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GOVERNOR OF HAWAII



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OFFICE OF ENVIRONMENTAL  
QUALITY CONTROL

06 DEC 22 P2:51

File No: CDUA HA-3377

RECEIVED  
DEC 20 2006

ref: OCCL: MC

MEMORANDUM

**TO:** Genevieve Salmonson, Director  
Office of Environmental Quality Control

**FROM:** Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

*RV* *Dawn Heqqa*

**SUBJECT:** Final Environmental Assessment /Finding of No Significant Impact (FONSI) for Conservation District Use Application (CDUA) HA-3377

The Department has reviewed the Durst Family's CDUA HA-3377, and Final Environmental Assessment (FEA) for a single family residence in Kahauloa, South Kona District, Hawai'i, TMK (3) 8-3-05:06. The Draft Environmental Assessment (DEA) for this CDUA was published in OEQC's October 8, 2006 *Environmental Notice* for the subject project.

The FEA is being submitted to OEQC. We have determined that this project will not have significant environmental effects, and have therefore issued a FONSI. The FONSI does not constitute approval of the CDUA; authority to grant or deny the final permit lies with the Board of Land and Natural Resources.

Please publish this notice in OEQC's upcoming January 8, 2007 *Environmental Notice*. We have enclosed four copies of the FEA for the project. Comments on the draft EA were sought from relevant agencies and the public, and were included in the FEA.

Please contact Michael Cain of our Office of Conservation and Coastal Lands staff at 587-0380 if you have any questions on this matter.

cc: Ron Terry, Planner, Geometrician Associates, PO Box 396, Hilo HI 96721

2007-01-08 - OA - FEA - DURST SF DWELLING AND ~~CONSERVATION~~  
ASSOC. IMPROV IN THE CONSERVATION DIST

JAN - 8 2007

**FINAL ENVIRONMENTAL ASSESSMENT  
DURST SINGLE FAMILY DWELLING AND  
ASSOCIATED IMPROVEMENTS IN THE  
CONSERVATION DISTRICT**

**December 2006**

TMK (3rd): 8-3-05:06  
Kahauloa, South Kona District, Island of Hawai'i, State of Hawai'i

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

2006 DEC 18 A 10:29

DEPARTMENT OF LAND &  
NATURAL RESOURCES  
SPECIAL LANDS

**APPLICANT:**

Peter Durst  
5455 S. Newport Circle  
Englewood CO 80111

**ACCEPTING  
AUTHORITY:**

Hawai'i State Department of Land and Natural Resources  
Land Division  
P.O. Box 621  
Honolulu, Hawai'i 96809

**CONSULTANT:**

Ron Terry Ph.D.  
HC 2 Box 9575  
Keaau, Hawai'i 96749

**CLASS OF ACTION:**

Action in Conservation District  
Action in Historic District

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII  
QUALITY CONTROL

06 DEC 22 P 2:51

RECEIVED

**FINAL ENVIRONMENTAL ASSESSMENT  
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Keaau, Hawai'i 96749

**CLASS OF ACTION:**

Action in Conservation District  
Action in Historic District

This document is prepared pursuant to:  
The Hawai'i Environmental Protection Act,  
Chapter 343, Hawai'i Revised Statutes (HRS), and  
Title 11, Chapter 200, Hawai'i Department of Health Administrative Rules (HAR).

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## SUMMARY OF PROJECT, ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

### Project Summary

The project consists of construction of a single-family home on a shoreline, 0.66-acre property in Keawaiki Beach Lots, about 0.75 miles south of the Napo'opo'o Boat Ramp. The lot is surrounded by single-family homes on three sides. The proposed one-story home will be 3,500 square feet, including the house, guest wing, carport storage, plunge pool and a landscaped water feature. The house will have three bedrooms and three baths, and will be set back a minimum of 40 feet from the shoreline. A driveway and various at-grade decks, lanais and landscape features will also be built, along with an Individual Wastewater System in compliance with State Department of Health regulations. Sustainable design includes maximizing natural light and ventilation and retaining existing trees for shade. A home was built on the site under a 1968 CDUA. In November 2000, an Environmental Assessment was prepared for the demolition of this house and the building of another single-family residence, and the Department of Land and Natural Resources issued a FONSI determination. The 1968 home was demolished, but the owner became ill and the new house was never built, and the property was sold to the current owner.

### Short Term Impacts

*Construction Impacts:* Land clearing and construction activities will produce minor short-term impacts to noise, air quality, access and scenery. In order to ensure that construction-related damage is avoided or minimized, Best Management Practices to reduce erosion, sedimentation, dust, chemical water pollution, and noise mitigation measures are proposed as conditions to the Conservation District Use Permit.

### Long Term Impacts

In general, no sensitive biological, hydrological, archaeological, cultural or other important resources are present in the area to be affected, and no adverse long-term impacts are expected to result from the project. The following mitigation measure is proposed as a condition to the Conservation District Use Permit:

*If any previously unidentified sites, or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered, work will stop immediately and SHPD will be consulted to determine the appropriate mitigation. Care will be taken during ground preparation to ensure that, in the unlikely event that human burials are present, they are recognized and dealt with appropriately.*

**PART 1: PROJECT DESCRIPTION**

**1.1 Project Description and Location**

Mr. Peter Durst proposes to construct a single-family home on his 0.66-acre shoreline property, which is located in Keawaiki Beach Lots about 0.75 miles south of the Napo'opo'o Boat Ramp (Figs. 1-4). The lot is surrounded by single-family homes on three sides. The proposed one-story home will be 3,500 square feet, including the house, guest wing, carport storage, plunge pool and a landscaped water feature (Fig. 4). The house will have three bedrooms and three baths, and will be set back a minimum of 40 feet from the shoreline. An Individual Wastewater System in compliance with State Department of Health regulations will be built. Other features include a driveway, an at-grade covered lanai and open decks, various walkways, and small fenced gardens. No modifications within the shoreline setback area are planned. The lot, which now contains various ornamental shrubs and trees, will be partially re-landscaped. All funding is private (no public funds are involved), and the home would be built as soon as permits were obtained.

A number of sustainable building techniques have been included in the design of the home and grounds:

Pre-design. Wastewater engineers and structural engineers were consulted to review the initial design concepts to provide input for design of the residential location.

Site Selection & Site Design. The house is located near the sea, which provides better exposure to daily breeze for cross ventilation. The goal of the house plan is to provide as much mauka-makai cross ventilation as possible. The roof overhangs and lanais on the west side protect interior space from afternoon heat load. Where possible, landscaping is provided on the west side for afternoon sun protection. The south exposure is protected by existing mature trees, which are being retained to provide shade.

The house pad's relation to existing grade was determined by providing a balance of cut and fill as well as maintaining the existing drainage pattern from south mauka corner to north makai corner of the lot.

Building Design. The structural design goal is to provide spaces without interior structural walls as much as possible to leave open the possibility of interior design changes over the life of the building, but this also assists in efficient ventilation.

The house is designed for natural cooling with high windows to assist in the convection

movement of air out of the house. House orientation and window placement take advantage of cross ventilation and tree locations to assist in house cooling. Fans will be located in all living areas. If budget allows, Termi-mesh and Sentricon will be used for long-term termite protection.

The original house, now demolished, was built in 1968 under a Conservation District Use Permit, prior to the establishment of Hawai'i EIS law. The proposed project site was the subject of a previous Environmental Assessment dated November 8, 2000, also for a single-family residence. A FONSI determination was issued by the Department of Land and Natural Resources, but the house was never built due to a serious illness of the owner and the property was sold to the current owner. Some of the research performed for the prior EA is discussed and utilized here.

## **1.2 Summary of Environmental Assessment Process**

This Environmental Assessment (EA) process was conducted in accordance with Chapter 343 of the Hawai'i Revised Statutes (HRS). This law, along with its implementing regulations, Title 11, Chapter 200, of the Hawai'i Administrative Rules (HAR), is the basis for the environmental impact process in the State of Hawai'i. *An EA is necessary because the site is within the Conservation District Use Area and within the Kealahou Bay Historic District and the Department of Land and Natural Resources does not consider the project an exempt activity.*

According to Chapter 343, an EA is prepared to determine impacts associated with an action, to develop mitigation measures for adverse impacts, and to determine whether any of the impacts are significant according to thirteen specific criteria. If the EA concludes that no significant impacts would occur from implementation of the proposed action, a Finding of No Significant Impact (FONSI) will be prepared and an action will be permitted to occur. If the EA finds that significant impacts are expected to occur as a result of a proposed action, then an Environmental Impact Statement (EIS) is prepared in order to allow wider investigation of impacts and public involvement.

Section 2 considers alternatives to the proposed project, and Section 3 discusses the existing environment and impacts associated with this project. Section 4 discusses the determination (anticipated determination in the Draft EA), and Section 5 lists the criteria and the findings made by the applicant in consultation with the Hawai'i State Department of Land and Natural Resources for this project.

### 1.3 Public Involvement and Agency Coordination

The following agencies, organizations and individuals have been consulted during the Environmental Assessment Process:

County:

Planning Department  
Hawai'i County Council  
Department of Water Supply

State:

Department of Land and Natural Resources, Aquatic Resources Division  
Department of Land and Natural Resources, Na Ala Hele Program  
Department of Land and Natural Resources, Historic Preservation Division  
Office of Hawaiian Affairs, West Hawai'i Office

Private:

Kona Hawaiian Civic Club  
Kona Outdoor Circle  
Sierra Club

Copies of communications received during preconsultation are contained in Appendix 1A.

Appendix 1B contains written comments on the Draft EA and the responses to these comments. Various places in the EA have been modified to reflect input received in the comment letters; additional or modified non-procedural text is denoted by double underlines, as in this paragraph.

**PART 2: ALTERNATIVES**

**2.1 Proposed Project**

The proposed project is described in Section 1.1 above and illustrated in Figures 1-4.

**2.2 No Action**

Under the No Action Alternative, the single-family residence and related improvements would not be built. This EA considers the No Action Alternative as the baseline by which to compare environmental effects from the project. No other alternatives uses for the property are desired by Mr. Durst or are addressed in this EA.

**PART 3: ENVIRONMENTAL SETTING, IMPACTS AND MITIGATION**

**3.1 Basic Geographic Setting**

The 0.66-acre lot is a level rectangle bordering the shoreline and surrounded by homes on three sides (Figs. 1-3). The building site lies a minimum of 40 feet mauka of a low shoreline cliff, approximately 20 to 24 feet above sea level, well outside the coastal floodplain. The entire lot has been graded, and for most of the last three decades has held a single-family home, which was recently demolished. The graded lot now supports the maintained remnants of the former home's landscaping. The surface geology consists of lava flows from Mauna Loa erupted approximately 750 years ago (Wolfe and Morris 1996). Soil is minimal and the soil type here is classified as "lava 'a'a flows", with virtually no soil. The ground is highly permeable, and runoff and soil erosion hazard are minimal. (U.S. Soil Conservation Service 1973). Annual rainfall averages approximately 40 inches (U.H. Hilo-Geography 1998:57).

**3.2 Physical Environment**

**3.2.1 Drainage, Flooding and Hazards**

*Environmental Setting*

The project site is designated "X", defined as areas outside the 500 year flood plain, on the Flood Insurance Rate maps (FIRM). Maps printed by the Hawai'i County Civil Defense Agency locate the parcel in the area that should be evacuated during a tsunami warning.

The entire Big Island is subject to geologic hazards, especially lava flows and earthquakes. The project site is located in Lava Flow Hazard Zone 3 (on a scale of ascending risk 9 to 1). Zone 3 consists of areas on both sides of the northeast and southwest rift zones of Mauna Loa (Heliker 1990). About 15-20 percent of Zone 3 areas have been covered by lava flows in the last 750 years. The nearest recent lava flow is the northern branch of the 1950 lava flow, about 7 miles south. As such, there is some risk of lava inundation over relatively short time scales.

In terms of seismic risk, the entire Island of Hawai'i is rated Zone 4 Seismic Probability Rating (Uniform Building Code, Appendix Chapter 25, Section 2518). Zone 4 areas are at risk from major earthquake damage, especially to structures that are poorly designed or built.

In response to concerns expressed in a letter from the Planning Department (see App. 1B) about coastal erosion related to a feature on the property commonly called a "blow-hole", geologist John P. Lockwood, Ph.D., visited the site and provided a professional assessment of the potential for coastal erosion on the property. The response to the Planning Department's letter, also included in Appendix 1B, contains the letter report from Dr. Lockwood. The basic conclusion was that the feature locally called a blow-hole would be more properly termed a surge-hole, because it lacks the compressed air that endows blow-holes with extra erosive power. The feature shows no signs of erosive expansion, and there is little risk to the home in its planned location.

#### *Impacts and Mitigation Measures*

In general, geologic and drainage conditions impose no substantial constraints on the project. All structures associated with the proposed home would conform to the Uniform Building Code. Although the project is located in an area exposed to a certain amount of hazard from lava flows and earthquake, the project presents no additional hazard to the public. Landowners and residents of high-hazard lava inundation areas have been made aware of the potential and accept the risk when they purchase and/or inhabit such areas.

#### **3.2.2 Flora and Fauna, Wetlands and Threatened and Endangered Species**

##### *Flora and Fauna*

The site was inspected for biological resources in May of 2006 (see Table 1). The area is completely landscaped, and primarily contains individuals of various ornamental species, including coconut (*Cocos nucifera*), Cook pine (*Araucaria columnaris*), plumeria (*Plumeria* spp.), African tulip tree (*Spathodea campanulata*), sea grape (*Coccoloba uvifera*), and umbrella tree (*Schefflera actinophylla*). Several indigenous shoreline species are also present, including 'uhaloa (*Waltheria indica*), naupaka (*Scaevola sericea*), and kou (*Cordia subcordata*); the latter two are part of landscaping. All animals observed and expected on the site were introduced species, including various birds and feral mammals. No listed, candidate or proposed endangered animal or plant species were found or would be expected in the area. In terms of conservation value, no botanical or zoological resources requiring special protection are present. No streams, wetlands, or anchialine ponds are present.

Kealakekua Bay is celebrated for its excellent marine biota, including healthy coral-based ecosystems. Special protection to aquatic resources is provided in the Kealakekua Bay Marine Life Conservation District (MLCD), in which marine organisms and their habitat are protected, while still allowing the public the opportunity to view them in their natural setting. The nearest boundary of the MLCD is located about 500 feet northwest of the

property, at Manini Beach Point (State of Hawai'i Board of Land and Natural Resources 2005).

**Table 1 Plant Species Identified on Durst Property**

Scientific Name	Family	Common Name	Life Form	Status
Allamanda cathartica	Apocynaceae	Yellow allamanda	Vine	A
Araucaria heterophylla	Araucariaceae	Norfolk pine	Tree	A
Boerhavia coccinea	Nyctaginaceae	Boerhavia	Herb	A
Cassia fistula	Fabaceae	Golden shower tree	Tree	A
Catharanthus roseus	Apocynaceae	Madagascar periwinkle	Shrub	A
Chamaecrista nictitans	Fabaceae	Partridge pea	Herb	A
Chamaesyce hirta	Euphorbiaceae	Garden Spurge	Herb	A
Chamaesyce hypericifolia	Euphorbiaceae	Graceful spurge	Herb	A
Clusia rosea	Clusiaceae	Autograph Tree	Tree	A
Coccoloba uvifera	Polygonaceae	Sea Grape	Tree	A
Cocos nucifera	Arecaceae	Coconut	Tree	A
Cordia subcordata	Boraginaceae	Kou	Tree	A
Cryptostegia grandiflora	Asclepiadaceae	India rubber vine	Shrub	A
Eleusine indica	Poaceae	Wire grass	Herb	A
Hibiscus sp.	Malvaceae	Hibiscus	Shrub	A
Hibiscus tiliaceus	Malvaceae	Hau	Tree	I
Leucaena leucocephala	Fabaceae	Haole koa	Tree	A
Lycopersicon esculentum	Solanaceae	Tomato	Shrub	A
Melaleuca quinquenervia	Myrtaceae	Paperbark	Tree	A
Momordica charantia	Cucurbitaceae	Momordica	Vine	A
Passiflora foetida	Passifloraceae	Love-in-a mist	Vine	A
Pithecellobium dulce	Fabaceae	Opiuma	Tree	A
Plumeria sp.	Apocynaceae	Plumeria	Tree	A
Portulaca oleracea	Portulacaceae	Pigweed	Herb	A
Portulaca pilosa	Portulacaceae	*Akulikuli	Herb	A
Rhynchelytrum repens	Poaceae	Natal redtop	Grass	A
Ricinus communis	Euphorbiaceae	Castor Bean	Shrub	A
Russelia equisetiformis	Scrophulariaceae	Coral plant	Shrub	A
Scaevola sericea	Goodeniaceae	Naupaka	Shrub	I
Schefflera actinophylla	Araliaceae	Octopus tree	Tree	A
Senna alata	Fabaceae	Candlebush	Shrub	A
Senna occidentalis	Fabaceae	Coffee senna	Shrub	A
Solanum americanum	Solanaceae	Popolo	Shrub	I
Spathodea campanulata	Bignoniaceae	African Tulip	Tree	A
Terminalia catappa	Combretaceae	False kamani	Tree	A
Waltheria indica	Sterculiaceae	*Uhaloa	Herb	I

Notes: Alien (A) and Indigenous (I)

*Impacts and Mitigation Measures*

Because of the lack of native terrestrial ecosystems and threatened or endangered plant species, no adverse impacts would occur as a result of clearing and improvements. The applicant is planning to preserve many of the trees and shrubs that have been previously planted on the property, and to move some palms that will be displaced by construction. Generally, only a small number of new plants will be utilized as ground cover and visual buffers at the property boundary. The precautions for preventing any effects to water quality during construction listed below in Section 3.2.4 should prevent any adverse impact on aquatic biological resources in Kealakekua Bay.

**3.2.3 Air Quality, Noise and Scenic Resources**

*Environmental Setting*

Air pollution in Kona is mainly derived from volcanic emissions of sulfur dioxide, which convert into particulate sulfate and produce a volcanic haze (vog) that persistently blankets the district. Drier areas experience blowing dust, especially during construction in high wind episodes.

Noise on the site is very low because no substantial roads are located nearby and adjacent land use consists of scattered residences.

The area shares the quality of scenic beauty along with most of the Kona coastline. The Hawai'i County General Plan contains Goals, Policies and Standards intended to preserve areas of natural beauty and scenic vistas from encroachment. The Plan refers to the importance of preserving views of Kealakekua Bay and Palemano Point from various roads and viewpoints. The existing homes in this area do not intrude into these viewplanes (Fig. 5). The Plan also refers to a viewpoint in Kahauloa 2<sup>nd</sup> Ahupua'a, apparently located on either Napo'opo'o Road or the Hawai'i Belt Road, at least 1.5 miles mauka from the project site. Although the area is visible from these roads, no individual homes protrude on the horizon or detract from views of Kealakekua Bay or Palemano Point.

*Impacts and Mitigation Measures*

The project would not affect air quality or noise levels, except for very minor and brief effects during construction. No substantial impact to scenery is expected, because the lot is part of a developed subdivision and will contain a home and landscaping that matches its neighbors. The one-story home will be difficult to see from any roads, scenic lookouts, or other likely public viewpoints. It will not interfere with views of

Kealakekua Bay or Palemano Point or detract in any way from the scenic beauty of the area.

### **3.2.4 Hazardous Substances, Toxic Waste and Hazardous Conditions**

Based on onsite inspection, information on file, and the history of use of the parcel, it appears that the site contains no hazardous or toxic substances and exhibits no other hazardous conditions. In order to ensure that construction-related damage is avoided or minimized, the following will be implemented:

*Mitigation Measure: Construction activities with the potential to produce polluted runoff will be limited to periods of low rainfall; cleared areas will be replanted and irrigated or otherwise stabilized as soon as possible; and construction materials, petroleum products, wastes, debris, and landscaping substances (herbicides, pesticides, and fertilizers) will be prevented from blowing, falling, flowing, washing or leaching into the ocean.*

### **3.3 Socioeconomic and Cultural**

#### **3.3.1 Land Ownership and Land Use, Designations and Controls**

##### *Existing Environment*

The property is owned by Peter Durst, and surrounding land is owned by various private landowners (Fig. 2). The surrounding land use is residential subdivision (i.e., Keawaiki Beach Lots).

The State Land Use District is Conservation, and the Subzone is General. For properties within the Conservation District, there is no County Zoning per se. The Land Use Pattern Allocation Guide Maps identify the area as Open. The site is within the Special Management Area. After granting of a CDUP for a single-family home in 2000, the previous applicant had been issued building permits for a dwelling (2002) and a swimming pool (2003). As designs for these improvements have changed, new permit applications will be submitted.

The shoreline opinion was submitted by Wes Thomas Associates on June 20, 2006, and the shoreline was certified by the Hawai'i State Department of Land and Natural Resources on November 14, 2006 (Appendix 4).

Construction of a single-family home within such designations is permitted if a Conservation District Use Permit and a Special Management Area Use Permit (or exemption) are obtained. This Environmental Assessment is part of the process for

obtaining the permits. The consistency of the project with the regulations and policies of the Conservation District and Special Management Area are discussed in Section 3.7.

### **3.3.2 Socioeconomic Characteristics**

#### *Existing Environment: Social Characteristics and Recreation*

The project site is within the ahupua'a of Kahauloa in the South Kona District of the island of Hawai'i. Although Kona was an important district in pre-Contact Hawai'i, by 1900 it had become a sleepy rural district of scattered coffee farms and cattle ranches, with more traditional fishing villages such as Ke'ei and Napo'opo'o still present on the coast. Many parts of Kona have experienced high rates of growth associated with the booming visitor industry in West Hawai'i. Population has grown rapidly in all of West Hawai'i and particularly in North Kona, where the number of inhabitants increased from 13,748 in 1980 to 22,284 in 1990, 22,284 in 1990 and 28,543 in 2000 (Hawai'i County R&D 2006). South Kona has experienced lower rates of growth, having 5,914 residents in 1980, 7,658 residents in 1990 and 8,859 in 2000 (Ibid).

Kealakekua Bay area is not monitored as a discrete unit in census data, but several hundred homes are present lining Napo'opo'o Road and along the shoreline between Napo'opo'o and Ke'ei. Residents enjoy spectacular views of the coastline, pleasant weather and good ocean conditions for swimming, diving and boating. Land uses include residential, agricultural, and conservation.

Public accesses to the shoreline in the general area include Napo'opo'o County Beach Park, the Napo'opo'o Boat Ramp, and along the shoreline in Ke'ei (see Fig. 1).

Real property tax maps show a trail traversing the mid-section of the Keawaiki Beach Lots (see Fig. 2). Encumbrance No. 5 of the deed document to grantee Peter Durst, from grantor, trustees of the Estate of Bernice Pauahi Bishop, states "rights of others to use the trail shown upon the map attached to Lease No. 12,156 ." According to the tax maps, the trail (which may be named the Keawaiki Trail) passes through the middle of six lots, and does not intersect any public road, right-of-way, shoreline, or other trail. It essentially connects private parcels that have unrelated road accesses. In fact, however, the trail does not exist on the ground, and its theoretical position is instead occupied by several homes and walls. To the applicant's knowledge, no public or private party has ever claimed a need to use the trail.

The Na Ala Hele Program of the Hawai'i State Department of Land and Natural Resources (DLNR) researched the history of the trail and in a letter of July 17, 2000, stated that there was no evidence of this alignment of a trail on any map predating 1892,

and that absent such evidence, ownership of the trail could not be confirmed in favor of the State of Hawai'i. In a July 27, 2000, letter informing applicant Alexander Wilson of the acceptance for processing of the 2000 Conservation District Use Application, Chairman Tim Johns of DLNR noted that portions of the trail encumbrance appear to be abandoned. He advised the applicant to have the prior landowner (i.e., Bishop Estate, now Kamehameha Schools) release the encumbrance letter. In a September 6, 2000, letter informing the applicant of the granting of the Conservation District Use Permit, DLNR noted that the encumbrance on the deed for a trail was a private matter, and DLNR imposed no conditions related to the trail (see App. 3 for copies of all letters).

#### *Impacts and Mitigation Measures*

No adverse socioeconomic impacts are expected to result from the proposed construction of a single-family home on the lot, which has had a home on it for most of the last 38 years and is surrounded by other homes.

### **3.3.3 Cultural Resources**

#### *Introduction*

This section includes primarily information from the previous EA, which in 2000 consulted published materials (Kelly 1983; Handy 1972; Newman 1972) and involved interviews with local residents knowledgeable about the Kahauloa ahupua'a. Also relevant is a later Cultural Impact Assessment conducted as part of an EA for a single-family home proposed in Ke'ei (Rechtman 2003), in the same general environs of Kealakekua Bay. This intent of the analysis in the current EA is to determine whether the property supports any traditional gathering uses, is vital for access to traditional cultural sites, or has other important symbolic associations for native Hawaiians.

A cultural impact assessment should identify cultural resources, practices and beliefs of a particular ethnic group. This implies that the resources, practices, and beliefs are traditional in the sense that they are part of an ethnic group's identity. In the Hawai'i Revised Statutes Chapter 6E, and in the draft Hawai'i Administrative Rules (draft HAR 13'13-275-2) that would govern the State Historic Preservation Division, a definition of Traditional Cultural Property is provided. Traditional cultural property means any historic property associated with the traditional practices and beliefs of an ethnic community or members of that community for more than fifty years. These traditions shall be founded in an ethnic community's history and contribute to maintaining the ethnic community's cultural identity. Traditional associations are those demonstrating a

continuity of practice or belief until the present or those documented in historical source materials, or both.

*Cultural Setting Within Kona*

Over the generations, ancient Hawaiians developed a sophisticated system of land and resources management. By the time 'Umi-a-Liloa rose to rule the island of Hawai'i ca. 1525, the island (moku-puni) was divided into six districts or moku-o-loko. On Hawai'i, the district of Kona is one of the major moku-o-loko. The district of Kona itself extends from the shore across the entire volcanic mountain of Hualalai, and continues to the summit of Mauna Loa, where Kona is joined by the districts of Ka'u, Hilo, and Hamakua.

Kona, like other large districts on Hawai'i, was subdivided into 'okana or kalana (regions of land smaller than the moku-o-loko, yet comprising a number of smaller units of land). The lands of Kahauloa, situated in an area now known as Kona Hema (South Kona), are part of an ancient subregion.

The moku-o-loko and 'okana or kalana were further divided into manageable units of land, and were tended to by the maka'ainana (people of the land). Of all the land divisions, perhaps the most significant management unit was the ahupua'a. Ahupua'a are subdivisions of land that were usually marked by an altar with an image or representation of a pig placed upon it (thus the name ahupua'a or pig altar). In their configuration, the ahupua'a may be compared to wedge-shaped pieces of land that radiate out from the center of the island, extending to the ocean fisheries fronting the land unit. Their boundaries are generally defined by topography and geological features such as pu'u (hills), ridges, gullies, streams, valleys, craters, or areas of a particular vegetation growth.

The ahupua'a were also divided into smaller individual parcels of land (such as the 'ili, ko'ele, mala, and kihapai, etc.), generally oriented in a mauka-makai direction, and often marked by stone alignments. In these smaller land parcels the native tenants tended fields and cultivated crops necessary to sustain their families, and the chiefly communities with which they were associated. As long as sufficient tribute was offered and kapu (restrictions) were observed, the common people living in a given ahupua'a had access to most of the resources from mountain slopes to the ocean. These access rights were almost uniformly tied to residency on a particular land, and earned as a result of taking responsibility for stewardship of the natural environment, and supplying the needs of the ali'i (Kamakau 1961).

Entire ahupua'a or portions of it were generally under the jurisdiction of appointed konohiki or lesser chief-landlords, who answered to an ali'i-'ai-ahupua'a (chief who controlled the ahupua'a resources). The ali'i-'ai-ahupua'a in turn answered to an ali'i 'ai

moku (chief who claimed the abundance of the entire district). Thus, ahupua'a resources supported not only the maka'ainana and 'ohana who lived on the land, but also contributed to the support of the royal community of regional and/or island kingdoms. This form of district subdividing was integral to Hawaiian life and was the product of strictly observed resources management planning. In this system, the land provided fruits and vegetables and some meat in the diet, and the ocean provided a wealth of protein resources. Also, in communities with long-term royal residents (like Kealahou), divisions of labor (with specialists in various occupations on land and in procurement of marine resources) came to be strictly adhered to. Different areas of the ahupua'a were utilized by the people living on the land for diverse types of resource procurement.

Kealahou Bay was an important seaport during the early Historic Period, having been the site of numerous Western visitors, perhaps the most famous of which was Captain James Cook. It was at Kealahou Bay that Cook was welcomed as a Lono incarnate and later killed. The pivotal battle of Moku'ohai, from which Kamehameha emerged victorious and began his unification conquest, was fought in the Kealahou vicinity (Kamakau 1992). At the time of Cook's visit in 1779, six coastal villages were described from north to south around the bay: Ka'awaloa, Kealahou, Waipuna'ula, Kalama, Kahauloa, and Ke'ei. This area is celebrated in traditions and in modern history, which resulted in the creation of the Kealahou Bay Historic District. This district is listed in both the National Register of Historic Places (NRHP) and the Hawai'i Register of Historic Places (HRHP). Four significant aspects were recognized in the 1971 district nomination form: good preservation of prehistoric and early historic material remains; extensive documentation of local prehistoric culture by the earliest Western visitors; continuity of cultural tradition through time; and occurrence of significant cultural and historical events.

Culturally significant places within the district include the heiau of Puhina o Lono, Kamaiko, and Hikiau, the Moku'ohai battlefield and burial location, Pali Kapu o Keoua, Pali o Maunahi, and several former indigenous villages. None of these sites happen to be near the subject property.

#### *Kahauloa 2<sup>nd</sup> Ahupua'a and Environs*

Kahauloa is located near the southern end of Kealahou Bay. Kahauloa 2<sup>nd</sup> ahupua'a is bordered by the Ke'ei 1<sup>st</sup> on the south, and Kahauloa 1<sup>st</sup> to the north. Kahauloa 2<sup>nd</sup> extends up the slopes of Mauna Loa to about 5200 feet elevation, where it meets the lands of Keauhou 2<sup>nd</sup>.

The shoreline fronting Kahauloa, as in all Hawaiian ahupua'a, was integral to life upon the land. Some resources related to physically sustaining activities such as fishing and

gathering; others were tied to beliefs that manifested the essential kinship Hawaiians had with their environment, such as areas sacred to aumakua or deities. On the kula kahakai or shoreward flats were found potable water sources (caves, wells and springs), several village clusters and many residents, groves of coconut trees, and lowland agricultural fields.

Traditional land use in the Napo'opo'o to Ke'ei area was focused on marine and shoreline resources - including opihi, fish, sea urchin, sea cucumber and limu, as well as coconut. Limited farming of sweet potatoes, wauke and other dry-tolerant crops would occur (Kelly 1983). Residents of Kahauloa ahupua'a would also have used upland areas, where gardens of breadfruit, ti, bananas and taro would be located. Today, the general area of Ke'ei is still renowned for coconut groves and fishing. In modern times, kiawe wood has been gathered, both for firewood and charcoal.

Although the subject property has been fully developed in the past, its setting near the shoreline places it near an area important for both natural and cultural values.

#### *Consultation*

Informants consulted as part of the 2000 EA were Marion Keliikipi, a Hawaiian born in Napo'opo'o, with many memories of pre-1950 traditional land use and practices, and the family of Alan Wilcox, who had lived adjacent to the Wilson property for 26 years. Mr. Wilcox is half-Hawaiian from the island of Kauai, with Napo'opo'o roots through his great-grandmother.

Both individuals recollected that the shoreline here has been consistently used for gathering of marine resources such as opihi, limu and ha'uke'uke (edible sea urchin). Limu has become scarce and is rarely gathered anymore, according to the Wilcox family. Mrs. Keliikipi recalled walking along a trail parallel to the coastline in her youth, probably the Keawaiki Trail noted above. The trail apparently fell into disuse after about 1950, and a number of homes were built along its path. According to the Wilcox family, the trail has not been useable for many years, and to their knowledge there has been no problem with shoreline access in the Ke'ei-Napo'opo'o area, which is available in a variety of alternative routes.

Other than the use of marine resources seaward of the area proposed for construction, no information was uncovered concerning either past or present gathering or other traditional uses or features at the specific site. Mrs. Keliikipi expressed concern that as the shoreline area tends to have burials, care should be taken in site preparation.

*Impacts and Mitigation Measures*

No historic sites, including archaeological sites (see Section 3.3.4), are present. The 0.66-acre property has been completely graded and in residential use for the last 32 years. No gathering occurs on the property, although like all shoreline areas in Hawai'i, use of marine resources is important, and residents may occasionally gather limu, opihi or sea urchins from the rocks below the cliff. The applicant plans no structures within 40 feet of the cliff's edge that marks the shoreline. No impact to native Hawaiian gathering or other traditional practices would result as from the re-establishment of a home on the property. Precautions related to inadvertent discovery of burials are discussed in the next section. In sum, no cultural impacts are foreseen.

**3.3.4 Archaeology and Historic Sites**

No archaeological or historic site resources appear to be present. Although the entire Kealakekua Bay area is within the Kealakekua Historic District, the National or State Registers of Historic Places list no sites on or near the lot. As the lot has been totally altered through grading, landscaping, and construction of a home in 1968, no historic sites would be expected to remain, if any ever existed.

The State Historic Preservation Division (SHPD) was provided information on the developed status of the property by letter and invited to comment on the potential for historic sites on May 22, 2006. On July 14, 2006, SHPD responded with a letter of no effect, stating that the extent of previous residential development and other disturbance indicated that no historic properties would be affected (see App. 1).

Nevertheless, as a precaution against inadvertent archaeological or burial finds, the following additional mitigation measure will be implemented:

*Mitigation Measure: If any previously unidentified sites, or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered, work will stop immediately and SHPD will be consulted to determine the appropriate mitigation. Care will be taken during ground preparation to ensure that, in the unlikely event that human burials are present, they are recognized and dealt with appropriately.*

### **3.4 Public Facilities and Utilities**

#### *Existing Environment*

Access to the lot is provided by Keawaiki Road (see Fig. 2), a non-dedicated, private, unpaved road easement extending from Pu'uhonua Road to Keawaiki Beach Lots. The site is serviced by overhead power lines from HELCO and telephone lines via Keawaiki Road. Water is provided via a private system owned by the Keawaiki Beach Lots Homeowners Association that distributes water from the County Department of Water Supply (DWS). No public parks, schools or similar facilities exist in the area.

#### *Impacts and Mitigation Measures*

No adverse impact to public facilities or utilities will occur. Road access is adequate, and no improvements are planned or necessary. The design includes an Individual Wastewater Treatment system in conformance with Hawai'i State Department of Health rules and regulations. DWS replied in response to early consultation in a letter of June 19, 2006, that water could be made available to the property via a 4-inch waterline within Manini Beach Road, subject to certain conditions (see App. 1).

### **3.5 Secondary and Cumulative Impacts**

The small scale of the proposed project will not produce any secondary impacts, such as population changes or effects on public facilities.

Cumulative impacts result when implementation of several projects that individually have limited impacts combine to produce more severe impacts or conflicts in mitigation measures. Various single-family homes are in construction along the two miles of coastline between Napo'opo'o and Ke'ei. The adverse effects of project, very minor and temporary disturbance to air quality, noise, and visual quality during construction, are negligible. Other than the precautions for preventing any effects to water quality during construction listed above in Section 3.2.4, no special mitigation measures should be required to counteract the small adverse cumulative effect.

### **3.6 Required Permits and Approvals**

#### *County of Hawai'i:*

- Special Management Area Permit or Exemption
- Plan Approval/Building Permit

#### *State of Hawai'i:*

- Conservation District Use Permit

### 3.7 Consistency With Government Plans and Policies

#### 3.7.1 Hawai'i County General Plan

The *General Plan* for the County of Hawai'i is the document expressing the broad goals and policies for the long-range development of the Island of Hawai'i. The plan was adopted by ordinance in 1989 and revised in 2005. The *General Plan* is organized into thirteen elements, with policies, objectives, standards, and principles for each. There are also discussions of the specific applicability of each element to the nine judicial districts comprising the County of Hawai'i. Below are pertinent sections followed by a discussion of conformance.

#### ECONOMIC GOALS

- (a) Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- (b) Economic development and improvement shall be in balance with the physical, social, and cultural environments of the island of Hawaii.
- (d) Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.

*Discussion:* The proposed project is in balance with the natural, cultural and social environment of the County, would create temporary construction jobs for local residents, and would indirectly boost the economy through construction industry purchases from local suppliers. A multiplier effect takes place when these employees spend their income for food, housing, and other living expenses in the retail sector of the economy. Such activities are in keeping with the overall economic development of the island.

#### ENVIRONMENTAL QUALITY GOALS

- (a) Define the most desirable use of land within the County that achieves an ecological balance providing residents and visitors the quality of life and an environment in which the natural resources of the island are viable and sustainable.
- (b) Maintain and, if feasible, improve the existing environmental quality of the island.
- (c) Control pollution.

#### ENVIRONMENTAL QUALITY POLICIES

- (a) Take positive action to further maintain the quality of the environment.

#### ENVIRONMENTAL QUALITY STANDARDS

- (a) Pollution shall be prevented, abated, and controlled at levels that will protect and preserve the public health and well being, through the enforcement of appropriate Federal, State and County standards.
- (b) Incorporate environmental quality controls either as standards in appropriate ordinances or as conditions of approval.
- (c) Federal and State environmental regulations shall be adhered to.

*Discussion:* The proposed project would not have a substantial adverse effect on the environment and would not diminish the valuable natural resources of the region. The home and associated improvements would be compatible with the existing rural single-family homes and recreational uses in the area. Pertinent environmental regulations would be followed, including those for mitigation of water quality impacts.

#### HISTORIC SITES GOALS

- (a) Protect, restore, and enhance the sites, buildings, and objects of significant historical and cultural importance to Hawaii.
- (b) Appropriate access to significant historic sites, buildings, and objects of public interest should be made available.

#### HISTORIC SITES POLICIES

- (a) Agencies and organizations, either public or private, pursuing knowledge about historic sites should keep the public apprised of projects.
- (b) Amend appropriate ordinances to incorporate the stewardship and protection of historic sites, buildings and objects.
- (c) Require both public and private developers of land to provide historical and archaeological surveys and cultural assessments, where appropriate, prior to the clearing or development of land when there are indications that the land under consideration has historical significance.
- (d) Public access to significant historic sites and objects shall be acquired, where appropriate.

*Discussion:* As the site has been previously graded, no archaeological or cultural sites appear to be present on the property, and the State Historic Preservation Division has confirmed the lack of effects to historic sites.

#### FLOOD CONTROL AND DRAINAGE GOALS

- (a) Protect human life.
- (b) Prevent damage to man-made improvements.
- (c) Control pollution.
- (d) Prevent damage from inundation.
- (e) Reduce surface water and sediment runoff.
- (f) Maximize soil and water conservation.

#### FLOOD CONTROL AND DRAINAGE POLICIES

- (a) Enact restrictive land use and building structure regulations in areas vulnerable to severe damage due to the impact of wave action. Only uses that cannot be located elsewhere due to public necessity and character, such as maritime activities and the necessary public facilities and utilities, shall be allowed in these areas.
- (g) Development-generated runoff shall be disposed of in a manner acceptable to the Department of Public Works and in compliance with all State and Federal laws.

#### FLOOD CONTROL AND DRAINAGE STANDARDS

- (a) "Storm Drainage Standards," County of Hawaii, October, 1970, and as revised.
- (b) Applicable standards and regulations of Chapter 27, "Flood Control," of the Hawaii County Code.
- (c) Applicable standards and regulations of the Federal Emergency Management Agency (FEMA).
- (d) Applicable standards and regulations of Chapter 10, "Erosion and Sedimentation Control," of the Hawaii County Code.
- (e) Applicable standards and regulations of the Natural Resources Conservation Service and the Soil and Water Conservation Districts.

*Discussion:* The property is within the Zone X, or areas outside of the 500-year floodplain as determined by detailed methods in the community flood insurance study, according to the Flood Insurance Rate Maps (FIRM). The project will conform with applicable drainage regulations and policies of the County of Hawai'i.

#### NATURAL BEAUTY GOALS

- (a) Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.
- (b) Protect scenic vistas and view planes from becoming obstructed.
- (c) Maximize opportunities for present and future generations to appreciate and enjoy

natural and scenic beauty.

#### NATURAL BEAUTY POLICIES

- (a) Increase public pedestrian access opportunities to scenic places and vistas.
- (b) Develop and establish view plane regulations to preserve and enhance views of scenic or prominent landscapes from specific locations, and coastal aesthetic values.

*Discussion:* The improvements are minor and will not cause scenic impacts or impede access.

#### NATURAL RESOURCES AND SHORELINES GOALS

- (a) Protect and conserve the natural resources from undue exploitation, encroachment and damage.
- (b) Provide opportunities for recreational, economic, and educational needs without despoiling or endangering natural resources.
- (c) Protect and promote the prudent use of Hawaii's unique, fragile, and significant environmental and natural resources.
- (d) Protect rare or endangered species and habitats native to Hawaii.
- (e) Protect and effectively manage Hawaii's open space, watersheds, shoreline, and natural areas.
- (f) Ensure that alterations to existing land forms, vegetation, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of an earthquake.

#### NATURAL RESOURCES AND SHORELINES POLICIES

- (a) Require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse effects on the environment.
- (c) Maintain the shoreline for recreational, cultural, educational, and/or scientific uses in a manner that is protective of resources and is of the maximum benefit to the general public.
- (d) Protect the shoreline from the encroachment of man-made improvements and structures.
- (h) Encourage public and private agencies to manage the natural resources in a manner that avoids or minimizes adverse effects on the environment and depletion of energy and natural resources to the fullest extent.
- (p) Encourage the use of native plants for screening and landscaping.
- (r) Ensure public access is provided to the shoreline, public trails and hunting areas,

including free public parking where appropriate.

(u) Ensure that activities authorized or funded by the County do not damage important natural resources.

*Discussion:* The proposed project avoids impact on shoreline resources by remaining located behind the shoreline setback within an area where landowners have previously constructed similar improvements. No public trail or access issues exist.

### 3.7.2 SMA Guidelines

The proposed land use complies with provisions and guidelines contained in Chapter 205A, Hawai'i Revised Statutes (HRS), entitled *Coastal Zone Management*. Single-family residences may be determined to be an exempt action under the County's Special Management Area (SMA) guidelines. The proposed use would be consistent with Chapter 205A because it would not affect public access to recreational areas, historic resources, scenic and open space resources, coastal ecosystems, economic uses, or coastal hazards.

The proposed improvements are not likely to result in any substantial adverse impact on the surrounding environment. The property is not located near the shoreline and will not restrict any shoreline uses such as hiking, fishing or water sports. Furthermore, neither the viewplanes to and along the shoreline towards the property nor the viewplane from Highway 11, would be adversely impacted, as the lot is distant from the highway and set back from the ocean. It is expected that the project will not result in any impact on the biological or economic aspects of the coastal ecosystem. The project site is not situated over any major natural drainage system or water feature that would flow into the nearby coastal system. The property contains few native plants and none that are uncommon. No floodplains are present in the area. In terms of beach protection, construction is set back from the shoreline and would not affect any beaches nor adversely affect public use and recreation of the shoreline in this area. No impacts on marine resources are likely to occur.

The Hawai'i County Planning Department has previously confirmed that the proposed action is exempt from SMA Rules in relation to the previous CDUA. They will be asked to confirm that decision with another SMA Assessment Application submitted concurrently with the CDUA.

### 3.7.3 Conservation District Regulations

The property is in the State Land Use Conservation District, General subzone. It should be noted that a previous CDUP was granted for construction of a single-family home, which was never built. Any proposed use must undergo an examination for its consistency with the goals and rules of this district and subzone. The applicant has concurrently prepared a Conservation District Use Application (CDUA), to which this EA is an Appendix. The CDUA includes a detailed evaluation of the consistency of the project with the criteria of the Conservation District permit process. Briefly, the following individual consistency criteria should be noted:

The development of the single-family residence is an identified land use within the General subzone and is consistent with the purpose of the district as defined in Chapter 13-5, HAR. The objective of the General subzone is to designate open space where specific conservation uses may not be defined, but where urban use would be premature. The proposed action will not negatively impact the natural resources of the State or be detrimental to the public health, safety or welfare. All construction on the subject property will be consistent with the Building Code requirements of the County of Hawai'i. The proposed land use complies with provisions and guidelines contained in Chapter 205A, Hawai'i Revised Statutes (HRS), entitled *Coastal Zone Management*. Single-family residences may be determined to be an exempt action under the County's Special Management Area (SMA) guidelines. The proposed use would be consistent with Chapter 205A because it would not affect public access to recreational areas, historic resources, scenic and open space resources, coastal ecosystems, economic uses, or coastal hazards. The Hawai'i County Planning Department is being consulted to determine whether that the proposed single-family home is exempt from SMA Rules.

The proposed land use, including buildings, structures and facilities, is compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific property. The area previously held a single-family home, as do all surrounding properties currently.

The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved. The construction activities of this single-family residence will be confined to the owner's lot and will not have any adverse impact on the natural resources of the area, community or region. The physical beauty of the lot will not be affected materially by the home construction and landscaping, and open space will be preserved. The subject property previously held a single-family home and is now vacant but landscaped. The applicant proposes to preserve and enhance this landscape, softening any visual impact of the residence.

The proposed use of the subject property does not affect historic or cultural sites, as none are present on the property.

Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District. The proposed action will not subdivide the property and will not lead to any increase in intensity of use beyond the permitted single-family residence.

**PART 4: ANTICIPATED DETERMINATION**

Based on evaluation of the environmental setting and impacts, and in consideration of the comments on the Draft EA, the applicant believes that the proposed action will not have a significant effect upon the environment and thus expects that the Hawai'i State Department of Land and Natural Resources will issue a Finding of No Significant Impact (FONSI).

**PART 5: FINDINGS AND REASONS**

Chapter 11-200-12, Hawai'i Administrative Rules, outlines those factors agencies must consider when determining whether a project has significant effects:

1. *The proposed project will not involve an irrevocable commitment or loss or destruction of any natural or cultural resources.* No archeological sites or cultural resources exist on the site. No valuable natural or cultural resources would be involved, committed or lost. No native ecosystems are present.
2. *The proposed project will not curtail the range of beneficial uses of the environment.* The project occurs on a graded house lot, the site of a demolished home, and no restriction of beneficial uses would occur.
3. *The proposed project will not conflict with the State's long-term environmental policies.* The State's long term environmental policies are set forth in Chapter 344, HRS. The broad goals of this policy are to conserve natural resources and enhance the quality of life. The project is minor and basically environmentally benign, and it is thus consistent with all elements of the State's long-term environmental policies.
4. *The proposed project will not substantially affect the economic or social welfare of the community or State.* The project will not have any substantial effect on the economic or social welfare of the South Kona community or State.
5. *The proposed project does not substantially affect public health in any detrimental way.* The project will not affect public health and safety in any way.

6. *The proposed project will not involve substantial secondary impacts, such as population changes or effects on public facilities.* As the project involves the construction of a single-family residence and associated improvements within an existing and previously developed lot, no secondary effects are expected.

7. *The proposed project will not involve a substantial degradation of environmental quality.* The project is minor and environmentally benign, and it would thus not contribute to environmental degradation.

8. *The proposed project will not substantially affect any rare, threatened or endangered species of flora or fauna or habitat.* The site has been previously disturbed by development for a house, including grading of the parcel. Plants found on the site are mostly aliens with some common natives, and the developed site is poor habitat for native fauna. No rare, threatened or endangered species of flora or fauna are known to exist on the project site, and none would be affected by any project activities.

9. *The proposed project is not one which is individually limited but cumulatively may have considerable effect upon the environment or involves a commitment for larger actions.* The project is not related to other activities in the region in such a way as to produce adverse cumulative effects or involve a commitment for larger actions.

10. *The proposed project will not detrimentally affect air or water quality or ambient noise levels.* No substantial effects to air, water, or ambient noise would occur. Brief, temporary effects would occur during construction and will be mitigated.

11. *The project does not affect nor would it likely to be damaged as a result of being located in environmentally sensitive area such as a flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal area.* The project is not located in a flood zone, and is in a region of low volcanic hazard. The project site is located in an area determined by the Hawai'i County Civil Defense Agency to be a tsunami evacuation zone. Landowners and residents of high-hazard lava inundation areas have been made aware of the potential and accept the risk when they purchase and/or inhabit such areas. Although the proposed project is located in a zone exposed to earthquakes, there are no reasonable alternatives that would avoid such exposure, the project presents no additional hazard to the public, and the project is not imprudent for the landowner to construct.

12. *The project will not substantially affect scenic vistas and viewplanes identified in county or state plans or studies.* The project is low-profile and does not impact the views listed in any plan, particularly those of the Hawai'i County General Plan.

13. *The project will not require substantial energy consumption.* Negligible amounts of energy input will be required for construction.

For the reasons above, the proposed project will not have any significant effect in the context of Chapter 343, Hawai'i Revised Statutes and section 11-200-12 of the State Administrative Rule.

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**ENVIRONMENTAL ASSESSMENT  
DURST SINGLE FAMILY DWELLING AND  
ASSOCIATED IMPROVEMENTS IN THE  
CONSERVATION DISTRICT**

**APPENDIX 1**

**COMMENT LETTERS**

**FROM AGENCIES AND ORGANIZATIONS**

**IN RESPONSE TO PRE-CONSULTATION**

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

**County of Hawaii**  
**PLANNING DEPARTMENT**  
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

June 23, 2006

Mr. Graham Knopp  
Geometrician Associates, LLC  
HC 2 Box 9575  
Keaau HI 96749

Dear Mr. Knopp:

**Subject: Pre-Consultation on Environmental Assessment**  
**Applicant: Peter Durst**  
**Project: Single-Family Dwelling and Related Improvements**  
**Tax Map Key: 8-3-5:6, Kahauloa 2<sup>nd</sup>, South Kona, Hawaii**

This is in response to your May 22, 2006 letter requesting our comments on the above-referenced project.

The subject .66 acre parcel is zoned Open by the County and designated Conservation by the State Land Use Commission.

We have the following comments to offer:

1. For parcels that are designated Conservation by the State Land Use Commission, there is no County zoning per se.
2. It is located within the County's Special Management Area and has frontage along the coastline.
3. The subject parcel is within the Kealakekua Bay Historical District.
4. According to our tax map, a trail (which some call Keawaiki Trail) traverses the subject parcel. We recommend that you contact Na Ala Hele to discuss the status of this trail:

Mr. Graham Knopp  
Geometrician Associates, LLC  
Page 2  
June 23, 2006

Mr. Irv Kawashima  
Na Ala Hele Trails & Access Specialist  
Department of Land & Natural Resources  
19 East Kawili Street  
Hilo, Hawaii 96720  
Telephone: 808 974-4217    email: ikawashima@dofawha.org

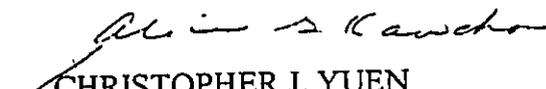
5. According to records of the Real Property Tax Office and the Department of Public Works, Building Division, there are two building permits issued for this parcel:
  - a. 021818    12/10/02    New Dwelling
  - b. 035123    01/21/03    Swimming/Lap PoolPlease confirm the status of these two permits.
  
6. A Special Management Area Use Permit Assessment Application will be required for any construction activity or improvements on the subject parcel. For your information, Planning Department Rule 11 -5(a) states that "*Except as otherwise provided in this section, all lots which abut the shoreline shall have a **minimum shoreline setback line of forty feet***". (emphasis supplied) The establishment of shoreline setback lines is based on a **minimum** of forty feet. In some cases, due to coastal erosion and undercutting of the seacliff, additional setbacks have been imposed to ensure the health and safety of the residents.
  
7. The submittal of a current certified shoreline survey will be required as part of the Special Management Area Use Permit Assessment Application if any structures and/or activities are located close to the forty feet shoreline setback line.

Please provide us with a copy of the Environmental Assessment for our review and file.

Mr. Graham Knopp  
Geometrician Associates, LLC  
Page 3  
June 23, 2006

If you have questions, please feel free to contact Esther Imamura or Larry Brown of this office at 961-8288, extension 257 or 258, respectively.

Sincerely,

  
CHRISTOPHER J. YUEN  
Planning Department

ETI:cd  
P:\WPWIN60\ETI\EA\draftPre-consul\Knopp Durst 8-3-5-6.rtf

xc: Planning Department - Kona



**DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII**

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720  
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

June 19, 2006

Mr. Graham Knopp  
Geometrician Associates, LLC  
HC 2 Box 9575  
Keaau, HI 96749

**PRE-ENVIRONMENTAL ASSESSMENT CONSULTATION  
CONSTRUCTION OF SINGLE-FAMILY DWELLING  
TAX MAP KEY (3) 8-3-005:006**

This is in response to your Pre-Environmental Assessment Consultation letter of May 22, 2006.

Water can be made available from an existing 4-inch waterline within Manini Beach Road approximately 400 feet away from the subject parcel. Since the subject parcel does not front on the Department's existing water system facilities, only one (1) unit of water or one (1) 5/8-inch meter is available, which is restricted to a maximum daily usage of 600 gallons. In addition, the owner of the subject parcel would be required to sign a Policy and Conditions for Water Service, or Out-of-Bounds Agreement letter. Please note that water availability is subject to change without notice, depending on the water situation.

Therefore, water can be made available upon compliance with the following conditions:

1. Installation, by the Department of Water Supply, of a 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily usage of 600 gallons.
2. Remittance of the following charges, which are subject to change, to our Customer Service Section:

<b>FACILITIES CHARGE (FC):</b>	
1 <sup>st</sup> service to preexisting lots of record	\$1,190.00
<b>SERVICE LATERAL INSTALLATION CHARGE:</b>	
<u>Install one 5/8-inch meter on Manini Beach Road, a County road</u>	<u>\$2,600.00</u>
<b>Total (Subject to Change)</b>	<b>\$3,790.00</b>

*... Water brings progress...*

The Department of Water Supply is an Equal Opportunity provider and employer. To file a complaint of discrimination, write: USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington DC 20250-9410. Or call (202) 720-5964 (voice and TDD)

Mr. Graham Knopp  
Page 2  
June 19, 2006

Please keep in mind that this letter shall not be construed as a water commitment. In other words, unless a water commitment is officially effected, water availability is subject to change, depending on the water situation.

Should there be any questions, you may contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,



Milton D. Pavao, P.E.  
Manager

FM:sco

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

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

ROBERT K. MASUDA  
DEPUTY DIRECTOR - LAND

DEAN NAKANO  
ACTING DEPUTY DIRECTOR - WATER

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

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

July 14, 2006

Graham Knopp  
Geometrician Associates, LLC  
HC 2 Box 9575  
Kea'au, HI 96749

LOG NO: 2006.2381  
DOC NO: 0607JT32  
Archaeology

Dear Mr. Knopp

**SUBJECT: Chapter 6E-42 Historic Preservation Review (County/Public Works) –  
Pre-Consultation on Environmental Assessment  
Kahauloa 1<sup>st</sup> Ahupua'a, South Kona District, Island of Hawai'i  
TMK: (3) 8-3-005: 006**

Thank you for your request for our comment in reference to the development of an Environmental Assessment for the above-named parcel. We apologize for the delay in response.

We believe that no historic properties will be affected by this undertaking because:

- a) intensive cultivation has altered the land
- b) residential development/urbanization has altered the land
- c) previous grubbing/grading has altered the land
- d) an acceptable archaeological assessment or inventory survey found no historic properties
- e) this project has gone through the historic review process, and mitigation has been completed
- f) other: *A previous letter (LOG NO. 25982 DOC. NO. 0008PM05) indicates that a previous draft Environmental Assessment was prepared in 2000 for this parcel, which provided documentation supporting previous alteration of the parcel through grading, landscaping and house construction..*

In the event that historic resources, including human skeletal remains, are identified during the construction activities, all work needs to cease in the immediate vicinity of the find, the find needs to be protected from additional disturbance, and the State Historic Preservation Division, Hawai'i Section, needs to be contacted immediately at (808) 327-3691.

Aloha,

  
Melanie Chinen, Administrator  
State Historic Preservation Division

JT:jen

**ENVIRONMENTAL ASSESSMENT  
DURST SINGLE FAMILY DWELLING AND  
ASSOCIATED IMPROVEMENTS IN THE  
CONSERVATION DISTRICT**

**APPENDIX 1B**

**COMMENT LETTERS**

**TO DRAFT ENVIRONMENTAL ASSESSMENT**

**AND RESPONSES**

# Hawai'i Notices

OCTOBER 8, 2006

## Durst Single-Family Dwelling in the Conservation District (HRS 343 DEA)

**District:** South Kona  
**TMK:** (3) 8-3-05:06  
**Applicant:** Peter Durst  
 c/o Greg Mooers, P.O. Box 1101, Kamuela, HI 96743  
 Contact: Greg Mooers (880-1455)

**Approving Agency:** Department of Land & Natural Resources  
 P.O. Box 621, Honolulu, HI 96809  
 Contact: Sam Lemmo (587-0414)

**Consultant:** Geometrician Associates  
 P.O. Box 396, Hilo, HI 96721  
 Contact: Ron Terry (969-7090)

**Public Comment**  
**Deadline:** November 8, 2006  
**Status:** Draft environmental assessment (DEA) notice pending 30-day public comment. Address comments to the applicant with copies to the approving agency, consultant and OEQC.

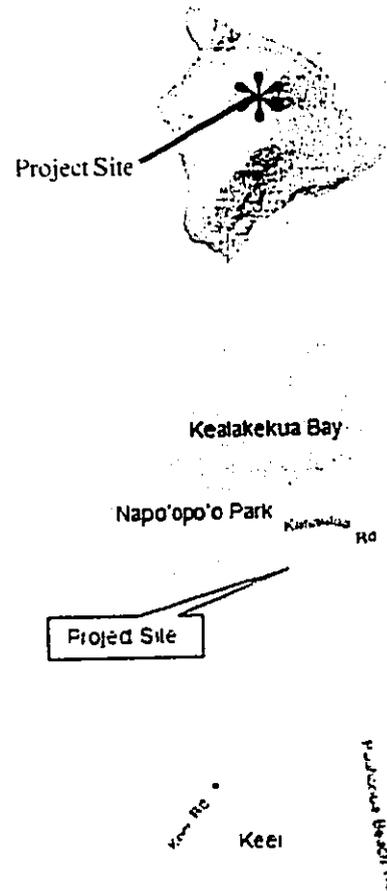
**Permits Required:** CDUP, Plan Approval, Special Management Area Permit or Exemption, Building Permits

mentation, dust, chemical water pollution, and noise mitigation measures are proposed as conditions to the Conservation District Use Permit.

In general, no sensitive biological, hydrological, archaeological, cultural or other important resources are present in the area to be affected, and no adverse long-term impacts are expected to result from the project. If any previously unidentified sites, or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered, work will stop immediately and SHPD will be consulted to determine the appropriate mitigation. Care will be taken during ground preparation to ensure that, in the unlikely event that human burials are present: they are recognized and dealt with appropriately.

The project consists of construction of a single-family home on a shoreline, 0.66-acre property in Keawaiki Beach Lots, about 0.75 miles south of the Napo'opo'o Boat Ramp. The lot is surrounded by single-family homes on three sides. The proposed one-story home will be 3,500 square feet, including the house, guest wing, carport storage, plunge pool and a landscaped water feature. The house will have three bedrooms and three baths, and will be set back a minimum of 40 feet from the shoreline on a lot that is 20 to 24 feet above sea level. A driveway and various at-grade decks, lanais and landscape features will also be built, along with an Individual Wastewater System. A previous house was built on the site under a 1968 CDUA. In November 2000, an Environment Assessment was prepared for the demolition of this house and the building of another single-family residence, and the Department of Land and natural Resources issued a FONSI determination. The 1968 home was demolished, but the owner became ill and the new one was never built, and the property was sold to the current owner.

Land clearing and construction activities will produce minor short-term impacts to noise, air quality, access and scenery. In order to ensure that construction-related damage is avoided or minimized, Best Management Practices to reduce erosion, sedi-



Map of Project Location

LINDA LINGLE  
GOVERNOR OF HAWAII



GENEVIEVE SALMONSON  
DIRECTOR

STATE OF HAWAII  
OFFICE OF ENVIRONMENTAL QUALITY CONTROL  
235 SOUTH BERETANIA STREET  
SUITE 702  
HONOLULU, HAWAII 96813  
TELEPHONE (808) 586-4185  
FACSIMILE (808) 586-4185  
E-mail: oeac@health.state.hi.us

October 26, 2006

Sam Lemmo  
Department of Land & Natural Resources  
Office of Conservation & Coastal Lands  
PO Box 621  
Honolulu, HI 96809

Attn: Michael Cain

Subject: Draft Environmental Assessment (EA) for **Durst Single Family Dwelling**

Dear Mr. Lemmo:

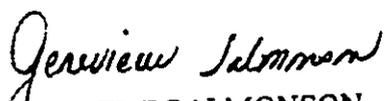
We have the following comments:

**Sustainable building techniques:** Please consider applying sustainable building techniques presented in the "Guidelines for Sustainable Building Design in Hawaii." In the final EA include a description of any of the techniques you will implement. Go to our website at <http://www.state.hi.us/health/oeac/guidance/sustainable.htm> or contact our office for a paper copy of the guidelines.

**Landscaping:** Your landscaping plan may include invasive plant species. Before finalizing your plan consult the Division of Forestry & Wildlife of DLNR at 587-0166 or go to the Hawaii Ecosystems at risk (HEAR) website at [www.hear.org](http://www.hear.org) to eliminate those species that may pose a threat to the environment.

If you have any questions, call Nancy Heinrich at 586-4185.

Sincerely,

  
GENEVIEVE SALMONSON  
Director

c: Ron Terry

# geometrician

ASSOCIATES, LLC  
integrating geographic science and planning

phone: (808) 969-7090 PO Box 396 Hilo Hawai'i 96721 rterry@hawaii.rr.com

December 8, 2006

Genevieve Salmonson, Director  
Office of Environmental Quality Control  
235 South Beretania Street, Suite 702  
Honolulu HI 96813

Dear Ms. Salmonson:

**Subject: Draft Environmental Assessment for Durst Single-Family Dwelling in the Conservation District TMK (3<sup>rd</sup>) 8-3-05:06**

Thank you for your comment letter dated October 26, 2006, on the Draft EA. As the author of the EA, I offer the following responses to your specific comments:

1. *Sustainable building techniques.* In response to your comments, the owner and architect reviewed the document on your website, and in addition to determining which of the techniques were already incorporated in the design, they included several other elements, as practical and reasonable for the site and the home.

**Predesign.** Wastewater engineers and structural engineers were consulted to review the initial design concepts to provide input for design of the residential location.

**Site Selection & Site Design.** The house is located near the sea, which provides better exposure to daily breeze for cross ventilation. The goal of the house plan is to provide as much mauka-makai cross ventilation as possible. The roof overhangs and lanais on the west side protect interior space from afternoon heat load. Where possible, landscaping is provided on the west side for afternoon sun protection. The south exposure is protected by existing mature trees, which are being retained to provide shade.

The house pad's relation to existing grade was determined by providing a balance of cut & fill as well as maintaining the existing drainage pattern from south mauka corner to north makai corner of the lot.

**Building Design.** The structural design goal is to provide spaces without interior structural walls as much as possible to leave open the possibility of interior design changes over the life of the building, but this also assists in efficient ventilation.

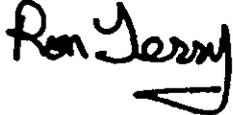
The house is designed for natural cooling with high windows to assist in the convection movement of air out of the house. House orientation and window placement take advantage of cross ventilation and tree locations to assist in house cooling. Fans will be located in all living areas. If budget allows, Termi-mesh and Sentricon will be used for long-term termite protection.

This information has been added to the Final EA.

2. *Landscaping.* The landscaping plan for the property includes only plants that are already established on the lot (many there for five decades) or are present in the adjacent lots in the subdivision of which this lot is a part. No species that are not extremely common in both the neighborhood and the wider Kona area are being introduced. It should be noted that new plantings consist mostly of natives such as *ilima* and *'akia*.

Again, thank you for your comment.

Sincerely,



Ron Terry, Principal  
Geometrician Associates

Cc: Sam Lemmo, OCCL



**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
711 KAPI'OLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

October 26, 2006

HRD06/2747

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawai'i 96809

**RE: Conservation District Use Application (CDUA) and Environmental Assessment (EA)  
for Durst residence, Keawaiki Beach Lots, Kahauloa, South Kona, Hawai'i; TMK 8-3-05:6  
(HA-3377)**

Dear Mr. Lemmo,

The Office of Hawaiian Affairs (OHA) is in receipt of your October 4, 2006 request for comments on the above referenced CDUA and EA. The applicant proposes to construct a single family residence on conservation land on the South Kona coast. We offer the following comments.

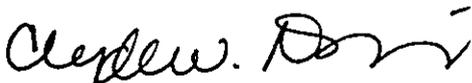
We appreciate that the applicant will respect the Native Hawaiian culture by immediately stopping excavation and contacting the State Historic Preservation Division if iwi or cultural items are uncovered. CDUA at page 14. We also appreciate that community members were contacted as a part of an EA for the property prepared in 2000. Much can change in six years, however, and community members should be contacted as a part of the renewed EA process to ensure that there are no new community or cultural concerns.

We are also concerned with the lack of an alternatives analysis in the EA. We appreciate that the applicant has provided the no action alternative as a baseline to compare environmental effects of the project. The Office of Environmental Quality's *Environmental Guidebook* at page 17 also requires, however, that "alternative methods and modes of [the] project be included in the draft EA." The fact that "no other alternatives are desired" by the applicant is not a sufficient reason to not include alternatives. EA at page 3. The purpose of the alternatives analysis is to compare different ways of carrying out a desired project in a way that will result in the least detrimental effect on the human environment. Thus, the applicant should look at alternatives that consider factors such a different implementation methods and facility configurations. See, *Environmental Guidebook* at page 17.

Samuel J. Lemmo, Administrator  
October 26, 2006  
Page 2

Thank you for the correspondence and the opportunity to comment. If you have any further questions or concerns please contact Koa Kaulukukui at (808) 594-0244 or [koalanik@oha.org](mailto:koalanik@oha.org).

Sincerely,



Clyde W. Nāmu'o  
Administrator

C: Ruby McDonald  
OHA Kona Office  
75-5706 Hanama Place, Suite 107  
Kailua-Kona, Hawai'i 96740

Office of Environmental Quality Control  
235 South Beretania Street, Suite 702  
Honolulu, Hawai'i 96813

Gregory Mooers  
Mooers Enterprises LLC  
PO Box 1101  
Kamuela, Hawai'i 96743

✓ Ron Terry  
HC 2 Box 9575  
Kea'au, Hawai'i 96749

# geometrician

ASSOCIATES, LLC

integrating geographic science and planning

phone: (808) 969-7090 PO Box 396 Hilo Hawai'i 96721 rterry@hawaii.rr.com

December 8, 2006

Clyde Nāmu'o, Administrator  
Office of Hawaiian Affairs  
711 Kapi'olani Blvd., Suite 1250  
Honolulu HI 96813

Dear Mr. Nāmu'o:

**Subject: Draft Environmental Assessment for Durst Single-Family Dwelling in the Conservation District TMK (3<sup>rd</sup>) 8-3-05:06**

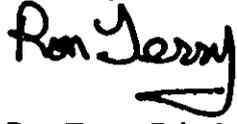
Thank you for your comment letter dated October 26, 2006, on the Draft EA. As the author of the EA, I offer the following responses to your specific comments:

1. *Consultation and protection of Hawaiian cultural remains.* Thank you for your acknowledgement of the EA's caution concerning finds that may be discovered during excavation. It bears noting that the lot in question is within a residential subdivision and until recently contained a home dating from the 1960s. The lot is completely developed. Other than demolition of the house, no changes in the material or cultural setting of the property have occurred. In making this conclusion, both the new owner and project consultants have consulted with the native Hawaiian neighbors who provided the cultural information in the original document.

2. *Alternatives analysis.* Our understanding of Chapter 343 and its implementing regulations do not lead us to the same conclusion about the requirement for in-depth alternatives analysis for a single-family home project. Your comment seems to imply that a prospective homeowner should come up with a number of different architectural schemes and then compare them for environmental impact, selecting the one with the least impact, which would presumably be the smallest, lowest, least visible house possible, built with 100% recycled materials. This is hardly practical or fair to a homeowner. As it is, the process requires an applicant to design a home that meets the exacting guidelines of the Office of Coastal and Conservation Lands, which mandate maximum size, height, placement of the structure on the lot, landscaping types, visually compatible materials, etc. Then the design is evaluated in the EA against various regulatory and environmental criteria to determine whether there are adverse impacts. If some are identified, then the design is modified or mitigation measures put in place. In the case of the Durst home, no adverse impacts were identified and the design meets all regulatory guidelines, and the proposed home is thus environmentally acceptable. It should be noted that the owner and architect have incorporated sustainable practices into the design of the house from the beginning, including a design that maximizes natural light and ventilation and heavily utilizes existing trees.

Again, thank you for your comment.

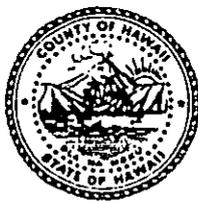
Sincerely,

A handwritten signature in black ink that reads "Ron Terry". The signature is written in a cursive style with a prominent loop at the end of the name.

Ron Terry, Principal  
Geometrician Associates

Cc: Sam Lemmo, OCCL

Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

County of Hawaii  
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

November 6, 2006

Mr. Ron Terry  
Geometrician Associates  
P.O. Box 396  
Hilo HI 96721

Dear Mr. Terry:

**SUBJECT: Draft Environmental Assessment  
Durst Single-Family Dwelling  
Tax Map Key: 8-3-5:6**

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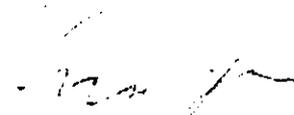
This is to acknowledge receipt of the Draft Environmental Assessment for the  
aforementioned project.

By letter dated September 20, 2006, a Special Management Area Use Permit Assessment  
Application (SAA 06-188) was approved to allow for the construction of a new single-  
family dwelling and related improvements on the subject property. We have enclosed a  
copy of this letter which referenced our concern with coastal erosion and existing  
improvements within the 40 feet shoreline setback area

Other than compliance with the stated conditions of approval, we have no further  
comments to offer.

If you have questions, please feel free to contact Esther Imamura or Larry Brown of this  
office at 961-8288, extension 257 or 258, respectively.

Sincerely,

  
CHRISTOPHER J. YUEN  
Planning Director

ETI:mad  
\\Coh31\planning\public\wpwin60\ETI\EA\draft\Pre-consul\Terry Durst 8-3-5-6.rtf

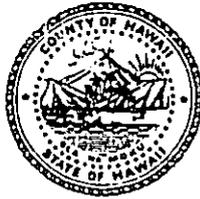
Mr. Ron Terry  
Geometrician Associates  
Page 2  
November 6, 2006

Enclosure

xc: Director  
Office of Environmental Quality Control  
235 South Beretania Street, Suite 702  
Honolulu HI 96813

Mr. Sam Lemmo  
Hawaii State DLNR  
P.O. Box 621  
Honolulu HI 96809

Harry Kim  
Mayor



County of Hawaii  
PLANNING DEPARTMENT  
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • FAX (808) 961-8742

Christopher J. Yuen  
Director  
Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

September 20, 2006

Mr. Gregory R. Mooers  
Mooers Enterprises, LLC  
P.O. Box 1101  
Kamuela, Hawaii 96743

Dear Mr. Mooers:

**Subject:** Special Management Area Use Permit Assessment Application  
No. 06-000188 (SAA 06-188)  
**Applicants:** Peter and Ellen Durst  
**Landowners:** Peter and Ellen Durst  
**Request:** Construction of a new single-family dwelling & related improvements  
**Location:** Keawaiki Beach Lots, Kahauloa 2<sup>nd</sup>, South Kona, Hawaii  
**Tax Map Key:** 8-3-005:006

---

This is in response to the subject application, which we received on August 22, 2006, to allow for the construction of a new single-family dwelling and related improvements on the subject property. Included with the application is a copy of the Notice of Acceptance of the applicant's Conservation District Use Application (CDUA) HA-2990. We further understand that the shoreline survey conducted by Wes Thomas Associates was submitted on June 20, 2006 to the Department of Land and Natural Resources (DLNR) for certification.

The subject 28,750-square foot lot is situated in the State Land Use Conservation district. Therefore, there is no County of Hawaii zoning designation applicable to the subject property. This shoreline parcel is also in the Special Management Area. A site inspection of the property was conducted on September 15, 2006 by Planning Department staff.

Mr. Gregory R. Mooers  
Mooers Enterprises, LLC  
Page 2  
September 20, 2006

We understand that the proposed project includes the construction of a new single-family dwelling and related improvements that will be sited on approximately 3,500 square feet of the subject property. According to plans submitted with the application the proposed residence will consist of three detached structures, a 2,038-sq. ft. main house, an 832 sq. ft. two-bedroom guest house, and a 512 sq. ft. garage, all of which will be connected by a common roof. A "seat wall" is proposed along the mauka edge of the "blow hole" depression and within the shoreline setback area. We further note the retaining wall proposed for construction within proximity of the shoreline setback line on the south side of the building site.

The staff site inspection of the subject property mentioned above revealed the following observations:

1. The low sea cliff along the shoreline appears to be fragmented and rather fragile with signs of ongoing erosion. The extremely rough and fragmented surface, rather than smooth wear, of the cliff face and the high volume of rock rubble at the cliff base suggest that erosion of the sea cliff may occur in catastrophic events rather than in a gradual wearing down of rock surfaces by wave action.
2. The area immediately mauka of the "blow hole" appears to be eroding at a more accelerated rate than other areas of the sea cliff.
3. The shoreline stakes set along the "blow-hole" are well within the depression and an estimated 8-10 feet further seaward of the top of the mauka edge of the "blow hole."
4. An above-grade irrigation system has been placed within 40 feet of the shoreline without the prior written approval of the Planning Department.

Pursuant to Rule 9-4(10) B (i) of the Planning Commission Rules of Practice and Procedure (PC Rules), the construction of a single-family residence that is not part of a larger development, may be determined by the Planning Director to be exempt from the definition of "development" provided that the use, activity or operation being excluded does not have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area.

Pursuant to Rule 11-5, Planning Department Rules of Practice and Procedure (PD Rules), all lots which abut the shoreline shall have a minimum shoreline setback line of forty feet.

After reviewing the subject application and proposed addition to the existing single-family dwelling against the Criteria of Substantial Adverse Effect provided in Rule 9-10H, PC Rules, we have determined that the proposed project will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA provided the applicant complies with certain mitigative conditions.

Mr. Gregory R. Mooers  
Mooers Enterprises, LLC  
Page 3  
September 20, 2006

Therefore, we have determined that the proposed construction of a new single-family dwelling and the related improvements, as proposed in the subject application, is exempt from the definition of "development" and shall not require any further review under the SMA guidelines.

This determination is granted subject to the applicant's compliance with the following conditions.

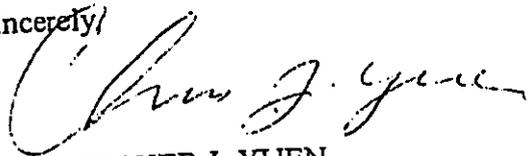
1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The shoreline setback line shall be established at 40 feet from the shoreline, as surveyed by Wes Thomas Associates on the shoreline survey submitted to the DLNR for certification on June 20, 2006 or as certified by the Chair of the Board of Land and Natural Resources, whichever is the furthest inland, except that the shoreline setback line shall be not less than 50 feet from the mauka top of the "blow hole" depression between the abandoned stone stairway in the approximate center of the makai property line to the lot's southern property line.
3. The applicant shall erect a construction barrier meeting with the approval of the Planning Department along the entire length of Shoreline Setback Line. The construction barrier shall be erected prior to the commencement of any construction, clearing, grading or other land altering activities and shall remain in place until the Building Division has granted Final Approval for all Building Permits issued in connection with the subject project.
4. The applicant shall ensure that no construction activity, including but not limited to, the storage of construction materials, tools or equipment, or the placement of construction debris, occurs within the Shoreline Setback Area or makai of the shoreline.
5. The applicant shall immediately remove the above grade irrigation system that is located within the Shoreline Setback Area.
6. Any uses, activities or operations, including, but not limited to, clearing, grading, excavation, construction or placement of any man-made feature, or landscaping, within the shoreline setback area shall require the prior written approval of the Planning Department pursuant to Rule 11-8, Planning Department Rules of Practice and Procedure or the approval of a Shoreline Setback Variance by the Planning Commission.
7. The applicant shall not prohibit or restrict lateral public access along the shoreline or within the makai 10 feet of the Shoreline Setback Area without the prior written approval of the Planning Department.

Mr. Gregory R. Mooers  
Mooers Enterprises, LLC  
Page 4  
September 20, 2006

8. The Building Permit for the proposed dwelling shall be issued within one (1) year from the date of this letter.
9. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
  - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
  - b) Granting of the time extension would not be contrary to the original reasons for the granting of the determination; and
  - c) The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
10. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

Should you have questions, please feel welcome to contact Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

LMB:cd  
P:\wpwin60\CZMSMAA\2006\SAA 06-188 Durst xmpt.doc

xc: Ms. Deborah Chang – Long Range Planning

# geometrician

ASSOCIATES, LLC  
integrating geographic science and planning

phone: (808) 969-7090 PO Box 396 Hilo Hawai'i 96721 rterry@hawaii.rr.com

December 8, 2006

Christopher J. Yuen, Director  
Hawai'i County Planning Dept.  
101 Pauahi Street, Suite 3  
Hilo HI 96720

Dear Mr. Yuen:

**Subject: Draft Environmental Assessment for Durst Single-Family Dwelling in the Conservation District TMK (3<sup>rd</sup>) 8-3-05:06**

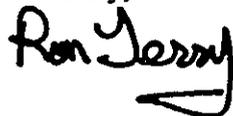
Thank you for your comment letter dated November 6 2006, on the Draft EA, which transmitted your letter of September 20, 2006, which reported granting approval of Special Management Area Use Permit Assessment Application SAA 06-188 to allow for construction of a single-family home. Your letter also stated concern about coastal erosion and existing improvements within the 40-foot setback area, especially as related to a "blowhole" feature located partially inside the certified shoreline.

In order to respond to these concerns, our client Peter Durst retained the services of geologist John P. Lockwood, Ph.D., to provide a professional assessment of the potential for coastal erosion on the property. Although I believe you were sent a copy of this report by planner Gregory Mooers, I am including another copy for completeness, along with a photograph that Dr. Lockwood provided me.

The basic conclusion of Dr. Lockwood's field evaluation was that the feature locally called a blow-hole would be more properly termed a surge-hole, because it lacks the compressed air that endows blow-holes with extra erosive power. The feature shows no signs of erosive expansion, and there is little risk to the home in its planned location. This information has been added to the Final EA.

Again, thank you for your comment.

Sincerely,



Ron Terry, Principal  
Geometrician Associates

Cc: Sam Lemmo, OCCL



**GEOHAZARDS CONSULTANTS INTERNATIONAL, INC.**

Appraisal of hazards • reduction of risk

October 11, 2006

Mooers Enterprises, LLC  
P.O. Box 1101  
Kamuela, HI 96743  
Attn: G. Mooers

re: "Durst Property" (TMK (3)-8-3-005:006)

Dear Mr. Mooers:

As you requested, I made an inspection of the Durst Property south of Napo'opo'o last week, to evaluate the nature of coastal stability and associated hazards. I paid particular attention to the "blow-hole" and the stability of the associated rock outcrops at the coastline, and visited the property twice – once at high tide from onshore, and once at low tide from offshore.

First – a correction in terminology. The depression in the front of the property is not a "blow-hole" in conventional terminology, as it lacks the small surface opening and subsurface air chamber that would cause high velocity escape of air and water. I would prefer the coined term "surge-hole", as it more accurately describes the feature. This "surge-hole" is connected directly to the sea via underwater caves at both the north and south ends, and would also receive input from high swells and storm waves via a direct opening that is about five feet above normal high tide.

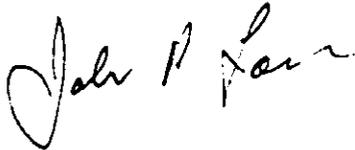
Because seawater "surges" upward into this depression with little force, the rising water has little erosive power, and the feature shows no signs of lateral expansion. It would, however become hazardous during times of storm waves and high swells, because its sides are covered with loose rubble, and anyone slipping into this depression at such times could face serious peril.

The location of the "shoreline" as defined by the State Legislature (Chapter 205A-1, HRS) is clearly indicated by the presence of red marine algae that defines high tide, and by the presence of opihi that show highest normal wave wash. The shoreline thus defined extends into the bottom of the "surge-hole" (beneath overhanging rock), but does not extend upwards along the sides of the depression, as there is no marine debris here and loose a'a rubble has not been impacted by waves.

The Property is protected from shoreline erosion by a near vertical zone of mixed "blue rock" and welded a'a breccia that fronts the property. This narrow zone of resistant rock represents internal layers of an a'a flow that were contorted from an original flat-lying position, by contact with the ocean during the "Pu'u Kinikini" eruption about 1,100 years ago. This "dike" of hard rock has resisted the impact of storm waves for several hundred years, but has been weakened by salt-spray erosion of internal cracks, and may not offer protection against exceptionally large storm swells or tsunamis directed from the west. Such conditions are very rare, have not been seen within the memories of living residents, but are a future threat to be aware of.

I hope that the above comments are of use to you. I have additional field measurements and numerous photographs of these features that I could use to compile a more formal Report for you if that is ever needed.

Sincerely,



John P. Lockwood, Ph.D., CPG-9806



LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA  
DEPUTY DIRECTOR

DEAN A. NAKANO  
ACTING DEPUTY DIRECTOR - WATER

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

REF:OCCL:MC  
FILE NO: HA-3377

Acceptance Date: September 26, 2006  
180 Day Expiration Date: March 25, 2007

Gregory Mooers  
Mooers Enterprises LLC  
PO Box 1101  
Kamuela, HI 96743

NOV 30 2006

Dear Mr. Mooers,

SUBJECT: Conservation District Use Application HA-3377  
Single family residence  
TMK (3) 8-3-05:6  
Kcawaiki Beach Lots, Kahauloa, South Kona, Hawai'i

This letter is regarding the processing of CDUA HA-3377. The public and agency comment period on your client's application has closed. Attached to this letter are copies of the comments received by the Office of Conservation and Coastal Lands (OCCL) regarding the CDUA.

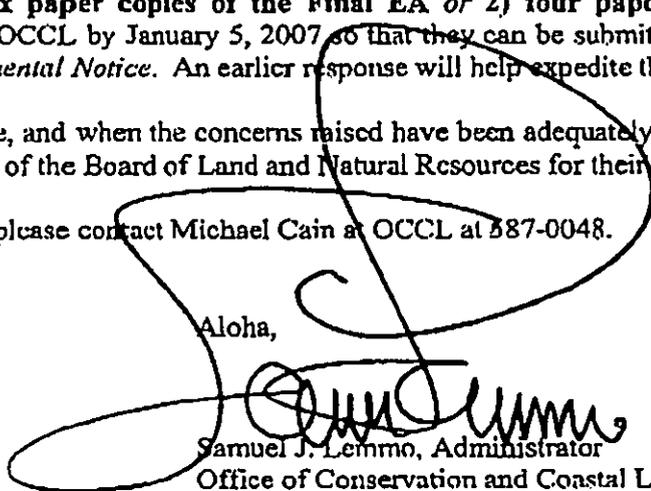
Please send copies of your responses to the questions raised in these letters directly to the authoring agency as well as to the OCCL. The responses should also be added as an appendage to the Final Environmental Assessment (FEA).

Please also submit either 1) six paper copies of the Final EA or 2) four paper copies and one electronic copy of the FEA to OCCL by January 5, 2007 so that they can be submitted for the January 23, 2007 edition of the *Environmental Notice*. An earlier response will help expedite the review process.

After we receive your response, and when the concerns raised have been adequately addressed, we will place your CDUA on the agenda of the Board of Land and Natural Resources for their consideration.

Should you have any questions, please contact Michael Cain at OCCL at 887-0048.

Aloha,

  
Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
ROBERT K. MASUOA  
DEPUTY DIRECTOR  
DEAN A. MAKANO  
ACTING DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:MC

FILE NO.: HA-3377

180-Day Expiration Date: March 25, 2006  
Suspense Date: 21 Days from stamped date

MEMORANDUM:

OCT - 4 2006

TO: DLNR  Historic Preservation  
 DOCARE  
 Land Division,  
 DOFAW  
 Na Ala Hele  
 Aquatic Resources

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: **REQUEST FOR COMMENTS**  
Conservation District Use Application (CDUA) HA-3377  
Single family residence

APPLICANT: Peter & Ellen Durst

TMK: (3) 8-3-05:6

LOCATION: Keawaiki Beach Lots, Kahauloa, South Kona, Hawai'i

PUBLIC HEARING: YES NO X

Please contact Michael Cain at 587-0048, should you have any questions on this matter.

If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp.

Comments Attached  
 No Comments

*Aris Moana Rowland*  
Signature

Attachments: Conservation District Use Application

2006 OCT 13 A 10 52  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII

LINDA LINGGIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 821  
HONOLULU, HAWAII 96808

2006 OCT 13 A 10

DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII

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

ROBERT K. MASUDA  
DEPUTY DIRECTOR

DEAN A. MAXANO  
ACTING DEPUTY DIRECTOR - WATER

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

REF:OCCL:MC

FILE NO.: HA-3377

180-Day Expiration Date: March 25, 2006  
Suspense Date: 21 Days from stamped date

MEMORANDUM:

OCT - 4 2006

To: DLNR  Historic Preservation  
 DOCARE  
 Land Division,  
 DOFAW  
 Na Ala Hele  
 Aquatic Resources

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS  
Conservation District Use Application (CDUA) HA-3377  
Single family residence

APPLICANT: Peter & Ellen Durst

TMK: (3) 8-3-05:6

LOCATION: Keawaiki Beach Lots, Kahauloa, South Kona, Hawai'i

PUBLIC HEARING: YES NO X

Please contact Michael Cain at 587-0048, should you have any questions on this matter.

If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp.

Comments Attached  
 No Comments

Signature

Attachments: Conservation District Use Application

2006 OCT 11 P 3:08  
RECEIVED  
LAND DIVISION

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
POST OFFICE BOX 821  
HONOLULU, HAWAII 96809

→ Nelson A.

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

ROBERT K. MASUDA  
DEPUTY DIRECTOR

DEAN A. MAKANO  
ACTING DEPUTY DIRECTOR - WATER

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

REF:OCCL:MC

FILE NO.: HA-3377

180-Day Expiration Date: March 25, 2006  
Suspense Date: 21 Days from stamped date

MEMORANDUM:

OCT - 4 2006

To: DLNR  Historic Preservation  
 DOCARE  
 Land Division,  
 DOFAW  
 Na Ala Hele  
 Aquatic Resources

FROM: Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS  
Conservation District Use Application (CDUA) HA-3377  
Single family residence

APPLICANT: Peter & Ellen Durst

TMK: (3) 8-3-05:6

LOCATION: Keawaiki Beach Lots, Kahauloa, South Kona, Hawai'i

PUBLIC HEARING: YES NO X

Please contact Michael Cain at 587-0048, should you have any questions on this matter.

If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp.

Comments Attached  
 No Comments

*Paul J. Conry*  
SIGNATURE OF ADMINISTRATOR  
DIVISION OF FORESTRY AND WILDLIFE

Attachments: Conservation District Use Application

DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII

2006 OCT - 6 A 11: 06

OFFICE OF CONSERVATION AND COASTAL LANDS



SUSPENSE DATE: October 28, 2006

2006 OCT 18 A 2:05  
STATE OF HAWAII  
Department of Land and Natural Resources  
Division of Aquatic Resources  
STATE OF HAWAII

MEMORANDUM

To: Dan Polhemus, Administrator *DP*  
From: Richard Sixberry, Aquatic Biologist  
Subject: Comments on Conservation District Use Application HA-3377

Comments Requested By: Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands

Date of Request: 10/4/06 Date Received: 10/5/06

Summary of Project

Title: Single Family Residence and Related Improvements  
Proj. By: Peter & Ellen Durst  
Location: Keawaiki Beach Lots, South Kona, Hawaii

Brief Description:

The applicant proposes to construct a one-story single family dwelling with related improvements on a shoreline parcel fronting Kealakakua Bay, two miles south of Captain Cook, S. Kona, Hawaii.

Comments:

Significant long-term impacts adverse to aquatic resource values are not expected from the proposed new single family dwelling since the property has been previously disturbed and landscaped. Access to and from the shoreline at this site is not possible due to the rocky barren lava cliffs fronting the ocean.

Further, precautions shall be taken to prevent debris, landscaping chemicals, eroded soil, petroleum products and other potential contaminants from flowing blowing or leaching into Kealakakua Bay.

Richard Sixberry  
Aquatic Biologist

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
ROBERT K. MARUDA  
DEPUTY DIRECTOR - LAND  
  
DEAN MAKANO  
ACTING DEPUTY DIRECTOR - WATER  
  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCE ENFORCEMENT  
DIVISIONS  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAOLOAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

November 21, 2006

Mr. Sam Lemmo, Administrator  
Department of Land and Natural Resources  
Office of Conservation and Coastal Lands  
P.O. Box 621  
Honolulu, Hawai'i 96809

2006 NOV 21 AM 10:07  
HISTORIC PRESERVATION DIVISION  
STATE OF HAWAII  
LOG NO: 2006-3854  
DOC NO: 0611NM34  
Archaeology

Dear Mr. Lemmo:

**SUBJECT: Chapter 6E-11 Historic Preservation Review (State/Peter and Ellen Durst) –  
CDUA HA-377 for Single Family Residence  
Kahauloa 1<sup>st</sup> Ahupua'a, South Kona District, Island of Hawai'i  
TMK: (3) 8-3-005: 006**

The aforementioned project is for a single family residence.

We believe that no historic properties will be affected by this undertaking because:

- a) intensive cultivation has altered the land
- b) residential development/urbanization has altered the land
- c) previous grubbing/grading has altered the land
- d) an acceptable archaeological assessment or inventory survey found no historic properties
- e) this project has gone through the historic review process, and mitigation has been completed
- f) other: *A previous letter (LOG NO. 25982 DOC. NO. 0008PM05) indicates that a previous draft Environmental Assessment was prepared in 2000 for this parcel, which provided documentation supporting previous alteration of the parcel through grading, landscaping and house construction.*

In the event that historic resources, including human skeletal remains, are identified during the construction activities, all work needs to cease in the immediate vicinity of the find, the find needs to be protected from additional disturbance, and the State Historic Preservation Division, Hawai'i Section, needs to be contacted immediately at (808) 327-3691.

Aloha,

Melanie Chinen, Administrator  
State Historic Preservation Division

NM:jen

# geometrician

ASSOCIATES, LLC  
integrating geographic science and planning

phone: (808) 969-7090 PO Box 396 Hilo Hawai'i 96721 rterry@hawaii.rr.com

December 8, 2006

Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands  
Hawai'i State Department of Land and Natural Resources  
P.O. Box 621  
Honolulu HI 96809

Dear Mr. Lemmo:

**Subject: Comments on Draft Environmental Assessment (DEA)/Conservation District Use Application (CDUA-HA 3250) for Durst Single-Family Dwelling in the Conservation District TMK (3<sup>rd</sup>) 8-3-05:06**

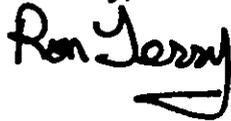
In the interest of a complete record on comment letters to the EA/CDUA, I would like to acknowledge receipt of form memos circulated by your office, and to respond to those branches and divisions that supplied comments. Memos checked "no-comments" were received from Na Ala Hele, the Land Division, and DOFAW.

From the Aquatic Resources Division we received a comment stating that significant impacts are not expected but that precautions should be taken to prevent debris and contaminants from polluting Kealakekua Bay. The landowner and architect are aware of this, and the Environmental Assessment specifies this mitigation in Section 3.2.4. We expect that this will become a condition of the CDUP and recognize that the site may be inspected during construction to insure compliance.

From the State Historic Preservation Division we received the comment that no historic properties would be affected, based on a determination made on a previous application for the same property, and also repeated in the letter of July 14, 2006, which was included in the EA within Appendix 1 and cited in Section 3.3.4.

Thank you for circulating the EA and CDUA for review by DLNR agencies. If you have any questions, please contact me at 969-7090.

Sincerely,



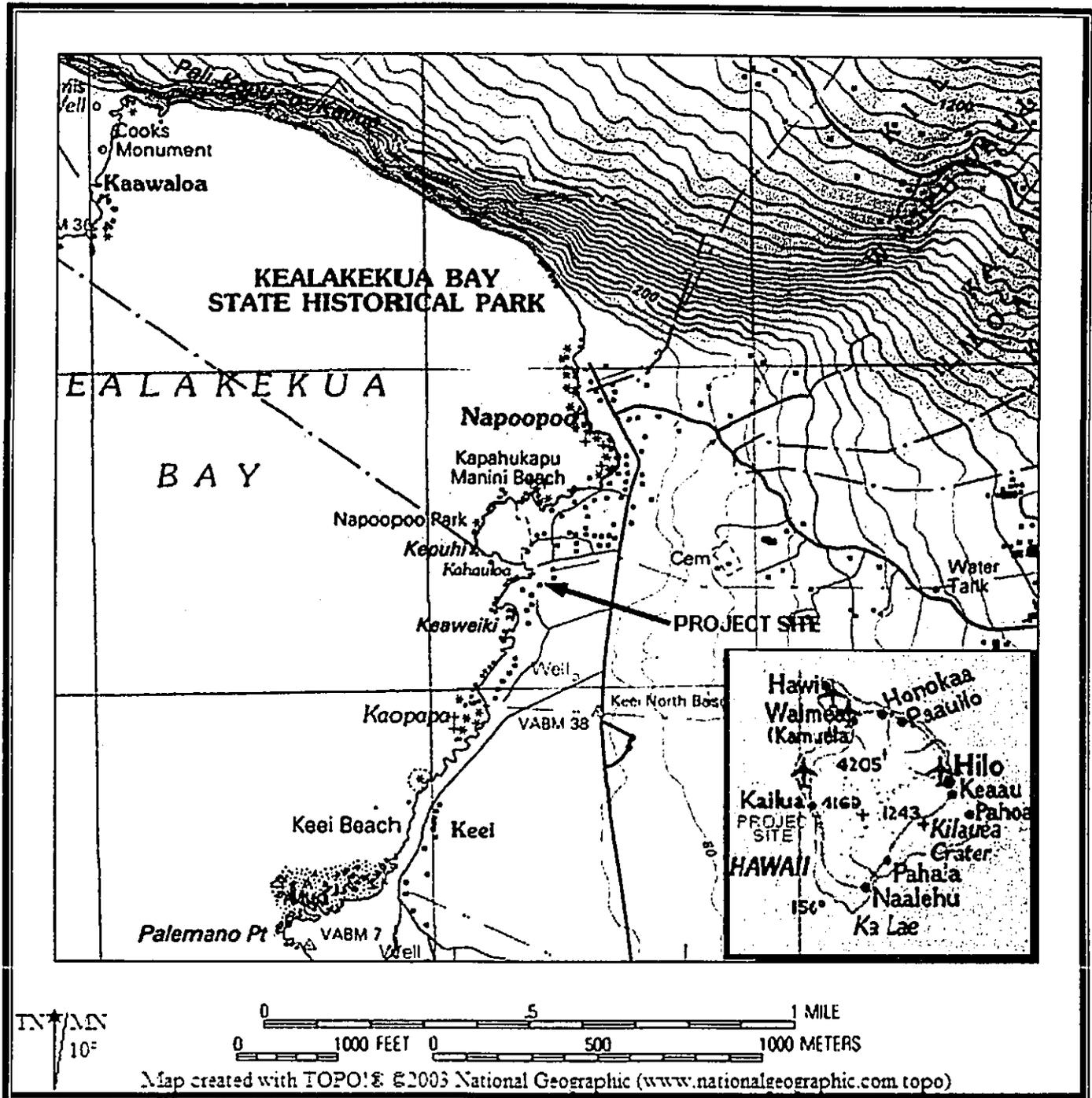
Ron Terry, Principal  
Geometrician Associates

**ENVIRONMENTAL ASSESSMENT  
DURST SINGLE FAMILY DWELLING AND  
ASSOCIATED IMPROVEMENTS IN THE  
CONSERVATION DISTRICT  
ENVIRONMENTAL ASSESSMENT**

**APPENDIX 2**

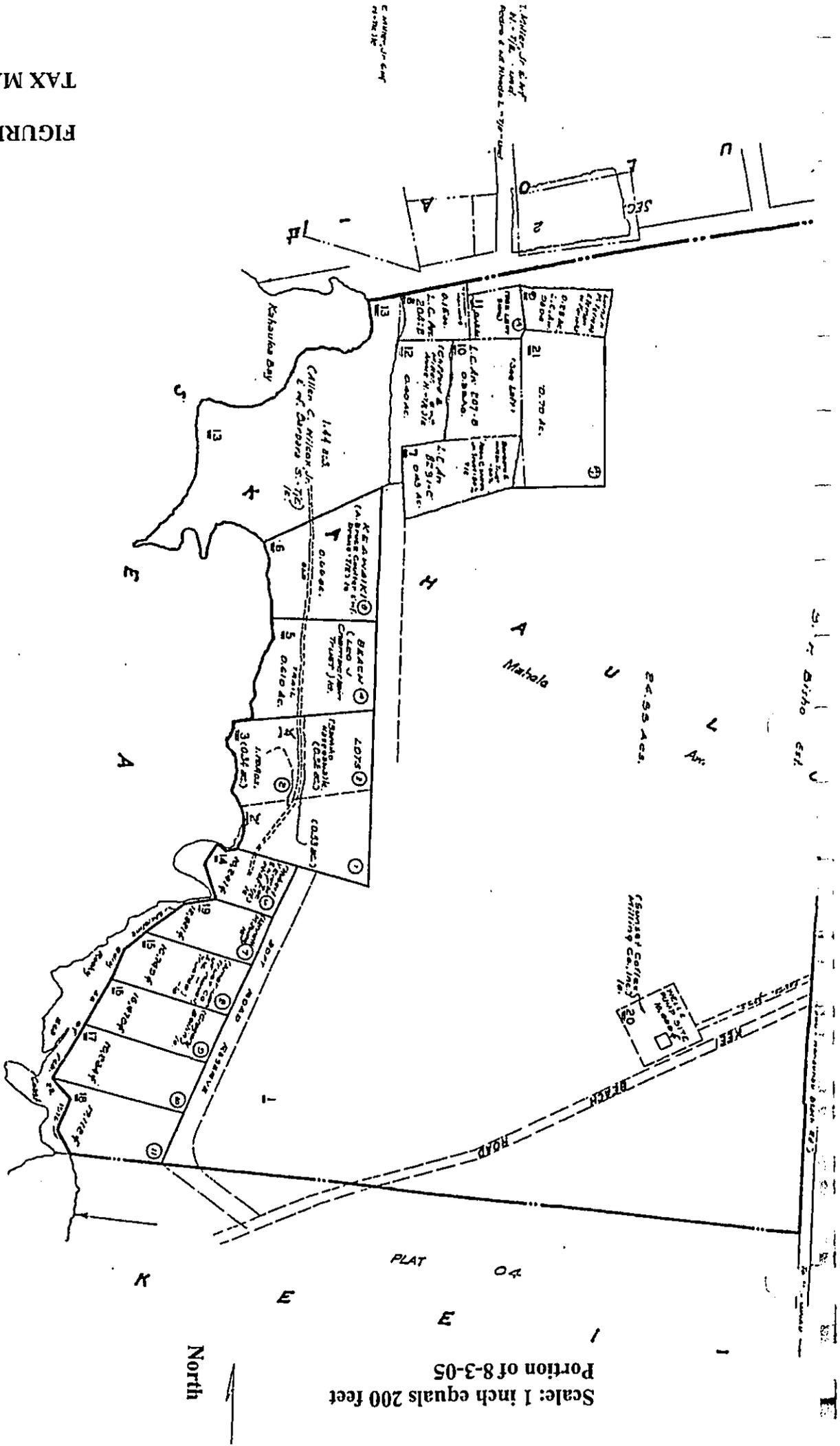
**FIGURES**

Figure 1 Project Location



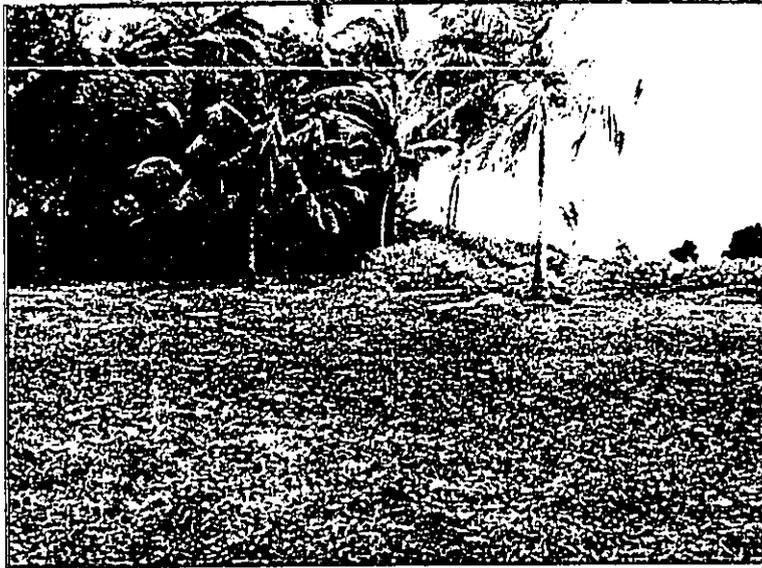
PORTION of KAHALUA, SOUTH KONA, HAWAII.

FIGURE 2  
TAX MAP



ADVANCE SH  
SUBJECT TO CH

**Figure 3 Project Site Photographs**



**3a Cleared state of lot**



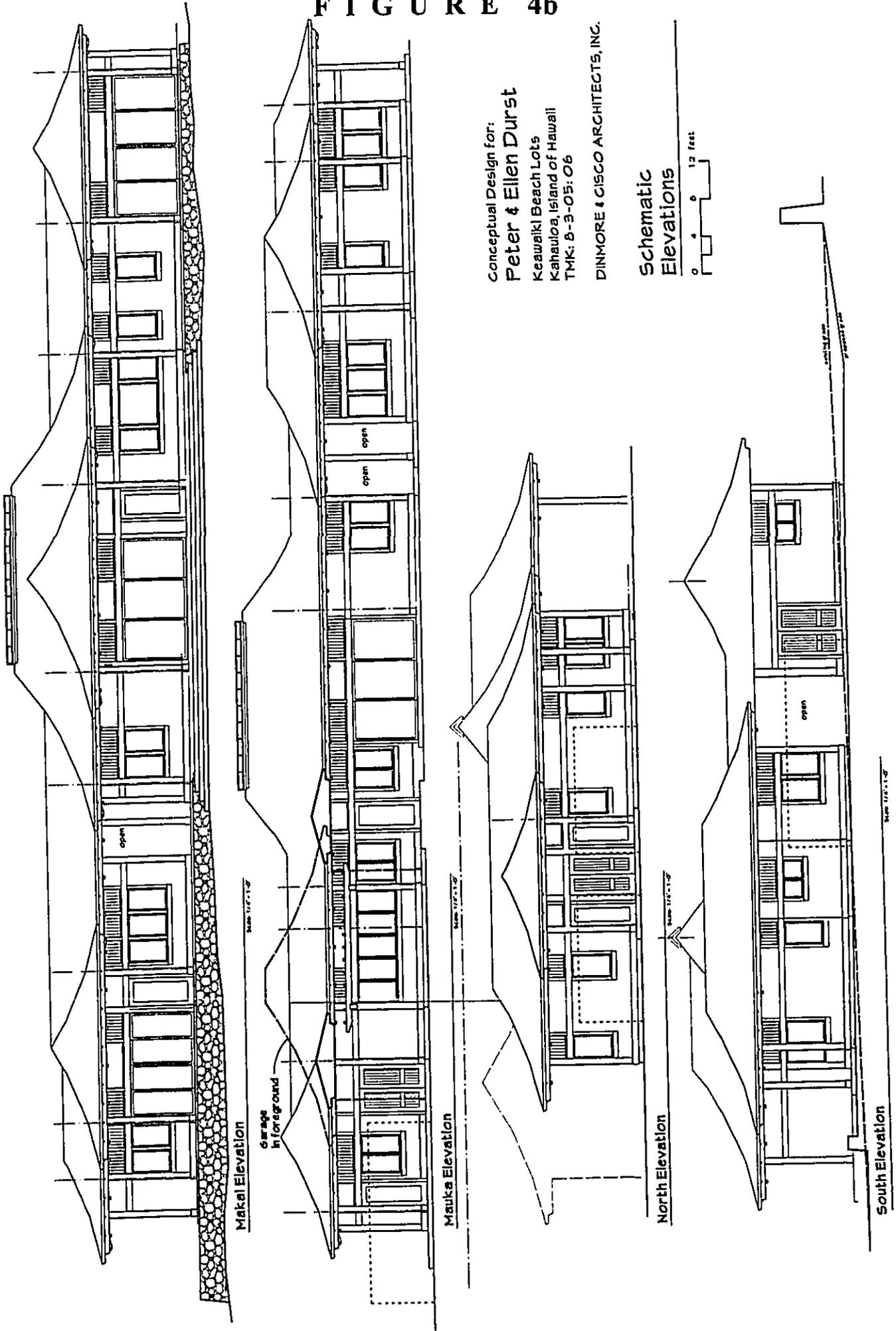
**3b Remnants of former home on lot**



**3c 'A'a shoreline in front of lot**



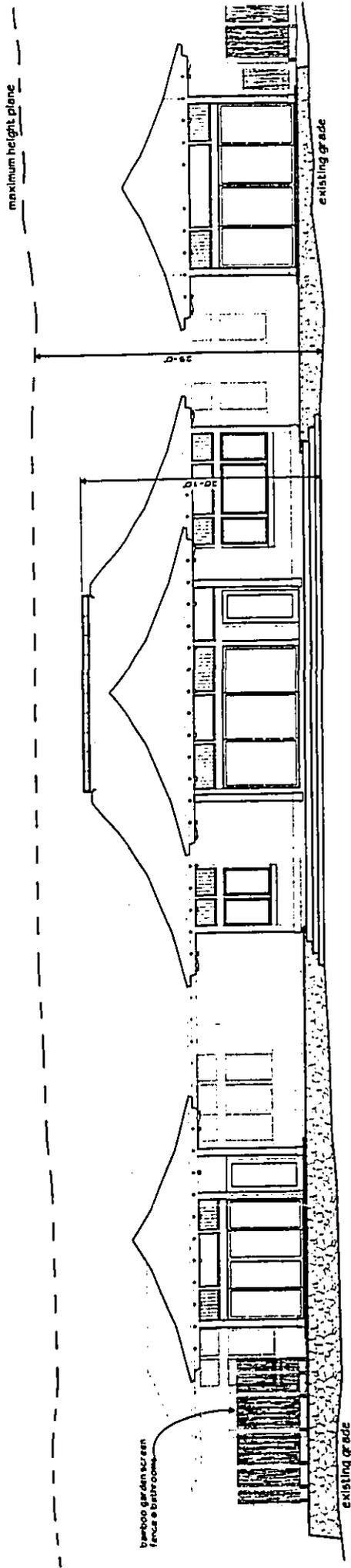
**FIGURE 4b**



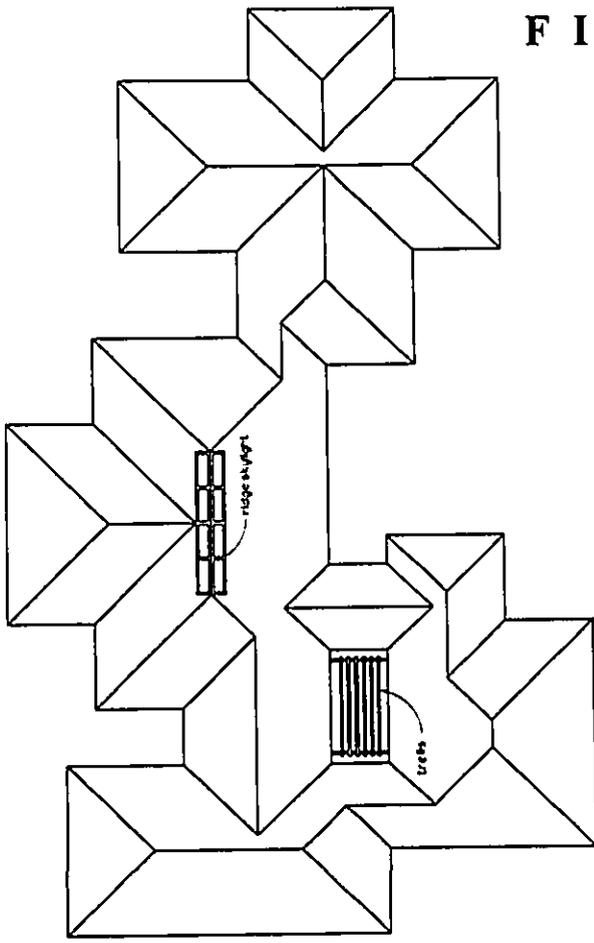
Conceptual Design for:  
**Peter & Ellen Durst**  
Keawiki Beach Lots  
Kahauloa, Island of Hawaii  
TMK: B-3-05: 06  
DINMORE & CISCO ARCHITECTS, INC.

Schematic  
Elevations

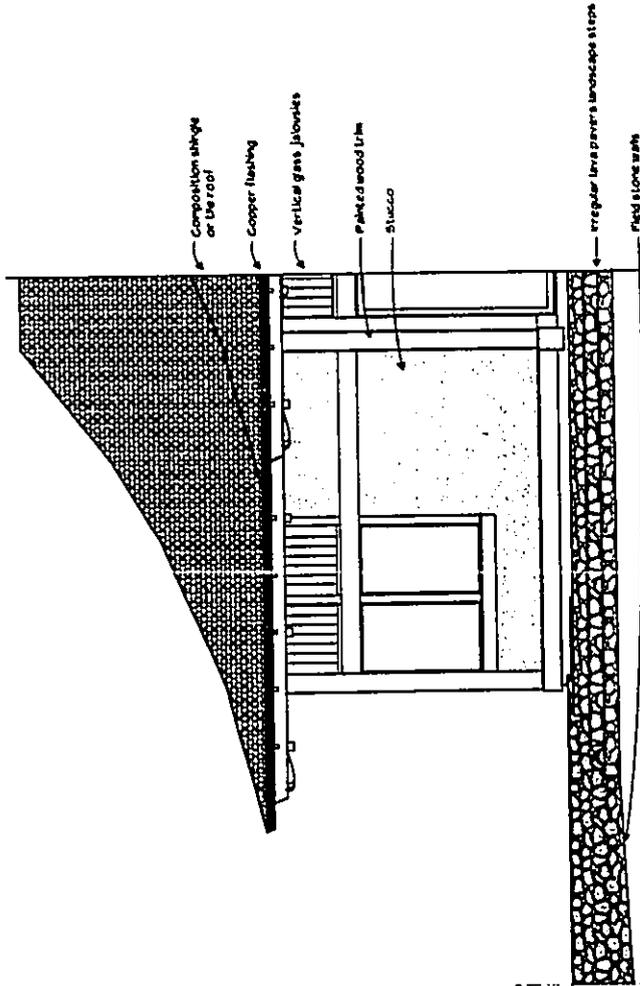




Example Elevation (Makal)



Roof Plan



Color Scheme

FIGURE 4c

Conceptual Design for:  
Peter & Ellen Durst

Keawiki Beach Lots  
Kahauloa, Island of Hawaii  
TMK: B-3-05; 06

DINMORE & CISCO ARCHITECTS, INC.





FIGURE 5 VIEW TO KAHAULOA BAY FROM VIEWPOINTS  
Kahauloa Bay, with Keawaiki Beach Lots just to South, Indicated by Arrows

Mamalahoa Highway



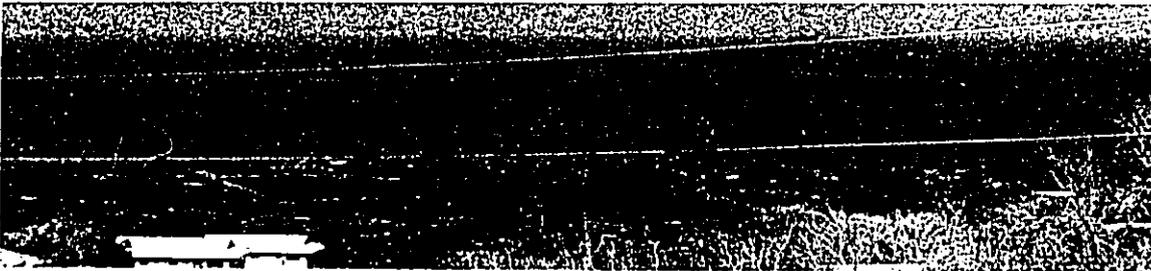
Upper Napo'opo'o Road



Lower Napo'opo'o Road



Lower Napo'opo'o Road



**ENVIRONMENTAL ASSESSMENT  
DURST SINGLE FAMILY DWELLING AND  
ASSOCIATED IMPROVEMENTS IN THE  
CONSERVATION DISTRICT  
ENVIRONMENTAL ASSESSMENT**

**APPENDIX 3**

**PRIOR CORRESPONDENCE RELATED TO TRAIL**

Note: Letters contained herein relate to a previous application for a single-family home.



NA ALA HELE  
Hawaii Trail & Access System

May 10, 2000

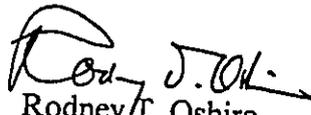
Ron Terry, Ph. D.  
Geo Metrician  
HC 2 Box 9575  
Keaau, HI 96749

Dear Mr. Terry:

Encumbrance No. 5 of the deed document to grantee, Alexander M. Wilson and Beverlee E. Wilson from grantor, trustees of the Estate of Bernice Pauhi Bishop state, "Rights of others to use the trail shown upon the map attached to Lease No. 12,156 and upon Tax Map Plat 8-3-05."

Under the circumstances, Na Ala Hele is willing to negotiate a suitable alignment that will still enable construction of the proposed single-family dwelling. The Environmental Assessment should address viable alternatives available in the disposition of the Keawaiki Trail.

Sincerely,

  
Rodney T. Oshiro  
Na Ala Hele

Attachment: TMK 8-3-05



NT BY: ;

808 880 1456;

AUG-5-06 9:13AM;

PAGE 1

FROM : GEOMETRICIAN

PHONE NO. : 9825831

NOV. 28 2000 03:08PM P2



**COPY**  
**NA ALA HELE**  
Hawaii Trail & Access System

July 17, 2000

Ref: H00:07 Keawaiki Trail

TO: Rodney Oshiro, NAH Specialist

THROUGH: Curt Cottrell, Program Manager *CAE*

FROM: Doris Moana Rowland, Abstractor *DMR*

SUBJECT: "Old Trail" delineated on Tax Plat Map 8-3-05:06 being a portion of the Keawaiki Beach Lots Subdivision, situate at Kahauloa 2<sup>nd</sup>, South Kona

Research has been completed pursuant to your inquiry received May 4<sup>th</sup> regarding the subject trail described above. Examination of available records fail to disclose the alignment of the trail on a map predating 1892. Without the necessary evidence documenting the trail's existence in accord with the mandates of the Highways Act of 1892, ownership of said trail can not be confirmed in favor of the State of Hawaii.

Should you have any concerns or questions regarding this matter please call me at 587-0057.

c: Dawn Chang, Deputy Attorney General  
Eric Hill, Land



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

P.O. BOX 621  
HONOLULU, HAWAII 96808

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
RESOURCE ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND DIVISION  
STATE PARKS  
WATER RESOURCE MANAGEMENT

Ref:PB:EAH

JUL 27 2000

File No.:CDUA HA-2990B

Acceptance Date: 6/23/2000  
180-Day Exp. Date: 12/20/2000

Mr. Gregory Mooers  
Mooers Enterprises  
P. O. Box 1101  
Kamuela, HI 96743

Dear Mr. Mooers,

**NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL DETERMINATION  
CONSERVATION DISTRICT USE APPLICATION (CDUA) HA-2990  
BOARD PERMIT**

This letter acknowledges the acceptance for processing of your client, Mr. Alexander Wilson's, CDUA for a single-family residence (SFR) with accessory and related improvements at Keawaiki Beach Lots, Kahauloa 2<sup>nd</sup>, South Kona, Hawaii, TMK (3) 8-3-5:6 within the General Subzone of the State Land Use Conservation District.

We understand that the applicant proposes to demolish an existing dilapidated SFR and construct a new SFR with a swimming pool, detached garage and paved driveway.

After reviewing the application, we find that:

1. The proposed use is an identified land use (R-8, SINGLE FAMILY RESIDENCE; D-1) within the Conservation District, pursuant to Section 13-5-24 of the Hawaii Administrative Rules (HAR);
2. Pursuant to Section 13-5-40, HAR, a public hearing will not be required as the proposed project does not involve a commercial use; and
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a finding of no significant impact (FONSI) to the environment is anticipated for the proposed project. The draft environmental assessment for the project has been submitted to the Office of Environmental Quality Control (OEQC), and will be noted in an upcoming edition of OEQC's Environmental Notice.

- 4. Documentation of the project's compliance with the provisions of Chapter 205A, HRS relating to the Special Management Area (SMA) requirements is found to be complete through a letter included within environmental assessment for the proposed land uses which states that the County of Hawaii, Planning Department has determined that the proposed land uses are exempt from the need to obtain an SMA permit.

It seems that portions of the trail encumbrance noted on the submitted property deed appear to be abandoned. We recommend that you request that the prior landowner release this encumbrance. Furthermore, we note that you have included a second detached residence and have exceeded the maximum developable area in your site plans. We request that you amend the site plans and submit new site plans to reflect conformance with the design standards for SFRs outlined in 13-5, HAR.

Pending action on your application by the Board of Land and Natural Resources in the near future, your cooperation and early response to the matters presented above will be appreciated. Should you have any questions, please contact Eric Hill of our planning staff at 587-0380.

Aloha,

  
 TIMOTHY E. JOHNS  
 Chairperson

- c: Hawaii Board Member  
 OHA/DOH/OEQC  
 County of Hawaii, Department of Planning  
 DAR/DOCARE/HPD/LD(HDLO)  
 Na Ala Hclc

DOCUMENT CAPTURED AS RECEIVED



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION  
P.O. BOX 621  
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
COMPLIANCE  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND DIVISION  
STATE PARKS  
WATER RESOURCE MANAGEMENT

SEP - 6 2000

File No.: CDUA HA-2990B

Ref:PB:EAH

Mr. Gregory Mooers  
Mooers Enterprises  
P. O. Box 1101  
Kamuela, HI 96743

Dear Mr. Mooers,

**Subject:** Conservation District Use Permit HA-2990 By Alexander Wilson For A Single-Family Residence With Accessory And Related Improvements At Keawaiki Beach Lots, Kahauloa 2<sup>nd</sup>, South Kona, Hawaii, TMK (3) 8-3-5:6

We are writing to respond to your letter of August 22, 2000 and to notify you of the need for your application to comply with Special Management Area (SMA) requirements. Previously, we informed you that your application complied with SMA requirements. We were in error. We have not received an SMA determination from the County of Hawaii for the proposed use. Therefore, we inform you that it is the applicant's responsibility to comply with the provisions of Chapter 205A, HRS, relating to the Special Management Area (SMA) requirements. Negative action by the Board of Land and Natural Resources on this CDUA can be expected should you fail to obtain from the County and provide to the department at least thirty (30) days prior to the 180-day expiration date (as noted on the first page of the acceptance letter) one of the following:

1. A determination that the proposed development is exempt from the provisions of the county rules relating to the SMA;
2. A determination that the proposed development is outside the SMA; or
3. An SMA Use Permit for the proposed development.

In response to your letter of August 22, 2000, we have the following comments:

1. The Attorney General has not issued an opinion that the trail segment on the Wilson's property is not a public trail;
2. At this time, we do believe that the encumbrance noted on the Wilson's deed for a trail is a private matter. However, it seems that other parties may have an interest in the trail other than the Wilson's and the previous property owner;
3. We will not request any opinions from the Attorney General on the matter of the trail;

4. The square footage of the car port is counted as part of a single family residence total floor area pursuant to Chapter 13-5, Hawaii Administrative Rules (HAR);
5. Section 13-5-41, HAR, provides that not more than one single family residence shall be authorized within the conservation district on a legal lot of record;
6. When you met with departmental staff, you were informed that the proposed house design should be modified to comply with Chapter 13-5, HAR. However, you were also informed that your client's request for a separate guest wing, although contrary to departmental practice, could be appealed to the Board of Land and Natural Resources (Board) at the time your application is decided upon; and
7. We are still processing your CDUA and should you propose to remove the separate guest wing from your design or should the Board disapprove the proposed separate guest wing you may submit revised plans for approval if your application is approved.

Finally, we would like to re-inform you that it seems portions of the trail encumbrance noted on the property deed submitted with your application appear to be abandoned. We recommend that you request that the prior landowner release this encumbrance. Furthermore, we note that you have included a second detached residence and have exceeded the maximum developable area in your site plans. We request that you amend the site plans and submit new site plans to reflect conformance with the design standards for SFRs outlined in 13-5, HAR.

Pending action on your application by the Board of Land and Natural Resources in the near future, your cooperation and early response to the matters presented above will be appreciated. Should you have any questions, please contact Eric Hill of our planning staff at 587-0380.

Aloha,



Dean Y. Uchida, Administrator

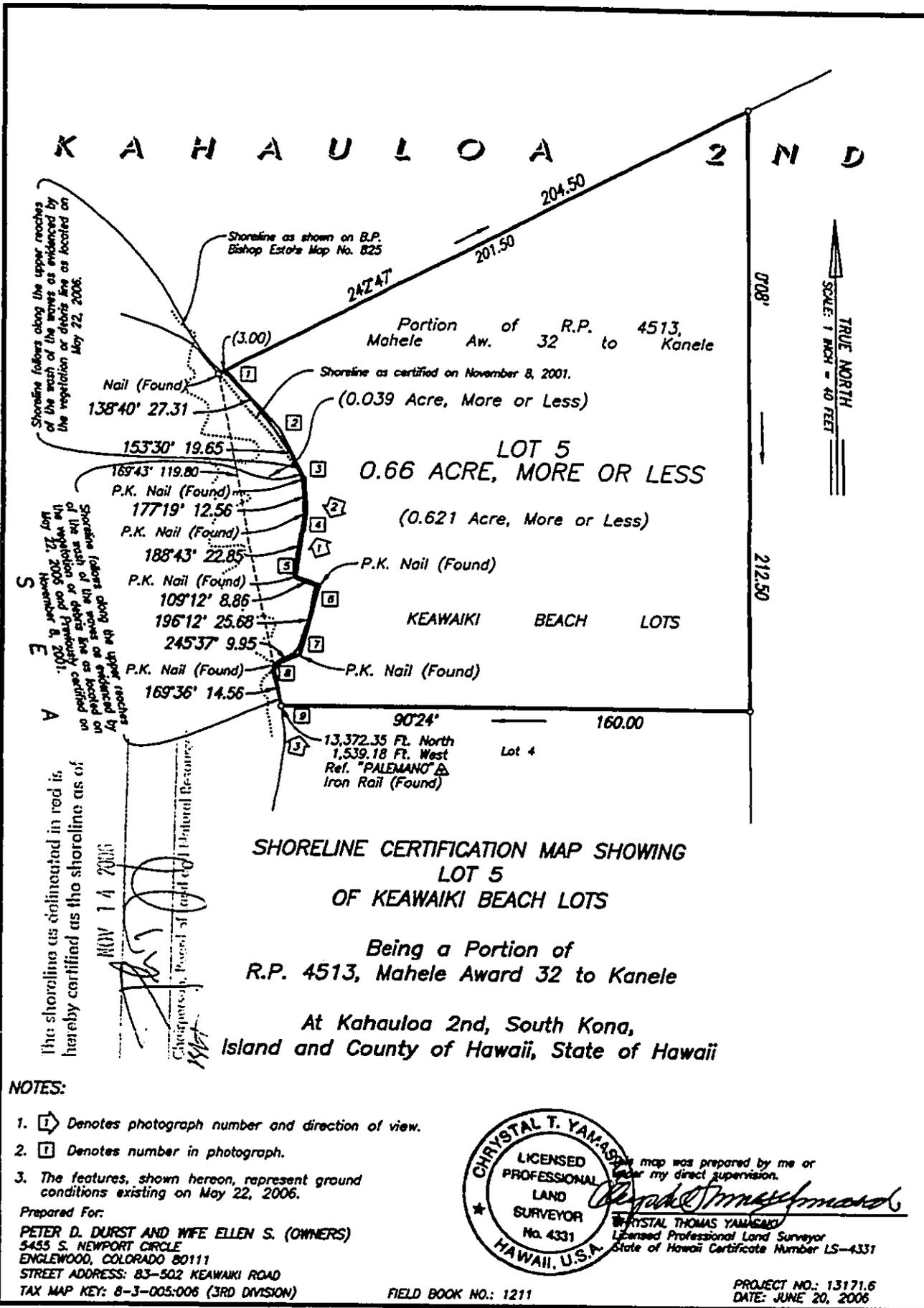
c: Hawaii Board Member  
OHA/OEQC/DAG(LTD)  
County of Hawaii, Department of Planning  
LD(HDLO)

**ENVIRONMENTAL ASSESSMENT  
DURST SINGLE FAMILY DWELLING AND  
ASSOCIATED IMPROVEMENTS IN THE  
CONSERVATION DISTRICT  
ENVIRONMENTAL ASSESSMENT**

**APPENDIX 4**

**CERTIFIED SHORELINE MAP**

# K A H A U L O A 2 N D



## SHORELINE CERTIFICATION MAP SHOWING LOT 5 OF KEAWAIKI BEACH LOTS

Being a Portion of R.P. 4513, Mahele Award 32 to Kanele  
At Kahauloa 2nd, South Kona, Island and County of Hawaii, State of Hawaii

**NOTES:**

1. [1] Denotes photograph number and direction of view.
2. [2] Denotes number in photograph.
3. The features, shown hereon, represent ground conditions existing on May 22, 2006.

Prepared For:  
PETER D. DURST AND WIFE ELLEN S. (OWNERS)  
5455 S. NEWPORT CIRCLE  
ENGLEWOOD, COLORADO 80111  
STREET ADDRESS: 83-502 KEAWAIKI ROAD  
TAX MAP KEY: 8-3-005-006 (3RD DIVISION)

CHRISTAL T. YAMAGUCHI  
LICENSED PROFESSIONAL LAND SURVEYOR  
No. 4331  
HAWAII, U.S.A.

This map was prepared by me or under my direct supervision.  
*Christal T. Yamaguchi*  
CHRISTAL THOMAS YAMAGUCHI  
Licensed Professional Land Surveyor  
State of Hawaii Certificate Number LS-4331

FIELD BOOK NO.: 1211

PROJECT NO.: 13171.6  
DATE: JUNE 20, 2006

**WES THOMAS ASSOCIATES**  
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