

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
HONOLULU, HAWAII

January 25, 2019

**BOARD OF LAND AND
NATURAL RESOURCES
STATE OF HAWAII
HONOLULU, HAWAII**

REGARDING: Conservation District Use Application (CDUA) **KA-3828** for the *Helios Hanalei, LLC Single Family Residence Project*

APPLICANT: Helios Hanalei, LLC; Michael Gearon

AGENT: Bays Lung Rose Holma, attorneys at law

LOCATION: Hā'ena, Hanalei District, Island of Kauai

TMKs: (4) 5-4-004:032

AREA OF PARCELS: 14.1 acres

AREA OF USE: 1 acre

SUBZONE: Resource

DESCRIPTION OF AREA:

The 14.1-acre parcel is located on the northern coast of Kaua'i (**Exhibit 1**), and consists of a large graded open field, cleared of vegetation, and an approximately 100-foot Concrete Rubble Masonry (CRM) wall and entrance gate located at the entrance to the property from Kūhiō Highway (**Exhibit 2**). An unpaved driveway also exists on the parcel and is the sole access to the large open cleared area on the parcel. The subject parcel is adjacent to the Hanalei National Wildlife Refuge to the south and east (**Exhibit 3**), the Hanalei River to the south and Kūhiō Highway to the west and North (**Exhibit 4**).

The majority of the subject parcel consists of gently sloping terrain in the area of the large field which descends to steep slopes on the southern portion which are covered with thick vegetation and ground cover. The northern portion of the parcel bounds Kūhiō Highway and is also bordered by thick vegetation and ground cover. The lot is located on an ancient wave-cut terrace underlain by lava flows associated with Mt. Namahana, and extinct, secondary volcanic vent structurally connected to Mt. Wai'ale'ale, the principal volcano that formed the island of Kauai.

Kūhiō Highway, which bounds the majority of the subject parcel, is known as the Kauai Belt Road, and is included on the National Register of Historic Places, as is the nearby Hanalei Bridge. Kūhiō

Highway between Princeville and Hā'ena is part of the original Belt Road system and retains its historic significance and character. Staff notes the original alignment of the belt road ran through the subject parcel prior to the construction of the permanent highway.

Directly across Kūhiō Highway from the subject parcel is the Hanalei Garden Farms condominium and homestead properties. These include homes, farm dwellings, and agricultural activities. The Hanalei Fire and Police station, also known as "Station 1", is located approximately 0.1 miles from the subject parcel.

Established in 1972, the Hanalei National Wildlife Refuge is the oldest of Kauai's three (3) national wildlife refuges and is owned and maintained by the United States Fish and Wildlife Service (USFWS). The 917-acre refuge is located mainly in the Hanalei River Valley and extends upslope to abut the subject parcel to be developed. The refuge was established under the Endangered Species Act to conserve five (5) endangered water birds that rely on the Hanalei Valley for nesting and feeding habitat: the Hawaiian Duck, the Hawaiian Coot, the Hawaiian Moorhen, and Hawaiian Stilt, and the Hawaiian Goose (*Nene*). It should be noted that only limited public access to the refuge is provided.

Slope mitigation work covering approximately 3-acres of the subject parcel was completed by the State of Hawaii Department of Transportation (HDOT) to alleviate rock fall and erosion issues along Kūhiō Highway. The completed work includes rock anchors, cables, steel mesh and netting that will remain in place preventing further rockfall events in this area. However, staff notes that more recently (2018) a rockfall/landslide occurred along the same slope, but closer to the proposed SFR position. While the road has been reopened and debris cleaned up the slope failure has yet to be mitigated by HDOT.

CURRENT USE OF PROJECT PARCEL:

Existing Biological Resources

The vegetation covering the eastern 2/3 of the subject parcel is mostly mixed, secondary forest with a generally sparse understory. Between Kūhiō Highway and the subject parcel is a closed or nearly closed canopy forest of mostly introduced species: mango, avocado, *sirus* tree (*Albizia*), and gunpowder tree. Also common in this area are native or Polynesian-introduced hala, coconut and hau. Much of the project area on the western third of the subject parcel has been cleared and consists of typical landscaped grass lawn with a few scattered trees. A portion of the west-facing slope, extending below the project area to the highway, supports a mixture of trees and mostly shrubs. Scattered ornamentals are present, planted especially along the property entrance. A Natural Resources Survey report (c. 2017) reported 12 species of ferns and 120 taxa of flowering plants on the subject parcel. Four of the 12 fern species identified are native species, while among the flowering plants only 6 were considered indigenous, but not endemic.

During stationary point-counts, nine (9) species of fauna were observed on the subject parcel, while an additional five (5) species were encountered traversing the parcel, and include, but are not limited to the common spotted dove, northern cardinal, house finch, myna, Japanese white-eye, and cattle egret. However, none of these species are listed as endangered or considered native to Hawaii. The Hawaiian goose (*Nene*) is common in nearby Hanalei National Wildlife Refuge and around the Princeville area. Two seabirds – the Hawaiian Petrel and the Newell's Shearwater – regularly fly

over the region but were not observed during the survey. OCCL staff notes that Nene has been observed at a number of the open grassy areas along the Hanalei Valley ridgeline from this parcel to parcels located up-valley.

No mammals or signs of their presence were detected on the subject parcel during the survey. A domestic dog was noted, but most likely as a pet from nearby residential development. The Hawaiian Hoary bat is common to the lowlands of Kauai, although it was not detected during the survey. Staff notes that it is likely this species uses resources in the area.

Existing Cultural, Architectural, and Archeological Resources

The adjacent Kūhiō Highway, also known as the Kauai Belt Road, is on the National Register of Historic Places, as is the nearby Hanalei Bridge. Their applicable criteria include A (*property associated with events that have made a significant contribution to the broad pattern of our history*) and C (*property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction*) with significance for engineering, social history, transportation and commerce. The Kūhiō Highway between Princeville and Hā'ena is part of the original belt road system and retains its historic significance and character in its location, alignment, design, setting and association.

An Archeological Inventory Survey (AIS) was completed for the subject parcel in 2017 by an agent for the applicant. Two (2) historic properties were located within the subject parcel (**Exhibit 5**). Trenches were excavated within the footprint of the proposed SFR site, the location of the proposed swimming pool, and the waste water treatment system and other utilities. It was stated by the applicant that no cultural materials or historic properties were found during the subsurface testing.

From the AIS:

SIHP# 50-30-03-2353 is an old road documented as significant under criteria "D" for its information content. From the historic documentation, this road appears to be built before 1833. Its use was mostly abandoned when the new Kauai Belt Road was constructed. It was suggested that no further work is recommended for this historic property but because of its location, it is being indirectly being preserved "as is".

SIHP# 50-30-03-02354 is an approximately 15 x 7-meter pre-contact historic property located in a dense area of guava forest near the northern point of the property. This find is significant under multiple criteria D and E (E being significant to the Native Hawaiian Culture). Four features have been identified within that site; two (2) mounds, one (1) rock wall, and several rough stones outline a rough boundary of the historic property.

A Cultural Impact Assessment (CIA) was also conducted for this parcel. It was stated by the applicant that no traditional or cultural practices have been documented for this parcel. Interviews with informants stated that in modern times the area did have some occasional pig hunting, guava and sisal collecting, and cannabis growing. The parcel has been predominantly overgrown such that informants did not recall any traditional uses of the area.

PROPOSED USE:

The applicant (Helios Hanalei, LLC – Atlanta, GA) is proposing to construct a Single-Family Residence (SFR), and associated development on the subject parcel. The proposed SFR will be located on the sloping bluff on the western end of the parcel that has been previously cleared of tall trees and vegetation and includes an existing access road (gravel/dirt).

Single Family Residence:

The proposed SFR is a five (5) bedroom, five and a half (5.5) bathroom modular style home that includes seven (7) separate buildings connected by roofline (**Exhibit 6**). The proposed SFR would be a single-story structure with a maximum height of 18+ feet above existing grade. The proposed SFR is designed to use 4,964 square feet (sq. ft.) of the 5,000 sq. ft. of Maximum Developable Area (MDA) for parcels of this size. Additional development on the parcel includes a spa/hot tub area, salt-water swimming pool (and decking), equipment building, retaining/privacy walls, outdoor showers, outdoor cooking/grilling area, and hardscaping. All elements of the proposed SFR and swimming pool are set back no less than 58-feet from Kūhiō Highway (on the northeast boundary) and no less than 150-feet from the Hanalei-facing parcel boundary.

The exterior walls of the proposed SFR will be finished with teak siding, while exterior windows and doors will be tinted glass. Retaining/privacy walls will be comprised of lava rock, with cedar roof shingles, and a crushed coral rock driveway cover.

Landscaping:

The project site will be planted with up to four (4) large native canopy trees including milo and hala trees near the SFR and in the circular driveway, along with native *loulu* palms around the circular driveway. Naupaka will be planted to enclose the pool equipment area. Existing strawberry guava, silver oak, and java plum (all invasive species) will be removed from the house site and immediate vicinity. Hala trees within the project site will be maintained to preserve the Hawaiian “sense of place”. The existing pasture area will be maintained in its currently mowed condition.

Areas outside the project site (the vast majority of the lot, including areas bounding Kūhiō Highway) will remain as dense vegetation to maintain visual privacy and to prevent erosion of sloped areas. A landscape plan (provided by the applicant) calls for the removal of a limited portion of the existing invasive species within the bluff area of the project site along with the preservation of existing native species such as hala.

SUMMARY OF COMMENTS:

The Office of Conservation and Coastal Lands (OCCL) referred the application to the following state agencies for review and comment: DLNR - Division of Forestry and Wildlife (DOFAW), - Land Division (KDLO), - Engineering, the State Historic Preservation Division (SHPD), and the Division of Aquatic Resources (DAR). Additional State Agencies include the State of Hawaii Department of Health - Clean Water Branch (CWB) and the Department of Transportation Highways Division. The application was also provided to the County of Kauai – Planning Department, and the County of Kauai – Dept. of Public Works, and the US National Marine

Fisheries Service (USNMFS) as well as the Princeville Public Library and the Hā'ena to Hanalei Community Association for review and comment.

Comments received from the following agencies have been summarized by staff as follows: (All comments on this project (public agency and provide) are attached to the Final Environmental Assessment for the project: http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2018-12-23-KA-FEA-Helios-Hanalei-Single-Family-Residence.pdf)

DLNR – Engineering (ENG)

The owner of the project property and/or their representative is responsible to research the Flood Hazard Zone designation for the project.

Applicant Response:

We have researched the Flood Hazard Zone designation of the project and it is Flood Zone X.

DLNR – Division of Forestry and Wildlife (DOFAW)

The State and Federally listed Hawaiian hoary bat or 'Ope'ape'a (*Lasiurus cinereus semotus*) has the potential to occur in the vicinity of the proposed project. DOFAW recommends avoiding using barbed wire, as bat mortalities have been documented as a result of becoming ensnared by barbed wire during flight. Hawaiian hoary bats roost in both exotic and native trees. If any trees are planned for removal during the bat breeding season there is a risk of injury or mortality to juvenile bats. To minimize the potential for impacts to this species, woody plants greater than 15 feet (4.6 meters) tall should not be disturbed, removed, or trimmed during the bat birthing and pup rearing season (June 1 through September 15). Site clearing should be timed to avoid disturbance to breeding Hawaiian hoary bats.

The Hawaiian goose or Nene (*Branta sandvicensis*) has the potential to occur, in the project vicinity. Hanalei, Princeville and Kilauea support the largest Nene populations on the island of Kauai. While Nene has not been reported on the proposed site, birds may visit the project during the summer flocking season. DOFAW recommends installing a visual barrier prior to construction to reduce bird attraction to the site. Should Nene approach within 100 feet of the construction site, the company shall stop work and notify DOFAW immediately for assistance at (808) -274-3433 or (808)-645-1576,

State and Federally listed waterbirds such as the Hawaiian duck (*Anas wyvilliana*), Hawaiian stilt (*Himantopus nzexicanus knudseni*), Hawaiian coot (*Fulica alai*), and Hawaiian moorhen (*Gallinula chloropus sandvicensis*) may occur in the vicinity of the proposed project site. A qualified water bird biologist should conduct a survey for water bird nesting at least two weeks prior to the start of the project. If a nest is discovered at any point, please contact DOFAW staff. If a bird is present during ongoing construction activities, then all activities within 100 feet (30 m) of the bird should cease, and the bird should not be approached. Work may continue after the bird leaves the area of its own accord.

DOFAW notes that artificial lighting can adversely impact seabirds that may pass through the area at night causing disorientation which could result in collision with man-made artifacts or grounding of birds. The project location is along a seabird flyway to and from Upper Hanalei Valley. No nighttime work using construction floodlights shall be permitted for the duration of the project. To

minimize light attraction to seabirds, DOFAW recommends planting native trees to shield lights from picture windows and sliding glass doors. If nighttime lighting is required DOFAW recommends that any lights used be fully shielded and downward facing to minimize impacts.

Applicant Response:

The Applicant has no plans to incorporate barbed wire in any portion of the project, either during construction or as an element or the final improvements. As noted on Pages 7, 8, 12 and 21 of the CDUA. The Hawaiian hoary bat may be present on the project site or in the near vicinity. Therefore, no trees or other vegetation larger than 15 feet will be disturbed, removed or trimmed during the pupping season of June 1 through September 15 in order to avoid disturbance to any bats.

As noted on Pages 7 and 12 of the CDUA, the applicant anticipates that the Hawaiian goose or Nene may visit the project to forage on the mowed grass areas. All outdoor activity, including construction during the construction period, will cease in order to avoid threats or disturbance to any Nene.

To date, no evidence has been noted of water bird nesting on the project parcel. Nevertheless, the applicant will have a survey conducted at least two weeks prior to the commencement of construction. In the event that a native water bird visits the site, all outdoor activities, including construction during the construction period, will cease in order to avoid threats of disturbance to the bird.

No nighttime flood lighting will be utilized during construction or once the project is complete. Following the completion of construction the lighting impact would be mitigated by the vegetation surrounding the residence, its setback within the lot, and compliance with down lighting requirements for all exterior lights, including the use of 6 foot eaves on the dwelling and tinted glass windows which reduce the visibility of interior lights.

State of Hawaii – Department of Health – Clean Water Branch (CWB)

OCCL staff notes that the comments provided by the State Department of Health, CWB are the same standard comments provided to every project. The comments relate to the required rules and regulations of the DOH the applicant must follow (i.e., wastewater and stormwater management), and do not specifically address the proposed project.

Applicant Response:

The Applicant plans to implement best management practices to manage water resources at the project. No rain gutters will be installed on the dwelling thus allowing the rainwater from the roof to disperse across the property to be absorbed within the landscaping without concentrating. Therefore, rainfall will generally be absorbed on the site and storm water flow will continue as under existing conditions.

Additionally, plans have been prepared for the unexpected event that the swimming pool needs to be drained or partially drained in order to conduct repair work. These plans include slowly pumping water in order that all water drained from the swimming pool will be allowed to soak into the property rather than flow off. The project driveway will be maintained in pervious gravel rather than being paved with an impervious surface.

County of Kauai – Department of Public Works

1. A grading and/or grubbing permit in compliance with the County's Sediment and Erosion Control Ordinance No. 808 is required if the work area exceeds one (1) acre and/or grading involving excavation or embankment or combination thereof exceeds more than 100 cubic yards.
2. All existing drainage runoff volumes and flow patterns shall be maintained and subject to Best Management Practices (BMPs). BMPs shall be implemented at all times to the maximum extent practicable to prevent damage by sedimentation, erosion, dust to streams, watercourses, natural areas and the property of others.

Applicant Response:

The work area of surface alteration will be smaller than one (1) acre and the amount of earth alteration will be less than one hundred (100) cubic yards of material. Therefore no grading or grubbing permit will be required.

All existing drainage runoff volumes and flow patterns will remain unaltered. In addition, plans have been prepared for the unexpected event that the swimming pool on the property needs to be drained or partially drained in order to conduct repair work. These plans include slowly pumping water in order that all water drained from the swimming pool will be allowed to soak into the property rather than flow off. Additionally, no rain gutters will be installed on the dwelling, except limited gutters immediately above the front entrance, thus allowing the rainwater from the roof to disburse evenly across the property to be absorbed within the soil and landscaping without concentrating so as to cause erosion.

Public/Community Comments:

OCCL staff notes that there were a large number of public comments submitted to OCCL for this proposed project; many pages of comments, plans, printed and copied rules and laws, and diagrams were provided in both support of the proposed project and against the proposed project. Staff presents an outline of the salient comments provided for this project; full comment submissions and applicant responses to each commenter are provided in the Final EA. A copy of the Final EA can be reviewed at: http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2018-12-23-KA-FEA-Helios-Hanalei-Single-Family-Residence.pdf

OCCL staff has outlined the more detailed common concerns the public presented either during the comment period or the public hearing.

Common Concern: The proposed Single-Family Residence (SFR) is not for 'family' use:

Applicant Response:

We believe the misunderstanding regarding the design of the house (that it is a collection of 9 independent cottages) resulted from inaccurate information disseminated on the internet. As shown on the floor plans included with the CDUA, the home includes a main living area and two wings with a total of 5 bedrooms and 5 1/2 bathrooms. Each wing includes three "pods". The northern wing consists of 2 bedroom pods and a covered outdoor lounge area with a barbeque and bar area. The eastern wing consists of 3 bedroom pods. Each bedroom pod includes a full interior bathroom and 3 of the bedrooms are designed to contain a small sitting area in addition to the sleeping area.

The outdoor lounge pod includes a half bath. At the far end of each wing and adjacent to the main living area are outdoor showers, for a total of 3 outdoor showers. Within the main living area is the home's only kitchen, with a living room and interior dining area, none of which are separated by interior walls. Exterior walkways under the eaves of the home connect the main living area with the bedrooms in each of the wings.

The home was carefully designed within the building standards set forth in the Hawaii Administrative Rules governing construction within conservation zones to accommodate our multi-generational family. The home includes 5 bedrooms in order to sleep the 3 generations of our family. Offering or using a home within conservation zoning for vacation rentals is not permitted by law and we have neither the desire nor the need to do so. We will work with the Office of Conservation and Coastal Lands on a form of Declaration of Covenants to be recorded against title to the property upon the issuance of the CDUP which complies with law in this regard.

Because we have our primary home on the mainland, our use of the property which results in vehicles traversing the driveway will be minimal. We do not expect to host significant numbers of guests who would impact traffic. Staff assisting with the maintenance of the property will visit the site 2-3 times per week at the most.

Common Concern: View plane impacts to the surrounding community have not been mitigated:

Applicant Response:

The home has been designed and located on the site to have a minimal impact on the existing views of the ridge line from Hanalei and surrounding areas. The home is approximately 7 feet lower than the maximum height and has been situated at a minimally visible location on the lot. It is our desire to maintain a view of the mountains and distant ocean horizon from the home but not to see Hanalei town or the Hanalei Valley floor. As demonstrated by the story poles installed on the property, the peaks of the roofline will only be visible from a few areas within the Valley but the main facade of the home will not be visible from most areas. The building standards set forth in the Hawaii Administrative Rules governing construction within conservation zones do not require that a permitted single-family home have no visual impact at all¹ (Note: Page 147 of the pdf document published in the Environmental Notice includes several photographs of the ridge. The document is available on line at: http://oegc2.doh.hawaii.gov/EA_EIS_Library/2018-12-23-KA-FEA-Helios-Hanalei-Single-Family-Residence.pdf).

We desire privacy and have no plans to alter any of the highway margins, much of which is under the control of the State of Hawaii as roadway setbacks. Additionally, any removal or alteration of the vegetation would require an additional CDUA/CDUP. The applicant will work with OCCL on a form of Declaration of Covenants to be recorded against title to the property upon the issuance of the CDUP which will prohibit the unlawful removal or alteration of vegetation.

Common Concern: Slope Stability of the project area may not be suitable for construction:

¹ This statement is false. They could be instances in which any visual effects could be considered "significant" and therefore not permissible where significant visual features exist.

Applicant Response:

In response to concerns regarding the stability of the site, a Supplementary Slope Stability and Hydrogeology Report has been prepared by an agent of the applicant for the property (Exhibit X). Based on analysis of the soils at the site, the Supplementary Report concludes that the slope below the proposed development will remain stable under all foreseeable conditions. We note that the home is located approximately 160-200 feet from the roadway below the bluff, on average 90 feet from the edge of the bluff, and at no point closer than approximately 60 feet from the steepest portions of the bluff. The pool is set back approximately 60 feet from the bluff edge and 120 feet from the roadway below. The Supplementary Report also states that due to the soil type, ephemeral springs will emerge at or near points of contact between permeable and impermeable soil zones. During the historic floods affecting Hanalei in April, virtually no damage occurred along this highway margin, while many other areas of the north shore were severely damaged by landslides. The Supplementary Report concludes that the proposed residence and swimming pool will have no appreciable effect on this process. In fact, the Supplementary Report notes that the weight of the soil to be removed to construct the pool is greater than the total weight of the pool water and improvements.

The Supplementary Report also states that due to the soil type, ephemeral springs will emerge at or near points of contact between permeable and impermeable soil zones. This condition is the current cause of much of the water on the adjacent roadway following rainfall in the area. The Supplementary Report concludes that the proposed residence and swimming pool will have no appreciable effect on this process. We note that during the historic floods affecting Hanalei in April, virtually no damage occurred along this highway margin, while many other areas of the north shore were severely damaged by landslides.

A tree and accompanying mud did fall during a later rainfall event from an area which is a significant distance from the proposed building site. The Applicant is in contact with the Department of Transportation regarding potential mitigation measures. The landscaping plan has also been revised to include more native plants than originally proposed, including hala and milo trees and loulu palms. We understand that it is difficult to transplant uluhe ferns but the Applicant will consider uluhe as a method for slope stabilization.

Common Concern: The proposed project areas drainage protocols have not been clearly outlined for both on-site stormwater and the proposed pool:

Applicant Response:

All existing drainage runoff volumes and flow patterns will remain unaltered. In addition, plans have been prepared for the unexpected event that the swimming pool on the property needs to be drained or partially drained in order to conduct repair work. These plans include slowly pumping water in order that all water drained from the swimming pool will be allowed to soak into the property rather than flow off. Additionally, no rain gutters will be installed on the dwelling, except limited gutters immediately above the front entrance, thus allowing the rainwater from the roof to disburse evenly across the property to be absorbed within the soil and landscaping without concentrating so as to cause erosion.

A pool management plan has been prepared and it notes that the draining of a residential pool is quite rare. The pool management plan recommends relocating the pool equipment site which is

now shown on the revised site plan. Draining of the pool is only required for repairs below the waterline. The pool management plan notes that, if necessary, the pool can be drained using a 50 foot hose from the relocated pool equipment to a flat area of the pasture for pumping over a period of 24 to 48 hours. The pumping would be extended as necessary to reduce the sheet flow of water to a negligible amount, none of which would leave the property. This pool contains slightly less than 15,000 gallons of water, significantly less than the average pool which often contains more than 40,000 gallons of water. Only in the event of a repair to the bottom of the pool would the entire volume be drained. Draining of the pool water will not negatively impact the plants on the property because the salt and other contents of the pool water are too diluted to have an effect.

ANALYSIS:

Following review and acceptance for processing, the Applicant's Agent was notified, by letter dated August 28, 2018 that:

- The proposed construction of a Single-Family Residence and associated development is an identified land use in the Conservation District *Resource* Subzone pursuant to Hawaii Administrative Rules (HAR) §13-5-24, R-7 (D-1) *A single family residence that conforms to design standards as outlined in this chapter*; and
- In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a *Draft Environmental Assessment (DEA)* has been submitted for this proposed use, and was published in the OEQC's *Environmental Notice* on February 8, 2018 – On December 12, 2018, the Chairperson of the Board of Land and Natural Resources issued a Finding of No Significant Impact (FONSI) to the Environment with two (2) issues still troubling some members of the community:
 1. The community believes the view plane impacts may be considered significant; and
 2. The development of a natural, prominent landform in this area may be detrimental to the Hawaiian sense of place.
- Pursuant to HAR §13-5-40 Hearings, a public hearing *will* be required for this project; and
- Please be informed that, the applicant's responsibility includes complying with the provisions of Hawaii's Coastal Zone Management law (Chapter 205A, HRS) that pertain to the Special Management Area (SMA) requirements administered by the various counties. Negative action by the BLNR on this application can be expected should you fail to obtain and provide us, at least thirty (30) days prior to BLNR action, one of the following from the appropriate county:
 1. An official determination that the proposal is exempt from the provisions of the county rules relating to the SMA;
 2. An official determination that the proposed development is outside the SMA; or
 3. An SMA Use Permit for the proposed development.

Notice of the Draft Environmental Assessment (DEA) was published in the *February 8, 2018* issue of the Office of Environmental Quality Control (OEQC) publication the *Environmental Notice*; and

A Final Environmental Assessment (FEA) has been published in the December 23, 2018 issue of the Environmental Notice. http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2018-12-23-KA-FEA-Helios-Hanalei-Single-Family-Residence.pdf

Public Hearing:

Due to the public concern regarding the proposed project, a Public Hearing was held by the OCCL on *Friday, October 12, 2018* at the Hanalei School Cafeteria. Notice for the public hearing was placed in the Honolulu Star Advertiser and the Garden Island newspapers on *September 12, 2018*. Approximately 20-25 persons attended the meeting, while only 8 persons testified; public comments and the applicant's response to those comments are presented in the previous section of this report.²

§13-5-30 CRITERIA:

The following discussion evaluates the merits of the proposed land use by applying the criteria established in HAR §13-5-30.

- 1) The proposed use is consistent with the purpose of the Conservation District. The objective of the Conservation District is to conserve, protect, and preserve the important natural resources of the state through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The applicant states that the proposed site is dominated by invasive species which are spreading throughout the parcel. The proposed project's Landscape Plan would remove some invasive plants within the mostly cleared bluff area where the single-family dwelling will be located, add up to four (4) large native canopy trees (milo, hala), preserve existing hala trees and maintain the mowed grass areas. The maintenance of open and mowed grass areas will provide harborage and forage for native bird species, including the Kolea, Koloa and Nene. These native birds are currently found in the surrounding areas and are likely to utilize the Lot. The introduction of large flowering native canopy trees may provide forage for native forest birds.

The proposed project would have little to no adverse impacts on natural or cultural resources on the property itself, although there is previously unprotected pre-contact cultural site a few hundred feet from the proposed residence site. The choice of a site set back from the sloped edge of the lot, no less than 58 feet from the Lot boundary, the limitation of the dwelling to a single story, the choice of the dwelling's materials and colors, and the plan for the surrounding foliage provide for mitigation of visual impacts, although it is unlikely that vegetation and siting completely eliminates all potential visual impacts from every vantage point in Hanalei Valley.

² This was the second public hearing held on this matter. The first hearing was held on March 21, 2018 at Kapaa, Kauai. A large group of people attended the meeting, many in opposition to the project, although a handful of stated their support for the project. In July 2018, the applicant withdrew their application since the 180-day Conservation District Use Application processing deadline would have expired, and the Chapter 343, HRS process had not yet been completed.

The State Historic Preservation Division has recommended a preservation plan including a buffer\zone to safeguard the previously unprotected pre-contact historic property from future adverse activities in the surrounding area, which plan Helios has agreed to implement. In setting the buffer zone, the AIS and preservation plan expressly considered the planned residential dwelling.

OCCL staff notes that the proposed project has been designed to follow the standards for residential development in the Conservation District. However, staff believes that the proposed project, that includes development on top of a prominent bluff, may not completely mitigate impacts to conservation district resources – specifically, viewplanes.

- 2) The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.

The applicant states that the construction of one single-family dwelling for residential use, conforming to the applicable design standards referenced in HAR §13-5-41, on the lot is a reasonable and beneficial use of the project site, consistent with the objectives of the Conservation District and the Resource subzone. After development of the proposed single family dwelling, no further dwellings are permissible in the Conservation District. Accordingly, all areas of the lot outside the home site will remain undeveloped, consistent with the Conservation District's overall goal of conservation and preservation.

While the use of this land benefits the landowner by making it their home site as well as substantially increasing its overall value, staff suspects others in the community would disagree that the proposed development represents a “beneficial use” of the land.

- 3) The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.

The entire State of Hawaii falls under the Coastal Zone Management (CZM) area, however, the project parcel is not located within the Counties Special Management Area (SMA) as described in HAR Ch. 205A.

The applicant states that the property is not located on the shoreline and therefore does not adversely affect public use of beaches or other shoreline elements. The applicant’s responses to the Coastal Zone Management questions are provided below:

The property is outside the tsunami inundation zone and in Flood Zone X, the area determined to be outside the 0.2% annual chance flood zone so it is not impacted by coastal or flooding hazards. As discussed above and in the attached Environmental Assessment, activities at the property will have no significant direct or indirect impact on the Hanalei River, the adjacent valley wetlands or the coastal waters (including Hanalei Bay).

The adjacent Kūhiō Highway, also known as the Kauai Belt Road, is on the National Register of Historic Places, as is the nearby Hanalei Bridge. The project has no significant direct or indirect impact on either. A previously unknown approximately 15 x 7-meter pre-contact historic property

has been located in a dense area of guava forest near the northern point of the property. The State Historic Preservation Division has recommended a preservation plan including a buffer zone to safeguard the pre-contact historic property from future adverse activities in the surrounding area, which Helios has agreed to implement. In setting the buffer zone, the AIS and preservation plan expressly considered the planned residential dwelling.

The visual impact on the Hanalei and Princeville communities is limited. The proposed dwelling is one story with a maximum height of 18 feet 1.5 inches (almost 30% or 7 feet lower than the maximum of 25 feet prescribed by HAR 13-5). The home will be set within the dense vegetation bordering Kūhiō Highway, which will remain undisturbed. Given the vegetation along Kūhiō Highway and around the residence and the roofing and exterior materials used, the proposed residence will most likely blend into its surroundings and will be largely obscured to passing vehicle and pedestrian traffic on Kūhiō Highway. The residence will not be visible from either the Hanalei Valley Overlook or the Hanalei Bay Overlook. According to the applicant, the residence will be minimally visible from some areas of Hanalei Valley.

- 4) The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.

The applicant states that the proposed project will not adversely impact fauna in the area of the project site. To the contrary, the introduction of large blooming native canopy trees (milo, hala) may provide harborage and forage for native forest bird species. Also, maintenance of the project area in short grass will provide harborage for native birds, including the Kolea, Koloa, and Nene, both common in the Princeville and Hanalei area. The proposed project is also not anticipated to adversely impact any threatened or endangered species. In the event that any endangered species were found on the property, such as the Nene, all current occupants of the property would comply with all legal protections of endangered species, including the federal Endangered Species Act and Hawaii Revised Statutes. As an example, outdoor activities, including construction during the construction period, which could threaten or disturb any Nene found on the open grassy areas of the Lot would cease in the vicinity of the bird until the Nene chose to leave the area on its own. Removal of vegetation within the property may temporarily displace Hawaiian hoary bats using trees for roosting. However, these bats use multiple roosts within their home territories and disturbance from the removal of a roosting tree is likely to be minimal. An exception is the removal of trees during the bat pupping season.

The property supports a number of old hala trees that provide an ambiance of a Hawaiian sense of place and these trees will be preserved to the extent possible. These trees are sparsely scattered around the project area and are prominent in parts of the steep-sloped eastern half of the lot away from the project area. The Landscape plan proposes the planting of up to four large flowering native canopy trees (milo, hala) and native palms, as well as continued control of invasive plant species covering the project site, thus improving the flora.

Thus, with the development of the land for residential purposes, the applicant believes that there is the potential for an improvement in natural resources due to the clearing of invasive plants and improvement of wildlife habitat. However, staff notes that the potential impacts of the residence on view planes (if vegetation is not properly managed), and the occupation of the site by groups of people could outweigh the benefits of leaving the site undeveloped.

- 5) The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.

The applicant notes that the built environment immediately adjacent to the subject parcel is a roadway (Kūhiō Highway), the Hanalei National Wildlife Refuge and the existing Hanalei Valley Overlook. Development in the vicinity of the proposed site includes residential, agricultural and commercial development, as well as community services providers. Directly across Kūhiō Highway and from the lot are the Hanalei Garden Farms condominium and various homestead properties accessed from Kūhiō Highway and Hana lei Plantation Road. These properties include homes, farm dwellings, other farm structures and agricultural activities. A number of the homes located along Hana lei Plantation Road are of a similar or larger size to the proposed single-family residence. The Hanalei Fire and Police Station, also known as Station 1, is located approximately 0.1 mile from the Lot.

The applicant states that given that the Princeville Shopping Center, Hanalei Fire and Police Station and multiple residences are located nearby the subject parcel, this is a developed residential and commercial area. The proposed home is at the far end of the lot from the boundary of the Hanalei National Wildlife Refuge and is not visible from the Hanalei Valley Overlook or the Hanalei Bay Overlook. With respect to natural foliage, the area has been largely overtaken by invasive vegetation. The existing vegetation bordering Kūhiō Highway will remain, blocking the view of the residence from the roadway and providing privacy. According to the applicant, the introduction of one single family dwelling to the community will have no significant impact on existing traffic conditions on Kūhiō Highway. The incremental use associated with the proposed single-family dwelling (related to public services) used only for residential purposes is negligible.

As previously noted, staff believes that the proposed project, that includes development on top of a prominent bluff, may not completely mitigate impacts to conservation district resources – specifically, view planes. Whether the project meets the “compatibility criteria” will largely depend on compliance with all permit conditions, and long-term adherence to permit requirements to ensure that the bluff remains vegetated to shield the residence from Hanalei Valley views.

- 6) The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.

The applicant believes that because only one residence is planned for the property, it will be only minimally visible from Kūhiō Highway. The residence will not be visible from the Hanalei Valley Overlook or the Hanalei Bay Overlook. The proposed dwelling is one story with a maximum height of 18 feet 1.5 inches (almost 30% or 7 feet lower than the 25 foot maximum prescribed by HAR Ch. 13-5). The home will be set within the dense vegetation bordering Kūhiō Highway, which will remain undisturbed. Given the vegetation along Kūhiō Highway and around the residence and the roofing and exterior materials used, the proposed residence will blend into its surroundings and will be largely obscured to passing vehicle and pedestrian traffic on Kūhiō Highway.

Whether or not the project is authorized depends on the extent to which project impacts can be "mitigated" and to what extent the property owner implements all permit conditions and covenants to improve visual and cultural mitigation actions.

- 7) Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.

The proposed project does not involve the subdivision of Conservation District land.

- 8) The proposed land use will not be materially detrimental to the public health, safety and welfare.

The applicant believes that the introduction of one single family dwelling to these communities will have no material impact on existing traffic conditions on Kūhiō Highway or the provision of public safety services by the Kauai Police Department and Kauai Fire Department. The volume of traffic from one single-family dwelling used only for residential purposes will be immaterial to the current Kūhiō Highway traffic. Like the entrance to the nearby Hanalei Valley Overlook, no specific traffic modifications are planned for Kūhiō Highway for vehicles turning into the Lot. Unlike the well-used Hanalei Valley Overlook, instances of vehicles turning into the Lot will be infrequent. Up to three vehicles can pull into the driveway and stop before the gate is opened to allow vehicles to proceed further into the property, eliminating the need for vehicles to wait in the street while the gate is opened. No significant traffic delays are anticipated due to vehicles turning into the Lot. Vehicles leaving the Lot will have little to no impact on traffic flow.

The existing driveway accesses Kūhiō Highway adjacent to the current location of the gate which is closed for public safety to curtail traffic passing along Kūhiō Highway when the Hanalei River floods at the nearby Hanalei Bridge (the "flood gate"), a not infrequent occurrence. Because both the driveway and the flood gate are currently in existence, the inclusion of a single-family dwelling within the Lot will not affect the traffic along Kūhiō Highway in the event of the closure of the flood gate. Like the rest of the public, the Lot owner would not have access to Hanalei Town across the Hanalei Bridge in the event of the closure of the flood gate, but can proceed toward Princeville. In the event of road closure, drivers sometimes use the area fronting the driveway gate to turn around and can continue to do so after the dwelling is constructed.

CULTURAL AND HISTORICAL IMPACT REVIEW:

Please provide the identity and scope of cultural, historical, and natural resources in which traditional and customary native Hawaiian rights are exercised in the area.

The applicant states that a cultural impact assessment (CIA) was conducted for this parcel. No traditional cultural practices have been documented for this property. Interviews with informants stated that in modern times the area did have some occasional pig hunting, guava and sisal collecting and cannabis growing. It was a heavily overgrown area and most informants did not recall much about the area and had little access nor reason to frequent that parcel. A few informants mentioned they thought there was a Chinese cemetery and other informants stated there was an ahu or heiau on this parcel. The cultural impact assessment can be found in the attached Environmental Assessment.

The adjacent Kūhiō Highway, also known as the Kauai Belt Road, is on the National Register of Historic Places, as is the nearby Hanalei Bridge. Their applicable criteria include A (property associated with events that have made a significant contribution to the broad pattern of our history) and C (property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction) with significance for engineering, social history, transportation and commerce. The Kūhiō Highway between Princeville and Hā'ena is part of the original belt road system and retains its historic significance and character in its location, alignment, design, setting and association. The project will not affect the location, alignment, design, setting or association of the historic roadway as the improvements on the Lot will be minimally visible from the roadway and no alterations will be made to Kūhiō Highway.

An Archaeological Inventory Survey ("AIS") covering the Lot, was completed in July 2017 by an agent for the applicant. While two historic properties were located within the Lot, no cultural materials or historic properties were found during the surface and subsurface work in the project area. Trenches were excavated within the footprint of the single family residence, the swimming pool location, the site of the wastewater treatment system, and other utility locations.

Within the parcel, two historic properties were identified: Old Government Road portion (#50-30-03-02353) and a pre-contact historic structure comprised of a rock formation (#50-30-03-02354). The location of these historic properties is well outside of the development area but is within the subject parcel boundaries.

The State Historic Preservation Division (SHPD) has recommended a preservation plan, including a buffer zone, to safeguard the pre-contact historic property from future adverse activities in the surrounding area, which the applicant has agreed to implement. In setting the buffer zone, the AIS and preservation plan expressly considered the planned residential dwelling.

Identify the extent to which those resources, including traditional and customary Native Hawaiian rights will be affected or impaired by the proposed action.

The applicant states that no traditional and customary Native Hawaiian rights have been identified so none will be affected or impaired.

Staff notes that the term "traditional and customary Native Hawai'ian rights" is not just in relation to the physical manifestation of Native Hawai'ian cultural practices. Such rights can potentially extend to less tangible things not immediately noticeable to non-Native Hawaiians such as important land forms and the ideas, memories, and deities they potentially represent. While the subject ridge is not formally identified as a "culturally significant property" it might be considered important to some Native Hawaiians in the community.

What feasible action, if any, could be taken by the Board of Land and Natural Resources in regards to your application to reasonably protect Native Hawaiian rights?

While the applicant believes that no traditional and customary Native Hawaiian rights have been identified relating to this property OCCL staff notes that the character of the bluff and its open

space and undeveloped state have provided the local population with a sense of place that will potentially be impacted by the proposed residential development. Some gathering of non-native plants has taken place on the parcel; it was stated by the applicant that those uses would be able to continue if requested by a native practitioner.

DISCUSSION:

This Conservation District Use Application (CDUA) is being pursued by the landowner (*Helios Hanalei, LLC*) to develop the subject parcel with a Single-Family Residence (SFR), pool and associated landscaping. The proposed project parcel is located on the north shore of Kauai, on an undeveloped bluff overlooking the Hanalei Valley and Hanalei Bay. The proposed SFR is a one story structure with 5 bedrooms and 5.5 bathrooms, which includes a number of segmented buildings, a pool and pool equipment shed, as well as landscaping, hardscaping and a deck/lanai area with a grill. The property is currently undeveloped, with only a gate and rock wall at the driveway entrance to Kūhiō Highway.

Viewplane Impacts – Single Family Residence

The potential for the project to impact view planes is the major issue in this case. Staff has concerns regarding the assertion that view plane impacts will be mitigated by the current vegetation on the periphery of the subject parcel. Invasive clearing, as discussed in the CDUA for site management could potentially remove integral “screening vegetation” that minimizes view plane impacts. OCCL staff also notes that the local view planes or natural vistas of the bluff have a common good to the community and may be considered significant in terms of their scenic value to the residents of this community.

The applicant provided a visual impact analysis that utilized photographic and physical representations of the proposed structure to provide a viewplane impact representation from points around the subject parcel. It was stated by the applicant that the proposed SFR may be “*minimally visible*” from areas outside the parcel, and that the existing and planned vegetation would act as a screen thus mitigating the viewplane impacts. Furthermore, the applicant has stated that the proposed SFR was designed to be well below the height limit for SFR in the Conservation District thus further minimizing its impact to local viewplanes (*See Page 147 of the pdf document published in the Environmental Notice which includes several photographs of the ridge. The document is available on line at: http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2018-12-23-KA-FEA-Helios-Hanalei-Single-Family-Residence.pdf*).

The OCCL requested via letter dated October 23, 2018, that an alternative analysis be completed for the proposed project. OCCL requested that the applicant consider a reduction in the size and scope of the proposed SFR, and to re-evaluate the location along the bluff area that is a minimally visible viewplane impact. To the disappointment of OCCL staff, the applicant did not provide the requested information, but instead provided an alternative demonstrating greater view plane impacts.

Staff remains to have concerns regarding the finding that viewplane impacts will be minimal, as invasive trees and overgrown vegetation act as the predominant screen of the proposed SFR to points outside the parcel boundaries. The community was concerned that the landowner, once

approved for development, would cut trees and screening vegetation. Mitigation of viewplane impacts appears to be reliant upon the long-term management of existing vegetation and the proposed landscaping of the project parcel – without assurances that the vegetative screening will remain in place in perpetuity, staff believes this proposed structure could eventually be a prominent and visible structure throughout the Hanalei Valley. If the Board of Land and Natural Resources approves this project OCCL staff recommends, in addition to standard conditions, that a special condition be integrated into the permit that ensures the long-term visual screening of the residence from Hanalei Valley, and failure to do so at any time in the future could potentially result in the imposition of penalties to the landowner, correction of the problem, and/or revocation of the permit.

The OCCL staff has the onerous duty of evaluating the appropriateness of a project based on a complete and comprehensive assessment that has been assembled including an environmental assessment, public hearings, site visits, substantial community input, and consistency with administrative rules. The project site is particularly challenging as it sits atop a prominent ridgeline overlooking Hanalei Valley. The ridgeline is heavily wooded, so a home would be generally screened from most views in Hanalei Valley. A portion of the roof line might be visible from a view vantage points within Hanalei Valley, but no major visual effects would occur provided that the vegetative buffer remains intact and even improved over time. If this or subsequent property owners prune or remove the trees, the residence might become a noticeable visual element on the ridgeline. The Board may impose a special condition that requires present and future landowners to maintain the vegetation, but we can't prevent someone from removing vegetation if that is what they really want to do.

Staff notes that the maximum developable area on a parcel over one acre is 5,000 square feet. This does not mean that a landowner has a right to the maximum developable area. If a site has significant challenges, development of the site can be constrained to mitigate environmental effects. The proposed footprint of the proposed SFR is approximately 4,300 square feet. Staff asked the applicant for an alternative design with a smaller footprint. This information was not provided. The Board may want to consider a slightly smaller residence if it would reduce the height of the roofline a few feet to provide further assurances that it will remain in perpetuity an insignificant visual element within the landscape of Hanalei Valley.

Based on the above discussion and information received, Staff recommends as follows:

RECOMMENDATION:

Staff recommends that the Board of Land and Natural Resources APPROVE this Conservation District Use Application (CDUA) for the proposed Helios Hanalei, LLC – Single Family Residence Project located on Tax Map Key (TMK): (4) 5-4-004:032 in the Hanalei District, Island of Kauai, and is subject to the following conditions pursuant to HAR §13-5-42:

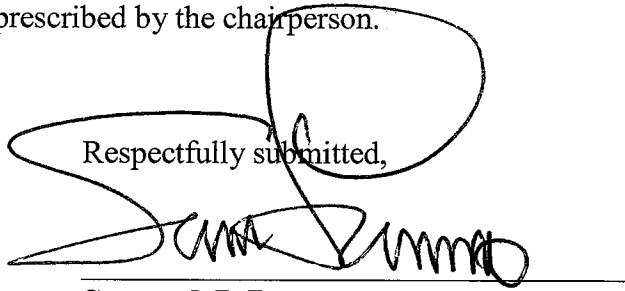
1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors,

- assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall comply with all applicable department of health administrative rules;
 4. The single-family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;
 5. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
 6. The permittee, and all subsequent landowners, shall maintain and enhance the existing vegetation to completely screen the single-family residence from all surrounding views. If the permittee, or any subsequent landowner(s) takes any action to remove, kill, damage, or otherwise cause the vegetative buffer to be damaged or reduced, or if the vegetative buffer is destroyed or damaged involuntarily by fire or disease, the permittee, or any subsequent landowner shall take immediate actions to replace and improve the buffer. Failure on the part of the permittee or any subsequent land owner to comply with this condition shall result in the imposition of daily penalties to the landowner, correction of the problem, and/or revocation of the permit.
 7. All existing drainage runoff volumes and flow patterns shall be maintained and subject to Best Management Practices (BMPs). BMPs shall be implemented at all times to the maximum extent practicable to prevent damage to sedimentation, erosion, or dust to streams, watercourses, natural areas, and the property of others;
 8. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
 9. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
 10. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
 11. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
 12. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;

13. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
14. Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
15. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
16. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
17. Except in case of public highways, access roads shall be limited to a maximum of two lanes;
18. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
19. Cleared areas shall be revegetated, in accordance with landscaping guidelines provided in this chapter, within thirty days unless otherwise provided for in a plan on file with and approved by the department;
20. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;
21. Animal husbandry activities shall be limited to sustainable levels in accordance with good soil conservation and vegetation management practices;
22. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
23. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in section 205A-1, HRS;
24. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
25. Where applicable, provisions for protection of beaches and the primary coastal dune shall be established by the permittee, to the satisfaction of the department, including but not limited to avoidance, relocation, or other best management practices;
26. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;

- 27. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board; and
- 28. Other terms and conditions as prescribed by the chairperson.

Respectfully submitted,



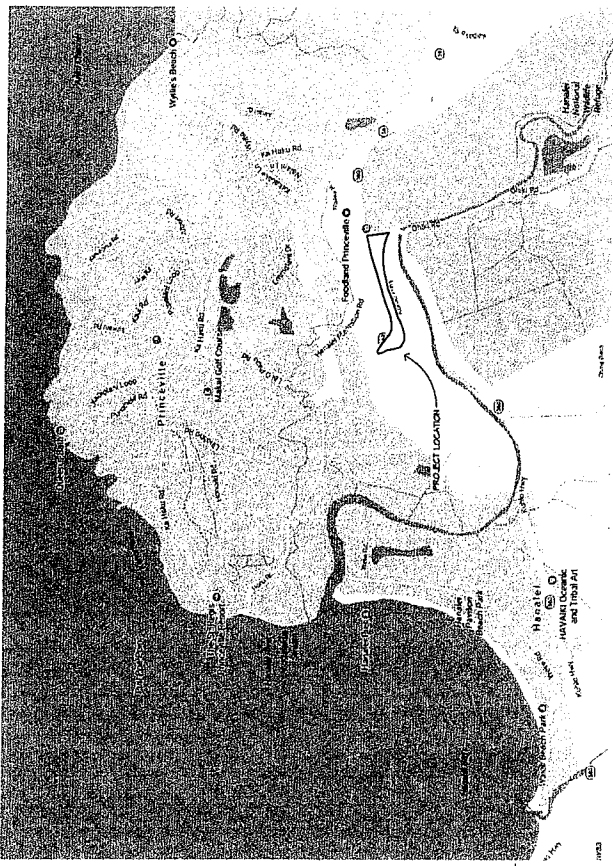
Samuel J. Lemmo
Office of Conservation and Coastal Lands

Approved for submittal:



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

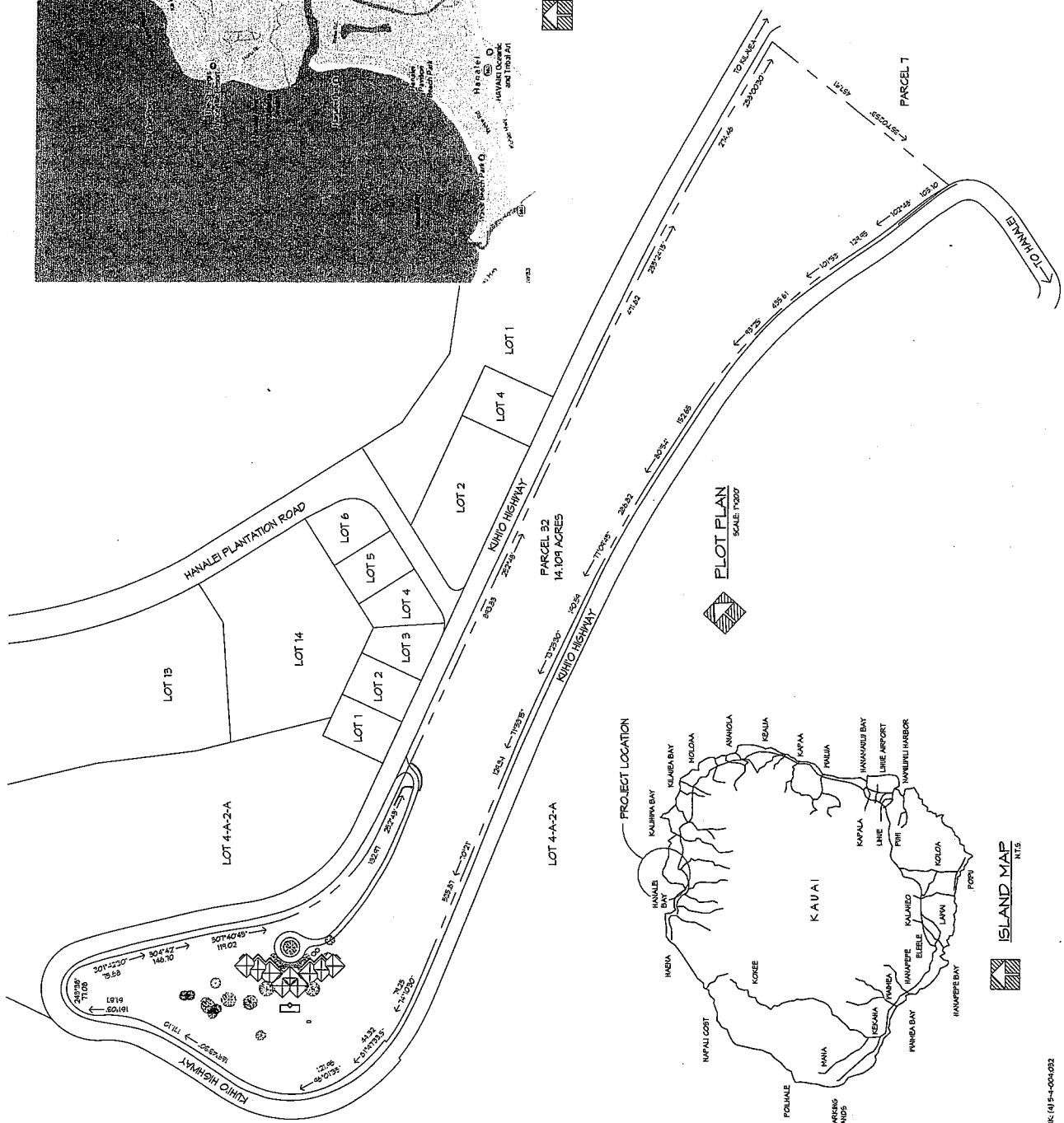
VERTICAL SCALE AS SHOWN	PROJECT NO. 3820
PROJECT NAME KUKIHOLO PLANTATION	DATE 1/15/03
PROJECT LOCATION KUKIHOLO PLANTATION	PROJECT NO. 3820
PROJECT OWNER KUKIHOLO PLANTATION	PROJECT NO. 3820



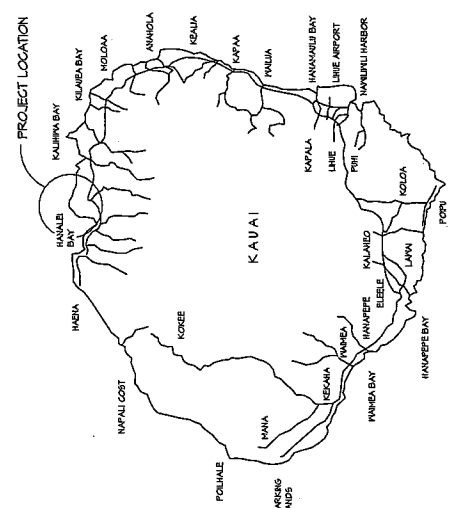
VICINITY MAP
NTS

DRAWING INDEX		SCALE	
SHEET #	SHEET NAME	NTS	SCALE
A-0	COVER SHEET	NTS	AS NOTED
A-1	LOT PLAN	1/8"=10'	1/8"=10'
A-1.1	SITE PLAN	1/8"=10'	1/8"=10'
A-2	FLOOR PLAN	1/8"=10'	1/8"=10'
A-2.1	ROOF PLAN	1/8"=10'	1/8"=10'
A-3	CONSERVATION PLAN	1/8"=10'	1/8"=10'
A-4	CONCEPTUAL LANDSCAPE PLAN	1/8"=10'	1/8"=10'

PLOT PLAN
AS INDICATED



PLOT PLAN
SCALE 1/8"=10'



ISLAND MAP
NTS

EXHIBIT I CDWA: 3820

JMS



View of bluff looking east



View of Hanalei Valley from bluff site, looking south east



Entrance drive, geotech test pit, viewed looking west



Hanalei Bay, vie looking west from western end of property



Kūhiō Highway at Hanalei Plantation Road. Note Hawaiian Tel underground utility and 5000-gal AST on adjacent site.



Entrance of property looking toward Kūhiō Highway

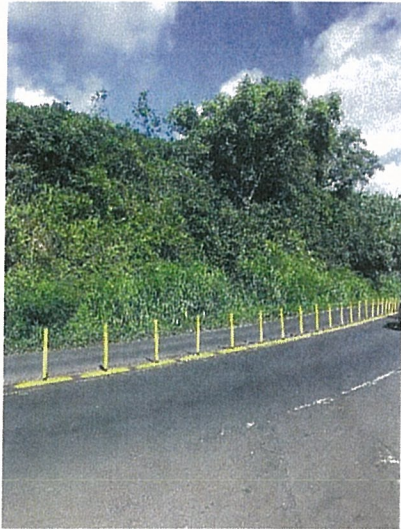
EXHIBIT 2
CMAA-KA-3870



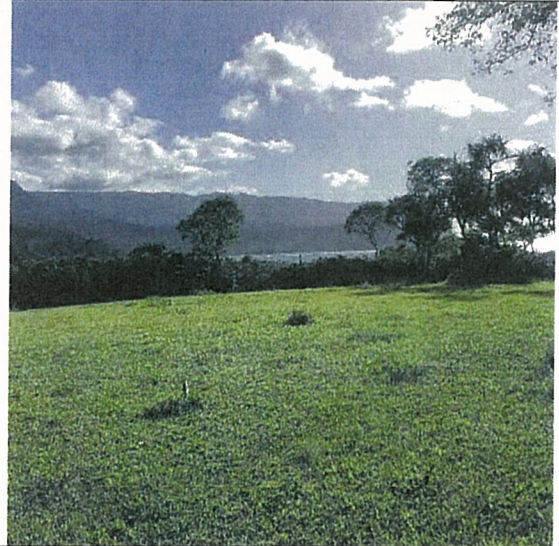
Property on left, Kūhiō Highway going towards Hanalei



Western end of property from Kūhiō Highway



Western end of property, Kūhiō Highway leading to Hanalei



Bluff top area viewed towards the West

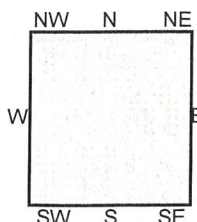
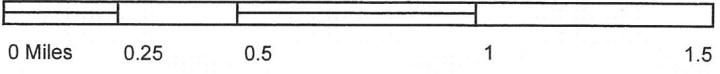
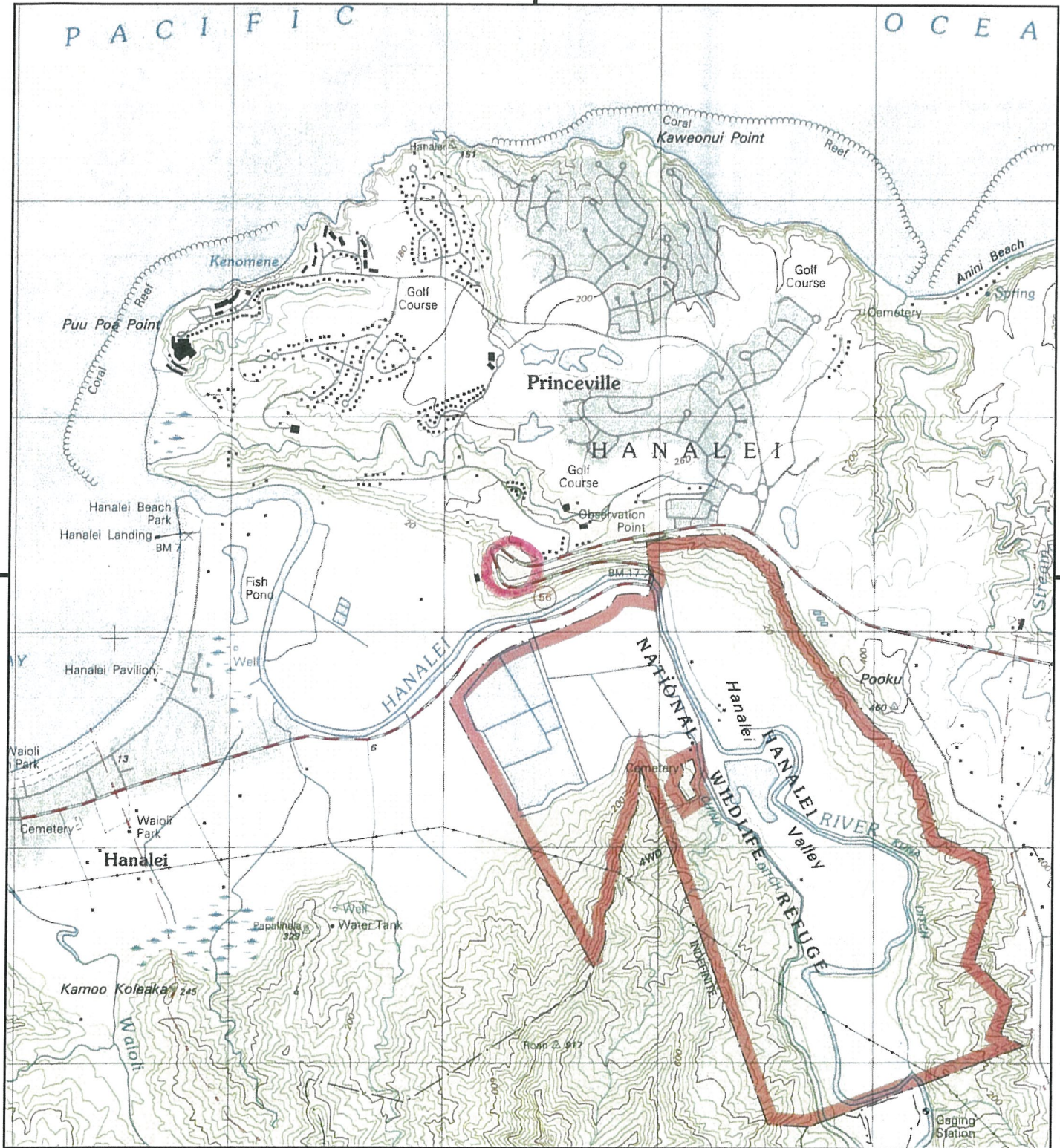


Slope Stabilization Anchor and cables on north side of property along Kūhiō Highway



Wagon wheel and axel (photo courtesy Nancy McMahon)

EXHIBIT 2A
CDUA: KA-3028



TP, Hanalei, 1996, 7.5-minute

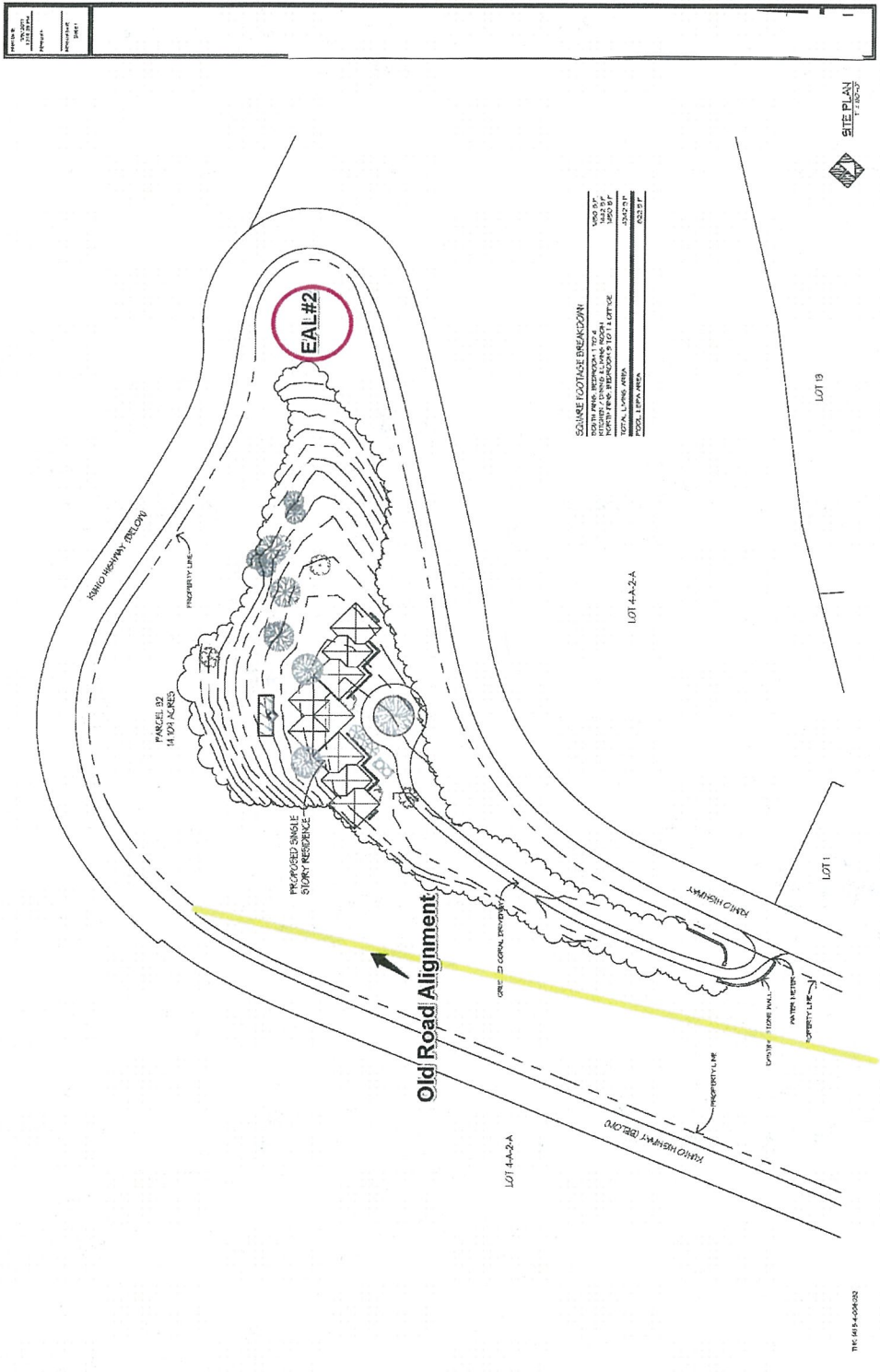
EXHIBIT 3
CDUA: KA-3828

SITE NAME: Gearon Hanalei Property
ADDRESS: Not Reported
Princeville, HI 96722





Parcel TMK: 5-4-004: 032 outlined in red. Proposed house site indicated at west end of parcel. Photo-image is dated August 2011.



Project Area showing historic properties SIHP# 50-30-03-02353 (EAL#1) and SIHP# 50-30-02-02354 (EAL#2).

EXHIBIT 5

CDMA: KA-3828



SIHP# 50-30-03-02354 Fe2 north mound.

EXHIBIT 5A
CDWA: KA-3828

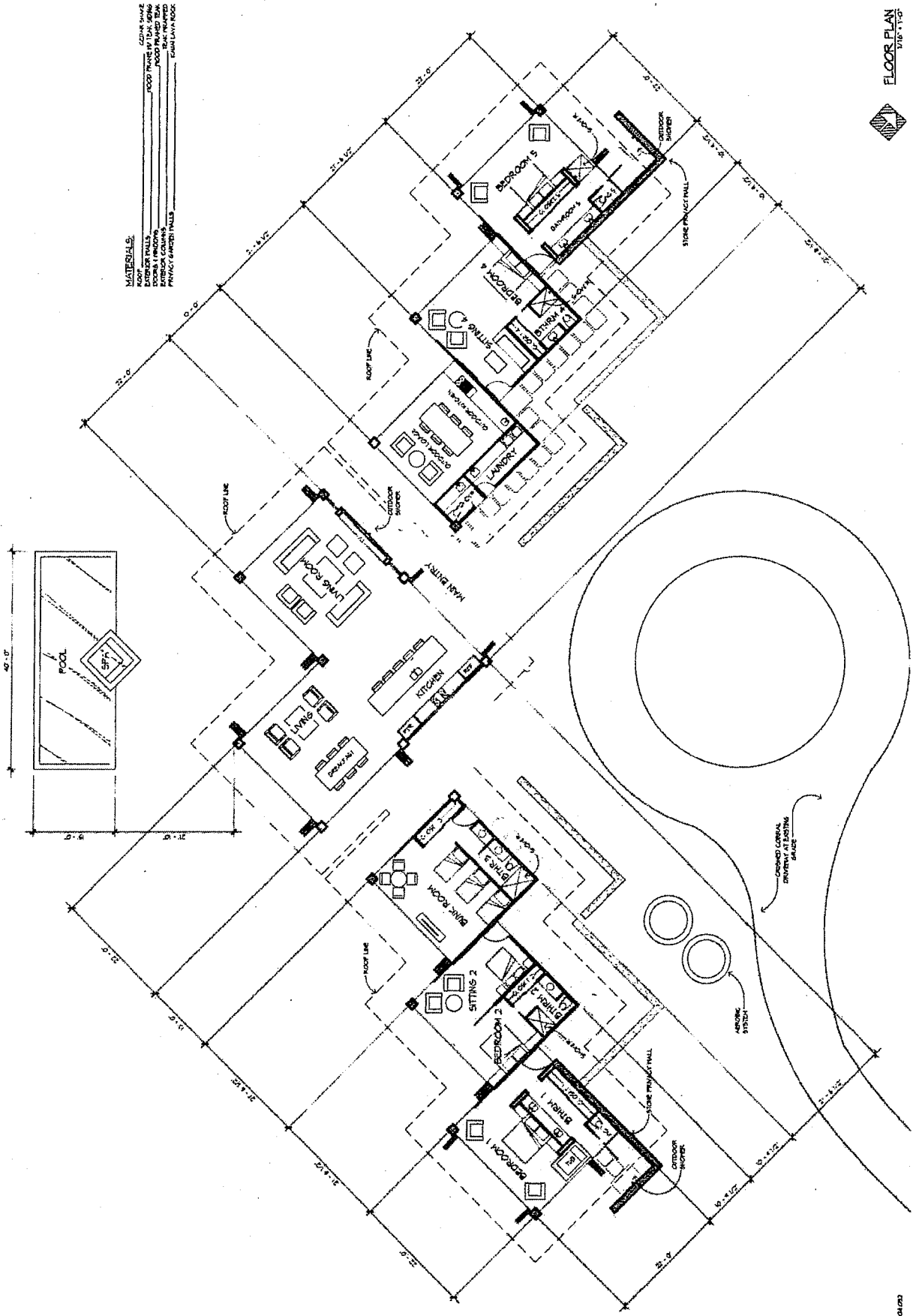
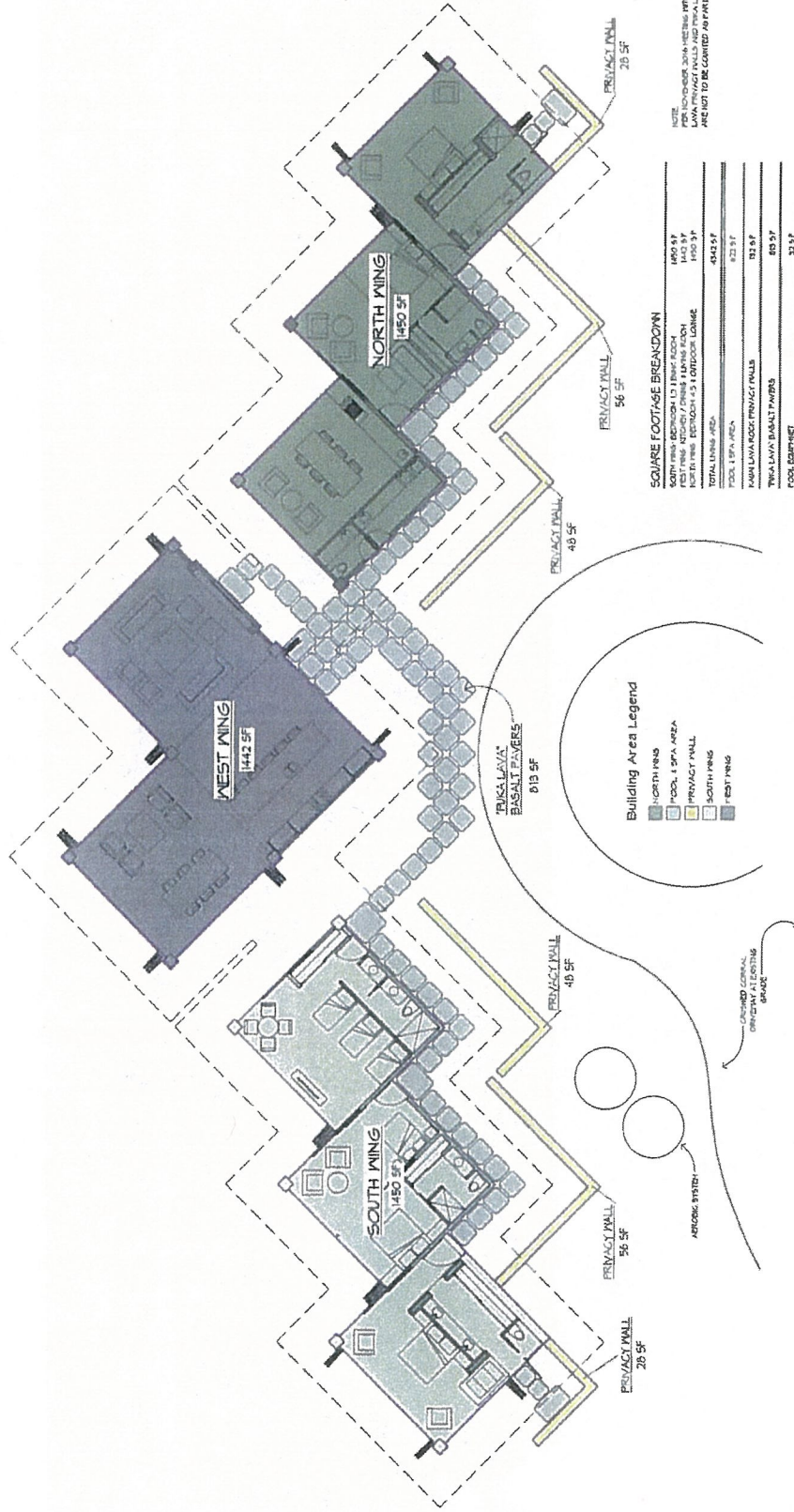
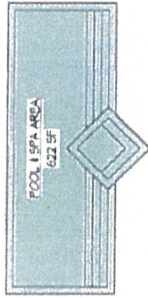


EXHIBIT 6 CDMA: KA-3828



SQUARE FOOTAGE BREAKDOWN

SOUTH WING (EXCLUDING LOBBY AREA)	1450 SF
NORTH WING (EXCLUDING LOBBY AREA)	1450 SF
WEST WING (EXCLUDING LOBBY AREA)	1442 SF
TOTAL WING AREA	4342 SF
POOL 1 SPA AREA	622 SF
KAWAIAVA ROCK PREFACT WALLS	813 SF
TRAVELER BASKETBALL COURT	813 SF
POOL DECK/DECK	33 SF
AEROGEL SYSTEM (UNDERGROUND)	1213 SF

Building Area Legend

- NORTH WING
- SOUTH WING
- WEST WING
- POOL 1 SPA AREA
- PREFACT WALL
- BASKETBALL COURT

NOTE:
 FOR NOTIFICATION WITH THE STATE OF HAWAII,
 THIS PLAN IS NOT TO BE CONSIDERED AS PART OF THE
 PERMITS.



LOT COVER PLAN
 1/8" = 1'-0"

EXHIBIT 6A CDWA: KA-3828

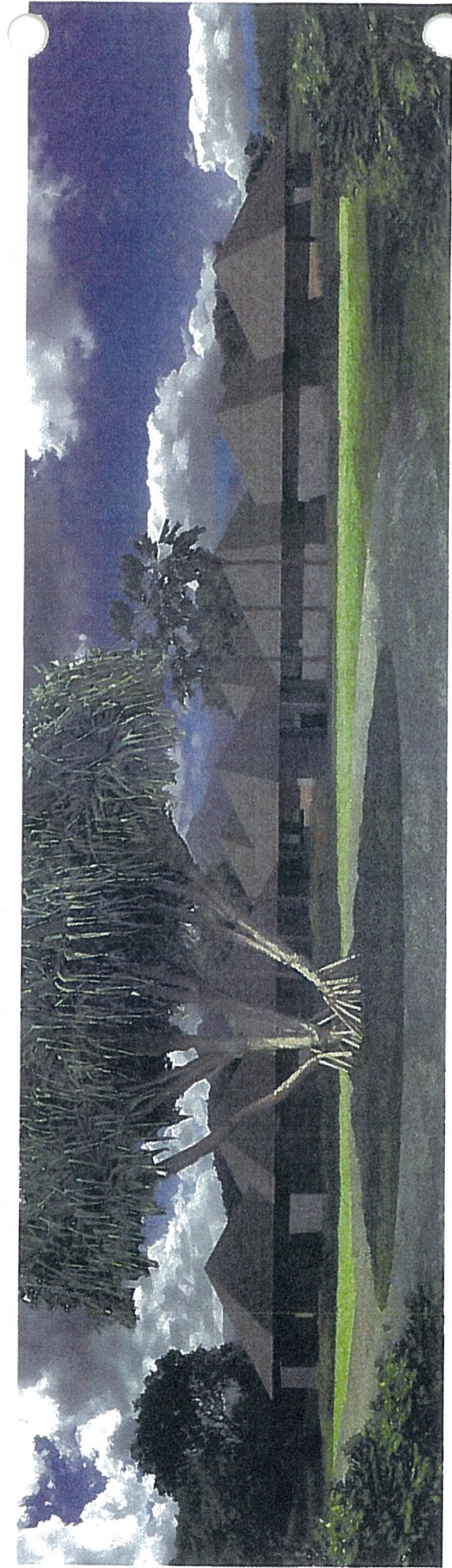


EXHIBIT 60B CDUA: KA-3828