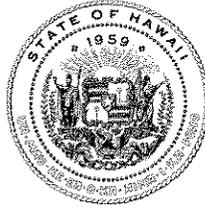
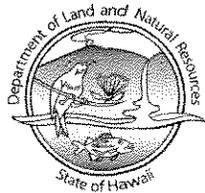


LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
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 - 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  
KAPOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF.:OCCL:TM

CDUA: KA-3379

Acceptance Date: September 12, 2006  
180-Day Expiration Date: March 11, 2007

MEMORANDUM

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

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

**SUBJECT:** Final Environmental Assessment (FEA)/ Finding of No Significant Impact (FONSI)  
for Conservation District Use Application (CDUA) KA-3379 For Single Family  
Residence and Associated Improvements Located at Haena, Island of Kauai,  
TMK:(4) 5-9-002:059

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OFFICE OF ENVIRONMENTAL  
QUALITY CONTROL

The Office of Conservation and Coastal Lands (OCCL) has reviewed the Final Environmental Assessment (FEA) for the Kuraoka Single Family Residence. The Draft Environmental Assessment (DEA) for CDUA KA-3379 was published in OEQC's October 8, 2006 Environmental Notice.

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. Please publish this notice in OEQC's upcoming November 23, 2006 Environmental Notice.

We have enclosed four copies of the FEA for the project along with the OEQC Bulletin Publication Form and Project Summary. Comments on the Draft Environmental Assessment were sought from relevant agencies and the public, and were included in the FEA.

Please contact Tiger Mills of our Office of Conservation and Coastal Lands staff at 587-0382 if you have any questions on this matter.

Attachments

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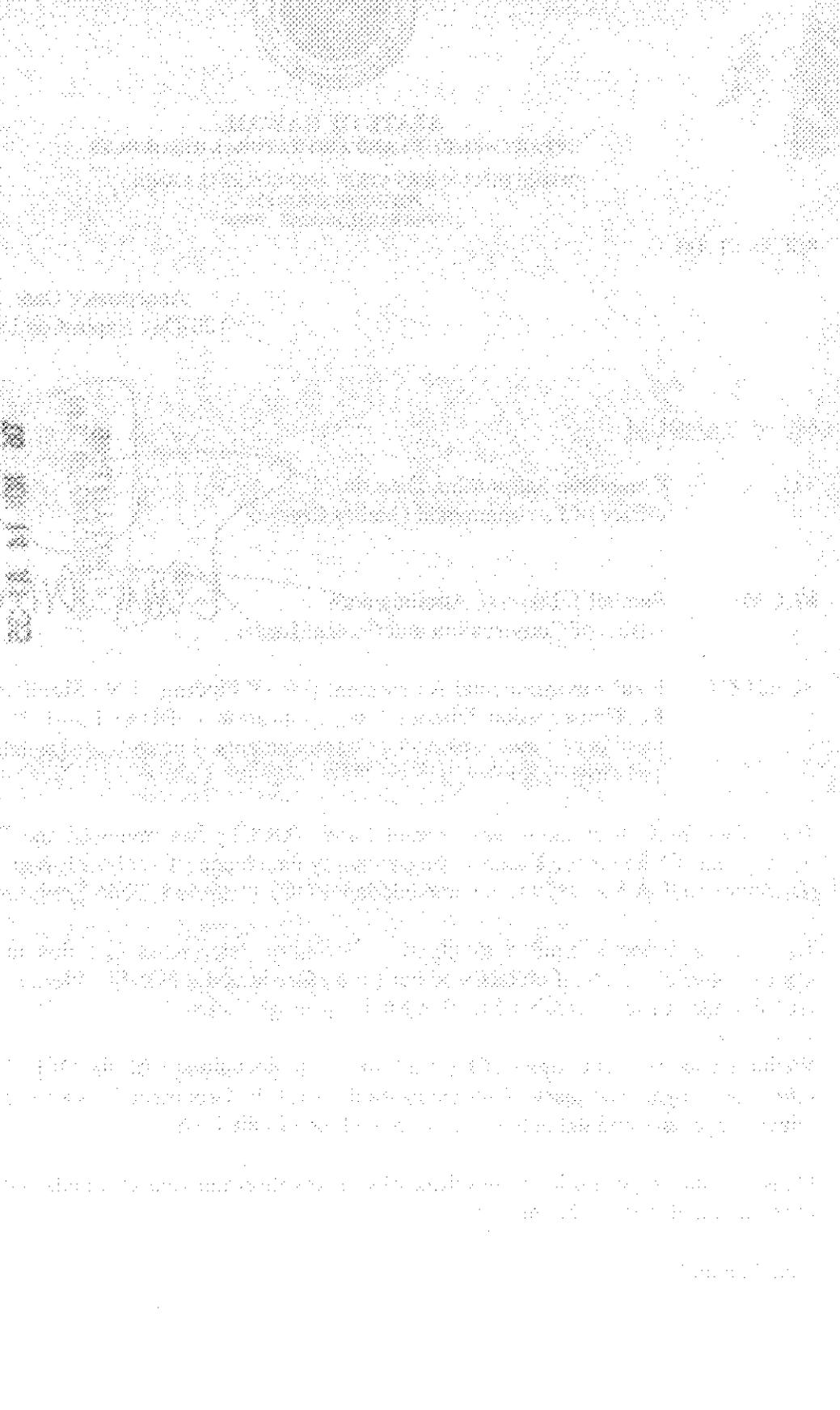
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BELLES GRAHAM PROUDFOOT & WILSON, LLP

MAX W. J. GRAHAM, JR. (926-0)  
LORNA A. NISHIMITSU (2291-0)  
4334 Rice Street, Suite 202  
Lihue, Hawaii 96766  
Telephone: (808) 245-4705  
Facsimile: (808) 245-3277

Attorney for Applicant  
DAVID R. KURAOKA

DEPARTMENT OF LAND AND NATURAL RESOURCES  
2006 NOV 13 A 11:35  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII

BOARD OF LAND AND NATURAL RESOURCES  
OF THE  
STATE OF HAWAII

In the Matter of the Application )  
 )  
 of )  
 )  
 DAVID R. KURAOKA, for a )  
 Conservation District Use Permit to )  
 Construct a Single-Family Residence on )  
 real property situated at Haena, Hanalei, )  
 Island and County of Kauai, State of )  
 Hawaii, and further identified as Tax )  
 Key No.: (4) 5-9-02-059. )  
 )

FINAL ENVIRONMENTAL ASSESSMENT

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FINAL ENVIRONMENTAL ASSESSMENT

COMES NOW DAVID R. KURAOKA (hereinafter "Applicant"), by and through his attorneys, BELLES GRAHAM PROUDFOOT & WILSON, LLP, and hereby respectfully submits the following Final Environmental Assessment pursuant to the requirements contained

in Chapters 343 and 344 of the Hawaii Revised Statutes ("HRS"), Title 11, Chapter 20 and Title 13, Chapter 5, of the Hawaii Administrative Rules "HAR").

### **I. APPLICANT**

The Applicant is DAVID R. KURAOKA, husband of Carol Kuraoka.

### **II. APPLICANT'S ADDRESS AND TELEPHONE**

The Applicant's address and telephone number are:

P. O. Box 222  
Hanalei, Kauai, Hawaii 96714  
Telephone No.: (808) 826-9555

All communications having to do with this Environmental Assessment should be made to the Applicant's attorney at the following address:

Max W. J. Graham, Jr.  
Lorna A. Nishimitsu  
Belles Graham Proudfoot & Wilson, LLP  
4334 Rice Street, Suite 202  
Lihue, Kauai, Hawaii 96766  
Telephone: (808) 245-4705

### **III. APPROVING AGENCY**

The Approving Agency is as follows:

State of Hawaii  
Department of Land and Natural Resources  
Board of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809

### **IV. CONSULTED AGENCIES**

The governmental agencies consulted with regard to the Applicant's proposal include the Planning Department of the County of Kauai (comments are attached as Exhibit "A"), the State Historic Preservation Division, Department of Land and Natural

Resources("SHPD") (comments are attached as Exhibit "B") and Department of Health of the State of Hawaii ("DOH") (comments are attached as Exhibits "C" and "C-1"). In addition, comments responsive to the Applicant's Draft Environmental Assessment have been received from the following: Division of Engineering, Office of Conservation and Coastal Lands, Department of Land and Natural Resources (Exhibit "D"); Division of Aquatic Resources, Office of Conservation and Coastal Lands, Department of Land and Natural Resources (Exhibit "E"); Office of Hawaiian Affairs (Exhibit "F"); the Hanalei-Ha'ena Community Association (Exhibit "G"); the Office of Environmental Quality Control (Exhibit "H"); DOH (approving the IWS Plan) (Exhibit "C-2"); and SHPD (approving Archaeological Assessment Survey) (Exhibit "B-1"). The Applicant's responses to the public and agency comments are contained in Exhibits "V-1" through "V-7".

#### **V. OWNERSHIP OF THE SUBJECT PROPERTY**

The owner of the real property subject of this document (the "Subject Property") is DAVID R. KURAOKA, a married man, pursuant to a 1031 tax deferred exchange the closing of which took place on July 14, 2006.

#### **VI. DESCRIPTION OF SUBJECT PROPERTY**

The Subject Property is located at Haena, Hanalei, Island and County of Kauai, State of Hawaii, is designated as Tax Key No.: (4) 5-9-02-059, and contains 10,942 square feet, more or less.

The general location of the Subject Property is shown on the Map attached hereto and incorporated herewith as Exhibit "I". This area is shown in greater detail on a copy of the Tax Map attached hereto as Exhibit "J"; the Subject Property is highlighted.

## VII. LAND USE CLASSIFICATIONS

A. The Subject Property has the following land use classifications:

1. **State Land Use Classification.** The Subject Property is located within the State Land Use Commission ("SLUC") Conservation District, Limited Subzone, as shown on Exhibit "K".

2. **County General Plan.** As shown on Exhibit "K", the Subject Property is located within the Open Zone Classification of the General Plan for the County of Kauai ("General Plan").

3. **Special Management Area.** The Subject Property is located within the Special Management Area ("SMA") as shown on Exhibit "K". However, as indicated on Exhibit "A", which is a letter from the Planning Department, a Special Management Area permit is not required in this matter inasmuch as the first dwelling is exempt under the County's Special Management Area Rules and Regulations.

## VIII. REQUESTED LAND USE PERMIT

The Applicant has filed a Conservation District Use Application (hereinafter "CDUA") with the Department of Land and Natural Resources ("DLNR") and the Board of Land and Natural Resources (hereinafter "Board") for the issuance of a Conservation District Use Permit ("CDUP") for the construction of a single-family residential dwelling unit (the "Dwelling") including a septic system to service the same on the Subject Property pursuant to Section 13-5-23(c)(D-1), 13-5-34 and 13-5-41 of the HAR.

Access to the Subject Property is over and across a private, all-weather surface road ("Access Road") which connects the property to Kuhio Highway. This Access Road is an

exiting, all-weather surface road approximately twelve feet (12') in width, in which the Applicant has a one-ninth (1/9) undivided interest.

All permits which are necessary for the construction of the dwelling are identified on Exhibit "L".

## **IX. PROPOSED DEVELOPMENT**

The Applicant proposes the construction of a single-family residential dwelling on the Subject Property as shown on the Plot Plan attached as Exhibit "M". A floor plan (for the upper, second level) is attached as Exhibit "N", a floor plan (for the lower, first level) is attached as Exhibit "O", and the front elevation is attached as Exhibit "P".

This proposal is almost identical to a proposal previously approved by the Board in its File No. KA-3132B on October 29, 2003, for Presley V. Wann, who sold the Subject Property to the Applicant. Mr. Wann, however, did not commence construction of the dwelling within one (1) year of the permit date, and did not complete construction within three (3) years of the approval, and therefore, Conservation District Use Permit KA-3132 was deemed to have expired.

Because of the expiration of Conservation District use Permit KA-3132, the Applicant had to apply for his own CDUP.

The appearance of the proposed residence will reflect a traditional plantation style architecture consistent with older homes in the area, as do the newer buildings in the area which have attempted to emulate the old plantation homes. The dwelling will contain approximately 2,157.5 square feet in area (1357.5 square feet of livable area, 80 square feet for the stairwell, and 720 square feet of lanai area). It will be constructed primarily of wood, with asphalt non-reflective roofing materials, and will have a foundation comprised of concrete columns on

concrete footings. The dwelling will be approximately twenty-eight (28') in height (the requirements of the Flood Ordinance require elevation of the lowest habitable floor to the base flood elevation), and will be painted "plantation green", which is the dark, forest green color which was used on the homes of plantation workers in the past. The home will have two (2) bedrooms, two (2) bathrooms, a parlor, kitchen and lanais. Below the livable area will be approximately 928 square feet contained within "breakaway" walls, and a carport. Wastewater will be handled through a septic system pursuant to State Department of Health requirements. The Applicant will utilize native plants to the extent possible as part of the landscaping of the Subject Property.

The Hanalei-Ha'ena Community Association, in its letter dated October 20, 2006 (Exhibit "G"), requests that land coverage for this property be restricted to ten percent (10%) as is the case for lands located in the Open District of the Comprehensive Zoning Ordinance of the County of Kauai ("CZO"). However, Section 8-8.5(a)(3) of the CZO allows a minimum 3,000 square feet of land coverage for any parcel of record existing prior to September 1, 1972. Conversely, the Single Family Residential Standards of the Board of Land and Natural Resources, applicable to lands within the State Land Use Conservation District, sets limits based upon a "maximum developable area", which in this case is 3,500 square feet. Based on these restrictions, the Applicant's single-family residence will have a footprint of 2,157.50 square feet, which is less than allowed by the CZO in the Open District. As a result, the DLNR limits on property within the Conservation District are, in this case, more restrictive than the CZO Open District requirements.

The Applicant will, at his expense, be responsible for coordinating the connection of other utilities, including potable water from the County of Kauai Department of Water, electricity from Kauai Island Utility Cooperative, and telephone and cable service.

## **X. SUBJECT PROPERTY ANALYSIS**

A. **Location.** The Subject Property is located at Haena, Hanalei, Kauai, Hawaii. It is a vacant lot.

B. **Agricultural Use.** The Subject Property is in an area in which the prevailing use is single-family dwellings. Its size and location do not make it suitable for agricultural use. The proposed use of the Subject Property for residential purposes will have no negative impacts on its availability for future agricultural use.

C. **Technical Characteristics.** The Subject Property is currently partly landscaped with grassing, and partly overgrown with non-native species of plants and weeds. The extent of landscape modifications to be done involve clearing of the area on which the dwelling will be placed, and removal of noxious plants. Some trees will have to be removed to enable the Applicant to site his home within applicable setbacks and also to allow the siting as far back on the lot as practicable.

The Subject Property is located approximately ten (10) feet above mean sea level, and consists of visually level, but gently sloping, land. The soil is a fine, sandy loam throughout. The soil classification is Mokuleia series (Mr – Mokuleia fine sandy loam), on which permeability is moderately rapid in the surface layer, and rapid in the subsoil. Runoff is very slow, and the erosion hazard is slight. This type of soil is typically used for pasture (according to the Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii, prepared

by the United States Department of Agriculture – Soil Conservation Service in cooperation with the University of Hawaii Agricultural Experiment Station (August 1972).

The Subject Property is normally dry, but during heavy rains, serves as an area over which run-off flows, generally towards the Access Road. Run-off will not be affected by the dwelling, which is an elevated structure the footing of which will be built on grade.

The shoreline is located approximately three hundred (300') from the Subject Property, which is separated from the ocean by Kuhio Highway and those properties which are identified as Tax Key Nos.: (4) 5-9-02-047, 048, 050, 051, 052 and 060, as depicted on Exhibit "J".

Any increase or effect on traffic, sanitation, waste disposal, refuse disposal, and water usage will be nominal, as the proposal is for a single-family dwelling only. The lot is sufficient in size to accommodate a septic system for wastewater disposal, and is of sufficient distance from the shoreline to reduce any risks of ocean pollution.

The previous permittee, Presley V. Wann, and his mother Mary Wann and aunt Adeline Ogawa (Mary Wann and Adeline Ogawa were both raised in Haena, and are descendants of the original Haena Hui), were not aware of any historical or archaeologically significant sites, as none are visible.

County of Kauai Real Property Division records indicate that a home was built on the Subject Property in approximately 1937, containing approximately 856 square feet (the first, and only, story) with an open porch containing approximately 44 square feet). This home, however, was gone before Applicant acquired the Subject Property.

In response to the October 4, 2006 comments of the SHPD, the Applicant commissioned "An Archaeological Assessment Survey of TMK: 4-5-9-02:059" by Rechtman

Consulting, LLC, a copy of which is attached hereto and incorporated herewith as Exhibit "Q". The Rechtman work included a summary of previous archaeological research for the district and area, a historical summary of the Ahupua'a of Haena, a visual surface inspection, and subsurface testing. No archaeological resources at the surface or subsurface levels were observed or recovered. The Rechtman report recommends that no further archaeological work needs to be conducted before construction, provided, however that, upon the inadvertent discovery of any prehistoric deposits or human burials, that construction activities be immediately suspended, and the SHPD notified. The required notification is consistent with the recommendations of the Office of Hawaiian Affairs (as set forth in Exhibit "F").

The Rechtman report was submitted by Dr. Rechtman to the SHPD in the latter part of October 2006. The SHPD has approved the Rechtman report (Exhibit "B-1").

D. **Economic Characteristics.** The proposal of the Applicant is to build a home. There should be no more significant beneficial or adverse economic impacts that result from this action, than result from the construction of any other family home in the area. The Subject Property is not intended to be rental property, but will serve as the Kauai residence for the Applicant and his family (his family consists of his wife and one adult son who does not reside with the Applicant or his wife). The short-term gain would be to the construction industry during the building of the home, and the only long-term gain which the Applicant imagines would be additional real property taxes for the County of Kauai.

E. **Social Characteristics.** The area has a number of individual dwellings, some of which are occupied by local residents, some of which are occupied part-time by owners, and some of which are probably rented. It is a quiet part of the island, and the addition of another home should not change the character or ambience of the Haena area to any significant

degree. The Applicant and his wife would not expose the neighborhood to any measurable changes of any kind.

F. **Drainage.** The limited amount of additional drainage from the proposed development will not appreciably increase run-off and is not likely to overburden the drainage patterns of the area. Since the habitable floor of the house must be elevated to meet the requirements of the Flood Ordinance of the County of Kauai, any run-off which normally passes over and through the Subject Property, is likely to continue to pass over and through it.

G. **Traffic Impacts.** The increase in traffic that the Applicant would generate will be minimal. As with any other family with two adults, two (2) cars added to the traffic mix would have a tolerable impact on existing traffic conditions along Kuhio Highway in the vicinity of the Subject Property.

H. **Availability of Public Services and Facilities.** The addition of a single-family dwelling should not unreasonably burden public agencies to provide additional and necessary urban amenities, services and/or facilities.

1. **Schools.** Hanalei Elementary School is located approximately five (5) miles from the Subject Property, and Kapaa High School is approximately thirty (30) miles away. The Kapaa Middle School is approximately thirty-three (33) miles away. The Applicant and his wife are of an age that they do not have young children who would be enrolled at the schools in Hanalei or Kapaa. In the Applicant's case, the construction of their Haena home would not increase the number of students attending any of the public or private schools on the island.

2. **Wastewater Disposal.** There are no public sewage facilities in this area. The proposed home on the Subject Property would have to be served by a private

septic system, as approved by the DOH for the disposal of wastewater. By letter dated October 13, 2006, which is Exhibit "C", the DOH required that the Individual Wastewater System ("IWS") plan which had previously been approved for the Presley Wann residence be updated to ensure that all current wastewater requirements would be met. Thereafter, the Applicant retained Aqua Engineers, Inc. to update the IWS plan. The DOH has approved the updated plan prepared by Aqua Engineers, Inc. (Exhibit "C-1").

There are currently other homes on adjacent parcels in the vicinity of the Subject Property, while some parcels remain vacant. Given the projected limited wastewater that will be generated by the Applicant and his wife, it is not foreseen that the septic system will have any harmful effects on the area.

I. **Solid Waste Disposal.** Refuse collection for the area is provided by the County of Kauai.

J. **Potable Water.** The Department of Water's water storage and transmission facilities are presently adequate to serve the proposed dwelling.

K. **Electricity, Telephone and Cable service.** Electric, telephone and cable television lines and facilities are located on Kuhio Highway, and are capable of serving the Subject Property. It shall be the Applicant's responsibility, at the Applicant's expense, to extend service from these utilities to his proposed home.

L. **Police and Fire Protection.** The Princeville branch of the Kauai Police Department and Kauai Fire Department serve Haena, both of which are located approximately eight (8) miles from the Subject Property. The construction of the Applicant's home will not, in and of itself, result in the need for an expansion of police or fire protection for the area.

## XI. IMPACTS UPON RESOURCES OF THE AREA

A. **Flora and Fauna.** The types of plants growing on or near, and the types of animals seen on or near, the Subject Property, are neither threatened nor endangered. The types of plants the Applicant has seen on or near the Subject Property include coconut, areca and royal palms, avocado trees, and bananas. The only animals that have been seen on or near the Subject Property are birds, such as common doves, mynah birds and sparrows. The Applicant will, during the construction and post-construction phase, be removing weeds, noxious growth, dead or dying trees, or trees which, because of how the house will be sited, require removal, and engaging in on-going lawn and yard maintenance, including planting additional landscaping. The Applicant will utilize native plants to the extent possible as part of the new landscaping for the Subject Property.

B. **Historical and Archaeological.** Before Adeline Ogawa (the aunt of Presley Wann) acquired the Subject Property in 1996, there was a house that had been assessed at \$20,900.00. The Applicant does not know when the house was destroyed, but all traces of it are gone at this time.

The Applicant, who has a home in Wainiha, has spoken with members of the Olanolan, Maka, Ham Young, Chandler and Mahuiki families, which are families that have a long history in the Haena and Wainiha communities. No one that the Applicant has spoken with has been able to provide the Applicant with any information about historical or traditional uses of the Subject Property, or surrounding lands.

As noted previously, the SHPD has accepted the Rechtman report (Exhibit "Q"), which concludes that no further archaeological work needs to be done prior to the development of the Subject Property.

C. **Recreational Resources.** As a vacant homesite in an area of other homes, this Subject Property shows no evidence of being or having been in the past a public recreational resource. Since it does not adjoin the beach, was previously occupied, and is of insufficient size to provide recreational opportunities, it does not appear that allowing the Applicant to build his home would result in a critical loss of a recreational resource to the general public.

D. **Scenic Resources.** The home that the Applicant is proposing is consistent with surrounding structures and uses on nearby parcels, and should be compatible with such other uses in that it is comparable to what is occurring and what exists along that stretch of Kuhio Highway. Because of the location of existing trees on the Subject Property, the home should not be readily visible from any public streets or public areas in Haena (except for a short distance along Kuhio Highway to the west-northwest). The home will be partly visible from abutting properties. The length of the Access Road to the Subject Property is about eighty-five feet (85') from Kuhio Highway – it is, in effect, "set back" from the road. The vegetation which the Applicant will not remove, and which Applicant will be adding, will shield his home from various vantage points and from public view.

While the area in which the Subject Property is located is designated on the County of Kauai's General Plan's North Shore Planning District Heritage Resources Map as "Scenic Roadway Corridors", the Subject Property itself is barely visible from Kuhio Highway, as it is set back by one lot from the roadway, and has vegetation that will sufficiently hide it, even after construction, from the public view.

Attached as Exhibits "R-1" through "R-20" are photographs taken from several different perspectives, showing the Subject Property and the adjoining lands.

E. **Community Concerns.** The Applicant issued written invitations to owners of properties and residents in the area to attend a meeting held at the Subject Property on Thursday, August 10, 2006 from 5:00 p.m. to 7:00 p.m. to provide information to any attendees about what the Applicant was planning to do, and to solicit comments and concerns about his proposal to build a home on the Subject Property. The list of persons to whom the invitations were sent is attached hereto as Exhibit "S"; in addition, those persons who attended the information meeting are noted on said Exhibit "T".

Seven letters of support from neighbors who own properties in the neighborhood are attached hereto as Exhibits "U-1" through "U-7".

In addition, the Applicant spoke with other neighbors in the area, who expressed their support of the desire of the Applicant to build a home on the Subject Property. Those neighbors are Noel Ochwat (owner of Tax Key No.: (4) 5-9-02-058), Roger and Marilyn Browning (owners of Tax Key No.: (4) 5-9-02-62) and Nick Michaels (owner of Tax Key No.: (4) 5-9-02-65).

F. **Future Development/Cumulative Impacts.** The Applicant is aware that should he be allowed to build his home on the Subject Property, no other dwellings may be constructed on the same parcel. As such, future development on the Subject Property is not contemplated. Homes exist on those properties which are identified as Tax Key Nos.: (4) 5-9-02-043, 045, 046, 047, 048, 050, 051, 052, 055, 057, 061, 063 and 072. In the immediate vicinity of the Applicant's property, then, there are a number of other single-family residences. The Applicant is not aware of his neighbors' plans for additional or future development of their properties.

The Access Road is improved with an all-weather service, and utilities will be available for the Applicant's home. Because of the few number of parcels served by this Access Road, even if each lot is or has been developed for residential and/or agricultural purposes, the cumulative impacts should not overly burden the area's resources.

#### **XI. COMPATIBILITY WITH APPLICABLE LAWS**

The proposed home construction, including the removal of vegetation that is minimally necessary to accommodate placing a home on the Subject Property, is compatible with Chapters 183C and 205, HRS, Chapter 13-5, HAR, the Hawaii State Plan (Chapter 225, HRS), and other applicable laws, ordinances or regulations. The house proposed is not overly large or ostentatious, and is a reasonable use of property in a neighborhood in which other families have been allowed to build their homes. The proposed development, then, should not have substantial negative environmental impacts on the Subject Property or the surrounding area. It is no more, and no less, than uses which have prevailed in the area, on a lot which previously had a home on it.

#### **XII. COMPLIANCE WITH CDUA CRITERIA**

The Applicant's proposed home will comply with the following criteria, as set forth in Title 13, Subtitle 1, Chapter 5, HAR (Section 13-5-30):

**a. Whether the proposed land use is consistent with the purpose of the Conservation District.**

Single family residences are permitted within the Limited subzone with a permit from the Board. The proposal of the Applicant to build a home of modest square footage, and with a minimum of earth alteration where the structure will be placed, and limited changes to the existing vegetation, should result in a minimum of disturbance to the property and the area.

**b. Whether the proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.**

The Subject Property does not have any existing watershed, marine, plant or wildlife sanctuary, significant historic, archaeological, geological or volcanic features and sites, or other designated unique areas which would prevent a reasonable use of the land. Indeed, a single family dwelling in the Limited subzone is permissible, with Board permission.

**c. Whether the proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled "Coastal Zone Management" (where applicable).**

The proposed home is located in the SMA. However, because this is the first house proposed for the parcel, it is an exempt activity pursuant to Section 1.4H(2)(a) of the Special Management Area Rules and Regulations of the County of Kauai. The first home on a lot, then, is deemed to constitute a reasonable use of property, even if in the SMA, whose impacts are considered not to have significant adverse impacts to the property or the area.

**d. Whether the proposed land use will cause substantial adverse impacts to existing natural resources within the surrounding area, community or region.**

The proposed home will not adversely impact the existing and surrounding environment, which is essentially a neighborhood of single-family homes. Again, since the Applicant is proposing a home of modest size, it should be viewed as being an acceptable use for the neighborhood and district.

**e. Whether 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 parcel or parcels.**

The house that is proposed is not obtrusive or excessive in size, and should be considered a compatible and appropriate for the locale. The fact that it has to be elevated with

the habitable floor at least to the base flood elevation, is a safety requirement imposed by the Flood Ordinance of the County of Kauai.

**f. Whether the existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.**

The proposed home is intended to have the least physical and visual impact to the land and area as feasible, in an effort to preserve the natural beauty and open space characteristics of the area. Preservation to the extent possible of existing vegetation and trees, and the addition of additional plants by the Applicant, will help to "soften" whatever impacts may be perceived from placing a home on the Subject Property.

**g. Whether the subdivision of land will be utilized to increase the intensity of land uses in the Conservation district.**

No subdivision is being proposed by this application.

**h. Whether the proposed land use will be materially detrimental to the public health, safety and welfare.**

The building of a home on private property, in a neighborhood of other private single family homes, will not materially harm or be detrimental to the public health, safety and welfare.

### **XIII. SIGNIFICANCE CRITERIA**

The plans that Applicant has to build a home on the Subject Property will comply with the following criteria as set forth in Title 11, Chapter 200, Section 11-200-12 of the EIS Administrative Rules of the Office of Environmental Quality Control:

**a. Whether the proposed action involves an irrevocable commitment to, or loss or destruction of any natural or cultural resources.**

At this juncture, no indication that the Subject Property contains any natural or cultural resources exists. If any cultural resources are detected or located during the course of construction activity, the Applicant will have the obligation to inventory the same, which means that the resource actually can be preserved for posterity.

**b. Whether the proposed action curtails the range of beneficial uses of the environment.**

Building a home on the Subject Property will have a minimal impact on the Subject Property and its environs. The Subject Property was previously used for residential purposes, so it has served as a homesite for a family in the past. This is not a situation where a building is being proposed on a parcel that has never been occupied, and the proposal to build is in an area that has other Conservation parcels with single-family dwellings.

**c. Whether the proposed action conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions or executive orders.**

The size of the parcel, in an area in which the prevailing use is single-family dwellings, coupled with the limited impacts to the neighborhood or the district, and not reasonably expected to result in any adverse effects on the public health, safety and welfare, establishes that the proposal does not conflict with the State's long-term policies or goals as articulated in Chapter 344, HRS, court decisions or executive orders.

**d. Whether the proposed action substantially affects the economic or social welfare of the community or State.**

The salient points are that the size of the lot, its location, the prior use as a homesite, and the surrounding uses, support the fact that the proposed use will not substantially affect the economic or social welfare of the community, or of the State.

**e. Whether the proposed action substantially affects public health.**

Building a home for occupancy by people, which will have the required basic utilities and approved wastewater disposal cannot reasonably be deemed to have a negative impact on public health.

**f. Whether the proposed action involves substantial secondary impacts, such as population changes, or affects public facilities.**

There will be a nominal population change by the addition of a single-family dwelling to the neighborhood, and a nominal increase in the use of public facilities, by the Applicant's proposal. However, these changes or increases cannot be equated with a substantial population increase, or an unacceptable rise in usage of the public facilities (i.e., roadways, domestic water usage, park usage, etc.).

**g. Whether the proposed action involves a substantial degradation of environmental quality.**

The addition of a new single-family home, and one (1) new family to Haena is not going to result in a substantial degradation of environmental quality. There will be impacts to the neighborhood during the period of construction, as construction work can be noisy (the sounds of hammering and electric saws), but those impacts are temporary in nature, and will take place during daylight hours when the ambient noise in the neighborhood is greater than during the night time hours.

**h. Whether the proposed action is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.**

The Applicant's proposal is limited to the construction of a home, and does not require a commitment to allow additional or greater actions on the Subject Property.

**i. Whether the proposed action affects a rare, threatened or endangered species, or its habitat.**

There are no known rare, threatened or endangered species, or such species habitat, on or near the Subject Property. As a result, the proposed construction, and future occupancy of, the home, will not have any effects on such species or habitat.

**j. Whether the proposed action affects air or water quality or ambient noise levels.**

As earlier noted, there will be a temporary change in the ambient noise levels during the period of construction (which should not affect air or water quality). Construction, however, will be limited to day time hours, as previously noted. Once occupied, the change in ambient noise levels should not measurably increase (the Applicant and his family creates no greater noise than any other average family in any other home).

**k. Whether the proposed action substantially affects scenic vistas and view planes identified in County or State plans or studies.**

The Subject Property is not identified in any County or State plans or studies, as part of a scenic vista, or within the view plane of any scenic vista. Existing trees and vegetation on and near the Subject Property have to date successfully blocked the view of the lot itself from the public view.

**l. Whether the proposed action requires substantial energy consumption.**

Energy consumption by the Applicant once the house is occupied, will be consistent with average energy consumption levels in single-family dwellings throughout the island. Typical appliances the Applicant plans to have include a stove/oven, refrigerator, washer, dryer, television and countertop appliances. Less typical, is a kiln for the Applicant's personal

use for firing ceramic objects. None of these appliances, however, would require "substantial" energy consumption.

#### XIV. COMMENTS

Comments have been solicited from the owners of the properties in the "neighborhood", which are listed below, and from the Hanalei Community Association. These comments will be incorporated, and addressed, as and when Applicant receives the same.

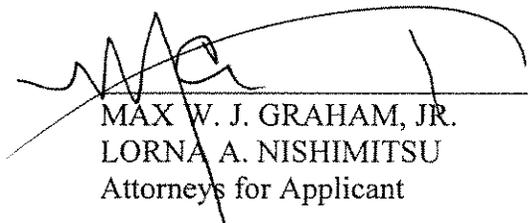
<u>Property</u>	<u>Name of Owner</u>
5-9-02-50	James S. Greenan, et al. 959 Bremer Rd., Danville, CA 94526
5-9-02-51	Diane G. Faye, Trustee P. O. Box 1870, Koloa, HI 96756
5-9-02-52	Nan Guslander, Trustee 292 Lake Ave., Saratoga Springs, NY 12866
5-9-02-54	Edward A. Hayes P. O. Box 1502, Hanalei, HI 96714
5-9-02-55	Ruth A. U. Chang P. O. Box 572, Hanalei, HI 96714
5-9-02-56	Bryan L. Krone, et al. P. O. Box 22367, Carmel, CA 93922
5-9-02-57	Germain G. Chandler P. O. Box 334, Hanalei, HI 96714
5-9-02-58	Susan W. Ochwat 865 Balboa Ave., Laguna Beach, CA 92651
5-9-02-60	Bertha Tom 107 Ulupa Street, Honolulu, HI 96723
5-9-02-61	Michael J. Tiernan, et al. 2113 Eaton Ave., San Carlos, CA 94070

<u>Property</u>	<u>Name of Owner</u>
5-9-02-62	Roger A. and Marilyn Browning 636 Crater Camp Dr., Beverly Hills, CA 90210
5-9-02-63	Robert S. Sommer, Trustee P. O. Box 1411, Hanalei, HI 96714
5-9-02-65	Manoa Falls, Haena LLC 567 W. Channel Islands Blvd., #337, Port Hueneme, CA 93041
5-9-02-66	Dale McBeath P. O. Box 894, Hanalei, HI 96714
5-9-02-67	James Huddy, et al., c/o Mark Maxson and Robert Shaw 336 Corbett Ave., San Francisco, CA 94114
5-9-02-69	Michael R. Schmidt P. O. Box 1079, Hanalei, HI 96714
5-9-06-70	Michael R. Schmidt P. O. Box 1079, Hanalei, HI 96714

#### XV. CONCLUSION

The Applicant respectfully requests that the DLNR and the Board: find that Applicant's proposal will not have any significant environmental impacts; find that the Applicant need not prepare an Environmental Impact Statement in this case; and issue a "Negative Declaration" in this matter, as that term is defined by Title 11, Department of Health, Chapter 200, Environmental Impact Statement (EIS) Rules, Subchapter 2(11-200-2).

DATED: Lihue, Kauai, Hawaii, November 10, 2006

  
 \_\_\_\_\_  
 MAX W. J. GRAHAM, JR.  
 LORNA A. NISHIMITSU  
 Attorneys for Applicant

## INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Letter from Planning Director, County of Kauai
B	Letter from State Historic Preservation Division, Department of Land and Natural Resources ("SHPD")
B-1	Letter from SHPD Approving Archaeological Assessment Survey
C	Letter from Department of Health ("DOH")
C-1	Letter from DOH
C-2	Letter from DOH Approving IWS Plan
D	Comments of Engineering Division, Office of Conservation and Coastal Lands, Department of Land and Natural Resources
E	Comments of Division of Aquatic Resources, Office of Conservation and Coastal Lands, Department of Land and Natural Resources
F	Letter from Office of Hawaiian Affairs
G	Letter from Hanalei-Ha'ena Community Association
H	Letter from Office of Environmental Quality Control
I	Location Map
J	Tax Map
K	Special Management Area Map
L	List of Necessary Permits
M	Plot Plan
N	Floor Plan (Upper Level)
O	Floor Plan (Lower Level)

<u>Exhibit</u>	<u>Description</u>
P	Front Elevation
Q	An Archaeological Assessment Survey of TMK No.: 4-5-9-02:059
R-1	TMK No.: (4) 5-9-02-051 (Faye) -- this property is located makai of Kuhio Highway
R-2	TMK No.: (4) 5-9-02-057 (Mahuiki) -- taken from the Access Road, facing west
R-3	TMK No.: (4) 5-9-02-055 (Chang) -- members of the Maka family occupy this property
R-4	Subject Property -- taken from Kuhio Highway, looking east over the Chang (Maka) property
R-5	TMK No.: (4) 5-9-02-060 (Tom) -- at the corner of the Access Road and Kuhio Highway
R-6	TMK No.: (4) 5-9-02-060 (Tom) -- location of the water meters in the Kuhio Highway right-of-way
R-7	TMK No.: (4) 5-9-02-064 -- the Access Road entrance, taken from Kuhio Highway
R-8	TMK No.: (4) 5-9-02-060 (Tom)
R-9	TMK No.: (4) 5-9-02-061 (Tiernan)
R-10	TMK No.: (4) 5-9-02-062 (Browning)
R-11	TMK No.: (4) 5-9-02-064 (Access Road) -- facing Kuhio Highway
R-12	TMK No.: (4) 5-9-02-058 (Ochwat) -- facing Kuhio Highway
R-13	Subject Property -- taken from northeast corner
R-14	Subject Property -- facing west
R-15	Subject Property -- facing west

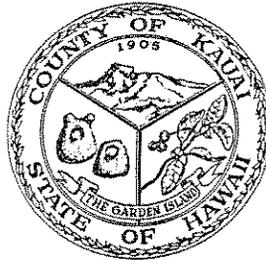
<u>Exhibit</u>	<u>Description</u>
R-16	Subject Property -- the northwest corner
R-17	TMK No.: (4) 5-9-02-057 (Chandler) -- taken from Access Road, facing west
R-18	TMK No.: (4) 5-9-02-057 (Chandler) -- taken from Subject Property, shooting across TMK No.: (4) 5-9-02-058
R-19	TMK No.: (4) 5-9-02-057 (Chandler) -- taken from west-northwest, facing southeast
R-20	TMK No.: (4) 5-9-02-063 (Sommer) -- located across the Access Road, southeast of the Subject Property
S	List of Persons to Whom Notice Was Given
T	List of Persons Who Attended Informational Meeting
U-1	Letter from Robert S. Sommer (Owner of TMK No.: (4) 5-9-02-059)
U-2	Letter from Michael R. Schmidt (Owner of TMK No.: (4) 5-9-02-069, 070 and 071)
U-3	Letter from Nick Michaels (Owner of TMK No.: (4) 5-9-02-065)
U-4	Letter from Emiliano R. Gomez (Owner of TMK No.: (4) 5-8-09-065)
U-5	Letter from Michael Olanolan (Owner of TMK No.: (4) 5-9-05-001)
U-6	Letter from Germain G. Chandler (One of the owners of TMK: (4) 5-9-02-057)
U-7	Michael C. Schermerhorn (One of the owners of TMK: (4) 5-9-02-057)
V-1	Applicant Response to State Historic Preservation Division
V-2	Applicant Response to DOH

Exhibit

Description

- V-3 Applicant Response to Engineering Division, DLNR
- V-4 Applicant Response to Aquatic Resources Division, DLNR
- V-5 Applicant Response to Office of Hawaiian Affairs
- V-6 Applicant Response to Hanalei- Haena Community Association
- V-7 Applicant Response to Office of Environmental Quality Control

**BRYAN J. BAPTISTE**  
MAYOR



**IAN K. COSTA**  
DIRECTOR OF PLANNING

**GARY K. HEU**  
ADMINISTRATIVE ASSISTANT

**MYLES S. HIRONAKA**  
DEPUTY DIRECTOR OF PLANNING

**COUNTY OF KAUA'I  
PLANNING DEPARTMENT**  
4444 RICE STREET  
KAPULE BUILDING, SUITE A473  
LIHU'E, KAUA'I, HAWAII 96766-1326

TEL (808) 241-6677 FAX (808) 241-6699

December 13, 2006

Peter T. Young, Chairperson  
Board of Land and Natural Resources  
State of Hawaii  
P.O. Box 621  
Honolulu, Hawaii 96809

Subject: CDUA KA-3379 (David R. Kuraoka)  
Construction of Single-Family Dwelling  
Tax Map Key 5-9-2: 59  
Haena, Hanalei, Kauai

Dear Mr. Young:

The subject property is located within the Special Management Area of the County of Kauai. However, since this is the first dwelling unit on the property, the proposed dwelling is considered "exempt" from the SMA Rules and Regulations. Therefore, an SMA permit is not required.

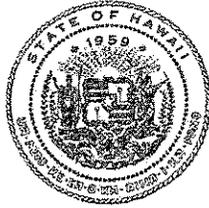
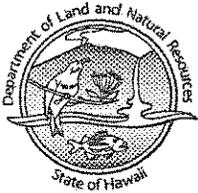
Should there be any questions regarding the above, please contact planner Michael Laureta at 241-6677.

IAN COSTA  
Planning Director

**EXHIBIT "A"**

AN EQUAL OPPORTUNITY EMPLOYER

LINDA LINGLE  
GOVERNOR OF HAWAII



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  
KAOI LAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

RECEIVED  
STATE HISTORIC PRESERVATION  
AND COASTAL LANDS

2006 OCT -2 P 12:44

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

September 28, 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

LOG NO: 2006.3205  
DOC NO: 0609NM24  
Archaeology

Dear Mr. Lemmo:

**SUBJECT: Chapter 6E-11 Historic Preservation Review [State/David Kuraoka] –  
CDUA KA- 3379 DEA for CDUA for Single Family Residence  
Ha'ena Ahupua'a, Hanalei District, Island of Kaua'i  
TMK: (4) 5-9-002: 059**

Thank you for submitting this application which we received on September 12, 2006. No archaeological survey has been conducted on this parcel. We expect to find historic sites in this area, such as cultural deposits [habitation sites] and human burials, since we have found Hawaiian burials and cultural deposits in nearby areas. Our Kauai/Niihau Burial Council insists that we treat the Haena area with sensitivity with regards to Hawaiian burial sites. We are also concerned with the other historic sites that could also be found below the subsurface like habitation sites. The application states that the owner plans on conducting an archaeological inventory survey but has to do so. Therefore, we recommend the following conditions be attached to any approved permit, to ensure that significant historic sites are properly identified and treated:

- 1) An archaeological inventory survey shall be conducted by a qualified archaeologist prior to well construction. A report documenting the archaeological work shall be submitted to the State Historic Preservation Division for review and approval. The report should include extensive background research on the history of Haena and land commission award/title history for this parcel. This report shall propose significance evaluations and shall propose mitigation treatments for any significant historic sites.
- 2) If significant historic sites are identified and once mitigation commitments are agreed to, then the applicant shall develop detailed mitigation plans (scopes of work) and submit these to the State Historic Preservation Division for review and approval. Prior to any land alteration, that Division must verify in writing that these plans have successfully executed.
- 3) If burials are discovered during the survey, a burial treatment plan shall be prepared following the procedures outlined in Chapter 6E-43 and its rules. Coordination with the Kauai Island Burial Council is required as part of the approval of burial treatment.

EXHIBIT "B"

Page 2  
Mr. Sam Lemmo

If you have any questions, please call Nancy McMahon 742-7033.

Aloha,



Melanie Chinen, Administrator  
State Historic Preservation Division

NM:gvf

C: KIBC

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

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AQUATIC RESOURCES  
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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

November 1, 2006

Dr. Robert Rechtman  
Rechtman Consulting LLC  
HC1 Box 4149  
Keaau, Hawai'i 96749-9710

LOG NO: 2006.3634  
DOC NO: 0610NM32  
Archaeology

Dear Dr. Rechtman:

**SUBJECT: Chapter 6E-42 - Historic Preservation Review –An Archaeological Assessment Survey of TMK: 4-5-9-02: 059 (Rechtman, RC, 2006) Haena, Hanalei, Kaua'i TMK: (4) 5-9-002: 059**

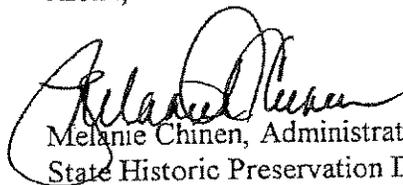
---

Thank you for submitting the aforementioned report which we received on October 27, 2006.

A 100% surface survey was conducted. Three five meter long backhoe trenches were dug. No historic sites were found in the project area. No further archaeological work is necessary. We concur with this recommendation.

This report is approved. If you have any questions, please call Nancy McMahon, the Kauai Lead Archaeologist, at 742-7033.

Aloha,

  
Melanie Chinen, Administrator  
State Historic Preservation Division

NM:jen

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME L. FUKINO, M.D.  
DIRECTOR OF HEALTH

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

In reply, please refer to:  
EPO-06-163

October 13, 2006

RECEIVED  
OCT 18 2006

Mr. Peter Young, Chairperson  
State of Hawaii  
Department of Land and Natural Resources  
Board of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809

BELLES GRAHAM  
PROUDFOOT & WILSON, LLP

Dear Mr. Young:

SUBJECT: Draft Environmental Assessment (DEA) for Construction of a Single-Family Dwelling within the State Land Use Conservation District at Haena, Hanalei, Kauai, Hawaii  
TMK: (4) 5-9-002: 059; 10,942 square feet

Thank you for allowing us to review and comment on the subject document. The document was routed to the various branches of the Environmental Health Administration. We have the following Wastewater Branch comments.

Wastewater Branch

We have reviewed the subject document which proposes the construction of a single-family residential dwelling on the property.

The subject project is located in the Critical Wastewater Disposal Area (CWDA) as determined by the Kauai County Wastewater Advisory Committee where no new cesspools will be allowed.

On June 18, 2002, the Department of Health granted approval for the construction of a septic system (IWS) serving a new dwelling on the subject property. From information provided in the DEA, the IWS was never built.

The Department concurs with the proposal provided that the IWS plan previously approved by the Department is updated by the engineer to insure that it meets all current wastewater requirements. This requirement is being requested due to the Department's rule, Chapter 11-62 being amended as of December 9, 2004. The engineer needs to re-submit a new/revised IWS plan to the Department.

EXHIBIT "C"

Mr. Young  
October 13, 2006  
Page 2

All wastewater plans must conform to applicable provisions of the Department of Health's Administrative Rules, Chapter 11-62, "Wastewater System." We reserve the right to review the detailed wastewater plans for conformance to applicable rules. Should you have any questions, please contact the Planning & Design Section of the Wastewater Branch at (808) 586-4294.

We strongly recommend that you review all of the Standard Comments on our website: [www.state.hi.us/health/environmental/env-planning/landuse/landuse.html](http://www.state.hi.us/health/environmental/env-planning/landuse/landuse.html). Any comments specifically applicable to this project should be adhered to.

If there are any questions about these comments please contact Jiakai Liu with the Environmental Planning Office at (808) 586-4346.

Sincerely,



KELVIN H. SUNADA, MANAGER  
Environmental Planning Office

c: EPO  
WWB  
EH-Kauai  
✓ Lorna A. Nishimitsu, Belles Graham Proudfoot & Wilson, LLP

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME L. FUKINO, M.D.  
DIRECTOR OF HEALTH

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

2006 OCT 30 P 12:17

In reply, please refer to:

EPO-06-166

DEPARTMENT OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

October 24, 2006

Mr. Samuel J. Lemmo, Administrator  
State of Hawaii  
Department of Land and Natural Resources  
Office of Conservation and Coastal Lands  
P. O. Box 621  
Honolulu, Hawaii 96809

Dear Mr. Lemmo:

SUBJECT: CDUA: KA-3379  
Draft Environmental Assessment and Conservation District Use Application  
(CDUA) for Single Family Residence and Associated Improvements at Haena,  
Hanalei, Kauai, Hawaii  
TMK: (4) 5-9-002: 059

Thank you for allowing us to review and comment on the subject document. The document was routed to the various branches of the Environmental Health Administration. We have the following Wastewater Branch comments.

Wastewater Branch

We have reviewed the subject document which proposes the construction of a single family dwelling. A similar permit has expired and the new owners have re-applied.

The subject project is located in the Critical Wastewater Disposal Area (CWDA) as determined by the Kauai County Wastewater Advisory Committee where no new cesspools will be allowed.

An individual wastewater system (IWS) plan was approved for the previous development which has been terminated. The IWS plan approval is no longer valid as more than a year has elapsed between our IWS plan approval and the issuance of a building permit. Information provided to the Department indicates that the new owners and IWS design engineer are continuing to work together. Therefore, we have no objections to the project provided that the IWS plan is updated to meet all applicable provisions of our wastewater rules.

All wastewater plans must conform to applicable provisions of the Department of Health's Administrative Rules, Chapter 11-62, "Wastewater System." We reserve the right to review the

EXHIBIT "C-1"

Mr. Lemmo  
October 24, 2006  
Page 2

detailed wastewater plans for conformance to applicable rules. Should you have any questions, please contact the Planning & Design Section of the Wastewater Branch at (808) 586-4294.

We strongly recommend that you review all of the Standard Comments on our website: [www.state.hi.us/health/environmental/env-planning/landuse/landuse.html](http://www.state.hi.us/health/environmental/env-planning/landuse/landuse.html). Any comments specifically applicable to this project should be adhered to.

If there are any questions about these comments please contact Jiakai Liu with the Environmental Planning Office at (808) 586-4346.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelvin H. Sunada', with a long horizontal flourish extending to the right.

KELVIN H. SUNADA, MANAGER  
Environmental Planning Office

c: EPO  
WWB  
EH-Kauai

LINDA LINGLE  
GOVERNOR



OHIVOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

DILEEP G. BAL, M.D., M.S., M.P.H.  
KAUAI DISTRICT HEALTH OFFICER

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KAUAI DISTRICT HEALTH OFFICE  
3040 UMI STREET  
LIHUE, HAWAII 96769

November 6, 2006

Mr. David Kuraoka  
P.O. Box 222  
Hanalei, HI 96714

RE: Property off Kuhio Highway, Haena  
TMK (4) 5-9-002: 059

Dear Mr. Kuraoka:

The Department of Health, Wastewater Branch has reviewed your proposed septic design submitted by Aqua Engineers on November 3, 2006. The IWS plan conforms with applicable provisions of Hawaii Administrative Rules, Title 11, Chapter 62, entitled "Wastewater Systems."

The IWS must be installed by a licensed contractor, inspected by the engineer, and authorized in writing by the Department before use.

Your engineer at Aqua Engineers will receive another letter signed by Harold Yee, Chief of the Wastewater Branch confirming the IWS plan approval by the Department of Health.

Should you have any questions, please feel free to contact Lori Vetter at 241-3323.

Sincerely,

Handwritten signature of Lori K. Vetter in cursive.

Lori K. Vetter

State of Hawaii, Department of Health, Wastewater Engineer

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
POST OFFICE BOX 521  
HONOLULU, HAWAII 96809

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  
KAOLOA WE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF.:OCCL:TM

CDUA: KA-3379

Acceptance Date: September 12, 2006

180-Day Exp. Date: March 11, 2007

SUSPENSE DATE: 21 Days from  
stamped date SEP 18 2006

**MEMORANDUM:**

TO: The Department of Land and Natural Resources Divisions of:

- Kauai District Land Office
- Conservation & Resource Enforcement
- Aquatic Resources
- Engineering
- Historic Preservation

RECEIVED  
 DIVISION OF CONSERVATION  
 AND COASTAL LANDS  
 SEP 29 A 8:00  
 DEPT. OF LAND &  
 NATURAL RESOURCES  
 STATE OF HAWAII

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

SUBJECT: REQUEST FOR COMMENTS  
Draft Environmental Assessment/Conservation District Use Application KA-3379  
For Single Family Residence and Associated Improvements

APPLICANT: David Kuraoka

TMKs: (2) 5-9-002:059

LOCATION: Haena, Hanalei, Island of Kauai

PUBLIC HEARING: YES NO X

Please contact Tiger Mills at 587-0382, 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

Attachment(s)

DEPARTMENT OF LAND AND NATURAL RESOURCES  
ENGINEERING DIVISION

FILE No.:CDUA KA-3379  
Ref.: OCCL:TM  
Kauai.51

COMMENTS

- (X) We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone VE. The National Flood Insurance Program does regulate developments within VE as indicated in bold letters below.
- ( ) Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Zone \_\_\_\_.
- ( ) Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is \_\_\_\_.
- (X) Please note that the project site must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tyau-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.

Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

- ( ) Mr. Robert Sumimoto at (808) 523-4254 or Mr. Mario Siu Li at (808) 523-4247 of the City and County of Honolulu, Department of Planning and Permitting.
  - ( ) Mr. Kelly Gomes at (808) 961-8327 (Hilo) or Mr. Kiran Emler at (808) 327-3530 (Kona) of the County of Hawaii, Department of Public Works.
  - ( ) Mr. Francis Cerizo at (808) 270-7771 of the County of Maui, Department of Planning.
  - (X) Mr. Mario Antonio at (808) 241-6620 of the County of Kauai, Department of Public Works.
- ( ) The applicant should include project water demands and infrastructure required to meet water demands. Please note that the implementation of any State-sponsored projects requiring water service from the Honolulu Board of Water Supply system must first obtain water allocation credits from the Engineering Division before it can receive a building permit and/or water meter.
  - ( ) The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.
  - ( ) Additional Comments: \_\_\_\_\_
  - ( ) Other: \_\_\_\_\_

Should you have any questions, please call Ms. Alyson Yim of the Planning Branch at 587-0259.

Signed: *Eric T. Hirano*  
ERIC T. HIRANO, CHIEF ENGINEER

Date: 9/28/06

LINDA LINGLE  
GOVERNOR OF HAWAII



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

AQUATIC RESOURCES: *06-485*

DIRECTOR	
COMM. FISH	
AO RES/ENV	
AO REC	
PLANNER	
STAFF SVCS	
RCU/UH	
STATISTICS	
AFRC/FED AID	
EDUCATION	
OFFICE SVCS	
RECORDS	
SEARCH	
NO. COPIES	
COPIES TO: 180-Day	
DUE DATE:	

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

REF.:OCCL:TM

CDUA: KA-3379

Acceptance Date: September 12, 2006  
Exp. Date: March 11, 2007  
SUSPENSE DATE: 21 Days from stamped date SEP 18 2006

**MEMORANDUM:**



The Department of Land and Natural Resources Divisions of:

- Kauai District Land Office
- Conservation & Resource Enforcement
- Aquatic Resources
- Engineering
- Historic Preservation

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

SUBJECT: REQUEST FOR COMMENTS  
Draft Environmental Assessment/Conservation District Use Application KA-3379  
For Single Family Residence and Associated Improvements

APPLICANT: David Kuraoka

TMKs: (2) 5-9-002:059

LOCATION: Haena, Hanalei, Island of Kauai

PUBLIC HEARING: YES NO X

Please contact Tiger Mills at 587-0382, 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

Attachment(s)

*[Signature]*  
Signature  
10/5/06

2006 OCT -6 AM 11:00  
RECEIVED  
OFFICE OF CONSERVATION AND COASTAL LANDS  
STATE OF HAWAII

SUSPENSE DATE: October 9, 2006

STATE OF HAWAII  
Department of Land and Natural Resources  
Division of Aquatic Resources

MEMORANDUM

To: Dan Polhemus, Administrator  
From: Richard Sixberry, Aquatic Biologist *RS DP*  
Subject: Comments on Conservation District Use Application KA3379

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

Date of Request: 9/18/06

Date Received: 9/20/06

Summary of Project

Title: Single Family Residence & Associated Improvements  
Proj. By: David Kuraoka  
Location: Haena, Hanalei, Kauai

Brief Description:

The applicant proposes to construct a single family dwelling on a 10,942 sq. ft. Parcel, makua of Kuhio Highway, in the Conservation District at Haena, Kauai.

Comments:

The proposal as described should not significantly impact aquatic resource values provided construction activities are restricted to periods of minimal rainfall and low runoff, and the areas denuded of vegetation or susceptible to erosion are appropriately stabilized. Also, precautions shall be taken to prevent debris, landscaping chemicals, eroded soil, petroleum products and other potential contaminants from flowing blowing or leaching into the aquatic environment.

Any additional or undescribed construction or landscape modifications within the Conservation District should be submitted to the Department for review.

Richard Sixberry  
Aquatic Biologist

PHONE (808) 594-1888

FAX (808) 594-1865



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

October 13, 2006

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

HRD060722  
OCT 19 A 1:10  
DEPT. OF LAND & NATURAL RESOURCES  
STATE OF HAWAII  
OFFICE OF CONSERVATION AND COASTAL LANDS

**RE: Conservation District Use Application (CDUA) KA-2722 for David Kuraoka's Single Family Residence (SFR) and Associated Improvements; Haena, Hanalei, Kaua'i; TMK 5-9-002:059.**

Dear Sam Lemmo,

The Office of Hawaiian Affairs (OHA) is in receipt of your request to comment on the above-referenced CDUA, which would allow David Kuraoka to build an SFR in rural Haena, mauka of the highway. OHA has no comments at this time, but does request assurances that should iwi kūpuna or Native Hawaiian cultural or traditional deposits be found during ground disturbance, work will cease, and the appropriate agencies will be contacted pursuant to applicable law.

Thank you for the opportunity to comment. If you have any further questions or concerns please contact Heidi Guth at (808) 594-1962 or e-mail her at [heidig@oha.org](mailto:heidig@oha.org).

Sincerely,

Clyde W. Nāmu'o  
Administrator



Hanalei-Ha'ena Community Association  
Post Office Box 789  
Hanalei, HI 96714

October 20, 2006

Board of Land & Natural Resources  
PO Box 621  
Honolulu, HI 96808

Attention: Sam Lemmo

RE: Conservation District Use Permit for Kuraoka Single Family Dwelling (TMK 4-5-9-002:059)

RECEIVED  
DEPARTMENT OF LAND & NATURAL RESOURCES  
STATE OF HAWAII  
2006 OCT 23 A 9 39

Dear Mr. Lemmo,

The Hanalei-Ha'ena Community Association submits for your consideration the following comments on the proposed Conservation District Use Permit application for the property located at TMK 4-5-9-002:059.

1. The restriction against short-term, transient vacation rentals in the Conservation District should be explicitly stated as a condition of any permit approval and should be aggressively enforced by the DLNR.

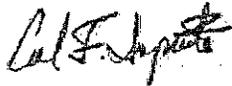
We request that the approval conditions for this Conservation District Use Permit, and all other Conservation District Use Permits as well, explicitly state and require as a deed restriction that runs with the property in perpetuity, that no short-term, transient vacation rentals will be allowed on the property. Further, strong penalties for violation of this requirement, including revocation of the Conservation District Use Permit and removal of all structures allowed under such Permit, should be included in the permit approval conditions for this property and all other Conservation District Use Permit approvals.

2. The County of Kauai's "Open District" zoning designation is similar to the State's "Conservation District" designation. In the Open District, lot coverage is restricted to 10% of the parcel size. We recommend that lot coverage in the Conservation District be restricted to 10% (subject to a minimum square footage of allowable lot coverage), consistent with County zoning and with the Conservation District's primary purpose of natural resource protection.

3. Finally, we are concerned that structures elevated to meet Flood Ordinance requirements are very frequently enclosed to create one or more (illegal) dwelling unit(s) below the permitted, elevated structure. Absent strong sanctions, property owners have little economic incentive to comply with the requirements imposed by the flood ordinances.

Therefore, if the BLNR approves this application for a Conservation District Use Permit, we ask that the restrictions against enclosure and use of the area below the permitted dwelling unit be clearly stated as conditions of the permit, along with strong penalties for violation of this condition, which should include revocation of the permit and removal of all structures that have been allowed under the permit. These requirements should be included in all other approvals of Conservation District Use Permits as well.

Thank you for the opportunity to comment on this application.



Carl F. Imperato  
President  
Hanalei-Ha'ena Community Association

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) 586-4186  
E-mail: oeqc@health.state.hi.us

RECEIVED  
NOV - 6 2006

BELLES GRAHAM  
PROUDFOOT & WILSON, LLP

November 3, 2006

Mr. Peter Young, Chair  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawai'i 96809

Dear Mr. Young:

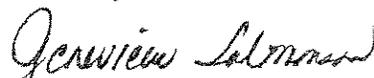
Subject: Draft Environmental Assessment for the Kuraoka Single Family Residence

Thank you for the opportunity to review the DEA. We have the following comments.

1. The applicant should consider landscaping with native plants. The OEQC "How to plant a native garden" website at <http://www.state.hi.us/health/oeqc/garden/index.html> can provide useful information in this matter.
2. Please highlight the property location in Exhibit B.
3. The applicant should consult with the Department of Health concerning the new septic system.
4. The applicant should provide a list of all permits that are required.
5. Please print on both sides of the pages in the final document to reduce bulk and save on paper.

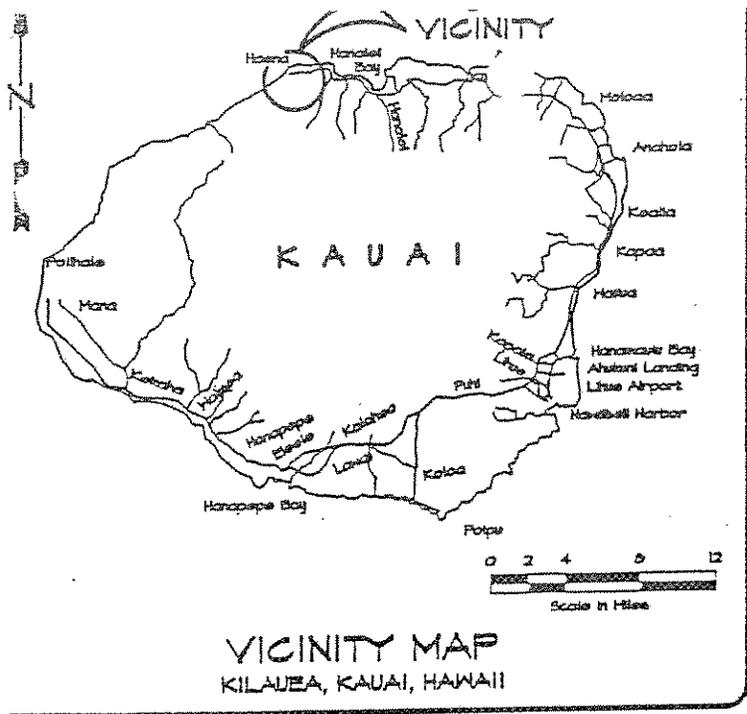
Should you have any questions, please call Jeyan Thirugnanam at 586-4185.

Sincerely,

  
Genevieve Salmonson  
Director

c: Kuraoka  
Max Graham

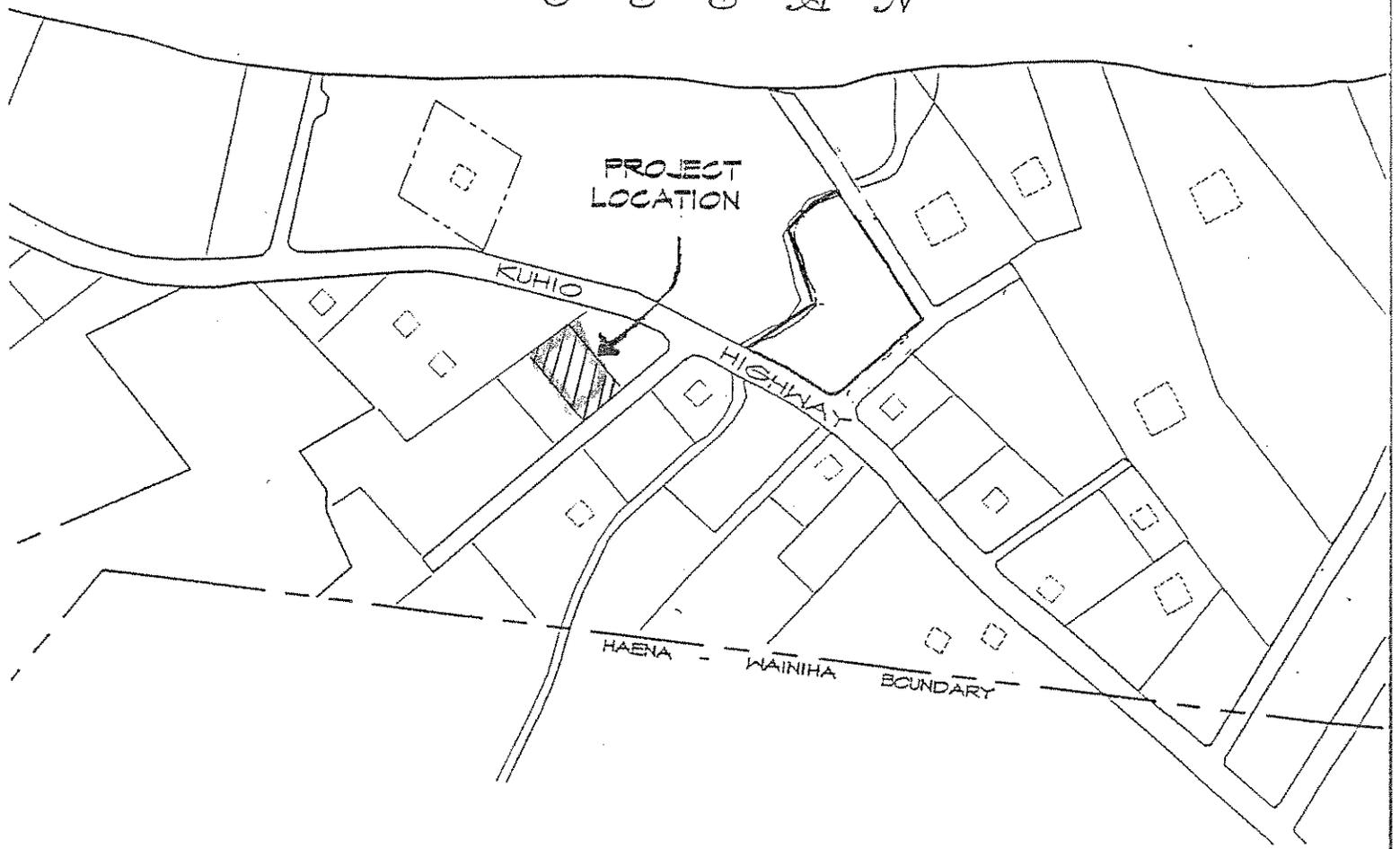
EXHIBIT "H"



TRUE NORTH  
Scale: 1 in. = 300 ft.

VICINITY MAP  
KILAUEA, KAUAI, HAWAII

O B E A N



LOCATION MAP

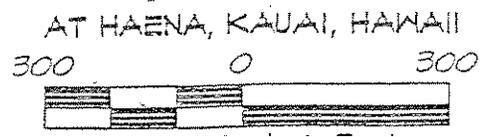


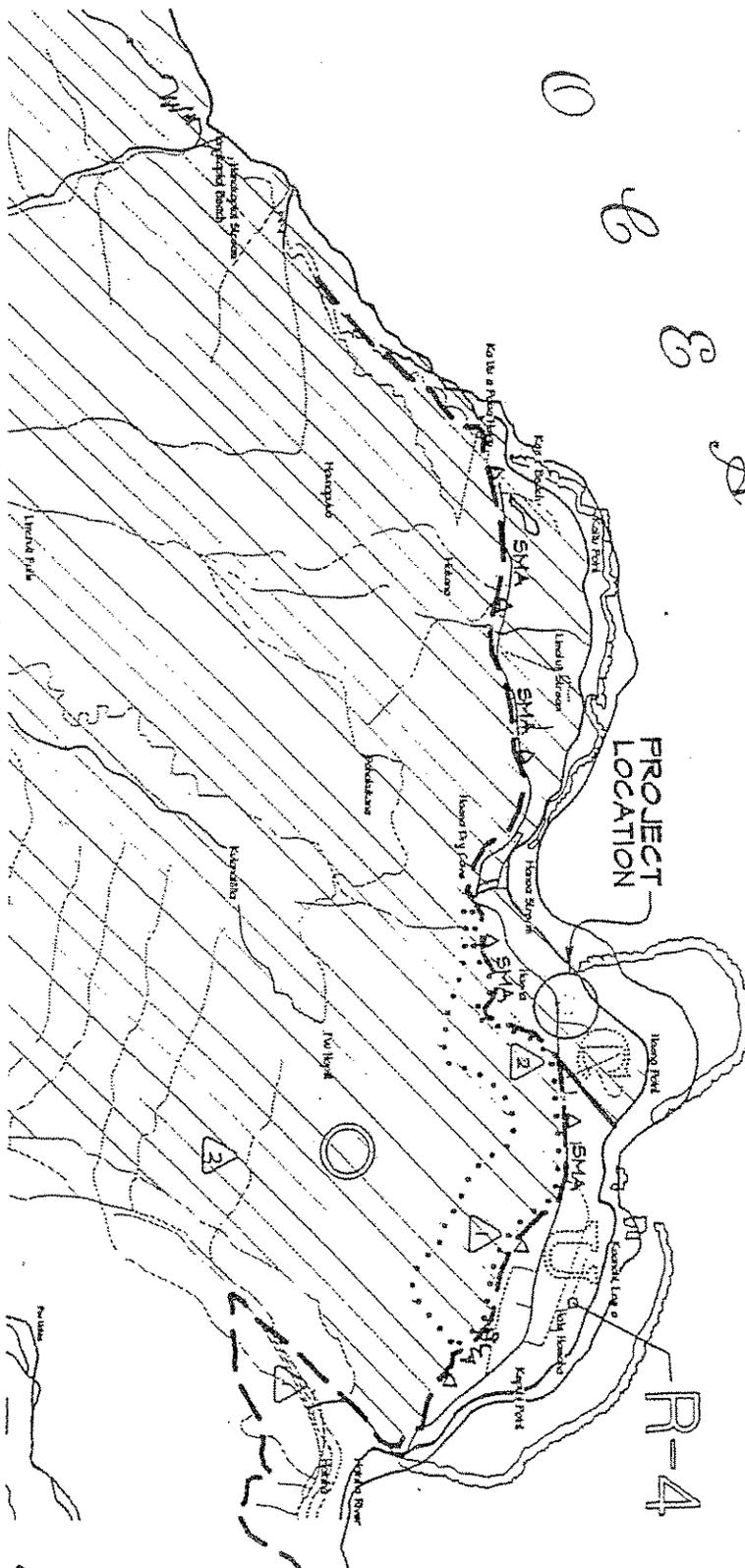
EXHIBIT "I"



TRUE NORTH

Scale: 1 in. = 3000 ft.

①  
E  
3  
A  
N



SOURCE: COUNTY OF KAUAI, SPECIAL MANAGEMENT AREA MAP OF HANAIEI, ADOPTED 11/26/75

STATE ZONING:

URBAN DISTRICT		CONSERVATION DISTRICT		SPECIAL MANAGEMENT AREA	
----------------	--	-----------------------	--	-------------------------	--

1 TO COMPLY WITH AMENDMENTS TO CHAPTER 205A, H.R.S., IN ACCORDANCE WITH ACT 200, SESSION LAWS OF HAWAII, 1979.

2 TO CONFORM WITH FEDERAL FLOOD INSURANCE RATE MAP AMENDMENTS AS ADOPTED NOVEMBER 4, 1981

COUNTY ZONING:

OPEN		R-4	
------	--	-----	--

# SPECIAL MANAGEMENT AREA MAP

AT HAENA, KAUAI, HAWAII

3000 0 3000



Graphic Scale in Feet

**EXHIBIT "L"**

**LIST OF NECESSARY PERMITS**

1. Conservation District Use Permit (from Board of Land and Natural Resources)
2. Building Permit (from Building Division, Department of Public Works, County of Kauai)
3. Individual Wastewater System Plan Approval (from the Department of Health, State of Hawaii)







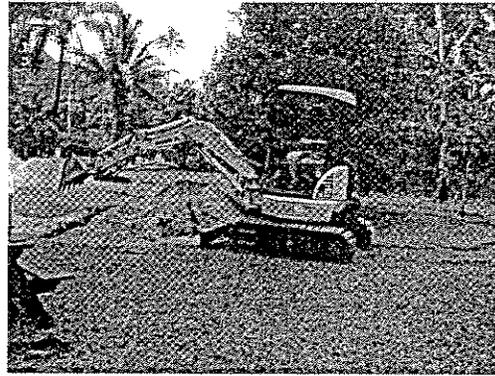


longitudinal section

RC-0386

# An Archaeological Assessment Survey of TMK:4-5-9-02:059

Hā'ena Ahupua'a  
Halele'a District  
Island of Kaua'i



PREPARED BY:

Robert B. Rechtman, Ph.D.

PREPARED FOR:

Carol and David Kuraoka  
P.O. Box 475  
Hanalei HI 96714

October 2006

---

## **RECHTMAN CONSULTING, LLC**

HC 1 Box 4149 Kea'au, Hawaii 96749-9710

phone: (808) 966-7636 fax: (808) 443-0065

e-mail: bob@rechtmanconsulting.com

ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL STUDIES

EXHIBIT "Q"

An Archaeological Assessment Survey of  
TMK: 4-5-9-02:059

Hā'ena Ahupua'a  
Halele'a District  
Island of Kaua'i

## EXECUTIVE SUMMARY

At the request of Carol and David Kuraoka, Rechtman Consulting, LLC conducted an archaeological survey of a roughly 10,000 square foot parcel (TMKs:(4)-5-9-02:059) located in Hā'ena Ahupua'a, Halele'a District, Island of Kaua'i. The survey strategy included a visual inspection of the entire surface area of the parcel. Based on observations made during this activity, three locations for subsurface testing were selected. A backhoe was used to excavate the three five-meter long trenches, one bucket-width wide. The soil removed during backhoe excavation was visually examined for cultural material and the stratigraphy visible in the walls of the trenches was recorded and described. During the current survey there were no archaeological resources observed on the surface nor were there any encountered during the subsurface testing. According to Hawai'i Administrative Rules 13§13-284-5, when no archaeological resources are discovered during an archaeological survey the production of an Archaeological Assessment report is appropriate. As there were no significant cultural sites or deposits encountered within the study parcels, it is recommended that no further archaeological work need be conducted prior to development.

## Contents

INTRODUCTION.....	1
Scope of Work .....	1
Project Area Description.....	2
BACKGROUND.....	2
Previous Archaeological Research .....	2
Historical Context.....	7
PROJECT EXPECTATIONS.....	9
FIELDWORK .....	9
Methods.....	9
Findings.....	11
RECOMMENDATIONS .....	14
REFERENCES CITED .....	14

## Figures

1. Project area location.....	3
2. Portion of TMK:4-5-9-2 showing study parcel (59).....	4
3. Subject parcel view to east.....	5
4. Central portion of parcel showing vegetation.....	5
5. Hā'ena Ahupua'a showing general coastal site locations.....	8
6. Plan view of project area location showing backhoe trenches. ....	10
7. PVC water line encountered in the eastern portion of the parcel. ....	11
8. Wooden fence post visible in the southern profile of BT-3.....	12
9. Typical contact between topsoil and sandy substrate as seen in BT-1, view to south. ....	12
10. BT-1 through BT-3 profiles. ....	13

## Table

1. Previous archaeological studies in the vicinity of the current study area.....	6
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## INTRODUCTION

At the request of Carol and David Kuraoka, Rechtman Consulting, LLC conducted an archaeological survey of a roughly 10,000 square foot parcel (TMKS:(4)-5-9-02:059) located in Hā'ena Ahupua'a, Halele'a District, Island of Kaua'i. The objective of the survey was to locate, record, evaluate, and provide treatment recommendations all cultural resources encountered on the study parcel. According to Hawai'i Administrative Rules 13§13-284-5, when no archaeological resources are discovered during an archaeological survey the production of an Archaeological Assessment report is appropriate. This report is intended to accompany a Conservation District Use Application (CDUA) and an environmental assessment being prepared in compliance with HRS Chapter 343, as well as fulfill the requirements of the County of Kaua'i Planning Department and the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) with respect to permit approvals for land-altering and development activities. The current project was undertaken in compliance with the historic preservation review process requirements of the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) as specified in Hawai'i Administrative Rules 13§13-284.

This report details the project objectives, scope of work, field methods and procedures, and survey findings. A brief archaeological and historical background is provided, which forms the basis for a set of project expectations. Recommendations addressing future historic preservation concerns are also offered.

### Scope of Work

Given the nature of known archaeological resources in the general vicinity of the current project area and in accordance with the historic preservation review requirements of DLNR-SHPD, the following tasks were determined adequate to constitute an appropriate scope of work:

- (1) Conduct an archival search of the readily available archaeological and historical literature, historic documents and records, and cartographic sources relevant to the immediate project area;
- (2) Perform an intensive surface survey of the subject parcel, locating and documenting all archaeological sites and features;
- (3) Excavate a series of backhoe trenches to sufficiently sample subsurface deposits within the project area in an effort to identify buried archeological material; and
- (4) Analyze the researched and recovered information and prepare a report of the findings that includes significance evaluations and recommendations for any subsequent historic preservation work that may be required.

## Project Area Description

The project area (Figure 1) consists of approximately 10,000 square feet, located in Hā'ena Ahupua'a, Halele'a District, Island of Kaua'i (TMK:4-5-9-02:059). Hā'ena is a relatively small *ahupua'a*, encompassing only 7.7 square kilometers on the north shore of Kaua'i. The *ahupua'a* has a long coastal strip (almost 5 kilometers), but does not extend inland (*mauka*) for nearly as great a distance. Two streams, Limahuli Stream and Mānoa Stream, flow through Hā'ena year round. The coastal areas of the *ahupua'a* are characterized by dune and stabilized dune formations with alluvial benches adjacent to the major drainages. The mean annual rainfall ranges from approximately 67 inches (170 centimeters) per year along the coast to nearly 400 inches (1,000 centimeters) at inland locations.

The study parcel is situated two lots south of Kuhio Highway, roughly 175 meters inland from the shore. It is bounded to the west and south by other residential parcel, and to the east by Road G of the Hā'ena Hui Lots (Figure 2). The terrain throughout the project area is flat with a manicured lawn over most of the surface (Figure 3). Along the margins of the parcel a variety of ornamental shrubs have been planted along with several trees, including mango (*Mangifera* sp.), avocado (*Persea* sp.) coconut palms (*Cocos nucifera*), and breadfruit (*Artocarpus altilis*) (Figure 4).

## BACKGROUND

To generate a set of expectations regarding the nature of archaeological resources that might be encountered on the study parcel, and to establish an environment within which to assess the significance of any such resources, previous archaeological studies relative to the project area and a general historical context for the broader Hanalei region are presented.

### Previous Archaeological Research

Bennett (1931) conducted early archaeological research on Kaua'i. He recorded three sites in Hā'ena Ahupua'a, all in the Ke'e area. The first archaeological research focusing on the district of Halele'a, and more specifically Hā'ena Ahupua'a, commenced in 1972 (Earle 1973, 1978). In that year, Earle conducted a district-wide survey of Hawaiian agricultural features. He also recorded substantial site complexes along coastal Limahuli Stream and in the upper Mānoa River Valley. As his research was oriented toward gaining an understanding of the relationship between increasing sociopolitical complexity and the managerial opportunities provided by intensive agricultural irrigation systems, he did not undertake major excavations or survey near the Hā'ena Point area.

Substantial subsurface investigations were carried out for the Hā'ena State Park from Limahuli Stream to Ke'e Beach (Griffin et al. 1977; Hammatt and Meeker 1979; Hammatt et al. 1978; Yent 1980). This work identified and documented a significant coastal midden deposit (interpreted as temporary habitation) that may represent the earliest sites on Kaua'i's north coast, circa A.D. 900 (Hammatt et al. 1978). The use of the term *may* is intentional as this early date is based on volcanic glass hydration rind dating, which has produced questionable results for Hawaiian source materials. That research also indicated that the intensive use of irrigated agricultural fields began after A.D. 1200 (Hammatt et al. 1978) based on more secure radiocarbon dates.

Closer to the current study area, there have been numerous archaeological investigations at small parcels in the vicinity of Hā'ena Point (Table 1). Cumulatively these studies have documented a buried midden deposit associated with temporary habitation (SIHP Site 50-30-01-1809) that extends throughout the area, albeit intermittently. This deposit has been buried by as much as 140 centimeters of sand on different parcels on Hā'ena Point, and contains faunal material from extirpated avifauna. Radiocarbon dates place the occupation associated with this deposit to between A.D. 1385 and 1500 (Hammatt and Schideler 1989c). As others point out, Hā'ena is "one big archaeological site" and may "hold the key to understanding earliest Tahitian or Marquesan colonization in Hawaii" (Griffin et al. 1977:2).

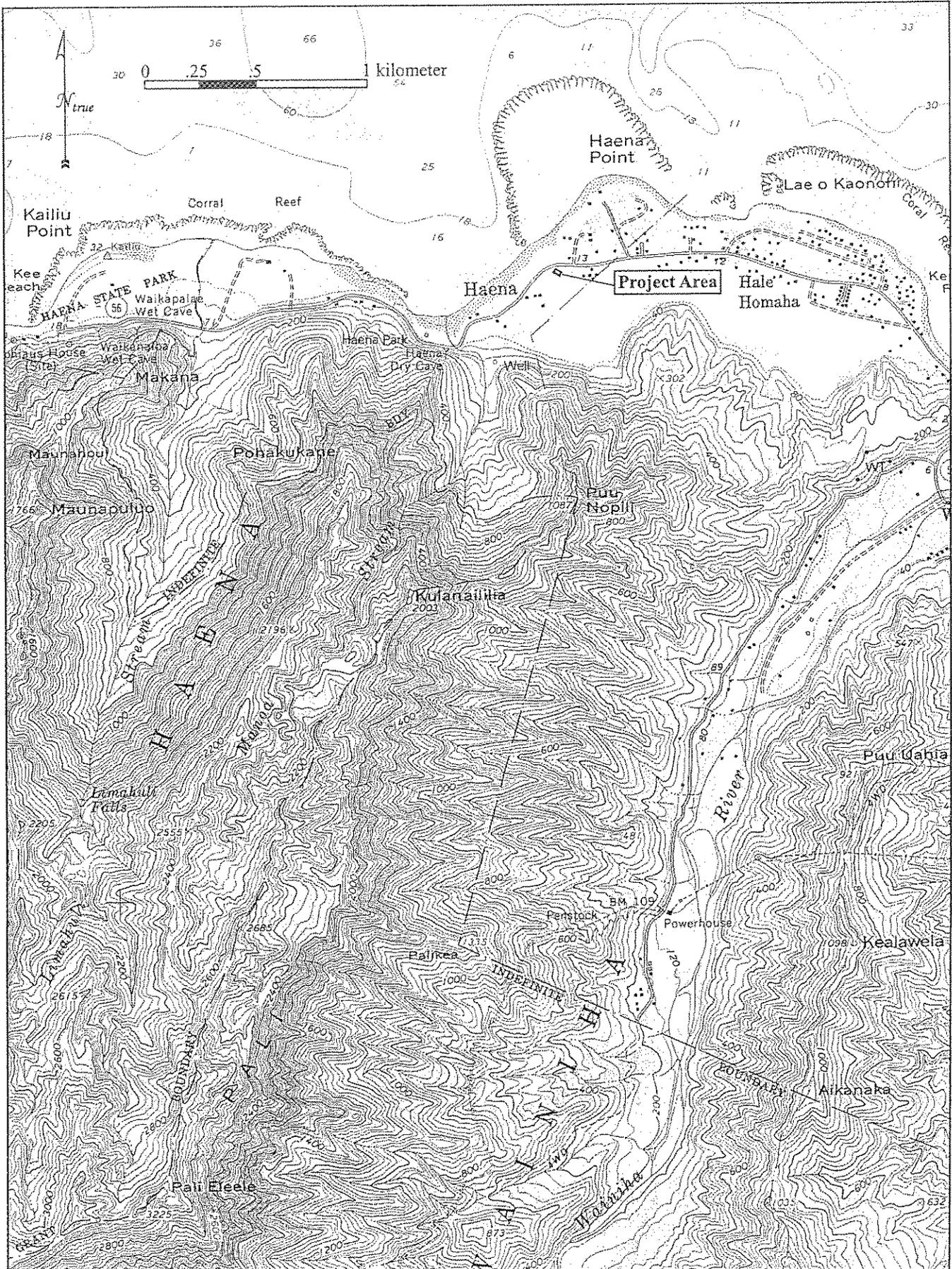


Figure 1. Project area location.

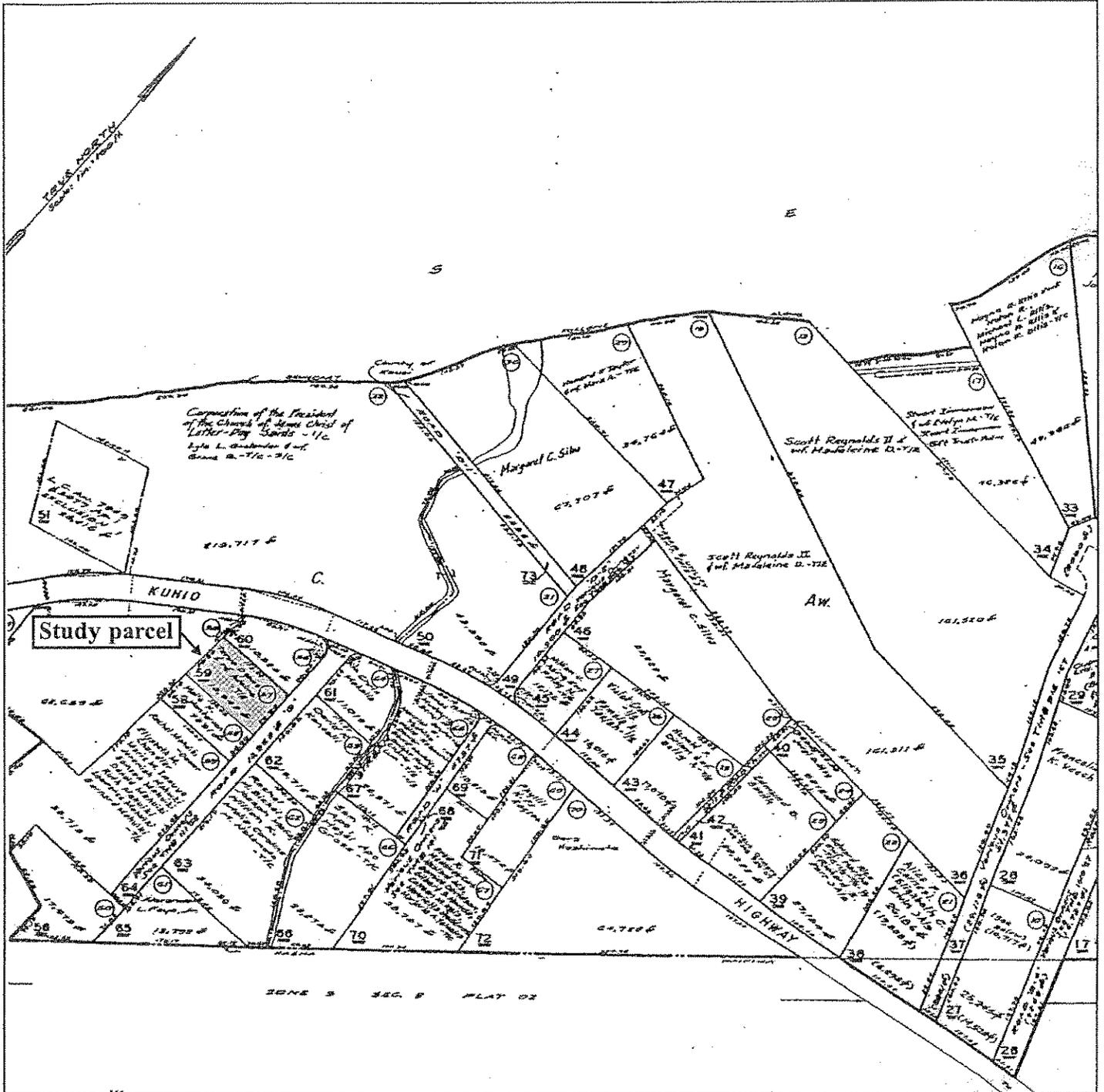


Figure 2. Portion of TMK:4-5-9-2 showing study parcel (59).



Figure 3. Subject parcel view to east.



Figure 4. Central portion of parcel showing vegetation.

Studies on Hā'ena Point have also led to the discovery of over 60 individual burials on seven different parcels. Clearly this suggests that the Hā'ena Point sand deposits were used for interment purposes and that there is a possibility of encountering subsurface burials in the current study area.

**Table 1. Previous archaeological studies in the vicinity of the current study area.**

<i>Study Citation</i>	<i>TMK Parcel Number*</i>	<i>Type of Study</i>
Denham and Kennedy (1993)	34	Monitoring
Folk (1990)	48	Reconnaissance
Hammatt (1980)	22	Reconnaissance
Hammatt (1984a)	22	Inventory
Hammatt (1984b)	22	Subsurface testing
Hammatt (1989)	34	Reconnaissance
Hammatt and Schideler (1989a)	31	Monitoring
Hammatt and Schideler (1989b)	34	Data Recovery
Hammatt and Schideler (1989c)	35	Data Recovery
Hammatt and Schideler (1998)	50	Inventory
Kennedy (1989)	51	Inventory
Kruse (1994)	20	Monitoring
McElroy (2003)	65	Inventory Survey
McMahon (1988)	41	Inadvertent burial discovery
McMahon (1996)	52	Inadvertent burial discovery
Moore and Kennedy (1995)	52	Inventory
Rechtman (1994)	31	Monitoring
Rechtman (2000)	66, 67	Inventory Survey
Rechtman (2004a)	68	Monitoring/Burial Treatment
Rechtman (2004b)	58	Inventory Survey
Rechtman and Clark (2002)	69, 70	Inventory Survey
Soldo and Dixon (1994)	36	Monitoring

\* All TMK parcel numbers are preceded by 5-9-02.

Hammatt and Schideler (1998) performed an inventory survey of TMK:5-9-02:50, a roughly one acre parcel located directly *makai* of the current study parcels. Their investigation produced negative results with respect to identifying archaeological resources. Neither a buried midden deposit nor burials were encountered in the substantial subsurface testing carried out as part of their investigation.

Rechtman (2000) conducted an archaeological inventory survey of the two parcels (TMK: 5-9-02:66, 67) located east of the current project area. No archaeological resources were encountered during this survey, and no buried midden deposits or burials were identified during subsurface testing. However, subsequent development work on Parcel 66 and the adjoining roadway Parcel 68 resulted in the inadvertent discovery of human burials (Rechtman 2004a). These remains were found at the terminus of a dune formation that exists mostly on Parcel 70.

Parcels 70 and 69 were subject to an archaeological inventory survey by Rechtman and Clark (2002). As a result of that study, two sites (SIHP Site 50-30-01-1872 and SHIP Site 50-30-01-2071) were identified that contain human remains. Site 1872 is a stabilized dune formation in the central portion of Parcel 70 upon which a concrete mausoleum is constructed. Oral sources indicated that several other individuals are also buried in the dune. Site 2071 was discovered during backhoe testing and consists of a single set of articulated juvenile human skeletal remains and associated cultural material located approximately 25 centimeters to 1.3 meters below ground surface. The skeletal remains were revealed in the trench through hand excavation, after mechanical excavation revealed a clustering of buried water worn cobbles. A burial treatment plan is currently be prepared for these site.

Another archaeological inventory study was conducted proximate to the current study area by T.S. Dye & Colleagues, Archaeologists, Inc. (McElroy 2003). McElroy reported that there were no intact cultural deposits discovered on the roughly 13,800 square foot parcel (Parcel 65), and concluded that the construction of the proposed single-family dwelling “will have no effect on significant historic properties.” (2003:21).

The most proximate prior study (Rechtman 2004b) was conducted on the parcel adjacent and to the south of the current study parcel. During the inventory survey three backhoe trenches were excavated and no historic properties were identified. The articulated remains of a donkey or small horse were discovered. Given recent oral information provide by Mike Olanolan, a lifelong resident of the area, the earlier discovery of the equine makes sense as according to Mr. Olanolan the subject property along with several adjoining properties was a rodeo area in the 1960s.

## Historical Context

In 1995, Carol Silva prepared *A Historical and Cultural Report of Hā'ena State Park; Halele'a, Kaua'i*; (Silva 1995). This report documents the traditional and historical significance of Hā'ena within the context of the Halele'a District, Kaua'i, and all of the Hawaiian Islands. Oral traditions indicate that Hā'ena was an important center of ancient *hula* (Joesting 1984). Pele herself was drawn to Hā'ena by the drumming of the chief Lohiau at his *halau* at Ke'e (Emerson 1915). Historical records describe how during the conquest of the Hawaiian Islands by Kamehameha I, the ruling chief of Kaua'i (Kaumuali'i) avoided personal defeat through a peaceable transfer of power. He established a will that left Kaua'i to Kamehameha upon Kaumuali'i's death. Although subject to Kamehameha during the remainder of his life, Kaumuali'i retained leadership over the island. Kamehameha died five years before Kaumuali'i.

Upon Kaumuali'i's death in 1824 his agreement to Kamehameha was honored, rather than the traditional reassignment of lands to local chiefs, the O'ahu powers selected and installed Kaumuali'i's nephew (Kahalaia) as the new chief of Kaua'i. The O'ahu chief Kalanimoku was sent to Kaua'i to inform the local chiefs. The local chiefs rebelled, and a bloody one-sided battle ensued. Well-armed and well-trained warriors were sent to Kaua'i from O'ahu and Maui to support Kalanimoku. The ill-prepared farmers of Kaua'i were easily defeated, and Kaua'i came under the direct rule of the young king (Kamehameha III). Kaikiohewa was appointed governor and the lands were re-divided with the best tracts going to the “loafers and hangers-on (*palaualelo*) of O'ahu and Maui” (Kamakau 1992:269). “Thus, the old order of political power on Kaua'i is dissolved and displaced by a new society of *konohiki* (land managers) who descend from O'ahu and Maui lines” (Silva 1995:4).

This sociopolitical transformation was affirmed and codified by the *Māhele* of 1848. The *ahupua'a* of Hā'ena was awarded (LCAw. 10613) to Abner Paki husband of L. Konia, a granddaughter of Kamehameha I. In addition, there were 23 *kuleana* awards granted in Hā'ena for both *lo'i* and houselots; but the current study area was not one of them. Paki apparently was given the *ahupua'a* during the Kaikiohewa division of lands, post 1824. Paki controlled Hā'ena's fresh water supply, the produce from his 12 *kō'ele* (tenant-worked farms), the gathered mountain and ocean resources, and all octopuses from the coastal waters. In 1837, Kekela'akalaniwahikapa'a (E. Kekela) was appointed by Paki as the *konohiki* of Hā'ena to oversee his interests. Kekela was Paki's aunt and Kamehameha I's sister-in-law, and had resided on Kaua'i (in Lumaha'i Ahupua'a-near Hā'ena) since 1810. Many of the *kuleana* claims were from individuals who were given land by Kekela, who herself claimed land (LCAw. 7949) in the Limahuli area.

Paki died in 1855 and Konia in 1857. Bernice Pauahi Bishop, their only child, inherited their lands and in 1858 Hā'ena was sold to W. H. Pease. Although traditional farming lands become incorporated into a growing cattle industry, the taro *lo'i* along Limahuli and Mānoa streams and the sweet potato plots along the coastal plain remained productive into the twentieth century (Handy 1940). By the turn of the twentieth century this portion of Hā'ena was divided into the Hā'ena Hui house lots. Parcel 58 was originally Hui lot 58, and does not appear to have been constructed upon. Figure 5 shows the general locations of the *kuleana* awards and the locations of archaeologically recorded pondfield, habitation, ceremonial, and burial areas in coastal Hā'ena.

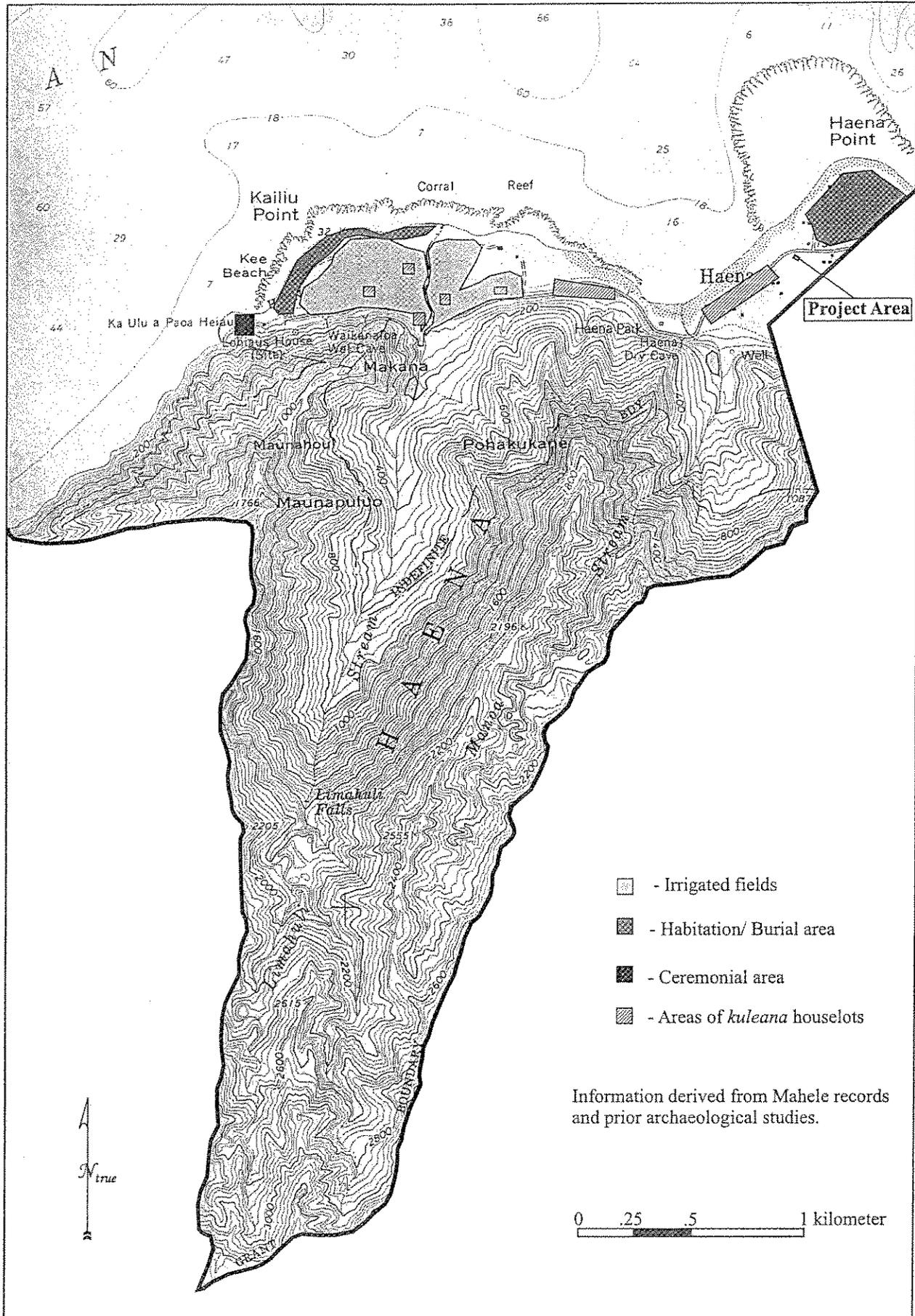


Figure 5. Hā'ena Ahupua'a showing general coastal site locations.

## PROJECT EXPECTATIONS

Given the substantial amount of archaeological research in the immediate vicinity of the project area, the comprehensive historical and cultural background developed for Hā'ena (Silva 1995), and oral information collected about past land use, the following set of expectations concerning potential findings can be generated. Burial sites exist in the area, and it is possible that such sites could be encountered on the subject parcel. When encountered, these sites tend to be located in dune formations; no such formations exist on the current study parcel. It appears as though a corridor that includes the current project area (perhaps associated with the drainage to the east) has been the focus of intensive environmental energy. Two historically recorded *tsunami* ravaged this area in 1946 and 1957 (Shepard et al. 1950). These episodes may have resulted in the removal of cultural deposits, or alternatively as Hammatt and Schideler (1998) posit, Precontact Hawaiians may have been aware of the potential hazards, and that may have been a factor in a decision not to inhabit the corridor. Evidence of Historic Period (early twentieth century) habitation might also be encountered associated with the establishment of the Hā'ena Hui. We know from tax records that a house once stood on the parcel built in the 1930s, but we also know from oral information that the area was leveled and used as a rodeo arena in the 1960s.

## FIELDWORK

Robert B. Rechtman, Ph.D. and Rob Snibley, conducted a 100%-coverage pedestrian survey of the parcel, along with subsurface testing with a backhoe on October 21, 2006.

### Methods

The survey strategy included a visual inspection of the entire surface area of the parcel. Based on observations made during this activity, three locations for subsurface testing were selected. A backhoe was used to excavate the three five-meter long trenches, one bucket-width wide. The width of the backhoe bucket used was 70 centimeters. The soil removed during backhoe excavation was visually examined for cultural material and the stratigraphy visible in the walls of the trenches was recorded and described. The locations of the trenches are plotted on Figure 6.

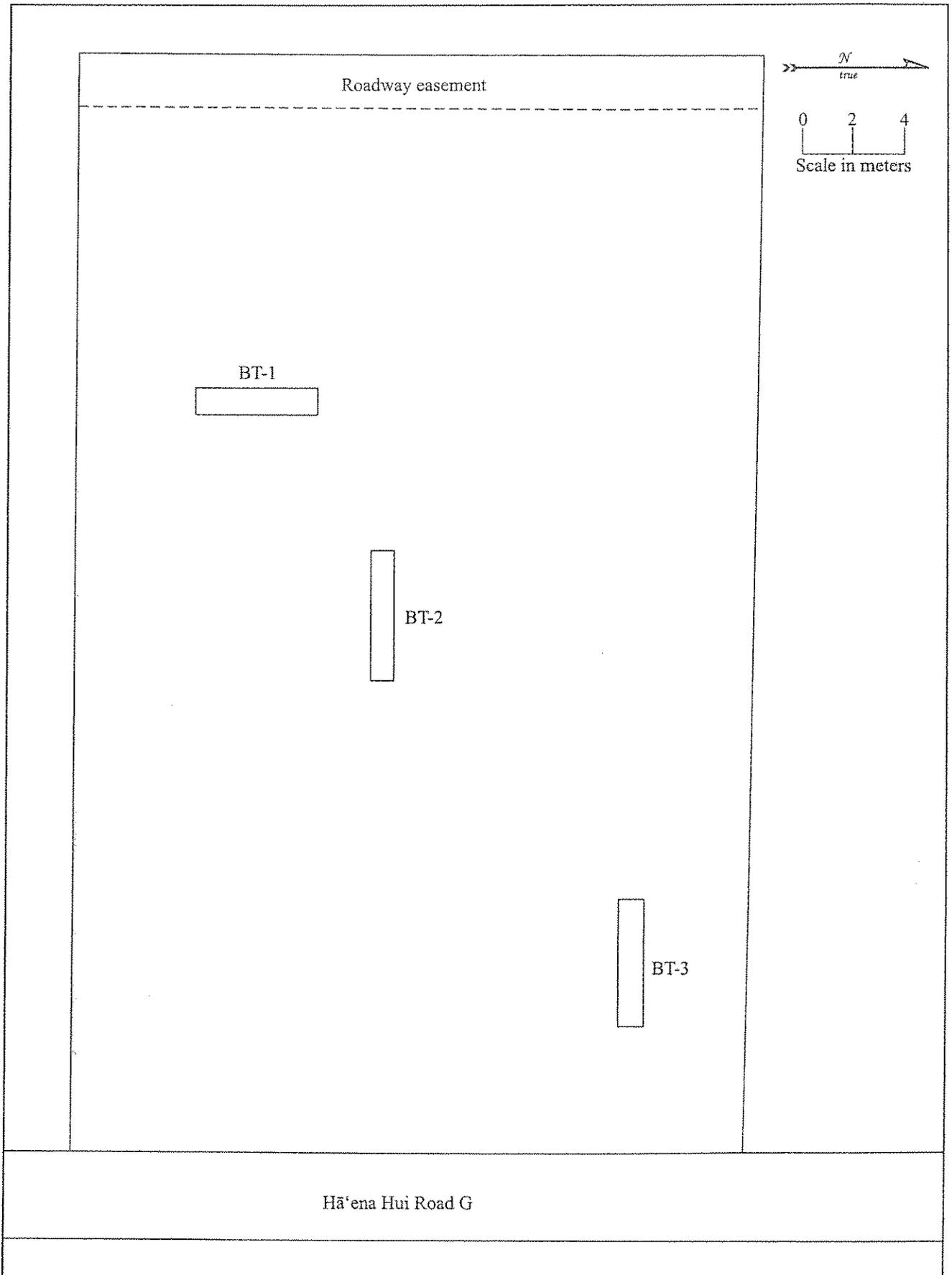


Figure 6. Plan view of Parcel 59 showing location of backhoe trenches.

## Findings

During the current survey there were no archaeological resources observed on the surface nor were there any encountered during the subsurface testing. A modern (PVC) water line was encountered in BT-3 extending in a north/south direction across the parcel (Figure 7), also observed in this trench was an intact wooden fence post (Figure 8). The stratigraphy was uniform throughout the trenches and is consistent with the oral information that the area was leveled and prepared as a rodeo arena. Potential layers associated with modern climatic events (i.e., *tsunami* and hurricane) were conspicuously absent from the soil profiles. Descriptions of the stratigraphy observed in the three backhoe trenches (BTs) are presented below.

As noted the stratigraphy visible in the backhoe trenches was consistent throughout the project area. A very dark gray (10YR 3/1) sandy clay loam (Layer I) extended from the ground surface to depths ranging from 25 to 45 centimeters depending on the trench. Layer II underlies Layer I and consists of unconsolidated very pale brown (10YR 7/4) sand generally 115 to 180 centimeters thick (Figure 9). This layer extends to a maximum depth of 210 centimeters below the ground surface. Layer III consists of light yellowish brown (10YR 6/4) slightly compacted sand. It was with encountering this layer that excavation was terminated (Figure 10).

The stratigraphy recorded within the current study parcel is similar to that recorded for TMK:5-9-02:69 and 70 (Rechtman and Clark 2002), and TMK: 5-9-02:58 (Rechtman 2004b). The lack of storm deposits in the current project area (and on Parcel 58) may be attributed to preparation and use of the area a rodeo arena.

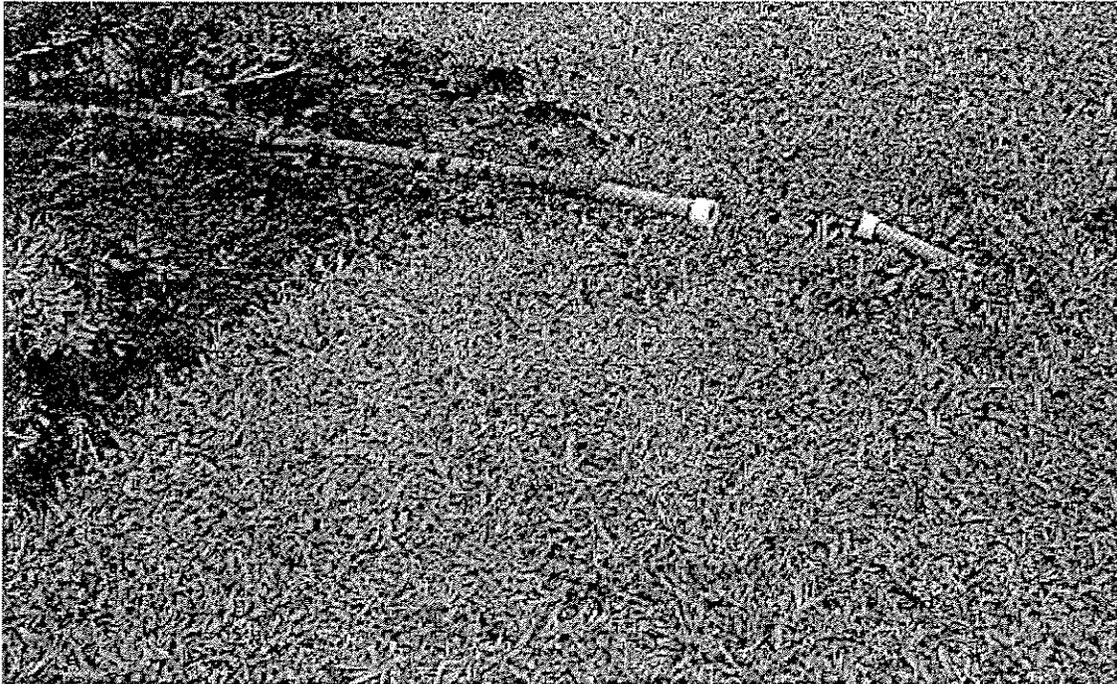


Figure 7. PVC water line encountered in the eastern portion of the parcel.

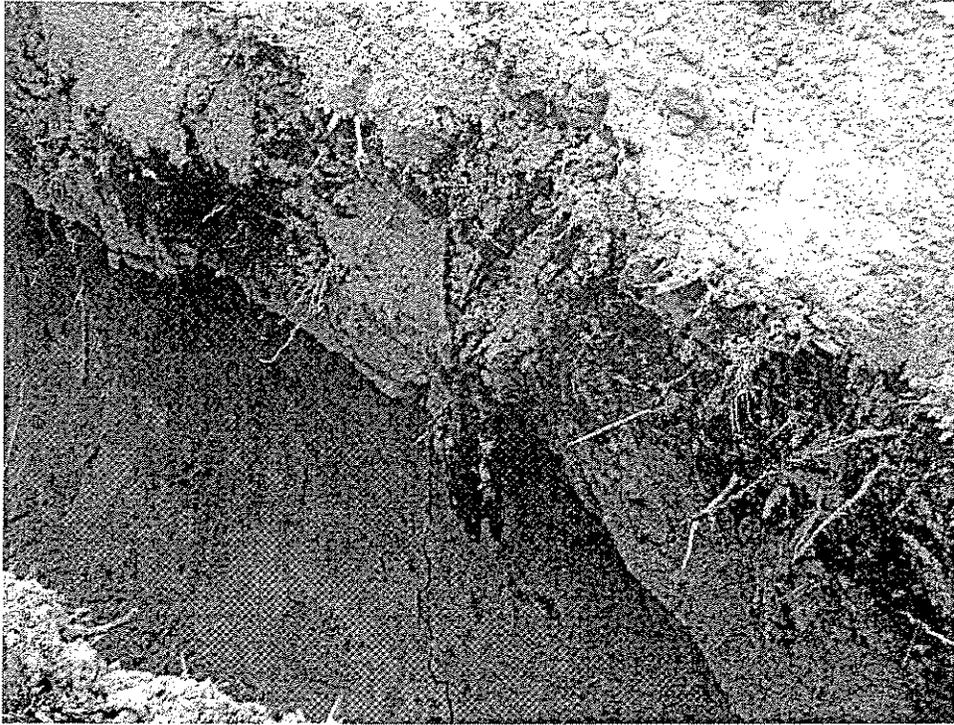


Figure 8. Wooden fence post visible in the southern profile of BT-3.

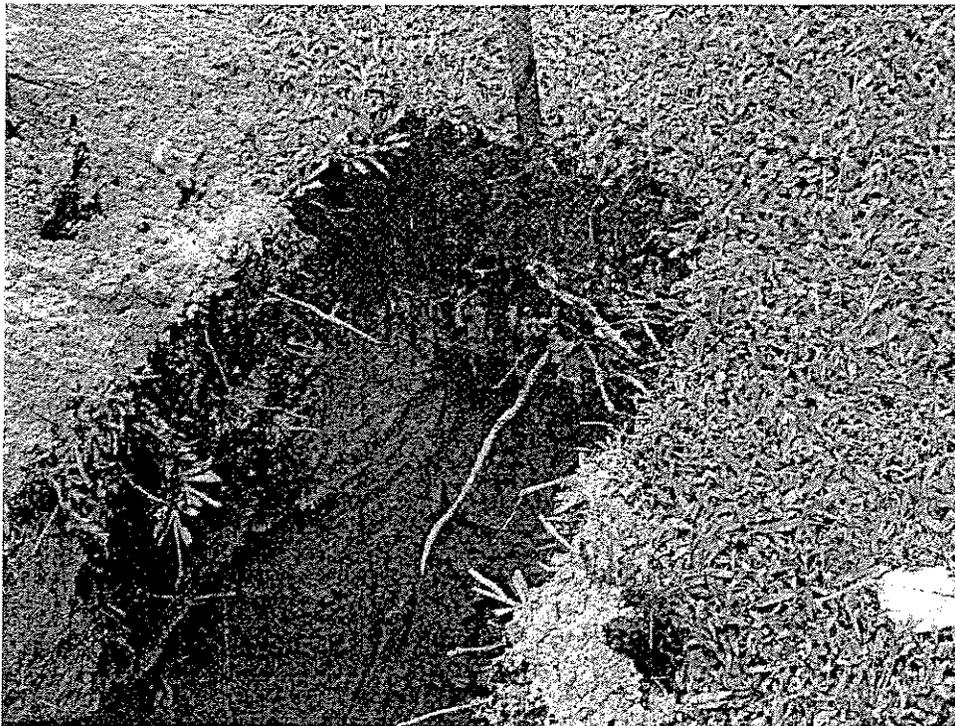


Figure 9. Typical contact between topsoil and sandy substrate as seen in BT-1, view to south.

Layer I - Very dark gray (10YR 3/1) sandy clay loam.  
Layer II - Unconsolidated very pale brown (10YR 7/4) sand.  
Layer III - Light yellowish brown (10YR 6/4) slightly compacted sand.

0 25 50  
Scale in centimeters

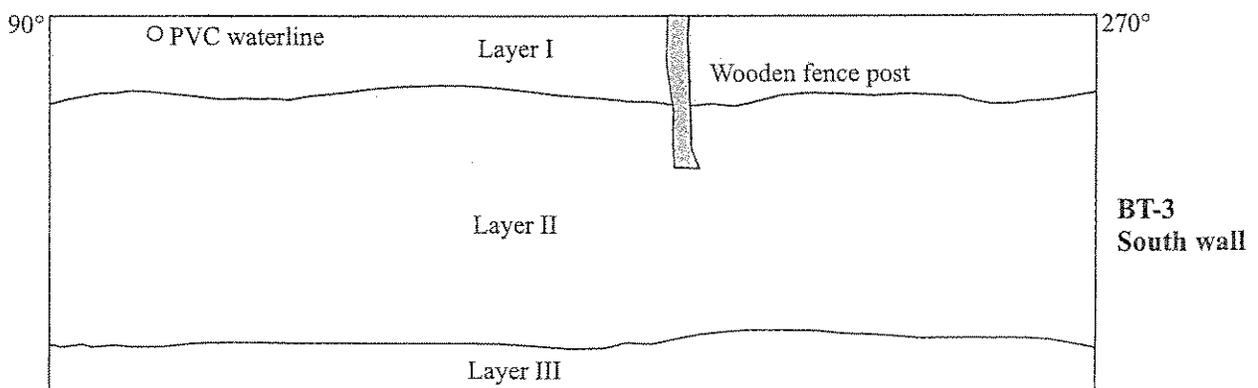
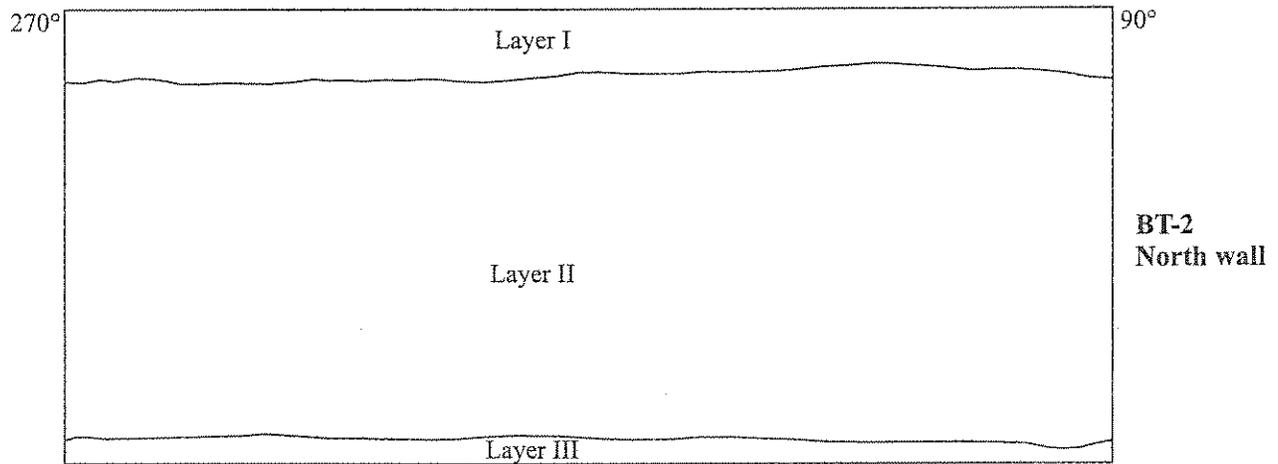
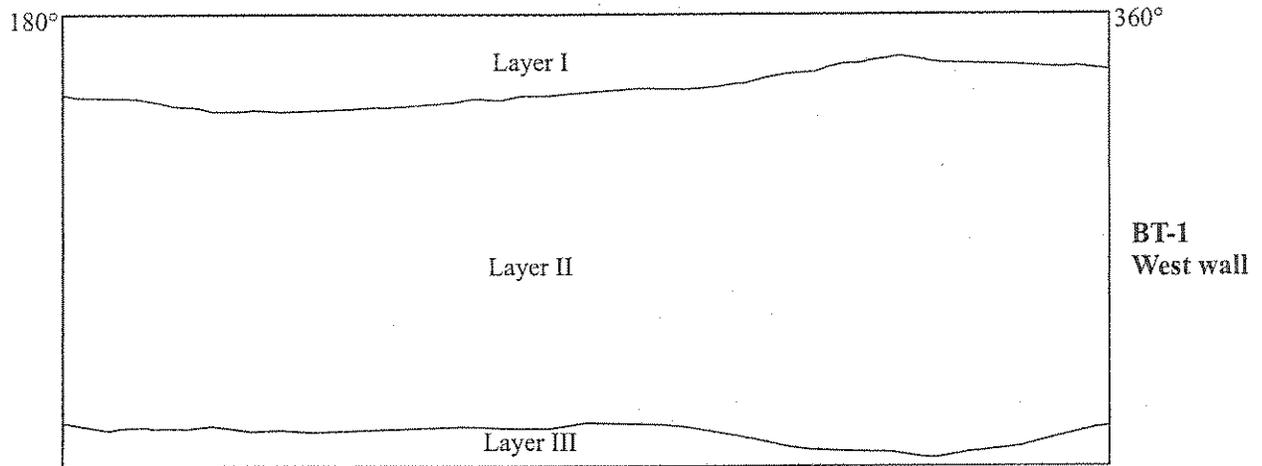


Figure 10. BT-1 through BT-3 profiles.

## RECOMMENDATIONS

As there were no significant cultural sites or deposits encountered within the study parcels, it is recommended that no further archaeological work need be conducted prior to development. However, in the unlikely event subsurface prehistoric deposits or human burials are inadvertently discovered during construction activities, such activities should be immediately suspended in the vicinity of the discovery, and DLNR-SHPD notified as outlined in the Hawai'i Administrative Rules 13§13-284.

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EXHIBIT "R-1"



EXHIBIT "R-2"



EXHIBIT "R-3"



EXHIBIT "R-4"



EXHIBIT "R-5"



EXHIBIT "R-6"



EXHIBIT "R-7"



EXHIBIT "R-8"

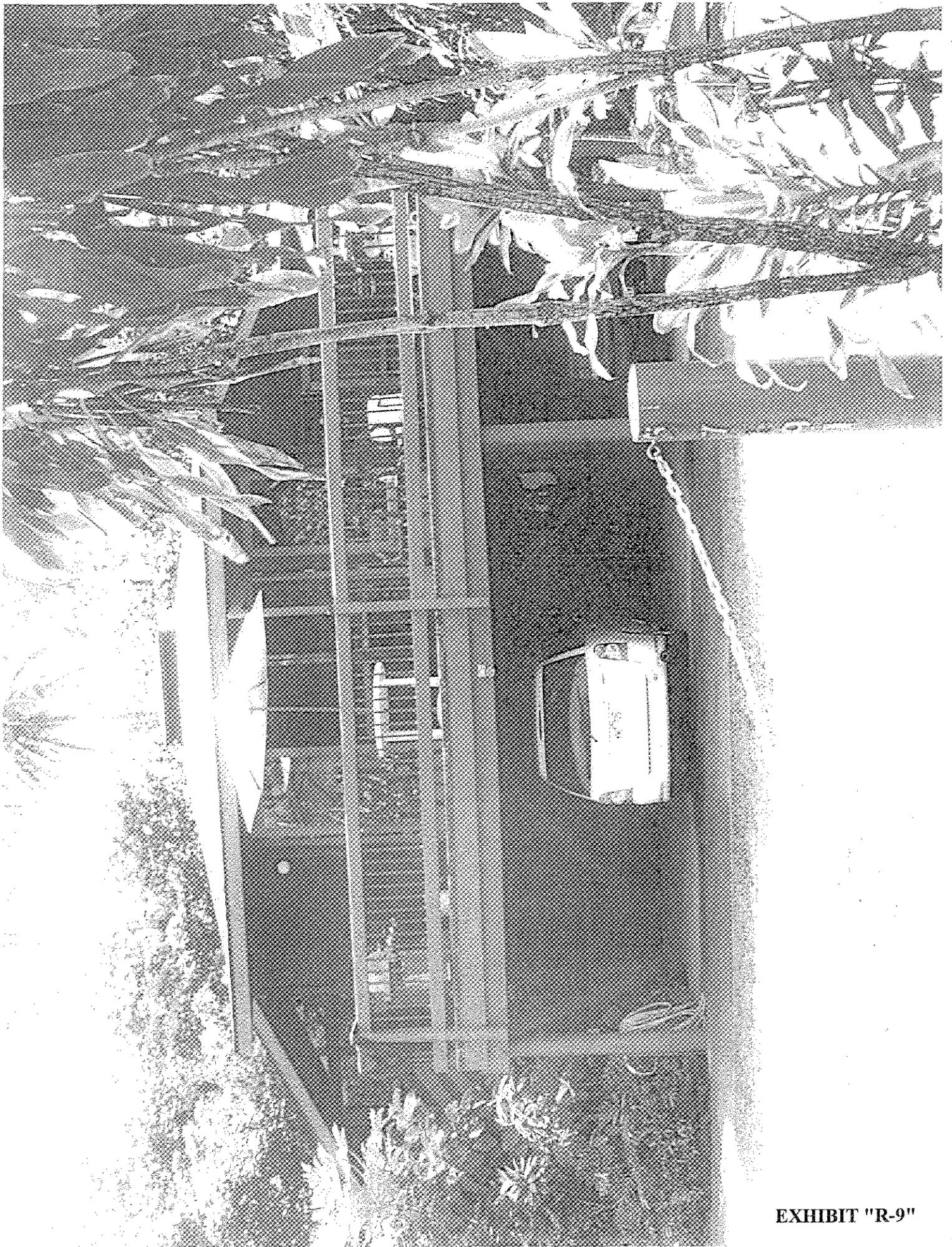


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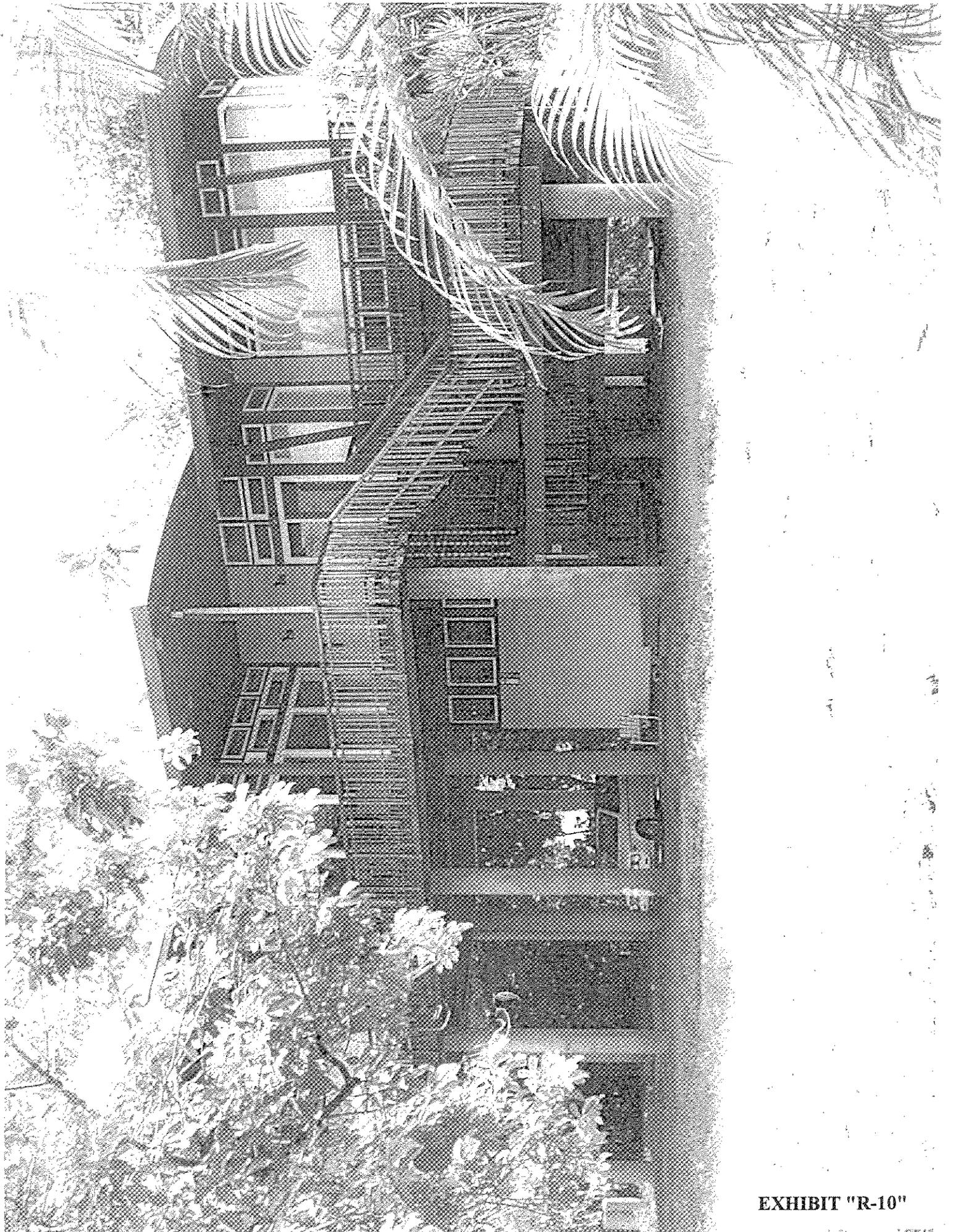


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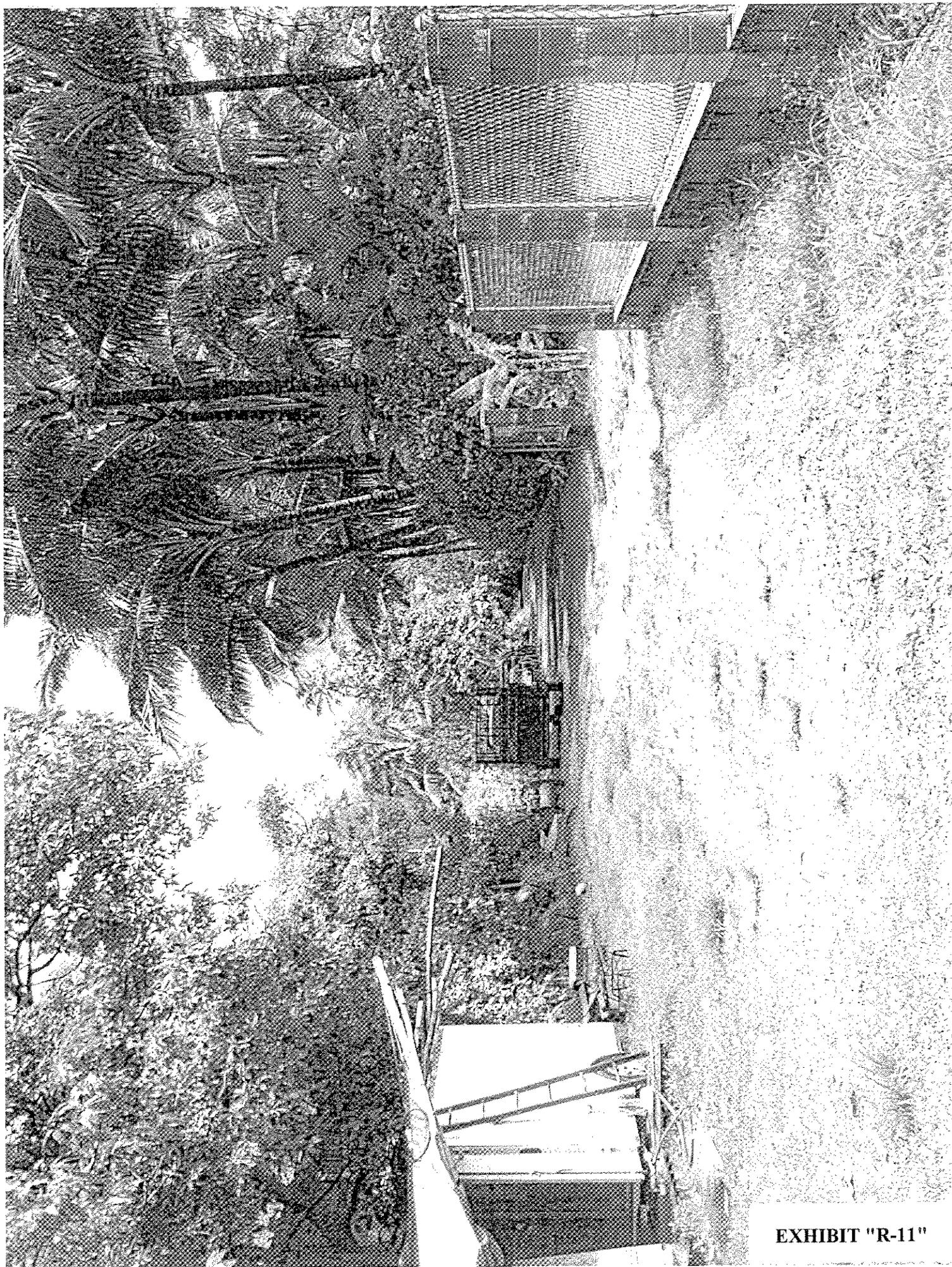


EXHIBIT "R-11"



EXHIBIT "R-12"



EXHIBIT "R-13"



EXHIBIT "R-14"



EXHIBIT "R-15"



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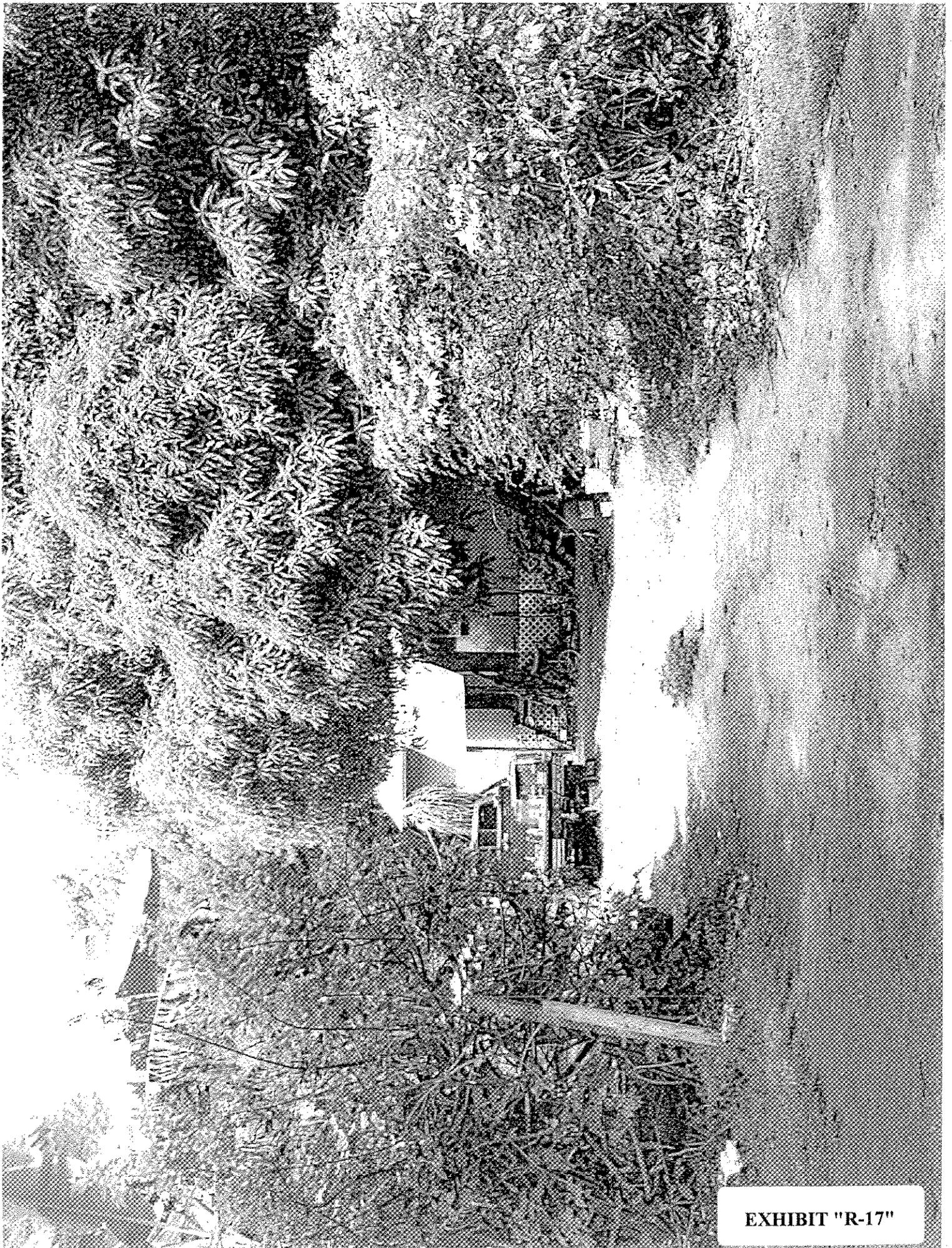


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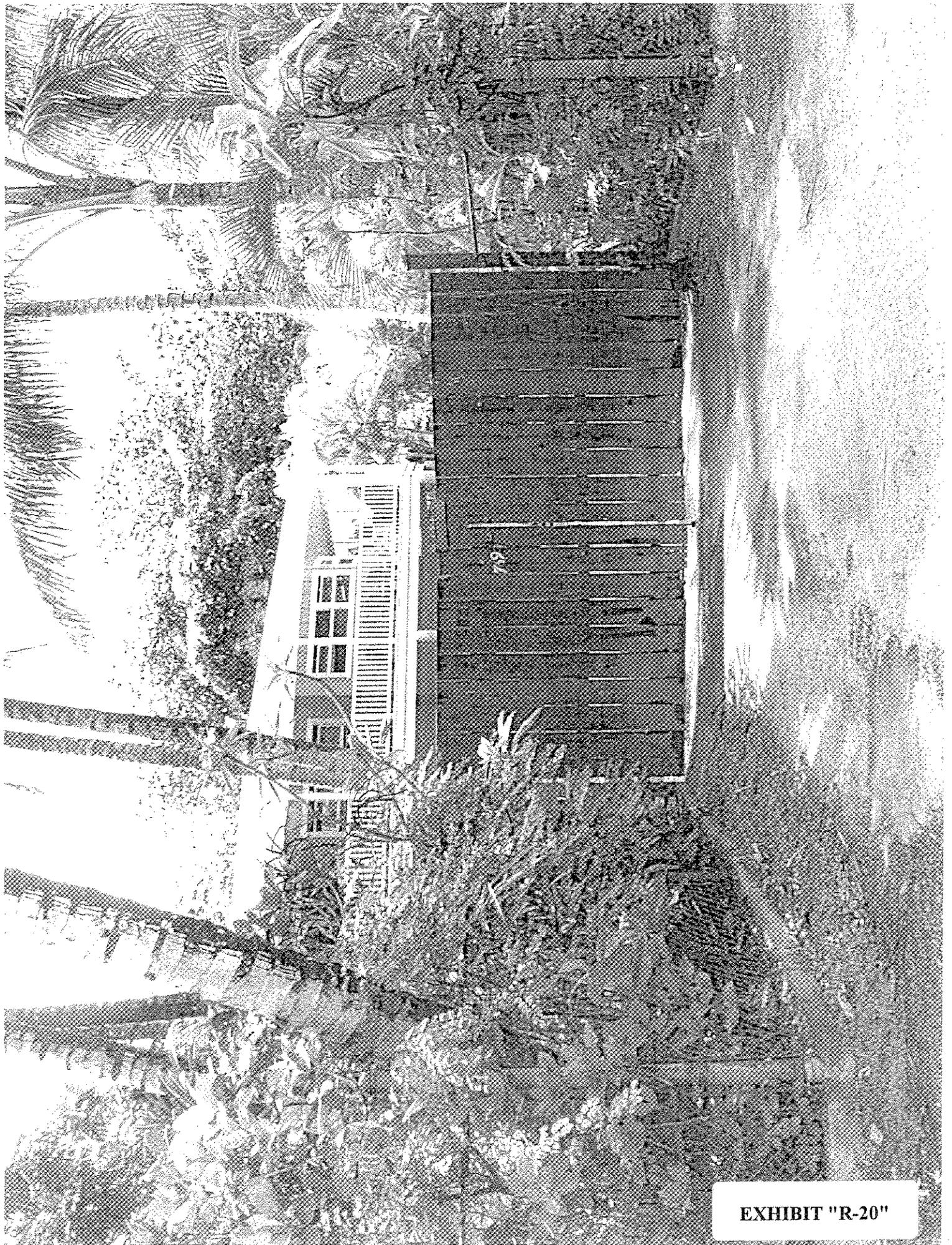


EXHIBIT "R-20"

EXHIBIT "S"

LIST OF PERSONS TO WHOM NOTICE WAS GIVEN

James S. Greenan, et al.  
959 Bremer Rd., Danville, CA 94526

Diane G. Faye, Trustee  
P. O. Box 1870, Koloa, HI 96756

Nan Guslander, Trustee  
292 Lake Ave., Saratoga Springs, NY 12866

Edward A. Hayes  
P. O. Box 1502, Hanalei, HI 96714

Ruth A. U. Chang  
P. O. Box 572, Hanalei, HI 96714

Bryan L. Krone, et al.  
P. O. Box 22367, Carmel, CA 93922

Germain G. Chandler  
P. O. Box 334, Hanalei, HI 96714

Susan W. Ochwat  
865 Balboa Ave., Laguna Beach, CA 92651

Bertha Tom  
107 Ulupa Street, Honolulu, HI 96723

Michael J. Tiernan, et al.  
2113 Eaton Ave., San Carlos, CA 94070

Roger A. and Marilyn Browning  
636 Crater Camp Dr., Beverly Hills, CA 90210

Robert S. Sommer, Trustee  
P. O. Box 1411, Hanalei, HI 96714

Manoa Falls, Haena LLC  
567 W. Channel Islands Blvd., #337,  
Port Hueneme, CA 93041

Dale McBeath  
P. O. Box 894, Hanalei, HI 96714

LIST OF PERSONS TO WHOM NOTICE WAS GIVEN

James Huddy, et al., c/o Mark Maxson and Robert Shaw  
336 Corbett Ave., San Francisco, CA 94114

Michael R. Schmidt  
P. O. Box 1079, Hanalei, HI 96714

**EXHIBIT "T"**

**PERSONS WHO ATTENDED INFORMATIONAL MEETING**

(Thursday, August 10, 2006)

<u>Names</u>	<u>Addresses</u>
Richard Gomez	5-7364 Kuhio Highway, Haena
Cecilia Gomez	5-7364 Kuhio Highway, Haena
Karen Olanolan	5-7777 Kuhio Highway, Haena
Michael Olanolan	5-7777 Kuhio Highway, Haena
Lynne Sargent	Haena
John Sargent	Haena
Susan Ham Young	Wainiha
Warren Ham Young	Wainiha
Gregg Wood	Wainiha
Bob and Christine (last names not known)	Haena

Date: 8-7-06

To Whom it May Concern:

I am an owner of/tenant residing on real property located in Haena, Hanalei, Kauai, Hawaii, which is identified as Tax Key No.: (4) 5-9-2-603. My property is in the neighborhood of the lot owned by David R. Kuraoka, who is married to Carol Kuraoka (the Kuraoka Tax Key No. is (4) 5-9-2-59.

I understand that the Kuraokas would like to build their home on their property, and will first have to obtain a Conservation District Use Permit from the State Board of Land and Natural Resources. The Kuraoka lot is set back from Kuhio Highway, in an area where there are already other homes.

I support the application of the Kuraokas to build the single-family residence which will be their home.

Sincerely,

  
Name: R.S. Sommer  
Address: PO BOX 1411  
HANALEI, HI 96714

Date: August 7, 2006

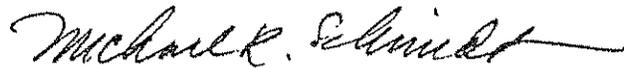
To Whom it May Concern:

I am an owner residing on real property located in Haena, Hanalei, Kauai, Hawaii, which is identified as Tax Key No.: (4) 5-9-2 parcels 69, 70, and 71. My property is in the neighborhood of the lot owned by David R. Kuraoka, who is married to Carol Kuraoka (the Kuraoka Tax Key No. is (4) 5-9-2-59).

I understand that the Kuraokas would like to build their home on their property, and will first have to obtain a Conservation District Use Permit from the State Board of Land and Natural Resources. The Kuraoka lot is set back from Kuhio Highway, in an area where there are already other homes.

I support the application of the Kuraokas to build the single-family residence which will be their home.

Sincerely,



---

Name: Michael R. Schmidt

Address: 5-7631 Kuhio Highway,

PO Box 1079, Hanalei, HI 96714

Date: 8/11/06

To Whom it May Concern:

I am an owner residing on real property located in Haena, Hanalei, Kauai, Hawaii, which is identified as Tax Key No.: (4) 5-9-2-61. My property is in the neighborhood of the lot owned by David R. Kuraoka, who is married to Carol Kuraoka (the Kuraoka Tax Key No. is (4) 5-9-2-59).

I understand that the Kuraokas would like to build their home on their property, and will first have to obtain a Conservation District Use Permit from the State Board of Land and Natural Resources. The Kuraoka lot is set back from Kuhio Highway, in an area where there are already other homes.

I support the application of the Kuraokas to build the single-family residence which will be their home.

Sincerely,

  
Name: NICK MICHAELS  
Address: PO Box 1036  
HANALEI HI 96714

Date: 8-12-06

To Whom it May Concern:

I am an owner residing on real property located in Haena, Hanalei, Kauai, Hawaii, which is identified as Tax Key No.: (4) 5-9-35. My property is in the neighborhood of the lot owned by David R. Kuraoka, who is married to Carol Kuraoka (the Kuraoka Tax Key No. is (4) 5-9-2-59.

I understand that the Kuraokas would like to build their home on their property, and will first have to obtain a Conservation District Use Permit from the State Board of Land and Natural Resources. The Kuraoka lot is set back from Kuhio Highway, in an area where there are already other homes.

I support the application of the Kuraokas to build the single-family residence which will be their home.

Sincerely,

  
Name: ESTEBAN R. GOMEZ + ROBERTA  
Address: 5-7364 KUHIO HWY  
HANALETI, HI 96719

Date: 8-16-06

To Whom it May Concern:

I am an owner residing on real property located in Haena, Hanalei, Kauai, Hawaii, which is identified as Tax Key No.: (4) 5-9-~~2~~-05-001. My property is in the neighborhood of the lot owned by David R. Kuraoka, who is married to Carol Kuraoka (the Kuraoka Tax Key No. is (4) 5-9-2-59.

I understand that the Kuraokas would like to build their home on their property, and will first have to obtain a Conservation District Use Permit from the State Board of Land and Natural Resources. The Kuraoka lot is set back from Kuhio Highway, in an area where there are already other homes.

I support the application of the Kuraokas to build the single-family residence which will be their home.

Sincerely,

  
Name: P.O. Box 1553  
Address: Hanalei, Kua. H.  
Hanalei, 96714

Date: 8-16-06

To Whom it May Concern:

I am an owner residing on real property located in Haena, Hanalei, Kauai, Hawaii, which is identified as Tax Key No.: (4) 5-9-2- 057-0000-003. My property is in the neighborhood of the lot owned by David R. Kuraoka, who is married to Carol Kuraoka (the Kuraoka Tax Key No. is (4) 5-9-2-59).

I understand that the Kuraokas would like to build their home on their property, and will first have to obtain a Conservation District Use Permit from the State Board of Land and Natural Resources. The Kuraoka lot is set back from Kuhio Highway, in an area where there are already other homes.

I support the application of the Kuraokas to build the single-family residence which will be their home.

Sincerely,

  
Name: Germain G. Chandler  
Address: PO. Box 334  
Hanalei, Kauai, HI 96714  
Cell # 346-3037

Date: 8-16-06

To Whom it May Concern:

I am an owner residing on real property located in Haena, Hanalei, Kauai, Hawaii, which is identified as Tax Key No.: (4) 5-9-2-~~057-0000-003~~ My property is in the neighborhood of the lot owned by David R. Kuraoka, who is married to Carol Kuraoka (the Kuraoka Tax Key No. is (4) 5-9-2-59.

I understand that the Kuraokas would like to build their home on their property, and will first have to obtain a Conservation District Use Permit from the State Board of Land and Natural Resources. The Kuraoka lot is set back from Kuhio Highway, in an area where there are already other homes.

I support the application of the Kuraokas to build the single-family residence which will be their home.

Sincerely,

  
Name: Michael C. Schermerhorn  
Address: P.O. Box 334  
Hanalei, HI 96714

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

ATTORNEYS AT LAW

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705

FACSIMILE NO: (808) 245-3277

E-MAIL: mail@kauai-law.com

*COUNSEL*  
LORNA A. NISHIMITSU

*ASSOCIATE*  
DAWN N. MURATA

MICHAEL J. BELLES  
MAX W. J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

November 9, 2006

Ms. Melanie Chinen, Administrator  
State Historic Preservation Division  
Department of Land and Natural Resources  
State of Hawaii  
601 Kamokila Boulevard, Room 555  
Kapolei, Hawaii 96707

Re: Draft Environmental Assessment  
Conservation District Use Application (KA-3379)  
Lot 57, Haena Hui Partition  
Haena, Kauai, Hawaii  
Kauai Tax Key No.: (4) 5-9-02:59  
Applicant/Owner: David R. Kuraoka

Dear Ms. Chinen:

I am responding on behalf of the Applicant to the comments contained in your letter dated September 28, 2006 to Mr. Sam Lemmo, Administrator, Department of Land and Natural Resources, Office of Conservation and Coastal Lands, as follows:

1. An Archaeological Assessment Survey of TMK: 4-5-09-02:059 was prepared by Dr. Robert Rechtman and submitted to the State Historic Preservation Division ("SHPD"). The Rechtman Report contains the recommendation that no further archaeological work is necessary.

2. By letter from you to Dr. Rechtman dated November 1, 2006, you approved the Rechtman Report and agreed that no further archaeological work was necessary.

3. No burials were discovered during the survey. If any burials are discovered during construction, all work will be stopped and the procedures of HRS Chapter 6E-43 and its rules will be followed.

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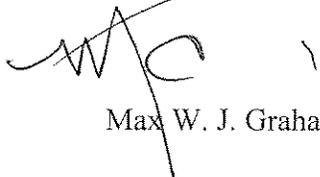
**EXHIBIT "V-1"**

Ms. Melanie Chinen, Administrator  
November 9, 2006  
Page 2

Thank you for your comments. Please let me know if you have any further questions.

Very truly yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**



Max W. J. Graham, Jr.

MWJG:spc

cc: Mr. Samuel J. Lemmo, Administrator,  
Office of Conservation and Coastal Lands, DLNR  
Mr. and Mrs. David R. Kuraoka

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

ATTORNEYS AT LAW

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705

FACSIMILE NO: (808) 245-3277

E-MAIL: mail@kauai-law.com

*COUNSEL*  
LORNA A. NISHIMITSU

*ASSOCIATE*  
DAWN N. MURATA

MICHAEL J. BELLES  
MAX W.J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

November 9, 2006

Mr. Kelvin H. Sunada, Manager  
Environmental Planning Office  
Department of Health  
State of Hawaii  
P. O. Box 3378  
Honolulu, Hawaii 96801-3378

Re: Draft Environmental Assessment  
Conservation District Use Application (KA-3379)  
Lot 57, Haena Hui Partition  
Haena, Kauai, Hawaii  
Kauai Tax Key No.: (4) 5-9-02:59  
Applicant/Owner: David R. Kuraoka

Dear Mr. Sunada:

I am responding on behalf of the Applicant to the comments contained in your letters dated October 13, 2006 to Mr. Peter Young, Chairperson, Department of Land and Natural Resources, and October 24, 2006 to Mr. Samuel J. Lemmo, Administrator, Department of Land and Natural Resources, Office of Conservation and Coastal Lands, as follows (I note that both letters are the same):

1. As per your recommendation, a new individual wastewater system (IWS) plan has been prepared and submitted to the Department of Health ("DOH").
2. By letter from Lori K. Vetter, Wastewater Engineer, DOH, to the Applicant, DOH has indicated its approval of the new IWS plan.
3. As required by DOH regulations, the new IWS will be installed by a licensed contractor, inspected by an engineer, and authorized in writing by DOH before use.

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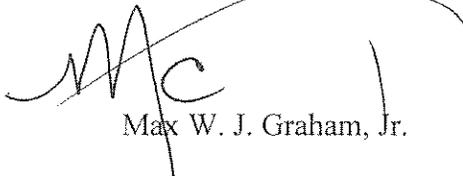
**EXHIBIT "V-2"**

Mr. Kelvin H. Sunada, Manager  
November 9, 2006  
Page 2

Thank you for your comments. Please let me know if you have any further questions.

Very truly yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

A handwritten signature in black ink, appearing to read 'MJC', is written over the printed name. The signature is stylized and somewhat cursive.

Max W. J. Graham, Jr.

MWJG:spc

cc: Mr. Samuel J. Lemmo, Administrator,  
Office of Conservation and Coastal Lands, DLNR  
Mr. and Mrs. David R. Kuraoka

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

ATTORNEYS AT LAW

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705

FACSIMILE NO: (808) 245-3277

E-MAIL: mail@kauai-law.com

*COUNSEL*  
LORNA A. NISHIMITSU

*ASSOCIATE*  
DAWN N. MURATA

MICHAEL J. BELLES  
MAX W.J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

November 9, 2006

Mr. Eric T. Hirano, Chief Engineer  
Engineering Division  
Department of Land and Natural Resources  
State of Hawaii  
P. O. Box 621  
Honolulu, Hawaii 96809

Re: Draft Environmental Assessment  
Conservation District Use Application (KA-3379)  
Lot 57, Haena Hui Partition  
Haena, Kauai, Hawaii  
Kauai Tax Key No.: (4) 5-9-02:59  
Applicant/Owner: David R. Kuraoka

Dear Mr. Hirano:

I am responding on behalf of the Applicant to the comments contained in your letter dated September 28, 2006 to Mr. Samuel J. Lemmo, Administrator, Department of Land and Natural Resources, Office of Conservation and Coastal Lands, as follows:

1. The Applicant is aware that the Subject Property is located in Flood Zone VE.
2. The construction of the proposed single-family residence on the Subject Property will conform to the rules and regulations of the National Flood Insurance Program, the Flood Ordinance of the County of Kauai, and all other applicable governmental laws and regulations.

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**EXHIBIT "V-3"**

Mr. Eric T. Hirano, Chief Engineer  
November 9, 2006  
Page 2

Thank you for your comments. Please let me know if you have any further questions.

Very truly yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

A handwritten signature in black ink, appearing to be 'MJC', written over a horizontal line that extends across the width of the signature area.

Max W. J. Graham, Jr.

MWJG:spc

cc: Mr. Samuel J. Lemmo, Administrator,  
Office of Conservation and Coastal Lands, DLNR  
Mr. and Mrs. David R. Kuraoka

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

ATTORNEYS AT LAW

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705

FACSIMILE NO: (808) 245-3277

E-MAIL: mail@kauai-law.com

*COUNSEL*  
LORNA A. NISHIMITSU

*ASSOCIATE*  
DAWN N. MURATA

MICHAEL J. BELLES  
MAX W.J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

November 9, 2006

Mr. Dan Polhemus, Administrator  
Division of Aquatic Resources  
Department of Land and Natural Resources  
State of Hawaii  
P. O. Box 621  
Honolulu, Hawaii 96809

Re: Draft Environmental Assessment  
Conservation District Use Application (KA-3379)  
Lot 57, Haena Hui Partition  
Haena, Kauai, Hawaii  
Kauai Tax Key No.: (4) 5-9-02:59  
Applicant/Owner: David R. Kuraoka

Dear Mr. Polhemus:

I am responding on behalf of the Applicant to the comments contained in the Memorandum dated October 5, 2006, from Richard Sixberry, Aquatic Biologist, to you, which was in turn in response to the Memorandum from Mr. Samuel J. Lemmo, Administrator, Department of Land and Natural Resources, Office of Conservation and Coastal Lands, as follows:

1. As recommended, construction on the Subject Property will be restricted to periods of minimal rainfall and low runoff.
2. Any areas on the Subject Property that are denuded of vegetation or susceptible to erosion will be appropriately stabilized.
3. Precautions as necessary will be taken to prevent debris, landscaping chemicals, eroded soil, petroleum products, and other potential contaminants from blowing or leaching into the aquatic environment.

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**EXHIBIT "V-4"**

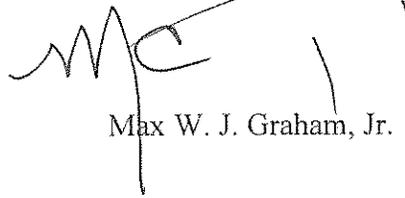
Mr. Dan Polhemus, Administrator  
November 9, 2006  
Page 2

4. The Applicant will submit any additional or undescribed construction or landscape modifications on the Subject Property to DLNR for review.

Thank you for your comments. Please let me know if you have any further questions.

Very truly yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

A handwritten signature in black ink, appearing to read 'MCG', is written over the printed name of Max W. J. Graham, Jr. The signature is fluid and cursive.

Max W. J. Graham, Jr.

MWJG:spc

cc: Mr. Samuel J. Lemmo, Administrator,  
Office of Conservation and Coastal Lands, DLNR  
Mr. and Mrs. David R. Kuraoka

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

ATTORNEYS AT LAW

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705

FACSIMILE NO: (808) 245-3277

E-MAIL: mail@kauai-law.com

COUNSEL  
LORNA A. NISHIMITSU

ASSOCIATE  
DAWN N. MURATA

MICHAEL J. BELLES  
MAX W.J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

November 9, 2006

Mr. Clyde W. Namu'o, Administrator  
Office of Hawaiian Affairs  
State of Hawaii  
711 Kapiolani Boulevard, Suite 500  
Honolulu, Hawaii 96813

Re: Draft Environmental Assessment  
Conservation District Use Application (KA-3379)  
Lot 57, Haena Hui Partition  
Haena, Kauai, Hawaii  
Kauai Tax Key No.: (4) 5-9-02:59  
Applicant/Owner: David R. Kuraoka

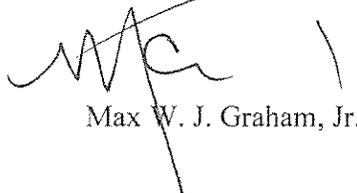
Dear Mr. Namu'o:

I am responding on behalf of the Applicant to your letter dated October 13, 2006 to Mr. Samuel J. Lemmo, Administrator, Department of Land and Natural Resources, Office of Conservation and Coastal Lands. As requested in your letter, the Applicant agrees that should iwi kupuna or Native Hawaiian cultural or traditional deposits be found during ground disturbance, all work will cease, and the appropriate agencies will be contacted pursuant to applicable law.

Thank you for your comments. Please let me know if you have any further questions.

Very truly yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**



Max W. J. Graham, Jr.

MWJG:spc

cc: Mr. Samuel J. Lemmo, Administrator,  
Office of Conservation and Coastal Lands, DLNR  
Mr. and Mrs. David R. Kuraoka

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

ATTORNEYS AT LAW

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705  
FACSIMILE NO: (808) 245-3277  
E-MAIL: mail@kauai-law.com

*COUNSEL*  
LORNA A. NISHIMITSU

*ASSOCIATE*  
DAWN N. MURATA

MICHAEL J. BELLES  
MAX W.J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

November 9, 2006

Mr. Carl F. Imparato, President  
Hanalei-Ha'ena Community Association  
P. O. Box 789  
Hanalei, Kauai, Hawaii 96714

Re: Draft Environmental Assessment  
Conservation District Use Application (KA-3379)  
Lot 57, Haena Hui Partition  
Haena, Kauai, Hawaii  
Kauai Tax Key No.: (4) 5-9-02:59  
Applicant/Owner: David R. Kuraoka

Dear Mr. Imparato:

I am responding on behalf of the Applicant to the comments contained in your letter dated October 20, 2006 to Mr. Samuel J. Lemmo, Administrator, Department of Land and Natural Resources, Office of Conservation and Coastal Lands, State of Hawaii, as follows:

1. With regard to rentals of the Subject Property, the Applicant will conform to all of the Standard Conditions contained in HAR Section 13-5-42, which are imposed as a condition of approval of the Conservation District Use Permit.

2. Although the Comprehensive Zoning Ordinance of the County of Kauai provides a 10% land coverage restriction in the Open District (CZO Sec. 8-8.5(2)(1)), it allows a minimum of 3,000 square feet of land coverage per lot. Conversely, the Single Family Residential Standards contained in HAR Section 13-5-41(a), (Exhibit 4), will limit the Maximum Developable Area on the Subject Property to 3,500 square feet. The term "Maximum Developable Area" includes all enclosed living areas, above grade decks, garages, etc. Based on these Conservation District restrictions, the Applicant plans to construct a single-family dwelling with a footprint of only 2,157.5 square feet, which is less than would be allowed by the CZO in the Open District.

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**EXHIBIT "V-6"**

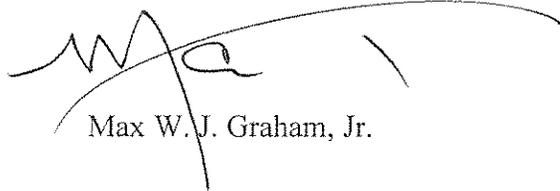
Mr. Carl F. Imparato, President  
November 9, 2006  
Page 2

3. As noted above, the Applicant will conform to the Standard Conditions which are imposed. The Applicant will not enclose and/or use the area below the flood height for any purposes where such enclosure and/or use would be a violation of applicable laws or regulations.

Thank you for your comments. Please let me know if you have any further questions.

Very truly yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

A handwritten signature in black ink, appearing to read 'Max W. J. Graham, Jr.', is written over a horizontal line. The signature is stylized and includes a large, sweeping flourish that extends to the right.

Max W. J. Graham, Jr.

MWJG:spc

cc: Mr. Samuel J. Lemmo, Administrator,  
Office of Conservation and Coastal Lands, DLNR  
Mr. and Mrs. David R. Kuraoka

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**  
ATTORNEYS AT LAW

MICHAEL J. BELLES  
MAX W.J. GRAHAM, JR.  
DAVID W. PROUDFOOT  
DONALD H. WILSON  
JONATHAN J. CHUN

Federal I.D. No. 99-0317663

WATUMULL PLAZA  
4334 RICE STREET, SUITE 202  
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705  
FACSIMILE NO: (808) 245-3277  
E-MAIL: mail@kauai-law.com

*COUNSEL*  
LORNA A. NISHIMITSU  
*ASSOCIATE*  
DAWN N. MURATA

November 9, 2006

Ms. Genevieve Salmonson, Director  
Office of Environmental Quality Control  
235 S. Beretania Street, Suite 702  
Honolulu, Hawaii 96813

Re: Draft Environmental Assessment  
Conservation District Use Application (KA-3379)  
Lot 57, Haena Hui Partition  
Haena, Kauai, Hawaii  
Kauai Tax Key No.: (4) 5-9-02:59  
Applicant/Owner: David R. Kuraoka

Dear Ms. Salmonson:

I am responding on behalf of the Applicant to the comments contained in your letter dated November 3, 2006, to Mr. Peter Young, Chair, Department of Land and Natural Resources, as follows:

1. The Applicant intends to use native plants to the maximum extent possible for any new landscaping on the Subject Property.
2. Exhibit B of the Final Environmental Assessment has been amended to show the Subject Property highlighted in yellow.
3. The Applicant has consulted with, and obtained the approval of, the Department of Health for the new septic system.
4. A list of all necessary permits has been attached as Exhibit L to the Final Environmental Assessment.

{W:\DOCS\270061\W0088551.DOC}

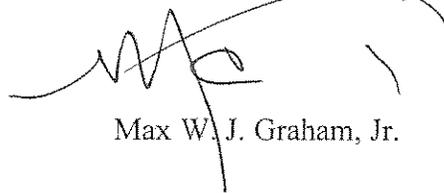
**EXHIBIT "V-7"**

Ms. Genevieve Salmonson, Director  
November 9, 2006  
Page 2

Thank you for your comments. Please let me know if you have any further questions.

Very truly yours,

**BELLES GRAHAM  
PROUDFOOT & WILSON, LLP**

A handwritten signature in black ink, appearing to read 'Max W. J. Graham, Jr.', is written over the printed name. The signature is fluid and cursive, with a long horizontal stroke at the end.

Max W. J. Graham, Jr.

MWJG:spc

cc: Mr. Samuel J. Lemmo, Administrator,  
Office of Conservation and Coastal Lands, DLNR  
Mr. and Mrs. David R. Kuraoka