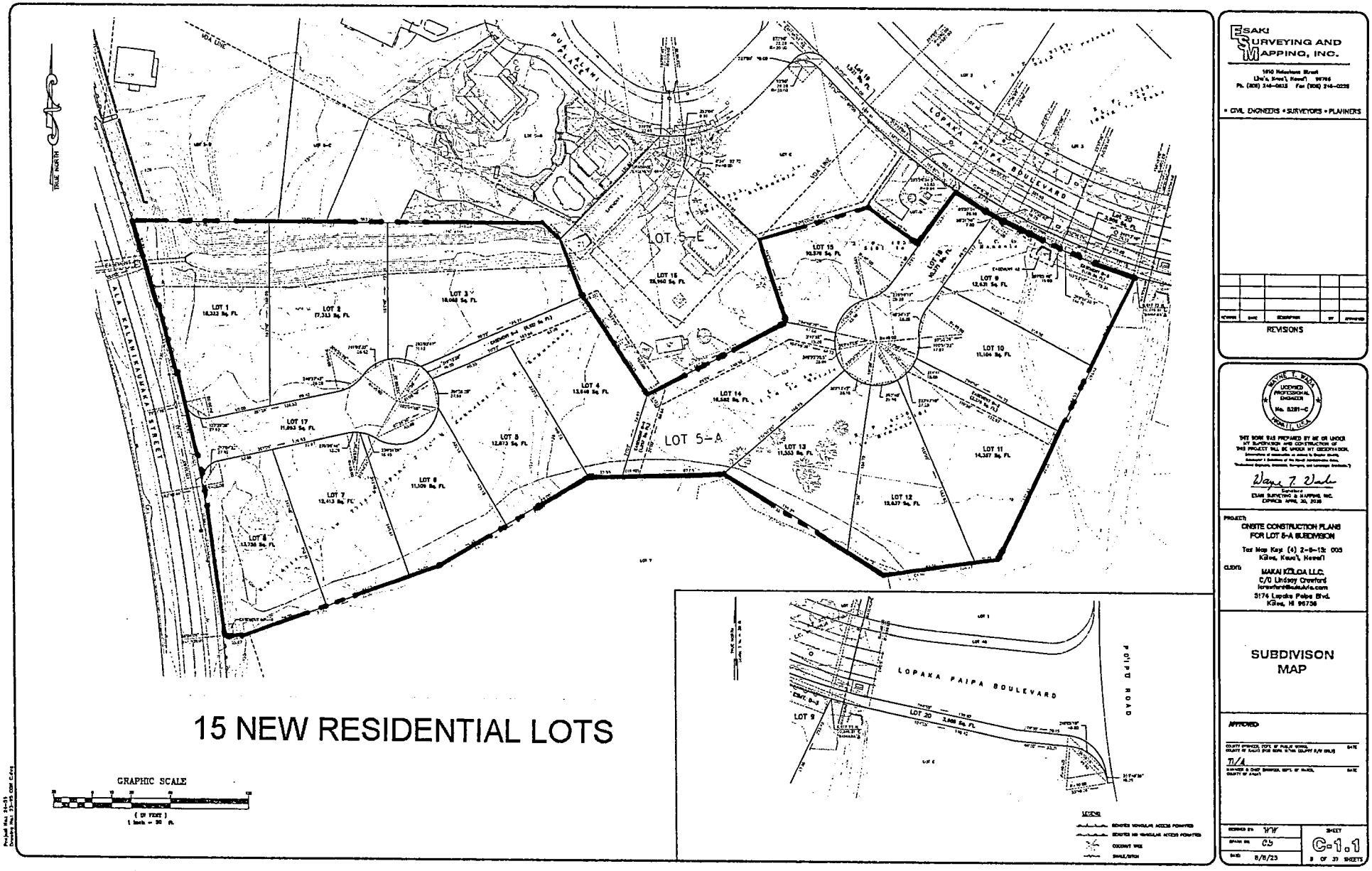
Sincerely Yours,

KA'AINA S. HULL
Clerk, Kaua'i Planning Commission

xc:

COK Public Works Dept.	COK Real Property – Assessment Div.
COK Water Dept.	State Dept. of Health
COK Fire Dept.	State DLNR DOFAW
COK Housing Agency	U.S. Fish and Wildlife Service

EXHIBIT 2



ESAKI SURVEYING AND MAPPING, INC.
• CIVIL ENGINEERS • SURVEYORS • PLANNERS
REVISIONS
LOT 5-E
LOT 5-A
LOT 1
LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
LOT 10
LOT 11
LOT 12
LOT 13
LOT 14
LOT 15
LOT 16
LOT 17
LOT 18
LOT 19
LOT 20
LOPAKA PAIPA BOULEVARD
PUA ALANI PLACE
ALA KALANIKAUMAKA STREET
VDA LINE
TRUE NORTH
15 NEW RESIDENTIAL LOTS
GRAPHIC SCALE
LOPAKA PAIPA BOULEVARD
POIPU ROAD
LOT 9
LOT 20
PROJECT:
ONSITE CONSTRUCTION PLANS FOR LOT 5-A SUBDIVISION
CLIENT:
MAKAI KŌLOA LLC.
SUBDIVISON MAP
APPROVED
C-1.1

EXHIBIT 3

4444 Rice Street, Ste A743, Līhu'e, Hawai'i, 96766 (Copy)

AUTHORIZATION TO ACT ON PROPERTY OWNERS BEHALF FORM

I hereby authorize the following person(s) to act as my representative(s) to apply for, sign, and file the documents necessary to obtain a zoning permit for my project.

Parcel Q adjacent to Koloa Estates Subdivision

(Project address)

Preliminary Subdivision Map Parcel Q (Lot 5-A)

(Scope of construction project or description of work)

Lindsay Crawford	PO Box 1695, Koloa, Hi 96756
Name of authorized representative	Address of authorized representative
808-652-9379	lindsaykoloa@gmail.com
Phone number of authorized representative	Email address of authorized representative

Declaration: I declare under penalty of perjury and under the laws of the State of Hawai'i (Unsworn Falsification HRS §710-1063) that I am the property owner for the address listed above, I personally filled out the above information, that the foregoing is true and correct, and I certify its accuracy.

WARNING: if you are a property owner of a Unit within a Condominium Property Regime (CPR), you are obligated to acknowledge and understand your rights and duties under the documents governing your CPR. The Kaua'i County Planning Department (Department) has no duty or obligation to enforce CPR documents. By submitting an application and authorization form, you hereby indemnify and hold harmless the Department from any and all liability arising from disputes or actions resulting from the interpretation or enforcement of your CPR documents.

***The property owner signature must be notarized or electronically signed using secure software that verifies the identity of the user (e.g., DocuSign or Adobe Sign) when the property owner is not present at time of submitting the permit application.*

Makai Koloa LLC TMK 2-6-15:05	[signature] MANAGER	6/24/24
Property Owner Name (print)	Property Owner Signature	Date
Lindsay J Crawford III TMK 2-6-14:46	[signature]	6/26/24
Property Owner Name (print)	Property Owner Signature	Date
Koloa Estates Community Association TMK 2-6-14:41	[signature]	06-24-24
Property Owner Name (print)	Property Owner Signature	Date
Property Owner Name (print)	Property Owner Signature	Date
Property Owner Name (print)	Property Owner Signature	Date

** Attach Notary Jurat or Electronic Signature Audit Trail **

HAWAII NOTARIAL CERTIFICATE
(JURAT)

State of Hawaii)
) SS.
County of Kauai)

Subscribed and sworn to (or affirmed) before me this 24th day of June, 2024 by Ray Gordan and Gary Ide.

Description of Document: Authorization to Act on Property Owners Behalf Form
Date of Document: Undated
No. of Pages: 2

MICHELLE DELA SIERRA
NOTARY PUBLIC
06-188
STATE OF HAWAII

Signature of Notary Public
MICHELLE DELA SIERRA
Expiration Date: April 2, 2026

Printed Name of Notary Public

Notary Public, State of Hawaii 5th Circuit

Commission Expiration Date:

HAWAII NOTARIAL CERTIFICATE
(JURAT)

State of Hawaii)
) SS.
County of Kauai)

Subscribed and sworn to (or affirmed) before me this 26th of June, 2024, by Lindsay J. Crawford.

Description of Document: Authorization to Act on Property Owners Behalf Form

Date of Document: Undated

No. of pages: 3

Circuit: 5th

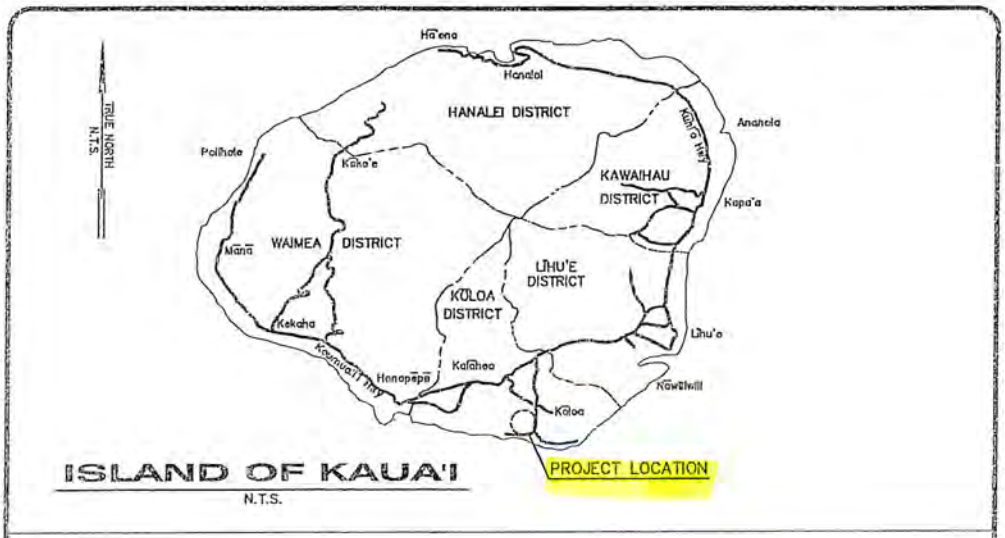
SHELLY GERARDO
NOTARY PUBLIC
Comm. No. 93-314
STATE OF HAWAII

Shelly Gerardo
NOTARY PUBLIC, State of Hawaii

Printed name: Shelly Gerardo

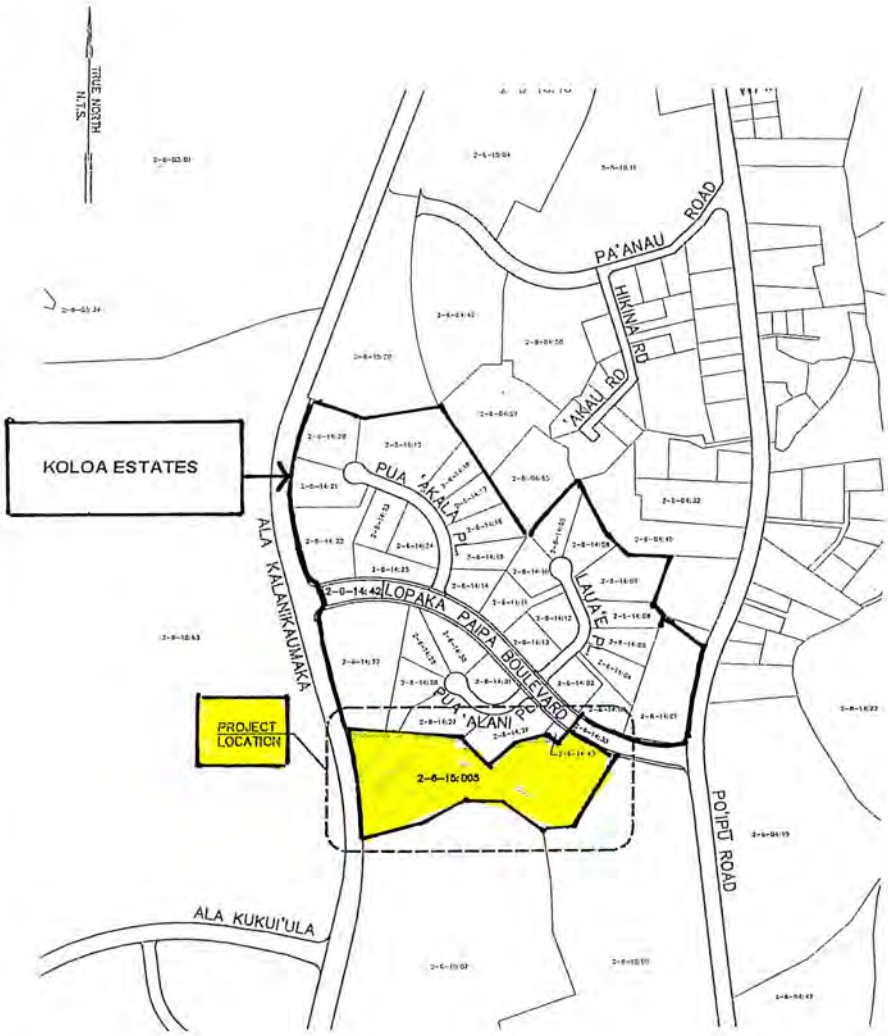
My Commission expires: 12/25/27

EXHIBIT 4



ISLAND OF KAUA'I

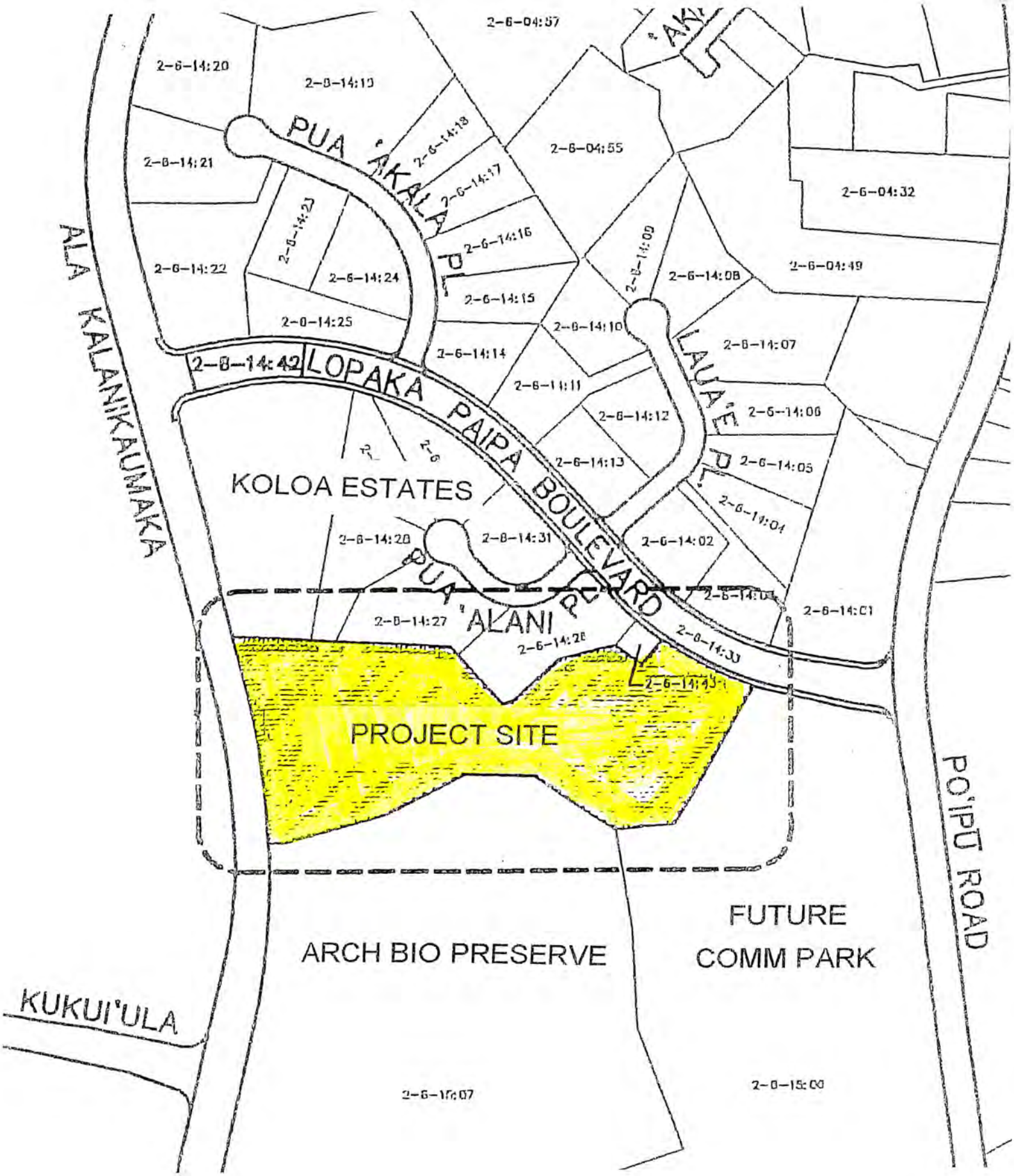
N.T.S.



LOCATION MAP

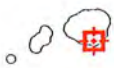
N.T.S.

Project No: 24-54
Drawing File: 23-95 CON ONSITE 4.dwg


2-6-04:57
2-6-14:20
2-6-14:19
PUA 'AKALA PL
2-6-14:18
2-6-04:55
2-6-14:21
2-6-14:17
2-6-04:32
2-6-14:23
2-6-14:16
2-6-14:09
2-6-14:22
2-6-14:24
2-6-14:08
2-6-04:49
2-6-14:15
2-6-14:25
2-6-14:10
LAUA'E PL
2-6-14:07
2-6-14:42
LOPAKA
2-6-14:14
2-6-14:11
PAIPA BOULEVARD
2-6-14:12
2-6-14:06
2-6-14:13
2-6-14:05
KOLOA ESTATES
2-6-14:04
2-6-14:28
2-6-14:31
2-6-14:02
PUA 'ALANI PL
2-6-14:01
2-6-14:27
2-6-14:28
2-6-14:30
2-6-14:43
PROJECT SITE
ALA KALANIKAUMAKA
PO'IPU ROAD
FUTURE
COMM PARK
ARCH BIO PRESERVE
KUKUI'ULA
2-6-16:07
2-6-15:00

County of Kaua'i
State of Hawai'i

Overview



Legend

- Parcels
- CPR Units
- Roads

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

Date created: 9/24/2025
Last Data Uploaded: 9/24/2025 4:21:37 AM

Developed by SCHNEIDER GEOSPATIAL

EXHIBIT 5

ORDINANCE NO. PM-2004-370 BILL NO. 2099, Draft 2

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, RELATING TO ZONING DESIGNATIONS AT KUKUI'ULA, KAUA'I; AND REPEALING ORDINANCE NO. PM-323-95 AND ORDINANCE NO. PM-349-99
(Kukui'Ula Development Company (Hawaii), LLC, Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. The zoning designation for that certain area in Kukui'ula, Kaua'i, identified as TMK: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16; 2-6-15: 1 (formerly known as Tax Map Keys: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16), consisting of approximately 1,002 acres, a portion of which is shown on Zoning Map ZM-KU-300, and on the map attached hereto and incorporated herein as Exhibit C, is hereby amended from Residential Districts (R-2, R-4, R-6, R-10, and R-20), Resort District (RR-20), Open District (O), Commercial Districts (C-G and C-N), Agriculture District (A), and Special Treatment Districts (R-1/STP and R-4/ST-P) to Residential Districts (R-2, R-4, R-10, and R-20), Resort District (RR-10), Open District (O), Commercial District (C-N), and Special Treatment Districts (R-4/ST-P, O/ST-C, O/ST-O, and IL/ST-P).

SECTION 2. Notwithstanding any law to the contrary, Zoning Map ZM-KU-300 is hereby amended as follows, subject to the following conditions:

1. The Zoning District boundaries shall be allowed to be modified by the Planning Department to accommodate adjustments that may occur as a result of more detailed plans being developed during the permitting process. The final unit allocations and densities shall be recorded by the Applicant in all deeds reflecting the total unit allocation and density that are permitted for each lot. The approximate acreage of the Zoning Districts shall be as follows:

ZONING	ACRES
R-2	1 ac.
R-4	571 ac.
R-10	63 ac.

Density in this R-10 acreage shall not exceed four (4) units per acre.

R-20	5 ac.
RR-10	43 ac.

Density in this RR-10 acreage shall not exceed four (4) units per acre.

CN	34 ac.
O	41 ac.
IL/ST-P	26 ac.
R-4/ST-P	7 ac.
O/ST-C	36 ac.
O/ST-O	175 ac.

The official Zoning Map shall incorporate and indicate the density restrictions for the Project's R-10 district (not to exceed four (4) units per acre) and RR-10 district (not to exceed four (4) units per acre).

2. The Project shall be limited to 1,500 units that shall include hotel rooms; single-family detached and attached dwellings; and multi-family dwellings. Affordable housing units, along with the various Project components shall be excluded from the 1,500 unit density limit. The Open zoning for the golf course shall not confer rights to any densities and those Open (O) zoning designations shall be designated as "Special Treatment-Open Space (O/ST-O)." Golf course accessory structures shall be allowed in these golf course O/ST-O districts. Said limitations regarding the 1,500-unit Project limitation and O/ST-O district density restrictions shall be incorporated into the deeds and restrictive covenants of all properties.

3. As represented by the Applicant, no Additional Dwelling Units (ADUs) shall be permitted within the Project. Said limitation shall be incorporated into the deeds and restrictive covenants of all properties.

4. a) Only the following uses shall be permitted in the Neighborhood Commercial (CN) District for the recreation center, as shown on attached Exhibit ZA-3:

   1) Accessory uses and structures

   2) Clubs, lodges and community centers

   3) Museums, libraries and public services

   4) Personal services, such as barber shops, laundromats, and shoe repair shops

   5) Professional offices (Project-related administrative offices only)

   6) Retail shops and stores (Project-related only)

   7) Restaurants and food services

   8) Single-family detached dwellings

   9) Multi-family dwellings and single-family attached dwellings.

   b) Only the following uses shall be permitted in the Neighborhood Commercial (CN) District for the Potential Second School Site, as shown on attached Exhibit ZA-3:

   1) Accessory uses and structures

   2) Automobile services

   3) Churches, temples and monasteries

   4) Clubs, lodges and community centers

   5) Household services

6) Museums, libraries and public services

7) Professional offices

8) Restaurants and food services

9) Retail shops and stores

10) Mini storage

11) Single-family detached dwellings

12) Multi-family dwellings and single-family attached dwellings.

Notwithstanding uses specified in subsections a) and b) above for the recreation center site and potential second school site, all uses and development standards specified in the Comprehensive Zoning Ordinance (CZO) for the CN zone shall apply to all other CN zones within the Project.

5. The following standards and uses shall be applied to the RR-10, R-4, and R-10 Districts:

a) Permitted Uses for the R-4 Zone:

1) Multiple-family dwelling units.

2) Single-family detached and attached dwelling units.

b) Building Heights:

Hotel buildings and multi-family dwellings shall be limited to three (3) stories plus an additional twenty (20) feet for the roofs.

c) Density for the R-10 Zone:

Four (4) residential units per acre.

d) Building Setbacks and Landscaping for Residential Zoning Adjacent to Lāwa'i Valley and Bay:

A building setback line of not less than 50 feet from the edge of the bluff line overlooking Lāwa'i Valley shall be established during permitting and/or subdivision to mitigate any adverse visual impacts from the valley and beach below. A landscape master plan subject to the review and approval of the Planning Department shall be developed prior to permitting for projects adjacent to the bluff line overlooking Lāwa'I Valley.

e) Design Guidelines for the RR-10 and R-10 Zones in the Resort Core:

Prior to applying for permits, the Applicant shall develop design standards and criteria, subject to the review and approval of the Planning Department addressing the following:

1) Building envelopes

2) Establishment of view corridors

3) Consistency in building designs

4) Standards to enable the hotel portion to integrate with the time-share units

5) Hazard mitigation.

6. The following standards shall be applied to the Open and I-L/ST-P Special Treatment Zones:

a) Uses related to sewage treatment plant use and operations shall be allowed without Use Permits. Permitting requirements relating to development within the sewage treatment plant site under the I-L/ST-P zone shall be determined by the Planning Director.

b) The following uses shall be permitted in the Open District (O) zone without a Use Permit:

1) Golf course

2) Golf course appurtenances and accessory uses, including but not limited to restrooms, weather shelters, concession stands, driving range, cart paths

3) Hiking and biking trails

4) Recreational facilities as approved by the County, including but not limited to appurtenances and accessory uses such as playfields, multi-purpose fields, parking lots, restrooms, pavilions, storage sheds, playground equipment

5) School facilities

6) Archaeological and biological preserves including maintenance/storage sheds

7) Signage

8) Drainage and utility structures

9) Roads

10) Fences and walls

11) Landscaping

7. The Applicant shall provide the following improvements to the roadway system subject to the review and approval of the Planning and Public Works Departments and shall establish specific design standards and street classifications in consultation with the Planning and Public Works Departments:

a) Construction of a connector road from Lāwa'i Road to the "Major Project Roadway." The proposed roadway connection from Lāwa'i Road to the Major Project Roadway shall be subject to the following:

1) The roadway intersection shall be located near the eastern boundary of the National Tropical Botanical

Garden Visitor Center property in a safe location as approved by the Department of Public Works.

2) The roadway shall be designed to be improved to County standards. The right-of-way width shall be no less than a collector street standard.

The roadway shall be open 24 hours a day/7 days a week.

b) The section of the Western Bypass Road from the Po'ipū Road/Lāwa'i Road intersection to Kōloa Road, including the associated intersection improvements, shall be constructed within thirty (30) months after the commencement of onsite construction in Phase I of the Project. However, subject to events beyond the control of the applicant and/or for good cause shown, the Planning Department may extend the timeframe for the completion of construction of this section of the Western Bypass Road. The Applicant shall dedicate to the County the right-of-way for the Western Bypass Road pursuant to the agreement entered with the Knudsen Trust(s) and the County of Kaua'i regarding the creation of the road right-of-way.

c) Improvements at the Poipu Road/Lawai Road/Western Bypass Road intersection including the construction of a single-lane roundabout. If allowed by established engineering standards and guidelines, the Applicant shall construct a left-turn lane on Po'ipū Road mauka of the roundabout that provides access to parcels TMK 2-6-4-4, TMK 2-6-4-34, TMK 2-6-4-59 and the Kukuiula Shopping Plaza, subject to the approval of the Planning and Public Works Departments.

d) Construction of improvements at the Kōloa Road/Western Bypass Road intersection that shall include:

1) Signalization if warranted by the Department of Public Works;

2) Provision of separate northbound left-turn and right-turn lanes on the Western Bypass Road;

3) Provision of separate eastbound left-turn and right-turn lanes on Kōloa Road;

4) Provision of separate westbound left-turn and right-turn lanes on Kōloa Road.

e) Improvement of Lāwa'i Road from the intersection of Āmio Road to the connector road to County standards along the adjacent properties owned by the Applicant.

f) Implementation of the mitigative measures deemed required by the State DOT, Highways Division, shall be resolved with that agency, with the Applicant participating on an "equitable basis." Scheduling of all improvements shall be tied to development timetables that shall be resolved prior to permitting.

8. As represented, the use of Lāwa'i Road shall be limited to the Project's construction traffic to improve Lāwa'i Road, the parking lot in the vicinity of the Boyden's Pond area, and TMKs: 2-6-11: 13, 14, 15, and 16; 2-6-03: 4 and 23; and 2-6-04: 17.

9. The Applicant shall use its best efforts to assist the County in acquiring the right-of-way for the remaining portion of the Western Bypass Road from its intersection at Kōloa Road to the intersection of the Eastern Bypass Road (Ala Kinoiki Road) at Maluhia Road from the owners of TMKs: 2-7-03: 2 and 2-8-06: 1.

   In order to assist the Applicant in purchasing these lands the one-time subdivision limitation pursuant to Chapter 10 of the Kaua'i County Code 1987, as amended (KCC), Section 10-6.3 (b) shall be waived. The respective landowners of TMKs: 2-7-03: 2 and 2-8-06: 1 shall be allowed to subdivide these affected lands after the subdivision for the road right-of-way is completed.

10. The major Project roadway shall serve as the routing for the proposed South Shore bypass road. The Applicant and County may mutually agree to minor geometrical adjustments to the alignment in the future.

11. The Applicant shall participate in and contribute toward a "Park and Ride" program should the County of Kaua'i establish such a program in the future.

12. The Applicant shall resolve with the Public Works and Planning Departments a traffic routing plan around Kōloa Town for on- and off-site construction work, hauling and heavy equipment mobilization in order to alleviate impacts of construction traffic/activities on Kōloa Elementary School, businesses in town, tourists, and residents. Lāwa'i Road shall not be used by the Project's construction traffic, except as it relates to improvements to Lāwa'i Road, the parking lot in the vicinity of the Boyden's Pond area, and TMKs: 2-6-11: 13, 14, 15, and 16; 2-6-03: 4 and 23; and 2-6-04: 17.

13. The Po'ipū Resort entryway sign shall be reconstructed by the Applicant should it have to be altered by any of the Applicant's intersection improvements in its vicinity. If the sign has to be relocated and the best location as determined by the County, the Applicant, and the Po'ipū Beach Resort Association (PBRA) is on land owned by the Applicant, A&B, or their subsidiaries, the Applicant shall cause such land to be dedicated to the County. The Applicant shall secure the approval of the entryway sign design from the PBRA prior to submission of the permit application for the reconstruction of the sign.

14. The Applicant shall commit to the expenditure of not more than six hundred thousand dollars ($600,000) towards the cost of constructing improvements to the roadway system serving the Kōloa – Po'ipū region. The entire $600,000 shall be creditable to Environmental Impact Assessment (EIA) fees incurred for traffic improvements required. Such improvements may include, but shall not be limited to:

    a) The acquisition of right-of-way, design, permitting, and construction of the northern leg for the Western Bypass Road. The acquisition of the rights-of-ways shall not exceed $40,000 per acre for EIA fee credits.

    b) Improvements to the Kōloa/Po'ipū Road intersection and the Kōloa/Maluhia Road intersection.

    The credit shall not include the improvement of the Western By-pass road from Po'ipū Road to Kōloa Road up to and including the intersection of the Western Bypass Road and Kōloa Road, as described in Condition No. "7. e)."

The Planning Director and County Engineer shall determine the priorities for use of said monies based on the most urgent public need.

15. Pertaining to the Project's recreational impacts to the region:

a) As represented, the Applicant shall develop, dedicate, and perpetually maintain a 20-acre active regional/community park within the Project as shown on Exhibit ZA-1 entitled Conceptual Community Park Plan. The improvements to be provided by the Applicant shall include multi-purpose fields that accommodate baseball, football and soccer, as well as pavilion(s). The Applicant shall dedicate the park to the County upon completion of the improvements. The Applicant shall enter into a maintenance agreement with the County for the maintenance of the park.

b) The Applicant shall continue the concept of a 100-foot buffer strip along the mauka side of Lāwa'i Road west of Lāwa'i Beach Resort for development into beach parking and pedestrian/bike paths. If a golf course is developed along Lāwa'i Road, the 100-foot buffer strip need not be provided, however, pedestrian/bicycle trails along Lāwa'i Road shall be provided.

c) As represented, the Applicant shall provide a comprehensive pedestrian and biking trail system throughout the Project that will be open to the general public. Provision of the bicycle and pedestrian ways shall be in accordance with the Project's Conceptual Trails Master Plan. The Applicant shall dedicate easements over all Project bicycle and pedestrian ways to the County. Evidence of the recordation of all subject easements shall be transmitted to the Planning Department as shall be required by the Planning Commission as part of final subdivision approval. The Applicant shall also be responsible in perpetuity for maintenance and restoration (in case of, but not limited to, natural disasters, etc.).

d) The Applicant shall dedicate a minimum twenty-foot (20-foot) wide lateral public beach access easement along the Kukui'ula Bay shoreline. Applicant shall also develop, dedicate to the County and perpetually maintain the properties identified as TMK 2-6-11: 13, 14, 15 and 16 (1999) as a public park. The County shall have the option of moving the existing structures thereon. Improvements may include an additional boat launch ramp, additional parking, pavilions, landscaping (shade trees), shower facilities, and a playground area. The specific improvements will be decided by the County Parks Division in consultation with all stakeholders including the community, the Applicant, and neighbors through a community planning process.

e) Relative to impacts to shoreline recreation resources, a contribution of not more than $500,000 or improvements, both of which shall be credited to EIA fee requirements as specified below, shall be made by the Applicant in the following priority:

1) Dedication of lands or the establishment of an easement along with the development of a public beach parking lot consisting of at least twenty (20) parking stalls in the Boyden's Pond area. The total dollar value for the

Boyden's Pond improvements which may be credited to EIA fees shall not exceed $140,000. This project shall be completed no later than thirty (30) months after the commencement of onsite construction of Phase I of the Project.

2) Acquisition by the County of at least one beach access, done in consultation with the Kōloa Community Association and the Open Space/Public Access Commission.

3) Po'ipū Beach Park Expansion.

4) Po'ipū Beach Park improvements.

If options 2 and 3 are not accomplished within three years from the date of enactment of this ordinance, these funds shall be used for Po'ipū Beach Park improvements.

f) The Applicant shall provide public pedestrian access easements to the shoreline areas west of Spouting Horn Park owned by the Applicant consistent with the Project's Conceptual Trails Master Plan.

g) Dedication of the twenty (20) acre park shall satisfy the Park Dedication requirements pursuant to Section 9-2.8 KCC.

h) To mitigate impacts of increased visitors on south shore beach parks, the applicant shall provide a swimming pool/feature for its guests in order to divert guests from using public beach parks.

16. The lands adjacent to the Prince Kūhiō Park that has been dedicated to the Royal Order of Kamehameha I, Kaumuali'i Chapter for the expansion and improvement of the Prince Kūhiō Park shall be credited to the Applicant's Park Dedication requirements.

17. The golf course shall be made available to legal residents of the County of Kaua'i as follows:

a) Green Fees, Including Golf Cart Fees: $35.00 per person maintained without escalation for a period of ten (10) years from the date of the opening of the golf course, with increases of no more than $2.00 per year each year thereafter for the subsequent ten (10) years. After this ten (10) year period, green fees for legal residents of the County of Kaua'i (kama'āina rates) shall not exceed the highest kama'āina golf rate on the island.

b) Tee Times:

1) Monday through Friday, except between December 24th and January 1st each year: Four (4) consecutive tee times commencing at 12:00 noon.

2) Saturdays, Sundays and holidays, except between December 24th and January 1st each year: Four (4) consecutive tee times commencing at 11:00 a.m.

c) Reservations: No earlier than 48 hours and not later than 24 hours in advance of the tee time. Should there be no request made within this time frame, such tee times may be given away.

d) All players must adhere to the then applicable dress code.

18. The Applicant shall comply with all applicable State and County standards, rules, guidelines, and regulations regarding development of the golf course.

19. a) The Applicant shall cause to be developed a minimum of seventy-five (75) housing units in the Port Allen to Kōloa – Po'ipū area for first-time Kaua'i homebuyers who are employees of the Project or employed within the County of Kaua'i. The number of units allocated for each category of purchasers shall be prescribed as follows:

80% to 110% of Kaua'i Median Income: Twenty-five (25) units:
60%, or 15 units: First-time homebuyers who are employees of the Project
40%, or 10 units: First-time homebuyers employed within the County of Kaua'i

111% to 140% of the Kaua'i Median Income: Twenty-five (25) units:
60%, or 15 units: First-time homebuyers who are employees of the Project
40%, or 10 units: First-time homebuyers employed within the County of Kaua'i

141% to 180% of the Kaua'i Median Income: Twenty-five (25) units:
60%, or 15 units: First-time homebuyers who are employees of the Project
40%, or 10 units: First-time homebuyers employed within the County of Kaua'i

b) Housing units may include a mixture of both attached and detached single-family and multi-family units. The final unit mix shall be developed in consultation with the County Housing Agency.

c) For the purposes of this ordinance, the term "employees of the Project" means any person whose principal place of business or work is located within the Project, including:

1) Full-time employees of the Applicant, its successors, or assigns, or its subsidiaries; or

2) Employees of businesses located within the Project; or

3) Any other employee working within the Project area.

d) All for-sale units constructed under this condition shall be subject to subparagraphs "e)" and "f)" of this condition which shall be recorded in any deed or conveyance instrument of a form approved by the County Attorney, and recorded in the Bureau of Conveyance, or Land Court system, which restrictions shall terminate in ninety (90) years from the date of the conveyance as specified in condition no. "19. e)."

e) To ensure that the units constructed under this condition shall remain permanently affordable, the Applicant shall cause a 90-year restrictive covenant to be included in each conveyance instrument so that if a homeowner under this program wishes to sell or to transfer title, the resale of the unit shall first be offered

to the Applicant, and the Applicant shall agree to buy back, at a price not exceeding the aggregate of:

1) The original sales price;

2) The cost of any capital improvements added by the owner; and

3) Simple interest on the original cost to the owner and the cost of capital improvements added to the property by the owner at a rate equal to the annual percentage change in the Honolulu Consumer Price Index for All Urban Consumers (CPI-U), as calculated by the U.S. Bureau of Labor Statistics, or one percent (1%), whichever is greater.

f) If the Applicant should cease to operate or fail to buy back as required under sub-paragraph (e) above, the County shall have the option to exercise the buy back as provided in subparagraph (e) above, notwithstanding any other restrictions contained elsewhere in the Kaua'i County Code 1987, as amended.

g) The Applicant shall work with the County Housing Agency to develop a sales program, giving due consideration to the income requirement and employment status of the buyers. Said sales program shall be monitored by the County Housing Agency. The employee housing units shall be offered for sale in fee or for rent, or a combination of both. The County Housing Agency shall be notified by the Applicant each time a property is resold.

h) In the event that any housing units remain available after being offered for sale or rental for a period of twelve (12) months from the date of such offering, the Applicant may offer such units to persons employed within the County of Kaua'i who fall within 80% to 180% of the Kaua'i Median Income.

i) The list of final purchasers and any re-sale or re-lease of units shall be submitted to the County Housing Agency for certification of compliance with this condition.

j) The Applicant shall cause the employee housing units to be administered and managed in accordance with this condition.

k) The County acknowledges that in developing new employee housing units pursuant to this condition, lands under consideration may require land use entitlements and needed infrastructure. The County agrees to reasonably assist the Applicant in any requisite land use permitting necessary for the development of employee housing units on such lands. Further, in the event that the Applicant is required to rezone any parcel of land for an employee housing project to be located outside of the project boundaries of the lands that are the subject of this Ordinance, the County agrees that all fees, assessments, exactions and/or conditions already imposed pursuant to this Ordinance shall be intended to address any and all impacts that might otherwise be attributed to the parcel to be rezoned, and the employee housing project to be developed thereon, and no additional fees, assessments, exactions and/or conditions shall be imposed upon such rezoning application.

l. The Applicant shall commence construction of the subject buildings no later than four (4) years from the date of the

enactment of this ordinance. However, the Planning Department may extend these deadline due to events beyond the control of the Applicant and/or for good cause shown.

20. Within one (1) year of the effective date of this ordinance, the Applicant shall request a release from its agreement with the Department of Education and from the condition imposed by the Land Use Commission, both of which appear to require Applicant to give to the State Department of Education the approximately five-acre parcel along Po'ipū Road identified by Tax Map Key numbers TMK 2-6-04: 11, 18, and 63 for use as an elementary school site. The County shall exert its best efforts to support the Applicant in its request. Once released, this site shall be conveyed to the County or its assignee for development of a limited equity housing cooperative ("LEHC") project, if practicable, which shall give first priority to households containing at least one (1) person employed in the Kōloa – Po'ipū area. The County agrees that the park dedication and environmental impact fee requirements for the LEHC have been met by the contributions of the Project. Except as stated below, the Applicant shall have no obligation with respect to the development of the subject site.

    a) The Applicant shall provide wastewater service to the LEHC and shall ensure that any wastewater connection fees, service fees or any similar fees for units in the LEHC shall be at rates substantially similar to those provided to the County's Pa'anau housing project, subject to the approval of the State of Hawai'i Public Utilities Commission. For the purpose of this condition no. "20.," all units built shall be considered "affordable housing."

    b) The Applicant shall not impose any community association, condominium association, association of apartment owners, or any other similar homeowner's association fees, dues, and any improvement district assessments stemming from or related to the project area as defined by this ordinance upon the LEHC or its members.

21. The Applicant shall:

    a) Dedicate approximately 4 acres of land to the County for the future expansion of the affordable housing project at Pa'anau. This property is approximately depicted on the map attached hereto and incorporated herein as Exhibit ZA-2 (the "4-acre parcel"). The Applicant will be responsible neither for rezoning and subdividing the 4-acre parcel so as to allow it to be used as multi-family residential housing nor to pay for the costs of processing the rezoning and subdivision applications and the costs of any improvements which are required in connection with the approval of those applications. Applicant shall convey title to the 4-acre parcel to the County after the County receives final subdivision approval for the 4-acre parcel. The Applicant will provide the County with evidence of site control as needed by the County in order for the County to pursue and obtain financing commitments. The Applicant shall provide wastewater service to the subject property and shall ensure that any wastewater connection fees, service fees, or any similar fees for all units developed on the property shall be made available at rates substantially similar to those provided to the County of Kaua'i Pa'anau housing project in perpetuity.

    b) Construct a storm drainage interceptor ditch, so as to route off-site storm water away from and around the Pa'anau project.

Applicant shall construct this storm drainage interceptor ditch at the time it donates the 4-acre parcel and the County begins site work of the 4-acre parcel. In the event that Applicant constructs this drainage ditch in advance of its construction schedule in order to accommodate the County's development schedule, Applicant shall receive credits to be applied against affordable housing requirements. The credit to which Applicant will be entitled shall be calculated at the time that the County Council accepts the donation of the 4-acre parcel and the amount of the credit shall be established by mutual agreement between Applicant and the County with approval by the County Council.

c) Grant a perpetual easement to the County for a sewer line between the Pa'anau site and the Kukui'ula sewage transmission main by a document which is substantially similar to the Applicant's standard easement form.

d) Construct and install a six-foot (6') wide paved pathway, suitable for pedestrians and bicycles, from the proposed community park in Applicant's Kukui'ula Project (at the location currently planned by Applicant and generally depicted on the Project's Conceptual Trails Master Plan) to the Pa'anau Road extension. Applicant shall construct and install the pathway at the time the Applicant donates the 4-acre parcel to the County and subdivision, installation, and construction of the park is completed.

e) Install and construct an extension of Pa'anau Road according to County-imposed standards, so as to provide access to the 4-acre parcel. Prior to pursuing the extension of Pa'anau Road, however, alternative access to the 4-acre parcel shall be considered by the County.

Should the extension of Pa'anau Road be pursued, the Applicant need not extend Pa'anau Road unless and until Applicant donates the 4-acre parcel to the County and the County begins site work of the 4-acre parcel. In the event that Applicant constructs this roadway in advance of its construction schedule in order to accommodate the County's development schedule, Applicant shall receive credits to be applied against affordable housing requirements. The credit to which Applicant will be entitled shall be calculated at the time that the County Council accepts the donation of the 4-acre parcel and the amount of the credit shall be established by mutual agreement between Applicant and the County with approval by the County Council.

f) Provide, free of charge, hook-ups for up to sixty (60) units which the County develops on the 4-acre parcel to the Kukui'ula Wastewater Treatment Plant, provided that 1) the County's development is for affordable housing and 2) Applicant receives a credit to be applied against affordable housing requirements imposed in connection with the development of this project by Applicant. The credit to which Applicant will be entitled upon the granting of these hook-ups shall be equivalent to ten (10) three-bedroom houses affordable to residents in the low/moderate-income group. The County (or the subsequent owner of the Pa'anau property/units) will be responsible to pay monthly sewage service charges. Applicant shall provide these additional free sewer hook-ups at the time the Applicant donates the 4-acre parcel to the County.

22. The Applicant shall prepare a drainage master plan covering golf course development and shall also continue conducting marine studies to address impacts to the marine life pursuant to the concerns of the Department of Land and Natural Resources (DLNR). The studies shall be submitted on an annual basis to the Planning Department for review, or as requested by the Planning Department.

23. The Applicant shall prepare a wastewater system master plan to include the wastewater collection and transmission system requirements for the Project. The wastewater system master plan shall be submitted to the Planning and Public Works Departments for review.

24. a) The Applicant is advised by the State Historic Preservation Division that the following conditions will be attached to all permits to ensure that "no adverse effect" to the significant historic sites occurs:

    1) A preservation plan for all significant historic sites committed to preservation shall be submitted to the State Historic Preservation Division for review and must be approved by that Division. The Division must also verify in writing to the County Planning Department that the plan has been successfully executed, prior to any construction activity affecting these sites.

    2) Significant historic sites committed to archaeological data recovery shall have the scope of work specified in an archaeological data recovery plan. This plan must be approved by the State Historic Preservation Division. The Division must also verify in writing to the County Planning Department that the plan has been successfully executed, prior to any construction activity affecting these sites.

    b) Regarding archaeological aspects of the Project:

        1) The following features shall be preserved:

            i) Two (2) heiau (Sites 3 (State Site #1903) and 51 (State Site #3076)) – one behind Prince Kūhiō Park, located mauka of an old elevated railway berm, behind a depression; and the other located roughly in the middle of the western half of the amendment area.

            ii) Raised 'auwai (Site 38A (State Site #1934A)).

            iii) Agricultural complex (Sites 38 (State Site #1934) & 40 (State Site #1936)) – includes several sections of the raised 'auwai, agricultural features, terraces, retaining walls, ditches, fields, and circular platforms.

            iv) Four (4) caves/lava tubes (Sites 15 (State Site #3075A), 19 (State Site #3179), 23 (State Site #3075b), and 24 (State Site #3075c)).

            v) Elevated Railway berm (Site 37 (State Site #1933)).

2) Preservation and data recovery plans shall be developed, including provisions for reinterment of excavated burials.

3) Other significant sites shall be incorporated into parks, preserves, and/or open space, whenever possible.

4) The Applicant shall comply with all applicable statutory provisions and administrative rules regarding inadvertent burial finds within the Project.

25. Pursuant to the recommendations of the Kaua'i Historic Preservation Review Commission, the Applicant shall:

a) Construct security gates for the lava tubes that would facilitate access for future research work.

b) Take proactive steps to insure that mitigation and protection measures for the preserve areas are in place prior to any construction/ground disturbing activities.

26. The Applicant shall install two (2) new civil defense sirens to provide coverage in high hazard areas within and adjoining the Project as prescribed by the County Civil Defense Agency and Hawai'i State Civil Defense by letter dated August 31, 2000 from the County of Kaua'i.

27. The Applicant shall produce a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, Chapter 342G, Hawai'i Revised Statutes. The Applicant's Solid Waste Management Plan shall be approved by the County of Kaua'i Department of Public Works, Solid Waste Division. The Applicant's Solid Waste Management Plan shall be submitted and approved prior to commencement of the first phase of on-site construction. The Plan shall address and encourage an awareness of the need to divert the maximum amount of waste material caused by the Project away from the County's landfill. The Plan shall include the following: a Plan for diverting green waste from the County landfill, a plan for diverting construction and demolition debris, large recycling receptacles for household recyclables (e.g., 30-cubic yard compartmentalized roll-off containers) at multi-family projects, drop-off recycling bins to service residents in the area, public recycling receptacles, and programs to service all of the above.

28. For consideration and further deliberation with the County Council:

The Applicant shall explore with the County Council the use of one or more types of land-secured financing districts (as authorized by enabling State legislation) for the financing of publicly-owned infrastructure that includes roads, water facilities, parks, and other public amenities.

29. The Applicant shall comply with all applicable Federal, State and County rules and regulations during construction and use.

30. A blasting plan shall be prepared for the review and approval of the County Planning and Public Works Departments, along with the State Department of Health when applicable, prior to permit applications involving project development. The blasting plan shall cover:

a) A preliminary schedule identifying anticipated frequency and time(s) of the day that blasting will occur.

b) Process of notifying of affected parties.

c) Implementation of a warning system(s) prior to blasting to ensure that residents in the area are alerted.

31. The Applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

32. All conditions contained in this ordinance shall be binding on the Applicant and its heirs, assigns, or successors in interest, or representatives of the subdivider, owner, proprietor or developer.

SECTION 3. Ordinance No. PM-323-95 and Ordinance No. PM-349-99 are hereby repealed.

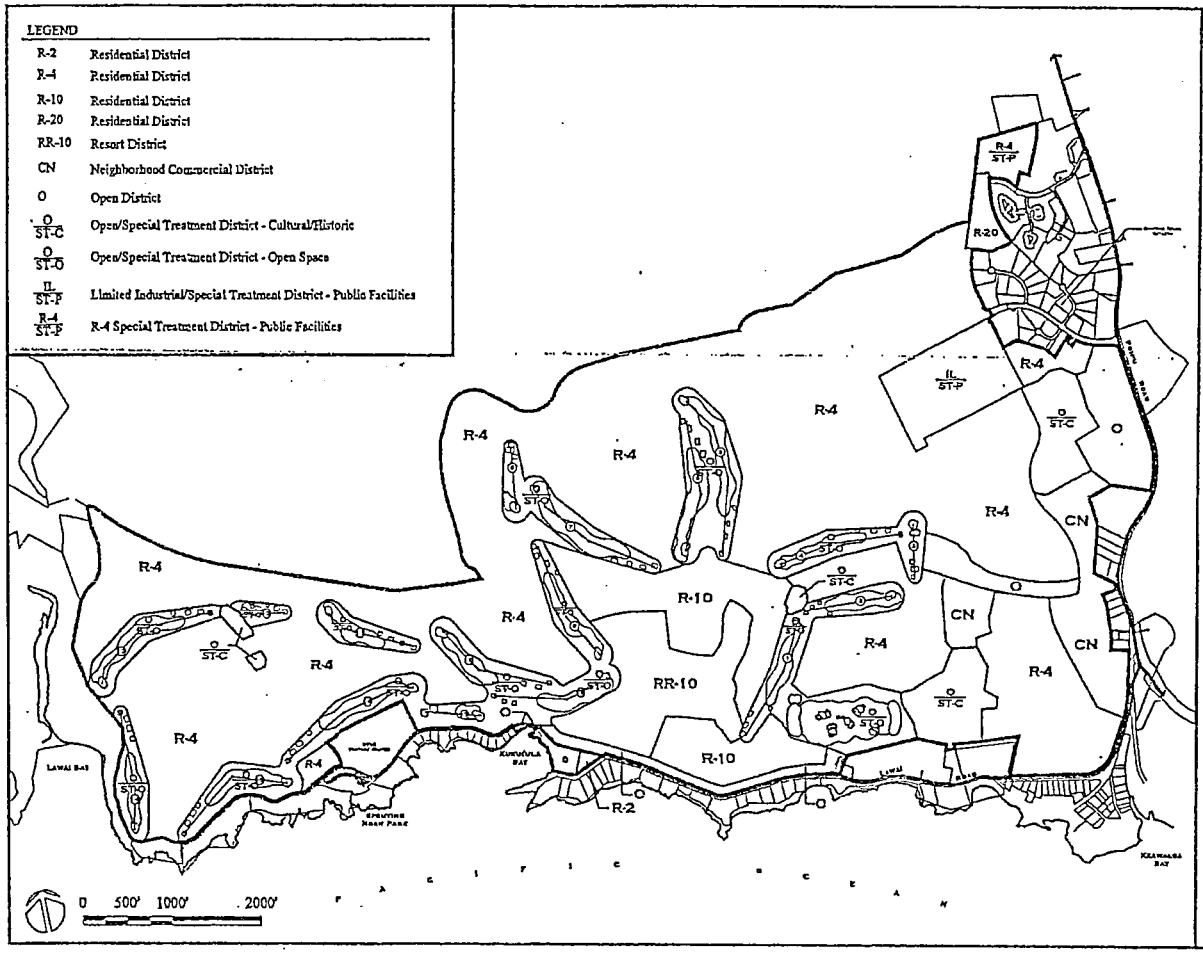
SECTION 4. The Planning Department is directed to note all pertinent changes on the official Zoning Map on file with the Planning Department.

SECTION 5. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such part or parts. parts, except that if item nos. 7, 9, 11, 14, 15, 19, 20, and 21 shall be found to be invalid in part or in whole, the Planning Department shall initiate corrective amendments within twenty (20) days from the date a condition is found to be invalid. The Planning Commission shall act upon a corrective amendment within ninety (90) days of receipt of such transmittal from the Council. The Council shall act upon a Planning Commission recommendation on a corrective amendment within ninety (90) days of receipt of the recommendation.

SECTION 6. This ordinance shall take effect upon its approval.

INTRODUCED BY: /s/ BILL "KAIPO" ASING
(By Request)

DATE OF INTRODUCTION:
March 11, 2004
Līhu'e, Kaua'i, Hawai'i
D:\My Documents\Word Docs\BILLS\2099 D2 Kukuiula Zoning.Doc/PN:ao



LOCATION MAP
SHOWING
PROPOSED
AMENDMENT TO
ZONING MAP ZM-KU 300

From

Residential Districts (R-2, R-4, R-6, R-10, and R-20), Resort District (RR-20), Agriculture District (A), Open District (O), General Commercial District (CG), Neighborhood Commercial District (CN), R-1 Special Treatment District - Public Facilities (R-1/ST-P), and R-4 Special Treatment District - Public Facilities (R-4/ST-P).

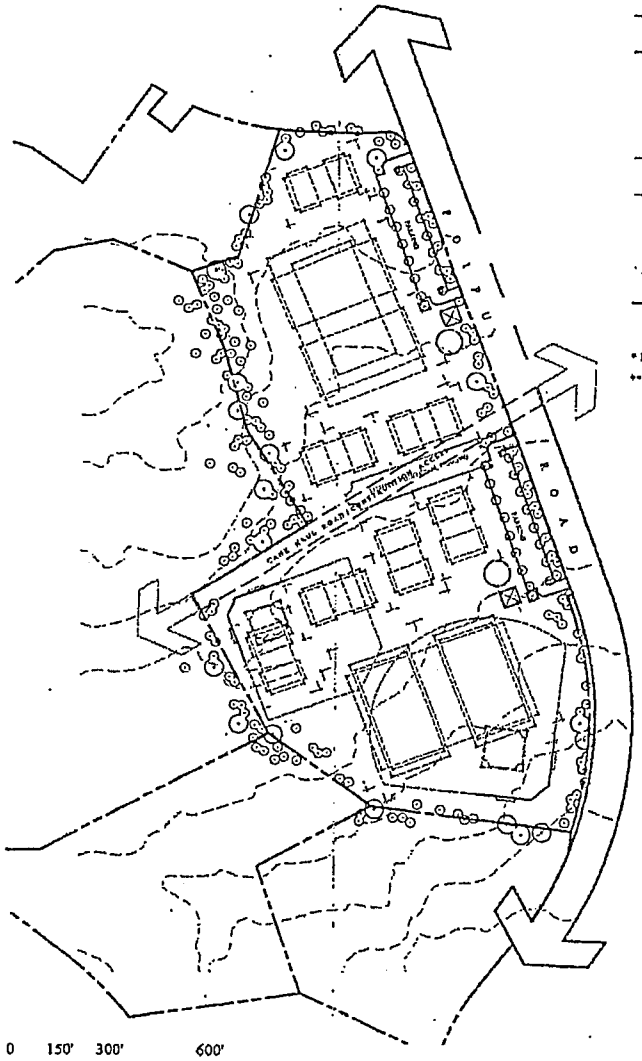
To

Residential Districts (R-2, R-4, R-10, and R-20), Resort District (RR-10), Neighborhood Commercial District (CN), Open District (O), Open/Special Treatment District - Cultural Historic (O/ST-C), Open/Special Treatment District - Open Space (O/ST-O), Limited Industrial/Special Treatment District -Public Facilities (IL/ST-P), and R-4/Special Treatment District - Public Facilities (R-4/ST-P)

Tax Map Keys: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16; and 2-6-15: 1
Lawai, Koloa, Kauai, Hawaii

Exhibit C

July 15, 2004



AGE / FIELD SIZE.	FIELD QUANTITES*
U6 15 yds. x 30 yds.	14
U8 25 yds. x 50 yds.	7
U10 40 yds. x 80 yds.	4
U12 45 yds. x 90 yds.	3
FULL SIZE 75 yds. x 120 yds.	2
BASEBALL** 90' Bases, 375' Fence	1
PONY BASEBALL** 80' Bases	1
NEW PARK AREA (APRIL 2003)	20.2 ACRES

* FIELD QUANTITY BASED ON OVERLAP USE

** BASEBALL FIELDS FOR PRACTICE USE
- ONLY GRASS
- NO SKINNED INFIELD, DIRT, OR OUTFIELD FENCES

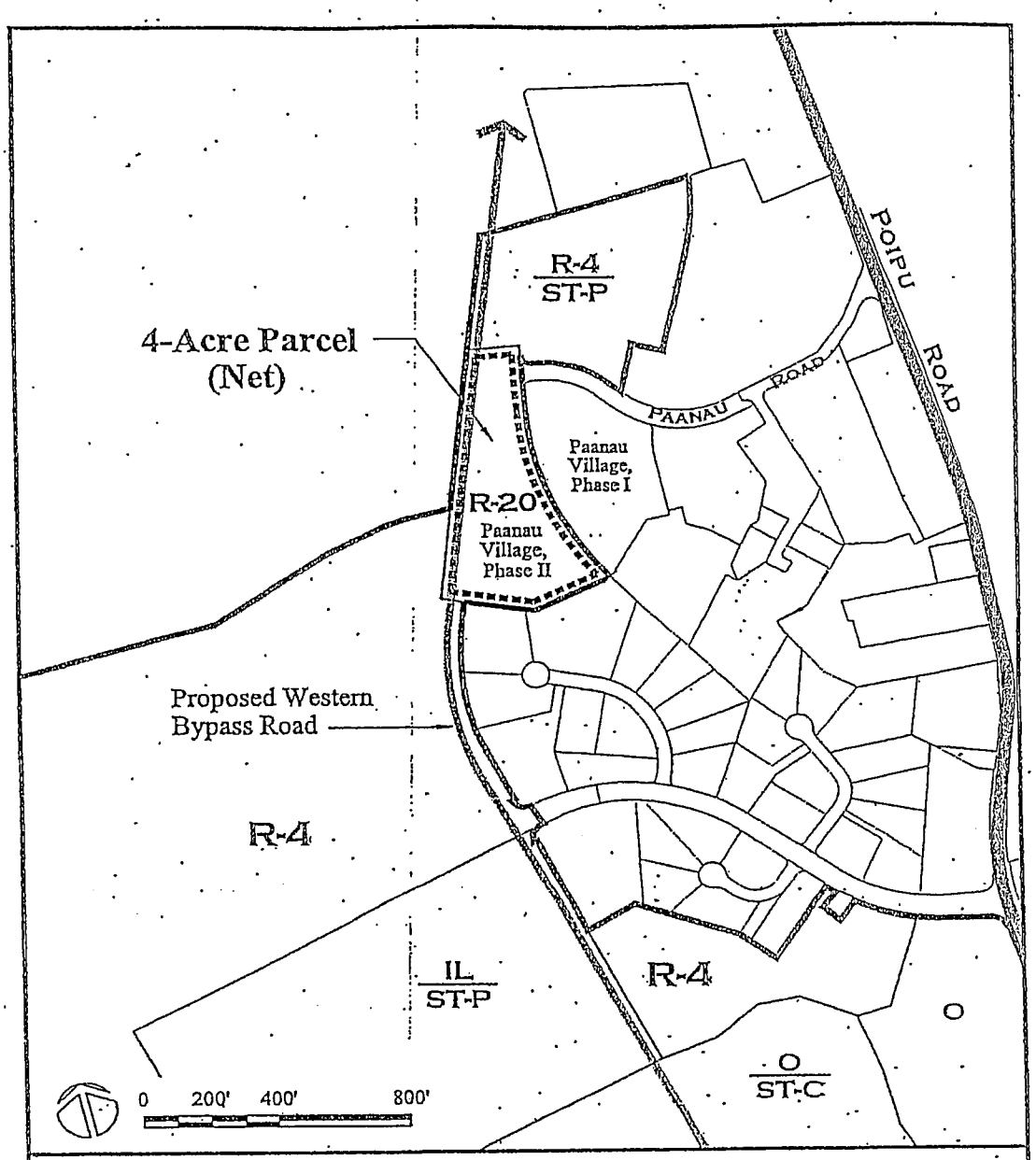
LEGEND

- COMFORT STATION
- PAVILION
- TOT LOT
- VEGETATION

Conceptual Community Park Plan

Exhibit ZA-1

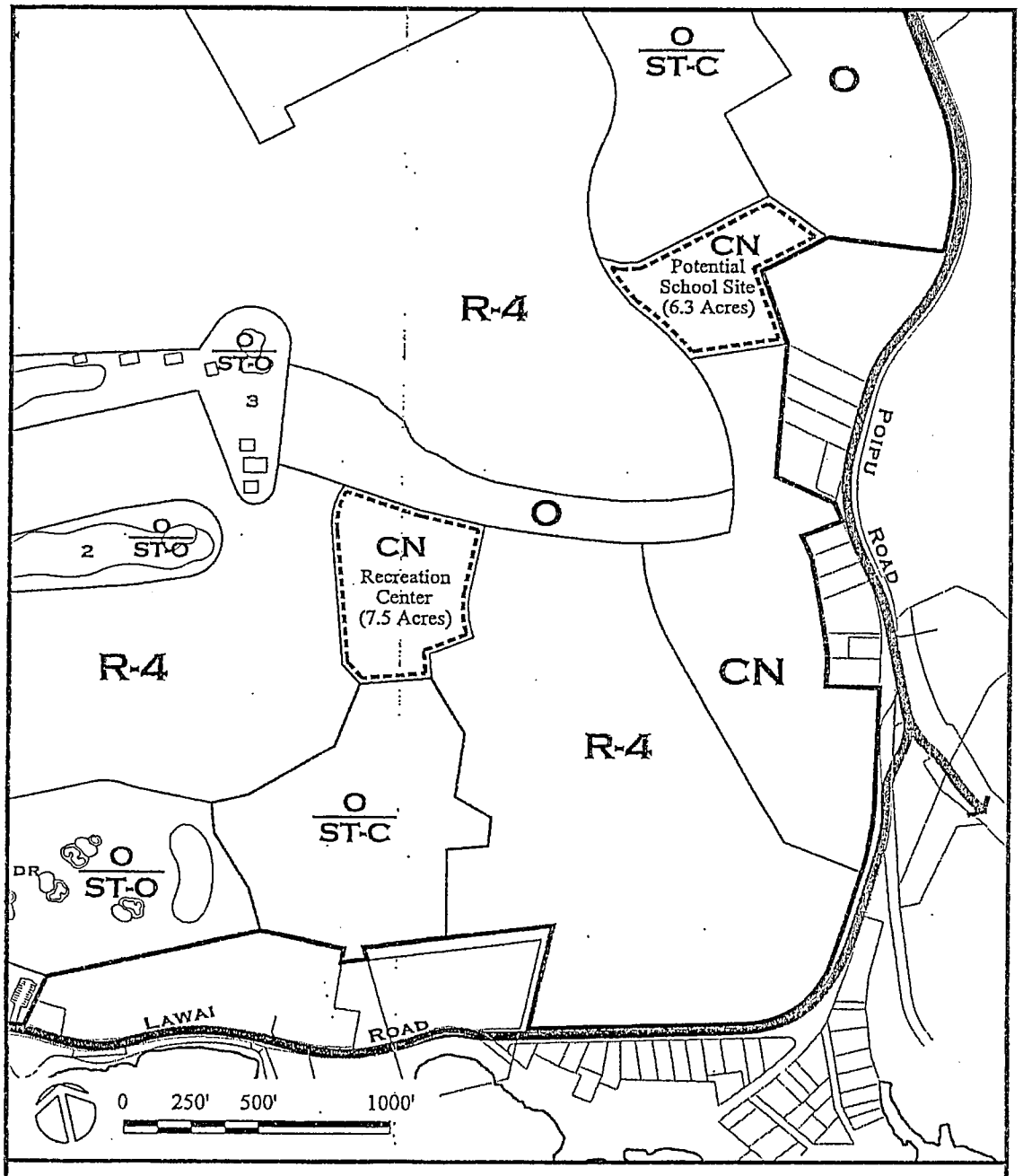
January 26, 2004



4-Acre Parcel
Kukui'Ula

Exhibit ZA-2

January 26, 2004



Neighborhood Commercial District (CN)
Kukui'Ula

Exhibit ZA-3

July 15, 2004

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2099, Draft 2, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on July 22, 2004, by the following vote:

FOR ADOPTION: Furfaro, Kaneshiro, Munechika, Rapozo, Tokioka, Yukimura, Asing — TOTAL - 7,
AGAINST ADOPTION: None — TOTAL - 0,
EXCUSED & NOT VOTING: None — TOTAL - 0.

Lihue, Hawaii
July 23, 2004

Peter A. Nakamura
County Clerk, County of Kauai

ATTEST:

Bill "Kaipo" Asing
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

July 26, 2004

Approved this 28th day of July, 2004.

Bryan J. Baptiste
Mayor
County of Kauai

ORDINANCE NO. PM-2004-371 BILL NO. 2100, Draft 3

A BILL FOR AN ORDINANCE
TO AMEND CHAPTER 8, ARTICLE 17, KAUAI COUNTY CODE 1987
RELATING TO VISITOR DESTINATION AREA DESIGNATION
AND REPEALING ORDINANCE NO. PM-350-99 FOR KUKUI'ULA, KAUA'I
(Kukui'Ula Development Company (Hawaii), LLC, Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Tax Map Keys Nos. 2-6-03: Por. 1, 4, 21, 23, por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16; 2-6-15:1 (formerly known as Tax Map Keys: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15 and 16) consisting of approximately 1,002 acres in Kukui'ula, Kaua'i, as shown on the attached revised Exhibit A, is hereby designated as a Visitor Destination Area (VDA), subject to the following conditions:

1. Development of Time Share units shall be limited to the 106-acre resort core and that transient vacation rental units within the single-family detached, single-family attached, and multifamily projects shall be allowed within the VDA designation.

OVER 60 DAYS

2. The total number of time share and transient vacation rental units shall not exceed seven hundred fifty (750) units in number for the entire 1,002-acre Project. The Applicant shall be required to allocate for each subdivision that is created during the development of the 1,002-acre Project the maximum number of time share and transient vacation rental units that shall be permitted in each such subdivision. ~~The number of~~ time share and transient vacation rental units allocated for each subdivision shall represent the maximum number of time share and transient vacation rental units that may be developed in each such subdivision, and no portion of the units may thereafter be assigned, transferred, or allocated to any other subdivision irrespective of whether or not the allocation is ever fully used or realized in that subdivision.

SECTION 2. Ordinance No. PM-350-99 is hereby repealed.

SECTION 3. The Visitor Destination Area designation and boundary lines established herein shall be transferred onto the official zoning maps for reference purposes.

SECTION 4. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY: /s/ BILL "KAIPO" ASING
(By Request)

DATE OF INTRODUCTION:
March 11, 2004
Lihue, Kauai, Hawaii

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2100, Draft 3, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on July 22, 2004, by the following vote:

FOR ADOPTION: Furfaro, Kaneshiro, Munechika, Rapozo, Tokioka, Yukimura, Asing — TOTAL - 7,
AGAINST ADOPTION: None — TOTAL - 0,
EXCUSED & NOT VOTING: None — TOTAL - 0.

Lihue, Hawaii
July 23, 2004

Peter A. Nakamura
County Clerk, County of Kauai

ATTEST:

Bill "Kaipo" Asing
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

July 26, 2004

Approved this 28th day of July, 2004.

Bryan J. Baptiste
Mayor
County of Kauai

EXHIBIT 6

KAUA'I COUNTY HOUSING AGENCY

ADAM ROVERSI, DIRECTOR

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

July 24, 2023

Cades Schutte, LLLP
Attn: Mauna Kea Trask
PO Box 1205
Līhu'e, Hawai'i 96766

Re: Workforce Housing Requirements for the Kukui'ula Resort Project approved under Ordinance No. PM-2004-370

I am writing in response to your July 20, 2023, letter requesting confirmation that any further development of Lot 5-A, a portion of Lot A, TMK (4) 2-6-015-005, would not be subject to the workforce housing requirements of the County Housing Policy or Ordinance No. PM-2004-370.

I can confirm the Kukui'ula Resort Project, including Lot 5-A referenced in your letter, has satisfied applicable workforce housing requirements imposed on the project, provided that the density of the overall project does not exceed the 1500 units approved in Ordinance No. PM-2004-370.

Given the current development pattern within Kukui'ula, it would appear unlikely that the overall project density will ever exceed 1500 units. However, it is also my understanding that current zoning, at least on paper, allows for more than 1500 units. Accordingly, should a developer ever seek building permits that push the broader Kukui'ula Resort Project above the 1500-unit cap, additional workforce housing requirements may be imposed in connection with those excess units.

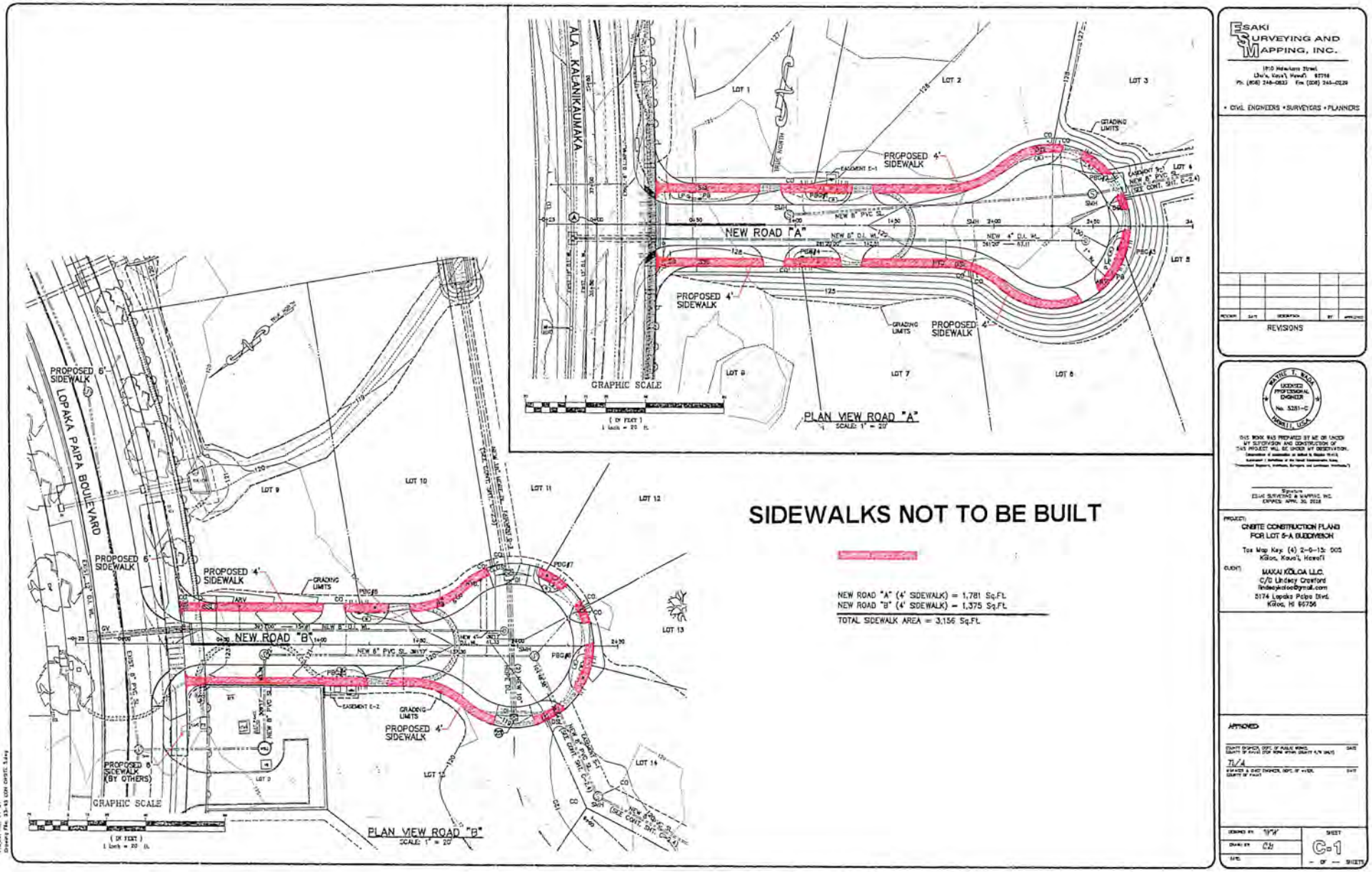
Please feel free to contact me at 241-4430 if you have any questions.

Sincerely,

Adam P. Roversi
Director, Kaua'i County Housing Agency

4444 Rice Street, Suite 330 • Līhu'e, Hawai'i 96766 • (808) 241-4444 (b) • (808) 241-5118 (f)
An Equal Opportunity Employer

EXHIBIT 7



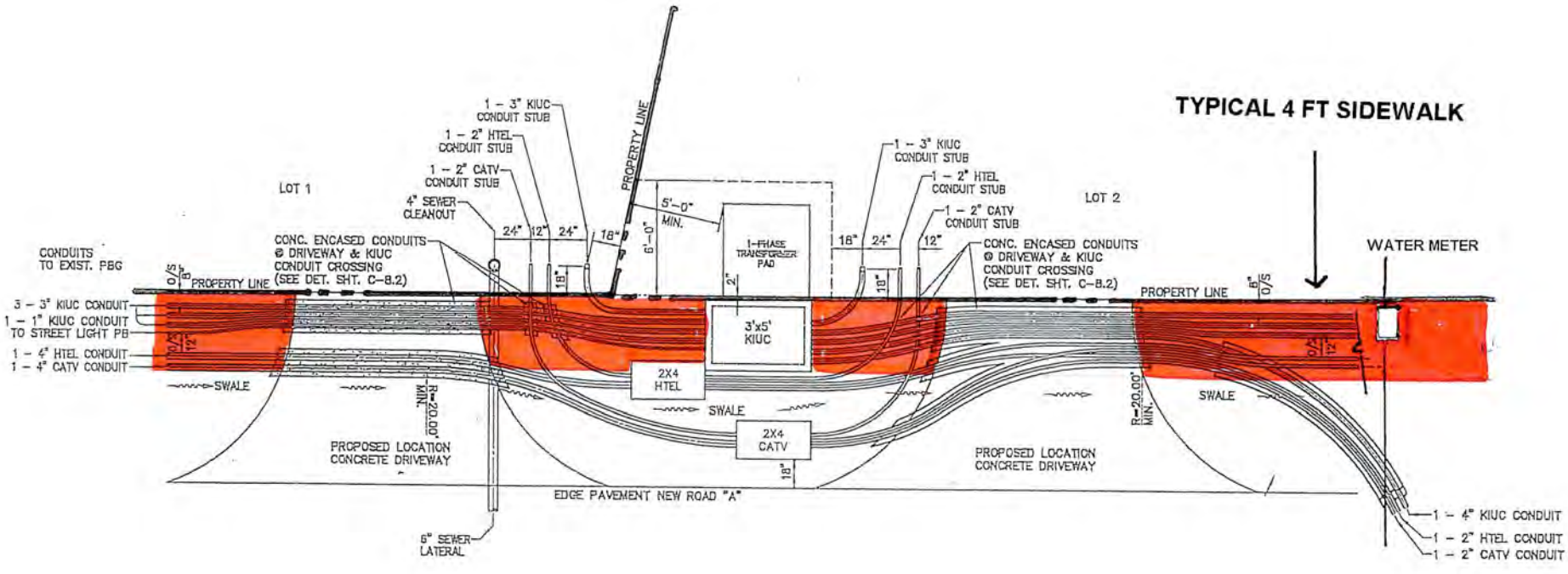
SIDEWALKS NOT TO BE BUILT

NEW ROAD "A" (4' SIDEWALK) = 1,781 Sq.Ft.
NEW ROAD "B" (4' SIDEWALK) = 1,375 Sq.Ft.

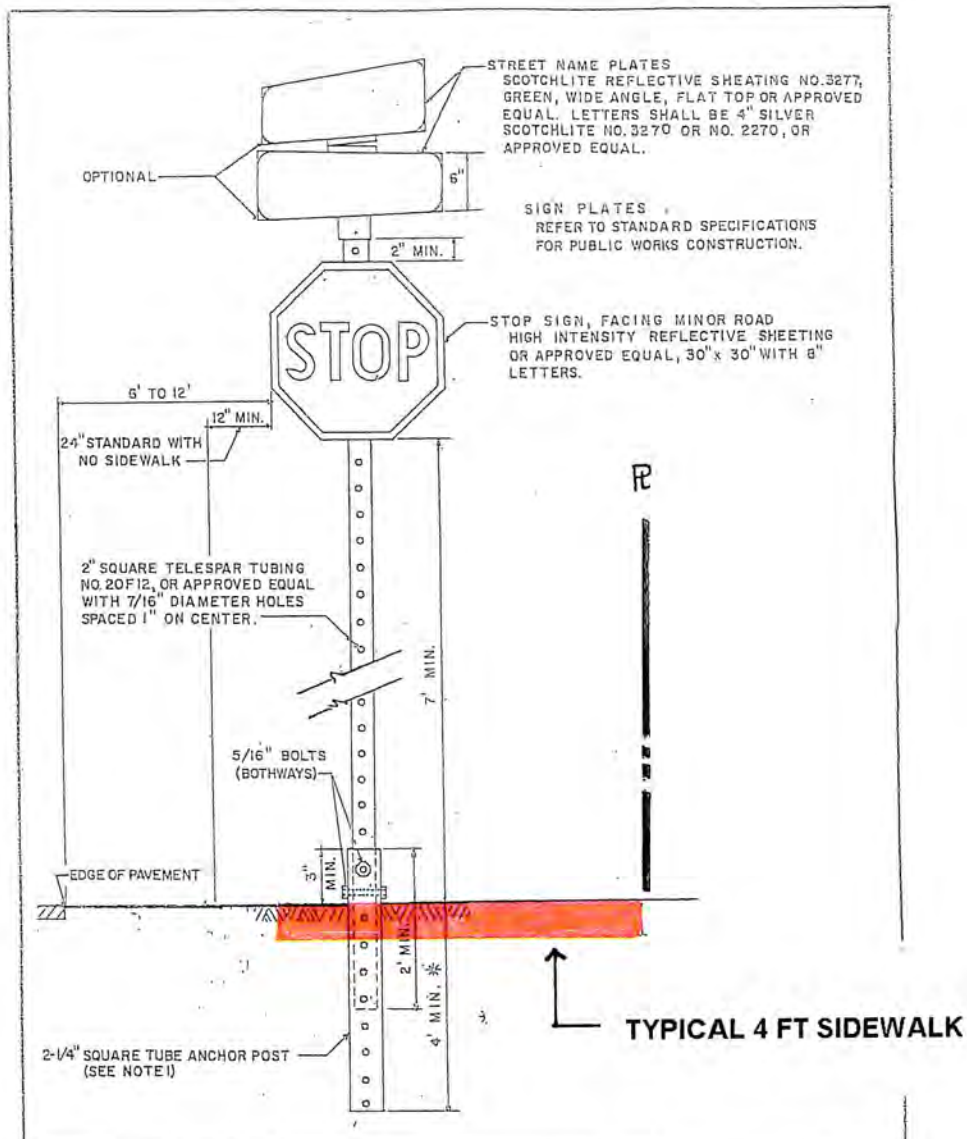
TOTAL SIDEWALK AREA = 3,156 Sq.Ft.

EXHIBIT 8

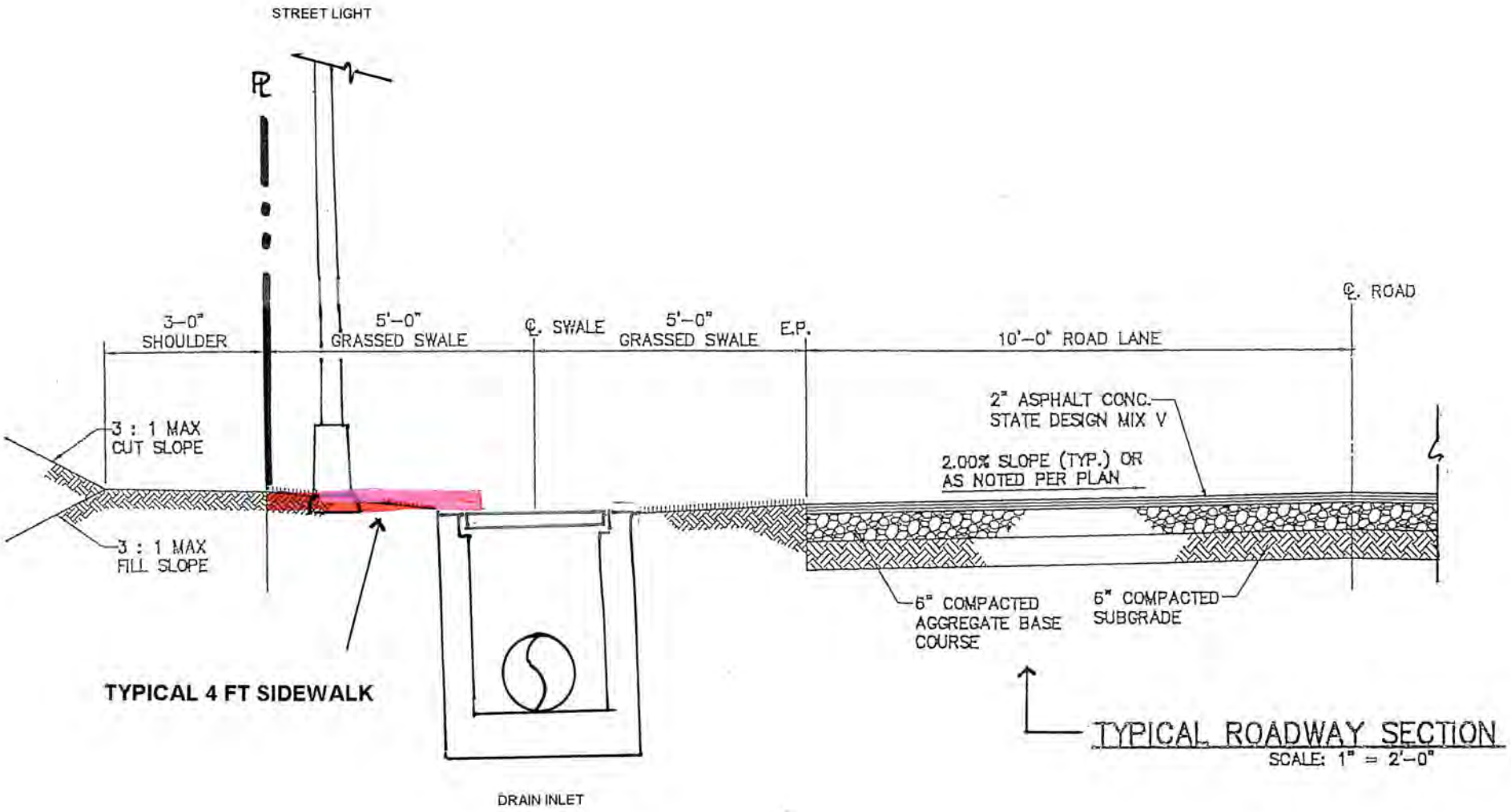
EXHIBIT 9



DRIVEWAYS • ELECTRICAL BOXES • WATER METERS



COUNTY OF KAUAI	STREET NAME AND STOP SIGN DETAILS NOT TO SCALE SEPTEMBER 1984	STANDARD DETAILS	T-11



STREET LIGHTS • DRAIN INLETS

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of Class IV Zoning and Variance Permits to allow a deviation from the requirement involving the construction of curbs, gutters, and sidewalks within the Residential (R-4) zoning district for a 20-lot subdivision.
Permit Application Nos.	Class IV Zoning Permit Z-IV-2026-8 Variance Permit V-2026-2
Name of Applicant(s)	MAKAI KŌLOA, LLC. Lindsay Crawford, Authorized Agent

II. PERMIT INFORMATION

PERMITS REQUIRED	
☐ **Use Permit**	
☐ **Project Development Use Permit**	
☒ **Variance Permit**	A Variance Permit is required to allow a deviation from the requirement to construct curbs, gutters, and sidewalks for a subdivision within the Residential zoning district pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance.
☐ **Special Permit**	
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-3.1 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Variance Permit.
☐ **Special Management Area Permit** ☐ Use ☐ Minor	
AMENDMENTS	
☐ **Zoning Amendment**	
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

Date of Receipt of Completed Application:	November 20, 2025
Date of Director's Report:	January 14, 2026
Date of Public Hearing:	February 10, 2026
Deadline Date for PC to Take Action (60TH Day):	April 11, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	The project site is situated along the western side of Lopaka Paipa Boulevard in Kōloa and immediately south and adjacent to the Kōloa Estates Subdivision.		
Tax Map Key(s):	(4) 2-6-015: 005 / 2-6-014: 041, 046	**Area:**	6.064 Acres
ZONING & DEVELOPMENT STANDARDS			
Zoning:	Residential District R-4		
State Land Use District:	Urban		
General Plan Designation:	Residential Community		
Height Limit:	Thirty (30) feet		
Max. Land Coverage:	Residential District = 60%		
Front Setback:	10'-0"		
Rear Setback:	5' or ½ the wall plate height whichever is greater		
Side Setback:	5' or ½ the wall plate height whichever is greater		
Community Plan Area:	South Kaua'i Community Plan		
Community Plan Land Use Designation:	N/A		
Deviations or Variances Requested:	The request involves a deviation from the requirement to construct curbs, gutters, and sidewalks for a subdivision within the Residential zoning district pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance.		

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on November 20, 2025, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.

Public Hearing Date: February 10, 2026

V. PROJECT DESCRIPTION AND USE

The project, known as Kukui'ula Parcel Q Subdivision, consolidates Lot 5-E and Lot 41 of the Kōloa Estates Subdivision and Lot 5-A (Kukui'ula Parcel Q) of the Kukui'ula Master Planned Area and re-subdivides said consolidation into sixteen (16) residential lots, two (2) roadway lots, and two (2) remnant lots that will be utilized for landscaping strips along Lopaka Paipa Boulevard. The total area involved is approximately 6.064 Acres within the County's Residential (R-4) zoning district and State Land Use Urban District. The proposal is currently being considered through Subdivision Application No. S-2025-2, which received Preliminary Subdivision Map Approval by the Kaua'i Planning Commission on April 08, 2025.

As a condition of tentative approval, the Applicant is required to construct curbs, gutters, and sidewalks along the subdivision's frontage pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended. This is a standard requirement for subdivision proposals that are within the County Residential zoning district where the density permitted is four (4) units or more per acre. This requirement is outlined in Condition 1.i. of the Tentative Approval Letter dated April 10, 2025, which states:

"i. **Pursuant to Section 9-2.3(e) of the Subdivision Ordinance, Kaua'i County Code (1987), as amended, curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Residential Districts where the density permitted is four (4) units or more per acre. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.**

Prior to final subdivision approval, the Applicant shall work with the Planning Department and Department of Public Works to determine if the provision of curbs, gutters and sidewalks is necessary. If it is determined necessary, the Applicant shall comply with the requirements of Section 9-2.3(e)(3) prior to final subdivision approval. Further, if the requirement of sidewalks is waived, the Applicant shall comply with Sections 9-2.3(e)(3)(C) and 9-2.3(e)(3)(D) prior to final subdivision approval.

Section 9-2.3(e)(3) states:

"(3) Curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Commercial, Industrial and Resort Districts; in Residential Districts where the density permitted is four (4) units or more per acre; and in any other Zoning Districts within the State Land Use-Urban District that are located within one-half (1/2) mile from any elementary, intermediate, high school, or college. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.

(A) In Residential Districts, swales may be constructed in lieu of curbs and/or gutters in accordance with the drainage standards and design guidelines established by the Department of Public Works.
(B) In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists or will be provided by the applicant.

(C) If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six (6) lots. The fee in lieu of required sidewalk construction shall be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer. There is hereby established and created a "sidewalk/shared use path fund" for the deposit of fees collected in lieu of required sidewalk construction. The fees collected pursuant to this Subsection (C) are hereby deemed appropriated upon receipt and shall be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance. The County Engineer shall submit an annual written report to the Council of each fiscal year's expenditures and balance of the sidewalk/shared use path fund on or before the 15th day of March of each year. If the 15th day of March falls on a Saturday, Sunday, or legal holiday, the report shall be submitted on the prior working day. The fees collected shall not lapse at the close of the fiscal year.

(D) Payment of said fees shall be made in a lump sum at the time of final - subdivision map approval or payment shall be made according to the following schedule: fifty percent (50%) at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval. When funds are needed for sidewalk or shared use path planning, design, land acquisition, construction and/or repair, the County Engineer shall submit a written request to the Planning Director and Mayor for approval. Upon approval, the Finance Director shall be authorized to release monies from the fund.""

Following the initial submittal of the variance permit application, further discussions were conducted among the Applicant, the Planning Department and the Department of Public Works – Engineering Division, regarding the need to construct a sidewalk along the *makai* side of Lopaka Paipa Boulevard for the entire length of the roadway, as it will provide pedestrian connectivity from Po'ipū Road to Ala Kalanikaumaka Street. As a result of these discussions, the Applicant submitted a supplemental correspondence dated January 16, 2026, providing an "alternative proposal" to the original variance request outlined in the variance permit application (refer to Exhibit 'A').

Under the **original proposal**, the Applicant initially requested a Variance Permit to deviate from Section 9-2.3 (e) (3) of the Subdivision Ordinance as follows:

1. Section 9-2.3 (e) (3) (A)– The Applicant proposed the use of drainage swales along Lopaka Paipa Boulevard and within the newly created cul-de-sac roadway lots (Lots 17 and 18). The proposal would be subject to the review and approval of the County Department of Public Works – Engineering Division.

2. Section 9-2.3 (e) (3) (B) – The Applicant requested a waiver from the sidewalk requirement along the subdivision's frontage on Lopaka Paipa Boulevard and within both newly created cul-de-sac roadway lots (Lots 17 and 18).

3. Section 9-2.3 (e) (3) (C) – The Applicant requested to pay a fee in-lieu of the required sidewalk construction that would be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer.

Under the **alternative proposal** (refer to Applicant's Supplement dated 1/16/26), the Applicant continues to request the use of drainage swales along Lopaka Paipa Boulevard and within the newly created cul-de-sac roadway lots (Lots 17 and 18). Additionally, the Applicant is requesting deviations from Sections 9-2.3 (e)(3)(B) and 9-2.3 (e)(3)(C) as follows:

1. Section 9-2.3 (e) (3) (B) – The Applicant requests a waiver from the sidewalk requirement involving both cul-de-sac roadway lots (Lots 17 and 18). As a compromise, the Applicant would agree to constructing a sidewalk along the makai side for the entire length of Lopaka Paipa Boulevard. More specifically, from the terminus of the existing sidewalk on Lopaka Paipa Boulevard to Pua 'Alani Place (**off-site**) and from Pua 'Alani Place to Po'ipū Road (**on-site**).

2. Section 9-2.3 (e) (3) (C) – As an alternative to paying an in-lieu fee of the required sidewalk construction within both Roadway Lots 17 and 18, the Applicant requests to apply those funds toward the cost of constructing a sidewalk involving an off-site segment along Lopaka Paipa Boulevard (from the terminus of the existing sidewalk along Lopaka Paipa Boulevard).

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for FEBRUARY 10, 2026. At the present time, the department has only received comments from the COK Public Works – Engineering Division, COK Fire Department, COK Transportation Agency, State Department of Health, and State Department of Transportation and has not received comments from other reviewing agencies that includes the COK Water (DOW). However, comments are being anticipated and will be presented at the public hearing.

VIII. FINDINGS

1. SUBDIVISION APPLICATION NO. S-2025-2
   Through Subdivision Application No. S-2025-2, the Applicant is working to resolve the necessary infrastructure improvements to accommodate a 20-lot subdivision. Prior to final subdivision approval, the Applicant will be required to prepare and obtain construction plan approvals, which includes any road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

   As the Applicant's proposal includes off-site sidewalk improvements, construction plans for both on-site and off-site sidewalk improvements would be submitted and reviewed under a separate construction plan submittal apart from the on-site subdivision improvement plans associated with Subdivision Application No. S-2025-2, which are currently under review by the Department of Public Works – Engineering Division. The sidewalk improvement plans would be reviewed and approved through the County's Clearinghouse review process administered by the County Department of Public Works – Engineering Division.

2. SURROUNDINGS
   The subject property is bordered by the Kōloa Estates Subdivision on the north, which is developed with single-family residences. Immediately to the south, the property abuts vacant land within the Kukui'ula Master Planned Area that includes an Archaeological and Biological Preserve Area, as well as land designated for regional and community park use pursuant to Ordinance No. PM-2004-370. The subject property is located between Po'ipū Road to the east and the Kōloa–Po'ipū Western Bypass Road (Ala Kalanikaumaka) to the west.

3. VEHICULAR ACCESS
   Vehicular access to the proposed subdivision will be provided via Ala Kalanikaumaka Street and Lopaka Paipa Boulevard. Roadway Lot 17 will be accessed from Ala Kalanikaumaka Street, which has an existing right-of-way width of sixty (60) feet, while Roadway Lot 18 will be accessed from Lopaka Paipa Boulevard, which also has an existing right-of-way width of sixty (60) feet. As represented, upon completion of the subdivision improvements, the Applicant intends to dedicate both roadway lots to the County of Kaua'i. The Applicant is currently coordinating with the County to implement traffic control measures, including new pavement striping and the installation of a left turn lane on Ala Kalanikaumaka Street, to provide safe access into the subdivision.

4. EXISTING SIDEWALKS IN THE SURROUNDING AREA
   Ala Kalanikaumaka — There is an existing sidewalk that meanders along the entire length of Ala Kalanikaumaka, that extends from its intersection with Kōloa Road and moving south towards the Po'ipū roundabout. Ala Kalanikaumaka and its associated sidewalk improvements were constructed as part of Subdivision Application No. S-2004-45, (Kukui'ula Large-Lot Subdivision, III) (circa 2008).

   Po'ipū Road — There is an existing sidewalk along the east side of Po'ipū Road located directly across from the Lopaka Paipa Boulevard/Po'ipū Road intersection, which extends along the entire length of the Koa'e Workforce Housing Project. This sidewalk was

constructed as part of the project's associated off-site infrastructure improvements (circa 2020) and was intended to connect with the planned regional pedestrian network.

Presently, sidewalk construction is underway along the east side of Po'ipū Road as part of the Po'ipū Safety and Mobility Project, which is being facilitated through the County Department of Public Works – Engineering Division. The new sidewalks will connect the existing sidewalks fronting the Koa'e Workforce Housing Project along the east side of Po'ipū Road and will extend north to Kōloa Road as well as south to the Po'ipū roundabout. Future sidewalk improvements for the region are depicted on the "Poipu Road Mobility and Safety Project" overview map, which shows proposed sidewalks extending from the Kōloa Road and Po'ipū Road Intersection south to the Po'ipū roundabout and continuing east along Po'ipū Road to the Grand Hyatt Kaua'i (refer to Exhibit 'B').

Lopaka Paipa Boulevard — Currently, there is an existing sidewalk along a portion of the *makai* side of Lopaka Paipa Boulevard, extending from the existing sidewalk along Ala Kalanikaumaka to the driveway entrance serving Lots 32-B and 5-B of the Kōloa Estates Subdivision, identified as Tax Map Keys: 2-6-014: 044 and 2-6-014: 045, respectively. These sidewalk improvements were constructed as part of the Lopaka Paipa Boulevard extension project (circa 2020), which opened the roadway, establishing an east-west connection from Po'ipū Road to Ala Kalanikaumaka.

5. SUBDIVISION HISTORY

Subdivision Application No. S-1998-9 — The subdivision application, known as the Kōloa Estates Subdivision, received Final Subdivision Map Approval by the Kaua'i Planning Commission on April 22, 1999, and was subsequently recertified on July 22, 1999, and on October 23, 2001. It established forty-three (43) lots within the County's Residential (R-6) zoning district and State Land Use Urban District. Lot 41, which is currently being utilized as a landscaping strip, was established through this subdivision.

Subdivision Application No. S-2004-45 — The subdivision application, known as the Kukui'ula Large-Lot Subdivision, III, received Final Subdivision Map Approval by the Kaua'i Planning Commission on April 11, 2006, and was subsequently recertified on July 11, 2006. It established nineteen (19) large lots within the Kukui'ula Master Planned Area. The intent of the subdivision was to create conveyable parcels that could be developed separately, and in addition, allowed the applicant to individually finance the various developments. Lot 5 (Kukui'ula Parcel Q), later redesignated as Lot 5-A in a subsequent subdivision, was established through this subdivision.

Subdivision Application No. S-2012-6 — The subdivision application involved the consolidation of Lots 26-A and 43 of the Kōloa Estates Subdivision and Lot 5 (Kukui'ula Parcel Q) and re-subdivided said consolidation into Lots A through D. The subdivision received Final Subdivision Map Approval by the Kaua'i Planning Commission on July 28, 2015. Kukui'ula Parcel Q was redesignated to Lot A in this subdivision.

Subdivision Application No. S-2018-3 — The subdivision application involved the consolidation of Lots 32-C, 28, 27, and B of the Kōloa Estates Subdivision, along with Lot A (Kukui'ula Parcel Q), and re-subdivided said consolidation into Lots 5-A through 5-E. This

application received Final Subdivision Map Approval by the Kaua'i Planning Commission on April 10, 2018. As a result, Kukui'ula Parcel Q was redesignated as Lot 5-A as referenced in the current subdivision proposal.

6. ORDINANCE (COMPLETE STREETS)
Ordinance No. 946 was adopted by the Kaua'i County Council on June 26, 2013. It amended Chapter 9 of the Kaua'i County Code (Subdivision Ordinance) to implement the Complete Streets Policy and the General Plan's policies for town centers and public facilities by ensuring that new subdivisions are designed and constructed to support multi-modal transportation circulation, while taking into account local context and sensitivity to community character.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request for a Variance Permit to deviate from the requirement to construct curbs, gutters, and sidewalks within the County Residential (R-4) zoning district, the following should be considered:

1. VARIANCE PERMIT

Section 8-3.3 of the CZO, Kaua'i County Code entitled, "Variance", states:

> *"(b) Standards. Variances from the terms of this Chapter shall be granted only if it is found that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations deprives the property of privileges enjoyed by other property in the vicinity and within the same District, and the applicant shows that he or she cannot make a reasonable use of the property if the regulations are applied. Where these conditions are found, the Variance permitted shall be the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and to facilitate a reasonable use, and which will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences. Financial hardship to the applicant is not a permissible basis for the granting of a Variance. In no case may a Variance be granted that will provide the applicant with any special privileges not enjoyed by other properties in the vicinity. The Planning Commission shall indicate the particular evidences that support the granting of the Variance."*

In evaluating the proposal, it is noted that the Applicant's request is consistent with prior actions of the Planning Commission, which have approved deviations from the requirement to construct curbs, gutters, and sidewalks for subdivisions in the vicinity of the project. In particular, various subdivisions within the Kukui'ula Master Planned Community were granted such deviations to preserve the rural character of interior roadways. These deviations were approved at the time of Preliminary Subdivision Map approval through a Modification of Requirement pursuant to Section 9-4.2 of the Subdivision Ordinance, which applies the same evaluation criteria used for Variance Permits. Accordingly, denial of the requested sidewalk

waiver within both Roadway Lots 17 and 18 would deprive the subject property of privileges enjoyed by other properties in the surrounding area.

Section 9-2.3 (e) (3) (A) – Drainage Swales in Lieu of Curbs and Gutters
The Applicant's deviation request was transmitted to the County Department of Public Works - Engineering Division for their review and comment on the subject matter. In reviewing the request, the Engineering Division has no objections for the use of drainage swales in-lieu of curbs and gutters within both Roadway Lots 17 and 18, and along Lopaka Paipa Boulevard, provided that the proposed design conforms to their standards and is submitted for review and approval by their agency. (refer to DPW-Engineering's correspondence dated January 22, 2026, attached as Exhibit 'C').

Section 9-2.3 (e) (3) (B) — Waiver of Sidewalks within Roadway Lots 17 and 18 (Cul-De-Sacs)
In evaluating the Applicant's request for a waiver to construct sidewalks along the frontages of Roadway Lots 17 and 18, the Department has no objections, as the use of grass swales would be consistent with the existing form and character of the surrounding area. The dead-end streets (cul-de-sacs) within the Kōloa Estates Subdivision, specifically Pua 'Akala Place, Laua'e Place, and Pua 'Alani Place, currently do not contain curbs, gutters, or sidewalks and instead utilize grass swales. Approval of the requested deviation would therefore allow the Applicant to maintain the established rural character of the interior roadway lots within the Kōloa Estates Subdivision.

Additionally, the Department of Public Works – Engineering Division has indicated no objections to the waiver of the sidewalk requirement along the frontages of Roadway Lots 17 and 18, as stated in their correspondence dated January 22, 2026.

Section 9-2.3 (e) (3) (C) — Alternative to the Sidewalk In-Lieu Fee
In considering the Applicant's proposal to apply in-lieu funds toward constructing a sidewalk along an off-site segment of Lopaka Paipa Boulevard, the Applicant's supplemental correspondence dated January 16, 2026, provides three construction cost estimates. The estimates were submitted to determine whether the total cost of constructing a four-foot-wide sidewalk along the off-site segment is greater than or equal to the cost of constructing sidewalks along the frontages of Roadway Lots 17 and 18.

The estimates specify costs of **$97,153.89** for the off-site segment and $96,913.05 for the on-site segment along Lopaka Paipa Boulevard, and **$91,210.02** for sidewalks along the frontages of Roadway Lots 17 and 18. The Department of Public Works – Engineering Division has reviewed the cost estimates and concurs that the cost of the proposed off-site sidewalk is greater than the cost of constructing sidewalks within both roadway lots.

Accordingly, based on the cost estimates provided and the Engineering Division's concurrence, the Applicant's alternative proposal is consistent with Section 9-2.3 (e)(3)(C), as the Applicant would construct an off-site sidewalk at a cost greater than the required in-lieu fee for sidewalk construction within both roadway lots. This deviation is considered a minimal departure from existing regulations as the Applicant has agreed to redirect sidewalk construction from an area where sidewalks are likely unnecessary to an off-site

segment, resulting in a complete and continuous sidewalk along the entire length of Lopaka Paipa Boulevard.

2. SOUTH KAUA'I COMMUNITY PLAN
Construction of a sidewalk along Lopaka Paipa Boulevard for the length of the roadway is consistent with the South Kaua'i Community Plan (2015), as the "Multimodal Roadway Network" map (Figure 4-4) (refer to Exhibit "D"). identifies a pedestrian pathway alignment on Lopaka Paipa Boulevard connecting Po'ipū Road to Ala Kalanikaumaka Street. The pedestrian sidewalk will ultimately provide greater east-west pedestrian circulation, thereby improving regional connectivity.

3. SUBDIVISION ORDINANCE
The adoption of Ordinance No. 946 to implement the Complete Streets Policy amended Section 9-2.3 (a) (1) of the Subdivision Ordinance. This amendment introduced standards for street design, requiring that streets within subdivisions be designed in accordance with the Complete Streets Policy. Specifically, Section 9-2.3 (a) (1) of the Subdivision Ordinance states:

"(1) All streets shall be designed so as to:

(A) Preserve natural features and topography and protect the natural environment;

(B) Protect public health and safety;

(C) Require adequate rights-of-way to serve the type and intensity of proposed land used within the subdivision, future traffic demand calculated according to vehicle type and anticipated volume, adequate access for public service vehicles, and adequate parking;

(D) Minimize land coverage and disturbance to the soil;

(E) Provide for the separation of motor vehicle and pedestrian traffic, where feasible;

(F) Create conditions of proper drainage;

(G) Provide for proper landscaping; and

(H) Accommodate multi-modal circulation networks and travel by bicyclists, public transportation vehicles and their passengers, and pedestrians of all ages and abilities, taking into account local context and sensitivity to community character."

Construction of a sidewalk along the *makai* side of Lopaka Paipa Boulevard for the length of the roadway is consistent with Section 9-2.3 (a) (1) in that it will protect public health and safety by providing for the separation of motor vehicle and pedestrian traffic. The proposal will also accommodate multi-model circulation by providing a pedestrian path that is suitable for pedestrians of all ages and abilities.

X. PRELIMINARY CONCLUSION

Based on the information contained in the Director's Report Findings and Evaluation, the Planning Department concludes the following:

1. The County of Kaua'i, Department of Public Works – Engineering Division approves the use of drainage swales in lieu of raised curbs and gutters within both proposed Roadway Lots 17 and 18, and along Lopaka Paipa Boulevard, provided that the proposed design conforms to their standards and is submitted for review and approval by their agency;

2. The proposal is consistent with previous deviations granted in this area as it maintains the rural character of the interior roadway lots already established within the Kōloa Estates Subdivision;

3. Approval of the deviation request to apply in-lieu funds toward constructing a sidewalk along an off-site segment of Lopaka Paipa Boulevard, would result in a complete and continuous sidewalk along the entire length of the roadway. This improvement would enhance public safety by providing a separation of motor vehicle and pedestrian traffic and would accommodate pedestrians of all ages and abilities;

4. The proposed deviation is consistent with the South Kaua'i Community Plan as well as the Po'ipū Safety and Mobility Project, providing east-west pedestrian circulation, thereby improving regional connectivity; and

5. The proposed deviation could be considered a minimal departure from existing regulations and should not have any substantial adverse impacts to the surrounding neighborhood. The installation of a sidewalk could be viewed as a measure to promote and protect the health, safety and welfare of residents and pedestrians.

The Applicant should institute the "Best Management Practices" to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion, it is hereby recommended that Class IV Zoning Permit Z-IV-2026-8 and Variance Permit V-2026-2 be **APPROVED** subject to the following conditions:

1. The project shall be constructed as represented. Any modifications to the project including but not limited to the location and layout of sidewalks and associated site improvements along Lopaka Paipa Boulevard shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. The Applicant shall prepare, submit, and obtain construction plan approvals for the on-site and off-site sidewalk improvements along Lopaka Paipa Boulevard from the terminus of the existing sidewalk on Lopaka Paipa Boulevard to Pua 'Alani Place (off-site) and from Pua 'Alani Place to Po'ipū Road (on-site). Such improvements shall be reviewed under a separate construction plan submittal apart from the subdivision improvement plans associated with Subdivision Application No. S-2025-2 and shall be reviewed and approved through the County's Clearinghouse review process, administered by the County of Kaua'i, Department of Public Works – Engineering Division. All sidewalk improvements shall be constructed and determined complete by the County of Kaua'i, Department of Public Works – Engineering Division, no later than December 31, 2027.

3. The Applicant is advised that the approval of this variance does not imply approval of the subdivision, or its configuration proposed herein.

4. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirement for the County DPW-Engineering Division, water requirements for the County Department of Water, and regulations involving environmental concerns as administered by the State Department of Health.

5. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

6. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

7. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for February 10, 2026, 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 the staff's report and recommendation as provided herein.

By _____
KENNETH A. ESTES
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: JAN 28 2026

Exhibit 'A'

(Applicant's Supplemental Correspondence dated January 16, 2026)

Supplement to Variance Permit Application V-2026-2

Related to Subdivision Map S-2025-2

Lot 5-A Subdivision a (15) residential lot subdivision adjacent Koloa Estates

In further consideration to deviate from the requirements of 9-2.3(e)(3) relating to curbs, gutters and sidewalks involving a residential subdivision, the Applicant (Makai Koloa LLC) is agreeable to a supplemental proposal at the request of the County of Kauai Department of Public Works – Engineering Division. This proposal involves designing and constructing a public sidewalk along the makai side of Lopaka Paipa Boulevard for the entire length of the roadway. Specifically, this includes constructing a sidewalk from the terminus of the existing sidewalk on Lopaka Paipa Boulevard to Pua Alani Place (off-site), and from Pua Alani Place to Poipu Road (on-site), as shown in red on the attached EXHIBIT 1O.

If the Planning Commission grants a waiver to the sidewalk requirement within both cul-de-sacs of the subdivision, this supplemental proposal would be consistent with the requirements of Section 9-2.3(e)(3)(C) of the Subdivision Ordinance, whereby, as an alternative to paying an in-lieu fee for sidewalk construction within both cul-de-sac roadways, the funds would instead be applied toward construction of a sidewalk along an off-site roadway segment where the subdivision does not front. The applicant is agreeable to performing this work as an "alternative option". Additionally, if the total cost of the off-site sidewalk improvements is less than the total cost of sidewalk improvements within both cul-de-sacs, any remaining balance will be paid to the County of Kauai in accordance with Section 9-2.3(e)(3)(C).

If it is considered acceptable, the Applicant would be agreeable to the following as additional conditions of approval involving the Class IV Zoning and Variance Permit V-2026-2:

1. Applicant will prepare and submit to the County for review and approval a separate set of sidewalk plans (ie, separate from the current Lot 5-A Subdivision plans already approved by DPW) for this segment of proposed sidewalk along Lopaka Paipa Blvd. as illustrated in EXHIBIT 1O of this Supplement.
2. Associated with the above sidewalk plans the applicant will submit a <u>separate</u> grading bond (ie, that is not included in the current Lot 5-A Subdivision Bond Agreement) for said proposed sidewalk improvements along Lopaka Paipa Blvd.

(AGENT) 11/6/26

Applicant

LOPAKA PAIPA BLVD SIDEWALK

Offsite 4' Wide Sidewalk Along Lopaka Paipa Blvd (from current end of sidewalk to Pua Alani Place)

Sidewalk					
Concrete	2200 SF	$ 18.00	/SF		$ 39,600.00
Prep	2200 SF	$ 11.00	/SF		$ 24,200.00
Dome	1 Locations	$ 2,500.00	/EA		$ 2,500.00
Sleeves	12 LF	$ 115.00	/LF		$ 1,380.00
Root Barrier	11 Locations	$ 500.00	/EA		$ 5,500.00
AC Apron	3 Locations	$ 1,500.00	/EA		$ 4,500.00
Inlet Prep	3 Locations	$ 1,000.00	/EA		$ 3,000.00
		Total			$ 80,680.00
		Markup		15%	$ 12,102.00
		Tax		4.71%	$ 4,371.89
					$ 97,153.89

Onsite 4' Wide Sidewalk Along Lopaka Paipa Blvd (Pua Alani Place to Polpu Rd)

Sidewalk					
Concrete	2400 SF	$ 18.00	/SF		$ 43,200.00
Prep	2400 SF	$ 11.00	/SF		$ 26,400.00
Dome	1 Locations	$ 2,500.00	/EA		$ 2,500.00
Sleeves	12 LF	$ 115.00	/LF		$ 1,380.00
Root Barrier	9 Locations	$ 500.00	/EA		$ 4,500.00
AC Apron	1 Locations	$ 1,500.00	/EA		$ 1,500.00
Inlet Prep	1 Locations	$ 1,000.00	/EA		$ 1,000.00
		Total			$ 80,480.00
		Markup		15%	$ 12,072.00
		Tax		4.71%	$ 4,361.05
					$ 96,913.05

	$ 97,153.89
	$ 96,913.05
Total of **Offsite** & **Onsite** Sidewalks	$ 194,066.94

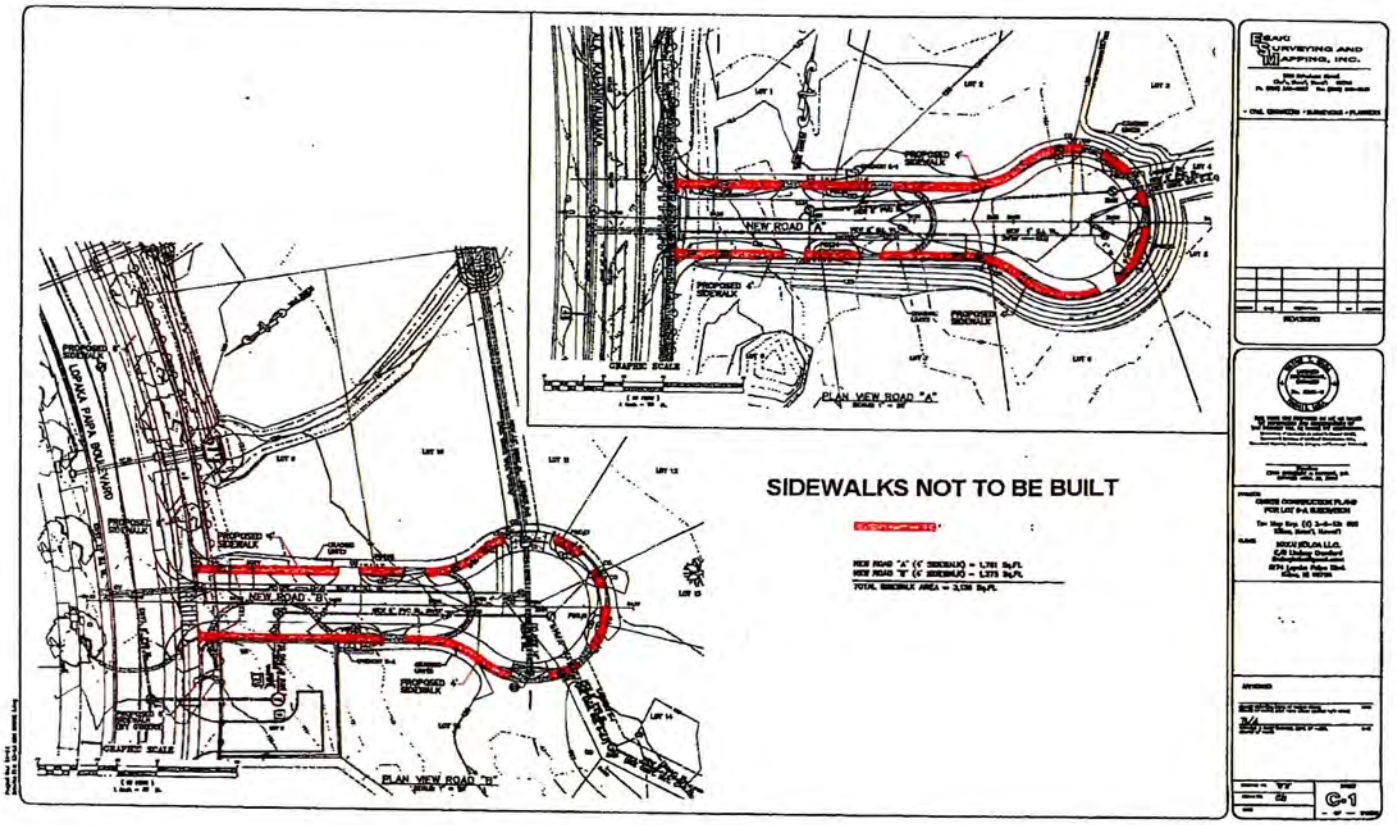
SIDEWALK <u>NOT TO BE BUILT</u> AT TWO CUL-DE-SACS

4' Wide Sidewalk at (2) CDS per **EXHIBIT 7**

Sidewalk						
Concrete	3156 SF	$	18.00	/SF	$	56,808.00
Prep (note 1)	3156 SF	$	6.00	/SF	$	18,936.00
		Total			$	75,744.00
		Markup		15%	$	11,361.60
		Tax		4.71%	$	4,104.42
					$	91,210.02

note 1 - grading and compaction accomplished with subdivision work

EXHIBIT 7


SIDEWALKS NOT TO BE BUILT
NEW ROAD "A"
NEW ROAD "B"
PLAN VIEW ROAD "A"
PLAN VIEW ROAD "B"
UPAKA PAPA BOULEVARD
PROPOSED 4' SIDEWALK
GRAPHIC SCALE
SAKO SURVEYING AND MAPPING, INC.
C-1

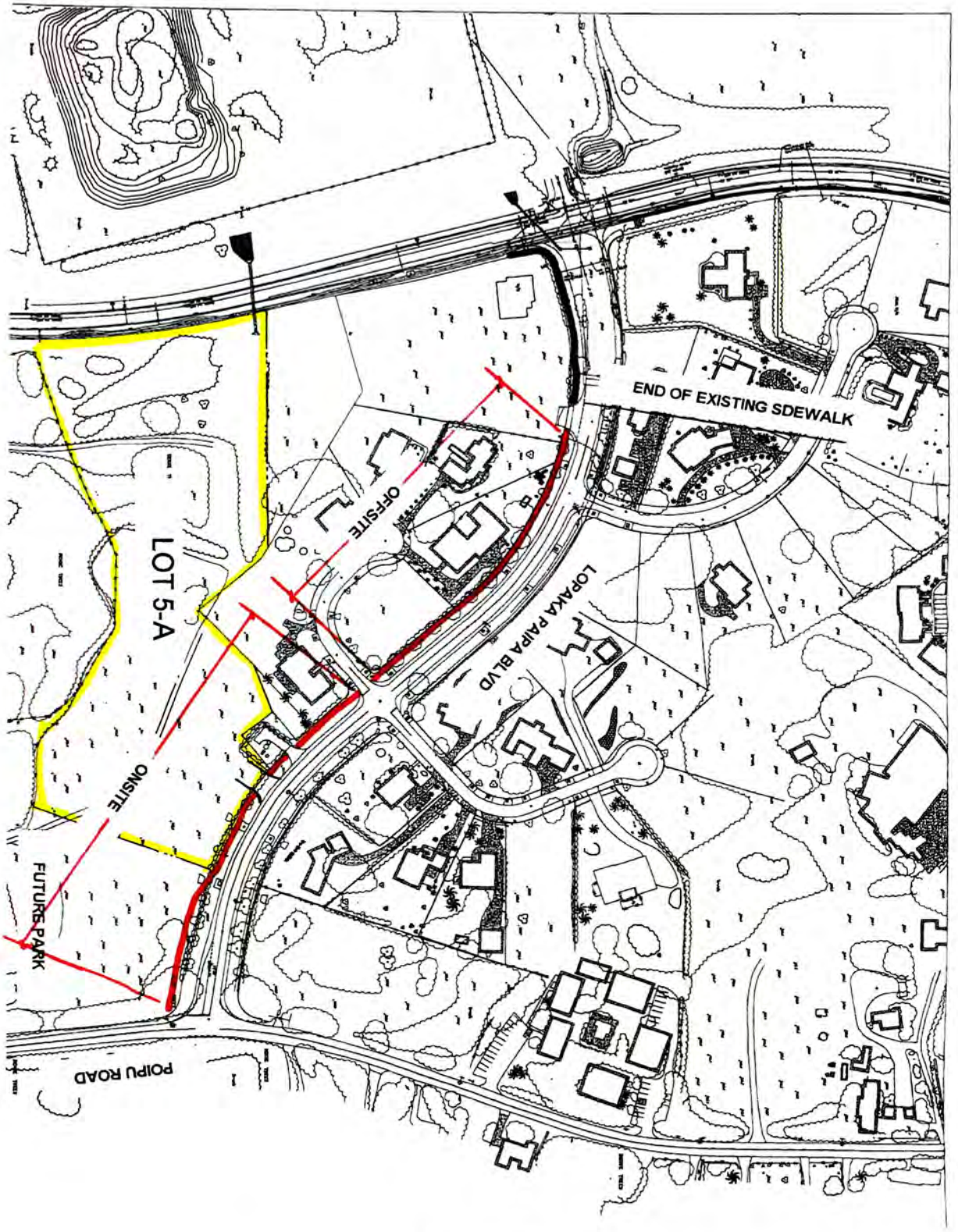
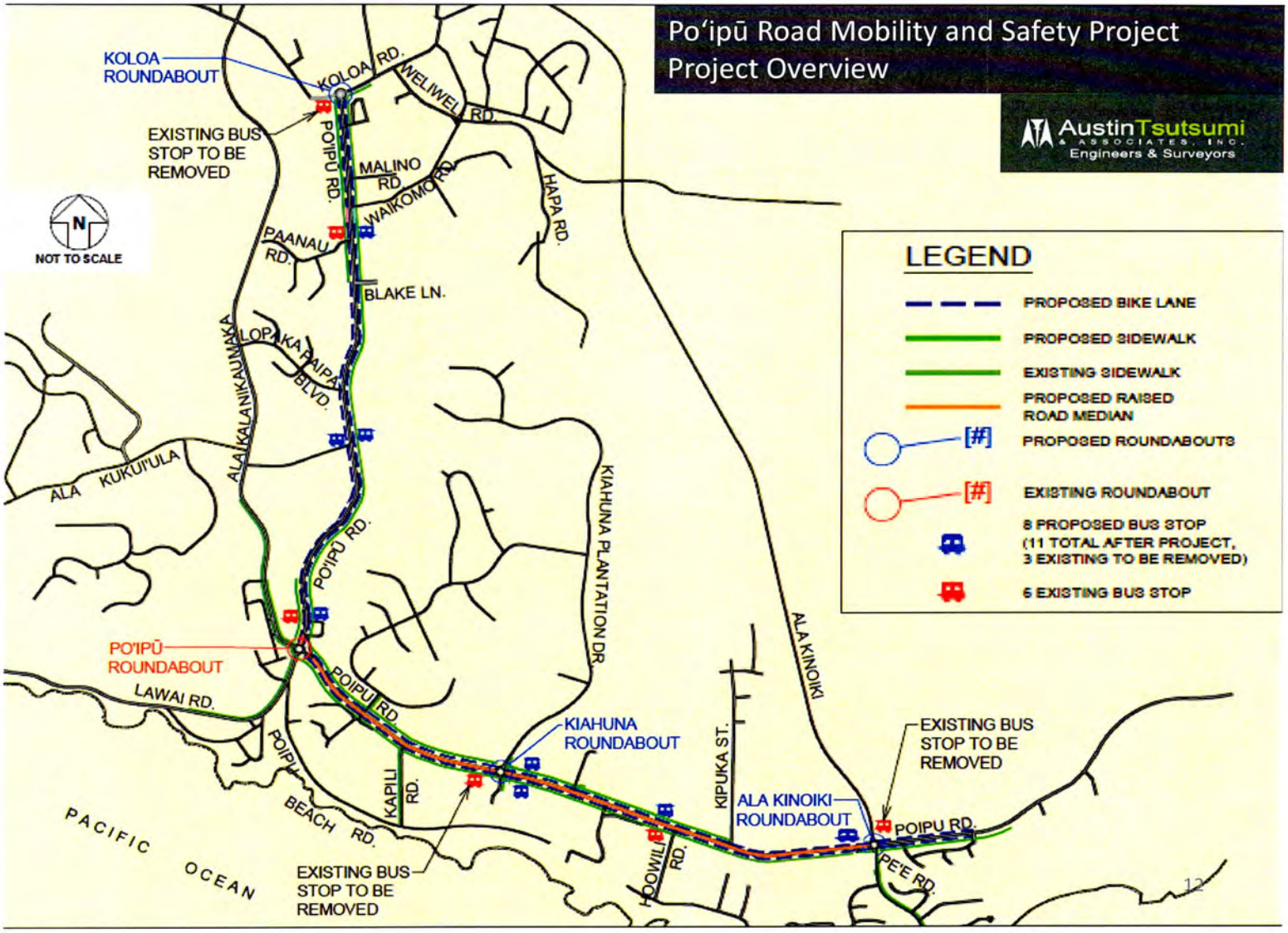

END OF EXISTING SDEWALK
OFFSITE
LOT 5-A
LOPAKA PAIPA BLVD
ONSITE
FUTURE PARK
POIPU ROAD

EXHIBIT 10

Exhibit 'B'

(Poipu Road Mobility and Safety Project Overview Map)


Po'ipū Road Mobility and Safety Project
Project Overview
AustinTsutsumi & ASSOCIATES, INC.
Engineers & Surveyors
KOLOA ROUNDABOUT
EXISTING BUS STOP TO BE REMOVED
KOLOA RD.
WELIWELI RD.
PO'IPŪ RD.
MALINO RD.
WAIKOMO RD.
HAPA RD.
PAANAU RD.
BLAKE LN.
LOPAKA PAIPA BLVD.
ALA KALANIKAUMAKA
ALA KUKUI'ULA
KIAHUNA PLANTATION DR.
PO'IPŪ ROUNDABOUT
LAWAI RD.
POIPU RD.
KIAHUNA ROUNDABOUT
KAPILI RD.
POIPU BEACH RD.
PACIFIC OCEAN
EXISTING BUS STOP TO BE REMOVED
HOOWILI RD.
KIPUKA ST.
ALA KINOIKI
ALA KINOIKI ROUNDABOUT
EXISTING BUS STOP TO BE REMOVED
POIPU RD.
PE'E RD.
NOT TO SCALE
LEGEND
PROPOSED BIKE LANE
PROPOSED SIDEWALK
EXISTING SIDEWALK
PROPOSED RAISED ROAD MEDIAN
[#] PROPOSED ROUNDABOUTS
[#] EXISTING ROUNDABOUT
8 PROPOSED BUS STOP (11 TOTAL AFTER PROJECT, 3 EXISTING TO BE REMOVED)
6 EXISTING BUS STOP

Project Components

- Roundabouts
  - Poʻipū Road at Kōloa Road (mini-roundabout)
  - Poʻipū Road at Ala Kalanikaumaka and Lāwaʻi Rd (existing)
  - Poʻipū Road at Kiahuna Plantation Drive and Kiahuna Plantation Resort
  - Poʻipū Road at Ala Kinoiki and Peʻe Road
- Left-turn-only lanes at all intersections and driveways in the resort section of Poʻipū Road
- Separate right-turn-only and left-turn-only lanes on side streets
  - Kāpili Road approaching Poʻipū Road (existing, but no resolution)
  - Hoʻowili Road approaching Poʻipū Road

Project Components

- Sidewalks
  - Continuous sidewalk on at least one side of the street
  - Sidewalks on both sides
    - Poʻipū Road to south of Paʻanau Road
    - Kukuiʻula Market to Kīpuka Street
- Marked Crosswalks (some existing, most new)
  - Across all legs of all four roundabouts
  - 3 crosswalks across Kōloa Town section of Poʻipū Road (plus 2 existing)
  - 4 crosswalks across the resort section of Poʻipū Road (plus 2 existing)
  - Across Waikomo Road at Poʻipū Road (existing but no resolution)
  - Across Paʻanau Road at Poʻipū Road
  - Across Kūkona A Laʻa Street at Poʻipū Road (Poʻipū Beach Estates)
  - Across Kāpili Road at Poʻipū Road
  - Across Hoaka Street at Poʻipū Road (proposed entrance road to Village at Poʻipū subdivision)
  - Across Hoʻowili Street at Poʻipū Road
  - Across Kīpuka Street at Poʻipū Road
  - Across Loke Road at Poʻipū Road
  - Across Keleka Road at Poʻipū Road
  - Across all major driveways crossed by sidewalks along Poʻipū Road

Project Components

- Bicycle lanes the full length of Poʻipū Road, except fronting the Hyatt:
- Kauaʻi Bus stops:
  - Both sides of Poʻipū Road near Kōloa School (east side new)
  - Both sides of Poʻipū Road near Koaʻe Makana housing (both new)
  - Both sides of Poʻipū Road north of the existing Ala Kalanikaumaka roundabout (east side new)
  - Both sides of Poʻipū Road east of the Kiahuna Plantation Drive roundabout (north side new)
  - Both sides of Poʻipū Road near Hoʻowili Road (north side new)
  - North side of Poʻipū Road west of the Ala Kinoiki roundabout

Exhibit 'C'

(Comments from the DPW-Engineering Division dated January 22, 2026)

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

FROM: Kaaina S. Hull, Director | Planner: Kenneth Estes | 12/2/2025

SUBJECT: Zoning Class IV Z-IV-2026-8
Variance Permit V-2026-2
Applicant: Makai Koloa, LLC. (Lindsay Crawford, Authorized Agent)
Makai Koloa LLC

TO:

- ☑ State Department of Transportation - STP
- ☑ State DOT - Highways, Kauai (info only)
- ☐ State DOT - Airports, Kauai (info only)
- ☐ State DOT - Harbors, Kauai (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR - Land Management
- ☐ State DLNR - Forestry & Wildlife
- ☐ State DLNR - Aquatic Resources
- ☐ State DLNR - Conservation & Coastal Lands
- ☐ State DLNR - Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW - Engineering
- ☐ County DPW - Wastewater
- ☐ County DPW - Building
- ☐ County DPW - Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☐ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department) (1/22/2026)

We have reviewed the application and supplement to the application for the subject Class IV Zoning and Variance Permits at TMK: (4) 2-6-015:005 and 2-6-014:041, 046 (Applicant: Makai Kōloa LLC).

Per Kaua'i County Code, Section 9.2.3(e)(3)(B) and (C), "In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists or will be provided by the applicant.
If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six lots. The fee in lieu of required sidewalk construction shall be equal to or greater than 100% of the cost of constructing the sidewalk as determined by the County Engineer."

"New Road 'A'" and "New Road 'B'" within the subdivision are anticipated to carry less than 100 vehicles per day; therefore DPW Engineering Division supports waiver or variance to remove the sidewalk requirement along these streets. On the other hand, a sidewalk within County right-of-way on the south side of Lopaka Paipa Boulevard is an important part of the pedestrian network, as shown in the South Kaua'i Community Plan.

As shown on Exhibit 10 of the supplement to Variance Permit V-2026-2, the <u>onsite</u> portion of the sidewalk should be required as part of the project. We have reviewed the cost estimates included with the supplement, and we concur that the cost of the proposed <u>offsite</u> sidewalk on Lopaka Paipa Boulevard is greater than the cost to construct new sidewalks along both sides of "New Road 'A'" and "New Road 'B'" of the proposed subdivision. Therefore, we agree with the proposed condition to require the applicant to prepare plans for and construct a sidewalk along the south side of Lopaka Paipa Boulevard, from the terminus of the existing sidewalk on Lopaka Paipa Boulevard to Pua Alani Place (offsite) and from Pua Alani Place to Po'ipū Road (onsite), as shown on Exhibit 10. We also do not oppose the applicant's proposal to bond for the sidewalk improvements separate from the current Lot 5-A Subdivision Bond Agreement. Lastly, we approve the use of drainage swales (in lieu of curbs and gutters) on Lopaka Paipa Boulevard, "New Road 'A'", and "New Road 'B'".

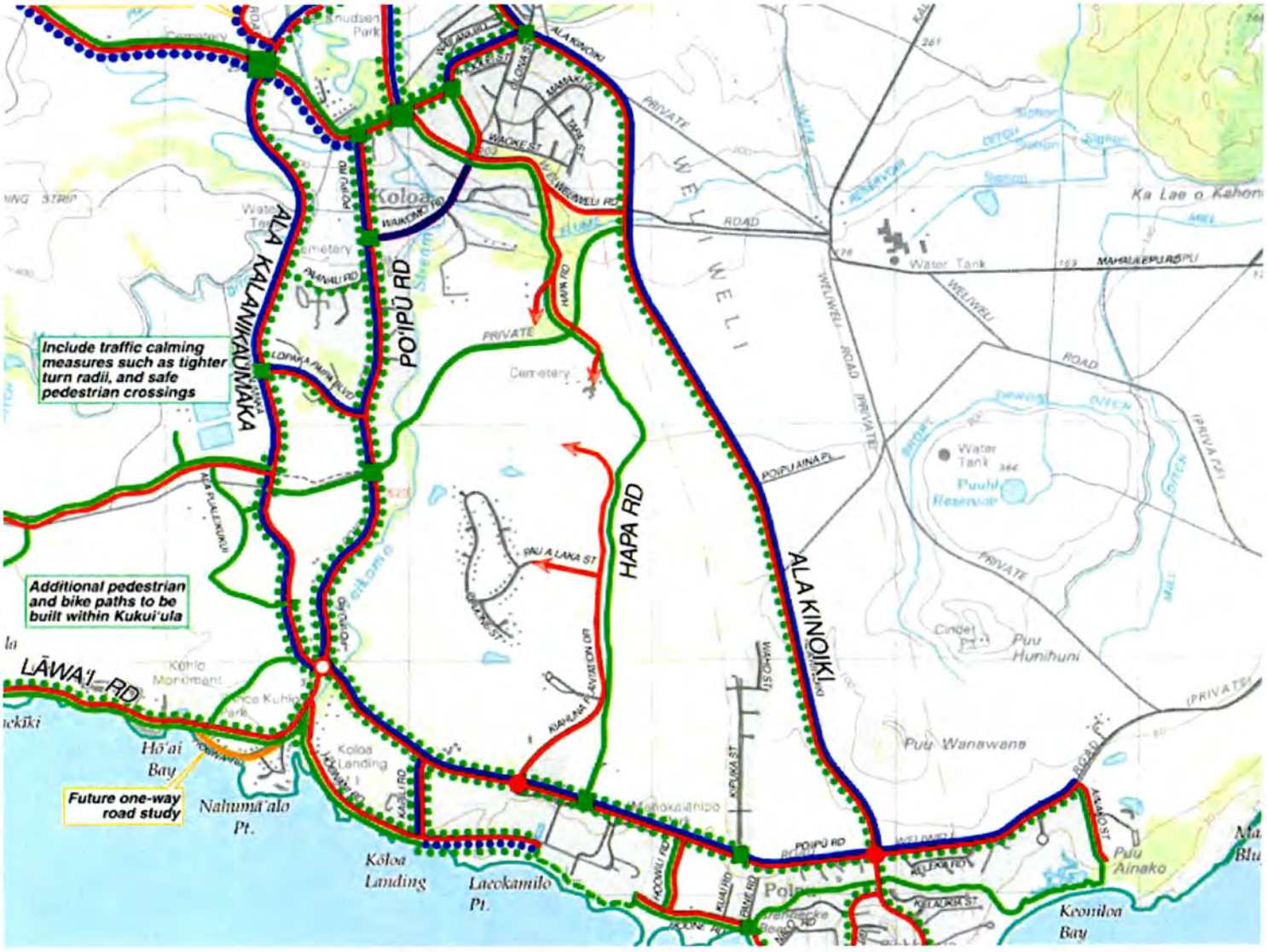
Sincerely,

Digitally signed by Michael Moule
Date: 2026.01.22 11:39:41 -10'00'

Michael Moule, P.E.
Chief, Engineering Division

Exhibit 'D'

(South Kaua'i Community Plan "Multimodal Roadway Network" Map)



Include traffic calming measures such as tighter turn radii, and safe pedestrian crossings
Additional pedestrian and bike paths to be built within Kukui'ula
Future one-way road study
ALA KALANIKAUMAKA
PO'IPŪ RD
HAPA RD
ALA KINOIKI
LĀWA'I RD
WELIWELI
Koloa
Cemetery
Water Tank
Puu Hunihuni
Puu Wanawane
Puu Ainako
Keoniloa Bay
Hō'ai Bay
Nahumā'alo Pt.
Kōloa Landing
Laeokamilo Pt.
Ka Lae o Kahon

LEGEND

- Vehicle Travel, 2-Lane
- Vehicle Travel, One-Way
- Future Roadway
- Bike Lane, Both Sides
- Bike on Road Shoulder or Bike Route
- Separated Pedestrian/Bike Path
- Pedestrian Path
- Special Street Design (Safe Routes to School)
- Existing Roundabout
- Proposed Roundabout
- Intersection Improvement

Source: USGS Topographic basemap (1993).

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

February 9, 2026

Agency comments received by the Planning Department as of February 9, 2026, 9:00 am for the February 10, 2026, Planning Commission meeting regarding the following item:

G.2.a. **CLASS IV ZONING PERMIT (Z-IV-2026-8) and VARIANCE PERMIT (V-2026-2)** involving a 20-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for parcels immediately adjacent to the Koloa Estate Subdivision, situated along the western side of Lopaka Paipa Boulevard in Koloa, , further identified as Tax Map Keys: (4) 2-6-014:041 & 046; 2-6-015:005, and containing a total area of 6.064 acres = **MAKAI KOLOA LLC. [Director's Report Received, 1/28/2026].**

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

G.2.a2.

FEB 24 2026

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

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

12/2/2025

SUBJECT: Zoning Class IV Z-IV-2026-8
Variance Permit V-2026-2
Applicant: Makai Koloa, LLC. (Lindsay Crawford, Authorized Agent)
Makai Koloa LLC

TO:

- [x] State Department of Transportation - STP
- [x] State DOT - Highways, Kauai (info only)
- [ ] State DOT - Airports, Kauai (info only)
- [ ] State DOT - Harbors, Kauai (info only)
- [x] State Department of Health
- [ ] State Department of Agriculture
- [ ] State Office of Planning
- [ ] State Dept. of Bus. & Econ. Dev. Tourism
- [ ] State Land Use Commission
- [x] State Historic Preservation Division
- [ ] State DLNR - Land Management
- [ ] State DLNR - Forestry & Wildlife
- [ ] State DLNR - Aquatic Resources
- [ ] State DLNR - Conservation & Coastal Lands
- [ ] State DLNR - Commission on Water Resource Management
- [ ] Office of Hawaiian Affairs
- [x] County DPW - Engineering
- [ ] County DPW - Wastewater
- [ ] County DPW - Building
- [ ] County DPW - Solid Waste
- [ ] County Department of Parks & Recreation
- [x] County Fire Department
- [x] County Housing Agency
- [ ] County Economic Development
- [x] County Water Department
- [ ] County Civil Defense
- [x] County Transportation Agency
- [ ] KHPRC
- [ ] U.S. Postal Department
- [ ] UH Sea Grant
- [ ] Other:

FOR YOUR COMMENTS (pertaining to your department)

Will need Hydrant locations to approve Plans.

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 1/13/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

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

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

12/2/2025

SUBJECT: Zoning Class IV Z-IV-2026-8
Variance Permit V-2026-2
Applicant: Makai Koloa, LLC. (Lindsay Crawford, Authorized Agent)
Makai Koloa LLC

TO:

- [x] State Department of Transportation - STP
- [x] State DOT - Highways, Kauai (info only)
- [ ] State DOT - Airports, Kauai (info only)
- [ ] State DOT - Harbors, Kauai (info only)
- [x] State Department of Health
- [ ] State Department of Agriculture
- [ ] State Office of Planning
- [ ] State Dept. of Bus. & Econ. Dev. Tourism
- [ ] State Land Use Commission
- [x] State Historic Preservation Division
- [ ] State DLNR - Land Management
- [ ] State DLNR - Forestry & Wildlife
- [ ] State DLNR - Aquatic Resources
- [ ] State DLNR - Conservation & Coastal Lands
- [ ] State DLNR - Commission on Water Resource Management
- [ ] Office of Hawaiian Affairs
- [x] County DPW - Engineering
- [ ] County DPW - Wastewater
- [ ] County DPW - Building
- [ ] County DPW - Solid Waste
- [ ] County Department of Parks & Recreation
- [x] County Fire Department
- [x] County Housing Agency
- [ ] County Economic Development
- [x] County Water Department
- [ ] County Civil Defense
- [x] County Transportation Agency
- [ ] KHPRC
- [ ] U.S. Postal Department
- [ ] UH Sea Grant
- [ ] Other:

FOR YOUR COMMENTS (pertaining to your department)

12.15.2025

CTA HAS NO FURTHER COMMENT ON THIS PROJECT.

MAHALO!

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 1/13/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

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

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

12/2/2025

SUBJECT: Zoning Class IV Z-IV-2026-8
Variance Permit V-2026-2
Applicant: Makai Koloa, LLC. (Lindsay Crawford, Authorized Agent)
Makai Koloa LLC

TO:

- [x] State Department of Transportation - STP
- [x] State DOT - Highways, Kauai (info only)
- [ ] State DOT - Airports, Kauai (info only)
- [ ] State DOT - Harbors, Kauai (info only)
- [x] State Department of Health
- [ ] State Department of Agriculture
- [ ] State Office of Planning
- [ ] State Dept. of Bus. & Econ. Dev. Tourism
- [ ] State Land Use Commission
- [x] State Historic Preservation Division
- [ ] State DLNR - Land Management
- [ ] State DLNR - Forestry & Wildlife
- [ ] State DLNR - Aquatic Resources
- [ ] State DLNR - Conservation & Coastal Lands
- [ ] State DLNR - Commission on Water Resource Management
- [ ] Office of Hawaiian Affairs
- [x] County DPW - Engineering
- [ ] County DPW - Wastewater
- [ ] County DPW - Building
- [ ] County DPW - Solid Waste
- [ ] County Department of Parks & Recreation
- [x] County Fire Department
- [x] County Housing Agency
- [ ] County Economic Development
- [x] County Water Department
- [ ] County Civil Defense
- [x] County Transportation Agency
- [ ] KHPRC
- [ ] U.S. Postal Department
- [ ] UH Sea Grant
- [ ] Other:

FOR YOUR COMMENTS (pertaining to your department)

* Please see Wastewater Comments

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 1/13/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

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: Dec 16, 2025

TO: To whom it may concern

FROM: Ellis Jones
District Environmental Health Program Chief

SUBJECT: RESPONSE_Makai Koloa LLC_Z-IV-2026-8

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

Wastewater Branch has no objections to the proposed zoning permit or Variance permit. Makai Koloa LLC will still need to comply with the DOH Wastewater Branch requirements listed in Preliminary Subdivision approval letter for S-2025-2; Makai Koloa, LLC dated April 10, 2025 Kukui'ula Parcel Q Subdivision.

Please contact DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at 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.

Ellis Jones

Ellis Jones
District Environmental Health Program Chief
Office Phone: (808) 241-3326

STP 00961.25

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

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

12/2/2025

SUBJECT: Zoning Class IV Z-IV-2026-8
Variance Permit V-2026-2
Applicant: Makai Koloa, LLC. (Lindsay Crawford, Authorized Agent)
Makai Koloa LLC

TO:

- ☑ State Department of Transportation - STP
- ☑ State DOT - Highways, Kauai (info only)
- ☐ State DOT - Airports, Kauai (info only)
- ☐ State DOT - Harbors, Kauai (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR - Land Management
- ☐ State DLNR - Forestry & Wildlife
- ☐ State DLNR - Aquatic Resources
- ☐ State DLNR - Conservation & Coastal Lands
- ☐ State DLNR - Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW - Engineering
- ☐ County DPW - Wastewater
- ☐ County DPW - Building
- ☐ County DPW - Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☐ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department)

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 1/13/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

Kenneth Estes

From:	Thirugnanam, Jeyan <jeyan.thirugnanam@hawaii.gov>
Sent:	Friday, December 5, 2025 2:15 PM
To:	Kenneth Estes
Cc:	Ho, Tracy T; Nikaido, Blayne H; Leonillo, Robert P; Fong, Kirk
Subject:	Makai Koloa LLC - Z-VAR (25-217)"
Attachments:	LUT - STP 00961.25 Makai Koloa LLC - Z-VAR (25-217) (part 2) - signed.pdf
Follow Up Flag:	Follow up
Flag Status:	Flagged

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Hi Kenneth,

HDOT Highways has no comments.

Thanks,
Jeyan Thirugnanam
HDOT Highways Land Use Permits Review

COUNTY OF KAUA'I
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

I. Part A

APPLICANT INFORMATION			
Applicant:	Timothy J. Quinn		
Address:	5-7097 Kuhio Hwy., Hanalei, HI 96714	Phone:	808.353.1955
Applicant's Status: (Check one)			
☐ Owner of the Property	(Holder of at least 100% of the equitable and legal title)		
☐ Lessee of the Property	Lessee must have an **unexpired and recorded** lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.		
☒ Authorized Agent	Attach Letter of Authorization		
Contact Person:	Ryan Facer	Address:	67-431 Waialua Beach Rd., Waialua, HI 96791
Phone:	808.762.2345		
Email:	ryan.g.facer@gmail.com		

PROJECT INFORMATION (attach additional sheets if necessary)			
Site Address:	Kuhio Hwy., Hanalei, HI 96714	Tax Map Key:	5-8-011:024
		Lot Area:	5,940 SF
State Land Use District:		County Zoning:	OP - Open
General Plan Designation:			
Nature of Development:	Applicant seeks to build a new, modest single-family dwelling approximately 1,292 square feet. The project site sits in an established residential neighborhood with existing single-family dwellings on either side.		

* **NOTE**: An Environmental Assessment in accordance with HRS Chapter 343 is required for actions requiring a Shoreline Setback Variance (SSV). Please contact the Planning Department for further information.

Valuation of Development: $200,000.00
(Estimate Attached)

Date of Application: _____

COUNTY OF KAUA'I
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

II. Part B

The petitioner shall be responsible for filing the following required information with the department before an application is considered complete:

1. A **written** description of the proposed project, location and a statement of reasons/justification for project.
2. If property abuts a shoreline, a certified shoreline survey conducted by a registered land surveyor within 6 months of an application shall be submitted, when required by the Planning Agency.
3. A plot plan of the property, drawn to scale, with all proposed and existing structures and other pertinent information. Also, preliminary building sketch plans are to be submitted.
4. Any other plans or information requirements by the Director.

   Note: An Environmental Assessment or Environmental Impact Statement that has been declared adequate under the National Environmental Policy Act (NEPA) or under Chapter 343, HRS, may constitute a valid filing under this section.
5. Project Assessment:

   a. Description of the area and environment involved including flora and fauna, and other features;

   b. Description of the existing land uses of the project site and surrounding areas;

   c. Description of how the proposed project will affect the area involved and surrounding areas. Specifically the assessment should evaluate if the proposal:

	YES	NO
i. Involves an irrevocable commitment to loss or destruction of any natural or cultural resources, including but not limited to, historic sites, Special Treatment Districts as established by the County of Kauai Comprehensive Zoning ordinance, view planes or scenic corridors as outlined in the Community Development Plans, and recreation areas and resources;	☐	☒

Discussion:

The proposed project does not detract, destroy, impede or diminish any natural or cultural resource. It is set back roughly 387 feet from the shoreline in an established residential neighborhood

COUNTY OF KAUA'I
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

		YES	NO
ii.	Curtails the range of beneficial uses of the environment;	☐	☒

Discussion:

Beneficial uses of the environment will not be affected negatively. There are not easements or public right of ways that will be affected.

		YES	NO
iii.	Conflicts with the County's or the State's long-term environmental policies or goals;	☐	☒

Discussion:

Project is in keeping with Kauai County General Plan to maintain Hanalei's historic character. The small single-family dwelling architecturally and aesthetically matches the existing residential homes of the neighborhood.

		YES	NO
iv.	Substantially affects the economics or social welfare and activities or the community, County or State;	☐	☒

Discussion:

The proposed project is not large enough to cause any notable impact. If anything, it will compliment and complete the existing neighborhood

		YES	NO
v.	In itself has no significant adverse effect but cumulatively has considerable effect upon the environment or involves a commitment for larger actions;	☐	☒

Discussion:

Cumulative impact is negligible. The lot size is less than 6,000 square feet. The home itself is under 1,300 square feet and only holds a single bedroom.

		YES	NO
vi.	Substantially affect a rare threatened, or endangered species of animal or plant, or its habitat;	☐	☒

Discussion:

No impact to threatened or endangered species. The lot is generally clear. There is some existing foliage on the perimeter of the lot that will be protected and preserved throughout the project.

		YES	NO
vii.	Detrimentally affects air or water quality or ambient noise levels; or	☐	☒

Discussion:

No detrimental impacts to air or water quality or noise levels anticipated from a 1 bedroom, modest dwelling.

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

viii. Affects an environmentally sensitive area, such as flood plain, shoreline, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water or coastal water; — YES ☐ NO ☒

Discussion:

No, the proposed dwelling does not sit on the shoreline or any erosion prone area or any water way or hazardous land site. The site sits on "Mr" classified soil which is a high percolating soil helping reduce runoff and ponding

ix. May have a major effect on the quality of the environment or affect the economic or social welfare of the area; and — YES ☐ NO ☒

Discussion:

No, the dwelling is a modest, 1 bedroom, single-story home that sits in an established residential neighborhood. Any economic or social impact will be negligible.

x. Would possibly be contrary to the policies and guidelines of the Rules and Regulations, the County's General Plan, Development Plans, and Zoning and Subdivision Ordinances. — YES ☐ NO ☒

Discussion:

No, the proposed dwelling is in alignment with Kauai County General Plan and the North Shore region focused on maintaining Hanalei as a rural village, maintaining and protecting the natural beauty of the area

d. Evaluation of the proposed development relative to the objective and policies as contained in Chapter 205A, HRS; and Section 3.0 of the Special Management Area (SMA) Rules and Regulations: (complete following questionnaire)

RECREATIONAL RESOURCES:	Objective Provide coastal recreation opportunities accessible to the public.

Check either "Yes" or "No" for each of the following questions. If your answer below is "**Yes**" or "**No**" it is necessary to elaborate by providing comments in the "Discussion" section below the question.

1. Will the proposed development adversely affect coastal resources uniquely suited for recreational activities that cannot be provided in other areas? — YES ☐ NO ☒

Discussion:

As noted, the dwelling does not sit on the shoreline or affect public parks, beaches, pathways, vistas or other areas that would impact coastal resources or recreational activities

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

		YES	NO
2.	Will the project require replacement of coastal resources having significant recreational value, including but not limited to surfing sites, sandy beaches and fishing areas, when such resources will be unavoidably damaged by the proposed development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable?	☐	☒

Discussion:

No, the proposed project will not impact coastal resources or recreational value in any way.

		YES	NO
3.	Is the project site near a State or County Park?	☒	☐

Discussion:

Although the project site does not border any state or county park, the Wainiha Bay Park is roughly a quarter mile from the site.

		YES	NO
4.	Will the proposed development affect an existing public access to or along the shoreline?	☐	☒

Discussion:

No public access to or along the shoreline will be affected by the proposed project.

		YES	NO
5.	Will the proposed development provide public access to and/or along the shoreline?	☐	☒

Discussion:

No, the proposed project will not provide public access to and/or along the shoreline as the site is not on the shoreline.

		YES	NO
6.	Will the proposed development encourage expanded recreational use of County, State, or federally owned or controlled shoreline lands and waters having recreational value?	☐	☒

Discussion:

The proposed project is negligible in size, scope and impact to influence any expanded recreational use of County, State or federally owned or controlled shoreline lands and water regarding their recreational value.

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

		YES	NO
7.	Will the development generate point or non-point sources of pollution that will affect recreation value of coastal area?	☐	☒

Discussion:

No, the proposed project is so small that it will not generate any source of pollution that would affect recreation value of coastal areas. That said, all storm water pollution prevention best management practices will be implemented and adhered to throughout the duration of the project.

HISTORICAL RESOURCES:	Objective Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the Special Management Area that are significant in Hawaiian and American history and culture.

Check either "Yes" or "No" for each of the following questions. If your answer below is "**Yes**" or "**No**" it is necessary to elaborate by providing comments in the "Discussion" section below the question.

		YES	NO
1.	Is the project site within a Federal, State and/or County designated historical/cultural district?	☐	☒

Discussion:

No, the proposed project does not reside within a Federal, State and/or County designated historical/cultural district.

		YES	NO
2.	Is the project site listed on or nominated to the Hawaii or National Register of Historic Places?	☐	☒

Discussion:

No, the site is not listed on or nominated to the Hawaii or National Register of Historic Places

		YES	NO
3.	Does the project site include land(s) which have not been previously surveyed by an archaeologist?	☒	☐

Discussion:

Due to the very limited size of the project, there is not any specific archaeological survey that has been performed on site to our knowledge.

		YES	NO
4.	If an archeological survey has been conducted for the project site, has the survey been submitted to the State Historic Preservation Office for review and recommendations?	☐	☒

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

Discussion:

No site specific archaeological survey has been conducted on this small site to our knowledge.

5. Has any site survey revealed any information on historic or archaeological resources? (Please provide a copy or reference of survey) — YES ☐ NO ☒

Discussion:

No information has been discovered or is known for the project site.

6. Is the project site within or near a Hawaiian fishpond? — YES ☐ NO ☒

Discussion:

No, the project site is not near a fishpond. The closest fishpond registered with the Office of Hawaiian Affairs is the Menehune fishpond on the south east side of the island.

7. Is the project located within or near a historic settlement area? (Cemeteries, burials, heiaus, etc.) — YES ☐ NO ☒

Discussion:

No, the project site is not located within or near historic settlement areas.

SCENIC & OPEN SPACE RESOURCES:	Objective Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.

Check either "Yes" or "No" for each of the following questions. If your answer below is "**Yes**" or "**No**" it is necessary to elaborate by providing comments in the "Discussion" section below the question.

1. Does the project site abut or affect a valued scenic resources or landmark within the SMA? — YES ☐ NO ☒

Discussion:

No, the project site does not abut or affect a valued scenic resource or landmark within the SMA.

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

		YES	NO
2.	Does the proposed development affect existing shoreline open space and scenic resources?	☐	☒

Discussion:

No, the proposed project does not affect existing shoreline open space and scenic resources as it sits several hundred feet mauka of the shoreline in a residential neighborhood.

		YES	NO
3.	Does the proposed development involve alteration to natural landforms and existing public views to and along the shoreline?	☐	☒

Discussion:

No, the proposed project does not alter any natural landforms or existing public views to and along the shoreline.

		YES	NO
4.	Is the project compatible with the visual environment?	☒	☐

Discussion:

Yes the proposed project is consistent with the natural of small single-family dwellings in the neighborhood. The architectural design is consistent with other typical homes.

		YES	NO
5.	Does the proposed action involve the construction of structures visible between the nearest coastal roadway and the shoreline?	☐	☒

Discussion:

No, the proposed project is not immediately adjacent to the shoreline, and also sits mauka on Kuhio Highway so will not block vistas to the shoreline.

		YES	NO
6.	Is the project site within the Shoreline Setback Area (20 or 40 feet inland from the shoreline)?	☐	☒

Discussion:

No, the project site sits more than 350 feet away from the shoreline

COASTAL ECOSYSTEMS:	Objective Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.

Check either "Yes" or "No" for each of the following questions. If your answer below is "**Yes**" or "**No**" it is necessary to elaborate by providing comments in the "Discussion" section below the question.

COUNTY OF KAUA'I
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

1. Is the project site a habitat for endangered species of flora and fauna? YES ☐ NO ☒

Discussion:

No, the project site is not a habitat for endangered species of flora and fauna. That said, the project team will be vigilant for known endangered fauna that reside on the north shore of Kauai.

2. Will the proposed development adversely affect valuable coastal ecosystems of significant biological or economic importance? YES ☐ NO ☒

Discussion:

No, the proposed project will not affect coastal ecosystems or biological or economic importance due to the minimal size of the project and location mauka of the shoreline.

3. Will the proposed involve disruption or degradation of coastal water ecosystems through stream diversions, channelization, and similar land and water uses? YES ☐ NO ☒

Discussion:

No, the proposed project will not disrupt or impact coastal water ecosystems via streams, channelization or otherwise as the site is not immediately adjacent to any water way.

4. Will the proposed development include the construction of special waste treatment facilities, such as injection wells, discharge pipes, septic tank systems or cesspools? YES ☒ NO ☐

Discussion:

Yes, the project will have one small septic system that sits on the project site. The design has been submitted to the State of Hawaii Waste Water department for review and approval.

5. Is there a wetland on the project site? YES ☐ NO ☒

Discussion:

No wetland on the project site.

6. Is the project site situated in or abutting a Natural Area Reserve or Wildlife Refuge or Sanctuary? YES ☐ NO ☒

Discussion:

No, the project site is not within or abutting a Natural Area Reserve or Wildlife Refuge or Sanctuary.

COUNTY OF KAUA'I
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

ECONOMIC USES:	Objective Provide public or private facilities and improvements important to the State's economy in suitable locations.

Check either "Yes" or "No" for each of the following questions. If your answer below is "**Yes**" or "**No**" it is necessary to elaborate by providing comments in the "Discussion" section below the question.

		YES	NO
1.	Does the project involve a harbor or port?	☐	☒

Discussion:
No, the project does not involve a harbor or port.

		YES	NO
2.	Is the proposed development related to or near to an existing major hotel, multi-family, or condominium project?	☐	☒

Discussion:
No, the site is not related to or near an existing major hotel, multi-family or condominium project.

		YES	NO
3.	Does the project site include agricultural lands designated for such use?	☐	☒

Discussion:
No, the project site is small and does not include agricultural lands

		YES	NO
4.	Does the proposed development relate to commercial fishing or seafood production?	☐	☒

Discussion:
No, the proposed project does not relate to commercial fishing or seafood production.

COASTAL HAZARDS:	Objective Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, and subsidence.

Check either "Yes" or "No" for each of the following questions. If your answer below is "**Yes**" or "**No**" it is necessary to elaborate by providing comments in the "Discussion" section below the question.

COUNTY OF KAUA'I
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

		YES	NO
1.	Is the project site within a potential tsunami inundated area as depicted on the National Flood Insurance Rate maps (FIRM)?	☒	☐

Discussion:

Yes, the project site lies within the tsunami evacuation zone.

		YES	NO
2.	Is the project site within a potential flood inundation area according to a FIRM?	☒	☐

Discussion:

Yes, the project site lies within a potential flood inundation area.

		YES	NO
3.	Does the project comply with the requirements of the Federal Flood Insurance Program?	☒	☐

Discussion:

Yes, the project complies with requirements of the Federal Flood Insurance Program.

		YES	NO
4.	Has the project site or nearby shoreline areas experienced shoreline erosion?	☐	☒

Discussion:

No, the project site has not experienced shoreline erosion nor have immediate neighbors as these lots are not ocean front land.

		YES	NO
5.	Have any seawalls/revetments/etc. been constructed or exist in the immediate vicinity?	☐	☒

Discussion:

No seawall/revetments or other types of retaining structures exist in or around the project site.

SPECIAL MANAGEMENT AREA (SMA) PERMIT ASSESSMENT

PROJECT ASSESSMENT:	

e. Evaluation of the impacts which cannot be avoided and mitigating measures proposed to minimize that impact:

Discussion:

The project is a small one bedroom single-family dwelling in an established residential neighborhood. Impact to community and nature will be minimal. State and County construction requirements and protocol will be adhered to in order to protect community, coastal and wildlife resources.

f. Evaluation of the proposed development relative to Section 4.0 of the SMA Rules and Regulations in accordance with the following aspects:

i. Substantial adverse environmental or ecological effects;

Discussion:

No substantial adverse environmental or ecological impact is expected due to the small size and scope of the proposed project.

ii. Consistency or compliance of the proposed development relative to the goals and objectives of Chapter 205A, HRS; and Section 3.0 of the SMA Rules and Regulations; and

Discussion:

The proposed project is in keeping with HRS Chapter 205A and Coastal Zone Management (CZM) requirements as largely contained in this application. The corresponding written statement further points to compliance with these criteria.

iii. Consistency or compliance of the proposed development relative to the County General Plan, Development Plan, and Zoning Ordinances.

Discussion:

The proposed project aligns with Kauai County General Plan vision to maintain a sustainable island, a unique and beautiful place, with healthy and resilient people and an equitable place for all to live.

Ryan Facer, Agent
[name], [title]

10/1/2024
Date

JUL 23 '25 AM8:57
PLANNING DEPT

June 25, 2025

County of Kauai

Shoreline Department

4444 Rice St.

Lihue, HI 96766

REGARDING:

Timothy J. Quinn and Cynthia D. Quinn - Proposed construction of a single family residence

Kuhio Hwy., Hanalei, HI 96714

TMK: 5-8-011-024

Letter of Authorization for Agents Acting on our Behalf

To Whom it May Concern,

This is to inform City and County of Kauai representatives that we have enlisted the following organizations to assist us in the following efforts related to property under TMK: 5-8-011-024:

- Shoreline Consulting (Ryan Facer) authorized to assist in the application for an SMA Use Permit.
- Bonsai Design Studio (Brittney Austin and Corey Austin) to assist in the application for Zoning and Building Permit.
- Our son, Johnny Quinn, is also authorized to represent us in any matters related to this property.

Thank you,

Timothy J. Quinn

(co-trustee, Quinn Family Trust)

Cynthia D. Quinn

(co-trustee, Quinn Family Trust)

DEPARTMENT OF PLANNING
KA'ĀINA HULL, *DIRECTOR*
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

June 4, 2025

Ryan Facer, Authorized Agent
67-431 Waialua Beach Road
Waialua, Hawaii 96791

Subject: Preliminary Application for Timothy J. Quinn
Proposed Single-Family Residence
Tax Map Key: (4) 5-8-011:024
Kekaha, Kaua'i

Thank you for the opportunity to review the preliminary permit application for the proposal referenced above and based on the information provided, the department finds it generally acceptable. Please note the following:

1. LAND USE DESGINATIONS
   a. **State Land Use Designation** – The project site is situated within the State Urban Land Use District.
   b. **General Plan (GP) Designation** – The GP designation for the project site is "RESIDENTIAL COMMUNITY."
   c. **County Zoning** – The zoning for the subject parcel is Open (O) District.

2. PERMITS REQUIRED
   a. **Special Management Area (SMA) Use Permit** – The project is considered "development" as defined in HRS §205A-22;

   Based on the permitting requirements noted above, the permitting fees associated with this project is **$1,776.46** (SMA Use Permit = $1,476.46 & $300 processing fee).

Overall, the department finds the application generally acceptable. Once this correspondence is received, the application can be formally transmitted to the department with the necessary copies (12 total) and a digital version (.PDF preferred), and the application fees, the department will conduct its final review to determine the application "complete." Once it is deemed complete, processing of the permit shall commence accordingly.

Should you have further questions concerning this matter, please contact Dale A. Cua of my staff at (808) 241-4050. Mahalo!

Ka'āina S. Hull
Director of Planning

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
September 20, 2023 9:50 AM
Doc No(s) A - 86630588

Doc 1 of 1
Pkg 12264161 ICL

/s/ LESLIE T KOBATA
REGISTRAR

Conveyance Tax: $0.00

LAND COURT | REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL (X) PICK UP ( )

CYNTHIA DARRO QUINN, TRUSTEE
TIMOTHY JAMES QUINN, TRUSTEE
33942 CHULA VISTA AVE
DANA POINT, CA 92629

TITLE OF DOCUMENT: TOTAL PAGES: 7

QUITCLAIM DEED

PARTIES TO DOCUMENT:

GRANTOR: TIMOTHY JAMES QUINN and CYNTHIA DARRO QUINN, husband and wife, whose mailing address is 33942 Chula Vista Avenue, Dana Point, CA 92629

GRANTEE: CYNTHIA DARRO QUINN and TIMOTHY JAMES QUINN, Trustees of the QUINN FAMILY TRUST dated April 25, 2023, and any amendments thereto, whose mailing address is 33942 Chula Vista Avenue, Dana Point, CA 92629

PROPERTY DESCRIPTION: DOCUMENT NO:

As described in Exhibit "A"
TMK (4) 5-8-011-024

QUITCLAIM DEED

This Deed made this 24 day of August, 2023, is by and between the following parties:

"Grantor": TIMOTHY JAMES QUINN and CYNTHIA DARRO QUINN, husband and wife, whose mailing address is 33942 Chula Vista Avenue, Dana Point, CA 92629

"Grantee": CYNTHIA DARRO QUINN and TIMOTHY JAMES QUINN, Trustees of the QUINN FAMILY TRUST dated April 25, 2023, and any amendments thereto, whose mailing address is 33942 Chula Vista Avenue, Dana Point, CA 92629

WITNESSETH:

THAT Grantor, for good and sufficient consideration, receipt of which is hereby acknowledged, does by these presents grant, remise, release, and forever quitclaim into Grantee all of Grantor's right, title, interest, and estate, both at law and equity, in and to the following property, in trust:

That certain property as more fully described in Exhibit "A" attached hereto and by this reference made a part hereof.

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

GRANTEE and its successors in trust shall be fully authorized and empowered to execute and deliver any mortgage, lease (without limitations as to term), deed, grant or other instrument of conveyance or transfer of the property described in Exhibit "A", or any part thereof, and every such instrument of conveyance or transfer executed and delivered by said Grantee or its successors in trust shall be deemed conclusively to be pursuant to proper authorization, and no person dealing with said Grantee or its successors in trust need inquire into their power or authority to execute and deliver any such instrument of conveyance or transfer.

IT IS MUTUALLY AGREED that the terms "Grantor" and "Grantee," or any pronoun in place thereof, shall mean and include the masculine or feminine, the singular or plural, individuals, trustees, trusts, partnerships, or corporations, and each of their respective successors in interest heirs, personal representatives and assigns, and that if these presents shall be signed by two or more Grantors, all covenants of such parties shall be and for all purposes are deemed to be joint and several.

THIS INSTRUMENT MAY BE SIGNED IN COUNTERPARTS, each of which when taken together shall be considered one and the same agreement, binding upon all parties. For all purposes (including, without limitation, recordation, filing, and delivery of this instrument), duplicate unexecuted and unacknowledged pages of the counterparts may be discarded, and the remaining pages assembled as one document.

The parties to this instrument understand that the person or company recording or arranging for the recordation of this instrument is authorized to complete any blanks contained in this instrument with the applicable number of pages, dates and recordation information, or correct any error in such information, whether before or after this instrument has been notarized by a notary public, and in no event shall completion of any such blanks be deemed to be an alteration of this instrument by means of the insertion of the new content.

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On August 24, 2023, before me, Bernadette Lazzara, a Notary Public, personally appeared TIMOTHY JAMES QUINN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Notary Public

BERNADETTE LAZZARA
Notary Public - California
Orange County
Commission # 2367092
My Comm. Expires Aug 17, 2025

Document Date: 08-24-2023

Number of Pages: 7

Document Description: Quitclaim Deed

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On August 24, 2023, before me, Bernadette Lazzara, a Notary Public, personally appeared CYNTHIA DARRO QUINN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Notary Public

BERNADETTE LAZZARA
Notary Public - California
Orange County
Commission # 2367092
My Comm. Expires Aug 17, 2025

Document Date: 08-24-2023

Number of Pages: 7

Document Description: Quitclaim Deed

EXHIBIT "A"

All of that certain parcel of and, being Lot 123-A, containing an area of 5,940 square feet, more or less, being a portion of Lot 123, Wainiha Hui, situated on the Southwest side of "KUHIO HIGHWAY (Kauai Belt Road)", Wainiha, Haielea, (Hanalei), Kauai, State of Hawaii, described as follows:

Beginning at a pipe on the North corner of this parcel of land, the same being the East corner of Lot 122, Wainiha Hui, and on the Southwest side of Kuhio Highway (Kauai Belt Road), the coordinates of said point of beginning referred to Government Survey Triangulation Station "NIHA 2" being 889.66 feet South and 159.05 feet East and running by azimuths measured clockwise from true South:

1.	321°	08'		72.00	feet along Kuhio Highway (Kauai Belt Road), to a pipe;
2.	51°	08'		102.12	feet thru portion of Lot 123, Wainiha Hui, to a pipe;
3.	121°	58'	45"	37.70	feet thru same to a pipe;
4.	213°	30'		120.13	feet along Lot 122, Wainiha Hui, to the point of beginning and containing an area of 5,940 square feet, more or less.

Being the premises acquired by:

WARRANTY DEED

Recorded :	February 14, 2019 in the Bureau of Conveyances, State of Hawaii, as Document No. A-69840756
Grantor :	TIMOTHY J. QUINN, a married man, as Tenant in Severalty
Grantee :	TIMOTHY JAMES QUINN and CYNTHIA DARRO QUINN, husband and wife, as joint tenants

SUBJECT, HOWEVER, TO:

1. Mineral and water rights of any nature in favor of the State of Hawaii.

END OF EXHIBIT "A"

May 25, 2025

County of Kauai

Shoreline Department

4444 Rice St.

Lihue, HI 96766

REGARDING:

Timothy J. Quinn – Proposed construction of a single family residence

Kuhio Hwy., Hanalei, HI 96714

TMK: 5-8-011-024

Special Management Area (SMA) Minor Use Permit Application Written Statement

Dear Director Hull:

The following Written Statement is a summary of the intended project for a single-family dwelling for the Quinn family. This Written Statement is to request approval for a Special Management Area (SMA) Use Permit.

Should you have any questions, comments or would like to discuss further; please contact me by email ryan@schawaii.com Thank you!

Respectfully

Ryan Facer

Table of Contents

Section	Page
1.0 SUBJECT PROPERTY GENERAL INFORMATION	1
1.1. Applicant and Subject Property	1
1.2. Project Intent and Zoning	3
1.3. Project Site Plan	4
1.4. Proposed Floor Plan	5
1.5. Property Information Table	6
1.6. Violations	6
1.7. Prior Land Use Permits	6
2.0 HISTORICAL BACKGROUND	8
2.1. Ancient Land Use	8
2.2. Western Influence on Land Use	8
2.3. Naming of Princeville	8
2.4. Later Development	8
3.0 PERMITS REQUESTED AND REQUIRED	9
3.1 SMA Use Permit	9
4.0 SMA CONSIDERATIONS PER HRS CHAPTER 205A AND CZM CRITERIA	9
4.1 Project Compliance with HRS Chapter 205a	9
4.2 Recreational Resources:	9
4.3 Historic and Cultural Resources	10
4.4 Scenic and Open Space Resources	11
4.5 Coastal Ecosystems	12
4.6 Soils	12
4.7 Flora	12
4.8 Fauna	12
4.9 Economic Uses	15
4.10 Coastal Hazards	15

4.11 Flood 15
4.12 Sea Level Rise 16
4.13 Hurricane 19
4.14 Tsunami 19
4.15 Managed Development and Public Participation 20
4.16 Beach and Coastal Dune Protection 20
4.17 Marine and Coastal Resources 20
5.0 CONSISTENCY WITH PLANS AND REGULATIONS 20
5.1 Federal, State and County Requirements 20
5.2 Residential Zoning 20
5.3 Kauai County General Plan 20
5.4 Wainiha Land Use 21
5.5 HRS Chapter 343 EIS Considerations 23
6.0 WASTE WATER MANAGEMENT 23
6.1 Septic Tank System 23
7.0 UTILITIES AND PUBLIC SERVICES 24
7.1 Potable Water 24
7.2 Electric 24
7.3 Fire and Police 24
7.4 Public Schools 24
8.0 OVERALL IMPACT REVIEW 24
8.1 Impact Analysis 24
8.2 Historic Resources 24
8.3 Air Quality and Noise 24
8.4 Economics 24
8.5 Housing 25
8.6 Property Values 25
8.7 Population 25
8.8 Traffic 25
9.0 CONCLUSION 25

Figures

Figure 1 – Site Location Satellite View 2
Figure 2 – Site Location in Existing Neighborhood 2
Figure 3 – Location of Project Approximately 387 Feet Mauka of the Shoreline 3
Figure 4 – Site Location 7
Figure 5 – Project Site in Relation to Public Parks and Beaches 10
Figure 6 – Current Condition of Existing Vacant Lot Flanked by Existing Homes (Photo) 11
Figure 7 – Existing Neighbor Adjacent to the Proposed Project Site (Photo) 12
Figure 8 – Soil Classification Type 13
Figure 9 – Flood Hazard Map Noting VE 24 Zone 16
Figure 10 – Sea Level Rise Exposure Map at 3.2 Feet 17
Figure 11 – Topography / Elevation Map 18
Figure 12 – Proposed Dwelling Elevations View 18
Figure 13 – Tsunami Impact and Evacuation Zone Map 19
Figure 14 – County of Kauai General Plan – North Shore Region 21
Figure 15 – Kauai Land Use Map 22
Figure 16 – Proposed Septic System on Site Plan 23

Project Description

Section 1.0 SUBJECT PROPERTY GENERAL INFORMATION

1.1 Applicant and Subject Property:
Timothy J. Quinn (the Applicant and Owner) seeks to build a new single-family dwelling approximately 1,292 square feet on a 5,940 square foot lot. The parcel (TMK 5-8-011-024) is located in an established residential neighborhood on the North Shore of Kauai with houses on either side. The proposed design is consistent with existing residential buildings in the neighborhood to blend cohesively into the community with minimal disruption (See Fig. 1 & 2)

Figure 1 – Site Location Satellite View

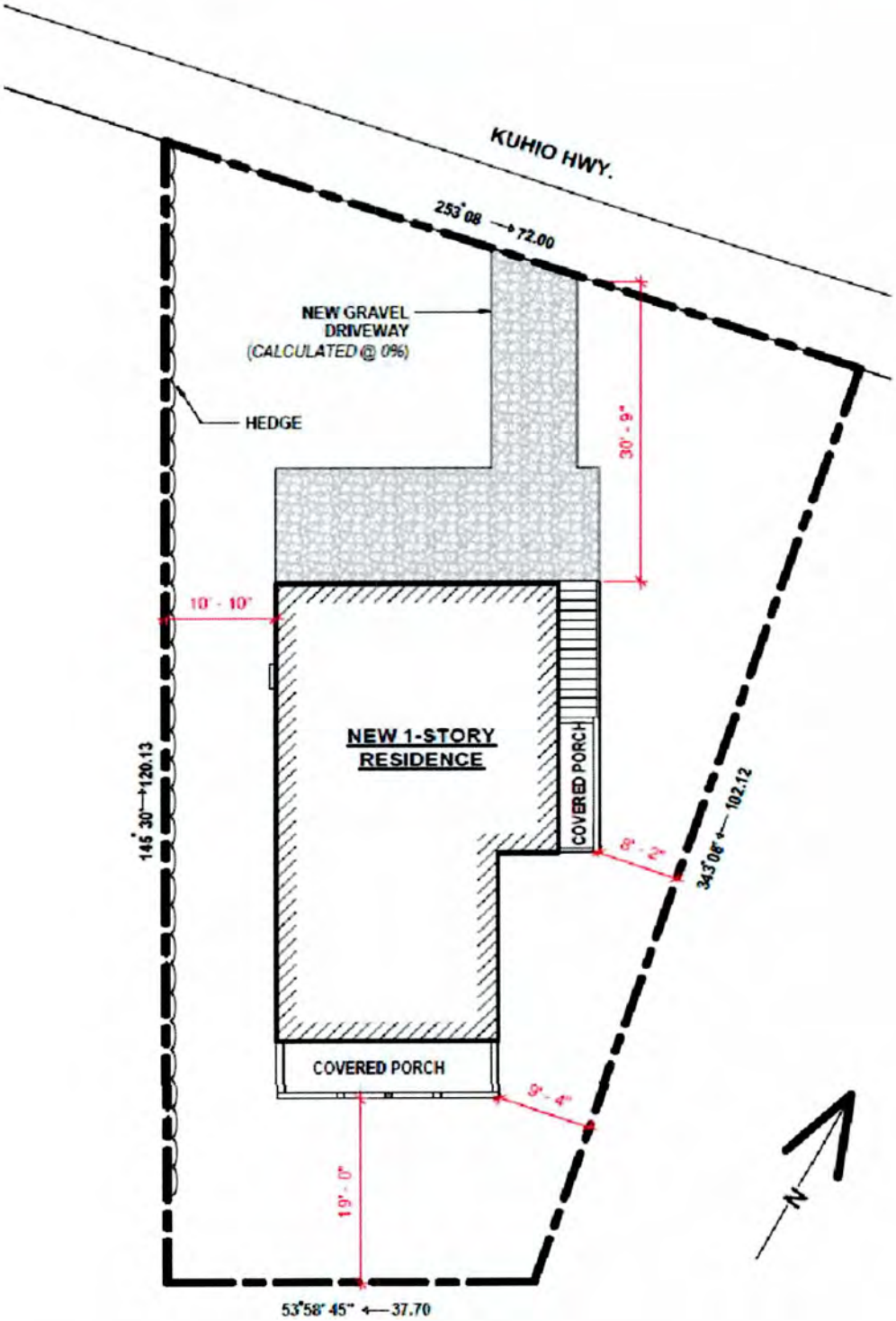
Figure 2 – Site Location in Existing Neighborhood

1.2 Project Intent and Zoning:

The purpose of the proposal is to use the Property in a manner consistent with it's zoning (Residential OP) and other applicable land use rules and regulations. Although, the Property is within the SMA area, it sits on a non-shoreline parcel and is approximately 380 feet from the shoreline (See Fig. 3). It is the intent of the project to build a modest single-family dwelling consistent with the existing residential dwellings that occur in this neighborhood.

Figure 3: Location of Project Approximately 387 feet Mauka of the Shoreline

1.3 Project Site Plan



1.4 Proposed Floor Plan

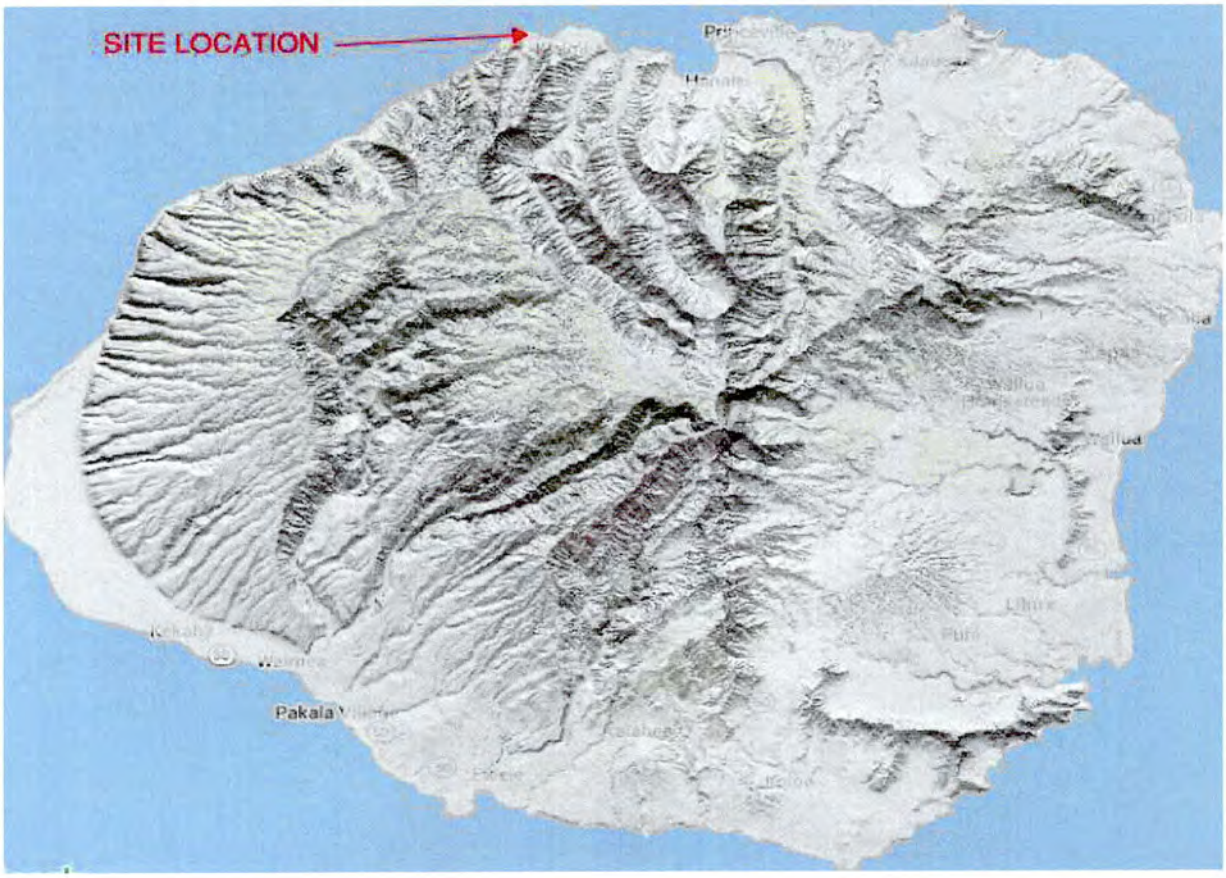
1.5 Property Information Table:

Parcel Characteristics	Timothy J Quinn - owner Tax Map Key (TMK) 5-80110240000 - vacant lot on Kuhio Hwy, Hanalei, HI 96714
Lot Area and Zone	5,940 sf, zoning OP (Open); lot 123-A Wainiha Hui
Easements	none
Lot Shape	rectangular
Topography	flat
Current Development	none, vacant land
Surrounding Uses	residential
Nearest Bodies of Water	Pacific Ocean
Cert Shoreline Survey	not applicable
Soil Class	Mokuleia fine sandy loam, 100%
Vegetation	tall grass, palm tree(s), various flora and fauna
Flood Zone	VE

1.6 Violations:
There are no known violations on the Subject Property.

1.7 Prior Land Use Permits:
There are no known prior land use permits associated with the Subject Property

Figure 4: Site Location



Section 2.0 Historical Background

2.1 Ancient Land Use:

Anciently, Hawaiians cultivated the lush valley of Hanalei, establishing irrigated taro fields and fishing centuries before Captain James Cook landed on Kaua'i in 1778. Land was farmed and managed under Ali'i of corresponding Ahupua'a with taro fields, fish ponds and other typical practices.

2.2 Western Influence on Land Use:

Westerners began cattle ranching in the 1830s, and tried crops ranging from silkworms to coffee with varying degrees of success. Hanalei fruit and potatoes helped feed miners during California's Gold Rush. Robert Crichton Wyllie, a Scotsman by birth, who had served as the Kingdom of Hawai'i's Minister of Foreign Affairs, acquired land near Hanalei in 1853.

2.3 Naming of Princeville:

In 1860 Wyllie named his sugar plantation Princeville to honor the visit of two-year-old Prince Albert Edward Kauikeaouli Lei O Papa a Kamehameha and his parents, King Kamehameha IV and Queen Emma. Sadly, the little prince died in 1862.

Princeville became a ranch in 1895, when Albert S. Wilcox, a missionary's son, bought the plantation. Hawaiian cowboys and the ranch manager lived near the entrance to today's resort. Now, guests and residents of Princeville at Hanalei still ride across the pastures of the family-operated Princeville Ranch, while taro, the staple food of ancient Hawai'i, flourishes in the valley below.

2.4 Later Development:

Originally the land was planted with coffee, which was not suited to the wet lowlands. It was then planted with sugarcane. Wyllie's nephew Robert Crichton Cochran inherited the land on the condition he would adopt the Wyllie surname, but he died by suicide on February 7, 1866. In 1867 it was purchased by Elisha Hunt Allen and later became a cattle ranch. It was sold for development in 1968 and became a golf course and resort called "Princeville at Hanalei".

The subject parcel was part of the cattle ranch before being subdivided into a residential parcel.

Section 3.0 Permits Requested and Required

3.1 SMA Use Permit:

The subject property resides within the SMA jurisdiction. Although the property is setback from the shoreline, an SMA Use Permit will be required in order to secure a building permit for the project.

Section 4.0 SMA Considerations According to HRS Chapter 205a and CZM Criteria

4.1 Project Compliance with HRS Chapter 205a:

The Applicant for the new single-family dwelling anticipates County of Kauai Planning Commission will provide the requested Special Management Area (SMA) Use Permit based on the facts and information provided herein.

As a Written Statement of Summary, the Project is in compliance with objectives, policies and guidelines noted in Hawaii Revised Statutes (HRS) Chapter 205a. This section focuses on the Coastal Zone Management (CZM) criteria by which the SMA is determined. The following information confirms there are no exceptions, variance or non-conforming conditions in connection with this project as contained in the CZM requirements:

4.2 Recreational Resources:

- Provide coastal recreational opportunities accessible to the public.

The Project does not sit directly on the shoreline, but rather several hundred feet back behind existing dwellings, properties and structures (See Fig. 3). The Project does not and will not diminish current public access to coastal recreation including access to local public beaches such as Kephuhi beach and also Wainiha Bay Park (See Fig. 5)

Figure 5: Project Site in Relation to Public Parks and Beaches

4.3 Historic and Cultural Resources:

- To protect Hawaii's cultural, historic, architectural, and archaeological resources. Identify, and to the extent possible, preserve and restore buildings, sites and areas of social cultural, historic, architectural and archaeological significance.

The Project does not detract or remove any public view or access that was previously held by any neighbors or the community. The Project currently lies between two existing single-family dwellings in an established neighborhood. This area of the north shore has historically been used for agriculture until the mid 1950's when residential users began building single family dwellings. There is no known historic or culturally significant or sensitive conditions on the site. If anything is discovered during the Project process, work will be stopped and the SHPD will be contacted immediately for further review and direction.

4.4 Scenic and Open Space Resources:

- Development should protect, preserve and where desirable, restore or improve the quality of coastal scenic and open space resources

The Property is surrounded by existing residential homes. There are few vacant properties in the neighborhood. Since the size of the home is relatively small, it does not negatively impact the neighborhood. Also, there will be no negative impact on any scenic and/or open space resources. The property is not tied to any public park or right of way. It is simply a small, vacant lot surrounded by existing single-family dwellings (See Fig. 2 & 6)

Figure 6: Current Condition of Existing Vacant Lot Flanked by Existing Homes.

Figure 7: Existing Neighbor Adjacent to the Proposed Project Site. General Design/Aesthetic Consistent with Intended Project's Design/Aesthetic

4.5 Coastal Ecosystems:

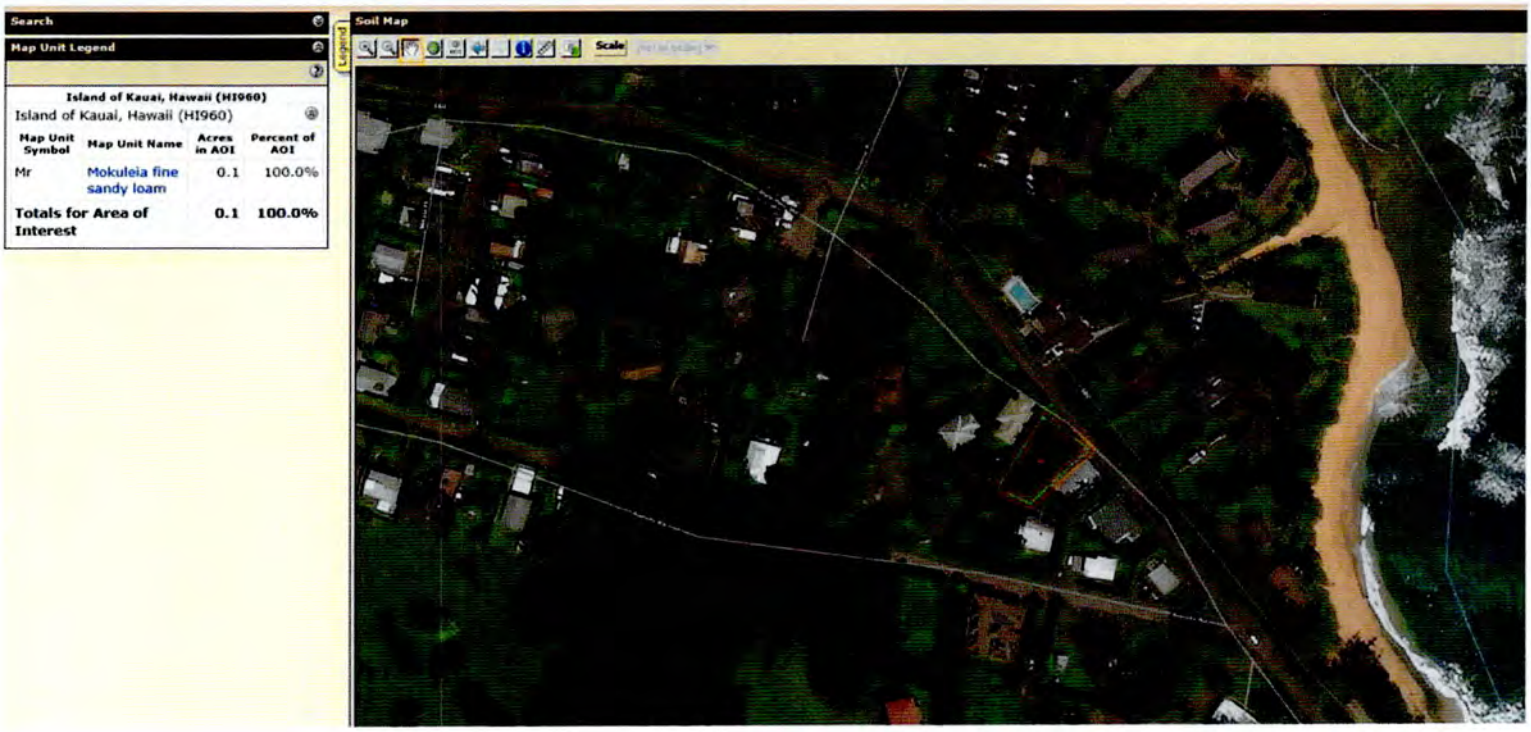
- Development should protect valuable coastal ecosystems including reefs, beaches and coastal dunes from disruption and minimize adverse impacts on all coastal ecosystems

The Project does not reside on the shoreline front, but is located approximately 387 feet from the Pacific Ocean (See Fig. 4). No negative or detrimental impact is anticipated on the coastal ecosystems as a result of this project. Additionally, all SWPP and BMPs will be followed to ensure construction dust, debris and materials are stored and handled appropriately throughout the duration of the project.

4.6 Soils:

- The project site is situated on soil classified as "Mr" (see Fig. 8), according to the USDA Natural Resources Conservation Service. "Mr" soil type is known as Mokuleia Fine Sandy Loam which is common for this area of the north shore. This type of soil is known as a high percolating soil type with very low run-off issues, and no ponding issues.

Figure 8: Soil Classification Type



4.7 Flora:

- The Project site is a flat parcel containing the usual flora and fauna typical of the area. The property is flanked by existing residences and foliage (See Fig. 6 & 7). The Applicant plans to introduce new native species of plants to the property perimeter as well as additional trees, flowers and shrubs throughout the space surrounding the dwelling.

4.8 Fauna:

- The project site is located in an established residential area with typical Hawaii species such as mongoose, mice, rats, domestic dogs, domestic cats and feral cats. Avifauna also include common mynas, doves, finches, cardinals, and egrets. In particular the north shore of Kauai is known to accommodate Hawaiian Petrel and Newel Shearwater birds for which the area takes particular care and attention. The proposed construction of this project will not impact the area in which birds and other wildlife live since the lot is

essentially level and devoid of tall trees and plants.

- To further avoid adverse impacts on night-flying sea birds, such as the shearwaters and petrels, no night time construction activities will be undertaken. The Owner will survey the project area on a regular basis to determine possible presence or location of nesting areas for birds. Exterior house lighting will be shielded to reduce the potential for interactions between nocturnally flying seabirds and man- made structures. Though the presence of the Hawaiian Hoary Bat has not been confirmed on the site and are uncommon on Kauai, the endangered species status mandates protection. Removal or pruning of trees taller than 15 feet will be avoided during the pupping season June through mid September. Additionally, the construction team will be vigilant for Shearwater birds and contact the Save Our Shearwaters (SOS) Program representatives in the event any Shearwater downed bird is discovered in or around the premise.

The Pacific Islands Fish and Wildlife Office (PIFWO) provide a general breakdown of wildlife protected species within the Hawaiian Island chain to be aware of in the building process. These protected species are as follows:

- □ Hawaiian Hoary Bat
- □ Band-Rumped Storm-Petrel
- □ Hawaiian Petrel
- □ Newell's Shearwater
- □ Wedge-Tailed Shearwater

- As a result the following best practices and protective measures will be implemented:

- □ All of the current trees and vegetation reside on the perimeters of the property with the intention to not be disturbed during the construction of expansion.
- □ Care will be taken in the trimming and care of areas of plant life over 15 feet to limit work during the breeding time of Hoary, Petrel and Shearwater during March through November
- □ The project site will be continually checked for presence of wildlife nesting activities and the Owner's will be diligent in advising the construction crews of any such presence so areas can be protected and left undisturbed
- □ Exterior Lighting will be designed such that fixtures and light will shine downward allowing nighttime bat and bird flight and activities to be undisturbed
- □ No night work will be permitted through the duration of the project

4.9 Economic Uses:

- Development should provide public or private facilities and improvements important to the State's economy in suitable locations

As the Project is only a single-family dwelling, the economic impact to the larger community is quite small. That said, Owners will infuse business, tax dollar and social impacts that will all benefit the Community overall.

4.10 Coastal Hazards:

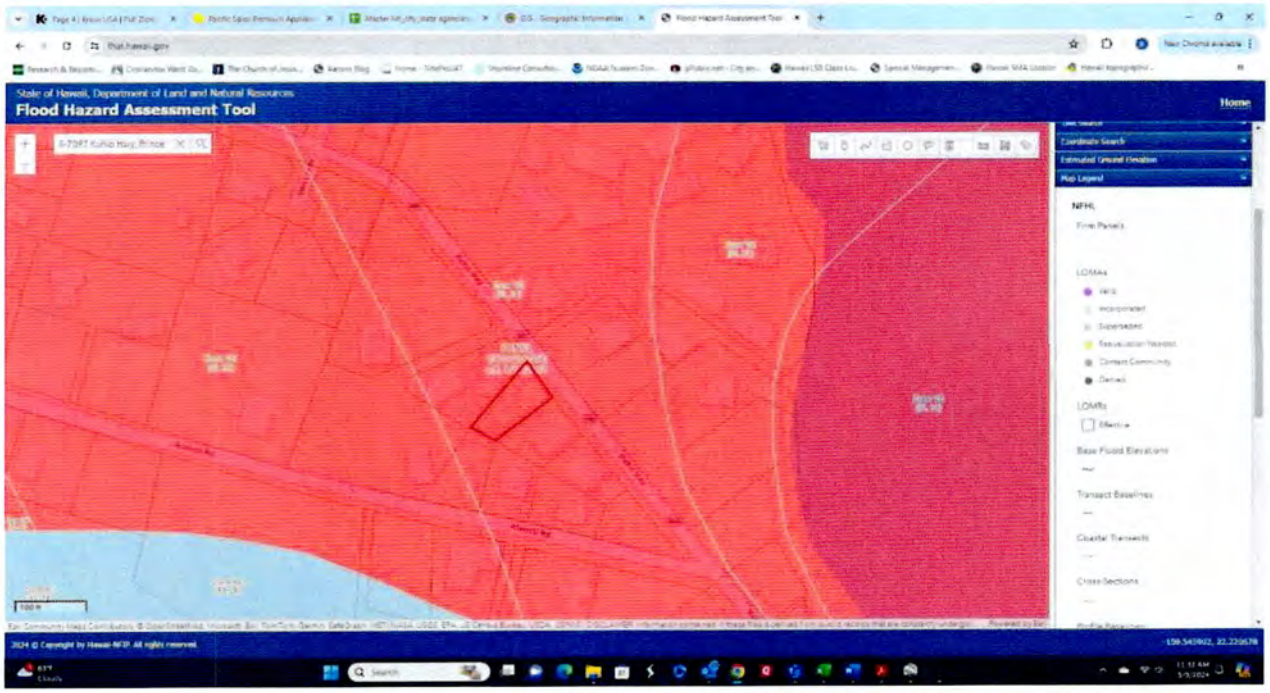
- Development should reduce hazard to life and property from coastal hazards

4.11 Flood:

The proposed new construction is to be performed in accordance with the requirements set forth by Kauai County Code Section 15-1.5 and 1.6. The property would be susceptible to flooding by SLR or overflow from streams and rivers.

The project site resides above a base flood elevation flood zone VE 24 (see below) as determined by the Federal Emergency Management Agency (FEMA) and Flood Insurance Rate Map (FIRM). The flood elevations were used as a determination as to the location of the dwellings on the parcel. The proposed dwelling is below the models predictions. Therefore, the residence will be built with the ground floor 10 feet above grade level.

Figure 9: Flood Hazard Map Noting VE 24 Zone



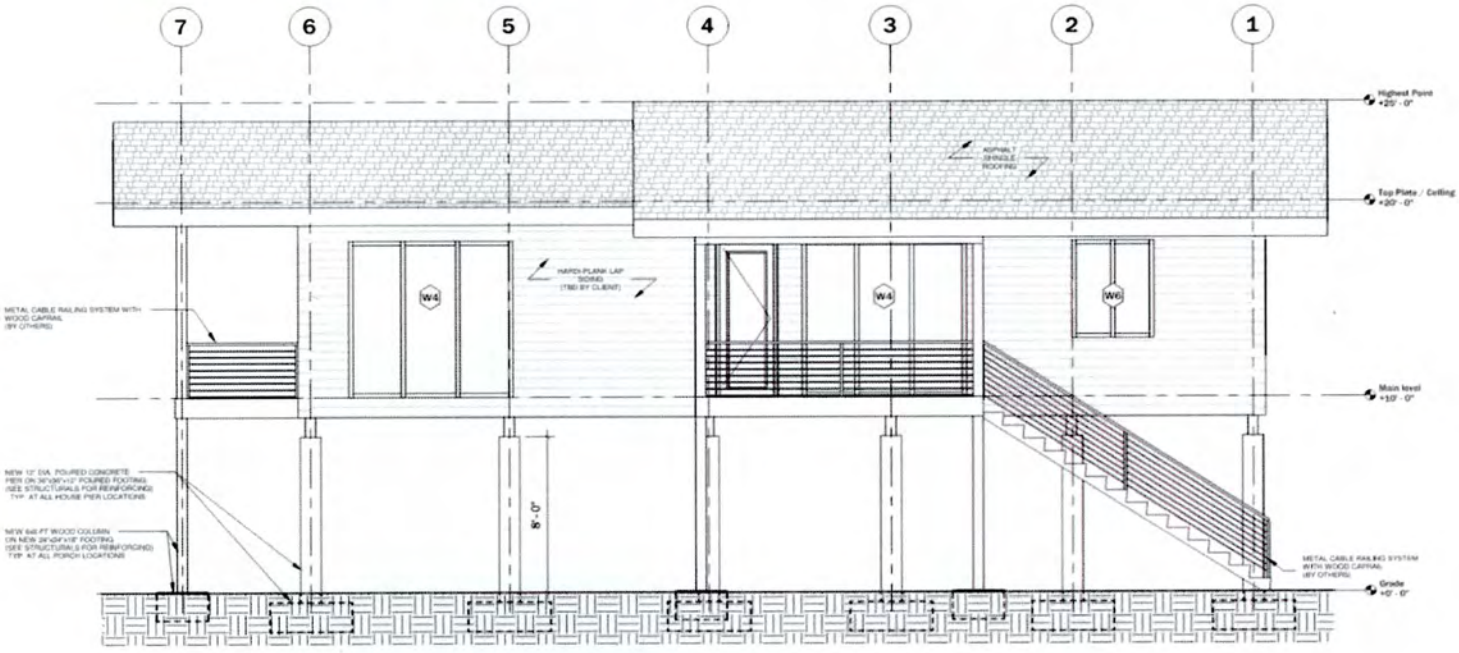
4.12 Sea Level Rise:

Figure 10 below shows the Pacific Islands Ocean Observing System (PacIOOS) mapping tool. The map demonstrates possible impact with a 3.2 (next 100 years approximate estimates) Sea Level Rise (SLR) in connection with the project site. There would be some minimal impact to the front portion of the project site at a 3.2 foot SLR. Figure 11 shows the US Topographic map for the project site indicating that the existing elevation grade for the site sits approximately 35 feet above sea level. Furthermore the proposed dwelling will be raised 10 feet above grade, so the main/occupied level of the home will be approximately 45 feet above sea level (See Fig. 12)

Figure 10: Sea Level Rise Exposure Map at 3.2 Feet

Figure 11: Topography/Elevation Map

Figure 12: Proposed Dwelling Elevations View



1 Proposed Front Elevation
1/4" = 1'-0"

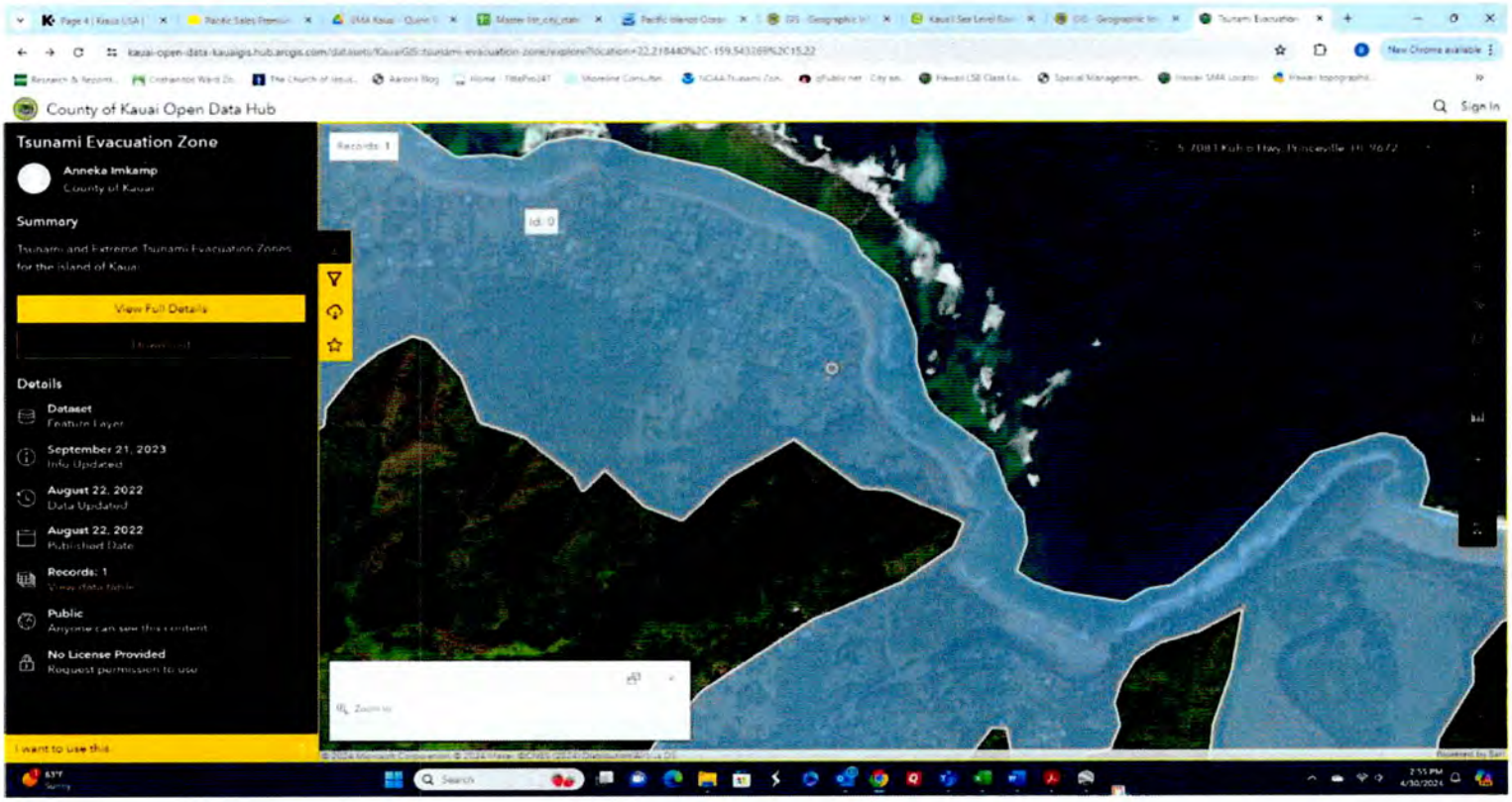
4.13 Hurricane:

The project site falls within the Hurricane evacuation zone. The new single-family dwelling will comply with all Federal, State and County code requirements to safe guard against hurricane exposure. In the instances of a hurricane, residents of the neighborhood and the surrounding areas are advised to either shelter in place or seek shelter at a local school.

4.14 Tsunami:

The project site also falls within the tsunami evacuation zone (See Fig. 13). As noted, the property sits about 35 feet above sea level. It would take a small event to generate a Tsunami capable of hitting the Property. Additionally as noted above and shown in Figure 12, the proposed dwelling will have the main floor elevated 10 feet above grade, which is approximately 45 feet above sea level. The raised elevation of the occupied space of the dwelling will provide further protect against nominal tsunami impact.

Figure 13: Tsunami Impact and Evacuation Zone Map



4.15 Managed Development and Public Participation – For SMA Majors Only:

- Improve the development review process, communication and public participation

As the proposed project is limited in size, scale and cost, it is below the SMA Major threshold. An SMA Minor application typically is only reviewed by County of Kauai departments for review and comment. Additionally, as noted in this document: the proposed project is a small 1 bedroom home that sits within an existing neighborhood. Overall impact will be very small.

4.16 Beach and Coastal Dune Protection:

- Development should protect beaches and costal dunes for public use and recreation

Again, the Project does not reside on the shoreline front, but is located approximately 387 feet from the ocean (See Fig. 4). No negative or detrimental impact is anticipated on the coastal ecosystems as a result of this project.

4.17 Marine and Coastal Resources:

- Development should promote the protection, use and development of marine and coastal resources to assure their sustainability

The Project is not located on the shoreline and thus does not have any direct impact on marine or coastal resources. Also noted in this document, the construction process will follow best practices and requirements for storm water pollution prevention to ensure no detrimental impact. Additionally as noted in this document, the soil type is classified as "Mr" or Mokuleia Fine Sandy Loam soil. This is a high percolating soil which helps combat run-off issues.

Section 5.0 Consistency with Plans and Regulations

5.1 Federal, State and County Requirements:

The Project is seeking final approval through the Special Management Area (SMA) Use Permit prior to securing County of Kauai building permit and then will commence build. Federal, State and County requirements have been researched and incorporated into the design of the dwelling.

5.2 Residential Zoning:

All considerations touching on OP Residential Zoning, sea level rise, hurricane, tsunami and flood criteria have been included as noted in this document.

5.3 Kauai County General Plan:

The project is also in keeping with Kauai County General Plan goals. Focus of the North Shore of Kauai County General Plan is aligned with the intent of the project (See Fig. 14). The proposed project is small and reflective of the rural and 'village' type community that exists in Wainiha/Hanalei areas. The degree of change truly is minimal as the proposed design is very similar to other existing residential homes in

the neighborhood; and only accommodates a single-level, one bedroom and living area dwelling for a total of 1,106 square feet (See Fig. 1.4).

Figure 14: County of Kauai General Plan – North Shore Region

HANALEI, KĪLAUEA, & PRINCEVILLE

Place Types:

Hanalei: Village

Kīlauea: Small Town

Princeville: Undetermined
(Village, or no place type to be applied)

Character/Key Values:

- *Rural/Isolated*
- *Resilient/Protective/Healthy*
- *Natural Beauty/Verdant*
- *Challenged/Threatened*

Degree of Change:

Hanalei: Minimal

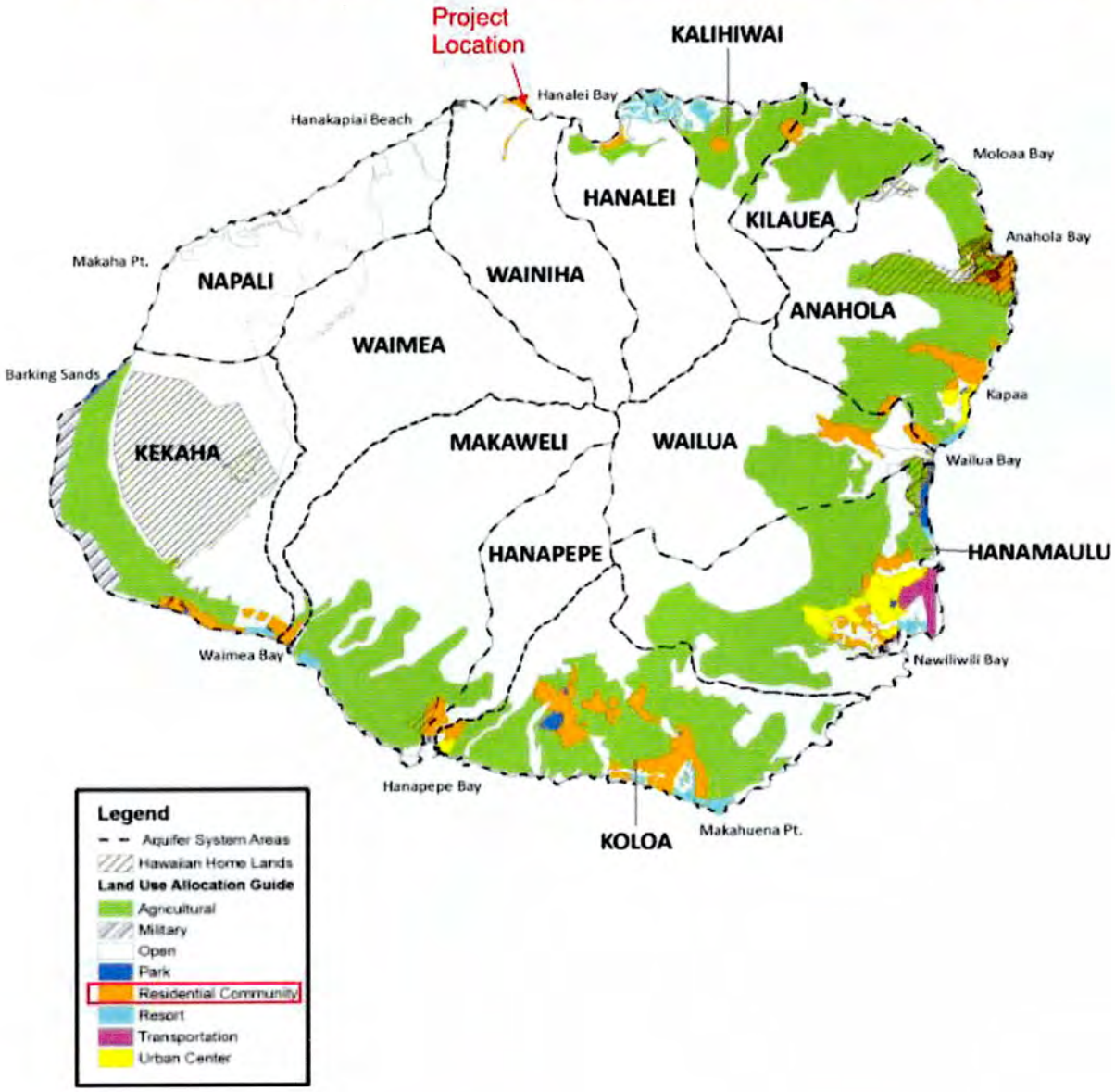
Kīlauea: Incremental

Princeville: Incremental

5.4 Wainiha Land Use:

The location of the proposed project lies within an area of Wainiha designated as a "Residential Community". See Figure 15

Figure 15: Kauai Land Use Map – Residential Community for Project Location in Wainiha



5.5 HRS Chapter 343 EIS Considerations:

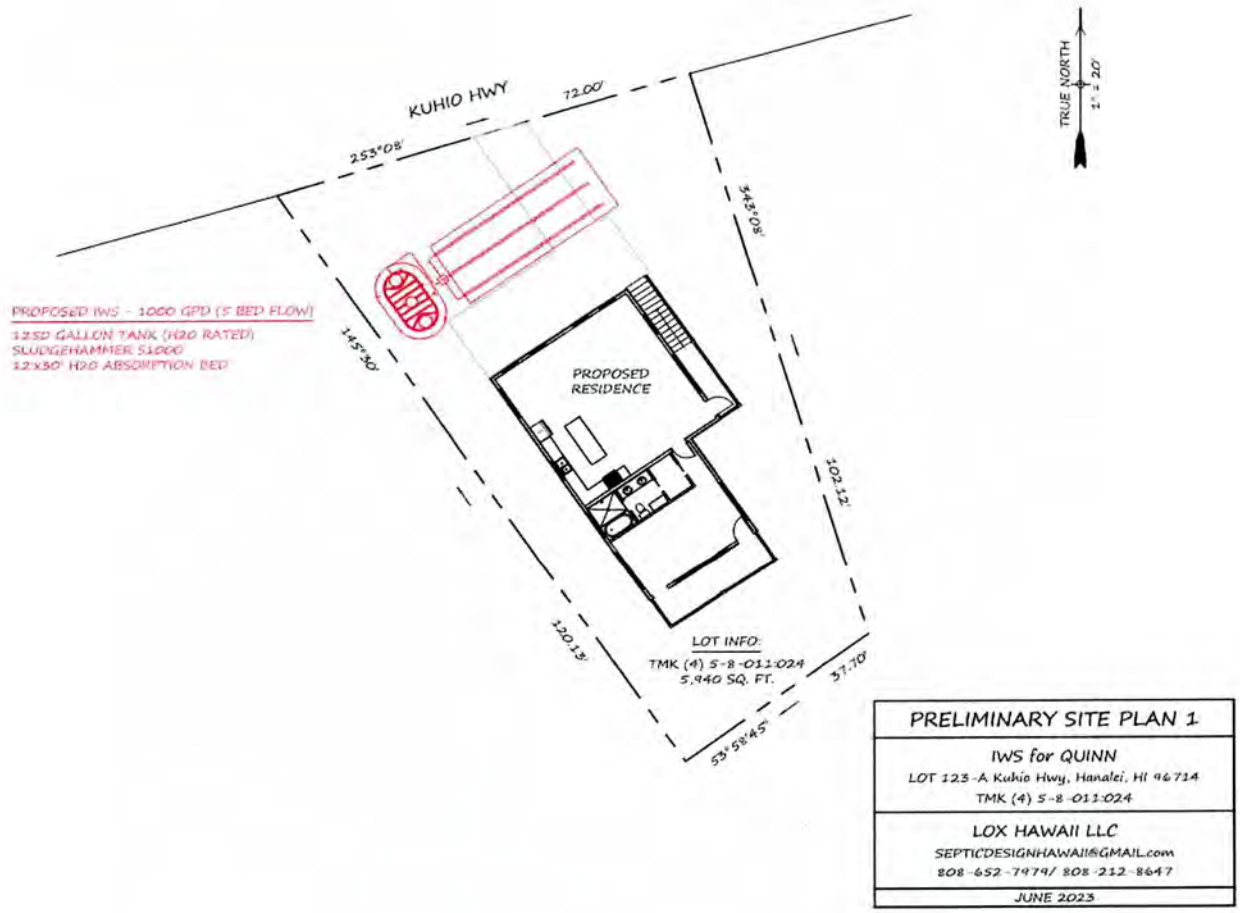
The proposed project is not subject to HRS Chapter 343 requirements for Environmental Impact Statements (EIS) as it does not trigger the criteria under HRS Section 343-5

Section 6.0 Waste Water Management

6.1 Septic Tank System:

The Project is currently in process of securing a State of Hawaii approved waste water system in the form of a septic tank. The proposed system consists of a 1250 gallon tank (Sludgehammer S1000) and a 12' x 30' absorption bed. Both tank and absorption bed will sit near the front of the lot as noted in Figure 16 below.

Figure 16: Proposed Septic System on Site Plan



Section 7.0 Utilities and Public Services

7.1 Potable Water:

The Applicant will apply for water service for the subject property from County of Kauai, Department of Water.

7.2 Electric:

The Applicant will apply for electrical services from Kauai Island Utility Cooperative. A new electric meter for the proposed dwelling will be installed prior to completion of the project.

7.3 Fire and Police:

The Police Department servicing the Hanalei/Wainiha area is located at 5-4290 Kuhio Hwy., Princeville, HI 96722. And the Fire Department servicing the area is located at 4390 Kuhio Hwy., Princeville, HI 96722 respectively. These are roughly 7 miles from the project site.

7.4 Public Schools:

Hanalei Elementary School is the closest grade school to the project site located at 5-5415 Kuhio Hwy., Hanalei, HI 96714. The closest public High School is Kapa'a High School located at 4695 Mailihuna Rd., Kapa'a, HI 96746. Additionally there are several charter schools available throughout the North Shore area of Kauai.

Section 8.0 Overall Impact Review

8.1 Impact Analysis:

As contained in this written statement, the proposed development will have no significant impact or adverse environmental or ecological impact as a result of the dwelling.

8.2 Historic Resources:

The Subject Property is not a Historic Property, nor has any culturally significant activities taking place in or around the area.

8.3 Air Quality and Noise:

The proposed project will not have any notable impact to air quality or noise. Building activities will occur only once building permit is approved, and will adhere to all standard BMPs and noise ordinance time frames per law.

8.4 Economics:

The proposed project will have minimal impact on economic factors as it is a small, single-family dwelling. However, the project will create jobs for the building period of the project.

8.5 Housing:

The proposed project will not have an impact on housing inventory as all construction workers involved in the building of the dwelling will be sourced on Kauai.

8.6 Property Values:

The proposed project will enhance the value of the lot as a result of the single-family dwelling and will bring in property tax dollars for the island. However, the modest design of the home will not cause dramatic increases in the housing market as the structure is very consistent with other residential homes in the area.

8.7 Population:

The proposed project is intended for the Applicants as their permanent residence. The Quinn family consists of only two individuals who already live in the area. The project will not cause any increase in population for the area.

8.8 Traffic:

The proposed project resides in an existing residential neighborhood. No modification or negative impact will occur to roadways, paths of travel or otherwise and will not impact typical traffic circulation in any way.

Section 9.0 Conclusion

In summary of the information contained in this Written Statement, along with corresponding Exhibits detailing additional points of the proposed work. We would submit to the Planning Commission that there is no substantive or negative impact that would result due to the proposed project. Consideration has been given to environmental, ecological, economic, cultural, civic and other resources. We conclude that in review of all areas of possible or plausible impact, all analysis confirms them to be negligible.

The Applicant respectfully requests that the Planning Commission confirm this project be approved for issuance of an SMA Use Permit. Should you require further information or have any questions or comments, please reach out to Ryan Facer with Shoreline Consulting.

Ryan@schawaii.com

808.762.2345

Mahalo for your consideration in this request.

Ryan Facer

GENERAL NOTES AS APPLY:

1. All dimensions shown are to be referenced with the Foundation Plan and cross referenced by field measurements on site by the Contractor. Any discrepancies in measurements are to be forwarded to the Architect's office by the contractor prior to work commencing in the area(s) affected. Failure to notify the Architect's office by the contractor will result in full liability to the Contractor for any or all errors that occur and require correction. The decision as to whether or not changes are required is at the sole discretion of the Architect's office.

2. Any errors or omissions contained herein are to be immediately reported to the Architect's office by the Contractor for clarification prior to construction. Should any reconstruction occur as a result of noncompliance of above, the Contractor will bear full responsibility.

3. All construction to meet all applicable National, State and local codes. Should any code deficiency appear within the drawings or specifications the Contractor shall notify the Architect's office of the non-conformance prior to construction. The Contractor is to advise the Architect's office of alternatives available that will allow code requirements to be met. Failure to comply with the above shall result in full Contractor liability.

4. The Contractor will notify the Architect in writing at least 5 days prior to the following activities: concrete footing pour; concrete slab pour; general framing; gypsum board taping and final inspection.

5. Requesting working drawings, procuring permits and beginning construction constitutes the Owner's review and approval of the designs, plans, specifications and their contents. The Owner is responsible for all costs due to changes required by the Owner, agencies or covenants. The Owner and Contractor agree there will be no back-charges to the Architect.

6. Owner and Contractor will release the Architect from any liability for and hold harmless for any and all damages done to any third party resulting from the work not inspected due to failure to provide said notice.

7. The Contractor (or Owner-Builder, typical throughout) shall obtain all necessary permits and shall control dust erosion and run-off and dispose of grub, demolition and construction wastes and notify the county of disposal sites. Open burning is prohibited.

8. Contractor shall verify all dimensions and conditions at the building site, install all work to true lines, plumb and level unless otherwise noted. All finished wood work such as fascia shall be miter cut to hide end grain. Wood in danger of splitting shall be pre-drilled.

9. Dimensions take precedence over scaling. Member sizes specified on framing plans take precedence over sections or detail notations. For the first year guarantees shall be administered by the General Contractor.

10. All grading work shall be done in accordance with the County of Kauai Grading Ordinance and the contract specifications.

11. All slope grades shall be a maximum in cut 1-1/2 : 1, maximum in fill 2:1.

12. Fill area is to be cleared of vegetation, surface debris and deleterious material and scarified to a minimum depth of 6 inches.

13. Fill material should be placed in 8 inch lifts and roller compacted to a minimum of 90% compaction. Compaction tests to be paid for by the Owner.

14. All footings to be placed on undisturbed soil where possible.

15. Minimum assumed soil bearing pressure in 1,500 pounds per square foot. Concrete shall conform to ASTM C-94-72

16. Concrete shall attain a minimum compressive strength of 3000 pounds per square inch at 28 days.

17. All concrete block shall conform to ASTM C-270 Grade A units.

18. Mortar to be composed by dry loose volume of ¼ part lime putty or dry hydrated lime, one part Portland Cement and not more than 3 ½ parts sand to meet ASTM 270 for Type-M mortar.

19. In weather above 75 degrees F., maintain moisture by covering concrete with damp sand or plastic for 7 days.

20. Place concrete so as not to segregate aggregate. Minimize horizontal movement of concrete after placement in forms. Vibrate enough to eliminate honeycombing. Do not drop more than 5'-0".

21. All reinforcing steel shall be intermediate grade deformed bars conforming to ASTM A615 Grade 40, deformed billet.

22. Support rebar with chairs and ties at all intersections. Lap all rebar 24".

23. Install bond breaks where slabs abut vertical surfaces and construction joints are shown. All interior flat work to be steel troweled. Exterior flat work to be light broom finish.

24. All framing members shall be Douglas Fir #2 or better, unless otherwise noted. All Glulam beams shall be UBC grade 24F-V4 unless otherwise noted. All framing lumber, blocking plywood sheathing and concealed lumber shall be pressure treated. All composite / glulam beams shall be "Hybor" treated. All beams to be Douglas Fir #1 unless otherwise noted. Exterior header openings over 6' wide shall have strapping at each end from header to king stud. Openings over 8' need double king studs. T&G SelDek not treated, unless noted.

25. Follow IBC-2009 for nailing schedule minimums. Use hot dipped galvanized nails only. All rough hardware to use the largest size available for the members involved, hot dipped galvanized, cleaned and painted before being installed, touch UP after. Stainless steel fasteners and hardware shall be used for all exposed nails and hardware.

26. Plywood and T&G decking shall be installed in a staggered pattern. Fire-blocking shall be installed in a staggered pattern. Fire-blocking at floor, ceiling coves and mid-height of all walls as required.

27. All plywood to be pressure treated, CDX Grade Structural I unless otherwise noted.

28. All CDX plywood wall sheathing to be applied long dimension perpendicular to studs overlapping bottom plate to attach to rim joist.

29. Siding: 'Hardi' plywood with shear nailing of 8d common @ 4" edges and 6d @ 6" in field. 8d S.S. where exposed to weather. a all exposed fasteners to be s.s. unless noted otherwise

30. Partition Framing: Studs, Douglas Fir standard and better. 2X4 @ 16" O.C. (unless otherwise noted) and as required for plumbing chases.

31. Gypsum Board: ½" except 5/8" @ ceilings and Type 'X' between garage and house. Grabber drywall screws @ 12" on ceilings and @ 16" on walls. Paint screws with rustproof paint prior to taping and spackling. Vinyl corner and "L" beads only.

32. An Owner, acting as the Owner / Builder will be responsible for specifying all finishes, materials and products installed in the building.

33. Provide flashing and other materials as required for positive waterproofing, including adequately wide valley flashings with leak-proof joints without warping problems and treatment as required to insure dry rot-proof conditions and no galvanic electrolysis.

35. Paint: All surfaces to receive paint; one coat primer or sealer, 2 coats finish. Paint colors to be selected by Owner, factory mixed. Provide samples. Interior and Exterior wood, finish is noted or by Owner's choice. All nail holes shall be puttied to match wood or stain and be sanded before final coat.

36. Contractor to provide temporary vertical and lateral bracing at all times during construction until structure is tied together.

37. Hardware: Door hardware - Schlage A series or approved by Owner. Finish - Stainless steel or oiled bronze.

38. Electrical: Install as per schematic plan as shown and National Electric Code. Owner to verify box locations. Provide smoke detector and verify telephone and TV jack locations with Owner.

39. Plumbing: Install as per drawings and all codes. Provide water line to refrigerator ice-maker. Vent gas fixtures per code and utility company requirements. Insulate all hot water lines with R4 minimum. Notify Architect for inspection prior to covering.

40. Do not scale drawings.

41. The Architect of Record is not responsible for photo copied reproduced drawings that do not have his EMBOSSED stamp affixed.

42. Unless notified otherwise by Owner, the Architect has used ASCE Standard Report, ASCE 7-95 Guideline of 80 MPH uplift (minus 30 pound dead load) for roof to wall connections.

43. Treat soil at foundations for termite control as required by the County of Kauai.

44. For 12 months from Substantial Completion General Contractor shall administer all guarantees and warrantees.

GENERAL STRUCTURAL NOTES

A. CONCRETE & REINFORCING

1. CONTRACTOR SHALL VERIFY LOCATIONS AND SIZES OF ALL ANCHORS, INSERTS, ELECTRICAL AND MECHANICAL WORK PRIOR TO POURING CONCRETE.

2. ALL CONCRETE SHALL HAVE A MINIMUM 28 DAY COMPRESSIVE STRENGTH AS FOLLOWS:
FOOTINGS AND SLAB ON GRADE 3,000 PSI
CONCRETE BEAMS, COLUMNS AND CMU GROUT 4,000 PSI

3. ALL REINFORCING BARS SHALL CONFORM TO ASTM A615, GRADE 60. REINFORCING #4 AND SMALLER MAY BE GRADE 40.

4. WELDED WIRE FABRIC SHALL CONFORM TO ASTM 185 WITH FY-60 KSI.

5. MINIMUM CONCRETE COVERAGE FOR REINFORCING STEEL AS FOLLOWS:
CONCRETE AGAINST EARTH 3"
FORMED SURFACES AGAINST EARTH 2"

6. ALL BARS MARKED CONTINUOUS SHALL BE LAPPED A MINIMUM OF 40 BAR DIAMETERS AT ALL SPLICES UNLESS OTHERWISE NOTED.

B. WOOD

1. ALL STRUCTURAL LUMBER SHALL CONFORM TO WESTERN WOOD PRODUCTS ASSOCIATION TRADING STANDARDS. ALL LUMBER SHALL BE DOUGLAS FIR 2x- #2 4x- #1 6x- #2 or BETTER

2. ALL PLYWOOD SHALL BE STRUCTURAL CONFORMING TO AMERICAN PLYWOOD ASSOCIATION STANDARDS.

3. ALL FRAMING MEMBERS SHALL BE Hi-Bor® TREATED LUMBER.

4. GLUE LAMINATED BEAMS SHALL BE DOUGLAS FIR COMBINATION 24F. LAMINATION SHALL BE 1-1/2" AND GLUED WITH EXTERIOR TYPE GLUE.

5. ALL WOOD CONNECTORS SHALL BE SIMPSON STRONG-TIE CONNECTORS OR APPROVED EQUAL. NAILING SCHEDULE PER MANUFACTURER.

C. CONCRETE MASONRY UNITS

1. UNLESS OTHERWISE NOTED, ALL CONCRETE MASONRY WALLS SHALL BE REINFORCED WITH 1-#4 @ 24" O.C. VERTICAL, WITH HORIZONTAL JOINT REINFORCING @ 16" O.C. PROVIDE BOND BEAM AS INDICATED ON DRAWINGS WITH A MINIMUM OF 2-#4 CONTINUOUS. ADD 2-#5 VERTICALLY AT ALL ENDS, JAMBS, CORNERS AND INTERSECTIONS.

2. ALL BLOCKS SHALL CONFORM TO ASTM C-90 GRADE 'N-11' UNITS.

3. ALL CELLS CONTAINING REINFORCING, INSERTS OR ANCHORS SHALL BE GROUTED SOLID WITH 2,500 PSI GROUT.

D. FOUNDATION NOTES

1. ALL FOOTINGS SHALL BEAR ON EXISTING GRADE WITH AN ALLOWABLE BEARING CAPACITY OF 1,500 PSF. IF ANY DISCREPANCIES OR ADVERSE SOIL CONDITIONS ARE ENCOUNTERED DURING EXCAVATION FOR FOOTINGS, THE ARCHITECT SHALL BE NOTIFIED.

2. PRECAUTIONS SHALL BE TAKEN IN EXCAVATING FOOTING ADJACENT TO EXISTING BUILDING SO AS NOT TO DISTURB EXISTING FOOTINGS.

3. BOTTOM OF FOOTING ELEVATIONS VARY ACCORDING TO THE TOPOGRAPHY BUT AT NO TIME WILL IT BE LESS THAN THE MINIMUM ESTABLISHED ON THE DRAWINGS.

E. DESIGN LOADS

FLOOR	L.L. 40 PSF	D.L. 15 PSF	LIVING AND LANAI	L.L. 40 PSF	D.L. 15 PSF
ROOF	L.L. 20 PSF	D.L. 15 PSF	BEDROOM	L.L. 30 PSF	D.L. 15 PSF
WIND	105 MPH		ATTIC STORAGE	L.L. 20 PSF	D.L. 15 PSF
SEISMIC	UBC - ZONE 1				

F. CONSTRUCTION NOTES

1. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND SITE CONDITIONS PRIOR TO STARTING CONSTRUCTION.

2. ALL FRAMING MEMBERS AND CMU WALLS SHALL BE ADEQUATELY BRACED UNTIL ALL CONNECTIONS ARE MADE AMONG THE VARIOUS ELEMENTS AND THE STRUCTURE IS CAPABLE OF RESISTING LATERAL LOADS.

3. THE STRUCTURAL DRAWINGS REPRESENT THE FINISHED STRUCTURE. THEY DO NOT INDICATE THE METHOD OF CONSTRUCTION. THE CONTRACTOR SHALL TAKE ALL NECESSARY MEASURES TO PROTECT THE STRUCTURE DURING CONSTRUCTION SUCH AS BRACING AND SHORING FOR LOADS DUE TO CONSTRUCTION.

4. SPA POOL DESIGN BY OTHERS. FOUNDATION AND WALLS BELOW SPA POOL SHALL BE REVIEWED BY POLL CONTRACTOR FOR CONFORMANCE.

FRAMING LUMBER

1. FRAMING LUMBER SHALL BE DOUGLAS FIR/LARCH AND GRADE MARKER PER WCLB SPECIFICATIONS.

2. MINIMUM LUMBER GRADES TO BE AS FOLLOWS:
2X & 6X #2 GRADE OR BETTER
4X #1 OR BETTER

3. NAILING SHALL CONFORM TO THE BUILDING CODE UNLESS OTHERWISE NOTED. SUBSTITUTIONS FOR FRAMING HARDWARE SHALL NOT BE USED UNLESS APPROVED.

4. NO STRUCTURAL MEMBER SHALL BE CUT OR NOTCHED UNLESS SPECIFICALLY SHOWN, NOTED OR APPROVED BY THE STRUCTURAL ENGINEER.

5.MAXIMUM MOISTURE CONTENT SHALL NOT EXCEED 19% FOR ALL STRUCTURAL MEMBERS.

6. ONE LAYER OF 15 LB. ASPHALT SATURATED ROOFING FELT SHALL BE APPLIED TO ISOLATE WOOD FROM CONTACT WITH CONCRETE AND MASONRY SURFACES..

7. ALL FRAMING LUMBER AND PLYWOOD SHALL BE PRESSURE TREATED. SEE SPECIFICATIONS.

SHEETING

1. SHEATHING TYPES EXTERIOR WALLS WITH SHEATHING AT ONE FACE, INTERIOR MAIN CROSS-STUD PARTITIONS WITH SHEATHING AT EACH FACE. THE VALUES FOR SHEATHING ARE LISTED IN ORDER OF INCREASED CAPACITY. SHEATHING WITH A CAPACITY GREATER THAN REQUIRED MAY BE SUBSTITUTED FOR THE SHEATHING LISTED. PARTICLE BOARD SHEATHING MAY BE SUBSTITUTED FOR SHEATHING TYPES A AND B.

A. ONE-HALF-INCH GYPSUM BOARD OR GYPSUM SHEATHING WITH 5d COOLER NAILS AT 7 INCHES OR -INCH GYPSUM LATH AND INCH PLASTER.

B. ONE-HALF-INCH GYPSUM BOARD OR GYPSUM SHEATHING WITH 5d COOLER NAILS AT 4 INCHES.

C. EXPANDED METAL LATH AND]-INCH PORTLAND CEMENT PLASTER.

D. ONE-HALF-INCH PLYWOOD OR PARTICLE BOARD SHEATHING WITH 8d NAILS AT 4 INCHES ALL EDGES AND 8 INCHES INTERMEDIATE. USE S.S. FASTENERS ALL EXPOSED EXTERIOR APPLICATIONS.

E. ONE-HALF-INCH PLYWOOD OR PARTICLE BOARD SHEATHING WITH 8d NAILS AT 4 INCHES ALL EDGES AND 12 INCHES INTERMEDIATE. USE 8D SS FASTENERS IF EXPOSED TO WEATHER FOR SIDING.

BUILDING CONSTRUCTION TYPE: VB
OCCUPANCY TYPE: R3 (NEW RESIDENCE)

APPLICABLE CODES

2018 INTERNATIONAL BUILDING CODE
2018 INTERNATIONAL RESIDENTIAL CODE
2018 INTERNATIONAL EXISTING BUILDING CODE
2018 IECC (ENERGY CODE)
SECTION 12-6.3 ADOPTION OF THE INTERNATIONAL ENERGY CONSERVATION CODE IECC SECTION 12-6.4
2021 UNIFORM PLUMBING CODE - REV. STATUES, SECTION 107-24(C)
2020 NATIONAL ELECTRICAL CODE W/ LOCAL AMENDMENTS
2020 NATIONAL FIRE PROTECTION (NFPA) W/ LOCAL AMENDMENTS
LOCAL KAUAI COUNTY ORDINANCES

SQUARE FOOTAGE DATA

MAIN FLOOR LIVING (HEATED)	**1106**	**SQ. FT.**
COVERED PORCH (UNHEATED)	**130**	**SQ. FT.**
COVERED SIDE ENTRY PORCH (UNHEATED)	**56**	**SQ. FT.**
TOTAL HEATED	**1106**	**SQ. FT.**
TOTAL UNDER ROOF	**1292**	**SQ. FT.**

SCOPE OF WORK:

NEW SINGLE STORY RESIDENCE (ELEVATED ON PIERS), WITH COVERED FRONT PORCH

SHEET LIST

Sheet Number	Sheet Name
0cs1	COVER SHEET
SP01	PROPOSED SITE PLAN
A01	PROPOSED FOUNDATION & MAIN FLOOR PLAN
A02	PROPOSED ROOF PLAN
A03	PROPOSED EXTERIOR ELEVATIONS
A04	PROPOSED 3D VIEWS
A05	ENLARGED PLANS
Dt01	PROPOSED DETAILS
Sec01	PROPOSED SECTIONS
S01	PROPOSED FRAMING PLANS
E01	PROPOSED MAIN FLOOR ELECTRICAL PLAN

WALL CONSTRUCTION ASSEMBLIES

SW1 EXTERIOR 2X4 WALL
SHEAR WALL
-BEHR Premium Exterior Solid Stain
Color: SC151 Sage
-1X2 BATTENS @ 16" O/C
-LP® SmartSide® 5/8 x 4 x 8' Grooved 8 OC Panel Siding
-TYVEK BUILDING AIR BARRIER
-2X4 D.FIR#2 STUDS @ 16" O/C
-R13 BATT INSULATION
-1/2" GYP. BD.
-PAINT FINISH

SW2 EXTERIOR 2X6 WALL
SHEAR WALL
-BEHR Premium Exterior Solid Stain
Color: SC151 Sage
-1X2 BATTENS @ 16" O/C
-LP® SmartSide® 5/8 x 4 x 8' Grooved 8 OC Panel Siding
-TYVEK BUILDING AIR BARRIER
-2X6 D.FIR#2 STUDS @ 16" O/C
-R13 BATT INSULATION
-1/2" GYP. BD.
-PAINT FINISH

SW3 EXTERIOR 2X4 SHOWER WALL
SHEAR WALL
-TILE FINISH
-1/2" CEMENT BOARD
-1/2" PLYWOOD SHEAR
-TYVEK BUILDING AIR BARRIER
-2X4 D.FIR#2 STUDS @ 16" O/C
-R13 BATT INSULATION
-1/2" GYP. BD.
-PAINT FINISH

W7 INTERIOR 2X6 PLUMBING WALL
-PAINT FINISH
-1/2" GYP. BD.
-2X6 D.FIR#2 STUDS @ 16" O/C
-1/2" GYP. BD.
-PAINT FINISH

SW8 EXTERIOR 2X4 GARAGE WALL
SHEAR WALL
-BEHR Premium Exterior Solid Stain
Color: SC151 Sage
-1X2 BATTENS @ 16" O/C
-LP® SmartSide® 5/8 x 4 x 8' Grooved 8 OC Panel Siding
-TYVEK BUILDING AIR BARRIER
-2X4 D.FIR#2 STUDS @ 16" O/C
-1/2" GYP. BD.
-PAINT FINISH

W4 EXTERIOR 2X4 SHOWER WALL
-BEHR Premium Exterior Solid Stain
Color: SC151 Sage
-1X2 BATTENS @ 16" O/C
-LP® SmartSide® 5/8 x 4 x 8' Grooved 8 OC Panel Siding
-TYVEK BUILDING AIR BARRIER
-2X4 D.FIR#2 STUDS @ 16" O/C
-1/2" CEMENT BOARD
-TILE FINISH

W5 INTERIOR 2X4 WALL
-PAINT FINISH
-1/2" GYP. BD.
-2X4 D.FIR#2 STUDS @ 16" O/C
-1/2" GYP. BD.
-PAINT FINISH

SW6 INTERIOR 2X4 WALL
SHEAR WALL
-PAINT FINISH
-1/2" GYP. BD.
-1/2" PLYWOOD SHEAR
-2X4 D.FIR#2 STUDS @ 16" O/C
-1/2" GYP. BD.
-PAINT FINISH

SW9 INTERIOR 2X6 PLUMBING WALL
SHEAR WALL
-PAINT FINISH
-1/2" GYP. BD.
-1/2" PLYWOOD SHEAR
-2X6 D.FIR#2 STUDS @ 16" O/C
-1/2" GYP. BD.
-PAINT FINISH

COUNTY OF KAUA'I
CHAPTER 12 KAUA'I COUNTY BUILDING CODE
KAUA'I COUNTY CODE 1987, AS AMENDED

ARTICLE 6-ENERGY CONSERVATION CODE

To the best of my knowledge, this project's design substantially conforms to the Residential Provisions of

Section 12-6-3 Adoption in the International Energy Conservation Code (IECC 2015)
Section 12-6-4 Local Amendments to the IECC 2015.

COMPLIANCE METHOD
☒ Tropical Zone. R401.2.1
☐ Prescriptive. R402
Roof and Wall
☐ Insulation R-value. Table R401.1.2
☐ Construction U-factor. Table R402.1.4
☐ Total UA. R402.1.5
☐ Points Option. R407
☐ Simulated Performance Alternative. R405
☐ Energy Rating Index Compliance Alternative. R406

INFORMATION IN CONSTRUCTION DOCUMENTS	Yes	N/A
Envelope		
Roof insulation R-value	☒	☐
Roof insulation type and location	☒	☐
Roof membrane solar reflectance and thermal emittance	☐	☒
Wall insulation R-value	☒	☐
Wall insulation type and location	☒	☐
Window and skylight SHGC	☐	☒
Air leakage testing requirement	☐	☒
Air Conditioning		
Air conditioning equipment capacity and efficiency	☐	☒
Programmable thermostat	☐	☒
Duct insulation R-value	☐	☒
Duct leakage testing requirement	☐	☒
Electrical		
Lighting fixture locations	☒	☐
Lamp type	☐	☒
Ceiling fans	☒	☐
Whole-house fan	☐	☒

SIGNATURE:
DATE: 6/6/2025
NAME: Zachary Todd Clanahan
TITLE: Architect
LICENSE NO.: AR-15063

DRAWING SYMBOLS LEGEND

DOOR TAG REFER TO SCHEDULE
WINDOW TYPE TAG, REFER TO SCHEDULE
SMOKE DETECTOR
GRIDLINE INDICATOR
LEVEL NAME ELEVATION — ELEVATION INDICATOR
KEYNOTE INDICATOR
WALL TYPE SYMBOL
ROOF TYPE SYMBOL
FLOOR TYPE SYMBOL
STRUCTURAL FRAMING TAG
11 - 11 EL. 100'-0" — STRUCTURAL FOUNDATION TAG
STRUCTURAL COLUMN TAG
GFCI POWER OUTLET — STANDARD ELEVATION 48"= ABOVE FINISH FLOOR
DUPLEX POWER OUTLET — +00" = ELEVATION ABOVE FINISH FLOOR STANDARD ELEVATION 18"
GFCI WATERPROOF POWER OUTLET
SINGLE FRIDGE POWER OUTLET
QUAD POWER OUTLET
JUNCTION BOX W/ COVER PLATE
220 POWER OUTLET — R = RANGE D= DRYER AC = AIR COND. HP= HEAT PUMP
GARAGE DOOR SWITCH
FAN / LIGHT SWITCH
LIGHT SWITCH
3 WAY LIGHT SWITCH
4 WAY LIGHT SWITCH
CEILING SPEAKER

Room name 150 SF — ROOM TAG
CALLOUT DETAIL INDICATOR — DETAIL # ON SHEET, PAGE CROSS REFERENCE
WALL SECTION INDICATOR — SECTION # ON SHEET, VIEW DIRECTION OF SECTION, PAGE CROSS REFERENCE
BUILDING SECTION INDICATOR — SECTION # ON SHEET, VIEW DIRECTION OF SECTION, PAGE CROSS REFERENCE
EXTERIOR ELEVATION INDICATOR — ELEVATION # ON SHEET, VIEW DIRECTION OF ELEVATION, PAGE CROSS REFERENCE
INTERIOR ELEVATION INDICATOR — ELEVATION # ON SHEET, VIEW DIRECTION OF ELEVATION, PAGE CROSS REFERENCE
THERMOSTAT
DATA TERMINAL
PHONE TERMINAL
LED POT LIGHT — Shower lights must be suitable for a wet location
EXHAUST FAN / LIGHT
FLOOR DRAIN
WATER METER
WASHER SUPPLY & DRAIN BOX
FRIDGE ICE WATER SUPPLY BOX
HOSE BIB
GAS CONNECTION
ELECTRICAL POWER PANEL
LIGHTING POWER PANEL

NOTES:

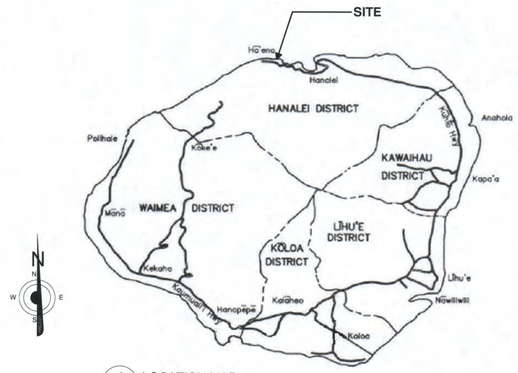
1. SMOKE ALARMS/CARBON MONOXIDE ALARMS (IRC R314, R315)

A. Smoke alarms shall be listed in accordance with UL 217. Carbon monoxide alarms shall be listed in accordance with UL2034. Combination alarms shall be listed in accordance with UL 2034 and UL 217.

B. Required Locations outside each separate sleeping area in the immediate vicinity of the bedrooms.

2. GFCI protection required for all single-phase 120-volt 15 and 20 amp receptacles in all bathrooms

1 VICITY MAP
0cs2 N.T.S.



2 LOCATION MAP
0cs2 N.T.S.

STAMP:

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI EST. 2012 ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629
johnnytquinn@gmail.com

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

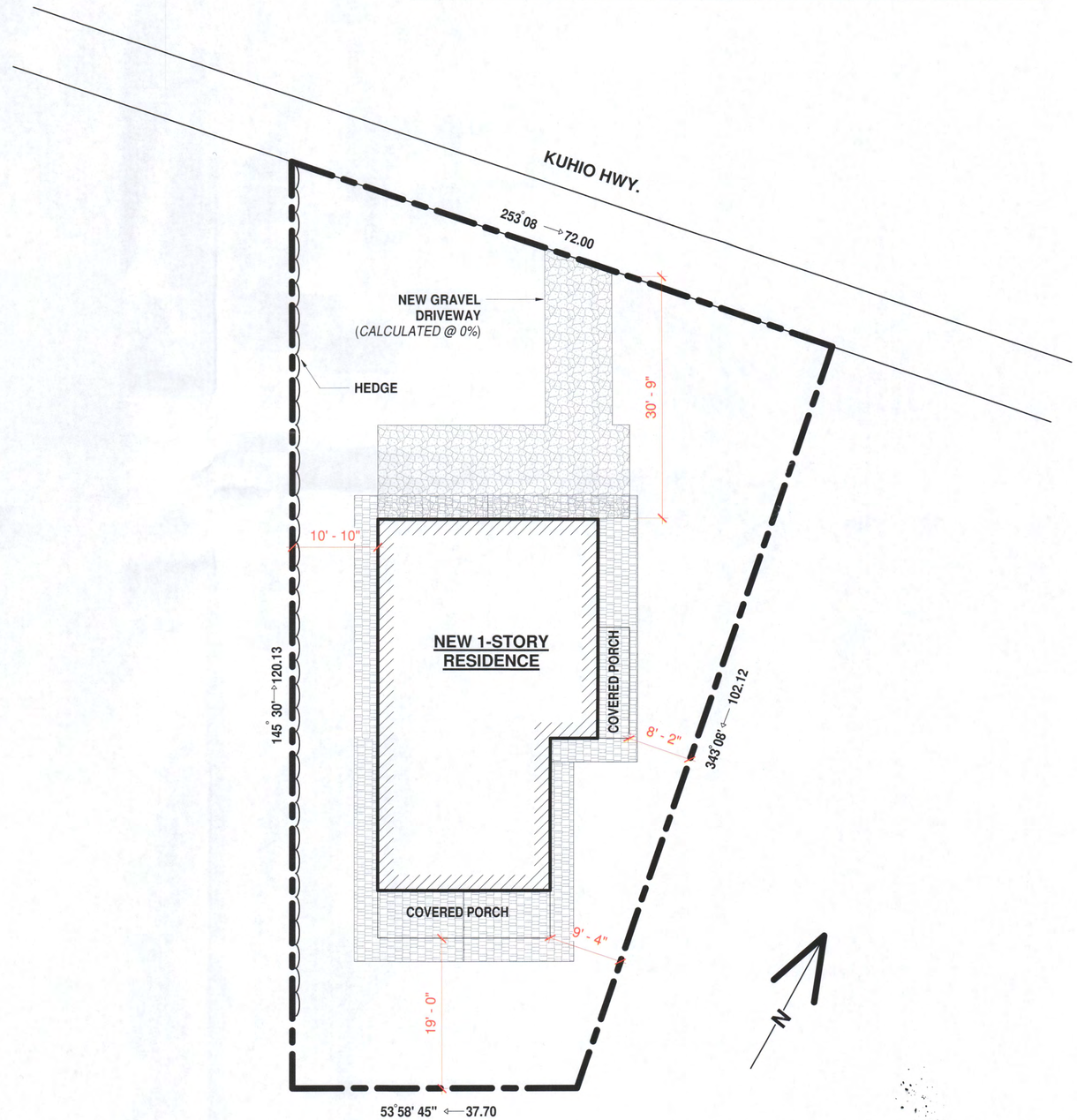
DOCUMENT PHASE
ISSUED FOR CONSTRUCTION
ISSUE DATE: 05.20.2025

SHEET TITLE
COVER SHEET

0cs1

LOT COVERAGE INFORMATION

PROPOSED MAIN LEVEL FOOTPRINT (HEATED)	1,106	SQ FT
PROPOSED COVERED PORCH (UNHEATED)	130	SQ FT
PROPOSED COVERED SIDE ENTRY PORCH (UNHEATED)	56	SQ FT
PROPOSED DRIVEWAY - CONCRETE	0	SQ FT *(ACTUAL = 555 SQ FT - CALCULATED @ 0%)*
TOTAL PROPOSED LOT COVERAGE	**1,292**	**SQ FT**
LOT AREA	5,940 SQ FT	
% OF TOTAL LOT COVERAGE (NOTE RESIDENTIAL ZONING 50% ALLOWABLE)	21.75%	
LOWER LEVEL FOOTPRINT AREA OF PROPOSED/EXISTING RESIDENCE COMPRISES	21.75% (30% ALLOWABLE)	
PROPOSED/EXISTING RESIDENCE CONCRETE DRIVEWAY AND WALKWAYS	0% (20% ALLOWABLE)	



1 Proposed Site Plan
1/8" = 1'-0"

STAMP:

ZACHARY TODD CLANAHAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.
Exp. 4/30/2026

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRCUTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629

johnnytquinn@gmail.com
--

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

SHEET TITLE

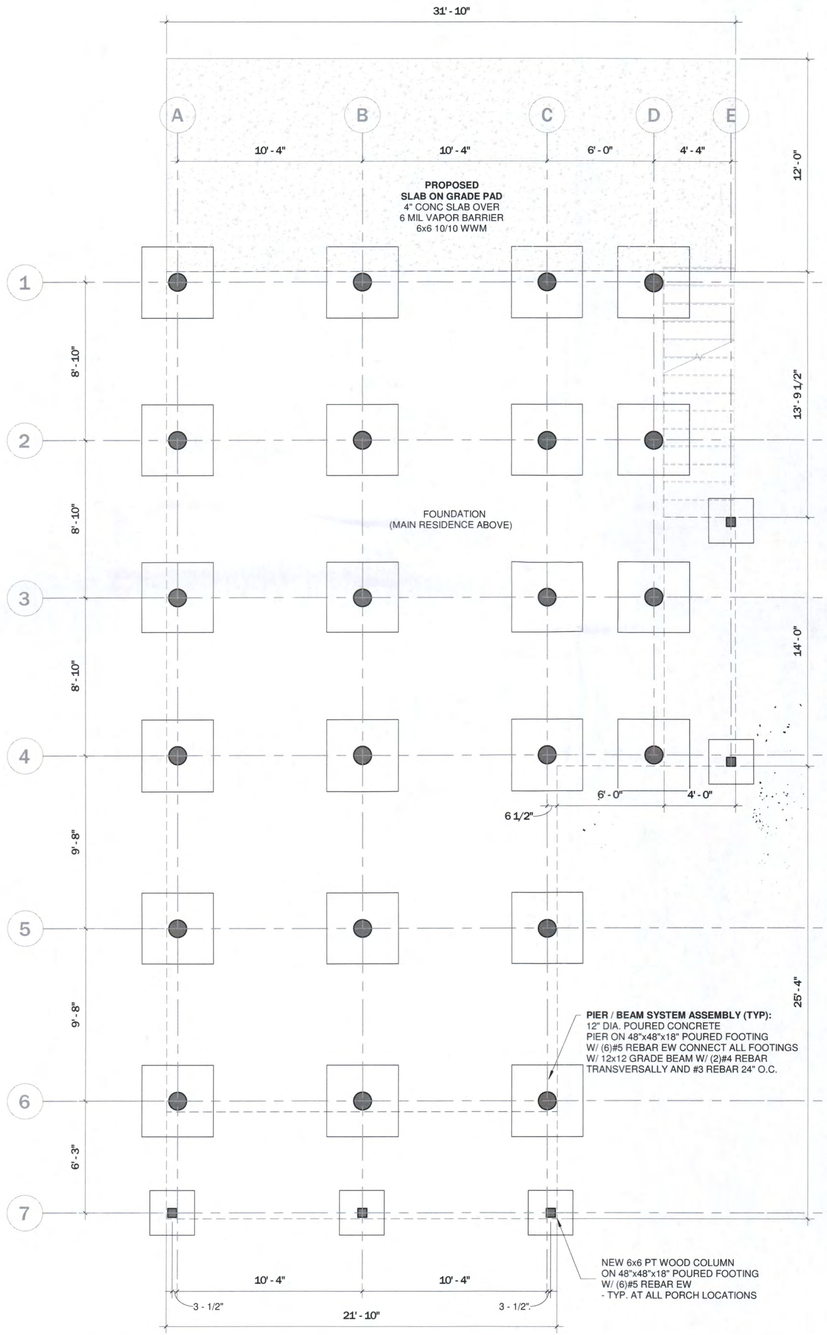
PROPOSED SITE PLAN

SP01

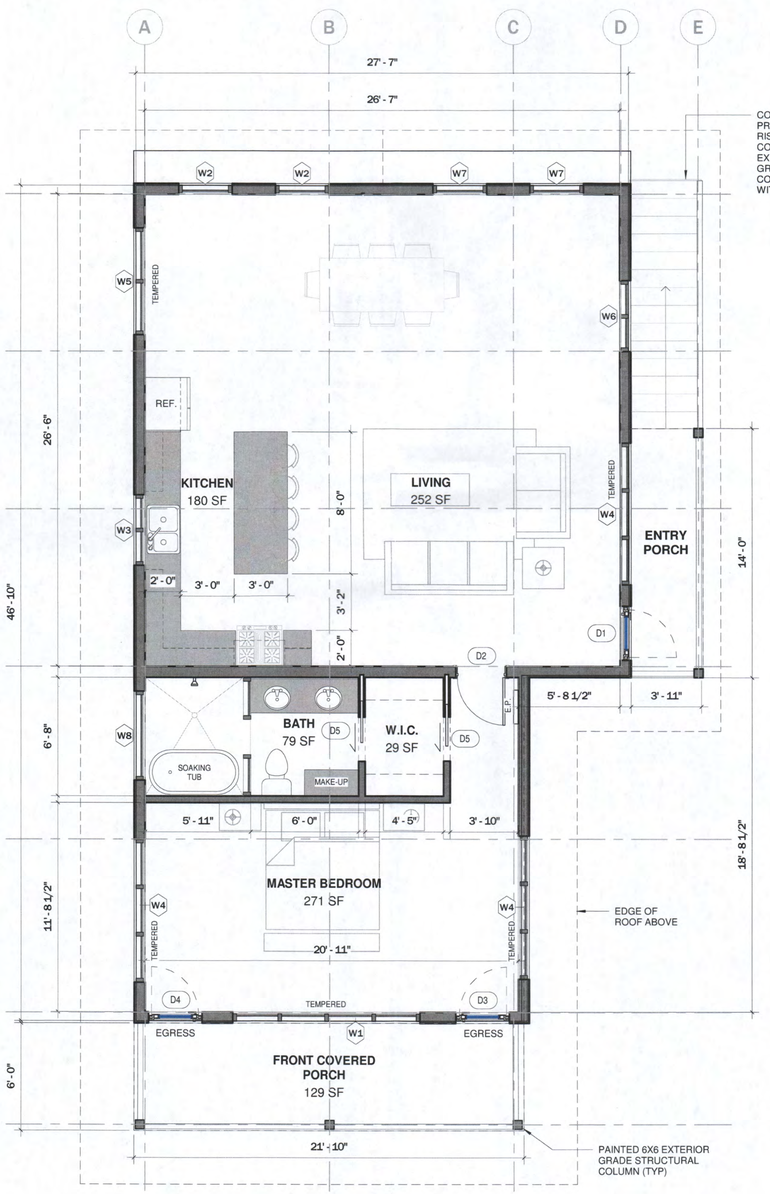
DOOR SCHEDULE				
		DIMENSIONS		
MARK	DESCRIPTION	WIDTH	HEIGHT	NOTES
D1	EXTERIOR - SOLID CORE WOOD W/ INSET GLASS - SWING DOOR	3' - 0"	8' - 0"	
D2	INTERIOR - SOLID CORE WOOD - SWING DOOR	2' - 8"	6' - 8"	
D3	EXTERIOR - SOLID CORE WOOD W/ INSET GLASS - SWING DOOR	3' - 0"	8' - 0"	
D4	EXTERIOR - SOLID CORE WOOD W/ INSET GLASS - SWING DOOR	3' - 0"	8' - 0"	
D5	INTERIOR - SOLID CORE WOOD - POCKET DOOR	2' - 4"	6' - 8"	

WINDOW SCHEDULE				
		DIMENSIONS		
MARK	DESCRIPTION	HEIGHT	WIDTH	NOTES
W1	FIXED WINDOW	8' - 0"	10' - 6"	
W2	CASEMENT WINDOW	6' - 0"	3' - 0"	
W3	DOUBLE CASEMENT WINDOW	4' - 0"	4' - 0"	
W4	FIXED WINDOW	8' - 0"	8' - 0"	
W5	FIXED WINDOW	8' - 0"	6' - 0"	
W6	DOUBLE CASEMENT WINDOW	5' - 0"	4' - 0"	
W7	AWNING WINDOW	3' - 0"	3' - 0"	
W8	AWNING WINDOW	3' - 0"	5' - 0"	

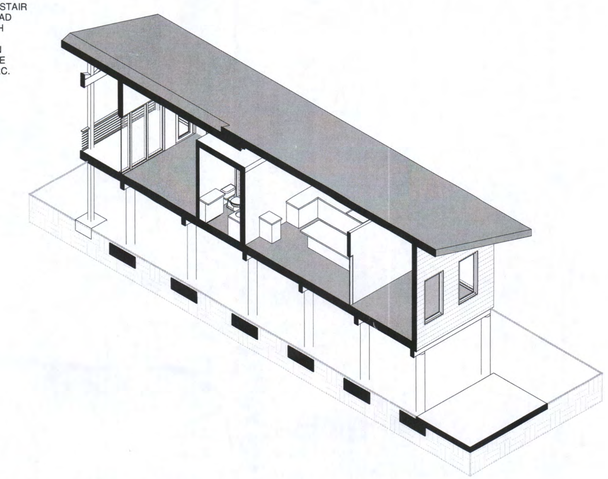
NOTE:
GC SHALL VERIFY ALL PROPOSED DOOR & WINDOW QUANITITIES, TYPES, STYLES, FINISHES, MANFACTURERS, & HANDING DIRECTLY WITH CLIENT PRIOR TO PRICING OR ORDER/INSTALL



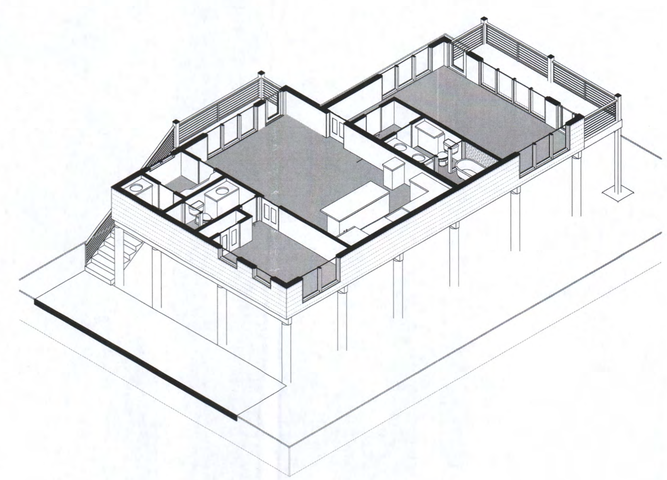
4 Proposed Basement / Foundation Floor Plan
1/4" = 1'-0"



1 Proposed Main Floor Plan
1/4" = 1'-0"



2 Isometric Longitudinal Section



3 Isometric Main Floor Plan

STAMP:

ZACHARY TODD CLANAHAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.
4/30/2025
THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRCUTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629

johnnytquinn@gmail.com
--

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

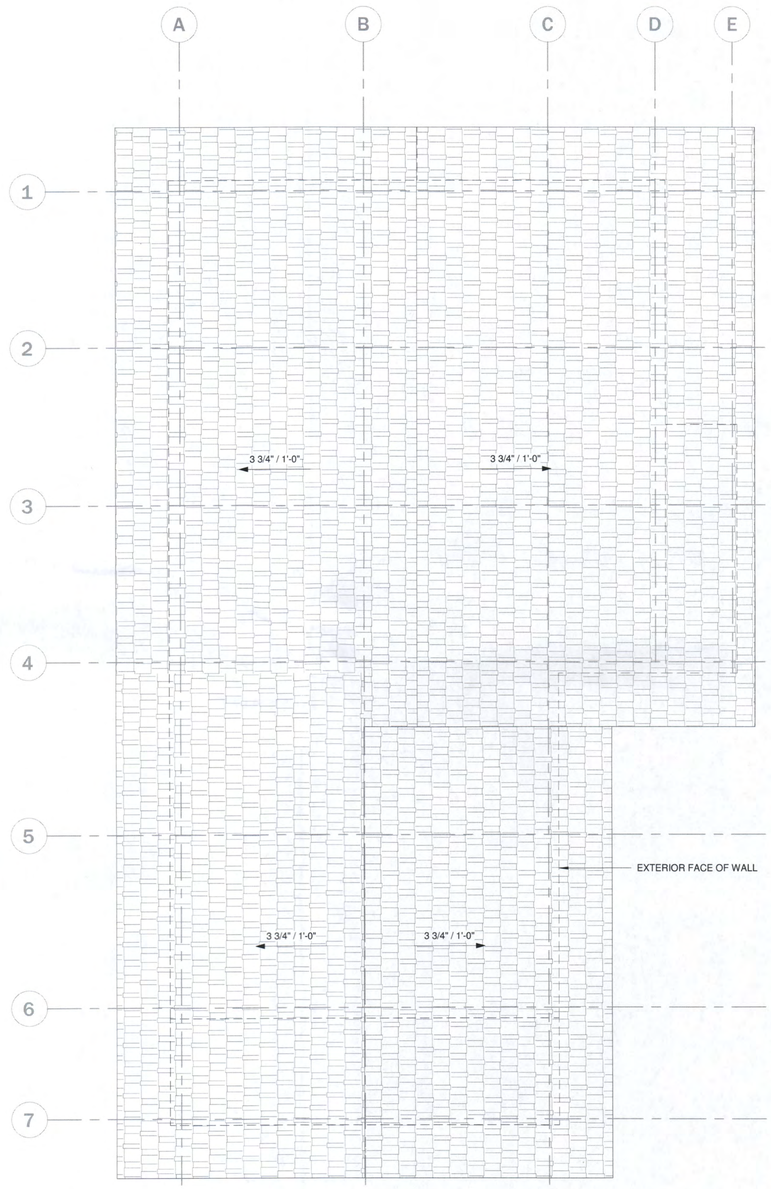
ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

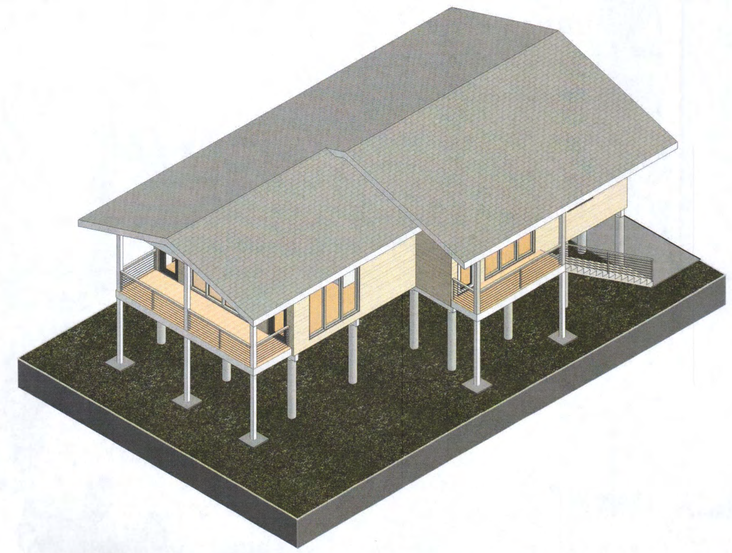
SHEET TITLE

PROPOSED FOUNDATION & MAIN FLOOR PLAN

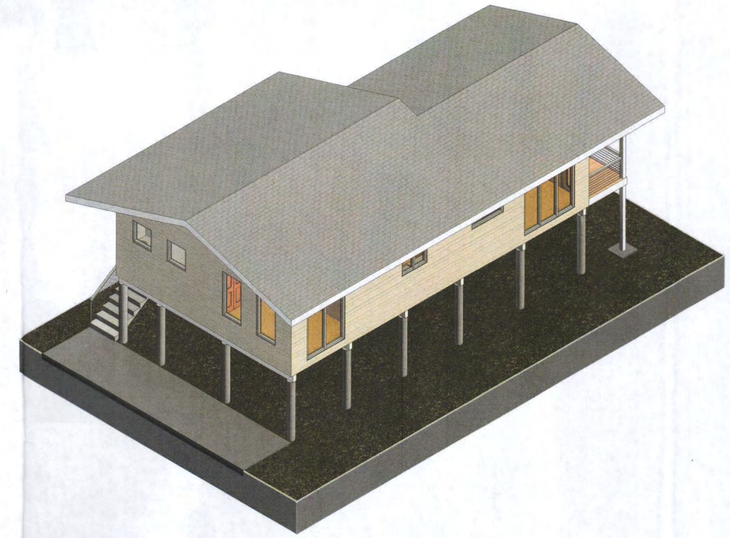
A01



1 Proposed Roof Plan
1/4" = 1'-0"



2 Isometric Rooftop A



3 Isometric Rooftop B

STAMP:

ZACHARY TODD CLANNAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.

Exp. 4/30/2026

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRCUTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629

johnnytquinn@gmail.com
--

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

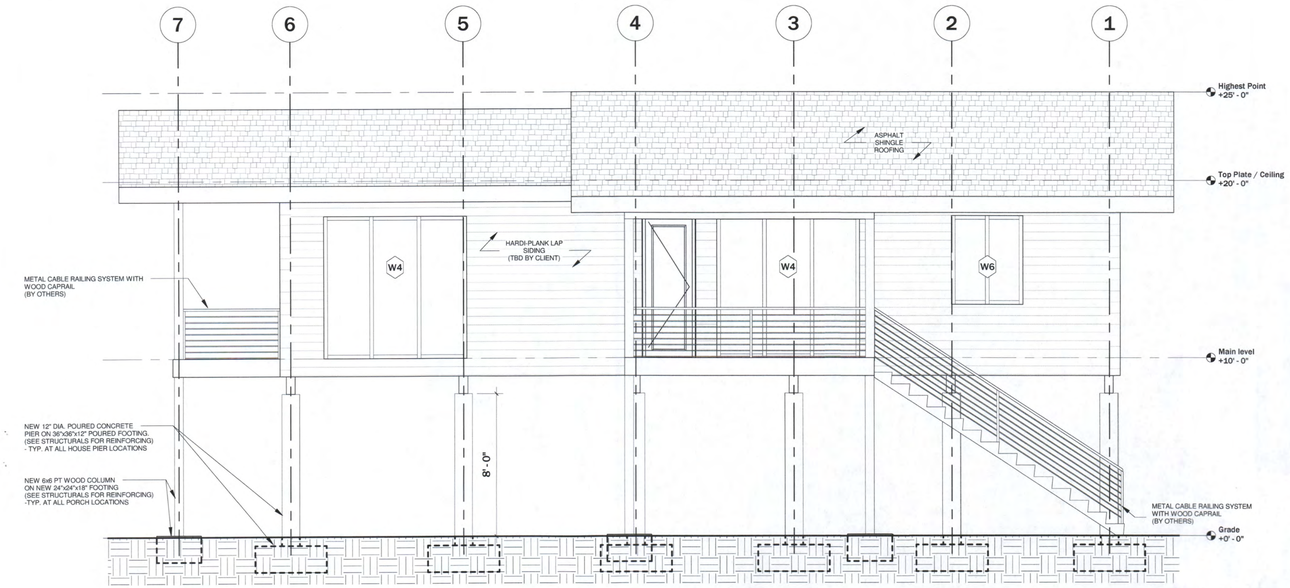
ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

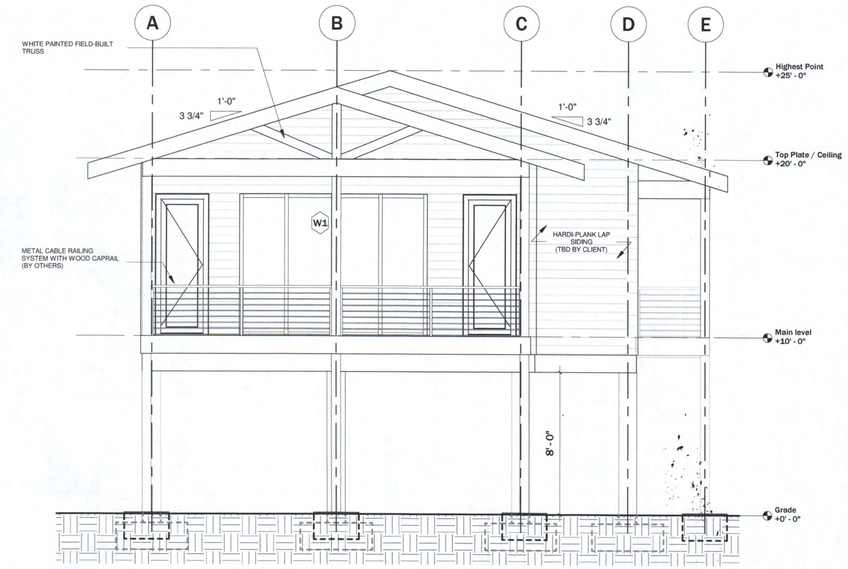
SHEET TITLE

PROPOSED ROOF PLAN

A02

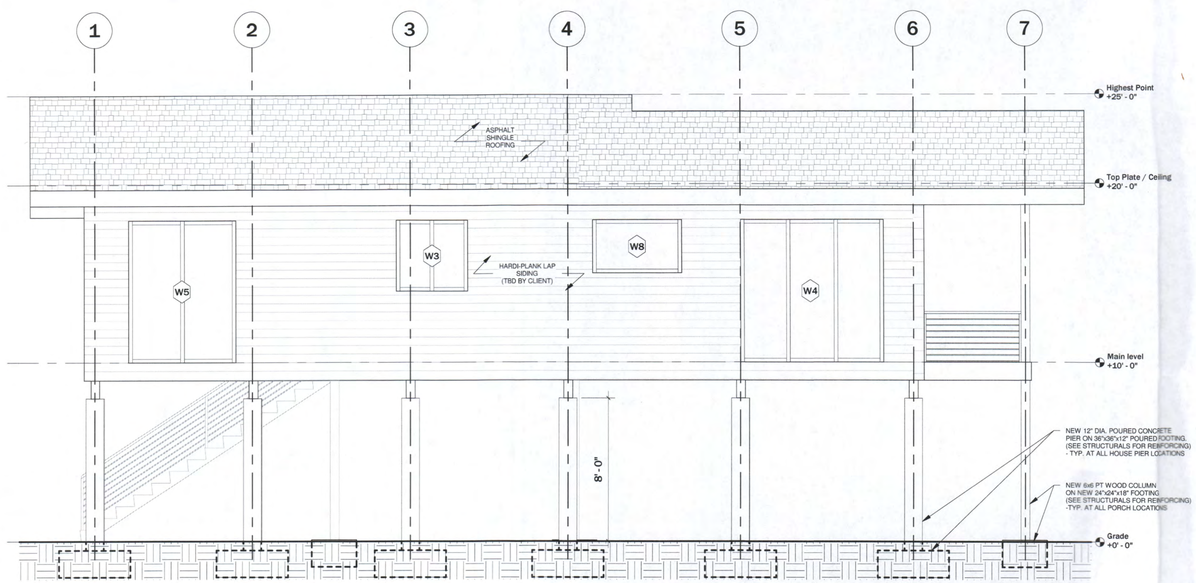


1 Proposed Front Elevation
1/4" = 1'-0"

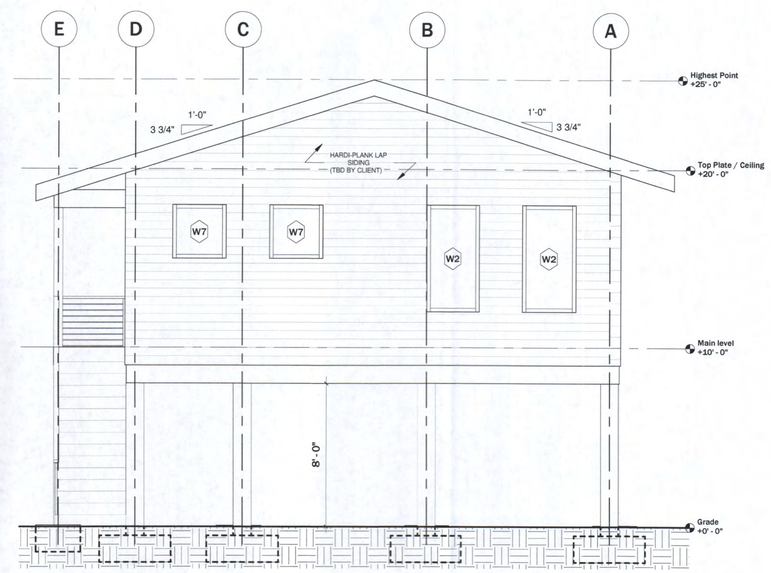


2 Proposed Left Elevation
1/4" = 1'-0"

Highest Pt
+38' - 10 1/4"



3 Proposed Rear Elevation
1/4" = 1'-0"



4 Proposed Right Elevation
1/4" = 1'-0"

STAMP:

ZACHARY TODD CLANAGAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.
Date 4/30/2025

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629

johnnytquinn@gmail.com

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

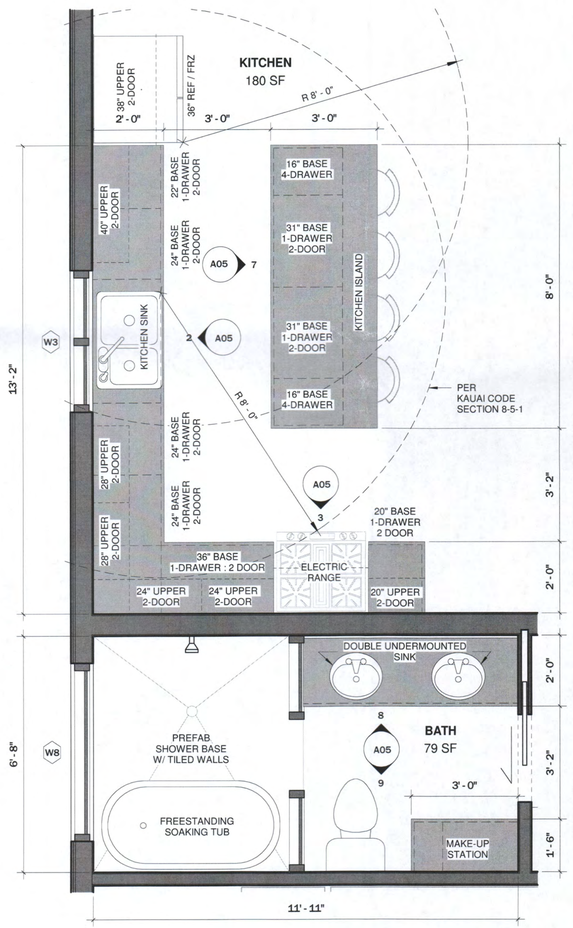
ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

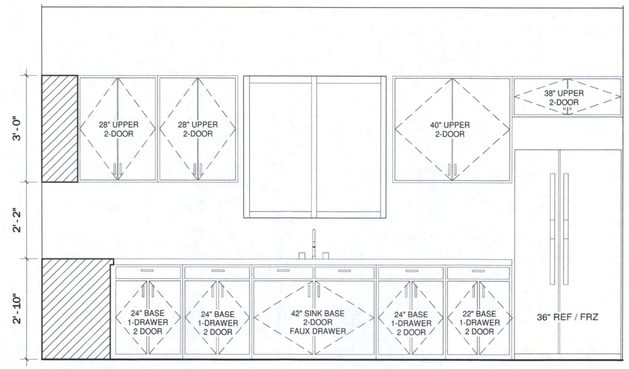
SHEET TITLE

PROPOSED EXTERIOR ELEVATIONS

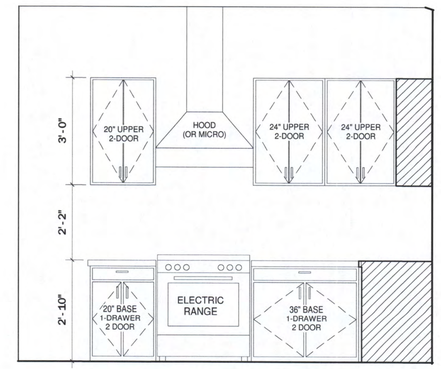
A03



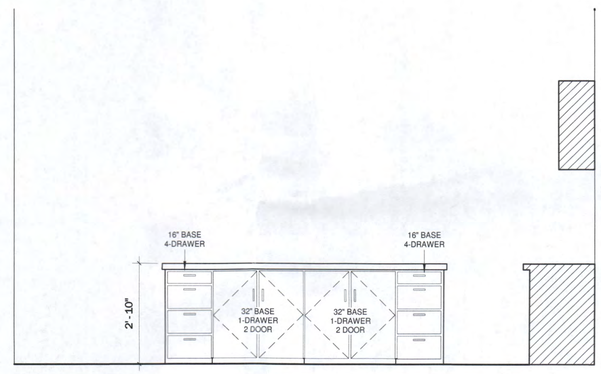
1 Proposed Main Floor - Enlarged Plan
1/2" = 1'-0"



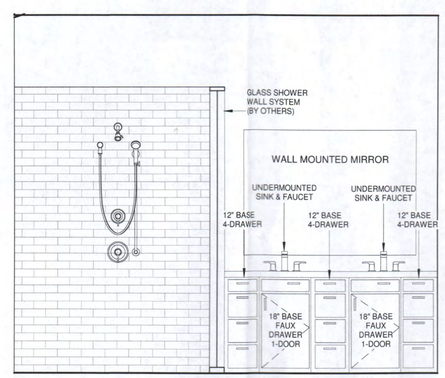
2 Elevation 1 - Kitchen
1/2" = 1'-0"



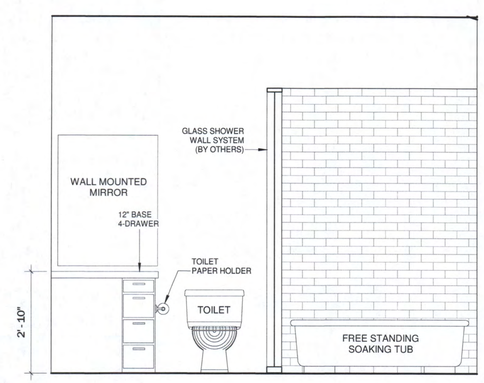
3 Elevation 2 - Kitchen
1/2" = 1'-0"



7 Elevation 3 - Kitchen Island
1/2" = 1'-0"



8 Elevation 7 - Master Bath
1/2" = 1'-0"



9 Elevation 8 - Master Bath
1/2" = 1'-0"

STAMP:

ZACHARY TODD CLANAHAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.
Exp. 4/30/2026

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629
johnnytquinn@gmail.com
--

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

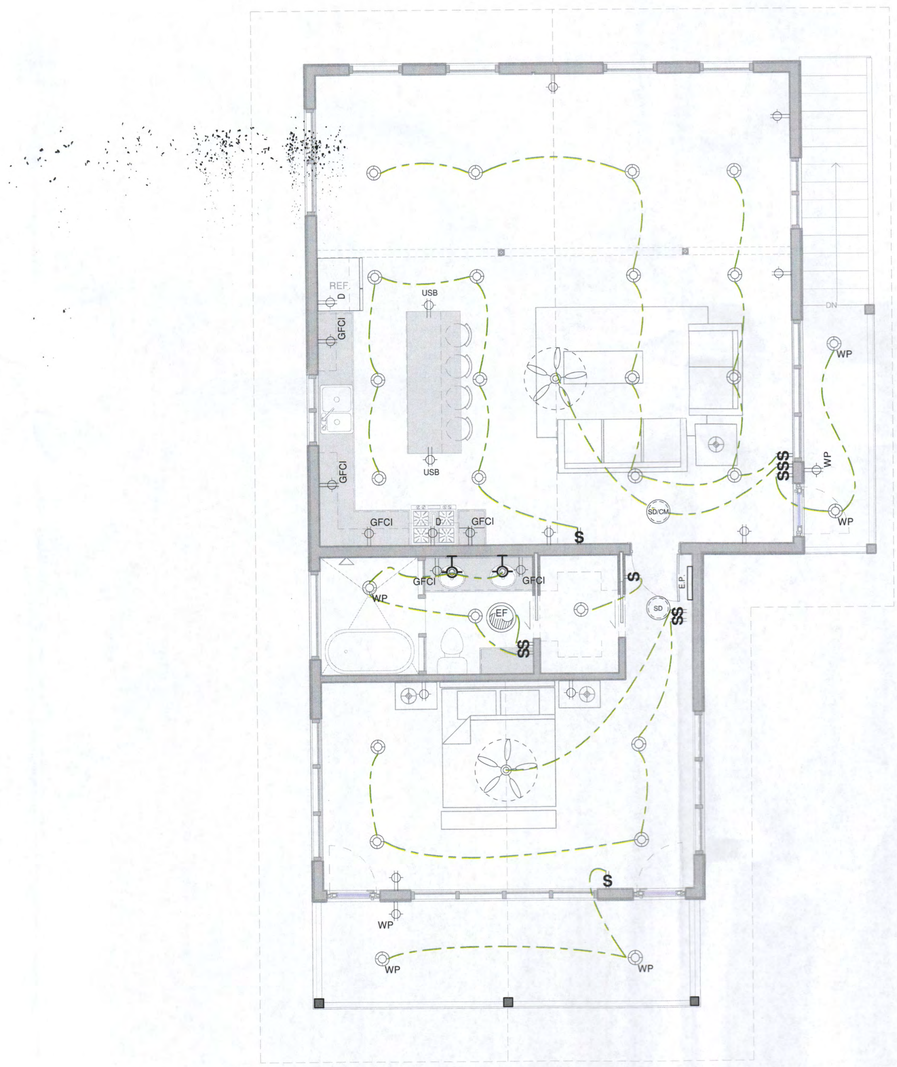
ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

SHEET TITLE

ENLARGED PLANS

A05



1 Proposed Main Floor Plan
1/4" = 1'-0"

ELECTRICAL NOTE:

1. FURNISH AND INSTALL A COMPLETE AND OPERATING SYSTEM. ALL ITEMS REQUIRED FOR A FULLY OPERATIONAL SYSTEM ARE NOT NECESSARILY SHOWN.
2. DIMENSIONS ARE TO FINISH FACE UNLESS OTHERWISE NOTED.
3. THE ELECTRICAL CONTRACTOR IS RESPONSIBLE FOR CONFIRMING ALL VOLTAGE REQUIREMENTS ON ALL EQUIPMENT AFTER CONFIRMING WITH CLIENT.
4. ELECTRICAL CONTRACTOR SHALL COORDINATE WITH PLUMBING AND HEATING, VENTILATING, AND AIR CONDITIONING (HVAC) CONTRACTORS FOR ANY ADDITIONAL EQUIPMENT NEEDING POWER.
6. COORDINATE APPLIANCES, FIXTURES, AND FINISHES WITH OWNER PRIOR TO INSTALL /ORDERING.

ELECTRICAL LEGEND

	DUPLEX ELECTRICAL OUTLET (*MOUNT AT 24" AFF*)
D	DUPLEX ELECTRICAL OUTLET (*MOUNT AT 24" AFF*)
220V	DEDICATED 220V ELECTRICAL OUTLET (*MOUNT AT 24" AFF*)
GFCI	DUPLEX ELECTRICAL OUTLET - GFCI PROTECTED (*MOUNT AT 24" AFF OR 16" ABOVE COUNTER*)
WP	DUPLEX ELECTRICAL OUTLET - WEATHER PROTECTED (*MOUNT AT 24" AFF*)
$	ELECTRICAL - LIGHT SWITCH (WHITE) (MOUNT AT 42" AFF)
	DESCRIPTION: Dectorative Ceiling Mounted Pendant Light MANUF: TBD MODEL: TBD (3000K, Soft White, Integrated LED, 90 CRI)
EF	DESCRIPTION: Dectorative Exhaust Fan / Ligjt - Roomside Series MANUF: NuTone MODEL: AERN80LWH (80 CFM, 16-Watt, 3500K, 1100 Lumen output)
	DESCRIPTION: Vanity Light - Marion 21 in, 3-Light Hurricane (Chrome Finish) MANUF: JONATHAN Y MODEL: JYL7434A (40W "A" or 13W CFL - Compatible with 9W LED)
	DESCRIPTION: Weather Protected Wall Sconce MANUF: TBD MODEL: TBD (40W "A" or 13W CFL - Compatible with 9W LED)
	DESCRIPTION: Can Light - RL560 - 6 in. (White) MANUF: HALO MODEL: RL560WH6930R (3000K, Soft White, Integrated LED, 90 CRI)
WP	DESCRIPTION: Weather Protected Can Light - RL560 - 6 in. (White) MANUF: HALO MODEL: TBD (3000K, Soft White, Integrated LED, 90 CRI)
	DESCRIPTION: Fan / Light - 42 in. LED Indoor. (White with Light Kit) MANUF: Kennesaw MODEL: UC42V-WH-SHC (A19 Bulb, LED)
	DESCRIPTION: 1x4 Flat Panel SURFACE MOUNTED LED MANUF: TBD MODEL: TBD (3000K, Soft White, Integrated LED, 90 CRI)
	DESCRIPTION: Ceiling Mounted Chandelier MANUF: TBD MODEL: TBD
SD	SMOKE DETECTOR - CEILING MOUNTED (Hard-Wired with Battery Back-Up)
SD/CM	SMOKE DETECTOR / CARBON MONOXIDE DETECTOR - CEILING MOUNTED (Hard-Wired with Battery Back-Up)

STAMP:

ZACHARY TODD CLANAHAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.
Exp. 4/30/2026

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRCUTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629

johnnytquinn@gmail.com
--

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

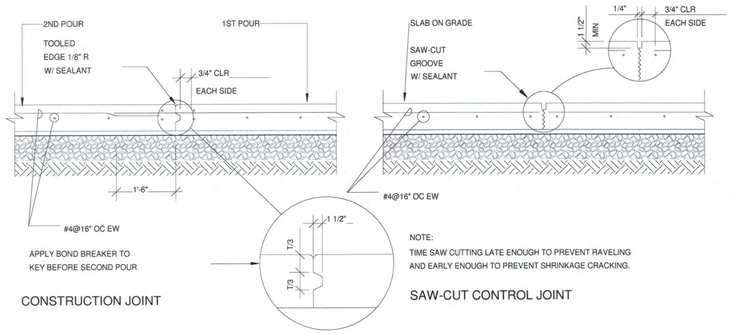
ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

SHEET TITLE

PROPOSED MAIN FLOOR ELECTRICAL PLAN

E01

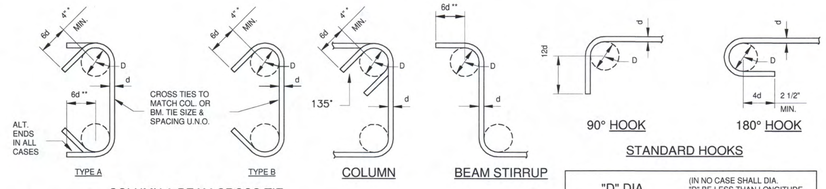


CONSTRUCTION JOINT

NOTE:
TIME SAW CUTTING LATE ENOUGH TO PREVENT RAVELING AND EARLY ENOUGH TO PREVENT SHRINKAGE CRACKING.

SAW-CUT CONTROL JOINT

6 SLAB ON GRADE JOINT DETAILS
1/4" = 1'-0"



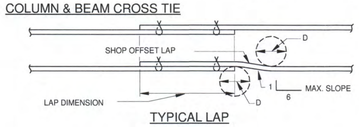
TYPE A TYPE B COLUMN BEAM STIRRUP

COLUMN & BEAM CROSS TIE

90° HOOK 180° HOOK

STANDARD HOOKS

"D" DIA.	(IN NO CASE SHALL DIA. "D" BE LESS THAN LONGITUDE. OR VERT. BAR DIA.)	
BAR SIZE	"D" FOR TIES & STIRRUPS ONLY	"D" FOR NON-TIES & NON-STIRRUPS ONLY
#3	1 1/2"	2 1/4"
#4	2"	3"
#5	2 1/2"	3 3/4"
#6	4 1/2"	4 1/2"



TYPICAL LAP

10 TYPICAL REINFORCING STEEL LAPS, BENDS, AND HOOKS DETAIL
1/4" = 1'-0"

GENERAL REQUIREMENTS FOR DECK:

1. LUMBER SHALL BE NATURALLY DURABLE WOOD OR SHALL BE SOUTHERN PINE, GRADE #2 OR BETTER THAT IS PRESSUREPRESERVATIVE-TREATEDIN ACCORDANCE WITH AWPA UL FOR THE SPECIES, PRODUCT, PRESERVATIVE AND END USE. FIELD CUT ENDS, NOTCHES AND DRILLED HOLES OF PRESERVATIVE TREATED WOOD SHALL BE TREATED IN THE FIELD IN ACCORDANCE WITH AWPA M4. PRESERVATIVE- TREATED LUMBER IN CONTACT WITH THE GROUND SHALL BE RATED AS "GROUND-CONTACT." PLEASE NOTE: NOT ALL TREATED LUMBER IS RATED FOR GROUND CONTACT.

2. WOOD-PLASTIC COMPOSITES ARE COMPOSED OF BOUND WOOD AND PLASTIC FIBERS CREATING MATERIAL THAT CAN BE USED AS DECKING AND GUARD ELEMENTS AS PERMITTED HEREIN. PERMISSIBLE WOOD-PLASTIC COMPOSITES MUST BEAR A LABEL INDICATING ITS PERFORMANCE CRITERIA AND COMPLIANCE WITH ASTM D 7032.

3. NAILS SHALL BE RING-SHANKED OR ANNULAR GROOVED.

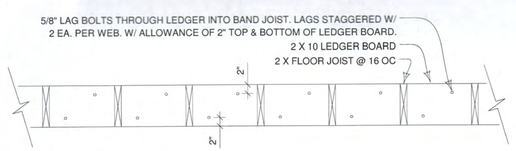
4. SCREWS AND NAILS SHALL BE HOT-DIPPED GALVANIZED, STAINLESS STEEL OR APPROVED FOR USE WITH PRESSURE TREATED LUMBER.

5. HARDWARE, E.G., JOIST HANGERS, CAST-IN-PLACE POST ANCHORS, MECHANICAL FASTENERS, SHALL BE GALVANIZED WITH 1.85 OZ/SF OF ZINC (G-185 COATING) OR SHALL BE STAINLESS STEEL. USE PRODUCTS SUCH AS "ZMAX" FROM SIMPSON STRONG-TIE OR "TRIPLE ZINC" AND "GOLD COAT" FROM USP.

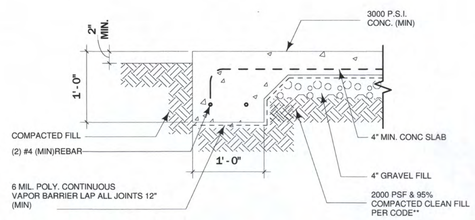
6. ELECTRICAL RECEPTACLES FOR DECKS SHALL COMPLY WITH THE CURRENTLY APPROVED EDITION OF THE NATIONAL ELECTRICAL CODE.

7. LIGHTING FOR DECKS AND EXTERIOR STAIRS SHALL COMPLY WITH IRC 303.7 STAIRWAY ILLUMINATION.

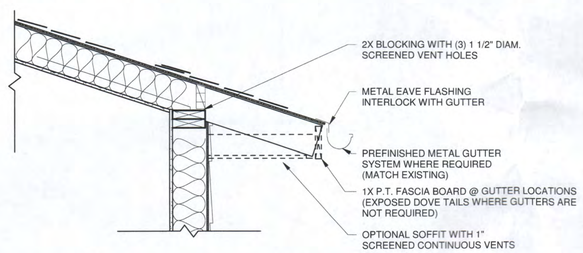
8. DECKS CONSTRUCTED IN ACCORDANCE WITH THESE DETAILS ARE NOT APPROVED FOR PRIVACY SCREENS, PLANTERS, BUILT-IN SEATING OR HOT TUB INSTALLATIONS.



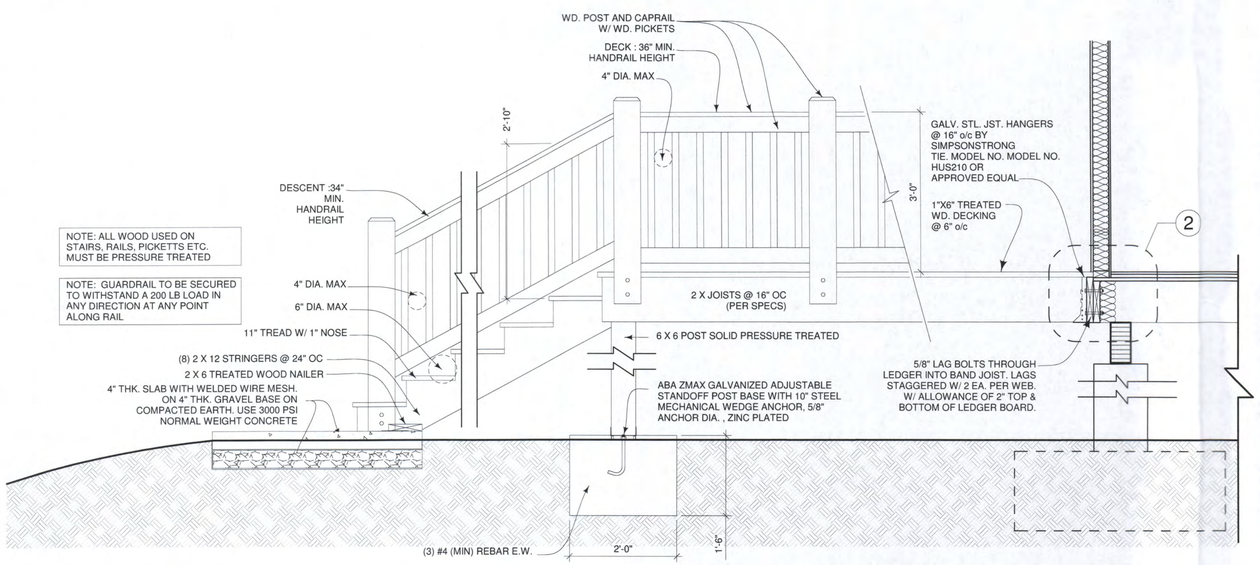
2 TYP. LEDGER DETAIL1
3/4" = 1'-0"



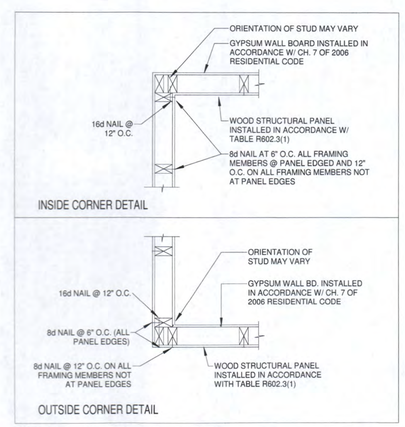
5 TYPICAL TURN DOWN DETAIL
1" = 1'-0"



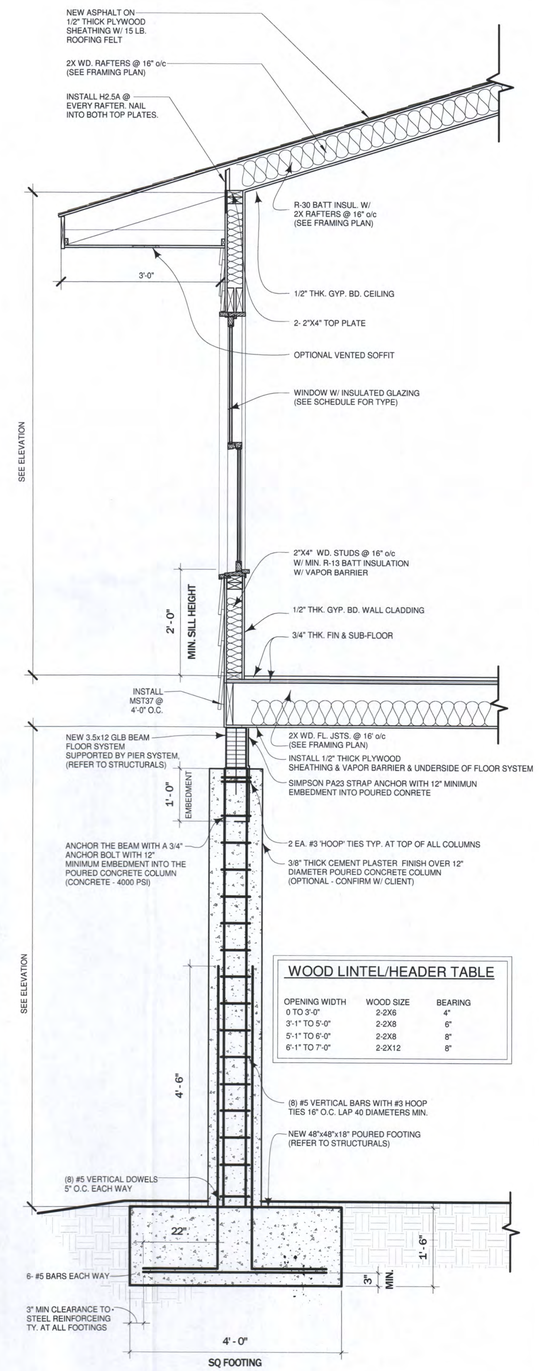
15 TYP. EAVE SOFFIT DETAIL (DOVETAIL)1
1" = 1'-0"



1 TYP. RAILING & DECK DETAIL (WD PICKET)1
3/4" = 1'-0"



4 (TYP) EXTERIOR CORNER FRAMING FOR CONTINUOUS STRUCTURAL PANEL SHEATHING
3/4" = 1'-0"



WOOD LINTEL/HEADER TABLE

OPENING WIDTH	WOOD SIZE	BEARING
0 TO 3'-0"	2-2X6	4"
3'-1" TO 5'-0"	2-2X8	6"
5'-1" TO 6'-0"	2-2X8	8"
6'-1" TO 7'-0"	2-2X12	8"

3 TYP. WALL SECTION (EAVE W/ SOFFIT)1
3/4" = 1'-0"

STAMP:

ZACHARY TODD CLANAHAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.
4/30/2026

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRCUTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW REV RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629
johnnytquinn@gmail.com

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

SHEET TITLE

PROPOSED DETAILS

Dt01

GENERAL STRUCTURAL NOTES

1. INTENT OF DRAWINGS:

A. THE GENERAL NOTES APPLY TO ALL STRUCTURAL WORK UNLESS NOTED OTHERWISE ON SPECIFIC DETAILS.
B. ITEMS IN THE PROJECT SPECIFICATIONS, BUT NOT SHOWN ON THE DRAWINGS, SHALL BE CONSIDERED AS BEING PART OF THE DRAWINGS.
C. THE CONTRACTOR SHALL COMPARE THE STRUCTURAL, MECHANICAL AND ELECTRICAL DRAWINGS WITH EACH OTHER AND REPORT IN WRITING TO THE ENGINEER ALL ERRORS INCONSISTENCIES OR OMISSIONS.
D. RESOLVE CONFLICTS AND AMBIGUITIES ON PLANS AND SPECIFICATIONS WITH THE ENGINEER BEFORE PROCEEDING WITH MATERIAL FABRICATION AND CONSTRUCTION.
E. THE STRUCTURAL DRAWINGS SHOW ONLY THE BASIC STRUCTURE. REFER TO ARCHITECTURAL AND OTHER ENGINEERING DRAWINGS FOR NON-STRUCTURAL ITEMS WHICH REQUIRE SPECIAL PROVISIONS DURING THE CONSTRUCTION OF THE STRUCTURE.
F. DETAILS NOTED AS TYPICAL ON STRUCTURAL DRAWINGS SHALL APPLY IN ALL CONDITIONS UNLESS NOTED OTHERWISE.

2. CODE:

DESIGN OF THE PROJECT IS IN ACCORDANCE WITH THE IBC AND IRC-2006.

3. SPECIAL INSPECTION:

A. THE OWNER SHALL PROVIDE SPECIAL INSPECTION AS REQUIRED BY THE IBC.
B. THE CONTRACTOR SHALL GIVE THE INSPECTOR 72 HOURS ADVANCE NOTICE PRIOR TO INSPECTION AND SHALL FACILITATE THE PROCESS.

CONTRACTOR SHALL FIELD VERIFY EXISTING CONDITIONS PERTINENT TO HIS WORK PRIOR TO MATERIAL FABRICATION AND CONSTRUCTION. FIELD CONDITIONS DIFFERENT FROM THOSE NOTED ON THE DRAWINGS SHALL BE PROMPTLY BROUGHT TO THE ENGINEER'S ATTENTION.

4. DESIGN LOADS:

A. DESIGN LOADS SHALL BE AS STATED HEREIN. WHERE LOADS ARE NOT SPECIFICALLY NOTED, REQUIREMENTS OF 2006 IBC, SHALL APPLY.
B. WIND LOADS: = 105 MPH WIND, EXPOSURE C.
C. SEISMIC FORCES: = IBC, ZONE D, CATEGORY III.
D. LIVE LOADS
ROOF LOADS = 20 PSF, WITH IBC TRIBUTARY AREA REDUCTION ALLOWANCE.
FLOOR LOADS = 40 PSF, WITH IBC TRIBUTARY AREA REDUCTION ALLOWANCE.
LANAI LOADS = 40 PSF
DEAD LOAADS = 15 PSF

5. FOUNDATION:

A. ALL FOOTINGS SHALL BEAR ON FIRM UNDISTURBED MATERIAL. THE BOTTOM OF ALL FOOTING EXCAVATIONS SHALL BE THOROUGHLY TAMPED PRIOR TO PLACEMENT OF REINFORCING STEEL. ALL FOOTINGS SHALL BE EMBEDDED AT LEAST 12 INCHES BELOW ADJACENT FINISH GRADE.
B. BEARING CAPACITY = 1500 PSF (ASSUME)

6. CONCRETE:

A. AT 28 DAYS, CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF:
1. CONC TOPPING 4,000 PSI
2. FOUNDATION AND SLABS 3,000 PSI
3. CONCRETE COLUMNS & BEAMS 4,000 PSI
3. ALL OTHERS 3,000 PSI
B. CEMENT SHALL CONFORM TO ASTM CI50, TYPE 1 OR II.
C. AGGREGATES SHALL CONFORM TO ASTM C33.
D. ANCHOR BOLTS AND MACHINE BOLTS SHALL CONFORM TO ASTM A307.
E. REINFORCING STEEL SHALL BE DEFORMED BARS CONFORMING TO ASTM A615, GRADE 60.
F. WELDING SHALL CONFORM TO AMERICAN WELDING SOCIETY LATEST EDITION.
G. UNLESS OTHERWISE SHOWN ON THE DRAWING:
1. CONCRETE COVER FOR REINFORCING STEEL SHALL BE:
a. 3" FOR SURFACES CAST AGAINST EARTH.
b. 2" FOR FORMED SURFACES EXPOSED TO EARTH OR WEATHER.
c. 1" FOR SLAB SURFACE NOT EXPOSED TO EARTH, OR WEATHER
d. 1-1/2" FOR ALL OTHER SURFACES.
2. CHAMFER ALL EXPOSED CONCRETE EDGES 3/4".
H. HORIZONTAL CONSTRUCTION JOINTS SHALL BE ROUGHENED TO 1/4" AMPLITUDE. REMOVE LAITANCE AND BLOW THE SURFACE CLEAN BEFORE PLACEMENT OF ADJACENT CONCRETE, UNLESS NOTED OTHERWISE.
I. REINFORCING SHALL BE SPLICED ONLY WHERE INDICATED ON DRAWINGS. SPLICES SHALL CONFORM TO ACI 318-89.

7. REINFORCING STEEL:

A. REINFORCING STEEL SHALL BE DETAILED, FABRICATED AND PLACED IN CONFORMANCE WITH THE ACI DETAILING MANUAL.
B. REINFORCING STEEL SHALL BE DEFORMED BARS CONFORMING TO ASTM A615, GRADE 60 EXCEPT TIES AND STIRRUPS WHICH SHALL BE GRADE 40.
C. WELDED WIRE FABRIC SHALL CONFORM TO ASTM A 185, GALVANIZED.

8. LUMBER:

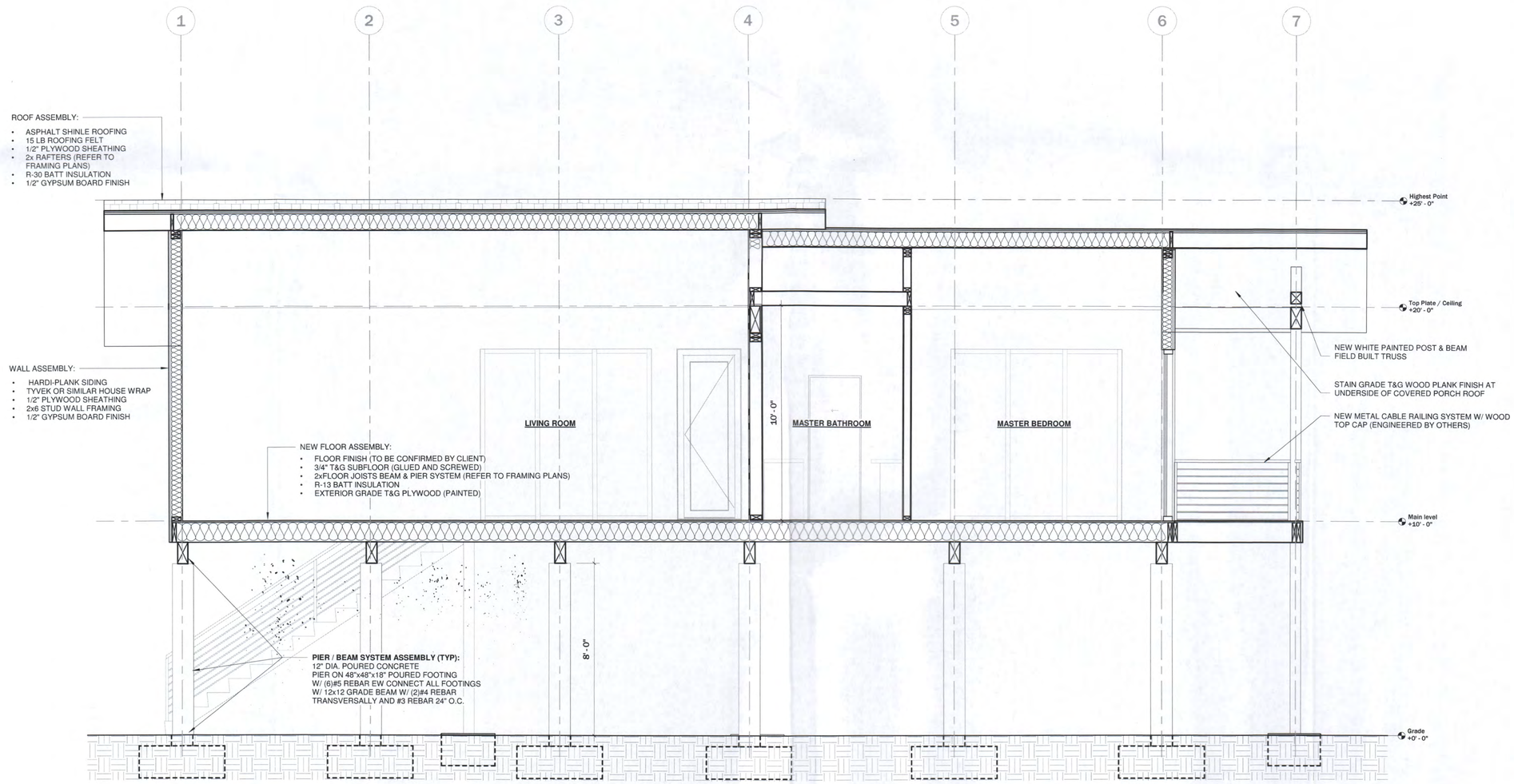
A. ALL LUMBER SHALL BE TERMITE AND ROT TREATED DOUGLAS FIR CONFIRMING WITH STANDARD GRADING AND DRESSING RULES OF THE WEST COAST BUREAU.
B. UNLESS OTHERWISE INDICATED. THE MINIMUM GRADE OF THE FOLLOWING STRUCTURAL MEMBERS SHALL BE AS FOLLOWS:
1. STRUCTURAL LIGHT FRAMING (SURFACE FOUR SIDE):
2x AND 6x GRADE NO.2 OR BETTER
2. 4X GRADE NO.1 OR BETTER
C. ALL PLYWOOD SHALL BE IDENTIFIED WITH THE APPROPRIATE TRADEMARK OF THE AMERICAN PLYWOOD ASSOCIATION, AND SHALL MEET THE REQUIREMENTS OF THE LATEST EDITION OF U.S. PRODUCT STANDARD PS 1 OR ONE OF APA'S PERFORMANCE STANDARDS.
1. 1/2",5/8" OR 1 1/2" PLYWOOD SHALL BE CDX APA STRUCTURAL 1 RATED SHEATHING EXPOSURE1, (P|I=32/16 FOR 1/2"&5/8" AND P|I 48/24 FOR 1 1/2"),
2. PLYWOOD EDGES SHALL HAVE CLIPS OR SHALL BE SUPPORTED WITH BLOCKING.
3. MINIMUM PLYWOOD NAILING TO BE 4 INCHES O.C. AT ALL SUPPORTED EDGES AND BOUNDARIES, AND 12 INCHES O.C. AT INTERMEDIATE SUPPORTS. NAILS TO BE 8d COMMON FOR ALL PLYWOOD SHEATHING, U.O.N.
D. FRAMING HARDWARE SHALL BE SIMPSON "STRONG TIE", GALVANIZED OR APPROVED EQUIVALENT. HARDWARE SHALL BE INSTALLED WITH NAILS OR BOLTS AS INDICATED IN THE MANUFACTURER'S CATALOG, WHERE NAIL AND BOLT HOLES HAVE BEEN PROVIDED. USE NAILS UNLESS INDICATED OTHERWISE.
E. A 30# LAYER ROOFING FELT SHALL BE PLACED BETWEEN ALL WOOD MEMBERS (PLATES, POST BASES, ETC.) AND CONCRETE OR MASONRY SURFACES.

9. STRUCTURAL GLUED LAMINATED TIMBER:

A. GLUED LAMINATED TIMBER SHALL BE TERMITE AND ROT TREATED DOUGLAS FIR.
B. MINIMUM ALLOWABLE BENDING STRESS=2,400 PSI.
C. LAMINATING COMBINATION SHALL BE 24F-V4.
D. ADHESIVE SHALL BE FOR WET CONDITION OF USE.
E. ALL EXPOSED MEMBERS AND PARTIALLY EXPOSED MEMBERS SHALL BE ARCHITECTURAL APPEARANCE GRADE. ALL CONCEALED MEMBERS SHALL BE INDUSTRIAL APPEARANCE GRADE.

10. COORDINATION

ALL PIPING, CONDUIT, FLOOR DRAIN AND FOOTING PENETRATIONS SHALL BE VERIFIED WITH CIVIL, MECHANICAL AND ELECTRICAL DRAWINGS BEFORE COMMENCING CONSTRUCTION.



1 Section 1
3/8" = 1'-0"

STAMP:

ZACHARY TODD CLANAHAN
LICENSED PROFESSIONAL ARCHITECT No. 15063
HAWAII U.S.A.
Exp. 4/30/2026
THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRCUTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

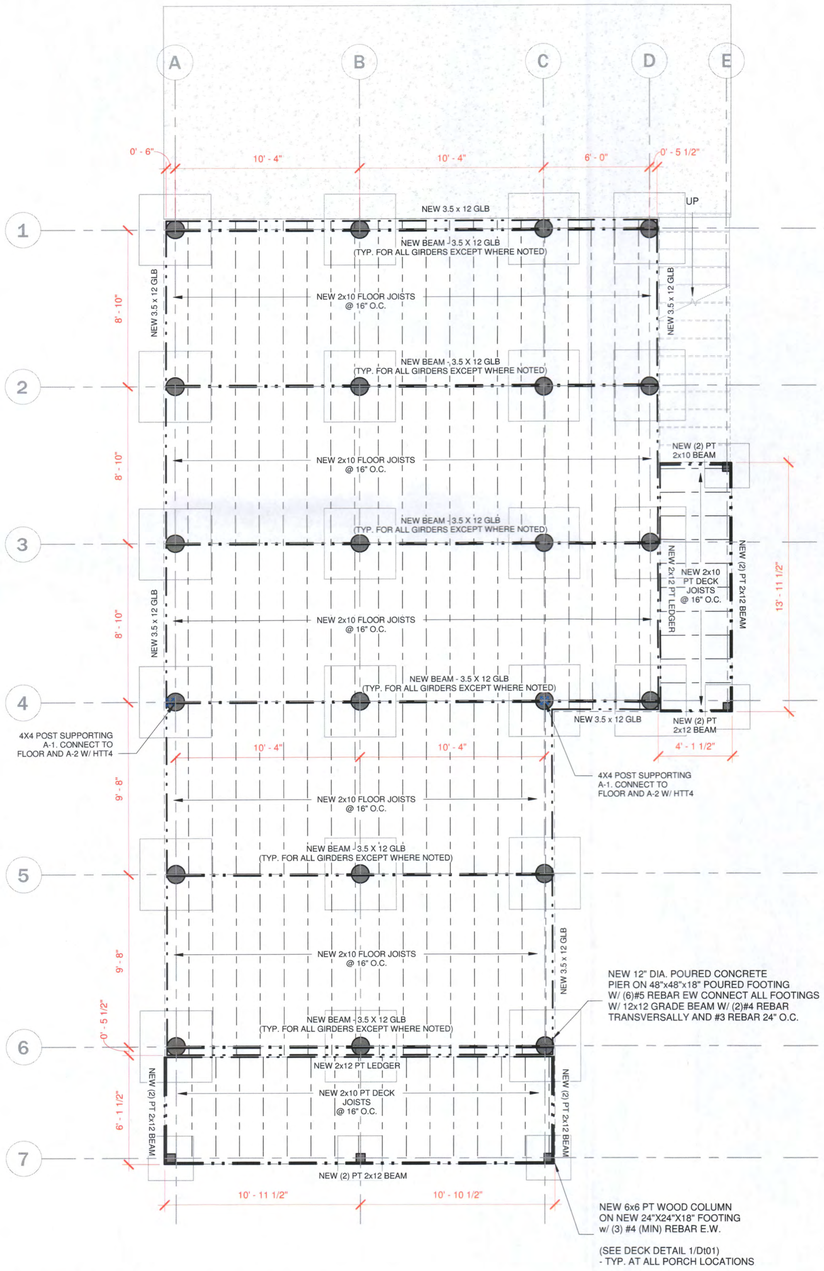
CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629
johnnytquinn@gmail.com

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

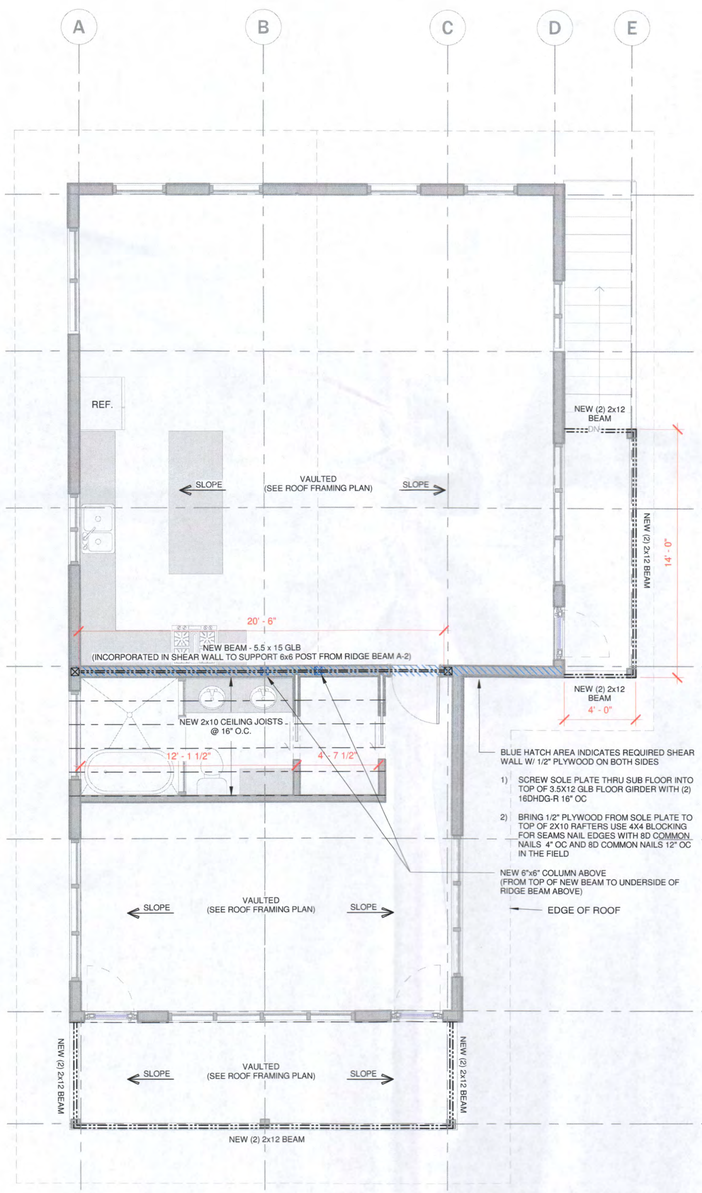
DOCUMENT PHASE
ISSUED FOR CONSTRUCTION
ISSUE DATE: 05.20.2025

SHEET TITLE
PROPOSED SECTIONS

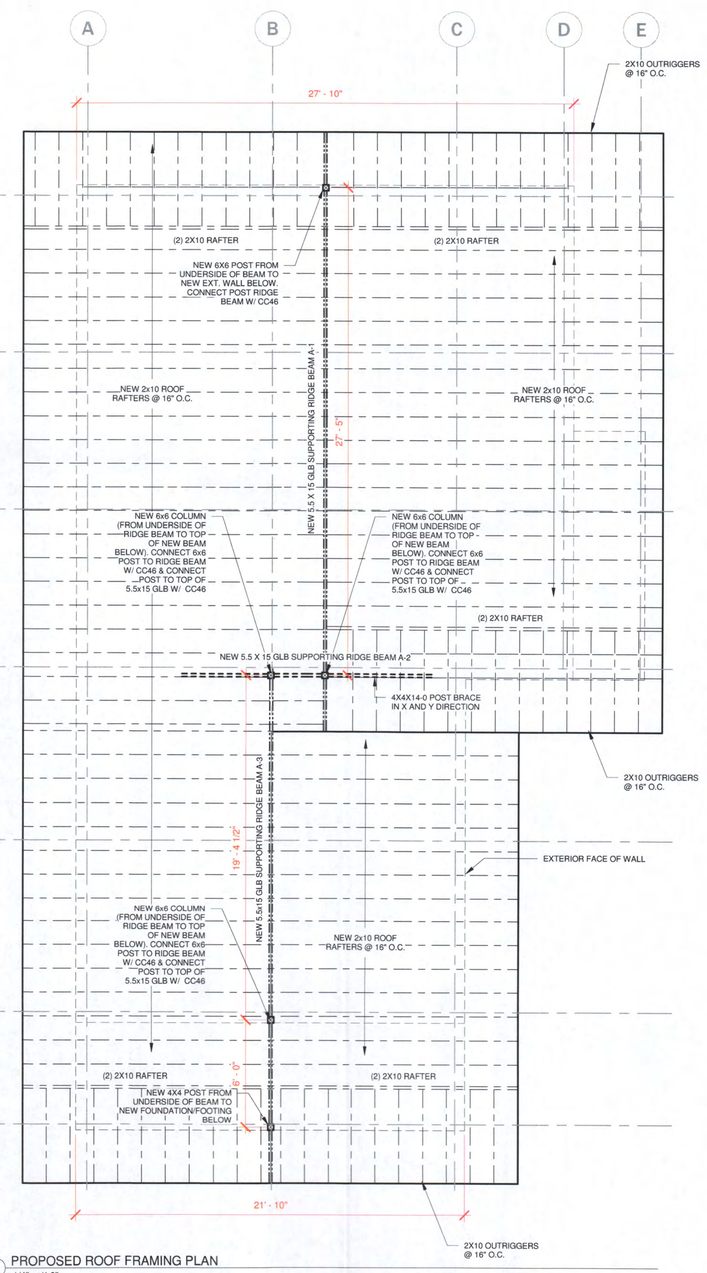
Sec01



1 PROPOSED MAIN LEVEL - FLOOR FRAMING PLAN
1/4" = 1'-0"



2 PROPOSED MAIN LEVEL - CEILING FRAMING PLAN
1/4" = 1'-0"



3 PROPOSED ROOF FRAMING PLAN
1/4" = 1'-0"

STAMP:

ZACHARY TODD GLANAGAN
LICENSED PROFESSIONAL ARCHITECT
No. 15063
HAWAII U.S.A.
Exp. 4/30/2026

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRCUTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION

DRAWINGS BY:

BONSAI
EST. 2012
ARCHITECTURAL DESIGNS

808.855.0452
BONSAIARCHITECTURALDESIGNS.COM

NEW RESIDENCE

QUINN'S RESIDENCE
LOT 123-A WAINIHA HUI
TMK: (4) 5-8-011-024

CLIENT:
QUINN FAMILY TRUST
33942 CHULA VISTA AVE
DANA POINT CA 92629
johnnytquinn@gmail.com
--

DRAWN BY:
Bonsai Architectural Designs
808.855.0452
Info@Bonsaiarchitecturaldesigns.com

DOCUMENT PHASE

ISSUED FOR CONSTRUCTION

ISSUE DATE: 05.20.2025

SHEET TITLE

PROPOSED FRAMING PLANS

S01

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of a Special Management Area Use Permit for the construction of a two-story, one-bedroom single-family dwelling.

Permit Application Nos. Special Management Area Use Permit SMA(U)-2026-4

Name of Applicant(s) TIMOTHY J. QUINN
RYAN FACER, AUTHORIZED AGENT

II. PERMIT INFORMATION

PERMITS REQUIRED	
☐ **Use Permit**	
☐ **Project Development Use Permit**	
☐ **Variance Permit**	
☐ **Special Permit**	
☐ **Zoning Permit Class** ☐ IV ☐ III	
☐ **Special Management Area Permit** ☒ Use ☐ Minor	Pursuant to Section 205A of the Hawai'i Revised Statues (HRS) and the Special Management Area (SMA) Rules and Regulations of the County of Kaua'i, a SMA Use Permit is required as defined in Section 7.3(C) of the SMA Rules and Regulations where the Director finds that the proposal (1) is "Development" as defined in Section 1.4F.
AMENDMENTS	
☐ **Zoning Amendment**	
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

Date of Receipt of Completed Application: December 16, 2025

Date of Director's Report: January 29, 2026

Date of Public Hearing: February 10, 2026

Deadline Date for PC Public Hearing (60TH Day): February 14, 2026

III. PROJECT DATA

PROJECT INFORAMTION			
Parcel Location:	The subject parcel situated on the mauka side of Kūhiō Highway in Wainiha, approximately 350 feet west of the Alamihi Road/ Kūhiō Highway intersection.		
Tax Map Key(s):	(4) 5-8-011:024	**Area:**	0.1364 acres (5,940 s.f.)

ZONING & DEVELOPMENT STANDARDS	
Zoning:	Open
State Land Use District:	Urban
General Plan Designation:	Residential Community
Height Limit:	25 feet or Base Flood Elevation (B.F.E.) plus fifteen, whichever is greater at the site
Max. Land Coverage:	10 % or 3,000 s.f. maximum
Parking Requirement:	Two (2) per dwelling
Front Setback:	Ten (10) feet
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	North Shore Development Plan
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	N/A

IV. LEGAL REQUIREMENTS

Section 9.0, and 10.0 of the Special Management Area Rules and Regulations:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 9.0, and 10.0 of the Special Management Rules, relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on December 16, 2025, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.

Public Hearing Date:	February 10, 2026

V. PROJECT DESCRIPTION AND USE

The subject property is owned by the Quinn Family Trust and is identified as Tax Map Key (4) 5-8-011:015. The parcel consists of 0.1364 acres (5,940 square feet) and is located in Wainiha, Kaua'i, Hawai'i. The property is zoned County Open (O) and is within the State Land Use District (SLUD) Urban designation. The proposed development includes the construction of a two-story, one-bedroom single-family dwelling with associated site improvements, including a gravel driveway, an Individual Wastewater System (IWS), and landscaping. The home will feature gable style rooflines with asphalt roof shingles, and the exterior finish will be horizontal James Hardie plank lap siding.

VI. APPLICANT'S REASONS/JUSTIFICATION

See application.

VII. ADDITIONAL FINDINGS

1. The topography of the parcel is relatively flat and all drainage resulting from construction activities of the development will be retained on site. Access to the site is directly off Kūhiō Highway.

2. The project site is located within the State Urban Land Use District (SLUD), which supports urban-type activities and development. According to the Kaua'i County General Plan, the subject property is designated as "Residential Community," identifying it as an area intended primarily for residential use with limited alternative activities and located outside the Visitor Destination Area (VDA).

3. The project site is situated within the County of Kaua'i Special Management Area (SMA). While the property does not directly abut the shoreline, the Applicant is proposing construction of a single-family residence on a parcel subject to coastal storm surge hazards, as evidenced by its FEMA Flood Zone VE designation as noted previously. These conditions trigger review and approval under an SMA Use Permit.

4. <u>North Shore Development Plan</u>
   The property is situated within the North Shore Planning Area and will be subject to the objectives and goals of the North Shore Development Plan (NSDP), that includes the following 5 goals:

   a. To preserve the unique natural beauty of the North Shore Planning area.

   b. To preserve the special rural charm of the North Shore Planning area.

   c. To provide for the safety and welfare of the people, of their property of the North Shore Planning Area.

d. To provide for economic development of the North Shore Planning Area.

e. To preserve the wildlife and flora and the North Shore, recognizing man's dependence upon this preservation for his own health and welfare.

f. To insure the preservation of historic-archaeological sites in the North Shore Planning area.

g. To create a development for evolutionary growth that depends upon a planning process whereby conflicts can be resolved through the establishment of priorities and community participation.

h. To provide for recreational opportunities that are compatible with the unique qualities and natural features of the North.

5. **Special Management Area (SMA)**
In addressing the issues of the Special Management Area and its objectives and policies, the following aspects will be considered and evaluated:

a. Recreational Resources

b. Cultural/ Historic Resources

c. Scenic Resources

d. Coastal Hazards

e. Coastal Ecosystems

6. **Comprehensive Zoning Ordinance (CZO) Development Standards**
The proposed development is subject to the standards prescribed in Sections 8-4.3, 8-4.5, and 8-9.2 of the Comprehensive Zoning Ordinance (CZO), KCC 1987 as amended:

a. Setback Requirements: Front property line setbacks are ten (10) feet with a side, and rear property line setback of five (5) feet OR half the distance of the plate height whichever is greater. The minimum distance between structures shall be 10 feet.

b. Land/ Lot Coverage: The amount of land coverage created for Open Zoning Districts including buildings and pavement, shall not 10% or 3,000 s.f. maximum land/ lot coverage.

c. Height Requirements: Height of the dwelling shall be 25 feet maximum of Base Flood elevation (BFE) plus 15 feet.

d. Parking Requirements: A minimum of two off-street parking spaces per dwelling unit shall be provided.

VIII. AGENCY COMMENTS

Attached through separate transmittal.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's proposal for the construction of a single-family residence, the following should be considered:

1. **General Plan**
   The proposed development was evaluated through the following policies of the General Plan, pursuant to Sections 1.4 and 3.0:

   a. Section 1.4, entitled "POLICIES TO GUIDE GROWTH"

      i. Policy #1: "Manage Growth to Preserve Rural Character"- The project is located in the Wainiha/Hanalei area and proposes infill development on a vacant lot within an existing residential neighborhood. The project concentrates development within an appropriate growth area and avoids expansion into agricultural lands or non-adjacent rural areas.

      ii. Policy #3: "Recognize the Identity of Kaua'i's Individual Towns and Districts"- The Hanalei–Wainiha area is identified in the Kaua'i General Plan as part of the North Shore region, which is characterized by rural land use patterns and low-density residential development. The proposed single-family dwelling is modest in size and scale, consistent with surrounding residences, and fits within the established neighborhood character.

      iii. Policy #4: "Design Healthy and Complete Neighborhoods"- The proposed development is consistent with the residential neighborhood that is already served by established roads, utilities, and public services. As infill development, the project maintains neighborhood continuity and existing residential patterns and does not result in isolated or fragmented development. The scale and use of the project are compatible with surrounding development and are not expected to result in an increased demand on public facilities or services.

      iv. Policy #5 "Make Strategic Infrastructure Investments"- The project utilizes existing infrastructure and does not require the extension of new public facilities into rural areas. The site is already served by established roadway access, utilities, and emergency services, and no new public infrastructure improvements are necessary to accommodate the proposed development.

v. Policy #7 "Build a Balanced Multimodal Transportation System"- The proposed development avoids traffic impacts typically associated with low-density rural development. As a single-family residence within an established neighborhood, the project is not expected to generate significant additional traffic or require roadway improvements. The location of the project within an existing community supports existing land use patterns and avoids transportation impacts associated with outlying development.

vi. Policy #8: "Protect Kaua'i's Scenic Beauty"- The project is limited to a previously disturbed, vacant residential lot within an existing neighborhood and does not encroach into open space, scenic corridors, or agricultural lands. The proposed dwelling is modest in scale and compatible with surrounding homes, and has minimal negative impacts to scenic resources, open space, or public views.

vii. Policy #14: "Prepare for Climate Change"- The proposed development incorporates site design and construction measures that address climate-related hazards. The project includes elevated construction and consideration of flood zone requirements and sea level rise conditions, which reduce potential risk to life and property and are consistent with the General Plan's direction to address climate impacts through land use and development decisions.

b. Section 3.0, Actions by Sector, Subsection Sector II, entitled "Housing" (Infill Housing) identifies actions, including permitting and code changes, that support residential infill within existing Residential Community designations.

i. The proposed single-family residence is located within a designated residential community, is served by existing infrastructure, and does not require expansion into agricultural or open space lands.

2. **<u>Native Hawaiian Traditional Cultural Rights</u>**

The applicant asserts that no known historic, cultural, or sensitive resources are present on or near the project site. The applicant's Ka Pa'akai discussion acknowledges traditional practices known to occur in other areas of Hanalei, including *kau lā'au*, but states that such practices are not exercised in the vicinity of the project site due to its location and physical setting. The applicant also references the site's inclusion within the broader Kaua'i Belt Road – North Shore Section, noting that no specific historic resources, surveys, or preservation criteria are identified for the project site. Based on this understanding, the applicant concludes that no traditional or customary practices or cultural resources would be affected.

The Ka Pa'akai analysis relies primarily on database review and generalized discussion of practices occurring elsewhere in the district. The databases used to make the determination is based on a review of online databases including a ""Kipuka" site managed by the Office of Hawaiian Affairs (OHA)" and "State of Hawaii Historic Preservation Division (SHPD) Hawai'i Cultural Resource Information System (HICRIS)." The Planning Department confirmed that OHA does not recommend the use of the "Kipuka" site to identify traditional and customary

rights that could be impacted by developments and the site has not been updated. In addition, HICRIS is not a site that functions as a database clearinghouse to verify historic and cultural resources impacted by the development. In addition, no community outreach or consultation with cultural practitioners or community members was attempted as part of the analysis. As submitted, the information provided is limited in its ability to demonstrate whether traditional or customary practices are exercised in the project area or whether such practices could be affected by the proposed development.

4. **SMA Rules and Regulations**

The County of Kaua'i (CoK) Special Management Area (SMA) Rules and Regulations include objectives, policies, and guidelines intended to protect coastal resources. Within the SMA, special consideration is given to recreational opportunities, cultural and historic resources, scenic quality and open space, coastal ecosystems, and coastal hazards. In evaluating the proposed development in relation to the goals and objectives of the SMA Rules and Regulations, the following aspects are considered:

a. Public Access and Coastal Recreation – The project site is located approximately 400 plus feet from the vegetation line fronting Hanalei Colony Resort. The proposed development does not affect existing public access to coastal recreational resources, including access to nearby public beaches such as Kephuhi Beach and Wainiha Bay Park, and does not interfere with established shoreline access routes.

b. Cultural/ Historic Resources – The applicant states that no known historic, cultural, or sensitive resources are present on or near the project site based on a review of publicly available online databases maintained by the Office of Hawaiian Affairs (OHA), including the Kīpuka database, and the State Historic Preservation Division (SHPD) Hawai'i Cultural Resource Information System (HICRIS). The application notes that the project site is located within the broader Kaua'i Belt Road – North Shore Section; however, no specific historic resources, preservation criteria, surveys, or comments are identified for the site itself.

   The cultural review provided in the application is limited to the database research described above. However, the Planning Department confirmed that OHA does not recommend the use of the "Kipuka" site to identify historic, cultural, or sensitive resources that could be impacted by developments and the site has not been updated. In addition, HICRIS is not a site that functions as a database clearinghouse to verify historic and cultural resources impacted by the development. The record does not indicate that additional pre-archaeological assessment methods were conducted, including historic map or aerial photograph review, land use history analysis, pedestrian surface reconnaissance, geomorphological assessment, cultural landscape analysis, predictive modeling, or outreach or consultation with cultural practitioners or community members.

   SHPD review is necessary to determine whether known historic properties, cultural resources, or archaeological concerns may be present or affected by the proposed development, and the appropriate minimization and mitigation conditions and

requirements. The recommendations of SHPD should be incorporated as conditions of approval prior to obtaining Building Permit.

c. Scenic and Open Space Resources – The project site is surrounded by existing single-family residences, with the Hanalei Colony Resort located to the north of the site. The proposed dwelling is modest in size and consistent with the surrounding residential development pattern and does not introduce an intensity or scale that would adversely affect the neighborhood. The project does not adversely impact scenic or open space resources and is not associated with any public park, trail, or public right-of-way. As proposed, the development represents infill construction on a small vacant lot within an established residential area.

d. Coastal Hazards – The project site is located within FEMA Flood Zone VE, a designated Coastal High Hazard Area subject to inundation by the one percent-annual-chance flood event and associated storm-induced wave action. The subject parcel is also located within a tsunami evacuation zone, indicating potential exposure to seismically generated wave hazards. Development within a VE zone is subject to National Flood Insurance Program (NFIP) requirements and will be reviewed for compliance with applicable floodplain management standards, including minimum elevation and structural design criteria specific to coastal high hazard areas.

   A portion of the parcel is located within the County of Kaua'i's Sea Level Rise Constraint District (SLRCD); however, the proposed dwelling is sited outside of the SLRCD area. The project has been designed to account for applicable coastal hazard conditions, and compliance with floodplain, sea level rise, and hazard-related requirements.

   Best management practices will be implemented to control runoff, dust, and debris, thereby reducing the potential for indirect impacts to downstream coastal waters.

e. Coastal Ecosystem – The proposed single-family residence is not a does not involve shoreline abutting property and does not encroach into coastal dunes, wetlands, marine waters, or other sensitive coastal ecosystems.

   Vegetation on the site consists of plant species typical of a residential lot in this area. No native, rare, or endangered plant species have been identified within the project area. The applicant proposes residential-scale landscaping and notes an intent to incorporate native and non-invasive plant species where feasible. Construction activities are limited to the project site and are not expected to impact vegetation beyond the immediate area of development.

   The site is located within a developed residential setting and supports wildlife commonly associated with such areas. The applicant acknowledges that protected species, including seabirds and the Hawaiian hoary bat, are present in the broader North Shore area. To minimize potential impacts, the applicant proposes standard mitigation measures, including no nighttime construction, shielding exterior lighting to reduce light attraction, and avoiding vegetation disturbance during sensitive periods. These

measures are consistent with best management practices typically applied to residential development in the area.

5. **CZO Development Standards**
   As proposed, the project complies with the building height, setback, off-street parking, and land coverage requirements for development within the Open zoning district, as specified in Sections 8-4.3, 8-4.5 and 8-9.2 of the Kaua'i County Code CZO.

X. PRELIMINARY CONCLUSION

Based on the information contained in the application, the record is limited in its ability to demonstrate whether traditional or customary practices are exercised in the project area or whether such practices, as well as potential cultural or archaeological resources, could be affected by the proposed development. While SHPD requirements will be incorporated including the requirements for inadvertent discovery procedures and SHPD notification requirements during construction, additional information is necessary to adequately address Ka Pa'akai o Ka 'Āina considerations and cultural and archaeological resource review prior to final action.

Accordingly, the Department recommends that the application be **deferred** to allow the applicant an opportunity to provide additional information related to Ka Pa'akai o Ka 'Āina and cultural and archaeological resources. Any future approval may be subject to conditions requiring appropriate cultural consultation, pre-archaeological assessment, or other measures deemed necessary to ensure compliance with applicable laws and policies.

XI. PRELMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusions, it is hereby recommended that action on the proposed development involving the construction of a two-story, one-bedroom single-family dwelling through Special Management Area Use Permit SMA(U)-2026-4 be **deferred**, as the current record is insufficient to make the findings required under HRS Chapter 205A.

Deferral is recommended to allow the applicant an opportunity to provide additional information related to Ka Pa'akai o Ka 'Āina and cultural and archaeological resources. Upon receipt and review of the requested information, the application may be returned for further consideration. Any future approval would be subject to conditions necessary to ensure compliance with HRS Chapter 205A and the policies and guidelines of the Special Management Area.

By _____
ROMIO IDICA
Planner

Approved & Recommended to Commission:

By _____
for KA'ĀINA S. HULL
Director of Planning

Date: 1-29-26

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF SUPPLEMENTAL INFORMATION TO PLANNING COMMISSION

Date: January 29, 2026

PERMIT NUMBER: Special Management Area Use Permit SMA(U)-2026-4

APPLICANT: TIMOTHY J. QUINN

1. Attached for the Planning Commission's reference is supplemental information to project's application.

G.2.b.2.
FEB 10, 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

January 23, 2026

County of Kauai

Shoreline Department

4444 Rice St.

Lihue, HI 96766

REGARDING:

Supplemental Response to Department of Planning Questions on the Preliminary Application for Timothy J. Quinn Proposed Single-Family Residence, concerning potential historic and culturally sensitive conditions and/or Ka Pa'akai o Ka 'Aina practices.

Tax Map Key: (4) 5-8-011:024

Kakaha, Kaua'i

Dear Romio Idica,

We are providing the enclosed responses as a supplemental to questions posed. Please review and let me know if anything further is required.

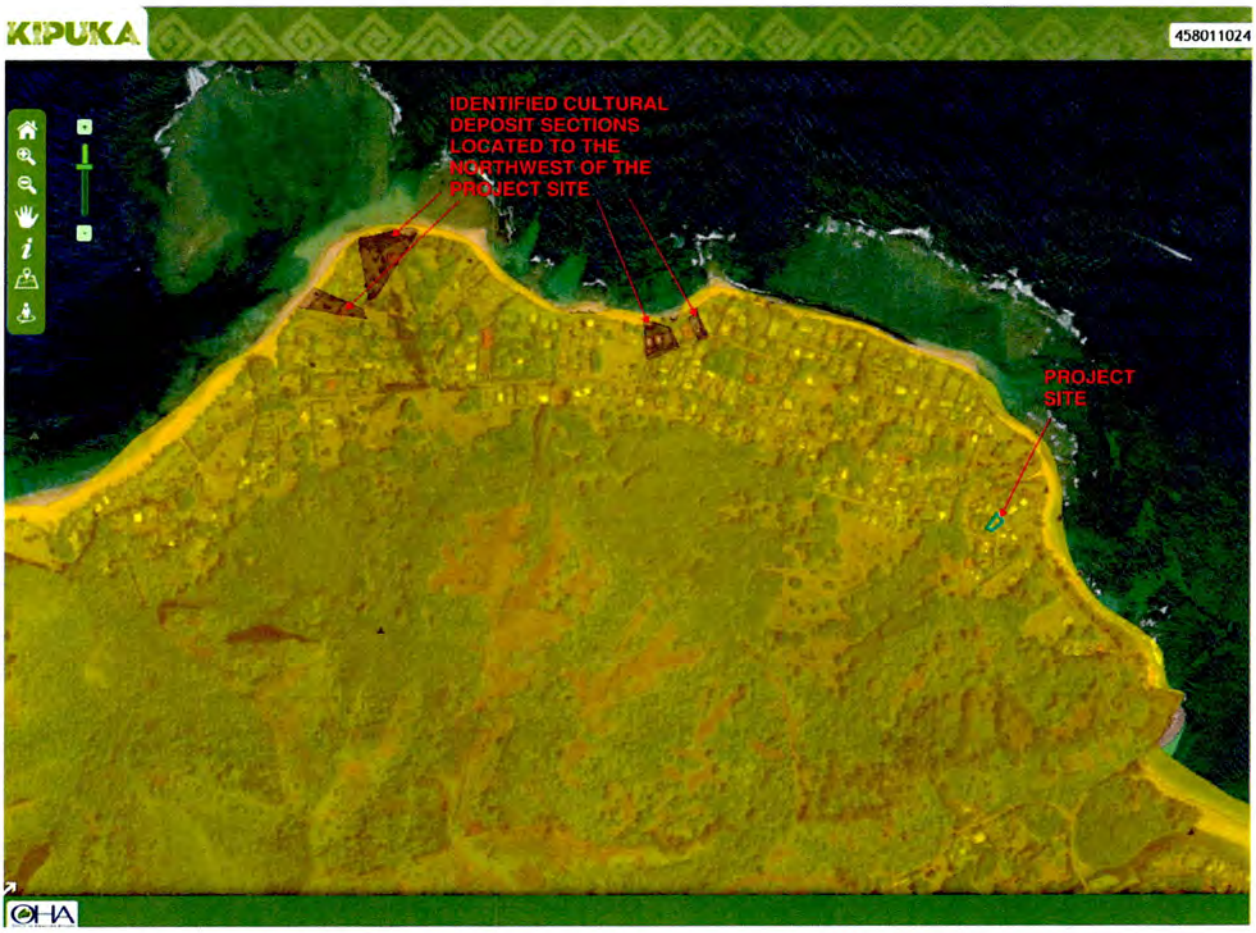
Mahalo,

Ryan Facer

Response for Department of Planning additional questions:

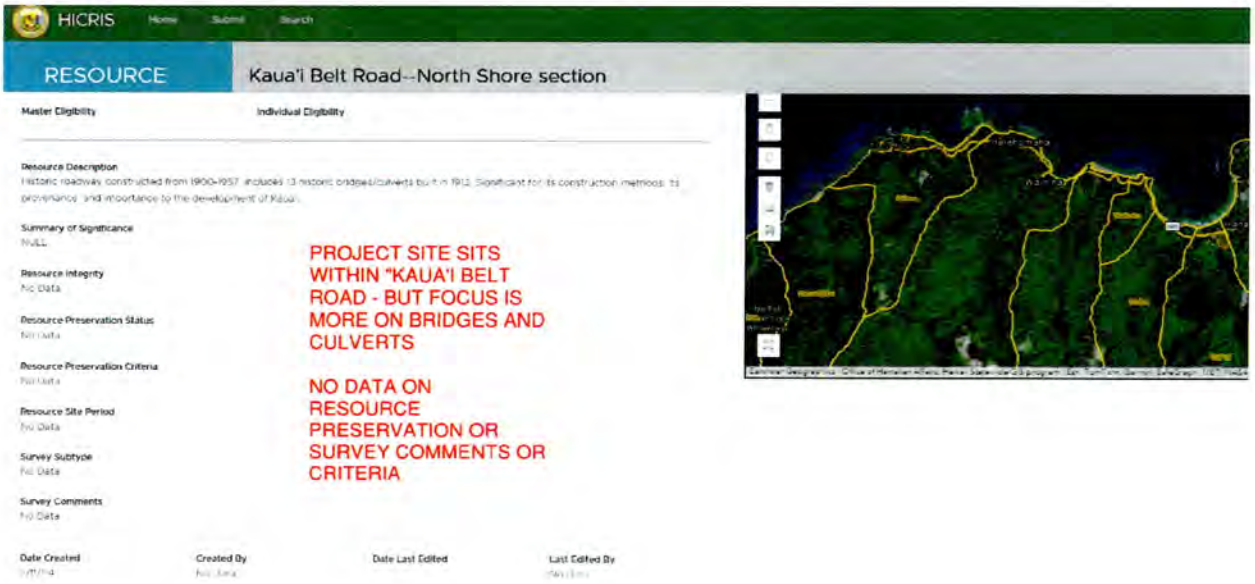
1. ***Department of Planning Question:*** Application states, "No known historic or culturally significant or sensitive conditions on the site." Please explain how this conclusion was reached, including what research, consultation, or investigation was undertaken to support this statement.

Applicant Response: Databases online were researched including the "Kipuka" site managed by the Office of Hawaiian Affairs (OHA) that confirmed no known cultural sites immediately adjacent to the Project Site. There are a few sites identified to the northwest of the Project Site (see snapshot below) but are relatively far from the Project Site.



Additionally, the State of Hawaii Historic Preservation Division (SHPD) Hawai'i Cultural Resource Information System (HICRIS) was checked to see if there were any noteworthy surveys or information provided. It was identified that the Project Site lies within the "Kaua'i Belt Road – North Shore Section", but there is no resource integrity, resource preservation criteria, nor any survey information or comments. The historic road focuses

more on bridges and culverts from the early, to mid 1900s, but the project site has neither of these conditions in its vicinity (see snapshot below)



2. ***Department of Planning Question:*** Please clarify whether any outreach, consultation, or engagement was conducted to identify Native Hawaiian cultural practices, including traditional and customary practices protected under Ka Pa 'akai o Ka 'Aina, that may occur or have occurred on or near the subject property.

Applicant Response: Ka Pa'akai analysis focuses on understanding and protecting cultural historical practices and natural resources in and around the project site relative to traditional customary native Hawaiian rights. As noted above, the OHA and SHPD databases were reviewed to see if there might be any known historic or culturally relevant condition or information. Nothing has been identified. The project site sits wedged within an existing residential neighborhood. It is understood that in areas around Hanalei, where there are higher pali conditions adjacent to the ocean, that can incorporate native Hawaiian practices of Kau la'au where individuals positioned on top of the pali edge, signal to fishermen in canoes below on where schools of fish are moving. This practice is not used in this section of shoreline where the project site resides. There are no other known practices, resources or culturally significant or sensitive conditions that would be influenced or impacted by the proposed project. As such, no specific individuals or groups were engaged to discuss further. But we are happy to do so, if there is compelling evidence or information that would merit this action.

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF AGENCY COMMENTS TO PLANNING COMMISSION

Date: January 29, 2026

PERMIT NUMBER: Special Management Area Use Permit SMA(U)-2026-4

APPLICANT: TIMOTHY J. QUINN

1. Attached for the Planning Commission's reference are agency comments.

G.2.b.3.
FEB 10, 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

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

FROM: Kaaina S. Hull, Director

Planner: Romio Idica

12/26/2025

SUBJECT: Special Mgt Area Permit SMA(U)-2026-4
Tax Map Key: 58011024
Applicant: Timothy J. Quinn (Ryan Facer, Authorized Agent)
Timothy J. Quinn

TO:

- ☐ State Department of Transportation - STP
- ☐ State DOT - Highways, Kauai (info only)
- ☐ State DOT - Airports, Kauai (info only)
- ☐ State DOT - Harbors, Kauai (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR - Land Management
- ☐ State DLNR - Forestry & Wildlife
- ☐ State DLNR - Aquatic Resources
- ☐ State DLNR - Conservation & Coastal Lands
- ☐ State DLNR - Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW - Engineering
- ☐ County DPW - Wastewater
- ☐ County DPW - Building
- ☐ County DPW - Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☐ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☐ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☑ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department)

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 2/10/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

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 9, 2026

TO: To whom it may concern

FROM: Ellis Jones
District Environmental Health Program Chief

SUBJECT: RESPONSE_Timothy J. Quinn_SMA(U)-2026-4

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

Wastewater Branch has no objections to the proposed project. The type and number of IWS (individual wastewater systems) will be determined during design review process. By Revised Statue 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 DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at 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.

Ellis Jones

Ellis Jones
District Environmental Health Program Chief
Office Phone: (808) 241-3326

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

FROM: Kaaina S. Hull, Director

Planner: Romio Idica

12/26/2025

SUBJECT: Special Mgt Area Permit SMA(U)-2026-4
Tax Map Key: 58011024
Applicant: Timothy J. Quinn (Ryan Facer, Authorized Agent)
Timothy J. Quinn

TO:

- ☐ State Department of Transportation - STP
- ☐ State DOT - Highways, Kauai (info only)
- ☐ State DOT - Airports, Kauai (info only)
- ☐ State DOT - Harbors, Kauai (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR - Land Management
- ☐ State DLNR - Forestry & Wildlife
- ☐ State DLNR - Aquatic Resources
- ☐ State DLNR - Conservation & Coastal Lands
- ☐ State DLNR - Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW - Engineering
- ☐ County DPW - Wastewater
- ☐ County DPW - Building
- ☐ County DPW - Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☐ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☐ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☑ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department)

Fire has no comments

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 2/10/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

CADES SCHUTTE
A Limited Liability Law Partnership

MAUNA KEA TRASK 8418
P.O. Box 1205
Lihu'e, HI 96766
Telephone: (808) 521-9297
Facsimile: (808) 540-5015
Email: mtrask@cades.com

Attorneys for Applicants
BBCP KUKUI'ULA DEVELOPMENT, LLC.

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUA'I

In the Matter of the Application Of BBCP KUKUI'ULA DEVELOPMENT, LLC, for a Variance Permit and a Class IV Zoning Permit for Real Property described as Kukui'ula Parcel J1-A Subdivision and Identified by Kaua'i Tax Map Key No. (4) 2-6-023:040, situated at Kukui'ula, Kaua'i, Hawai'i.	VARIANCE PERMIT V -_____ CLASS IV ZONING PERMIT Z-IV-_____ **APPLICATION; EXHIBIT LIST; EXHIBITS "A" - "L"**

TABLE OF CONTENTS

		Page
SECTION 1.	APPLICANT/SUBJECT PROPERTY OWNER.	1
1.1	Applicant	1
1.2	Property	1
1.3	Ownership	1
SECTION 2.	LOCATION & LAND USE DESIGNATIONS OF THE PROPERTY	2
2.1	Location	2
2.2	Land Use Designations.	2
	a. SLUD	2
	b. Kaua'i General Plan	2
	c. CZO	2
	d. Development Plan Area	2
	e. Special Management Area	2
	f. Constraint District	2
	g. Heritage Resources	2
	h. Flood Zone	2
	i. Shoreline Setback	2
	j. Violations	2
	k. Visitor Destination Area	3
	l. Soils	3
2.3	Prior Land Use Permits	3
	a. Entitlement of Kukui'ula	3
	b. Creation of the Property	3
	c. Subdivision of the Project Area	3
SECTION 3.	PAST AND CURRENT USES OF THE PROPERTY.	4
3.1	Past Uses	4
3.2	Existing Uses	4
SECTION 4.	PROJECT DESCRIPTION	4
4.1	History and Development of the Kukuiula Trail System	4
4.2	Complete Streets Resolution and Ordinance	6
4.3	Agreement to Pursue Variance.	6
4.4	Description of Proposal and Reasons for Deviation.	7

TABLE OF CONTENTS
(Continued)

Page

SECTION 5. PERMITS REQUESTED AND REQUIRED 11
5.1 Variance Permit 11
5.2 Class IV Zoning Permit 11
SECTION 6. IMPACTS OF DEVELOPMENT 12
6.1 Botanical Resources 12
6.2 Historical Resources 12
6.3 Air Quality/Noise 12
6.4 Flooding and Drainage 13
6.5 Utilities 13
6.6 Wastewater Treatment and Disposal 13
6.7 Solid Waste Disposal 13
6.8 Governmental Services 13
6.9 Economics 14
a. Jobs 14
b. Housing 14
c. Property Values 14
6.10 Population 14
6.11 Traffic Circulation. 14
6.12 Cultural and Heritage Resources. 14
SECTION 7. SLUC CONSIDERATIONS 15
7.1 SLUC Urban District 15
SECTION 8. GENERAL PLAN CONSIDERATIONS 15
8.1 Kauai General Plan Visions and Goals 15
a. Goal # 1: A Sustainable Island 15
b. Goal # 2: A Unique and Beautiful Place 16
c. Goal # 3: A Healthy and Resilient People 16
d. Goal # 4: An Equitable Place, with Opportunity for All 17
8.2 Kauai General Plan Policies to Guide Growth 17
a. Policy # 1: Manage Growth to Preserve Rural Character 18
b. Policy # 3: Recognize the Identity of Kauai's Individual Towns and Districts 18

TABLE OF CONTENTS
(Continued)

Page

c. Policy # 4: Design Healthy and Complete Neighborhoods 18
d. Policy # 7: Build a Balanced Multimodal Transportation System 18
e. Policy # 8: Protecting Kauai's Scenic Beauty 18
f. Policy # 9: Uphold Kaua'i as a Unique Visitor Destination Area 19
g. Policy # 15: Respect Native Hawaiian Rights and Wahi Pana 19
h. Policy # 16: Protect Access to Kauai's Treasured Places 19
8.3 Kauai General Plan Resort Use Designation 19
8.4 Project Compliance with Kauai General Plan Standards 20
SECTION 9. CZO OPEN DISTRICT CONSIDERATIONS. 20
9.1 CZO Open District 20
9.2 The Variance Request is Consistent with CZO Open District Standards 20
SECTION 10. SOUTH KAUAI COMMUNITY PLAN CONSIDERATIONS. 21
10.1 Community Plan Goals and Objectives 21
10.2 Compliance with Development Plan Standards 21
SECTION 11. HRS CH 343 ENVIRONMENTAL IMPACT STATEMENT CONSIDERATIONS. 21
11.1 HRS Chapter 343 21
SECTION 12. IMPACTS TO NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY PRACTICES. 22
12.1 Existence of Traditional and Customary Practices 22
SECTION 13. CONCLUSION 23

APPLICATION

Comes now, BBCP KUKUI'ULA DEVELOPMENT LLC, by and through their undersigned attorneys, and hereby submits the following Application for a Variance and Class IV Zoning Permit to modify the requirements set forth in §9-2.3(e)(3) of the County of Kaua'i Subdivision Ordinance, as amended ("**CSO**"), relating to the provision of dual curbs, gutters and sidewalks, and alternatively to allow for the use of drainage swales on both sides of the proposed roadways in accordance with the drainage standards and design guidelines established by the Department of Public Works and the construction of sidewalks and pathways that connect to and are consistent with the existing Kukui'ula public path and trials system required by PM-2004-370 (the "**Variance**").

This application is being made pursuant to CSO §§9-4.1 to 9-4.3, The Comprehensive Zoning Ordinance for the County of Kaua'i ("**CZO**") §§ 8-3.1(f) and 8-3-3, Condition No. 1(h) Preliminary Subdivision Map Approval S-2023-4, Ordinance No. PM-2004-370 Section 2.15(c), the information presented herein inclusive of all exhibits, and the records and files of this proceeding.

SECTION 1. APPLICANT/SUBJECT PROPERTY OWNER.

1.1 Applicant. The Applicant is, BBCP KUKUI'ULA DEVELOPMENT LLC ("**Applicant**" or "**BBCP**"). BBCP has authorized Mauna Kea Trask of Cades Schutte LLP to file this Application. *See,* Exhibit "A".

1.2 Property. The property is a portion of Royal Patent 6714, Land Commission Award 7714-B, Apana 2 to M. Kekuaiwa No M. Kekuanaoa and identified as Kaua'i Tax Map Key ("**TMK**") No. (4) 2-6-023:040 (the "**Property**"). A legal description of the Property is contained in the limited warranty deed attached hereto as Exhibit "B".

1.3 Ownership. Applicant owns the Property as shown in Exhibit "B".

SECTION 2. LOCATION & LAND USE DESIGNATIONS OF THE PROPERTY.

2.1 Location. The Property is in Kukui'ula, Kōloa, Kaua'i, Hawai'i ("**Kukui'ula**"), and is shown on the map attached hereto as Exhibit "C-1". The Property is surrounded by a mix of vacant open space and agriculture zoned lands to the north and single-family residences and portions of the Kukuiula golf course and the Kukuiula trail system to the south, east and west. *Id.*

2.2 Land Use Designations. The State Land Use District ("**SLUD**"), Kaua'i General Plan ("**General Plan**"), County of Kaua'i Comprehensive Zoning Ordinance ("**CZO**"), and other relevant land use designations concerning the Property are as follows:

a. SLUD: Urban District. *See*, Exhibit "C-2".

b. Kaua'i General Plan: Residential Community/Golf Course Designation. *See*, Exhibit "C-3".

c. CZO: Residential (R-4) and Special Treatment Open (O/ST-O) zoning districts. *See*, Exhibit "C-4".

d. Development Plan Area: South Kaua'i Planning District. *See*, Exhibit "C-5".

e. Special Management Area. The Property is not within the Special Management Area ("**SMA**"). *See*, Exhibit "C-6".

f. Constraint District. The Property is not located within any Constraint District.

g. Heritage Resources. According to the South Kaua'i Heritage Resource Map, there are no cultural features and historic sites in the Project Area. *See*, Exhibit "C-7".

h. Flood Zone: Zone X. *See*, Exhibit "C-8".

i. Shoreline Setback. The Property is more than 500 feet from the shoreline, so the County's Shoreline Setback Ordinance is inapplicable. *See*, Exhibit "C-9".

j. Violations. There are no known land use and zoning violations on the Property.

k. Visitor Destination Area. The entirety of the Property is within the Visitor Destination Area ("**VDA**"). *See*, Exhibit "C-10".

l. Soils. According to the U.S. Department of Agriculture (USDA) Soil Survey Geographic (SSURGO) database (2001) and soil survey data gathered by Foote et al. (1972), the soils within the Project Area consist of (from northwest to southeast) Lihue silty clay (LhD and LhB), Nonopahu clay, 2 to 10% slopes (NnC), Hanamaulu silty clay, 3 to 8% slopes (HsB), Waikomo stony silty clay (Ws), and Kōloa stony silty clay, 15 to 25% slopes (KvD). *See*, Exhibit "C-11".

2.3 Prior Land Use Permits. The Project Area possesses and is subject to both State Land Use Commission ("**LUC**") and County of Kaua'i ("**County**") land use and zoning entitlements and conditions.

a. Entitlement of Kukui'ula. Initially, on August 8, 2003, the LUC issued its Findings of Fact, Conclusions of Law and Decision & Order, re-classifying all of Kukui'ula, approximately 783.676 acres of land, from the State Land Use Agricultural District to the State Land Use Urban District, subject to thirty (30) conditions. *See*, Exhibit "D". Thereafter, on July 28, 2004, Ordinance Nos. PM-2004-370 and PM-2004-371 were approved, subject to numerous conditions, which in effect established the current county zoning districts applicable to the Project Area and Kukuiula at large. *See*, Exhibit "E"

b. Creation of the Property. The Property (Lot 40) was created on June 14, 2022, when the Commission approved subdivision application S-2021-1, which subdivided Lot 1 of Kukui'ula Large-Lot Subdivision, Phase III into Lots 1 to 40, inclusive. *See*, Exhibit "F"

c. Subdivision of the Project Area. This application is being submitted in support of Subdivision S-2023-4, preliminary approval for which was obtained on July 11, 2023. *See*,

Exhibit "G". Subdivision S-2023-4 involves the subdivision of the Property (the "**Project**") into a total of fourteen (14) residential lots, one lot that will be utilized as a common area with landscaping (Lot 15), one large remnant lot (Lot 18) and two (2) roadway lots (Lots 16 & 17) (the "**Project Area**"). *See,* Exhibit "H".

SECTION 3. PAST AND CURRENT USES OF THE PROPERTY.

3.1 Past Uses. The historical and archaeological records show that Native Hawaiians were not traditionally active within the Project Area. *See.* Exhibit "I" at 80. Prior to being integrated into McBryde Sugar Company's plantation, this area is described as, "an arid, stony pasture, suitable only for grazing. *Id.* at 26. From approximately 1876 to 1996, or nearly 120 years, the Property was within McBryde Sugar Company's cane field operations, during which time it was substantially disturbed by near constant excavation and ground disturbing work. *Id.* at 33. Since 1996, the Project Area has been vacant and covered with invasive species including but not limited to haole koa and guinea grass.

3.2 Existing Uses. The Property is mostly vacant and undeveloped except for its makai boundary which contains portions of the Kukui'ula golf course.

SECTION 4. PROJECT DESCRIPTION.

To thoroughly describe the proposed variance and the reasons for the deviation, BBCP provides the following brief exposition of the Kukui'ula development, its trail system, and the subsequent changes in County subdivision requirements.

4.1 History and Development of the Kukuiula Trail System. Kukui'ula is an upper scale neighborhood with unique design characteristics and conditions that ensure it fits into the historic rural and agricultural identity of the Kōloa district.

A primary component of Kukui'ula is the comprehensive public hiking and biking trial system running through the project (the "**Kukui'ula Trail System**" or "**Trail System**"). *See,*

Exhibit "D" at 14. The Trail System provides separate non-vehicular access connectivity throughout Kukui'ula and a public regional connection from Koloa town and the surrounding Po'ipū area to the shoreline west of Po'ipū road. *Id.* The Trail System constitutes a public recreational facility and traffic mitigation measure to manage the traffic demand generated by the Kukui'ula project. *Id.* at 44 and 63. When the County passed the Kukui'ula zoning ordinance in 2004, Section 2, condition 15 (c) required the developer to provide the Trail System in accordance with the Project's Conceptual Trails Master Plan. *See* Exhibit "J". As Kukuiula has developed, the Conceptual Trails Master Plan has been updated and amended to reflect the various paths and trails that were constructed as part of the actual Trial System. The most recent version of the Kukuiula Trails System Master Plan is dated February 25, 2025. *Id.* at 2.

To maintain its rural character, there are relatively few curbs and gutters, and almost no sidewalks fronting residential lots or along the main internal thoroughfares in Kukui'ula. The Kukui'ula Trail System was designed and constructed with wide grassed swales and concrete sidewalks with decorative finishes and framed with landscaping consisting of a mix of native and canoe plants and decorative introduced plants.

(*Figure 1. Kukuiula Trail System looking west.*)

From 2004 to 2013, Kukuiula developed and expanded the Trail System with each new internal subdivision and residential development. During this time, CSO §9-2.3(e)(3) did not require curbs, gutters and sidewalks on all proposed or existing streets within or abutting subdivisions in the R-4 zoning district.

4.2 Complete Streets Resolution and Ordinance In 2010, the County Council passed Resolution No. 2010-48, Draft 1, "A Resolution Establishing a Complete Streets Policy for the County of Kauai" ("**Complete Streets Resolution**"). *See*, Exhibit "K". The Complete Streets Resolution provides the County's policy of, *inter alia*, promoting safe access for pedestrians, bicyclists, motorists, and public transportation users of all ages and abilities, and advocates for the integration of all travel modes in the design of streets and highways, "especially in and around town cores."

In 2013, the County Council passed Ordinance No. 946, amending the CSO to allow for multimodal transportation principles for subdivisions (the "**Complete Streets Ordinance**"). In relevant part, the Complete Streets Ordinance requires curbs, gutters and sidewalks on both sides of all proposed or existing streets within or abutting the subdivision in Residential Districts where the density permitted is four (4) units or more per acre. CSO §9-2.3(e)(3). However, the Complete Streets Ordinance provides that swales may be constructed in lieu of curbs and/or gutters in accordance with County drainage standards and its provisions may be waived if infeasible or unnecessary, taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists. CSO §9-2.3(e)(3)(A)&(B).

4.3 Agreement to Pursue Variance. After diligent review and study, BBCP determined that consistent with past practice, the nature and character of Kukui'ula, Ord. No. PM-2004-370, and CSO §9-2.1, the strict provisions of CSO §9-2.3(e) are not appropriate and

may be waived pursuant to CSO §9-2.3(e)(3)(A) & (B). BBCP worked with the Planning Department and the Department of Public Works pursuant to Condition 1(h) of the preliminary subdivision map approval for S-2023-4, and the Planning Department has determined that BBCP may submit this application for Variance and Class IV Zoning Permit to vary the requirements relative to the provision of curbs, gutters and sidewalks as set forth in CSO §9-2.3(e)(3). *See* Exhibit "L".

4.4 Description of Proposal and Reasons for Deviation. The proposed subdivision is accessed by Ala Haku Lei Loop and Na Hiku Place. *See* Exhibit "H". The current CSO requirements compel the construction of curbs, gutters and sidewalks on both sides of Na Hiku Place and Ala Haku Loop. *Id.*

Instead of constructing curbs, gutters, and sidewalks, BBCP is requesting a variance to construct grassed swales on both sides of Na Hiku Place that conform to the standards established by the Department of Public Works. *See*, Exhibit "L". This will maintain the rural feel of the community and allow BBCP to continue to effectively address storm water runoff by allowing the swales to slow down water flow allowing for sedimentation, soil filtration and/or infiltration into the underlying soils[1].

Further, BBCP requests to construct a concrete sidewalk pathway on the eastern side of Ala Haku Loop that will match and connect to the existing Kukuiula Trail System, and to construct a cart path connecting to the same. *Id.* BBCP will also pay the appropriate fee in lieu of any required sidewalk construction as determined by the County Engineer. *See* CSO §9-2.3(e)(3)(C).

For the following reasons, BBCP's request complies with the standards to grant a

[1] https://www.epa.gov/system/files/documents/2021-11/bmp-grassed-swales.pdf

variance.

A. Due to special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations deprives the property of privileges enjoyed by other property in the vicinity and within the same District, and BBCP cannot make a reasonable use of the property if the regulations are applied.

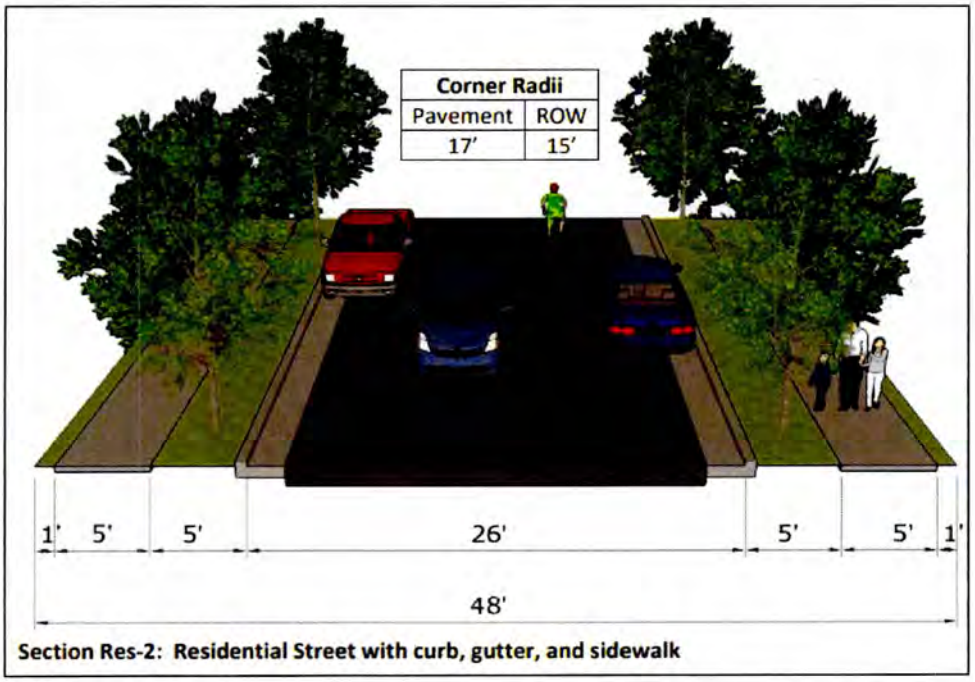
Since its initial entitlement, there have been over a dozen subdivisions in Kukui'ula. Each subdivision was either constructed prior to the Complete Streets Ordinance or was granted modifications from the Complete Streets Ordinance to allow for the expansion and development of the Kukuiula Trail System consistent with state and county requirements and the Kukui'ula Conceptual Trails Master Plan. These modifications allowed swales to be constructed in accordance with drainage standards and design guidelines established by the Department of Public Works instead of curbs and/or gutters and modified the Complete Streets dual sidewalk requirements in favor of integrating pathways and trails into the Kukui'ula Trail System. *See* CSO §9-2.3(e)(3)(A)&(B). The result is an open rural looking community that maintains view planes and minimizes the use of asphalt and concrete hardscape thus mitigating and reducing storm water runoff.

The history of Kukui'ula's development and Planning Commission precedent has created special circumstances applicable to the Property, including its location and surroundings, such that the strict application of the requirements of the Complete Streets Ordinance deprives the Property of privileges enjoyed by other nearly identical properties and subdivisions in the vicinity and within the same District. Below is a pictometry image from the County's real property tax website illustrating the current layout of a subdivision within Kukui'ula.

(*Figure 2. Residence located at the intersection of Ala Kukui'ula and Kalahiki Street*)

Drainage swales are provided on both sides of all roads, and roads and pathways provide for integration and connectivity to the Kukui'ula Trails System. Further, the openness of Kukui'ula allows for a natural framing of the Trail System with appropriate landscaping consisting of native and canoe plants like hau bush and kukui nut trees.

Under the Complete Streets Ordinance, as interpreted by the County's Street Design Manual (October 2018), BBCP would be forced to develop and construct a cookie cutter residential street with a curb, gutter and sidewalk design that would be entirely out of place with Kukui'ula's regionally appropriate open-rural design motif and would not allow for a reasonable use of the property. Further, the Complete Streets design would actually increase the adverse impacts on view planes and the use of concrete and asphalt hardscape would increase storm water run-off.



(*Figure 3. County of Kaua'i Street Design Manual, October 2018 at 3-16*)

B. <u>BBCP's request is the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and to facilitate a reasonable use,</u>

BBCP is requesting the minimum departure from the Complete Streets Ordinance as necessary to avoid the deprivation of privileges enjoyed by other properties in the area and to facilitate a reasonable use and expansion of the existing Kukuiula Trails System. BBCP's Variance is no different than its prior requests for modification submitted after the Complete Streets Ordinance passed in 2013, and the design and layout of the proposed Variance is consistent with the integration and connection of subdivisions and residential developments into the Kukuiula Trail System since 2004.

C. <u>BBCP's request will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences.</u>

As described in further detail below, approving the Variance will not create significant

probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences. In fact, BBCP believes the Variance will result in less environmental impacts and effects because the use of concrete and asphalt hardscape will be reduced which will lead to less storm water runoff and decreased visual impacts from various vantage areas and view planes. Also, installing a sidewalk along the west side of Ala Haku Lei Loop at the intersection with Ala Kukui'ula would create a hazardous pedestrian crossing situation that would need to be remedied by installing a cross-walk or other types of crossing measures which would increase traffic congestion.

SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 Variance Permit. A Variance Permit is being requested pursuant to CZO §8-3.3 and CSO §9-4.3 to allow BBCP to modify the curbs, gutters, and sidewalk requirements contained in CSO §9-2.3(e)(3).

Variances shall be granted if it is found that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations deprives the property of privileges enjoyed by other property in the vicinity and within the same District, and the applicant shows that the landowner cannot make a reasonable use of the property if the regulations are applied. CZO §8-3.3(b). Where these conditions are found, the Variance permitted shall be the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and to facilitate a reasonable use, and which will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences. *Id.*

5.2 Class IV Zoning Permit. Applicant is requesting a Class IV Zoning Permit as part of the procedural requirements of a Variance pursuant to CZO § 8-3.3(e)(1). To obtain a Class

IV zoning permit, an applicant must show that the request conforms to the standards established by the CZO. CZO §8-3.1(f)(2).

SECTION 6. IMPACTS OF DEVELOPMENT.

6.1 Botanical Resources. The majority of the Project Area consists of ankle high guinea grass, while a small portion of the east edge of the Property is heavily vegetated with haole koa and waste high invasive grasses. There are no known botanical resources located on the Property and the Variance will not have any impact on Botanical Resources.

6.2 Historical Resources. The historical resources of Kukuiula have been continually studied since 1988 beginning with the *Archaeological Inventory Survey of the Proposed Kukuiula Bay Planned Community* ("**AIS**"), which the State of Hawai'i Historic Preservation Division ("**SHPD**") reviewed and concurred with (Nagata to Hammatt, 30 June 1988). *See* Exhibit "I" at 38. The AIS mapped and located 58 archaeological sites within Kukui'ula, none of which were located within the Project Area. Id.

On 23 February 2023, at the request of BBCP, a field inspection of the Project Area was conducted ("**Hammatt (2023)**"). Id. at 60. The Hammatt (2023) study concluded that the Project would not affect any historic properties. Id. at 60.

The Project Area was under intensive sugarcane cultivation for nearly 120 years (1876-1996). *See*, Exhibit "I" at iv. As such, pursuant to Act 293, S.B. No. 15, S.D. 1, H.D. 2, C.D. 1 (2025), Section 2, the Project Area contains no "Historic Properties" and constitutes a "Nominally Sensitive Area,." Thus, the Variance will have no adverse impacts on any historical resources.

6.3 Air Quality/Noise. The Variance will have little or no impact on the air quality and ambient noise levels in the area. Air quality and ambient noise levels may be affected at a very minimal level during the actual construction activities. All vehicles or equipment used by

Applicants for the construction will be properly muffled, housed and maintained to reduce any noise impacts or emission impacts. The Environmental Protection Agency ("**EPA**") and State of Hawaii air quality standards will not be exceeded.

6.4 Flooding and Drainage. The Property is within the Non-Special Flood Hazard Area Zone X. See, Exhibit "C-8". The development will meet all the requirements of the Flood Plain Management Ordinance of the County of Kauai, as contained in Chapter 15, Article 1, of the Kauai County Code, 1987. Drainage swales will be constructed in accordance with the drainage standards and design guidelines established by the Department of Public Works. It is anticipated that storm water runoff from the project will be less than if the Complete Streets Ordinance was strictly applied.

6.5 Utilities. No utilities are associated with this request. BBCP will otherwise comply with all tentative subdivision conditions for S-2023-4 regarding preparing and obtaining construction plan approvals for necessary utilities and either construct the same or post a surety bond for completion.

6.6 Wastewater Treatment and Disposal. The treatment and disposal of wastewater is not associated with the Variance. BBCP will otherwise comply with all tentative subdivision conditions for S-2023-4 regarding wastewater treatment and disposal.

6.7 Solid Waste Disposal. The Variance does not trigger the need for any solid waste disposal. BBCP will otherwise comply with all tentative subdivision conditions for S-2023-4 regarding solid waste disposal.

6.8 Governmental Services. As this request pertains only to the application to modify the requirements set forth in CZO §9-2.3(e)(3) relating to the provision of curbs, gutters and

sidewalks, BBCP does not anticipate the Variance will have any impacts to Fire and Police services or generate any significant additional enrollment in nearby schools.

6.9 Economics. BBCP anticipates the development will have the following economic impacts:

a. Jobs. The Project will result in the creation of temporary construction jobs. Thereafter, BBCP anticipates an ongoing need for landscaping and maintenance jobs to maintain the Trail System.

b. Housing. The Variance will not result in the need for additional housing.

c. Property Values. Because fair market value of real property is based on the value of the land and any physical improvements, the underlying subdivision development will increase the value and the real property taxes of the Property thus increasing revenues to the County of Kaua'i.

6.10 Population. The Variance will not result in any increase in population.Traffic Circulation. The Project is accessed via Ala Kukui'ula, the main thoroughfare for Kukui'ula. The Project will be served by Ala Haku Lei Loop and Na Hiku Place. The Variance is not anticipated to significantly increase nor negatively impact traffic circulation within Kukui'ula or the larger Koloa district.

6.12 Cultural and Heritage Resources. On March 2023, Cultural Surveys Hawaii ("**CSH**") conducted a Kapa'akai Analysis of the Project Area ("**CSH (2023)**") for the purposes of: (1) identification of any cultural practices within the Project Area; (2) identification of any impacts to cultural practices as a result of the Project; and (3) mitigation possibilities identified during research and consultation. *See* Exhibit "I". After conducting significant background research and engaging in community consultation, no cultural, historical, or natural resources, or

the practice of traditional and customary Native Hawaiian rights were identified as being exercised in the Project Area. *Id.* at iii. Therefore, no impacts to cultural practices were indicated and no specific mitigation possibilities were identified. *Id.* at iv.

During prior archaeological investigations of surface sites, no iwi kupuna were encountered within the Project Area and kamaaina interviewees did not identify any iwi kupuna within the Project Area either. *Id.* at 67. Nonetheless, pursuant to condition 6 of preliminary map approval of S-2023-4, project construction workers and all other personnel involved in the construction and related activities of the project will be informed of the possibility of inadvertent cultural finds, including human remains. Should any potential historic properties be identified during construction activities, all activities will cease and the SHPD will be notified. If iwi kupuna are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD, coroner, and Police Department will be notified. In addition, in the event of an inadvertent discovery of human remains, a burial treatment plan will be prepared and completed as required. *See*, Exhibit "I".

SECTION 7. SLUC CONSIDERATIONS.

7.1 SLUC Urban District. The Property is located within the SLUC Urban District. Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated. HRS §205-2(b).

SECTION 8. GENERAL PLAN CONSIDERATIONS.

8.1 Kauai General Plan Visions and Goals. An evaluation of General Plan section 1.3 shows that the Variance is consistent with the Visions and Goals of the General Plan.

a. Goal # 1: A Sustainable Island. The Variance fulfills General Plan Goal #1, which is for Kauai to grow responsibly to meet the needs of current and future generations without depleting important resources. *See* General plan at 32. The Kukuiula zoning ordinance

requires the provision of a comprehensive pedestrian and biking trail system open to the public that runs throughout Kukuiula in accordance with the project's Conceptual Trails Master Plan. As Kukuiula developed, the Trail System has become a valuable amenity for local residents, owners, and visitors. The Variance will not negatively affect the sustainability of the island. Granting the variance will allow for the further development and continuation of the Trail System, which is designed to be both safe and to blend in with the rural and open space motif of Kukuiula.

b. Goal # 2: A Unique and Beautiful Place. The Variance is consistent with Goal # 2 of the General Plan and ensures the care and protection of the treasured resources, traditions, and qualities of the natural, built, and human environment. *Id.* at 34. The Variance will facilitate the public's ability to engage in opportunities for recreation and meditative contemplation within Kukuiula on a trail system that has been designed to be both safe and to blend in with the rural and open space motif of the area. *Id.* The variance will result in a reduction of the use of hardscape and is consistent with the tenets of the Public Trust Doctrine as provided in Article 11, Section 1 of the Hawaii State Constitution to, "conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air minerals and energy sources", and "promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State." *Id.* at 34.

c. Goal # 3: A Healthy and Resilient People. General Plan Goal # 3 recognizes that health is influenced by the built environment, including the ability to walk or bicycle to key destinations, and to access the recreational areas that support active lifestyles. *Id.* at 35. Granting the Variance is consistent with these principles and will facilitate the public's use of the Kukuiula Trail System in a safe open and rural setting. The Variance is part of a larger well

planned and sustainable project that increased the resilience and vitality of the community and promoted better health outcomes through improved recitational access opportunities related to the natural, built, and social environment. *Id.* at 35.

d. Goal # 4: An Equitable Place, with Opportunity for All. Goal # 4 of the General Plan aims to foster diverse and equitable communities with vibrant economies, access to jobs and housing, and a high quality of life. *Id.* at 36. Short term and long-term job opportunities will result from the construction and continued maintenance of this specific development as is typical with high-end residential properties. However, Goal # 4 is not simply about economic opportunity. Goal # 4 recognizes that reversing Kaua'i's trending inequity means ensuring residents, regardless of factors such as geographic location, age, race, gender, and economic status, have access to, *inter alia*, opportunities for recreation and enjoyment of shared spaces; and making sure that planning and land development decisions do not unfairly burden disadvantaged groups. *Id* at 36. The Kukui'ula project is specifically designed and permitted to ensure equitable opportunities for recreation and shared spaces for all Kaua'i residents, not just the landowners in Kukui'ula. Anyone on Kaua'i can use the Kukui'ula trail system. BBCP embraces this kuleana and is simply requesting a minimum variance from the requirements of CSO §9-2.3(e) to integrate subdivision S-2023-4 into the existing Kukui'ula Trail System.

8.2 Kauai General Plan Policies to Guide Growth. The General Plan contains nineteen (19) polices to guide growth that articulate the County's path toward meeting the community's vision and goals of sustainability, unique character, resilience, and equity. An evaluation of General Plan Section 1.4 shows the Variance is consistent with the following Policies to Guide Growth.

a. Policy # 1: Manage Growth to Preserve Rural Character. The Variance is consistent with Policy # 1 because it seeks to preserve the existing open and rural design motif of the Kukui'ula Trail System. This ensures that Kauai's rural character is preserved and that Kukui'ula remains open and accessible to the public. General Plan at 38.

b. Policy # 3: Recognize the Identity of Kauai's Individual Towns and Districts. The Variance is consistent with General Plan Policy #3 and allows BBCP to preserve the rural character of this portion of Koloa.

c. Policy # 4: Design Healthy and Complete Neighborhoods. The Variance seeks to continue the development of the Kukui'ula trail system, which itself is consistent with General Plan Policy # 4 by guiding growth in a way that combats the recent trend of health problems in Hawaii, attributed in part to increasing levels of sedentary lifestyles. The Kukui'ula Trail System provides safe and convenient walking , running, and biking activities within Kukui'ula and provides the public an opportunity to increase physical activity daily, thereby reducing health risks.

d. Policy # 7: Build a Balanced Multimodal Transportation System. The design and construction of the Kukui'ula Trail System is consistent with General Plan Policy # 7. The Trail System provides public access throughout Kukui'ula consistent with the County's Multimodal Land Transportation Plan (2013) and provides the public with recreational opportunities throughout Kukui'ula.

e. Policy # 8: Protecting Kauai's Scenic Beauty. The Variance is consistent with preserving the natural views within Kukui'ula. The Variance ensures that the trail system minimizes the use of concrete and asphalt hardscape in favor of safe wide access paths that can accommodate multiple modes of transportation and emphasizes landscaping with native and

canoe plants. Minimizing the use of concrete and asphalt hardscape also minimizes the visual impacts of Kukui'ula on the Koloa district when viewed from important vantage points like the National Tropical Botanical Garden, the mauka kula lands of Kukui'ula, and from Koloa and Poipu.

f. Policy # 9: Uphold Kaua'i as a Unique Visitor Destination Area. The Variance is consistent with General Plan Policy #9 because it relates to the expansion of public access and recreational opportunities within a resort community while preserving the open and rural nature and character of the Koloa district.

g. Policy # 15: Respect Native Hawaiian Rights and Wahi Pana. Although no Native Hawaiian cultural practice or religious rights are exercised within the Project Area, Kukui'ula contains numerous archaeological and historic sites and wahi pana and the Variance ensures that appropriate open and rural access is provided to these sites and ensures that concrete and asphalt hardscape is minimized within the areas surrounding these important cultural resources.

h. Policy # 16: Protect Access to Kauai's Treasured Places. Although no specific treasured places are located within the Project Area, the Kukui'ula Trail System provides public access through nearly two miles of scenic kula lands in Koloa and provides a view of the entire coastline from mauka viewpoints. Thus, the Trail System itself can be considered a treasured place to the community. Granting the Variance ensures that the new portions of the trail system compliments the existing access paths and ensures that the use of concrete and asphalt hardscape continues to be minimized.

8.3 Kauai General Plan Resort Use Designation. The Property is in the General Plan Resort Use Designation. *See,* Exhibit "D-3". A portion of the Property is also within the VDA.

See, Exhibit "D-10". Actions for the Resort Use Designation are found in the Chapter 3, Sector VI. of the General Plan. The General Plan contemplates, in relevant part, strengthening existing town centers and mixed-use environments, revitalizing existing visitor destination areas, and protecting agricultural lands for agricultural production and food self-sufficiency. Because the Property is in the existing VDA and will not take existing agricultural land out of food production, the Request complies with the tenets of the General Plan concerning the Resort Use Designation.

8.4 Project Compliance with Kauai General Plan Standards. The Variance seeks to continue the expansion of the Kukui'ula Trail System consistent with its open and rural design. Therefore, the Variance itself will have no significant impact on the surrounding environment. The Variance is consistent with existing neighboring residential and resort and transient accommodation uses and will not have a significant adverse effect to the surrounding neighborhood. As such, the Variance complies with the General Plan's standards.

SECTION 9. CZO OPEN DISTRICT CONSIDERATIONS.

9.1 CZO Open District. The Open District is established and regulated to create and maintain an adequate and functional amount of predominantly open land to provide for the recreational and aesthetic needs of the community or to provide for the effective functioning of land, air, water, plant and animal systems or communities. CZO § 8-9.1.

9.2 The Variance Request is Consistent with CZO Open District StandardsAlthough the portions of the trail system that are the subject to the Variance are within the R-4 zoning district, outdoor recreation is a permitted use within the Open (O) zoning district pursuant to CZO § 8-2.4(s)(5). The Variance itself will further decrease any impacts on the surrounding environment as it will use less concrete and asphalt in its development, and it is compatible with existing residential, and resort uses in the immediate area surrounding the Property. Therefore,

to the extent it is relevant, the Variance complies with CZO § 8-9.1 and provides for the recreational and aesthetic needs of the public and the effective functioning of land, air, water, plant and animal systems or communities.

SECTION 10. SOUTH KAUAI COMMUNITY PLAN CONSIDERATIONS.

10.1 Community Plan Goals and Objectives. The goals and objectives of the South Kauai Community Plan, as adopted by Ordinance No. 990, includes in relevant part, that Kōloa will be a thriving commercial and residential community that maintains its rural feel and historic "old town" charm by preserving, enhancing, and protecting its vast cultural treasures; and that Po'ipū will be a world-class, sustainable resort destination, serving residents and visitors alike, developed responsibly, with clean, healthy beaches and ocean environments, welcoming parks, and preserved heritage resources, all well-connected and accessible to everyone.

10.2 Compliance with Development Plan Standards. The request is consistent with the goals and objectives contained in the South Kauai Community Plan. The request ensures the design, layout and outside appearance of the new portions of the Kukui'ula Trail System will use design elements that are compatible with the existing Trail System and the natural beauty of the area.

SECTION 11. HRS CH 343 ENVIRONMENTAL IMPACT STATEMENT CONSIDERATIONS.

11.1 HRS Chapter 343. HRS Ch. 343 requires the preparation of an Environmental Assessment and/or an Environmental Impact Statement for certain activities specified in HRS § 343-5. The Variance does not constitute an action for which an Environmental Assessment and/or an Environmental Impact Statement must be prepared pursuant to HRS § 343-5.

SECTION 12. IMPACTS TO NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY PRACTICES.

12.1 Existence of Traditional and Customary Practices. Under Article XII, Section 7 of the Hawai'i State Constitution, the State of Hawai'i: *[R]eaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.*

For the purpose of practicing [Native Hawaiian] traditional and customary rights, practitioners may gather anywhere that those rights have been traditionally and customarily exercised in that manner – on land that is less than "fully developed." David M. Forman and Susan K. Serrano, Ho'ohana Aku, a Ho'ola Aku: A Legal Primer for Traditional and Customary Rights in Hawaii, December 2012; citing, *Public Access Shoreline Hawaii ("PASH") v. Hawaii County Planning Commission*, 79 Haw. 425, 903 P.2d 1246. If property is deemed "fully developed," i.e., lands zoned and used for residential purposes with existing dwellings, improvements, and infrastructure, it is always "inconsistent" to permit the practice of traditional and customary native Hawaiian rights on such property. *State v. Hanapi*, 89 Haw. 177, 970 P.2d 485.

As stated above in section 6.12, in March 2023, CSH conducted a Kapa'akai Analysis of the Project Area for the purposes of: (1) identification of any cultural practices within the Project Area; (2) identification of any impacts to cultural practices as a result of the Project; and (3) mitigation possibilities identified during research and consultation. *See* Exhibit "I". After conducting significant background research and community consultation, no cultural, historical, or natural resources (including traditional and customary Native Hawaiian rights) were identified as being exercised in the Project Area. *Id.* at iii. Therefore, no impacts to cultural practices were indicated and no specific mitigation possibilities were identified. *Id.* at iv.

During archaeological investigations of surface sites, no iwi kupuna were encountered within the Project Area and kama'aina interviewees did not identify any iwi kupuna within the Project Area either. *Id.* at 67. Nonetheless, pursuant to condition 6 of the tentative approval of S-2023-4, project construction workers and all other personnel involved in the construction and related activities of the project will be informed of the possibility of inadvertent cultural finds, including human remains. Should any potential historic properties be identified during construction activities, all activities will cease and the SHPD will be notified. If iwi kupuna are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD, coroner, and Police Department will be notified. In addition, in the event of an inadvertent discovery of human remains, a burial treatment plan will be prepared. See, Exhibit "I".

SECTION 13. CONCLUSION

Pursuant to the above, BBCP respectfully requests the Planning Department and the Planning Commission grant the requested variance described herein, and:

1. Find that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations as described herein deprives the property of privileges enjoyed by other property in the vicinity and within the same District.

2. Find that BBCP cannot make a reasonable use of the property as required by PM-2004-370, if the regulations are applied.

3. Find the Variance requested is the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and will facilitate a reasonable use and will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences.

4. Approve the issuance of a Variance Permit and a Class IV Zoning Permit as requested and described herein, subject to such reasonable conditions as the Planning Department and Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, December 8, 2025.

CADES SCHUTTE LLP

MAUNA KEA TRASK

Attorneys for Applicant
BBCP KUKUIULA DEVELOPMENT, LLC.

EXHIBIT LIST

Exhibit #	Description
A.	Letter of Authorization
B.	Limited Warranty Deed
C-01.	Parcel Map
C-02.	State Land Use District Map
C-03.	General Plan South Kauai Land Use Map
C-04.	County Zoning Map
C-05.	South Kauai Planning District Map
C-06.	Special Management Area Map
C-07.	South Kauai Heritage Resource Map.
C-8.	Flood Hazard Map
C-9.	Shoreline Distance Map
C-10.	Visitor Destination Area Map
C-11.	USDA Soils Map
D.	Land Use Commission Dkt. No. A93-696 Findings of fact, Conclusions of Law, and Decision and Order
E.	Ordinance Nos. PM-2004-370 & PM-2004-371
F.	S-2021-1 Final Subdivision Map Approval.
G.	S-2023-4 Preliminary Subdivision Map Approval
H.	S-2023-4 Preliminary Subdivision Map
I.	Ka Pa'akai Analysis March, 2023.
J.	Kukui'ula Conceptual Trails Master Plan
K.	Resolution No. 2010-48
L.	Sidewalk Variance Map

EXHIBIT “A”

APPLICANT'S AUTHORIZATION

I. APPLICANT.

Name: BBCP Kukuiula Development, LLC

Address: 2700 Ke Alaula St., Ste B
Koloa, HI 96756

II. AUTHORIZED AGENT.

Name: Mauna Kea Trask, Esq.

Address: Cades Schutte LLP
P.O. Box 1205
Lihue, HI 96766

Telephone: (808) 521-9297
Facsimile: (808) 540-5015
Email: mtrask@cades.com

III. PROPERTY.

Tax Map Key No. (4) 2-6-023:040

IV. AUTHORIZATION.

The Applicant hereby authorizes the Authorized Agent(s) to act on Applicant's behalf and to submit to the Planning Department an Application for a Variance Permit and Class Zoning Permit to vary the requirements set forth in §9-2.3(e)(3) of the County of Kauai Subdivision Ordinance, as amended.

Applicant:

Christopher Rivera

BBCP KUKUIULA DEVELOPMENT, LLC

By: CHRISTOPHER RIVERA

Its: AUTHORIZED SIGNER

Date: 8/20/2025

EXHIBIT “B”

YID

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
March 6, 2023 10:12 AM
Doc No(s) A - 84650354

/s/ LESLIE T KOBATA
REGISTRAR

Pkg 12168440 ICL

Conveyance Tax $11,276.60

A

Return by Mail X Pickup ☐ To:

Brue Capital Partners, LLC
1144 15th Street, Suite 2650
Denver, CO 80202
Attn: Chad A. Brue

Document contains 17 pages

Tax Map Key No.: (4) 2-6-023-0040

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED (this "Deed") is entered into as of February 28, 2023, by and between KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC, a Hawaii limited liability company, having a mailing address at 2700 Ke Alaula Street, Suite B, Koloa, Hawaii 96756 ("Grantor"), and BBCP KUKUI'ULA DEVELOPMENT, LLC, a Colorado limited liability company, having a mailing address at 1144 15th Street, Suite 2650, Denver, Colorado 80202 ("Grantee").

WITNESSETH:

For and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell, and convey unto Grantee and its successors and assigns, all of those certain parcels of land described in Exhibit "A" attached hereto and made a part hereof (the "Property");

AND the reversions, remainders, rents, issues and profits thereof, together with all buildings, improvements, tenements, rights, easements, privileges and appurtenances to the same belonging or appertaining or held and enjoyed therewith, and all of the estate, right, title and interest of Grantor both at law and in equity therein and thereto;

SUBJECT, HOWEVER, to all encumbrances described in said Exhibit "A".

TO HAVE AND TO HOLD the same unto Grantee, as tenant in severalty, and its successors and assigns, forever.

AND for the consideration aforesaid, Grantor hereby covenants and agrees with Grantee that Grantor has good right to sell and convey its interest in the Property and that the Property hereby conveyed is free and clear from all encumbrances made or suffered by Grantor, except as shown in said Exhibit "A"

and for real property taxes for the current year which are to be prorated as of the date this Deed is recorded, and that Grantor will warrant the foregoing unto Grantee, against the lawful claims and demands of all persons claiming by, through or under Grantor except as aforesaid;

AND Grantee, for itself, and Grantee's successors and assigns, hereby acknowledges and confirms that Grantor has advised and disclosed that the Property is adjacent to, nearby or in the general vicinity of lands that were, are or in the future may be actively used for the growing, harvesting and/or processing of sugarcane, coffee and other agricultural products (collectively, the "Agricultural Activities"), which Agricultural Activities may from time to time result in smoke, dust, noise, heat, agricultural chemicals, particulates and/or similar substances and nuisances (collectively, the "Agricultural By-Products") being brought upon the Property. The foregoing acknowledgement and confirmation of disclosure shall constitute a covenant running with the land. Further, the aforesaid acknowledgement and confirmation of disclosure regarding Agricultural Activities and the resulting Agricultural By-Products shall be binding upon, and all references to the "Grantee" shall mean Grantee, and Grantee's successors and assigns, and all persons or entities now or hereafter acquiring any right, title or interest in or to the Property (or any portion thereof) or occupying all or any portion of the Property. By accepting any right, title or interest in the Property or by occupying all or any portion of the Property, Grantee and each such other person automatically shall be deemed to have received the aforesaid disclosure regarding Agricultural Activities on the adjacent and nearby lands and of the resulting Agricultural By-Products arising from such Agricultural Activities.

The terms "Grantor" and "Grantee", wherever used herein, and any pronouns used in place thereof, shall mean and include the singular and the plural.

This Deed may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

[The remainder of this page is intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, Grantor and Grantee have executed these presents as of the day and year first above written.

GRANTOR:

KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC, a Hawaii limited liability company

By: _____
Name: ANDREW BEARS
Title: Authorized Signatory

[*Signature pages continue on following page*]

GRANTEE:

BBCP KUKUI'ULA DEVELOPMENT, LLC,
a Colorado limited liability company

By: Chad A Brue
Name: Chad A. Brue
Title: Authorized Signatory

STATE OF ARIZONA)
) SS.
COUNTY OF MARICOPA)

On this 28th day of February, 2023, before me personally appeared Andrew Beams, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

MARY E WESNOSKI
Notary Public - Arizona
Maricopa County
Commission # 621884
My Comm. Expires Mar 16, 2026

(Official Stamp or Seal)

Mary E. Wesnoski
Signature of Notary Public

Name: Mary E. Wesnoski
Notary Public, State of Arizona

My commission expires: 3-16-26

STATE OF HAWAII)
) SS.
COUNTY OF KAUAI)

On this 27th day of February, 2023, before me personally appeared **Chad A. Brue**, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

I further certify the following with regard to the foregoing instrument:

Doc. Date: _____ or ☒ Undated at time of notarization No. of Pages: 17

Document Identification or Description: Limited Warranty Deed

SHELLY GERARDO
NOTARY PUBLIC
Comm. No. 93-314
STATE OF HAWAII

Signature of Notary: Shelly Gerardo

Name: Shelly Gerardo
Notary Public, State of Hawai'i

My commission expires: 12/25/23

Jurisdiction in which notarial act is performed: Fifth Circuit, State of Hawai'i

(Official Stamp or Seal)

EXHIBIT A

TMK (4) 2-6-023-0040

All of that certain parcel of land (being portion of the land(s) described in and covered by Royal Patent Number 6714, Land Commission Award Number 7714-B, Apana 2 to M. Kekuaiwa no M. Kekuanaoa) situate, lying and being at Koloa (Makai), District of Kona, Island and County of Kauai, State of Hawaii, being LOT 40 of the "KUKUI'ULA PARCEL I SUBDIVISION", same being a portion of Lot 1 of the "Kukui'ula Large-Lot Subdivision III", as shown on map prepared by Erik S. Kaneshiro, Land Surveyor, with Austin, Tsutsumi & Associates, Inc., dated August 13, 2020, revised May 5, 2021, approved by the Planning Department, County of Kauai, on February 8, 2022, and thus bounded and described as per survey dated February 23, 2022, to-wit:

Beginning at the northeast corner of this parcel of land, being also the northwest corner of Lot J of Kukui`ula Residential Subdivision, Phase IIC, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAHIAWA" being 5,584.42 feet south and 16,528.95 feet east thence running by azimuths measured clockwise from true South:

1.	1°	30'		476.76	feet along Lot J of Kukui'ula Residential Subdivision, Phase IIC, along remainder of R.P. 6714, L.C. Aw. 714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
	Thence along same, on a curve to the right, with the point of curvature azimuth from the radial point being: 202° 06'24" and the point of tangency azimuth from the radial point being: 238° 07', having a radius of 175.00 feet, the chord azimuth and distance being:				
2.	310°	06'	42"	108.18	feet;
3.	351°	45'	30"	98.79	feet along Lot F of Kukui'ula Residential Subdivision, Phase IIC, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
4.	355°	05'		474.16	feet along Lot F of Kukui'ula Residential Subdivision, Phase IIC and Lots 22, 23, and 24 of Kukui'ula Residential Subdivision, Phase IIB, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;

5.	357°	05'		96.94	feet along Lot 24 of Kukui'ula Residential Subdivision, Phase IIB and Lot 21 of Kukui'ula Residential Subdivision, Phase IIA, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
6.	16°	36'		57.42	feet along Lot 21 of Kukui'ula Residential Subdivision, Phase IIA, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
7.	24°	25'		30"	799.00 feet along Lots 22 to 24, A, 27 and 28 of Kukui'ula Residential Subdivision, Phase IIA, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
8.	38°	33'		30"	133.07 feet along Lots 28 and 39 of Kukui'ula Residential Subdivision, Phase IIA, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
9.	24°	07'	30"	21.46	feet along Lot 39 of Kukui'ula Residential Subdivision, Phase IIA, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
10.	114°	07'		30"	132.61 feet along Roadway Lot 15 (Ala Kukui'ula) of Kukui'ula Large-Lot Subdivision III, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;

Thence along same, on a curve to the left, with a radius of 455.00 feet, the chord azimuth and distance being:

11.	96°	40'	45"	272.82	feet;
12.	79°	14'		191.02	feet along same;

Thence along same, on a curve to the right, with a radius of 395.00 feet, the chord azimuth and distance being:

13. 104° 26' 15" 336.42 feet;

14. 129° 38' 30" 136.92 feet along same;

Thence along same, on a curve to the left, with a radius of 455.00 feet, the chord azimuth and distance being:

15. 120° 05' 151.11 feet;

16. 110° 31' 30" 172.53 feet along same;

Thence along same, on a curve to the right, with a radius of 695.00 feet, the chord azimuth and distance being:

17. 123° 26' 15" 310.61 feet;

18. 136° 21' 294.11 feet along same;

Thence along same, on a curve to the left, with a radius of 330.00 feet, the chord azimuth and distance being:

19. 109° 35' 14" 297.20 feet;

Thence along Roadway Lot 38 (Ala Haku Lei Loop) of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa, on a curve to the right, with the point of curvature azimuth from the radial point being: 352° 49' 28" and the point of tangency azimuth from the radial point being: 68° 50' 22", having a radius of 22.00 feet, the chord azimuth and distance being:

20. 120° 49' 55" 27.09 feet;

Thence along same, on a curve to the left, with the point of curvature azimuth from the radial point being: 248° 50' 22" and the point of tangency azimuth from the radial point being: 215° 25', having a radius of 147.00 feet, the chord azimuth and distance being:

21. 142° 07' 41" 84.54 feet;

22. 125° 25' 94.54 feet along same;

Thence along same, on a curve to the right, with a radius of 128.00 feet, the chord azimuth and distance being:

23.	146°	00'		90.00	feet;
24.	166°	35'		103.16	feet along same;

Thence along same, on a curve to the right, with a radius of 278.00 feet, the chord azimuth and distance being:

25.	174°	17'	30"	74.58	feet;
26.	182°	00'		175.46	feet along same;

Thence along same, on a curve to the left, with a radius of 172.00 feet, the chord azimuth and distance being:

27.	165°	29'		97.80	feet;
28.	148°	58'		96.15	feet along same;

Thence along same, on a curve to the right, with a radius of 273.00 feet, the chord azimuth and distance being:

29.	162°	56'	43"	131.89	feet;
30.	333°	28'		140.00	feet along Lot 17 of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
31.	243°	28'		70.00	feet along same;
32.	153°	28'		71.00	feet along same;
33.	243°	28'		70.00	feet along Lot 18 of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
34.	153°	28'		30.00	feet along same;
35.	227°	07'		72.95	feet along Lot 19 of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw.

					7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
36.	153°	28'		10.47	feet along same;
37.	232°	42'		71.26	feet along Lot 20 of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
38.	236°	00'		70.59	feet along Lot 21 of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
39.	245°	00'		65.47	feet along Lot 22 of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
40.	257°	47'		62.69	feet along Lot 23 of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;
41.	178°	22'		162.59	feet along same;

Thence along Roadway Lot 38 (Ala Haku Lei Loop) of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa, on a curve to the right, with the point of curvature azimuth from the radial point being: 195° 59' 18" and the point of tangency azimuth from the radial point being: 212° 52', having a radius of 128.00 feet, the chord azimuth and distance being:

42.	294°	25'	39"	37.57	feet;
43.	302°	52'		35.73	feet along same;
44.	212°	52'		44.00	feet along same;
45.	122°	52'		10.49	feet along same;

Thence along Roadway Lot 38 (Wai'eha Lane) of Kukui'ula Parcel I Subdivision, along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa, on a curve t o the right, with a radius of 15.00 feet, the chord azimuth and distance being:

46. 159° 46' 10" 18.01 feet;

Thence along same, on a curve to the left, with the point of curvature azimuth from the radial point being: 286° 40' 20" and the point of tangency azimuth from the radial point being: 250° 54' 56", having a radius of 197.00 feet, the chord azimuth and distance being:

47. 178° 47' 38" 120.96 feet;

48. 309° 26' 78.85 feet along Lot 2-A of Subdivision of Lot B (File No. S-2009-19) along remainder of R.P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa;

Thence along same, on a curve to the left, with a radius of 300.00 feet, the chord azimuth and distance being:

49. 260° 51' 449.95 feet;

Thence along same, on a curve to the right, with the point of curvature azimuth from the radial point being: 122° 16' and the point of tangency azimuth from the radial point being: 176° 15', having a radius of 450.00 feet, the chord azimuth and distance being:

50. 239° 15' 30" 408.48 feet;

51. 266° 15' 464.94 feet along same;

52. 271° 30' 665.96 feet along same, to the point of beginning and containing an area of 4,986,282 square feet, more or less.

Said above described parcel of land having been acquired as follows:

1. By KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC, a Hawaii limited liability company, by LIMITED WARRANTY DEED of KDC, LLC, a Hawaii limited liability company, dated March 31, 2003, recorded as Document No. 2003-058405.

2. By KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC, a Hawaii limited liability company, by LIMITED WARRANTY DEED of McBRYDE SUGAR COMPANY, LIMITED, a Hawaii corporation and ALEXANDER & BALDWIN, INC., dated March 31, 2005, recorded as Document No. 2005-062345.

Together with a non-exclusive easement over and across Easement AU-3, affecting Lot B-1, TMK (4) 2-6-003-001 and Lot 2-A, TMK (4) 2-6-003-031, for pedestrian and vehicular access and utility purposes, granted by GRANT OF EASEMENT (ACCESS AND UTILITES) dated August 14, 2020, recorded as Document No. A-75340452A thru A-75340452B, more particularly described therein, and shown on the map attached thereto; and subject to the terms and provisions contained therein. As amended by AMENDMENT TO GRANT OF EASEMENT dated March 8, 2022, recorded as Document No. A-81040783; and subject to the terms and provisions therein.

TOGETHER WITH THE FOLLOWING:

1. The easements, rights, privileges and appurtenances in favor of the Lot as set forth in the Community Charter subject, however, to the terms and conditions of the Community Charter, including, without limitation, easements for ingress and egress, and access purposes (including vehicular and pedestrian access) and for underground utility purposes on, over, under, and across the following premises: Lot 15 and 16 of Kukui'ula Large Lot Subdivision III (known as Ala Kukui'ula), and Lot 19 of Kukui'ula Residential Subdivision, Phase III-A (Ke Alaula Street), and Lot 38 of Kukui'ula Parcel I Subdivision (known as Ala Haku Lei Loop, Aepo Nei Place, Aka'ula Place, and Wai'eha Lane), and Lot 39 of Kukui'ula Parcel I Subdivision (known a Hali'a Mai Place).

2. Such designated easements as are required to serve the access, utility and drainage needs of the Lot, including, without limitation, those applicable easements referenced generally and specifically in the Community Charter, to be used in common with others entitled thereto, subject, however, to the terms and conditions of the Community Charter.

Note: Lots 18 and 19 of Kukui'ula Large Lot Subdivision III (also known as Ala Kalanikaumaka and as Western Bypass Road) were dedicated to the County of Kauai pursuant to that certain Dedication Deed recorded in the Bureau on November 25, 2013, as Document No. A-50770705.

SUBJECT, HOWEVER, TO:

1. Mineral and water rights of any nature.

2. The terms and provisions contained in the following:

INSTRUMENT : LIMITED WARRANTY DEED

DATED : March 31, 2003
RECORDED : Document No. 2003-058405

3. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF CONDITIONS

DATED : November 4, 2003
RECORDED : Document No. 2003-244116

4. The terms and provisions contained in the following:

INSTRUMENT : AGREEMENT

DATED : November 9, 2004
RECORDED : Document No. 2005-080268
PARTIES : KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC, a Hawaii limited liability company; ALEXANDER & BALDWIN, INC., a Hawaii corporation; McBRYDE SUGAR COMPANY, LIMITED, a Hawaii corporation; and the COUNTY OF KAUAI PLANNING DEPARTMENT, a political subdivision of the State of Hawaii
RE : subdivision of property

5. The terms and provisions contained in the following:

INSTRUMENT : SECOND AMENDED AND RESTATED COMMUNITY CHARTER FOR KUKUI'ULA

DATED : as of August 5, 2015
RECORDED : Document No. A-56951009

The foregoing Second Amended and Restated Community Charter for Kukui'ula restates the original Community Charter for Kukui'ula dated May 8, 2006, recorded as Document No. 2006-088739, and any amendments thereto.

The foregoing includes, but is not limited to, matters relating to assessment liens which may be superior to certain mortgages.

The foregoing Second Amended and Restated Community Charter for Kukui'ula was amended by instrument dated February 4, 2019, recorded as Document No. A-69780391.

SUPPLEMENT TO SECOND AMENDED AND RESTATED COMMUNITY CHARTER FOR KUKUI'ULA AND DECLARATION OF EASEMENTS (Aepo Nei) dated March 8, 2022, recorded as Document No. A-81040786.

6. The terms and provisions contained in the following:

INSTRUMENT : DECLARATION

DATED : September 8, 2006
RECORDED : Document No. 2006-170244

7. RESTRICTION OF VEHICULAR ACCESS RIGHTS

ALONG : LOT 15 (Ala Kukui'ula)
REFERENCED : on map prepared by Erik S. Kaneshiro, Land Surveyor, with Austin, Tsutsumi & Associates, Inc., dated August 30, 2005, last revised February 21, 2006, approved by the Planning Department, County of Kauai, on May 4, 2006, recertified on July 11, 2006, as set forth in instrument recorded as Document No. 2006-140562

8. The terms and provisions contained in the following:

INSTRUMENT : KUKUI'ULA TRIAL SYSTEM DECLARATION

DATED : February 28, 2008
RECORDED : Document No. 2008-034082

9. The terms and provisions contained in the following:

INSTRUMENT : CERTIFICATE OF FORMATION OF COUNTY OF KAUAI'I COMMUNITY FACILITIES DISTRICT NO. 2008-1 (KUKUI'ULA DEVELOPMENT PROJECT)

DATED : September 22, 2010
RECORDED : Document No. 2010-143092

The foregoing includes, but is not limited to, matters relating to the foregoing includes, but is not limited to, matters relating to the levy of the Special Tax, the lien of which is on parity with the lien of general real property taxes and the lien of assessments levied under Section 46-80, Hawaii Revised Statutes.

10. (A) GRANT

TO : KAUAI ISLAND UTILITY COOPERATIVE

DATE : October 20, 2014
RECORDED : Document No. A-54201025
GRANTING : a right and easement for electrical purposes over Easement "28", said easement being more particularly described therein and referenced on map attached thereto

(B) GRANT

TO : KAUAI ISLAND UTILITY COOPERATIVE

DATED : October 20, 2014
RECORDED : Document No. A-54201026
GRANTING : a right and easement for electrical purposes over Easement "29", said easement being more particularly described therein and referenced on map attached thereto

(C) GRANT

TO : BOARD OF WATER SUPPLY, COUNTY OF KAUA'I

DATED : February 19, 2015
RECORDED : Document No. A-55390696
GRANTING : a non-exclusive easement for access and utility purposes over Easement "U-1", said easement being more particularly described therein and referenced on map attached thereto

(D) The terms and provisions contained in the following:

INSTRUMENT: CONVEYANCE OF WATER FACILITY for TMK: (4) 2-6-015:001 (por.), 015 (por.), 016 (por.)

DATED : February 19, 2015
RECORDED : Document No. A-55390707

(E) GRANT

TO : BOARD OF WATER SUPPLY, COUNTY OF KAUA'I

DATE : November 21, 2018
RECORDED : Document No. A-69080981
GRANTING : a non-exclusive easement for water purposes over Easement "W-1", said easement being more particularly described therein and referenced on maps attached thereto

Note: Easement "W-1" has been cancelled by map prepared by Erik S. Kaneshiro, Land Surveyor with Austin Tsutsumi & Associates, Inc dated August 13, 2020, revised May 5, 2021 and approved by the Planning Commission of the County of Kauai on February 8, 2022, Subdivision File No. S-2021-1.

10. GRANT OF WASTEWATER EASEMENTS

TO : KUKUI'ULA SOUTH SHORE COMMUNITY SERVICES, LLC, a Hawai'i limited liability company
DATED : as of September 30, 2022
RECORDED : Document No. A-83280556

GRANTING : a non-exclusive easement for wastewater purposes over, under, across and through Easement S-9, being more particularly described in Exhibit C-9 contained and subject to the terms and provisions contained therein.

By QUITCLAIM BILL OF SALE OF PARTIAL INTEREST IN IMPROVEMENTS, BBCP KUKUI'ULA DEVELOPMENT, LLC, a Colorado limited liability company, "Grantor", hereby further releases, assigns, transfers, quitclaims and sets over to KUKUI'ULA SOUTH SHORE COMMUNITY SERVICES, LLC, a Hawai'i limited liability company, "Grantee", and its successors and assigns an undivided fifty percent 50% interest in any and all of Grantor's right, title and interest in and to any Existing Improvements (the "Co-Ownership Interest"), Document No. A-83280557; subject to the terms and provisions contained therein.

11. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

12. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

13. Any lien (or claim of lien) for services, labor or material arising from an improvement or work related to said Lot 40.

14. Any unrecorded leases and matters arising from or affecting the same.

EXHIBIT “C-1”

County of Kaua'i
State of Hawai'i

Overview

Legend

- Parcels
- CPR Units
- Roads

Parcel ID	260230400000	**Situs/Physical Address**		**Total Market Value**	$9,363,600	**Last 2 Sales**		
				Total Assessed Value	$9,363,600	**Date**	**Price**	**Reason**
Acreage	114.47	**Mailing Address**	BBCP KUKUI`ULA DEVELOPMENT LLC 2700 KE ALAULA ST STE B KOLOA HI 96756	**Total Exemptions**	$0	n/a	0	n/a
Class	COMMERCIAL			**Total Net Taxable Value**	$9,363,600	n/a	0	n/a

Brief Tax Description LOT 40 KUKUI'ULA PARCEL 1 SUBD, 4,986,282 SF DES
(Note: Not to be used on legal documents)

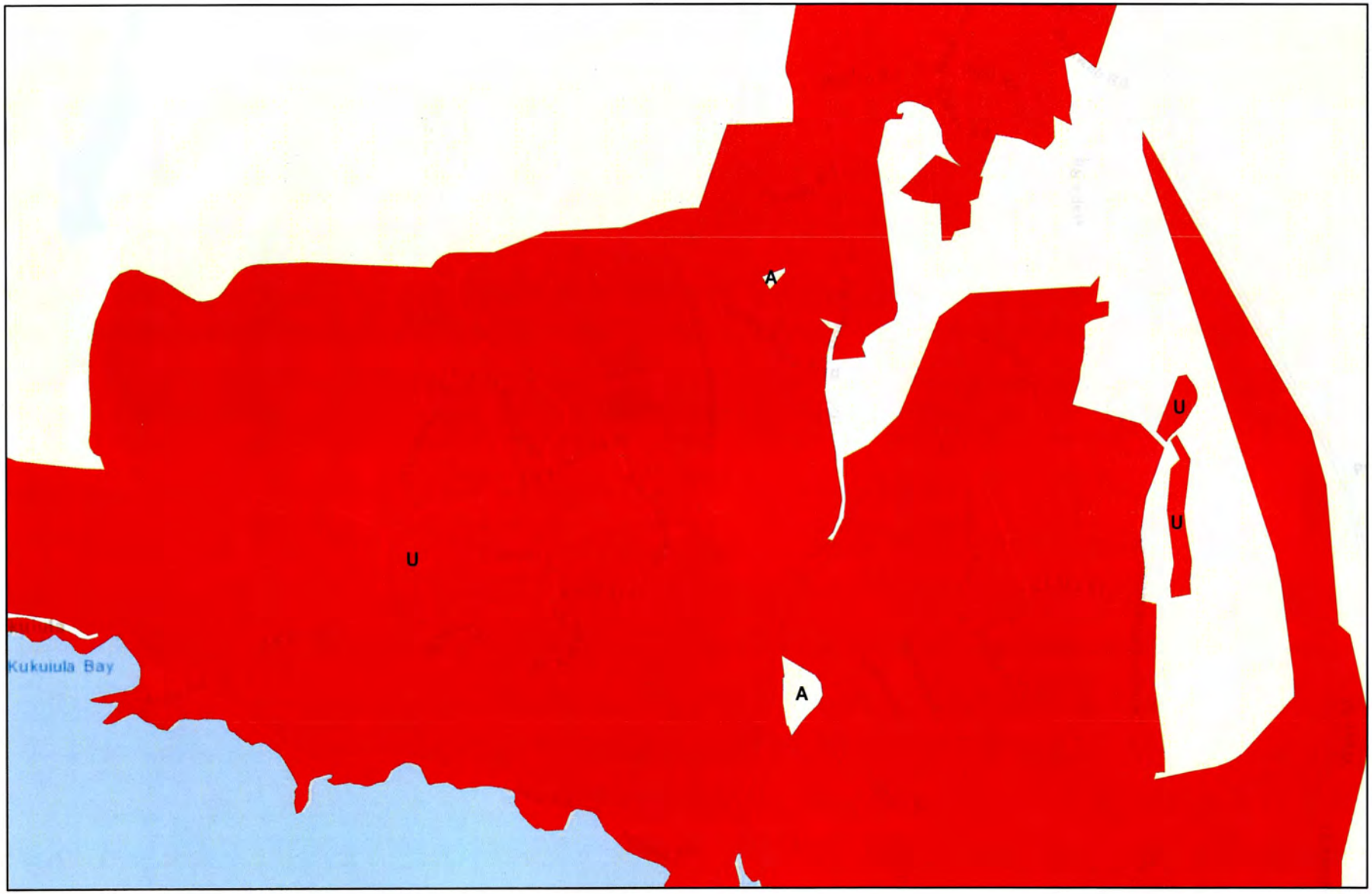
The Geographic Information Systems (GIS) maps and data are made available solely for informational purposes. The GIS data is not the official representation of any of the information included, and do not replace a site survey or legal document descriptions. The County of Kauai (County) makes or extends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

Date created: 6/23/2025
Last Data Uploaded: 6/23/2025 4:28:21 AM

Developed by SCHNEIDER GEOSPATIAL

EXHIBIT “C-2”

Hawaii SLUD Locator



June 24, 2025

State Land Use Districts

Urban

Agricultural

1:18,056

0 0.13 0.25 0.5 mi

0 0.23 0.45 0.9 km

Esri, HERE, Garmin, NGA, USGS

EXHIBIT “C-3”

ONLINE VERSION

Figure 5-4 South Kaua'i Land Use Map

- Planning District Boundary
- Major Roads
- Roads
- Streams
- Reservoirs
- Natural
- Agriculture
- Agriculture (IAL)
- Parks and Recreation
- Golf Course
- Homestead
- Residential Community
- Neighborhood Center
- Neighborhood General
- Large Town
- Small Town
- Resort
- Industrial
- Transportation
- Provisional Agriculture

ONLINE VERSION

EXHIBIT “C-4”

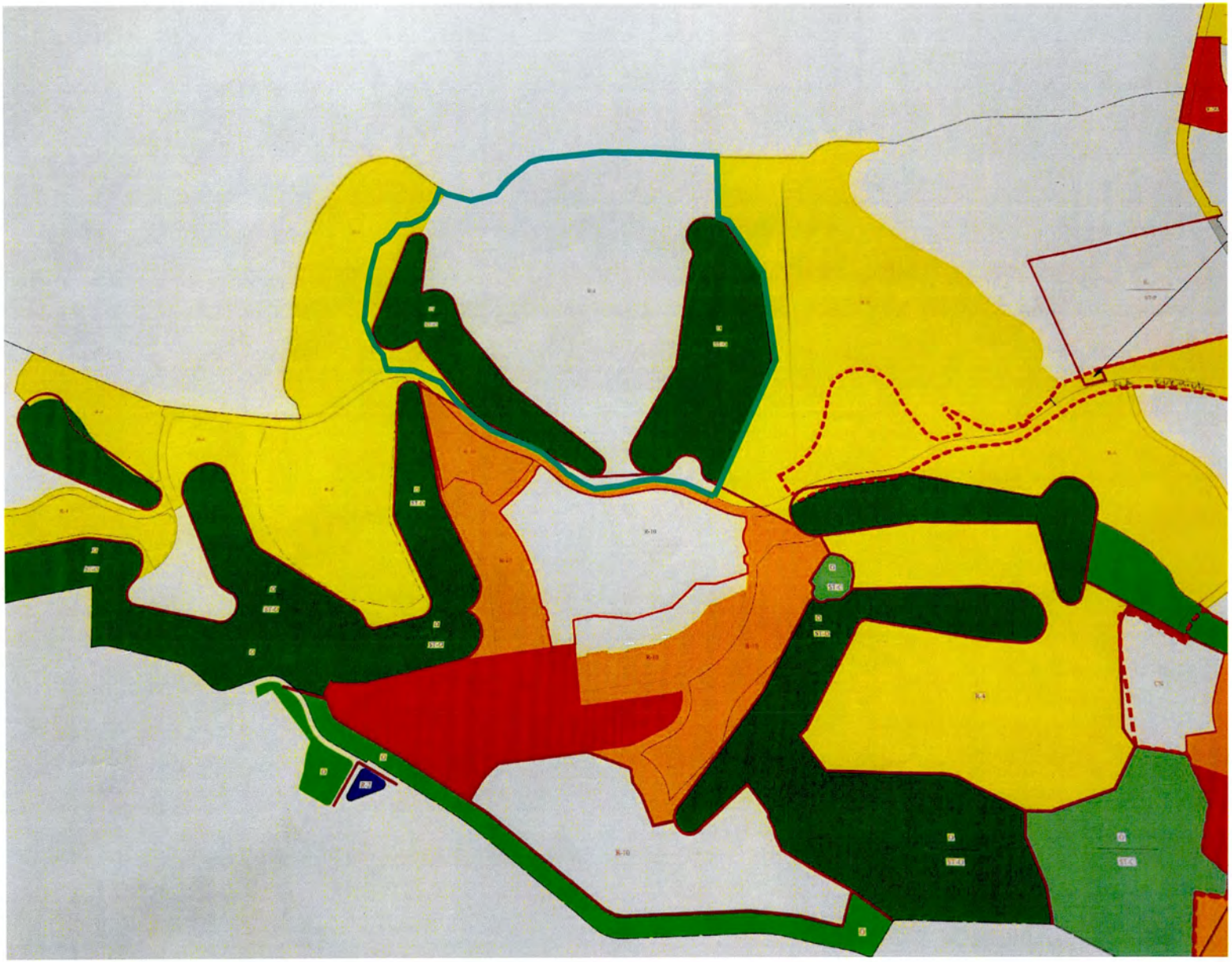


EXHIBIT “C-5”

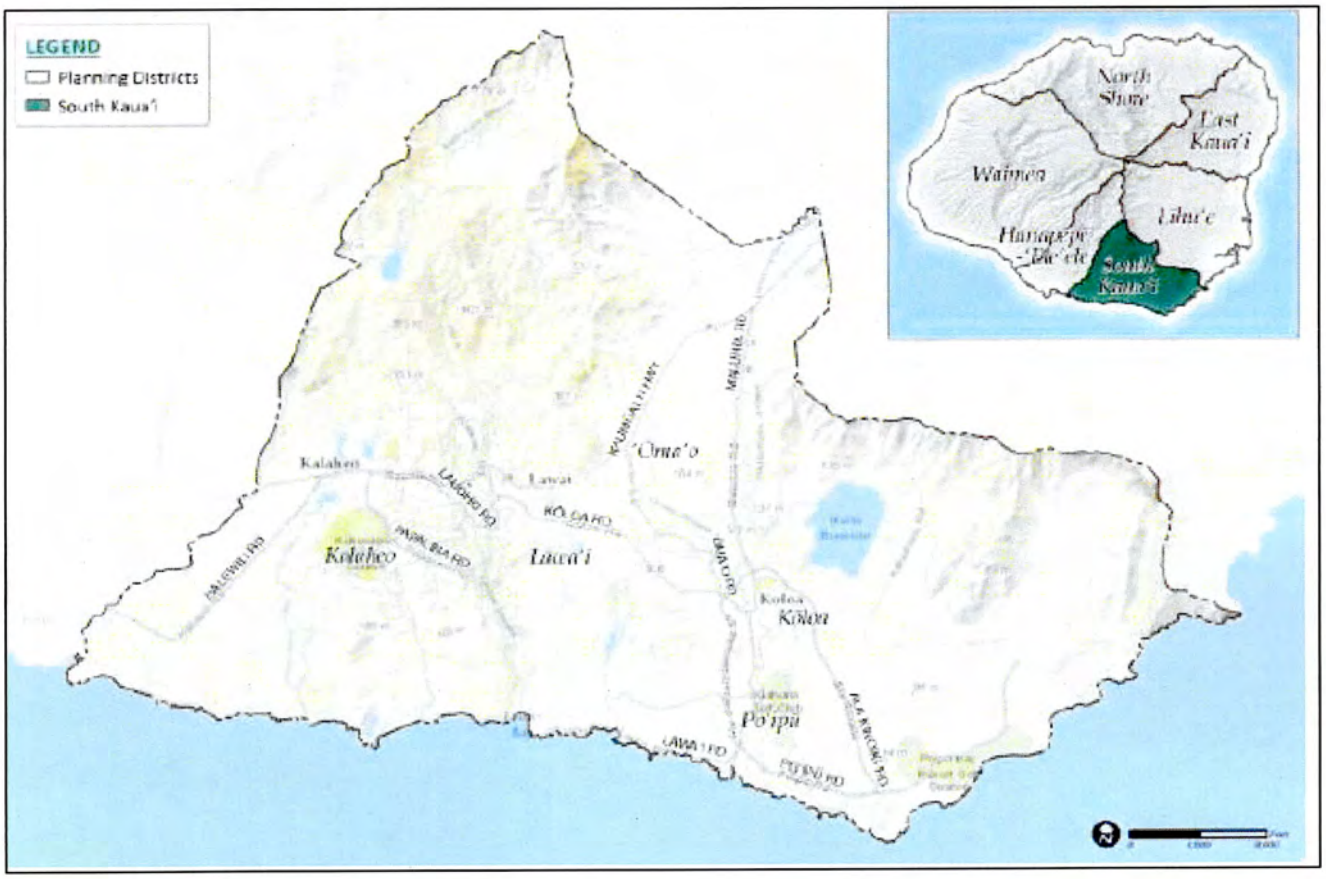
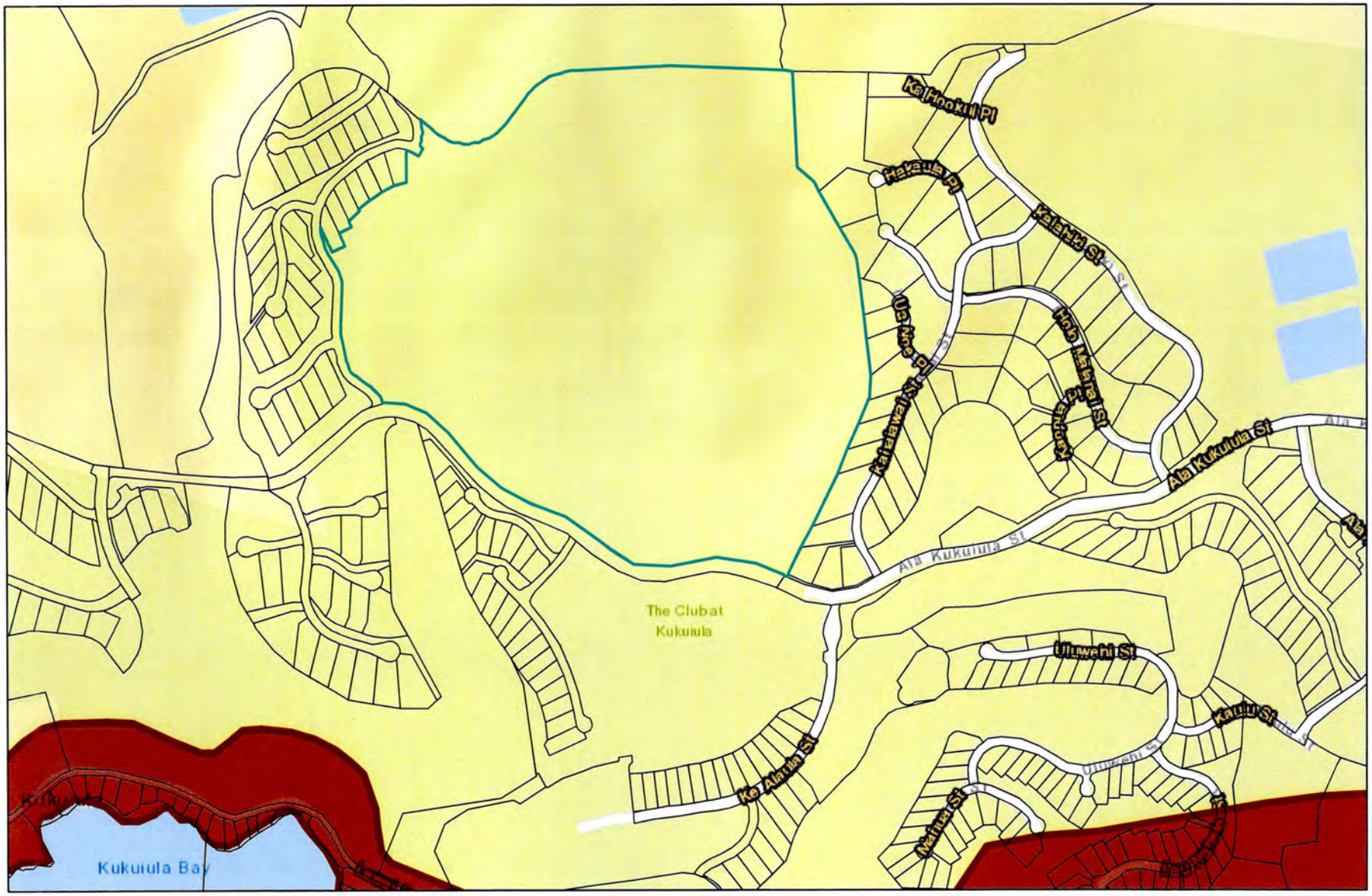

LEGEND
Planning Districts
South Kaua'i
North Shore
East Kaua'i
Waimea
Lihu'e
Hanapepe -'Ele'ele
South Kaua'i
Kalaheo
Lawai
'Oma'o
Kolaheo
Lawa'i
Kōloa
Po'ipu
LAUOHO RD
KOLOA RD
PAPALINA RD
PALEWILI RD
LAWAI RD
PIPINI RD
PLA KINOSU RD

EXHIBIT “C-6”

Hawaii SMA Locator



June 23, 2025

TMK - Neighbor Islands

Special Management Area (SMA)

1:9,028

0 0.05 0.1 0.2 mi

0 0.1 0.2 0.4 km

Esri, HERE, Esri, HERE, Garmin, Intermap, NGA, USGS

EXHIBIT “C-7”

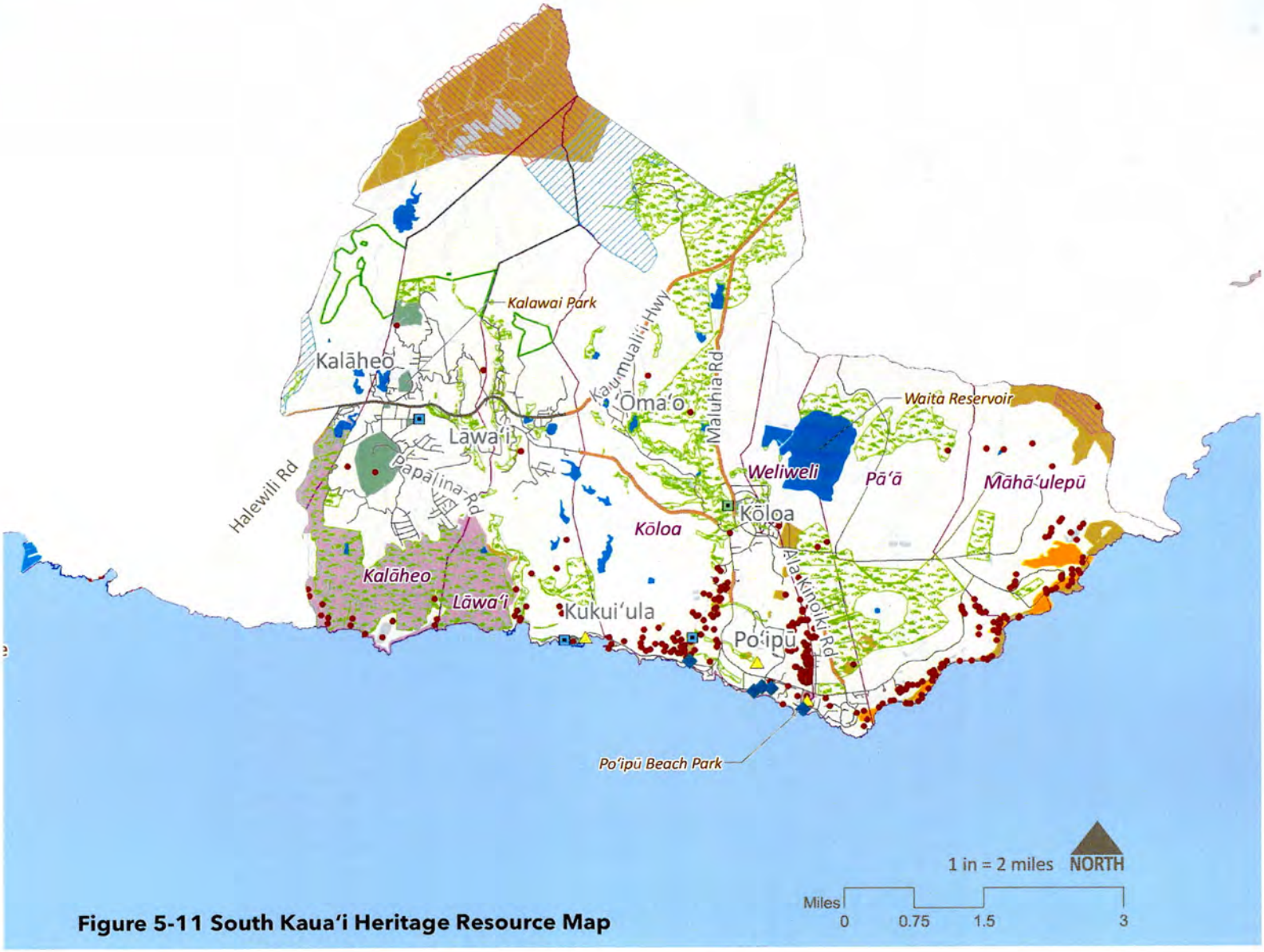
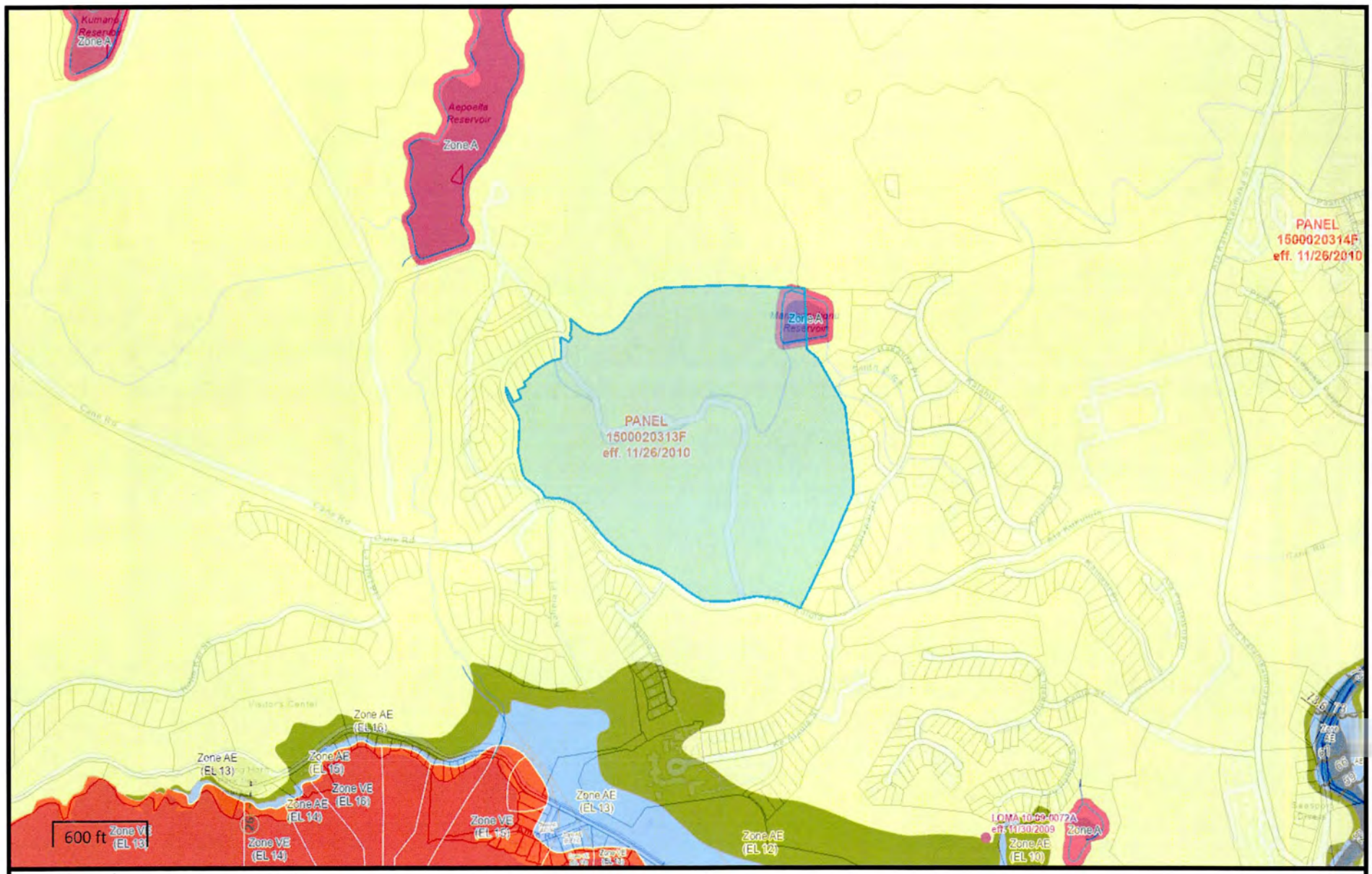


Figure 5-11 South Kaua'i Heritage Resource Map

Registered Historic Sites
- State
- National
- State & National
- Cultural Features
- Priority Public Access Points
- Fish Ponds
- Streams & Waterbodies
- Major Roads
- Roads
- Kōloa Scenic Byway
- Trails
- Planning District Boundary
- Ahupua'a Boundaries
- Wetlands
- Coral Reefs
- Regulated Fishing Areas
- State & County Parks
- Preserves
- Reservoirs
- Traditional Cultivation Areas
- Sand Dunes
- Open Space Acquisition Priorities
- Critical Habitat

Threatened & Endangered Species
- High Density
- Very High Density

EXHIBIT “C-8”



Flood Hazard Map

Title:

Notes:

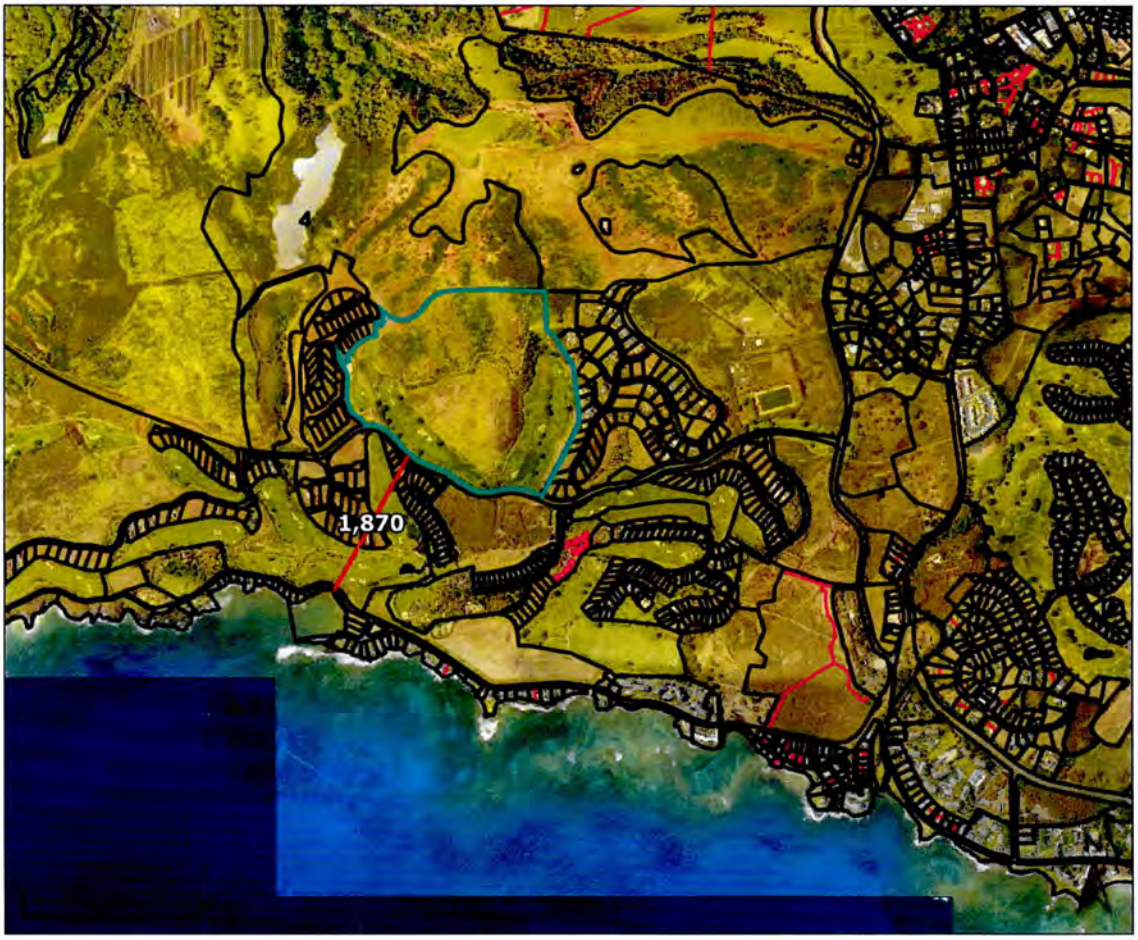
Map generated on 06/23/2025

Map Legend

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

EXHIBIT “C-9”

County of Kaua'i
State of Hawai'i



Overview

Legend

- Parcels
- CPR Units
- Roads

Parcel ID	260230400000	**Situs/Physical Address**		**Total Market Value**	$9,363,600	**Last 2 Sales**		
Acreage	114.47	**Mailing Address**	BBCP KUKUI`ULA DEVELOPMENT LLC 2700 KE ALAULA ST STE B KOLOA HI 96756	**Total Assessed Value**	$9,363,600	**Date**	**Price**	**Reason**
Class	COMMERCIAL			**Total Exemptions**	$0	n/a	0	n/a
				Total Net Taxable Value	$9,363,600	n/a	0	n/a

Brief Tax Description LOT 40 KUKUI'ULA PARCEL 1 SUBD, 4,986,282 SF DES
(Note: Not to be used on legal documents)

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

Date created: 6/23/2025
Last Data Uploaded: 6/23/2025 4:28:21 AM

Developed by SCHNEIDER GEOSPATIAL

EXHIBIT “C-10”

County of Kauai Zoning Map

Resource Mapping Hawaii, Maxar | County of Kauai GIS and the Real Property Assessment Division, Department of Finance aimkamp@kauai.gov | Kauai GIS for Kauai Planning Dept

EXHIBIT “C-11”

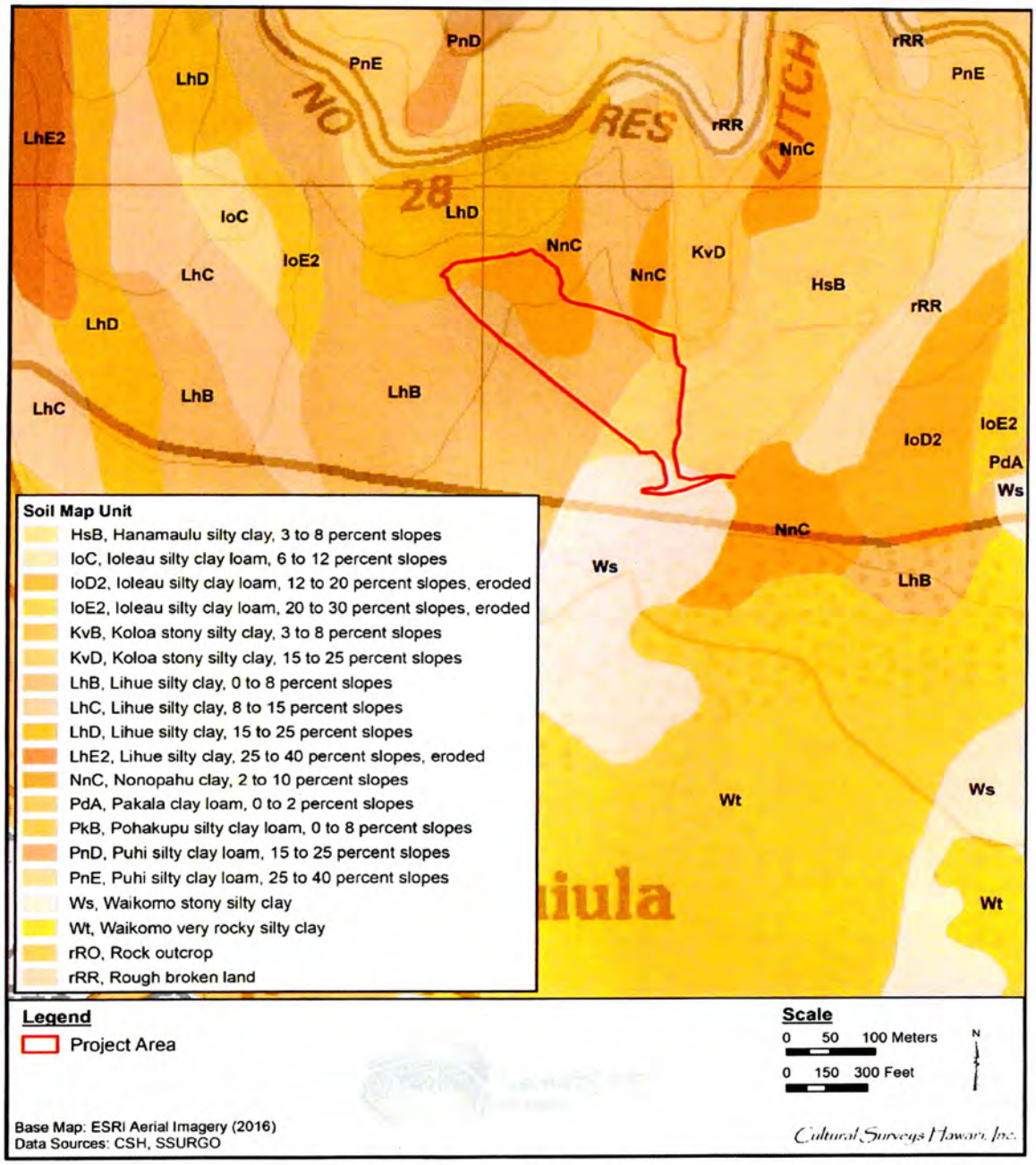


Figure 5. Portion of a 1996 Koloa USGS topographic quadrangle, with overlay of *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (Foote et al. 1972; USDA SSURGO 2001), indicating soil types within and surrounding the study area

EXHIBIT “D”

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	)	DOCKET NO. A93-696
	)	
KUKUI`ULA DEVELOPMENT COMPANY (HAWAII), LLC	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 783.676 Acres At Lawa`i, Koloa, Kaua`i, Hawai`i, Tax Map Key Nos: 2-6-03: Por. 1, 21, Por. 31, And Por. 32; 2-6-04: Por. 38 And Por. 45; And 2-6-15: Por. 1	)	

LAND USE COMMISSION
STATE OF HAWAII
2003 AUG -8 A 10: 19

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	)	DOCKET NO. A93-696
	)	
KUKUI`ULA DEVELOPMENT COMPANY (HAWAII), LLC	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 783.676 Acres At Lawa`i, Koloa, Kaua`i, Hawai`i, Tax Map Key Nos: 2-6-03: Por. 1, 21, Por. 31, And Por. 32; 2-6-04: Por. 38 And Por. 45; And 2-6-15: Por. 1	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER

On March 31, 2003, Kukui`Ula Development Company (Hawaii), LLC ("Petitioner"), a Hawai`i limited liability company, filed a Motion For Order To Amend Findings Of Fact, Conclusions Of Law, And Decision & Order Dated May 18, 1995 And Supplemental And/Or Modified Findings Of Fact, Conclusions Of Law, And Decision & Order Dated June 22, 1998 ("Motion For Order To Amend"), pursuant to sections 15-15-70 and 15-15-94, Hawai`i Administrative Rules ("HAR"). The Land Use Commission ("Commission"), having heard the testimony and examined the evidence presented by the parties during the hearing on the Motion For Order To Amend and having reviewed Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order as stipulated to by the State Office of Planning ("OP") and the County of Kaua`i

("County"), hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

BACKGROUND

1. On October 29, 1993, a Petition For District Boundary Amendment ("Petition") was filed with the Commission by Kukui`ula Development Company, Inc., a Hawai`i corporation, ("Former Petitioner"). The Petition was subsequently amended pursuant to section 15-15-43, HAR, on December 21, 1993, and January 14, 1994. The Petition was filed pursuant to Chapter 205, Hawai`i Revised Statutes ("HRS"), and Chapter 15-15, HAR, to amend the land use district boundary of certain land at Lawa`i, Koloa, Kaua`i, Hawai`i, Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 16, por. 38, por. 39, 40, and por. 45, covering approximately 822.142 acres of land ("Former Petition Area") from the State Land Use Agricultural District to the State Land Use Urban District.

The Former Petition Area and the adjoining 219-acre urban parcel were to be developed as an integrated project to be known as the Kukui`Ula Planned Community ("Former Planned Community"). The Former Planned Community included single-family and multi-family residential uses, a golf course and clubhouse, commercial uses, a marina, a town center, school expansion, a wastewater treatment plant ("WWTP"), the National Tropical Botanical Garden Visitor Center, parks, and open space. The Former Planned Community included development of up to 3,400

units.

2. On May 18, 1995, the Commission's Decision and Order approved (a) reclassification of approximately 537.313 acres of the Former Petition Area identified as Increment I from the Agricultural District to the Urban District and provided that, (b) the remaining approximately 284.829 acres of the Former Petition Area identified as Increment II be incrementally reclassified pursuant to section 15-15-78, HAR. The reclassification was subject to 41 conditions as set forth in the Decision and Order.

3. Subsequent to the Commission's Decision and Order, modifications were made to the development concept for the Former Planned Community, which were necessitated by economic conditions. The significant modifications included the following: (a) elimination of the small boat marina concept; (b) modification of the resort concept to include a 200-unit hotel, two 250-unit timeshare condominiums, a 4-acre commercial site, and a 20-acre lagoon/wetland area within 77 acres of land; and (c) designation of a Visitor Center for the National Tropical Botanical Garden within a 10-acre site.

4. On March 25, 1998, the Former Petitioner filed a Motion For Order To Amend Findings Of Fact, Conclusions Of Law, And Decision & Order Dated May 18, 1995 to (a) transfer approximately 77 acres of land from Increment II to Increment I of the Former Petition Area; (b) amend and delete certain conditions of the Decision and Order; and (c) release and delete a 10-acre portion of land (now known as Tax Map Key No: 2-6-03: 63) of the Former Petition Area previously conveyed to the National Tropical

Botanical Garden from the application of the conditions.

5. On June 22, 1998, the Commission issued a Supplemental Order which (a) approved the transfer of approximately 77 acres of the Former Petition Area from Increment II to Increment I; (b) released and discharged the 10-acre portion of the Former Petition Area previously conveyed to the National Tropical Botanical Garden from the application of conditions imposed by the Decision and Order; and (c) deleted and/or amended 14 conditions imposed by the Decision and Order, resulting in 33 conditions which replaced those in the Decision and Order.

6. By Order dated May 24, 1999, the Commission granted the release and discharge of approximately 28 acres constituting the Koloa Estates residential subdivision (now known as Tax Map Key No: 2-6-14: 1 to 43, inclusive) from the application of the conditions imposed by the Decision and Order and Supplemental Order. This 32-lot residential subdivision was completed in 1999 and all lots have since been sold.

7. The approximately 783.676 acres currently constituting the "Petition Area" represent a reduction in size of about 38.466 acres from the Former Petition Area (which encompassed approximately 822.142 acres). This reduction in acreage is attributed to the development and transfer of Koloa Estates (approximately 27.928 acres), the transfer of the National Tropical Botanical Garden Visitor Center (approximately 10 acres), and other property line adjustments based on a recent field survey of the site undertaken for an American Land Title Association/American

Congress on Surveying & Mapping (ALTA/ACSM) land title survey (which resulted in a further reduction of approximately 0.538 acres).

8. In April 2002, Petitioner, a new joint venture, was formed to undertake the development of the Petition Area and other lands consisting of approximately 1,022 acres ("Property"). Petitioner is composed of two members: KDC, LLC, a Hawai`i limited liability company, and DMB Kukui`Ula, LLC, an Arizona limited liability company. Kukui`ula Development Company, Inc., the Former Petitioner, and other related companies are members of KDC, LLC.

9. The formation of the new joint venture resulted in the re-evaluation of the master plan and the subsequent formulation of a new development plan known as Kukui`Ula ("Project"). The Project proposes 1,500 residential units, including an approximately 64-room resort hotel, an 18-hole golf course, recreational facilities, 14 acres of commercial uses, parks and open space, along with land for 60 additional affordable housing units. A lagoon/wetland is no longer planned for the area mauka of Kukui`ula Bay. In addition, the Project would be developed in its entirety inclusive of Increment II rather than proceeding on an incremental basis as originally approved.

PROCEDURAL MATTERS

10. On March 31, 2003, Petitioner filed the Motion For Order To Amend. Petitioner also filed a Motion For Order Permitting Petitioner To Assign Its Interest In Docket No. A93-696 To Kukui`Ula Development Company (Hawaii), LLC ("Motion For Order Permitting").

11. On May 9, 2003, the Commission took a field trip to view the Property.

12. On May 27, 2003, the County submitted to the Commission its Statement Of Position In Support Of The Motion For Order To Amend.

13. On June 9, 2003, OP submitted to the Commission its Statement Of Position In Support Of The Motion For Order To Amend And Motion For Order Permitting.

14. On June 9, 2003, a prehearing conference was conducted in Conference Room 405 of the Leiopapa A Kamehameha Building, 235 South Beretania Street, 4th Floor, in Honolulu, Hawai`i, with representatives of Petitioner, OP, and the County present, and at which time each party's lists of exhibits and witnesses were exchanged.

15. The Commission considered the Motion For Order To Amend and Motion For Order Permitting at its meeting on July 10, 2003, in Honolulu, Hawai`i. Entering appearances were Benjamin M. Matsubara, Esq., Tom H. Shigemoto, Michael J. Roberts, and Rodney Y. Funakoshi for Petitioner; John W.K. Chang, Deputy Attorney General, Abe Mitsuda, and Lorene Maki for OP; and Laurel Loo, Deputy County Attorney, and Keith Nitta for the County.

16. The following persons submitted written testimony: State Senator Gary L. Hooser, representing the 7th Senatorial District – Kaua`i and Ni`ihau, and Stanley E. Erickson of 4784 Lawa`i Road, Koloa, Kaua`i, whose property was located

immediately makai of the Project.

17. Senator Hooser commented on two issues: (a) housing for local people, and (b) traffic. Senator Hooser expressed concerns that the Project would not provide relief to Kaua`i's housing needs for mid-market homes priced between $250,000 to $500,000, and that there were currently no homes for rent at almost any price in the Koloa district, particularly for construction workers. Regarding traffic mitigation, Senator Hooser noted that it was essential that the proposed Koloa Western Bypass Road be included as a basic condition of any approvals with respect to this Project. Petitioner responded to these issues at the Commission hearing of July 10, 2003, upon questioning from the Commissioners, with responses summarized as follows:

a. The Former Petitioner developed Koloa Estates, a 32-lot market residential development with minimum lots of half-acre, underground utilities and sewer. Average sales price for all 32 lots, including two 2-acre lots, was $149,000. Sales commenced in 1999, and the project was sold out in mid-2001. Koloa Estates was intended for the local market; however, after the project was opened up to the general public, it turned out that 67 percent of the buyers were from the mainland, with very few buyers that actually lived on Kaua`i.

b. The Kaua`i General Plan designated the Po`ipu-Kukui`ula area as one of three major resort areas. The Koloa-Po`ipu-Kalaheo Development Plan designated this area as a second-home community. Accordingly, the direction of the Project was geared more towards the second-home community. The Former Planned Community attempted to target on-island buyers but given the poor response, the lots within Koloa Estates were ultimately sold to buyers from the mainland.

c. Affordable housing requirements have been exceeded by the Project. The original condition was for 10 percent affordable housing – the housing provided amounts to 16.4 percent. The County now has a 15 percent requirement but also uses a credit system based on the types of housing provided. Under the County's credit system criteria, the

Project will be providing 28 percent affordable housing.

d. Petitioner has committed to providing an additional four acres of land to be dedicated to the County, within which an additional 60 affordable housing units can be built.

e. Petitioner is aware of the issue of housing for construction workers and will be exploring all opportunities to provide housing for construction workers. Local contractors are being asked for suggestions on providing housing. A cooperative effort among the State, County, and the local public and local business community is needed, including a need to get lands appropriately zoned and entitled inexpensively.

f. Regarding the timing of completion of the Western Bypass Road, Petitioner is prepared to commit to a timetable regarding the construction of the Western Bypass Road from the Project to Koloa Road. Petitioner has already procured the right-of-way from the Project to Koloa Road. Petitioner intends to establish the timing of this road with the County, possibly to be tied to the issuance of a stipulated number of building permits for the Project.

g. Additionally, Petitioner is working to facilitate the acquisition of the road right-of-way for the northern leg of the Western Bypass Road, from Koloa Road to Maluhia Road. Petitioner is in discussions with the landowners to facilitate engineering and other technical studies that will ultimately lead to acquisition of the right-of-way in order for the County to proceed with the development of the roadway.

18. Stanley E. Erickson commented on four issues: (a) the lack of information provided by the developer, including copies of plans or studies; (b) concern for the development of timeshare on the Property as they will overload the beaches and road; (c) construction of a new restaurant at Kukui`ula Harbor which would destroy the residential character of Lawa`i Road and create unsafe traffic patterns; and (d) the open storm retention drainage ditch along Lawa`i Road which resulted in standing water.

Petitioner and the County responded to these issues upon questioning from the Commissioners, with responses summarized as follows:

a. Regarding the lack of information provided by Petitioner, Petitioner met with Mr. Erickson several times and provided him with the same information provided to others at all the public meetings. Petitioner offered to let Mr. Erickson review all of the Project information and to make limited copies of the documents.

b. Regarding timeshare development, Petitioner cited the ability under the current entitlements to develop up to 700 timeshare units, in addition to a 200-room hotel. The timeshare units now being proposed have been reduced to about 120 units in the same location as the existing entitlements.

c. The County indicated that timeshares on Kaua`i had become an important part of the County's economy. Kaua`i County was the only county that had a high proportion of timeshares in comparison to hotel rooms, with approximately 4,000 timeshare units and approximately 3,500 hotel rooms. For many on Kaua`i, timeshares did not have a negative connotation since they contributed a steady flow of visitors to the island and maintained a high level of occupancy. Timeshare projects on Kaua`i were usually well done.

d. Regarding the proposed restaurant at Kukui`ula Bay and traffic on Lawa`i Road, this referred to the possibility of a restaurant makai of the Petition Area in the area of Kukui`ula Bay. Petitioner believed that it would be an appropriate location for a restaurant and would be a benefit to the Project and the community at large. Petitioner has discussed the planned restaurant with the neighbors along Lawa`i Road and will continue to discuss their concerns and the possibility of a compromise solution.

e. The County indicated that Lawa`i Road was a unique road on Kaua`i because it was a single-loaded road, with development primarily on one side only. On that basis, the traffic was very limited at this point in relation to the amount of development on the road. Alexander & Baldwin, Inc. ("A&B"), has made improvements to Lawa`i Road with sidewalks and curbing.

f. Regarding the open drainage ditch along Lawa`i Road, Petitioner has

engaged a contractor to control mosquitoes at the drainage ditch along Lawa`i Road. In an effort to reduce standing water in the current grass-lined drainage channel, Petitioner will investigate the possibility of constructing a low flow lined channel within the ditch to remove standing water from this area.

19. Upon completion of the parties' presentations of their respective cases, a motion was made and seconded to grant Petitioner's Motion For Order To Amend. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 6 ayes, 0 nays, 1 recused, and 2 absent, the motion carried.[1]

DESCRIPTION OF PETITION AREA

20. The Petition Area is located in the Koloa District on the southern coast of the island of Kaua`i and consists of approximately 783.676 acres, identified as Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45; and 2-6-15: por. 1.

21. The Petition Area is bordered on the east by Po`ipu Road, private residences, and Koloa School; on the southeast by a 219-acre parcel in the Urban District; on the southwest by Lawa`i Road and the National Tropical Botanical Garden Visitor Center; on the west by Lawa`i Valley and the National Tropical Botanical Garden; and on the north by agricultural areas.

22. The Petition Area is situated approximately two miles south of Koloa Town and approximately four miles from Po`ipu. The Petition Area is contiguous to the Urban and Agricultural Districts to the east; the Urban, Conservation, and

[1] By the same vote tally, the Commission also granted Petitioner's Motion For Order Permitting.

Agricultural Districts to south; and the Conservation and Agricultural Districts to the west and north, respectively.

23. The Petition Area, previously in sugarcane cultivation or used as pasture lands, is mostly vacant, except for small areas of cultivated lands, a private WWTP within the eastern portion, and a temporary small commercial operation near Kukui`ula Bay. The remainder of the Petition Area is predominantly vegetated with a mix of weedy species, open mixed scrub, and a variety of grasses.

24. The *Soil Survey of Islands of Kaua`i, O`ahu, Maui, Moloka`i, and Lana`i, State of Hawai`i*, conducted by the U.S. Department of Agriculture, Soil Conservation Service, August 1972, determined that there are many different types of soils on the Petition Area. The major portion of the Class A and Prime Agricultural Lands have Lihu`e (LhB, LhC, LhD) and Makaweli (MgB, MgC) soils, with small pockets of Koloa (KvB, KvC), Puhi (PnD, PnE), Iole`au (IoE2, IoD2), and Nonopahu (NnC). The Lihu`e and Makaweli soils consist of well drained soils on gently sloping uplands. Permeability is moderately rapid. Runoff is slow, and the erosion hazard is slight. On Lihu`e soils with 15 to 25 percent slopes, runoff is medium, and the erosion hazard is moderate.

25. On the Koloa side of the Petition Area, the soils are Waikomo (Ws, Wt) series. The Waikomo stony silty clay (Ws) is on low uplands with a surface layer of stony silty clay approximately 14 inches thick. Permeability is moderate, runoff is slow, and the erosion hazard is slight. The Waikomo very rocky silty clay (Wt) has more

rocky outcrops on the surface but is similar in character.

26. The elevation of the Petition Area ranges from approximately 5 feet above mean sea level ("msl") at Kukui`ula Bay to approximately 325 feet above msl at the mauka Property line. Slopes on the Petition Area range from 0 to 6 percent, with a few small areas having slopes of 6 to 25 percent or greater.

27. The Koloa area has a mild semitropical climate that is dominated by the northeast tradewinds, which blow approximately 80 percent of the time. The Koloa area has a median annual rainfall of approximately 44 inches.

28. The average daily temperature of the Koloa-Po`ipu area at the 50-foot elevation ranges from 72 to 79 degrees Fahrenheit. The average temperature drops 3 degrees for each 1,000-foot increase in elevation.

29. Based on the Flood Insurance Rate Map ("FIRM") prepared by the Federal Emergency Management Agency ("FEMA"), the southern portion of the Petition Area near Lawa`i Road is designated Zone "AE," "Special flood hazard areas inundated by 100-year flood with base flood elevations determined." The base flood elevations for the "AE" zone within the Petition Area range from 13 feet to 16 feet msl. A portion of the Petition Area just north of the "AE" zone is designated Zone "X," "Areas of 500-year flood, areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood."

30. Petitioner, A&B, and McBryde Sugar Company, Limited ("McBryde"), a wholly owned subsidiary of A&B, are the fee simple owners of the

Petition Area.

31. McBryde and A&B have authorized Petitioner to submit the Motion For Order To Amend as set forth in their consent letter dated January 17, 2003.

PROPOSAL FOR RECLASSIFICATION

32. Petitioner proposes to develop the Property (Increments I, II, and the adjoining 219-acre urban parcel) as an integrated development. The land uses proposed for the Project include 1,500 residential units, including an approximately 64-room resort hotel, an 18-hole golf course, clubhouse, 14 acres of commercial uses, recreational facilities, school expansion, parks and open space, along with land for 60 additional affordable housing units. The development plan proposes a significant reduction in Project density of over 50 percent from the Former Planned Community.

33. The Project is envisioned to be one of Hawai`i's premier resort-residential communities. The major Project components are described as follows:

a. Residential: Approximately 1,436 residential units are currently proposed for the Project, which will include a range of both custom lots and built homes, including single-family detached and attached units and multi-family units.

b. Resort Hotel: The resort hotel, currently envisioned at approximately 64 rooms, will be located mauka of Kukui`ula Bay within the Project's resort core. The hotel is expected to complement, rather than compete with, the existing larger hotels and timeshare projects located in the Po`ipu region. Additionally, supplemental hotel accommodations may be available from the approximately 123

nearby residential units adjacent to the hotel. The resort core has been shifted toward the east to take advantage of the southwestern exposure over Kukui`ula Bay, Spouting Horn and the southern coastline.

c. Golf Course: The 18-hole, 207-acre golf course is an integral component of the initial development phase of the Project. Designed by Tom Weiskopf, an in-depth onsite analysis was undertaken of the Property's topographic features, view planes, and climatic conditions. The golf course design will minimize site grading and land disturbance and will offer scenic vistas of the coastal and mountain areas, as well as provide significant open space throughout the Project. The golf course will also serve as an important feature of the Project's storm drainage system.

d. Parks and Recreational Facilities: Unlike the Former Planned Community that provided for smaller parks at various locations, the current plan includes one large approximately 20-acre multi-use community park for use by the general public to accommodate a variety of sporting and recreational activities. An adjacent archaeological/biological preserve of approximately 16.2 acres will provide additional passive open space. A private recreational facility of approximately 7.5 acres located within the southeast portion of the Project will be provided for the Project's residents and guests.

e. Public Trail System: A primary component of the Project will be its comprehensive hiking and biking trail system that will run throughout the Project and be open to the general public. This trail system will not only provide separate non-

vehicular access connectivity throughout the Project but will also provide a public regional connection from Koloa Town and the surrounding Po`ipu area to the shoreline west of Po`ipu Road.

f. Commercial: A commercial area of approximately 14 acres is planned for the area near the intersection of Po`ipu Road/Lawa`i Road and the proposed Western Bypass Road. The ultimate use of the 14 acres, however, will be subject to market conditions as the Project is developed.

34. Petitioner has complied with the affordable housing requirements of the Commission's Docket No. A85-589 and the County affecting the 1,738 residential units originally approved under County zoning for the 219-acre urban parcel. To date, the Project has provided a total of 176 affordable housing units in two projects on Kaua`i. In addition, Petitioner is working with the County to provide additional affordable housing by setting aside approximately 4 acres adjacent to the existing Pa`anau rental project for future dedication to the County, along with provision of sewer hook-up. In October 2002, the County Housing Agency ("Housing Agency") concurred with the affordable housing proposal submitted for the Project and indicated that the Project will have fulfilled all affordable housing requirements pursuant to the current policy. In November 2002, the Housing Agency indicated that the Project has provided, assisted, and will assist in the production of 246 affordable housing units, representing 16.4 percent of the maximum total units proposed for the Project. With the Housing Agency's current policy of recommending that 15 percent of the units

proposed by residential and resort developers be affordable housing, the Agency has indicated that the Project will have fulfilled these current credit system requirements.

35. An accelerated development timetable has been established for the Project. The Project's infrastructure is expected to be substantially completed within a 7- to 8-year timeframe following receipt of final Project approvals. Lot sales and construction of homes are expected to begin in 2006.

36. Construction and marketing of the residential units will proceed in phases, generally from east to west across the Property.

37. The total cost of the Project at full buildout is estimated at $2 billion (in 2002 dollars) as follows:

Professional Services:	$ 313,000,000
Golf Course, Clubhouse, Recreation:	$ 72,000,000
Infrastructure:	$ 108,000,000
Hotel, Residential & Commercial:	$1,224,000,000
Other:	$ 288,000,000
TOTAL COSTS	$2,005,000,000

FINANCIAL CAPACITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

38. DMB Kukui`Ula, LLC, is a subsidiary of DMB Realco II, LLC. The unaudited consolidated financial statements of DMB Realco II, LLC, as of December 31, 2002, reflect total assets of $277,608,490, total liabilities of $74,784,351, and members equity of $187,188,069.

A&B is a member of KDC, LLC. The audited consolidated financial statements of A&B, for the year ended December 31, 2002, reflect total assets of $1,597,569,000, total current and long-term liabilities of $873,921,000, and total shareholders equity of $723,648,000.

39. Petitioner is planning to finance the Project through internally generated funds from its members.

STATE AND COUNTY PLANS AND PROGRAMS

40. Approximately 576 acres of the Petition Area are classified in the State Land Use Urban District, with the remaining approximately 208 acres incrementally reclassified pursuant to section 15-15-78, HAR.

41. Under the State Land Use District Boundary Review conducted in 1992 by OP pursuant to section 205-18, HRS, OP recommended the reclassification of the majority of the Petition Area from the Agricultural District to the Urban District.

42. The County's Kaua`i General Plan designates the Petition Area as "Resort," "Residential Community," and "Open." The remainder of the Property is designated "Resort," "Residential Community," and "Open."

43. The Petition Area is zoned Agriculture District (A), Open District (O), Resort District (RR-20), Residential District (R-4, R-6, R-10, and R-20), General Commercial District (CG), R-1 Special Treatment District – Public Facilities (ST-P), and R-4 Special Treatment District – Public Facilities (ST-P) by the County. A portion of the Petition Area is designated Visitor Destination Area ("VDA") by the County, which

allows timeshare use.

44. A portion of the Property around Kukui`ula Bay, including the areas near the shoreline from Kukui`ula Bay to Lawa`i Bay, are within the Special Management Area ("SMA"), and subject to the County SMA Rules and Regulations.

NEED FOR THE PROPOSED DEVELOPMENT

Residential Market

45. A "Market Assessment" was prepared by Robert Charles Lesser & Co., LLC, in March 2003 for the Project. Recent trends suggest strong demand potential for the Project's proposed residential units. Building upon the sales momentum of high-end resorts across the State, the Project is well poised to capture a significant share of the demand for luxury living on Kaua`i. The relatively recent development of several ultra-luxury resorts along the Kona-Kohala coast on the island of Hawai`i, such as Hualalai, Hokuli`a, and Kuki`o, have established Hawai`i as a prime vacation destination.

46. The State's resort-residential market has boomed in the last decade, fueled by a growing demand for second or vacation homes. Annual sales volume of resort real estate (attached, detached, and custom lots) in the State doubled from approximately 400 units in 1997 to over 800 units in 2002. Sales occurred at resorts along the Kona-Kohala region on the island of Hawai`i, the Wailea, Ka`anapali and Kapalua resorts on Maui, and the Princeville Resort on Kaua`i. During this six-year period, resorts have averaged 725 sales per year.

47. Demographic trends continue to point toward a growing pool of

potential demand from source markets in the western U.S. states. Residential development at the Project will offer unique and high-quality product with designs, features, and amenities not available in the market.

Golf Course Market

48. The proposed 18-hole Tom Weiskopf-designed golf course at the Project will be available for Project residents and guests, in addition to providing kama`aina tee times and rates for local residents.

49. The golf course is seen to be a key amenity to the success of the Project as it will serve to support real estate sales and values, provide open space and view corridors, and offer a recreational amenity.

50. During the past few years, resorts in Hawai`i have begun development of only three golf courses, all of which are private membership-based courses. In the summer of 2002, Hualalai on the island of Hawai`i opened the first nine holes of its Tom Weiskopf-designed golf course (the second course for Hualalai), and Hokuli`a opened all 18 holes of its Jack Nicklaus-designed golf course. Kuki`o's Tom Fazio-designed golf course is scheduled for a 2003 opening.

Commercial Space

51. Uses within the approximately 14-acre site could include retail, restaurants, residential, and other permitted uses allowed under the County zoning. The commercial uses are intended to complement, rather than compete with, the existing commercial establishments in the community. The ultimate use of the 14 acres,

however, will be subject to market conditions as the Project is developed.

Visitor Accommodation Market

52. The planned visitor accommodations at the Project include a resort hotel of approximately 64 rooms. The hotel is expected to complement, rather than compete with, the existing larger hotels and timeshare projects located in the Po`ipu region and will provide its guests with the highest level of service. Additionally, supplemental hotel accommodations may be available from the approximately 123 nearby residential units adjacent to the hotel.

ECONOMIC IMPACTS

53. An "Economic and Fiscal Impact Assessment" study for the Project was prepared by Mikiko Corporation in March 2003. During development, the Project is projected to directly generate as many as 830 full-time equivalent ("FTE") Hawai`i-based jobs in an average year, with most occurring in the 2006 to 2010 period when development could be at its peak. Direct, indirect, and induced employment is expected to average approximately 1,700 FTE development-related jobs per year through 2020 within the State.

54. During the operational phase, the Project is expected to directly support up to 560 long-term permanent jobs, the majority of which will be located onsite. Total direct, indirect, and induced operational employment is anticipated to support up to 970 permanent positions Statewide by 2020.

55. Direct annual visitor expenditures, net of kama`aina expenditures, are expected to generate an estimated $22.4 million per year by 2010, and increase to about $35 million per year by 2020 and beyond in 2002 dollars. Including the indirect and induced multiplier applied to these direct expenditures, the Project is estimated to generate nearly $60 million per year in total Statewide visitor expenditures by 2020 and beyond in 2002 dollars.

56. County government revenues would be primarily from new real property taxes generated by the Project. Additional revenue sources would include fuel, utility, motor vehicle, and other non-grant taxes. Government expenditures include public safety facilities, maintenance of highways, recreational facilities, health and sanitation measures, special cash capital improvements, education, retirement and pension funds, public welfare, and other government functions. The net additional operating revenues to the County could represent approximately $5.2 million per year by 2020, resulting in approximately 4.4 times the new government operating expenditures required to support the additional population expected to be attracted to Kaua`i by the Project.

57. State revenues would be primarily derived from excise taxes on construction and visitor expenditures, personal income taxes paid by new State residents, and the general excise taxes on sales revenues attributable to visitors of the Project. The net additional State revenues are projected to amount to approximately $6.7 million per year by 2020. New revenues to the State government could represent

approximately 2.7 times new State government operating expenditures.

SOCIAL IMPACTS

58. The number of residents to be generated by the Project is approximately 3,400 persons at full buildout. However, due to the resort residential nature of the Project, the majority of these homeowners are anticipated to be part-time residents of the Project.

59. The expected average daily visitor population of the Project is approximately 260 visitors by the year 2020.

60. Petitioner has conducted numerous community meetings since July 2002 with various community businesses, organizations, and individuals within the Koloa-Po`ipu area to solicit input on the Project. These included meetings with the Koloa Community Association Board Members, Koloa Community Association General Membership, South Shore Property Owners and Residents of Kaua`i, Lawa`i Beach Road-Po`ipu Road residents, Koloa-Po`ipu area sports organizations, Po`ipu Beach Resort Association, Kaua`i Chamber of Commerce Board of Directors, Kaua`i Visitors Bureau Board Members, Kiwanis, Po`ipu Rotary Club, West Kaua`i Rotary Club, Kaua`i Economic Development Board's Executive Committee, Kaua`i Contractors Association, Kaua`i Board of Realtors, and the Filipino Chamber of Commerce. The current plan incorporates various elements based on feedback obtained through these meetings.

61. The development and operation of the Project will provide

numerous social benefits to the community including economic, recreational, educational, affordable housing, and infrastructure improvements.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

62. The Agricultural Lands of Importance to the State of Hawai`i system classifies approximately half of the Petition Area as "Prime" agricultural lands. The remaining half of the Petition Area consists of "other" important agricultural lands and lands of no agricultural importance.

63. The Land Study Bureau "Detailed Land Classification for the Island of Kaua`i," 1967, classifies the Petition Area into four categories: A, B, D, and E. The A rated soils, which are considered to have the best conditions for agricultural productivity, cover approximately two-fifths of the Petition Area. The B rated soils cover about two-fifths of the Petition Area and are considered to have good attributes for agricultural productivity. The remaining one-fifth of the Petition Area is rated D and E, which indicate poor potential for productive agricultural uses.

64. McBryde previously cultivated 7,300 acres of sugarcane including approximately 480 acres located within the Petition Area. McBryde ceased doing business as a sugar plantation to concentrate on the business of growing coffee and other diversified crops. The 480 acres were still in sugarcane cultivation when the termination of the sugar plantation operation was announced in 1995. Sugarcane cultivation on the 480 acres ceased in 1996 with McBryde's closure of its sugar

plantation operation.

65. From the initial announcement of the impending closure of sugar operations in 1995 to the eventual closing of the plantation in December 1996, McBryde embarked on a comprehensive program to assist sugar workers who would be displaced from their jobs. All International Longshoremen's and Warehousemen's Union Local 142 benefits, including medical, dental, pension, and retiree medical coverage, were continued until the closure of operations. Housing benefits at Numila Camp were offered to active employees who retired prior to the closing of operations. In addition, supplemental and relocation allowances were provided. A Transition Coordinator's Office was established immediately after the closure announcement to provide job counseling, assist with resume preparation, publicize employment opportunities, and coordinate job training programs and classes. Employees were reimbursed for financial aid for education and training up to $2,500. As of December 1996, of 190 plantation employees who lost their jobs, 86 displaced workers (45 percent) found or were placed in full-time, part-time or seasonal jobs, while another 48 (25 percent) chose to retire. The 227-acre McBryde Agriculture Park was conceived and developed to provide farming opportunities to displaced sugar workers wherein 14 former employees eventually signed license agreements for the 10-acre plots.

66. On an interim basis, three agricultural tenants lease a total of approximately 50 acres within the Property. Prior to commencing their operations, these tenants were advised of the pending Project and the short-term nature of their

tenancy at the Property. Outside of the Property, these three tenants collectively farm an additional approximately 646 acres of land in other areas of Kaua`i.

Flora

67. A botanical survey was conducted by Char & Associates in December 2001 to inventory and assess the botanical resources on the Property and to update the March 1988 botanical survey conducted for the Former Planned Community. None of the plants found during the survey are listed as threatened and endangered species or species of concern.

68. Sugarcane cultivation on the Property ceased in 1996 and most of the former sugarcane lands now support Guinea grass (*Panicum maximum*). The Property also supports a number of woody shrub species, including koa haole (*Leucaena leucocephala*), Christmas berry (*Schinus terebinthifolius*), castor bean (*Ricinus communis*), kolomona (*Senna surattensis*), and indigo (*Indigofera suffruticosa*). Grasses and herbaceous species are locally abundant in places, including partridge pea (*Chamaecrista nictitans*), swollen fingergrass (*Chloris barbata*), sourgrass (*Digitaria insularis*), Natal redtop (*Melinis repens*), and golden crown-beard (*Verbesina encelioides*).

69. Native species within the Property include `akulikuli (*Sesuvium portulacastrum*), kipukai (*Heliotropium curassasvicum*), koali `awa (*Ipomoea indica*), naupaka kahakai (*Scaevola sericea*), hau (*Hibiscus tiliaceus*), `ilima (*Sida fallax*), milo (*Thespesia populnea*), `ala`ala wai nui (*Peperomia blanda var. floribunda*), `ilie`e (*Plumbago zeylanica*), popolo (*Solanum americanum*), `uhaloa (*Waltheria indica*), pohuehue (*Ipomoea*

pes-caprae), pa`uohi`iaka (*Jacquemontia ovalifolia ssp. Sandwicensis*), and `akia (*Wikstroemia uva-ursi*). The latter two are endemic and the others are indigenous.

70. At the time of the survey, areas of recently cultivated fields, including papaya trees (*Carica papaya*) and hybrid corn (*Zea mays*), were observed.

71. The scrub pasture lands located within the eastern portion of the Property include an abundance of hedge cactus (*Cereus uruguayanus*). A pond area previously observed during the 1988 survey near the proposed 16.2-acre archaeological/biological preserve within the southeast portion of the Property is now dominated by California grass (*Brachiaria mutica*). The pond, which previously received runoff water from the sugarcane fields, is now dry and overgrown with Guinea grass and other weedy species.

72. The northern portion of the Property consists of mixed grass lands with scattered trees of Java plum (*Syzgium cumini*) and ironwood (*Casuarina equisetifolia*). The coastal scrub vegetation remains much the same as in the 1988 survey, although the pencil plant (*Euphorbia tirucalli*) has increased in numbers.

73. No wetlands or wetland vegetation were found during the survey.

Vertebrate Fauna

74. No part of the Property is identified as a major waterbird habitat by the United States Fish and Wildlife Service ("USFWS") in the 1985 Hawaiian Waterbirds Recovery Plan. There are no "natural" wetlands on the Property for waterbird habitat.

75. An ornithological and terrestrial mammalian survey was conducted

by Rana Productions, Ltd., in January 2002. The survey also updated two previous faunal surveys conducted for the Former Planned Community in March 1988 and November 1998.

76. A total of at least six endangered Hawaiian hoary bats were observed in the immediate vicinity of the Property during the survey. The Hawaiian hoary bat is regularly seen in and around Po`ipu, as well as most of the lowland areas on Kaua`i. Unlike nocturnally flying seabirds, bats are uniquely adapted to avoid collision with obstacles, man-made or natural. They navigate and locate their prey by using ultrasonic echolocation, which is sensitive enough to allow them to locate and capture small volent insects at night.

77. Other mammalian species observed within the Property included cats (Felis catus), domestic dog (*Canis f. familiaris*), pig (*Sus scrofa*), and horse (*Equus caballus*).

78. Twenty-six avian species representing 17 separate families were recorded during the survey. Three of the species included the Common Moorhen (*Gallinula chloropus sandvicensis*), Hawaiian Coot (*Fulica alai*), and Hawaiian Stilt (*Himantopus mexicanus knudseni*). These are listed as endangered species or sub-species under the Endangered Species Act of 1973, as amended, and by the State under its endangered species program. Currently, there is no suitable nesting habitat within the Property for any of these three waterbird species.

79. The three endangered waterbird species (the Common Moorhen,

Hawaiian Coot, and Hawaiian Stilt) observed within the Property were seen within the Project's WWTP. In addition, a Hawaiian Stilt was observed foraging within the detention basin located immediately mauka of Kukui`ula Bay. Any additional ponds that may be constructed at the WWTP will increase usable habitat for all three endangered waterbird species. The construction of water features within the Project's golf course will also increase habitat for these species. Currently, there is no suitable nesting habitat within the Property for any of the three waterbird species. Where feasible, water features developed within the Project's golf course will be constructed with islands so as to provide potential waterbird nesting habitat. It is likely that should more ponds be constructed at the Project's WWTP and water features be constructed within the golf course, the presence of the three listed waterbird species within the Property will increase. It is also likely that the additional water features and golf course greens will attract two other endangered endemic waterbird species – the Hawaiian Duck (*Anas wyvilliana*) and Nene (*Branta sandvicensis*).

80. Due to the time of year that the current survey was conducted, the three seabirds known from the general area that would ordinarily be expected between June and October were not detected. During the November 1998 survey conducted for the Former Planned Community, numerous Wedge-tailed Shearwaters (*Puffinus pacificus*) were recorded, in association with an extensive number of nesting burrows along the cliff line south of Lawa`i Road on the southwestern portion of the Property. During the current survey, the burrows were observed, but the birds were absent. Also,

the endangered endemic Hawaiian subspecies of the Dark-rumped Petrel (*Pterodroma phaeopygia sandwichensis*) and the threatened endemic sub-species of the Newell's Shearwater (*Puffinus auricularis newelli*) were not detected overflying the Property. Both species have been well-documented crossing the northern, eastern, and southern coastline of Kaua`i in relatively large numbers during the breeding season. Therefore, it is reasonable to assume that numbers of both species overfly the Property during the breeding season. In addition to the nesting colony of Wedge-tailed Shearwaters along the sea cliffs on the southwestern edge of the Property, there is also the possibility of some birds nesting beneath the rock wall on the north side of Lawai Road, just upslope from the sea cliff colony. There are no known nesting colonies, or appropriate nesting habitat, for either the endangered Dark-rumped Petrel or the threatened Newell's Shearwater on the Property.

81. All of the aforementioned seabird species, especially fledging birds, can become disoriented by exterior lighting on their way to sea in the Fall. The Newell's Shearwater migratory seabirds nest during the spring and summer months in the interior mountains on Kaua`i. Young shearwaters leaving their nests in October and November for the first time fly downslope to the ocean orienting by the moon or stars. If they encounter artificial light associated with urban areas, they become blinded or disoriented and collide with buildings, trees, or utility poles. This can lead directly or indirectly to death by starvation or predation.

82. The primary potential impact that the Project poses to the two listed

seabird species is the increased threat that individual birds will be downed after becoming disoriented by new exterior lighting that will be required in conjunction with the Project. To reduce the possibility that the nocturnally-flying Dark-rumped Petrels, Newell's Shearwaters, and Wedge-tailed Shearwaters may become disoriented by the Project's external lights and man-made structures, all external lighting within the Project will be shielded.

83. Potential impacts to the Wedge-tailed Shearwaters include the increased risk of downing due to disorientation by increased outdoor lighting in the area, but more serious is the potential risk posed by disturbance to the nesting colony either by direct physical encroachment or damage to the burrows and a potential increase in predation by domestic predators such as cats and dogs, which may increase in the area following buildout of the Project. To reduce disturbance and conserve the Wedge-tailed Shearwater breeding colony(ies), the colony will be surveyed and mapped, and access into the colony will be limited. Any landscape modifications planned in proximity to the colony will be avoided during the breeding season, which is typically between March and November, with most of the activity occurring between April and October.

Invertebrate Fauna

84. Two endemic Hawaiian cave arthropods, the Kaua`i cave wolf spider (*Adelocosa anops*) and the Kaua`i cave amphipod (*Spelaeorchestia koloana*), are currently known to live in the lava formations in the Koloa area, including certain lava

tube caves within the eastern portion of the Property.

85. These endemic arthropods are unique, and they are found only on Kaua`i in the particular location of the Koloa area. The Kaua`i cave wolf spider is known to inhabit two localities - two lava tubes, or caves, within the eastern portion of the Property, and two lava tubes, or caves, on the Kiahuna property (off the Property). In addition, the Kaua`i cave amphipod is known to exist in the limestone cave in the Mahaulepu area.

The Kaua`i cave wolf spider is a restricted and isolated population. The species also reproduces young in much fewer numbers than its surface counterpart, the hunting spider, and its young remain in the caves and do not migrate by "ballooning." Thus, if the present Kaua`i cave wolf spider population is reduced, its capacity to expand and recover will be limited.

86. The Kaua`i cave wolf spider has completely lost its eyes in adapting to its underground habitat. The Kaua`i cave amphipod is a natural prey for the Kaua`i cave wolf spider, and they have evolved as a predator/prey system for millions of years.

87. The Project could pose a threat to the Kaua`i cave wolf spider and the Kaua`i cave amphipod if construction and development of the ground above and about their cave habitat significantly impact the underground ecosystem. The underground habitat could be adversely impacted by the movement of heavy construction equipment, which could collapse the lava tubes. Grading the surface could remove the perennial vegetation, trees and shrubs, which would cause the vegetation

roots to die. The roots entering the subterranean cave system provide the nutrient resource for the entire cave ecosystem as the Kaua`i cave amphipod feeds on the vegetation roots and the Kaua`i cave wolf spider feeds on the amphipod.

88. The Kaua`i cave wolf spider and Kaua`i cave amphipod require complete darkness, high moisture, and no air movement to survive. These conditions exist at the far ends of the lava tubes but do not exist at the lava tube entrances.

89. The lava tubes are the primary habitat for the Kaua`i cave wolf spider and the Kaua`i cave amphipod. Both species also can reside in the cracks that irradiate away from the main lava tube, which can be several meters away from the main lava tube.

90. The Kaua`i cave wolf spider and the Kaua`i cave amphipod were listed as endangered species under the Endangered Species Act by the USFWS in January 2000.

91. On September 27, 1995, a Cooperative Agreement between the Former Petitioner and the USFWS, Region 1, was entered into for the purpose of restoring and protecting the subterranean habitats of the Kaua`i cave wolf spider and the Kaua`i cave amphipod. Under the terms of the Cooperative Agreement, the USFWS completed an initial biological survey of the cave system and continues to monitor the caves on a periodic basis. Protective grating to secure the cave entrances has been installed to limit access to the cave system pursuant to the conditions of the Cooperative Agreement.

92. In October 2002, Petitioner commissioned Dr. Francis G. Howarth of the Hawai`i Biological Survey of the Bishop Museum to conduct a biological survey to determine the extent of the habitat of the Kaua`i cave wolf spider and the Kaua`i cave amphipod within the eastern portion of the Property. This resulted in the proposed designation of three biological preserves totaling approximately 34 acres within the Property as follows (the caves are identified by the corresponding State archaeological site numbers):

a. Biological Preserve (Koloa Cave #1, also known as Cave Site #3075A, and Koloa Cave #2, also known as Cave Site #1914, and Cave Sites #3179, #3075B, and #3075C): This approximately 16.2-acre preserve is located within the northeast portion of the Property and was enlarged and reconfigured to provide a minimum 150- to 200-foot buffer from the footprint of Koloa Cave #2. The southern boundary was extended southward to include two additional caves (Cave Sites #3075B and #3075C), with 50-foot buffers beyond their footprints. The proposed community park along the eastern boundary of the Preserve will provide an appropriate buffer.

b. Biological Preserve (Cave Site #1927): Located within the central-eastern portion of the Property, this approximately 1.2-acre Preserve was expanded at the upslope (northern) portion to provide additional habitat and buffer around the footprint of Cave Site #1927C. Specifically, the eastern, northern, and western boundaries near Cave Site #1927C have been extended to near the edge of the relatively undisturbed lava surface. The southern portion of the Preserve will border a golf course

fairway, which will serve as a buffer.

c. Biological Preserve (adjacent to and mauka of the Prince Kuhio Park): Located within the southeast portion of the Property, adjacent to and mauka of the Prince Kuhio Park, this approximately 16.2-acre Preserve represents additional protected critical habitat for the Kaua`i cave wolf spider and the Kaua`i cave amphipod. Although there are no caves known to exist within the Preserve, the Preserve is underlain by the same lava flow that contains the occupied caves. There are also areas of exposed lava on the surface, which indicates the presence of potential habitat.

93. A Biological Management Plan ("Management Plan") was prepared in March 2003 by Dr. Francis G. Howarth. The Management Plan delimits critical habitat for populations of the Kaua`i cave wolf spider and the Kaua`i cave amphipod and provides management recommendations for the protection of the populations of these species by designating the three permanently preserved and managed biological preserves within the Property. Petitioner is also currently working with the USFWS to modify the Cooperative Agreement to permanently protect these preserve areas. The protection of these preserve areas will be accomplished by recording a conservation easement to permanently preclude any future development within the biological preserves and modifying the Cooperative Agreement to permanently protect these preserve areas.

94. The goal of the Management Plan is to reduce threats that affect the Kaua`i cave wolf spider and the Kaua`i cave amphipod, stabilize their populations, and

maintain their ecosystem in the long term. The long-range goal is the recovery of the Kaua`i cave wolf spider and the Kaua`i cave amphipod and the eventual removal of these species from the Endangered Species List.

Since there are few relevant studies on restoration of cave preserves, the proposed Management Plan is adaptive, changing as the results of monitoring and research become available. This "management-by-research" strategy relies on experimentally modifying the surface and cave environments in three caves (Cave Sites #3179, #3075B and #3075C) that do not currently support the Kaua`i cave wolf spider and the Kaua`i cave amphipod. These caves provide the opportunity to experiment with possible protocols in order to find appropriate strategies for managing the biologically important Preserve caves (Koloa Caves #1 and #2 and Cave Site #1927C). The development and implementation of the Management Plan within the Preserve adjacent to and mauka of the Prince Kuhio Park will occur over time as the results of the research program in the other Preserves become available.

95. The USFWS issued its final rule (amending part 17, sub-chapter B of Chapter I, Title 50 of the Code of Federal Regulations, effective May 9, 2003) designating critical habitat for the Kaua`i cave wolf spider and the Kaua`i cave amphipod. The final rule encompasses the three biological preserve areas within the Property. The Pacific Islands Fish and Wildlife Office of the USFWS, in a letter dated May 2, 2003, commented that the Project, including the designation and management of the three biological preserve areas, is consistent with the conservation of the endangered cave species and is

not likely to adversely affect critical habitat.

Archaeological Resources

96. An archaeological inventory survey was performed on portions of the Property and a report was prepared in June 1988, which was reviewed and accepted by the State Department of Land and Natural Resources Historic Preservation Division ("SHPD").

97. The survey identified 58 sites, of which four were found within cultivated land area and the remaining 54 on non-cultivated land area. The sites included heiaus, agricultural complexes, habitation sites, burials in caves, lava tube caves, and historic sites.

98. Additional data recovery and preservation work has been undertaken on various portions of the Property:

a. Archaeological data recovery work for the 219-acre Urban parcel has been completed. The findings are detailed in the report *Archaeological Data Recovery Report for the Kukui`ula Planned Community, Phase I* dated June 1998 and accepted by the SHPD on January 8, 1999.

b. Data recovery work for the "Kukui`ula Bay Planned Community Phase II" (Koloa Estates residential subdivision) has been completed. The findings are detailed in the report *Archaeological Data Recovery Report for Kukui`ula Bay Planned Community, Phase II* dated August 1999 and accepted by the SHPD on May 19, 2000.

c. A Data Recovery Plan which addresses five archaeological sites located within the eastern portion of the Property was accepted by the SHPD on February 8, 2001. Data recovery fieldwork has commenced pursuant to the accepted data recovery plan.

d. Four preservation plans have been prepared and accepted by the SHPD. These plans include: *Preservation Plan for Archaeological Sites 50-30-10-1903 and 50-30-10-1904* dated December 2000 and accepted by the SHPD on January 18, 2001, *Preservation Plan for Six Archaeological Sites 50-30-10-1912 to 50-30-10-1914, 50-30-10-1917, 50-30-10-3075 (A, B, C) and 50-30-10-3179* dated October 2001 and accepted by the SHPD on November 5, 2001, *Preservation and Burial Treatment Plan for Archaeological Site 50-30-10-1927* dated October 2001 and accepted by the Kaua`i/Ni`ihau Islands Burial Council and the SHPD on May 7, 2002, and *A Long-Term Preservation Plan for an Approximately 16-Acre Archaeological Preserve in Kukui`Ula* dated January 2003 and accepted by the SHPD on February 3, 2003. Implementation of these preservation plans will occur prior to any construction activity affecting these sites.

99. Based on the preservation plans, a total of five archaeological preserves consisting of approximately 36 acres will be provided throughout the Project for the preservation of the 16 archaeological sites.

100. A large archaeological/biological preserve consisting of approximately 16.2 acres is located within the southeastern portion of the Project, mauka and adjacent to the Prince Kuhio Park. Seven archaeological sites will be

preserved within this area. The Royal Order of Kamehameha I, Kaumuali`i Chapter 3, has agreed to become kahu (steward and caretaker) of the planned preserve. Public access within the preserve will be provided and appropriately configured to allow viewing of the archaeological sites. Interpretive signs featuring information about the preserve and the archaeological sites will be appropriately located within the preserve.

101. Another large archaeological/biological preserve of approximately 16.2 acres located within the northeastern portion of the Project will include the preservation of six archaeological sites.

102. Two smaller archaeological preserves totaling approximately 2.2 acres located in the northwestern portion of the Project will include two separate archaeological sites (possible heiau). The remaining archaeological/biological preserve of approximately 1.2 acres located in the central portion of the Project will include one archaeological site (including human remains).

103. The two large preserves and the smaller approximately 1.2-acre preserve will also serve as biological preserves for the preservation and protection of the endangered Kaua`i cave wolf spider and Kaua`i cave amphipod.

104. A cultural impact assessment was conducted by Cultural Surveys Hawaii in December 2002 to assess the potential impacts of the Project on native Hawaiian cultural resources, practices, and beliefs. The assessment also included a regional perspective of the Koloa and Lawai ahupua`a of which the Property is a part.

105. By the 18th century, the Property comprised the western extent of an

intricate network of taro lo`i, `auwai, and associated habitation sites that stretched across the makai floor of the Koloa ahupua`a, known as the Koloa field system.

106. Nineteenth century documents show that remnants of the traditional Hawaiian settlement pattern survived the first seven decades of western contact.

107. By the beginning of the 20th century, western commercial entrepreneurial interests had transformed the landscape of the Property into an expanse of sugarcane fields and cattle pastures and dispersed any remaining native residents.

108. Forest areas miles inland from the Property would have been utilized for a variety of purposes, especially gathering of timber, avian resources, medicinal plants, and famine food resources. Presently, the mauka portions of the Lawa`i and Koloa ahupua`a are in the forest reserve. It is probable that botanical resources traditionally used in Hawaiian culture still exist in these forest areas, which unlike the present Property, were never subject to commercial agriculture.

109. In the makai areas of the Lawa`i and Koloa ahupua`a, fishing and marine resource gathering practices continue to occur along the coastal areas, as have been documented in the past. Public access to coastal areas makai of the Property is from Lawa`i Road. Access to the shoreline will be enhanced via a trail system throughout the Project that will also provide a public regional connection from Koloa Town and the surrounding Po`ipu area to the shoreline west of Po`ipu Road.

110. At present, no contemporary or continuing cultural practices occur

within the Property. Historic sites related to traditional Hawaiian habitation and agriculture and a Hawaiian burial site have been recorded during archaeological investigations of the Property. Additionally, three heiau or possible heiau sites have been identified within the Property. Preservation and burial treatment plans have been prepared that mandate the protection and preservation of the heiau and burial sites and the examples of the habitation and agricultural sites within the Property.

111. In the event that previously unrecorded, significant historic sites are encountered during the course of development activities within the Property, further mitigation measures would be undertaken for the protection of these sites. Also, further procedures are in place to ensure that proper treatment of any burial finds is coordinated with appropriate agencies, including the SHPD and the Kaua`i/Ni`ihau Islands Burial Council.

112. The Project will have minimal impact upon native Hawaiian cultural resources, beliefs, and practices, provided that the preservation and burial treatment plans which have been prepared for the Project are implemented, and there is proper treatment of any previously unrecorded, significant historic sites which may be encountered during development (including consultation with the SHPD and, as may be appropriate, with Kaua`i community cultural organizations). Access to coastal fishing and marine resource gathering areas will continue to be provided with the development of the Project. In addition, a scenic coastal trail will be developed west of Spouting Horn Park as part of the Project's comprehensive trail system.

Groundwater Resources

113. The groundwater underlying the Property exists in two layers. The first layer of water is trapped at the surface above a relatively impervious strata. The first layer is referred to as phreatic groundwater and is not used for drinking.

114. The lower or deeper groundwater, found under the Koloa series rock, is the source of fresh water from the upper mountain range. A well site taps the deep groundwater at a depth of 750 feet.

115. There is little possibility for contamination of the deep groundwater resource primarily because:

a. the impermeable rock layer which substantially precludes seepage from the upper shallow layer of phreatic groundwater;

b. the distance (700 feet) to the lower deep groundwater resource; and

c. the depth of lower groundwater resource beneath sea level.

116. Because of the underlying impermeable rock layer, impact from pesticides or nutrients will be limited to the phreatic groundwater in the upper shallow layer.

117. To minimize impacts of the Project on the well fields and deep groundwater resource, future improvements to the WWTP will include a tertiary level of wastewater treatment to produce R-1 effluent water for irrigation . The initial source of non-potable water will be R-1 quality effluent from the Project's WWTP, which is

estimated to average 624,000 gallons per day ("gpd") at full buildout. The effluent from the WWTP will be used to irrigate selected Project areas, including open space areas, roadside landscaping, the community park, the golf course driving range, drainage corridors, and portions of the archaeological/biological preserves within the eastern portion of the Property, if approved under the Project's Biological Management Plan.

118. During most of the last century, the Property has been irrigated with water from Lawa`i Stream, using an irrigation system owned by McBryde. The existing non-potable water system in the vicinity of the Project includes the irrigation system, irrigation wells, and reservoirs located mauka of the Property. The Project's non-potable water supply system will provide irrigation requirements for the golf course, open space areas, roadside landscaping, WWTP make-up water, and all other non-potable uses within the Project, as well as the National Tropical Botanical Garden Visitor Center. The total average non-potable water demand for the Project at full buildout is projected to be 2.3 million gallons per day ("mgd"). A maximum of 3 mgd from the existing irrigation system, supplemented by irrigation water from the Poele`ele Well and the Kaua`i Pine Well, is proposed.

119. Use of the Project's wastewater effluent, along with the use of surface water formerly used to irrigate sugarcane fields, will reduce the demand on potable water supplies.

Recreational Resources

120. Coastal resources in the Koloa District include approximately two

miles of sandy beaches, surfing sites, and body surfing areas. Coastal recreational activities include swimming, sunbathing, canoe paddling, boat launching, diving, fishing, surfing, and body surfing.

121. The Prince Kuhio Park and the Spouting Horn Park are adjacent to the Project. The nearest golf course is the Kiahuna Golf Course located to the east of the Project.

122. An impact on the area's recreational facilities is expected from the increase in population generated by the Project. The Project will also add new recreational facilities that will be available for use by the general public, including:

a. An 18-hole golf course with kama`aina tee times and rates for local golfers;

b. An approximately 20-acre active community park, including multi-purpose fields (baseball, softball, and soccer), tot lots, comfort stations, and parking. An adjacent approximately 16.2-acre archaeological/biological preserve will also function as additional passive open space;

c. An enlarged usable beach area at Kukui`ula Bay, including shower facilities, picnic tables, and a restaurant and beach concession;

d. Repairs and upgrades to the Kukui`ula Small Boat Harbor facilities, including improvements to the pier, boat ramp, and

lighting (as required and as approved by the County and State);

e. Open space areas;

f. An extensive network of trails throughout the Property for pedestrians and bicyclists, including a scenic coastal trail to be developed west of Spouting Horn Park;

g. A public beach parking lot consisting of 20 parking stalls to be developed on the Property in the Boyden's Pond area to increase public accessibility to this area; and

h. Provision of public access within the approximately 16.2-acre archaeological/biological preserve located mauka of the Prince Kuhio Park, with provision of interpretive signs within the preserve.

Visual Resources

123. Visual characteristics of the Property's current conditions include grassed drainage swales, small areas of cultivated lands, a WWTP within the eastern portion, a temporary small commercial operation near Kukui`ula Bay, and weedy vegetation on areas that have been previously disturbed, with pockets of scrub brush of koa haole and weeds.

124. The makai areas of the eastern portion of the Property will not have dramatic scenic views because of the relatively low elevation and level topography. The

mauka areas and the western portions of the Property gradually rise in elevation and will provide coastline, ocean, and mountain views.

125. Views of the mountains from existing coastal residential areas may be partially blocked when the Project is completed, but views of the ocean will not be affected.

126. The reduced density of the Project will enhance the overall visual quality related to the Project by providing more open space and allowing for more flexibility in siting of the residential units to reduce visual impacts. The hotel concept envisions a main house with separate guestrooms consisting of detached low-rise duplexes and triplexes to minimize view impacts. The architecture for the Project will be complementary to the general ambience of the Koloa region.

127. Petitioner will incorporate landscaping throughout the Project to create a pleasing visual environment. The WWTP has been screened by landscaping material. A 100-foot setback along the mauka side of Lawa`i Road west of the Lawa`i Beach Resort has been reserved for landscaping, pedestrian/bike path, beach parking, and a portion of the golf course.

Coastal/Aquatic Resources

128. A biological reconnaissance survey of Kukui`ula Bay was conducted by AECOS, Inc., in March 2003 to assess the existing marine biota of Kukui'ula Bay and to recommend a plan to monitor the marine biota during construction of the Project. As part of the survey, a review was also undertaken of the

two prior marine monitoring surveys conducted of Kukui`ula Bay in 1992 and 1993 by EcoSpirit Institute for the Former Planned Community.

129. During the survey, seven species of hard coral were observed within Kukui`ula Bay. Five species were observed during the prior surveys, including *Porites compressa* colonies which were not observed during the recent survey. Species of coral observed during the recent survey that were not reported in the prior surveys include three *Montipora* species – *M. capitata, M. flabellata,* and *M. patula;* and two other species – *Pocillopora damicornis* and *Cyphastrea ocellina,* which are both common inshore corals, although seldom in abundance.

130. During the survey, the area of greatest live coral coverage (5 to 10 percent) occurred in the southeastern portion of Kukui`ula Bay near the rock ledge and towards the breakwater. The eastern portion of Kukui`ula Bay had less than 1 percent live coral coverage. The live coral appeared to be healthy and adapted to the dynamic wave conditions of Kukui`ula Bay. These findings are consistent with the 1992 survey whereby approximately 5 percent live coral coverage was reported in the eastern part of Kukui`ula Bay during the pre-construction survey, less than 1 percent in the northeastern part of Kukui`ula Bay for the during-construction survey, and less than 2 percent in the eastern part of Kukui`ula Bay during the post-construction survey.

131. Many of the macroinvertebrates observed during the survey were also observed in the prior surveys, with the rock-boring urchin (*Echinometra mathaei*) being the most common species noted. The number of urchins observed was not

unusually high or low.

132. Over 30 species of fish were observed within Kukui`ula Bay during the survey. The fish species observed are fairly typical for such a moderately high-energy nearshore environment. Surgeonfishes (*Acanthuridae*) and wrasses (*Labirdae*) were abundant near the limestone bottom of Kukui`ula Bay, and small schools of goatfish (*Mullidae*) were observed in the deeper areas over sand or rubble substrata.

133. Only one green sea turtle (*Chelonia mydas*) was observed during the survey. During the 1993 survey, between 8 and 15 turtles were observed. However, most of these turtles were observed in deeper waters toward or just outside of Kukui`ula Bay as part of the turtle monitoring program.

134. The recent reconnaissance survey revealed no substantive differences between the biological community existing in Kukui`ula Bay and that observed in the prior surveys. Based upon the results of the reconnaissance survey and the sea and weather conditions in the area, the development of an appropriate new monitoring program is recommended.

ENVIRONMENTAL QUALITY

Noise

135. The existing background ambient noise levels along Lawa`i Road are about 48 to 53 dBA.

136. Helicopters flying over the ocean parallel to the shore emit maximum noise levels of 55 dBA. Automobiles traveling 25 to 35 mph typically cause

maximum noise levels of 58 to 67 dBA at a distance of 45 to 50 feet from the center of the road.

137. Noise from motor vehicles on Po`ipu and Lawa`i Roads and on interior roads of the Project will impact activities in the open spaces, as well as those inside the naturally ventilated buildings in the Project.

138. The noise exposure criteria used by the Department of Housing and Urban Development are used to determine the acceptable distance of the housing from the centerline of the right-of-way based on the allowable 65 DNL noise exposure contour for the worst-case condition. The setback distances can be adjusted to allow smaller setbacks with sound attenuation from plantings, walls, and natural topographic features.

139. Based on the reduction in density under the current Project, an estimated 16,800 fewer average daily vehicle trips will be generated by the Project as compared to the Former Planned Community. This should result in a corresponding reduction in traffic noise generated by the Project.

140. With the closure of the sugarcane cultivation and operation of McBryde, the noise relating to sugarcane cultivation and operations otherwise affecting the Project is no longer being generated.

141. Noise from the Project's golf course maintenance facility, resort, and commercial uses will not exceed the maximum permissible sound levels set forth in the DOH's Administrative Rules, Title 11, Chapter 46, "Community Noise Control" noise

regulations.

142. All construction operations will be conducted in compliance with the DOH's Administrative Rules, Title 11, Chapter 46, "Community Noise Control" noise regulations. These Rules require a noise permit if the noise levels from construction activities are expected to exceed the allowable levels stated in the Rules. To the extent possible, construction noise restrictions specified in the Rules will be adhered to and enforced.

Air Quality

143. An air quality study for the Former Planned Community was prepared in November 1988 by Barry D. Root and Barry D. Neal. The study focused mainly on three sources of pollution: industrial, agricultural, and vehicular.

144. McBryde ceased its business of sugarcane cultivation in 1996, and air emissions related to sugarcane cultivation and operation are no longer being generated.

145. A long-term contributor to air pollutants will be the increase in vehicular traffic generated by the Project. Based on the modeling conducted in the November 1988 air quality study, the predicted worst case maximum 8-hour carbon monoxide concentration values in milligrams per cubic meter ("mg/m^3") upon completion of the Former Planned Community around the year 2015 at the intersections of (a) Koloa Road and Maluhia Road, (b) Po`ipu Road and Koloa Road, (c) Po`ipu Road and Road B, and (d) Po`ipu Road and Road A/Lawa`i Road were 4.4, 7.5, 7.7, and 6.5,

respectively. All predicted 8-hour maximum carbon monoxide concentrations were within the 10 mg/m^3 national Ambient Air Quality Standard ("AAQS"). It is possible that the carbon monoxide concentrations could have exceeded the State 8-hour standard of 5 mg/m^3, which is twice as stringent than the national standard.

146. Although the national AAQS allows higher levels of carbon monoxide, the national standards were developed after extensive research with the objective of defining levels of air quality that would protect the public health with an adequate margin of safety.

147. Based on the reduction in density under the current Project, an estimated 16,800 fewer average daily vehicle trips will be generated by the Project as compared to the Former Planned Community. This should result in a corresponding reduction in motor vehicle air pollutant emissions generated by the Project.

148. In conjunction with the Supplemental Order, Condition No. 8 required that Petitioner participate in an air quality monitoring program as specified by the DOH. The DOH has reviewed the November 1988 air quality study and noted that the Former Planned Community was not anticipated to be a major source of air pollutants for which an air quality monitoring program would be required. At the appropriate time, an updated air quality assessment of the Project will be prepared and submitted to the DOH for review.

149. Potential air quality impacts during construction of the Project will be mitigated by complying with Chapter 11-60.1, Air Pollution Control, Title 11, HAR.

Short-term air quality impacts from fugitive dust associated with construction activities are to be mitigated by the use of water wagons, sprinkler systems, and dust fences. To the extent possible, fugitive dust will be controlled with appropriate application of water as a palliative.

Coastal Water Quality

150. A Parametric Environmental Study of Groundwater and Nearshore Oceanographic Impact was conducted by Oceanit Laboratories, Inc., in October 1993 to identify and discuss the potential impacts to the groundwater and nearshore marine environment from the construction and operation of the proposed golf course, residential areas, and the proposed small boat marina for the Former Planned Community.

151. The groundwater underlying the Property exists in two layers: (a) a layer of phreatic groundwater trapped at the surface above a relatively impervious strata of Koloa series lava; and (b) a lower deep groundwater found under the Koloa series rock.

152. The shallow layer of phreatic groundwater is not used for drinking. The impervious layer of Koloa series rock traps the phreatic groundwater at the shallow topsoil layer and keeps it from seeping into the deep groundwater, which is the source of fresh water from the upper mountain range.

153. Very little, if any, of the rainfall onto the Property seeps into the deep groundwater source. Most of the water is absorbed in the shallow phreatic

groundwater layer or directly runs off into the existing swale system constructed on and for the Project.

154. Impacts to the nearshore environment, if any, will mostly result from runoff activities associated with the golf course and residential development within the Project. Runoff impacts are to be minimized through best management practices ("BMPs"), which include management of materials application (e.g., fertilizers), catchment, retainage basins, and monitoring.

155. The Property currently includes a drainage system consisting of detention basins and grass-lined channels, which direct storm runoff to a lower basin just mauka of Kukui`ula Bay. Stormwater quality can be monitored through BMPs to minimize impacts.

156. As part of the approval for the construction of the drainage culvert which outlets into Kukui`ula Bay, monitoring programs for water quality, algae, coral, and green sea turtle were established to ensure that coastal resources are not being adversely impacted. Petitioner intends to continue water quality monitoring throughout the construction period of the Project.

157. An evaluation of the monitoring program was conducted by AECOS, Inc., in March 2003 to determine if there has been a change in the baseline water quality conditions in nearshore coastal waters at and near Kukui`ula Bay since the construction of the drainage culvert in 1993.

158. The initial monitoring program was conducted between July 1991

and November 1994 with monthly water quality samplings at up to six stations. This timeframe coincided with mass grading for Phase I of the Former Planned Community and construction of the culvert, which was initiated in July 1992 and completed in April 1993. Three stations were located at increasing distances seaward of the culvert mouth. The other three stations were located in nearshore open coastal waters west and east of the Kukui`ula Small Boat Harbor. Monitoring continued on a quarterly basis from February 1995 to August 2002. Monthly water quality sampling recommenced at five stations within and outside of Kukui`ula Bay beginning in September 2002 in anticipation of the development of the current Project.

159. Monitoring parameters included temperature, salinity, dissolved oxygen, turbidity, nitrate + nitrite, ammonia, total nitrogen, total phosphorus, and chlorophyll α. The basic comparison made was of the pre-construction and construction period monitoring at Station 2 between 1991 and 1994 and the subsequent 1994 through 2002 post-construction interval.

160. The monitoring evaluation concluded that the only significant change that has occurred in the baseline water quality conditions in the nearshore coastal waters at and near Kukui`ula Bay since 1994 is the small improvement in average ammonia concentration. The nearshore coastal waters at and near Kukui`ula Bay continue to meet State Water Quality Standards (HAR, Title 11, Chapter 54) in nearly all respects. Selected mean criteria exceeded State Water Quality Standards by a small margin at some stations. With most of the parameters, concentration differences

between those stations within and outside of the embayment are not great. Overall, water quality within and outside of Kukui`ula Bay remains good relative to the State Water Quality Standards.

161. A narrower comparison was made between water quality data from samples obtained during the pre-construction period (July 1991 to July 1992) and data from samples collected during the post-construction period (February 1995 to February 2003). The results indicate that particulate levels represented by turbidity and chlorophyll α have not changed at all in Kukui`ula Bay, suggesting that implementation of the detention/culvert system for the Project has maintained water quality at pre-construction levels.

162. Petitioner will continue to monitor baseline water quality conditions of the nearshore coastal waters at and near Kukui`ula Bay and will develop an appropriate construction phase water quality monitoring program prior to construction of the Project.

163. For the construction and operation of the Project's golf course, the Kukui`Ula Golf Course Best Management Practices Plan was prepared by James Connolly Consulting, Ltd., in March 2003 to address the control of pollutants and the protection of surface and groundwater, as well as other environmental and golf management issues. Golf course BMPs will be implemented to protect surface water quality from contamination by the application of fertilizers and pesticides.

164. A full range of erosion and sediment controls will be instituted

during grading and excavation operations and for construction of the Project's golf course, and compliance will be maintained in conjunction with the County's Grading Ordinance and DOH's National Pollutant Discharge Elimination System Permit program. Mitigation measures will be instituted following site-specific assessments, incorporating structural and non-structural BMPs.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Transportation Facilities

165. Existing roads in the Koloa area are all two-lane roadways and intersections are stop-controlled.

166. A traffic impact assessment was conducted by Austin, Tsutsumi & Associates, Inc., in March 2003 to evaluate potential traffic impacts resulting from the Project and to recommend improvements to mitigate such impacts.

167. The traffic impact assessment analyzed traffic conditions at the following eight unsignalized intersections in the vicinity of the Project during the weekday AM and PM peak traffic hours:

- Kaumuali`i Highway/Koloa Road/Kua Road
- Kaumuali`i Highway/Maluhia Road
- Maluhia Road/Ala Kinoiki Road (Koloa/Po`ipu Eastern Bypass Road)
- Maluhia Road/Koloa Road
- Po`ipu Road/Koloa Road
- Po`ipu Road/Pa`anau Road (serves Koloa School and nearby homes)

- Po`ipu Road/Lopaka-Paipa Road (serves Koloa Estates)
- Po`ipu Road/Lawa`i Road

168. Level of Service ("LOS"), used to describe the conditions of traffic flow, indicates a range of traffic conditions from LOS A, free-flowing conditions, to LOS F, congested conditions.

169. Base year conditions without and with the Project were projected for Year 2012, the anticipated full buildout date for the Project. A growth rate of 3 percent per year was applied to existing 2002 volumes to project base year traffic volumes.

170. Upon development, the Project is estimated to generate approximately 13,780 average daily trips, including approximately 555 external vehicular trips during the AM peak hour of traffic and approximately 970 external vehicular trips during the PM peak hour of traffic. Access to the Project will be via Po`ipu Road, Lawa`i Road, and Koloa Road.

171. By Year 2012, the following Project roadways and intersections with external roadways will be developed:

- The Po`ipu Road/Lawa`i Road/Western Bypass Road intersection will be developed as a single-lane roundabout.
- The initial Project phase will include construction of a portion of the Western Bypass Road from the Po`ipu/Lawa`i Road intersection to the major Project roadway. The Western Bypass Road will intersect Po`ipu

Road, forming the fourth leg at the Po`ipu Road/Lawa`i Road intersection. During the initial phase, all Project traffic will use this roadway, except for traffic to/from the proposed community park and affordable housing site.

- The initial Project phase will also include a major Project roadway running generally parallel to Lawa`i Road and providing access to the proposed hotel.
- Pa`anau Road will provide access for the proposed affordable housing site.
- Two access driveways to the proposed community park will be located along Po`ipu Road between Lopaka-Paipa Road and Lawa`i Road, forming unsignalized T-intersections with Po`ipu Road.
- The section of the proposed north-south Western Bypass Road between the major Project roadway and Koloa Road is expected to be completed after the development of 750 Project units. The Western Bypass Road will intersect Koloa Road between `Oma`o Road and Po`ipu Road, forming a T-intersection west of the Koloa Road/Po`ipu Road intersection.
- A proposed north-south roadway, referred to as the Lawa`i Connector Road, will link the major Project roadway with Lawa`i Road near Kukui`ula Bay, forming T-intersections at Lawa`i Road and the major

Project roadway.

- Lopaka-Paipa Road will be extended west to intersect with the Western Bypass Road.

172. Of 34 critical intersection movements analyzed, 27 movements are projected to operate at LOS D or better in Year 2012 with the Project, including the following:

- *Po`ipu Road/Lopaka-Paipa Road*: The projected traffic at the Po`ipu Road/Lopaka-Paipa Road and the Po`ipu Road/Community Park Access intersections will operate acceptably, improving when the portion of the Western Bypass Road to Koloa Road is completed by the Project and non-Project traffic diverts from Po`ipu Road to the new route.
- *Koloa Road/Western Bypass Road:* The installation of a traffic signal system at the Koloa Road/Western Bypass Road intersection will be warranted and traffic conditions will operate at acceptable LOS D or better. Installation of a traffic signal system at the Koloa Road/Western Bypass Road intersection is preferable to the installation of traffic signal systems at either the Maluhia Road/Koloa Road intersection and/or the Koloa Road/Po`ipu Road intersection.
- *Po`ipu Road/Lawa`i Road/Western Bypass Road:* Configuring this intersection as a roundabout will result in LOS A operating conditions.

173. Six critical movements are projected to operate at LOS E or F as discussed below:

- *Kaumuali`i Highway/Maluhia Road*: The Maluhia Road northbound left-turn traffic onto Kaumuali`i Highway will remain at LOS F during the AM and PM peak hours of traffic. Installation of a traffic signal is not warranted due to the low northbound left-turn volume at this intersection.
- *Maluhia Road/Ala Kinoiki Road*: The westbound left-turn traffic from Ala Kinoiki Road onto Maluhia Road will experience an increase in delay, deteriorating from LOS D to LOS E during the PM peak hour of traffic. Traffic volumes at this intersection will not warrant installation of a traffic signal system.
- *Maluhia Road/Koloa Road and Koloa Road/Po`ipu Road*: The portion of the Western Bypass Road constructed by the Project will alleviate the north-south demand on Po`ipu Road by providing another north-south route to/from Po`ipu/Kukui'ula. However, operating conditions for the left-turn traffic onto Koloa Road from Po`ipu Road and Maluhia Road will continue to experience LOS F conditions due to the high demand on Koloa Road.

  The remainder of the Western Bypass Road from Koloa Road to Maluhia Road, which creates a bypass around Koloa Town, will

ultimately be required to improve conditions on the portion of Koloa Road from Po`ipu Road to Maluhia Road. This improvement will be dependent on the resolution of right-of-way issues with the private landowners in the area. Reconfiguring the Maluhia Road/Koloa Road intersection and/or the Koloa Road/Po`ipu Road intersection as an all-way stop-controlled intersection will not improve operating conditions.

- *Po`ipu Road/Paanau Road*: Operating conditions at the Po`ipu Road/Pa`anau Road intersection will improve from LOS F to LOS E operating conditions as traffic volumes on Po`ipu Road will divert to the Western Bypass Road, thereby not warranting installation of a traffic signal system.
- *Kaumuali`i Highway*: Traffic on the section of Kaumuali`i Highway east of Maluhia Road will continue to operate at LOS E during the AM and PM peak hours of traffic.

174. Recommendations for Future Conditions With Project: The following are traffic improvement recommendations for future conditions with the Project:

- *Po`ipu Road/Lawa`i Road/Western Bypass Road*: Provide a single- lane roundabout to serve the projected traffic demands for the Project.
- *Po`ipu Road/Community Park Access Roads*: Provide separate eastbound left- and right-turn lanes on the Community Park Access roads.

- *Western Bypass Road*: Construct the section of the Western Bypass Road within the Project to its intersection with Koloa Road.
- *Koloa Road/Western Bypass Road Intersection*:
  - Signalize the Koloa Road/Western Bypass Road intersection.
  - Provide separate northbound left- and right-turn lanes on the Western Bypass Road.
  - Provide a separate eastbound right-turn lane on Koloa Road at least 275 feet long to accommodate the projected demands.
  - Provide a separate westbound left-turn lane on Koloa Road at least 275 feet long to accommodate the projected demands.
- *Transportation Alternatives*: Continue to research and develop alternative transportation programs such as on-demand shuttle service and park-and-ride facilities to reduce vehicular traffic demand.

175. The following summarizes the mitigation measures that are part of the Project's efforts to enhance the existing transportation system and to manage the traffic demand projected to be generated by the Project:

- Based on the comparison of the trip generation estimates for the Former Planned Community and the current Project, the Project's substantial reduction in density will result in an approximately 55 percent reduction (16,800 vehicular trips) in average daily trips, including approximately 69 percent (1,260 vehicular trips) less

vehicular trips during the AM peak hour of traffic and approximately 68 percent (2,060 vehicular trips) less vehicular trips during the PM peak hour of traffic.

- The Western Bypass Road constructed by the Project between Po`ipu Road and Koloa Road will alleviate demand on Po`ipu Road by providing an alternative north-south route in the Koloa/Po`ipu area.
- A traffic signal system at the intersection of Koloa Road and the Western Bypass Road will improve operation at this intersection. This mitigation is a commitment of the Project and will be installed when warranted by traffic volumes.
- The Project will contribute its "fair share" towards the planned Department of Transportation ("DOT") improvements of Kaumuali`i Highway.
- The Project is also pursuing transportation demand management measures to lessen vehicular travel by providing the following transportation alternatives:
  - The Project will participate in a County-sponsored park-and-ride program;
  - An on-call Lihu`e Airport shuttle service;
  - An on-demand shuttle service for Project residents and guests to on- and off-site areas; and

- A comprehensive hiking and biking trail system.

176. Currently, the DOT has plans for the widening of Kaumuali`i Highway from two to four lanes from Lihu`e to Puhi by Year 2008. The timetable for widening the segment from Puhi to Maluhia Road is undetermined at this time.

177. Petitioner has agreed to resolve the following issues with the County:

a. Contribution to pro rata share of improvements for the widening and realignment of Maluhia Road.

b. Contribution to pro rata share of improvements to Po`ipu Road from Koloa Town to the Project.

c. Timing of the construction of the Western Bypass Road.

178. The primary construction traffic impacts in the vicinity of the Project will relate to construction personnel commutes and deliveries of construction materials and supplies. Access to the Property from the east will be from Kaumuali`i Highway and Maluhia Road. Construction vehicles will be routed from Maluhia Road to Ala Kinoiki Road (Eastern Bypass Road), then to a cane haul road, which extends west towards the Property, intersecting with Po`ipu Road at the proposed Community Park site. Construction traffic will enter the Property from this point, with traffic control provided by flagmen, signage, security personnel, or temporary traffic signals, as needed. Construction traffic from the west will traverse Koloa Road to an unimproved gravel road along the alignment of the proposed Western Bypass Road, with traffic

control provided as needed. Therefore, construction vehicular traffic will bypass Koloa Town, resulting in minimal disruption to existing developed areas.

Water Service

179. The County does not have any designated Water Management Areas subject to regulation by the State Commission on Water Resource Management. The Koloa Aquifer System has an estimated sustainable yield of 30 mgd, with withdrawals by municipal, private domestic water systems, and agricultural irrigation totaling 16.9 mgd (*Kaua`i Water Use and Development Plan*, 1992 Review Draft).

180. A potable water system master plan was prepared by Austin, Tsutsumi & Associates, Inc., and R.M. Towill Corporation in March 2003 to evaluate and establish the potable water system requirements for the Project.

181. The existing Po`ipu-Koloa water system operated by the County Department of Water ("DOW") is the closest potable water source to the Property. The system is served by four wells operated by the DOW, consisting of two wells (Koloa Well 16-A and Koloa Well 16-B) located at the Waihonu area mauka of Koloa Town, and two wells (Koloa Well C and Koloa Well D) located on the ridge above Mahaulepu to the east of the Project. A second source of potable water comes from the DOW's Lawa`i-Kalaheo water system via a 12-inch waterline along Kaumuali`i Highway and `Oma`o Road. Water from the four wells and the DOW's Lawa`i-Kalaheo water system is routed to and stored in five existing storage tanks located in the areas around the Project.

182. The average daily water demand for the Project is estimated to be 1.0 mgd at full buildout. Maximum daily demand is estimated to be 1.5 mgd and the peak hour demand is estimated to be 3.0 mgd. The existing potable water systems are adequate to serve the existing area but will not be able to accommodate the increased demand for water that the Project will generate.

183. To meet the water demands of the Project, the development of two new wells, participation in a DOW well development project, and the construction of three new storage tanks are proposed.

184. The proposed Piwai Well 2 and Piwai Well 3 are projected to supply a maximum 1.73 mgd to the Project. Pump tests undertaken by Petitioner for the recently drilled Piwai Well 2 in May 2003 indicate that the well is capable of producing large quantities of excellent quality water. A third well, identified as Piwai Well 1, may be developed by the DOW, if not required by the Project. The construction of the proposed DOW Koloa Well F will allocate 0.25 mgd to the Project.

185. Three new tanks will be constructed specifically for the purposes of serving the Project. The proposed Koloa School storage tank, to be located west of the Koloa School expansion site at elevation 245 feet msl, will have a capacity of 0.25 mg. The proposed Manuhonuhonu storage tank #1, to be located mauka of the Project at elevation 366 feet msl, will have a capacity of 1.5 million gallons ("mg"). The third proposed storage tank, identified as the Manuhonuhonu storage tank #2, will also be located mauka of the Project at elevation 425 feet msl and will have a capacity of 0.25

mg.

186. The DOW plans to construct a fourth tank, identified as the proposed Piwai Tank in the area of the Piwai wells, to be located at elevation 677 feet msl with a capacity of up to 1.0 mg. The tank will service both the Lawa`i-Kalaheo and Koloa-Po`ipu water systems.

187. A network of transmission and distribution lines will be constructed to convey water to and within the Project.

188. The new well sources will be developed in compliance with the requirements of the DOW and the State Water Code, the State's Potable Water System Regulations, Chapter 20, Title 11, HAR, and will require approval by the DOH prior to use.

189. Petitioner has caused a well to be drilled near `Oma`o. The well has been tested and is expected to yield 1,050 gallons per minute, or approximately 1.5 mgd.

190. The well near `Oma`o was drilled very close to existing residences and cesspools. The existing cesspools, which were built prior to the well, are within the area determined by the DOH to be a critical area for the protection of potable groundwater surrounding a potable water well.

191. To address the concerns of the `Oma`o residents concerning their use of septic tanks near the `Oma`o wells, the Former Petitioner applied to the DOH for a variance from Chapter 11-62, HAR. The DOH concluded that no variance was required to utilize septic tanks within 1,000 feet of the `Oma`o wells, and `Oma`o

residents may continue the use of their septic tanks.

192. Based on the source development plans for the Piwai area, Petitioner does not intend to utilize the `Oma`o well for potable water purposes, thus mitigating any impact to existing nearby residential septic systems. The `Oma`o well will likely be used for backup irrigation purposes only. Petitioner will work with the DOW concerning the ultimate development and use of the `Oma`o well.

Wastewater Treatment and Disposal

193. Wastewater in the Koloa/Po`ipu area is currently disposed of by private cesspools or private sewage treatment plants. In the County's 1988 Facility Plan for Koloa-Po`ipu, a regional sewage treatment plant was planned for the area. As part of the County's requirement for development of the Project, Petitioner has constructed a WWTP within the Project.

194. The WWTP has been designed to meet State and Federal regulations for treatment plants. The WWTP began operation on October 15, 1993, and is designed to treat an average flow of 1.2 mgd, with a peak hour flow capacity of 4.8 mgd. The Pa`anau Affordable Housing Project located near Koloa School was the first project to be connected to this WWTP in October 1993. The WWTP, which also serves the nearby Koloa Estates residential subdivision, presently receives an average wastewater flow of approximately 20,000 gpd.

195. The WWTP includes a preliminary treatment facility, two lagoons, and four buildings. The two existing lagoons each have a working volume of 9 mg.

Each lagoon is approximately 400 feet long, 250 feet wide, and 18 feet deep. The lagoons have been lined to prevent infiltration of the untreated sewage into the ground. A third aerated lagoon will be constructed within the existing WWTP site to provide a redundant backup system. A fourth lagoon, also within the existing WWTP site, will be constructed to store excess effluent prior to disposal.

196. Future improvements to the WWTP will include a tertiary level of wastewater treatment to produce R-1 effluent water for irrigation of selected areas within the Project. Injection wells are available for emergency effluent disposal.

197. There is a small risk that areas that are downwind of the WWTP may be impacted by its odors. An odor control system using an atomizing mist scrubber has been installed at the headworks of the wastewater collection system to eliminate odor problems.

198. The WWTP would serve to eliminate cesspools and have a positive impact on the groundwater of the region.

199. A wastewater system master plan was prepared by Austin, Tsutsumi & Associates, Inc., in March 2003 to formulate the wastewater collection and transmission system for the Project.

200. The existing WWTP's average design capacity of 1.2 mgd and peak hourly flow capacity of 4.8 mgd well exceeds the Project's estimated average design flow of 0.62 mgd and design peak flow of 3.5 mgd. The wastewater transmission system for the Project will include a network of gravity lines and force mains that will be

installed primarily within the Project roadways. A total of seven wastewater pump stations ("WWPS") will be constructed throughout the Project, with one serving as the centralized WWPS to convey wastewater to the WWTP.

Drainage

201. A drainage system was designed for the Former Planned Community, and has been partially constructed. The drainage system consists of drainage swales, drainage channels, detention basins, and an underground network of drainage pipes and box culverts. The drainage system was designed according to the County's Drainage Standards and the Drainage Master Plan for the Former Planned Community.

202. A large drainage swale has been constructed mauka of the 219-acre Urban parcel. Mauka flows are now being diverted to the three 7-foot-high by 24-foot-wide culverts at Kukui'ula Bay. Prior to entering the culvert, stormwater runoff is detained in a 10-acre detention basin that filters out the sediments prior to discharging stormwaters through the culverts.

203. Stormwater runoff from approximately 70 acres within the 219-acre Urban parcel flows into a 3-acre detention basin within the proposed archaeological/ biological preserve mauka of Prince Kuhio Park. Water from the detention basin then flows through a 100-foot-wide grass-lined channel along the eastern side of the preserve, then into a 100-foot-wide grassed swale along Lawa`i Road to the 10-acre detention basin. The drainage improvements eliminate ponding and flooding of low-

lying areas, as well as overtopping of Lawa`i Road.

204. A drainage system master plan was prepared by Austin, Tsutsumi & Associates, Inc., in March 2003 to establish the overall drainage system for the Project.

205. The drainage system for the Project will include a total of 33 onsite and 6 offsite drainage areas delineated by terrain, major drainageways, and drainage system improvements.

206. The anticipated peak runoff rate for the entire Project is 4,829 cubic feet per second ("cfs") and the total volume of runoff is 1,230 acre-feet ("Af"). This reflects a reduction in the runoff rate through the Property of 261 cfs, with an increase in total runoff volume of 187 Af. The increase in volume is due to an increase in impervious surfaces and the reduction in open land. The reduction in rate of runoff is attributed to the use of detention basins and the improvement of flow paths.

207. A total of 25 detention basins are proposed for the Project, with a combined detention volume of 181 Af. Most of the basins will be located within the golf course, open space areas, and greenways. Basins within the golf course will also serve as sediment basins, allowing pollutants to settle and be filtered by the vegetation. A low-flow channel will also meander through the golf course to handle smaller 2-year, 24-hour storm events. Overflow from the basins is anticipated to occur during the major 100-year, 24-hour storm event. The effectiveness of the existing onsite trapezoidal channels completed as part of the Former Planned Community will be maintained to protect Lawa`i Road and the adjacent residential areas.

Solid Waste Management

208. The debris generated by Hurricane Iniki caused the closure of the County's only landfill at Kekaha. A new landfill adjacent to the Kekaha landfill opened for operation on October 9, 1993, the capital costs of which were funded by FEMA. Currently, the County's Kekaha landfill has a remaining life span until about 2005. The County is currently seeking a vertical expansion permit to extend the landfill for three additional years. Another landfill site is also being sought.

209. The closest transfer stations to the Project are located at Lihu`e Airport to the northeast and at Hanapepe to the northwest. The transfer stations take small commercial loads up to a maximum of 3/4-ton vehicle loads; larger loads are transported directly to the Kekaha landfill.

210. At full buildout and full occupancy, the Project is expected to generate approximately 15 tons of solid waste per day.

211. Solid waste pick-up for resort developments is provided by private refuse companies.

212. To reduce its impact on solid waste, the Project will incorporate waste diversion and reduction facilities into its design. Composting of greenwaste will be employed for the Project's golf course, community park, and landscaped areas.

213. The large quantities of waste and construction by-products that will be generated by the Project will be stored, handled, and disposed of properly so as to not cause adverse impacts to the surrounding area and the environment. The Project

will develop and implement a trash management and recycling program to maintain clean construction sites, maximize material recycling, and minimize impacts to the local landfill.

Schools

214. Koloa School , Chiefess Kamakahelei Middle School, and Kaua`i High School are the three public schools servicing the Project area. According to student enrollment for the 2002 to 2003 school year, all three schools are currently operating below enrollment capacity.

215. At buildout, the Project could potentially generate approximately 315 elementary school students, 135 middle school students, and 150 high school students based on the State Department of Education's ("DOE") student enrollment criteria. While the total projected enrollment with the Project could exceed the current capacity of Koloa School (470 students), less student enrollment is anticipated due to the resort character of the Project.

216. The Koloa School is located near the northeast corner of the Project.

217. Petitioner and the DOE have executed an educational contribution agreement dated November 23, 1999. Pursuant to this agreement, the Project has set aside a 7-acre parcel adjacent to the existing Koloa School for future expansion. The land will be provided at no cost to the DOE. An additional 12 acres will be provided to the DOE for a second elementary school site within the Project. Petitioner has discussed the possibility of paying an in-lieu fee instead of conveying the 12-acre site for a second

elementary school with the DOE.

218. The Project will provide sewer connections for the 7-acre site and the existing Koloa School to the Project's existing WWTP. Full infrastructure improvements, including water, sewer, drainage, roadway access, electrical, and telecommunications systems, will be provided to the 12-acre site.

Fire Protection

219. The Project is located within the area served by the Koloa Fire Station located at the intersection of Po`ipu Road and Lawa`i Road. The Fire Station is equipped with a 1993 Seagrave fire truck with a 750-gallon tank, a mini pumper truck used for utility purposes, a jet boat, a jet ski, diving equipment, emergency/first aid equipment, and an automatic external defibrillator

220. A total of 15 firefighters currently operate out of the Koloa Fire Station in three 24-hour shifts, with five firefighters per shift. The firefighters also assist in search and rescue operations on land and in the water.

221. Since the Koloa Fire Station is located across the street from the Project, response time to the farthest point of the Project from the Fire Station is estimated at 5 minutes. The Kalaheo Fire Station is the initial backup unit to the Koloa Fire Station. Response time from the Kalaheo Fire Station to the Project is estimated at 10 minutes. The second backup response unit would be from the Lihu`e Fire Station, with a response time to the Project estimated at 15 minutes.

222. The Project will not adversely impact fire protection services.

Additional fire prevention and suppression measures will be provided by installing approved fire suppression sprinkler systems and approved fire alarm systems in all resort, commercial, and recreational buildings and structures within the Project.

Ocean Safety Protection

223. The Ocean Safety Bureau ("Bureau") of the County Fire Department provides ocean safety and lifeguard services for residents and visitors. The Bureau has a total of 27 full-time uniformed ocean safety personnel manning nine lifeguard towers around Kaua`i. The closest lifeguard tower to the Project is at Po`ipu Beach Park and is manned seven days/week from 9:00 a.m. to 5:00 p.m. A pick-up truck is assigned to Po`ipu, and a jet ski is housed at the Koloa Fire Station.

224. The Project will coordinate a specific ocean safety program with the County. In an effort to promote ocean safety awareness within the Project, Petitioner will work with the Bureau to initiate a program that educates residents and visitors about ocean safety.

Police Protection

225. The County's Police Department consists of a total of 122 officers and 48 civilian employees. There are three police stations located approximately 25 miles apart at Hanalei, Waimea, and Lihu`e. Response time to any given point between these three stations is approximately 15 to 20 minutes.

226. A total of ten officers on each shift respond to emergency calls, with two officers on standby as backup. The island is divided into ten sectors and one officer

is assigned to each sector. The Koloa/Po`ipu area currently consists of two sectors.

227. The Project is located within Police Sector 7 of the Waimea District. The Waimea Police Substation is located to the northwest of the Project along Kaumuali`i Highway at the intersection with Menehune Road. Response time to the Project is estimated to be 10 minutes. Initial backup will be provided by Sector 8 of the Waimea District, with a response time estimated to be 10 to 15 minutes. If required, additional backup will be provided by Sector 9 of the Waimea District, with a response time of up to 15 minutes.

228. The Project will not adversely impact police protection services. Private security will serve and protect Project residents, visitors, and employees, and will supplement the protection services provided by the County Police Department.

229. A previous plan by the County for a police substation to be co-located within the Koloa Fire Station is no longer proposed.

Medical Facilities and Services

230. Medical facilities in Koloa consist of a branch of the Garden Island Medical Group and the Koloa office of the Kaua`i Medical Group.

231. The medical facilities in Koloa will be adequate to serve the needs of the Koloa area, including the proposed Project.

232. The closest ambulance service to the Project, which is provided by American Medical Response, a private ambulance service contracted by the County, is located at 2869 Po`ipu Road, across from the Koloa Fire Station and adjacent to the

Project. There are two on-duty personnel per 48-hour shift at the Koloa Station. Response time from this Station to the farthest point of the Project is estimated at 3 to 5 minutes. If needed, the initial backup ambulance unit will respond from the Lihu`e Station at an estimated response time of 20 to 30 minutes to the Project. The Waimea Substation will be the second backup responding unit with a response time estimated at 25 minutes to the Project.

233. The existing medical facilities and ambulance service will be adequate to serve the needs of the Project.

Civil Defense

234. Two new civil defense siren systems have been deemed sufficient to provide coverage in high hazard areas within and adjoining the Project, pursuant to a meeting held on August 25, 2000, with the Former Petitioner and representatives of the Hawai`i State Civil Defense and Kaua`i Civil Defense. These requirements were subsequently confirmed by a letter dated August 31, 2000, from Mayor Maryanne W. Kusaka to Tom H. Shigemoto, Vice President, A&B Properties, Inc. The siren systems will be implemented as development occurs within the shoreline area of the Project.

235. Consideration has been given in Petitioner's development planning to address the effects from Hurricane Iniki, which struck the south shore of Kaua`i in September 1992 and caused considerable structural damage to residences in the area.

236. The current FEMA FIRMs (Community Panel Numbers 150002 0191D -194D) are dated September 30, 1995, three years following Hurricane Iniki, and

were revised to incorporate the effects of the Hurricane's storm waves. The inland extent of Hurricane Iniki's inundation generally follows the AE zone boundary, defined in the Flood Maps as "Special Flood Hazard Areas inundated by 100-year flood with base flood elevation determined." The supporting Flood Insurance Study report (*Flood Insurance Study for Kaua`i County, Hawai`i, Volume 1 of 2*, October 2002, Section 10.1) states that the effects of Hurricane `Iwa in 1982 were incorporated in the previous 1985 revisions of the Flood Maps, and the tsunami model was improved with the inclusion of Hurricane Iniki data.

237. The AE flood zones are accompanied by specific base flood elevations ranging from 10 to 16 feet along the Lawa`i Road frontage of the Property. The County's Flood Plain Management Ordinance, Chapter 15, Article 1 of the Kaua`i Code ("Flood Ordinance"), requires that all new construction of residential structures shall have the lowest floor elevated to or above the base flood level.

238. Since Hurricane Iniki in 1992, there has been substantial reconstruction makai of the Project and along the coastline makai of Lawa`i Road, including the 165-unit Lawa`i Beach Resort, which was fully renovated and reconstructed. Out of an existing total of 109 single-family dwellings along the coast from Spouting Horn to Waikomo Stream, 45 homes have been built since Hurricane Iniki struck in 1992. In addition, there are 18 home sites that remain vacant.

239. A comparison of units under previously proposed plans for Kukui`Ula illustrate that there has been a considerable reduction in the number of units

proposed within the Hurricane Iniki debris line and flood hazard zone. From the 1988 initial phase proposed to the Former Planned Community in 1995, the number of units has decreased from 407 to 74 units. With the current Project, this number is further reduced to 21 units.

240. Within the Petition Area, only a small area (just mauka of Kukui`ula Bay) lies makai of the Hurricane Iniki debris line. Within this portion of the Petition Area, there are no units proposed for development, either within the Hurricane Iniki debris line or the AE/VE high hazard zones.

241. The development of the proposed residential units that would lie in the AE zone and in other flood fringe areas will comply with the County Flood Ordinance. In particular, the development of residential units within flood hazard areas (AE and VE zones) will require that their lowest habitable floor be elevated from 10 to 16 feet above msl as applicable. Any other structures below this level will need to be either floodproofed or allow for the entry and exit of flood waters.

242. Petitioner has represented that all development within the designated flood zones will be in full compliance with the County's Flood Ordinance and the FEMA FIRMs such that there will be minimal coastal hazard impacts to resort-residential development at the Project. Petitioner has represented that the location of flood hazard areas will be disclosed to future buyers.

Electrical, Telephone and Cable Services

243. An electrical and communications system master plan was

prepared by Ronald N. S. Ho & Associates, Inc., in March 2003 for the Project.

244. Electrical power on Kaua`i is provided by Kaua`i Island Utility Cooperative ("KIUC"). KIUC's available generation capacity is approximately 122 megawatts. The present peak coincident demand for electricity on Kaua`i is approximately 70 megawatts. Power is currently provided to the Property via a 57 kilo-volt ("kV") overhead transmission line along an existing cane haul road within the Property, a 12.5 kV overhead distribution line which serves the Project's WWTP, and a second 12.5 kV overhead distribution line that follows an existing cane haul road westward across the Property to Lawa`i Valley. An existing substation is located near Koloa Town.

245. The projected maximum demand for the Project is forecasted to be approximately 11.6 megawatts. Based on the forecasted loading, KIUC requires that a new substation be constructed to serve the Project. A site for the substation has been proposed to the west of the Western Bypass Road alignment mauka of the Property.

246. The Project's onsite electrical system will be an underground facility, except for the switching vaults and service transformers.

247. Telephone service is provided by Verizon Hawaii ("Verizon"), which has a Central Office within Koloa Town. Verizon shares the utility poles with KIUC for aerial cables. The telecommunications system within the Project will be underground, with the exception of the pair gain equipment and cross-connect cabinets.

248. Oceanic Time Warner Cable of Hawaii ("Oceanic") is the local

CATV provider. Oceanic has an agreement with Verizon for use of the wood poles along Po`ipu Road and Lawa`i Road to attach aerial cables to support their facilities in this area. Also, an additional fiber cable sized to service the Project is currently being installed by Oceanic along the Po`ipu Road frontage of the Project to reinforce its facilities in this area. The CATV system within the Project will be an underground facility consisting of a network of ducts, handholes and cables, with the exception of the power supply pedestals.

COMMITMENT OF STATE FUNDS AND RESOURCES

249. The State government's operating revenues attributable to the Project are anticipated to exceed the additional operating expenses incurred by the State throughout the Project's development and operating periods. The Project will include all required onsite and offsite infrastructure improvements to minimize the burden on public systems.

CONFORMANCE TO STATE LAND USE URBAN DISTRICT STANDARDS

250. The Petition Area is located in proximity to Koloa Town and the Po`ipu area, which provide urban levels of services and related land uses, such as residential, resort, commercial, civic, golf course, and parks/recreational facilities.

251. The Project will create a number of short-term and long-term employment opportunities. Short-term employment will consist primarily of construction-related jobs. Long-term employment will include opportunities in management, sales and marketing, human resources, food service, maintenance and

engineering, housekeeping, retail, landscaping, entertainment, and activities through the development of the visitor accommodations, golf course and other recreational activities, and commercial uses.

252. The Petition Area is in proximity to public transportation systems, utilities, and services. Po`ipu Road and Lawa`i Road border the Property to the east and south, respectively, while Koloa Road and Kaumuali`i Highway are located approximately 2.6 and 4.4 miles mauka of the Property, respectively. Two mini police substations are located in the Project vicinity in Po`ipu Kai and Koloa Town, and the Koloa Fire Station is located in proximity near the southeast portion of the Property at the intersection of Po`ipu Road and Lawa`i Road. The closest ambulance service to the Project is located along Po`ipu Road, adjacent to the Project. The nearest school is Koloa School located adjacent to the northeasternmost portion of the Property, and a variety of parks are located in the vicinity of the Project. Petitioner has constructed a WWTP within the northeast portion of the Property to serve the entire Project. Petitioner is working with the DOW to develop needed water system improvements for the Project, including joint venture source development opportunities.

253. The Petition Area has satisfactory topography and drainage, and is reasonably free from the danger of any unstable soil conditions. The lowest floor of all residential structures proposed within designated flood zones will be elevated to or above the base flood level and will be designed and constructed in full compliance with the County Flood Ordinance. The County's current Uniform Building Code contains

provisions to address potential impacts of high winds on the structural frames of single-family dwellings. To provide for adequate tsunami civil defense measures, two new civil defense siren systems will be installed to provide coverage in high hazard areas within and adjoining the Project. The siren systems will be implemented as development occurs within the shoreline area of the Project.

254. The Petition Area lies adjacent to urban lands. The approximately 208 acres of the Petition Area currently designated within the Agricultural District were previously approved by this Commission to be incrementally reclassified to the Urban District pursuant to section 15-15-78, HAR. The majority of the Petition Area has been identified as an area recommended for urban development according to OP's Five-Year Boundary Review (1992), which is made within the context of other existing State and County land use policies for the site and the region as a whole.

255. The Petition Area is consistent with the designation of new urban concentrations and urban growth areas as shown on County land use plans. The County's General Plan designates the Petition Area as Resort, Residential Community, and Open.

256. The Project will include all required onsite and offsite infrastructure improvements to minimize the burden on public systems. The Project is not anticipated to have any significant impacts on public services in the area.

257. The Petition Area has slopes ranging from 0 to 6 percent, with a few small areas having slopes of 6 to 25 percent or greater.

CONFORMANCE WITH THE HAWAI`I STATE PLAN AND STATE FUNCTIONAL PLANS

258. The reclassification of the Petition Area conforms to the Hawai`i State Plan, Chapter 226, HRS, as amended, including the State Functional Plans, with respect to the following applicable objectives and policies:

a. § 226-5(b)(2): "Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires."

The Project will provide a number of short- and long-term employment opportunities. During development, the Project is projected to directly generate approximately 830 FTE Hawai`i-based jobs in an average year. During the operations phase, the Project is expected to directly support up to 560 long-term permanent jobs. Indirect and induced effects could add another 410 permanent positions. In total, the Project is anticipated to support up to 970 permanent positions Statewide by 2020.

b. § 226-6(a)(2): "A steadily growing and diversified economic base that is not overly dependent on a few industries..."

Development of the Project will provide a variety of employment opportunities.

c. § 226-8(b)(1): "Support and assist in the promotion of Hawai`i's visitor attractions and facilities."

§ 226-8(b)(4): "Encourage cooperation and coordination between the government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities."

Petitioner has conducted numerous community meetings since July 2002 with various community businesses, organizations, and individuals within the Koloa-Po`ipu area to solicit input on the Project. The current plan incorporates various elements based on feedback obtained through these meetings.

Development of the Project's resort component will enhance the visitor industry of Kaua`i by complementing the existing larger hotels and timeshare projects located in the Po`ipu region.

The current Project provides for 1,500 total units, a reduction in density of 1,900 units from the Former Planned Community. This represents a decrease in units of over 50 percent. This lower density translates to fewer impacts to the surrounding community, environment, infrastructure, and public services and facilities.

d. § 226-11(b)(6): "Encourage the protection of rare or endangered plant and animal species and habitats native to Hawai`i."

§ 226-11(b)(9): "Promote increased accessibility and prudent use of inland and shoreline areas for public recreational, educational, and scientific purposes."

§ 226-12(b)(1): "Promote the preservation and restoration of significant natural and historic resources."

§ 226-12(b)(3): "Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features."

§ 226-12(b)(5): "Encourage the design of developments and activities that complement the natural beauty of the islands."

§ 226-23(b)(4): "Promote the recreational and educational potential of natural resources having scenic, open space, cultural, historical, geological, or biological values while ensuring that their inherent values are preserved."

A total of five archaeological preserves consisting of approximately 36 acres will be provided throughout the Project for the preservation of 16 significant archaeological sites. An approximately 16.2-acre archaeological/biological preserve located within the southeastern portion of the Project, mauka and adjacent to the Prince Kuhio Park, will include the preservation of seven archaeological sites. Public access within the preserve will be provided and will be appropriately configured to allow viewing of the archaeological sites. Interpretive signs featuring information about the preserve and the archaeological sites will be appropriately located within the preserve. Another large archaeological/biological preserve of approximately 16.2 acres located in the northeastern portion of the Project will include the preservation of six archaeological sites. Two smaller archaeological preserves located in the northwestern portion of the Project totaling approximately 2.2 acres include two separate archaeological sites (possible heiau). The remaining archaeological/biological preserve of approximately 1.2 acres located in the central portion of the Project includes one archaeological site (including human remains). In accordance with the respective preservation plans, appropriate buffer areas will be provided for the preserves.

The two large preserves and the approximately 1.2-acre preserve will also incorporate biological preserves for the preservation and protection of the endangered Kaua`i cave wolf spider and Kaua`i cave amphipod.

The Project will provide various onsite recreational facilities, including an approximately 20-acre active community park for use by the general

public. The park will be developed to include multi-purpose fields (baseball, softball, and soccer), tot lots, comfort stations, and parking. The Project will also provide a comprehensive hiking and biking trail system, which will run throughout the Project and will be open to the general public. This trail system will not only provide separate non-vehicular connectivity throughout the Project, but will also provide a public regional connection from Koloa Town and the surrounding Po`ipu area to the shoreline west of Po`ipu Road. A scenic coastal trail will be developed west of Spouting Horn Park as part of the Project's comprehensive trail system, with viewing areas and interpretive signage provided at selected points.

In the Kukui`ula Bay area, Lawa`i Road is proposed to be realigned slightly mauka onto the Property to enlarge the usable beach area and to increase the coastal area makai of the road. New facilities for the public's use will include shower facilities, picnic tables, and a restaurant and beach concession. In the Boyden's Pond area, a public beach parking lot consisting of 20 parking stalls will be developed on the Property to increase public accessibility to this area.

The reduced density of the Project will enhance the overall visual quality related to the Project by providing more open space and allowing for more flexibility in siting of the residential units to reduce visual impacts. The hotel concept envisions a main house with separate guestrooms consisting of detached low-rise duplexes and triplexes to minimize view impacts. The architecture for the Project will be complementary to the general ambience of the Koloa region.

The design of the Project's approximately 207-acre golf course takes advantage of the natural landform wherever possible, minimizing site grading and land disturbance. The golf course design offers scenic vistas of the coastal and mountain areas while taking advantage of the existing valleys and providing significant open space throughout the Project.

e. § 226-13(b)(3): "Promote effective measures to achieve desired quality in Hawai`i's surface, ground, and coastal waters."

§ 226-13(b)(5): "Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters."

The proposed drainage system improvements for the Project will attenuate and reduce the rate of runoff into the ocean to pre-development levels through the provision of drainage basins, grass-lined channels, and lengthening paths of flow. A coastal water quality monitoring program which was established in 1991 as part of the Former Planned Community to monitor baseline water quality conditions of the nearshore coastal waters at and near Kukui`ula Bay is continuing. Petitioner will continue to monitor baseline water quality conditions of the nearshore coastal waters at and near Kukui`ula Bay, and will develop an appropriate construction phase water quality monitoring program prior to construction of the Project.

BMPs will be implemented to protect surface water quality from contamination by the application of fertilizers and pesticides.

Based on the FIRM prepared by FEMA, the southern portion of the Property near Lawa`i Road is designated Zone "AE," "Special flood hazard areas

inundated by 100-year flood with base flood elevations determined." The base flood elevations for the "AE" zone within the Property range from 10 feet to 16 feet msl. A portion of the Property just north of the "AE" zone is designated Zone "X," "Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood." The inland extent of Hurricane Iniki's inundation in September 1992 generally follows the "AE" zone boundary. All residential structures located within these designated flood zones will be constructed so that the lowest floor, including basements, are elevated to or above the base flood level. All structures will be designed and constructed in full compliance with the County Flood Ordinance.

In the aftermath of Hurricane Iniki in 1992, the Structural Engineers Association of Hawai`i provided suggestions to homeowners and the development community for improving the wind resistance of the structural frames of single-family dwellings. The emphasis was on creating a complete load path to resist uplift and horizontal forces caused by high winds. These provisions have gained widespread acceptance and are incorporated in the Uniform Building Code adopted by the County.

To provide for adequate tsunami civil defense measures, two new civil defense siren systems will be installed to provide coverage in high hazard areas within and adjoining the Project. The siren systems will be implemented as development occurs within the shoreline area of the Project.

f. § 226-16(b)(3): "Reclaim and encourage the productive use of runoff water and wastewater discharges."

The Project plans to reuse 100 percent of the wastewater effluent generated by the Project to irrigate the community park, open space areas, roadside landscaping, the golf course driving range, drainage corridors, and portions of the archaeological/biological preserves within the eastern portion of the Property, if approved under the Project's Biological Management Plan. Additional non-potable irrigation water from the former sugar plantation will be utilized, resulting in less demand on potable sources.

CONFORMANCE TO COASTAL ZONE MANAGEMENT POLICIES AND OBJECTIVES

259. The proposed reclassification of the Petition Area for the development of the Project conforms to the policies and objectives of the Coastal Zone Management Program, Chapter 205A, HRS, as amended, with respect to the following:

a. Recreational Resources: Conformance as described in findings of fact nos. 122, 162, and 163.

b. Historic Resources: Conformance as described in findings of fact nos. 96 to 102, inclusive, and 110.

c. Scenic and Open Space Resources: Conformance as described in findings of fact nos. 33.c. and 126.

d. Coastal Ecosystems: Conformance as described in findings of fact nos. 162 to 164, inclusive.

e. Economic Uses: Conformance as described in findings of fact nos. 258.c. (third paragraph following policies) and 258.d. (third and fourth paragraphs following policies).

f. Coastal Hazards: Conformance as described in findings of fact nos. 234 to 237, inclusive, and 239 to 242, inclusive.

g. Managing Development: Conformance as described in findings of fact no. 60.

INCREMENTAL DISTRICTING

260. Unlike the Former Planned Community, the Project incorporates an accelerated development timetable. Under this timetable, infrastructure is to be substantially completed within a 7- to 8-year timeframe following receipt of final entitlements. The Project will be developed in its entirety inclusive of Increment II rather than proceeding on an incremental basis as originally approved.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or the other parties to this proceeding not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected. The findings of fact contained herein shall supersede the findings of fact set forth in the Findings Of Fact, Conclusions Of Law, And Decision And Order Dated May 18, 1995 and the Supplemental And/Or Modified Findings Of Fact, Conclusions Of Law, And Decision And Order Dated June 22, 1998.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and this Commission's Rules under chapter

15-15, HAR, this Commission finds upon the clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately 783.676 acres of land in the State Land Use Agricultural District at Lawa`i, Koloa, Kaua`i, Hawai`i, Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45; and 2-6-15: por. 1 to the State Land Use Urban District, for the development of the Project, and subject to the conditions in the Order below, is reasonable, not violative of section 205-2, HRS, and is consistent with the policies and criteria established pursuant to sections 205-16 and 205-17, HRS.

ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 783.676 acres of land in the State Land Use Agricultural District at Lawa`i, Koloa, Kaua`i, Hawai`i, identified as Tax Map Key Nos: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45 and 2-6-15: por. 1, as approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, shall be and is hereby reclassified to the State Land Use Urban District and the State land use district boundaries shall be amended accordingly.

IT IS FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions which shall replace the conditions set forth in the Commission's Supplemental Order:

1. Petitioner shall provide affordable housing opportunities for

residents of the State of Hawai`i in accordance with applicable housing requirements of the County of Kaua`i. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between Petitioner and the County.

2. Petitioner shall initiate and fund a nearshore water quality monitoring program. The monitoring program shall be approved by the State Department of Health in consultation with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Division of Aquatic Resources, Department of Land and Natural Resources. Mitigation measures shall be implemented by Petitioner if the results of the monitoring program warrant them. Mitigation measures shall be approved by the DOH in consultation with the abovementioned agencies, and the County Public Works Department. Petitioner shall coordinate this consultation process with the concurrence of the DOH.

3. Petitioner shall implement effective soil erosion and dust control measures during construction to the satisfaction of the State Department of Health and the County of Kaua`i.

4. Petitioner shall produce a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, Chapter 342G, Hawai`i Revised Statutes. Petitioner's Solid Waste Management Plan shall be approved by the County of Kaua`i. The Plan shall address and encourage an awareness of the need to divert the maximum amount of waste material caused by developments away from the

County's landfills.

5. Petitioner shall fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Kaua`i Department of Public Works as necessary and appropriate to service the needs of the Project area.

6. Petitioner shall comply with the recommendations of the State Department of Health, dated August 1994 (Version 5), and entitled "Guidelines Applicable to Golf Courses in Hawai`i."

7. Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.

8. Petitioner shall provide its fair share of costs to fund and construct adequate civil defense measures to service the Property and surrounding area as determined by the State and County of Kaua`i civil defense agencies.

9. Petitioner shall provide a fair-share contribution for school facilities to the satisfaction of the State Department of Education ("DOE"). In the following manner: (a) Petitioner shall donate in fee simple seven (7) acres for the expansion of Koloa Elementary School with all infrastructure provided at no cost to DOE; (b) Petitioner shall donate in fee simple twelve (12) acres of usable land for a second elementary school site within the Property, with all infrastructure provided at no cost to DOE, or an agreed to in-lieu fee; (c) The infrastructure provided shall include a sewer connection for the abovementioned 12-acre site, 7-acre site, and the Koloa Elementary

School from Petitioner's existing Sewage Treatment Plant at no cost to the DOE. The timing of the conveyances of the lands and the location of the 12-acre site shall be determined by mutual agreement between Petitioner and the DOE. Petitioner and the DOE shall submit a written agreement on this matter prior to Petitioner obtaining approval for county zoning.

10. Petitioner shall participate in the pro rata funding and construction of local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Kaua`i.

(a) Petitioner shall, prior to obtaining County Zoning, revise or supplement the Traffic Impact Assessment Report dated March 2003 for the review and approval of the Department of Transportation which shall include an analysis of the entire master planned development as required by the Department of Transportation.

11. As determined by the County of Kaua`i, Petitioner shall make available recreational facilities which are developed within the Project, including available adequate golf tee times, for public play at rates which shall include kama'aina rates.

12. Petitioner shall fund and construct adequate water source, storage, and transmission facilities and improvements to accommodate the proposed Project.

Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.

13. Petitioner shall work with the residents of `Oma`o and the County of Kaua`i Department of Water Supply to resolve concerns regarding the `Oma`o wells(s).

14. Petitioner shall complete the following:

(a) Ten significant historic sites within the Property identified by Petitioner's archaeological consultant not recommended for preservation shall be subject to archaeological data recovery work. An archaeological data recovery plan shall be submitted to the State Historic Preservation Division for approval, the successful execution of which plan shall be verified in writing by the Division prior to the start of land altering activities of those areas which are proximate to the historic sites and could adversely impact upon the historic sites.

(b) Seven additional significant historic sites within the Property identified by Petitioner's archaeological consultant and recommended for preservation shall be preserved. A preservation plan shall be submitted to the State Historic Preservation Division for approval, prior to the start of land

altering activities of those areas which are proximate to the historic sites and could adversely impact upon the historic sites.

(c) Petitioner shall comply with all applicable statutory provisions and administrative rules regarding inadvertent burial finds within the Property.

15. Petitioner shall conduct a biological survey for terrestrial invertebrates (Kaua`i cave wolf spider and Kaua`i cave amphipod), and a study to determine the extent of the caves on the surface. The study shall include a buffer area of a minimum of 100 feet around the perimeter of the lava tube caves. The survey and the study shall be completed prior to obtaining zoning approval from the County of Kaua`i. Petitioner shall consult with the U.S. Fish and Wildlife Service ("USFWS") regarding the content and completeness of both studies. Petitioner shall develop with the USFWS a conservation plan establishing specific conditions for the conservation of the cave animals and their habitat. Such conservation plan shall be legally enforceable in a court of law and will run with the land as an encumbrance on title. The plan shall be accepted and approved by the USFWS. The USFWS must also verify in writing to the Commission, the successful execution of the study, and the implementation of the mitigation/conservation plan. Petitioner shall consult with the USFWS prior to any blasting, movement of heavy construction equipment, roadway construction, or grading in areas which may impact terrestrial invertebrates.

16. Petitioner, successors, agents, transferees, or assigns shall comply with any conservation agreement with the U.S. Fish and Wildlife Service related to terrestrial invertebrates (Kaua`i cave wolf spider and Kaua`i cave amphipod).

17. The Project shall be limited to 1,500 units along with the various Project components.

18. As determined by the County of Kaua`i, bike paths and pedestrian walkways shall be provided by Petitioner within the Project .

19. Petitioner shall (a) provide land for, and or access to, a site for the disposal of construction materials from the Project; or (b) contribute a pro rata share in developing a disposal site; or (c) construct a facility in connection with the disposal site.

20. Petitioner shall resolve with the County the Petitioner's

(a) contribution to pro rata share of improvements to Maluhia Road, including widening and realignments;

(b) contribution to pro rata share of improvements to Po`ipu Road from Koloa Town to the Project site; and

(c) timing of the construction of the Western Bypass Road to avoid congestion on Po`ipu Road, particularly through the Koloa Town area.

21. Building setback lines shall be established along the rim of Lawa`i Kai Bay and or Lawa`i Valley at not less than 50 feet from the edge of the rim.

22. Petitioner shall cooperate with the County of Kaua`i in

implementing a program for a shoreline land acquisition for park and or hazard mitigation purposes as may be undertaken by the County.

23. An agreement between Petitioner and the County of Kaua`i shall be formulated that covers the elements which Petitioner will be participating in contributing its pro rata share toward items that are determined to provide regional and or islandwide benefits (excluding items which service the Project) for which Petitioner shall be credited against County requirements affecting the Project.

24. As permitted by law, Petitioner shall provide employment opportunities in the Project to give preference to those persons who have been or will be displaced by the withdrawal of sugarcane lands.

25. Petitioner shall develop the Project in substantial compliance with the representations made before the Land Use Commission. Failure to so develop the Petition Area may result in reversion of the Petition Area to its former land use classification, or change to a more appropriate classification.

26. Petitioner shall give notice to the Land Use Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area prior to development of the Petition Area.

27. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Kaua`i Planning Department in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall include written

documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or has been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

28. The Land Use Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

29. Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a Statement that the Petition Area is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Petition Area; and (b) file a copy of such recorded statement with the Commission.

30. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92, Hawai`i Administrative Rules.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 7th day of August, 2003. The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawaii, this 8th day of August, 2003,

per motion on August 7, 2003.

APPROVED AS TO FORM

Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By
LAWRENCE N.C. ING
Chairperson and Commissioner

By
P. ROY CATALANI
Vice-Chairperson and Commissioner

By
BRUCE A. COPPA
Commissioner

By ABSENT
PRAVIN DESAI
Commissioner

By
ISAAC FIESTA, JR.
Commissioner

By
STEVEN LEE MONTGOMERY
Commissioner

By RECUSED
RANDALL F. SAKUMOTO
Commissioner

By ABSENT
RAE MCCORKLE SULTAN
Commissioner

Filed and effective on
August 8, 2003

By
PETER YUKIMURA
Commissioner

Certified by:

Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI`I

In The Matter Of The Petition Of	)	DOCKET NO. A93-696
	)	
KUKUI`ULA DEVELOPMENT COMPANY (HAWAII), LLC	)	CERTIFICATE OF SERVICE
	)	
To Amend The Agricultural Land Use District Boundary Into The Urban Land Use District For Approximately 783.676 Acres At Lawa`i, Koloa, Kaua`i, Hawai`i, Tax Map Key Nos: 2-6-03: Por. 1, 21, Por. 31, And Por. 32; 2-6-04: Por. 38 And Por. 45; And 2-6-15: Por. 1	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

DEL. MARY LOU KOBAYASHI
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

CERT. JOHN CHANG, Esq.
Deputy Attorney General
Hale Auhau, Third Floor
425 Queen Street
Honolulu, Hawaii 96813

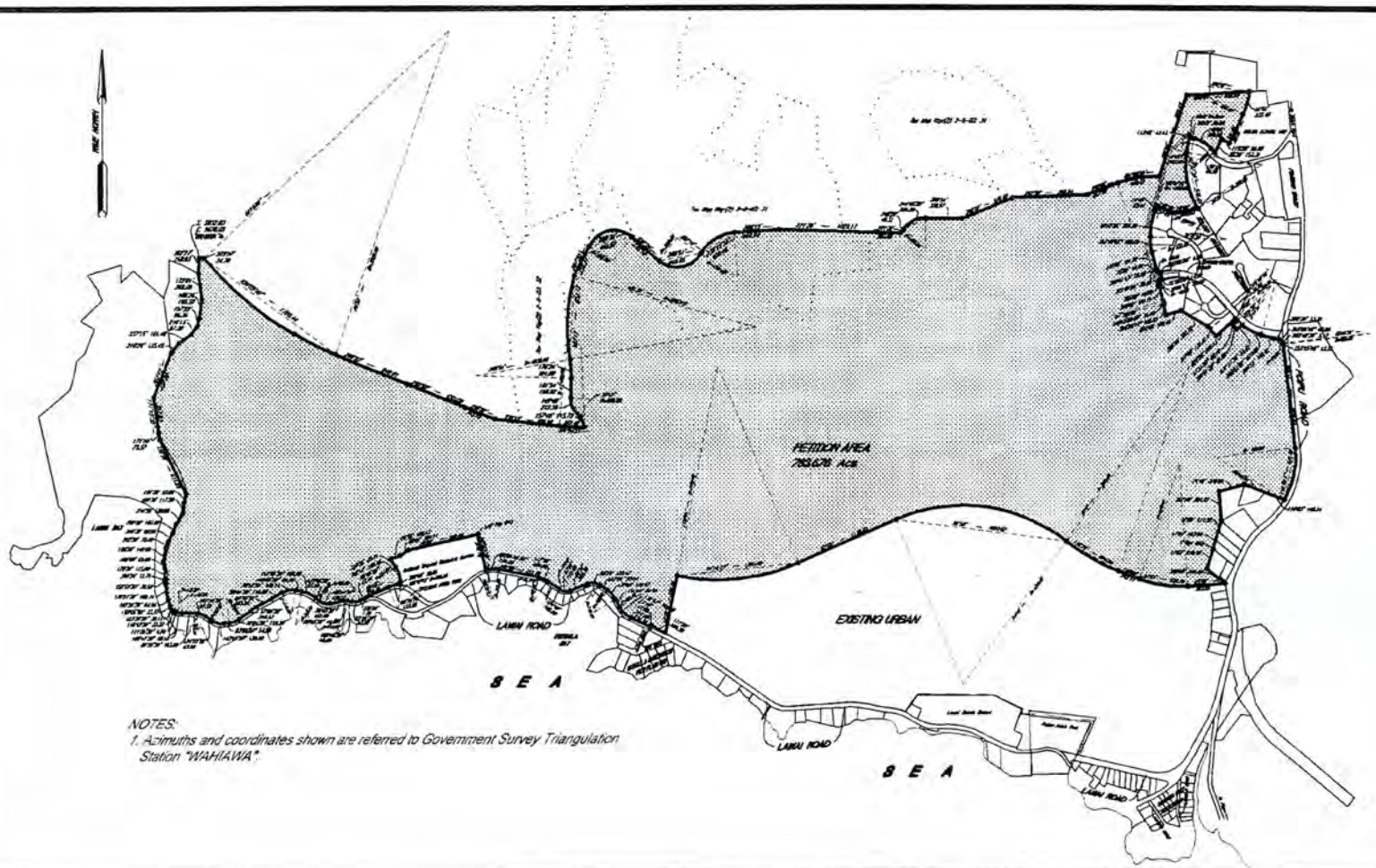
CERT. BENJAMIN M. MATSUBARA, Esq.
CURTIS T. TABATA, Esq.
888 Mililani Street, 8th Floor
Honolulu, Hawaii 96813

CERT. IAN COSTA, Planning Director
Kauai County Planning Department
Suite 473, Building A
4444 Rice Street
Lihue, Hawaii 96766

CERT. LANI NAKAZAWA, Esq.
County Attorney
Office of the County Attorney
County of Kauai
4444 Rice Street, #220
Lihue, Hawaii 96766

Dated: Honolulu, Hawaii, August 8, 2003.

ANTHONY J. H. CHING
Executive Officer



A93-696 KUKUI'ULA DEVELOPMENT COMPANY (HAWAII), LLC

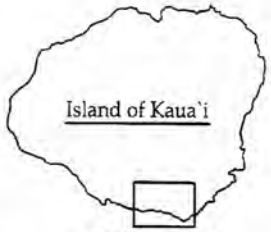
LOCATION MAP

Tax Map Key Nos.: 2-6-03: por. 1, 21, por. 31, and por. 32; 2-6-04: por. 38 and por. 45; and 2-6-15: por. 1

Lawa`i, Koloa, Kaua`i, Hawai`i

Scale: 1" = 1600 ft.

EXHIBIT "A"



Project Vicinity

ORDINANCE NO. **PM-2004-370** BILL NO. 2099, Draft 2

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUA'I COUNTY CODE 1987, RELATING TO ZONING DESIGNATIONS AT KUKUI'ULA, KAUA'I; AND REPEALING ORDINANCE NO. PM-323-95 AND ORDINANCE NO. PM-349-99
(Kukui'Ula Development Company (Hawaii), LLC, Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. The zoning designation for that certain area in Kukui'ula, Kaua'i, identified as TMK: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16; 2-6-15: 1 (formerly known as Tax Map Keys: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16), consisting of approximately 1,002 acres, a portion of which is shown on Zoning Map ZM-KU-300, and on the map attached hereto and incorporated herein as Exhibit C, is hereby amended from Residential Districts (R-2, R-4, R-6, R-10, and R-20), Resort District (RR-20), Open District (O), Commercial Districts (C-G and C-N), Agriculture District (A), and Special Treatment Districts (R-1/STP and R-4/ST-P) to Residential Districts (R-2, R-4, R-10, and R-20), Resort District (RR-10), Open District (O), Commercial District (C-N), and Special Treatment Districts (R-4/ST-P, O/ST-C, O/ST-O, and IL/ST-P).

SECTION 2. Notwithstanding any law to the contrary, Zoning Map ZM-KU-300 is hereby amended as follows, subject to the following conditions:

1. The Zoning District boundaries shall be allowed to be modified by the Planning Department to accommodate adjustments that may occur as a result of more detailed plans being developed during the permitting process. The final unit allocations and densities shall be recorded by the Applicant in all deeds reflecting the total unit allocation and density that are permitted for each lot. The approximate acreage of the Zoning Districts shall be as follows:

ZONING	ACRES
R-2	1 ac.
R-4	571 ac.
R-10	63 ac.

Density in this R-10 acreage shall not exceed four (4) units per acre.

R-20	5 ac.
RR-10	43 ac.

Density in this RR-10 acreage shall not exceed four (4) units per acre.

CN	34 ac.
O	41 ac.
IL/ST-P	26 ac.
R-4/ST-P	7 ac.
O/ST-C	36 ac.
O/ST-O	175 ac.

The official Zoning Map shall incorporate and indicate the density restrictions for the Project's R-10 district (not to exceed four (4) units per acre) and RR-10 district (not to exceed four (4) units per acre).

2. The Project shall be limited to 1,500 units that shall include hotel rooms; single-family detached and attached dwellings; and multi-family dwellings. Affordable housing units, along with the various Project components shall be excluded from the 1,500 unit density limit. The Open zoning for the golf course shall not confer rights to any densities and those Open (O) zoning designations shall be designated as "Special Treatment-Open Space (O/ST-O)." Golf course accessory structures shall be allowed in these golf course O/ST-O districts. Said limitations regarding the 1,500-unit Project limitation and O/ST-O district density restrictions shall be incorporated into the deeds and restrictive covenants of all properties.

3. As represented by the Applicant, no Additional Dwelling Units (ADUs) shall be permitted within the Project. Said limitation shall be incorporated into the deeds and restrictive covenants of all properties.

4. a) Only the following uses shall be permitted in the Neighborhood Commercial (CN) District for the recreation center, as shown on attached Exhibit ZA-3:

   1) Accessory uses and structures

   2) Clubs, lodges and community centers

   3) Museums, libraries and public services

   4) Personal services, such as barber shops, laundromats, and shoe repair shops

   5) Professional offices (Project-related administrative offices only)

   6) Retail shops and stores (Project-related only)

   7) Restaurants and food services

   8) Single-family detached dwellings

   9) Multi-family dwellings and single-family attached dwellings.

   b) Only the following uses shall be permitted in the Neighborhood Commercial (CN) District for the Potential Second School Site, as shown on attached Exhibit ZA-3:

   1) Accessory uses and structures

   2) Automobile services

   3) Churches, temples and monasteries

   4) Clubs, lodges and community centers

   5) Household services

6) Museums, libraries and public services

7) Professional offices

8) Restaurants and food services

9) Retail shops and stores

10) Mini storage

11) Single-family detached dwellings

12) Multi-family dwellings and single-family attached dwellings.

Notwithstanding uses specified in subsections a) and b) above for the recreation center site and potential second school site, all uses and development standards specified in the Comprehensive Zoning Ordinance (CZO) for the CN zone shall apply to all other CN zones within the Project.

5. The following standards and uses shall be applied to the RR-10, R-4, and R-10 Districts:

a) Permitted Uses for the R-4 Zone:

1) Multiple-family dwelling units.

2) Single-family detached and attached dwelling units.

b) Building Heights:

Hotel buildings and multi-family dwellings shall be limited to three (3) stories plus an additional twenty (20) feet for the roofs.

c) Density for the R-10 Zone:

Four (4) residential units per acre.

d) Building Setbacks and Landscaping for Residential Zoning Adjacent to Lāwa'i Valley and Bay:

A building setback line of not less than 50 feet from the edge of the bluff line overlooking Lāwa'i Valley shall be established during permitting and/or subdivision to mitigate any adverse visual impacts from the valley and beach below. A landscape master plan subject to the review and approval of the Planning Department shall be developed prior to permitting for projects adjacent to the bluff line overlooking Lāwa'I Valley.

e) Design Guidelines for the RR-10 and R-10 Zones in the Resort Core:

Prior to applying for permits, the Applicant shall develop design standards and criteria, subject to the review and approval of the Planning Department addressing the following:

1) Building envelopes

2) Establishment of view corridors

3) Consistency in building designs

4) Standards to enable the hotel portion to integrate with the time-share units

5) Hazard mitigation.

6. The following standards shall be applied to the Open and I-L/ST-P Special Treatment Zones:

a) Uses related to sewage treatment plant use and operations shall be allowed without Use Permits. Permitting requirements relating to development within the sewage treatment plant site under the I-L/ST-P zone shall be determined by the Planning Director.

b) The following uses shall be permitted in the Open District (O) zone without a Use Permit:

1) Golf course

2) Golf course appurtenances and accessory uses, including but not limited to restrooms, weather shelters, concession stands, driving range, cart paths

3) Hiking and biking trails

4) Recreational facilities as approved by the County, including but not limited to appurtenances and accessory uses such as playfields, multi-purpose fields, parking lots, restrooms, pavilions, storage sheds, playground equipment

5) School facilities

6) Archaeological and biological preserves including maintenance/storage sheds

7) Signage

8) Drainage and utility structures

9) Roads

10) Fences and walls

11) Landscaping

7. The Applicant shall provide the following improvements to the roadway system subject to the review and approval of the Planning and Public Works Departments and shall establish specific design standards and street classifications in consultation with the Planning and Public Works Departments:

a) Construction of a connector road from Lāwa'i Road to the "Major Project Roadway." The proposed roadway connection from Lāwa'i Road to the Major Project Roadway shall be subject to the following:

1) The roadway intersection shall be located near the eastern boundary of the National Tropical Botanical

Garden Visitor Center property in a safe location as approved by the Department of Public Works.

2) The roadway shall be designed to be improved to County standards. The right-of-way width shall be no less than a collector street standard.

The roadway shall be open 24 hours a day/7 days a week.

b) The section of the Western Bypass Road from the Po'ipū Road/Lāwa'i Road intersection to Kōloa Road, including the associated intersection improvements, shall be constructed within thirty (30) months after the commencement of onsite construction in Phase I of the Project. However, subject to events beyond the control of the applicant and/or for good cause shown, the Planning Department may extend the timeframe for the completion of construction of this section of the Western Bypass Road. The Applicant shall dedicate to the County the right-of-way for the Western Bypass Road pursuant to the agreement entered with the Knudsen Trust(s) and the County of Kaua'i regarding the creation of the road right-of-way.

c) Improvements at the Poipu Road/Lawai Road/Western Bypass Road intersection including the construction of a single-lane roundabout. If allowed by established engineering standards and guidelines, the Applicant shall construct a left-turn lane on Po'ipū Road mauka of the roundabout that provides access to parcels TMK 2-6-4-4, TMK 2-6-4-34, TMK 2-6-4-59 and the Kukuiula Shopping Plaza, subject to the approval of the Planning and Public Works Departments.

d) Construction of improvements at the Kōloa Road/Western Bypass Road intersection that shall include:

1) Signalization if warranted by the Department of Public Works;

2) Provision of separate northbound left-turn and right-turn lanes on the Western Bypass Road;

3) Provision of separate eastbound left-turn and right-turn lanes on Kōloa Road;

4) Provision of separate westbound left-turn and right-turn lanes on Kōloa Road.

e) Improvement of Lāwa'i Road from the intersection of Āmio Road to the connector road to County standards along the adjacent properties owned by the Applicant.

f) Implementation of the mitigative measures deemed required by the State DOT, Highways Division, shall be resolved with that agency, with the Applicant participating on an "equitable basis." Scheduling of all improvements shall be tied to development timetables that shall be resolved prior to permitting.

8. As represented, the use of Lāwa'i Road shall be limited to the Project's construction traffic to improve Lāwa'i Road, the parking lot in the vicinity of the Boyden's Pond area, and TMKs: 2-6-11: 13, 14, 15, and 16; 2-6-03: 4 and 23; and 2-6-04: 17.

9. The Applicant shall use its best efforts to assist the County in acquiring the right-of-way for the remaining portion of the Western Bypass Road from its intersection at Kōloa Road to the intersection of the Eastern Bypass Road (Ala Kinoiki Road) at Maluhia Road from the owners of TMKs: 2-7-03: 2 and 2-8-06: 1.

   In order to assist the Applicant in purchasing these lands the one-time subdivision limitation pursuant to Chapter 10 of the Kaua'i County Code 1987, as amended (KCC), Section 10-6.3 (b) shall be waived. The respective landowners of TMKs: 2-7-03: 2 and 2-8-06: 1 shall be allowed to subdivide these affected lands after the subdivision for the road right-of-way is completed.

10. The major Project roadway shall serve as the routing for the proposed South Shore bypass road. The Applicant and County may mutually agree to minor geometrical adjustments to the alignment in the future.

11. The Applicant shall participate in and contribute toward a "Park and Ride" program should the County of Kaua'i establish such a program in the future.

12. The Applicant shall resolve with the Public Works and Planning Departments a traffic routing plan around Kōloa Town for on- and off-site construction work, hauling and heavy equipment mobilization in order to alleviate impacts of construction traffic/activities on Kōloa Elementary School, businesses in town, tourists, and residents. Lāwa'i Road shall not be used by the Project's construction traffic, except as it relates to improvements to Lāwa'i Road, the parking lot in the vicinity of the Boyden's Pond area, and TMKs: 2-6-11: 13, 14, 15, and 16; 2-6-03: 4 and 23; and 2-6-04: 17.

13. The Po'ipū Resort entryway sign shall be reconstructed by the Applicant should it have to be altered by any of the Applicant's intersection improvements in its vicinity. If the sign has to be relocated and the best location as determined by the County, the Applicant, and the Po'ipū Beach Resort Association (PBRA) is on land owned by the Applicant, A&B, or their subsidiaries, the Applicant shall cause such land to be dedicated to the County. The Applicant shall secure the approval of the entryway sign design from the PBRA prior to submission of the permit application for the reconstruction of the sign.

14. The Applicant shall commit to the expenditure of not more than six hundred thousand dollars ($600,000) towards the cost of constructing improvements to the roadway system serving the Kōloa – Po'ipū region. The entire $600,000 shall be creditable to Environmental Impact Assessment (EIA) fees incurred for traffic improvements required. Such improvements may include, but shall not be limited to:

    a) The acquisition of right-of-way, design, permitting, and construction of the northern leg for the Western Bypass Road. The acquisition of the rights-of-ways shall not exceed $40,000 per acre for EIA fee credits.

    b) Improvements to the Kōloa/Po'ipū Road intersection and the Kōloa/Maluhia Road intersection.

    The credit shall not include the improvement of the Western By-pass road from Po'ipū Road to Kōloa Road up to and including the intersection of the Western Bypass Road and Kōloa Road, as described in Condition No. "7. e)."

The Planning Director and County Engineer shall determine the priorities for use of said monies based on the most urgent public need.

15. Pertaining to the Project's recreational impacts to the region:

a) As represented, the Applicant shall develop, dedicate, and perpetually maintain a 20-acre active regional/community park within the Project as shown on Exhibit ZA-1 entitled Conceptual Community Park Plan. The improvements to be provided by the Applicant shall include multi-purpose fields that accommodate baseball, football and soccer, as well as pavilion(s). The Applicant shall dedicate the park to the County upon completion of the improvements. The Applicant shall enter into a maintenance agreement with the County for the maintenance of the park.

b) The Applicant shall continue the concept of a 100-foot buffer strip along the mauka side of Lāwa'i Road west of Lāwa'i Beach Resort for development into beach parking and pedestrian/bike paths. If a golf course is developed along Lāwa'i Road, the 100-foot buffer strip need not be provided, however, pedestrian/bicycle trails along Lāwa'i Road shall be provided.

c) As represented, the Applicant shall provide a comprehensive pedestrian and biking trail system throughout the Project that will be open to the general public. Provision of the bicycle and pedestrian ways shall be in accordance with the Project's Conceptual Trails Master Plan. The Applicant shall dedicate easements over all Project bicycle and pedestrian ways to the County. Evidence of the recordation of all subject easements shall be transmitted to the Planning Department as shall be required by the Planning Commission as part of final subdivision approval. The Applicant shall also be responsible in perpetuity for maintenance and restoration (in case of, but not limited to, natural disasters, etc.).

d) The Applicant shall dedicate a minimum twenty-foot (20-foot) wide lateral public beach access easement along the Kukui'ula Bay shoreline. Applicant shall also develop, dedicate to the County and perpetually maintain the properties identified as TMK 2-6-11: 13, 14, 15 and 16 (1999) as a public park. The County shall have the option of moving the existing structures thereon. Improvements may include an additional boat launch ramp, additional parking, pavilions, landscaping (shade trees), shower facilities, and a playground area. The specific improvements will be decided by the County Parks Division in consultation with all stakeholders including the community, the Applicant, and neighbors through a community planning process.

e) Relative to impacts to shoreline recreation resources, a contribution of not more than $500,000 or improvements, both of which shall be credited to EIA fee requirements as specified below, shall be made by the Applicant in the following priority:

1) Dedication of lands or the establishment of an easement along with the development of a public beach parking lot consisting of at least twenty (20) parking stalls in the Boyden's Pond area. The total dollar value for the

Boyden's Pond improvements which may be credited to EIA fees shall not exceed $140,000. This project shall be completed no later than thirty (30) months after the commencement of onsite construction of Phase I of the Project.

2) Acquisition by the County of at least one beach access, done in consultation with the Kōloa Community Association and the Open Space/Public Access Commission.

3) Po'ipū Beach Park Expansion.

4) Po'ipū Beach Park improvements.

If options 2 and 3 are not accomplished within three years from the date of enactment of this ordinance, these funds shall be used for Po'ipū Beach Park improvements.

f) The Applicant shall provide public pedestrian access easements to the shoreline areas west of Spouting Horn Park owned by the Applicant consistent with the Project's Conceptual Trails Master Plan.

g) Dedication of the twenty (20) acre park shall satisfy the Park Dedication requirements pursuant to Section 9-2.8 KCC.

h) To mitigate impacts of increased visitors on south shore beach parks, the applicant shall provide a swimming pool/feature for its guests in order to divert guests from using public beach parks.

16. The lands adjacent to the Prince Kūhiō Park that has been dedicated to the Royal Order of Kamehameha I, Kaumuali'i Chapter for the expansion and improvement of the Prince Kūhiō Park shall be credited to the Applicant's Park Dedication requirements.

17. The golf course shall be made available to legal residents of the County of Kaua'i as follows:

a) Green Fees, Including Golf Cart Fees: $35.00 per person maintained without escalation for a period of ten (10) years from the date of the opening of the golf course, with increases of no more than $2.00 per year each year thereafter for the subsequent ten (10) years. After this ten (10) year period, green fees for legal residents of the County of Kaua'i (kama'āina rates) shall not exceed the highest kama'āina golf rate on the island.

b) Tee Times:

1) Monday through Friday, except between December 24th and January 1st each year: Four (4) consecutive tee times commencing at 12:00 noon.

2) Saturdays, Sundays and holidays, except between December 24th and January 1st each year: Four (4) consecutive tee times commencing at 11:00 a.m.

c) Reservations: No earlier than 48 hours and not later than 24 hours in advance of the tee time. Should there be no request made within this time frame, such tee times may be given away.

d) All players must adhere to the then applicable dress code.

18. The Applicant shall comply with all applicable State and County standards, rules, guidelines, and regulations regarding development of the golf course.

19. a) The Applicant shall cause to be developed a minimum of seventy-five (75) housing units in the Port Allen to Kōloa – Po'ipū area for first-time Kaua'i homebuyers who are employees of the Project or employed within the County of Kaua'i. The number of units allocated for each category of purchasers shall be prescribed as follows:

80% to 110% of Kaua'i Median Income: Twenty-five (25) units:
60%, or 15 units: First-time homebuyers who are employees of the Project
40%, or 10 units: First-time homebuyers employed within the County of Kaua'i

111% to 140% of the Kaua'i Median Income: Twenty-five (25) units:
60%, or 15 units: First-time homebuyers who are employees of the Project
40%, or 10 units: First-time homebuyers employed within the County of Kaua'i

141% to 180% of the Kaua'i Median Income: Twenty-five (25) units:
60%, or 15 units: First-time homebuyers who are employees of the Project
40%, or 10 units: First-time homebuyers employed within the County of Kaua'i

b) Housing units may include a mixture of both attached and detached single-family and multi-family units. The final unit mix shall be developed in consultation with the County Housing Agency.

c) For the purposes of this ordinance, the term "employees of the Project" means any person whose principal place of business or work is located within the Project, including:

1) Full-time employees of the Applicant, its successors, or assigns, or its subsidiaries; or

2) Employees of businesses located within the Project; or

3) Any other employee working within the Project area.

d) All for-sale units constructed under this condition shall be subject to subparagraphs "e)" and "f)" of this condition which shall be recorded in any deed or conveyance instrument of a form approved by the County Attorney, and recorded in the Bureau of Conveyance or Land Court system, which restrictions shall terminate in ninety (90) years from the date of the conveyance as specified in condition no. "19. e)."

e) To ensure that the units constructed under this condition shall remain permanently affordable, the Applicant shall cause a 90-year restrictive covenant to be included in each conveyance instrument so that if a homeowner under this program wishes to sell or to transfer title, the resale of the unit shall first be offered

to the Applicant, and the Applicant shall agree to buy back, at a price not exceeding the aggregate of:

1) The original sales price;

2) The cost of any capital improvements added by the owner; and

3) Simple interest on the original cost to the owner and the cost of capital improvements added to the property by the owner at a rate equal to the annual percentage change in the Honolulu Consumer Price Index for All Urban Consumers (CPI-U), as calculated by the U.S. Bureau of Labor Statistics, or one percent (1%), whichever is greater.

f) If the Applicant should cease to operate or fail to buy back as required under sub-paragraph (e) above, the County shall have the option to exercise the buy back as provided in subparagraph (e) above, notwithstanding any other restrictions contained elsewhere in the Kaua'i County Code 1987, as amended.

g) The Applicant shall work with the County Housing Agency to develop a sales program, giving due consideration to the income requirement and employment status of the buyers. Said sales program shall be monitored by the County Housing Agency. The employee housing units shall be offered for sale in fee or for rent, or a combination of both. The County Housing Agency shall be notified by the Applicant each time a property is resold.

h) In the event that any housing units remain available after being offered for sale or rental for a period of twelve (12) months from the date of such offering, the Applicant may offer such units to persons employed within the County of Kaua'i who fall within 80% to 180% of the Kaua'i Median Income.

i) The list of final purchasers and any re-sale or re-lease of units shall be submitted to the County Housing Agency for certification of compliance with this condition.

j) The Applicant shall cause the employee housing units to be administered and managed in accordance with this condition.

k) The County acknowledges that in developing new employee housing units pursuant to this condition, lands under consideration may require land use entitlements and needed infrastructure. The County agrees to reasonably assist the Applicant in any requisite land use permitting necessary for the development of employee housing units on such lands. Further, in the event that the Applicant is required to rezone any parcel of land for an employee housing project to be located outside of the project boundaries of the lands that are the subject of this Ordinance, the County agrees that all fees, assessments, exactions and/or conditions already imposed pursuant to this Ordinance shall be intended to address any and all impacts that might otherwise be attributed to the parcel to be rezoned, and the employee housing project to be developed thereon, and no additional fees, assessments, exactions and/or conditions shall be imposed upon such rezoning application.

l. The Applicant shall commence construction of the subject buildings no later than four (4) years from the date of the

enactment of this ordinance. However, the Planning Department may extend these deadline due to events beyond the control of the Applicant and/or for good cause shown.

20. Within one (1) year of the effective date of this ordinance, the Applicant shall request a release from its agreement with the Department of Education and from the condition imposed by the Land Use Commission, both of which appear to require Applicant to give to the State Department of Education the approximately five-acre parcel along Po'ipū Road identified by Tax Map Key numbers TMK 2-6-04: 11, 18, and 63 for use as an elementary school site. The County shall exert its best efforts to support the Applicant in its request. Once released, this site shall be conveyed to the County or its assignee for development of a limited equity housing cooperative ("LEHC") project, if practicable, which shall give first priority to households containing at least one (1) person employed in the Kōloa – Po'ipū area. The County agrees that the park dedication and environmental impact fee requirements for the LEHC have been met by the contributions of the Project. Except as stated below, the Applicant shall have no obligation with respect to the development of the subject site.

    a) The Applicant shall provide wastewater service to the LEHC and shall ensure that any wastewater connection fees, service fees or any similar fees for units in the LEHC shall be at rates substantially similar to those provided to the County's Pa'anau housing project, subject to the approval of the State of Hawai'i Public Utilities Commission. For the purpose of this condition no. "20.," all units built shall be considered "affordable housing."

    b) The Applicant shall not impose any community association, condominium association, association of apartment owners, or any other similar homeowner's association fees, dues, and any improvement district assessments stemming from or related to the project area as defined by this ordinance upon the LEHC or its members.

21. The Applicant shall:

    a) Dedicate approximately 4 acres of land to the County for the future expansion of the affordable housing project at Pa'anau. This property is approximately depicted on the map attached hereto and incorporated herein as Exhibit ZA-2 (the "4-acre parcel"). The Applicant will be responsible neither for rezoning and subdividing the 4-acre parcel so as to allow it to be used as multi-family residential housing nor to pay for the costs of processing the rezoning and subdivision applications and the costs of any improvements which are required in connection with the approval of those applications. Applicant shall convey title to the 4-acre parcel to the County after the County receives final subdivision approval for the 4-acre parcel. The Applicant will provide the County with evidence of site control as needed by the County in order for the County to pursue and obtain financing commitments. The Applicant shall provide wastewater service to the subject property and shall ensure that any wastewater connection fees, service fees, or any similar fees for all units developed on the property shall be made available at rates substantially similar to those provided to the County of Kaua'i Pa'anau housing project in perpetuity.

    b) Construct a storm drainage interceptor ditch, so as to route off-site storm water away from and around the Pa'anau project.

Applicant shall construct this storm drainage interceptor ditch at the time it donates the 4-acre parcel and the County begins site work of the 4-acre parcel. In the event that Applicant constructs this drainage ditch in advance of its construction schedule in order to accommodate the County's development schedule, Applicant shall receive credits to be applied against affordable housing requirements. The credit to which Applicant will be entitled shall be calculated at the time that the County Council accepts the donation of the 4-acre parcel and the amount of the credit shall be established by mutual agreement between Applicant and the County with approval by the County Council.

c) Grant a perpetual easement to the County for a sewer line between the Pa'anau site and the Kukui'ula sewage transmission main by a document which is substantially similar to the Applicant's standard easement form.

d) Construct and install a six-foot (6') wide paved pathway, suitable for pedestrians and bicycles, from the proposed community park in Applicant's Kukui'ula Project (at the location currently planned by Applicant and generally depicted on the Project's Conceptual Trails Master Plan) to the Pa'anau Road extension. Applicant shall construct and install the pathway at the time the Applicant donates the 4-acre parcel to the County and subdivision, installation, and construction of the park is completed.

e) Install and construct an extension of Pa'anau Road according to County-imposed standards, so as to provide access to the 4-acre parcel. Prior to pursuing the extension of Pa'anau Road, however, alternative access to the 4-acre parcel shall be considered by the County.

Should the extension of Pa'anau Road be pursued, the Applicant need not extend Pa'anau Road unless and until Applicant donates the 4-acre parcel to the County and the County begins site work of the 4-acre parcel. In the event that Applicant constructs this roadway in advance of its construction schedule in order to accommodate the County's development schedule, Applicant shall receive credits to be applied against affordable housing requirements. The credit to which Applicant will be entitled shall be calculated at the time that the County Council accepts the donation of the 4-acre parcel and the amount of the credit shall be established by mutual agreement between Applicant and the County with approval by the County Council.

f) Provide, free of charge, hook-ups for up to sixty (60) units which the County develops on the 4-acre parcel to the Kukui'ula Wastewater Treatment Plant, provided that 1) the County's development is for affordable housing and 2) Applicant receives a credit to be applied against affordable housing requirements imposed in connection with the development of this project by Applicant. The credit to which Applicant will be entitled upon the granting of these hook-ups shall be equivalent to ten (10) three-bedroom houses affordable to residents in the low/moderate-income group. The County (or the subsequent owner of the Pa'anau property/units) will be responsible to pay monthly sewage service charges. Applicant shall provide these additional free sewer hook-ups at the time the Applicant donates the 4-acre parcel to the County.

22. The Applicant shall prepare a drainage master plan covering golf course development and shall also continue conducting marine studies to address impacts to the marine life pursuant to the concerns of the Department of Land and Natural Resources (DLNR). The studies shall be submitted on an annual basis to the Planning Department for review, or as requested by the Planning Department.

23. The Applicant shall prepare a wastewater system master plan to include the wastewater collection and transmission system requirements for the Project. The wastewater system master plan shall be submitted to the Planning and Public Works Departments for review.

24. a) The Applicant is advised by the State Historic Preservation Division that the following conditions will be attached to all permits to ensure that "no adverse effect" to the significant historic sites occurs:

    1) A preservation plan for all significant historic sites committed to preservation shall be submitted to the State Historic Preservation Division for review and must be approved by that Division. The Division must also verify in writing to the County Planning Department that the plan has been successfully executed, prior to any construction activity affecting these sites.

    2) Significant historic sites committed to archaeological data recovery shall have the scope of work specified in an archaeological data recovery plan. This plan must be approved by the State Historic Preservation Division. The Division must also verify in writing to the County Planning Department that the plan has been successfully executed, prior to any construction activity affecting these sites.

    b) Regarding archaeological aspects of the Project:

    1) The following features shall be preserved:

        i) Two (2) heiau (Sites 3 (State Site #1903) and 51 (State Site #3076)) – one behind Prince Kūhiō Park, located mauka of an old elevated railway berm, behind a depression; and the other located roughly in the middle of the western half of the amendment area.

        ii) Raised 'auwai (Site 38A (State Site #1934A)).

        iii) Agricultural complex (Sites 38 (State Site #1934) & 40 (State Site #1936)) – includes several sections of the raised 'auwai, agricultural features, terraces, retaining walls, ditches, fields, and circular platforms.

        iv) Four (4) caves/lava tubes (Sites 15 (State Site #3075A), 19 (State Site #3179), 23 (State Site #3075b), and 24 (State Site #3075c)).

        v) Elevated Railway berm (Site 37 (State Site #1933)).

2) Preservation and data recovery plans shall be developed, including provisions for reinterment of excavated burials.

3) Other significant sites shall be incorporated into parks, preserves, and/or open space, whenever possible.

4) The Applicant shall comply with all applicable statutory provisions and administrative rules regarding inadvertent burial finds within the Project.

25. Pursuant to the recommendations of the Kaua'i Historic Preservation Review Commission, the Applicant shall:

a) Construct security gates for the lava tubes that would facilitate access for future research work.

b) Take proactive steps to insure that mitigation and protection measures for the preserve areas are in place prior to any construction/ground disturbing activities.

26. The Applicant shall install two (2) new civil defense sirens to provide coverage in high hazard areas within and adjoining the Project as prescribed by the County Civil Defense Agency and Hawai'i State Civil Defense by letter dated August 31, 2000 from the County of Kaua'i.

27. The Applicant shall produce a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, Chapter 342G, Hawai'i Revised Statutes. The Applicant's Solid Waste Management Plan shall be approved by the County of Kaua'i Department of Public Works, Solid Waste Division. The Applicant's Solid Waste Management Plan shall be submitted and approved prior to commencement of the first phase of on-site construction. The Plan shall address and encourage an awareness of the need to divert the maximum amount of waste material caused by the Project away from the County's landfill. The Plan shall include the following: a Plan for diverting green waste from the County landfill, a plan for diverting construction and demolition debris, large recycling receptacles for household recyclables (e.g., 30-cubic yard compartmentalized roll-off containers) at multi-family projects, drop-off recycling bins to service residents in the area, public recycling receptacles, and programs to service all of the above.

28. For consideration and further deliberation with the County Council:

The Applicant shall explore with the County Council the use of one or more types of land-secured financing districts (as authorized by enabling State legislation) for the financing of publicly-owned infrastructure that includes roads, water facilities, parks, and other public amenities.

29. The Applicant shall comply with all applicable Federal, State and County rules and regulations during construction and use.

30. A blasting plan shall be prepared for the review and approval of the County Planning and Public Works Departments, along with the State Department of Health when applicable, prior to permit applications involving project development. The blasting plan shall cover:

a) A preliminary schedule identifying anticipated frequency and time(s) of the day that blasting will occur.

b) Process of notifying of affected parties.

c) Implementation of a warning system(s) prior to blasting to ensure that residents in the area are alerted.

31. The Applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

32. All conditions contained in this ordinance shall be binding on the Applicant and its heirs, assigns, or successors in interest, or representatives of the subdivider, owner, proprietor or developer.

SECTION 3. Ordinance No. PM-323-95 and Ordinance No. PM-349-99 are hereby repealed.

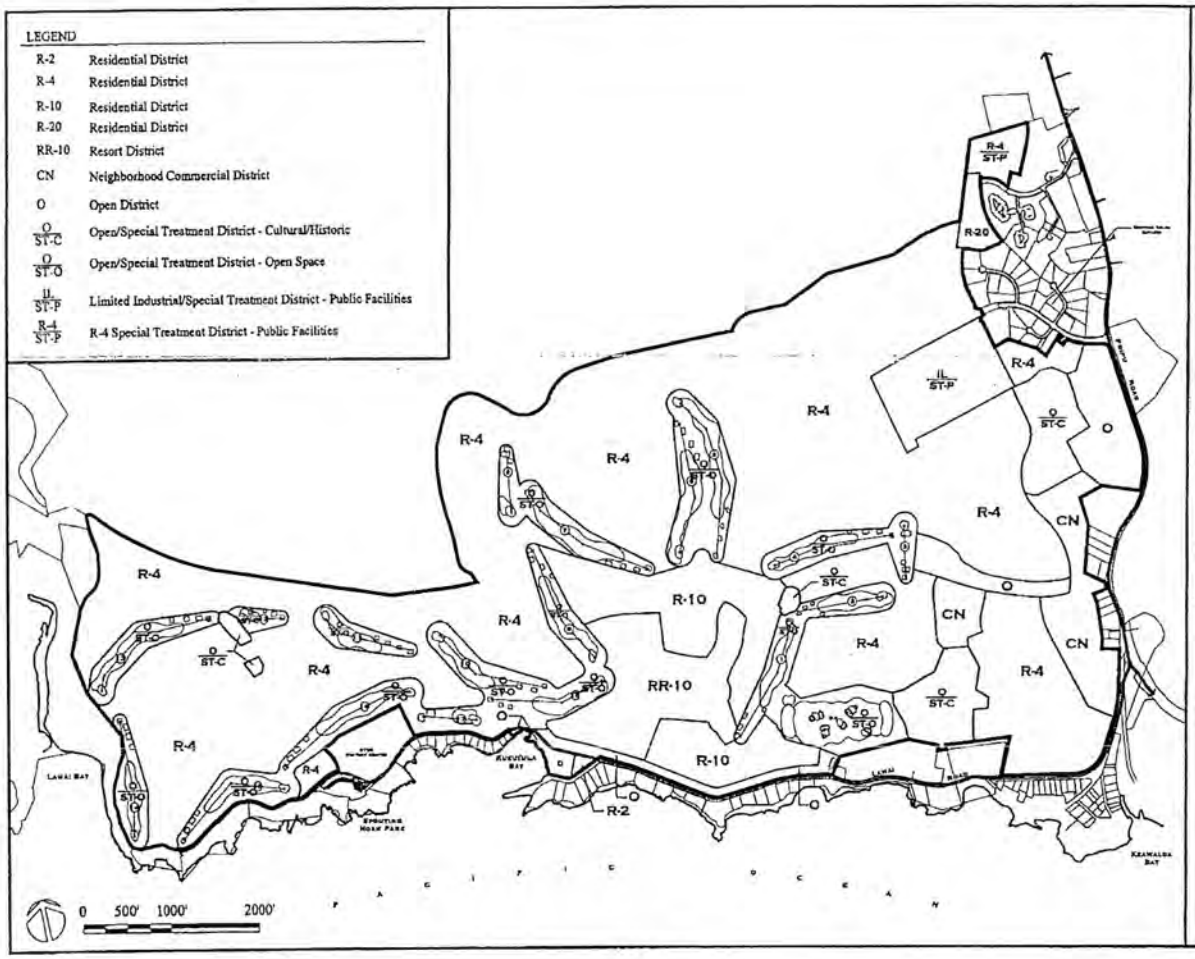
SECTION 4. The Planning Department is directed to note all pertinent changes on the official Zoning Map on file with the Planning Department.

SECTION 5. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such part or parts. parts, except that if item nos. 7, 9, 11, 14, 15, 19, 20, and 21 shall be found to be invalid in part or in whole, the Planning Department shall initiate corrective amendments within twenty (20) days from the date a condition is found to be invalid. The Planning Commission shall act upon a corrective amendment within ninety (90) days of receipt of such transmittal from the Council. The Council shall act upon a Planning Commission recommendation on a corrective amendment within ninety (90) days of receipt of the recommendation.

SECTION 6. This ordinance shall take effect upon its approval.

INTRODUCED BY: /s/ BILL "KAIPO" ASING
(By Request)

DATE OF INTRODUCTION:
March 11, 2004
Līhu'e, Kaua'i, Hawai'i
D:\My Documents\Word Docs\BILLS\2099 D2 Kukuiula Zoning.Doc/PN:ao



LOCATION MAP SHOWING PROPOSED AMENDMENT TO ZONING MAP ZM-KU 300

From

Residential Districts (R-2, R-4, R-6, R-10, and R-20), Resort District (RR-20), Agriculture District (A), Open District (O), General Commercial District (CG), Neighborhood Commercial District (CN), R-1 Special Treatment District - Public Facilities (R-1/ST-P), and R-4 Special Treatment District - Public Facilities (R-4/ST-P).

To

Residential Districts (R-2, R-4, R-10, and R-20), Resort District (RR-10), Neighborhood Commercial District (CN), Open District (O), Open/Special Treatment District - Cultural Historic (O/ST-C), Open/Special Treatment District - Open Space (O/ST-O), Limited Industrial/Special Treatment District -Public Facilities (IL/ST-P), and R-4/Special Treatment District - Public Facilities (R-4/ST-P)

Tax Map Keys: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16; and 2-6-15: 1
Lawai, Koloa, Kauai, Hawaii

Exhibit C

July 15, 2004

AGE / FIELD SIZE	FIELD QUANTITIES*
U6 15 yds. x 30 yds.	14
U8 25 yds. x 50 yds.	7
U10 40 yds. x 88 yds.	4
U12 45 yds. x 90 yds.	3
FULL SIZE 75 yds. x 120 yds.	2
BASEBALL** 90' Bases, 375' Fence	1
PONY BASEBALL** 60' Bases	1

NEW PARK AREA (APRIL 2003) **20.2 ACRES**

* FIELD QUANTITY BASED ON OVERLAP USE

** BASEBALL FIELDS FOR PRACTICE USE
- ONLY GRASS
- NO SKINNED INFIELD, DIRT, OR OUTFIELD FENCES

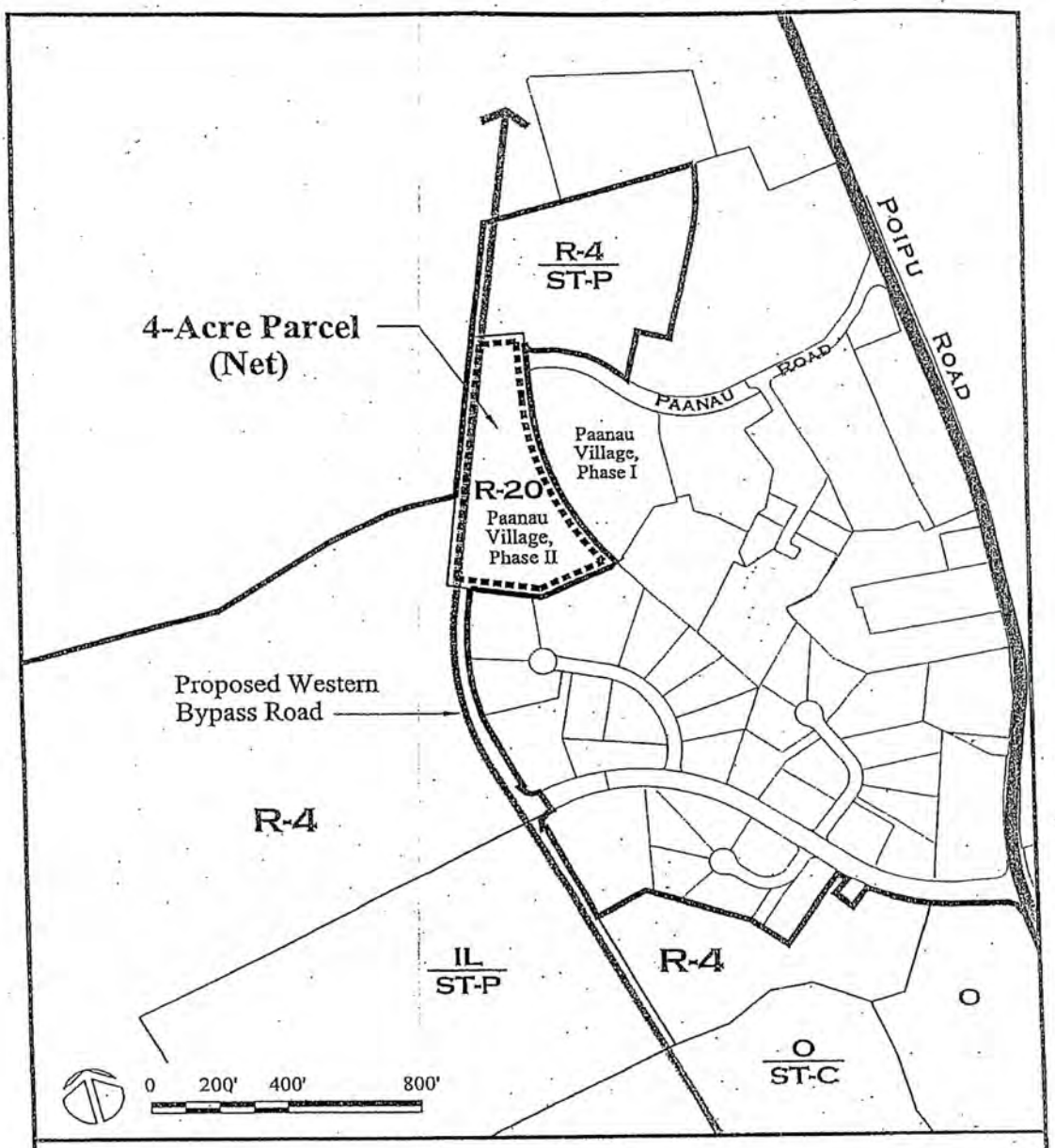
LEGEND

- COMFORT STATION
- PAVILION
- TOT LOT
- VEGETATION

Conceptual Community Park Plan

Exhibit ZA-1

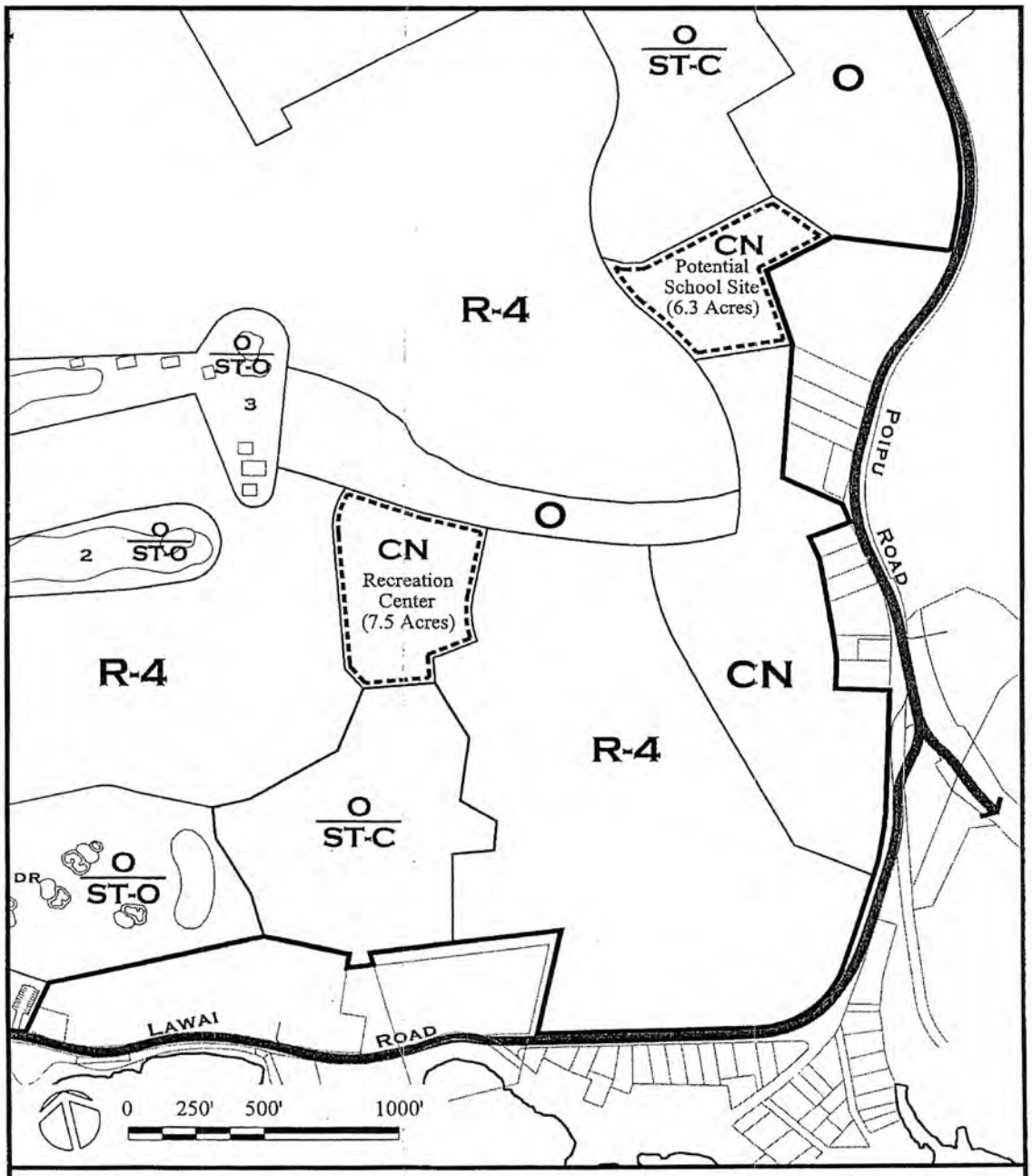
January 26, 2004



4-Acre Parcel
Kukui'Ula

Exhibit ZA-2

January 26, 2004



Neighborhood Commercial District (CN)
Kukui'Ula

Exhibit ZA-3

July 15, 2004

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2099, Draft 2, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on July 22, 2004, by the following vote:

FOR ADOPTION: Furfaro, Kaneshiro, Munechika, Rapozo, Tokioka, Yukimura, Asing — TOTAL - 7,
AGAINST ADOPTION: None — TOTAL - 0,
EXCUSED & NOT VOTING: None — TOTAL - 0.

Lihue, Hawaii
July 23, 2004

Peter A. Nakamura
County Clerk, County of Kauai

ATTEST:

Bill "Kaipo" Asing
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

July 26, 2004

Approved this 28th day of July, 2004.

Bryan J. Baptiste
Mayor
County of Kauai

ORDINANCE NO. **PM-2004-371** BILL NO. 2100, Draft 3

A BILL FOR AN ORDINANCE
TO AMEND CHAPTER 8, ARTICLE 17, KAUAI COUNTY CODE 1987
RELATING TO VISITOR DESTINATION AREA DESIGNATION
AND REPEALING ORDINANCE NO. PM-350-99 FOR KUKUI'ULA, KAUA'I
(Kukui'Ula Development Company (Hawaii), LLC, Applicant)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I:

SECTION 1. Tax Map Keys Nos. 2-6-03: Por. 1, 4, 21, 23, por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16; 2-6-15:1 (formerly known as Tax Map Keys: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15 and 16) consisting of approximately 1,002 acres in Kukui'ula, Kaua'i, as shown on the attached revised Exhibit A, is hereby designated as a Visitor Destination Area (VDA), subject to the following conditions:

1. Development of Time Share units shall be limited to the 106-acre resort core and that transient vacation rental units within the single-family detached, single-family attached, and multifamily projects shall be allowed within the VDA designation.

OVER 60 TRANS

2. The total number of time share and transient vacation rental units shall not exceed seven hundred fifty (750) units in number for the entire 1,002-acre Project. The Applicant shall be required to allocate for each subdivision that is created during the development of the 1,002-acre Project the maximum number of time share and transient vacation rental units that shall be permitted in each such subdivision. The number of time share and transient vacation rental units allocated for each subdivision shall represent the maximum number of time share and transient vacation rental units that may be developed in each such subdivision, and no portion of the units may thereafter be assigned, transferred, or allocated to any other subdivision irrespective of whether or not the allocation is ever fully used or realized in that subdivision.

SECTION 2. Ordinance No. PM-350-99 is hereby repealed.

SECTION 3. The Visitor Destination Area designation and boundary lines established herein shall be transferred onto the official zoning maps for reference purposes.

SECTION 4. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or portion of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY: /s/ BILL "KAIPO" ASING
(By Request)

DATE OF INTRODUCTION:
March 11, 2004
Lihue, Kauai, Hawaii

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2100, Draft 3, which was adopted on second and final reading by the Council of the County of Kauai at its meeting held on July 22, 2004, by the following vote:

FOR ADOPTION: Furfaro, Kaneshiro, Munechika, Rapozo, Tokioka, Yukimura, Asing — TOTAL - 7,
AGAINST ADOPTION: None — TOTAL - 0,
EXCUSED & NOT VOTING: None — TOTAL - 0.

Lihue, Hawaii
July 23, 2004

Peter A. Nakamura
County Clerk, County of Kauai

ATTEST:

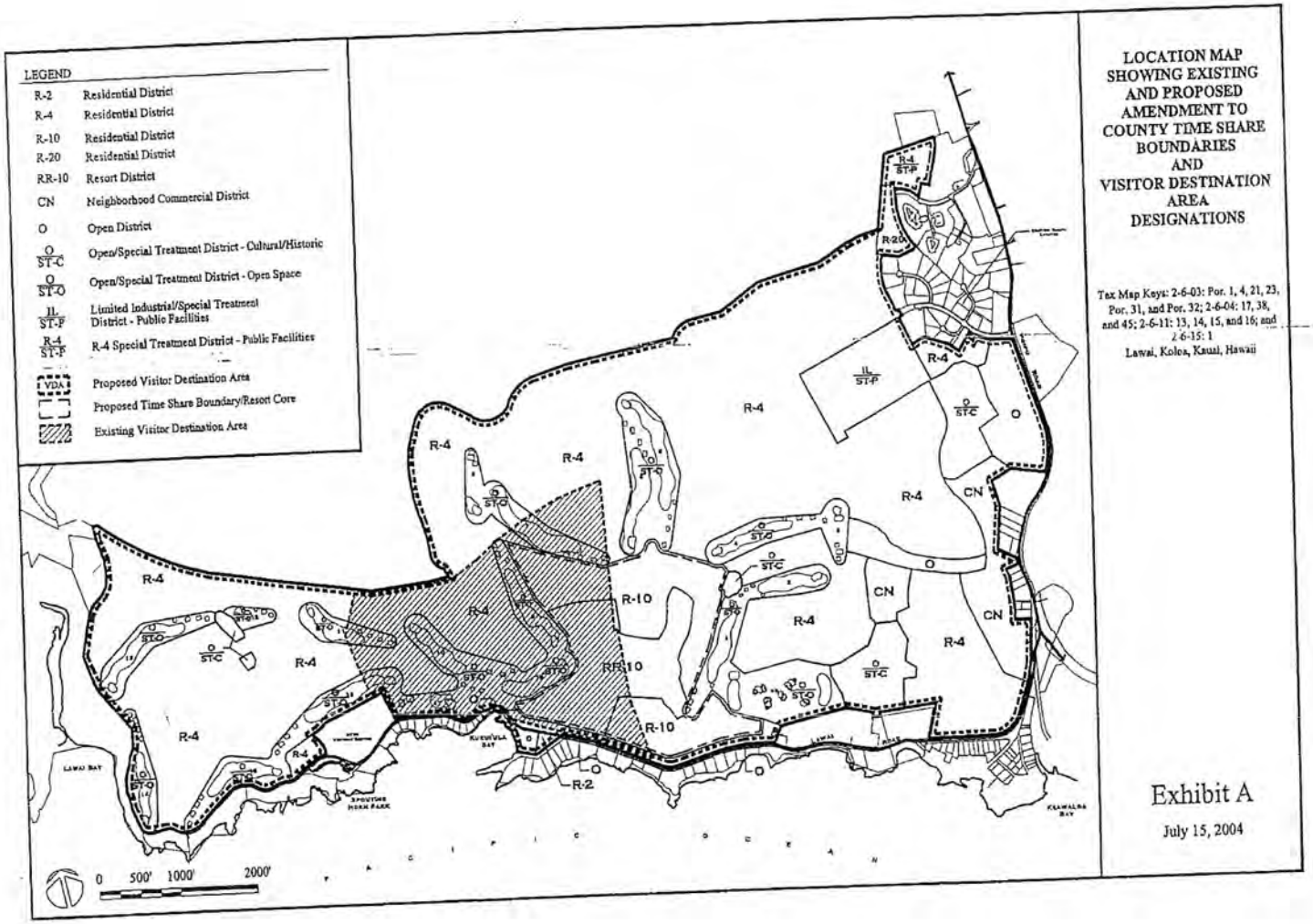
Bill "Kaipo" Asing
Chairman & Presiding Officer

DATE OF TRANSMITTAL TO MAYOR:

July 26, 2004

Approved this 28th day of July, 2004.

Bryan J. Baptiste
Mayor
County of Kauai



LOCATION MAP SHOWING EXISTING AND PROPOSED AMENDMENT TO COUNTY TIME SHARE BOUNDARIES AND VISITOR DESTINATION AREA DESIGNATIONS

Tax Map Keys: 2-6-03: Por. 1, 4, 21, 23, Por. 31, and Por. 32; 2-6-04: 17, 38, and 45; 2-6-11: 13, 14, 15, and 16; and 2-6-15: 1
Lawai, Koloa, Kauai, Hawaii

Exhibit A

July 15, 2004

PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISION

HELEN COX, CHAIR
FRANCIS DEGRACIA, VICE CHAIR
GERALD AKO, MEMBER
DONNA APISA, MEMBER
LORI OTSUKA, MEMBER

June 15, 2022

Mr. Dave Hutchinson
Kukui'ula Development Co. (Hawai'i) LLC.
2700 Ke Alaula Street, Suite B
Kōloa, Hawai'i 96756

Subject: **Kukui'ula Parcel I Subdivision**
Subdivision of Lot 1 of Kukuiula Large-Lot Subdivision III into Lots 1 to 40, Inclusive, Cancellation of Easement W-1 and Designation of Easements AU-1, AU-2 and A-4, Being a Portion of Royal Patent 6714, Land Commission Award 7714-B, Apana 2 to M. Kekuaiwa No M. Kekuanaoa Situated at Kōloa (Makai), Kōloa, Kona, Kaua'i, Hawai'i. (**S-2021-1**, Kukui'ula Development Co. (Hawai'i) LLC.)

Dear Mr. Hutchinson,

The Planning Commission, at its meeting held on JUNE 14, 2022, **RATIFIED** the actions taken on the February 8, 2022, Planning Commission Meeting concerning the above referenced subdivision.

Sincerely Yours,

KA'ĀINA S. HULL
Clerk, Kaua'i Planning Commission

xc: COK – Public Works, Fire, Water, Finance-Real Property Division
State – Health, Historic Preservation Division-DLNR

PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISION

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

July 12, 2023

Mr. Chris Rivera
BBCP Kukui'ula Development, LLC.
2700 Ke Alaula Street, Suite B
Kōloa, Hawai'i 96756

Subject: **Kukui'ula Parcel J1-A Subdivision**
Subdivision of Lot 40 of Kukui'ula Parcel I Subdivision into Lots 1 to 18, Inclusive, and Designation of Easements AU-1 and AU-2 Being a Portion of Royal Patent 6714, Land Commission Award 7714-B, Apana 2 to M. Kekuaiwa No M. Kekuanaoa situated at Kōloa (Makai), Kōloa, Kona, Kaua'i, Hawai'i. (**S-2023-4**, BBCP Kukui'ula Development, LLC.)

Dear Mr. Rivera,

The subject subdivision was granted **PRELIMINARY SUBDIVISION MAP APPROVAL** by the Planning Commission at their meeting held on July 11, 2023. Final approval will be granted subject to the following conditions:

1. Requirements of the Planning Department:

    a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.

    b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.

    c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.

    d. Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:

1) An Environmental Impact Assessment Fee of Seven Thousand Dollars ($7,000) shall be paid to the County of Kaua'i; and

2) The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.

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

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

Conditions of Ordinance No. PM-2004-370:

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

f. There shall be no vehicular access permitted onto Ala Kukui'ula from proposed Lot 18. 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.

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

h. Pursuant to Section 9-2.3(e) of the Subdivision Ordinance, Kaua'i County Code (1987), as amended, curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Residential Districts where the density permitted is four (4) units or more per acre. For existing

streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.
Prior to final subdivision approval, the Applicant shall work with the Planning Department and Department of Public Works to determine if the provision of curbs, gutters and sidewalks is necessary. If it is determined necessary, the Applicant shall comply with the requirements of Section 9-2.3(e)(3) prior to final subdivision approval. Further, if the requirement of sidewalks is waived, the Applicant shall comply with Sections 9-2.3(e)(3)(C) and 9-2.3(e)(3)(D) prior to final subdivision approval.

Section 9-2.3(e)(3) states:

"(3) Curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Commercial, Industrial and Resort Districts; in Residential Districts where the density permitted is four (4) units or more per acre; and in any other Zoning Districts within the State Land Use-Urban District that are located within one-half (1/2) mile from any elementary, intermediate, high school, or college. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.

(A) In Residential Districts, swales may be constructed in lieu of curbs and/or gutters in accordance with the drainage standards and design guidelines established by the Department of Public Works.

(B) In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists or will be provided by the applicant.

(C) If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six (6) lots. The fee in lieu of required sidewalk construction shall be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer. There is hereby established and created a "sidewalk/shared use path fund" for the deposit of fees collected in lieu of required sidewalk construction. The fees collected pursuant to this Subsection (C) are hereby deemed appropriated upon receipt and shall be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance. The County Engineer shall submit an annual written report to the Council of each fiscal year's expenditures and balance of the sidewalk/shared use path fund on or before the 15th day of March of each year. If the 15th day of March falls on a Saturday,

Sunday, or legal holiday, the report shall be submitted on the prior working day. The fees collected shall not lapse at the close of the fiscal year.

(D) Payment of said fees shall be made in a lump sum at the time of final subdivision map approval or payment shall be made according to the following schedule: fifty percent (50%) at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval. When funds are needed for sidewalk or shared use path planning, design, land acquisition, construction and/or repair, the County Engineer shall submit a written request to the Planning Director and Mayor for approval. Upon approval, the Finance Director shall be authorized to release monies from the fund."

i. The Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.

j. The 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.

k. 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 within the Kukui'ula Parcel J1-A Subdivision, shall be counted towards the total amount approved through Ordinance No. PM-2004-370.

l. 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 "Kukui'ula South Shore, Kaua'i, Zoning Refinement Area Map" dated June 8, 2020.

m. Lot 15 shall have no residential density as it will be used as a common area and for landscaping, as represented. This provision shall be incorporated into the deed description of Lot 15, draft copies of which shall be submitted to the Planning Department for review and approval.

n. Lots 2 and 3 do not comply with the Lot Length requirement outlined in Section 8-4.4(a) (3) (A) of the Comprehensive Zoning Ordinance (CZO), Kaua'i County Code (K.C.C), 1987, as amended. The Applicant shall work with the Planning Department to resolve this matter prior to final subdivision 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.

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

   a. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:

      1) A Facilities Reserve Charge (FRC) of 18 Lots at $14,115 per lot.

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

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

   c. 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.

   d. 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.

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

      1) Submit an updated Kukui'ula Water Demand and System Capacity Tracking Matrix.

      2) Be made aware that the Facilities Reserve Charge and 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.

      3) Identify the proposed subdivision lots that will not be assigned water service. DOW comments may change depending on the approved subdivision map.

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

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

Clean Air Branch

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

Clean Water Branch

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

Hazard Evaluation & Emergency Response Office

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

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.

2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at https://health.hawaii.gov/irhb/asbestos/.

Safe Drinking Water Branch

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

2. Standard comments for the Safe Drinking Water Branch can be found at: https://health.hawaii.gov/epo/landuse/.

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1to 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 3421, 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 10,000 square feet, an individual onsite waste-water unit may be possible for future construction. Please see Sina Pruder at DOH Waste-Water Branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at doh.wwb@doh.hawaii.gov.

Sanitation/ Local DOH Comments:

1. Noise may be generated during demolition and/or const ruction. 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 Toolkitrecommends thatstate and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.

2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3495.

5. Requirements of the State Historic Preservation Department (SHPD):

   a. The subdivider shall comply with the requirements of the State Historic Preservation Department, if any, prior to final subdivision approval.

6. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. Should any potential historic properties be identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that iwi kūpuna (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD, coroner, and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.

7. In the event that iwi kūpuna and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

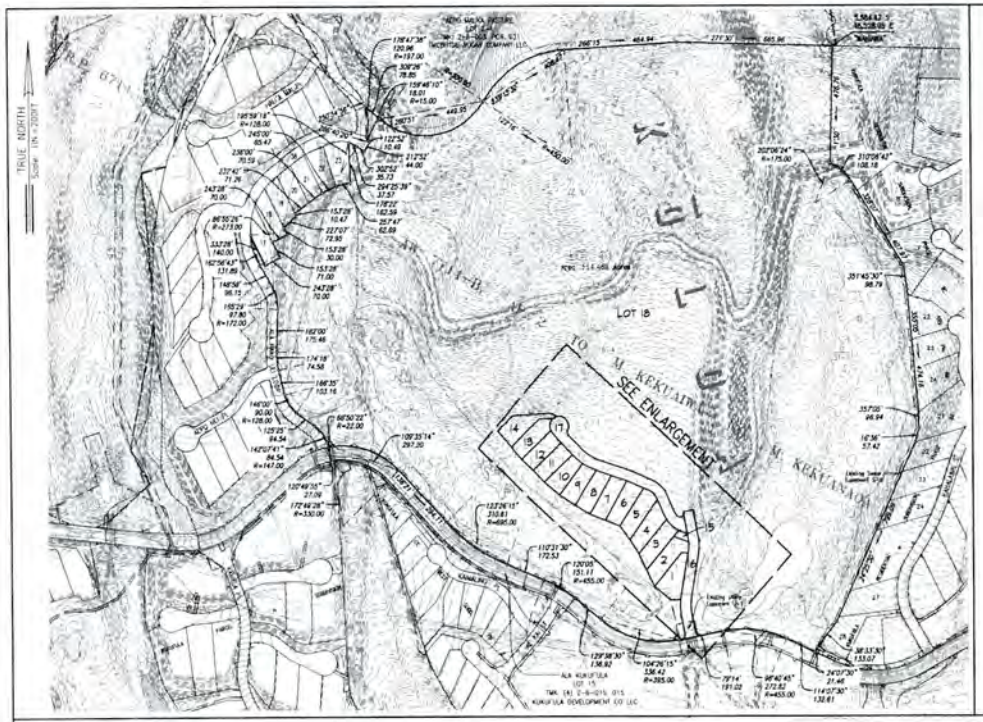
8. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

Sincerely Yours,

KA'ĀINA S. HULL
Clerk, Kaua'i Planning Commission

xc: COK Public Works Dept.
COK Water Dept.
COK Real Property – Assessment Div.
State Dept. of Health

EXHIBIT “H”



ADJOINING OWNERS: KUKUIULA RESIDENTIAL SUBDIVISION, PHASE IC

Lot No.	Tax Map Key	Owner
Lot 3	(4) 2-8-017: 41	MICHAEL C. ROY & A. DEBORAH L. ROY
Lot 4	(4) 2-8-017: 42	TIMOTHY J. DUNN TRUST
Lot 5	(4) 2-8-017: 57	KUKUI'ULA DEVELOPMENT CO LLC

ADJOINING OWNERS: KUKUI'ULA RESIDENTIAL SUBDIVISION, PHASE IIB

Lot No.	Tax Map Key	Owner
Lot 26	(4) 2-8-018: 23	[illegible]
Lot 27	(4) 2-8-018: 24	[illegible]
Lot 28	(4) 2-8-018: 25	[illegible]

ADJOINING OWNERS: KUKUI'ULA RESIDENTIAL SUBDIVISION, PHASE IIA

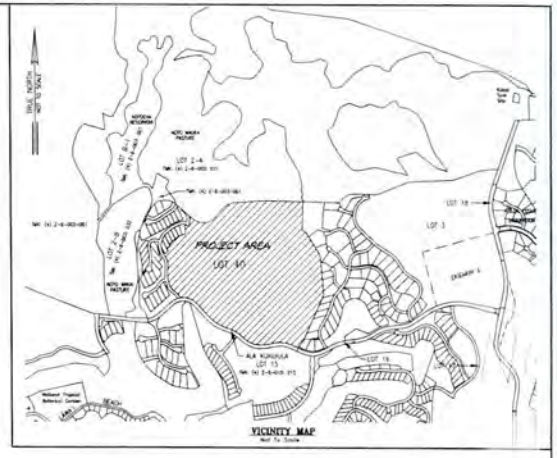
Lot No.	Tax Map Key	Owner
Lot 29	(4) 2-8-018: 26	[illegible]
Lot 30	(4) 2-8-018: 27	[illegible]
Lot 31	(4) 2-8-018: 28	[illegible]
Lot 32	(4) 2-8-018: 29	[illegible]
Lot 33	(4) 2-8-018: 30	[illegible]
Lot 34	(4) 2-8-018: 31	[illegible]
Lot 35	(4) 2-8-018: 32	[illegible]
Lot 36	(4) 2-8-018: 33	[illegible]
Lot 37	(4) 2-8-018: 34	[illegible]
Lot 38	(4) 2-8-018: 35	[illegible]

ADJOINING OWNERS: KUKUI'ULA PARCEL I SUBDIVISION

Lot No.	Tax Map Key	Owner
Lot 14	(4) 2-8-023: 39	KUKUI'ULA DEVELOPMENT LLC
Lot 15	(4) 2-8-023: 40	KUKUI'ULA DEVELOPMENT LLC
Lot 16	(4) 2-8-023: 41	KUKUI'ULA DEVELOPMENT LLC
Lot 17	(4) 2-8-023: 42	KUKUI'ULA DEVELOPMENT LLC
Lot 18	(4) 2-8-023: 43	KUKUI'ULA DEVELOPMENT LLC
Lot 19	(4) 2-8-023: 44	KUKUI'ULA DEVELOPMENT LLC
Lot 20	(4) 2-8-023: 45	KUKUI'ULA DEVELOPMENT LLC
Lot 21	(4) 2-8-023: 46	KUKUI'ULA DEVELOPMENT LLC
Lot 22	(4) 2-8-023: 47	WEST KUKUI'ULA DEVELOPMENT LLC

Transient Vacation Rental (TVR) Summary

Subdivision	Number of Units Designated as Multi-Family TVR
Phase I (S-2005-25) Y	0
Phase IA (S-2005-21) MTM4	0
Phase IB (S-2006-5) M3M3	0
Phase IBA (S-2006-13) CDT	0
Large Lot 32 Phase I (S-2013-07)	0
Parcel FF (2-8-2012-1)	11
Parcel BC (S-2011-21) AAU	5
Parcel CC West (S-2013-07)	0
Parcel A, Phase I (S-2013-16)	0
Parcel H (S-2016-2)	16
Parcel F (S-2018-2)	0
Parcel FF (S-2019-9)	0
Parcel BC-II (S-2019-13) AAU	0
Parcel G (S-2019-18)	0
Parcel E (S-2020-2)	0
Parcel FF (2-8-2019-XX)	4
Parcel I (S-2021-1)	0
Parcel CC West, Phase II (S-2020-11)	0
Parcel J1-A	0
Total TVR's	36



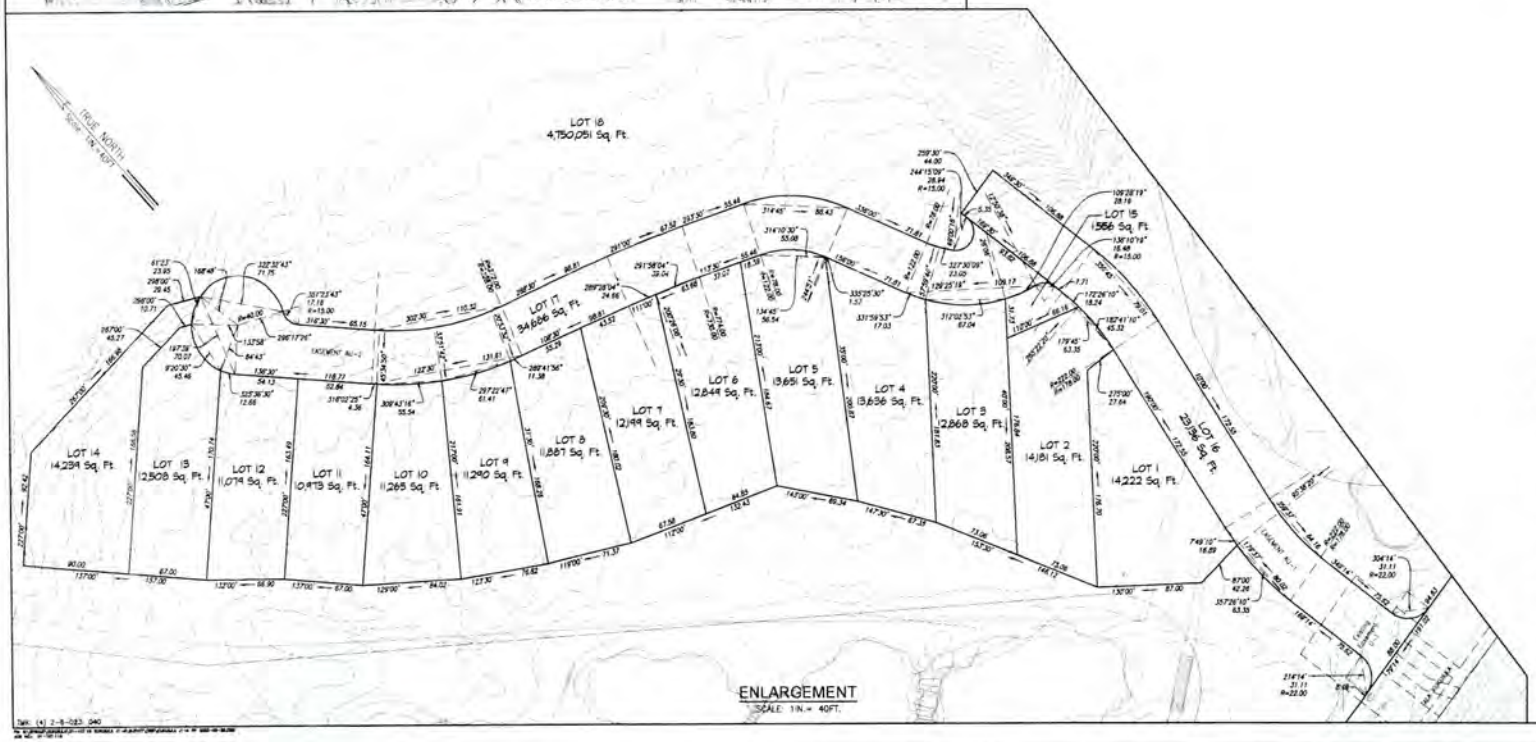
KUKUI'ULA PARCEL J1-A SUBDIVISION

SUBDIVISION OF
LOT 40 OF KUKUI'ULA PARCEL I SUBDIVISION
INTO LOTS 1 TO 18, INCLUSIVE,
AND DESIGNATION OF EASEMENTS AU-1 AND AU-2

BEING A PORTION OF ROYAL PATENT 6714, LAND COMMISSION AWARD 7714-B,
APANA 2 TO M. KEKUAIWA NO M. KEKUANAOA
SITUATED AT KŌLOA (MAKAI), KŌLOA, KONA, KAUAI, HAWAII

TOTAL AREA = 114.469 ACRES

LOT 40 TMK: (4) 2-8-023: 040
OWNER: BBCP KUKUI'ULA DEVELOPMENT, LLC
ADDRESS: 2700 KE ALAULA ST STE B
KOLOA, HI 96756



AUSTIN, TSUTSUMI, & ASSOCIATES INC.
501 SUMNER STREET, SUITE 521
HONOLULU, HI 96817

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

LICENSED PROFESSIONAL LAND SURVEYOR
CERTIFICATE NO. 12867
EXP. 04/24

AREA OF NON EASEMENTS

EASEMENT AU-1 AFFECTING LOT 18 FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF COUNTY OF KAUAI, COUNTY OF KAUAI DEPARTMENT OF WATER (KAUAI DOW), KAUAI ISLAND UTILITY COOPERATIVE (KIUC), OCEANIC TIME WARNER (OTW), HAWAIIAN TELCOM (HT), HAWAII GAS (HG) AND KUKUI'ULA SOUTH SHORES COMMUNITY SERVICES, LLC (SSCS) = 23,040 SQ. FT.

EASEMENT AU-2 AFFECTING LOT 17 FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF COUNTY OF KAUAI, COUNTY OF KAUAI DEPARTMENT OF WATER (KAUAI DOW), KAUAI ISLAND UTILITY COOPERATIVE (KIUC), OCEANIC TIME WARNER (OTW), HAWAIIAN TELCOM (HT), HAWAII GAS (HG) AND KUKUI'ULA SOUTH SHORES COMMUNITY SERVICES, LLC (SSCS) = 34,880 SQ. FT.

NOTES

1. COORDINATES AND AZIMUTHS SHOWN ON THIS MAP ARE BASED ON GOVERNMENT SURVEY TRIANGULATION STATION "WAHIANA".
2. OWNERS OF ADJOINING PARCELS TAKEN FROM REAL PROPERTY TAX RECORDS.
3. FLOOD DATA FROM FIRM MPS COMMUNITY – PANEL NUMBER 15002 0313 F, WITH AN EFFECTIVE DATE OF NOVEMBER 26, 2010. NO REFERENCE MARKERS SHOWN IN THE VICINITY OF THE SUBJECT PROPERTY.
4. 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.
5. FOR LOTS 15 TO 18, INCLUSIVE, INSTALLATION OF SERVICE CONNECTIONS WILL NOT BE REQUIRED UNTIL REQUEST FOR WATER SERVICE IS MADE. THE APPLICANT FOR SERVICE WILL BE REQUIRED TO COMPLETE ALL DEPARTMENT OF WATER'S REQUIREMENTS EXISTING AT THE TIME INCLUDING FULL PAYMENT OF THE APPLICABLE FACILITIES RESERVE CHARGE.
6. EXISTING EASEMENT U-1 FOR UTILITY PURPOSES AFFECTING LOTS 18 AND 17 IN FAVOR OF KUKUI'ULA COMMUNITY ASSOCIATION, SSCS, HG, KIUC, OTW, HT, AND KAUAI DOW.
7. LOT(S) 15 TO 17, INCLUSIVE, WILL NOT BE FURTHER DEVELOPED.

DENOTES NO VEHICULAR ACCESS PERMITTED

DENOTES ACCESS PERMITTED

AUGUST 28, 2023
MARCH 6, 2023
30" X 42" = 8.75 SQ. FT.

Draft
Ka Pa'akai Analysis in Support of a Ka Pa'akai Assessment for Parcel J1 of the Kukui'ula Community Development Project, Kōloa Ahupua'a, Kōloa District, Kaua'i TMK: (4) 2-6-015:001 por.

Prepared for
BBCP Kukui'ula Development, LLC

Prepared by
Kellen Tanaka, B.A.,
David W. Shideler, M.A.,
and
Hallett H. Hammatt, Ph.D.

Cultural Surveys Hawai'i, Inc.
Kailua, Hawai'i
(Job Code: KOLOA 101)

March 2023

O'ahu Office
P.O. Box 1114
Kailua, Hawai'i 96734
Ph.: (808) 262-9972
Fax: (808) 262-4950

www.culturalsurveys.com

Maui Office
1860 Main St.
Wailuku, Hawai'i 96793
Ph: (808) 242-9882
Fax: (808) 244-1994

Management Summary

Reference	Ka Pa'akai Analysis in Support of a Ka Pa'akai Assessment for Parcel J1 of the Kukui'ula Community Development Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: (4) 2-6-015:001 por. (Tanaka et al. 2023)
Date	March 2022
Project Number(s)	Cultural Surveys Hawai'i, Inc. (CSH) Job Code: KOLOA 101
Agencies	County of Kaua'i Department of Planning
Land Jurisdiction	BBCP Kukui'ula Development, LLC
Project Location	Parcel J1 is located within the central Kōloa Ahupua'a (eastern) portion of the Kukui'ula Community Development Project, TMK: (4) 2-6-015:001 por. lands on the south shore of Kaua'i. Parcel J1, situated in former cane lands, is bounded by Ala Kukui'ula to the south; Kukui'ula golf course hole #7 to the west; the soon to be developed lands of Parcels K, L, and the rest of J to the north; and a ridge with a portion of Kukui'ula golf course hole #6 to the east. Parcel J1 is approximately 750 m inland from the coast at Ka Lae Ki'i Point and is at approximately 40 foot (ft) elevation on gently rising land. The project parcel is depicted on the 1996 Koloa U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle (Figure 1) and several other maps and aerial photographs.
Project Description	BBCP Kukui'ula Development, LLC is proposing to construct residential lots and associated infrastructure in Parcels J, K, L.
Project Acreage	Parcel J1 is estimated at approximately 7.96 acres (3.22 hectares).
Document Purpose and Regulatory Context	The Kaua'i County Planning Department has indicated a need for Ka Pa'akai Assessment studies to attend applications for Planning Department processing. The Planning Department has kindly supplied a Kaua'i Planning Department Worksheet for Ka Pa'akai Assessment, regarded here as the guiding document. The purpose of the present Ka Pa'akai Analysis and Assessment is to assist the client and the Kaua'i Planning Department in their effort to 1) ensure the applicant has sufficiently assessed that the proposed project/action will not harm traditional and customary practices exercised by Native Hawaiians; and 2) to provide sufficient documentation to support the applicant's assessment. This work is being caried out to address the letter and spirit of the following: • Ka Pa'akai O Ka'aina v. Land Use Commission (94 Hawai'i 31), in which the Hawai'i Supreme Court established a three-part analytical framework to assist the

	state and counties in fulfilling their constitutional obligation to preserve and protect traditional and customary practices (TCP [used here as it is in the *Kaua'i Planning Department Worksheet for Ka Pa'akai Assessment* to refer to "traditional and customary practices"]) exercised by Native Hawaiians, to the extent feasible, and • The mandate set forth by the Hawai'i State Constitution (Articles IX and XII), courts, Hawai'i Revised Statutes (HRS), and Hawai'i Administrative Rules (HAR) and other Hawai'i State laws requiring government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups.
Results of Background Research	Background research for the proposed project yielded the following information: • The project area is well back from the coast (750 m) and it is understood there is no potable water closer than Waikomo Stream which is about 1,500 m away. • Our first detailed information of traditional Hawaiian land use in Kōloa Ahupua'a is in the native tenant Land Commission Award (LCA) data. Native tenant LCAs tended to be clumped near Waikomo Stream more than a kilometer east of the Parcel J1 study area. No native tenant LCAs were located within 600 m of Parcel J1. • The absence of place names on historic maps of 1872, 1896, 1900, 1910, and 1963 indicate little traditional Hawaiian activity in the project area. • The description associated with Queen Emma's estate (west of the project area) states, "the house must have indeed seemed desolate to those accustomed to Honolulu. The surrounding area was an arid, stony pasture, suitable only for grazing" (Forbes 1970:4). • The timeframe when Parcel J1 was in commercial sugarcane production is not completely clear but is believed to extend from very close to 1876 (when McBryde leased Queen Emma's Lāwa'i land) to very close to 1996, or close to 120 years. Aerial photographs from 1951, 1965, and 1978 indicate the project area was in a sea of sugarcane. During this long span of nearly 120 years, it is understood that access inside the project area was restricted to employees of McBryde Sugar Company. • No cultural properties have been identified in the Parcel J1 project area by prior archaeological studies including an archaeological

	inventory survey (Hammatt et al. 1988) and a contemporary field inspection (Hammatt 2023) • In the cultural impact assessment (CIA), 29 Hawaiian organizations, government agencies, community members, and cultural and lineal descendants with ties to Kukui'ula were contacted to 1) identify potentially knowledgeable individuals with cultural expertise and knowledge of the project area and the surrounding vicinity, and 2) identify cultural concerns and potential impacts within the project area. None of the *kama'āina* (native born) interviewees who were former residents of the Kukui'ula area knew of any cultural sites in the project area, or could recall anyone entering the project area for any traditional cultural practice. The only interviewees with knowledge of traditional culture within the project area were Dr. William Kikuchi and Mrs. Aletha Kaohi who were acquainted with the area through professional and community service pursuits. Based on the evidence gathered in the CIA it was concluded that no contemporary or continuing cultural practices occur within the project area (Hammatt et al. 2002:i, ii).
Results of Community Consultation	CSH previously completed a CIA (Hammatt et al. 2020) that addressed the Kukui'ula lands including the entirety of Parcel J1. CSH attempted to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 52 individuals or groups by USPS and/or email (typically both). Nine responded (Ka'āhiki Solis, Terry Kuribayashi, Galen Kawakami, Nancy McMahon, and Kalanikumai Ka Maka'uli'uli Puamo'i 'O Nā Ali'i Hanohano [also known as Zacheriah Harmony], Chad Shimmelfennig, Marvin Otsuji, Roslyn Cummings, and Aletha Kaohi).
Identification of Cultural Practices	Background study including review of a CIA that included the Parcel J1 project area, review of a variety of other archaeological and historical data, and responses to the contemporary cultural consultation outreach has identified no cultural, historical, or natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised in the Parcel J1 project area.
Identification of Impacts to Cultural Practices	Background study and the recent consultation outreach has identified no cultural, historical, or natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised in the Parcel J1 project area, thus no impacts to cultural practices are indicated.

Mitigation Possibilities Identified During Background Research and Consultation	No mitigation possibilities in the project area per se have been identified during consultation and background research. The absence of traditional cultural properties and practices in the project area relates to the micro-environment of the project area which is well back from the coast and relatively far from freshwater. The project area vicinity prior to commercial sugarcane cultivation was described as "desolate to those accustomed to Honolulu. The surrounding area was an arid, stony pasture, suitable only for grazing" (Forbes 1970:4). The project area was under intensive sugarcane cultivation for nearly 120 years (1876–1996). During this long span of time, it is understood that access inside the project area was restricted to employees of McBryde Sugar Company. This study recommends, and the County of Kaua'i Department of Planning might support, that 1. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the State Historic Preservation Division (SHPD) will be notified pursuant to HAR §13-280-3. If *iwi kūpuna* (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD, coroner, and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended. 2. If *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Table of Contents

Management Summary i

Section 1 Introduction 1

1.1 Project Description 1
1.2 Regulatory Context 1
1.3 Document Purpose 7
1.4 Natural Environment 7
1.4.1 *Nā Makani* (Winds) 10
1.4.2 *Nā Ua* (Rains) 10
1.4.3 *Nā Kahawai* (Streams and Freshwater) 10
1.4.4 *Ka Lihikai a me Ka Moana* (the Coast and Ocean) 10
1.5 Built Environment 11

Section 2 Methods 12

2.1 Archival Research 12
2.2 Community Consultation 12
2.2.1 Scoping for Participants 12
2.2.2 "Talk Story" Sessions 12

Section 3 Traditional Accounts 14

3.1 Kōloa *Ka'ao* and *Mo'olelo* 14
3.1.1 *Nā Inoa 'Āina* (Place Names) 14

Section 4 Historical Narrative 19

4.1 Pre-Contact 19
4.2 Early Historic Period 20
4.3 Māhele and Kuleana Act 23
4.4 Description of the Kukui'ula Lands Before Sugarcane 26
4.5 Early Sugar and Export Crops at Kōloa 26
4.6 McBryde Sugar Company and the Kukui'ula project area 26
4.7 Kōloa Makai Table Lands in the Twentieth Century 27

Section 5 Previous Archaeological Research 38

5.1 Previous Archaeological Studies in the Immediate Vicinity 38
5.2 The Archaeological Inventory Survey 38
5.3 2023 Archaeological Field Inspection 60
5.4 Historic Properties Near Parcel J1 66
5.4.1 Identifications near Parcel J1 66
5.4.2 Burial Sites in the Vicinity 66
5.4.3 *Heiau* Sites in the Vicinity 67

Section 6 Consultation Results 68

6.1 Cultural Impact Assessment Including the Parcel J1 Project Area 68
6.2 Community Outreach Table 71
6.3 Community Outreach Results 76

Section 7 Cultural Practices and Resources Identified During Consultation Associated with the Project Area/ Greater Ahupua'a 79

7.1 Native Gathering Practices for Plant Resources 79
7.2 Native Hawaiian Hunting Practices 79
7.3 Agricultural Practices 79
7.4 Coastal and Marine Resources 80
7.5 Freshwater Resources 80
7.6 Cultural Historic Properties 80
7.7 Any Other Resources Detected 80
7.8 *Nā Inoa 'Āina* (Place Names) 80
7.9 Burials 80
7.10 Trails 81

Section 8 Ka Pa'akai Analysis 82

8.1 Summary of Cultural Practices and Resources Identified during Background Research and Consultation 82
8.2 Summary of Community Outreach and *Kama'āina* Perspectives 83
8.3 Assessment of Impacts Posed to Cultural Practices and Cultural Resources 83
8.3.1 Individual's Comments or Thoughts on the Potential Impacts the Proposed Project may have on Ongoing Traditional Cultural Practices and Cultural Resources within the Proposed Project Area and Greater *Ahupua'a* 83
8.3.2 Comments or Thoughts on the Potential Impacts the Proposed Project may have on Cultural Properties and *Wahi Pana* within the Proposed Project Area and Greater *Ahupua'a* 84
8.3.3 CSH Assessment of Impacts Posed to Cultural Practices and Cultural Resources, Integrating Perspectives from Consultation, and Evidence from Background Research 84
8.4 Mitigation Possibilities Identified during Consultation and Background Research 84

Section 9 References Cited 86

Appendix A Community Outreach Letter 97

Appendix B Testimony of Manawaiakea (Roslyn Cummings) 103

Appendix C Testimony of Zacheriah Harmony 108

List of Figures

Figure 1. Portion of 1996 Koloa USGS 7.5-minute-series topographic map, showing the location of the Parcel J1 project area 2
Figure 2. Tax Map Key (TMK) (4) 2-6-015, showing Parcels J1 within the Kukui'ula Community Development project area (Hawai'i TMK Service 2013)....3
Figure 3. Aerial photograph showing Parcel J1 within the Kukui'ula Community Development project area (ESRI 2016)....4
Figure 4. Site plan for the Kukui'ula Parcel J1 (courtesy of client) 5
Figure 5. Portion of a 1996 Koloa USGS topographic quadrangle, with overlay of *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (Foote et al. 1972; USDA SSURGO 2001), indicating soil types within and surrounding the study area 9
Figure 6. Portion of 1996 Koloa USGS 7.5-minute series topographic quadrangle, showing the Kukui'ula Community Development area within Lāwa'i and Kōloa Ahupua'a and the location of Parcel J1 in Kōloa Ahupua'a....15
Figure 7. Map showing estimated distribution of population for Kaua'i in 1853 (Coulter 1931:16) 21
Figure 8. 1996 Koloa USGS topographic quadrangle, showing the distribution of native tenant LCA parcels in Kukui'ula, and vicinity 25
Figure 9. 1872 Gay map of Lāwa'i and Keke'e showing the western Kukui'ula Community Development area and the location of Parcel J1 28
Figure 10. 1896 Monsarrat map of 'Ele'ele to Kōloa (RM 1842) showing the location of Parcel J1 of the Kukui'ula Community Development area 29
Figure 11. 1900 Monsarrat map of McBryde sugar lands (RM 2145) showing the location of Parcel J1 of the Kukui'ula Community Development area....30
Figure 12. 1910 Hanapepe and Lihue USGS topographic quadrangles, showing Parcel J1 of the Kukui'ula Community Development area....31
Figure 13. 1922 map of McBryde Sugar Company (from Condé and Best 1973:193) showing McBryde fields extending east to Waikomo (Kōloa) stream and showing the Kukui'ula Development Area and the location of Parcel J1 (mostly within field 22 B)....32
Figure 14. 1951 USGS aerial photograph of Lāwa'i (UH MAGIS) showing the Kukui'ula Development Area and the location of Parcel J1 (see inset) 34
Figure 15. Portion of the 1963 Koloa USGS topographic quadrangle showing the location of the Kukui'ula Development Area and Parcel J1 35
Figure 16. 1965 USDA aerial photograph (UH MAGIS) showing the Kukui'ula Development Area and the location of Parcel J1 under sugarcane cultivation (see inset) 36
Figure 17. 1978 Koloa USGS orthophotoquad aerial photograph showing the Kukui'ula Development Area and the location of Parcel J1 under sugarcane cultivation (see inset) 37
Figure 18. Portion of 1996 Koloa USGS topographic quadrangle, showing parcel J1 and previous archaeological studies at the Kukui'ula Community Development project area and vicinity....39

Figure 19. Portion of 1996 Koloa USGS topographic quadrangle showing parcel J1 and historic properties identified during previous archaeological studies at the Kukui'ula Community Development project area and vicinity 48
Figure 20. Location of future entrance into Parcel J, K, and L (cart road just off Ala Kukui'ula), view to northwest (from Hammatt 2023:11) 61
Figure 21. Location of future entrance into Parcel J, K, and L, view to northwest (from Hammatt 2023:11) 61
Figure 22. Overview photo of project area taken from the southeast, view to northwest (from Hammatt 2023:12) 62
Figure 23. Overview photo taken from approximate center of project area, view to north (from Hammatt 2023:13) 63
Figure 24. Overview photo taken from approximate center of project area, view to east (from Hammatt 2023:13) 63
Figure 25. Overview photo taken from approximate center of project area, view to southeast (from Hammatt 2023:14) 64
Figure 26. Overview photo taken from approximate center of project area, view to southwest (from Hammatt 2023:14) 64
Figure 27. Overview photo taken from approximate center of project area, view to west (from Hammatt 2023:15) 65
Figure 28. Overview photo project area taken from the northwest area, view to southeast (from Hammatt 2023:15) 65

List of Tables

Table 1. Land Commission Awards at Kukui'ula Kōloa 24
Table 2. Previous archaeological studies in the vicinity of the project area 40
Table 3. Archaeological historic properties in the Kukui'ula Community Development project 49
Table 4. Results of community consultations reported in the CIA (Hammatt et al. 2002:32–33) 69
Table 5. Summary table of cultural consultation outreach regarding Parcel J1 71

Section 1 Introduction

1.1 Project Description

BBCP Kukui'ula Development, LLC is proposing to construct residential lots and supporting infrastructure in Parcel J1, estimated at approximately 7.96 acres (3.22 hectares), within the central Kōloa Ahupua'a (eastern) portion of the Kukui'ula Community Development Project, TMK: (4) 2-6-015:001 lands on the south shore of Kaua'i. Parcel J1, situated in former cane lands, is bounded by Ala Kukui'ula to the south; Kukui'ula golf course hole #7 to the west; the soon to be developed lands of Parcels K, L, and the rest of J to the north; and a ridge with a portion of Kukui'ula golf course hole #6 to the east. Parcel J1 is approximately 750 m inland from the coast at Ka Lae Ki'i Point and is at approximately 40 foot (ft) elevation on gently rising land. The project parcel is depicted on the 1996 Koloa U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle (Figure 1), a tax map plat (Figure 2), a 2016 aerial photograph (Figure 3), and a client-provided site plan (Figure 4).

1.2 Regulatory Context

The Kaua'i County Planning Department has indicated a need for Ka Pa'akai Assessment studies to attend applications for Planning Department processing. The Planning Department has kindly supplied a Kaua'i Planning Department Worksheet for Ka Pa'akai Assessment which is regarded here as the guiding document (text supplied below). We have added (in bold and italics) after each subheading where in the present study the point has been addressed.

Kaua'i Planning Department Worksheet for Ka Pa'akai Assessment

In Ka Pa'akai O Ka'aina v. Land Use Commission (94 Hawai'i 31), the Hawai'i Supreme Court established a three-part analytical framework to assist the State and Counties in fulfilling their constitutional obligation to preserve and protect traditional and customary practices (TCP [used here as it is used in the *Kaua'i Planning Department Worksheet for Ka Pa'akai Assessment* to refer to "traditional and customary practices]) exercised by Native Hawaiians, to the extent feasible. The analytical framework was developed to assist with balancing both the rights of Native Hawaiians to exercise their TCPs, and the private landowners.

Before determining an application is complete for processing, the Planning Department will review the application to ensure: 1) the applicant has sufficiently assessed that the proposed project/action will not harm TCP rights exercised by Native Hawaiians; and 2) the applicant has provided sufficient documentation to support its assessment. The applicant's documentation should provide sufficient information for the Planning Department to apply the Ka Pa'akai 3-step analytical framework as set forth below.

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

Depending on the project, the applicant's documentation may include but not be limited to the following information and documentation:

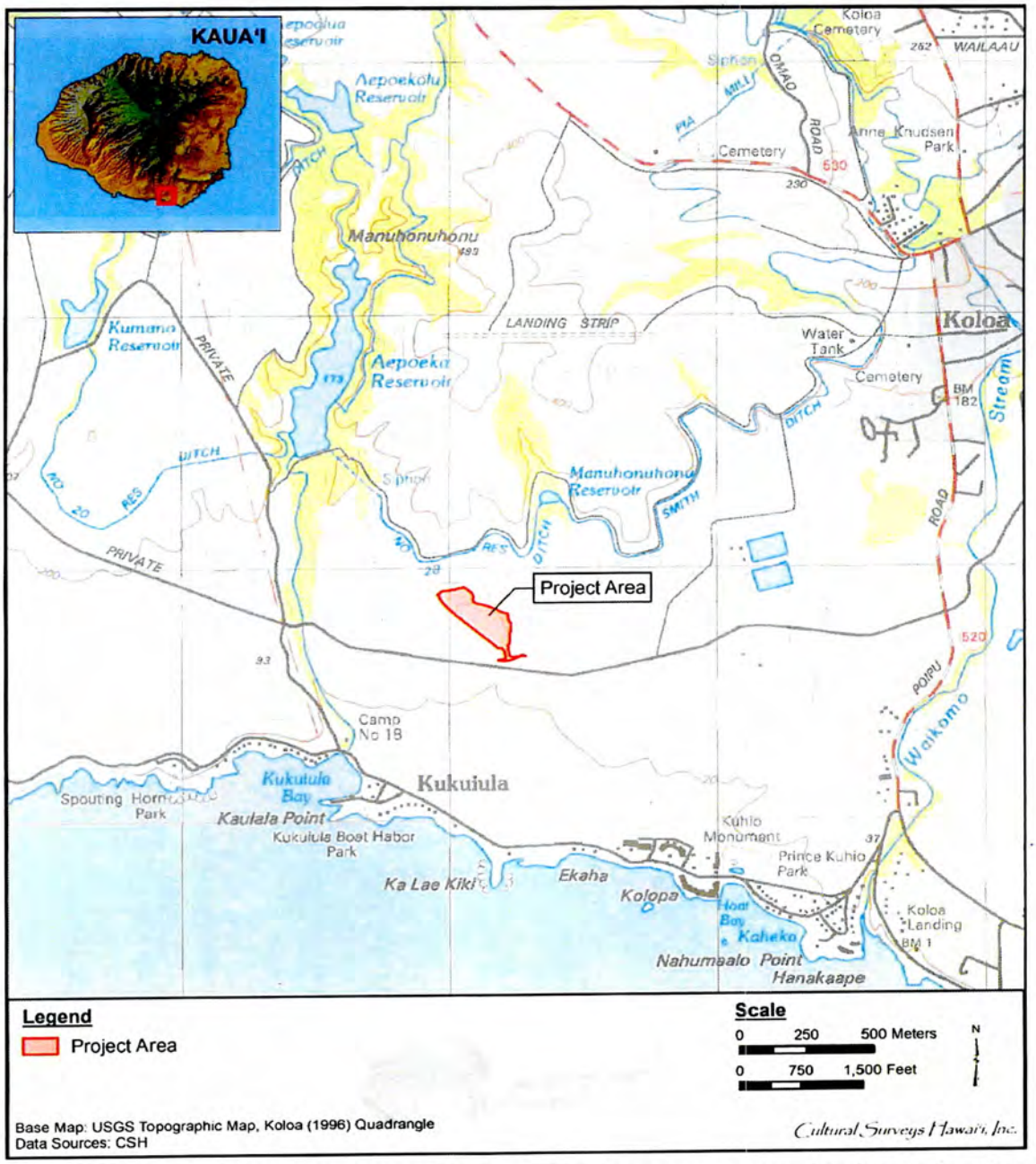


Figure 1. Portion of 1996 Koloa USGS 7.5-minute-series topographic map, showing the location of the Parcel J1 project area

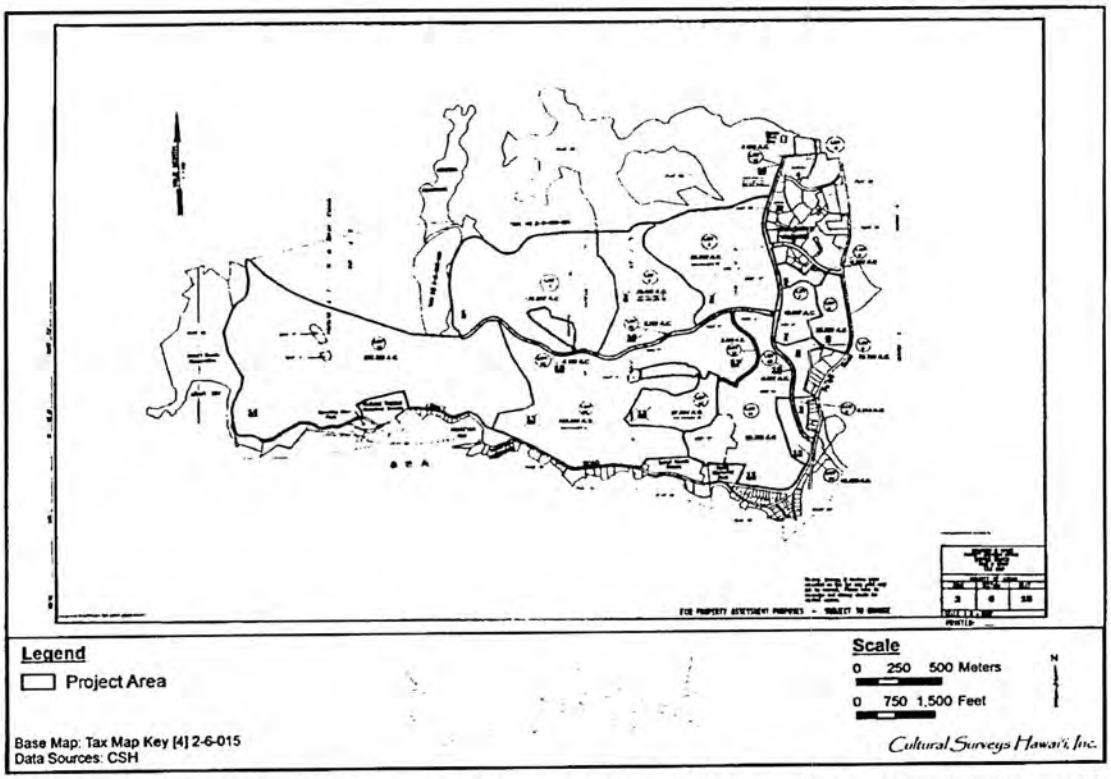


Figure 2. Tax Map Key (TMK) (4) 2-6-015, showing Parcels J1 within the Kukui'ula Community Development project area (Hawai'i TMK Service 2013)

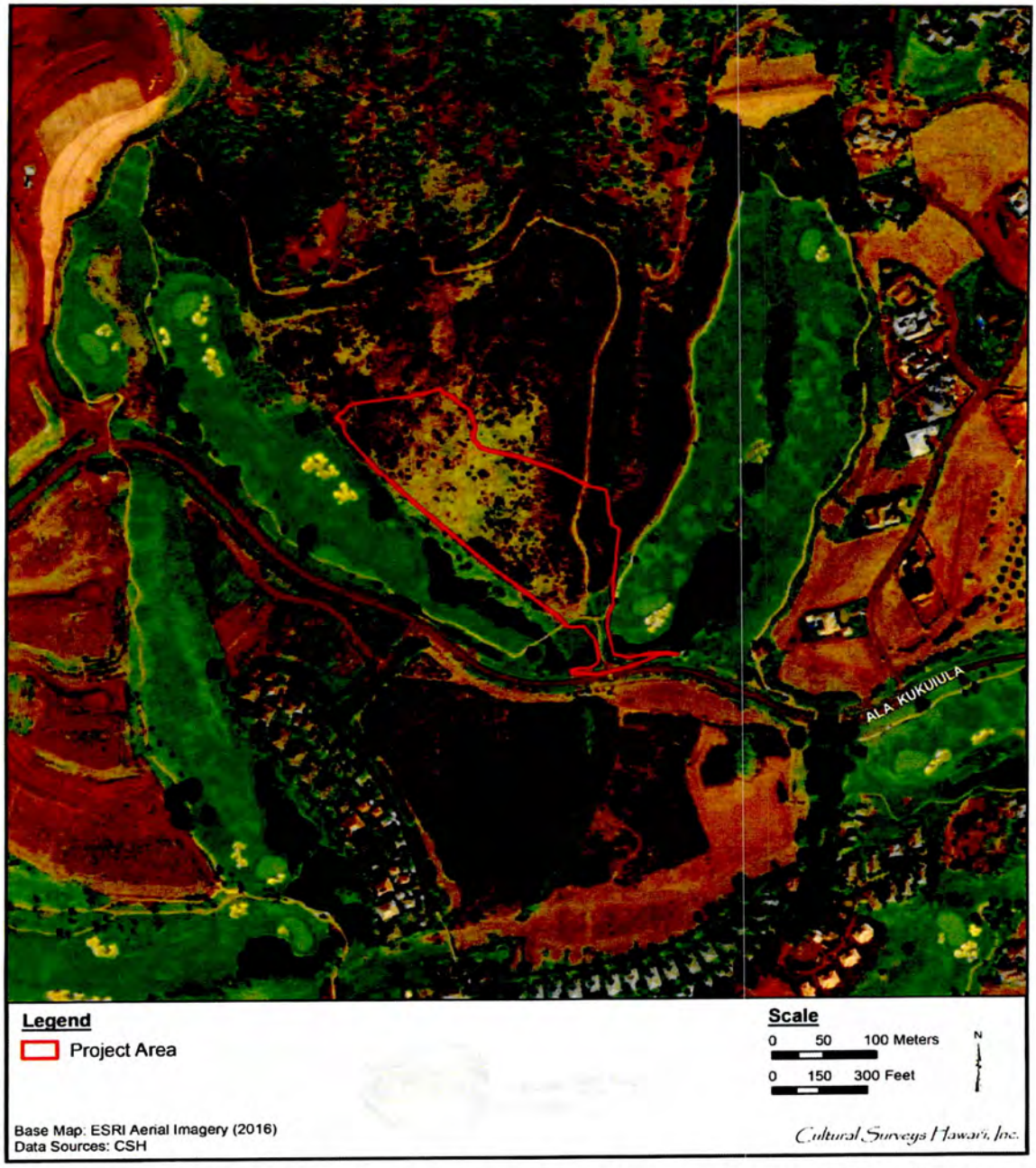


Figure 3. Aerial photograph showing Parcel J1 within the Kukui'ula Community Development project area (ESRI 2016)

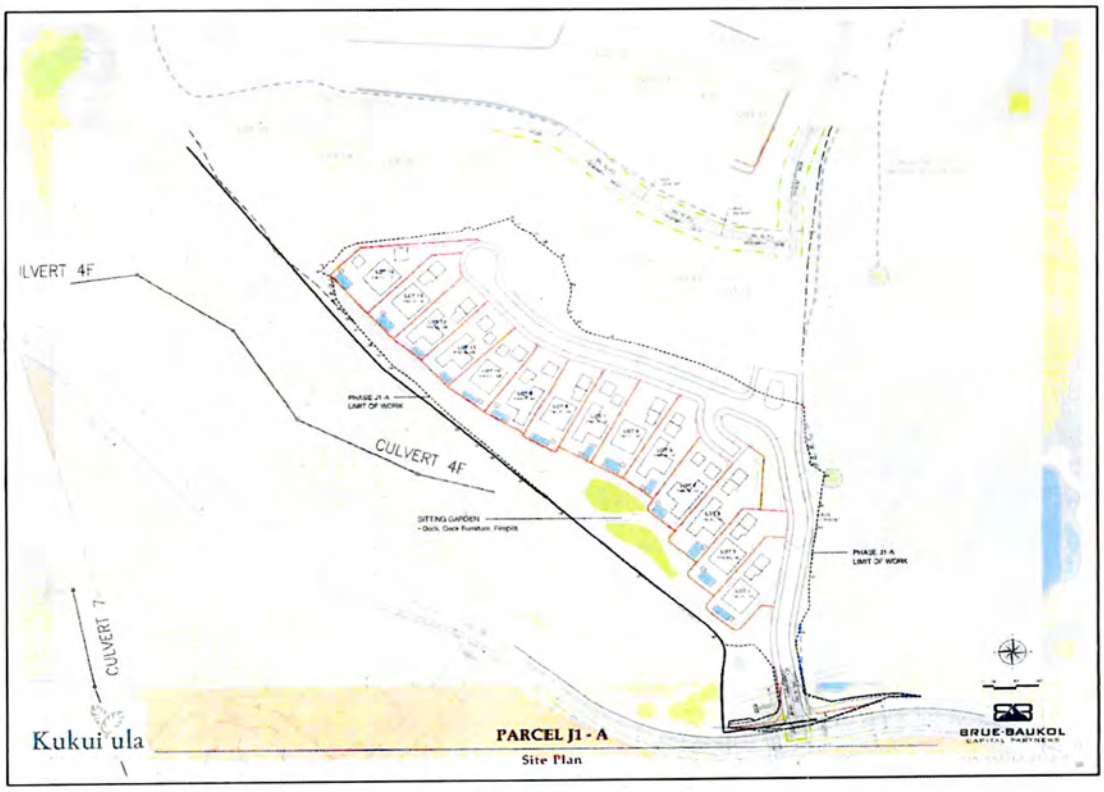


Figure 4. Site plan for the Kukui'ula Parcel J1 (courtesy of client)

a. **A detailed map of the project area**

The map shall include any proposed development in relation to the *ahupua'a* [traditional land division]. This includes land commission awards (LCA), *kuleana* lands (including *kama'āina* [native born] testimony during the Commission to Quiet Land Titles hearing), trails (within the *ahupua'a* and lateral to the *ahupua'a),* streams, shoreline. ***[We have included overlays of the project area on 20 maps and aerial photographs to better analyze and present the history of traditional cultural practices in the project area and* ahupua'a.*]***

b. **Cultural consultation** with families, Native Hawaiian Organizations, Office of Hawaiian Affairs, and the Aha Moku Advisory Council who may have a relationship or knowledge of the *ahupua'a* and specific project area, including TCP of gathering, hunting, religious ceremonies, etc. ***[Cultural consultation outreach to 52 parties is summarized in Section 6 and Section 7.]***

c. **Summary of community outreach** if any, that may include community concerns, especially from Native Hawaiians, about destruction of resources, denial of access, etc. ***[The cultural consultation outreach and responses are summarized in Section 6.]***

d. **Archaeological Inventory Survey** that includes the names of LC Awardees and *kuleana* awardees to identify potential descendants of the *ahupua'a,* archival research of previous archaeological studies, including the *mo'olelo* (stories) of the *ahupua'a* and adjacent areas, cultural consultations, etc., identification of known cultural and historic resources, including burials, *heiau* [pre-Christian place of worship], cemeteries, *lo'i kalo* terraces, etc.; and history of the land uses from pre-contact to present, including agricultural uses, grading and grubbing, habitation, vacant lands, etc. ***[The findings of the archaeological inventory survey and other archaeological studies are presented in Section 5 of this study. Additional information on the history of land use in Kōloa Ahupua'a is provided in Section 4.]***

e. **Cultural Impact Assessment** that includes ethnographic interviews, identification of cultural, historic, and natural resources and TCP. ***[The cultural impact assessment (CIA) and findings are summarized in Section 6.1.]***

f. **Environmental Studies** that include botany studies about potential native plants, and other relevant information.

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

a. Overlay the known trails, access, sensitive areas, historic sites, cultural sites (including burials), LCAs, etc. over the proposed project, including installation of utilities, to determine the proposed project's potential impacts

to the valued cultural, historic, and natural resources; ***[The relationship of identified resources and rights to the project area are summarized in Section 8.]*** and

b. Information in the material provided by the applicant or during the public meetings or hearings from *ahupua'a* descendants or members of the community regarding potential impacts. ***[Addressed in Section 8]***

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

a. Information in the material provided by the applicant or during the public meetings or hearings from *ahupua'a* descendants or members of the community regarding any feasible action to preferably avoid impacts, and if avoidance is not possible then potential mitigation measures; ***[Addressed in Section 8]*** and

b. Consider a condition that Cultural Descendants who have traditionally and customarily fished, hunted, or gathered in the area shall have right to access the subject property to fish, hunt, or gather, and they shall coordinate access with the landowner in advance, and this right shall run with the land. ***[Addressed in Section 8]***

1.3 Document Purpose

The purpose of the present Ka Pa'akai Analysis and Assessment is to assist the client and the Kaua'i Planning Department in their effort to 1) ensure the applicant has sufficiently assessed that the proposed project/action will not harm traditional and customary practices exercised by Native Hawaiians; and 2) to provide sufficient documentation to support the applicant's assessment.

This work is being caried out to address the letter and spirit of the following:

- Ka Pa'akai O Ka'aina v. Land Use Commission (94 Hawai'i 31), in which the Hawai'i Supreme Court established a three-part analytical framework to assist the state and counties in fulfilling their constitutional obligation to preserve and protect traditional and customary practices exercised by Native Hawaiians, to the extent feasible, and
- The mandate set forth by the Hawai'i State Constitution (Articles IX and XII), courts, Hawai'i Revised Statutes (HRS), and Hawai'i Administrative Rules (HAR) and other Hawai'i State laws requiring government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups.

1.4 Natural Environment

The Kukui'ula Community Development area is located in the *ahupua'a* (land division usually extending from the uplands to the sea) of Lāwa'i and Kōloa in Kōloa District, on Kaua'i Island (see Figure 6). The Parcel J1 project area of concern is the parcel designated J1 located on moderately sloping table lands within the eastern Kōloa Ahupua'a portion of Kukui'ula.

The bedrock is composed of massive flows of *pāhoehoe* of the post-erosional Kōloa Volcanic Series, which date to the Pleistocene (Macdonald and Abbott 1970:387–388). According to the U.S. Department of Agriculture (USDA) Soil Survey Geographic (SSURGO) database (2001) and soil survey data gathered by Foote et al. (1972), the soils within Parcel J1 consist of (from northwest to southeast) Lihue silty clay (LhD and LhB), Nonopahu clay, 2 to 10% slopes (NnC), Hanamaulu silty clay, 3 to 8% slopes (HsB), Waikomo stony silty clay (Wt), and Koloa stony silty clay, 15 to 25% slopes (KvD) (Figure 5)

Lihue series soils are described as follows:

> [...] well-drained soils on uplands on the island of Kauai. These soils developed in material weathered from basic igneous rock. They are gently sloping to steep. [...] These soils are used for irrigated sugarcane, pineapple, pasture, truck crops, orchards, wildlife habitat, woodland, and homesites. The natural vegetation consists of lantana, guava, koa haole, joee, kikuyugrass, molassesgrass, guineagrass, bermudagrass, and Java plum. [Foote et al. 1972:82]

Nonopahu series soils are described as follows:

> [...] moderately well drained soils on uplands on the island of Kauai. These soils developed in material weathered from basic igneous rock relatively high in olivine. They are gently sloping to moderately sloping. [...] These soils are used for irrigated sugarcane and pasture. The natural vegetation consists of koa haole, klu, and feather fingergrass. [Foote et al. 1972:100]

Hanamaulu series soils are described as follows:

> [..] consists of well-drained soils on stream terraces and steep terrace breaks on the island of Kauai. These soils developed in alluvium washed from upland soils: They are nearly level to strongly sloping. [...] These soils are used for sugarcane, pasture, wildlife habitat, and water supply. The natural vegetation consists of guava, pandanus, glenwoodgrass, ricegrass, hau, and mango. [Foote et al. 1972:39]

Waikomo series soils are described as follows:

> [...] consists of well-drained, stony and rocky soils on uplands on the island of Kauai. These soils developed m material weathered from basic igneous rock, probably with a mixture of ash and alluvium in places. These soils are gently sloping. [...] These soils are used for sugarcane, pasture, wildlife habitat, and homesites. The natural vegetation consists of lantana, koa haole, Java plum, pricklypear cactus, swollen fingergrass, bermudagrass, and guineagrass. [Foote et al. 1972:132]

Koloa series soils are described as follows:

> [...] consists of well-drained soils on slopes of old volcanic vents and upland ridges on the island of Kauai. These soils are underlain by hard rock at a depth of 20 to 40 inches. They developed in material weathered from basic igneous rock. They are gently sloping to moderately steep. [...] These soils are used for irrigated sugarcane. The natural vegetation is mainly koa haole. [Foote et al. 1972:74]

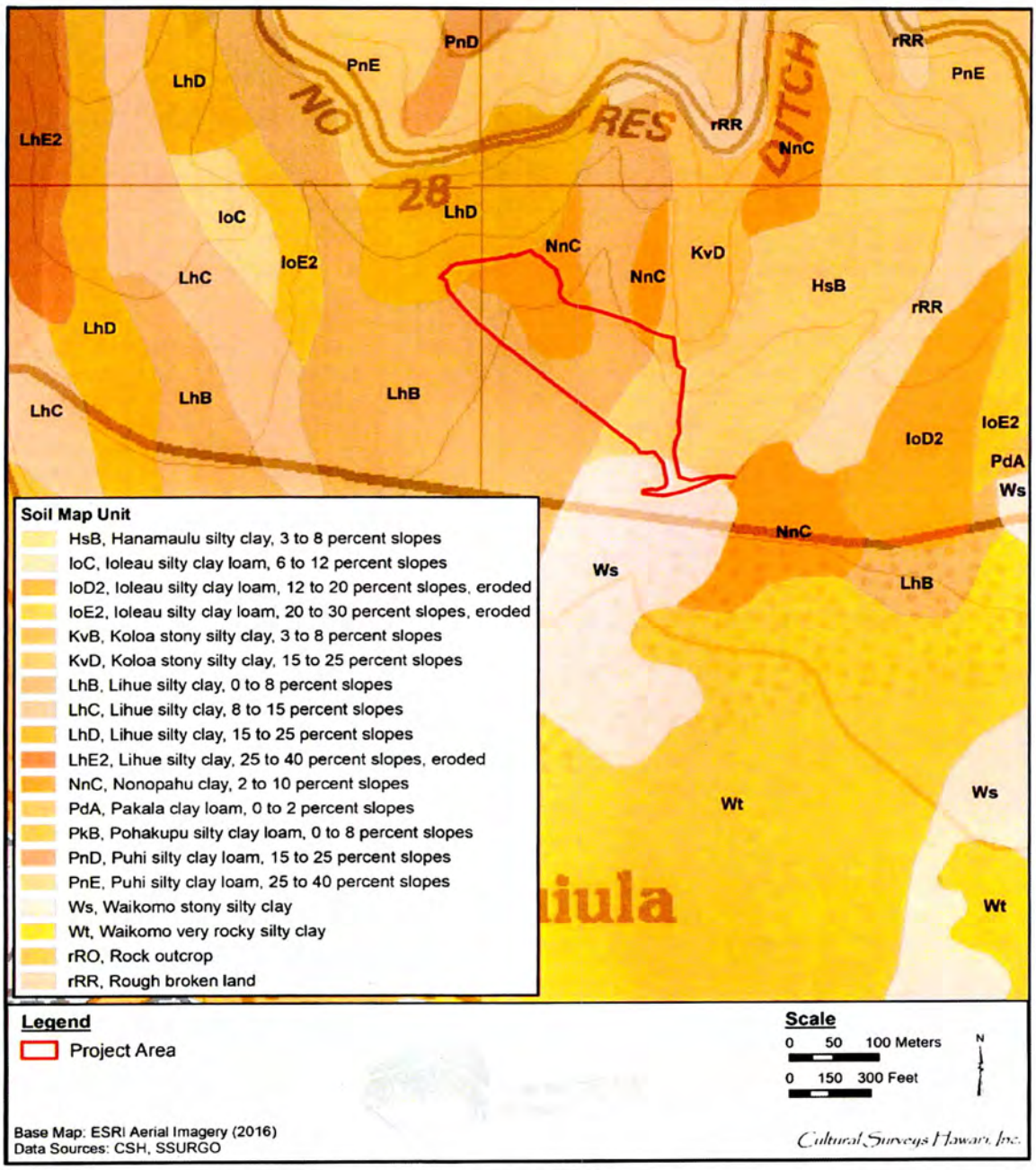


Figure 5. Portion of a 1996 Koloa USGS topographic quadrangle, with overlay of *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (Foote et al. 1972; USDA SSURGO 2001), indicating soil types within and surrounding the study area

The annual rainfall at the neighboring Kukuiula Station is 1,069.2 mm (42.1 inches) (Giambelluca et al. 2013) which is suggested to be marginal for non-irrigated agriculture.

1.4.1 *Nā Makani* (Winds)

Northeasterly trade winds prevail throughout the year, although their frequency varies from 80 to 95% of the time during the summer months, when high-pressure systems tend to be located north and east of the Hawaiian Islands. During the winter months, the high-pressure systems are located farther to the south, decreasing the occurrence of the trade winds to about 50 to 80% of the time (WRCC 2010).

The Wind Gourd of La'amaomao tells the story of Pāka'a and his son Kuāpāka'a, descendants of the wind goddess La'amaomao, who are given control over the winds of Hawai'i which are contained in a gourd. Each wind could be called forth by chanting their names (Nakuina 1992). Pāka'a's chant traces the winds of Kaua'i found in the *ahupua'a* of Lāwa'i and Kōloa. *Makani* is the general Hawaiian word for wind. The A'e is the trade wind named for Lāwa'i.

When the Hawaiian goddess, Pele, traveled to Kaua'i, she recited the winds of Kaua'i to her lover Lohi'au and his people.

Wahiawa has an Unulau wind ...	*He Unulau ko Wahiawa..*
Kalāheo has a Kiuanu wind	*He Kiuanu ko Kalāheo*
Lāwa'i has an 'Aoa wind...	*He 'Aoa ko Lāwa'i...*
Kōloa has a Holomālani wind...	*He Holomālani ko Kōloa...*
Hanaka'ape has an Ulumano wind	*He Ulumano ko Hanaka'ape*

[Ho'oulumāhiehie 2008a:16–17; Ho'oulumāhiehie 2008b:16–17]

There are at least two different Hawaiian names for the winds found in the Kōloa Ahupua'a: Malanai, a gentle breeze, the trade wind of Kōloa (Nakuina 1990:149), and "Holomālani wind" (Ho'oulumāhiehie 2008:16).

1.4.2 *Nā Ua* (Rains)

Relatively few rain names are known for Kaua'i and the name of the rain in Lāwa'i is uncertain. There is at least one named *ua* (rain) of Kōloa, the cold Noe rain (Akana 2015:154).

1.4.3 *Nā Kahawai* (Streams and Freshwater)

Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish, mollusks, and crustaceans) value and substantial riperian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23).

1.4.4 *Ka Lihikai a me Ka Moana* (the Coast and Ocean)

The coastline of Kōloa Ahupua'a is blessed with great resources including Kukui'ula Bay (Kukui'ula Small Boat Harbor) that provides considerable protection for small craft (Clark 1990:65) and Kōloa Landing that was a focus for whale ships.

Kōloa Landing:

> was established in Hanaka'ape Bay in a natural cove cut into the shoreline by Waikomo Stream. Before the turn of the century [1900], an average of 40 to 60 ships, including whalers, called each year at the landing. There they discharged and picked up cargo and passengers and took on supplies. With the introduction of modern means of transportation, the old sugar landings fell into disuse. Koloa Landing was used into the 1920s, but today little more than its name remains to identify this once busy site. [Clark 1990:65]

The availability of marine resources is attested to:

> The south shore of Kaua'i from Lawa'i to Po'ipu is considered one of the best sport diving and spearing areas on the island. These waters are especially attractive because of the normally calm seas, extensive reefs, excellent underwater visibility, and close proximity to residential and resort communities. [Clark 1990:65]

"Beach House Beach," Prince Kūhiō Park, Po'ipū Beach, Wai'ōhai Beach, Po'ipū Beach Park, and Brennecke Beach are still popular places for coastal access at Kōloa (Clark 1990:65–72).

1.5 Built Environment

The majority of the Kukui'ula Community Development area was planted in commercial sugarcane from very close to 1876 (when McBryde leased Queen Emma's Lāwa'i land) to very close to 1996, or nearly 120 years. Aerial photographs from 1951 (see Figure 14), 1965 (see Figure 16), and 1978 (see Figure 17) indicate the project area was in a sea of sugarcane.

Portions of the Kukui'ula Community Development area have undergone substantial changes (see Figure 3 and Figure 4) with the presence of roads, including a bypass road and a roundabout, the construction of the Kukui'ula Shopping Village, the private golf course, and the clubhouse including club cottages and bungalows. The current project area consists largely of fallow, former cane fields and is surrounded by the Kukui'ula Golf Course with housing developments to the south and east (see Figure 3, as well as Figure 20 through Figure 28).

Section 2 Methods

2.1 Archival Research

Research centers on Hawaiian activities including *ka'ao* (legends), *wahi pana* (storied places), *'ōlelo no'eau* (proverbs), *oli* (chants), *mele* (songs), traditional *mo'olelo* (stories), traditional subsistence and gathering methods, ritual and ceremonial practices, and more. Background research focuses on land transformation, development, and population changes beginning with the early post-Contact era to the present day.

Cultural documents, primary and secondary cultural and historical sources, historic maps, and photographs were reviewed for information pertaining to the study area. Research was primarily conducted at the CSH library. Other archives and libraries including the Hawai'i State Archives, the Bishop Museum Archives, the University of Hawai'i at Mānoa's Hamilton Library, Ulukau, the Hawaiian Electronic Library (Ulukau.org 2014), the State Historic Preservation Division (SHPD) Library, the State of Hawai'i Land Survey Division, the Hawaiian Historical Society, and the Hawaiian Mission Houses Historic Site and Archives are also repositories where CSH cultural researchers gather information. Information on Land Commission Awards (LCAs) were accessed via Waihona 'Aina Corporation's Māhele database (Waihona 'Aina 2022), the Office of Hawaiian Affairs (OHA) Papakilo Database (Office of Hawaiian Affairs 2015), and the Ava Konohiki Ancestral Visions of 'Āina website (Ava Konohiki 2015).

2.2 Community Consultation

2.2.1 Scoping for Participants

The CSH cultural department commences our consultation efforts by utilizing our previous community contact list to facilitate the interview process. We then review an in-house database of *kūpuna* (elders), *kama'āina*, cultural practitioners, lineal and cultural descendants, Native Hawaiian Organizations (NHOs; includes Hawaiian Civic Clubs and those listed on the Department of Interior's NHO list), and community groups. CSH also contacts agencies such as SHPD, OHA, and the appropriate Island Burial Council where the proposed project is located for their response on the project and to identify lineal and cultural descendants, individuals and/or NHO with cultural expertise and/or knowledge of the study area. CSH is also open to referrals and new contacts. Outreach was attempted to 52 parties.

2.2.2 "Talk Story" Sessions

Prior to the interview, CSH cultural researchers explain the nature of cultural consultation, how the consent process works, the project purpose, the intent of the study, and how their *'ike* (knowledge) and *mana'o* (thought, opinion) will be used in the report. The interviewee is given an Authorization and Release Form to read and sign.

"Talk Story" sessions range from the formal (e.g., sit down and *kūkā* [consultation, discussion] in the participant's place of choice over set interview questions) to the informal (e.g., email, telephone, Zoom-type, or face-to-face consultation, hiking to cultural sites near the study area and asking questions based on findings during the field outing). In some cases, interviews are recorded and transcribed later.

CSH also conducts group interviews, as appropriate, which range in size. Group interviews usually begin with set, formal questions. As the group interview progresses, questions are based on interviewees' answers. Group interviews are always transcribed and notes are taken. Recorded interviews assist the cultural researcher in 1) conveying accurate information for interview summaries, 2) reducing misinterpretation, and 3) adding missing details to *mo'olelo*.

CSH seeks *kōkua* (assistance) and guidance in identifying past and current traditional cultural practices of the study area. Those aspects include general history of the *ahupua'a*; past and present land use of the study area; knowledge of cultural sites (for example, *wahi pana*, archaeological sites, and burials); knowledge of traditional gathering practices (past and present) within the study area; cultural associations (*ka'ao* and *mo'olelo*); referrals; and any other cultural concerns the community might have related to Hawaiian cultural practices within or in the vicinity of the study area.

2.2.3 Interview Completion

After an interview, CSH cultural researchers transcribe and create an interview summary based on information provided by the interviewee. Cultural researchers give a copy of the transcription and interview summary to the interviewee for review and ask that they make any necessary edits. Once the interviewee has made those edits, CSH incorporates their *'ike* and *mana'o* into the report. When the draft report is submitted to the client, cultural researchers then prepare a finalized packet of the participant's transcription, interview summary, and any photos taken during the interview. We also include a thank you card and honoraria.

"*I ulu no ka lālā i ke kumu*—the branches grow because of the trunk," is an *'ōlelo no'eau* (#1261) shared by Mary Kawena Pukui with the simple explanation: "Without our ancestors we would not be here" (Pukui 1983:137). As cultural researchers, we often lose our *kūpuna* but we do not lose their wisdom and words. We routinely check obituaries and gather information from other community contacts if we have lost our *kūpuna*. CSH makes it a point to reach out to the *'ohana* of our *kūpuna* who have passed on and pay our respects including sending past transcriptions, interview summaries, and photos for families to have on file for genealogical and historical reference.

Section 3 Traditional Accounts

Traditionally, the island of Kaua'i was divided into five *moku* (districts): Halele'a, Kona, Ko'olau, Nāpali, and Puna. However, after the battle of Wahiawa in 1824, the land of Kaua'i was redistributed and district boundaries changed. The new district names became Hanalei, Kawaihau, Līhu'e, Kōloa, and Waimea. The Kōloa District consisted of seven of the 14 *ahupua'a* formerly within Kona Moku. 'Ele'ele was also added to the Kōloa District. Traditionally, 'Ele'ele was an *'ili* (smaller land division) of Hanapēpē Ahupua'a in Kona Moku, but it was separated during the redistribution. 'Ele'ele subsequently became an *ahupua'a* of the Kōloa District, and Hanapēpē became an *ahupua'a* of the Waimea District. Thus, currently the eight Kōloa *ahupua'a* are 'Ele'ele, Wahiawa, Kalāheo, Lāwa'i, Kōloa, Weliweli, Pā'ā, and Māhā'ulepū, from west to east. The Kukui'ula Community Development project includes portions of Lāwa'i and Kōloa *ahupua'a*; the Parcel J1 study area is in Kōloa Ahupua'a (Figure 6).

3.1 Kōloa *Ka'ao* and *Mo'olelo*

3.1.1 *Nā Inoa 'Āina* (Place Names)

Nā wahi pana translations presented in this subsection are from *Place Names of Hawaii* (Pukui et al. 1974), unless indicated otherwise. Lloyd Soehren (2013) has lately compiled all the place names from mid-nineteenth century land documents into an online database. He presents spelling and meanings of names from the Pukui et al. book (1974). When no meaning from this book is given, Soehren often suggests meanings for simple names based on meanings from Pukui and Elbert's (1986) *Hawaiian Dictionary*.

It is of interest to note that Puki et al. (1974:146) give the name for the hill below which the Parcel J1 project area is located as "Manuhonoho," translated as "bad smelling bird." However, modern USGS maps (see Figure 1) give the name for the same region as "Manuhonuhonu." The name of the reservoir and dam north of parcel J1 is also taken from this modern spelling variant.

The name Kōloa has several derivations. Kōloa is the name for the large, soft Hawaiian sugarcane (*Saccharum officinarum*) once grown by the Hawaiians; Kōloa is also the name of a steep rock, called Paliokōloa, on the banks of Waikomo Stream, from where the *ahupua'a* got its name. This bank of the river was called Kōloa, after the native Hawaiian duck (*Anas wyvilliana*) (Kikuchi 1963:46; Pukui et al. 1974:116).

The Kōloa Ahupua'a is well watered by constantly flowing streams. Two of these, the 'Ōma'o, "green," and Pō-'ele'ele, "dark night," feed the Pīwai (a variety of wild duck) in the area. Where they join, the stream becomes Wai-komo, "entering water," which flows down the center of the land, bringing life to the drier regions toward the seashore. It is so named because from time to time "the stream disappears for a bit before reappearing farther down the slope" (Wichman 1998:40). The *ahupua'a* is watered by several other streams: the Aepo, Waihohonu ("deep water;" named for a hole formed when Palila felled a forest of trees with one stroke [Pukui et al. 1974:222]), Weliweli, and the Weoweopilau.

Kōloa is bordered by Lāwa'i Ahupua'a to the west, Weliweli Ahupua'a to the east and Ha'ikū Ahupua'a to the north and northeast (Figure 6). The boundary with Lāwa'i ends on the eastern shore of Kukui'ula Bay near the mouth of Aepo Stream and extends inland to the peaks Pu'u Kolo and Kāhili, where it extends along the boundary of Hā'iku Ahupua'a on the *mauka* (inland, toward

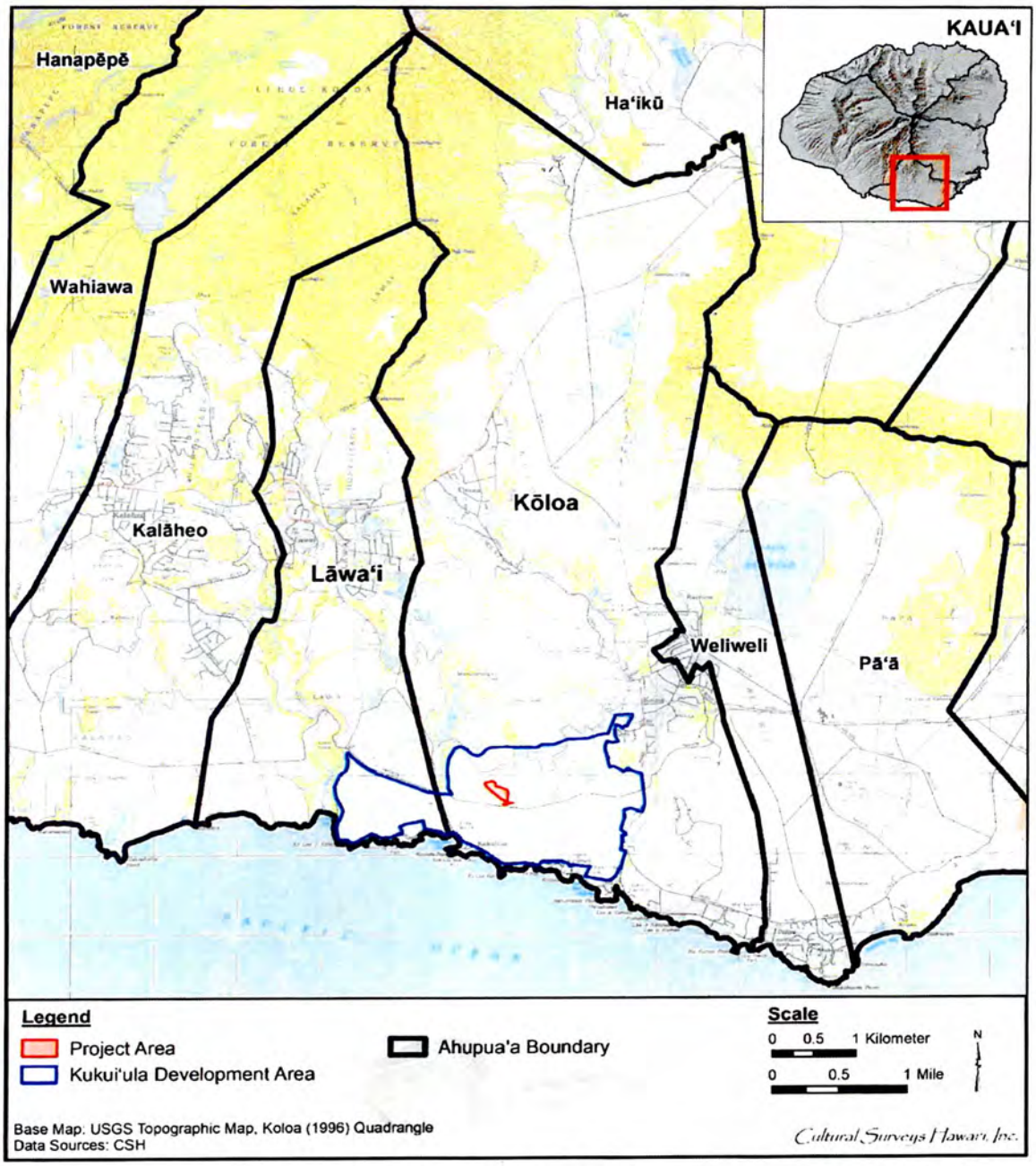


Figure 6. Portion of 1996 Koloa USGS 7.5-minute series topographic quadrangle, showing the Kukui'ula Community Development area within Lāwa'i and Kōloa Ahupua'a and the location of Parcel J1 in Kōloa Ahupua'a

the mountains) side. The northeast corner of the *ahupua'a* is at Lā'aukahi ("lone tree"). At the shore, it is separated from Weliweli at a place called Poapoko.

Sixty-six *'ili* are listed in mid-nineteenth century land documents, emphasizing the importance of this well-watered *ahupua'a* and the dense population that it could support. The *'ili* (land divisions smaller than *ahupua'a*) are Aea, 'Awikiwiki, Hālāli'i, Halehinahina, Kaakaupuawa, Ka'auwailalo ("the lower ditch"; Soehren 2013), Kaauwailuna ("the upper ditch"; Soehren 2013), Kahoai, Kahoana ("the whetstone"), Kahoiwai, Ka'ili'ili ("the pebble"), Kalehuaoka'ele, Kalua'alamihi, Kamaemae, Kamaloula ("the red loincloth"; Soehren 2013), Kamanomano, Ka'ōhi'a ("the 'ōhi'a tree"; Soehren 2013), Kāpala'alaea ("daub of ocher"; Soehren 2013), Kapalakea ("a variety of taro"; Soehren 2013), Kapalau, Kapo'o, Kapuna ("the spring"), Kaukahōkū ("the star appears"), Kaulia ("hung, suspended"; Soehren 2013), Kauluolona, Kaunuolono ("the altar of Lono"; Soehren 2013), Kawailehua, Keaku, Keanakaha'ia, Kekui, Kihinui, Kīkīaola ("container acquired by Ola"), Kioea ("bristle-thighed curlew"; Soehren 2013), Kiona ("Zion, or dung heap, privy"; Soehren 2013), Kōloa Hikina ("east Kōloa"; Soehren 2013), Kōloa Komohana ("west Kōloa"; Soehren 2013), Kualu, Kuunameheala, Lapapōhaku ("stone ridge"; Soehren 2013), Lauuluhaa, Lepoakua, Makapala ("sore beginning to heal"), Mākea ("fallow land, or a variety of *kalo* or awa"; Soehren 2013), Malaula, Maneneha'aha'a ("low plantain"), Manini, Ma'uliuli, Mauna Pōhaku, Milohai, 'Ōma'o ("green"), Opuohaku, Palaulalo, Paoa, Pipipi'eu'eu ("lively mollusk, *Theodoxus neglectus*"; Soehren 2013), Poahonu, Pō'ele'ele ("black night"), Pōhakuomakali'i ("stone of Makali'i"; Soehren 2013), Puahehu, Puhaku, Punahelu, Puokahaku, Pu'u Holo, Pu'u o Haku ("Haku hill"; Soehren 2013), Waikomo ("entering water"; Soehren 2013), Wailā'au (sap of plants, or a liquid medicine; Soehren 2013), and Waiohai.

Five *heiau* (pre-Christian place of worship) are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.

Evidence of a rich history within Kōloa is offered in a Lahainaluna document. This document appears to be based on an oral historical project. On 7 September 1885 a student from Lahainaluna Schools (HMS 43 #17) interviewed Makea—"a native who is well acquainted with Koloa"—and recorded "what she said about the well-known places in the olden times." More than 64 years after the abolition of the *kapu* system and almost as many years of contact with westerners, Makea was able to describe, in detail, 14 *heiau* within the Kōloa area, for example:

> Maulili was the first heiau of south Koloa. Kapulauki was the first chief of Koloa, Kiha came next. That is the chief I know of. He was a ruling chief of Kaua'i in the olden days, when the heiau was standing there. It had already been built and men had been sacrificed on its altars. This Kiha was called Kiha-of-the-luxuriant-hair. Another name for him was Kakae and another was Ka-pueo-maka-walu (Eight-eyed-owl).
>
> This heiau was also famous for this reason—it was the first heiau to which Kawelo was carried after he had swooned in Wahiawa, in the battle where stones were used as missiles.
>
> The location of this heiau was not known, but a deaf mute knew and it was he who pointed it out to the chiefs, and that is how it was rediscovered in the olden days.

> Kiha lived on the eastern side of the heiau and 'Aikanaka lived on the northeastern side. Aikanaka, was the one with whom Kawelo fought and he was the owner of this heiau at that time. [Lahainaluna School 1885:165]

3.1.2 Legendary and Traditional Accounts of Kōloa Ahupua'a

One *'ōlelo no 'eau* (proverb) is associated with Kōloa and aspects of its lifeways:

> *Aia i Koloa* Is at Kōloa
>
> A play on kō (drawn) and loa (long)—drawn a long way under. Drunk. [Pukui 1983:8]

Several places within Kōloa have legendary associations. The first is Maulili Pool, meaning "constant jealously," in Waikomo Stream, a sacred place once located in the present Kōloa Town, in the middle of the *ahupua'a*.

One tale is of the gods Kāne and Kanaloa who slept on the eastern bank of Maulili Pool and left the impressions of their forms on the *'āpapa* (coral flat). "The apapa in this vicinity is called an 'Unu.' and a 'Heiau,' but was never walled in, it is said. [This *heiau* may be the Maulili Heiau]. On the nights of Kāne the drums are heard to beat there, also at the sacred rocks, or unu's, of Opuokahaku and Kānemilohae, near the beach of Po'ipū [...]" (Farley 1907:93). Just below the resting places of Kāne and Kanaloa is the "Pali o Kōloa" or "Cliff of Kōloa," which the district was possibly named after.

Wai-hānau, meaning "birth pool," is a rock on the eastern bank of the pool. There is a *mele* (chant) about Waihānau:

> *Aloha wale ka Pali o Koloa,*
> *Ke Ala huli i Waihanau e, hanau.* [Farley 1907:93]

Below Wai-hānau was a rock shaped like a human tongue called "Ka-'ōlelo-o-Hawai'i," "language of Hawai'i." It is said that Kaweloleimakua, who lived at the end of the 1600s, brought this rock to Kaua'i from the island of Hawai'i. According to Wichman (1998), "Kiha-wahine, the fearsome *mo'o* goddess, lived in this pool. When she was in residence, the water turned red and no one dared to swim there" (Wichman 1998:40). "At the southern end of the Maulili pool started two large 'auwais [ditch, canal] that watered the land east and west of Kōloa" (Farley 1907:93).

Maulili is also the name of Kōloa's most important *heiau*. It was first built by Ka-pueo-maka-walu, the son of Kapu-lau-kī. He had his house on the eastern side of this *heiau*. It was a place of human sacrifice, but once Kapueomakawalu died, it was no longer used and its location was lost (Wichman 1998:41). Many years later, when 'Aikanaka had defeated his cousin Kawelo in the battle of stones on the plains of Wahiawa, 'Aikanaka wanted a place to sacrifice the body. No one was sure of it, but a deaf mute led 'Aikanaka to the place. The place was rebuilt and in the morning 'Aikanaka went to sacrifice the body. He found Kawelo was healed from his wounds and it was 'Aikanaka instead who was sacrificed (Wichman 1998:41).

Kapueomakawalu also built the *heiau* of Louma, which stood on the mountainside of Ho'oleina-ka-pua'a, "place to throw in the pig." This was beside a small pond *mauka* of Maulili. Louma was a small *heiau* in which hogs, red fishes, and other sacrifices were offered. It was dedicated to Lono-i-ka-ou-ali'i, the god who had come to Kaua'i with La'a-mai-kahiki in the twelfth century. The stones for this *heiau* were brought from O'ahu. It is said that the *menehune* (legendary race of small people who built structures at night) did the actual building (Wichman 1998:41).

According to Wichman (1998), Palila, the legendary figure who wielded a huge war club to save his father, was born during the period of war between the kingdoms of Puna and Kona about AD 1200 at Kamo'oloa. He was raised by his grandmother in the *heiau* of 'Ālana-pō, "night offering," sacred to the gods from the time of darkness (Wichman 1998:39–40).

The following is a *mo 'olelo* (story) about the small stream called Weoweo-pilau, "rotten bigeye fish," which is on the plains of Kamo'oloa:

> It seems an upland farmer heard that the bigeye fish were running at the beach, so he went down and caught a great number of them. On his way home, an old woman asked him for a few fish but he refused to give her any, saying she could go to the shore and get as many as she wanted. As he continued home, his load of fish became heavier and heavier, the path dustier and dustier, and the sun blazed with heat. When he reached the stream, he put down his fish and plunged in to cool off. When he came out, he smelled that his fish were completely rotten. He then realized that the old lady had been Pele, the volcano goddess, testing his generosity and hospitality. He had been found wanting and was punished. [Wichman 1998:40]

There are also many *mo 'olelo* in the *makai* (seaward) area of Kōloa. According to Wichman (1998), Hālau-a-ka-lena, "shed for the *'olena* (*Curcuma domestica*), turmeric plant," was dedicated to the *mo 'o* goddess Kihawahine. If she was offended, she would take the form of a sea dragon and patrol the seashore, killing all who dared fish from canoes and along the reef and rocks (Wichman 1998:420). The story of "Ke Kōloa o Kaikapū" is similar (Wichman 1991:88–91) in which a *mo 'o* named Kaikapū guarded the Kōloa shoreline, keeping everyone away from the swimming places and from the food on the reefs and in the sea. She would eat fishermen and swimmers near the shore. Soon no one living in Kōloa would come to the ocean to fish, gather the golden brown *līpoa* seaweed used to flavor their food, or work at the natural rock pans where salt was made. Liko and his grandmother lived on the hill above Kukui'ula bay. Liko's grandmother once expressed that she longed for the taste of *i 'a ho 'omelu*, the relish made of raw *hīnālea* (brightly colored wrasses, family *Labridae*) fish mixed with red salt, roasted *kukui* (*Aleurites moluccana*) nuts, and brown *līpoa* seaweed. Liko decided his grandmother must have the fish and brought his *kauila* (*Alphitonia ponderosa*) wood spear and his *hīnālea* trap woven from *'inalua* (*Cardiospermum halicacabum)* vine. Liko dove into the water and battled Kaikapū. He defeated her by swimming into the lava tube opening that led to a rocky platform above and trapping her in the narrowing tube. From then on, the seashore was free for everyone to use. Even today when the column of water shoots high into the sky, an angry roar echoes from the tube, *ke kōloa o Kaikapū* (Wichman 1991:88–91).

The early life of the hero Kawelo is also associated with Kōloa. Kawelo grew up in Wailua with two friends, Kauahoa of Hanalei and Aikanaka, the son of the king of Kaua'i. The three were fiercely competitive, and when his grandparents gave Kawelo a canoe, Kauahoa was jealous, so he made himself a kite. As soon as he saw the kite, Kawelo wanted one for himself and he asked his grandparents to make him one. He flew the kite next to Kauahoa and the two entangled, which caused Kauahoa's to break away and fall to the earth in Kōloa, at a place named Kaho'oleināpe'a ("the flying of the kites") after this event (Fornander 1918:5:3–4).

Section 4 Historical Narrative

The purpose of this section is to provide a focused historical narrative for Kōloa Ahupua'a as it provides information regarding patterns of land use at and in the vicinity of Parcels J, K, L.

4.1 Pre-Contact

Chronological analysis from Kōloa and the two neighboring *ahupua'a*, Pā'ā and Weliweli, suggests an early initial occupation within the Kōloa District of ca. AD 535 (Walker and Rosendahl 1990:131). Initial occupation probably was characterized by temporary and/or recurrent occupation. From AD 600-1400, settlements in the Kōloa area were still limited to the coast. By AD 1040, lava tubes were used for burial and temporary habitation in the inland areas of Kōloa (Hammatt et al. 1999:7).

However, it should be noted that recent analysis of radiocarbon dates in Hawai'i suggest more consensus for colonization of the Hawaiian Archipelago between AD 1000 and AD 750 (Rieth and Cochrane 2015). Also, "Paleoenvironmental sequences from O'ahu and Kaua'i have recorded vegetation change and increases in microscopic charcoal consistent with human activities between ~1050 and 850 cal. B.P. [~AD 900 and 1100]" (Rieth and Cochrane 2015:9). (All dates reported in this section taken from the individual analyses as cited have not been independently verified or validated during the background research process and should be understood as provisory.)

One Hawaiian tradition says the islands of Hawai'i were first settled by the chief Punanuikaianaina, who came to the Puna District of Kaua'i from the Marquesas around AD 1000 to 1100 (Fornander 1996:45–46). The early settlers of the Hawaiian archipelago would have been especially attracted to the windward side of Kaua'i, which boasted large river valleys supporting a vast inland region of irrigated pond-fields for *kalo* (taro) cultivation that became the agricultural core of Kaua'i. The greatest of these river valleys were around Wailua and Hanamā'ulu streams. Excavation data near the mouth of Hanamā'ulu Stream indicates early occupation of the area between AD 1170 and 1400 (State Inventory of Historic Places [SIHP] # 50-30-11-01839, Walker et al. 1991). This area was richly endowed with agricultural wealth and was a major residential and religious center for the nobility (Kirch 2010:171). A number of prominent *heiau* and a sacred birthing site were located in the central Wailua area (Bennett 1931:125–128). In approximately AD 1450 (a time estimate based on an average length of generational intervals in chiefly genealogies), the Kaua'i *ali'i* (chief) Manokalanipō is credited "for the energy and wisdom with which he encouraged agriculture and industry, executed long and difficult works of irrigation, and thus brought fields of wilderness under cultivation" (Fornander 1996:93).

On the island of O'ahu in approximately AD 1490, the *'aha ali'i* (council of chiefs) chose Mā'ilikūkahi, an *ali'i kapu* (sacred chief) who was born at the sacred site of Kūkaniloko in the uplands of Waialua, to be the new *ali'i nui* (paramount chief) of O'ahu. After his paramountship was installed at the *heiau* of Kapukapuākea in central Waialua, Mā'ilikūkahi instituted an explicit land division and administrative structure (Kirch 2010:84–90). Although Kaua'i remained politically independent during this time period, a hierarchical land system was also imposed on that island.

4.2 Early Historic Period

The first written accounts of Kaua'i are from travelers, missionaries, and surveying expeditions. Missionary accounts of the first half of the nineteenth century provide the majority of the early written records for this particular part of Kaua'i. The earliest explorers, like Cook and Vancouver, used Waimea for anchorage and victualing, with no mention made of Kōloa. However, their descriptions of well maintained, watered agricultural systems on this dry leeward coast are echoed in the early descriptions of Lāwa'i and Kōloa. Cook notes, "What we saw of their agriculture, furnished sufficient proofs that they are not novices in that art. The vale ground has already been mentioned as one continuous plantation of taro, and a few other things, which all have the appearance of being well tended to" (Cook 1784:244). Vancouver's description records "the low country which stretches from the foot of the mountains toward the sea, occupied principally with the taro plant [...] interspersed with some sugar-cane of luxuriant growth and some sweet potatoes" (Vancouver 1798:1:170).

Reverend Hiram Bingham's account of travelling east from Hanapēpē, in 1824, reports traverse

> [...] through a country of good land, mostly open, unoccupied and covered with grass, sprinkled with trees, and watered with lively streams that descend from the forest-covered mountains and wind their way along ravines to the sea. It is a much finer country than the western part of the island. [Bingham 1847:219]

No specifics are supplied.

The earliest documentation of Kōloa district population appears in the 1853 when missionary censuses recorded a total population of 1,296 (Schmitt 1977:12). A population distribution map by Coulter (1931) (Figure 7) indicates the population of Kaua'i ca. 1853 "was concentrated chiefly on the lower flood plains and delta plains of rivers where wet land taro was raised on the rich alluvial soil" (Coulter 1931:14).

> The area about Koloa in the southeast was also well populated. Koloa was a port of call for whaling vessels 'to recruit for the Polar Seas.' There 'calabashes of poi, raw fish, bunches of bananas, and bundles of sugar cane [...] [were] offered for sale to the foreigner.' There was a sugar cane plantation of 2,000 acres in this district, the proprietor of which 'was realizing at least one ton per acre of capital sugar.' Tidal flats in this vicinity were used for, evaporating sea water to obtain salt. [Coulter 1931:15–16]

By 1872, the population of Kōloa bottomed out at 833, and then began steadily increasing (reflecting in large part the influx of immigrant labor) to 1,500 in 1884, 1,835 in 1896 and 4,564 by 1900 (Schmitt 1977:13).

While the Coulter reconstruction is a "broad-brush" map, it does show a very large population at Kōloa near Waikomo Stream and the coast and then a gap moving west near the Parcel J1 project area and then the population picks up again from Lāwa'i Bay west, which is suggested to be accurate.

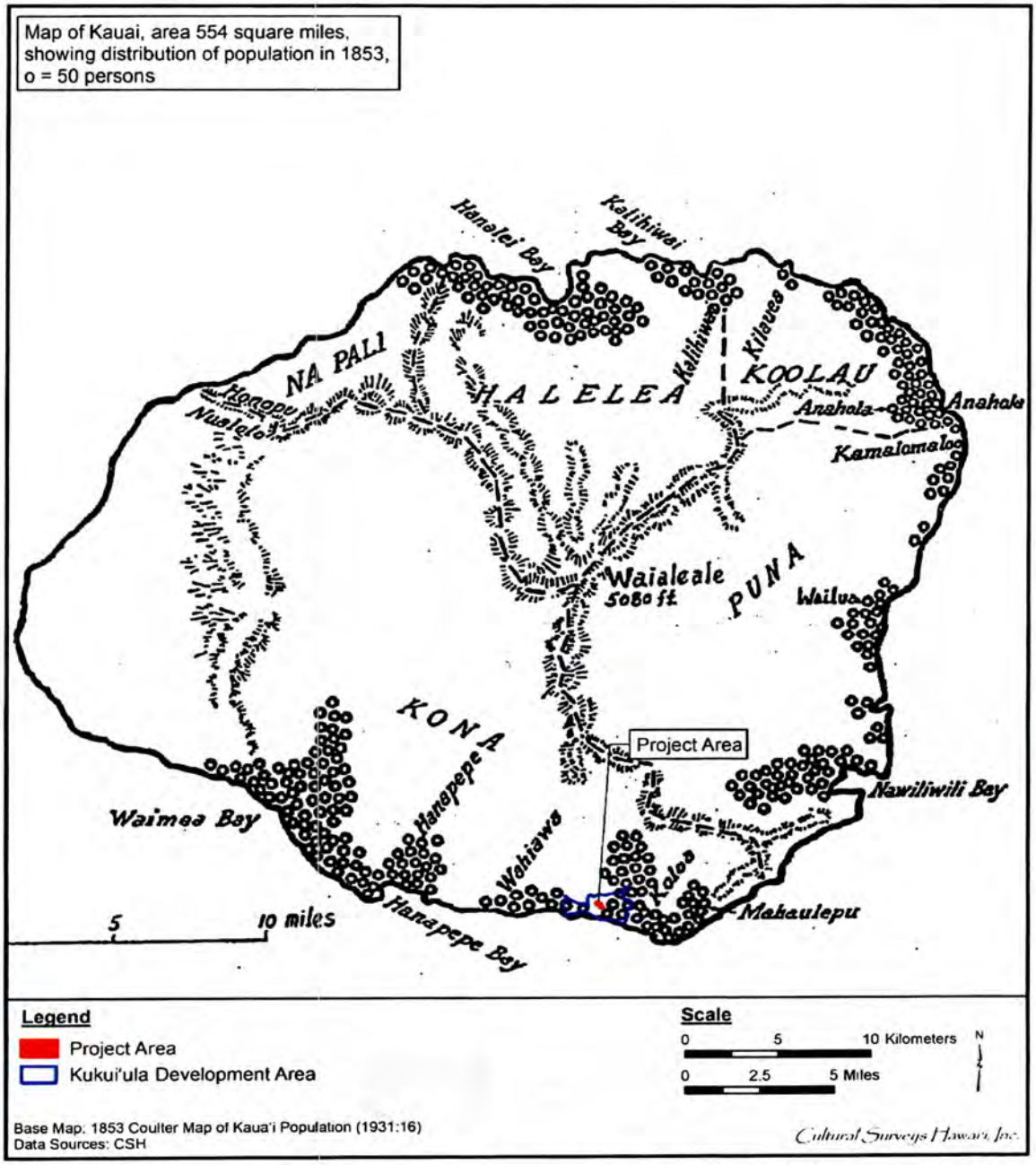


Figure 7. Map showing estimated distribution of population for Kaua'i in 1853 (Coulter 1931:16)

Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*. On Kaua'i, the favored places for coconuts were Kōloa and Lāwa'i (Handy 1940:193).

Writing about this general area, Handy (1940) states,

> Upland kula lands that were famous for their sweet potatoes were Kukuiolono above Lāwa'i (the present park covering the McBride [*sic*] estate) and the elevated kula lands east of Wahiawa Stream. I was unable to obtain any information as to the uplands of Kalihi and Kilauea, but this and much of the kula land from here to Kealia is the same type of terrain and presumably was once used to some extent for growing sweet potatoes by taro planters in these districts. A kamaaina of Wahiawa says that inland of the cliff named Kawaikapuluna, the people used to have taro patches in the gulch, while their houses and potato patches were on the kula land above, bordering the gulch on either side. I was told this arrangement was typical also of Nawiliwili, and presumably also of Hanamaulu, Hanapēpē, Makaweli, and Waimea in the lower sections of their canyons. [Handy 1940:154]

By the early 1800s, Kōloa Landing had become the principal port of Kaua'i and there is much detailed data for Kōloa but little for Lāwa'i.

The fact that the shipment of most of Kaua'i's sandalwood to Asia took place at Kōloa Landing suggests sandalwood was likely harvested in the uplands of Kōloa until the supply of the fragrant wood was exhausted around 1830 (Donohugh 2001:63–64).

In 1835, Thomas Nuttall and John K. Townsend, two American naturalists, visited the Kōloa area. They noted "fields of taro, yam, and maize (possibly sugarcane), irrigation networks and sweet potato patches in the dryer areas" (Townsend 1839:206). Also in the 1830s, J.J. Jarves, in "Sketches of Kauai" (Jarves 1844), remarked on the fields of sugarcane, taro, and yams which indicated more than usual attention to agriculture.

The extensive agricultural fields and their well-maintained appearance indicate a relatively well-populated area. Bernice Judd, in "Kōloa: A Sketch of its Development" (1935), suggests that prior to European contact the population of Kōloa must have been several thousand.

Other evidence indicating the importance of the Kōloa area during prehistorical time includes a relatively large number of *heiau*. A nineteenth century Lahainaluna Schools manuscript records *heiau* and fishing grounds of Kōloa, based on interviews with Kōloa elders in 1885 (Lahainaluna 1885 HMS 43 #17). The manuscript lists 14 *heiau* and one fishing shrine for Kōloa. Of the 14 *heiau*, at least three were *luakini* class and two were *po'okanaka* class. Five were associated with fishing, two were associated with medicine, one with agricultural, and four were of unknown function. One *heiau* is identified as "Kamaloula"; its location is specified: "This heiau is located at Kamaloula, that was the site of Make a's [the woman being interviewed] house, where she lived with her first husband. This heiau was built for the purpose of multiplying food plants" (Lahainaluna 1885).

Land Commission Award (LCA) documents and an 1891 government survey map of Kōloa discussed below identify an area within the Kukui'ula project area as "Kamalaula." "Kamaloula"

and "Kamal aula" may be variant spellings for the same area, in which case the *heiau* identified by Makea would likely be located within the Kukui'ula area.

The first missionary (Protestant Mission, American Board of Commissioners for Foreign Missions [ABCFM]) stationed at Koloa was the Rev. Peter Gulick who moved from the Waimea Station in 1834. In 1835 a grass house some 30 by 60 ft (9.144 by 18.288 m) was erected as the meeting house and school. Gulick also initiated sugarcane cultivation and a cattle herd for the Protestant Mission. In 1837 an adobe church was built and the first mission doctor, Thomas Lafon, arrived. Dr. Lafon moved to Līhu'e in 1840 and was replaced by Dr. J.W. Smith in 1842. Dr. Smith, as both doctor and missionary, could not continue the farming activities started by Rev. Gulick. He reduced the cattle herd and sent to Honolulu 7,000 pounds of sugar produced from cane grown on mission lands (Stauder 1973:22). At the time of the mid-nineteenth century Māhele, the ABCFM (Protestant Mission) received about 825 acres in Kōloa—some within the present Kukui'ula lands but most around Kōloa Town.

4.3 Māhele and Kuleana Act

The Organic Acts of 1845 and 1846 initiated the process of the Māhele—the division of Hawaiian lands—which introduced private property into Hawaiian society. In 1848 the crown, the Hawaiian government, and the *ali'i* received their land titles. Subsequently in the Māhele, LCAs were given to native tenants and others who could prove residency on and use of the parcels they claimed.

The bulk of Kōloa Ahupua'a was awarded to Moses Kekūāiwa in LCA 7714-B. Kekūāiwa was born 20 July 1829, the son of Kekūanao'a and Kīna'u, and the brother of Alexander Liholiho (Kamehameha IV), Lot Kapuāiwa (Kamehameha V), and Victoria Kamāmalu. He died 24 November 1848.

The Kōloa award to Kekūāiwa encompassed approximately 8,620 acres of "West Koloa," referring to the *ahupua'a* itself, not the larger district of the same name. The next largest award in the *ahupua'a* went to the Protestant Mission (ABCFM) and consisted of approximately 825 acres (LCA 387). The majority of the mission lands were located in the vicinity of Kōloa Town, where the parsonage was located. Large parcels just *mauka* of Kōloa Town were utilized for sugarcane cultivation and cattle pasture.

Eleven Kōloa *kuleana* awards to commoners were granted within the Kukui'ula Community Development project area (Table 1 and Figure 8). All but one of these awards were located at the eastern end of the Kukui'ula lands near Waikomo Stream, more than 1.0 km east of Parcel J1. A single award—LCA 3026 parcel 1 to Elemakule II—was located above Kukui'ula Bay, toward the center of the Kukui'ula lands, but this was more than 600 m to the southwest. Parcel 1 is Elemakule's house lot; he was awarded two additional parcels *mauka* (outside the Kukui'ula lands) comprising *lo'i* adjacent to Aepo Stream.

No native tenant LCAs were located within 600 m of Parcel J1. The 11 awarded parcels in the eastern portion of the Kukui'ula lands include house lots, taro *lo'i*, and *kula* land. The 1891 map and the LCA records suggest that by the mid-nineteenth century, habitation and agricultural activities were concentrated in the eastern portion of Kukui'ula where water could be channeled from Waikomo Stream. This may also represent the population focus in traditional Hawaiian times. Toward the central portion of the Kukui'ula lands, Aepo Stream may not have provided sufficient water on a stable basis to sustain a large population.

Table 1. Land Commission Awards at Kukui'ula Kōloa

LCA #	Claimant	*'Ili*	Land Use	Description
387	ABCFM	Kamalaula	—	—
3026:1	Elemakuli II (Kaelemakule)	Pua	House lot	Beach *makai*
3611	Kanonoula	Aea	*Kula*, 8 *lo'i*, house lot	
5313:1	Kenoi	Punahelu	*Kula*, *lo'i*,	Rock stratum
5314	Kapa	Lepoakua, Paoa	*Kula*, 8 *lo'i*, house lot	Government road, watercourse
5401:1	Hanaole	Punahelu	*Lo'i*	*'Auwai*
5456:2	Mataio	Punahelu	*Lo'i*	
5469	Makanui, Apolo	Awikiwiki	*Kula, lo'i*	
5482:1	Kanouula, Ino	Paoa	*Kula*,4 *lo'i*	
5486	Waiwaiole	Kawailehua	*Kula*, 2 *lo'i*, house lot	
10478:3	Naiwi (Naiui)	Aea	House lot	Waste land
10638	Poka I	Punahelu	*Kula*, 2 *lo'i*, sugarcane	

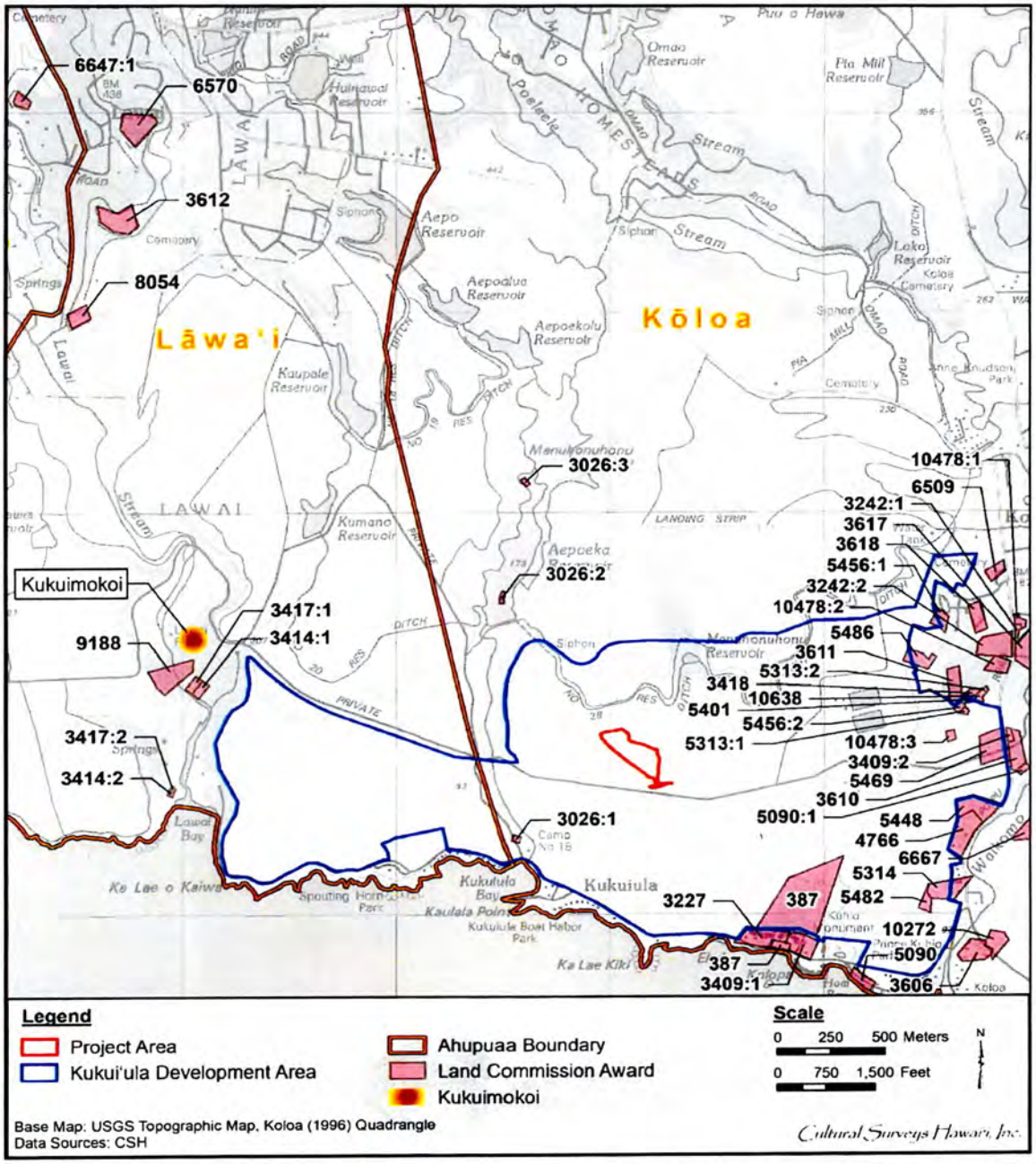


Figure 8. 1996 Koloa USGS topographic quadrangle, showing the distribution of native tenant LCA parcels in Kukui'ula, and vicinity

4.4 Description of the Kukui'ula Lands Before Sugarcane

While there are many accounts of Kōloa Town and the vicinity of Waikomo Stream down to Kōloa Landing, there are few references to the gently sloping lands of Kukui'ula back from the coast and at a distance from Waikomo Stream. The description associated with Queen Emma's estate (west of the project area), ca. 1870, states, "the house must have indeed seemed desolate to those accustomed to Honolulu. The surrounding area was an arid, stony pasture, suitable only for grazing" (Forbes 1970:4).

4.5 Early Sugar and Export Crops at Kōloa

The Kōloa area is the site of the oldest sugar plantation in Hawai'i. In 1835, Ladd and Company gained the lease of some 1,000 acres at Kōloa for the purpose of growing sugarcane. "The lease allowed the use of the waterfall and an adjoining mill site at Maulili Pool, the right to build roads, and the privilege of unrestricted buying and selling, and freedom from local harbor dues" (Stauder 1973:18). Ladd and Company were not the first to mill sugarcane in the area, as there was a Chinese-operated granite roller mill in operation at Māhā'ulepū in 1830. Ladd and Company were, however, the first "plantation" organized industry in Hawai'i. Along with the lease, the company was allowed to "hire native workers provided they paid the king, Kamehameha III, and Kaikio'ewa, appointed Governor of Kaua'i, a tax for each man employed and paid the men satisfactory wages" (Stauder 1973:18). The plantation set up houses for native workers and a store where the employees could purchase merchandise with the plantation currency in which they were paid.

The cane growing activity of Ladd and Company was not done directly on the present Kukui'ula lands, but the commercial activity initiated by the plantation had widespread ramifications. Kōloa Town and the landing at the mouth of Waikomo Stream became major commercial centers. The landing—or "roadstead" as it was called—was a busy port during the mid-1800s. "An estimate in 1857 stated that 10,000 barrels of sweet potatoes were grown each year at Kōloa, and that the crop furnished nearly all the potatoes sent to California from Hawai'i. Sugar and molasses were also chief articles of export" (Judd 1935: 326). Whalers also used the Kōloa roadstead during this period (1830-1870) and took on provisions of squashes, salt, salt beef, pigs, and cattle. Hawaiians grew the squashes (pumpkins) on the rocky lands north of the landing and numerous salt pans were located along the shore near the landing.

Ladd and Company ceased operating in 1845. Then, following a succession of individual and partnered ownerships, a new enterprise, Koloa Sugar Company, was established in 1880. In 1948, the Koloa Sugar Company became part of Grove Farm Company.

4.6 McBryde Sugar Company and the Kukui'ula project area

Duncan McBryde moved to Wahiawa from his estate in Wailua ca. 1860 (Damon 1931:372). He acquired a lease for lands at Wahiawa from Victoria Kamāmalu, sister of Moses Kekuaiwa. Kamāmalu inherited the unclaimed lands at Wahiawa following the untimely death of Kekuaiwa in 1848. McBryde drove his herd of cattle across the island and began the development of the extensive Wahiawa Ranch. The McBryde family estate, known as Brydeswood, was built in the uplands of Wahiawa, *mauka* of the government road (Damon 1931:372, 552). McBryde acquired land in Wahiawa, later owned in fee simple, and leased land in Kalāheo from the Crown.

Eventually, the plantation covered most of the land of western Kōloa District, including Wahiawa, Kalāheo, Lāwa'i, and the western section of Kōloa Ahupua'a, west of Kōloa (Waikomo) Stream.

By 1870, in addition to ranching, McBryde ventured into sugarcane cultivation. The plantation primarily consisted of land already owned by the McBryde Estate, including the Wahiawa Ranch and lands in neighboring Kalāheo and (from 1876) Lāwa'i (Damon 1931:733, 773). The 1872 Gay map (Figure 9) thus depicts Lāwa'i and western Kōloa just before the radical transformation to sugarcane.

In 1886, after the Queen's death, Mrs. Elizabeth McBryde bought the entire *ahupua'a* of Lāwa'i for $50,000. The upper lands were planted in sugarcane, and the valley was leased to Chinese rice growers and taro planters (Donohugh 2001:99–100). Queen Emma's Lāwa'i home "Maunakilohana" would continue to be depicted on maps long after her death as one of the few landmarks on the table lands of Lāwa'i and Kōloa back from the coast (Figure 10 and Figure 11).

The commercial activity initiated by the Ladd and Company plantation, which later became Koloa Sugar Company, had widespread ramifications. In 1882, the Koloa Sugar Company announced it had ordered all the components for a plantation railroad. According to the *Planter's Monthly*, Volume 1 of 1882, "It (the railroad) will consist of four miles of 30 inch gauge track, forty cars 5 x 10 feet, and one locomotive [...]" (Condé 1993:28). According to Arthur C. Alexander (1937), "Cut cane was hauled to the mill by oxcart until 1882. In that year, 3½ miles of 30-inch gauge, 18-pound railroad track and 50 cars were purchased" (Condé 1993:28).

Following the success of Koloa Sugar Company, McBryde ventured into sugarcane cultivation by 1870. The plantation primarily consisted of land already owned by the McBryde Estate, including the Wahiawa Ranch and lands in neighboring Kālaheo and Lāwa'i. In 1899, Walter D. McBryde, son of Duncan McBryde, and W.A. Kinney founded the McBryde Sugar Company, formed by combining the lands of the Eleele Plantation in Hanapēpē Ahupua'a, the lands owned by McBryde in Wahiawa, Kalāheo, and Lāwa'i, and the lands owned by the Koloa Agricultural Company (separate entity from the Koloa Sugar Company), which had lands in Kōloa Ahupua'a owned by the Knudsen family, west of Kōloa Stream (McBryde Sugar Company 1949:3).

4.7 Kōloa Makai Table Lands in the Twentieth Century

The history of the *makai* tablelands of Lāwa'i and Kōloa in the twentieth century was largely associated with the McBryde Sugar Company, Ltd. To irrigate the mid-sized plantation (approximately 4,700 planted acres), between 1900 and 1907 the McBryde Sugar Company constructed 30 large and small reservoirs, as well as an extensive system of ditches to collect water from the uplands (Yamanaka and Fuji 2001). In addition to collecting surface water, which became insufficient for the growing plantation, McBryde Sugar Company constructed a series of wells and pumps to collect groundwater (Wilcox 1996)

By 1903, McBryde Sugar Company established the railroad system to the Koloa Fields, including the current project area. As seen in a 1910 map (Figure 12) the railroad ran through the southeast portion of Parcel J1 of the Koloa Community Development area. The 1922 map of McBryde Sugar Company (Figure 13) shows McBryde fields and their railroad infrastructure extending east to Waikomo (Kōloa) stream. Railroad operations ceased in 1947 at McBryde Plantation when there was a change over from locomotives and cane cars to trucks (Condé and Best 1973:192–193) and most of the railways were converted to cane roads. The 1951 aerial

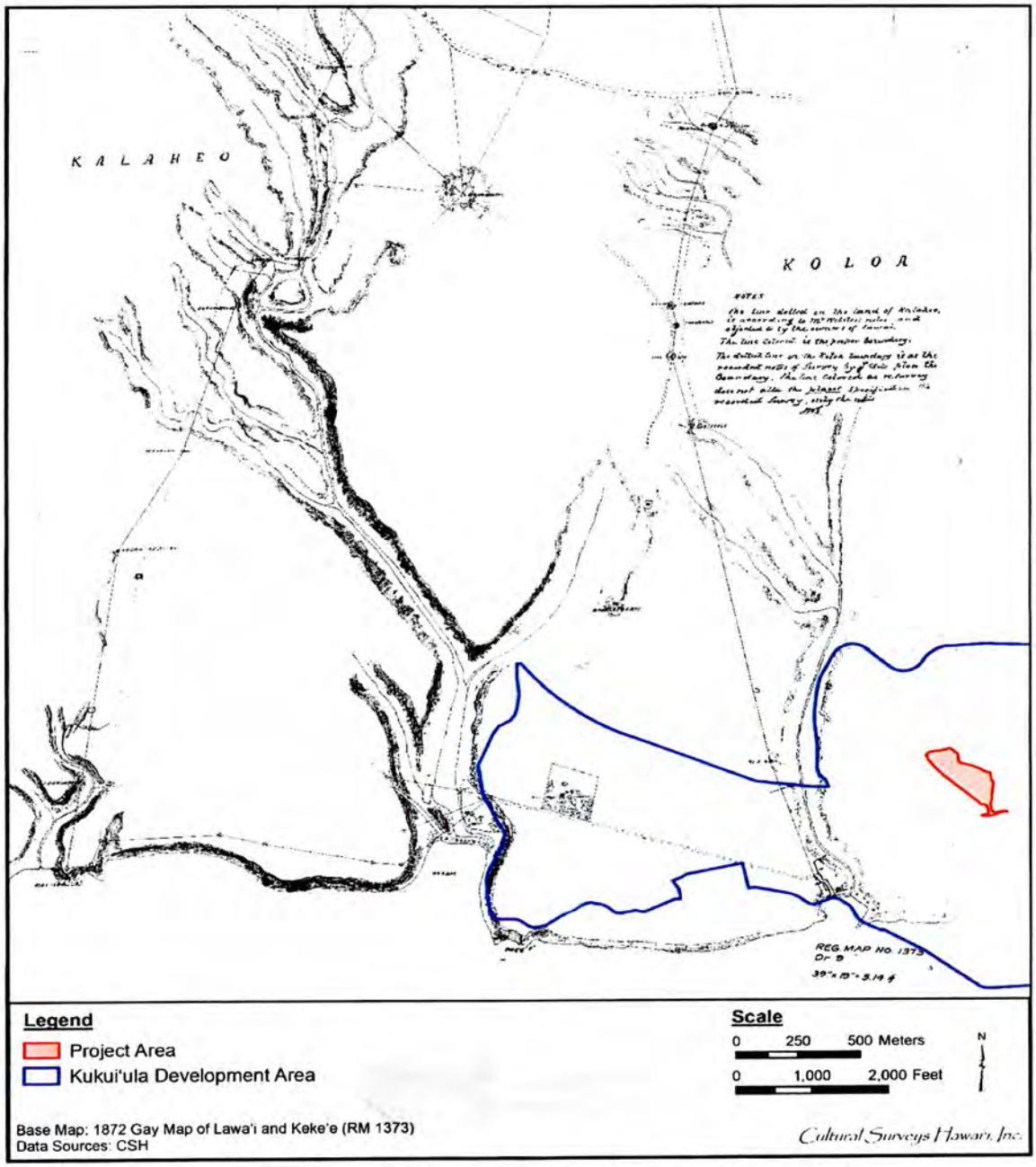


Figure 9. 1872 Gay map of Lāwa'i and Keke'e showing the western Kukui'ula Community Development area and the location of Parcel J1

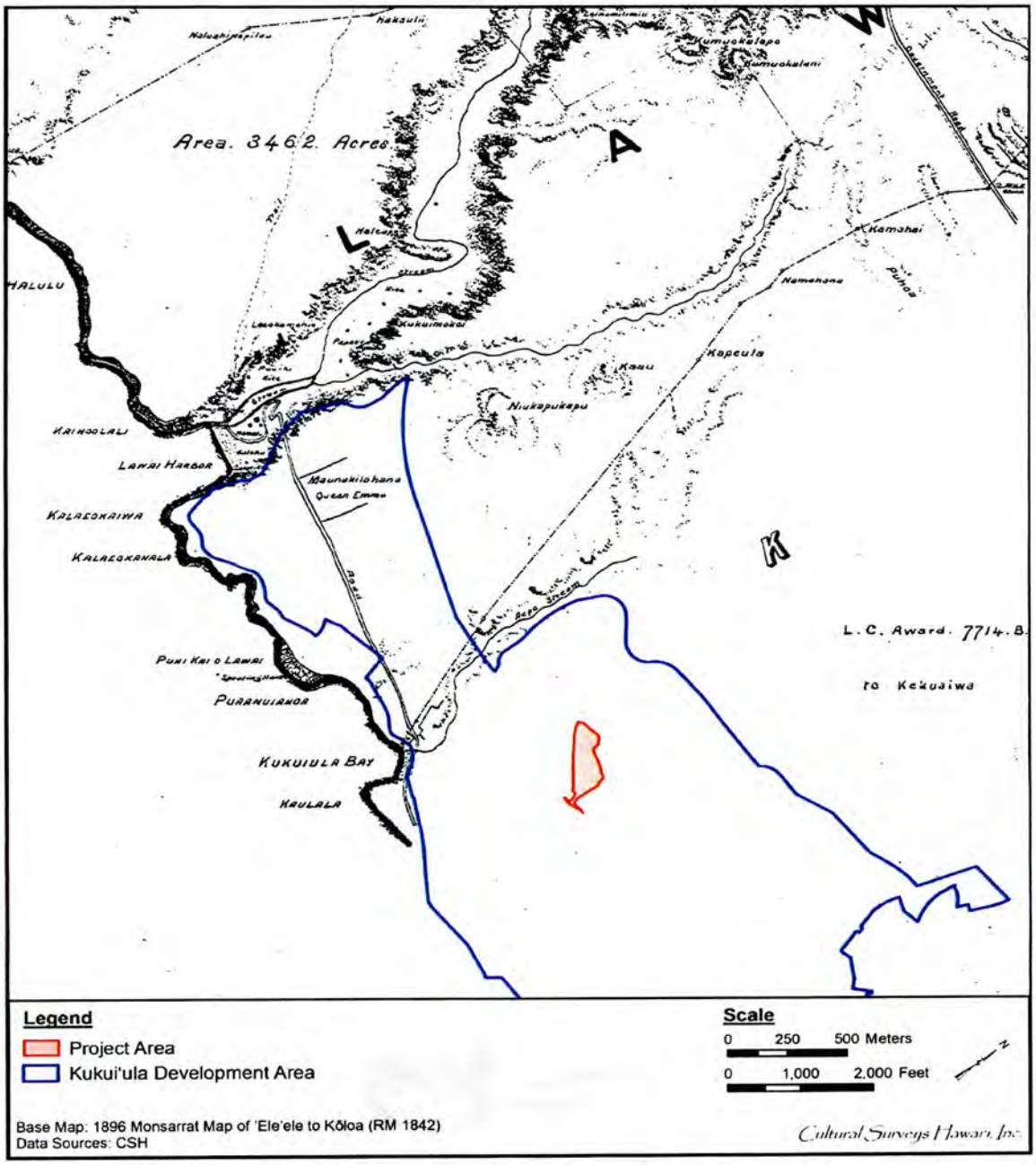


Figure 10. 1896 Monsarrat map of 'Ele'ele to Kōloa (RM 1842) showing the location of Parcel J1 of the Kukui'ula Community Development area

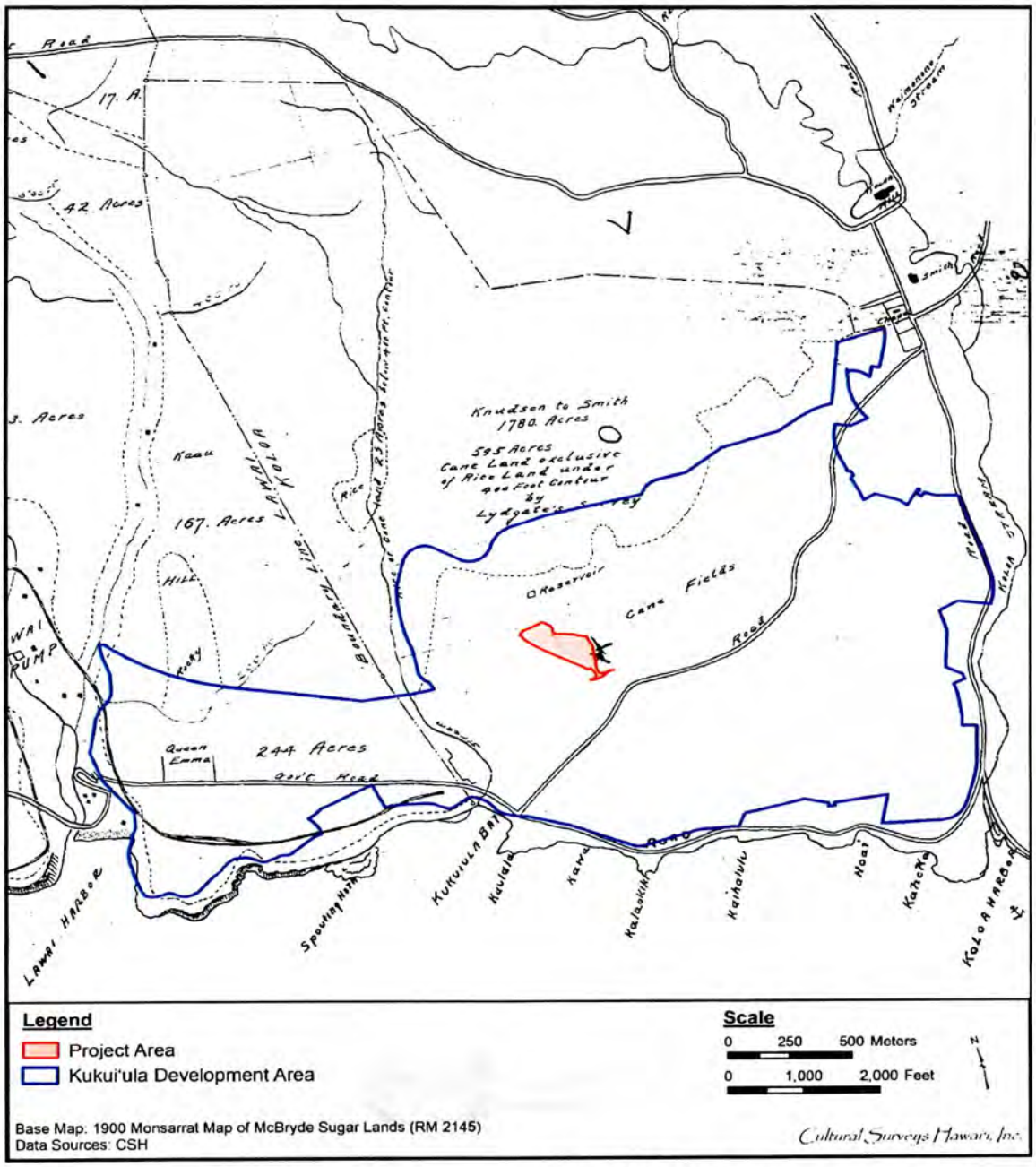


Figure 11. 1900 Monsarrat map of McBryde sugar lands (RM 2145) showing the location of Parcel J1 of the Kukui'ula Community Development area

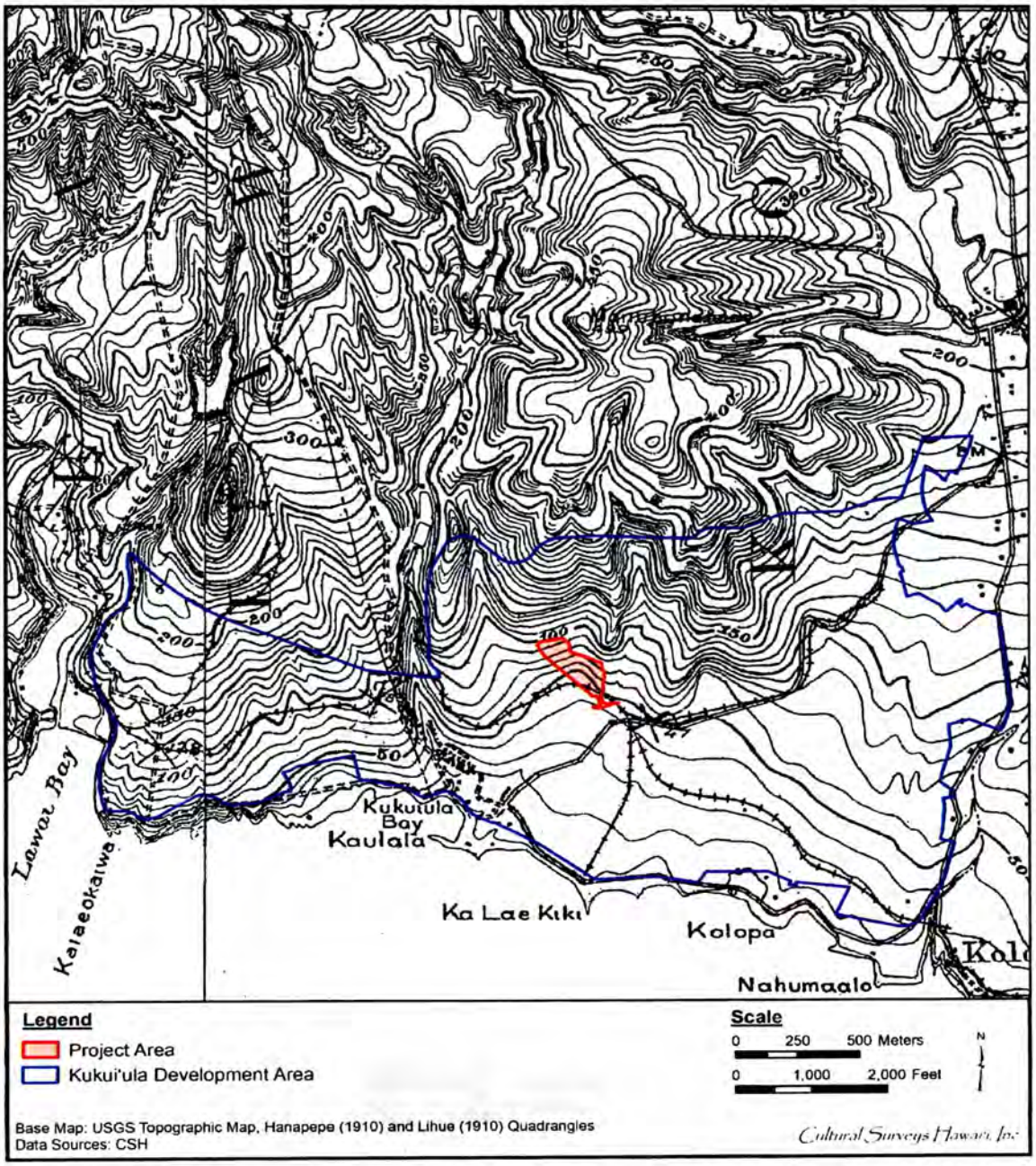


Figure 12. 1910 Hanapepe and Lihue USGS topographic quadrangles, showing Parcel J1 of the Kukui'ula Community Development area

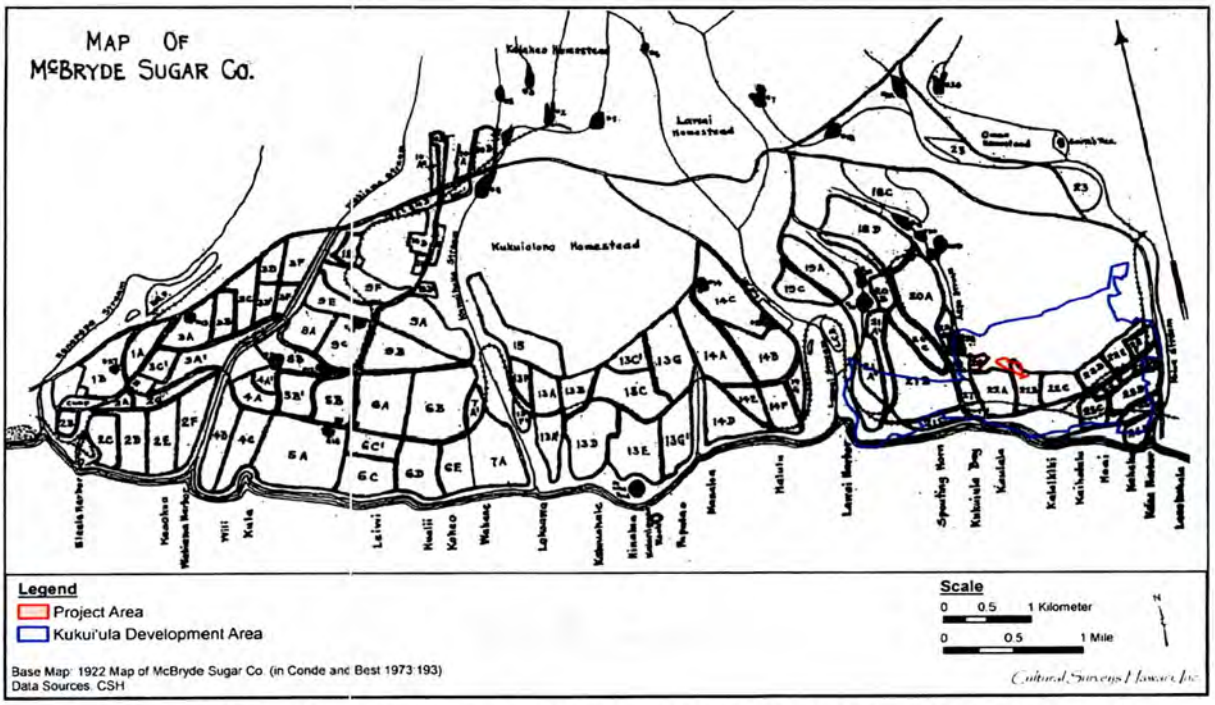


Figure 13. 1922 map of McBryde Sugar Company (from Condé and Best 1973:193) showing McBryde fields extending east to Waikomo (Kōloa) stream and showing the Kukui'ula Development Area and the location of Parcel J1 (mostly within field 22 B)

photograph (Figure 14) depicts the sea of commercial sugarcane at Kukuiula in and around Parcel J1 shortly after the demise of railroads with a main, roughly east/west, cane haul road just south of Parcel J1. The system of improved roads and dirt roads, with the main cane haul road just south of Parcel J1 is depicted in the 1963 map (Figure 15). The three aerial photographs (1951, Figure 14; 1965, Figure 16; and 1978, Figure 17) show Parcel J1 as completely covered with commercial sugarcane fields and within a great sea of commercial sugarcane. McBryde Sugar Company, owned by Alexander and Baldwin, Inc., ground its last crop in 1996 (Dorrance and Morgan 2000:36).

The timeframe in which Parcel J1 was in commercial sugarcane production is not completely clear but is believed to extend from very close to 1876 (when McBryde leased Queen Emma's Lāwa'i land) to very close to 1996, or nearly 120 years. During nearly this entire 120-year span the project area is understood to have been as depicted in the three aerials. During this time it is understood that access inside the project area was restricted to employees of McBryde Sugar Company.

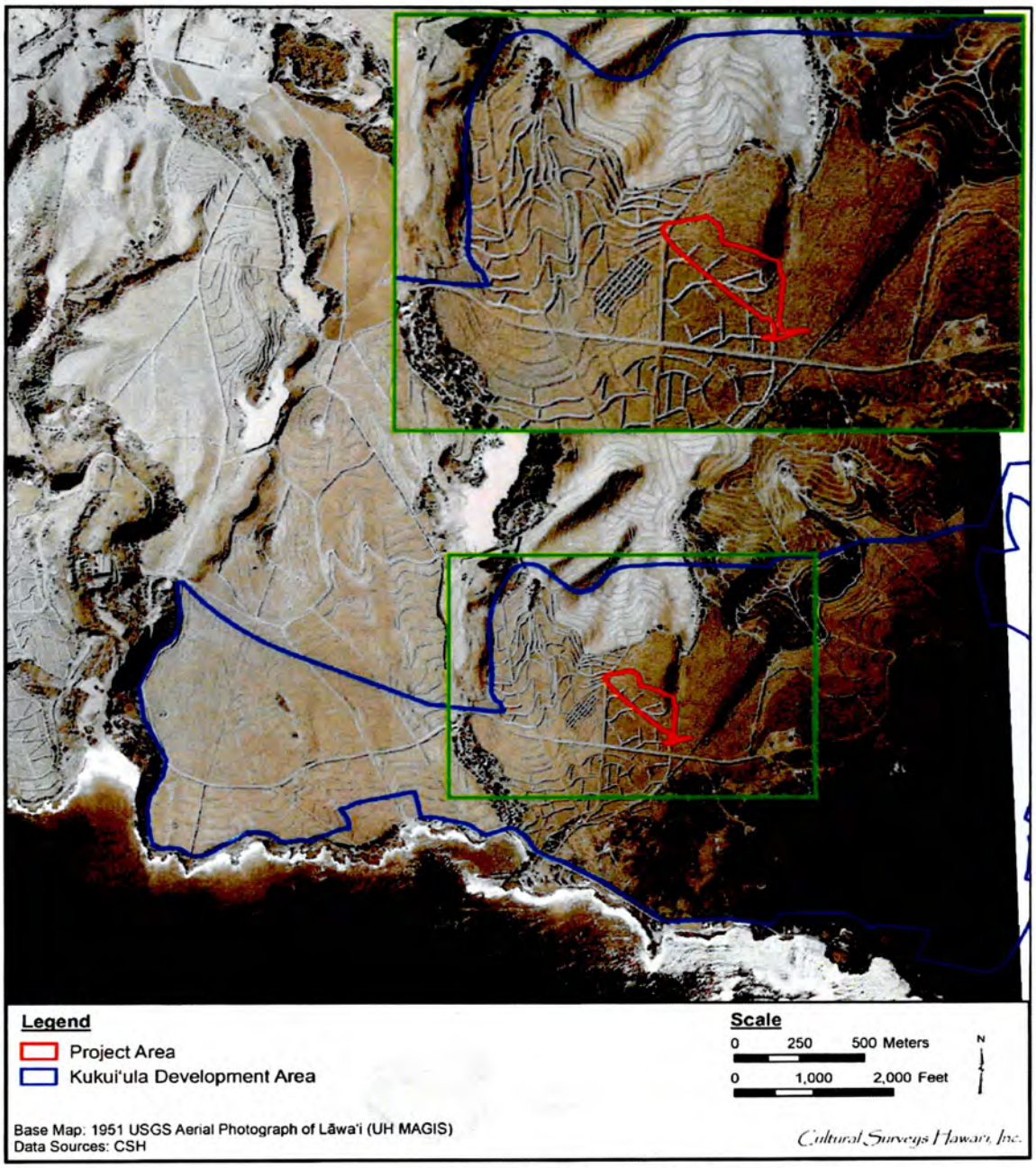


Figure 14. 1951 USGS aerial photograph of Lāwa'i (UH MAGIS) showing the Kukui'ula Development Area and the location of Parcel J1 (see inset)

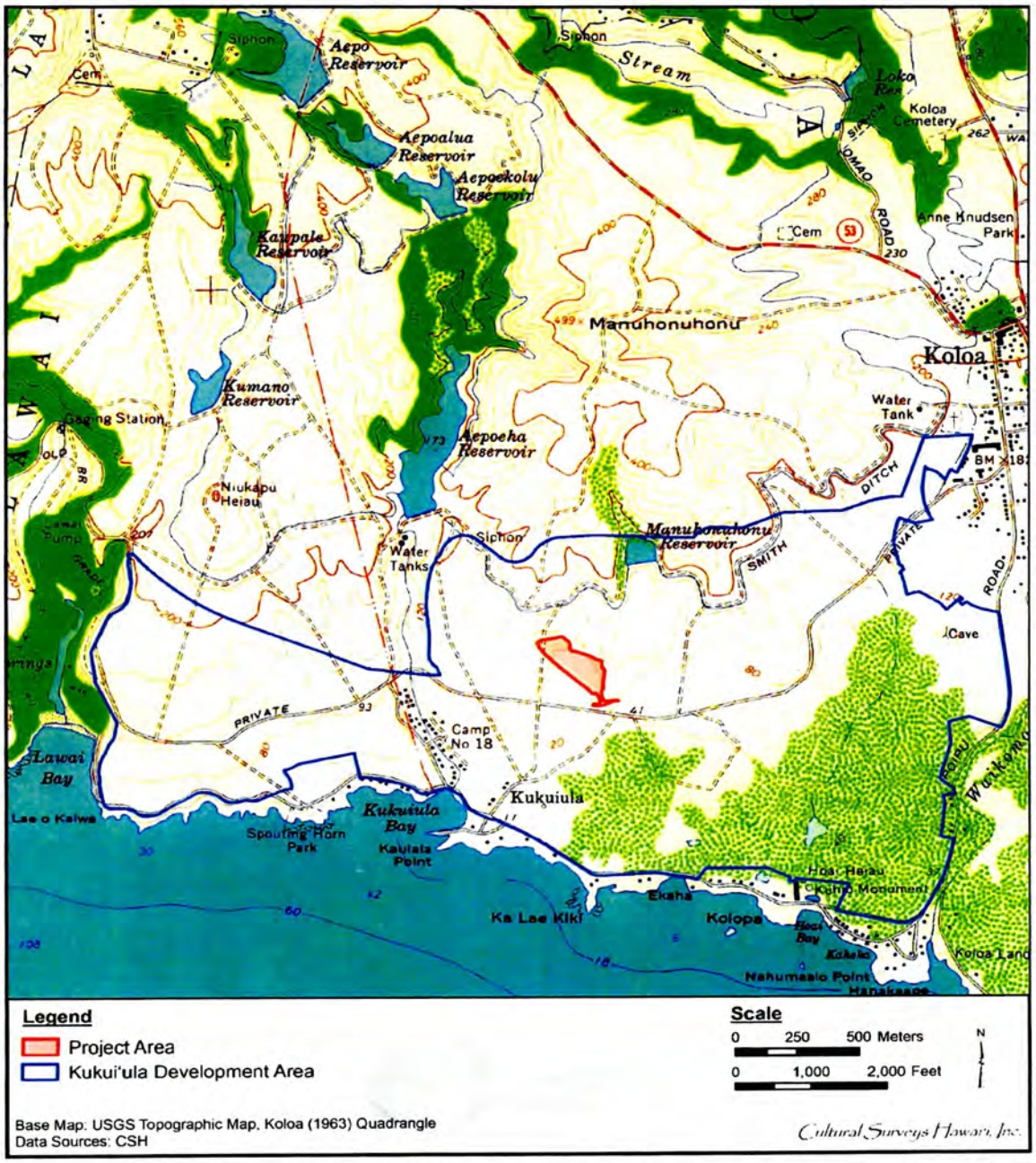


Figure 15. Portion of the 1963 Koloa USGS topographic quadrangle showing the location of the Kukui'ula Development Area and Parcel J1

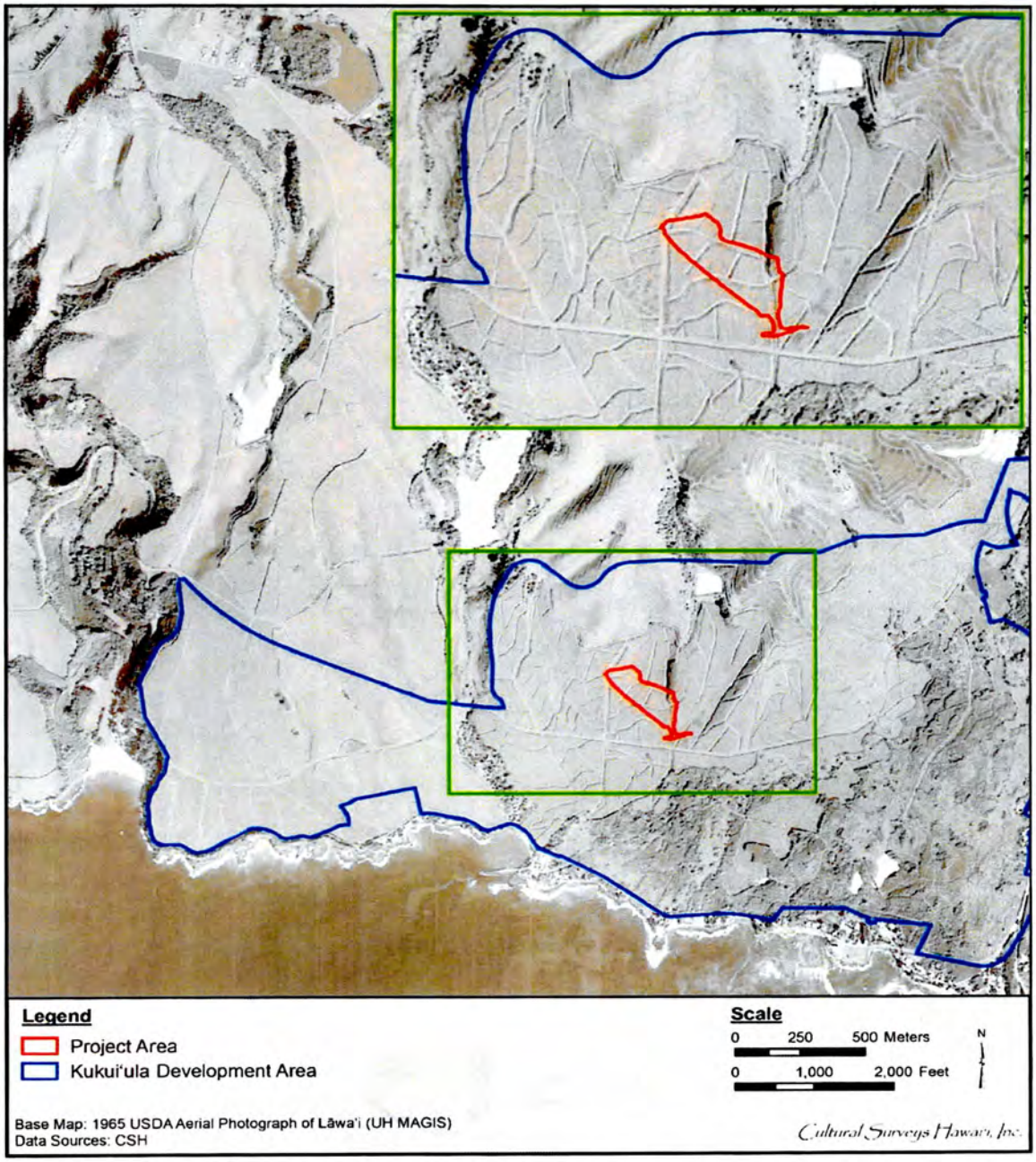


Figure 16. 1965 USDA aerial photograph (UH MAGIS) showing the Kukui'ula Development Area and the location of Parcel J1 under sugarcane cultivation (see inset)

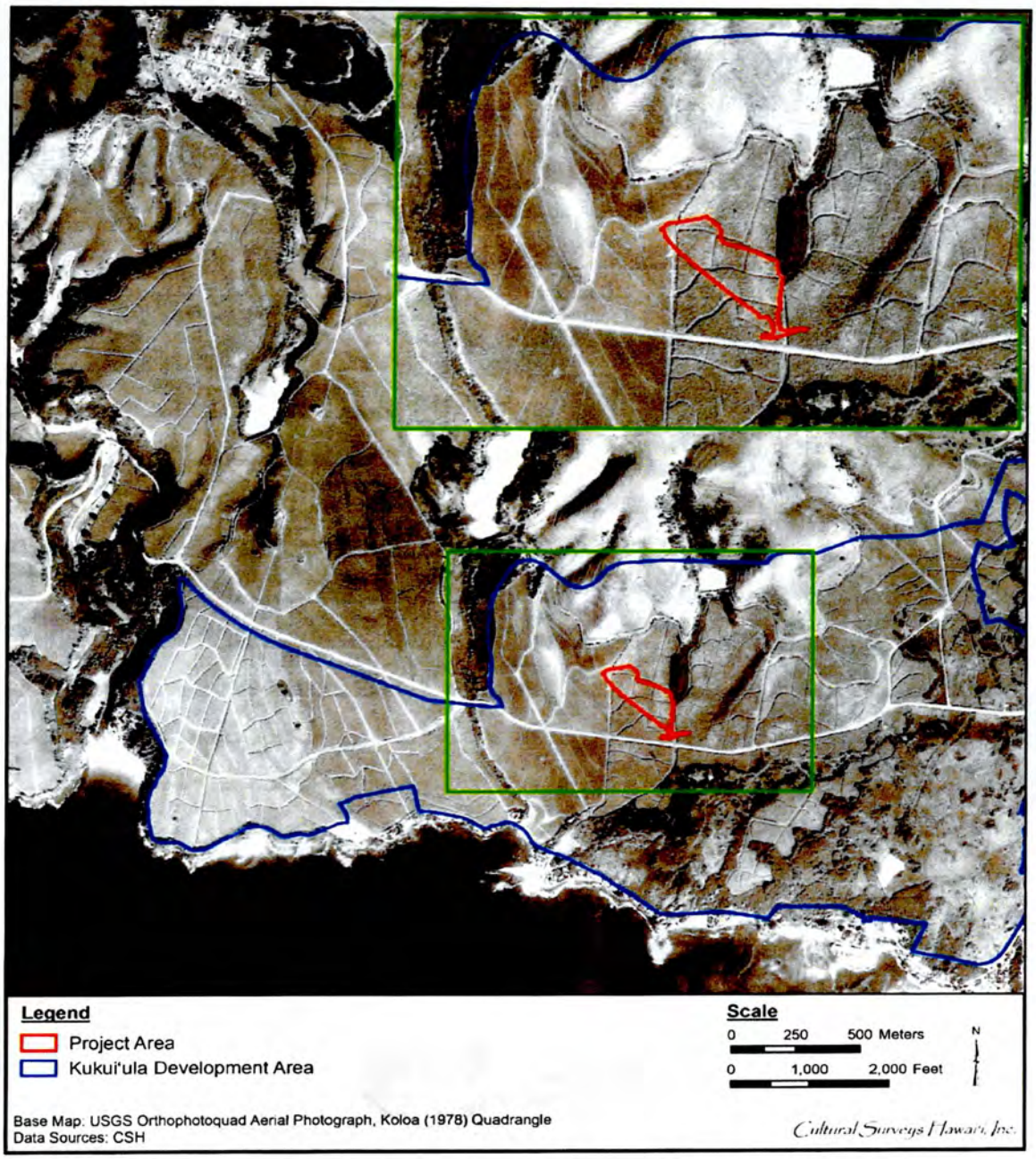


Figure 17. 1978 Koloa USGS orthophotoquad aerial photograph showing the Kukui'ula Development Area and the location of Parcel J1 under sugarcane cultivation (see inset)

Section 5 Previous Archaeological Research

5.1 Previous Archaeological Studies in the Immediate Vicinity

This discussion of previous archaeological studies and previously identified archaeological resources in the project area vicinity is included to inform understandings of land and local communities from the initial Hawaiian discovery and settlement of the islands through the historic era, and to provide additional context for the historic documentation, traditional cultural practices, and oral histories associated with the project area and vicinity. Archaeological studies document the presence or absence of trails, burials, *heiau,* and other traditional Hawaiian religious structures. Archaeological inventory surveys are to evaluate any archaeological sites which may

> [...] have an important value to the native Hawaiian people or to another ethnic group of the state due to associations with cultural practices once carried out, or still carried out at the property or due to associations with traditional beliefs, events, or oral accounts—these associations being important to the group's history and cultural identity. [HAR §13-284-6(b)(5)]

Previous archaeological studies in the vicinity of the project area are depicted in Figure 18 and summarized in Table 2. The locations of previously identified historic properties in the vicinity of the project area are depicted in Figure 19; these are summarized in Table 3.

5.2 The Archaeological Inventory Survey

The entirety of Parcel J1 of the Kukui'ula Community Development project was addressed in an *Archaeological Inventory Survey of the Proposed Kukui'ula Bay Planned Community, Kōloa, Kaua'i* (Hammatt et al. 1988) (see Figure 18) that addressed a much larger area. That 1,000-acre project area stretched from Po'ipū Road on the east side to the edge of Lāwa'i Valley on the west side.

A total of 58 archaeological sites comprising 150 individual features were located, mapped, and described (no SIHP designations) in that (Hammatt et al. 1988) archaeological inventory survey (AIS) but none were within the Parcel J1 project area (an *'auwai* designated SIHP # 50-30-10-01902 was located just to the east, see Figure 19). A majority of the sites were located in the non-cultivated lands in the eastern and southeastern portions of the project area (see Figure 19). Both pre-Contact and historic sites were identified. The traditional Hawaiian sites are remnants of the formerly extensive late pre-Contact (early historic) irrigated agricultural complex that stretched eastward from Lāwa'i Valley to Weliweli. This complex includes *'auwai*, fields, house sites, shelters, modified lava tubes, burials, and two *heiau*. Historic-era sites included cattle walls, abandoned cane fields, a house site, and remnants of a railroad berm. Many of the archaeological sites were in remnant condition due to modern land disturbance.

The 1988 study was reviewed by the State Historic Preservation Officer, who agreed with the adequacy of the survey and that sufficient information had been gathered to evaluate site significance (Nagata to Hammatt, 30 June 1988).

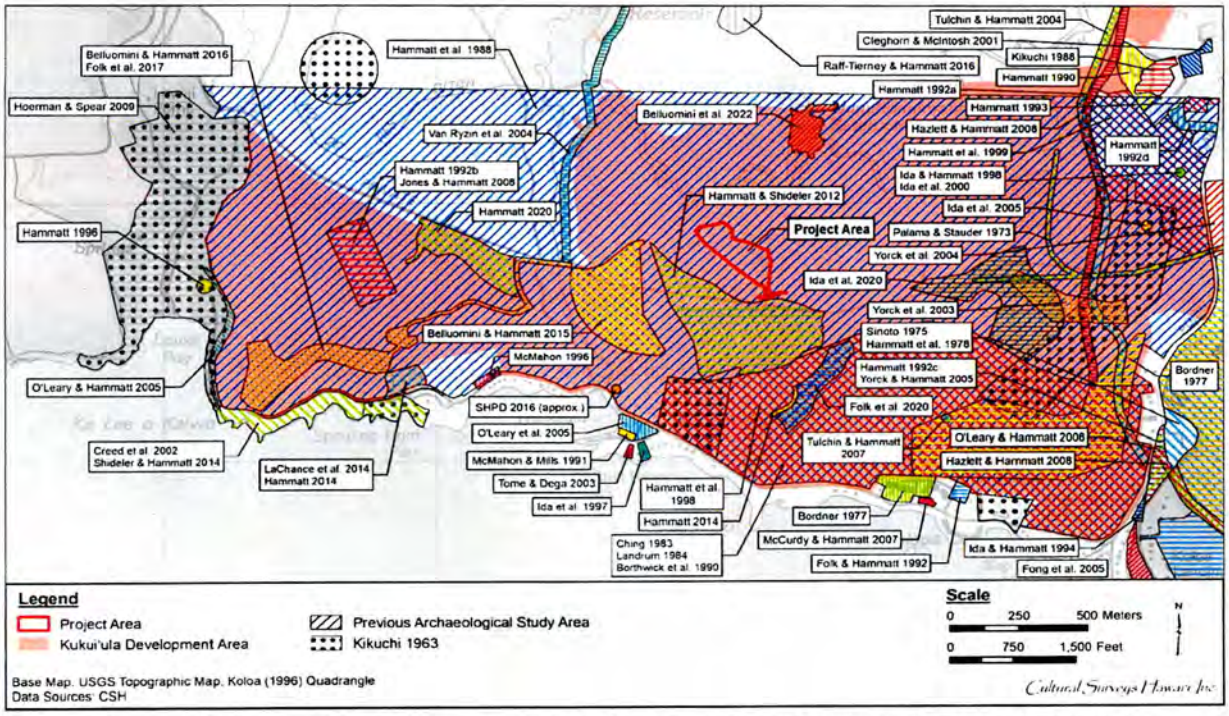


Figure 18. Portion of 1996 Koloa USGS topographic quadrangle, showing parcel J1 and previous archaeological studies at the Kukui'ula Community Development project area and vicinity

Table 2. Previous archaeological studies in the vicinity of the project area

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
Bennett 1931	Site survey	Island-wide	Site 72 (Niukapukapu Heiau), Site 74 (fishing shelter), and Site 75, Kūhiō Park Complex identified
Kikuchi 1963	Archaeological surface survey and test excavations	Kōloa District (including several discrete areas)	Discusses several sites in coastal Lāwa'i including: SIHP #s -03067:A Storied rock; -03067:B Springs -03067:C Taro fields; -03067:D Storied rock; -03067:E Path; -03070 Shelter cave; -03071 Shelter cave; and -03072 Shelter cave
Palama and Stauder 1973	Archaeological reconnaissance	Proposed cane haul road between McBryde Plantation lands and Kōloa Mill	SIHP #s -03015 (wall), -03173 (wall), -03174 (platform), -03175 (wall), -03176 (enclosure), -03177 (platform), -03178 (modified outcrop), -03179 (habitation cave), -03180 (habitation cave), and -03181 (agricultural complex) identified
Sinoto 1975	Archaeological reconnaissance	Roughly 400+ acres of Knudsen Trust Lands bounded by Po'ipū Rd on S and W, and by private cane-haul roads on the N and E	Most of the central, northern, and western portions of survey area had been cleared, usually by bulldozing and dragging; large, relatively undisturbed concentrations of sites occur in southern and eastern fringe areas; provides overview of 155 sites
Bordner 1977	Archaeological reconnaissance	Area between Waikomo Stream and Prince Kūhiō Hotel	SIHP # -01934, agricultural complex documented
Hammatt et al. 1978	Archaeological reconnaissance	460-acre Kiahuna Golf Village area, bounded S by main Po'ipū Rd, to W by Waikomo Stream, as well as Po'ipū Rd	Discusses 36 archaeological complexes with 583 features recorded indicating intensive Hawaiian settlement both in pre- and post-Contact times as indicated by various habitation structures including 175 stone enclosures, and 108 stone house platforms
Ching 1983	Archaeological reconnaissance	Kōloa and Lāwa'i *ahupua'a*	Identified remnants of walls, *lo'i*, *'auwai*, flumes, agricultural terraces, and historic railroad berm; all part of Kōloa Field System
Landrum 1984	Archaeological reconnaissance	Kōloa Ahupua'a	Documented 37 various pre-Contact and historical feature areas, ranging from agricultural features to habitation sites to ceremonial/religious structures

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
Hammatt et al. 1988	Archaeological inventory survey	1,000 acres of Kukui'ula Bay Community	Recorded 58 pre-Contact and historic-era archaeological sites comprising 150 individual features (some previously identified); many sites remnants of former extensive late pre-Contact and early post-Contact irrigated agricultural complex (Kōloa Field System)
Kikuchi 1988	Archaeological reconnaissance	Pa'anau Camp	SIHP # -04015 (Pa'anau Plantation Camp); identified ten features associated with camp
Borthwick et al. 1990	Archaeological data recovery: preliminary reports	Kukuiula Bay Planned Community	Provides overview of tasks accomplished (see Hammatt et al. 1998)
Hammatt 1990	Archaeological inventory survey	Pa'anau Camp	SIHP # -01828 (post-Contact wall) identified
McMahon and Mills 1991	Inadvertent discovery—tooth	Eastern shore of Kukui'ula Bay	Designated SIHP # -01867, turned over to OHA representative on Kaua'i
Hammatt 1992a	Archaeological inventory survey	Kukui'ula Community Phase I, Western Bypass Rd	No historic properties identified
Hammatt 1992b	Letter report on preserve area rock pile	Preserve area rock pile	Investigating large rock pile to determine origin and age; identified as field clearance mound
Hammatt 1992c	Letter report	Pō'ipū Rd and Lāwa'i Rd junction	No significant finds; project area previously extensively graded
Hammatt 1992d	Archaeological reconnaissance survey	L-shaped 2.1-acre parcel on W side of Pō'ipū Rd south of Kōloa Town	No historic properties identified (notes extensive prior bulldozing)
Hammatt 1993	Archaeological reconnaissance	1.75-acre property fronting Po'ipū Rd, south Kōloa Town	No historic properties identified, discusses bounding lot wall
Ida and Hammatt 1994	Archaeological literature review and field inspection	11,460 sq ft lot adjacent to Ho'onani Rd Bridge across Waikomo Stream	No historic properties identified

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
Hammatt 1996	Subsurface testing report	Posited location of Queen Emma's Cottage, east beach, and alluvial terrace at mouth of Lāwa'i Valley	Identified 1) Lihue Soda Works bottle at 5 ft below surface in alluvial fill of Str. II; 2) cement slabs believed to be bases for arrangement of potted plants; and 3) stone and mortar path, feature of garden landscape
McMahon 1996	Archaeological reconnaissance	Visitor Center for National Tropical Botanical Gardens	SIHP # -03015 (wall) identified and documented
Ida et al. 1997	Archaeological monitoring	Kukui'ula house lot	SIHP # -00630 (seven sets of human remains and one burial pit) documented; two sets preserved in place and five sets reinterred on site
Hammatt et al. 1998	Archaeological data recovery (Vols I, II, and III)	Kukui'ula Planned Community, Phase I	Conducted data recovery in 33 of sites documented by Hammatt et al. (1988)
Ida and Hammatt 1998	Historic research	SIHP # 50-30-10-01911, Kukui'ula Bay Community Phase II	Further findings pertaining to SIHP # -01911 previously identified by Hammatt et al. (1988); recommends data recovery of site rather than preservation due to its poor condition
Hammatt et al. 1999	Archaeological data recovery	Kukui'ula Bay Community Phase II	Performed data recovery on five sites: SIHP #s -01905 through -01907, -01909, and -01910 identified by Hammatt et al. (1988); large amount of midden and numerous traditional Hawaiian and historic artifacts (930) collected
Ida et al. 2000	Mitigation study	Kukui'ula	Mitigation study for SIHP # -01911, historic research and three interviews pertaining to history of a Portuguese oven SIHP # -01911 previously identified by Hammatt et al. (1988)
Cleghorn and McIntosh 2001	Archaeological inventory survey	2.0-acre parcel on comer of Pa'anau Rd and Po'ipū Rd	Five houses mapped, described, and photographically documented
Creed et al. 2002	Archaeological inventory survey	11.5-acre *makai* lands in coastal Lāwa'i (west of Spouting Horn Park)	SIHP #s -03071 and -03072 (overhang shelter), -03073 (walls and pavement)

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
Tome and Dega 2003	Archaeological monitoring	4646 Amio Rd, E side of Kukui'ula Bay	Documented and recovered seven incomplete sets of human skeletal remains identified as SIHP # -00353
Yorck et al. 2003	Data recovery	Kukui'ula	Identified SIHP #s -03075 (habitation and burial caves), and -03076 (*heiau*)
Tulchin and Hammatt 2004	Archaeological inventory survey	Offsite portion of Western Bypass Rd	Data recovery for SIHP #s -01918 through -01921 and -01923 previously identified by Hammatt et al. (1988)
Van Ryzin et al. 2004	Archaeological inventory survey	Aepo water line, 'Ōma'o, Kōloa Ahupua'a	No historic properties identified in vicinity of Kukui'ula Community Development area
Yorck et al. 2004	Addendum to an archaeological inventory survey	Three proposed well sites and appurtenances in vicinity of Pīwai Reservoir	No historic properties identified
Fong et al. 2005	Archaeological inventory survey	0.947-acre parcel located W of Po'ipū Sheraton Resort and S of Po'ipū Rd, in coastal Kōloa, generally referred to as Kōloa Landing	Identified three historic properties: SIHP # -03912 consists of two historic features associated with railroad system, Feature A, footing for a bridge support; Feature B identified as soil and basalt berm; SIHP # -03913 consists of two historic features; Feature A identified as a concrete pedestal; Feature B identified as trash mound(s), possibly accumulated during heavy use of Kōloa Landing; SIHP # -03928 consists of three historic features interpreted as remnants of Kōloa Landing; Feature A, western dock formation; Feature B, eastern dock formation; Feature C, later addition to landing, functioning as small boat ramp
Ida et al. 2005	Archaeological monitoring	SIHP # -03075B in Kukui'ula	No new archaeological findings at SIHP # -03075B
O'Leary and Hammatt 2005	Archaeological inventory survey	40-ft wide corridor along eastern edge of Lāwa'i Bay	No historic properties identified
O'Leary et al. 2005	Archaeological inventory survey	Kukui'ula Bay	Seven trenches excavated within project area; no surface or subsurface sites observed during this study

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
Yorck and Hammatt 2005	Archaeological inventory survey	Intersection of Lāwa'i and Pō'ipū roads	Majority of project area previously disturbed by construction of existing roads; SIHP # -03895 (basalt stone and mortar foundation) identified
O'Leary and Hammatt 2006	Archaeological inventory survey (called an archaeological assessment in absence of finds)	686 m corridor located along Po'ipū Rd running SE from its intersection with Lāwa'i Rd to Po'ipū Water Reclamation Facility	No historic properties identified
McCurdy and Hammatt 2007	Burial recovery report	Lawai Beach Resort Kamala'ula (Kamalo'ula) Cemetery	Documents disinterment of 68 sets of human burials at SIHP # 50-30-10-1985; 31 (46%) of burials complete and undisturbed for most part; remaining 37 (54%) partial with evidence of disturbance; skeletal remains reinterred in more protected site inland
Tulchin and Hammatt 2007	Inadvertent discovery	Kukui'ula Bay Community area, TMKs: (4) 2-6-016:014 and 094	SIHP # -00682 (lava tube and human remains) identified; remains reinterred at SIHP # -01927A (lava tube with burial), a designated burial preserve located within Kukui'ula Community Development area
Hazlett and Hammatt 2008	Archaeological monitoring	Western Bypass Rod	No cultural deposits or human remains encountered
Jones and Hammatt 2008	Archaeological monitoring	SIHP #s -1903 and -1904, *pu'u* (hill)	Implementation of (Hammatt et al. 2000) preservation plan for SIHP #s
Hoerman and Spear 2009	Archaeological inventory survey	90-acre parcel at mouth of Lāwa'i Valley, Lāwa'i Ahupua'a	Six historic properties newly identified: SIHP #s -00893 agricultural terraces; -00894 multi-feature habitation site; -00895 two terraces; -00896 a *lo'i* complex; -00897 a habitation terrace; -00898 a wall; and previously identified -03067C series of *lo'i* terraces, and -03069 a wall
Hammatt and Shideler 2012	Archaeology and cultural impact concerns	Parcel DD at Kukui'ula	SIHP #s -01903 and -01904 including vegetation clearing and select rock removal

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
Hammatt 2014	Archaeological monitoring	Lot 14A at Kukui'ula	Discusses SIHP # -02205, wall identified during the AIS (LaChance et al. 2014); no newly identified historic properties
LaChance et al. 2014	Archaeological inventory survey	Lot 14A in Kukui'ula Development area, just *mauka* of Lāwa'i Rd and Spouting Horn	SIHP # -02205 (historic wall) identified
Shideler and Hammatt 2014	Archaeological monitoring	Coastal Lāwa'i (west of Spouting Horn Park)	Discusses SIHP #s -00990, -03071, and -003072
Belluomini and Hammatt 2015	Archaeological inventory survey (called an archaeological assessment in absence of finds)	W/ central Kukui'ula Parcel H in Development area, between golf course holes # 9 and # 10	No historic properties identified
Belluomini and Hammatt 2016	Archaeological inventory survey	Kukui'ula Community Development Parcel A project, Lāwa'i and Kōloa *ahupua'a*	One historic property identified: SIHP # -02310, plantation infrastructure
Raff-Tierney and Hammatt 2016	Archaeological inventory survey (called an archaeological assessment in absence of finds)	Manuhonuhonu Borrow Site Phase 3, TMK: (4) 2-6-003:001	No historic properties identified

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
KNIBC Minutes 2016 (SHPD 2016)	SHPD burial recovery	Kukui'ula Harbor "where the ditch runs into the ocean" believed to have been found approx. 550 m ESE of Parcel J1 study area	Kaua'i Ni'ihau Islands Burial Council (KNIBC) minutes of 21 Sept 2016: "Mary Jane [Naone] introduced herself explaining my role is to identify if it's human or not, I was called out by a landscaper and he was doing ground keeping at Kukui'ula the harbor where the ditch runs into the ocean. Aside the slope is packed red dirt and human remains were exposed. Following my conclusion of human remains I notified Kauanoe and she it took over after that. Kauanoe Hoomanawanui explains she and Councilmember Sandi Quinsaat made a site visit and secured the remains. Following consultation with Kukui'ula we scheduled a reinternment in the burial preserve. I, Councilmember Quinsaat and Kimo Burgess reinterred the remains for long term preservation"; no SIHP # assigned, no additional information
Folk et al. 2017 (draft)	Supplemental archaeological inventory survey	Kukui'ula Community Development Parcel A project, Lāwa'i and Kōloa Ahupua'a	One historic property identified: SIHP # -02310, plantation infrastructure Features 1, 2, and 3 described
Folk et al. 2020	Archaeological monitoring	S/central Kukui'ula Parcel FF, Phase 1 project	No historic properties identified
Hammatt 2020	Field inspection letter report for improvements	Parcel E (in *mauka* west portion of), Kukui'ula Community Development project	No historic properties identified
Ida et al. 2020	Archaeological monitoring	E/central Kukui'ula Parcel U/AA project	No historic properties identified
Belluomini et al. 2022	Archaeological literature review and field inspection	Kukui'ula Manuhonuhonu Reservoir Alteration project	Two potential historic properties observed: portion of Smith Ditch (SIHP # -00364) in southeast corner of project area, and Manuhonuhonu Dam and Reservoir (designated CSH 2)

Reference	Type of Study	Location	Results (SIHP # 50-30-10****)
Hammatt 2022 (draft)	Archaeological literature review and field inspection	Parcel A2, F2, and F3 of Kukui'ula Community Development project	Discuses land use history, previous finds, and 2022 field inspection with particular attention to remnants of former railroad
Hammatt 2023	Archaeological literature review and field inspection	Parcel J1 of the Kukui'Community Development project	No historic properties identified

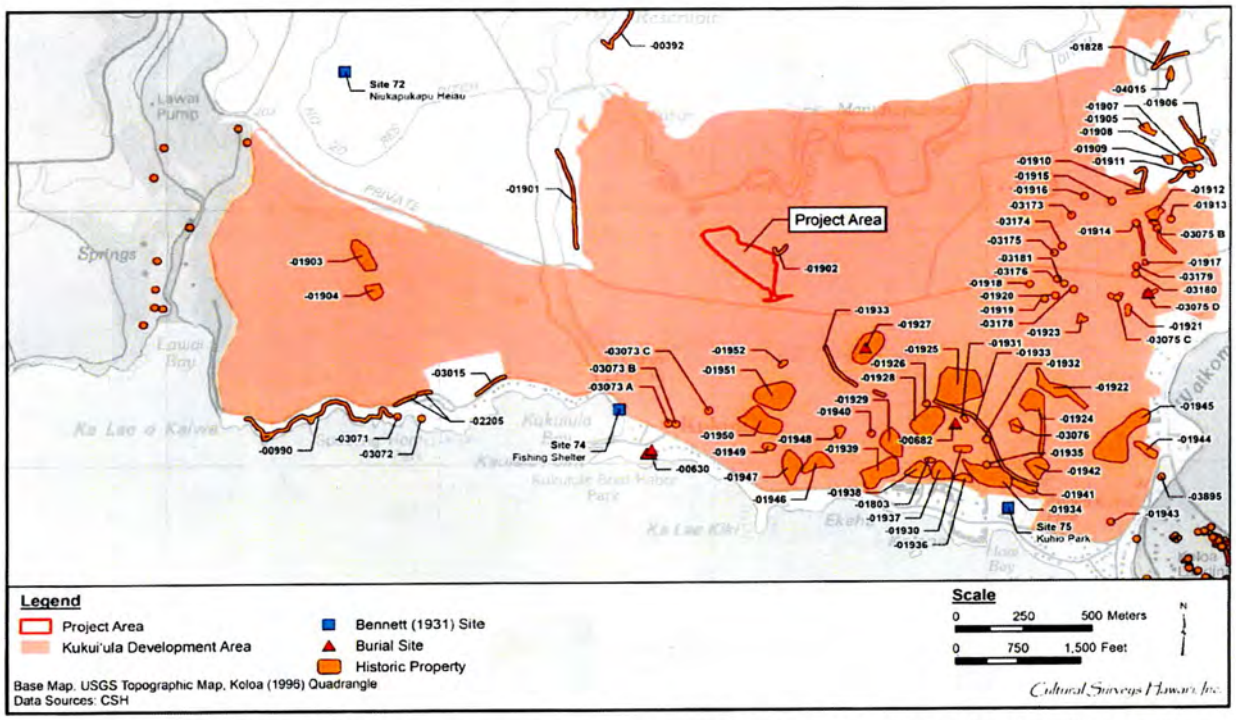


Figure 19. Portion of 1996 Koloa USGS topographic quadrangle showing parcel J1 and historic properties identified during previous archaeological studies at the Kukui'ula Community Development project area and vicinity

Table 3. Archaeological historic properties in the Kukui'ula Community Development project

SIHP # (50-30-10)	Type	Reference	Description/Comment
00072	*Heiau* (Niukapukapu Heiau)	Bennett 1931	On the top of Niukapukapu hill, on the east bluff of Lāwa'i valley. The outside measurements of this *heiau* are 46 by 95 feet.
00074	Fishing shelter	Bennett 1931	On the shore near the mouth of Kukui'ula valley. It is 5 feet high, and 6 feet wide at the base. It is arched up of stone and used principally for a wind break.
00075	Kūhiō Park complex	Bennett 1931	On the shore west of Waikomo stream, Kōloa. Taro patches, a small heiau, an oven, paved house platform, fish pond, game ground with seats around, and a fishing shrine are the principal features
00392	Irrigation ditch	Van Ryzin et al. 2004	Irrigation ditch (Feature A) cited as extending for 2,600 m, site includes culverts (Features B through D), a pump and pump house (Feature E), and an abandoned concrete filter (Feature F)
00630	Human burial	Ida et al. 1997	A total of seven sets of human remains, five were disinterred and 2 were left in place, posited to have been a burial area
00682	Human burial	Tulchin and Hammatt 2007	A concentration of basalt boulders was observed sitting atop the ledge at the southern edge of the cave. Small bird bones and a human vertebrae fragment were observed on the top of the basalt boulders. Relocated to the SIHP # -01927 Feature A burial preserve.
00990	Trail	Creed et al. 2002	A discontinuous shoreline trail which traverses the coastal cliffs. For most of its length, the trail is simply a dirt path. This trail site includes four separate features; Feature A is the paved curb stone section of the trail; Feature B is a short retaining wall section of the trail; Feature C is a short section of cut basalt block stairs with an associated wall section; and Feature D is another short section of cut basalt block stairs.
01803	Habitation complex	Hammatt et al. 1988, Hammatt et al. 1998	A temporary habitation with two habitation platforms (Feature A and Feature B) and an agricultural mound (Feature C) Subject of data recovery (CSH temporary site # 42)

SIHP # (50-30-10)	Type	Reference	Description/Comment
01828	Wall	Hammatt 1990	The wall is 1 meter to 1.2 meters wide and 50-60 cm. high. It is constructed of stacked boulders with a smaller rock core filling. The wall is of fairly recent construction and was built as a boundary wall between the school and adjacent properties including cane fields and Pa'anau Rd.
01901	*'Auwai*	Hammatt et al. 1988, Van Ryzin et al. 2004	An *'auwai*, 1-2 m in width, 50-80 cm in depth for a length of approximately 40 meters with mortar covered basalt scattered near its confluence with the stream (CSH temporary site # 1)
01902	*'Auwai*	Hammatt et al. 1988	The *'auwai* is discontinuous, but traceable for approximately 121.9 m. The distinct sections have mostly a cut bank upslope side with soil and stone lining for the downslope embankment (CSH temporary site # 2)
01903	Possible *heiau* remnant	Hammatt et al. 1988, Hammatt et al. 2000	A possible *heiau* which has been impacted by cane field bulldozer clearing and the growth of three large banyan trees. The remaining structure is a maximum of 24.4 m wide NE/SW by 91.4 m long NW/SE. It consists of five (5) terrace levels that share a virtually continuous, mostly undisturbed, boulder faced slope (which ranges in height from 0.9 to 3.0 m. South to North) on the eastern side. The western side of the structure has been the most impacted by cane field bulldozing. This includes positing of large boulders and soil onto the structure. This is addressed in a Preservation Plan (CSH temporary site # 3)
01904	Site remnant	Hammatt et al. 1988, Hammatt et al. 2000	A probable site remnant, located some 121.9 m *makai* (south) of SIHP # -1903, and like SIHP # -01903, it appears as an "islan" of dense vegetation within the cane fields. This site appears as an approximately 30.5 m in diameter large boulder pile. There is a barely discernable curved alignment 12.1 m long E/W by 0.9 to 1.2 m wide and 0.3 m high on the *makai* (south side) which may have been a retaining wall or enclosure wall. However, the entire perimeter and portions of the interior have been impacted by bulldozing for cane field clearing. No paved or leveled areas were observed on this boulder pile (CSH temporary site # 4).

SIHP # (50-30-10)	Type	Reference	Description/Comment
01905	Platforms	Hammatt et al. 1988, Hammatt et al. 1999	Consists of two adjacent platforms understood as pre-Contact. The larger platform is roughly rectangular in shape and measures a maximum of 26.1 m. N/S by 7.62 m. E/W and 0.61 m. high. The smaller of the two platforms and its dimensions are 3.3 m. E/W by 3.3 m. N/S and is roughly triangular in shape (CSH temporary site # 5)
01906	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1999	A pre-Contact complex of probable habitation and associated agricultural features. Features associated with Site -1906 include an *'auwai,* large, probable *lo'i*- type fields, a smaller walled field, 2 probable habitation enclosures and 2 probable habitation terraces (CSH temporary site # 6)
1906E	*'Auwai*	Hammatt et al. 1988, Hammatt et al. 1999	An *'auwai* located on the southern or *makai* side of the site traceable for 274. 3 m. suggested as traditionally used for taro cultivation, which was then used during historic times, probably for cane (part of CSH temporary site # 6)
01907	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1999	A pre-Contact complex of agricultural and probable habitation features, the agricultural features include walls, fields and enclosed fields. The probable habitation features include a platform and a C-shaped structure (CSH temporary site # 7)
01908	Historic structure foundations	Hammatt et al. 1988,	Cement platforms for wooden frame houses, believed to be the home of Mr. Frank Vasconcelles (CSH temporary site # 8)
01909	Pavement and *'auwai*	Hammatt et al. 1988, Hammatt et al. 1999	Consists of a probably pre-Contact habitation pavement and adjacent *'auwai* traceable for 90 m (CSH temporary site # 9)
01910	*'Auwai*	Hammatt et al. 1988, Hammatt et al. 1999	Includes a surface scatter of historic artifacts (old bottles), a large L-shaped wall section and an *'auwai* traceable for 55 m (CSH temporary site # 9 and CSH temporary site # 10)
01911	Historic house site	Hammatt et al. 1988	Portuguese oven, believed to have been used by Mr. Frank Vasconcelles' mother (CSH temporary site # 11)
01912	Agricultural complex	Hammatt et al. 1988	A complex of agriculturally related walls and an enclosure. The enclosure is a well-defined agricultural field 15.2 m. N/S by 24.4 m.) E/W with a soil interior (CSH temporary site # 12)

SIHP # (50-30-10)	Type	Reference	Description/Comment
01913	Platform	Hammatt et al. 1988	A probable habitation platform, rectangular in shape, measures 6.706 m. NW/SE by 7.9 m. NE/SW and is a maximum of 0.61 m high (CSH temporary site # 13)
01914	Habitation cave (entrance)	Hammatt et al. 1988	The opening to this lava tube is from a modified sink area roughly 3.0 m. in diameter and 1.2 m. The tube is easily negotiable for some 121.9 m. deep (CSH temporary site # 14)
01915	Platform and *'auwai*	Hammatt et al. 1988	A temporary habitation platform, subject of data recovery (CSH temporary site # 16)
01916	Mound	Hammatt et al. 1988	A rectangular boulder and cobble mound, a probable agricultural rock clearance mound (CSH temporary site # 17)
01917	Platform	Hammatt et al. 1988	The intact platform consists of two levels, a *makai* (southern) level 3.0 m. by 10.0 m. and 7.6 m. by 10.1 m. mauka level. The makai level is cobble paved with the mauka level being 0.15 m. higher and boulder paved (CSH temporary site # 18)
01918	Platform	Hammatt et al. 1988	The rectangular platform measures 3.7 m. N/S by 4.6 m. E/W and is a maximum of 0.5 m. high. The surface of the platform is boulder slab paved with pebbles in the cracks between the slabs creating a relatively level surface (CSH temporary site # 20)
01919	Platform	Hammatt et al. 1988	The rectangular platform measures 4.6 m. NE/SW and is a maximum of 0.61 m. high. The surface of the platform is a relatively level boulder pavement (CSH temporary site # 21)
01920	Modified outcrop	Hammatt et al. 1988	Modification includes piling of boulders around the perimeter of the outcrop, especially the western side. The piling of rocks on the western side is 9.1 m. N/S long by 6.1 m. E/W wide and 0.9 m. high. The center of the outcrop is unmodified exposed bedrock. This site is a possible habitation feature, but more probably an agricultural rock clearance mound (CSH temporary site # 22)

SIHP # (50-30-10)	Type	Reference	Description/Comment
01921	Habitation/ agricultural complex	Hammatt et al. 1988	The habitation feature of this site is the modified top surface of a *pāhoehoe* bedrock bluff. Modifications include piecing of boulders and cobbles along the north, east, and south sides of the high point of the bluff, then leveling the top with pebbles and cobbles. The agricultural features include narrow soil terraces with piled rock retaining walls on the south facing bluff slope and a large soil planting area at the base of the slope (CSH temporary site # 25)
01922	Agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	Included an *'auwai* (270 m long) and associated features including poorly defined agricultural fields, (probable *lo'i*), and a probable habitation feature. Subject of data recovery (CSH temporary site # 26)
01923	Modified outcrop	Hammatt et al. 1988, Hammatt et al. 1998	Modifications include a possible *'auwai* section and paved areas on the outcrop itself (CSH temporary site # 27)
01924	Agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	The features consist of a rectangular field, discontinuous linear mounds and stacked boulder walls, rock clearance mounds, and an L-shaped terrace (CSH temporary site # 28)
01925	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	This is a habitation and agricultural site complex including a C-shape, platforms, fields and walls. Subject of data recovery (CSH temporary site # 29)
01926	Wall	Hammatt et al. 1988,	A stacked wall remnant 5.5 m. long with a maximum height of 1.0 m. and width of 0.9 m. This wall is constructed of boulders stacked up to six courses high (CSH temporary site # 30)
01927	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	Included two areas of cave shelters, a terrace, and associated agricultural features. Subject of data recovery (CSH temporary site # 31)
01928	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	A habitation and agricultural complex of 8 designated features, including C-shapes, platforms, and enclosures. Subject of data recovery (CSH temporary site # 32)

SIHP # (50-30-10)	Type	Reference	Description/Comment
01929	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	This complex includes an irrigation ditch, walls, platforms, mounds, and enclosures. The general area is rocky *pāhoehoe* with a number of ditches (*'auwai*) some of which are distinct and others of which are barely discernible. Subject of data recovery (CSH temporary site # 33)
01930	Habitation complex	Hammatt et al. 1988, Hammatt et al. 1998 15139	Described as a *heiau* complex built on and around a large modified bedrock outcrop, adjacent to a large modified boulder filled sink. Subject of data recovery (CSH temporary site # 34)
01931	Platforms	Hammatt et al. 1988, Hammatt et al. 1998	A probable habitation site or field work shelter area including two small platforms. Subject of data recovery (CSH temporary site # 35)
01932	Platform	Hammatt et al. 1988,	A rather mounded platform that was thought to probably be a rock clearance feature. Subject of data recovery (CSH temporary site # 36)
01933	Railroad berm	Hammatt et al. 1988, Hammatt et al. 1998	Designates the old railroad berm which runs through much of the project area, generally running from the northwest in the direction of the McBryde Mill toward the southeast and Koloa Landing. Subject of data recovery (CSH temporary site # 37)
01934	Agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	Consisting of terraces, retaining walls, ditches (*'auwai*), fields, and a circular platform. Subject of data recovery (CSH temporary site # 38)
01935	Enclosure	Hammatt et al. 1988	This small rectangular enclosure measuring 1.5 m. N/W by 2.4 m. E/W (interior dimensions) with a back wall 0.61 m. high and 0.91 m wide built on the edge of a bedrock bluff is a probable habitation enclosure or field shelter. Subject of data recovery (CSH temporary site # 39)
01936	Agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	This is a continuation of agricultural fields and the raised *'auwai* of SIHP # -01934. This site designation includes an U-shaped shelter and a bulldozed remnant of what was probably once a sizeable platform. Subject of data recovery (CSH temporary site # 40)

SIHP # (50-30-10)	Type	Reference	Description/Comment
01937	Habitation complex	Hammatt et al. 1988, Hammatt et al. 1998	Includes a number of minor modifications within and abutting a sink containing standing water and an enclosure damaged by bulldozing. Subject of data recovery (CSH temporary site # 41)
01938	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	Consists of six designated features (including 3 terraces, an L-shaped wall, and 2 platforms which probably include both habitation and agricultural constructions. Subject of data recovery (CSH temporary site # 43)
01939	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	A habitation and agriculture complex comprising thirteen designated features, associated with the branching of a major well-defined *'auwai*. Subject of data recovery (CSH temporary site # 44)
01940	Platform	Hammatt et al. 1988	A platform that had been greatly impacted by the growth of a large banyan tree that grows through a portion of the structure. Historic modifications and modern bulldozing also appeared to have affected the site. Subject of data recovery (CSH temporary site # 45)
01941	Agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	Consists of five designated features: three enclosures, a C-shape, and a field wall which are in reality a continuation of Site -1934 to the west. Subject of data recovery (CSH temporary site # 46)
01942	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	A habitation and agricultural complex comprised of three features. Feature -1942/A consist of a modified bedrock outcrop, Feature -1942/B consists of adjacent structures including an oval stone-lined pit, a small rectangular enclosure, a C-shape enclosure, and a platform. Feature -1942/C consists of a small rectangular enclosure. Subject of data recovery (CSH temporary site # 47)
01943	Site remnant	Hammatt et al. 1988	Consists of a habitation platform, rock clearance pile, an L-shape and a section of *'auwai*. Subject of data recovery (CSH temporary site # 48)
01944	Platforms	Hammatt et al. 1988, Hammatt et al. 1998	Consists of two platforms (designated Features -1944/A and -1944/B), both of which have been severely impacted by bulldozing, and two enclosures. Subject of data recovery (CSH temporary site # 49)

SIHP # (50-30-10)	Type	Reference	Description/Comment
01945	Agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	A large rectangular walled enclosure and adjacent enclosure remnants. Subject of data recovery (CSH temporary site # 50)
01946	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	A habitation and agricultural complex of seven designated features including C-shapes, enclosures, a platform, and mounds. These structures are situated in an area with several field remnants. Subject of data recovery (CSH temporary site # 52)
01947	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	This complex consists of eight designated features including enclosures, platforms, C-shapes, mounds, and walls. Subject of data recovery (CSH temporary site # 53)
01948	Habitation complex	Hammatt et al. 1988, Hammatt et al. 1998	A habitation and agricultural complex made up of an agricultural platform, a habitation enclosure, paved area with a possible cupboard, a C-shape shelter, and a rectangular mound. Subject of data recovery (CSH temporary site # 54)
01949	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	A temporary habitation and agricultural complex made up of a habitation enclosure, a habitation U-shape, an agricultural mounded wall, and two habitation mounds. Subject of data recovery (CSH temporary site # 55)
01950	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	An agricultural and temporary habitation complex that consists of C-shapes, L-shapes, U-shapes, modified outcrops, terraces, walls, a ramp-like feature or possible elevated *'auwai* section, and a stacked boulder wall. Subject of data recovery (CSH temporary site # 56)
01951	Habitation/ agricultural complex	Hammatt et al. 1988, Hammatt et al. 1998	Comprises a large enclosure and associated habitation and agricultural features. The large oval enclosure measures approximately 73.1 m. NE/SW by 42.6 m. NW/SE with a stacked boulder constructed wall ranging in height from 75 cm. to 1.24 m. This site included linear mounds, oval mounds, and U-shapes and L-shapes with associated soil planting areas. Subject of data recovery (CSH temporary site # 57)
01952	Wall/ platform	Hammatt et al. 1988, Hammatt et al. 1998	Probably an agricultural site, and includes a wall remnant and platform with a crypt-like feature. Subject of data recovery (CSH temporary site # 58)

SIHP # (50-30-10)	Type	Reference	Description/Comment
02205	Wall	LaChance et al. 2014	A discontinuous, small to large, subangular, basalt boulder wall remnant (likely plantation era)
03015	Wall	McMahon 1996	The wall displays a traditional Hawaiian, mortarless core-filled construction technique.
03071	Overhang shelter	Creed et al. 2002	A rock shelter located along the coastal cliff near Spouting Horn. The site consists of a natural rock overhang that measures 10.0 m N/S at the entrance by 5.7 m E/W. The interior heights of the ceiling have a maximum of 2.6 m. No midden or artifacts were observed. The site correlates with Kikuchi Site 56. It appears that the site has been looted, used in modern times, and affected by wave action.
03072	Overhang shelter	Creed et al. 2002	A rock shelter located along the coastal cliff near Spouting Horn. The site consists of a natural rock overhang that measures 6.1 m NW/SE at the entrance by 2.1 m NE/SW. The interior heights of the ceiling have a maximum of 1.4 m. Two dirt piles located outside the entrance may correlate with looting activities. No midden or artifacts were observed. The site correlates with Kikuchi site 57. It appears that the site has been looted, used in modern times and affected by wave action.
03073A	Wall	Kikuchi 1963	A rough wall 1 1/2 feet high by 1 1/2 feet wide was seen running 180 degrees magnetic bearing and approximately 20 feet long. The wall ran parallel to an incline which it probably delineated.
03073B	Wall	Kikuchi 1963	A stone wall 2-3 feet wide and about 3 feet tall covered by bushes and shrubs was noted. Only 50 to 70 feet of the wall could be easily discerned. The wall was seen to be built in the traditional way of filling small stones in between a frame of larger stones. Notes an unusual slab of vesicular basalt with a circular depression 6 inches in diameter.

SIHP # (50-30-10)	Type	Reference	Description/Comment
03073C	Pavement	Kikuchi 1963	On the area where the Loran station once stood were several foundation stands for the towers. The towers are now destroyed. The site of the towers and the instrument house stands on a 3 foot high outcropping of *pāhoehoe* lava. Upon examination of the site it was found that the *pāhoehoe* outcropping was dressed by inserting slabs of stone between the crevices and by building up, artificially, of the sides of the outcropping with stones to build pavements and terraces.
03075A	Habitation cave (entrance)	Kikuchi 1963, Hammatt et al. 1988	A large modified lava tube, that is a probable habitational refuge cave which has been extensively used during historic times. The lava tube was used by the County of Kaua'i as a Civil Defense Bomb Shelter (CSH temporary Site # 15)
03075B	Habitation cave (entrance)	Kikuchi 1963, Hammatt et al. 1988	A modified sink and probable habitation cave, Modifications to the sink include: a road-like feature, a rough boulder alignment, and a paved area fronting the cave opening. The road-like feature cuts across the sink in an East/West orientation and is constructed of stacked boulders with a compact boulder and cobble surface (CSH temporary Site # 23)
03075C	Habitation/ burial cave (entrance)	Kikuchi 1963, Hammatt et al. 1988	A probable habitation and burial cave. Midden was noted on the cave floor. A low platform, possible burial feature was observed and preserved in place (addressed in a Hammatt and Shideler 2001 preservation plan) (CSH temporary Site # 24)
03075D	Human burial	Hammatt et al. 1988	A possible burial feature (low platform which measures 0.9 by 2.1 m) abutting the NE wall of the main chamber of a lava tube
03076	*Heiau*	Kikuchi 1963, Hammatt et al. 1988, Hammatt et al. 1998	A large terraced platform and probable *heiau* (Kamaloula Heiau?) measuring about (24.4 by 24.4 m.) and consisting of five relatively discrete terrace levels. Subject of data recovery (CSH temporary site # 51)
03173	Wall	Palama and Stauder 1973	Constructed of stacked *pāhoehoe* rocks, 0.75 m. high, 0.50 m. wide and running for an undetermined distance.

SIHP # (50-30-10)	Type	Reference	Description/Comment
03174	Platform	Palama and Stauder 1973	Constructed of large faced *pāhoehoe* slabs on the perimeter and filled with *pāhoehoe* rubble. This feature utilizes a *pāhoehoe* outcropping on the northeast side.
03175	Wall	Palama and Stauder 1973	This wall utilizes some upright stones in its construction with the bulk of construction being stacked *pāhoehoe*. The dimensions are 1 m. high by 1 m. wide and runs for approximately 6 m.
03176	Enclosure	Palama and Stauder 1973	Consists of a rectangular enclosure with a L-shape appendage on the north side. The appendage and enclosure entrance faces west. Dimensions are approximately 3 m. wide by 9 m. long. The walls which are deteriorated stand approximately .50 m. high by 2 m. wide.
03178	Modified outcrop	Palama and Stauder 1973	This feature is probably a pen. The wall runs on and around a large *pāhoehoe* outcrop. This feature encloses an area approximately 20 m. square.
03179	Habitation cave (entrance)	Palama and Stauder 1973, Hammatt et al. 1988	This feature exhibits modification on both the exterior and interior. On the exterior of the cave are two walls, the entrance of the cave faces on to a flat open space. The interior of the cave has been cleared, the entrance modified and the ceiling fire blackened. There is one, possibly two walls toward the back of the cave. The soil appears to be relatively undisturbed. It appears that both the interior and exterior of this cave has been utilized for habitation.
03180	Habitation cave	Palama and Stauder 1973	This feature is similar to SIHP # -03179 except this dwelling cave utilizes more exterior modifications. These modifications consist of a well built walled enclosure fronting the entrance to the cave, stone alignments and walls.
03181	Agricultural complex	Palama and Stauder 1973	Although this is the only defined agricultural area in the corridor, the evidence of *'auwai*(s) and the ethnohistorical material all indicate that the entire area was once under intense agriculture, both *kula* and *kalo*.
03895	Stone and mortar foundation	Yorck and Hammatt 2005	Consists of a foundation measuring 4.6 by 3.0 m. constructed of cut basalt stones and mortar. Thought to be associated with the Kōloa railroad.

SIHP # (50-30-10)	Type	Reference	Description/Comment
04015	Pa'anau Plantation Camp	Kikuchi 1988	Noted concrete E-shaped forms of unknown function, concrete foundations, platforms, and pits, a latrine drainage ditch, and a concrete crock

5.3 2023 Archaeological Field Inspection

On 23 February 2023, at the request of BBCP Kukui'ula Development, LLC, a field inspection of Parcel J1 was conducted under archaeological fieldwork permit number 23-30, issued by the Hawai'i SHPD per HAR §13-13-282. Fieldwork for Parcel J1 was completed by CSH archaeologist Missy Kamai, B.A, under the general supervision of Principal Investigator Hallett H. Hammatt, Ph.D. This work required approximately 1 person-day to complete. The Hammatt 2023 field inspection relates the following:

> Parcel J1 is situated just west of a ridge, between two holes of Kukui'ula's golf course, hole #7 to the west and hole #6 to the east. A maintenance cart road and part of the golf course including a pond and landscaping vegetation is currently situated where the road to Parcels J, K, and L will be constructed. A small portion of Parcel J1's east edge is located within a heavily vegetated area of *haole koa* and waist high grass, while the majority of the parcel consisted of ankle high grass, allowing for good ground visibility [present Figure 20 through Figure 28].
>
> The parcel, situated in former cane land was part of the McBride Company in the 19th and 20th centuries. SIHP # 50-30-10-01902 described as a historic dirt lined ditch, tapped from Aepo Stream, and most likely associated with sugar cane cultivation located just outside the east edge of Parcel J1 (Hammatt et al. 1988:159, see Figure 19) could not be relocated during this field inspection.
>
> Based on the results of the field inspection of Parcel J1, the results of previous archaeological studies in the larger project area and the long history of land use-under cultivation of sugarcane, the Hammatt (2023) study requested concurrence of SHPD with a project effect determination of 'no historic properties affected.'

The Hammatt (2023) study asserted that the no historic properties affected determination for the project effect should be applied to the development of Parcel J as a residential subdivision, and to the individual building permits for homes within the Parcel J subdivision.

Future individual building permitees would still be subject to the 2013 Kukui'ula Community Development Project guidelines titled *Kukui'ula Construction Rules*, specifically the "Archaeological Protocol" section that states two critical steps: 1) if [human] remains are inadvertently found during ground disturbing activities, all activities will cease in the immediate vicinity of discovery and Kukui'ula Site Superintendent will be immediately contacted. The Site Superintendent shall report the inadvertent findings to the State Historic Preservation Division; and 2) temporary barricades will be installed at a minimum distance of 15 feet from the inadvertent discovery to secure the area [per HRS 300].

Figure 20. Location of future entrance into Parcel J, K, and L (cart road just off Ala Kukui'ula), view to northwest (from Hammatt 2023:11)

Figure 21. Location of future entrance into Parcel J, K, and L, view to northwest (from Hammatt 2023:11)

Figure 22. Overview photo of project area taken from the southeast, view to northwest (from Hammatt 2023:12)

Figure 23. Overview photo taken from approximate center of project area, view to north (from Hammatt 2023:13)

Figure 24. Overview photo taken from approximate center of project area, view to east (from Hammatt 2023:13)

Figure 25. Overview photo taken from approximate center of project area, view to southeast (from Hammatt 2023:14)

Figure 26. Overview photo taken from approximate center of project area, view to southwest (from Hammatt 2023:14)

Figure 27. Overview photo taken from approximate center of project area, view to west (from Hammatt 2023:15)

Figure 28. Overview photo project area taken from the northwest area, view to southeast (from Hammatt 2023:15)

5.4 Historic Properties Near Parcel J1

5.4.1 Identifications near Parcel J1

No historic properties have been identified within Parcel J1 and only one historic property, SIHP # 50-30-10-01902 was located within 250 m of Parcel J1. SIHP # -01902 was described as follows:

> [CSH temporary site # 2....] is an *'auwai* remnant situated on the makai (southern) end of a brush covered ridge *makai* (south) of Manuhonuhonu Reservoir. The *'auwai* is discontinuous, but traceable for approximately 400 ft (121.9 m.). The distinct sections have mostly a cut bank upslope side with soil and stone lining for the downslope embankment. The *'auwai* averages 3 ft (.914 m) wide and 1 to 2 ft (.305 to .610m.) deep in the more defined sections. There are also a few indistinct agricultural rock clearance mounds on the downslope side of the *'auwai*. The *'auwai* is possibly prehistoric, but more likely it is related to early commercial cane cultivation. Presently [1988, the SIHP # -01902] area is a 'peninsula' into cultivated cane fields [Hammatt et al. 1988:45–46]

This site was determined to be no longer significant (following the AIS documentation) and there were no recommendations for further historic preservation work (Hammatt et al. 1988:178).

On 23 February 2023 a field inspection of Parcel J1 was conducted that searched for any remnant of SIHP # -01902 (described in Hammatt et al. 1988) but this site could not be confirmed during this field inspection.

5.4.2 Burial Sites in the Vicinity

Burial sites have been reported from four locations at Kukui'ula:

The archaeological inventory survey and data recovery investigations documented the presence of two traditional Hawaiian burials in the totality of the Kukui'ula project area. Human skeletal remains were encountered in a lava tube (SIHP # -01927 Feature A) approximately 350 m southeast of the Parcel J1 project area (these were addressed in a Hammatt and Shideler 2001 burial treatment plan and were preserved in place).

A low platform, possible burial feature was reported in lava tube designated SIHP # -03075C, located 1.2 km east of parcel J1 and the lava tube was preserved (addressed in a Hammatt and Shideler 2001 preservation plan).

In 2007 one human vertebrae was inadvertently discovered in another lava tube (SIHP # -00682) in Kōloa Ahupua'a approximately 850 m east of the Parcel J1 project area (Tulchin and Hammatt 2007; these were relocated to the SIHP # -01927 Feature A burial preserve).

A CSH (Reveal and Hammatt May 2014) study documents the identification of fragmentary human skeletal remains in sediment samples from SIHP # -01927A. This circumstance was shared with the Kaua'i/Ni'ihau Island Burial Council (KNIBC) at the meeting of 21 May 2014 with proposed reinterment back in SIHP # -01927A. Reinterment was completed in SIHP # -01927A in October 2017.

There was an inadvertent discovery of human skeletal remains on 9 August 2016 at Kukui'ula. Bay (near the Kōloa/Lāwa'i *ahupua'a* boundary approximately 700 m southwest of the Parcel J1 project area) reported to the KNIBC. KNIBC minutes relate that:

> Mary Jane [Naone] introduced herself explaining my role is to identify if it's human or not, I was called out by a landscaper and he was doing ground keeping at Kukui'ula the harbor where the ditch runs into the ocean. Aside the slope is packed red dirt and human remains were exposed. Following my conclusion of human remains I notified Kauanoe and she it took over after that. Kauanoe Hoomanawanui explains she and Councilmember Sandi Quinsaat made a site visit and secured the remains. Following consultation with Kukui'ula we scheduled a reinternment in the burial preserve. I, Councilmember Quinsaat and Kimo Burgess reinterred the remains for long term preservation. [KNIBC Minutes, 21 September 2016]

It appears no SIHP # was assigned and there is no additional information available regarding the nature of the find. The find is believed to be approximately 550 m east-southeast of the Parcel J1 study area. These *iwi* (skeletal remains) were reinterred at the Kukui'ula reinterment location in a lava tube (designated SIHP # -01927 Feature A, known as the "*piko* preserve") approximately 400 m southeast of the Parcel J1 project area.

We also wish to note in passing that there was a Kamala'ula Cemetery (Kamaloula), (SIHP # -01985) at the Lawai Beach Resort (described in detail in McCurdy and Hammatt 2007) but this was not in Kukui'ula lands, nor was it in Lāwa'i Ahupua'a, and it was approximately 2.0 km distant east of the Parcel J1 project area.

During archaeological investigations of surface sites, no burials were encountered within the project area. Concerns related to this possibility of burials in the Parcel J1 project area are addressed below.

The *kama'āina* interviewees for the CIA were not aware of any burials within the entirety of the Kukui'ula project area. Several, however, spoke of a former cemetery located outside and *makai* of the Kukui'ula project area, on the site of the present Lawai Beach Resort. The interviewees recalled that it was a formal cemetery with grave markers and some fencing at its boundaries, and that interments continued into the first half of the twentieth century.

5.4.3 *Heiau* Sites in the Vicinity

A possible *heiau* on a distinctive *pu'u* (hillock) in the Lāwai portion of Kukui'ula 1,200 m to the west of Parcel J1, designated SIHP # -01903, has been preserved and addressed in a Preservation Plan (Hammatt et al. 2000)

A probable *heiau* (SIHP # -3076) located inland of Prince Kūhiō Park approximately 1.0 km southeast of Parcel J1 has been preserved in a 16-acre archaeological preserve and addressed in a preservation plan (Chiogioji and Hammatt 2003).

Section 6 Consultation Results

6.1 Cultural Impact Assessment Including the Parcel J1 Project Area

CSH carried out a CIA of an approximately 1,000-acre property—identified as the Kukui'ula project area—in the *ahupua'a* of Kōloa and Lāwa'i that included the Parcels J, K, L (Hammatt et al. 2002). The study gathered information from historical documentation, archaeological investigations, and *kama'āina* interviews.

The outreach included 29 Hawaiian organizations, government agencies, community members, and cultural descendants with ties to Kukui'ula who were contacted to 1) identify potentially knowledgeable individuals with cultural expertise and knowledge of the project area and the surrounding vicinity; and 2) identify cultural concerns and potential impacts within the project area (Table 4).

Based on recommendations from organizations and the community, eight *kūpuna* and *kama'āina* were identified with whom interviews were conducted. The eight interviewees were Mr. James Burgess, Mr. Kanichi Funamura, Mrs. Aletha Kaohi, Dr. William "Pila" Kikuchi, Mr. Abel Medeiros, Mr. James Miyake, Mr. Ilato Muraoka, and Mr. Earl Smith.

The ages of the eight *kūpuna* informants, at the time they were interviewed, ranged from 67 to 90 years. The oldest interviewee lived at Kukui'ula from 1912 until the 1980s. Two other interviewees resided in Kukui'ula during the 1920s, '30s, '50s, and '60s. The remaining interviewees had knowledge of the Kukui'ula project area through professional or cultural contact. The CIA is thus particularly valuable for the depth of firsthand remembrance of Kukui'ula in the early twentieth century it was able to capture.

Generally, only the eight *kūpuna* interviewees spoke to the aspects of this study mentioned in the letter above. Primarily, the others contacted made no claim to specific knowledge of traditional cultural resources, practices, beliefs, or related cultural concerns within the Kukui'ula project area, but gave referrals to knowledgeable potential interviewees. Dr. Holly McEldowney of the Culture and History Branch of the State Historic Preservation Division suggested the study treat place names in the Kukui'ula project area.

The study notes,

> Sugarcane and ranching were the dominating land use activities within the project area throughout the past century. These activities—and the sense that the project area was private property—restricted access inside the project area to employees of McBryde Sugar Company. None of the *kama'āina* interviewees who were former residents of the Kukui'ula area knew of any cultural sites in the project area, or could recall anyone entering the project area for any traditional cultural practice. The only interviewees with knowledge of traditional culture within the project area were Dr. William Kikuchi and Mrs. Aletha Kaohi who were acquainted with the area through professional and community service pursuits.
>
> Based on the evidence gathered for the assessment, at present no contemporary or continuing cultural practices occur within the project area. [Hammatt et al. 2002:i, ii]

Table 4. Results of community consultations reported in the CIA (Hammatt et al. 2002:32–33)

Key:

Y=Yes
N=No
A=Attempted (at least two attempts were made to contact individual or organization, with no response)
U=Unable to contact, i.e., no phone or forwarding address, phone number unknown

Name	Affiliation	Contacted	Comments
Ahahui	Hawaiian organization	A	
Burgess, James	Royal Order of Kamehameha I, Kaumuali'i Chapter No. 3	Y	Interviewed 17 Sept 2002 in Līhu'e, Kaua'i
Chun, Dennis	Hawaiian Studies Program, Kaua'i Community College	A	
Cobb, Rowen B.	Descendant of Blake family of Kōloa	Y	Provided information on Judge Henry K. Blake of Kōloa
Creamer, Annette	Kaua'i Representative, Alu Like, Inc.	Y	Gave referrals
Funamura, Kanichi	Kukui'ula resident, 1912–1980s	Y	Interviewed 8 Sept 2002 in Kukui'ula
Kaohi, Aletha	Hawaiian culture resource advisor, West Kaua'i Visitor Center; former member of Kaua'i Historic Preservation Review Commission	Y	Interviewed 13 Sept 2002 in Waimea, Kaua'i
Kapaka-Arboleda, LaFrance	Office of Hawaiian Affairs; Kaua'i/ Ni'ihau Islands Burial Council	Y	Gave referrals
Kapeliela, Kana' i	Burial Sites Program, State Historic Preservation Division	A	
Kaua'i Hawaiian Civic Club	Hawaiian organization	A	
Kaui, Trinette	A&B Properties, Kaua'i	Y	Gave referrals
Keala, Jalna	Hawaiian Rights Division, Office of Hawaiian Affairs	Y	Gave referrals
Keli'ipio, Sheryl	Ho'o Lahui Hawai'i	Y	Gave referrals
Kikuchi, William "Pila"	Professor emeritus, Kaua'i Community College	Y	Interviewed 8 Aug 2002 in Kukui'ula

Name	Affiliation	Contacted	Comments
Kula family descendant	Former Kukui'ula resident family	U	
McEldowney, Holly	Culture and History Branch, State Historic Preservation Division	Y	Suggested areas of concern in study
McMahon, Nancy	Kaua'i archaeologist, State Historic Preservation Division	Y	Gave referrals
Medeiros, Abel	Former McBryde Sugar Company employee; cattle rancher in Kukui'ula project area	Y	Interviewed 19 July 2002 in Kukui'ula
Miyake, James	Former Kukui'ula resident, 1921–1936	Y	Interviewed 5 Aug 2002 in 'Āina Haina, O'ahu
Moke family descendant	Former Kukui'ula resident family	U	
Muraoka, Ikito	Former Kukui'ula resident, 1951–1964	Y	Interviewed 2 Aug 2002
Palama family descendant	Former Kukui'ula resident family	A	
Perry, Warren	Royal Order of Kamehameha I, Kaumuali'i Chapter No. 3	Y	Gave referrals
Queen Lili'uokalani Children's Center, Kaua'i Unit	Queen Lili'uokalani Children's Center, Kaua'i Unit	A	
Requilman, Mary A.	Kaua'i Historical Society	Y	Gave referrals, assistance with research materials
Sagum, Scott	Ho'o Lahui Hawai'i	Y	Gave referrals
Shigemoto, Tom	A&B Properties, Kaua'i Superintendent	Y	Gave referrals
Smith, Earl	Former McBryde Sugar Company employee, 1958–1978 in Kukui'ula	Y	Interviewed 8 Aug 2002
Waialeale family descendant	Former Kukui'ula resident family	A	

As noted in the table (above), efforts were made to contact descendants of families of Hawaiian ancestry identified as having resided in the Kukui'ula area in the past. Despite repeated efforts, CSH was unable to contact these descendants.

6.2 Community Outreach Table

Cultural consultation outreach specifically addressing Parcel J1 (as a subset of parcels J, K, L) was initiated in mid-May 2022. A summary of cultural consultation outreach to 52 parties including Parcel J1 is provided below in Table 5.

Table 5. Summary table of cultural consultation outreach regarding Parcel J1

Name	Affiliation	Comments
Ahuna, Dan	Office of Hawaiian Affairs (OHA); Represents the islands of Kaua'i and Ni'ihau as an OHA Trustee	Letter and figures sent via USPS 17 May 2022; Letter and figures sent via email 19 May 2022
Blackstead, Ronald	*Kama'āina* of Lawa'i	Letter and figures sent via USPS 17 May 2022
Blaich, Beryl	Kaua'i Island Council – Hawaiian Islands Land Trust; Malama Maha-ulepu Group Coordinator; Executive Secretary to the Board; Board of Advisors of Malama o Manoa, board member; Manoa Valley Heritage Foundation, Waipa	Letter and figures sent via USPS 17 May 2022
Brun, Paul	*Kama'āina* (resident of Koloa; son of Tina Brun)	Letter and figures sent via USPS 17 May 2022; Left text message 26 May; Reply from Paul but no response regarding project areas; Left text message 2 June; Reply from Paul but no response regarding project areas
Brun, Tina	*Kupuna/Kama'aina* (resident of Koloa and former resident of Kukui'ula Camp 18; mother of Paul Brun)	Letter and figures sent via USPS 17 May 2022
Bukoski, Lopaka Kaluawaiapele Nakaahikikane Kealiikanaka-oleaipoalani	*Kumu Hula* Participated in prior Piko ceremonies with Aunty Stella Burgess; family from Kōloa/Po'ipū	Letter and figures sent via USPS 17 May 2022; Left text message 26 May (no reply); Left text message 2 June; (understand he may be away)
Chang, Pi'ilani	Cultural historian	Letter and figures sent via USPS 17 May 2022

Name	Affiliation	Comments
Chock, Chucky Boy	Director of Kaua'i Museum	Letter and figures sent via email 19 May 2022
Cobb, Rowena	Real estate	Letter and figures sent via USPS 17 May 2022
Cowden, Felicia	Kauai County Council, Councilmember	Letter and figures sent via USPS 17 May 2022
Cummings, Roslyn	Concerned party	Email sent out 19 May 2022; follow-up by email 24 May 2022; phone call on 25 May 2022 and 2 June 2022 Provided testimony presented verbatim in Appendix B
Dipietro, Jeri	President, Kōloa Community Association	Letter and figures sent via USPS 17 May 2022
Gage, Reginald	Kaua'i Historical Society	Letter and figures sent via USPS 17 May 2022
Haviland, Rick and Julie	Founders of Outfitters Kauai; members of Lawai Kai Citizens Advisory Committee	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022
Hayes, Terrie	Potentially concerned party	Letter and figures sent via email 19 May 2022
Hoomanawanui, Kauanoe M.	Burial Site Specialist, SHPD (Hawai'i and Kaua'i)	Letter and figures sent via email 19 May 2022
Isoda, Stanley	*Kama'āina*	Letter and figures sent via USPS 17 May 2022
Kaiaokamaile, Leanora Dizol	County long-range planner, ties to Kōloa	Letter and figures sent via USPS 17 May 2022
Kalanikumai Ka Maka'uli'uli Puamo'i 'O Nā Ali'i Hanohano (Zacheriah Branch Harmony)	Potentially concerned party	Letter and figures sent via email 19 May 2022 Provided testimony presented verbatim in Appendix B
Kaohelauli'i, Billy	*Kama'āina* of Kōloa; Aha Moku, Kona District Representative; Hui Malama o Kanelolouma	Letter and figures sent via USPS 17 May 2022

Name	Affiliation	Comments
Kaohi, Aletha Kawelukawahine-hololioolimaloa Goodwin	*Kupuna;* descendant of King Kaumuali'i (six generations); Manager of the West Kaua'i Visitor Center; President of Friends of King Kaumuali'i; contributed to initial cultural survey at Kukui'ula; called upon by Kukui'ula to conduct blessings	Letter and figures sent via USPS 17 May 2022 Left e-mail message 26 May Left voicemail message 2 June Responded by email 5 June "...yes I have read the Kukuiula Development. While serving on the County of Kaua'i Historic Preservation committee, appointed by Mayor Kunimura many years ago, we visited an irrigation system that went uphill and lava tubes. May have been closer to Prince Kūhiō Park. Sorry I don't have historical and cultural *mo 'olelo* in those three parcels."
Kauwe, Chris	Canoe Surfing Kauai; owner of Honi Honi Honey; cultural practitioner; member of Hui Mālama O Kāneiolouma; Malama Huleia Board of Directors	Letter and figures sent via USPS 17 May 2022
Kawakami, Galen	Former Forester, Forestry and Wildlife Kaua'i Branch Manager, DLNR	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022 Mr. Kawakami replied via email 19 May 2022 declining to submit any comments CSH replied via email 20 May 2022
Kekua, Kehaulani	Director of Kaua'i Culture & Heritage Center; *Kumu Hula*	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022
Kruse, John	Former Kaua'i Burial Council	Letter and figures sent via USPS 17 May 2022
Kuribayashi, Paul	Kukui'ula Store and former resident of Kukui'ula Camp 18	Letter and figures sent via USPS 17 May 2022 Terry Kuribayashi (wife) responded by telephone on 19 May 2022 Left message 20 May Left message 2 June Received text message reply declining to participate

Name	Affiliation	Comments
Kyono, Alvin	Forestry Consultant, formerly at Forestry and Wildlife, DLNR	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022
Larson, Carlyn	KHPRC Chair	Letter and figures sent via USPS 17 May 2022 letter and figures sent via email 19 May 2022
Lee, Sam	*Kupuna/Kama'aina* Resident of Po'ipu	Letter and figures sent via USPS 17 May 2022 Call to home phone (no answer) 25 May Call to home phone (no answer) 2 June
Lindsey, Elizabeth	Potentially concerned party	Letter and figures sent via email 19 May 2022
Matsumoto, Sandra	Manager, Koloa Neighborhood Center	Letter and figures sent via USPS 17 May 2022 letter and figures sent via email 19 May 2022
McMahon, Nancy	Exploration Associates LTD; former Kaua'i archaeologist for SHPD	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022 Ms. McMahon replied 31 May 2022 [regarding practices with several traditional practitioners at SIHP # 01903 (and maybe SIHP# -1904) in Lāwa'i Ahupua'a] at the lamakū. and requesting that access still be allowed for the lamakū ceremonies. Made referral to Sandi, the Kauai burial council chair, as one of the leaders of the group of practitioners.
Muraoka, Ikito "Ike"	Potentially concerned party	Letter and figures sent via USPS 17 May 2022
Nakamura, Nadine	State Representative of House District 14; former Kaua'i County Representative; member of Lawai Kai Citizens Advisory Committee	Letter and figures sent via email 19 May 2022
Oi, Tommy	Potentially concerned party	Letter and figures sent via USPS 17 May 2022
Okinaka, Elizabeth	Save Koloa	Letter and figures sent via email 19 May 2022

Name	Affiliation	Comments
Otsuji, Marvin	Owner – Seasport Divers Master Steersman – OluKai Canoe Crew	Letter and figures sent via USPS 17 May 2022 Sent text message (no reply) 25 May Sent text message 2 June Replied 2 June "It looks like you have way more than I know. I was trying to contact some of my friends parents that lived in the area but either passed or not in condition to tell their history. Wish I could add but you are on it"
Perry, Warren	Lawyer	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022
Punohu, Anne	Potentially concerned party	Letter and figures sent via USPS 17 May 2022
Reid, Aston	Potentially concerned party	Signed testimony to planning commission Aston Carbonel
Rogers, Nani	*Kanaka maoli, Mano O Kalanipo Aha Moku Advisory Council*	Letter and figures sent via USPS 17 May 2022
Sakimae, Bruce	*Kama'āina* of Kōloa	Letter and figures sent via USPS 17 May 2022
Santos, Kaliko	Beneficiary Services Agent, OHA Nā Kuleana o Kānaka 'Ōiwi *Mano O Kalanipo Aha Moku Advisory Council*	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022
Say, Barbara	Kaua'i/Ni'ihau Island Burial council member; North Shore	Letter and figures sent via USPS 17 May 2022
Schmimmelfennig, Chad	*Kahu* of Kamalo'ula (historic village at Prince Kūhiō Park); Executive Director at Kawaikini Charter School; owner of Kaua'i Knifeworks; instructor at Kaua'i Community College	Letter and figures sent via USPS 17 May 2022 Sent text message (reply but no feedback regarding Kukui'ula project areas) 25 May Sent text message 2 June Replied 2 June "I did receive it, and am currently working with scheduling with Fern. Mahalo for setting up."
Segum, Scott and Roland	Royal Order of Kamehameha	Letter and figures sent via USPS on 24 May 2022
Shigemoto, Tom	Former Kaua'i Burial Council; Kauai Realty, Inc.	Letter and figures sent via USPS 17 May 2022

Name	Affiliation	Comments
Solis, Ka'āhiki	Cultural historian (O'ahu, Kaua'i, and Ni'ihau)	Letter and figures sent via email 19 May 2022 Ms. Solis replied via email 23 May 2022 recommending "look[ing] at the Kaua'i Island Burial Council meeting minutes." As a result, CSH reviewed available records of the Kaua'i/ Ni'ihau Burial Council back through January 2014. CSH replied via email 23 May 2022
Stoddards, Alex	Potentially concerned party	Letter and figures sent via email 19 May 2022
Summers, Molly "Kaimiloa"	Retired educator: Hawaiian Language/Studies, Kaua'i Community College	Letter and figures sent via USPS 17 May 2022
Torres, Johnny	Retired from McBryde Sugar Co.	Letter and figures sent via USPS 17 May 2022
Wichman, Randy	Former Kauai Historical Society	Letter and figures sent via USPS 17 May 2022 Letter and figures sent via email 19 May 2022

6.3 Community Outreach Results

Mr. Galen Kawakami replied via email 19 May 2022: "I will not be submitting any comments for this Ka Pa'akai Analysis. Thank you for the opportunity to test my memory. Aloha, Galen."

Ms. Terry Kuribayashi (wife) responded by telephone on 19 May 2022 and was directed to researcher La'amai.

Ms. Ka'āhiki Solis replied via email 23 May 2022, "I suggest you look at the Kauai Island Burial Council meeting minutes." CSH replied via email 23 May 2022. As a result, CSH reviewed available records of the Kaua'i/Ni'ihau Burial Council back through January 2014.

Ms. Nancy McMahon responded by email 31 May2022:

> I do practice with several traditional practitioners at the lamakū [understood as with specific reference to a locus in Lāwa'i Ahupua'a]. Years ago have also helping reinter remains at the lava tube in Kukui'ula I showed this group several heiau sites that are close to the project area.
>
> Therefore I request access still be allowed for the lamakū ceremonies.
>
> I refer you to Sandi the Kauai burial council chair as one of the leaders of my group of practitioners.

"Lamakū ceremonies" are understood to relate to "large torch, signal fire, lantern" (Pukui and Elbert 1984:177) ceremonies understood relate to the place name Kukui'ula ("red light"; Pukui et al. 1974:123) and a possible signal fire which may have been at one or both of two designated

historic properties more than 1.2 km west of Parcel J1 (SIHP #s -01903 and -01904, see Figure 19 for location and geographic relationship).

Mr. Kalanikumai Ka Maka'uli'uli Puamo'i 'O Nā Ali'i Hanohano (Zacheriah Harmony) replied by email on 1 June 2022. He expressed concerns elsewhere in Kōloa (away from Kukui'ula lands) and indicated his intention to consult with his peers and *'ohana* (family) concerning our (Kukui'ula project areas) request for consultation and expressed his intention to consider responding as appropriate. CSH thanked him. He provided testimony presented verbatim in Appendix B.

Mr. Chad Shimmelfennig replied 2 June 2022, "I did receive it [outreach letter], and am currently working with scheduling with Fern. Mahalo for setting up" indicating a prospect for further consultation.

Mr. Marvin Otsuji replied 2 June 2022, "It looks like you have way more than I know. I was trying to contact some of my friends parents that lived in the area but either passed or not in condition to tell their history. Wish I could add but you are on it" understood as concluding consultation.

Ms. Roslyn Cummings responded by text on 2 June, "Aloha I will work on it tomorrow as we are very busy [referenced ongoing concerns and work elsewhere in Kōloa]." She provided testimony presented verbatim in Appendix B.

Ms. Aletha Kaohi responded by email 5 June 2022, "yes I have read the Kukuiula Development. While serving on the County of Kaua'i Historic Preservation committee, appointed by Mayor Kunimura many years ago, we visited an irrigation system that went uphill and lava tubes. May have been closer to Prince Kūhiō Park. Sorry I don't have historical and cultural mo'olelo in those three parcels."

Ms. Kaohi is correct that the referenced irrigation system and lava tubes are closer to Prince Kūhiō Park in the eastern portion of the Kukui'ula lands.

CSH previously completed a CIA (Hammatt et al. 2002) that addressed the Kukui'ula lands including the entirety of Parcel J1.

CSH attempted to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 52 individuals or groups by U.S. Postal Service (USPS) and/or email (typically both) with additional follow-up by text and telephone. As of 6 June 2022, nine had responded (Galen Kawakami, Terry Kuribayashi, Ka'āhiki Solis, Nancy McMahon, Kalanikumai Ka Maka'uli'uli Puamo'i 'O Nā Ali'i Hanohano [also known as Zacheriah Harmony], Chad Shimmelfennig, Marvin Otsuji, Roslyn Cummings and Aletha Kaohi).

Background study including review of a CIA that included the Parcel J1 project area, review of a variety of other archaeological and historical data, and the responses to the contemporary cultural consultation outreach has identified no cultural, historical, or natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised in the Kōloa J1 project area.

The consultation outreach has identified no cultural, historical, or natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised in the Kōloa J1 project area, thus no impacts to cultural practices are indicated.

Ms. McMahon does raise a potential issue of access, understood as expressing concern regarding access to one or both of two designated historic properties more than 1.2 km west of Parcel J1 (SIHP #s -01903 and -01904, see Figure 19 for location and geographic relationship) for the purpose of "lamakū ceremonies." This request has been discussed with owner/developer interests (BBCP Kukui'ula Development, LLC) and it is believed such access can continue to be accommodated on an ad hoc basis with the understanding of possibly restricted vehicular access and reasonable concerns for safety.

Access was addressed in a *Preservation Plan for Archaeological Sites, 50·30·10-1903 and 50·30·10·1904 on A & B Properties Lands at Kukui'ula Lāwa'i Ahupua'a, Kaua'i (TMK: 2-6-03:1)* as follows

> 5. Access to the Sites and Possible Use for Cultural Practices
>
> Contact with potentially concerned Hawaiian organizations and individuals is recommended in association with site rehabilitation outlined above. No clear cultural practices are associated with these sites at this time. The desire of any individuals or organizations to visit these two sites might well be easily facilitated in an ad hoc manner. [Hammatt et al. 2000:16]

Section 7 Cultural Practices and Resources Identified During Consultation Associated with the Project Area/ Greater Ahupua'a

Throughout the twentieth century, the Kukui'ula project area comprised a 1,000-acre portion of the sugarcane fields and cattle pasture lands of the McBryde Sugar Company. This pervasive transformation of the project area for western commercial agriculture and ranching pursuits has obscured or eliminated much of the physical evidence of traditional Hawaiian life within the area. At the same time, the western concepts of private ownership and private property effectively blocked access by non-employees of McBryde who might have wished to continue practices associated with traditional Hawaiian culture in the area. Finally, with modern development of shoreline areas *makai* of the Kukui'ula project area, most of the *kama'āina* families—including those of Hawaiian ancestry—moved away from the Kukui'ula area decades ago, taking with them whatever traditional knowledge of the area they may have possessed.

Discussions of specific aspects of Hawaiian culture within the project area are presented below. The concluding discussion examines resources and practices identified within the project area in the broader context of the encompassing Kōloa Ahupua'a.

It should be noted that, based on the research for this assessment, at present no contemporary or continuing cultural practices occur within the project area. It should also be noted that the Kukui'ula project area is located *mauka* of the Kōloa coast, and *mauka* of Lāwa'i Beach Road which provides public access to coastal areas. Thus shoreline access to cultural resources and associated practices and beliefs will not be affected by the Parcel J1 Kukui'ula project.

7.1 Native Gathering Practices for Plant Resources

No specific Native Hawaiian gathering practices for plant resources were identified within the Kukui'ula project area in the historic documentation, archaeological investigations, or *kama'āina* interviews documented in the CIA. The twentieth century sugarcane planting and cattle ranching have effectively eliminated traditional plant resource areas within the project area and restricted the project area from cultural usage.

7.2 Native Hawaiian Hunting Practices

No specific Native Hawaiian hunting practices were identified within the Kukui'ula project area in the historic documentation, archaeological investigations, or *kama'āina* interviews included in the CIA.

Game animals hunted on Kaua'i include pigs, goats, black-tailed deer, and a variety of game birds. Black-tailed deer were introduced in 1961 and are not found near the project area. The vicinity of the project area is not shown to have either concentrated or sparse densities of either pigs or goats (Van Riper and Van Riper III, 1982:25, 34). No hunting of game birds (all exotic introductions) has been reported within the project area.

7.3 Agricultural Practices

While the Kōloa Field System of Kōloa Ahupua'a, to the east closer to Waikomo Stream, was very extensive and has been richly documented, it did not extend as far west as the Parcel J1 project

area. We find no evidence of traditional agriculture on the *makai* tablelands of Kōloa Ahupua'a as far west from Waikomo Stream as Parcel J1, but admittedly if there was, for example, ad hoc cultivation of sweet potatoes, that evidence would have been lost over nearly 120 years of intensive commercial sugarcane cultivation.

7.4 Coastal and Marine Resources

The nearest point to the coast of the Parcel J1 project area is approximately 750 m inland. Proposed development of Parcel J1 is believed unlikely to have an impact on coastal and marine resources.

7.5 Freshwater Resources

There is no known source of perennial fresh water nearer than Waikomo Stream. The Aepo Reservoir drainage (Aepo, Aepoalua, Aepoekolu, Aepoeha reservoirs) into Kukui'ula Bay is closer (500 m to the west) and may have been a source of drinking water much of the year in traditional Hawaiian times. Proposed development of Parcel J1 is believed unlikely to have an impact on freshwater resources.

7.6 Cultural Historic Properties

No cultural historic properties have been identified in the project area during the archaeological inventory survey (Hammatt et al. 1988) or in a recent field inspection (Hammatt 2023).

Two cultural properties (SIHP #s -01903 and -01904) have been identified more than 1.2 km west of Parcel J1 (see Figure 19 for location and sections 5.3.1 and 5.3.2 for descriptions). These have both been preserved within an SHPD-accepted preservation plan (Hammatt et al. 2000) with specific buffers and long-term management provisions including site access codified.

7.7 Any Other Resources Detected

No other traditional Hawaiian resources have been reported from the Parcel J1 project area.

7.8 *Nā Inoa 'Āina* (Place Names)

As has been previously noted, the absence of traditional Hawaiian place names near the Parcel J1 project area on historic maps of 1872 (see Figure 9), 1896 (see Figure 10), 1900 (see Figure 11), 1910 (see Figure 12), and 1963 (see Figure 15) supports that the project area was not an area in which Hawaiians were traditionally active.

7.9 Burials

The archaeological inventory survey and data recovery investigations documented the presence of two traditional Hawaiian burials in the totality of the Kukui'ula project area. Human skeletal remains were encountered in a lava tube (SIHP # -01927 Feature A) approximately 400 m southeast of the Parcel J1 project area (these were addressed in a Hammatt and Shideler 2001 burial treatment plan and were preserved in place). In 2007 human skeletal remains were inadvertently discovered in another lava tube (SIHP # -00682) in Kōloa Ahupua'a approximately 1.6 km east of the present project area (Tulchin and Hammatt 2007; these were relocated to the SIHP # -01927 Feature A burial preserve).

A CSH (Reveal and Hammatt 2014) study documents the identification of fragmentary human skeletal remains in sediment samples from SIHP # -01927A. This circumstance was shared with the KNIBC at the meeting 24 May 2016 with proposed reinterment back in SIHP # -01927; reinterment was completed in October 2017.

There was an inadvertent discovery of human skeletal remains on 9 August 2016 at Kukui'ula. Bay (in Kōloa Ahupua'a near the Kōloa/Lāwai *ahupua'a* boundary) reported to the Kaua'i/Ni'ihau Island Burial Council (Agenda for the KNIBC Meeting of 21 September 2016). In consultation with members of the KNIBC, these *iwi* were reinterred at the Kukui'ula reinterment location in a lava tube (designated SIHP # -01927 Feature A, known as the "*piko* preserve") approximately 400 m southeast of the Parcel J1 project area.

We also wish to note in passing there was a Kamala'ula Cemetery (Kamaloula), (SIHP # -01985) at the Lawai Beach Resort (described in detail in McCurdy and Hammatt 2007) but that this was not in Kukui'ula lands, and it was approximately 1.0 km distant southeast of the Parcel J1 project area.

During archaeological investigations of surface sites, no burials were encountered within the project area. However, there is almost always a possibility that heretofore unrecorded burial sites are present within the project area. Concerns related to this possibility are addressed below.

The *kama'āina* interviewees for the CIA were not aware of any burials within the entirety of the Kukui'ula project area. Several, however, spoke of a former cemetery located outside and *makai* of the Kukui'ula project area, on the site of the present Lawai Beach Resort. The interviewees recalled it was a formal cemetery with grave markers and some fencing at its boundaries, and that interments continued into the first half of the twentieth century.

7.10 Trails

None of the historic maps of Kōloa and Lāwa'i *ahupua'a* examined during the course of this study indicated any route through the project area identifiable as a traditional Hawaiian trail. The routes shown on these maps appear to be roads associated with nineteenth century developments within the *ahupua'a,* including the establishment of Kōloa Town and the building of Queen Emma's residence in Lāwa'i.

None of the *kama'āina* interviewees in the CIA recalled any trails within the project area.

Section 8 Ka Pa'akai Analysis

8.1 Summary of Cultural Practices and Resources Identified during Background Research and Consultation

Reviewing the information provided by the elements of this study—historic documentation, archaeological research, the prior CIA *kama'āina* interviews, and results of the present outreach—there emerges a more detailed picture of the Parcel J1 project area and vicinity through time.

By the eighteenth century, the Kōloa Kukui'ula lands to the east comprised the western extent of an intricate network of taro *lo'i*, *'auwai*, and associated habitation sites that stretched across the *makai* floor of Kōloa Ahupua'a. This network, identified by CSH as the Kōloa Field System, incorporated unique engineering innovations that allowed otherwise inhospitable lands—at a distance from water sources—to sustain a growing population. Archaeological investigations of the Kukui'ula project area documented habitation sites, agricultural sites, burial sites, and religious sites that indicate a full range of traditional Hawaiian cultural life in the eastern Kōloa Ahupua'a portion of Kukui'ula.

We put stock in the description of the vicinity of Queen Emma's home (west of the Parcel J1 project area), that (ca. 1870) "The surrounding area was an arid, stony pasture, suitable only for grazing" (Forbes 1970:4).

There were no native tenant LCAs in the vicinity (see Figure 8).

The general absence of place names on historic maps of 1872 (see Figure 9), 1896 (see Figure 10), 1900 (see Figure 11), 1910 (see Figure 12), and 1963 (see Figure 15) supports that this was not an area in which Hawaiians were traditionally active.

The timeframe during which Parcel J1 was in commercial sugarcane production is not completely clear but it is believed to extend from very close to 1876 (when McBryde leased Queen Emma's Lāwa'i land) to very close to 1996 when McBryde harvested the last cane, or nearly 120 years. During this long span of time, it is understood that access inside the project area was restricted to employees of McBryde Sugar Company.

The three aerial photographs (see 1951, Figure 14; 1965, Figure 16; and 1978, Figure 17) show Parcels J1 as covered with commercial sugarcane fields and within a great sea of commercial sugarcane.

Sugarcane and ranching were the dominant land use activities within the project area throughout the past century. These activities—and the sense that the project area was private property—restricted access inside the project area to employees of McBryde Sugar Company. None of the *kama'āina* interviewees who were former residents of the Kukui'ula area knew of any cultural sites in the project area, or could recall anyone entering the project area for any traditional cultural practice. The only interviewees in the CIA with knowledge of traditional culture within the project area were Dr. William Kikuchi and Mrs. Aletha Kaohi who were acquainted with the area through professional and community service pursuits.

As noted in the previous section of this assessment, based on the evidence gathered, no contemporary or continuing cultural practices occur within the Parcel J1 project area.

As also noted in the previous section of this assessment, in the *makai* areas of Lāwa'i and Koloa *ahupua'a,* fishing and marine resource gathering practices continue to occur along the coastal areas. Public access to coastal areas *makai* of the Kukui'ula project area is from Lāwa'i Beach Road. Access to coastal fishing and marine resource gathering areas will continue to be provided with the development of the Kukui'ula project.

8.2 Summary of Community Outreach and *Kama'āina* Perspectives

CSH attempted to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 52 individuals or groups by USPS and/or email (typically both). Nine responded (Galen Kawakami, Terry Kuribayashi, Ka'āhiki Solis, Nancy McMahon, Kalanikumai Ka Maka'uli'uli Puamo'i 'O Nā Ali'i Hanohano [also known as Zacheriah Harmony], Chad Shimmelfennig, Marvin Otsuji, Roslyn Cummings and Aletha Kaohi).

Background study including review of a CIA that included the Parcel J1 project area, review of three additional CIAs, review of a variety of other archaeological and historical data, and the responses to the contemporary cultural consultation outreach has identified no cultural, historical, or natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised in the Parcel J1 project area.

The recent consultation outreach has identified no cultural, historical, or natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised in the Parcel J1 project area, thus no impacts to cultural practices are indicated.

Ms. McMahon does raise a potential issue of access, understood as expressing concern regarding access to one or both of two designated historic properties (SIHP #s -01903 and -01904) located more than 1.2 km west of Parcel J1 (see Figure 19 for location and geographic relationship) for the purpose of "lamakū ceremonies." This request has been discussed with owner/developer interests (BBCP Kukui'ula Development, LLC) and it is believed such access can continue to be accommodated on an ad hoc basis with the understanding of possibly restricted vehicular access and reasonable concerns for safety. Access was addressed in a *Preservation Plan for Archaeological Sites, 50-30-10-1903 and 50-30-10-1904 on A & B Properties Lands at Kukui'ula Lāwa'i Ahupua'a, Kaua'i (TMK: 2-6-03:1)* (Hammatt et al. 2000:16)

8.3 Assessment of Impacts Posed to Cultural Practices and Cultural Resources

8.3.1 Individual's Comments or Thoughts on the Potential Impacts the Proposed Project may have on Ongoing Traditional Cultural Practices and Cultural Resources within the Proposed Project Area and Greater *Ahupua'a*

In the course of the prior CIA, none of the 29 Hawaiian organizations, government agencies, community members, and cultural and lineal descendants with ties to Kukui'ula contacted (eight of whom were interviewed) knew of any cultural resources (other than identified archaeological sites) in the greater Kukui'ula project area, or could recall anyone entering the project area for any traditional cultural practice (Hammatt et al. 2002:103).

The responses to the contemporary cultural consultation outreach to 52 parties identified no cultural, historical, or natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised in the Parcel J1 project area.

Concern was expressed regarding access to one or both of two designated historic properties located more than 1.2 km west of Parcel J1 (SIHP #s -01903 and -01904, see Figure 19 for location and geographic relationship) for the purpose of "lamakū ceremonies." This request has been discussed with owner/developer interests (BBCP Kukui'ula Development, LLC) and it is believed such access can continue to be accommodated on an ad hoc basis with the understanding of possibly restricted vehicular access and reasonable concerns for safety. Access was addressed in a *Preservation Plan for Archaeological Sites, 50·30·10-1903 and 50·30·10·1904 on A & B Properties Lands at Kukui'ula Lāwa'i Ahupua'a, Kaua'i (TMK: 2-6-03:1)* (Hammatt et al. 2000:16) accepted by the SHPD.

8.3.2 Comments or Thoughts on the Potential Impacts the Proposed Project may have on Cultural Properties and *Wahi Pana* within the Proposed Project Area and Greater *Ahupua'a*

No cultural sites or *wahi pana* have been identified in the project area either in the prior CIA or in the present study. No substantive responses have been received in the cultural consultation outreach.

It is concluded that the development of the Parcel J1 project lands will have no adverse impact on cultural properties elsewhere in the *ahupua'a* .

8.3.3 CSH Assessment of Impacts Posed to Cultural Practices and Cultural Resources, Integrating Perspectives from Consultation, and Evidence from Background Research

No prior or ongoing cultural practices and cultural resources have been identified in the project area either in the prior CIA or in the present consultation. Thus no impact to cultural resources will occur in the development of this specific project area.

8.4 Mitigation Possibilities Identified during Consultation and Background Research

The only mitigation possibility raised during consultation concerns access to one or both of two designated historic properties (SIHP #s 01903 and -01904, more than 1.2 km west of Parcel J1) for the purpose of "lamakū ceremonies" as has been noted above, and the issue of access to these sites was addressed previously to the satisfaction of the SHPD within a preservation plan.

The absence of traditional cultural properties and practices within the project area per se relates to the micro-environment of the project area which is well back from the coast and relatively far from freshwater. The project area prior to commercial sugarcane cultivation was described as "desolate to those accustomed to Honolulu. The surrounding area was an arid, stony pasture, suitable only for grazing" (Forbes 1970:4). The project area was under intensive sugarcane cultivation for nearly 120 years (1876–1996). During this long span of time it is understood that access inside the project area was restricted to employees of McBryde Sugar Company.

This study recommends, and the County of Kaua'i Department of Planning might support, that:

1. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural

finds, including human remains. Should any potential historic properties be identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that *iwi kūpuna* (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD, coroner, and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.

2. In the event that *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Section 9 References Cited

Akana, Collette Leimomi with Kiele Gonzales
2015 *Hānau Ka Ua, Hawaiian Rain Names*. Kamehameha Publishing, Honolulu.

Alexander, Arthur C.
1937 *Koloa Plantation 1835-1935, A History of the Oldest Hawaiian Sugar Plantation.* Star-Bulletin, Honolulu.

Ava Konohiki
2015 Ancestral Visions of 'Āina website. Available online at http://www.avakonohiki.org/.

Belluomini, Scott A. and Hallett H. Hammatt
2015 *Archaeological Assessment Report for the Kukui'ula Community Development Parcel H Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: [4] 2-6-015:014 por.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2016 *Archaeological Inventory Survey Report for the Kukui'ula Community Development Parcel A Project Lāwa'i and Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: [4] 2-6-015:014 por.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Belluomini, Scott A., Thomas Martell II, and Hallett H. Hammatt
2022 *Archaeological Literature Review and Field Inspection Report for the Kukui'ula Manuhonuhonu Reservoir Alteration Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMKs: (4) 2-6-003:031 por., 2-6-015:001 por., and 2-6-017:051.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Bennett, Wendell C.
1931 *The Archaeology of Kaua'i. Bishop Museum Bulletin 80.* Bernice Pauahi Bishop Museum, Honolulu.

Bingham, Hiram
1847 *A Residence of Twenty-One Years in the Sandwich Islands.* Convers, New York.

Bordner, Richard M.
1977 *Archaeological Reconnaissance for an 'Auwai, Kōloa, Kona, Kaua'i Island.* Archaeological Research Center Hawaii, Inc., Honolulu.

Borthwick, Douglas F., Mark Stride, and Hallett H. Hammatt
1990 *Archaeological Data Recovery: Kukuiula Bay Planned Community Preliminary Reports; End of Fieldwork and Progress Report Phase I.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

Ching, Francis K.W.
1983 *Archaeological Reconnaissance of an A&B 230+ Acre Property, Kukuiula-Kualu, Koloa & Lawa'i, Kona, Kaua'i Island.* Royal Order of Kamehameha I Chapter 3 – Kaumuali'i. Lihu'e, Kaua'i, Hawai'i.

Chiogioji, Rodney and Hallett H. Hammatt
2003 *He Ho'olina ma ka Pōhaku (A Legacy in Stone): A Long-Term Preservation plan for an Approximately 16 Acre Archaeological Preserve in Kukui'ula, Kōloa Ahupua'a, Island of Kaua'i.* Cultural Surveys Hawai'i, Inc., Kailua.

Clark, John R.K.
1990 *Beaches of Kaua'i and Ni'ihau.* University of Hawaii Press. Honolulu.

Cleghorn, Paul L. and James McIntosh
2001 *Archaeological Inventory Survey at Koloa, Kaua'i, Hawai'i (TMK 2-6-8:11 and 22).* Pacific Legacy, Inc., Kailua, Hawai'i.

Commission on Water Resource Management
1993 *Hawai'i Streams: Nā Kahawai o Hawai'i.* Commission on Water Resource Management, Department of Land and Natural Resources, State of Hawai'i, Honolulu.

Condé, Jesse C.
1993 Fowler Locomotives in the Kingdom of Hawaii. In *The Narrow Gauge*, edited by Alan Burgess. Peterborough, England.

Condé, Jesse C. and Gerald M. Best
1973 *Sugar Trains, Narrow Gauge Rails of Hawaii.* Glenwood Publishers, Felton, California.

Cook, James P.
1784 *A Voyage to the Pacific Ocean 1776, 1777, 1779, and 1780.* Vol. 2 and 3. G. Nichol and T. Cadell, London.

Creed, Victoria S., Douglas F. Borthwick, and Hallett H. Hammatt
2002 *Archaeological Inventory Survey of 11.5 Acre Makai Lands at Lāwa'i Ahupua'a, Kona District, Island of Kaua'i (TMK 2-6-03:3, 20 and 2-6-02: por. 1).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Coulter, John Wesley
1931 *Population and Utilization of Land and Sea in Hawaii. 1853.* Bishop Museum Bulletin 88. Bernice Pauahi Bishop Museum, Honolulu.

Damon, Ethel M.
1931 *Koamalu.* 2 vols. Privately printed by the Honolulu Star-Bulletin Press, Honolulu.

Donohugh, Donald
2001 *The Story of Koloa: A Kaua'i Plantation.* Mutual Publishing, Honolulu.

Dorrance, William H. and Francis S. Morgan
2000 *Sugar Islands: The 165-Year Story of Sugar in Hawaii.* Mutual Publishing, Honolulu.

ESRI, Inc.
2016 Map Image Layer. Esri, Inc. Redlands, California.

Farley, J.K.
1907 Notes on Maulili Pool, Kōloa. In *Hawaiian Almanac and Annual for 1908.* Thos. G. Thrum, Honolulu.

Folk, William, Scott A. Belluomini, Nancine "Missy" Kamai, and Hallett H. Hammatt
2017 (draft) *Supplemental Archaeological Inventory Survey Report for the Kukui'ula Community Development Parcel A Project Lāwa'i and Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: [4] 2-6-015:014 por.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Folk, William and Hallett H. Hammatt

1992 *Archaeological Monitoring of Lawai Beach Hotel Parking Structure* (letter report). Cultural Surveys Hawai'i, Kailua, Hawai'i.

Folk, William, Nancine "Missy" Kamai, and Hallett H. Hammatt

2020 *Archaeological Monitoring Report for Kukui'ula Parcel FF, Phase 1 Project, TMK: [4] 2-6-019:017.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Fong, Jeffrey W. K., Sallee Freeman, Douglas F. Borthwick, David W. Shideler, and Hallett H. Hammatt

2005 *Archaeological Inventory Survey of an 5.947-Acre Parcel at Kōloa Ahupua'a, Kona District, Kaua'i Island (TMK: 2-8-15:75).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Foote, Donald E., Elmer L. Hill, Sakuichi Nakamura, and Floyd Stephens

1972 *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii.* U.S. Department of Agriculture, Soil Conservation Service, in cooperation with the University of Hawai'i Agricultural Experiment Station. U.S. Government Printing Office, Washington, D.C.

Forbes, David

1970 *Queen Emma and Lawa'i.* Kauai Historical Society, Lāwa'i, Hawai'i.

Fornander, Abraham

1918 *Fornander Collection of Hawaiian Antiquities and Folk-lore.* Volume V. Memoirs of the Bernice Pauahi Bishop Museum. Bishop Museum Press, Honolulu.

1996 *Fornander's Ancient History of the Hawaiian People.* Mutual Publishing, Honolulu.

Gay, James

1872 Map of Lawa'i and Koke'e. Map by James Gay, Registered Map 1373. Hawai'i Land Survey Division, Department of Accounting and General Services, Honolulu. Available online at http://dags.hawaii.gov/survey/search.php

Giambelluca, T.W., Q. Chen, A.G. Frazier, J.P. Price, Y.-L. Chen, P.-S. Chu, J.K. Eischeid, and D.M. Delparte

2013 Online Rainfall Atlas of Hawai'i. *Bulletin of the American Meteorological Society volume 94, pp. 313-316, doi: 10.1175/BAMS-D-11-00228.1.* Electronic document, http://rainfall.geography.hawaii.edu (accessed 10 May 2022).

Hammatt, Hallett H.

1990 *Archaeological Inventory Survey of a 4.7 Acre Parcel for the Proposed Pa'anau Housing Project, Kōloa, Kaua'i.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

1992a *Archaeological Survey of the Proposed Western Bypass Road, Kukuiula Planned Community, Phase I.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

1992b *Letter Report on the Preserve Area Rock Pile, Kukuiula.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

1992c *Archaeological Reconnaissance of the Po'ipu Road and Lāwa'i Road Junction, Kōloa, Kaua'i.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

1992d *Archaeological Reconnaissance Survey TMK 2-6-04:49, 2 Acres, Kōloa, Kaua'i.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

1993 *Archaeological Reconnaissance Survey TMK 2-6-04:14, 1.75 Acres Koloa, Kaua'i, Subdivided Lots A1-A1, A1 A2.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

1996 *Letter Report: Report on Subsurface Testing for the Proposed Location of Queen Emmas Cottage, Lawai Valley.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2014 *Archaeological Monitoring Report for Kukui'ula Lot 14A Project, Lāwa'i Ahupua'a, Kona District, Kaua'i Island TMK: (4) 2-6-015:014 por.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2020 *Field Inspection Letter Report for Improvements to Parcel E of the Kukui'ula Community Development Project, TMK: (4) 2-6-022:021 por. [Formerly (4) 2-6-015:014], Kōloa Ahupua'a, Kōloa District, Kaua'i.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2022 (Draft) *Archaeological Field Inspection Letter Report for Parcels A2, F2, and F3 of the Kukui'ula Community Development Project, TMK (4) 2-6-015:014 por., Kōloa Ahupua'a, Kōloa District, Kaua'i.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2023 *Archaeological Field Inspection Letter Report for Parcel J1 of the Kukui'ula Community Development Project, TMK (4) 2-6-015:001, Kōloa Ahupua'a, Kōloa District, Kaua'i.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., B. Kaipo Akana, and Rodney Chiogioji

2002 *A Cultural Impact Assessment for an Approximately 1000-Acre Property in Kukui'ula, Kōloa and Lāwa'i Ahupua'a, Kōloa District, Island of Kaua'i.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., Richard M. Bordner, M.J. Tomonari-Tuggle, Marvin Miura, and Francis Howorth

1978 *Archaeological and Biological Survey of the Proposed Kiahuna Golf Village Area, Koloa, Kona, Kaua'i Island, Hawaii.* Archaeological Research Center Hawai'i, Inc. Lāwa'i, Hawai'i.

Hammatt, Hallett H., Douglas Borthwick, David W. Shideler, and Mark Stride

1988 *Archaeological Inventory Survey of the Proposed Kukuiula Bay Planned Community, Kōloa, Kaua'i.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

Hammatt, Hallett H., Kristina W. Bushnell, Gerald K. Ida, Rodney Chiogioji, Victoria S. Creed, and David W. Shideler

1999 *Archaeological Data Recovery for Kukui'ula Bay Planned Community, Phase II Development Area, Kukui'ula, Kōloa, Kaua'i, (TMK 2-6-03:Por. 1 and 2-6-04:Por. 33, 38, 40).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., Ronald Chiogioji, David W. Shideler, Douglas Borthwick, Matthew McDermott, and Ian Masterson

1998 *Archaeological Data Recovery Report for the Kukui'ula Planned Community Phase I Development, Kōloa, Ahupua'a, Kona District, Island of Kaua'i, Hawai'i, (TMK 2-6-04:16, 22, 38, 44 and 45) Volume 1.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H. and David W. Shideler

2001 *Preservation and Burial Treatment Plan for Archaeological Site 50-30-10-1927, on A& B Properties Lands at Kukui'ula, Kōloa Ahupua'a, Kaua'i (TMK 2-6-03:1).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2012 *Archaeological and Cultural Impact Assessment Status Review for Parcel DD at Kukui'ula, Kōloa Ahupua'a, Kōloa District, Kaua'i TMK [4] 2-6-019:032.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., David W. Shideler, and Douglas F. Borthwick

2000 *Preservation Plan for Archaeological Sites 50-30-10-1903 and 50-30-10-1904 on A&B Properties Lands at Kukui'ula, Lāwa'i Ahupua'a, Kauai.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Handy, E.S. Craighill

1940 *The Hawaiian Planter,* Volume I. Bishop Museum Bulletin 161. Bishop Museum Press, Honolulu.

Handy, E.S. Craighill and Elizabeth G. Handy

1972 *Native Planters in Old Hawaii: Their Life, Lore, and Environment.* Bishop Museum Bulletin 233. Bishop Museum Press, Honolulu.

Hawaii Tax Map Key (TMK) Service

2013 Tax Map Key: (4) 2-6-015. Hawaii TMK Service, Honolulu.

Hazlett, Alex and Hallett H. Hammatt

2008 *Archaeological Monitoring Report for the Western Bypass Road Project Kōloa Ahupua'a, Kōloa District, Kaua'i Island, TMK (4) 2-7-003:006, 2-6-003:001 and 035, and 2-6-004:038, 040, and 044.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hoerman, Rachel and Robert L. Spear

2009 *Archaeological Inventory Survey of an Approximately 90 Acre Parcel Lāwa'i Ahupua'a, Kōloa District, Kaua'i Island, Hawai'i [TMK: (4) 2-6-002: 001, 004 to 006].* Scientific Consultant Services, Inc., Honolulu.

Ho'oulumāhiehie

2008a *Ka Mo'olelo O Hi'iakaikapoliopele.* Awaiaulu Press, Honolulu.

2008b *The Epic Tale Of Hi'iakaikapoliopele.* Puakea Nogelmeier, translator. Awaiaulu Press, Honolulu.

Ida, Gerald K., W. Bushnell, and Hallett H. Hammatt

2000 *Mitigation of a Portuguese Oven Site (A Portion of State Site 50-30-10-1911), Kukui'ula, Kōloa, Kaua'i.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ida, Gerald K., Victoria S. Creed, and Hallett H. Hammatt

1997 *Burial Treatment at a Kukuiula House Lot (TMK 2-6-11:8, Lot 7).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ida, Gerald K. and Hallett H. Hammatt

1994 *Archaeological Inspection and Historic Background for the Ho'onani Road Bridge Across Waikomo Stream, Kōloa, Kaua'i (TMK 2-7-4:76).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

1998 *Report on Historical Research on Site 50-30-10-1911, Kukui'ula Phase II.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ida, Gerald K., David W. Shideler, and Hallett H. Hammatt
2005 *Archaeological Monitoring Report for Bee Removal at Site 50-30-10-3075B in Kukui'ula, Kōloa, Kaua'i TMK 2-6-03:1.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ida, Gerald K., Angela L. Yates, and Hallett H. Hammatt
2020 *Archaeological Monitoring Report for the Parcel U/AA Kukui'ula Development Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMKs: [4] 2-6-019:022, 023, and 024.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Jarves, James J.
1844 *Scenes & Scenery in the Sandwich Islands . . . during the Years 1837–1842.* James Munroe and Company, Boston

Jones, Kulani and Hallett H. Hammatt
2008 Revised: *Interim Report of the Implementation of the Preservation Plan for Archaeological Sites 50-30-10-1903 and 50-30-10-1904 Lāwa'i Ahupua'a, Kōloa District, Kaua'i Island TMK: 2-6-15:1.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Judd, Bernice
1935 Kōloa, A Sketch of Its Development. In *Kaua'i Historical Society Papers*, Volume II, Honolulu.

Kaua'i County Planning Department
2022 *Kaua'i Planning Department Worksheet for Ka Pa'akai Assessment.* Kaua'i County Planning Department, Līhu'e, Kaua'i.

Kaua'i/Ni'ihau Island Burial Council (KNIBC)
2016 "Item VB: Inadvertent Discovery of Human Skeletal Remains on August 9, 2016 at Kukui'ula, Koloa Ahupua'a, Kona District, Island of Kauai, TMK (4) 2-6-016:014 & 094. Information/Discussion/Recommendation." *KNIBC Minutes of Wednesday 21 September 2016.*

Kikuchi, William K.
1963 *Archaeological Survey and Excavations on the Island of Kaua'i, Kona District, Hawaiian Islands.* Honolulu.

1988 *Archaeological Reconnaissance of Proposed Multi-Family Rental Subdivision, Pa'anau Camp Ahupua'a of Kōloa, Kōloa District, Kaua'i, TMK 2-6-04:46.* Committee for the Preservation of Hawaiian Culture, Līhu'e, Kaua'i, Hawai'i.

Kirch, Patrick Vinton
2010 *How Chiefs Became Kings: Divine Kingship and the Rise of Archaic States in Ancient Hawai'i.* University of California Press, Oakland, California.

LaChance, Fredrick, David W. Shideler, and Hallett H. Hammatt
2014 *Archaeological Inventory Survey for Kukui'ula Lot 14A Project, Lāwa'i Ahupua'a, Kona District, Kaua'i Island TMK: (4) 2-6-015:014 por.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Lahainaluna School

1885 *Papers by Lahainaluna Students After Interview with Old Residents of Kauai.* HEN (Hawaiian Ethnological Notes). Bishop Museum Archives, Honolulu.

Landrum, James III

1984 *Archaeological Reconnaissance of Alexander and Baldwin Lands at Kukui'ula, Kola, Kaua'i.* Department of Anthropology, Bernice Pauahi Bishop Museum, Honolulu.

Macdonald, Gordon A. and Agatin T. Abbott

1970 *Volcanoes in the Sea.* University of Hawaii Press, Honolulu.

McBryde Sugar Company

1949 *The Story of McBryde Sugar Co.: 1899 to 1949.* Managers' reports to the agents. McBryde Sugar Company, Kaua'i.

McCurdy, Todd D. and Hallett H. Hammatt

2007 *Lawai Beach Resort Burial Recovery Report SIHP #50-30-10-1985 Kamala'ula (Kamalo'ula) Cemetery Kōloa, Kaua'i TMK: [4] 2-6-005:004.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

McMahon, Nancy

1996 *Results of Archaeological Monitoring and Mapping of Rock Wall (Site 50-30-10-3015) along Lawai Road for Improvements/Access to proposed Visitor Center for National Tropical Botanical Gardens TMK: 2-6-3:001 Koloa, Kona, Kauai.* Exploration Associates, Ltd., Kōloa, Kaua'i, Hawai'i.

McMahon, Nancy and Peter R. Mills

1991 *Inadvertent Discovery - Tooth 2-6-11: 13 Kukuiula, Koloa, Kauai.* State Historic Preservation Division, Honolulu.

Monsarrat, M.D.

1896 Map of Eleele to Koloa. Registered Map 1842. Hawai'i Land Survey Division, Department of Accounting and General Services, Honolulu. Available online at http://dags.hawaii.gov/survey/search.php

1900 Map of McBryde sugar lands. Registered Map 2145. Hawai'i Land Survey Division, Department of Accounting and General Services, Honolulu. Available online at http://dags.hawaii.gov/survey/search.php

Nagata, Ralston H.

1988 Letter to Dr. H. Hammatt of 30 June 1988 entitled "Historic Preservation Review of Draft Report (Hammatt, Borthwick, Shideler and Stride 1988. Archaeological Inventory Survey of the Proposed Kukui'ula Bay Planned Community, Koloa) Kukui'ula Bay Planned Community Koloa & Lawa'i, Koloa Kaua'i."

Nakuina, Moses K.

1990 *The Wind Gourd of La'amaomao.* First edition. Esther T. Mookini and Sarah Nākoa, translators. Kalamakū Press, Honolulu.

1992 *The Wind Gourd of La'amaomao.* Second edition. Esther T. Mookini and Sarah Nākoa, translators. Kalamakū Press, Honolulu.

Office of Hawaiian Affairs

2015 *Papakilo Database.* Office of Hawaiian Affairs cultural and historical database. Electronic document, http://papakilodatabase.com/main/index.php.

O'Leary, Owen and Hallett H. Hammatt

2005 *Archaeological Inventory Survey of a 40-Foot Wide Corridor Along the Eastern Edge of Lāwa'i Bay Lāwa'i Ahupua'a, Kona District, Kaua'i Island TMK: 4-2-6-02: por. 1.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2006 *Archaeological Assessment for the Kukui'ula – Po'ipū Road 24-Inch Sewer Line, Kōloa Ahupua'a, Kōloa District, Island of Kaua'i TMK: [4] 2-6-004: por 3, 2-6-015: por. 1, and 2-8-014: por. 27, and portions of Po'ipū Road and Lāwa'i Road.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

O'Leary, Owen, Todd Tulchin, and Hallett H. Hammatt

2005 *Archaeological Inventory Survey of Four Parcels (1.855 Acres) at Kukuiula Bay Kōloa Ahupua'a, Kaua'i Island (TMK 2-6-11: Por. 1, 2, 3, 15).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Palama, Stephen L. and Catherine Stauder

1973 *Archaeological Reconnaissance of the Proposed Cane Haul Road to the Koloa Mill for McBryde sugar Co., Ltd.* Archaeological Research Center Hawaii, Inc., Lāwa'i, Kaua'i, Hawai'i.

Pukui, Mary K.

1983 *'Ōlelo No'eau: Hawaiian Proverbs and Poetical Sayings.* Bishop Museum Special Publication No.71. Bishop Museum Press, Honolulu.

Pukui, Mary K. and Samuel H. Elbert

1986 *Hawaiian Dictionary.* University of Hawaii Press, Honolulu.

Pukui, Mary K., Samuel H. Elbert, and Esther Mookini

1974 *Place Names of Hawaii.* University of Hawaii Press, Honolulu.

Raff-Tierney, Angus M. and Hallett H. Hammatt

2016 *Archaeological Assessment Report for the Kukui'ula Manuhonuhonu Borrow Site Phase 3, Kōloa Ahupua'a, Kōloa District, Kaua'i (TMK: [4] 2-6-003:001 por.).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Reveal, Malina and Hallett H. Hammatt

2014 *Identification of Human Skeletal Remains During Sorting of Sediment Samples at Cultural Surveys Hawai'i, Inc. (May 2014.)* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Rieth, Timothy and Ethan E. Cochrane

2015 Chronology of Colonization in Remote Oceania (The). In *Oxford Handbook of Prehistoric Oceanic* (forthcoming). Oxford Handbooks Online, www.oxfordhandbooks.com.

Schmitt, Robert C.

1977 *Historical Statistics of Hawaii.* University of Hawaii Press, Honolulu.

Shideler, David W. and Hallett H. Hammatt

2014 *Letter Report for On-Site Archaeological Monitoring for SIHP #s 50-30-10-990, -3071, and -3072, Lāwa'i Ahupua'a, Kona District, Kaua'i, TMKs: [4] 2-6-003:3 and [4] 2-6-002: por. 1.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Sinoto, Akihiko

1975 *Archaeological Reconnaissance Survey of Knudsen Trust Lands at Koloa, Poipu, Kauai.* Anthropology Department, Bernice Pauahi Bishop Museum. Honolulu

Soehren, Lloyd

2013 *Hawaiian Place Names.* Ulukau: The Hawaiian Electronic Library. Electronic document, http://ulukau.org (accessed May 2022).

Stauder, Catherine

1973 Observations on Kuhiau Heiau. *Archaeology on Kauai* Vol 2, No. 4 October 1973. Kaua'i Community College, Līhu'e, Hawai'i.

Tome, Guerin and Michael Dega

2003 *Report on Human Skeletal Remains Identified During Monitoring of Foundation Excavation of a Coastal Residential Lot Within Koloa, Kaua'i, Hawai'i [TMK: 2-6-11 Parcel 9 Lot 6-A].* Scientific Consultant Services, Inc., Honolulu.

Townsend, John

1839 *Narrative of a Journey Across the Rocky Mountains....and a Visit to the Sandwich Islands and Chile...* H. Perkins and Marvin, Boston.

Tulchin, Jon and Hallett H. Hammatt

2007 *Inadvertent Discovery of Human Remains at the Kukui'ula Development Area, Kōloa Ahupua'a, Kōloa District, Kaua'i TMK: [4] 2-6-016:014 & 094.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Tulchin, Todd and Hallett H. Hammatt

2004 *Archaeological Inventory Survey in Support of the Offsite Portion of the Proposed Western Bypass Road, Kōloa Ahupua'a, Kona District, Island of Kaua'i (TMK 2-7-03:6, 2-6-03:1, and 35).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ulukau

2014 *Māhele Database.* Hawaiian Electronic Library, http://ulukau.org/cgi-bin/vicki?l=en..

USDA (U.S. Department of Agriculture)

1965 USDA Aerial Photograph, Lāwa'i. University of Hawaii Maps, Aerial Photographs, and Geographic Information Systems (UH MAGIS) (http://guides.library.manoa.hawaii.edu/magis).

2001 Soil Survey Geographic (SSURGO) database. U.S. Department of Agriculture, Natural Resources Conservation Service. Fort Worth, Texas. http://www.ncgc.nrcs.usda.gov/products/datasets/ssurgo/ (accessed May 2022).

USGS (U.S. Geological Survey)

1910 Lihue and Hanapepe USGS 7.5-minute series topographic quadrangle. USGS Information Services, Denver, Colorado.

1951 Lawai USGS aerial photograph. UH MAGIS (University of Hawaii Maps, Aerial Photographs, and Geographic Information Systems), online at http://guides.library.manoa.hawaii.edu/magis.

1963 Koloa USGS 7.5-minute series topographic quadrangle. USGS Information Services, Denver, Colorado.

1978 USGS Orthophoto of Koloa. USGS Information Services, Denver, Colorado.

1996 Koloa USGS 7.5-minute series topographic quadrangle. USGS Information Services, Denver, Colorado.

Vancouver, George

1798 *A Voyage of Discovery to the North Pacific Ocean and Round the World Performed in the Years 1790-95.* 3 Volumes. G.G. and J. Robinson and J. Edwards, London, England.

Van Riper, Sandra G. and Charles Van Riper III

1982 *A Field Guide to Mammals in Hawaii.* The Oriental Publishing Company. Honolulu.

Van Ryzin, Karl, David W. Shideler, and Hallett H. Hammatt

2004 *Archaeological Inventory Survey for the Proposed Aepo Waterline Project, 'Ōma'o, Kōloa, Kaua'i Island TMK: 2-6-03:31, 32.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Waihona 'Aina

2022 *The Māhele Database.* Electronic document, http://waihona.com (accessed 10 April 2014).

Walker, Alan T., Lehua Kalima, and Susan T. Goodfellow

1991 *Archaeological Inventory Survey, Lihue/Puhi/Hanamaulu Master Plan, Lands of Hanamaulu, Kalapaki, Nawiliwili, Niumalu, and Wailua, Lihue District, Island of Kauai.* Paul H. Rosendahl, Inc., Hilo, Hawai'i.

Walker, Alan T. and Paul H. Rosendahl

1990 *Archaeological Inventory Survey, Hyatt Regency Kauai Proposed Golf Course Project Area, Land of Paa, Koloa District Island of Kauai (TMK: 4-2-9-01: por.1).* Paul H. Rosendahl, Inc., Hilo, Hawai'i.

Wichman, Frederick B.

1998 *Kaua'i. Ancient Place-Names and Their Stories.* University of Hawai'i Press, Honolulu.

Wilcox, Carol

1996 *Sugar Water: Hawaii's Plantation Ditches.* University of Hawai'i Press, Honolulu.

WRCC (Western Regional Climate Center)

2010 *1961-1990 Monthly Climate Summary for Kawailoa.* Available online at http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?hi3754

Yamanaka, William K. and Takeo Fuji

2001 *History of McBryde Plantation 1899-1996.* Electronic document, http://members.aol.com/kauaihistory/bk1.htm.

Yorck, Jesse and Hallett H. Hammatt

2005 *Archaeological Inventory Survey of a Proposed Roundabout Construction, Driveway Reconstruction and Road Widening in the Vicinity of the Intersection of Pō'ipū & Lāwa'i Roads, Kōloa Ahupua'a, Kona District, Kaua'i Island.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Yorck, Jesse, David W. Shideler, and Hallett H. Hammatt

2003 *Data Recovery of Five Sites (50-30-10-1918, 1919, 1920, 1921 and 1923) at Kukui'ula. Kōloa Ahupua'a, Kaua'i Island (TMK 2-6-04).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2004 *Addendum to an Archaeological Inventory Survey of Three Proposed Well Sites and Appurtenances in the Vicinity of the Pīwai Reservoir, Kōloa Ahupua'a, District of Kona, Island of Kaua'i (TMK 2-5-01: por. 8).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Appendix A Community Outreach Letter

CULTURAL SURVEYS HAWAI'I
ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL DOCUMENTATION SERVICES - SINCE 1982

P.O. Box 1114 Kailua, Hawai'i 96734 Ph: (808) 262-9972 Fax: (808) 262-4950

Aloha mai kākou [redacted],

With this letter, Cultural Surveys Hawai'i (CSH) humbly requests your *mana'o* and *'ike* (experience, insights, and perspectives) regarding past and ongoing cultural, practices, beliefs, and resources within certain proposed development areas at Kukui'ula lands within Lāwa'i and Kōloa Ahupua'a (see following figures).

Consultation with *kūpuna*, *kama'āina*, and Hawai'i's diverse ethnic communities is an important and deeply valued part of our work and the environmental review process for proposed projects in Hawai'i. Your contributions will revitalize and keep alive knowledge of cultural practices, storied places, and life experiences that will remind Hawai'i's children of their history for generations to come.

Project Description

At the request of Kukui'ula Development Co LLC, CSH is preparing a Ka Pa'akai Analysis study for the residential development of parcels A2, F2, and F3 within the western (Lāwa'i Ahupua'a) portion and also for another discrete area Parcels JKL in the north central (Kōloa Ahupua'a) portion of the of the Kukui'ula Development Area. The location and boundaries of the proposed project are delineated on a 1996 Koloa USGS map (Figure 1), a Tax Map Key plat (Figure 2) and a 2019 aerial photograph attached to this invitation.

Purpose of this Study

The purpose of this Ka Pa'akai Analysis outreach is to (1) the identity and scope of valued cultural, historical, or natural resources in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area; (2) the extent to which those resources, including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed action. This is accomplished through consultation and background research using previously written documents, studies, and interviews. This information is used to assess potential impacts by the proposed project to the specific identified resources, practices, and beliefs in the project area. As a knowledgeable member of the community and a holder of long-term cultural knowledge, your insight, input, and perspective provide a valuable contribution to the assessment of potential effects of this project and an understanding of how to protect these resources and practices.

Insights focused on the following topics in the project area are especially helpful and appreciated:

- Your knowledge of traditional cultural practices of the past within the proposed project area portions of Lāwa'i and Kōloa Ahupua'a
- Your specific traditional cultural practice and its connection to the proposed project areas and Lāwa'i and Kōloa Ahupua'a
- The different natural resources associated with your cultural practice

Ka Pa'akai Analysis for Parcels A2, F2 and F3 in the Lāwa'i Ahupua'a Portion of the Kukui'ula Development Area and Parcel JKL in the Kōloa Portion of the Kukui'ula Development Area

Page 2

- Legends, stories, or chants associated with your cultural practices and their relationships to the proposed project area portion of Lāwa'i and Kōloa Ahupua'a
- Referrals to other *kūpuna*, *kama'āina*, and traditional cultural practitioners knowledgeable about the proposed project area portion of Lāwa'i and Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on your ongoing traditional cultural practices and natural resources within the proposed project area portions of Lāwa'i and Kōloa Ahupua'a
- Your knowledge of cultural sites and *wahi pana* (storied places) within the proposed project area portions of Lāwa'i and Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on cultural sites and *wahi pana* within the proposed project area portions of Lāwa'i and Kōloa Ahupua'a

Consultation Information

Consultation is an important and deeply valued part of a Ka Pa'akai Analysis study. Your contributions will revitalize and keep alive our combined knowledge of past and ongoing cultural practices, historic places, and experiences, reminding following generations of their history.

With your agreement to participate in this study, your contributions will become part of the comprehensive understanding of traditions of the area, and part of the public record.

As a part of this process, your knowledge may be used to inform future heritage studies of cultural practices and resources that need protection from impacts of proposed future projects. If you engage in consultation, and the *mana'o* and *'ike* you provide appears in the study, we would like to recognize your contribution by including your name. If you prefer not to allow your name to be included, your information can be attributed to an anonymous source.

The consultation interview structure and format are flexible. We will accommodate your preference on how to get together; talk story, over the phone, by email correspondence, remotely via Zoom, MS Teams, Google Chat or other remote meeting platforms.

Your knowledge of the resources and potential effect of the project on traditional practices in the project area portions of Lāwa'i and Kōloa Ahupua'a focusing on the topics in the bullet points above can also be submitted in a written statement. CSH will provide return postage of your written statement on request.

CSH is happy to provide a list of topics for discussion, a more structured questionnaire of interview questions, or any other assistance that might be helpful.

If you have questions regarding consultation, or are interested in participating in this study, please contact CSH Cultural Researcher name by email at CSH staff email or phone at CSH staff telephone number.

Mahalo nui loa for your time and attention to this request for consultation.

Ka Pa'akai Analysis for Parcels A2, F2 and F3 in the Lāwa'i Ahupua'a Portion of the Kukui'ula Development Area and Parcel JKL in the Kōloa Portion of the Kukui'ula Development Area

Page 3

Yours with much aloha and appreciation,

Name

CSH Cultural Researcher

Ka Pa'akai Analysis for Parcels A2, F2 and F3 in the Lāwa'i Ahupua'a Portion of the Kukui'ula Development Area and Parcel JKL in the Kōloa Portion of the Kukui'ula Development Area

Page 4

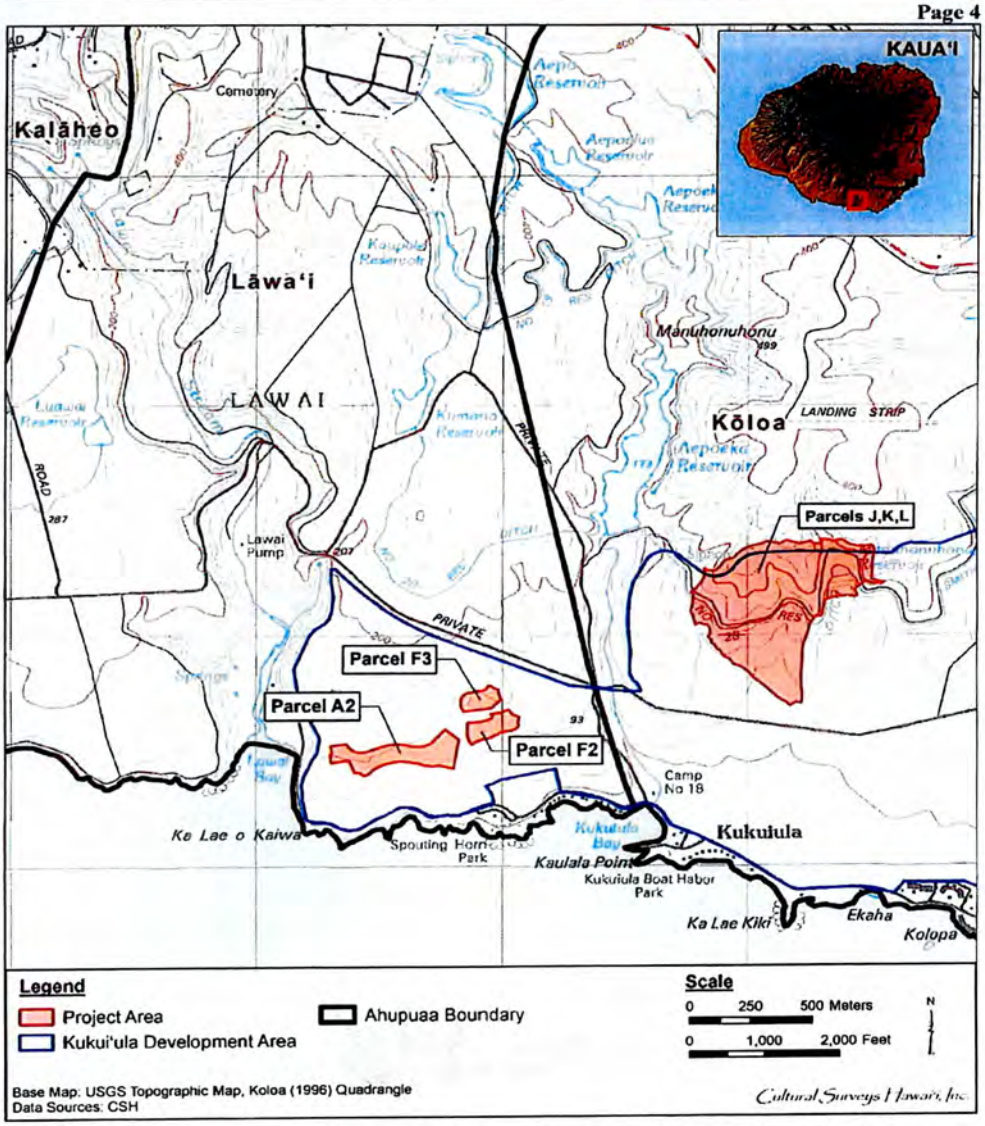


Figure 1. Portion of the 1996 Koloa USGS topographic map quadrangle showing the Kukui'ula Development Areas of present concern (parcels A2, F2 and F3 in Lāwa'i Ahupua'a and Parcel JKL in Kōloa Ahupua'a)

Ka Pa'akai Analysis for Parcels A2, F2 and F3 in the Lāwa'i Ahupua'a Portion of the Kukui'ula Development Area and Parcel JKL in the Kōloa Portion of the Kukui'ula Development Area

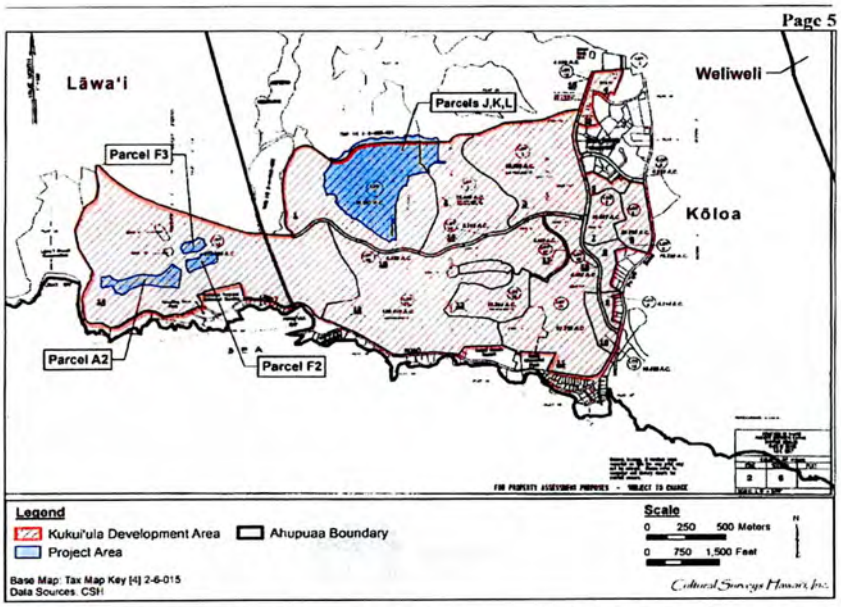


Figure 2. Tax Map Key (TMK) Plat map (4) 2-6-015 showing the Kukui'ula Development Areas of present concern (parcels A2, F2 and F3 in Lāwa'i Ahupua'a and Parcel JKL in Kōloa Ahupua'a)

Ka Pa'akai Analysis for Parcels A2, F2 and F3 in the Lāwa'i Ahupua'a Portion of the Kukui'ula Development Area and Parcel JKL in the Kōloa Portion of the Kukui'ula Development Area

Page 6

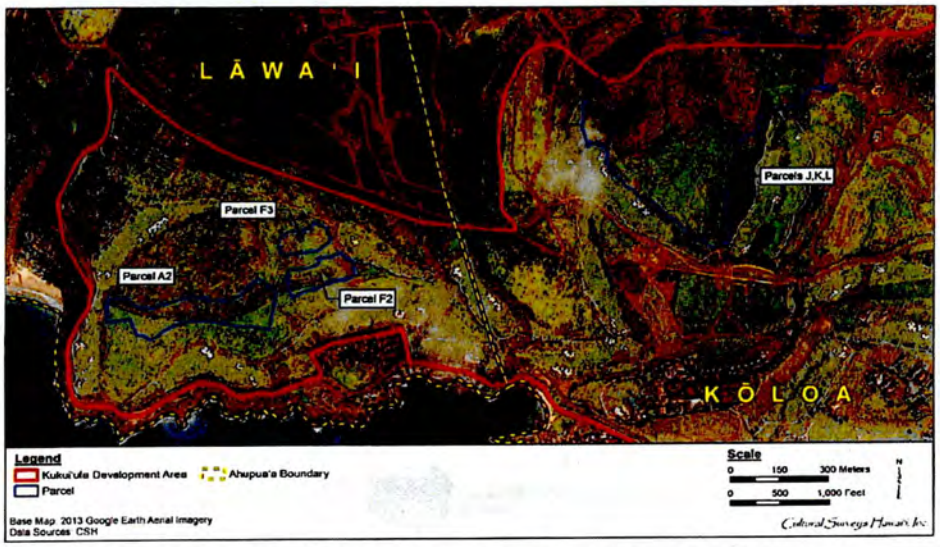


Figure 3. 2019 aerial photograph (Google Earth Aerial Imagery) showing the Kukui'ula Development Areas of present concern (parcels A2, F2 and F3 in Lāwa'i Ahupua'a and Parcel JKL in Kōloa Ahupua'a)

Appendix B Testimony of Manawaiakea (Roslyn Cummings)

[without honor, there is no trust, without trust, there is jo honor]

Pule, Prayer
E I'O mahalo no kēia lā,
mahalo no kō mākou ola,
no kō mākou ea a kō mākou mana.
Aia no mākou i nei 'Āina 'O Kauai ke kū nei no ka palekana o nā iwi kūpuna, 'āina, na kamali'i, wahine, kane
He noi ha'aha'a kēia no kou palekana i luna o mākou pākahi a pau.
E mālama i ka pono ma ke aō a me ka pō.
E kōkua iā mākou e kū me ka ha'aheo no kō mākou kūpuna a no kō mākou lau manamana. Me ke aloha pau 'ole, 'āmama ua noa, 'amene.

Kou Inoa Manawaiakea, noho Kalaheo Ahupua'a, Kona Moku, Mokupuni Kauai (Manokalanipo, Kamawaelualani),

Wahine Maoli (Women) taught to me by my tutu Kane
Kalani Pai'ea Wohi o Kaleikini Keali'ikui Kamehameha o 'Iolani i Kaiwikapu kau'i Ka Liholiho Kūnuiākea he called me a- "Wahine Maoli"

Kuleana: Kahuna Papakulo, Mana Lomi, Kahea, Kea
(Child of God) Alo to be present in Hā life essence as equals (not above, nor below) as equals

He āina Ha Wai 'I I am of Hawaii
Home of our ancestors, those that walk before us.

Kou hanau Waimea, Kauai (Ka Ua 'I)

Hapai 'ia Pokiikauna, Kauai, Makaweli, Kauai, Ko'ula Kauai, Polihale Kauai, Nualolo Kauai, Lawai, Kauai, Kalaheo, Kauai, Kōloa, Kauai, Kailua-Kona, Hawaii

Ike Papalua
Kukuiula is a place where our ancestral burials and cave systems are so vast we hold near and dear the secrets of their passage. Palekana (DO NOT TRESPASS)
To forgive us our trespasses as we forgive those we trespass against us. Modern day Kukuiula is known for its reinterment site amongst high end luxury homes. Specifically the Kapu burials of our tutu wahine chiefess along with the burial that had been desecrated back in the 2000's of George Humehume our tutu kane through Eke, Ese Oponui. He aligns with the birthing place of Prince Kuhio the one of whom descends from those that are buried in these vast burial systems which hold a large amount of our wealth (waiwai) wai (waters) a large part of our sustenance. Without it we are malnourished. As our ancestors were in the times of disease and famine. Bought to our lands by greed. The area host a large amount of spiritual, cultural, religious significance. To each a kuleana, to have respect and be responsible for. It seems that kanaka maoli in the past 50-60 years have failed their kuleana.

Kamakahelei would summon her warriors at the heiau of Kanaloa. A large voyaging Heiau dedicated to Kanaloa, redeficated to 'I'O 'I supreme, 'O earth, universe ever revolving. In the time of 'I'O, the great awakening, the reckoning (knowing what is right by doing what is right)

Amongst our Ali'i (Ali 'I) are the warriors and it's people. The villagers. Held in high respect, regard is the Ahupua'a. Where many thrived.

Koloa borders the ahupuaa of Lawai to the west and Weliweli to the east.

Developments are detrimental to our people, kanaka maoli. Its effects are felt for generations. I am here as you should be to stop the progress of DEVELOPMENT. Damaging our eco-system. Kukuiula as wetlands. Depleted by the unset of large luxury homes. Waste and Water usage damaging our waters from Mauka to Makai. Water needing to be diverted to feed into these man made systems what is protected under law! Effecting our wai. Our reefs which host a large amount of our healthy iron (limu) is being depleted on the entire coastline throughout Kona Moku.

We fish here, we gather here. We pray here. We visit our ancestral burials here.

The original name prior to Prince Kuhio Birthplace was Kualu a name carried down through my Great grandfather William Waikaka Kanakanui Kualu. A name Kapu to most. A name that came before our time. Since time immemorial- Kualukiniakua of the Mu, Kualunuikupaumokumoku of the Wao, and Kualunuiaola of the Menehune.

The developer, limited warranty deed holder Gary Pinkston if Meridian Pacific Ltd. A brand of MP Financial (Nevada based Corporation of investors) removed the surface layers of the seating house of Kualunuikupaukokumoku. He removed the birthing stone of Kamawaelualani son of Wakea and Papanuihanaumoku Haumea I am a descendant as we are, kanaka maoli.

Kiahuna in the 1950's it was shared that a mummified burial surrounded by shrunken skulls were found.

In Ike papalua that area from modern time going back in history: host a lot of our waiwai; collective. Kaikioewa the first governor of Kauai elected at the time by his hanai son Kauikeaouli is kanu in the proposed area we call Palikua lot. He is also known as Palikua.

There is a piko that is present day in that particular development. Where all souls exit when it leaves the outer islands. They enter through here. 'O oio spirit pathway. The heiau is shaped in the creation symbol. Like a labyrinth. On the west side of the fraudulent tmk is the cave system that has been collapsed during Kiahuna development. You can still see the tree trunk and the lauhala tree which sits in the collapsed cave, lava tube, cavern. Bars within tells- burials!

On the north side of the āina the Catholic Church built an altar right over a known cave, cave systems as shown in previous maps. To the east of said property there is also a preserve area. So, how can slap, dab in the middle not be significant as KAUAI COUNTY, DLNR, SHPD, and numerous Agencies have made claims to. Accountability goes a long way.

On the southwest you have Pa'u a Laka Heiau and to the southwest of that another preserved area. Both are surrounded by development. Homes of foreign investors.
I say foreign because there is no pilina in the area. It's culture and history. Not even to our practices. To the south there are the remnants of the Kōloa field system of which Hallett Hammett of Cultural Survyes Hawaii speaks so highly of and later claims "no significance". To whose belief?

Our people come from oral history. Āina is our foundation. You cannot build a house where one is already standing.

In the story of Kawelo whose villagers are buried kanu in these lands and its surrounding. The heiau is part of the Kiahuna development which the archeologists stated somewhere along the lines of- it's just landscape for the golf course. So, I ask- what was here first? Our ancestors the kanaka maoli or the golf course. There are many Kalweo make sure what you perceive comes from the source- Ike papalua

Right above you have maulili a well known historical site of the legends of Kane and Kanaloa

There are waterways underground of this property and using our natural resource foreigners call Blue Rock. Again, depleting resources that do not belong to foreigners. Resources that need to be preserved and protected.

The blind eyed spiders and the amphipods they feed on are FEDERALLY protected species. U.S. Fish and Wildlife claim they do not have a full survey of the area. Then why is the County of Kaual, SHPD, and DLNR permitting projects over preserved lands. Lands that since the 1970's have been monitored and written about. Desecration of burials documented but controlled narratives. Large amount of burials have been taken out, destroyed and sold in the history of Kōloa!

Mainly, Ike papalua will share that these lands is a huge part of the battle, war in the time of Kukona and his son Manokalanipo. Why would we allow such history to be erased for modern day process by the hands of those who are greedy. Which only see on the surface. Not below nor above. They only see the view. Sooner or later we won't have the practice of papakulo if this does not stop.

Remember now, Maweke landed in Lawai

Kawaikini is our Mauna. Kahili is in alignment with the said developed area. They are diverting 20 million gallons of water from the east watershed to south. The cause and effects need to be considered.

Kauai cannot be another Oahu. These projects are a stem from Moana Corporation Kiahuna Land Commission Use. Where from the early 2000's through the mid 2015 lahui fought against development. Knudsen trust who in a 1970's newspaper article admitted to "stewards" of the land not ownership. Their title is held through a 1920's Anne Sinclair (Knudsen) land grant after the unlawful overthrow of our Hawaiian Kingdom Government. These people control our waters and sold our lands including our ancestral burials and artifacts.
History cannot repeat itself.

the Hawaiian Kingdom

On May 28, 1892, in her opening address to the last lawful Legislature, her Majesty Queen Liliuokalani declared her intentions and legislative agenda:

'...I shall firmly endeavor to preserve the autonomy and absolute independence of this Kingdom and to assist in perpetuating the rights and privileges of all who are subject to our laws and in promoting their welfare and happiness...'

On November 25, 1892 'An Act, To Reorganize The Judiciary Department' was enacted by the Hawaiian Kingdom Legislature, and became law on January 1. 1893:

'The common law of England, as ascertained by English and American decisions, is hereby declared to be the common law of the Hawaiian Islands in all cases, except as otherwise expressly provided by the Hawaiian Constitution or laws, or fixed by Hawaiian judicial precedent, or established by Hawaiian national usage, provided however, that no person shall be subject to criminal proceedings except as provided by the Hawaiian laws' [Section 5. Chapter LVII. An Act, To Reorganize The Judiciary Department, enacted on November 25, 1892, effect on January 1. 1893]

In no way can this interview over email be altered. In no way will it bring harm upon my 'Ohana. I pray this will help the next 7-21 generations in a way that they are provided a foundation of sustenance. An end to systematic failures upon our people. To our children I pray you find peace of what I am giving. To stand in protection of āina!

Aloha No,
Manawaiakea
Roslyn Nicole Manawaiakea Malama mare Cummings
General Delivery [Box 315]
Kalaheo Station, [U.S.P.Z. Exempt- 96741]

roslyncummimgs@ymail.com
E Ola Kakou Hawaii

The United States of America must uphold:
On December 20, 1849, the Treaty between the United States of America and the Hawaiian Kingdom was concluded and signed in Washington, D.C. Ratifications by both countries were exchanged in Honolulu on the Island of O'ahu, on August 24, 1850. Article VIII of the treaty provides:

"...each of the two contracting parties engages that the citizens or subjects of the other residing in their respective States shall enjoy their property and personal security in as full and ample manner as their own citizens or subjects, or the subjects or citizens of the most favored nation, but subject always to the laws and statutes of the two countries, respectively."

In addition, Article XVI of the said treaty provides that any:

"...citizen or subject of either party infringing the articles of this treaty shall be held responsible for the same, and the harmony and good correspondence between the two governments shall not be interrupted thereby, each party engaging in no way to protect the offender, or sanction such violation."

Neither the United States nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XVI of the 1849 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date.

Appendix C Testimony of Zacheriah Harmony

From: Zacheriah Harmony <nurture.hope@hawaii.rr.com>
Sent: Monday, June 13, 2022 9:08 PM
To: Kellen Tanaka <ktanaka@culturalsurveys.com>
Subject: Re: Ka Pa'akai Analysis study for Parcels A2, F2 and F3 in the Lāwa'i Ahupua'a Portion of the Kukui'ula Development Area and Parcel JKL in the Kōloa Portion of the Kukui'ula Development Area

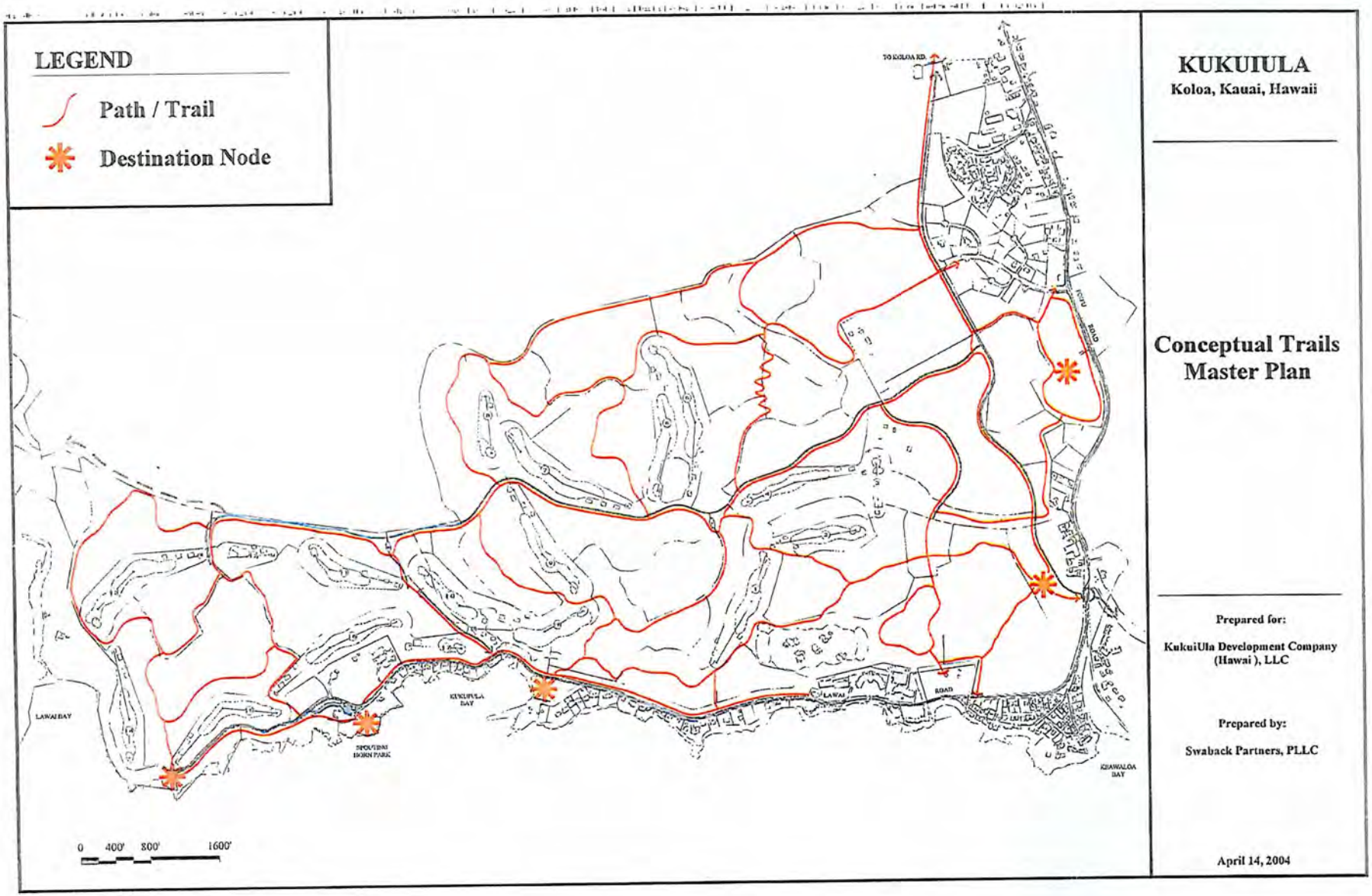
The following are the responses I recently submitted to a questioner regarding this study that I was asked to participate in. My statements and opinion's are directly responding to the survey's questions. I do have a bit more generational and acquired information regarding at least two of the parcels .
I did follow the recent march and view the terrain and it's proximity to a ancient Heiau that I hold a Kuleana , or responsibility to as part of my family's heritage.
I am also concerned about the swale, tsunami, tide surges and vulnerability of "Cottages" near the Kukui'ula Boat Harbor. Family members of mine in the 1970's were displaced under "eminent domain" by the State in expanding the harbor and their homes razed commercializing the area forcing relocation of local families and now countermanding their previous stance reducing density in the area of the harbor.
Perhaps if you could forward me copies of the types of habitations planned for the different sites and their locations I could further comment.
I look forward to your response.
Kalanikumai Ka Maka'uli'uli Puamō'ī 'O Nā Ali'i Hanohano.

Koloa Interview 6/10/2022

1. **Cultural Practitioner/ Gardener/ Poet.**
2. **Born Koloa, HI. 37 years, 7th generation Kama'āina (36 years in Americas).**
3. **Koloa District (back of Lāwa'i Valley).**
4. **Genealogy linked to Maunapōhakū Heaiu which is on Pau a Laka located within 200 yards of Project area, Personal Kuliana as ancestor Nahinu owned and had responsibility over Heiau and area including Project site. Maunapōhaku Heiau.**
5. **Visits and inspections to Heiau over past 25 years, meeting & greeting with former adjacent neighbors, location confirmed by Hal Hemmitt; My nephew is currently working to on maintaining vegetation around Heiau. I still do prayer ceremonies on site.**
6. **Great-Grandmother's Uncle "Kaluhimoku Nakapa'ahu" was known as the Kahuna Lā'au Lapa'au who accessed Project area to Gather and Harvest various Plants, Flowers and medicinals (1953 recording validates), personal experience of accessing site in past 30+ years.**
7. **Underground seepages and lava tube flow contributes to hydrological reservoir of Pō'ipū basin, Weliweli and Pa'a drainage delivering nutrients to aquatic estuaries as part of Hawaiian cosmology. Disturbance of which affects ecology. I am very concerned about the consequence of blasting on the site risking the contamination of Poipu basin.**
8. **Legend of Pā'īīla', Kupū'a defeating twins of Wailua; Legend of Ali'i Wind (100 year recurring event scouring area; Ancient Rock wall formations and enclosures within as part of Koloa Field system; Eastern extension of Kane'iolouma complex, Waikomo aūwai irrigation system.**
9. **Tsunami zone; during Iniki ,road was closed due to flooding fronting Pō'ipū Shopping Village with no exit available. Opening tunnel thru mountain to Kaumuali'i Hwy could relieve stranding. Additional traffic congestion during and**

subsequent to construction; Pō'ipū Road inadequate to handle impact of heavily loaded trucks and equipment without damage to roadway.

10. **Native Hawaiian access and gathering rights upon undeveloped lands.**
11. **Change from visitor Condos, Luxury Homes and Boat Harbor Cottages to single family affordable housing for residents.**
12. **Overextension of accommodations for transitory and transplant populations will experience an oversupply of unsuitable accommodations for local residents, a downtick in Visitor travel and economic losses may well result in major losses and ruin for the developer with no benefit to the workforce who so despartely need housing.**
13. **Inter generational family members with four or more generations in area that have knowledge of traditions and former land use; Koloa Field system.**
14. **Kūpuna of local intergenerational families- Koloa Field system records.**



KUKUIULA

Koloa, Kauai, Hawaii

Conceptual Trails Master Plan

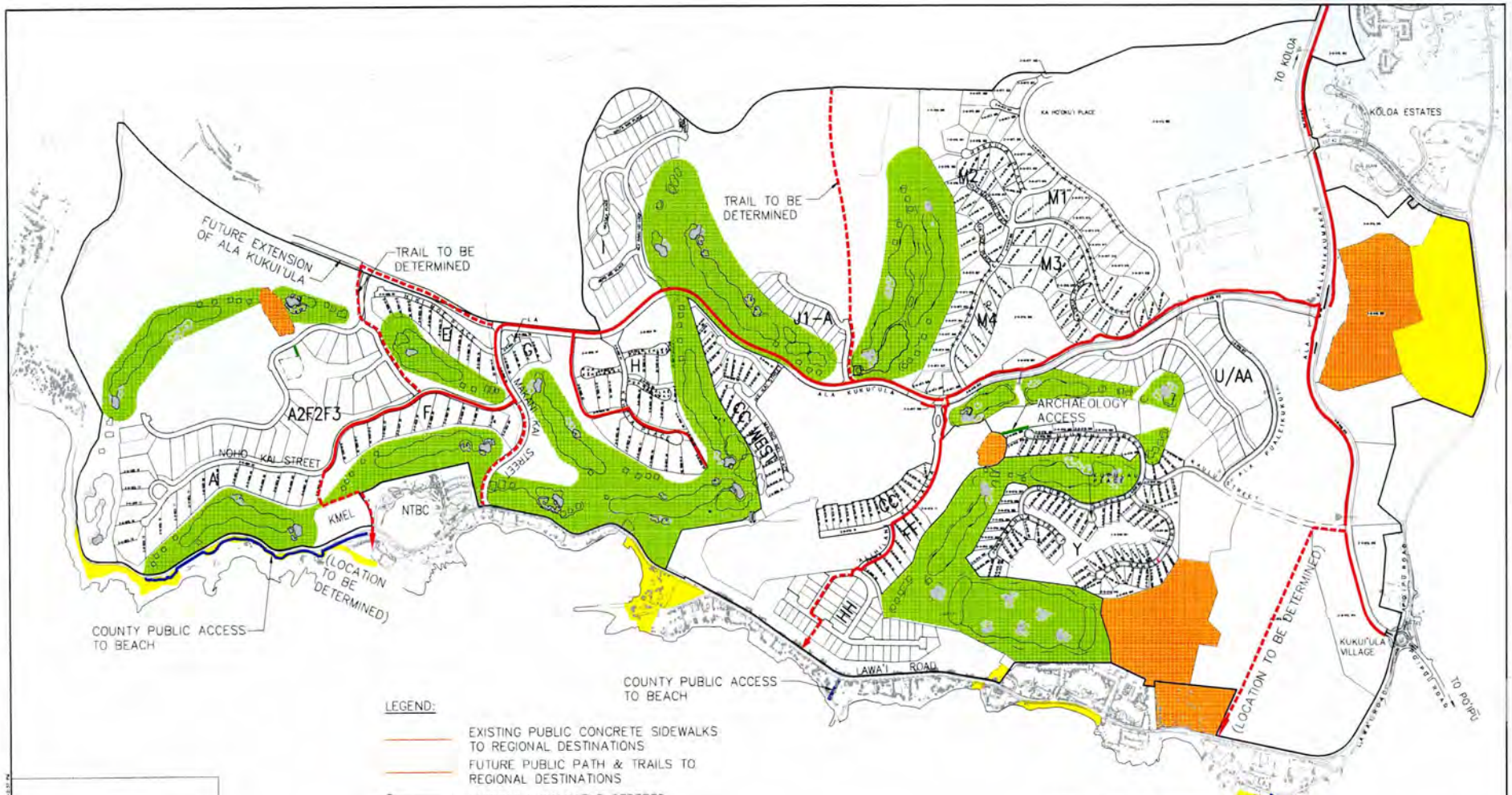
Prepared for:

KukuiUla Development Company (Hawai), LLC

Prepared by:

Swaback Partners, PLLC

April 14, 2004



PUBLIC PATH & TRAILS EXHIBIT

OCTOBER 28, 2020
MAY 17, 2023 (REV.)
FEBRUARY 25, 2025 (V3)

COUNTY COUNCIL

COUNTY OF KAUA'I

Resolution

No. 2010-48, Draft 1

A RESOLUTION ESTABLISHING A COMPLETE STREETS POLICY FOR THE COUNTY OF KAUA'I

WHEREAS, Complete Streets is a set of design principles that promotes safe access for pedestrians, bicyclists, motorists, and public transportation users of all ages and abilities; and

WHEREAS, streets that support and encourage multiple travel modes, and include safe and ample space for pedestrians, bicyclists, and public transportation users, are more conducive to community living and the efficient movement of people than streets designed primarily to move automobiles; and

WHEREAS, the integration of all travel modes in the design of streets and highways, especially in and around town cores, can help reduce traffic congestion by providing other travel options in lieu of automobile travel; and

WHEREAS, Complete Streets promotes non-motorized travel as alternatives to automobile travel, thus helping to reduce greenhouse gas emissions and personal transportation costs incurred by rising fuel prices; and

WHEREAS, numerous studies have demonstrated that Complete Streets facilitates walking, bicycling, and public transit use, thus increasing the amount of time one spends engaged in physical activity, which is an important component of a healthy lifestyle; and

WHEREAS, Complete Streets will help develop a connected and complete transportation network that will reduce hazards and improve safety for pedestrians and cyclists, especially vulnerable populations who may be unable to operate a motor vehicle, such as young children, the elderly, and the physically disabled; and

WHEREAS, Complete Streets are supported by the Institute of Traffic Engineers, American Planning Association, and many other transportation, planning, and public health professionals; and

WHEREAS, in 2009 the State Legislature passed and the Governor signed into law Act 54 requiring counties to adopt a Complete Streets policy; and

WHEREAS, other jurisdictions and agencies nationwide have adopted Complete Streets legislation, including the United States Department of Transportation, numerous state transportation agencies, and cities such as Sacramento, San Diego, Salt Lake City, Boulder, Chicago, Seattle, Iowa City, Louisville, and Portland; and

WHEREAS, the General Plan directs the County to consider alternatives to increasing the capacity of roadways by encouraging public transit, and to provide for pedestrian and bicycle facilities in town centers; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, that all roadway projects, including design, planning, reconstruction, rehabilitation, maintenance, or operations in the County of Kaua'i be balanced and equitable in accommodating and encouraging travel by bicyclists, public transportation vehicles and their passengers, and pedestrians of all ages and abilities in accordance with Complete Street principles.

BE IT FURTHER RESOLVED, that the County of Kaua'i plan for, design, and construct new County transportation improvement projects in accordance with Complete Streets principles in order to safely accommodate travel by pedestrians, bicyclists, public transit, and motorized vehicles, with special priority given to pedestrian travel in town centers and other densely populated areas.

BE IT FURTHER RESOLVED, that the County of Kaua'i includes Complete Streets principles in the development and construction standards within the Kaua'i County Code.

Exemptions from Complete Streets principles may be allowed in the following circumstances:

a. During ordinary maintenance activities designed to keep roads in serviceable conditions, such as mowing, cleaning, sweeping, and surface treatments;

b. Where use of a particular highway, road, street, way, or lane by bicyclists or pedestrians is prohibited by law;

c. Where the costs would be excessively disproportionate to the need or probable use of the particular highway, road, street, way, or lane;

d. Where there exists a sparseness of population, or there exists other available means, or similar factors indicating an absence of a future need; or

e. Where the safety of vehicular, pedestrian, or bicycle traffic may be placed at unacceptable risk.

f. Where there are significant impacts to natural, topographical, cultural or historic resources that cannot be reasonably mitigated.

BE IT FURTHER RESOLVED, that the County of Kaua'i should include Complete Streets policies and principles in future General Plan, development plan, and special area plan updates.

BE IT FURTHER RESOLVED, that the Complete Streets Working Group of the Built Environment Task Force of Get Fit Kaua'i should submit a report to the Mayor and County Council on progress made towards the adoption of Complete Streets principles into the development and construction standards within the Kaua'i County Code within 18 months of the adoption of this resolution.

BE IT FURTHER RESOLVED, that the County of Kaua'i should consider the recommendations of the State Complete Streets Task Force when they are released and work with the State Department of Transportation to ensure that the County of Kaua'i implements a Complete Streets policy that is consistent with State roadway standards.

Introduced by:

/s/JAY FURFARO
(By Request)

V:\CS OFFICE FILES\RESOLUTIONS\2010-48, draft 1 complete streets.doc

	Aye	Nay	Exc	Recused
Asing	X			
Bynum	X			
Chang	X			
Furfaro	X			
Kaneshiro	X			
Kawahara	X			
Kawakami	X			
Total	7	0	0	0

Certificate Of Adoption

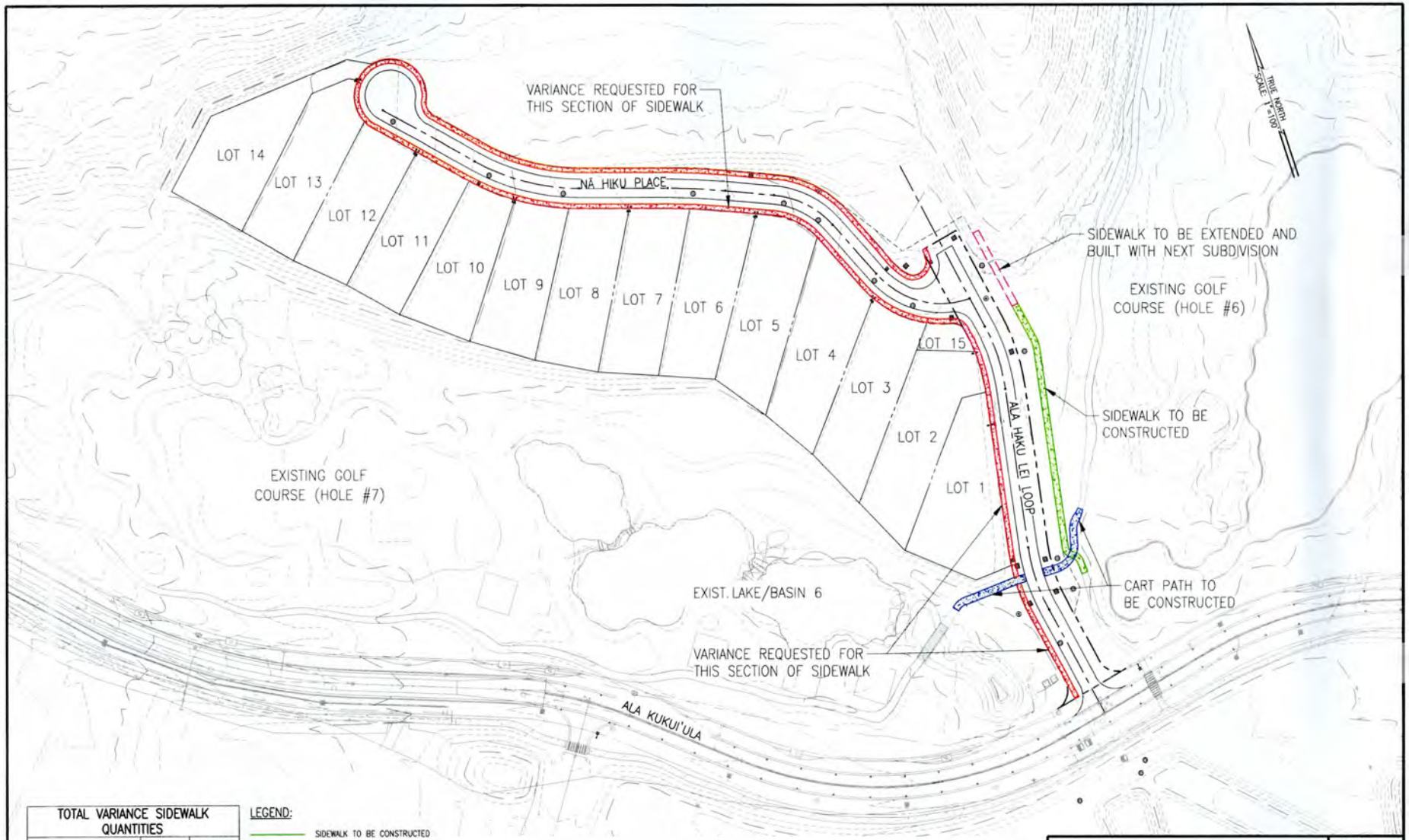
We hereby certify that Resolution No. 2010-48, Draft 1 was adopted by the Council of the County of Kaua'i, State of Hawai'i, Lihu'e, Kaua'i, Hawai'i, on September 15, 2010.

County Clerk

Chairman & Presiding Officer

Dated September 16, 2010

EXHIBIT “L”



TOTAL VARIANCE SIDEWALK QUANTITIES		
SIDEWALK	TOTAL AREA (SF)	TOTAL AREA (SY)
VARIANCE	9,820	1,091

LEGEND:

- SIDEWALK TO BE CONSTRUCTED
- CART PATH TO BE CONSTRUCTED
- REQUESTING SIDEWALK VARIANCE
- SIDEWALK TO BE EXTENDED (WITH FUTURE SUBDIVISION)

SCALE: 1"=100'

LINE IS 1 INCH AT FULL SIZE
(IF NOT 1-inch : Scale Accordingly)

AUSTIN, TSUTSUMI & ASSOCIATES, INC.
ENGINEERS, SURVEYORS • HONOLULU, WAILUKU, HAWAII

COMPLETE STREETS
SIDEWALK VARIANCE

EXHIBIT

A

JOB NO. 01-107.110

AUGUST 2025

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of Class IV Zoning and Variance Permits to allow a deviation from the requirement involving the construction of curbs, gutters, and sidewalks within the Residential (R-4) zoning district for an 18-lot subdivision.
Permit Application Nos.	Class IV Zoning Permit Z-IV-2026-10 Variance Permit V-2026-3
Name of Applicant(s)	BBCP KUKUI'ULA DEVELOPMENT, LLC. Mauna Kea Trask, Esq., Authorized Agent

II. PERMIT INFORMATION

PERMITS REQUIRED	
☐ **Use Permit**	
☐ **Project Development Use Permit**	
☒ **Variance Permit**	A Variance Permit is required to allow a deviation from the requirement to construct curbs, gutters, and sidewalks for a subdivision within the Residential zoning district pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance.
☐ **Special Permit**	
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-3.1 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Variance Permit.
☐ **Special Management Area Permit** ☐ Use ☐ Minor	
AMENDMENTS	
☐ **Zoning Amendment**	
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

Date of Receipt of Completed Application:	December 16, 2025
Date of Director's Report:	January 14, 2026
Date of Public Hearing:	February 10, 2026
Deadline Date for PC to Take Action (60TH Day):	March 29, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	The project site is situated along the *mauka* side of Ala Kukui'ula in the Kukuiula Master Planned Community, approximately ¾-mile west of its intersection with Ala Kalanikaumaka.		
Tax Map Key(s):	(4) 2-6-023: 040	**Area:**	114.469 Acres

ZONING & DEVELOPMENT STANDARDS	
Zoning:	Residential District R-4 / Open – Special Treatment Open (O/ST-O)
State Land Use District:	Urban
General Plan Designation:	Residential Community
Height Limit:	Thirty (30) feet
Max. Land Coverage:	Residential District = 60%
Front Setback:	10'-0"
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	South Kaua'i Community Plan
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	The request involves a deviation from the requirement to construct curbs, gutters, and sidewalks for a subdivision within the Residential zoning district pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance.

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on December 16, 2025, and the Applicant, through its authorized

	agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	**February 10, 2026**

V. PROJECT DESCRIPTION AND USE

The proposal subdivides Lot 40 of the Kukui'ula Parcel I Subdivision into a total of fourteen (14) residential lots, one (1) landscaping lot (Lot 15 to be utilized as a common area), one (1) remnant lot, and two (2) roadway lots (Lots 16 & 17). Lot 16 will serve as the eastern segment of Ala Haku Lei Loop, while Lot 17 will be cul-de-sac roadway identified a Nā Hiku Place. The proposed development is located within the County's Residential (R-4) zoning district and the State Land Use Urban District. The proposal is currently being considered through Subdivision Application No. S-2023-4, which has received Preliminary Subdivision Map Approval by the Kaua'i Planning Commission on July 11, 2023.

As a condition of tentative approval, the Applicant is required to construct curbs, gutters, and sidewalks along the subdivision's frontage pursuant to Section 9-2.3 (e) (3) of the Subdivision Ordinance, Kaua'i County Code, 1987, as amended. This is a standard requirement for subdivision proposals that are within the County Residential zoning district where the density permitted is four (4) units or more per acre. This requirement is outlined in Condition 1.h. of the Tentative Approval Letter dated July 12, 2023, which states:

> **"h. Pursuant to Section 9-2.3(e) of the Subdivision Ordinance, Kaua'i County Code (1987), as amended, curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Residential Districts where the density permitted is four (4) units or more per acre. For existing streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.**
>
> **Prior to final subdivision approval, the Applicant shall work with the Planning Department and Department of Public Works to determine if the provision of curbs, gutters and sidewalks is necessary. If it is determined necessary, the Applicant shall comply with the requirements of Section 9-2.3(e)(3) prior to final subdivision approval. Further, if the requirement of sidewalks is waived, the Applicant shall comply with Sections 9-2.3(e)(3)(C) and 9-2.3(e)(3)(D) prior to final subdivision approval.**
>
> **Section 9-2.3(e)(3) states:**
>
> ***"(3) Curbs, gutters and sidewalks shall be provided on both sides of all proposed or existing streets within or abutting the subdivision in Commercial, Industrial and Resort Districts; in Residential Districts where the density permitted is four (4) units or more per acre; and in any other Zoning Districts within the State Land Use-Urban District that are located within one-half (1/2) mile from any elementary, intermediate, high school, or college. For existing***

streets abutting subdivisions, sidewalks shall be required on the side of the street fronting the subdivision for the length of the subdivision frontage.

(A) In Residential Districts, swales may be constructed in lieu of curbs and/or gutters in accordance with the drainage standards and design guidelines established by the Department of Public Works.

(B) In Residential Districts, the requirement of sidewalks may be waived if the Planning Commission determines that sidewalks are infeasible or unnecessary, taking into account local context and sensitivity to community character, and an alternate method of pedestrian circulation exists or will be provided by the applicant.

(C) If the requirement of sidewalks is waived, the subdivider shall be required to pay a fee in lieu of required sidewalk construction. The fee in lieu of sidewalk construction shall not be required for subdivision approvals for less than six (6) lots. The fee in lieu of required sidewalk construction shall be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer. There is hereby established and created a "sidewalk/shared use path fund" for the deposit of fees collected in lieu of required sidewalk construction. The fees collected pursuant to this Subsection (C) are hereby deemed appropriated upon receipt and shall be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance. The County Engineer shall submit an annual written report to the Council of each fiscal year's expenditures and balance of the sidewalk/shared use path fund on or before the 15th day of March of each year. If the 15th day of March falls on a Saturday, Sunday, or legal holiday, the report shall be submitted on the prior working day. The fees collected shall not lapse at the close of the fiscal year.

(D) Payment of said fees shall be made in a lump sum at the time of final - subdivision map approval or payment shall be made according to the following schedule: fifty percent (50%) at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval. When funds are needed for sidewalk or shared use path planning, design, land acquisition, construction and/or repair, the County Engineer shall submit a written request to the Planning Director and Mayor for approval. Upon approval, the Finance Director shall be authorized to release monies from the fund.""

In reviewing the proposal, the Applicant is requesting to deviate from Section 9-2.3 (e) (3) of the Subdivision Ordinance in accordance with the following subsections:

1. <u>Section 9-2.3 (e)(3)(A)</u> – The Applicant proposes the use of drainage swales along the frontages of roadway Lots 16 and 17, in lieu of raised curbs and gutters subject to the

review and approval of the County Department of Public Works – Engineering Division.

2. Section 9-2.3 (e)(3)(B) – The Applicant is requesting a *waiver* to the sidewalk requirement affecting the western side of Ala Haku Lei Loop (Lot 16) and along both sides of the newly created cul-de-sac roadway lot (Lot 17).

3. Section 9-2.3 (e) (3) (C) – The Applicant is requesting to pay a fee in lieu of the required sidewalk construction that will be equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application and Supplemental documents.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for FEBRUARY 10, 2026. At the present time, the department has only received comments from the State Department of Health and has not received comments from other reviewing agencies that includes the COK Department of Public Works - Engineering Division and COK Water (DOW). However, comments are being anticipated and will be presented at the public hearing.

VIII. FINDINGS

1. SUBDIVISION APPLICATION NO. S-2023-4
   Through Subdivision Application No. S-2023-4, the Applicant is working to resolve the necessary infrastructure improvements to accommodate the proposed subdivision. The on-site (Phase 1) construction plans that was approved on September 9, 2025, currently do not provide for curbs, gutters, and sidewalks along the roadway frontages of Lots 16 and 17; however, a sidewalk is shown along the eastern side of Ala Haku Lei Loop adjacent to Lot 16, located just outside the road right-of-way.

   In consideration of the approved construction plans, the Applicant acknowledges that if the proposed deviation is denied, the plans must be revised to provide sidewalks on both sides of the street on both roadway lots, or as otherwise directed by the Planning Commission.

   Prior to final subdivision approval, the Applicant will be required to either construct these improvements or post a surety bond for completion.

2. VEHICULAR ACCESS
   Vehicular access to the proposed subdivision will be provided via Ala Kukui'ula, a private roadway that serves as the spine road for the Kukui'ula Master Planned Community. Lot 16 (Ala Haku Lei Loop) will also remain a private roadway and is intended to connect with the western segment of the roadway established through the Kukui'ula Parcel I Subdivision

(Subdivision Application No. S-2021-1). Nā Hiku Place (Lot 17) will also remain a private roadway.

3. ORDINANCE (COMPLETE STREETS)
Ordinance No. 946 was adopted by the Kaua'i County Council on June 26, 2013. It amended Chapter 9 of the Kaua'i County Code (Subdivision Ordinance) to implement the Complete Streets Policy and the General Plan's policies for town centers and public facilities by ensuring that new subdivisions are designed and constructed to support multi-modal transportation circulation, while taking into account local context and sensitivity to community character.

Prior to the adoption of Ordinance No. 946, several subdivisions on the eastern side of the Kukui'ula Master Planned Community were designed and constructed with grass swales along roadway frontages. At that time (circa 2005), requirements for curbs, gutters, and sidewalks applied to Residential District properties with densities of 10 units per acre or greater (R-10), and because these subdivisions were located within the Residential (R-4) zoning district, they were not subject to those requirements. As a result, the subdivisions were designed with a rural character, which has since contributed to establishing the overall rural character of the planned community.

4. COMPREHENSIVE PEDESTRIAN AND BIKING TRAIL SYSTEM
As a requirement of Condition No. 15 of Ordinance No. PM-2004-370, the Applicant is required to provide a comprehensive pedestrian and biking trail system throughout the planned community that is open to the general public. Accordingly, since the adoption of the subject zoning ordinance, the Kukui'ula Master Planned Community has over the years, been developed to be in compliance with this requirement. Sidewalks were and continue to be required in subdivision proposals in order to be consistent with the designations shown on the Kukui'ula Public Path and Trails Exhibit. The intent of the planned trail network is to feature sidewalks that would provide pedestrian connectivity within the planned community while taking into account local context and the established rural character of the area.

5. MODIFICATIONS OF REQUIREMENT
After the adoption of Ordinance No. 946, the Applicant requested a Modification of Requirement for various subdivisions to deviate from the complete streets standards in order to maintain the existing rural character of the planned community. These modifications were approved by the County of Kaua'i, Planning Commission as it was determined that:

   a. The deviation would allow the Applicant to construct the proposed roadway(s) similar to the completed roadways within the planned community and be consistent with the infrastructure serving that area;

   b. The Public Path and Trails Exhibit did not show the subject area as a part of the trail network within the planned community; and

c. The County of Kaua'i, Department of Public Works – Engineering Division approved the use of drainage swales in-lieu of curbs and gutters along the subdivision's frontage.

6. SUBDIVISION HISTORY

Subdivision Application No. S-2004-45 — The subdivision application, known as the Kukui'ula Large-Lot Subdivision, III, received Final Subdivision Map Approval by the Kaua'i Planning Commission on April 11, 2006, and was subsequently recertified on July 11, 2006. It established nineteen (19) large lots within the Kukui'ula Master Planned Area. The intent of the subdivision was to create conveyable parcels that could be developed separately, and in addition, allowed the applicant to individually finance the various developments. Lot 1, subsequently subdivided in Kukui'ula Parcel I Subdivision (S-2021-1) was established through this subdivision.

Subdivision Application No. S-2021-1 — The subdivision application, known as the Kukui'ula Parcel I Subdivision, received Final Subdivision Map approval by the Kaua'i Planning Commission on February 8, 2022. The project involved the subdivision of Lot 1 of the Kukui'ula Large-Lot Subdivision III, creating thirty-five (35) residential lots, three (3) remnant parcels, and two (2) roadway lots. Construction of the western segment of Ala Haku Lei Loop was completed as part of this subdivision. In addition, the subdivision created Lot 40, which is now proposed for further subdivision under the Kukui'ula Parcel J1-A Subdivision.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request for a Variance Permit to deviate from the requirement to construct curbs, gutters, and sidewalks within the County Residential (R-4) zoning district, the following should be considered:

1. VARIANCE PERMIT

Section 8-3.3 of the CZO, Kaua'i County Code entitled, "Variance", states:

"(b) Standards. Variances from the terms of this Chapter shall be granted only if it is found that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the regulations deprives the property of privileges enjoyed by other property in the vicinity and within the same District, and the applicant shows that he or she cannot make a reasonable use of the property if the regulations are applied. Where these conditions are found, the Variance permitted shall be the minimum departure from existing regulations necessary to avoid the deprivation of privileges enjoyed by other property and to facilitate a reasonable use, and which will not create significant probabilities of harm to property and improvements in the neighborhood or of substantial harmful environmental consequences. Financial hardship to the applicant is not a permissible basis for the granting of a Variance. In no case may a Variance be granted that will provide the applicant with any special privileges not enjoyed by other properties in the vicinity. The

Planning Commission shall indicate the particular evidences that support the granting of the Variance."

In evaluating the proposal, it is noted that the Applicant's request is consistent with prior actions of the Planning Commission, which have approved deviations from the requirement to construct curbs, gutters, and sidewalks for subdivisions in the vicinity of the project. Various subdivisions within the Kukui'ula Master Planned Community were granted such deviations to preserve the rural character of interior roadways. These deviations were approved at the time of Preliminary Subdivision Map approval through a Modification of Requirement pursuant to Section 9-4.2 of the Subdivision Ordinance, which applies the same evaluation criteria used for Variance Permits. Accordingly, denial of the requested sidewalk waiver would deprive the subject property of privileges enjoyed by other properties in the surrounding area.

Section 9-2.3 (e) (3) (A) – Drainage Swales in Lieu of Curbs and Gutters

The Applicant's deviation request was transmitted to the County Department of Public Works - Engineering Division for their review and comment on the subject matter. Comments are still pending.

Section 9-2.3 (e) (3) (B) & (C) — Waiver of Sidewalks

In evaluating the Applicant's request for a waiver from the sidewalk requirement along the western side of Ala Haku Lei Loop (Lot 16) and both sides of the newly created cul-de-sac roadway (Lot 17), the Department has no objections. The proposed use of grass swales would allow the Applicant to construct the roadways in a manner consistent with the completed roadways within the planned community and consistent with the existing infrastructure of the surrounding area. Additionally, the proposed deviation would allow the Applicant to construct a subdivision that is compatible with the established form and character of the surrounding neighborhood. Notably, the majority of existing dead-end streets (cul-de-sacs) within the planned community do not include curbs, gutters, or sidewalks, and instead utilize grass swales. Approval of the requested deviation would therefore enable the Applicant to preserve the established rural character of the interior roadway lots within the Kukui'ula Master Planned Community.

The Public Path and Trails Exhibit dated February 25, 2025, depicts a pedestrian trail alignment running along the eastern side of Ala Haku Lei Loop (Lot 16). Accordingly, the Applicant has incorporated a sidewalk into the construction plans for the subdivision that is consistent with the planned trail network. As represented, sidewalk construction will continue north along Ala Haku Lei Loop toward the Kukui'ula Parcel I Subdivision, located northwest of the subject subdivision proposal. Construction of these sidewalk improvements will occur as part of subsequent subdivision proposals for the subject parcel.

X. PRELIMINARY CONCLUSION

Based on the information contained in the Director's Report Findings and Evaluation, the Planning Department concludes the following:

1. The proposal is consistent with previous deviations granted in this area to preserve the established rural character of the planned community;

2. The Applicant will be required to pay a fee in lieu of the required sidewalk construction equal to or greater than one hundred percent (100%) of the cost of constructing the sidewalk as determined by the County Engineer;

3. The sidewalk in lieu fee will be deposited into the "Sidewalk/Shared Use Path Fund" and will be expended by the County Engineer for sidewalk or shared use path planning, design, land acquisition, construction and/or repair and maintenance, where determined necessary. The expenditure of the appropriated funds is not limited to the Kukuiula Master Planned Community but may be used in other areas within Kaua'i County.

4. The proposed deviation should not have any substantial adverse impacts to the surrounding neighborhood.

The Applicant should institute the "Best Management Practices" to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

The Department recommends deferral of Class IV Zoning Permit Z-IV-2026-10 and Variance Permit V-2026-3 until agency comments are received from the County of Kaua'i, Department of Public Works - Engineering Division.

Should the Department and Planning Commission receive comments from the Department of Public Works - Engineering Division prior to February 10, 2026, the Department would recommend approval of Class IV Zoning Permit Z-IV-2026-10 and Variance Permit V-2026-3 subject to the following conditions:

1. The project shall be constructed as represented. Any modifications to the project including but not limited to the location and layout of sidewalks and associated site improvements along Ala Haku Lei Loop (Lot 16) shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. The Applicant is advised that the approval of this variance does not imply approval of the subdivision, or its configuration proposed herein.

3. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirement for the County DPW-Engineering Division, water requirements for the County Department of Water, and regulations involving environmental concerns as administered by the State Department of Health.

4. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

5. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

6. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for February 10, 2026, 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 the staff's report and recommendation as provided herein.

By Kenneth A. Estes
KENNETH A. ESTES
Planner

Approved & Recommended to Commission:

By
KA'ĀINA S. HULL
Director of Planning

Date: JAN 28 2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF AGENCY COMMENTS TO PLANNING COMMISSION

DATE: **February 18, 2026**

PERMIT NUMBER(S): **Z-IV-2026-10 and V-2026-3**

APPLICANT(S): **BBCP KUKUIULA DEVELOPMENT LLC.**

Attached for the Planning Commission's reference are agency comments for the permit referenced above.

G.2.0.2.

FEB 24 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

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

FROM: Kaaina S. Hull, Director

12/26/2025

SUBJECT: Zoning Class IV Z-IV-2026-10
Variance Permit V-2026-3
Tax Map Key: 26023040
Applicant: BBCP Kukuiula Development LLC (Mauna Kea Trask, Esq., Authorized Agent
CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3)

TO:

- [x] State Department of Transportation - STP
- [x] State DOT - Highways, Kauai (info only)
- [ ] State DOT - Airports, Kauai (info only)
- [ ] State DOT - Harbors, Kauai (info only)
- [x] State Department of Health
- [ ] State Department of Agriculture
- [ ] State Office of Planning
- [ ] State Dept. of Bus. & Econ. Dev. Tourism
- [ ] State Land Use Commission
- [x] State Historic Preservation Division
- [ ] State DLNR - Land Management
- [ ] State DLNR - Forestry & Wildlife
- [ ] State DLNR - Aquatic Resources
- [ ] State DLNR - Conservation & Coastal Lands
- [ ] State DLNR - Commission on Water Resource Management
- [ ] Office of Hawaiian Affairs
- [x] County DPW - Engineering
- [ ] County DPW - Wastewater
- [ ] County DPW - Building
- [ ] County DPW - Solid Waste
- [ ] County Department of Parks & Recreation
- [x] County Fire Department
- [x] County Housing Agency
- [ ] County Economic Development
- [x] County Water Department
- [ ] County Civil Defense
- [x] County Transportation Agency
- [ ] KHPRC
- [ ] U.S. Postal Department
- [ ] UH Sea Grant
- [ ] Other:

FOR YOUR COMMENTS (pertaining to your department)

1.27.2026

CTA HAS NO FURTHER COMMENT ON THIS PROJECT.

MAHALO!

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 2/10/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

February 9, 2026

Agency comments received by the Planning Department as of February 9, 2026, 9:00 am for the February 10, 2026, Planning Commission meeting regarding the following item:

G.2.c. CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3) involving a 18-lot subdivision, to allow a deviation from the requirement relating to the construction of curbs, gutters, and sidewalks for residential subdivision, for a parcel situated along the makai side of Ala Kukui'ula in the Kukui'ula Master Plan Community, approximately ¾-mile west of its intersection with Ala Kalanikaumaka, further identified as Tax Map Key: (4) 2-6-023:040, and containing a total area of 114.47 acres = **BBCP KUKUIULA DEVELOPMENT LLC. [Director's Report Received, 1/28/2026].**

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

FROM: Kaaina S. Hull, Director

12/26/2025

SUBJECT: Zoning Class IV Z-IV-2026-10
Variance Permit V-2026-3
Tax Map Key: 26023040
Applicant: BBCP Kukuiula Development LLC (Mauna Kea Trask, Esq., Authorized Agent
CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3)

TO:

- ☑ State Department of Transportation - STP
- ☑ State DOT - Highways, Kauai (info only)
- ☐ State DOT - Airports, Kauai (info only)
- ☐ State DOT - Harbors, Kauai (info only)
- ☑ State Department of Health
- ☐ State Department of Agriculture
- ☐ State Office of Planning
- ☐ State Dept. of Bus. & Econ. Dev. Tourism
- ☐ State Land Use Commission
- ☑ State Historic Preservation Division
- ☐ State DLNR - Land Management
- ☐ State DLNR - Forestry & Wildlife
- ☐ State DLNR - Aquatic Resources
- ☐ State DLNR - Conservation & Coastal Lands
- ☐ State DLNR - Commission on Water Resource Management
- ☐ Office of Hawaiian Affairs
- ☑ County DPW - Engineering
- ☐ County DPW - Wastewater
- ☐ County DPW - Building
- ☐ County DPW - Solid Waste
- ☐ County Department of Parks & Recreation
- ☑ County Fire Department
- ☑ County Housing Agency
- ☐ County Economic Development
- ☑ County Water Department
- ☐ County Civil Defense
- ☑ County Transportation Agency
- ☐ KHPRC
- ☐ U.S. Postal Department
- ☐ UH Sea Grant
- ☐ Other:

FOR YOUR COMMENTS (pertaining to your department)

We have reviewed the application for the subject Class IV Zoning and Variance Permits at TMK: (4) 2-6-023:040 (Applicant: BBCP Kukuiula Development LLC). We have no objections to the request to remove sidewalk in the areas shown on the variance permit request. Specifically, Exhibit "L" shows that sidewalk would be constructed on the east side of Ala Haku Lei Loop, but the requirement for sidewalk would be waived on the west side of Ala Haku Lei Loop and on both sides of Na Hiku Place. Na Hiku Place is a cul-de-sac street accessing 13 lots, with an estimated daily traffic volume of approximately 130 vehicles. At this traffic volume, it is reasonable for pedestrians to share the roadway pavement with vehicular traffic. Ala Haku Lei Loop is the primary entry street to several subdivisions, accessing approximately 60 future lots, with an estimated daily traffic volume of approximately 600 vehicles. At this traffic volume, a sidewalk is recommended to reduce conflicts between pedestrians and motor vehicles; sufficient gaps in traffic will be available for crossing the street, allowing for recommended sidewalks on only one side of the street. The proposed sidewalk on the west side of Ala Haku Lei Loop is intended to a be portion of the future walkway network within the Kukui'ula development, providing an alternate method of pedestrian circulation.

Should the requirement of sidewalks be waived by the Planning Commission we recommend that the applicant pay a fee of $218,200 in lieu of required sidewalk construction. This amount was determined by mulitiplying the estimated quantity of "in lieu of sidewalk" of 1,091 square yards by a unit cost of $200 per square yard. Payment of said fees shall be made as a lump sum at the time of final subdivision map approval or a payment of 50% at the time of preliminary subdivision map approval and the balance paid at the time of final subdivision map approval.

Sincerely,

Digitally signed by Michael Moule
Date: 2026.02.06 18:24:52 -10'00'

Michael Moule, P.E.
Chief, Engineering Division

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 2/10/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

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

FROM: Kaaina S. Hull, Director

12/26

SUBJECT: Zoning Class IV Z-IV-2026-10
Variance Permit V-2026-3
Tax Map Key: 26023040
Applicant: BBCP Kukuiula Development LLC (Mauna Kea Trask, Esq., Authorized Agent
CLASS IV ZONING PERMIT (Z-IV-2026-10) and VARIANCE PERMIT (V-2026-3)

TO:

- [x] State Department of Transportation - STP
- [x] State DOT - Highways, Kauai (info only)
- [ ] State DOT - Airports, Kauai (info only)
- [ ] State DOT - Harbors, Kauai (info only)
- [x] State Department of Health
- [ ] State Department of Agriculture
- [ ] State Office of Planning
- [ ] State Dept. of Bus. & Econ. Dev. Tourism
- [ ] State Land Use Commission
- [x] State Historic Preservation Division
- [ ] State DLNR - Land Management
- [ ] State DLNR - Forestry & Wildlife
- [ ] State DLNR - Aquatic Resources
- [ ] State DLNR - Conservation & Coastal Lands
- [ ] State DLNR - Commission on Water Resource Management
- [ ] Office of Hawaiian Affairs
- [x] County DPW - Engineering
- [ ] County DPW - Wastewater
- [ ] County DPW - Building
- [ ] County DPW - Solid Waste
- [ ] County Department of Parks & Recreation
- [x] County Fire Department
- [x] County Housing Agency
- [ ] County Economic Development
- [x] County Water Department
- [ ] County Civil Defense
- [x] County Transportation Agency
- [ ] KHPRC
- [ ] U.S. Postal Department
- [ ] UH Sea Grant
- [ ] Other:

FOR YOUR COMMENTS (pertaining to your department)

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 2/10/2026 at the Lihue Civic C Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive you agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit rec Mahalo!

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 9, 2026

TO: To whom it may concern

FROM: Ellis Jones
District Environmental Health Program Chief

SUBJECT: RESPONSE_BBCP Kukuiula development LLC_Z-IV-2026-10

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

Wastewater Branch has no objections to the proposed project. The type and number of IWS (individual wastewater systems) will be determined during design review process. By Revised Statue 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 DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at 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.

Ellis Jones

Ellis Jones
District Environmental Health Program Chief
Office Phone: (808) 241-3326

DEC 26 '25 AM7:42
PLANNING DEPT

Kilohana Ag Tour Project

Kaua'i Expeditions, Inc.
3-2087 Kaumuali'i Hwy
Lihu'e, HI 96766

G.2.d.
FEB 10, 2026

PLANNING DEPARTMENT
COUNTY OF KAUA'I

GENERAL SUBMITTAL REQUIREMENTS

The following is a list of General Application requirements for Class III and IV Zoning Permits, Use Permits, Project Development Use Permits, Variance Permits, Special Permits, and Special Management Area Permits (SMA). In preparing Applications for permit applications or petitions, please provide an exhibit and/or page reference for the application submittal, information, and documents requested. Zoning Permit Application Forms, Special Management Assessment Forms, and Special Treatment District Checklist are also available at the Planning Department, 4444 Rice Street, Suite A473, Līhu'e, Hawai'i 96766.

Pre-permit application consultation with the Planning Department and various County and State Agencies are recommended.

Instructions for Petitions for General Plan Amendments, State Land Use District Boundary Amendments (15 acres or less) and Zoning Amendments, are also available at the Planning Department.

An original plus one copy of the following items shall be submitted for review by the Planning Department for suitability for processing based on the attached checklist. Upon deeming the application suitable for agency review, the Planning Department will contact the applicant to request the additional number of application packets needed to complete the land use application for processing. The applicant shall provide 12 copies of the final application form and supporting information to complete the application for processing in accordance with Section 8-3.1(f) of the Kauai County Code, 1987, as amended.

Application shall be deemed complete when the above requirements have been satisfied and the following have been received:

1. Twelve (12) copies of the *FINAL* application.
2. Non-refundable filing fee payable to the COUNTY OF KAUAI, DIRECTOR OF FINANCE.
3. The filing fees are as follows:
   - State Land Use District Boundary Amendment = $150.00
   - General Plan Amendment = $600.00
   - Zoning Amendment = $300.00
   - Special Permit = $150.00
   - Use Permit, Project Development Use Permit, Variance Permit = $300.00
   - Class III Zoning Permit = $200.00
   - Class IV Zoning Permit = $800.00
   - Special Management Area Use Permit = $1,476.46
   - Special Management Area Minor Permit = $150.00
   - Shoreline Setback Variance Permit = $300.00
4. Digital copy (.PDF preferred) of entire transmittal including documents & exhibits on a CD or DVD.

☐ Incomplete _____

_____

☐ Application Deemed Complete as all information has been submitted and necessary fees have been paid.

By: _____ Date: _____

PLANNING DEPARTMENT
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite A-473, Līhu'e, Hawai'i 96766
TEL (808) 241-4050 FAX (808) 241-6699

GENERAL CLASS III & IV ZONING REQUIREMENTS CHECKLIST	
Project Name: Kaua`i Expeditions Inc	TMK: (4) 38018003,2; 34005003,1002
Applicant(s): Kilohana Ag Tour	Permit Nos.

REQUIRED INFORMATION

	APPLICANT & PROPERTY INFORMATION	Exhibit and/or Page Number	Staff Comments
1	Zoning Permit Application Form or Petition for Amendments. The Application Form or Petition shall be completed and provide the required information pertaining to the property, such as: Tax Map Key number(s), State Land Use District Designation (SLUD), General Plan Designation, and County Zoning Designation.	Sect I-XI Ex 1-16	
2	Documents that verify ownership of the property under the subject application(s), or that the Applicant is the Authorized Agent o the property owner(s).	Sect IV	
3	If the Applicant is not the owner(s) of the subject parcel, then a notarized written authorization for the application by the owner shall be included. Said authorization shall include the owner's name, mailing addresses, contact information (i.e. phone number, cell number, email address)	Ex10a	
4	Agent's name, mailing address, and contact information (i.e. phone number, cell number, email address)	NA	

	GRAPHIC & SCHEMATIC REQUIREMENTS	Exhibit and/or Page Number	Staff Comments
5	Location Map identifying the project site, adjacent roadway, and identifying landmarks.	Sect III	
6	Schematic Site Development Plan of Plot Plans drawn to scale that identify the following:		
	o Property lines and easements with its dimensions, total land or parcel area calculations;	Sect VII	
	o County and SLUD Zoning and General Plan Designation areas of the property and applicable densities;	VII	
	o Flood Zone(s) and required elevations;	NA	
	o Location, size, and dimensions of all existing and proposed buildings, structures, improvements and uses;	VII	
	o Building setback distances to property lines, between buildings, right-of-ways, and parking lots;	VII	
	o Proposed Lot Coverage calculations and areas;	VII	
	o Topographic information showing existing features, conditions and drainage patterns, and proposed grading & finished grade elevations, and drainage patterns;	VII	
	o Location of environmentally sensitive areas, habitat and botanical features which include, but are not limited to, wetlands, streams, rock outcroppings, endangered plants and animals, and exceptional trees;	VIII	
	o Existing and proposed landscaping which depicts open spaces, plantings and trees;	NA	
	o Existing and proposed roadways, and accesses to the project site; and	VII	
	o Certified Shoreline, shoreline setback lines, stream and other setback lines.	NA	

7	Conceptual Building Plans (drawn to scale):		
	o All existing and/or proposed building elevations with finished material called out. Exterior Elevations shall identify the existing and finished grade;	Sect VII	
	o Building heights, maximum wall plate height, cross sections that are drawn to scale and clearly define the architectural character of the development; and	VII	
	o Floor plans of all buildings and typical unit types for multi-family projects;	NA	

WRITTEN REQUIREMENTS		Exhibit and/or Page Number	Staff Comments
8	A Report or Statement addressing the following:		
	o Description of the proposed project and proposed uses, operations and management of the proposed use which includes, but is not limited to, proposed employee housing plan, hours of operation;	Sect VII	
	o Summary of Permits (i.e. Use Permit, Variance Permit, Special Permit, Class IV Zoning etc.) or Land Use Amendments requested, and the application section of the Kaua'i County Code or regulation citing the specific standards and criteria for granting of the permit or amendment being requested;	VI	
	o Policies and Objectives of the General Plan; the provisions of the Community Development Plan applicable to the application (including design standards and application requirements); the provisions of the applicable zoning district; and an analysis of the extent to which the application, if granted, conforms to these provisions of the applicable district; and an analysis of the extent to which the application, if granted, conforms to these policies, objectives and provisions;	X	
	o Detailed land use history of the parcel, which includes but is not limited to, former and existing State and County land use designations, violations and uses;	V	
	o Status reports of all Zoning Amendment ordinance conditions, existing Land Use Permit conditions, and Subdivision Application conditions pertaining to the project site;	V	
	o Analysis of the secondary impacts of the proposed use on the surrounding area, which includes but is not limited to, increases in property value, population, housing, community services and facility needs, secondary jobs and employment generated, and compatibility with the surrounding uses;	VIII	
	o Water source, supply and distribution system analysis, which includes but is not limited to, methods of irrigation that exists on the parcel and proposed for the application, location and use of groundwater and non-potable water sources;	VIII	
	o Sewage Disposal Analysis – A description of a proposed method of sewage disposal;	VIII	
	o Solid Waste Disposal Analysis – A description of a proposed method of solid waste disposal, including methods for recycling, reclamation and waste stream diversion; and	VIII	
	o Description of environmentally sensitive areas, habitat and botanical features, which includes but is not limited to, wetlands streams, rock outcroppings, endangered plants and animals, and exceptional trees.	VIII	
9	A completed evaluation form or written comments from the County Housing Division relative to the County's housing requirements, pursuant to Ordinance No. 860.	NA	

ADDITIONAL INFORMATION (SUBJECT TO DIRECTOR'S DETERMINATION)

APPLICANT & PROPERTY INFORMATION		Exhibit and/or Page Number	Staff Comments
10	Title Report necessary for the project site. Title Insurance will be mandatory for all affected Kuleana parcel(s).	NA	

GRAPHIC & SCHEMATIC REQUIREMENTS		Exhibit and/or Page Number	Staff Comments
11	Schematic Site Development Plans of Plot Plans drawn to scale, which identify the following:		
	o Location of existing or required access to shoreline or traditional site either on property or adjacent to; and	NA	
	o Certified Shoreline, shoreline setback lines, stream and other setback lines.	NA	

12	Three (3) dimensional drawings of models, which clearly indicates the relation of the proposed development to other uses and structure within the surrounding area, and show the development in the context of significant viewplanes.	NA	
13	Dated photographs of the project site, existing structures, and the surrounding area.	NA	

WRITTEN REQUIREMENTS		Exhibit and/or Page Number	Staff Comments
14	Additional information to the included in the required report:		
	o Preliminary archaeological and historical data;	Sect VIII	
	o A preservation/mitigation plan;	NA	
	o Traffic Impact analysis showing level of service with and without the project, when required by the State Department of Transportation OR County Department of Public Works;	NA	
	o A Transportation Master Plan, which includes vehicle, pedestrian and other forms of circulation to adjacent services and destinations;	NA	
	o For parcel located in SLUD Agricultural or County Agriculture zoning district, an assessment of the impact which the proposed use may have on agricultural use of the parcel, which includes but is not limited to, feasibility analysis of potential agricultural uses suited for the project site;	XI	
	o A Water Master Plan, which aligns to the goals of the 2020 Water Plan for Kaua'i;	NA	
	o A baseline study and preservation/mitigation plan for environmentally sensitive areas and endangered species habitat;	VIII	
	o A summary of all meetings held between the Applicant and any community or residential group that may be impacted by the Applicant's proposal, the issues raised at these meetings, and any proposed mitigation measures by the Applicant to deal with the raised concerns;	X	
	o For properties adjacent to the shoreline or containing traditional access or sites requiring access – A Preservation/Mitigation Plan detailing how access will be allowed and managed;	NA	
	o For projects near the shoreline, riparian areas or wetlands, or those involving intensive landscaping or turf management, such as golf courses – Identification and assessment of chemicals and fertilizers used, including but not limited to, detailing effects upon surface, underground and marine water resources and neighboring properties and surrounding flora & fauna. If applicable, provide a mitigation plan and maintenance program and schedule;	N	A
	o For properties listed on the Kaua'i Historic and Non-Historic Resource Inventory – An inventory and description of historic features on the property;	NA	
	o Proposed Employee Housing Plan; and	NA	
	o Description of sustainable strategies incorporated into project, including but not limited to, strategies to reduce water and energy and material consumption, promote alternative forms of transportation, reduce wastewater and storm runoff, waste stream diversion and encourage the preservation of function ecosystem, i.e. LEEDS, Los Impact Design, Green Building principles, recycling, composting, BMP's, etc..	V	

ADDITIONAL PERMITS		Exhibit and/or Page Number	Staff Comments
15	For projects located within the Special Treatment District – The Applicant shall comply with necessary requirements of Section 8-11.5 of the KCC, and provide information noted in the Special Treatment District Checklist.	NA	
16	For projects located within the Special Management Area (SMA) – The Applicant shall complete & submit an SMA Assessment application of the proposed development.	NA	
17	For properties located within 500 feet of the shoreline – The Applicant shall comply with the requirements of Section 8-27 of the KCC, entitled "Shoreline Setback and Coastal Protection," and provide the necessary information contained in the Shoreline Setback checklist.	NA	
18	If applicable, the petition requirements and content for a Special Permit, pursuant to Chapter 13 of the Rules of Practice and Procedures of the Planning Commission, and Chapter 205 of the Hawai'i Revised Statutes (HRS).	VI	
19	A Finding of No Significant Impact (FONSI) or Final Environmental Impact Statement (EIS), when required by Chapter 343 of the Hawai'i Revised Statutes (HRS).	NA	

Kaua`i Expeditions Inc
(3-2087 Kaumuali'i Hwy, Lihue, Hi 96766)

Table of Contents
Project Name: Kilohana Ag Tour Project

I) Project Summary

II) Applicants

III) Project Property Description

IV) Project Property Ownership

V) Property Past/Present/Proposed Use

VI) Permit(s) Request

VII) Project's Operational Use Plan and Proposed Improvements

VIII) Over Project Impacts

IX) Management

X) Communications/Outreach

XI) Kaua`i General Plan Alignment

December 12, 2025

To: Mr. Ka`āina Hull, Director, Planning Department County of Kaua`i
From: Fred Atkins and Nick Atkins, Applicants for Kilohana Crater Expeditions, Inc.

(I) Project Summary: Request Class IV; Special Permit; and Use Permit to conduct an Agritourism 4x4 tour on 2.25 acres of Agricultural (Ag) land and to utilizing a connecting cane farm road (5.23 acres) to view active farming/ranching. The tour would begin at the Base-yard (1.0 acre) just mauka of the historic Kilohana plantation home and travel up though an active lower pasture via the existing farm road to an upper active pasture (1,150 feet elevation) and a Rest-stop (.5 acre) and then travel via the farm road to a second Rest-stop (.75ac) just above the `Iliahi plantation home. As noted in Exhibit 1, the route is 5.4 miles (5.23 acres). The Base-yard and two Rest-stops total 2.25 acres for a total area of 7.48acres.

(II) Applicant:

Kaua`i Expeditions Inc (KEI) located at 3-2087 Kaumuali'i Hwy, Lihue, Hi 96766:

Fred Atkins, President/CEO (fred@kilohanakauai.com) (808) 245-5608;
Nick Atkins, Vice President; (808) 652-7001 (nick@Kauaisafaris.com)

Project Name: Kilohana Ag Tour Project

(III) Project Property Area: TMK; Zoning; Kaua`i General Plan; and State Land Use District Designation (SLUD):

A) Project Areas: The Base-yard, Rest-stops (2.25 acres) and Farm road (5.23 acres) are situated over four TMK's that total 4,589.9 acres of zoned Open (O) and Agricultural (A) shown in Exhibits 2. The Project Area represents less than .00015% of the total four TMK's acreage:

#1) TMK (4) 3-8-018-003 @ 761.99 acres: Farm Road+1.0 acre Base-yard
#2) TMK (4) 3-4-005-003 @ 2911.99 acres: Farm Road
#3) TMK (4) 3-4-001-002 @ 345.50 acres: Farm Road + .50 acre Rest-Stop #1
#4) TMK (4) 3-8-018-002 @ 557.2 acres: Farm Road + .75 acre Rest-Stop #2

B) County of Kaua`i Zoning Map of the total Project Area is provided in Exhibits 3,4,5,6 which reflect the total area TMK's are within the County zoned Open/Agricultural.

C) SLUC: The total Project Areas are designated by the State Land Use District Boundary as Agricultural (Exhibit 7) including a portion of the Farm road that transverses within Grove Farm's Important Agricultural Land (IAL) boundary (Exhibit 8). The Agritourism

would be an accessory and would not interfere with any existing nor future farm operations and will utilize only existing farm infrastructure roads.

D) Kaua`i General Plan: The Project Area is designated within the General Plan as Agricultural (Exhibit 9).

E) SMA: The Project Area is not within a Special Management Area (SMA).

F) Violations: The Project Area contains no known Federal, State nor County Violations.

IV) Project Property Ownership:

TMK (1) (4) 3-8-018-003 (#1): is owned jointly by way of a Tenants in Common by both Grove Farm Inc (686.45 acres) and the Applicant (75.539 acres). Please see attached Survey by Kodani and Associates Engineering Inc (Exhibit 10) that reflects the ownership meters/boundaries. Grove Farm's land lease authorization is attached in Exhibit 10a and includes their intent to use the subject lease income to reinvest in their Kaua`i Ag land infrastructure. Fred and Nick Atkins are in process of transferring ownership of their 75.539 acres parcel into Ka'aahi Ranch and Farm Lands LLC (KRFL).

(V) Property Past/Present/Proposed Use:

The Project Areas have been in active farming and ranching for the past 100+years.

The Applicants are actively engaged in the farming/ranching of their 75.539 acre parcel which has included the installation of hundreds of various fruit trees. These products are actively used/and sold to the (adjacent parcel) Kilohana Plantation House Restaurant and also as products used for the Kaua`i Safaris Tours.

Additionally, hardwoods including Koa, Ōhi'a, Kou, Milo, Kukui have been planted to showcase/educate the tour visitors. Fencing and pastures have been installed by the Applicants for active livestock of pigs, goats, sheep, horses, donkey's and long-horn cattle as well the farming of papaya, banana, pineapple, sweet potato, eggplant, and 13 separate kaloloi's and an area for sugar cane.

As noted, the current farming/ranching provides fresh products for the next door restaurant as well as serves as cultivated examples to teach about Hawai`i's rich Ag history including taro, sugar, pineapple and active cattle ranching. Paniolo/rancher Bobby Ferreira assists with the ranch operations and best practices. Sustainable farming methods are being employed throughout the farm and ranch. The proposed agritourism will be accessory activity and allow the Applicants to continue to invest in farm/ranching

to make the business more sustainable as well as to invest into the maintenance of the critical farming road infrastructure to the benefit of the mauka ranchers and Grove Farm. The proper maintenance of these roads also serve as vital fire breaks, access to critical utilities lines, and communication towers.

The proposed location of the Base-yard at (#1) TMK parcel (4) 3-8-018-003 would serve as check-in/parking/administration. The proposed structure (Exhibits 11,12) would consist primarily of two 40ft containers with a roof structure and would be fully permitted in accordance with Kaua`i County requirements.

The TMK's (4) 3-4-005-003; (4) 3-4-001-002} and (4) 3-8-018-20001
and the remainder of TMK (4) 3-8-018-003 are all owned by Grove Farm Inc who leases most of these unirrigated mauka lands to two ranchers for active livestock pastures. The proposed tour will not negatively impact their ranch operations. The rancher tenants and Applicant will jointly share the existing farm road route. Per the lease agreement with Grove Farm, the Applicant will maintain (much is overgrown) the existing Farm road as well as provide assistance to upgrade areas of fencing, gates and cattle guards to improve Grove Farm's/tenants' ranching infrastructure.

VI) Permit(s) Request:

Under HI Rev Stat § 205-4.5 (2024) Agritourism is a permitted use as stated:

"Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5".

Class IV Zoning Permit. In accordance with KCC Section 8-3.1; 1987 as amended, a Class IV Zoning Permit is a procedural requirement as a condition of obtaining a Use Permit in both the Agricultural (A) and Open (O) Agricultural zoning districts.

Use Permit. The proposed Project use will take place within the Agriculture District and County of Kaua`i Agricultural (A) and Open (O) zoning and will require a Use Permit for the proposed the uses in accordance with KCC Section 8-2.4;(5,17).

Special Permit: As provided in Hawaii Revised Statutes Section 205-6 and Hawai`i Administrative Rules Title 15, Subtitle 3, Chapter 15 a Special Permit may be required for the proposed use of the Property's Project Area which is within the State Agricultural Land Use District. The Project Area is less than fifteen (15) acres in size.

VII) Project's Operational Use Plan and Proposed Improvements

A) Operational Use Plans:

Overall, the 4,589.9 acres of the subject Property will continue to be engaged in agricultural activities and the proposed Project Area of 2.25 acres and the 5.23 acres of farm road will enhance existing Ag infrastructure as noted below.

The Applicant proposes to conduct a guided agricultural tour utilizing Kawasaki (6-passenger; Exhibit 15) Mule 4X4 utility terrain vehicles. The goal is to replace these UTV's with electric models as they become available. All tours would have a lead UTV, driven by a trained employee guide/educator and followed by no more than 8-10 UTV's driven by a guest driver that must have a valid driver's License. The tour route would remain on the current agricultural Farm road infrastructure and current farming/ ranching would not be impacted.

Guest parking, check-in, safety briefings, route overview, introduction to the Ag/Eco educational narration, and the tour's start/finish would all be located at the Base-yard (Exhibit 1).

After the safety briefing/overview of the property's rich Ag history as well as a review of the current farming/ranching activities along the route, the tour guide would lead the UTV tour through the existing hardwoods, orchards, crops and fenced livestock. The tour would continue to travel mauka via the farm road through existing active cattle pastures with brief stops on the road to teach about the ongoing ranching/livestock, history and the natural beauty of Kaua`i's landscape.

Again, this route is structured to not impact the existing ranching/farming operations. All guest UTV's will remain on the existing farm road infrastructure and added cattle guards and fencing will be installed within the active pastures.

As noted in Exhibit 1, the farm road route would travel mauka via the first 80+acre pasture containing 50+ cattle herd at the 950 ft elevation to view the cattle grazing and an active ranch with the beautiful backdrop of south Kaua`i including Puhi, the Hāʻupu mountain range and north into Kilohana Crater. The tour guide along the way will explain the history of cattle on Kaua`i as well as the surrounding natural beauty and our Island's formation with specifics about the caldera formation of the unique extinct volcanic Kilohana.

The tour would then travel west along the farm road up to the 1,150 ft elevation and the view of the second active fenced pasture (250+acres and 100+ cow/calf operation). In coordination with Grove Farm, Applicant will establish 3.5 acres of new, quality grazing

paddocks (example Exhibit 16 of Applicant lower pasture). The challenge is livestock drinking water. To provide the needed water, the plan is to install a 24ft x32ft (768 sq ft) Ag shed with a rustic metal roof that has a water catchment system. Our projections reflect the roof will produce 150,000+ gallons per year of needed water to provide for the rotating paddock livestock. The shed would be connect to a new corral(s) to accommodate various rotating younger "baby" livestock from the ranch to include cows, lambs, horses, donkey, pigs. The shed would also serve to store farm supplies and dual purpose as a rain shelter for workers and tour guests. These Ag improvements would be fully permitted with all County building codes.

This upper pasture location would also serve as a tour Rest-stop in an area of .5 acres (Exhibit 13) which would provide for a safe UTV "turn around" and driver changes. From this location, the tour would be able to view the beautiful pastures with grazing cattle and get a up-close view (and feed) the "babies" in the paddocks and coral(s).

Also, the public would gain access to some of the most spectacular vistas on Kaua`i with 360 degree viewing of the ocean with Oahu often in the distance and the deep green northwest mountain ranges. From this elevation, guides would explain not only the ranch operations but also, the formation of the mountain range including Kawaikini, our tallest mountain (shield volcano) and point out the (often) waterfalls of Mount Wai'ale'ale and explain Kaua`i's rainfall and it's unique positive impact on Kaua`i agricultural landscape, history and future growth.

After the stop, the tour would reverse and travel east along the existing farm road infrastructure around the spectacular Kilohana crater rim and then south to the second `Iliahi Rest-stop of .75acre (Exhibit 16). This site offers beautiful east Kaua`i views including Grove Farm's active farm tenants of Hanamā'ulu and the back of Sleeping Giant and makai ocean views overlooking the secluded `Iliahi (Sandalwood) plantation home and it's grounds including a presentation/views of Grove Farm's maturing hardwood groves (2,500 trees planted in 2006 of Koa, Ōhi'a and other native hardwoods). The guide would also explain the rich connection/Ag history between the historic Kilohana's Grove Farm Plantation home and the Līhu`e Plantation's home of `Iliahi.

This Rest Stop is situated above the home and separated by a grove of Lychee and Pine trees. The location was specifically chosen in coordination with Grove Farm to avoid any negative impact on the historic `Iliahi home/grounds. The applicant intends to work with Grove Farm to install a permitted greenhouse with a focus on sandalwood seedlings and other hardwoods to continue their planting and the reforestation which has been depleted of indigenous sandalwood. Sandalwood oil is another potential Ag opportunity as well as select harvesting/needed thinning of the mature hardwoods. After, the rest-stop, the tour would travel the same route back to Base-yard.

Operations: As noted above, each tour would have a lead experienced UTV employee driver/guide (CPR trained) and be followed by no more than 8-10 UTV's driven by guest drivers that must have a valid driver's license. The UTV's to be used are 6 passengers dual bench seat (Exhibit 15) in order to accommodate families.

The operational plan is specifically educational/site-seeing and would not involve "aggressive" driving that damages these Ag lands. Guest UTV's will remain only on the route and driven at average speeds of 12-15MPH for safety and good maintenance of the active Ag farm roads. The initial plan is to operate 3 to 6 tours per day 4 to 6 days a week; 8am-6pm (depending on weather, daylight hours, safety conditions and ongoing Ag activities).

Based upon a survey of the other Kauai UTV tour that operate on Ag land, the average passenger count per UTV is 2.5 which would result in the an average of 25 guests per tour assuming a maximum 10 UTV per tour. The length of each tour will be approximately 2.5 hours.

B) Structures:

Base-yard: The Operational Plan for the proposed Base-yard improvements is provided in Exhibits 11,12. The improvements would be subject to all required County of Kauai Building codes and approvals. Upper Pasture Ag Improvements: The fencing of the new paddocks (Exhibit 16), corral and Ag shed are to be installed/located as noted in Exhibit 13 and be subject to all Kaua`i Building Codes.

(VIII) Overall Impacts:

A) Historical, Habitat, and Archaeological Impacts:

The Project area has been in active ranching and sugar cultivation for over 100 years. The Project Areas as shown in the Līhu`e Heritage Resources Map (Exhibit 15) reflect no historical, special habitat, cultural nor archaeological sites within nor near the Project Area.

B) Traditional or Cultural Practices:

An analysis of the traditional or cultural practices have been examined for the subject project area via a Ka Pa`akai prepared by Exploration Associates Ltd (to be submitted under separate cover). The report findings concluded the Project has no negative impacts on any known traditional nor cultural practices of native Hawaiians.

C) Surrounding Neighbor Impacts:

As noted above, the Project areas has a modest footprint of 2.25 acres and 5.23 acres of an existing farm roads which are owned by Grove Farm within the four TMK's of 4,589.9 acres. As noted, the Project Area represents less that 1.5 tenth's of a percent (.0015%) of the total TMK's and will have no negative impact upon the surrounding areas. The two ranchers lessees are supportive of the project.

The Applicant has met and shared the Operational Plan with the two closest neighbors, the Headmaster of Island School and the Chancellor of Kaua`i Community College and both expressed their support and expressed interest for their students to gain part-time employment as well as educational access to these hidden mauka lands. We have had an excellent working relationship for a number of years.

As noted above, the Applicant's capital investment will upgrade and better maintain the farm road infrastructure to the benefit of the existing rancher tenants as well as providing ongoing improved critical fire breaks and improved access to the Island's vital mauka communication towers and power lines.

There are no existing residential homes that will be negatively impacted as Grove Farm leases of their pasture lands do not allow farm residents due to lack of infrastructure.

D) <u>County Services of Police, Fire Protection, Sewer and Water Impacts:</u>

The Project areas are served by the Kauai Police and Lihue Fire Departments. Response time for both services to the Base-yard is estimated at 10-15 minutes. There will be no increase in residential occupancy. Any structure improvements will be fully permitted and within County code. Applicant will work with the County Fire Department to ensure all emergency plans and requirements are approved and they continue to have full gate access to all mauka lands and actually better access given proposed maintenance improvements to the roads.

This safe, supervised activity will take some of the tourist burden off our beaches and hiking trails which should positively impact our County first responders.

The guides will be fully trained in CPR, safety precautions and adhere to our Emergency Preparedness policies. As noted above, Applicant's road maintenance will provide for better fire breaks.

The Project will have no impact on the County sewer system due to the use of guest "porte-potty" to be located at the Base-yard and Rest Stop.

Irrigation, livestock, wash down water will continue to be provided via Grove Farm's existing irrigation and onsite infrastructure. Applicant acknowledges and understands any future request for portable water will be subject to the approval of DOW and the granting of the subject requested permit(s) does not grant any right to portable water.

E) Special Management Area/Shoreline Setback Area/Flood Zone:

The Subject Property is not located within a Special Management Area, Flood Zone nor Shoreline/Setback Area of the County of Kaua'i.

F) Traffic Impact:

As noted above, the tour will be 2.5 hours in length and projects an average of eight to ten UTV's per tour which would result in an estimated average of 20-25 guests per tour every 2.5 hours. Additionally, it is projected that 25-50% of the guests will already be coming to Kilohana area for the train rides, Kaua`i Safaris tour, and/or lunch at the Plantation Restaurant. So, the projected impact is nominal of approximately 5-10 cars every 2.5 hours. Once fully operational, we may expand to two tours on the route which could result into 10-20 cars every 2.5 hours which again would be nominal. Applicant will establish a 15-20 guest parking area (approximately 6,500 sq ft) within the proposed 43,560 square feet Base-yard and an additional 8 employee parking area (1,500sq ft) next to check-in at Base-yard using a level base of hard packed rolled gravel.

G) Noise & Pollution Impact:

The tour will not create any excessive noise/pollution. The same UTV's are used daily on Ag farms throughout Kaua`i and the mainland. All UTV's will be purchased/leased new via the local dealer and these vehicles meet all clean air and noise safety standards. Again, the longer term goal is to utilize electric UTV as they become available. So, we intend to initially lease the UTV's.

H) Staffing/Economics Impact:

The Project is projected to create up to ten new local jobs when fully operational including a general manager, mechanic, office manager and full time and part time tour guides. The income will provide support and expansion of Applicant's current Ag/ ranching operations. As noted in Grove Farm's letter, the Project lease rental income will assist Grove Farm with ongoing maintenance of it's 30,000+acres of Ag infrastructure including irrigation systems, farm roads and fire mitigation that support its many active Ag tenants.

The startup capital budget is projected just over $1.0 million and 90+% will be spent in the local economy. In additional to supporting existing Ag activities, the proposed Project will provide a needed, low impact, sustainable tourism activity to support our Island's economy that supports/embraces Kaua`i's rural, Ag heritage.

A survey of various local tour booking operators have expressed strong support and the critical need for such a family-oriented, low environmental activity for both visitors and residents (who will be offered kama'āina discounts).

The Project will have a positive impact on State and County tax/fee revenues which reduces some of the burden on local residents.

We anticipate at least 50% of staffing will come from our existing part-time Kilohana staff which will provide for added income for these employees.

IX) Management:

The Applicants, Fred Atkins has operated Kilohana Plantations (since 1985) and Nick Atkins has operated Kaua`i Safaris (since 2019) and has assisted his father in the successful execution of the Ag plan and operations for Kilohana since 2006. Applicants have fully complied with all County and State requirements, use conditions and fulfilled it's commitments to substantially invest in sustainable agriculture activities at Kilohana. These activities have received no complaints nor violations and been well received by both residents and visitors based upon high customer satisfaction ratings.

X) Communications/Outreach:

Attached are several letters of support from a wide range of Kaua`i community stakeholders. We have proactively sought our best program and practices input from community leaders and farmers/ranchers and received all positive responses. These included Alec Sou of Aloun Farms, Josh Uyehara, Bruce Robinson, and ranchers Bobby Ferreira, Bill Bukowski and Will Pavao. We met with the founder of the largest ATV operator on Kaua`i, Kipu Ranch Adventures, Ted Shanks to discuss customer best practices and proper integration with ranch operations.

In order, to ensure we have the proper plantation history and cultural facts, we met with both Gaylord Wilcox and Sam Pratt (Grove Farm Museum) both descendants of GN Wilcox and consulted with cultural practitioners including Keao NeSmith, Sabra Kauka and Nani Marston.

Also, to ensure, we offer a quality tour specifically tailored to Kaua`i's current visitor industry objectives/needs, we met with Samira Siale of Hawaii Tourism and Lodging and Sue Kanoho of Kaua`i Visitor's Bureau and Heather Bailey of MC&A, Inc. All expressed Kaua`i's need for a family-oriented, cultural authentic, outdoor tourism activity that has a low impact on the our community and environmental resources.

XI) Kaua`i General Plan Alignment:

The Kaua`i General Plan outlines 19 Policies and 4 Primary Goals:

General Plan Policies:

#1) Manage Growth to Preserve Kaua`i Rural Character: The proposed use will not negatively impact Kaua`i rural character and is designed to enhance and promote the rural nature of Kaua`i.

#2) Provide Local Housing: The proposed use will not materially negatively impact Kaua`i housing shortage. The 8-10 employees will be 50% part-time which will provide local residents added income to support their existing rent/mortgage payments.

#3) Recognize the Identity and Kaua`i Individual Towns and Districts: The proposed use will not negatively impact Kaua`i's Agricultural District and the Project is designed to enhance and promote our Agricultural history and heritage.

#4) Design Healthy and Complete Neighborhoods: The proposed use will not negatively impact any residential neighborhood and will provide/open a new, healthy venue for residents and visitors.

#5) Make Strategic Infrastructure Investments: The use will not require any additional County/State infrastructure investment costs and will enhance/maintain 5+ miles of existing mauka cane road systems and assist Grove Farm to continue to invest in critical farming/ranching infrastructure to support their tenants.

#6) Reduce the Cost of Living: The proposed use will not negatively impact Kaua`i's cost of living. The use will provide economic income to employees, local vendors and the County/State tax base. Kama'āina rates will be offered to local residents as well as school groups and the Applicant and Grove Farm will continue to support the non-profit community.

#7) Build a Balanced Transportation System: The proposed use will not negatively impact Kaua`i Island's transportation system.

#8) Protect Kaua`i's Scenic Beauty: The proposed use will not negatively impact Kaua`i's scenic beauty and is designed to preserve and promote our Island's natural beauty as well as give better public access to these private lands.

#9) Uphold Kaua`i as a Unique Visitor Destination: The proposed use specially addresses this policy objective. The use will offer the guests a unique outdoor activity to experience and appreciation Kaua`i's natural beauty and rich history.

#10) Help Business Thrive: The proposed use will enhance our Island's economy by supporting agriculture and offering a low, impact much needed tourism activity that provides employment, tax revenues, and will support various local vendors.

#11) Help Agricultural Lands be Productive: The proposed use will enhance, support, promote agricultural. Revenue will provide support to increase agricultural activities, contribute to maintaining Grove's Farm irrigation and farming infrastructure systems as well as provide better access to these mauka pasture lands.

#12) Protect our Watershed: The proposed use will not negatively impact Kaua`i's Watershed and will improve access.

#13) Complete Kaua`i's Shift to Clean Energy: The proposed use will not negatively impact Kaua`i's Clean Energy Objectives.

#14) Prepare of Climate Change: The proposed use is not within a Shoreline setback nor Flood zone. By maintaining the mauka cane roads, this adds to enhanced fire break protection and better emergency access.

#15) Respect Native Hawaiian Rights and Wai Pana: The proposed use will not negatively impact any Native Hawaiian Rights and Wai Pana. The Applicant will ensure the tour's narrative properly, accurately reflect and respects our host culture and 'āina.

#16) Protect Access to Kaua`i's Treasured Places: The proposed use specially addresses this policy objective. The use will open miles of private lands for public access and offer both visitor and residents controlled, safe access to some of Kaua`i's most treasured vista's.

#17) Nurture our Keiki: The proposed use specially addresses this policy objective. The use is designed as a family outdoor recreation/educational activity. The narrative/ experience will address all age groups and foster an appreciation of Kaua`i rich Ag history and unique cultural and natural beauty.

#18) Honor our Kupuna: The proposed use will open Kaua`i 's unique vistas for all age groups. The UTV selected is designed for easy access (bench seating), comfort, low noise and safety (seat belts and helmets required) which should appeal to our Kupuna guests.

#19) Communicate with Aloha: The proposed use specially addresses this policy objective. The use is designed to communicate, appreciate and demonstrate the beauty and bounty of Kaua`i resources of quality soil, rainfall, fauna, and our heritage in a positive, welcoming manner that creates a lastly, memorable experience with a authentic sense of aloha.

General Plan Goals:

1) A sustainable Island such that growth does not negatively impact our Island's resources: The Project's proposed use will serve to enhance this objective by supporting sustainable agriculture as well as providing for firebreaks and provide better access to maintain our Island's communications/electric infrastructure. The use will directly support/promote agriculture and the maintenance of our open space. Additionally, the Project's use provides a needed low impact alternative visitor activity that importantly, reduces the tourism burden on our beaches, over-used trails and surf spots.

2) A unique & beautiful place that cares for our Island's character: The Project's proposed use will showcase a rich part of Kaua`i's plantation Ag history/heritage and it's natural beauty while fully maintaining/sustaining our rural character for both residents and visitors.

3) Maintain a healthy & resilient people: The Project's proposed use will provide a public venue to foster healthy outdoor recreational activities while preserving and maintaining and sustaining our beautiful natural environment. Additionally, the Project's use will generate tax revenues to support our vital County social services and provide well-paying employment and support for various local small business vendors.

4) An equitable place with opportunities for all: The Project's proposed use will provide an opportunity to preserve and open these unique, hidden, privately owned lands with their unique vista's to share with both residents and visitors.

XII) Conclusion:

Based upon the above, we respectfully recommend approval. Thank your for the consideration.

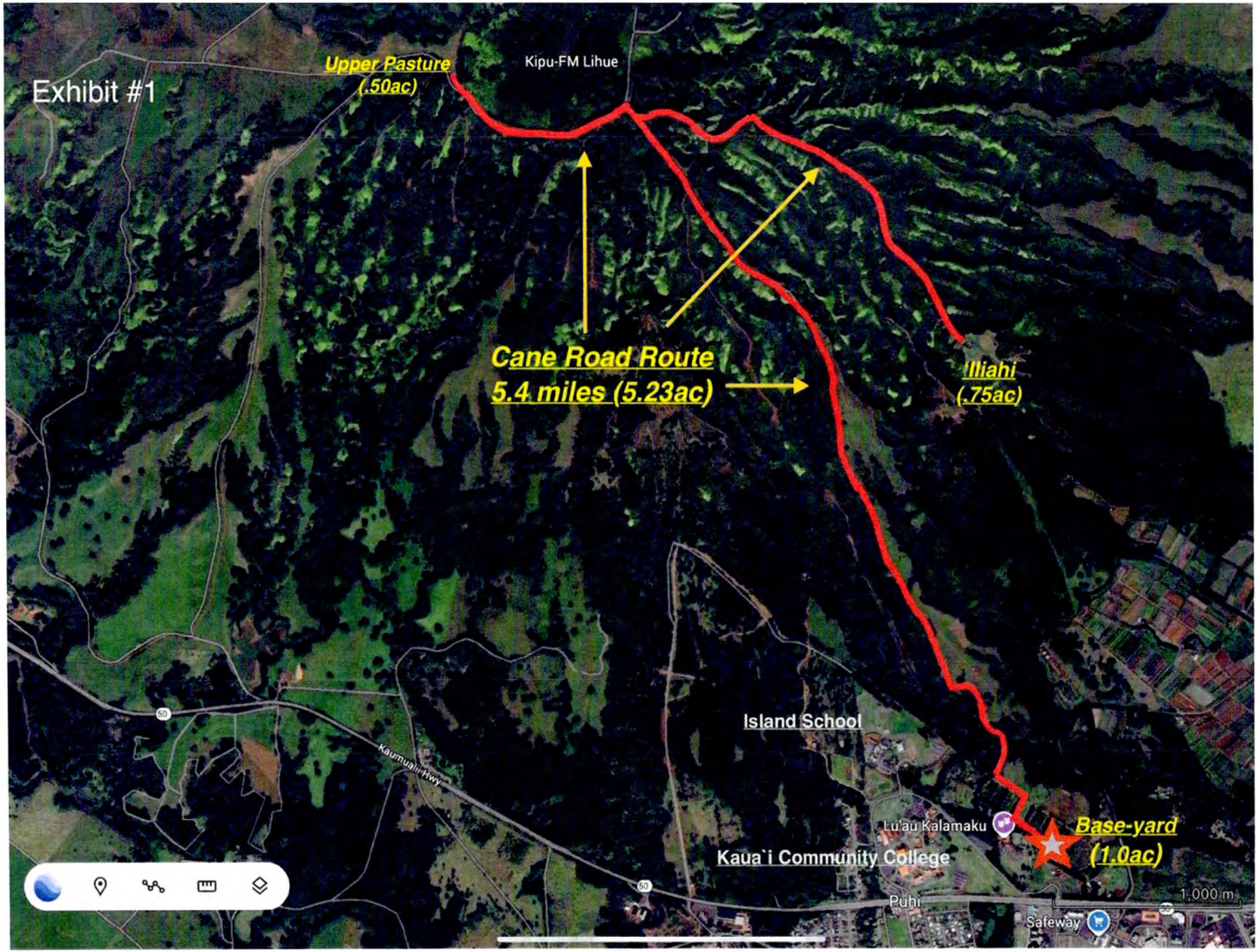


Exhibit #1
Upper Pasture
(.50ac)
Kipu-FM Lihue
Cane Road Route
5.4 miles (5.23ac)
Iliahi
(.75ac)
Island School
Kaumualii Hwy
Lu'au Kalamaku
Kaua`i Community College
Base-yard
(1.0ac)
Puhi
Safeway
1,000 m

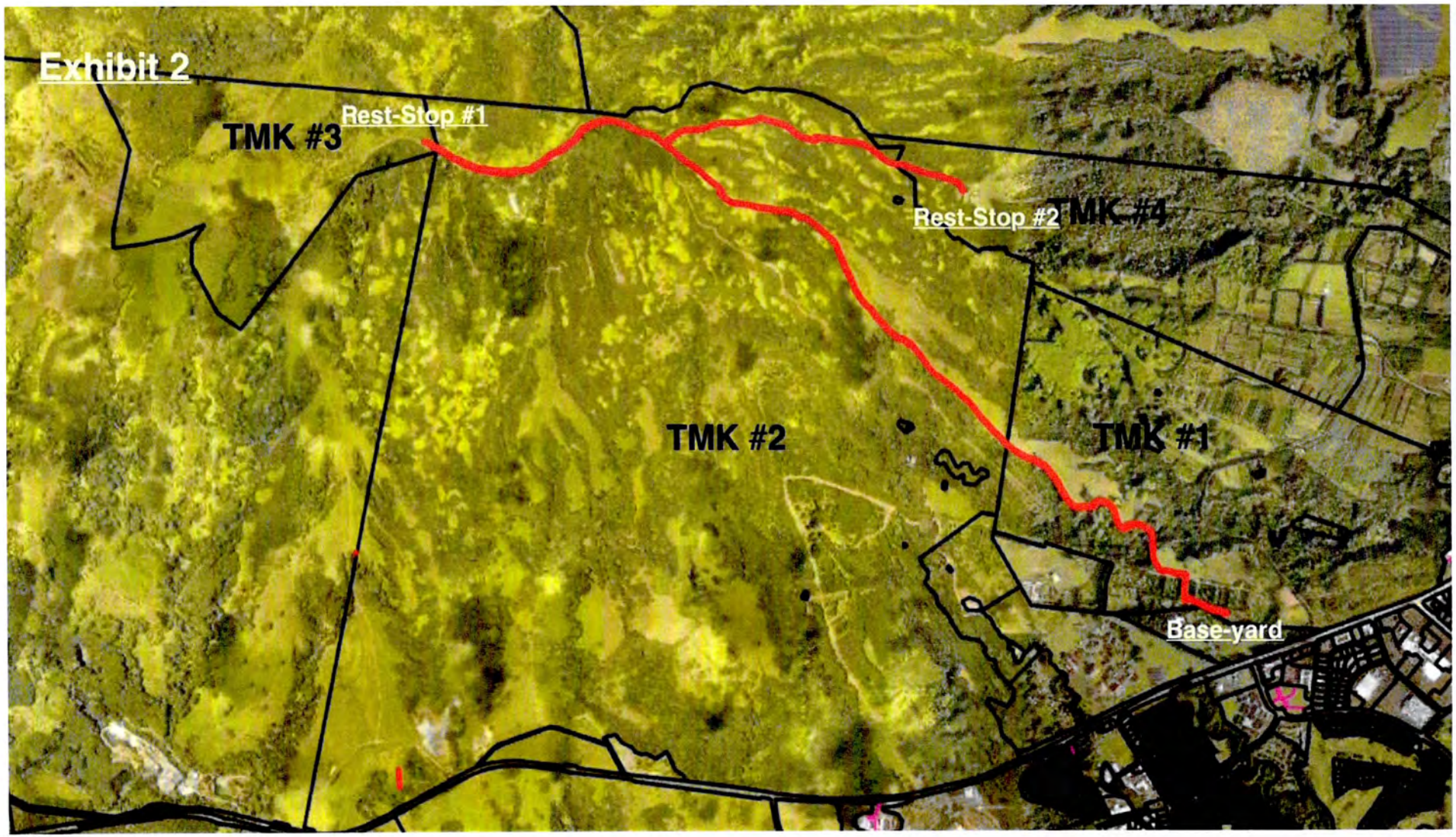


Exhibit 2
TMK #3
Rest-Stop #1
Rest-Stop #2
TMK #4
TMK #2
TMK #1
Base-yard

County of Kauai Zoning Map

Info

Exhibit 3

Tax Map Key: 438018003

Link to Real Property	View
Owner	GROVE FARM CO INC
Tax Map Key	438018003
Parcel Type	TMK Parcel

Zoom

County of Kauai Zoning: A (Agricultural)

County of Kauai Zoning Map

Info

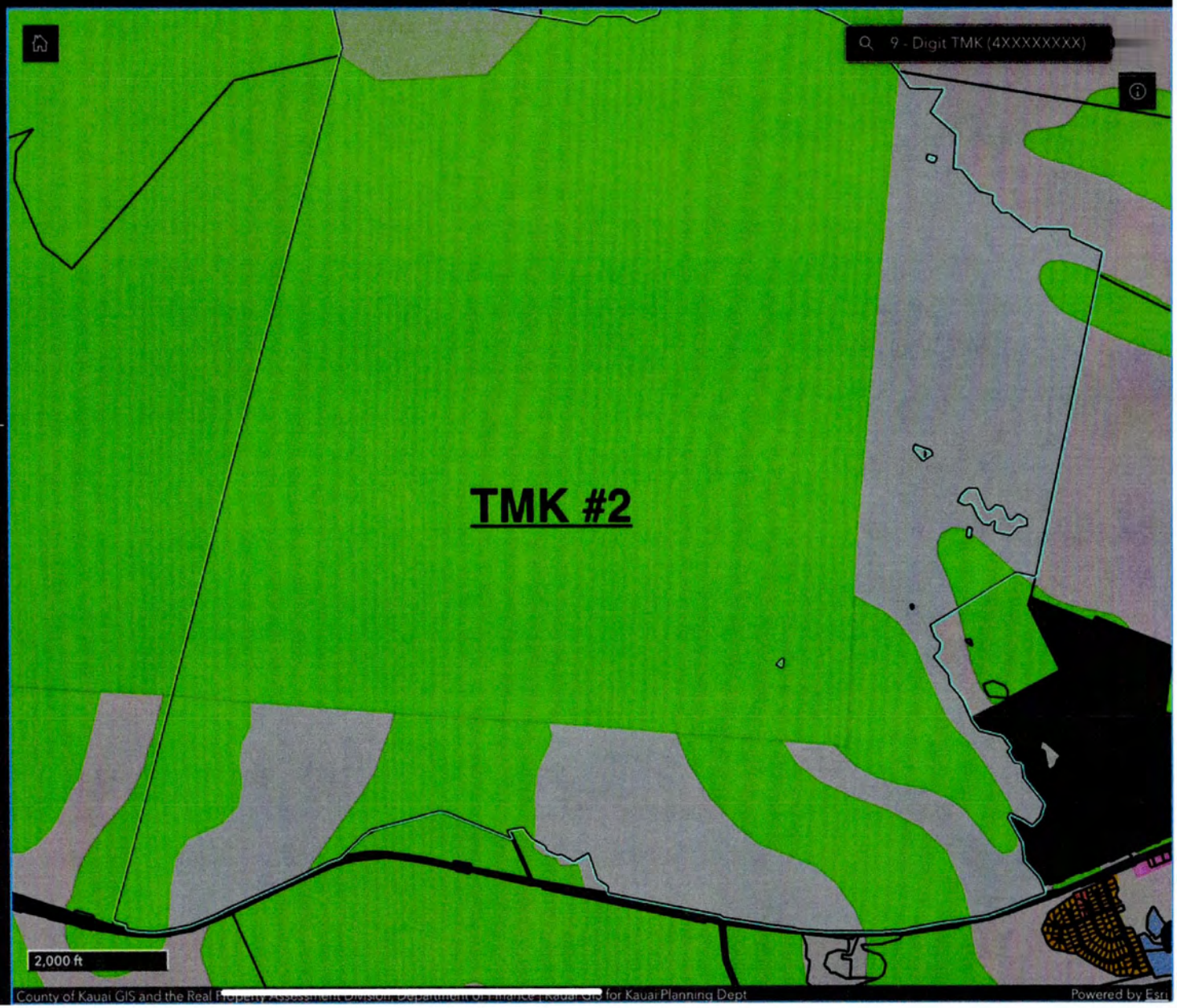
Exhibit 4

Tax Map Key: 434005003

Link to Real Property	View
Owner	GROVE FARM CO INC
Tax Map Key	434005003
Parcel Type	TMK Parcel

Zoom

County of Kauai Zoning: A (Agricultural)



County of Kauai Zoning Map

Info

Exhibit 5

Tax Map Key: 434001002

Link to Real Property	View
Owner	GROVE FARM CO INC
Tax Map Key	434001002
Parcel Type	TMK Parcel

Zoom

County of Kauai Zoning: A (Agricultural)

County of Kauai Zoning Map

Info

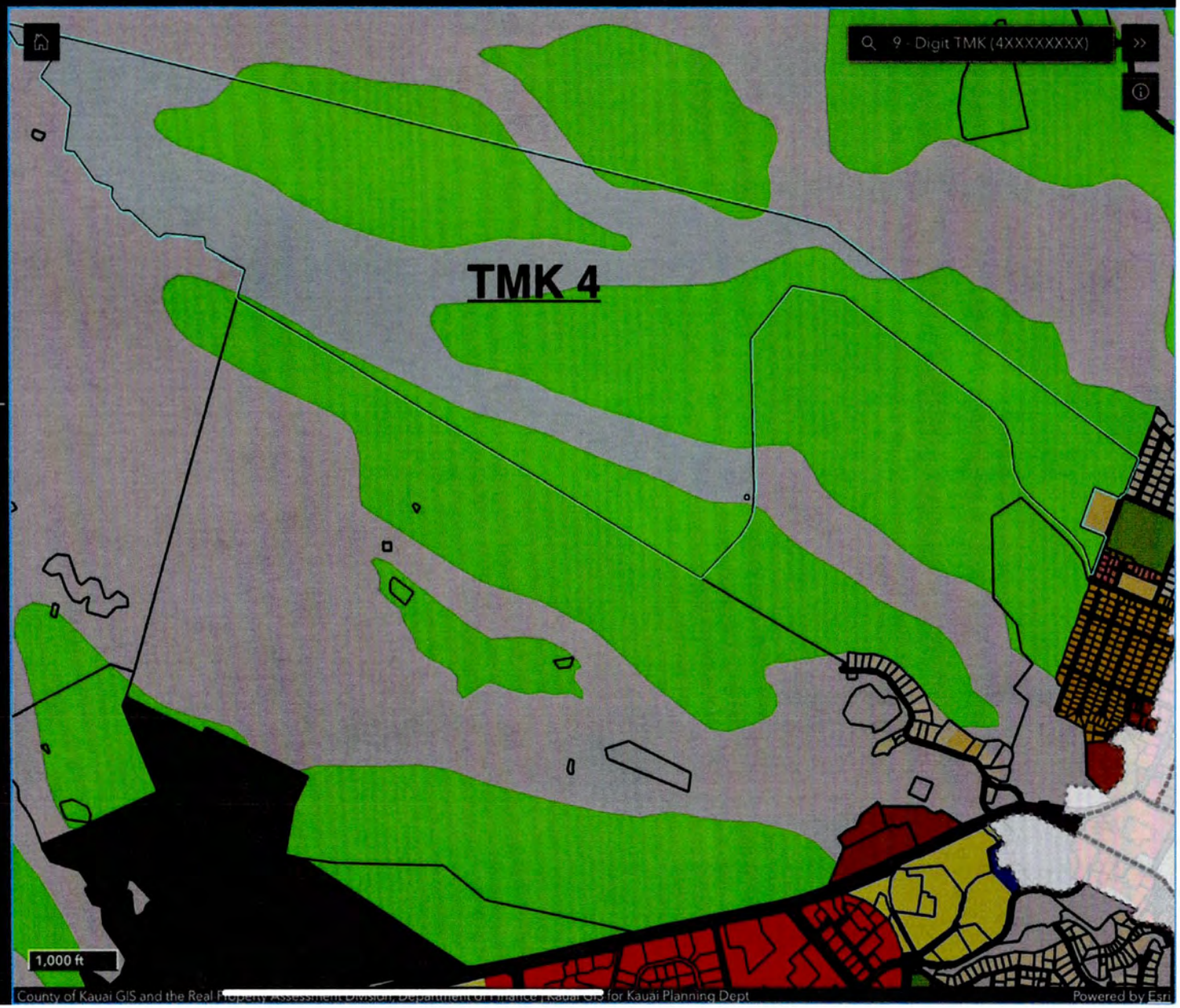
Exhibit 6

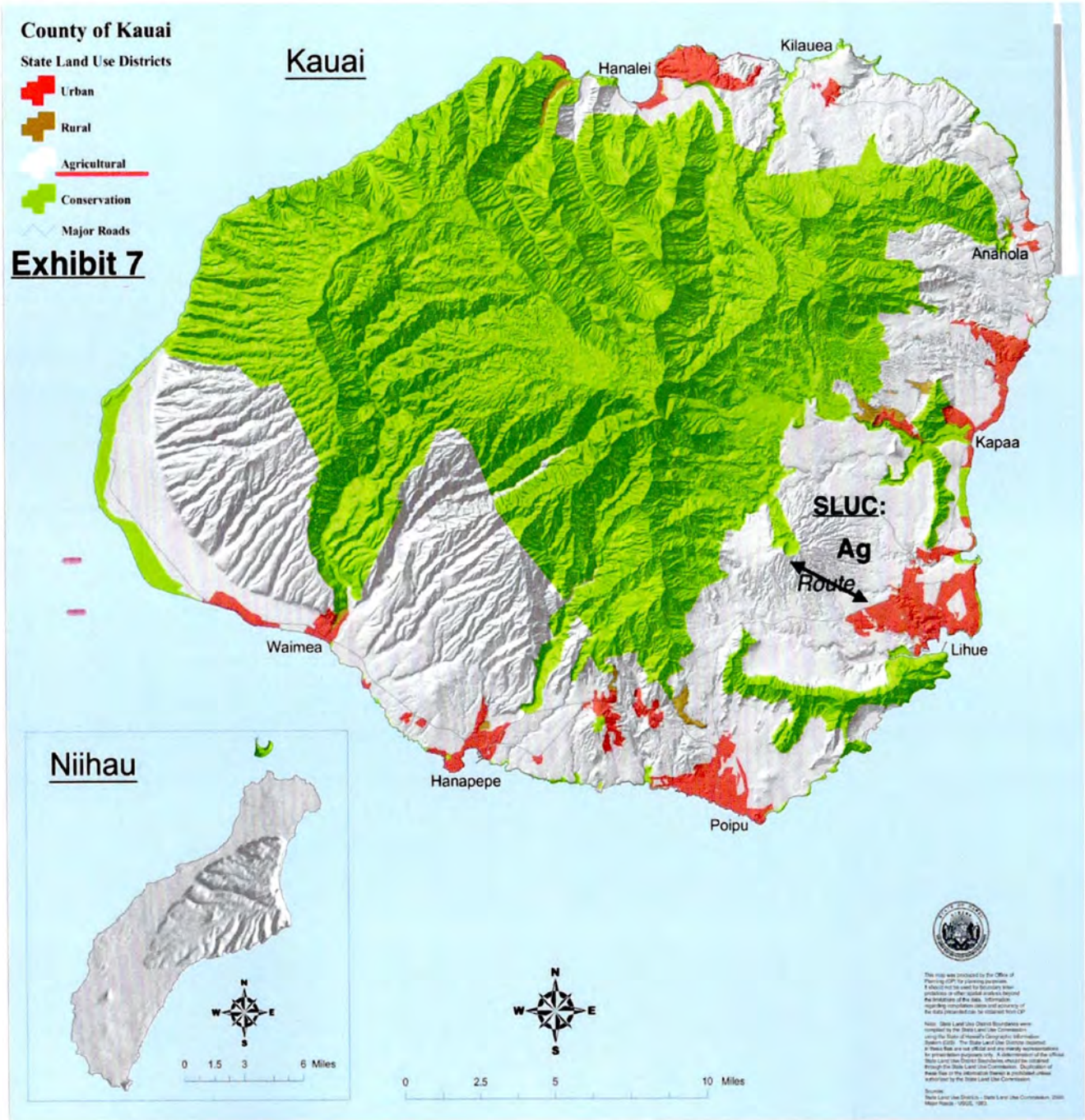
Tax Map Key: 438018002

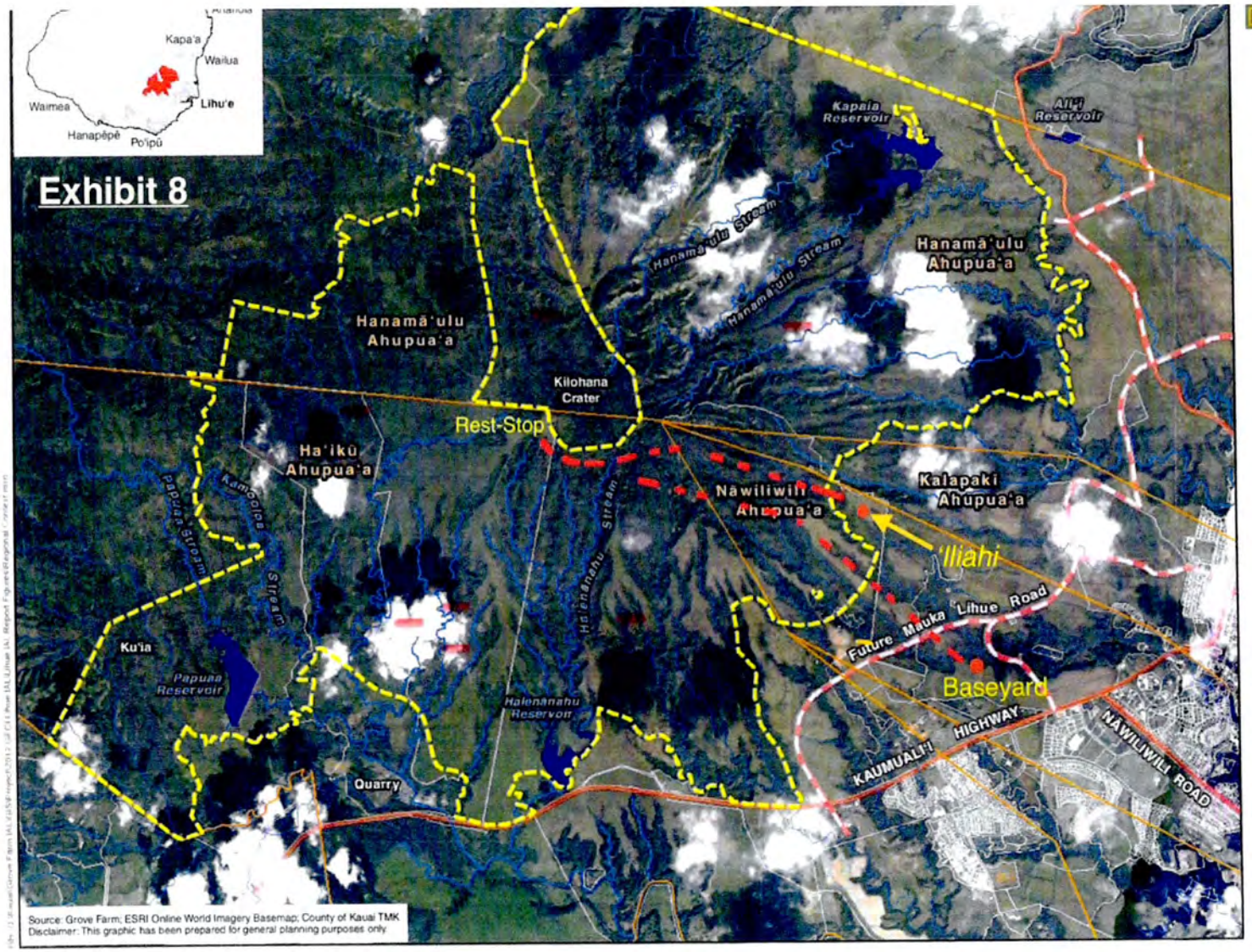
Link to Real Property	View
Owner	KALAPAKI 2
Tax Map Key	438018002
Parcel Type	TMK Parcel

Zoom

County of Kauai Zoning: O (Open Space)




County of Kauai
State Land Use Districts
Urban
Rural
Agricultural
Conservation
Major Roads
Exhibit 7
Kauai
Hanalei
Kilauea
Anahola
Kapaa
SLUC:
Ag
Route
Lihue
Waimea
Hanapepe
Poipu
Niihau
N
W
E
S
0 1.5 3 6 Miles
0 2.5 5 10 Miles



Ahupua'a Boundary

Yellow Line: IAL

Red Line: Route

FIGURE 1 DATE: 11/28/2012

Regional Context Map

LĪHU'E IAL

Grove Farm Land Company

Island of Kaua'i

North Linear Scale (feet) 0 750 1,500 3,000

Figure 5-1 Kaua'i Land Use Map

- Planning District Boundary
- Major Roads
- Roads
- Streams
- USGS 40 ft. Contours
- Urban Edge Boundary
- Reservoirs
- Natural
- Agricultural
- Agricultural (IAL)
- Parks and Recreation
- Golf Course
- Homestead
- Residential Community
- Urban Center
- Neighborhood Center
- Neighborhood General
- Large Town
- Small Town
- Resort
- Provisional Resort (Pending Community Plan Process)
- University Zone
- Plantation Camp
- Industrial
- Transportation
- Military
- Provisional Agriculture

Exhibit 9

Kaua`i General Plan Land Use

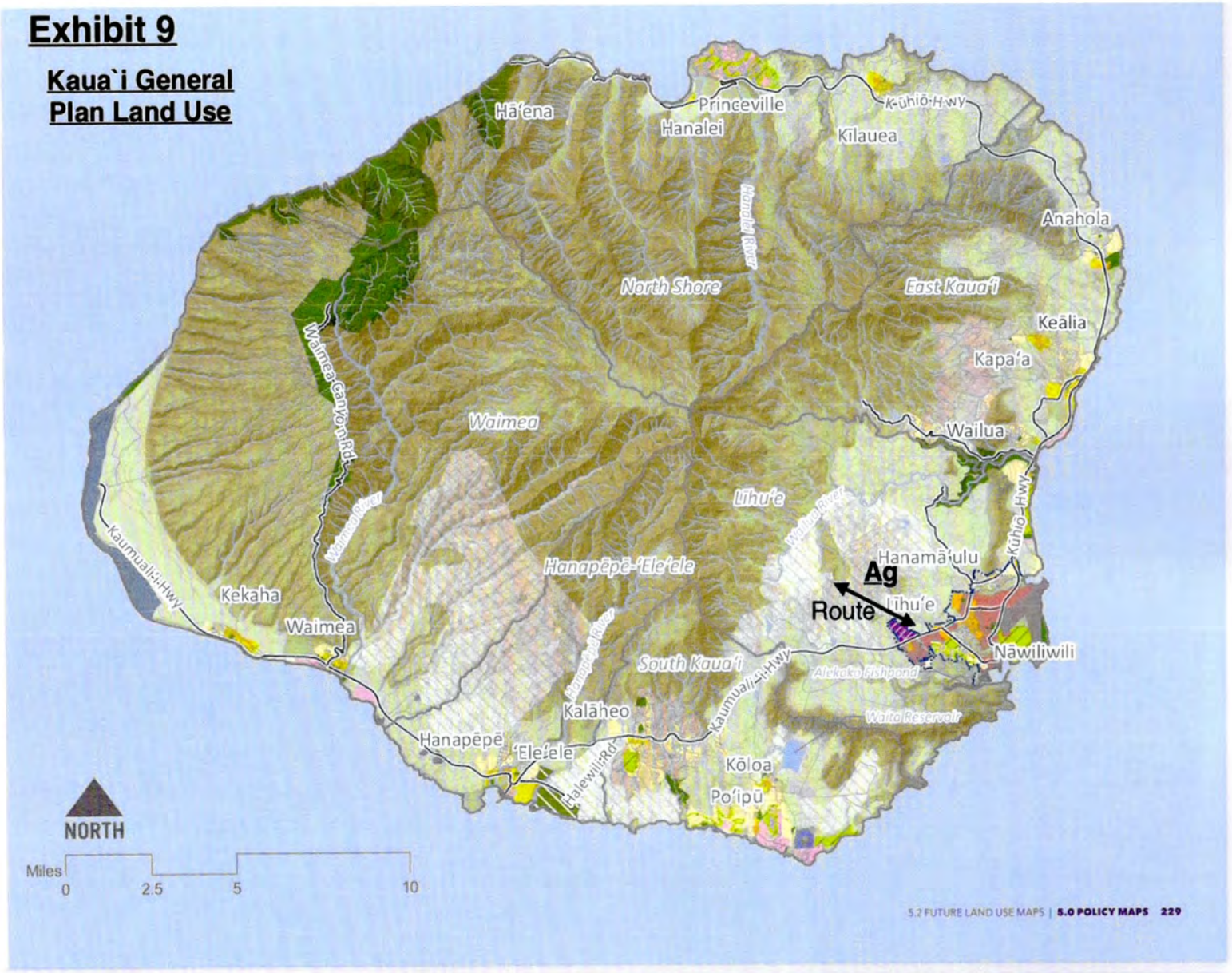


Exhibit 10

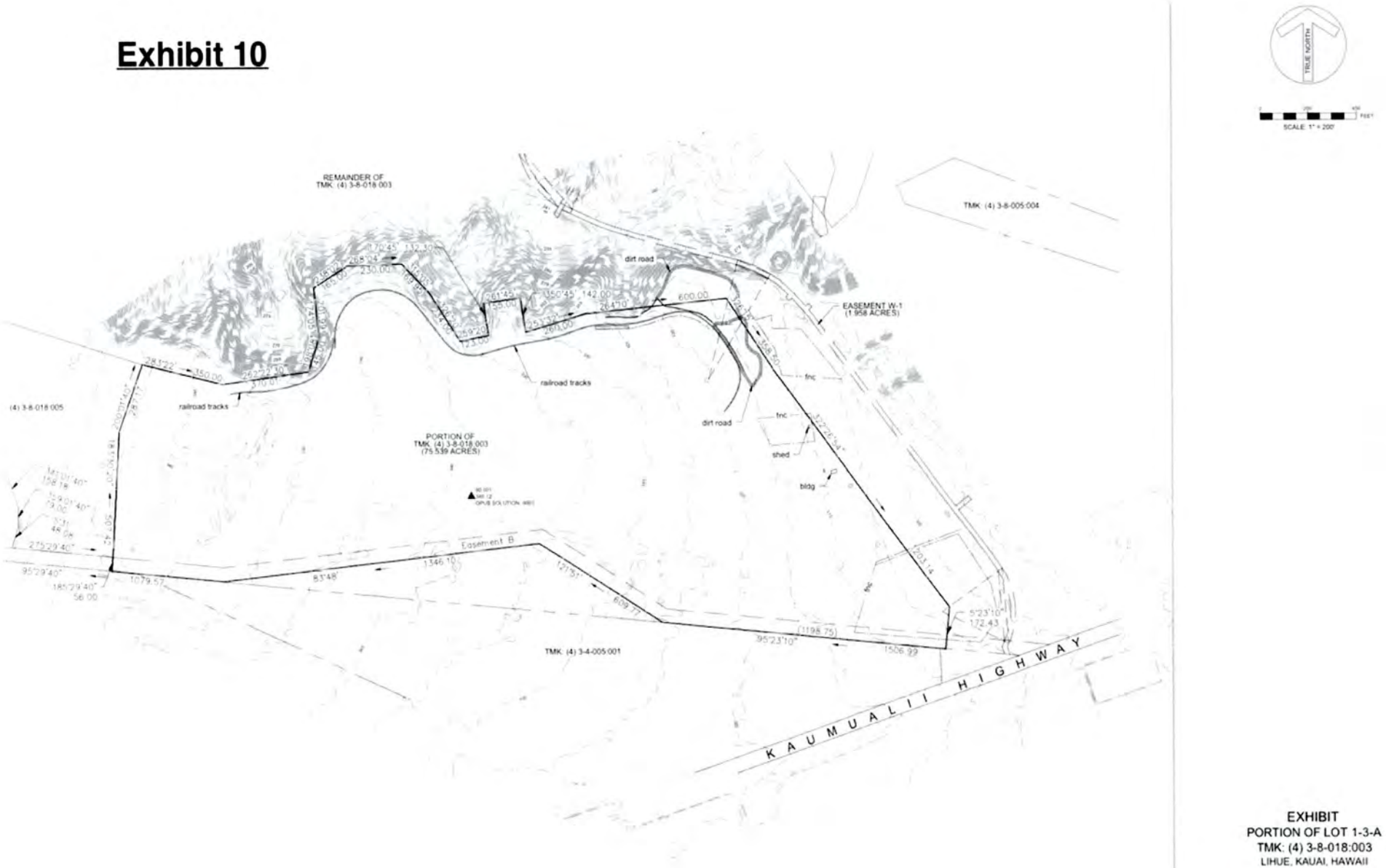


EXHIBIT
PORTION OF LOT 1-3-A
TMK: (4) 3-8-018:003
LIHUE, KAUAI, HAWAII

December 19, 2023

Exhibit 10a

December 10, 2025

To: Mr Ka`āina Hull, Director
Planning Department County of Kaua`i

Subject: License Agreement Between Grove Farm Inc and Kaua`i Expeditions Inc. (3-2087 Kaumuali'i Hwy, Lihue, Hi 96766); Fred Atkins, President and Nick Atkins, Vice President

This letter is to confirm that Grove Farm, Inc. has agreed to provide Kaua`i Expeditions a License Agreement and authority to request the required permits to conduct a 4x4 Agricultural tour utilizing 5.4 miles (5.23 acres) of our mauka cane roads within the below four TMK's totally 4,589.9 acres including the Rest Stops #1, #2 which total 2.25 acres:

#1) TMK (4) 3-8-018-003 @ 761.99 acres: Farm Road+1.0 acre Base-yard
#2) TMK (4) 3-4-005-003 @ 2911.99 acres: Farm Road
#3) TMK (4) 3-4-001-002 @ 345.50 acres: Farm Road + .50 acre Rest-Stop #1
#4) TMK (4) 3-8-018-002 @ 557.2 acres: Farm Road + .75 acre Rest-Stop #2

The income from the subject's lease rents will be reinvested on Kaua`i by Grove Farm to maintain our agricultural infrastructure to include irrigation, farm roads, invasive species removal, reservoirs and fire mitigation.

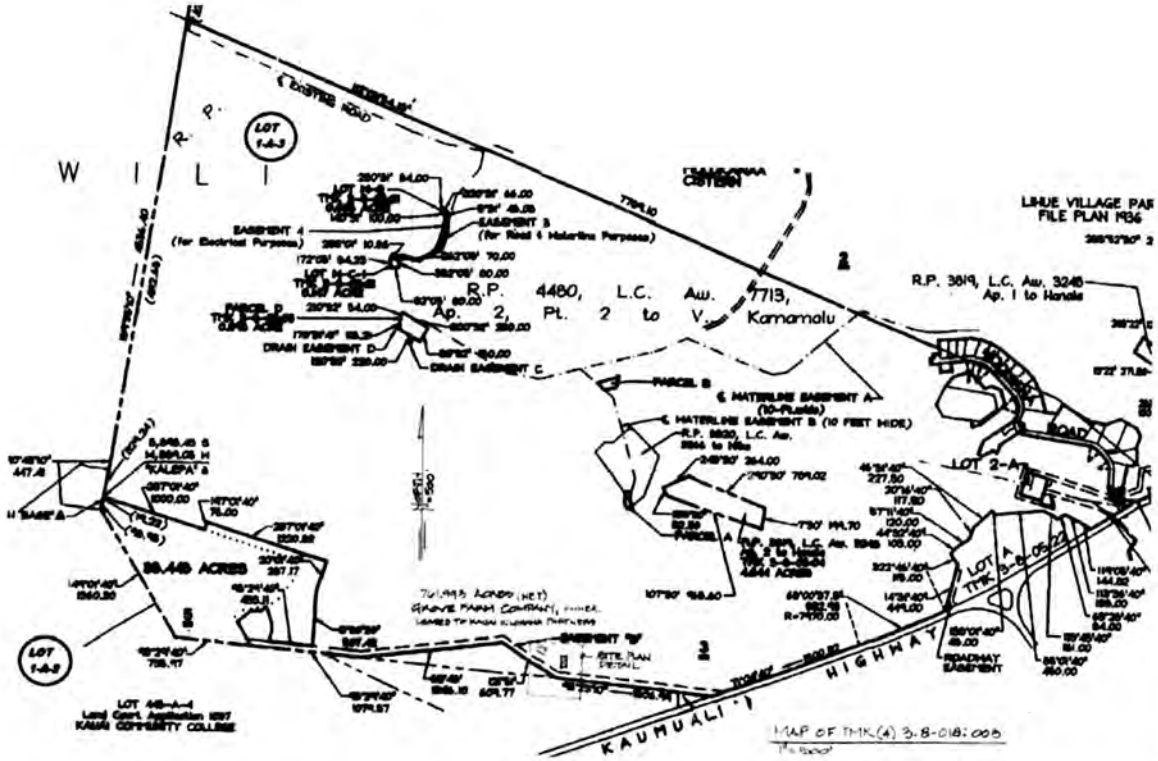
Should you have any questions, please contact us.

Sincerely,

Donald G. Horner
CEO, Grove Farm Inc.

3-1850 Kaumualii Highway Lihue, HI 96766-8609
808.245.3678 808.246.9470
www.grovefarm.com

Exhibit 11



T & M ARCHITECTURE, LLC.
P. O. BOX 3147, HAYDEN, IDAHO 83835
Phone: (808) 635-2531 tbradley5391gmail.com

Proposed Check-in Baseyard Facility for:
Kilohana Crater Expeditions
Kaumuali'i Highway, Lihue, Kauai, Hawaii
Tax Map Key (4th) 3-8-018: 003

A01

Exhibit 12

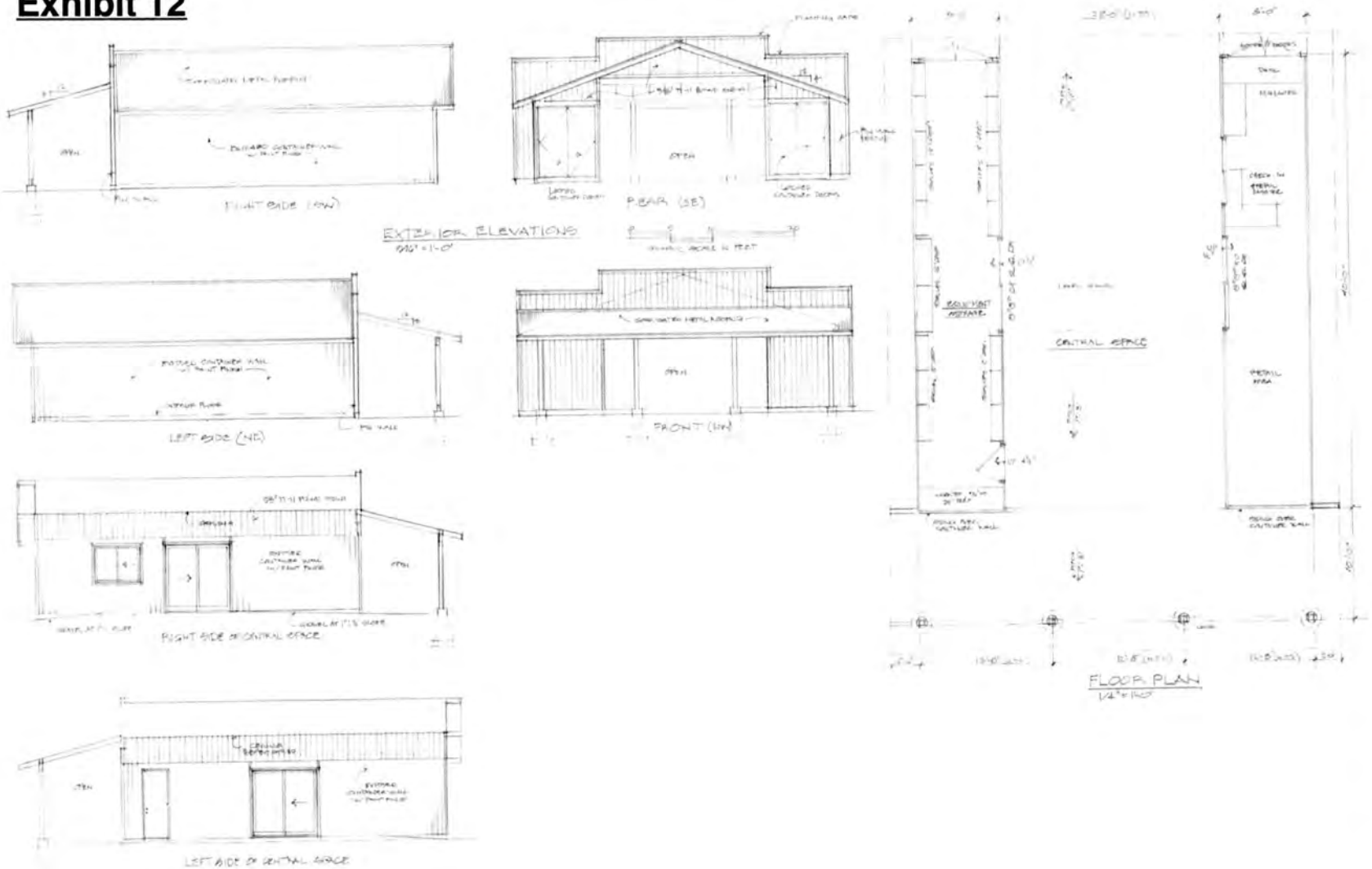

RIGHT SIDE (SW)
REAR (SE)
EXTERIOR ELEVATIONS
LEFT SIDE (NE)
FRONT (NW)
RIGHT SIDE OF CENTRAL SPACE
LEFT SIDE OF CENTRAL SPACE
CENTRAL SPACE
FLOOR PLAN
T & M ARCHITECTURE, LLC.
P. O. BOX 3147, HAYDEN, IDAHO 83835
Phone: (808) 635-2531 tbradley539@gmail.com
Proposed Check-in Baseyard Facility for:
Kilohana Crater Expeditions
Kuamuali'i Highway, Lihue, Kauai, Hawaii
Tax Map Key (4th) 3-8-018: 003
DRAWING NUMBER
A02

Exhibit 12a

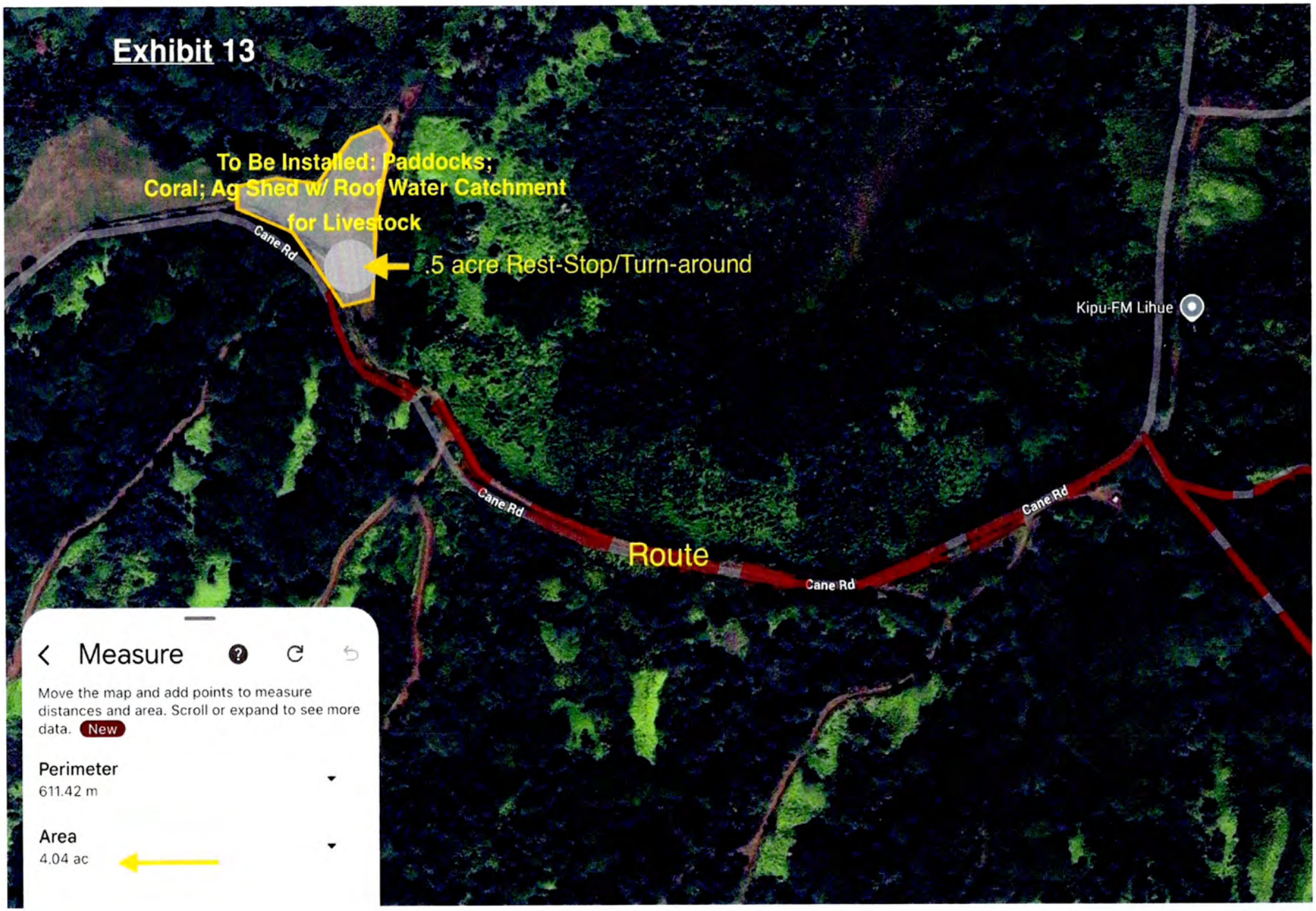
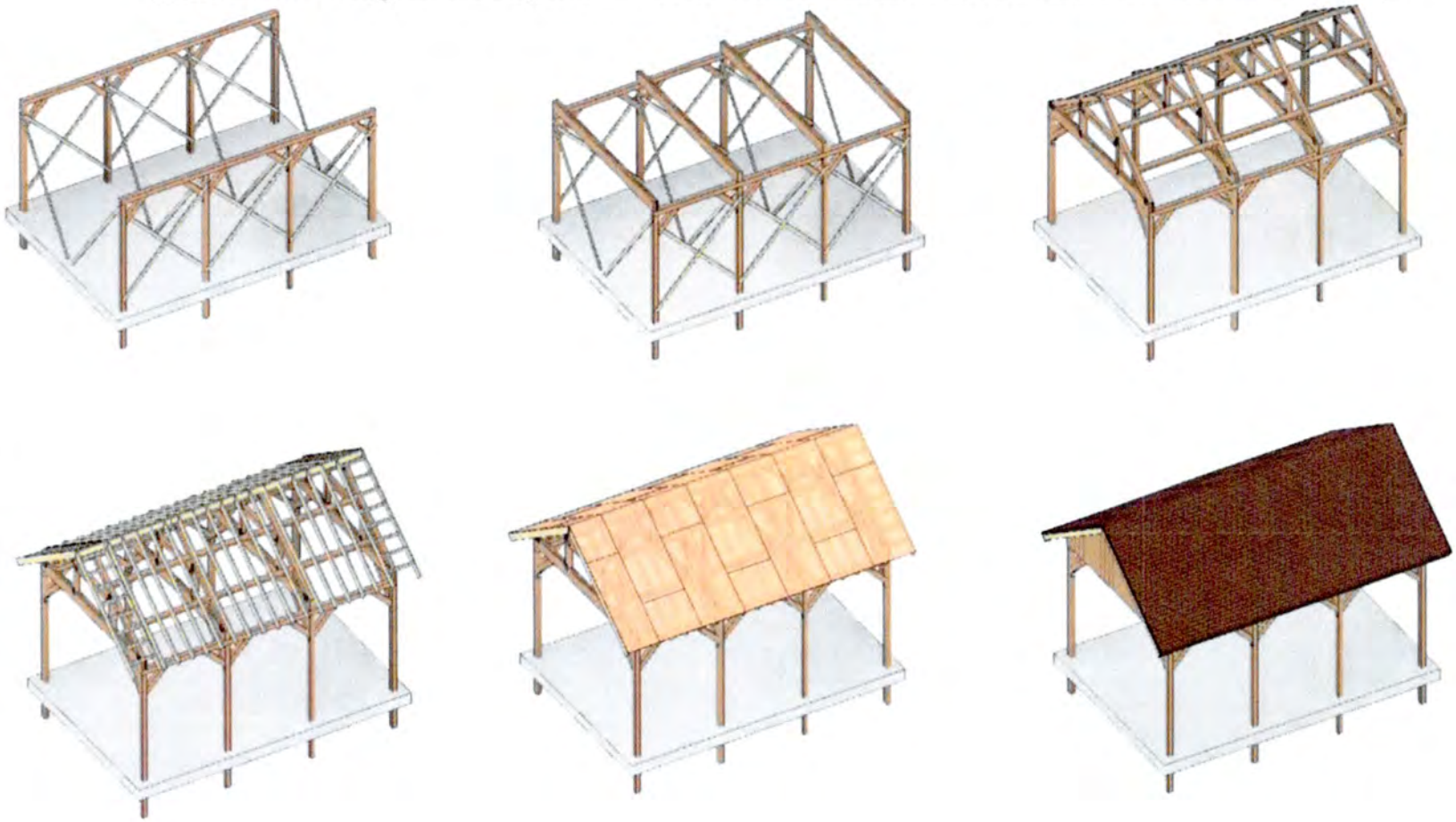


Exhibit 13
To Be Installed: Paddocks;
Coral; Ag Shed w/ Roof Water Catchment
for Livestock
.5 acre Rest-Stop/Turn-around
Cane Rd
Kipu-FM Lihue
Cane Rd
Route
Cane Rd
Cane Rd
Measure
Move the map and add points to measure distances and area. Scroll or expand to see more data.
New
Perimeter
611.42 m
Area
4.04 ac

(Exhibit 13a)

24ft x 30ft Ag Shed (rustic non-reflective metal roof w/ catchment)



Kilohana Crater
Iliahi
Route
Kapaia
Hanamaulu
Hanamaulu Bay
Ahukini Pt.
Hanamaulu Beach Park
Ahukini Rd.
Kuhio Highway
Lihue
Airport
County Bldg & Annex
Civic Center
Kilohana
Kaumualii Highway
Puhi
Kalapaki Beach
Ninini Pt.
Nawiliwili Harbor
Nawiliwili Rd.
Riuumalu
Alakoko
Kipu Falls
Huleia National Wildlife Refuge
Kipu
Kawai Pt.
Haupu Mountains
Kipu Kai
Kuahonu Pt.
Kawelikoa Pt.
Puu Keke
Mahaulepu
Paoo Pt.
Kamala Pt.
Punahoa Pt.
Exhibit 14
Lihue Planning District
Heritage Resources
2000 0 2000 4000 Feet
Contour Interval = 100 feet
Legend
Important Land Form
Open Space, Parks, Agriculture, Conservation
Residential, Urban Center, Resort, Transportation, Military
Streams, Reservoirs, Ponds
Scenic Roadway Corridors
Coral Reefs
Marshes
Resource Parks & Sites
Federal & State Natural Preserves
Registered Archaeological Sites (excluding burials & lava tubes)
Heiau Site
Registered Historic Buildings & Structures
Other Important Historic Buildings & Structures
Major Taro Growing Areas
Other Natural, Historic, Cultural, Scenic Features
Special Streams
Streams
Small Boat Harbors/Ramps

Exhibit 15

Exhibit 16

Department of Commerce and Consumer Affairs

CERTIFICATE OF GOOD STANDING

I, the undersigned Director of Commerce and Consumer Affairs of the State of Hawaii, do hereby certify that according to the records of this Department,

KAUAI EXPEDITIONS INC.

was incorporated under the laws of Hawaii on 10/08/2025 ; and that it is an existing corporation in good standing, and is duly authorized to transact business.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Department of Commerce and Consumer Affairs, at Honolulu, Hawaii.

Dated: December 14, 2025

Director of Commerce and Consumer Affairs

To check the authenticity of this certificate, please visit: http://hbe.ehawaii.gov/documents/authenticate.html
Authentication Code: 619172-COGS_PDF-360306D1

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of a Class IV Zoning Permit, a Use Permit, and a Special Permit to conduct guided agricultural tours on the subject parcel.
Permit Application Nos.:	Class IV Zoning Permit Z-IV-2026-11 Use Permit U-2026-8 Special Permit SP-2026-3
Name of Applicant(s):	**KAUAI EXPEDITIONS INC.**

II. PERMIT INFORMATION

PERMITS REQUIRED	
☒ **Use Permit**	Pursuant to Section 8-3.2 of the K.C.C., 1987, as amended, a Use Permit is required for a use that is not outright permitted within the designated zoning district.
☐ **Project Development Use Permit**	N/A
☐ **Variance Permit**	N/A
☒ **Special Permit**	Pursuant to Section 205 of the Hawai'i Revised Statutes (HRS) and Chapter 13 of the Rules of Practice and Procedures of the Planning Commission, a Special Permit is required for a use that is not outright permitted within the State Land Use Agricultural district.
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-3.1 of the K.C.C., 1987, as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Use Permit.
☐ **Special Management Area Permit** ☐ Use ☐ Minor	N/A
AMENDMENTS	
☐ **Zoning Amendment**	N/A
☐ **General Plan Amendment**	N/A

☐ **State Land Use District Amendment**	N/A

Date of Receipt of Completed Application:	December 16, 2025
Date of Director's Report:	February 10, 2026
Date of Public Hearing:	February 10, 2026
Deadline Date for PC to Take Action (60TH Day):	April 11, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	Puhi. The project site is located on parcels situated along the mauka side of Kaumuali'i Highway, behind the Kauai Community College/Island School campuses		
Tax Map Key(s):	(4) 3-4-001:002 (Por.), 3-4-005:003 (Por.), 3-8-018:002 & 003	**Area:**	Affecting 8.98 acres of a larger parcel

ZONING & DEVELOPMENT STANDARDS	
Zoning:	Agriculture (A) / Open (O)
State Land Use District:	Agricultural (A)
General Plan Designation:	Agriculture
Height Limit:	Thirty (30) feet or Fifty (50) feet for buildings other than for residential use.
Max. Land Coverage:	60%
Front Setback:	10'
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	North Shore Planning Area (NSPA)
Community Plan Land Use Designation:	Agricultural
Deviations or Variances Requested:	N/A

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on December 16, 2025, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.

V. PROJECT DESCRIPTION AND USE

The Applicant is proposing to conduct guided agricultural tours of the farming operations involving parcels situated mauka of the Kilohana Plantation facility in Puhi. A detailed description of the proposed operation is contained in Page 3, Section V. of the Application.

1. Agricultural Tours
   As represented, the tour operation is planned over several parcels identified as TMKs: 3-4-005:003 (Por.), 3-4-001:002 (Por.), and 3-8-018:002 & 003, and will utilize the existing cane haul roadways throughout these parcels that are owned by Grove Farm Company Inc. It will be a guided tour featuring educational information concerning the agricultural activities as well as historic significance of the surrounding area. Presently, it is estimated that the tour will be approximately 2.5 hours and contain 15-20 guests per tour. The Application notes that the initial plan is to operate 3-6 tours per day, 4-6 days a week, and they will be all staggered. The projected operational hours would be during daylight 8:00 am. to 6:00 pm (depending on certain times of the year when there are more daylight hours).

   a. Parcel Information – As noted, the tour operation spans over four (4) parcels. They are:

      1) **Parcel 1** – TMK: 3-8-018:003 contains a total land area of 761.993 acres. The Applicant shares ownership of this parcel with Grove Farm Company Inc. and operates an active farming/ranching operation. The check-in/baseyard facility will be located on a 1-acre portion of the parcel, as illustrated in Exhibit 2 of the Application.
      2) **Parcel 2** – TMK: 3-4-005:003 (Por.) contains a total land area of 2,912+ acres and owned by Grove Farm Company Inc. Relative to the tour operation, Rest Stop #1 and #4 will be located on this parcel, as illustrated in Exhibit 2 of the Application.
      3) **Parcel 3** – TMK: 3-4-001:002 (Por.) contains a total land area of 345.497 acres and owned by Grove Farm Company. Relative to the tour operation, Rest Stop #2 and #4 will be located on this parcel, as illustrated in Exhibit 3 of the Application.
      4) **Parcel 4** – TMK: 3-8-018:002 (Por.) contains a total land area of 865.921 acres and owned by Grove Farm Company Inc. Relative to the tour operation, Rest Stop #3 and #4 will be located on this parcel, as illustrated in Exhibit 3 of the Application.

2. Parking for Patrons
   As noted, there will be on-site parking for its guests at the baseyard/check-in facility located on the parcel identified as TMK: 3-8-018:003 (Por.), as shown in Exhibit 5 of the Application. The Applicant is proposing to construct a one-story structure utilizing two (2) shipping containers that would be connected by a roof, as illustrated in Exhibits 12 & 13.

3. Associated Improvements – The proposed improvements related to the Project would involve the construction of two (2) structures, all one-story buildings. The first building

would serve as the check-in/baseyard facility where patrons initially report to, and the second would be a rain shelter at Rest Stop #2, refer to Exhibit #14. The approximate size of the rain shelter would be a 400 square feet (SF) structure (20'-0" X 20'-0").

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for FEBRUARY 10, 2026. To date, the Department has only received a response from the State of Hawai'i Department of Health (DOH).

VIII. FINDINGS

1. Property Location/Surroundings
   The project site is bounded by agricultural land to the north, east, and west. The Kauai Community College & Island School campuses, and Kilohana Plantation site. The Chiefess Kamakahelei Middle School and Hokulei Shopping Village are situated south of the project site.

   a. **Land Use Designations:** The project site contains both Agriculture (A) & Open (O) District zoning designations and within State Land Use Agricultural District.

2. Existing Land Use Permit History
   The following information represents land use approval/permits associated with the parcels in the vicinity of the project site, primarily those parcels affiliated with the Kilohana Plantation site:

   a. Class IV Zoning Permit Z-IV-1982-13, Use Permit U-1982-6, and Special Permit SP-1982-1 to allow for an office building. The application received approval by the Planning on March 17, 1983;

   b. Class IV Zoning Permit Z-IV-1986-5, Use Permit U-1986-5, and Special Permit SP-1986-3 to allow construction of a new building for rum distillery showroom, rum tasting and retail use. The application received approval by the Planning on October 9, 1985;

   c. Class IV Zoning Permit Z-IV-1987-34, Use Permit U-1987-27, Variance Permit V-1987-7, and Special Permit SP-1987-8 to allow for retail use and to deviate from the parking requirement. The application received approval by the Planning on December 17, 1986;

d. Class IV Zoning Permit Z-IV-2004-24, Use Permit U-2004-23, and Special Permit SP-2004-9 to allow a 2.5-mile excursion railroad system and tours, dept/farm market building, and railroad engine shop. The application received approval by the Planning on March 9, 2004; and

e. Amendment to Class IV Zoning Permit Z-IV-2004-24, Use Permit U-2004-23, and Special Permit SP-2004-9 to allow for commercial agriculture tours on parcels surrounding the Kilohana Plantation site. The application received approval by the Planning on June 27, 2017.

3. Access
Patrons will be utilizing the driveway leading up to the Kilohana Plantation site. It is a paved roadway from the Nuhou Road/Kaumuali'i Highway intersection and capable of accommodating two-way vehicular traffic.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request for a Special Permit to conduct agricultural tours on agricultural lands, the following should be considered:

1. Special Permit
Pursuant to Chapter 205 of the Hawai'i Revised Statutes (HRS) and Chapter 13 of the Planning Commission Rules of Practice and Procedure, the Commission may approve a Special Permit under such protective restrictions as may be deemed necessary if it finds that the proposed use meets the following:

a. Is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be. The Commission may consider the following guidelines in determining unusual and reasonable use:

1) Such use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A, HRS, and the rules of the Land Use Commission;

a) The proposed farm tour would support the Applicant's agricultural venture by providing an additional revenue stream to assist in sustaining and growing their operations.
b) As represented, the tour would educate visitors about sustainable farming practices, and the agricultural history of the surrounding area.

2) The desired use would not adversely affect surrounding property;

a) It is anticipated that the proposed ag tours should not adversely affect the surrounding properties. The Applicant currently has an agriculture-related operation on the neighboring parcel (Kilohana Plantation site) and is familiar with the properties that are involved with the tours as well as the neighboring parcels.

b) Although the proposed operation may generate some noise and traffic, the impacts should be minimal or eliminated through mitigative measures.
c) Through discussions with the Applicant, it is their intention to operate at a smaller scale compared to other commercial ag tours in the Lihue area by limiting the number of patrons per tour and the frequency of the tours. Observing these practices would result in a more manageable operation in order to regulate traffic and monitor noise levels.

3) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;

a) The proposed operation should not unreasonably burden public agencies and impact existing infrastructure since the Applicant would be utilizing existing cane haul roads and it does not require additional infrastructure improvements.

4) Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established; and

a) Eco-tourism has been an ongoing trend involving agricultural lands in an effort to display/showcase agricultural activities to visitors with an authentic experience.
b) The project would allow visitors to tour the lands behind the plantation operations without interfering with works, farming activity, or danger to themselves, while being introduced and educated on the agricultural/cultural history of the area.

5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district; and

a) As previously mentioned, it is anticipated that the proposed development would not interfere with agricultural operations in the surrounding area.

b. Would promote the effectiveness and objectives of Chapter 205, HRS, as amended.

The proposed agricultural tour, in connection with the agricultural activities represented in the Applicant's agricultural plan, should increase agricultural production than what is currently occurring on the subject property and provide an opportunity to grow the operation. Therefore, the proposed uses would promote the effectiveness and objectives of Chapter 205, HRS, as amended.

2. <u>Use Permit</u>
Pursuant to Article 20 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kaua'i County Code (1987), the purpose of the Use Permit procedure is to assure the proper integration into the community of uses which may be suitable only in specific

location of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-20.5 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria:

- the use must be a compatible use;
- the use must not be detrimental to persons or property in the area;
- the use must not cause substantial environmental consequences; and
- the use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO) and General Plan.

a. The agricultural tour operation occurs on land that is currently being utilized as a part of an ongoing farming operation.

b. It provides an opportunity to showcase the faming activities on these parcels, and the primary purpose of the tour is to specifically educate participants about the agricultural activities occurring on the property and history of agriculture in the area.

c. The tour operation should not inhibit the current or future ability to pursue agricultural activities on the property.

d. Except for the existing residences at the eastern boundary of the Kilohana Plantation parcel TMK: 3-4-005:001 (aka. "Rapozo Crossing"), the nearest residential structure is more than a ¼-mile away (1,800 feet) as measured from the Check-In/Baseyard Facility on TMK: 3-8-018:003. Many of the adjacent properties feature both active farming and fallow agriculture lands that would conveniently serve as a buffer to the nearest residential homes. The undeveloped nature of the surrounding area and the limited number of residential homes that are located away from the proposed ag tours ensure that the proposed activity should not be detrimental to nearby residents.

e. The proposed uses, as represented, may generate some traffic along Kaumualii Highway and the improved driveway leading up to the Kilohana Plantation site. As part of the agency review, the State of Hawai'i Department of Transportation will be providing comments on the proposed project. While there is a guest limitation for these events, the day of the week and time of the event may also determine if the proposed uses would contribute towards weekday traffic that generally occurs in the morning, afternoon, and evening hours.

f. Under Section 8-3.2, the Planning Commission may impose conditions on the permit to reduce any impacts that could be generated. Although the proposed uses should be compatible with the surrounding neighborhood, the limiting of tours per week and the reduced hours of operation could help to minimize any potential noise, traffic, and other unintended impacts to the surrounding neighbors and to the community. With proper mitigation, the proposed uses should meet the requirements for the granting of a Use Permit.

3. <u>General Plan</u>

Vision and Goals- Section 1.3 of the Kaua'i General Plan (2018)

- A Sustainable Island
- A Healthy and Resilient People
- A Unique and Beautiful Place
- An Equitable Place, with Opportunity for all

Policies to Guide Growth – Section 1.4 of the Kaua'i General Plan (2018):
Of the 19 policies outlined in Section 1.4 of the Kaua'i General Plan (2018), the proposed project directly promotes the following:

- Policy #1 Manage Growth to Preserve Rural Character
- Policy #9 Uphold Kaua'i as a Unique Visitor Destination
- Policy #10 Help Business Thrive
- Policy #11 Help Agricultural Lands be Productive

The proposed project aligns with the vision, goals, and policies of the Kaua'i General Plan in that the proposed project would directly increase agricultural production, generate economic activity, and provide visitors with an authentic experience in a manner that preserves and highlights the unique rural character of the island.

4. Noth Shore Planning Area (NSPA)
The proposed development would be consistent with the North Shore Development Plan as the subject property is designated as "Agriculture" in the land use map.

5. Traditional and Customary Practices
The Applicant has prepared a "Ka Pa'akai Analysis" that supplements the Application, dated December 2025. The document recognizes that the proposed operation occurs within the midland regions of the Hanamā'ulu-Kalapakī-Nāwiliwili-Ha'iku region, which are places of prehistoric and historic significance in the Hawaiian civilization and during the plantation era. Oral histories and written records tell of the continuing traditions, beliefs, and cultural practices of the region. However, the process and interviews conducted concluded that there are no known traditional or customary practices of Native Hawaiians associated with the project site and therefore not subject to any protected traditional rights.

X. PRELIMINARY CONCLUSION

Based on the information contained in the Staff Report Findings and Evaluation, the Planning Department concludes the following:

1. Through proper mitigative measures, the proposed operation should not have any detrimental impact to the environment and is consistent with the criteria outlined for the granting of a Special Permit, pursuant to Chapter 205 & 205A of the Hawai'i Revised Statutes (HRS) and rules of the State Land Use Commission; and

2. The proposal is consistent with the standards of issuance for a Use Permit and Class IV Zoning Permit within the Agriculture District; and

3. The Applicant should continue to institute the "Best Management Practices" during the operation of this facility in order to ensure that it does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

Based on the foregoing, it is hereby recommended that Class IV Zoning Permit Z-IV-2026-11, Use Permit U-2026-8, and Special Permit SP-2026-3 be **APPROVED** subject to the following conditions:

1. The proposed development shall be operated and constructed as represented. Any changes to the operation of the proposed uses shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. In consideration of the proposed ag tours, the Applicant shall execute a written agreement stating that due care for public safety will be provided and that the Applicant agrees to indemnify, defend, and hold harmless the County of Kauai, its officers, agents, and employees from and against all claims or demands for damage, includes claims for property damage, personal injury or death arising on or about the property in connection with the tours.

3. In the unlikely event of an emergency, the Applicant shall work with the County Fire Department to establish an Emergency Response Action Plan to ensure emergency access to the various locations within the project site is available during operational hours.

4. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirement for the County DPW-Engineering Division, water requirements for the County Department of Water, regulations involving environmental concerns as administered by the State Department of Health, and traffic mitigating requirements from the State Highways Division, Department of Transportation (DOT).

5. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the proposed development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

6. 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 to determine mitigation measures.

7. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

8. The Planning Commission reserves the right to add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for February 10, 2026, 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 the Director's Report and Recommendation as provided herein.

By _____
DALE A. CUA
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 1/26/2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF PUBLIC TESTIMONY TO PLANNING COMMISSION

DATE: **February 4, 2026**

PERMIT NUMBER(S): **Z-IV-2026-11, U-2026-8, and SP-2026-3**

APPLICANT(S): **KILOHANA CRATER EXPEDITIONS INC.**

Attached for the Planning Commission's reference is Public Testimony pertaining to the permit application referenced above.

G.2.d.2.
FEB 10, 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

Shanlee Jimenez

Subject: FW: Letters of Support
Attachments: Aloun Farms, 94-488 Kunia Road, Waiphau, HI 96797.pdf; Kauai Expeditions:Sonja Cabebe (signed).pdf; KEI Inc. Letter of Support:Best Kauai Tours.pdf; Letter of Support, Olumau Angus Plus, LLC.pdf; letter Of Support:NH Prod.- Dec 4 2025 - 12-48 PM.pdf; Letter of Support:Sabra Kauka.docx; Lynn Ham Young:Letter of Support.docx; Sue KanohoLtr of Support.docx; Tim Lach_KAUAI PLANNING_12.02.2025_FINAL.pdf

---

From: Kilohana <kilohana@kilohanakauai.com>
Sent: Thursday, January 29, 2026 2:57 PM
To: Dale Cua <dcua@kauai.gov>
Subject: FW: Letters of Support

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Mr. Cua,

Forwarding 9 Letters of Support from Fred Atkins for KEI tour. Let me know if you've received all, or if we need to send in another format.

Aloha,
Rae

94-488 Kunia Road, Waiphau, HI 96797 Phone: (808) 677-9516 Fax: (808) 677-9412

December 7, 2025

Mr. Ka'aina Hull, Director
Kaua'i Planning Department
County of Kaua'i Planning Department

Aloha Director Hull,

Aloun Farms strongly support Fred Atkins and Kilohana Enterprises, Inc. (KEI) in their application for a special permit.

I was first introduced to Fred Atkins when I began exploring farming opportunities on Kauai. At that time, Fred emphasized the importance of establishing a successful large-scale farming operation on the island and generously offered any assistance I might need.

Fred's is passionate of the industry and share the common vision to build and take Kauai agriculture to a better tomorrow. We also discussed the 4 key components necessary for long-term agricultural success on Kauai.

1. Direct sales to restaurants and the hospitality industry.
2. Value-added products, and
3. Agritourism
4. Economic scale to produce for a bigger island statewide and export off island market.

The project Fred is proposing is a high-quality agritourism endeavor that aligns perfectly with this vision. Successful precedents on Kauai, such as the Kauai Plantation Railway and the Kauai Rum Safari at Kilohana, demonstrate the significant economic and community benefits that responsible agritourism can bring to the island.

Please do not hesitate to contact me if you have any questions or would like to discuss this further.

Thank you for your consideration.

Sincerely,

Alec Sou,
President

KAUAI VACATION ACTIVITIES

experience the essence of aloha

12/2/26

To:
Ka'aina Hull
Director of Kauai Planning Department
Kauai Planning Commission

RE:
Kauai Expeditions Inc.
fred@kilohanakauai.com

Aloha,

My name is Sonja Keala Cabebe, and I am the owner of Kauai Vacation Activities, LLC dba Hawaii Fun. I have been in operation since 2013. My company is an activity booking agency that provides concierge services to many Kauai resorts and local vacation rental companies. Through our vacation rental affiliates, we assist an average of 5,000+ guest arrivals a month to the island.
*See attached for a list of our affiliates.

I was born and raised on Kauai and have been working in the Kauai activity industry spanning across three decades now. Back in the early 2000's we had four ATV/Off-Road tour companies to choose from. Now we are down to one tour operator. With our current client base, we are in a position where we have to turn away business from our visitors who request an ATV/Off-Road tour, due to the supply. The one ATV company we have to choose from only operates four days a week and books out well in advance.

We are hopeful for the opportunity to partner with Kauai Expeditions Inc. and be able to reserve our guests on the ATV/Off-Road tour experiences they plan to offer. There is a definite need for our visitors to be able to step out of the mainstream and explore more of Kauai's natural environment on its private lands.

Mahalo Nui,

Sonja Keala Cabebe

12/2/2025

Sonja Keala Cabebe (Owner)
Kauai Vacation Activities, LLC
dba Hawaii Fun
sonja@kauaiva.com
808-634-8508
www.kauaiva.com
www.hawaiifun.com

Date

Kauai Vacation Activities | Affiliate List

Resorts
Waimea Plantation Cottages
Kiahuna Plantation
Poipu Shores
ISO Resort
The Cliffs at Princeville
Hanalei Colony Resort

Vacation Rental Companies
Kauai Vacation Rentals
Remax Kauai
Kauai Exclusive Management
Garden Island Rentals
Garden Island Properties
Wailani Kauai
Poipu 365
Kauai Calls
Premier Kauai
Na Pali Properties
Makana Kauai
Jean & Abbott Properties
Inside Kauai

Valerie Owen
PO Box 777
Kapa'a, HI 96746
(808) 635-2046
valhanalei@gmail.com

2nd December 2025

Ka'aina Hull
Director of Planning Department
County of Kaua'i
County Planning Commission

Aloha Ka'aina,

My name is Valerie Owen. I am writing in support of KEI Inc. as the co-owner of Best Kaua'i Tours / IVC, a local concierge company that has been serving Kaua'i since 1988. Our company has partnered with Kilohana from our earliest days, and over the decades we have developed a longstanding, trusted, and mutually supportive working relationship.

What sets them apart is their genuine commitment to our island community and the way they support other local businesses. Their team has demonstrated exceptional professionalism, integrity, and consistently offer warm, reliable service with real attention to guest experience and safety. It's not always easy to find that combination, and it's why they've been such an important part of our success over the years. Their extensive experience ensures that they run safe, well-managed, and culturally respectful tours.

We're especially excited about the new *Kaua'i Expeditions 4x4 tour*. It thoughtfully opens up a special part of Kaua'i for both residents and visitors at a time when options for ATVs are limited to one company and tour spaces in general have been limited since COVID. For small companies like ours, having another high-quality, responsibly operated option makes a meaningful difference in what we can offer our guests.

I appreciate your consideration.

Mahalo nui ,

Valerie Owen

Olumau Angus Plus LLC
3895 Hunakai St.
Lihue, HI 96766

Ka'aina Hull
Director, Kauai Planning Department
444 Rice Street, Suite A473
Lihue, Hawaii 96766

December 5, 2025

To: Ka'aina Hull

I am pleased to write this letter in strong support of Fred and Nick Atkins on the proposed new tour offered by Kauai Expeditions Inc.

I first met Fred over 20 years ago when I served as the ranch manager at Kipukai Ranch. During that time, Kilohana (under Fred's leadership) provided tenting, food, and beverage services for a six-day and seven-night movie production which we hosted as location site on the ranch. From the very beginning, I was impressed by Fred's professionalism and attention to detail. Our working relationship quickly grew into a lasting friendship that has continued ever since.

A few years ago, Fred and Nick approached me for consultation regarding a 14-acre pasture improvement project at Kaaahi Ranch. His goal was to upgrade the fencing to reflect the very best practices in cattle and livestock management. Together we designed and installed a high-quality permanent fence augmented with electric off-set fencing. The electric off-set fence not only provides additional security but also allows for rapid and flexible pasture reconfiguration—an essential feature for effective rotational grazing and sustainable land management.

Throughout these experiences I have seen first-hand how committed Fred, Nick, Kilohana and Kaaahi Ranch are to responsible agriculture and to the land itself.

I was also asked to review the route being proposed for this new Agri-tourism tour. I believe it is well designed, low impact and would provide a great opportunity to show some of Kauai's current agriculture and share some of Kauai's history to visitors and kamaaina alike.

I give Fred and Nick Atkins and Kauai Expeditions Inc my highest recommendation for the new tour venture. I am confident it will be executed with the same excellence and integrity I have come to expect from him.

Please feel free to contact me @ (808)639-6872 or olumauangus@gmail.com

Robert (Bobby) Ferreira

Robert Ferreira

Former Ranch Manager, Kipukai Ranch & Kaupo Ranch Ltd.

Owner of Olumau Angus Plus, LLC

To:
Ka'aina Hull
Planning Director
County of Kaua'i
County Planning Commission

Regarding:
Kaua'i Expeditions Inc. (KEI Inc.)
Doing Business As: Kilohana Crater Expeditions

Aloha,

On behalf of NH Productions, I am writing in strong support of the proposed project, which celebrates both the extraordinary beauty of Kilohana Crater and Kilohana's long-standing mission to serve as a steward of Kaua'i's people, culture, and 'āina.

For decades, Kilohana has stood as a cornerstone of our island community—creating jobs for local families, supporting multigenerational livelihoods, and ensuring that Kaua'i's stories, traditions, and sense of place remain alive and relevant. Through authentic cultural programming, community partnerships, and a deep commitment to responsible land management, Kilohana has preserved the essence of our island while offering meaningful opportunities for residents and visitors alike.

This tour brings together the remarkable histories of two iconic plantations—Iliahi and Kilohana. Together, these estates once spanned tens of thousands of acres and played a vital role in shaping our island's agricultural heritage. By sharing their stories, this project helps preserve that rich legacy for both our local community and the visitors who come to experience it.

The proposed experience continues that kuleana. Carefully designed to protect the 'āina while opening guided access to the breathtaking rim of Kilohana Crater, this project will offer an educational and culturally grounded adventure that highlights the island's natural history, geology, and cultural significance. It will also expand economic opportunities for local workers, strengthen cultural interpretation roles, and create an experience that aligns with Kaua'i's values of stewardship, respect, and sustainability.

As a company rooted in Kaua'i, we fully support this project and believe it will further strengthen Kilohana's positive impact on our community. We are proud to stand with Kilohana as it continues its legacy of responsible innovation, cultural preservation, and meaningful employment for the people of our island.

Mahalo for your time and thoughtful consideration.

With much aloha,
Nani Marston
Owner, NH Productions LLC
nani.marston@gmail.com
Phone 808 346-5764

Subject: Letter of Support for Kilohana Tour
Date: December 8, 2025 at 4:48:35 PM HST
To: "Fred@Kilohanakauai.com" <Fred@Kilohanakauai.com>

To:
Mr. Ka'aina Hull
Director of Kaua'i Planning Department
Kaua`i Planning Commission
Lihu'e, Kaua`i 96766

Aloha Mr. Hull:
This letter is written in strong support of the Kilohana ATV tour being planned by Fred Atkins and team.

I have had the honor of seeing Kaua'i from the top of Kilohana Crater and it is incredibly beautiful. It is a perspective of Kaua'i unlike any other. There are no dangers or impositions to any other activities in the area as there really are none. And there are no residential areas that the tours would impact. There is much beauty and much history to be shared on the Kilohana Tour.

I ask for your approval of this application.

Me Kealoha,
Sabra Kauka

PO Box 3870
Lihue, Kaua'i HI 96766

Date: December 6, 2025 at 11:19:23 AM HST
To: fred@kilohanakauai.com

Ka'aina Hull
Director of Planning Department
County of Kaua'i
County Planning Commission

Aloha Ka'aina,

My name is Lynn Ham Young and I have had the privilege of living on the north shore of Kaua'i since 1974. Over the years, I've had many opportunities to experience the beauty of this island more than most people. Having explored so many parts of Kaua'i, I've developed a deep appreciation for its landscapes, history and culture.

Thanks to Fred Atkins I've been able to experience parts of Kauai I never would have known otherwise, including the breathtaking vistas from the Kilohana Crater. Fred's extensive knowledge of the island's natural wonders and cultural significance truly enhanced my understanding and appreciation of Kauai in ways I never imagined. He has so much respect for the land and the people I was so impressed with his commitment to Kaua'i.

I've witnessed countless tours over the years, and I can confidently say that the KEI tour be a highlight for locals and visitors.

If you have any questions or would like to hear more about my experience, please feel free to contact me.

With aloha,
Lynn Ham Young
808.635.0832

KAUA'I
VISITORS BUREAU™

December 12, 2025

Mr. Ka'aina Hull
Kaua'i County Planning Director
Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, HI 96766

Re: Application for New Tour / Kilohana Ridge

Aloha Planning Director Hull -

I wanted to offer my support for the proposed UTV tour from Fred Atkins focused on the Kilohana Ridge area. I was on a recent visit to the area with Fred and was amazed at the views I have never had the chance to see before. The history of that area from the plantation era, to the cattle ranch it is today, will be shared with those on the tour giving a deeper connection to the 'āina. I was pleased to see how Fred and the team have taken the Kilohana and given it so much diversity that residents and visitors will be able to experience, and now have a chance to include 'Iliahi and the importance it played back in the Plantation Days.

For decades, Fred Atkins has successfully managed the lands at Kilohana through the popular Plantation House at Gaylord's (restaurant and shops), the Plantation Railway, the Kaua'i Safari tour and the Kōloa Rum shop.

Each time we can take some of our "never before seen" lands and give the history to that place helps those visiting better understand our island home. Mahalo nui loa in advance for your time and consideration of this application.

With Aloha,

Susan A. Kanoho
Managing Director/Island Chapters
Executive Director
Kaua'i Visitors Bureau

Kaua'i Visitors Bureau • 4473 Pahe'e Street, Suite F • Līhu'e, Hawai'i, USA 96766
Telephone: (808) 245-3971 • Facsimile: (808) 246-9235 • E-mail: kauai@hvcb.org • www.gohawaii.com/kauai

600 Pu'uloa Road, Honolulu, Hawaii. 96819
Tim Lach - Distributor Operations Manager - District Manager
Pacific Harley-Davidson® Pacific Kawasaki®
Direct Line 808.831.2614 tlach@cyclecityltd.com

December 2, 2025

Mr. Ka'aina Hull
Planning Director
Kauai County Planning Department
4444 Rice Street, Suite #A473
Lihue, Hawaii. 96766

Re; Kauai Expeditions, Inc.

Dear Mr. Hull,

We are contacting you regarding a pending land use application made by Mr. Fred Atkins on behalf of Kauai Expeditions, Inc.

As the exclusive distributor of Kawasaki off-road & industrial products in Hawaii for over 50 years, we have constructed numerous fleet operation programs for entities to include recreational, tourism, government, and commercial applications. Our history of aligning ourselves with reputable and sustainable operators has provided us the experience and understanding of the best fit products for successful off-road programs.

We are pleased to have made arrangements with Mr. Atkins & his group at Kauai Expeditions, Inc. to launch a long-term plan for the utilization of our products within their operations on Kauai. As a resident of Kauai, I've known Mr. Atkins for nearly 25 years. I've always been impressed with Fred's genuine love for the Kauai experience. In addition, we (as an organization) wholly appreciate the preservation efforts Fred has shown with his agricultural and value-added enterprises. It's our vision to assist a great company that lives by its values and faithfully respects our island home. With respect to the business aspect, we are honored to have been selected to provide the vehicles, training, support, and long-range commitment to Kauai Expeditions' success.

Important to our organization is the decision by Mr. Atkins to keep the investment closely tied to a company such as ours. We strive to provide excellence as a Hawaii based vendor with our irrevocable commitment to Hawaii's economy. Our authorized dealer on Kauai will fulfil this obligation with our continuous oversight and stewardship. This proven formula serves to benefit the local workforce as well as the approved operator.

We are looking forward to the launch of this program and appreciate your governance overall. Please feel free to contact me directly with any questions you may have.

Respectfully,

Tim Lach

Tim Lach
District Manager
Cycle City, Ltd. dba
Pacific Kawasaki
Pacific Harley-Davidson

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of Amendment to Special Management Area (SMA) Rules and Regulations (SMA Rules)

II. PROCEDURAL REQUIREMENTS

Public Hearing Date:	January 13, 2026
Date of Publication:	December 12, 2025
Date of Director's Report:	January 2, 2026

I. INTRODUCTION:

Hawai'i Revised Statutes (HRS) Chapter 205A establishes the Coastal Zone Management (CZM) framework and minimum standards that serve as the baseline for county coastal management programs throughout the State of Hawai'i. The counties implement the state's CZM objectives through their SMA program[1] and its SMA Rules. Pursuant HRS §205A-1 and HRS §205A-27, the County of Kaua'i Planning Commission is designated the special management area authority and is authorized to carry out the SMA objectives, policies, and procedures for Kaua'i. The proposed amendments to the County of Kaua'i's SMA Rules incorporates changes to HRS Chapter 205A that were adopted in 2020 and 2025 as well as refines how the County of Kaua'i carries out its duties under the statewide CZM program.

Pursuant to HRS 91-3 and Chapters 2, 5 and 11 of the Planning Commission Rules, prior to any action, a public hearing is required to allow all interested persons an opportunity to submit data, views, or arguments. In addition, pursuant to HRS 201M, the amendments required review by the State of Hawai'i Small Business Regulatory Review Board (SBRRB) regarding any affects to small businesses. The SBRRB recommended the matter move to public hearing under HRS Chapter 91.

II. DISCUSSION OF CHANGES:

Proposed amendments to the SMA Rules included the following categories of amendments:

1) Formatting and Grammatical Changes
2) Substantive Amendments
3) Procedural Amendments

[1] The CZM objectives are also implemented and carried out by the counties through each county's respective the shoreline setback ordinances.

G.3.
FEB 24, 2026

H.4.a.1.
JAN 13, 2026

See **Exhibit A** for a copy of the proposed amended SMA Rules and **Exhibit B** for the existing rules in their entirety.

A. Formatting and Grammatical Changes

Overall, grammatical and formatting changes were made throughout the SMA Rules. Previous sections were combined and rearranged, and section numbers and titles were retitled and organized for clarity, flow, and to ease citing each section. For instance, former sections 1.0, 2.0, 3.0 were consolidated and reorganized for clarity to become new Section 1.0, General Provisions. Section 1.0 contains all introductory sections including the "1-1 Authority," "1-2 Purpose," "1-3 Title," sections 1-4 and 1-5 that detail the overarching objectives of the CZM, and the "1-7 Definitions" sections. In addition, grammatical and reorganization edits were made throughout the SMA Rules.

B. Substantive Amendments

Key substantive amendments incorporates the Hawai'i State Legislature's amendments to HRS Chapter 205A that were adopted in 2020 and 2025. These amendments included additional definitions for "development" and are minimally required by HRS Chapter 205A. See **Exhibit C** for a copy of Act 16, 2020, Act 125, 2025, and Act 304, 2025 for the legislative changes incorporated by state law.

Other amendments included added definitions to clarify the meaning of terms that were not defined by HRS Chapter 205A and clarify the procedures for SMA review including "floor area," "improvement," "larger development," "ocean view corridor," "reconstruction," "repair," "residence," "structure," "substantial progress," "substantial improvements," and "value."

In addition, other substantive changes included further guidelines in Section 2.0 that should aid the Commission's and Department's SMA review. First, the guidelines are proposed to clarify how the Planning Department would evaluate whether a parcel is "impacted by waves, storm surge, high tide, or shoreline erosion" and would trigger SMA review for "construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area." These guidelines propose that lands subject to historical coastal erosion, the Coastal High Hazard Area Zone VE identified by FEMA Flood Insurance Rate Maps, or that the Planning Director determines is subject to coastal hazards or may result in cumulative impacts or a significant environmental or ecological effects would trigger SMA review. The guidelines also propose Planning Director discretion to determine where no SMA review is necessary if the applicant verifies that no structures including all portions of the proposed development is not situated on any land subject to the coastal hazards.

Also, new guidelines pertaining to protecting the ocean view corridor are proposed. Under HRS §§ 205A-2, 21, and 26, guidelines and criteria are proposed to avoid the permanent loss of valuable coastal scenic resources and prevent any development from substantially interfering with or detracting from the line of sight toward the sea from a public thoroughfare. With some exceptions, these provisions propose that at least thirty (30%) percent of the ocean

view corridor parcel's public thoroughfare boundary shall provide for an ocean view corridor(s) where members of the public can view the ocean from the adjacent public thoroughfare. No structural improvements, including but not limited to fences, walls, site features, and all vegetation shall exceed three (3) feet in height.

C. Procedural Amendments

Other major changes proposed in these SMA Rules formalize and clarifies the SMA review process and procedure. In particular, the procedures for SMA assessments, SMA minor permits, SMA use permits, SMA permit modifications, and SMA emergency permits were amended and clarified.

First, Section 3-1, SMA Assessment and Determination, formalizes the current procedures that are completed on an informal or case-by-case basis. Under the new Section 3-1, all proposed uses, activities, and development in the SMA, including modifications of previously approved permits, must seek a SMA Assessment that will provide a determination within 30 days whether the proposal requires a SMA minor or use permit, or is exempt from SMA review. The section also defines minimum requirements to submit an assessment application.

Section 3.0 includes detailed criteria pertaining to how the Planning Department and Planning Commission should assess whether a proposal may have a significant adverse environmental and ecological effect or cumulative impact. These criteria will guide whether a proposal that could qualify under an exemption should nevertheless trigger SMA review. In addition, the criteria will guide when a proposal that could qualify for a minor permit should bump up to SMA use permit process based on its anticipated ecological and environmental effects.

The amended Section 4.0 of the SMA Rules clarify and reorganize procedures pertaining to SMA minor and use permit applications and actions.

The new Modification of SMA Permits, Section 6.0 details the process for modifying SMA permits. The Planning Department must analyze whether modifications require processing by the Planning Department or require Planning Commission action, and whether a new public hearing would be required, based on whether the proposed modification would be characterized as a minor or major modification. The procedures also specify that a modification that exceeds the scope of any previously approved SMA permit will require an entirely new SMA assessment and application.

Section 7.0, Emergency Permits clarifies the applicability, review process, and minimum requirements for Emergency Permit applications.

Section 12.0, Appeals, clarifies that any final SMA actions or decisions of the Planning Director is subject to appeal under the Planning Commission Rules. In addition, final SMA actions by the Planning Commission may be subject to judicial review under HRS Chapter 91.

Finally, new fees are proposed for assessments and modifications, and increases to SMA Use permit fees are proposed. For a description of the existing and proposed fees and a brief summary of other jurisdictions' analogous fees, see **Exhibit D**.

III. RECOMMENDATION:

Based on the foregoing, the Planning Department recommends that the Planning Commission approve the proposed SMA Rules. This report does not represent the Planning Department's final recommendation in view of the public hearing process that is scheduled for January 13, 2026 and any continued agency hearing when the entire record should be considered prior to decision-making. The entire record should include but not be limited testimony from the general public and interested others.

JODI HIGUCHI SAYEGUSA
Deputy Director of Planning

Exhibit A
Proposed Amended SMA Rules

Ex. A

SPECIAL MANAGEMENT AREA RULES AND REGULATIONS

COUNTY OF KAUA'I STATE OF HAWAI'I

DRAFT

As Amended XXX 2026

SMA RULES AND REGULATIONS
TABLE OF CONTENTS

Section	Title	Page
Section 1.0	General Provisions	**1**
Section 2.0	Special Management Area Guidelines	**10**
Section 3.0	Assessment and Determination Procedures	**14**
Section 4.0	SMA Permit Applications Procedures	**19**
Section 5.0	Public Hearings	**23**
Section 6.0	Modification of SMA Permits	**25**
Section 7.0	Emergency Permits	**31**
Section 8.0	Amendment of Special Management Area Maps	**35**
Section 9.0	Revocation	**37**
Section 10.0	Penalties and Injunctions	**37**
Section 11.0	Hearing Officer	**37**
Section 12.0	Appeals	**37**
Section 13.0	Severability	**38**
Section 14.0	Effective Date	**38**

DRAFT

SPECIAL MANAGEMENT AREA RULES AND REGULATIONS OF THE COUNTY OF KAUA'I

SECTION 1.0 GENERAL PROVISIONS

1-1 Authority.

Pursuant to authority conferred by Chapter 205A, Hawai'i Revised Statutes (HRS), as amended, the rules and regulations hereinafter contained are hereby established and shall apply to all lands within the Special Management Area (SMA) of the County of Kaua'i.

1-2 Purpose.

It is the State policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawai'i. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to ensure that adequate public access is provided to publicly-owned or used beaches, recreation areas, and natural reserves, by dedication or other means.

1-3 Title.

These Rules and Regulations shall be known as the "Special Management Area Rules and Regulations of the County of Kaua'i" or "SMA Rules".

1-4 Special Management Area.

Special Management Areas as delineated on the maps filed with the Planning Commission and the office of the County Clerk as of June 8, 1977 or as amended pursuant to HRS Section 205A-23, and SMA Rules Section 8.0 shall be the official Special Management Area to be administered and enforced under these SMA Rules.

1-5 Objectives and Policies of the Hawai'i Coastal Zone Management Act.

The objectives and policies of the coastal zone management program are those set forth in HRS Section 205A-22, as amended. These objectives and policies shall serve as guidelines in the implementation of these SMA Rules.

1-6 Developments Proposed Within the Special Management Area Subject to Review.

Any use, activity, or operation proposed within the Special Management Area defined as a "development" pursuant to HRS §205A-22 and SMA Rules Section 1-7 shall be subject to the review of the Director, Planning Department, and Planning Commission under these Rules and Regulations.

1-7 Definitions.

These definitions are intended to clarify, not to replace nor to negate the definitions in HRS Chapter 205A, as amended. If any definition is amended by HRS Chapter 205A, the definition prescribed under HRS shall apply. For the purpose of these Rules and Regulations, unless it is plainly evident from the content that a different meaning is intended, certain words and phrases used are defined as follows:

1-7-A "Applicant" means an owner or any person who has full written authorization of the owner.

1-7-B "County Engineer" means the head of the Department of Public Works of the County of Kaua'i.

1-7-C "County" means the County of Kaua'i.

1-7-D "Crops" means agricultural produce or parts(s) of plants or trees cultivated for commercial or personal use including, but not limited to, the raising of livestock.

1-7-E "Debris Line" or "Line of Debris" means a line marking the landward limit of debris deposits, resulting from wave uprush.

1-7-F "Development":

(1) Means any of the following uses, activities, or operations on land or in or under water within a special management area that are included below:

i. Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;

ii. Grading, removing, dredging, mining, or extraction of any materials;

iii. Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;

iv. Change in the intensity of use of water, ecology related thereto, or access thereto; and

v. Construction, reconstruction, or alteration of the size of any structure; and

(2) Does not include the following:

i. Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area; is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion; and is not part of a larger development;

ii. Repair or maintenance of roads and highways within existing rights-of-way;

iii. Routine maintenance dredging of existing streams, channels, and drainageways;

iv. Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;

v. Zoning variances, except for height, density, parking, and shoreline setback;

vi. Repair, maintenance, or interior alterations to existing structures;

vii. Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;

viii. Uses of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes associated with a USDA Natural Resource Conservation Service approved conservation plan, including all traditional fishpond and traditional agricultural practices;

ix. Transfer of title to land;

x. Creation or termination of easements, covenants, or other rights in structures or land;

xi. Subdivision of land into lots greater than twenty acres in size;

xii. Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed; provided that any land which is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;

xiii. Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors within an existing utility easement or government rights-of-way;

xiv. Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;

xv. Nonstructural improvements to existing commercial or noncommercial structures;

xvi. Construction, installation, maintenance, repair, and replacement of emergency management warning or signal devices and sirens;

xvii. Installation, maintenance, repair, and replacement of public pedestrian and bicycle facilities, including sidewalks, paths, bikeways, crosswalks, stairs, ramps, traffic control barriers, signs, signals, and associated improvements;

xviii. Trash removal or invasive vegetation removal or control, including incidental ground disturbance, excluding the use of herbicides;

xix. Installation of fencing, including associated improvements and incidental structures, for invasive species control or preservation of native habitats on conservation land;

xx. Installation, maintenance, repair, and replacement of lighting, fixtures, and equipment to establish compliance with current standards at existing public facilities;

xxi. Installation, maintenance, repair, and replacement of security measures, including fencing, to existing public facilities; and

xxii. Hawaiian traditional and customary practices, including work conducted by traditional means near, in, or related to loko i'a, traditional Hawaiian fishponds;

xxiii. Amendment of the County general plan, development plans, State land use district boundaries, and zoning changes;

xxiv. Reconstruction of any lawfully constructed structure that was damaged or destroyed in a disaster proclaimed by the governor to constitute a state of emergency pursuant to chapter 127A, or a disaster declared pursuant to federal law; provided that:

(1) The structure is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion;

(2) Reconstruction commences and substantial progress is achieved within six years from the date that the proclamation is issued; and

(3) The reconstructed structure is similar to its original footprint or overall dimensions that were existing or permitted and in compliance with the requirements of floodplain management standards;

xxv. Incidental ground disturbance involving archeological work in compliance with State of Hawai'i Historic Preservation Division requirements.

DRAFT

provided that whenever the Director or Planning Commission finds that any excluded use, activity, or operation may have cumulative impact or, or a significant environmental or ecological effect on a Special Management Area as detailed in SMA Rules Section 3-3, that use, activity, or operation shall be defined as "development" for the purpose of this part.

1-7-G "Director" means Department, County of Kaua'i, or the Director's authorized designee.

1-7-H "Environmental Impact Statement" ("EIS") means an informational document prepared in compliance with HRS Chapter 343 and State of Hawai'i, Office of Planning and Sustainable Development, Environmental Review Program's Rules and Regulations, and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of economic activities arising out of the proposed action, measures, proposed to minimize adverse effects and alternatives to the action and their environmental effects.

1-7-I "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.

1-7-J "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

1-7-K "Floor area" means the aggregate areas enclosed by a residence's exterior walls. For areas without exterior walls, it refers to the usable space beneath the horizontal projection of a roof or the useable space above the horizontal projection of a deck or floor. This excludes any uncovered (not roofed) on-grade pavement or concrete and uncovered (not roofed) subsurface improvements.

1-7-L "Improvement" means any upgrades or enhancements that increase value, utility, or function beyond its original condition. When applied to structures, "improvement" does not include "substantial improvements."

1-7-M "Larger development" constitutes the following:

(1) Three (3) or more residences on a lot of record; or

(2) Development that involves three or more individual wastewater systems on a lot of record.

1-7-N "Maintenance" means the routine care and upkeep to restore to working condition. When applied to structures, "maintenance" does not include "substantial improvements."

1-7-O "Ocean View Corridor" means a designated portion of a shoreline abutting parcel that allows for the ocean to be seen from a public thoroughfare.

1-7-P "Ocean View Corridor Parcel" means a parcel with an ocean view corridor and located between the shoreline and a public thoroughfare, and from which the ocean would be readily viewable given the parcel's existing topography and absent any structural improvements or vegetation.

1-7-Q "Owner" means the holders of legal title of land in fee simple.

1-7-R "Person" includes any individual, organization, partnership, firm, association, trust, estate, private corporation, or other legal entity including any utility or any agency, department, commission, or board of government.

1-7-S "Planning Commission" means the Planning Commission of the County of Kaua'i.

1-7-T "Planning Department" means the Planning Department of the County of Kaua'i.

1-7-U "Public Thoroughfare" means any County of Kaua'i or State of Hawai'i road, street, or path, or any road, street, path or way that provides access for members of the public to traverse.

1-7-V "Reconstruction" means the rebuilding, renewal, or replacement of any part of or up to all of a lawfully existing structure.

1-7-W "Repair" means the restoration or renewal of any part of an existing structure that is damaged or deteriorated to its original working condition and function. When applied to single-family residences and buildings, "repair" does not include "substantial improvements."

1-7-X "Residence" means a habitable structure with a kitchen. This definition includes but is not limited to additional rental units ("ARU"), guest houses with kitchens ("GH"), and additional dwelling unit ("ADU"). Except for ARU and GH, this definition does not apply to detached, accessory structures.

1-7-Y "Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

1-7-Z "Shoreline Armoring Device" means a structure or improvement built to artificially fix the shoreline and poses an immediate and future adverse effect on beach process as a result of the structure or improvement located within the coastal hazard zone.

1-7-AA "Shoreline Survey" shall mean the actual field location of the shoreline in accordance with the definition herein along with the existing property lines which shall be located and platted by instrument surveys and the property corners or appropriate references thereof along the shoreline be marked on the ground by a land surveyor registered in the State of Hawai'i. Such survey maps developed by the registered land surveyor shall bear the surveyor's signature and date of field survey and the confirming signature of the Chair of the Board of Land and Natural Resources.

1-7-BB "Single-Family Residence" means a detached building designed for or used as the complete facility for the cooking, sleeping, and living area of a single family only and occupied by no more than one family, including uses normally considered accessory to the single family facilities provided that such uses are in compliance with all requirements of any County or State regulations, statute or ordinance. A single family shall include an individual or group of two or more persons living together in a single residential unit. For purposes of these SMA Rules, a guest house shall be considered an accessory use.

1-7-CC "Special Management Area" means the land extending inland from the shoreline as delineated on the maps filed with the Planning Commission as of June 8, 1977 or as amended pursuant to HRS Section 205A-23 and SMA Rules Section 8.0.

1-7-DD "Special Management Area Emergency Permit" means a permit issued by the Director, pursuant to the authority provided to the Director by the Planning Commission and defined in the SMA Rules and Regulations, authorizing development in a case of emergency requiring immediate action to prevent substantial physical harm to persons or property or to allow the reconstruction of structures damaged by natural hazards to their original form, provided that such structures were previously found to be in compliance with requirements of the National Flood Insurance Program.

1-7-EE "Special Management Area Minor Permit" means an action by the authority authorizing development that has no substantial adverse environmental or ecological effect, taking into account potential cumulative effect, and the valuation of which is not in excess of:

(1) $750,000, with inflation adjustments every five years starting from May 29, 2025 (the effective date of Act 125, SLH 2025) by the lead agency in accordance with the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, if the development is not situated on a shoreline parcel or parcel that is impacted by waves, storm surges, high tide, or shoreline erosion; or

(2) $500,000, if the development is situated on a shoreline parcel or parcel that is impacted by waves, storm surges, high tide, or shoreline erosion.

1-7-FF "Special Management Area Use Permit" means an action:

(1) By the Planning Commission, the valuation of which exceeds $750,000, with inflation adjustment every five years starting from from May 29, 2025 (the effective date of Act 125, SLH 2025) by the lead agency in accordance with the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor; or

(2) That may have a substantial adverse environmental or ecological effect, taking into account potential cumulative effects.

1-7-GG "State Plan" means the adopted State Plan of the State of Hawai'i, as reflected by Chapter 226, HRS, and any amendments thereto.

1-7-HH "Structure" includes, but is not limited to any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

1-7-II "Substantial progress" is means that 100% of the building foundation has been laid, or that 100% of the building foundation of the active phase of a project has been laid where the project is being done in phases.

1-7-JJ "Substantial improvements" means any cumulative series of repairs, reconstruction, improvements, or additions to a structure over a 10 year period, where the cumulative cost equals or exceeds 50% of the market value of the structure before the start of construction of the first improvement during that 10 year period. The cumulative series of repairs, reconstruction, improvements is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The value of any substantial improvement shall be determined by the County Engineer or his/her authorized representative or the Planning Director. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of a State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

1-7-KK "Use" is:

(1) Any purpose for which a structure or a tract of land is designed, arranged, intended, maintained, or occupied.

(2) Any activity, occupation, business, or operation carried on or intended to be carried on' in any structure or on a tract of land.

1-7-LL "Value" or "Valuation" shall be determined by the Director and means the estimated cost to conduct the project or replace the structure in kind, based on current replacement costs, or in the cases of other development, as defined by Hawai'i Revised Statutes 205A-22 and these rules, the fair market value of the development. Valuation will be assessed based on the cost of an activity, building, or structure including but not limited to labor, equipment, supplies, materials, contractor fees, site preparation, delivery costs, architectural and engineering fees, permit fees, legal and consulting fees, and project management as determined by an architect, engineer, or contractor licensed by the State of Hawai'i Department of Commerce and Consumer Affairs, the County of Kaua'i Department of Public Works, or Planning Department. In the event of a conflict among valuations, the higher estimate amount shall be used for the purposes of these rules.

1-7-MM "Vegetation Line" means a line marking the seaward limit of natural terrestrial growth.

1-7-NN "Vegetation Growth" means any plant, tree, shrub, grass, or groups, clusters or patches of the same naturally rooted and growing.

DRAFT

SECTION 2.0 SPECIAL MANAGEMENT AREA GUIDELINES

2-1 Guidelines.

The following guidelines shall be used by the Planning Director, Planning Department, and the Planning Commission for the review of developments proposed in the Special Management Area (SMA):

2-1-A Pursuant to the definition of "Development" under HRS Section 205A-22 and SMA Rules Section 1-7, the following shall be considered to evaluate whether a parcel is "impacted by waves, storm surge, high tide, or shoreline erosion" at the time the application is submitted:

(1) A parcel is impacted by waves, storm surge, high tide, or shoreline erosion when any portion or component of the proposed development is within the following coastal hazard areas:

i. Lands subject to historical coastal erosion pursuant the methodology outlined in the National Assessment of Shoreline Change: Historical Shoreline Changes in the Hawaiian Islands (Fletcher, et al., 2012).

ii. Lands subject to the Coastal High Hazard Area Zone VE identified by FEMA Flood Insurance Rate Maps.

iii. Lands that the Planning Director determines is subject to coastal hazards or may result in cumulative impacts or a significant environmental or ecological effects under SMA Rules Section 3-3.

(2) Where the applicant verifies that no structures including all portions of the proposed development is not situated on any land subject to the coastal hazards listed above, the Planning Director may determine that the parcel is not impacted by waves, storm surge, high tide, or shoreline erosion unless the Director finds that the proposed project may have cumulative impact or a significant environmental or ecological effect on a Special Management Area pursuant to SMA Rules Section 3-3 of these SMA Rules.

2-1-B No development shall be approved unless the Director or the Planning Commission has first found that:

DRAFT

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

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

(3) The development is consistent with the County general plan and zoning ordinances. Such not preclude concurrent processing where a general plan or zoning amendment may also be required.

2-1-C All development in the SMA shall be subject to reasonable terms and conditions set by the Director or the Planning Commission to ensure that:

(1) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;

(2) Adequate and properly located public recreation areas and wildlife preserves are reserved;

(3) Provisions are made for solid and liquid waste treatment, disposition, and management that will minimize adverse effects upon special management area resources; and

(4) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.

2-1-D The Director or the Planning Commission shall seek to minimize, where reasonable:

(1) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon.

(2) Any development that would reduce the size of any beach or other area usable for public recreation.

(3) Any development that would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the Special Management Area and the mean high tide line where there is no beach.

(4) Any development that would substantially interfere with or detract from the line of sight toward the sea from the State Highway nearest the coast, or from existing public views to and along the shoreline.

(5) Any development that would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, Wildlife habitats, estuarine sanctuaries, potential or existing agricultural uses of land.

2-2 Criteria for Protection of the Ocean View Corridor.

Pursuant to HRS §§ 205A-2, 21, and 26, the following criteria are required to avoid the permanent loss of valuable coastal scenic resources and prevent any development from substantially interfering with or detracting from the line of sight toward the sea from a public thoroughfare.

2-2-A For any Ocean View Corridor Parcel, the following requirements shall apply:

(1) At least thirty (30%) percent of the ocean view corridor parcel's public thoroughfare boundary shall provide for an ocean view corridor(s) where members of the public can view the ocean from the adjacent public thoroughfare;

(2) In the ocean view corridor, no structural improvements, including but not limited to fences, walls, or site features, shall exceed three (3) feet in height;

(3) In the ocean view plain corridor, all vegetation, hedges, bushes, or trees within the ocean view corridor area shall be maintained in manner not to exceed three (3) feet in height;

(4) The presence of a public beach park, shared use path, public access corridor, or other public shoreline lands located between the ocean view corridor parcel and the shoreline shall not exempt the ocean view corridor parcel from these ocean view corridor requirements.

(5) The following lots and vegetation are exempt from the Ocean View Corridor requirements:

i. Any land within the state land use agriculture district;

ii. Any lot within the state land use conservation district.

iii. An undeveloped and vacant lot;

iv. A previously created flag lot with only the pole portion of the lot abutting a public thoroughfare; and

v. A tree in the designated view plain corridor that is pruned and maintained in a manner that does not obstruct viewing of the ocean from the public thoroughfare.

DRAFT

SECTION 3.0 ASSESSMENT AND DETERMINATION PROCEDURES

3-1 Assessment and Determination Filing Procedures.

3-1-A Assessment Required.

(1) No person shall be allowed to conduct any use, activity or operation on lands located within the SMA, which may significantly impact coastal waters or related coastal resources, without first obtaining an SMA Permit pursuant to these Rules and Regulations. An application for a SMA Permit filed under this section shall be subject to the review of the Director, Planning Department, and Planning Commission, and shall be evaluated for consistency with the objectives, policies, and guidelines of the Hawai'i Coastal Zone Management Act.

(2) Any proposed use, activity, operation, or development in the SMA, or any modification of an existing SMA permit, must first obtain an initial evaluation and assessment made by the Director to determine whether the proposal is development and requires a special management area permit or is exempt from a special management area permit.

(3) No County department or State agency authorized to issue permits pertaining to any development within the Special Management Area shall authorize any development unless approval is first received from the Director or the Planning Commission pursuant to these SMA Rules.

(4) For the purposes of this Section, County General Plan, State Land Use District boundary amendments, and zoning changes are not development that require an SMA assessment.

3-1-B Waiver. An applicant may waive these assessment procedures and may apply directly for SMA use permit pursuant to SMA Rules Section 7.2.

3-1-C Assessment Application. The applicant shall submit the following information and documentation with the Planning Department:

(1) A tax map key description of the property on which the applicant proposes the project.

(2) A plot plan of the property, drawn to scale with all proposed structures shown thereon, and any other information necessary to a proper determination relative to the specific request.

(3) A written description of the proposed project and a statement of objectives.

(4) A written statement of the estimated valuation of the proposed development including the estimated valuation of all components of the proposed development and any component that could be considered exempt.

(5) Any other relevant plans or information required by the Department.

(6) If the applicant is not the landowner, written authorization of the landowner.

(7) An assessment administrative fee of $50.

3-2 Evaluation of Assessment Application.

Upon submission of a completed assessment application, the Director shall evaluate the application based on the following criteria:

(1) Whether the nature of the proposed development aligns with the definition of "development" pursuant to Hawai'i Revised Statutes §205A-22 and these SMA Rules or is exempt from a SMA permit.

(2) The SMA Guidelines pursuant to SMA Rules Section 2.0.

(3) The valuation of the proposal.

(4) Whether the proposal may have a cumulative impact, or significant environmental or ecological effect on the SMA pursuant to the criteria specified under these SMA Rules.

3-3 Significant and Cumulative Environmental and Ecological Effect Criteria

The Planning Director, Planning Department, and Planning Commission shall consider the following to assess whether a proposal may have a significant adverse environmental and ecological effect or cumulative impact:

3-3-A Cumulative Impact. A proposal may constitute a cumulative adverse effect on the environment when the sum of the foreseeable effects that are predicted during the proposed action's lifespan may adversely affect the quality of the environment and ecology. In considering cumulative impacts, foreseeable impacts within a surrounding spatial and geographical area of the use, activity, operation, or development can be considered as well as foreseeable impacts within a temporal timeframe.

3-3-B Portioning of Project. Pursuant to the definition of "Development" under HRS Section 205A-22 and SMA Rules Section 1-7, a portion of the project may constitute "development" when that portion of an excluded use, activity, or operation may result in a significant adverse environmental and ecological effect or cumulative impact.

3-3-C Significant Effect. A proposal that may constitute a significant adverse effect on the environment when the proposed action has the following effects or impacts:

(1) Causes an irrevocable commitment to loss or destruction of any natural, cultural, or historic resources, including but limited to, historic sites, Special Treatment Districts as established in Kaua'i County Code Chapter 8, known as the Comprehensive Zoning Ordinance, view planes, scenic vistas, or scenic corridors as identified in the Development Plans, and recreation areas and resources;

(2) Significantly curtails the range of beneficial uses of the environment;

(3) Conflicts with the County's or the State's long-term environmental policies or goals;

(4) Is contrary to the County's General Plan, Development Plans, zoning and subdivision ordinances, the State Plan, and the objectives, policies, and guidelines of these SMA Rules;

(5) Substantially and adversely affects the economic, social welfare, or cultural practices of the community, County, and State;

(6) Causes a substantial adverse effect on public health;

(7) Involves adverse secondary impacts, such as population changes and effects on public facilities;

(8) Involves a substantial degradation of environmental quality;

(9) In itself may not have a significant adverse effect but cumulatively has substantial adverse effect upon the environment or involves a commitment for larger actions;

(10) Substantially and adversely affects a rare, threatened, or endangered species of animal or plant, or its habitat;

(11) Causes substantial adverse effects on air or water quality or ambient noise levels;

(12) Causes substantial adverse effects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, shoreline, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal water;

(13) Requires substantial energy consumption or emission of substantial greenhouse gases.

3-4 Assessment Determination.

Within thirty (30) calendar days after the receipt of all filing requirements or within a longer period as agreed to by the applicant, the Director shall issue an assessment determination pursuant to the following:

3-4-A Applicability. Unless otherwise stated in the assessment determination, once an assessment determination is issued, the determination will remain valid for up to two (2) years, or the assessment determination shall be deemed to have lapsed and be no longer in effect.

3-4-B Exemption. Where the Director finds that the proposal is not a development as defined in SMA Rules Section 1-7; the Director shall determine that the proposal is exempt from a SMA permit and these SMA Rules.

3-4-C SMA Minor Determinations.

The Director shall require a SMA Minor permit when the Director determines that:

(1) The proposal is a development, as defined in SMA Rules Section 1-7; and

(2) The proposed development will constitute a value not more than:

i. $750,000, with inflation adjustments every five years starting from May 29, 2025 (the effective date of Act 125, SLH 2025) by the lead agency in accordance with the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, if the development is not situated on a shoreline parcel or parcel that is impacted by waves, storm surges, high tide, or shoreline erosion; or

ii. $500,000 for development that is situated on a shoreline parcel or parcel that is impacted by waves, storm surges, high tide, or shoreline erosion; or

(3) The proposed development will not result in a significant adverse environmental and ecological effect or cumulative impact under SMA Rules Section 3-3.

3-4-D SMA Use Permit Determinations.

The Director shall require a SMA Use permit when the Director determines that:

(1) The proposal is a development, as defined in SMA Rules Section 1-7; and

(2) The proposed development will constitute a value that exceeds:

i. $750,000, with inflation adjustment every five years starting from May 29, 2025 (the effective date of Act 125, SLH 2025) by the lead agency in accordance with the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor; or

ii. $500,000 for development that is situated on a shoreline parcel or parcel that is impacted by waves, storm surges, high tide, or shoreline erosion; or

(3) The proposal directly facilitates commercial boating and vessel activities or operations excluding actions under the jurisdiction of the State Department of Land and Natural Resources-Division of Boating and Ocean Recreation, State Department of Transportation, and Federal Agencies; or

(4) The proposal directly involves the construction of a Shoreline Armoring Device; or

(5) The proposed development may result in a substantial adverse environmental and ecological effect taking into account potential cumulative effects under SMA Rules Section 3-3.

3-4-E <u>SMA Use Permit Application Notification</u>. When an SMA Use permit application is required, the Director shall inform the person of the following:

(1) The requirement of a SMA Use Permit application pursuant to SMA Rules Section 4-2;

(2) The public hearing requirements under SMA Rules Section 5.0;

(3) The Planning Commission's requirements for action under SMA Rules Section 4.0; and

(4) The area of critical concern to delineate the scope of information that the applicant must address.

DRAFT

SECTION 4.0 SMA PERMIT APPLICATIONS PROCEDURES

4-1 SMA Minor Permit Applications.

Where the Director has determined that an SMA Minor Permit is required, the applicant shall be responsible for submitting a complete application form provided by the Planning Department, including the following:

(1) All the information required for SMA assessment applications under SMA Rules Section 3-1-C.

(2) A SMA Minor permit fee of $300.

(3) For Ocean View Corridor Parcels subject to SMA Rules Section 2-2, a site plan and landscape plan depicting the designated view corridor area.

(4) If required under HRS Chapter 343, the Planning Director, Planning Department, or Planning Commission, an environmental assessment (EA) or environmental impact statement (EIS), or an agency decision letter where a government agency has determined that the action is exempt, or any final environmental document from an EA or EIS that issued a finding of no significant impact.

(5) An analysis identifying and addressing any impacts to Native Hawaiian traditional and customary rights that are identified and protected under Article XII, Section 7 of the Hawai'i State Constitution.

(6) A written description of the affected environment and a written statement evaluating the proposed development in relation to the objectives and policies of the State's Coastal Zone Management Act (Chapter 205A, HRS) and the guidelines of the Special Management Area as provided in these rules. This written statement should include the relationship of the proposed action to land use plans of the affected area, an analysis of the probable impact of the proposed action on the environment, a listing of probable adverse environmental effects that cannot be avoided, an evaluation of alternatives to the proposed action, a discussion of mitigating measures proposed to minimize impacts, and a listing of any irreversible and irretrievable commitment of resources.

4-1-A Agency Comment. Once officially accepted, the Director may circulate the application for a minor application to the appropriate government agencies for their comments and recommendations, if necessary.

4-1-B SMA Minor Permit Action. The Director shall approve, approve with conditions, or deny such SMA Minor permit pursuant to the guidelines under HRS Section 205A-26, as amended and SMA Rules Section 4.0. The Director may impose any reasonable terms and conditions deemed necessary to meet the objectives, policies, and the guidelines of HRS Chapter 205A and the SMA Rules.

4-1-C SMA Minor Permit Notice. The Director shall submit the minor permit determination to publicize on a website and in the next available issue of the periodic bulletin of the State of Hawai'i Office of Planning and Sustainable Development (OPSD). The information posted to the website shall include the date of the Director's determination, permit number, TMK, location, and activity/structure and shall be posted at the time of posting in the OPSD periodic bulletin.

4-1-D Effect of Denial. When a SMA Minor Permit application is denied, an application involving the same or substantially the same development may not be filed sooner than one (1) year following such denial.

4-1-E Substantial Progress. Unless otherwise stated in the permit, once a permit is issued, the applicant must make substantial progress, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect.

4-2 SMA Use Permit Applications

Where the Director has determined that an SMA Use Permit is required or an applicant has waived an assessment, the applicant shall be responsible for submitting a completed application form provided by the Planning Department. Such form shall be accompanied by the following:

(1) In the case of applicants whose proposals have not been assessed, all the information required for SMA assessment applications under SMA Rules Section 3-1-C.

(2) The applicant shall pay an administrative fee of $500 for processing plus the cost of publication of $1,776.46, or as set annually by the Director and outlined by a fee schedule to cover the actual costs of publication.

(3) If required under HRS Chapter 343, the Planning Director, Planning Department, or Planning Commission, an environmental assessment (EA) or environmental impact statement (EIS), or an agency decision letter where a government agency has determined that the action is exempt, or any final environmental document from an EA or EIS that issued a finding of no significant impact.

(4) An analysis identifying and addressing any impacts to Native Hawaiian traditional and customary rights that are identified and protected under Article XII, Section 7 of the Hawai'i State Constitution.

(5) A written description of the affected environment and a written statement evaluating the proposed development in relation to the objectives and policies of the State's Coastal Zone Management Act (Chapter 205A, HRS) and the guidelines of the Special Management Area as provided in these rules. This written statement should include the relationship of the proposed action to land use plans of the affected area, an analysis of the probable impact of the proposed action on the environment, a listing of probable adverse environmental effects that cannot be avoided, an evaluation of alternatives to the proposed action, a discussion of mitigating measures proposed to minimize impacts, and a listing of any irreversible and irretrievable commitment of resources.

4-2-A Acceptance and Agency Comment.

Upon compliance with the foregoing procedures, the Director shall notify the applicant by mail that this application has been accepted. Once officially accepted, the Director shall circulate the application to appropriate government agencies for their comments and recommendations and schedule the application for public hearing pursuant to SMA Rules Section 5.0.

4-2-B SMA Use Permit Action.

(1) Within 60 days after the filing of a completed application, the Planning Director shall prepare a report that analyzes whether the proposed development meets the criteria and guidelines under HRS Section 205A-26, as amended, and SMA Rules Section 2.0, and indicates the reasons supporting the issuance, issuance with conditions, or denial of the application. The report shall be sent to the applicant, to the Planning Commission, to any persons who have duly requested the report, and shall be made public.

(2) Within (60) calendar days after the receipt of the Planning Director's report or within such longer period as may be agreed to by the applicant, the Planning Commission shall hold at least one public hearing on the application and the Planning Commission shall approve, approve with conditions, or deny the SMA Use Permit by majority vote of its total membership except when the SMA Use Permit is subject to intervention proceedings or a contested case hearing pursuant to the Planning Commission Rules of Practice and Procedure Chapter 4 and 6.

(3) The Planning Commission may impose any reasonable terms and conditions deemed necessary to meet the objectives, policies, and the guidelines of HRS Chapter 205A and the SMA Rules.

(4) If the Planning Director or the Planning Commission fails to take action within the time limits prescribed in this Section, unless the applicant assents to a delay, the application shall be deemed approved.

4-2-C Effect of Denial. When a SMA Use Permit application is denied, an application involving the same or substantially the same development may not be filed sooner than one (1) year following such denial.

4-2-D Substantial Progress. Unless otherwise stated in the permit, once a permit is issued, the applicant must make substantial progress, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect.

4-3 Modifications or Revocations of SMA Permits.

Permits can be modified pursuant to SMA Rules Section 6.0 or revoked through the procedure outlined in Chapter 12 of the Rules of Practice and Procedures of the Planning Commission.

DRAFT

SECTION 5.0 PUBLIC HEARINGS

5-1 Timing.

Where these SMA Rules require a public hearing, the Planning Commission shall conduct at least one public hearing within a period of sixty (60) calendar days after receipt of the Planning Director's report or within such longer period as may be agreed to by the applicant.

5-2 Notice.

5-2-A Publication. The Planning Commission shall give written notice to the applicant, and notice shall also be published once within the County of Kaua'i and once in a newspaper of general circulation in the State at least twenty (20) calendar days prior to the date of the public hearing in a publication pursuant to HRS Section 1-28.5.

The notice of the public hearing shall state:

(1) The location of the property involved;

(2) The land area of the proposed development;

(3) The nature of the proposed development;

(4) The date, time, and place of the hearing; and

(5) That persons may petition for intervention pursuant to the Planning Commission's Rules of Practices and Procedures.

5-2-B Notice to Neighbors. At least twenty (20) calendar days prior to the scheduled date of such hearing, the applicant shall either hand-deliver written notices to persons listed on the current Real Property Assessment Notice List located at the Real Property Division of the Department of Finance of the County of Kaua'i or send by certified mail written notices to the addresses shown on such Real Property Assessment Notice List for at least eighty-five percent (85%) of all tax map key parcels within 300 feet from the nearest point of The tax map key parcel involved in the petition. For purpose of this paragraph, notice to one co-owner shall be sufficient notice to all other co- owners of the same tax map key parcel. For each condominium project within the affected area, one notice of the hearing shall be sent address "To the Residents, Care of the Manager," followed by the name and address of the condominium involved. The notice shall include the same information contained in the published written notice and shall be in a form approved by the Planning Director.

5-2-C Affidavit. At least seven (7) calendar days prior to the hearing date, the applicant shall file with the Planning Commission an affidavit describing the mailing or delivery of such notice, including a list of people to whom such notices were sent.

If the applicant fails to comply with foregoing notification requirements, the public hearing shall be postponed and the applicant shall pay for the cost of republication and processing, which shall be same amount set forth above, and shall follow the same notification requirements of this section to re-notify affected persons. The Planning Commission shall reschedule another hearing within sixty (60) calendar days after receipt of the fee.

5-3 Joint Hearings.

In the event a project being considered for a SMA permit also requires other permits or approvals, the Planning Commission may conduct joint hearings.

DRAFT

SECTION 6.0 MODIFICATION OF SMA PERMITS

6-1 Applicability and Initiation of SMA Permit Modifications

A modification to an SMA Use Permit, SMA Minor Permit, or SMA Emergency Permit may be initiated by an owner or authorized representative of the owner, the Planning Commission, or Planning Department.

Within thirty (30) calendar days after an application to modify an SMA permit is officially accepted, the Planning Director will issue a determination stating whether the requested modification constitutes a minor modification or major modification pursuant to SMA Rules Sections 6-2 and 6-3. The main standard to determine whether a modification is considered major or minor is the potential that the modification will have significant or cumulative impacts to the environment or ecology, or cause impacts on the SMA and surrounding land uses.

6-2 Minor modifications of SMA Permits:

6-2-A Modifications to an SMA Minor permit or SMA Emergency permit may be processed as a minor modification if they qualify with the following:

(1) The modification does not significantly increase the intensity or scope of the use or activity that was originally permitted and is consistent with the intent of the original respective permit.

(2) The modification does not significantly increase the environmental or ecological impacts and impacts to coastal resources.

(3) The modification does not create adverse land use impacts on the SMA and surrounding neighborhood.

(4) Any requests to modify a SMA Use permit shall not constitute a minor modification.

6-2-B Minor modifications may be approved by the Planning Director pursuant to the minor modification procedures in Section 6-7.

6-2-C New Permit Required. Modifications that do not qualify as a minor modification or are inconsistent with or beyond the scope of the original permit will require the applicant to submit a new SMA assessment and permit.

6-3 Major modifications of SMA Permits.

6-3-A Major modifications are consistent with the following:

(1) All modifications that do not qualify as a minor modification.

DRAFT

(2) Changes that are inconsistent with the intent of the original respective permit including significant design alterations, and increased project scale.

(3) Changes that are beyond the scope of the original permit.

(4) Changes that increase the potential for adverse environmental effects.

(5) All requests to modify an SMA Use permit.

6-3-B Major modifications will require Planning Commission approval and may require a public hearing pursuant to the major modification procedures under Section 6-8.

6-3-C New Permit Required. Major modifications that are far beyond the scope of the original permit will require the applicant to submit a new SMA assessment and permit under SMA Rules Section 4.0.

6-4 Time extension requests.

6-4-A Any modifications involving time extension requests must be submitted prior to permit expiration. If a timely request is submitted but not approved prior to permit expiration, the permit shall remain in effect until the renewal is granted or denied, unless the applicant causes substantial delay in the review and approval process.

6-4-B The Director shall analyze whether the requested time extension constitutes a minor modification or major modification pursuant to the criteria in SMA Rules. Once a determination is made, the respective procedures for minor or major modifications shall apply.

6-5 Form and Content of Application to Modify a SMA Permit.

The application to modify an SMA permit shall be filed on a form prescribed by the Director which shall include the following information:

(1) A description of the requested modification including the specific term or condition of the permit proposed for modification;

(2) A detailed reasons and justification for the requested modification;

(3) A narrative regarding whether any changes have occurred within the special management area since the granting of the permit that may cause the permit holder's development to have a substantial adverse environmental or ecological effect or adversely affect the capacity or condition of infrastructure;

(4) An analysis regarding whether the requested modification would result in a cumulative impact or a significant environmental or ecological effect on a Special Management Area;

(5) A statement regarding how the requested modification is consistent with the objectives, policies, and guidelines as enumerated in HRS Chapter 205A and as referred to in SMA Rules Sections 3.0, 4.0, and 4.0, and the Special Management Area guidelines set forth in these SMA Rules;

(6) A statement regarding how the requested modification is consistent with the County general plan and zoning ordinances;

(7) Updated environmental assessments or documentation, if applicable;

(8) Revised plans, if applicable;

(9) The written authorization of the landowner;

(10) An administrative fee of $300;

(11) Any request for time extensions must provide the following:

i. The length of time requested;

ii. A statement regarding what construction or other work has been done; and

(12) For Ocean View Corridor Parcels subject to SMA Rules Section 2-2, a site plan and landscape plan depicting the designated view corridor area.

(13) Any other information that the Director requires for an adequate investigation into the matter.

DRAFT

The Director may reject any application that is incomplete, inaccurate, or fails to comply with these SMA Rules.

6-6 Revocation of SMA Permits.

Any request to investigate the basis for revocation of any SMA permit shall subject to and comply with the Chapter 12 of the Rules of Practice and Procedure of the Kaua'i County Planning Commission.

6-7 Procedures for Minor Modification of SMA Minor or SMA Emergency Permits.

Once officially accepted, the Director may circulate the application for a minor modification to the appropriate government agencies for their comments and recommendations, if necessary.

6-7-A Minor Modification Actions. The Director shall approve, approve with conditions, or deny such application for a minor modification pursuant to the guidelines under HRS Section 205A-26, as amended and SMA Rules Section 2.0. The Director may impose any reasonable terms and conditions deemed necessary to meet the objectives, policies, and the guidelines of HRS Chapter 205A and the SMA Rules.

6-7-B Minor Modification of SMA Permit Notice. The Director shall submit the minor modification determination to publicize on a website and in the next available issue of the periodic bulletin of the State of Hawai'i Office of Planning and Sustainable Development (OPSD). The information posted to the website shall include the date of the Director's determination, permit number, TMK, location, and activity/structure and shall be posted at the time of posting in the OPSD periodic bulletin.

6-7-C Effect of Minor Modification Denial. When a minor modification application is denied, an application involving the same or substantially the same development may not be filed sooner than one (1) year following such denial.

6-7-D Substantial Progress Timelines After Minor Modifications.

(1) Unless otherwise stated in the minor modification approval, the timelines stated in the original permit for substantial progress on the development or activity still applies, or the permit shall be deemed to have lapsed and be no longer in effect.

(2) If timelines are modified along with the minor modification approval, the applicant must make substantial progress on any modification, as determined by the Director, regarding the development or activity within two (2) years of the minor modification approval date, or the permit shall be deemed to have lapsed and be no longer in effect.

6-8 Procedures for Major Modification of SMA Permits.

6-8-A Once officially accepted, the Director shall circulate the application to the appropriate government agencies for their comments and recommendations.

6-8-B Public Hearing Waiver for Modifications of Certain SMA Use Permits.

(1) Along with determination that the modification is a major modification, the Director may waive the public hearing and notice requirements for major modifications of SMA Use permits only where the Director determines that the requested modification complies with the following:

i. The modification to the SMA Use permit does not significantly increase the intensity or scope of the use or activity that was originally permitted and is consistent with the intent of the original respective permit.

ii. The modifications to the SMA Use permit are changes that do not significantly increase the environmental or ecological impacts and impacts on coastal resources.

iii. The modification does not create adverse land use impacts on the SMA and surrounding neighborhood.

iv. The original permit did not involve any petition to intervene filed by any person other than the applicant or any person other than the applicant admitted as an intervenor. If any petition to intervene was filed or intervenor was admitted in the original permit, the major modification shall comply with the public hearing and major modification procedures.

6-8-C Where the Director waives the public hearing for SMA Use permit modifications, the Planning Commission shall approve, approve with conditions, or deny the application for a major modification by majority vote of its total membership within sixty (60) calendar days of the date the application to modify an SMA permit is officially accepted.

6-8-D If the Planning Commission has not acted within sixty (60) calendar days after the date the application to modify an SMA permit is officially accepted, the application will be automatically listed on the agenda for the next meeting of the Planning Commission.

6-8-E The Planning Commission should grant the application for a major modification if it determines that the proposed development meets the criteria and guidelines under HRS Section 205A-26, as amended and SMA Rules Section 2.0. The Planning Commission may impose any reasonable terms and conditions deemed necessary to meet the objectives, policies, and the guidelines of HRS Chapter 205A and the SMA Rules.

6-9 Major Modification Actions Requiring Public Hearing.

(1) Major modification applications that are not subject to Section 6-8-B require a public hearing pursuant to Section 5.0 of the SMA Rules.

(6) The applicant shall pay the cost of publication of $1,776.46, or as set annually by the Director and outlined by a fee schedule to cover the actual costs of publication.

(2) Once officially accepted, the Director shall circulate the application to appropriate government agencies for their comments and recommendations and schedule the application for public hearing pursuant to SMA Rules Section 5.0.

(3) The Planning Commission shall approve, approve with conditions, or deny the application for a major modification by majority vote of its total membership within sixty (60) calendar days after the conclusion of the public hearing, except in the case of SMA Emergency permits, where an extension has been agreed to by the applicant, or when the SMA Use Permit is subject to intervention proceedings or a contested case hearing pursuant to the Planning Commission Rules of Practice and Procedure Chapter 4 and 6. If the Planning Commission has not acted within sixty (60) calendar days after the conclusion of the public hearing, the application will be automatically listed on the agenda for the next meeting of the Planning Commission.

(4) The Planning Commission should grant the application for a major modification if it determines that the proposed development meets the criteria and guidelines under HRS Section 205A-26, as amended and SMA Rules Section 2.0. The Planning Commission may impose any reasonable terms and conditions deemed necessary to meet the objectives, policies, and the guidelines of HRS Chapter 205A and the SMA Rules.

6-9-A Denial of Modification. When a major modification application is denied, an application involving the same or substantially the same development may not be filed sooner than one (1) year following such denial.

6-9-B Substantial Progress Timelines After Major Modifications.

(1) Unless otherwise stated in the major modification approval, the timelines stated in the original permit for substantial progress on the development or activity still applies, or the permit shall be deemed to have lapsed and be no longer in effect.

(2) If timelines are modified along with the minor modification approval, the applicant must make substantial progress on any modification, as determined by the Director, regarding the development or activity within two (2) years of the minor modification approval date, or as otherwise defined by the permit, or the permit shall be deemed to have lapsed and be no longer in effect.

SECTION 7.0 EMERGENCY PERMITS

7-1 Definitions.

The following definitions apply to this Section of the SMA Rules:

(1) "Disaster" means any situation, usually catastrophic in nature, where numbers of persons are plunged into helplessness and suffering and, as a result, may be in need of food, clothing, shelter, medical care, or other necessities of life, and the governor of the State or Mayor has declared a State of disaster or emergency.

(2) "Disaster Area" means the area in which a disaster occurs.

(3) "Imminent danger" or "substantial harm" means a catastrophe threatens a habitable structure, any person, or the public health, safety, or welfare.

(4) "Impending Disaster" means any situation where a catastrophe threatens an inhabited area and the department of emergency management has issued a warning that the inhabitants thereof should evacuate the threatened area.

7-2 Applicability.

(1) An SMA Emergency Permit may be initiated by an owner or authorized representative of the owner.

(2) Once an SMA Emergency Permit application is received, the Planning Director will determine whether the request qualifies for an Emergency Permit where:

i. The proposal is a development, as defined in SMA Rules Section 1-7; and

ii. The proposal will not have a cumulative impact or significant environmental or ecological effect on the special management area under SMA Rules Section 3-3; and

iii. The purpose of the proposal is to authorize development in cases of an emergency requiring immediate action to prevent imminent danger or substantial harm; and

iv. The proposal involves any structures, the structure was in compliance with the requirements of the National Flood Insurance Program prior to the imminent danger or substantial harm presented; and

v. The proposal does not involve proposed repairs or reconstruction of structures that were not lawfully constructed; and

vi. The proposal does not involve sandbag facilities of any kind; and

vii. The proposal involves activities or actions that are the minimum necessary to address the emergency, imminent danger, or substantial harm.

(3) If the proposal is not a development, as defined in SMA Rules Section 1-7, the Director shall determine that the proposal is exempt from these SMA Rules.

(4) In the event a disaster or an impending disaster has been declared under HRS Chapter 127A, the requirements of these SMA Rules will be waived for proposals within the disaster area.

(5) If the proposal is development under SMA Rules Section 1-7 and does not qualify for an Emergency Permit under SMA Rules Section 7-2(2) above, the Planning Director shall require the proposal be processed in accordance with the Assessment and Determination Procedures under SMA Rules Section 3.0 and SMA Permit Application Procedures under SMA Rules Section 4.0.

7-3 SMA Emergency Permit Application.

Any person seeking an SMA Emergency Permit shall file an application along with the following information:

(1) A filing and processing fee of $300.

(2) A tax map key description of the property on which the applicant proposes the project.

(3) A plot plan of the property, drawn to scale with all proposed structures shown thereon, and any other information necessary to a proper determination relative to the specific request.

(4) A written description of the proposed project and a statement of objectives.

(5) A written statement of the estimated valuation of the proposed development including the estimated valuation of all components of the proposed development and any component that could be considered exempt.

(6) Any other relevant plans or information required by the Department.

(7) If the applicant is not the landowner, written authorization of the landowner.

(8) A survey of the eroded scarp that was conducted by a certified land surveyor for shoreline abutting parcels.

(9) A written statement explaining the following:

i. The emergency, imminent danger, or substantial harm; and

ii. Why the proposed development is immediately required to prevent imminent danger or substantial harm; and

iii. Whether the structure was in compliance with the requirements of the National Flood Insurance Program prior to the emergency, imminent danger, or substantial harm; and

iv. Whether the proposal involves proposed repairs or reconstruction of structures that were not lawfully constructed.

7-4 SMA Emergency Permit Action.

(1) Within thirty (30) calendar days after the receipt of the application or within a longer period as agreed to by the applicant, the Director shall consider the applicant's application together with all accompanying data and shall issue a determination subject to conditions.

(2) The Director shall issue an Emergency Permit and may impose any reasonable terms, conditions, and requirements deemed necessary to meet the objectives, policies, and guidelines of the SMA, and the SMA standards are met including but not limited to hazard mitigation plans for properties within the high coastal hazard flood zone area and time stipulations not to exceed two (2) years from the date of the Emergency Permit is issued.

(3) If the Director finds that there is no imminent danger or substantial harm, or the requirements of SMA Rules Section 7.2 were not met, the Director shall deny the emergency permit. The Director shall notify the applicant that it can submit an application for an assessment, and a special management area use or minor permit in accordance with these rules and shall inform the applicant of the right to appeal pursuant to SMA Rules Section 12.0.

7-5 Emergency Permit Expiration.

(1) Unless otherwise stated in the Emergency Permit, any emergency permit issued shall automatically expire two (2) years from the date the permit was issued.

(2) The proposal permitted under the Emergency Permit may be allowed as a permanent measure only after an SMA assessment is completed and an SMA Minor or Use permit is obtained.

(3) The Director may approve a time extension when the Director determines the permit holder is making adequate progress toward completing a permanent measure but cannot reasonably do so within the time of the emergency permit, provided that the extension may not exceed one (1) year at a time and the Director provides an updated SMA Emergency Permit Notice under SMA Rules Section 7.6 within one (1) month after the extension is approved.

(4) Where an emergency permit has expired, the proposal permitted under the Emergency Permit will be a violation subject to enforcement under Kaua'i County Code Chapter 8.

7-6 SMA Emergency Permit Notice. The Director shall post the emergency permit determination to a publicized website and in the next available issue of the periodic bulletin of the State of Hawai'i Office of Planning and Sustainable Development. The information posted to the website shall include the date of the Director's determination, permit number, TMK, location, and activity/structure. This information shall be posted at the time of posting in the periodic bulletin.

DRAFT

SECTION 8.0 AMENDMENT OF SPECIAL MANAGEMENT AREA (SMA) MAPS

All changes for boundary amendments to the SMA maps shall be initialed by the Director.

8-1 Procedure.

A change in the boundary of the SMA maps may be requested by any of the following:

(1) Any department or agency of the State or County; or

(2) Any owner or lessee of the affected land;

(3) County Council.

8-2 Submission.

(1) Sixteen (16) sets of the request shall be submitted on a form prescribed by the Planning Department and shall be accompanied by:

(A) A filing and processing fee of $500.00.

(B) A description of the property in sufficient detail to determine its precise location.

(C) An explicit statement of the reasons in support of the proposed amendment. Said reasons shall also discuss the relationship of the proposed change with the policies and objectives of the regulations and the County General Plan, and any other relevant law or rule in support of the application.

(2) The Planning Commission shall hold a public hearing no earlier than thirty (30) calendar days but no later than ninety (90) calendar days upon receipt of a properly-filed application.

(3) The Planning Commission shall give written notice once in a newspaper of general circulation in the County and once in a newspaper of general circulation in the State, at least twenty (20) calendar days in advance of the public hearing. The notice shall state the nature of the petition, its specific location, and the time and place of the hearing.

(4) The Planning Commission shall no earlier than fifteen (15) but within ninety (90) calendar days after the public hearing, deny or approve the request in writing, stating the reasons for such action.

8-3 Exemption of Previously Approved Developments.

Any development which was issued an appropriate zoning, use, project development or building permit, or received preliminary subdivision approval before the adoption and approval by the Mayor of these amendments to the Special Management Area boundaries which result in the inclusion of the development within the Special Management Area, is not subject to Special Management Area Permit requirements. The pertinent permit or approval, however, must be unexpired. For a permit or approval that was issued without expiration date or duration period, the exemption provided herein shall lapse two years from the date of approval of the boundary amendment by the Mayor unless otherwise extended.

DRAFT

SECTION 9.0 REVOCATION

Permits can be revoked through the procedures outlined in the Rules of Practice and Procedures of the Planning Commission.

SECTION 10.0 PENALTIES AND INJUNCTIONS

10-1 Any person who violates any provision of these Rules and Regulations shall be liable as follows:

(1) For a civil fine not to exceed $100,000; or

(2) For the cost of returning the affected environment or ecology within the Special Management Area to the condition existing before the violation.

10-2 In addition to any other penalties, any person who performs any development in violation of this part shall be subject to civil fine not to exceed $10,000 a day for each day in which such violation persists.

10-3 Any civil fine or other penalty shall not become final until thirty (30) days after the Director's decision to provide the person an opportunity to appeal and request a hearing before the Planning Commission.

10-4 Any person violating any provision of these SMA Rules may be enjoined by the Circuit Court of the State by mandatory or restraining order necessary or proper to effectuate the purposes of these SMA Rules in a suit brought by the Planning Department or the Planning Commission. Imposition of a civil fine shall not be a prerequisite to any civil fine or other injunctive relief ordered by the circuit court.

SECTION 11.0 HEARING OFFICER

Any proceeding before the Planning Commission may be conducted by a hearing officer pursuant to the Rules of Practice and Procedures of the Planning Commission.

SECTION 12.0 APPEALS

12-1 Appeal of Director's Actions.

An applicant may appeal a final action or decision of the Planning Director in the administration of these SMA Rules pursuant to the Rules of Practice and Procedure of the Planning Commission. Intervention Rules of Practice and Procedure of the Planning Commission shall not be allowed in applicant appeals from the actions of the Director.

12-2 Judicial Review.

Any party to the agency hearing pursuant the Rules of Practice and Procedures of the Planning Commission that is aggrieved by a final order and decision of the Planning Commission shall have the right to judicial review of any decision or action of the Planning Commission, pursuant to HRS Chapter 91.

SECTION 13.0 SEVERABILITY

If any provision of these SMA Rules or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of these Rules and Regulations which can be given effect without the invalid provision or application, and to this end the provisions of these SMA Rules are severable.

SECTION 14.0 EFFECTIVE DATE

These SMA Rules shall take effect on December 1, 1975. Any amendments to these Rules and Regulations, duly approved, shall take effect upon the date of such approval.

DRAFT

APPENDIX

Exhibit B
Existing SMA Rules, October 2011

Exh. B

in effect

SPECIAL MANAGEMENT AREA RULES AND REGULATIONS

COUNTY OF KAUA'I - STATE OF HAWAI'I

As Amended October 2011

P-102.11-5

to LG 10/31/2011

TABLE OF CONTENTS

Section	1.0	General Provisions
	1.1	Authority
	1.2	Purpose
	1.3	Title
	1.4	Definitions
Section	2.0	Special Management Area
Section	3.0	Objectives and Policies of the Hawai'i Coastal Zone Management Act
Section	4.0	Special Management Area Guidelines
Section	5.0	Developments Proposed Within the SMA Subject to Review
Section	6.0	Consultation and Initial Determination
Section	7.0	Filing, Assessment, and Determination Procedure
	7.1	Filing
	7.2	Assessment
	7.3	Determination
	7.4	Significant Adverse Effect Criteria
Section	8.0	Application Procedures
Section	9.0	Public Hearings
Section	10.0	Action
Section	11.0	Emergency Permits
Section	12.0	Revocation
Section	13.0	Penalties and Injunctions.
Section	14.0	Hearing Officer
Section	15.0	Appeals
Section	16.0	Severability

Section 17.0 Effective Date

Section 18.0 Amendment of Special Management Area (SMA) Maps

Section 19.0 Land-Based Activities Affecting Coastal Waters

Appendix History of Adoption and Amendments of SMA Rules and Regulations

SPECIAL MANAGEMENT AREA RULES AND REGULATIONS OF THE COUNTY OF KAUA'I

SECTION 1.0 GENERAL PROVISIONS

1.1 Authority

Pursuant to authority conferred by Chapter 205A, Hawai'i Revised Statutes (HRS), as amended, the rules and regulations hereinafter contained are hereby established and shall apply to all lands within the Special Management Area of the County of Kaua'i.

1.2 Purpose

It is the State policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawai'i. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to publicly-owned or used beaches, recreation areas, and natural reserves, by dedication or other means.

1.3 Title

These Rules and Regulations shall be known as the "Special Management Area Rules and Regulations of the County of Kaua'i."

1.4 Definitions

For the purpose of these Rules and Regulations, unless it is plainly evident from the content that a different meaning is intended, certain words and phrases used herein are defined as follows:

(These definitions are intended to clarify, not to replace nor to negate the definitions in Chapter 205A, HRS, as amended.)

A. "Applicant" includes any individual, organization, partnership, firm, association, trust, estate,

private corporation, or other legal entity, including any utility or any agency, department, commission, or board of government who seeks permission or authorization which the Director or Planning Commission may grant under these Rules and Regulations; provided that the individual or entity must have a controlling interest (75% or more of the equitable and legal title) of the lot, or must have a recorded lease to the land having a stated term of not less than five (5) years, or must have the full authorization of another having the controlling interest or recorded lease for a state term of not less than five (5) years.

B. "County Engineer" means the head of the Department of Public Works of the County of Kaua'i.

C. "County" means the County of Kaua'i.

D. "Crops" means agricultural produce or parts(s) of plants or trees cultivated for commercial or personal use including, but not limited to, the raising of livestock.

E. "Debris Line" or "Line of Debris" means a line marking the landward limit of debris deposits, resulting from wave uprush.

F. "Development" means any of the following uses, activities, or operations on land or in or under water within a Special Management Area:

(1) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;

(2) Grading, removing, dredging, mining, or extraction of any materials;

(3) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;

(4) Change in the intensity of use of water, ecology related thereto, or access thereto; and

(5) Construction, reconstruction, demolition, or alteration of the size of any structure.

"Development" does not include the following:

(1) Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area and is not part of a larger development;

(2) Repair or maintenance of roads and highways within existing rights-of-way;

(3) Routine maintenance dredging of existing streams, channels, and drainage ways;

(4) Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;

(5) Zoning variances, except for height, density, parking, and shoreline setback;

(6) Repair, maintenance, or interior alterations to existing structures;

(7) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;

(8) Uses of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes;

(9) Transfer of title to land;

(10) Creation or termination of easements, covenants, or other rights in structures or land;

(11) Final Subdivision Approval;

(12) Subdivision of land into lots greater than twenty acres in size;

(13) Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed, provided that any land which is so subdivided shall not thereafter qualify for this

exception with respect to any subsequent subdivision of any of the resulting parcels;

(14) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;

(15) Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;

(16) Nonstructural improvements to existing commercial structures; and

(17) Amendment of the County general plan, development plans, State land use district boundaries, and zoning changes;

provided that whenever the Director or Planning Commission finds that any excluded use, activity, or operation may have cumulative impact or, or a significant environmental or ecological effect on a Special Management Area, that use, activity, or operation shall be defined as "development" for the purpose of this part,

G. "Director" means the Planning Director of the Planning Department, County of Kaua'i, or the Director's authorized designee.

H. "Environmental Impact Statement" ("EIS") means an informational document prepared in compliance with HRS Chapter 343 and the Environmental Quality Commission's Rules and Regulations, and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of economic activities arising out of the proposed action, measures proposed to minimize adverse effects and alternatives to the action and their environmental effects.

I. "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage.

J. "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

K. "Owner" means the holder or holders of at least seventy-five percent (75%) of the equitable and legal title of a lot, and shall include lessees of real property that hold a recorded lease for a state term of not less than five (5) years and that present certification of approval from the legal owner.

L. "Person" includes any individual, organization, partnership, firm, association, trust, estate, private corporation, or other legal entity including any utility or any agency, department, commission, or board of government.

M. "Planning Commission" means the Planning Commission of the County of Kaua'i.

N. "Planning Department" means the Planning Department of the County of Kaua'i.

O. "Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

P. "Shoreline Armoring Device" means a structure or improvement built to artificially fix the shoreline and poses an immediate and future adverse effect on beach process as a result of the structure or improvement located within the coastal hazard zone.

Q. "Shoreline Survey" shall mean the actual field location of the shoreline in accordance with the definition herein along with the existing property lines which shall be located and platted by instrument surveys and the property corners or appropriate references thereof along the shoreline be marked on the ground by a land surveyor registered in the State of Hawai'i. Such survey maps developed by the registered land surveyor shall bear the surveyor's signature and date of field survey and the confirming signature of the Chair of the Board of Land and Natural Resources.

R. "Single-Family Residence" means a detached building designed for and/or used as the complete facility for the cooking, sleeping, and living area of a single family only and occupied by no more than one family, including uses normally considered accessory to the single family facilities provided that such uses are in compliance with all requirements of any County or State regulations, statute or ordinance. A single family shall include all

persons living in a dwelling related by blood, marriage or adoption or a group comprised of not more than five persons not related by blood, marriage or adoption. For purposes of these Rules and Regulations, a guest house shall not be considered an accessory use.

S. "Special Management Area" means the land extending inland from the shoreline as delineated on the maps filed with the Planning Commission as of June 8, 1977 or as amended pursuant to HRS Section 205A-23 and Section 18.0 of these Rules and Regulations.

T. "Special Management Area Emergency Permit" means a permit issued by the Director, pursuant to the authority provided to the Director by the Planning Commission and defined in these Rules and Regulations, authorizing development in a case of emergency requiring immediate action to prevent substantial physical harm to persons or property or to allow the reconstruction of structures damaged by natural hazards to their original form, provided that such structures were previously found to be in compliance with requirements of the Federal Flood Insurance Program.

U. "Special Management Area Minor Permit" means a permit issued by the Director, pursuant to the authority provided to the Director by the Planning Commission and defined in these Rules and Regulations, authorizing development the valuation of which is not in excess of $500,000 and which has no significant adverse environmental or ecological effect, taking into account potential cumulative effects.

V. "Special Management Area Use Permit" means a permit issued by the Planning Commission authorizing development, the valuation of which exceeds $500,000 or which may have a significant adverse environmental or ecological effect, taking into account potential cumulative effects.

W. "State Plan" means the adopted State Plan of the State of Hawai'i, as reflected by Chapter 226, HRS, and any amendments thereto.

X. "Structure" includes, but is not limited to any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Y. "Use" is:

(1) Any purpose for which a structure or a tract of land is designed, arranged, intended, maintained, or occupied.

(2) Any activity, occupation, business, or operation carried on or intended to be carried on in any structure or on a tract of land.

Z. "Valuation" shall be determined by the Director and means the estimated cost to replace the structure in kind, based on current replacement costs, or in the cases of other development, as defined above, the fair market value of the development.

AA. "Vegetation Line" means a line marking the seaward limit of natural terrestrial growth.

BB. "Vegetation Growth" means any plant, tree, shrub, grass, or groups, clusters or patches of the same naturally rooted and growing.

SECTION 2.0 SPECIAL MANAGEMENT AREA

Special Management Areas as delineated on the maps filed with the Planning Commission and the office of the County Clerk as of June 8, 1977 or as amended pursuant to Section 205A-23, HRS, and Section 18.0 of the Rules and Regulations shall be the official Special Management Area to be administered and enforced under these Rules and Regulations.

SECTION 3.0 OBJECTIVES AND POLICIES OF THE HAWAI'I COASTAL ZONE MANAGEMENT ACT

The objectives and policies of the coastal zone management program are those set forth in Section 205A-22, as amended. These objectives and policies shall serve as guidelines in the implementation of the rules in this Chapter.

SECTION 4.0 SPECIAL MANAGEMENT AREA GUIDELINES

The following guidelines shall be used by the Director and the Planning Commission for the review of developments proposed in the Special Management Area:

A. All development in the Special Management Area shall be subject to reasonable terms and conditions set by the Director or the Planning Commission to insure that:

(1) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;

(2) Adequate and properly located public recreation areas and wildlife preserves are reserved;

(3) Provisions are made for solid and liquid waste treatment, disposition, and management that will minimize adverse effects upon special management area resources; and

(4) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources and scenic and recreational amenities and minimum danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.

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

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

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

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

C. The Director or the Planning Commission shall seek to minimize, where reasonable:

(1) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough, or lagoon.

(2) Any development that would reduce the size of any beach or other area usable for public recreation.

(3) Any development that would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the Special Management Area and the mean high tide line where there is no beach.

(4) Any development that would substantially interfere with or detract from the line of sight toward the sea from the State Highway nearest the coast, or from existing public views to and along the shoreline.

(5) Any development that would adversely affect water quality, existing areas of open water free of visible structure, existing and potential fisheries and fishing grounds, wildlife habitats, estuarine sanctuaries, potential or existing agricultural uses of land.

SECTION 5.0 DEVELOPMENTS PROPOSED WITHIN THE SPECIAL MANAGEMENT AREA SUBJECT TO REVIEW

Any use, activity, or operation proposed within the Special Management Area defined as a "development" pursuant to Section 1.4 H. above shall be subject to the review of the Director, Planning Department, and Planning Commission under these Rules and Regulations. Such review shall be pursuant to the objectives, policies and guidelines set forth in Sections 1.2, 3.0, and 4.0 and the procedures set forth in Sections 7.0 and 8.0.

SECTION 6.0 CONSULTATION

Any person contemplating development within the Special Management Area may contact the Planning Department for procedures and general information that may have a direct influence on his proposed development.

Any person proposing a use, activity, or development in the Special Management Area must first comply with the procedure for initial evaluation and assessment as explained in Section 7.0, and then, if necessary, must follow the application procedures set forth in Section 8.0. If, however, a person determines that the person's proposed development

is in excess of $500,000 or will have a significant adverse effect on the Special Management Area, the person may apply directly for a permit pursuant to Section 8.0 and waive the Assessment Procedures in Section 7.0. Otherwise, the proposal shall be subject to assessment.

SECTION 7.0 FILING, ASSESSMENT, AND DETERMINATION PROCEDURE

7.1 Filing

If an applicant believes that the proposed use, activity, or development may be exempt from the formal application procedure, may be eligible for a Minor Permit, or may have a valuation of less than $500,000, that applicant must file the following with the Planning Department:

A. A tax map key description of the property on which the applicant proposes the project.

B. A plot plan of the property, drawn to scale with all proposed structures shown thereon, and any other information necessary to a proper determination relative to the specific request.

C. A written description of the proposed project and a statement of objectives.

D. A statement of the valuation of the proposed development.

E. An EIS, if required under Chapter 343, HRS, or when required by the Director, Planning Department, or Planning Commission.

F. A statement addressing any affected Native Hawaiian customary and traditional rights protected under Article XII, Section 7 of the Hawai'i State Constitution.

G. A written description of the affected environment and a written statement evaluating the proposed development in relation to the objectives and policies of the State's Coastal Zone Management Act (Chapter 205A, HRS) and the guidelines of the Special Management Area as provided herein. This written statement should include the relationship of the proposed action to land use plans of the affected area, an analysis of the probable impact of the proposed action on the environment, a listing of probable adverse environmental effects that cannot be avoided, an evaluation of alternatives to the proposed action, a discussion of mitigating

measures proposed to minimize impacts, and a listing of any irreversible and irretrievable commitment of resources.

H. A shoreline survey when the parcel abuts the shoreline and when required by the Planning Department.

I. Any other relevant plans or information required by the Department.

7.2 Assessment

The Director shall assess the proposal upon the person's compliance with Section 7.1, based on the following criteria:

A. The valuation of the proposal.

B. The potential effects and the significance of each specific circumstance of the proposed development according to the Significant Adverse Effect Criteria established by Section 7.4.

C. The nature of the development.

7.3 Determination

The Director within thirty (30) calendar days after the receipt of all filing requirements or within a longer period as agreed to by the applicant, shall consider the proposal together with all accompanying data and shall issue a determination subject to considerations or alterations. The Director shall notify the person of the Director's determination.

A. Where the Director finds that the proposal is not a development, as defined in Section 1.4H; the Director shall determine that the proposal is exempt from these Rules and Regulations.

B. Where the Director finds that the proposal:

(1) is a development, as defined in Section 1.4 H; and

(2) is not in excess of $500,000; and

(3) is consistent with the County general plan and zoning ordinances; and

(4) will not have a significant adverse effect on the Special Management Area;

the Director shall issue a Special Management Area Minor Permit and may impose any reasonable terms and conditions deemed necessary to meet the objectives and policies enumerated in Section 3.0, and the guidelines provided in Section 4.0.

C. Where the Director finds that the proposal:

(1) is a development, as defined in Section 1.4 H; and

(2) is in excess of $500,000; or

(3) directly facilitates commercial boating and vessel activities or operations excluding actions under the jurisdiction of the State Department of Land and Natural Resources-Division of Boating and Ocean Recreation, State Department of Transportation, and or Federal Agencies; or

(4) directly involves the construction of a Shoreline Armoring Device; or

(5) may have a significant adverse effect on the Special Management Area;

the Director shall inform the person of the following:

(a) the requirement of an application pursuant to Section 8.0; and

(b) the public hearing requirements, pursuant to Section 9.0; and

(c) the Planning Commission's requirements for action, pursuant to Section 10.0; and

(d) the area of critical concern to delineate the scope of information which the applicant must address.

D. The Director shall maintain records of the Director's determinations in writing to the Planning Commission. The Director shall also post his determination on a Minor permit to a publicized website. The information posted to the website shall include the date of the Director's

determination, permit number, TMK, location, and activity/structure. This information shall be posted within five (5) business days of the Director's determination.

7.4 Significant Adverse Effect Criteria

In considering the significance of potential environmental effects, the Director, Planning Department, and Planning Commission shall consider the sum of those effects that adversely affect the quality of the environment, and shall evaluate the overall and cumulative adverse effects of the proposal.

A "significant adverse effect" may vary with the individual setting and circumstances of particular proposals. Generally, however, any proposal which may have a major adverse effect on the quality of the environment or adversely affect the economic or social welfare of an area, or would possibly be contrary to the objectives, policies and guidelines of these Rules and Regulations, the County's General Plan, Development Plans, zoning and subdivision ordinances, or the State Plan, would likely result in a "significant adverse effect."

In determining whether a proposal may have a significant adverse effect on the environment, the Director, Planning Department, and Planning Commission shall consider every phase of a proposal and expected consequences, either primary or secondary, and the cumulative as well as the short or long-term effect of the proposal. The Director, Planning Department, and Planning Commission should bear in mind that, in most instances, the following factors of a proposal, although not limited to same, may constitute a significant adverse effect on the environment when the proposal:

A. Involves an irrevocable commitment to loss or destruction of any natural or cultural resources, including but limited to, historic sites, Special Treatment Districts as established in the County Comprehensive Zoning Ordinance, view planes or scenic corridors as outlined in the Development Plans, and recreation areas and resources;

B. Curtails the range of beneficial uses of the environment;

C. Conflicts with the County's or the State's long-term environmental policies or goals;

D. Substantially affects the economic or social welfare and activities of the community, County or State;

E. Involves substantial secondary impacts, such as population changes and effects on public facilities;

F. In itself has no significant adverse effect but cumulatively has considerable adverse effect upon the environment or involves a commitment for larger actions;

G. Substantially affects a rare, threatened, or endangered species of animal or plant, or its habitat;

H. Detrimentally affects air or water quality or ambient noise levels; or

I. Affects an environmentally sensitive area, such as flood plain, shoreline, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water or coastal water.

SECTION 8.0 APPLICATION PROCEDURE

Any applicant who has received a determination under Section 7.3 that the proposal is neither exempt, nor that it conforms to the requirements for a Minor Permit, or any applicant who has determined that the proposal is in excess of $500,000 or will have a significant adverse effect, shall apply for a Special Management Area Use Permit.

The applicant shall be responsible for submitting a completed form provided by the Planning Department. Such form shall be accompanied by:

A. In the case of applicants whose proposals have not been assessed, all informational requirements of Section 7.1.

B. A filing and processing fee as set annually by the Director to cover the actual costs of publication plus $100 for processing; provided, however, that if applications for other permits which require public hearings to be conducted by the Planning Commission are filed for the same development, and if public hearings for the permit applications are to be held simultaneously, only one filing and processing fee will be required.

Upon compliance with the foregoing procedures, the Director shall notify the applicant by mail that this application has been accepted. The Director shall also circulate the application to appropriate government agencies for their comments and recommendations.

SECTION 9.0 PUBLIC HEARINGS

A. The Planning Commission shall conduct a public hearing within a period of sixty (60) calendar days from the date of acceptance of a properly filed and completed application as determined by the Planning Department, unless the sixty-day period is waived by the applicant. The Planning Commission shall give written notice to the applicant, and notice shall also be published once within the County of Kaua'i and once in a newspaper of general circulation in the State at least twenty (20) calendar days prior to the date of the public hearing in a publication pursuant to HRS Section 1-28.5.

B. The notice of the public hearing shall state:

(1) The location of the property involved;

(2) The land area of the proposed development;

(3) The nature of the proposed development;

(4) The date, time, and place of the hearing; and

(5) That persons may petition for intervention pursuant to the Planning Commission's Rules of Practices and Procedures.

C. In the event a project being considered for a Special Management Area Permit also requires other permits or approvals, the Planning Commission may conduct joint hearings.

D. At least twenty (20) calendar days prior to the scheduled date of such hearing, the applicant shall either hand-deliver written notices to persons listed on the current Real Property Assessment Notice List located at the Real Property Division of the Department of Finance of the County of Kauai'i or send by certified mail written notices to the addresses shown on such Real Property Assessment Notice List for at least eighty-five percent (85%) of all tax map key parcels within 300 feet from the nearest point of the tax map key parcel involved in the petition. For purpose of this paragraph, notice to one co-owner shall be sufficient notice to all other co-owners of the same tax map key parcel. For each condominium project within the affected area, one notice of the hearing shall be sent addressed "To the Residents, Care of the Manager," followed by the name and address of the condominium involved. The notice shall include the same

information contained in the published written notice and shall be in a form approved by the Planning Director.

E. At least seven (7) calendar days prior to the hearing date, the applicant shall file with the Planning Commission an affidavit describing the mailing or delivery of such notice, including a list of persons to whom such notices were sent.

F. If the applicant fails to comply with foregoing notification requirements, the public hearing shall be postponed and the applicant shall pay for the cost of republication and processing, which shall be same amount set forth in Section 8.0 above, and shall follow the same notification requirements of this section to re-notify affected persons. The Planning Commission shall reschedule another hearing within sixty (60) calendar days after the receipt of the fee.

SECTION 10.0 ACTION

The Planning Commission shall act by majority vote of its total membership upon an application within sixty (60) calendar days after the conclusion of the hearing, except in the case of emergency (see Section 11.0 below) and minor permits (which do not require Commission action), or in cases where the Planning Commission requires further information or finds that the issues require further classification, or where an extension has been agreed to by the applicant. The Planning Commission should grant the Permit if it determines that the proposed development meets the criteria of Section 4.0 of this Chapter, and the Planning Commission may impose restrictions and conditions on the permit as appropriate. Such action shall be final, but shall be appealable to the Circuit Court of the State of Hawai'i in accordance with HRS Chapter 91. If the Planning Commission has not acted within sixty (60) calendar days after the conclusion of the hearing, the application will be automatically listed on the agenda for the next meeting of the Planning Commission.

When a Minor or Special Management Area Use Permit application is denied, an application involving the same or substantially the same development may not be filed sooner than one (1) year following such denial.

Unless otherwise stated in the permit, once a permit is issued, the applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect. Permits can be amended or revoked through the procedure outlined in Chapter 12 of the Rules of Practice and Procedures of the Planning Commission.

No development shall be allowed within the Special Management Area without first obtaining a permit pursuant to these Rules and Regulations.

No County department or State agency authorized to issue permits pertaining to any development within the Special Management Area shall authorize any development unless approval is first received from the Director or the Planning Commission in accordance with the procedures adopted pursuant to these Rules and Regulations. For the purposes of this Section, County General Plan, State land use district boundary amendments, and zoning changes are not permits for development.

SECTION 11.0 EMERGENCY PERMITS

In cases of emergency requiring immediate action to prevent substantial physical harm to persons or property or to allow the reconstruction of structures damaged by natural hazards to their original form, the following procedures shall apply.

(1) Any person seeking a Special Management Area Emergency Permit shall file a request along with documents and information as set forth in Section 7.1.

(2) The Director, within thirty (30) calendar days after the receipt of the proposal or within a longer period as agreed to by the applicant, shall consider the applicant's proposal together with all accompanying data and shall issue a determination subject to considerations or alterations. The Director shall notify the applicant of the Director's determination.

(a) Where the Director finds that the proposal:

(i) is not a development, as defined in Section 1.4 H;

the Director shall determine that the proposal is exempt from these Rules and Regulations.

(b) Where the Director finds that the proposal:

(i) is a development, as defined in Section 1.4 H; and

(ii) will not have a significant adverse effect on the special management area; and

(iii) that the proposal is to authorize development in cases of emergency requiring immediate action to prevent substantial

physical harm to persons or property; or the proposal is for the reconstruction of structures damaged by natural hazards to their original form; and

(iv) that prior to the damage of the structure by natural hazard, the structure was in compliance with the requirements of the Federal Flood Insurance Program;

the Director shall issue an Emergency Permit and may impose any reasonable terms, conditions, and requirements, including but not limited to hazard mitigation plans for properties within the high coastal hazard flood zone area, deemed necessary to meet the objectives and policies enumerated in Section 3.0 and the guidelines provided in Section 4.0.

(c) Where the Director finds that the proposal:

(I) is a development, as defined in Section 1.4 H; and

(ii) does not meet the requirements for the issuance of an special management area emergency permit in accordance with the provisions of Section 11(B)(2)(b);

the Director shall process the application in accordance with Section 7.3 B. or 7.3 C.

(d) Any emergency permit issued shall automatically expire two years from the Director's determination, unless otherwise stated.

SECTION 12.0 REVOCATION

Permits can be revoked through the procedure outlined in Chapter 12 of the Rules of Practice and Procedures of the Planning Commission.

SECTION 13.0 PENALTIES AND INJUNCTIONS

A. Any person who violates any provision of these Rules and Regulations shall be subject to civil fine not to exceed $100,000 or the cost of returning the affected environment or ecology within the Special Management Area to the condition existing before the violation. In addition to any other penalties, any person who performs any development in violation of this part shall be subject to civil fine not to exceed $10,000 a day for each day

in which such violation persists. Such a fine shall not become final until twenty-one days after the Director's decision to provide the person an opportunity to appeal and request a hearing before the Planning Commission. This hearing shall be held in accordance with Chapter 6 and Sections 1-9(2-5) of the Rules of Practice and Procedure of the Planning Commission.

B. Any person violating any provision of these Rules and Regulations may be enjoined by the Circuit Court of the State by mandatory or restraining order necessary or proper to effectuate the purposes of these Rules and Regulations in a suit brought by the Planning Department or the Planning Commission.

SECTION 14.0 HEARING OFFICER

Any proceeding before the Planning Commission may be conducted by a hearing officer pursuant to Chapter 6 of the Rules of Practice and Procedures of the Planning Commission.

SECTION 15.0 APPEALS

Any party to the agency hearing pursuant the Chapter 6 of the Rules of Practice and Procedures of the Planning Commission, shall have the right to judicial review of any decision or action of the Planning Commission, pursuant to Chapter 91 of the Hawai'i Revised Statutes.

SECTION 16.0 SEVERABILITY

If any provision of these Rules and Regulations or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of these Rules and Regulations which can be given effect without the invalid provision or application, and to this end the provisions of these Rules and Regulations are severable.

SECTION 17.0 EFFECTIVE DATE

These Rules and Regulations shall take effect on December 1, 1975. Any amendments to these Rules and Regulations, duly approved, shall take effect upon the date of such approval.

SECTION 18.0 AMENDMENT OF SPECIAL MANAGEMENT AREA (SMA) MAPS

A. All changes for boundary amendments to the SMA maps shall be initialed by the Director.

B. Procedure

A change in the boundary of the SMA maps may be requested by any of the following:

(1) Any department or agency of the State or County.

(2) Any owner or lessee of the affected land.

(3) County Council.

C. Submission

(1) Sixteen (16) sets of the request shall be submitted on a form prescribed by the Planning Department and shall be accompanied by:

(a) A filing and processing fee of $500.00.

(b) A description of the property in sufficient detail to determine its precise location.

(c) An explicit statement of the reasons in support of the proposed amendment. Said reasons shall also discuss the relationship of the proposed change with the policies and objectives of the regulations and the County General Plan.

(2) The Planning Commission shall hold a public hearing no earlier than thirty (30) but no later than ninety (90) calendar days upon receipt of a properly-filed application. The Planning Commission shall give written notice once in a newspaper of general circulation in the County and once in a newspaper of general circulation in the State, at least twenty (20) calendar days in advance of the public

hearing. The notice shall state the nature of the petition, its specific location, and the time and place of the hearing.

(3) The Planning Commission shall no earlier than fifteen (15) but within ninety (90) calendar days after the public hearing, deny or approve the request in writing, stating the reasons for such action.

D. Exemption of Previously Approved Developments

Any development which was issued an appropriate zoning, use, project development or building permit, or received preliminary subdivision approval before the adoption and approval by the Mayor of these amendments to the Special Management Area boundaries which result in the inclusion of the development within the Special Management Area, is not subject to Special Management Area Permit requirements. The pertinent permit or approval, however, must be unexpired. For a permit or an approval which was issued without expiration date or duration period, the exemption provided herein shall lapse two years from the date of approval of the boundary amendment by the Mayor unless otherwise extended.

SECTION 19.0 LAND-BASED ACTIVITIES AFFECTING COASTAL WATERS

No person shall be allowed to conduct any use, activity or operation on lands located within the Special Management Area, which may significantly impact coastal waters or related coastal resources, without first obtaining a Special Management Area Permit pursuant to these Rules and Regulations. An application for a Special Management Area Permit filed under this section shall be subject to the review of the Director, Planning Department, and Planning Commission, and shall be evaluated for consistency with the objectives, policies, and guidelines of the Hawai'i Coastal Zone Management Act.

APPENDIX

Approval and Adoption: The Planning Commission of the County of Kaua'i, State of Hawai'i, approved and adopted these rules on December 12, 1979. The Mayor of County of Kaua'i approved these rules on December 17, 1979. The rules were filed in the Office of the Clerk of the County of Kaua'i on December 17, 1979.

Amendment: The Planning Commission of the County of Kaua'i, State of Hawai'i, approved and adopted an amendment to "Section 10.0 Action" on January 14, 1981. The Mayor of the County of Kaua'i approved the amendment on January 16, 1981. The amendment was filed in the Office of the Clerk of the County of Kaua'i on January 16, 1981.

Amendment: The Planning Commission of the County of Kaua'i, State of Hawai'i, approved and adopted amendments to "Section 1.1 Authority", "Section 1.4 Definitions, paragraphs T., V., X., Y. and Z.", "Section 6.0 Consultation", "Section 7.1 Filing, paragraph D.", "Section 7.2 Assessment, paragraph A.", "Section 7.3 Determination, paragraph B.(2) and C.(2)" and "Section 8.0 Application Procedure" on August 24, 1983. The Mayor of the County of Kaua'i approved the amendments on August 26, 1983. The amendments were filed in the Office of the Clerk of the County of Kaua'i on August 29, 1983.

Amendment: The Planning Commission of the County of Kaua'i, State of Hawai'i, approved and adopted amendments to "Section 1.1 Authority," "Section 1.4 Definitions, paragraph H., S., U., and X.", and "Section 4.0 Special Management Area Guidelines, paragraph B." on December 12, 1984. The Mayor of the County of Kaua'i approved the amendments on December 18, 1984. The amendments were filed in the Office of the Clerk of the County of Kaua'i on December 19, 1984.

Amendment: The Planning Commission of the County of Kaua'i, State of Hawai'i, approved and adopted amendments to "Section 1.1 Authority", "Section 1.4 Definitions, paragraph H., O., T., and U.", "Section 6.0 Consultation", "Section 7.3 Determination, paragraph B. and C.," and "Section 11.0 Emergency Permits" on May 13, 1993. The Mayor of the County of Kaua'i approved the amendments on May 26, 1993. The amendments were filed in the Office of the Clerk of the County of Kaua'i on June 1, 1993.

Amendment: The Planning Commission of the County of Kaua'i, State of Hawai'i, approved and adopted amendments to Section 19.0 Land-Based Activities Affecting Coastal Waters on June 9, 1998. The Mayor of the County of Kaua'i approved the amendments on July 21, 1998. The amendments were filed in the Office of the Clerk of the County of Kaua'i on July 28, 1998.

AMENDMENT TO THE COUNTY OF KAUA'I
SPECIAL MANAGEMENT AREA RULES AND REGULATIONS

Amendments to the County of Kaua'i Special Management Area Rules and Regulations were adopted by a 5 to 0 vote of the members of the Planning Commisson of the County of Kaua'i, State of Hawai'i at its meeting held on the 11th day of October, 2011 as follows:

FOR	AGAINST	ABSTAIN/ABSENT
Texeira, Raco, Katayama, Kimura and Matsumoto	None	Blake and Nishida

The amendments shall be come effective ten (10) days upon filing with the County Clerk of the County of Kaua'i.

BY ORDER OF THE PLANNING COMMISSION OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I.

Herman Texeira, Chair

APPROVED AS TO LEGALITY AND FORM:

Alfred B. Castillo, Jr.
County Attorney

APPROVED THIS 25 DAY OF October, 2011.

Bernard P. Carvalho, Jr.
Mayor of the County of Kaua'i

I HEREBY CERTIFY THAT THE FOREGOING AMENDMENTS TO THE COUNTY OF KAUA'I SPECIAL MANAGEMENT AREA RULES AND REGULATIONS WERE RECEIVED AND FILED IN THE OFFICE OF THE COUNTY CLERK THIS 26th DAY OF October, 2011.

Interim County Clerk

PUBLIC NOTICE: July 29, 2011
PUBLIC HEARING: August 30, 2011

KAUAI PLANNING COMMISSION
AMENDMENT TO SPECIAL MANAGEMENT AREA RULES
FOR THE COUNTY OF KAUAI

([Bracketed] and ~~stricken~~ to be removed; underlined and **bolded** to be added)

Section 8.0 **Application Procedure**

Should a determination pursuant to Section 7.3 lead to the processing of a Special Management Area Minor Permit under Section 7.3.B, the applicant shall pay a $150 processing fee.

Any person who has received a determination under Section 7.3 that his proposal is neither exempt, nor that it conforms to the requirements for a Minor permit, or any person who has determined on his own that his proposal is in excess of $500,000 or will have a significant adverse effect, shall apply for a Special Management Area Use Permit.

The applicant shall be responsible for submitting a completed form provided by the Planning Department. Such form shall be accompanied by:

A. In the case of applicants whose proposals have not been assessed, all informational requirements of Section 7.1.

B. A filing and processing fee as set annually by the Director to cost the actual cost of publication plus [~~$100~~] **$300** for processing; provided, however, that if applications for other permits which require [~~public~~] **agency** hearings to be conducted by the Planning Commission are filed for the same development, and if [~~public~~] **agency** hearings for the permit applications are to be held simultaneously, only one filing and processing fee will be required **unless otherwise stated pursuant to Chapter 8, Kauai County Code (1987).**

Upon compliance with the foregoing procedure, the Director shall notify the applicant by mail that this application has been accepted.

AMENDMENTS TO THE SPECIAL MANAGEMENT AREA RULES
OF THE COUNTY OF KAUAI

Amendments to the Special Management Area Rules of the County of Kauai related to fees were adopted by a 4 to 0 vote of the members of the Planning Commission of the County of Kaua'i, State of Hawai'i at its meeting held on the 24th day of February, 2015 as follows:

FOR	AGAINST	ABSTAIN/ABSENT
Abrams, Anderson, Kimura, Mahoney	None	Blake, Katayama and Mendonca

The amendments shall be come effective ten (10) days upon filing with the County Clerk of the County of Kaua'i.

BY ORDER OF THE PLANNING COMMISSION OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I.

Angela Anderson, Chairwoman

APPROVED AS TO LEGALITY AND FORM:

for Mauna Kea Trask
County Attorney

APPROVED THIS 5th DAY OF March, 2015.

Bernard P. Carvalho, Jr.
Mayor of the County of Kaua'i

I HEREBY CERTIFY THAT THE FOREGOING RULES WERE RECEIVED AND FILED IN THE OFFICE OF THE COUNTY CLERK THIS 17th DAY OF March, 2015.

Ricky Watanabe
County Clerk

Jade K. Fountain-Tanigawa
Deputy County Attorney

PUBLIC NOTICE: January 25, 2015
PUBLIC HEARING: February 24, 2015

Exhibit C
HRS Legislation: Act 16, 2020, Act 125, 2025, and Act 304, 2025

Exh C

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

September 15, 2020 **GOV. MSG. NO. 1121**

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirtieth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirtieth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on September 15, 2020, the following bill was signed into law:

SB2060 SD2 HD2 RELATING TO COASTAL ZONE MANAGEMENT.
Act 016 (20)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

Act 16

Approved by the Governor
on SEP 15 2020
THE SENATE
THIRTIETH LEGISLATURE, 2020
STATE OF HAWAII

ACT 016

S.B. NO. 2060 S.D. 2 H.D. 2

A BILL FOR AN ACT

RELATING TO COASTAL ZONE MANAGEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the coastal zone management program was established pursuant to Act 188, Session Laws of Hawaii 1977. The Act declared that it is state policy to:

(1) Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources;

(2) Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems;

(3) Reduce hazards to life and property from tsunami, storm waves, stream flooding, erosion, and subsidence; and

(4) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

The legislature also finds that a 2012 collaborative study by the United States Geological Survey and the University of Hawaii indicates that seventy per cent of beaches in Hawaii are undergoing a trend of chronic sand loss and shoreline retreat. Further, more than thirteen miles of beach in the State have been completely lost to erosion fronting seawalls and revetments. The Hawaii sea level rise vulnerability and adaptation report, accepted in 2017 by the Hawaii climate change mitigation and adaptation commission, finds that with just 1.1 feet of sea level rise, many more miles of beach could be lost to erosion if widespread shoreline armoring is allowed. This could mean a loss of five miles of beach on Kauai, seven miles of beach on Oahu, and eight miles of beach on Maui. Based on its findings, the report recommends enabling beaches to persist with sea level rise and suggests integrating sea level rise considerations into Hawaii's laws regarding coastal zone management.

The legislature further finds that the convergence of dense development along shorelines, increasing landward migration of shoreline due to sea level rise and other human and natural impacts, and extensive beach loss fronting shoreline armoring

necessitates revision of existing policies and regulations. Revision of these existing policies and regulations would both protect beaches and other coastal environments from further degradation and reduce the exposure of shorefront communities to increasing erosion and flooding hazards caused by sea level rise.

The legislature also finds that a recent study by the University of Hawaii coastal geology group identified several primary causes for the State's failure to meet coastal zone management policy objectives. Specifically, the study found that current policies, ordinances, and practices allow for:

(1) The hardening of shorelines through a hardship variance that is granted based upon demonstrated hardship brought on by coastal erosion. When granted, these hardship variances set into motion a cycle of shoreline armoring that causes "flanking", or amplified erosion, on properties adjacent to armored shorelines. This continuous cycle of hardening and flanking can extend along an entire beach and, in a section of northeast Oahu, approximately forty-five per cent of observed shoreline hardening was

implemented in response to adjacent hardening. This cycle, caused by a combination of beach erosion and coastal policy, has resulted in the narrowing and even elimination of beaches to the extent that they can no longer be used for public recreation or cultural practice; and

(2) Renovation and expansion of single-family homes in erosion and flood-prone coastal areas, thereby extending building lifetimes indefinitely and allowing for virtually complete coverage of coastal parcels by these structures. The average building surface area increased by twenty per cent following the establishment of the State's coastal zone management program and, combined with sea level rise, this development increases the likelihood of mass structural failure and deposit of debris on public beaches.

The purpose of this Act is to strengthen coastal zone management policy by amending chapter 205A, Hawaii Revised Statutes, to protect state beaches and to reduce residential exposure to coastal hazards.

SECTION 2. Section 205A-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

""Authority" means the county planning commission, except in counties where the county planning commission is advisory only, in which case "authority" means the county council or such body as the council may by ordinance designate. The authority may, as appropriate, delegate the responsibility for administering this chapter.

"Beach" means a coastal landform primarily composed of sand from eroded rock, coral, or shell material, or any combination thereof, that is established and shaped by wave action and tidal processes. "Beach" includes sand deposits in nearshore submerged areas, or sand dunes or upland beach deposits landward of the shoreline, that provide benefits for public use and recreation, for coastal ecosystems, and as a natural buffer against coastal hazards.

"Coastal hazards" means any tsunami, hurricane, wind, wave, storm surges, high tide, flooding, erosion, sea level rise, subsidence, or point and nonpoint source pollution."

SECTION 3. Section 205A-2, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) Objectives.

(1) Recreational resources;

(A) Provide coastal recreational opportunities accessible to the public.

(2) Historic resources;

(A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

(3) Scenic and open space resources;

(A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.

(4) Coastal ecosystems;

(A) Protect valuable coastal ecosystems, including reefs, <u>beaches, and coastal dunes,</u> from disruption and minimize adverse impacts on all coastal ecosystems.

(5) Economic uses;

(A) Provide public or private facilities and improvements important to the State's economy in suitable locations.

(6) Coastal hazards;

(A) Reduce hazard to life and property from [~~tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.~~] coastal hazards.

(7) Managing development;

(A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

(8) Public participation;

(A) Stimulate public awareness, education, and participation in coastal management.

(9) Beach and coastal dune protection;

(A) Protect beaches and coastal dunes for [~~public~~]:

(i) Public use and recreation[~~.~~];

(ii) The benefit of coastal ecosystems; and

(iii) Use as natural buffers against coastal hazards; and

(B) Coordinate and fund beach management and protection.

(10) Marine and coastal resources;

(A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

(c) Policies.

(1) Recreational resources;

(A) Improve coordination and funding of coastal recreational planning and management; and

(B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:

(i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;

(ii) Requiring [~~replacement~~] restoration of coastal resources [~~having~~] that have significant recreational and ecosystem value, including[~~,~~] but not limited to coral reefs, surfing sites, fishponds, [~~and~~] sand

beaches, and coastal dunes, when [~~such~~] these resources will be unavoidably damaged by development; or requiring [~~reasonable~~] monetary compensation to the State for recreation when [~~replacement~~] restoration is not feasible or desirable;

(iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;

(iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;

(v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;

(vi) Adopting water quality standards and regulating point and nonpoint sources of

pollution to protect, and where feasible, restore the recreational value of coastal waters;

(vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and

(viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting [~~such~~] <u>that</u> dedication against the requirements of section 46-6;

(2) Historic resources;

(A) Identify and analyze significant archaeological resources;

(B) Maximize information retention through preservation of remains and artifacts or salvage operations; and

(C) Support state goals for protection, restoration, interpretation, and display of historic resources;

(3) Scenic and open space resources;

(A) Identify valued scenic resources in the coastal zone management area;

(B) Ensure that new developments are compatible with their visual environment by designing and locating [~~such~~] those developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;

(C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and

(D) Encourage those developments that are not coastal dependent to locate in inland areas;

(4) Coastal ecosystems;

(A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;

(B) Improve the technical basis for natural resource management;

(C) Preserve valuable coastal ecosystems[~~, including reefs,~~] of significant biological or economic importance[~~,~~], <u>including reefs, beaches, and dunes;</u>

(D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and

(E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures;

(5) Economic uses;

(A) Concentrate coastal dependent development in appropriate areas;

(B) Ensure that coastal dependent development [~~such as harbors and ports,~~] and coastal related development [~~such as visitor industry facilities and energy generating facilities,~~] are located, designed, and constructed to minimize exposure to coastal hazards and adverse social, visual, and environmental impacts in the coastal zone management area; and

(C) Direct the location and expansion of coastal [~~dependent developments~~] development to areas [~~presently~~] designated and used for [~~such developments~~] that development and permit reasonable long-term growth at [~~such~~] those areas, and permit coastal [~~dependent~~] development outside of [~~presently~~] designated areas when:

(i) Use of [~~presently~~] designated locations is not feasible;

(ii) Adverse environmental effects and risks from coastal hazards are minimized; and

(iii) The development is important to the State's economy;

(6) Coastal hazards;

(A) Develop and communicate adequate information about [~~storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution~~] the risks of coastal hazards;

(B) Control development, including planning and zoning control, in areas subject to [~~storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution~~] coastal hazards;

(C) Ensure that developments comply with requirements of the [~~Federal~~] National Flood Insurance Program; and

(D) Prevent coastal flooding from inland projects;

(7) Managing development;

(A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;

(B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements; and

(C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process;

(8) Public participation;

(A) Promote public involvement in coastal zone management processes;

(B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and

(C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts;

(9) Beach protection;

(A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;

(B) Prohibit construction of private [~~erosion-protection~~] shoreline hardening structures [~~seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not~~], including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;

(C) Minimize the construction of public [~~erosion-protection~~] shoreline hardening structures [~~seaward of the shoreline;~~], including seawalls and revetments, at sites having sand beaches and at sites where shoreline hardening structures interfere with existing recreational and waterline activities;

(D) Minimize grading of and damage to coastal dunes;

[~~(D)~~] (E) Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor; and

[~~(E)~~] (F) Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon a beach transit corridor; and

(10) Marine and coastal resources;

(A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;

(B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;

(C) Assert and articulate the interests of the State as a partner with federal agencies in the sound

management of ocean resources within the United States exclusive economic zone;

(D) Promote research, study, and understanding of ocean and coastal processes, impacts of climate change and sea level rise, marine life, and other ocean resources to acquire and inventory information necessary to understand how [~~ocean~~] coastal development activities relate to and impact [~~upon~~] ocean and coastal resources; and

(E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources."

SECTION 4. Section 205A-22, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "department" to read:

""Department" means the planning department [~~in~~] of the counties of Kauai, Maui, and Hawaii and the department of planning and permitting [~~in~~] of the city and county of Honolulu, or other appropriate agency as designated by the county councils."

2. By amending the definition of "development" to read:

1 ""Development" means any of the uses, activities, or
2 operations on land or in or under water within a special
3 management area that are included below:
4 (1) Placement or erection of any solid material or any
5 gaseous, liquid, solid, or thermal waste;
6 (2) Grading, removing, dredging, mining, or extraction of
7 any materials;
8 (3) Change in the density or intensity of use of land,
9 including but not limited to the division or
10 subdivision of land;
11 (4) Change in the intensity of use of water, ecology
12 related thereto, or of access thereto; and
13 (5) Construction, reconstruction, [~~demolition,~~] or
14 alteration of the size of any structure.
15 "Development" does not include the following:
16 (1) Construction or reconstruction of a single-family
17 residence that is less than seven thousand five
18 hundred square feet of floor area, is not situated on
19 a shoreline parcel or a parcel that is impacted by
20 waves, storm surges, high tide, or shoreline erosion,
21 and is not part of a larger development;

(2) Repair or maintenance of roads and highways within existing rights-of-way;

(3) Routine maintenance dredging of existing streams, channels, and drainage ways;

(4) Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;

(5) Zoning variances, except for height, density, parking, and shoreline setback;

(6) Repair, maintenance, or interior alterations to existing structures;

(7) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;

(8) Use of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes;

(9) Transfer of title to land;

(10) Creation or termination of easements, covenants, or other rights in structures or land;

[~~(11) Final subdivision approval; provided that in counties that may automatically approve tentative subdivision applications as a ministerial act within a fixed time of the submission of a preliminary plat map, unless the director takes specific action, a special management area use permit if required, shall be processed concurrently with an application for tentative subdivision approval or after tentative subdivision approval and before final subdivision approval;~~

~~(12)~~] (11) Subdivision of land into lots greater than twenty acres in size;

[~~(13)~~] (12) Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed; provided that any land that is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;

[~~(14)~~] (13) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;

[~~(15)~~] (14) Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;

[~~(16)~~] (15) Nonstructural improvements to existing commercial or noncommercial structures; and

[~~(17)~~] (16) Construction, installation, maintenance, repair, and replacement of emergency management warning or signal devices and sirens;

provided that whenever the authority finds that any excluded use, activity, or operation may have a cumulative impact, or a significant environmental or ecological effect on a special management area, that use, activity, or operation shall be defined as "development" for the purpose of this part."

3. By amending the definition of "special management area emergency permit" to read:

""Special management area emergency permit" means an action by the authority authorizing development in cases of emergency requiring immediate action to prevent substantial physical harm

to persons or property or to allow the reconstruction of structures damaged by natural hazards to their original form; provided that [~~such~~] those structures were previously found to be in compliance with requirements of the [~~Federal~~] National Flood Insurance Program."

4. By repealing the definition of "authority".

["~~"Authority" means the county planning commission, except in counties where the county planning commission is advisory only, in which case "authority" means the county council or such body as the council may by ordinance designate. The authority may, as appropriate, delegate the responsibility for administering this part.~~"]

SECTION 5. Section 205A-26, Hawaii Revised Statutes, is amended to read as follows:

"**§205A-26 Special management area guidelines.** In implementing this part, the authority shall adopt the following guidelines for the review of developments proposed in the special management area:

(1) All development in the special management area shall be subject to reasonable terms and conditions set by the authority in order to ensure:

(A) Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles;

(B) Adequate and properly located public recreation areas and wildlife preserves are reserved;

(C) Provisions are made for solid and liquid waste treatment, disposition, and management [~~which~~] that will minimize adverse effects upon special management area resources; and

(D) Alterations to existing land forms and vegetation, except crops, and construction of structures shall cause minimum adverse effect to water resources, beaches, coastal dunes, and scenic and recreational amenities and [~~minimum danger of~~] minimize impacts from floods, wind damage, storm surge, landslides, erosion, sea level rise, siltation, or failure in the event of earthquake.

(2) No development shall be approved unless the authority has first found:

(A) That the development will not have any [~~substantial~~] significant adverse environmental or ecological effect, except as [~~such~~] any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. [~~Such~~] Those adverse effects shall include[~~,~~] but not be limited to[~~,~~] the potential cumulative impact of individual developments, each [~~one~~] of which taken [~~in~~] by itself might not have a [~~substantial~~] significant adverse effect, and the elimination of planning options;

(B) That the development is consistent with the objectives, policies, and special management area guidelines of this chapter and any guidelines enacted by the legislature; and

(C) That the development is consistent with the county general plan, community plan, and zoning[~~. Such~~]; provided that a finding of consistency [~~does~~] shall not preclude concurrent processing

where a general plan, community plan, or zoning amendment may also be required.

(3) The authority shall seek to minimize, where reasonable:

(A) Dredging, filling or otherwise altering any bay, estuary, salt marsh, river mouth, slough or lagoon;

(B) Any development [~~which~~] that would reduce the size of any beach or other area usable for public recreation;

(C) Any development [~~which~~] that would reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the special management areas and the mean high tide line where there is no beach;

(D) Any development [~~which~~] that would substantially interfere with or detract from the line of sight toward the sea from the state highway nearest the coast; and

(E) Any development [~~which~~] that would adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agricultural uses of land."

SECTION 6. Section 205A-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The authority in each county, upon consultation with the central coordinating agency, shall adopt rules under chapter 91 setting the special management area use permit application procedures, conditions under which hearings must be held, and the time periods within which the hearing and action for special management area use permits shall occur. The authority shall provide for adequate notice to individuals whose property rights may be adversely affected and to persons who have requested in writing to be notified of special management area use permit hearings or applications. The authority shall also provide public notice [~~statewide~~] that is, at a minimum, circulated throughout the county at least twenty days in advance

of the hearing. The authority may require a reasonable filing fee which shall be used for the purposes set forth herein.

Any rule adopted by the authority shall be consistent with the objectives, policies, and special management area guidelines provided in this chapter. Action on the special management permit shall be final unless otherwise mandated by court order."

SECTION 7. Section 205A-41, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Department" means the planning department of the counties of Kauai, Maui, and Hawaii and the department of planning and permitting of the city and county of Honolulu, or other appropriate agency as designated by the county councils."

SECTION 8. Section 205A-43, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Setbacks along shorelines are established of not less than [~~twenty feet and not more than~~] forty feet inland from the shoreline. The department shall adopt rules pursuant to chapter 91, and shall enforce the shoreline setbacks and rules pertaining thereto."

SECTION 9. Section 205A-43.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Prior to action on a variance application, the authority shall hold a public hearing under chapter 91. By adoption of rules under chapter 91, the authority may delegate responsibility to the department. Public and private notice, including reasonable notice to abutting property owners and persons who have requested this notice, shall be provided, but a public hearing may be waived prior to action on a variance application for:

(1) Stabilization of shoreline erosion by the moving of sand entirely on public lands;

(2) Protection of a legal structure [~~costing more than $20,000;~~] or public facility, including any facility owned by a public utility that is regulated pursuant to chapter 269, that does not fix the shoreline, under an emergency authorization issued by the authority; provided that the structure or public facility is at risk of immediate damage from shoreline erosion[~~;~~] and the authorization does not exceed three years;

(3) Other structures or activities; provided that no person or agency has requested a public hearing within twenty-five calendar days after public notice of the application; or

(4) Maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or watersports recreational facilities, [~~which~~] <u>that</u> result in little or no interference with natural shoreline processes."

SECTION 10. Section 205A-44, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except as provided in this section, structures are prohibited in the shoreline area without a variance pursuant to this part. Structures in the shoreline area shall not need a variance if:

(1) They were completed prior to June 22, 1970;

(2) They received either a building permit, board approval, or shoreline setback variance prior to June 16, 1989;

(3) They are outside the shoreline area when they receive either a building permit or board approval;

(4) They are necessary for or ancillary to continuation of existing agriculture or aquaculture in the shoreline area on June 16, 1989;

(5) They are minor structures permitted under rules adopted by the department which do not affect beach processes or artificially fix the shoreline and do not interfere with public access or public views to and along the shoreline; or

(6) Work being done consists of maintenance, repair, [~~reconstruction,~~] and minor additions or alterations of legal boating, maritime, or watersports recreational facilities, which are publicly owned, and which result in little or no interference with natural shoreline processes;

provided that permitted structures may be repaired, but shall not be enlarged, rebuilt, or replaced within the shoreline area without a variance."

SECTION 11. Section 205A-46, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) A variance may be granted for a structure or activity otherwise prohibited in this part if the authority finds in writing, based on the record presented, that the proposed structure or activity is necessary for or ancillary to:

(1) Cultivation of crops;

(2) Aquaculture;

(3) Landscaping; provided that the authority finds that the proposed structure or activity will not adversely affect beach processes and will not artificially fix the shoreline;

(4) Drainage;

(5) Boating, maritime, or watersports recreational facilities;

(6) Facilities or improvements by public agencies or public utilities regulated under chapter 269;

(7) Private facilities or improvements that are clearly in the public interest;

(8) Private facilities or improvements [~~which~~] <u>that</u> will [~~neither~~] <u>not</u> adversely affect beach processes [~~nor~~]<u>, result in flanking shoreline erosion, or</u> artificially fix the shoreline; provided that the authority [~~also~~

~~finds that~~] may consider any hardship that will result to the applicant if the facilities or improvements are not allowed within the shoreline area;

(9) Private facilities or improvements that may artificially fix the shoreline; provided that the authority [~~also finds that shoreline erosion is likely to cause~~] may consider hardship to the applicant if the facilities or improvements are not allowed within the shoreline area[~~, and the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest; or~~]; provided further that a variance to artificially fix the shoreline shall not be granted in areas with sand beaches or where artificially fixing the shoreline may interfere with existing recreational and waterline activities unless the granting of the variance is clearly demonstrated to be in the interest of the general public; or

(10) Moving of sand from one location seaward of the shoreline to another location seaward of the shoreline; provided that the authority also finds that

moving of sand will not adversely affect beach processes, will not diminish the size of a public beach, and will be necessary to stabilize an eroding shoreline."

2. By amending subsection (c) to read:

"(c) No variance shall be granted unless appropriate conditions are imposed:

(1) To maintain safe lateral access to and along the shoreline or adequately compensate for its loss;

(2) To minimize risk of adverse impacts on beach processes;

(3) To minimize risk of structures failing and becoming loose rocks, sharp or otherwise dangerous debris, or rubble on public property; and

(4) To minimize adverse impacts on public views to, from, and along the shoreline."

SECTION 12. Section 205A-62, Hawaii Revised Statutes, is amended to read as follows:

"**§205A-62 Duties and responsibilities of the lead agency.** The lead agency shall have the following duties and responsibilities:

(1) Coordinate overall implementation of the plan, giving special consideration to the plan's priority recommendations;

(2) Review and periodically update the plan;

(3) Coordinate the development of state agency work plans to implement the ocean resources management plan. The work plans shall be revised on a biennial basis and coordinated with the budget process. State agencies with responsibilities relating to marine and coastal zone management include but are not limited to:

(A) The department of agriculture;

(B) The department of business, economic development, and tourism;

(C) The department of defense;

(D) The department of education;

[~~(D)~~] (E) The department of health;

[~~(E)~~] (F) The department of land and natural resources;

[~~(F)~~] (G) The department of public safety;

[~~(G)~~] (H) The department of transportation; and

[~~(H)~~] (I) The University of Hawaii;

(4) Ensure that state agency work plans are closely coordinated with the work plans of relevant federal and county agencies;

(5) Analyze, resolve conflicts between, and prioritize, in cooperation with relevant agencies and as part of the work plan development process, the sector-specific recommendations included in the plan;

(6) Coordinate exclusive economic zone and other marine-related issues with state and county agencies;

(7) Provide technical assistance to the agencies on policy and issue-related matters regarding marine and coastal resources management;

(8) Coordinate marine and coastal education activities; and

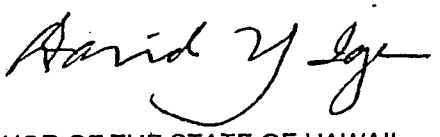
(9) Adopt rules pursuant to chapter 91 to carry out the purposes of this part."

SECTION 13. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

1 SECTION 15. This Act shall take effect upon its approval.

APPROVED this 15 day of SEP , 2020



GOVERNOR OF THE STATE OF HAWAII

S.B. No. 2060, S.D. 2, H.D. 2

THE SENATE OF THE STATE OF HAWAI'I

Date: July 10, 2020
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2020.

President of the Senate

Clerk of the Senate

SB No. 2060, SD 2, HD 2

THE HOUSE OF REPRESENTATIVES OF THE

STATE OF HAWAII

Date: July 6, 2020
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2020.

Scott K. Saiki
Speaker
House of Representatives

Brian L. Takeshita
Chief Clerk
House of Representatives

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

GOV. MSG. NO. 1225

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

May 29, 2025

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Third State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Nadine Nakamura
Speaker, and Members of the
House of Representatives
Thirty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Aloha President Kouchi, Speaker Nakamura, and Members of the Legislature:

This is to inform you that on May 29, 2025, the following bill was signed into law:

H.B. NO. 732, H.D. 2, S.D. 2, C.D. 1	RELATING TO SHORELINE MANAGEMENT AREAS. **ACT 125**

Mahalo,

Josh Green M.D.

Josh Green, M.D.
Governor, State of Hawai'i

Act 125

Approved by the Governor

on MAY 29 2025

HOUSE OF REPRESENTATIVES
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

ACT 125

H.B. NO. 732 H.D. 2 S.D. 2 C.D. 1

A BILL FOR AN ACT

RELATING TO SHORELINE MANAGEMENT AREAS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 205A-22, Hawaii Revised Statutes, is amended by amending the definitions of "special management area minor permit" and "special management area use permit" to read as follows:

""Special management area minor permit" means an action by the authority authorizing development [~~the valuation of which is not in excess of $500,000 and which~~] that has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects[~~.~~], and the valuation of which is not in excess of:

(1) $750,000, with inflation adjustments every five years starting from the effective date of this Act by the lead agency in accordance with the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, if the development is not situated on a

shoreline parcel or parcel that is impacted by waves, storm surges, high tide, or shoreline erosion; or

(2) $500,000, if the development is situated on a shoreline parcel or parcel that is impacted by waves, storm surges, high tide, or shoreline erosion.

"Special management area use permit" means an action [~~by~~]:

(1) By the authority authorizing development, the valuation of which exceeds [~~$500,000~~] $750,000, with inflation adjustment every five years starting from the effective date of this Act by the lead agency in accordance with the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor; or [~~which~~]

(2) That may have a substantial adverse environmental or ecological effect, taking into account potential cumulative effects."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

H.B. NO. 732 H.D. 2 S.D. 2 C.D. 1

APPROVED this 29th day of May, 2025

GOVERNOR OF THE STATE OF HAWAII

HB No. 732, HD 2, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 30, 2025
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Third Legislature of the State of Hawaii, Regular Session of 2025.

Nadine K. Nakamura
Speaker
House of Representatives

Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: April 30, 2025
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Third Legislature of the State of Hawai'i, Regular Session of 2025.

President of the Senate

Clerk of the Senate

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

GOV. MSG. NO. 1417

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

July 8, 2025

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Third State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Nadine Nakamura
Speaker, and Members of the
House of Representatives
Thirty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Aloha President Kouchi, Speaker Nakamura, and Members of the Legislature:

This is to inform you that on July 8, 2025, the following bill was signed into law:

S.B. NO. 1296, S.D. 2, H.D. 2, C.D. 1	RELATING TO DISASTER RECOVERY. **ACT 304**

Mahalo,

Josh Green M.D.

Josh Green, M.D.
Governor, State of Hawai'i

Act 304

Approved by the Governor

on JUL 8 2025

THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

ACT 304

S.B. NO. 1296 S.D. 2 H.D. 2 C.D. 1

A BILL FOR AN ACT

RELATING TO DISASTER RECOVERY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves. The legislature further finds that it is state policy to preserve, protect, and where possible, restore the natural resources of the coastal zones of the State. The legislature further finds that the 2023 Maui wildfires devastated Lahaina's heritage, economy, and sense of place, and has deeply affected housing, businesses, jobs, and treasured resources. If the area is not rebuilt in a deliberate, coordinated, and expeditious manner, the area may languish in the long term, further affecting the well-being of the land, the people, and the economy. However, there is an opportunity to rebuild Lahaina and the other parts of Maui that the wildfires destroyed, as recognized in the Presidential

Disaster Declaration, by preserving and reintroducing its valued resources in a manner that reflects the values and priorities of its residents and businesses, and addressing future challenges, including climate change and affordable housing.

Accordingly, the purpose of this Act is to facilitate recovery efforts on Maui and other disaster-affected areas by exempting the reconstruction of any lawfully constructed structure destroyed in a disaster proclaimed by the governor to constitute a state of emergency or a disaster declared pursuant to federal law from the requirements of a special management area minor permit or a special management area use permit under certain conditions.

SECTION 2. Section 205A-22, Hawaii Revised Statutes, is amended by amending the definition of "development" to read as follows:

""Development":

(1) Means any of the uses, activities, or operations on land or in or under water within a special management area that are included below:

(A) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;

(B) Grading, removing, dredging, mining, or extraction of any materials;

(C) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;

(D) Change in the intensity of use of water, ecology related thereto, or of access thereto; and

(E) Construction, reconstruction, or alteration of the size of any structure; and

(2) Does not include the following:

(A) Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area; is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion; and is not part of a larger development;

(B) Repair or maintenance of roads and highways within existing rights-of-way;

(C) Routine maintenance dredging of existing streams, channels, and drainage ways;

(D) Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures [~~such as~~] including pad mounted transformers and sewer pump stations;

(E) Zoning variances, except for height, density, parking, and shoreline setback;

(F) Repair, maintenance, or interior alterations to existing structures;

(G) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;

(H) Use of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes, including all traditional fishpond and traditional agricultural practices;

(I) Transfer of title to land;

(J) Creation or termination of easements, covenants, or other rights in structures or land;

(K) Subdivision of land into lots greater than twenty acres in size;

(L) Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed; provided that any land that is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;

(M) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;

(N) Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;

(O) Nonstructural improvements to existing commercial or noncommercial structures;

(P) Construction, installation, maintenance, repair, and replacement of emergency management warning or signal devices and sirens;

(Q) Installation, maintenance, repair, and replacement of public pedestrian and bicycle facilities, including sidewalks, paths, bikeways, crosswalks, stairs, ramps, traffic control barriers, signs, signals, and associated improvements;

(R) Trash removal or invasive vegetation removal or control, including incidental ground disturbance, excluding the use of herbicides;

(S) Installation of fencing, including associated improvements and incidental structures, for invasive species control or preservation of native habitats on conservation land;

(T) Installation, maintenance, repair, and replacement of lighting, fixtures, and equipment to establish compliance with current standards at existing public facilities;

(U) Installation, maintenance, repair, and replacement of security measures, including fencing, to existing public facilities; [~~and~~]

(V) Hawaiian traditional and customary practices, including work conducted by traditional means near, in, or related to loko i'a, traditional Hawaiian fishponds; and

(W) Reconstruction of any lawfully constructed structure that was damaged or destroyed in a disaster proclaimed by the governor to constitute a state of emergency pursuant to chapter 127A, or a disaster declared pursuant to federal law; provided that:

(i) The structure is not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion;

(ii) Reconstruction commences within six years from the date that the proclamation is issued; and

(iii) The reconstructed structure is similar to its original footprint or overall dimensions that were existing or permitted and in compliance with the requirements of floodplain management standards;

provided that whenever the authority finds that any excluded use, activity, or operation may have a cumulative impact, or a significant environmental or ecological effect on a special management area, that use, activity, or operation shall be defined as "development" for the purpose of this part."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval and shall be repealed on July 1, 2028; provided that section

205A-22, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

S.B. NO. 1296 S.D. 2 H.D. 2 C.D. 1

APPROVED this 8th day of July, 2025

GOVERNOR OF THE STATE OF HAWAI'I

THE SENATE OF THE STATE OF HAWAI'I

Date: April 25, 2025
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Third Legislature of the State of Hawai'i, Regular Session of 2025.

President of the Senate

Clerk of the Senate

SB No. 1296, SD 2, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 25, 2025
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Third Legislature of the State of Hawaii, Regular Session of 2025.

Nadine K. Nakamura
Speaker
House of Representatives

Brian L. Takeshita
Chief Clerk
House of Representatives

Exhibit D
Amended Fee and Fee Summary

Exh D

SMA Rule Amendment – January 2026
Fee Change Summary

SMA Rule Section	Existing Fee	Proposed Fee	Last Time Increased	Justification/Comments	Other Jurisdictions (not comprehensive)
Assessment Applications	$0	$50	The fee was not imposed nor increased since the SMA Rules were initially adopted in 2011.	A bulk of the workload for the SMA planners are spent assessing whether proposals are "development" that requires an SMA permit or are exempt, and if triggered, whether a minor or SMA Use permit is required. The proposed assessment fee seeks a nominal fee to recoup fees for the time and energy spent on these assessments and encourage applicants to prioritize their requests. $100 was initially proposed for assessment applications. We estimated the amount of time spent on assessments and the volume of requests typically received and the average rate of pay for our SMA planners to come up with $100 as an amount that would fairly cover the time our SMA planners devote to these assessments. However, this amount was lessened to decrease any perceived hardship or burden to applicants seeking this assessment.	C&C Honolulu: • SMA Determination: $150 per TMK • Confirm nonconformity or site history/status check: $300 per TMK Maui: $206 Hawai'i County: $50
SMA Minor Application	$300	$300	The fee was not increased since the SMA Rules were initially adopted in 2011.	This fee was kept as is to create a scheme or menu of fees according to complexity and time spent on those permits. $300 was kept for SMA minor permit fees as that amount correlates to the time spent, volume of SMA minor permits reviewed, and average rate of pay for our SMA planners who review those permits.	C&C Honolulu: • Review fee $200 (non-refundable); and • Processing fee of $1,200 (returned if incomplete) Maui: $206
SMA Use Permit Application	$300 + cost of publication ($1,776.46)	$500 + cost of publication ($1,776.46)	This fee was increased in 2015 to cover the cost of publication for SMA permits that require a public hearing.	In 2015, the fee amount was amended to cover the cost of publication for SMA permits that require a public hearing. This fee was proposed to increase by $200, to equal $500 for SMA use permit fees. $500 correlates to the time spent, volume of SMA use permits reviewed, and average rate of pay for our SMA planners who review those permits. SMA use permits are complicated and require a lot more time to review and analyze, seek comments from state and county agencies (including DPW/Engineering, State DLNR/SHPD, Office of Hawaiian Affairs etc), coordinate with applicants on procedural requirements, craft conditions of approval, prepare a detailed Director's Report, attend and present at agency hearings before the Planning Commission. Publication fees are additionally required but are kept at the cost for publication.	C&C Honolulu: • Review fee $400 (non-refundable); and • Processing fee of $2,400 + $600 per acre or major fraction of project site up to $30,000 (returned if incomplete) Maui: $2,805 to $6,266 (depending on the proposal – e.g., new SF dwelling to new subdivision or new hotel). Hawai'i County: $500

SMA Rule Section	Existing Fee	Proposed Fee	Last Time Increased	Justification/Comments	Other Jurisdictions (not comprehensive)
Minor modifications of SMA permits	$0	$300	The fee was not increased since the SMA Rules were initially adopted in 2011.	No fee was required for any modifications of SMA permits despite many modifications that require review and issuance, and the time and analysis needed to process these modification applications. This new fee is proposed to seek a fee for minor modifications to reimburse for the time and energy spent on these assessments and encourage applicants to prioritize their requests.	Maui: $206 to $687.50
Major modifications of SMA permits	$0	$300 + cost of publication ($1,776.46)	This fee was increased in 2015 to cover the cost of publication for SMA permits that require a public hearing.	No fee was required for any modifications of SMA permits despite many modifications that require review and issuance, and the time and analysis needed to process these modification applications. This new fee is proposed to seek a fee for major modifications to recoup the time and energy spent on these assessments and encourage applicants to prioritize their requests. Although major modifications are similar in complexity and time required for SMA use permits and arguably should be increased to $500 like SMA use permits, this fee is kept the same as minor modifications. The cost of publication is additionally required when the major modification requires a public hearing before the Planning Commission.	Maui: $687.50 + $687.50 public hearing notice
Emergency SMA permits	$300	$300	The fee was not increased since the SMA Rules were initially adopted in 2011.	This fee was kept as is to create a scheme or menu of fees according to complexity and time spent on those permits. $300 was kept for SMA Emergency permit fees because that amount correlates to the time spent, volume of SMA Emergency permits reviewed, and average rate of pay for our SMA planners who review those permits.	Maui: $688
SMA Map Amendments	$500	$500	The fee was not increased since the SMA Rules were initially adopted in 2011.	This fee was kept as is to create a scheme or menu of fees according to complexity and time spent on those permits. $500 was kept for SMA map changes because that amount correlates to the time spent, volume of SMA minor permits reviewed, and average rate of pay for our SMA planners who review those permits.	Maui: $688

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of Class IV Zoning Permit, Use Permit, and Special Permit to allow construction and use of a new solar energy facility and associated site improvements.
Permit Application Nos.	Class IV Zoning Permit Z-IV-2026-12 Use Permit U-2026-9 Special Permit SP-2026-4
Name of Applicant(s)	KAAWANUI SOLAR, LLC. Belles Graham LLP, Authorized Agent Matsubara Kotake & Tabata, Authorized Agent

II. PERMIT INFORMATION

PERMITS REQUIRED	
☒ **Use Permit**	Pursuant to Section 8-2.4(r)(22) of the Kaua'i County Code (KCC), 1987, as amended, solar energy facilities are a permitted use within the County of Kaua'i Agriculture Zoning District on lands with soil classified by the State of Hawai'i Land Study Bureau detailed land classification as overall productivity rating class B and C, provided that the project area does not occupy more than ten percent (10%) of the acreage of the parcel, or 20 acres of land, whichever is less. Since the project area occupies more than 20 acres of land, a Use Permit is required. Pursuant to Section 8-2.4(s)(16) of the Kaua'i County Code (KCC), 1987, as amended, a Use Permit is required for private and public utilities facilities in the County of Kaua'i Agriculture Zoning District. Pursuant to Section 8-2.4(u)(14) of the Kaua'i County Code (KCC), 1987, as amended, a Use Permit is required for utility installations within the County of Kaua'i Open (O) Zoning District.
☐ **Project Development Use Permit**	
☐ **Variance Permit**	

H 2.a.1.
FEB 24 2026

☒ **Special Permit**	Pursuant to Section 205-2(c)(6)(B) of the Hawai'i Revised Statutes, a Special Permit is required for solar energy facilities located on lands with soil classified as overall productivity rating class B and C, and which the project area occupies more than ten percent (10%) of the parcel's total acreage, or 20 acres, whichever is less. Since the project area occupies more than 20 acres of land, a Special Permit is required.
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-3.1 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Use Permit.
☐ **Special Management Area Permit** ☐ Use ☐ Minor	
AMENDMENTS	
☐ **Zoning Amendment**	
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

Date of Receipt of Completed Application:	January 12, 2026
Date of Director's Report:	February 9, 2026
Date of Public Hearing:	March 10, 2026
Deadline Date for PC to Take Action (60TH Day):	April 19, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	The project site is located on lands located on the *mauka* side of Kaumuali'i Highway in Makaweli, directly across from the Makaweli Post Office facility, and situated along Ka'awanui Village Road.		
Tax Map Key(s):	(4) 1-7-006: 006 (por.) and 010 (por.)	**Area:**	**Project Area**: 269.195 Acres **Overall Parcel Area**: 5,006.74 Acres
ZONING & DEVELOPMENT STANDARDS			
Zoning:	Agriculture (Ag) and Open (O)		
State Land Use District:	Agricultural		
General Plan Designation:	Agriculture		

Height Limit:	Fifty (50) feet
Max. Land Coverage:	60%
Front Setback:	10'-0"
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	West Kaua'i Community Plan
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	N/A

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on January 12, 2026, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	**March 10, 2026**

V. PROJECT DESCRIPTION AND USE

The Applicant proposes to construct a 52-megawatt direct current (DC) and 43-megawatt alternating current (AC) solar energy facility, encompassing approximately 269.195 acres of the subject property (approximately 5,006.74 acres). The proposed development will consist of the following components:

- Installation and operation of a ground mounted solar photo-voltaic system with solar panels and racking system. The solar panels will be mounted on single-axis trackers that will rotate along a fixed horizontal axis from east to west, tracking the movement of the sun. The average height of the solar panels will be five (5) feet off the ground when in a flat position, with a maximum height of eight (8) feet when panels rotate;
- Installation of power conversion stations;
- Installation of a 172-megawatt hour battery energy storage system;
- Installation and operation of two new substations consisting of the AES Hawai'i Substation and the Ka'awanui Substation, along with associated interconnection lines. The substations will include shield wire metal masts approximately 45 feet in height at the AES Hawai'i Substation and 60 to 70 foot in height at the Ka'awanui Substation;

- A network of electrical collector lines;
- Communications equipment;
- Installation of an operations and maintenance shed that will be 12 feet in height with an overall building footprint of approximately 840 square feet for office purposes, remote site monitoring, equipment, and storage.

The solar project site will consist of six (6) fenced solar array areas, each enclosed by a seven (7) foot high chain link perimeter fence. Access roads will be provided throughout the site to serve all major equipment, and the solar panels will be spaced to allow vehicle access between rows. New landscaping will be installed and maintained around the project site to mitigate visual impacts. As shown in the Preliminary Landscape Site Plan dated September 2025, the Applicant proposes to install a row of indigenous and endemic plants along the portion of the project perimeter adjacent to Kaumuali'i Highway.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for MARCH 10, 2026. At the present time, the department has only received comments from the COK Transportation Agency, and the State Department of Health, and has not received comments from other reviewing agencies that includes the COK Public Works – Engineering Division (DPW) and COK Water (DOW). However, comments are being anticipated and will be presented at the public hearing.

VIII. FINDINGS

1. Project Site and Surroundings
   The subject property is located within the County's Agriculture (Ag) and Open (O) zoning districts and the State Land Use Agricultural District. The surrounding properties to the north, south, east, and west are similarly zoned; however, located immediately northeast of the project area is the Ka'awanui Village Urban Zoning Expansion Area that was recently rezoned from the State Land Use Agricultural District to the Urban District, and from the County's Agriculture District to the Plantation Camp (PC) Zoning District.

   The project site is situated adjacent to Kaumuali'i Highway and extends approximately one (1) mile *mauka* along both sides of Ka'awanui Village Road. The project area comprises of pastureland and fallow agricultural fields, with surrounding areas consisting of former plantation lands repurposed for grazing or left in open pasture.

   Located approximately one hundred (100) yards northeast from nearest point of the project area is Ka'awanui Village, which consists of residential structures. Immediately northwest of the project area is a residential dwelling on TMK: 1-7-006: 011. Approximately 250 yards further northwest is another residential dwelling situated within the project's subject parcel TMK: 1-7-006: 006.

2. Access
   Ingress and egress to the project site will be provided via Ka'awanui Village Road, an improved private roadway that connects to Kaumuali'i Highway, as well as a separate access connection to Kaumuali'i Highway located approximately 0.2 miles west of the Ka'awanui Village Road and Kaumuali'i Highway intersection.

3. Soils
   The Detailed Land Classification Study prepared by the Land Study Bureau (LSB) identifies the soils of the affected parcels containing a combination of Class "B" & "C" soils. The study provides a "five class" productivity rating from "A" to "E", with "A" representing the class of highest productivity and "E" representing the lowest. As represented, the solar facilities will occupy areas with primarily LSB B-rated soils and some LSB C-rated soils.

4. Flood Zones
   The Federal Emergency Management Agency (FEMA) Flood Insurance Map shows the project site is situated within the flood zone identified as Zone '**X**'. FEMA has identified those areas within the Zone "X" to be outside the 0.2% annual chance floodplain.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request to construct and operate the proposed solar energy facility, the following should be considered:

1. **Hawai'i Revised Statutes (HRS), Section 205**
   Under HRS §205-4.5, solar energy facilities are a permissible use within the State Land Use Agricultural District on Class B or C soils, subject to the following requirements:

   a. HRS §205-4.5(a)(20) specifies:

      "(20) Solar energy facilities that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser or for which a special use permit is granted pursuant to section 205-6..."

      - The Applicant has applied for a Special Permit in accordance with this subsection.

   b. HRS §205-4.5(a)(21) further specifies:

      "(21) Solar energy facilities on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating B or C for which a special use permit is granted pursuant to section 205-6; provided that:

      (A) The area occupied by the solar energy facilities is also made available for compatible agricultural activities at a lease rate that is at least fifty per cent below the fair market rent for comparable properties;

- The Applicant has made design considerations to maximize contiguous space between solar panels for agricultural cultivation and to enable as many agricultural uses as possible. As identified in the application, AES has selected Kawailana, Inc. as an agricultural partner for the project. As represented, AES intends to provide lease-free use of the project land, thereby exceeding this requirement.

(B) Proof of financial security to decommission the facility is provided to the satisfaction of the appropriate county planning commission before the date of commencement of commercial generation; and

- The Applicant acknowledges this requirement and will be required to provide proof of financial security prior to the closing of the building permit for the solar energy facility.

(C) Solar energy facilities shall be decommissioned at the owner's expense according to the following requirements:

(i) Removal of all equipment related to the solar energy facility within twelve months of the conclusion of operation or useful life; and

(ii) Restoration of the disturbed earth to substantially the same physical condition as existed before the development of the solar energy facility."

- The Applicant acknowledges this requirement. Please refer to the Applicant's *Decommissioning Plan* in Exhibit L of the application.

2. **Special Permit**

Pursuant to Chapter 205 of the Hawai'i Revised Statutes (HRS) and Chapter 13 of the Planning Commission Rules of Practice and Procedure, a SPECIAL PERMIT may be approved under such protective restrictions as may be deemed necessary if the Commission finds that the proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District, and that the use would promote the effectiveness and objectives of Chapter 205, HRS. The Planning Commission shall consider the following guidelines in determining unusual and reasonable use:

1) Such use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A of the Hawai'i Revised Statutes (HRS), and the rules of the State Land Use Commission;

The proposed development will not be contrary to any of the State objectives for the following reasons:

- The useable portions of the site will be leased for pasture purposes at a rate or rates that are at least fifty percent (50%) below the fair market rental value. As represented, AES intends to provide lease-free use of the project land, thereby exceeding this requirement.

- The proposed use will not interfere with other agricultural uses that are generally allowed within the Agricultural District.

- Following the anticipated twenty-five (25) to forty (40) year life and operation of the solar facility, all equipment can either be retrofitted with new equipment or will be removed from the site, and the site will be restored to its preconstruction condition.

2) *The desired use would not adversely affect the surrounding property;*

- The construction and operation of the proposed solar facility is not expected to have adverse effects on surrounding properties. The development is not anticipated to generate significant increases in traffic, population, noise levels, or air quality impacts. While there may be minimal visual impacts from Kaumuali'i Highway, these impacts can be mitigated through appropriate visual screening or other design measures. Additionally, the glare produced by the project is anticipated to be minimal and is predicted to affect only certain interior roadways *mauka* of Kaumuali'i Highway during specific times of the day and during certain times of the year. Glare is not predicted for Kaumuali'i Highway as well as for the residential houses and structures located within the vicinity of the project.

- The proposed use will be compatible with the surrounding area, and it will not prevent surrounding lands from being used for agricultural purposes.

- During construction, Best Management Practices will be utilized to ensure that the proposed development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

3) *The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;*

- The proposed development will utilize existing roadways and infrastructure and is not anticipated to place additional burdens on public agencies.

- Water needs for agricultural uses within the project site will be met through an existing irrigation system operated by the property owner and located

within the subject parcel. Potable water will be provided via a private water system.

- Fire and police services are located approximately two (2) miles away in the Town of Waimea. Aside from the standard fire and police protection, the proposed project is not anticipated to significantly impact these agencies.

- The closest schools are Waimea High School and Waimea Canyon Elementary School. It is not anticipated that this project will significantly impact these schools.

4) *Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;*

- As stated in the application, the State has recently recognized the need to promote alternative energy production, including solar energy production. Such facilities require large tracts of land, which are predominantly located within the State Land Use Agricultural District. Provided such new uses do not prevent or adversely impact agricultural uses in the surrounding area, they are recognized as necessary and permissible in the Agricultural District.

5) *The land upon which the proposed use is sought is unsuited for the uses permitted within the district.*

- As stated in the application, the Applicant will continue to use the project site for agriculture activities. Although the project site is suitable for agriculture uses, it is represented that the project site is better suited at this time for the production of alternative energy production.

b. *Would promote the effectiveness and objectives of Chapter 205, HRS, as amended.*

- Solar Energy Facilities are recognized as a necessary and reasonable utility that may be accommodated within the Agricultural District. While the construction of a new solar energy facility on 'B' rated soils within a project area exceeding twenty (20) acres is not expressly permitted under the allowable uses listed in HRS §205-4.5, a Special Permit is being sought to allow for this use. The permit process provides a mechanism to consider whether such infrastructure, though not directly agricultural, is compatible with the overall objectives of Chapter 205.

3. **General Plan**

Policies to Guide Growth – Section 1.4 of the Kaua'i General Plan (2018):

Policy #13, entitled "Complete Kauai's shift to Clean Energy," directly supports this proposal for a solar energy facility. Policy #13 states:

"Mitigate climate change and reduce system-wide carbon emissions by at least 80 percent by 2050 through deep reductions in energy use and by transforming electricity, transportation, and infrastructure systems toward the use of clean energy."

- The proposed solar project is in line with Policy #13, as it will increase the supply of clean energy on Kaua'i by generating renewable electricity. The project will reduce the amount of fossil fuel-based electricity generation, thereby supporting the ongoing objective of reducing greenhouse gas emissions and transition to clean energy.

4. **West Kaua'i Community Plan**

The Community Development Plans, which further builds upon the direction set forth in the General Plan, also details region-specific policies, objectives, goals, and actions that support the provisions detailed in the proposed bill. The proposed development is located within the boundaries of the West Kaua'i Community Plan area and is situated on land designated as "Agriculture." Policy #1 of the West Kaua'i Community Plan specifies that development should be focused in existing towns to protect West Kaua'i's rural qualities and agricultural resources. The Policy also specifies:

"...Agricultural resources in the built environment include the mill sites, many of which are vacant or underutilized. Through thoughtful redevelopment and reuse, these former nodes of industry can be resurrected as all-purposes activity centers. Furthermore, compact design reduces energy consumption and associated greenhouse gas (GHG) emissions, and it helps reduce the region's dependence on important energy resources."

- While the proposed project site lies outside the Urban boundary, it is important to note that the project supports clean energy production. As such, the development does not conflict with the policy's intent to focus development within existing towns to reduce energy consumption and associated greenhouse gases.

5. **Use Permit**

Pursuant to Article 3 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kaua'i County Code (1987), the purpose of the Use Permit Procedure is to assure the proper integration into the community of uses which may be suitable only in specific locations of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-3.2 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use:

...is a compatible use and is not detrimental to health, safety, peace, morals, comfort and the general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the

neighborhood or to the general welfare of the community, and will not cause any substantial harmful environmental consequences on the land of the applicant or on other lands or waters, and will not be inconsistent with the intent of this Chapter and the General Plan.

In evaluating the project in accordance with the criteria for a Use Permit, the following supports the potential compatibility of the proposed use:

- Footprint: In considering the total parcel area of approximately 5,006.74 acres, the proposed project will utilize only a portion of the larger parcel, approximately 269.195 acres, thereby minimizing impacts on the agricultural potential of the surrounding lands. Furthermore, in considering the design and layout of the facility, the solar panels will be configured to accommodate continued agricultural activities within the project area, allowing the project to function in conjunction with the overall agricultural use of the parcel.

- Precedent: Similar Use Permits have been approved for solar energy facilities on Agricultural lands in the County, establishing precedent for such uses when appropriately sited and justified.

- Traffic: As documented in the Traffic Impact Analysis Report (TIAR), the proposed development is not expected to result in significant increases in traffic volumes in the surrounding area during either the construction phases or ongoing operations. Furthermore, the construction of the proposed development is not anticipated to preclude the implementation of any potential enhancements to walking, biking, transit, or auto facilities along Kaumuali'i Highway.

- Visual Impacts: As shown in the view study provided in Exhibit U of the application, the proposed development will result in some visual impacts as seen from Kaumuali'i Highway in both directions, as well as from higher vantage points along Waimea Canyon Drive. As represented in the Preliminary Landscape Site Plan dated September 2025, the Applicant proposes to install landscaping along the segment of the project perimeter adjacent to Kaumuali'i Highway to help soften and mitigate visual impacts for motorists and others traveling directly in front of the project area.

- Air Quality/Noise: As represented, during operation, the solar panels will be silent. The inverters and transformers will also be very quiet, emitting less than thirty-eight (38) decibels at 100 meters. During construction activities, air quality and ambient noise levels may be affected at a very minimal level. The Applicant acknowledges and will adhere to the standards of the Environmental Protection Agency (EPA), as well as the noise and air quality standards of the State of Hawai'i Department of Health.

- Wastewater Treatment and Disposal: The project will utilize an individual wastewater system (IWS) approved by the State of Hawai'i Department of Health.

- Solid Waste Disposal: Solid waste disposal will be provided by private means. During construction, all waste will be transported by the construction contractor for recycling or disposed of at Kekaha Landfill.

- Biological Resources (Flora): According to the natural resources assessment for the project, a total of 97 plant species were identified, including six indigenous species and three early Polynesian-introduced species; however, none are listed as threatened or endangered under state or federal law.

- Biological Resources (Avian and Mammalian): According to the natural resources assessment for the project, the avian survey recorded 25 bird species, including the endangered Hawaiian duck, and two other indigenous species, the Black-crowned Night Heron and Pacific Golden-Plover. For waterbirds, the assessment determined that no suitable nesting habitats exist on the project site for endemic waterbirds and as a result, the project is not expected to impact listed waterbird species. The assessment also found that all other vertebrates observed are non-native, though the endangered Hawaiian hoary bat may use resources in the area, and the Project will implement measures to avoid or minimize potential impacts to this species.

6. **Comprehensive Zoning Ordinance (CZO) Development Standards**

The proposal is consistent with the development standards contained in the CZO in that:

a. Lot Coverage — Based on the acreage calculations provided in G70 Section 3.3.6 (Table 3.1), "Approximate Extent of Project Components," the proposed development complies with the 60% lot coverage requirement set forth in Section 8-4.3(d)(3) of the CZO.

b. Setbacks — The proposed development complies with the setback requirements for the Agriculture Zoning District. All structures associated with the proposed development are positioned outside the building setback lines.

c. Height — The proposed project complies with the applicable height regulations set forth in Sections 8-1.4 and 8-8.2 of the Comprehensive Zoning Ordinance (CZO).

Section 8-1.4(e) specifies:

"(e) Nothing in this Chapter shall regulate the placement, design and construction of the Hawai'i Emergency Management Agency- (HI-EMA) Managed All-Hazard Statewide Outdoor Warning Siren Systems; or utility poles, towers, and transmission lines by a public utility company as defined in Sec. 269-1, H.R.S., provided, that the siren systems, poles, and towers shall be no higher than 20 feet above the height limits for structures applicable in the Use District in which the poles and towers are constructed."

Section 8-8.2(a)(1) specifies:

"(1) The maximum height of any building, other than one intended primarily for residential use, shall be 50 feet."

Under these provisions, utility poles may exceed the standard height limit of the Agriculture District by an additional 20 feet, allowing for a maximum structure height of 70 feet. As represented, the tallest structure associated with the proposed development will be a transmission pole with a height of approximately sixty-five (65) feet. As such, the proposed development remains within the allowable limit.

d. Design/Layout — There are no objections to the overall design of the project, as it is consistent with the functional aspects of operations associated with a solar energy facility. Furthermore, the property is not located within any special design control areas, such as a Form-Based Code or a Special Planning Area.

7. **Native Hawaiian Traditional and Cultural Rights**

A Ka Pa'akai O Ka'aina Analysis was prepared by Cultural Surveys Hawai'i, Inc. (CSH). The purpose of this analysis is to: (1) identify valued cultural, historical, and natural resources within the proposed project area and the broader ahupua'a of Makaweli, including the extent to which traditional and customary Native Hawaiian rights are exercised; (2) evaluate the potential impacts of the proposed action on these resources; and (3) identify feasible measures, if any, that the Applicant may implement to reasonably protect Native Hawaiian rights where they are found to exist.

To address these objectives, the analysis provides a review of historic and traditional accounts associated with the Makaweli ahupua'a, including a summary of place names and wahi pana (legendary places). It also provides a summary of archaeological studies that have been conducted in the vicinity of the project area as well as a detailed summary of the community outreach that was conducted including oral and written testimony of individuals that were contacted.

The consultation outreach involved attempting to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants in order to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 48 individuals or groups; six responded, one provided written testimony and three Kama'āina and/or Kūpuna met with CSH for more in-depth interview.

Based on the analysis conducted and the historical information available to the Department, it has been determined that the proposed development, as situated at its designated location, is not anticipated to adversely impact any known Hawaiian traditional or customary practices. This determination is supported by the following findings:

- There are no known traditional or customary Native Hawaiian rights or practices currently exercised within the project area.
- There are no documented trails or pathways traversing the project area.
- No known burial sites are located within the project area.

- There are no known mo'olelo (oral histories) or wahi pana (storied or sacred places) with a significant direct or indirect connection to the project site.
- The proposed development is not expected to impede access to streams.
- There are no known religious practices currently taking place within the project site.

It is important to note that, the botanical survey conducted as part of the project's natural resources assessment, recorded six indigenous plant species as well as three early Polynesian-introduced species within the project area.

Prior to initiating any ground-disturbing activities, the Applicant should identify and implement feasible measures to reasonably protect any indigenous or native plant species, or cultural and natural resources within the project area, based on consultation with applicable government agencies.

X. PRELIMINARY CONCLUSION

Based on the foregoing findings and evaluation, it is concluded that through proper mitigative measures and compliance efforts, the proposed development can be considered, and it should not have significant adverse impacts to the environment or the surrounding area. The proposal is generally in compliance with the criteria outlined for the granting of a Use Permit and Class IV Zoning Permit. In addition, the proposed development is consistent with the policies outlined in the General Plan, as well as the development standards prescribed by the Comprehensive Zoning Ordinance.

It is further concluded that the Special Permit and Use Permit could be considered in that the proposed use should promote the overall goals and objectives of Chapter 205, HRS. While the proposal does not directly increase agricultural productivity, it is a permissible use under Chapter 205, HRS with a Special Permit.

The Applicant should institute the "Best Management Practices" to ensure that the development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

Based on the foregoing evaluation and conclusion, it is hereby recommended that Class IV Zoning Permit Z-IV-2026-12, Use Permit U-2026-9, and Special Permit SP-2026-4, be **APPROVED** subject to the following conditions:

1. The project shall be constructed as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. Usable lands of the Petition Area, including areas under PV panels, shall be made available for compatible agricultural use at a lease rate that is at least 50 percent below the fair market rent for comparable properties, as long as the Project is in operation. Compatible agricultural operations shall be established by the Applicant and its successors and/or

assigns within 6 months of the start of commercial power generation. Extensions to this deadline may be granted by the Director of the County of Kaua'i Planning Department for unforeseen extenuating circumstances. Additional consideration may be given if the Applicant is actively seeking to have such operations established.

3. If at any time during the term of the subject permits no compatible agricultural operations exist on the usable lands of the Petition Area for 6 months, the Applicant shall notify the Director of the County of Kaua'i Planning Department in writing within 30 days of the end of the 6-month period. If requested by the Planning Director, the Applicant shall attend a meeting of the Planning Commission and submit a report to the Planning Commission detailing the Applicant's actual and reasonable efforts to establish compatible agricultural operations on the usable lands of the Petition Area. The Planning Commission may determine whether probable cause exists to re-evaluate the subject permits and to hold a hearing pursuant to the Rules of the Planning Commission. Extensions to the 6-month deadline may be granted by the Planning Director for unforeseen extenuating circumstances.

4. The Applicant shall submit for review and obtain the approval of the following from the Director of the County of Kaua'i Planning Department, prior to the issuance of a grading or building permit:

    a. A survey map accompanied by metes and bounds descriptions of the approved Petition Area.

    b. A site plan showing the area required under Condition 2, above, relating to the minimum land area to be made available for compatible agricultural use.

5. Prior to the closing of the building permit for the facility, the Applicant shall submit to the County of Kaua'i Planning Department proof of financial security, such as a letter of credit or similar assurance, from a creditworthy financial institution satisfactory to the County of Kaua'i Planning Department. The security shall remain in place for the duration of the operation of the Project, with evidence of same provided to the Director of the Kaua'i Planning Department on an annual basis, in an amount approved by the County of Kaua'i Planning Department as sufficient to decommission the Project and restore the Petition Area to substantially the same physical condition as existed prior to the development of the facility.

    The Applicant shall decommission the facility, including the removal of all equipment related to the facility, within twelve (12) months following the termination of operations of the facility. A change in project ownership or change in ownership of the land subject to the Special Permit, which warrants a new proof of financial security to decommission the project, shall be submitted to the County of Kaua'i Planning Department for processing through the Planning Commission, within three (3) months of the ownership change.

    The Applicant shall incorporate this condition in the license and/or lease agreement with the landowner and said license and/or lease agreement shall be reviewed for approval by the County of Kaua'i Planning Department.

6. The Applicant shall mitigate impacts to flora on site as follows:

    a. Prior to initiating any ground-disturbing activities, the Applicant should identify and implement feasible measures to reasonably protect any indigenous or native plant species, or cultural and natural resources within the project area, based on consultation with applicable government agencies.

7. The Applicant shall mitigate impacts to fauna on site as follows:

    a. Applicant shall develop an endangered species awareness training module, which shall include all potential endangered species that may frequent the Petition Area.

    b. All construction workers and solar facility employees shall undergo endangered species awareness training prior to starting work.

    c. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures, landscaping or the ocean shall be prohibited.

    d. Barbed wire shall not be used on the top of any fencing.

    e. Applicant shall monitor avian injuries occurring within the Petition Area, and report occurrences to the United States Fish and Wildlife Service (USFWS).

    f. The Applicant shall minimize or avoid clearing or grading activities from June 1 through September 15.

8. The Applicant shall establish the Project within two (2) years of the date of the Land Use Commission's (LUC) Decision and Order approving the Special Permit. Requests for an extension of this deadline shall be submitted to the Director of the County of Kaua'i Planning Department prior to the expiration of the deadline. The LUC may grant an extension to the deadline to establish the Project due to unforeseen circumstances that were beyond the control of the Applicant. This Special Permit shall be valid for a period of thirty-five (35) years from the date of the LUC's Decision and Order approving the Special Permit, subject to further extensions upon a timely request for extension filed with the Planning Commission at least one hundred twenty (120) days prior to the Special Permit's expiration. Approval of time extensions shall not be required from the LUC.

9. On or before December 31 of each year that the Special Permit is in effect, the Applicant or its successor shall file an annual report to the LUC, State of Hawai'i Office of Planning, and the County of Kaua'i Planning Department that demonstrates the Applicant's compliance with conditions of the subject permits.

10. Major modifications to: (1) the Project plans, including but not limited to significant increases in the number of PV Panels; (2) amendments to the conditions of approval; (3) significant expansions of the approved area; or (4) change in uses stated herein, shall be subject to the review and approval of the Planning Commission and the LUC. Minor modifications including minor additions to accessory uses and structures, and new incidental uses and structures in the approved area are subject to the review and approval by the Director of the County of Kaua'i Planning Department.

11. The Applicant and/or landowner shall notify the Director of the County of Kaua'i Planning Department of:

    a. Any change or transfer of licensee on the Petition Area;

    b. Any change in uses on the Petition Area;

    c. Termination of any uses on the Petition Area; and/or

    d. Transfer in ownership of the Petition Area.

12. Enforcement of the conditions of the subject permits shall be pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause as to the reason the subject permits should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions herein.

13. If the PV array creates a hazardous condition for pilots or motorists, the facility operator shall immediately mitigate the hazard upon notification by the State of Hawai'i Department of Transportation (DOT) Highways Division, DOT Airports Division, or the Federal Aviation Administration (FAA).

14. If required to mitigate visual impacts, new landscaping shall be installed and maintained around the Solar Project to screen it when viewed from Kaumuali'i Highway. The County of Kaua'i Planning Department shall determine whether additional landscape screening is necessary and the degree at which it is provided.

15. In the event that historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes, are identified during grading and/or construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the State Historic Preservation Division (SHPD) and Kaua'i Island Burial Council, as applicable, shall be contacted immediately. Without any limitation to any other condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction of the facility, all construction activity in the vicinity of the discovery shall stop until issuance of an archaeological clearance from the SHPD has been obtained that mitigation measures have been implemented to its satisfaction.

16. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent

cultural finds, including human skeletal remains. In the event any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event iwi kūpuna (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.

17. In the event iwi kupuna and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

18. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirements for the County DPW-Engineering Division, water requirements for the County Department of Water, and regulations involving environmental concerns as administered by the State Department of Health.

19. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the subdivision does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

20. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.

21. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.

22. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

23. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

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 March 10, 2026, 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 the staff's report and recommendation as provided herein.

By Kenneth A. Estes
KENNETH A. ESTES
Planner

Approved & Recommended to Commission:

for By
KA'ĀINA S. HULL
Director of Planning

Date: 2/18/26

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of a Class IV Zoning Permit, a Use Permit, and a Special Permit to conduct guided agricultural tours on the subject parcel.

Permit Application Nos.: Class IV Zoning Permit Z-IV-2026-13
Use Permit U-2026-10
Special Permit SP-2026-5

Name of Applicant(s): **JOSEPH SCHWARTZ**

II. PERMIT INFORMATION

PERMITS REQUIRED	
☒ **Use Permit**	Pursuant to Section 8-3.2 of the K.C.C., 1987, as amended, a Use Permit is required for a use that is not outright permitted within the designated zoning district.
☐ **Project Development Use Permit**	N/A
☐ **Variance Permit**	N/A
☒ **Special Permit**	Pursuant to Section 205 of the Hawai'i Revised Statutes (HRS) and Chapter 13 of the Rules of Practice and Procedures of the Planning Commission, a Special Permit is required for a use that is not outright permitted within the State Land Use Agricultural district.
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-3.1 of the K.C.C., 1987, as amended, a Class IV Zoning Permit is a procedural requirement in applying for a Use Permit.
☐ **Special Management Area Permit** ☐ Use ☐ Minor	N/A
AMENDMENTS	
☐ **Zoning Amendment**	N/A
☐ **General Plan Amendment**	N/A

H.2.b.1.
FEB 24 2026

☐ **State Land Use District Amendment**	N/A

Date of Receipt of Completed Application:	January 23, 2026
Date of Director's Report:	February 24, 2026
Date of Public Hearing:	March 10, 2026
Deadline Date for PC to Take Action (60TH Day):	April 25, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	Moloa'a. The project site involves Unit 71 of the Moloa'a Hui I Condominium, located along the makai side of Kuhio Highway, approximately 1,000 feet east of the Koolau/Kuhio Highway intersection		
Tax Map Key(s):	(4) 4-9-009:012 (Por.)	**Area:**	Affecting 5.225 acres of a larger parcel

ZONING & DEVELOPMENT STANDARDS	
Zoning:	Agriculture (A)
State Land Use District:	Agricultural (A)
General Plan Designation:	Agriculture
Height Limit:	Thirty (30) feet or Fifty (50) feet for buildings other than for residential use.
Max. Land Coverage:	60%
Front Setback:	10'
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	N/A
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	N/A

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on January 23, 2026, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.

Public Hearing Date: MARCH 10, 2026

V. PROJECT DESCRIPTION AND USE

The Applicant is proposing to conduct guided agricultural tours of the farming operations involving Unit 71 of the Moloa'a Hui I Condominium in Moloa'a. As represented, the intent of the proposal is to supplement and bolster the ongoing agricultural activities conducted on the site. A detailed description of the proposed operation is noted on Page 2 of the Application.

1. Agricultural Tours
   The farming and proposed tour operation occurs on Unit 71 of the Moloa Hui I Condominium, identified as TMK: 4-9-009:012 (Por.). As represented, it will be a guided tour featuring educational information concerning the present agricultural activities and it offers an opportunity to sample products grown on site. The Application does not mention the number of guests per tour, however, the operation will occur Monday through Saturday, from 9:00 am. to 5:00 pm.

   The guided tour involves no motorized vehicles and access throughout the site will require patrons to walk the entire farmed site, refer to Exhibit 2 of the Application. It is estimated that the tour will be approximately 2 to 2.5 hours.

2. Retail Activity
   The Applicant is proposing a retail stand that would display and sale of agricultural products grown on site. The Applicant is offering organic fruit, honey, vanilla extract, and chocolate. Like other agriculture tours on island, it was not disclosed whether value-added products that were produced using agricultural products grown in Hawai'i, logo items related to the ag operations, and other food items will also be available.

3. Parking for Patrons
   As noted, there will be on-site parking for its guests near the entrance of the farm site. As shown in Exhibit 2, there is an open area at the at the southwestern corner that can accommodate at least six (6) parked vehicles.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for MARCH 10, 2026. To date, the Department has not received any agency comments.

VIII. FINDINGS

1. Property Location/Surroundings
   As previously mentioned, the project site is situated within the Moloa'a Hui I Condominium. It is entirely surrounded by Agriculture (A) zoned lands. It is in proximity to farm dwellings within the Moloa'a Hui Condominium and the proposed operation is immediately adjacent to a green waste recycling facility along its southern boundary that was previously permitted through Special Permit SP-2017-5, Class IV Zoning Permit Z-IV-2017-12, and Use Permit U-2017-10.

2. Existing Land Use Permit History
   The following information represents land use approval/permits associated with this specific condominium unit:

   a. Class IV Zoning Permit Z-IV-2020-7 and Use Permit U-2020 to allow construction of two (2) Farmworker Housing Units (FHWU). The application received approval by the Planning on January 28, 2020;

   b. Class I Zoning Permit Z-286-2021 for the construction of an agriculture barn;

   c. Class I Zoning Permit Z-585-2022 for the construction of twenty (20) accessory structure (storage sheds); and

   d. Class I Zoning Permit Z-11-2024 for the construction of an accessory structure (greenhouse).

3. Access
   Patrons will be utilizing an unimproved driveway leading up to the farm. It is noted that there is an unpaved driveway from the Koolau Road/Kuhio Highway intersection that leads up to the project site and while it is unimproved, it can accommodate two-way vehicular traffic.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request for a Special Permit to conduct agricultural tours on agricultural lands, the following should be considered:

1. Special Permit
   Pursuant to Chapter 205 of the Hawai'i Revised Statutes (HRS) and Chapter 13 of the Planning Commission Rules of Practice and Procedure, the Commission may approve a Special Permit under such protective restrictions as may be deemed necessary if it finds that the proposed use meets the following:

   a. **Is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be. The Commission may consider the following guidelines in determining unusual and reasonable use:**

1) **Such use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A, HRS, and the rules of the Land Use Commission;**

   a) Since the proposed operation occurs on land that is currently used for agriculture, and because the purpose of the tour is specifically to educate participants about the agricultural activities occurring on the property, the operation should not displace productive agricultural activity.
   b) As represented, the tour would educate visitors about sustainable farming practices, and the agricultural history of the surrounding area.
   c) The proposed farm tour would support the Applicant's agricultural venture by providing an additional revenue stream to assist in sustaining and growing their operations.

2) **The desired use would not adversely affect surrounding property;**

   a) It is anticipated that the proposed ag tours should not adversely affect the surrounding properties. While the proposed operation may generate some noise and traffic, the impacts should be minimal or eliminated through mitigative measures.

3) **The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection;**

   a) The proposed operation should not unreasonably burden public agencies and impact existing infrastructure since the Applicant would be utilizing existing roadways and it does not require additional infrastructure improvements.

4) **Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established; and**

   a) Eco-tourism has been an ongoing trend involving agricultural lands in an effort to display/showcase agricultural activities to visitors with an authentic experience.
   b) Given that, there is a clear need to preserve agricultural land for farming activities.

5) **The land upon which the proposed use is sought is unsuited for the uses permitted within the district; and**

   a) As previously mentioned, it is anticipated that the proposed operation would not interfere with agricultural operations in the surrounding area.
   b) The proposal involves land that is currently being farmed, and the intent of the tour is to educate participants about the agriculture activities, and the operation should not further displace productive agricultural activity.

b. **Would promote the effectiveness and objectives of Chapter 205, HRS, as amended.**

The proposed agricultural tour, in connection with the agricultural activities represented in the Applicant's agricultural plan, should potentially increase agricultural production than what is currently occurring on the subject property and provide an opportunity to grow the operation. Therefore, the proposed uses would promote the effectiveness and objectives of Chapter 205, HRS, as amended.

2. Use Permit

Pursuant to Article 20 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kaua'i County Code (1987), the purpose of the Use Permit procedure is to assure the proper integration into the community of uses which may be suitable only in specific location of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-20.5 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria:

- the use must be a compatible use;
- the use must not be detrimental to persons or property in the area;
- the use must not cause substantial environmental consequences; and
- the use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO) and General Plan.

a. The agricultural tour operation occurs on land that is currently being utilized as a part of an ongoing farming operation.

b. The tour operation should not inhibit the current or future ability to pursue agricultural activities on the property.

c. Many of the adjacent properties feature both active farming and fallow agriculture lands that serve as a buffer to the nearest residential homes within the Moloa'a Hui I Condominium. The undeveloped nature of the surrounding area and the limited number of residential homes that are located away from the proposed ag tours ensure that the proposed activity should not be detrimental to nearby residents.

d. The proposed operation should not be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the surrounding area and should not cause any substantial harmful environmental consequences.

e. Under Section 8-3.2, the Planning Commission may impose conditions on the permit to reduce any impacts that could be generated. Although the proposed uses should be compatible with the surrounding neighborhood, the limiting of tours per week and the reduced hours of operation could help to minimize any potential noise, traffic, and other unintended impacts to the surrounding neighbors and to the community. With

proper mitigation, the proposed uses should meet the requirements for the granting of a Use Permit.

3. General Plan

Vision and Goals- Section 1.3 of the Kaua'i General Plan (2018)

- A Sustainable Island
- A Healthy and Resilient People
- A Unique and Beautiful Place
- An Equitable Place, with Opportunity for all

Policies to Guide Growth – Section 1.4 of the Kaua'i General Plan (2018):
Of the 19 policies outlined in Section 1.4 of the Kaua'i General Plan (2018), the proposed project directly promotes the following:

- Policy #1 Manage Growth to Preserve Rural Character
- Policy #9 Uphold Kaua'i as a Unique Visitor Destination
- Policy #10 Help Business Thrive
- Policy #11 Help Agricultural Lands be Productive

The proposed project aligns with the vision, goals, and policies of the Kaua'i General Plan in that the proposed project would directly increase agricultural production, generate economic activity, and provide visitors with an authentic experience in a manner that preserves and highlights the unique rural character of the island.

4. Traditional and Customary Practices
The subject property has been in agricultural use since the 1970's and has been previously disturbed and developed. At the time the subdivision involving the Moloa'a Hui occurred in 1997, the process indicated there were no known historical or cultural resources involving the subject parcel as well as the neighboring parcel identified as TMK: 4-9-009:009 (presently referred to as Moloa'a Hui II). Additionally, there has been no known traditional or Native Hawaiian customary practices occurring on these parcels.

X. PRELIMINARY CONCLUSION

Based on the information contained in the Staff Report Findings and Evaluation, the Planning Department concludes the following:

1. Through proper mitigative measures, the proposed operation should not have any detrimental impact to the environment and is consistent with the criteria outlined for the granting of a Special Permit, pursuant to Chapter 205 & 205A of the Hawai'i Revised Statutes (HRS) and rules of the State Land Use Commission; and

2. The proposal is consistent with the standards of issuance for a Use Permit and Class IV Zoning Permit within the Agriculture District; and

3. The Applicant should continue to institute the "Best Management Practices" during the

operation of this facility in order to ensure that it does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

Based on the foregoing, it is hereby recommended that Class IV Zoning Permit Z-IV-2026-13, Use Permit U-2026-10, and Special Permit SP-2026-5 be **APPROVED** subject to the following conditions:

1. The proposed development shall be operated as represented. Any changes to the operation of the proposed uses shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. The hours of operation shall be limited to Monday through Saturday, from 9:00 am. to 5:00 pm.

3. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirements for the County DPW-Engineering Division, Department of Water, and regulations involving environmental concerns as administered by the State Department of Health, and potential traffic mitigating requirements from the State Highways Division, Department of Transportation (DOT).

4. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the proposed development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

5. 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 to determine mitigation measures.

6. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

7. The Planning Commission reserves the right to add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

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 March 10, 2026, 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 the Director's Report and Recommendation as provided herein.

By _____
DALE A. CUA
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 2/18/2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of an amendment to Special Management Area Use Permit, Class IV Zoning Permit, Use Permit, and a Variance Permit to allow renovations to an existing two-story building to accommodate a mixed-use facility containing a bank operation, five (5) apartment units, retail uses, and community event space, and allow deviation from off-street parking requirement.
Permit Application Nos.	(Amend) Special Management Area Use Permit SMA(U)-1992-5 (Amend) Class IV Zoning Permit Z-IV-1992-22 (Amend) Use Permit U-1992-23 (Amend) Variance Permit V-1992-6
Name of Applicant(s)	KAUA'I FEDERAL CREDIT UNION BELLES GRAHAM LLP, IAN K. JUNG, AUTHORIZED AGENT

II. PERMIT INFORMATION

PERMITS REQUIRED	
☒ **Use Permit**	Pursuant to Section 8-3.2 of the KCC, 1987, as amended, a Use Permit is required as the proposed use is not generally permitted within the Open (O) zoning district.
☐ **Project Development Use Permit**	
☒ **Variance Permit**	Pursuant to Section 8-6.3 of the KCC, 1987, as amended, a Variance permit is necessary to deviate from setbacks and off-street parking in the General Commercial (C-G) district.
☐ **Special Permit**	
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-3.1 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement for obtaining a Use and Variance Permit in the General Commercial (C-G) area.
☒ **Special Management Area Permit** ☒ Use ☐ Minor	Pursuant to Section 205A of the Hawai'i Revised Statues (HRS) and the Special Management Area (SMA) Rules and Regulations of the County of Kaua'i, a SMA Use Permit is required as defined in Section 7.3(C) of the SMA Rules and Regulations where the Director finds that the proposal (1) is a "Development" as defined in Section 1.4F.

H.2.C.1.

FEB 24 2026

AMENDMENTS	
☐ Zoning Amendment	
☐ General Plan Amendment	
☐ State Land Use District Amendment	

Date of Receipt of Completed Application: January 28, 2026
Date of Director's Report: February 4, 2026
Date of Public Hearing: March 10, 2026
Deadline Date for PC to Take Action (60TH Day): Not Applicable

III. PROJECT DATA

PROJECT INFORAMTION			
Parcel Location:	The subject site is located at the north end of Kapa'a Town, about 260 feet west of the intersection of Kuhio Highway and the Kapaa Bypass Road.		
Tax Map Key(s):	(4) 4-5-012:021, 022, and 043	**Area:**	0.62 acres

ZONING & DEVELOPMENT STANDARDS	
Zoning:	General Commercial (C-G), Open (O)
State Land Use District:	Urban
General Plan Designation:	Neighborhood Center
Height Limit:	No building or portion thereof shall exceed fifty (40) feet
Max. Land Coverage:	Shall not exceed 90%
Parking Requirement:	• **General retail sales:** one stall for each 300 square feet of gross floor space plus one stall for every three employees. • **Retail sales & services:** one stall for each 200 square feet of gross-floor space plus one stall for every three employees. • **Offices & office buildings:** one parking space for every 200 square feet of net office space. • **Residential:** Two stalls are required per dwelling unit.
Front Setback:	Minimum distance of any building from the right-of-way of a public or private street shall be 15 feet.
Rear Setback:	General Commercial (C-G): Minimum distance to the rear property line shall be 10 feet.

	Open (O): No structure shall be closer than (5) feet or 1/2 the total height of the building wall nearest the rear property line, whichever is greater.
Side Setback:	Minimum distance of any building from a side property line when the adjacent Use District is commercial shall be zero.
Community Plan Area:	Kapa'a-Wailua Development Plan
Community Plan Land Use Designation:	Special Planning Area "C"
Deviations or Variances Requested:	Parking Deviation from CZO Section 8-6.3(e)(3)

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1 (f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on October 15, 2024, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	March 10, 2026

V. PROJECT DESCRIPTION AND USE

The existing building, commonly known as the former Otsuka's retail building, is currently being used as a bank and community event space. The applicant proposes to convert the existing building into a mixed-use facility consisting of a bank operation, community facility, office and retail space, restaurant café, and a gap housing component comprising five residential studio units. Proposed improvements are primarily interior in nature and it would utilize the existing first and second floors of the building.

Exterior modifications are limited to the reconfiguration of existing loading and storage areas, and adjustments to building entryways to provide ADA-accessible access. The hours of operation for the facility are Monday through Saturday, 8:00 AM to 5:00 PM; special events held at the community hub may extend the hours of operation to 10:00 PM, and operation of the residential use will remain 24 hours, seven days a week.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. ADDITIONAL FINDINGS

1. The subject parcels are situated at the northern end of Kapa'a Town on the makai side of Kūhiō Highway, with direct vehicular access provided from Kūhiō Highway. Surrounding properties are designated within the commercial zoning district and include restaurant and food truck facilities, commercial office uses such as the Kaua'i Professional Building, and a State Farm office. The subject site is located approximately 50 feet from the Ke Ala Hele Makalae Kapa'a Bike Path, and the nearest Kaua'i Bus stop is situated approximately 530 feet south of the site.

2. The project site is within the State Land Use District (SLUD) Urban (U) District, which facilitates urban-type activities within the designated region. According to the Kaua'i County General Plan (GP), the subject properties carry a land use designation of "Neighborhood Center." The Neighborhood Center designation is intended to support historic town cores and areas suitable for infill development and future growth. These centers are characterized by a mixed-use core that integrates retail and service uses, civic spaces, and key activity nodes alongside residential development.

3. The subject parcels are not shoreline-abutting; a separate parcel containing the Ke Ala Hele Makalae Kapa'a Bike Path lies between the subject properties and the shoreline. According to the Federal Emergency Management Agency Flood Insurance Rate Map (FEMA FIRM), the parcels are located within Flood Zones X and AE. The site is situated within the tsunami evacuation zone and is subject to coastal hazards, including annual wave run-up, passive flooding, and coastal erosion. However, according to the Kaua'i Coastal Erosion Study prepared by the University of Hawai'i Coastal Geology Group (2018), the shoreline within this transect is accreting.

4. <u>Existing Land Use Permits</u>

    a. Following Hurricane Iwa in 1982, Class IV Zoning Permit Z-IV-85-7, SMA Use Permit SMA(U)-85-1, Variance Permit V-85-3, and Use Permit U-8-85 were issued to reconstruct the previously existing building and add a second story for retail sales. The Director's Report noted that the original building was constructed circa 1936, and therefore the structure was nonconforming due to the absence of setback requirements at that time. Variance Permit V-85-3 authorized a deviation from the rear yard setback. Part of the reconstruction and second-story addition occurred within the Open District; accordingly, Use Permit U-9-85 was granted for commercial sales in recognition of the commercial character of the subject property and surrounding parcels. An SMA Use Permit was also obtained due to the project valuation exceeding $65,000.

    b. In 1992, Class IV Zoning Permit Z-IV-92-22, SMA Use Permit SMA(U)-92-5, Variance Permit V-92-6, and Use Permit U-92-23 were issued to reconstruct the previously existing building following fire damage sustained in 1991. Variance Permit V-92-6 authorized reconstruction on the existing foundation with a deviation from the rear setback at the west corner of Building A. Because a portion of the building is located within the Open District, Use Permit U-92-23 was required for work not previously authorized under Use Permit U-8-85. An SMA Use Permit was also obtained due to the project valuation exceeding $165,000.

c. In 2008, Class I Zoning Permit Z-636-2008 was issued for a remodel of the existing building; however, the file is not available. Most recently, a Shoreline Setback Determination (SSD-2024-1) and Class I Zoning Permit Z-145-2024 were issued for interior renovations including window replacement, kitchen addition, movable partition walls, and photovoltaic panel replacement.

d. Due to the proximity to the shoreline, a Shoreline Setback Determination for the current project is required.

5. CZO Development Standards

The proposed development is subject to standards prescribed in Sections 8-4.3, 8-6.3, and 10-1.3 of the Kaua'i County Code (KCC) 1987, as amended, Comprehensive Zoning Ordinance (CZO):

a. Setback Requirements: The setback requirements for County Zone General Commercial (C-G) are as follows:

- Front: Minimum distance of any building from the right-of-way of a public or private street shall be 15 feet.

- Side: Minimum distance of any building from a side property line when the adjacent Use District is Commercial shall be zero. When the adjacent Use District is other than Commercial, the minimum distance to the side property line shall be 5 feet or ½ the plate height.

- Rear: Minimum distance of any building to a rear property line when adjacent use district is commercial shall be zero. When the adjacent rear use district is other than commercial, the minimum distance to the rear property line shall be 5 feet or ½ the plate height.

b. Height Requirements: Buildings within the Kapa'a-Wailua Development District shall not exceed forty (40) feet in height.

c. Setback between buildings: The minimum distance between detached buildings on the same parcel shall be 15 feet for each story over two, or ½ the total height of the highest building, whichever is greater.

d. Lot Coverage: The General Commercial (C-G) district permits a maximum lot coverage of 90%. The Open (O) district permits a maximum lot coverage of 10%, or up to 3,000 square feet for parcels existing prior to 1972.

e. Off-Street Parking: The following minimum parking ratios apply based on the proposed uses, as taken from Section 8-6.3(e)(3):

i. General retail and services (capacity not established by seating) — One space per 300 square feet of gross floor area, plus one space per three employees.
ii. Retail sales and services (capacity established by seating) — One space per 200 square feet of gross floor area, plus one space per three employees.
iii. Offices — One space per 200 square feet of net floor area.
iv. Residential — A minimum of two spaces per dwelling unit.

VIII. AGENCY COMMENTS

Attached through separate transmittal.

IX. PRELIMINARY EVALUATION

In evaluating the Applicant's request for amendments to the existing SMA Use Permit, Class IV Zoning Permit, Variance Permit, and Use Permit for the proposed development, the following aspects have been considered:

1. General Plan
The 2018 Kaua'i General Plan sets forth a vision, goals, and policies to guide future growth on Kaua'i. The proposed amendments to the SMA Use Permit, Class IV Zoning Permit, Use Permit, and Variance Permit are consistent with the overall vision and policies outlined in the 2018 General Plan. The proposed development was evaluated against the following policies, as taken from Sections 1.4 and 3.0:

a. Section 1.4, entitled "POLICIES TO GUIDE GROWTH"
1)Policy #10 "Help Business Thrive" – Create and foster thriving commercial areas in Town Centers through improved infrastructure, civic space, streetscapes, updated zoning standards, and streamlined approval processes.

The proposed development supports the continued use of an existing commercial building within an established town center, creating opportunities for small local businesses and contributing to a more vibrant hub of commerce. By reinvesting in existing infrastructure, the project aligns with policies that encourage economic growth within town centers while reducing pressure on rural and natural areas. In addition, the development provides space that can accommodate community gatherings, further supporting community-building efforts.

b. Section 3.0, Actions by Sector, Subsection Sector III, entitled "Land Transportation" - Chapter 6. Parking Management states for permitting:
1) Implement strategies for creating walkable towns that support new ways of thinking about parking that address community needs while protecting the island's character.

The subject property is well-served by transportation resources that support modes of travel other than personal vehicle use, which is consistent with the intent of this policy. The Ke Ala Hele Makalae Kapa'a Bike Path is located within

approximately 50 feet of the site, providing a convenient and accessible alternative to automobile use. Additionally, the nearest Kaua'i Bus stop is located within approximately 530 feet of the subject property, further supporting access by public transit. The proximity of these alternative transportation resources reinforces the site's compatibility with the General Plan's walkability and parking management objectives and demonstrates that the proposed development can be adequately served without an overreliance on vehicular access.

2. Native Hawaiian Traditional Cultural Rights

The subject property has been in use since approximately 1936 and has been previously disturbed and developed. A review of prior permitting records from 1985 indicates that no known historical or cultural resources were identified on the property at that time. The Applicant notes that the commercial complex has been in operation since the 1980s and that no known traditional or Native Hawaiian customary practices that occur within the project area. It is further noted that no surface artifacts or cultural deposits have been discovered on the subject property.

3. Special Management Area (SMA) Rules and Regulations

The County of Kaua'i SMA Rules and Regulations contain objectives, policies, and guidelines designed to protect coastal resources. Within the SMA, special consideration is given to recreational opportunities, cultural and historic resources, scenic qualities and open space, coastal ecosystems, and coastal hazards.

In evaluating the proposed development, the project remains consistent with the goals and objectives of the SMA Rules and Regulations. While the project involves some exterior alterations to the loading area, the majority of the improvements will occur within the interior of the existing building. Considerations involving the criteria noted above remains unchanged since the original permit approval in 1992.

In further considering the project relative to the SMA, the following is being noted:

a. Coastal Ecosystems – The subject site is not shoreline-abutting, as a separate parcel containing the Ke Ala Hele Makalae Kapa'a Bike Path serves as a natural buffer between the proposed development and the coastal environment. The subject parcels are already substantially covered by asphalt and concrete, and as such, the proposed development does not involve significant ground disturbance, grading, or alteration of existing landforms. The proposed lanai additions are limited in scope and are situated on previously disturbed and paved surfaces, further minimizing any potential adverse effects to coastal water resources and the surrounding ecosystem. Overall, no significant negative effects on the coastal ecosystem are anticipated as a result of the proposed development.

b. Coastal Hazards – The site is situated within the tsunami evacuation zone and FEMA Flood Zones X and AE, and is subject to coastal hazards including annual wave run-up, passive flooding, and coastal erosion. According to the 2018 Kaua'i Coastal Erosion Study prepared by the University of Hawai'i Coastal Geology Group, the shoreline within this transect is

accreting, reflecting a net gain of sediment along this portion of the coastline. As the subject parcels are already fully developed with impervious surfaces, the proposed lanai additions do not involve significant ground disturbance or alteration of existing landforms, and are not anticipated to materially alter drainage patterns or increase the site's exposure to coastal hazards beyond current conditions. The proposed development does not include any shoreline hardening structures or other improvements that would alter natural coastal processes, and erosion and stormwater runoff will be managed on-site during and after construction. No significant negative effects on the coastal environment are anticipated as a result of the proposed development.

4. CZO Development Standards

In evaluating the proposed development involving renovation work for a mixed-use facility and associated site improvements, the Applicant has addressed the development standards applicable to the General Commercial (C-G) zone and the Kapa'a-Wailua Development Plan. The major components of the project are addressed below:

a. Building Design/Height – As represented by the Applicant, the proposed building height of thirty-six (36) feet three (3) inches conforms with the maximum building height standard of forty (40) feet established under Section 10-1.3(e)(2)(A) of the CZO for structures within Special Planning Area "C" of the Kapa'a-Wailua Development Plan.

b. Landscaping – As represented by the Applicant, the proposed development includes a landscaping plan consistent with the requirements of Section 10-1.3(e)(2)(D) of the the Kaua'i County Code (KCC) 1987. Landscape development approved by the Planning Director shall be installed prior to the final inspection required under the building permit procedures.

c. Setbacks – The existing building is a legal nonconforming structure with previously granted permits. As represented by the Applicant, the proposed south and north lanai additions are in accordance with Section 8-6.3(b)(1)(B) of the CZO, which allows for a zero-side setback where the adjacent Use District is Commercial.

d. Lot Coverage – Based on the information provided by the Applicant, the proposed lot coverage for Parcels 21 and 22 is consistent with the standards of the Kaua'i County Code. Section 8-6.3(g) of the Comprehensive Zoning Ordinance (CZO) permits a maximum lot coverage of 90 percent within the General Commercial (C-G) zoning district. The Applicant represents that Parcel 22 has a lot coverage of approximately 87 percent, while Parcel 21 has a lot coverage of 90 percent. Accordingly, both parcels comply with the maximum lot coverage standard for the C-G zone.

With respect to Parcel 43, the subject parcel is an existing lot of record that was created prior to September 1, 1972, as documented by a tax map dated April 15, 1970. Pursuant to Section 8-9.2 of the CZO, lots of record existing prior to September 1, 1972, may be developed with a minimum land area of 3,000 square feet. As represented by the

Applicant, Parcel 43 contains approximately 2,521 square feet of land area, which falls below the minimum land area threshold; however, the parcel qualifies as a pre-existing lot of record and is therefore eligible for development consistent with Section 8-9.2 of the CZO.

e. Access – Access to the subject property is provided via Kūhiō Highway, with two ingress and egress points along the highway frontage.

f. Off Street Parking – In applying the requirements contained in Section 8-6.3(e)(3) of the Kaua'i County Code, the proposed development generates a requirement of 65 parking stalls. As represented, the Applicant proposes to provide a total of 33 vehicular parking stalls due to the parcel's limitations.

g. Lighting – The submitted preliminary plans do not clearly indicate whether exterior night illumination is proposed as part of the development. If night lighting is proposed, all exterior lighting shall be designed to minimize adverse impacts on the Federally Listed Threatened Newell's Shearwater and other seabirds. Night lighting shall be shielded from above, directed downward, and subject to approval by the U.S. Department of the Interior, Fish and Wildlife Service. All exterior lighting shall consist solely of downward-facing shielded fixtures. Spotlights aimed upward or the spotlighting of structures is prohibited.

5. Use Permit

a. Pursuant to Article 3 of the Comprehensive Zoning Ordinance (CZO), Chapter 8 of the Kaua'i County Code (1987), the purpose of the Use Permit Procedure is to assure the proper integration into the community of uses which may be suitable only in specific locations of a district, or only under certain conditions, or only if the uses are designed, arranged or conducted in a particular manner, and to prohibit the uses if proper integration cannot be assured. Section 8-3.2 of the CZO specifies a Use Permit may be granted only if the Planning Commission finds that the use meets the following criteria:

- The use must be a compatible use;
- The use must not be detrimental to persons or property in the area;
- The use must not cause substantial environmental consequences; and
- The use must not be inconsistent with the intent of the Comprehensive Zoning Ordinance (CZO).

b. In evaluating the proposed development, the project remains consistent with Use Permit criteria noted above. The following aspects are being revisited and considered:

1) **Compatible Use** – The proposed mixed-use development would remain compatible with the surrounding area. The subject site has been developed and utilized for commercial purposes for over four decades, including activity on the portion of the property zoned Open. The proposed uses—banking, commercial services, community-oriented facilities, and limited residential units—are consistent with the existing development pattern and intensity of use on the site and in the surrounding area. The addition of studio apartments represents a low-intensity residential component that is compatible with the long-standing commercial character of the property.

2) **Non-Detrimental to Persons or Property** – The existing commercial use of the Open-zoned parcel has not resulted in documented adverse impacts to surrounding properties or persons. The proposed mixed-use facility represents a continuation of established use, with no substantial increase in intensity anticipated. Accordingly, the project is not expected to be detrimental to persons or property in the area.

3) **Minimal Environmental Consequences** – The proposed development is located on a previously developed site that has supported commercial activity for several decades. No substantial environmental consequences are anticipated as a result of the proposed mixed-use facility.

4) **Consistent with Zoning Intent** – While the Open zoning district is intended to preserve lands with scenic, recreational, and environmental value, the subject Open-zoned parcel has long been developed and utilized for commercial purposes under an existing Use Permit. The proposed amendment does not introduce a new or incompatible use but formalizes and expands upon an established development pattern. As such, the proposed mixed-use facility is consistent with the intent of the CZO when considered in the context of the site's historical use and existing conditions.

6. <u>Variance Permit</u>

a. Pursuant to Section 8-3.3 of the Comprehensive Zoning Ordinance (CZO), Kaua'i County Code, a Variance may be granted where special circumstances related to the size, shape, topography, location, or surroundings of a property result in the strict application of zoning regulations depriving the property of privileges enjoyed by other properties in the vicinity, provided that the variance will not be detrimental to surrounding properties or result in harmful environmental consequences.

1) <u>Setback Requirement</u>
Parcel 43 is irregularly shaped and developed in a manner that reflects its physical constraints, resulting in an existing building that does not conform to current front and rear setback requirements. The Planning Commission has previously recognized these constraints through approval of Use Permit U-92-23 and Use Permit U-8-85, which authorized deviations from required setbacks and lot coverage limitations on the Open-zoned portion of the property.
The proposed plans include a new open lanai on the makai side of the building within the required setback area. The lanai has no roof or walls and does not constitute enclosed floor area or habitable space under the CZO; accordingly, it

does not substantially increase building mass, intensity of use, or the degree of nonconformity beyond existing conditions on the site. The proposed open lanai is not anticipated to deprive adjacent properties of light, air, or access, nor result in harm to surrounding properties or improvements, and therefore appears consistent with the variance standards of Section 8-3.3 of the CZO.

2) Off-Street Parking
There are existing spatial limitations on the subject parcels due to their size & configuration, and the existing development. Based on these factors, it restricts the ability to accommodate additional off-street parking stalls. As represented, the Applicant is proposing to provide a total of 33 parking stalls across Parcels 21, 22, and 43. The Applicant attests that no additional parking can be further accommodated on-site without substantial alteration to the existing structure.

a) **Parking History** – Department records indicate that prior to 1984, the site provided five (5) parking stalls along Kūhiō Highway, three (3) stalls to the rear of the building, and four (4) stalls located across Kūhiō Highway, with a total requirement of eighteen (18) parking stalls. In conjunction with permits issued in 1992, the Applicant proposed the elimination of the off-site stalls across Kūhiō Highway and substituted a revised parking layout on the adjoining property, Parcel 22, consisting of twenty-five (25) stalls, along with five (5) parallel stalls fronting the building along Kūhiō Highway, for a total of thirty (30) parking stalls. This parking arrangement reflects the site's long-standing reliance on alternative parking configurations due to physical constraints.

Given the physical constraints of the site, including parcel configuration, existing development, and prior approvals, strict application of the off-street parking requirements would deprive the property of privileges enjoyed by other similarly developed commercial properties in the vicinity that were established under earlier parking standards. Granting a variance from the required number of off-street parking stalls is not anticipated to result in adverse impacts to surrounding properties or circulation patterns. Additionally, there are other alternative transportation options to the site via bus stops and the Ke Ala Hele Makalae Kapa'a Pedestrian/Bike Path.

X. PRELIMINARY CONCLUSION

Based on the foregoing analysis, it is determined that through proper mitigative measures the proposed development complies with the policies of the County General Plan, Comprehensive Zoning Ordinance, and guidelines of the Special Management Area Rules and Regulations. It is further noted that:

1. The development should not have any substantial adverse environmental or ecological effect;

2. The proposed development remains consistent with the Use Permit criteria under KCC §8-3.2, and the proposed deviation satisfies the Variance Permit criteria under KCC § 8-3.3;

3. The proposed development should not have any detrimental impact to the environment or the surrounding area and remain in compliance with the criteria outlined for the granting of a Special Management Area Use Permit; and

4. The Applicant should institute the "Best Management Practices" to ensure that the operation of this facility does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

Based on the foregoing, it is recommended that the Planning Commission **approve** the proposed development to allow the construction of a mixed-use facility consisting of a bank, community facility, café, office and retail spaces, and five (5) studio apartments. For clarification purposes, the conditions of Special Management Area Use Permit SMA(U)-1992-5, Class IV Zoning Permit Z-IV-1992-22, Use Permit U-1992-23, and Variance V-1992-6 are being reiterated with the following conditions:

1. Requirements of the State Department of Health, DLNR Historic Preservation Division, and Highways Division and the County Public Works, Water, Fire, and Planning Departments shall shall resolved and/or complied with the respective agency.

2. Prior to the building permit application, the applicant shall submit the following to the Planning Department:
    a. Landscape mater plan emphasizing the use of native Hawaiian species;
    b. Color scheme emphasizing neutral, earth-tone colors on the project.
    c. Signage design and specifications to be utilized.
    d. Revised plans reflecting:
        i. A maximum of 50% compact parking stalls; and
        ii. Required handicapped parking stalls and access.

3. Applicant shall consult with the County of Kaua'i, Office of Economic Development on energy conservation measures which can be implemented in the project.

4. As required by Ordinance No. 396, the applicant shall pay an Environmental Impact Assessment fee based on $100 per required parking stall. Those stalls over and above 18 shall be considered assessable.

5. As reflected by Section 10 of the SMA Rules and Regulations of the County of Kaua'i, Special Management Area Use Permit SMA (U)-92-5 shall be valid for a period of two years commencing from the date of the applicant obtaining the building permit for the project.

6. If historic remains such as artifacts, or charcoal deposits, and burials are found during

construction, the applicant shall stop work in the immediate area and contact the State Historic Preservation Division at 587-0047 immediately. That division will assess the situation and make recommendations to the Planning Department and applicant for mitigative action, if needed.

7. Prior to building permit review and approval by the Planning Department, The Planning Commission shall review and approve the final architectural design, color scheme, and landscaping plans.

8. The Planning Commission reserved the right to revise, modify, add, and/or delete conditions of approval upon any additional review of the project and/or plans by the Planning Department or Commission. This is to insure that SMA and Use Permit considerations and policies shall not be adversely impacted.

9. The applicant is advised that prior to and/or during the construction and use, additional government agency conditions and requirements may be imposed. It shall be the applicant's responsibility to resolve those conditions and requirements with the respective angeny(cies).

2026 Project Amendments

10. The proposed improvements shall be constructed as represented in the application. Any changes to the approved uses, structures, or site layout shall be reviewed by the Planning Department to determine whether additional Planning Commission review and approval is required.

11. All development activities, including but not limited to grading, construction, staging, and installation of improvements, shall occur entirely within the boundaries of the subject parcel.

12. In order to ensure compatibility with surrounding development and to minimize visual impacts, the exterior colors of the structure shall consist of moderate to dark earth-tone colors. Substantial landscaping shall be provided. The proposed color scheme shall be consistent with the color palette introduced through the Kapa'a–Wailua Improvement Advisory Committee. A detailed landscape plan shall be submitted to the Planning Department for review and acceptance prior to issuance of any building permits.

13. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, all external lighting shall be only of the following type: downward facing, fully shielded fixtures. Spotlights aimed upward or spotlighting of structures or physical features shall be prohibited.

14. The Applicant shall resolve and comply with all applicable standards and requirements of the State Department of Health, State Historic Preservation Division of the Department of Land and Natural Resources, Office of Hawaiian Affairs, and the County Departments of Public Works, Fire, and Water.

15. The Applicant must receive a letter from DLNR, SHPD, prior to the installation of BMP's (dust fence) or any ground disturbing activities or grubbing.

16. The Applicant shall develop and utilize Best Management Practices (BMP's) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.

17. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors and shall seek to employ residents of Kaua'i in temporary construction and permanent resort-related jobs. It is recognized that the Applicant may have to employ non- Kauai residents for particular skilled jobs where no qualified Kaua'i residents possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.

18. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.

19. Unless otherwise stated in the permit, once permit is issued, the Applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect.

***NOTE: Material to be deleted shown in brackets & strikethrough, and new material shown underlined.**

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 March 10, 2026, 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 _____
CHLOE MATSUDA
Planner

Approved & Recommended to Commission:

By _____

KA'ĀINA S. HULL
Director of Planning

Date: 2/18/2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

MEMORANDUM

To: Honorable Commissioners
Kauai Planning Commission

Fr: Kaaina S. Hull
Clerk of the Commission

Date: October 20, 2025

RE: Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's Notice of Violations (10) & Order to Pay Fines (10) for the advertisement and operation of a commercial retreat, ***Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust,*** Tax Map Key (4)49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Board and Commissions as Contested Case File No. ***CC- 2026-2***

The Department recommends referring the appeals to Boards & Commissions to conduct the required analysis and contested case hearing, as necessary.

Services should include but not be limited to: procure the services of a hearings officer, conduct the hearing, consolidate appeals where necessary, dispose of all pre-hearing motions, receive and record all evidence including subpoenaing any witness, and render a recommended filings of fact, conclusions of law, decision and order for the Planning Commission's Action.

C: Cheryl Schenck

I.1.
Feb 10, 2026

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b)
An Equal Opportunity Employer

I.1.
DEC 09 2025

Appeals of Orders of Violation
Kaua'i Hawaii Planning Department

Submitted by:
Cheryl Cowden Schenck
Kauai Kai Diamonds Irrevocable Trust

Property Address:
3720 Moloaa Rd
Anahola, Hawai'i 96703

TMK: 4-9-012-050

Date of Submittal: October 20, 2025

Orders of Violation Appealed:

- • Order 1 (Date referenced in the Notice)
- • Order 2 (Alleged infraction on December 3, 2024)
- • Order 3 (Alleged infraction on September 23, 2025)
- • Order 4 (Alleged infraction on September 24, 2025)
- • Order 5 (Alleged infraction on September 25, 2025)
- • Order 6 (Alleged infraction on September 26, 2025)
- • Order 7 (Alleged infraction on September 27, 2025)
- • Order 8 (Alleged infraction on September 28, 2025)
- • Order 9 (Alleged infraction on September 29, 2025)
- • Order 10 (Alleged infraction on September 30, 2025)

I.1.a.
FEB 10, 2026

I.1.a.
DEC 09 2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission

Līhu'e, Hawai'i 96766

Subject: Appeal of First Order 1 - First Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/25

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Second Order 2 - Second Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Third Order 3 , Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Forth Order 4 - Forth Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Fifth Order 5 - Fifth Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Sixth Order 6 - Sixth Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

October 20, 2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Seventh Order 7- Seventh Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Eighth Order 8 - Eighth Order of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Ninth Order 9 - Ninth Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about September 29, 2025, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust
3720 Moloaa Rd
Anahola, HI 96703
Moloaa@hotmail.com

October 20, 2025

Kaua'i Planning Commission
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

Subject: Appeal of Tenth Order 10 - Tenth Notice of Violation, Dated October 2, 2025

TMK: 490120050000

Property Address: 3720 Moloaa Rd, Anahola, HI 96703

Dear Members of the Kaua'i Planning Commission,

On or about the date referenced in the Notice, the County alleges that a Homestay Operation or Commercial Retreat occurred at the subject property. We firmly dispute this claim and submit the following:

1. On the specified date, there was no Homestay Operation or Commercial Retreat being conducted on the subject property by the owners, trustees, or any authorized agent acting on their behalf.
2. No activities, gatherings, or uses of the property in violation of County zoning ordinances were approved, authorized, or knowingly permitted by Cheryl Cowden Schenck or Shannon Lee Meyers, acting as Trustee of the Kauai Kai Diamonds Irrevocable Trust.
3. The Planning Department has offered no proof, documentation, or clear explanation of how it 'verified' the alleged violation. The burden of proof lies with the County, which must demonstrate the specific land use and its regulatory basis. Mere allegations, without evidentiary support, do not suffice.
4. The appeal is also filed to ensure full due process protections and to contest the imposition of penalties that are based on unsubstantiated and uncorroborated enforcement claims.

Cheryl Cowden Schenck is in the process of retaining legal counsel to address and resolve this matter.

We respectfully request that the Planning Commission schedule a hearing on this appeal and defer all enforcement actions until the full context and facts are reviewed.

Thank you for your attention to this matter.

Sincerely,

Cheryl Cowden Schenck

Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust

October 20, 2025

Date 10/20/2025

NOTARY ACKNOWLEDGMENT

State of Hawai'i

County of Kaua'i

On this 20 day of October, 2025, before me personally appeared Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public Signature

Jennifer Pasol

Printed Name of Notary Public

My commission expires: 3/16/2029

Notary Seal:

JENNIFER PASOL
COMMISSION NO.
NOTARY PUBLIC
25-54
STATE OF HAWAII

Date: 10/20/25 # Pages: 12
Name: Jennifer Pasol 5th Circuit
Doc. Description: Appeals of Orders of Violation-Kauai Hawaii Planning Dept.

Notary Signature
NOTARY CERTIFICATION
My Commission Expires: 3/16/2029

JENNIFER PASOL
COMMISSION NO.
NOTARY PUBLIC
25-54
STATE OF HAWAII

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF SUPPLEMENTAL INFORMATION TO PLANNING COMMISSION

February 18, 2026

Attached for the Planning Commission's reference is supplemental information regarding the following item:

Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's First Notice of Violation[s] for the operation of a Commercial Retreat in the Open Zone District, and Eight (8) Notice of Violation & Order to Pay Fines for the reestablishment of a Homestay Operation on the property located outside of a designated Visitor Destination Area, ***Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust,*** Tax Map Key (4)49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Boards & Commission as Contested Case File No. ***CC-2026-2.*** **[Deferred, 12/9/2025; Postponed, 2/10/2026].**

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

I.1.b.
FEB 24 2026

Shanlee Jimenez

From:	Joan Ludington
Sent:	Wednesday, February 18, 2026 10:32 AM
To:	Shanlee Jimenez
Subject:	FW: Submission of Additional Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2
Attachments:	KAUAI KAI DIAMOND RESORTS CEASE AND DISSIST NOTICE TO MANA JAMPA.PDF

Mahalo,
Joan Ho'olai Ludington

From: cheryl Schenck <moloaa@hotmail.com>
Sent: Sunday, February 8, 2026 10:45 AM
To: Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>; Reiko Matsuyama <rmatsuyama@kauai.gov>; Andres Emayo <aemayo@kauai.gov>; Mike Laureta <mlaureta@kauai.gov>; Joan Ludington <jludington@kauai.gov>; Diana Dotter <dianamdotter@gmail.com>
Subject: Fwd: Submission of Additional Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Begin forwarded message:

> **From:** Diana Dotter <dianamdotter@gmail.com>
> **Date:** February 8, 2026 at 10:41:47 AM HST
> **To:** jhiguchi@kauai.gov, rmatsuyama@kauai.gov, Andres Emayo <aemayo@kauai.gov>, Mike Laureta <mlaureta@kauai.gov>, Joan Ludington <jludington@kauai.gov>, Diana Dotter <dianamdotter@gmail.com>, Moloaa Shangrila <moloaa@hotmail.com>
> **Subject: Submission of Additional Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2**
>
> To: Planning Commission
>
> Please accept this email with additional evidence in support of the Motion to Dismiss. Cheryl Cowden-Schenck, representing Kauai Kai Diamonds Irrevocable Trust, am submitting the attached document - **a Cease and Desist letter** from Cheryl Cowden Schenck representative of Kauai Kai Diamonds Irrevocable Trust on this date, **February 8, 2026**, as formal evidence in support of the ***Motion to Dismiss or Mitigate Enforcement***

Orders concerning Contested Case File No. **CC-2026-2**, relating to property located at **3720 Moloaʻa Road, Anahola, HI** (TMK: (4) 4-9-012-050).

Respectfully,

Cheryl Cowden Schenck

CEASE AND DESIST NOTIFICATION

To: Mana Jampa
From: Cheryl Cowden-Schenck
Representative, Kauai Kai Diamonds Irrevocable Trust
3720 Moloa'a Road, Anahola, Hawai'i 96703

RE: Unauthorized Use of Property Images, Content, and References

Dear Mana Jampa,

This letter serves as a formal Cease and Desist Notification regarding any use of images, descriptions, or references to the real property located at 3720 Moloa'a Road, Anahola, Hawai'i (hereinafter, the "Property") on any and all public-facing platforms, including but not limited to your organizational website and promotional materials.

The use of any content depicting or referencing the Property constitutes an unauthorized and potentially misleading representation, and it may violate applicable privacy, publicity, and land use protections.

Accordingly, you are hereby instructed to:

1. Immediately remove all images, content, or references to the Property from your website, social media, promotional platforms, and any affiliated websites.

2. Refrain from using or distributing any media, content, or language that implies the Property is available for retreat, rental, or public use. Cease all direct or indirect association of the Property with any commercial or organized activity.

This notice is issued in good faith to protect the Trust's interests.

Sincerely,
Cheryl Cowden-Schenck
Representative, Kauai Kai Diamonds Irrevocable Trust

ACKNOWLEDGMENT OF RECEIPT

I, Mana Jampa, hereby acknowledge that on this 6th day of FEBRUARY, 2026, I received a copy of the Cease-and-Desist Notification issued by Cheryl Cowden-Schenck, Representative of the Kauai Kai Diamonds Irrevocable Trust, concerning the property located at 3720 Moloa'a Road, Anahola, Hawai'i.

Signature: M Jampa

Printed Name: MANA JAMPA

Date: 2/6/2026

STATE OF HAWAII
COUNTY OF KAUAI

On this 6th day of Febrary, 2026, before me personally appeared ~~Cheryl Cowden-Schenck~~ Mana Jampa, known to me to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

WITNESS my hand and official seal.

Notary Public, State of Hawai'i
My commission expires: 3/16/2029

JENNIFER PASOL COMMISSION NO. NOTARY PUBLIC 25-54 STATE OF HAWAII

Date: 2/6/26 # Pages: 2
Name: Jennifer Pasol 5th Circuit
Doc. Description: Acknowledgment of Receipt

Notary Signature
NOTARY CERTIFICATION
My Commission Expires: 3/16/2029

JENNIFER PASOL COMMISSION NO. NOTARY PUBLIC 25-54 STATE OF HAWAII

JENNIFER PASOL COMMISSION NO. NOTARY PUBLIC 25-54 STATE OF HAWAII

Shanlee Jimenez

From: Joan Ludington
Sent: Wednesday, February 18, 2026 10:32 AM
To: Shanlee Jimenez
Subject: FW: Submission of Additional Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2

Mahalo,
Joan Ho'olai Ludington

From: cheryl Schenck <moloaa@hotmail.com>
Sent: Monday, February 9, 2026 1:44 PM
To: Reiko Matsuyama <rmatsuyama@kauai.gov>; Mike Laureta <mlaureta@kauai.gov>; Andres Emayo <aemayo@kauai.gov>; Diana Dotter <dianamdotter@gmail.com>; Joan Ludington <jludington@kauai.gov>; Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>
Cc: cheryl Schenck <moloaa@hotmail.com>
Subject: Re: Submission of Additional Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

SEPTEMBER 25 - SEPTEMBER 26

LIH ✈ HNL

Kauai to Honolulu

Confirmation # **CJZBF8**

Confirmation date: 09/02/2025

[redacted]rita

[redacted] Join or Log in

TICKET # 5262383304121

EST. POINTS EARNED 772

[redacted]osa

[redacted]

PASSENGER Cheryl Cowden Schenck

RAPID REWARDS # Join or Log in

TICKET # 5262383304122

EST. POINTS EARNED 772

On Feb 8, 2026, at 10:45 AM, cheryl Schenck <moloaa@hotmail.com> wrote:

Begin forwarded message:

> **From:** Diana Dotter <dianamdotter@gmail.com>
> **Date:** February 8, 2026 at 10:41:47 AM HST
> **To:** jhiguchi@kauai.gov, rmatsuyama@kauai.gov, Andres Emayo <aemayo@kauai.gov>, Mike Laureta <mlaureta@kauai.gov>, Joan Ludington <jludington@kauai.gov>, Diana Dotter <dianamdotter@gmail.com>, Moloaa Shangrila <moloaa@hotmail.com>
> **Subject: Submission of Additional Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2**
>
> To: Planning Commission
>
> Please accept this email with additional evidence in support of the Motion to Dismiss. Cheryl Cowden-Schenck, representing Kauai Kai Diamonds Irrevocable Trust, am submitting the attached document - **a Cease and Desist letter** from Cheryl Cowden Schenck representative of Kauai Kai Diamonds Irrevocable Trust on this date, **February 8, 2026**, as formal evidence in support of the ***Motion to Dismiss or Mitigate Enforcement Orders*** concerning Contested Case File No. **CC-2026-2**, relating to property located at **3720 Moloaʻa Road, Anahola, HI** (TMK: (4) 4-9-012-050).
>
> Respectfully,
>
> Cheryl Cowden Schenck

<KAUAI KAI DIAMOND RESORTS CEASE AND DISSIST NOTICE TO MANA JAMPA.PDF>

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

February 9, 2026

Additional Information received by the Planning Department as of February 9, 2026, 9:00 am for the February 10, 2026, Planning Commission meeting regarding the following item:

I.1. Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's First Notice of Violation[s] for the operation of a Commercial Retreat in the Open Zone District, and Eight (8) Notice of Violation & Order to Pay Fines for the reestablishment of a Homestay Operation on the property located outside of a designated Visitor Destination Area, ***Cheryl Cowden Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust,*** Tax Map Key (4)49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Boards &

Shanlee Jimenez

Subject: FW: Submission of Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2
Attachments: Doc 3 (4).pdf; Doc 2 (3).pdf

From: cheryl Schenck <moloaa@hotmail.com>
Sent: Friday, February 6, 2026 1:42 PM
To: Kaaina Hull <khull@kauai.gov>; Jodi Higuchi Sayegusa <jhiguchi@kauai.gov>; Reiko Matsuyama <rmatsuyama@kauai.gov>; Andres Emayo <aemayo@kauai.gov>; Mike Laureta <mlaureta@kauai.gov>; Joan Ludington <jludington@kauai.gov>; Diana Dotter <dianamdotter@gmail.com>
Subject: Fwd: Submission of Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Begin forwarded message:

From: Diana Dotter <dianamdotter@gmail.com>
Date: February 6, 2026 at 1:33:07 PM HST
To: khull@kauai.gov, jhiguchi@kauai.gov, rmatsuyama@kauai.gov, Andres Emayo <aemayo@kauai.gov>, Mike Laureta <mlaureta@kauai.gov>, Joan Ludington <jludington@kauai.gov>, Diana Dotter <dianamdotter@gmail.com>, Moloaa Shangrila <moloaa@hotmail.com>
Subject: Submission of Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2

Subject: Submission of Evidence Supporting Motion to Dismiss – Cheryl Cowden-Schenck | CC-2026-2

To:

khull@kauai.gov;jhiguchi@kauai.gov;mayor@kauai.gov;rmatsuyama@kauai.gov;aemayo@kauai.gov;mlaureta@kauai.gov; jludington@kauai.gov;dianamdotter@gmail.com

Ka'āina S. Hull, Planning Director – khull@kauai.gov

Jodi A. Higuchi Sayegusa, Deputy Planning Director – jhiguchi@kauai.gov

Reiko Matsuyama, Managing Director – rmatsuyama@kauai.gov

Mike Andres, aemayo@kauai.gov

Mike Laureta, mlaureta@kauai.gov

Joan Ludington - jludington@kauai.gov

Submission of formal evidence in support of Motion to Dismiss

I Cheryl Cowden-Schenck, representing Kauai Kai Diamonds Irrevocable Trust, am submitting the attached documents on this date, **February 6, 2026**, as formal evidence in support of the ***Motion to Dismiss or Mitigate Enforcement Orders*** concerning Contested Case File No. **CC-2026-2**, relating to property located at **3720 Moloa'a Road, Anahola, HI** (TMK: (4) 4-9-012-050).

These materials include:

- A **Hearing Brief** outlining factual background and legal arguments
- A **Motion to Dismiss or Mitigate Enforcement Orders**

These documents are respectfully submitted:

1. In support of the motion to dismiss Orders of Violation Nos. 1 through 10;
2. As part of the **public record**;
3. For review and consideration by the Kaua'i Planning Commission and appropriate county leadership.

We respectfully request that the materials be accepted into the official record for this matter and taken into consideration as part of all relevant deliberations.

Please send verification that you have received this email, its attached documents and have submitted the attachments to the public official record.

Mahalo for your attention to this matter.

Respectfully,

Cheryl Cowden Schenck representing Kauai Kai Diamonds Irrevocable Trust

HEARING BRIEF
Submitted to the Kauai Planning Commission
Subject Property: 3720 Moloaa Road, Anahola, Hawaii
TMK: 4-9-012-005-0000
In Re: Orders of Violation Nos. 1 through 10

WRITTEN TESTIMONY
Submitted to: Kaua'i Planning Commission
Via: planningdepartment@kauai.gov
Subject: Agenda Item – Contested Case File No. CC-2026-2

Name: Cheryl Cowden-Schenck
Position/Title: Representative of Kauai Kai Diamonds Irrevocable Trust
Organization Represented: Kauai Kai Diamonds Irrevocable Trust

Agenda Item for Comment: Clerk of the Commission's Recommendation to Refer Appeals of the Planning Director's First Notice of Violation(s) for the operation of a Commercial Retreat in the Open Zone District, and Eight (8) Notices of Violation & Order to Pay Fines for the reestablishment of a Homestay Operation on the property located outside of a designated Visitor Destination Area, Cheryl Cowden-Schenck on behalf of Kauai Kai Diamonds Irrevocable Trust, Tax Map Key (4)49012005, Kapaa, Kauai, received on October 20, 2025, for referral to Boards & Commission as Contested Case File No. CC-2026-2. [Deferred, 12/9/2025].

Written Comment: I, Cheryl Cowden-Schenck, respectfully submit this written testimony on behalf of the Kauai Kai Diamonds Irrevocable Trust in relation to the above-captioned contested case matter. This testimony concerns:

a. Appeal of Orders of Violation:

- Order 1 (Date referenced in Notice)
- Order 2 (Alleged infraction on December 3, 2024)
- Order 3 (Alleged infraction on September 23, 2025)
- Order 4 (Alleged infraction on September 24, 2025)
- Order 5 (Alleged infraction on September 25, 2025)
- Order 6 (Alleged infraction on September 26, 2025)
- Order 7 (Alleged infraction on September 27, 2025)
- Order 8 (Alleged infraction on September 28, 2025)
- Order 9 (Alleged infraction on September 29, 2025)

- Order 10 (Alleged infraction on September 30, 2025)

b. Request for Continuance of Planning Commission Hearing concerning property located at 3720 Moloaa Road, TMK: 4-9-012-050.

I strongly object to the validity and scope of the violations cited and request that the Commission exercise its discretion to dismiss all associated enforcement actions and fines. I respectfully request that my testimony be entered into the record and considered as part of the Commission's deliberation in this matter.

I. INTRODUCTION

Chair and Members of the Commission:

This brief is presented by Cheryl Cowden-Schenck, representative of the Kauai Kai Diamonds Irrevocable Trust, in response to the Notices of Violation and Orders issued by the Planning Department concerning the subject property. It is respectfully submitted that Orders of Violation Nos. 1 through 10 should be dismissed in their entirety on both legal and equitable grounds, and that all associated fines be rescinded in full.

II. FACTUAL SUMMARY

1. I Cheryl Cowden-Schenck, a seventy-seven year-old Kauai resident, is the former owner of property listed in the Notices of Violation and Orders numbers 1-10, representing the Kauai Diamonds Irrevocable Trust, the legal titleholder of the subject property.

2. During the period in question, I Cheryl Cowden Schenck, was on Oahu attending to my terminally ill husband Mike Schenck, who was undergoing emergency medical treatment for his recent stroke and end-of-life cancer care treatment. Mike passed away during this period.

3. I, Cheryl Cowden Schenck, extended an invitation to a long-time friend, Mana, to stay at the property as a guest during my absence - the dates of violation, and permitted him to have guests join him.

4. Unbeknownst to me, Mana Jampa used his time on the property to invite multiple individuals and conducted what appears to have been an organized, paid gathering. Notably, the promotional website included images of the subject property, which were used without my knowledge or permission.

5. I, Cheryl Cowden Schenck, received no financial benefit or compensation from the gathering and neither advertised, promoted, facilitated, nor approved any event of this nature.

6. I Cheryl Cowden Schenck first learned of the alleged gathering only after being issued Notices of Violation by the County.

III. ARGUMENT

A. Lack of Knowledge or Intent

There is no evidence that I, Cheryl Cowden-Schenck, had knowledge of the paid gathering, let alone intent to facilitate it. My physical absence from the property, during the times outlined in the violation periods, due to a documented medical emergency pertaining to my husband Mike Schenck's transfer to Queens Hospital on Oahu to support his recent stroke and end-of-life cancer care treatment supports this assertion. There is a clear absence of scienter (intent) which is an essential element for enforcement of land use violations.

Additionally, the website used to promote the gathering featured images of Cheryl Cowden-Schenck's property without her knowledge or consent, further evidencing her lack of involvement or endorsement of the activity.

B. No Commercial Benefit or Use by Cheryl Cowden-Schenck

I, Cheryl Cowden Schenck, received no payment, direct or indirect, from the guest Mana Jampa or any of his guests. Mana Jampa acted independently and without my involvement. No evidence ties me to the organization or operation of a commercial enterprise.

C. Medical Hardship and Emergency Circumstances

My ongoing role as caregiver for her terminally ill spouse over the past 3.5 years, combined with my absence from the island during the periods outlined in the violation notices, constitutes a significant mitigating circumstance. These extraordinary personal responsibilities prevented me from overseeing or managing any activities taking place on the property.

IV. CONCLUSION

Given the above facts and legal principles, I Cheryl Cowden-Schenck respectfully request that:

1. The enforcement actions, specifically Orders of Violation Nos. 1 through 10, should be dismissed in their entirety on both legal and equitable grounds;
2. All associated fines be dismissed due to lack of culpability;

3. The Commission issue guidance to clarify permissible and non-permissible uses of residential property by third-party guests.

The facts do not support the conclusion that Cheryl Cowden-Schenck knowingly operated or permitted any commercial land use. The Commission has full authority to grant equitable relief in the face of such circumstances.

Respectfully submitted,
Cheryl Cowden-Schenck
Representative of the Kauai Kai Diamonds Irrevocable Trust

EXHIBIT A – NOTARIZED DECLARATION

I, Cheryl Cowden-Schenck, declare under penalty of perjury:

1. I am representing the Kauai Kai Diamonds Irrevocable Trust.
2. During the relevant dates, I was off-island attending to the emergency care of my husband and his subsequent passing, as well as managing the associated post-mortem legal and administrative matters.
3. I allowed a friend to stay at the property and permitted him to have guests join him, but I had no knowledge or expectation that a paid gathering was being held.
4. I received no compensation, and I took no part in organizing, advertising, or facilitating any retreat.
5. I first learned of the event only after the County issued Violation notices.
6. Images of the subject property were used on a promotional website without my knowledge or consent. I have since notified Mana Jampa to immediately cease and desist from using any images or representations of the property in any promotional, commercial, or public-facing materials.
7. I am committed to full compliance with all County regulations and regret any unintended misuse of the property.

Executed this 3rd day of Feb., 2026.

Signature: Cheryl Cowden-Schenck
Name: Cheryl Cowden-Schenck

STATE OF HAWAI'I
COUNTY OF KAUAI

On this 3rd day of February, 2026, before me personally appeared **Cheryl Cowden-Schenck,** to me known to be the person described in and who executed the foregoing declaration, and acknowledged that she executed the same as her free act and deed.

WITNESS my hand and official seal.

Heidi M. Rodgers

Notary Public, State of Hawai'i

HEIDI M. RODGERS
NOTARY PUBLIC
Comm. No. 22-269
STATE OF HAWAII

My commission expires: 12/4/2026

IN THE MATTER OF THE PLANNING COMMISSION OF THE COUNTY OF KAUAI
BEFORE THE COMMISSION
IN RE:
Enforcement Orders Nos. 1 through 10
Regarding Property Located at:
3720 Moloa'a Road, Anahola, HI 96703
TMK: (4) 4-9-012-050
Contested Case File No. CC-2026-2

MOTION TO DISMISS OR MITIGATE ENFORCEMENT ORDERS

Submitted by: Cheryl Cowden-Schenck, Representative
Kauai Kai Diamonds Irrevocable Trust

I. INTRODUCTION

Comes now Cheryl Cowden-Schenck, as representative of the Kauai Kai Diamonds Irrevocable Trust ("Trust"), and respectfully moves the Planning Commission to dismiss in full actions reflected in Orders of Violation Nos. 1 through 10 issued by the Planning Department. These Orders allege unlawful use of residential property for a commercial retreat and homestay operations outside the designated Visitor Destination Area (VDA). The Trust seeks relief on the basis of (1) Cheryl Cowden-Schenck's absence and lack of knowledge of the alleged event, (2) the absence of financial benefit or commercial intent, (3) medical hardship and exigent personal circumstances.

II. GROUNDS FOR DISMISSAL

A. No Knowledge or Intent to Violate Land Use Ordinances

The violations stem from a gathering held at the property. Cheryl Cowden-Schenck had extended an invitation to a personal friend to stay on the property during her absence, allowing him to host friends. She had no knowledge that a commercial endeavor was planned, organized, or conducted at that time.

Intent, or scienter, is critical to establish culpability under land use enforcement, and Cheryl's absence on Oahu during the periods cited in the Orders, for the terminal care of her husband, confirms the lack of any knowing participation.

B. No Commercial Benefit or Use by Trust Representative

Cheryl Cowden-Schenck received no compensation or other benefit from the alleged gathering. The Trust did not advertise, promote, or endorse any commercial activity. All planning and guest participation occurred without her awareness. Such incidental misuse by a third party does not rise to the level of a knowing land use violation.

C. Extraordinary Medical Hardship and Absence

During the cited violation periods, Cheryl was off-island attending to the medical emergency, hospice care, and eventual death of her husband. Her capacity to monitor

the property was suspended by medical necessity. This is a critical mitigating factor that warrants equitable relief from daily accruing fines.

III. REQUEST FOR RELIEF

In light of the foregoing, the Trust respectfully requests the following:

1. Dismissal of Orders of Violation Nos. 1 through 10 in their entirety;
2. Rescission of all associated fines;
3. Clarification from the Commission as to the permissibility and limitations of temporary guest uses on residential property;

IV. DECLARATION OF CHERYL COWDEN-SCHENCK

I, Cheryl Cowden-Schenck, declare:

1. I am representing the Kauai Kai Diamonds Irrevocable Trust.

2. During the relevant dates, I was off-island attending to the emergency care of my husband and his subsequent passing, and the associated post-mortem legal and administrative matters.

3. I allowed a friend to stay at the property and permitted him to have guests join him, but I had no knowledge or expectation that a paid experience was being held.

4. I received no compensation, and I took no part in organizing, advertising, or facilitating any commercial activity on the property.

5. I first learned of the event only after the County issued enforcement notices.

6. Images of the subject property were used on a promotional website without my knowledge or consent. I have since notified Mana Jampa to immediately cease and desist from using any images or representations of the property in any promotional, commercial, or public-facing materials.

7. I am committed to full compliance with all County regulations.

Executed this 3rd day of Feb, 2026.

Signature: Cheryl Cowden Schenck

Name: Cheryl Cowden-Schenck

STATE OF HAWAI'I
COUNTY OF KAUAI

On this 3rd day of February, 2026, before me personally appeared Cheryl Cowden-Schenck, to me known to be the person described in and who executed the foregoing declaration, and acknowledged that she executed the same as her free act and deed.
WITNESS my hand and official seal.

Notary Public, State of Hawai'i Heidi M. Rodgers

My commission expires: 12/4/2026

HEIDI M. RODGERS
NOTARY PUBLIC
Comm. No. 22-289
STATE OF HAWAII

Kaua`i Habitat for Humanity®

Through shelter, we empower.

January 24, 2026

Planning Commission
County of Kaua'i
c/o Planning Department
4444 Rice Street, Suite A473
Līhu'e, Hawai'i 96766

SUBJECT: Time Extension Request
Special Management Area Use Permit SMA(U)-2021-08
Tax Map Keys: (4) 4-3-009:071 and (4) 4-3-009:51
Waipouli, Kauai
Kauai Habitat for Humanity. Inc., Applicant

Dear Commission Chair Ako and Commissioners,

Kauai Habitat for Humanity, Inc.is submitting this request for an additional extension of Condition No. 13 from the approved Special Management Area (SMA) Use Permit (SMA (U)-2021-08) approved by the County of Kaua'i, Planning Commission effective July 13, 2021 and the extension approved June 27, 2023. We are seeking a five (5) year extension of this condition which would result in a change to the time deadlines for substantial progress, as determined by the Director, regarding the development. If the extension is granted, the necessary building permits will be obtained and substantial progress shall be completed by July 13, 2027.

We have been working diligently on this project and have made significant progress on the following items:

1. Received approval of lot consolidation under Subdivision Map S-2022-11 on August 23, 2022. This lot consolidation facilitates our building layout. We still need to remove lots from the Land Court system to facilitate home ownership of the individual units.
2. The architectural design for the units has been completed. Due to the unique design of the duplex units we have engaged the services of a structural engineer for structural review.
3. The Grading Permit plans have been approved by Public Works.
4. The existing building on the property has been relocated and the foundations removed.
5. The off-site water supply work was completed by July 2023.
6. Site improvements work started but was suspended in January 2025 pending resolution of inadvertent finds treatments with the State Historic Preservation Division (SHPD) of the Hawaii Department of Land and Natural Resources. The issue has been resolved and revised construction plans were issued to the contractor January 16, 2026.

This institution is an equal opportunity provider and employer. We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.

EQUAL HOUSING OPPORTUNITY

P.O. Box 28, 'Ele'ele, HI 96705 | www.kauaihabitat.org | T: 808.335.0296

I.2.
FEB 24 2026

Kaua`i Habitat for Humanity®

Through shelter, we empower.

While we have made significant progress on the items noted above, we are behind on our project schedule due to circumstances detailed below.

On-Site Grading & Infrastructure Work

During the onsite sewer and electrical services work, discovery of inadvertent finds led to the suspension of the construction work. It has taken a year to resolve appropriate treatment with SHPD (in conjunction with lineal descendants) and redesign the site improvements to meet their requirements.

Conclusion

Kauai Habitat for Humanity has been diligently working on this project. As identified above we have made significant progress on many items but experienced significant project delays due to issues outside of our control. Approval of this time extension for substantial progress will allow us adequate time to complete this much needed affordable housing project.

Thank you for considering our request. Should you have any question regarding this request please contact me at 808-977-4247 or via email at administration@kauaihabitat.org.

Sincerely,

Milani Pimental
Executive Director

cc: Ka'aina Hull, Planning Director

This institution is an equal opportunity provider and employer. We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.

EQUAL HOUSING OPPORTUNITY

P.O. Box 28, 'Ele'ele, HI 96705 | www.kauaihabitat.org | T: 808.335.0296

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

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

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission: Consideration of Applicant's request for an extension of a SMA Use Permit SMA(U)-2021-8 for the construction of eight (8) two-story multi-family buildings and a two-story single-family dwelling, consisting of twelve (12) three (3) bedroom units and five (5) 2-bedroom units for a total of seventeen (17) residential units.

Permit Application Nos. Special Management Area Use Permit SMA(U)-2021-8

Name of Applicant(s) KAUA'I HABITAT FOR HUMANITY, INC.

II. PERMIT INFORMATION

PERMITS REQUIRED	
☐ **Use Permit**	
☐ **Project Development Use Permit**	
☐ **Variance Permit**	
☐ **Special Permit**	
☐ **Zoning Permit Class** ☐ IV ☐ III	
☒ **Special Management Area Permit** ☒ Use ☐ Minor	Pursuant to Section 205A of the Hawai'i Revised Statues (HRS) and the Special Management Area Rules and Regulations of the County of Kaua'i, the change in intensity of use of land, including but not limited to the division or subdivision of land; which constitutes "Development." Therefore, a SMA Use Permit is required as defined in Section 7.3 of the SMA Rules.
AMENDMENTS	
☐ **Zoning Amendment**	
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

Date of Receipt of Completed Application: N/A

I.2.a.
FEB 24 2026

Date of Director's Report: N/A

Date of Public Hearing: FEBRUARY 24, 2026

Deadline Date for PC to Take Action (60TH Day): N/A

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	The project site is located off Kūhiō Highway at the intersection Wana Road, situated across the Kaua'i Shopping Village and Kaua'i Choy village.		
Tax Map Key(s):	(4) 4-3-009:051	**Area:**	.8458 Acres

ZONING & DEVELOPMENT STANDARDS	
Zoning:	Residential (R-20)
State Land Use District:	Urban
General Plan Designation:	Neighborhood Center
Height Limit:	No multiple family buildings, hotel or motel, shall be more than ten (10) feet higher than any residential building located within thirty (30) feet of the building, or shall not exceed four (4) stories nor exceed forty (40) feet from finished grade at each point along the building to the highest wall plate line. Gables and roof height shall not exceed one-half (1/2) the wall height or fifteen (15) feet, whichever is less. The limits contained in this Section shall not apply to spaces containing mechanical equipment, such as elevator machinery and air conditioning units, but the spaces shall not exceed fifteen (15) feet above the highest wall plate line.
Max. Land Coverage:	90 %
Front Setback:	10'-0"
Rear Setback:	5' or ½ the wall plate height whichever is greater
Side Setback:	5' or ½ the wall plate height whichever is greater
Community Plan Area:	Kapa'a- Wailua Development Plan
Community Plan Land Use Designation:	N/A
Deviations or Variances Requested:	N/A

IV. LEGAL REQUIREMENTS

Section 8.3.1(f), KCC:	N/A
Commission Meeting Date:	February 24, 2026

V. PROJECT DESCRIPTION AND USE

The proposed development is an affordable housing project consisting of twelve (12) three-bedroom units and five (5) two-bedroom units, for a total of seventeen (17) residential units. As represented in the original permit submittal for the July 13, 2021 Planning Commission hearing, the project involved two (2) adjacent parcels identified as Tax Map Key (TMK) Numbers (4) 4-3-009:071 and 051. There was an existing single-family residence on parcel 071 that has since been relocated pursuant to Zoning Permit No. Z-431-2022.

The applicant also submitted a lot consolidation application under Subdivision Permit No. S-2022-11. The subdivision application received final approval by the Planning Commission on August 23, 2022. The subdivision has since been recorded and is officially recognized as TMK (4) 4-3-009:051, consisting of approximately 0.8458 acres (36,851 square feet).

The subject SMA Use Permit was approved by the Planning Commission on July 13, 2021. A condition of approval required the applicant to adhere to project timelines following permit issuance. As originally approved, Condition No. 13 reads as follows:

> "13. Unless otherwise stated in the permit, once permit is issued, the Applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect."

On June 27, 2023, a time extension request was filed and approved by the Planning Commission, revising **Condition No. 13** to read as follows:

> "13. Unless otherwise stated in the permit, the Applicant must make substantial progress, as determined by the Director, regarding the development or activity by July 13, 2026 or the permit shall be deemed to have lapsed and be no longer in effect."

The applicant is now requesting an additional five (5) year extension and revision of Condition No. 13, which is evaluated below.

VI. APPLICANT'S REASONS/JUSTIFICATION

Kaua'i Habitat for Humanity, Inc., has submitted a request for an additional time extension of Condition No. 13 under SMA Use Permit SMA(U)-2021-08. This condition sets the timeframe within which the applicant must demonstrate substantial progress on the permitted development. The original SMA permit became effective on July 13, 2021, with a prior extension approved on June 27, 2023.

The applicant cites unanticipated project delays beyond their control, primarily related to the discovery of inadvertent archaeological finds during on-site grading and infrastructure work. Construction activities were suspended in January 2025 to allow for consultation and resolution with the State Historic Preservation Division (SHPD) and lineal descendants. This process, including required redesign of site improvements, took approximately one year. SHPD issues have since been resolved, and revised construction plans were issued to the contractor on January 16, 2026.

Despite these delays, the applicant demonstrates ongoing progress of the proposed project, including completion of lot consolidation approval, architectural design, grading permit approval, off-site water improvements, and removal of existing structures. The applicant asserts that approval of the extension is necessary to allow sufficient time to obtain building permits and substantially commence construction of this affordable housing development.

VII. PRELMINARY EVALUATION

The Department notes that during the June 27, 2023 approval of the prior time extension, the Planning Commission acknowledged that a longer extension period may be necessary to avoid repeated future extension requests. At that time, the Department recommended consideration of a five-year time extension in its report to provide an appropriate and realistic timeframe for the proposed project.

The requested time extension would not modify the approved scope, density, or intensity of the project and would not result in any new or additional environmental or coastal impacts beyond those previously evaluated and approved under SMA Use Permit SMA(U)-2021-08.

VIII. PRELIMINARY RECOMMENDATION

It is recommended that the Commission approve the extension to allow the completion of the project and that the applicant be subject to all applicable requirements. Furthermore, Condition No. 13 shall be amended to read as follows:

"13. Unless otherwise stated in the permit, the Applicant must make substantial progress, as determined by the Director, regarding the development or activity by [July 13, 2026] **July 13, 2031** or the permit shall be deemed to have lapsed and be no longer in effect."

The applicant is advised that all applicable conditions of approval shall remain in effect (see Exhibit "A" for a copy of the original conditions of approval letter dated July 13, 2021).

*NOTE: Material to be deleted in brackets & strikethrough, and new material is underlined.

By _____
ROMIO IDICA
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 2/18/2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

MEMORANDUM

To: Honorable Commissioners
Kauai Planning Commission

Fr: Kaaina S. Hull
Clerk of the Commission

Date: December 23, 2025

RE: Clerk of the Commission's Recommendation to Refer an Appeal of the Planning Director's Decision Related to the Planning Director's Cease and Desist and Forfeiture of TVRNCU #4219 and Special Permit SP-2011-13 (The Sugar House) for the Failure to timely renew by November 25, 2025, ***We Belong LLC***, 3525 Anini Road, TMK 53004029, Kauai, appeal received on December 19, 2025, for referral to Board and Commissions as Contested Case File No. ***CC-2026-6.***

Please refer this appeal filed as ***CC-2026-6*** to Boards & Commissions to conduct the required analysis and contested case hearing, as necessary.

Services should include but not be limited to: procure the services of a hearings officer, conduct the hearing, consolidate appeals where necessary, dispose of all pre-hearing motions, receive and record all evidence including subpoenaing any witness, and render a recommended filings of fact, conclusions of law, decision and order for the Planning Commission's Action.

cc: Holly Lazo
We Belong LLC

I.2.

FEB 24 2026

Holly Lazo

Kaua'i Island Vacations, INC

4677 Kahiliholo Road

Kilauea, HI 96754

holly@HollyLazo.com

808-346-3901

December 18, 2025

Department of Planning

County of Kaua'i

4444 Rice Street, Suite 473

Lihu'e, HI 96766

RE: Appeal of TVR-NCU Renewal Cancellation

Property Address: 3525 Anini Road, Kilauea, HI 96754

TMK: 4-5-3-4-29

TVR-NCU # 4219

Dear Planning Department Staff,

I am writing to respectfully appeal the cancellation of the above-referenced TVR-NCU due to a missed renewal deadline.

I want to clearly acknowledge that the missed deadline was my error. I take full responsibility for the administrative oversight and am not appealing to assign fault to any other party. I understand the importance of renewal deadlines and the County's responsibility to administer them consistently.

I.3.a.

FEB 24 2026

I have been renewing TVR-NCU licenses on Kaua'i since 2008 and have completed approximately 240 renewals during that time. Prior to this instance, I have never missed a renewal deadline and have consistently submitted renewals well in advance. This lapse was an unintentional administrative oversight and does not reflect a pattern or disregard for the County's regulations.

Once the oversight was brought to my attention by Planning staff, I immediately prepared a complete renewal packet. Due to the missed deadline, the Department did not accept the submission. I fully understand the Department's position and take responsibility for not identifying the lapse sooner.

There was no change in use of the property, no increase in occupancy, and no impact to the surrounding neighborhood during this brief period. This appeal concerns a timing issue only, not the completeness of the renewal materials or compliance with the conditions of the TVR-NCU.

I would also like to note that I am submitting this appeal on behalf of a local, on-island property owner. The home is occupied by a local resident for most of the year, with vacation rental use limited to the period necessary to maintain the existing TVR-NCU. The owners reside just down the road on Kaua'i, pay all applicable vacation rental taxes, and the income associated with the property remains within the local community.

I fully respect the Planning Department's role in protecting neighborhood character and the public interest. I am respectfully requesting that the Department consider whether permanent cancellation of a long-standing TVR-NCU is a proportionate outcome in this specific case, given the brief administrative lapse, the absence of public harm, and my long history of consistent and conscientious compliance.

Thank you for your time and consideration.

Sincerely,

Holly Lazo

KAAINA S. HULL
Director of Planning
County of Kaua'i
4444 Rice Street Suite A473
Līhu'e, Hawai'i 96766
khull@kauai.gov
808-241-4050

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF KAUA'I

STATE OF HAWAI'I

In the matter of: Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, Tax Map Key (4) 5-5-002: 18, Hanalei, Kauai. Kimberly Bayless, permittee	Tax Map Key (TMK): (4) 5-5-002: 018 PLANNING DIRECTOR KAAINA S. HULL'S PETITION TO REVOKE APPLICANT KIMBERLY BAYLESS NON-CONFORMING USE CERTIFICATE TVNCU #1108 AND ISSUE AN ORDER TO SHOW CAUSE AND SET HEARING; MEMORANDUM IN SUPPORT OF PETITION; DECLARATION OF KAAINA S. HULL; NOTICE OF MEETING; CERTIFICATE OF SERVICE MEETING: **Tuesday, February 24, 2026** at 9:00 a.m.

PLANNING DIRECTOR KAAINA S. HULL'S PETITION TO REVOKE APPLICANT KIMBERLY BAYLESS NON-CONFORMING USE CERTIFICATE TVNCU #1108 AND ISSUE AN ORDER
TO SHOW CAUSE AND SET HEARING

Comes now Kaaina S. Hull, duly appointed Director of Planning of the County of Kaua'i (hereinafter referred to as "Director"), and hereby petitions this Honorable Commission to revoke the existing non-conforming short term vacation rental certificate

I.4.

FEB 24 2026

issued to Kimberly Bayless ("Applicant"): non-conforming Use Certificate TVNCU #1108, approved on 3/27/09 to the McLaughlin/Bayless Family. The Director requests the Commission issue an Order to Show Cause to Applicant Kimberly Bayless and set a hearing with the Commission on **Tuesday, February 24, 2026** at 9:00 a.m at the Līhu'e Civic Center, Pi'ikoi Meeting Room, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i. This petition is filed pursuant to Chapter 12 of the Rules of Practice and Procedure of the Kaua'i County Planning Commission.

DATED: Līhu'e, Hawai'i, January 16, 2026.

Jodi Higuchi Sayegusa (Jan 16, 2026 12:36:48 HST)

KAAINA S. HULL
Director of Planning
County of Kaua'i

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF KAUA'I

STATE OF HAWAI'I

In the matter of: Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, Tax Map Key (4) 5-5-002: 18, Hanalei, Kauai. Kimberly Bayless, permittee	Tax Map Key (TMK): (4) 5-5-002: 18 MEMORANDUM IN SUPPORT OF PETITION

MEMORANDUM IN SUPPORT OF PETITION

WHEREAS, the short term vacation rental use was registered with the Planning Department of the County of Kaua'i's "TVR Registration and NCU Form" on 9/30/08, and approved on 3/27/09, for an existing 2 bedroom, 1 bath cottage located at 5142 Weke Road, Hanalei, Kaua', Tax Map Key ("TMK") Number (4) 5-5-002:18 ("Subject Property") and issued non-conforming Use Certificate TVNCU # 1108. Applicant has renewed non-conforming Use Certificate TVNCU #1108 timely on an annual basis pursuant to Kaua'i County Code ("KCC") § 8-17.10(h) since then.

WHEREAS, individual and separate website advertising for the Subject Property now reflects 2 individual short term vacation rental units located on the Subject Property, one for the approved 2-bedroom, 1-bath cottage with TVNCU Certificate # 1108, and one for an unapproved 5-bedroom, 4- bath single family residence..

WHEREAS, the website platforms are "House of Dreams" and "Hawaiian Beach Rentals".

WHEREAS, the Department has confirmed the website advertising for the

unapproved 5-bedroom, 4-bath single family residence as a short term vacation rental , future commitments for the unapproved 5-bedroom, 4-bath single family residence based on the applicant's calendar as a short term vacation rental , and previous use of the unapproved 5-bedroom, 4-bath single family residence as a short term vacation rental based on comments from users of this residence. Pursuant to KCC § 8-17.11(b), "Advertising of any sort which offers a property as a transient vacation rental shall constitute prima facie evidence of the operation of a transient vacation rental on said property."

WHEREAS, the Director, based on the foregoing, has determined that there is reasonable cause to believe the existence of a second unapproved 5-bedroom, 4-bath single family residence short term vacation rental unit being advertised and operated on the Subject Property in conjunction with the legal existing 2-bedroom, 1 bath-cottage with approved TVRNCU Certificate #1108 .

NOW THEREFORE, the Director prays upon this Honorable Commission that it take the following actions:

1. Pursuant to the Planning Commission Rules of Practice and Procedure Section 1-12-5 confirm the finding of the Director there is reasonable cause to believe that the Applicant has not met its obligation to satisfy conditions of approval agreed upon for TVRNCU Certificate # 1108 in 2009.
2. Pursuant to Section 1-12-6 of the Rules of Practice and Procedures of this Commission, order the issuance of an Order to Show Cause in a form compliant with Section 1-12-6(b).

3. Order the Clerk of the Commission to issue the Order to Show Cause to Kimberly Bayless for the operation of an illegal vacation rental unit in conjunction with a legal TVNCU certificate.
4. Set the hearing with the Commission on **Tuesday, February 24, 2026** at 9:00 a.m at the Lihue Civic Center, Pi'ikoi Meeting Room, 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i.

Dated: Līhu'e, Hawai'i, January 16, 2026.

Jodi Higuchi Sayegusa (Jan 16, 2026 12:36:48 HST)

KAAINA S. HULL

Director of Planning
County of Kaua'i

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF KAUA'I

STATE OF HAWAI'I

In the matter of: Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, Tax Map Key (4) 5-5-002: 18, Hanalei, Kauai. Kimberly Bayless, permittee	Tax Map Key (TMK): (4) 5-5-002: 18 DECLARATION OF KAAINA S. HULL

DECLARATION OF KAAINA S. HULL

I, KAAINA S. HULL, under the penalty of perjury, hereby state the following is true and accurate to the best of my knowledge and belief:

1. I am the duly appointed Director of Planning for the County of Kaua'i.
2. Attached as Exhibit "A", is a true and correct copy of the Planning Department of the County of Kauai memo dated March 27, 2009.
3. Attached as Exhibit "B" is a copy of website advertising dated 7/29/2025 for the unapproved and illegal short term vacation rental 5-bedroom, 4-bath single family residence on the Subject Property.

Declarant further sayeth naught.

DATED: Līhu'e, Hawai'i, January 16, 2026.

Jodi Higuchi Sayegusa (Jan 16, 2026 12:36:48 HST)

KAAINA S. HULL

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF KAUAI

STATE OF HAWAI'I

In the matter of:	Tax Map Key (TMK) 5-5-002-018
Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, Tax Map Key (4) 5-5-002: 18, Hanalei, Kauai. Kimberly Bayless, permittee	

NOTICE OF MEETING

TO: Kimberly Bayless
PO Box 673
Hanalei, HI 96714

NOTICE IS HEREBY GIVEN that a meeting on PLANNING DIRECTOR KAAINA S. HULL'S PETITION TO REVOKE APPLICANT KIMBERLY BAYLESS NON-CONFORMING USE CERTICATE TVNCU #1108 FOR SHORT TERM VACATION RENTAL USE, ISSUE ORDER TO SHOW CAUSE, APPOINT HEARINGS OFFICER, AND SET HEARING will come before the Planning Commission on **Tuesday, February 24, 2026** at 9:00 a.m. Lihu'e Civic Center, Planning Commission Meeting Room, 4444 Rice Street, Lihu'e, Kaua'i, Hawai'i.

DATED: Līhu'e, Hawai'i, January 16, 2026.

Jodi Higuchi Sayegusa (Jan 16, 2026 12:36:48 HST)

KAAINA S. HULL

BEFORE THE PLANNING COMMISSIO OF THE COUNTY OF KAUAI

STATE OF HAWAI'I

In the matter of: Non-Conforming Use Certificate TVNCU #1108 (Hanalei Ohana), 5142 Weke Road, Tax Map Key (TMK): (4) 5-5-002: 18, Hanalei Kauai Kimberly Bayless, permittee	Tax Map Key (TMK): (4) 5-5-002: 18 CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing document was duly served on the following party by placing the same in the Certified United States mail with return receipt, postage prepaid, on the date specified below:

Kimberly Bayless
PO Box 673
Hanalei, HI 96714

I HEREBY CERTIFY that a copy of the foregoing document was also emailed on the following party, to: ***hanaleikim@gmail.com***

DATED: Līhu'e, Hawai'i, January 16, 2026.

Jodi Higuchi Sayegusa (Jan 16, 2026 12:36:48 HST)

KAAINA S. HULL

BERNARD P. CARVALHO JR.
MAYOR

GARY K. HEU
ADMINISTRATIVE ASSISTANT

COUNTY OF KAUA'I
PLANNING DEPARTMENT
4444 RICE STREET
KAPULE BUILDING, SUITE A473
LIHU'E, KAUA'I, HAWAI'I 96766-1326
TELEPHONE: (808) 241-6677 FAX: (808) 241-6699

IAN K. COSTA
DIRECTOR OF PLANNING

IMAIKALANI P. AIU
DEPUTY DIRECTOR OF PLANNING

COPY

550020180000
TVNC-1108-

TO: All Approved Non-Conforming use Certificate Holders
SUBJECT: Standards governing TVR usage

Your Non-Conforming Use Certificate application has been approved. The included copy of your application with the type of TVR usage you are approved initialed and dated will serve as your certificate.

The property and operation is subject to the applicable provisions of Section 8-17 of the Kaua'i County Code, in particular those provisions adopted by Ordinance 864. Any violations of these sections will be considered grounds to revoke the certificate.

Please note that to keep your Non-Conforming Use certificate valid you must apply for renewal every year, including 2009, by July 31st and that in accordance with Ordinance 876 the Planning Commission will, by July 31st, promulgate rules to allow members of the public to contest the re-issuance of any nonconforming use permit based on complaints related to the loss of quiet enjoyment or transgressions of visitor industry standard 'rules of occupancy,' as well as non-compliance with all State and County land use or planning laws.

Further info and an application for renewal can be found www.kauai.gov

Ian K. Costa
Planning Director

cc: Finance Department, Real Property Division

TVR REGISTRATION AND NCU FORM

COUNTY OF KAUAI
FINANCE DEPARTMENT
REAL PROPERTY DIVISION 808-241-6222
PLANNING DEPARTMENT 808-241-6677

For Government Use Only
Registration # TVNC-1108
Date Received 9/30/08 By KH
Date Approved 5/27/09 By [illegible]
Plans By _____
Fee $ _____ Date _____

APPLICANT McLaughlin/Bayles Family
ADDRESS PO Box 673
Hanalei HI 96714
PHONE NO. 808-826-6934

APPLICANT IS: (check one)
X Owner of Property
___ Lessee of Property - Number of Years Leased ___ From ___ to ___
X Authorized Agent - Attach Letter of Authorization.
___ Proprietor of TVR operation

NOTE: *Lessee must have an unexpired and recorded lease of five (5) years or more from date of filing this application.

Sign: _____

Print: _____

Property Info

Tax Map Key 5-5-002-018 Lot. No. MAP 1-LC APP 1843 # of Buildings on CPR or Lot 2
Zoning - SLUD _____ General Plan O County Kauai

Establishment Info

Establishment name and Address Hanalei Ohana Bldg #2
5142 Weke Rd, Hanalei HI 96714
Description of Operation (no. of rooms, no. of units etc.) 2 BD/1 BR

G.E. License # W301277728-01 TAT License # W301277728-01
24 Hour Contact Info 808-826-6934 Susan McLaughlin or 212-4448 826-4260
Date TVR Use Started 1-1-87
X Copy of For the Safety and Comfort of You and Your Neighbors
Attachments provided (G.E.License, TAT License, Units in TVR Use etc.)
GET
TAT
Plans-Plot/Floor/Elevations

COUNTY OF KAUAI PLANNING DEPARTMENT
Inspections

To be initialed by Planning Dept. Staff
___ The subject property has no violations
___ The subject property was inspected on 3/24/09
___ The property has the following violations _____

To be initialed by Planning Dept. Staff
___ The subject property does not qualify for single family vacation rental uses.

The subject operation (check which applies):

✓ A Single Family Vacation Rental outside the VDA

In addition to General Info, Provide the following:

X Signed and Stamped As Built plot, floor, elevation and section drawings by a licensed architect or engineer showing the property as it exists today and showing registration and contact sign location.

X Verification of operation prior to March 7th, 2008

To be initialed by Planning Dept. Staff

JC Applicant meets definition criteria per CZO

JC The subject property is not within the Visitor Destination Area but qualifies for and is issued a Non-Conforming Use Certificate on 3/27/09 and has recorded and agreement of the NCU the conditions of the certificate on their deed dated_____

_____

A Single Family Transient Vacation Rental operating on a property or dwelling on the State or National Historic Register

Provide the following:

_____ Use permit approved by the Planning Commission or Director as applicable

To be initialed by Planning Dept. Staff

___ The subject property qualifies for the historic exemption and has a use permit for the operation

___ A Single Family Vacation Rental in the VDA

In addition to General Info, Provide the following:

___ Signed and Stamped As Built plot, floor, elevation and section drawings by a licensed architect or engineer showing the property as it exists today and showing registration and contact sign location.

To be initialed by Planning Dept. Staff

___ The subject property is within the Visitor Destination Area and so is allowed to operate transient vacation rentals in conformance with the standards of Section 8-17.8 of the Kaua'i County Code and the underlying zoning.

___ A lawful Multi-Family vacation rental

Provide the following:

G.E. License (s) #

_____

TAT License (s) #

_____

24 Hour Contact Info

___ Plans showing registration and contact sign location.

To be initialed by Planning Dept. Staff

___ The subject property is a lawful multi-family TVR and so is allowed to operate transient vacation rentals in conformance with the standards of Section 8-17.8 of the Kaua'i County Code and the underlying zoning.

___ A single family vacation rental in the SLUD Ag district

In addition to General Info, Provide the following:

___ Signed and Stamped As Built plot, floor, elevation and section drawings by a licensed architect or engineer showing the property as it exists today and showing registration and contact sign location.

_____ Verification of operation prior to March 7th, 2008

_____ Verification structure built prior to June 4, 1976 or

_____ Special Use permit issued prior to March 7, 2008

To be initialed by Planning Dept. Staff

___ The subject property is within the State Land Use Ag district and has a Non-Conforming Use Certificate issued on _____ and has recorded and agreement of the NCU the conditions of the certificate on their deed dated_____

_____

Signature BWatts for SMcLaughlin Date 8-1-08

Owner/Applicant

5/7/03

Letter of Authorized Agent

To all Governmental Agencies, Including the County of Kauai Tax Assessment Office and the Planning Department.

Property Owner-Mailing Address/Phone Contact

McLaughlin Family
PO Box 673
Hanalei HI 96714
808-826-6934

TVR Property Address-

Hanalei Ohana
5142 Weke Rd
Hanalei HI 96714

General Excise Tax #W30127728-01
Transient Accomodation Tax # W30127728-01

24 Hour Kauai Resident Name/Phone Contact # Susan McLaughlin
808 826-6934

This letter Authorizes Barbara Watts to act as our Authorized Agent in the Matter of Application for a Transient Vacation Rental Permit-Conforming and Non-Conforming.

Signature/Date Susan M. McLaughlin 8-1-08

July 1, 2008
P. O. Box 673
Hanalei, HI 96714

County of Kauai

To Whom It May Concern:

Susan M. McLaughlin is our Mother and we, Kimberly Bayless and Jennifer McLaughlin, owners of the property at 5142 Weke Rd., Hanalei, HI, have given Susan permission to rent the cottage and accrue the proceeds. She is soley responsible for all rentals.

Jennifer K. McLaughlin 7-2-08
Jennifer K. McLaughlin

Kimberly Bayless 7-7/08
Kimberly Bayless

Susan M. McLaughlin 7-1-08
Susan M. McLaughlin

Tax Licenses

State of Hawaii
Department of Taxation

Search Details

Taxpayer Name:	**LAUGHLIN S. MC**
DBA Name:	
Taxpayer ID:	W30127728-01
Former Taxpayer ID:	40032109
Business Location:	
Tax Type:	General Excise and Use
Tax Status:	Open
Business Began:	07/01/1984
<-Back New Search->	

Last Updated on 09/10/2008

Copyright 2000 State of Hawaii, Department of Taxation

Hawaii State homepage || Department of Taxation

Tax Licenses

State of Hawaii
Department of Taxation

Search Details

Taxpayer Name:	**LAUGHLIN S. MC**
DBA Name:	
Taxpayer ID:	W30127728-01
Former Taxpayer ID:	40032109
Business Location:	
Tax Type:	Transient Accommodations
Tax Status:	Open
Business Began:	01/01/1987
<-Back New Search->	

Last Updated on 09/10/2008

Copyright 2000 State of Hawaii, Department of Taxation

Hawaii State homepage || Department of Taxation

Start Date: 1/1/1987

STATE OF HAWAII
DEPARTMENT OF TAXATION

FORM TA-4A
(REV. 2004)

This Certificate is permanent evidence of your registration under the provisions of Hawaii's Transient Accommodations Tax Law, Chapter 237D, HRS, and must be conspicuously displayed at each place where the transient accommodations is located or a notice may be posted in each room, apartment, suite or the like, informing the reader of the location where this certificate may be inspected and examined. A copy of your registration application and any amendments thereto should be attached to this Certificate.

HAWAII TAX I.D. NO. W30127728-01

TRANSIENT ACCOMMODATIONS TAX
CERTIFICATE OF REGISTRATION

THIS CERTIFICATE OF REGISTRATION IS NOT TRANSFERABLE

LAUGHLIN S. MC
PO BOX 673
HANALEI HI 96714-0673

Kurt Kawafuchi, DIRECTOR OF TAXATION

Business Start Date: 7/1/1984

STATE OF HAWAII
DEPARTMENT OF TAXATION

FORM G-44A
(REV. 2001)

LICENSE ISSUED FOR THE PRIVILEGE OF ENGAGING IN BUSINESS AND OTHER ACTIVITIES UPON THE CONDITION THAT THE LICENSEE SHALL PAY THE TAXES ACCRUING TO THE STATE OF HAWAII UNDER THE PROVISIONS OF CHAPTER 237, HRS, AS AMENDED. LICENSEE'S ACTIVITIES ARE LISTED ON THE APPLICATION ON FILE WITH THE DIRECTOR OF TAXATION.

GENERAL EXCISE TAX LICENSE

HAWAII TAX ID NUMBER: W30127728-01

THIS LICENSE IS NOT TRANSFERABLE.
TO BE DISPLAYED CONSPICUOUSLY AT THE PLACE OF BUSINESS FOR WHICH ISSUED.

LAUGHLIN S. MC
PO BOX 673
HANALEI HI 96714-0673

Kurt Kawafuchi, DIRECTOR OF TAXATION

FOR THE SAFETY AND COMFORT OF YOU AND YOUR NEIGHBORS

Aloha and Welcome to the Beautiful Garden Island of Kaua'i

Although we may have posted similar information elsewhere in your accommodation, some information bears repeating. You are staying in a residential neighborhood. We want your visit to be safe and enjoyable for both you and your neighbors.

1. Be good neighbors:
   a. Keep noise to a minimum, especially before 8:00 am and after 9:00 pm. Chances are your neighbors have to get up and go to work the next day, so please be considerate.
   b. Turn off outdoor lights at night whenever possible. We enjoy our dark nights when the stars are bright and beautiful. And, of equal importance, some of our wildlife can become disoriented at night if lights are too bright.
   c. We have a non-smoking ordinance in Hawaii. There is no smoking within 20 feet of all public buildings. Some of our homes and condominiums also have a smoking ban. Please check your house rules.
   d. Whenever possible, please recycle. Many of our rental accommodations include recycling containers. If none are available, all of our transfer stations offer recycling. As in other communities, our landfill is stressed to the limit. Anything you can do to help will be appreciated for generations to come.

2. Beach Safety: Be mindful of the surf. Our shorelines face thousands of miles of open ocean. Northern winter storms and southern summer storms can bring us extremely dangerous surf conditions. NEVER turn your back on the ocean – summer or winter. Rogue waves can appear even in calm surf conditions. You can check ocean conditions at www.KauaiExplorer.com/ocean_report. There are lifeguards at Haena Beach Park, Hanalei Pavilion, Lydgate, Poipu Beach Park, Salt Pond and Kekaha.

3. 9-1-1: In case of fire or medical emergency, call 9-1-1. The address and phone number of your accommodation has been posted on the inside of the front door, along with the Non-Conforming Use Certificate or vacation rental Registration Number. For non-emergency assistance, please call 241-1711. This will connect you to Police Dispatch. The phone number for Wilcox Hospital in Lihue is 245-1100.

4. Weather: We do experience flash flooding during periods of heavy rain. If you must drive during this kind of weather, drive with extreme caution. Flash floods can cause the road out of Hanalei to close for undetermined periods of time. For up-to-date Traffic and Weather information, please call 241-1725.

5. Disaster Emergencies: On the first work day of each month at 11:45 am, our Civil Defense sirens are tested. However, if you hear these sirens at any other time, please tune to AM radio station KQNG ("KONG") at AM 570 for up-to-the-minute reports and directions. You can also check the front of the Kaua'i phone book for emergency, disaster, evacuation and shelter information.

6. Security: Be cautious with your personal belongings. It's always best to lock up your valuables. Lock your doors and windows when you leave the property.

7. Island driving etiquette:
   a. Please honor the posted speed limits. Frequently check your rear view mirror. If there are more than 4 or 5 cars stacking up behind you, pull completely off to the side of the road and let them pass you. This can also be helpful when driving at night as our dark roads can be confusing. The cars following you likely know where they are going and can help light the way for you.
   b. If you are lost, remember that this is a small island and you can't get really lost. Keep driving until you find a safe place to pull over and turn around. If you can head downhill, you'll get to the ocean within a few miles. Never make a U-turn on the highway.
   b. When navigating the one-lane bridges, cross the bridges caravan style. It's usually appropriate for 5 or 6 cars to cross at a time. A simple rule of thumb is: drain the lane; if you arrive late – wait.
   c. When parking at the beaches, parks or even within the property you've rented, be sure to park fully off the street, in assigned or clearly marked parking spaces.
   e. If you want to stop and enjoy the scenery, please pull completely off to the side of the road.

Most of all, enjoy your visit to our beautiful island!

March 12, 2009

County of Kauai
Planning Department

re: Transient Vacation Rental Affidavit
for TVNC 1108
for 5-5-002-018

Dear Planners,

Attached is a notarized copy of the Transient Vacaation Rental Affidavit signed by Susan M. McLaughlin and Jennifer K. McLaughlin. Kimberly Bayless is traveling out of the country and will not return until 5-15-09. At that time she will submit a copy of this affidavit for 5-5-002-018 with her notarized signature.

Susan M. McLaughlin
808-826-6934
Susan M. McLaughlin

County of Kaua'i
Planning Department

NCU # 1108
Operation Name Hanalei Ohana

TRANSIENT VACATION RENTAL AFFIDAVIT OF

_____

STATE OF California)
) ss.
COUNTY OF San Diego)

I, Jennifer K. McLaughlin being first sworn upon oath, deposes and says:

1. My name is, Jennifer K. McLaughlin and I make this affidavit based on my personal knowledge.

2. I am the owner of the property identified as TMK: 5-5-002-018 with a mailing address of P.O. Box 673, Hanalei HI 96714

3. I have operated a transient vacation rental(s) on the property since 7-1-84 under the business name of Hanalei Ohana.

4. My State of Hawai'i General Excise Tax license number is W 30127728-01 and I have paid General Excise and Transient Accommodation Taxes in accordance with State Law during the period(s) the Transient Vacation Rental was in operation.

5. Building permit number(s) ~~N/A~~ See attached copy of building permits & dates were approved on _____ for all structures on the property and there were no expansions, alterations, improvements, or uses contrary to State and County land use and planning laws.

6. There ____ were not were not any legal expansions or improvements made on the property after March 7th 2008. Improvements and expansions took place under the following permits_____

Integrated Assessment System

Cama Asmt Admin Collection Record Query Special Help

GoTo CA 21

ISLEPROD29 4 PARCEL ID: 5-5-002-018-0000

ALTERNATE ID: T000039248

UPDATED: CLT on 03/13/2003 10:51 am

Multiple Record View Single Record View Neighborhood: 5514-1

Permit Date	Permit Number	Amount	Purpose	Status	Date Completed	% Complete
[illegible]	0000000892	1,112,600.00	DW	C	09-05-2002	
08072000	0000000893	26,700.00	DM	C		
10141981	0016821	202,000.00	DW	C		
10141981	0016822	47,000.00	GA	C		

Date format is : MMDDYY for entry, MM/DD/YYYY for display.

Record: 1/4 <OSC> <DBG>

County of Kaua'i
Planning Department

NCU# 1108
Operation Name Hanalei Ohana

FURTHER AFFIANT SAYETH NAUGHT.

Jennifer McLaughlin
Name: Jennifer McLaughlin

WITNESS my hand and official seal.

Erica Starr 3/18/09
Notary Public, State of ~~Hawai'i~~ Calif Date

My commission expires:

Doc. Date: none # Pages 2

Notary Name: Erica Starr ____ Circuit

Doc. Description: Transient vacation Rental Affidavit

State of California
County of San Diego } ss.

Subscribed and sworn to before me on this 18 day of March, 2009, by Jennifer McLaughlin proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Erica Starr
Notary Public

OFFICIAL SEAL
ERICA STARR
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1790203
SAN DIEGO COUNTY
MY COMM. EXP. FEB. 27, 2012

County of Kaua'i
Planning Department

NCU # 1108
Operation Name Hanalei Ohana

TRANSIENT VACATION RENTAL AFFIDAVIT OF

_____

STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

I, Susan M. McLaughlin., being first sworn upon oath, deposes and says:

1. My name is, Susan M. McLaughlin and I make this affidavit based on my personal knowledge.

2. I am the owner of the property identified as TMK: 5-5-002-018 with a mailing address of P.O. Box 673, Hanalei HI 96714

3. I have operated a transient vacation rental(s) on the property since 7-1-84 under the business name of Hanalei Ohana.

4. My State of Hawai'i General Excise Tax license number is W 301 27728-01 and I have paid General Excise and Transient Accommodation Taxes in accordance with State Law during the period(s) the Transient Vacation Rental was in operation.

5. Building permit number(s) See attached copy of building permits & dates. were approved on _____ for all structures on the property and there were no expansions, alterations, improvements, or uses contrary to State and County land use and planning laws.

6. There ____ were not were not any legal expansions or improvements made on the property after March 7th 2008. Improvements and expansions took place under the following permits_____

County of Kaua'i
Planning Department

NCU # 1108
Operation Name Hanalei Ohana

FURTHER AFFIANT SAYETH NAUGHT.

Name: Susan M. McLaughlin

WITNESS my hand and official seal.

Notary Public, State of Hawai'i

Date 3/12/9

My commission expires: GEOFFREY CULVERHOUSE
Notary Public, State of Hawaii
Commission expires 01/31/2011

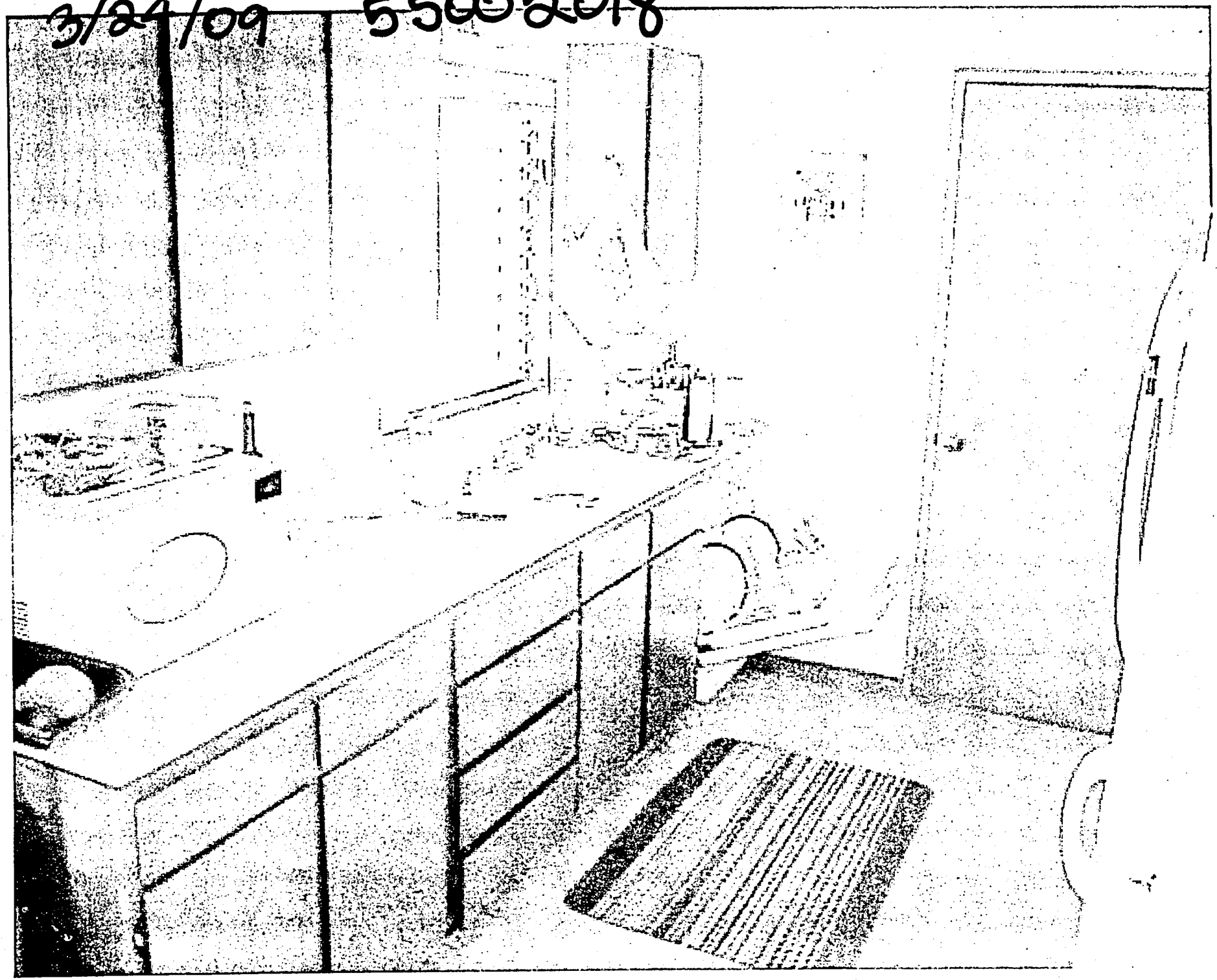
GEOFFREY CULVERHOUSE NOTARY Commission No 93-32 PUBLIC STATE OF HAWAII

Doc. Date: 3/12/09 # Pages 2

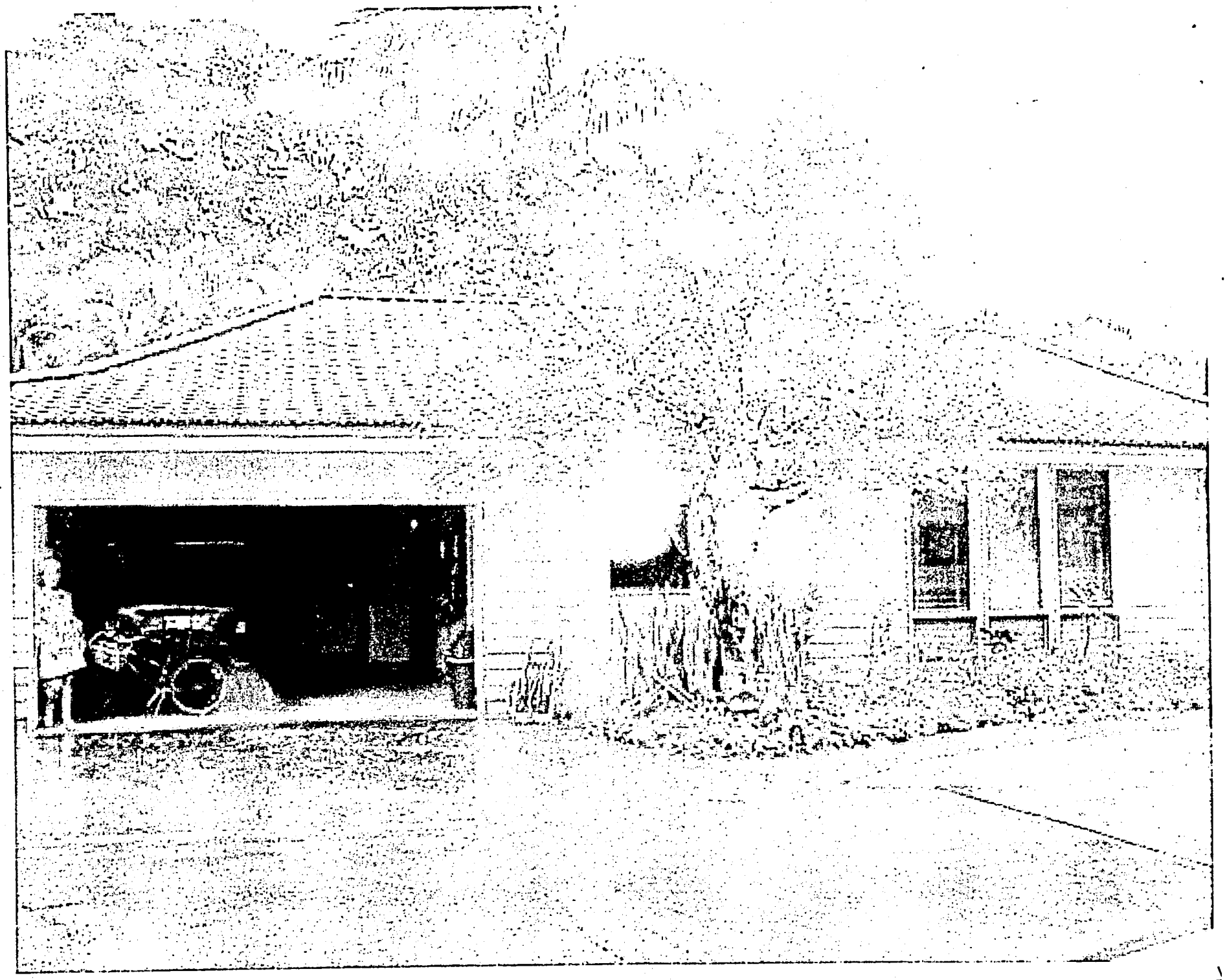
Notary Name: Geoffrey Culverhouse 5th Circuit

Doc. Description: Transient Vacation Rental Affidavit.

3/24/09 55002018



5142



Beachfront Estate Hanalei Bay

Kauai House of Dreams

Beachfront Estate Hanalei Bay | House Of Dreams Kauai

Clipped 7/29/2025 @ 8:38am

TMK: 550020180000

B

https://www.houseofdreamskauai.com/kauai-vacation-rentals/beachfront-estate-hanalei-bay

Hawaiian Airlines C... airbnb City Portal Host Compliance D... MyChart - Login Page Hawaiian Airlines Kauai.gov Start Process | Laser... Other favor

KAUAI HOUSE OF DREAMS

By Town Rentals Pools Beachfront Poipu Pickleball Inquire Stay About Ke Aloha

Beachfront Estate Hanalei Bay

5 Bedrooms 5 Bath Sleeps 10

Search Availability

Type here to search Live 8:39 AM 7/29/2025

https://www.houseofdreamskauai.com/kauai-vacation-rentals/beachfront-estate-hanalei-bay

Hawaiian Airlines C... airbnb City Portal Host Compliance D... MyChart - Login Page Hawaiian Airlines Kauai.gov Start Process | Laser... Other favo

ABOUT PHOTOS FEATURES AVAILABILITY LOCATION

About

5 Bedroom Beachfront Estate. This is an opportunity to be dead center on Hanalei Bay.

Inquire for rates and information about renting this estate.

Heavenly Hanalei

This beachfront estate in the heart of Hanalei Bay is perhaps the most desired location in all of Hawaii. Hanalei Bay is the first choice for those who visit Kauai often. Known for the best north shore town filled with shops, restaurants and a local vibe, Hanalei has been voted one of the top beaches in the world, year after year. Here you will find conditions that range from calm waters by the pier, paddling and kayaking in the river and the best surfing conditions Kauai has to offer. Hanalei is a favorite spot for celebrities that frequent Kauai's north shore.

The estate consists of a 4000 square foot 3 En Suite Bedrooms, 3.5 bathrooms main house and a cottage with 2 bedrooms and 1 bath. There are two outdoor showers as well. The main house has AC in all en suite bedrooms. The home is fully equipped and dead center on the most beautiful beach in all of Hawaii. The estate is a 5 minute stroll into the best north shore town on Kauai.

Grand Kauai, DBA House Of Dreams Kauai is a locally owned Travel Agency licensed in the state of Hawaii. We offer on-island personal assistance and Concierge services.

- Read Less

Sleeping Arrangements

Arrival Departure

Adults: 1 Children: 0

Request More Information

Share this Listing

Add Favorite

Type here to search 8:40 AM 7/29/2025

5 Bedrooms 5 Bath Sleeps 10

About

5 Bedroom Beachfront Estate. This is an opportunity to be dead center on Hanalei Bay.

Inquire for rates and information about renting this estate.

Heavenly Hanalei

This beachfront estate in the heart of Hanalei Bay is perhaps the most desired location in all of Hawaii. Hanalei Bay is the first choice for those who visit Kauai often. Known for the best north shore town filled with shops, restaurants and a local vibe, Hanalei has been voted one of the top beaches in the world, year after year. Here you will find conditions that range from calm waters by the pier, paddling and kayaking in the river and the best surfing conditions Kauai has to offer. Hanalei is a favorite spot for celebrities that frequent Kauai's north shore.

The estate consists of a 4000 square foot 3 En Suite Bedrooms, 3.5 bathrooms main house and a cottage with 2 bedrooms and 1 bath. There are two outdoor showers as well. The main house has AC in all en suite bedrooms. The home is fully equipped and dead center on the most beautiful beach in all of Hawaii. The estate is a 5 minute stroll into the best north shore town on Kauai.

Grand Kauai, DBA House Of Dreams Kauai is a locally owned Travel Agency licensed in the state of Hawaii. We offer on-island personal assistance and Concierge services.

- Read Less

Sleeping Arrangements

Bedroom 1

Bedroom 2

Bedroom 3

04/01/2026 04/15/2026

Adults: 1 Children: 0

Lodging: Beachfront Estate Hanalei Bay	$55,500.00
Reservation Processing Fee	$299.00
Cleaning Fee	$1,450.00
Accidental Damage Insurance	$399.00
Optional Admin Fee Credit Cards	$2,760.11
Security Deposit	$1,000.00
Sub-Total	**$61,408.11**
Tax	**$10,354.74**
Total	**$71,762.85**

Inquire Here

Mahalo for your inquiry. We are reviewing your request and will reply within 24 hours.

Bedroom 1
1 king bed

Bedroom 2
1 king bed

Bedroom 3
1 king bed

Bedroom 4
1 queen bed

Bedroom 5
2 single beds

Total $92,133.97

Inquire Here

Mahalo for your inquiry. We are reviewing your request and will reply within 24 hours.

Request More Information

Share this Listing

Add Favorite

Features

Location
- Hanalei

Type
- Large Groups
- Beach Front

Availability

Availability

Night Available · Night Unavailable · Arrive Only · Depart Only

July 2025 - October 2025

Next >>

July 2025

Su	Mo	Tu	We	Th	Fr	Sa

August 2025

Su	Mo	Tu	We	Th	Fr	Sa
10	11	12	13	14	15	

September 2025

Su	Mo	Tu	We	Th	Fr	Sa

October 2025

Su	Mo	Tu	We	Th	Fr	Sa

Availability

Night Available · Night Unavailable · Arrive Only · Depart Only

<< Prev

November 2025 - February 2026

Next >>

November 2025

Su	Mo	Tu	We	Th	Fr	Sa
23	24	25	26	27	28	

December 2025

Su	Mo	Tu	We	Th	Fr	Sa
		16	17	18	19	20
21	22	23	24	25	26	27

January 2026

Su	Mo	Tu	We	Th	Fr	Sa

February 2026

Su	Mo	Tu	We	Th	Fr	Sa

Availability

Night Available · Night Unavailable · Arrive Only · Depart Only

<< Prev

March 2026 - June 2026

March 2026

Su	Mo	Tu	We	Th	Fr	Sa
						14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

April 2026

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19						

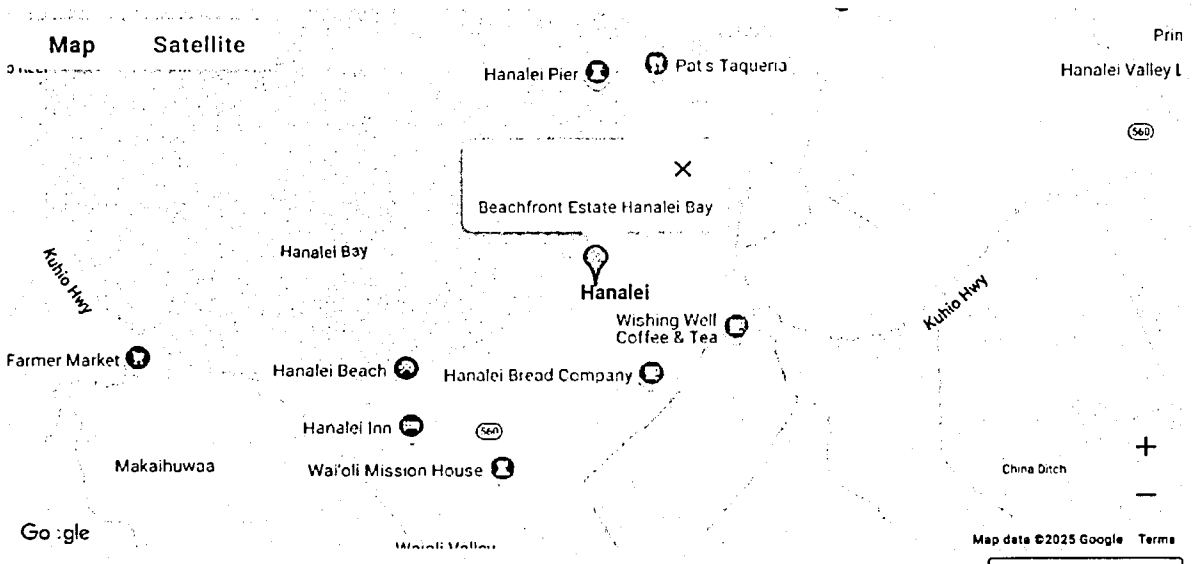
May 2026

Su	Mo	Tu	We	Th	Fr	Sa

June 2026

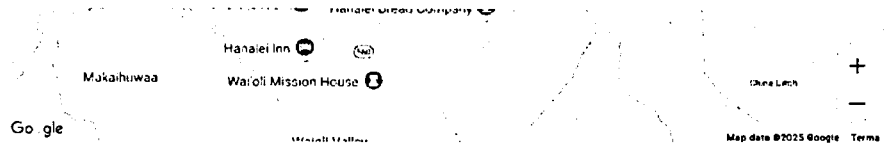
Su	Mo	Tu	We	Th	Fr	Sa
						27
28	29	30				

Map



Reviews

Leave A Review



Reviews

Leave A Review

House Of Dreams Kauai
2585 Ala Namahana Pkwy, #1212
Kilauea, Hawaii - 96754
United States
808-755-5869
alohafromkauai@me.com

Contact Us
Owner Portal

Search rentals by name.

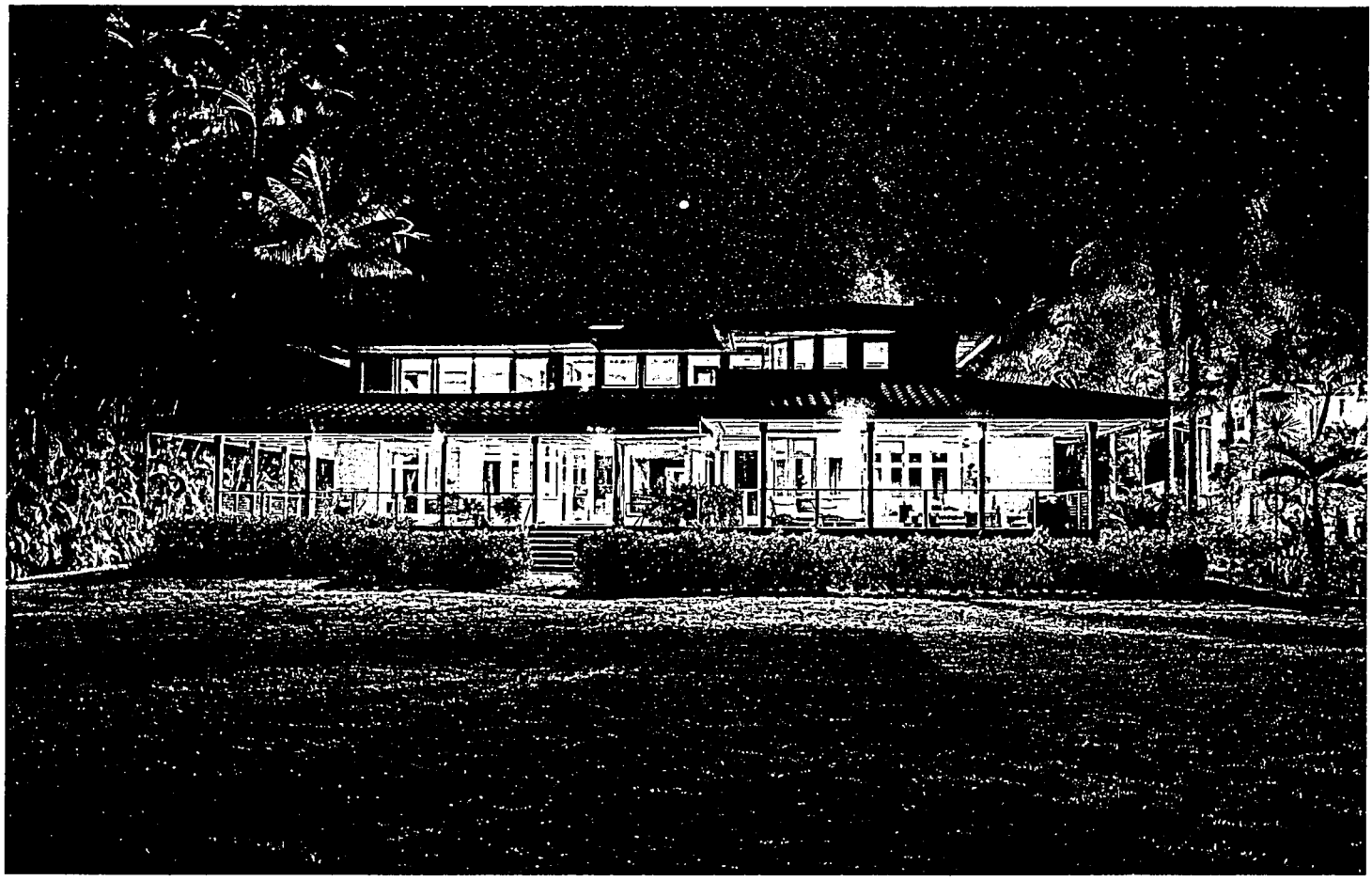
Search by Title

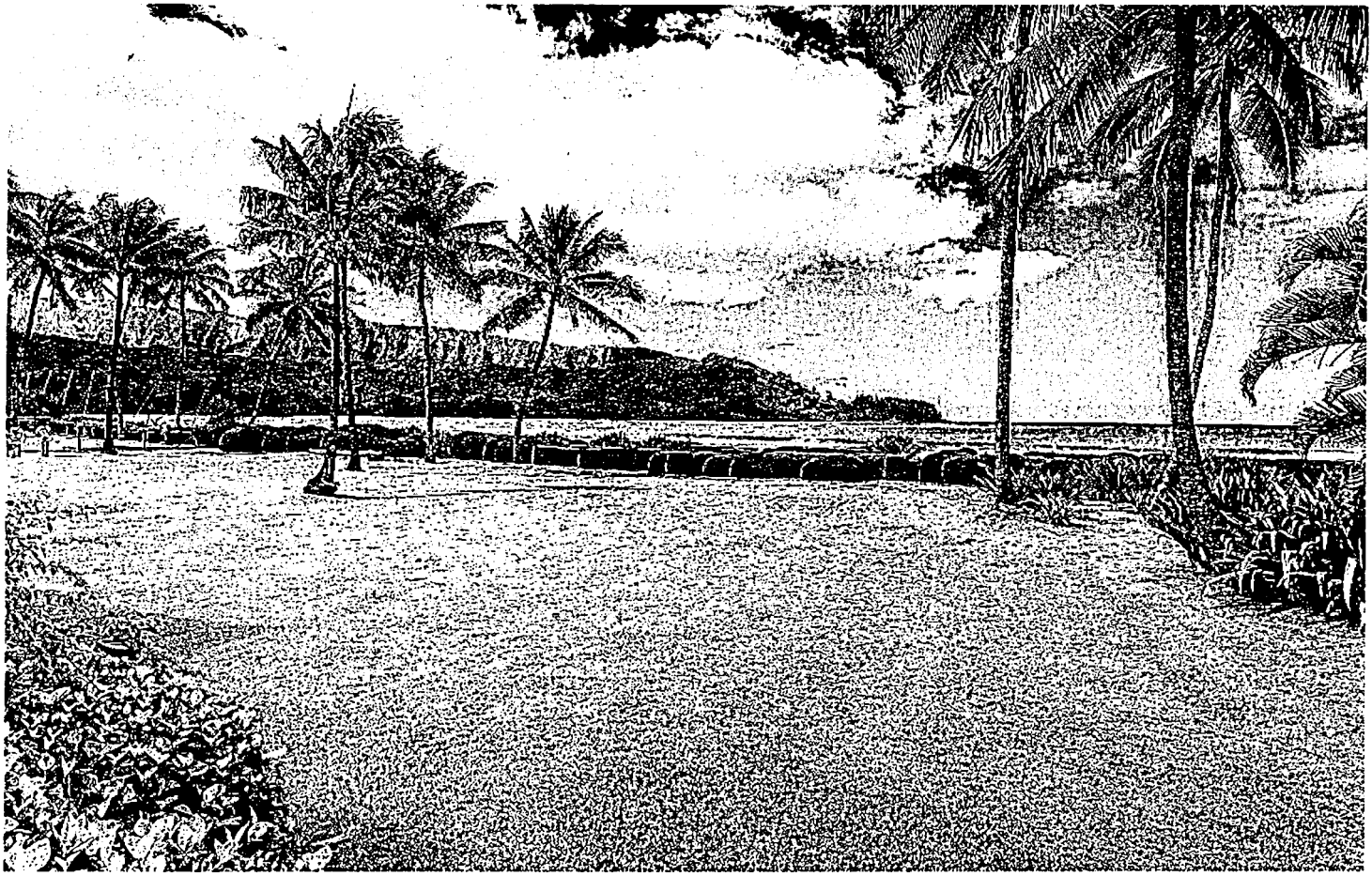
Login | Proudly built by Bluetent | © 2025

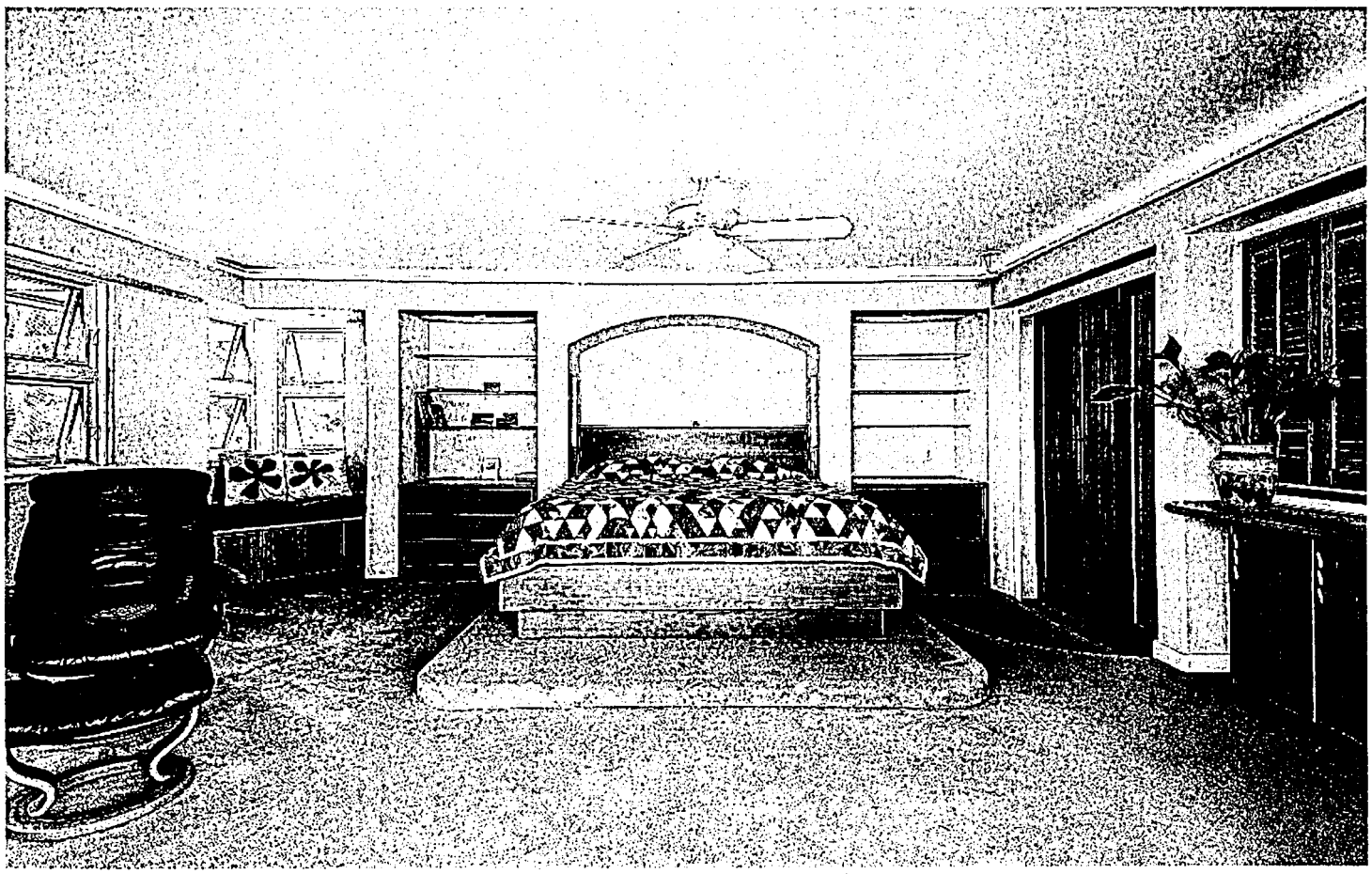
Type here to search

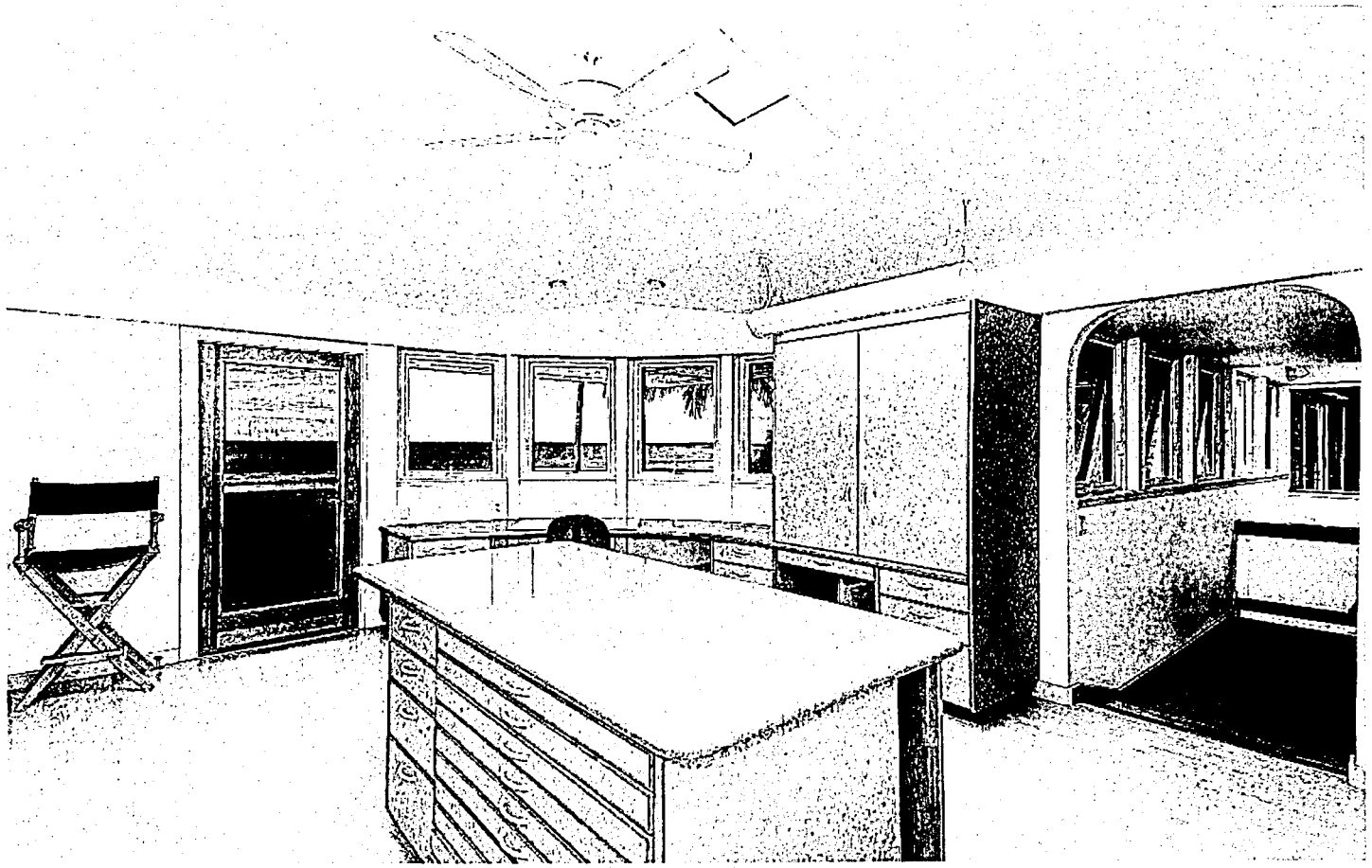
Breaking news

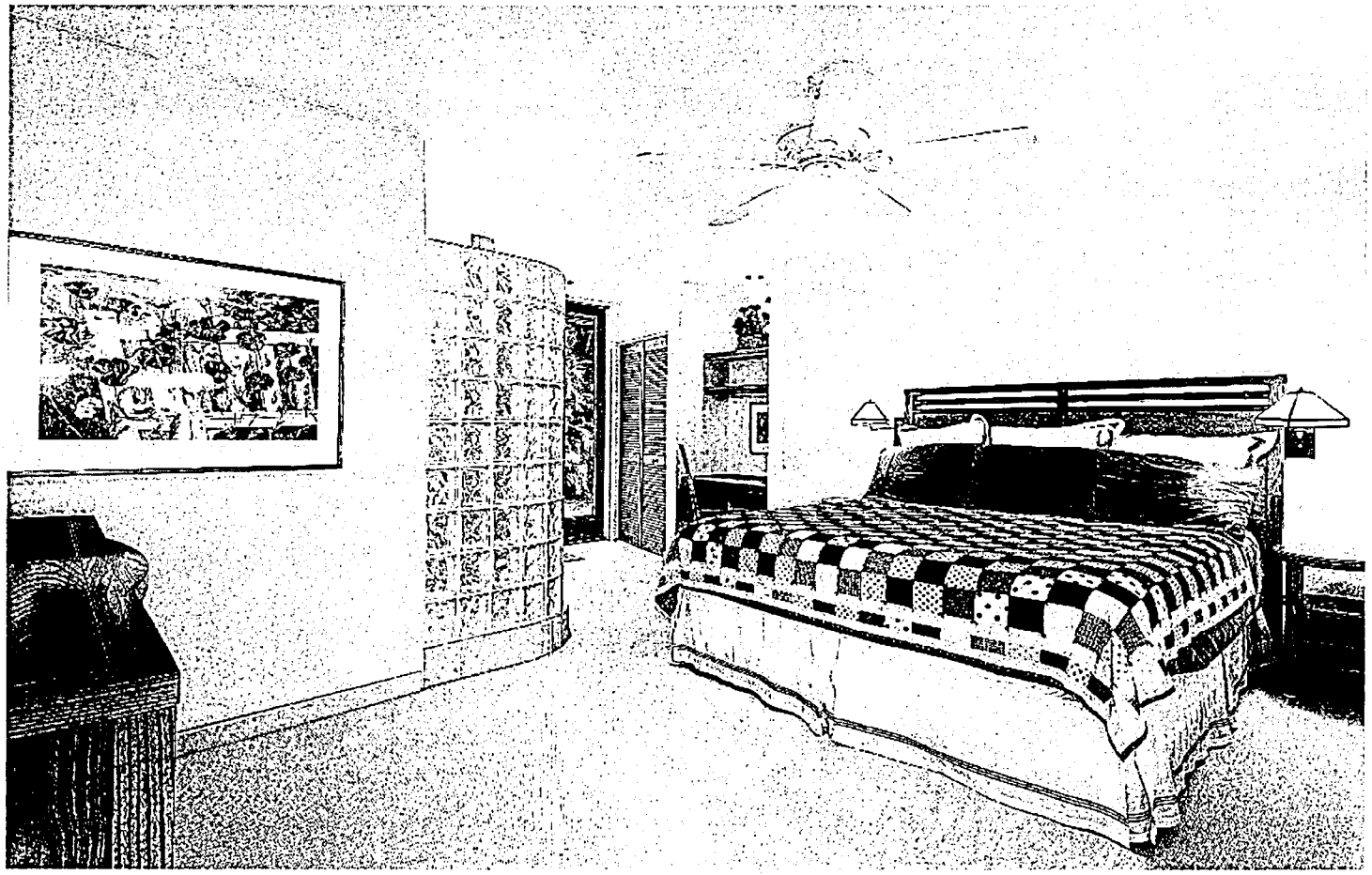
9:10 AM
7/29/2025

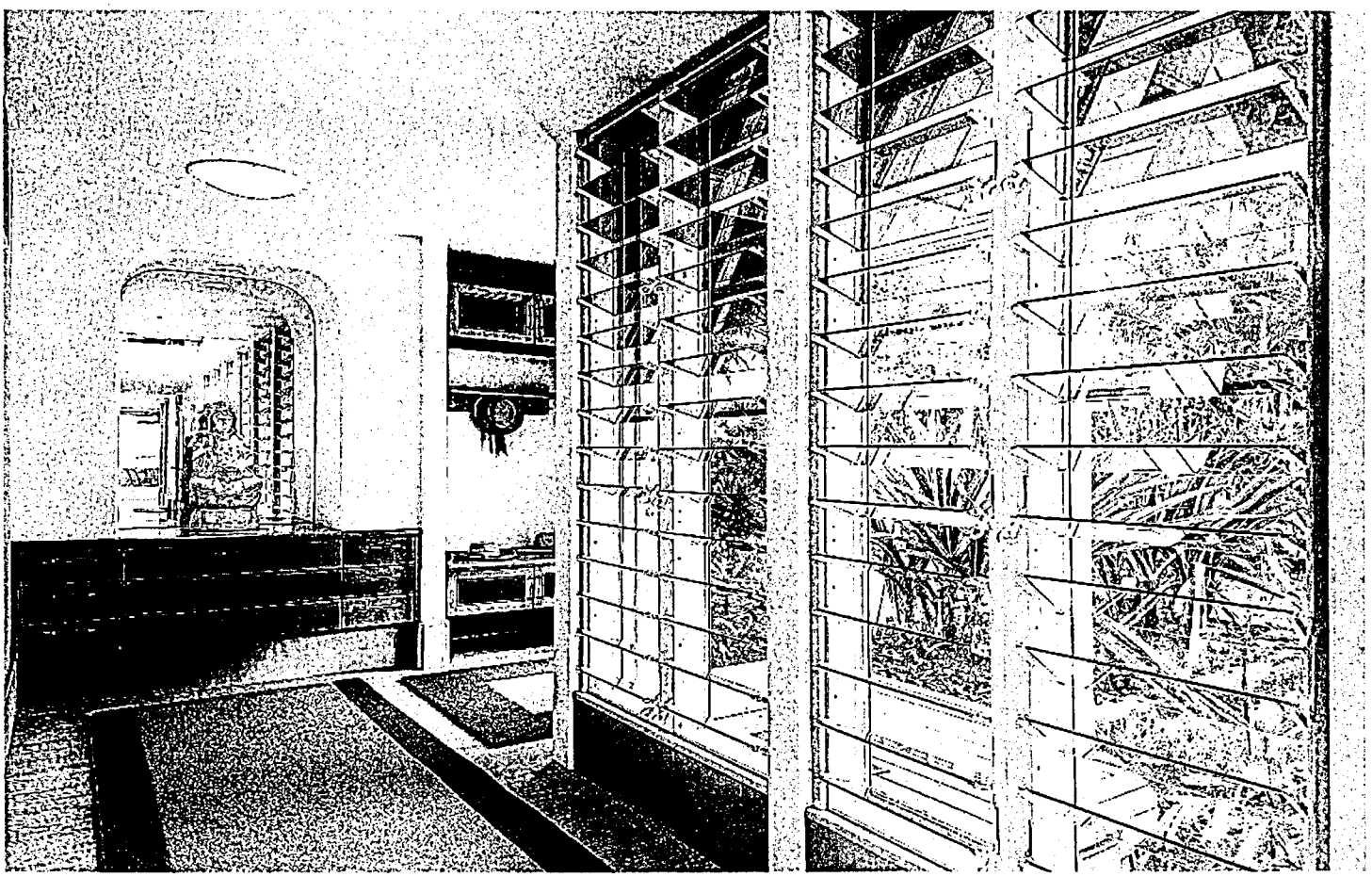


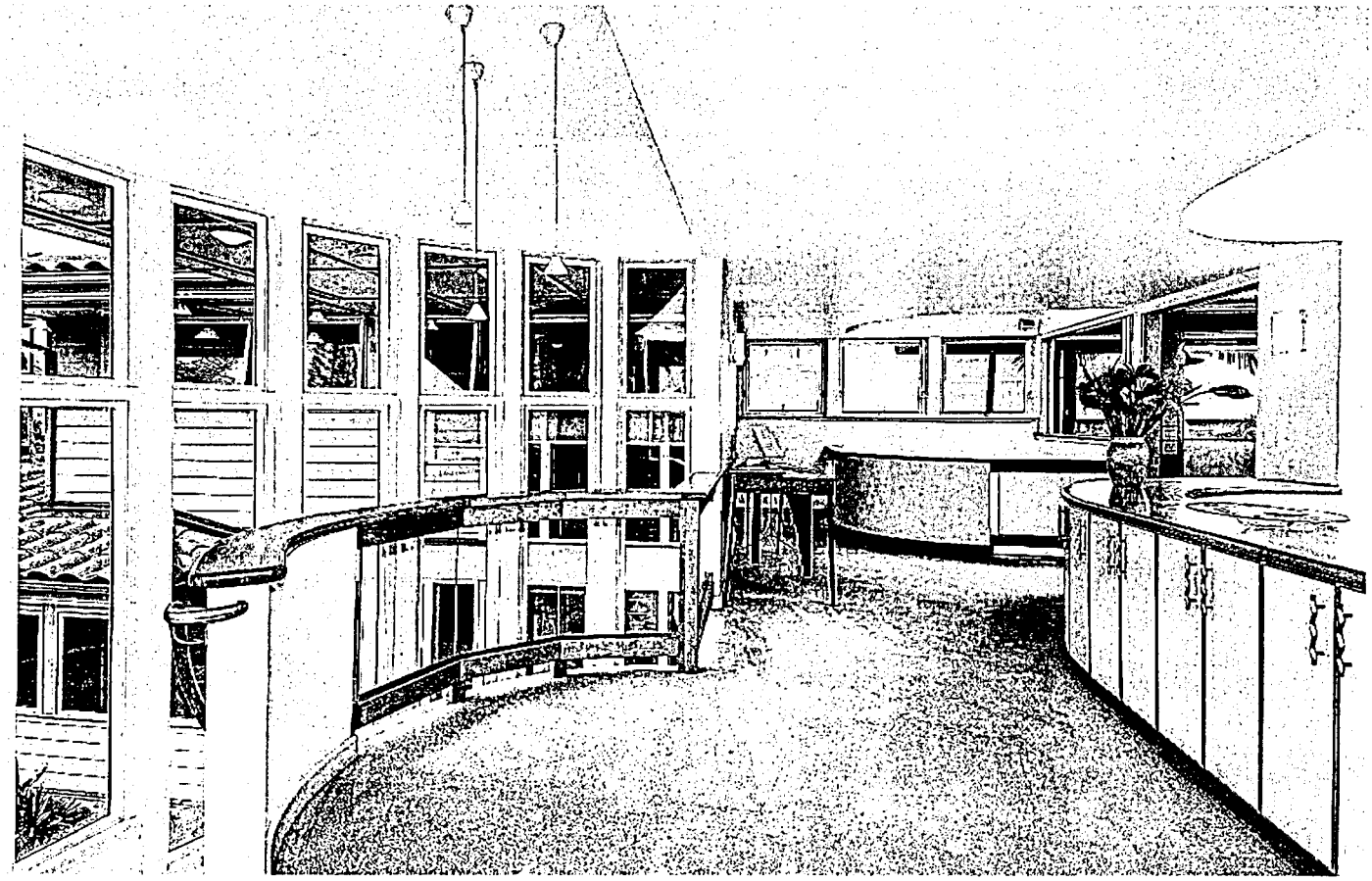


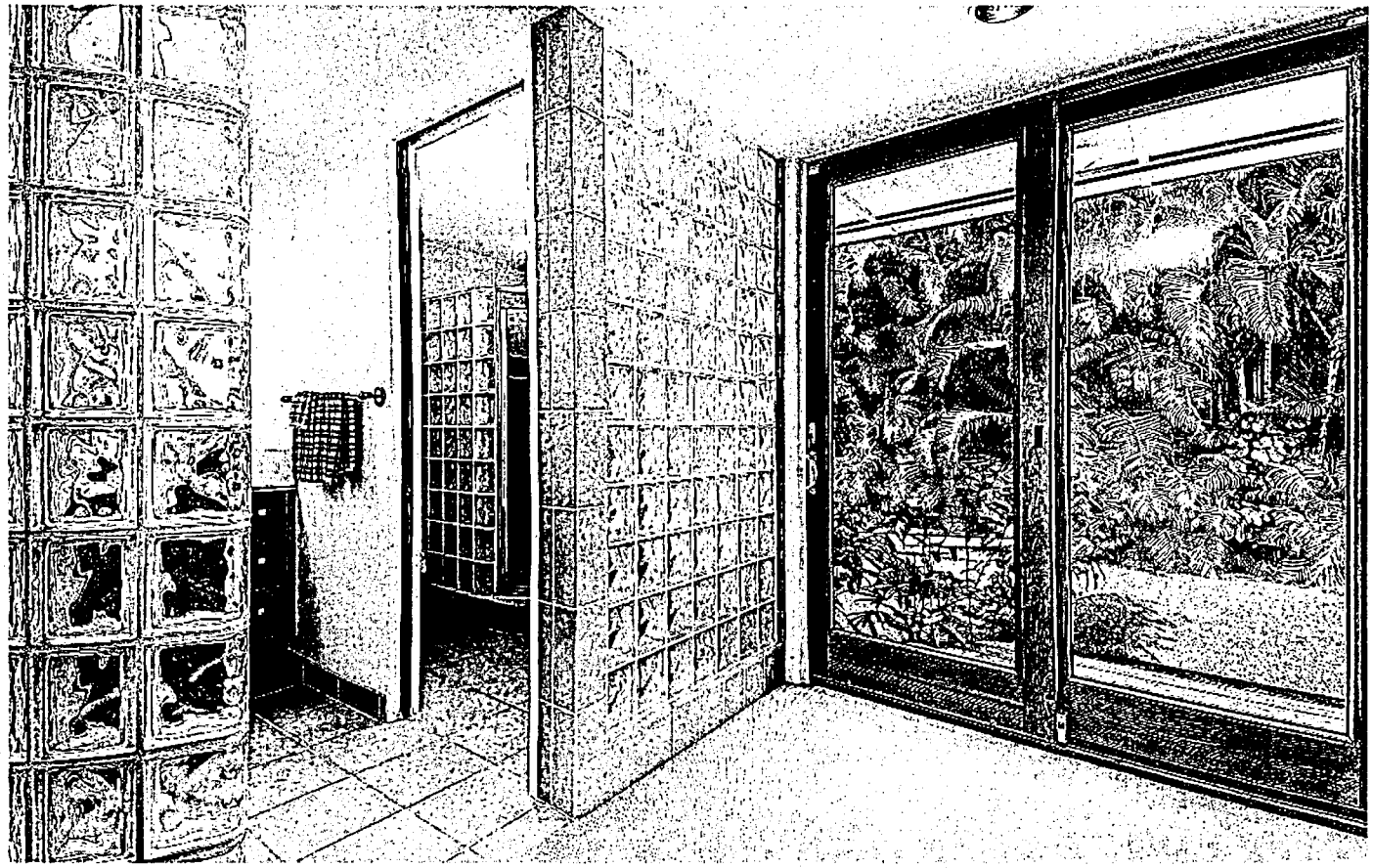


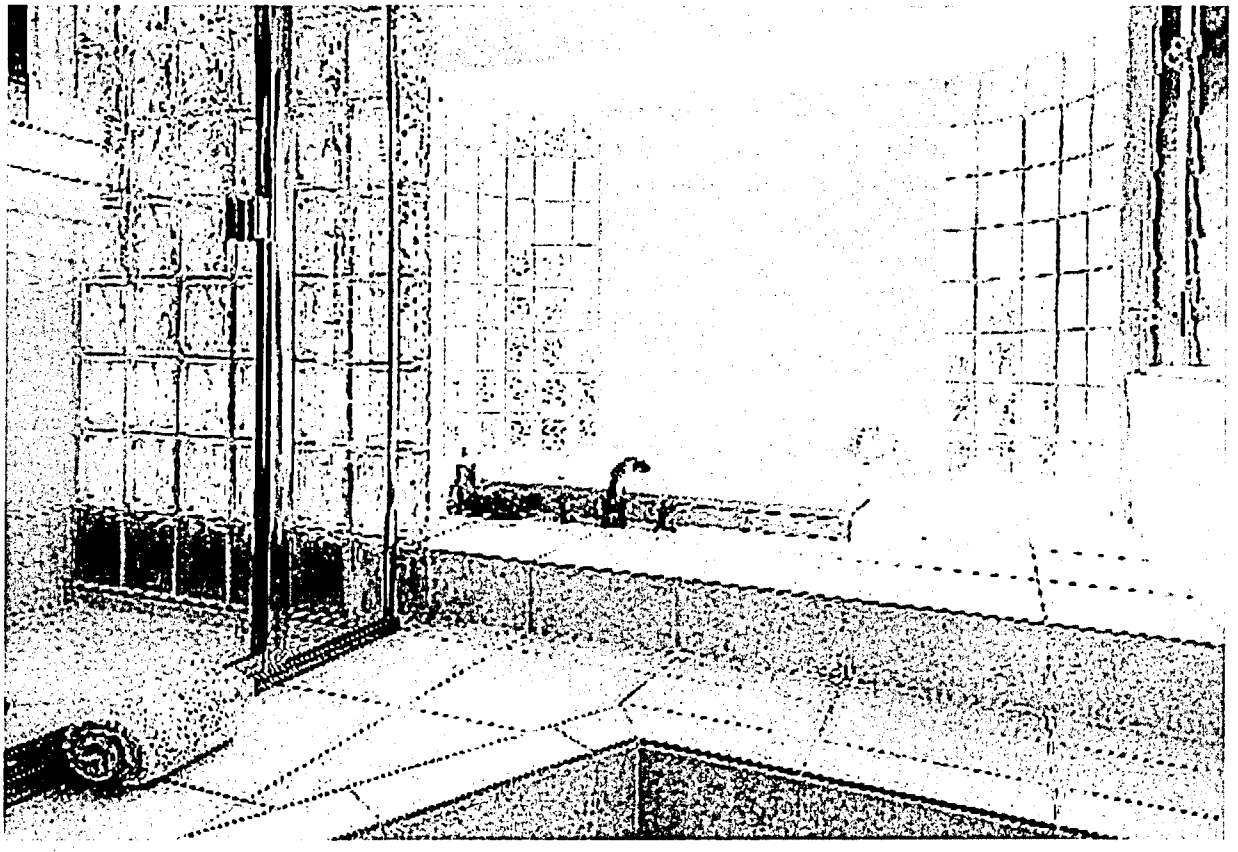


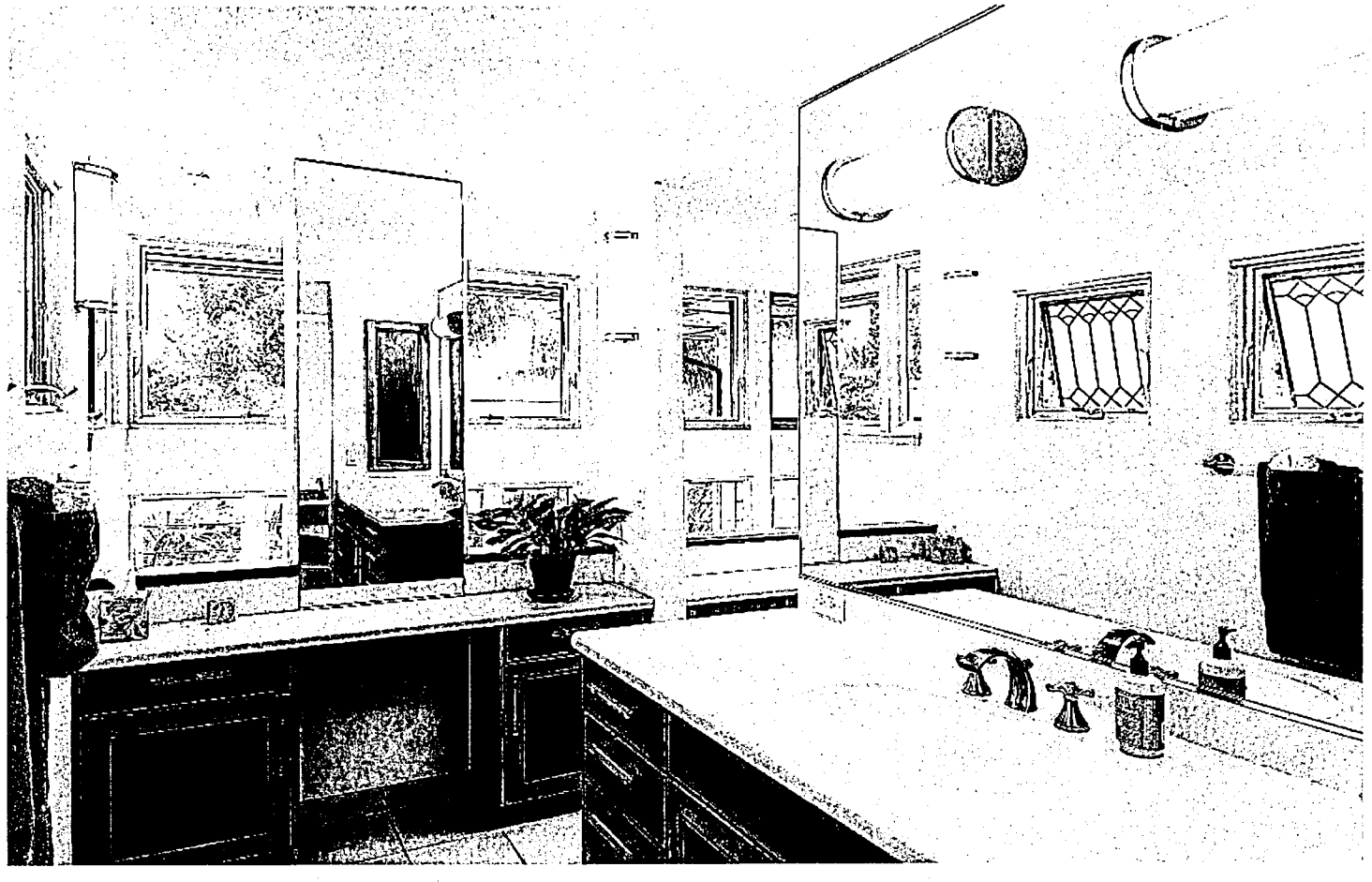












HARVEY L. COHEN
ATTORNEY AT LAW

Princeville Center
P.O. Box 223755
Princeville, HI 96722
808.826.4226 phone
808.826.4227 fax
Hcohenatty@aol.com

February 6, 2026

VIA EMAIL (khull@kauai.gov) AND FIRST-CLASS MAIL

Kaaina S. Hull
Director of Planning
County of Kauai
4444 Rice Street, Suite A-473
Lihue, Hawaii 96766

Re: Response to Petition to Revoke TVNCU #1108
Kimberly Bayless
5142 Weke Road, Hanalei, Hawaii 96714
Kauai Tax Map Key No. (4) 5-5-002-018

Dear Kaaina:

I write on behalf of Ms. Kimberly Bayless in response to the January 16, 2026 Petition to Revoke her Non-Conforming Use Certificate TVNCU #1108. Ms. Bayless acknowledges the violations outlined in your Petition and takes full responsibility for exceeding the scope of her TVNCU permit by renting her primary residence on a short-term basis.

Ms. Bayless does not dispute the facts. In 2024, she rented her primary home for fourteen (14) days, generating $28,731 in revenue. In 2025, she rented it for twenty-eight (28) days, generating $63,852. These rentals were not authorized under her permit, which covers only the 2-bedroom, 1-bath cottage on the property. Ms. Bayless understands this was wrong and that it undermined the trust the County placed in her when it granted the TVNCU Certificate.

However, we respectfully ask the County to consider the full context before proceeding with revocation:

Ms. Bayless is not an absentee investor or vacation home owner. This property has been in the Bayless family since 1984. Ms. Bayless and her husband Smoky are among only a handful of residents who actually live full-time on Hanalei Bay, and they have called this "home" continuously for the past thirty-four (34) years. Ms. Bayless is a schoolteacher who has dedicated her career to serving Kauai's youth and, at the same

I.4.a.

FEB 24 2026

time, faces the challenging reality of approximately $88,000 in annual property taxes. The TVR income from the cottage helps make it possible for her to remain in the home and continue her work as an educator. The additional rentals of the primary home were an attempt to bridge a significant financial gap during a period of economic pressure.

Ms. Bayless's commitment to this community extends far beyond her classroom. She has received commendations from the County of Kauai for public service and is recognized as a fearless advocate on behalf of Kauai's youth and underprivileged residents (see photo of Judge Char appointing Kim as an official Court Appointed Special Advocate ("CASA") for foster children). Her presence on Hanalei Bay represents exactly what the County seeks to preserve — full-time residents with deep community ties who contribute meaningfully to the Island's fabric.

Importantly, Ms. Bayless fully reported all rental income and paid all required state and local transient vacation rental taxes and general excise taxes on the primary home rentals. She did not attempt to hide this activity from tax authorities. While this does not excuse the violation of her permit terms, it demonstrates that her actions were not driven by an intent to deceive or operate in the shadows, but rather by financial necessity within what she mistakenly believed was an acceptable framework.

Prior to these violations, Ms. Bayless maintained years of compliance with her TVNCU permit without incident. Most importantly, upon learning of the County's concerns, she immediately ceased all advertising of the primary residence and has completely stopped this practice (see attached). She has taken accountability and implemented corrective measures without waiting for formal proceedings.

Given these circumstances, we respectfully request the opportunity to resolve this matter through a monetary fine and enhanced monitoring conditions rather than revocation. To these ends, Ms. Bayless is prepared to:

- Pay an administrative fine as determined appropriate by the County;
- Submit to regular compliance monitoring or reporting requirements;
- Accept any additional conditions the County deems necessary to ensure future adherence; and
- Remit a portion of the revenues generated from the unauthorized rentals, if the County deems this appropriate.

Revocation would be devastating to Ms. Bayless financially and would likely force the sale of her home. The irony is profound: enforcement action designed to protect residential character would displace one of the few full-time residents remaining on Hanalei Bay — a longtime educator and community advocate who represents precisely the kind of resident Kauai needs to retain.

A calibrated penalty would achieve the County's enforcement objectives — deterring future violations and holding her accountable — while allowing a valued community member to remain in the home where she grew up and served her neighbors for many years.

We respectfully request the opportunity to discuss a settlement before the scheduled hearing. Ms. Bayless is committed to regaining the County's trust and ensuring full compliance going forward.

Thank you for your consideration.

Respectfully submitted,

Harvey L. Cohen

Harvey L.. Cohen, Esq.

HLC/hs
enclosures
c: Kimberly Bayless (via email only)
Joan Ludington, COK Planning (via email only)
Mike Laureta, COK Planning (via email only)

KAUAI
HOUSE OF DREAMS

01/26/26

County of Kauai
Re: Confirmation of Advertising Removal & No Reservations
5142 Weke Road, Hanalei HI 96714 - 3 Bedroom 3.5 Bath Main House

To Whom It May Concern,

This letter confirms that **any advertisements for the above-referenced property** have been removed from House Of Dreams Kauai's website and marketing channels.

In addition, House Of Dreams Kauai confirms there are **no reservations on the calendar** for the referenced property.

Sincerly,

Glenn Rand - Owner
House Of Dreams Kauai
Glenn@Houseofdreamskauai.com

HARVEY L. COHEN
ATTORNEY AT LAW

Princeville Center
P.O. Box 223755
Princeville, HI 96722
808.826.4226 phone
808.826.4227 fax
Hcohenatty@aol.com

February 12, 2026

VIA EMAIL (planningdepartment@kauai.gov) AND FIRST-CLASS MAIL

Gerald Ako, Chair
County of Kauai Planning Commission
c/o County of Kauai Planning Department
4444 Rice Street, Suite A-473
Lihue, Hawaii 96766

Re: Response to Petition to Revoke TVNCU #1108
Kimberly Bayless
5142 Weke Road, Hanalei, Hawaii 96714
Kauai Tax Map Key No. (4) 5-5-002-018

Dear Chairman Ako and Members of Planning Commission:

I write on behalf of Ms. Kimberly Bayless in response to the January 16, 2026 Petition to Revoke Ms. Bayless' Non-Conforming Use Certificate TVNCU #1108. Further to my February 6, 2026 correspondence to Director Hull, Ms. Bayless has no objection to this matter being referred, as a Contested Case, through the Office of Boards and Commissions, with assignment to a Hearings Officer.

In light of the above, and in light of Ms. Bayless' full-time job as a school teacher, we respectfully request that Ms. Bayless' appearance be waived at the upcoming February 24th Planning Commission meeting. We understand and consent that, referral as a Contested Case, is the action that the Commission may take in Ms. Bayless' absence.

Thank you in advance for your consideration.

Respectfully submitted,

//Harvey L. Cohen//

Harvey L. Cohen, Esq.

I.4.b.

FEB 24 2026

HLC/hs
c: Kimberly Bayless (via email only)
Kaaina S. Hull, COK Director of Planning (via email only)
Laura Barzilai, COK Attorney's Office (via email only)
Joan Ludington, COK Planning (via email only)
Mike Laureta, COK Planning (via email only)

BELLES GRAHAM LLP

IAN K. JUNG (8626-0)
3135 Akahi Street, #A
Lihue, Kauai, Hawaii 96766
Telephone: (808) 245-2163
Facsimile: (808) 245-3277
Email: ikj@kauai-law.com

Attorneys for Applicant
SK INVESTORS LLC,
a Hawaii limited liability company

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application Of SK INVESTORS LLC, a Hawaii limited liability company, for a Class IV Zoning Permit, for real property situated at Koloa, District of Kona, Island and County of Kauai, State of Hawaii, Lots 180-A, 180-G, Lot 180-H, and Lot 180-J, collectively identified by Tax Key No. (4) 2-8-011:001, and containing 411,032 square feet.	)	PROJECT DEVELOPMENT USE PERMIT NO. Z-PDU-___ CLASS IV ZONING PERMIT NO. Z-IV-____; **APPLICATION; EXHIBITS "A" – "G"**

APPLICATION

TABLE OF CONTENTS

Page

SECTION 1. APPLICANT/SUBJECT PROPERTY/OWNERS 5
1.1 Applicant 5
1.2 Owner 5
1.3 Subject Property 5

SECTION 2. LOCATION AND LAND USE DESIGNATIONS OF PROPERTY 5
2.1 Location 5
2.2 Land Use Designations 6
a. SLUC 6
b. Kauai General Plan 6
c. CZO 6
d. Development Plan Area 6
e. Special Management Area 6
f. Shoreline/Shoreline Setback Area 6
g. Heritage Resources 7
h. Flood Zone 7
i. Violations 7
j. Land Use Conditions 7

SECTION 3. DESCRIPTION OF PROPERTY AND IDENTIFICATION OF SURROUNDING LANDS 7
3.1 Property 7
3.2 Adjacent Properties 7
3.3 Natural Environment 7
a. General Description 7
b. Botanical/Biological Resources 7
c. Flood Zones 8
d. Wetlands 8
e. Photographs 8
3.4 Past Uses... 8
3.5 Present Uses And Built Environment 9

SECTION 4. PROPOSED USE 8
4.1 Proposed Uses 8
4.2 Parking 9
4.3 Design 9
4.4 Landscaping 9
4.5 Hazardous Materials 9
4.6 Archaeological and/or Historic Sites 9

4.7 Utilities....10
4.8 Wastewater Disposal....10
4.9 Solid Waste....10
4.10 Drainage....10
4.11 Justification....10

SECTION 5. PERMITS REQUESTED AND REQUIRED....10
5.1 Project Development Use Permit....10
5.2 Class IV Zoning Permit....11

SECTION 6. IMPACTS OF DEVELOPMENT....11
6.1 Air Quality/Noise....11
6.2 Flooding and Drainage....11
6.3 Governmental Services....12
a. Fire and Police Services....12
b. Schools....12
6.4 Economics....12
a. Jobs....12
b. Housing....12
c. Property Values....12
6.5 Population....13
6.6 Traffic Circulation....13

SECTION 7. SLUC CONSIDERATIONS....13
7.1 SLUC Urban District....13
7.2 Development's Compliance with SLUC Urban District Standards....13

SECTION 8. GENERAL PLAN CONSIDERATIONS....13
8.1 Kaua'i General Plan Residential Community Land Use Designation....13
8.2 Development's Compliance with Kaua'i General Plan Standards....13
8.3 Kaua'i General Plan Land Use Designation....14
8.4 Goals....14
8.5 Policies....14
8.6 Objectives & Actions by Sectors....17

SECTION 9. SOUTH KAUAI FORM BASED CODE CONSIDERATIONS....18
9.1 South Kauai Form Based Code Transects....18
9.2 Development's Compliance with Transect T3VE Standards....18
9.3 Impacts....19

SECTION 10. CLASS IV ZONING PERMIT AND PDU CONSIDERATIONS 19
10.1 Class IV Zoning Permit 19
10.2 Development's Compliance with CZO Class IV Zoning Permit Standards 20
10.3 Uses 20
10.4 Compability with Surrounding Uses.....20
10.5 Project's Compliance with CZO Use Permit Standards..... 20
10.6 Compliance with Project Development Use Permit Standards 21

SECTION 11. HRS CHAPTER 343 (ENVIRONMENTAL IMPACT STATEMENTS) CONSIDERATIONS.....22
11.1 HRS Chapter 343 22

SECTION 12. NATIVE HAWAIIAN ISSUES 22
12.1 Development's Impact on Traditional or Cultural Practices 22

SECTION 13. COMMUNITY CONTACTS 24
13.1 Contact with Community Groups 24

SECTION 14. CONCLUSION.....25

APPLICATION

COMES NOW SK INVESTORS LLC, a Hawaii limited liability company Applicant in the above-captioned proceedings, by and through its undersigned attorneys, and hereby submits this Application for the conversion of vacant land for one hundred and sixty-four (164) unit gap housing project with a mix of duplexes (8 units), 4-plexes (92 units), and 8-plexes (64 units), as further described herein.

SECTION 1. APPLICANT/SUBJECT PROPERTY/OWNERS.

1.1 Applicant. The Applicant is SK INVESTORS LLC, a Hawaii limited liability company. The Applicant has authorized Ian K. Jung of Belles Graham LLP to file this Petition pursuant to the Applicant's Authorization attached hereto as Exhibit "**A**".

1.2 Owner. The Owner of the Property is the SK INVESTORS LLC, a Hawaii limited liability company, as shown by that Warranty Deed attached hereto as Exhibit "**B**".

1.3 Subject Property. The property which is the subject matter of this Application ("Property") is described as follows:

Lot 180-A, consisting of 7.218 acres, and Lot 180-G, consisting of 0.792 acres, Lot 180-H, consisting of 0.662 acre, and Lot 180-J, consisting of 0.764 acre, of Land Court Application No. 956 (Map59), as collectively described as Kauai Tax Map Key No. (4) 2-8-011:001. The legal description of the Property is contained in the Warranty Deed attached hereto as Exhibit "**B**".

SECTION 2. LOCATION AND LAND USE DESIGNATIONS OF PROPERTY.

2.1 Location. The Property is located in Koloa, District of Kona, Kauai, Hawaii, and is shown on the Location Map attached hereto as Exhibit "**C-1**". The Land Court

Application No. 956 (Map 59) depicting the Property is attached as Exhibit "**C-2**", with its frontage along Weliweli Road.

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

a. SLUC. The entire Property is located in the State Land Use Urban District, and has been so located since the inception of the State Land Use Districts as shown in the attached Exhibit "**C-3**".

b. Kauai General Plan. The Property is located in the Kauai General Plan Residential Community Designation and has been so located under prior General Plans as shown in the attached Exhibit "**C-4**".

c. CZO. The Property is located in the CZO Residential (R-6), and has been so located since the adoption of the CZO as shown in the attached Exhibit "**C-5**".

d. Development Plan Area. The Subject Property is located within the South Kauai Community Plan and is designated in the South Kauai Form Based Code as Transect T3 Village Edge ("T3VE") and Transect T3 Village Neighborhood ("T3VN.1), and has been so located since the original adoption of the South Kauai Community Plan via a Special Planning District as shown in the attached Exhibit "**C-6**".

e. Special Management Area. The Property is not located within the Special Management Area ("SMA"), as shown on Exhibit "**C-7**".

f. Shoreline/Shoreline Setback Area. The Property is well outside of the Shoreline Setback Area and threshold Shoreline Setback Determination area as defined in HRS Chapter 205A, Part III, and CZO Article 27, as shown on Exhibit "**C-8**".

g. Heritage Resources. The Property is located within the Residential and Urban Center Designations (Kaua'i General Plan, November 2000) as shown in the attached Exhibit "**C-9**".

h. Flood Zone. The Property is located in the Flood Zone X as shown in the attached Exhibit "**C-10**".

i. Violations. There are no known violations of any land use laws or regulations on the Property.

j. Land Use Conditions. The Property is currently vacant.

SECTION 3. DESCRIPTION OF PROPERTY AND IDENTIFICATION OF SURROUNDING LANDS.

3.1 Property. This Property contains 411,032 square feet of land area and is currently vacant. The Property is on the northwest corner of Weliweli Road and Waikomo Road. Adjacent and north and south of the Property are residential properties. The northwest boundary of the Property is the boundary of Weliweli Road. To the east of the Property are agricultural lands. To the northwest of the Property is the Koloa Village Residential Project.

3.2 Adjacent Properties. The Property is located adjacent to, or within 300 feet of, the properties with similar commercial and residential uses. The uses within the 300' distance of the Property include the restaurants, offices, residences, and pasture lands.

3.3 Natural Environment.

a. General Description. The general area in which the Property is located is in the commercial corridor just past Koloa and through to existing residences on both sides of Weliweli Road.

b. Botanical/Biological Resources. The Property is bound by properties on which residential uses have been ongoing for approximately fifty (50) years or

more. There are no known endangered or threatened species of plants or animals on the Property, as most of the Property is vacant with lowland grasses and hale koa shrubs.

c. Flood Zones. The Property is located within Zone X, according to the Flood Insurance Rate Map Panel, as shown in the attached Exhibit "**C-10**".

d. Wetlands. The Property contains no wetland areas.

e. Photographs. Photographs of the property are attached as Exhibit "**F**".

3.4 Past Uses. The Property has remained vacant.

3.5 Present Uses And Built Environment. There is currently no built environment.

SECTION 4. PROPOSED USE.

4.1 Proposed Uses. The Applicant wishes to construct a one hundred and sixty-four (164) housing project on the Property as follows:

a. Duplexes: The built environment will include four (4) buildings of Duplex Units consisting of eight (8) three-bedroom units, as shown on Sheet A3 of Exhibit "**E**".

b. 4-Plex Type 1: The built environment will include seventeen (17) buildings of 4-Plex Type 2 Units consisting of sixty-eight (68) two-bedroom units, as shown on Sheet A3 of Exhibit "**E**".

c. 4-Plex Type 2. The built environment will include six (6) buildings of 4-Plex Type 2 Units consisting of twelve (12) one-bedroom units and twelve (12) three-bedroom units, totaling twenty-four (24) Units in six (6) 4-Plex Type 2 buildings, as shown on Sheet A3 of Exhibit "**E**".

d. 8-Plex: The built environment will include eight (8) buildings of 8-Plex Units consisting of thirty-two (32) one-bedroom units and thirty-two (32) two-bedroom units, totaling sixty-four (64) Units in eight (8) 8-Plex buildings, as shown on Sheet A3 of Exhibit "**E**".

(Collectively, hereinafter referred to as the "Housing Project").

4.2 Parking. The Housing Project will include 196 on-site parking stalls and 17 parking stalls off-site along Waikomo Road. The Applicant proposes at total of 213 parking stalls, as shown on Sheet A3 of Exhibit "**E**".

4.3 Design. The Housing Project will consist of modern plantation-style buildings with dark to medium earth tone colors, as shown on Sheet A-15 of Exhibit "**E**". The Applicant is willing to coordinate a final design review with the Planning Department during the building permit process.

4.4 Landscaping. The Property will be minimally landscaped, with a variety of canopy trees, shrubs, low-lying planting, and grass. The Applicant intends to utilize native and indigenous plants for its landscape surrounding the built environment and will coordinate a final landscape plan review with the Planning Department during the building permit process.

4.5 Hazardous Materials. There are no anticipated impacts to the use or value of the Property due to Hazardous Materials.

4.6 Archaeological and/or Historic Sites. The proposed Housing Project will not have any significant impact on historic, cultural or archaeological resources (if any) located on or near the Property. There was nothing observed on the surface to indicate the presence of subsurface cultural deposits; and while not an impossibility, given the prior ground disturbance on the Property, the Applicant does not expect cultural deposits will be found; however, it will

consult with the SHPD regarding its findings in the Ka Pa'akai Analysis for the proposed improvements.

4.7 Utilities. The Property will be served with water meters from the Department of Water, which Applicant intends to consult with and coordinate with the County of Kauai Department of Water for necessary water meter allocations. Telephone and communications service (i.e., internet connection) will have to be coordinated by Applicant at its expense with the selected provider for the Housing Project.

4.8 Wastewater Disposal. The Housing Project will be served by HOH Utilities, LLC as provided for in the will serve letter attached as Exhibit "**D**". Existing private sewer lines run along Waikomo Road to the HOH Utilities LLC wastewater treatment plant in Koloa.

4.9 Solid Waste. The Applicant will be required, at its own expense, to have solid waste services provided by a private contractor.

4.10 Drainage. The Applicant will consult with and coordinate a review of drainage patterns with the Department of Public Works, Engineering Division to ensure that the additional drainage will continue to be handled by onsite, if necessary, comply with minimal impacts to the natural flow areas in and around the Property.

4.11 Justification. As discussed herein, the proposed Housing Project will serve the need identified in the Kauai General Plan and South Kauai Community Plan for moderate income housing opportunities in an area adjacent to the Koloa Town core.

SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 Project Development Use Permit. The Housing Project requires a Project Development Use Permit for the deviation of: 1) building types in South Kauai Form Based

Code; 2) application of multi-family dwelling units in the South Kauai Form Based Code; and 3) the collective use of Lots 180-A, 180-G, 180-H, and 180-J for a single project. Should the zoning had remained R-6, the use of multi-family dwellings would have been outright permitted; however, given the proposed use of duplexes, 4-plexes, and 8-plexes, a PDU is required for the building type and multi-family dwelling units, along with the crossing of boundary lines for Lots 180-A, 180-G, 180-H, and 180-J. Pursuant to CZO Section 8-10.4(d), the Planning Commission may allow for a PDU for projects that have density for over ten (10) units, which the Property qualifies for.

5.2 Class IV Zoning Permit. The Housing Project requires the issuance of a Class IV Zoning Permit given dwelling unit count exceeding fifty-one (51) units.

SECTION 6. IMPACTS OF DEVELOPMENT.

6.1 Air Quality/Noise. The Housing Project will have little or no impact on the air quality and ambient noise levels in the area. Other residential units, comprised of single-family and multi-family units, are in close proximity. Air quality and ambient noise levels may be affected at a very minimal level during the Housing Project activities. All vehicles or equipment used by the Applicant during construction (to the extent they are necessary for construction) will be properly muffled, housed and maintained to reduce any noise impacts or emission impacts. The Environmental Protection Agency (EPA) and State of Hawaii air quality standards will not be exceeded.

6.2 Flooding and Drainage. The Property is situated within Flood Zone X. The Housing Project will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kauai, as contained in Chapter 15, Article 1, of the Kauai County Code, 1987. The Housing Project is not anticipated to have significant impacts on flooding on or around the

Property. All drainage resulting from construction activities will be subject to best management practices. It is not anticipated that additional drainage will significantly or negatively impact the surrounding downstream properties.

6.3 Governmental Services. The development will have the following impacts on governmental services:

a. Fire and Police Services. Fire services in the vicinity are located in Poipu approximately one (1) mile from the Property. Police services are approximately six (6) miles away in Lihue. The proposed Housing Project will not significantly increase the need for existing fire and police services.

b. Schools. The closest schools are Koloa Elementary School, Chiefess Kamakahelei Middle School, and Kauai High School. The Housing Project will minimally result in an increase of enrollment at these schools.

6.4 Economics. The development will have the following economic impacts:

a. Jobs. The Housing Project will result in the creation of three (3) permanent job positions for the management and operations. Approximately twenty (20) to forty (40) construction jobs are also expected to result from the Housing Project.

b. Housing. The Housing Project does not trigger the imposition of any Workforce Housing requirements under Chapter 7A, Kauai County Code (the Housing Policy for the County of Kauai) given its location in the South Kauai Community Plan Transect T3VE.

c. Property Values. Since the fair market value of real property is based on the value of the land and physical improvements, the completion of the Housing Project

will increase the value of the Property. However, it should not, in and of itself, have a material impact on the value of, or real property taxes assessed against, surrounding properties.

6.5 Population. The Housing Project is not expected to result in an increase in the island's population, as the Applicant is looking to fill current housing needs for residents of the island.

6.6 Traffic Circulation. The major road that serves the Property is Weliweli and Waikomo Roads. Any new improvements to these roads will be coordinated with the County of Kauai, Department of Public Works, Roads Division.

SECTION 7. SLUC CONSIDERATIONS.

7.1 SLUC Urban District. The area of the Subject Property in which the development will occur is located within the SLUC Urban District. Permitted uses in the SLUC Urban District are set forth in HRS Section 205-2(b), which provides as follows:

> "(b) Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated."

7.2 Development's Compliance with SLUC Urban District Standards. The proposed uses include residential uses, which said proposed uses are recognized as permissible uses under HRS Section 205-2(b).

SECTION 8. GENERAL PLAN CONSIDERATIONS.

8.1 Kaua'i General Plan Residential Community Land Use Designation. The Property is located in the Kaua'i General Residential Community Land Use Designation are set forth in Section 2.2.6 of the Kaua'i General Plan, which identifies the need for residential housing.

8.2 Development's Compliance with Kaua'i General Plan Standards. The proposed uses include residential uses within the South Kauai Form Based Code Transects T3VN.1

and T3VE, in an area surrounded by other residential uses. The Housing Project itself will have no significant impact on the surrounding environment, as it will be compatible with other residential uses in the area, as well as with the surrounding environment. As such, the development complies with the Kaua'i General Plan policy for the Residential Community Designation in that is proposed for an area on appropriately zoned land for residential uses, and will concentrate residential development in a residential area.

8.3 Kaua'i General Plan Land Use Designation. As shown on the South Kauai Land Use Map, the Property is located in the Residential Community Land Use Designation.

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

a. Goal 1 – A Sustainable Island. The Housing Project is an example of responsible growth in an area designated for residential uses and will fulfill the vision to create a live, work and play lifestyle along the Koloa Town corridor.

b. Goal 2 – A Unique and Beautiful Place. The Housing Project will complement the natural, cultural, social and built environment assets of the Koloa community. It will provide a built environment for the live, work and play model in the Koloa Town core, which is consistent with similar uses in the area as envisioned for the area.

c. Goal 3 – A Healthy and Resilient People. The Housing Project will embrace the walkable community envisioned by the South Kauai Community Plan.

d. Goal 4 – An Equitable Place, with Opportunity for All. The Housing Project will support and enhance gap housing opportunities for residences.

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

a. Manage Growth to Preserve Rural Character. The Housing Project will not detract from the rural characteristics of Kauai. It will provide appropriate opportunities for gap housing within the designated growth boundaries of the Koloa area.

b. Provide Local Housing. The Project will provide the much needed gap housing opportunities for Kauai residents.

c. Recognize the Identity of Kauai's Individual Towns and Districts. The Housing Project is a catalyst project in the heart of the Koloa Town core.

d. Design Healthy and Complete Neighborhoods. The Housing Project will be a complement to healthy and complete neighborhoods by providing close access to housing and business opportunities in the Koloa area.

e. Make Strategic Infrastructure Investments. The Housing Project will not have any significant impacts on public facilities given the streetscape and existing water and sewer facilities are in place to accommodate the Housing Project.

f. Reduce the Cost of Living. The Housing Project will help provide gap housing opportunities for the South Kauai community.

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

h. Protect Kaua'i's Scenic Beauty. The Housing Project will have a minimal impact on the visual resources in Koloa given the proposed plantation-style design at two-stories in elevation.

i. Uphold Kaua'i as a Unique Visitor Destination. The Housing Project will not have any impacts on the visitor industry other than providing opportunities for gap housing for employers in the visitor industry.

j. Help Business Thrive. The Housing Project will provide business opportunities for Koloa Town establishments given the walkability radius to the town core.

k. Help Agricultural Lands Be Productive. The Housing Project will have no negative impact on surrounding agricultural uses. It will help to preserve agricultural lands by locating new housing in appropriately designated areas.

l. Protect Our Watersheds. The Housing Project will have no negative impacts on the watershed areas.

m. Complete Kauai's Shift to Clean Energy. The Housing Project will have no negative impact on Kauai's shift to clean sources of energy.

n. Prepare for Climate Change. The Housing Project is not located on or along the shoreline and will not be subject to sea level rise.

o. Respect Native Hawaiian Rights and Wahi Pana. The Housing Project will have no substantial impacts on any of the Historic Sites, Hawaiian traditional and cultural practices, or access to streams, shorelines, or areas associated with Hawaiian religious, traditional or cultural practices.

p. Protect Access to Kauai's Treasured Places. The Housing Project will have no impact on the public's access to streams, the shoreline, trails, recreational areas, or places associated with Hawaiian religious, cultural, or traditional practices.

q. Nurture Our Keiki. The Housing Project will help provide gap housing opportunities that will allow Kauai's parents access to additional housing opportunities.

r. Honor Our Kūpuna. The Project will provide gap housing opportunities for the Kapuna.

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

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

a. The Watershed. The Housing Project is not located in or near any watershed, on the shoreline or near any streams. As such, it will have no negative impacts on the natural, historic, cultural, or environmental qualities of, or resources within, the Watershed areas, or access thereto.

b. Housing. The Housing Project will provide gap housing and aid in meeting the demand for housing in the Koloa area. Further, it is appropriately located in an "in-fill" area designated for residential uses.

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

d. Infrastructure & Services. The Housing Project will be served by existing public (water/electric/cable/wastewater disposal) systems.

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

f. Economy. The Housing Project will enhance and promote resident related uses and business opportunities in the Koloa area in support of Kauai's economy.

g. Heritage Resources. The Housing Project will have no substantial visual impacts on surrounding lands, and no substantial impacts on the Historic Sites, on Hawaiian cultural or traditional practices, or on access to streams, shorelines, areas associated with Hawaiian cultural or traditional practices, recreational areas or other special places. The Housing Project will not negatively impact any special features or resources that are shown on the Heritage Resource Map.

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

i. Public Safety & Hazards Resiliency. The Housing Project is not located near the shoreline and will not be subject to sea level rise.

j. Opportunity & Health For All. The Housing Project will promote knowledge of and access the Koloa Town core area and promote a walkable community.

SECTION 9. SOUTH KAUAI FORM BASED CODE CONSIDERATIONS.

9.1 South Kauai Form Based Code Transects. The Subject is zoned Residential (R-6) with an overlay by the Special Planning District of the South Kauai Form Based Code Transects T3VN.1 and T3VE. A majority of the Property is in Transect T3VE. The uses that are specifically permitted in the Transect T3VE are set forth in SKBC Section 2.2.030, which do not include multi-family dwelling units. As such, Project Development Use Permit is sought to allow for multi-family dwelling units and building types.

9.2 Development's Compliance with Transect T3VE Standards. The proposed Housing Project is subject to the South Kauai Form Based Code T3VE Transect as follows:

a. Building Types: As described herein, the Applicant is requesting a deviation from the carriage house and cottage court single-family dwelling building types to allow for multi-family dwellings which would allow for additional housing in a more cost-effective construction approach.

b. Setbacks: The Housing Project will comply with the building-to-building setbacks and boundary setbacks as provided for in the South Kauai Form Based Code Transects T3VN.1 and T3VE standards.

c. Heights: The Housing Project will comply with the height requirements provided for in the South Kauai Form Based Code Transects T3VN.1 and T3VE standards; provided that the proposed structures will not exceed thirty (30) feet at two-story levels, which is consistent with the R-6 standards previously established in the adjacent areas.

d. Streetscape: The internal connectivity of the Housing Project will meet the required streetscape standards for the South Kauai Form Based Code Transects T3VN.1 and T3VE; however, the Applicant will work with the Planning Department and Engineering Division to determine whether upgrades to Weliweli Road are necessary.

9.3 Impacts. The Housing Project itself will have no significant impact on the surrounding environment or properties, as these uses are appropriate to and compatible with the adjacent projects.

SECTION 10. CLASS IV ZONING PERMIT AND PDU CONSIDERATIONS.

10.1 Class IV Zoning Permit. The Class IV Zoning Permit is a procedural requirement for dwelling unit counts over fifty-one (51) units.

10.2 Development's Compliance with CZO Class IV Zoning Permit Standards. The Applicant has complied with the procedural provisions for a Class IV Zoning Permit by filing and processing this Application.

10.3 Uses. Pursuant to CZO Sections 8-10.4, the Applicant requests a Project Development Use Permit for the proposed deviation from single-family style carriage house and cottage court building types in the Transect T3VE. The Applicant further wishes to consolidate this Housing Project on to Lots 180-A, 180-G, 180-H, and 180-J. Should the Planning Department request the Applicant to consolidate such lots, it will file the necessary subdivision application.

10.4 Compatibility With Surrounding Uses. To the north, east, and west of the Subject Property are residential properties located within the SLUC Urban District and previously zoned in the CZO R-4 and R-6 District. These surrounding lands include residential uses and are compatible with existing uses and include multi-family structures. The Property is similar in topography, character and nature with adjacent and surrounding properties.

10.5 Project's Compliance with CZO Use Permit Standards. The application of multi-family building types and use allows for the South Kauai Community Plan deviations to bring gap housing at reduced cost of construction given the concentration of dwellings rather than standalone carriage house or cottage court style single-family dwellings. Shifting from single-family dwellings to multi-family dwellings allows for more dwelling units in a concentrated area. Further, the Subject Property is in compliance with the standards for a Use Permits, as a requirement of the Project Development Use Permit, contained in CZO in that the Development will be:

a. a compatible use with existing residential improvements in the Koloa Town area;

b. not detrimental to health of persons residing or working in the neighborhood given similar residential projects exist nearby;

c. not detrimental to safety of persons residing or working in the neighborhood given the existing road corridor will be offset to interior roads;

d. not detrimental to peace of persons residing or working in the neighborhood given other multi-family dwelling unit projects are nearby;

e. not detrimental to morals of persons residing or working in the neighborhood given the use is consistent with other residential uses in the area;

f. not detrimental to comfort and general welfare of persons residing or working in the neighborhood given the consistency of existing residential projects nearby;

g. not detrimental or injurious to property or improvements in the neighborhood given the residential use is consistent with immediate neighbors;

h. not detrimental to the general welfare of the community given the use is consistent to other residential uses;

i. not a cause of substantial harmful environmental consequences to the Subject Property, or to other lands or waters given the Housing Project is adjacent to existing infrastructure;

j. not inconsistent with the intent of Chapter 8, KCC; and

k. not inconsistent with the General Plan.

10.6 Compliance with Project Development Use Permit Standards. The Applicants have complied with the procedural provisions contained in CZO Section 8-10.4 as follows:

a. The Housing Project is in conformance with County standard requirements for projects associated the R-6 zoning districts and adjacent Transect zones in the South Kauai Form Based Code just north along Weliweli Road at the Koloa Village Residential Project, and are further consistent with design and siting of structures to nearby housing projects; thus, creating continuity in design as envisioned in the South Kauai Form Based Code.

b. The Project meets the standards applicable to Use Permits and will be start construction within one (1) year of approval.

c. The Project complies with the General Plan and provides opportunities for residential gap housing.

d. The Project is a gap housing project and will be available to persons of middle income.

e. The Project is consistent with adjacent residential uses and is a compatible project to surrounding residential structures.

SECTION 11. HRS CHAPTER 343 (ENVIRONMENTAL IMPACT STATEMENTS) CONSIDERATIONS.

11.1 HRS Chapter 343. The Project is not subject to the provisions of Hawaii Revised Statutes Chapter 343. HRS Chapter 343 requires the preparation of an Environmental Assessment and/or an Environmental Impact Statement for certain activities as specified in HRS Section 343-5. The proposed Project does not implement any of the trigger points required under HRS Section 343-5.

SECTION 12. NATIVE HAWAIIAN ISSUES.

12.1 Development's Impacts on Traditional or Cultural Practices. Under Article XII, Section 7 of the Hawaii State Constitution, "The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes

and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights." Practitioners may gather anywhere that native Hawaiian traditional and customary rights have been traditionally and customarily exercised in that manner on land that is less than "fully developed." David M. Forman & Susan K. Serrano, Ho'ohana Aku, a Ho'ōla Aku: A Legal Primer for Traditional and Customary Rights in Hawai'i, a publication of Ka Huli Ao Center for Excellence in Native Hawaiian Law, December 2012, citing Public Access Shoreline Hawaii ("PASH") v. Hawai'i County Planning Commission, 79 Hawai'i 425, 903 P.2d 1246 (1995). If property is deemed "fully developed," i.e., lands zoned and used for residential purposes with existing dwellings, improvements, and infrastructure, it is always "inconsistent" to permit the practice of traditional and customary native Hawaiian rights on such property. State v. Hanapi, 89 Hawai'i 177, 970 P.2d 485 (1998).

Although the land is currently vacant, it has been zoned Residential (R-6) and pursuant to the South Kauai Form Based Code, in Transects T3VN.1 and T3VE for residential use. Given the history of the Property and surrounding residential properties, there are no known traditional or customary practices of native Hawaiians that are presently occurring on or upon any part of the Property, and, therefore, no impact to ongoing practices.

To ensure compliance with relevant case law, the Applicant caused Cultural Surveys Hawaii, Inc. to prepare a Ka Pa'akai Analysis for the Housing Project, dated October 2025, as attached as Exhibit "**G**".

Based on the Applicant's investigations, it believes that the Project will have no impact on any known traditional or customary practices of native Hawaiians and find that:

a. There are no known traditional or customary practices of native Hawaiians that are presently occurring within the Project area. Furthermore, no surface or cultural deposits were discovered, which would indicate whether any cultural and traditional native Hawaiian practices on the Property.

b. There are no indications of special gathering practices taking place within the Property given the primary feature of the Project existing commercial uses.

c. There will be no detrimental effect on access to any streams, access to the shoreline or other adjacent shoreline areas, or gathering along any streams, the shoreline or in the ocean given public beach access is available near the Subject Property.

d. There are no signs of religious practices on the Property.

e. There are no known cultural or historic sites or resources within the Project area, nor were any disclosed to the Applicant during the construction of the existing commercial complex years ago on the Property.

f. There are no known burials within the Project area; however, it is understood archaeological features were identified during ground disturbance on properties to the south. Should any burial site be identified during construction activities, the Applicant will ensure its contractor will contact the State Historic Preservation Division as required by law.

Nonetheless, the Ka Pa'akai Analysis recommends that construction workers and all other personnel involved in the construction activities to be informed of the possibility of inadvertent cultural finds, including human remains.

SECTION 13. COMMUNITY CONTACTS.

13.1 Contact with Community Groups. The Applicant conducted community research and interviews associated with the Ka Pa'akai Analysis.

SECTION 14. CONCLUSION.

The request for the Housing Project proposed by the Applicant is found to be appropriate deviations from the South Kauai Form Based Code.

The Applicant respectfully requests that the Planning Commission of the County of Kauai grant the Application based on the following:

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

2. Find that the Housing Project is consistent with the objectives, policies, and guidelines set forth in Hawaii Revised Statutes Chapter 205A.

3. Find that the Project is consistent with permitted uses in the SLUC Urban District, the Kauai General Plan, the South Kauai Community Plan, the CZO, Chapter 10 of the KCC, and the South Kauai Form Based Code.

4. Approve the issuance of the Project Development Use Permit and Class IV Zoning Permit for the Housing Project on the Property as described herein, subject to such reasonable conditions as the Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, 11/25/2025.

BELLES GRAHAM LLP

By _____

IAN K. JUNG
Attorneys for Applicant
SK INVESTORS LLC,
a Hawaii limited liability company

EXHIBIT LIST

(APPLICATION)

EXHIBIT

A. AUTHORIZATION

Applicant's Authorization ..... A

B. TITLE

Warranty Deed ..... B

C. MAPS

Location Map C-1
Tax Card C-2
Land Use District Boundary Map C-3
General Plan Map C-4
CZO Map C-5
South Kauai Development Plan Map C-6
SMA Map C-7
Distance to Shoreline Map C-8
Heritage Resources Map C-9
Flood Insurance Rate Map C-10

D. UTILITIES

HOH Utilities LLC Will Serve Letter ..... D

E. PLANS

Plan Set ..... E

F. PHOTOGRAPHS

Photographs of Project Area ..... F

G. REPORTS

Ka Pa'akai Analysis ..... G

Docusign Envelope ID: 1DE2A24A-CEC6-4328-8——874A761067A4

APPLICANT'S AUTHORIZATION

I. APPLICANT.

Name: SK INVESTORS LLC, a Hawaii limited liability company
Attention: MICHAEL SERPA

Address: P.O. Box 12
Koloa, Hawaii 96756

Email: mike@maserpa.com

II. AUTHORIZED AGENT.

Name: Ian K. Jung, Esq.

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

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

III. PROPERTY.

Lot 180-A and Lot 180-G
Koloa, Kauai, Hawaii
Kauai Tax Map Key No. (4) 2-8-011:001

IV. AUTHORIZATION.

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

EXHIBIT "A"

1. Building permits, grading permits, use permits, variance permits, zoning permits, shoreline setback determinations, and Special Management Area permits issued by any department, agency, board or commission of the County of Kauai.

2. Permits issued by the Department of Health of the State of Hawaii.

3. Permits issued by the Board of Land and Natural Resources of the State of Hawaii and/or the Department of Land and Natural Resources of the State of Hawaii, including shoreline certifications.

4. Permits issued by the Land Use Commission of the State of Hawaii.

5. Approval before the United States Department of Agriculture, Natural Resources Conservation Service.

DATED: 11/10/2025.

APPLICANT:

SK INVESTORS LLC,
a Hawaii limited liability company

Signed by:
C398A4A4573D475...

MICHAEL SERPA
Its Authorized Signatory

STATE OF HAWAII
OFFICE OF THE ASSISTANT REGISTRAR
RECORDED
March 17, 2023 8:01 AM
Doc No(s) T - 12128128
on Cert(s) 1139743
Issuance of Cert(s) 1251167

Doc 2 of 4
Pkg 12174113 YH

/s/ LESLIE T KOBATA
ASSISTANT REGISTRAR

Conveyance Tax: $88,000.00

LAND COURT SYSTEM | REGULAR SYSTEM

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

SK INVESTORS, LLC
P.O. Box 12
Koloa, Kauai, Hawaii 96756

Old Republic Title & Escrow
Escrow No. 6828011579-PB

This document contains 9 pages

TYPE OF DOCUMENT:

WARRANTY DEED

PARTIES TO DOCUMENT:

GRANTOR: MG KOLOA PARTNERS, LLC,
a Hawaii limited liability company
579 S. Moss Hill Drive, Bountiful, Utah 84010

GRANTEE: SK INVESTORS, LLC,
a Hawaii limited liability company
P.O. Box 12
Koloa, Kauai, Hawaii 96756

TAX MAP KEY FOR PROPERTY:

(4) 2-8-011-001

(affects Certificate of Title Nos. 1139743)

EXHIBIT "B"

WARRANTY DEED

KNOW ALL PEOPLE BY THESE PRESENTS:

MG KOLOA PARTNERS, LLC, a Hawaii limited liability company, with a mailing address of 579 S. Moss Hill Drive, Bountiful, Utah 84010, hereinafter called "Grantor", in consideration of the sum of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration to the Grantor paid by SK INVESTORS,LLC, a Hawaii limited liability company, with a mailing address of P.O. Box 12, Koloa, Kauai, Hawaii 96756, hereinafter called "Grantee", the receipt of which is hereby acknowledged, does hereby grant and convey unto Grantee, its successors and assigns, all of the property described in **Exhibit "A"** attached hereto and made a part hereof for all purposes, together with all improvements, rights, benefits, privileges, easements, tenements, and appurtenances thereon and pertaining thereto (said real property, together with such rights, appurtenances, interests and improvements being collectively called the "Property").

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

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

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

The aforesaid property is conveyed by Grantor to Grantee "AS IS, WHERE IS", without warranty or representation, express or implied, as to the condition or fitness for any purpose whatsoever, and Grantee hereby affirms to Grantor that Grantee has had the opportunity to inspect, and accepts the same "AS IS, WHERE IS".

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

This Warranty Deed may be executed in counterparts. Each counterpart shall be executed by one or more of the parties hereinbefore named and the several counterparts shall constitute one

instrument to the same effect as though the signatures of all the parties are upon the same document.

IN WITNESS WHEREOF, Grantor and Grantee have caused these presents to be duly executed on this 14 day of March 2023.

Signature pages follow; the remainder of this page is intentionally left blank.

MG KOLOA PARTNERS, LLC,
a Hawaii limited liability company

By: _____
Name: James Lacey
Title: Manager

Grantor

PB/NP STATE OF ~~UTAH~~ Hawaii)
COUNTY OF Kauai) SS:

On this 9th day of March 2023, before me personally appeared JAMES LACEY, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, which document consists of nine (9) pages, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

PB/NP I certify under **PENALTY OF PERJURY** under the laws of the State of ~~Utah~~ Hawaii that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

PRESTON BREDE NOTARY PUBLIC No. 09-301 STATE OF HAWAII

Name of Notary:

PB/NP Notary Public, State of ~~Utah~~ Hawaii

Preston Brede
State of Hawaii, Fifth Circuit
My Commission Expires: July 5, 2025

My commission expires: _____

Doc. Date: undated # Pages 9
Notary Name: Preston Brede 5th Circuit
Doc. Description: Warranty Deed

Notary Signature MAR 9 2023 Date

PRESTON BREDE NOTARY PUBLIC No. 09-301 STATE OF HAWAII

SK INVESTORS, LLC,
a Hawaii limited liability company

By: JME VENTURES, LLC,
a Hawaii limited liability company,
its Manager

By:_____
Name: Michael Serpa
Title: President

Grantee

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 14 day of March 2023, before me personally appeared MICHAEL SERPA, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, which document consists of nine (9) pages, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

PRESTON BREDE
NOTARY PUBLIC
No. 09-301
STATE OF HAWAII

Name of Notary:

Notary Public, Fifth Judicial Circuit,
State of Hawaii

Preston Brede
State of Hawaii, Fifth Circuit
My Commission Expires: July 5, 2025

My commission expires:_____

PRESTON BREDE
NOTARY PUBLIC
No. 09-301
STATE OF HAWAII

Doc. Date: MAR 14 2023 # Pages 9
Notary Name: Preston Brede 5th Circuit
Doc. Description: Warranty Deed

Notary Signature MAR 14 2023
Date

EXHIBIT "A"

-PARCEL FIRST:-

All of those certain parcels of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 180-A, area 7.218 acres, more or less, LOT 180-G, area 0.792 acre, more or less, LOT 180-H, area 0.662 acre, more or less, and LOT 180-J, area 0.764 acre, more or less as shown on Map 59, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee for Eric A. and Augustus F. Knudsen;

Being the premises acquired by:

WARRANTY DEED

Recorded:	July 12, 2017 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. T-10054170
Grantor:	JOHN HORWITZ, PETER BALDWIN, MATTHEW B. GUARD and GEORGE R. ROBINSON, as Successor Co-Trustees of The Eric A. Knudsen Trust created under Deed of Trust, dated April 30, 1922, as amended, and POHAKU KOLOA LLC, a Hawaii limited liability company
Grantee:	MG KOLOA PARTNERS, LLC, a Hawaii limited liability company

Being the property described in and covered by Transfer Certificate of Title No. 1,139,743.

SUBJECT, HOWEVER, to the following:

1. Mineral and water rights of any nature in favor of the State of Hawaii.

2. Stipulation and Decree dated June 7, 1951, filed in the Circuit Court of the Fifth Circuit, State of Hawaii, Equity No. 144, filed as Land Court Document No. 135050, it: To receive water from the Konohiki of the Ahupuaa of Koloa in a constant stream in the amount of 45,000 gallons per day.

3. Provisions set forth in instrument dated August 27, 1937, filed as Land Court Document No. 40955, recorded in Book 1398 at Page 371, by and between THE McBRYDE SUGAR COMPANY, LIMITED, party of the First part, BISHOP TRUST COMPANY, LIMITED, Trustee for Eric A. Knudsen and Augustus F. Knudsen, party of the Second part, ERIC A. KNUDSEN and AUGUSTUS F. KNUDSEN, parties of the Third part, and BISHOP TRUST COMPANY, LIMITED, party of the Fourth part.

4. Terms and provisions as contained in an instrument,

Entitled:	LIMITED WARRANTY DEED WITH COVENANTS, RESERVATIONS, RESTRICTIONS ON SALE, AND DISCLAIMERS
Dated:	November 2, 2000
Recorded:	November 3, 2000 in the Bureau of Conveyances, State of Hawaii, as Document No. 2000-155601, and in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2662386

5. -AS TO PARCEL FIRST (LOTS 180-A, 180-J AND 180-H):-

A. DESIGNATION OF EASEMENT "55" (15 feet wide)

PURPOSE:	Electrical and telephone
SHOWN:	on Map 80, as set forth by Land Court Order No. 65921, filed May 16, 1983

B. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

Instrument:	GRANT OF EASEMENT
Granted To:	KAUAI ELECTRIC DIVISION OF CITIZENS UTILITIES COMPANY, a Delaware corporation, and HAWAIIAN TELEPHONE COMPANY, a Hawaii corporation, now known as HAWAIIAN TELCOM, INC.
For:	An easement over said Easement "55"
Dated:	June 16, 1983
Recorded:	September 6, 1983 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 1189737

(NOT NOTED ON TRANSFER CERTIFICATE OF TITLE REFERRED TO HEREIN)

6. -AS TO PARCEL FIRST (LOT 180-H):-

A. Any rights, easements, interests or claims which may exist or arise by reason of or reflected by the facts shown on the plat of a survey made by ROGER M CAIRES, Licensed Professional Land Surveyor, on February 6, 2023, designated Job No. ---, as follows:

A) Chain link fence line is approximately 0.80 ft. OUTSIDE subject Lot 180-H.

B) West face of rockwall is approximately 0.80 ft. OUTSIDE subject Lot 180-H.

C) West face of rockwall is approximately 0.60 ft. OUTSIDE subject Lot 180-H.

D) Chain link fence line is approximately 0.70 ft. OUTSIDE subject Lot 180-H.

E) Container is approximately 3.30 ft. INSIDE subject Lot 180-H.

F) Edge of asphalt pavement is approximately 5.00 ft. INSIDE subject Lot 180-H.

G) Chain link fence line is approximately 1.00 ft. OUTSIDE subject Lot 180-H.

H) Building corner is approximately 5.80 ft. INSIDE subject Lot 180-H.

I) Building corner is approximately 4.10 ft. OUTSIDE subject Lot 180-H.

B. Any rights, easements, interests or claims which may exist or arise by reason of or reflected by the facts shown on the plat of a survey made by ROGER M CAIRES, Licensed Professional Land Surveyor, on February 6, 2023, designated Job No. ---, as follows:

A) Chain link fence line is approximately 0.30 ft. OUTSIDE subject Lot 180-H.

7. -AS TO PARCEL FIRST (LOT 180-A):-

A. Any rights, easements, interests or claims which may exist or arise by reason of or reflected by the facts shown on the plat of a survey made by ROGER M CAIRES, Licensed Professional Land Surveyor, on February 6, 2023, designated Job No. ---, as follows:

A) Shipping container is approximately 16.50 ft. INSIDE subject Lot 180-A.

B) South edge of concrete pad is approximately 3.00 ft. INSIDE subject Lot 180-A.

C) North face of stacked rock wall is approximately 1.40 ft. INSIDE subject Lot 180-A.

D) South edge of concrete pad is approximately 1.00 ft. INSIDE subject Lot 180-A.

E) South corner of concrete pad is approximately 6.00 ft. INSIDE subject Lot 180-A.

F) Stacked rock wall varies in with and is approximately 2.00 ft. INSIDE subject Lot 180-A.

G) South corner of kennel is approximately 2.00 ft. INSIDE subject Lot 180-A.

H) Northeast face of rock wall is approximately 16.50 ft. INSIDE subject Lot 180-A.

I) Stacked rock wall varies in with and is approximately 1.50 ft. INSIDE subject Lot 180-A.

J) Stacked rock wall varies in with and is approximately 1.50 ft. INSIDE subject Lot 180-A.

B. Any rights, easements, interests or claims which may exist or arise by reason of or reflected by the facts shown on the plat of a survey made by ROGER M CAIRES, Licensed Professional Land Surveyor, on February 6, 2023, designated Job No. ---, as follows:

A) North face of rock wall is approximately 0.50 ft. OUTSIDE subject Lot 180-A.

B) North face of rock wall is approximately 0.40 ft. OUTSIDE subject Lot 180-A.

C) North face of rock wall/cmu wall is approximately 0.20 ft. OUTSIDE subject Lot

180-A.

D) North face of rock wall/cmu wall is approximately 0.20 ft. OUTSIDE subject Lot 180-A

E) North face of rock wall/cmu wall is approximately 0.20 ft. OUTSIDE subject Lot 180-A.

8. Any unrecorded and subsisting leases.

9. Rights and claims of parties in possession.

10. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

11. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

12. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.

13. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

14. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

16. Any lien or right to a lien for services, labor or material unless such lien is shown by the Public Records at Date of Policy.

END OF EXHIBIT "A"

County of Kaua'i
State of Hawai'i

Overview

Legend

- Parcels
- CPR Units
- Roads

Parcel ID	280110010000	**Situs/Physical Address**	WAIKOMO RD	**Total Market Value**	$5,921,700	**Last 2 Sales**		
						Date	**Price**	**Reason**
Acreage	9.436	**Mailing Address**	SK INVESTORS LLC	**Total Assessed Value**	$5,921,700	3/14/2023	$8000000	VALID SALE
Class	NON-OWNER-OCCUPIED RESIDENTIAL		PO BOX 12 KOLOA HI 96756	**Total Exemptions**	$0	6/21/2017	$2625000	VALID SALE
				Total Net Taxable Value	$5,921,700			

Brief Tax Description FIRST: LOT 180-A 7.218 AC SECOND: LOT: 180-G .792 AC THIRD: LOT 180-H 0.662 AC FOURTH: LOT 180-J .764 AC MAP 59 LC APP 956
(Note: Not to be used on legal documents)

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

Date created: 11/10/2025
Last Data Uploaded: 11/10/2025 4:25:51 AM

Developed by SCHNEIDER GEOSPATIAL

EXHIBIT "C-1"

Parcel Information

Parcel Number (TAX MAP KEY)	280110010000
Location Address	WAIKOMO RD 3368 KAPAU RD KOLOA HI 96756
Project Name	
Tax Classification	NON-OWNER-OCCUPIED RESIDENTIAL (Note: This is for tax purposes only. Not to be used for zoning.)
Neighborhood Code	2881-1V
Legal Information	FIRST: LOT 180-A 7.218 AC SECOND: LOT: 180-G .792 AC
Zoning	R6
Non Taxable Status	
Land Area (acres)	9.4360
Land Area (approximate sq ft)	411,032
Living Units	0

View Map

Owner Information

Owner Names
SK INVESTORS LLC Fee Owner

Mailing Address
SK INVESTORS LLC
PO BOX 12
KOLOA HI 96756

Assessment Information

Show Historical Tax Years

Year	Property Class	Total Market Value	Total Property Assessed Value	Total Property Exemption	Total Net Taxable Value
2025	NON-OWNER-OCCUPIED RESIDENTIAL	$5,921,700	$5,921,700	$0	$5,921,700

Assessment Notices

2025 (PDF) | 2024 (PDF) | 2023 (PDF) | 2022 (PDF) | 2021 (PDF) | 2020-1 (PDF) | 2019-1 (PDF)

Online Assessment Notices will include one PDF per parcel for each class. For multi-owner copies please contact rpassessment@kauai.gov.

Conveyance Information

Sale Date	Price	Instrument #	Instrument Type	Date Recorded	Document Number	Cert #	Book/Page	Conveyance Tax	Document Type
03/14/2023	$8,000,000		FEE CONVEYANCE	03/17/2023	T-12128128	1,251,167		88000	Warranty Deed
06/21/2017	$2,625,000		FEE CONVEYANCE	07/12/2017	T-10054170	1139743		15750	Warranty Deed
06/28/2004	$672,400		FEE CONVEYANCE	08/27/2004	3158078	712473		672.4	Warranty Deed
11/02/2000	$0	0000155601	FEE CONVEYANCE	11/03/2000	2662386	567200*			
12/12/1996	$0	9600183229	FEE CONVEYANCE	12/27/1996	2357022	485519		0	

Current Tax Bill Information

Tax Period	Description	Original Due Date	Taxes Assessment	Tax Credits	Net Tax	Penalty	Interest	Other	Amount Due
2025-2	Real Property Tax	02/20/2026	$24,091.99	$0.00	$24,091.99	$0.00	$0.00	$0.00	$24,091.99
	Tax Bill with Interest computed through 11/30/2025		$24,091.99	$0.00	$24,091.99	$0.00	$0.00	$0.00	$24,091.99

Historical Payment Information

Year	Tax	Payments and Credits	Penalty	Interest	Other
2025	$48,183.98	($24,091.99)	$0.00	$0.00	$0.00
2024	$37,857.14	($37,857.14)	($3,785.72)	($2,915.00)	$0.00
2023	$16,063.88	($16,063.88)	($803.19)	($88.35)	$0.00
2022	$14,590.18	($14,590.18)	($1,459.02)	($641.97)	$0.00
2021	$13,780.69	($13,780.69)	($1,378.07)	($2,349.60)	$0.00
2020	$13,780.69	($13,780.69)	($1,378.07)	($3,865.48)	$0.00
2019	$13,780.69	($13,780.69)	($1,378.07)	($6,063.50)	$0.00
2018	$13,780.69	($13,780.69)	($1,378.07)	($7,571.53)	$0.00
2017	$7,523.78	($7,523.78)	($376.19)	($2,132.91)	$0.00
2016	$7,523.78	($7,523.78)	$0.00	$0.00	$0.00
2015	$7,523.78	($7,523.78)	$0.00	$0.00	$0.00
2014	$7,523.78	($7,523.78)	$0.00	$0.00	$0.00

Year	Tax	Payments and Credits	Penalty	Interest	Other
⊞ 2013	$7,150.70	($7,150.70)	$0.00	$0.00	$0.00
⊞ 2012	$6,031.46	($6,031.46)	$0.00	$0.00	$0.00
⊞ 2011	$5,931.24	($5,931.24)	$0.00	$0.00	$0.00
⊞ 2010	$7,514.09	($7,514.09)	$0.00	$0.00	$0.00
⊞ 2009	$7,514.09	($7,514.09)	$0.00	$0.00	$0.00
⊞ 2008	$7,514.09	($7,514.09)	$0.00	$0.00	$0.00
⊞ 2007	$7,514.09	($7,514.09)	$0.00	$0.00	$0.00
⊞ 2006	$7,589.46	($7,589.46)	$0.00	$0.00	$0.00
⊞ 2005	$5,590.42	($5,590.42)	$0.00	$0.00	$0.00
⊞ 2004	$2,477.49	($2,477.49)	$0.00	$0.00	$0.00
⊞ 2003	$2,418.70	($2,418.70)	$0.00	$0.00	$0.00
⊞ 2002	$2,418.70	($2,418.70)	$0.00	$0.00	$0.00
⊞ 2001	$2,606.09	($2,606.09)	$0.00	$0.00	$0.00

Map

No data available for the following modules: CPR/Condo/Apt Unit Information, Appeal Information, Improvement Information, Commercial Improvement Information, Sketches, Other Building and Yard Improvements, Permit Information.

The Kauai County Tax Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation.
| User Privacy Policy | GDPR Privacy Notice
Last Data Upload: 11/9/2025, 11:25:51 PM

Contact Us

Developed by SCHNEIDER GEOSPATIAL

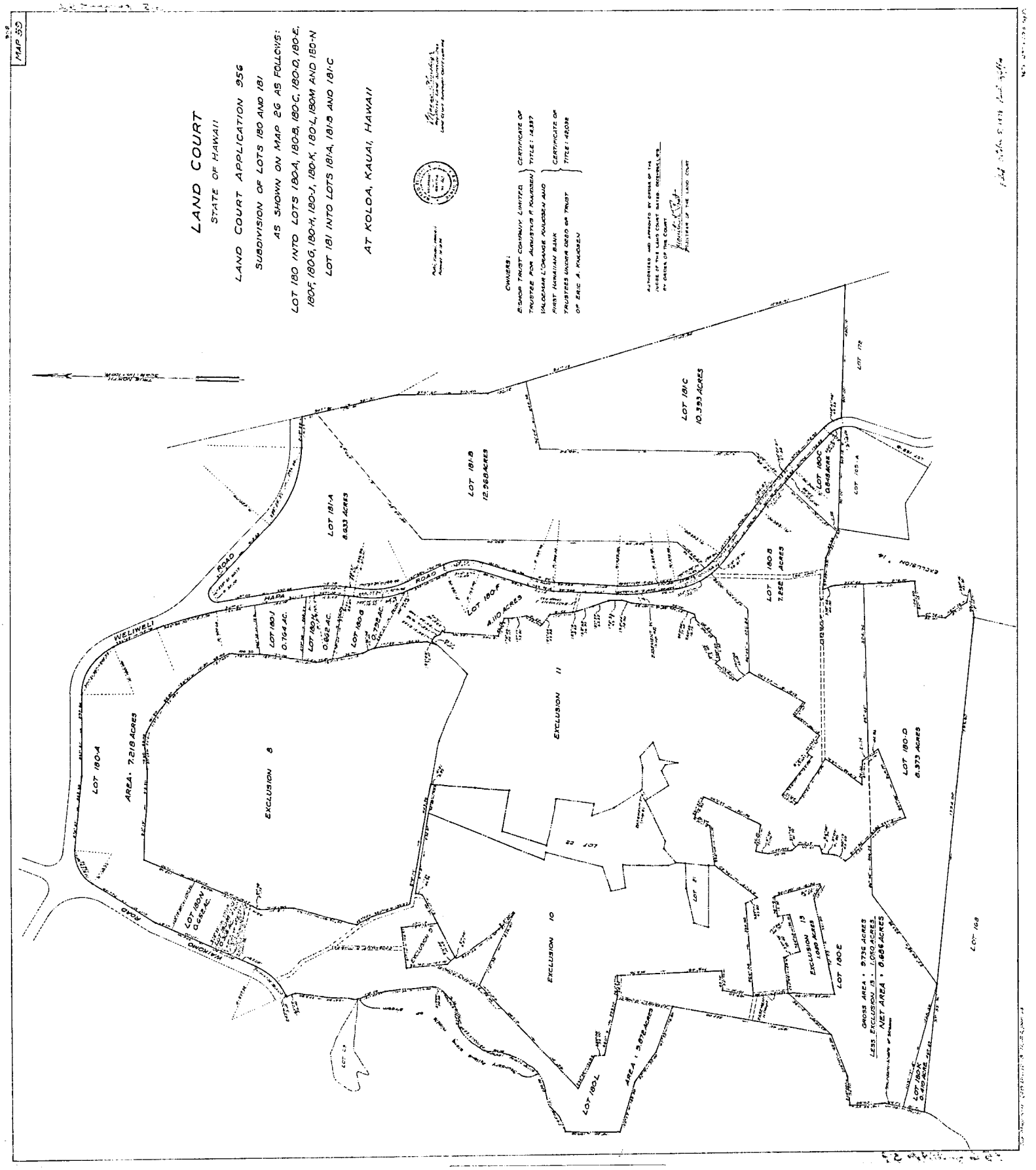
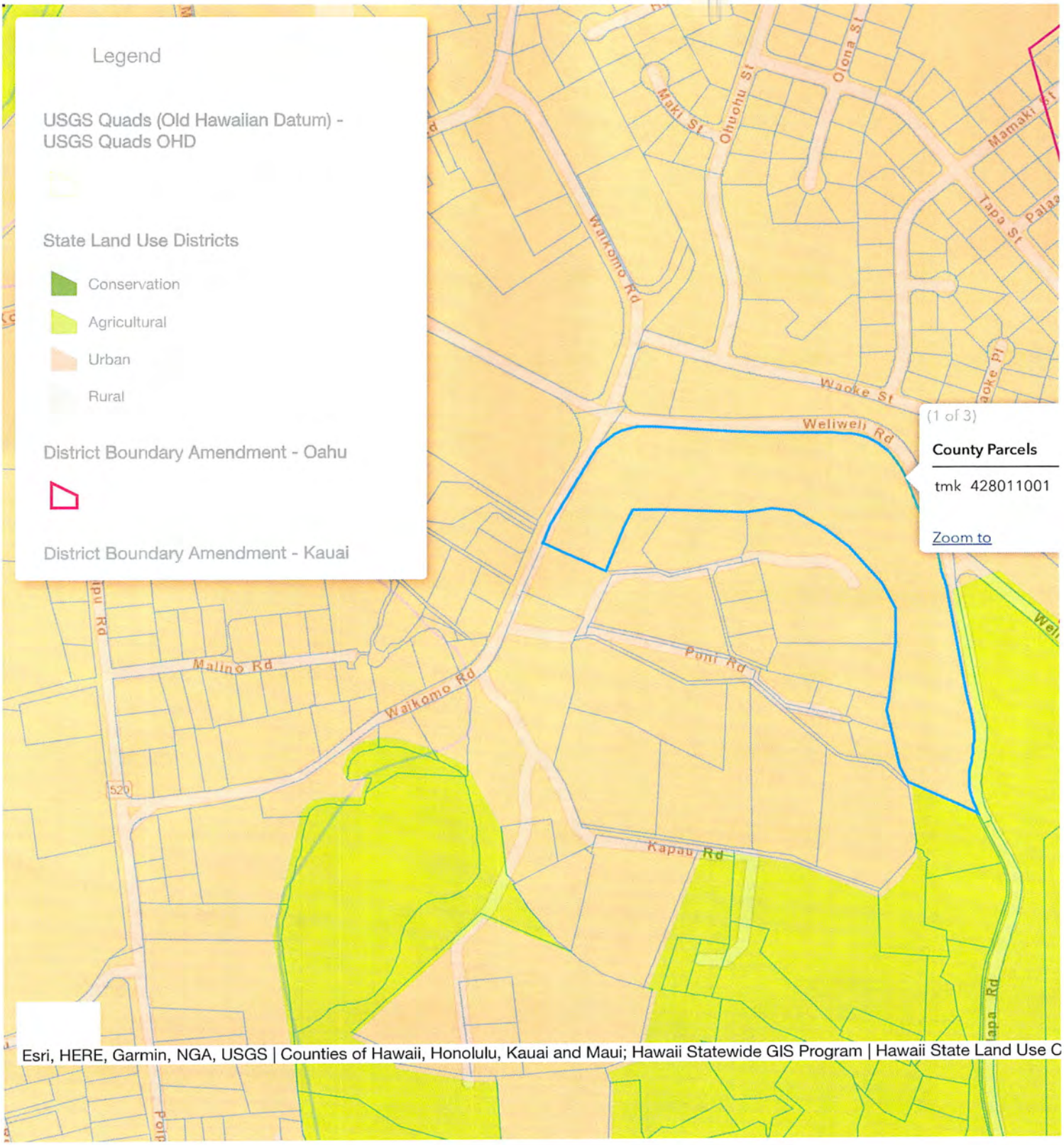

MAP 59
LAND COURT
STATE OF HAWAII
LAND COURT APPLICATION 956
SUBDIVISION OF LOTS 180 AND 181
AS SHOWN ON MAP 26 AS FOLLOWS:
LOT 180 INTO LOTS 180-A, 180-B, 180-C, 180-D, 180-E, 180-F, 180-G, 180-H, 180-J, 180-K, 180-L, 180-M AND 180-N
LOT 181 INTO LOTS 181-A, 181-B AND 181-C
AT KOLOA, KAUAI, HAWAII
OWNERS:
EISHOP TRUST COMPANY LIMITED
TRUSTEE FOR AUGUSTUS F. KNUDSEN
VALDEMAR L'ORANGE KNUDSEN AND
FIRST HAWAIIAN BANK
TRUSTEES UNDER DEED OF TRUST
OF ERIC A. KNUDSEN
CERTIFICATE OF TITLE: 14,337
CERTIFICATE OF TITLE: 42,032
LOT 181-A
8.633 ACRES
LOT 181-B
12.968 ACRES
LOT 181-C
10.393 ACRES
LOT 180-A
AREA: 7.218 ACRES
LOT 180-B
7.252 ACRES
LOT 180-C
0.848 ACRES
LOT 180-D
8.373 ACRES
LOT 180-E
LOT 180-F
4.110 ACRES
LOT 180-G
0.792 AC.
LOT 180-H
0.662 AC.
LOT 180-J
0.764 AC.
LOT 180-K
0.410 ACRES
LOT 180-L
AREA: 3.872 ACRES
LOT 180-M
0.652 AC.
LOT 180-N
0.652 AC.
EXCLUSION 8
EXCLUSION 10
EXCLUSION 11
EXCLUSION 13
1.080 ACRES
EXCLUSION 14
LOT 172
LOT 168
WELIWELI ROAD
HAPA ROAD
WAIKOMO ROAD
GROSS AREA = 9.736 ACRES
LESS EXCLUSION 13 = 1.050 ACRES
NET AREA = 8.686 ACRES

EXHIBIT "C-2"



State of Hawaii Land Use District Boundaries Map - January 2018

EXHIBIT "C-3"

Figure 5-4 South Kaua'i Land Use Map

- Planning District Boundary
- Major Roads
- Roads
- Streams
- Reservoirs
- Natural
- Agriculture
- Agriculture (IAL)
- Parks and Recreation
- Golf Course
- Homestead
- Residential Community
- Neighborhood Center
- Neighborhood General
- Large Town
- Small Town
- Resort
- Industrial
- Transportation
- Provisional Agriculture

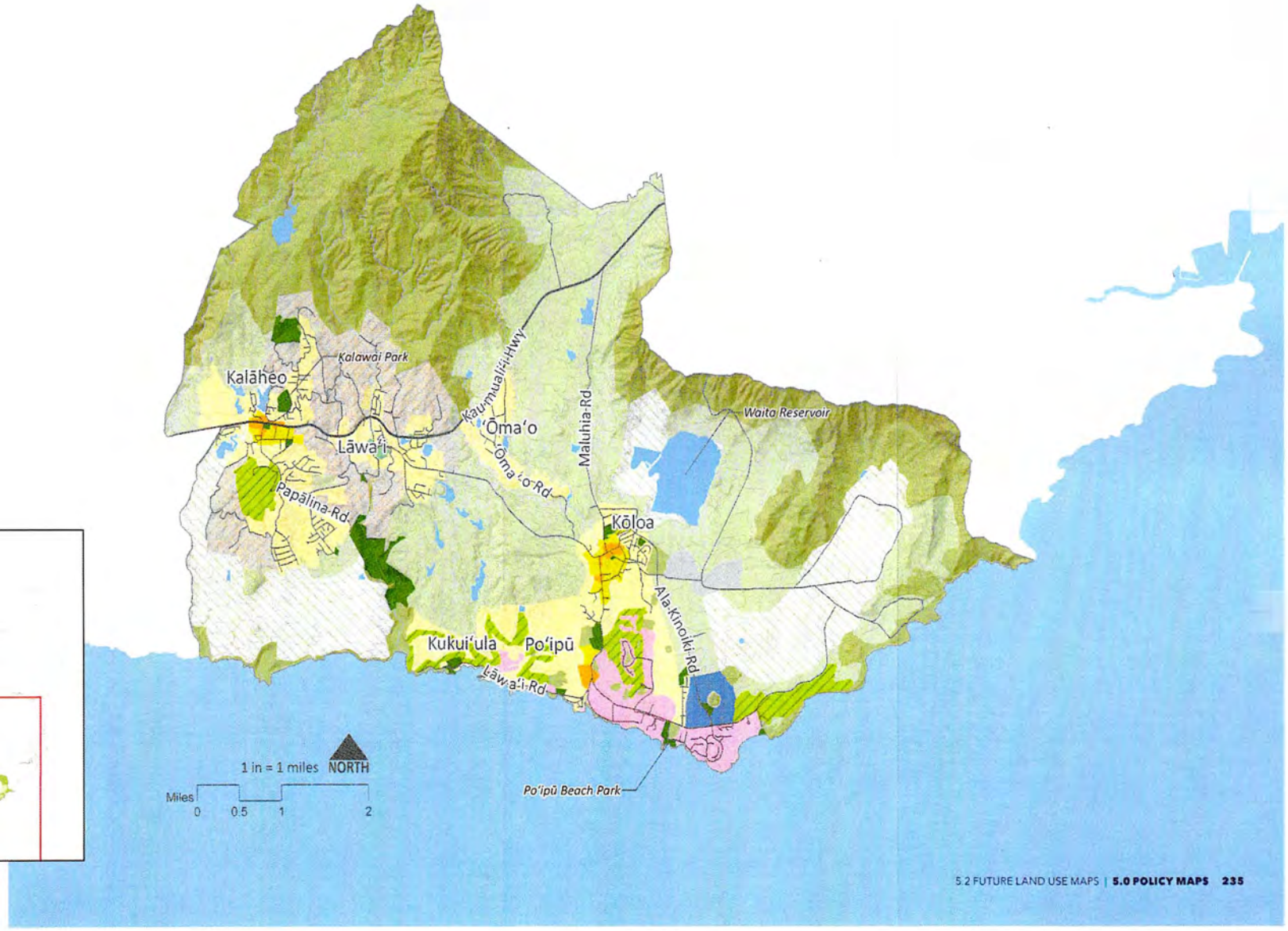
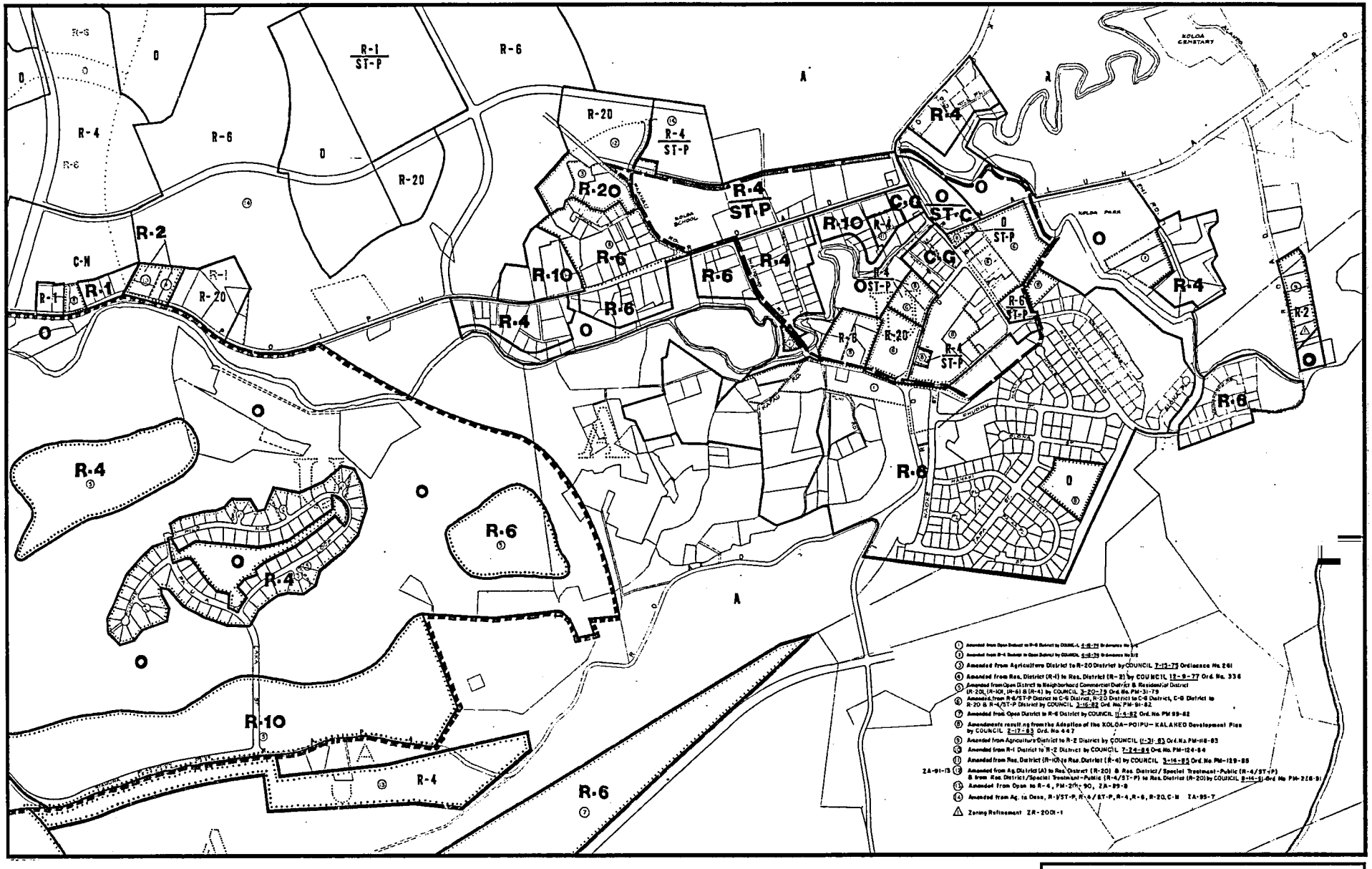


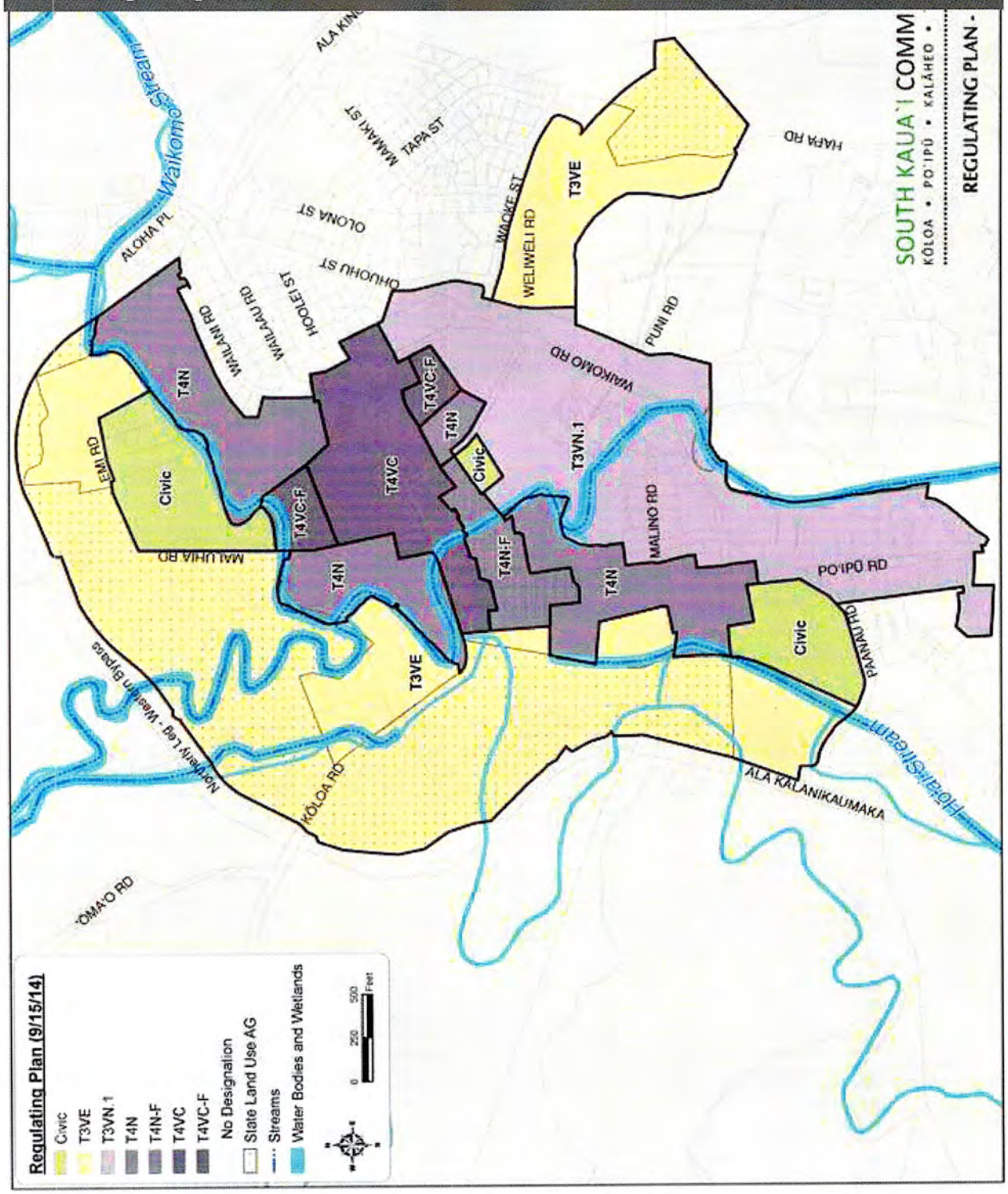
EXHIBIT "C-4"



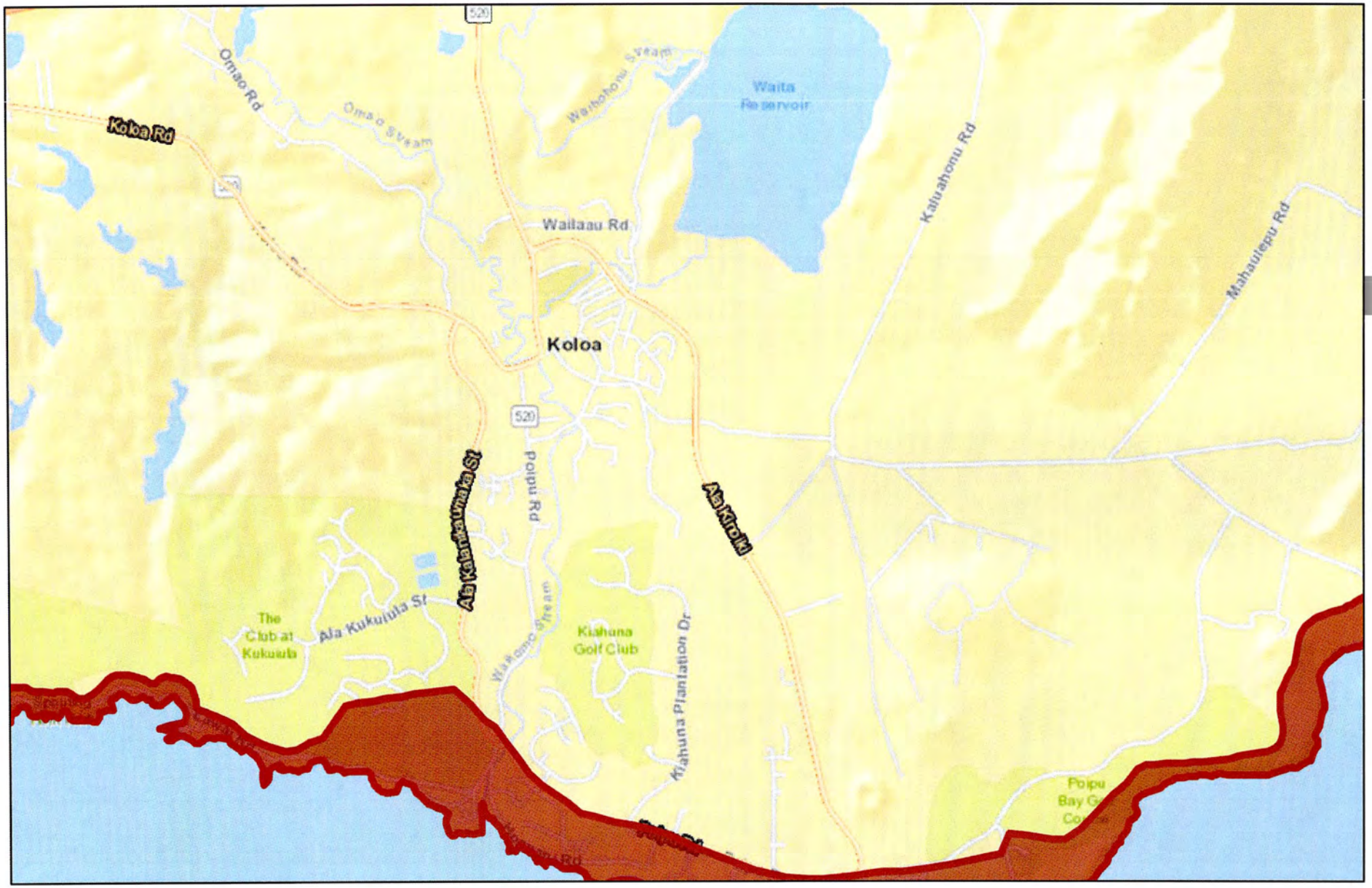
ZM – KO 300 KOLOA

EXHIBIT "C-5"

B. Kōloa Regulating Plan



SMA Map



November 10, 2025

1:36,112

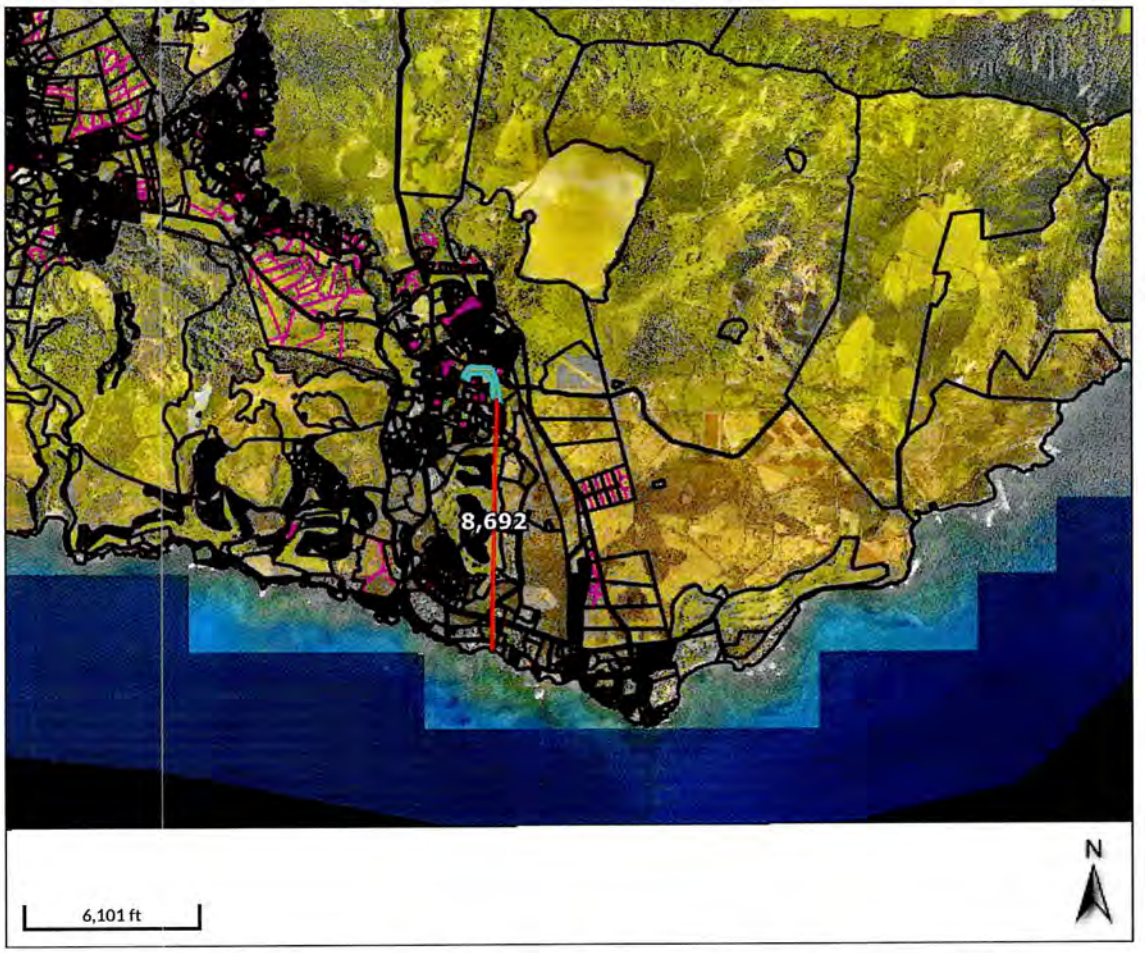
0 0.28 0.55 1.1 mi

0 0.45 0.9 1.8 km

Esri, HERE, Garmin, NGA, USGS, Esri, HERE

EXHIBIT "C-7"

County of Kaua'i
State of Hawai'i



Overview

Legend

- Parcels
- CPR Units
- Roads

Parcel ID	280110010000	**Situs/Physical Address**	WAIKOMO RD	**Total Market Value**	$5,921,700	**Last 2 Sales**		
						Date	**Price**	**Reason**
Acreage	9.436	**Mailing Address**	SK INVESTORS LLC	**Total Assessed Value**	$5,921,700	3/14/2023	$8000000	VALID SALE
Class	NON-OWNER-OCCUPIED RESIDENTIAL		PO BOX 12 KOLOA HI 96756	**Total Exemptions**	$0	6/21/2017	$2625000	VALID SALE
				Total Net Taxable Value	$5,921,700			

Brief Tax Description FIRST: LOT 180-A 7.218 AC SECOND: LOT: 180-G .792 AC THIRD: LOT 180-H 0.662 AC FOURTH: LOT 180-J .764 AC MAP 59 LC APP 956
(Note: Not to be used on legal documents)

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

Date created: 11/10/2025
Last Data Uploaded: 11/10/2025 4:25:51 AM

Developed by SCHNEIDER GEOSPATIAL

EXHIBIT "C-8"

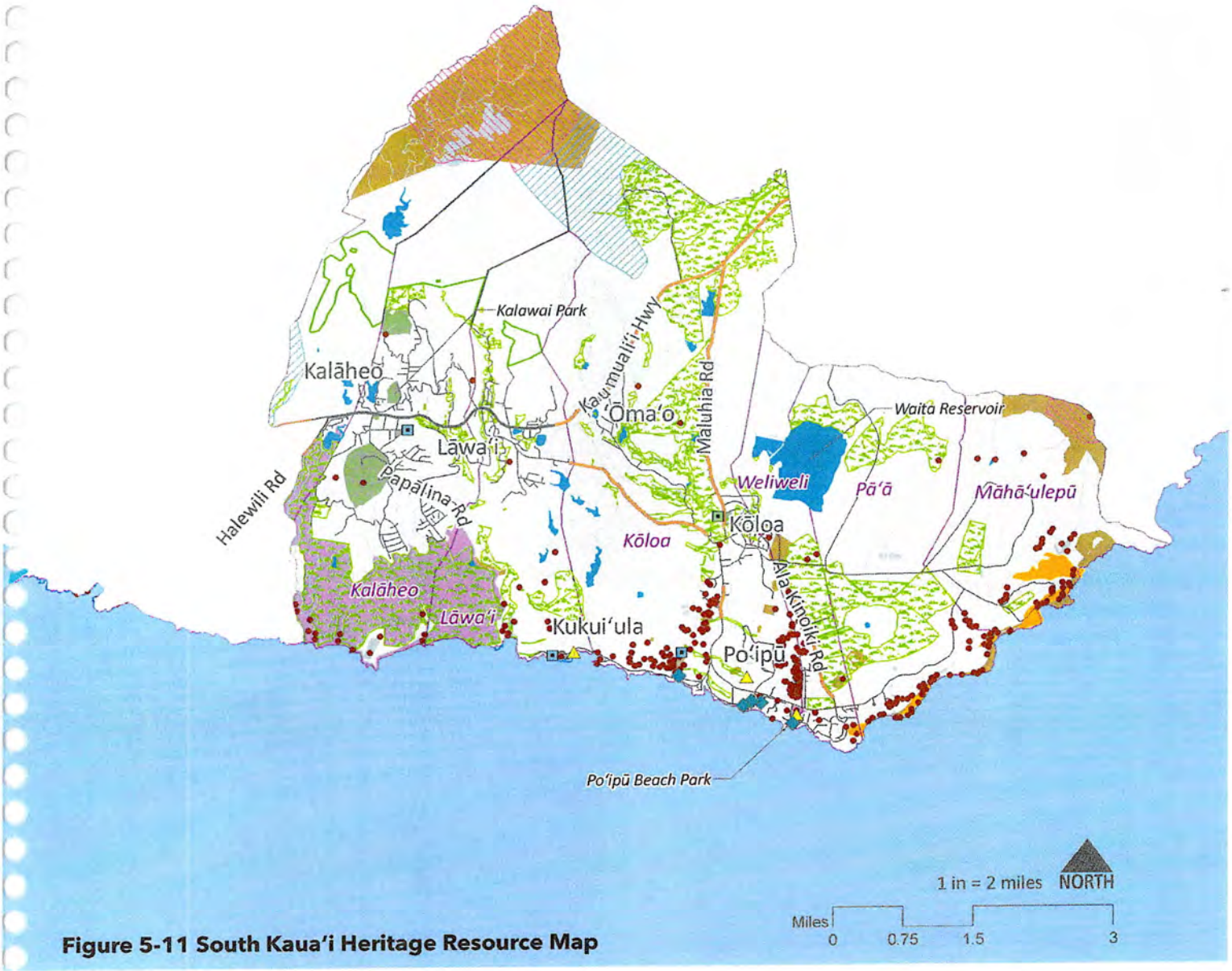


Figure 5-11 South Kauaʻi Heritage Resource Map

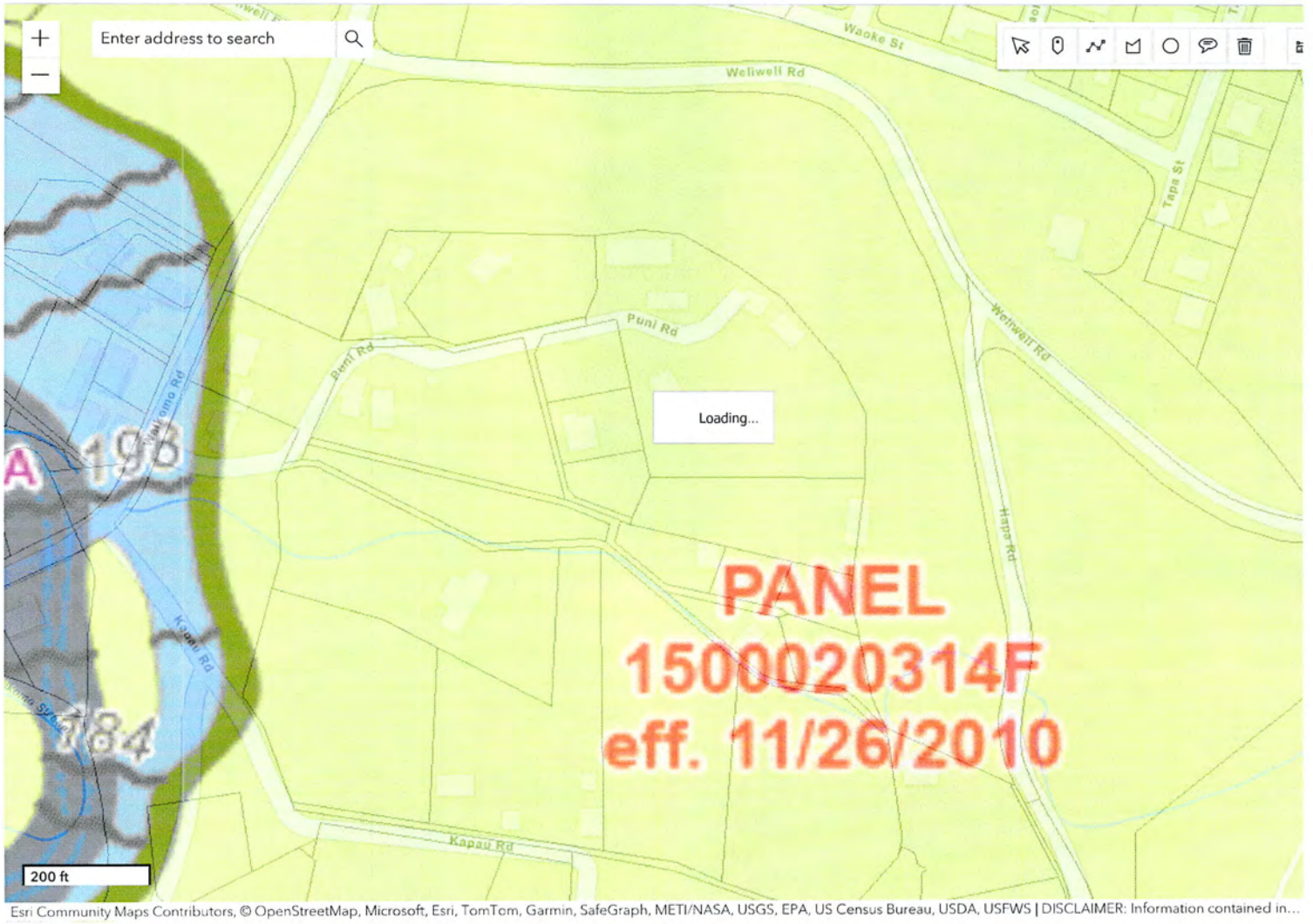
Registered Historic Sites
- State
- National
- State & National
- Cultural Features
- Priority Public Access Points
- Fish Ponds
- Streams & Waterbodies
- Major Roads
- Roads
- Kōloa Scenic Byway
- Trails
- Planning District Boundary
- Ahupuaʻa Boundaries
- Wetlands
- Coral Reefs
- Regulated Fishing Areas
- State & County Parks
- Preserves
- Reservoirs
- Traditional Cultivation Areas
- Sand Dunes
- Open Space Acquisition Priorities
- Critical Habitat

Threatened & Endangered Species
- High Density
- Very High Density

EXHIBIT "C-9"

State of Hawaii, Department of Land and Natural Resources

Flood Hazard Assessment Tool



Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, METI/NASA, USGS, EPA, US Census Bureau, USDA, USFWS | DISCLAIMER: Information contained in...

EXHIBIT "C-10"

2025 © Copyright by Hawaii-NFIP. All rights reserved.

HOH Utilities, LLC
P.O. Box 1214
Lawai, HI 96765

September 27, 2023

VIA REGULAR MAIL

SK Investors, LLC
P.P. Box 12
Koloa, HI 96756
Attn: Mike Serpa

RE: Assignment of Wastewater Services Conditional Will Serve Letter

Dear Mr. Serpa:

HOH Utilities, LLC ("HOH") and MG Koloa, LLC are the parties under that *Wastewater Services Conditional Will Serve Letter; South Koloa Town, MG Koloa Partners, LLC – TMK: 428011001 and 428011024* (the "Will Serve Agreement"), dated April 20, 2020. Under the Will Serve Agreement, HOH committed to provide wastewater service to receive up to 42,000 gallons per day of wastewater from the Site (identified in the Will Serve Agreement), among other things. On March 17, 2023, the South Koloa Town project was acquired by SK Investors LLC who became the successor in interest in the Will Serve Agreement.

HOH entered into an agreement to sell the Poipu Water Reclamation Facility ("PWRF") and related wastewater assets to Hawai'i Water Service Company, Inc. ("HWS"). HWS operates other potable and wastewater systems throughout Hawai'i. HWS is a Hawai'i corporation and is regulated by the Public Utilities Commission of the State of Hawai'i. HOH and HWS are scheduled to close their transaction on October 4, 2023.

This letter is to notify you that HOH will assign the Will Serve Agreement to HWS, and HWS intends to assume HOH's obligations under that Will Serve Agreement that may arise from and after the closing of HOH and HWS' transaction.

In anticipation of the closing of HOH and HWS' transaction, this letter confirms that:

- HOH received all 5 non-refundable deposits of $218,400.00 and credited towards the estimated Capacity Fee (i.e., CIAC) a total of **$1,092,000.00.**
- Neither HOH and MG Koloa or HOH and SK Investors have entered into the WFS Agreement or Financing Agreement, as contemplated under the Will Serve Agreement, but HOH reserves the right to require SK Investors to enter into such agreements, if necessary or appropriate.

Please sign, date, and return a copy of this letter in the self-addressed envelope, indicating your receipt and acknowledgment of the assignment of the Will Serve Agreement from HOH to HWS. If you have any questions, please contact Jim Crabtree at jcrabtree@watermarkrd.com.

Mahalo nui loa,

EXHIBIT "D"

HOH UTILITIESS, LLC
a Hawai'i limited liability company

Ian Kagimoto,
Sole Member

Encls.

Acknowledged:

SK INVESTORS LLC
a Hawaii limited liability company

By: JME Ventures, LLC
a California limited liability company
Its: Manager

By: DocuSigned by: Mike Serpa
Its: Manager
Date: 9/27/2023

SOUTH KOLOA TOWN MULTIFAMILIES

09/24/2025

EXHIBIT "E"

lowney
arch

T3VN.1 | BUILDING PLACEMENT

South Kaua'i Form-Based Code page 2.2-10

SETBACK:

Front	20' min./40' max
Side Street	15' min.
Side	
Main Building	10' min.
Accessory Building	10' min.
Rear	15' min.

T3VE | BUILDING PLACEMENT

South Kaua'i Form-Based Code page 2.2-4

SETBACK:

Front	25' min.
Side Street	25' min.
Side	
Main Building	20' min.
Accessory Building	10' min.
Rear	20' min.

lowney arch

0 80' 160' 320'

SCALE: 1" = 160'-0"

N

EXISTING SITE PLAN

South Koloa Town Multifamilies - 09.24.2025

A2

UNIT TYPES	DUPLEX (4 BLDGS)	4-PLEX 1 (17 BLDGS)	4-PLEX 2 (6 BLDGS)	8-PLEX (8 BLDGS)	TOTAL - UNITS
1 BEDROOM	-	-	12 UNITS	32 UNITS	44 UNITS (27%)
2 BEDROOM	-	68 UNITS	-	32 UNITS	100 UNITS (61%)
3 BEDROOM	8 UNITS	-	12 UNITS	-	20 UNITS (12%)
				TOTAL	164 UNITS

ON-SITE PARKING (1.3 ratio)	DUPLEX (2:1 ratio)	4-PLEX 1 (1:1 ratio)	4-PLEX 2 (1.5:1 ratio)	8-PLEX (1:1 ratio)	ADDITIONAL STALLS
TOTAL: 196 STALLS	16 (1 GARAGE & 1 OPEN)	68 STALLS	36 STALLS	64 STALLS	12 STALLS
ON-STREET PARKING	WAIKOMO RD	WELIWELI RD	HAPA RD		
TOTAL: 17 STALLS	-	-	17 STALLS		

lowney arch

0 80' 160' 320'
SCALE: 1" = 160'-0"

N

PROPOSED SITE PLAN

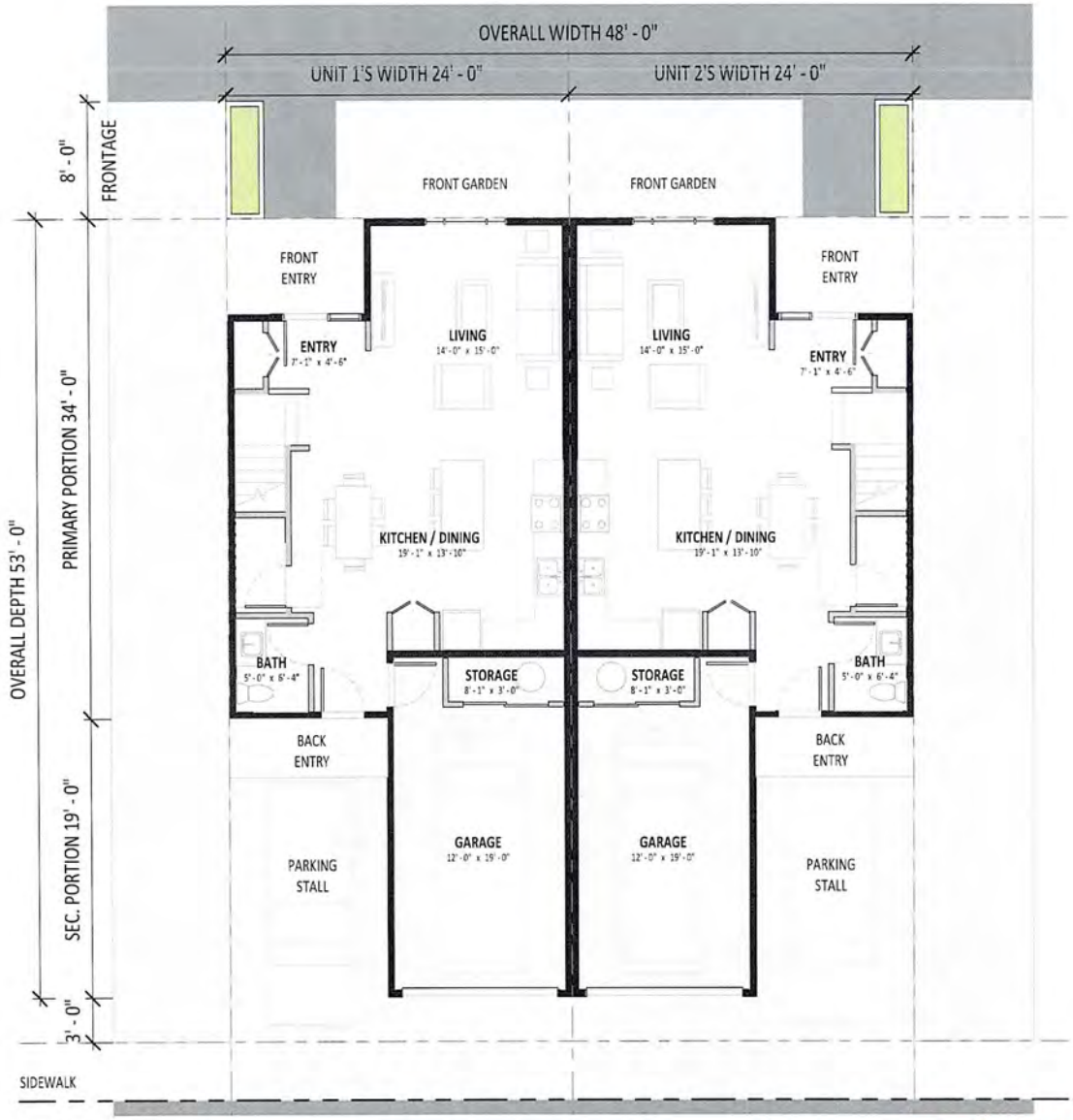
South Koloa Town Multifamilies - 09.24.2025

A3

BUILDING TYPE 1
DUPLEX

BUILDING TYPE 2
FOURPLEX 1 & 2

BUILDING TYPE 3
EIGHTPLEX



DUPLEX | 1,814 SF

LEVEL 1	
GARAGE	282 SF
INTERIOR	646 SF
	929 SF
LEVEL 2	
INTERIOR 3 BR	891 SF
LANAI	62 SF
	953 SF

0 4' 8' 16'

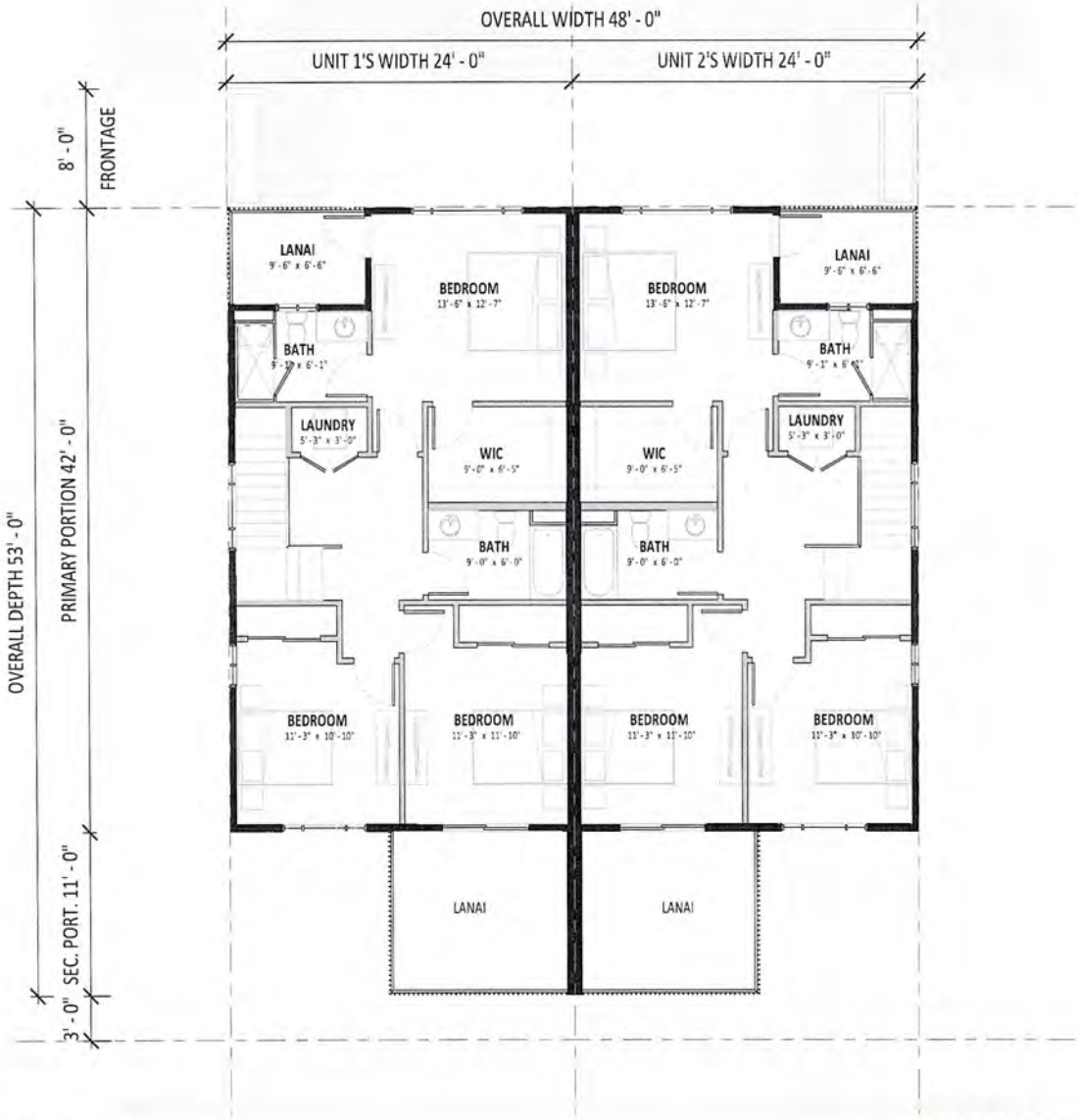
SCALE: 1/8" = 1'-0"

lowney arch

BUILDING TYPE | **DUPLEX** - ground level

South Koloa Town Multifamilies - 09.24.2025

A5



DUPLEX | 1,814 SF

LEVEL 1	
GARAGE	282 SF
INTERIOR	646 SF
	929 SF
LEVEL 2	
INTERIOR 3 BR	891 SF
LANAI	62 SF
	953 SF

0 4' 8' 16'

SCALE: 1/8" = 1'-0"

lowney arch

BUILDING TYPE | **DUPLEX** - upper level

South Koloa Town Multifamilies - 09.24.2025

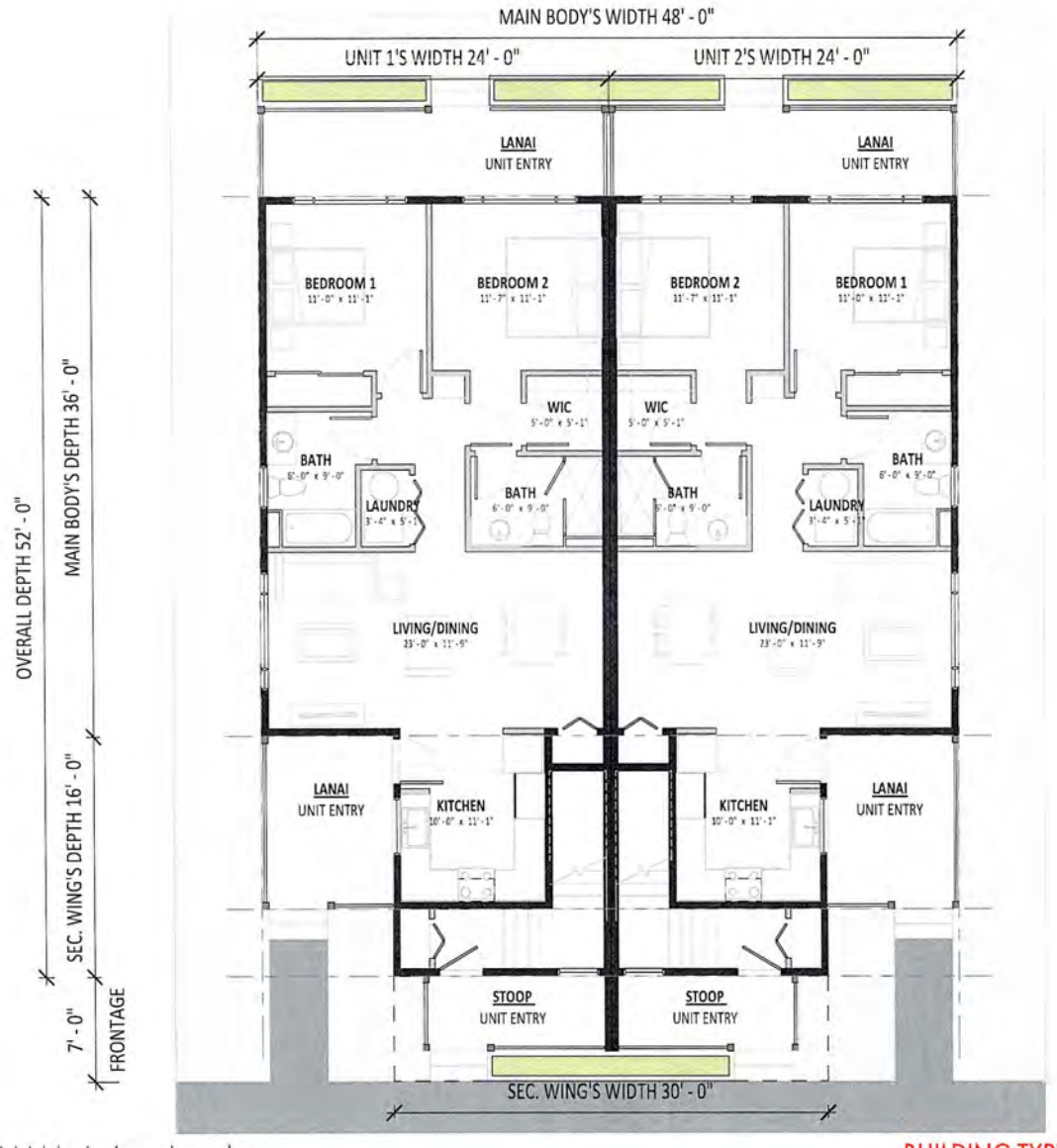
A6

lowney arch

BUILDING TYPE | **DUPLEX** - elevations

South Koloa Town Multifamilies - 09.24.2025

A7



FOUR-PLEX 1 | 1,029 SF

LEVEL 1	
INTERIOR 2 BR	929 SF
LANAI	104 SF
	1,033 SF
LEVEL 2	
INTERIOR 2 BR	1,029 SF
LANAI	104 SF
	1,133 SF

0 4' 8' 16'

SCALE: 1/8" = 1'-0"

lowney arch

BUILDING TYPE | **FOURPLEX 1** - ground level

South Koloa Town Multifamilies - 09.24.2025

A8

FOUR-PLEX 1 | 1,029 SF

LEVEL 1	
INTERIOR 2 BR	929 SF
LANAI	104 SF
	1,033 SF
LEVEL 2	
INTERIOR 2 BR	1,029 SF
LANAI	104 SF
	1,133 SF

lowney arch

0 4' 8' 16'

SCALE: 1/8" = 1'-0"

BUILDING TYPE | **FOURPLEX 1**- upper level

South Koloa Town Multifamilies - 09.24.2025

A9

FOUR-PLEX 2 | 2,048 SF
1 BR | 806 SF
3 BR | 1,242 SF

LEVEL 1	
INTERIOR 1 BR	729 SF
INTERIOR 3 BR	1,167 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,103 SF
LEVEL 2	
INTERIOR 1 BR	806 SF
INTERIOR 3 BR	1,242 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,255 SF

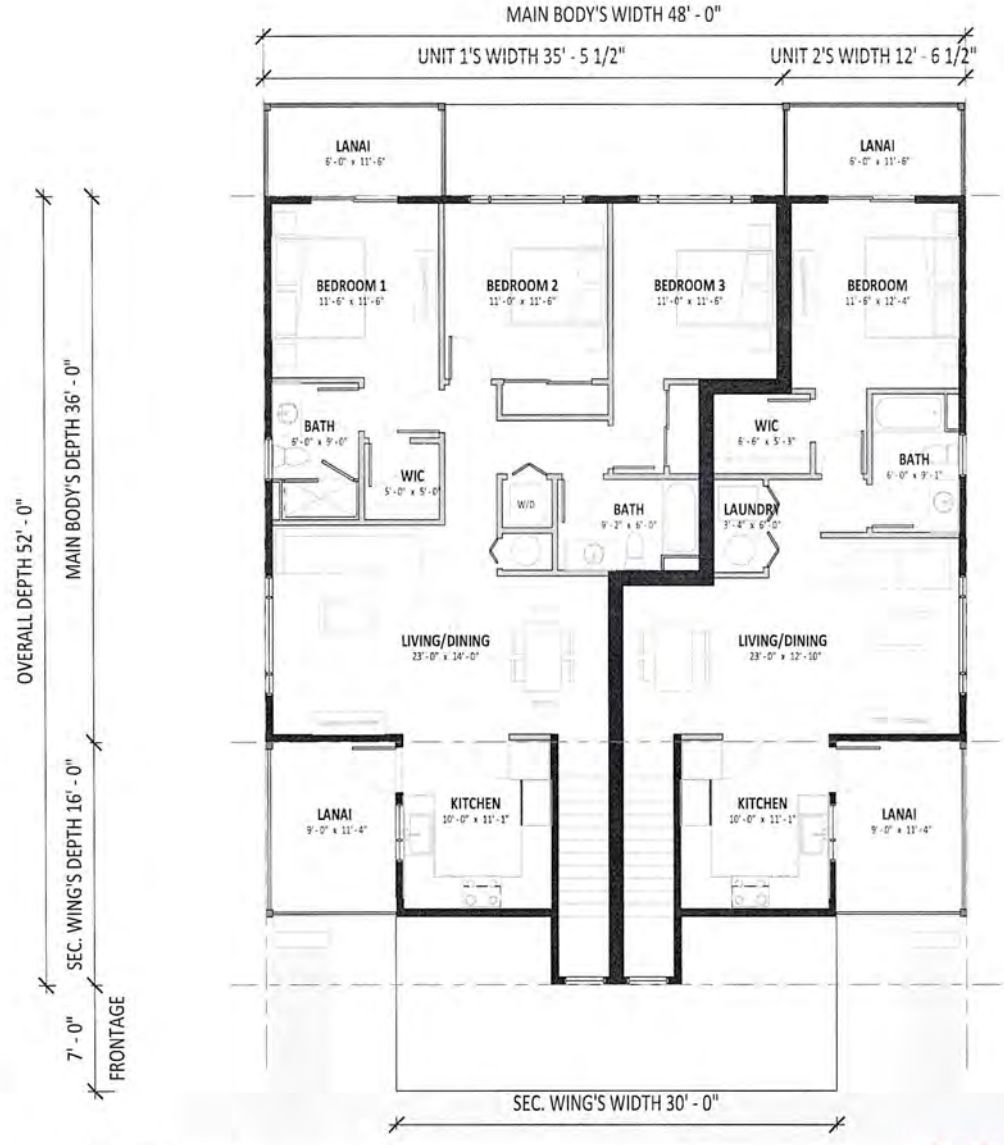
lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **FOURPLEX 2** - ground level

South Koloa Town Multifamilies - 09.24.2025

A10



FOUR-PLEX 2 | 2,048 SF
1 BR | 806 SF
3 BR | 1,242 SF

LEVEL 1	
INTERIOR 1 BR	729 SF
INTERIOR 3 BR	1,167 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,103 SF
LEVEL 2	
INTERIOR 1 BR	806 SF
INTERIOR 3 BR	1,242 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,255 SF

lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **FOURPLEX 2**- upper level
South Koloa Town Multifamilies - 09.24.2025

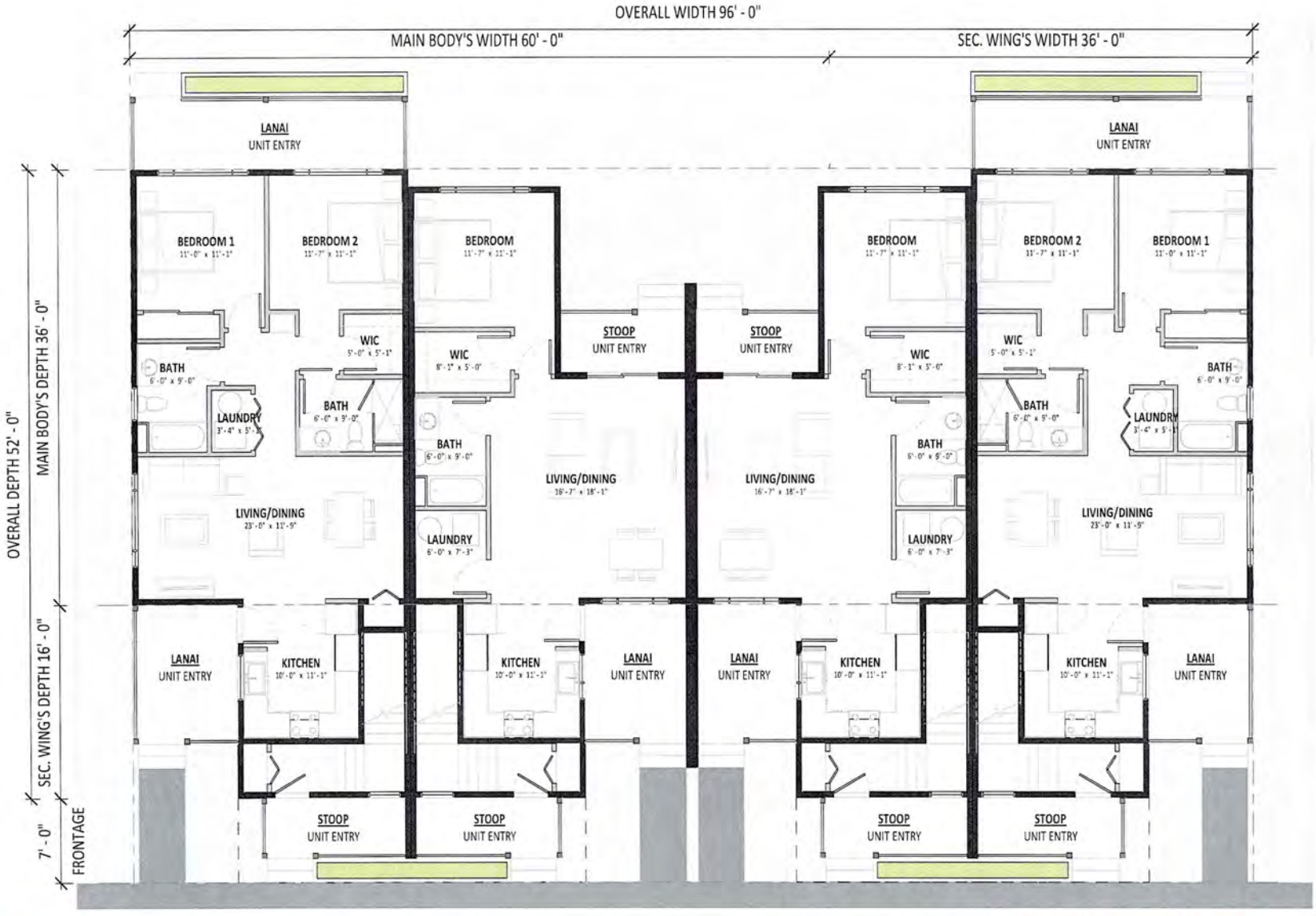
A11

lowney
arch

BUILDING TYPE | **FOURPLEX 1 & 2** - elevations

South Koloa Town Multifamilies - 09.24.2025

A12



EIGHT-PLEX | 1,853 SF
1 BR | 824 SF
2 BR | 1,029 SF

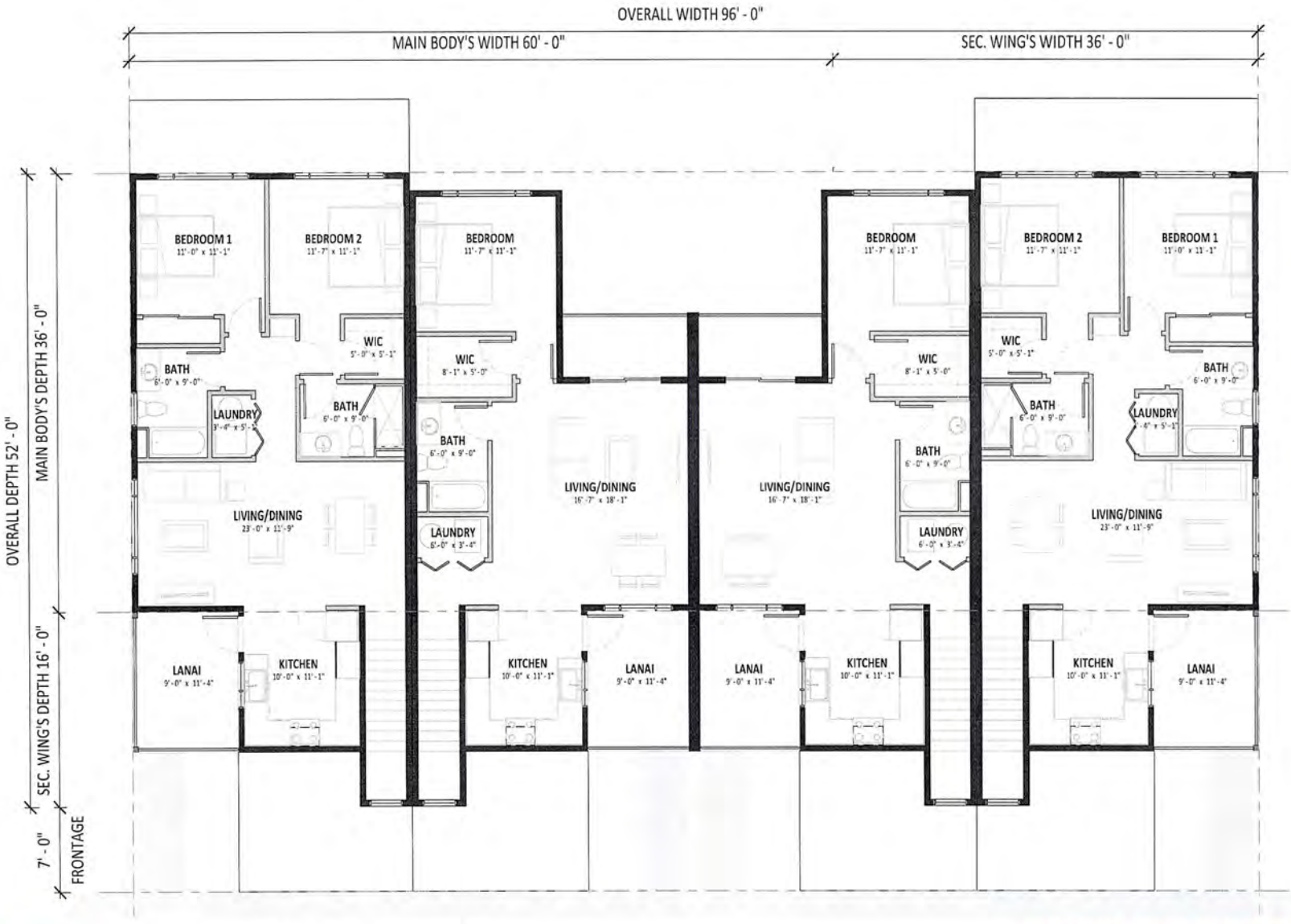
LEVEL 1	
INTERIOR 1 BR	716 SF
INTERIOR 2 BR	929 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	1,847 SF
LEVEL 2	
INTERIOR 1 BR	824 SF
INTERIOR 2 BR	1,029 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	2,055 SF

lowney arch

BUILDING TYPE | **EIGHTPLEX** - ground level

South Koloa Town Multifamilies - 09.24.2025

A13



EIGHT-PLEX | 1,853 SF
1 BR | 824 SF
2 BR | 1,029 SF

LEVEL 1	
INTERIOR 1 BR	716 SF
INTERIOR 2 BR	929 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	1,847 SF
LEVEL 2	
INTERIOR 1 BR	824 SF
INTERIOR 2 BR	1,029 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	2,055 SF

lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **EIGHTPLEX**- upper level
South Koloa Town Multifamilies - 09.24.2025

A14

INTERNAL ROAD FRONTAGE

INTERNAL ROAD SIDE VIEW

PUBLIC STREET FRONTAGE

PUBLIC STREET SIDE VIEW

lowney
arch

BUILDING TYPE | **EIGHTPLEX** - elevations

South Koloa Town Multifamilies - 09.24.2025

A15

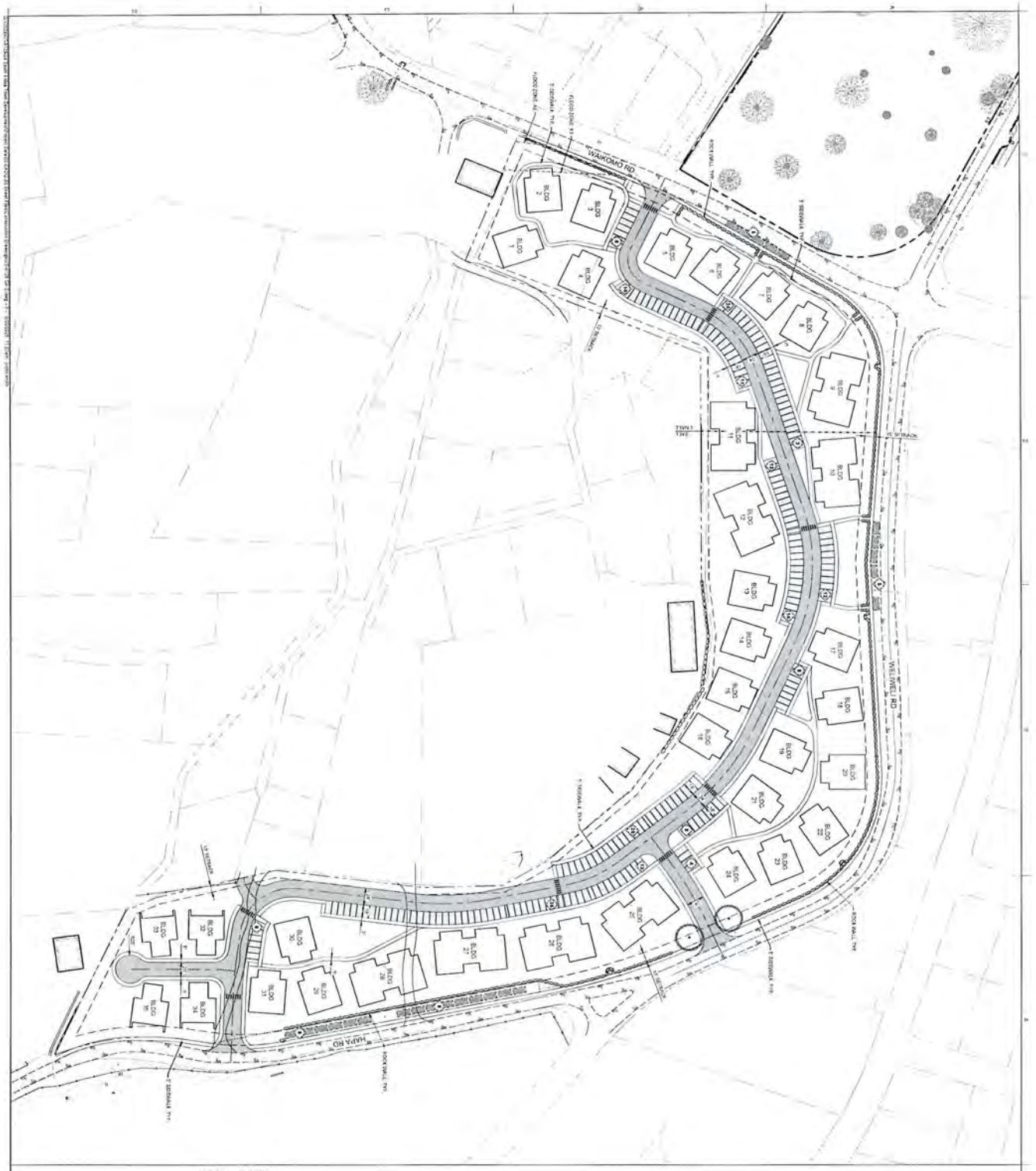
lowney arch

0 80' 160' 320'
SCALE: 1" = 160'-0"

N

OVERALL SITE PLAN
South Koloa Town Multifamilies - 09.24.2025

A16



PARKING SUMMARY

ZONE TWN1
OFFSITE PROVIDED = 45 SPACES
OUTSITE PROVIDED = 37 SPACES
TOTAL PROVIDED = 82 SPACES

ZONE TWN2
OFFSITE PROVIDED = 28 SPACES
OUTSITE PROVIDED = 142 SPACES
GARAGE PROVIDED = 15 SPACES
TOTAL PROVIDED = 170 SPACES

SOUTH KOLOA TOWN

KOLOA, KAUAI, HAWAII

OVERALL SITE

PRELIMINARY
NOT FOR CONSTRUCTION

DRAWING INFO	
DATE	09/03/2025
DESIGNED	JS
DRAWN	JS
CHECKED	DP
PROJECT	UT-9126

REVISIONS

REV #	DATE

NOTES SHEET

WARNING

0 1 2

IF THIS BAR DOES NOT MEASURE 2" THEN DRAWING IS NOT TO SCALE

Horrocks.
4919 South 1500 West, Suite 300
Riverdale, UT 84405
(801) 626-2300
www.horrocks.com

C1.0

SOUTH KOLOA TOWN

KOLOA, KAUA'I, HAWAII

OVERALL GRADING & DRAINAGE

PRELIMINARY
NOT FOR CONSTRUCTION

DRAWING INFO	
DATE	05/03/2025
DESIGNED	JS
DRAWN	JS
CHECKED	DP
PROJECT	UT-9128

REVISIONS	
REV #	DATE

WARNING

0 1 2

IF THIS BAR DOES NOT MEASURE 2" THEN DRAWING IS NOT TO SCALE

Horrocks.
4919 South 1500 West, Suite 300
Riverdale, UT 84405
(801) 626-2300
www.horrocks.com

C2.0

Horrocks.
4916 South 1500 West, Suite 300
Riverdale, UT 84405
(801) 626-2330
www.horrocks.com

WARNING
0 2
IF THIS BAR DOES NOT MEASURE 2" THEN DRAWING IS NOT TO SCALE

REV #	DATE	REVISIONS

DRAWING INFO	
DATE	05/03/2025
DESIGNED	JS
DRAWN	JS
CHECKED	DP
PROJECT	UT-5128

PRELIMINARY
NOT FOR CONSTRUCTION

SOUTH KOLOA TOWN

KOLOA, KAUAI, HAWAII

OVERALL UTILITY

C3.0

EXHIBIT "F"

Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i TMK: (4) 2-8-011:001

Prepared for
South Koloa Town LLC

Prepared by
Chantellee Konohia Spencer, B.A.,
and
Hallett H. Hammatt, Ph.D.

Cultural Surveys Hawai'i, Inc.
Kailua, Hawai'i
(Job Code: KOLOA 106)

October 2025

O'ahu Office
P.O. Box 1114
Kailua, Hawai'i 96734
Ph.: (808) 262-9972
Fax: (808) 262-4950

www.culturalsurveys.com

Maui Office
1860 Main St.
Wailuku, Hawai'i 96793
Ph: (808) 242-9882
Fax: (808) 244-1994

EXHIBIT "G"

Management Summary

Reference	Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: (4) 2-8-011:001 (Spencer and Hammatt 2025)
Date	October 2025
Project Number(s)	Cultural Surveys Hawai'i, Inc. (CSH) Job Code: KOLOA 106
Agencies	Environmental Review Program (ERP), Department of Planning and Permitting (DPP)
Land Jurisdiction	SK Investors LLC
Project Location	The project area comprises TMK: (4) 2-8-011:001, bounded by Weliweli Road, Waikomo Road, Puni Road, and Hapa Road. The project area is depicted on a portion of the 2017 Koloa U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle.
Project Description	SK Investors LLC is proposing for the development of a primary housing project consisting of single and multi-family residences, park space, various drainage and utility improvements, and an internal road. Present plans are still being fine-tuned but it is anticipated to involve construction of a number of duplex, four-plex, and eight-plex buildings (with a possible studio apartment building) for a total of 164 residential units. These will be accessed off an internal road and driveways with some 210 to 232 parking spaces.
Project Acreage	The project area is approximately 10 acres (4.05 hectares).
Document Purpose and Regulatory Context	A Ka Pa'akai analysis is a legal framework that requires government agencies to consider the impact of proposed land and water use on Native Hawaiian rights. The framework was established by the Hawai'i State Supreme Court in 2000 in the case *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, State of Hawai'i. South Koloa Town LLC has indicated a need for a Ka Pa'akai Assessment study to attend this proposed project. The purpose of the present Ka Pa'akai Analysis and Assessment is to 1) assist South Koloa Town LLC and any other relevant agencies in their effort to ensure the applicant has sufficiently assessed that the proposed project/action will not harm traditional and customary practices exercised by Native Hawaiians; and 2) to provide sufficient documentation to support the applicant's assessment. This work is designed to address the letter and spirit of the following:

	• *Ka Pa'akai O Ka'aina v. Land Use Commission* (94 Hawai'i 31), in which the Hawai'i Supreme Court established a three-part analytical framework to assist the state and counties in fulfilling their constitutional obligation to preserve and protect traditional and customary practices exercised by Native Hawaiians and any other concerned parties, to the extent feasible, and • The mandate set forth by the Hawai'i State Constitution (Articles IX and XII), courts, Hawai'i Revised Statutes (HRS), and Hawai'i Administrative Rules (HAR) and other Hawai'i State laws requiring government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. In *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, the Hawai'i Supreme Court [...] articulated an analytical framework to assist state agencies in balancing the State's obligation to protect traditional and customary practices against private property (as well as competing public) interests, by requiring specific findings and conclusions about: 1) the identity and scope of 'valued cultural, historical, or natural resources' in the relevant area, including the extent to which traditional and customary native Hawaiian rights are exercised in relevant area; 2) the extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and 3) the feasible action, if any, to be taken by the [agency] to reasonably protect native Hawaiian rights if they are found to exist. [*Ka Pa'akai O Ka 'Aina v. Land Use Comm'n*, 94 Hawai'i 31, 35, 47 and 52–53, 7 P.3d 1068, 1072, 1084 and 1089–90 (2000)]
Results of Background Research	Background research for the proposed project yielded the following information: 1. Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish,

	mollusks, and crustaceans) value and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23). 2. The name Kōloa has several derivations. Kōloa is the name for the large, soft Hawaiian sugarcane (*Saccharum officinarum*) once grown by Hawaiians; Kōloa is also the name of a steep rock, called Paliokōloa, on the banks of Waikomo Stream, from where the *ahupua'a* (traditional land division) got its name. This bank of the river was called Kōloa, after the native Hawaiian duck (*Anas wyvilliana*) (Kikuchi 1963:46; Pukui et al. 1974:116). 3. The Kōloa Ahupua'a is well watered by constantly flowing streams. Two of these, the 'Ōma'o, "green," and Pō-'ele'ele, "dark night," feed the Pīwai (a variety of wild duck) in the area (Wichman 1998:40). The *ahupua'a* is watered by several other streams: the Aepo, Waihohonu ("deep water;" named for a hole formed when Palila felled a forest of trees with one stroke [Pukui et al. 1974:222]), Weliweli, and the Weoweopilau. 4. Five *heiau* (pre-Christian place of worship) are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (Site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala. 5. Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*. On Kaua'i, the favored places for coconuts were Kōloa and Lāwa'i (Handy 1940:193). 6. By the early 1800s, Kōloa Landing had become the principal port of Kaua'i The fact that the shipment of most of Kaua'i's sandalwood to Asia took place at Kōloa Landing suggests sandalwood was likely harvested in the uplands of Kōloa until the supply of the fragrant wood was exhausted around 1830 (Donohugh 2001:63–64). 7. The Kōloa area is the site of the oldest sugar plantation in Hawai'i. In 1835, Ladd and Company gained the lease of some 1,000 acres at Kōloa for the purpose of growing sugarcane. "The

	lease allowed the use of the waterfall and an adjoining mill site at Maulili Pool, the right to build roads, and the privilege of unrestricted buying and selling, and freedom from local harbor dues" (Stauder 1973:18). Ladd and Company were not the first to mill sugarcane in the area, as there was a Chinese-operated granite roller mill in operation at Māhā'ulepū in 1830. Ladd and Company were, however, the first "plantation" organized industry in Hawai'i. 8. The Māhele records of Kōloa give a picture of what had evolved by the middle of the nineteenth century when Kōloa Ahupua'a, totaling 8,620 acres, was awarded to Moses Kekūāiwa (Land Commission Award [LCA] 7714-B), the brother of Alexander Liholiho (Kamehameha IV), Lot Kapuāiwa (Kamehameha V), and Victoria Kamāmalu. 9. The early success of Ladd and Company (before its bankruptcy in 1845) was an impetus for other entrepreneurial attempts within Kōloa. Silkworm farming, oil extraction from *kukui* nuts, cigar manufacturing, sago raising, and tapioca manufacturing were all attempted with varied success during the middle third of the nineteenth century. Another major area of commercial enterprise was associated with the whaling industry at Kōloa Landing. Accounts of visitors suggest the inhabitants of Kōloa took advantage of their nearness to the landing to participate in the booming trade of the port.
Results of Community Consultation	CSH attempted to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 36 individuals or groups; four responded, one provided a legal document (Appendix C), one responded and forwarded the outreach letter to other respective groups, one called in for more information, and one has apparently expressed interest though we have not heard back after responding to an email. Unfortunately, none of these individuals met with CSH for a more in-depth interview.
Identification of Cultural Practices	Consultation did not yield results that identified cultural, historical, and natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised within the boundaries of the project area. Nevertheless, based on the results of background research conducted as part of this CIA, CSH has identified the following cultural practices within Kōloa Ahupua'a: 1. Gathering Practices

	2. Agricultural Practices 3. Coastal and Marine Resources 4. Freshwater Resources 5. *Wahi Pana* (Storied Places) No ongoing cultural practices were identified within the boundaries of the immediate project area during background research.
Identification of Impacts on Cultural Resources and Practices	Community consultation and background research suggests strongly that there are no impacts to cultural resources and practices in the project area.
Summary of Impacts and Mitigation	The results of community consultation, underscored by background research conducted for this CIA, inform the following mitigation possibilities promoting and preserving cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that *iwi kūpuna* (ancestral remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended. In the event that *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Table of Contents

Management Summary i

Section 1 Introduction 1

1.1 Project Description 1
1.2 Regulatory Context 1
1.3 Document Purpose 8
1.4 Environmental Setting 8
1.4.1 Natural Environment 8
1.4.2 *Lepo* (Soils) 8
1.4.3 *Makani* (Winds) 9
1.4.4 *Ua* (Rains) 9
1.4.5 *Kahawai* (Streams and Freshwater) 9
1.4.6 *Ka Lihikai a me Ka Moana* (the Coast and Ocean) 11
1.5 Built Environment 11

Section 2 CIA Methods 12

2.1 Archival Research 12
2.2 Consultation 12
2.2.1 Scoping for Participants 12
2.2.2 "Talk Story" Sessions 12

Section 3 Traditional Accounts 14

3.1 Traditional Accounts 14
3.1.1 *Nā Wahi Pana* (Storied Places) 14
3.2 *Mele* (Songs) 19
3.2.1 Kōloa 20
3.3 *'Ōlelo No'eau* (Proverbs) 20

Section 4 Archaeological and Historical Narrative 22

4.1 Pre-Contact 22
4.2 Early Historic Period 23
4.3 Early Sugar and Export Crops at Kōloa 24
4.4 Māhele and Kuleana Act 26
4.4.1 Late 1800s to Mid-1900s 29
4.4.2 Modern Land Use 32
4.5 The Kōloa Field System 36
4.5.1 Environmental Parameters 36

Section 5 Previous Archaeological Research 40

5.1 Previous Archaeological Studies in Kōloa Ahupua'a 40
5.2 Archaeological Studies in the Vicinity of the Project Area 41
5.2.1 Kikuchi 1963 41
5.2.2 Palama and Stauder 1973 41
5.2.3 Kikuchi 1981 52
5.2.4 Connolly 1982 52
5.2.5 Hammatt et al. 1988 52
5.2.6 Hammatt et al. 1991 52

5.2.7 Hammatt 1992 52
5.2.8 Kikuchi and Remoaldo 1992 53
5.2.9 Hammatt 1993 53
5.2.10 Ida et al. (1997) 53
5.2.11 McGerty et al. 2000 53
5.2.12 Cleghorn and McIntosh 2001 53
5.2.13 Wilson and Dega 2004 54
5.2.14 Hammatt 2005 55
5.2.15 Hill et al. 2005a 55
5.2.16 Hill et al. 2005b 55
5.2.17 Monahan 2005 56
5.2.18 Tulchin J. and Hammatt 2005 56
5.2.19 Tulchin T. and Hammatt 2005 56
5.2.20 Hammatt and Shideler 2006 56
5.2.21 Tulchin et al. 2007 57
5.2.22 Simonson and Hammatt 2008 57
5.2.23 Hammatt 2010 57
5.2.24 Pammer et al. 2010 57
5.2.25 Gotay and Rechtman 2016 58
5.2.26 Kamai and Hammatt 2021 58
5.2.27 Krause et al. 2021 58

Section 6 Consultation Results 59

6.1 Introduction 59
6.2 Community Outreach Letter 59
6.3 Community Outreach Table 61
6.4 Summary of Community Outreach 67

Section 7 Traditional Cultural Practices 68

7.1 Gathering Practices 68
7.2 Agricultural Practices 68
7.3 Coastal and Marine Resources 69
7.4 Freshwater Resources 69
7.5 *Wahi Pana* (Storied Places) 69
7.6 Burials 71

Section 8 Summary and Recommendations 72

8.1 Results of Background Research 72
8.2 Results of Community Consultation 73
8.3 Impacts and Recommendations 73

Section 9 Ka Pa'akai Analysis 74

9.1 Overview 74
9.1.1 Gathering Resources 74
9.1.2 Agricultural Resources 74
9.1.3 Coastal and Marine Resources 74
9.1.4 Freshwater Resources 74
9.1.5 Wahi Pana 74
9.1.6 Burials 75

9.2 Analysis 75
9.2.1 Valued Cultural, Historical, or Natural Resources in the Project Area 75
9.2.2 The Extent to which Traditional and Customary Native Hawaiian Resources will be Affected by the Proposed Action 75
9.2.3 Feasible Action, if any, to be taken to Reasonably Protect Native Hawaiian Rights 75

Section 10 References Cited 76

Appendix A LCA Data 84

LCA 3584:1 to Kaanaana 5:365 84
LCA 6309:2 to Kapuniai 6:737 86
LCA 6667:2 to Mika 88

Appendix B Community Outreach Letter 90

Appendix C Roslyn Cummings Testimony 94

List of Figures

Figure 1. Portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle showing the project area 2
Figure 2. Tax Map Key (TMK) (4) 2-8-011 showing the project area (Hawai'i TMK Service 2024) 3
Figure 3. Aerial photograph of the project area (ESRI 2022) showing the project area 4
Figure 4. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 11 June 2025) 5
Figure 5. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025) 6
Figure 6. Proposed Units of South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025) 7
Figure 7. Overlay of *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (Foote et al. 1972), indicating soil types within and surrounding the project area (USDA SSURGO 2001) 10
Figure 8. Portion of the 1996 Koloa USGS 7.5-minute series topographic quadrangle, showing the project area within the Kōloa Ahupua'a 15
Figure 9. Map showing estimated distribution of population for Kaua'i in 1853 (Coulter 1931:16) 25
Figure 10. Distribution of LCAs in the vicinity of the project area on a 2017 Koloa USGS topographic quadrangle 27
Figure 11. Portion of 1891 map of Kōloa by M.D. Monsarrat (RM 1694), showing the location of the project area and LCAs in the vicinity; note the stone wall roughly enclosing LCA 6304, including Kapuniai's house lot (*pā hale*) and associated *kula* probably pastureland 28
Figure 12. Hand-drawn map of Kōloa Village, 1888, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; note the amount of land devoted to taro (Kaua'i Historical Society) 30
Figure 13. 1928 U.S. Army Air Corps aerial photograph of Kōloa (UH MAGIS) showing the location of the project area 33
Figure 14. Hand-drawn map of Kōloa Village, 1938, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; compare with Figure 12 and note the lack of taro lands (Kaua'i Historical Society) 34
Figure 15. 1951 USGS aerial photograph of Kōloa showing the location of the project area 35
Figure 16. The Kōloa Field System, the basic type schematically represented 38
Figure 17. Cross-section of a raised *'auwai* 38
Figure 18. Portion of Bennet (1931) index map of Kaua'i showing archaeological sites in the Kōloa vicinity 40
Figure 19. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of previous archaeological studies in the vicinity of the project area 42
Figure 20. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of historic properties in the vicinity of the project area 48
Figure 21. Community Outreach Letter, page one 90
Figure 22. Community Outreach Letter, page two 91

Figure 23. Community Outreach Letter, page three 92
Figure 24. Community Outreach Letter, page four.....93

List of Tables

Table 1. Neighboring LCAs (see Appendix A for details) 29
Table 2. Previous archaeological studies in the vicinity of the project area.....43
Table 3. Previously identified historic properties within approximately 1,300m of the project area 49
Table 4. Summary of consultation efforts.....61

Section 1 Introduction

1.1 Project Description

At the request of South Koloa Town LLC, Cultural Surveys Hawai'i, Inc. (CSH) has prepared this Ka Pa'akai Analysis report for the South Kōloa Town Project, Kōloa Ahupua'a, Kona District, Kaua'i, TMK: (4) 2-8-011:001. The project area is located in south Kōloa Town, approximately 200 m east of Waikomo Stream, and is bounded on the northwest by Waikomo Road, on the north by Weliweli Road, and on the east by Māhā'ulepū Road and Hapa Road, and the south side is largely bordered by houses along Puni Road. The 9.44-acre (3.82-hectare) project area is depicted on a portion of the 2017 Koloa U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle (Figure 1), a tax map plat (Figure 2), and a 2022 aerial photograph (Figure 3).

Present plans are still being fine-tuned but are anticipated to involve construction of a number of duplex, four-plex, and eight-plex buildings (with a possible studio apartment building) for a total of 164 residential units (Figure 4 through Figure 6). These will be accessed off an internal road and driveways with some 210 to 232 parking spaces. Construction will involve extensive grading and significant excavation for foundations, utilities, and landscaping.

1.2 Regulatory Context

The County of Kaua'i Planning Department has indicated a need for a Ka Pa'akai Assessment study to attend this proposed project. The purpose of the present Ka Pa'akai Analysis and Assessment is to 1) assist the Planning Department and any other relevant agencies in their effort to ensure the applicant has sufficiently assessed that the proposed project/action will not harm traditional and customary practices exercised by Native Hawaiians; and 2) to provide sufficient documentation to support the applicant's assessment.

This work is designed to address the letter and spirit of the following:

- *Ka Pa'akai O Ka'aina v. Land Use Commission* (94 Hawai'i 31), in which the Hawai'i Supreme Court established a three-part analytical framework to assist the state and counties in fulfilling their constitutional obligation to preserve and protect traditional and customary practices exercised by Native Hawaiians and any other concerned parties, to the extent feasible, and
- The mandate set forth by the Hawai'i State Constitution (Articles IX and XII), courts, Hawai'i Revised Statutes (HRS), and Hawai'i Administrative Rules (HAR) and other Hawai'i State laws requiring government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups.

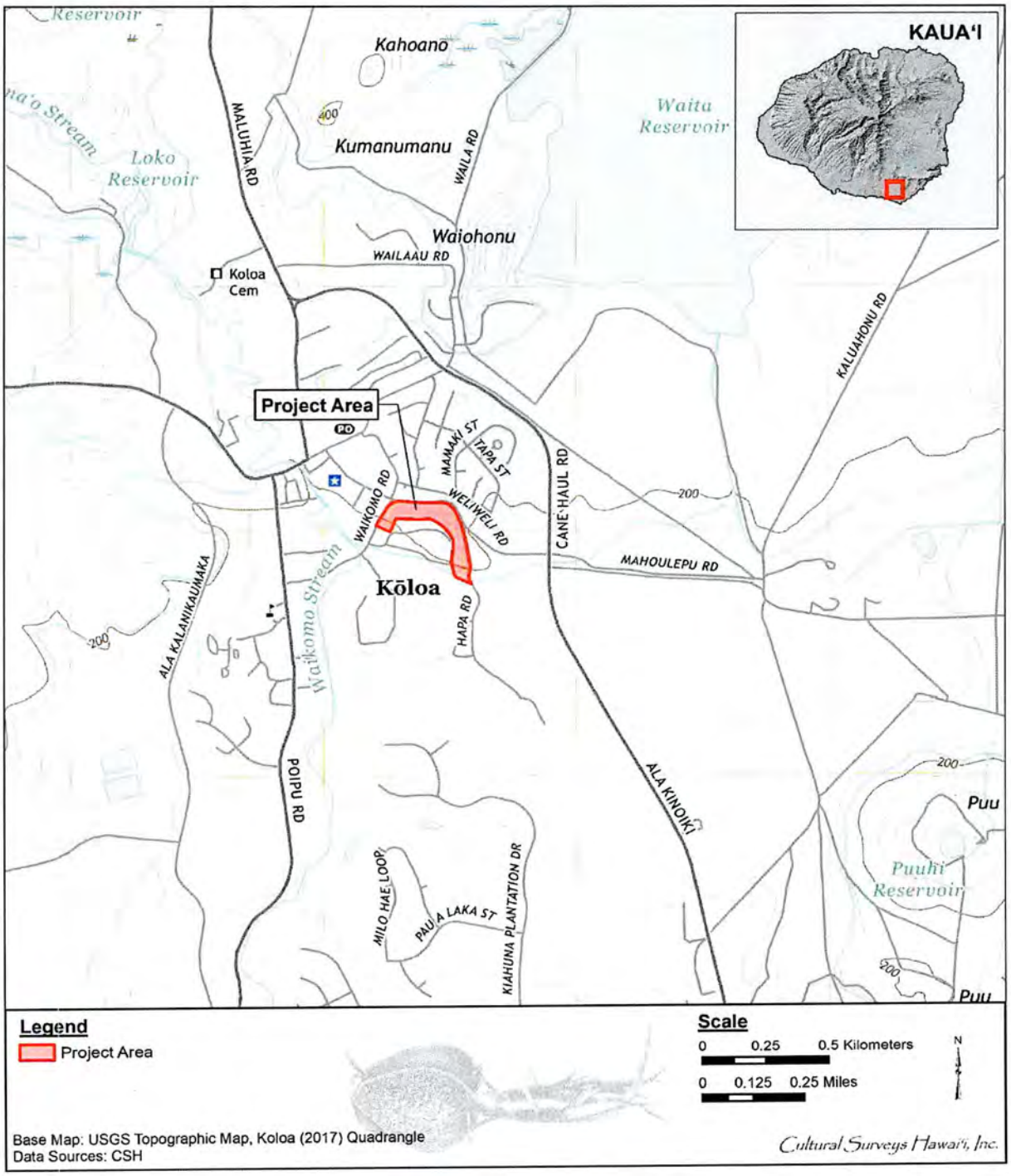


Figure 1. Portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle showing the project area

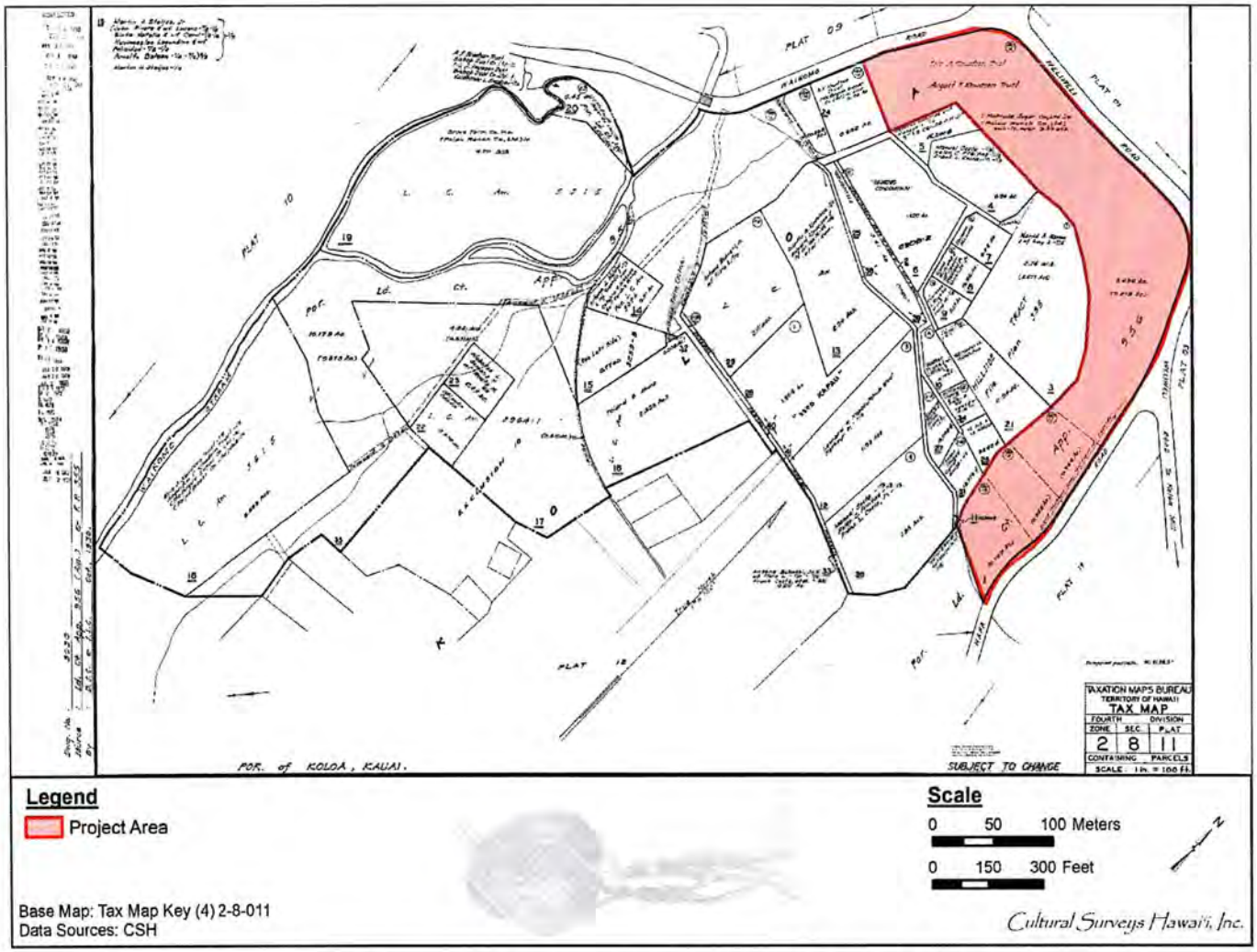


Figure 2. Tax Map Key (TMK) (4) 2-8-011 showing the project area (Hawai'i TMK Service 2024)

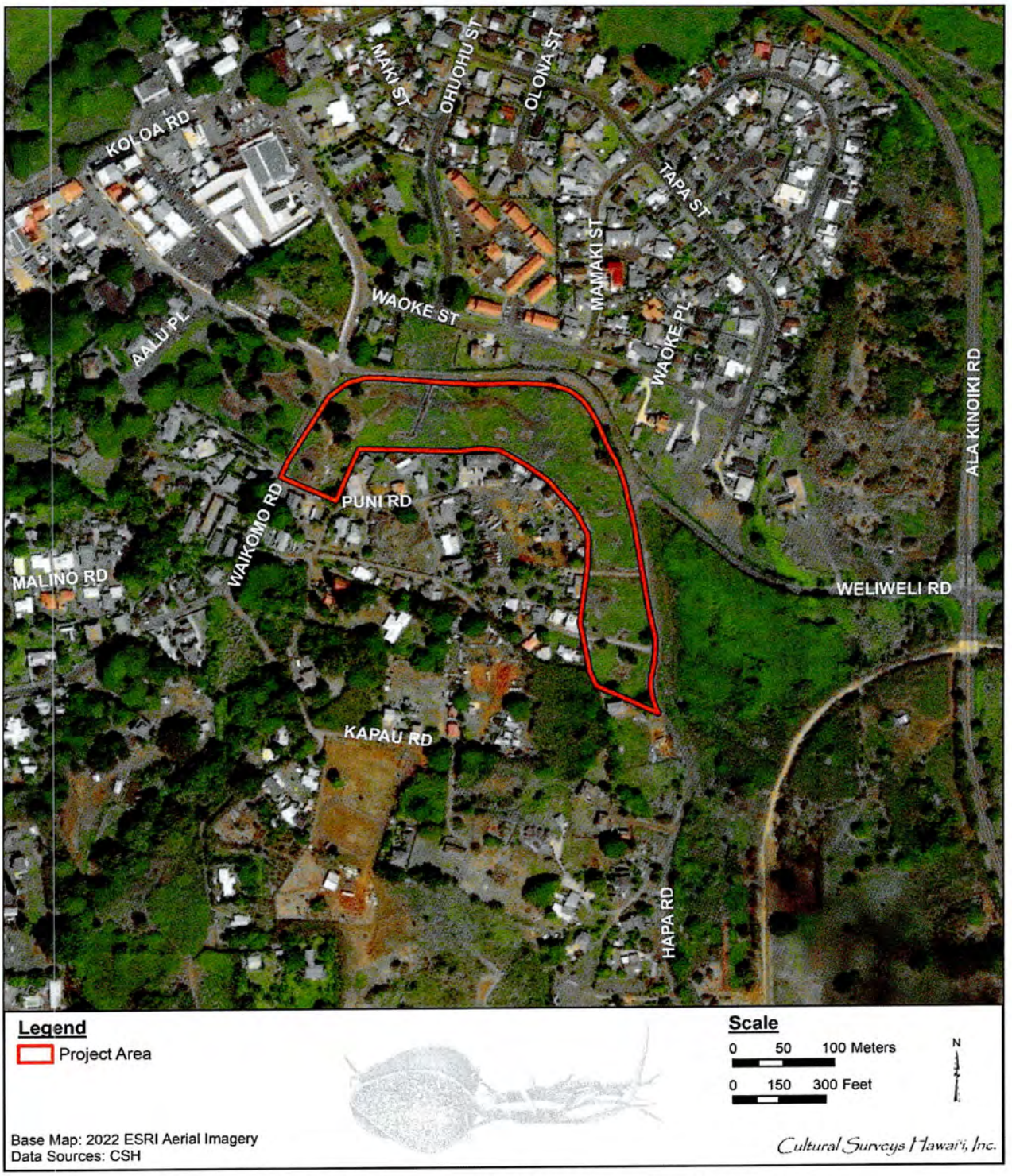


Figure 3. Aerial photograph of the project area (ESRI 2022) showing the project area

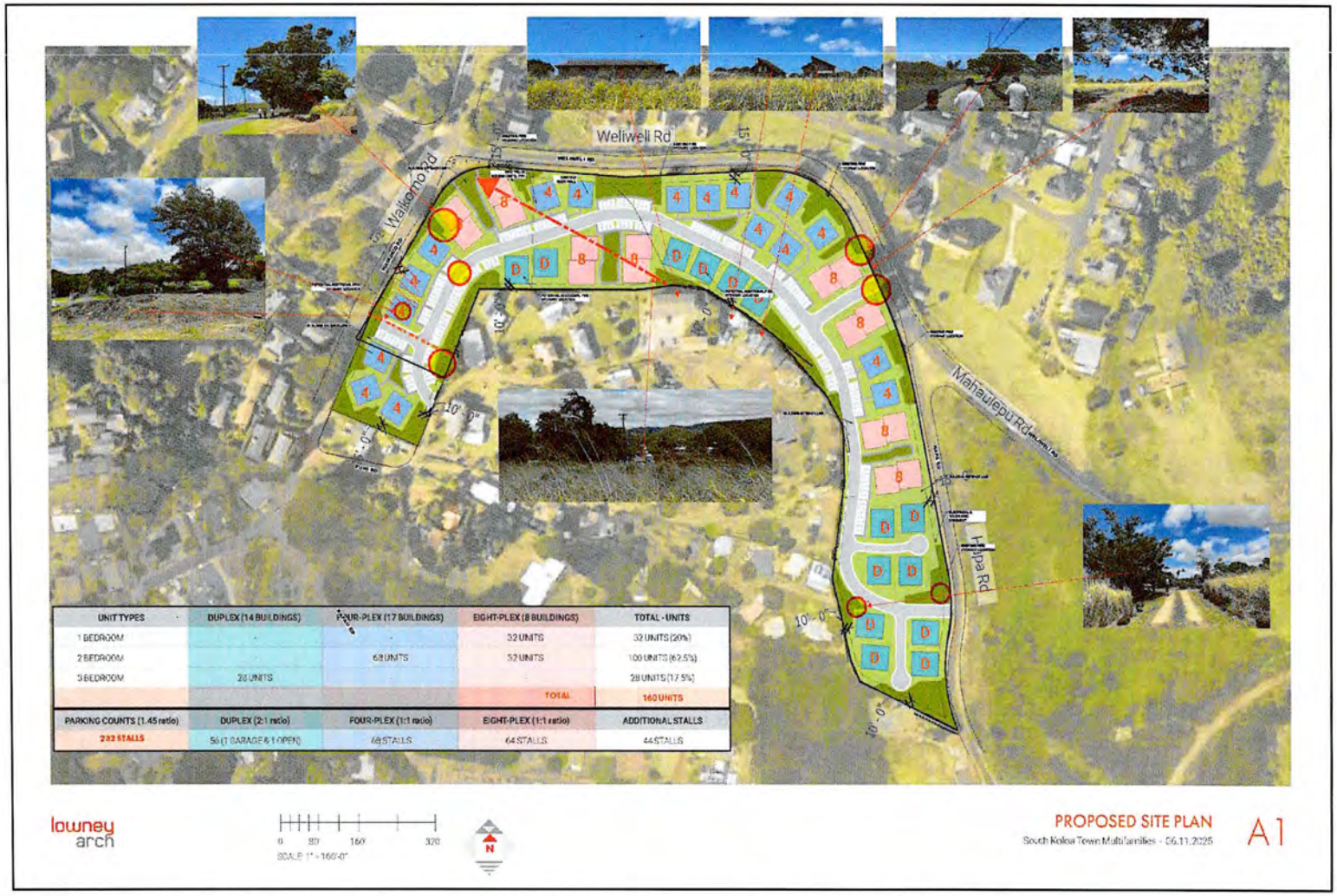


Figure 4. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 11 June 2025)

Figure 5. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025)

Figure 6. Proposed Units of South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025)

1.3 Document Purpose

In *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, the Hawai'i Supreme Court

> [...] articulated an analytical framework to assist state agencies in balancing the State's obligation to protect traditional and customary practices against private property (as well as competing public) interests, by requiring specific findings and conclusions about:

1) the identity and scope of 'valued cultural, historical, or natural resources' in the relevant area, including the extent to which traditional and customary native Hawaiian rights are exercised in relevant area;
2) the extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and
3) the feasible action, if any, to be taken by the [agency] to reasonably protect native Hawaiian rights if they are found to exist. [*Ka Pa'akai O Ka 'Aina v. Land Use Comm'n*, 94 Hawai'i 31, 35, 47, and 52–53, 7 P.3d 1068, 1072, 1084, and 1089–90 (2000)]

1.4 Environmental Setting

1.4.1 Natural Environment

The project area is located approximately 2,697 m (8,848 feet [ft]) north of the southern coast of Kaua'i. The project area is situated within relatively level terrain, at an elevation of approximately 61 m (200 ft) above mean sea level (amsl). The project area receives approximately 1,334.7 mm (52.6 inches) of annual rainfall (Giambelluca et al. 2013) which is regarded as sufficient for some non-irrigated agriculture. Vegetation within the project area consisted of java plum (*Syzygium cumini*), sisal (*Agave sisalana*), night-blooming cereus (*Cereus* spp.) and exotic weeds, vines, and grasses. Perennial Waikomo Stream is approximately 200 m to the west.

1.4.2 *Lepo* (Soils)

According to the U.S. Department of Agriculture (USDA) Soil Survey Geographic (SSURGO) database (2001) and soil survey data gathered by Foote et al. (1972), the project area's soils consist entirely of Waikomo very rocky silty clay (Wt) (Figure 7).

> This [Waikomo soil] series consists of well-drained, stony and rocky soils on uplands on the island of Kauai. These soils developed m material weathered from basic igneous rock, probably with a mixture of ash and alluvium in places. These soils are gently sloping. Elevations range from nearly Sea level to 360 feet. [...] These soils are used for sugarcane, pasture, wildlife habitat, and homesites. The natural vegetation consists of lantana, koa haole, Java plum, pricklypear cactus, swollen fingergrass, bermudagrass, and guineagrass. [Foote et al. 1972:132]

Wt soils are further described as where "rock outcrops cover 3 to 25 percent of the surface" (Foote et al. 1972:133).

1.4.3 *Makani* (Winds)

Northeasterly trade winds prevail throughout the year, although their frequency varies from 80 to 95% of the time during the summer months, when high-pressure systems tend to be located north and east of the Hawaiian Islands. During the winter months, the high-pressure systems are located farther to the south, decreasing the occurrence of the trade winds to about 50 to 80% of the time (WRCC 2010).

The Wind Gourd of La'amaomao tells the story of Pāka'a and his son Kuāpāka'a, descendants of the wind goddess La'amaomao, who are given control over the winds of Hawai'i which are contained in a gourd. Each wind could be called forth by chanting their names (Nakuina 1992). Pāka'a's chant traces the winds of Kaua'i found in the *ahupua'a* of Kōloa. *Makani* is the general Hawaiian word for wind.

When the Hawaiian goddess, Pele, traveled to Kaua'i, she recited the winds of Kaua'i to her lover Lohi'au and his people.

Wahiawa has an Unulau wind ...	*He Unulau ko Wahiawa..*
Kalāheo has a Kiuanu wind	*He Kiuanu ko Kalāheo*
Lāwa'i has an 'Aoa wind...	*He 'Aoa ko Lāwa'i...*
Kōloa has a Holomālani wind...	*He Holomālani ko Kōloa...*
Hanaka'ape has an Ulumano wind	*He Ulumano ko Hanaka'ape*

[Ho'oulumāhiehie 2008a:16–17; Ho'oulumāhiehie 2008b:16–17]

There are at least two different Hawaiian names for the winds found in the Kōloa Ahupua'a: Malanai, a gentle breeze, the trade wind of Kōloa (Nakuina 1990:149), and "Holomālani wind" (Ho'oulumāhiehie 2008:16).

1.4.4 *Ua* (Rains)

There is at least one named *ua* (rain) of Kōloa, the cold Noe rain (Akana 2015:154).

1.4.5 *Kahawai* (Streams and Freshwater)

Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish, mollusks, and crustaceans) value and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23).

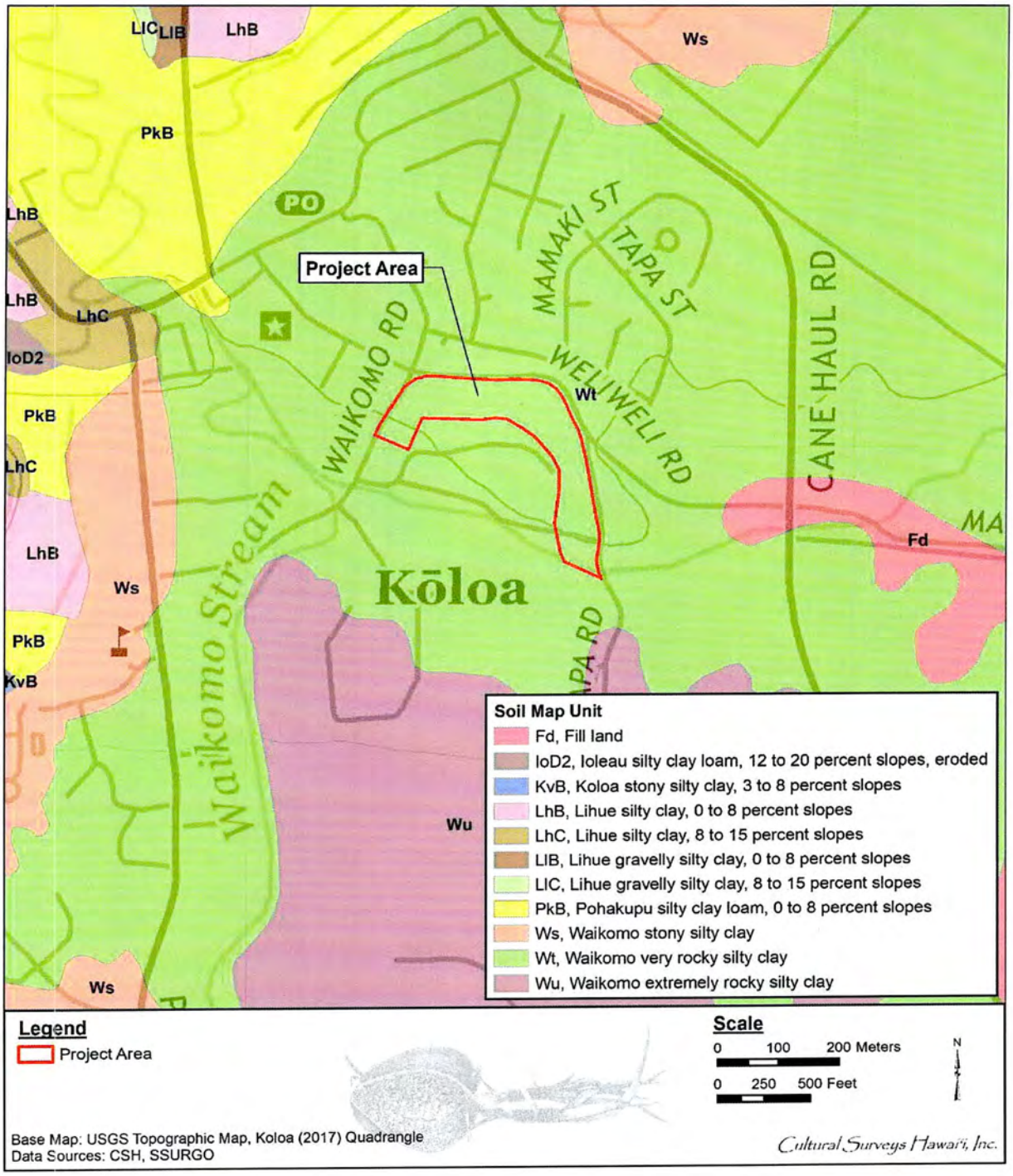


Figure 7. Overlay of *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (Foote et al. 1972), indicating soil types within and surrounding the project area (USDA SSURGO 2001)

1.4.6 *Ka Lihikai a me Ka Moana* (the Coast and Ocean)

The coastline of Kōloa Ahupua'a is blessed with great resources including Kukui'ula Bay (Kukui'ula Small Boat Harbor) that provides considerable protection for small craft (Clark 1990:65) and Kōloa Landing that was a focus for whale ships.

Kōloa Landing:

> was established in Hanaka'ape Bay in a natural cove cut into the shoreline by Waikomo Stream. Before the turn of the century [1900], an average of 40 to 60 ships, including whalers, called each year at the landing. There they discharged and picked up cargo and passengers and took on supplies. With the introduction of modern means of transportation, the old sugar landings fell into disuse. Koloa Landing was used into the 1920s, but today little more than its name remains to identify this once busy site. [Clark 1990:65]

The availability of marine resources is attested to:

> The south shore of Kaua'i from Lawa'i to Po'ipu is considered one of the best sport diving and spearing areas on the island. These waters are especially attractive because of the normally calm seas, extensive reefs, excellent underwater visibility, and close proximity to residential and resort communities. [Clark 1990:65]

"Beach House Beach," Prince Kūhiō Park, Po'ipū Beach, Wai'ōhai Beach, Po'ipū Beach Park, and Brennecke Beach are still popular places for coastal access at Kōloa (Clark 1990:65–72).

1.5 Built Environment

The built environment consists primarily of leveled and graded areas, most likely associated with historic agriculture, with a scattered, moderate density of single-family homes. Also noted during the 2007 fieldwork was the presence of modern trash throughout the entire project area (Tulchin et al. 2007:5).

Section 2 CIA Methods

2.1 Archival Research

Research centers on Hawaiian activities including *ka'ao* (legends), *wahi pana* (storied places), *'ōlelo no'eau* (proverbs), *oli* (chants), *mele* (songs), traditional *mo'olelo* (stories), traditional subsistence and gathering methods, ritual and ceremonial practices, and more. Background research focuses on land transformation, development, and population changes beginning with the early post-Contact era to the present day.

Cultural documents, primary and secondary cultural and historical sources, historic maps, and photographs were reviewed for information pertaining to the study area. Research was primarily conducted at the CSH library. Other archives and libraries including the Hawai'i State Archives, the Bishop Museum Archives, the University of Hawai'i at Mānoa's Hamilton Library, Ulukau, the Hawaiian Electronic Library (Ulukau.org 2014), the State Historic Preservation Division (SHPD) Library, the State of Hawai'i Land Survey Division, the Hawaiian Historical Society, and the Hawaiian Mission Houses Historic Site and Archives are also repositories where CSH cultural researchers gather information. Information on Land Commission Awards (LCAs) were accessed via Waihona 'Aina Corporation's Māhele database (Waihona 'Aina 2024), the Office of Hawaiian Affairs (OHA) Papakilo Database (Office of Hawaiian Affairs 2015), and the Ava Konohiki Ancestral Visions of 'Āina website (Ava Konohiki 2015).

2.2 Consultation

2.2.1 Scoping for Participants

The CSH cultural department commences our consultation efforts by utilizing our previous community contact list to facilitate the interview process. We then review an in-house database of *kūpuna* (elders), *kama'āina*, cultural practitioners, lineal and cultural descendants, Native Hawaiian Organizations (NHOs; includes Hawaiian Civic Clubs and those listed on the Department of Interior's NHO list), and community groups. CSH also contacts agencies such as SHPD, OHA, and the appropriate Island Burial Council where the proposed project is located for their response to the project and to identify lineal and cultural descendants, individuals and/or NHO with cultural expertise and/or knowledge of the study area. CSH is also open to referrals and new contacts.

2.2.2 "Talk Story" Sessions

Prior to the interview, CSH cultural researchers explain the nature of cultural consultation, how the consent process works, the project purpose, the intent of the study, and how their *'ike* (knowledge) and *mana'o* (thought, opinion) will be used in the report. The interviewee is given an Authorization and Release Form to read and sign.

"Talk Story" sessions range from the formal (e.g., sit down and *kūkā* [consultation, discussion] in the participant's place of choice over set interview questions) to the informal (e.g., email, telephone, Zoom-type, or face-to-face consultation, hiking to cultural sites near the study area and asking questions based on findings during the field outing). In some cases, interviews are recorded and transcribed later.

CSH may also conduct group interviews, as appropriate, which range in size. Group interviews usually begin with set, formal questions. As the group interview progresses, questions are based on interviewees' answers. Group interviews are always transcribed and notes are taken. Recorded interviews assist the cultural researcher in 1) conveying accurate information for interview summaries, 2) reducing misinterpretation, and 3) adding missing details to *mo'olelo*.

CSH seeks *kōkua* (assistance) and guidance in identifying past and current traditional cultural practices of the study area. Those aspects include general history of the *ahupua'a*; past and present land use of the study area; knowledge of cultural sites (for example, *wahi pana*, archaeological sites, and burials); knowledge of traditional gathering practices (past and present) within the study area; cultural associations (*ka'ao* and *mo'olelo*); referrals; and any other cultural concerns the community might have related to Hawaiian cultural practices within or in the vicinity of the study area.

2.2.3 Interview Completion

After an interview, CSH cultural researchers transcribe and create an interview summary based on information provided by the interviewee. Cultural researchers give a copy of the transcription and interview summary to the interviewee for review and ask that they make any necessary edits. Once the interviewee has made those edits, CSH incorporates their *'ike* and *mana'o* into the report. When the draft report is submitted to the client, cultural researchers then prepare a finalized packet of the participant's transcription, interview summary, and any photos taken during the interview. We also include a thank you card and honoraria.

"*I ulu no ka lālā i ke kumu*—the branches grow because of the trunk," is an *'ōlelo no'eau* (#1261) shared by Mary Kawena Pukui with the simple explanation: "Without our ancestors we would not be here" (Pukui 1983:137). As cultural researchers, we often lose our *kūpuna* but we do not lose their wisdom and words. We routinely check obituaries and gather information from other community contacts if we have lost our *kūpuna*. CSH makes it a point to reach out to the *'ohana* of our *kūpuna* who have passed on and pay our respects including sending past transcriptions, interview summaries, and photos for families to have on file for genealogical and historical reference.

Section 3 Traditional Accounts

3.1 Traditional Accounts

Traditionally, the island of Kaua'i was divided into five *moku* (districts): Halele'a, Kona, Ko'olau, Nāpali, and Puna. However, after the battle of Wahiawa in 1824, the land of Kaua'i was redistributed and district boundaries changed. The new district names became Hanalei, Kawaihau, Līhu'e, Kōloa, and Waimea. The Kōloa District consisted of seven of the 14 *ahupua'a* (traditional land division) formerly within Kona Moku. 'Ele'ele was also added to the Kōloa District. Traditionally, 'Ele'ele was an *'ili* (smaller land division) of Hanapēpē Ahupua'a in Kona Moku, but it was separated during the redistribution. 'Ele'ele subsequently became an *ahupua'a* of the Kōloa District, and Hanapēpē became an *ahupua'a* of the Waimea District. Thus, currently the eight Kōloa *ahupua'a* are 'Ele'ele, Wahiawa, Kalāheo, Lāwa'i, Kōloa, Weliweli, Pā'ā, and Māhā'ulepū, from west to east. See Figure 8 to see the proposed project area in relation to the nearby *ahupua'a*.

3.1.1 *Nā Wahi Pana* (Storied Places)

Wahi pana are legendary or storied places in a landscape. These legendary or storied places can be a variety of natural or human-constructed features. Oftentimes dating to the pre-Contact period, many but not all *wahi pana* are connected to particular *mo'olelo*. Dr. Davianna McGregor outlines the types of natural and human-made structures that may constitute *wahi pana*:

> Natural places have mana or spiritual power, and are sacred because of the presence of the gods, the akua, and the ancestral guardian spirits, the 'aumakua. Human-made structures for the Hawaiian religion and family religious practices are also sacred. These structures and places include temples, and shrines, or heiau, for war, peace, agriculture, fishing, healing, and the like; pu'uhonua, places of refuge and sanctuaries for healing and rebirth; agricultural sites and sites of food production such as the lo'i pond fields and terraces slopes, 'auwai irrigation ditches, and the fishponds; and special function sites such as trails, salt pans, hōlua slides, quarries, petroglyphs, gaming sites, and canoe landings. [McGregor 1996:22]

Nā wahi pana translations presented in this subsection are from *Place Names of Hawaii* (Pukui et al. 1974), unless indicated otherwise. Lloyd Soehren (2013) has lately compiled all the place names from mid-nineteenth century land documents into an online database. He presents spelling and meanings of names from the Pukui et al. book (1974). When no meaning from this book is given, Soehren often suggests meanings for simple names based on meanings from Pukui and Elbert's (1986) *Hawaiian Dictionary*.

3.1.1.1 *Nā Inoa 'Āina* (Place Names)

The name Kōloa has several derivations. Kōloa is the name for the large, soft Hawaiian sugarcane (*Saccharum officinarum*) once grown by the Hawaiians; Kōloa is also the name of a steep rock, called Paliokōloa, on the banks of Waikomo Stream, from where the *ahupua'a* got its name. This bank of the river was called Kōloa, after the native Hawaiian duck (*Anas wyvilliana*) (Kikuchi 1963:46; Pukui et al. 1974:116).

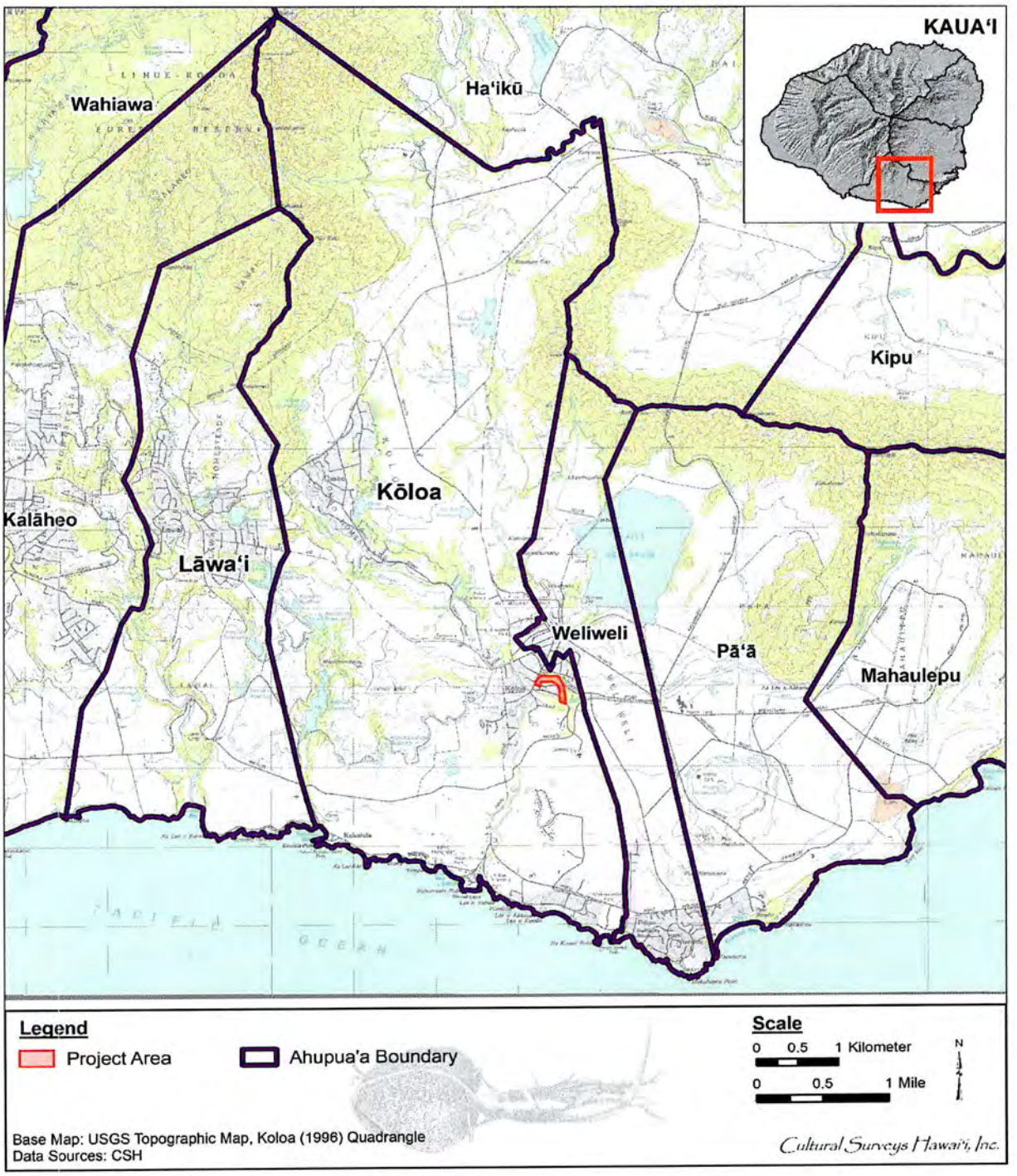


Figure 8. Portion of the 1996 Koloa USGS 7.5-minute series topographic quadrangle, showing the project area within the Kōloa Ahupua'a

The Kōloa Ahupua'a is well watered by constantly flowing streams. Two of these, the 'Ōma'o, "green," and Pō-'ele'ele, "dark night," feed the Pīwai (a variety of wild duck) in the area.

Where they join, the stream becomes Wai-komo, "entering water," which flows down the center of the land, bringing life to the drier regions toward the seashore. It is so named because from time to time "the stream disappears for a bit before reappearing farther down the slope" (Wichman 1998:40). The *ahupua'a* is watered by several other streams: the Aepo, Waihohonu ("deep water;" named for a hole formed when Palila felled a forest of trees with one stroke [Pukui et al. 1974:222]), Weliweli, and the Weoweopilau.

Kōloa is bordered by Lāwa'i Ahupua'a to the west, Weliweli Ahupua'a to the east and Ha'ikū Ahupua'a to the north and northeast (Figure 8). The boundary with Lāwa'i ends on the eastern shore of Kukui'ula Bay near the mouth of Aepo Stream and extends inland to the peaks Pu'u Kolo and Kāhili, where it extends along the boundary of Hā'iku Ahupua'a on the *mauka* (inland, toward the mountains) side. The northeast corner of the *ahupua'a* is at Lā'aukahi ("lone tree"). At the shore, it is separated from Weliweli at a place called Poapoko.

Sixty-six *'ili* are listed in mid-nineteenth century land documents, emphasizing the importance of this well-watered *ahupua'a* and the dense population that it could support. The *'ili* are Aea, 'Awikiwiki, Hālāli'i, Halehinahina, Kaakaupuawa, Ka'auwailalo ("the lower ditch"; Soehren 2013), Kaauwailuna ("the upper ditch"; Soehren 2013), Kahoai, Kahoana ("the whetstone"), Kahoiwai, Ka'ili'ili ("the pebble"), Kalehuaoka'ele, Kalua'alamihi, Kamaemae, Kamaloula ("the red loincloth"; Soehren 2013), Kamanomano, Ka'ōhi'a ("the 'ōhi'a tree"; Soehren 2013), Kāpala'alaea ("daub of ocher"; Soehren 2013), Kapalakea ("a variety of taro"; Soehren 2013), Kapalau, Kapo'o, Kapuna ("the spring"), Kaukahōkū ("the star appears"), Kaulia ("hung, suspended"; Soehren 2013), Kauluolona, Kaunuolono ("the altar of Lono"; Soehren 2013), Kawailehua, Keaku, Keanakaha'ia, Kekui, Kihinui, Kīkīaola ("container acquired by Ola"), Kioea ("bristle-thighed curlew"; Soehren 2013), Kiona ("Zion, or dung heap, privy"; Soehren 2013), Kōloa Hikina ("east Kōloa"; Soehren 2013), Kōloa Komohana ("west Kōloa"; Soehren 2013), Kualu, Kuunameheala, Lapapōhaku ("stone ridge"; Soehren 2013), Lauuluhaa, Lepoakua, Makapala ("sore beginning to heal"), Mākea ("fallow land, or a variety of *kalo* or awa"; Soehren 2013), Malaula, Maneneha'aha'a ("low plantain"), Manini, Ma'uliuli, Mauna Pōhaku, Milohai, 'Ōma'o ("green"), Opuohaku, Palaulalo, Paoa, Pipipi'eu'eu ("lively mollusk, *Theodoxus neglectus*"; Soehren 2013), Poahonu, Pō'ele'ele ("black night"), Pōhakuomakali'i ("stone of Makali'i"; Soehren 2013), Puahehu, Puhaku, Punahelu, Puokahaku, Pu'u Holo, Pu'u o Haku ("Haku hill"; Soehren 2013), Waikomo ("entering water"; Soehren 2013), Wailā'au (sap of plants, or a liquid medicine; Soehren 2013), and Waiohai.

Five *heiau* (pre-Christian place of worship) are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (Site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.

Evidence of a rich history within Kōloa is offered in a Lahainaluna document. This document appears to be based on an oral history project. On 7 September 1885 a student from Lahainaluna Schools (HMS 43 #17) interviewed Makea—"a native who is well acquainted with Koloa"—and recorded "what she said about the well-known places in the olden times." More than 64 years after

the abolition of the *kapu* system and almost as many years of contact with westerners, Makea was able to describe, in detail, 14 *heiau* within the Kōloa area, for example:

> Maulili was the first heiau of south Koloa. Kapulauki was the first chief of Koloa, Kiha came next. That is the chief I know of. He was a ruling chief of Kaua'i in the olden days, when the heiau was standing there. It had already been built and men had been sacrificed on its altars. This Kiha was called Kiha-of-the-luxuriant-hair. Another name for him was Kakae and another was Ka-pueo-maka-walu (Eight-eyed-owl).
>
> This heiau was also famous for this reason—it was the first heiau to which Kawelo was carried after he had swooned in Wahiawa, in the battle where stones were used as missiles.
>
> The location of this heiau was not known, but a deaf mute knew and it was he who pointed it out to the chiefs, and that is how it was rediscovered in the olden days.
>
> Kiha lived on the eastern side of the heiau and 'Aikanaka lived on the northeastern side. Aikanaka, was the one with whom Kawelo fought and he was the owner of this heiau at that time. [Lahainaluna School 1885:165]

3.1.2 Legendary and Traditional Accounts of Kōloa Ahupua'a

One *'ōlelo no 'eau* (proverb) is associated with Kōloa and aspects of its lifeways:

> *Aia i Koloa* Is at Kōloa
>
> A play on kō (drawn) and loa (long)—drawn a long way under. Drunk. [Pukui 1983:8]

Several places within Kōloa have legendary associations. The first is Maulili Pool, meaning "constant jealously," in Waikomo Stream, a sacred place once located in the present Kōloa Town, in the middle of the *ahupua 'a.*

One tale is of the gods Kāne and Kanaloa who slept on the eastern bank of Maulili Pool and left the impressions of their forms on the *'āpapa* (coral flat).

> The apapa in this vicinity is called an 'Unu.' and a 'Heiau,' but was never walled in, it is said. [This *heiau* may be the Maulili Heiau]. On the nights of Kāne the drums are heard to beat there, also at the sacred rocks, or unu's, of Opuokahaku and Kānemilohae, near the beach of Po'ipū [...] [Farley 1907:93]

Just below the resting places of Kāne and Kanaloa is the "Pali o Kōloa" or "Cliff of Kōloa," which the district was possibly named after.

Wai-hānau, meaning "birth pool," is a rock on the eastern bank of the pool. There is a *mele* (chant) about Waihānau:

> *Aloha wale ka Pali o Koloa,*
> *Ke Ala huli i Waihanau e, hanau.* [Farley 1907:93]

Below Wai-hānau was a rock shaped like a human tongue called "Ka-'ōlelo-o-Hawai'i," "language of Hawai'i." It is said that Kaweloleimakua, who lived at the end of the 1600s, brought this rock to Kaua'i from the island of Hawai'i. According to Wichman (1998), "Kiha-wahine, the

fearsome *mo'o* goddess, lived in this pool. When she was in residence, the water turned red and no one dared to swim there" (Wichman 1998:40). "At the southern end of the Maulili pool started two large 'auwais [ditch, canal] that watered the land east and west of Kōloa" (Farley 1907:93).

Maulili is also the name of Kōloa's most important *heiau*. It was first built by Ka-pueo-maka-walu, the son of Kapu-lau-kī. He had his house on the eastern side of this *heiau*. It was a place of human sacrifice, but once Kapueomakawalu died, it was no longer used and its location was lost (Wichman 1998:41). Many years later, when 'Aikanaka had defeated his cousin Kawelo in the battle of stones on the plains of Wahiawa, 'Aikanaka wanted a place to sacrifice the body. No one was sure of it, but a deaf mute led 'Aikanaka to the place. The place was rebuilt and in the morning 'Aikanaka went to sacrifice the body. He found Kawelo was healed from his wounds and it was 'Aikanaka instead who was sacrificed (Wichman 1998:41).

Kapueomakawalu also built the *heiau* of Louma, which stood on the mountainside of Ho'oleina-ka-pua'a, "place to throw in the pig." This was beside a small pond *mauka* of Maulili. Louma was a small *heiau* in which hogs, red fishes, and other sacrifices were offered. It was dedicated to Lono-i-ka-ou-ali'i, the god who had come to Kaua'i with La'a-mai-kahiki in the twelfth century. The stones for this *heiau* were brought from O'ahu. It is said that the *menehune* (legendary race of small people who built structures at night) did the actual building (Wichman 1998:41).

According to Wichman (1998), Palila, the legendary figure who wielded a huge war club to save his father, was born during the period of war between the kingdoms of Puna and Kona about AD 1200 at Kamo'oloa. He was raised by his grandmother in the *heiau* of 'Ālana-pō, "night offering," sacred to the gods from the time of darkness (Wichman 1998:39–40).

The following is a *mo'olelo* (story) about the small stream called Weoweo-pilau, "rotten bigeye fish," which is on the plains of Kamo'oloa:

> It seems an upland farmer heard that the bigeye fish were running at the beach, so he went down and caught a great number of them. On his way home, an old woman asked him for a few fish but he refused to give her any, saying she could go to the shore and get as many as she wanted. As he continued home, his load of fish became heavier and heavier, the path dustier and dustier, and the sun blazed with heat. When he reached the stream, he put down his fish and plunged in to cool off. When he came out, he smelled that his fish were completely rotten. He then realized that the old lady had been Pele, the volcano goddess, testing his generosity and hospitality. He had been found wanting and was punished. [Wichman 1998:40]

There are also many *mo'olelo* in the *makai* (seaward) area of Kōloa. According to Wichman (1998), Hālau-a-ka-lena, "shed for the *'olena* (*Curcuma domestica*), turmeric plant," was dedicated to the *mo'o* goddess Kihawahine. If she was offended, she would take the form of a sea dragon and patrol the seashore, killing all who dared fish from canoes and along the reef and rocks (Wichman 1998:420). The story of "Ke Kōloa o Kaikapū" is similar (Wichman 1991:88–91) in which a *mo'o* named Kaikapū guarded the Kōloa shoreline, keeping everyone away from the swimming places and from the food on the reefs and in the sea. She would eat fishermen and swimmers near the shore. Soon no one living in Kōloa would come to the ocean to fish, gather the golden brown *līpoa* seaweed used to flavor their food, or work at the natural rock pans where salt

was made. Liko and his grandmother lived on the hill above Kukui'ula bay. Liko's grandmother once expressed that she longed for the taste of *i'a ho'omelu*, the relish made of raw *hīnālea* (brightly colored wrasses, family *Labridae*) fish mixed with red salt, roasted *kukui* (*Aleurites moluccana*) nuts, and brown *līpoa* seaweed. Liko decided his grandmother must have the fish and brought his *kauila* (*Alphitonia ponderosa*) wood spear and his *hīnālea* trap woven from *'inalua* (*Cardiospermum halicacabum)* vine. Liko dove into the water and battled Kaikapū. He defeated her by swimming into the lava tube opening that led to a rocky platform above and trapping her in the narrowing tube. From then on, the seashore was free for everyone to use. Even today when the column of water shoots high into the sky, an angry roar echoes from the tube, *ke kōloa o Kaikapū* (Wichman 1991:88–91).

The early life of the hero Kawelo is also associated with Kōloa. Kawelo grew up in Wailua with two friends, Kauahoa of Hanalei and Aikanaka, the son of the king of Kaua'i. The three were fiercely competitive, and when his grandparents gave Kawelo a canoe, Kauahoa was jealous, so he made himself a kite. As soon as he saw the kite, Kawelo wanted one for himself and he asked his grandparents to make him one. He flew the kite next to Kauahoa and the two entangled, which caused Kauahoa's to break away and fall to the earth in Kōloa, at a place named Kaho'oleināpe'a ("the flying of the kites") after this event (Fornander 1918:5:3–4).

3.2 *Mele* (Songs)

The following section draws from the Hawaiian art of *mele*, poetic song.

> Words and word combinations were studied to see whether they were auspicious or not. There were always two things to consider the literal meaning and the *kaona*, or 'inner meaning.' The inner meaning was sometimes so veiled that only the people to whom the chant belonged understood it, and sometimes so obvious that anyone who knew the figurative speech of old Hawai'i could see it very plainly. There are but two meanings: the literal and the *kaona*, or inner meaning. The literal is like the body and the inner meaning is like the spirit of the poem. [Pukui 1949:247]

> The Hawaiians were lovers of poetry and keen observers of nature. Every phase of nature was noted and expressions of this love and observation woven into poems of praise, of satire, of resentment, of love and of celebration for any occasion that might arise. The ancient poets carefully selected men worthy of carrying on their art. These young men were taught the old *meles* and the technique of fashioning new ones. [Pukui 1949:247]

A few late nineteenth, twentieth, and twenty-first century *mele* concern or mention Kōloa Ahupua'a. These particular *mele* may also be classified as *mele wahi pana* (songs for legendary or historic places). *Mele wahi pana* such as those presented here may or may not be accompanied by *hula* (dance) or *hula wahi pana* (dance for legendary or historic places). As the Hula Preservation Society notes,

> Hula Wahi Pana comprise a large class of dances that honor places of such emotional, spiritual, historical, or cultural significance that chants were composed for them. Only the composers of the chants could know the deepest meanings, as they would be reflections of their feelings and experiences [...] Since the subjects of Wahi Pana compositions are extremely varied, their implementation through

hula are as well. Coupled with the differences from one hula style and tradition to the next, Hula Wahi Pana can be exceptionally diverse. They can be done sitting or standing, with limited body movement or wide free movement; with or without the use of implements or instruments; with the dancers themselves chanting and/or playing an implement or being accompanied by the *ho'opa'a* [drummer and *hula* chanter (memorizer)]. Beyond the particular hula tradition, what ultimately determines the manner in which a Hula Wahi Pana is performed are the specific place involved, why it is significant, the story being shared about it, and its importance in the composer's view. [Hula Preservation Society 2014]

3.2.1 Kōloa

Father of the Songbird of Hawai'i, Lena Machado, Robert Waialeale composed this *mele* in honor of Kōloa, with the inclusion of a famous *wahi pana*, Kemamo. Kemamo is a spring reserved for royalty.

Nani Hā'upu kū kila i ka la'i	Beautiful Hā'upu, rising in the calm
Hanohano kilohana i ka nahele	Magnificent is the view of the forest
Aia i laila ka maka e ka 'ōpua	There the cloudbanks
Kihene i ka wai o Kemamo	Gather over the waters of Kemamo
Hui:	Chorus:
He ani maoli no ka ua noe o Kōloa	Beautiful indeed, the misty rain of Kōloa
He makalapua i ka wao kele	Bringing forth the blossoms in the uplands
Nā hi'ona o ku'u ipo ua like me ka 'ano'i	The appearance of my sweetheart awakens my desire
Nā dews kēhau o ke aumoe	Like the dews at midnight

[huapala.org n.d.]

3.3 *'Ōlelo No'eau* (Proverbs)

Hawaiian knowledge was shared by way of oral histories. Indeed, one's *leo* (voice) is oftentimes presented as *ho'okupu* ("a tribute or gift" given to convey appreciation, to strengthen bonds, and to show honor and respect); the high valuation of the spoken word underscores the importance of the oral tradition (in this case, Hawaiian sayings or expressions), and its ability to impart traditional Hawaiian "aesthetic, historic, and educational values" (Pukui 1983:vii). Thus, in many ways these expressions may be understood as inspiring growth within reader or between speaker and listener:

> They reveal with each new reading ever deeper layers of meaning, giving understanding not only of Hawai'i and its people but of all humanity. Since the sayings carry the immediacy of the spoken word, considered to be the highest form of cultural expression in old Hawai'i, they bring us closer to the everyday thoughts and lives of the Hawaiians who created them. Taken together, the sayings offer a basis for an understanding of the essence and origins of traditional Hawaiian values. The sayings may be categorized, in Western terms, as proverbs, aphorisms, didactic adages, jokes, riddles, epithets, lines from chants, etc., and they present a variety of

> literary techniques such as metaphor, analogy, allegory, personification, irony, pun, and repetition. It is worth noting, however, that the sayings were spoken, and that their meanings and purposes should not be assessed by the Western concepts of literary types and techniques. [Pukui 1983:vii]

Simply, *'ōlelo no'eau* may be understood as proverbs. The Webster dictionary notes it as "a phrase which is often repeated; especially, a sentence which briefly and forcibly expresses some practical truth, or the result of experience and observation." It is a pithy or short form of folk wisdom. Pukui equates proverbs as a treasury of Hawaiian expressions (Pukui 1995:xii). Oftentimes within these Hawaiian expressions or proverbs are references to places. This section draws from the collection of author and historian Mary Kawena Pukui and her knowledge of Hawaiian proverbs describing *'āina* (land), chiefs, plants, and places relative to Kōloa Ahupua'a and the larger Kona Moku.

3.3.1 *'Ōlelo No'eau* # 47

This *'ōlelo no'eau* is used to describe someone who is intoxicated.

> *Aia i Kōloa.*
>
> Is at Kōloa
>
> A play on kō (drawn) and loa (long)—drawn a long way under. Drunk.
>
> [Pukui 1983:8]

3.3.2 *'Ōlelo No'eau* # 1905

The following *'ōlelo no'eau* comparing the "heavily leafed kukui tree" with thick clouds blocking the sun was often used in Kona Moku.

> *Kukui-lau-nui-o-Kona.*
>
> Thickly leafed kukui of Kona.
>
> A thick cloud that shuts out the light of the sun, like a heavily leafed kukui tree. This expression was used in the Kona district of Kaua'i.
>
> [Pukui 1983:205]

Section 4 Archaeological and Historical Narrative

The purpose of this section is to provide a focused historical narrative for Kōloa Ahupua'a as it provides information regarding patterns of land use at and in the vicinity of the South Koloa Town project.

4.1 Pre-Contact

Chronological analysis from Kōloa and the two neighboring *ahupua'a*, Pā'ā and Weliweli, suggests an early initial occupation within the Kōloa District of ca. AD 535 (Walker and Rosendahl 1990:131). Initial occupation probably was characterized by temporary and/or recurrent occupation. From AD 600-1400, settlements in the Kōloa area were still limited to the coast. By AD 1040, lava tubes were used for burial and temporary habitation in the inland areas of Kōloa (Hammatt et al. 1999:7).

However, it should be noted that recent analysis of radiocarbon dates in Hawai'i suggest more consensus for colonization of the Hawaiian Archipelago between AD 1000 and AD 750 (Rieth and Cochrane 2015). Also, "Paleoenvironmental sequences from O'ahu and Kaua'i have recorded vegetation change and increases in microscopic charcoal consistent with human activities between ~1050 and 850 cal. B.P. [~AD 900 and 1100]" (Rieth and Cochrane 2015:9). (All dates reported in this section taken from the individual analyses as cited have not been independently verified or validated during the background research process and should be understood as provisory.)

One Hawaiian tradition says the islands of Hawai'i were first settled by the chief Punanuikaianaina, who came to the Puna District of Kaua'i from the Marquesas around AD 1000 to 1100 (Fornander 1996:45–46). The early settlers of the Hawaiian archipelago would have been especially attracted to the windward side of Kaua'i, which boasted large river valleys supporting a vast inland region of irrigated pond-fields for *kalo* (taro) cultivation that became the agricultural core of Kaua'i. The greatest of these river valleys were around Wailua and Hanamā'ulu streams. Excavation data near the mouth of Hanamā'ulu Stream indicates early occupation of the area between AD 1170 and 1400 (State Inventory of Historic Places [SIHP] # 50-30-11-01839, Walker et al. 1991). This area was richly endowed with agricultural wealth and was a major residential and religious center for the nobility (Kirch 2010:171). A number of prominent *heiau* and a sacred birthing site were located in the central Wailua area (Bennett 1931:125–128). In approximately AD 1450 (a time estimate based on an average length of generational intervals in chiefly genealogies), the Kaua'i *ali'i* (chief) Manokalanipō is credited "for the energy and wisdom with which he encouraged agriculture and industry, executed long and difficult works of irrigation, and thus brought fields of wilderness under cultivation" (Fornander 1996:93).

On the island of O'ahu in approximately AD 1490, the *'aha ali'i* (council of chiefs) chose Mā'ilikūkahi, an *ali'i kapu* (sacred chief) who was born at the sacred site of Kūkaniloko in the uplands of Waialua, to be the new *ali'i nui* (paramount chief) of O'ahu. After his paramountship was installed at the *heiau* of Kapukapuākea in central Waialua, Mā'ilikūkahi instituted an explicit land division and administrative structure (Kirch 2010:84–90). Although Kaua'i remained politically independent during this period, a hierarchical land system was also imposed on that island.

4.2 Early Historic Period

The first written accounts of Kaua'i are from travelers, missionaries, and surveying expeditions. Missionary accounts of the first half of the nineteenth century provide the majority of the early written records for this particular part of Kaua'i. The earliest explorers, like Cook and Vancouver, used Waimea for anchorage and victualing, with no mention made of Kōloa. However, their descriptions of well maintained, watered agricultural systems on this dry leeward coast are echoed in the early descriptions of Lāwa'i and Kōloa. Cook notes, "What we saw of their agriculture, furnished sufficient proofs that they are not novices in that art. The vale ground has already been mentioned as one continuous plantation of taro, and a few other things, which all have the appearance of being well tended to" (Cook 1784:244). Vancouver's description records "the low country which stretches from the foot of the mountains toward the sea, occupied principally with the taro plant [...] interspersed with some sugar-cane of luxuriant growth and some sweet potatoes" (Vancouver 1798:1:170).

Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*. On Kaua'i, the favored places for coconuts were Kōloa and Lāwa'i (Handy 1940:193).

Writing about this general area, Handy (1940) states,

> Upland kula lands that were famous for their sweet potatoes were Kukuiolono above Lāwa'i (the present park covering the McBride [*sic*] estate) and the elevated kula lands east of Wahiawa Stream. I was unable to obtain any information as to the uplands of Kalihi and Kilauea, but this and much of the kula land from here to Kealia is the same type of terrain and presumably was once used to some extent for growing sweet potatoes by taro planters in these districts. A kamaaina of Wahiawa says that inland of the cliff named Kawaikapuluna, the people used to have taro patches in the gulch, while their houses and potato patches were on the kula land above, bordering the gulch on either side. I was told this arrangement was typical also of Nawiliwili, and presumably also of Hanamaulu, Hanapēpē, Makaweli, and Waimea in the lower sections of their canyons. [Handy 1940:154]

Reverend Hiram Bingham's account of travelling east from Hanapēpē, in 1824, reports traverse

> [...] through a country of good land, mostly open, unoccupied and covered with grass, sprinkled with trees, and watered with lively streams that descend from the forest-covered mountains and wind their way along ravines to the sea. It is a much finer country than the western part of the island. [Bingham 1847:219]

No specifics are supplied.

By the early 1800s, Kōloa Landing had become the principal port of Kaua'i. The fact that the shipment of most of Kaua'i's sandalwood to Asia took place at Kōloa Landing suggests sandalwood was likely harvested in the uplands of Kōloa until the supply of the fragrant wood was exhausted around 1830 (Donohugh 2001:63–64).

In 1835, Thomas Nuttall and John K. Townsend, two American naturalists, visited the Kōloa area. They noted "fields of taro, yam, and maize (possibly sugarcane), irrigation networks and sweet potato patches in the dryer areas" (Townsend 1839:206). Also in the 1830s, J.J. Jarves, in "Sketches of Kauai" (Jarves 1844), remarked on the fields of sugarcane, taro, and yams which indicated more than usual attention to agriculture.

The extensive agricultural fields and their well-maintained appearance indicate a relatively well-populated area. Bernice Judd, in "Kōloa: A Sketch of its Development" (1935), suggests that prior to European Contact the population of Kōloa must have been several thousand.

Other evidence indicating the importance of the Kōloa area during prehistoric times includes a relatively large number of *heiau*. A nineteenth century Lahainaluna Schools manuscript records *heiau* and fishing grounds of Kōloa, based on interviews with Kōloa elders in 1885 (Lahainaluna 1885 HMS 43 #17). The manuscript lists 14 *heiau* and one fishing shrine for Kōloa. Of the 14 *heiau*, at least three were *luakini* class and two were *po'okanaka* class. Five were associated with fishing, two were associated with medicine, one with agriculture, and four were of unknown function. One *heiau* is identified as "Kamaloula"; its location is specified: "This heiau is located at Kamaloula, that was the site of Make a's [the woman being interviewed] house, where she lived with her first husband. This heiau was built for the purpose of multiplying food plants" (Lahainaluna 1885).

The earliest documentation of Kōloa district population appears in 1853 when missionary censuses recorded a total population of 1,296 (Schmitt 1977:12). A population distribution map by Coulter (1931) (Figure 9) indicates the population of Kaua'i ca. 1853 "was concentrated chiefly on the lower flood plains and delta plains of rivers where wet land taro was raised on the rich alluvial soil" (Coulter 1931:14).

> The area about Koloa in the southeast was also well populated. Koloa was a port of call for whaling vessels 'to recruit for the Polar Seas.' There 'calabashes of poi, raw fish, bunches of bananas, and bundles of sugar cane [...] [were] offered for sale to the foreigner.' There was a sugar cane plantation of 2,000 acres in this district, the proprietor of which 'was realizing at least one ton per acre of capital sugar.' Tidal flats in this vicinity were used for, evaporating sea water to obtain salt. [Coulter 1931:15–16]

By 1872, the population of Kōloa bottomed out at 833, and then began steadily increasing (reflecting in large part the influx of immigrant labor) to 1,500 in 1884, 1,835 in 1896 and 4,564 by 1900 (Schmitt 1977:13). While the Coulter reconstruction is a "broad-brush" map, it does show a very large population at Kōloa near Waikomo Stream and the coast.

4.3 Early Sugar and Export Crops at Kōloa

The Kōloa area is the site of the oldest sugar plantation in Hawai'i. In 1835, Ladd and Company gained the lease of some 1,000 acres at Kōloa for the purpose of growing sugarcane. "The lease allowed the use of the waterfall and an adjoining mill site at Maulili Pool, the right to build roads, and the privilege of unrestricted buying and selling, and freedom from local harbor dues" (Stauder 1973:18). Ladd and Company were not the first to mill sugarcane in the area, as there was a Chinese-operated granite roller mill in operation at Māhā'ulepū in 1830. Ladd and Company were, however, the first "plantation" organized industry in Hawai'i.

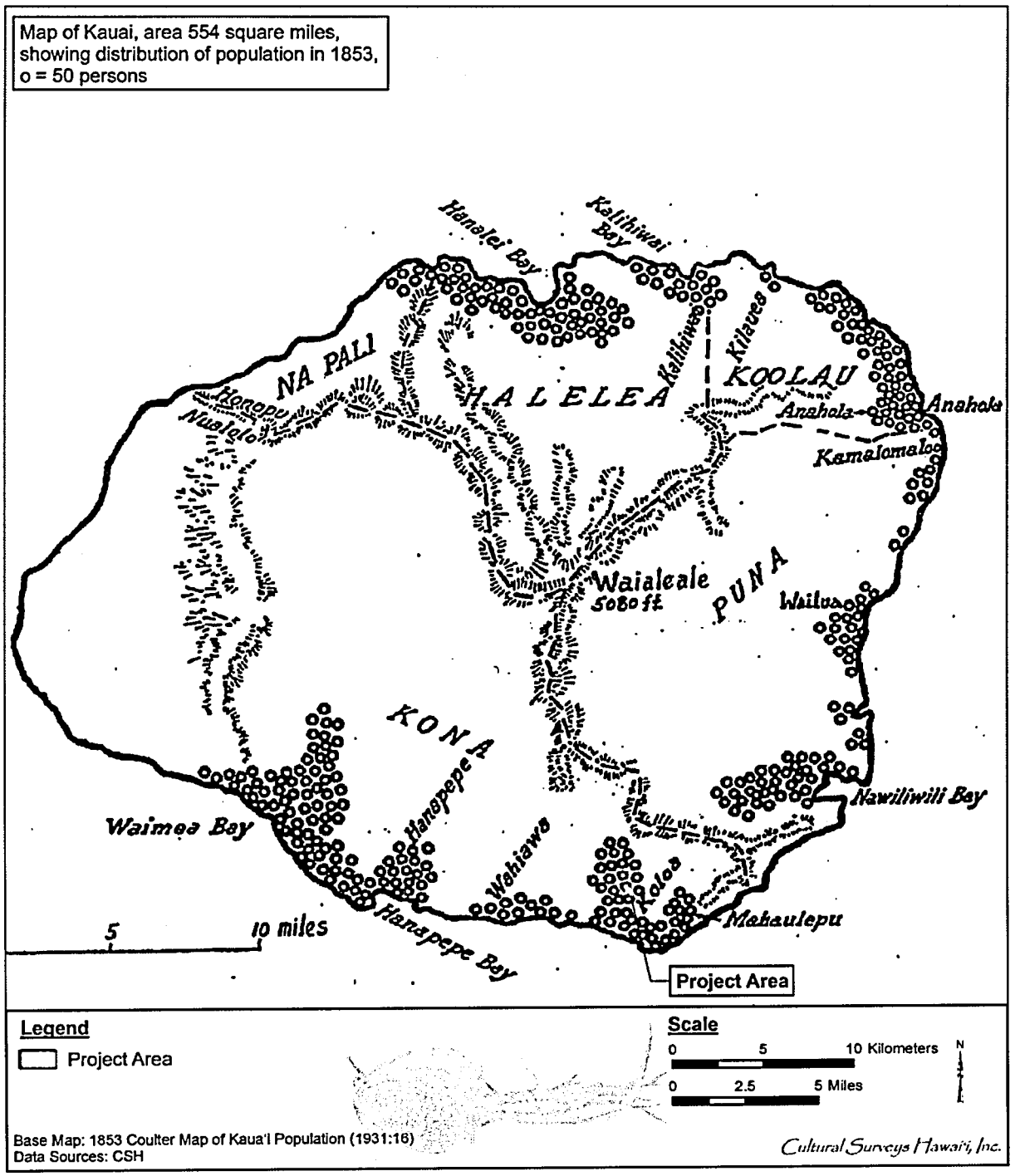


Figure 9. Map showing estimated distribution of population for Kaua'i in 1853 (Coulter 1931:16)

Along with the lease, the company was allowed to "hire native workers provided they paid the king, Kamehameha III, and Kaikio'ewa, appointed Governor of Kaua'i, a tax for each man employed and paid the men satisfactory wages" (Stauder 1973:18). The plantation set up houses for native workers and a store where the employees could purchase merchandise with the plantation currency in which they were paid.

The cane growing activity of Ladd and Company was not done directly on the present Kukui'ula lands, but the commercial activity initiated by the plantation had widespread ramifications. Kōloa Town and the landing at the mouth of Waikomo Stream became major commercial centers. The landing—or "roadstead" as it was called—was a busy port during the mid-1800s. "An estimate in 1857 stated that 10,000 barrels of sweet potatoes were grown each year at Kōloa, and that the crop furnished nearly all the potatoes sent to California from Hawai'i. Sugar and molasses were also chief articles of export" (Judd 1935: 326). Whalers also used the Kōloa roadstead during this period (1830-1870) and took on provisions of squashes, salt, salt beef, pigs, and cattle. Hawaiians grew the squashes (pumpkins) on the rocky lands north of the landing and numerous salt pans were located along the shore near the landing.

Ladd and Company ceased operating in 1845. Then, following a succession of individual and partnered ownerships, a new enterprise, Koloa Sugar Company, was established in 1880. In 1948, the Koloa Sugar Company became part of Grove Farm Company.

4.4 Māhele and Kuleana Act

The Organic Acts of 1845 and 1846 initiated the process of the Māhele—the division of Hawaiian lands—which introduced private property into Hawaiian society. In 1848 the crown, the Hawaiian government, and the *ali'i* received their land titles. Subsequently in the Māhele, LCAs were given to native tenants and others who could prove residency on and use of the parcels they claimed.

The Māhele records of Kōloa give a picture of what had evolved by the middle of the nineteenth century when Kōloa Ahupua'a, totaling 8,620 acres, was awarded to Moses Kekūāiwa (LCA 7714-B), the brother of Alexander Liholiho (Kamehameha IV), Lot Kapuāiwa (Kamehameha V), and Victoria Kamāmalu. Awarding the *ahupua'a* to Kekūāiwa resulted from an event 25 years in the past—the crushing of the 1824 revolt on Kaua'i by forces loyal to Kamehameha II—when Kaua'i lands were divided up among the chiefs of the other islands. The next largest award in the *ahupua'a* went to the Protestant Mission (ABCFM) (LCA 387) and consisted of approximately 825 acres. The majority of the mission lands were in the vicinity of Kōloa Town, where the parsonage was located. Large parcels just *mauka* of Kōloa Town were utilized for sugarcane cultivation and cattle pasture.

Eighty-eight other *kuleana* awards were given to individuals within Kōloa Ahupua'a (Figure 10). The majority of these LCAs were located in or around Kōloa Town itself. This concentration of awards around the town area may reflect both the traditional land settlement pattern, a focus on the resources of Maulili Pool and Waikomo Stream (a permanent stream), and a more recent movement of the populace to the plantation and missionary centers.

An 1891 map of Kōloa by M.D. Monsarrat shows the location of LCA parcels in the vicinity of Kōloa Town (summarized in Figure 11). No LCAs were located within the current project area, though one LCA (LCA 6309) is adjacent to a long stretch of the southern boundary of the project.

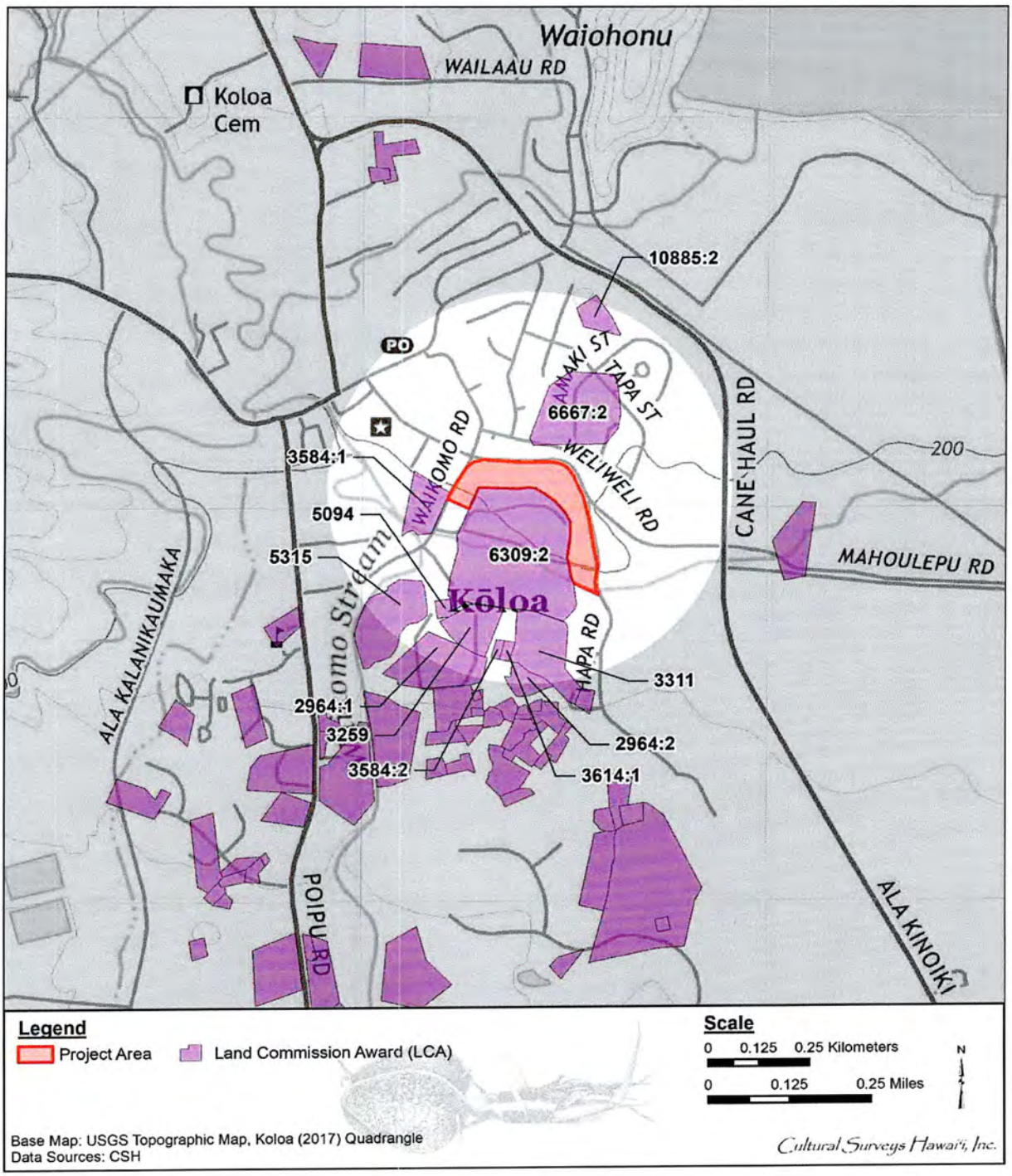


Figure 10. Distribution of LCAs in the vicinity of the project area on a 2017 Koloa USGS topographic quadrangle

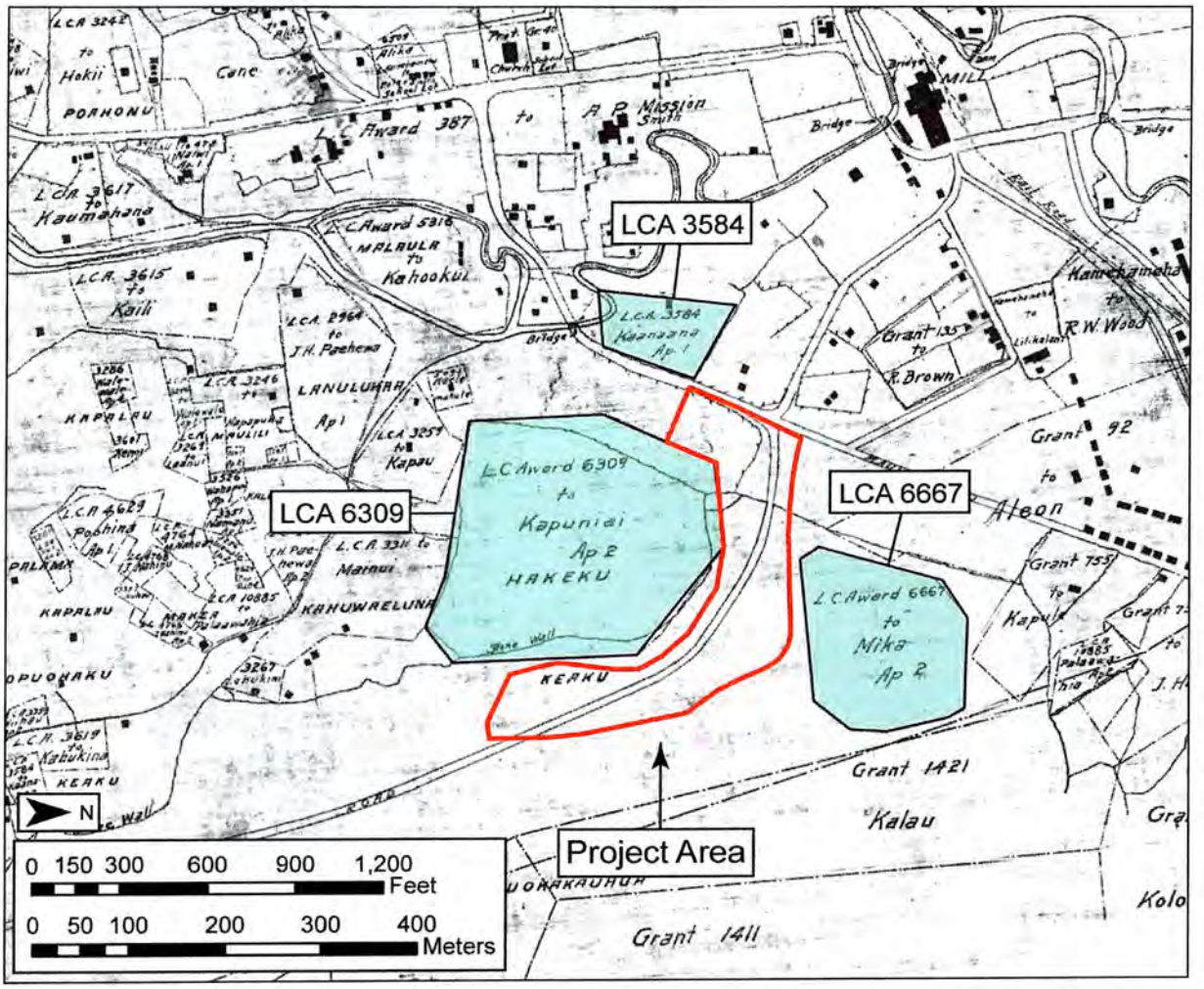


Figure 11. Portion of 1891 map of Kōloa by M.D. Monsarrat (RM 1694), showing the location of the project area and LCAs in the vicinity; note the stone wall roughly enclosing LCA 6304, including Kapuniai's house lot (*pā hale*) and associated *kula* probably pastureland

area, another (LCA 3584:1) is adjacent to the west corner of the project area, and a third (LCA 6667:2) is in the immediate vicinity. Information on the awards from Māhele documents is presented in detail in Appendix A and is summarized in Table 1.

The Māhele documents indicate that in the vicinity of the current project area land usage and activity by the mid-nineteenth century included habitation as well as taro and sugar cultivation. This may reflect the continuation into that century of traditional Hawaiian land use within the project area.

Testimonies provided to the Land Commission by applicants give specific indications of land use, property boundaries, and land tenure. Testimonies provided in LCAs 3584, 6309, and 6667 were generally limited to stating the boundaries of their claimed lands as well as land use. All three LCAs are indicated as being enclosed by stone walls and note the presence of additional house lots and *lo'i* (irrigated taro pond-fields) of other claimants in the vicinity

Of particular interest are the stated boundaries of LCA 6309, which indicated the presence of pasture lands immediately *puna* (east) of the LCA. This may explain the presence of numerous stone walls described in the land claims and shown on the 1891 Monsarrat map (Figure 11), a portion of which is shown running through the northeastern portion of the project area (see Table 1). These walls are likely cattle barriers used to keep cattle out of house lots and agricultural plots.

Table 1. Neighboring LCAs (see Appendix A for details)

LCA #	Claimant	Indicated Location	Stated Land Use	Comments
3584:1	Kaanaana	Maulili, Kōloa, adjacent to west of project area	*Pāhale* (house lot) and *kula* (dry land)	*Kula* was overgrown with weeds (*nāhelehele*) in 1852, a stone wall (*pā pōhaku*) was adjacent to the west corner of the project area
6309:2	Kapuniai	"Hakuku," Kōloa, adjacent to south of project area	*Pāhale* and *kula*	A government road (*alanui aupuni*) and stone wall (*pā pōhaku*) extended along approximately 766 ft of the south side of the present project area
6667:2	Mika	Keaku, Kōloa, approx. 25 m northeast of project area	*Kula*	Surrounded by a stone wall (*pā pōhaku*) and dry land (*kula*)

4.4.1 Late 1800s to Mid-1900s

Further documentation of the project area during the second half of the nineteenth century is found on a hand-drawn map by a *kama'āina* (native born) Kōloa resident. Judge Henry Kawahinehelelani Blake of Kōloa (1874-1948) drew a colored map of "Koloa Village" depicting what the area looked like in 1888 when he was a boy of 14 (Figure 12). The map suggests widespread taro *lo'i* continued to be in existence in the 1880s. The population of Kōloa, based on the house sites, continued to be dispersed across the Kōloa plain.

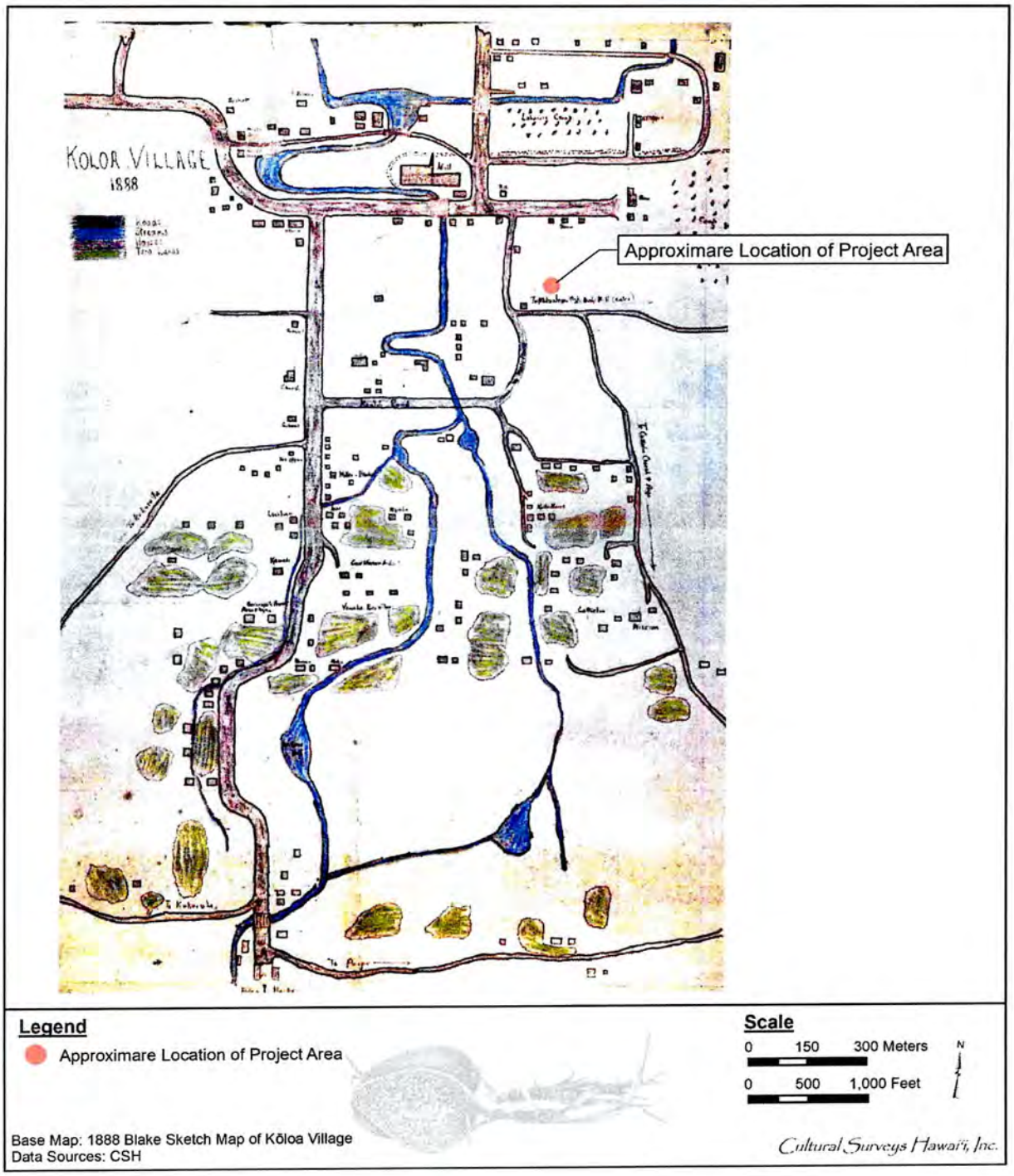


Figure 12. Hand-drawn map of Kōloa Village, 1888, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; note the amount of land devoted to taro (Kaua'i Historical Society)

The current project area appears in the right-center portion of the map, *makai* (seaward) of Maulili Road. Judge Blake indicates several taro *lo'i* and houses in the vicinity of the project area, but nothing directly within it. These *lo'i* and houses likely represent the continuation, into the last decades of the nineteenth century, of the fields and house lots identified in the LCA records.

Kōloa later became the scene of the confrontation of the traditional social structure with commercially impelled forces of change. The cane growing activity of Ladd and Company would inevitably affect the lives of the inhabitants of the rest of the *ahupua'a*. Traditional settlement patterns (e.g., permanent and temporary habitation interspersed throughout the irrigated agricultural fields near the coastal zone and traditional farming along streams) would have been distorted by a shift to settlement in Kōloa Town where sugarcane milling activities were located, and a shift to cash crops rather than taro.

The early success of Ladd and Company (before its bankruptcy in 1845) was an impetus for other entrepreneurial attempts within Kōloa. Silkworm farming, oil extraction from *kukui* nuts, cigar manufacturing, sago raising, and tapioca manufacturing were all attempted with varied success during the middle third of the nineteenth century.

Another major area of commercial enterprise was associated with the whaling industry at Kōloa Landing. Accounts of visitors suggest the inhabitants of Kōloa took advantage of their nearness to the landing to participate in the booming trade of the port. An article in the *Pacific Commercial Advertiser* of 19 February 1857 described the salient characteristics of the port at mid-century and mentions:

> From the landing there is a good carriage road to the town, distant about two miles. Large quantities of firewood, bullocks and sweet potatoes are furnished to whalers in this port, and these chattels can nowhere be procured cheaper or better. It is estimated that 10,000 barrels of sweet potatoes are cultivated annually here, which are thought to be the best on the islands. Nearly all the potatoes furnished for the California market are produced here [...] Sweet potatoes, sugar and molasses constitute the chief trade of the port. [*Pacific Commercial Advertiser*, 19 February 1857]

Kōloa became the official port of entry for Kaua'i in the 1850s and participated in the profitable trade with the whaling industry whose peak years ran from the 1830s to the 1860s. It seems likely the demand for firewood, bullocks, sweet potatoes, sugar, and molasses at Kōloa Landing was met to at least a small degree by activities in the *mauka* regions of Kōloa.

During the later decades of the nineteenth century the Knudsen family entered the Kōloa historical record. As Donald Donohugh (2001:191) notes,

> Valdemar Knudsen came to Kaua'i from Norway by way of California in 1852, built a home in Kekaha, which he named 'Wai'awa' (bitter water), and started a cattle ranch there. In 1865 he married Anne Sinclair, daughter of Eliza Sinclair, who owned the island of Ni'ihau and the *ahupua'a* of Makaweli (fearful features). Eliza bought most of the Kōloa *ahupua'a* in 1870 and gave it to Anne that year as a dowry. When Valdemar died, Anne set up a trust and through it leased her land first to Kōloa Plantation, then to Grove Farm, and finally to McBryde. Anne died in 1920, and Knudsen descendants formed trusts in their own names. First Hawaiian

> Bank manages the activities of all of them. Rather than speaking of several trusts, it is customary to use the generic term Knudsen Trust, as we will here. [Donohugh 2001:191]

The current project area is a portion of the Eric A. Knudsen Trust.

Sugarcane cultivation in Kōloa expanded in the 1890s with the forming of McBryde Sugar Company. Benjamin F. Dillingham incorporated "three estates, namely Kōloa Agricultural Co. (no connection with Kōloa Sugar Co.), 'Ele'ele Plantation, and Wahiawa Ranch" (Condé and Best 1973:191). Theo H. Davies was the acting agent until 1901 when Alexander and Baldwin took over agency control.

Expansion of cane fields and plantation rail lines was rapid. By 1903, McBryde had completed rail lines to its Kōloa fields and Kōloa Landing. The manager's report of 1904 notes, "Our permanent railroad had been graded into Kōloa Village [...] A span has also been run down from the main track to the coral sand beach between Kukuiula and Kōloa landing, so that we are able to load sand as required from fertilizer and other uses [...]" (Condé and Best 1973:191). By the first decades of the twentieth century, cane fields of the Kōloa Sugar Company and McBryde Sugar Company spanned the landscape of Kōloa. However, sugar company field maps from the early 1900s do not indicate sugarcane was cultivated within the current project area.

Kōloa Landing was phased out around 1925 when McBryde Sugar Company and Kōloa Sugar Company began using Port Allen. Soon after, McBryde ceased to use several of the Kōloa fields (Figure 13).

A second map drawn by Judge Henry Kawahinehelelani Blake shows "Kōloa Village" in 1938 (Figure 14). The map was likely drawn by Judge Blake in 1938 along with the map of the village in 1888 to record a "then and now" portrait of Kōloa. The map indicates "cane lands" and "pasture" in the vicinity of Kōloa Town. The taro *lo'i* that characterized the Kōloa landscape in the 1880s are no longer present.

4.4.2 Modern Land Use

A 1951 aerial photograph of Kōloa (Figure 15) indicates the entire project area as being heavily vegetated. A few dirt roads can be seen running through the eastern and western portions of the project area. Additionally, a single structure is located in the southwestern portion of the project area.

Following the merger of the plantation lands of the Koloa Sugar Company and Grove Farm Company in 1948, the combined lands under cultivation required new sources of irrigation water. In 1965, Grove Farm built a tunnel to bring the waters from Ku'ia directly into the Waitā (Kōloa) Reservoir. Grove Farm leased these cane lands to McBryde Sugar Company when it terminated sugar operations in 1974 (Wilcox 1998).

By the late 1960s, the main town of Kōloa experienced a type of reverse migration back to the shoreline. Although the town had established a Civic Center in 1977, the pace of tourist-driven development at the shoreline had been drawing construction and service jobs away from the town center. In 1962, the Wai'ohai Resort opened, with the Sheraton Kaua'i Resort following in 1965. The Kīahuna Plantation Resort opened in 1967, followed by the construction of various

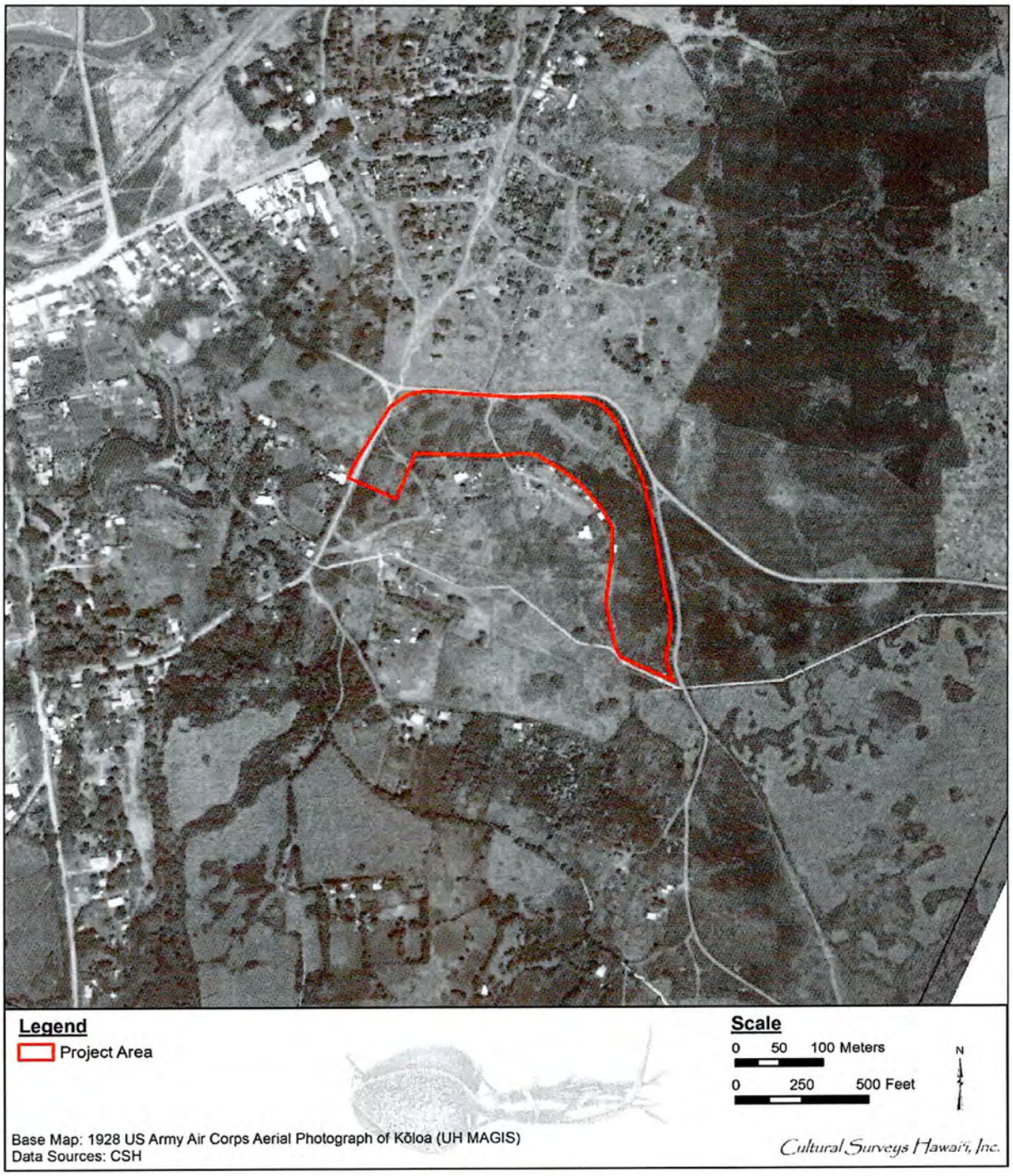


Figure 13. 1928 U.S. Army Air Corps aerial photograph of Kōloa (UH MAGIS) showing the location of the project area

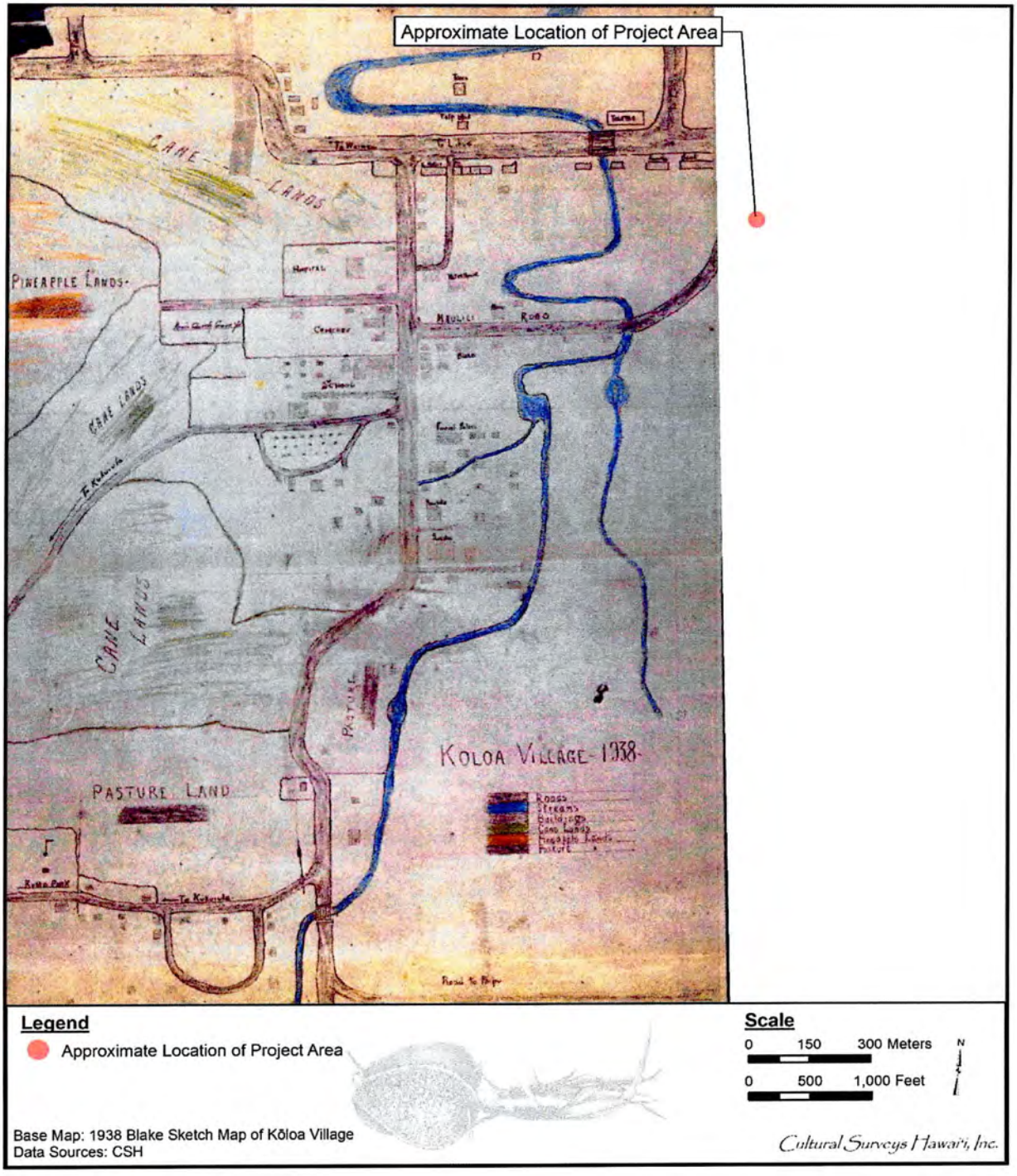


Figure 14. Hand-drawn map of Kōloa Village, 1938, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; compare with Figure 12 and note the lack of taro lands (Kaua'i Historical Society)

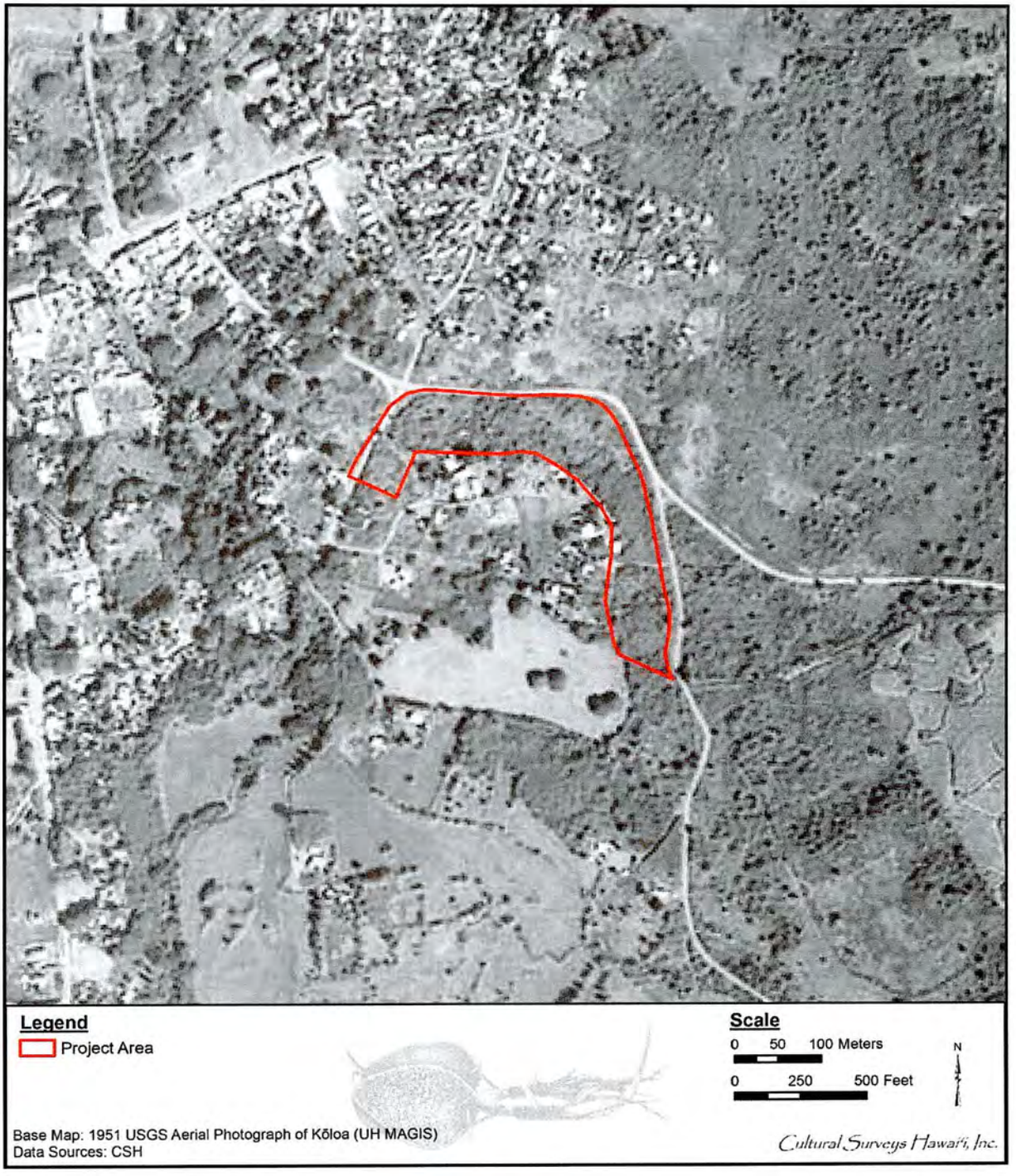


Figure 15. 1951 USGS aerial photograph of Kōloa showing the location of the project area

condominiums throughout the '70s and '80s. Finally, the Hyatt Regency Resort, with its expansive golf course, opened in 1991.

By this time, the tourist industry had successfully attached the name "Po'ipū Beach" to the entire coastline beginning just west of the subject parcel at Kōloa Landing and continuing east to Makahū'ena Ledge. With the development of the Po'ipū Bay Resort Golf Course and the Hyatt Regency Kaua'i Resort Hotel, the Po'ipū Beach name became synonymous with all 2 miles of coastline fronting the Wai'ohai, Kiahuna, and Sheraton developments, ending at Po'ipū Beach Park (Donohugh 2001).

By 1985, annual "Plantation Days" festivals were held in the open field adjacent to the former site of the 1841 sugar mill in Kōloa town. The Kōloa mill at Pā'ā was finally closed in 1996 and remains a landmark of the countryside as one makes the drive to Po'ipū. Future plans within the Kōloa district will place more demands on beachfront properties along the Lāwa'i and Po'ipū coastline.

Over 1,000 acres of former McBryde Sugar Company lands are slated for hotel and condominium development surrounding both coastal resort areas (Donohugh 2001). Future development plans for the upland areas involve both large tracts of lands, as well as regional redevelopment within Kōloa town itself.

4.5 The Kōloa Field System

The current project area is located at the eastern end of an expansive agricultural system that spread out across the *makai* plain of Kōloa Ahupua'a. The features of the present project area can only be comprehended in the larger context of the *ahupua'a* system.

Often, it has been assumed that the majestic, soil-rich valleys were the preferred environments for the development of irrigated agriculture in the Hawaiian Islands and that the modifications of broad lava plains and slopes for irrigation (e.g., Kōloa on Kaua'i and Lalamilo on Hawai'i Island) came as later developments in response to a need to expand food production. Based on archaeological investigations—including detailed mapping, excavation of habitation and agricultural features, and development of a C14 chronology—over an extended period in the *makai* portions of Kōloa Ahupua'a, CSH has been able to define the "*lo'i* lands of Kōloa" as a system, a set of interrelated features harmoniously interacting to form a unified whole. This "Kōloa Field System" extended from Lāwa'i to Weliweli, covering all of Kōloa Ahupua'a below present-day Kōloa Town.

This system developed contemporaneously—and in some cases earlier—than the well-known valley field networks. Although the principles and the technology applied at Kōloa were similar to the valley networks, the challenging Kōloa landscape led to unique adaptations.

4.5.1 Environmental Parameters

Consideration of the local topography, climate, and soil characteristics suggest distinct advantages, in comparison to valley environments, for the development of Hawaiian agriculture in the *makai* region of Kōloa. First, there is thin soil over bedrock. This might seem to be a disadvantage but if it is recognized that this thin soil probably supported only thin-rooted shrubs with parkland rather than dense forest, the heavy initial labor investment of vegetation clearing would be much less, compared to a densely forested valley environment. Secondly, the solid

pāhoehoe basal rock, 20-30 cm under the silt loam soil, would have led to minimal loss of water through downward percolation, compared to a valley environment. Thirdly, confined valley systems, particularly in the wet valleys of Kaua'i, could be wiped out or severely damaged by seasonal flooding. In Kōloa, no such problem existed. The Kōloa system is an adaptation and response to the recurrent danger of loss of subsistence production due to flooding. The Kōloa field networks are developed above the flood plain on the well-drained lava plain of the Kōloa volcanic series. In addition, Kōloa is a non-valley leeward environment. Solar radiation is higher than in most valleys and winter sun is not blocked by valley walls. Maturity periods for taro and other staples would be two to four months shorter than in valley environments.

4.5.2 Topography

The lava plain of Kōloa is not flat, nor is it level. It shows long *mauka/makai*-oriented tongues formed of old lava flows. The *'auwai* (ditch) were kept on these elevated points and could extend for long distances from the primary water source, Waikomo Stream. Some *'auwai* extended nearly 1.5 miles from the source and most originally extended to the ocean.

4.5.3 The Kōloa Field System as a Type

Riley (1975:102) and Kirch (1977) have outlined four types of irrigated fields found in Hawai'i. Type 1 is a simple set of parallel terraces with water flow down the center, overflowing each successive down slope terrace in turn. This is called a "barrage" type system and is considered the simplest. Type 2 involves the construction of an *'auwai* tapped from the stream which enters the top of a series of terraces. The *'auwai* ends at the upslope end of the terrace system as the water simply overflows down each successive terrace. Type 3 involves an *'auwai* paralleling the upslope side of the terrace feeding water to each row of fields. Each row has a separate tap from the *'auwai.* Type 4 involves two parallel *'auwai* on separate levels, one downslope from the other, each of which feeds water to separate rows of terraces. The lower *'auwai* serves as a drainage for the fields above it. This is considered the most highly developed type.

The Kōloa Field System fits none of the types described above. In its abstracted and simplest (and unintensified) form, the Kōloa Field System consists of a series of parallel *'auwai* flowing either on both sides or on top of a lava flow (Figure 16). This type of system would be impossible to construct in a valley environment without an impractical input of labor. It is uniquely adapted to the lava topography of Kōloa. There are no analogies in Hawaiian valleys. The only possible comparison could be to the extensive irrigation system at Lalamilo in Kohala on Hawai'i Island, where the broad undulating topography required layout of *'auwai* and fields not typical of a valley environment. Another matter of importance is the sheer size of the Kōloa system. It is known now to have covered over 700 acres and may have been considerably larger before commercial sugar. This would make it one of the largest irrigated systems in the Hawaiian Islands

Dendritic secondary *'auwai* branches—or a braiding pattern—would have been progressively added to the main *'auwai* as the system was intensified. Another form of intensification would be smaller fields. Aqueducted or raised *'auwai* are one of the most intriguing phenomena of the system (see Figure 17). These raised structures are likely labor-intensive responses to the need for more irrigated land in places where water must be routed over low ground.

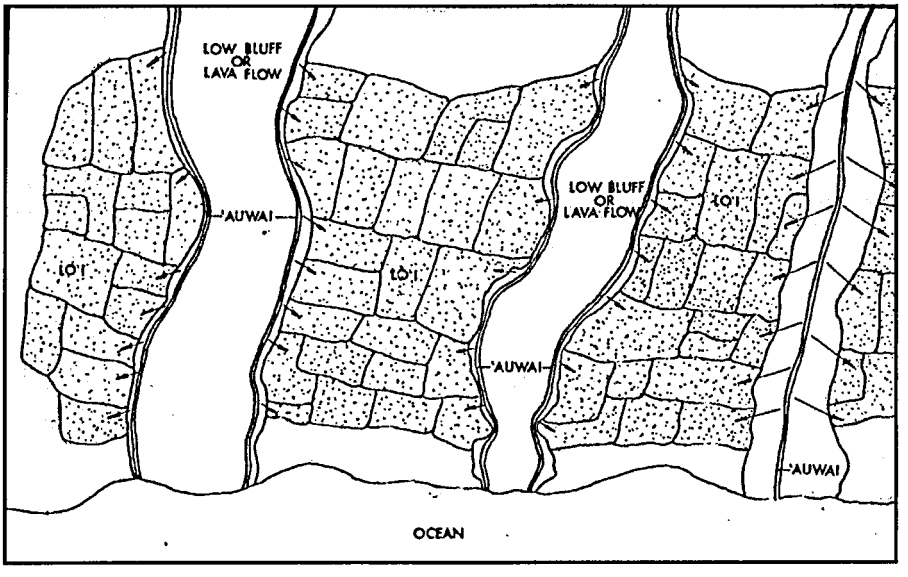


Figure 16. The Kōloa Field System, the basic type schematically represented

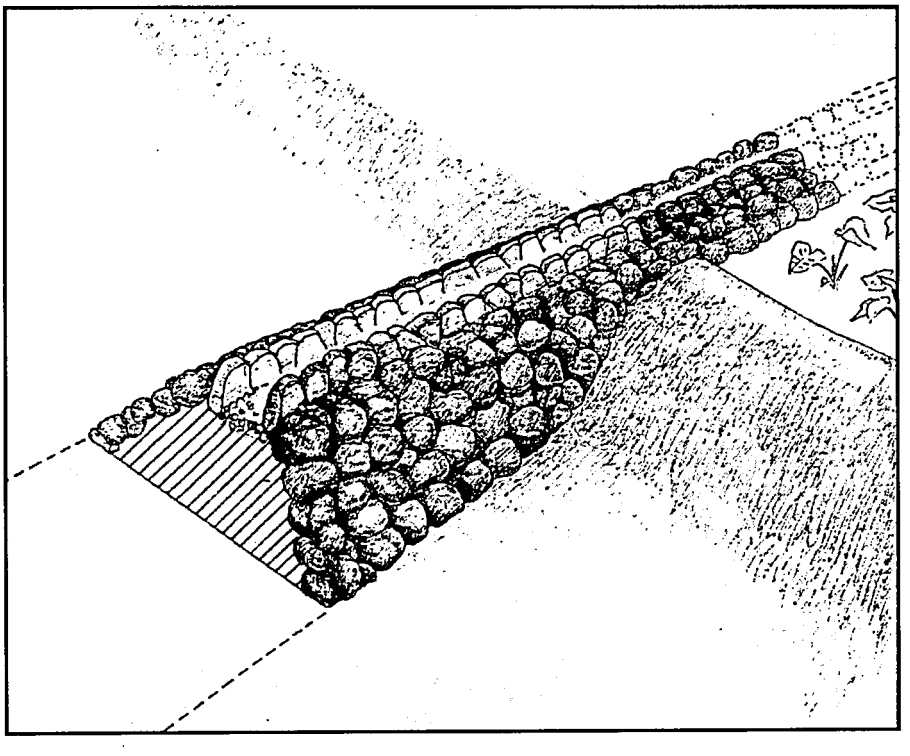


Figure 17. Cross-section of a raised *'auwai*

This effort involved the piling of hundreds of cubic meters of sediment and rock but may have resulted in the ability to irrigate much more than an acre of land. This alone is testimony to the greater productivity of irrigated fields over non-irrigated fields.

Section 5 Previous Archaeological Research

5.1 Previous Archaeological Studies in Kōloa Ahupua'a

Thomas Thrum was the first to discuss sites in the Kōloa area in his list of the *heiau* of Kaua'i (Thrum 1906). He discussed six *heiau* in the district of Kōloa, which once extended from Hanapēpē to Māhā'ulepū. The *heiau* were Hanakalauae, Kanehaule (inland Kōloa Ahupua'a), Kihouna (Kōloa Ahupua'a), Kaneiolouma (Kōloa Ahupua'a), Weliweli (Weliweli Ahupua'a), and Waiopili (Māhā'ulepū Ahupua'a). The two *heiau* on the Kōloa coast, Kaneiolouma and Kihouna, were described as "Near the Po'ipū beach, at Kōloa, are two walled *heiaus* but a short distance apart" (Thrum 1906:36–37, 68).

The earliest systematic archaeological survey on the Island of Kaua'i was conducted by Wendell Bennett in the late 1920s. Bennett examined and recorded 202 sites on the island. According to his site location map (Figure 18, Bennett 1931:98), Sites 74 through 81, 85–86, and 91–92 are within or in the vicinity of Kōloa Ahupua'a.

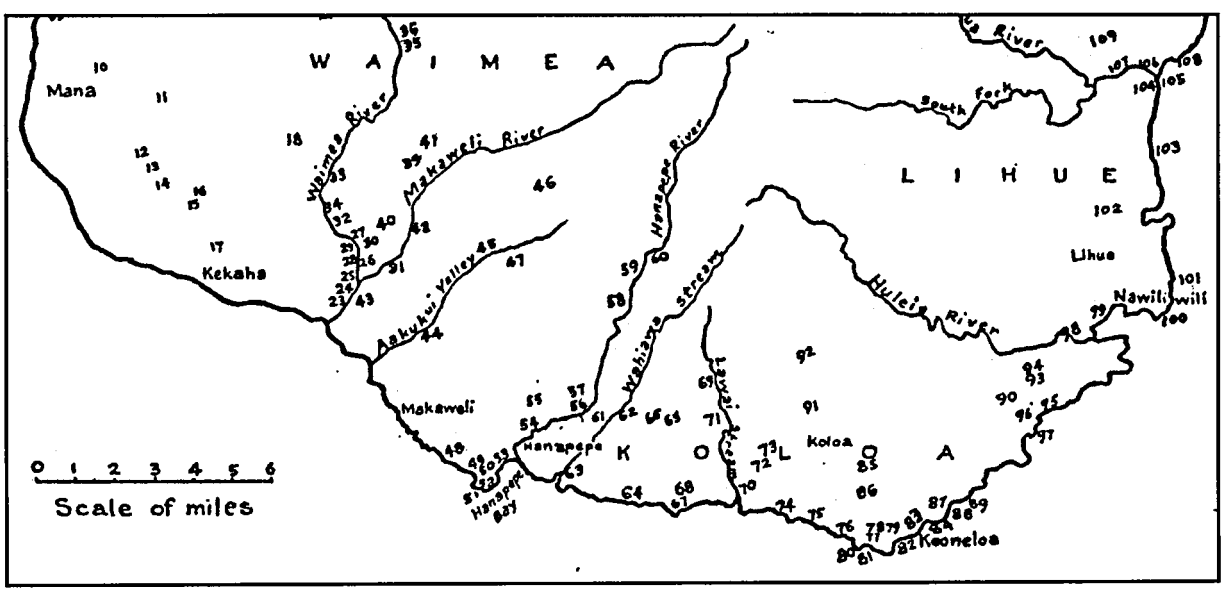


Figure 18. Portion of Bennet (1931) index map of Kaua'i showing archaeological sites in the Kōloa vicinity

Archaeological Sites Located by Bennett (1931) in Koloa Ahupua'a

Site 74. Fishing shelter. On the shore near the mouth of Kukuiula valley there is a fishing shelter.
Site 75. Kuhio Park, on the shore west of Waikomo stream, Koloa. Taro patches, a small heiau, an oven, paved house platform, fish pond, game ground with seats around, and a fishing shrine are the principal features shown.
Site 76. Salt pans, east of Waikomo stream along the shore.
Site 77. Ponds, just inland from the shore road at the east side of the Weliweli, Koloa.
Site 78. Taro terraces and house sites, just east of Site 77 and adjoining it.
Site 79. Walled inclosure [*sic*] and house sites, just northeast of Site 78, Koloa.
Site 80. Kihouna heiau, at Kihouna point, Poipu, Koloa.
Site 81. Kaneiolouma heiau, on the shore a short distance east of Site 80.
Site 85. Walls, inclosures [*sic*], house sites, in the cactus-covered country around the Koloa reservoir and extending to the sea.
Site 86. House site, in the area described in Site 85.
Site 91. Holua slide, on the hill named Puu o Hewa just above Koloa off the main road.
Site 92. Kanehaule heiau, at Kaunuieie, Koloa.

5.2 Archaeological Studies in the Vicinity of the Project Area

Figure 19 and Table 2 show previous archaeological studies in the vicinity of the project area. Figure 20 and Table 3 show historic properties within the vicinity of the project area. Details are included in the following subsections.

5.2.1 Kikuchi 1963

In 1963, William K. Kikuchi and Richard Paglinawan conducted an archaeological surface site survey of several *ahupua'a* within the Kona District including Kōloa (Kikuchi 1963). In Kōloa Ahupua'a, a selection of sites was documented along the coast.

5.2.2 Palama and Stauder 1973

Stephen Palama and Catherine Stauder (1973) conducted a reconnaissance survey along the route of the then-proposed main cane haul road to the Kōloa mill site. The proposed new section of road extended from Weliweli Road, southwestward across Po'ipū Road, connecting to an existing cane haul road. Eighteen sites were recorded along the road corridor. An extensive *'auwai* system was observed east of Po'ipū Road. The following comments on this system and the sites in general are relevant to understanding the archaeological significance of the area as a whole and the historic processes at work:

> Our reconnaissance revealed that the most significant archaeological feature located within the study area is the extensive *'auwai* system. Remnants of this irrigation system were observed on both sides of the Waikomo Stream ... [This] network of watering canals proved to be the key to the success of the prehistoric Hawaiian Culture in turning these marginal lands into flourishing wet and dry agricultural fields.

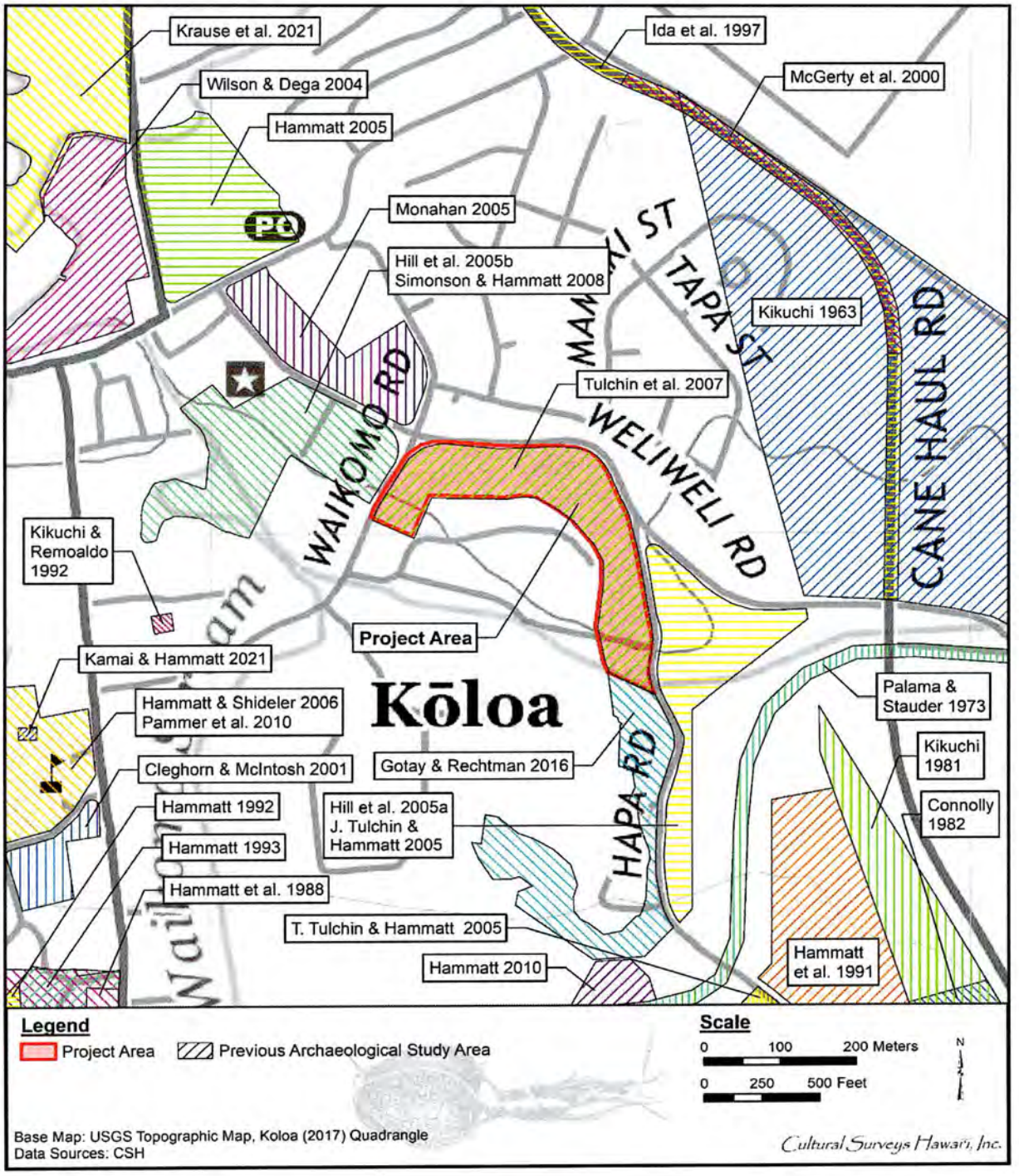


Figure 19. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of previous archaeological studies in the vicinity of the project area

Table 2. Previous archaeological studies in the vicinity of the project area

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Thrum 1906	Reconnaissance survey	Island-wide	Discussed six *heiau* in Kōloa District: Hanakalauae, Kanehaule (inland Kōloa Ahupua'a), Kihouna (Kōloa Ahupua'a), Kaneiolouma (Kōloa Ahupua'a), Weliweli (Weliweli Ahupua'a), and Waiopili (Māhā'ulepū Ahupua'a)
Bennett 1931	Reconnaissance survey	Island-wide	In Kōloa, identified a fishing shelter (Site 74), Kūhiō Park features (Site 75), salt pans east of Waikomo Stream (Site 76), ponds just inland from shore (Site 77), taro terraces and house sites (Site 78), a walled enclosure and house sites (Site 79), Kihouna Heiau (Site 80), Kaneiolouma Heiau (Site 81), walls, enclosures and house sites near Kōloa reservoir (Site 85), and adjacent house site (Site 86)
Kikuchi 1963	Reconnaissance survey	Kona District, Kaua'i (Hanapēpē to Maha'ulepū)	Selective recording of coastal sites
Palama and Stauder 1973	Reconnaissance survey	Proposed cane haul road from McBryde Plantation lands to Koloa Mill	Identified 18 archaeological features including habitation structures (8+), dwelling caves (2), a house platform (1), walled shelters (5+), livestock enclosures (6), an agricultural feature (1), a burial (1), and walls (2) east of Waikomo Stream (SIHP #s -03183 and -03190)
Kikuchi 1981	Archaeological reconnaissance	Weliweli Tract	Identified both pre- and post-Contact archaeological sites; pre-Contact sites consisted of *'auwai* remnants, terraces, and enclosures; post-Contact sites consisted of a well, rock walls, a railroad causeway, and other various rock structures

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Connolly 1982	Reconnaissance survey	Kōloa-Po'ipū Bypass Rd	Re-identified Bennett Site 85 but only remnants
Hammatt et al. 1988	Archaeological inventory survey and subsurface testing	Proposed Kukuiula Bay Planned Community (1,000 acres)	Located, mapped, and described 58 archaeological sites comprising 150 individual features
Hammatt et al. 1991	Archaeological inventory survey	Poipulani Golf Course and Residential Development	Documented 75 archaeological sites throughout project area; remnants of pre-Contact habitation and agricultural complex containing features typical of Koloa Field System, including platforms, C-shapes, walls, enclosures, *'auwai*, terraces, and mounds identified; eight potential burial sites also located
Hammatt 1992	Archaeological survey	Western Bypass Rd, Ala Kalanikaumaka right-of-way	No historic properties identified within project area; confirmed five previously identified historic properties (Site 1915 [CSH16]; Site 3179 [CSH19]; Site 3075 [CSH23]; Site 1921 [CSH25]; Site 1923 [CSH27]) beyond vicinity
Kikuchi and Remoaldo 1992	*Cemeteries of Kaua'i* study	Island-wide	In Kōloa, documented Koloa (Public) Cemetery (-B004), St. Raphael's Church Cemetery (also known as 'Ōma'o Cemetery) (-B005), Koloa Hawaiian Church Cemetery (-B006), Waterhouse Family Cemetery (-B007), and Bacle Family Cemetery (-B009)
Hammatt 1993	Archaeological reconnaissance	"Parcel 14," 1.75-acre property fronting W side of Po'ipū Rd S of Kōloa town	No historic properties identified; documented extensive modification of property and recommended no further archaeological work
Ida et al. 1997	Archaeological reconnaissance	1.2-mile corridor of proposed eastern Po'ipū Bypass Rd	No historic properties identified; noted 3-ft remnant of a wall 50-ft outside proposed road corridor understood as old cattle wall

Reference	Type of Study	Location	Results (SIHP 50-30-10)
McGerty et al. 2000	Historic preservation documentation of lava tubes	Koloa Bypass on Kōloa/Weliweli Ahupua'a boundary	Two lava tubes identified SIHP # -00574, with eight identified features contained basalt cores, basalt flakes, marine shell, a coral file, a piece of worked fine grained basalt, and pieces of coral; SIHP # -00575 included a primary human burial
Cleghorn and McIntosh 2001	Archaeological inventory survey	2.0-acre parcel on corner of Pa'anau Rd and Po'ipū Rd in Kōloa town	Utilized as part of "Paanau Camp No. 19"; five former plantation houses (SIHP # -00878) located on property along with several carports, historic rock walls, and various debris and garbage; determined no pre-Contact or traditional features present
Wilson and Dega 2004	Archaeological inventory survey	Old Kōloa Sugar Mill; TMK: (4) 2-8-006:001; overlaps current project area	Identified ten features associated with Kōloa Sugar Mill (SIHP # -09302)
Hammatt 2005	Archaeological inventory survey	NE corner of Maluhia Rd and Kōloa Town Rd (8.15-acre Knudsen Trust parcel)	Identified one historic property, an earthen berm associated with former plantation road and railroad, designated SIHP # -03922
Hill et al. 2005a	Archaeological inventory survey	8.63-acre parcel located *makai* of Weliweli Rd, bordered on W by Hapa Rd and on E by pasture (immediately adjacent to SE side of present project area)	Discusses SIHP # -03926 previously identified plantation-era elevated metal irrigation flume, constructed in 1902 by Koloa Sugar Co.

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Hill et al. 2005b	Archaeological inventory survey	9.348-acre parcel at Kōloa Ahupua'a, TMK: (4) 2-8-009: 001	Identified six historic properties, SIHP #s -03930 (historic stacked basalt boundary wall), -03931 (prehistoric/historic stacked basalt agricultural terrace wall); -03932 (historic irrigation reservoir), -03933 (historic house foundation), -03934 (historic earthen irrigation ditch), -03935 prehistoric/historic bi-faced stacked basalt wall)
Monahan 2005	Archaeological inventory survey	Southeast of Kōloa Rd and Weliweli Rd intersection	Four sites and nine historic structures documented: SIHP #s -03901 (ruins of Shingon-shu Mission), -03902 (dry-stacked boulder platform/historic storm drain), and -03903 and-03904 (two dry-stacked wall remnants); nine historic structures found to be in poor physical condition, and have little or no architectural integrity
Tulchin J. and Hammatt 2005	Archaeological literature review and field inspection	8.5-acre Knudsen Trust parcel bounded by Weliweli Rd to north and Hapa Rd to west	Identified three archaeological features (no SIHP #s assigned): historic flume and two raised platform remnants
Tulchin T. and Hammatt 2005	Archaeological inventory survey	Approx. 2.8-acre Knudsen Trust parcel adjacent to Hapa Rd and approx. 1 km SE of Kōloa town	Identified three historic properties comprised of six component features: SIHP # -03923 (series of stone walls), -03924 (platform), and -03925 (agricultural planting areas)
Hammatt and Shideler 2006	Archaeological literature review and field inspection	Kōloa Elementary School	Because of historic importance of Kōloa Town and prospect of encountering burials and/or cultural resources, archaeological monitoring program recommended
Tulchin et al. 2007	Archaeological inventory survey	10-acre parcel in Kōloa bounded by Weliweli, Puni, Waikomo, and Hapa roads	Identified SIHP # -05002 (historic stone wall) and collected post-Contact artifacts

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Simonson and Hammatt 2008	Archaeological data recovery	TMK: (4) 2-8-009:001	Archaeological data recovery carried out at two historic properties: SIHP #s -03933 and -03934; 52 artifacts recovered at SIHP # -03933 (historic house foundation) including metal gears, suspension components, cogs, and bolts, a metal stake, a possible bell, a padlock, a key plate, ceramic porcelain and earthenware sherds, and glass bottle fragments; single artifact collected at SIHP # -03934, a painted ceramic oil lamp base
Hammatt 2010	Archaeological inspection (letter report)	5.4-acre parcel west of Hapa Rd	Documented remnant plantation-era irrigation ditches along three sides of project area
Pammer et al. 2010	Archaeological monitoring	Kōloa Elementary School	No historic properties identified
Gotay and Rechtman 2016	Archaeological inventory survey	Two parcels adjacent to west side of Hapa Rd (immediately adjacent to SE of present project area)	Identified SIHP # -03926, a previously identified *'auwai* and three newly identified sites, two historic boundary walls (SIHP #s -02300 and -02301), and remnant *'auwai* (SIHP # -02302)
Kamai and Hammatt 2021	Archaeological monitoring	Kōloa Elementary School (effluent disposal project)	No historic properties identified
Krause et al. 2021	Archaeological inventory survey (archaeological assessment)	Koloa Rum Co. improvements project; along Maluhia Rd across from Anne Knudsen Park, just south of intersection of Maluhia Rd and Ala Kinoiki Rd	No historic properties identified

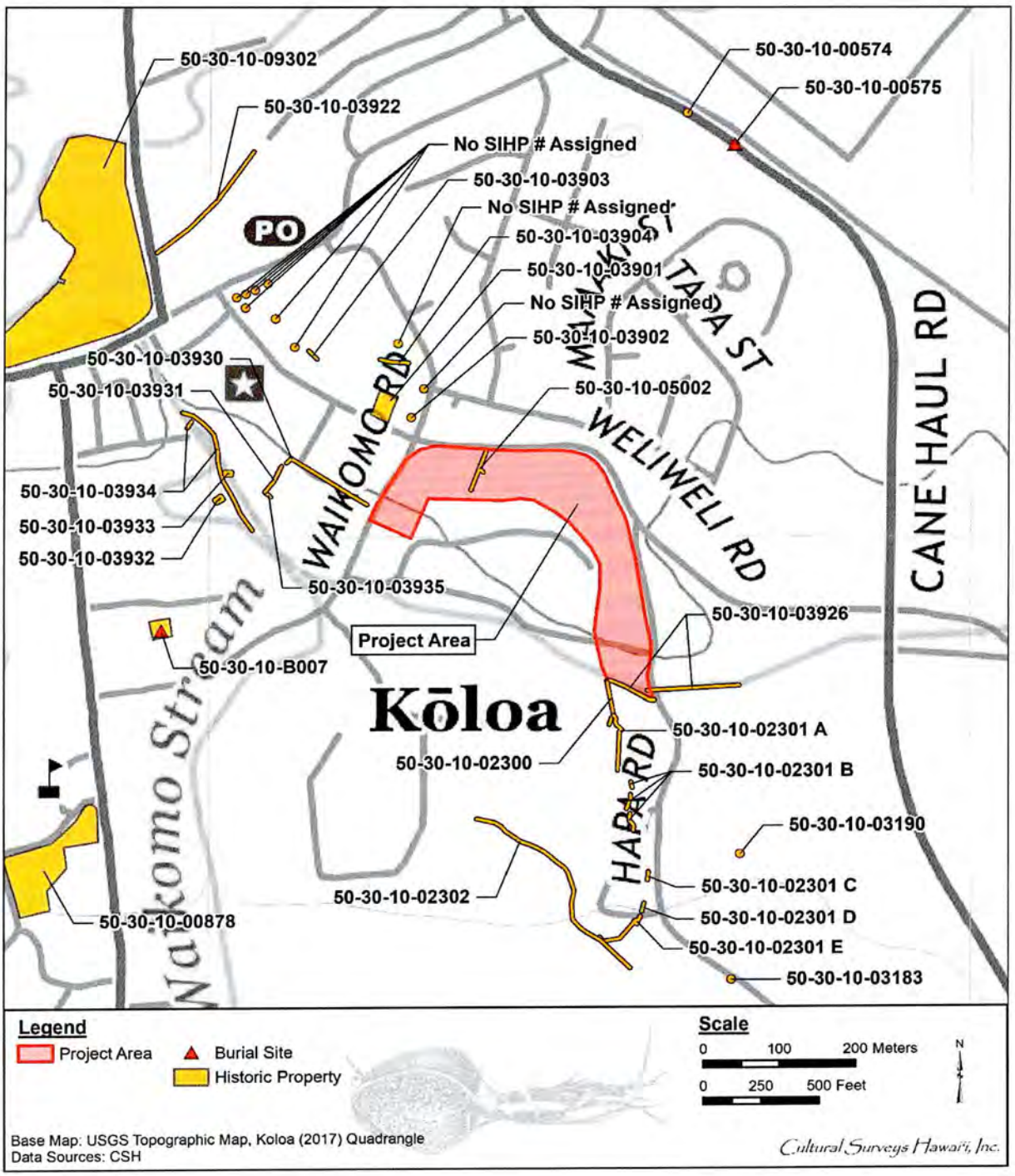


Figure 20. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of historic properties in the vicinity of the project area

Table 3. Previously identified historic properties within approximately 1,300m of the project area

SIHP # (50-30-10)	Site Type	Comments	Source
00574	Lava tube (permanent habitation)	With eight identified features, contained basalt cores, basalt flakes, marine shell, a coral file, a piece of worked fine grained basalt, and pieces of coral	McGerty et al. 2000
00575	Lava tube (human burials)	Included a primary human burial and scattered human remains	McGerty et al. 2000
00878	Plantation houses	Included five Pa'anau Camp 19 plantation houses	Cleghorn and McIntosh 2001
02300	Rock wall	A core-filled rock wall 1 m wide with a maximum height of 1.2 m depicted on an 1891 map and appears to have been built in association with LCA 6309:2 awarded to Kapuniai	Gotay and Rechtman 2016
02301 A	Rock wall	Segment of a core-filled rock wall, zig-zags for 20 m	Gotay and Rechtman 2016
02301 B	Rock wall	Segment of a core-filled rock wall, out of their project area	Gotay and Rechtman 2016
02301 C	Rock wall	Segment of a core-filled rock wall, extends north-south for roughly 12 m and terminates to the north of a driveway	Gotay and Rechtman 2016
02301 D	Rock wall	Segment of a core-filled rock wall, out of their project area	Gotay and Rechtman 2016
02301 E	Rock wall	Segment of a core-filled rock wall, partially in and partially out of their project area	Gotay and Rechtman 2016
02302	*'Auwai*	Remnant sections of a rock-lined channel and a concrete water flow control gate	Gotay and Rechtman 2016
03183	Enclosure wall	Interpreted as a cattle fence wall	Palama and Stauder 1973
03190	Enclosure wall	This is a large, long wall running in a *mauka/makai* direction and constructed of dressed and faced *pāhoehoe* lava.	Palama and Stauder 1973
03901	Shingon-shu Mission Ruins	Remnant ruins of the Shingon-shu Mission consisting of 6 main surface and a buried historic trash pit feature	Monahan 2005
03902	Sugar Mill site	Re-identified six features and designated four new features of the Old Koloa Sugar Mill site	Wilson and Dega 2004

SIHP # (50-30-10)	Site Type	Comments	Source
03903	Wall	Heavily modified and remodeled remnant of dry-stacked wall, with a small platformed area	Monahan 2005
03904	Wall	A dry-stacked, core-and-fill wall, measuring approximately 40.0 m in length, oriented roughly west-to-east, and truncated on both ends	Monahan 2005
03922	Earthen berm	Approx. 75 m long in project area, as high as 3 m above the surrounding terrain; corresponds to the location of the railroad line and mill access road, both shown on an 1891 map of Kōloa	Hammatt 2005
03926	Irrigation flume	Elevated metal irrigation flume, consisting of 19 pairs of concrete and basalt pylons used to support the metal flume 1 m above the ground; constructed and utilized by the Koloa Sugar Company; site includes a concrete irrigation culvert located near south edge of present study area	Tulchin and Hammatt 2005, Hill 2005, Gotay and Rechtman 2016
03930	Wall	Property boundary wall, 0.7 m tall by 0.7 m thick by 149 m length	Hill, Tulchin, Tulchin, and Hammatt 2005
03931	Terrace	Stacked basalt agricultural terrace wall, 2 m high by 1.3 m thick by 48 m long	Hill, Tulchin, Tulchin, and Hammatt 2005
03932	Reservoir	Irrigation reservoir, 11 m long by 7 m wide by 1.5 m deep	Hill, Tulchin, Tulchin, and Hammatt 2005
03933	House foundation	A historic house foundation structural wall, 10 m long by 7 m wide	Hill, Tulchin, Tulchin, and Hammatt 2005
03934	Ditch	Earthen ditch section of the Waikomo Ditch, a two and a half mile ditch that diverted water from the Waikomo Stream to a reservoir located in Kalaeokahonu	Hill, Tulchin, Tulchin, and Hammatt 2005
03935	Wall	Property boundary wall, 0.55 m tall by 0.5 m thick by 9.0 m length	Hill, Tulchin, Tulchin, and Hammatt 2005

SIHP # (50-30-10)	Site Type	Comments	Source
05002	Stone wall	Animal husbandry, in present project area	Tulchin, Hammermeister, and Hammatt 2007
09302	Old Koloa Sugar Mill	The sugar mill, constructed in 1841, listed on the National Register of Historic Places and on the Hawai'i Register of Historic Places	Wilson and Dega 2004
B007	Cemetery	Waterhouse Family Cemetery (1848-1979) a small cemetery bounded by Maino Road, and the Kōloa-Union Church parsonage	Kikuchi and Remoaldo 1992
No SIHP # assigned	Plantation homes	Monahan (2005) discusses a number of plantation homes but does not assign SIHP #s	Monahan 2005
No SIHP # assigned	Plantation homes	Monahan (2005) discusses a number of plantation homes but does not assign SIHP #s	Monahan 2005
No SIHP # assigned	Plantation homes	Monahan (2005) discusses a number of plantation homes but does not assign SIHP #s	Monahan 2005

> From information gathered from local informants and preliminary historical investigation of this area it is evident that the early commercial growers of sugar cane utilized the existing *'auwai* system. Gradually as more and more fields came under sugar cane production these replaced the wet and dry fields of an earlier day.
>
> Today the archaeological sites remaining stand as islands as these marginal cane lands were taken out of production and turned into pasture. [Palama and Stauder 1973:4]

5.2.3 Kikuchi 1981

In 1981, William Kikuchi conducted an archaeological reconnaissance survey of 66 acres of land which was to be proposed as an addition to the Weliweli Tract (Kikuchi 1981). The survey identified pre-Contact archaeological sites including *'auwai* remnants, terraces, and enclosures and post-Contact archaeological sites including a well, rock walls, a railroad causeway, and other various rock structures.

5.2.4 Connolly 1982

In 1982, Archaeological Research Associates conducted an archaeological reconnaissance survey was conducted on several alternate routes for the planned Kōloa-Po'ipū Bypass Road (Connolly 1982). The survey reidentified the remnants of house sites, walls, enclosures, originally documented by Bennett (1931:120) as Site 85.

5.2.5 Hammatt et al. 1988

CSH conducted an archaeological inventory survey (AIS) in the 1,000-acre proposed Kukui'ula Bay Planned Community (Hammatt et al. 1988). Fifty-eight archaeological sites were recorded, of which many were associated with the Kōloa Field System. At least two (possibly three) *heiau* were found; these included the remains of Kamaloula Heiau.

5.2.6 Hammatt et al. 1991

Hallett Hammatt, William Folk, and Mark Stride (Hammatt et al. 1991) conducted an archaeological inventory survey of the proposed Poipulani Golf Course and Residential Development project. The project area consisted of 160 acres in eastern Kōloa along the boundary of Kōloa and Weliweli Ahupua'a. Seventy-five archaeological sites were documented throughout the project area. It was noted that despite historic modification of the landscape by commercial sugar cultivation and cattle ranching, "significant remnants of a once continuous prehistoric habitation/agricultural complex remain on the property" (Hammatt et al. 1991:i). The habitation and agricultural complex contained features typical of the Koloa Field System, including platforms, C-shapes, walls, enclosures, *'auwai*, terraces, and mounds. Eight potential burial sites, including two lava tubes possibly containing human burials, were also located.

5.2.7 Hammatt 1992

CSH (Hammatt 1992) reported on an archaeological survey for a proposed Western Bypass Road between Lāwa'i Road and a main east/west road within the Kukuiula Planned Community (Phase 1). No archaeological sites were identified. Five archaeological sites (Site 1915 [CSH16]; Site 3179 [CSH19]; Site 3075 [CSH23]; Site 1921 [CSH25]; Site 1923 [CSH27]) have been documented to the east and west of the survey area at the *makai* portion of the proposed road. All

these sites have been previously marked by fencing as part of the implementation of the 1991 Kukuiula Interim Preservation Plan.

5.2.8 Kikuchi and Remoaldo 1992

In 1985, William K. Kikuchi and Susan Remoaldo conducted an island-wide survey of the cemeteries of Kaua'i for Kaua'i Community College and the University of Hawai'i (Kikuchi and Remoaldo 1992). The main function of the survey was to locate, map, and inventory the various post-1800s cemeteries, graveyards, and family plots. Traditional, Native Hawaiian burials were not included in the scope of this study. Original locations of old plantation burial grounds were mapped even if the burials had been moved or reinterred. Whenever possible, the type of burial, names, dates, and details concerning the grave markers, as well as important historical notes were documented. Volume 1 of this work provides documentation for 33 cemeteries. Koloa (Public) Cemetery (50-30-10-B004), the cemetery northwest to the current project area, was partially inventoried, but not surveyed during the study. Five cemeteries, which were inventoried and surveyed in Kōloa, include Koloa (Public) Cemetery (-B004), St. Raphael's Church Cemetery (also known as 'Ōma'o Cemetery) (-B005), Kōloa Hawaiian Church Cemetery (-B006), the Waterhouse Family Cemetery (-B007), and the Bacle Family Cemetery (-B009).

5.2.9 Hammatt 1993

Gerald Ida and Hallett H. Hammatt conducted an archaeological reconnaissance survey of a 1.75-acre property ("Parcel 14") (TMK 2-6-04:14) in Kōloa, fronting Pō'ipu Road (Hammatt 1993). No historic properties were identified. They documented extensive modification of property and recommend no further archaeological work.

5.2.10 Ida et al. (1997)

Gerald Ida, Victoria Creed, and Hallett H. Hammatt (1997) conducted a reconnaissance survey on a 1.2-mile corridor of a proposed bypass road within the *ahupua'a* of Kōloa and Weliweli (TMKs: [4] 2-8-002:003, 2-8-003:001, 2-8-004:001, 2-8-005:002) that had previously been bulldozed. This road extended from an existing bypass road at the coast to north of Kōloa Town. This survey did not reveal any archaeological sites, and further study was not recommended.

5.2.11 McGerty et al. 2000

Scientific Consultant Services, Inc., (SCS) has completed an historic preservation documentation report of lava tubes on Koloa Bypass Highway on the Kōloa/Weliweli Ahupua'a boundary (McGerty et al. 2000). Two lava tubes (Cave A and Cave B) were identified: Cave A (SIHP # -00574) was interpreted as a pre-Contact permanent habitation site. Cave A contained eight identified features including basalt cores, basalt flakes, marine shell, a coral file, a piece of worked fine grained basalt, and pieces of coral. Cave B (SIHP # -00575) was interpreted as a burial cave.

5.2.12 Cleghorn and McIntosh 2001

Pacific Legacy, Inc. conducted an archaeological inventory survey on a 2.0-acre parcel (TMKs: [4] 2-6-008:011 and 022) on the corner of Pa'anau Road and Po'ipū Road in Kōloa town (Cleghorn and McIntosh 2001). The archaeological survey determined no pre-Contact or traditional features are present in the project area. The survey identified five former plantation houses (SIHP # -00878)

previously part of "Paanau Camp No. 19" located on the property along with several carports, historic rock walls, and various debris and garbage.

5.2.13 Wilson and Dega 2004

In January 2004, SCS conducted an archaeological inventory survey on 8.63 acres of land in Kōloa at the site of the Old Kōloa Sugar Mill, along Maluhia Road (Wilson and Dega 2004). Fieldwork consisted of a pedestrian survey with no subsurface testing. Remnants of the old sugar mill (SIHP # -09302), including ten distinct features associated with sugarcane cultivation and irrigation, were documented as part of the archaeological inventory survey. Ten features, including features 1–6, were recorded in an National Register of Historic Places (NRHP) nomination (Levy 1978).

SIHP # -09302 Features 1 through 6 were previously reported in the Levy 1978 NRHP form. These features included portions of Waihohonu and 'Ōma'o streams (Feature 1), remnants of the mill dam (Feature 2), cement irrigation channel (Feature 3), portions of Waikomo Stream and raceway (Feature 4), former cane haul road (Feature 5) first identified as a "Historic Ranch Road" in 1978, and the former mill structures and related features (Feature 6) (Wilson and Dega 2004:23, 39). SCS recorded the condition of these six features and recommended the Old Koloa Sugar Mill site be relisted on the NHRP to reflect current conditions (Wilson and Dega 2004:41).

During their survey, SCS identified four additional features of SIHP # -09302 that include a cane haul bridge (Feature A), bridge supports for the former cane haul railway (Feature B), former Old Mill Camp (Feature C), and a historic, stacked basalt rock wall (Feature D).

Wilson and Dega (2004:37–38) provide the following description for Feature C:

> The camp was located along the east bank of Waihohonu Stream just north of Koloa Mill. Little evidence of this camp remains. Its location is only discernible by the increase of historic trash mixed into the soil, mainly old bottle glass fragments and small chunks of basalt rocks with cement masonry. These fragmented blocks of rock and concrete are possible foundation pieces from plantation homes that lined the bank. This debris spans an area of 170 feet by 18 feet, 90 percent of which is on Lot 4. The level ground surface suggests that this feature has been bull dozed in past decades.
>
> However, there remains a great possibility of uncovering historic artifacts during any future ground altering activity around the feature. Some of the old house structures of this camp still exist on the west side of Waikomo Stream, outside of the current project area. [Wilson and Dega 2004:37–38]

In February 2004, Mason Architects, Inc., conducted a companion architectural inventory survey (Wilson and Dega 2004: Appendix A), which focused on two potential historic architectural resources (Properties A and B) identified within the study area. Property A is the Kaua'i Medical Clinic, formerly the Koloa Plantation Office Manager's Residence constructed in 1937, and Property B is the Telephone Exchange Building constructed ca. 1928. Mason Architects evaluated both properties as eligible to be included in the NRHP.

In their assessment of significance of SIHP # -09302, Wilson and Dega (2004:40) discuss significance variously for different features. However, the SHPD has clarified that, as a site, SIHP

-09302 is considered significant under Hawai'i Register of Historic Places (HRHP) Criteria A through D.

Wilson and Dega (2004:40-41) determined SIHP # -09302 Feature 1 (portions of Waihohonu and 'Ōma'o streams) is no longer considered a significant component of the historic property with the following explanation:

> In most circumstances, natural landmarks would not be considered for historic preservation, however, these streams played a vital role in the mill's function and location-and thus could be considered a cultural feature. Currently, the streams are no longer culturally intertwined with the site. Several features that once harnessed their flow are no longer intact. [Wilson and Dega 2004:41]

5.2.14 Hammatt 2005

On 3 August 2005, CSH conducted an AIS on 8.15 acres at the northeast corner of Maluhia Road and Kōloa Road for the construction of an assortment of commercial businesses and an expansion of the Kōloa Post Office (Hammatt 2005). Fieldwork included a reconnaissance survey of the entire project parcel. One historic property, SIHP # -03922, was identified during the survey. SIHP # -03922 is an earthen berm associated with a former plantation road and railroad. It is considered significant for its relation to Kōloa's sugarcane and plantation-era history. No materials associated with the road and railroad were observed. Hammatt (2005) notes all surface historic properties related to traditional Hawaiian habitation and agriculture had been eliminated from the property. No further archaeological work was recommended.

5.2.15 Hill et al. 2005a

Robert Hill, Todd Tulchin, Jon Tulchin, and Hallett Hammatt (Hill et al. 2005a) conducted an archaeological inventory survey of an 8-acre Knudsen Trust parcel located adjacent to Hapa and Weliweli roads. One historic property was identified during the inventory survey, SIHP # -03926, a previously identified plantation-era elevated metal irrigation flume, constructed in 1902 by the Koloa Sugar Company.

5.2.16 Hill et al. 2005b

Between 29 September and 20 October 2005, CSH performed an AIS of a 9.348-acre parcel in Kōloa Town for the construction of a series of condominiums located on the east bank of Waikomo Stream, between Waikomo Road and Weliweli Road (Hill et al. 2005b). Fieldwork included a complete ground survey of the project area, during which CSH identified six historic properties: SIHP #s -03930 through -03935. SIHP #s -03932, -03933, and -03934 are related to the diversion of irrigation water from Waikomo Stream for plantation agriculture. SIHP # -03932 was recorded as the remnants of small wall built proximate to the stream, SIHP # -03933 was recorded as the remnant of a historic wall and habitation foundation, and -03934 is Waikomo Ditch. The other three historic properties, SIHP #s -03930, -03931, and -03935, are related to sugarcane cultivation. SIHP # -03930 is a modern boundary wall denoting the boundary line shown on the 1891 M.D. Monsarrat map of Kōloa Town, and SIHP #s -03931 and -03932 each represent a stacked basalt wall. No subsurface testing was conducted during the archaeological inventory survey; however, data recovery was recommended for SIHP #s -03933 (house foundation) and -03934 (Waikomo Ditch). Preservation was recommended for the remaining four historic properties.

5.2.17 Monahan 2005

Between 16 and 18 November 2004, SCS conducted an archaeological inventory survey on 5.31 acres of land in Kōloa, just southeast of the intersection of Kōloa Road and Weliweli Road (Monahan 2004). Fieldwork included a pedestrian survey and subsurface testing. Four historic properties and nine historic structures were documented. The four historic properties identified during the survey are SIHP #s -03901 through -03904. SIHP # -03901 represents the ruins of the former Kōloa Shingon-shu Mission. Feature 4 of this early to mid-twentieth century mission is a concrete light fixture with Japanese characters imprinted into its base. This feature was preserved as part of an interpretive display for a planned walking museum within the proposed project development. SIHP # -03902 is a dry-stacked boulder platform/historic storm drain. SIHP #s -03903 and -03904 each represent remnants of a dry-stacked wall; both were difficult to date due to having undergone significant repurposing and alteration in modern times. Nine historic residences were also documented as part of the archaeological inventory survey. These structures were preserved intact, either at original or new locations in Kōloa.

5.2.18 Tulchin J. and Hammatt 2005

In 2005, CSH completed an archaeological literature review and field inspection for an 8.5-acre Knudsen Trust parcel (Tulchin J. and Hammatt 2005). The field inspection included a walkthrough of the majority parcel to evaluate present conditions and to determine the presence or absence of historic properties. Field observations of the 8.5-acre parcel identified three archaeological features: an historic irrigation flume and two potential site remnants consisting of raised rectangular platforms constructed of basalt boulders with basalt pebble paving which have potential to contain subsurface remains.

5.2.19 Tulchin T. and Hammatt 2005

Todd Tulchin and Hallett Hammatt (2005) conducted an AIS of an approximately 2.8-acre Knudsen Trust parcel located adjacent to Hapa Road, approximately 1 km (0.6 miles) southeast of Kōloa Town. Three historic properties, comprised of six component features, were identified within the project area: SIHP #s -03923 Features A–C (series of stone walls), -03924 (platform), and -03925 Features A and B (agricultural planting areas).

5.2.20 Hammatt and Shideler 2006

In 2006, CSH conducted an archaeological literature review and field inspection study for eight Department of Education (DOE) schools on Kaua'i, including Kōloa Elementary School. The field inspection results at Kōloa Elementary School indicate the campus is located in Kōloa town. The campus has been previously graded to a relatively level surface, and a stacked faced basalt rock wall, possibly a historic boundary marker for the school, was noted. It was concluded that the school had moderate archaeological potential. The archaeological resources in the vicinity of the school suggest the area was heavily populated by ca. 1850. A single LCA was identified in the northeast area of the school grounds. Based on the historic importance of Kōloa town and the possibility of encountering burials and/or cultural deposits in the study area, an archaeological monitoring program was recommended and implemented in 2010.

5.2.21 Tulchin et al. 2007

On 2 and 3 January 2007, CSH conducted an archaeological inventory survey on 10 acres of land (the present project area) (TMK: [4] 2-8-011:001) in Kōloa, just south of the intersection between Weliweli Road and Waikomo Road (Tulchin et al. 2007). The project area is bounded by Weliweli Road, Waikomo Road, Puni Road, and Hapa Road. This fieldwork included a 100% pedestrian survey of the study area and limited subsurface testing. The surface survey located one historic property, SIHP # -05002, the remnant of a historic stone wall. A 1-by-1-m test unit was manually excavated along the east side of the wall, which revealed the underlying stratigraphy as well as an assemblage of historic artifacts, including bottle glass, window glass, and fragments of metal. No other historic properties were identified.

5.2.22 Simonson and Hammatt 2008

Between 9 and 11 September 2008, CSH conducted archaeological data recovery for SIHP #s -03933 and -03934 (Simonson and Hammatt 2008). This data recovery had been previously recommended in an archaeological inventory survey report by Hill et al. (2005b) (see Section 5.2.16). SIHP # -03933 has two components, the remnant of a historic house foundation and a stacked rock wall, and SIHP # -03934, remnant of an earthen irrigation ditch with concrete components.

CSH conducted thorough surface collection (no subsurface testing) of SIHP # -03933. Midden materials (faunal [cow] bone and marine shell) were only identified at SIHP # -03933. Fifty-three historic artifacts were recovered during data recovery; 52 of these were collected during surface collection at SIHP # -03933, including metal gears, suspension components, cogs, and bolts, a metal stake, a possible bell, a padlock, a key plate, ceramic porcelain and earthenware sherds, and glass bottle fragments. These artifacts indicate a likely habitation date of post-1894 at SIHP # -03933.

Two mechanically excavated cross-sections of the entire width of the ditch (SIHP # -03934) uncovered an assemblage of subsurface modern refuse, including glass bottle fragments, plastic, aluminum cans, cement, lumber, Styrofoam, PVC pipe, metal fragments. In addition, a single historic artifact, a painted ceramic oil lamp base, was recovered. Neither pre-Contact nor traditional Hawaiian artifacts were encountered. Observed stratigraphy indicated a single phase of post-Contact construction of SIHP # -03934 with no pre-Contact modifications.

5.2.23 Hammatt 2010

In 2010, CSH conducted an archaeological inspection of a 5.4-acre parcel at the request of Mr. Ted Blake of Kōloa (Hammatt 2010). The parcel is owned by Grove Farm Inc. and is being leased by Mr. Blake for stockpiling rocks that will be used to repair and reconstruct stone walls on either side of Hapa Trail, known as Hapa Road. Based on this field inspection, the authors felt the proposed temporary use of this portion of the subject property for stockpiling rocks will have no impact on historic properties. Remnant plantation-era irrigation ditches along three sides of the project area were observed.

5.2.24 Pammer et al. 2010

In 2008 through 2009, CSH conducted archaeological monitoring for the Kōloa Elementary School DOE Cesspool project (Pammer et al. 2010), which consisted of improvements to the sewer

systems, including the installation of six septic tanks and associated pipelines. No cultural deposits were observed.

5.2.25 Gotay and Rechtman 2016

Gotay and Rechtman (2016) carried out an AIS of two tax map parcels, TMKs: (4) 2-8-012:001 (4.11 acres) and 2-8-012:011 (3.18 acres) located adjacent to present-day Hapa Road. The north edge of their study parcel 001 is contiguous with the south edge of the present project area. They located a previously identified irrigation channel, SIHP # -03926, and newly identified three sites, two historic boundary walls (SIHP #s -02300 and -02301), and a remnant *'auwai* (SIHP # -02303).

The SIHP -03926 *'auwai,* was described by Tulchin T. and Hammatt (2005) and in great detail by Hill et al. (2005a). The Gotay and Rechtman (2016:40–43) study effectively expands this SIHP # -03926 site description to include an irrigation ditch consisting of a channel between two concrete rock masonry retaining walls oriented east-west that extend from Hapa Road approximately 30.5 m to the west before terminating under the ground surface. Gotay and Rechtman (2016:52) agree with the prior CSH assessment of significance under Criterion A for its association with the Koloa Plantation, which was significant in shaping the geopolitical history of the study area, and Criterion D for its information content. They argued their site documentation serves to mitigate any potential impacts from future development and recommended no further work for this site.

The SHPD review dated 26 September 2016 (Log No. 2016.02268, Doc. No. 1609MN04) agreed with the study's significance assessments and recommendations.

5.2.26 Kamai and Hammatt 2021

In June 2016, CSH conducted archaeological monitoring for the Kōloa Elementary School Effluent Disposal Replacement project (Kamai and Hammatt 2021). The project area was located in the northern portion of the school property between the play court to the west and small portable buildings (P-1 to P-8) to the east. The work consisted of excavations for the leach field and did not extend beyond the specific 0.08-acre portion of the campus that comprised the project area. No cultural materials and/or deposits were observed during the archaeological monitoring program. The excavation activities associated with the project did not have any adverse effects on historic properties, because no historic properties were identified.

5.2.27 Krause et al. 2021

In 2021, CSH prepared an AIS (lack of finds termed an archaeological assessment) for the Kōloa Rum Company Improvements project (Krause et al. 2021). The project area is located on former commercial sugarcane fields along Maluhia Road across from Anne Knudsen Park, just south of the intersection of Maluhia Road and Ala Kinoiki Road. No historic properties have been identified within the project area.

Section 6 Consultation Results

6.1 Introduction

Throughout the course of this assessment, an effort was made to contact and consult with NHO, agencies, and community members including descendants of the area, to identify individuals with cultural expertise and/or knowledge of the *ahupua'a* of Kōloa. CSH initiated its outreach effort in July 2025.

6.2 Community Outreach Letter

Letters along with maps and aerial photographs (Appendix B) of the project area were sent with the following text:

> With this letter, Cultural Surveys Hawai'i (CSH) humbly requests your *mana'o* and *'ike* (experience, insights, and perspectives) regarding past and ongoing cultural, practices, beliefs, and resources within the Kōloa Ahupua'a. This letter serves as a request for consultation for the associated Ka Pa'akai Analysis.
>
> Consultation with traditional cultural practitioners, *kūpuna*, *kama'āina*, and Hawai'i's diverse ethnic communities is an important and deeply valued part of our work and the environmental review process for proposed projects in Hawai'i. Your contributions will revitalize and keep alive knowledge of cultural practices, storied places, and life experiences that will remind Hawai'i's children of their history for generations to come.
>
> Project Description
>
> SK Investors LLC requests that CSH perform a Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: (4) 2-8-011:001.
>
> SK Investors LLC is proposing for the development of a primary housing project consisting of single and multi-family residentials, park space, various drainage and utility improvements, and an internal road.
>
> Purpose of the Study
>
> In Ka Pa'akai O Ka 'āina v. Land Use Comm'n, 94 Hawai'i 31, 7 P.3rd 1068 (2000), the Hawai'i Supreme Court detailed a three-prong test for decision impacting traditional rights and resources, which requires specific findings regarding:
>
> 1. the identity and scope of cultural, historical, and natural resources in the affected area included the extent to which traditional and customary rights and practices are exercised in that area;
> 2. the extent to which those resources, rights, and practices will be affected by the proposed action; and

3. feasible action, if any, to reasonably protect Native Hawaiian rights and practices. (https://casetext.com/case/ka-paakai-o-kaaina-v-land-use-comn)

As a traditional cultural practitioner and holder of long-term knowledge, your insight, input, and perspective provide a valuable contribution to the assessment of potential effects of this project and an understanding of how to protect these resources and practices.

Insights focused on the following topics are especially helpful and appreciated:

- Your knowledge of traditional cultural practices of the past within the Kōloa Ahupua'a
- Your specific traditional cultural practice and its connection to the Kōloa Ahupua'a
- The different natural resources associated with your specific traditional cultural practice
- Legends, stories, or chants associated with your specific traditional cultural practices and their relationships to the Kōloa Ahupua'a
- Referrals to other *kūpuna*, *kama'āina*, and traditional cultural practitioners knowledgeable about the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on your ongoing traditional cultural practices and natural resources within the Kōloa Ahupua'a
- Your knowledge of cultural sites and *wahi pana* (storied places) within the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on cultural sites and *wahi pana* within the Kōloa Ahupua'a

Consultation Information

Consultation is an important and deeply valued part of this study and environmental review process. Your contributions will revitalize and keep alive our combined knowledge of past and ongoing cultural practices, historic places, and experiences, reminding our children of their history generation and generation. With your agreement to participate in this study, your contributions will become part of the comprehensive understanding of traditions of the area, and part of the public record.

As a part of this process, your knowledge may be used to inform future heritage studies of cultural practices and resources that need protection from the impacts of proposed future projects. If you engage in consultation, and the *mana'o* and *'ike* you provide appears in the study, we would like to recognize your contribution by including your name. If you prefer not to allow your name to be included, your information can be attributed to an anonymous source.

The consultation interview structure and format are flexible. We will accommodate your preference on how to get together: talk story, over the phone, by email correspondence, remotely via Zoom, MS Teams, Google Chat or other remote meeting platforms.

Your knowledge of the resources and potential effect of the project on traditional practices in the Kōloa Ahupua'a focusing on the topics in the bullet points above can also be submitted in a written statement. CSH will provide return postage of your written statement on request.

CSH is happy to provide a list of topics for discussion, a more structured questionnaire of interview questions, or any other assistance that might be helpful.

6.3 Community Outreach Table

Community consultation was initiated in July 2025. In most cases, two attempts were made to contact individuals, organizations, and agencies. Community outreach letters were sent to 36 individuals. Results of the outreach are presented in Table 4.

Table 4. Summary of consultation efforts

Name	Affiliation	Notes
Akana, Paula	Executive Director, Friends of 'Iolani Palace	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Ayau, E. Halealoha	*Kumu*, Hui Iwi Kuamo'o	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Buckley, David	SHPD, Kaua'i Lead Archaeologist	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Campbell, 'Olu	President/CEO, Hawaiian Islands Land Trust	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Chang, Kevin	Executive Director, Kua'āina Ulu 'Auamo (KUA)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Chock, Pam	Executive Director, Kaua'i Historical Society	Letter and figures sent via email 2 July 2025

Name	Affiliation	Notes
Chrisman, Beverly Nāmakakēhau	President/Treasurer, Aloha 'Āina o Hawai'i, Inc.	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Cummings, Jesse	Po'o, Wai Koa Kaua'i	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Cummings, Roslyn	Po'o, E Ola Kākou Hawai'i	Letter and figures sent via email 2 July 2025 Ms. Cummings responded on 4 July 2025 with an Affidavit of Cultural Opposition. She also cc'd several different agencies including the Planning Department, Kaua'i's Mayor, Kaua'i's County Council, the Attorney General, and the Department of Water in addition to other individuals. Due to the nature of her response, CSH responded 8 July 2025 thanking her for her response as well as forwarding her reply to those individuals and informed her that her response was forwarded to the client.
Faulkner, Kiersten	Executive Director, Historic Hawai'i Foundation	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Ferreira, Stacy Kealohalani	Ka Pouhana, Office of Hawaiian Affairs (OHA)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Gomes, Lance Kamuela	Konohiki Chief, Wahiawa Ahupua'a LCA 7714B Apana 6 RP 7813	Letter and figures sent via email 2 July 2025

Name	Affiliation	Notes
		Second round letter and figures sent via email 29 August 2025
Ho'omanawanui, Kauanoe	SHPD, Burial Sites Specialist (Kaua'i and Ni'ihau)	Letter and figures sent via email 2 July 2025 Ms. Ho'omanawanui responded acknowledging receipt and also forwarded the consultation letter to KNIBC Koloa representative, Chad Schimmelfenning. CSH responded 10 July 2025 with thanks.
Jackson, 'Ānela	President, 'Aha Mālama, Corp	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Kalili, Dre	President, Association of Hawaiian Civic Clubs (AHCC)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Kalili, Dreanalee	Treasurer, Imua Hawaii	Letter and figures sent via email 2 July 2025
Kamali'i, Na'unanikinau	Kawaileo Law A Limited Liability Law Company	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Ka'ohelauli'i, Billy	'Aha Moku Council, Kona Rep	Letter and figures sent via email 2 July 2025
Kekua, Kehaulani	*Kumu Hula*, Hālau Palaihiwa O Kaipuwai	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via 29 August 2025
Keli'ikipikāneokolohaka, Roxane	*Kia'i*, Kia'i Kanaloa	Letter and figures sent via email 2 July 2025

Name	Affiliation	Notes
		Second round letter and figures sent via email 29 August 2025
Kelly, Walter J	Vice President, Protect Keopuka Ohana	Letter and figures sent via email 2 July 2025 Second round letter and figures sent 29 August 2025
Lewis, Joseph Kūhiō	Chief Executive Officer, Council for Native Hawaiian Advancement (CNHA)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Laehā, Ka'iulani	COO, 'Aha Pūnana Leo	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 8 September 2025
MacDonald, Kainoa	Secretary, Association of Hawaiians for Homestead Lands (AHHL)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 8 September 2025
Madarang, Renson	Director, Hale Mua Cultural Group	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 8 September 2025
Makāula, Roz	Director, Government Relations, Nākiakaulani – Legal Group, Kamehameha Schools	Letter and figures sent via email 2 July 2025 CSH received an immediate out of office reply with a return date of 7 July. Second round letter and figures sent via email 8 September 2025
McFerrin-Warrack, Melissa	Historian, Kōloa Plantation Days Leadership, Cultural & Community Engagement at Kukui Grove	Letter and figures sent via email 11 July 2025

Name	Affiliation	Notes
Naholowa'a, Makalika	Executive Director, Native Hawaiian Legal Corporation	Letter and figures sent via email 11 July 2025Second round letter and figures sent via email 8 September 2025
Native Hawaiian Education Council	(No Named Contact on NHO list)	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025
Ritte, Walter	Executive Director, 'Āina Momona	Letter and figures sent via email 11 July 2025 An associate of 'Āina Momona responded 13 July 2025: *Aloha,* *Can you please share some information about yourself and how you are qualified to do this work? Specifically, please share information about your background and how you meet the professional standards under HAR 13-281-6.* *Mahalo for reaching out.* CSH emailed the following on 16 September 2025: *Greetings 'Āina Momona* *Thank you for your email about Cultural Surveys Hawaii's (CSH) credentials. Your inquiry was forwarded to me.* *CSH has been active in the field of cultural resource management for over 50 years. We have been at the forefront of implementing state historic preservation practices. We have extensive experience with project planning and the development of appropriate cultural resource management scopes of work including mitigation and treatment*

Name	Affiliation	Notes
		plans and extensive knowledge of historic preservation regulation and compliance. I have attached my resume. You are also welcome to visit our website: www.culturalsurveys.com *All of our cultural researchers meet the requirements under HAR 13-281-6 including:* *13-281-6(a)(2) bachelor's degrees from an accredited institution in anthropology and (A) two or more years of full-time experience in research and writing. In addition to meeting these qualifications, they meet the qualifications of 13-281-6(b)(2) demonstrated familiarity with the traditions, customs, practices and beliefs of the applicable ethic group addressed by the ethnographic study, (3) have demonstrated the ability to conduct and document interviews for ethnographic or historical purposes and to summarize information gained from the interviews and (5) have a working knowledge of the historic preservation review process.* *Chantellee has bachelor degrees in both Hawaiian Studies and Anthropology and has been a researcher with Cultural Surveys Hawai'i for 8 years. She was born and raised in Hilo, Hawai'i and dances as an 'ōlapa with Unulau, adding to her cultural knowledge of traditions, customs, practices and beliefs.* *Please let us know if you have any questions.* The group has yet to respond.

Name	Affiliation	Notes
Rowe, Rupert	*Po'o*, Hui Mālama o Kāneiolouma	Letter and figures sent via email 11 July 2025 Mr. Rowe called CSH Hilo office to speak with Researcher. Ultimately, did not want to participate but expressed frustration with CSH over previous projects.
Santos, Donna Kaliko	Nā Kuleana o Kānaka 'Ōiwi	Le Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025.
Schimmelfennig, Chadley	Kaua'i/Ni'ihau Island Burial Council, Koloa	Was forwarded email by Kauanoe Ho'omanwanui on 2 July 2025 Second round letter and figures sent via email 8 September 2025
Solis, Ka'ahiki	Cultural Historian (O'ahu, Kaua'i, Ni'ihau)	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September
Suganuma, La'akea	President, The Mary Kawena Pūku'i Cultural Preservation Society	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025
Turalde, Kane	'Aha Moku Council, Kona Rep	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025

6.4 Summary of Community Outreach

Thirty-six individuals and groups were sent a consultation letter requesting participation in this study. There were only four responses which ultimately resulted in one individual who provided a legal document (Appendix C), one who responded and forwarded the outreach letter to other respective groups, one who called in for more information, and one has apparently expressed interest though we have not heard back after responding to an email. Unfortunately, none of these individuals met with CSH for a more in-depth interview.

Section 7 Traditional Cultural Practices

Timothy R. Pauketat succinctly describes the importance of traditions, especially regarding the active manifestation of one's culture or aspects thereof. According to Pauketat:

> People have always had traditions, practiced traditions, resisted traditions, or created traditions [...] Power, plurality, and human agency are all a part of how traditions come about. Traditions do not simply exist without people and their struggles involved every step of the way. [Pauketat 2001:1]

It is understood that traditional practices are developed within the group, in this case, within the Hawaiian culture. These traditions are meant to mark or represent aspects of Hawaiian culture that have been practiced since ancient times. As with most human constructs, traditions are evolving and prone to change resulting from multiple influences, including modernization as well as other cultures. It is well known that within Hawai'i, a "broader 'local' multicultural perspective exists" (Kawelu 2015:3). While this "local" multicultural culture is deservedly celebrated, it must be noted that it has often come into contact with "traditional Hawaiian culture." This contact between cultures and traditions has undoubtedly resulted in numerous cultural entanglements. These cultural entanglements have prompted questions regarding the legitimacy of newly evolved traditional practices. The influences of "local" culture are well noted throughout this section and understood to represent survivance or "the active sense of presence, the continuance of native stories, not a mere reaction, or a survivable name. Native survivance stories are renunciations of dominance, tragedy and victimry" (Vizenor 1999:vii). Acknowledgement of these "local" influences help to inform nuanced understandings of entanglement and of a "living [Hawaiian] contemporary culture" (Kawelu 2015:3). This section strives to articulate traditional Hawaiian cultural practices as were practiced within the *ahupua'a* in ancient times, and the aspects of these traditional practices that continue to be practiced today; however, this section also challenges "tropes of authenticity," (Cipolla 2013) and acknowledges the multicultural influences and entanglements that may "change" or "create" a tradition.

This section integrates information from Sections 1–6 in examining cultural resources and practices identified within or in proximity of the project area in the broader context of the encompassing Kōloa landscape.

7.1 Gathering Practices

In Donohugh (2001:63-64), Kōloa Landing had become the principal port of Kaua'i and most of Kaua'i's sandalwood was exported here suggesting it was harvested in the uplands of Kōloa. The fragrant wood was depleted 1830.

7.2 Agricultural Practices

Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*.

In 1835, Thomas Nuttall and John K. Townsend, two American naturalists, visited the Kōloa area. They noted "fields of taro, yam, and maize (possibly sugarcane), irrigation networks and sweet potato patches in the dryer areas" (Townsend 1839:206). Also in the 1830s, J.J. Jarves, in "Sketches of Kauai" (Jarves 1844), remarked on the fields of sugarcane, taro, and yams which indicated more than usual attention to agriculture.

The extensive agricultural fields and their well-maintained appearance indicate a relatively well-populated area. Bernice Judd, in "Kōloa: A Sketch of its Development" (1935), suggests that prior to European Contact the population of Kōloa must have been several thousand.

7.3 Coastal and Marine Resources

No coastal or marine resources were identified within or in the vicinity of the South Koloa Town project.

The coastline of Kōloa Ahupua'a is blessed with great resources including Kukui'ula Bay (Kukui'ula Small Boat Harbor) that provides considerable protection for small craft (Clark 1990:65) and Kōloa Landing that was a focus for whale ships.

Kōloa Landing:

> was established in Hanaka'ape Bay in a natural cove cut into the shoreline by Waikomo Stream. Before the turn of the century [1900], an average of 40 to 60 ships, including whalers, called each year at the landing. There they discharged and picked up cargo and passengers and took on supplies. With the introduction of modern means of transportation, the old sugar landings fell into disuse. Koloa Landing was used into the 1920s, but today little more than its name remains to identify this once busy site. [Clark 1990:65]

The availability of marine resources is attested to:

> The south shore of Kaua'i from Lawa'i to Po'ipu is considered one of the best sport diving and spearing areas on the island. These waters are especially attractive because of the normally calm seas, extensive reefs, excellent underwater visibility, and close proximity to residential and resort communities. [Clark 1990:65]

7.4 Freshwater Resources

Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish, mollusks, and crustaceans) value and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23).

7.5 *Wahi Pana* (Storied Places)

The concept of *wahi pana* is very important in the Hawaiian culture as a connection to the past and, therefore, the ancestors. From the name of a place one can know intimate details about the people who lived there, the environment, cultural practices, and historical events that took place. In Hawaiian culture, if a particular spot is given a name, it is because an event occurred there that

has meaning for the people of that time. Because Hawaiian culture was based on oral traditions, place names and their stories were an important way of remembering these traditions and ensuring these stories would be passed on to future generations. In Hawaiian thinking, the fact that a place has a name deems it important. Often, spiritual power or *mana* is attached to a place, which increases its importance. On the subject of *wahi pana*, Edward Kanahele writes,

> As a native Hawaiian, a place tells me who I am and who my extended family is. A place gives me my history, the history of my clan, and the history of my people. I am able to look at a place and tie in human events that affect me and my loved ones. A place gives me a feeling of stability and of belonging to my family, those living and dead. A place gives me a sense of well-being and of acceptance of all who have experienced that place. [Kanahele in James 1991:6]

There exists a myriad of cultural sites or *wahi pana* for Kōloa which is a testament to the population of the area as well as the cultural significance of the land.

Five *heiau* are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream; Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication; Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (site 80; Bennett 1931:118–119); and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.

On 7 September 1885 a student from Lahainaluna Schools (HMS 43 #17) interviewed Makea—"a native who is well acquainted with Koloa"—and recorded "what she said about the well-known places in the olden times. Makea goes on to mention:

> Maulili was the first heiau of south Koloa. Kapulauki was the first chief of Koloa, Kiha came next. That is the chief I know of. He was a ruling chief of Kaua'i in the olden days, when the heiau was standing there. It had already been built and men had been sacrificed on its altars. This Kiha was called Kiha-of-the-luxuriant-hair. Another name for him was Kakae and another was Ka-pueo-maka-walu (Eight-eyed-owl).
>
> This heiau was also famous for this reason—it was the first heiau to which Kawelo was carried after he had swooned in Wahiawa, in the battle where stones were used as missiles.
>
> The location of this heiau was not known, but a deaf mute knew and it was he who pointed it out to the chiefs, and that is how it was rediscovered in the olden days.
>
> Kiha lived on the eastern side of the heiau and 'Aikanaka lived on the northeastern side. Aikanaka, was the one with whom Kawelo fought and he was the owner of this heiau at that time. [Lahainaluna School 1885:165]

Maulili was first built by Ka-pueo-maka-walu, the son of Kapu-lau-kī. He had his house on the eastern side of this *heiau*. It was a place of human sacrifice, but once Kapueomakawalu died, it was no longer used and its location was lost (Wichman 1998:41). Many years later, when 'Aikanaka had defeated his cousin Kawelo in the battle of stones on the plains of Wahiawa, 'Aikanaka wanted a place to sacrifice the body. No one was sure of it, but a deaf mute led 'Aikanaka to the place. The place was rebuilt and in the morning 'Aikanaka went to sacrifice the

body. He found Kawelo was healed from his wounds and it was 'Aikanaka instead who was sacrificed (Wichman 1998:41).

Kapueomakawalu also built the *heiau* of Louma, which stood on the mountainside of Ho'oleina-ka-pua'a, "place to throw in the pig." This was beside a small pond *mauka* of Maulili. Louma was a small *heiau* in which hogs, red fishes, and other sacrifices were offered. It was dedicated to Lono-i-ka-ou-ali'i, the god who had come to Kaua'i with La'a-mai-kahiki in the twelfth century. The stones for this *heiau* were brought from O'ahu. It is said that the *menehune* (legendary race of small people who built structures at night) did the actual building (Wichman 1998:41).

7.6 Burials

With the lack of responses from community consultation, unrecorded or undocumented familial burials are impossible to determine. Previous archaeological studies do not mention burials within the immediate vicinity of the project area.

Section 8 Summary and Recommendations

8.1 Results of Background Research

Background research for the proposed project yielded the following information, presented in approximate chronological order:

1. Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish, mollusks, and crustaceans) value, and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23).
2. The name Kōloa has several derivations. Kōloa is the name for the large, soft Hawaiian sugarcane (*Saccharum officinarum*) once grown by the Hawaiians; Kōloa is also the name of a steep rock, called Paliokōloa, on the banks of Waikomo Stream, from where the *ahupua'a* got its name. This bank of the river was called Kōloa, after the native Hawaiian duck (*Anas wyvilliana*) (Kikuchi 1963:46; Pukui et al. 1974:116).
3. The Kōloa Ahupua'a is well watered by constantly flowing streams. Two of these, the 'Ōma'o, "green," and Pō-'ele'ele, "dark night," feed the Pīwai (a variety of wild duck) in the area (Wichman 1998:40). The *ahupua'a* is watered by several other streams: the Aepo, Waihohonu ("deep water;" named for a hole formed when Palila felled a forest of trees with one stroke [Pukui et al. 1974:222]), Weliweli, and the Weoweopilau.
4. Five *heiau* (pre-Christian place of worship) are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (Site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.
5. Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*. On Kaua'i, the favored places for coconuts were Kōloa and Lāwa'i (Handy 1940:193).
6. By the early 1800s, Kōloa Landing had become the principal port of Kaua'i. The fact that the shipment of most of Kaua'i's sandalwood to Asia took place at Kōloa Landing suggests sandalwood was likely harvested in the uplands of Kōloa until the supply of the fragrant wood was exhausted around 1830 (Donohugh 2001:63–64).
7. The Kōloa area is the site of the oldest sugar plantation in Hawai'i. In 1835, Ladd and Company gained the lease of some 1,000 acres at Kōloa for the purpose of growing sugarcane. "The lease allowed the use of the waterfall and an adjoining mill site at Maulili Pool, the right to build roads, and the privilege of unrestricted buying and selling, and freedom from local harbor dues" (Stauder 1973:18). Ladd and Company were not the first to mill sugarcane in the area, as there was a Chinese-operated granite roller mill in

operation at Māhā'ulepū in 1830. Ladd and Company were, however, the first "plantation" organized industry in Hawai'i.

8. The Māhele records of Kōloa give a picture of what had evolved by the middle of the nineteenth century when Kōloa Ahupua'a, totaling 8,620 acres, was awarded to Moses Kekūāiwa (LCA 7714-B), the brother of Alexander Liholiho (Kamehameha IV), Lot Kapuāiwa (Kamehameha V), and Victoria Kamāmalu.
9. The early success of Ladd and Company (before its bankruptcy in 1845) was an impetus for other entrepreneurial attempts within Kōloa. Silkworm farming, oil extraction from *kukui* nuts, cigar manufacturing, sago raising, and tapioca manufacturing were all attempted with varied success during the middle third of the nineteenth century. Another major area of commercial enterprise was associated with the whaling industry at Kōloa Landing. Accounts of visitors suggest the inhabitants of Kōloa took advantage of their nearness to the landing to participate in the booming trade of the port.

8.2 Results of Community Consultation

CSH attempted to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 36 individuals or groups; four responded, one provided a legal document (Appendix C), one responded and forwarded the outreach letter to other respective groups, one called in for more information, and one has apparently expressed interest though we have not heard back after responding to an email. Unfortunately, none of these individuals met with CSH for a more in-depth interview.

8.3 Impacts and Recommendations

The results of community consultation, underscored by background research conducted for this CIA, inform the following mitigation possibilities promoting and preserving cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups:

1. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that *iwi kūpuna* (ancestral remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.
2. In the event that *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Section 9 Ka Pa'akai Analysis

9.1 Overview

In *Ka Pa'akai vs Land Use Commission*, 94 Hawai'i (2000) the Court held the following analysis must also be conducted:

1. The identity and scope of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary native Hawaiian rights are exercised in the project area;
2. The extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and
3. The feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian Rights if they are found to exist.

Based on information gathered from the cultural and historical background there are a number of traditional cultural practices and resources to consider, however, the lack of in-depth responses from community consultation makes it difficult to determine the true extent of this project on the key aspects of a Ka Pa'akai Analysis.

9.1.1 Gathering Resources

No gathering resources have been identified within or in the vicinity of the South Koloa Town Project. The current built environment consists primarily of leveled and graded areas, most likely associated with historic agriculture. Any remnants of gathering resources may well be destroyed through natural progression of time and development in the area.

9.1.2 Agricultural Resources

No agricultural resources have been identified within or in the vicinity of the South Koloa Town Project though LCA documents note *kula* land for awards near the project area. Historical maps highlight *lo'i* South of the project area likely fed by Waikomo Stream. Any remnants of agricultural resources may well be destroyed through natural progression of time and development in the area.

9.1.3 Coastal and Marine Resources

Though coastal and marine resources may still flourish, no coastal and marine resources have been identified within or in the vicinity of the South Koloa Town Project.

9.1.4 Freshwater Resources

No freshwater resources have been identified within or in the vicinity of the South Koloa Town Project. Kōloa Ahupua'a is dominated by Waikomo Stream which runs West of the project area.

9.1.5 Wahi Pana

No *wahi pana* have been identified within or in the vicinity of the South Koloa Town project. However, five *heiau* are listed in Kōloa (Figure 18): Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s

publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.

9.1.6 Burials

No burial sites have been identified within the South Koloa Town Project.

The project area is located in the vicinity of the Waterhouse Family Cemetery (designated SIHP # -B007; Kikuchi and Remoaldo 1992).

9.2 Analysis

9.2.1 Valued Cultural, Historical, or Natural Resources in the Project Area

Background research indicates traditional Hawaiian activity in this area of Kōloa that focused in the stream valleys and was relatively low on the plateau lands. The nearest native tenant Land Commission Awards were LCA 6309:2 to Kapuniai and LCA 3584:1 to Kaanaana. Appendix A reveals the details of these awards to present the resources in the vicinity of the project area at the time the claims were awarded. A similar trait in these awards is that the land was associated *kula* and possibly used for dryland agriculture or pastureland.

9.2.2 The Extent to which Traditional and Customary Native Hawaiian Resources will be Affected by the Proposed Action

No impacts to traditional and customary practices are anticipated because traditional and customary practices were not identified within and in the vicinity of the project area.

9.2.3 Feasible Action, if any, to be taken to Reasonably Protect Native Hawaiian Rights

Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that *iwi kūpuna* are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.

In the event that *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Section 10 References Cited

Akana, Colette Leimomi with Kiele Gonzalez
2015 *Hanau Ka Ua: Hawaiian Rain Names.* Kamehameha Publishing, Honolulu.

Armstrong, Warwick, editor
1973 *Atlas of Hawai'i.* University of Hawaii Press, Honolulu.

Ava Konohiki
2015 Ancestral Visions of 'Āina website. Available online at http://www.avakonohiki.org/.

Bennett, Wendell C.
1931 *The Archaeology of Kaua'i.* Bishop Museum Bulletin 80. Bernice Pauahi Bishop Museum, Honolulu.

Bingham, Hiram
1847 *A Residence of Twenty-One Years in the Sandwich Islands.* Convers, New York.

Blake, Henry K.
1888 Sketch map of Kōloa Village. Kauai Historical Society, Līhu'e, Kaua'i.
1938 Sketch map of Kōloa. Kauai Historical Society, Līhu'e, Kaua'i.

Clark, John R.K.
1990 *Beaches of Kaua'i and Ni'ihau.* University of Hawaii Press, Honolulu.

Cleghorn, Paul L. and James McIntosh
2001 *Archaeological Inventory Survey at Koloa, Kaua'i, Hawai'i (TMK 2-6-8:11 and 22).* Pacific Legacy, Inc., Kailua, Hawai'i.

Cipolla, Craig N.
2013 Native American Historical Archaeology and the Trope of Authenticity. *Historical Archaeology.* Vol. 47, ed. 3:12–22.

Commission on Water Resource Management
1993 *Hawai'i Streams: Nā Kahawai o Hawai'i.* Commission on Water Resource Management, Department of Land and Natural Resources, State of Hawai'i, Honolulu.

Condé, Jesse C. and Gerald M. Best
1973 *Sugar Trains.* Glenwood Publishers, Felton, California.

Connolly, Robert D., III
1982 *Archaeological Reconnaissance Survey Along Possible Alternate Routes of The Koloa-Poipu Bypass Road Koloa, Kauai.* Archaeological Research Associates, Honolulu.

Cook, James P.
1784 *A Voyage to the Pacific Ocean 1776, 1777, 1779, and 1780.* Vol. 2 and 3. G. Nichol and T. Cadell, London.

Coulter, John Wesley

1931 *Population and Utilization of Land and Sea in Hawaii. 1853.* Bishop Museum Bulletin 88. Bernice Pauahi Bishop Museum, Honolulu.

Donohugh, Donald

2001 *The Story of Koloa: A Kaua'i Plantation.* Mutual Publishing, Honolulu.

ESRI Aerial Imagery

2022 Map Image Layer. Esri, Inc. Redlands, California.

Farley, J.K.

1906 Notes on Maulili Pool, Kōloa. In *Hawaiian Almanac and Annual for 1907.* Thos G. Thrum, Honolulu.

Foote, Donald E., Elmer L. Hill, Sakuichi Nakamura, and Floyd Stephens

1972 *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii.* U.S. Department of Agriculture, Soil Conservation Service, in cooperation with the University of Hawai'i Agricultural Experiment Station. U.S. Government Printing Office, Washington, D.C.

Fornander, Abraham

1918 *Fornander Collection of Hawaiian Antiquities and Folk-lore.* Volume V. Memoirs of the Bernice Pauahi Bishop Museum. Bishop Museum Press, Honolulu.

1996 *Fornander's Ancient History of the Hawaiian People.* Mutual Publishing, Honolulu.

Giambelluca, T.W., Q. Chen, A.G. Frazier, J.P. Price, Y.-L. Chen, P.-S. Chu, J.K. Eischeid, and D.M. Delparte

2013 Online Rainfall Atlas of Hawai'i. *Bulletin of the American Meteorological Society volume 94, pp. 313–316, doi: 10.1175/BAMS-D-11-00228.1.* Electronic document, http://rainfall.geography.hawaii.edu (accessed 10 April 2014).

Gotay, Teresa and Robert B. Rechtman

2016 An *Archaeological Inventory Survey and Cultural Impact Assessment for the Consolidation/Resubdivision of TMKs: (4) 2-8-012: 001 and 011 Kōloa Ahupua'a Kona District Island of Kaua'i.* ASM Affiliates. Hilo, Hawai'i.

Hammatt, Hallett H.

1992 *Archaeological Survey for the Proposed Kōloa Western Bypass Road.* Cultural Surveys Hawai'i, Kailua Hawai'i.

1993 *Archaeological Reconnaissance Survey TMK 2-6-04:14, 1.75 Acres Kōloa, Kaua'i, Subdivided Lots A1-A1, A1 A2.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

2005 *Archaeological Inventory Survey of an 8.15-acre Knudsen Trust Parcel, Kōloa Ahupua'a, Kona District, Island of Kaua'i TMK: (4) 2-8-004: por. 003 & 055.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2010 *Letter Report re Field Inspection for a Proposed Boulder Storage Area TMK [4] 2-8-012:033 – 5.4-Acre Parcel Owned by Grove Farm Inc. and Leased to Mr. Ted Blake in Kōloa on the Island of Kaua'i, Hawai'i.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., Douglas Borthwick, David W. Shideler, and Mark Stride
1988 *Archaeological Inventory Survey of the Proposed Kukuiula Bay Planned Community, Kōloa, Kaua'i.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

Hammatt, Hallett H., Kristina W. Bushnell, Gerald K. Ida, Rodney Chiogioji, Victoria S. Creed, and David W. Shideler
1999 *Archaeological Data Recovery for Kukui'ula Bay Planned Community, Phase II Development Area, Kukui'ula, Kōloa, Kaua'i, (TMK 2-6-03: Por. 1 and 2-6-04:Por. 33, 38, 40).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., William H. Folk, and Mark Stride
1991 *Archaeological Inventory Survey of the Proposed Po'ipulani Golf Course and Residential Development, Kōloa, Kaua'i (TMK: 2-8-13 por. 1; 2-8-14 por. 1, 3, 19).* Cultural Surveys Hawai'i, Kailua, Hawai'i.

Hammatt, Hallett H. and David W. Shideler
2006 *Archaeological Literature Review and Field Check Study of Eight DOE Schools, Island of Kauai Hawaii Inter-Island DOE Cesspool Project.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Handy, E.S. Craighill
1940 *The Hawaiian Planter*, Volume I. Bishop Museum Bulletin 161. Bishop Museum Press, Honolulu.

Handy, E.S. Craighill and Elizabeth G. Handy
1972 *Native Planters in Old Hawaii.* Bishop Museum Press, Honolulu.

Hawai'i TMK Service
2024 Tax Map Key (TMK) (4) 2-8-011. Honolulu.

Hill, Robert, Todd Tulchin, Jon Tulchin, and Hallett H. Hammatt
2005a *Archaeological Inventory Survey for an 8.633 Acre Parcel at Kōloa Kōloa Ahupua'a Kōloa District, Island of Kaua'i TMK: (4) -8-014:001 Mauka Portion.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2005b *An Archaeological Inventory Survey of a 9.348 Acre Parcel at Kōloa Ahupua'a, Kona District, Island of Kaua'i, [TMK: (4) 2-8-009: 001].* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ho'oulumāhiehie
2008a *The Epic Tale of Hi'iakaikapoliopele. As Told by Ho'oulumāhiehie.* M. Puakea Nogelmeier, translator. Awaiaulu Press, Honolulu.

2008b *Ka Mo'olelo o Hi'iakaikapoliopele.* Original Hawaiian text taken from series of articles in *Ka Na'i Aupuni* 1905-1906. Awaiaulu Press, Honolulu.

Huapala.org
n.d. *Kōloa.* Electronic document, http://www.huapala.org/Ko/Koloa.html

Hula Preservation Society
2014 Hula Preservation Society website. Available online at http://hulapreservation.org.

Ida, Gerald K., Victoria S. Creed, and Hallett H. Hammatt
1997 *Archaeological Investigation for Environmental Assessment of the Proposed Koloa/Poipu Bypass Road Koloa, Weliweli, Kona Kauai (TMK: 2-8-02: por 3; 2-8-03: por. 1; 2-8-04: por. 1 and 2-8-05: por. 2).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

James, Van
1991 *Ancient Sites of O'ahu: A guide to Hawaiian archaeological places of interest.* Bishop Museum Press, Honolulu.

Jarves, James J.
1844 *Scenes & Scenery in the Sandwich Islands . . . during the Years 1837–1842.* James Munroe and Company, Boston

Judd, Bernice
1935 Kōloa, A Sketch of Its Development. In *Kaua'i Historical Society Papers,* Volume II, Honolulu.

Kamai, Nancine "Missy" and Hallett H. Hammatt
2021 *Archaeological Monitoring Report for the Koloa Elementary School Effluent Disposal Replacement Project (DOE Job No. P42008-13) Koloa Ahupuaa, Koloa District, Kauai, TMK: (4) 2-8-010:011.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Kauai Historical Society
1888 Blake sketch map of Kōloa Village. Kauai Historical Society, Līhu'e, Kaua'i.

Kawelu, Kathleen L.
2015 *Kuleana and Commitment: Working Toward a Collaborative Hawaiian Archaeology.* University of Hawai'i Press, Honolulu.

Kikuchi, William K.
1963 *Archaeological Survey and Excavations on the Island of Kauai, Kona District Hawaiian Islands.* Committee for the Preservation of Hawaiian Culture, Līhu'e, Kaua'i, Hawai'i.

1981 *Reconnaissance Survey, Archaeological Sites Weliweli Tract, TMK 2-8-22 Por. 6 Kōloa District, Island of Kaua'i.* Anthropology Club of Kaua'i Community College, Kaua'i, Hawai'i.

Kikuchi, William K. and Susan Remoaldo
1992 *Cemeteries of Kaua'i, Volume 1.* Kaua'i Community College, Puhi, Hawai'i.

Kirch, Patrick Vinton
1977 Valley Agricultural Systems in Prehistoric Hawaii: An Archaeological Consideration. *Asian Perspectives.*

2010 *How Chiefs Became Kings: Divine Kingship and the Rise of Archaic States in Ancient Hawai'i.* University of California Press, Oakland, California.

Krause, Layne, Jay Rapoza, Angela L. Yates, and Hallett H. Hammatt
2021 *Archaeological Assessment for the Koloa Rum Company Improvements Project Koloa Ahupuaa, Koloa District, Kauai. TMK: [4] 2-8-006:001.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Lahainaluna School

1885 *Heiaus and Fishing Grounds [of Koloa, Kauai]* [translation]. HMS 43, #17. Bishop Museum Archives, Honolulu.

Levy, Benjamin

1978 "National Register of Historic Places Inventory-Nomination Form. Old Sugar Mill at Koloa." United States Department of the Interior, National Park Service: (August 1978) Washington, D.C.

McGerty, Leann, Sarah K. Yeomans, and Robert L. Spear

2000 *Historic Preservation Documentation Report on the Koloa Bypass Lava Tubes in Koloa, Kaua'i Island, Hawai'i.* Scientific Consultant Services Inc., Honolulu.

McGregor, Davianna Pomaika'i

1996 *Nā Kua'āina: Living Hawaiian Culture.* University of Hawai'i Press, Honolulu.

Monahan, Christopher M.

2005 *An Archaeological Assessment Report of Approximately 6.926 Acres of Land in Wailuku Ahupua'a, Wailuku District, Island of Maui, Hawai'i (TMK: 3-7-004:001; TMK: 3-7-005: 003, 011, & 023).* Scientific Consultant Services, Inc., Honolulu.

Monsarrat, M.D.

1891 Map: Hawaii Territorial Survey, Koloa. Traced from M.D. Monsarrat ca. 1891 Government Survey Map 1694 by T.B. Butch and E.J. Grube, September 1918. Hawai'i Land Survey Division, Department of Accounting and General Services, Honolulu. Available online at http://dags.hawaii.gov/survey/search.php

Nakuina, Moses K.

1990 *The Wind Gourd of La'amaomao.* First edition. Esther T. Mookini and Sarah Nākoa, translators. Kalamakū Press, Honolulu.

1992 *The Wind Gourd of La'amaomao.* Second edition. Esther T. Mookini and Sarah Nākoa, translators. Kalamakū Press, Honolulu.

Office of Hawaiian Affairs

2015 Papakilo Database. Office of Hawaiian Affairs cultural and historical database. Electronic document, http://papakilodatabase.com/main/index.php (accessed August 2020).

Pacific Commercial Advertiser

1857 Article. *Pacific Commercial Advertiser.* 19 February.

Palama, Stephen L. and Catherine Stauder

1973 *The Archaeology of Kona, Kaua'i from the Ahupua'a of Kōloa to the Ahupua'a of Weliweli. Archaeological Reconnaissance of the Proposed Cane Haul Road to the Koloa Mill for McBryde Sugar Co., Ltd.* Archaeological Research Associates, Honolulu.

Pammer, Michelle F., Sarah Wilkinson, and Hallett H. Hammatt

2010 *Archaeological Monitoring Report for Koloa Elementary School, Hawaii Inter-Island DOE Cesspool Project Kōloa Ahupua'a, Kōloa District, Island of Kaua'i TMK: [4] 2-8-010:011.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Pauketat, Timothy R.
2001 *The Archaeology of Traditions*. University Press of Florida, Gainesville, Florida.

Pukui, Mary K.
1949 Songs (Meles) of Old Ka'u, Hawaii. *Journal of American Folklore*, July-September:247–258.

1983 *'Ōlelo No'eau. Hawaiian Proverbs & Poetical Sayings.* Bishop Museum Special Publication No. 71. Bishop Museum Press, Honolulu.

1995 *Na Mele Welo: Songs of Our Heritage.* University of Hawai'i Press, Honolulu.

Pukui, Mary K. and Samuel H. Elbert
1986 *Hawaiian Dictionary*. University of Hawaii Press, Honolulu.

Pukui, Mary K., Samuel H. Elbert, and Esther Mookini
1974 *Place Names of Hawaii.* University of Hawaii Press, Honolulu.

Rieth, Timothy and Ethan E. Cochrane
2015 Chronology of Colonization in Remote Oceania (The). In *Oxford Handbook of Prehistoric Oceanic* (forthcoming). Oxford Handbooks Online, www.oxfordhandbooks.com.

Riley, Thomas J.
1975 Survey and Excavations of the aboriginal agricultural system in Prehistory and Ecology in a Windward Hawaiian Valley: Halawa Valley, Molokai: 79-115, ed. Patrick V. Kirch and Marion Kelly, Pacific Anthropological Records. Bishop Museum, Honolulu.

Schmitt, Robert C.
1977 *Historical Statistics of Hawaii.* University of Hawaii Press, Honolulu.

Simonson, Mindy and Hallett Hammatt
2008 *Archaeological Data Recovery Report For SIHP #s 50-30-10-3933 and -3934 Within the Proposed Koloa Creekside Estates Project Area, Kōloa Ahupua'a, Kōloa District, Kaua'i Island TMK: [4] 2-8-009:001.* Cultural Surveys Hawai'i, Inc., Kailua Hawai'i.

Soehren, Lloyd J.
2013 *Hawaiian Place Names*. Ulukau: The Hawaiian Electronic Library. Electronic document, http://ulukau.org (accessed May 2013).

Stauder, Catherine
1973 Observations on Kuhiau Heiau. *Archaeology on Kauai* Vol 2, No. 4 October 1973. Kaua'i Community College, Līhu'e, Hawai'i.

Thrum, Thomas G.
1906 Heiaus and Heiau Sites Throughout the Hawaiian Islands, Island of Kauai. In *Hawaiian Almanac and Annual 1907*. Thos. G. Thrum, Honolulu.

Townsend, John
1839 *Narrative of a Journey Across the Rocky Mountains....and a Visit to the Sandwich Islands and Chile...* H. Perkins and Marvin, Boston.

Tulchin, Jon and Hallett H. Hammatt

2005 *Archaeological Literature Review and Field Inspection for a 8.5-Acre Knudsen Trust Parcel, Kōloa Ahupua'a, Kona District, Island of Kaua'i TMK: 2-18-14: por. 01.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Tulchin, Jon, Amy Hammermeister, and Hallett Hammatt

2007 *Archaeological Inventory Survey of an Approximately 10-Acre Knudsen Trust Parcel Kōloa Ahupua'a, Kona District, Island of Kauai TMK: [4] 2-8-011:001.* Cultural Surveys Hawai'i, Inc., Kailua Hawai'i.

Tulchin, Todd and Hallett H. Hammatt

2005 *Archaeological Inventory Survey of Approximately an Approximately 2.8 Acre-Knudsen Trust Parcel Kōloa Ahupua'a, Kona District, Island of Kauai TMK (4) 2-8-013:001 por.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ulukau

2014 *Māhele Database.* Hawaiian Electronic Library, http://ulukau.org/cgi-bin/vicki?l=en.

U.S. Army Air Corps

1928 Kōloa aerial photograph. (UH MAGIS) Hawai'i State Archives, Honolulu.

USDA (U.S. Department of Agriculture)

1965 USDA Aerial Survey Photograph (Kōloa). University of Hawaii Maps, Aerial Photographs, and Geographic Information Systems (UH MAGIS) (http://guides.library.manoa.hawaii.edu/magis).

2001 Soil Survey Geographic (SSURGO) database. U.S. Department of Agriculture, Natural Resources Conservation Service. Fort Worth, Texas. http://www.ncgc.nrcs.usda.gov/products/datasets/ssurgo/ (accessed March 2005).

USGS (U.S. Geological Survey)

1951 Aerial photograph of Kōloa. USGS Information Services, Denver.

1996 Koloa USGS 7.5-minute series topographic quadrangle. USGS Information Services, Denver.

2017 Koloa USGS 7.5-minute series topographic quadrangle. USGS Information Services, Denver.

Vancouver, George

1798 *A Voyage of Discovery to the North Pacific Ocean and Round the World Performed in the Years 1790-95.* 3 Volumes. G.G. and J. Robinson and J. Edwards, London, England.

Vizenor, Gerald

1999 *Manifest Manners: Narratives on Postindian Survivance.* University of Oklahoma Press, Lincoln, Oklahoma.

Waihona 'Aina

2024 *The Māhele Database.* Electronic document, http://waihona.com.

Walker, Alan T. and Paul H. Rosendahl

1990 *Archaeological Inventory Survey, Hyatt Regency Kauai Proposed Golf Course Project Area, Land of Paa, Koloa District Island of Kauai (TMK: 4-2-9-01: por.1).* Paul H. Rosendahl, Inc., Hilo, Hawai'i.

Walker, Alan T., Lehua Kalima, and Susan T. Goodfellow

1991 *Archaeological Inventory Survey, Lihue/Puhi/Hanamaulu Master Plan, Lands of Hanamaulu, Kalapaki, Nawiliwili, Niumalu, and Wailua, Lihue District, Island of Kauai.* Paul H. Rosendahl, Inc., Hilo, Hawai'i.

Wichman, Frederick B.

1991 *Polihale and other Kaua'i Legends.* Bamboo Ridge Press, Honolulu.

1998 *Kaua'i. Ancient Place-Names and Their Stories.* University of Hawai'i Press, Honolulu.

Wilcox, Carol

1998 *Sugar Water: Hawaii's plantation ditches.* University of Hawai'i Press, Honolulu.

Wilson, Jon and Michael Dega

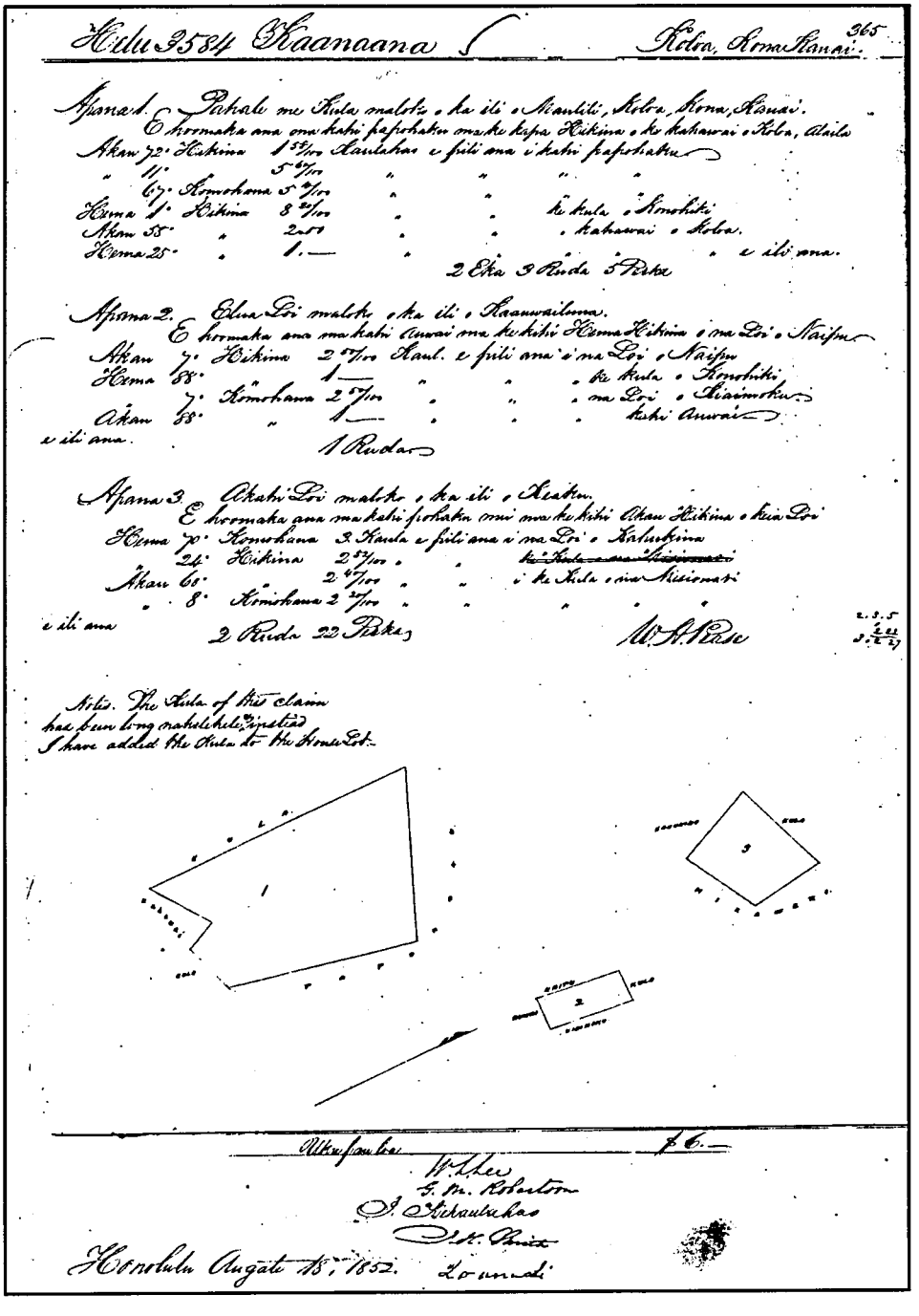
2004 *Archaeological Inventory Survey Report of the Old Kōloa Sugar Mill.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

WRCC (Western Regional Climate Center)

2010 *1961-1990 Monthly Climate Summary for Kawailoa.* Available online at http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?hi3754

Appendix A LCA Data

LCA 3584:1 to Kaanaana 5:365



Hilu 3584 Kaanaana Koloa, Koma Kauai. 365

Apana 1. Pakale me Kula malokoi o ka ili o Kaulili, Koloa, Koma, Kauai.
E hormaka ana ma kahi papohaku ma ke kapa Hikina o ke kahawai o Koloa, Aila
Akau 72° Hikina 1 57/100 Kaulahao e pili ana i kahi papohaku
" 11° 5 67/100 " " " "
" 67° Komohana 5 4/100 " " ke kula o Komoholi
Hema 1° Hikina 8 2/100 " " kahawai o Koloa.
Akau 55° " 2 00 " " " " e ili ana.
Hema 25° " 1 — " " 2 Eka 3 Ruda 5 Pika

Apana 2. Elua Loi malokoi o ka ili o Kaauwailuna.
E hormaka ana ma kahi Auwai ma ke kihi Hema Hikina o na Loi o Naipu
Akau 7° Hikina 2 57/100 Kaul. e pili ana i na Loi o Naipu
Hema 88° 1 — " " " ke kula o Komoholi
7° Komohana 2 57/100 " " " na Loi o Kaaimoku
Akau 88° " 1 — " " " kahi Auwai
e ili ana. 1 Ruda

Apana 3. Akahi Loi malokoi o ka ili o Keaiku.
E hormaka ana ma kahi papohaku mui ma ke kihi Akau Hikina o kia Loi
Hema 70° Komohana 3 Kaula e pili ana i na Loi o Kalukoina
24° Hikina 2 57/100 " " ke Kula o Kaimoku
Akau 66° " 2 47/100 " " i ke Kula o na Kiionati
8° Komohana 2 27/100 " " " "
e ili ana 2 Ruda 22 Pika

W. A. Rise

2.3.5
4.11
5.27

Note. The Kula of this claim has been long established, & practised I have added the Kula to the Home Lot.

Akau fanba. $6.—
W. Lee
S. M. Robertson
J. Kekauokalo
Honolulu August 18, 1852. Konuali

Transliteration for LCA 3584:1 to Kaanaana

Helu 3584 Kaanaana *Koloa, Kona, Hawaii.*

Apana 1. Pahale me Kula maloko o ka ili o Maulili, Koloa, Kona, Hawaii.

E hoomaka ana ma kahi pa pohaku ma ke kapa Hikina o ko kahawai o Koloa, Alaila

Akau	*72° Hikina*	*$1^{58/100}$*	*Kaulahao*	*e pili*	*ana i*	*kahi papohaku*
"	*11° "*	*$5^{60/100}$*	*"*	*"*	*"*	*"*
"	*67° Komohana*	*$5^{10/100}$*	*"*	*"*	*"*	*"*
Hema	*1° Hikina*	*$8^{20/100}$*	*"*	*"*	*ke kula o Konohiki*	
Akau	*55° "*	*$2.^{00}$*	*"*	*"*	*kahawai o Koloa*	
Hema	*25° "*	*1.-*	*"*	*"*	*"*	*" " e ili ana*

2 Eka. 3 Ruda. 5 Peska

[...]

Notes: The *Kula* of this claim has long been *nahelehele* instead. I have added the *kula* to the House Lot W. H. Pease

[Diagram in Original]
[Text in Diagram: 1, *Kula, Pa Pohaku, Kula, Kahawai*

Uku pau loa *$6.-*

W. L. Lee
G. M. Robertson
J. H. Smith
J. Kekaulahao
Ioane Ii

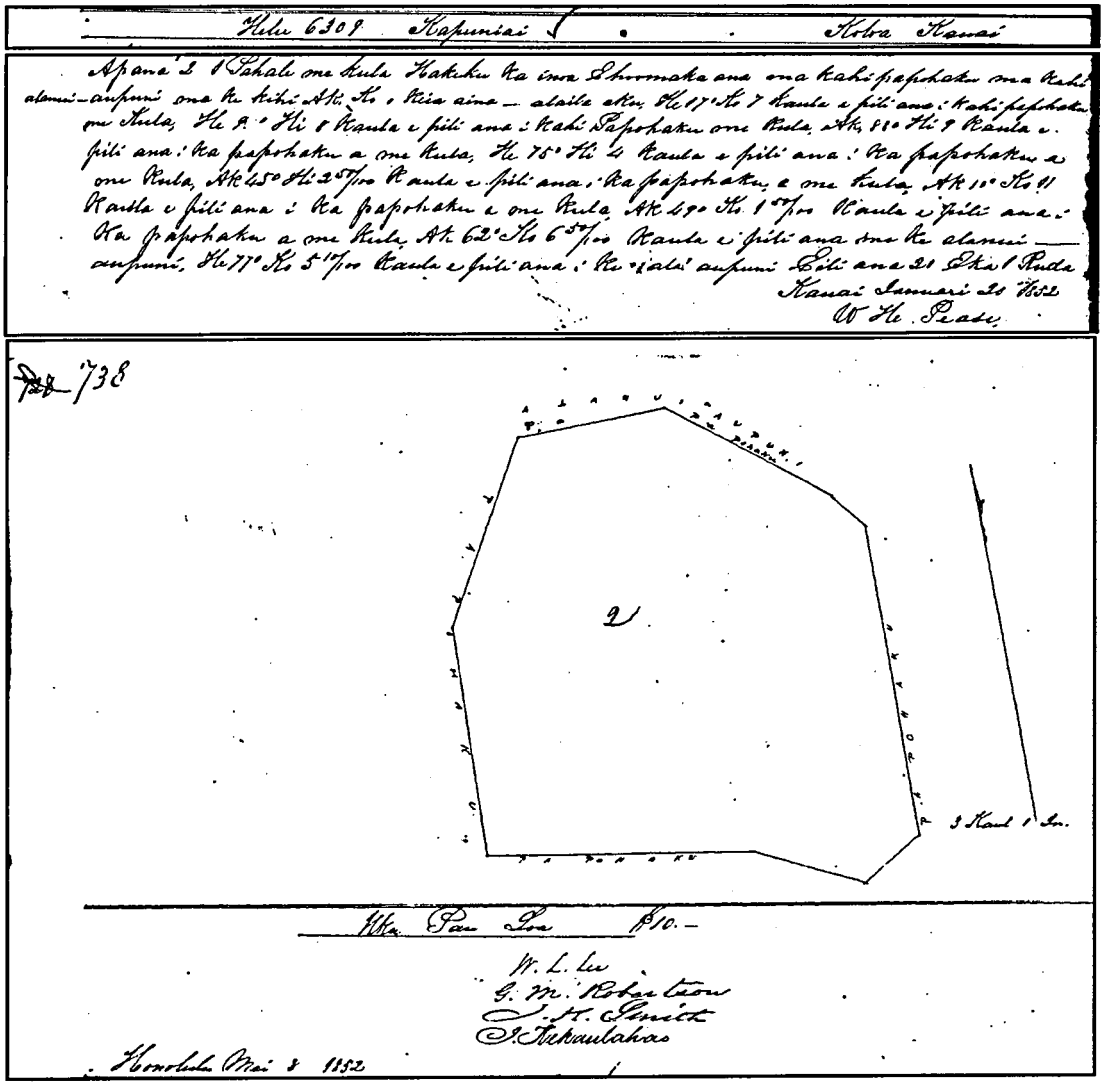
Honolulu Augate 18, 1852.

Summary for LCA 3584:1 to Kaanaana

Kaanaana's LCA claim in the year 1852 was for three parcels but only his claim for LCA 3584:parcel 1 concerns us here. This claim was for a house lot (*pā hale*) but the parcel included an area of dry land (*kula*). We have a note from the surveyor (W.H. Pease) that the *kula* that was included in the parcel and had been overgrown in weeds (*nāhelehele*) of long-standing.

The text description for LCA 3584 'Āpana 1 and the accompanying map (at left, labeled "1") are consistent the description starts at the middle of the south side where a rock wall (pā pōhaku) is on the east side of the stream (*kahawai*) and proceeds counter-clockwise. The short, eastern south side is bounded by a rock wall and dry (*kula*) land. The long southeast and northeast sides (including the east corner of the present project area), are bounded by a rock wall (*pā pōhaku*). The long west side is bounded by dry land (*kula*) under the headman of the *ahupua'a* (*konohiki*). The angle on the western south side is bounded by a watercourse (*kahawai*).

LCA 6309:2 to Kapuniai 6:737



Transliteration for LCA 6309:2 to Kapuniai

Helu 6309 Kapuniai *Koloa Kauai*

[...]

Apana 2 Pahale me kula Hakuku ka inoa. E hoomaka ana ma kahi papohaku me kahi alanui-aupuni ma ke kihi Ak. Ko. O keia aina – alaila aku He 17° Ko 7 kaula e pili ana i kahi papohaku me kula, He 9° Hi 8 kaula e pili ana i nkahi Papohaku me Kula Ak. 88° Hi 9o Kaula e pili ana : ka papohaku a me kula. He 75° Hi 4 kaula e pili ana: ka papohakua me kula Ak 45° Hi 2$^{50/100}$ Kaula e pili ana i ka papohaku aku a me kula Ak 10° Ko 11 Kaula e pili ana i ka papohaku a me kula Ak 49° Ko 1 50/100 Kaula e pili ana i ka papohaku a me kula Ak 62° Ko 6 50/100 Kaula e pili ana me ke alanuiaupuni. He 77° Ko 5 10/100 Kaula e pili ana I ke ala aupuni. Eli ana 20Eka 1 Ruda

Kauai Ianuari 20 1852

W.H. Pease

[Diagram in Original]
[Text in Diagram: 1, *Alanui aupuni, Pa, Pa pohaku, Papohaku, Pa Poahaku, Pa Pohaku 2*

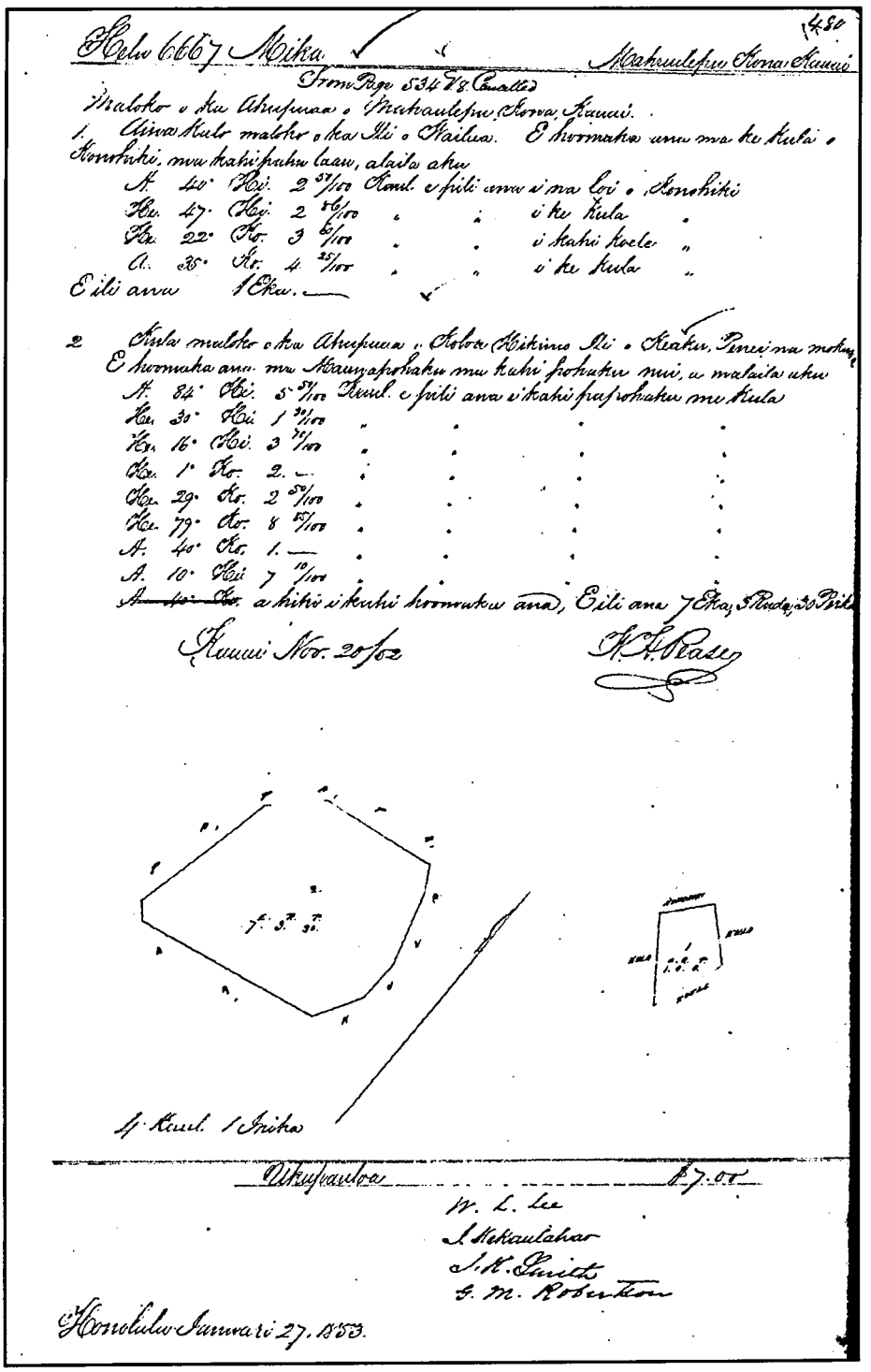
Uku pau loa *$6.-*

W. L. Lee
G. M. Robertson
J. H. Smith
J. Kekaulahao
Ioane Ii

Summary for LCA 6309:2 to Kapuniai

Kapuniai claimed two parcels within his LCA 6309 in the year 1852 at Kōloa, Kaua'i. What concerns us here is LCA 6309:2, a claim a house lot (*pā hale*) and associated *kula,* dry land area (possible for dryland agriculture, but likely just pasture named "Hakuku". The text and attached map are commensurate with the account starting at the northwest corner, at a stone wall (*pāpōhaku*) along a government road (*alanui aupuni*) and proceeding counter-clockwise. All sides of the parcel are bounded by a stone wall. Of interest is the wall (*pā pōhaku*) and government road (*alanui aupuni*) that bounds the north and northeast sides of LCA 6309:2 as these would have been adjacent to the south central portion of the present project area for a reported distance of 6.5 *kaula* + 5.1 *kaula* understood as 11.6 *kaula* or 766 feet or 234 m.

LCA 6667:2 to Mika



Helu 6667 Mika — Mahuulepu Kona Kauai

From Page 534 V8 Cancelled

Maloko o ka Ahupuaa o Mahaulepu, Kona, Kauai.

1. Aina kulo maloko o ka Ili o Nailua. E hoomaka ana ma ke kula o Konohiki, ma kahi pahu laau, alaila aku

A. 40° Hi. 2 57/100 Kaul. e pili ana i na loi o Konohiki
He. 47° Hi. 2 86/100 " " i ke kula "
He. 22° Ko. 3 60/100 " " i kahi koele "
A. 35° Ko. 4 25/100 " " i ke kula "

E ili ana 1 Eka.

2 Kula maloko o ka Ahupuaa o Koloa Hikimo Ili o Keaku, Penei na mokuna. E hoomaka ana ma Maunapohaku ma kahi pohaku nui, a malaila aku

A. 84° Hi. 5 50/100 Kaul. e pili ana i kahi papohaku me kula
He. 30° Hi. 1 30/100 " " " "
He. 16° Hi. 3 70/100 " " " "
He. 1° Ko. 2. — " " " "
He. 29° Ko. 2 50/100 " " " "
He. 79° Ko. 8 85/100 " " " "
A. 40° Ko. 1. — " " " "
A. 10° Hi. 7 10/100 " " " "
~~A. 40° Ko.~~ a hiki i kahi hoomaka ana, E ili ana 7 Eka, 5 Rada, 30 Perika

Kauai Nov. 20/52 W. A. Rease

4 Kaul. 1 Iniha

Dikupauloa $7.00

W. L. Lee
J. Mekaulahao
J. K. Smith
G. M. Robertson

Honolulu Januari 27, 1853.

Transliteration for LCA6667:2 to Mika

Helu 667 Mika

[...]

2. Kula Makoko o ka Ahupuaa o Koloa Hikina Ili o Keaku. Penei na mokuna.

E hoomaka ana ma Maunapohaku ma kahi pohaku nui, a malaila aku

A.	*84° Hi*	*5 50/100 Kuul. E pili ana i kahi papohaku me kula.*	
He.	*30° Hi*	*1 30/100 "*	"
He.	*16° He*	*3 70/100 "*	"
He	*1° Ko*	*2.- "*	"
He	*29° Ko*	*2 50/100 "*	"
He	*79° Ko*	*8 85/100 "*	"
A	*40° Ko.*	*1- "*	"
A	*10° He*	*7 10/100 "*	"

A hiki i kahi hoomaka ana, Eili ana 7 Eka, 3 Ruda, 30 Pauku

Summary for LCA 6667:2 to Mika ""

This account is initially a tad confusing as the heading cites a far distant place ("Māhā'ulepū") but that was the location of Mika's LCA 6667 parcel 1 and it is clear that Mika's LCA 6667:2, that concerns us here, was for a parcel of *kula* (dry land) in Kōloa, specifically in the *'ili* of Keaku.

The account starts in the northwest corner at a place called "*Mauna Pōhaku*" (Rock Mountain" which is described as a certain great rock (*kēkahi pōhaku nui*), and then proceeds clockwise. All eight sides are described as bounded by a stone wall (*pā pōhaku*) and *kula* (dry land) with the indication that on the outside of the rock wall all around the perimeter is undescribed dry land (which could have been non-irrigated agricultural land, or fallow, or pasture, or just vacant land).

Appendix B Community Outreach Letter

CULTURAL SURVEYS HAWAI'I
ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL DOCUMENTATION SERVICES - SINCE 1982

P.O. Box 1114 Kailua, Hawai'i 96734 Ph: (808) 262-9972 Fax: (808) 262-4950

Aloha mai kāua,

With this letter, Cultural Surveys Hawai'i (CSH) humbly requests your *mana'o* and *'ike* (experience, insights, and perspectives) regarding past and ongoing cultural, practices, beliefs, and resources within the Kōloa Ahupua'a. This letter serves as a request for consultation for the associated Ka Pa'akai Analysis.

Consultation with traditional cultural practitioners, *kūpuna*, *kama'āina*, and Hawai'i's diverse ethnic communities is an important and deeply valued part of our work and the environmental review process for proposed projects in Hawai'i. Your contributions will revitalize and keep alive knowledge of cultural practices, storied places, and life experiences that will remind Hawai'i's children of their history for generations to come.

Project Description

SK Investors LLC requests that CSH perform a Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: (4) 2-8-011:001.

SK Investors LLC is proposing for the development of a primary housing project consisting of single and multi-family residentials, park space, various drainage and utility improvements, and an internal road.

Purpose of the Study

In Ka Pa'akai O Ka 'āina v. Land Use Comm'n, 94 Hawai'i 31, 7 P.3rd 1068 (2000), the Hawai'i Supreme Court detailed a three-prong test for decision impacting traditional rights and resources, which requires specific findings regarding:

1. the identity and scope of cultural, historical, and natural resources in the affected area included the extent to which traditional and customary rights and practices are exercised in that area;
2. the extent to which those resources, rights, and practices will be affected by the proposed action; and
3. feasible action, if any, to reasonably protect Native Hawaiian rights and practices. (https://casetext.com/case/ka-paakai-o-kaaina-v-land-use-comn)

As a traditional cultural practitioner and holder of long-term knowledge, your insight, input, and perspective provide a valuable contribution to the assessment of potential effects of this project and an understanding of how to protect these resources and practices.

Insights focused on the following topics (shown on the attached Figure 1 and Figure 2) are especially helpful and appreciated:

- Your knowledge of traditional cultural practices of the past within the Kōloa Ahupua'a
- Your specific traditional cultural practice and its connection to the Kōloa Ahupua'a

Figure 21. Community Outreach Letter, page one

Ka Pa'akai Analysis for the South Koloa Town Project

Page 2

- The different natural resources associated with your specific traditional cultural practice
- Legends, stories, or chants associated with your specific traditional cultural practices and their relationships to the Kōloa Ahupua'a
- Referrals to other *kūpuna*, *kama'āina*, and traditional cultural practitioners knowledgeable about the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on your ongoing traditional cultural practices and natural resources within the Kōloa Ahupua'a
- Your knowledge of cultural sites and *wahi pana* (storied places) within the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on cultural sites and *wahi pana* within the Kōloa Ahupua'a

Consultation Information

Consultation is an important and deeply valued part of this study and environmental review process. Your contributions will revitalize and keep alive our combined knowledge of past and ongoing cultural practices, historic places, and experiences, reminding our children of their history generation and generation. With your agreement to participate in this study, your contributions will become part of the comprehensive understanding of traditions of the area, and part of the public record.

As a part of this process, your knowledge may be used to inform future heritage studies of cultural practices and resources that need protection from the impacts of proposed future projects. If you engage in consultation, and the *mana'o* and *'ike* you provide appears in the study, we would like to recognize your contribution by including your name. If you prefer not to allow your name to be included, your information can be attributed to an anonymous source.

The consultation interview structure and format are flexible. We will accommodate your preference on how to get together: talk story, over the phone, by email correspondence, remotely via Zoom, MS Teams, Google Chat or other remote meeting platforms.

Your knowledge of the resources and potential effect of the project on traditional practices in the Kōloa Ahupua'a focusing on the topics in the bullet points above can also be submitted in a written statement. CSH will provide return postage of your written statement on request.

CSH is happy to provide a list of topics for discussion, a more structured questionnaire of interview questions, or any other assistance that might be helpful. If you have questions or are interested in participating in this study, please contact CSH Cultural Researcher Chantellee Spencer by email at cspencer@culturalsurveys.com. I am available by phone at (808) 965-6478.

Mahalo nui loa,

Chantellee Konohia Spencer

CSH Cultural Researcher

Figure 22. Community Outreach Letter, page two

Ka Pa'akai Analysis for the South Koloa Town Project

Page 6

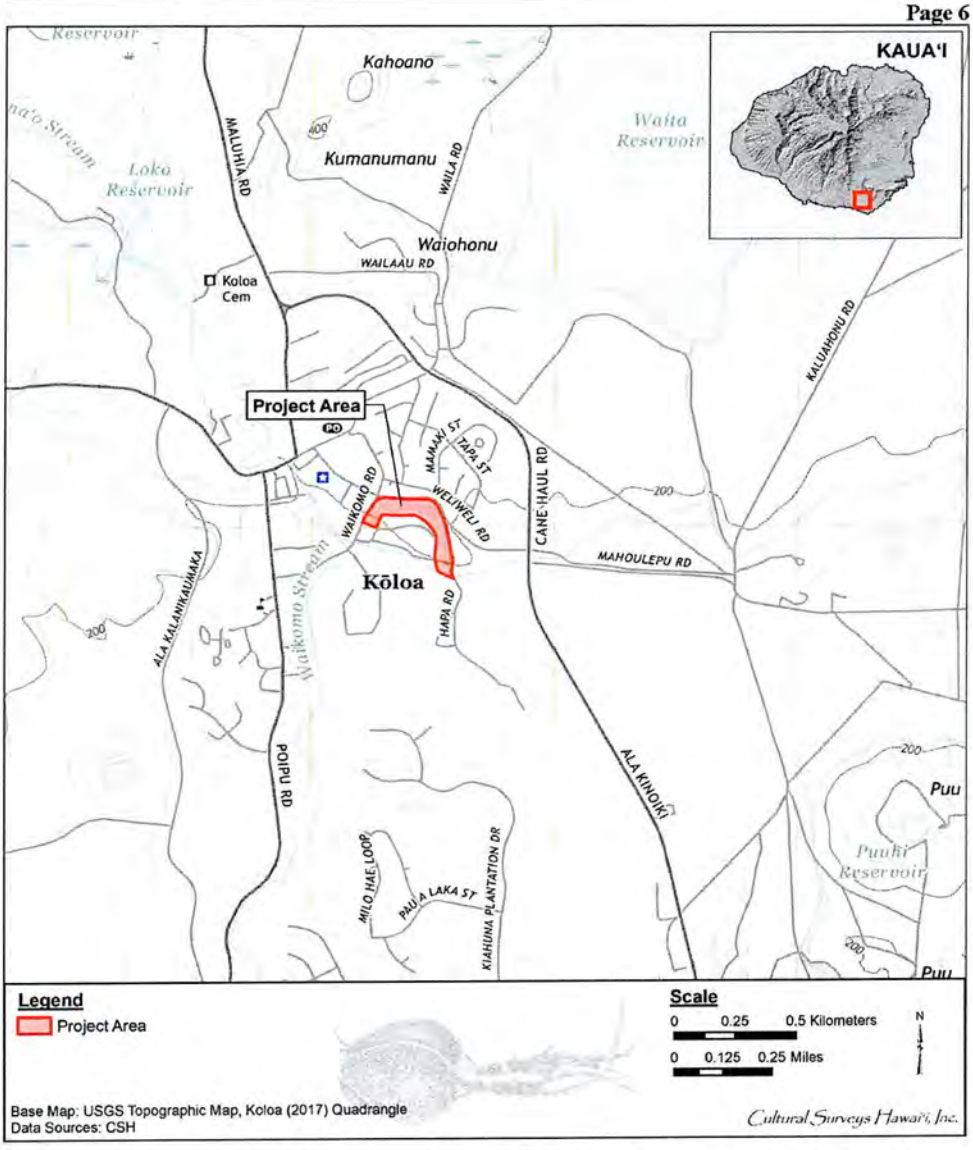


Figure 1. Portion of the 2017 Koloa USGS 7.5-minute topographic map quadrangle with the boundary of the project area delineated

Figure 23. Community Outreach Letter, page three

Ka Pa'akai Analysis for the South Koloa Town Project

Page 4

Figure 2. 2022 ESRI aerial image depicting the boundaries of the project area

Figure 24. Community Outreach Letter, page four

Appendix C Roslyn Cummings Testimony

AFFIDAVIT OF CULTURAL OPPOSITION, NOTICE OF NON-CONSENT, AND ASSERTION OF INHERENT BIRTHRIGHTS

Against the South Kōloa Town Project – TMK (4) 2-8-011:001 (fraudulent description)

Filed in Protection of Kōloa Ahupua'a | Government Lands of 1848 | Inheritance of the Hawaiian Nation (Ko Hawai'i Pae 'Āina)

Submitted Under Penalty of Perjury, Revolution of Law, and Exclusive Equity Jurisdiction

TO BE SERVED UPON:

County of Kaua'i Legal Department

County of Kaua'i Planning Department

County Engineering & Roads Division

County Department of Water

County Housing & Economic Development Division

State of Hawai'i Department of Land and Natural Resources (DLNR)

State Historic Preservation Division (SHPD)

State Department of Health (DOH)

State Department of Transportation (DOT)

U.S. Department of the Interior (DOI), including Land Inventory and HCCA

Commission on Water Resource Management

All agents and contractors acting under or in cooperation with SK Investors LLC, CSH, or related private or public entities

I. DECLARATION OF STANDING AND LAWFUL INTEREST

I, Roslyn Nicole Manawaiakea Mālama mare Cummings known as Roslyn Cummings a living, breathing wahine maoli, hereby declare:

I am a ho'oilina (heir) and native tenant (hoa'āina) of Kōloa Ahupua'a;

I am a descendant of ali'i and kahu of this land, including Kamakahelei, Chief Kukona, Chief Palikua (mo'okuauhau of Prince Kuhio), Chief Luanu'u, and their sacred genealogical lines;

I am the authorized signatory and Trustee of the Malama:Cummings 'Ohana God Trust©, filed under law to protect God's inheritance on earth through spiritual and lawful jurisdiction.

- Recorded in the Bureau of Conveyances (Regular System): Document Nos. A-9210000469 and A-9210000470 – establishing title claims, jurisdictional standing, genealogical succession, and lawful protest.
- Filed with the Land Court (1CLD-24-0003640): Recognizing mo'okū'auhau-based trust claims and asserting constructive trust protections over ancestral land and burial sites.
- Filed with the Hawai'i Supreme Court (SCOT-25-0000197): Invoking treaty protections, equity jurisdiction, and demanding fiduciary remedy under rule of law.
- Filed with the Fifth Circuit Court (5CCV-25-0000033): Court of Record affidavit asserting trust violation, breach of fiduciary duty, fraud, desecration, obstruction, and unlawful interference with succession and stewardship.

Let the record reflect: These filings are unrebutted.

Under the law of affidavits, they now stand as truth in law.

These lands are held in trust for us as na kanaka, kanaka maoli, hoa'aina, ho'oilina as heirs inherently through our birthrights, and our children's future as mo'opuna and I declare non-consent to any development, excavation, or redirection of the natural flow of wai (water), the desecration of iwi kūpuna, and the commodification of our sacred places.

II. AFFIRMATION OF HAWAIIAN KINGDOM LAW

Under the Rule of Law, the Law of Evidence, and the Ten Maxims of Law, I stand in exclusive equity jurisdiction, protected by:

- The 1839 Declaration of Rights of People and Chiefs
- The 1840 & 1852 Hawaiian Kingdom Constitutions
- The 1850 Kuleana Act

- The 1848 Māhele Land Division, which established Government Lands held in trust—not for private sale or speculation
- The 1849 Treaty of Friendship with the United States, still in full legal effect
- Customary, Civil, Common, Trust, and International Law
- The Clearfield Doctrine, which rebuts unauthorized corporate actors acting as de facto government
- UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples
- Ka Pa'akai o ka 'Āina v. Land Use Comm'n, 94 Haw. 31 (2000), establishing a three-prong test to protect cultural rights before development can proceed.

III. PROTECTED CULTURAL RESOURCES

The area of the proposed South Kōloa Town Project is a sacred place (wahi pana) and includes:

- Burial grounds iwi kūpuna and their waiwai
- Underground water systems (huna wai), above ground water way systems and ana cave networks tied to Kane and Kanaloa
- The seating house of ali'i including Chief Kiha and the birthright of his son Keawe
- The battleground and governing seat of Kukona and Manokalanipō, whose legacy continues through living heirs
- Medicinal and food-bearing resources which constitute our waiwai (true wealth), not for corporate conversion

Any intrusion, development, or alteration constitutes tortious conversion, constructive fraud, and violation of subject matter jurisdiction.

IV. FEE SCHEDULE FOR VIOLATIONS

By law, the following fee schedule is now activated and recorded:

- Unlawful entry or desecration of burial site: $1,000,000 per offense
- Unauthorized use of name, genealogy, or cultural authority: $250,000 per occurrence
- Tampering with natural waterways or underground wai: $1,500,000 per incident

- Proceeding without lawful rebuttal to affidavit: $1,000/day in damages for obstruction of remedy
- Each agency or agent in breach of fiduciary trust: $500,000 per actor plus triple damages under equity

This fee schedule is enforceable through trust law, court of record, and constructive lien processes under divine and lawful jurisdiction.

V. FINAL DECLARATION AND NON-CONSENT

I hereby declare:

I do not consent to any jurisdiction or authority claimed by the State of Hawai'i, the County of Kaua'i, or any federal entity that does not acknowledge the sovereignty, governance, self-determination and legal continuity of the Hawaiian Kingdom and our inherent birthrights.

I demand a full halt to all planning and permitting of the South Kōloa Town Project and a public hearing recognizing lineal heirs under Hawaiian Kingdom law.

I affirm my kuleana to protect the legacy of Kōloa Ahupua'a for all future generations.

Affirmed and Declared This 07/04/2025

in the Hawaiian Kingdom, island of Kaua'i, Ko Hawai'i Pae 'Āina

Under Penalty of Perjury

All Rights Reserved, Without Prejudice

Roslyn Nicole Manawaiakea Mālama mare Cummings known as Roslyn Cummings

Trustee, Malama:Cummings 'Ohana God Trust©

Wahine Maoli | Ho'oilina | Hoa'āina | Kahu Wahi Pana

Email: roslyncummings@ymail.com

VI. DECLARATION OF SACREDNESS OF 'ĀINA AND LAWS THAT PROTECT IT

This 'āina is not just land — it is a living, breathing, sacred relative. It is the foundation of our identity, spirituality, genealogy, and cultural practices. Every stone (pōhaku), every stream (kahawai), every breath of wind (makani) carries ancestral knowledge and divine presence. The 'āina is the body of Papahānaumoku and the breath of Wākea, and we are its stewards, not its owners. We are born from it, return to it, and are bound to protect it.

The following laws, doctrines, and declarations uphold the sacredness and legal inviolability of this 'āina:

1. 1839 Declaration of Rights of the Chiefs and People
   "God hath made of one blood all nations... All men of every religion shall be protected in worshipping Jehovah... No law shall be enacted which is at variance with the word of the Lord Jehovah..."
   This protects kanaka maoli rights to the 'āina as sacred inheritance, not subject to seizure, sale, or desecration.
2. 1840 Hawaiian Kingdom Constitution
   Recognizes the divine foundation of the Hawaiian government and protects all persons in their kuleana, ensuring "that no one shall be deprived of life, liberty, or property without due process."
3. Kuleana Act of 1850
   Guarantees hoa'āina the right to cultivate and occupy the 'āina for sustenance, ceremony, and dwelling — not for foreign development.
4. Ka Pa'akai o ka 'Āina v. Land Use Comm'n, 94 Haw. 31 (2000)
   Requires identification, protection, and mitigation of impacts to customary and traditional rights before any development is approved. Any project that threatens cultural resources must be halted unless it can meet this legal standard.
5. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
   Articles 11, 12, 25, and 26 affirm the rights of Indigenous Peoples to their lands, sacred sites, burial grounds, and the transmission of cultural practices.
6. Doctrine of Discovery (Rebutted)
   The fraudulent use of the Doctrine of Discovery to claim land from its original stewards is nullified under both international law and Hawaiian Kingdom law. The 'āina was never lawfully ceded.

7. Law of Nations / Trust Law / Natural Law
   Under trust law and spiritual trust, this 'āina remains in the stewardship of its heirs and cannot be alienated without fraud. This duty is divine, intergenerational, and non-transferable.
8. Hawaiian Civil Code (1859)
   Section 1476–1478 affirms the right of tenants to access, cultivate, and protect land and water resources, and forbids interference with such traditional usage.
9. Environmental & Health Protections under Federal Trust Law
   Any federal funding or permitting agency involved in this development is in constructive breach of fiduciary duty if it proceeds without fully protecting sacred 'āina and its cultural resources.

This 'āina is kapu.

The waterways are sacred. The iwi kūpuna are sacred. The caves, the trees, the soil — all are alive with the mana of our ancestors.

Any desecration, commodification, or trespass is a violation of both divine law and human law.

We, the mo'opuna of Kōloa, are bound by kuleana, not commerce.

We live not in transactions — but in ceremony.

Roslyn Cummings

VIII. PROTEST UNDER DURESS DECLARATION

With Memorandum of Law and Continuity of Hawaiian Kingdom Authority

I, Roslyn Nicole Manawaiakea Mālama mare Cummings, ho'oilina (heir), hoa'āina (native tenant), and Trustee of the Malama:Cummings 'Ohana God Trust©, declare under penalty of perjury and under protest that:

1. I do not consent to any foreign occupation, administrative jurisdiction, permitting scheme, title transfer, or development plan executed without lawful treaty authority, recognized fiduciary trust, or mo'okū'auhau-based standing. The presumption of jurisdiction by the State of Hawai'i, the United States, the County of Kaua'i, or any of their subsidiaries or corporate agents is hereby rebutted.

2. I submit this declaration under duress, in direct and lawful continuity with Queen Lili'uokalani's protest of January 17, 1893, made in the face of an unlawful and hostile overthrow of the Hawaiian Kingdom. Like her, I declare this protest not out of fear, but from righteousness and kuleana.
3. This protest constitutes a living constitutional declaration, entered into Court of Record, and is based on lawful continuity, inherent sovereignty, and the right to self-determination, as protected by the following legal authorities:

- The 1840 & 1852 Hawaiian Kingdom Constitutions
- The Hawaiian Civil Code (1859)
- The 1839 Declaration of Rights
- Article 43 of the 1907 Hague Convention (Laws and Customs of War on Land):
  "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting... the laws in force in the country."
- The Geneva Conventions (1949)
- UN Declaration on the Rights of Indigenous Peoples (UNDRIP), particularly Articles 8, 11, 25–28

The Vienna Convention on the Law of Treaties (1969) – Articles 26, 27, and 46: Protecting against coercion and the invalidity of treaties executed in violation of fundamental law.

Let it be known:

Silence shall not be misinterpreted as consent. My protest is lawful, spiritual, and binding.

I reserve all rights, waive no rights, and submit this under the divine, lawful, and hereditary authority bestowed upon me by birthright and kuleana.

This Protest Under Duress is entered into the Court of Record and made available to all necessary parties for the purpose of enforcement, historical continuity, and the reestablishment of pono governance.

Affirmed and Declared this 07/04/2025

Under Penalty of Perjury

All Rights Reserved Without Prejudice, Without Recourse

Roslyn Nicole Manawaiakea Mālama mare Cummings known as Roslyn Cummings

Roslyn Nicole Manawaiakea Malama mare Cummings

Trustee, Malama:Cummings 'Ohana God Trust©

Wahine Maoli | Ho'oilina | Hoa'āina | Kahu

Email: roslyncummings@ymail.com

Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i TMK: (4) 2-8-011:001

Prepared for
South Koloa Town LLC

Prepared by
Chantellee Konohia Spencer, B.A.,
and
Hallett H. Hammatt, Ph.D.

Cultural Surveys Hawai'i, Inc.
Kailua, Hawai'i
(Job Code: KOLOA 106)

October 2025

O'ahu Office
P.O. Box 1114
Kailua, Hawai'i 96734
Ph.: (808) 262-9972
Fax: (808) 262-4950

www.culturalsurveys.com

Maui Office
1860 Main St.
Wailuku, Hawai'i 96793
Ph: (808) 242-9882
Fax: (808) 244-1994

EXHIBIT "G"

K-1-
FEB 24 2026

Management Summary

Reference	Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: (4) 2-8-011:001 (Spencer and Hammatt 2025)
Date	October 2025
Project Number(s)	Cultural Surveys Hawai'i, Inc. (CSH) Job Code: KOLOA 106
Agencies	Environmental Review Program (ERP), Department of Planning and Permitting (DPP)
Land Jurisdiction	SK Investors LLC
Project Location	The project area comprises TMK: (4) 2-8-011:001, bounded by Weliweli Road, Waikomo Road, Puni Road, and Hapa Road. The project area is depicted on a portion of the 2017 Koloa U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle.
Project Description	SK Investors LLC is proposing for the development of a primary housing project consisting of single and multi-family residences, park space, various drainage and utility improvements, and an internal road. Present plans are still being fine-tuned but it is anticipated to involve construction of a number of duplex, four-plex, and eight-plex buildings (with a possible studio apartment building) for a total of 164 residential units. These will be accessed off an internal road and driveways with some 210 to 232 parking spaces.
Project Acreage	The project area is approximately 10 acres (4.05 hectares).
Document Purpose and Regulatory Context	A Ka Pa'akai analysis is a legal framework that requires government agencies to consider the impact of proposed land and water use on Native Hawaiian rights. The framework was established by the Hawai'i State Supreme Court in 2000 in the case *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, State of Hawai'i. South Koloa Town LLC has indicated a need for a Ka Pa'akai Assessment study to attend this proposed project. The purpose of the present Ka Pa'akai Analysis and Assessment is to 1) assist South Koloa Town LLC and any other relevant agencies in their effort to ensure the applicant has sufficiently assessed that the proposed project/action will not harm traditional and customary practices exercised by Native Hawaiians; and 2) to provide sufficient documentation to support the applicant's assessment. This work is designed to address the letter and spirit of the following:

	• *Ka Pa'akai O Ka'aina v. Land Use Commission* (94 Hawai'i 31), in which the Hawai'i Supreme Court established a three-part analytical framework to assist the state and counties in fulfilling their constitutional obligation to preserve and protect traditional and customary practices exercised by Native Hawaiians and any other concerned parties, to the extent feasible, and • The mandate set forth by the Hawai'i State Constitution (Articles IX and XII), courts, Hawai'i Revised Statutes (HRS), and Hawai'i Administrative Rules (HAR) and other Hawai'i State laws requiring government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. In *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, the Hawai'i Supreme Court [...] articulated an analytical framework to assist state agencies in balancing the State's obligation to protect traditional and customary practices against private property (as well as competing public) interests, by requiring specific findings and conclusions about: 1) the identity and scope of 'valued cultural, historical, or natural resources' in the relevant area, including the extent to which traditional and customary native Hawaiian rights are exercised in relevant area; 2) the extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and 3) the feasible action, if any, to be taken by the [agency] to reasonably protect native Hawaiian rights if they are found to exist. [*Ka Pa'akai O Ka 'Aina v. Land Use Comm'n*, 94 Hawai'i 31, 35, 47 and 52–53, 7 P.3d 1068, 1072, 1084 and 1089–90 (2000)]
Results of Background Research	Background research for the proposed project yielded the following information: 1. Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish,

	mollusks, and crustaceans) value and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23). 2. The name Kōloa has several derivations. Kōloa is the name for the large, soft Hawaiian sugarcane (*Saccharum officinarum*) once grown by Hawaiians; Kōloa is also the name of a steep rock, called Paliokōloa, on the banks of Waikomo Stream, from where the *ahupua'a* (traditional land division) got its name. This bank of the river was called Kōloa, after the native Hawaiian duck (*Anas wyvilliana*) (Kikuchi 1963:46; Pukui et al. 1974:116). 3. The Kōloa Ahupua'a is well watered by constantly flowing streams. Two of these, the 'Ōma'o, "green," and Pō-'ele'ele, "dark night," feed the Pīwai (a variety of wild duck) in the area (Wichman 1998:40). The *ahupua'a* is watered by several other streams: the Aepo, Waihohonu ("deep water;" named for a hole formed when Palila felled a forest of trees with one stroke [Pukui et al. 1974:222]), Weliweli, and the Weoweopilau. 4. Five *heiau* (pre-Christian place of worship) are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (Site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala. 5. Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*. On Kaua'i, the favored places for coconuts were Kōloa and Lāwa'i (Handy 1940:193). 6. By the early 1800s, Kōloa Landing had become the principal port of Kaua'i The fact that the shipment of most of Kaua'i's sandalwood to Asia took place at Kōloa Landing suggests sandalwood was likely harvested in the uplands of Kōloa until the supply of the fragrant wood was exhausted around 1830 (Donohugh 2001:63–64). 7. The Kōloa area is the site of the oldest sugar plantation in Hawai'i. In 1835, Ladd and Company gained the lease of some 1,000 acres at Kōloa for the purpose of growing sugarcane. "The

	lease allowed the use of the waterfall and an adjoining mill site at Maulili Pool, the right to build roads, and the privilege of unrestricted buying and selling, and freedom from local harbor dues" (Stauder 1973:18). Ladd and Company were not the first to mill sugarcane in the area, as there was a Chinese-operated granite roller mill in operation at Māhā'ulepū in 1830. Ladd and Company were, however, the first "plantation" organized industry in Hawai'i. 8. The Māhele records of Kōloa give a picture of what had evolved by the middle of the nineteenth century when Kōloa Ahupua'a, totaling 8,620 acres, was awarded to Moses Kekūāiwa (Land Commission Award [LCA] 7714-B), the brother of Alexander Liholiho (Kamehameha IV), Lot Kapuāiwa (Kamehameha V), and Victoria Kamāmalu. 9. The early success of Ladd and Company (before its bankruptcy in 1845) was an impetus for other entrepreneurial attempts within Kōloa. Silkworm farming, oil extraction from *kukui* nuts, cigar manufacturing, sago raising, and tapioca manufacturing were all attempted with varied success during the middle third of the nineteenth century. Another major area of commercial enterprise was associated with the whaling industry at Kōloa Landing. Accounts of visitors suggest the inhabitants of Kōloa took advantage of their nearness to the landing to participate in the booming trade of the port.
Results of Community Consultation	CSH attempted to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 36 individuals or groups; four responded, one provided a legal document (Appendix C), one responded and forwarded the outreach letter to other respective groups, one called in for more information, and one has apparently expressed interest though we have not heard back after responding to an email. Unfortunately, none of these individuals met with CSH for a more in-depth interview.
Identification of Cultural Practices	Consultation did not yield results that identified cultural, historical, and natural resources where cultural practices (including traditional and customary Native Hawaiian rights) are being exercised within the boundaries of the project area. Nevertheless, based on the results of background research conducted as part of this CIA, CSH has identified the following cultural practices within Kōloa Ahupua'a: 1. Gathering Practices

	2. Agricultural Practices 3. Coastal and Marine Resources 4. Freshwater Resources 5. *Wahi Pana* (Storied Places) No ongoing cultural practices were identified within the boundaries of the immediate project area during background research.
Identification of Impacts on Cultural Resources and Practices	Community consultation and background research suggests strongly that there are no impacts to cultural resources and practices in the project area.
Summary of Impacts and Mitigation	The results of community consultation, underscored by background research conducted for this CIA, inform the following mitigation possibilities promoting and preserving cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that *iwi kūpuna* (ancestral remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended. In the event that *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Table of Contents

Management Summary i

Section 1 Introduction 1

1.1 Project Description 1
1.2 Regulatory Context 1
1.3 Document Purpose 8
1.4 Environmental Setting 8
1.4.1 Natural Environment 8
1.4.2 *Lepo* (Soils) 8
1.4.3 *Makani* (Winds) 9
1.4.4 *Ua* (Rains) 9
1.4.5 *Kahawai* (Streams and Freshwater) 9
1.4.6 *Ka Lihikai a me Ka Moana* (the Coast and Ocean) 11
1.5 Built Environment 11

Section 2 CIA Methods 12

2.1 Archival Research 12
2.2 Consultation 12
2.2.1 Scoping for Participants 12
2.2.2 "Talk Story" Sessions 12

Section 3 Traditional Accounts 14

3.1 Traditional Accounts 14
3.1.1 *Nā Wahi Pana* (Storied Places) 14
3.2 *Mele* (Songs) 19
3.2.1 Kōloa 20
3.3 *'Ōlelo No'eau* (Proverbs) 20

Section 4 Archaeological and Historical Narrative 22

4.1 Pre-Contact 22
4.2 Early Historic Period 23
4.3 Early Sugar and Export Crops at Kōloa 24
4.4 Māhele and Kuleana Act 26
4.4.1 Late 1800s to Mid-1900s 29
4.4.2 Modern Land Use 32
4.5 The Kōloa Field System 36
4.5.1 Environmental Parameters 36

Section 5 Previous Archaeological Research 40

5.1 Previous Archaeological Studies in Kōloa Ahupua'a 40
5.2 Archaeological Studies in the Vicinity of the Project Area 41
5.2.1 Kikuchi 1963 41
5.2.2 Palama and Stauder 1973 41
5.2.3 Kikuchi 1981 52
5.2.4 Connolly 1982 52
5.2.5 Hammatt et al. 1988 52
5.2.6 Hammatt et al. 1991 52

5.2.7 Hammatt 1992 52
5.2.8 Kikuchi and Remoaldo 1992 53
5.2.9 Hammatt 1993 53
5.2.10 Ida et al. (1997) 53
5.2.11 McGerty et al. 2000 53
5.2.12 Cleghorn and McIntosh 2001 53
5.2.13 Wilson and Dega 2004 54
5.2.14 Hammatt 2005 55
5.2.15 Hill et al. 2005a 55
5.2.16 Hill et al. 2005b 55
5.2.17 Monahan 2005 56
5.2.18 Tulchin J. and Hammatt 2005 56
5.2.19 Tulchin T. and Hammatt 2005 56
5.2.20 Hammatt and Shideler 2006 56
5.2.21 Tulchin et al. 2007 57
5.2.22 Simonson and Hammatt 2008 57
5.2.23 Hammatt 2010 57
5.2.24 Pammer et al. 2010 57
5.2.25 Gotay and Rechtman 2016 58
5.2.26 Kamai and Hammatt 2021 58
5.2.27 Krause et al. 2021 58

Section 6 Consultation Results 59

6.1 Introduction 59
6.2 Community Outreach Letter 59
6.3 Community Outreach Table 61
6.4 Summary of Community Outreach 67

Section 7 Traditional Cultural Practices 68

7.1 Gathering Practices 68
7.2 Agricultural Practices 68
7.3 Coastal and Marine Resources 69
7.4 Freshwater Resources 69
7.5 *Wahi Pana* (Storied Places) 69
7.6 Burials 71

Section 8 Summary and Recommendations 72

8.1 Results of Background Research 72
8.2 Results of Community Consultation 73
8.3 Impacts and Recommendations 73

Section 9 Ka Pa'akai Analysis 74

9.1 Overview 74
9.1.1 Gathering Resources 74
9.1.2 Agricultural Resources 74
9.1.3 Coastal and Marine Resources 74
9.1.4 Freshwater Resources 74
9.1.5 Wahi Pana 74
9.1.6 Burials 75

9.2 Analysis 75
9.2.1 Valued Cultural, Historical, or Natural Resources in the Project Area 75
9.2.2 The Extent to which Traditional and Customary Native Hawaiian Resources will be Affected by the Proposed Action 75
9.2.3 Feasible Action, if any, to be taken to Reasonably Protect Native Hawaiian Rights 75

Section 10 References Cited 76

Appendix A LCA Data 84

LCA 3584:1 to Kaanaana 5:365 84
LCA 6309:2 to Kapuniai 6:737 86
LCA 6667:2 to Mika 88

Appendix B Community Outreach Letter 90

Appendix C Roslyn Cummings Testimony 94

List of Figures

Figure 1. Portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle showing the project area 2
Figure 2. Tax Map Key (TMK) (4) 2-8-011 showing the project area (Hawai'i TMK Service 2024) 3
Figure 3. Aerial photograph of the project area (ESRI 2022) showing the project area 4
Figure 4. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 11 June 2025) 5
Figure 5. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025) 6
Figure 6. Proposed Units of South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025) 7
Figure 7. Overlay of *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (Foote et al. 1972), indicating soil types within and surrounding the project area (USDA SSURGO 2001) 10
Figure 8. Portion of the 1996 Koloa USGS 7.5-minute series topographic quadrangle, showing the project area within the Kōloa Ahupua'a 15
Figure 9. Map showing estimated distribution of population for Kaua'i in 1853 (Coulter 1931:16) 25
Figure 10. Distribution of LCAs in the vicinity of the project area on a 2017 Koloa USGS topographic quadrangle 27
Figure 11. Portion of 1891 map of Kōloa by M.D. Monsarrat (RM 1694), showing the location of the project area and LCAs in the vicinity; note the stone wall roughly enclosing LCA 6304, including Kapuniai's house lot (*pā hale*) and associated *kula* probably pastureland 28
Figure 12. Hand-drawn map of Kōloa Village, 1888, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; note the amount of land devoted to taro (Kaua'i Historical Society) 30
Figure 13. 1928 U.S. Army Air Corps aerial photograph of Kōloa (UH MAGIS) showing the location of the project area 33
Figure 14. Hand-drawn map of Kōloa Village, 1938, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; compare with Figure 12 and note the lack of taro lands (Kaua'i Historical Society) 34
Figure 15. 1951 USGS aerial photograph of Kōloa showing the location of the project area 35
Figure 16. The Kōloa Field System, the basic type schematically represented 38
Figure 17. Cross-section of a raised *'auwai* 38
Figure 18. Portion of Bennet (1931) index map of Kaua'i showing archaeological sites in the Kōloa vicinity 40
Figure 19. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of previous archaeological studies in the vicinity of the project area 42
Figure 20. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of historic properties in the vicinity of the project area 48
Figure 21. Community Outreach Letter, page one 90
Figure 22. Community Outreach Letter, page two 91

Figure 23. Community Outreach Letter, page three 92
Figure 24. Community Outreach Letter, page four....93

List of Tables

Table 1. Neighboring LCAs (see Appendix A for details) 29
Table 2. Previous archaeological studies in the vicinity of the project area....43
Table 3. Previously identified historic properties within approximately 1,300m of the project area 49
Table 4. Summary of consultation efforts....61

Section 1 Introduction

1.1 Project Description

At the request of South Koloa Town LLC, Cultural Surveys Hawai'i, Inc. (CSH) has prepared this Ka Pa'akai Analysis report for the South Kōloa Town Project, Kōloa Ahupua'a, Kona District, Kaua'i, TMK: (4) 2-8-011:001. The project area is located in south Kōloa Town, approximately 200 m east of Waikomo Stream, and is bounded on the northwest by Waikomo Road, on the north by Weliweli Road, and on the east by Māhā'ulepū Road and Hapa Road, and the south side is largely bordered by houses along Puni Road. The 9.44-acre (3.82-hectare) project area is depicted on a portion of the 2017 Koloa U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle (Figure 1), a tax map plat (Figure 2), and a 2022 aerial photograph (Figure 3).

Present plans are still being fine-tuned but are anticipated to involve construction of a number of duplex, four-plex, and eight-plex buildings (with a possible studio apartment building) for a total of 164 residential units (Figure 4 through Figure 6). These will be accessed off an internal road and driveways with some 210 to 232 parking spaces. Construction will involve extensive grading and significant excavation for foundations, utilities, and landscaping.

1.2 Regulatory Context

The County of Kaua'i Planning Department has indicated a need for a Ka Pa'akai Assessment study to attend this proposed project. The purpose of the present Ka Pa'akai Analysis and Assessment is to 1) assist the Planning Department and any other relevant agencies in their effort to ensure the applicant has sufficiently assessed that the proposed project/action will not harm traditional and customary practices exercised by Native Hawaiians; and 2) to provide sufficient documentation to support the applicant's assessment.

This work is designed to address the letter and spirit of the following:

- *Ka Pa'akai O Ka'aina v. Land Use Commission* (94 Hawai'i 31), in which the Hawai'i Supreme Court established a three-part analytical framework to assist the state and counties in fulfilling their constitutional obligation to preserve and protect traditional and customary practices exercised by Native Hawaiians and any other concerned parties, to the extent feasible, and
- The mandate set forth by the Hawai'i State Constitution (Articles IX and XII), courts, Hawai'i Revised Statutes (HRS), and Hawai'i Administrative Rules (HAR) and other Hawai'i State laws requiring government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups.

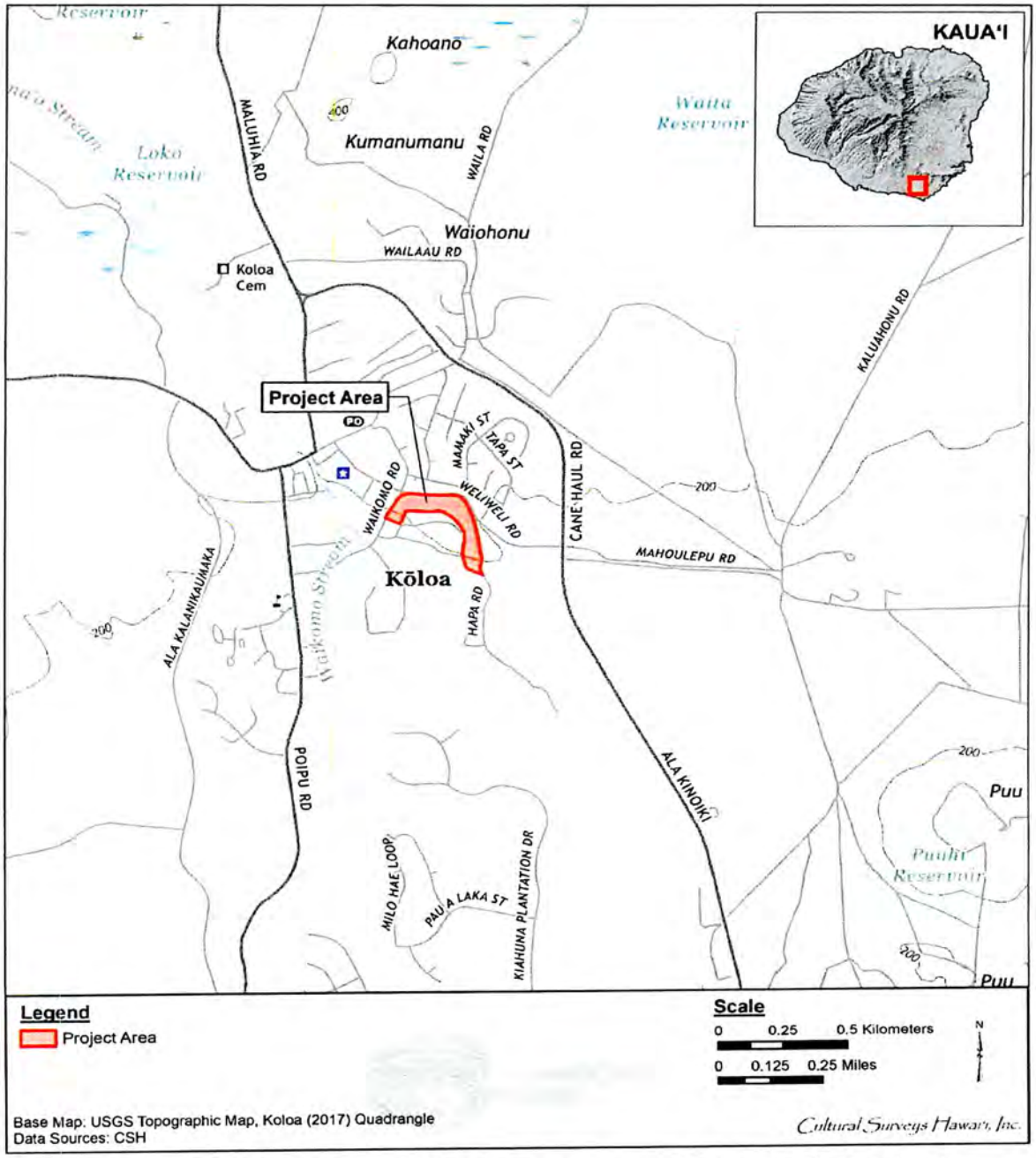


Figure 1. Portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle showing the project area

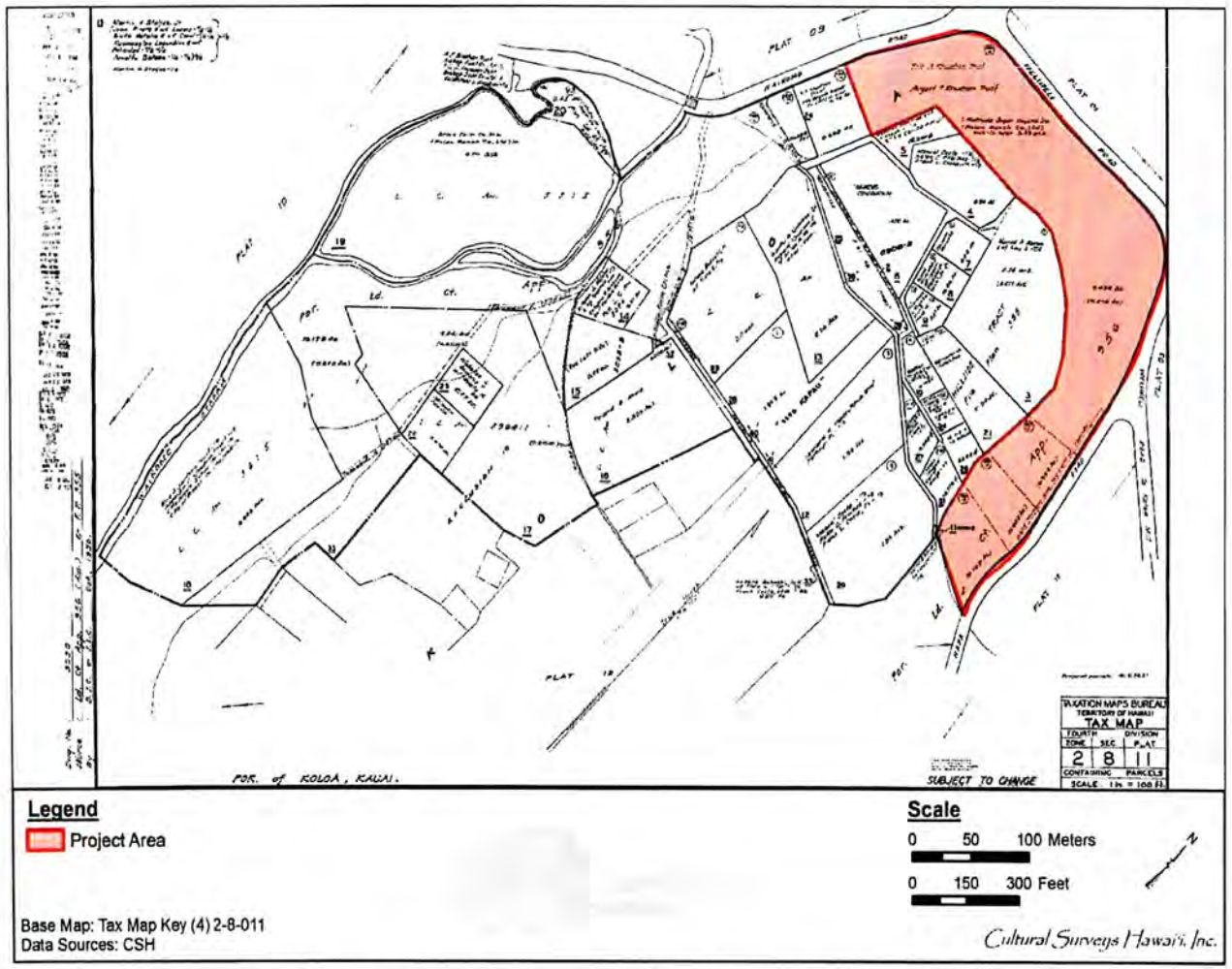


Figure 2. Tax Map Key (TMK) (4) 2-8-011 showing the project area (Hawai'i TMK Service 2024)

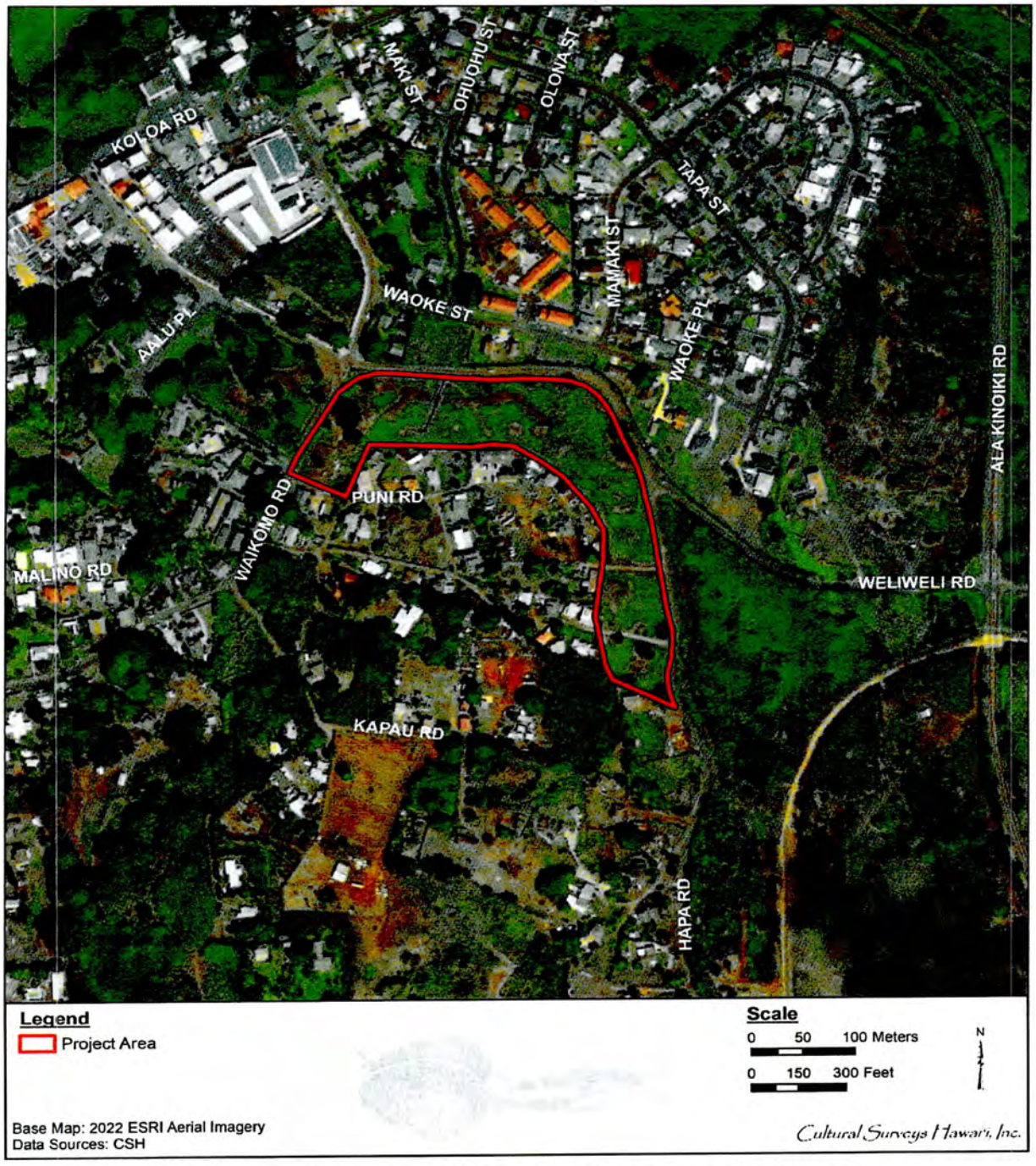


Figure 3. Aerial photograph of the project area (ESRI 2022) showing the project area

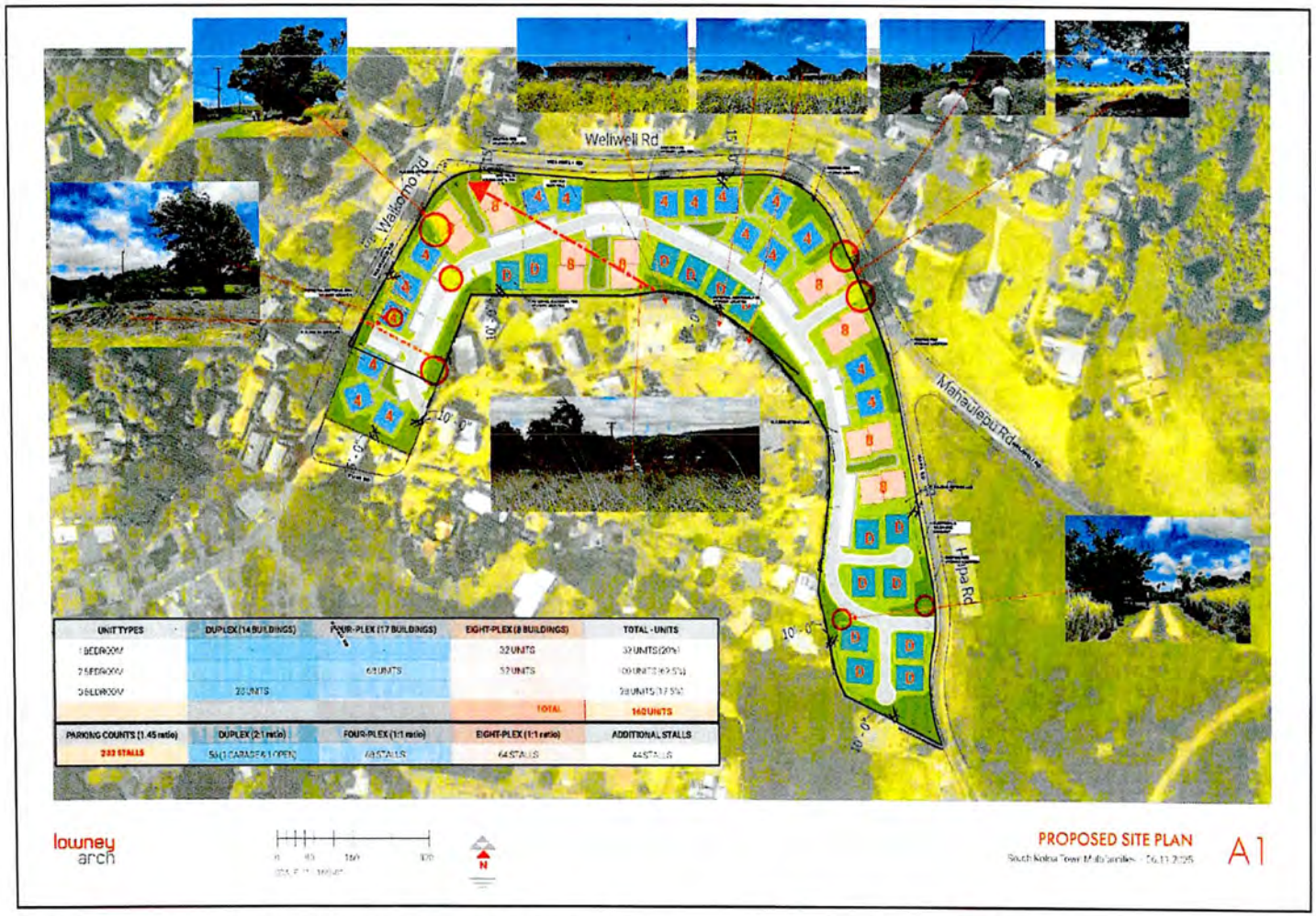


Figure 4. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 11 June 2025)

Figure 5. Proposed site plan, South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025)

Figure 6. Proposed Units of South Kōloa Town Multifamilies (courtesy of client, dated 24 September 2025)

1.3 Document Purpose

In *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, the Hawai'i Supreme Court

> [...] articulated an analytical framework to assist state agencies in balancing the State's obligation to protect traditional and customary practices against private property (as well as competing public) interests, by requiring specific findings and conclusions about:

1) the identity and scope of 'valued cultural, historical, or natural resources' in the relevant area, including the extent to which traditional and customary native Hawaiian rights are exercised in relevant area;
2) the extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and
3) the feasible action, if any, to be taken by the [agency] to reasonably protect native Hawaiian rights if they are found to exist. [*Ka Pa'akai O Ka 'Aina v. Land Use Comm'n*, 94 Hawai'i 31, 35, 47, and 52–53, 7 P.3d 1068, 1072, 1084, and 1089–90 (2000)]

1.4 Environmental Setting

1.4.1 Natural Environment

The project area is located approximately 2,697 m (8,848 feet [ft]) north of the southern coast of Kaua'i. The project area is situated within relatively level terrain, at an elevation of approximately 61 m (200 ft) above mean sea level (amsl). The project area receives approximately 1,334.7 mm (52.6 inches) of annual rainfall (Giambelluca et al. 2013) which is regarded as sufficient for some non-irrigated agriculture. Vegetation within the project area consisted of java plum (*Syzygium cumini*), sisal (*Agave sisalana*), night-blooming cereus (*Cereus* spp.) and exotic weeds, vines, and grasses. Perennial Waikomo Stream is approximately 200 m to the west.

1.4.2 *Lepo* (Soils)

According to the U.S. Department of Agriculture (USDA) Soil Survey Geographic (SSURGO) database (2001) and soil survey data gathered by Foote et al. (1972), the project area's soils consist entirely of Waikomo very rocky silty clay (Wt) (Figure 7).

> This [Waikomo soil] series consists of well-drained, stony and rocky soils on uplands on the island of Kauai. These soils developed m material weathered from basic igneous rock, probably with a mixture of ash and alluvium in places. These soils are gently sloping. Elevations range from nearly Sea level to 360 feet. [...] These soils are used for sugarcane, pasture, wildlife habitat, and homesites. The natural vegetation consists of lantana, koa haole, Java plum, pricklypear cactus, swollen fingergrass, bermudagrass, and guineagrass. [Foote et al. 1972:132]

Wt soils are further described as where "rock outcrops cover 3 to 25 percent of the surface" (Foote et al. 1972:133).

1.4.3 *Makani* (Winds)

Northeasterly trade winds prevail throughout the year, although their frequency varies from 80 to 95% of the time during the summer months, when high-pressure systems tend to be located north and east of the Hawaiian Islands. During the winter months, the high-pressure systems are located farther to the south, decreasing the occurrence of the trade winds to about 50 to 80% of the time (WRCC 2010).

The Wind Gourd of La'amaomao tells the story of Pāka'a and his son Kuāpāka'a, descendants of the wind goddess La'amaomao, who are given control over the winds of Hawai'i which are contained in a gourd. Each wind could be called forth by chanting their names (Nakuina 1992). Pāka'a's chant traces the winds of Kaua'i found in the *ahupua'a* of Kōloa. *Makani* is the general Hawaiian word for wind.

When the Hawaiian goddess, Pele, traveled to Kaua'i, she recited the winds of Kaua'i to her lover Lohi'au and his people.

Wahiawa has an Unulau wind ...	*He Unulau ko Wahiawa..*
Kalāheo has a Kiuanu wind	*He Kiuanu ko Kalāheo*
Lāwa'i has an 'Aoa wind...	*He 'Aoa ko Lāwa'i...*
Kōloa has a Holomālani wind...	*He Holomālani ko Kōloa...*
Hanaka'ape has an Ulumano wind	*He Ulumano ko Hanaka'ape*

[Ho'oulumāhiehie 2008a:16–17; Ho'oulumāhiehie 2008b:16–17]

There are at least two different Hawaiian names for the winds found in the Kōloa Ahupua'a: Malanai, a gentle breeze, the trade wind of Kōloa (Nakuina 1990:149), and "Holomālani wind" (Ho'oulumāhiehie 2008:16).

1.4.4 *Ua* (Rains)

There is at least one named *ua* (rain) of Kōloa, the cold Noe rain (Akana 2015:154).

1.4.5 *Kahawai* (Streams and Freshwater)

Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish, mollusks, and crustaceans) value and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23).

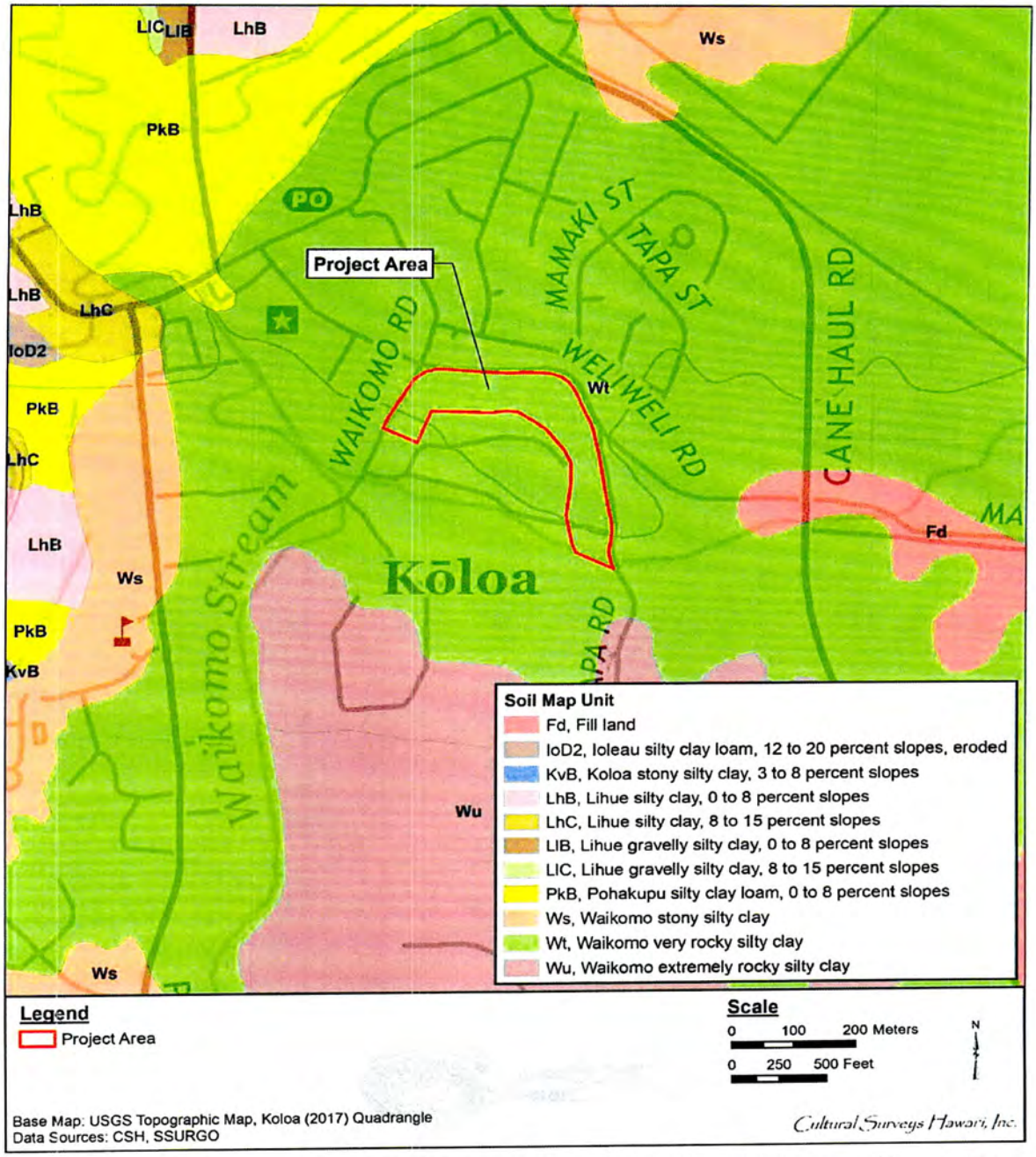


Figure 7. Overlay of *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (Foote et al. 1972), indicating soil types within and surrounding the project area (USDA SSURGO 2001)

1.4.6 *Ka Lihikai a me Ka Moana* (the Coast and Ocean)

The coastline of Kōloa Ahupua'a is blessed with great resources including Kukui'ula Bay (Kukui'ula Small Boat Harbor) that provides considerable protection for small craft (Clark 1990:65) and Kōloa Landing that was a focus for whale ships.

Kōloa Landing:

> was established in Hanaka'ape Bay in a natural cove cut into the shoreline by Waikomo Stream. Before the turn of the century [1900], an average of 40 to 60 ships, including whalers, called each year at the landing. There they discharged and picked up cargo and passengers and took on supplies. With the introduction of modern means of transportation, the old sugar landings fell into disuse. Koloa Landing was used into the 1920s, but today little more than its name remains to identify this once busy site. [Clark 1990:65]

The availability of marine resources is attested to:

> The south shore of Kaua'i from Lawa'i to Po'ipu is considered one of the best sport diving and spearing areas on the island. These waters are especially attractive because of the normally calm seas, extensive reefs, excellent underwater visibility, and close proximity to residential and resort communities. [Clark 1990:65]

"Beach House Beach," Prince Kūhiō Park, Po'ipū Beach, Wai'ōhai Beach, Po'ipū Beach Park, and Brennecke Beach are still popular places for coastal access at Kōloa (Clark 1990:65–72).

1.5 Built Environment

The built environment consists primarily of leveled and graded areas, most likely associated with historic agriculture, with a scattered, moderate density of single-family homes. Also noted during the 2007 fieldwork was the presence of modern trash throughout the entire project area (Tulchin et al. 2007:5).

Section 2 CIA Methods

2.1 Archival Research

Research centers on Hawaiian activities including *ka'ao* (legends), *wahi pana* (storied places), *'ōlelo no'eau* (proverbs), *oli* (chants), *mele* (songs), traditional *mo'olelo* (stories), traditional subsistence and gathering methods, ritual and ceremonial practices, and more. Background research focuses on land transformation, development, and population changes beginning with the early post-Contact era to the present day.

Cultural documents, primary and secondary cultural and historical sources, historic maps, and photographs were reviewed for information pertaining to the study area. Research was primarily conducted at the CSH library. Other archives and libraries including the Hawai'i State Archives, the Bishop Museum Archives, the University of Hawai'i at Mānoa's Hamilton Library, Ulukau, the Hawaiian Electronic Library (Ulukau.org 2014), the State Historic Preservation Division (SHPD) Library, the State of Hawai'i Land Survey Division, the Hawaiian Historical Society, and the Hawaiian Mission Houses Historic Site and Archives are also repositories where CSH cultural researchers gather information. Information on Land Commission Awards (LCAs) were accessed via Waihona 'Aina Corporation's Māhele database (Waihona 'Aina 2024), the Office of Hawaiian Affairs (OHA) Papakilo Database (Office of Hawaiian Affairs 2015), and the Ava Konohiki Ancestral Visions of 'Āina website (Ava Konohiki 2015).

2.2 Consultation

2.2.1 Scoping for Participants

The CSH cultural department commences our consultation efforts by utilizing our previous community contact list to facilitate the interview process. We then review an in-house database of *kūpuna* (elders), *kama'āina*, cultural practitioners, lineal and cultural descendants, Native Hawaiian Organizations (NHOs; includes Hawaiian Civic Clubs and those listed on the Department of Interior's NHO list), and community groups. CSH also contacts agencies such as SHPD, OHA, and the appropriate Island Burial Council where the proposed project is located for their response to the project and to identify lineal and cultural descendants, individuals and/or NHO with cultural expertise and/or knowledge of the study area. CSH is also open to referrals and new contacts.

2.2.2 "Talk Story" Sessions

Prior to the interview, CSH cultural researchers explain the nature of cultural consultation, how the consent process works, the project purpose, the intent of the study, and how their *'ike* (knowledge) and *mana'o* (thought, opinion) will be used in the report. The interviewee is given an Authorization and Release Form to read and sign.

"Talk Story" sessions range from the formal (e.g., sit down and *kūkā* [consultation, discussion] in the participant's place of choice over set interview questions) to the informal (e.g., email, telephone, Zoom-type, or face-to-face consultation, hiking to cultural sites near the study area and asking questions based on findings during the field outing). In some cases, interviews are recorded and transcribed later.

CSH may also conduct group interviews, as appropriate, which range in size. Group interviews usually begin with set, formal questions. As the group interview progresses, questions are based on interviewees' answers. Group interviews are always transcribed and notes are taken. Recorded interviews assist the cultural researcher in 1) conveying accurate information for interview summaries, 2) reducing misinterpretation, and 3) adding missing details to *mo'olelo*.

CSH seeks *kōkua* (assistance) and guidance in identifying past and current traditional cultural practices of the study area. Those aspects include general history of the *ahupua'a*; past and present land use of the study area; knowledge of cultural sites (for example, *wahi pana*, archaeological sites, and burials); knowledge of traditional gathering practices (past and present) within the study area; cultural associations (*ka'ao* and *mo'olelo*); referrals; and any other cultural concerns the community might have related to Hawaiian cultural practices within or in the vicinity of the study area.

2.2.3 Interview Completion

After an interview, CSH cultural researchers transcribe and create an interview summary based on information provided by the interviewee. Cultural researchers give a copy of the transcription and interview summary to the interviewee for review and ask that they make any necessary edits. Once the interviewee has made those edits, CSH incorporates their *'ike* and *mana'o* into the report. When the draft report is submitted to the client, cultural researchers then prepare a finalized packet of the participant's transcription, interview summary, and any photos taken during the interview. We also include a thank you card and honoraria.

"*I ulu no ka lālā i ke kumu*—the branches grow because of the trunk," is an *'ōlelo no'eau* (#1261) shared by Mary Kawena Pukui with the simple explanation: "Without our ancestors we would not be here" (Pukui 1983:137). As cultural researchers, we often lose our *kūpuna* but we do not lose their wisdom and words. We routinely check obituaries and gather information from other community contacts if we have lost our *kūpuna*. CSH makes it a point to reach out to the *'ohana* of our *kūpuna* who have passed on and pay our respects including sending past transcriptions, interview summaries, and photos for families to have on file for genealogical and historical reference.

Section 3 Traditional Accounts

3.1 Traditional Accounts

Traditionally, the island of Kaua'i was divided into five *moku* (districts): Halele'a, Kona, Ko'olau, Nāpali, and Puna. However, after the battle of Wahiawa in 1824, the land of Kaua'i was redistributed and district boundaries changed. The new district names became Hanalei, Kawaihau, Līhu'e, Kōloa, and Waimea. The Kōloa District consisted of seven of the 14 *ahupua'a* (traditional land division) formerly within Kona Moku. 'Ele'ele was also added to the Kōloa District. Traditionally, 'Ele'ele was an *'ili* (smaller land division) of Hanapēpē Ahupua'a in Kona Moku, but it was separated during the redistribution. 'Ele'ele subsequently became an *ahupua'a* of the Kōloa District, and Hanapēpē became an *ahupua'a* of the Waimea District. Thus, currently the eight Kōloa *ahupua'a* are 'Ele'ele, Wahiawa, Kalāheo, Lāwa'i, Kōloa, Weliweli, Pā'ā, and Māhā'ulepū, from west to east. See Figure 8 to see the proposed project area in relation to the nearby *ahupua'a*.

3.1.1 *Nā Wahi Pana* (Storied Places)

Wahi pana are legendary or storied places in a landscape. These legendary or storied places can be a variety of natural or human-constructed features. Oftentimes dating to the pre-Contact period, many but not all *wahi pana* are connected to particular *mo'olelo*. Dr. Davianna McGregor outlines the types of natural and human-made structures that may constitute *wahi pana*:

> Natural places have mana or spiritual power, and are sacred because of the presence of the gods, the akua, and the ancestral guardian spirits, the 'aumakua. Human-made structures for the Hawaiian religion and family religious practices are also sacred. These structures and places include temples, and shrines, or heiau, for war, peace, agriculture, fishing, healing, and the like; pu'uhonua, places of refuge and sanctuaries for healing and rebirth; agricultural sites and sites of food production such as the lo'i pond fields and terraces slopes, 'auwai irrigation ditches, and the fishponds; and special function sites such as trails, salt pans, hōlua slides, quarries, petroglyphs, gaming sites, and canoe landings. [McGregor 1996:22]

Nā wahi pana translations presented in this subsection are from *Place Names of Hawaii* (Pukui et al. 1974), unless indicated otherwise. Lloyd Soehren (2013) has lately compiled all the place names from mid-nineteenth century land documents into an online database. He presents spelling and meanings of names from the Pukui et al. book (1974). When no meaning from this book is given, Soehren often suggests meanings for simple names based on meanings from Pukui and Elbert's (1986) *Hawaiian Dictionary*.

3.1.1.1 *Nā Inoa 'Āina* (Place Names)

The name Kōloa has several derivations. Kōloa is the name for the large, soft Hawaiian sugarcane (*Saccharum officinarum*) once grown by the Hawaiians; Kōloa is also the name of a steep rock, called Paliokōloa, on the banks of Waikomo Stream, from where the *ahupua'a* got its name. This bank of the river was called Kōloa, after the native Hawaiian duck (*Anas wyvilliana*) (Kikuchi 1963:46; Pukui et al. 1974:116).

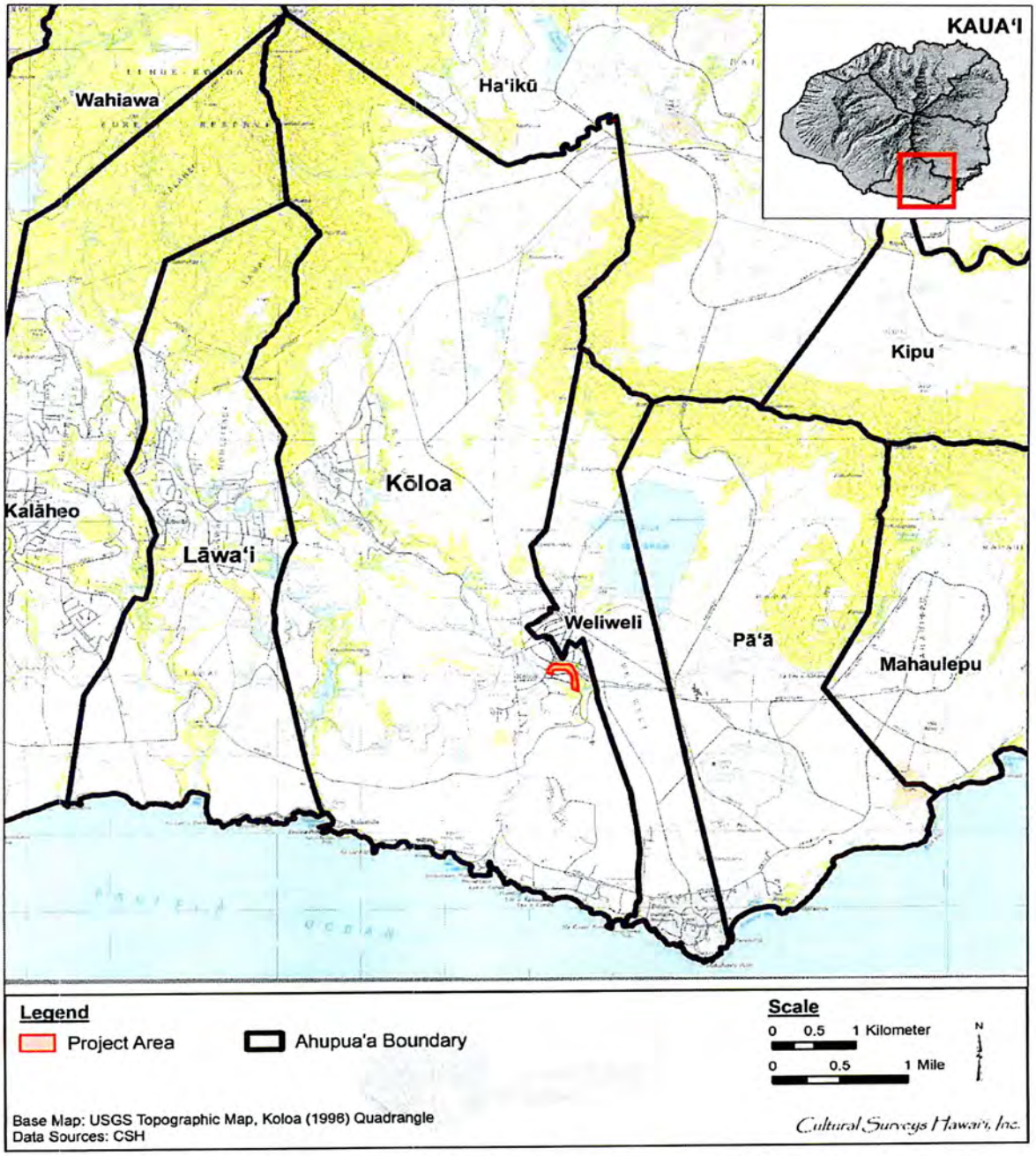


Figure 8. Portion of the 1996 Koloa USGS 7.5-minute series topographic quadrangle, showing the project area within the Kōloa Ahupua'a

The Kōloa Ahupua'a is well watered by constantly flowing streams. Two of these, the 'Ōma'o, "green," and Pō-'ele'ele, "dark night," feed the Pīwai (a variety of wild duck) in the area.

Where they join, the stream becomes Wai-komo, "entering water," which flows down the center of the land, bringing life to the drier regions toward the seashore. It is so named because from time to time "the stream disappears for a bit before reappearing farther down the slope" (Wichman 1998:40). The *ahupua'a* is watered by several other streams: the Aepo, Waihohonu ("deep water;" named for a hole formed when Palila felled a forest of trees with one stroke [Pukui et al. 1974:222]), Weliweli, and the Weoweopilau.

Kōloa is bordered by Lāwa'i Ahupua'a to the west, Weliweli Ahupua'a to the east and Ha'ikū Ahupua'a to the north and northeast (Figure 8). The boundary with Lāwa'i ends on the eastern shore of Kukui'ula Bay near the mouth of Aepo Stream and extends inland to the peaks Pu'u Kolo and Kāhili, where it extends along the boundary of Hā'iku Ahupua'a on the *mauka* (inland, toward the mountains) side. The northeast corner of the *ahupua'a* is at Lā'aukahi ("lone tree"). At the shore, it is separated from Weliweli at a place called Poapoko.

Sixty-six *'ili* are listed in mid-nineteenth century land documents, emphasizing the importance of this well-watered *ahupua'a* and the dense population that it could support. The *'ili* are Aea, 'Awikiwiki, Hālāli'i, Halehinahina, Kaakaupuawa, Ka'auwailalo ("the lower ditch"; Soehren 2013), Kaauwailuna ("the upper ditch"; Soehren 2013), Kahoai, Kahoana ("the whetstone"), Kahoiwai, Ka'ili'ili ("the pebble"), Kalehuaoka'ele, Kalua'alamihi, Kamaemae, Kamaloula ("the red loincloth"; Soehren 2013), Kamanomano, Ka'ōhi'a ("the 'ōhi'a tree"; Soehren 2013), Kāpala'alaea ("daub of ocher"; Soehren 2013), Kapalakea ("a variety of taro"; Soehren 2013), Kapalau, Kapo'o, Kapuna ("the spring"), Kaukahōkū ("the star appears"), Kaulia ("hung, suspended"; Soehren 2013), Kauluolona, Kaunuolono ("the altar of Lono"; Soehren 2013), Kawailehua, Keaku, Keanakaha'ia, Kekui, Kihinui, Kīkīaola ("container acquired by Ola"), Kioea ("bristle-thighed curlew"; Soehren 2013), Kiona ("Zion, or dung heap, privy"; Soehren 2013), Kōloa Hikina ("east Kōloa"; Soehren 2013), Kōloa Komohana ("west Kōloa"; Soehren 2013), Kualu, Kuunameheala, Lapapōhaku ("stone ridge"; Soehren 2013), Lauuluhaa, Lepoakua, Makapala ("sore beginning to heal"), Mākea ("fallow land, or a variety of *kalo* or awa"; Soehren 2013), Malaula, Maneneha'aha'a ("low plantain"), Manini, Ma'uliuli, Mauna Pōhaku, Milohai, 'Ōma'o ("green"), Opuohaku, Palaulalo, Paoa, Pipipi'eu'eu ("lively mollusk, *Theodoxus neglectus*"; Soehren 2013), Poahonu, Pō'ele'ele ("black night"), Pōhakuomakali'i ("stone of Makali'i"; Soehren 2013), Puahehu, Puhaku, Punahelu, Puokahaku, Pu'u Holo, Pu'u o Haku ("Haku hill"; Soehren 2013), Waikomo ("entering water"; Soehren 2013), Wailā'au (sap of plants, or a liquid medicine; Soehren 2013), and Waiohai.

Five *heiau* (pre-Christian place of worship) are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (Site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.

Evidence of a rich history within Kōloa is offered in a Lahainaluna document. This document appears to be based on an oral history project. On 7 September 1885 a student from Lahainaluna Schools (HMS 43 #17) interviewed Makea—"a native who is well acquainted with Koloa"—and recorded "what she said about the well-known places in the olden times." More than 64 years after

the abolition of the *kapu* system and almost as many years of contact with westerners, Makea was able to describe, in detail, 14 *heiau* within the Kōloa area, for example:

> Maulili was the first heiau of south Koloa. Kapulauki was the first chief of Koloa, Kiha came next. That is the chief I know of. He was a ruling chief of Kaua'i in the olden days, when the heiau was standing there. It had already been built and men had been sacrificed on its altars. This Kiha was called Kiha-of-the-luxuriant-hair. Another name for him was Kakae and another was Ka-pueo-maka-walu (Eight-eyed-owl).
>
> This heiau was also famous for this reason—it was the first heiau to which Kawelo was carried after he had swooned in Wahiawa, in the battle where stones were used as missiles.
>
> The location of this heiau was not known, but a deaf mute knew and it was he who pointed it out to the chiefs, and that is how it was rediscovered in the olden days.
>
> Kiha lived on the eastern side of the heiau and 'Aikanaka lived on the northeastern side. Aikanaka, was the one with whom Kawelo fought and he was the owner of this heiau at that time. [Lahainaluna School 1885:165]

3.1.2 Legendary and Traditional Accounts of Kōloa Ahupua'a

One *'ōlelo no'eau* (proverb) is associated with Kōloa and aspects of its lifeways:

> *Aia i Koloa* Is at Kōloa
>
> A play on kō (drawn) and loa (long)—drawn a long way under. Drunk. [Pukui 1983:8]

Several places within Kōloa have legendary associations. The first is Maulili Pool, meaning "constant jealously," in Waikomo Stream, a sacred place once located in the present Kōloa Town, in the middle of the *ahupua'a*.

One tale is of the gods Kāne and Kanaloa who slept on the eastern bank of Maulili Pool and left the impressions of their forms on the *'āpapa* (coral flat).

> The apapa in this vicinity is called an 'Unu.' and a 'Heiau,' but was never walled in, it is said. [This *heiau* may be the Maulili Heiau]. On the nights of Kāne the drums are heard to beat there, also at the sacred rocks, or unu's, of Opuokahaku and Kānemilohae, near the beach of Po'ipū [...] [Farley 1907:93]

Just below the resting places of Kāne and Kanaloa is the "Pali o Kōloa" or "Cliff of Kōloa," which the district was possibly named after.

Wai-hānau, meaning "birth pool," is a rock on the eastern bank of the pool. There is a *mele* (chant) about Waihānau:

> *Aloha wale ka Pali o Koloa,*
> *Ke Ala huli i Waihanau e, hanau.* [Farley 1907:93]

Below Wai-hānau was a rock shaped like a human tongue called "Ka-'ōlelo-o-Hawai'i," "language of Hawai'i." It is said that Kaweloleimakua, who lived at the end of the 1600s, brought this rock to Kaua'i from the island of Hawai'i. According to Wichman (1998), "Kiha-wahine, the

fearsome *mo'o* goddess, lived in this pool. When she was in residence, the water turned red and no one dared to swim there" (Wichman 1998:40). "At the southern end of the Maulili pool started two large 'auwais [ditch, canal] that watered the land east and west of Kōloa" (Farley 1907:93).

Maulili is also the name of Kōloa's most important *heiau*. It was first built by Ka-pueo-maka-walu, the son of Kapu-lau-kī. He had his house on the eastern side of this *heiau*. It was a place of human sacrifice, but once Kapueomakawalu died, it was no longer used and its location was lost (Wichman 1998:41). Many years later, when 'Aikanaka had defeated his cousin Kawelo in the battle of stones on the plains of Wahiawa, 'Aikanaka wanted a place to sacrifice the body. No one was sure of it, but a deaf mute led 'Aikanaka to the place. The place was rebuilt and in the morning 'Aikanaka went to sacrifice the body. He found Kawelo was healed from his wounds and it was 'Aikanaka instead who was sacrificed (Wichman 1998:41).

Kapueomakawalu also built the *heiau* of Louma, which stood on the mountainside of Ho'oleina-ka-pua'a, "place to throw in the pig." This was beside a small pond *mauka* of Maulili. Louma was a small *heiau* in which hogs, red fishes, and other sacrifices were offered. It was dedicated to Lono-i-ka-ou-ali'i, the god who had come to Kaua'i with La'a-mai-kahiki in the twelfth century. The stones for this *heiau* were brought from O'ahu. It is said that the *menehune* (legendary race of small people who built structures at night) did the actual building (Wichman 1998:41).

According to Wichman (1998), Palila, the legendary figure who wielded a huge war club to save his father, was born during the period of war between the kingdoms of Puna and Kona about AD 1200 at Kamo'oloa. He was raised by his grandmother in the *heiau* of 'Ālana-pō, "night offering," sacred to the gods from the time of darkness (Wichman 1998:39–40).

The following is a *mo'olelo* (story) about the small stream called Weoweo-pilau, "rotten bigeye fish," which is on the plains of Kamo'oloa:

> It seems an upland farmer heard that the bigeye fish were running at the beach, so he went down and caught a great number of them. On his way home, an old woman asked him for a few fish but he refused to give her any, saying she could go to the shore and get as many as she wanted. As he continued home, his load of fish became heavier and heavier, the path dustier and dustier, and the sun blazed with heat. When he reached the stream, he put down his fish and plunged in to cool off. When he came out, he smelled that his fish were completely rotten. He then realized that the old lady had been Pele, the volcano goddess, testing his generosity and hospitality. He had been found wanting and was punished. [Wichman 1998:40]

There are also many *mo'olelo* in the *makai* (seaward) area of Kōloa. According to Wichman (1998), Hālau-a-ka-lena, "shed for the *'olena* (*Curcuma domestica*), turmeric plant," was dedicated to the *mo'o* goddess Kihawahine. If she was offended, she would take the form of a sea dragon and patrol the seashore, killing all who dared fish from canoes and along the reef and rocks (Wichman 1998:420). The story of "Ke Kōloa o Kaikapū" is similar (Wichman 1991:88–91) in which a *mo'o* named Kaikapū guarded the Kōloa shoreline, keeping everyone away from the swimming places and from the food on the reefs and in the sea. She would eat fishermen and swimmers near the shore. Soon no one living in Kōloa would come to the ocean to fish, gather the golden brown *līpoa* seaweed used to flavor their food, or work at the natural rock pans where salt

was made. Liko and his grandmother lived on the hill above Kukui'ula bay. Liko's grandmother once expressed that she longed for the taste of *i'a ho'omelu*, the relish made of raw *hīnālea* (brightly colored wrasses, family *Labridae*) fish mixed with red salt, roasted *kukui* (*Aleurites moluccana*) nuts, and brown *līpoa* seaweed. Liko decided his grandmother must have the fish and brought his *kauila* (*Alphitonia ponderosa*) wood spear and his *hīnālea* trap woven from *'inalua* (*Cardiospermum halicacabum)* vine. Liko dove into the water and battled Kaikapū. He defeated her by swimming into the lava tube opening that led to a rocky platform above and trapping her in the narrowing tube. From then on, the seashore was free for everyone to use. Even today when the column of water shoots high into the sky, an angry roar echoes from the tube, *ke kōloa o Kaikapū* (Wichman 1991:88–91).

The early life of the hero Kawelo is also associated with Kōloa. Kawelo grew up in Wailua with two friends, Kauahoa of Hanalei and Aikanaka, the son of the king of Kaua'i. The three were fiercely competitive, and when his grandparents gave Kawelo a canoe, Kauahoa was jealous, so he made himself a kite. As soon as he saw the kite, Kawelo wanted one for himself and he asked his grandparents to make him one. He flew the kite next to Kauahoa and the two entangled, which caused Kauahoa's to break away and fall to the earth in Kōloa, at a place named Kaho'oleināpe'a ("the flying of the kites") after this event (Fornander 1918:5:3–4).

3.2 *Mele* (Songs)

The following section draws from the Hawaiian art of *mele*, poetic song.

> Words and word combinations were studied to see whether they were auspicious or not. There were always two things to consider the literal meaning and the *kaona*, or 'inner meaning.' The inner meaning was sometimes so veiled that only the people to whom the chant belonged understood it, and sometimes so obvious that anyone who knew the figurative speech of old Hawai'i could see it very plainly. There are but two meanings: the literal and the *kaona*, or inner meaning. The literal is like the body and the inner meaning is like the spirit of the poem. [Pukui 1949:247]

> The Hawaiians were lovers of poetry and keen observers of nature. Every phase of nature was noted and expressions of this love and observation woven into poems of praise, of satire, of resentment, of love and of celebration for any occasion that might arise. The ancient poets carefully selected men worthy of carrying on their art. These young men were taught the old *meles* and the technique of fashioning new ones. [Pukui 1949:247]

A few late nineteenth, twentieth, and twenty-first century *mele* concern or mention Kōloa Ahupua'a. These particular *mele* may also be classified as *mele wahi pana* (songs for legendary or historic places). *Mele wahi pana* such as those presented here may or may not be accompanied by *hula* (dance) or *hula wahi pana* (dance for legendary or historic places). As the Hula Preservation Society notes,

> Hula Wahi Pana comprise a large class of dances that honor places of such emotional, spiritual, historical, or cultural significance that chants were composed for them. Only the composers of the chants could know the deepest meanings, as they would be reflections of their feelings and experiences [...] Since the subjects of Wahi Pana compositions are extremely varied, their implementation through

hula are as well. Coupled with the differences from one hula style and tradition to the next, Hula Wahi Pana can be exceptionally diverse. They can be done sitting or standing, with limited body movement or wide free movement; with or without the use of implements or instruments; with the dancers themselves chanting and/or playing an implement or being accompanied by the *ho'opa'a* [drummer and *hula* chanter (memorizer)]. Beyond the particular hula tradition, what ultimately determines the manner in which a Hula Wahi Pana is performed are the specific place involved, why it is significant, the story being shared about it, and its importance in the composer's view. [Hula Preservation Society 2014]

3.2.1 Kōloa

Father of the Songbird of Hawai'i, Lena Machado, Robert Waialeale composed this *mele* in honor of Kōloa, with the inclusion of a famous *wahi pana*, Kemamo. Kemamo is a spring reserved for royalty.

Nani Hā'upu kū kila i ka la'i	Beautiful Hā'upu, rising in the calm
Hanohano kilohana i ka nahele	Magnificent is the view of the forest
Aia i laila ka maka e ka 'ōpua	There the cloudbanks
Kihene i ka wai o Kemamo	Gather over the waters of Kemamo
Hui:	Chorus:
He ani maoli no ka ua noe o Kōloa	Beautiful indeed, the misty rain of Kōloa
He makalapua i ka wao kele	Bringing forth the blossoms in the uplands
Nā hi'ona o ku'u ipo ua like me ka 'ano'i	The appearance of my sweetheart awakens my desire
Nā dews kēhau o ke aumoe	Like the dews at midnight

[huapala.org n.d.]

3.3 *'Ōlelo No'eau* (Proverbs)

Hawaiian knowledge was shared by way of oral histories. Indeed, one's *leo* (voice) is oftentimes presented as *ho'okupu* ("a tribute or gift" given to convey appreciation, to strengthen bonds, and to show honor and respect); the high valuation of the spoken word underscores the importance of the oral tradition (in this case, Hawaiian sayings or expressions), and its ability to impart traditional Hawaiian "aesthetic, historic, and educational values" (Pukui 1983:vii). Thus, in many ways these expressions may be understood as inspiring growth within reader or between speaker and listener:

> They reveal with each new reading ever deeper layers of meaning, giving understanding not only of Hawai'i and its people but of all humanity. Since the sayings carry the immediacy of the spoken word, considered to be the highest form of cultural expression in old Hawai'i, they bring us closer to the everyday thoughts and lives of the Hawaiians who created them. Taken together, the sayings offer a basis for an understanding of the essence and origins of traditional Hawaiian values. The sayings may be categorized, in Western terms, as proverbs, aphorisms, didactic adages, jokes, riddles, epithets, lines from chants, etc., and they present a variety of

> literary techniques such as metaphor, analogy, allegory, personification, irony, pun, and repetition. It is worth noting, however, that the sayings were spoken, and that their meanings and purposes should not be assessed by the Western concepts of literary types and techniques. [Pukui 1983:vii]

Simply, *'ōlelo no'eau* may be understood as proverbs. The Webster dictionary notes it as "a phrase which is often repeated; especially, a sentence which briefly and forcibly expresses some practical truth, or the result of experience and observation." It is a pithy or short form of folk wisdom. Pukui equates proverbs as a treasury of Hawaiian expressions (Pukui 1995:xii). Oftentimes within these Hawaiian expressions or proverbs are references to places. This section draws from the collection of author and historian Mary Kawena Pukui and her knowledge of Hawaiian proverbs describing *'āina* (land), chiefs, plants, and places relative to Kōloa Ahupua'a and the larger Kona Moku.

3.3.1 *'Ōlelo No'eau* # 47

This *'ōlelo no'eau* is used to describe someone who is intoxicated.

> *Aia i Kōloa.*
>
> Is at Kōloa
>
> A play on kō (drawn) and loa (long)—drawn a long way under. Drunk.
>
> [Pukui 1983:8]

3.3.2 *'Ōlelo No'eau* # 1905

The following *'ōlelo no'eau* comparing the "heavily leafed kukui tree" with thick clouds blocking the sun was often used in Kona Moku.

> *Kukui-lau-nui-o-Kona.*
>
> Thickly leafed kukui of Kona.
>
> A thick cloud that shuts out the light of the sun, like a heavily leafed kukui tree. This expression was used in the Kona district of Kaua'i.
>
> [Pukui 1983:205]

Section 4 Archaeological and Historical Narrative

The purpose of this section is to provide a focused historical narrative for Kōloa Ahupua'a as it provides information regarding patterns of land use at and in the vicinity of the South Koloa Town project.

4.1 Pre-Contact

Chronological analysis from Kōloa and the two neighboring *ahupua'a*, Pā'ā and Weliweli, suggests an early initial occupation within the Kōloa District of ca. AD 535 (Walker and Rosendahl 1990:131). Initial occupation probably was characterized by temporary and/or recurrent occupation. From AD 600-1400, settlements in the Kōloa area were still limited to the coast. By AD 1040, lava tubes were used for burial and temporary habitation in the inland areas of Kōloa (Hammatt et al. 1999:7).

However, it should be noted that recent analysis of radiocarbon dates in Hawai'i suggest more consensus for colonization of the Hawaiian Archipelago between AD 1000 and AD 750 (Rieth and Cochrane 2015). Also, "Paleoenvironmental sequences from O'ahu and Kaua'i have recorded vegetation change and increases in microscopic charcoal consistent with human activities between ~1050 and 850 cal. B.P. [~AD 900 and 1100]" (Rieth and Cochrane 2015:9). (All dates reported in this section taken from the individual analyses as cited have not been independently verified or validated during the background research process and should be understood as provisory.)

One Hawaiian tradition says the islands of Hawai'i were first settled by the chief Punanuikaianaina, who came to the Puna District of Kaua'i from the Marquesas around AD 1000 to 1100 (Fornander 1996:45–46). The early settlers of the Hawaiian archipelago would have been especially attracted to the windward side of Kaua'i, which boasted large river valleys supporting a vast inland region of irrigated pond-fields for *kalo* (taro) cultivation that became the agricultural core of Kaua'i. The greatest of these river valleys were around Wailua and Hanamā'ulu streams. Excavation data near the mouth of Hanamā'ulu Stream indicates early occupation of the area between AD 1170 and 1400 (State Inventory of Historic Places [SIHP] # 50-30-11-01839, Walker et al. 1991). This area was richly endowed with agricultural wealth and was a major residential and religious center for the nobility (Kirch 2010:171). A number of prominent *heiau* and a sacred birthing site were located in the central Wailua area (Bennett 1931:125–128). In approximately AD 1450 (a time estimate based on an average length of generational intervals in chiefly genealogies), the Kaua'i *ali'i* (chief) Manokalanipō is credited "for the energy and wisdom with which he encouraged agriculture and industry, executed long and difficult works of irrigation, and thus brought fields of wilderness under cultivation" (Fornander 1996:93).

On the island of O'ahu in approximately AD 1490, the *'aha ali'i* (council of chiefs) chose Mā'ilikūkahi, an *ali'i kapu* (sacred chief) who was born at the sacred site of Kūkaniloko in the uplands of Waialua, to be the new *ali'i nui* (paramount chief) of O'ahu. After his paramountship was installed at the *heiau* of Kapukapuākea in central Waialua, Mā'ilikūkahi instituted an explicit land division and administrative structure (Kirch 2010:84–90). Although Kaua'i remained politically independent during this period, a hierarchical land system was also imposed on that island.

4.2 Early Historic Period

The first written accounts of Kaua'i are from travelers, missionaries, and surveying expeditions. Missionary accounts of the first half of the nineteenth century provide the majority of the early written records for this particular part of Kaua'i. The earliest explorers, like Cook and Vancouver, used Waimea for anchorage and victualing, with no mention made of Kōloa. However, their descriptions of well maintained, watered agricultural systems on this dry leeward coast are echoed in the early descriptions of Lāwa'i and Kōloa. Cook notes, "What we saw of their agriculture, furnished sufficient proofs that they are not novices in that art. The vale ground has already been mentioned as one continuous plantation of taro, and a few other things, which all have the appearance of being well tended to" (Cook 1784:244). Vancouver's description records "the low country which stretches from the foot of the mountains toward the sea, occupied principally with the taro plant [...] interspersed with some sugar-cane of luxuriant growth and some sweet potatoes" (Vancouver 1798:1:170).

Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*. On Kaua'i, the favored places for coconuts were Kōloa and Lāwa'i (Handy 1940:193).

Writing about this general area, Handy (1940) states,

> Upland kula lands that were famous for their sweet potatoes were Kukuiolono above Lāwa'i (the present park covering the McBride [*sic*] estate) and the elevated kula lands east of Wahiawa Stream. I was unable to obtain any information as to the uplands of Kalihi and Kilauea, but this and much of the kula land from here to Kealia is the same type of terrain and presumably was once used to some extent for growing sweet potatoes by taro planters in these districts. A kamaaina of Wahiawa says that inland of the cliff named Kawaikapuluna, the people used to have taro patches in the gulch, while their houses and potato patches were on the kula land above, bordering the gulch on either side. I was told this arrangement was typical also of Nawiliwili, and presumably also of Hanamaulu, Hanapēpē, Makaweli, and Waimea in the lower sections of their canyons. [Handy 1940:154]

Reverend Hiram Bingham's account of travelling east from Hanapēpē, in 1824, reports traverse

> [...] through a country of good land, mostly open, unoccupied and covered with grass, sprinkled with trees, and watered with lively streams that descend from the forest-covered mountains and wind their way along ravines to the sea. It is a much finer country than the western part of the island. [Bingham 1847:219]

No specifics are supplied.

By the early 1800s, Kōloa Landing had become the principal port of Kaua'i. The fact that the shipment of most of Kaua'i's sandalwood to Asia took place at Kōloa Landing suggests sandalwood was likely harvested in the uplands of Kōloa until the supply of the fragrant wood was exhausted around 1830 (Donohugh 2001:63–64).

In 1835, Thomas Nuttall and John K. Townsend, two American naturalists, visited the Kōloa area. They noted "fields of taro, yam, and maize (possibly sugarcane), irrigation networks and sweet potato patches in the dryer areas" (Townsend 1839:206). Also in the 1830s, J.J. Jarves, in "Sketches of Kauai" (Jarves 1844), remarked on the fields of sugarcane, taro, and yams which indicated more than usual attention to agriculture.

The extensive agricultural fields and their well-maintained appearance indicate a relatively well-populated area. Bernice Judd, in "Kōloa: A Sketch of its Development" (1935), suggests that prior to European Contact the population of Kōloa must have been several thousand.

Other evidence indicating the importance of the Kōloa area during prehistoric times includes a relatively large number of *heiau*. A nineteenth century Lahainaluna Schools manuscript records *heiau* and fishing grounds of Kōloa, based on interviews with Kōloa elders in 1885 (Lahainaluna 1885 HMS 43 #17). The manuscript lists 14 *heiau* and one fishing shrine for Kōloa. Of the 14 *heiau*, at least three were *luakini* class and two were *po'okanaka* class. Five were associated with fishing, two were associated with medicine, one with agriculture, and four were of unknown function. One *heiau* is identified as "Kamaloula"; its location is specified: "This heiau is located at Kamaloula, that was the site of Make a's [the woman being interviewed] house, where she lived with her first husband. This heiau was built for the purpose of multiplying food plants" (Lahainaluna 1885).

The earliest documentation of Kōloa district population appears in 1853 when missionary censuses recorded a total population of 1,296 (Schmitt 1977:12). A population distribution map by Coulter (1931) (Figure 9) indicates the population of Kaua'i ca. 1853 "was concentrated chiefly on the lower flood plains and delta plains of rivers where wet land taro was raised on the rich alluvial soil" (Coulter 1931:14).

> The area about Koloa in the southeast was also well populated. Koloa was a port of call for whaling vessels 'to recruit for the Polar Seas.' There 'calabashes of poi, raw fish, bunches of bananas, and bundles of sugar cane [...] [were] offered for sale to the foreigner.' There was a sugar cane plantation of 2,000 acres in this district, the proprietor of which 'was realizing at least one ton per acre of capital sugar.' Tidal flats in this vicinity were used for, evaporating sea water to obtain salt. [Coulter 1931:15–16]

By 1872, the population of Kōloa bottomed out at 833, and then began steadily increasing (reflecting in large part the influx of immigrant labor) to 1,500 in 1884, 1,835 in 1896 and 4,564 by 1900 (Schmitt 1977:13). While the Coulter reconstruction is a "broad-brush" map, it does show a very large population at Kōloa near Waikomo Stream and the coast.

4.3 Early Sugar and Export Crops at Kōloa

The Kōloa area is the site of the oldest sugar plantation in Hawai'i. In 1835, Ladd and Company gained the lease of some 1,000 acres at Kōloa for the purpose of growing sugarcane. "The lease allowed the use of the waterfall and an adjoining mill site at Maulili Pool, the right to build roads, and the privilege of unrestricted buying and selling, and freedom from local harbor dues" (Stauder 1973:18). Ladd and Company were not the first to mill sugarcane in the area, as there was a Chinese-operated granite roller mill in operation at Māhā'ulepū in 1830. Ladd and Company were, however, the first "plantation" organized industry in Hawai'i.

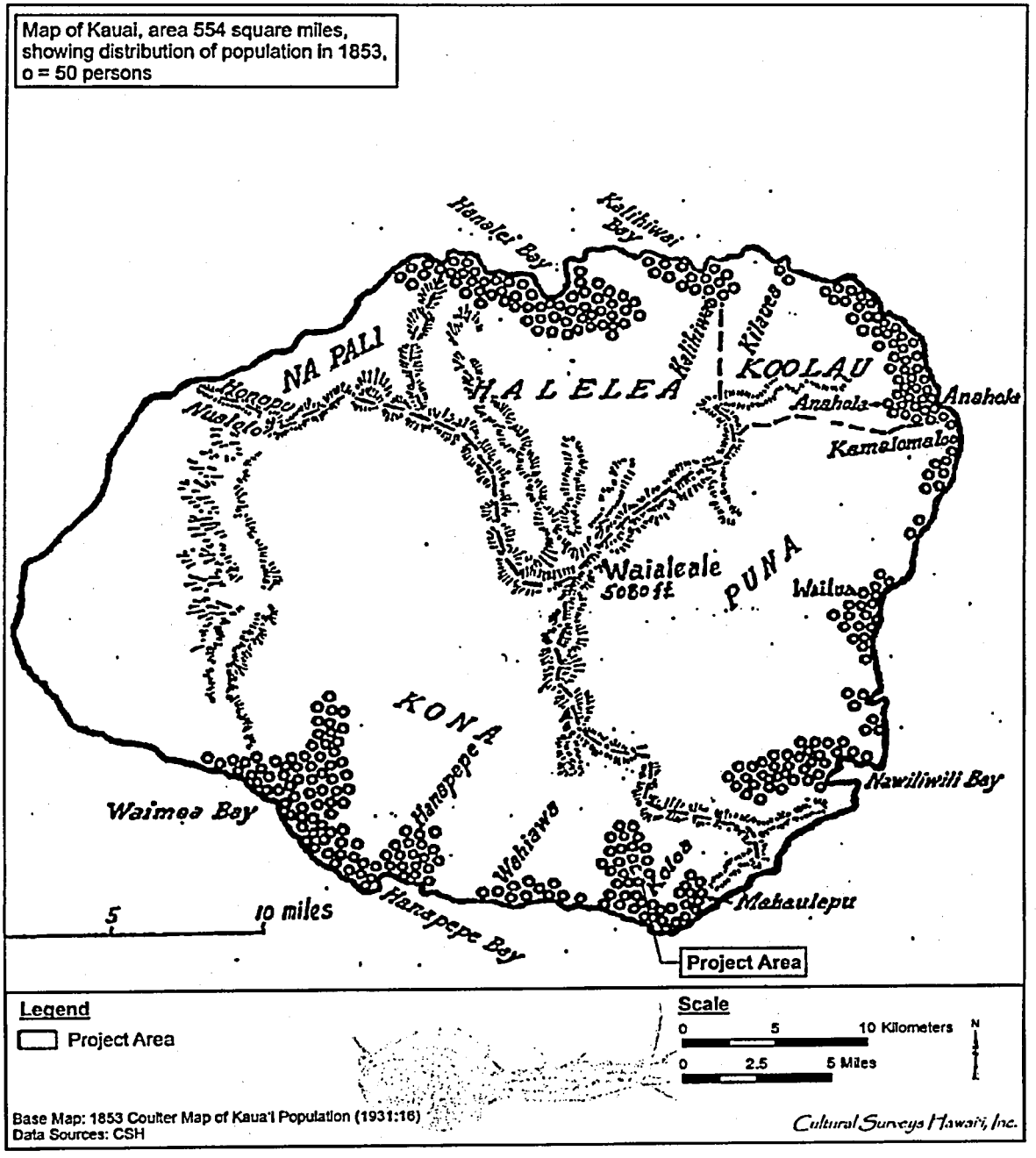


Figure 9. Map showing estimated distribution of population for Kaua'i in 1853 (Coulter 1931:16)

Along with the lease, the company was allowed to "hire native workers provided they paid the king, Kamehameha III, and Kaikio'ewa, appointed Governor of Kaua'i, a tax for each man employed and paid the men satisfactory wages" (Stauder 1973:18). The plantation set up houses for native workers and a store where the employees could purchase merchandise with the plantation currency in which they were paid.

The cane growing activity of Ladd and Company was not done directly on the present Kukui'ula lands, but the commercial activity initiated by the plantation had widespread ramifications. Kōloa Town and the landing at the mouth of Waikomo Stream became major commercial centers. The landing—or "roadstead" as it was called—was a busy port during the mid-1800s. "An estimate in 1857 stated that 10,000 barrels of sweet potatoes were grown each year at Kōloa, and that the crop furnished nearly all the potatoes sent to California from Hawai'i. Sugar and molasses were also chief articles of export" (Judd 1935: 326). Whalers also used the Kōloa roadstead during this period (1830-1870) and took on provisions of squashes, salt, salt beef, pigs, and cattle. Hawaiians grew the squashes (pumpkins) on the rocky lands north of the landing and numerous salt pans were located along the shore near the landing.

Ladd and Company ceased operating in 1845. Then, following a succession of individual and partnered ownerships, a new enterprise, Koloa Sugar Company, was established in 1880. In 1948, the Koloa Sugar Company became part of Grove Farm Company.

4.4 Māhele and Kuleana Act

The Organic Acts of 1845 and 1846 initiated the process of the Māhele—the division of Hawaiian lands—which introduced private property into Hawaiian society. In 1848 the crown, the Hawaiian government, and the *ali'i* received their land titles. Subsequently in the Māhele, LCAs were given to native tenants and others who could prove residency on and use of the parcels they claimed.

The Māhele records of Kōloa give a picture of what had evolved by the middle of the nineteenth century when Kōloa Ahupua'a, totaling 8,620 acres, was awarded to Moses Kekūāiwa (LCA 7714-B), the brother of Alexander Liholiho (Kamehameha IV), Lot Kapuāiwa (Kamehameha V), and Victoria Kamāmalu. Awarding the *ahupua'a* to Kekūāiwa resulted from an event 25 years in the past—the crushing of the 1824 revolt on Kaua'i by forces loyal to Kamehameha II—when Kaua'i lands were divided up among the chiefs of the other islands. The next largest award in the *ahupua'a* went to the Protestant Mission (ABCFM) (LCA 387) and consisted of approximately 825 acres. The majority of the mission lands were in the vicinity of Kōloa Town, where the parsonage was located. Large parcels just *mauka* of Kōloa Town were utilized for sugarcane cultivation and cattle pasture.

Eighty-eight other *kuleana* awards were given to individuals within Kōloa Ahupua'a (Figure 10). The majority of these LCAs were located in or around Kōloa Town itself. This concentration of awards around the town area may reflect both the traditional land settlement pattern, a focus on the resources of Maulili Pool and Waikomo Stream (a permanent stream), and a more recent movement of the populace to the plantation and missionary centers.

An 1891 map of Kōloa by M.D. Monsarrat shows the location of LCA parcels in the vicinity of Kōloa Town (summarized in Figure 11). No LCAs were located within the current project area, though one LCA (LCA 6309) is adjacent to a long stretch of the southern boundary of the project.

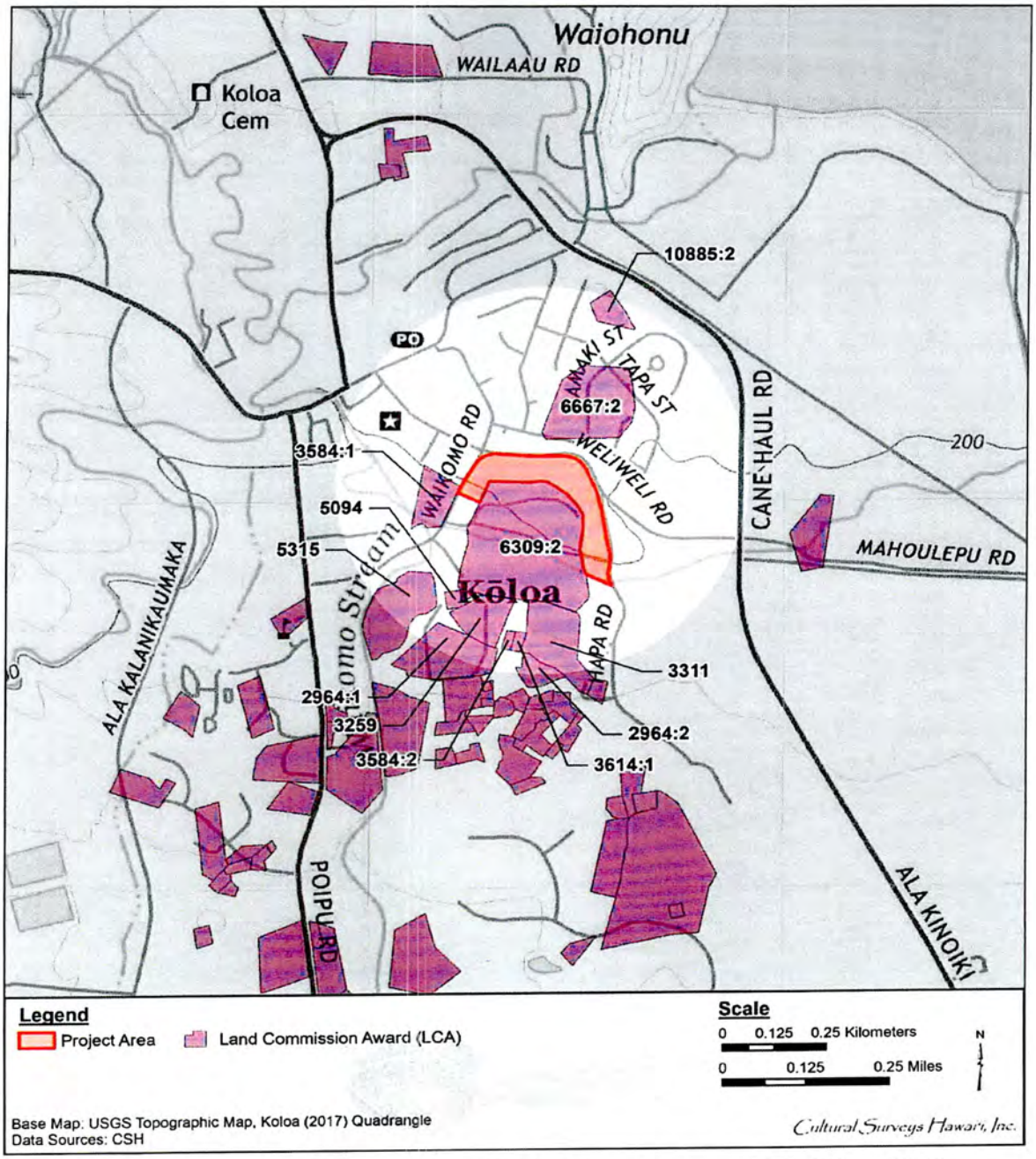


Figure 10. Distribution of LCAs in the vicinity of the project area on a 2017 Koloa USGS topographic quadrangle

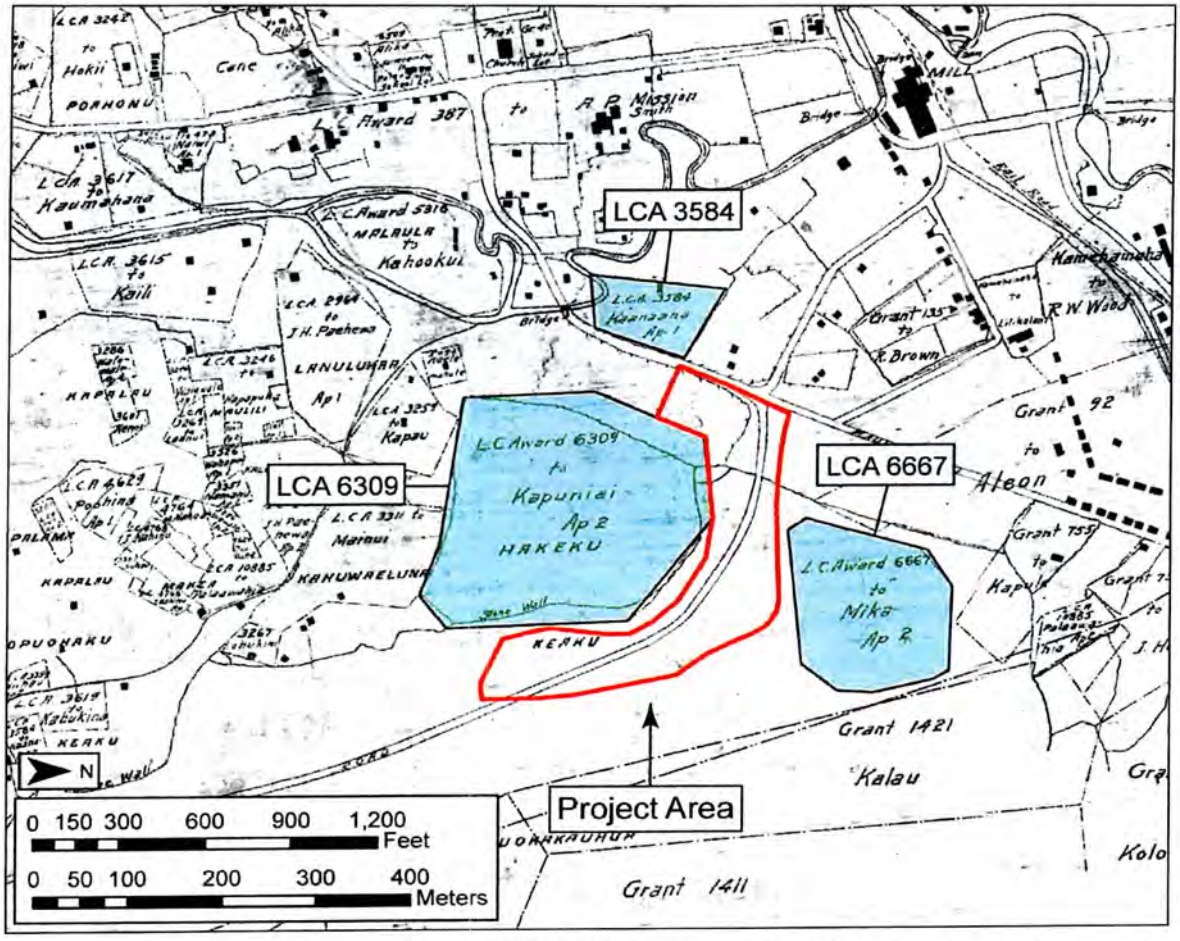


Figure 11. Portion of 1891 map of Kōloa by M.D. Monsarrat (RM 1694), showing the location of the project area and LCAs in the vicinity; note the stone wall roughly enclosing LCA 6304, including Kapuniai's house lot (*pā hale*) and associated *kula* probably pastureland

area, another (LCA 3584:1) is adjacent to the west corner of the project area, and a third (LCA 6667:2) is in the immediate vicinity. Information on the awards from Māhele documents is presented in detail in Appendix A and is summarized in Table 1.

The Māhele documents indicate that in the vicinity of the current project area land usage and activity by the mid-nineteenth century included habitation as well as taro and sugar cultivation. This may reflect the continuation into that century of traditional Hawaiian land use within the project area.

Testimonies provided to the Land Commission by applicants give specific indications of land use, property boundaries, and land tenure. Testimonies provided in LCAs 3584, 6309, and 6667 were generally limited to stating the boundaries of their claimed lands as well as land use. All three LCAs are indicated as being enclosed by stone walls and note the presence of additional house lots and *lo'i* (irrigated taro pond-fields) of other claimants in the vicinity

Of particular interest are the stated boundaries of LCA 6309, which indicated the presence of pasture lands immediately *puna* (east) of the LCA. This may explain the presence of numerous stone walls described in the land claims and shown on the 1891 Monsarrat map (Figure 11), a portion of which is shown running through the northeastern portion of the project area (see Table 1). These walls are likely cattle barriers used to keep cattle out of house lots and agricultural plots.

Table 1. Neighboring LCAs (see Appendix A for details)

LCA #	Claimant	Indicated Location	Stated Land Use	Comments
3584:1	Kaanaana	Maulili, Kōloa, adjacent to west of project area	*Pāhale* (house lot) and *kula* (dry land)	*Kula* was overgrown with weeds (*nāhelehele*) in 1852, a stone wall (*pā pōhaku*) was adjacent to the west corner of the project area
6309:2	Kapuniai	"Hakuku," Kōloa, adjacent to south of project area	*Pāhale* and *kula*	A government road (*alanui aupuni*) and stone wall (*pā pōhaku*) extended along approximately 766 ft of the south side of the present project area
6667:2	Mika	Keaku, Kōloa, approx. 25 m northeast of project area	*Kula*	Surrounded by a stone wall (*pā pōhaku*) and dry land (*kula*)

4.4.1 Late 1800s to Mid-1900s

Further documentation of the project area during the second half of the nineteenth century is found on a hand-drawn map by a *kama'āina* (native born) Kōloa resident. Judge Henry Kawahinehelelani Blake of Kōloa (1874-1948) drew a colored map of "Koloa Village" depicting what the area looked like in 1888 when he was a boy of 14 (Figure 12). The map suggests widespread taro *lo'i* continued to be in existence in the 1880s. The population of Kōloa, based on the house sites, continued to be dispersed across the Kōloa plain.

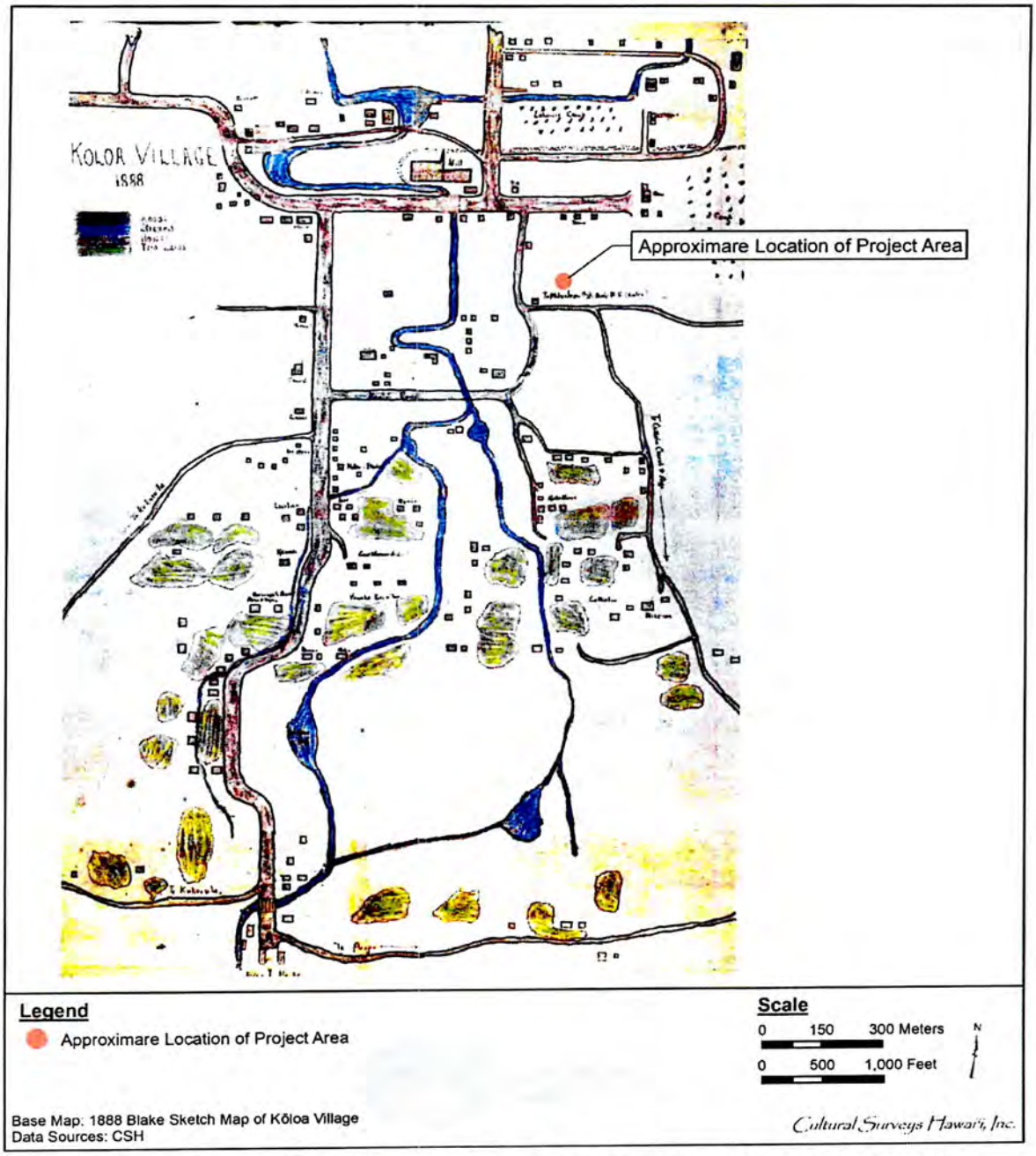


Figure 12. Hand-drawn map of Kōloa Village, 1888, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; note the amount of land devoted to taro (Kaua'i Historical Society)

The current project area appears in the right-center portion of the map, *makai* (seaward) of Maulili Road. Judge Blake indicates several taro *lo'i* and houses in the vicinity of the project area, but nothing directly within it. These *lo'i* and houses likely represent the continuation, into the last decades of the nineteenth century, of the fields and house lots identified in the LCA records.

Kōloa later became the scene of the confrontation of the traditional social structure with commercially impelled forces of change. The cane growing activity of Ladd and Company would inevitably affect the lives of the inhabitants of the rest of the *ahupua'a*. Traditional settlement patterns (e.g., permanent and temporary habitation interspersed throughout the irrigated agricultural fields near the coastal zone and traditional farming along streams) would have been distorted by a shift to settlement in Kōloa Town where sugarcane milling activities were located, and a shift to cash crops rather than taro.

The early success of Ladd and Company (before its bankruptcy in 1845) was an impetus for other entrepreneurial attempts within Kōloa. Silkworm farming, oil extraction from *kukui* nuts, cigar manufacturing, sago raising, and tapioca manufacturing were all attempted with varied success during the middle third of the nineteenth century.

Another major area of commercial enterprise was associated with the whaling industry at Kōloa Landing. Accounts of visitors suggest the inhabitants of Kōloa took advantage of their nearness to the landing to participate in the booming trade of the port. An article in the *Pacific Commercial Advertiser* of 19 February 1857 described the salient characteristics of the port at mid-century and mentions:

> From the landing there is a good carriage road to the town, distant about two miles. Large quantities of firewood, bullocks and sweet potatoes are furnished to whalers in this port, and these chattels can nowhere be procured cheaper or better. It is estimated that 10,000 barrels of sweet potatoes are cultivated annually here, which are thought to be the best on the islands. Nearly all the potatoes furnished for the California market are produced here [...] Sweet potatoes, sugar and molasses constitute the chief trade of the port. [*Pacific Commercial Advertiser*, 19 February 1857]

Kōloa became the official port of entry for Kaua'i in the 1850s and participated in the profitable trade with the whaling industry whose peak years ran from the 1830s to the 1860s. It seems likely the demand for firewood, bullocks, sweet potatoes, sugar, and molasses at Kōloa Landing was met to at least a small degree by activities in the *mauka* regions of Kōloa.

During the later decades of the nineteenth century the Knudsen family entered the Kōloa historical record. As Donald Donohugh (2001:191) notes,

> Valdemar Knudsen came to Kaua'i from Norway by way of California in 1852, built a home in Kekaha, which he named 'Wai'awa' (bitter water), and started a cattle ranch there. In 1865 he married Anne Sinclair, daughter of Eliza Sinclair, who owned the island of Ni'ihau and the *ahupua'a* of Makaweli (fearful features). Eliza bought most of the Kōloa *ahupua'a* in 1870 and gave it to Anne that year as a dowry. When Valdemar died, Anne set up a trust and through it leased her land first to Kōloa Plantation, then to Grove Farm, and finally to McBryde. Anne died in 1920, and Knudsen descendants formed trusts in their own names. First Hawaiian

> Bank manages the activities of all of them. Rather than speaking of several trusts, it is customary to use the generic term Knudsen Trust, as we will here. [Donohugh 2001:191]

The current project area is a portion of the Eric A. Knudsen Trust.

Sugarcane cultivation in Kōloa expanded in the 1890s with the forming of McBryde Sugar Company. Benjamin F. Dillingham incorporated "three estates, namely Kōloa Agricultural Co. (no connection with Kōloa Sugar Co.), 'Ele'ele Plantation, and Wahiawa Ranch" (Condé and Best 1973:191). Theo H. Davies was the acting agent until 1901 when Alexander and Baldwin took over agency control.

Expansion of cane fields and plantation rail lines was rapid. By 1903, McBryde had completed rail lines to its Kōloa fields and Kōloa Landing. The manager's report of 1904 notes, "Our permanent railroad had been graded into Kōloa Village [...] A span has also been run down from the main track to the coral sand beach between Kukuiula and Kōloa landing, so that we are able to load sand as required from fertilizer and other uses [...]" (Condé and Best 1973:191). By the first decades of the twentieth century, cane fields of the Kōloa Sugar Company and McBryde Sugar Company spanned the landscape of Kōloa. However, sugar company field maps from the early 1900s do not indicate sugarcane was cultivated within the current project area.

Kōloa Landing was phased out around 1925 when McBryde Sugar Company and Kōloa Sugar Company began using Port Allen. Soon after, McBryde ceased to use several of the Kōloa fields (Figure 13).

A second map drawn by Judge Henry Kawahinehelelani Blake shows "Kōloa Village" in 1938 (Figure 14). The map was likely drawn by Judge Blake in 1938 along with the map of the village in 1888 to record a "then and now" portrait of Kōloa. The map indicates "cane lands" and "pasture" in the vicinity of Kōloa Town. The taro *lo'i* that characterized the Kōloa landscape in the 1880s are no longer present.

4.4.2 Modern Land Use

A 1951 aerial photograph of Kōloa (Figure 15) indicates the entire project area as being heavily vegetated. A few dirt roads can be seen running through the eastern and western portions of the project area. Additionally, a single structure is located in the southwestern portion of the project area.

Following the merger of the plantation lands of the Koloa Sugar Company and Grove Farm Company in 1948, the combined lands under cultivation required new sources of irrigation water. In 1965, Grove Farm built a tunnel to bring the waters from Ku'ia directly into the Waitā (Kōloa) Reservoir. Grove Farm leased these cane lands to McBryde Sugar Company when it terminated sugar operations in 1974 (Wilcox 1998).

By the late 1960s, the main town of Kōloa experienced a type of reverse migration back to the shoreline. Although the town had established a Civic Center in 1977, the pace of tourist-driven development at the shoreline had been drawing construction and service jobs away from the town center. In 1962, the Wai'ohai Resort opened, with the Sheraton Kaua'i Resort following in 1965. The Kīahuna Plantation Resort opened in 1967, followed by the construction of various

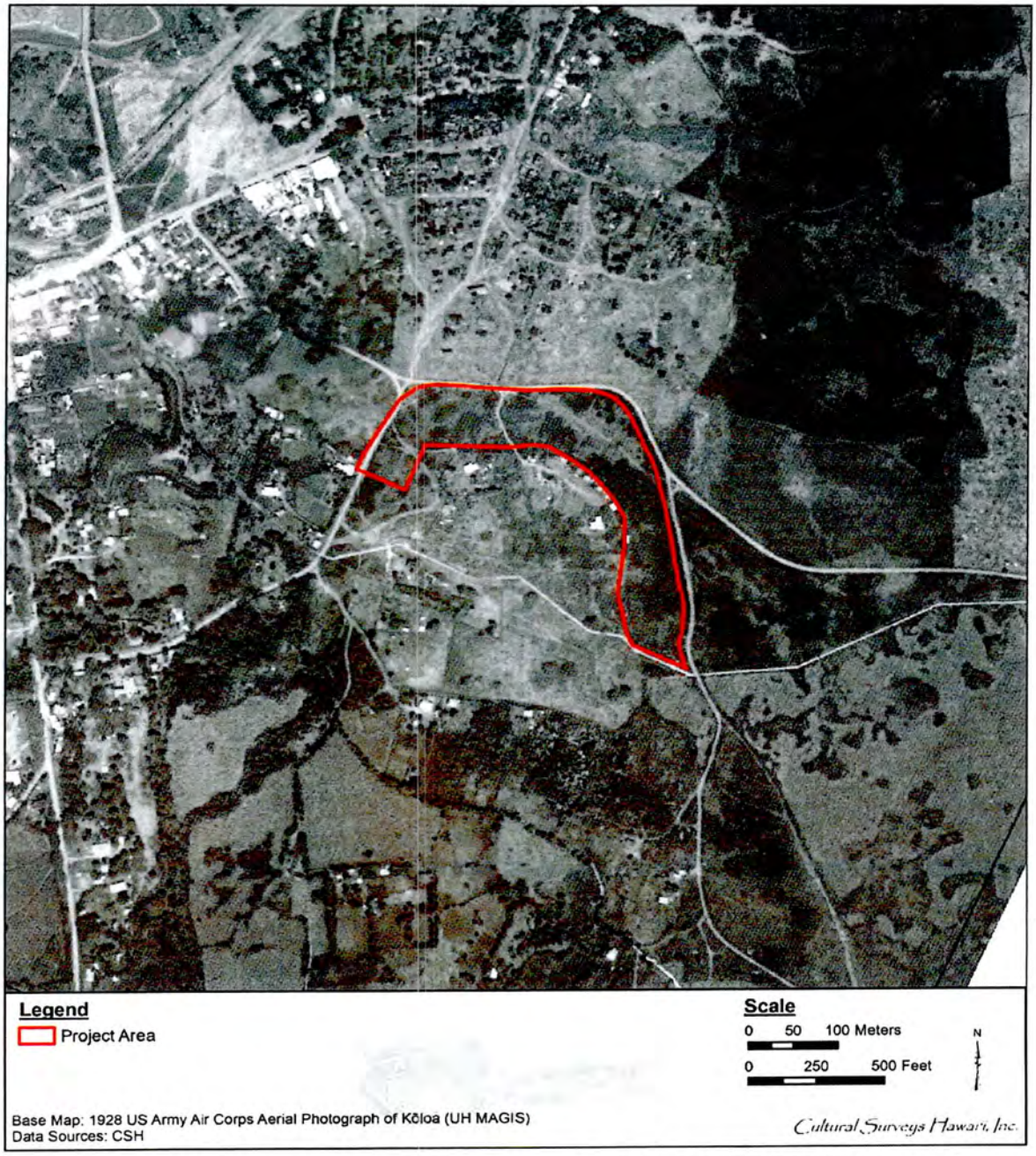


Figure 13. 1928 U.S. Army Air Corps aerial photograph of Kōloa (UH MAGIS) showing the location of the project area

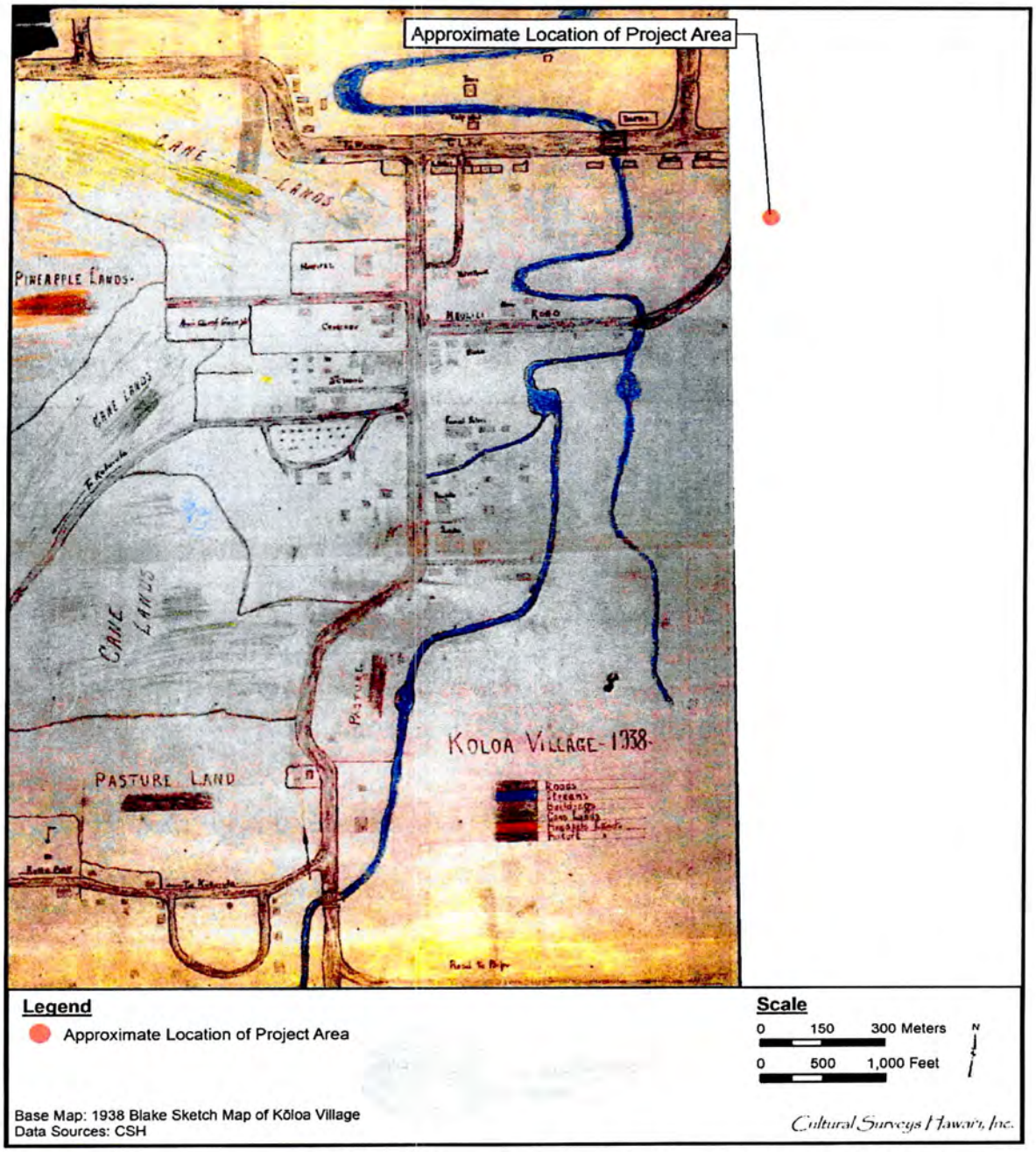


Figure 14. Hand-drawn map of Kōloa Village, 1938, by Judge Henry K. Blake (1874-1948) showing the approximate location of the project area; compare with Figure 12 and note the lack of taro lands (Kaua'i Historical Society)

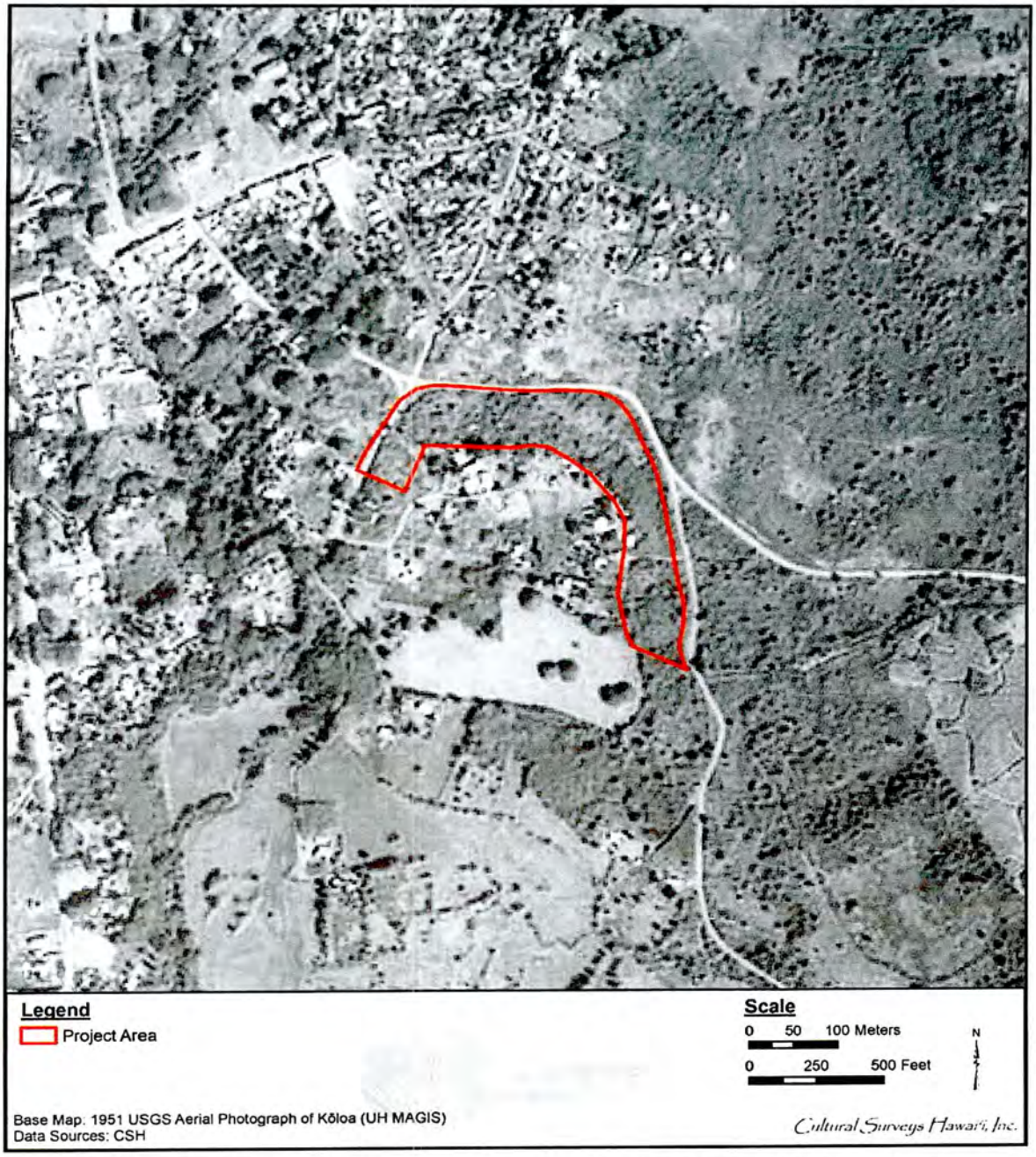


Figure 15. 1951 USGS aerial photograph of Kōloa showing the location of the project area

condominiums throughout the '70s and '80s. Finally, the Hyatt Regency Resort, with its expansive golf course, opened in 1991.

By this time, the tourist industry had successfully attached the name "Po'ipū Beach" to the entire coastline beginning just west of the subject parcel at Kōloa Landing and continuing east to Makahū'ena Ledge. With the development of the Po'ipū Bay Resort Golf Course and the Hyatt Regency Kaua'i Resort Hotel, the Po'ipū Beach name became synonymous with all 2 miles of coastline fronting the Wai'ohai, Kiahuna, and Sheraton developments, ending at Po'ipū Beach Park (Donohugh 2001).

By 1985, annual "Plantation Days" festivals were held in the open field adjacent to the former site of the 1841 sugar mill in Kōloa town. The Kōloa mill at Pā'ā was finally closed in 1996 and remains a landmark of the countryside as one makes the drive to Po'ipū. Future plans within the Kōloa district will place more demands on beachfront properties along the Lāwa'i and Po'ipū coastline.

Over 1,000 acres of former McBryde Sugar Company lands are slated for hotel and condominium development surrounding both coastal resort areas (Donohugh 2001). Future development plans for the upland areas involve both large tracts of lands, as well as regional redevelopment within Kōloa town itself.

4.5 The Kōloa Field System

The current project area is located at the eastern end of an expansive agricultural system that spread out across the *makai* plain of Kōloa Ahupua'a. The features of the present project area can only be comprehended in the larger context of the *ahupua'a* system.

Often, it has been assumed that the majestic, soil-rich valleys were the preferred environments for the development of irrigated agriculture in the Hawaiian Islands and that the modifications of broad lava plains and slopes for irrigation (e.g., Kōloa on Kaua'i and Lalamilo on Hawai'i Island) came as later developments in response to a need to expand food production. Based on archaeological investigations—including detailed mapping, excavation of habitation and agricultural features, and development of a C14 chronology—over an extended period in the *makai* portions of Kōloa Ahupua'a, CSH has been able to define the "*lo'i* lands of Kōloa" as a system, a set of interrelated features harmoniously interacting to form a unified whole. This "Kōloa Field System" extended from Lāwa'i to Weliweli, covering all of Kōloa Ahupua'a below present-day Kōloa Town.

This system developed contemporaneously—and in some cases earlier—than the well-known valley field networks. Although the principles and the technology applied at Kōloa were similar to the valley networks, the challenging Kōloa landscape led to unique adaptations.

4.5.1 Environmental Parameters

Consideration of the local topography, climate, and soil characteristics suggest distinct advantages, in comparison to valley environments, for the development of Hawaiian agriculture in the *makai* region of Kōloa. First, there is thin soil over bedrock. This might seem to be a disadvantage but if it is recognized that this thin soil probably supported only thin-rooted shrubs with parkland rather than dense forest, the heavy initial labor investment of vegetation clearing would be much less, compared to a densely forested valley environment. Secondly, the solid

pāhoehoe basal rock, 20-30 cm under the silt loam soil, would have led to minimal loss of water through downward percolation, compared to a valley environment. Thirdly, confined valley systems, particularly in the wet valleys of Kaua'i, could be wiped out or severely damaged by seasonal flooding. In Kōloa, no such problem existed. The Kōloa system is an adaptation and response to the recurrent danger of loss of subsistence production due to flooding. The Kōloa field networks are developed above the flood plain on the well-drained lava plain of the Kōloa volcanic series. In addition, Kōloa is a non-valley leeward environment. Solar radiation is higher than in most valleys and winter sun is not blocked by valley walls. Maturity periods for taro and other staples would be two to four months shorter than in valley environments.

4.5.2 Topography

The lava plain of Kōloa is not flat, nor is it level. It shows long *mauka/makai*-oriented tongues formed of old lava flows. The *'auwai* (ditch) were kept on these elevated points and could extend for long distances from the primary water source, Waikomo Stream. Some *'auwai* extended nearly 1.5 miles from the source and most originally extended to the ocean.

4.5.3 The Kōloa Field System as a Type

Riley (1975:102) and Kirch (1977) have outlined four types of irrigated fields found in Hawai'i. Type 1 is a simple set of parallel terraces with water flow down the center, overflowing each successive down slope terrace in turn. This is called a "barrage" type system and is considered the simplest. Type 2 involves the construction of an *'auwai* tapped from the stream which enters the top of a series of terraces. The *'auwai* ends at the upslope end of the terrace system as the water simply overflows down each successive terrace. Type 3 involves an *'auwai* paralleling the upslope side of the terrace feeding water to each row of fields. Each row has a separate tap from the *'auwai*. Type 4 involves two parallel *'auwai* on separate levels, one downslope from the other, each of which feeds water to separate rows of terraces. The lower *'auwai* serves as a drainage for the fields above it. This is considered the most highly developed type.

The Kōloa Field System fits none of the types described above. In its abstracted and simplest (and unintensified) form, the Kōloa Field System consists of a series of parallel *'auwai* flowing either on both sides or on top of a lava flow (Figure 16). This type of system would be impossible to construct in a valley environment without an impractical input of labor. It is uniquely adapted to the lava topography of Kōloa. There are no analogies in Hawaiian valleys. The only possible comparison could be to the extensive irrigation system at Lalamilo in Kohala on Hawai'i Island, where the broad undulating topography required layout of *'auwai* and fields not typical of a valley environment. Another matter of importance is the sheer size of the Kōloa system. It is known now to have covered over 700 acres and may have been considerably larger before commercial sugar. This would make it one of the largest irrigated systems in the Hawaiian Islands

Dendritic secondary *'auwai* branches—or a braiding pattern—would have been progressively added to the main *'auwai* as the system was intensified. Another form of intensification would be smaller fields. Aqueducted or raised *'auwai* are one of the most intriguing phenomena of the system (see Figure 17). These raised structures are likely labor-intensive responses to the need for more irrigated land in places where water must be routed over low ground.

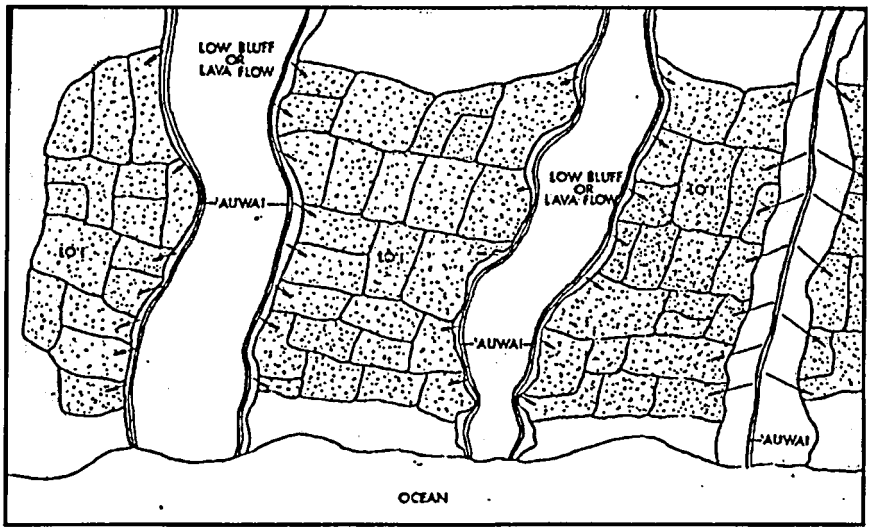


Figure 16. The Kōloa Field System, the basic type schematically represented

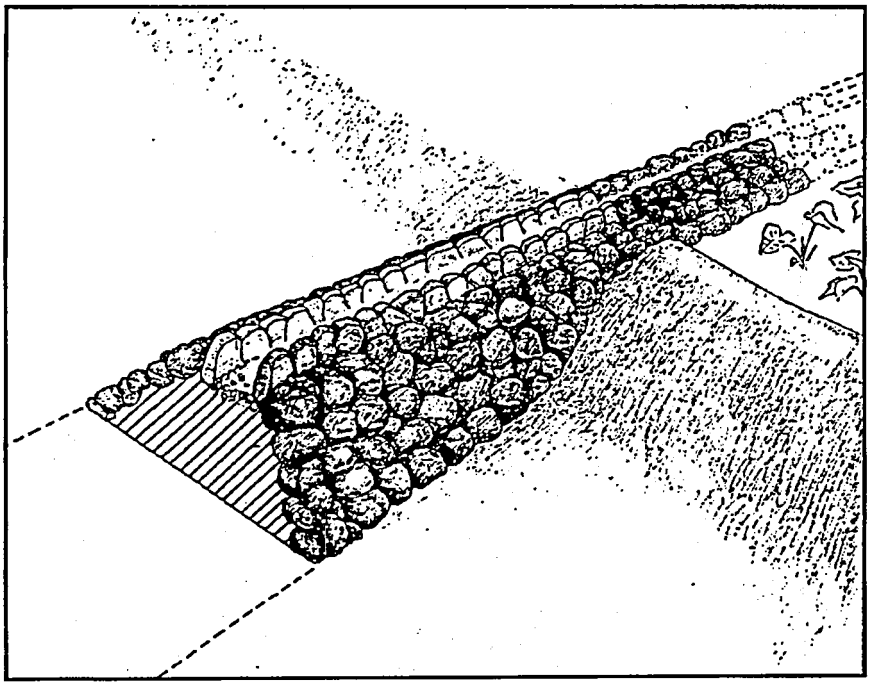


Figure 17. Cross-section of a raised *'auwai*

This effort involved the piling of hundreds of cubic meters of sediment and rock but may have resulted in the ability to irrigate much more than an acre of land. This alone is testimony to the greater productivity of irrigated fields over non-irrigated fields.

Section 5 Previous Archaeological Research

5.1 Previous Archaeological Studies in Kōloa Ahupua'a

Thomas Thrum was the first to discuss sites in the Kōloa area in his list of the *heiau* of Kaua'i (Thrum 1906). He discussed six *heiau* in the district of Kōloa, which once extended from Hanapēpē to Māhā'ulepū. The *heiau* were Hanakalauae, Kanehaule (inland Kōloa Ahupua'a), Kihouna (Kōloa Ahupua'a), Kaneiolouma (Kōloa Ahupua'a), Weliweli (Weliweli Ahupua'a), and Waiopili (Māhā'ulepū Ahupua'a). The two *heiau* on the Kōloa coast, Kaneiolouma and Kihouna, were described as "Near the Po'ipū beach, at Kōloa, are two walled *heiaus* but a short distance apart" (Thrum 1906:36–37, 68).

The earliest systematic archaeological survey on the Island of Kaua'i was conducted by Wendell Bennett in the late 1920s. Bennett examined and recorded 202 sites on the island. According to his site location map (Figure 18, Bennett 1931:98), Sites 74 through 81, 85–86, and 91–92 are within or in the vicinity of Kōloa Ahupua'a.

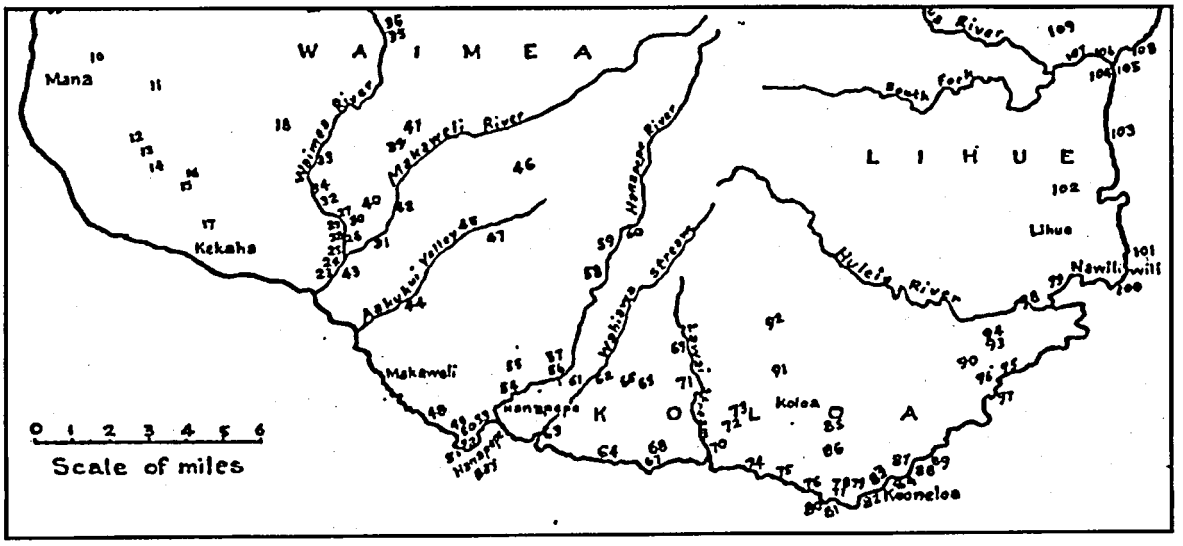


Figure 18. Portion of Bennet (1931) index map of Kaua'i showing archaeological sites in the Kōloa vicinity

Archaeological Sites Located by Bennett (1931) in Koloa Ahupua'a

Site 74. Fishing shelter. On the shore near the mouth of Kukuiula valley there is a fishing shelter.
Site 75. Kuhio Park, on the shore west of Waikomo stream, Koloa. Taro patches, a small heiau, an oven, paved house platform, fish pond, game ground with seats around, and a fishing shrine are the principal features shown.
Site 76. Salt pans, east of Waikomo stream along the shore.
Site 77. Ponds, just inland from the shore road at the east side of the Weliweli, Koloa.
Site 78. Taro terraces and house sites, just east of Site 77 and adjoining it.
Site 79. Walled inclosure [*sic*] and house sites, just northeast of Site 78, Koloa.
Site 80. Kihouna heiau, at Kihouna point, Poipu, Koloa.
Site 81. Kaneiolouma heiau, on the shore a short distance east of Site 80.
Site 85. Walls, inclosures [*sic*], house sites, in the cactus-covered country around the Koloa reservoir and extending to the sea.
Site 86. House site, in the area described in Site 85.
Site 91. Holua slide, on the hill named Puu o Hewa just above Koloa off the main road.
Site 92. Kanehaule heiau, at Kaunuieie, Koloa.

5.2 Archaeological Studies in the Vicinity of the Project Area

Figure 19 and Table 2 show previous archaeological studies in the vicinity of the project area. Figure 20 and Table 3 show historic properties within the vicinity of the project area. Details are included in the following subsections.

5.2.1 Kikuchi 1963

In 1963, William K. Kikuchi and Richard Paglinawan conducted an archaeological surface site survey of several *ahupua'a* within the Kona District including Kōloa (Kikuchi 1963). In Kōloa Ahupua'a, a selection of sites was documented along the coast.

5.2.2 Palama and Stauder 1973

Stephen Palama and Catherine Stauder (1973) conducted a reconnaissance survey along the route of the then-proposed main cane haul road to the Kōloa mill site. The proposed new section of road extended from Weliweli Road, southwestward across Po'ipū Road, connecting to an existing cane haul road. Eighteen sites were recorded along the road corridor. An extensive *'auwai* system was observed east of Po'ipū Road. The following comments on this system and the sites in general are relevant to understanding the archaeological significance of the area as a whole and the historic processes at work:

> Our reconnaissance revealed that the most significant archaeological feature located within the study area is the extensive *'auwai* system. Remnants of this irrigation system were observed on both sides of the Waikomo Stream ... [This] network of watering canals proved to be the key to the success of the prehistoric Hawaiian Culture in turning these marginal lands into flourishing wet and dry agricultural fields.

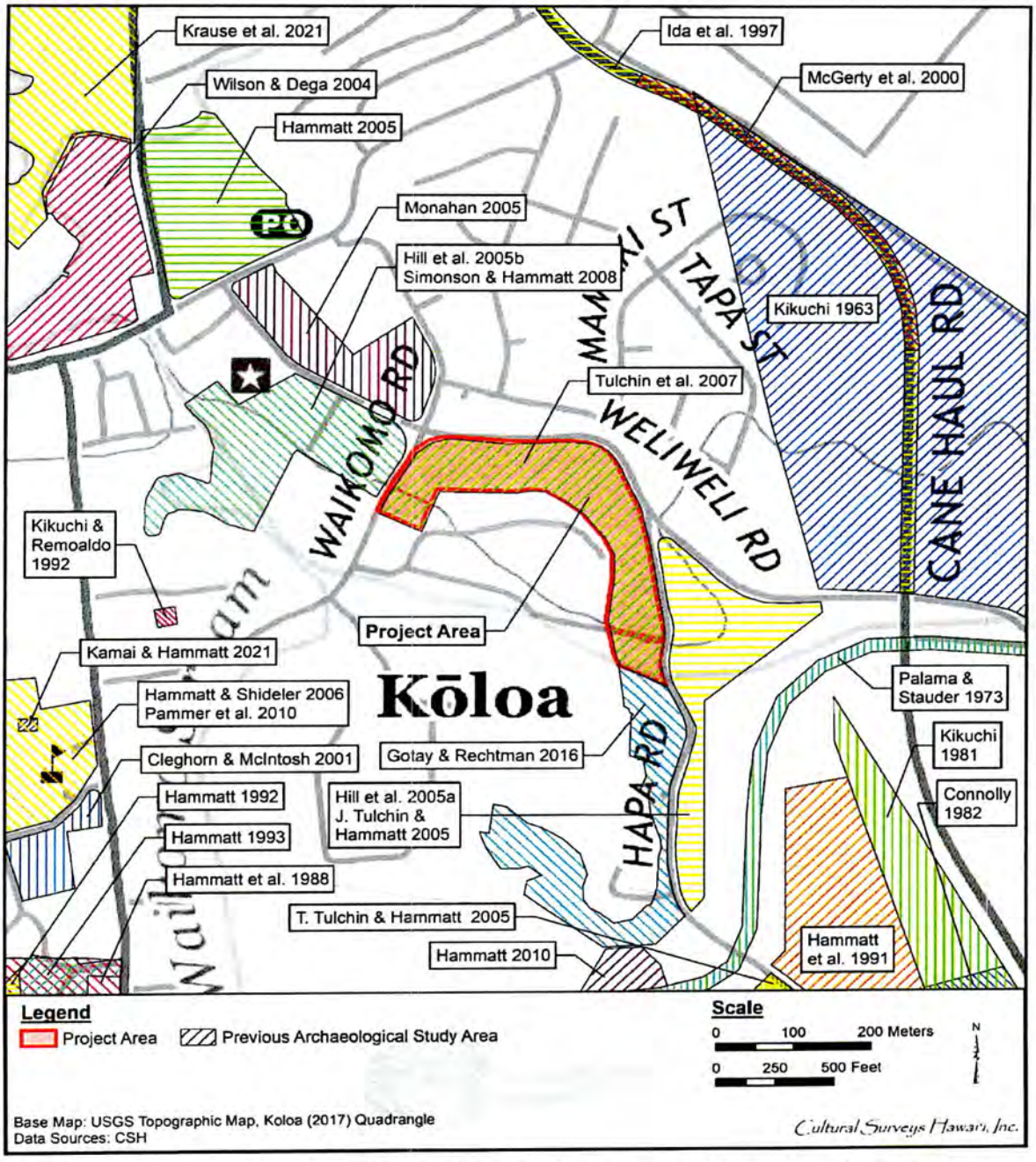


Figure 19. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of previous archaeological studies in the vicinity of the project area

Table 2. Previous archaeological studies in the vicinity of the project area

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Thrum 1906	Reconnaissance survey	Island-wide	Discussed six *heiau* in Kōloa District: Hanakalauae, Kanehaule (inland Kōloa Ahupua'a), Kihouna (Kōloa Ahupua'a), Kaneiolouma (Kōloa Ahupua'a), Weliweli (Weliweli Ahupua'a), and Waiopili (Māhā'ulepū Ahupua'a)
Bennett 1931	Reconnaissance survey	Island-wide	In Kōloa, identified a fishing shelter (Site 74), Kūhiō Park features (Site 75), salt pans east of Waikomo Stream (Site 76), ponds just inland from shore (Site 77), taro terraces and house sites (Site 78), a walled enclosure and house sites (Site 79), Kihouna Heiau (Site 80), Kaneiolouma Heiau (Site 81), walls, enclosures and house sites near Kōloa reservoir (Site 85), and adjacent house site (Site 86)
Kikuchi 1963	Reconnaissance survey	Kona District, Kaua'i (Hanapēpē to Maha'ulepū)	Selective recording of coastal sites
Palama and Stauder 1973	Reconnaissance survey	Proposed cane haul road from McBryde Plantation lands to Koloa Mill	Identified 18 archaeological features including habitation structures (8+), dwelling caves (2), a house platform (1), walled shelters (5+), livestock enclosures (6), an agricultural feature (1), a burial (1), and walls (2) east of Waikomo Stream (SIHP #s -03183 and -03190)
Kikuchi 1981	Archaeological reconnaissance	Weliweli Tract	Identified both pre- and post-Contact archaeological sites; pre-Contact sites consisted of *'auwai* remnants, terraces, and enclosures; post-Contact sites consisted of a well, rock walls, a railroad causeway, and other various rock structures

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Connolly 1982	Reconnaissance survey	Kōloa-Po'ipū Bypass Rd	Re-identified Bennett Site 85 but only remnants
Hammatt et al. 1988	Archaeological inventory survey and subsurface testing	Proposed Kukuiula Bay Planned Community (1,000 acres)	Located, mapped, and described 58 archaeological sites comprising 150 individual features
Hammatt et al. 1991	Archaeological inventory survey	Poipulani Golf Course and Residential Development	Documented 75 archaeological sites throughout project area; remnants of pre-Contact habitation and agricultural complex containing features typical of Koloa Field System, including platforms, C-shapes, walls, enclosures, *'auwai*, terraces, and mounds identified; eight potential burial sites also located
Hammatt 1992	Archaeological survey	Western Bypass Rd, Ala Kalanikaumaka right-of-way	No historic properties identified within project area; confirmed five previously identified historic properties (Site 1915 [CSH16]; Site 3179 [CSH19]; Site 3075 [CSH23]; Site 1921 [CSH25]; Site 1923 [CSH27]) beyond vicinity
Kikuchi and Remoaldo 1992	*Cemeteries of Kaua'i* study	Island-wide	In Kōloa, documented Koloa (Public) Cemetery (-B004), St. Raphael's Church Cemetery (also known as 'Ōma'o Cemetery) (-B005), Koloa Hawaiian Church Cemetery (-B006), Waterhouse Family Cemetery (-B007), and Bacle Family Cemetery (-B009)
Hammatt 1993	Archaeological reconnaissance	"Parcel 14," 1.75-acre property fronting W side of Po'ipū Rd S of Kōloa town	No historic properties identified; documented extensive modification of property and recommended no further archaeological work
Ida et al. 1997	Archaeological reconnaissance	1.2-mile corridor of proposed eastern Po'ipū Bypass Rd	No historic properties identified; noted 3-ft remnant of a wall 50-ft outside proposed road corridor understood as old cattle wall

Reference	Type of Study	Location	Results (SIHP 50-30-10)
McGerty et al. 2000	Historic preservation documentation of lava tubes	Koloa Bypass on Kōloa/Weliweli Ahupua'a boundary	Two lava tubes identified SIHP # -00574, with eight identified features contained basalt cores, basalt flakes, marine shell, a coral file, a piece of worked fine grained basalt, and pieces of coral; SIHP # -00575 included a primary human burial
Cleghorn and McIntosh 2001	Archaeological inventory survey	2.0-acre parcel on corner of Pa'anau Rd and Po'ipū Rd in Kōloa town	Utilized as part of "Paanau Camp No. 19"; five former plantation houses (SIHP # -00878) located on property along with several carports, historic rock walls, and various debris and garbage; determined no pre-Contact or traditional features present
Wilson and Dega 2004	Archaeological inventory survey	Old Kōloa Sugar Mill; TMK: (4) 2-8-006:001; overlaps current project area	Identified ten features associated with Kōloa Sugar Mill (SIHP # -09302)
Hammatt 2005	Archaeological inventory survey	NE corner of Maluhia Rd and Kōloa Town Rd (8.15-acre Knudsen Trust parcel)	Identified one historic property, an earthen berm associated with former plantation road and railroad, designated SIHP # -03922
Hill et al. 2005a	Archaeological inventory survey	8.63-acre parcel located *makai* of Weliweli Rd, bordered on W by Hapa Rd and on E by pasture (immediately adjacent to SE side of present project area)	Discusses SIHP # -03926 previously identified plantation-era elevated metal irrigation flume, constructed in 1902 by Koloa Sugar Co.

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Hill et al. 2005b	Archaeological inventory survey	9.348-acre parcel at Kōloa Ahupua'a, TMK: (4) 2-8-009: 001	Identified six historic properties, SIHP #s -03930 (historic stacked basalt boundary wall), -03931 (prehistoric/historic stacked basalt agricultural terrace wall); -03932 (historic irrigation reservoir), -03933 (historic house foundation), -03934 (historic earthen irrigation ditch), -03935 prehistoric/historic bi-faced stacked basalt wall)
Monahan 2005	Archaeological inventory survey	Southeast of Kōloa Rd and Weliweli Rd intersection	Four sites and nine historic structures documented: SIHP #s -03901 (ruins of Shingon-shu Mission), -03902 (dry-stacked boulder platform/historic storm drain), and -03903 and-03904 (two dry-stacked wall remnants); nine historic structures found to be in poor physical condition, and have little or no architectural integrity
Tulchin J. and Hammatt 2005	Archaeological literature review and field inspection	8.5-acre Knudsen Trust parcel bounded by Weliweli Rd to north and Hapa Rd to west	Identified three archaeological features (no SIHP #s assigned): historic flume and two raised platform remnants
Tulchin T. and Hammatt 2005	Archaeological inventory survey	Approx. 2.8-acre Knudsen Trust parcel adjacent to Hapa Rd and approx. 1 km SE of Kōloa town	Identified three historic properties comprised of six component features: SIHP # -03923 (series of stone walls), -03924 (platform), and -03925 (agricultural planting areas)
Hammatt and Shideler 2006	Archaeological literature review and field inspection	Kōloa Elementary School	Because of historic importance of Kōloa Town and prospect of encountering burials and/or cultural resources, archaeological monitoring program recommended
Tulchin et al. 2007	Archaeological inventory survey	10-acre parcel in Kōloa bounded by Weliweli, Puni, Waikomo, and Hapa roads	Identified SIHP # -05002 (historic stone wall) and collected post-Contact artifacts

Reference	Type of Study	Location	Results (SIHP 50-30-10)
Simonson and Hammatt 2008	Archaeological data recovery	TMK: (4) 2-8-009:001	Archaeological data recovery carried out at two historic properties: SIHP #s -03933 and -03934; 52 artifacts recovered at SIHP # -03933 (historic house foundation) including metal gears, suspension components, cogs, and bolts, a metal stake, a possible bell, a padlock, a key plate, ceramic porcelain and earthenware sherds, and glass bottle fragments; single artifact collected at SIHP # -03934, a painted ceramic oil lamp base
Hammatt 2010	Archaeological inspection (letter report)	5.4-acre parcel west of Hapa Rd	Documented remnant plantation-era irrigation ditches along three sides of project area
Pammer et al. 2010	Archaeological monitoring	Kōloa Elementary School	No historic properties identified
Gotay and Rechtman 2016	Archaeological inventory survey	Two parcels adjacent to west side of Hapa Rd (immediately adjacent to SE of present project area)	Identified SIHP # -03926, a previously identified *'auwai* and three newly identified sites, two historic boundary walls (SIHP #s -02300 and -02301), and remnant *'auwai* (SIHP # -02302)
Kamai and Hammatt 2021	Archaeological monitoring	Kōloa Elementary School (effluent disposal project)	No historic properties identified
Krause et al. 2021	Archaeological inventory survey (archaeological assessment)	Koloa Rum Co. improvements project; along Maluhia Rd across from Anne Knudsen Park, just south of intersection of Maluhia Rd and Ala Kinoiki Rd	No historic properties identified

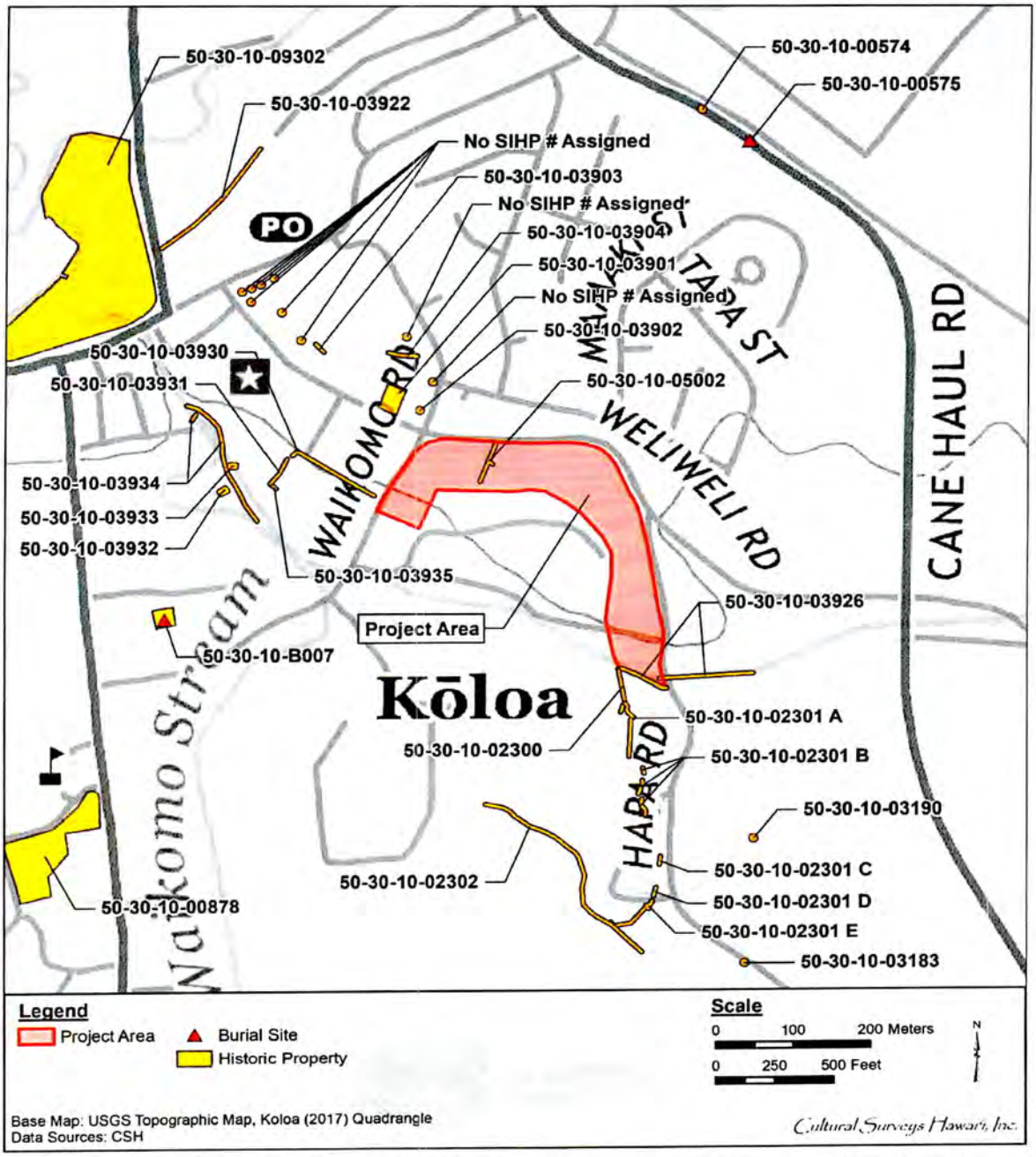


Figure 20. A portion of the 2017 Koloa USGS 7.5-minute topographic quadrangle with overlay of historic properties in the vicinity of the project area

Table 3. Previously identified historic properties within approximately 1,300m of the project area

SIHP # (50-30-10)	Site Type	Comments	Source
00574	Lava tube (permanent habitation)	With eight identified features, contained basalt cores, basalt flakes, marine shell, a coral file, a piece of worked fine grained basalt, and pieces of coral	McGerty et al. 2000
00575	Lava tube (human burials)	Included a primary human burial and scattered human remains	McGerty et al. 2000
00878	Plantation houses	Included five Pa'anau Camp 19 plantation houses	Cleghorn and McIntosh 2001
02300	Rock wall	A core-filled rock wall 1 m wide with a maximum height of 1.2 m depicted on an 1891 map and appears to have been built in association with LCA 6309:2 awarded to Kapuniai	Gotay and Rechtman 2016
02301 A	Rock wall	Segment of a core-filled rock wall, zig-zags for 20 m	Gotay and Rechtman 2016
02301 B	Rock wall	Segment of a core-filled rock wall, out of their project area	Gotay and Rechtman 2016
02301 C	Rock wall	Segment of a core-filled rock wall, extends north-south for roughly 12 m and terminates to the north of a driveway	Gotay and Rechtman 2016
02301 D	Rock wall	Segment of a core-filled rock wall, out of their project area	Gotay and Rechtman 2016
02301 E	Rock wall	Segment of a core-filled rock wall, partially in and partially out of their project area	Gotay and Rechtman 2016
02302	*'Auwai*	Remnant sections of a rock-lined channel and a concrete water flow control gate	Gotay and Rechtman 2016
03183	Enclosure wall	Interpreted as a cattle fence wall	Palama and Stauder 1973
03190	Enclosure wall	This is a large, long wall running in a *mauka/makai* direction and constructed of dressed and faced *pāhoehoe* lava.	Palama and Stauder 1973
03901	Shingon-shu Mission Ruins	Remnant ruins of the Shingon-shu Mission consisting of 6 main surface and a buried historic trash pit feature	Monahan 2005
03902	Sugar Mill site	Re-identified six features and designated four new features of the Old Koloa Sugar Mill site	Wilson and Dega 2004

SIHP # (50-30-10)	Site Type	Comments	Source
03903	Wall	Heavily modified and remodeled remnant of dry-stacked wall, with a small platformed area	Monahan 2005
03904	Wall	A dry-stacked, core-and-fill wall, measuring approximately 40.0 m in length, oriented roughly west-to-east, and truncated on both ends	Monahan 2005
03922	Earthen berm	Approx. 75 m long in project area, as high as 3 m above the surrounding terrain; corresponds to the location of the railroad line and mill access road, both shown on an 1891 map of Kōloa	Hammatt 2005
03926	Irrigation flume	Elevated metal irrigation flume, consisting of 19 pairs of concrete and basalt pylons used to support the metal flume 1 m above the ground; constructed and utilized by the Koloa Sugar Company; site includes a concrete irrigation culvert located near south edge of present study area	Tulchin and Hammatt 2005, Hill 2005, Gotay and Rechtman 2016
03930	Wall	Property boundary wall, 0.7 m tall by 0.7 m thick by 149 m length	Hill, Tulchin, Tulchin, and Hammatt 2005
03931	Terrace	Stacked basalt agricultural terrace wall, 2 m high by 1.3 m thick by 48 m long	Hill, Tulchin, Tulchin, and Hammatt 2005
03932	Reservoir	Irrigation reservoir, 11 m long by 7 m wide by 1.5 m deep	Hill, Tulchin, Tulchin, and Hammatt 2005
03933	House foundation	A historic house foundation structural wall, 10 m long by 7 m wide	Hill, Tulchin, Tulchin, and Hammatt 2005
03934	Ditch	Earthen ditch section of the Waikomo Ditch, a two and a half mile ditch that diverted water from the Waikomo Stream to a reservoir located in Kalaeokahonu	Hill, Tulchin, Tulchin, and Hammatt 2005
03935	Wall	Property boundary wall, 0.55 m tall by 0.5 m thick by 9.0 m length	Hill, Tulchin, Tulchin, and Hammatt 2005

SIHP # (50-30-10)	Site Type	Comments	Source
05002	Stone wall	Animal husbandry, in present project area	Tulchin, Hammermeister, and Hammatt 2007
09302	Old Koloa Sugar Mill	The sugar mill, constructed in 1841, listed on the National Register of Historic Places and on the Hawai'i Register of Historic Places	Wilson and Dega 2004
B007	Cemetery	Waterhouse Family Cemetery (1848-1979) a small cemetery bounded by Maino Road, and the Kōloa-Union Church parsonage	Kikuchi and Remoaldo 1992
No SIHP # assigned	Plantation homes	Monahan (2005) discusses a number of plantation homes but does not assign SIHP #s	Monahan 2005
No SIHP # assigned	Plantation homes	Monahan (2005) discusses a number of plantation homes but does not assign SIHP #s	Monahan 2005
No SIHP # assigned	Plantation homes	Monahan (2005) discusses a number of plantation homes but does not assign SIHP #s	Monahan 2005

> From information gathered from local informants and preliminary historical investigation of this area it is evident that the early commercial growers of sugar cane utilized the existing *'auwai* system. Gradually as more and more fields came under sugar cane production these replaced the wet and dry fields of an earlier day.
>
> Today the archaeological sites remaining stand as islands as these marginal cane lands were taken out of production and turned into pasture. [Palama and Stauder 1973:4]

5.2.3 Kikuchi 1981

In 1981, William Kikuchi conducted an archaeological reconnaissance survey of 66 acres of land which was to be proposed as an addition to the Weliweli Tract (Kikuchi 1981). The survey identified pre-Contact archaeological sites including *'auwai* remnants, terraces, and enclosures and post-Contact archaeological sites including a well, rock walls, a railroad causeway, and other various rock structures.

5.2.4 Connolly 1982

In 1982, Archaeological Research Associates conducted an archaeological reconnaissance survey was conducted on several alternate routes for the planned Kōloa-Po'ipū Bypass Road (Connolly 1982). The survey reidentified the remnants of house sites, walls, enclosures, originally documented by Bennett (1931:120) as Site 85.

5.2.5 Hammatt et al. 1988

CSH conducted an archaeological inventory survey (AIS) in the 1,000-acre proposed Kukui'ula Bay Planned Community (Hammatt et al. 1988). Fifty-eight archaeological sites were recorded, of which many were associated with the Kōloa Field System. At least two (possibly three) *heiau* were found; these included the remains of Kamaloula Heiau.

5.2.6 Hammatt et al. 1991

Hallett Hammatt, William Folk, and Mark Stride (Hammatt et al. 1991) conducted an archaeological inventory survey of the proposed Poipulani Golf Course and Residential Development project. The project area consisted of 160 acres in eastern Kōloa along the boundary of Kōloa and Weliweli Ahupua'a. Seventy-five archaeological sites were documented throughout the project area. It was noted that despite historic modification of the landscape by commercial sugar cultivation and cattle ranching, "significant remnants of a once continuous prehistoric habitation/agricultural complex remain on the property" (Hammatt et al. 1991:i). The habitation and agricultural complex contained features typical of the Koloa Field System, including platforms, C-shapes, walls, enclosures, *'auwai*, terraces, and mounds. Eight potential burial sites, including two lava tubes possibly containing human burials, were also located.

5.2.7 Hammatt 1992

CSH (Hammatt 1992) reported on an archaeological survey for a proposed Western Bypass Road between Lāwa'i Road and a main east/west road within the Kukuiula Planned Community (Phase 1). No archaeological sites were identified. Five archaeological sites (Site 1915 [CSH16]; Site 3179 [CSH19]; Site 3075 [CSH23]; Site 1921 [CSH25]; Site 1923 [CSH27]) have been documented to the east and west of the survey area at the *makai* portion of the proposed road. All

these sites have been previously marked by fencing as part of the implementation of the 1991 Kukuiula Interim Preservation Plan.

5.2.8 Kikuchi and Remoaldo 1992

In 1985, William K. Kikuchi and Susan Remoaldo conducted an island-wide survey of the cemeteries of Kaua'i for Kaua'i Community College and the University of Hawai'i (Kikuchi and Remoaldo 1992). The main function of the survey was to locate, map, and inventory the various post-1800s cemeteries, graveyards, and family plots. Traditional, Native Hawaiian burials were not included in the scope of this study. Original locations of old plantation burial grounds were mapped even if the burials had been moved or reinterred. Whenever possible, the type of burial, names, dates, and details concerning the grave markers, as well as important historical notes were documented. Volume 1 of this work provides documentation for 33 cemeteries. Koloa (Public) Cemetery (50-30-10-B004), the cemetery northwest to the current project area, was partially inventoried, but not surveyed during the study. Five cemeteries, which were inventoried and surveyed in Kōloa, include Koloa (Public) Cemetery (-B004), St. Raphael's Church Cemetery (also known as 'Ōma'o Cemetery) (-B005), Kōloa Hawaiian Church Cemetery (-B006), the Waterhouse Family Cemetery (-B007), and the Bacle Family Cemetery (-B009).

5.2.9 Hammatt 1993

Gerald Ida and Hallett H. Hammatt conducted an archaeological reconnaissance survey of a 1.75-acre property ("Parcel 14") (TMK 2-6-04:14) in Kōloa, fronting Pō'ipu Road (Hammatt 1993). No historic properties were identified. They documented extensive modification of property and recommend no further archaeological work.

5.2.10 Ida et al. (1997)

Gerald Ida, Victoria Creed, and Hallett H. Hammatt (1997) conducted a reconnaissance survey on a 1.2-mile corridor of a proposed bypass road within the *ahupua'a* of Kōloa and Weliweli (TMKs: [4] 2-8-002:003, 2-8-003:001, 2-8-004:001, 2-8-005:002) that had previously been bulldozed. This road extended from an existing bypass road at the coast to north of Kōloa Town. This survey did not reveal any archaeological sites, and further study was not recommended.

5.2.11 McGerty et al. 2000

Scientific Consultant Services, Inc., (SCS) has completed an historic preservation documentation report of lava tubes on Koloa Bypass Highway on the Kōloa/Weliweli Ahupua'a boundary (McGerty et al. 2000). Two lava tubes (Cave A and Cave B) were identified: Cave A (SIHP # -00574) was interpreted as a pre-Contact permanent habitation site. Cave A contained eight identified features including basalt cores, basalt flakes, marine shell, a coral file, a piece of worked fine grained basalt, and pieces of coral. Cave B (SIHP # -00575) was interpreted as a burial cave.

5.2.12 Cleghorn and McIntosh 2001

Pacific Legacy, Inc. conducted an archaeological inventory survey on a 2.0-acre parcel (TMKs: [4] 2-6-008:011 and 022) on the corner of Pa'anau Road and Po'ipū Road in Kōloa town (Cleghorn and McIntosh 2001). The archaeological survey determined no pre-Contact or traditional features are present in the project area. The survey identified five former plantation houses (SIHP # -00878)

previously part of "Paanau Camp No. 19" located on the property along with several carports, historic rock walls, and various debris and garbage.

5.2.13 Wilson and Dega 2004

In January 2004, SCS conducted an archaeological inventory survey on 8.63 acres of land in Kōloa at the site of the Old Kōloa Sugar Mill, along Maluhia Road (Wilson and Dega 2004). Fieldwork consisted of a pedestrian survey with no subsurface testing. Remnants of the old sugar mill (SIHP # -09302), including ten distinct features associated with sugarcane cultivation and irrigation, were documented as part of the archaeological inventory survey. Ten features, including features 1–6, were recorded in an National Register of Historic Places (NRHP) nomination (Levy 1978).

SIHP # -09302 Features 1 through 6 were previously reported in the Levy 1978 NRHP form. These features included portions of Waihohonu and 'Ōma'o streams (Feature 1), remnants of the mill dam (Feature 2), cement irrigation channel (Feature 3), portions of Waikomo Stream and raceway (Feature 4), former cane haul road (Feature 5) first identified as a "Historic Ranch Road" in 1978, and the former mill structures and related features (Feature 6) (Wilson and Dega 2004:23, 39). SCS recorded the condition of these six features and recommended the Old Koloa Sugar Mill site be relisted on the NHRP to reflect current conditions (Wilson and Dega 2004:41).

During their survey, SCS identified four additional features of SIHP # -09302 that include a cane haul bridge (Feature A), bridge supports for the former cane haul railway (Feature B), former Old Mill Camp (Feature C), and a historic, stacked basalt rock wall (Feature D).

Wilson and Dega (2004:37–38) provide the following description for Feature C:

> The camp was located along the east bank of Waihohonu Stream just north of Koloa Mill. Little evidence of this camp remains. Its location is only discernible by the increase of historic trash mixed into the soil, mainly old bottle glass fragments and small chunks of basalt rocks with cement masonry. These fragmented blocks of rock and concrete are possible foundation pieces from plantation homes that lined the bank. This debris spans an area of 170 feet by 18 feet, 90 percent of which is on Lot 4. The level ground surface suggests that this feature has been bull dozed in past decades.
>
> However, there remains a great possibility of uncovering historic artifacts during any future ground altering activity around the feature. Some of the old house structures of this camp still exist on the west side of Waikomo Stream, outside of the current project area. [Wilson and Dega 2004:37–38]

In February 2004, Mason Architects, Inc., conducted a companion architectural inventory survey (Wilson and Dega 2004: Appendix A), which focused on two potential historic architectural resources (Properties A and B) identified within the study area. Property A is the Kaua'i Medical Clinic, formerly the Koloa Plantation Office Manager's Residence constructed in 1937, and Property B is the Telephone Exchange Building constructed ca. 1928. Mason Architects evaluated both properties as eligible to be included in the NRHP.

In their assessment of significance of SIHP # -09302, Wilson and Dega (2004:40) discuss significance variously for different features. However, the SHPD has clarified that, as a site, SIHP

-09302 is considered significant under Hawai'i Register of Historic Places (HRHP) Criteria A through D.

Wilson and Dega (2004:40-41) determined SIHP # -09302 Feature 1 (portions of Waihohonu and 'Ōma'o streams) is no longer considered a significant component of the historic property with the following explanation:

> In most circumstances, natural landmarks would not be considered for historic preservation, however, these streams played a vital role in the mill's function and location-and thus could be considered a cultural feature. Currently, the streams are no longer culturally intertwined with the site. Several features that once harnessed their flow are no longer intact. [Wilson and Dega 2004:41]

5.2.14 Hammatt 2005

On 3 August 2005, CSH conducted an AIS on 8.15 acres at the northeast corner of Maluhia Road and Kōloa Road for the construction of an assortment of commercial businesses and an expansion of the Kōloa Post Office (Hammatt 2005). Fieldwork included a reconnaissance survey of the entire project parcel. One historic property, SIHP # -03922, was identified during the survey. SIHP # -03922 is an earthen berm associated with a former plantation road and railroad. It is considered significant for its relation to Kōloa's sugarcane and plantation-era history. No materials associated with the road and railroad were observed. Hammatt (2005) notes all surface historic properties related to traditional Hawaiian habitation and agriculture had been eliminated from the property. No further archaeological work was recommended.

5.2.15 Hill et al. 2005a

Robert Hill, Todd Tulchin, Jon Tulchin, and Hallett Hammatt (Hill et al. 2005a) conducted an archaeological inventory survey of an 8-acre Knudsen Trust parcel located adjacent to Hapa and Weliweli roads. One historic property was identified during the inventory survey, SIHP # -03926, a previously identified plantation-era elevated metal irrigation flume, constructed in 1902 by the Koloa Sugar Company.

5.2.16 Hill et al. 2005b

Between 29 September and 20 October 2005, CSH performed an AIS of a 9.348-acre parcel in Kōloa Town for the construction of a series of condominiums located on the east bank of Waikomo Stream, between Waikomo Road and Weliweli Road (Hill et al. 2005b). Fieldwork included a complete ground survey of the project area, during which CSH identified six historic properties: SIHP #s -03930 through -03935. SIHP #s -03932, -03933, and -03934 are related to the diversion of irrigation water from Waikomo Stream for plantation agriculture. SIHP # -03932 was recorded as the remnants of small wall built proximate to the stream, SIHP # -03933 was recorded as the remnant of a historic wall and habitation foundation, and -03934 is Waikomo Ditch. The other three historic properties, SIHP #s -03930, -03931, and -03935, are related to sugarcane cultivation. SIHP # -03930 is a modern boundary wall denoting the boundary line shown on the 1891 M.D. Monsarrat map of Kōloa Town, and SIHP #s -03931 and -03932 each represent a stacked basalt wall. No subsurface testing was conducted during the archaeological inventory survey; however, data recovery was recommended for SIHP #s -03933 (house foundation) and -03934 (Waikomo Ditch). Preservation was recommended for the remaining four historic properties.

5.2.17 Monahan 2005

Between 16 and 18 November 2004, SCS conducted an archaeological inventory survey on 5.31 acres of land in Kōloa, just southeast of the intersection of Kōloa Road and Weliweli Road (Monahan 2004). Fieldwork included a pedestrian survey and subsurface testing. Four historic properties and nine historic structures were documented. The four historic properties identified during the survey are SIHP #s -03901 through -03904. SIHP # -03901 represents the ruins of the former Kōloa Shingon-shu Mission. Feature 4 of this early to mid-twentieth century mission is a concrete light fixture with Japanese characters imprinted into its base. This feature was preserved as part of an interpretive display for a planned walking museum within the proposed project development. SIHP # -03902 is a dry-stacked boulder platform/historic storm drain. SIHP #s -03903 and -03904 each represent remnants of a dry-stacked wall; both were difficult to date due to having undergone significant repurposing and alteration in modern times. Nine historic residences were also documented as part of the archaeological inventory survey. These structures were preserved intact, either at original or new locations in Kōloa.

5.2.18 Tulchin J. and Hammatt 2005

In 2005, CSH completed an archaeological literature review and field inspection for an 8.5-acre Knudsen Trust parcel (Tulchin J. and Hammatt 2005). The field inspection included a walkthrough of the majority parcel to evaluate present conditions and to determine the presence or absence of historic properties. Field observations of the 8.5-acre parcel identified three archaeological features: an historic irrigation flume and two potential site remnants consisting of raised rectangular platforms constructed of basalt boulders with basalt pebble paving which have potential to contain subsurface remains.

5.2.19 Tulchin T. and Hammatt 2005

Todd Tulchin and Hallett Hammatt (2005) conducted an AIS of an approximately 2.8-acre Knudsen Trust parcel located adjacent to Hapa Road, approximately 1 km (0.6 miles) southeast of Kōloa Town. Three historic properties, comprised of six component features, were identified within the project area: SIHP #s -03923 Features A–C (series of stone walls), -03924 (platform), and -03925 Features A and B (agricultural planting areas).

5.2.20 Hammatt and Shideler 2006

In 2006, CSH conducted an archaeological literature review and field inspection study for eight Department of Education (DOE) schools on Kaua'i, including Kōloa Elementary School. The field inspection results at Kōloa Elementary School indicate the campus is located in Kōloa town. The campus has been previously graded to a relatively level surface, and a stacked faced basalt rock wall, possibly a historic boundary marker for the school, was noted. It was concluded that the school had moderate archaeological potential. The archaeological resources in the vicinity of the school suggest the area was heavily populated by ca. 1850. A single LCA was identified in the northeast area of the school grounds. Based on the historic importance of Kōloa town and the possibility of encountering burials and/or cultural deposits in the study area, an archaeological monitoring program was recommended and implemented in 2010.

5.2.21 Tulchin et al. 2007

On 2 and 3 January 2007, CSH conducted an archaeological inventory survey on 10 acres of land (the present project area) (TMK: [4] 2-8-011:001) in Kōloa, just south of the intersection between Weliweli Road and Waikomo Road (Tulchin et al. 2007). The project area is bounded by Weliweli Road, Waikomo Road, Puni Road, and Hapa Road. This fieldwork included a 100% pedestrian survey of the study area and limited subsurface testing. The surface survey located one historic property, SIHP # -05002, the remnant of a historic stone wall. A 1-by-1-m test unit was manually excavated along the east side of the wall, which revealed the underlying stratigraphy as well as an assemblage of historic artifacts, including bottle glass, window glass, and fragments of metal. No other historic properties were identified.

5.2.22 Simonson and Hammatt 2008

Between 9 and 11 September 2008, CSH conducted archaeological data recovery for SIHP #s -03933 and -03934 (Simonson and Hammatt 2008). This data recovery had been previously recommended in an archaeological inventory survey report by Hill et al. (2005b) (see Section 5.2.16). SIHP # -03933 has two components, the remnant of a historic house foundation and a stacked rock wall, and SIHP # -03934, remnant of an earthen irrigation ditch with concrete components.

CSH conducted thorough surface collection (no subsurface testing) of SIHP # -03933. Midden materials (faunal [cow] bone and marine shell) were only identified at SIHP # -03933. Fifty-three historic artifacts were recovered during data recovery; 52 of these were collected during surface collection at SIHP # -03933, including metal gears, suspension components, cogs, and bolts, a metal stake, a possible bell, a padlock, a key plate, ceramic porcelain and earthenware sherds, and glass bottle fragments. These artifacts indicate a likely habitation date of post-1894 at SIHP # -03933.

Two mechanically excavated cross-sections of the entire width of the ditch (SIHP # -03934) uncovered an assemblage of subsurface modern refuse, including glass bottle fragments, plastic, aluminum cans, cement, lumber, Styrofoam, PVC pipe, metal fragments. In addition, a single historic artifact, a painted ceramic oil lamp base, was recovered. Neither pre-Contact nor traditional Hawaiian artifacts were encountered. Observed stratigraphy indicated a single phase of post-Contact construction of SIHP # -03934 with no pre-Contact modifications.

5.2.23 Hammatt 2010

In 2010, CSH conducted an archaeological inspection of a 5.4-acre parcel at the request of Mr. Ted Blake of Kōloa (Hammatt 2010). The parcel is owned by Grove Farm Inc. and is being leased by Mr. Blake for stockpiling rocks that will be used to repair and reconstruct stone walls on either side of Hapa Trail, known as Hapa Road. Based on this field inspection, the authors felt the proposed temporary use of this portion of the subject property for stockpiling rocks will have no impact on historic properties. Remnant plantation-era irrigation ditches along three sides of the project area were observed.

5.2.24 Pammer et al. 2010

In 2008 through 2009, CSH conducted archaeological monitoring for the Kōloa Elementary School DOE Cesspool project (Pammer et al. 2010), which consisted of improvements to the sewer

systems, including the installation of six septic tanks and associated pipelines. No cultural deposits were observed.

5.2.25 Gotay and Rechtman 2016

Gotay and Rechtman (2016) carried out an AIS of two tax map parcels, TMKs: (4) 2-8-012:001 (4.11 acres) and 2-8-012:011 (3.18 acres) located adjacent to present-day Hapa Road. The north edge of their study parcel 001 is contiguous with the south edge of the present project area. They located a previously identified irrigation channel, SIHP # -03926, and newly identified three sites, two historic boundary walls (SIHP #s -02300 and -02301), and a remnant *'auwai* (SIHP # -02303).

The SIHP -03926 *'auwai,* was described by Tulchin T. and Hammatt (2005) and in great detail by Hill et al. (2005a). The Gotay and Rechtman (2016:40–43) study effectively expands this SIHP # -03926 site description to include an irrigation ditch consisting of a channel between two concrete rock masonry retaining walls oriented east-west that extend from Hapa Road approximately 30.5 m to the west before terminating under the ground surface. Gotay and Rechtman (2016:52) agree with the prior CSH assessment of significance under Criterion A for its association with the Koloa Plantation, which was significant in shaping the geopolitical history of the study area, and Criterion D for its information content. They argued their site documentation serves to mitigate any potential impacts from future development and recommended no further work for this site.

The SHPD review dated 26 September 2016 (Log No. 2016.02268, Doc. No. 1609MN04) agreed with the study's significance assessments and recommendations.

5.2.26 Kamai and Hammatt 2021

In June 2016, CSH conducted archaeological monitoring for the Kōloa Elementary School Effluent Disposal Replacement project (Kamai and Hammatt 2021). The project area was located in the northern portion of the school property between the play court to the west and small portable buildings (P-1 to P-8) to the east. The work consisted of excavations for the leach field and did not extend beyond the specific 0.08-acre portion of the campus that comprised the project area. No cultural materials and/or deposits were observed during the archaeological monitoring program. The excavation activities associated with the project did not have any adverse effects on historic properties, because no historic properties were identified.

5.2.27 Krause et al. 2021

In 2021, CSH prepared an AIS (lack of finds termed an archaeological assessment) for the Kōloa Rum Company Improvements project (Krause et al. 2021). The project area is located on former commercial sugarcane fields along Maluhia Road across from Anne Knudsen Park, just south of the intersection of Maluhia Road and Ala Kinoiki Road. No historic properties have been identified within the project area.

Section 6 Consultation Results

6.1 Introduction

Throughout the course of this assessment, an effort was made to contact and consult with NHO, agencies, and community members including descendants of the area, to identify individuals with cultural expertise and/or knowledge of the *ahupua'a* of Kōloa. CSH initiated its outreach effort in July 2025.

6.2 Community Outreach Letter

Letters along with maps and aerial photographs (Appendix B) of the project area were sent with the following text:

> With this letter, Cultural Surveys Hawai'i (CSH) humbly requests your *mana'o* and *'ike* (experience, insights, and perspectives) regarding past and ongoing cultural, practices, beliefs, and resources within the Kōloa Ahupua'a. This letter serves as a request for consultation for the associated Ka Pa'akai Analysis.
>
> Consultation with traditional cultural practitioners, *kūpuna*, *kama'āina*, and Hawai'i's diverse ethnic communities is an important and deeply valued part of our work and the environmental review process for proposed projects in Hawai'i. Your contributions will revitalize and keep alive knowledge of cultural practices, storied places, and life experiences that will remind Hawai'i's children of their history for generations to come.
>
> Project Description
>
> SK Investors LLC requests that CSH perform a Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: (4) 2-8-011:001.
>
> SK Investors LLC is proposing for the development of a primary housing project consisting of single and multi-family residentials, park space, various drainage and utility improvements, and an internal road.
>
> Purpose of the Study
>
> In Ka Pa'akai O Ka 'āina v. Land Use Comm'n, 94 Hawai'i 31, 7 P.3rd 1068 (2000), the Hawai'i Supreme Court detailed a three-prong test for decision impacting traditional rights and resources, which requires specific findings regarding:
>
> 1. the identity and scope of cultural, historical, and natural resources in the affected area included the extent to which traditional and customary rights and practices are exercised in that area;
> 2. the extent to which those resources, rights, and practices will be affected by the proposed action; and

3. feasible action, if any, to reasonably protect Native Hawaiian rights and practices. (https://casetext.com/case/ka-paakai-o-kaaina-v-land-use-comn)

As a traditional cultural practitioner and holder of long-term knowledge, your insight, input, and perspective provide a valuable contribution to the assessment of potential effects of this project and an understanding of how to protect these resources and practices.

Insights focused on the following topics are especially helpful and appreciated:

- Your knowledge of traditional cultural practices of the past within the Kōloa Ahupua'a
- Your specific traditional cultural practice and its connection to the Kōloa Ahupua'a
- The different natural resources associated with your specific traditional cultural practice
- Legends, stories, or chants associated with your specific traditional cultural practices and their relationships to the Kōloa Ahupua'a
- Referrals to other *kūpuna*, *kama'āina*, and traditional cultural practitioners knowledgeable about the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on your ongoing traditional cultural practices and natural resources within the Kōloa Ahupua'a
- Your knowledge of cultural sites and *wahi pana* (storied places) within the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on cultural sites and *wahi pana* within the Kōloa Ahupua'a

Consultation Information

Consultation is an important and deeply valued part of this study and environmental review process. Your contributions will revitalize and keep alive our combined knowledge of past and ongoing cultural practices, historic places, and experiences, reminding our children of their history generation and generation. With your agreement to participate in this study, your contributions will become part of the comprehensive understanding of traditions of the area, and part of the public record.

As a part of this process, your knowledge may be used to inform future heritage studies of cultural practices and resources that need protection from the impacts of proposed future projects. If you engage in consultation, and the *mana'o* and *'ike* you provide appears in the study, we would like to recognize your contribution by including your name. If you prefer not to allow your name to be included, your information can be attributed to an anonymous source.

The consultation interview structure and format are flexible. We will accommodate your preference on how to get together: talk story, over the phone, by email correspondence, remotely via Zoom, MS Teams, Google Chat or other remote meeting platforms.

Your knowledge of the resources and potential effect of the project on traditional practices in the Kōloa Ahupua'a focusing on the topics in the bullet points above can also be submitted in a written statement. CSH will provide return postage of your written statement on request.

CSH is happy to provide a list of topics for discussion, a more structured questionnaire of interview questions, or any other assistance that might be helpful.

6.3 Community Outreach Table

Community consultation was initiated in July 2025. In most cases, two attempts were made to contact individuals, organizations, and agencies. Community outreach letters were sent to 36 individuals. Results of the outreach are presented in Table 4.

Table 4. Summary of consultation efforts

Name	Affiliation	Notes
Akana, Paula	Executive Director, Friends of 'Iolani Palace	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Ayau, E. Halealoha	*Kumu*, Hui Iwi Kuamo'o	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Buckley, David	SHPD, Kaua'i Lead Archaeologist	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Campbell, 'Olu	President/CEO, Hawaiian Islands Land Trust	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Chang, Kevin	Executive Director, Kua'āina Ulu 'Auamo (KUA)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Chock, Pam	Executive Director, Kaua'i Historical Society	Letter and figures sent via email 2 July 2025

Name	Affiliation	Notes
Chrisman, Beverly Nāmakakēhau	President/Treasurer, Aloha 'Āina o Hawai'i, Inc.	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Cummings, Jesse	Po'o, Wai Koa Kaua'i	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Cummings, Roslyn	Po'o, E Ola Kākou Hawai'i	Letter and figures sent via email 2 July 2025 Ms. Cummings responded on 4 July 2025 with an Affidavit of Cultural Opposition. She also cc'd several different agencies including the Planning Department, Kaua'i's Mayor, Kaua'i's County Council, the Attorney General, and the Department of Water in addition to other individuals. Due to the nature of her response, CSH responded 8 July 2025 thanking her for her response as well as forwarding her reply to those individuals and informed her that her response was forwarded to the client.
Faulkner, Kiersten	Executive Director, Historic Hawai'i Foundation	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Ferreira, Stacy Kealohalani	Ka Pouhana, Office of Hawaiian Affairs (OHA)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Gomes, Lance Kamuela	Konohiki Chief, Wahiawa Ahupua'a LCA 7714B Apana 6 RP 7813	Letter and figures sent via email 2 July 2025

Name	Affiliation	Notes
		Second round letter and figures sent via email 29 August 2025
Ho'omanawanui, Kauanoe	SHPD, Burial Sites Specialist (Kaua'i and Ni'ihau)	Letter and figures sent via email 2 July 2025 Ms. Ho'omanawanui responded acknowledging receipt and also forwarded the consultation letter to KNIBC Koloa representative, Chad Schimmelfenning. CSH responded 10 July 2025 with thanks.
Jackson, 'Ānela	President, 'Aha Mālama, Corp	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Kalili, Dre	President, Association of Hawaiian Civic Clubs (AHCC)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Kalili, Dreanalee	Treasurer, Imua Hawaii	Letter and figures sent via email 2 July 2025
Kamali'i, Na'unanikinau	Kawaileo Law A Limited Liability Law Company	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Ka'ohelauli'i, Billy	'Aha Moku Council, Kona Rep	Letter and figures sent via email 2 July 2025
Kekua, Kehaulani	*Kumu Hula*, Hālau Palaihiwa O Kaipuwai	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via 29 August 2025
Keli'ikipikāneokolohaka, Roxane	*Kia'i*, Kia'i Kanaloa	Letter and figures sent via email 2 July 2025

Name	Affiliation	Notes
		Second round letter and figures sent via email 29 August 2025
Kelly, Walter J	Vice President, Protect Keopuka Ohana	Letter and figures sent via email 2 July 2025 Second round letter and figures sent 29 August 2025
Lewis, Joseph Kūhiō	Chief Executive Officer, Council for Native Hawaiian Advancement (CNHA)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 29 August 2025
Laehā, Ka'iulani	COO, 'Aha Pūnana Leo	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 8 September 2025
MacDonald, Kainoa	Secretary, Association of Hawaiians for Homestead Lands (AHHL)	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 8 September 2025
Madarang, Renson	Director, Hale Mua Cultural Group	Letter and figures sent via email 2 July 2025 Second round letter and figures sent via email 8 September 2025
Makāula, Roz	Director, Government Relations, Nākiakaulani – Legal Group, Kamehameha Schools	Letter and figures sent via email 2 July 2025 CSH received an immediate out of office reply with a return date of 7 July. Second round letter and figures sent via email 8 September 2025
McFerrin-Warrack, Melissa	Historian, Kōloa Plantation Days Leadership, Cultural & Community Engagement at Kukui Grove	Letter and figures sent via email 11 July 2025

Name	Affiliation	Notes
Naholowa'a, Makalika	Executive Director, Native Hawaiian Legal Corporation	Letter and figures sent via email 11 July 2025Second round letter and figures sent via email 8 September 2025
Native Hawaiian Education Council	(No Named Contact on NHO list)	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025
Ritte, Walter	Executive Director, 'Āina Momona	Letter and figures sent via email 11 July 2025 An associate of 'Āina Momona responded 13 July 2025: *Aloha,* *Can you please share some information about yourself and how you are qualified to do this work? Specifically, please share information about your background and how you meet the professional standards under HAR 13-281-6.* *Mahalo for reaching out.* CSH emailed the following on 16 September 2025: *Greetings 'Āina Momona* *Thank you for your email about Cultural Surveys Hawaii's (CSH) credentials. Your inquiry was forwarded to me.* *CSH has been active in the field of cultural resource management for over 50 years. We have been at the forefront of implementing state historic preservation practices. We have extensive experience with project planning and the development of appropriate cultural resource management scopes of work including mitigation and treatment*

Name	Affiliation	Notes
		plans and extensive knowledge of historic preservation regulation and compliance. I have attached my resume. You are also welcome to visit our website: www.culturalsurveys.com *All of our cultural researchers meet the requirements under HAR 13-281-6 including:* *13-281-6(a)(2) bachelor's degrees from an accredited institution in anthropology and (A) two or more years of full-time experience in research and writing. In addition to meeting these qualifications, they meet the qualifications of 13-281-6(b)(2) demonstrated familiarity with the traditions, customs, practices and beliefs of the applicable ethic group addressed by the ethnographic study, (3) have demonstrated the ability to conduct and document interviews for ethnographic or historical purposes and to summarize information gained from the interviews and (5) have a working knowledge of the historic preservation review process.* *Chantellee has bachelor degrees in both Hawaiian Studies and Anthropology and has been a researcher with Cultural Surveys Hawai'i for 8 years. She was born and raised in Hilo, Hawai'i and dances as an 'ōlapa with Unulau, adding to her cultural knowledge of traditions, customs, practices and beliefs.* *Please let us know if you have any questions.* The group has yet to respond.

Name	Affiliation	Notes
Rowe, Rupert	*Po'o*, Hui Mālama o Kāneiolouma	Letter and figures sent via email 11 July 2025 Mr. Rowe called CSH Hilo office to speak with Researcher. Ultimately, did not want to participate but expressed frustration with CSH over previous projects.
Santos, Donna Kaliko	Nā Kuleana o Kānaka 'Ōiwi	Le Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025.
Schimmelfennig, Chadley	Kaua'i/Ni'ihau Island Burial Council, Koloa	Was forwarded email by Kauanoe Ho'omanwanui on 2 July 2025 Second round letter and figures sent via email 8 September 2025
Solis, Ka'ahiki	Cultural Historian (O'ahu, Kaua'i, Ni'ihau)	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September
Suganuma, La'akea	President, The Mary Kawena Pūku'i Cultural Preservation Society	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025
Turalde, Kane	'Aha Moku Council, Kona Rep	Letter and figures sent via email 11 July 2025 Second round letter and figures sent via email 8 September 2025

6.4 Summary of Community Outreach

Thirty-six individuals and groups were sent a consultation letter requesting participation in this study. There were only four responses which ultimately resulted in one individual who provided a legal document (Appendix C), one who responded and forwarded the outreach letter to other respective groups, one who called in for more information, and one has apparently expressed interest though we have not heard back after responding to an email. Unfortunately, none of these individuals met with CSH for a more in-depth interview.

Section 7 Traditional Cultural Practices

Timothy R. Pauketat succinctly describes the importance of traditions, especially regarding the active manifestation of one's culture or aspects thereof. According to Pauketat:

> People have always had traditions, practiced traditions, resisted traditions, or created traditions [...] Power, plurality, and human agency are all a part of how traditions come about. Traditions do not simply exist without people and their struggles involved every step of the way. [Pauketat 2001:1]

It is understood that traditional practices are developed within the group, in this case, within the Hawaiian culture. These traditions are meant to mark or represent aspects of Hawaiian culture that have been practiced since ancient times. As with most human constructs, traditions are evolving and prone to change resulting from multiple influences, including modernization as well as other cultures. It is well known that within Hawai'i, a "broader 'local' multicultural perspective exists" (Kawelu 2015:3). While this "local" multicultural culture is deservedly celebrated, it must be noted that it has often come into contact with "traditional Hawaiian culture." This contact between cultures and traditions has undoubtedly resulted in numerous cultural entanglements. These cultural entanglements have prompted questions regarding the legitimacy of newly evolved traditional practices. The influences of "local" culture are well noted throughout this section and understood to represent survivance or "the active sense of presence, the continuance of native stories, not a mere reaction, or a survivable name. Native survivance stories are renunciations of dominance, tragedy and victimry" (Vizenor 1999:vii). Acknowledgement of these "local" influences help to inform nuanced understandings of entanglement and of a "living [Hawaiian] contemporary culture" (Kawelu 2015:3). This section strives to articulate traditional Hawaiian cultural practices as were practiced within the *ahupua'a* in ancient times, and the aspects of these traditional practices that continue to be practiced today; however, this section also challenges "tropes of authenticity," (Cipolla 2013) and acknowledges the multicultural influences and entanglements that may "change" or "create" a tradition.

This section integrates information from Sections 1–6 in examining cultural resources and practices identified within or in proximity of the project area in the broader context of the encompassing Kōloa landscape.

7.1 Gathering Practices

In Donohugh (2001:63-64), Kōloa Landing had become the principal port of Kaua'i and most of Kaua'i's sandalwood was exported here suggesting it was harvested in the uplands of Kōloa. The fragrant wood was depleted 1830.

7.2 Agricultural Practices

Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*.

In 1835, Thomas Nuttall and John K. Townsend, two American naturalists, visited the Kōloa area. They noted "fields of taro, yam, and maize (possibly sugarcane), irrigation networks and sweet potato patches in the dryer areas" (Townsend 1839:206). Also in the 1830s, J.J. Jarves, in "Sketches of Kauai" (Jarves 1844), remarked on the fields of sugarcane, taro, and yams which indicated more than usual attention to agriculture.

The extensive agricultural fields and their well-maintained appearance indicate a relatively well-populated area. Bernice Judd, in "Kōloa: A Sketch of its Development" (1935), suggests that prior to European Contact the population of Kōloa must have been several thousand.

7.3 Coastal and Marine Resources

No coastal or marine resources were identified within or in the vicinity of the South Koloa Town project.

The coastline of Kōloa Ahupua'a is blessed with great resources including Kukui'ula Bay (Kukui'ula Small Boat Harbor) that provides considerable protection for small craft (Clark 1990:65) and Kōloa Landing that was a focus for whale ships.

Kōloa Landing:

> was established in Hanaka'ape Bay in a natural cove cut into the shoreline by Waikomo Stream. Before the turn of the century [1900], an average of 40 to 60 ships, including whalers, called each year at the landing. There they discharged and picked up cargo and passengers and took on supplies. With the introduction of modern means of transportation, the old sugar landings fell into disuse. Koloa Landing was used into the 1920s, but today little more than its name remains to identify this once busy site. [Clark 1990:65]

The availability of marine resources is attested to:

> The south shore of Kaua'i from Lawa'i to Po'ipu is considered one of the best sport diving and spearing areas on the island. These waters are especially attractive because of the normally calm seas, extensive reefs, excellent underwater visibility, and close proximity to residential and resort communities. [Clark 1990:65]

7.4 Freshwater Resources

Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish, mollusks, and crustaceans) value and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23).

7.5 *Wahi Pana* (Storied Places)

The concept of *wahi pana* is very important in the Hawaiian culture as a connection to the past and, therefore, the ancestors. From the name of a place one can know intimate details about the people who lived there, the environment, cultural practices, and historical events that took place. In Hawaiian culture, if a particular spot is given a name, it is because an event occurred there that

has meaning for the people of that time. Because Hawaiian culture was based on oral traditions, place names and their stories were an important way of remembering these traditions and ensuring these stories would be passed on to future generations. In Hawaiian thinking, the fact that a place has a name deems it important. Often, spiritual power or *mana* is attached to a place, which increases its importance. On the subject of *wahi pana*, Edward Kanahele writes,

> As a native Hawaiian, a place tells me who I am and who my extended family is. A place gives me my history, the history of my clan, and the history of my people. I am able to look at a place and tie in human events that affect me and my loved ones. A place gives me a feeling of stability and of belonging to my family, those living and dead. A place gives me a sense of well-being and of acceptance of all who have experienced that place. [Kanahele in James 1991:6]

There exists a myriad of cultural sites or *wahi pana* for Kōloa which is a testament to the population of the area as well as the cultural significance of the land.

Five *heiau* are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream; Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication; Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (site 80; Bennett 1931:118–119); and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.

On 7 September 1885 a student from Lahainaluna Schools (HMS 43 #17) interviewed Makea—"a native who is well acquainted with Koloa"—and recorded "what she said about the well-known places in the olden times. Makea goes on to mention:

> Maulili was the first heiau of south Koloa. Kapulauki was the first chief of Koloa, Kiha came next. That is the chief I know of. He was a ruling chief of Kaua'i in the olden days, when the heiau was standing there. It had already been built and men had been sacrificed on its altars. This Kiha was called Kiha-of-the-luxuriant-hair. Another name for him was Kakae and another was Ka-pueo-maka-walu (Eight-eyed-owl).
>
> This heiau was also famous for this reason—it was the first heiau to which Kawelo was carried after he had swooned in Wahiawa, in the battle where stones were used as missiles.
>
> The location of this heiau was not known, but a deaf mute knew and it was he who pointed it out to the chiefs, and that is how it was rediscovered in the olden days.
>
> Kiha lived on the eastern side of the heiau and 'Aikanaka lived on the northeastern side. Aikanaka, was the one with whom Kawelo fought and he was the owner of this heiau at that time. [Lahainaluna School 1885:165]

Maulili was first built by Ka-pueo-maka-walu, the son of Kapu-lau-kī. He had his house on the eastern side of this *heiau*. It was a place of human sacrifice, but once Kapueomakawalu died, it was no longer used and its location was lost (Wichman 1998:41). Many years later, when 'Aikanaka had defeated his cousin Kawelo in the battle of stones on the plains of Wahiawa, 'Aikanaka wanted a place to sacrifice the body. No one was sure of it, but a deaf mute led 'Aikanaka to the place. The place was rebuilt and in the morning 'Aikanaka went to sacrifice the

body. He found Kawelo was healed from his wounds and it was 'Aikanaka instead who was sacrificed (Wichman 1998:41).

Kapueomakawalu also built the *heiau* of Louma, which stood on the mountainside of Ho'oleina-ka-pua'a, "place to throw in the pig." This was beside a small pond *mauka* of Maulili. Louma was a small *heiau* in which hogs, red fishes, and other sacrifices were offered. It was dedicated to Lono-i-ka-ou-ali'i, the god who had come to Kaua'i with La'a-mai-kahiki in the twelfth century. The stones for this *heiau* were brought from O'ahu. It is said that the *menehune* (legendary race of small people who built structures at night) did the actual building (Wichman 1998:41).

7.6 Burials

With the lack of responses from community consultation, unrecorded or undocumented familial burials are impossible to determine. Previous archaeological studies do not mention burials within the immediate vicinity of the project area.

Section 8 Summary and Recommendations

8.1 Results of Background Research

Background research for the proposed project yielded the following information, presented in approximate chronological order:

1. Kōloa Ahupua'a is dominated by one major stream, Waikomo Stream. In a ranking of stream resources, Waikomo Stream is ranked as of outstanding cultural (includes stream-related cultural sites) value, moderate recreational value (includes stream pools, waterfalls, and banks that provide recreational opportunities), moderate aquatic resource (includes fish, mollusks, and crustaceans) value, and substantial riparian (includes streamside or terrestrial natural resources) value (Commission on Water Resource Management 1993:23).
2. The name Kōloa has several derivations. Kōloa is the name for the large, soft Hawaiian sugarcane (*Saccharum officinarum*) once grown by the Hawaiians; Kōloa is also the name of a steep rock, called Paliokōloa, on the banks of Waikomo Stream, from where the *ahupua'a* got its name. This bank of the river was called Kōloa, after the native Hawaiian duck (*Anas wyvilliana*) (Kikuchi 1963:46; Pukui et al. 1974:116).
3. The Kōloa Ahupua'a is well watered by constantly flowing streams. Two of these, the 'Ōma'o, "green," and Pō-'ele'ele, "dark night," feed the Pīwai (a variety of wild duck) in the area (Wichman 1998:40). The *ahupua'a* is watered by several other streams: the Aepo, Waihohonu ("deep water;" named for a hole formed when Palila felled a forest of trees with one stroke [Pukui et al. 1974:222]), Weliweli, and the Weoweopilau.
4. Five *heiau* (pre-Christian place of worship) are listed in Kōloa: Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (Site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.
5. Handy and Handy (1972:152) note that in the early post-Contact period (post-1778), the leeward coast from Waimea to Wailua (including Kōloa) was noted for the inland plantations of breadfruit, bananas grown along the gulches, sweet potatoes and yams grown in the uplands and valleys, and extensive taro terraces throughout the *ahupua'a*. On Kaua'i, the favored places for coconuts were Kōloa and Lāwa'i (Handy 1940:193).
6. By the early 1800s, Kōloa Landing had become the principal port of Kaua'i. The fact that the shipment of most of Kaua'i's sandalwood to Asia took place at Kōloa Landing suggests sandalwood was likely harvested in the uplands of Kōloa until the supply of the fragrant wood was exhausted around 1830 (Donohugh 2001:63–64).
7. The Kōloa area is the site of the oldest sugar plantation in Hawai'i. In 1835, Ladd and Company gained the lease of some 1,000 acres at Kōloa for the purpose of growing sugarcane. "The lease allowed the use of the waterfall and an adjoining mill site at Maulili Pool, the right to build roads, and the privilege of unrestricted buying and selling, and freedom from local harbor dues" (Stauder 1973:18). Ladd and Company were not the first to mill sugarcane in the area, as there was a Chinese-operated granite roller mill in

operation at Māhā'ulepū in 1830. Ladd and Company were, however, the first "plantation" organized industry in Hawai'i.

8. The Māhele records of Kōloa give a picture of what had evolved by the middle of the nineteenth century when Kōloa Ahupua'a, totaling 8,620 acres, was awarded to Moses Kekūāiwa (LCA 7714-B), the brother of Alexander Liholiho (Kamehameha IV), Lot Kapuāiwa (Kamehameha V), and Victoria Kamāmalu.
9. The early success of Ladd and Company (before its bankruptcy in 1845) was an impetus for other entrepreneurial attempts within Kōloa. Silkworm farming, oil extraction from *kukui* nuts, cigar manufacturing, sago raising, and tapioca manufacturing were all attempted with varied success during the middle third of the nineteenth century. Another major area of commercial enterprise was associated with the whaling industry at Kōloa Landing. Accounts of visitors suggest the inhabitants of Kōloa took advantage of their nearness to the landing to participate in the booming trade of the port.

8.2 Results of Community Consultation

CSH attempted to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 36 individuals or groups; four responded, one provided a legal document (Appendix C), one responded and forwarded the outreach letter to other respective groups, one called in for more information, and one has apparently expressed interest though we have not heard back after responding to an email. Unfortunately, none of these individuals met with CSH for a more in-depth interview.

8.3 Impacts and Recommendations

The results of community consultation, underscored by background research conducted for this CIA, inform the following mitigation possibilities promoting and preserving cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups:

1. Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that *iwi kūpuna* (ancestral remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.
2. In the event that *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Section 9 Ka Pa'akai Analysis

9.1 Overview

In *Ka Pa'akai vs Land Use Commission*, 94 Hawai'i (2000) the Court held the following analysis must also be conducted:

1. The identity and scope of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary native Hawaiian rights are exercised in the project area;
2. The extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and
3. The feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian Rights if they are found to exist.

Based on information gathered from the cultural and historical background there are a number of traditional cultural practices and resources to consider, however, the lack of in-depth responses from community consultation makes it difficult to determine the true extent of this project on the key aspects of a Ka Pa'akai Analysis.

9.1.1 Gathering Resources

No gathering resources have been identified within or in the vicinity of the South Koloa Town Project. The current built environment consists primarily of leveled and graded areas, most likely associated with historic agriculture. Any remnants of gathering resources may well be destroyed through natural progression of time and development in the area.

9.1.2 Agricultural Resources

No agricultural resources have been identified within or in the vicinity of the South Koloa Town Project though LCA documents note *kula* land for awards near the project area. Historical maps highlight *lo'i* South of the project area likely fed by Waikomo Stream. Any remnants of agricultural resources may well be destroyed through natural progression of time and development in the area.

9.1.3 Coastal and Marine Resources

Though coastal and marine resources may still flourish, no coastal and marine resources have been identified within or in the vicinity of the South Koloa Town Project.

9.1.4 Freshwater Resources

No freshwater resources have been identified within or in the vicinity of the South Koloa Town Project. Kōloa Ahupua'a is dominated by Waikomo Stream which runs West of the project area.

9.1.5 Wahi Pana

No *wahi pana* have been identified within or in the vicinity of the South Koloa Town project. However, five *heiau* are listed in Kōloa (Figure 18): Hō'ai (probably "to feed"; Soehren 2013) (Site 75; Bennett 1931:117) at Kūhiō Park on the west bank of Waikomo Stream, Kanehaule (Site 92; Bennett 1931:122) on the east branch of 'Ōma'o Stream, destroyed before Bennett's 1930s

publication, Kaneiolouma (Site 81; Bennett 1931:118) on the shore near Kihouna Heiau (site 80; Bennett 1931:118–119), and Kūhāhāpō ("Kū feeling at night") at Lae o Kahala.

9.1.6 Burials

No burial sites have been identified within the South Koloa Town Project.

The project area is located in the vicinity of the Waterhouse Family Cemetery (designated SIHP # -B007; Kikuchi and Remoaldo 1992).

9.2 Analysis

9.2.1 Valued Cultural, Historical, or Natural Resources in the Project Area

Background research indicates traditional Hawaiian activity in this area of Kōloa that focused in the stream valleys and was relatively low on the plateau lands. The nearest native tenant Land Commission Awards were LCA 6309:2 to Kapuniai and LCA 3584:1 to Kaanaana. Appendix A reveals the details of these awards to present the resources in the vicinity of the project area at the time the claims were awarded. A similar trait in these awards is that the land was associated *kula* and possibly used for dryland agriculture or pastureland.

9.2.2 The Extent to which Traditional and Customary Native Hawaiian Resources will be Affected by the Proposed Action

No impacts to traditional and customary practices are anticipated because traditional and customary practices were not identified within and in the vicinity of the project area.

9.2.3 Feasible Action, if any, to be taken to Reasonably Protect Native Hawaiian Rights

Project construction workers and all other personnel involved in the construction and related activities of the project should be informed of the possibility of inadvertent cultural finds, including human remains. In the event that any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event that *iwi kūpuna* are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is recommended.

In the event that *iwi kūpuna* and/or cultural finds are encountered during construction, project proponents should consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.

Section 10 References Cited

Akana, Colette Leimomi with Kiele Gonzalez
2015 *Hanau Ka Ua: Hawaiian Rain Names.* Kamehameha Publishing, Honolulu.

Armstrong, Warwick, editor
1973 *Atlas of Hawai'i.* University of Hawaii Press, Honolulu.

Ava Konohiki
2015 Ancestral Visions of 'Āina website. Available online at http://www.avakonohiki.org/.

Bennett, Wendell C.
1931 *The Archaeology of Kaua'i.* Bishop Museum Bulletin 80. Bernice Pauahi Bishop Museum, Honolulu.

Bingham, Hiram
1847 *A Residence of Twenty-One Years in the Sandwich Islands.* Convers, New York.

Blake, Henry K.
1888 Sketch map of Kōloa Village. Kauai Historical Society, Līhu'e, Kaua'i.
1938 Sketch map of Kōloa. Kauai Historical Society, Līhu'e, Kaua'i.

Clark, John R.K.
1990 *Beaches of Kaua'i and Ni'ihau.* University of Hawaii Press, Honolulu.

Cleghorn, Paul L. and James McIntosh
2001 *Archaeological Inventory Survey at Koloa, Kaua'i, Hawai'i (TMK 2-6-8:11 and 22).* Pacific Legacy, Inc., Kailua, Hawai'i.

Cipolla, Craig N.
2013 Native American Historical Archaeology and the Trope of Authenticity. *Historical Archaeology.* Vol. 47, ed. 3:12–22.

Commission on Water Resource Management
1993 *Hawai'i Streams: Nā Kahawai o Hawai'i.* Commission on Water Resource Management, Department of Land and Natural Resources, State of Hawai'i, Honolulu.

Condé, Jesse C. and Gerald M. Best
1973 *Sugar Trains.* Glenwood Publishers, Felton, California.

Connolly, Robert D., III
1982 *Archaeological Reconnaissance Survey Along Possible Alternate Routes of The Koloa-Poipu Bypass Road Koloa, Kauai.* Archaeological Research Associates, Honolulu.

Cook, James P.
1784 *A Voyage to the Pacific Ocean 1776, 1777, 1779, and 1780.* Vol. 2 and 3. G. Nichol and T. Cadell, London.

Coulter, John Wesley
1931 *Population and Utilization of Land and Sea in Hawaii. 1853.* Bishop Museum Bulletin 88. Bernice Pauahi Bishop Museum, Honolulu.

Donohugh, Donald
2001 *The Story of Koloa: A Kaua'i Plantation.* Mutual Publishing, Honolulu.

ESRI Aerial Imagery
2022 Map Image Layer. Esri, Inc. Redlands, California.

Farley, J.K.
1906 Notes on Maulili Pool, Kōloa. In *Hawaiian Almanac and Annual for 1907.* Thos G. Thrum, Honolulu.

Foote, Donald E., Elmer L. Hill, Sakuichi Nakamura, and Floyd Stephens
1972 *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii.* U.S. Department of Agriculture, Soil Conservation Service, in cooperation with the University of Hawai'i Agricultural Experiment Station. U.S. Government Printing Office, Washington, D.C.

Fornander, Abraham
1918 *Fornander Collection of Hawaiian Antiquities and Folk-lore.* Volume V. Memoirs of the Bernice Pauahi Bishop Museum. Bishop Museum Press, Honolulu.

1996 *Fornander's Ancient History of the Hawaiian People.* Mutual Publishing, Honolulu.

Giambelluca, T.W., Q. Chen, A.G. Frazier, J.P. Price, Y.-L. Chen, P.-S. Chu, J.K. Eischeid, and D.M. Delparte
2013 Online Rainfall Atlas of Hawai'i. *Bulletin of the American Meteorological Society volume 94, pp. 313–316, doi: 10.1175/BAMS-D-11-00228.1.* Electronic document, http://rainfall.geography.hawaii.edu (accessed 10 April 2014).

Gotay, Teresa and Robert B. Rechtman
2016 An *Archaeological Inventory Survey and Cultural Impact Assessment for the Consolidation/Resubdivision of TMKs: (4) 2-8-012: 001 and 011 Kōloa Ahupua'a Kona District Island of Kaua'i.* ASM Affiliates. Hilo, Hawai'i.

Hammatt, Hallett H.
1992 *Archaeological Survey for the Proposed Kōloa Western Bypass Road.* Cultural Surveys Hawai'i, Kailua Hawai'i.

1993 *Archaeological Reconnaissance Survey TMK 2-6-04:14, 1.75 Acres Kōloa, Kaua'i, Subdivided Lots A1-A1, A1 A2.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

2005 *Archaeological Inventory Survey of an 8.15-acre Knudsen Trust Parcel, Kōloa Ahupua'a, Kona District, Island of Kaua'i TMK: (4) 2-8-004: por. 003 & 055.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2010 *Letter Report re Field Inspection for a Proposed Boulder Storage Area TMK [4] 2-8-012:033 – 5.4-Acre Parcel Owned by Grove Farm Inc. and Leased to Mr. Ted Blake in Kōloa on the Island of Kaua'i, Hawai'i.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., Douglas Borthwick, David W. Shideler, and Mark Stride
1988 *Archaeological Inventory Survey of the Proposed Kukuiula Bay Planned Community, Kōloa, Kaua'i.* Cultural Surveys Hawai'i, Kailua, Hawai'i.

Hammatt, Hallett H., Kristina W. Bushnell, Gerald K. Ida, Rodney Chiogioji, Victoria S. Creed, and David W. Shideler
1999 *Archaeological Data Recovery for Kukui'ula Bay Planned Community, Phase II Development Area, Kukui'ula, Kōloa, Kaua'i, (TMK 2-6-03: Por. 1 and 2-6-04:Por. 33, 38, 40).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Hammatt, Hallett H., William H. Folk, and Mark Stride
1991 *Archaeological Inventory Survey of the Proposed Po'ipulani Golf Course and Residential Development, Kōloa, Kaua'i (TMK: 2-8-13 por. 1; 2-8-14 por. 1, 3, 19).* Cultural Surveys Hawai'i, Kailua, Hawai'i.

Hammatt, Hallett H. and David W. Shideler
2006 *Archaeological Literature Review and Field Check Study of Eight DOE Schools, Island of Kauai Hawaii Inter-Island DOE Cesspool Project.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Handy, E.S. Craighill
1940 *The Hawaiian Planter*, Volume I. Bishop Museum Bulletin 161. Bishop Museum Press, Honolulu.

Handy, E.S. Craighill and Elizabeth G. Handy
1972 *Native Planters in Old Hawaii.* Bishop Museum Press, Honolulu.

Hawai'i TMK Service
2024 Tax Map Key (TMK) (4) 2-8-011. Honolulu.

Hill, Robert, Todd Tulchin, Jon Tulchin, and Hallett H. Hammatt
2005a *Archaeological Inventory Survey for an 8.633 Acre Parcel at Kōloa Kōloa Ahupua'a Kōloa District, Island of Kaua'i TMK: (4) -8-014:001 Mauka Portion.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

2005b *An Archaeological Inventory Survey of a 9.348 Acre Parcel at Kōloa Ahupua'a, Kona District, Island of Kaua'i, [TMK: (4) 2-8-009: 001].* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ho'oulumāhiehie
2008a *The Epic Tale of Hi'iakaikapoliopele. As Told by Ho'oulumāhiehie.* M. Puakea Nogelmeier, translator. Awaiaulu Press, Honolulu.

2008b *Ka Mo'olelo o Hi'iakaikapoliopele.* Original Hawaiian text taken from series of articles in *Ka Na'i Aupuni* 1905-1906. Awaiaulu Press, Honolulu.

Huapala.org
n.d. *Kōloa.* Electronic document, http://www.huapala.org/Ko/Koloa.html

Hula Preservation Society
2014 Hula Preservation Society website. Available online at http://hulapreservation.org.

Ida, Gerald K., Victoria S. Creed, and Hallett H. Hammatt
1997 *Archaeological Investigation for Environmental Assessment of the Proposed Koloa/Poipu Bypass Road Koloa, Weliweli, Kona Kauai (TMK: 2-8-02: por 3; 2-8-03: por. 1; 2-8-04: por. 1 and 2-8-05: por. 2).* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

James, Van
1991 *Ancient Sites of O'ahu: A guide to Hawaiian archaeological places of interest.* Bishop Museum Press, Honolulu.

Jarves, James J.
1844 *Scenes & Scenery in the Sandwich Islands . . . during the Years 1837–1842.* James Munroe and Company, Boston

Judd, Bernice
1935 Kōloa, A Sketch of Its Development. In *Kaua'i Historical Society Papers*, Volume II, Honolulu.

Kamai, Nancine "Missy" and Hallett H. Hammatt
2021 *Archaeological Monitoring Report for the Koloa Elementary School Effluent Disposal Replacement Project (DOE Job No. P42008-13) Koloa Ahupuaa, Koloa District, Kauai, TMK: (4) 2-8-010:011.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Kauai Historical Society
1888 Blake sketch map of Kōloa Village. Kauai Historical Society, Līhu'e, Kaua'i.

Kawelu, Kathleen L.
2015 *Kuleana and Commitment: Working Toward a Collaborative Hawaiian Archaeology.* University of Hawai'i Press, Honolulu.

Kikuchi, William K.
1963 *Archaeological Survey and Excavations on the Island of Kauai, Kona District Hawaiian Islands.* Committee for the Preservation of Hawaiian Culture, Līhu'e, Kaua'i, Hawai'i.
1981 *Reconnaissance Survey, Archaeological Sites Weliweli Tract, TMK 2-8-22 Por. 6 Kōloa District, Island of Kaua'i.* Anthropology Club of Kaua'i Community College, Kaua'i, Hawai'i.

Kikuchi, William K. and Susan Remoaldo
1992 *Cemeteries of Kaua'i, Volume 1.* Kaua'i Community College, Puhi, Hawai'i.

Kirch, Patrick Vinton
1977 Valley Agricultural Systems in Prehistoric Hawaii: An Archaeological Consideration. *Asian Perspectives.*
2010 *How Chiefs Became Kings: Divine Kingship and the Rise of Archaic States in Ancient Hawai'i.* University of California Press, Oakland, California.

Krause, Layne, Jay Rapoza, Angela L. Yates, and Hallett H. Hammatt
2021 *Archaeological Assessment for the Koloa Rum Company Improvements Project Koloa Ahupuaa, Koloa District, Kauai. TMK: [4] 2-8-006:001.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Lahainaluna School
1885 *Heiaus and Fishing Grounds [of Koloa, Kauai]* [translation]. HMS 43, #17. Bishop Museum Archives, Honolulu.

Levy, Benjamin
1978 "National Register of Historic Places Inventory-Nomination Form. Old Sugar Mill at Koloa." United States Department of the Interior, National Park Service: (August 1978) Washington, D.C.

McGerty, Leann, Sarah K. Yeomans, and Robert L. Spear
2000 *Historic Preservation Documentation Report on the Koloa Bypass Lava Tubes in Koloa, Kaua'i Island, Hawai'i.* Scientific Consultant Services Inc., Honolulu.

McGregor, Davianna Pomaika'i
1996 *Nā Kua'āina: Living Hawaiian Culture.* University of Hawai'i Press, Honolulu.

Monahan, Christopher M.
2005 *An Archaeological Assessment Report of Approximately 6.926 Acres of Land in Wailuku Ahupua'a, Wailuku District, Island of Maui, Hawai'i (TMK: 3-7-004:001; TMK: 3-7-005: 003, 011, & 023).* Scientific Consultant Services, Inc., Honolulu.

Monsarrat, M.D.
1891 Map: Hawaii Territorial Survey, Koloa. Traced from M.D. Monsarrat ca. 1891 Government Survey Map 1694 by T.B. Butch and E.J. Grube, September 1918. Hawai'i Land Survey Division, Department of Accounting and General Services, Honolulu. Available online at http://dags.hawaii.gov/survey/search.php

Nakuina, Moses K.
1990 *The Wind Gourd of La'amaomao.* First edition. Esther T. Mookini and Sarah Nākoa, translators. Kalamakū Press, Honolulu.

1992 *The Wind Gourd of La'amaomao.* Second edition. Esther T. Mookini and Sarah Nākoa, translators. Kalamakū Press, Honolulu.

Office of Hawaiian Affairs
2015 Papakilo Database. Office of Hawaiian Affairs cultural and historical database. Electronic document, http://papakilodatabase.com/main/index.php (accessed August 2020).

Pacific Commercial Advertiser
1857 Article. *Pacific Commercial Advertiser.* 19 February.

Palama, Stephen L. and Catherine Stauder
1973 *The Archaeology of Kona, Kaua'i from the Ahupua'a of Kōloa to the Ahupua'a of Weliweli. Archaeological Reconnaissance of the Proposed Cane Haul Road to the Koloa Mill for McBryde Sugar Co., Ltd.* Archaeological Research Associates, Honolulu.

Pammer, Michelle F., Sarah Wilkinson, and Hallett H. Hammatt
2010 *Archaeological Monitoring Report for Koloa Elementary School, Hawaii Inter-Island DOE Cesspool Project Kōloa Ahupua'a, Kōloa District, Island of Kaua'i TMK: [4] 2-8-010:011.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Pauketat, Timothy R.
2001 *The Archaeology of Traditions*. University Press of Florida, Gainesville, Florida.

Pukui, Mary K.
1949 Songs (Meles) of Old Ka'u, Hawaii. *Journal of American Folklore*, July-September:247–258.

1983 *'Ōlelo No'eau. Hawaiian Proverbs & Poetical Sayings.* Bishop Museum Special Publication No. 71. Bishop Museum Press, Honolulu.

1995 *Na Mele Welo: Songs of Our Heritage.* University of Hawai'i Press, Honolulu.

Pukui, Mary K. and Samuel H. Elbert
1986 *Hawaiian Dictionary*. University of Hawaii Press, Honolulu.

Pukui, Mary K., Samuel H. Elbert, and Esther Mookini
1974 *Place Names of Hawaii.* University of Hawaii Press, Honolulu.

Rieth, Timothy and Ethan E. Cochrane
2015 Chronology of Colonization in Remote Oceania (The). In *Oxford Handbook of Prehistoric Oceanic* (forthcoming). Oxford Handbooks Online, www.oxfordhandbooks.com.

Riley, Thomas J.
1975 Survey and Excavations of the aboriginal agricultural system in Prehistory and Ecology in a Windward Hawaiian Valley: Halawa Valley, Molokai: 79-115, ed. Patrick V. Kirch and Marion Kelly, Pacific Anthropological Records. Bishop Museum, Honolulu.

Schmitt, Robert C.
1977 *Historical Statistics of Hawaii.* University of Hawaii Press, Honolulu.

Simonson, Mindy and Hallett Hammatt
2008 *Archaeological Data Recovery Report For SIHP #s 50-30-10-3933 and -3934 Within the Proposed Koloa Creekside Estates Project Area, Kōloa Ahupua'a, Kōloa District, Kaua'i Island TMK: [4] 2-8-009:001.* Cultural Surveys Hawai'i, Inc., Kailua Hawai'i.

Soehren, Lloyd J.
2013 *Hawaiian Place Names*. Ulukau: The Hawaiian Electronic Library. Electronic document, http://ulukau.org (accessed May 2013).

Stauder, Catherine
1973 Observations on Kuhiau Heiau. *Archaeology on Kauai* Vol 2, No. 4 October 1973. Kaua'i Community College, Līhu'e, Hawai'i.

Thrum, Thomas G.
1906 Heiaus and Heiau Sites Throughout the Hawaiian Islands, Island of Kauai. In *Hawaiian Almanac and Annual 1907*. Thos. G. Thrum, Honolulu.

Townsend, John
1839 *Narrative of a Journey Across the Rocky Mountains....and a Visit to the Sandwich Islands and Chile...* H. Perkins and Marvin, Boston.

Tulchin, Jon and Hallett H. Hammatt

2005 *Archaeological Literature Review and Field Inspection for a 8.5-Acre Knudsen Trust Parcel, Kōloa Ahupua'a, Kona District, Island of Kaua'i TMK: 2-18-14: por. 01.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Tulchin, Jon, Amy Hammermeister, and Hallett Hammatt

2007 *Archaeological Inventory Survey of an Approximately 10-Acre Knudsen Trust Parcel Kōloa Ahupua'a, Kona District, Island of Kauai TMK: [4] 2-8-011:001.* Cultural Surveys Hawai'i, Inc., Kailua Hawai'i.

Tulchin, Todd and Hallett H. Hammatt

2005 *Archaeological Inventory Survey of Approximately an Approximately 2.8 Acre-Knudsen Trust Parcel Kōloa Ahupua'a, Kona District, Island of Kauai TMK (4) 2-8-013:001 por.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

Ulukau

2014 *Māhele Database.* Hawaiian Electronic Library, http://ulukau.org/cgi-bin/vicki?l=en.

U.S. Army Air Corps

1928 Kōloa aerial photograph. (UH MAGIS) Hawai'i State Archives, Honolulu.

USDA (U.S. Department of Agriculture)

1965 USDA Aerial Survey Photograph (Kōloa). University of Hawaii Maps, Aerial Photographs, and Geographic Information Systems (UH MAGIS) (http://guides.library.manoa.hawaii.edu/magis).

2001 Soil Survey Geographic (SSURGO) database. U.S. Department of Agriculture, Natural Resources Conservation Service. Fort Worth, Texas. http://www.ncgc.nrcs.usda.gov/products/datasets/ssurgo/ (accessed March 2005).

USGS (U.S. Geological Survey)

1951 Aerial photograph of Kōloa. USGS Information Services, Denver.

1996 Koloa USGS 7.5-minute series topographic quadrangle. USGS Information Services, Denver.

2017 Koloa USGS 7.5-minute series topographic quadrangle. USGS Information Services, Denver.

Vancouver, George

1798 *A Voyage of Discovery to the North Pacific Ocean and Round the World Performed in the Years 1790-95.* 3 Volumes. G.G. and J. Robinson and J. Edwards, London, England.

Vizenor, Gerald

1999 *Manifest Manners: Narratives on Postindian Survivance.* University of Oklahoma Press, Lincoln, Oklahoma.

Waihona 'Aina

2024 *The Māhele Database.* Electronic document, http://waihona.com.

Walker, Alan T. and Paul H. Rosendahl

1990 *Archaeological Inventory Survey, Hyatt Regency Kauai Proposed Golf Course Project Area, Land of Paa, Koloa District Island of Kauai (TMK: 4-2-9-01: por.1).* Paul H. Rosendahl, Inc., Hilo, Hawai'i.

Walker, Alan T., Lehua Kalima, and Susan T. Goodfellow

1991 *Archaeological Inventory Survey, Lihue/Puhi/Hanamaulu Master Plan, Lands of Hanamaulu, Kalapaki, Nawiliwili, Niumalu, and Wailua, Lihue District, Island of Kauai.* Paul H. Rosendahl, Inc., Hilo, Hawai'i.

Wichman, Frederick B.

1991 *Polihale and other Kaua'i Legends.* Bamboo Ridge Press, Honolulu.

1998 *Kaua'i. Ancient Place-Names and Their Stories.* University of Hawai'i Press, Honolulu.

Wilcox, Carol

1998 *Sugar Water: Hawaii's plantation ditches.* University of Hawai'i Press, Honolulu.

Wilson, Jon and Michael Dega

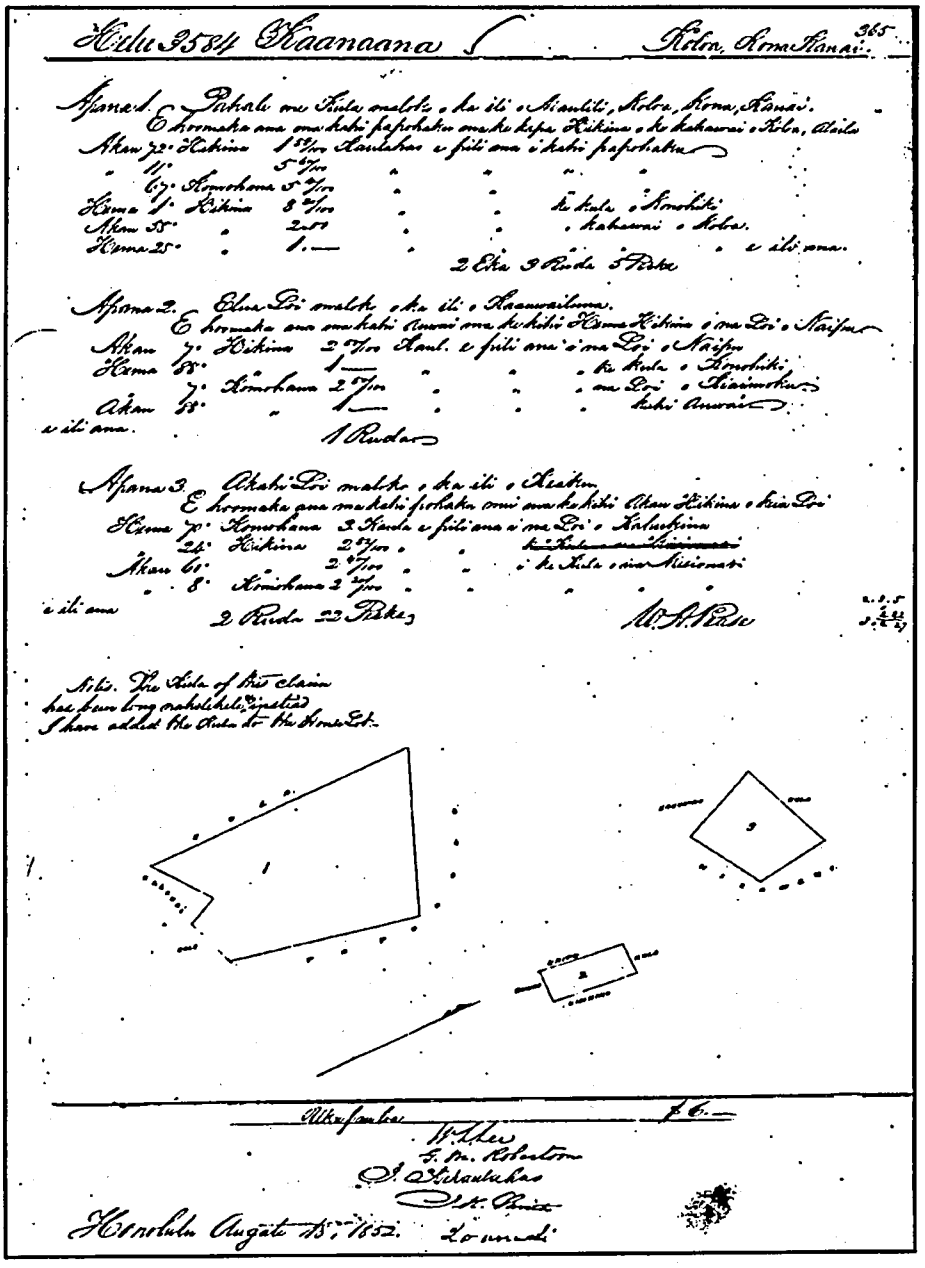
2004 *Archaeological Inventory Survey Report of the Old Kōloa Sugar Mill.* Cultural Surveys Hawai'i, Inc., Kailua, Hawai'i.

WRCC (Western Regional Climate Center)

2010 *1961-1990 Monthly Climate Summary for Kawailoa.* Available online at http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?hi3754

Appendix A LCA Data

LCA 3584:1 to Kaanaana 5:365


Hilu 3584 Kaanaana Koloa, Koma Kauai 365

Apana 1 Pokali ma Kula malko o ka ili o Aiaulili, Koloa, Koma, Kauai.
E hoomaka ma ma kahi papohaku ma ka kapa Hikina o ka kahawai o Koloa, alaila
Akau 72° Hikina 1 5/100 Kaulahao e pili ana i kahi papohaku
" 11° " 5 7/100 " " " "
" 67° Komohana 5 2/100 " " ka Kula o Amohiki
Hema 1° Hikina 8 2/100 " " " kahawai o Koloa.
Akau 55° " 2.00 " " " " " e ili ana.
Hema 25° " 1.— " " " " " " "
2 Eka 3 Ruda 5 Pika

Apana 2. Elua Loi malko o ka ili o Kaanwailoma.
E hoomaka ma ma kahi Auwai ma ka kahi Hema Hikina o ma Loi o Naifua
Akau 7° Hikina 2 5/100 Kaul. e pili ana i ma Loi o Naifua
Hema 88° " 1 — " " " ka Kula o Amohiki
7° Komohana 2 5/100 " " " ma Loi o Kiaimoku
Akau 88° " 1 — " " " kahi Auwai
e ili ana. 1 Ruda

Apana 3 Akahi Loi malko o ka ili o Keaiku
E hoomaka ma ma kahi pohaku ma ma ka kahi Akau Hikina o kia Loi
Hema 70° Komohana 3 Kuula e pili ana i ma Loi o Kalaufima
24° Hikina 2 5/100 " " ka Kula o ka Misionari
Akau 61° " 2 5/100 " " " " " "
8° Komohana 2 5/100 " " " " " "
e ili ana 2 Ruda 22 Pika

W. H. Rice

Note. The Kula of this claim has been long established & settled I have added the Kula to the Koma Est.

Allowance $6.—
W. Lee
F. M. Robertson
J. Kikaulahao
W. Rice
Honolulu August 13, 1852. Lo mua

Transliteration for LCA 3584:1 to Kaanaana

Helu 3584 Kaanaana *Koloa, Kona, Hawaii.*

Apana 1. Pahale me Kula maloko o ka ili o Maulili, Koloa, Kona, Hawaii.

E hoomaka ana ma kahi pa pohaku ma ke kapa Hikina o ko kahawai o Koloa, Alaila

Akau	*72° Hikina*	*1 58/100*	*Kaulahao*	*e pili*	*ana*	*i kahi papohaku*
"	*11° "*	*5 60/100*	"	"	"	"
"	*67° Komohana*	*5 10/100*	"	"	"	"
Hema	*1° Hikina*	*8 20/100*	"	"	*ke kula o Konohiki*	
Akau	*55° "*	*2.00*	"	"	*kahawai o Koloa*	
Hema	*25° "*	*1.-*	"	"	"	" " *e ili ana*

2 Eka. 3 Ruda. 5 Peska

[...]

Notes: The *Kula* of this claim has long been *nahelehele* instead. I have added the *kula* to the House Lot W. H. Pease

[Diagram in Original]
[Text in Diagram: 1, *Kula, Pa Pohaku, Kula, Kahawai*

Uku pau loa *$6.-*

W. L. Lee
G. M. Robertson
J. H. Smith
J. Kekaulahao
Ioane Ii

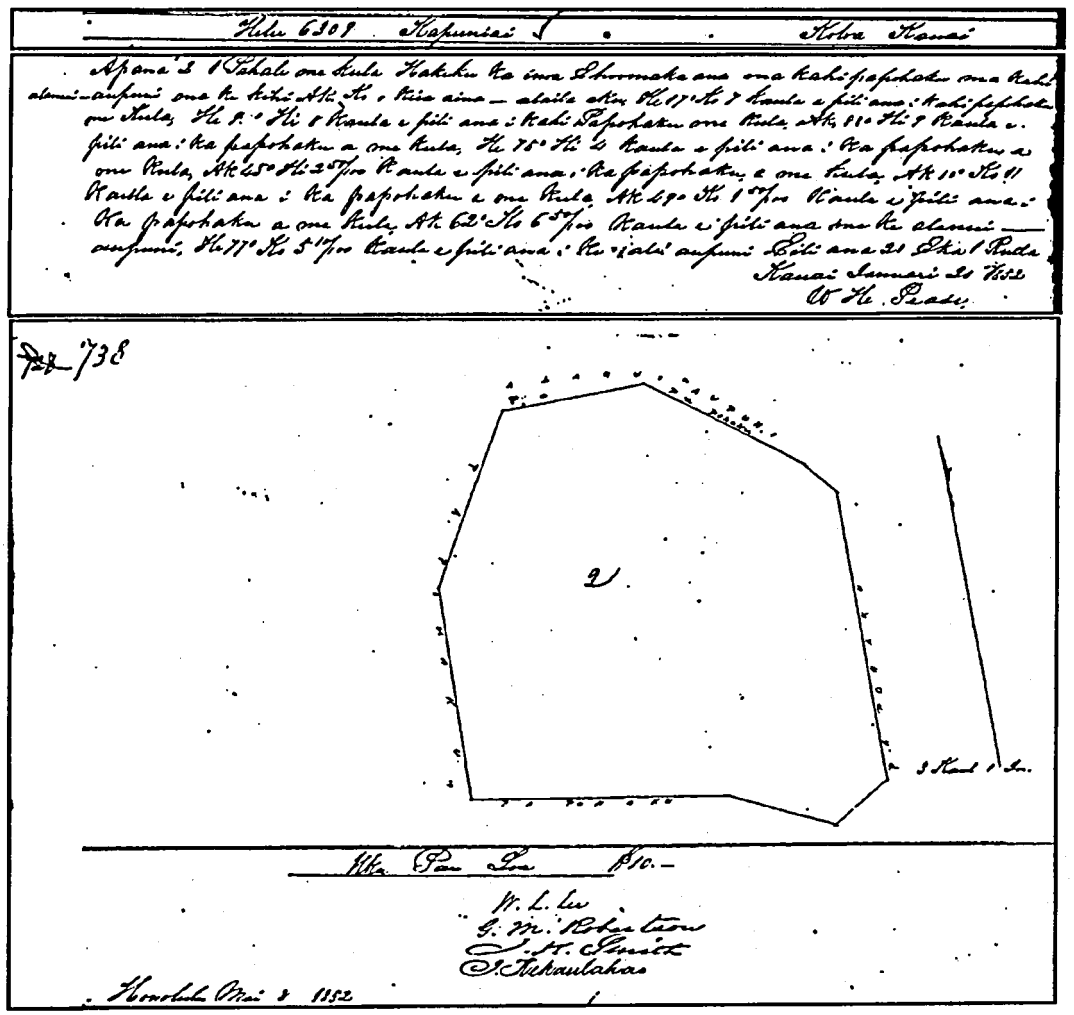
Honolulu Augate 18, 1852.

Summary for LCA 3584:1 to Kaanaana

Kaanaana's LCA claim in the year 1852 was for three parcels but only his claim for LCA 3584:parcel 1 concerns us here. This claim was for a house lot (*pā hale*) but the parcel included an area of dry land (*kula*). We have a note from the surveyor (W.H. Pease) that the *kula* that was included in the parcel and had been overgrown in weeds (*nāhelehele*) of long-standing.

The text description for LCA 3584 'Āpana 1 and the accompanying map (at left, labeled "1") are consistent the description starts at the middle of the south side where a rock wall (pā pōhaku) is on the east side of the stream (*kahawai*) and proceeds counter-clockwise. The short, eastern south side is bounded by a rock wall and dry (*kula*) land. The long southeast and northeast sides (including the east corner of the present project area), are bounded by a rock wall (*pā pōhaku*). The long west side is bounded by dry land (*kula*) under the headman of the *ahupua'a* (*konohiki*). The angle on the western south side is bounded by a watercourse (*kahawai*).

LCA 6309:2 to Kapuniai 6:737


Helu 6309 Kapuniai Koloa Kauai

Apana 2 1 Pahale one kula Hakeku ka ima Shoomaka ana ma kahi papohaku ma kahi alanui aupuni ona ke kihi Ak. Ho 1 kiia aina — alaila aku He 17° Ho 7 kaula e pili ana i kahi papohaku one kula, He 9° Hi 8 kaula e pili ana i kahi Papohaku one kula, Ak. 88° Hi 9 kaula e pili ana i ka papohaku a one kula, He 75° Hi 4 kaula e pili ana i ka papohaku a one kula, Ak 45° Hi 2 50/100 kaula e pili ana i ka papohaku a one kula, Ak 10° Ho 11 kaula e pili ana i ka papohaku a one kula, Ak 49° Ho 1 50/100 kaula e pili ana i ka papohaku a one kula, Ak 62° Ho 6 50/100 kaula e pili ana ma ke alanui aupuni, He 77° Ho 5 10/100 kaula e pili ana i ke alanui aupuni Pili ana 21 Eka 1 Ruda

Kauai Januari 21 1852

W. H. Pease

738

2

3 Kaul 1 In.

Ka Pau Loa $10.—

W. L. Lee

G. M. Robertson

J. K. Smith

J. Kekaulahao

Honolulu Mai 8 1852

Transliteration for LCA 6309:2 to Kapuniai

Helu 6309 Kapuniai *Koloa Kauai*

[...]

Apana 2 Pahale me kula Hakuku ka inoa. E hoomaka ana ma kahi papohaku me kahi alanui-aupuni ma ke kihi Ak. Ko. O keia aina – alaila aku He 17° Ko 7 kaula e pili ana i kahi papohaku me kula, He 9° Hi 8 kaula e pili ana i nkahi Papohaku me Kula Ak. 88° Hi 9o Kaula e pili ana : ka papohaku a me kula. He 75° Hi 4 kaula e pili ana: ka papohakua me kula Ak 45° Hi 2$^{50/100}$ Kaula e pili ana i ka papohaku aku a me kula Ak 10° Ko 11 Kaula e pili ana i ka papohaku a me kula Ak 49° Ko 1 50/100 Kaula e pili ana i ka papohaku a me kula Ak 62° Ko 6 50/100 Kaula e pili ana me ke alanuiaupuni. He 77° Ko 5 10/100 Kaula e pili ana I ke ala aupuni. Eli ana 20Eka 1 Ruda

Kauai Ianuari 20 1852

W.H. Pease

[Diagram in Original]
[Text in Diagram: 1, *Alanui aupuni, Pa, Pa pohaku, Papohaku, Pa Poahaku, Pa Pohaku 2*

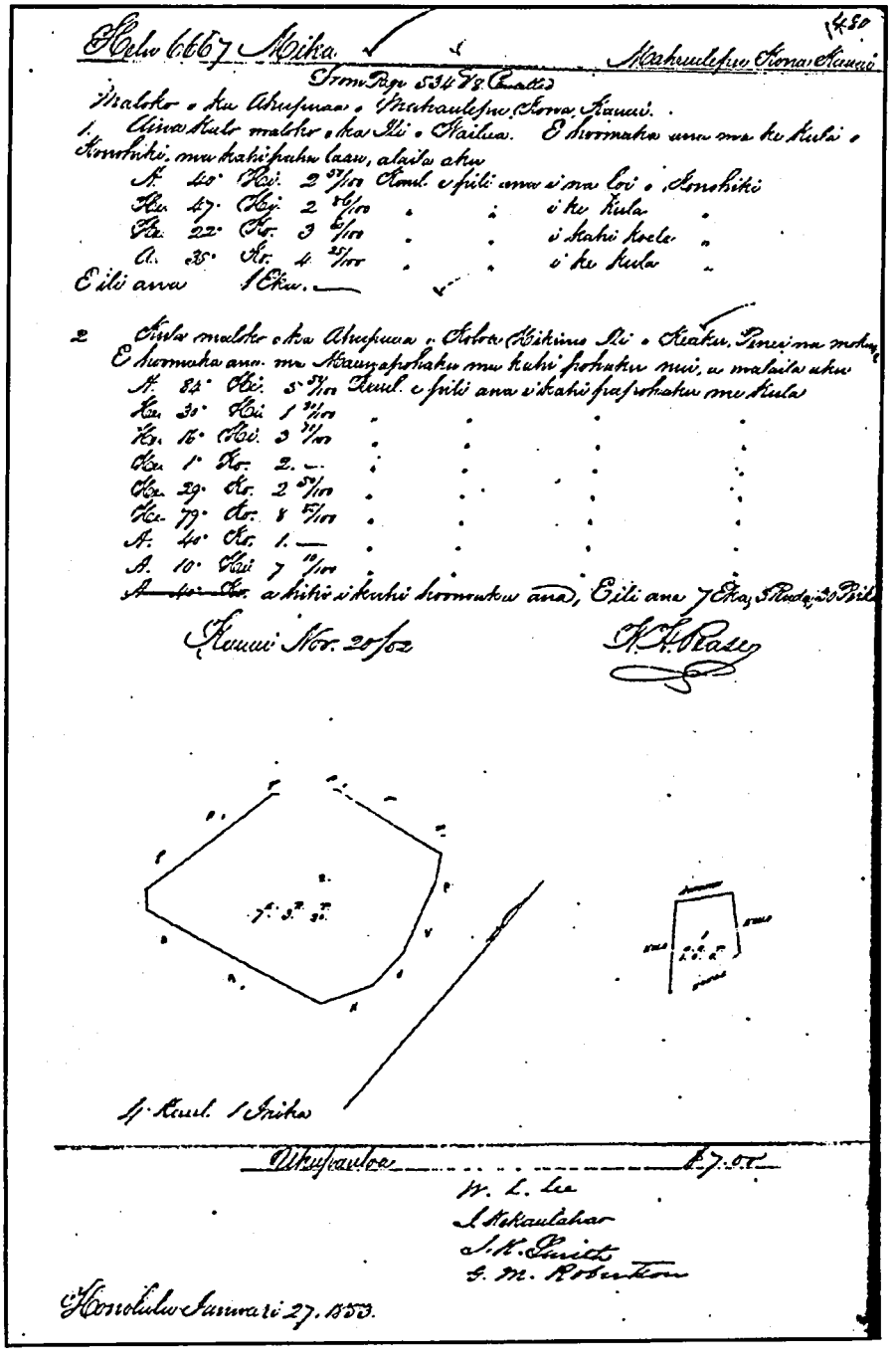
Uku pau loa *$6.-*

W. L. Lee
G. M. Robertson
J. H. Smith
J. Kekaulahao
Ioane Ii

Summary for LCA 6309:2 to Kapuniai

Kapuniai claimed two parcels within his LCA 6309 in the year 1852 at Kōloa, Kaua'i. What concerns us here is LCA 6309:2, a claim a house lot (*pā hale*) and associated *kula,* dry land area (possible for dryland agriculture, but likely just pasture named "Hakuku". The text and attached map are commensurate with the account starting at the northwest corner, at a stone wall (*pāpōhaku*) along a government road (*alanui aupuni*) and proceeding counter-clockwise. All sides of the parcel are bounded by a stone wall. Of interest is the wall (*pā pōhaku*) and government road (*alanui aupuni*) that bounds the north and northeast sides of LCA 6309:2 as these would have been adjacent to the south central portion of the present project area for a reported distance of 6.5 *kaula* + 5.1 *kaula* understood as 11.6 *kaula* or 766 feet or 234 m.

LCA 6667:2 to Mika



Helu 6667 Mika. 1480

Makaulepu, Kona, Kauai

From Page 534 Book

Maloko o ka Ahupuaa o Makaulepu, Kona, Kauai.

1. Aina kula maloko o ka Ili o Hailua. E hormaka ana ma ke kula o Konohiki. ma kahi pahu laau, alaila aku

A.	40°	Hui.	2 57/100	Kuul. e pili ana i ma loi o Konohiki	
Ha.	47°	Hui.	2 86/100	" " i ke kula	"
Ha.	22°	Ho.	3 62/100	" " i kahi kaela	"
A.	35°	Ho.	4 25/100	" " i ke kula	"

E pili ana 1 Eka.

2 Kula maloko o ka Ahupuaa o Koloa, Kikiwa Ili o Keaku, Poipu ma mokuna. E hormaka ana ma Kaunapohaku ma kuhi pohaku nui, a malaila aku

A.	84°	Hui.	5 57/100	Kuul. e pili ana i kahi papohaku ma kula			
Ha.	30°	Hui	1 31/100	"	"	"	"
Ha.	16°	Hui.	3 31/100	"	"	"	"
Ha.	1°	Ho.	2. —	"	"	"	"
Ha.	29°	Ho.	2 50/100	"	"	"	"
Ha.	79°	Ho.	8 57/100	"	"	"	"
A.	40°	Ho.	1. —	"	"	"	"
A.	10°	Hui	7 10/100	"	"	"	"
~~A. 40° Ho.~~				a kiki i kahi hormaka ana,			

E pili ana 7 Eka, 5 Ruda, 20 Poll.

Kauai Nov. 20/62 K. K. Kaae

Ap. Kuul. 1 Mika

Nikupaulea $7.00

W. L. Lee
J. Nakaulahai
J. N. Smith
S. M. Robertson

Honolulu Januari 27. 1853.

Transliteration for LCA6667:2 to Mika

Helu 667 Mika

[...]

2. Kula Makoko o ka Ahupuaa o Koloa Hikina Ili o Keaku. Penei na mokuna.

E hoomaka ana ma Maunapohaku ma kahi pohaku nui, a malaila aku

A.	*84°Hi*	*5 50/100 Kuul. E pili ana i kahi papohaku me kula.*	
He.	*30°Hi*	*1 30/100 "*	"
He.	*16° He*	*3 70/100 "*	"
He	*1° Ko*	*2.- "*	"
He	*29° Ko*	*2 50/100 "*	"
He	*79°Ko*	*8 85/100 "*	"
A	*40° Ko.*	*1- "*	"
A	*10° He*	*7 10/100 "*	"

A hiki i kahi hoomaka ana, Eili ana 7 Eka, 3 Ruda, 30 Pauku

Summary for LCA 6667:2 to Mika ""

This account is initially a tad confusing as the heading cites a far distant place ("Māhā'ulepū") but that was the location of Mika's LCA 6667 parcel 1 and it is clear that Mika's LCA 6667:2, that concerns us here, was for a parcel of *kula* (dry land) in Kōloa, specifically in the *'ili* of Keaku.

The account starts in the northwest corner at a place called "*Mauna Pōhaku*" (Rock Mountain" which is described as a certain great rock (*kēkahi pōhaku nui*), and then proceeds clockwise. All eight sides are described as bounded by a stone wall (*pā pōhaku*) and *kula* (dry land) with the indication that on the outside of the rock wall all around the perimeter is undescribed dry land (which could have been non-irrigated agricultural land, or fallow, or pasture, or just vacant land).

Appendix B Community Outreach Letter

CULTURAL SURVEYS HAWAI'I
ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL DOCUMENTATION SERVICES – SINCE 1982

P.O. Box 1114 Kailua, Hawai'i 96734 Ph: (808) 262-9972 Fax: (808) 262-4950

Aloha mai kāua,

With this letter, Cultural Surveys Hawai'i (CSH) humbly requests your *mana'o* and *'ike* (experience, insights, and perspectives) regarding past and ongoing cultural, practices, beliefs, and resources within the Kōloa Ahupua'a. This letter serves as a request for consultation for the associated Ka Pa'akai Analysis.

Consultation with traditional cultural practitioners, *kūpuna*, *kama'āina*, and Hawai'i's diverse ethnic communities is an important and deeply valued part of our work and the environmental review process for proposed projects in Hawai'i. Your contributions will revitalize and keep alive knowledge of cultural practices, storied places, and life experiences that will remind Hawai'i's children of their history for generations to come.

Project Description

SK Investors LLC requests that CSH perform a Ka Pa'akai Analysis for the South Koloa Town Project, Kōloa Ahupua'a, Kōloa District, Kaua'i, TMK: (4) 2-8-011:001.

SK Investors LLC is proposing for the development of a primary housing project consisting of single and multi-family residentials, park space, various drainage and utility improvements, and an internal road.

Purpose of the Study

In Ka Pa'akai O Ka 'āina v. Land Use Comm'n, 94 Hawai'i 31, 7 P.3rd 1068 (2000), the Hawai'i Supreme Court detailed a three-prong test for decision impacting traditional rights and resources, which requires specific findings regarding:

1. the identity and scope of cultural, historical, and natural resources in the affected area included the extent to which traditional and customary rights and practices are exercised in that area;
2. the extent to which those resources, rights, and practices will be affected by the proposed action; and
3. feasible action, if any, to reasonably protect Native Hawaiian rights and practices. (https://casetext.com/case/ka-paakai-o-kaaina-v-land-use-comn)

As a traditional cultural practitioner and holder of long-term knowledge, your insight, input, and perspective provide a valuable contribution to the assessment of potential effects of this project and an understanding of how to protect these resources and practices.

Insights focused on the following topics (shown on the attached Figure 1 and Figure 2) are especially helpful and appreciated:

- Your knowledge of traditional cultural practices of the past within the Kōloa Ahupua'a
- Your specific traditional cultural practice and its connection to the Kōloa Ahupua'a

Figure 21. Community Outreach Letter, page one

Ka Pa'akai Analysis for the South Koloa Town Project

- The different natural resources associated with your specific traditional cultural practice
- Legends, stories, or chants associated with your specific traditional cultural practices and their relationships to the Kōloa Ahupua'a
- Referrals to other *kūpuna, kama'āina,* and traditional cultural practitioners knowledgeable about the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on your ongoing traditional cultural practices and natural resources within the Kōloa Ahupua'a
- Your knowledge of cultural sites and *wahi pana* (storied places) within the Kōloa Ahupua'a
- Your comments or thoughts on the potential impacts the proposed project may have on cultural sites and *wahi pana* within the Kōloa Ahupua'a

Consultation Information

Consultation is an important and deeply valued part of this study and environmental review process. Your contributions will revitalize and keep alive our combined knowledge of past and ongoing cultural practices, historic places, and experiences, reminding our children of their history generation and generation. With your agreement to participate in this study, your contributions will become part of the comprehensive understanding of traditions of the area, and part of the public record.

As a part of this process, your knowledge may be used to inform future heritage studies of cultural practices and resources that need protection from the impacts of proposed future projects. If you engage in consultation, and the *mana'o* and *'ike* you provide appears in the study, we would like to recognize your contribution by including your name. If you prefer not to allow your name to be included, your information can be attributed to an anonymous source.

The consultation interview structure and format are flexible. We will accommodate your preference on how to get together: talk story, over the phone, by email correspondence, remotely via Zoom, MS Teams, Google Chat or other remote meeting platforms.

Your knowledge of the resources and potential effect of the project on traditional practices in the Kōloa Ahupua'a focusing on the topics in the bullet points above can also be submitted in a written statement. CSH will provide return postage of your written statement on request.

CSH is happy to provide a list of topics for discussion, a more structured questionnaire of interview questions, or any other assistance that might be helpful. If you have questions or are interested in participating in this study, please contact CSH Cultural Researcher Chantellee Spencer by email at cspencer@culturalsurveys.com. I am available by phone at (808) 965-6478.

Mahalo nui loa,

Chantellee Konohia Spencer

CSH Cultural Researcher

Figure 22. Community Outreach Letter, page two

Ka Pa'akai Analysis for the South Koloa Town Project

Page 6

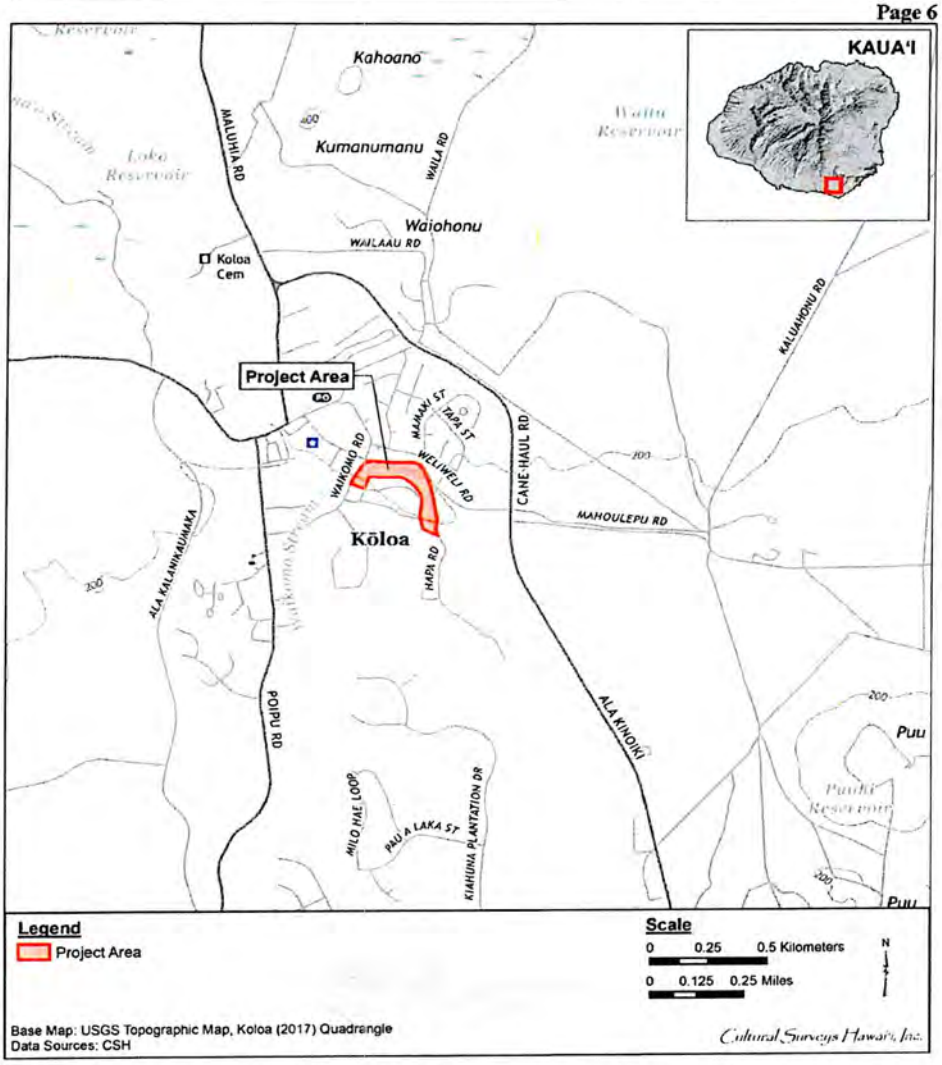


Figure 1. Portion of the 2017 Koloa USGS 7.5-minute topographic map quadrangle with the boundary of the project area delineated

Figure 23. Community Outreach Letter, page three

Ka Pa'akai Analysis for the South Koloa Town Project

Page 4

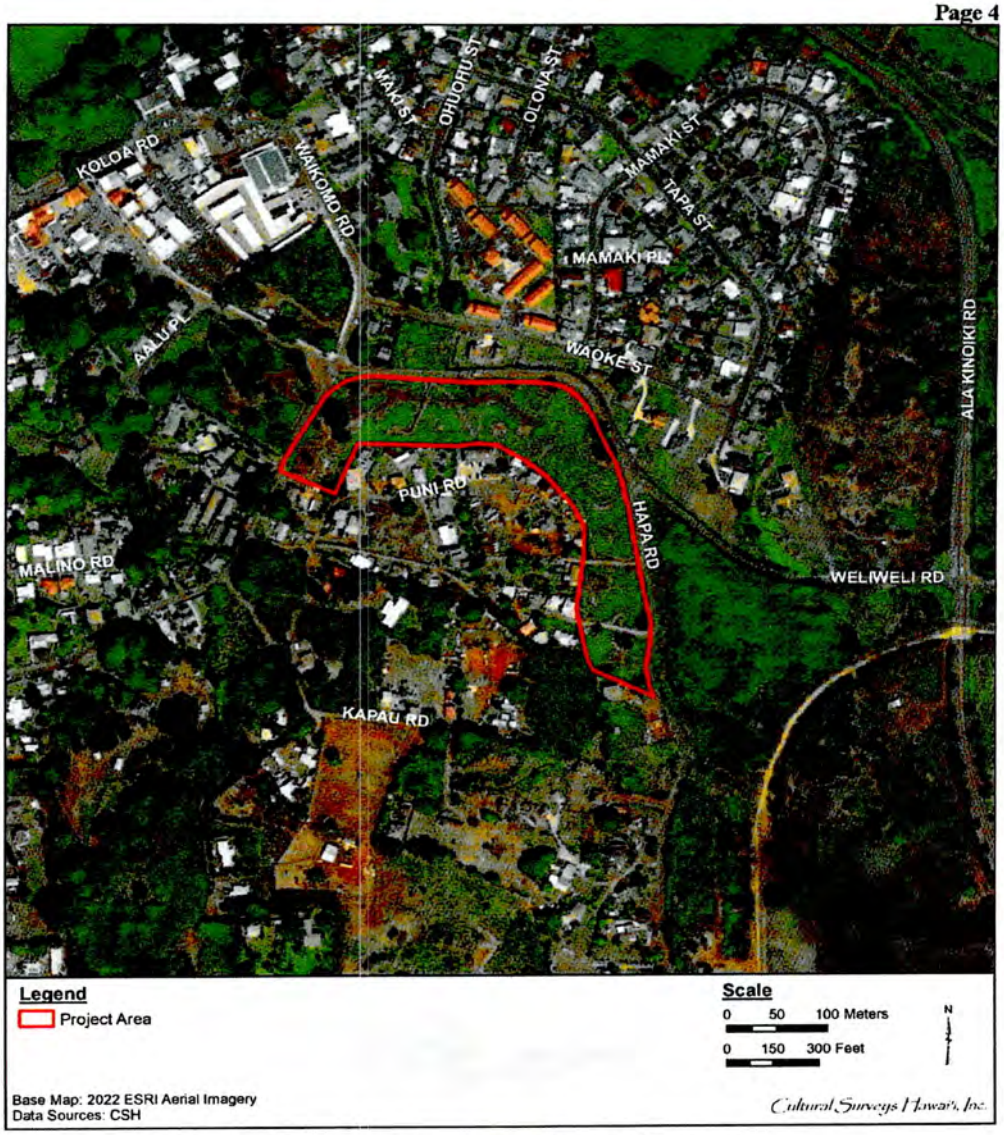


Figure 2. 2022 ESRI aerial image depicting the boundaries of the project area

Figure 24. Community Outreach Letter, page four

Appendix C Roslyn Cummings Testimony

AFFIDAVIT OF CULTURAL OPPOSITION, NOTICE OF NON-CONSENT, AND ASSERTION OF INHERENT BIRTHRIGHTS

Against the South Kōloa Town Project – TMK (4) 2-8-011:001 (fraudulent description)

Filed in Protection of Kōloa Ahupua'a | Government Lands of 1848 | Inheritance of the Hawaiian Nation (Ko Hawai'i Pae 'Āina)

Submitted Under Penalty of Perjury, Revolution of Law, and Exclusive Equity Jurisdiction

TO BE SERVED UPON:

County of Kaua'i Legal Department

County of Kaua'i Planning Department

County Engineering & Roads Division

County Department of Water

County Housing & Economic Development Division

State of Hawai'i Department of Land and Natural Resources (DLNR)

State Historic Preservation Division (SHPD)

State Department of Health (DOH)

State Department of Transportation (DOT)

U.S. Department of the Interior (DOI), including Land Inventory and HCCA

Commission on Water Resource Management

All agents and contractors acting under or in cooperation with SK Investors LLC, CSH, or related private or public entities

I. DECLARATION OF STANDING AND LAWFUL INTEREST

I, Roslyn Nicole Manawaiakea Mālama mare Cummings known as Roslyn Cummings a living, breathing wahine maoli, hereby declare:

I am a ho'oilina (heir) and native tenant (hoa'āina) of Kōloa Ahupua'a;

I am a descendant of ali'i and kahu of this land, including Kamakahelei, Chief Kukona, Chief Palikua (mo'okuauhau of Prince Kuhio), Chief Luanu'u, and their sacred genealogical lines;

I am the authorized signatory and Trustee of the Malama:Cummings 'Ohana God Trust©, filed under law to protect God's inheritance on earth through spiritual and lawful jurisdiction.

- Recorded in the Bureau of Conveyances (Regular System): Document Nos. A-9210000469 and A-9210000470 – establishing title claims, jurisdictional standing, genealogical succession, and lawful protest.
- Filed with the Land Court (1CLD-24-0003640): Recognizing mo'okū'auhau-based trust claims and asserting constructive trust protections over ancestral land and burial sites.
- Filed with the Hawai'i Supreme Court (SCOT-25-0000197): Invoking treaty protections, equity jurisdiction, and demanding fiduciary remedy under rule of law.
- Filed with the Fifth Circuit Court (5CCV-25-0000033): Court of Record affidavit asserting trust violation, breach of fiduciary duty, fraud, desecration, obstruction, and unlawful interference with succession and stewardship.

Let the record reflect: These filings are unrebutted.

Under the law of affidavits, they now stand as truth in law.

These lands are held in trust for us as na kanaka, kanaka maoli, hoa'aina, ho'oilina as heirs inherently through our birthrights, and our children's future as mo'opuna and I declare non-consent to any development, excavation, or redirection of the natural flow of wai (water), the desecration of iwi kūpuna, and the commodification of our sacred places.

II. AFFIRMATION OF HAWAIIAN KINGDOM LAW

Under the Rule of Law, the Law of Evidence, and the Ten Maxims of Law, I stand in exclusive equity jurisdiction, protected by:

- The 1839 Declaration of Rights of People and Chiefs
- The 1840 & 1852 Hawaiian Kingdom Constitutions
- The 1850 Kuleana Act

- The 1848 Māhele Land Division, which established Government Lands held in trust—not for private sale or speculation
- The 1849 Treaty of Friendship with the United States, still in full legal effect
- Customary, Civil, Common, Trust, and International Law
- The Clearfield Doctrine, which rebuts unauthorized corporate actors acting as de facto government
- UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples
- Ka Pa'akai o ka 'Āina v. Land Use Comm'n, 94 Haw. 31 (2000), establishing a three-prong test to protect cultural rights before development can proceed.

III. PROTECTED CULTURAL RESOURCES

The area of the proposed South Kōloa Town Project is a sacred place (wahi pana) and includes:

- Burial grounds iwi kūpuna and their waiwai
- Underground water systems (huna wai), above ground water way systems and ana cave networks tied to Kane and Kanaloa
- The seating house of ali'i including Chief Kiha and the birthright of his son Keawe
- The battleground and governing seat of Kukona and Manokalanipō, whose legacy continues through living heirs
- Medicinal and food-bearing resources which constitute our waiwai (true wealth), not for corporate conversion

Any intrusion, development, or alteration constitutes tortious conversion, constructive fraud, and violation of subject matter jurisdiction.

IV. FEE SCHEDULE FOR VIOLATIONS

By law, the following fee schedule is now activated and recorded:

- Unlawful entry or desecration of burial site: $1,000,000 per offense
- Unauthorized use of name, genealogy, or cultural authority: $250,000 per occurrence
- Tampering with natural waterways or underground wai: $1,500,000 per incident

- Proceeding without lawful rebuttal to affidavit: $1,000/day in damages for obstruction of remedy
- Each agency or agent in breach of fiduciary trust: $500,000 per actor plus triple damages under equity

This fee schedule is enforceable through trust law, court of record, and constructive lien processes under divine and lawful jurisdiction.

V. FINAL DECLARATION AND NON-CONSENT

I hereby declare:

I do not consent to any jurisdiction or authority claimed by the State of Hawai'i, the County of Kaua'i, or any federal entity that does not acknowledge the sovereignty, governance, self-determination and legal continuity of the Hawaiian Kingdom and our inherent birthrights.

I demand a full halt to all planning and permitting of the South Kōloa Town Project and a public hearing recognizing lineal heirs under Hawaiian Kingdom law.

I affirm my kuleana to protect the legacy of Kōloa Ahupua'a for all future generations.

Affirmed and Declared This 07/04/2025

in the Hawaiian Kingdom, island of Kaua'i, Ko Hawai'i Pae 'Āina

Under Penalty of Perjury

All Rights Reserved, Without Prejudice

Roslyn Nicole Manawaiakea Mālama mare Cummings known as Roslyn Cummings

Trustee, Malama:Cummings 'Ohana God Trust©

Wahine Maoli | Ho'oilina | Hoa'āina | Kahu Wahi Pana

Email: roslyncummings@ymail.com

VI. DECLARATION OF SACREDNESS OF 'ĀINA AND LAWS THAT PROTECT IT

This 'āina is not just land — it is a living, breathing, sacred relative. It is the foundation of our identity, spirituality, genealogy, and cultural practices. Every stone (pōhaku), every stream (kahawai), every breath of wind (makani) carries ancestral knowledge and divine presence. The 'āina is the body of Papahānaumoku and the breath of Wākea, and we are its stewards, not its owners. We are born from it, return to it, and are bound to protect it.

The following laws, doctrines, and declarations uphold the sacredness and legal inviolability of this 'āina:

1. 1839 Declaration of Rights of the Chiefs and People
   "God hath made of one blood all nations... All men of every religion shall be protected in worshipping Jehovah... No law shall be enacted which is at variance with the word of the Lord Jehovah..."
   This protects kanaka maoli rights to the 'āina as sacred inheritance, not subject to seizure, sale, or desecration.
2. 1840 Hawaiian Kingdom Constitution
   Recognizes the divine foundation of the Hawaiian government and protects all persons in their kuleana, ensuring "that no one shall be deprived of life, liberty, or property without due process."
3. Kuleana Act of 1850
   Guarantees hoa'āina the right to cultivate and occupy the 'āina for sustenance, ceremony, and dwelling — not for foreign development.
4. Ka Pa'akai o ka 'Āina v. Land Use Comm'n, 94 Haw. 31 (2000)
   Requires identification, protection, and mitigation of impacts to customary and traditional rights before any development is approved. Any project that threatens cultural resources must be halted unless it can meet this legal standard.
5. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
   Articles 11, 12, 25, and 26 affirm the rights of Indigenous Peoples to their lands, sacred sites, burial grounds, and the transmission of cultural practices.
6. Doctrine of Discovery (Rebutted)
   The fraudulent use of the Doctrine of Discovery to claim land from its original stewards is nullified under both international law and Hawaiian Kingdom law. The 'āina was never lawfully ceded.

7. Law of Nations / Trust Law / Natural Law
   Under trust law and spiritual trust, this 'āina remains in the stewardship of its heirs and cannot be alienated without fraud. This duty is divine, intergenerational, and non-transferable.
8. Hawaiian Civil Code (1859)
   Section 1476–1478 affirms the right of tenants to access, cultivate, and protect land and water resources, and forbids interference with such traditional usage.
9. Environmental & Health Protections under Federal Trust Law
   Any federal funding or permitting agency involved in this development is in constructive breach of fiduciary duty if it proceeds without fully protecting sacred 'āina and its cultural resources.

This 'āina is kapu.

The waterways are sacred. The iwi kūpuna are sacred. The caves, the trees, the soil — all are alive with the mana of our ancestors.

Any desecration, commodification, or trespass is a violation of both divine law and human law.

We, the mo'opuna of Kōloa, are bound by kuleana, not commerce.

We live not in transactions — but in ceremony.

Roslyn Cummings

VIII. PROTEST UNDER DURESS DECLARATION

With Memorandum of Law and Continuity of Hawaiian Kingdom Authority

I, Roslyn Nicole Manawaiakea Mālama mare Cummings, ho'oilina (heir), hoa'āina (native tenant), and Trustee of the Malama:Cummings 'Ohana God Trust©, declare under penalty of perjury and under protest that:

1. I do not consent to any foreign occupation, administrative jurisdiction, permitting scheme, title transfer, or development plan executed without lawful treaty authority, recognized fiduciary trust, or mo'okū'auhau-based standing. The presumption of jurisdiction by the State of Hawai'i, the United States, the County of Kaua'i, or any of their subsidiaries or corporate agents is hereby rebutted.

2. I submit this declaration under duress, in direct and lawful continuity with Queen Lili'uokalani's protest of January 17, 1893, made in the face of an unlawful and hostile overthrow of the Hawaiian Kingdom. Like her, I declare this protest not out of fear, but from righteousness and kuleana.
3. This protest constitutes a living constitutional declaration, entered into Court of Record, and is based on lawful continuity, inherent sovereignty, and the right to self-determination, as protected by the following legal authorities:

- The 1840 & 1852 Hawaiian Kingdom Constitutions
- The Hawaiian Civil Code (1859)
- The 1839 Declaration of Rights
- Article 43 of the 1907 Hague Convention (Laws and Customs of War on Land):
  "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting... the laws in force in the country."
- The Geneva Conventions (1949)
- UN Declaration on the Rights of Indigenous Peoples (UNDRIP), particularly Articles 8, 11, 25–28

The Vienna Convention on the Law of Treaties (1969) – Articles 26, 27, and 46: Protecting against coercion and the invalidity of treaties executed in violation of fundamental law.

Let it be known:

Silence shall not be misinterpreted as consent. My protest is lawful, spiritual, and binding.

I reserve all rights, waive no rights, and submit this under the divine, lawful, and hereditary authority bestowed upon me by birthright and kuleana.

This Protest Under Duress is entered into the Court of Record and made available to all necessary parties for the purpose of enforcement, historical continuity, and the reestablishment of pono governance.

Affirmed and Declared this 07/04/2025

Under Penalty of Perjury

All Rights Reserved Without Prejudice, Without Recourse

Roslyn Nicole Manawaiakea Mālama mare Cummings known as Roslyn Cummings

Roslyn Nicole Manawaiakea Malama mare Cummings

Trustee, Malama:Cummings 'Ohana God Trust©

Wahine Maoli | Ho'oilina | Hoa'āina | Kahu

Email: roslyncummings@ymail.com

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

DIRECTOR'S REPORT

I. SUMMARY

Action Required by Planning Commission:	Consideration of a Project Development Use Permit and Class IV Zoning Permit to allow 164 multiple-family residential units.
Permit Application Nos.	Project Development Use Permit PDU-2026-7 Class IV Zoning Permit Z-IV-2026-9
Name of Applicant(s)	SK INVESTORS LLC Ian K. Jung, Esq., Authorized Agent

II. PERMIT INFORMATION

PERMITS REQUIRED	
☐ **Use Permit**	
☒ **Project Development Use Permit**	Pursuant to Section 8-10.4(d) of the KCC, 1987, as amended, a Project Development Use Permit is required to allow comprehensive site planning that allows deviations from development standards involving a multi-family residential project.
☐ **Variance Permit**	
☐ **Special Permit**	
☒ **Zoning Permit Class** ☒ IV ☐ III	Pursuant to Section 8-4.7 of the KCC, 1987, as amended, a Class IV Zoning Permit is a procedural requirement when applying for a Project Development Use Permit and for any construction or development consisting of fifty-one (51) or more units.
☐ **Special Management Area Permit** ☐ Use ☐ Minor	
AMENDMENTS	
☐ **Zoning Amendment**	
☐ **General Plan Amendment**	
☐ **State Land Use District Amendment**	

Date of Receipt of Completed Application:	December 2, 2025

Date of Director's Report:	December 19 2025
Date of Public Hearing:	January 13, 2026
Deadline Date for PC to Take Action (60TH Day):	February 17, 2026

III. PROJECT DATA

PROJECT INFORMATION			
Parcel Location:	Kōloa Town. The parcel is situated to the northwest corner of Weliweli Road and Waikomo Road.		
Tax Map Key(s):	(4) 2-8-011:001	**Area:**	9.436 acres
ZONING & DEVELOPMENT STANDARDS			
Zoning:	South Kaua'i Community Plan – Special Planning Area "H"		
State Land Use District:	Urban		
General Plan Designation:	Residential Community/Neighborhood General		
Height Limit:	Thirty (30) Feet		
Max. Land Coverage:	50% (T3VE/T3VN.1)		
Parking Requirement:	One (1) stall for every two (2) bedrooms		
Front Setback:	10 feet		
Rear Setback:	5 feet		
Side Setback:	5 feet		
Community Plan Area:	South Kaua'i Community Plan		
Community Plan Land Use Designation:	T3VN.1, T3VE		
Deviations or Variances Requested:	Deviation from building types, permissible density for multi-family dwelling units, and specified design features.		

IV. LEGAL REQUIREMENTS

Section 8-3.1(f), KCC:	This report is being transmitted to the Applicant and Planning Commission in order to satisfy the requirements of Section 8-3.1(f), relating to the provision of the Planning Director's report and recommendation on the subject proposal within sixty (60) days of the filing of a completed application. The application was received on November 26, 2025, and the Applicant, through its authorized agent, was notified accordingly of the Planning Department's intent to commence permit processing.
Public Hearing Date:	**January 13, 2026**

V. PROJECT DESCRIPTION AND USE

The subject property is located in Koloa Town and shall be subject to the development standards contained in the South Kauai Community Plan (SKCP). The project is situated within the Special Planning District of the South Kauai Form Based Code, designated as Transects T3VE (Village Edge) and T3VN.1 (Village Neighborhood). The proposed multi-family residential project is permissible within these transects through a Use Permit. As proposed, the Applicant is also seeking to deviate from several development standards in these transect zones which warrants a Project Development Use Permit.

As represented, the housing project involves the development of one hundred and sixty-four (164) units that contain a combination of multi-family residential units and associated site improvements.

The housing project will consist of four (4) different types of building units:

Duplexes	Four (4) buildings consisting of a combined total of eight (8) three-bedroom units.
4-Plex Type 1	Seventeen (17) buildings consisting of a combined total of sixty-eight (68) two-bedroom units.
4-Plex Type 2	1. Three (3) buildings consisting of a combined total of twelve (12) one-bedroom units. 2. Three (3) buildings consisting of a combined total of twelve (12) three-bedroom units. The 4-Plex Type 2 buildings will have a total of six (6) buildings with a combined total of twenty-four (24) units.
8-Plex	1. Four (4) buildings consisting of a combined total of thirty-two (32) one-bedroom units. 2. Four (4) buildings consisting of a combined total of thirty-two (32) two-bedroom units. The 8-Plex buildings will have a total of eight (8) buildings with a combined total of sixty-four (64) units.

VI. APPLICANT'S REASONS/JUSTIFICATION

Please refer to the Application.

VII. AGENCY COMMENTS

Comments from applicable government agencies are being sought and are expected at the time of the public hearing scheduled for JANUARY 13, 2026.

VIII. FINDINGS

1. <u>Property Information/Background</u>

The project site is situated on a 9.436-acre parcel, currently owned by SK Investors LLC. As previously stated, the project is situated within the Special Planning District of the South Kauai Form Based Code, designated as Transects T3VE (Village Edge) and T3VN.1 (Village Neighborhood).

Kaua'i Tax Map Key No. (4) 2-8-011:001 is comprised of Lot 180-A, consisting of 7.218 acres, Lot 180-G, consisting of 0.792 acres, Lot 180-H, consisting of 0.662 acres, and Lot 180-J, consisting of 0.764 acres of Land Court Application No. 956 (Map 59).

2. Surrounding Properties
Being situated within the Koloa Town core, the project site is primarily surrounded by similar residential uses. The project is also approximately 750 feet south of the commercial activities in Koloa Town.

To the east of the Property sits agricultural lands. To the northwest of the Property is the Kōloa Village Residential Project.

3. South Kaua'i Community Plan (SKCP)
As noted in the SKCP, one of the intentions of the transect zones is to provide a walkable neighborhood that would integrate compatible multifamily housing within walking distance to transit and village center areas. The project is situated within two (2) transect zones identified as Transects T3VE (Village Edge) and T3VN.1 (Village Neighborhood).

The development standards within each respective transect are taken from Sections 2.2.030 & 2.2.040 of the South Kauai Form-Based Code (SKFBC) and noted as follows:

a. **T3 Village Edge (T3VE), Sec. 2.2.030**

1) Zone Intent and Description (Subsection A.): T3 Village Edge zone reinforces established neighborhoods, to maintain neighborhood stability and provide a transition between higher intensity walkable neighborhoods and rural and agricultural areas.

2) Allowed Building Types (Subsection B.):
   a) Carriage House;
   b) Single-Unit House, Village; and
   c) Duplex

3) Design Standards – Specific standards are noted in Subsections C. through F.

b. **T3 Village Neighborhood 1 (T3VN.1), Sec. 2.2.040**

1) Zone Intent and Description (Subsection A.): T3 Village Neighborhood 1 zone provides a walkable neighborhood that integrates compatible multifamily housing types such as duplexes and cottage courts within walking distance to transit and village center areas.

2) Allowed Building Types (Subsection B.):
   a) Carriage House;
   b) Single-Unit Housing, Village;
   c) Single-Unit Housing, Cottage;
   d) Cottage Court; and
   e) Duplex

3) Design Standards – Specific standards are noted in Subsections C. through F.

c. **Building Types**

The various building types identified in the SKFBC are further clarified in Article 3. The project proposes several types of Duplexes and the standard for this type of building is described in Section 3.2.080.

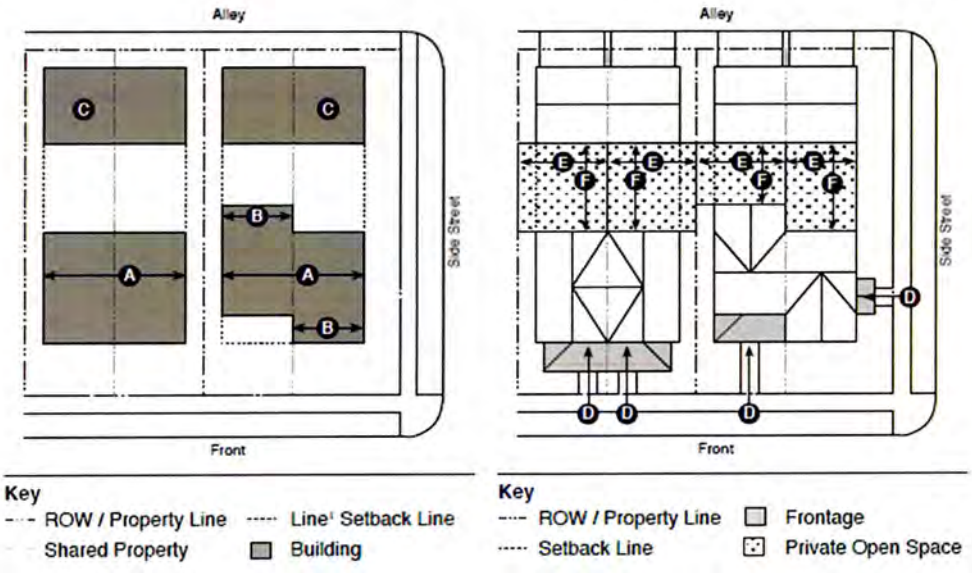
B. Number of Units		
Units	2 max.	
C. Building Size and Massing		
Height		
Per building form standards based on transect zone.		
Main Body		
Width	48' max.	A
Secondary Wing(s)		
Width	30' max.	B
Miscellaneous		
Accessory structures shall not be taller or have a larger footprint than the main building on the lot.		C

D. Allowed Frontages		
Lānai, Engaged	Stoop	
Lānai, Projecting		
E. Pedestrian Access		
Main Entrance Location	Front[1]	D
Each unit shall have an individual entry facing the street on or no more than 10' behind the front facade.		
[1] On corner lots, each unit shall front a different street.		
F. Vehicle Access and Parking		
Parking may be accessed from the alley, side street or front.		
Parking may be accessed from the front only when there is no adjacent alley or side street.		
Parking spaces may be enclosed, covered or open.		
G. Private Open Space		
Width	15' per unit, min.	E
Depth	15' per unit, min.	F
Required private open space must be located behind the main body of the house.		

This section also specifies the number of units per duplex building, prescribes the building size and design features (more specifically, lanais along the building frontage), as illustrated below:

Specific to Building Types 3.2.080

Duplex



d. **Private Frontages, Sec. 3.3**

The various frontages are the components of a building that serves an important transition and interface between the public realm (street and sidewalk) and the private real (yard or building). The private frontage is the area between the building façade and the lot line (as noted in the illustration above).

1) T3 Village Edge (T3VE) allows for:
   a) Lāna'i, Projecting; and
   b) Lāna'i, Engaged

2) T3 Village Neighborhood 1 (T3VN.1) allows for:
   a) Lāna'i, Projecting;
   b) Lāna'i, Engaged; and
   c) Stoop

The following illustration prescribes the design features of each frontage type:

Lānai, projecting: The main facade of the building has a small to medium setback from the frontage line. The resulting front yard is typically very small and can be defined by a fence or hedge to spatially maintain the edge of the street. The projecting lānai is open on three sides and all habitable space is located behind the setback line.

T3VE T3VN.1 T4N T4VC

Lānai, engaged: The main facade of the building has a small to medium setback from the frontage line. The resulting front yard is typically very small and can be defined by a fence or hedge to spatially maintain the edge of the street. The engaged lānai has two adjacent sides of the lānai that are engaged to the building while the other two sides are open.

T3VE T3VN.1 T4N T4VC

Stoop: The main facade of the building is near the frontage line and the elevated stoop engages the sidewalk. The stoop shall be elevated above the sidewalk to ensure privacy within the building. Stairs from the stoop may lead directly to the sidewalk or may be side-loaded. This type is appropriate for residential uses with small setbacks.

T3VE T3VN.1 T4N T4VC

IX. PRELIMINARY EVALUATION

1. General Plan

Vision and Goals- Section 1.3 of the Kaua'i General Plan (2018)

- A Sustainable Island
- A Healthy and Resilient People
- A Unique and Beautiful Place
- An Equitable Place, with Opportunity for all

Policies to Guide Growth – Section 1.4 of the Kaua'i General Plan (2018):
Of the 19 policies outlined in Section 1.4 of the Kaua'i General Plan (2018), the proposed project directly promotes the following:

- Policy #1 Manage Growth to Preserve Rural Character
- Policy #2 Provide Local Housing
- Policy #3 Recognize the Identity of Kauai's Individual Towns and Districts
- Policy #4 Design Healthy and Complete Neighborhoods
- Policy #17 Nurture Our Keiki

The proposed project aligns with the vision, goals, and policies of the Kaua'i General Plan in that the proposed project continues to provide local housing while protecting the integrity and character of Koloa Town. Further, it provides a great opportunity for its

residents to live and work in their neighborhood, while minimizing impacts to the roadway infrastructure.

2. South Kaua'i Community Plan (SKCP)

   a. In evaluating the proposed development to construct multifamily housing and associated site improvements, it is important to consider that the proposed use is a generally permitted use within the Special Planning Area "H" and located within South Kaua'i Form Based Code Transects T3VE and T3VN.1.

   b. The intent of this zone is to provide a walkable neighborhood that would integrate compatible multifamily housing within walking distance to transit and village center areas.

   c. In addressing the deviation from the development standards in the transects, the following aspects are being considered:

      1) Building Types — Due to the specific building types within the T3VE and T3VN.1 transects, the Applicant is requesting a deviation to provide more multi-family housing units while creating greater open space opportunities between buildings. The form and character of the proposed development is relatively compatible with the standards that are set forth in SKFCB.

      2) Frontage Types – The proposed development is showing frontages that are reasonably compatible with the SKFBC frontage standards. Buildings along Waikomo Road, Weliweli Road, and Hapa Road will all have their frontages interacting with the public-private realm.

      3) Setbacks — According to the Transects (T3VE and T3VN.1) the minimum front setbacks are, respectively, twenty-five (25) feet and twenty (20) feet minimum. Although the proposed street-fronting buildings do not meet the required front property line setbacks, the building frontages as designed still interact with the street. As previously stated, the project site involves 3 separate lots along Hapa Road identified as Lots 180-G, 180-H, and 180-J. The buildings proposed in this area traverses over property lines and do not comply with the setback standards. The department would encourage the Applicant to consolidate all of the lots involved with the project prior to occupancy of the completed buildings along Hapa Road.

      4) Access — The project site will include two vehicular access points, identified on the site plan. Access to the site will be provided via Weliweli Road and Hapa Road.

      5) Off-street Parking — Subsection F. of the design standards call out one (1) parking space per two (2) rooms, which would require the Applicant to provide a minimum of 152 parking stalls. As proposed, the applicant satisfies the

off-street parking requirements for the SKFBC by providing 196 on-site parking stalls, as well as, 17 on-street parking stalls.

3. Wildfire Wildland Urban Interface (WUI)

    a. The Wildfire Risk to Communities program created and maintained by the USDA forest Service identifies Kauai County as having a very high risk of wildfire—higher than 91% of counties in the United States.

    b. The Hawaii Wildfire Management Organization's (HWMO) Kauai Wildfire Hazard document identifies Koloa as a high hazard risk to wildfire.

    c. To minimize the threat of wildfire—particularly during high wind event—to the project area, wildfire home hardening and wildfire defensible space maintenance requirements should be considered

4. Native Hawaiian Traditional and Cultural Rights

A Ka Pa'akai Analysis was prepared by Cultural Surveys Hawai'i, Inc. for the proposed housing project. The analysis describes the historic and traditional accounts associated with the Kōloa Ahupua'a as well as provides a summary of archaeological studies that have been conducted in the vicinity of the project area. The analysis also provides a detailed summary of the community outreach that was conducted including oral and written testimony of individuals that were contacted.

The consultation outreach involved attempting to contact Hawaiian organizations, agencies, and community members as well as cultural and lineal descendants in order to identify individuals with cultural expertise and/or knowledge of the project area and vicinity. Community outreach letters were sent to 36 individuals or groups by email and/or U.S. Postal Service with additional follow-up by text or phone. As represented in the analysis, Cultural Surveys Hawai'i completed the community consultation in July 2025, and four (4) individuals responded. One individual provided legal documents, another individual forwarded the outreach letter to other respective groups. One individual called to ask for more information on the project; and another individual had expressed interest but never followed up. Of the four, none of these Kamā'aina and/or Kūpuna met with Cultural Surveys Hawai'i for more in-depth interviews.

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

- There are no known traditional or customary practices of Native Hawaiians that are presently occurring at the project site.
- There are no known special gathering practices taking place or resources located at the project site or within the vicinity of the project site.
- There will be no detrimental effect on access to any streams, access to the shoreline or other adjacent shoreline areas, or gathering along any streams, the

shoreline or in the ocean given public beach access is available near the Project Area.

- There are no known religious practices taking place within the project site.
- There are no known pre-contact cultural or historic sites or resources located within the Project Site.
- There are no known burials within the Project Area.

The Ka Pa'akai Analysis does recommend that construction workers and all other personnel involved in the construction activities be informed of the potential of inadvertent cultural finds, which could include human remains.

4. Lighting — Based on the application submittal, it is uncertain as to whether the Applicant has made provisions for night illumination on the project site. In the event external lighting is to be used in connection with the proposed project, it should be designed to minimize interference with Newell's shearwater night flights. All external lighting should be downward facing and shielded.

X. PRELIMINARY CONCLUSION

Based on the information contained in the Director's Report Findings and Evaluation, the Planning Department concludes the following:

1. The project aligns with the "Residential Community" and "Neighborhood General" designation outlined in the Kaua'i County 2018 General Plan;

2. The overall nature of the project is compatible with the intended residential use of the property and with the existing activities surrounding the project site;

3. Through proper mitigation efforts, the proposed development is not expected to cause any significant adverse impacts to the surrounding properties;

4. The proposed development is appropriate relative to the provision of alternative housing opportunities for the south side community. Furthermore, the exceptions sought via the Project Development Use Permit would not result in any adverse environmental consequences or visual effect.

The Applicant should institute the "Best Management Practices" to ensure that the development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

XI. PRELMINARY RECOMMENDATION

Basen on the foregoing evaluation and conclusion, it is hereby recommended that the proposed development involving a total of one hundred sixty-four (164) housing units through Project Development Use Permit PDU-2026-7 and Class IV Zoning Permit Z-IV-2026-9 be **APPROVED** with the following conditions:

1. The project shall be constructed as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. The Applicant shall consolidate all of the lots involved with the project prior to occupancy of the completed buildings along Hapa Road.

3. The applicant shall incorporate Wildfire Wildland Urban Interface (WUI) Construction Standards attached as Exhibit A into the development and construction of all structures on the subject property.

4. The applicant shall incorporate WUI Structure Maintenance and Defensible Space Standards as defined by the attached Exhibit B into the Covenants, Conditions, and Restrictions (CC&Rs) for the subject property. A Homeowners Association (HOA) shall be established that implements the requirements and standards of Exhibit B. Should these standards not be implemented, the HOA shall be subject to the Enforcement, Legal Procedures, and Penalties established under Section 8-3.5 of the Kauai County Code.

5. The applicant shall coordinate an annual inspection of the site by the Planning Department and Fire Department to ensure compliance with Condition 2 and 3 concerning WUI Construction Standards and WUI Structure Maintenance and Defensible Space Standards.

6. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirements for the County DPW-Engineering Division, water requirements for the County Department of Water, and regulations involving environmental concerns as administered by the State Department of Health.

7. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

8. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.

9. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, if external lighting is to be used in connection with the proposed project, all external lighting shall be only of the following type: downward-facing, shielded lights. Spotlights aimed upward or spotlighting of structures shall be prohibited.

10. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti- competitive restraints on trade or other monopolistic practices.

11. 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 to determine mitigation measures.

12. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

13. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for January 13, 2026, 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 the staff's report and recommendation as provided herein.

By _____
KRISTEN N. ROMUAR-CABICO
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 12/22/2025

EXHIBIT A

WILDFIRE WILDLAND URBAN INTERFACE CONSTRUCTION STANDARDS

(a) General Provisions.

(1) Lands Included.

(A) All lands within the subject property.

(2) Other Laws and Regulations. All improvements subject to this Article shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Subdivision Ordinance, and Sediment and Erosion Control Ordinance. In case of a conflict between this Agreement and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(4) Interpretation. In the interpretation and application of this Agreement, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(5) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Agreement is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Agreement does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Agreement shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Agreement or any administrative decision lawfully made based on this Agreement.

(b) Definitions.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus

technical international standards for a wide range of materials, products, systems, and services.

"County" means the County of Kaua'i.

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire through a wildland area and to create an area for structure defense operations to occur.

"Fire-prone vegetation" means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."

"Fire Stopped" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

"Firewood" means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles or sheets, or (3) slate shingles.

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured perpendicularly from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops).

"Primary Structure Zone" means an area that applies to the primary structure itself, and it includes requirements for ember ignition mitigation and fire-resistant construction to reduce the risk of structure ignition.

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

"Structure, Primary" means a structure that is used for the principal use permitted in the zoning district. In the Plantation Camp, primary structures include but are not limited to residential dwelling units, commercial buildings, and schools. A primary structure is not an accessory structure.

"Unenclosed Accessory Structure" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

"Wildfire" means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

"Zone 0: 5-Foot Noncombustible Zone (NCZ)" means an area that extends five feet horizontally from the exterior of a primary structure and any attached appendages and projections. It shall consist of noncombustible hardscape and

materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

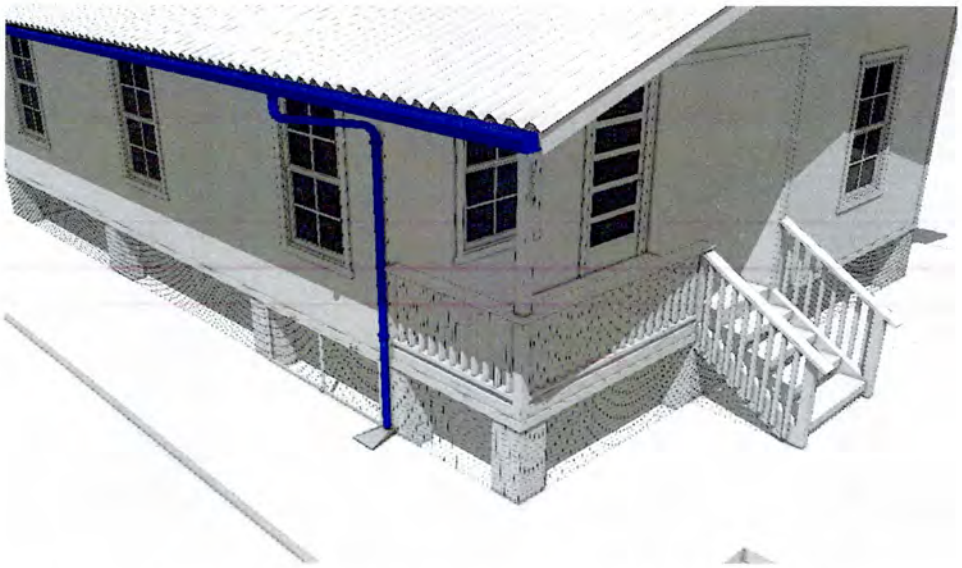
"Zone 1: 30-Foot Defensible Space" means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire-prone vegetation is prohibited.

"Zone 2: 30- to 100-Foot Resilient Landscape" means an area that extends from the edge of Zone 1 to 100 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure.

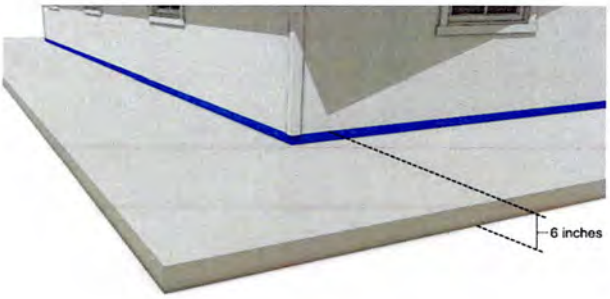
(c) Primary Structure Zone.

(1) Construction Requirements. For any newly proposed primary structures, or substantial improvements of existing structures, the following construction requirements shall be met:

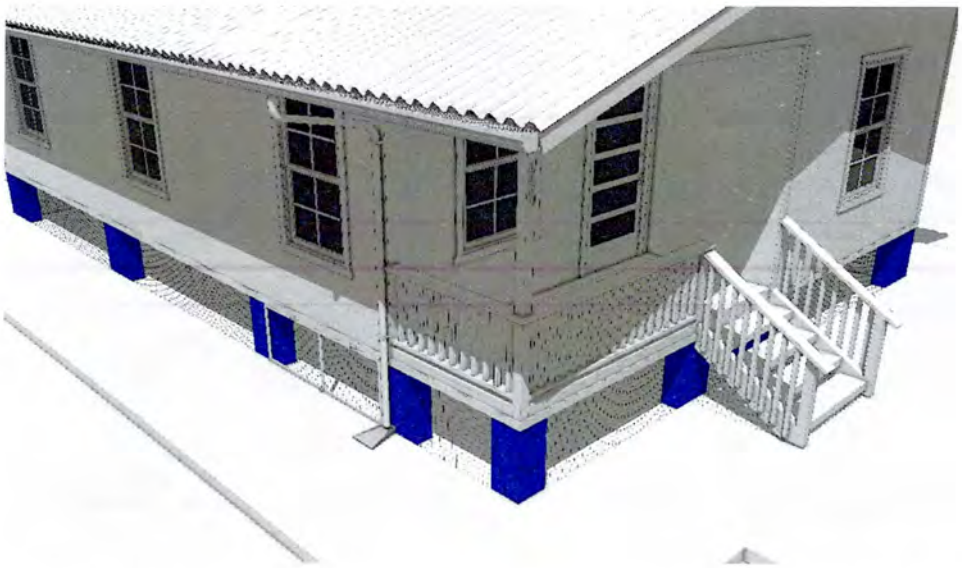
(A) Roofs. Roofs shall have a roof assembly that complies with a Class A rating when tested in accordance with ASTM E108. For roof assemblies where the profile allows a space between the roof covering and roof deck, the space shall be fire-stopped to prevent entry of flames or embers.



(B) Gutters and Downspouts. Gutters and downspouts shall be constructed of metal material. Gutters shall be covered with a noncombustible material to prevent the accumulation of debris within the gutter.



(C) Exterior walls. A minimum of 6 inches of noncombustible material vertically on the exterior of the wall shall be installed at the ground, decking, and roof intersections. This material shall extend behind the associated siding to reduce ember entrapment.



(D) Post and pier. If any primary structure is elevated, the post and pier material shall be noncombustible.

(E) Underfloor Enclosure. Primary structures elevated on post and pier and any attached appendages and projections such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm). The mesh shall meet the following additional requirements:

(i) Extended down to be flush with grade and abut against the adjacent 5-foot hardscape groundcover,

(ii) Any associated material including but not limited to framing material or covering material (such as lattice) shall be noncombustible; and,

(iii) At least one area of the underfloor area mesh screening shall be constructed and framed in a manner to allow a minimum 16" x 24" of the mesh screen to be removed for access and maintenance purposes of the underfloor area. The framing and any other associated material for this access section of the mesh screening shall be made of noncombustible material.

(F) Appendages and projections. Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, and stoops elevated on post and pier shall have underfloor areas enclosed to the ground with noncombustible corrosion-resistant mesh screen size not to exceed 1/8 inch (3.2 mm) and shall meet the following additional requirements:

(i) When elevated, to prevent any ember intrusion beneath the underfloor area, all floorboards shall be flush with each other without any parallel space apart from each other.

(ii) Noncombustible or ignition-resistant material is required for all flooring material.

Exception: if the flooring material, such as floorboards, are comprised of combustible material, at a minimum all floorboards perpendicular to a wall or a post shall be ignition resistant within 6 inches of the deck-to-wall or deck-to-post intersection.

(iii) Noncombustible or ignition-resistant material is required for all walls and posts that are perpendicular to the deck.

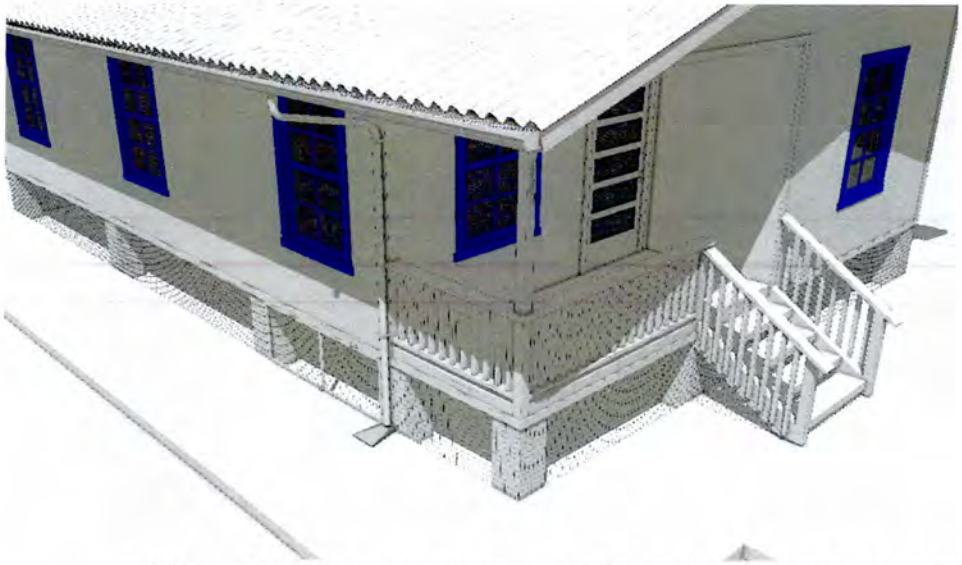
Exception: if the wall or post is comprised of combustible material, at a minimum the wall or post shall have 6 inches of noncombustible flashing installed at the wall-to-deck or post-to-deck intersection.

(G) Vents. Ventilation openings for enclosed attics (e.g., gable ends, ridge ends, and enclosed eave soffit spaces), enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters, underfloor ventilation, foundations, and crawl spaces; under eaves and cornices; or for any other opening intended to permit ventilation, either in a horizontal or vertical surface, shall resist the intrusion of burning embers and flames by meeting one of the following requirements:

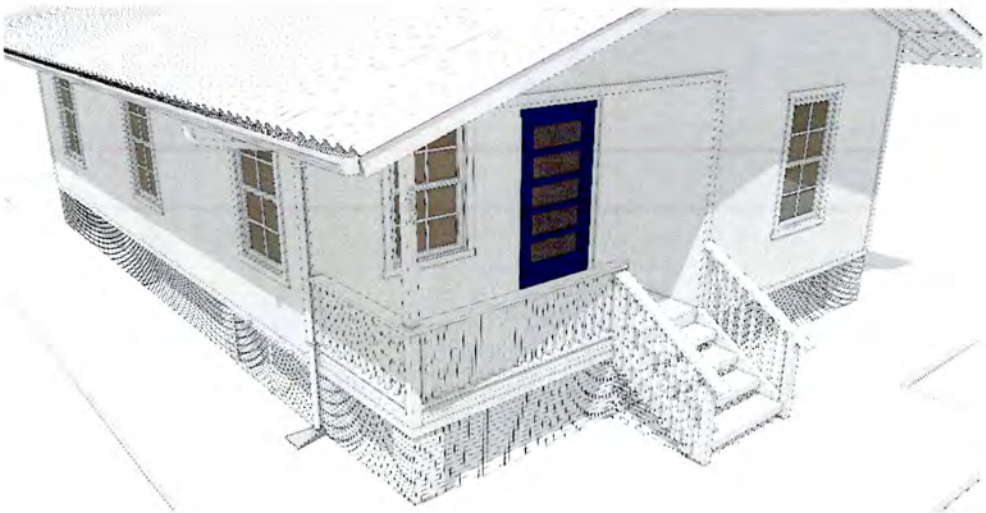
(i) Performance-based requirements: Corrosion-resistant ember and flame-resistant vents tested to conform to ASTM E2886.

(ii) Prescriptive-based requirements: Vents shall be made of a noncombustible material and covered on the exterior with noncombustible corrosion-resistant mesh with openings not to exceed 1/16 inch (1.6 mm).

Exceptions: Dryer vents shall have a solid metal louver or flap in lieu of mesh. Plumbing vents are excluded from these requirements.



(H) Exterior glazing. Each primary structure's exterior windows, window walls, glazed doors, and windows within exterior doors shall be dual pane tempered glass or have a fire protection rating of not less than 20 minutes and tested to conform to ASTM E119.



(I) Exterior doors. Exterior doors shall be solid core wood or have an exterior surface with noncombustible or ignition-resistant building material or have a fire protection rating of not less than 20 minutes.

(J) Addressing. Each primary structure shall have its address marked on its exterior thoroughfare facing wall, and it shall be clearly visible from the thoroughfare.

(g) Other Requirements for Accessory Structures.

(1) Construction Requirements. For any newly proposed unattached accessory structures or substantial improvements to unattached accessory structures that are within 30 feet of the primary structure and that have a footprint greater than or equal to 15 square feet (including but not limited to sheds, gazebos, poultry cages, open-covered structures with a solid roof, dog houses, and playhouses), the following construction requirements shall be met:

(A) Not counting noncombustible storage units sealed in a manner that prohibit any ember intrusion into the unit, no more than 3 total accessory structures are allowed within 30 feet of the primary structure.

(B) Fences. All fences within 30 feet of any other structure (accessory or primary) shall be constructed with noncombustible materials.

(C) Each accessory structure shall have its own 5 feet of NCZ that does not overlap the 5-foot NCZ required for a primary structure, appendages and projections (including but not limited to lānais, porches, and stoops), or other accessory structures.

EXHIBIT B

WILDFIRE WILDLAND URBAN INTERFACE STRUCTURE MAINTENANCE AND DEFENSIBLE SPACE STANDARDS

(a) General Provisions.

(1) Lands Included.

(A) All lands within the subject property.

(2) Other Laws and Regulations. All clearing and maintenance subject to this Agreement shall comply with other applicable laws and regulations, including but not limited to the State and County Fire Codes, Building Code, Subdivision Ordinance, , and Sediment and Erosion Control Ordinance. In case of a conflict between this Agreement and the requirements of any other Federal, State, or County law, such as the State Fire Code or the County Fire Code, the more restrictive requirements shall apply.

(3) The County shall not be liable for expenses incurred in the removal or replacement of any material required for the landowner to comply with this Agreement or to allow inspection.

(4) Interpretation. In the interpretation and application of this Agreement, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the County; and

(C) Deemed to neither limit nor repeal any other requirement, power, or duty prescribed under Federal, State, or County law.

(5) Warning and Disclaimer of Liability. The degree of wildfire and wildland urban interface required by this Agreement is considered reasonable for regulatory purposes and is based on wildfire hazard assessment considerations. Wildfires can and will occur on occasion. This Agreement does not imply that land outside the area of the subject property or uses and structures within this area will be free from wildfire risk. This Agreement shall not create liability on the part of the County of Kaua'i or any officer or employee for any damages that result from reliance on this Agreement or any administrative decision lawfully made based on this Agreement.

(b) Definitions.

"Advancing Standards Transforming Markets (ASTM)" means the organization (formerly referred to as the American Society for Testing and Materials) that develops standards and publishes voluntary consensus technical international standards for a wide range of materials, products, systems, and services.

"County" means the County of Kaua'i.

"Defensible space" means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire through a wildland area and to create an area for structure defense operations to occur.

"Fire-prone vegetation" means material that in its natural state can readily ignite, burn, and rapidly transmit fire. For the purposes of this Article this definition is limited solely to the three following plant species: 1) Megathyrsus maximus or commonly known as "Guinea Grass," 2) Leucaena leucocephala or commonly known as "Haole Koa," and 3) Cenchrus ciliaris or commonly known as "Buffel Grass."

"Fire Stopped" means the process of filling openings and joints between walls, floors, and roofing material to inhibit the spread of fire between compartments within a structure.

"Firewood" means any kindling, logs, timber, or other portions of a tree of any species four (4) feet or less in length, cut or split, or intended to be cut or split, into a form and size appropriate for use as fuel for fires in an open pit, imu, grill, fireplace, stove, or other wood burning furnace or device.

"Ignition-resistant" as applied to building construction material means a material treated or manufactured to delay ignition and tested to conform to ASTM E84 or ASTM E2768. Examples include but are not limited to fire-treated wood, dense hardwoods like ipe, and fiber-cement boards.

"Noncombustible" as applied to building construction material means a material of which no part will ignite and burn when subjected to fire and tested to conform to ASTM E136. Examples include but are not limited to concrete, metal, glass, and stone.

"Noncombustible roof covering" means a roof covering consisting of any of the following: (1) cement (or fiber-cement) shingles or sheets, (2) ferrous shingles

or sheets, or (3) slate shingles.

"Noncombustible zone (NCZ)" means the area of land that extends 5 feet measured perpendicularly from the edge of the exterior walls of a structure and any unenclosed appendages or projections (including but not limited to lānais, porches, and stoops).

"Primary Structure Zone" means an area that applies to the primary structure itself, and it includes requirements for ember ignition mitigation and fire-resistant construction to reduce the risk of structure ignition.

"Roof assembly" means a system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly can include an underlayment, thermal barrier (i.e., insulation), ignition (fire) barrier, insulation, or a vapor retarder.

"Roof covering" means the covering applied to the roof deck for weather resistance or appearance. The roof covering and underlying components are part of the fire rating for the roof assembly.

"Roof deck" means that flat or sloped surface of a roof not including its supporting members or vertical supports.

"Structure, Accessory" means a structure that is subordinate to, and the use of which is incidental to that of the primary structure or use on the same lot or parcel and not used for human occupancy of habitation. An accessory structure is not a primary structure.

"Structure, Primary" means a structure that is used for the principal use permitted in the zoning district. In the Plantation Camp, primary structures include but are not limited to residential dwelling units, commercial buildings, and schools. A primary structure is not an accessory structure.

"Unenclosed Accessory Structure" means an accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

"Wildfire" means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

"Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar facilities.

"Wildland Urban Interface (WUI)" means the zone of transition between unoccupied land and human development. It is the line, area, or zone where

structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

"Zone 0: 5-Foot Noncombustible Zone (NCZ)" means an area that extends five feet horizontally from the exterior of a primary structure and any attached appendages and projections. It shall consist of noncombustible hardscape and materials. The purpose of this zone is to prevent direct flame contact and reduce the risk of ember ignition at the structure's base.

"Zone 1: 30-Foot Defensible Space" means an area that extends from the edge of Zone 0 to 30 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure. Fire-prone vegetation is prohibited.

"Zone 2: 30- to 100-Foot Resilient Landscape" means an area that extends from the edge of Zone 1 to 100 feet away from the structure or to the property line, whichever is closer. It requires vegetation management such as pruning lower limbs, spacing trees and shrubs, and removing combustible materials to reduce fuel loads and slow fire spread toward the structure.

(c) Primary Structure Zone.

(1) **Maintenance Requirements.** For all primary structures, the following maintenance requirements shall be met:

(A) The roof shall be kept clear of debris, paying particular attention to roof intersection area (e.g., roof-to-wall, at entry to through-roof vents, and at the roof edge, if a gutter is installed).

(B) Gutters and downspouts shall be kept clear of debris such as leaves and pine needles.

(C) Unenclosed appendages and projections attached to buildings such as decks, lānais, porches, carports, and stoops shall meet the following requirement:

(i) Only noncombustible items or materials are allowed to be stored or placed within the attached unenclosed appendages and projections. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(d) Zone 0: 5-Foot Noncombustible Zone (NCZ) Requirements.

(1) Primary Structure Maintenance Requirements. This zone is the most critical zone of defensible space and requires the most stringent fuel reduction and regular maintenance to protect against wildfire. In the NCZ the following standards shall apply:

(A) A 5-foot groundcover comprised of hardscape (such as brick, gravel, or concrete) with a depth of at least 4 inches shall be maintained in the NCZ. This not required for accessory structures.

(B) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

(C) Vegetation growing within or overhanging into the NCZ is prohibited.

(D) Vegetation overhanging the roof is prohibited within the NCZ.

(E) Fences within the NCZ shall be noncombustible.

(E) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(e) Zone 1: 30-Foot Defensible Space Requirements.

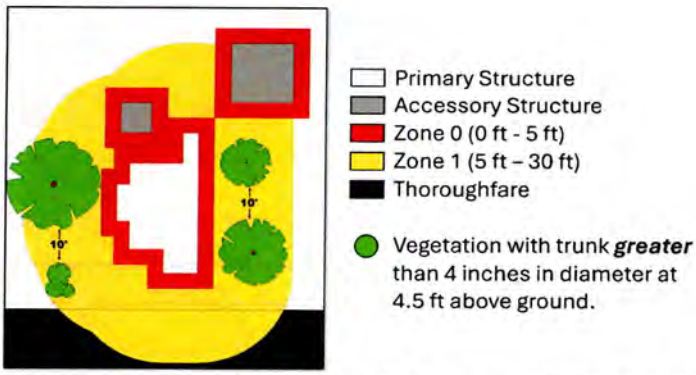
(1) Maintenance Requirements. The area beyond the primary structure shall have a regularly maintained defensible space of 30 feet measured from the edge of the exterior walls of the primary structure and its unenclosed appendages and projections (including but not limited to lānais, porches, and stoops). This includes:

(A) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

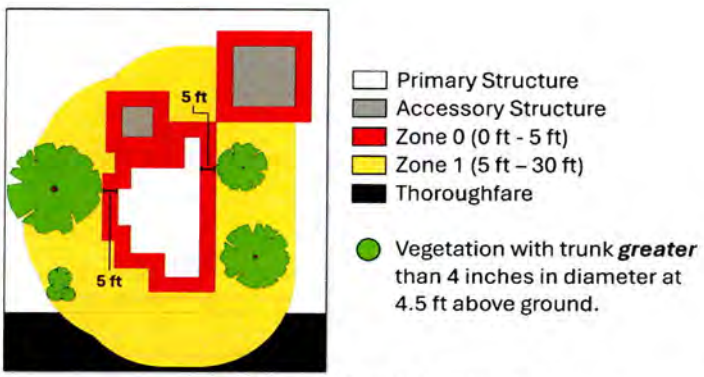
(B) Vegetation with canopies within 30 feet of a primary structure shall be maintained as follows:

(i) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:

(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.

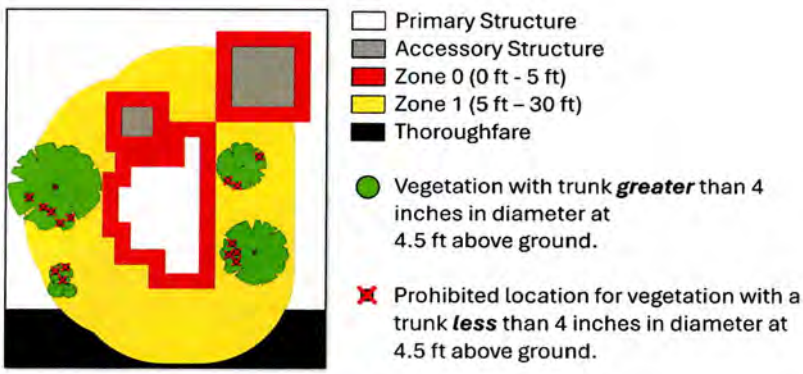


(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

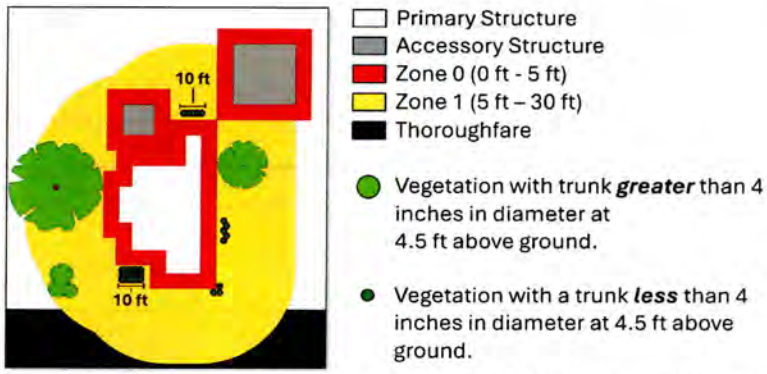


(c) Shall have a minimum of 5 horizontal feet between a tree canopy and the primary structure.

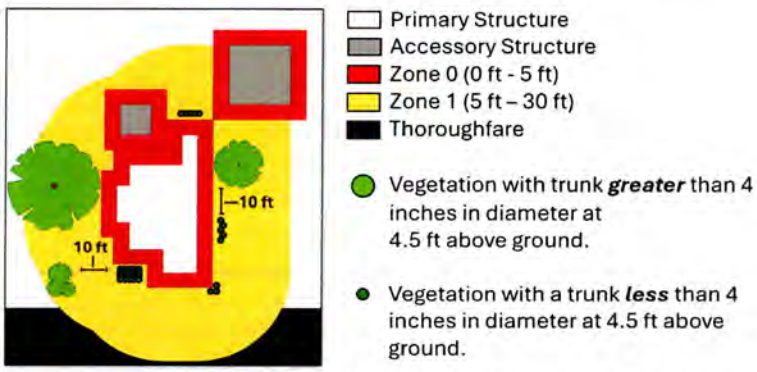
(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:



(a) Are prohibited under larger trees.



(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

(iii) Firewood is prohibited in this 30-foot defensible space area from the primary structure. Firewood is only allowed in this area if it is enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any ember intrusion into the unit during a wildfire event.

(C) Fire-prone vegetation is prohibited 30 feet from any primary structure, measured from the edge of the exterior walls of the primary structure and its unenclosed appendages, and projections (including but not limited to lānais, porches, and stoops).

(D) The following plant species are exempt from these requirements:

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(E) Fences. All fences within 30 feet of any other structure (accessory or primary) shall be constructed with noncombustible materials.

(f) Zone 2: 30-Foot to 100-Foot Resilient Landscape Requirements.

(1) Maintenance Requirements: Zone 2 shall be managed as follows:

(A) Fire-prone vegetation shall not exceed eighteen (18) inches in height when located between thirty (30) feet and one hundred (100) feet from any primary structure, measured from the edge of the exterior walls of the primary structure or unenclosed appendages and projections (including but not limited to lānais, porches, and stoops).

(B) Fire-prone vegetation greater than eighteen (18) inches in height shall have a one hundred (100) foot setback from all primary structures, measured from the edge of the exterior walls of the primary structure or unenclosed appendages and projections (including but not limited to lānais, porches, and stoops).

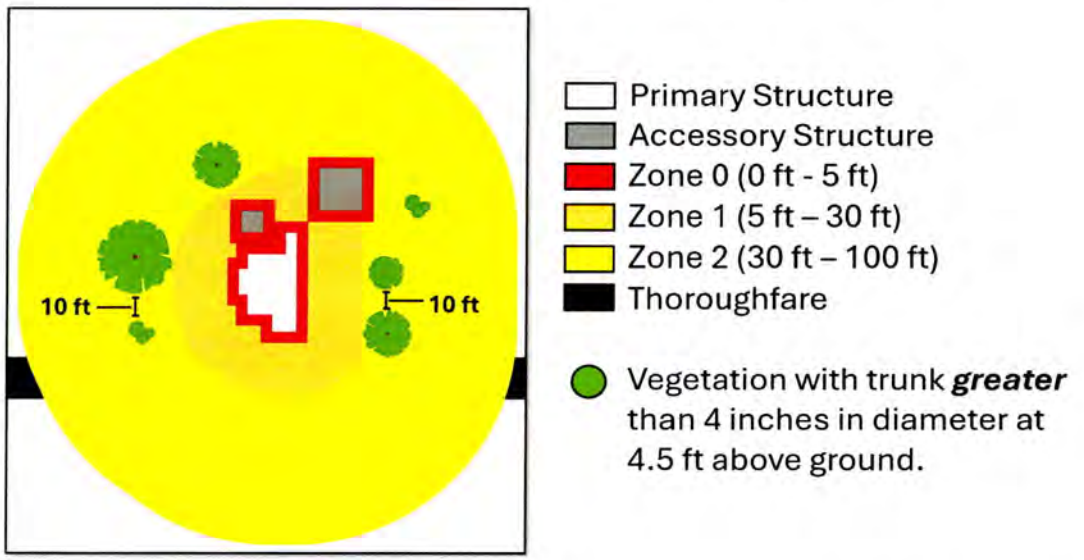
(C) Routine removal of accumulated vegetative debris, which may include but not be limited to fallen pine needles, leaves, twigs, and any dead vegetation, including piles from pruning.

(D) Excluding fire-prone vegetation, vegetation with canopies

shall be maintained as follows:

(i) Vegetation with a trunk of 4 inches in diameter or greater when measured at a height of 4.5 feet above the ground:

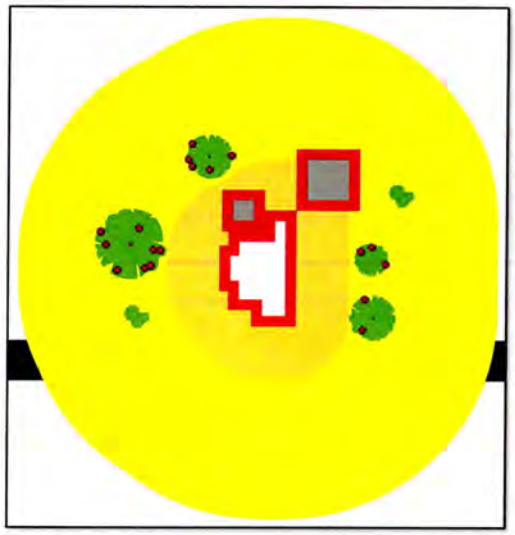
(a) Shall have limbs and branches pruned to a minimum height of 6 feet off the ground.



(b) Shall have a minimum of 10 horizontal feet of spacing between the tree canopy and the next closest tree, shrub, or bush canopy, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.

(ii) Vegetation with a trunk less than 4 inches in diameter when measured at a height of 4.5 feet above the ground or less than 4.5 feet tall:

or less than 4.5 feet tall:

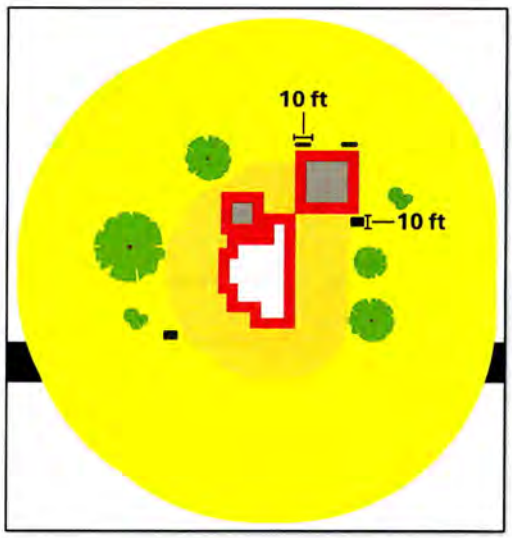


Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Zone 2 (30 ft – 100 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Prohibited location for vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(a) Are prohibited under larger trees.

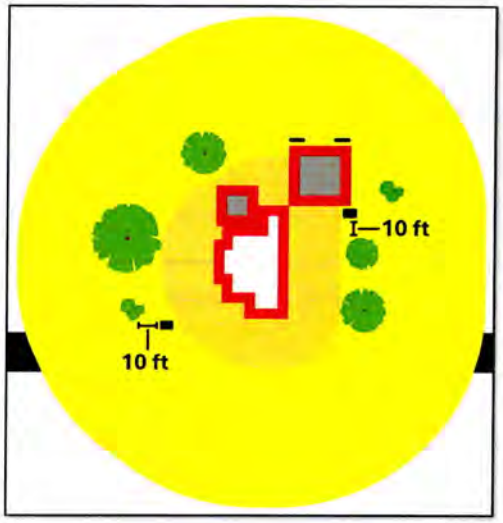


Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Zone 2 (30 ft – 100 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(b) Are prohibited from having a canopy larger than 10 feet in horizontal diameter, but may be clustered in small groupings with a combined canopy not larger than 10 feet in horizontal diameter.



Primary Structure
Accessory Structure
Zone 0 (0 ft - 5 ft)
Zone 1 (5 ft – 30 ft)
Zone 2 (30 ft – 100 ft)
Thoroughfare

Vegetation with trunk ***greater*** than 4 inches in diameter at 4.5 ft above ground.

Vegetation with a trunk ***less*** than 4 inches in diameter at 4.5 ft above ground.

(c) Shall have a minimum horizontal space between canopies of at least 10 feet.

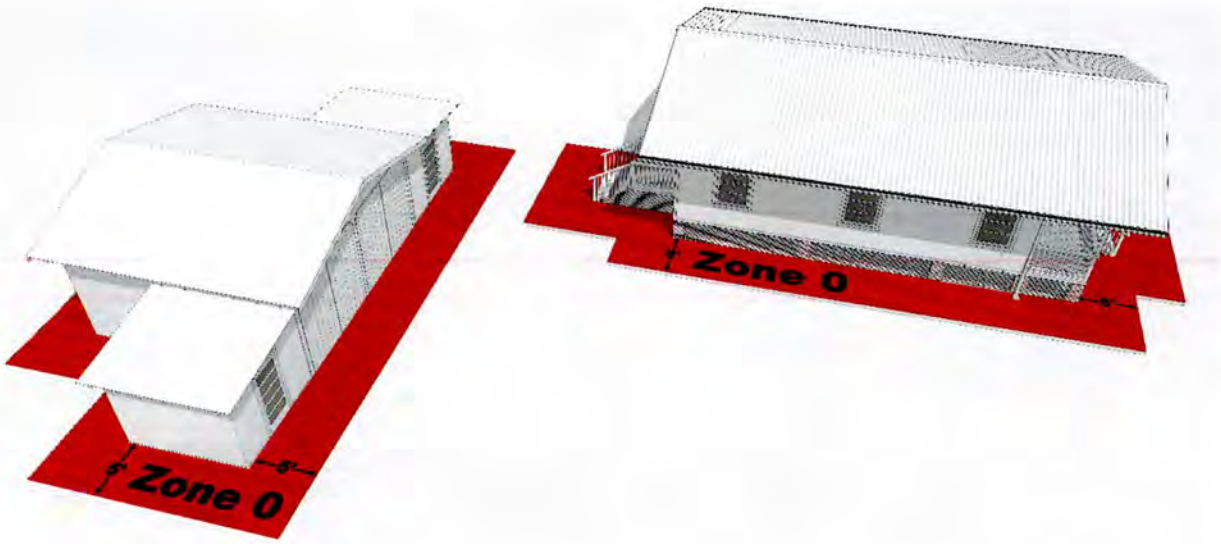
(E) The following plant species are exempt from these requirements:

(i) Colocasia esculenta, also known as kalo or taro.

(ii) Musa, also known as banana.

(iii) Any species planted for cultivation and sales that is part of an agricultural operation larger than one (1) acre as determined by the Planning Director, and the species are maintained in a manner reviewed and approved by the Fire Chief.

(g) Other Requirements for Accessory Structures.



(1) Maintenance Requirements. Each accessory structure shall have its own 5 feet of NCZ that does not overlap the 5-foot NCZ required for a primary structure, appendages and projections (including but not limited to lānais, porches, and stoops), or other accessory structures. In the accessory structure's NCZ, the following standards shall apply:

(A) A 5-foot groundcover comprised of hardscape (such as brick, gravel, or concrete) with a depth of at least 4 inches shall be maintained in the NCZ. This not required for accessory structures.

(B) Ground cover within the NCZ shall be noncombustible and free of debris such as leaves and pine needles.

(C) Vegetation growing within or overhanging into the NCZ is prohibited.

(D) Vegetation overhanging the roof is prohibited within the NCZ.

(E) Fences within the NCZ shall be noncombustible.

(E) Only noncombustible items or materials are allowed. Any combustible materials in this area shall be enclosed entirely within a noncombustible storage unit sealed in a manner that prohibits any fire ember intrusion into the unit.

(h) Fire Prevention Outreach and Education Requirements.

(1) Conduct a workshop titled "How to Have a Fire Adapted Home and Community." At least once per year, the Homeowners Association (HOA) shall coordinate with the Fire Department, Kaua'i Emergency Management Agency, and Planning Department to set up and conduct at least one workshop for the HOA board that is open to all residents of the subject property that teaches the principles of fire prevention and evacuation. Topics for discussion shall include but need not be limited to defensible space, landscaping, and home hardening. Workshops shall be scheduled for evenings or weekends when most homeowners are available. Material shall be available at the workshops that promote fire risk reduction practices and strategies.

(2) A report on the workshop format and participation shall be provided to the Fire Department and Planning Department no later than June 30 of every calendar year.

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF PUBLIC TESTIMONY TO PLANNING COMMISSION

DATE: **February 18, 2026**

PERMIT NUMBER(S): **Z-IV-2026-9; PDU-2026-7**

APPLICANT(S): **SK INVESTORS LLC.**

Attached for the Planning Commission's reference is Public Testimony pertaining to the permit application referenced above.

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

K.1.b.
FEB 24 2026

Outlook

FW: Agenda Item L.2 — New Business (For Action) CLASS IV ZONING PERMIT (Z-IV-2026-9) AND PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7)

From Shanlee Jimenez <sjimenez@kauai.gov>
Date Wed 1/14/2026 10:09 AM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>; Kaaina Hull <khull@kauai.gov>
Cc Duke Nakamatsu <DNakamatsu@kauai.gov>

From: Duke Nakamatsu <DNakamatsu@kauai.gov>
Sent: Wednesday, January 14, 2026 7:39 AM
To: Shanlee Jimenez <sjimenez@kauai.gov>
Subject: FW: Agenda Item L.2 — New Business (For Action) CLASS IV ZONING PERMIT (Z-IV-2026-9) AND PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7)

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Wednesday, January 14, 2026 5:16 AM
To: Duke Nakamatsu <DNakamatsu@kauai.gov>
Subject: Agenda Item L.2 — New Business (For Action) CLASS IV ZONING PERMIT (Z-IV-2026-9) AND PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7)

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

PETITION FOR DUE PROCESS, FULL DISCLOSURE, AND TRUST PROTECTION

Planning Commission – January 13, 2026

CLASS IV ZONING PERMIT (Z-IV-2026-9) AND PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7)

Applicant: SK Investors LLC

Location: Mauka side of Weliweli Road / Waikomo Road intersection, Kōloa

TMK: (4) 2-8-011:001

Director's Report Received: 12/23/2025

I. IDENTITY AND PURPOSE

Aloha Chair and Commissioners,

For the record, my name is Roslyn Cummings, also known as Manawaiākea.

This submission is not testimony.

It is a formal Petition for Due Process, Full Disclosure, and Protection of Trust Resources, submitted for inclusion in the official record.

I appear specifically and only on Agenda Item L.2, a discretionary land-use action listed under New Business (For Action).

II. STANDING

I appear in my own capacity as a kanaka maoli, hoa'āina, and ho'oilina, exercising my inherent authority and responsibility to protect 'āina, wai, and waiwai.

My standing is:

- Inherent, not granted by this Commission;
- Independent of land title, permit status, or participation in a contested case;
- Rooted in laws this Commission is affirmatively bound to uphold, including but not limited to:
  - HRS §7-1 (water and subsurface resources held in trust);
  - HRS §1-1 (preservation of Hawaiian usage and custom);
  - HRS §§172-11 and 172-12 (reserved Hawaiian rights running with the land);
  - Article XI and Article XII, Section 7 of the Hawai'i Constitution (public trust and customary practices).

III. NATURE OF AGENDA ITEM L.2

Agenda Item L.2 proposes:

- Multi-family housing density
- Associated site improvements and infrastructure
- Long-term impacts to water, drainage, access, and subsurface systems

This is not a ministerial action.

It is a discretionary approval affecting trust resources.

IV. DUE PROCESS AND BURDEN OF PROOF

Under Hawai'i law, the burden of proof rests with the County and the Commission, not the public.

The Planning Commission may not lawfully proceed on Agenda Item L.2 unless the record affirmatively demonstrates:

- Identification of all water sources, groundwater flow paths, and wastewater destinations;
- Disclosure of subsurface conditions, including caves, voids, and karst features;
- Evaluation of cumulative impacts, not isolated parcel analysis;
- Analysis of traffic, evacuation, and emergency access capacity;
- Disclosure of title encumbrances, reserved rights, and cultural constraints.

Silence does not satisfy due process.

Deferral does not cure missing standards.

Where trust resources are implicated, ambiguity is resolved against the agency, not against the public.

V. PRIOR VIOLATIONS, ENFORCEMENT ACTIONS, AND ACTUAL NOTICE

I place the following material facts on the record, as they directly relate to Agenda Item L.2 and impose a heightened duty of care on this Commission:

1. I have an existing police report number concerning a cave breach associated with Kōloa Village Phase II.
2. I have filed a formal DOCARE complaint regarding disturbance of subsurface and protected resources tied to that same development.
3. I have submitted a formal complaint to the Planning Department regarding that cave breach and failure to protect subsurface resources.
4. The developer associated with Kōloa Village Phase II is the same developer involved in Agenda Item L.2.

Accordingly, this Commission is on actual notice, not hypothetical notice, of:

- Prior subsurface disturbance;
- Failure to prevent or disclose impacts;
- Demonstrated risk to caves, burials, water systems, and cultural resources.

Once an agency has actual notice of prior violations, its duty is elevated, not reduced.

VI. HIGH PROBABILITY OF BURIALS, CAVES, AND WATER (WAI / WAIWAI)

The geographic and cultural context of the L.2 project area includes:

- High probability of lava tube caves and subsurface voids;

- High probability of iwi kūpuna (burials) associated with those caves;
- Hydrologic connectivity affecting groundwater and downstream resources.

Under Hawai'i law:

- Burial protection is mandatory, not discretionary;
- Caves and subsurface systems are trust resources when hydrologically or culturally connected;
- Water (wai) and its benefits (waiwai) receive the highest level of constitutional protection.

Proceeding without full disclosure and verification constitutes constructive approval through ignorance, which is unlawful.

VII. QUASI-DIVESTMENT AND COMMISSION LIABILITY

If the Commission proceeds on Agenda Item L.2:

- without complete disclosure,
- without addressing prior violations,
- without subsurface and burial verification,

then the Commission retains authority in form while abandoning it in practice.

That is quasi-divestment.

Trust obligations are non-delegable, and liability remains with the County.

VIII. RECORD NOTICE AND DEMAND

I am not requesting approval or denial of Agenda Item L.2 today.

I am placing formal record notice that the Planning Commission cannot lawfully act on this item until:

- All trust impacts are disclosed;
- Prior violations are addressed;
- Subsurface, burial, and water protections are verified;
- The record demonstrates informed decision-making.

Failure to act after notice constitutes breach of fiduciary duty.

IX. NON-WAIVER

This Petition is submitted:

- Without waiver of rights;
- Without consent to implied limitation of duties;
- With express reservation of all inherent, constitutional, statutory, and customary protections.

X. PRAYER FOR PROTECTION

I respectfully include the following prayer for protection, to be read or attached as part of this submission:

E Ke Akua,

I ask for protection over myself and my ʻohana — physically, mentally, emotionally, and spiritually — as I fulfill my kuleana to speak truth and protect ʻāina, wai, and waiwai.

Shield us from retaliation, coercion, harassment, or harm, whether overt or subtle, seen or unseen.

Let integrity prevail, let truth be established in the record, and let no harm return to those who stand in righteousness and responsibility.

‘Āmene.

Mahalo for placing this Petition into the official record.

Respectfully submitted,

Roslyn Cummings (Manawaiākea)

Kanaka Maoli · Hoa‘āina · Ho‘oilina

Outlook

FW: PUBLIC TESTIMONY FOR (Z-IV-2026-7) & (PDU-2026-7)

From Planning Department <planningdepartment@kauai.gov>
Date Wed 1/14/2026 8:14 AM
To Kristen Romuar-Cabico <krcabico@kauai.gov>; Dale Cua <dcua@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

2 attachments (4 MB)
IMG_4040.jpeg; IMG_4027.jpeg;

From: Lon Malapit <kesuradio@gmail.com>
Sent: Tuesday, January 13, 2026 9:41 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: PUBLIC TESTIMONY FOR (Z-IV-2026-7) & (PDU-2026-7)

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

RE: PUBLIC TESTIMONY FOR CLASS IV ZONING PERMIT (Z-IV-2026-7) & PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7)

I am in support of the development of more housing on the Island of Kauai, including this project to increase housing supply to meet demand for housing. There are two concerns that you should be aware of:
1. During last week's rain of January 4, Weliweli Road was flooded with parking stalls along the current housing construction under development (Weliweli Road and Waikomo Road,. Please see attached photos.
2. Please make sure the development allows for more than one parking stall per unit as multiple drivers in units owning multiple automobiles will cause on street parking that will create excessive congestion especially on Weliweli Road that is susceptible to flooding.

Mahalo
Lon Malapit

Outlook

FW: SK Investor South Koloa Town project Testimony

From Planning Department <planningdepartment@kauai.gov>
Date Mon 2/9/2026 10:21 AM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

1 attachment (163 KB)
HPMwrittentestimony_Lawai.docx;

From: Bill Brooks <bill.brooks@hpmhawaii.com>
Sent: Monday, February 9, 2026 9:54 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: SK Investor South Koloa Town project Testimony

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Planning Commission,
We are in support of this project and have included the attached written testimony.

Mahalo,

Bill Brooks
REGIONAL MANAGER - KAUAI
DIRECT 808-934-4253
3419 IWIPOO ROAD • KALAHEO, HI 96741

HPM BUILDING SUPPLY

BUILDBETTER.LIVEBETTER.

FIND US ON FACEBOOK, INSTAGRAM & LINKEDIN • HPMHAWAII.COM
SHOP NOW, MANAGE YOUR PRO ACCOUNT & MORE AT SHOP.HPMHAWAII.COM

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, copying, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender immediately by reply e-mail and destroy the original message and all copies.

BUILDBETTER.LIVEBETTER

February 9, 2026

Subject: Testimony for Support to SK Investors LLC Housing Project

Project Development Use Permit PDU-2026-7 & Class IV Zoning Permit Z-IV-2026-7,

Koloa, T.M.K. No. (4) 2-8-011:001

Members of the Planning Commission
C/O County of Kauai Planning Department
4444 Rice St., Ste A473
Lihue, Kauai, HI 96766

Dear Chair DeGracia and Members of the Planning Commission:

My name is Bill Brooks, and I am the Regional Manager of HPM Building Supply, which has been in business on Kauai for 15 years, many of our employees live in the Koloa area and through our companies' relationships with contractors and developers have supplied many projects in Koloa materials over the years. I am writing to support SK Investors LLC's application for a Project Development Use Permit and Class IV Zoning Permit for its proposed 164-unit housing project in Koloa, Kauai. Planned in accordance with the South Kauai Community Plan, this project consists of duplex, quad-plex, and eight-plex multi-family units and will:

· Provide critically needed gap housing for middle-income local residents

· Include safe, walkable areas equipped with sidewalks

· Contribute to Kauai's economy by providing nearly 1,000 jobs for residents, subcontractors, suppliers, and businesses

· Conduct studies to ensure that the proper infrastructure is planned for the project

We have worked with Shioi Construction on SK Investors Koloa Village Condo project and can attest to the Developers values and caring of the community.

I appreciate the opportunity to share my support of this project, and I encourage you to approve these permits. Mahalo for your time and consideration.

Aloha,

Bill Brooks
Kaua'i Regional Manager

HPM
BUILDING SUPPLY

STORE (808) 332-7376 • FAX (808) 332-9649
3419 IWIPO'O ROAD • KALAHEO, HAWAII 96741

HPMHAWAII.COM

Outlook

FW: South Koloa Town Project

From Planning Department <planningdepartment@kauai.gov>
Date Mon 2/9/2026 4:10 PM
To Kristen Romuar-Cabico <krcabico@kauai.gov>; Dale Cua <dcua@kauai.gov>
Cc Shanlee Jimenez <sjimenez@kauai.gov>

1 attachment (1 MB)
South Koloa Town JD.pdf;

From: Jaime Dominguez <jaime@jdpainting.com>
Sent: Monday, February 9, 2026 2:29 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: South Koloa Town Project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Chair DeGracia and Members of the Planning Commission,

Attached for your consideration is a letter submitted in support of the requested permits for the proposed SK Investors LLC development in Koloa.

Thank you.

Respectfully submitted,
Jaime Dominguez

JD PAINTING
& DECORATING, INC.
Finish Well. Lic#: C-15379

Honolulu Painting Company

Jaime Dominguez
President

Mobile: (808) 870-0239
Office: (808) 841-7100

2809 Mokumoa St.
Honolulu, HI 96819

www.jdpainting.com

Serving all islands

CONFIDENTIALITY NOTICE: The information contained in this email and any attachments may be privileged, confidential and protected from disclosure. Any disclosure, distribution or copying of this email or any attachments by persons or entities other than the intended recipient is prohibited. If you have received this email in error, please notify the sender immediately by replying to the message and deleting this email and any attachments from your system. Thank you for your cooperation. Think Green. Please consider the environment before printing this email.

JD PAINTING
& DECORATING, INC.
Finish Well. Lic#: C-15379

Honolulu Painting Company

February 6, 2026

Members of the Planning Commission
c/o County of Kaua'i Planning Department
4444 Rice Street, Suite A473
Līhu'e, Kaua'i, HI 96766

RE: Testimony Regarding SK Investors LLC Housing Project
Project Development Use Permit PDU-2026-7 and Class IV Zoning Permit Z-IV-2026-7
Kōloa, T.M.K. No. (4) 2-8-011:001

Dear Chair DeGracia and Members of the Planning Commission,

My name is Jaime Dominguez, and I am the President of JD Painting & Decorating, Inc., a business that has been operating on Kaua'i for 20 years.

I am writing to share my support for SK Investors LLC's application for a Project Development Use Permit and Class IV Zoning Permit for the proposed 164-unit housing project in Kōloa. The project is planned in accordance with the South Kaua'i Community Plan and includes a mix of duplex, four-plex, and eight-plex multi-family units.

Based on the information presented, this project appears positioned to offer several community benefits, including:

- Much-needed gap housing for middle-income local residents
- Safe, walkable neighborhoods with sidewalks and pedestrian-friendly design
- Significant economic benefits, generating nearly 1,000 jobs for local residents, subcontractors, suppliers, and businesses
- Careful planning supported by studies to ensure appropriate and adequate infrastructure.

Our company has previously worked with Shioi Construction on the SK Investors Kōloa Village Condominium project. Through that experience, we found the developer to be professional and genuinely attentive to community considerations.

Thank you for the opportunity to submit this testimony and share our perspective. We appreciate your consideration as you review this application and respectfully encourage the Planning Commission to approve these permits.

Aloha,

Jaime Dominguez,
President

Oahu
2809 Mokumoa St.
Honolulu, HI 96819
(808) 841-7100

Maui
70 Kanoa St., Ste 101
Wailuku, HI 96793
(808) 242-9731

Kauai
1884 Haleukana St., Bay B
Lihue, HI 96766
(808) 632-2160

Hawaii
2809 Mokumoa St.
Honolulu, HI 96819
(808) 841-7100

www.jdpainting.com / info@jdpainting.com / License #C-15379

Outlook

FW: Koloa Town Project

From Planning Department <planningdepartment@kauai.gov>
Date Tue 2/17/2026 8:17 AM
To Kristen Romuar-Cabico <krcabico@kauai.gov>; Dale Cua <dcua@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

From: Ellen O'Connell <EllenKauai@live.com>
Sent: Saturday, February 14, 2026 2:53 PM
To: Kaaina Hull <khull@kauai.gov>; Planning Department <planningdepartment@kauai.gov>
Subject: Koloa Town Project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

County of Kauai Planning Department
4444 Rice Street
Lihue, HI 96766
RE: In Support of Proposed South Koloa Town Project

To Whom It May Concern:

I live at 4252 Omao Road. I have lived on Kauai for 35 years and my husband and I own and operate two businesses in the town of Koloa. I am writing to express support for the next phase of Koloa Village Gap Housing project located across the street from Koloa Village.

We are keenly aware of the shortage of housing for the local community and how it negatively affects our ability to staff our businesses properly. It has become simply too expensive for workers to live by their place of work. I support the addition of affordable homes in Koloa and believe that it is necessary to prosper our town and elevate the morale of hard working families on the South Side of Kauai.

Thank you for your consideration of this matter. If you have questions or need additional information, please contact me at EllenKauai@live.com

Sincerely,

Ellen OConnell

OConnell Enterprises, LLC
The Wine Shop/The Tasting Room
808.742.7305

Outlook

FW: Letter of Support - Koloa Village Gap Housing project

From Planning Department <planningdepartment@kauai.gov>
Date Tue 2/17/2026 8:15 AM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

1 attachment (14 KB)
SKT Support Sample Letter.docx;

From: joao kopytowski <joaohmf@yahoo.com>
Sent: Sunday, February 15, 2026 7:24 PM
To: Kaaina Hull <khull@kauai.gov>; Planning Department <planningdepartment@kauai.gov>
Subject: Letter of Support - Koloa Village Gap Housing project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

2/13/2026

County of Kauai Planning Department

4444 Rice Street

Lihue, HI 96766

RE: Support for Proposed South Koloa Town Project

To Whom It May Concern:

I live in Kalaheo and have been in Kauai for 17 years. I am writing to express my support for the next phase of the Koloa Village Gap Housing project, located at South Koloa Town, across the street from Koloa Village in the middle of Koloa Town.

Based on my understanding of the proposal, I believe the project meets all applicable requirements and will contribute positively to South Kauai.

If you have any questions, please feel free to contact me directly at joaohmf@yahoo.com.

Sincerely,

Joao Kopytowski Filho

Email to: Khull@kauai.gov and planningdepartment@kauai.gov

Date

County of Kauai Planning Department
4444 Rice Street
Lihue, HI 96766

RE: In support of proposed South Koloa Town project

To Whom It May Concern:

I live at _____. I have been on Kauai for _____ years. I am writing to express support of the next phase of Koloa Village Gap Housing project located at South Koloa Town, across the street from Koloa Village in the middle of Koloa Town.

Your message . . . . .

If you have any questions, please feel free to contact me directly at . . . . email address.

Sincerely,

name

Outlook

FW: South Koloa Town

From Kaaina Hull <khull@kauai.gov>
Date Mon 2/16/2026 1:27 PM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>
Cc Shanlee Jimenez <sjimenez@kauai.gov>

1 attachment (236 KB)
South Koloa Town.pdf;

From: Ginny Latham <ginny@kdanda.com>
Sent: Monday, February 16, 2026 5:01 AM
To: Kaaina Hull <khull@kauai.gov>
Cc: Ginny Latham <ginny@kdanda.com>
Subject: South Koloa Town

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Ka'Aina,

Please see my attached letter in support of the Koloa Town Project.

Mahalo nui loa,

Ginny Latham
Architect
Kauai Design + Architecture
(808) 652-0159

KAUAI DESIGN & ARCHITECTURE

13 February 2026

County of Kauai Planning Department
4444 Rice Street
Lihue, HI 96766

via email : Khull@kauai.gov
planningdepartment@kauai.gov

RE: In support of proposed South Koloa Town project

We have lived on Kaua'i for the better part of the last forty years. During this time, we have worked in architecture having design, permitted and built over a hundred homes of all variety and price point for many residence here on island. In reverence to Kauai' and Hawai'i in general, we remain committed to the revival of the Plantation Style of Architecture. This is to say that we are committed to the preservation of Kaua'i in every way.

We have watched governmental restraints and process prohibit local development and are saddened that the Koloa Village Gap Housing project located in South Koloa Town is being subjected to undeserved scrutiny. We did not design this project but certainly it finds our endorsement and support.

Over our decades as Kama'aina and architectural professionals we have seen many clients, friends and neighbors unable to afford much less find reasonable housing island wide, but specifically the south shore. The Koloa Village now provided one of the few desirable home products available with reasonable pricing.

Koloa Village has done the necessary due diligence, passed the permitting and review process and has maintained a plantation style of architecture which should be welcomed not only by the County but by our community. Having passed the review and built in accordance with County mandated zone and other requirement, the objections we are hearing are unfounded and lack a showing of ALOHA that should be extended to the project.

If you have any questions, please feel free to contact me directly.

Mahalo nui loa,

KAUAI DESIGN & ARCHITECTURE, LLC

Ginny Latham, Architect

ginny@KDandA.com

Outlook

FW: In Support of proposed South Koloa Tenant Project

From Kaaina Hull <khull@kauai.gov>
Date Mon 2/16/2026 1:14 PM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>
Cc Shanlee Jimenez <sjimenez@kauai.gov>

From: Taryn Rodighiero <aloha@lavidakauai.com>
Sent: Monday, February 16, 2026 10:18 AM
To: Kaaina Hull <khull@kauai.gov>
Subject: In Support of proposed South Koloa Tenant Project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To Whom It May Concern,

I live in Kalaheo and have been a resident of Kauai since 2004. I am writing to express my strong support for the next phase of the Koloa Village Gap Housing Project located in South Koloa Town, across the street from Koloa Village in the heart of Koloa.

As a long-time resident and business owner in the community, I believe this project is an important step toward providing long-term renters on Kauai with a real opportunity to become homeowners. Affordable homeownership is critical to keeping local families rooted here, and this project helps make that possible.

I also appreciate that this development is within walking distance of shops, restaurants, and essential services in Koloa. This thoughtful location supports a more walkable lifestyle and helps minimize additional traffic, even as more homes are added. Creating housing near town centers is a smart, sustainable approach that benefits both residents and the wider community.

Projects like this strengthen our community by supporting local people, encouraging responsible growth, and preserving the character of Koloa. I fully support moving forward with this next phase.

If you have any questions, please feel free to contact me directly at aloha@lavidakauai.com

Sincerely,
Taryn Rodighiero
Owner La Vida Fitness & Wellness

Outlook

FW: Proposed JME Ventures LLC 164 Apartment Complex in Koloa

From Planning Department <planningdepartment@kauai.gov>
Date Tue 2/17/2026 8:15 AM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

From: Irene Sherman <sherman.irene@aol.com>
Sent: Monday, February 16, 2026 10:28 AM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Proposed JME Ventures LLC 164 Apartment Complex in Koloa

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To Whom It May Concern:

My husband and I have lived in Koloa for the past 20 years. We have enjoyed the rural, historical atmosphere of our community and have been saddened to see it becoming more and more commercialized. Now, it is under threat to be completely destroyed if this project is approved.

In addition to the multiple flaws in this proposal, we strongly oppose it for the following reasons.

Koloa is currently zoned "rural R6." It has one narrow 2 lane main road and significant traffic. This will be greatly exacerbated if this project is approved. There is NO infrastructure to support it. Nor do we want there to be. Tourists, the town's economic base, are attracted to Koloa precisely because of its rural nature. Once this is destroyed, they will no longer come and the town will suffer significant economic loss.

Proponents of development often accuse opponents of not wanting others to share what they have. This is completely untrue. What we oppose is the destruction of what we have, in which case, no one will be able to enjoy it.

We recognize the need for additional, affordable housing. The question is: Where should it be?? There are many sites better suited to this type of development than Koloa. We strongly believe that they should be built in areas that already have higher density and NOT in rural areas. We do NOT want our island to become another Honolulu! Our island's future is in your hands. Please do the right thing for us.

PLEASE reconsider withholding approval for this project as well as any similar others the may be submitted in the future.

Thank you,

Irene R. Sherman

Outlook

FW: Koloa Village Gap Housing project

From Planning Department <planningdepartment@kauai.gov>
Date Tue 2/17/2026 8:14 AM
To Kristen Romuar-Cabico <krcabico@kauai.gov>; Dale Cua <dcua@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

From: dano thewineshopkauai.com <dano@thewineshopkauai.com>
Sent: Monday, February 16, 2026 11:33 AM
To: Kaaina Hull <khull@kauai.gov>; Planning Department <planningdepartment@kauai.gov>
Subject: Koloa Village Gap Housing project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

County of Kauai Planning Department
4444 Rice Street
Lihue, HI 96766
RE: In Support of Proposed South Koloa Town Project

To Whom It May Concern:

I live at 4252 Omao Road. I have lived on Kauai for 35 years and my wife and I own and operate two businesses in the town of Koloa. I am writing to express support for the next phase of Koloa Village Gap Housing project located across the street from Koloa Village.

Our family is keenly aware of the shortage of housing for the local community and how it negatively affects our ability to staff our businesses properly. It has become simply too expensive for workers to live by their place of work. I support the addition of affordable homes in Koloa and believe that it is necessary to prosper our town and elevate the morale of hard working families on the South Side of Kauai.

Thank you for your consideration of this matter. If you have questions or need additional information, please contact me at dano@thewineshopkauai.com

Sincerely,

Dan OConnell

OConnell Enterprises, LLC
The Wine Shop/The Tasting Room
808.742.7305

Outlook

FW: 160 units directly across the street near old Shinigawa camp

From Planning Department <planningdepartment@kauai.gov>
Date Tue 2/17/2026 8:16 AM
To Kristen Romuar-Cabico <krcabico@kauai.gov>

From: Koa Young <koayoung@gmail.com>
Sent: Monday, February 16, 2026 10:54 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: 160 units directly across the street near old Shinigawa camp

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Please deny Serpa's application based on the fact that the application is invalid.

There is no valid Ka Pa'akai analysis, no approved easement on to Hapa rd, no traffic plan or study, safety threat to school kids walking, deathtrap road that emergency vehicle do not fit on, no consultation from USFWS, visible lava tube in property possible iwi, no drainage plan or study, this project is in violation of the Kauai South community plan that sites this area and rural and goes violates county ordinance, the developer did not properly serve or notify neighboring land owners, no proper community meetings, landfill is past capacity,

Outlook

FW: In support of proposed South Koloa Town project

From Kaaina Hull <khull@kauai.gov>
Date Wed 2/18/2026 8:55 AM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

From: leah brown <leejoy72@gmail.com>
Sent: Tuesday, February 17, 2026 1:40 PM
To: Kaaina Hull <khull@kauai.gov>
Subject: In support of proposed South Koloa Town project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Date 2/17/26

To Whom It May Concern:

I live at 2507 Texeira Lp, Kalaheo. I have been on Kauai for 40 years. I am writing to express support of the next phase of Koloa Village Gap Housing project located at South Koloa Town, across the street from Koloa Village in the middle of Koloa Town.

I am a resident of Kalaheo, went to school in Waimea and have raised 5 sons who are each in trade work and are hard workers, providing for their growing families. It is hard to think about the fact that though they were born, raised and do what needs to be done to make it on Kauai, they may never own a home for themselves. This is what Mike Serpa is making possible. He could be building more of what the island doesn't need more of, expensive homes... and he is not... this is needed for our families.

I agree, sometimes change is hard to see but it is necessary. I am in full support of the mindful housing and businesses in Koloa Town. The few voices that oppose this project are most likely the ones who already have what they want and do not understand the large need.

If you have any questions, please feel free to contact me directly at . . . . leejoy72@gmail.com

Thanks & Aloha,

Outlook

FW: Letter of Support - South Kōloa Town

From Kaaina Hull <khull@kauai.gov>
Date Wed 2/18/2026 8:55 AM
To Dale Cua <dcua@kauai.gov>; Kristen Romuar-Cabico <krcabico@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

1 attachment (48 KB)
SKT Support Letter.pdf;

From: Maddy Serpa <sales@koloavillage.com>
Sent: Tuesday, February 17, 2026 1:55 PM
To: Kaaina Hull <khull@kauai.gov>; Planning Department <planningdepartment@kauai.gov>
Subject: Letter of Support - South Kōloa Town

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Good Afternoon,

Please find my attached letter of support for South Kōloa Town. I wanted to share my personal thoughts and why I strongly support moving this project forward.

Thank you for your consideration.

Warmly,
Maddy Serpa

17 February 2026

County of Kauai Planning Department
4444 Rice Street
Lihue, HI 96766

RE: In support of proposed South Kōloa Town project

To Whom It May Concern:

My name is Maddy Serpa. I am the Community Sales Manager for Kauhale at Kōloa Village, and I am also the daughter of Mike Serpa, the developer behind Kōloa Village and Kauhale at Kōloa Village.

I am writing to express my sincere support of the next phase of the Kōloa Village gap housing project, South Kōloa Town.

I live at 5460 Kōloa Road, Apt S205. I have been on Kaua'i for almost two years, but I have been visiting the island since I was in diapers. Some of my earliest memories are here, and over time this place has always felt meaningful to me. Choosing to move here full time was a very intentional decision. I wanted to build my life in a place that I have cared about for so long.

I would like to begin by speaking about my dad.

I have watched him develop projects for most of my life, but what stands out to me most is not the construction itself, it is the way he treats people. He gives his time generously. He listens. He meets with tenants and buyers personally. He takes calls when others might not. He truly wants to do things well and to feel proud of what he builds. I have seen how much responsibility he carries when it comes to contributing something positive to a community.

Kōloa Village was never simply about adding buildings. It was about strengthening the center of a town that already has deep history and character. He believes that a strong town core matters, and that when people can live near where they work, eat, shop, and gather, it creates connection.

For me, Kauhale has been incredibly personal. I work directly with every buyer, and I know how much this opportunity means to many of them. A large portion are Kaua'i residents who have been renting for years and finally see a path toward ownership in this price range.

Others are returning to be closer to family. I have had the privilege of walking through this process with them, answering questions, hearing their concerns, and sharing in their excitement. It has given me a much deeper understanding of how significant housing access truly is.

I am also purchasing a home at Kauhale and will be living there full time. I care deeply about the kind of community that will grow there. I look forward to seeing neighbors walk to the businesses in Kōloa Village, supporting local restaurants and shops, and adding everyday life to the area in a way that feels organic and positive.

Through this experience, I have learned more about the housing challenges on Kaua'i, particularly on the South Shore. There is a real gap for people who do not qualify for affordable housing yet also cannot afford homes priced over one million dollars. These are working residents who want stability and the ability to build roots here. That reality has shaped how I view future projects and the responsibility that comes with them.

With South Kōloa Town, I see an opportunity to continue building housing that supports the existing town core and provides attainable ownership options for Kaua'i residents. The intention is not to create something disconnected from the community, but to thoughtfully add homes that allow people who live and work here to remain here.

I am SO proud of my dad and the way he approaches development with care and accountability, and I am proud to be part of this work in a personal and hands on way. I fully support South Kōloa Town and the continued effort to create housing in Kōloa that strengthens the community and provides real opportunity.

If you have any questions, I would be happy to speak with you directly (Maddy@koloavillage.com, 808-315-5817).

Sincerely,
Maddy Serpa

Outlook

FW: South Koloa Town Project

From Kaaina Hull <khull@kauai.gov>
Date Wed 2/18/2026 8:58 AM
To Kristen Romuar-Cabico <krcabico@kauai.gov>; Dale Cua <dcua@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

From: Ken Aagaard <kaagaard1@gmail.com>
Sent: Tuesday, February 17, 2026 1:17 PM
To: Kaaina Hull <khull@kauai.gov>
Cc: Lauren Valente <lauren@strengthstudiokauai.com>; Emerald Chin <emerald.chin@gmail.com>
Subject: South Koloa Town Project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

February 7,2026

County of Kauai Planning Department
4444 Rice Street
Lihue, HI 96766

RE: In support of proposed South Koloa Town project

To Whom It May Concern:

We live at 2635 Puuone St Koloa and we have had a home on Kauai for 8 years. We have been coming to Kauai since 1991. We are writing to express support of the next phase of Koloa Village Gap Housing project located at South Koloa Town, across the street from Koloa Village in the middle of Koloa Town.

If you have any questions, please feel free to contact us directly.

Sincerely,

Ken and Emerald Aagaard

Kaagaard1@gmail.com

Emerald.chin@gmail.com

Outlook

FW: Letter in support of Proposed South Koloa Town project

From Planning Department <planningdepartment@kauai.gov>
Date Wed 2/18/2026 9:08 AM
To Kristen Romuar-Cabico <krcabico@kauai.gov>; Dale Cua <dcua@kauai.gov>; Shanlee Jimenez <sjimenez@kauai.gov>

From: Todd Dorny <tjdorny@gmail.com>
Sent: Tuesday, February 17, 2026 6:31 PM
To: Planning Department <planningdepartment@kauai.gov>
Subject: Letter in support of Proposed South Koloa Town project

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Date 2/16/2026

Count of Kauai Planning Department
4444 Rice Street
Lihue, HI 96766

RE: In Support of Proposed South Koloa Town Project

To Whom It May Concern:

I live at 5460 Koloa Road and have been a Kauai resident since 1999.

I am writing to express my strong support for the South Koloa Town project located across from Koloa Village. I believe this project will be a positive addition to the Koloa community by providing much-needed housing and contributing to the continued growth and vitality of the town. Thoughtful development like this helps support local residents, strengthens our community, and ensures that Koloa remains a vibrant and sustainable place to live. I respectfully encourage the Planning Department to approve and support this project.

Sincerely,

Todd Dorny

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF AGENCY COMMENTS TO PLANNING COMMISSION

DATE: **February 18, 2026**

PERMIT NUMBER(S): **Z-IV-2026-9 and PDU-2026-7**

APPLICANT(S): **SK INVESTORS LLC.**

Attached for the Planning Commission's reference are agency comments for the permit referenced above.

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

K.I.C.
FEB 24 2026

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

FROM: Kaaina S. Hull, Director | Planner: Dale Cua | 12/10/2025

SUBJECT: CLASS IV ZONING PERMIT (Z-IV-2026-9) and PROJECT DEVELOPMENT USE PERMIT (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/Waikomo Road intersection in Koloa, further identified as Tax Map Key: (4) 2-8-011:001 and containing a total area of 9.436 acres.
Applicant: SK Investors LLC, (Ian K. Jung, Esq, Authorized Agent)
SK Investors LLC Housing Project

TO:

- [x] State Department of Transportation - STP
- [x] State DOT - Highways, Kauai (info only)
- [ ] State DOT - Airports, Kauai (info only)
- [ ] State DOT - Harbors, Kauai (info only)
- [x] State Department of Health
- [ ] State Department of Agriculture
- [ ] State Office of Planning
- [ ] State Dept. of Bus. & Econ. Dev. Tourism
- [ ] State Land Use Commission
- [x] State Historic Preservation Division
- [ ] State DLNR - Land Management
- [ ] State DLNR - Forestry & Wildlife
- [ ] State DLNR - Aquatic Resources
- [ ] State DLNR - Conservation & Coastal Lands
- [ ] State DLNR - Commission on Water Resource Management
- [ ] Office of Hawaiian Affairs
- [x] County DPW - Engineering
- [ ] County DPW - Wastewater
- [ ] County DPW - Building
- [ ] County DPW - Solid Waste
- [ ] County Department of Parks & Recreation
- [x] County Fire Department
- [x] County Housing Agency
- [ ] County Economic Development
- [x] County Water Department
- [ ] County Civil Defense
- [x] County Transportation Agency
- [ ] KHPRC
- [ ] U.S. Postal Department
- [ ] UH Sea Grant
- [ ] Other:

RECEIVED
DEC 11 2025
County of Kauai
Transportation Agency

FOR YOUR COMMENTS (pertaining to your department)

12.15.2025

CTA HAS NO FURTHER COMMENT ON THIS PROJECT.

MAHALO!

This matter is scheduled for a public hearing before the County of Kauai Planning Commission on 1/13/2026 at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, at 9:00 am or soon thereafter. If we do not receive your agency comments within one (1) month from the date of this request, we will assume that there are no objections to this permit request. Mahalo!

LAW OFFICE OF LANCE D. COLLINS
Lance D. Collins 8246
Post Office Box 782
Makawao, Hawai'i 96768
lawyer@maui.net
808.243.9292

FEB 17 '26 PM 1:39
PLANNING DEPT

LAW OFFICE OF BIANCA ISAKI
Bianca Isaki 9977
1720 Huna St. 401B
Honolulu, Hawai'i 96817
bianca.isaki@gmail.com
808.927.5606

LAW OFFICE OF RYAN D. HURLEY, LLLC
Ryan D. Hurley 9526
Post Office Box 19205
Honolulu, Hawai'i 96817
ryan@rdhlawhi.com
808.738.7610

Attorneys for Petitioners FRIENDS OF MĀHĀ'ULEPU and SAVE KŌLOA

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	Permit Nos. Z-IV-2026-9 and PDU-2026-7
SK INVESTORS LLC	PETITIONERS FRIENDS OF MĀHĀ'ULEPU AND SAVE KŌLOA'S PETITION TO INTERVENE AND, ALTERNATIVELY FOR DENIAL OF APPLICATIONS; DECLARATION OF ELIZABETH OKINAKA; DECLARATION OF BRIDGET HAMMERQUIST; DECLARATION OF LLEWELYN (BILLY) KAOHELAULI'I; DECLARATION OF GORDON LABEDZ, M.D.; DECLARATION OF PEG EBATA; DECLARATION OF LAUREEN NAUNU-BALOCON; DECLARATION OF GREG ITEN; EXHIBITS "01"-"02"; CERTIFICATE OF SERVICE
For approval of a Class IV Zoning Permit (Z-IV-2026-9), Use Permit (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/ Waikomo Road intersection in Koloa, identified as Tax Map Keys: (4) 2-8-011:001 & -024, containing a total area of ~~9.436~~ 10.088 acres.	

K.1.d.
FEB 24, 2026

TABLE OF CONTENTS

I. Intervention is Timely 1

II. Nature and Extent of Petitioners' Rights and Interests (KC §1-4-3(a)(1) &(2)) 3

A. Petitioners' constitutional rights to a clean and healthful environment. 3

B. Constitutional protection of exercise of Kānaka Maoli traditional and customary rights. 5

C. Petitioners constitutional rights as nearby and adjacent property owners 6

III. Issues Contested; Impacts of any Decision on Petitioners (KC §1-4-3(a)(3) & (4)) 7

A. Issues to be raised or contested in a contested case hearing. 7

B. Effect of Commission decision on Petitioners' interests. 7

1. Native Hawaiian traditions and customs impacted by project construction. 7

2. Overly dense project is not permitted in Kōloa Town. 8

3. Fire hazard risk increased consequent to proposed project. 9

4. Project's addition of hundreds of cars will congest traffic in Kōloa. 9

5. Project will usurp public parking; change rural character of neighborhood. 10

6. Project does not accord with sustainability and character of Kōloa Town. 10

7. Project's increased impervious surfaces may exacerbate flooding. 11

8. Commission's public trustee obligations would protect Petitioners' interests. 11

9. Environmental review required for proposal to use County road lands. 12

10. Consolidation requires improvements to the area's aging infrastructure, which may further be damaged by project construction 12

IV. Intervention is Warranted under all Other Considerations. 13

A. No other relief is available for impacts to Petitioners' rights and interests 13

B. Existing parties cannot represent Petitioners' interests and hold different interests. 13

C. Petitioners' participation will assist in developing a complete record for the Commission and thus will not unduly delay or broaden proceedings. 14

D. Petitioners' intervention would serve the public interest. 14

V. CONCLUSION 15

PETITIONERS FRIENDS OF MĀHĀ'ULEPU AND SAVE KŌLOA'S PETITION TO INTERVENE AND, ALTERNATIVELY FOR DENIAL OF APPLICATIONS

Petitioners FRIENDS OF MĀHĀ'ULEPU and SAVE KŌLOA, each a non-profit corporations, (collectively, "Petitioners"), pursuant to Hawai'i Revised Statutes (HRS) chapter 91 and the Rules of Practice and Procedure of the Kaua'i County Planning Commission (Commission Rules) §§ 1-3-1 and 1-4-1 through 1-4-6, respectfully submit this petition to intervene, or alternatively for denial of Applicant SK INVESTORS LLC's ("Applicant") application for a Class IV Zoning Permit (Z-IV-2026-9) and Project Development Use Permit (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/ Waikomo Road intersection in Kōloa, further identified as Tax Map Keys ("TMK") (4) 2-8-011:001 and -024 containing a total area of 10.088 acres ("property" or "project").

Applicant's rush to develop has led to it to propose a project ill-fitted for Kōloa Town's rural character and to overlook potential impacts to Native Hawaiian cultural practices that are dependent on the Kōloa cave system, which harbors cave species that live nowhere else in the world. The project seeks to deviate from density limitations based on laws requiring housing for low-income persons – but without providing any affordable housing. The result is an overly dense development that not only *looks* out of place, but will exacerbate fire and flood safety issues in an area that relies on a single fire hydrant. Through intervention, Petitioners seek to develop a full record of project impacts and changes to the proposal to mitigate those impacts. Alternatively, the applications should be denied - unless and until Applicant fully resolves the project's shortcomings.

I. Intervention is Timely.

A. Errors in application & notice for January 13, 2026 public hearing toll deadlines.

The Commission's Rules of Practice and Procedure provide in relevant part:

(b) The petition for intervention with Certificate of Service shall be filed with the Commission no less than seven (7) days prior to the first public hearing for which notice to the public has been published pursuant to law or no later than four (4) days prior to the first public hearing for matters that do not require notice by publication.
(c) Untimely petitions for intervention will not be accepted except for good cause or excusable neglect shown, but in no event will intervention be permitted after the Commission has taken the final vote on the matter. A finding of good cause or excusable neglect will depend upon the circumstances and will be determined at the discretion of the Commission.
(1) Good cause is a sufficient reason beyond the control of the petitioner including acts of God.
(2) Excusable neglect is due to extenuating circumstances within the control of the petition-

er. Carelessness, ignorance of the rules, and deliberate or willful conduct do not constitute excusable neglect.

Kaua'i County Rule ("KC") § 1-4-2.

On January 13, 2026, the Commission held a public hearing on Applicant's application, however those applications erroneously limited the project location to 9.436 acres on TMK (4) 2-8-011:001. The Commission deferred the item to its February 24, 2026 meeting.

Upon further review, the project also encompasses Lot 180-N on TMK (4) 2-8-011:024 and the total area of the project is 10.088 acres. *Compare* Exhibit "01" (Warranty Deed for TMK (4) 2-8-011:024, Doc. T-1212829, recorded March 17, 2023) *and* Application exh. C-2 (Land Court application, Map 59). FOM member, Yvette Chung lives within 300 feet of TMK (4) 2-8-011:024 on Kapau Road, but not TMK (4) 2-8-011:001. Chung did not receive certified mail notice of the proposed project.

The due date for intervention petitions is determined by "the first public hearing for which notice to the public has been published pursuant to law[.]" KC § 1-4-2(b). Notice of a public hearing for a Class IV Zoning permit is required to include the <u>location</u> of the project, amongst other information. Kaua'i County Code ("KCC") § 8-3.1(f)(4)(C) (emphasis added). The Applicant could not have provided proper notice for the hearing because it was mistaken about the location of the project. Indeed, Applicant's principal admitted to the error subsequent to the January 13, 2026 hearing. Declaration of Bridget Hammerquist ("Hammerquist Decl.") ¶10. Because of this error, Petitioners, including property owners within 300 feet of the project, and the rest of the Kōloa community did not receive proper notice of the correct scope and location of the project. *See* Declaration of Gordon Labedz ("Labedz Decl.") ¶10. No public hearing has been properly noticed, therefore the instant petition is timely to the Commission's February 24, 2026 hearing.

Applicant's application is further defective due to its failure to describe the property as also including Lot 180-N/ TMK (4) 2-8-011:024. Applications for zoning and use permits must include a "description of the property in sufficient detail to determine its precise location." KCC §§ 8-3.1(b)(2); -3.2(c). The Director's Report on the application likewise omits this information, and their report did not assess the full scope and location of the proposed development.[1]

---

[1] *See* "Director's Report" Item H.2.b.1, Planning Commission Meeting Packet (Jan. 13, 2026) https://www.kauai.gov/files/assets/public/v/1/boards-and-commissions/planning-commission/planning-commission-meeting-agendas/2026-01-13_planning-commission-agenda-packet_.pdf.

Because Applicant did not properly describe the location of the property, their application is defective and should be resubmitted with the proper information so that the Director can also revise their report to the Commission and proper notice can be effected.

B. Good cause and excusable neglect warrant acceptance of petition.

Should it consider the January 13, 2026 hearing to be the "first public hearing," the Commission may find good cause and excusable neglect warrants intervention. KC § 1-4-2(c).

Notice errors and errors on the part of the applicant are "good cause" to excuse late-filed petitions. Failure to receive proper notice has constituted "good cause" to excuse untimely appeals. *See SAIF Corp. v. Curtis*, 813 P.2d 1112, 1113 (Or. App. 1991) (affirming board's finding of good cause to excuse late appeal where claimant's father had received the notice but did not deliver it to claimant) (citing *Giusti v. Adams*, 794 P.2d 451, 454 (Or. App. 1990) (failure to have received notice within time to appeal constituted "good cause" for late appeal); *Dairy Road Partners v. Maui Planning Comm'n*, Nos. CAAP-11-0000789 & CAAP-11-0000896, at *10 (Haw. App. Jan 23, 2015) (mem.) (reversing circuit court on standing determination where petitioner argued "it had good cause to file late because it did not receive notice of the hearing as required under the [Maui Planning] Commission's rules"). Tribunals have found "good cause" to excuse late filings where opposing parties committed error. *See Gaffney v. BFP 300 Madison II, LLC*, 18 A.D.3d 403, 795 N.Y.S.2d 579 (N.Y. 1st Dept. 2005) (defendant's failure to produce witness for deposition in timely fashion constituted good cause for plaintiff's late summary judgment motion). Here, the Applicant failed to provide accurate notice of the scope and location of its project thus providing good cause to excuse Petitioners' late filing.

Further, Petitioners' late filing is allowed under excusable neglect, "due to extenuating circumstances within the control of the petitioner." KC § 1-4-2(c)(2). Petitioners learned of the true scope of the project only after scrutinizing the application after the January 13, 2026 hearing. Even the Applicant did not appear to know of the error until after this time, stating: "My application says 9.4 acres but I just found there is another lot in the development and it seems we part of Puni Road. We're really a little over 10 acres so our density is going to R16 and not R20." Hammerquist Decl. ¶10. Under these circumstances, the petition should be accepted.

II. Nature and Extent of Petitioners' Rights and Interests (KC §1-4-3(a)(1) &(2))

A. Petitioners' constitutional rights to a clean and healthful environment.

Petitioner SAVE KŌLOA is organized for purpose includes raising awareness and trying to

ensure our Kōloa community is not developed in violation of applicable laws and regulations; to advocate for our communities' quality of life; the exercise of Kānaka Maoli traditional and customary rights on Kaua'i, and the protection of Kaua'i's natural, historic, and cultural resources with a particular focus on Kōloa. Okinaka Decl. ¶3.

Petitioner FRIENDS OF MĀHĀ'ULEPU is based on Kaua'i and is comprised of Kaua'i citizens who educate and advocate for Kaua'i communities' quality of life, the exercise of Kānaka Maoli traditional and customary rights on Kaua'i, and the protection of Kaua'i's natural, historic, and cultural resources with a particular focus on Māhā'ulepu and Kōloa. Hammerquist Decl. ¶8.

Petitioners, by and through their officers and members (collectively "Petitioners") have constitutionally protected property rights under article XI, §§1 and 9 of the Hawai'i constitution as beneficiaries of public trust and their rights to a clean and healthful environment as defined by HRS chapters 46, 205 and 343 - laws defining environmental quality. Article XI, § 1 of the Hawai'i Constitution provides:

> For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.
> All public natural resources are held in trust by the State for the benefit of the people.

Id. Article XI, §9 of the Hawai'i Constitution provides:

> Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources.

Id.; *see also Cty. of Haw. v. Ala Loop Homeowners*, 123 Hawai'i 391, 409, 417, 235 P.3d 1103, 1121, 1127 (2010) (recognizing a substantive right to a clean and healthful environment). Article XI, § 9 is self-executing, and it "establishes the right to a clean and healthful environment, 'as defined by laws relating to environmental quality.'" *In re Maui Elec. Co., Ltd.*, 141 Hawai'i 249, 261, 408 P.3d 1, 13 (2017).

HRS chapters 46 and 343 are laws relating to environmental quality. *See Nakoa v. Governor of State*, 156 Hawai'i 416, 427, 575 P.3d 506, 517 (2025) (holding in this case, "HRS § 46-4 is a law relating to environmental quality to the extent that its suspension impacts Plaintiffs' constitutional right to a clean and healthful environment under article XI, section 9 of the Hawai'i Constitution") (citing *Tax Foundation of Hawai'i v. State*, 144 Hawai'i 175, 189, 439 P.3d 127, 141

(2019); *County of Hawai'i v. Ala Loop Homeowners*, 123 Hawai'i 391, 409-10, 235 P.3d 1103, 1121-22 (2010)); *Maui Lani Neighbors v. State*, 153 Hawai'i 527, 560, 542 P.3d 1222, 1255 (App. 2023) (parties did not dispute HRS chapter 46 is a law relating to environmental quality within the meaning of article XI, § 9) *affirmed in part Maui Lani Neighbors v. State*, 156 Hawai'i 520, 524-25 575 P.3d 610, 614-15 (2025) (holding "the neighbors were required to assert their claims arising under HRS chapters 46 and 205 through an appeal of the Planning Commission's decision").

The Commission implements zoning powers under HRS § 46-4 in assessing the application for a Class IV Zoning Permit. Applicant's proposal to utilize County lands for off-site parking triggers application of HRS chapter 343 environmental review. Petitioners have constitutional rights in the correct application of these environmental laws in the Commission's decision-making on Applicant's request for permits.

B. Constitutional protection of exercise of Kānaka Maoli traditional and customary rights.

Petitioners include Kānaka Maoli traditional and cultural practitioners, whose rights are protected under article XII, §7 of the Hawai'i Constitution. Article XII, section 7 "places an affirmative duty on the State and its agencies to preserve and protect traditional and customary native Hawaiian rights, and confers upon the State and its agencies 'the power to protect these rights and to prevent any interference with the exercise of these rights.'" *Mālama Kakanilua v. Bd. of Land & Nat. Res.*, 155 Hawai'i 512, 518, 567 P.3d 217, 223 (App. 2025) (quoting *Ka Pa'akai O Ka'Aina v. Land Use Comm'n*, 94 Hawai'i 31, 45, 7 P.3d 1068, 1082 (2000) (emphasis omitted) (quoting Stand. Comm. Rep. No. 57, in 1 Proceedings of the Constitutional Convention of 1978, at 639 (1980)).

Ka Pa'akai provides an analytical framework "to effectuate the State's obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests[.]" *Id.*, 94 Hawai'i at 46-47, 7 P.3d at 1083-84. In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, the Commission must examine, and make specific findings and conclusions as to:

> (1) the identity and scope of valued cultural, historical, or natural resources in the [application] area, including the extent to which traditional and customary native Hawaiian rights are exercised in the [application] area; (2) the extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and (3) the feasible action, if any, to be taken by the [agency] to reasonably protect native Hawaiian rights if they are found to exist.

Id., 91 Hawai'i at 47, 7 P.3d at 1084 (footnotes omitted). Applicant did not contact or consult with Petitioners for their report on Kānaka Maoli traditional and cultural practices affected by the project, even though Petitioners' members include the Po'o for the 'Island of Kaua'i Manokalanipō Moku Advisory Committee. Okinaka Decl. ¶6; Declaration of Lleweyln "Billy" Kaohelauli'i ("Kaohelauli'i Decl.") ¶7; *compare* Application, exh. G at 63 (listing email to Kaohelauli'i on July 2, 2025). Petitioners are concerned about detonations of explosives, grading, or grubbing on areas overlying the Kōloa cave system, which extends into areas nearby and potentially beneath the proposed project. *Id.* ¶8. The Kōloa cave system is home to endangered native species. Petitioners' Kānaka Maoli members revere these endangered native species as ancient aumakua as traditionally and customarily protected. *Id.* ¶9.

C. Petitioners constitutional rights as nearby and adjacent property owners

Petitioners have constitutional rights affected by the Commission's decisionmaking under article I, § 5 of the Hawai'i Constitution and the U.S. Constitution, amendments V and XIV. Petitioners' members live and own property near the proposed project and utilize nearby areas and roads. Labedz Decl. ¶6; Declaration of Peg Ebata ("Ebata Decl.") ¶5; Declaration of Laureen Naunu-Balacon ("Naunu-Balacon Decl.") ¶5. They are concerned about the project's impact on traffic flow, emergency evacuations, and fire risk in this area. Okinaka Decl. ¶6; Ebata Decl. ¶6; Naunu-Balacon ¶11; Labedz ¶13. Their peaceable enjoyment of their property may be substantially disturbed by the intensification of land uses consequent to the project.

Settled Hawai'i case law recognizes nearby and adjacent landowners hold a "concrete interest" in proceedings on proposed developments so as to satisfy standing requirements, including requirements for mandatory intervenor status. *See Ala Loop*, 123 Hawai'i at 419-20, 235 P.3d at 1131 (recognizing adjoining landownership as a form of standing, but not a private right of action); *Mahuiki v. Planning Comm'n*, 65 Haw. 506, 654 P.2d 874 (1982) (decision to permit development nearby land in the special management area could have an adverse impact on an adjacent landowner); *Town v. Land Use Comm'n*, 55 Haw. 538, 524 P.2d 84 (1974) (adjacent and nearby property owners had a property interest in changing the land use entitlements and adjacent and nearby landowners have legal rights as a specific and interested party in a contested case proceeding to change land use designations or entitlements); *East Diamond Head Ass'n v. Zoning Bd. Appeals*, 52 Haw. 518, 479 P.2d 796 (1971) (adjoining property owner has standing to protect property from "threatening neighborhood change"); *Dalton v. City & County of Honolulu*, 51

Haw. 400, 462 P.2d 199 (1969) (property owners across the street from a proposed project have a concrete interest in scenic views, sense of space and density of population).

III. Issues Contested; Impacts of any Decision on Petitioners (KC §1-4-3(a)(3) & (4))

A. Issues to be raised or contested in a contested case hearing.

Petitioners seek to raise and contest whether the proposed project:

(1) will impact the exercise of Native Hawaiian traditions and customs, including those concerned with native species that use subterranean voids under and near to the project area;

(2) will increase fire hazard risk for nearby persons and properties;

(3) exceeds density limits for the area under applicable laws and practicalities;

(4) violates laws governing consolidation of lots and infrastructural requirements;

(5) complies with laws requiring affordable/ workforce housing for dense projects;

(6) will increase flooding in surrounding areas due to excessive impermeable surfaces;

(7) complies with environmental review requirements under HRS § 343-5;

(8) will cause traffic congestion in the surrounding area, including through ingress/ egress on Waikomo, Weliweli, or Hapa roads and impeding traffic on Puni road;

(9) fails to provide sufficient vehicular parking infrastructure;

(10) accords with the Commission's public trust obligations; and,

(11) is consistent with applicable state, county, and community plans and requirements.

B. Effect of Commission decision on Petitioners' interests.

1. Native Hawaiian traditions and customs impacted by project construction.

Because they were not consulted about impacts to Hawaiian traditions and customs, Petitioners were not able to raise potential impacts to important subterranean cultural resources in cave systems extending to Weliweli Road, adjacent to the proposed project. Okinaka Decl. ¶7. Areas near and likely within the project, contains lava tubes, which are crucial habitats for the endangered Kaua'i cave wolf spider and the Kaua'i cave amphipod, which are legally protected species that are culturally important to Kānaka Maoli practitioners in Kōloa. Okinaka Decl. ¶¶9-10, 13; Kaohelauli'i Decl. ¶9; *see* Exh. 01 ("Designated Critical Habitat Units in the Kōloa area").

Ground disturbance, including clearing vegetation from land, and disposing of wastewater into voids, can adversely impact habitat for these culturally important cave species. Okinaka Decl. ¶11. Lava tubes in the Kōloa cave system provide essential refuge for these arthropods, which rely

on cave moisture and detritus, facing threats from development and habitat loss. *Id.* As a relatively younger island, Kaua'i has an abundance of mesocaverns that can allow cave animals to move among and between larger, adjacent lava tubes. *Id.* Smaller voids can become filled with erosional sediment in older flows like the Koloa Volcanics as a result of surface disturbance. Filling in these smaller voids makes it more difficult for Kaua'i cave creatures to readily move among separate lava tubes or other cave systems. *Id.* Therefore, minimizing disturbance on and near areas where the cave system extends is critical to protecting the Kōloa cave spiders and amphipods – whose only habitat is in these caves. Already much of Kōloa's cave habitat has been damaged. *Id.*

2. Overly dense project is not permitted in Kōloa Town.

The project proposes 164 units on approximately 10 acres, or 16.4 units per acre. This exceeds the R-6 designation for this area. KCC § 8-2.1(a)(4). Applicant seeks a Project Development Use Permit ("PDU") to address density "deviations." The Director states the PDU is required to allow deviations from development standards involving the multi-family residential project, and specifically deviations from building types, permissible density for multi-family dwelling units, and specified design features. Director's Report at 1-2 (citing KCC § 8-10.4(d)).

To obtain a PDU, the project must, amongst other things, "result in an intensity of land coverage and density of dwelling units no higher than are permitted in the Use District in which the project development is to be located." KCC § 8-10.4(c) & (d). The Commission, however:

> may approve a project development containing residential uses, at a density higher than permitted in the District in which the project development is to be located, <u>if the residences to be constructed will be leased or sold at prices that will make them available to persons of lower income</u>. In that case, <u>the applicant shall establish that the residential construction is being undertaken under a Federal or State subsidized housing program designed to produce housing for lower income persons</u>.

KCC § 8-10.4(d) (emphasis added). The project does not provide housing for persons of low-income, nor does the Applicant establish it is being undertaken under a Federal or State subsidized housing program.[2] Petitioners advocate for quality of life issues for Kaua'i communities, including Kōloa's working families who often rely on two vehicles due to multiple jobs and work schedules. Hammerquist Decl. ¶5; Naunu-Balocon ¶8. Affordable housing for these communities is

[2] Exemptions from workforce housing requirements for infill multi family housing projects in Kōloa Town do not constitute participation in a subsidized housing program. *See* KCC § 7A-1.4.2(b)(1)(B) (providing projects in Kōloa Town Walkable Mixed Use District "may elect to adhere to modified workforce housing requirements").

vital to their quality of life. The project's proposed density is not permitted without participation in a lower-income housing program. Outsized housing density would further harm Petitioners' through traffic congestion, increasing emergency risk, fire hazards, flooding, as well as other facets of their lives as discussed *infra.*

3. Fire hazard risk increased consequent to proposed project.

The Application does not address fire prevention infrastructure, other than conclusorily asserting project does not increase the need for existing fire and police services. Application at 12. Petitioners have suffered uncontrolled fires in the area and are concerned about the project's exacerbation of fire hazards due to increased traffic congestion, narrow roads in the area, undersized fire hydrant infrastructure, and its overlarge density of dwelling units proposed for the project. Ebata Decl. ¶¶7-8; Labedz ¶¶12-13; Naunu-Balocon ¶9. If a fire occurred, many of the proposed project residents, in addition to those on Puni Road would have to exit onto Waikomo Road. Ebata Decl. ¶9.

In this area, there is only one fire hydrant, which is located off Waikomo Road. *I*Labedz Decl. ¶13; Ebata Decl. ¶8. Kaua'i Fire Department firefighters have struggled to drive their fire truck down Puni Road during previous fire emergencies. Labedz Decl. ¶13. Most of Puni Road is not paved. Labedz Decl. ¶13. Kaua'i firefighters had to attach their hose to a fire hydrant off of Waikomo Road and uncurl it all the way to Puni Road. Labedz Decl. ¶13; Ebata Decl. ¶8. Petitioners have circulated a petition amongst neighbors asking for more fire hydrants in the area. Ebata Decl. ¶8.

The project also proposes to deviate from setback standards, which are supposed to be 25 feet under T3VE and 20 feet under T3VN.1. Director's Report at 8. Decreasing distances around project structures increases fire risks.

The application does not address the ways the project and the nearby supporting infrastructure, including roads, will comply with applicable fire code requirements.

4. Project's addition of hundreds of cars will congest traffic in Kōloa.

The roads in Kōloa town are narrow. Labedz Decl. ¶15. This tends to slow traffic, which also means Kōloa does not have the infrastructure to support a lot of cars and trips. Waikomo, Weliweli, and Hapa roads are evacuation routes in emergency events – whether from fire or flood – and could be congested by hundreds more vehicles on these narrow rural roads due to the proposed project. *Id;* Ebata Decl. ¶14. In addition to the proposed 164 units, the same Applicant

has a 60-unit Kōloa Village "kauhale" residential project coming online at the intersection of Waikomo and Weliweli Roads. Labedz Decl. ¶14.

Traffic congestion will further impact Petitioners' daily lives as they drive and walk through and nearby the proposed project area for work, errands, recreation, and to attend school functions for their children. Okinaka Decl. ¶15; Ebata Decl. ¶6; Naunu-Balocon ¶11.

5. Project will usurp public parking; change rural character of neighborhood.

The project's proposal to include less than two parking stalls per dwelling unit is insufficient to prevent the project's use of existing public parking areas. In this area, most people have at least two cars per household. Ebata Decl. ¶12; Naunu-Balacon ¶6. Residents of the proposed project will likely exceed the parking capacity planned for the project. Additionally, Applicant's newly completed 60-unit project also include proposals to utilize supposedly vacant public parking in Kō loa town to meet parking requirements. Separately and together, Applicant's residential projects will significantly impact rural-town character of Kōloa.

The project is required to provide a "minimum of two off-street parking spaces per dwelling unit" pursuant to KCC § 8-4.5(a)(5) and "1 per 2 rooms min." pursuant to the South Kaua'i Form Based Code for T3 Village Edge ("T3VE") and T3 Village Neighborhood 1 ("T3VN.1"). The project proposes only 213 parking stalls, far short of the required 328 stalls pursuant to KCC §8-4.5(a)(5). Application at 9. The application does not quantify the number of rooms in the 164 proposed units to determine the code-based requirement.

6. Project does not accord with sustainability and character of Kōloa Town.

To obtain a PDU, the project must substantially conform to the Kaua'i general plan, "create an environment of sustained desirability and stability"; and "be compatible with the character of the surrounding neighborhood". KCC § 8-10.4(c) & (d). Applicant is proposing an overly dense development that will disrupt Petitioners' rural lifestyle and has not been demonstrated to be compatible with the surrounding neighborhood.

Petitioners are holistically concerned both about the lack of transportation infrastructure and the changes that facilitating more cars from this project would make to the rural character and identity of Kōloa town. Labedz Decl. ¶16; Ebata Decl. ¶15; Naunu-Balacon ¶6. The roads in Kōloa town are narrow. In addition to Puni Road, part of Waikomo Road is one lane only. This tends to calm traffic and prevent people from speeding, but also means Kōloa does not have the infrastructure to support a lot of cars and trips. Ebata Decl. ¶13. Neither have been considered in

the project proposal nor in the Director's report. Labedz Decl. ¶16; Ebata Decl. ¶15.

7. Project's increased impervious surfaces may exacerbate flooding.

The project is located in R-6 zoned lands, for which land coverage, including buildings and pavement, shall not exceed 60%. KCC § 8-4.3(d)(3). The application does not demonstrate the project complies with limitations on impervious surfaces, nor does it appear to include impervious surfaces added through their paving of 17 parking stalls on Hapa or Waikomo roads. *See* KCC § 8-4.5(a)(5) ("When off-street parking spaces serving more than one dwelling unit are provided in a parking area, the spaces shall be paved").

Drainage issues consequent to the proposed project may also impact nearby streams and infrastructure, including Waikomo Road, which is already being eroded due to runoff. The area just west of the proposed project area often floods. Ebata Decl. ¶14. The area of the proposed project lacks sufficient drainage infrastructure. Naunu-Balacon ¶11. Undeveloped lands currently proposed for the project have been serving as a "sink" for runoff from especially Weliweli Road. Naunu-Balacon ¶11. The project's impervious surfaces may worsen flooding on Puni Road and other nearby areas. Naunu-Balacon ¶11. Should existing and new community residents have to evacuate because of fire or flooding, traffic congestion would impede safe, timely exist because of the vary narrow roads in this area. Ebata Decl. ¶7.

8. Commission's public trustee obligations would protect Petitioners' interests.

Controlling runoff and flooding are also important to preventing pollution of nearby streams, which are amongst protected public trust resources. Hawai'i's constitution provides in part:

> For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people.

Hawai'i Const. article XI, § 1. "[P]ursuant to article VIII, section 1 of the Hawai'i Constitution, the County is a political subdivision of the State" and "'as a political subdivision of the State of Hawai'i, the public trust duties imposed on the [S]tate under [a]rticle XI, section 1, also apply to the County.'" *Kelly v. 1250 Oceanside Partners*, 111 Hawai'i 205, 224, 140 P.3d 985, 1004 (2006). The Commission is a public trustee. *See Kaua'i Springs, Inc. v. Plan. Comm'n of Kaua'i*, 133 Hawai'i 141, 172, 324 P.3d 951, 982 (2014). The Commission "must execute its statutory duties in a manner that fulfills the State's affirmative constitutional obligations." *Mauna Kea Anaina I*, 136

Hawai'i at 413, 363 P.3d at 261.

Public natural resources include "all natural resources", which extends also to the endangered species of Kōloa caves that are part of Petitioners' exercise of Native Hawaiian traditions and customs. *See supra* Part III.B.1.

9. Environmental review required for proposal to use County road lands.

The project's proposal to utilize the County's Waikomo or Hapa roads for seventeen off-site parking means it will be utilizing County lands. Application at 9 (proposing stalls on Waikomo Road); Application exh. E, Site plan A3 (proposing Hapa road parking stalls). Hapa Road is only 18 feet at its widest point. Hammerquist Decl. ¶9. Waikomo Road is likewise a narrow road. Ebata. Decl. ¶11. Development of any parking along those roads will require encroaching onto County lands. The application thus triggers environmental review requirements pursuant to HRS § 343-5 contrary to Applicant's representations. *Compare* Application at 22.

To the extent the project utilizes Puni Road via its inclusion of Lot 180-N, the same trigger applies. HRS chapter 343 environmental review is required.

10. Consolidation requires improvements to the area's aging infrastructure, which may further be damaged by project construction.

The project proposes to span at least five lots: 180-A, 180-G, 180-H, 180-J, and 180-N. Application at 11. Applicant "wishes to consolidate this Housing Project on to Lots 180-A, 180-G, 180-H, and 180-J". *Id.* at 20. The Director also recommended consolidation of the lots.[3] KCC § 9-2.13 governs consolidation of lots and provides in relevant part:

> Consolidation involving not more than four (4) existing lots of record and re-subdivision where no additional lots or density are created by the resultant properties, shall not be required to provide any off-site infrastructure improvements, except as needed to connect to an adjacent roadway or utility line. If the resulting lots do not result in an increase in density, the Planning Commission shall not impose additional conditions pursuant to Section 9-3.4(b). . . .

KCC § 9-2.13. With the addition of Lot 180-N, the project would consolidate five lots. In any case, the project proposes to create additional density. Therefore, Applicant may be required to provide off-site infrastructure improvements in order to consolidate the five lots.

The project is proposed for construction adjacent to a neighborhood with older homes – some over 100 years – and similarly aging infrastructure, including a water line that passes through

[3] Joint development over lot lines is not permitted when the owner of abutting lots is the same person. KCC § 8-10.6(b).

the proposed project area. Naunu-Balocon ¶6. Without substantial oversight and planning, project construction could damage this waterline, leading to significant disruption in the daily lives of Petitioners and those living in multiple residences that rely on this waterline, including an affordable apartment complex. *Id.* ¶7.

As discussed *supra,* other offsite improvements to address project impacts may include fire hydrants, flooding and erosion controls, and protections for cultural resources, such as subterranean voids and the species that live therein.

IV. Intervention is Warranted under all Other Considerations.

A. No other relief is available for impacts to Petitioners' rights and interests

Petitioners have attempted to seek relief through public testimony to this Commission and meeting directly with Applicant. *See* KC § 1-4-3(b)(1). No other proceeding exists for Petitioners to address project violations and impacts. This matter is properly before the Commission alone at this time.

B. Existing parties cannot represent Petitioners' interests and hold different interests.

Petitioners share no position with existing parties - the Applicant or the Planning Department – and hold different interests from them. *See* KC § 1-4-3(b)(2) & (3). The former is a proponent of the project as proposed. With the exception of recognizing project ingress/ egress from Waikomo Road, the Planning Director has largely recommended approving the project as proposed. The Planning Department's participation is inadequate to, and does not substitute for, Petitioners' own representation of their rights and interests. *See Hoopai v. Civil Service Comm'n,* 106 Hawai'i 205, 217, 103 P.3d 365, 377 (2004) ("[Proposed intervenors] need only show that the Commission's representation of [its] interests may have been inadequate").

A "lack of adequate representation" also exists where a prospective intervenor would make a "more vigorous presentation" of a side of an argument than the government defendant because the regulation – the validity of which is being challenged – would benefit members of the prospective intervenor group. *New York Public Interest Res. Grp. v. Regents of Univ. of New York,* 516 F.2d 350, 352 (2d. Cir. 1975).

Petitioners have more on-the-ground information about the ways the project's proposals would impact their lives, rights, interests, and that of others similarly situated in the Kōloa community.

C. Petitioners' participation will assist in developing a complete record for the Commission and thus will not unduly delay or broaden proceedings.

As discussed *supra*, the application omits information that is integral to this Commission's decision-making on the permits sought. Applicant did not interview anyone in preparing their *Ka Pa'akai* report. *See id.,* 91 Hawai'i at 47, 7 P.3d at 1084 (agency was required to be informed on Kānaka Maoli traditional and customary practices that would be affected by the Commission's actions). Applicant seeks deviations from density limits without specifying how it is undertaking affordable housing programs.

Because Petitioners' participation will assist in developing a complete record for Commission decisionmaking, their participation would not unduly delay proceedings. KC § 1-4-3(b)(4) & (5). The standard is not one under which any potential delay weighs against granting intervention. "Additional parties always take additional time which may result in delay, but this does not mean that intervention should be denied." 7C Wright, Miller & Kane. *Federal Prac. & Procedure*, Civil 2d. 1913 at 381-82 (2d ed. 1986). Rather, judicial bodies may consider intervention improper only where it "will 'unduly delay' the adjudication." *Id.*; *see also Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*, 265 F.2d 364, 367 N.1 (D.C. Cir. 1959) ("Efficient and expeditious hearing should be achieved not by excluding parties who have a right to participate, but by controlling the proceedings so that all participants are required to adherer to the issues and to refrain from introducing cumulative or irrelevant evidence"). The Petitioners' interests are all pertinent to this proceeding and their intervention would not inject collateral, new issues, wholly unrelated to the underlying matter. *See Blackfeld Hawaii Corp. v. Travelodge Int'l, Inc.*, 3 Haw. App. 61, 641 P.2d 981 (1983); *Taylor Comm. Grp v. Southwestern Bell Tel. Co.*, 172 F.3d 385, 389 (5th Cir. 1999); *United States v. S. Florida Water Management Dist.*, 922 F. 2d 704, 711-712 (11th Cir. 1991).

Additionally, the Petitioners are organizations represented by directors and this arrangement would serve to increase the efficiency and timeliness of the Petitioners' intervention so as not to unduly delay proceedings.

D. Petitioners' intervention would serve the public interest.

The proposed project is the latest in a series of urbanization efforts that threaten the rural character, cultural resources, safety, and lifestyle of Kōloa communities, including especially Petitioners. To do so, the application proposes multiple zoning and environmental review

violations. Protecting Kōloa's quality of life and ensuring compliance with laws meant to implement those protections are in the public interest.

V. CONCLUSION

For the foregoing reasons, Petitioners respectfully request the Commission grant their petition for intervention in the above-captioned proceedings, or alternatively to deny the challenged permit approvals.

DATED: Honolulu, Hawai'i February 17, 2026

/s/ Bianca K. Isaki
LAW OFFICE OF BIANCA ISAKI
BIANCA ISAKI

/s/ Ryan D. Hurley
LAW OFFICE OF RYAN D. HURLEY
RYAN D. HURLEY

DATED: Makawao, Hawai'i February 17, 2026

/s/ Lance D. Collins
LAW OFFICE OF LANCE D COLLINS
LANCE D. COLLINS
Attorneys for Petitioners SAVE KŌLOA & FRIENDS OF MĀHĀ'ULEPU

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	) Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)
SK INVESTORS LLC	) DECLARATION OF ELIZABETH
	) OKINAKA
	)

DECLARATION OF ELIZABETH OKINAKA

I, ELIZABETH OKINAKA, do declare under penalty of law the following is true and correct.

1. I make this declaration upon personal knowledge.

2. I am a resident of Kōloa on the island of Kaua'i. I was raised in Kōloa and Omao. I currently live in Kōloa.

3. I am the founder and director of SAVE KŌLOA, a nonprofit corporation, whose purpose includes raising awareness and trying to ensure that our Kōloa community is not developed in violation of applicable laws and regulations; to advocate for our communities' quality of life; the exercise of Kānaka Maoli traditional and customary rights on Kaua'i, and the protection of Kaua'i's natural, historic, and cultural resources with a particular focus on Kōloa.

4. Save Kōloa is a co-petitioner with Petitioner FRIENDS OF MĀHĀ'ULEPŪ, a nonprofit corporation ("FOM"), (collectively "Petitioners").

5. Petitioners are seeking to intervene in Applicant SK INVESTORS LLC's ("Applicant") application for a Class IV Zoning Permit (Z-IV-2026-9) and Project Development Use Permit (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/ Waikomo Road intersection in Kōloa, which is apparently located on Tax Map Keys ("TMK"): (4) 2-8-011:001 and -024 containing a total area of 10.088 acres ("property" or "development").

6. I was not contacted to provide information on project impacts on the exercise of Kānaka Maoli traditional and customary rights by anyone from Applicant's consultant, Cultural Surveys Hawai'i. Nor did they contact our supporter Llewelyn "Billy" Kaohelauli'i, who is the head of Kōloa Aha Moku council.

7. Had I been consulted, I would have raised potential impacts to important

subterranean cultural resources in cave systems extending to Weliweli Road, adjacent to the proposed project.

8. I am familiar with the Kōloa cave system. For many years, I worked as a cave docent at the Makauwahi cave reserve, which is southeast of the property. I have learned much about the history and extent of the Kōloa cave system through my training and experience as a cave docent.

9. The Koloa Bypass area, including areas near and likely within the project, contains lava tubes, which are crucial habitats for the endangered Kauai cave wolf spider (*Adelocosa anops*) and the Kaua'i cave amphipod (*Spelaeorchestia koloana*). These are unique species subject to federal protection under the U.S. Fish & Wildlife Service ("FWS"). They are also culturally important to Kānaka Maoli practitioners in Kōloa, including Billy Kaohelauli'i.

10. Attached as Exhibit "02" is a true and correct copy of Figure 3-5 from the Final Environmental Impact Statement from the Kōloa-Po'ipū Regional Wastewater Reclamation Facility Project, showing Designated Critical Habitat Units in the Kōloa area, dated December 8, 2009, downloaded from the State Environmental Review Program at https://files.hawaii.gov/dbedt/erp/EA_EIS_Library/2009-12-08-KA-FEIS-Acceptance-Koloa-Poipu-Wastewater.pdf. This map shows critical Kōloa cave habitat is nearby the Weliweli Road part of the project.

11. Lava tubes in the Kōloa cave system provide essential refuge for these arthropods, which rely on cave moisture and detritus, facing threats from development and habitat loss. As a relatively younger island, Kaua'i has an abundance of mesocaverns that can allow cave animals to move among and between larger, adjacent lava tubes. Smaller voids can become filled with erosional sediment in older flows like the Koloa Volcanics as a result of surface disturbance. Filling in these smaller voids makes it more difficult for Kaua'i cave creatures to readily move among separate lava tubes or other cave systems. Therefore, minimizing disturbance on and near areas where the cave system extends is critical to protecting the Kōloa cave spiders and amphipods – whose only habitat is in these caves. Already much of Kōloa's cave habitat has been damaged.

12. The limited areas where Kōloa cave animals can live continues to undergo damaging development. The shallow cave habitat has been, and continues to be, degraded or destroyed through surface alterations such as the removal of perennial vegetation, soil fill, grading,

paving, collapsing and filling of caves, diversion of waste water into subterranean voids and spaces, and other activities associated with development and agriculture.

13. Three caves known to contain one or both of the Kauai cave arthropods are located in the area east of Waikomo Stream and west of the Po'ipū volcanic cones, Puu Wanawana, Puu Hunihuni, and the Puu Hi Reservoir cone. Puu Wanawana and Puu Hi are known to contain caves. The longest known cave on Kaua'i was located upslope from Kiahuna, between the Kōloa Mill on the east and Kōloa Town on the west. This cave was filled with cane waste in the early 1970s, but indicates there are other caves and mesocaverns in the area.

14. The wastewater line installed and proposed for use for Applicant's project has already trenched through areas that may overlie Kōloa caves. Further ground disturbance by the proposed project, may significantly harm Kōloa cave systems and the native species within. I, and other Save Kōloa members are concerned the project will destroy Kōloa cave habitat, including smaller mesocaverns, and thus important cultural resources.

15. I have three school-age children that attend Kōloa Elementary School, which is nearby the proposed project. I regularly go to Kōloa Elementary School for their school functions.

16. I live in the neighborhood affected by the project. I regularly drive and walk through and nearby the proposed project area for work, errands, and recreation. I am concerned about the project's impact on traffic flow, emergency evacuations, and fire risk in this area.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kōloa, Kaua'i February 12, 2026

ELIZABETH OKINAKA
DECLARANT

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	) Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)
SK INVESTORS LLC	) DECLARATION OF BRIDGET
	) HAMMERQUIST
	)

DECLARATION OF BRIDGET HAMMERQUIST

I, BRIDGET HAMMERQUIST, do declare under penalty of law the following is true and correct.

1. I make this declaration upon personal knowledge.

2. I am a resident of Kōloa on the island of Kaua'i.

3. I was born in Hilo in 1947 and was raised on Hawai'i island until my family and I moved to Kaumakani, Kaua'i in 1964.

4. I am the president of Petitioner FRIENDS OF MĀHĀ'ULEPŪ, a nonprofit corporation ("FOM"), which is a co-petitioner with Petitioner SAVE KŌLOA, a nonprofit corporation (collectively "Petitioners").

5. FOM is based on Kaua'i and is comprised of Kaua'i citizens who educate and advocate for Kaua'i communities' quality of life, the exercise of Kānaka Maoli traditional and customary rights on Kaua'i, and the protection of Kaua'i's natural, historic, and cultural resources with a particular focus on Māhā'ulepu and Kōloa.

6. Petitioners are seeking to intervene in Applicant SK INVESTORS LLC's ("Applicant") application for a Class IV Zoning Permit (Z-IV-2026-9) and Project Development Use Permit (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/ Waikomo Road intersection in Kōloa, which is located on Tax Map Keys ("TMK"): (4) 2-8-011:001 and -024 containing a total area of 10.088 acres ("property" or "development"). This second parcel was not included in Applicant's Petition for permits. It was not discovered before the public hearing because none of the Applicants submittal included the TMK (4) 2-8-011:024 or the area of the additional lot. The additional lot was only discovered when a licensed architect in our organization noticed that the plot plan showed multiplex development of at least 4 buildings close to Puni Road. When the County tax map was studied, the architect member, Greg Iten, noticed that the County

parcel identified in the permits application did not extend to Puni Road. The missing TMK was identified as TMK (4) 2-8-011:024, a fifth lot, Lot 180N.

7. On January 13, 2026, the Commission held a public hearing on Applicant's application, however those applications erroneously limited the project location to 9.436 acres on TMK (4) 2-8-011:001.

8. On or about January 26, 2026, I, on behalf of FOM, consulted on this matter with Avery Youn, a former Kaua'i Planning Department Director. Youn discussed the matter with Planning Department staff, Dale Cua, and advised Cua that previous permit applications with errors in scope and location have been required to re-submit their applications and re-publish and serve appropriate notices.

9. On January 27, 2026, Tom Midstoke and John Pat, both FOM members and Kōloa residents, informed me that they had measured the width of the roads to be most affected by the proposed project. They found Waikomo Road narrows to 12 feet at the bridge over the Waikomo river and is less than 20 feet wide for most of its length; Weliweli Road at its widest point is only 25 feet from the grass edge to grass edge; and Hapa Road is 18 feet wide at its widest point. There are no sidewalks, curbs or paved shoulders on these roads.

10. On January 30, 2026, I invited Mike Serpa, agent and manager of JME VENTURES LLC, which is the manager of Applicant, and several other Kōloa community members to my home in Kōloa for a meeting on February 2, 2026. At that meeting, Serpa stated: "My application says 9.4 acres but I just found there is another lot in the development and it seems we part of Puni Road. We're really a little over 10 acres so our density is going to R16 and not R20."

11. On February 1, 2026, I was contacted by an architect, Greg Iten, who is also a FOM member. He had reviewed the application and noted the proposed project also encompasses Lot 180-N on TMK (4) 2-8-011:024 and thus the total area of the project is 10.088 acres. Upon my own review, Applicant's site plan encompasses a greater area than that identified in the application as 9.436 acres on TMK (4) 2-8-011:001.

12. During the meeting on February 2, 2026 with Mike Serpa, Avery Youn asked Mr Serpa what Ordinance or law supported his request for a deviation from the zoning density of R6 for the two lots at issue. Mr Serpa confirmed that there was no government funded or workforce housing in this project. He did not identify any Ordinance to support the deviation in density he was seeking from R6 to R16.

13. Other FOM officers, directors, and members (collectively "FOM") are and include Kaua'i residents who live, recreate, traverse, and work in areas within, adjacent, and near to the proposed project.

14. I hire staff to assist myself in working from my home and to drive me to other areas because I am legally blind. They regularly drive me nearby the proposed project area for community meetings, errands, and exercise classes. With every trip to the post office or Big Save I have enough sight to appreciate the congestion in traffic and presence of walkers when traveling Waikomo and Weliweli Roads. On Sundays I regularly travel to and attend Kōloa Union Church. I am concerned about impacts to traffic flow, emergency exits, and other environmental impacts to myself, in-home aides, and my family who regularly visit me in Kōloa consequent to this project.

15. Many of our members have expressed significant concerns for the potential impact to cultural resources on the property, to the caves that are known to underly the Kōloa field system and to the blind cave spider and amphipod whose designated endangered habit is less than a mile from the parcels proposed for development.

16. FOM is intervening to ensure that the proposed project complies with County Ordinances, including but not limited to giving accurate public notice of the nature and extent of the proposed development to the nearby residents, complying with zoning ordinances rather than permitting illegal deviations in density that threaten and are likely to result in the loss of the quaint historic sugar cane village that residents and visitors have enjoyed for more than 100 years. The Petition to Intervene also seeks to assure community preservation and safety, encouraging the developer and public officials to consider the South Kauai Community Plan for Form Based Code adopted by Ordinance in July 2015, enactments that were passed which specifically addressed Kōloa, recognizing its rural nature and its identified need for preservation. FOM's goal in filing this Petition is to support development that is a proper fit on the parcels at issue for the Kōloa community, its residents, its environment and its quality of life.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kōloa, Kaua'i February 13, 2026

BRIDGET HAMMERQUIST
DECLARANT

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	) Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)
SK INVESTORS LLC	) DECLARATION OF LLEWELYN (BILLY)
	) KAOHELAULI'I
	)

DECLARATION OF LLEWELYN (BILLY) KAOHELAULI'I

I, LLEWELYN (BILLY) KAOHELAULI'I, do declare under penalty of law the following is true and correct.

1. I make this declaration upon personal knowledge.

2. I am a resident of Kōloa in the County of Kaua'i.

3. I am a supporter and member of Petitioners SAVE KŌLOA and FRIENDS OF MĀHĀ'ULEPŪ, each nonprofit corporations ("FOM"), (collectively "Petitioners").

4. Petitioners are seeking to intervene in Applicant SK INVESTORS LLC's ("Applicant") application for a Class IV Zoning Permit (Z-IV-2026-9) and Project Development Use Permit (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/ Waikomo Road intersection in Kōloa, which is apparently located on Tax Map Keys ("TMK"): (4) 2-8-011:001 and -024 containing a total area of 10.088 acres ("property" or "development"). I was born on the island Kaua'i, Manokalanipō, in 1950. I have lived my entire life in Po'ipū/ Kōloa, on the island of Kaua'i.

5. I am a member of Petitioner FRIENDS OF MĀHĀ'ULEPU, and a member of Petitioner SAVE KŌLOA, both nonprofit corporations.

6. I am Kānaka Maoli and descended from the aboriginal people who inhabited the Hawaiian Islands before 1778.

7. I am a member of the 'Aha Moku Advisory Committee and serve as the gobernatorial appointed Po'o for the 'Island of Kaua'i Manokalanipō, and also serve as moku for the Kona district.

8. I am concerned about detonations of explosives, grading, or grubbing on areas overlying the Kōloa cave system, which extends into areas nearby and potentially beneath the

proposed project.

9. The Kōloa cave system is home to endangered native species. To myself and other Kānaka Maoli, endangered native species - the pe'ape'a maka'ole or Kaua'i blind cave spider - are revered as an ancient aumakua. Our tradition and customs instruct that these should be protected.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kōloa, Kaua'i, February 13, 2026

Llewelyn Kaohelauli'i

LLEWELYN (BILLY) KAOHELAULI'I
Declarant

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	)	Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)	
SK INVESTORS LLC	)	DECLARATION OF GORDON LABEDZ, M.D.
	)	

DECLARATION OF GORDON LABEDZ, M.D.

I, GORDON LABEDZ, M.D., do declare under penalty of law the following is true and correct.

1. I make this declaration upon personal knowledge.

2. I am a resident of the County of Kaua'i.

3. I am a retired physician living in Kekaha, Kaua'i.

4. I am a supporter and member of Petitioner FRIENDS OF MĀHĀ'ULEPŪ, a nonprofit corporations ("FOM"), (collectively "Petitioner").

5. Petitioner is seeking to intervene in Applicant SK INVESTORS LLC's ("Applicant") application for a Class IV Zoning Permit (Z-IV-2026-9) and Project Development Use Permit (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/ Waikomo Road intersection in Kōloa, which is located on Tax Map Keys ("TMK"): (4) 2-8-011:001 and -024 containing a total area of 10.088 acres ("property" or "development").

6. I am the owner of a home on Puni Road, approximately 250 feet from Lot 180-N (TMK (4) 2-8-011:024), which I now understand is intended for development as part of the SK Investors LLC project. The house is currently held in trust for my son.

7. Having received notice from the attorney representing SK Investors LLC, Belles Graham LLP, I watched the entire hearing before the Planning Commission January 13, 2026.

8. In the notice, the attorney for SK Investors LLC identified one TMK and a project area of 9.436 acres. Since then, I have learned that the project actually proposes multiplex unit on an additional lot, TMK (4) 2-8-011:024, which was not included in the attorney's notice nor part of the permit application hearing discussion on January 13, 2026.

9. A FOM member studied the project plan, and noticed there were buildings on property that went all the way to Puni Road. He then researched the County plot land and realized the project included a fifth lot which purportedly had four multiplex units on it and that fifth lot is on TMK (4) 2-8-011:024 which incorporates part of Puni Road near my house.

10. I did not receive notice of the entire project Mr Serpa intends to build which will impact my home because it incorporates part of Puni Road.

11. I regularly drive through and nearby the proposed project area to check on my house, do errands, and for recreation. I am concerned about the proposed project's impact on traffic flow, emergency evacuations, and fire risk in this area.

12. I am concerned about fire hazards consequent to the project's proposal to install another 164 homes in this area with only one fire hydrant on Waikomo Road that will have to serve all the homes on Puni Road and those on the proposed construction site.

13. I was present at my house on April 11, 2023, when there was a dangerous fire in the area. The fire burned part of the house before it could be put down. I watched as Kaua'i Fire Department firefighters struggled to drive the fire truck down Puni Road in order to reach the fire. Most of Puni Road is not paved. Instead, the firefighters had to attach their hose to a fire hydrant off of Waikomo Road and uncurl it all the way to my house. I am unaware of any other fire hydrants in the area.

14. Adding another 164 units to the area will overtax both traffic flow and vehicular parking. Most people in Kōloa have at least two cars per household, often three. I understand there is already another 60 unit residential project by the same Applicant that is almost entirely sold out.

15. The roads in Kōloa town are narrow. This tends to slow traffic, which also means Kōloa does not have the infrastructure to support a lot of cars and trips. In an emergency situation, this is dangerous for people trying to evacuate the area.

16. I am concerned both about the lack of transportation infrastructure and the changes that facilitating more cars would make to the rural character and identity of Kōloa town. Neither have been considered in the current project proposal nor in the County's response to the SK Investors LLC application for permits.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kalaheo, Kaua'i February __, 2026

Gordon LaBedz M.D.

GORDON LABEDZ, M.D.
DECLARANT

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	)	Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)	
SK INVESTORS LLC	)	DECLARATION OF PEG EBATA
	)	
	)	

DECLARATION OF PEG EBATA

I, PEG EBATA, do declare under penalty of law the following is true and correct.

1. I make this declaration upon personal knowledge.

2. I am a resident of Kōloa in the County of Kaua'i.

3. I am a supporter and member of Petitioners SAVE KŌLOA and FRIENDS OF MĀHĀ'ULEPŪ, each nonprofit corporations ("FOM"), (collectively "Petitioners").

4. Petitioners are seeking to intervene in Applicant SK INVESTORS LLC's ("Applicant") application for a Class IV Zoning Permit (Z-IV-2026-9) and Project Development Use Permit (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweili Road/ Waikomo Road intersection in Kōloa, which is apparently located on Tax Map Keys ("TMK"): (4) 2-8-011:001 and -024 containing a total area of 10.088 acres ("property" or "project").

5. I live with my sisters in our family home where we were raised on Puni Road, nearly 250 feet from the proposed project.

6. I regularly drive on Puni Road through and nearby the proposed project area every time I leave my house to do errands or any trips away from our home as Puni Road is a bit wider than a one land road and it is the only road which enters and exits from our property. I am concerned about the proposed project's impact on traffic flow, the limited number of parking stalls for 164 units (194 parking stalls on site and 17 parallel parking spots off Hapa Road, as this does not take into consideration that the Kōloa residential community has a minimum of 2 r 3 cars per household). The number of parking stalls allotted for the project are very limited and do not allow for any visitor parking. This may lead to illegal off-stream parking on Weliweli, Waikomo, or Puni roads.

7. We had a fire on our property a little over 2 years ago. Should our neighbors and

the new community residents have to evacuate because of fire or flooding, traffic congestion would impede safe, timely exist because of the vary narrow roads in this area.

8. I am concerned about the increase risk of fire in our small rural community with the higher density proposed project. We have only one fire hydrant on Waikomo Road that currently would be required to serve Puni Road homes and those of the project. On April 11, 2023, there was an out of control fire on properties off of Puni Road and the fire department had to connect to the only fire hydrant on Waikomo Road, 250 feet from our home. In order to reach our house they had to run the hose across Lot 180-N. Some years prior to that fire, I and my sister Ellen Ebata, who lives with me, created a petition to the County asking for fire hydrants closer to their homes on Puni Road. Almost all of our neighbors signed.

9. Recently, I walked around Puni Road where we live. We counted about 40 dwellings on Puni Road and each had at least two and many had three cars parked on their property.

10. Puni Road is only paved for the first 300 feet from Waikomo Road. The rest is about 480 feet of dirt road. Puni Road is the only way in and out from our house for ourselves and our neighbors. Puni Road empties onto Waikomo Road.

11. I am also worried about parking and traffic flow. I understand the Applicant may somehow create 17 offsite parking stalls on Hapa road. Hapa Road is very narrow and like Waikomo Road, has no curbs, sidewalks, or shoulders. Both roads are narrow without shoulder lanes.

12. Adding another 164 units to the area will overtax both traffic flow and vehicular parking. Most people in Kōloa have at least two cars per household, often three. I understand there is already another 60 unit residential project by the same Applicant that will be sold soon.

13. The roads in Kōloa town are narrow. In addition to Puni Road, part of Waikomo Road is one lane only. This tends to calm traffic and prevent people from speeding, but also means Kōloa does not have the infrastructure to support a lot of cars and trips.

14. The area just west of the proposed project area often floods. I am concerned about evacuation routes in emergency events – whether from fire or flood – where hundreds more vehicles are put on narrow rural roads. This could cause a traffic jam that prevents Kōloa residents, iucluding myself and my family, from evacuating safely.

15. I am concerned both about the lack of transportation infrastructure and the

changes that facilitating more cars would make to the rural character and identity of Kōloa town. Neither have been considered in the current project proposal.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kōloa, Kaua'i February 12, 2026

Peggy H Ebata

PEGGY H EBATA
DECLARANT

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	) Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)
SK INVESTORS LLC	) DECLARATION OF LAUREEN NAUNU-BALACON
	)

DECLARATION OF LAUREEN NAUNU-BALOCAN

I, LAUREEN NAUNU-BALOCAN, do declare under penalty of law tl1e following is true and correct.

1. I, Laureen Naunu-Balocan make this declaration upon personal knowledge.

2. I currently reside at 3281 Puni Road in Kōloa, County of Kaua'i.

3. I am a supporter and member of Petitioners SAVE KŌLOA and FRIENDS ()F MAHA'ULEPU, each nonprofit corporations ("FOM"), (collectively "Petitioners").

4. Petitioners are seeking lo intervene in Applicant SK INVESTORS LLC's ("Applicant") application for a Class IV Zoning Permit (Z-IV-2026-9) and Project Development Use Pem1it (PDU-2026-7) to allow construction of a multi-family housing project and associated site improvements on a parcel situated along the makai side of the Weliweli Road/ Waikomo Road intersection in Kōloa, which is apparently located on Tax Map Keys ("TMK"): (4) 2-8-011:001 and -024 containing a total area of 10.088 acres ("property" or "development").

5. I live with my elderly mother in our longtime home on Puni Street, located at TMK (4) 2-8-011:003. Our family has owned this homestead for more than 100 years.

6. Given the age of our home, and l11c infrastructure for our neighborhood, I am concerned about impacts of high density construction so nearby and the potential adverse impacts.

7. For instance, there is an existing waterline crossing the proposed project area that connects to a water meter on Weliweli Road. without substantial oversight and planning, project construction could damage this waterline, leading to significant disruption in the daily lives of myself, my family and the multiple residences that rely on this waterline, including an affordable apartment complex, all of which are on my mother's property.

8. The proposed provision of 213 parking stalls, or less than 2 stalls per housing unit, is insufficient for working families who often rely on two vehicles due to multiple jobs and work schedules.

9. Increased residential density in this area will create traffic congestion and thus safety issues on Kōloa's narrow roads. Reducing the project's scale and adding additional on-site parking stalls could help mitigate this issue.

10. The area of the proposed project lacks sufficient drainage infrastructure. I have seen significant flooding in and near my neighborhood. The undeveloped lands currently proposed for the project have been serving as a "sponge" for runoff from especially Weliweli Road. The project's impervious surfaces may worsen flooding on Puni Road and other nearby areas.

11. I regularly drive through and nearby the proposed project area to get to my house, for errands, and for recreation. I am concerned about the proposed project's impact on traffic flow, emergency evacuations, and fire risk in this area.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kōloa, Kaua'i February 12, 2026

LAUREEN NAUNU-BALACON
DECLARANT

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	)	Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)	
SK INVESTORS LLC	)	DECLARATION OF GREG ITEN
	)	

DECLARATION OF GREG ITEN

I, GREG ITEN, do declare under penalty of law the following is true and correct.

1. I make this declaration upon personal knowledge.

2. I am a resident of the County of Kaua'i.

3. I am a licensed architect living at my home, 3738 Ulakea Place, Lawai, Kaua'i, a town immediately adjacent to Kōloa. I drive through Kōloa every day of the week and became very concerned when I learned there is a proposal to obtain permits to build 164 multiplex homes (a high density development) on rural zoned property in Kōloa with its narrow roads and existing traffic flow issues from past developments. There is no dense development as proposed anywhere in the Kōloa transect village edge area.

4. According to the South Kauai Form Based Code adopted by Kauai County in July 2015 and the South Kauai Plan and Appendices adopted by the County Council by Ordinance, traffic flow and parking must be considered for any proposed development. There is also a rural zone classification which permits R6 development on this SK Investors LLC parcel described as T3VE which restricts development on the property to single family homes or duplexes.

5. There is no provision in the South Kauai Community Plan and its Appendices for high density development on T3VE parcels.

6. When I reviewed the permits application filed by SK Investors LLC, I found 4 lots identified in a single TMK (180A, G, H and J – TMK (4) 2-8-011:001). I pulled up the County map for that TMK and I noticed that SK Investors LLC's plot plan extended the project and the multiplexes being built to Puni Road. The County tax map for one TMK identified in their permits application did not extend to Puni Road. I concluded, based on my architectural background that something must have been missing from their application.

7. As I reviewed the County records and maps, I realized there was a second TMK (TMK (4) 2-8-011:024) included in the project development and construction that was not included in the application for permits which extended the project to Puni Road. That TMK, Lot 180N, incorporated part of Puni Road and the old Jehovah's Church parcel. These were not

identified in the permits application.

8. Finding the additional TMK explained why SK Investors LLC project plot plan incorporated buildings being built up to Puni Road. On review of Mr Serpa's plot plan, I realized that the TMK in his application did not extend to Puni Road. It was evident that his project included development on an additional TMK(024) and its lot, 180N.

9. I am a supporter and member of Petitioner FRIENDS OF MĀHĀ'ULEPŪ, a nonprofit corporations ("FOM"), (collectively "Petitioner"). I agreed to prepare this Declaration because the public did not receive notice of the entire project and is only now learning from my visual appreciation of how far the project development extended that there is a fifth lot which was not disclosed by the Applicant or the County.

10. In my daily drives through Kōloa, I have come to value and appreciate the quaint old sugar plantation town that Kōloa is. There are still many stores on wooden board walks on Kōloa Road. There are also old sugar mill historic resources in town for all to enjoy.

11. I am very concerned about traffic flow, the number of cars that will have to park in Kōloa town as the project development does not consider <u>any</u> guest parking for the 300+ residents likely to be added to the community if the 164 multiplex housing project is approved.

12. In my 40+ years driving through Kōloa, I have personally observed that most if not all Kōloa residences have at least two cars and many have three associated with their property. Applicants plan for parking appears very inadequate. I understand there is already another 60 unit residential project by the same Applicant that is almost nearly sold out behind Kōloa village in a commercial area zoned R20.

13. The roads in Kōloa town are narrow. This tends to slow traffic, which also means Kōloa does not have the infrastructure to support a lot of cars and trips. Based on my architectural experience, a development of this size will likely result in the addition of at least 350 people and likely 500 cars. Applicant describes his plan as one intended to be walkable to the town core.

14. Another discrepancy that I shared with the FOM board members, is the fact that the SK Investors LLC permits application seeks access approval off Waikomo, Weliweli and Hapa Roads. In the director's letter, our planning director states there will be access off Weliweli and Hapa Road, omitting the access sought off Waikomo Road. This may be due to its narrow size and proximity to the Weliweli access or it may be due to what appears to be a water easement that comes form Waikomo at the point where the project developer was requesting access to the 164 multiplex development. In an emergency situation this would be dangerous for people trying to

walk on the roads or evacuate the area.

15. I am concerned both about the lack of transportation infrastructure and the changes that facilitating more cars would make to the quaint historic rural character and identity of Kōloa town. Neither have been considered in the current project proposal nor in the County's response to the SK Investors LLC application for permits.

DECLARANT FURTHER SAYETH NAUGHT

DATED: Kalaheo, Kaua'i February 13, 2026

GREG ITEN
DECLARANT

STATE OF HAWAII
OFFICE OF THE ASSISTANT REGISTRAR
RECORDED
March 17, 2023 8:01 AM
Doc No(s) T - 12128129
on Cert(s) 1143989
Issuance of Cert(s) 1251168

Doc 3 of 4
Pkg 12174113 YH

/s/ LESLIE T KOBATA
ASSISTANT REGISTRAR

Conveyance Tax: $2,125.00

LAND COURT SYSTEM REGULAR SYSTEM

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

SK INVESTORS, LLC
P.O. Box 12
Koloa, Kauai, Hawaii 96756

Old Republic Title & Escrow
Escrow No. 6828011579-PB

TYPE OF DOCUMENT:

WARRANTY DEED

PARTIES TO DOCUMENT:

GRANTOR: MG KOLOA PARTNERS, LLC,
a Hawaii limited liability company
579 S. Moss Hill Drive, Bountiful, Utah 84010

GRANTEE: SK INVESTORS, LLC,
a Hawaii limited liability company
P.O. Box 12
Koloa, Kauai, Hawaii 96756

TAX MAP KEY FOR PROPERTY:

(4) 2-8-011-024

(affects Certificate of Title Nos. 1143989)

EXHIBIT "01"

WARRANTY DEED

KNOW ALL PEOPLE BY THESE PRESENTS:

MG KOLOA PARTNERS, LLC, a Hawaii limited liability company, with a mailing address of 579 S. Moss Hill Drive, Bountiful, Utah 84010, hereinafter called "Grantor", in consideration of the sum of Ten and 00/100 Dollars ($10.00) and other good and valuable consideration to the Grantor paid by SK INVESTORS,LLC, a Hawaii limited liability company, with a mailing address of P.O. Box 12, Koloa, Kauai, Hawaii 96756, hereinafter called "Grantee", the receipt of which is hereby acknowledged, does hereby grant and convey unto Grantee, its successors and assigns, all of the property described in **Exhibit "A"** attached hereto and made a part hereof for all purposes, together with all improvements, rights, benefits, privileges, easements, tenements, and appurtenances thereon and pertaining thereto (said real property, together with such rights, appurtenances, interests and improvements being collectively called the "Property").

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

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

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

The aforesaid property is conveyed by Grantor to Grantee "AS IS, WHERE IS", without warranty or representation, express or implied, as to the condition or fitness for any purpose whatsoever, and Grantee hereby affirms to Grantor that Grantee has had the opportunity to inspect, and accepts the same "AS IS, WHERE IS".

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

This Warranty Deed may be executed in counterparts. Each counterpart shall be executed by one or more of the parties hereinbefore named and the several counterparts shall constitute one

instrument to the same effect as though the signatures of all the parties are upon the same document.

IN WITNESS WHEREOF, Grantor and Grantee have caused these presents to be duly executed on this 14 day of March 2023.

Signature pages follow; the remainder of this page is intentionally left blank.

MG KOLOA PARTNERS, LLC,
a Hawaii limited liability company

By: James Lacey
Name: James Lacey
Title: Manager

Grantor

PB/NP STATE OF ~~UTAH~~ Hawaii)
COUNTY OF Kauai) SS:
)

On this 9th day of March 2023, before me personally appeared JAMES LACEY, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, which document consists of nine (9) pages, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

PB/NP I certify under **PENALTY OF PERJURY** under the laws of the State of ~~Utah~~ Hawaii that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

PRESTON BREDE NOTARY PUBLIC No. 09-301 STATE OF HAWAII

Name of Notary:

PB/NP Notary Public, State of ~~Utah~~ Hawaii

My commission expires: Preston Brede State of Hawaii, Fifth Circuit My Commission Expires: July 5, 2025

Doc. Date: undated # Pages 7
Notary Name: Preston Brede 5th Circuit
Doc. Description Warranty Deed

Notary Signature MAR 9 2023 Date

PRESTON BREDE NOTARY PUBLIC No. 09-301 STATE OF HAWAII

SK INVESTORS, LLC,
a Hawaii limited liability company

By: JME VENTURES, LLC,
a Hawaii limited liability company,
its Manager

By: _____
Name: Michael Serpa
Title: President

Grantee

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this 14 day of March 2023, before me personally appeared MICHAEL SERPA, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, which document consists of nine (9) pages, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

PRESTON BREDE NOTARY PUBLIC No. 09-301 STATE OF HAWAII

_____
Name of Notary:

Notary Public, Fifth Judicial Circuit,
State of Hawaii

Preston Brede
State of Hawaii, Fifth Circuit
My Commission Expires: July 5, 2025

My commission expires: _____

Doc. Date: MAR 14 2023 # Pages 7
Notary Name: Preston Brede 5th Circuit
Doc. Description Warranty Deed

_____ MAR 14 2023
Notary Signature Date

PRESTON BREDE NOTARY PUBLIC No. 09-301 STATE OF HAWAII

EXHIBIT "A"

-PARCEL FIRST:-

All of that certain parcel of land situate at Koloa, Island and County of Kauai, State of Hawaii, described as follows:

LOT 180-N, area 0.652 acre, more or less, as shown on Map 59, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 956 of Bishop Trust Company, Limited, Trustee for Eric A. and Augustus F. Knudsen.

Being the premises acquired by:

WARRANTY DEED

Recorded:	September 22, 2017 in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. T-10126198
Grantor:	POHAKU KOLOA LLC, a Hawaii limited liability company
Grantee:	MG KOLOA PARTNERS, LLC, a Hawaii limited liability company

Being the property described in and covered by Transfer Certificate of Title No. 1,143,989

SUBJECT, HOWEVER, to the following:

1. Mineral and water rights of any nature in favor of the State of Hawaii.

2. Stipulation and Decree dated June 7, 1951, filed in the Circuit Court of the Fifth Circuit, State of Hawaii, Equity No. 144, filed as Land Court Document No. 135050, it: To receive water from the Konohiki of the Ahupuaa of Koloa in a constant stream in the amount of 45,000 gallons per day.

3. Provisions set forth in instrument dated August 27, 1937, filed as Land Court Document No. 40955, recorded in Book 1398 at Page 371, by and between THE McBRYDE SUGAR COMPANY, LIMITED, party of the First part, BISHOP TRUST COMPANY, LIMITED, Trustee for Eric A. Knudsen and Augustus F. Knudsen, party of the Second part, ERIC A. KNUDSEN and AUGUSTUS F. KNUDSEN, parties of the Third part, and BISHOP TRUST COMPANY, LIMITED, party of the Fourth part.

4. Terms and provisions as contained in an instrument,

Entitled:	LIMITED WARRANTY DEED WITH COVENANTS, RESERVATIONS, RESTRICTIONS ON SALE, AND DISCLAIMERS
Dated:	November 2, 2000
Recorded:	November 3, 2000 in the Bureau of Conveyances, State of Hawaii, as Document No. 2000-155601, and in the Office of the Assistant Registrar of the Land Court, State of Hawaii, as Document No. 2662386

5. Any unrecorded and subsisting leases.

6. Rights and claims of parties in possession.

7. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

8. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

9. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.

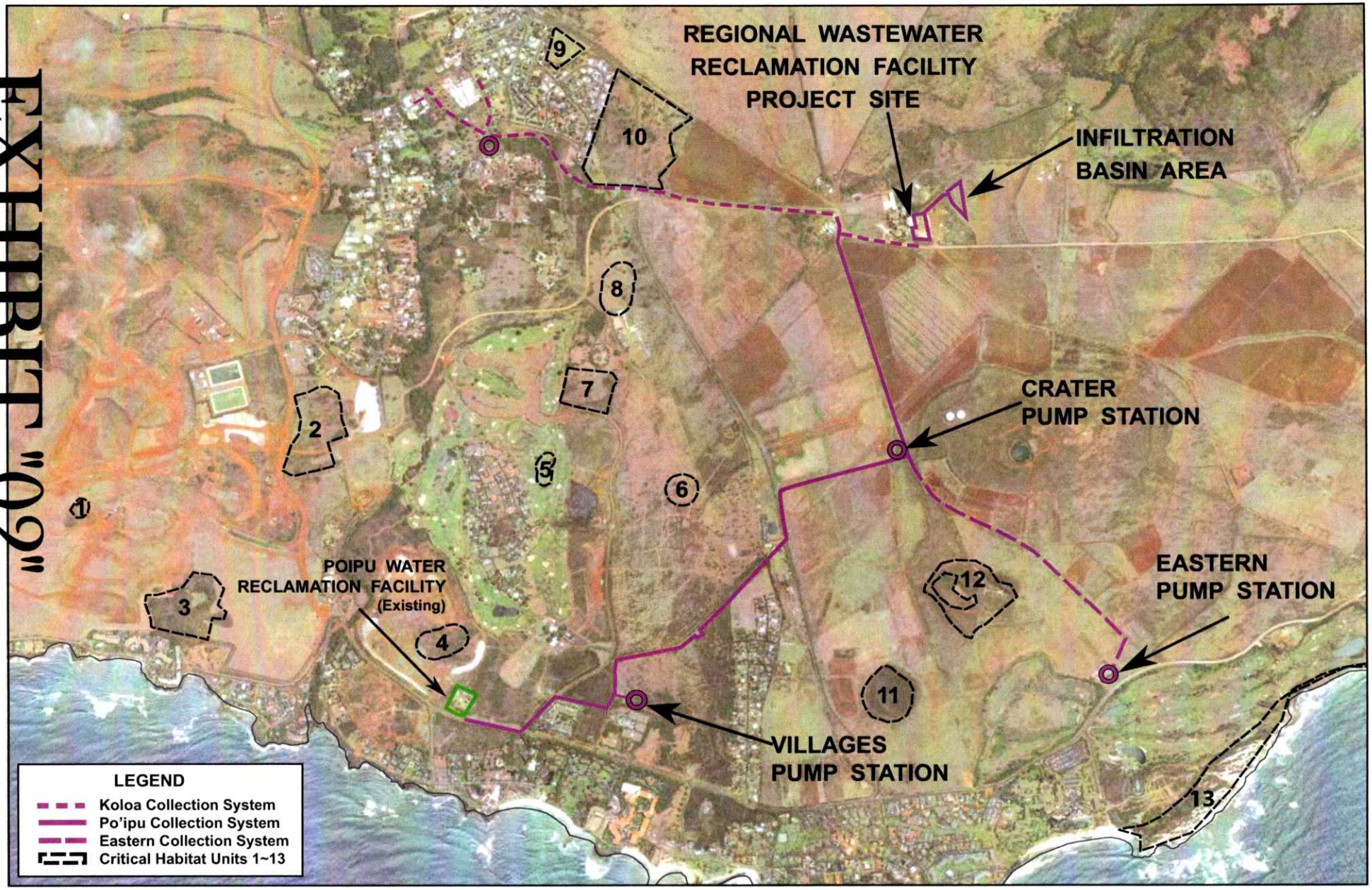
10. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

11. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

12. Any lien or right to a lien for services, labor or material unless such lien is shown by the Public Records at Date of Policy.

END OF EXHIBIT "A"

EXHIBIT "02"



North

Source:
Digital Globe (Aerial Map - May 2007)
Aqua Engineers, Inc. (Regional Facility System)

FIGURE 3-5
DESIGNATED CRITICAL HABITA UNITS IN PROJECT VICINITY

KOLOA-POIPU REGIONAL WASTEWATER RECLAMATION FACILITY PROJECT
HOH Utilities, LLC

WILSON OKAMOTO CORPORATION

BEFORE THE KAUA'I PLANNING COMMISSION

COUNTY OF KAUA'I

STATE OF HAWAI'I

In the Matter of the Application of:	)	Permit Nos. Z-IV-2026-9 and PDU-2026-7
	)	
SK INVESTORS LLC	)	CERTIFICATE OF SERVICE
	)	
	)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a copy of the foregoing was filed, hand-delivered or sent via U.S. certified mail pursuant to Kaua'i Planning Commission Rule §1-3-3 to the following:

TYLER C. SAITO, County Attorney
Office of the County Attorney
4444 Rice Street, Suite 220
Līhu'e, Hawai'i 96766

KAUA'I PLANNING DEPARTMENT
4444 Rice Street, Suite A473
Lihue, Hawai'i 96766.

IAN K. JUNG
BELLES GRAHAM LLP
3135 Akahi Street, #A
Lihue, Kauai, Hawaii 96766

Attorney for Applicant SK INVESTORS, LLC

DATED: Honolulu, Hawai'i February 17, 2026

/s/ Bianca K. Isaki
LAW OFFICE OF BIANCA ISAKI
BIANCA ISAKI

/s/ Ryan D. Hurley
LAW OFFICE OF RYAN D. HURLEY
RYAN D. HURLEY

DATED: Makawao, Hawai'i February 17, 2026

/s/ Lance D. Collins
LAW OFFICE OF LANCE D COLLINS
LANCE D. COLLINS
Attorneys for Petitioners SAVE KŌLOA & FRIENDS OF MĀHĀ'ULEPU

952

59-7993/3213

BRIDGET HAMMERQUIST
JOHN KECHLOIAN
FRIENDS OF MAHA'ULEPU
2963 PUA ALANI PL 742-1037
KOLOA, HI 96756

2/16/26
Date

CHECK ARMOR FRAUD PROTECTION

Pay to the Order of Director of Finance $ 300.00

Three hundred dollars and 00/100 Dollars

Photo Safe Deposit® Details on back

Garden Island Federal Credit Union
2973 Kele Street
Lihue, HI 96766

For Koloa Development Petition to Intervene

MP

⑆321379931⑆ 019155171 2⑈ 0952

Harland Clarke

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

TRANSMITTAL OF SUPPLEMENTAL INFORMATION TO PLANNING COMMISSION

DATE: **February 18, 2026**

PERMIT NUMBER(S): **Z-IV-2026-9; PDU-2026-7**

APPLICANT(S): **SK INVESTORS LLC.**

Attached for the Planning Commission's reference is supplemental information to project's application.

4444 Rice Street, Suite A473 • Līhu'e, Hawai'i 96766 • (808) 241-4050 (b) • (808) 241-6699 (f)
An Equal Opportunity Employer

K.I.e.
FEB 24 2026

BELLES GRAHAM LLP

IAN K. JUNG (8626-0)
3135 Akahi Street, #A
Lihue, Kauai, Hawaii 96766
Telephone: (808) 245-2163
Facsimile: (808) 245-3277
Email: ikj@kauai-law.com

Attorneys for Applicant
SK INVESTORS LLC,
a Hawaii limited liability company

FEB 17 '26 PM2:26
PLANNING DEPT

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application Of SK INVESTORS LLC, a Hawaii limited liability company, for a Class IV Zoning Permit, for real property situated at Koloa, District of Kona, Island and County of Kauai, State of Hawaii, Lots 180-A, 180-G, Lot 180-H, and Lot 180-J, collectively identified by Tax Key No. (4) 2-8-011:001, and containing 411,032 square feet.	PROJECT DEVELOPMENT USE PERMIT NO. Z-PDU-2026-7 CLASS IV ZONING PERMIT NO. Z-IV-2026-7; **SUPPLEMENT NO. 1 TO APPLICATION; REVISED EXHIBIT "E"**

BELLES GRAHAM LLP

IAN K. JUNG (8626-0)
3135 Akahi Street, #A
Lihue, Kauai, Hawaii 96766
Telephone: (808) 245-2163
Facsimile: (808) 245-3277
Email: ikj@kauai-law.com

Attorneys for Applicant
SK INVESTORS LLC,
a Hawaii limited liability company

BEFORE THE PLANNING COMMISSION

OF THE

COUNTY OF KAUAI

In The Matter Of The Application Of SK INVESTORS LLC, a Hawaii limited liability company, for a Class IV Zoning Permit, for real property situated at Koloa, District of Kona, Island and County of Kauai, State of Hawaii, Lots 180-A, 180-G, Lot 180-H, and Lot 180-J, collectively identified by Tax Key No. (4) 2-8-011:001, and containing 411,032 square feet.	)	PROJECT DEVELOPMENT USE PERMIT NO. Z-PDU-2026-7 CLASS IV ZONING PERMIT NO. Z-IV-2026-7; **SUPPLEMENT NO. 1 TO APPLICATION; REVISED EXHIBITS "E"**

SUPPLEMENT NO. 1 TO APPLICATION

COMES NOW SK INVESTORS LLC, a Hawaii limited liability company Applicant in the above-captioned proceedings, by and through its undersigned attorneys, and hereby submits this Supplement No. 1 to Application for the conversion of vacant land in to a one hundred and forty-eight (148) unit gap/missing middle housing project with a mix of duplexes (8 units), 4-plexes (76 units), and 8-plexes (64 units), as further described herein. The purpose of this Supplement No. 1 to Application is to remove four (4) 4-plexes, for which the original Exhibit "E" had noted only Kauai Tax Map Key No. (4) 2-8-011:001 (as Lot 180-N of Land Court Application No. 956 (Map 30)). The Applicant did not include and notice Kauai Tax Map Key No. (4) 2-8-011:024 in its required filings where four (4) 4-plexes (16 Units) were proposed to be located, and therefore the request is to reduce the proposed gap/missing middle housing project from one hundred and sixty-four (164) units to a one hundred and forty-eight (148) unit housing project. Thus, sixteen (16) units are requested to be removed from the Application and from the Planning Commission's consideration to the project area noted on Kauai Tax Map Key No. (4) 2-8-011:001 (which includes Lot 180-A, Lot 180-G, Lot 180-H, and Lot 180-J of Land Court Application No. 956 (Map 59). This Supplement No. 1 to the Application replaces the following Sections, as revised, to the Application with the new material provided below:

REVISED SECTION 4. PROPOSED USE.

4.1 Proposed Uses. The Applicant wishes to construct a one hundred and forty-eight (148) housing project on the Property as follows:

a. Duplexes: The built environment will include four (4) buildings of Duplex Units consisting of eight (8) three-bedroom units, as shown on Sheet A3 of Exhibit "E".

b. 4-Plex Type 1: The built environment will include fifteen (15) buildings of 4-Plex Type 1 Units consisting of sixty (60) two-bedroom units, as shown on Sheet A3 of Exhibit "**E**".

c. 4-Plex Type 2. The built environment will include four (4) buildings of 4-Plex Type 2 Units consisting of eight (8) one-bedroom units and eight (8) three-bedroom units, totaling sixteen (16) Units in four (4) 4-Plex Type 2 buildings, as shown on Sheet A3 of Exhibit "**E**".

d. 8-Plex: The built environment will include eight (8) buildings of 8-Plex Units consisting of thirty-two (32) one-bedroom units and thirty-two (32) two-bedroom units, totaling sixty-four (64) Units in eight (8) 8-Plex buildings, as shown on Sheet A3 of Exhibit "**E**".

(Collectively, hereinafter referred to as the "Housing Project").

4.2 Parking. The Housing Project will include 226 on-site parking stalls and 25 parking stalls off-site along Waikomo, Weliweli, and Hapa Roads. The Applicant proposes a total of 251 parking stalls, as shown on Exhibit "**E**".

4.3 Design. The Housing Project will consist of modern plantation-style buildings with dark to medium earth tone colors, as shown on Exhibit "**E**". The Applicant is willing to coordinate a final design review with the Planning Department during the building permit process.

4.4 Landscaping. The Property will be minimally landscaped, with a variety of canopy trees, shrubs, low-lying planting, and grass. The Applicant intends to utilize native and indigenous plants for its landscape surrounding the built environment and will coordinate a final landscape plan review with the Planning Department during the building permit process.

4.5 Hazardous Materials. There are no anticipated impacts to the use or value of the Property due to Hazardous Materials.

4.6 Archaeological and/or Historic Sites. The proposed Housing Project is not anticipated to have a significant impact on historic, cultural or archaeological resources (if any) located on or near the Property. Other than the identified SIHP No. 50-30-10-05002 (Stone wall, noted as an animal husbandry wall) in the Ka Pa'akai Analysis referencing the Tulchin, Hammmeister, and Hammat Archeological Inventory Survey for the Property, no other features indicated the presence of surface or subsurface cultural deposits; and while not an impossibility, given the prior ground disturbance on the Property, the Applicant does not expect additional cultural deposits will be found; however, it will consult with the SHPD regarding its findings in Tulchin, Hammmeister, and Hammat Archeological Inventory Survey and the Ka Pa'akai Analysis for the proposed improvements.

4.7 Utilities. The Property will be served with water meters from the Department of Water, which Applicant intends to consult with and coordinate with the County of Kauai Department of Water for necessary water meter allocations. Telephone and communications service (i.e., internet connection) will have to be coordinated by Applicant at its expense with the selected provider for the Housing Project.

4.8 Wastewater Disposal. The Housing Project will be served by HOH Utilities, LLC as provided for in the will serve letter attached as Exhibit "D". Existing private sewer lines run along Waikomo Road to the HOH Utilities LLC wastewater treatment plant in Koloa.

4.9 Solid Waste. The Applicant will be required, at its own expense, to have solid waste services provided by a private contractor.

4.10 Drainage. The Applicant will consult with and coordinate a review of drainage patterns with the Department of Public Works, Engineering Division to ensure that the additional drainage will continue to be handled by onsite, if necessary, comply with minimal impacts to the natural flow areas in and around the Property.

4.11 Justification. As discussed herein, the proposed Housing Project will serve the need identified in the Kauai General Plan and South Kauai Community Plan for gap/missing middle housing opportunities in an area adjacent to the Koloa Town core.

REVISED SECTION 5. PERMITS REQUESTED AND REQUIRED.

5.1 Project Development Use Permit. The Housing Project requires a Project Development Use Permit for the deviation of: 1) building types in South Kauai Form Based Code; 2) application of multi-family dwelling units in the South Kauai Form Based Code; and 3) the collective use of Lots 180-A, 180-G, 180-H, and 180-J for a single project. Should the zoning had remained R-6, the use of multi-family dwellings would have been outright permitted; however, given the proposed use of duplexes, 4-plexes, and 8-plexes, a Project Development Use Permit, referencing the Use Permit considerations, is required for the building type and multi-family dwelling units on lots existing prior to June 30, 1980. As provided for in Exhibit "C-2" Land Court Application No. 956 (Map 59) notes the referenced lots as existing by a Land Court Order on December 1, 1978. A Project Development Use Permit is futher requested to allow for the crossing of boundary lines for Lots 180-A, 180-G, 180-H, and 180-J. Lastly, pursuant to CZO Section 8-10.4(d), the Planning Commission may allow for a Project Development Use Permit, which requires the Use Permit considerations, for projects that have density for over ten (10) units, which the Property qualifies for.

5.2 Class IV Zoning Permit. The Housing Project requires the issuance of a Class IV Zoning Permit given dwelling unit count exceeds fifty-one (51) units.

REVISED SECTION 9. SOUTH KAUAI FORM BASED CODE CONSIDERATIONS.

9.1 South Kauai Form Based Code Transects. The Property is zoned Residential (R-6) with an overlay by the Special Planning District of the South Kauai Form Based Code Transects T3VN.1 and T3VE. A minority of the Property is in Transect T3VN.1 on the western side and majority of the Property is in Transect T3VE on the eastern side (See, Exhibit "E"). The uses that are specifically permitted in the Transect T3VE are set forth in SKBC Sections 2.2.030 and 2.2040, which multi-family dwelling units as allowable with a Use Permit if the lots existed prior to June 30, 1980, which Exhibit "C-2" as the Land Court Maps notes the Property as lots of record as of 1978. As such, Project Development Use Permit is sought to allow for multi-family dwelling units and deviation of building types, and as provided for in CZO Section 10.1(a) the Project Development Use Permit process, which facilitates a Use Permit process when comprehensive site planning and design includes land areas are under common ownership. The Property consists of four (4) certified Land Court lots of record under a single tax map key number.

9.2 Development's Compliance with Transect T3VE Standards. The proposed Housing Project is subject to the South Kauai Form Based Code T3VN.1 and T3VE Transects as follows:

a. Building Types: As described herein, the Applicant is requesting a deviation from the carriage house and cottage court single-family dwelling building types to allow for multi-family dwellings which would allow for additional housing with an allowable structure size in a more cost-effective construction approach.

b. Setbacks: The Housing Project will comply with the building-to-building setbacks and boundary setbacks as provided for in the South Kauai Form Based Code Transects T3VN.1 and T3VE standards.

c. Heights: The Housing Project will comply with the height requirements provided for in the South Kauai Form Based Code Transects T3VN.1 and T3VE standards; provided that the proposed structures will not exceed thirty (30) feet at two-story levels, which is consistent with the R-6 standards previously established in the adjacent areas.

d. Streetscape: The internal connectivity of the Housing Project will meet the required streetscape standards for the South Kauai Form Based Code Transects T3VN.1 and T3VE; however, the Applicant will work with the Planning Department and Engineering Division to determine whether upgrades to Waikomo and Weliweli Roads are necessary.

9.3 Impacts. The Housing Project itself will have no significant impact on the surrounding environment or properties, as these uses are appropriate to and compatible with the adjacent projects.

REVISED SECTION 10. CLASS IV ZONING PERMIT AND PDU CONSIDERATIONS.

10.1 Class IV Zoning Permit. The Class IV Zoning Permit is a procedural requirement for a dwelling unit count of over fifty-one (51) units.

10.2 Development's Compliance with CZO Class IV Zoning Permit Standards. The Applicant has complied with the procedural provisions for a Class IV Zoning Permit by filing and processing this Application.

10.3 Uses. Pursuant to CZO Sections 8-10.4, the Applicant requests a Project Development Use Permit for the proposed deviation from single-family style carriage house and cottage court building types in the Transects T3VN.1 and T3VE. As noted above, Multiple Family

Dwelling Units (more than two) are allowable uses with a Use Permit if the subject lots are established before June 30, 1980. As noted above, the lots consisting of the Property were established as of 1978 (See, Exhibit "C-2"). The Applicant further wishes to consolidate this Housing Project on to Lots 180-A, 180-G, 180-H, and 180-J, which are under common ownership, as noted in Exhibit "B". Should the Planning Department request the Applicant to consolidate such lots, it will file the necessary subdivision application.

10.4 Compatibility With Surrounding Uses. To the north, east, and west of the Subject Property are residential properties located within the SLUC Urban District and previously zoned in the CZO R-4 and R-6 District. These surrounding lands include residential uses and are compatible with existing uses and include multi-family structures. The Property is similar in topography, character and nature with adjacent and surrounding properties.

10.5 Project's Compliance with CZO Use Permit Standards. The application of multi-family building types and use allows for the South Kauai Community Plan deviations via the Project Development Use Permit process to bring gap housing at reduced cost of construction given the concentration of dwellings rather than standalone carriage house or cottage court style single-family dwellings. Shifting from single-family dwellings to multi-family dwellings allows for more dwelling units in a concentrated area. Further, the Subject Property is in compliance with the standards for a Use Permit, as a requirement of the Project Development Use Permit, contained in CZO in that the Housing Project will be:

a. a compatible use with existing residential improvements in the Koloa Town area;

b. not detrimental to health of persons residing or working in the neighborhood given similar residential projects exist nearby;

c. not detrimental to safety of persons residing or working in the neighborhood given the existing road corridor will be offset to interior roads;

d. not detrimental to peace of persons residing or working in the neighborhood given other multi-family dwelling unit projects are nearby;

e. not detrimental to morals of persons residing or working in the neighborhood given the use is consistent with other residential uses in the area;

f. not detrimental to comfort and general welfare of persons residing or working in the neighborhood given the consistency of existing residential projects nearby;

g. not detrimental or injurious to property or improvements in the neighborhood given the residential use is consistent with immediate neighbors;

h. not detrimental to the general welfare of the community given the use is consistent to other residential uses;

i. not a cause of substantial harmful environmental consequences to the Subject Property, or to other lands or waters given the Housing Project is adjacent to existing infrastructure;

j. not inconsistent with the intent of Chapter 8, KCC; and

k. not inconsistent with the General Plan, given the need for supporting infill development and the need for missing middle form of housing in Sector II. Housing of the General Plan.

10.6 Compliance with Project Development Use Permit Standards. The Applicants have complied with the procedural provisions contained in CZO Section 8-10.4 as follows:

a. The Housing Project is in conformance with County standard requirements for projects associated the R-6 zoning districts and Transects T3VN.1 and T3VE in the South Kauai Form Based Code just north along Weliweli Road at the Koloa Village Residential Project, and are further consistent with design and siting of structures to nearby housing projects; thus, creating continuity in design as envisioned in the South Kauai Form Based Code.

b. The Project meets the standards applicable to Use Permits and will be start construction within one (1) year of approval.

c. The Project complies with the General Plan and provides opportunities for residential gap housing.

d. The Project is a gap housing project and will be available to persons of middle income.

e. The Project is consistent with adjacent residential uses and is a compatible project to surrounding residential structures.

REVISED SECTION 13. COMMUNITY CONTACTS.

13.1 Contact with Community Groups. The Applicant conducted community research and interviews associated with the Ka Pa'akai Analysis. In addition, the Applicant has committed to hosting a meeting with the Koloa Community Association to hear additional concerns of the Housing Project as a follow up to the Planning Commission Meeting.

REVISED SECTION 14. CONCLUSION.

The request for the Housing Project proposed by the Applicant is found to be appropriate deviations from the South Kauai Form Based Code.

The Applicant respectfully requests that the Planning Commission of the County of Kauai grant the Application based on the following:

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

2. Find that the Housing Project is consistent with the objectives, policies, and guidelines set forth in Hawaii Revised Statutes Chapter 205A.

3. Find that the Project is consistent with permitted uses in the SLUC Urban District, the Kauai General Plan, the South Kauai Community Plan, the CZO, Chapter 10 of the KCC, and the South Kauai Form Based Code.

4. Approve the issuance of the Project Development Use Permit and Class IV Zoning Permit for the Housing Project on the Property as described herein, subject to such reasonable conditions as the Planning Commission shall impose.

DATED: Lihue, Kauai, Hawaii, 2/17/2026.

BELLES GRAHAM LLP

By _____
IAN K. JUNG
Attorneys for Applicant
SK INVESTORS LLC,
a Hawaii limited liability company

EXHIBIT LIST

(APPLICATION)

EXHIBIT

E. REVISED PLANS

Revised Plan Set .....E

SOUTH KOLOA TOWN MULTIFAMILIES

09/24/2025
REVISED 02/13/2026

EXHIBIT "E"

lowney arch

REVISED 02/13/2026

T3VN.1 | BUILDING PLACEMENT

South Kaua'i Form-Based Code page 2.2-10

SETBACK:

Front	20' min./40' max
Side Street	15' min.
Side	
Main Building	10' min.
Accessory Building	10' min.
Rear	15' min.

T3VE | BUILDING PLACEMENT

South Kaua'i Form-Based Code page 2.2-4

SETBACK:

Front	25' min.
Side Street	25' min.
Side	
Main Building	20' min.
Accessory Building	10' min.
Rear	20' min.

lowney arch

0 80' 160' 320'

SCALE: 1" = 160'-0"

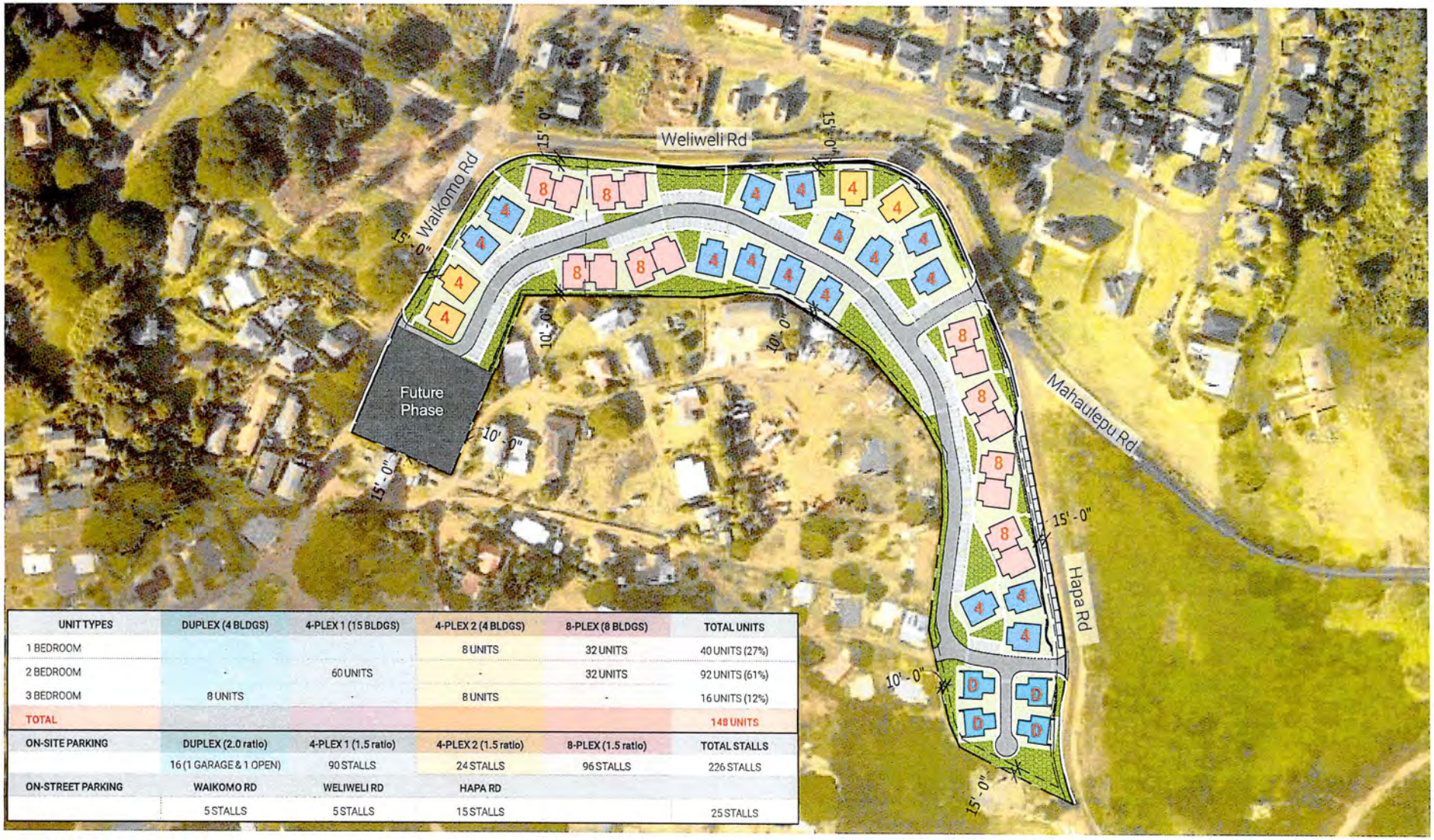
N

EXISTING SITE PLAN

South Koloa Town Multifamilies - 09.24.2025

REVISED 02/13/2026

A2



UNIT TYPES	DUPLEX (4 BLDGS)	4-PLEX 1 (15 BLDGS)	4-PLEX 2 (4 BLDGS)	8-PLEX (8 BLDGS)	TOTAL UNITS
1 BEDROOM			8 UNITS	32 UNITS	40 UNITS (27%)
2 BEDROOM	-	60 UNITS	-	32 UNITS	92 UNITS (61%)
3 BEDROOM	8 UNITS	-	8 UNITS	-	16 UNITS (12%)
TOTAL					148 UNITS
ON-SITE PARKING	DUPLEX (2.0 ratio)	4-PLEX 1 (1.5 ratio)	4-PLEX 2 (1.5 ratio)	8-PLEX (1.5 ratio)	TOTAL STALLS
	16 (1 GARAGE & 1 OPEN)	90 STALLS	24 STALLS	96 STALLS	226 STALLS
ON-STREET PARKING	WAIKOMO RD	WELIWELI RD	HAPA RD		
	5 STALLS	5 STALLS	15 STALLS		25 STALLS

lowney arch

0 80' 160' 320'
SCALE: 1" = 160'-0"

N

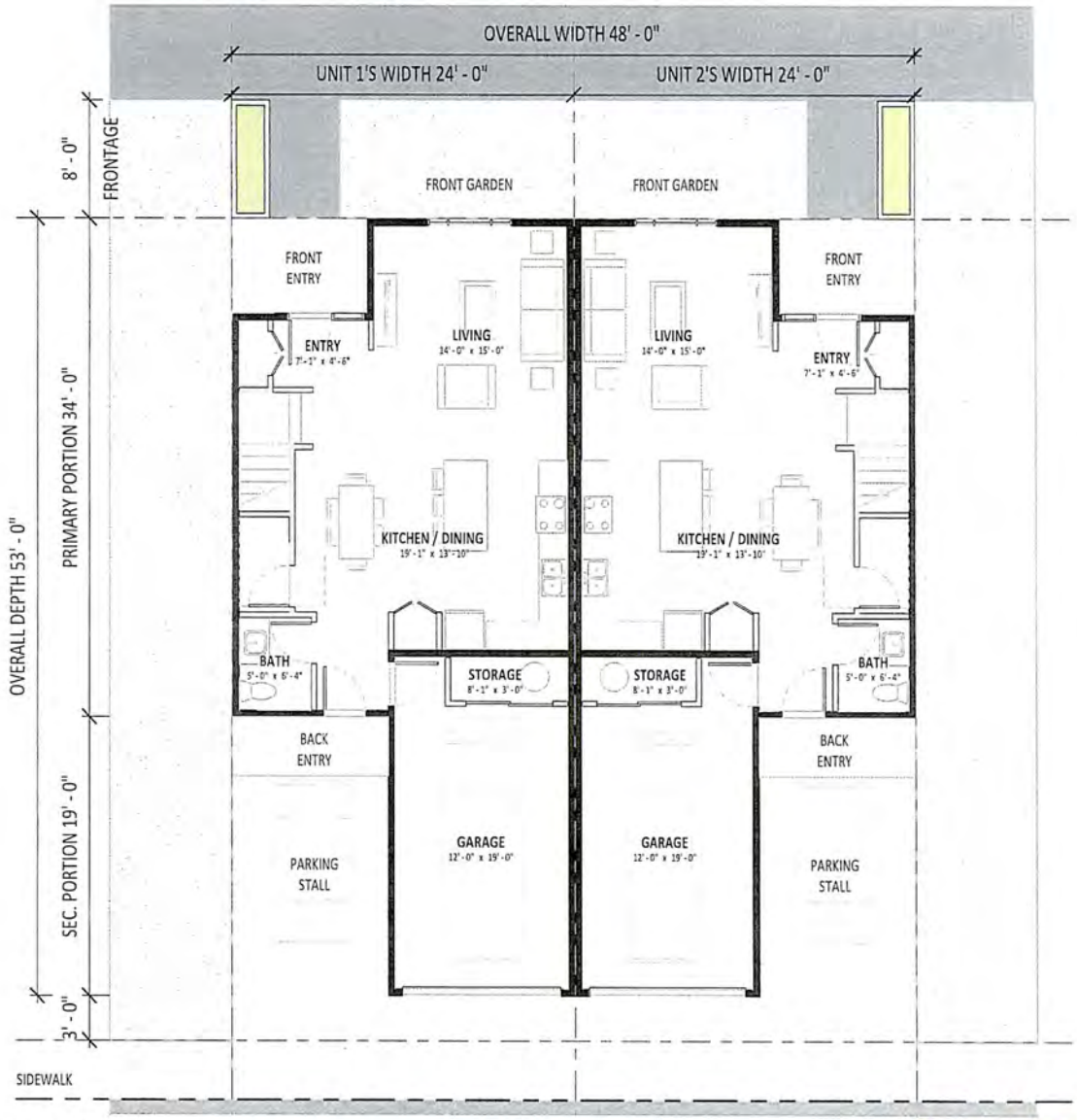
PROPOSED SITE PLAN
South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A3

BUILDING TYPE 1
DUPLEX

BUILDING TYPE 2
FOURPLEX 1 & 2

BUILDING TYPE 3
EIGHTPLEX



DUPLEX | 1,814 SF

LEVEL 1	
GARAGE	282 SF
INTERIOR	646 SF
	929 SF
LEVEL 2	
INTERIOR 3 BR	891 SF
LANAI	62 SF
	953 SF

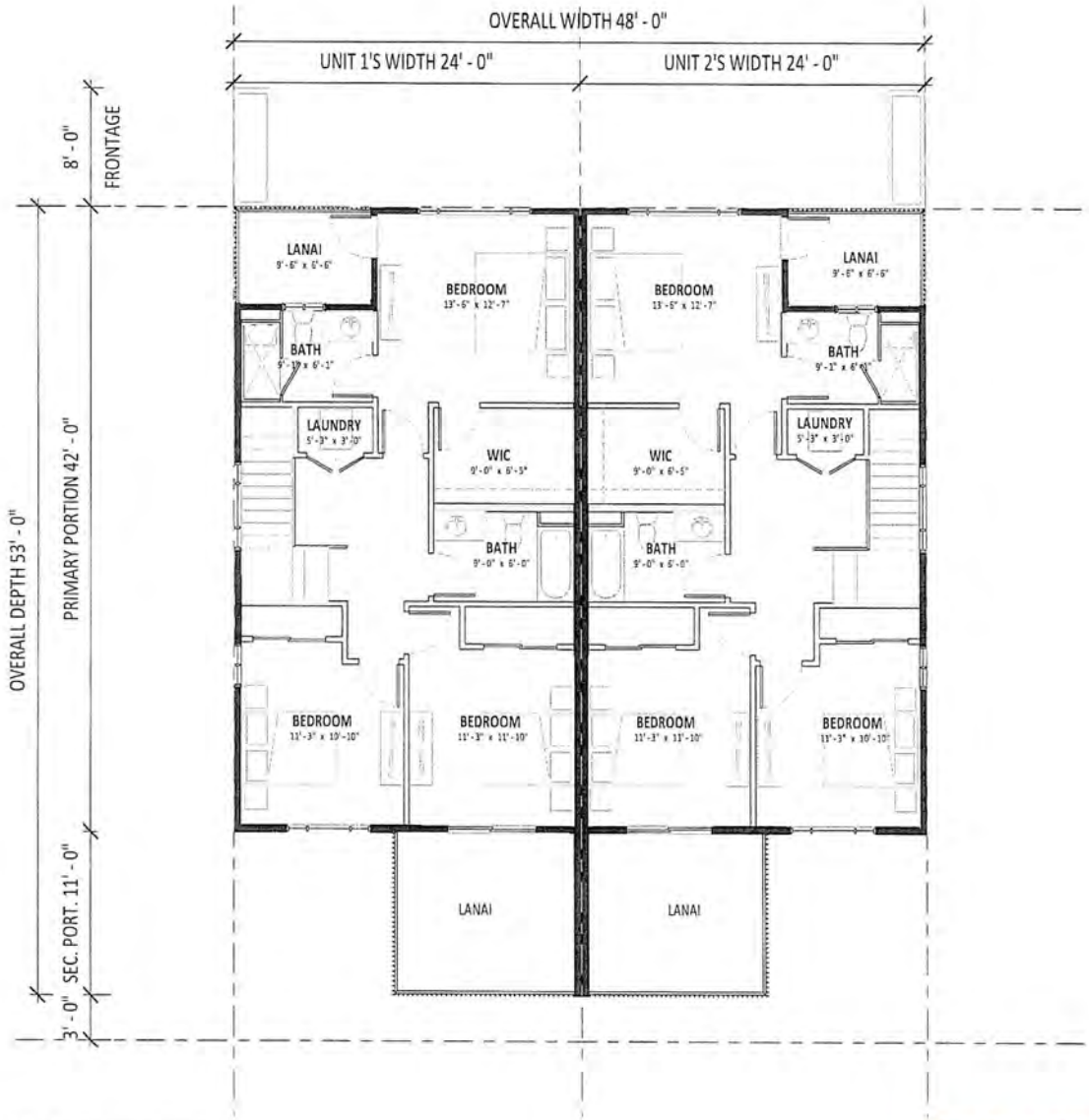
lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **DUPLEX** - ground level

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A5



DUPLEX | 1,814 SF

LEVEL 1	
GARAGE	282 SF
INTERIOR	646 SF
	929 SF
LEVEL 2	
INTERIOR 3 BR	891 SF
LANAI	62 SF
	953 SF

lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **DUPLEX** - upper level

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A6

lowney arch

BUILDING TYPE | **DUPLEX** - elevations

South Koloa Town Multifamilies - 09.24.2025

REVISED 02/13/2026

A7

FOUR-PLEX 1 | 1,029 SF

LEVEL 1	
INTERIOR 2 BR	929 SF
LANAI	104 SF
	1,033 SF
LEVEL 2	
INTERIOR 2 BR	1,029 SF
LANAI	104 SF
	1,133 SF

lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **FOURPLEX 1** - ground level

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A8

FOUR-PLEX 1 | 1,029 SF

LEVEL 1	
INTERIOR 2 BR	929 SF
LANAI	104 SF
	1,033 SF
LEVEL 2	
INTERIOR 2 BR	1,029 SF
LANAI	104 SF
	1,133 SF

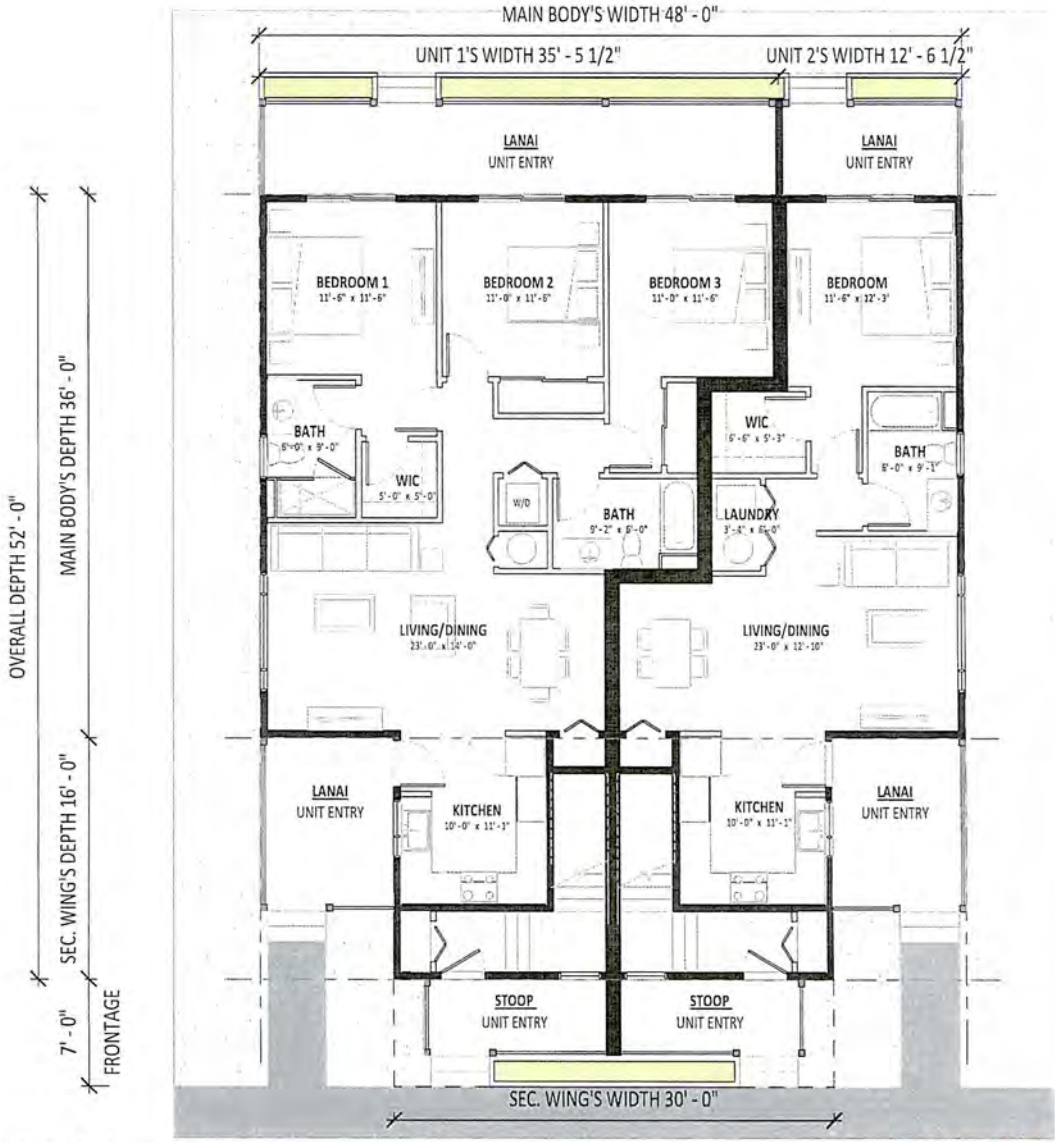
lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **FOURPLEX 1** - upper level

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A9



FOUR-PLEX 2 | 2,048 SF
1 BR | 806 SF
3 BR | 1,242 SF

LEVEL 1	
INTERIOR 1 BR	729 SF
INTERIOR 3 BR	1,167 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,103 SF
LEVEL 2	
INTERIOR 1 BR	806 SF
INTERIOR 3 BR	1,242 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,255 SF

lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **FOURPLEX 2** - ground level

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A10

FOUR-PLEX 2 | 2,048 SF
1 BR | 806 SF
3 BR | 1,242 SF

LEVEL 1	
INTERIOR 1 BR	729 SF
INTERIOR 3 BR	1,167 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,103 SF
LEVEL 2	
INTERIOR 1 BR	806 SF
INTERIOR 3 BR	1,242 SF
LANAI 1 BR	104 SF
LANAI 3 BR	104 SF
	2,255 SF

lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **FOURPLEX 2**- upper level
South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

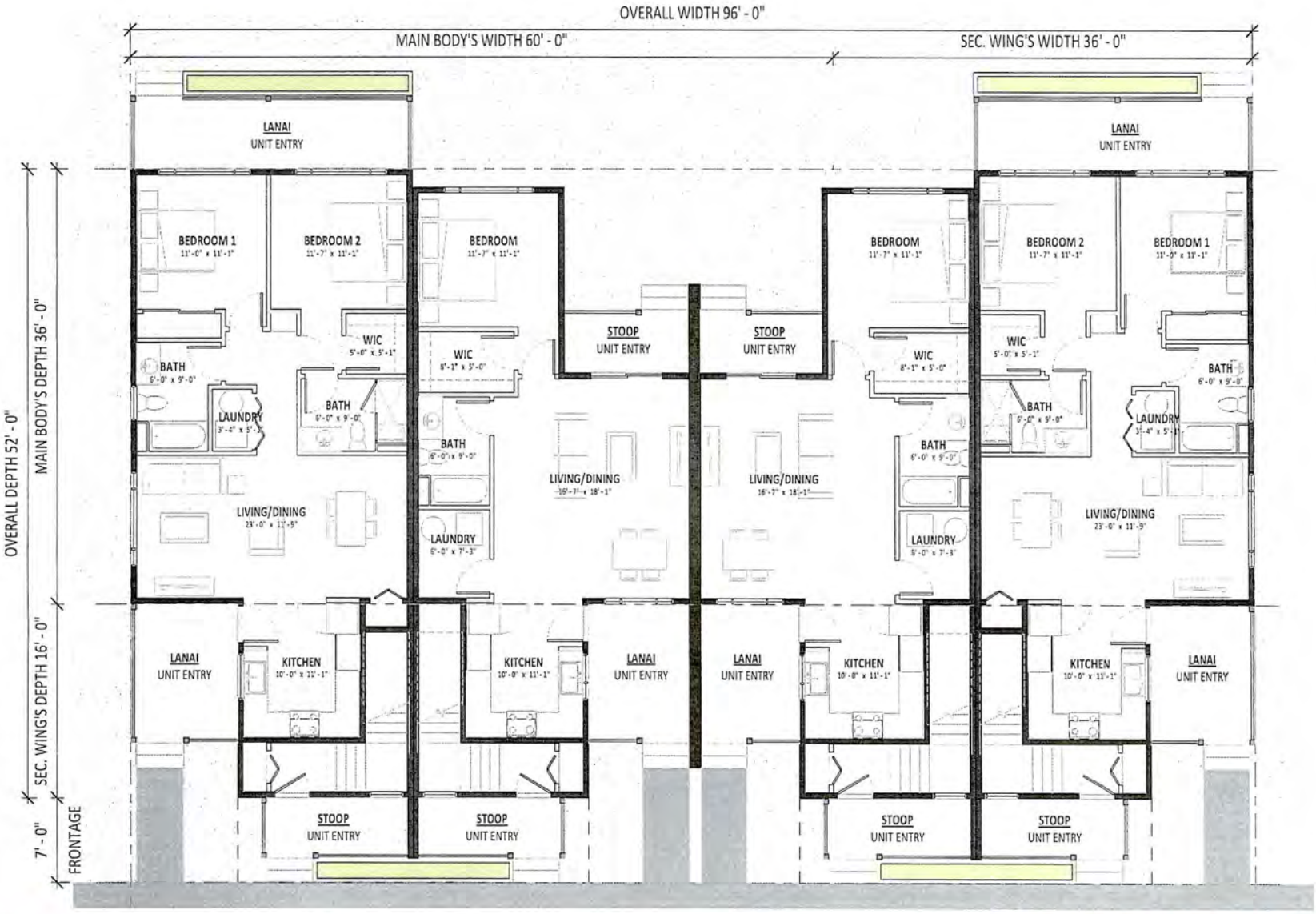
A11

lowney
arch

BUILDING TYPE | **FOURPLEX 1 & 2** - elevations

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A12



EIGHT-PLEX | 1,853 SF
1 BR | 824 SF
2 BR | 1,029 SF

LEVEL 1	
INTERIOR 1 BR	716 SF
INTERIOR 2 BR	929 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	1,847 SF
LEVEL 2	
INTERIOR 1 BR	824 SF
INTERIOR 2 BR	1,029 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	2,055 SF

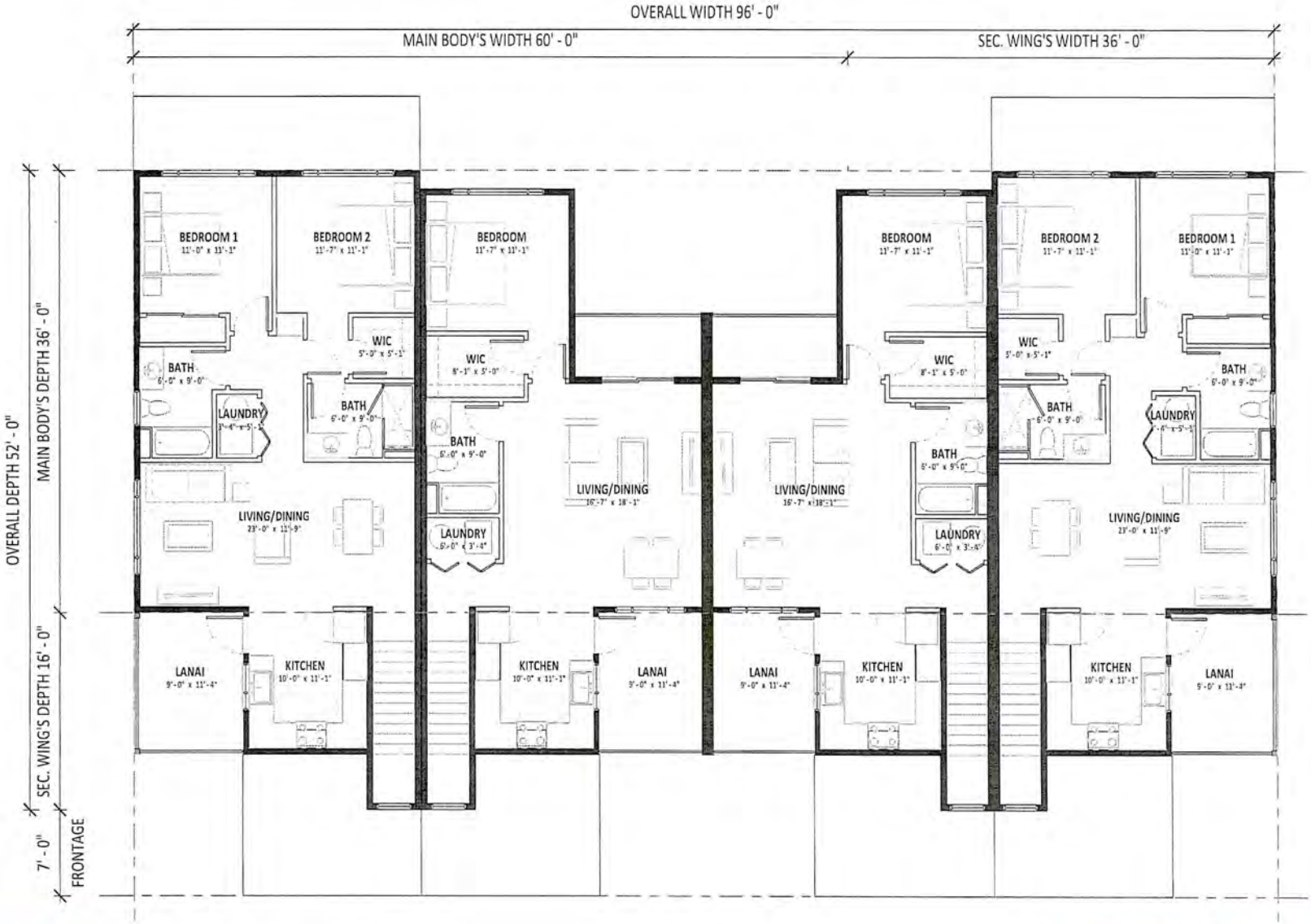
lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **EIGHTPLEX** - ground level

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A13



EIGHT-PLEX | 1,853 SF
1 BR | 824 SF
2 BR | 1,029 SF

LEVEL 1	
INTERIOR 1 BR	716 SF
INTERIOR 2 BR	929 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	1,847 SF
LEVEL 2	
INTERIOR 1 BR	824 SF
INTERIOR 2 BR	1,029 SF
LANAI 1 BR	98 SF
LANAI 2 BR	104 SF
	2,055 SF

lowney arch

0 4' 8' 16'
SCALE: 1/8" = 1'-0"

BUILDING TYPE | **EIGHTPLEX**- upper level

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A14

lowney
arch

BUILDING TYPE | **EIGHTPLEX** - elevations

South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A15

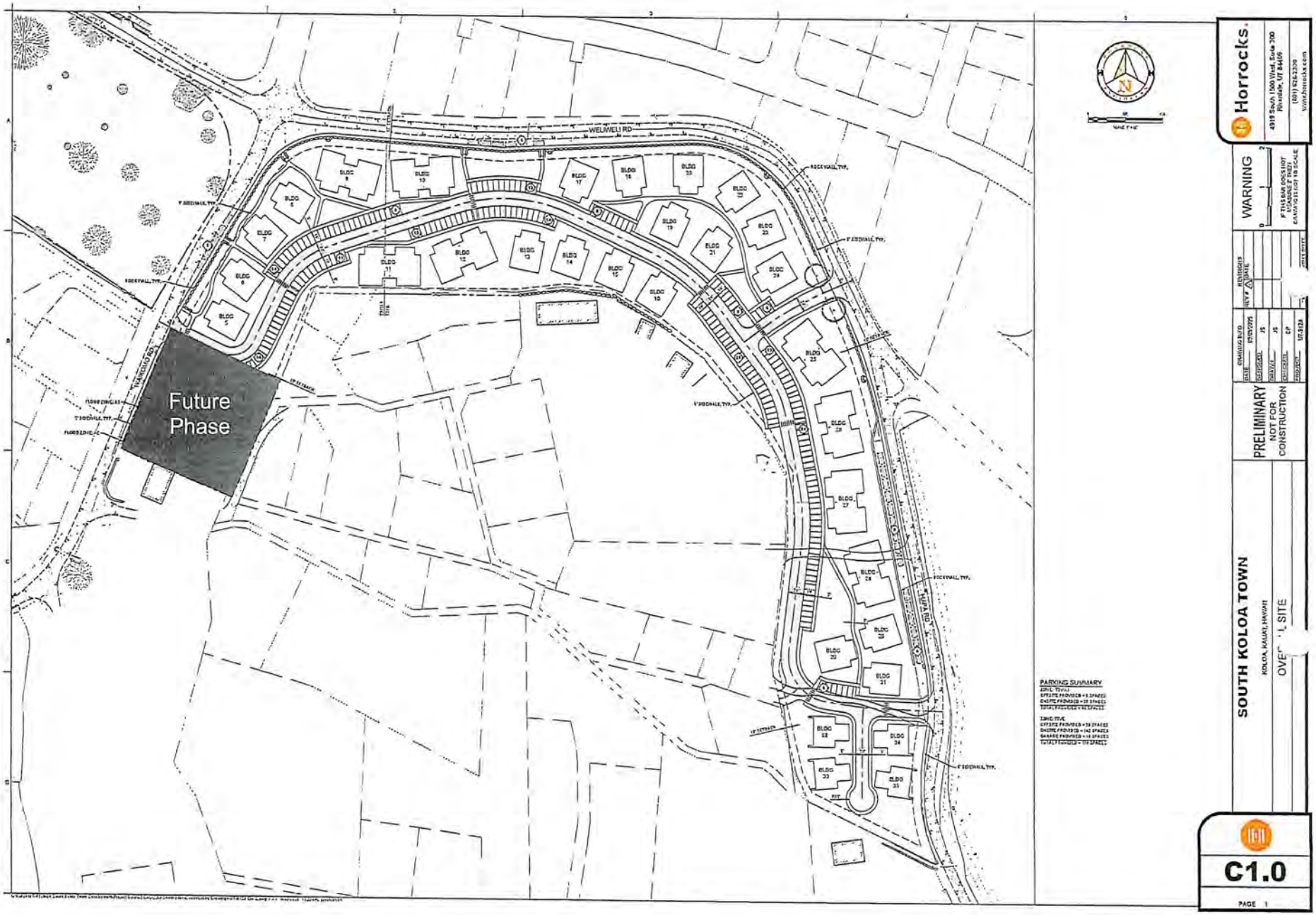
lowney arch

0 80' 160' 320'
SCALE: 1" = 160'-0"

N

OVERALL SITE PLAN
South Koloa Town Multifamilies - 09.24.2025
REVISED 02/13/2026

A16



REVISED 02/13/2026

SOUTH KOLOA TOWN

KOLOA, KAUAI, HAWAII

OVERALL GRADING & DRAINAGE

PRELIMINARY
NOT FOR CONSTRUCTION

DRAWING INFO	
DATE	01/05/2025
DESIGNED	JS
DRAWN	JS
CHECKED	EP
PROJECT	UT-9128

REVISIONS

REV #	DATE

WARNING

0 1 2

IF THIS BAR DOES NOT MEASURE 2" THEN DRAWING IS NOT TO SCALE

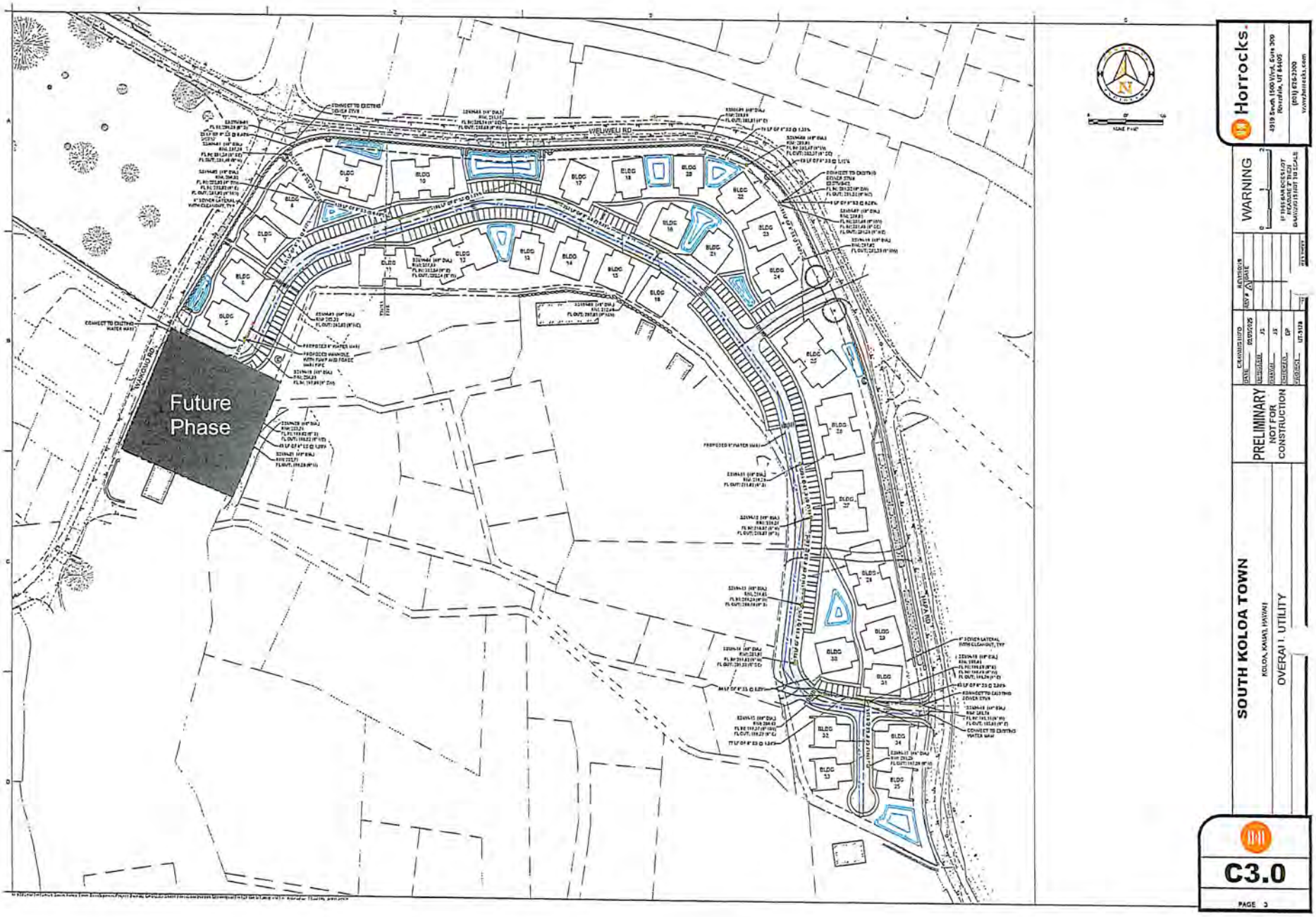
Horrocks.

4919 South 1500 West, Suite 300
Riverdale, UT 84405
(801) 626-2300
www.horrocks.com

C2.0

PAGE 2

REVISED 02/13/2026



REVISED 02/13/2026

DEPARTMENT OF PLANNING
KA'ĀINA HULL, DIRECTOR
JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

SUPPLEMENT #1 TO THE PLANNING DIRECTOR'S REPORT

DATE: **FEBRUARY 18, 2026**
PERMIT NUMBER(S): **Z-IV-2026-9; PDU-2026-7**
APPLICANT(S): **SK INVESTORS LLC.**

I. SUMMARY AND BACKGROUND:

At its January 13, 2026 meeting, the Planning Commission voted to defer the subject application due to concerns raised by community members regarding the number of proposed residential units. During the meeting, the applicant agreed to work with the community to hold an additional meeting with the community in Kōloa Town.

II. EVALUATION:

The applicant is conducting a community meeting in Kōloa Town on February 18th, 2026. The applicant has also submitted a supplemental proposal. They are proposing to remove four (4) 4-plexes, for a total of sixteen (16) residential units. The original application proposed a total of one hundred and sixty-four (164) units. This reduction will bring the proposed project to a total of one hundred and forty-eight (148) units.

The revision responds to concerns raised by the community members regarding the originally proposed amount of residential units.

III. CONCLUSION:

Based on the additional information submitted, the revised proposal is still compatible with the South Kaua'i Community Plan.

IV. PRELIMINARY RECOMMENDATION:

Based on the foregoing evaluation and conclusion, it is hereby recommended Class IV Zoning Permit Z-IV-2026-9 and Project Development Use Permit PDU-2026-7, be **approved** subject to the following conditions as amended:

1. The project shall be constructed as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.

2. The Applicant shall consolidate all of the lots involved with the project prior to occupancy of the completed buildings along Hapa Road.

K.I.H.
FEB 24 2026

3. The applicant shall incorporate Wildfire Wildland Urban Interface (WUI) Construction Standards attached as Exhibit A into the development and construction of all structures on the subject property.

4. The applicant shall incorporate WUI Structure Maintenance and Defensible Space Standards as defined by the attached Exhibit B into the Covenants, Conditions, and Restrictions (CC&Rs) for the subject property. A Homeowners Association (HOA) shall be established that implements the requirements and standards of Exhibit B. Should these standards not be implemented, the HOA shall be subject to the Enforcement, Legal Procedures, and Penalties established under Section 8-3.5 of the Kauai County Code.

5. The applicant shall coordinate an annual inspection of the site by the Planning Department and Fire Department to ensure compliance with Condition 2 and 3 concerning WUI Construction Standards and WUI Structure Maintenance and Defensible Space Standards.

The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirements for the County DPW-Engineering Division, water requirements for the County Department of Water, and regulations involving environmental concerns as administered by the State Department of Health.

6. The Applicant shall develop and utilize Best Management Practices (BMP's) to ensure that the development does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.

7. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low-energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.

8. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, if external lighting is to be used in connection with the proposed project, all external lighting shall be only of the following type: downward-facing, shielded lights. Spotlights aimed upward or spotlighting of structures shall be prohibited.

9. To the extent possible within the confines of union requirements and applicable legal prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua'i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua'i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kaua'i residents for particular skilled jobs where no qualified Kaua'i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the

Applicant of this requirement if the Applicant is subjected to anti- competitive restraints on trade or other monopolistic practices.

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 to determine mitigation measures.
The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).

1. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.

By _____
KRISTEN N. ROMUAR-CABICO
Planner

Approved & Recommended to Commission:

By _____
KA'ĀINA S. HULL
Director of Planning

Date: 2/18/2026