

DAVID Y. IGE
GOVERNOR OF HAWAII



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LAND
STATE PARKS

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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Ref: OCCL:LY

CDUA: KA-3744

AUG 25 2015

To: Jessica Wooley, Director
Office of Environmental Quality Control

From: Suzanne D. Case, Chairperson *SDC*
Department of Land and Natural Resources

Subject: Final Environmental Assessment (FEA) for Conservation District Use Application (CDUA) KA-3744 for the Maxson Single Family Residence (SFR), located at Hā'ena, Kaua'i, Hawai'i
Tax Map Key (TMK): (4) 5-9-002:067

The Department of Land and Natural Resources has reviewed the FEA for the subject project and has determined a Finding of No Significant Impact (FONSI). Please be advised, however, that this finding does not constitute approval of the proposal.

The Draft EA was published in the April 23, 2015 edition of *The Environmental Notice*. Comments on the Draft EA were sought from relevant agencies and the public, and were included in the Final EA. The FEA has been prepared pursuant to Chapter 343, Hawai'i Revised Statutes and Chapter 11-200, Hawai'i Administrative Rules. Please public this notice in OEQC's upcoming September 8, 2015 edition of *The Environmental Notice*.

We have enclosed one (1) hard copy of the DEA and OEQC publication form, as well as one (1) CD with a pdf file of the Final EA/FONSI. A separate e-mail shall be sent with the OEQC publication form in word document format for publication purposes.

Please contact Lauren Yasaka of the Office of Conservation and Coastal Lands staff at 587-0386 should you have any questions.

Attachments: FEA, OEQC Pub Form, 1 CD

OFFICE OF ENVIRONMENTAL
QUALITY CONTROL

15 AUG 25 P 4:06

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**APPLICANT ACTIONS
SECTION 343-5(C), HRS
PUBLICATION FORM (JANUARY 2013 REVISION)**

Project Name **MAXSON RESIDENCE AT HAENA, KAUAI, HAWAII**
Island: **Kauai**
District: **Hanalei**
TMK: **(4TH) 5-9-002-067**
Permits: **Conservation District Use Application (CDUA)**
Approving Agency: **Department of Land and Natural Resources**
 Ms. Lauren Yasaka
 P.O. Box 621
 Honolulu, HI 96809
 Tel. (808) 587-0381

Applicant: **Mark J. Maxson and Robert E. Shaw**
 c/o Walton D. Y. Hong
 3135-A Akahi Street
 Lihue, HI 96766
 Tel. (808) 245-4757

Consultant: **Walton D. Y. Hong**
 3135-A Akahi Street
 Lihue, HI 96766
 Tel. (808) 245-4757

Status (check one only):

- DEA-AFNSI** Submit the approving agency notice of determination/transmittal on agency letterhead, a hard copy of FEA, a completed OEQC publication form, along with an electronic word processing summary and a PDF copy (you may send both summary and PDF to oeqchawaii@doh.hawaii.gov; a 30-day comment period ensues upon publication in the periodic bulletin.
- FEA-FONSI** Submit the approving agency notice of determination/transmittal on agency letterhead, a hard copy of the FEA, an OEQC publication form, along with an electronic word processing summary and a PDF copy (send both summary and PDF to oeqchawaii@doh.hawaii.gov; no comment period ensues upon publication in the periodic bulletin.
- FEA-EISPN** Submit the approving agency notice of determination/transmittal on agency letterhead, a hard copy of the FEA, an OEQC publication form, along with an electronic word processing summary and PDF copy (you may send both summary and PDF to oeqchawaii@doh.hawaii.gov; a 30-day consultation period ensues upon publication in the periodic bulletin.
- Act 172-12 EISPN** Submit the approving agency notice of determination on agency letterhead, an OEQC publication form, and an electronic word processing summary (you may send the summary to oeqchawaii@doh.hawaii.gov. NO environmental assessment is required and a 30-day consultation period upon publication in the periodic bulletin.
- DEIS** The applicant simultaneously transmits to both the OEQC and the approving agency, a hard copy of the DEIS, a completed OEQC publication form, a distribution list, along with an electronic word processing summary and PDF copy of the DEIS (you may send both the summary and PDF to oeqc@doh.hawaii.gov); a 45-day comment period ensues upon publication in the periodic bulletin.
- FEIS** The applicant simultaneously transmits to both the OEQC and the approving agency, a hard copy of the FEIS, a completed OEQC publication form, a distribution list, along with an electronic word processing summary and PDF copy of the FEIS (you may send both the summary and PDF to oeqc@doh.hawaii.gov); no comment period ensues upon publication in the periodic bulletin.
- Section 11-200-23 Determination** The approving agency simultaneous transmits its determination of acceptance or nonacceptance (pursuant to Section 11-200-23, HAR) of the FEIS to both OEQC and the applicant. No comment period ensues upon publication in the periodic bulletin.
- Statutory hammer Acceptance** The approving agency simultaneously transmits its notice to both the applicant and the OEQC that it failed to timely make a determination on the acceptance or nonacceptance of the applicant's FEIS under Section 343-5©, HRS, and that the applicant's FEIS is deemed accepted as a matter of law.
- Section 11-200-27 Determination** The approving agency simultaneously transmits its notice to both the applicant and the OEQC that it has reviewed (pursuant to Section 11-200-27, HAR) the previously accepted FEIS and

determines that a supplemental EIS is not required. No EA is required and no comment period ensues upon publication in the periodic bulletin.

__Withdrawal (explain)

Summary (Provide proposed action and purpose/need in less than 200 words. Please keep the summary brief and on this one page):

Construction of a two-bedroom, two-bath, single family residence on property situated on the mauka side of Kuhio Highway, Haena, Kauai, Hawaii. The property is identified as Tax Map Key: (4th) 5-9-002-067, and contains 26,371 square feet, more or less. The proposed residence contains an actual development area of 3,492 square feet.

The subject property is within the Limited Subzone of the State Land Use "Conservation" district, which allows the construction of a single family residence with the issuance of a Conservation District Use Permit.

FINAL ENVIRONMENTAL ASSESSMENT

for

Single Family Residence
5-7655 Kuhio Highway
Haena, Kauai, Hawaii

(Tax Map Key: (4th) 5-9-002-067

Applicants: Mark J. Maxson and Robert E. Shaw
July 2015

PROJECT PROFILE

Proposed Action: Single family residence within the Conservation District, Haena, Kauai, Hawaii

Applicants: Mark J. Maxson and Robert E. Shaw

Approving Agency: Board of Land and Natural Resources, State of Hawaii
1151 Punchbowl Street
Honolulu, HI 96813

Need for Assessment: Section 343-5(2), Hawaii Revised Statutes
Propose any use within any land classified as Conservation district by the State Land Use Commission under Chapter 205, H.R.S.

Tax Map Key: (4th) 5-9-002-067
Land Area: 26,371 square feet, more or less
Proposed Residence: 2-bedroom, 2-bath, residence of 3,311 square feet, plus 181 square feet for stairs, for total of 3,492 square feet

Land Owner: Mark J. Maxson and Robert E. Shaw
336 Corbett Avenue
San Francisco, CA 94114

Existing Use: Vacant land

State Land use Designation: Conservation
Conservation District Subzone: Limited
Kauai General Plan: Open
Zoning: Unzoned
Special Management Area: Within Special Management Area

Anticipated Determination: Finding of No Significant Impact

Contact Person: Walton D. Y. Hong
3135-A Akahi Street
Lihue, HI 96766
Tel. (808) 245-4757

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- EXHIBIT D Floral and fauna survey
- EXHIBIT E Archaeological inventory survey
- EXHIBIT F Cultural impact survey

DESCRIPTION OF THE PROPOSED PROJECT

Applicants Mark J. Maxson and Robert E. Shaw acquired the subject property situated at Haena, Island and County of Kauai, State of Hawaii, and more particularly identified as Kauai Tax Map Key; 5-9-002-067 in 1999 by that certain Deed recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 99-002435. The property is vacant, and contains an area of 26,371 square feet, more or less. A copy of the tax map, showing the subject property, is attached hereto as Exhibit "A".

The subject property is located within the ahupua`a of Haena, which is a proposed community-based Subsistence Fishery Management Area.

The Applicants desire to construct a two-bedroom, two-bath single family residence on the property. The proposed residence would be elevated in accordance with the requirements of the Federal Emergency Management Agency ("FEMA") and the Flood Insurance Rating Map ("FIRM").

The proposed dwelling is not intended to be used for transient vacation rental purposes. Access to the main house and the guest bedroom can only be accessed from the same main entrance, removing the possibility of any lockout for rental purposes. There shall be no lockouts in the proposed residence, unless lockouts are expressly permitted under applicable law, at which time the Applicants may elect to allow or not allow lockouts in the dwelling.

A. **Technical Characteristics**

The property is 26,371 square feet in size, and is rectangular in shape, lying immediately mauka of Kuhio Highway, and is designated within the Limited Subzone by the State Board of Land and Natural Resources. The property is contained within the "VE" tsunami inundation zone, as established by FEMA and shown on the FIRM, with a small area in the southeastern corner of the parcel within the "AE" zone. As such, a single family residence is a permitted use upon the issuance of a Conservation District Use Permit.

The property is undulating, sloping towards an ephemeral stream along its western boundary.

The Applicants desire to construct the proposed residence of 3,311 square feet total floor area, plus stairs encompassing 181 square feet, for a total of 3,492 square feet; this is within the Maximum Developable Area permitted under the Conservation District Rules and Regulations for parcels over 14,000 square feet but less than one acre in size.

A site plan and elevation drawings for the proposed residence are attached hereto as Exhibit "B".

Section 343-5(2) of the Hawaii Revised Statutes requires an environmental assessment for any use within any land classified by the State Land Use Commission as “Conservation”, thus requiring this assessment.

B. Economic Characteristics

The vacant property was assessed by the County of Kauai for 2014-2015 at \$479,200.00, resulting in current real property taxes of \$3,234.60 per annum.

The estimated cost of the proposed residence is \$880,000. Based on the current real property tax rate for single family second residences, the new residence could bring an additional \$5,325.00 in real property taxes annually.

In the short term, there will be some economic benefit to the contractor and its employees used in the construction of the proposed residence. Also, there will be some longer term economic benefit as maintenance cost for the grounds is estimated to generate an additional \$ 3,000.00 per year.

C. Social Characteristics

The construction of a single family residence in the area is not expected to result in any changes in the social characteristics of the Haena community.

As the subject property is not located on the shoreline, issues of locating the shoreline and determining an applicable shoreline setback line are not present.

EXISTING CONDITIONS

A. Existing Use and Improvements

The property is currently vacant, and primarily kept in open space. There are some palm trees around the center of the property. The area along the western portion of the property is overgrown. Photographs of the property are attached hereto as Exhibit "C".

There are no structures existing on the property.

B. Environmental Conditions

The property is located on the mauka side of Kuhio Highway in Haena, Kauai, Hawaii, approximately 2,000 feet east of the Haena State Park. The ground elevation of the property varies from an approximate 10 feet to 16 feet above mean sea level. It has two rolling dune formations towards the north and east, and a lower lying areas to the south and west towards an ephemeral stream along the western boundary.

Sewage treatment and disposal will be handled through the implementation of a septic system. The natural drainage for the property is into the ephemeral stream to the west, which channel crosses Kuhio Highway towards the shoreline to the north, and discharging any storm water into the ocean.

Although the property is located on Kuhio Highway, access is through a private road (Road "H") along the eastern boundary. This will permit the continuation of landscaping and other vegetative planting along Kuhio Highway, which will reduce and mitigate any visual impact the structure may have from the passing public. There will be no direct access from the property unto Kuhio Highway.

A floral and fauna survey was done for the subject property, a copy of which is attached as Exhibit "D". The study found that the vegetation type on the property is completely non-native and extensive on the Kauai North Shore, such that reduction through development of the site will not represent a significant loss. The study also concluded that no native animals or plants on the federally listed threatened or endangered species were observed on the property.

To protect the Newell Shearwaters and other seabirds, the Avoidance and Minimization of Seabird Light Attraction Strategies will be followed, and only down facing lights will be used on the property.

An archaeological inventory survey was done for the subject property and its neighboring parcel to the immediate south, a copy of which is attached hereto as Exhibit "E". The archaeological

survey found no archaeological resources of any kind, and recommended that no further archaeological work be conducted prior to development.

However, the survey noted that burials were found in a dune formation on the neighboring Parcel 68. It also noted that there were numerous past studies of parcels in the area, with the parcels directly makai and immediately mauka of the subject parcel producing negative results in identifying archaeological resources. Burials were uncovered on parcels to the east of the subject parcel.

Burial remains were also uncovered in trenching for utilities in the roadway parcel immediately to and bordering the eastern boundary of the subject property. Although the utility trench went along the entire side of the subject property, no remains were found in the vicinity of the subject property, including the sand dune in the northeastern corner thereof.

In view of comments received, expressing concern as to the possibility of remains in the area of proposed use, Rechtman Consulting conducted a new Archaeological Inventory Survey (“AIS”) in July of 2015, consisting of trenching the proposed location of the residence and its associated septic system and leachfield. The Kauai lead archaeologist for the State Historic Preservation Division of the Department of Land and Natural Resources was present during the testing for the AIS. The AIS did not result in the discovery of any burial remains or cultural deposits. In view of the negative findings in the latest AIS, no monitoring plan is proposed. The formal written report on the AIS will be provided to SHPD upon its completion.

However, should any artifacts or remains be uncovered during the course of construction, work will immediately cease and the State Historic Preservation Division of the Department of Land and Natural Resources notified as to the appropriate steps required to address the disposition of the artifacts or remains in accordance with law. These steps may include consultation and resolution with the Kauai-Niihau Burial Council as to an appropriate burial plan for skeletal remains.

A cultural impact assessment was also done for the subject property, a copy of which is attached hereto as Exhibit “F”. While no definite cultural resources were identified, the potential of human burials was noted. It was also noted in interviews with two kupuna in the area of a story involving an ancient trail across the property. The ancient trail is not a physical trail, but an esoteric trail of “night marchers”, for which further documentary evidence was not possible. The cultural impact assessment recommended that the residence be designed with these potentials in mind, and that the property receive appropriate blessings prior to any development activities. Further, in view of the possibility of an ancient trail, Na Ala Hele Program of the Division of Forestry and Wildlife of the Department of Land and Natural Resources was asked to comment on the proposed use; no comments were received.

C. Land Use Controls

State and County land use controls governing the use of the property are listed and discussed below.

- State Land Use Designation: Conservation
- Conservation District Subzone: Limited
- Kauai General Plan: Open
- Kauai County Zoning: Unzoned
- Special Management Area: Within Special Management Area

Uses of lands within the State Land Use “Conservation” district are delegated to and governed by the Board of Land and Natural Resources. The Board of Land and Natural Resources has adopted five subzones within the Conservation district, and the subject property is located within the “Limited (L)” subzone.

Section 13-5-23 (L-3) of the Conservation District Rules and Regulations allows a single family residence within the Limited subzone in a flood zone or coastal high hazard area indicated by the Federal Insurance Rate Maps (FIRM). As the subject property, and the area of proposed use, are within the VE tsunami inundation zone, the proposed use is a permitted use upon the issuance of a CDUP.

The proposed use is also permitted under the County’s General Plan. The property is unzoned under the County’s Comprehensive Zoning Ordinance due to the Department and Board of Land and Natural Resources have exclusive jurisdiction over allowable uses in the Conservation district.

Although the subject property is within the County’s Special Management Area, the construction of a single family residence is exempted as a development requiring a Special Management Area Use Permit.

No commercial uses will be permitted on the property unless such uses are expressly allowed by applicable law. The Applicants have no plans for commercial uses on the property.

D. Public Facilities

There are no public facilities on the subject property. Haena State Park is located approximately 2,000 feet to the west.

DISCUSSION OF POTENTIAL ENVIRONMENTAL IMPACTS AND MEASURES TO MITIGATE ADVERSE EFFECTS

The scope of the proposed use is relatively modest, with little or no significant environmental impacts requiring mitigation. This environmental impact assessment is nonetheless required only because the proposed use contemplates a use within lands classified as Conservation by the State Land Use Commission.

- There are no rare, threatened or endangered flora or fauna species within the project site.
- There are no determined archaeological or historical resources within the project area.
- There are no cultural resources associated with the project limits.
- The proposed use will have minimal visual impacts, if any, from the fronting public roadway.

A. Short-term impacts

The proposed construction should not adversely impact ambient air quality. Fugitive dust, if any, can be mitigated through watering and/or dust screens around the proposed work. It is unlikely that heavy equipment will be used during construction due to the remoteness of the site and the necessity to cross weight-limited bridges to access the property.

Construction noise can be expected during the course of construction. Construction will be limited to normal working hours, five days a week, to minimize any inconvenience to the neighbors. The construction will also result in an increase of construction traffic along Kuhio Highway, but the increase will be short-termed and not significant.

Should the construction unexpectedly uncover any archaeological or cultural features, or skeletal remains, work will be halted and the State Historic Preservation Office will be immediately notified. The Kauai Police Department will also be notified in the event of skeletal remains.

B. Long-term impacts

The long term impact of the proposed use will be the presence of single family residence where vacant land now exists.

ALTERNATIVES TO THE PROPOSED ACTION

One alternative to the proposed action is “No Action”. This no action alternative will preserve the status quo of the property, without any public benefit.

Another alternative is to reduce the size of the proposed dwelling. The proposed dwelling complies with existing requirements, and the Applicants have no desire to downsize their future home.

The no action alternative will deprive the Applicants of a reasonable, unobtrusive use of their property, in violation of State and federal constitutions.

PERMITS AND APPROVALS

Permits and approvals required for the proposed use are listed below. Other permits and approvals may be required, depending on the final construction plans.

Department of Land and Natural Resources, State of Hawaii

Conservation District Use Permit

Planning Department of the County of Kauai

Building Permit

AGENCIES AND ORGANIZATIONS CONSULTED IN THE ASSESSMENT PROCESS

County of Kauai Planning Department

State Department of Land and Natural Resources
State Historic Preservation Division
Na Ala Hele Program, DLNR Division of Forestry and Wildlife

Pre-Assessment Consultation

County of Kauai Planning Department
Michael Schmidt, neighboring landowner
Dr. Robert B. Rechtman, Ph.D.
Lauren Yasada, Department of Land and Natural Resources

DETERMINATION OF SIGNIFICANCE

Chapter 200 (Environmental Impact Statement Rules) of Title 11, Administrative Rules of the State Department of Health, establishes criteria for determining whether an action may have significant effects on the environment (§11-200-12). These criteria, as applied to the proposed use, are as follows:

(1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resource:

As there are no natural or cultural resource found on the subject site, no irrevocable commitment to loss or destruction of any natural or cultural resource will result. Should any such resource be uncovered during the course of construction, work will cease and appropriate means to mitigate the loss of the resource, if any, will be implemented.

(2) Curtails the range of beneficial uses of the environment:

The proposed action will not curtail the beneficial uses of the environment, as it will have insignificant, if any, adverse effects on the environment and ecology of the area.

(3) Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, Hawaii Revised Statutes, and any revisions thereof and amendments thereto, court decisions or executive orders:

The proposed action will not conflict with the State's long-term environmental policies, goals, and guidelines expressed in Chapter 344, Hawaii Revised Statutes.

(4) Substantially affects the economic or social welfare of the community or State:

The proposed use will not substantially affect the economic or social welfare of the community or State.

(5) Substantially affects public health:

The proposed use will not substantially affect public health, as it is a limited use on private property without any long term emissions or other environmental effects.

(6) Involves substantial secondary impacts, such as population changes or effects on public facilities:

Secondary impacts, such as population changes or effects on public facilities, are not anticipated due to the limited scope of the proposed use and non-involvement of public facilities.

(7) Involves a substantial degradation of environmental quality:

No degradation of environmental quality will result from the proposed use due to its limited magnitude.

(8) Is individually limited but cumulatively has considerable effect the environment or involves a commitment for larger actions:

The proposed use does not involve any commitment for larger actions. It is limited to the Applicants' residential lot and, like other residences in the area, will not have any considerable effect on the environment.

(9) Substantially affects a rare, threatened or endangered species, or its habitat:

The proposed use will not affect any rare, threatened or endangered species or its habitat.

(10) Detrimently affects air or water quality or ambient noise levels:

The proposed use, due to its limited size and scope, will not detrimentally affect water quality, and except during the temporary time of construction, air or ambient noise levels.

(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 water:

Although the project site is within the FEMA "VE" or tsunami inundation zone, the proposed residence will be built in accordance with all applicable building requirements, including raising of the living area above the required flood elevation height and the use of "breakaway" walls on the lower levels. The proposed site is not within an erosion-prone area, geologically hazardous area, estuary or fresh water source.

(12) Substantially affects scenic vistas and view planes identified in county or state plans or studies

The project site is not within any scenic vistas or view planes identified in any county or state plans or studies. Further, as access to the parcel is from a private roadway and not directly from Kuhio Highway, the structure would be less visible to the general public who may be traversing the public roadway in front of the property.

(13) Requires substantial energy consumption:

The single family residence is not expected to require substantial energy consumption.

Anticipated Finding of No Significant Impact (FONSI)

Based on the above criteria, the proposed project should not result in significant adverse environmental impacts. Potential environmental impacts are sufficiently disclosed in this Final Environmental Assessment, and an Environmental Impact Statement is not warranted. Therefore, a Finding of No Significant Impact (FONSI) is anticipated.

COMMENTS AND RESPONSES

Attached are comments received from the following, and the Applicants' responses to the same:

- (a) Division of Forestry and Wildlife Resources, DLNR
- (b) Land Division, DLNR
- (c) County of Kauai Planning Department
- (d) Division of Aquatic Resources, DLNR
- (e) Engineering Division, DLNR
- (f) Hanalei-Ha`ena Community Association
- (g) Office of Hawaiian Affairs, State of Hawaii
- (h) State Historic Preservation Division, DLNR

DAVID Y. IGE
GOVERNOR OF HAWAII



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OFFICE OF CONSERVATION
AND COASTAL LANDS

2015 APR 14 A 11:30

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

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

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

ref:OCCL:LY

CDUA KA-3744

Acceptance Date: April 2, 2015

180 Day Expiration Date: September 29, 2015

SUSPENSE DATE: 21 Days From Stamped Date

APR 13 2015

MEMORANDUM:

To:

- DLNR, Division of Aquatic Resources
- DLNR, Division of Conservation and Resource Enforcement
- DLNR, Division of Forestry and Wildlife Resources
- DLNR, Engineering Division

- DLNR, Historic Preservation Division
- DLNR, Land Division
- Office of Hawaiian Affairs
- Department of Health
- CoK, Planning Dept.

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

SUBJECT: REQUEST FOR COMMENTS

Draft Environmental Assessment (DEA) and Conservation District Use Application (CDUA) KA-3744 for the Maxson Single Family Residence (SFR) Project

LOCATION: Hā'ena, Kaua'i, Hawai'i, TMK (4) 5-9-002:067

Please find enclosed, a CD with an electronic copy of the subject CDUA KA-3744 and our notice to the applicant. We would appreciate your agency's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Lauren Yasaka at (808) 587-0386, should you have any questions on this matter.

() Comments Attached

(~~4~~) No Comments

Randy Kennedy
Signature
Randy Kennedy, Acting Admin.
Print Name/Title

Attachment
Enclosure

LAW OFFICES OF

WALTON D.Y. HONG

WALTON D.Y. HONG

TELEPHONE (808) 245-4757

TELECOPIER (808) 245-5175

ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

Department of Land and Natural Resources
Division of Forestry and Wildlife Resources
Attention: Mr. Randy Kennedy, Acting Administrator
P.O. Box 621
Honolulu, HI 96809

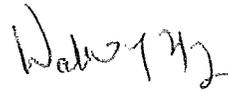
Re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744 for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-9-002-067

Dear Mr. Kennedy,

Receipt of your response of "No Comments" to the above DEA, dated April 13, 2015, is hereby acknowledged.

Thank you for your review and response.

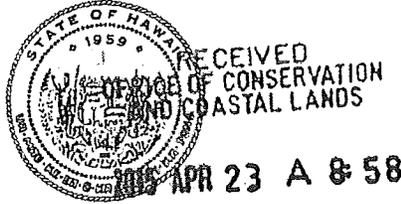
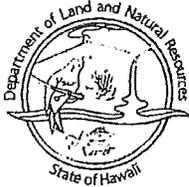
Yours very truly,



Walton D. Y. Hong

WDYH:wh

DAVID Y. IGE
GOVERNOR OF HAWAII



CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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KAHO'OLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

ref:OCCL:LY

CDUA KA-3744

Acceptance Date: April 2, 2015

180 Day Expiration Date: September 29, 2015

SUSPENSE DATE: 21 Days From Stamped Date

APR 13 2015

MEMORANDUM:

From To:

- DLNR, Division of Aquatic Resources
- DLNR, Division of Conservation and Resource Enforcement
- DLNR, Division of Forestry and Wildlife Resources
- DLNR, Engineering Division

- DLNR, Historic Preservation Division
- DLNR, Land Division

- Office of Hawaiian Affairs
- Department of Health
- CoK, Planning Dept.

TO:

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

SUBJECT: REQUEST FOR COMMENTS

Draft Environmental Assessment (DEA) and Conservation District Use Application (CDUA) KA-3744 for the Maxson Single Family Residence (SFR) Project

LOCATION: Hā'ena, Kaua'i, Hawai'i, TMK (4) 5-9-002:067

Please find enclosed, a CD with an electronic copy of the subject CDUA KA-3744 and our notice to the applicant. We would appreciate your agency's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Lauren Yasaka at (808) 587-0386, should you have any questions on this matter.

() Comments Attached

(X) No Comments

Signature

MARNIE MIRASA / DLNR - KAHU DISTRICT LAND AG
Print Name/Title

Attachment
Enclosure

LAW OFFICES OF

WALTON D.Y. HONG

WALTON D.Y. HONG

TELEPHONE (808) 245-4757

TELECOPIER (808) 245-5175

ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

Department of Land and Natural Resources
Land Division
Attention: Mr. Marvin Mikasa
Kauai District Land Agent
P.O. Box 621
Honolulu, HI 96809

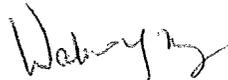
Re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744 for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-9-002-067

Dear Mr. Mikasa,

Receipt of your response of "No Comments" to the above DEA, dated April 13, 2015, is hereby acknowledged.

Thank you for your review and response.

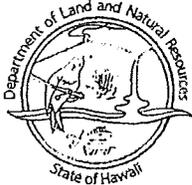
Yours very truly,



Walton D. Y. Hong

WDYH:wh

DAVID Y. IGE
GOVERNOR OF HAWAII



RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS



2015 APR 27 A 10:32

County of Kaua'i
PLANNING DEPT.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKO A KALUHIWA
FIRST DEPUTY

W. ROY HARDY
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
KAHO'OLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

ref:OCCL:LY

CDUA KA-3744

Acceptance Date: April 2, 2015

180 Day Expiration Date: September 29, 2015

SUSPENSE DATE: 21 Days From Stamped Date

MEMORANDUM:

To:

- DLNR, Division of Aquatic Resources
- DLNR, Division of Conservation and Resource Enforcement
- DLNR, Division of Forestry and Wildlife Resources
- DLNR, Engineering Division

- DLNR, Historic Preservation Division
- DLNR, Land Division
- Office of Hawaiian Affairs
- Department of Health
- CoK, Planning Dept.

APR 13 2015

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

SUBJECT: REQUEST FOR COMMENTS

Draft Environmental Assessment (DEA) and Conservation District Use Application (CDUA) KA-3744 for the Maxson Single Family Residence (SFR) Project

LOCATION: Hā'ena, Kaua'i, Hawai'i, TMK (4) 5-9-002:067

Please find enclosed, a CD with an electronic copy of the subject CDUA KA-3744 and our notice to the applicant. We would appreciate your agency's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Lauren Yasaka at (808) 587-0386, should you have any questions on this matter.

() Comments Attached

No Comments

Signature
Dale A. Cua, Planner
Print Name/Title

Attachment
Enclosure

WALTON D.Y. HONG

LAW OFFICES OF

WALTON D.Y. HONG

TELEPHONE (808) 245-4757

TELECOPIER (808) 245-5175

ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

Planning Department of the County of Kauai
Attention: Mr. Dale A. Cua, Planner
4444 Rice Street, Suite A473
Lihue, HI 96766

Re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744 for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-9-002-067

Dear Mr. Cua,

Receipt of your response of "No Comments" to the above DEA, dated April 13, 2015, is hereby acknowledged.

Thank you for your review and response.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

DAVID Y. IGE
GOVERNOR OF HAWAII

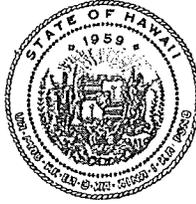


RECEIVED

APR 13 2015

Division of Aquatic Resources

DAR #5098



CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

2015 APR 27 P 2:44

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
KAWAIIAN ISLAND RESERVATION COMMISSION
LAND
STATE PARKS

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

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

comments by 05-04-15

ref:OCCL:LY

CDUA KA-3744

Acceptance Date: April 2, 2015

180 Day Expiration Date: September 29, 2015

SUSPENSE DATE: 21 Days From Stamped Date (5-4-15)

MEMORANDUM:

To:

- DLNR, Division of Aquatic Resources
- DLNR, Division of Conservation and Resource Enforcement
- DLNR, Division of Forestry and Wildlife Resources
- DLNR, Engineering Division

- DLNR, Historic Preservation Division
- DLNR, Land Division
- Office of Hawaiian Affairs
- Department of Health
- CoK, Planning Dept.

APR 13 2015

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

JK
ME

SUBJECT: REQUEST FOR COMMENTS

Draft Environmental Assessment (DEA) and Conservation District Use Application (CDUA) KA-3744 for the Maxson Single Family Residence (SFR) Project

LOCATION: Hā'ena, Kaua'i, Hawai'i, TMK (4) 5-9-002:067

Please find enclosed, a CD with an electronic copy of the subject CDUA KA-3744 and our notice to the applicant. We would appreciate your agency's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Lauren Yasaka at (808) 587-0386, should you have any questions on this matter.

Comments Attached

No Comments

Signature

Alton Miyasaka, Acting Administrator
Print Name/Title

Attachment
Enclosure

DAVID Y. IGE
GOVERNOR OF HAWAII



RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2015 APR 27 P 2:41

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
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
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
HONOLULU, HAWAII 96813
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Date: 04-23-15
DAR #5098

MEMORANDUM

TO: Alton Miyasaka, Acting Administrator
Division of Aquatic Resources

DATE: April 23, 2015

FROM: Michael Fujimoto, Aquatic Biologist
Jo-Anne N. Kushima, Aquatic Biologist

SUBJECT: Draft EA and CDUA KA-3744 for the Maxson Single Family Residence Project

Comment	Date Request	Receipt	Due Date
	04-13-15	04-13-15	05-04-15

Requested by: DLNR/OCCL Samuel Lemmo

Summary of Proposed Project

Title: CDUA KA -3744 to Construct a Single Family Residence
Project by: Mark J. Maxson and Robert E. Shaw
Location: 5-7655 Kuhio Highway
Haena, Kauai, HI
TMK (4) 5-9-002-067

Brief Description:

The applicants are proposing to construct a 3,492 square foot single family residence on an existing vacant lot. The 26,371 square foot property lies within the State Land Use Conservation District, Limited Subzone. The property is mauka of Kuhio Highway and electricity, water, phone and cable services are available. Currently the lot is grassed over with some palm trees around the center, the western property is overgrown and there are no existing structures on the property. The property is located within the AE flood zone with a base elevation of 23 feet, as determined by the Federal Emergency Management Agency and Federal Insurance Rate Maps. The proposed residence is a linear post on pier construction and will be built 23 feet above grade.

Comments:

The proposed project will take place mauka of the Highway and well away from the shoreline thus lessening most of our concerns. However, the western boundary of the property lies within an intermittent drainage channel so caution should be exercised to minimize runoff, and to prevent any pollutants from entering the drainage channel where it could reach the ocean during times when water is flowing in the drainage channel. During construction, areas denuded of vegetation should be planted or covered as soon as possible to prevent erosion. Construction materials, debris, and landscaping products should be kept away from the drainage channel to minimize the chances of those materials falling into the drainage channel where it could empty into the ocean during the periods when water flows in the drainage channel.

Thank you for providing DAR the opportunity to review and comment on the proposed project. Should there be any changes to the project plans, we request the opportunity to review and comment on them.

LAW OFFICES OF

WALTON D.Y. HONG

WALTON D.Y. HONG

TELEPHONE (808) 245-4757

TELECOPIER (808) 245-5175

ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

Department of Land and Natural Resources
Division of Aquatic Resources
Attention: Alton Miyasaka, Acting Administrator
P.O. Box 621
Honolulu, HI 96809

re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744 for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-9-002-067

Dear Mr. Miyasaka,

Thank you for your response and comments of April 22, 2015 of your staff members Michael Fujimoto and Jo-Anne N. Kushima, relating to the above project.

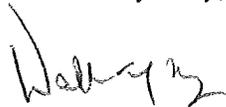
We respectfully respond as follows:

The reference to the intermittent drainage channel in the DEA will be corrected to an ephemeral stream, as it is transitory in nature and survives only for short periods of time in very heavy rainfall conditions. The applicants will exercise caution to minimize runoff and prevent any pollutants from entering into the stream and the ocean.

During construction, uncovered areas will be replanted as soon as reasonably possible to prevent erosion. Construction materials, debris and landscaping products will be kept away from the ephemeral stream to minimize the chances of such material falling into the stream bed.

We trust that the foregoing responses are satisfactory. If there are further questions, please feel free to contact the undersigned.

Yours very truly,

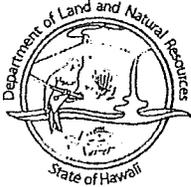


Walton D. Y. Hong

WDYH:wh

cc: Ms. Lauren Yasaka

DAVID Y. IGE
GOVERNOR OF HAWAII



15 APR 13 PM 03:19 ENGINEERING
CARY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY
W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

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

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

ref:OCCL:LY

CDUA KA-3744

Acceptance Date: April 2, 2015

180 Day Expiration Date: September 29, 2015

SUSPENSE DATE: 21 Days From Stamped Date

MEMORANDUM:

TO: PR:

- DLNR, Division of Aquatic Resources
- DLNR, Division of Conservation and Resource Enforcement
- DLNR, Division of Forestry and Wildlife Resources
- DLNR, Engineering Division

- DLNR, Historic Preservation Division
- DLNR, Land Division

- Office of Hawaiian Affairs
- Department of Health
- CoK, Planning Dept.

APR 13 2015

(Due 1 May 4, 2015)

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

SUBJECT: REQUEST FOR COMMENTS

Draft Environmental Assessment (DEA) and Conservation District Use Application (CDUA) KA-3744 for the Maxson Single Family Residence (SFR) Project

LOCATION: Hā'ena, Kaua'i, Hawai'i, TMK (4) 5-9-002:067

Please find enclosed, a CD with an electronic copy of the subject CDUA KA-3744 and our notice to the applicant. We would appreciate your agency's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Lauren Yasaka at (808) 587-0386, should you have any questions on this matter.

(X) Comments Attached

() No Comments

Signature
Cary S. Chang, Chief Engineer
Print Name/Title

Attachment
Enclosure

DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION

OCCL/ Samuel J. Lemmo
REF: CDUA for Proposed Single Family Residence, Haena
Kauai.007

COMMENTS

- () We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Flood Zone ____.
- () Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Zone ____.
- (X) Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is VE. The National Flood Insurance Program regulates developments within this flood zone as indicated in bold letters below.
- (X) Please note that the project 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. Mario Siu Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.
 - () Mr. Frank DeMarco at (808) 961-8042 of the County of Hawaii, Department of Public Works.
 - () Mr. Carolyn Cortez at (808) 270-7253 of the County of Maui, Department of Planning.
 - (X) Mr. Stanford Iwamoto at (808) 241-4896 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: _____

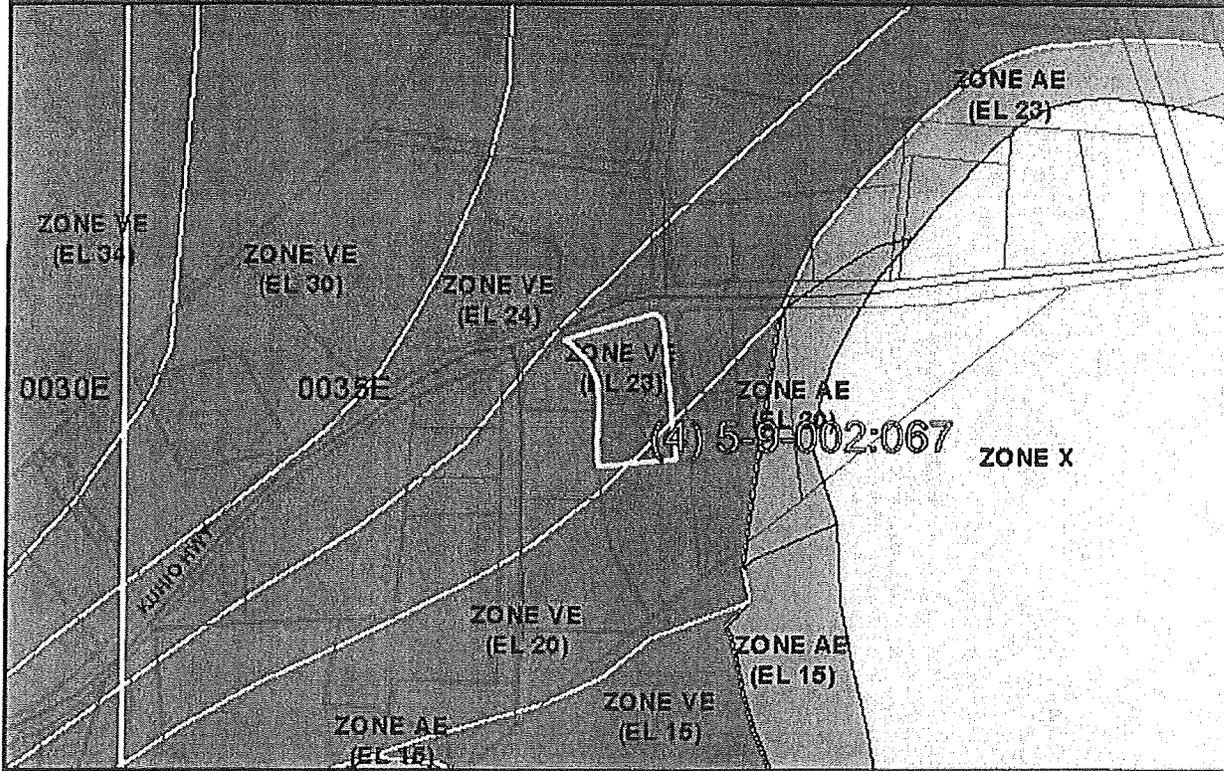
Should you have any questions, please call Mr. Dennis Imada of the Planning Branch at 587-0257.

Signed: 
CARTY S. CHANG, CHIEF ENGINEER

Date: 5/4/15



FLOOD HAZARD ASSESSMENT REPORT



NATIONAL FLOOD INSURANCE PROGRAM

FLOOD ZONE DEFINITIONS

SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD – The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water-surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

- Zone A:** No BFE determined.
- Zone AE:** BFE determined.
- Zone AH:** Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
- Zone AO:** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
- Zone V:** Coastal flood zone with velocity hazard (wave action); no BFE determined.
- Zone VE:** Coastal flood zone with velocity hazard (wave action); BFE determined.
- Zone AEF:** Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA – An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

- Zone XS (X shaded):** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- Zone X:** Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

- Zone D:** Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

PROPERTY INFORMATION

COUNTY: KAUAI
TMK NO: (4) 5-9-002-067
PARCEL ADDRESS: 05-7655 KUHIO HWY
 HANAIEI, HI 96714
FIRM INDEX DATE: NOVEMBER 26, 2010
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL(S): 1500020035E
PANEL EFFECTIVE DATE: SEPTEMBER 16, 2005

PARCEL DATA FROM: JANUARY 2012
IMAGERY DATA FROM: MAY 2005

IMPORTANT PHONE NUMBERS

County NFIP Coordinator
 County of Kauai
 Stanford Iwamoto, P.E. (808) 241-4896
State NFIP Coordinator
 Carol Tyau-Beam, P.E., CFM (808) 587-0267

Disclaimer: The Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use of the information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR from any liability, which may arise from its use.

If this map has been identified as 'PRELIMINARY' or 'UNOFFICIAL', please note that it is being provided for informational purposes and is not to be used for official/legal decisions, regulatory compliance, or flood insurance rating. Contact your county NFIP coordinator for flood zone determinations to be used for compliance with local floodplain management regulations.

WALTON D.Y. HONG

LAW OFFICES OF

WALTON D.Y. HONG

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

Department of Land and Natural Resources
Engineering Division
Attention: Carty S. Chang, Chief Engineer
P.O. Box 621
Honolulu, HI 96809

re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744 for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-9-002-067

Dear Mr. Chang,

Thank you for your response and comments of May 4, 2015, relating to the above project.

We respectfully respond as follows:

We acknowledge and agree that, except for a small portion in the southeastern corner, the subject parcel is within the "VE" Zone as shown on the Flood Insurance Rate Map (FIRM) of the area. The FIRM shows that a small portion at the southeastern corner is contained within the "AE" Zone.

However, as the proposed residence and septic system will be located within the "VE" Zone, the Applicant will comply with all requirements, rules and regulations of the National Flood Insurance Program for construction within the "VE" Zone.

Thank you for also providing contact information should questions arise regarding construction within the "VE" Zone.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

cc: Lauren Yasaka



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

May 11, 2015

Mark J. Maxson and Robert E. Shaw
336 Corbett Avenue
San Francisco, California 94114

Walton D.Y. Hong,
3135-A Akahi Street
Lihu'e, HI 96766

Re: Draft Environmental Assessment (DEA) Comments regarding Conservation District
Use Application (CDUA) for the proposed Maxson residence TMK 5-9-2:67
KA-3744

Aloha,

Thank you for soliciting the comments of the Hanalei-to-Ha'ena Community Association on the Draft Environmental Assessment (DEA) for the Conservation District Use Application (CDUA) for the proposed Maxson/Shaw residence.

Does this Draft Environmental Assessment meet the requirements as outlined in HRS 343 and in *Guide to the Implementation and Practice of the Hawai'i Environmental Policy Act*?¹

We request that both the Final EA and CDUA clarify, correct and disclose the following issues.

NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL DETERMINATION

- Correct and clarify the NFIP flood designation from AE to VE Zone as shown in the FEMA NFIP Rate Maps for this parcel.

¹

http://oegc.doh.hawaii.gov/Shared%20Documents/Misc_Documents/Guide%20to%20the%20Implementation%20and%20Practice%20of%20the%20HEPA.pdf

DRAFT ENVIRONMENTAL IMPACT ASSESSMENT (revised)

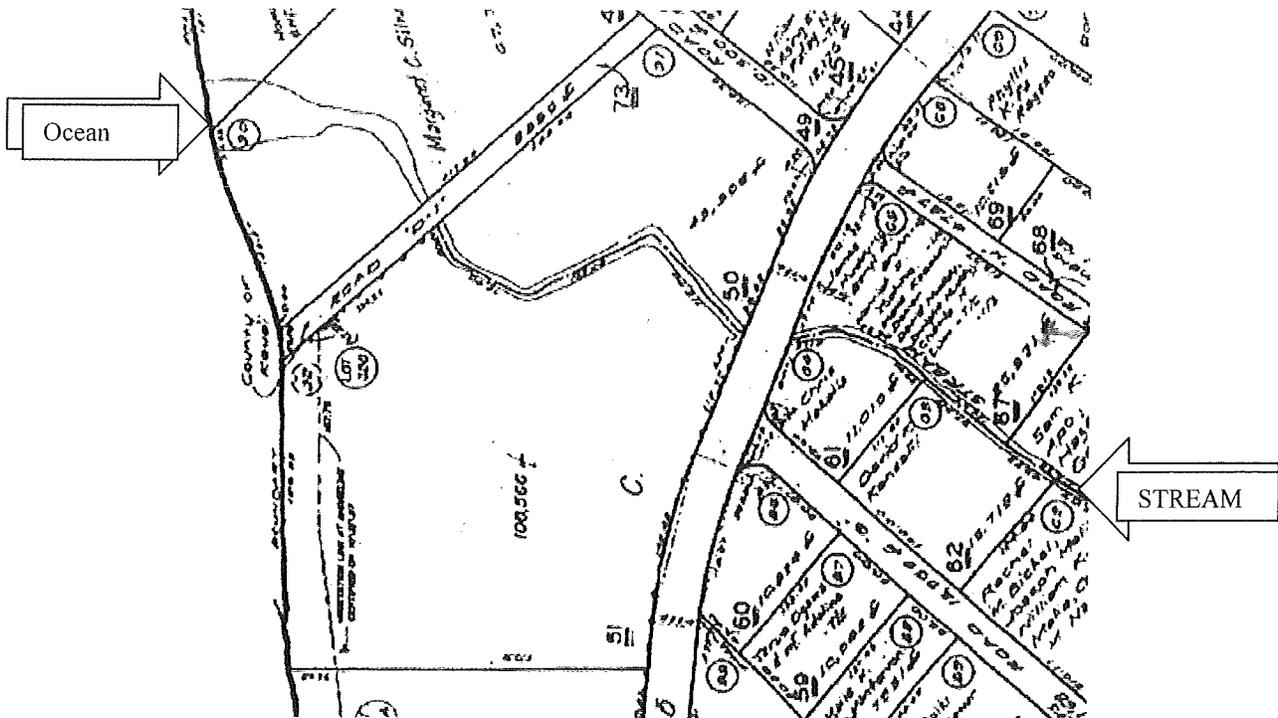
A. Technical Characteristics, page 5

- Correct and clarify the NFIP flood designation to VE Zone as shown in the FEMA NFIP Rate Maps and in the Determination of Significance on page 15, (12) of this document
- Correct and clarify the “drainage channel” referred to throughout the document is a **perennial stream** that meets the ocean and reef at Makua. Parcel is identified as *undulating, sloping towards an intermittent drainage channel along the western boundary.*

B. Environmental Conditions, page 7

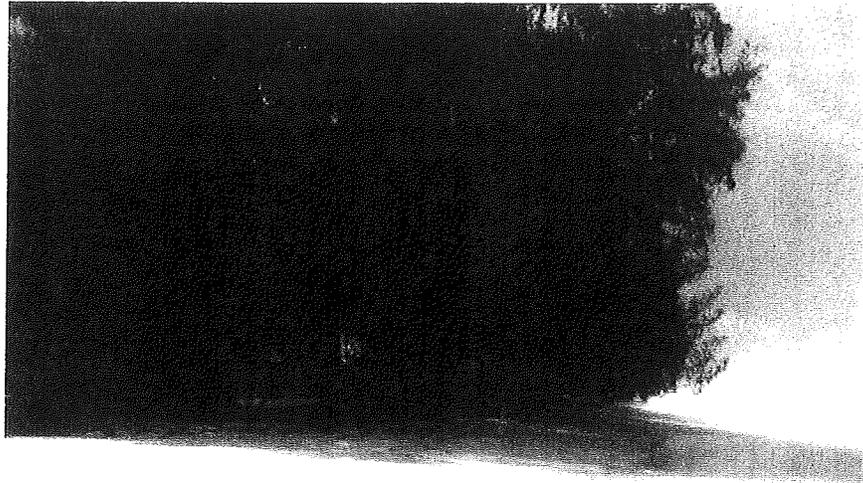
Wastewater

The DEA discusses the applicant’s wastewater plans “*Sewage treatment and disposal will be handled through the implementation of a septic system, the natural drainage for the property is into the intermittent drainage channel to the west which crosses Kuhio Highway towards the shoreline to the north and discharging any storm water into the ocean.*”

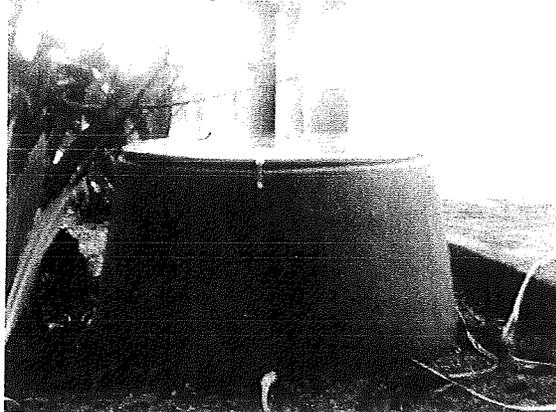


- To avoid a substantial degradation of environmental quality, the septic system and leach field should be redesigned with an **above ground contained system required** that will not pollute the stream, reef and Class AA water at Makua.

- The stream is erroneously described as a drainage channel throughout the document and should be corrected.
- The wastewater system should be redesigned and directed away from the natural drainage to avoid septic or sewage discharge into the stream and ocean.



Picture shows the stream flowing into the ocean at Makua



Example of an above ground wastewater system in use in Wainiha

The DEA also describes the dunes...

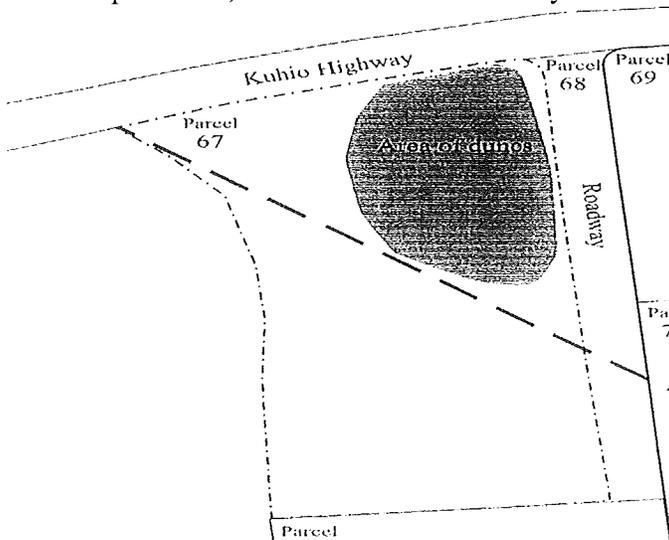
"It has two rolling dune formations toward the North and East and a lower lying areas to the south and west towards an intermittent drainage channel along the western boundary.

- Please detail what part if any of the dune areas are proposed to be built on.
- Please detail what archaeology studies and excavations have been performed in the dune areas.

Floral and Fauna Survey cited on page 7 (Exhibit D) was conducted May 7, 2004

Concluded, "...no native animals or plants listed as threatened or endangered species were observed on the property."

- Please add conditions to address night lights as regards to endangered Newell's Shearwaters.
- The study noted burials were found in the dune formation on the neighboring parcel 68; did the AIS include study of the large dune area for burials?



Archaeological Inventory Survey (Exhibit E), cited on pages 7 and 8

While noting that "*Burials were found in a dune formation on neighboring parcel 68, Burials were uncovered on parcels to the east of the subject parcel, burial remains were also uncovered in trenching for utilities in the roadway parcel immediately to and bordering the eastern boundary of the subject property, he concluded, the archaeological study found no archaeological resources of any kind and recommended that no further archaeological work be conducted prior to development.*"

Rechtman Consulting prepared the Archaeological Inventory Survey November of **2000**. They noted the large concentration of Burials found in the surrounding area.

- Please clarify if the area of study in the Archaeological Inventory Survey included archaeological excavations where the building and footings are currently proposed to be located.
- Please clarify if the building/and or footings are proposed to be located in the dune area and if the 2000 study included archaeological excavations of the dune area.
- Please clarify if the Archaeological Inventory Survey included archaeological excavations where the septic tank and leach field are proposed to be located.

- Nearby lots have found numerous burials². To protect historic sites and burials, if the above listed areas were not studied, a revised Archaeological Inventory Survey should be done in the Final EA. Documentation in the AIS must ensure that the location of the building and septic system will not be constructed on any *Iwi Kupuna*. This confirmation must be confirmed prior to approval of any construction, not during construction. Dune areas are known burial sites and an adequate Archaeological Inventory Survey is essential to protect historic burials.
- Consider downsizing the structure to avoid building on the dune area.

The Cultural Impact Assessment (CIA) (Exhibit F) was done in May 2005 by Rechtman Consulting, page 8

“While no definite cultural resources were identified, the potential of human burials was noted.” It was also noted in interviews, *“...two Kupuna in the area [tell?] of a story involving an ancient trail across the property.”*

- In view of the possibility of a trail, what outreach been done to **local residents** to locate and/ or identify the traditional trail?
- There is no mention the ahupua'a of Ha'ena is a proposed community-based Subsistence Fishery Management Area.
- This area is well used by traditional cultural practitioners and contamination or pollution of the stream and ocean would impact the traditional fishery.
- The septic should be relocated to avoid any discharge into the stream and ocean.

Identification and Mitigation of Potential Cultural Impacts, (page 10 in Exhibit F)

“...As a result of the current assessment there were no definite resources identified, however, it is possible, based on recent archaeological work, that the dunes in the northeastern portion of the property may contain human burials; and based on oral information, that an ancient trail may have bisected the parcel. With this knowledge, it is recommended that the single family residence be designed to avoid substantial surface work in the dune areas, and that an archaeological (and perhaps cultural) monitor be present during subsurface development activities...”

- Please explain the location of the structure and septic area in relation to the dunes.
- Please explain the archaeological excavations, if any, that took place in the dune area.
- To avoid construction-related inadvertent Burial Discoveries, the Archaeological Inventory Survey (“AIS”) should be required to be revised to include archaeological excavations in the area where the proposed house and septic are proposed to be located **before** approval of the CDUP.
- To mitigate the cultural impacts, further study and outreach to local families to locate the trail should be required.

² TMK 5-9-002:034 has more than 40 burials, and TMK 5-9-002:031 also has more than 40 burials.

DISCUSSION OF POTENTIAL ENVIRONMENTAL IMPACTS AND MEASURES TO MITIGATE ADVERSE EFFECTS (DEA page 10)

“The scope of the proposed use is relatively modest, with little or no significant environmental impacts requiring mitigation...”

- Though “modest” is a relative term, the proposed size is 3,344 sq. ft., the maximum developable area allowed in the Conservation District and does not fit in with the traditional character of Haena or this small lot. Please consider reducing the size to maintain the rural character of the community.
- Please clarify if the stairway goes to both the house and bedroom or only to the main house.
- Please clarify if the bedroom or bedrooms will be lockout units or only accessed from the main entrance.

“There are no rare, threatened or endangered flora or fauna species within the project site.”

- To mitigate the impacts of night lights to Newell Shearwaters, please add conditions to address night lights.

“There are no determined archaeological or historical resources within the project area”

- Please clarify if the Archaeological Inventory Survey included archaeological excavations where the house and footings are proposed to be located.
- Please clarify if the AIS included archaeological excavations where the septic area and leach field are proposed to be located.
- Please clarify if the AIS included archaeological excavations in the dune area and if the building penetrates the dune area.
- Nearby lots have discovered upwards of 40 burials on each “lot”, to avoid inadvertent burials being found here, please insure the AIS done in 2000 is adequate and actually studied the location of the building, septic and leach field and the dune areas or perform a valid AIS.

The proposed use will have minimal visual impacts from the fronting roadway.

- Please clarify there will not be a gate or entrance directly from Kuhio Highway.

ALTERNATIVES TO THE PROPOSED ACTION (DEA page 11)

The only alternative presented is the “No Build” alternative. The DEA did not include the Alternative of constructing a smaller structure. A smaller house, more in character with Haena, that does not build on the dunes, with a redesigned above ground wastewater system, may be a more reasonable alternative.

Other Comments

1. We request that explicit conditions be included in the CDUA to the effect that: **No commercial uses are permitted:** i.e., transient vacation rentals, homestays, B&B's, are prohibited on the property. This condition shall be incorporated into the conditions of approval and recorded at the Bureau of Conveyances.
2. We are concerned about the proposed septic system and leach field polluting the stream and ocean as the applicants refer to the stream as drainage ditch and strongly suggest a **redesign of the septic system to an above ground system.**

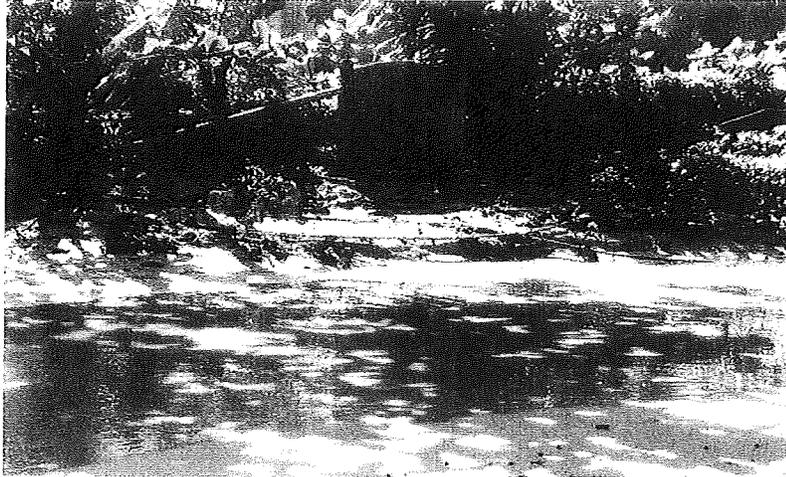


Photo left

The stream that runs through this property flows into the ocean at Makua beach. Picture is taken from the beach side.

3. As the project is presented as a single family residence, require a condition and deed restriction to prevent the applicants or future owners from constructing a separate stairwell to access the bedroom.
4. Outstanding questions about the adequacy of the AIS submitted should be addressed before approval is given.
5. The proposed house appears to be too large, imposing and not consistent with the low-key rural character of the community.
6. Was a copy of the DEA provided to the Kaua'i Burial Council for comments?
7. Please require a condition preventing enclosure of the downstairs area below the National Flood Insurance Program (NFIP) Base Flood Elevation.

We would appreciate receiving two hard-copies of the Final Environmental Assessment and the CDUA application, so that we can review and comment on those documents. Thank you again for including the Hanalei-to-Ha'ena Community Association in the review process.

Joel Guy
HHCA President

Caren Diamond
HHCA Land Use Committee

c: Sam Lemmo, DLNR, Office of Conservation and Coastal Land
Lauren Yasaka, BLNR, P.O. Box 621, Honolulu, HI 96809

ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

Hanalei-Ha`ena Community Association
Attention: Mr. Joel Guy and Ms. Caren Diamond
P.O. Box 789
Hanalei, HI 96714

Re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744, for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-09-002-067

Dear Mr. Guy and Ms. Diamond,

Thank you for your letter of May 11, 2015, regarding concerns and comments on the Draft Environmental Assessment for the proposed single family residence by Mark Maxson and Robert Shaw (the "Applicants") on the above described real property at Ha`ena, Kauai, Hawaii.

We respond to your comments as follows:

1. We have reviewed the Kauai County's FIRM as well as the maps on the County's Geographic Information System as to the flood designation for the subject parcel. Both sources show that the makai portion of the subject property is within the "VE" zone, while a small portion in the southeastern corner of the property is within the AE zone. As the proposed use on the property will occur within the "VE" zone, all requirements of constructing within the "VE" zone will be met.

2. We will correct the reference to the drainage channel to an ephemeral stream. As defined in Webster's II New Riverside University Dictionary, "perennial" means "lasting or active through the year or through many years". "Ephemeral", on the other hand, is defined as "lasting a short time : transitory". The Applicants believe that ephemeral better describes the condition of the stream.

This ephemeral stream is dry except for rare periods of unusually heavy rainfall. The stream is not active through the year or through many years. The Applicants are aware on only several instances over the last twenty years where storm runoff flowed through the stream into the ocean at Makua beach for a short period of time after the unusually heavy rainfall has ceased. There have been other rare instances where unusually heavy rainfall caused short-lived ponding of water in the stream bed but which did not flow to the ocean due to the collection of

sand at the mouth of the stream and at Makua beach. The ephemeral stream returns to its normal dry state within days after the rainfall event.

3. Sewage will be disposed in accordance with the requirements of the State Department of Health. The septic tank and leach field will be located at the southeast corner of the proposed residence, on the side of the residence away from the ephemeral stream. This increases the distance over which contaminants, if any, must travel to influence the stream. An above ground wastewater system is not intended, unless required by law.

4. The proposed residence is located about the center of the lot. This is an effort to avoid the sand dune which is located at the northeastern corner of the subject property.

5. The Archaeological Inventory Survey, done in November 2000 by Rechtman Consulting, was conducted in consultation with Nancy McMahan, Kauai Island Archaeologist for DLNR-SHPD in defining an appropriate scope of work. That included an intensive surface survey of the subject parcel, and excavating a series of backhoe trenches. As the study also noted at page 5 thereof,

“The most proximate previous study to the current project area was conducted by Hammatt and Schideler (1998). Their investigation of TMK: 5-9-02:50, a roughly one acre parcel located directly *makai* of the current study parcels, 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.”

It was therefore 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 *Draft Hawai'i Administrative Rules 13§13-284*.” Rechtman, *supra*, at page 7.

No excavations have been performed in the dune areas, although the study noted that burials were found in the dune formation on the neighboring Lot 68.

Based on a visual inspection of the entire property, two backhoe trenches were dug on the subject parcel as part of the Rechtman study. One of the trenches is in the approximate location of the proposed septic tank and leach field. The second trench was dug at the northwest corner

of the subject property. Both trenches produced negative results. No archaeological excavations were done at the location of the main residence.

Notwithstanding the foregoing, however, a new archaeological inventory survey was conducted by Rechtman Consulting last week, which included trenching in the areas of the proposed residence and septic system. Present during the survey work was Mary Jane Naone, State Historic Preservation Division's Kauai archaeologist. The survey did not uncover any remains or artifacts. The formal report will be transmitted to the State Historic Preservation Division of the Department of Land and Natural Resources upon receipt of the same from Rechtman Consulting.

6. The Applicants have no intention of downsizing the proposed residence. The living area of the proposed two-bedroom residence is 2,186 square feet. The proposed use is consistent with, if not smaller than, dwellings on neighboring properties in Ha`ena, and complies with the applicable size requirements for the Conservation District.

7. No further outreach to local residents has been made to locate and/or identify the possible ancient trail which may traverse across the subject property. The trail was not a physical trail, but a spiritual trail. The Applicants will adhere and follow the advice of the kupuna that proper blessings be conducted prior to the development.

8. Mention of the ahupua`a of Ha`ena as a proposed community-based Subsistence Fishery Management Area will be included in the Final Environmental Assessment.

9. The Applicants agree that pollution of the stream and ocean would impact the traditional fishery, but maintain that the proposed use would not result in any such impact. The Applicants are not aware of any such impact caused by the other residences having septic systems adjacent to the subject property and the ephemeral stream.

10. The septic tank and leach field are located as far as reasonably possible (100+ feet) from the ephemeral stream, thus reducing if not eliminating the possibility of contamination of the ephemeral stream therefrom. The State Department of Health had advised that a septic system is required to be no closer than fifty feet from any body of water. The location of the proposed septic system and leach field is more than double the required distance.

11. There is a singular stairway, leading up to the entry into the main house and the guest bedroom wing. The main house and the guest bedroom can only be accessed from this main entrance. There will not be any other entry to access the guest bedroom except through the main house, removing the possibility of any lockout.

12. A condition will be added that only down facing lights will be permitted to protect the Newell Shearwaters and other seabirds. The Applicants intend to follow the Avoidance and Minimization of Seabird Light Attraction Strategies as promulgated by the Kauai Seabird habitat Conservation Program.

13. There will not be any gate or entrance onto the subject property directly from Kuhio Highway. Ingress and egress to and from the subject property will be via "Road H".

14. The Applicants are agreeable to a condition that no commercial uses shall be permitted on the subject property unless such uses are expressly allowed by applicable law.

15. The Applicants are agreeable to a condition that there shall be no lockouts in the proposed residence, unless lockouts are expressly allowed by applicable law.

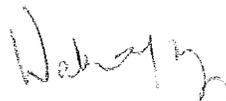
16. A copy of the Draft Environmental Assessment was not provided to the Kauai Burial Council for comments. A copy of the Draft Environmental Assessment was provided by the Department of Land and Natural Resources to its State Historic Preservation Division for comments.

17. The proposed residence will be constructed in accordance with the requirements of the National Flood Insurance Program, including enclosures below the base flood elevation.

18. The Applicants lastly note that the Draft Environmental Assessment meets the requirements of Chapter 343 of the Hawaii Revised Statutes, and the guidelines in the Guide to the Implementation and Practice of the Hawaii Environmental Policy Act.

We trust that the foregoing responses sufficiently address the questions and concerns as to the proposed use. As requested, two hard copies of the Final Environmental Assessment and the CDUA application will be provided to the Hanalei-Ha`ena Community Association.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

cc: Lauren Yasaka

PHONE (808) 594-1888



RECEIVED
OFFICE OF CONSERVATION AND COASTAL LANDS FAX (808) 594-1938

2015 JUN -1 A 9 24

STATE OF HAWAII DEPT. OF LAND &
OFFICE OF HAWAIIAN AFFAIRS NATURAL RESOURCES
560 N. NIMITZ HWY., SUITE 200 STATE OF HAWAII
HONOLULU, HAWAII 96817

HRD15-7457

May 21, 2015

Lauren Yasaka
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, HI 96809

Re: Comments on Draft Environmental Assessment and Conservation District Use
Application for the Maxson Single Family Residence Project (Ref. no. KA-3744)
Hā'ena Ahupua'a, Halele'a Moku, Kaua'i Moku

Aloha e Lauren Yasaka:

The Office of Hawaiian Affairs (OHA) is in receipt of your April 13, 2015 letter, draft environmental assessment (DEA), and the conservation district use application (CDUA) KA-3744, requesting comments for the construction of a single family residence (SFR), two-bedroom, two-bath home in Hā'ena ("Maxson SFR"). The property is an undeveloped, vacant, 1.5 acre parcel on the mauka side of Kūhiō Highway, about 2,000 feet east of Hā'ena State Park, and the Hā'ena Archaeological Complex, State Inventory of Historic Places No. 50-30-03-3201.

The DEA includes a report from an archaeological inventory survey (AIS) that was conducted in 2000 and a cultural impact assessment (CIA) that was conducted in 2005. The AIS did not identify any archaeological resources and therefore determined that the project should not result in significant impacts to historic or cultural resources, and that an environmental impact statement is not necessary. The DEA proposes an anticipated finding of no significant impact (FONSI).

OHA offers the following comments:

In the 15 years that have passed since the AIS was conducted, standards and methodologies for AIS have improved substantially. According to current standards, the archaeological testing that was conducted in 2000 is insufficient for this project area. Based on the AIS, it appears that four trenches were mechanically excavated to a relatively shallow depth of approximately 1.0-1.25 meters at the four corners of the subject property. Curiously, the testing conducted in the AIS did not focus on the proposed project's construction footprint. In fact, no testing was conducted in the areas proposed for house footings, the septic system, or the associated leech field. Current AIS methodologies focus subsurface testing components on the project areas that will be most subject to ground disturbance.

The background section of the AIS noted that on neighboring parcels, burials were identified in the sand dune formation located on two neighboring parcels east of the Maxson SFR parcel, and remains were also uncovered in trenching for utilities in the roadway parcel immediately to, and bordering, the eastern boundary of the project. Based on the proximity of these past discoveries to the proposed Maxson SFR location, we know that the potential for cultural resources including burials in the proposed project area is high. In addition, knowledgeable individuals interviewed in the CIA noted that the project area was known to be associated with iwi kūpuna (ancestral remains) and that a trail once ran through the central portion of the subject parcel.

Based on the foregoing, OHA recommends:

- A supplemental or addendum AIS testing program be conducted and the program of archaeological testing be focused on the construction footprint for the proposed SFR; and
- Areas of footings, utilities, septic, and any other areas subject to project related exaction should be subject to archaeological testing.

OHA notes that kūpuna were traditionally buried with no surface markers and frequently in and around sand dunes. Because burials in sand deposits that extended inland from the coast were a traditional Hawaiian burial practice, the possibility of encountering traditional Hawaiian burials and cultural deposits is high.

Based on the close proximity of identified traditional Hawaiian burials on neighboring parcels, the proximity to the Hā'ena Archaeological Complex, and testimonies recorded in the CIA, OHA does not concur with the DEA's FONSI and recommends that a supplemental or addendum AIS be conducted and focused on the areas subject to construction related excavation. OHA will be happy to review or provide recommendations on this supplemental archaeological testing once it has been prepared.

In addition, OHA supports the recommendation in the DEA and AIS that archaeological monitoring be conducted during any excavation associated with project construction. The archaeological monitoring plan prepared for the project should include full time monitoring of all project related excavation and a monitor should be assigned to each piece of ground disturbing equipment should multiple ground disturbing machines be operating at the same time.

Lauren Yasaka
May 21, 2015
Page 3

OHA requests assurances that should iwi kupuna or Native Hawaiian cultural deposits be identified during any ground altering activities, all work will immediately cease and the appropriate agencies, including OHA, will be contacted pursuant to applicable law.

Thank you for the opportunity to provide comments on this project. Should you have any questions, please call Kathryn Keala at (808) 594-1848 or kathyk@oha.org.

'O wau iho nō me ka 'oia 'i'o,



Kamana'opono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Officer

KC:kk

C: Dan Ahuna, OHA Kaua'i & Ni'ihau Trustee
Kaliko Santos, OHA Kaua'i Community Outreach Coordinator (via email)
Mary Jane Naone, Kaua'i Lead Archaeologist, State Historic Preservation Division

LAW OFFICES OF

WALTON D.Y. HONG

WALTON D.Y. HONG

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

Office of Hawaiian Affairs
State of Hawaii
Attention: Kamana`opono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Officer
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817

re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744 for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-9-002-067

Dear Dr. Crabbe,

Thank you for your response and comments of May 21, 2015, relating to the above project.

We respectfully respond as follows:

The Applicants have recognized the concerns raised in your letter, and as recommended, did conduct a new Archaeological Inventory Survey (AIS) on the subject property. The AIS was conducted last week by Rechtman Consulting, with trenching done in the areas of the proposed single family residence and of the septic system. Mary Jane Naone, Kauai's archaeologist for the State Historic Preservation Division, was present during the work. The AIS did not uncover any remains or artifacts. Based on the results of the AIS, Ms. Naone recommended that no monitoring plan be required.

The formal AIS report will be transmitted to the State Historic Preservation Division of the Department of Land and Natural Resources upon receipt of the same from Rechtman Consulting.

Notwithstanding the foregoing, the Applicants realize the responsibility of immediately ceasing work and informing SHPD should any iwi kupuna or Native Hawaiian cultural deposits be uncovered during construction, and the necessary protocols for inadvertent discoveries followed before work can be resumed.

We trust that the foregoing response and the conducting of an AIS as recommended by your office, are satisfactory. If there are further questions, please feel free to contact the undersigned.

Office of Hawaiian Affairs
Attention: Kamana`opono M. Crabbe, Ph.D.
July 27, 2015
Page 2 of 2

Yours very truly,

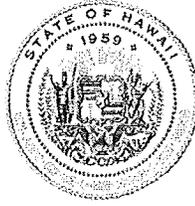
A handwritten signature in black ink, appearing to read "Walton D. Y. Hong". The signature is written in a cursive, somewhat stylized font.

Walton D. Y. Hong

WDYH:wh

cc: Ms. Lauren Yasaka

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

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

June 30, 2015

Sam Lemmo, Administrator
Office of Conservation and Coastal Lands
PO Box 621
Honolulu, HI 96809
Sam.J.Lemmo@hawaii.gov

LOG NO: 2015.02554
DOC NO: 1506MN22
Archaeology

Aloha Mr. Lemmo:

SUBJECT: **Chapter 6E-8 Historic Preservation Review -
Conservation District Use Application and EA- Maxson Residence REVISED
Haena Ahupua'a, Halelea District, Island of Kaua'i
TMK: (4) 5-9-002:067**

Thank you for the opportunity to comment on the Conservation District Use Application (CDUA) and Environmental Assessment (EA) for the proposed Maxson Single Family Residence (SFR) project. We received the permit application on April 13, 2015 in our Kapolei office and responded in a letter dated June 17, 2015 (*Log No. 2015.01473, Doc No. 1506MN11*). The total acreage of the property is .6054 acres. The applicant is proposing to construct a 3,492 square foot single family residence (SFR) on the lot, which is currently vacant. The house will be a linear post on pier construction and will be built 23 feet above grade. A septic tank and leach field is also proposed.

An Archaeological Inventory Survey (AIS) was conducted in 2000 which included lots 66 and 67 (Rechtman 2000). Four 1 meter trenches were excavated on the two lots to a depth of .9 meters, and the report concluded that due to negative findings, no further archaeological work is recommended on the subject parcel, which is underlain with Mr. Mokuleia fine sandy loam (Foote et al. 1972). Additionally, a cultural impact assessment (CIA) was conducted for the property which referenced the presence of a former trail on the property, and indicated that the dune on the property may contain subsurface deposits and burials (Rechtman 2005). Rechtman revised his 2000 conclusion to recommend archaeological monitoring for subsurface disturbance on the property.

Numerous historic properties have been identified in the vicinity of the subject property, including subsurface cultural deposits and burials. State Inventory of Historic Places (SIHP) Site 50-30-02-1809, the Haena Cultural Deposit, is located throughout the area and includes a large subsurface habitation site, including firepits, artifacts and human skeletal remains representing a minimum of 13 individuals. The AIS is now 15 years old, while the CIA is 10 years old, and subsequent studies of the surrounding vicinity indicate that there is high potential for encountering historic properties during subsurface activity. Additionally, oral ethnography referencing an historic trail requires additional research and documentation; as historic trails are subject to the Highways Act of 1892.

In our previous correspondence, we determined that **historic properties may be affected** by this project and requested that an Archaeological Monitoring Plan be prepared which would include additional documentation and information regarding the historic trail.

We have received additional information regarding through this project. Correspondence from the Office of Hawaiian Affairs (OHA) has raised concerns regarding the datedness of the archaeological work and the need for an amended AIS. Further review of the construction plans reveals that the footprint of the house site has not been tested to determine

Mr. Lemmo
June 30, 2015
Page 2

whether historic properties are likely to be affected. An amended AIS may allow the landowner to plan for house site and subsequent outbuildings or utilities on the property, and would inform the need for archaeological monitoring. The amended AIS would include subsurface testing at the house site, as well as the area where the septic tank and leach field will be, and previously untested areas of the property. Finally, as a point of clarification, the historic trail reference in the CIA does not refer to a physical trail, rather an esoteric trail of the "night marchers", and documentation of material evidence of the trail is not possible. A revised AIS will include this information.

Based on further review and new information, we revise our previous determination to recommend that an amended AIS be conducted, which will better inform future planning on the site and allow for a more informed recommendation concerning the need for archaeological monitoring.

Please contact Kaua'i Lead Archaeologist Mary Jane Naone at (808) 271-4940 or Maryjane.Naone@hawaii.gov if you have any questions regarding this letter, or if you require a list of archaeological consultants. Mahalo for your assistance in preserving significant historic and cultural properties.

Aloha,



Mary Jane Naone
Kaua'i Lead Archaeologist

cc. Lauren Yasaka
Office of Conservation and Coastal Lands
Lauren.E.Yasaka@hawaii.gov

LAW OFFICES OF

WALTON D.Y. HONG

WALTON D.Y. HONG

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ATTORNEY AT LAW
A Law Corporation
3135 AKAHI STREET, SUITE A
LIHUE, KAUAI, HAWAII 96766-1106

July 27, 2015

State Historic Preservation Division
Department of Land and Natural Resources
Attention: Mary Jane Naone
Kauai Lead Archaeologist
601 Kamokila Blvd., Suite 555
Kapolei, HI 96707

re: Draft Environmental Assessment (DEA) and Conservation District Use
Application (CDUA) KA-3744 for the Maxson single Family Residence
Haena, Kauai, Hawaii, TMK: (4th) 5-9-002-067

Dear Ms. Naone,

Thank you for your amended response and comments of June 30, 2015, relating to the above project.

We respectfully respond as follows:

The Applicants have recognized the concerns raised in your letter, as well as similar comments raised by the Office of Hawaiian Affairs as to the sufficiency of the past archaeological survey on the subject property by Rechtman Consulting.

As you are aware, and as recommended, the Applicants did have Rechtman Consulting conduct a new Archaeological Inventory Survey (AIS) on the subject property last week. Trenching done in the areas of the proposed single family residence and of the septic system, and in your presence. The AIS did not uncover any remains or artifacts. Based on the results of the AIS, it is our understanding that your recommendation is that no monitoring plan be required.

The formal AIS report will be transmitted to your office upon receipt of the same from Rechtman Consulting.

Notwithstanding the foregoing, the Applicants realize the responsibility of immediately ceasing work and informing SHPD should any iwi kupuna or Native Hawaiian cultural deposits be uncovered during construction, and the necessary protocols for inadvertent discoveries followed before work can be resumed.

State Historic Preservation Division
Department of Land and Natural Resources
Attention: Mary Jane Naone, Kauai Lead Archaeologist
July 27, 2015
Page 2 of 2

We trust that the foregoing response and the conducting of an AIS as recommended by your office, are satisfactory. If there are further questions, please feel free to contact the undersigned.

Yours very truly,

A handwritten signature in black ink, appearing to read "Walton D. Y. Hong". The signature is written in a cursive style with a large initial "W".

Walton D. Y. Hong

WDYH:wh

cc: Ms. Lauren Yasaka

DAVID Y. IGE
GOVERNOR OF HAWAII



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

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2015 APR 15 A 8:34

In reply, please refer to:
File:
EPO 15-073

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

April 10, 2015

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

Dear Mr. Lemmo:

SUBJECT: Conservation District Use Application (CDUA) for the County of Kauai, Department of Water Kukuiohono 0.5 MG Tank Project

The Department of Health (DOH), Environmental Planning Office (EPO), acknowledges receipt of your CDUA and CD to our office on March 30, 2015. Thank you for allowing us to review and comment on the proposed project. The CDUA and CD was routed to the District Health Office on Kauai, Solid Hazardous Waste, Clean Water, and the Safe Drinking Water Branch. They will provide specific comments to you if necessary. EPO recommends that you review the standard comments and available strategies to support sustainable and healthy design provided at: <http://health.hawaii.gov/epo/home/landuse-planning-review-program>. Projects are required to adhere to all applicable standard comments.

We encourage you to examine and utilize the Hawaii Environmental Health Portal. The portal provides links to our e-Permitting Portal, Environmental Health Warehouse, Groundwater Contamination Viewer, Hawaii Emergency Response Exchange, Hawaii State and Local Emission Inventory System, Water Pollution Control Viewer, Water Quality Data, Warnings, Advisories and Postings. The Portal is continually updated. Please visit it regularly at: <https://eha-cloud.doh.hawaii.gov>

You may also wish to review the revised Water Quality Standards Maps that have been updated for all islands. The Water Quality Standards Maps can be found at: <http://health.hawaii.gov/cwb/site-map/clean-water-branch-home-page/water-quality-standards>

We request that you utilize all of this information on your proposed project to increase sustainable, innovative, inspirational, transparent and healthy design.

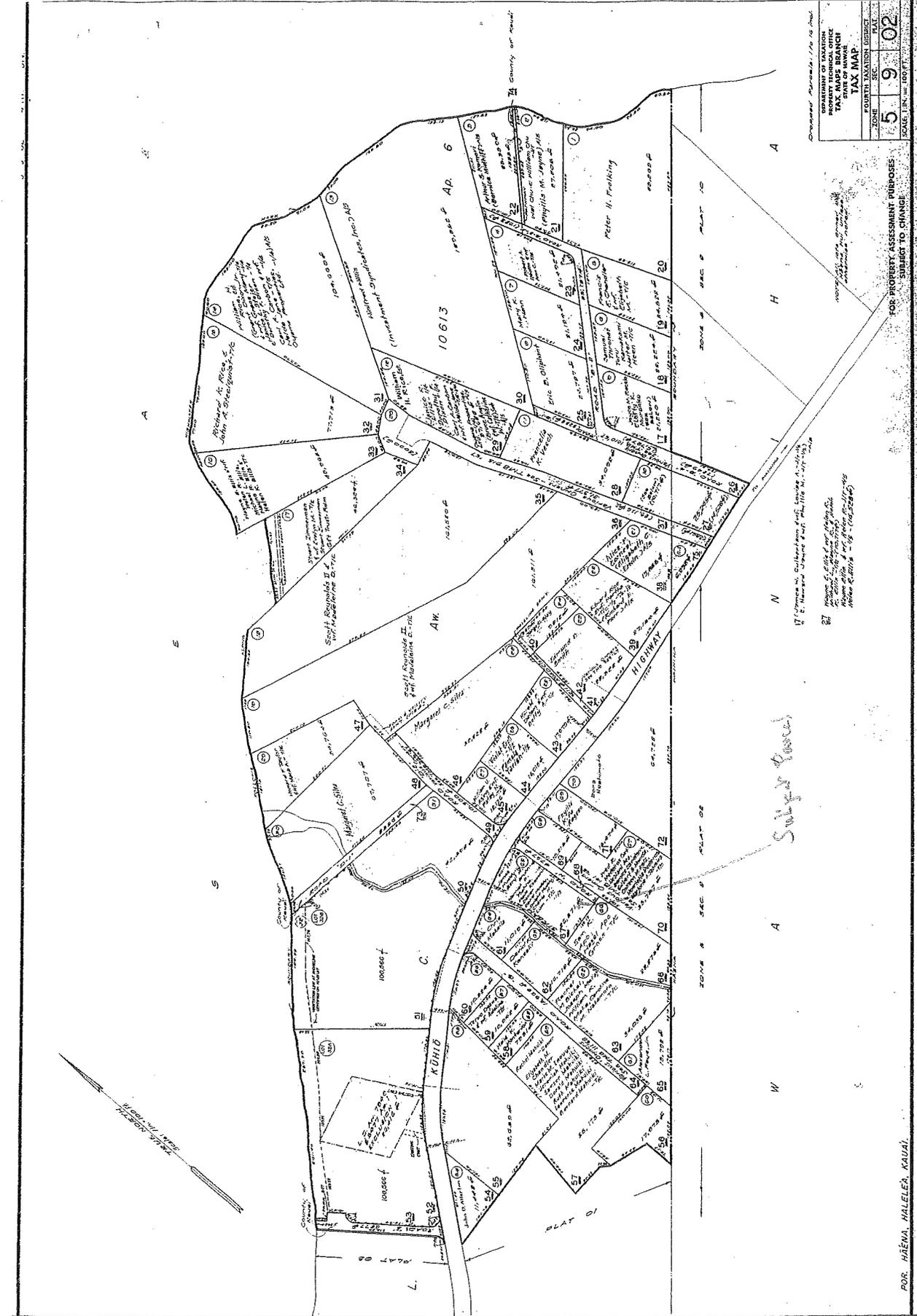
Mahalo nui loa,

A handwritten signature in cursive script, appearing to read "Laura Leialoha Phillips McIntyre".

Laura Leialoha Phillips McIntyre, AICP
Program Manager, Environmental Planning Office

c: Lauren Yasuka, Office of Conservation and Coastal Lands
DHO Kauai, SHWB & CWB (via email only)

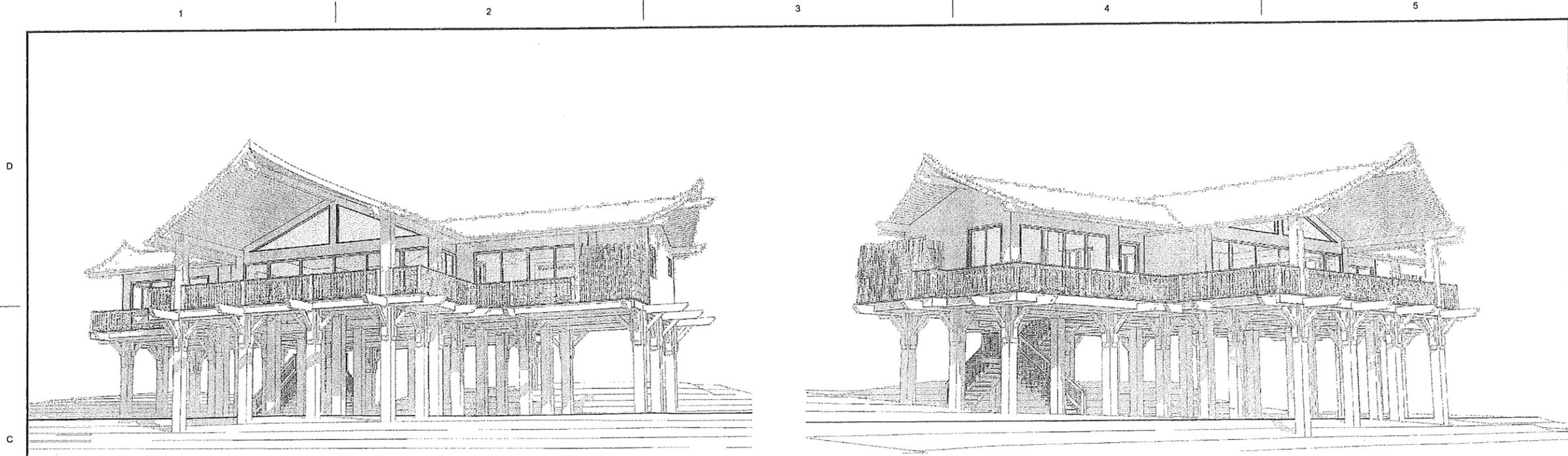
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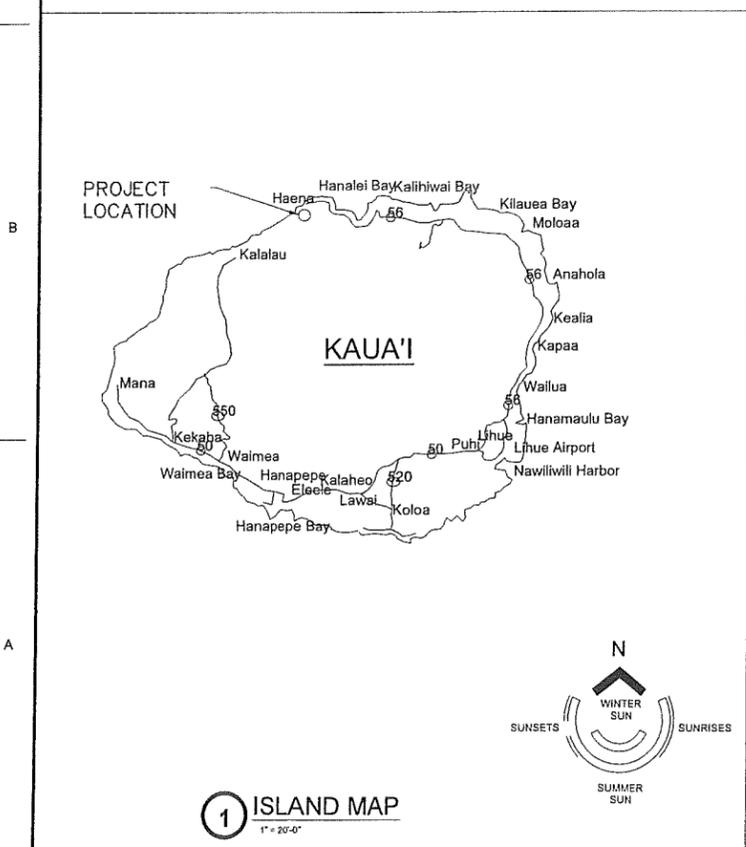
DEPARTMENT OF TAXATION
 HAWAIIAN TERRITORY
 TAX MAPS BRANCH
 STATE OF HAWAII
TAX MAP
 SOUTH TAXATION DISTRICT
 COUNTY OF HAWAII
 SCALE 1 IN. = 100 FT.

YEAR	5	9	02
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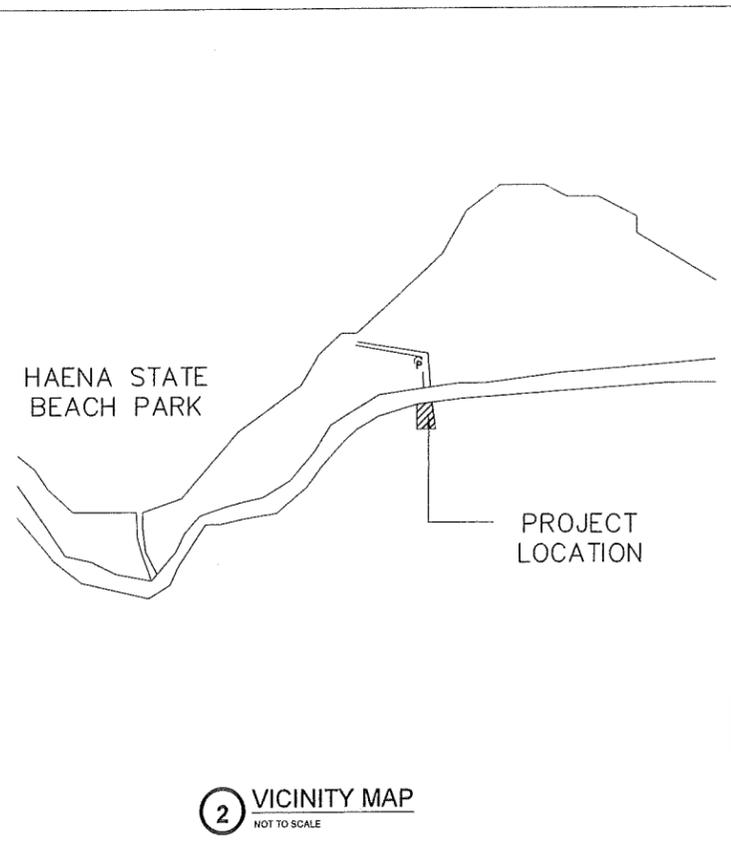
POR. HAENA, MALEIA, KAUAI.



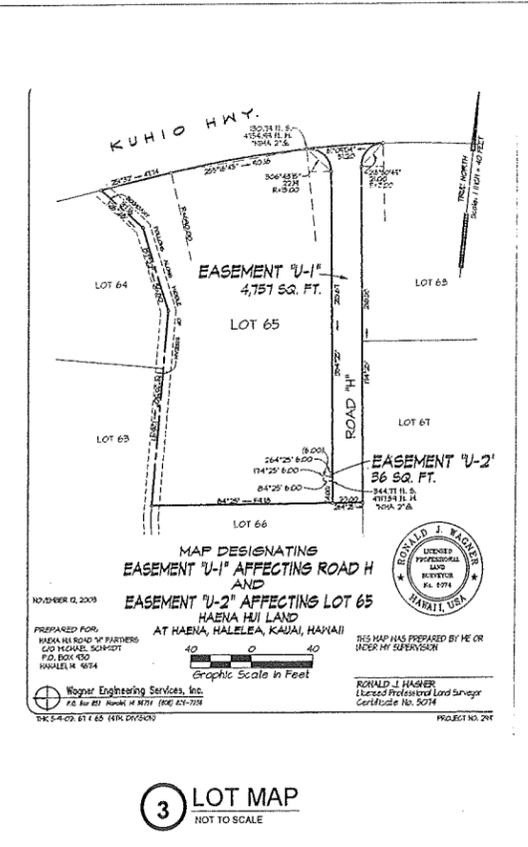
④ PERSPECTIVE ARIAL



① ISLAND MAP
1" = 20" = 0"



② VICINITY MAP
NOT TO SCALE



③ LOT MAP
NOT TO SCALE

AREA CALCULATION:
 INTERIOR LIVING AREA: 2186 SQ.FT
 COVERED LANAI: 456 SQ.FT
 DECKING: 669 SQ.FT
 STAIRS: 181 SQ.FT
 TOTAL AREA: 3492 SQ.FT

- SHEET INDEX:**
- A-100 SITE PLAN
 - A-101 FLOOR PLAN
 - A-102 RCP & ROOF PLAN
 - A-201 EXTERIOR ELEVATIONS
 - A-202 EXTERIOR ELEVATIONS
 - A-203 SECTIONS
 - A-204 DETAILED WALL SECTION
 - A-301 DOOR SCHEDULE
 - A-302 WINDOW SCHEDULE
 - A-501 INTERIOR ELEVATIONS
 - A-502 INTERIOR ELEVATIONS
 - A-901 SOFFIT DETAIL
 - A-902 STAIRS ELEVATION & DETAIL
 - E-101 ELECTRICAL PLAN
 - G-001 GENERAL NOTES
 - S-101 FOUNDATION PLAN
 - S-102 ROOF FRAMING
 - S-103 FLOOR FRAMING



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 design@tropical-architect.com

MAXSON SHAW
 KUHIO HWY, HAENA
 KAUAI, HAWAII

TMK
 5-9-02-067, LOT 65

TITLE & LOCATION

As indicated

Project Status

This work was prepared by me under my supervision and control and I am a duly licensed and qualified Professional Engineer, Architect, or Landscape Architect.

NOTE: Consultant to check and verify dimensions of plot before proceeding with work.

PROJECT NO: Project Number

SIM FILE:

DRAWN BY: Melychok

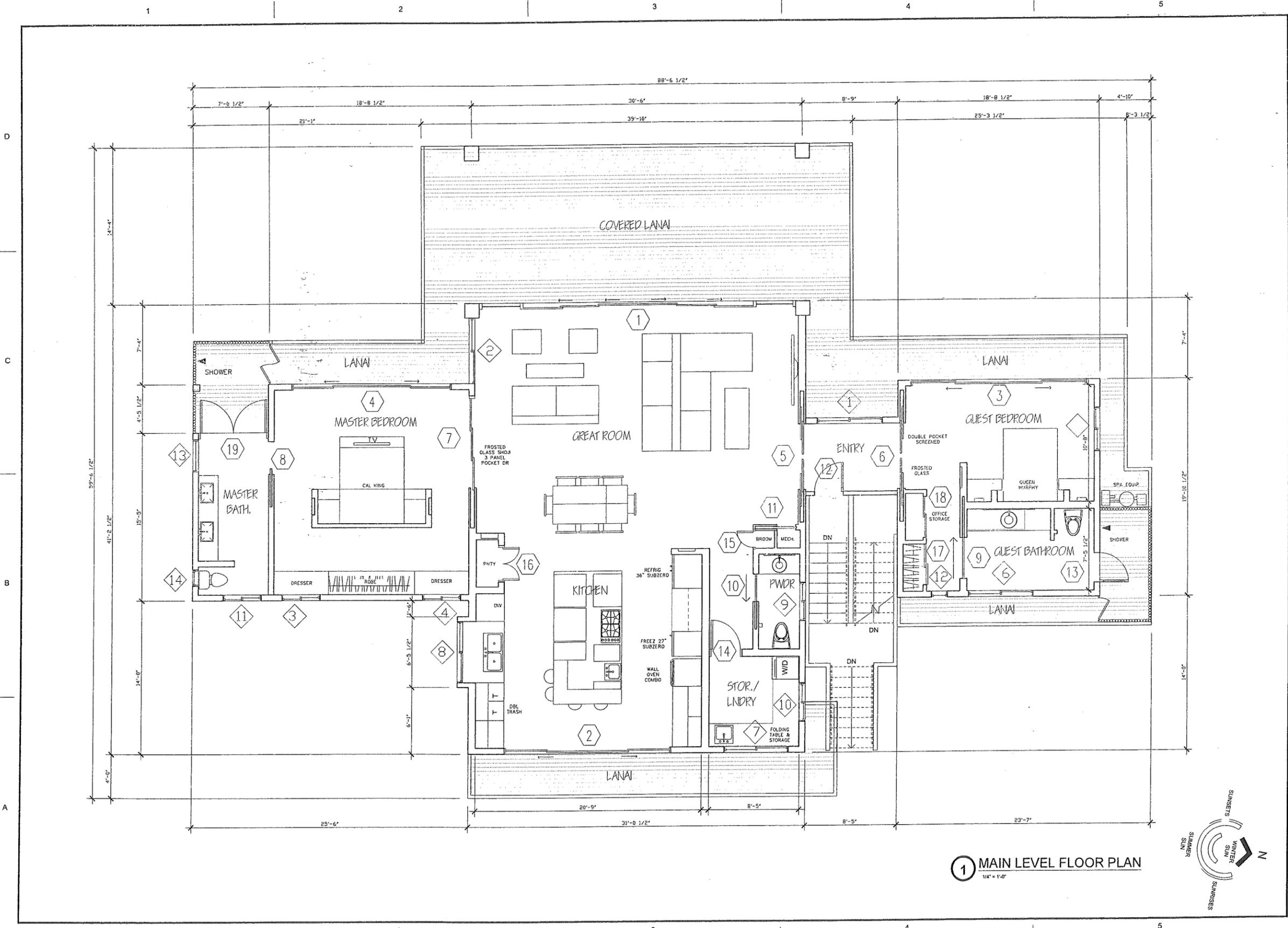
DATE: 09.5.2014

DRAWING NO

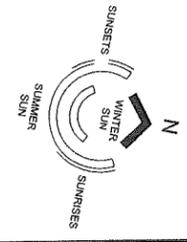
T-001

of Sheets

EXHIBIT 'B'



1 MAIN LEVEL FLOOR PLAN
1/4" = 1'-0"



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MAXSON SHAW
KUHIO HWY, HAENA
KAUAI, HAWAII

TMK
5-9-02-67, LOT 65

MAIN LEVEL, GARAGE
FLOOR PLAN

3/16" = 1'-0"

Project Status

This work was prepared by me and/or my associates and
I warrant that the design and construction documents
are in accordance with the applicable laws, rules and
regulations of the State of Hawaii and the Department of
Professional Services, and that I am a duly Licensed
Professional Engineer, Architect, Surveyor and Landscape
Architect.

SCALE: 1/4" = 1'-0" (shown size of the
sheet)

NOTE: Contractor to check and verify all dimensions at job before
proceeding with work.

PROJECT NO.	Project Number
BM FILE	
DRAWN BY	McLyehok
DATE	09.5.2014
DRAWING NO.	

A-101

of Sheets



EXHIBIT 'C'







FLORAL AND FAUNAL SURVEY

TMK (4) 5-9-02:067
Ha'ena, Kaua'i, Hawai'i

Introduction

The following Floral and Faunal Survey was conducted in order to fulfill CDUA permitting requirements for TMK (4)5-9-02:067, the Maxon Parcel, located in Ha'ena, Kauai. The survey area is the entire parcel, which is 26,371 sq. ft.

The information provided in this report was obtained by walking through the survey area on foot. All plant and animal species observed were identified and noted. The parcel was thoroughly covered during a 40 minute period on May 7th, 2004.

Vegetation

The vegetation in the survey area can be described as a coastal alien wet forest. This plant community is completely non-native and is anthropogenic. Coastal lowland forests of this type are one of the primary vegetation types in the lowlands of Ha'ena. They resulted from a thousand of years of human habitation, agriculture, alien species introductions, tsunamis, and hurricanes. This vegetation type is extensive on the North shore of Kauai, and this reduction does not represent a significant loss of this habitat for any sensitive plant or animal species. A complete list of plant species observed on the site can be found in Appendix 1.

The current vegetation consists of a closed canopy forest dominated by Indian almond (*Terminalia cattapa*), Java plum (*Syzygium cumini*), and coconut palms (*Cocos nucifera*), all very common non-native trees in the Ha'ena area. The golden pothos (*Epipremnum pinnatum*) is found as a woody vine growing on all of the large trees in the parcel. Near the roadside there are several 'true kamani', aka. Alexandrian laurel (*Calophyllum inophyllum*) trees. The forest canopy heavily shades the ground on this site. Plant species encountered on the ground entirely of introduced origin. These consist of a large number of common 'weed' species. The most frequently encountered are castor bean (*Ricinus communis*), wedelia (*Wedelia trilobata*), indigo (*Indigofera suffruticosa*), Spanish clover (*Desmodium incanum*), candle bush (*Senna alata*), and several species of introduced grasses.

Animal Species Observed

This parcel is habitat for a number of non-native bird species such as Japanese white-eye (*Zosterops japonicus*), red-crested cardinal (*Paroaria coronata*), and wild jungle fowl (*Gallus gallus*). A complete list of animal species observed on the site can be found in Appendix 2. These species will likely move to adjacent habitat during construction, but will continue to use the area once the construction activity has ceased.

Threatened and Endangered Species

No native animal or plant species were observed during this survey. The survey did not locate any plant or animal species that are Federally Listed as Threatened or Endangered Species, or any species that are candidates for Federal Listing.

Prepared by David W. Bender, Ecological Consultant

Signed : 

Date : 05-10-04

EXHIBIT "D"

Appendix 1. Plant species observed at Maxon Parcel. TMK (4) 5-9-02:067

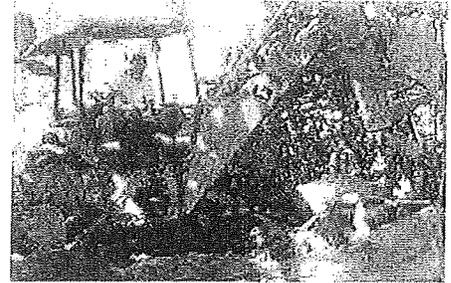
Botanical Name	Common Name	Status	Form
Dicotelydons			
Amaranthaceae			
<i>Amaranthus viridus</i>	slender amaranth	modern intro.	herb
Apocynaceae			
<i>Cascabela thevetia</i>	yellow oleander	modern intro.	tree
Asclepidaceae			
<i>Asclepias curassavica</i>	butterfly weed	modern intro.	herb
Asteraceae			
<i>Crassocephalum crepidioides</i>	none	modern intro.	herb
<i>Pluchea carolinensis</i>	sourbush	modern intro.	shrub
<i>Synedrella nodiflora</i>	synedrella	modern intro.	herb
<i>Wedelia trilobata</i>	wedelia	modern intro.	herb
Caricaceae			
<i>Carica papaya</i>	papaya	modern intro.	tree
Casuarinaceae			
<i>Casuarina equisetifolia</i>	ironwood	modern intro.	tree
Clusiaceae			
<i>Calophyllum inophyllum</i>	Alexandrian laurel	Polynesian intro.	tree
Combretaceae			
<i>Terminalia catappa</i>	Indian almond	modern intro.	tree
Commelinaceae			
<i>Commelina diffusa</i>	honohono	modern intro.	herb
Convolvulaceae			
<i>Ipomoea triloba</i>	little bell	modern intro.	vine
<i>Stictocardia tilifolia</i>	morning glory	modern intro.	vine
Euphorbiaceae			
<i>Aleurites moluccana</i>	kukui	Polynesian intro.	tree
<i>Breynia nivosa</i>	snow bush	modern intro.	shrub
<i>Ricinus communis</i>	castor bean	modern intro.	tree
Fabaceae			
<i>Senna alata</i>	candle bush	modern intro.	shrub
<i>Indigofera suffruticosa</i>	indigo	modern intro.	shrub
Myrtaceae			
<i>Syzigium cumini</i>	Java plum	modern intro.	tree
Passifloraceae			
<i>Passiflora foetida</i>	wild passionfruit	modern intro.	vine
Solanaceae			
<i>Lycopersicon esculentum</i>	wild tomato	modern intro.	herb
<i>Physalis angulata</i>		modern intro.	herb
Verbenaceae			
<i>Stachytarpheta jamaicensis</i>	Jamaican vervain	modern intro.	shrub
Monocotelydons			
Agavaceae			
<i>Cordyline fruticosa</i>	green ti	Polynesian intro.	tree
<i>Cordyline terminalis</i>	ornamental ti	modern intro.	tree
Arecaceae			
<i>Cocos nucifera</i>	niu	Polynesian intro.	tree
Araceae			
<i>Alocasia macrorrhizos</i>	'ape	Polynesian intro.	herb
<i>Epipremnum pinnatum</i>	golden pothos	modern intro.	vine
Liliaceae			
<i>Hippaestrum puniceum</i>	Barbados lily	modern intro.	herb
Poaceae			
<i>Cynodon dactylon</i>	Bermuda grass	modern intro.	herb
<i>Digitaria insularis</i>		modern intro.	herb
<i>Paspalum conjugatum</i>	Hilo grass	modern intro.	herb

Appendix 2. Animal species observed at Maxon Parcel. TMK (4) 5-9-02:067

Scientific Name	Common Name	Status
Birds		
<i>Acridotheres tristis</i>	common myna	modern intro.
<i>Gallus gallus</i>	wild jungle fowl	Polynesian intro.
<i>Paroaria coronata</i>	red-crested cardinal	modern intro.
<i>Zosterops japonicus</i>	Japanese white-eye	modern intro.

Archaeological Inventory Survey of Two Residential Lots at Hā'ena (TMK:4-5-9-2:66, 67)

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



PREPARED BY:

Robert B. Rechtman, Ph.D.

PREPARED FOR:

Dale McBeath
13 Quarry Road
San Rafael, CA 94901

and

Mark Maxson and Robert Shaw
336 Corbett Avenue
San Francisco, CA 94114

November 2000

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EXHIBIT "E"

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BACKGROUND	2
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INTRODUCTION

At the request of Mr. Dale McBeath and Mr. Mark Maxson, Rechtman Consulting conducted an archaeological inventory survey of TMK:(4)-5-9-2:66, 67 comprising approximately 1.5 acres located in Hā'ena Ahupua'a, Halele'a District, Island of Kaua'i. The objective of the survey was to record the locations of all archaeological sites and features that might be present on the study parcel and to provide preliminary significance evaluations for any recorded sites. This report is intended to accompany a State Conservation District Use Application (CDUA) as well as fulfilling 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 *draft* Hawaii Administrative Rules.13§13-284 (dated 10-15-98).

This report details the current project objectives and 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 offered.

Scope of Work

Given the nature of known archaeological resources in the general vicinity of the current project area, a discussion was conducted with Nancy McMahan, Kaua'i Island Archaeologist for DLNR-SHPD to define an appropriate scope of work to guide the research effort. 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 a limited 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 subsequent historic preservation work that may be required.

Project Area Description

The project area (Figure 1) consists of approximately 1.5 acres located in Hā'ena Ahupua'a, Halele'a District, Island of Kaua'i (TMK:4-5-9-2:66, 67). Hā'ena is a relatively small *ahupua'a*, encompassing only 7.7 square kilometers. Although it has a long coastal strip (almost 5 kilometers), it does not extend *mauka* very far. There are two permanent streams that flow through Hā'ena, Limahuli and Mānoa. The coastal areas of Hā'ena are characterized by dune and stabilized dune formations and alluvial benches adjacent to the major drainages. Along the coast the mean annual rainfall is about 1,700 millimeters, which increases to nearly 10,000 millimeters in the inland portions of the *ahupua'a*.

The study parcels are situated along the coast, roughly 130 meters inland from Hā'ena Bay. The project area is bounded on the north by Kuhio Highway, on the west by an intermittent drainage, on the east by two other undeveloped parcels, and on the south by a single large parcel (Figure 2). The terrain throughout the project area is relatively flat, with two rolling dune formations on the *makai*-most property (Parcel 67). Nearly a third of the study area is formed by the drainage. The project area supports a false *kamani* (*Terminalia catappa*) and Java plum (*Eugenia cumini*) canopy with an understory of weeds and grasses. Several coconut palms (*Cocos nucifera*) and *kukui* (*Aleurites moluccana*) are also present. Metal roofing debris can be found scattered on the surface, likely the result of Hurricane Iniki in 1992.

BACKGROUND

To generate 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 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 that was focused on the *ahupua'a* of Halele'a, and specifically in Hā'ena Ahupua'a, was conducted in 1972 (Earle 1973, 1978). Earle conducted a district-wide survey and recording of agricultural features. He recorded the substantial site complexes at coastal Limahuli and 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 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 that may represent the earliest habitation on Kaua'i's north coast, circa AD 900 (Hammatt et al. 1978). That research also indicated that the intensive use of irrigated agricultural fields began after AD 1200 (Hammatt et al. 1978).

Closer to the current study area, there have been numerous archaeological investigation of parcels on Hā'ena Point and vicinity (Table 1; see also Hammatt and Schideler 1998). Cumulatively these studies have documented a buried midden deposit (SIHP Site 50-30-01-1809) that extends throughout the area, albeit intermittently. The other significant findings of the previous projects in the area have been the discovery of over 60 individual burials on seven different parcels. Clearly the sand deposits of Hā'ena Point were used as a cemetery.

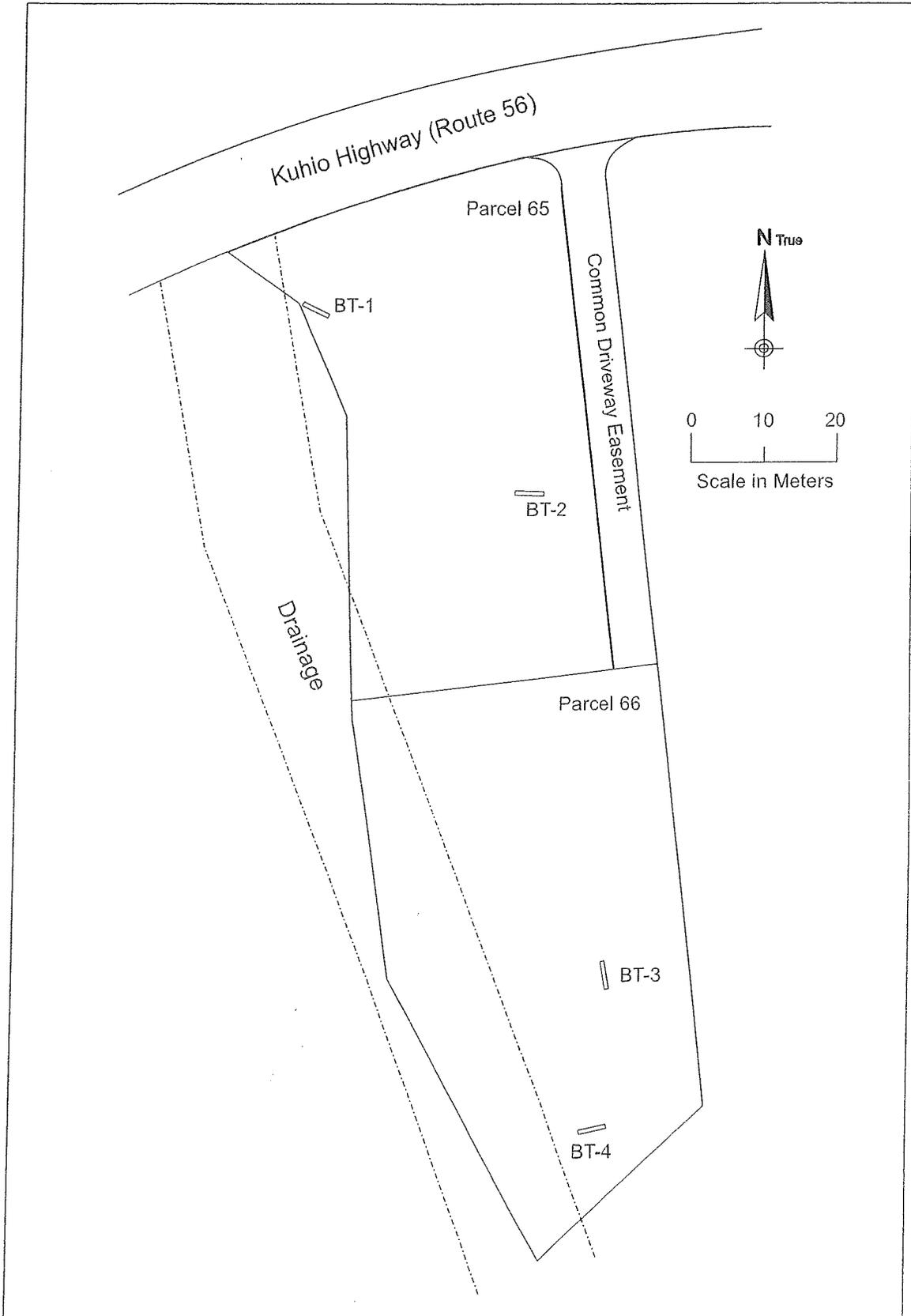


Figure 2. Locations of backhoe trenches on parcels.

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
McMahon (1988)	41	Inadvertent burial discovery
McMahon (1996)	52	Inadvertent burial discovery
Moore and Kennedy (1995)	52	Inventory
Rechtman (1994)	31	Monitoring
Soldo and Dixon (1994)	36	Monitoring

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

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

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 the all 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 Kauai became under the direct rule of the young king (Kamehameha III). Kaikiohewa was appointed governor and the lands were redivided 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 Mahele of 1848. The *ahupua‘a* of Hā‘ena was awarded (LCAw. 10613) to Abner Paki husband of L. Konia. Konia was a granddaughter of Kamehameha I. In addition, there were 23 *kuleana* awards granted in Hā‘ena; the current study area was not part of a *kuleana* award. 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* Mahele 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).

Project Expectations

Given the substantial amount of archaeological research in the immediate vicinity of the project area, and the comprehensive historical and cultural background developed for Hā‘ena (Silva 1995), the following set of expectations concerning potential findings can be generated. A buried pre-Contact midden deposit (SIHP 50-30-02-1809) is known to exist throughout the Hā‘ena Point area and likely extends *mauka* as far as the current study area. However, as documented by Hammatt and Schideler (1998) it is possible that this buried site was restricted to areas north and east of the current study parcels. It appears as though a corridor, which includes the current project area (perhaps associated with the drainage) has been the focus of intensive environmental energy. Two historically recorded tsunamis (in 1946 and 1957) ravaged this area (Shepard et al. 1950). These episodes may have resulted in the removal of cultural deposits, or alternatively as Hammatt and Schideler (1998) posit, pre-Contact Hawaiians may have been aware of the potential hazards, and that may have been a factor in a decision not to inhabit the corridor. The burials that have been encountered on Hā‘ena Point do not seem to extend inland to the current project area; although, the possibility does exist the burials could be encountered within the study area.

FIELDWORK

Robert B. Rechtman, Ph.D., and Dennis S. Dougherty, B.A. conducted a 100%-coverage pedestrian survey of both parcels on October 12, 2000. Subsurface testing with a backhoe was carried out on October 13, 2000.

Methods

The survey strategy included a visual inspection of the entire surface area of both parcels. Based on observations made during this activity, four locations for subsurface testing were selected, two in each parcel. A backhoe was used to excavate the roughly four-meter long trenches, one bucket-width wide, at the four selected locations. The width of the backhoe bucket used was 90 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 backhoe trenches are plotted on Figure 2.

Findings

No archaeological resources of any kind—be they traditional Hawaiian sites, features, cultural material, or Historic Period items—were encountered during the current investigation.

The stratigraphy visible in the backhoe trenches was consistent throughout the project area, exhibiting two distinct storm episodes within a sandy environment. In the *makai*-most trench (BT-1) a 20-centimeter layer (Layer I) of very dark grayish brown loamy sand (Iniki related?) covers a 13-centimeter stratum (Layer II) of unconsolidated fine to medium-grained brown sand. Below the unconsolidated sand is another storm layer (Layer III), 30 centimeters thick, of dark grayish brown loamy sand, which is above two strata (Layers IV and V) of compacted lighter sand (Figure 3). All of the layers were culturally sterile. In BT-2–4, Layers I and II were not present, and Layers III–V are as described for BT-1 (see Figure 3). Table 2 lists the test trenches and the observed stratigraphy.

Table 2. Backhoe trenches and depths* of observed strata.

<i>BT #</i>	<i>Layer I/II interface</i>	<i>Layer II/III interface</i>	<i>Layer III/IV Interface</i>	<i>Layer IV/V Interface</i>
1	20	33	63	103
2	NA	NA	40	100
3	NA	NA	40-60	110
4	NA	NA	24-28	110

*Depths in centimeters below surface.

The stratigraphy recorded during this project is consistent with that recorded by Hammatt and Schideler (1998) within the parcel (TMK:5-9-02:50) on the immediately *makai* side of Kuhio Highway from the current study area. And similarly, there were no cultural resources recorded during that study. Apparently, the buried cultural layer reported by Folk (1990) on Hā'ena Point does not extend as far west as the current study area.

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 *Draft Hawai'i Administrative Rules 13§13-284*.

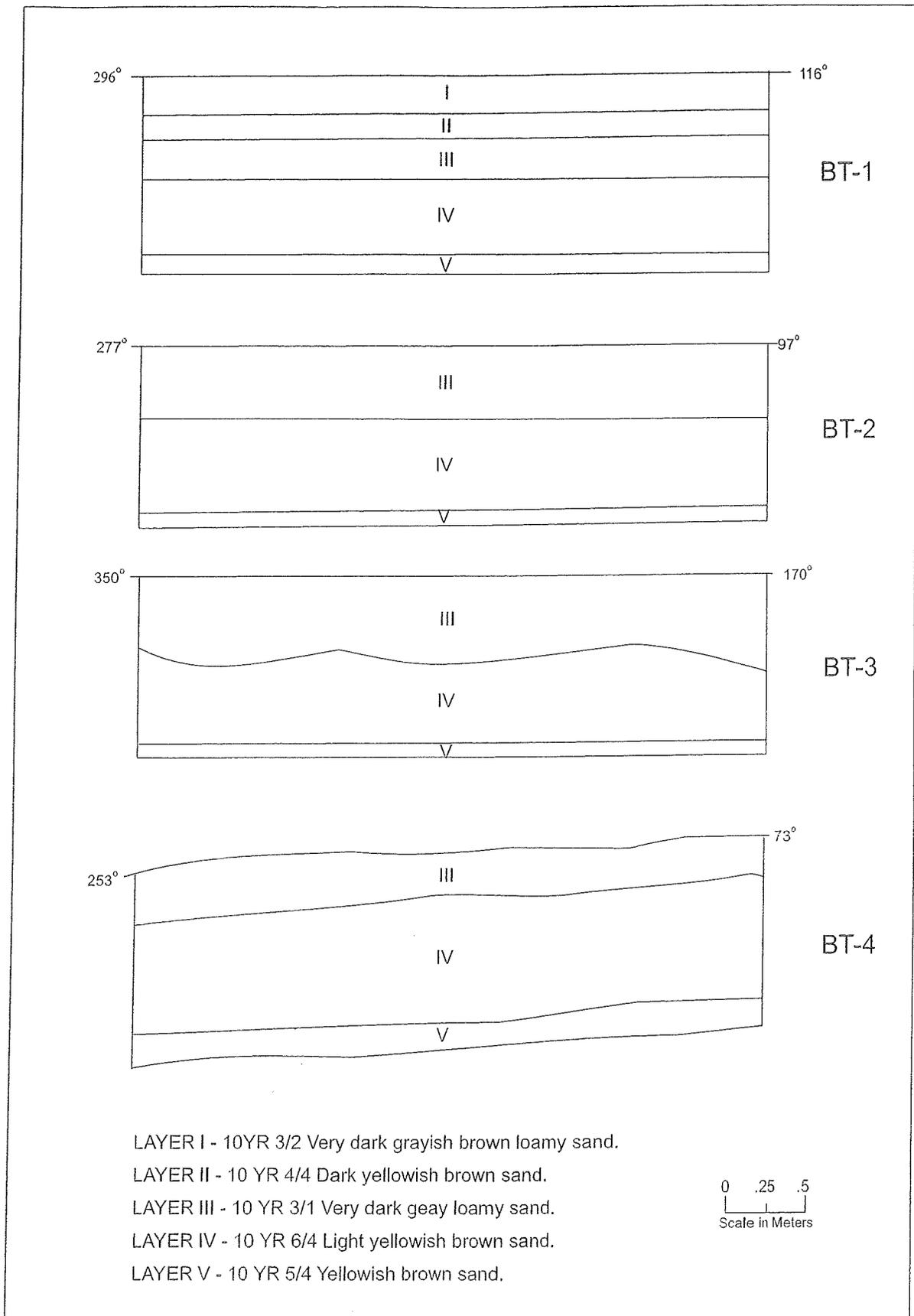


Figure 3. Trench profiles.

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Cultural Impact Assessment for the Proposed Residential Development of TMK:4-5-9-2:67

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



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ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL STUDIES

EXHIBIT "F"

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TABLE

1. Previous relevant studies.	I
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INTRODUCTION

At the request of Mr. Mark Maxson and Mr. Robert Shaw, Rechtman Consulting, LLC has prepared this Cultural Impact Assessment (CIA) associated with the proposed residential development of TMK:4-5-9-2:67 within Hā'ena Ahupua'a, Halele'a District, Kaua'i Island (Figure 1). There has been a substantial amount of historical/archaeological/cultural work completed in Hā'ena Ahupua'a (Bennett 1931; Earle 1973, 1978; Griffin et al. 1977; Hammatt and Meeker 1979; Hammatt et al. 1978; Silva 1995; Yent 1980); and closer to the current study area, there have been numerous investigations of parcels within the former Hā'ena Hui Lots (Table 1).

Table 1. Previous relevant studies.

<i>Study Citation</i>	<i>TMK Parcel Number*</i>	<i>Type of Study</i>
Anonymous (1992)	62	Cultural impact study
Denham and Kennedy (1993)	34	Monitoring
Dye (1992)	62	Inventory survey
Folk (1990)	48	Reconnaissance
Hammatt (1980)	22	Reconnaissance
Hammatt (1984a)	22	Inventory survey
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 survey
Kennedy (1989)	51	Inventory survey
Kruse (1994)	20	Monitoring
McMahon (1988)	41	Inadvertent burial discovery
McMahon (1996)	52	Inadvertent burial discovery
Moore and Kennedy (1995)	52	Inventory survey
Rechtman (1994)	31	Monitoring
Rechtman (2000)	66,67	Inventory survey
Rechtman (2003)	66,68	Monitoring
Rechtman (2004)	69,70	Burial treatment plan
Rechtman and Clark (2002)	69,70	Inventory survey
Silva (1995)	Hā'ena State Park	Historical cultural report
Soldo and Dixon (1994)	36	Monitoring

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

Cumulatively these studies have documented a buried cultural deposit (SIHP Site 50-30-01-1809) that extends throughout the area, albeit intermittently. The other significant findings of the previous projects in the area have been the discovery of over 60 individual burials on eleven different parcels. An archaeological survey (Rechtman and Clark 2002) performed on two parcels (TMK:4-5-9-2:69,70) adjacent to and east of the current project area identified two sites: SIHP Site 50-30-01-2071 and SIHP Site 50-30-01-1872. Site 50-30-01-2071 is a burial that was located during backhoe trenching and Site 50-30-01-1872 is a historically known area containing an aboveground concrete burial crypt and the unmarked graves of at least four other individuals. Burials were also found in the dune formations on Parcel 68, the roadway lot adjacent to the current study parcel (Rechtman 2003). An archaeological survey (Hammatt and Schideler 1998) performed directly *makai* of the current project parcel on Parcel 50 produced no findings of archaeological significance, as was the case of the archaeological survey of the current parcel and the adjoining Parcel 66 (Rechtman 2000).

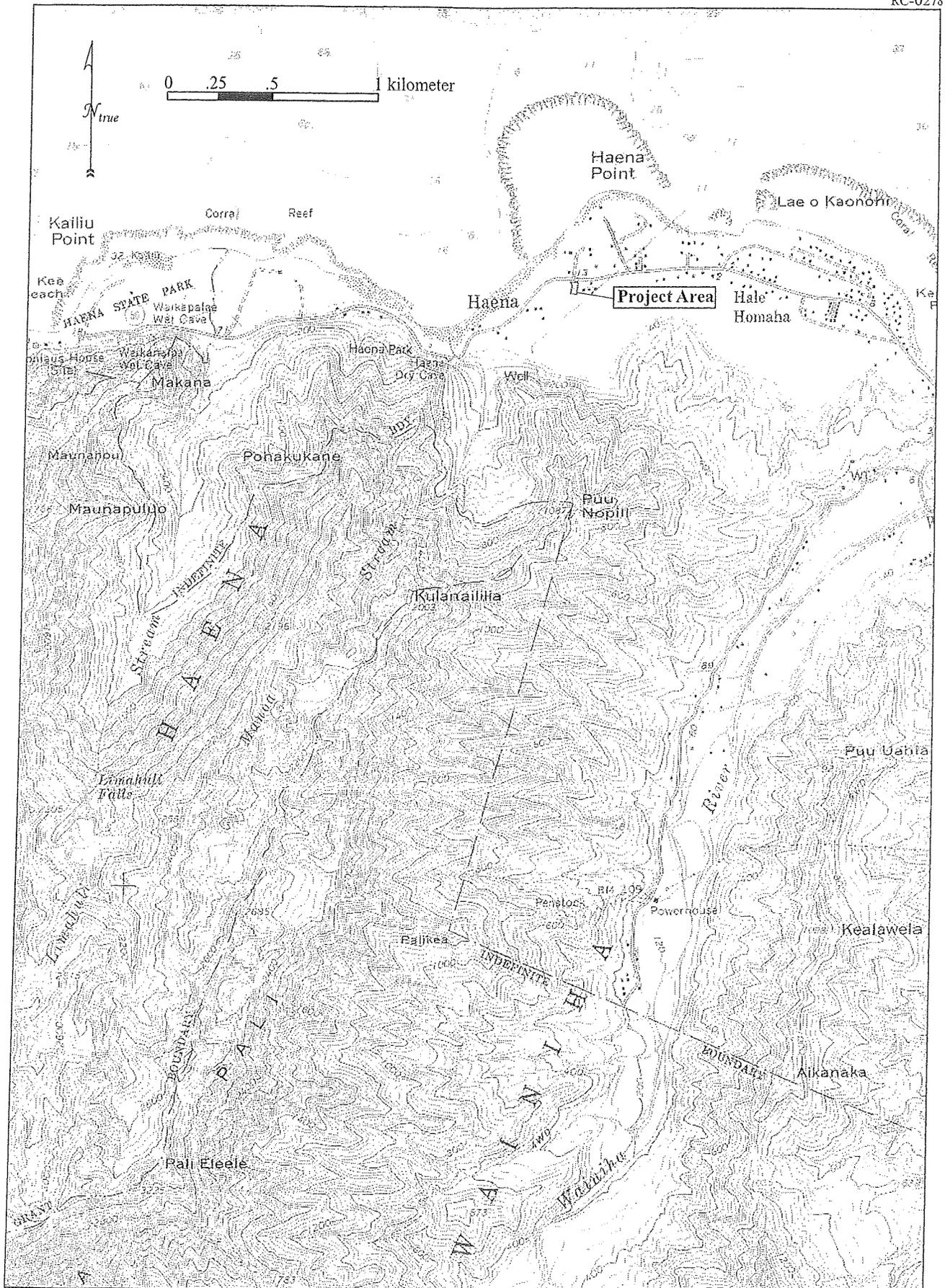


Figure 1. Project area location.

The current study is intended to accompany an Environmental Assessment (EA) being prepared in compliance with Chapter 343 HRS, as well as fulfilling the requirements of the County of Kaua'i Planning Department and the Department of Land and Natural Resources (DLNR) with respect to permit approvals for land-altering and development activities. This study has been prepared pursuant to Act 50, approved by the Governor on April 26, 2000; and in accordance with the Office of Environmental Quality Control (OEQC) *Guidelines for Assessing Cultural Impact*, adopted by the Environmental Council, State of Hawai'i, on November 19, 1997.

Below is a description of the general project area and the proposed development activities. This is followed by a detailed background section providing setting and context (cultural, historical, and regional) to facilitate a more complete understanding of the potential significance of the cultural landscape and the historic and cultural properties within that landscape. Next, the consultation process is described, which is followed by a discussion of potential cultural impacts and the appropriate actions and strategies that mitigate any potential impacts.

PROJECT AREA DESCRIPTION AND PROPOSED DEVELOPMENT ACTIVITIES

The project area (Figure 2) consists of approximately .75 acres located in Hā'ena Ahupua'a, Halele'a District, Island of Kaua'i (TMK:4-5-9-2:67). Hā'ena is a relatively small ahupua'a, encompassing only 7.7 square kilometers. Although it has a long coastal strip (almost 5 kilometers), it does not extend *mauka* very far. There are two permanent streams that flow through Hā'ena, Limahuli and Mānoa. The coastal areas of Hā'ena are characterized by dune and stabilized dune formations and alluvial benches adjacent to the major drainages. Along the coast the mean annual rainfall is about 1,700 millimeters, which increases to nearly 10,000 millimeters in the inland portions of the ahupua'a.

The study parcel is located roughly 130 meters inland from Hā'ena Bay. The project area is bounded on the north by Kuhio Highway, on the west by an intermittent drainage, on the east by a roadway parcel, and on the south by a developed single-family residential parcel (see Figure 2). The terrain within the project area consists of two rolling dune formations toward the north and east, and low-lying areas and drainage to the south and west. The project area supports a false *kamani* (*Terminalia catappa*) and Java plum (*Eugenia cumini*) canopy with an under story of weeds and grasses. Coconut palms (*Cocos nucifera*) and kukui (*Aleurites moluccana*) are also present.

The landowners plan to construct a single-family residence on the parcel, which will be accessed from the roadway parcel to the east. The construction drawings have not been finalized, and will take into account any recommendations offered in this study.

BACKGROUND STUDIES

This section of the report describes and synthesizes prior archaeological, cultural, and historical studies (see Table 1) that are relevant to the current project area; and provides a brief culture-historical background.

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 that focused on the District of Halele'a, and specifically in Hā'ena Ahupua'a, was conducted in 1972 (Earle 1973, 1978). Earle conducted a district-wide survey and recording of agricultural features. He recorded the substantial site complexes at coastal Limahuli and 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 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 that may represent the earliest habitation on Kaua'i's north coast, circa AD 900 (Hammatt et al. 1978). That research also indicated that the intensive use of irrigated agricultural fields began after AD 1200 (Hammatt et al. 1978).

Previous studies most proximate to the current project area were conducted by Anonymous (2002) Dye (2002), Hammatt and Schideler (1998), McElroy (2003), Rechtman (2000, 2003, 2004), and Rechtman and Clark (2002). Hammatt and Schideler's (1998) investigation of TMK:4-5-9-02:50, a roughly one acre parcel located directly *makai* of the current study parcels, produced negative results with respect to identifying archaeological resources. Neither a buried cultural deposit nor burials were encountered in the substantial subsurface testing carried out as part of their investigation. The results of an archaeological inventory survey on the immediately *mauka* parcel (Parcel 66) and on the current study parcel by Rechtman (2000) also produced negative findings with respect to archaeological resources. Rechtman and Clark (2002) recorded two burial sites on the parcels to the east (Parcels 69 and 70): SIHP Site 50-30-01-2071 and SIHP Site 50-30-01-1872. Rechtman (2004) prepared a burial treatment plan for these two sites. Several burials were discovered inadvertently during the placement of subsurface utilities and subsequent monitoring (Rechtman 2003) within the roadway parcel (Parcel 68) adjacent to the east side of the current study area. In 2002 T. S. DYE and Associates (Dye 2002) conducted an archaeological survey of a property (Parcel 62) adjacent to the west side current study parcel, which resulting in no significant findings. Associated with the development of that same parcel (Parcel 62) a cultural impact assessment was prepared (Anonymous 2002). The conclusion of that study was that "there are no modern or historical cultural resources or practices on the subject lot, and that building a single-family residence on the lot TMK 5-0[sic9]-02-62 would not restrict access to any cultural resources or practices. Nothing was found in the documentary research to contradict the information from the informants and ethnographic interviews." (Anonymous 2002).

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 the all 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 Kauai became under the direct rule of the young king (Kamehameha III). Kaikiohewa was appointed governor and the lands were redivided 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 Mahele of 1848. The *ahupua'a* of Hā'ena was awarded (LCAw. 10613) to Abner Paki husband of L. Konia. Konia was a granddaughter of Kamehameha I. In addition, there were 23 *kuleana* awards granted in Hā'ena; the current study area was not part of a *kuleana* award. 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'akalaniwahikapua'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* Mahele 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 67 was originally Hui lot 65 and apparently was never built upon. Figure 3 shows the general locations of the *kuleana* awards and the locations of archaeologically recorded pondfield, habitation, ceremonial, and previously identified burial areas in coastal Hā'ena.

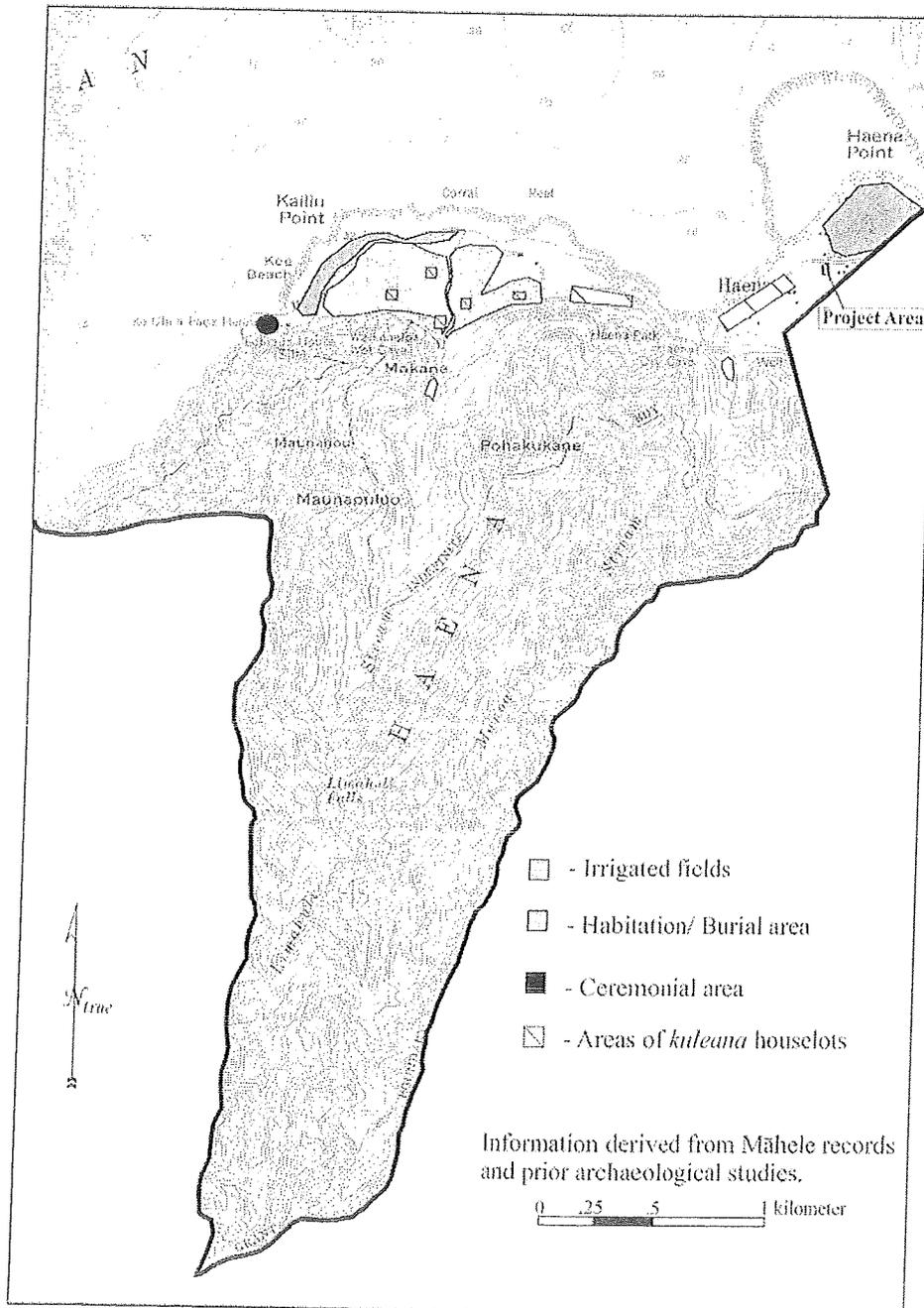


Figure 3. Hā'ena Ahupua'a showing general coastal site locations.

CONSULTATION

The consultation done for the cultural impact assessment performed in 2002 on an adjacent parcel (Parcel 62) is relevant to the current study, and was relied upon in evaluating the potential cultural impacts resulting from the current proposed development activities. In addition, interviews conducted by the current author with three knowledgeable individuals have been summarized for the current study.

During the course of several years of archaeological investigation in the Hāena area, the current author has become acquainted with Violet Hashimoto-Goto (Auntie Vi), Phyllis Ku‘ulei Pā-Keahi (Auntie Ku‘ulei), and Tom Hashimoto (Uncle Tom); these *kūpuna* either live or have lived within the immediate project area. Auntie Vi currently lives two properties to the east of the study parcel, Auntie Ku‘ulei grew up on the parcel adjacent to the current study parcel, and Uncle Tom grew up on the parcel where his sister Violet now lives. All three shared information about family burials on Parcel 66, adjacent to the current study parcel. In all, five individuals were identified as having been buried between 1910 and 1942 at what is now described as SIHP Site 2071. Uncle Tom further related a story from his childhood that revealed the potential presence of an ancient trail that ran in an southeast/northwest direction cutting across what is now Parcel 70, through the roadway parcel (Parcel 68) and possibly through the current study parcel (Parcel 67) (Figure 4). Uncle Tom described that one early morning in the mid 1940s, he and his father heard suspicious noises come from their neighbor’s house (on Parcel 66), and when they went to investigate they found the adult male resident of the house covering in his bed terrified from the voices he had heard and from household goods having been dislodged from their locations. The explanation for these events that Uncle Tom’s father offered to him was that the house must have been built on an ancient trail. Following the destruction of the house during either the 1946 or 1957 *tsunami*, the house was rebuilt in a more *makai* location, apparently off-of the ancient trail, as the residents were no longer bothered by the described phenomena. Uncle Tom indicated that he did not know the exact course of the trail through the current study area, but assumed that it continued its same southeast/northwest trajectory at least as far as current Kuhio Highway, this general area is pictured in Figure 5. He strongly suggested that the parcel receive appropriate blessings prior to any development activities.

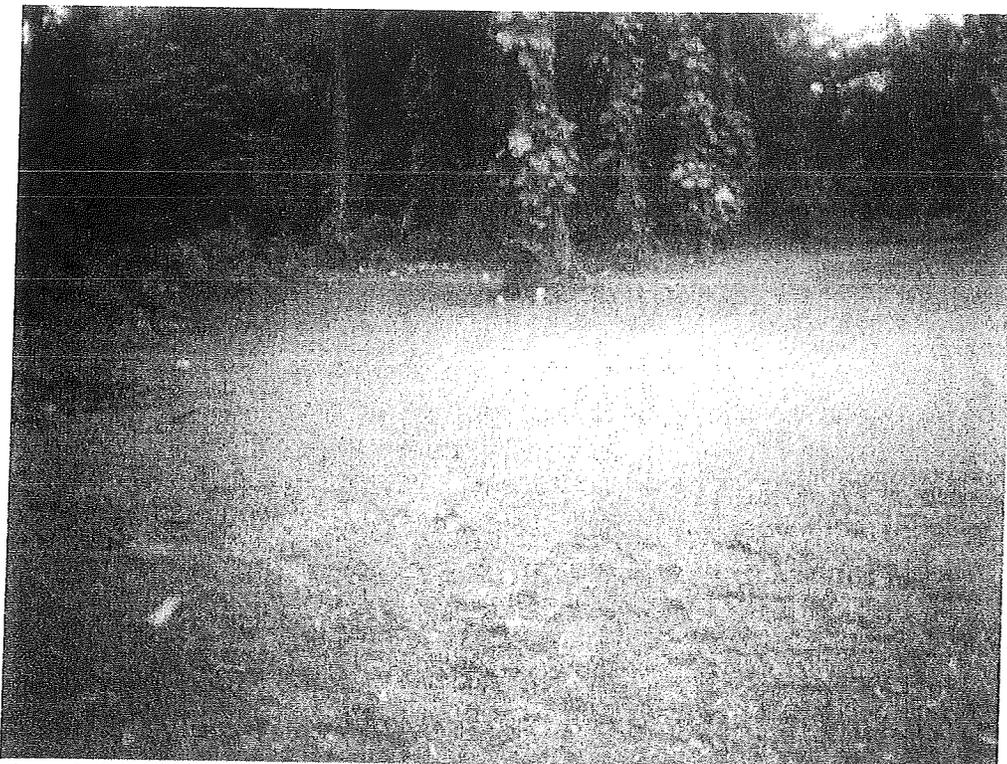


Figure 5. Central portion of the study parcel, view to west.

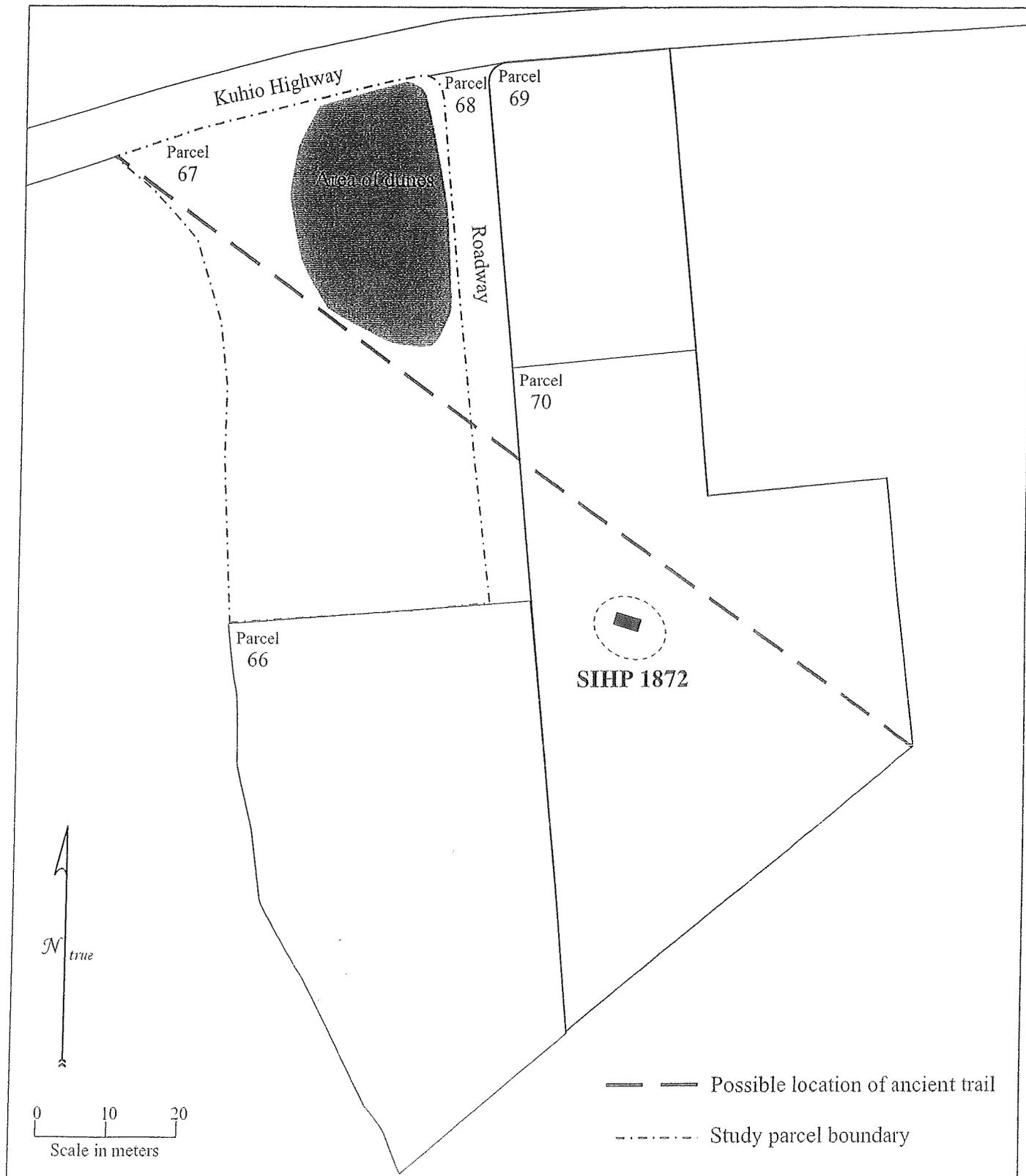


Figure 4. Study parcel and adjacent parcels showing locations of known and potential cultural resources.

IDENTIFICATION AND MITIGATION OF POTENTIAL CULTURAL IMPACTS

The OEQC guidelines identify several possible types of cultural practices and beliefs that are subject to assessment. These include subsistence, commercial, residential, agricultural, access-related, recreational, and religious and spiritual customs. The guidelines also identify the types of potential cultural resources, associated with cultural practices and beliefs that are subject to assessment. Essentially these are nature features of the landscape and historic sites, including traditional cultural properties. In the Hawai'i Revised Statutes—Chapter 6E a definition of traditional cultural property is provided.

“Traditional cultural property” means any historic property associated with the traditional practices and beliefs of an ethnic community or members of that community for more than fifty years. These traditions shall be founded in an ethnic community’s history and contribute to maintaining the ethnic community’s cultural identity. Traditional associations are those demonstrating a continuity of practice or belief until present or those documented in historical source materials, or both.

The origin of the concept of traditional cultural property is found in National Register Bulletin 38 published by the U.S. Department of Interior-National Park Service. “Traditional” as it is used, implies a time depth of at least 50 years, and a generalized mode of transmission of information from one generation to the next, either orally or by act. “Cultural” refers to the beliefs, practices, lifeways, and social institutions of a given community. The use of the term “Property” defines this category of resource as an identifiable place. Traditional cultural properties are not intangible, they must have some kind of boundary; and are subject to the same kind of evaluation as any other historic resource, with one very important exception. By definition, the significance of traditional cultural properties should be determined by the community that values them.

It is however with the definition of “Property” wherein there lies an inherent contradiction, and corresponding difficulty in the process of identification and evaluation, because it is precisely the concept of boundaries that runs counter to the traditional Hawaiian belief system. The sacredness of a particular landscape feature is often times cosmologically tied to the rest of the landscape as well as to other features on it. To limit a property to a specifically defined area may actually partition it from what makes it significant in the first place. However offensive the concept of boundaries may be, it is nonetheless the regulatory benchmark for defining and assessing traditional cultural properties. As the OEQC guidelines do not contain criteria for assessing the significance for traditional cultural properties, this study will adopt the state criteria for evaluating the significance of historic properties, of which traditional cultural properties are a subset. To be significant the potential historic property or traditional cultural property must possess integrity of location, design, setting, materials, workmanship, feeling, and association and meet one or more of the following criteria:

- A Be associated with events that have made an important contribution to the broad patterns of our history;
- B Be associated with the lives of persons important in our past;
- C Embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; or possess high artistic value;
- D Have yielded, or is likely to yield, information important for research on prehistory or history;
- E Have an important value to the native Hawaiian people or to another ethnic group of the state due to associations with cultural practices once carried out, or still carried out, at the property or due to associations with traditional beliefs, events or oral accounts—these associations being important to the group’s history and cultural identity.

While it is the practice of the DLNR-SHPD to consider most historic properties significant under Criterion D at a minimum, it is clear that traditional cultural properties by definition would also be significant under Criterion E.

As a result of the current assessment there were no definite resources identified, however, it is possible, based on recent archaeological work, that the dunes in the northeastern portion of the property may contain human burials; and, based on oral information, that an ancient trail may have once bisected the parcel. With this knowledge it is recommended that the single-family residence be designed to avoid substantial subsurface work in the dune areas, and that an archaeological (and perhaps cultural) monitor be present during subsurface development activities. If such monitoring is to occur, a monitoring plan should be prepared and submitted to DLNR-SHPD prior to the issuance of a county grubbing/grading/building permit.

To mitigate potential impacts to the possible ancient trail (and potential impact on the proposed residence from the ancient trail) it is recommended that the house be designed with these potentials in mind, and that the parcel be appropriately blessed prior to the commencement of development activities.

Execution of the above described measures will help to ensure that no cultural practices and beliefs or associated cultural resources will be adversely affected by (or will adversely effect) the proposed development of a single-family residence on TMK: 4-5-02:67.

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