

**SECTION I**  
**PROJECT DESCRIPTION**

**A. OWNER / APPLICANT**

Matthew M. Malerich & Judith E. Malerich Family Trust  
Matthew & Judith Malerich, Trustees  
P.O. Box 1649  
Hanalei, HI 96714

**B. APPROVING AGENCY**

State of Hawaii  
DLNR, Office of Conservation & Coastal Land (OCCL)  
P.O. Box 621  
Honolulu, HI 96813

**C. PROPOSED ACTION**

The Applicants, Matthew & Judith Malerich propose to construct a three (3) bedroom, two (2) bath Single-Family Residence (SFR) of approximately 3,268 square feet, on the subject 14,513 square foot parcel. The structure will be constructed on piers above existing grade. The lowest horizontal structural member of the residence will have a minimum elevation of thirty four (34) feet above Mean Sea Level (MSL) to comply with applicable County and Federal flood standards. The 3,268 square foot structure will be comprised of approximately 1,864 square feet of interior living space, 452 square feet of exterior lanais and stairwells, and an enclosed single-car garage and storage area of approximately 952 square feet. The Applicant also wishes to construct a rock wall to a maximum height of 6-feet along the roadway boundary of the property, together with a vehicular gate. Fencing to a maximum height of 6-feet will be erected along the lateral (side) property boundaries. Refer to Exhibits 9, 12, 13, 14 & 15 for a Site Plan, Floor Plans, and Exterior Elevation perspectives of the proposed residence.

The architecture of the building is of a tropical Balinese style, which takes advantage of the beautiful mountain and ocean views that the parcel has to offer. The exterior colors will be in earth tones. The Applicant's intent in designing the home was to develop a residence

which would be compatible with the surrounding environment and existing development on nearby parcels. Minimal site grading will occur, primarily for the driveway, and for the lower level garage and storage area. The maximum height of the proposed structure, measured to the highest peak of the roof from the lowest adjacent grade, will be approximately 29 feet.

Landscaping will be used to soften the visual impact of the proposed structure from adjoining property owners and from the street. Landscaping will consist of groundcovers, ornamental shrubs, and various trees, which are known to be compatible with the soils and climate of the area.

**D. ANTICIPATED DETERMINATION**

EIS REQUIRED \_\_\_\_\_ NOT REQUIRED  X

**E. PROJECT SITE LOCATION**

The subject parcel is located in Haena, approximately 7.2 miles west of Hanalei town on the northern coastal plain of Kauai. Refer to Exhibits and photo(s) for a graphic representation of the site location and characteristics.

TMK:	(4) 5-9-05: 025
Island:	Kauai
District:	Hanalei
Zoning:	Conservation
State Land Use:	Conservation (Limited Subzone)
County General Plan:	Conservation; Open
Current Land Use:	Vacant Undeveloped Land
Proposed Land Use:	Single-Family Residence
Adjacent Land Use:	Residential Development

**F. NECESSARY PERMITS AND ENVIRONMENTAL REQUIREMENTS**

- 1. State Conservation District Use Permit (CDUP)**  
Department of Land and Natural Resources, Planning Branch
- 2. Environmental Assessment**  
State Office of Environmental Quality Control  
Department of Health
- 3. County of Kauai Building Permit**  
Department of Public Works
- 4. Special Management Area (SMA)**  
Determination of Exempt Status for SFR  
County of Kauai Planning Department
- 5. Individual Wastewater System (IWS) Permit**  
State Department of Health, Wastewater Division

**G. AGENCIES CONSULTED IN PREPARING ENVIRONMENTAL ASSESSMENT**

The following agencies and affected parties were consulted and provided with an opportunity to comment upon the proposed project prior to the preparation of this Draft Environmental Assessment:

- DLNR, Land Division
- DLNR, Office of Conservation & Coastal Lands
- DLNR, Chairperson's Office
- DLNR, State Historic Preservation Division
- DLNR, Division of Aquatic Resources
- DLNR, Division of Forestry and Wildlife
- DLNR, Division of State Parks
- State Department of Health, Environmental Health Division
- State Department of Health, Environmental Planning Office
- Office of Environmental Quality Control
- DBEDT, Coastal Zone Management Program
- Office of Hawaiian Affairs
- County of Kauai, Planning Department
- County of Kauai, Department of Water
- County of Kauai, Department of Public Works
- County of Kauai, Department of Public Works, Building Division
- U.S. Fish & Wildlife Service
- U.S. Department of the Army, Regulatory Branch
- The Sierra Club, Kauai Chapter
- The Hanalei-Ha`ena Community Association
- The Nature Conservancy

- 1,000 Friends of Kauai
- University of Hawaii, Sea Grant Program
- Kauai Community College
- Editor, Garden Island Newspaper
- Rechtman Consulting, LLC
- Dexter Chung – Neighboring Property Owner
- Carol Koplín – Neighboring Property Owner
- Troy Eckert – Neighboring Property Owner
- William Kellie – Neighboring Property Owner
- Neal Norman – Neighboring Property Owner
- Catherine Bartmess – Neighboring Property Owner
- Anthony Degrazia – Neighboring Property Owner
- Harold Downs – Neighboring Property Owner

All pre-assessment comments that were received and responses thereto are included in Appendix 4. Where applicable, agency requirements and recommendations have been addressed and incorporated into the documentation of this Draft EA in Appendix 4. Substantive pre-assessment comments were received from:

- 1) State Office of Hawaiian Affairs
- 2) Department of Water, County of Kaua`i
- 3) DLNR, Office of Conservation & Coastal Lands
- 4) County of Kauai, Planning Department
- 5) Hanalei-Ha`ena Community Association
- 6) Sierra Club - - Kaua`i Group of the Hawai`i Chapter

**H. PUBLIC POLICIES**

**1. STATE LAND USE LAW**

The project site is situated within a Limited Subzone of the State Conservation District. The proposed action is therefore subject to the land use regulations and permit application review process of Chapter 13-5, Hawaii Administrative Rules, as administered by the Department of Land and Natural Resources.

The Applicant is proposing an identified use within the Limited Subzone. A Board Permit is requested.

## **2. COUNTY GENERAL PLAN**

The Kauai County's General Plan designates the project area as Conservation /Open Space. This represents the County's desire to manage large development within the vicinity and to promote open space, recreational use, and natural landscapes wherever possible.

The Applicant is proposing to develop within a footprint of approximately 2,438 square feet, which is equivalent to approximately 16.8% of the total deeded title area of the parcel. The remaining 83.2% of the parcel will be kept in open space, in a naturally landscaped setting consistent with the intent of the County's General Plan.

## **3. COUNTY ZONING**

Conservation / Open

## **4. SPECIAL MANAGEMENT AREA**

The project site is located within the Coastal Zone Special Management Area (SMA); as administered by the SMA Rules and Regulations of the County of Kauai. However, the construction of a Single-Family Residence is typically exempted from obtaining an SMA permit. By letter dated March 24, 2009, the County of Kauai, by Planning Director Ian Costa, acknowledged receipt of the request for a determination that the proposed residence was exempt from the SMA permitting process and stated that upon submission of a plot plan and floor plans, "the Department would be able to confirm your request for exemption" (see referenced correspondence in Appendix 4). The proposed action shall not have a long-term or detrimental impact upon the coastal ecosystems, marine resources, beaches, the shoreline, or flora and fauna of the area. Nor shall it impact scenic or open space resources in a significant manner. The proposed construction of a new residence will not create any additional coastal hazards such as heightened erosion, subsidence, and/or pollution. The proposed residence is not part of a larger development planned for the area.

## **I. PROJECT CHARACTERISTICS**

### **1. GENERAL CHARACTERISTICS**

Refer to Section III – “Proposed Action” for a general description of the proposal.

### **2. TECHNICAL CHARACTERISTICS**

Technically this action will authorize the Applicant to:

- Construct a Single-Family Residence and appurtenant infrastructure on the subject parcel.
- Perform the necessary grading and grubbing work in preparing the parcel for construction, pursuant to the issuance of all additionally required permits.

### **3. ECONOMIC CHARACTERISTICS**

Significant long-term economic impacts are not anticipated as a result of the proposed action. Should the proposal meet the approval of the Board, there would be a short-term benefit upon the local construction industry, and an increase in real-property tax values. Money paid into the construction industry would most likely generate income in other sectors of the local economy.

### **4. SOCIAL CHARACTERISTICS**

There are no significant negative social impacts that are anticipated as a result of the proposed action. The Applicant will apply Best Management Practices (BMP) during the development of the parcel. Landscaping will be used to screen the proposed structure from the adjoining property owners and the adjacent roadway. The proposed use will not displace any existing residences. The project site is currently vacant. A single new household in the area will not overburden existing public services or facilities. The social benefit of the project is that a landowner is able to use his/her land in a manner consistent with legal entitlement and permitting requirements.

## **5. ENVIRONMENTAL CHARACTERISTICS**

The proposed action is not anticipated to have any significant long-term negative or beneficial impacts upon the environment. The proposed residence will not displace any existing agricultural or recreational land uses. No prime or unique lands of the State of Hawaii or its residents will be adversely affected by the proposed action. Section II of this Draft EA, reviews in greater detail the potential environmental impacts of the proposed action, and where applicable suggests measures for the mitigation of negative outcomes.

## **6. TIME FRAME OF PROJECT**

The completion of project design and permitting is anticipated for the fourth quarter of 2009. Construction of the residence is expected to commence shortly thereafter, most likely during the first quarter of 2010. Construction activities are expected to have a duration of approximately 8 to 12 months, with the completion of the residence projected toward the end of 2010.

## **7. FUNDING AND SOURCE**

Development of the residence and appurtenant infrastructure is estimated to cost approximately \$800,000. The Applicant will privately fund the development of the project.

## **SECTION II**

### **Summary Description of the Affected Environment & Identification of Potential Impacts and Proposed Mitigation**

#### **A. PHYSICAL SITE DESCRIPTION**

The subject parcel is located in Haena, in the district of Hanalei, on the northern coastal plain of the Island of Kauai, Hawaii. The parcel is designated by Kauai Tax Map Key No. (4) 5-9-05: 025. The deeded title area of the parcel is approximately 14,513 square feet. The area mauka (landward) of the proposed shoreline (pending certification) is roughly 8,855 square feet. The location of the parcel is graphically depicted in the Exhibits attached hereto.

Access to the parcel is provided directly off of Kuhio Highway, which shares a common boundary with the property along its southerly border. To the north, the property is bounded by the shoreline. The subject property is bounded on either side by developed residential properties, to the east is TMK(s) (4) 5-9-05: 026 and to the west is TMK(s) (4) 5-9-05: 024. Numerous parcels within close proximity to the subject property have been developed with single-family residences of a comparable size and architectural style to that which is being proposed by the Applicant.

#### **B. EXISTING LAND USE**

The project parcel is currently vacant and undeveloped.

#### **C. TOPOGRAPY**

The topography of the subject parcel rises fairly abruptly along its seaward edge to the top of what appears to be an old sand dune formation. The proposed shoreline, which was located on January 27, 2009 by Wagner Engineering Services (Exhibit 10), is situated near the top of this dune formation, a conservative distance back from the leading edge of vegetation. The top of the dune is approximately 28 feet above Mean Sea Level (MSL). From this high point, moving further inland, the property is

fairly level for about 50 feet from which point it slopes gradually downward to its lowest elevation of approximately 18 feet above MSL near the southeast corner of the property directly adjacent to Kuhio Highway. The existing grade within the footprint of the proposed residence (which is proposed 50 feet back from the certified shoreline) ranges from approximately 20 to 28 feet above MSL, with the higher elevations being closer to the ocean.

#### **D. FLORA AND FAUNA**

As described within the Environmental Assessment, there are no rare or endangered native plants and/or animals present on the parcel, which would suffer substantial negative impacts as a result of the proposed development. The parcel is characterized by a large open lawn with a few coco palms (*cocos nucifera*) along its seaward edge, other existing vegetation include:

- Introduced sea-grape trees (*Coccoloba uvifera*)
- A low ironwood hedge (*Casuarina equisetifolia*) along the roadway boundary
- Beach Naupaka (*Scaevola sericea*) a native species that is commonplace along the shoreline

The extent of existing vegetation is readily apparent in Site Photos (Exhibit 16).

#### **E. SOILS**

According to the Soil Survey of the Island of Kauai, State of Hawaii, prepared by the U.S. Soil Conservation Service, Department of Agriculture, the project parcel is located on land characterized by *Mr – Mokuleia fine sandy loam* type soils. *Mr* soils have a moderately rapid permeability in the surface layer and rapid permeability in the subsoil. Runoff is very slow, and the erosion hazard is slight.

#### **F. CLIMATE**

Rainfall is estimated to be between approximately 70 and 100 inches per year. The proposed action should not affect the local or macro climates in any manner.

## **G. AIR QUALITY**

The air quality in the project area is excellent. The rural character of the site, the prevailing tradewinds, and a close proximity to the ocean all combine to buffer the area against significant airborne pollutants.

During construction, minimal short-term impacts on air quality will result from dust-generated grading activities. The impacts will be temporary and relatively insignificant. Best Management Practices (BMP), including the sprinkling of exposed soils, will be employed to further minimize the impact of airborne dust. The inconvenience of dust associated with the proposed action is therefore anticipated to be negligible.

## **H. NOISE IMPACT**

The project parcel and adjoining properties are currently impacted by vehicular traffic noise along the frontage of Kuhio Highway. Other predominant sources of noise within the vicinity of the project include that associated with overhead tour helicopters, and the more pleasant sounds generated by the wind and sea. By and large, the project area has a very low and pleasant noise level, as one would expect of such a rural site.

Noise levels are anticipated to temporarily increase with the onset of construction. Increased noise will be associated with the use of heavy machinery during grading, as well as with the use of power tools and hammers during construction of the residence. Once the house is completed, the construction-related noise will cease. Mitigative measures will be implemented to lessen the impact of the short-term noise generated by construction. This shall include the use of muffling devices on all gasoline or diesel-powered equipment. Furthermore, construction activities shall be restricted to the working hours between 7:30 AM and 5:30 PM.

Long-term noise resulting from the proposed action will be similar to that which is generated by other Single-Family Residences within the surrounding area. The proposed activities will not violate any State regulations regarding noise levels.

## **I. ARCHAEOLOGICAL AND HISTORICAL SITES**

As required by the State Historic Preservation Division (SHPD), an Archaeological Assessment Survey was conducted by Rechtman Consulting, LLC to determine the presence or absence of archaeological features on the subject property and to assess their significance. Investigative subsurface trenches were excavated during the survey. Rechtman reports that "*during the current survey there were no archaeological resources observed on the surface nor were there any encountered during the subsurface testing.*" Based upon its findings, Rechtman Consulting, LLC recommended that no further archaeological work need be conducted prior to development.

Following review of Rechtman's Survey Report, the SHPD in its letter dated February 25, 2009, acknowledged that no historic properties were recorded during the survey. SHPD further confirmed that the Rechtman report met the minimum requirements, and was therefore accepted in compliance with 6E-10 and HAR) 13§13-276 *Rules Governing Standards for Archaeological Inventory Surveys and Studies*. A complete copy of the Rechtman Archaeological Assessment Survey Report and the accompanying SHPD approval letter are included in Appendix 1.

In the event that human burials are inadvertently discovered during construction activities, the owner/Applicant understands that all work must immediately stop within the vicinity of the burials, and the SHPD shall be contacted to determine the jurisdiction and proper mitigation protocol for the burials. The State Office of Hawaiian Affairs (OHA) and the Kauai-Ni`ihau Island Burial Council will also be notified in such event.

## **J. CULTURAL IMPACTS**

See attached Cultural Impact Assessment (CIA) – Appendix 2 prepared by *Scientific Consultant Services, Inc. (SCS)*. for the nearby Moragne/Bartmess parcel (TMK (4) 5-9-05: 027). The Applicant submits for consideration and approval that the finding of no-significance for the Moragne/Bartmess CIA is applicable to the proposed development on their lot.

## **K. VISUAL IMPACTS**

The proposed residence will be situated in a partially developed residential neighborhood. Homes in the area are a mix of both old and new. The construction of the new residence will blend in with the existing residential development and the surrounding environment. Earth tone colors will be used on all exterior surfaces. Landscaping will be used to soften the visual impact of the new residence as it is viewed from the adjoining roadway and nearby parcels. The proposed residence will be setback approximately 50 feet from the certified shoreline; therefore it will not be readily visible from the beach. The residence will not obstruct any views toward significant landmarks or vistas, either from the beach or other public vantage points.

## **L. NATURAL HAZARDS**

The area of proposed impact is situated within Flood Zone VE 34 as designated on the Federal Flood Insurance Rate Map (FIRM) - - per FIRM Map #1500020030 E Dated Sept. 6<sup>th</sup>, 2005 (Exhibit 7). Zone VE is defined as a coastal flood area with a velocity hazard due to its potential susceptibility to 100-year inundation by tsunami. Federal & County of Kaua`i regulations regarding structures located within this coastal high-hazard area require a "base flood elevation" for the lowest horizontal structural member of the proposed residence to be 34 ft. above mean sea level. The design of the proposed residence is in compliance with the Federal and County flood regulations.

As with all coastal development, the impact of cumulative shoreline erosion can pose a significant long-term threat to structures which are constructed too near to the shoreline. The solution to avoid this threat is quite simple - - site structures far enough back from the shoreline so that they are buffered from the erosion zone. To arrive at an appropriate shoreline setback distance for the proposed residence, the Applicant applied the guidelines of the recently adopted County of Kauai, Ordinance No. 863 *Relating to Shoreline Setback and Coastal Protection*. For lots with a defined "Average Lot Depth" of less than 160 feet, Ordinance No. 863 prescribes preset minimum shoreline setback distances. "Average Lot Depth" is defined by Ordinance No 863 as "the measurement obtained by adding the lengths of the two sides of a lot which are at or near right angles with the shoreline, or the seaward

*boundary of the lot that runs roughly parallel to the shoreline if the property is not abutting the shoreline, to the length of a line obtained by drawing a line from a point in the center of the makai side of the lot to a point in the center of the mauka side of the lot and dividing the resulting sum by three."* Applying this formula, the average lot depth for the Malerich parcel is approximately 115.21 feet (see Exhibit 11).

The corresponding preset shoreline setback distance derived from Table 1 of Ordinance No. 863 (for lots with an average lot depth between 101 and 120 feet) is **50 feet**. The Applicant proposes to set their home back 50 feet from the certified shoreline.

Kauai is the oldest of the major Hawaiian Islands; therefore, there are no active or dormant volcanoes which pose a threat to the parcel.

#### **M. LAND USE CLASSIFICATIONS & COMPATIBILITY WITH SURROUNDING ENVIRONMENT**

The State Land Use Commission designates the subject property as Conservation. The County General Plan classifies the property and surrounding areas as Conservation/Open.

No land use or zoning changes are required as a result of the proposed action. The construction of a single-family residence is consistent with, and supportive of both the State's and the County's intended land uses and the intent of the Haena Hui Petition.

#### **N. PUBLIC SERVICES AND FACILITIES**

The construction of the proposed Single-Family Residence on the parcel shall not place an unreasonable additional burden upon public agencies or public utility providers servicing the area.

##### **1. ACCESS**

The parcel is provided with vehicular access via Kuhio Highway.

##### **2. WATER**

County water is available to the parcel. No additional source or storage facilities are required for the proposed action.

### **3. WASTEWATER**

Residential and public wastewater within the project vicinity are treated through the use of individual septic systems. There are no municipal treatment plant facilities or public sewer pipelines associated with the project area, nor are any planned for the future. Prior to the construction of the proposed SFR, the Applicant will be required to apply for a building permit from the County of Kauai. A component of the building permit application is a State Department of Health approved Individual Wastewater System (IWS) plan in accordance with the Department of Health's Administrative Rules, Chapter 11-62, "Wastewater Systems".

### **4. SOLID WASTE**

Residential solid waste is collected at curbside along Kuhio Highway on a weekly basis. Collected waste is compacted and transported to the Kekaha landfill for disposal. A recycling area will be designated on the subject property for the collection of aluminum, glass, cardboard and junk mail, as well as any other recyclable materials that are processed on Kauai. Green waste will be composted on site.

### **5. FIRE PROTECTION**

Fire protection is provided by the County of Kauai. The nearest fire station is in Princeville with an estimated response time of approximately 15 minutes to the subject parcel. Under extreme emergency conditions, both the Kapaa and Lihue fire stations respond to calls within the project area.

### **6. EMERGENCY MEDICAL SERVICE**

Emergency medical service is provided by the Princeville fire station in conjunction with American Medical Response (AMR) a private medic firm, which is contracted with the State Department of Health. Response time is approximately 15 minutes to the subject property.

### **7. POLICE PROTECTION**

Police protection is provided by the Kauai Police Department. The closest substation is located in Princeville, approximately 15 minutes from the project parcel.

## **8. PUBLIC SCHOOLS**

Public schools servicing the Haena area are Hanalei School (Grades K-6), Kapaa Middle School (Grades 7 & 8), and Kapaa High School (Grades 9 - 12).

## **9. UTILITIES**

Electrical power is provided by the Kauai Island Utility Cooperative (KIUC) and telephone service is provided by GTE Hawaiian Telephone. Utilities are supplied via overhead distribution lines along Kuhio Highway. All utility easements are in place.

## **O. AQUATIC RESOURCES**

The subject parcel is contiguous with the shoreline. The proposed residence will be set back 50 feet from the State certified shoreline.

The proposed development of a Single Family Residence on the subject parcel will not result in the discharge (placement) of dredged and/or fill material into waters of the U.S pursuant to Section 404 of the Clean Water Act (CWA). Nor will the project result in the placement or construction of structures within navigable waters of the U.S. as defined under Section 10 of the Rivers and Harbor Act (RHA) of 1899. There are no perennial, intermittent or ephemeral streams or wetlands on, in, or adjacent to the subject property. Therefore, it is assumed that the proposed actions are exempt from Department of the Army permitting requirements.

1. **Waterbody Type and Class** - - As defined by Hawaii Administrative Rules, Chapter 11-54-2, the waters adjacent to the subject parcel are classified as Class AA Open Coastal Marine Waters with bottom subtypes being a mixture of Sand Beaches and Reef Flats.

2. **National Pollutant Discharge Elimination System (NPDES) General Permit** - - the proposed actions do not trigger the criteria for a NPDES general permit. Specifically:

- i. Construction activities, including clearing, grading, and excavation will not result in the disturbance of equal to or greater than one (1) acre of total land area. The subject parcel is approximately 14,513 square feet in size (equivalent to approximately 0.33 acres) and the proposed action is for the construction

of a residence of approximately 3,268 square feet. Ground disturbance outside of the immediate footprint of the proposed residence will be minimal and shall be limited primarily to the excavation needed for an Individual Wastewater System. No grading, grubbing, or excavation shall occur within close proximity to the shoreline.

ii. As a component of the proposed action, the Applicant does not intend nor do they anticipate the need to undertake any hydro testing or any discharge associated therewith.

iii. No discharge of construction dewatering effluent into the adjacent oceanic waters shall occur.

3. **NPDES Individual Permit** - once again, based upon the proposed project characteristics an Individual NPDES permit will not be necessary. It is anticipated that there will be no wastewater discharged into the State waters as a result of the proposed actions.
4. **Impaired Waters in the State of Hawaii** - The proposed actions will not affect any bodies of water that appear on the current *List of Impaired Waters in Hawaii*.
5. **Best Management Practices (BMPs)** - BMPs shall be implemented to contain fugitive dust and runoff on the project site. Construction activities shall be restricted to areas of least impact. Job site clean-up shall occur regularly to contain and properly dispose of dust and debris generated by construction activities. Furthermore, measures will be taken during development to ensure that no construction materials, debris, petroleum products, chemicals or other potential contaminants enter the aquatic environment.

**SECTION III**  
**SUMMARY OF MAJOR IMPACTS &**  
**ALTERNATIVES CONSIDERED TO THE PROPOSED ACTION**

**A. SUMMARY OF MAJOR IMPACTS**

The subject parcel is currently characterized by undeveloped land. The proposed action will result in the construction of a Single-Family Residence, which will occupy a footprint of approximately 16.8% of the total title area of the parcel. The remainder of the lot (approximately 83.2%) will be landscaped and kept in open space. Site grading will be minimal in the vicinity of the footprint of the home, for the lower level garage and storage area and for the access driveway. The residential design and construction materials shall be compatible with the natural environment and the existing development of the area.

Long-term impacts of the proposed action shall include a marginal increase in traffic along Kuhio Highway and the perpetual increase in demand for associated public utilities. Short-term impacts associated with the development of the proposed residence will include construction noise, minor dust, and construction related traffic along Kuhio Highway. Cumulative shoreline erosion poses the most significant long-term potential impact, however the proposed residence is set conservatively back from the shoreline to adequately mitigate this concern. Other erosion impacts are negligible due to the permeability of the sandy soil characteristic of the area and the absence of any major natural drainage ways in the vicinity of the subject property.

**B. ALERNATIVES CONSIDERED**

**1. NO ACTION**

A "No Action" alternative would result in no construction of a residence on the subject parcel. There would be no construction activity and related employment prospects. There would be no increase in the land value or associated government revenues from higher property taxes. Moreover, the owners will not be able to use the property for their personal and preferred use. For these reasons, a no-action alternative is not favorable.

## **2. ALTERNATIVE LOCATION**

The location of the proposed structure on the subject parcel, as graphically depicted on the Site Plan (Exhibit 9), is limited by the dimensions and setback requirements of the parcel. The Applicant is already requesting a 5-foot side-yard setback variance in order to maintain the recommended shoreline setback distance of 50-feet. The ability to situate the proposed residence further inland is constrained by the State roadway. The proposed 50-foot shoreline setback is established based upon an application of the County of Kauai Shoreline Setback Ordinance No. 863.

## **3. ALTERNATIVE USE**

The Applicant has not identified any alternative uses for the subject parcel which would satisfy their needs. The construction of a residence has always been the intended land use for the property.

## **C. SUMMARY OF MITIGATIVE MEASURES**

The major impacts of the proposed action will occur during the construction of the proposed residence. As described herein, the primary impacts will be construction related noise and dust, as well as a temporary increase in construction related traffic along Kuhio Highway.

The Applicant will implement all of the mitigative measures described herein to prevent or reduce anticipated construction related impacts. Best Management Practices will be employed during construction to minimize airborne pollutants and dust. The heavy equipment that will be used for site grading will be properly maintained and equipped with exhaust systems and muffling devices to minimize their emissions and noise levels. Construction activities will be limited to the working hours between 7:30 AM and 5:30 PM. Noise levels shall comply with the State of Hawaii, Department of Health noise regulations. Furthermore, the Applicant agrees to adhere to any additional measures that the Board may recommend to insure against environmental degradation.

## SECTION IV

### EXPECTED DETERMINATION & SIGNIFICANCE CRITERIA

**A. DETERMINATION:**

This Draft Environmental Assessment concludes that **no significant negative impacts** upon the environment, be they primary, secondary or cumulative, will result due to the implementation of the proposed action to construct a Single Family Residence on the subject parcel. Furthermore, the action does not have any associated hidden long-term environmental or social costs. The proposed construction of a Single-Family Residence is an identified land use within the Limited Subzone of the Conservation District. As such, in compliance with HRS 343 11-200-11, a **Finding of No Significant Impact (FONSI)** is anticipated. Therefore it is the Applicant's opinion that the manageable impacts of the project do not warrant the preparation of an Environmental Impact Statement.

**B. SIGNIFICANCE CRITERIA:**

Chapter 200 of Title 11, Administrative Rules of the department of Health which is entitled "Environmental Impact Statement Rules" establishes significance criteria for evaluating the impacts of a proposed action upon the environment. The relationship of the proposed **Malerich Single-Family Residence** to each of these criteria is reviewed below:

1. **Involves an irrevocable commitment to loss or destruction of any natural or cultural resources.**

The proposed action will not involve a loss or destruction of any natural or cultural resources.

2. **Curtails the range of beneficial uses of the environment.**

The proposed action will not curtail the range of beneficial uses of the environment. Long-term negative environmental impacts are not anticipated as a result of the proposed action.

All development is proposed to occur on private property.

3. **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 project does not conflict with the State's long-term environmental policies, goals and guidelines.

4. **Substantially affects the economic or social welfare of the community or State.**

The project will not have a significant impact upon either the economic or social welfare of the community or State.

5. **Substantially affects public health.**

The proposed action is not anticipated to substantially or negatively impact public health. The air quality and noise impacts that will result during the construction of the proposed residence will be of a short-term and insubstantial nature.

6. **Involves substantial secondary impacts, such as population changes or effects on public facilities.**

The proposed action will not involve substantial secondary impacts. The development of a Single-Family Residence in an area which is already characterized by similar residential development, will not create any additional pressures of a substantial nature.

7. **Involves a substantial degradation of the environmental quality.**

The proposed action is not anticipated to have a negative impact upon the environment.

8. **Is individually limited, but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.**

The proposed project will not create a commitment for any larger action, nor will it contribute to

a cumulative negative effect upon the environment. The proposed action is a stand-alone development project for the construction of a Single-Family Residence.

**9. Substantially affects a rare, threatened, or endangered species or habitat.**

The project area is devoid of any rare, threatened or endangered species. The project will not place any nearby habitat at risk.

**10. Detrimentially affects air or water quality or ambient noise levels.**

As identified in the text of this Environmental Assessment, air quality and noise levels will be negatively affected throughout the various phases of project construction. Nevertheless, measures are proposed herein which will help to mitigate the extent of such impacts. No long-term negative impacts will result upon the air or water quality or upon ambient noise levels as a result of the proposed action.

**11. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters.**

The project is situated in Zone VE 34 as designated on the Federal Flood Insurance Rate Map (FIRM) prepared by the National Flood Insurance Program. Zone VE is defined as a coastal flood area with a velocity hazard (wave action) susceptible to a 100-year tsunami inundation. Federal and County flood regulations regarding structures located within this coastal high hazard area require a base flood elevation for the lowest horizontal structural member of the proposed residence to be 34 ft. above Mean Sea Level (MSL). The design of the proposed residence is entirely compliant with these FIRM guidelines.

**12. Substantially affects scenic vistas and view plains identified in County or State plans or studies.**

The proposed action will not substantially affect scenic vistas and/or public view plains. The proposed residence will not be readily visible from the beach. The Applicant proposes to landscape the parcel with appropriate vegetation to soften the visual impact of the development from nearby property owners and the adjacent roadway.

**13. Requires substantial energy consumption.**

The proposed Single-Family Residence will not consume substantial or undue amounts of energy.

## **SECTION V**

### **PERMITS, VARIANCES, AND APPROVALS**

#### **A. SPECIAL MANAGEMENT AREA USE PERMIT**

Since the project site is located within the Special Management Area (SMA), it is subject to the SMA Rules and Regulations of the County of Kauai; however, because the project is a Single-Family Residence, it is exempt from the SMA requirements. The Applicant has solicited and is awaiting a response from the County of Kauai, Planning Department to confirm SMA Exempt status of the project.

#### **B. SHORELINE CERTIFICATION**

A shoreline survey, dated January 27, 2009, has been submitted to the State DLNR, Land Division for review and certification. Copies of the proposed shoreline survey & submittal materials are included herewith as Appendix 3.

#### **C. OTHER DEPARTMENTAL PERMITS**

Additional construction related permits shall be obtained from both County and State agencies as are required of the Building Permit process, which is administered by the Department of Public Works, County of Kauai. This shall include among other things a Department of Health approval for an Individual Wastewater System (IWS), and Public Works approval for grading, grubbing and structural design.