



## PLANNING COMMISSION

KAAINA S. HULL, CLERK OF COMMISSION

GERALD AKO, CHAIR  
DONNA APISA, VICE CHAIR  
JERRY ORNELLAS, MEMBER

RECEIVED

'23 APR -3 P 1:50

- **The Planning Commission Meeting will be at:**
  - Līhu'e Civic Center, Moikeha Building
  - Meeting Room 2A-2B
  - 4444 Rice Street, Līhu'e, Kaua'i, Hawai'i
- **Oral testimony** will be taken on specific agenda items, **at the public meeting location** indicated on the meeting agenda.
- **Written testimony** indicating your 1) name or pseudonym, and if applicable, your position/title and organization you are representing, and 2) the agenda item that you are providing comment on, may be submitted on any agenda item in writing to [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov) or mailed to the County of Kaua'i Planning Department, 4444 Rice Street, Suite 473, Līhu'e, Hawai'i 96766. Written testimony received by the Planning Department at least **24 hours prior** to the meeting will be posted as testimony to the Planning Commission's website prior to the meeting (<https://www.kauai.gov/Government/Boards-and-Commissions/Planning-Commission>). Any testimony received after this time will be retained as part of the record, but we cannot assure the Commission will receive it with sufficient time for review prior to the meeting.

**IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF BOARDS & COMMISSIONS AT (808) 241-4917 OR [ASEGRETI@KAUAI.GOV](mailto:ASEGRETI@KAUAI.GOV) AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST. UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.**

**SUBDIVISION COMMITTEE MEETING NOTICE AND AGENDA**

**Tuesday, April 11, 2023**

**8:30 a.m. or shortly thereafter**

**Līhu'e Civic Center, Moikeha Building**

**Meeting Room 2A-2B**

**4444 Rice Street, Līhu'e, Kaua'i, Hawai'i**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. APPROVAL OF AGENDA**

**D. MINUTES of the meeting(s) of the Subdivision Committee**

1. February 14, 2023

**E. RECEIPT OF ITEMS FOR THE RECORD**

**F. UNFINISHED BUSINESS**

1. None for this meeting.

**G. NEW BUSINESS (For Action)**

1. Preliminary Subdivision Map Approval

- a. Subdivision Application No. S-2021-5  
**Kukui'ula Vistas, LLC. (formerly Kukui'ula Development Company, LLC.)**

Kukui'ula Parcel H, Lot 19 Subdivision

Proposed 8-lot Subdivision

TMK: (4) 2-6-022: 055

Kōloa, Kaua'i

- 1) Subdivision Report pertaining to this matter.

- b. Subdivision Application No. S-2022-2

**Kukui'ula Vistas, LLC.**

Kukui'ula Parcel H, Lot 18 Subdivision

Proposed 7-lot Subdivision

TMK: (4) 2-6-022: 054

Kōloa, Kaua'i

- 1) Subdivision Report pertaining to this matter.



2. Preliminary Subdivision Extension Request

- a. Subdivision Application No. S-2019-8

**Stephanie Fernandes**

Fernandes ET AL. Subdivision

Proposed 5-lot Subdivision

TMK: (4) 4-2-005: 044

Wailua, Kawaihau, Kaua'i

- 1) Subdivision Report pertaining to this matter.

3. Final Subdivision Map Approval

- a. Subdivision Application No. S-2022-4

**Tower Kaua'i Lagoons Sub 4, LLC.**

Hōkūala Resort Subdivision 4

Proposed 25-lot Boundary Adjustment

TMKs: (4) 3-5-004: 400 to 424

Kalapakī, Līhu'e, Kaua'i

- 1) Subdivision Report pertaining to this matter.

**H. EXECUTIVE SESSION**

Pursuant to Hawaii Revised Statutes Sections 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with the County's legal counsel on questions, issues, status and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to the following matters:

- a. Subdivision Application No. S-2021-5

**Kukui'ula Vistas, LLC. (formerly Kukui'ula Development Company, LLC.)**

Lot 19 of Kukui'ula Parcel H Subdivision

Proposed 8-lot Subdivision

TMK: (4) 2-6-022: 055

Kōloa, Kaua'i

- b. Subdivision Application No. S-2022-2

**Kukui'ula Vistas, LLC.**

Lot 18 of Kukui'ula Parcel H Subdivision

Proposed 7-lot Subdivision

TMK: (4) 2-6-022: 054

Kōloa, Kaua'i

- c. Subdivision Application No. S-2019-8

**Stephanie Fernandes**

Fernandes ET AL. Subdivision

Proposed 5-lot Subdivision

TMK: (4) 4-2-005: 044

Wailua, Kawaihau, Kaua'i

- d. Subdivision Application No. S-2022-4  
**Tower Kauai Lagoons Sub 4, LLC.**  
Hökūala Resort Subdivision 4  
Proposed 25-lot Boundary Adjustment  
TMKs: (4) 3-5-004: 400 to 424  
Kalapakī, Līhu'e, Kaua'i

I. ADJOURNMENT

KAUA'I PLANNING COMMISSION  
SUBDIVISION COMMITTEE MEETING  
February 14, 2023  
**DRAFT**

The regular meeting of the Planning Commission of the County of Kaua'i was called to order by Subdivision Committee Chair Ako at 8:30 a.m. - Webcast Link: <https://www.kauai.gov/Webcast-Meetings>

The following Commissioners were present:

Mr. Gerald Ako  
Ms. Donna Apisa  
Mr. Jerry Ornellas

Excused or Absent

The following staff members were present: Planning Department – Director Ka'aina Hull, Deputy Director Jodi Higuchi Sayegusa, Staff Planner Dale Cua, Kenny Estes, and Planning Commission Secretary Shanlee Jimenez; Office of the County Attorney – County Deputy Attorney Laura Barzilai, Office of Boards and Commissions – Support Clerk Lisa Oyama.

Discussion of the meeting, in effect, ensued:

**CALL TO ORDER**

Subdivision Committee Chair Gerald Ako: Good morning. Today is Tuesday, February 14, 2023, and this is the meeting for the Subdivision Committee Meeting of the Planning Commission. It's 8:30 a.m., and I'd like to call the meeting to order. Mr. Clerk, can we have a roll call?

**ROLL CALL**

Planning Director Ka'aina Hull: Roll call, Mr. Chair. Commissioner Apisa?

Commissioner Apisa: Here.

Mr. Hull: Commissioner Ornellas?

Commissioner Ornellas: Here.

Mr. Hull: Chair Ako?

Mr. Ako: Here.

Mr. Hull: You have a quorum, Mr. Chair. We have one minor amendment to the agenda (inaudible) the talk earlier, Mr. Chair. The D.1. and D.2. were previously reviewed and acted upon at a prior meeting, so we'll amend the agenda to remove Sections D.1. and D.2. Request that the agenda be amended to remove D.1. and D.2.

## **APPROVAL OF AGENDA**

Mr. Ako: Can we have a motion to accept the agenda with the deletion of D.1. and D.2., which are the minutes of the October 11<sup>th</sup> and the October 25<sup>th</sup>, 2022, meeting.

Mr. Ornellas: I move to amend the agenda.

Ms. Apisa: Second.

Ms. Barzilai: We need a motion to approve the agenda too, Chair. Motion to approve as amended.

Mr. Ako: Okay. Motion to amend as well to approve.

Mr. Ornellas: Motion to approve the agenda as amended.

Ms. Apisa: Second.

Mr. Ako: If we can just have a voice vote. All those in favor say aye. Aye (unanimous voice vote). All those oppose. No. Motion passes. 3:0.

## **MINUTES of the meeting(s) of the Subdivision Committee**

Mr. Hull: Next we have Agenda Item D. minutes for the November 15, 2022, meeting and the January 24, 2023, meeting.

Ms. Apisa: Move to approve minutes of the November 15, 2022, and January 24, 2023, minutes of the Subdivision Committee.

Mr. Ornellas: Second.

Chair Ako: With that, if we can have a voice vote. All those in favor. Aye (unanimous voice vote). All those opposed. Nay. Motion passes. 3:0.

Mr. Hull: We have no additional Receipt of Items for the Record. We have no Unfinished Business. We'll be moving on to Agenda Item G. Sorry, prior to going into (inaudible) note for the record that written testimony as well as agency comments received after the posting of the agenda for the Subdivision Committee were placed all before (inaudible) Commissioners this morning. We have packets of those testimonies as well as agency comments available to the public (inaudible) Planning Commission (inaudible) as well the Planning Department front counter. So, with that moving on to item G.1.

## **NEW BUSINESS (For Action)**

Subdivision Application No. HS-2023-2

**State of Hawai'i, Department of Hawaiian Home Lands (DHHL)**

DHHL Hanapepe, Phase 2 Subdivision

Proposed 136-lot Subdivision

TM Ks: (4) 1-8-007:003, 018, and 021; (4) 1-8-017:001 to 020; (4) 1-8-018:001 to 027 Hanapepe, Waimea, Kaua'i

Mr. Hull: I'll turn it over to Kenny for the subdivision report pertaining to this matter. Sorry, before I turn it over to Kenny. It may be appropriate to ask for public testimony. We have nobody signed up, is there

anybody in the audience that is not part of the application, and would like to testify as a member of the public on this agenda item? Seeing none, back over to you, Kenny.

Staff Planner Kenny Estes: Good morning. I'll summarize the report for the record.

Mr. Estes read the Subdivision Report for the record (on file with the Planning Department)

Mr. Estes: Chair, we have received agency comments from the Department of Public Works Engineering Division, the County Department of Water, the State Department of Health, and before you, we have received comments from the State Historic Preservation Division. That SHPD has made a determination on (inaudible) properties are affected before the (inaudible) projects. At the very end of their report they have requested to attached the following comments at the end of the report. The department is recommending to amend Condition 6.A. of the Subdivision Report to read those comments.

Mr. Hull: Kenny, do you want to read those updated SHPD comments for the record.

Mr. Estes: SHPD has noted in the event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts sand deposits, or sink holes are identified during the demolition and their construction work, cease work in the immediate vicinity of the (inaudible), protect the find from additional disturbance and contact the State Historic Preservation at 808-462-3225.

Chair Ako: Any questions for our staff?

Mr. Hull: And just for clarification what Kenny just referendum or updated SHPD comments which generally all subdivision tentative approval recommendations have a pretty standard SHPD condition. In this communication we got from SHPD, they've asked for updated language to it, so we received that after the report was drafted, so essentially I'd say, oh there's no problem with that, but we just need it reflected on the record, and if the Commissioners willing to update that, that proposed amendment.

Ms. Apisa: Sounds fine to me. (Inaudible).

Mr. Hull: Yeah.

Chair Ako: With that, if we have no other questions for the staff. Do we have a representative from the applicant here.

Ms. Maren Arismendez: Good morning, this is Maren Arismendez from Esaki Surveying here on behalf of the applicant. We would like to respectfully request your tentative approval. The applicant is willing to accept all the proposed conditions, and to work with all county agencies on the infrastructure improvements.

Chair Ako: Questions?

Ms. Apisa: No questions.

Mr. Hull: This is an interesting proposal. The Department of Hawaiian Home Lands is actually exempt from county zoning review, if you will, and so if they wanted to they could technically submit a map to the Planning Department with whichever lines they're proposing, because they're exempt from our review, we just basically stamp, you know, approve to get it moving on to the next process. They're coming in recognize that exception for some the lot with depth standards from the agriculture district, as well as the one-time Subdivision Restrictions Act, which (inaudible) but they are (inaudible) to the process to ensure that the infrastructure requirements that would be necessary for them to tie into the

county systems is fully adequate and that they could still do that on their own without going through this process but they kind of avail themselves to the process to essentially utilize the subdivision to (inaudible) those issues out, so there might be a lot of questions why there's all these exceptions, but then again because Department of Hawaiian Home Lands is not subject to our review technically.

Chair Ako: Pretty much they're exempt from the State and County planning regulations.

Mr. Hull: Basically.

Chair Ako: But they still follow all the...

Mr. Hull: Yeah, you often see Department of Hawaiian Home Land applications going through the building permit process (inaudible), they are technically, legally exempt from that as well, but they require, Department of Hawaiian Home Lands (inaudible) themselves as well to ensure that the homes and structures are constructed in a manner that they're safe and usable under building department standards, so we get the applications all the time, coming to us for building (inaudible) review, then a gain from the zoning perspective, we're just like, exempt, moving on.

Ms. Arismendez: To just interject, I think what Department of Hawaiian Home Lands is doing (inaudible) is trying to make it as much conformed to county standards and requirements as possible, even though it's not necessarily, technically required. Probably to open it up to county and even with this public comment.

Ms. Apisa: Thank you.

Mr. Ornellas: (Inaudible), along those lines and I realized there (inaudible), but I noticed a lot of Hawaiian home developments do have parks and in some cases recreational areas, like a (inaudible) that they have in Anahola, I was just wondering because, is there any indication that there will be such addition to this subdivision.

Mr. Hull: I'll have to defer to the applicant for that one.

Mr. Stewart Matsunaga: Aloha, Stewart Matsunaga, I'm the acting administrator for Land Development Division at Department of Hawaiian Home Lands. I really appreciate the opportunity to be here and I appreciate the comments that I've heard regarding DHHL's powers, and so we do want to work as closely as we can with eh county because the county plays a vital role in maintaining roadways and infrastructure, so we appreciate that, so we do what we can to comply with the subdivision standards throughout our parcels. In regards to parks and open space, we do have an environmental assessment done for the entire Hanapēpē area and there are other areas set aside for community and open space, but tied to this subdivision however, there is no specific park area, and so we'll have to go back to our EA master plan and then look at what other open space or park opportunities there are. Basically, DHHL, our main mission is providing homestead lots and that's, in terms of land development division that's our bread and butter, what we do provide homelands and homesteads, houses for native Hawaiians on the waiting lists, so appreciate all of the assistance from the county, from planning, and all of the other departments have been really good to work with, so we appreciate that. Excuse, can I make one more comment, regarding the construction of houses and going through the building permit process, you know, we need to do that because the lenders who are providing the home construction and take out financing, requires building permits, and so that is really all about health and safety, and so we don't want anybody to go and circumvent any of those, the county construction standards, building, plumbing, electrical, so we choose to comply in that regard.

Chair Ako: Mr. Matsunaga, maybe just for myself, yeah, can you educate me a little bit about Hawaiian Home Lands, maybe like 3-minute kind. I know this could go on forever, but these are State lands? (Inaudible).

Mr. Matsunaga: Yes, these are state lands, created by Act of Congress in 1920, Prince Kūhiō, is basically our founding father, set up the Hawaiian Homes Commission Act. We have approximately 200,000 acres statewide and, so we have a waiting list established by the department for these lands, residential and agricultural, pastoral, and even aquacultural homesteading purposes, so when we develop something like Hanapēpē, which is residential, we have a waiting list of, I think it's in the range of 4,000 native Hawaiians who are waiting for homestead opportunities.

Chair Ako: But Kaua'i (inaudible).

Mr. Matsunaga: For Kaua'i would be 4,000. Statewide we have something in the range of 25,000 plus. You've seen us in the news and all of that, and most recently we we're blessed, legislature providing 600,000,000 million dollars to expand and move our program even further, but that covers maybe 3,000 homesteads and so, we are in need of a 10x more funding to provide residential, ag, and pastoral homesteads, and so I think the construction contract for this project in Hanapēpē is over 17-million dollars, so hopefully we'll be starting construction soon and then we're going to be putting our requests for proposals to build the houses on many of these lots, so I appreciate the question and we're always here to provide whatever education.

Chair Ako: So, this is Phase II?

Mr. Matsunaga: This is Phase...the new lots are considered Phase II, there's 82 new lots. What this subdivision request also does is expands our first phase lots, there are roughly about 6,000 square feet, they're really skinny lots and so, the commission looked at and approved extending the backs of the lots, above 1,500 square feet, so that these lots would be equal in size to the new lots.

Chair Ako: And best guess scenario everything goes right, permits all get approved, when do you think that final house will be sold?

Mr. Matsunaga: The final house?

Chair Ako: Yeah.

Mr. Matsunaga: I'm thinking that infrastructure would take about a year or so, and so probably another year after that, in terms of completing all of the houses.

Ms. Apisa: I'm just curious, do you build the houses and then the people buy them with the house on it, or do they do the construction?

Mr. Matsunaga: We have multiple way of going through the house construction process, so in Anahola we had a program called Vacant Lot Awards, and so in those cases the individual lessees would obtain their financing, obtain house construction plans, and they'd be like an owner builder type. We also have turnkey, which possibly Hanapēpē will be, but we will have a developer contractor come in and they'll be required to obtain construction financing, so they'll be building the houses and then actually selling those to the waiting list, whoever is financially qualified, and we go by rank order, so the top of the list and qualify them and then basically continue until we can get all buyers.

Ms. Apisa: Thank you.

Mr. Matsunaga: We also have, if habitat is available or other self-help entities, we like to also go through that process because it's more affordable.

Chair Ako: Anything else Commissioners? Thank you very much for coming and sharing.

Mr. Matsunaga: Thank you. We've not been here for some time, and we hope to be back soon.

Chair Ako: Alright, thank you. So, with that, Mr. Estes, can we have the recommendation.

Ms. Apisa: I move to grant tentative approval with Condition 6.A. as amended.

Ms. Barzilai: Commissioner, would you like to hear the recommendation of the department prior to your (inaudible)?

Ms. Apisa: Oops. Yes.

Mr. Hull: (Inaudible) as part of the record, (inaudible) record (inaudible).

Chair Ako: We can just move forward.

Ms. Apisa: Thank you.

Chair Ako: We have a motion on the floor.

Mr. Ornellas: Second.

Chair Ako: Any other concerns or comments? If not, Mr. Clerk, roll call vote please.

Mr. Hull: Roll call on a motion to approve. Commissioner Apisa?

Ms. Apisa: Aye.

Mr. Hull: Commissioner Ornellas?

Mr. Ornellas: Aye.

Mr. Hull: Chair Ako?

Chair Ako: Aye.

Mr. Hull: Motion passes, Mr. Chair. 3:0. With that, that completes all of our agenda items for (inaudible).

Chair Ako: Okay, there are no more items on the agenda. I can entertain a motion to adjourn.

Mr. Ornellas: Move to adjourn.

Ms. Apisa: Second.

Chair Ako: All those in favor say aye. Aye (unanimous voice vote). Those opposed. 3:0. Meeting adjourned.



Chair Ako adjourned meeting at 8:54 a.m.

Respectfully submitted by:

*Lisa Oyama*  
Lisa Oyama,  
Commission Support Clerk

- Approved as circulated (add date of meeting approval)
- Approved as amended. See minutes of \_\_\_\_\_ meeting.

# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR  
 JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
 MICHAEL A. DAHLIG, MANAGING DIRECTOR

## SUBDIVISION REPORT

(REVISED)

### I. SUMMARY

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2021-5 that involves an eight (8) lot subdivision.

**Subdivision Permit No.** Application No. S-2021-5

**Name of Applicant(s)** KUKUI'ULA VISTAS, LLC.  
 (Formerly Kukui'ula Development Company, LLC.)

### II. PROJECT INFORMATION

<b>Map Title</b>	Revised Tentative Approval. Subdivision of Lot 19 Kukui'ula Parcel H Subdivision Being a Portion of R. P. 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa into Lots 19-A through 19-G, Inclusive, and Roadway Lot 19-H at Kōloa, Kaua'i, Hawai'i.				
<b>Tax Map Key(s):</b>	2-6-022:055	<b>Area:</b>	3.21 Acres		
<b>Zoning:</b>	Residential District R-4				
<b>State Land Use District(s):</b>	Urban	<b>General Plan Designation:</b>	Residential		
<b>AGENCY COMMENTS</b>					
<input checked="" type="checkbox"/> COK Public Works	pending	<input type="checkbox"/> State DOT-Highways:			
<input checked="" type="checkbox"/> COK Water:	02.15.2023	<input checked="" type="checkbox"/> State Health:	01.30.2023		
<input type="checkbox"/> Other(s)		<input checked="" type="checkbox"/> DLNR – SHPD:	01.30.2023		
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>					
Road Name	Existing Width	Required Width	Pavement YES	NO	Reserve
Ala Kukui'ula	60 feet	60 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Kāhela Place	44 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Pua Lehiwa Way	44 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>APPLICABLE FEES</b>					
<b>Environmental Impact Assessment (EIA)</b>	\$4,000				
<b>Park Dedication</b>	TBD. Appraisal required				
<b>Appraisal Report Required</b>	Yes				

G. I. A. I.

APR 11 2023

### III. EVALUATION

The action required is a consideration of a Revised Preliminary Subdivision Map Approval involving the proposed subdivision that was previously granted Preliminary Approval on August 10, 2021. At the time of preliminary approval, the development involved the subdivision of Lot 19 into ten (10) residential lots and one (1) roadway lot with vehicular access to the subdivision via a roadway connection taken from Ala Kukui`ula. The newly revised subdivision layout establishes a total of seven (7) residential lots and one (1) roadway lot with a new vehicular access point connection from Kāhela Place.

The revised subdivision layout is a result of comments received from the Department of Public Works-Engineering Division dated August 17, 2021, that outlined various traffic concerns if access was taken from Ala Kukui`ula at its proposed location. The Engineering Division recommended that the subdivision application not be approved with its current lot configuration and that all access to Lot 19 be provided exclusively via Kāhela Place, which is the interior roadway lot of the Kukui`ula Parcel H Subdivision (refer to Preliminary Subdivision Map).

In reviewing the proposal, it should be noted that the revised subdivision layout was reviewed through Class IV Zoning Permit Z-IV-2023-5 and Variance Permit V-2023-1 that was approved by the County of Kaua`i, Planning Commission on November 15, 2022, to deviate from the Lot Length requirement of Section 8-4.4(a) (3) (A) of the Comprehensive Zoning Ordinance (CZO), Kaua`i County Code (K.C.C.), 1987, as amended. As proposed, Lots 19-B through 19-F of the revised subdivision layout all have an average lot length three times greater than their average width. Therefore, a Variance Permit was requested to deviate from the required 3:1 average length to width ratio of Section 8-4.4(a) (3) (A) of the CZO.

It should be noted that the previous Tentative Subdivision Map approval involving the subdivision on August 10, 2021 included a Modification of Requirement that allowed a deviation from Section 9-2.3(e) of the Subdivision Ordinance relating to the construction of curbs, gutters, and sidewalks. The deviation allowed the use of drainage swales on both sides of the street in lieu of raised curbs, gutters and sidewalks, and no provisions for sidewalks since there was a sidewalk fronting the subdivision along Ala Kukui`ula. In re-evaluating the revised subdivision layout as it relates to the provision of Section 9-2.3(e) of the Subdivision Ordinance, the previous approval of the Modification of Requirement should be respected since there is an existing 'arterial' sidewalk along the makai side of Ala Kukui`ula, which is adjacent to and runs parallel with proposed roadway (Lot 19-H) that serves the revised subdivision layout. As such, constructing a sidewalk within the development would be unnecessary since the existing arterial sidewalk serves its purpose to provide for adequate pedestrian access within the master planned development.

Further, Lot 19 is part of the Kukui`ula Parcel H Subdivision (Subdivision Application No. S-2016-2) that is currently under construction and infrastructure improvements have not been completed. Therefore, no development should be allowed within any of the newly created lots through this application until the infrastructure improvements relating to Subdivision No. S-2016-2 are inspected and certified complete.

Lot 19 contains a total area of 140,009 sq. ft. or 3.214 acres. The subject property is located within the Residential (R-4) zoning district and within the State Land Use Urban District. The parcel abuts Ala Kukui'ula on the North, Kāhela Place on the West and Pua Lehiwa Way on the South. The surrounding parcels are also within the Residential (R-4) zoning district and within the State Land Use Urban District.


Native Hawaiian Traditional and Cultural Rights

A Ka Pa'akai O Ka'aina Analysis was prepared by Honua Consulting for the proposed development. The analysis describes the historic and traditional accounts associated with the Kōloa Ahupua'a as well as provides a thorough analysis of the project site and potential impacts to cultural resources, historical resources, and archaeological sites. The analysis also provides a detailed summary of the community outreach that was conducted including oral and written testimony from sixteen (16) individuals that were contacted.

Based on the information contained in the analysis and evaluating the historical information that was available to the department, the department finds that the proposed development at its designated location should have no impact on any known Hawaiian traditional or customary practices for the following reasons:

- a. No historic properties were identified in the project area.
- b. There are no known traditional or customary practices of Native Hawaiians that are presently occurring at the project site.
- c. There are no known special gathering practices taking place at the project site or within the vicinity of the project site.
- d. The Project should not detrimentally inhibit access to any streams; access to the shoreline or other adjacent shoreline areas; gathering along any streams, the shoreline or in the ocean.
- e. There are no known religious practices taking place within the project site.

**IV. RECOMMENDATION**

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input type="checkbox"/> Approval <input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the follow pages:	All conditions have been complied with
 Director of Planning	3/31/2023 Date
	Director of Planning <span style="float: right;">Date</span>

## V. AGENCY REQUIREMENTS

1. Requirements of the Planning Department:
  - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - d. The subdivider is advised that no development shall be within any of the newly created lots until the infrastructure improvements relating to Subdivision No. S-2016-2 are inspected and certified complete by the respective government agencies.
  - e. Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:
    - 1) An Environmental Impact Assessment Fee of Four Thousand Dollars (\$4,000.00) shall be paid to the County of Kaua'i.
    - 2) The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.
  - f. Relative to Condition No. 1.e. and prior to final subdivision map approval, the Applicant shall meet with the Planning Department to resolve the applicable requirements of Ordinance No. PM-2004-370. Specifically, the following conditions shall apply to this subdivision:

### **Conditions of Ordinance No. PM-2004-370:**

- 3. (prohibition of Additional Dwelling Units)
- 7. (improvements to roadway system)
- 14. (EIA credit)
- 15. (recreation)
- 16. (park dedication credit)

- 23. (wastewater system master plan)
    - 27. (solid waste management plan)
    - 30. (blasting plan)
  - g. The Applicant shall establish bus stops/shelters pursuant to Ordinance No. 406. The details shall be resolved with the Planning Department and Department of Public Works prior to construction plan approval.
  - h. The applicant shall identify on the final subdivision map lots that are to be used for Transient Vacation Rental (TVR) purposes, if applicable. If so, the total amount of the lots within this development shall be counted towards the total amount approved through Ordinance No. PM-2004-370.
  - i. The Applicant is made aware that the street designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on "Letter" or "Legal" sized paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.
  - j. The Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.
  - k. The subdivider is made aware that Ala Kukui'ula is classified as a "Major Street" and relative to the requirement in Section 9-2.3(b)(2) of the Kaua'i County Code (1987), there shall be no direct access permitted onto Ala Kukui'ula from Lots 19-H and 19-G. Semi-circles denoting "No Direct Access Permitted" shall be shown on the final subdivision map. These provisions shall be incorporated as a restrictive covenant for the subject lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - l. Additionally, there shall be no direct access permitted onto Kāhela Place from Lot 19-A and no direct access onto Pua Lehiwa Way from Lots 19-A, 19-B, 19-C and 19-D. Semi-circles denoting "No Direct Access Permitted" shall be shown on the final subdivision map. These provisions shall be incorporated as a restrictive covenant for the subject lots, draft copies of which shall be submitted to the Planning Department for review and approval.
2. Requirements of the Department of Public Works (DPW):
- a. Vehicular access should be restricted along Ala Kukui'ula. The Preliminary (Revised Tentative) subdivision map currently shows vehicular access being permitted for a portion of Lot 19-H and Lot 19-G. However, we have concerns regarding safety and site distance for vehicles at this location and recommend

that access be restricted for this area. The only access to this subdivision should be through Kahela Place. Please refer to the attached PDF which includes a redline mark-up of our proposed changes.

- b. The applicant shall comply with all provisions of the “Sediment and Erosion Control Ordinance No. 808” to safeguard the public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County’s Sediment and Erosion Control Ordinance, which is required if any of the following conditions apply:
  - The work area exceeds one (1) acre.
  - Grading involving excavation or embankment, or combination thereof exceeds 100 cubic yards.
  - Grading exceeds five (5) feet in vertical height or depth at its deepest point.
  - The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.
- c. During construction, best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible to ensure that BMPs are satisfactorily implemented at all times.

3. Requirements of the Department of Water (DOW):

- a. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
  - 1) A Facilities Reserve Charge (FRC) of \$98,805 (7 lots at \$14,115 per lot).
- b. Prepare and receive DOW’s approval of construction drawings for the necessary water system facilities and either construct the said facilities or post a performance bond for construction. These facilities shall also include:
  - 1) All facilities required in the approved Kukui’ula Water Master Plan for the proposed project.
- c. Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance, and operation of the subdivision water system improvements installed in other than County-owned property.

- d. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:

“Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauaʻi.”

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.

- e. Submit an updated Kukuiʻula Water Demand and System Capacity Tracking Matrix.
- f. Be made aware that the Facilities Reserve Charge and the adequacy of source, storage and transmission facilities for the proposed development will be dependent on the approved updated Kukuiʻula Water Demand and System Capacity Tracking Matrix.

#### 4. Requirements of the Department of Health (DOH):

Agencies, project owners, and their agents should apply Department of Health “Standard Comments” regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

**Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.**

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

#### **Clean Air Branch**

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which



identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.

3. Standard comments for the Clean Air Branch are at:  
<https://health.hawaii.gov/epo/landuse/>

#### **Clean Water Branch**

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55:  
<https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standardcomments/>.

#### **Hazard Evaluation & Emergency Response Office**

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

#### **Indoor and Radiological Health Branch**

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

#### **Safe Drinking Water Branch**

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.

2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Solid & Hazardous Waste Branch**

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Wastewater Branch**

By Revised Statute 11-62-31.1 If the parcel is less than 10,000sq feet, an individual onsite waste-water unit may not be possible for future construction. Please contact Sina Pruder at the DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at [doh.wwb@doh.hawaii.gov](mailto:doh.wwb@doh.hawaii.gov).

### **Sanitation / Local DOH Comments:**

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site,

or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

### Other

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.
5. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
6. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for APRIL 11, 2023 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By   
KENNETH A. ESTES  
Planner

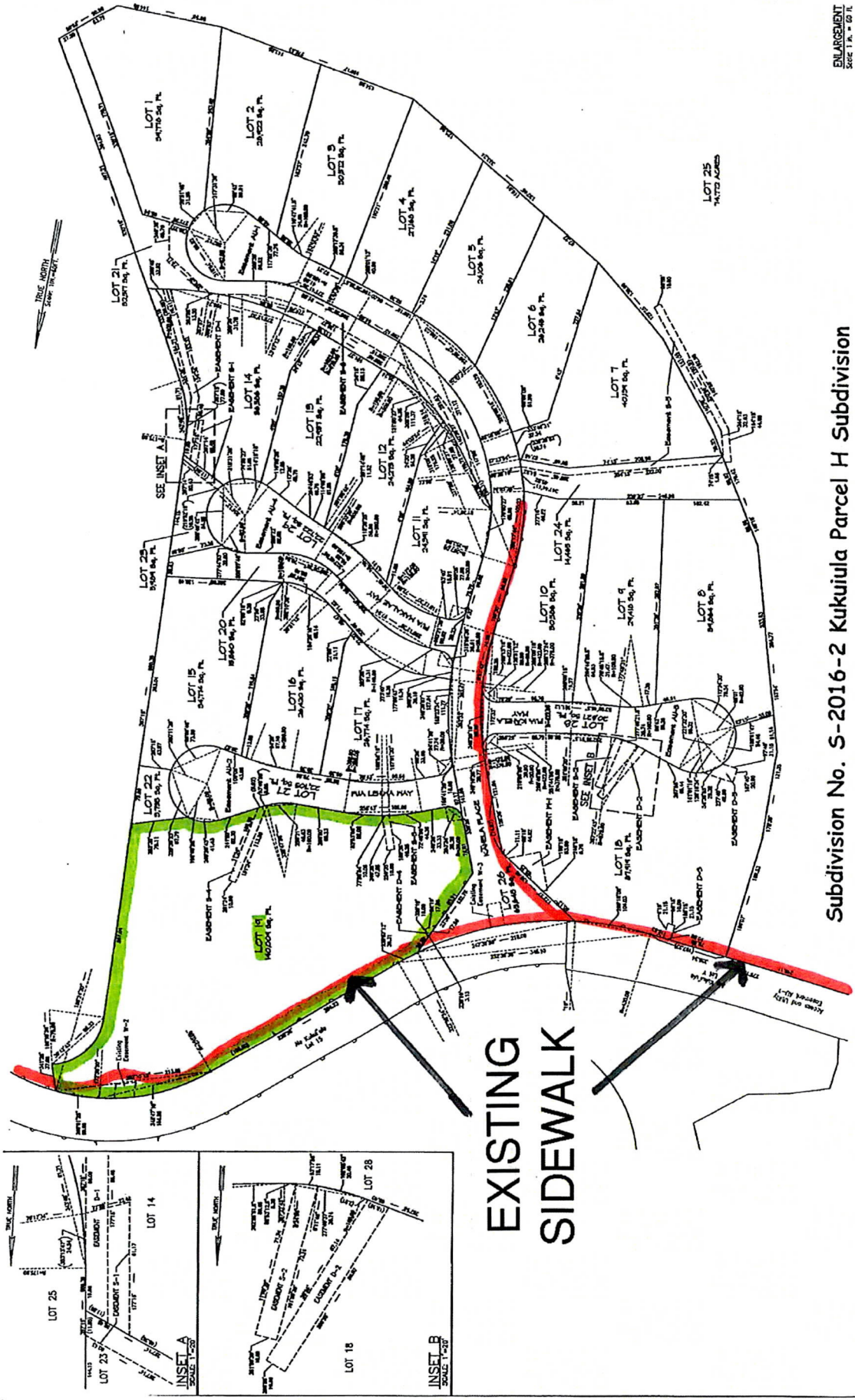




Location Map - Subdivision No. 5-2021-5 Kukuila Development Co. LLC







**EXISTING  
SIDEWALK**

**Subdivision No. S-2016-2 Kuku'iula Parcel H Subdivision**

ENLARGEMENT  
SCALE 1" = 40' PL.



COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE A473 LĪHU'E, HAWAII 96766  
(808) 241-4050

**SUBDIVISION APPLICATION ROUTING FORM**  
**DATE: March 30, 2023**

Subdivision Map Review and Approval			
REQUEST:	<input checked="" type="checkbox"/>	Preliminary (Revised Tentative)	<input type="checkbox"/> Final
	<input type="checkbox"/>	Pre-Final	<input type="checkbox"/> Extension
SUDIVISION APPLICATION NO:		Subdivision S-2021-5	
Owner(s)/Applicant(s):		BBCP Kukui'ula Development LLC	
Name of Surveyor/Engineer/Authorized Agent:			
Tax Map Key:	Tax Map Key: (4) 2-6-022:055		Assigned to: <b>Kenny</b>
Improvements:			

**Route To:** **DPW Engineering**

COMMENTS:

1. Vehicular access should be restricted along Ala Kukui'ula. The Preliminary (Revised Tentative) subdivision map currently shows vehicular access being permitted for a portion of Lot 19-H and Lot 19-G. However, we have concerns regarding safety and site distance for vehicles at this location and recommend that access be restricted for this area. The only access to this subdivision should be through Kahela Place. Please refer to the attached PDF which includes a redline mark-up of our proposed changes.
2. The applicant shall comply with all provisions of the "Sediment and Erosion Control Ordinance No. 808" to safeguard the public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County's Sediment and Erosion Control Ordinance, which is required if any of the following conditions apply:
  - The work area exceeds one (1) acre.
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  - Grading exceeds five (5) feet in vertical height or depth at its deepest point.
  - The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.

3. During construction, best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible to ensure that BMPs are satisfactorily implemented at all times.

Sincerely,



Digitally signed by Michael  
Moule  
Date: 2023.03.30 09:18:45  
-10'00'

Michael Moule, P.E.  
Chief, Engineering Division







4398 PUA LOKE STREET
LIHU'E, KAUA'I, HAWAII 96766
PHONE: (808) 245-5400 / FAX: (808) 245-5813

Water has no substitute.....Conserve it!

SUBDIVISION REPORT

TO: PLANNING DEPARTMENT
FROM: DEPARTMENT OF WATER

TMK: 2-6-022:055 NAME: Kukuiula Development SURVEYOR: Dennis Esaki REPORT NO: Revised S-2021-5

- 1. Domestic water is adequate. Tentative approval is recommended.
Water Requirements are not affected. Tentative approval is recommended.
2. All requirements have been fully met and; therefore, Final approval is recommended.
3. Before final approval can be recommended, the subdivider must:
A. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
1) The Facilities Reserve Charge (FRC):
7 Lots @ \$14,115 per lot = \$ \*See Items 5a and 5B
2) Payment to install \_\_\_\_, or relocate \_\_\_\_, service connections(s) at the fixed cost of \$ \_\_\_\_.
3) Deposit (the subdivider will either be billed or returned the difference between this deposit and the actual cost of construction of \$ \_\_\_\_ for construction by the Department of Water.
B. Submit to the Department of Water a copy of the subdivider's permit to perform work upon a State highway from the State Highways Division
C. Prepare and receive Department of Water's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction.
D. Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance and operation of the subdivision water system improvements installed in other than County-owned property.
E. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:
'Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai.'
This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
4. Installation of service connections will not be required until request for water service is made.
5. Other (or remarks):
A. Submit an updated Kukui'ula Water Demand and System Capacity Tracking Matrix.
B. Be made aware that the Facilities Reserve Charge and the adequacy of source, storage and transmission facilities for the proposed Development will be dependent on the approved updated Kukui'ula Water Demand and System Capacity Tracking Matrix

Jason Kagimoto
Jason Kagimoto, P.E.
Engineering Division

2/15/23
Date

SUBDIVISION REPORT NO. Revised S-2021-5

**JOSH GREEN M.D.**  
GOVERNOR OF HAWAII

**KENNETH S. FINK, M.D., M.G.A., M.P.H**  
DIRECTOR OF HEALTH



**STATE OF HAWAII  
DEPARTMENT OF HEALTH**  
3040 Umi St. Lihue  
Hawaii 96766

**DATE:** January 30, 2023

**TO:** **Kenneth Estes**

**FROM:** Janet M. Berreman, M.D., M.P.H.,  
District Health Officer (Acting for District Environmental Health Program  
Chief)

**SUBJECT:** RESPONSE\_Kukui'ula Development\_S-2021-5

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

**Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.**

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

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wherever possible.

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options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.

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#### **Other**

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.

*Janet Berreman*

Janet M. Berreman, MD, MPH, FAAP  
Kauai District Health Officer  
Office Phone: (808) 241-3614

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

LAURA H.E. KAAKUA  
FIRST DEPUTY

M. KALEO MANUEL  
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

January 30, 2023

Michael Moule, P.E., P.T.O.E., Division Chief  
County of Kaua'i  
Department of Public Works  
4444 Rice Street, Suite 175  
Līhu'e, Hawai'i 96766  
[mmoule@kauai.gov](mailto:mmoule@kauai.gov)

IN REPLY REFER TO:  
Project No. 2022PR00966  
Doc. No. 2301DB03  
Archaeology

Ka'āina S. Hull, Director  
County of Kaua'i  
Planning Department  
4444 Rice Street, Suite A473  
Līhu'e, Hawai'i 96766  
[khull@kauai.gov](mailto:khull@kauai.gov)

Dear Mr. Moule and Mr. Hull:

**SUBJECT: HRS Chapter 6E-42 Historic Preservation Review –  
County of Kaua'i Clearinghouse Application CL-2022-021 (PW 07.22.040)  
Subdivision Application S-2021-5  
Parcel H – Lot-19 Kahela Subdivision Project  
Applicant: Meridian Pacific, Ltd.  
Kōloa Ahupua'a, Kona District, Island of Kaua'i  
TMK: (4) 2-6-022:055**

This letter provides the State Historic Preservation Division's (SHPD's) HRS §6E-42 review of the County of Kaua'i Clearinghouse Application CL-2022-021 for the Parcel H – Lot-19 Kahela Subdivision Project, and the County of Kaua'i Planning Department Subdivision Application S-2021-5, located in Kōloa off of Ala Kukui'ula Street. The SHPD received the submittal on August 3, 2022 which included a HRS 6E Submittal Form, County of Kaua'i Clearinghouse Application, TMK and Subdivision map, site photographs, previous SHPD correspondence (December 21, 2015; Log No. 2015.04033, Doc. No. 1512MN16), and accompanying document titled *Archaeological Assessment Report for the Kukui'ula Community Development Parcel H Project, Kōloa Ahupua'a, Kona District, Kaua'i, TMK: (4) 2-6-015:014 por.* (Belluomini and Hammatt, December 2015). On January 20, 2023, the applicant provided SHPD with a letter from the County of Kauai Department of Planning detailing the tentative approval for the Subdivision S-2021-5, pending several stipulations, including SHPD's approval. The project area comprises the entire 3.2 acres parcel.

The project area for the subject subdivision application consists of subdivided portions A-H along with 19-J, 19-K, Roadway Lot 19-L, and Easement A-2. It is bounded by an unimproved portion of a cane haul road extending from Ala Kukui'ula Street to the north, the Kukui'ula Golf Course hole #9 to the east, Kāhela Place to the west, Pua Lehiwa Way to the south, along with the Kukui'ula Golf Course hole #10 to the west and south.



Mr. Michael Moule and Mr. Ka'āina S. Hull  
January 30, 2023  
Page 2

The Subdivision Application (S-2021-5) for the overall Parcel H subdivision has received tentative approval as per a letter from the County of Kauai Planning Commission dated August 11, 2021. This approval states that one of the pending items (Item 5) in the letter should include archaeological stipulations and consultation with the SHPD to determine potential mitigation measures.

The project involves the development and construction of the Parcel H – Lot 19 Kahela subdivision, with the majority of the ground disturbance anticipated for this project would be associated with construction of subdivisions, road construction connecting subdivisions and construction of single-family residences with landscaping. This would include mechanized activities such as grubbing and grading, underground excavation (for water, sewer, utility and storm drain lines), filling to improve grade as well as excavation associated with landscaping plantings and hardscape installation. The project will consist of a graded area of approximately 2.53 acres, consisting of 4,897 cubic yards (cy) of excavation and 2,114 cy of embankment (fill).

The area was cleared previously which included grubbing and grading during the preparation for the Kukui'ula Community Development Project that began in the late 1990s through the early 2000s. Historic-era disturbance has included activities associated with sugar cane cultivation, as the project area lies within former cane land.

An archaeological inventory survey (AIS) of a large portion of the Kukui'ula Development identified 58 archaeological sites, including 150 features within a 1,000-acre area from Poipu Road on the east to the edge of Lawa'i Valley to the west (Hammatt et al. 1988). Additional work within the Kukui'ula development included data recovery (Hammatt 1998, 1989) and the establishment of five archaeological preserves. None of the preserves will be impacted by the current project. An AIS conducted within Parcel H (which included Lot 19) involved a 100% pedestrian survey and excavation of 24 trenches. No historic properties were identified. SHPD conducted a site visit on October 28, 2015 and accepted the AIS (Belluomini and Hammatt, December 2015) on December 21, 2015 (Log No. 04033, Doc. No. 1512MN16). Lastly, the USDA (Foote et. al 1972) identifies the soils within the project area as Lihue silty clay (LhB), 0 to 8 percent slopes, Lihue silty clay (LhC), 8 to 15 percent slopes, and Lihue silty clay (LhD), 15 to 25 percent slopes. Based on previous findings, low potential exists for the project to impact subsurface historic properties.

Based on project information provided, SHPD's determination is "**No Historic Properties Affected**" for the current project and has no objection to the proposed Subdivision Application S-2021-5. Pursuant to HAR §13-284-7(e), when the SHPD agrees that the action will not affect any significant historic properties, this is the SHPD's written concurrence and historic preservation review ends. The permitting and/or project initiation process may continue.

Please attach to permit: In the event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division, at (808) 462-3225.

Please contact David Buckley, Kaua'i Lead Archaeologist, at (808) 462-3225 or at [David.Buckley@hawaii.gov](mailto:David.Buckley@hawaii.gov) for questions regarding this letter.

Mahalo,  
*Susan A. Lebo*  
Signed For  
Alan S. Downer, PhD  
Administrator, State Historic Preservation Division  
Deputy State Historic Preservation Officer

cc: Paul Togioka, CE III, Kauai County Department of Public Works, [ptogioka@kauai.gov](mailto:ptogioka@kauai.gov)  
William Folk, Project Manager, CSH Inc., [wfolk@culturalsurveys.com](mailto:wfolk@culturalsurveys.com)  
Esaki Surveying, [esm@esakimap.com](mailto:esm@esakimap.com)  
Kanani Fu, Meridian Pacific, Ltd., [kanani.fu@gmail.com](mailto:kanani.fu@gmail.com)

# KAUA'I COUNTY HOUSING AGENCY

ADAM ROVERSI, DIRECTOR

COUNTY OF KAUAI



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

'21 JUN 30 P2:47

MEMORANDUM  
PLANNING DEPT.

TO: Kaaina S. Hull, Planning Director

FROM: Adam P. Roversi, Housing Director *AR*

DATE: June 30, 2021

SUBJECT: Housing Agency Comments on Subdivision Permit NO. S-2021-5, TMK: (4) 2-6-022:055, Applicant – Kukui'ula Development Co. LLC

Applicant Kukui'ula Development Co. LLC is requesting review and approval of Subdivision NO. S-2021-5 TMK: (4) 2-6-022:055, which seeks subdivision of lot 19, Kukui'ula Parcel H Subdivision being a portion of R.P. 6714, L.C Aw. 7714-B, Ap. 2 to M. Kekuaiwa No. M. Kekuanaoa into lots 19-A thru 19-H, inclusive 19-J, 19-K, and roadway lot 19-L, and easement A-2.

The proposed subdivision is part of a resort development that has an overall project density of 1,500 units that shall include hotel rooms; single-family detached and attached dwellings; and multi-family dwellings. Affordable housing units, along with the various Project components shall be excluded from the 1,500 unit density limit. Accordingly, the project is required to satisfy workforce housing requirements of the County Housing Policy, Kauai County Code Section 7A, and as a requirement of Ordinance PM-2004-370-79.

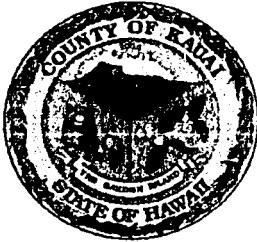
Kukui'ula Development Co. LLC satisfied its workforce housing requirements by entering into a workforce housing agreement with the Housing Agency on November 4, 2005. This Agreement, as subsequently amended, led to the development of the 134-unit Koae Makana workforce housing project in Kōloa, as well as ongoing obligations that are monitored by the Housing Agency.

Accordingly, the Housing Agency's concerns regarding this subdivision have been addressed, and Housing takes no issue with the approval of the proposed subdivision.

Thank you for the opportunity to provide comments.







COUNTY OF KAUA'I  
PLANNING DEPARTMENT

SUBDIVISION APPLICATION

RECEIVED

21 JUN 2021

PLANNING DEPARTMENT

APPLICATION TYPE	DEPT. USE ONLY
<input checked="" type="checkbox"/> Preliminary - 12 Maps <input type="checkbox"/> Final - 15 Maps	Application No. <u>130</u>
Attachments: <input type="checkbox"/> Title Report <input checked="" type="checkbox"/> Application Fee + \$300.00 Processing Fee <input checked="" type="checkbox"/> Letter of Authorization **	Date Accepted <u>5/21/21</u>
	Assigned to: _____
	SMA Permit: <input type="checkbox"/> Yes <input type="checkbox"/> No

Owner(s)/Applicant(s) \* Kukui'ula Development Co. LLC.  
 \* Holder of AT LEAST 75% of the equitable and legal title of the property

Name of Surveyor/Engineer/Authorized Agent \*\* Dennis M. Esaki, Esaki Surveying & Mapping, Inc  
 Telephone No. 808-246-0625

Map Title/ Description Subdivision of Lot 19, Kukui'ula Parcel H Subdivision Being A Portion of R.P. 6714, L.C AW. 7714-B, AP. 2 To M. Kekuaiwa No. M. Kekuanaoa into Lots 19-A thru 19-H, Inclusive 19-J, 19-K and Roadway Lot 19-L and Easement A-2 at Koloa, Kauai, Hawaii TMK (4) 2-6-22: 55

GENERAL INFORMATION			
Tax Map Key: (4)	Zoning	General Plan	State Land Use Designation
2-6-22: 55	R-4	Residential	Urban
Property Size (Acres or Sq. Feet)	Total Amount of Lots	Subdivision Fee (\$16.50 per lot)	
3.21 Acres	11	\$ 481.50	

Date: 5/21/21      Applicant's Signature [Signature]  
 Agent for Owner - See Attached

DEPARTMENT USE ONLY	
Route to:	For:
<input type="checkbox"/> Public Works Department <input type="checkbox"/> Water Department <input type="checkbox"/> Housing Agency <input type="checkbox"/> State Health Department <input type="checkbox"/> State Highways Division - DOT <input type="checkbox"/> State Historic Preservation Division - DLNR	<input type="checkbox"/> Review and Recommendation <input type="checkbox"/> Signature and Return _____
AGENCY DEADLINE:	

AGENCY COMMENTS GTA HAS NO FURTHER COMMENT ON THIS PROJECT.

Date: 6.2.2021      [Signature]  
 Authorized Signature



COUNTY OF KAUA'I  
 PLANNING DEPARTMENT  
 4444 RICE STREET, SUITE A473 LIHU'E, HAWAII 96766  
 (808) 241-4050

**SUBDIVISION APPLICATION ROUTING FORM**

DATE: June 1, 2021

Subdivision Map Review and Approval			
<b>REQUEST:</b>	<input checked="" type="checkbox"/> Preliminary	<input type="checkbox"/> Final	
	<input type="checkbox"/> Pre-Final	<input type="checkbox"/> Extension	
<b>SUBDIVISION APPLICATION NO:</b>	<b>Subdivision Permit NO. S-2021-5,</b>		
<b>Owner(s)/Applicant(s):</b>	<b>Kukui'ula Development Co. LLC</b>		
<b>Name of Surveyor/Engineer/Authorized Agent:</b>	<b>Dennis Esaki</b>		
<b>Tax Map Key:</b>	<b>Tax Map Key: (4) 2-6-022:055</b>	<b>Assigned to:</b>	<b>Kenny</b>
<b>Improvements:</b>			

**Route To:**

<input checked="" type="checkbox"/>	DPW-Engineering	<input type="checkbox"/>	Department of Transportation - STP
<input type="checkbox"/>	DPW-SolidWaste	<input type="checkbox"/>	DOT-Highway, Kauai
<input checked="" type="checkbox"/>	DPW-Wastewater	<input checked="" type="checkbox"/>	State Department of Health
<input type="checkbox"/>	Fire-Department	<input checked="" type="checkbox"/>	State Historic Preservation Division
<input type="checkbox"/>	Department of Parks & Recreation	<input type="checkbox"/>	UH Sea Grant
<input checked="" type="checkbox"/>	County Housing-Agency	<input checked="" type="checkbox"/>	U.S. Postal Department
<input type="checkbox"/>	KHPRC	<input type="checkbox"/>	Other:
<input checked="" type="checkbox"/>	County Water Department		
<input checked="" type="checkbox"/>	County Transportation Agency		

COMMENTS (*Comment Due Date: 7/1/2021*):

No comments. Parcel is outside of Wastewater Management Division service area.

**Jason Kagimoto** Digitally signed by Jason Kagimoto  
 Date: 2021.06.14 14:28:38 -10'00'



Cultural Impact Assessment, Ethnographic Survey, and *Ka Pa'akai* Analysis of Three Developments in Kōloa, Kaua'i

Prepared for



County of Kaua'i 

Prepared by



June 2022

## **Authors and Lead Researchers**

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Amy Kalili, J.D.

## **Note on Hawaiian Language Use**

In keeping with other Hawaiian scholars and current Indigenous language style guidelines, we do not italicize Hawaiian words. Hawaiian is both the native language of the pae'āina (archipelago) of Hawai'i and an official language of the State of Hawai'i. Some authors will leave Hawaiian words italicized if part of a quote; we do not. In the narrative, we use diacritical markings to assist our readers, except in direct quotes, in which we keep the markings used in the original text. We provide translations contextually when appropriate. Unless otherwise noted, all translations are by Honua Consulting authors.

## **Front Cover Credit**

1854 Bates, G.W. (photographer), "Sandwich Islands Notes. By a Haole [i.e., G. W. Bates.]," British Library Digital Store 10491.d.25, Monograph, New York.

## Executive Summary

This cultural impact assessment and ethnographic survey looked to identify cultural resources and practices in Kōloa. Numerous interviews were conducted in preparation of this survey. Interviewees identified numerous practices in the Kōloa region, many of which have been practiced for numerous generations, extending back to the time before foreign contact.

Research in preparation of this report consisted of a thorough search of Hawaiian language documents, including but not limited to the Bernice Pauahi Bishop Museum Mele Index and archival documents, including the Hawaiian language archival caché. All Hawaiian language documents were reviewed by Hawaiian language experts to search for relevant information to include in the report. Documents considered relevant to this analysis are included herein, and translations are provided when appropriate to the discussion. Summaries of interviews with lineal and cultural descendants with ties to the project area are included in the study, and information on other past oral testimonies are also provided herein. Data was extrapolated from these sources that provide an unprecedented comprehensive look at the previous cultural resources on this 'āina.

This assessment thoroughly identified valued cultural, historical, and natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area. It also identifies the impacts that may potentially result from the proposed action. The primary cultural activities identified in the ethnographic data for the area were ceremonial access, trail access, and gathering. Some interviewees identified some activities to occur in the Project Areas, while other interviewees identified the activities as occurring in the larger Kōloa region.

Based on the information gathered and the assessment of the resources conducted, the project has the potential to affect cultural resources, traditions, customs, or practices, and the County should work with the project applicant to identify best management practices, conditions, and other measures to serve as the feasible action required under law to protect Native Hawaiian rights.

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## Abbreviations and Acronyms

AIS: Archaeological Inventory Survey  
 BMP: Best Management Practice  
 CIA: Cultural Impact Assessment  
 CoK: County of Kaua‘i  
 EIS: Environmental Impact Statement  
 ESP: Environmental Review Project, Office of Planning and Sustainable Development  
 HAR: Hawaii Administrative Rules  
 HRS: Hawaii Revised Statutes  
 ILK: Indigenous Local Knowledge  
*Ka Pa‘akai: Ka Pa‘akai O Ka ‘Āina v. Land Use Commission, 94 Haw. 31 (2000)*  
 LCA: Land Commission Award  
 LRFI: Literature Review and Field Inspection  
 LUC: State Land Use Commission  
 NRHP: National Register of Historic Places  
 OEQC: Office of Environmental Quality and Control  
 ROI: Range of Influence  
 SHPD: State Historic Preservation Division  
 SIHP: State Inventory of Historic Places  
 SLH: Session Laws of Hawaii  
 SMA: Special Management Area  
 TEK: Traditional Ecological Knowledge  
 TMK: Tax Map Key  
 USGS: U.S. Geological Survey

## 1.0 Project Description and Compliance

Honua Consulting, LLC is preparing this Cultural Impact Assessment, Ethnographic Survey, and *Ka Pa'akai* Analysis analysis for three proposed developments in Kōloa, Kaua'i. This analysis is anticipated to be used by the County of Kaua'i in making findings of fact as to the projects' impacts to cultural resources and practices as required under law.

### 1.1 Project Description and Proposed Action

Meridian Pacific, Ltd. (Meridian) is currently developing the Kauano'e o Kōloa project in Kōloa Ahuapa'a, Kona District, on the Island of Kaua'i (TMK: [4] 2-8-014-032 Lot 1.) Kauano'e o Kōloa will eventually extend to additional Lots in this same area. Meridian acquired this parcel in June of 2021.

Meridian also has additional planned developments in the Kukui'ula Development area of Kōloa. Parcel HH (TMK: [4] 2-6-019-029) and Parcel H: Lots 18 and 19 (TMKs: [4] 2-6-022-054 and [4] 2-6-022-055.) These developments are located seaward and west of the Kauano'e o Kōloa project (Figure 1). Meridian acquired Parcels H and HH in August and December of 2021, respectively.

(This area intentionally left blank.)



Figure 1. Meridian Pacific, Ltd. project map showing the current and future developments in Kōloa (provided to Honua Consulting, LLC by Meridian Pacific, Ltd.)

## 1.2 Background

Articles IX and XII of the State Constitution, other state laws, and the courts of the state require government agencies to protect and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. To assist decision makers in the protection of cultural resources, Chapter 343, HRS and Hawai'i Administrative Rules (HAR) § 11-200.1 rules for the environmental impact assessment process require project proponents to assess proposed actions for their potential impacts to cultural properties, practices, and beliefs.

This process was clarified by the Act 50, Session Laws of Hawai'i (SLH) 2000. Act 50 recognized the importance of protecting Native Hawaiian cultural resources and required that some environmental review documents include the disclosure of the effects of a proposed action on the cultural practices of the community and state, and the Native Hawaiian community in particular. Specifically, the Environmental Council suggested the CIAs should include information relating to practices and beliefs of a particular cultural or ethnic group or groups. Such information may be obtained through public scoping, community meetings, ethnographic interviews, and oral histories.

There is no statutory requirement however for CIAs on these any of applicant's projects, as the environmental impact statements completed for the Kiahuna Development area (that encompasses applicant's Kauano'e o Kōloa project) and the Kukui'ula Development area (that encompasses applicant's two Kukui'ula projects) were completed in 1976 and 1989, respectively, prior to the passage of Act 50. While this CIA is being undertaken voluntarily by the applicant, it is nonetheless being prepared under applicable regulatory standards.

The County of Kaua'i has however requested that a *Ka Pa'akai* analysis be completed for the Parcel HH project in the Kukui'ula Development Area (Table 1).

Table 1. Agency action requiring analysis

County of Kaua'i Agency Action	Applicant(s)	Project and Parcel Information
Subdivision Application No. S-2022-6	Kukui'ula Development Company, LLC / MP Kaua'i HH Development Fund, LLC	Kukui'ula Parcel HH Subdivision  Proposed 51-lot Subdivision  TMK: (4) 2-6-019: 026, 029, &031  Kōloa, Kaua'i

In the Agency Requirements section of its tentative approval of Subdivision Permit Application S-2022-6, the County of Kaua'i's Planning Department included requirement 1.p. that for the most part mirrors the three-part analytical framework referred to as the *Ka Pa'akai* analysis that was an outcome of *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, 94 Haw. 31 [2000] (*Ka Pa'akai*). The County went on, in this particular Permit Application S-2022-6, to add 8 sub-components to part one of the framework such that the requirement reads:

1. p. In *Ka Pa'akai o Ka'āina v Land Use Commission*, the Hawaii Supreme Court established a three-part analytical framework to fulfill the constitutional duty to preserve and protect traditional and customary native Hawaiian rights and resources while reasonably accommodating competing private interests. Prior to the final subdivision approval, the Applicant shall describe the actions taken and examination conducted to analyze the following:

- 1) Identify whether any valued cultural, historical, or natural resources are present within the project area, and identify the extent to which traditional and customary Native Hawaiian rights are exercised. This part may include but not be limited to the following analyses:
  - o Describe the project area in relation to traditional and customary practices that occurred in the region or district.
  - o Describe the extent that traditional and customary practices were practiced in the ahupua'a and project area.
  - o Describe the community members you consulted with including their genealogical ties, long-standing residency, and relationship to region, ahupua'a and project area.
  - o Describe the Land Commission Awards provided on the property?
  - o Describe the prior archaeological studies that were conducted for the property.
  - o Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
  - o Does the property contain any evidence that trails were in existence on the property?
  - o Have any individuals ever requested access to the property for any reason?
- 2) Identify the extent to which the identified resources and rights will be affected or impaired by the proposed project.
- 3) Specify any mitigative actions to be taken to reasonably protect native Hawaiian rights if they are found to exist.

This report is intended to directly address the three main parts of this requirement that mirror the *Ka Pa'akai* framework (discussed further below). We will also directly address the first three sub-components of part one and cover all the others, save the last which is best addressed by the applicant. This survey will be submitted to the County of Kaua'i for consideration during the entitlement process specific to the Parcel HH, Kukui'ula project.

As discussed further in section 1.3 Geographic Extent, given agency guidance, case law, and existing policy, the *Ka Pa'akai* analysis herein – that aligns with the approach being followed for Parcel HH, Kukui'ula project – will cover all three of the applicant's projects that are within in the Kōloa ahupua'a.

While four of the sub-components of part one (bulleted below) will be referenced throughout this report, they will be more directly addressed as part of Agency Requirement 5 in the same tentative approval of Subdivision Permit Application S-2022-6 that reads:

5. Requirements of the State Historic Preservation Division (SHPD):

- a. The subdivider shall comply with the requirements of the State Historic Preservation Department (sic), if any, prior to final subdivision approval.

Regarding the following sub-components of the *Ka Pa'akai* framework of the County of Kaua'i's Planning Department requirement 1.p. of Subdivision Permit Application S-2022-6, SHPD – in alignment with Requirement 5 above - would be the appropriate governing entity with the prerequisite expertise to determine if these conditions have been satisfactorily addressed.

- Describe the Land Commission Awards provided on the property.
- Describe the prior archaeological studies that were conducted for the property.
- Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
- Does the property contain any evidence that trails were in existence on the property?

It is important to note that while similar in their areas of studies, archaeological surveys and CIAs are concerned with distinct and different foci. Archaeological studies are primarily concerned with historic properties and tangible heritage, whereas CIAs, or ethnographic surveys, look at cultural practices and beliefs, which can be associated with a specific location, but are also often intangible in nature. Archaeological studies are referenced in this report, particularly in the Cultural Resources section, to the extent that they inform historic practices and beliefs in particular locations and potential impact to those practices and beliefs. However, this CIA – like most - is not meant to be an exhaustive review of all prior archaeological studies.



*Ka Pa‘akai* analyses take these completed studies and assessments into consideration to evaluate both tangible and intangible cultural resources and cultural practices and beliefs, and as such, typically both archaeological studies and ethnographic studies or cultural impact assessments are utilized to complete a *Ka Pa‘akai* analysis.

As further referenced in the 1.5 Compliance section below, the State and its agencies have an affirmative obligation to preserve and protect Native Hawaiians’ customarily and traditionally exercised rights to the extent feasible.<sup>1</sup> In *Ka Pa‘akai*, the Hawai‘i Supreme Court provided government agencies an analytical framework to ensure the protection and preservation of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development interests. This is accomplished through:

- 1) The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area;
- 2) The extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and
- 3) The feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.

The appropriate information concerning Kōloa has been collected, focusing on areas near or adjacent to the Project Area(s). A thorough analysis of the projects and potential impacts to cultural resources, historical resources, and archaeological sites is included in this assessment.

This cultural impact assessment and ethnographic survey provide an overview of cultural and historic resources in the Project Area(s) via a thorough literature review, community and cultural practitioner consultation, and high-level, project-specific surveys. The survey will focus on identifying areas in which disturbance should be avoided or minimized to reduce impacts to historic properties or culturally important features. The paramount goal is to prevent impacts through avoidance of sensitive areas and mitigating for impacts only if avoidance is not possible.

### **1.3 Geographic Extent**

The geographic extent for impacts to cultural resources and historic properties includes the Project Area(s) and localized surroundings. This survey also reviews some of the resources primarily covered by the regulatory review. It primarily researches and reviews the range of

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<sup>1</sup> Article XII, Section 7 of the Hawai‘i State Constitution, *Ka Pa‘akai O Ka ‘Āina v. Land Use Commission*, 94 Haw. 31 [2000] (*Ka Pa‘akai*), Act 50 SLH 2000.

biocultural resources identified through historical documents, traditional knowledge, information found in the Hawaiian language historical caché, and oral histories and knowledge collected from cultural practitioners and experts.

There is clear guidance from the Office of Environmental Quality and Control (OEQC), now known as the Environmental Review Project, Office of Planning and Sustainable Development (ESP), that recommends a geographic extent beyond the identified or typical boundaries of the geographic project area. The recommended area is typically the size of the traditional land area (ahupua‘a) or region (moku), but this can be larger or smaller depending on what best helps to identify the resources appropriately.

The geographic extent of this survey is based on the position that the Project Area(s) are part of a cultural landscape or cultural landscapes and therefore it is most appropriate to set and study the proposed alternatives within that cultural context. In this case, the Project Area includes the three discontinuous Project Area(s) and surrounding area(s) in the lands considered part of the Kōloa ahupua‘a, which is located in the Kona moku of Kaua‘i.

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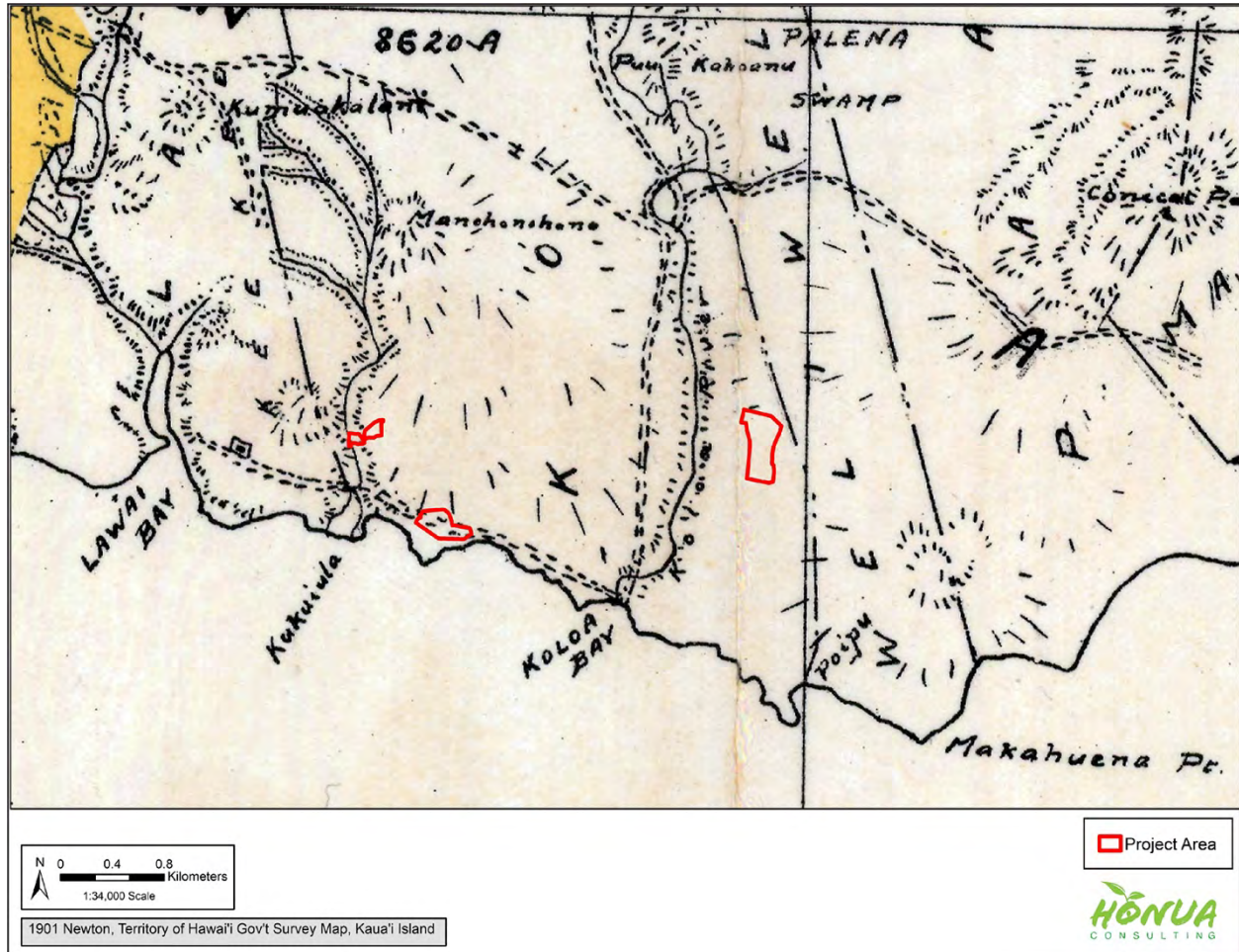


Figure 2. 1901 historic map showing the Project Areas.

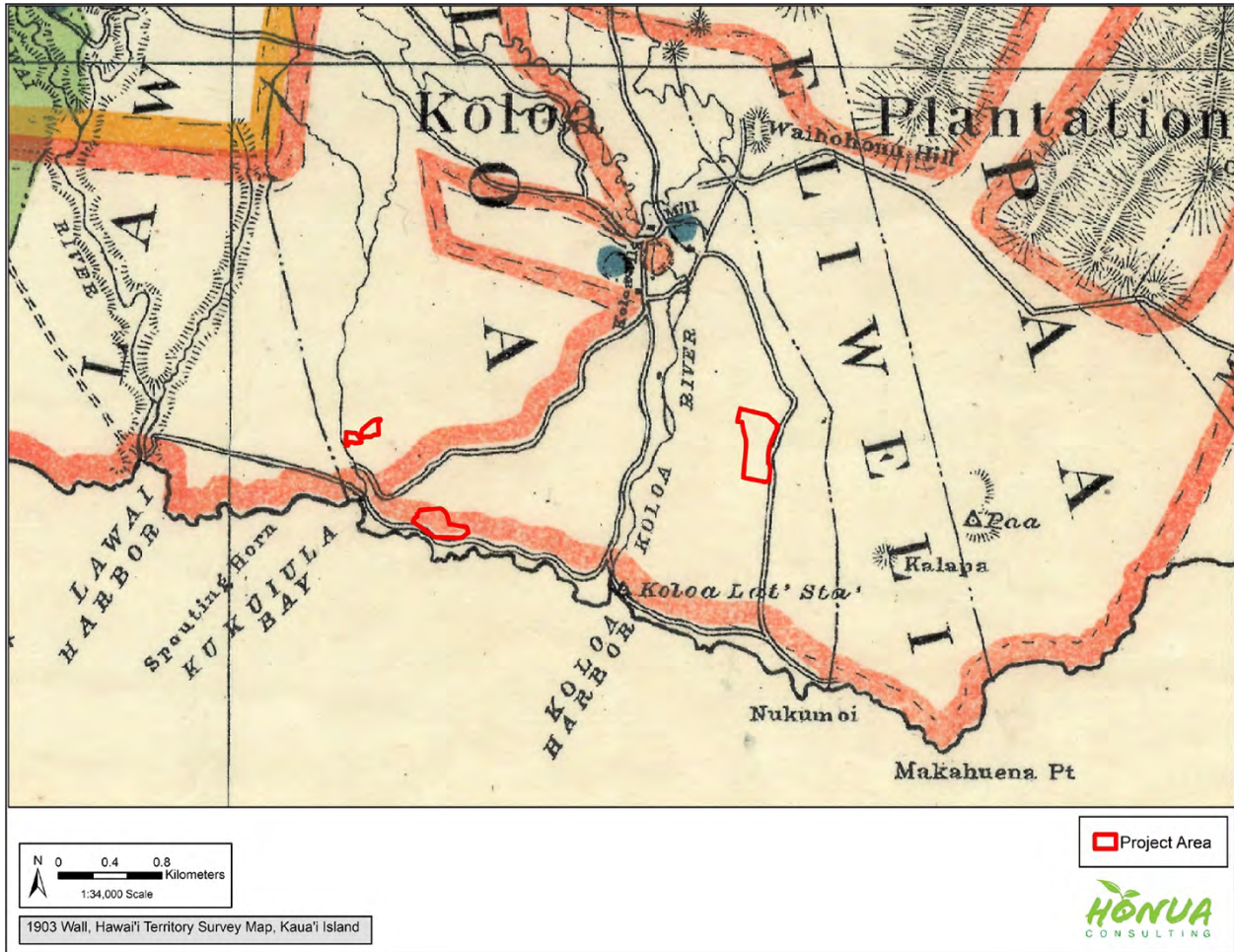


Figure 3. 1903 historic map showing the Project Areas.

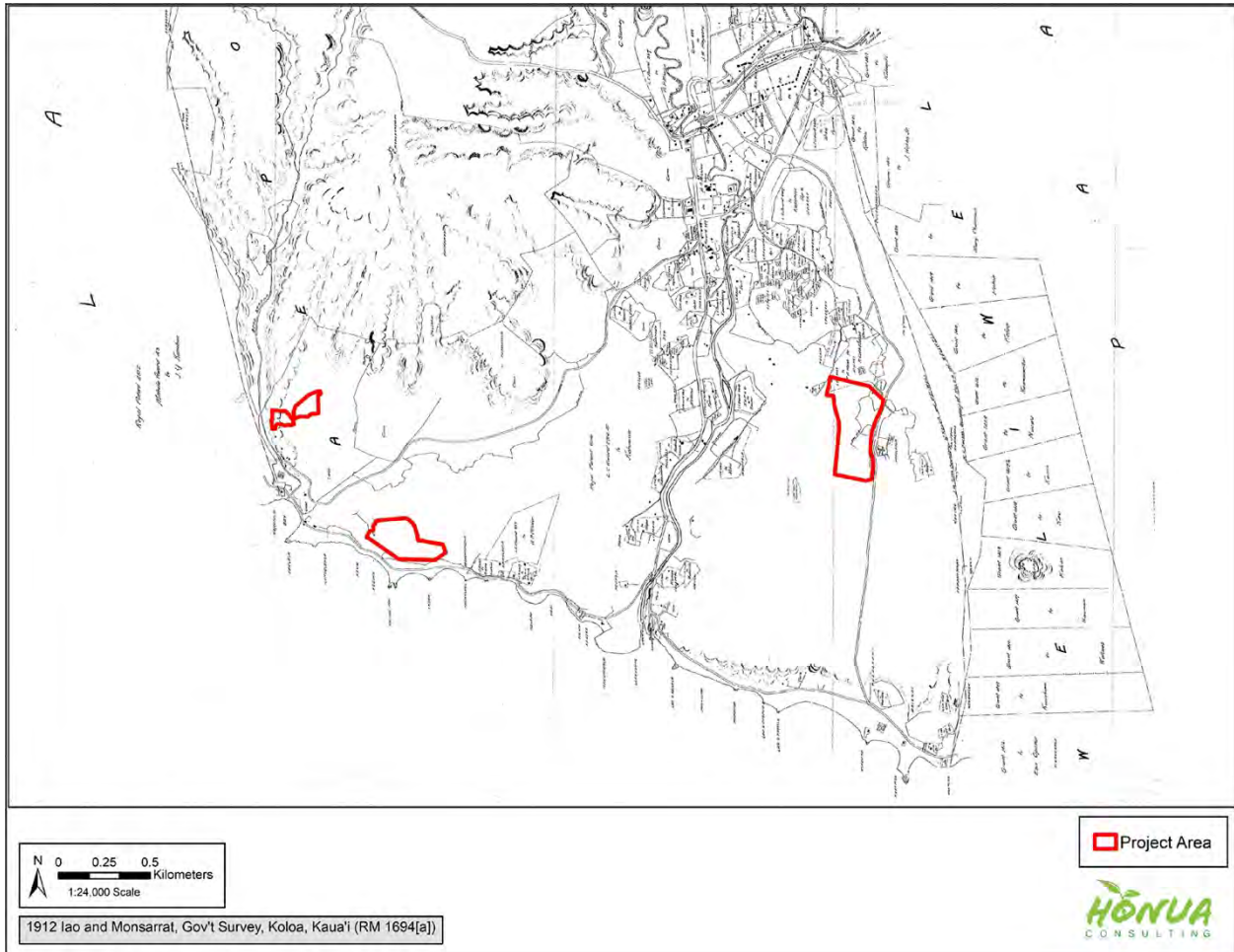


Figure 4. 1912 historic map showing the Project Areas.



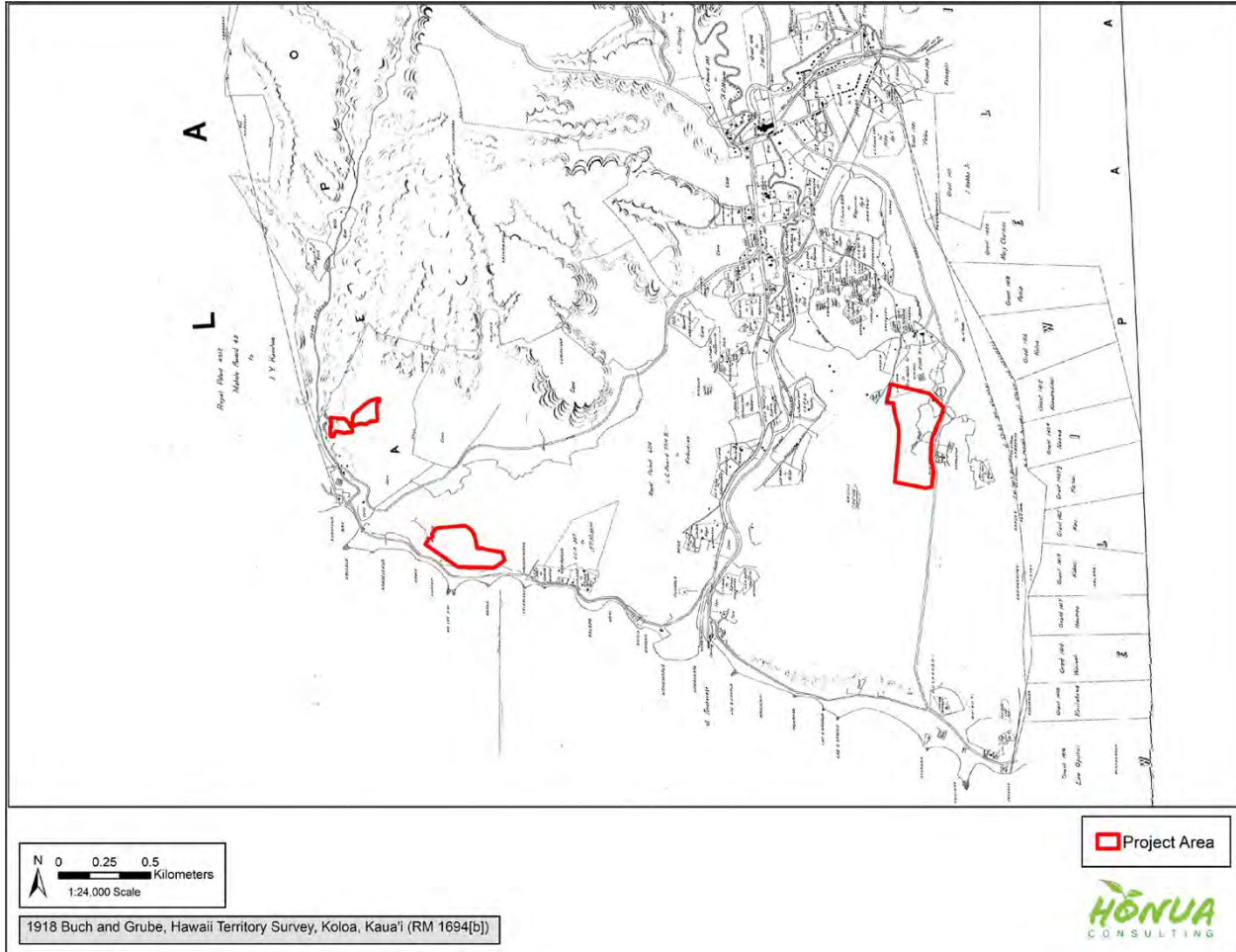


Figure 5. 1918 historic map showing the Project Areas. (This registered map shows the mauka portion of the Kauano'e o Kōloa project to include a portion of Land Commission Award 2668 R.A. Walsh for [Roman Catholic] Mission Church.)

Some of the interviewees contested the use of a single analysis for three discontinuous projects and project areas, yet, unlike other analyses which are bound to geographic area, cultural impact assessments, ethnographic surveys, and *Ka Pa‘akai* analyses are intended to look at practices within a cultural landscape. As such, existing policies on these surveys recommend a geographic extent that considers practices throughout the entire ahupua‘a instead of a geographically limited project area. Additionally, many of the informants spoke to potential impacts the individual projects could have on the entire Kōloa area and its collective community of practitioners or practices. Given, therefore, per the agency-directed guidelines, that the geographic extent is the ahupua‘a of Kōloa, we maintain that it is important to transparently identify all the applicant’s potential development activities in said geographic extent and look at the potential cumulative and indirect impacts of their actions, in addition to considering the potential impacts of the projects individually.

#### **1.4 Goal of Ethnographic Survey**

This survey looks to partially fulfill the requirement of taking into account the Projects’ potential impacts on historic and cultural resources and, at a minimum, describe: a) any valued cultural, historic, or natural resources in the areas in question, including the extent to which traditional and customary native Hawaiian rights are exercised in the area, b) the extent to which those resources – including traditional and customary native Hawaiians rights – will be affected or impaired by the Project; and c) the feasible action, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist.

#### **1.5 Compliance**

As noted previously, the State and its agencies have an affirmative obligation to preserve and protect Native Hawaiians’ customarily and traditionally exercised rights to the extent feasible. State law further recognizes that the cultural landscapes provide living and valuable cultural resources where Native Hawaiians have and continue to exercise traditional and customary practices, including hunting, fishing, gathering, and religious practices. The *Ka Pa‘akai* framework is a means to ensure the protection and preservation of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development interests.

While not attached to an HRS Chapter 343 action, this ethnographic survey was prepared under HRS Chapter 343 and Act 50 SLH 2000 as those are the prevailing standards and best practices for CIAs. These standards have been applied to this ethnographic survey, as there are currently no state standards for ethnographic surveys. The appropriate information concerning the ahupua‘a of Kōloa has been collected, focusing on areas near or adjacent to the Project Area(s). A thorough analysis of this project and potential impacts to cultural resources, historical resources, and archaeological sites is included in this assessment.

The present analyses of archival documents, oral traditions (oli or chants, mele or songs, and/or hula or dance texts), and Hawaiian language sources including books, manuscripts, and newspaper articles, are focused on identifying recorded cultural and archaeological resources present on the landscape, including: Hawaiian and non-Hawaiian place names; landscape features (ridges, gulches, cinder cones); archaeological features (kuleana parcel walls, house platforms, shrines, heiau or places of worship, etc.); culturally significant areas (viewsheds, unmodified areas where gathering practices and/or rituals were performed); and significant biocultural resources. The information gathered through research helped to focus interview questions on specific features and elements within the Project Area(s).

Interviews with lineal and cultural descendants are instrumental in procuring information about the Project Area(s)' transformation through time and changing uses. Interviews conducted with recognized cultural experts and summaries of those interviews are included herein.

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## 2.0 Methodology

The approach to developing the ethnographic survey and *Ka Pa'akai* analysis is as follows:

- 1) Gather Best Information Available
  - a) Gather historic cultural information from stories and other oral histories about the affected area to provide cultural foundation for the report;
  - b) Inventory as much information as can be identified about as many known cultural, historic, and natural resources, including previous archaeological inventory surveys, CIAs, etc. that may have been completed for the possible range of areas; and
  - c) Update the information with interviews with cultural or lineal descendants or other knowledgeable cultural practitioners.
- 2) Identify Potential Impacts to Cultural Resources
- 3) Develop Reasonable Mitigation Measures to Reduce Potential Impacts
  - a) Involve the community and cultural experts in developing culturally appropriate mitigation measures; and
  - b) Develop specific Best Management Practices (BMPs), if any are required, for conducting the project in a culturally appropriate and/or sensitive manner as to mitigate and/or reduce any impacts to cultural practices and/or resources.

While numerous studies have been conducted on this area, few have utilized Hawaiian language resources and Hawaiian knowledge. This appears to have impacted modern understanding of this location, as many of the relevant documents are native testimonies given by Kanaka Hawai'i (Hawaiians) who lived on this land.

While hundreds of place names and primary source historical accounts (from both Hawaiian and English language narratives) are cited on the following pages, it is impossible to tell the whole story of these lands in any given manuscript. A range of history, spanning the generations, has been covered. Importantly, the resources herein are a means of connecting people with the history of their communities—that they are part of that history. Knowledge of place will, in turn, promote appreciation for place and encourage acts of stewardship for the valued resources that we pass on to the future.

OEQC (now ERP) provides guidance on properly scoping the range of cultural practices. In their guidance documentation, they explain:

In scoping the cultural portion of an environmental assessment, the geographical extent of the inquiry should, in most instances, be greater than the area over which the proposed action will take place. This is to ensure that cultural practices which may not occur within the boundaries of the project area, but which may nonetheless be



affected, are included in the assessment. Thus, for example, a proposed action that may not physically alter gathering practices but may affect access to gathering areas would be included in the assessment. An ahupua'a is usually the appropriate geographical unit to begin an assessment of cultural impacts of a proposed action, particularly if it includes all of the types of cultural practices associated with the project area. In some cases, cultural practices are likely to extend beyond the ahupua'a and the geographical extent of the study area should take into account those cultural practices (OEQC 2012: 11).

Background research for the literature review was conducted using materials obtained from the State Historic Preservation Division (SHPD) library in Kapolei and the Honua Consulting LLC. report library. Online materials consulted included the Ulukou Electronic Hawaiian Database ([www.ulukou.com](http://www.ulukou.com)), Papakilo Database ([www.papakilodatabase.com](http://www.papakilodatabase.com)), the State Library online (<http://www.librarieshawaii.org/Serials/databases.html>), and Waihona 'Āina Māhele database (<http://www.waihona.com>). Hawaiian terms and place names were translated using the online Hawaiian dictionaries (Nā Puke Wehewehe 'Ōlelo Hawai'i) ([www.wehewehe.com](http://www.wehewehe.com)), *Place Names of Hawai'i* (Pukui et al. 1974), and *Hawai'i Place Names* (Clark 2002). Historic maps were obtained from the State Archives, State of Hawai'i Land Survey Division website (<http://ags.hawaii.gov/survey/map-search/>), UH-Mānoa Maps, Aerial Photographs, and GIS (MAGIS) website (<http://guides.library.manoa.hawaii.edu/magis>). Maps were geo-referenced for this report using ArcGIS 10.3. GIS is not 100% precise and historic maps were created with inherent flaws; therefore, geo-referenced maps should be understood to have some built-in inaccuracy.

M. P. Nogelmeier (2010) discusses the adverse impacts of methodology that fails to properly research and consider Hawaiian language resources. He strongly cautions against a mono-rhetorical approach that marginalizes important native voices and evidence from consideration, specifically in the field of archaeology. For this reason, Honua Consulting consciously employs a poly-rhetorical approach, whereby all data, regardless of language, is researched and considered. To fail to access these millions of pages of information within the Hawaiian language cache could arguably be a violation of Act 50, as such an approach would fundamentally fail to gather the best information available, especially considering the voluminous amounts of historical accounts available for native tenants in the Hawaiian language.

Hawaiian culture views natural and cultural resources as largely being one and the same: without the resources provided by nature, cultural resources could and would not be procured. From a Hawaiian perspective, all natural and cultural resources are interrelated, and all natural and cultural resources are culturally significant. Kepā Maly (2001), ethnographer and Hawaiian language scholar, points out, "In any culturally sensitive discussion on land use in

Hawai'i, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends and nature begins" (Maly 2001:1). As a leading researcher and scholar on Hawaiian culture, Maly, along with his wife, Onaona, have conducted numerous groundbreaking studies on cultural histories throughout Hawai'i. A substantial part of the archival research utilized in this study was previously compiled and published by Kepā and Onaona Maly, who have granted their permission to use this important work and are identified properly as associated authors and researchers of this study.

This study also specifically looks to identify intangible resources. Tangible and intangible heritage are inextricably linked (Bouchenaki 2003). Intangible cultural resources, also identified as intangible cultural heritage (ICH), are critical to the perpetuation of cultures globally. International and human rights law professor Federico Lenzerini notes, "At present, we are aware on a daily basis of the definitive loss—throughout the world—of language, knowledge, knowhow, customs, and ideas, leading to the progressive impoverishment of human society" (Lenzerini 2011:12). He goes on to warn that:

the rich cultural variety of humanity is progressively and dangerously tending towards uniformity. In cultural terms, uniformity means not only loss of cultural heritage—conceived as the totality of perceptible manifestations of the different human groups and communities that are exteriorized and put at the others' disposal—but also standardization of the different peoples of the world and of their social and cultural identity into a few stereotyped ways of life, of thinking, and of perceiving the world. Diversity of cultures reflects diversity of peoples; this is particularly linked to ICH, because such a heritage represents the living expression of the idiosyncratic traits of the different communities. Preservation of cultural diversity, as emphasized by Article 1 of the UNESCO Universal Declaration on Cultural Diversity, 'is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind'. Being a 'source of exchange, innovation and creativity', cultural diversity is vital to humanity and is inextricably linked to the safeguarding of ICH. Mutual recognition and respect for cultural diversity—and, *a fortiori*, appropriate safeguarding of the ICH of the diverse peoples making up the world—is essential for promoting harmony in intercultural relations, through fostering better appreciation and understanding of the differences between human communities. (Lenzarini 2011:103)

Therefore, tradition and practice, as elements of Hawaiian ICH, are essential to the protection of Hawaiian rights and the perpetuation of the Hawaiian culture.

## 2.1 Identifying Traditional or Customary Practices

It is within this context that traditional or customary practices are studied. The concept of traditional or customary practices can often be a challenging one for people to grasp. Traditional or customary practices can be defined as follows:



Figure 6. Diagram of elements that contribute to traditional or customary practices (Honua Consulting)

The first element is knowledge. This has been referred to as traditional ecological knowledge (TEK), Indigenous local knowledge (ILK), or ethnoscience. In the context of this study, it is the information, data, knowledge, or expertise Native Hawaiians or local communities possessed or possess about an area's environment. In a traditional context, this would have included information Hawaiians possessed in order to have the skills to utilize the area's resources for a range of purposes, including, but not limited to, travel, food, worship or habitation. This element is largely intangible.

The second element is the resources themselves. These are primarily tangible resources, either archaeological resources (i.e., habitation structures, walls, etc.) or natural resources (i.e., plants, animals, etc.). These can also be places, such as a sacred or culturally important sites or wahi pana. Sometimes these wahi pana are general locations, this does not diminish their importance or value. Nonetheless, it is important to recognize that potential eligibility as a "historic site" on the National Register of Historic Places (NRHP) would require identifiable boundaries of a site.

The third element is access. The first two elements alone are not enough to allow for traditional or customary practices to take place. The practitioners must have access to the resource in order to be able to practice their traditional customs. Access does not just mean the ability to physically access a location, but it also means access to resources. For example, if a particular plant is used for medicinal purposes, there needs to be a sufficient amount of that plant available to practitioners for use. Therefore, an action that would adversely impact the population of a particular plant with cultural properties would impact practitioners' ability to access that plant. By extension, it would adversely impact the traditional or customary practice.

Traditional or customary practices are, therefore, the combination of knowledge(s), resource(s), and access. Each of these individual elements should be researched and identified in assessing any potential practices or impacts to said practices.

## 2.2 Traditional Knowledge, or Ethnoscience, and the Identification of Cultural Resources

The concept of ethnoscience was first established in the 1960s and has been defined as “the field of inquiry concerned with the identification of the conceptual schemata that indigenous peoples use to organize their experience of the environment” (Roth 2019). Ethnoscience encompasses a wide range of subfields, including, but not limited to, ethnoecology, ethnobotany, ethnozoology, ethnoclimatology, ethnomedicine and ethnopedology. All of these fields are important to properly identify traditional knowledge within a certain area.

Traditional Native Hawaiian practitioners were scientists and expert natural resource managers by necessity. Without modern technological conveniences to rely on, Hawaiians developed and maintained prosperous and symbiotic relationships with their natural environment for thousands of years. Their environments were their families, their homes, and their laboratories. They knew the names of every wind and every rain. The elements taught and inspired. The ability of indigenous peoples to combine spirituality and science led to the formation of unique land-based mythologies that spurred unsurpassed innovation. Therefore, identifying significant places requires a baseline understanding of what made places significant for Hawaiians.

Hawaiians were both settlers and explorers. In *Plants in Hawaiian Culture*, B. Krauss explains: “Exploration of the forests revealed trees, the timber of which was valuable for building houses and making canoes. The forests also yielded plants that could be used for making and dyeing tapa, for medicine, and a variety of other artifacts” (Krauss 1993). Analysis of native plants and resource management practices reveals the depth to which Hawaiians excelled in their environmental science practices:

[Hawaiians] demonstrated great ability in systematic differentiation, identification, and naming of the plants they cultivated and gathered for use. Their knowledge of the gross morphology of plants, their habits of growth, and the requirements for greatest yields is not excelled by expert agriculturists of more complicated cultures. They worked out the procedures of cultivation for every locality, for all altitudes, for different weather conditions and exposures, and for soils of all types. In their close observations of the plants they grew, they noted and selected mutants (spores) and natural hybrids, and so created varieties of the plants they already had. Thus, over the years after their arrival in the Islands, the Hawaiians added hundreds of named varieties of taro, sweet potatoes, sugarcane, and other cultivated plants to those they had brought with them from the central Pacific (Krauss 1993).

Thus, Native Hawaiians reinforced the biodiversity that continues to exist in Hawai'i today through their customary traditional natural resource management practices.

The present analyses of archival documents, oral traditions (oli or chants, mele or songs, and/or hula dances and ha'i mo'olelo or storytelling performances), and Hawaiian language sources including books, manuscripts, and newspaper articles, are focused on identifying recorded cultural resources present on the landscape, including: Hawaiian and non-Hawaiian place names; landscape features (ridges, gulches, cinder cones); archaeological features (kuleana parcel walls, house platforms, shrines, heiau [places of worship], etc.); culturally significant areas (viewsheds, unmodified areas where gathering practices and/or rituals were performed); and significant biological, physiological, or natural resources. This research also looks to document the wide range of Hawaiian science that existed within the geographic extent.

### **2.3 Mo'olelo 'Āina: Native Traditions of the Land**

Among the most significant sources of native mo'olelo are the Hawaiian language newspapers which were printed between 1838 and 1948, and the early writings of foreign visitors and residents. Most of the accounts that were submitted to the papers were penned by native residents of areas being described and by noted native historians. Over the last 30 years, Kepā Maly has reviewed and compiled an extensive index of articles published in the Hawaiian language newspapers, with particular emphasis on those narratives pertaining to lands, customs, and traditions. Many traditions naming places around Hawai'i are found in these early writings. Many of these accounts describe native practices, the nature of land use at specific locations, and native mo'olelo (history, narrative, story). Thus, these resources are a means of understanding how people related to their environment and sustained themselves on the land.

### **2.4 Historic Maps**

There are also numerous, informative historic maps for the region. Surveyors of the eighteenth and nineteenth centuries were skilled in traversing land areas and capturing important features and resources throughout Hawai'i's rich islands. Historic maps were carefully studied, and the features detailed therein were aggregated and categorized to help identify specific places, names, features, and resources throughout the study area. From these, among other documents, new maps were created that more thoroughly capture the range of resources in the area.

## 2.5 Ethnographic Methodology

Information from lineal and cultural descendants is instrumental in procuring information about the Project Area(s)' transformation over time and its changing uses. The present analyses of archival documents, oral traditions (including oli or chants, mele or songs), and/or hula dance), and Hawaiian language sources including books, manuscripts, and newspaper articles, are focused on identifying recorded cultural and archaeological resources present on the landscape, including: Hawaiian and non-Hawaiian place names; landscape features (ridges, gulches, cinder cones); archaeological features (kuleana parcel walls, house platforms, shrines, heiau or places of worship, etc.); culturally significant areas (viewsheds, unmodified areas where gathering practices and/or rituals were performed); and significant biocultural resources. The information gathered through research helped to focus interview questions on specific features and elements within the Project Area(s).

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### 3.0 Historic Background

The purpose of this section is to characterize the Hawaiian cultural landscape within which the Project Area(s) are located, which is the ahupua‘a of Kōloa. This includes a description of Kōloa’s relevant and representative inoa ‘āina (place names), mo‘olelo (oral-historical accounts), wahi pana (legendary places), and other natural and cultural resources.

#### 3.1 Traditional Period

Kaua‘i is “the oldest geologically of the major islands of the Hawaiian chain” (Handy et al. 1972: 391). This difference in geological time accounts for notable differences between Kauai in comparison to the other inhabited islands, specifically “[its] interior mountains are less rugged and its streams have carved out real river beds” (Handy et al. 1972:391).

Kōloa is in the Kona moku (district) of Kaua‘i, which includes fourteen (14) ahupua‘a. Handy et al. describe Kōloa and its neighboring areas as:

... Pa‘a is very dry. Breadfruit, yams, and bananas were planted in the gulches.

Weliweli is about like Pa‘a. Both of these narrow land sections lie on a slight seaward promontory, Makahuena Point. W.C. Bennett (1931, p. 118) found an irrigation ditch and terraces, indicating that there used to be some wet taro grown in the area which is now dry. Desiccation may have been partly caused by clearing the woodland when the first sugar plantation on Kauai was established there.

Koloa had a stream which at its seaward end was called Waikomo (Hidden-water), suggesting that the stream much have gone underground. Three streams in upper Koloa may have watered some taro terraces, since they flow through relatively flat land, although a kama‘aina told us he knew of none. However, there were a few terraced areas, whose names we obtained, in localities now dry because the water is diverted upstream for sugar-cane irrigation. There were extensive terraces on land now planted with sugar cane near what is now Kuhio Park, seaward of Koloa Valley. There were fresh-water ponds in both Weliweli and Koloa. Possibly this was why Koloa was so named, for koloa means duck, and duck were attracted to fresh water (Handy et al. 1972: 427-428).

Handy et al. identify two important impacts of early contact in Kōloa: desiccation from clearing vegetation and water diversion.

##### 3.1.1 Mo‘olelo

Mo‘olelo (traditional narratives, stories, history) were once passed down through oral tradition and later recorded in print upon the arrival of the printing press in the 1830s. One of the



beautiful elements of Hawaiian storytelling is that many versions of mo'olelo exist, told from the perspective of storytellers who are native to varying areas. By collecting and celebrating the multiple versions of mo'olelo, the depth and breadth of Kānaka 'Ōiwi perspective about 'āina can be understood. Information about culture, language, and places are held within those stories, and can continue to live on through those mo'olelo.

Portions of many famous mo'olelo take place in the Kōloa area, some sections of which will be presented in this section in order to demonstrate the cultural significance of this 'āina. It should be noted that this is not a comprehensive list of mo'olelo, but a selection of mo'olelo to demonstrate the use of this practice in the region.

Kōloa is long-standing traditional name that has been retained into the present, while other place names in the region have largely been lost in the rapid development of mass agricultural plantations at the beginning of the 20<sup>th</sup> century when Hawai'i became a U.S. Territory. Kōloa has a rich and interesting cultural history, and there are numerous of mele and mo'olelo associated with this region. Kōloa alternatively means long sugar cane [stalk(s)] or to make a long roaring sound. One mo'olelo says the region “was named for a steep rock called Pali-o-kō-loa [cliff of long sugar cane]” (Pukui, Elbert, and Mookini 1974: 116). Koloa is also the name of a native Hawaiian duck (*Anas wyvilliana*) now called koloa maoli to distinguish it from foreign and introduced duck species which are also called koloa. Koloa were prevalent on Kaua'i and their presence is suggested in the kaona (poetic referencing) of this inoa 'āina (place name). Pīwai is one species of ducks common to the Kōloa area (Wichman 1998: 40). Multiple interpretations of Hawaiian place names are not only common, they are sometimes intentional because of the Hawaiian penchant for kaona. As H. Kekahuna observed:

The literal translation of the name Ko-loa is Long (loa) Sugarcane (ko). The name of the Hawaiian duck is koloa pronounced as a single word with a lighter o. The full-sounded word ko means success, or to succeed, as well as sugarcane, which is symbolic of success. With the same full sound the word also means the movement of a wind or current, or the drawing of the tide (ko' ke au). Thus, through the astonishing versatility and flexibility of the Hawaiian language there is for a project in Ko-loa an augury of success (ko') that is long-enduring (loa), like the moving of a current (ko') that flows afar (loa). (Kekahuna 1959: 2)

The traditional knowledge imbedded in place names reveals the history of place, people, and the depth of their traditions. Although fragmented, the surviving place names describe a rich culture. On these lands are found many place names that have survived the passing of time. The occurrence of place names demonstrates the broad relationship of the natural landscape to the culture and practices of the Hawaiian people. In *A Gazetteer of the Territory of Hawaii*, J. W. Coulter observed that Hawaiians had place names for all manner of features, ranging from “outstanding cliffs” to what he described as “trivial land marks” (1935:10). In 1902,

W.D. Alexander, former Surveyor General of the Kingdom (and later Government) of Hawai'i, wrote an account of "Hawaiian Geographic Names." Under the heading "Meaning of Hawaiian Geographic Names" he observed:

It is very difficult, if not impossible, to translate most of these names, on account of their great antiquity and the changes of which many of them have evidently undergone. It often happens that a word may be translated in different ways by dividing it differently. Many names of places in these islands are common to other groups of islands in the South Pacific, and were probably brought here with the earliest colonists. They have been used for centuries without any thought of their original meaning. (395)

Moreover, historically named locations were significant in past times and it has been observed that "Names would not have been given to [or remembered if they were] mere[ly] worthless pieces of topography" (Handy et al. 1972: 412).

In traditional (pre-western contact) culture, named localities served a variety of functions, informing people about: (1) places where the gods walked the earth and changed the lives of people for good or worse; (2) heiau or other features of ceremonial importance; (3) triangulation points such as ko'a (fishing markers) for fishing grounds and fishing sites (4) residences and burial sites; (5) areas of planting; (6) water sources; (7) trails and trail side resting places (o'io'ina), such as a rock shelter or tree shaded spot; (8) the sources of particular natural resources/resource collections areas, or any number of other features; or (9) notable events which occurred at a given area. Through place names knowledge of the past and places of significance was handed down across countless generations. There is an extensive collection of native place names recorded in the mo'olelo (traditions and historical accounts) published in Hawaiian newspapers. The mo'olelo provided below is only a very small sample of the larger body of work created by kánaka about Kōloa.

### **3.1.1.1 Pele and Hi'iakaikapoliopole**

In the famous epic tale of the two sisters, Pele, the renowned goddess of the volcano, sends her youngest Hi'iaka sister, Hi'iakaikapoliopole, on a journey across the island chain to fetch the young lover that Pele discovers in a dream, the handsome chief of Kaua'i named Lohi'auipo. On her journey, Hi'iaka grows into her goddess nature by facing many obstacles including mo'o or dangerous reptilian water guardians, lethal storms, and countless other challenges, only to find that she must revive her sister's lover using her powers to bring him back to life.

### **3.1.1.2 He Kaa no Kapunohu**

Kōloa serves as part of the setting for the mo'olelo of Kapunohu, who was a chief from Hawai'i Island. Kapunohu was famed for possessing a spear said to have magical powers called

Kanikawi. Kapunohu was also the brother of Konahuanui, who was the wife of the O'ahu chief Olopana. Kapunohu travels to O'ahu to meet with his sister. Olopana, upon seeing Kapunohu and the powers held by Kanikawi, recruits Kapunohu to be one of his warriors and sets out to battle Kakuhihewa. Kapunohu defeats Kakuhihewa, after which all of O'ahu is ruled by Olopana (Fornander 1918).

A make o Olopana, haalele iho la o Kapunohu ia Oahu nei, holo aku la ia ma ka waa a pae ma Poki i Waimea, Kauai, hele aku la ia malaila aku, a hiki i Wahiawa, malaila aku a Lawai i Koloa noho. I laila o Kemamo kahi i noho ai, he koa ia, he kanaka ikaika i ka maa ala, aohe ona lua ma ia hana o ka lima hema kona oi loa, e hiki ia ia ke maa i ka ala hookahi, i na mile eono, a i ka hiku o ka mile, pio ka ikaika o ka ala. Aole he kanaka aa o Kauai, e hakaka me Kemamo aole alii, aole koa. Nolaila, ua makau loa ia ka hele ana mai Koloa aku a Nawiliwili, aole hiki i ko Koolau ke hele mai maanei o Nawiliwili a pela ko Kona nei, aole hiki ke hele aku ma o o Koloa. No ka mea, e noho ana o Kemamo ma waena o Koloa a me Nawiliwili, me kana wahine o Waialeale.

A hiki o Kapunohu i laila, moe iho la ia a ao ae, i kau hale kamaaina, hoou ac la o Kapunohu e hele, olelo mai kamaaina: "Mai hele oe, o make auanei oe i ke koa o makou nei." Ninau aku o Kapunohu: "Owai ia koa?" "O Kemamo." "Pehea kona ikaika?" "He maa ala kona ikaika, aole e hala ka ala ke lele mai, aole hoi e nawaliwili i na mile elima, nolaila mai hele oe, o make auanei." I aku o Kapunohu: "Aole hoi ha he ikaika, he mea paani ka maa ala, na ko makou kamalii mai lewalewa, a he mea ikaika ole no." No keia olelo a Kapunohu, kaulana aku la ia a lohe o Kemamo, i iho o Kemamo: "Ae, akahi mea nana i hoole kuu maa, oia, ina he manao kona e hele mai e hoike i na ikaika o maua, e hele mai no." A lohe o Kapunohu, hele aku la ia a hiki, i mai la o Kemamo: "Ea! O oeke kanaka nana i hoole kuu ala?" I aku o Kapunohu: "Ae, owau no, no ka olelo mai a lakou nei, he ikaika oe i ka maa i ka ala. Nolaila, olelo aku au, he mea paani ia na ko makou kamalii mai lewalewa."

A lohe o Kemamo, huhu iho la ia ia Kapunohu, a olelo mai la: "E! Heaha kau pili, ekamalihini?" I aku o Kapunohu: "O na iwi ka'u pili." Ae mai o Kemamo: "Ae, a heaha hou ae?" I aku keia: "O ka waiwai iho la no ia a kamahela o na iwi, ina wau e eo, alaila make au, a ina hoi oe e eo, make oe ia'u." Ae mai la o Kemamo: "Ae ua mau ia pili ana." Olelo aku o Kemamo: "O ka pahu a kaua, e ku ai a maa, mai Koloa a Moloaa i Koolau ka pahu ia ma waena o laila ka kaua hana, a i puka ma o o Moloaa eo kekahi o kaua." Ae aku la o Kapunohu. I aku nae o Kapunohu: "O ka'u hana i ike o ka pahee, malaila no wau, o kau hana hoi i ike o ka maa, malaila no oe." Ae mai la o Kemamo. I aku o Kemamo: "Ia wai mua, i kamaaina paha, i ka malihini paha?" I aku o Kemamo: "I kamaaina ka mua, he hope ka ka malihini."

Ia wa, maa o Kemamo a pau eono maila, a i ka hiku nawaliwili, pela ka nawe hele ana

a hiki i Anahola waiho, ilaila loa i ke kukini mama o Kauai, o Kawaikuaehoe kona inoa. Pahee o Kapunohu i kana ihe, holo aku la kana ihe mai Koloa aku a Niumalu, o ka malu o ka la i ka ihe a Kapunohu, kapaia ia aina o Niumalu a hiki i keia la. Mailaila aku ka holo ana, a hiki i Kawelowai mauka o Wailua, nolaila keia inoa, e pili la, o Kawelowai, a me Waiehu, no ke komo ana o ka ihe i loko o ka wai, a lele hou, mailaila aku a Kalalea i Anahola, o ia keia puka e hamama ala a hiki i keia la, malaila aku a hiki i Moloaa, malaila aku a Waiakalua a Kalihikai maalili ka ihe, a Hanalei pau ka holo o ka ihe. A eo ae la o Kemamo hooko ia ka laua pili, a lilo ae la o Kapunohu i al holo. Kauai.

After the death of Olopana, Kapunohu left Oahu and journeyed to Kauai. Boarding his canoe he set sail and first landed at Poki, in Waimea; from this place he continued on to Wahiawa and then on to Lawai in Koloa where he settled down. There lived at this place a great warrior, by the name of Kemamo, who was noted for his great strength and skill in the use of the sling; he was without equal in its practice; his left hand was considered better than his right, and he could throw a stone for a distance of six miles and in the seventh mile its force ceased. No person in Kauai was found who could face him, not from amongst the chiefs or soldiers. Because of this man people were afraid to travel between Koloa and Nawiliwili; those on the Koolau side could not pass over to Nawiliwili and those, from the Kona side were afraid to travel toward the Koloa side, for the reason that Kemamo and his wife Waialeale lived between Koloa and Nawiliwili.

When Kapunohu arrived at Lawai he was entertained that night by some of the people of the place, and on the next day he prepared to continue on his journey. When he was ready to start, the people said: "You must not go by this way or you will get killed by our great warrior." Kapunohu then asked: "Who is this warrior?" "Kemamo." "In what is his strength?" "He is very skilful in the use of the sling. He never misses a shot, and the strength of his flying stone will go over five miles. Therefore you must not go for you will get killed." Kapunohu said: "Then he is not strong. The sling is only a plaything for the boys of our place and it is not considered of any consequence." These remarks made by Kapunohu were carried around until they reached Kemamo; so Kemamo made the remark: "Yes, this is the first time that my strength in the use of the sling has been denied. Well and good; if he desires to come and test as which of us is the stronger, let him come on." When Kapunohu heard this, he went out to meet Kemamo. Upon seeing Kapunohu, Kemamo asked: "Are you the man that has said that I have no strength in the use of the sling?" Kapunohu replied: "Yes, I am the man. It is because these people said that you are very skilful in the use of the sling, so I said, that it is the plaything with the small boys at our place."

When Kemamo heard this he became very angry toward Kapunohu and said: "What will the stranger bet on the proposition?" Kapunohu replied: "My life will be my stake."

“Yes,” said Kemamo, “and what else?” Kapunohu replied: “That is all a traveler takes with him. If you beat me my life shall be forfeited, and if I should beat you your life shall be forfeited.” Kemamo agreed to this and the bet was declared made. Kemamo then said: “The course over which we shall compete in throwing the stone with the sling, shall be from Koloa to Moloaa in Koolau. We must make our throws over these points and toward Moloaa; whoever throws the greatest distance beyond Moloaa wins.” Kapunohu replied: “Yes, I will agree to that, but I am going to use my spear while you use your sling.” Kemamo agreed to this. Kemamo then asked: “Who shall take the first chance? Shall it be the stranger, or shall it be the native son?” Kapunohu answered: “Let the native son take the first chance and the stranger the last.”

Kemamo then took up his sling and threw his stone, which went six miles and over, and it only fell and rolled after it had entered into the seventh mile, stopping at Anahola, where it was picked up by the best runner of Kauai, a man by the name of Kawaikuauhoe. Kapunohu then threw his spear, darting along from Koloa and over Niupalu, and as it shielded the sun from the coconut trees at this place the land was given the name of Niupalu, as known to this day; then it went on and into the water in upper Wailua, giving the place the name of Kawelowai as well as the land next to it which is called Waiehu; from this place it again took an upward flight flying along till it pierced through a ridge at Anahola, which is called Kalaea, leaving a hole through it, which can be seen to this day; from this place it went on past Moloaa, then past Waiakalua, then into Kalihikai, where it grew weaker and finally stopped at Hanalei.

Kemamo was therefore beaten and the conditions of their bet were carried out. Kapunohu became thereby king of Kauai (Fornander 1918).

### 3.1.2 Inoa ‘Āina

Honua Consulting developed a list of place names from the ahupua‘a of Kōloa in the vicinity of the Project Area(s), which includes but is not limited to the following places and terms, to help guide research and analyses (Table 1). The development of this list stemmed from extensive research into a wide range of documents related to the project area. In many cases, land divisions would be referred to as both ahupua‘a and ‘ili, depending upon the document. It was also unclear from documents where land was identified as ‘ili as to if the ‘ili were simply a subdivision of larger ahupua‘a or if they were ‘ili kūpono, distinct land areas unto themselves.

Historic maps were also reviewed to help identify specific place names within the region.



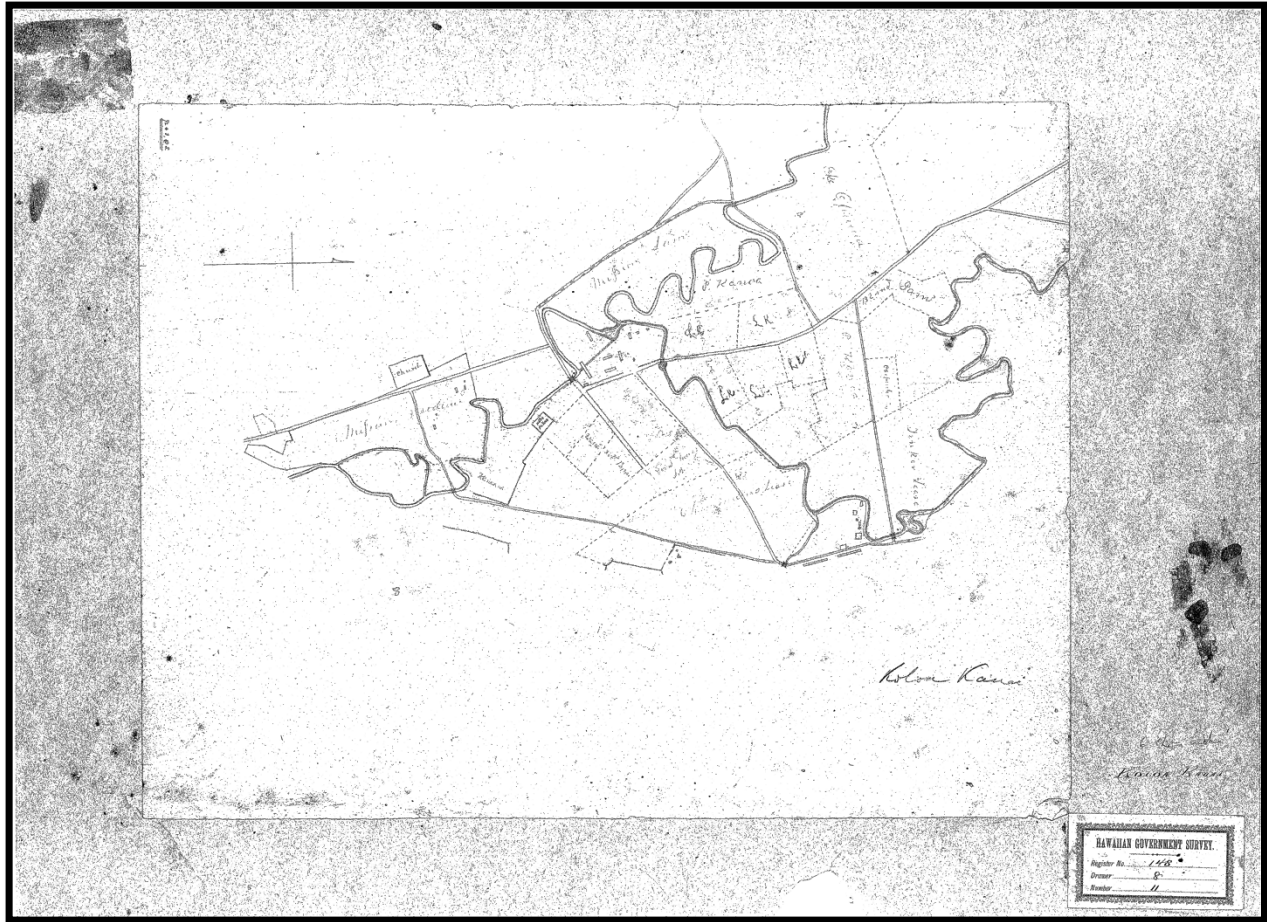


Figure 7. Registered Map 148 showing Kōloa Village (Metcalf 1849)









## Historic Background

From the historical land records, there appeared to be little concern for specific boundaries, as foreigners, many of them missionaries who converted to businessmen, eagerly maneuvered their relationships with the new formalized government to acquire themselves strategically located parcels of land that proved valuable as new capitalist economic industries like sugar developed across the islands, including on Kaua'i; Kōloa is the location of the first successful commercial sugar plantation, which began in 1835 (Pukui, Elbert, and Mookini 1974: 116).

Table 2. Selected Inoa 'Āina of Kōloa

Selected Place Names of Kōloa Ahupua'a in Vicinity of the Project Area(s)			
Inoa 'Āina (Place Name)	Description	Meaning	Reference
'Ālanapō	Heiau where the Kaua'i hero Palila was taken by his grandmother to be raised by the gods.	Night offering	Fornander; Wichman 1998
'Ēkaha	Bay to the east of Ka Lae Kīkī	'Ēkaha (bird's nest fern) bay; also, a kind of seaweed	Google maps, Google Earth
Hālauakalena	Heiau dedicated to the mo'owahine Kihawahine	Shed [to store] 'ōlena (tumeric) [roots]	Wichman 1998
Hanakā'ape	A small harbor or bay along the shoreline later called Whalers' Bay and now Kōloa Landing	Bay of the 'ape ( <i>Alocasia macrorrhiza</i> , <i>Xanthosoma robustum</i> ) plant; headstrong bay	Wichman 1998
Hanakalaua'e	Heiau located at Mahaulepu; destroyed by Frendenberg to build cattle pens (Thrum)	Bay of the laua'e fern	Bennett 1931
Hō'ai	Beach near Kaheka and Kolopā	To feed	Google map
Ho'oleinakapua'a	Located next to a small pond along Waikomo stream	Place to throw the pig	Wichman 1998

	above the pond of Mauhili		
Humu'ula	Land area in Kōloa where the heiau 'Ālanapō was located	Red jasper stone used for adze making	Fornander; Wichman 1998
Kāheka	Land area; n.d.	Shallow pool	Google maps
Kāhili	3,016 ft. high mountain peak on Wai'ale'ale that marks the mauka boundary of Kōloa ahupua'a; waterfall	The royal feather standard	PNH
Ka Lae Kīkī	Point	Spouting; name of a bird	Google Earth
Kamo'oloa	Mauka plains area below Kāhili; site of many battles	The long ridge or lizard	Wichman 1998
Kānehā'ule	Heiau located at Kaunu'ie'ie where "rites of circumcision" were preformed (Thrum)	Kāne falling	Bennett 1931
Kāneiolouma	Heiau for sports and food. Located just inland of Po'ipū beach. Part of a larger complex documented by Kekahuna.	Kāne who drove and pushed	Kekahuna map; kaneiolouma.org; P. Young blog
Ka'ōleloohawai'i	Rock located just below Waihānau rock at Mauhili pool. Brought to this location by the Kaua'i chief Kaweloleimakua from Hawai'i Island.	The language of Hawai'i	Wichman 1998
Kapōhakau	1,4000 ft. Peak on Kāhili mountain;	The placed or set rock	Wichman 1998



## Historic Background

	mauka boundary point separating the ahupua'a of Lāwa'i from Kōloa.		
Kapunakea	Pond, Mahaulepu	The white coral	Bennett 1931
Kauhu'ula	Ridge on Kāhili that divides the East Kona from the Puna moku	The red uhu (parrot) fish	Wichman 1998
Kaunu'ie'ie	Land area near a small east branch of 'Ōma'o stream. Site of Kānehā'ule heiau	n.d.	Bennett 1931
Keonelo	Beach, petroglyph site	The long sand	Bennet 1931
Kiahuna	Beach; no data	n.d.	
Kihouna	Point; walled heiau (130 by 89 feet)		Bennet 1931
Kōloa	Ahupua'a, town, stream, reservoir.	Long sugar cane stalk or long roaring sound	PNH
Kolopā	n.d.		Google Earth
Kū'ia	Stream	Obstructed	
Kukui'ula	Bay, surf site	Red kukui (light)	PNH, HPN
Lae o Kāhala	Point, immediately west of Hanakā'ape and Waikomo stream	Point (cape) of the kāhala ( <i>Seriola dumerilii</i> ) or amberjack fish	Google Earth
Lae o Ka'ōpua	Point; n.d.		Google Earth
Lāwa'i	Ahupua'a bordering Kōloa to the west; gulch, stream; considered part of Kōloa district in some sources	Day to end fishing kapu	PED, PNH
Louma	A small heiau dedicated to Lono and built by Kapueomakawalu with stones brought	n.d.	Wichman 1998

	<p>from O’ahu. Also attributed to menehune. Offerings of pigs, red fish, and vegetable were given here. Possibly the same as Kāneioulouma.</p>		
Makahū’ena	Point at Po’ipū	Eyes overflowing heat; very angry eyes or face	PNH, HPN
Manini	A ko’a (fishing shrine) dedicated to the shark deity Kūha’imoana located along the Kōloa shoreline	A silverreef surgeon fish ( <i>Acanthurus triostegus</i> ) with black stripes; also varieties of kalo, ‘uala, and kō	Wichman 1998
Mauhili	Fresh water pool located in Waikomo stream; sleeping forms of the gods Kāne and Kanaloa are found here. Wichman renders the name as “Maulili.”	Entangled; interwoven	PNH (HM 65)
Maulili	Alternate name for Mauhili, a deep pool located in Waikomo stream about midway through the ahupua’a. Home of the mo’owahine Kihawahine; when she was there, the water turned red, warning of her presence.	Constant jealousy	Wichman 1998
Maulili	Heiau built by Kapueomakawalu, who used it as a		Wichman 1998

## Historic Background

	luakini for human sacrifice. Location was lost, until 'Aikanaka sought it out and had the heiau rebuilt.		
Nahumā'alo	Point, west of Hanakā'ape	Bite in passing	PNH
Nukumoi	Tomobolo or point, west side of Po'ipū beach	Moi or threadfish ( <i>Polydactylus sexfilis</i> ) snout	HPN
'Ōmao	Stream	Green	Wichman 1998
Pa'a	Small ahupua'a once part of Kōloa; sand dune burial site	Secure	Bennett 1931
Pā'ōhi'a	Stream	'Ōhia log fence	
Pihakekua	n.d.	The full back	Google maps
Pō'ele'ele	Stream	Black night	Wichman 1998
Po'ipū	Beach	Completely overcast; crashing, as waves	PNH, HPN
Punahoa	Land area (fresh water spring?), just inland of Hanakā'ape bay; n.d.	Companion spring	Google Earth
Pu'u o Hewa	Hill, inland of Kōloa town. Location of a hōlua sled site	Hill of wrongdoing	Bennett 1931
Waihānau	Stone located on the eastern bank of Mauhili pond.	Birthing waters	Wichman 1998
Waihohonu	Hill, stream. A "hole" was formed here when the hero Palilo felled a tree with a single stroke.	Deep fresh water	PNH (HM 414-415)
Waikomo	Stream; both 'Ōmao and Pō'ele'ele streams join to	Entering fresh water	PNH; Wichman 1998

	create Waikomo; named “because from time to time the stream disappears for a bit before reappearing farther down the slope” (Wichman 1998: 40)		
Wai’ohai	Beach, surf site, fresh water spring	‘Ohai nectar	Kekahuna map; HPN
Waiopili	Heiau, Mahaulepu, northeast of Kapunakea pond		Bennett 1931
Waitā	Fresh water reservoir, originally called Kōloa		PNH
Weliweli	Ahupua’a bordering Kōloa to the east; po’okanaka heiau located along the shore	Revered, respected; feared, dreadful; immense, prolific	PED; Bennett 1931
Weoweopilau	Stream below the plains of Kamo’oloa	Rotten big eye (‘āweoweo) fish or sugar cane; spoiled red banana	Wichman 1998

### 3.1.2.1 Maulili

In *Place Names of Hawai’i*, Elbert, Pukui and Mo’okini identify a fresh water pool located in Waikomo Stream as Mauhili. They note that it is the location where the gods Kāne and Kanaloa come ashore, and that “sleeping forms of the gods” are found here (224). In *Kaua’i Place Names*, F. B. Wichman says this place name is Maulili, “a deep pool located in Waikomo stream about midway through the ahupua’a” ( ). Maulili is a home of the mo’owahine Kihawahine, and that she was present, the water turned red ( ). This story of Kihawahine is similar to one for her river mouth home on the other side of the island in Kīlauea river. Wichman also says that Maulili is the name of a luakini heiau built here by the ancient chief Kapueomakawalu, and that its location was lost until the later chief ‘Aikanaka searched for it, found it, and had the heiau rebuilt ( ). In an 1876 article in the newspaper *Ka Lahui Hawaii*, D. Keaweamahi describes Maulili on a visit to Kaua’i.

Aia no hoi ma keia wahi, he kawa auau no na 'Ilii, o Maulili ka inoa, aia no hoi i keia kawa ke alelo o Hawaii, he pohaku, a maluna ae o keia kawa he mau oawa, oia ka kahi o Kane a me Kanaloa i moe ai, he mau kanaka, aia no hoi ilaila na koi pohaku a laua i oki ai i ka puu pahoehoe a kahe ai ka wai i Maulili. A mahope iki aku olaila kahi i kauia'i o Kawelo i ka lele mahope iho o kona hailukuia ana i ka pohaku i Wahiawa, me ka manao ia ua make, aka, i ka wa i manao ia ai e make, ua ala mai la kela a hele, a o ke ola no ia o Kawelo. Ua kokoke loa keia wahi ma ka hale noho o Rev. Mahoe. A ma keia aina no hoi he hui mahiko, aole nae e wili ana ke ko i ko'u wa ilaila, a o ka ona nona keia mahiko, o Charman. (Keaweamahele, "Huakai Makaikai ia Kauai," *Ka Lahui Hawaii*, August 10, 1876: 3)

Here at this place is a leaping place into a pool for the chiefs called Maulili. This leaping stone is a tongue of Hawai'i, a stone, and above this stone are valleys, the place where [the gods] Kāne and Kanaloa slept, two men, there are located adze stones they cut so that in the smooth lava hill so that the fresh water flowed into Maulili. Right above this place is where [the chief] Kawelo hid from being stoned by the rocks of Wahiawa, where it was believed he was dead, however, he escaped with his life. This place is close to the house of Rev. Māhoe. This is the land indeed of the sugar plantations, although no sugarcane was being harvested while I was there; the owner of this plantation is [Mr.] Charman.

### 3.2 Kingdom and Historic Era

Kōloa would be impacted by foreign contact within a few decades of the time in which Captain Cook first happened upon the Hawaiian Islands. There are accounts of Chinese immigrants and other foreigners to the islands growing and cultivating sugar in Kōloa in the early 1800s (Alexander 1937:1-2). Kōloa would already be largely under the control of settlers when the Kingdom began to adjust its land tenure system to suit the needs of foreign business who steadily pressured the Kingdom to westernize its government.

The Kingdom Government passed modern boundaries outlined in the 1859 Civil Code "For taxation, educational, and judicial purposes..."(Civil Code of 1859, Section 498). In this, it specifically stated of Kaua'i and Ni'ihau:

The islands of Kauai and Niihau shall be divided into six districts, as follows: 1. From Nualolo to Hanapepe, inclusive, to be styled the Waimea district; 2. From Wahiawa to Mahaulepu, inclusive, to be styled the Koloa district; 3. From Kipu to Kamalomalo, inclusive, to be styled the Lihue district; 4. From Anahola to Kilauea, inclusive, to be styled the Anahola district; 5. From Kalihiwai to Honopou, inclusive, to be styled the Hanalei district; 6. Niihau.

This was the beginning of the district known as the modern Kōloa district. From historic records, identifying the differences between which land areas were consider ahupua‘a versus ‘ili can be challenging.

This determination mattered not only in regard to disposition of land, but for tax purposes. The Laws of 1848 called for property taxes to be paid to the Kingdom accordingly:

All landed divisions, denominated Ili, through the islands, shall pay a yearly tax, as follows:

- Ili No. 1, five dollars.
- Ili No. 2, three dollars.
- Ili No. 3, one dollar and a half.

In those parts of the islands were there is no distinct division into ilis, but merely into ahupuaas, each ahupuaa shall pay a yearly tax for support of the government, as follows:

- Ahupuaa No. 1, ten dollars.
- Ahupuaa No. 2, five dollars.
- Ahupuaa No. 3, three dollars.

This tax however, may be diminished, at the discretion of the tax officer, he keeping in view, not merely the size of the land, but also the number of its occupants and its value, and preserving a just proportion between said value and the taxation.

This shift to the use of the ‘auhau tax system and away from a ho‘okupu tribute system marked a significant social and political change for the young monarchy. Until approximately 1839, kānaka effectively paid taxes to the chiefly class through the sharing of crops or crafts. In the early to mid-1800s, the kingdom began to codify this tax, and it changed from food and materials goods into the need to pay the tax in cash. The new government’s need for money, particularly against the influx of foreigners, motivated this change (Woods 2011).

Eventually, the growing pressure from Westerns began to erode the authority of the Kingdom, Woods explains: “Unlike previous laws, these new laws from 1850 to 1852 completely separated the Kingdom from its traditional kapu laws and weakened the monarchy as the Kingdom conformed to a constitutional government and Western-style law. The tax law of 1850 reflected this rush toward Westernization. In a major change, for the first time, the Kingdom required payment of taxes in currency only (Woods 2011: 27). A 1935 description explained the resulting changes:



The system of land tenure which prevailed in ancient times was radically changed in the reign of Kamehameha III by the Mahele of 1848, yet the boundaries of the ancient subdivisions of land remain unchanged to the present day. This applies particularly to the ahupua'a which has been termed the unit of land in Hawaii; the boundaries of ahupua'a are said to have been "fixed about twenty generations back in Hawaiian tradition," or about five hundred years ago if the Stokes based of chronology is used. The district boundaries were fixed at the same time as that of the ahupua'a, and there is no known instance where an ahupua'a boundary overruns an ancient district boundary.

Since the advent of legislative government, or from about 1846, many modifications have been made of the ancient district boundaries and there are many instances where other names have been substituted for the old district names. Some of these changes were made for political reasons and others for convenience, but the principal changes in boundaries were caused by movements in population reflecting new uses of the land areas. These new district boundaries did not always conform to the ahupua'a boundary and there are examples today of an ahupua'a being situation in more than one district where no such condition existed in ancient times (King in Coulter 1935).

The changes to Kaua'i would impact the districts' boundaries:

On Kauai the ancient district of Kona was divided into two, namely Waimea and Koloa, each named from an *ahupuaa* and important town within its confines: the name of the ancient district of Puna was changed to Lihue, a place name borrowed from Oahu<sup>41</sup> and used subsequently for the name of an important town in that district: the name of the ancient district of Koolau was changed to Anahola, the name of an *ahupuaa* within its boundaries: the ancient districts of Halelea and Na Pali were merged and called Hanalei after an *ahupuaa* and town in Halelea. The island of Niihau was made a separate district of Kauai.

No changes were made in the names or boundaries of districts until 1878 and 1880 and then only with respect to the island of Kauai. By an act approved August 1, 1878, a new district was created by re-subdividing Lihue and Anahola districts, reducing Lihue district about a third, and adding to what was then known as Anahola district the *ahupuaas* of Olohena, Waipouli, Kapaa, Kealia, and Kamalomalo, the act, however, changing the name of this newly created district to Kawaihau. The reason for this change forms an interesting page in the history of the reign of King Kalakaua, the details of which may be found in *The Friend* of April, 1920, a monthly, published in Honolulu, and re-published in *The Honolulu Advertiser* of Oct. 21, 1929.

The amendment to Chapter 498 of the Civil Code of 1859, made in 1878, reads as follows:

The Islands of Kauai and Niihau shall be divided districts as follows: 1. From Nualolo to Hanapepe, inclusive, to be the Wai-mea district; 2. From Wahiawa to Mahaulepu inch the Koloa district; 3. From Kipu to Wailua. Lihue district; 4. From Waipouli to Kilauea. Kawaihau district; 5. From Kalihiwni to styled the Hanalei district; 6. Niihau.

The changes in 1880 included a slight between the districts of Waimea and Koloa. Koloa by boundary of Koloa to include the ili of forms the east boundary of Waimea: and aeing (sic) Lihue, Kawaihau and Hanalei dist reduced by taking from it and adding to Kawai Wailua: and Kawaihau district was reduced by taking from it and adding to Hanalei district, the *ahupuaas* of Lepeuli, Waipake. Pilaa, Waiakalua, Kahili and Kilauea.

That portion of Chapter XI Laws of 1880 enacting these changes reads as follows:

The islands of Kauai and Niihau shall be divided into six districts as follows: 1. From Nualolo to Hanapepe inclusive, to be styled the Waimea district; 2. From ili of Eleele to Mahaulepu inclusive, to be styled the Koloa district; 3. From Kipu to Hanamaulu to be styled the Lihue district; 4. From Wailua to Moloaa inclusive, to be styled the Kawaihau district; 5. From Lepeuli to Honopou inclusive, to be styled the Hanalei district; 6. Niihau.

The changes up to 1884 are consolidated in the *Compiled Laws of 1884* as an amendment to Section 498 of the *Civil Code of 1859*. The compiled laws were a compilation, not enacted (King in Coulter 1935).

It is likely that many of the changes that specifically applied to Kōloa were the result of lobbying by the foreign businessmen who settled in the area. Sugar would dominate the Kōloa region for well over 100 years and significantly shape its cultural environment.

Despite the growing influence of sugar, Kōloa would continue to be an important place for the Kingdom. In 1871, Prince Kūhiō Kalanianaʻole was born in Kōloa to the House of Kalākaua, the ruling family of the sovereign Kingdom of Hawaiʻi. He was the child of Princess Kinoiki Kekaulike and Chief David Kahalepouli Piʻikoi. Kekaulike was the daughter of Kauai's revered King, Kaumualiʻi, and as such Kūhiō enjoyed lineage to both the reigning dynasty of the Kingdom of Hawaiʻi and to the independent Islands of Koaʻi and Niʻihau.

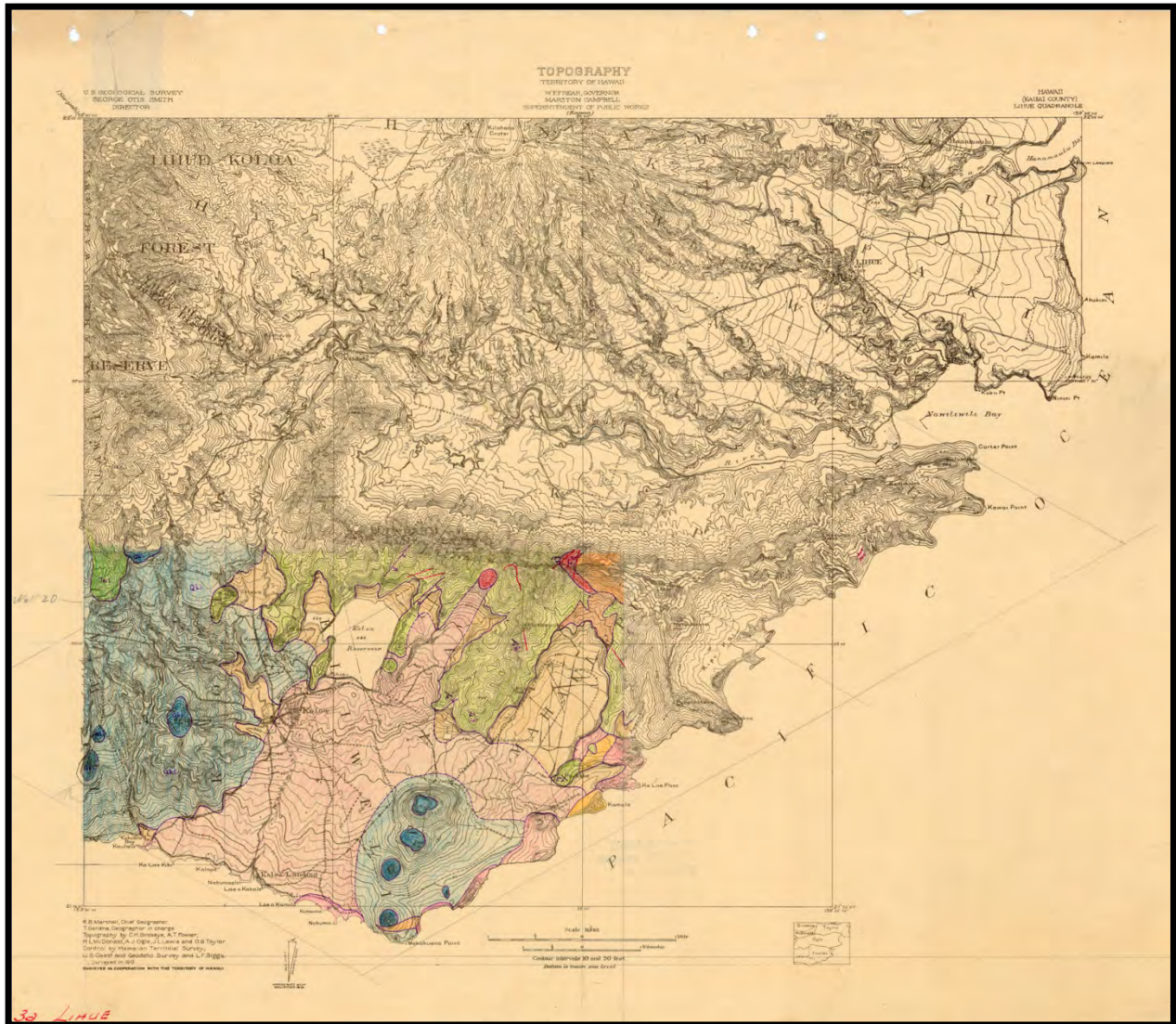


Figure 11. USGS Map of Koloa (USGS 1910)





Figure 12. 1950 Aerial Image of Kōloa (USGS 1950)



Figure 13. 1959 USGS Aerial image of Kōloa (USGS 1959)



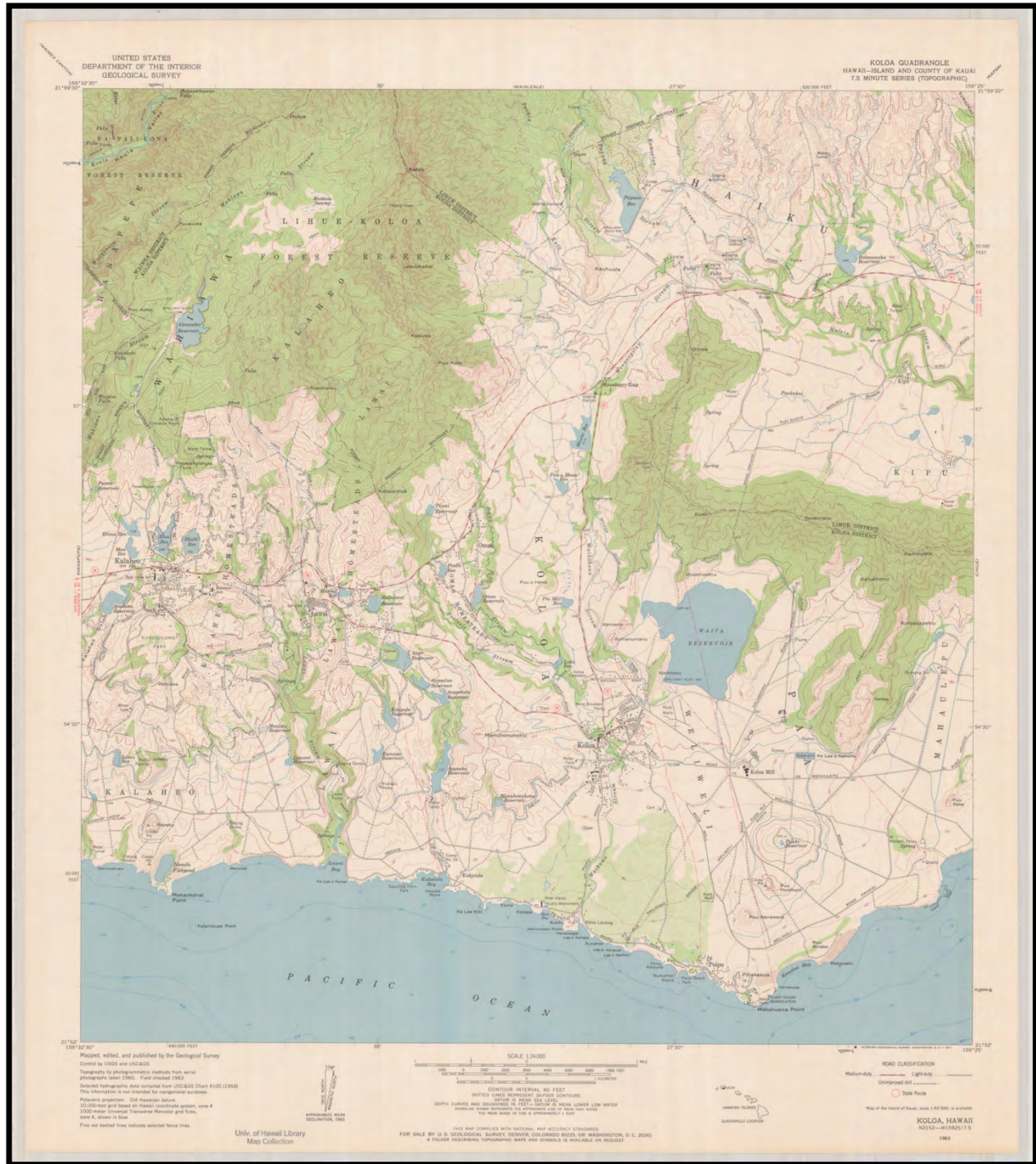


Figure 14. 1963 USGS Map of Kōloa (USGS 1963)



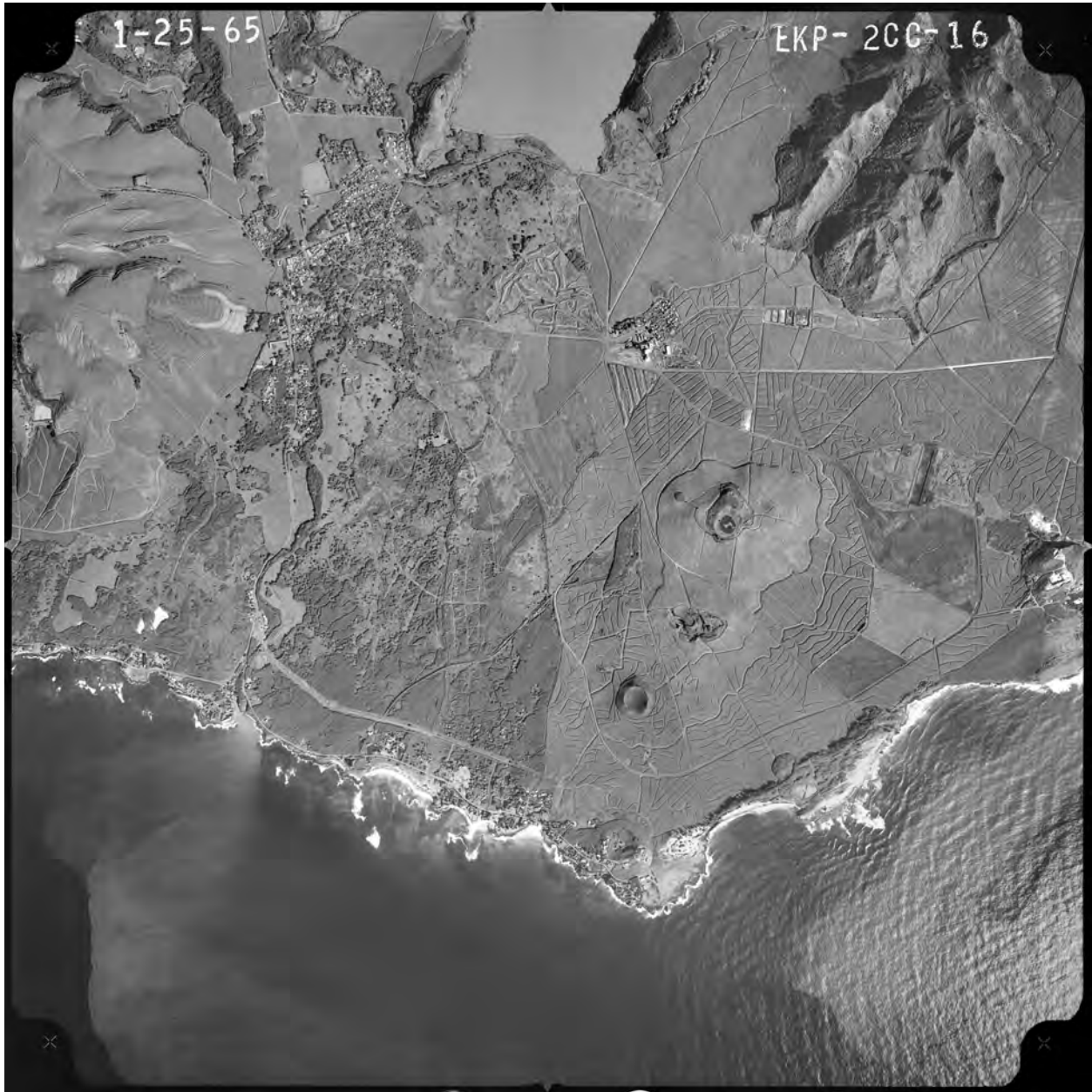


Figure 15. USGS 1965 Aerial Photo of Kōloa (USGS 1965)

### 3.2.1 Kōloa Plantation

In the early half of the 19th century, Kōloa became the location of the first commercially successful sugar plantation not only on Kaua'i, but in the Hawaiian archipelago. Kōloa Plantation officially formed in 1835, but according to accounts from the first plantation manager, William Hooper, “sugar cane was grown and sugar and molasses were manufactured in the District of Koloa, in a small way, prior to 1835” (Alexander 1937:1).

Like many other foreigners of the time, the founders of Kōloa Plantation traveled from the United States to the Kingdom of Hawai'i to start private businesses. The three founders were Peter Allan Brinsmade, William Ladd, and William Hooper, all in their 20s when they arrived in Hawai'i (Alexander 1937:2-3). Arthur Alexander would write of the original partners:

The partners, after their arrival, conducted a profitable commission and mercantile business in Honolulu. However, they were eager to expand their business. Convinced that the greatest business opportunities here at that time lay in the development of agriculture, they selected a tract of land at Koloa, Kauai, for the cultivation of sugar cane on the east side of the Koloa, or Waihohonu, Stream. Stephen Reynolds on June 5th, 1835, wrote in his Journal: “[Brig. Velocity went out for Hanalei, Kauai, Mr. Ladd and Dr. Peabody passengers. Ladd & Co. went to view the place and lay out a large cane plantation. I hope they will succeed and put it in operation with success.”

After Mr. Ladd's return they leased from King Kamehameha III this tract of land, together with a mill site, 360 ft. By 360 ft. At the Maulili pool, with the use of the waterfall for power. The lease was for fifty years from July 29th, 1835, at an annual rental of \$300.00. It contained a clause giving them the privilege of building a road to the landing and the free use of the latter. From Kaikioewa, the Governor of Kauai, they later leased a warehouse site at the landing, at a place called Hanakaape. The land covered by the original lease has an area of 980 acres, of which 303 acres have since been demonstrated to be good cane land (Alexander 1937: 3-4).

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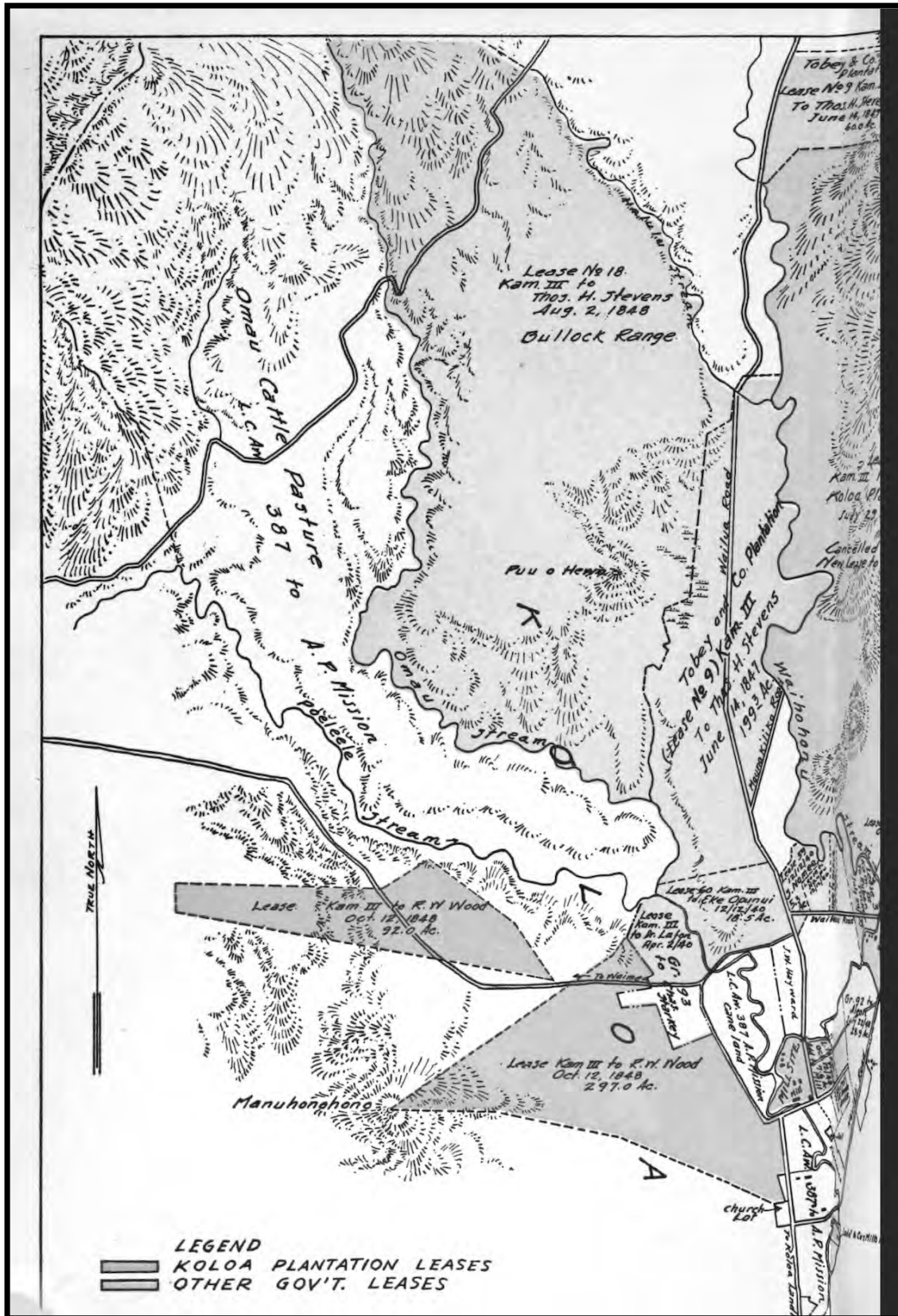


Figure 17. Portion of map showing Koloa Plantation Leases (Alexander 1937)



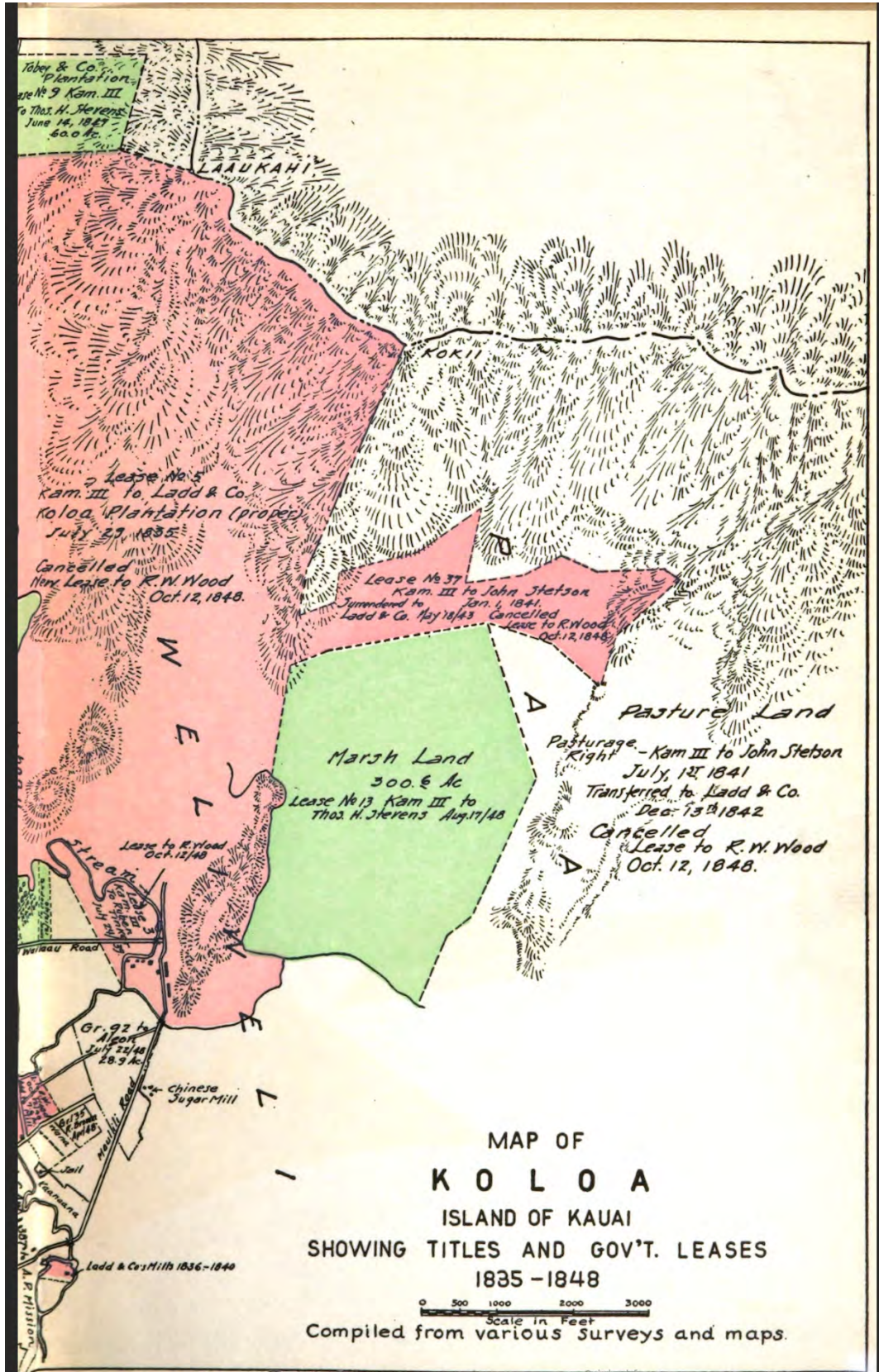


Figure 18. Map of Koloa (Alexander 1937)



## 4.0 Cultural Resources

This section reviews and references archaeological studies and results in and around the Project Area(s) in order to identify resources that may be of significance to the community. Honua Consulting, LLC is an archaeology firm but did not complete any of the archaeology fieldwork for these Projects, neither did we conduct any archaeological field or site visits for this report. The cultural resource information is extrapolated from other archaeology reports, and primarily those recently completed by Cultural Surveys Hawaii (CSH).

The historical reports are numerous, voluminous and – as with most large-scale development projects – include surveys, remapping, data recovery and preservation plans, monitoring plans, and reports on completed recovery, preservation, and monitoring work. The archaeological studies on the development projects that encompass the applicant’s Project Area(s) span decades, with the seminal survey for Kauanoe o Kōloa being completed in 1978 and in 1988 for the Kukui’ula projects. Those reports covered over 1400 acres – 1000 in Kukui’ula and 460 in Kiahuna – and identified over 700 archaeological features – 150 in Kukui’ula and 583 in Kiahuna. All three of the applicant’s projects were entitled by previous owners and have been included in multiple development plans over the last 45 years. The resulting historical record is therefore both substantial and complex.

Although Honua is not the archaeological firm of record for these projects and an exhaustive analysis of every study and report is beyond the scope of this report, upwards of 100 documents, equating to multiple thousands of pages, were reviewed to provide a foundation for assessing cultural resources and impact. Mapping was conducted as part of this report and estimates regarding historic properties in the areas are provided below. These estimates should not however supersede the reporting completed by CSH or the reviews conducted by SHPD.

It is commonly understood that once grading is permitted and begins, any previously identified sites within the project area that were not set aside under SHPD-accepted plans for preservation will be destroyed; hence the preservation plans. The reports discussed below do adequately show that: (a) none of the sites set aside for preservation are within the applicant’s Project Areas; (b) all of the Project Areas had been grubbed and graded prior to applicant taking ownership; (c) and no surface sites were visible in the Project Areas by the time the applicant took ownership.

It is important to note that while the reports reviewed are thorough and have been accepted by SHPD, an administrative history tracing when and where the 700+ sites were identified, and when those that no longer exist were lost, is not part of the record nor is it easily compiled. This is understandable given the substantial and complex historical record. However, when dealing with such a large number of sites, many of which represent

treasured cultural resources, the loss of the majority of these sites has and will continue to cause distress in the community without this clear administrative history.

While it may not entirely satisfy the community's concern, contemporaneous documentation could prove extremely beneficial especially if it includes: comprehensive maps of historical sites (overlaid on current parcel maps) that note preserves and sites that still exist; corresponding tables listing site numbers (both SHIP #'s and CSH #'s); as well as a historical listing of owners and developers, including an indication as to when they were granted grading permits.

#### **4.1 Cultural and Historic Sites – Kauanoë o Kōloa**

Cultural Surveys Hawaii, Inc. (CSH) prepared a Literature Review and Field Inspection report (LRFI) for Lot 1 of the Kauanoë o Kōloa project in August of 2021 (Figure 19).

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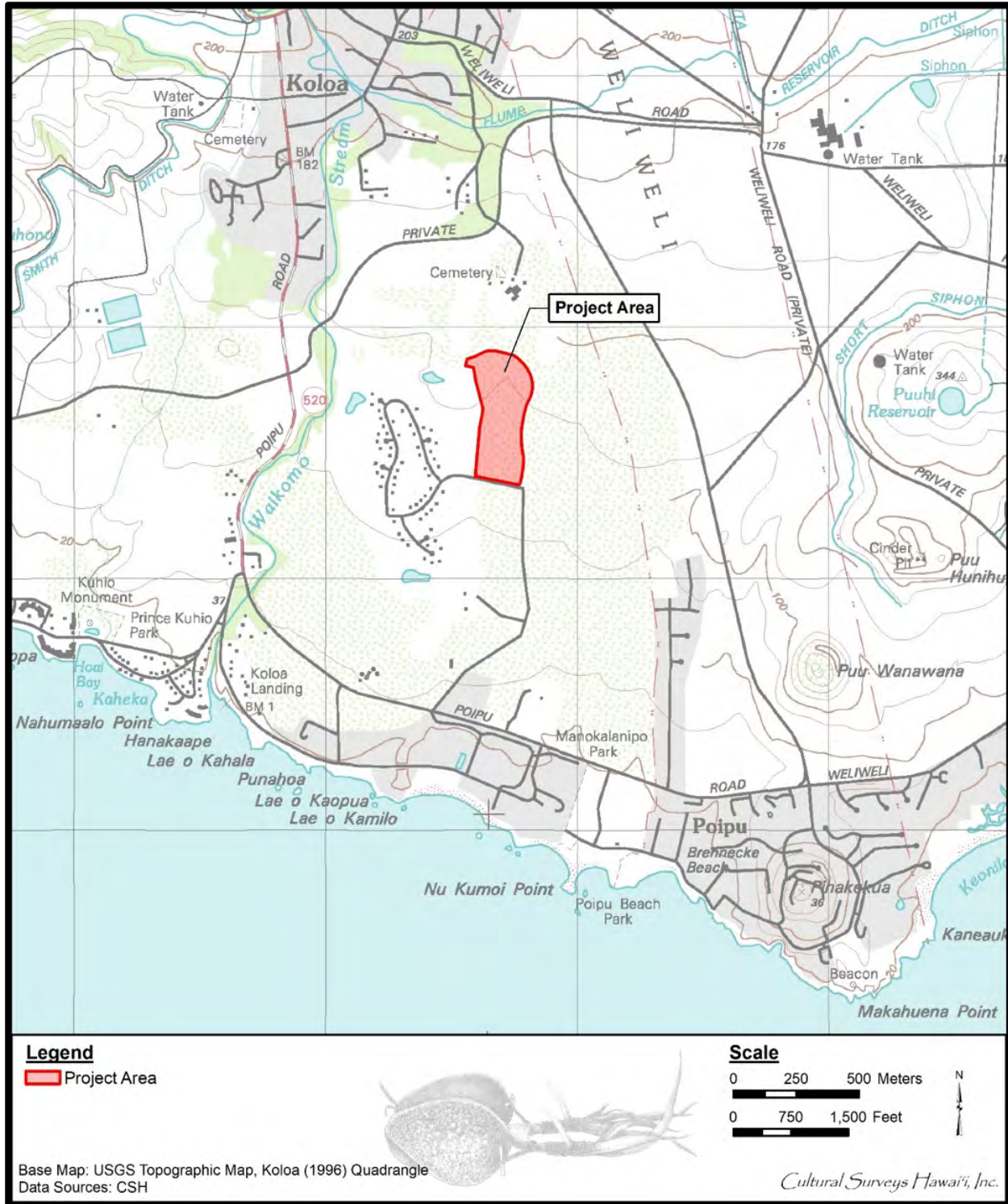


Figure 19. CSH (Figure 1 of LRFI) showing the location of project area (Folk et al. 2022: 2)



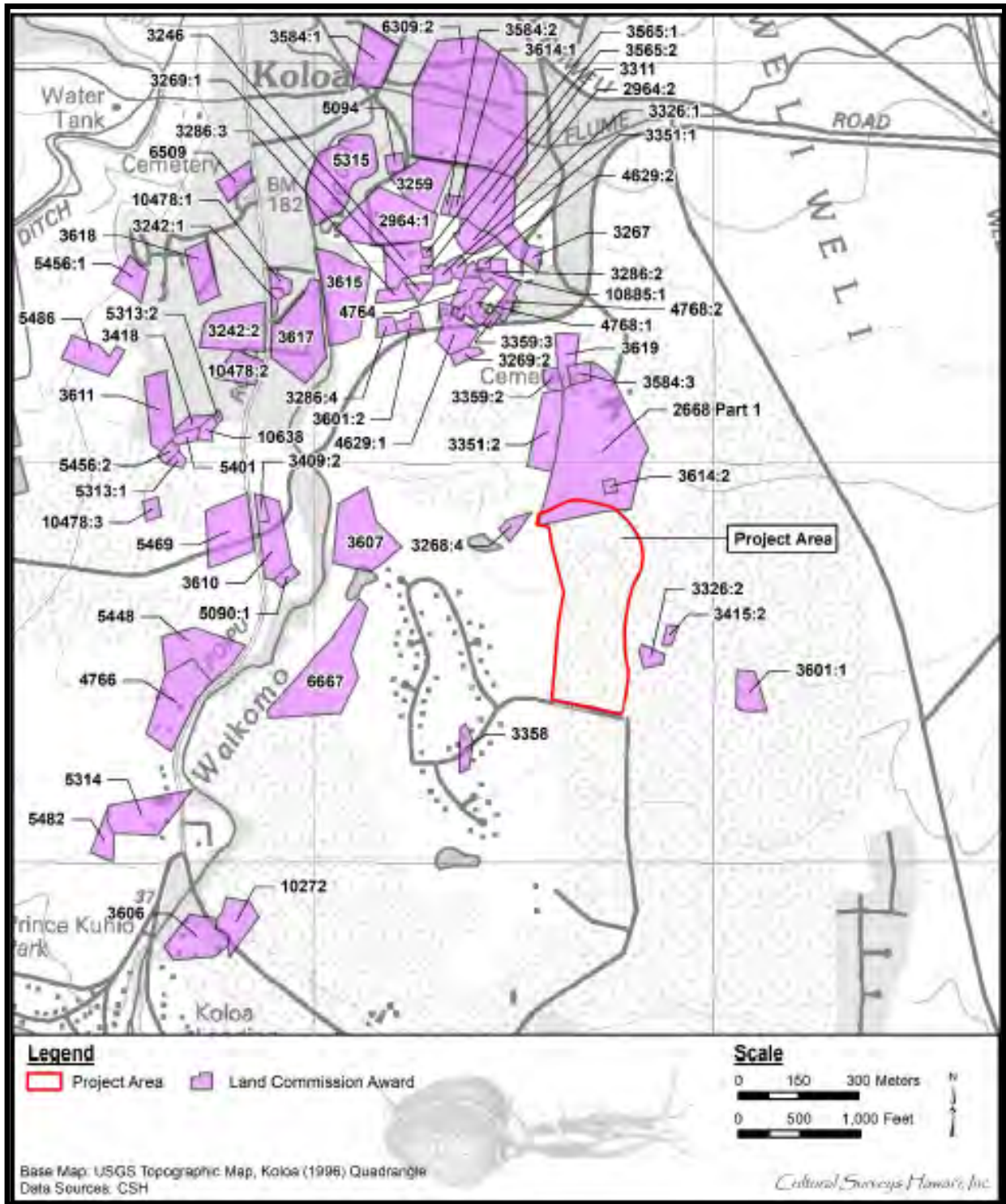


Figure 20. CSH (Figure 6 of LRFI) showing the LCA claims in the area (Folk et al. 2022: 13)

The Archaeological Investigations within the Project Area and in the Vicinity section of the LRFI speak to the voluminous record of archaeological identification, assessment, and preservation work that has been done and accepted by SHPD that deal directly with the Kauanoe o Kōloa project area dating back to a 1978 archaeological survey that covered 460 acres. The project area includes less than 28 of those 460 acres in the extreme northeast corner of the surveyed area.

One of the many reports historical reports referenced in the LRFI, is the *Kiahuna Project: Kiahuna Golf Village and KMP Development Project in Approximately 400 Acres at Koloa Ahupuaa Kona District, Kauai Island Volume III Summary of Inventory Survey and Data Recovery Results and Archaeological Interpretations*. (Volume III) The LRFI references this Volume III report noting:

Volume III summarizes and brings together the findings of both the inventory survey and data recovery for Project Areas 1 and 2. Included are an analysis of the sites involved, summary discussions of the artifacts and midden found, summarization and interpretation of the Kōloa Field System, significance, and recommendations regarding development and preservation in the area, and the areas designated as preserves (Folk et al. 2022:3).

The Hammat, Shideler, O'Hare, and Folk 2005 report details the five preserve areas, all of which are well outside of the Kauanoe o Kōloa project area (Figure 21).

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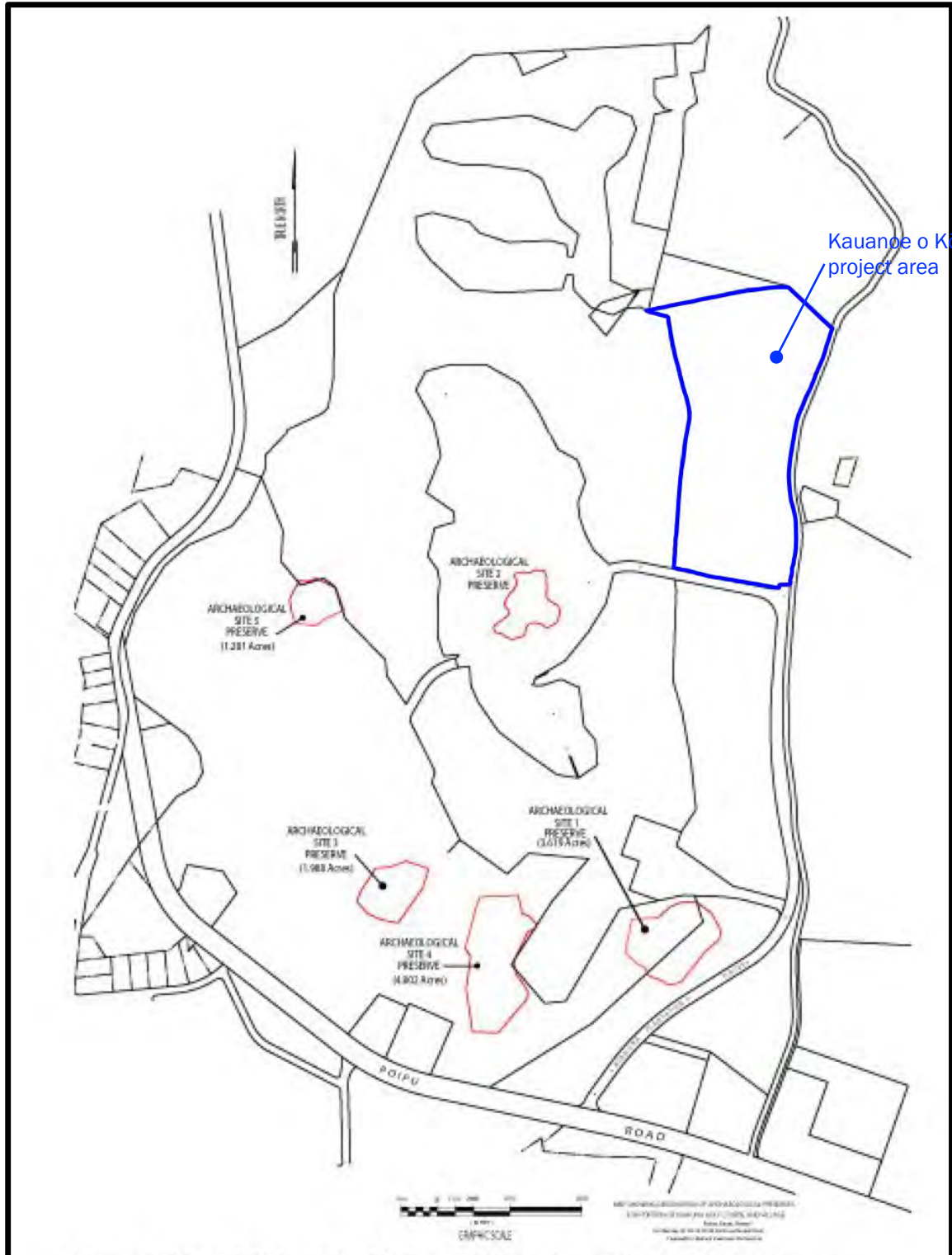


Figure 21: CSH (Figure 9 of Volume III) showing locations of Archaeological Preserves outlined in red, all of which are beyond the Kaua'noe o Kōloa project area. (Hammat, Shideler, O'Hare, and Folk 2005:42); Blue outline and label for project area added for reference.



The project area was part of numerous development plans by several entities that did extensive grubbing and grading to the project area before the current applicant's acquisition of the property in June, 2021.

A field check of 16 June 2003, related to reporting in the Hammatt et al. (2004) inventory survey noted previous grubbing in the parcel resulting from the parcel receiving clearance for construction development, based on a letter dated 22 August 1991, from Dr. Don Hibbard of SHPD approving the end of data recovery fieldwork for this parcel. The survey report relates that ten SIHP-numbered sites of the Kōloa Field System documented in the original 1978 survey (Hammatt et al. 1978) were still present during the 2003 field check in the southern portion of the project area. These former historic properties' locations are shown in Figure 9 and they are listed in Table 1. SIHP #s 50-30-10-3841 and -3851 were excavated during the data recovery field work completed in 1989–1991 and are reported on in Hammatt, Cordy, Rainalter, Gomes, Shideler, and Folk (2005B) as well as in the Hammatt et al. (2004) inventory survey report; no further archaeological work was recommended. None of the sites in the project area, TMK: [4] 2-8-014:032 Lot 1, were recommended for further archaeological work and all data was collected prior to grubbing of the project area. (Folk et al. 2022:20)

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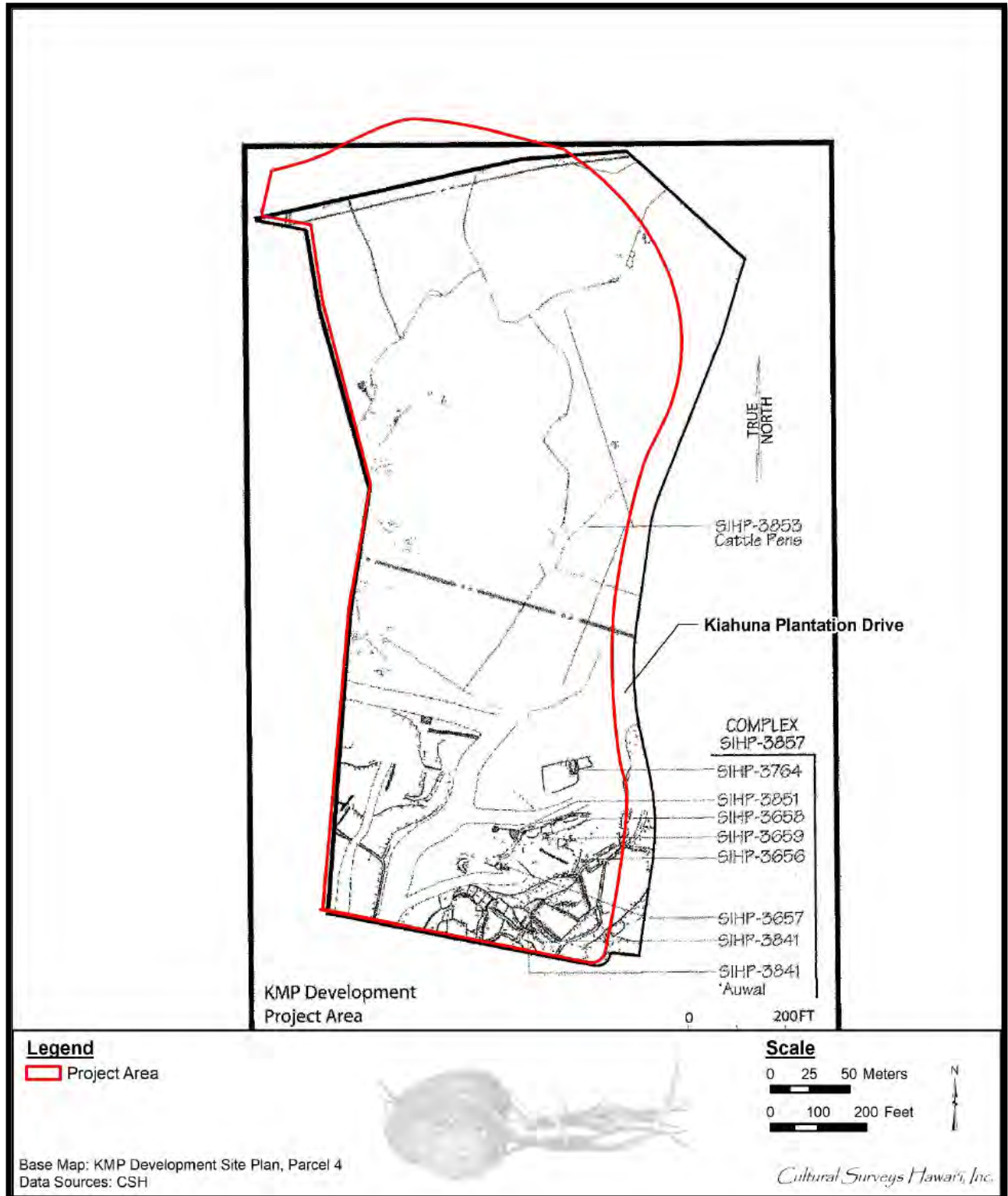


Figure 22. CSH (Figure 9 of LRFI) showing previously identified historic properties in Kauanoe o Kōloa project area (Folk et al. 2022:31).

The LRFI goes on to note that:

The results of the 22 February 2021 field inspection conducted in the proposed Kauanoē o Kōloa Lot 1 project area (TMK: [4] 2-8-014:032 Lot 1) found that the parcel has been completely grubbed with evidence of grading and substantial bulldozing, probably multiple times since 1991. The most recent clearing is illustrated by the uniform height of ground cover in Figure 10 and Figure 11. Previous ground disturbance occurred during construction of the Kiahuna Golf Course, the construction of Kiahuna Plantation Drive, and during preparation for former proposed projects that never materialized, e.g., the turf farm proposed for the parcel by two previous owners. The integrity of, and in most cases the entire former historic properties, have been destroyed. The southeast corner of Lot 1 also appears to have been filled and graded, and supported a modern structure visible in 2013 aerial photos but which is no longer present. These findings are consistent with the literature review demonstrating documentation of the former historic properties and SHPD concurrence with the archaeological documentation. (Folk et al. 2022:34).

The entire project area has been grubbed and bulldozed with some filling and grading in the southeast corner of the lot. All former archaeological sites have been removed (Folk et al. 2022:46).

One of the 2013 aerial photos referenced above is included below as Figure 23.





Figure 23: CSH (Figure 2 of LRFI) showing the TMK: [4] 2-8-014:032 Lot 1 project area location (Google Earth 2013); note the modern structure at the southeast corner of the parcel, bulldozing cuts throughout, and the bulldozer road across the north end of the parcel (Folk et al. 2022:3).

CSH also points out that:

The entire 460 acres of the Kōloa Field System in Kiahuna, including the proposed Kauanoē o Kōloa project area, were an agricultural and habitation complex notable for lack of human burials. There are no burial finds in the project area comprising TMK: [4] 2-8-014:032 Lot 1 and none are anticipated (Folk et al. 2022:46).

#### 4.1.1 Compliance with Land Use Commission Condition No. 7

An ongoing concern for the community, directly related to historical and cultural resources, has been compliance with the State Land Use Commission (LUC) Decision and Order (D&O) issued in 1977 for the subject parcel<sup>2</sup>. In 1977, the LUC issued a D&O *In the Matter of the Petition of MOANA CORPORATION, For Reclassification of Certain Lands Situated at Poipu, Island of Kauai* (Docket No. A 76-418). Findings of Fact related to Reclassification No. 31 reads:

31. The presence of extensive archeological remains on and in the area of the subject property is generally known. Petitioner, therefore, commissioned the Bernice P. Bishop Museum to conduct an archeological survey of the area which was filed in this proceeding as Petitioner's Exhibit "X" and is entitled *Archeological Reconnaissance Survey Of Knudsen Trust Land At Koloa, Poipu, Kauai*. That survey reveals and the Commission therefore finds as follows:

(a) A substantial number of archeological sites exist on approximately 200 acres within the southern and eastern portions of the subject property;

(b) These sites fall within the categories of platforms or varied forms; enclosures; modified actual features such as outcrops and sinkholes; large wall structures; agricultural complexes with varied mounds, terraces and plots; lava tubes; simple stone structures with no definite functions; irrigated pondfields (lo'i) and irrigation ditches (auwai); foot trails and historic sites such as houses, tombs, and ovens;

(c) These sites appear to be the remains of extensive agricultural complex that at one time stretched from Koloa Town to the Coast. There is a general paucity of information on aboriginal agriculture, and because most of the central, northern, and western portions of the subject property were cleared in the past

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<sup>2</sup> The full LUC Docket is available online at <https://luc.hawaii.gov/completed-dockets/boundary-amendments/kauai/a76-418/>



for agricultural activity such as sugar cane cultivation and grazing, these sites represent the only substantially intact complex of sites remaining;

(d) Further archeological investigation will be necessary to determine the significance of these sites and the feasibility of their salvage or preservation. As a condition upon General Plan Amendment, the Kauai County Council has required that a more detailed and comprehensive archeological study be conducted and submitted to the County of Kauai Planning Department for approval prior to actual development of the proposed project. That comprehensive study will cost a minimum of \$40,000 and will take three to four months to complete;

(e) The Petitioner has represented that he is committed to a more detailed and comprehensive archeological study of the subject property and that he would preserve those areas or sites within the subject property which the Bernice P. Bishop Museum determines to be archeological significant and worthy of preservation (LUC 1977: 19-20).

As part of their D&O granting the reclassification of lands, the LUC placed conditions on the reclassification. Condition No. 7 as originally ordered by the LUC read:

7. That prior to application for rezoning and before any grading of the subject property begins, Petitioner commission and complete a comprehensive archeological and biological study with actual inventories of archeological sites and flora and fauna on the subject property, and that the Petitioner preserve any archeological sites which the Bernice P. Bishop Museum believes to be significant and worthy of preservation and protect and preserve the present habitats of any blind, eyeless, big-eyed, hunting spiders and blind terrestrial sandhoppers which the Bernice P. Bishop Museum believes to be worthy of preservation (LUC 1977: 37).

This condition, Condition No. 7, was amended by the LUC one year later on July 5, 1978. The amended Condition No. 7 reads:

7. That Petitioner commission and complete a comprehensive archaeological and biological study with actual inventories of archaeological sites and flora and fauna on the subject property, and that the Petitioner preserve any archaeological sites which archaeologist conducting such archaeological study believes to be significant and worthy of preservation and protect and preserve the present habitats of any blind, eyeless, big-eyed, hunting spiders and blind terrestrial sandhoppers which the biological conducting the biological study believes to be worthy of preservation. The Petition may commission such archaeological and biological study to any

archaeological and biological or firm connected therewith who is qualified to conduct such a study to satisfy the foregoing condition. The Petitions may apply to the County of Kauai for rezoning of the subject property before the completion of the study, provided that no actual work on any portion of the subject property begins until the archaeological and biological study for that portion to be worked on has been completed. Actual work on any portion of the subject property may be commenced by the Petitioner upon certification by the archaeologist and biologist that the area for which work is to commence does not contain any archaeological sites deemed significant and worthy of preservation, nor contains any habitats of any blind, eyeless, big-eyed, hunting spiders and blind terrestrial sandhoppers deemed worthy of preservation” (LUC 1978: 2).

The most recent annual report filed under the docket (2020-2021 Annual Report, filed March 10, 2022), regarding Condition No. 7 states:

**Current Status:** As shown in the 2009 Amended Status Report, the 2010 Annual Status Report, the 2011 Annual Status Report, and the 2012 Annual Status Report, this condition has been fulfilled. As noted in the prior Annual Status Reports, a comprehensive Archaeological and Biological Survey of the Proposed Kiahuna Golf Village Area, dated September 1978, was prepared for the petitioner Moana Corporation by Archaeological Research Center of Hawaii, Inc., towards meeting this condition.

Additionally, an Inventory Survey Report, Data Recovery Report and Preservation Plans for identified Preserves were submitted and approved by the State Historic Preservation Division of the Department of Land and Natural Resources (herein “SHPD”).

This resulted in four archaeological preserves, totaling approximately 11 acres, and their metes and bounds descriptions were established pursuant to agreement with SHPD and the Kauai Historic Preservation Review Commission.

Preservation Plans were prepared for these four Preserves, and those plans have been approved by SHPD, as well, fully completing the archaeological requirements for the project. An easement granting public access, as required by SHPD, has been recorded, and actual implementation of public access to and interpretive signage of Preserve 1 is available and is used by the public.

A flora survey and a fauna survey, covering all project sites, was completed and submitted to the County of Kauai on or about March 29, 2004. As no endangered or threatened species were found, no further work is planned in this area. With respect

to the habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers, and despite finding none of these spiders and sandhoppers in at least the past eight years, the Project has established areas identified as critical habitats to support these species should they reappear (Kiahuna Mauka Partners, LLC, 2022: 5-6).

Additionally, as related to the archaeological condition, CSH Principal Hallett H. Hammatt submitted a letter dated May 12, 2022 regarding Kauanoë o Koloa [TMK (4) 2-8-014:032], which the Planning Department found to sufficiently meet the preceding condition.

Based on the public filings submitted to and accepted by the LUC, Condition No. 7, as related to archaeological resources, has long been fulfilled. Additionally, the County of Kaua‘i Planning Department contemporaneously affirmed that this condition has been fulfilled. As such, the conditions and mitigation for the archaeological sites as called for under state and county authorities have been met. It is not the role of this assessment to revisit these agency decisions.

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#### 4.2 Cultural and Historic Sites – Kukui‘ula

A total of 58 archaeological sites comprising 150 features were located, mapped, and described in CSH’s June 1988  $\beta$ . (Hammat et al. 1988). The 1988 AIS notes the marked difference between the Kiahuna Complex (where Kauanoe o Kōloa is located) and Kukui‘ula, due to the extensive amount of cane cultivation in Kukui‘ula.

This picture of the Kiahuna complex and its high degree of preservation is in sharp contrast to the present study area. Both areas were probably equally as heavily inhabited and used for intensive irrigated Hawaiian agriculture. However, the Kukui‘ula study area the last hundred years or so has seen heavy land modification which has destroyed many sites. Even areas presently in pasture were formerly under cane cultivation and the process of field clearing described elsewhere resulted in the survival of mere remnants of former sites.

So while the Kukui‘ula Development covered more than double the acreage of Kiahuna, because a majority of that land had been cleared for sugar cultivation, there was a quarter of the number of archeological features identified in Kuuki‘ula (150) as in Kiahuna (583).

Of the 58 sites (that encompassed the 150 features), 16 of those sites were identified in a series of preservation plans that established the four Kukui‘ula archaeological preserves (Figure 24).

As with the applicant’s Kauanoe o Kōloa project in Kiahuna, none of the Kukui‘ula archeological preserves are within either of the applicant’s Kukui‘ula project areas and as detailed below, no surface sites were visible in the Project Areas by the time the applicant took ownership.

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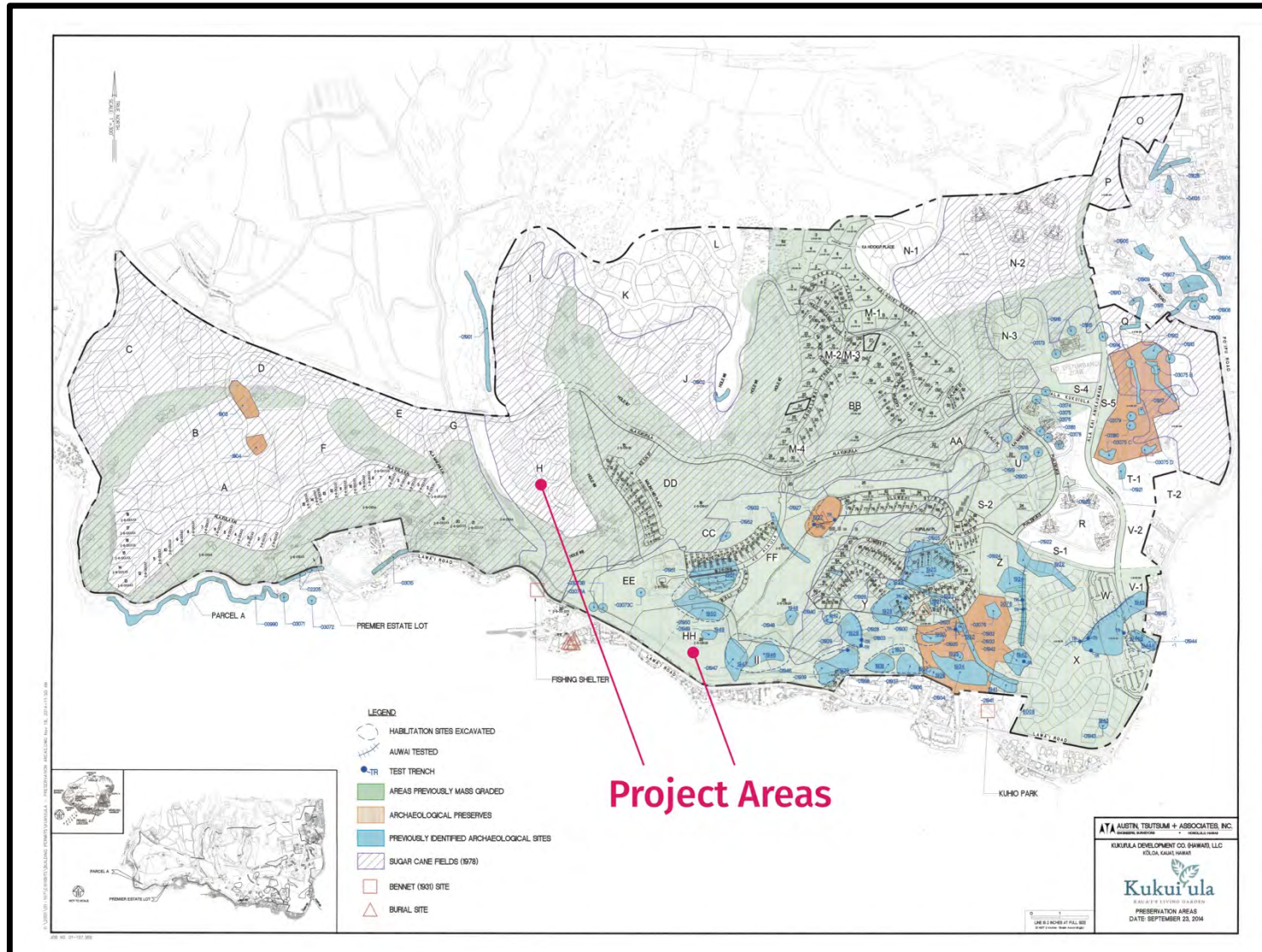


Figure 24: Map (courtesy of client) showing Kūkui‘ula Preservation Areas, none of which are located within Parcels H or HH. (Project Area Labeling added for clarity.)



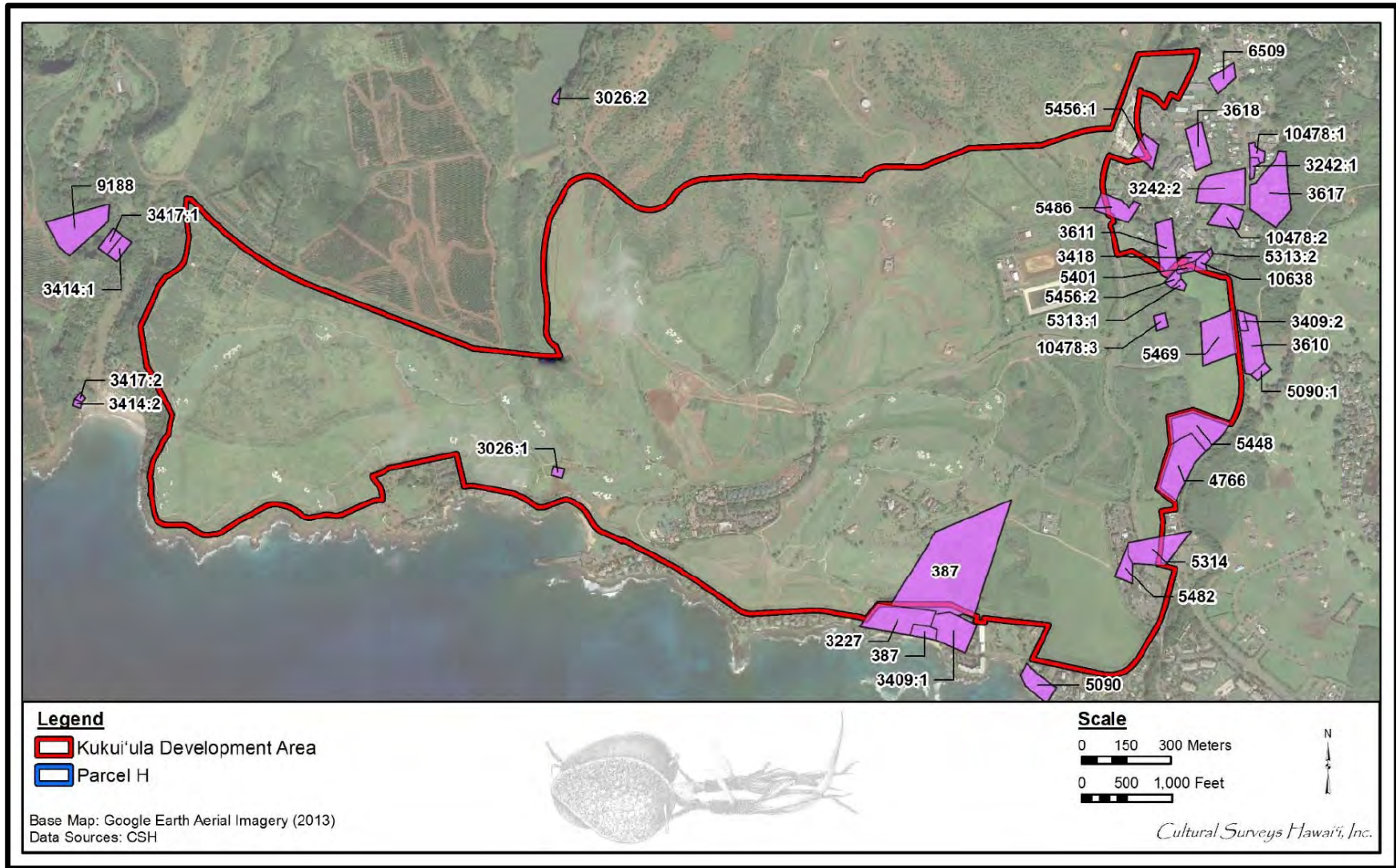


Figure 25: CSH (Figure 11 of Field Letter; Parcel H outline removed) showing LCAs, shaded in purple, in the vicinity of the Kukui'ula Development area.

4.2.1. Parcel HH

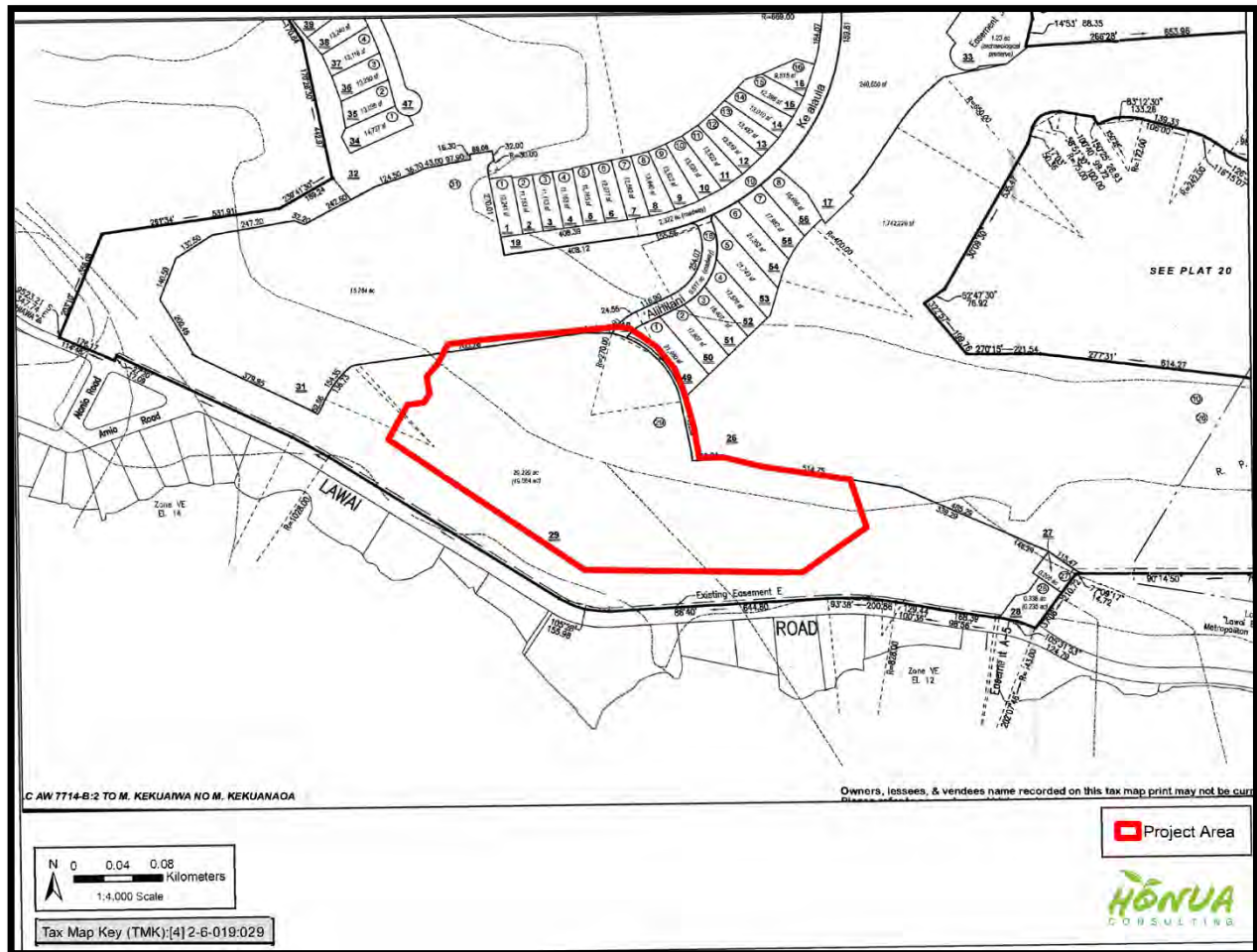


Figure 26. TMK (4) 2-6-019:029 which is to be subdivided. Parcel HH is located on a portion of this TMK.

Cultural Surveys Hawaii, Inc. (CSH) prepared an *Archaeological Field Inspection Letter Report for Parcel HH of the Kukui‘ula Community Develop Project, TMK [4] 2-6-015:029* on June 8, 2021. (Field Inspection Letter Report) Regarding the field inspection that was completed on May 6, 2021, CSH states that:

No historic properties were identified during this field inspection and there are no archaeological concerns. SIHP #'s -01947, -01949, and -01950 identified by Hammatt et al. (1988) has been since destroyed per Borthwick et al. (1990). The Parcel HH project will not have any adverse effects to historic properties.

Table 3. Identified Historic Properties within TMK [4] 2-6-015:029 based on review of maps in *Archaeological Data Recovery Report for Kukui‘ula Bay Planned Community Phase I Development, Kōloa Ahupua‘a, Kona District, Island of Kaua‘i, Volume 1*, referenced in the June 8, 2021 Letter Report.

Site Number	Description	Citation	Current Status (as of July 2022)
SIHP 50-30-10-01947	Habitation and agricultural sites	Hammatt 2021: 2	Destroyed prior to 1990
SIHP 50-30-10-01949	Habitation sites	Hammatt 2021: 2	Destroyed prior to 1990
SIHP 50-30-10-01950	Habitation sites	Hammatt 2021: 2	Destroyed prior to 1990
SIHP 50-30-10-01946 (per CSH June 8, 2021 Letter Report, located outside Parcel HH)	Permanent Habitation; Enclosures, Platforms	Hammatt et al. 1998: 5, 7	Unknown, assumed destroyed prior to 1990
SIHP 50-30-10-01939 (per CSH June 8, 2021 Letter Report, located outside Parcel HH)	‘Auwai	Hammatt et al. 1998: 5, 8	Unknown, assumed destroyed prior to 1990

While the Field Inspection Letter Report does not reference SIHP #s -01946 nor -01939, they are located within TMK [4] 2-6-015:029 and therefore included in the table above. Based however on the green areas in Figure 24 that denote mass grading that took place before 2014, it can arguably be presumed that these two sites, like the other four in TMK [4] 2-6-015:029, were destroyed prior to 1990, at minimum prior to 2014.



4.2.2 Parcel H: Lots 18 and 19

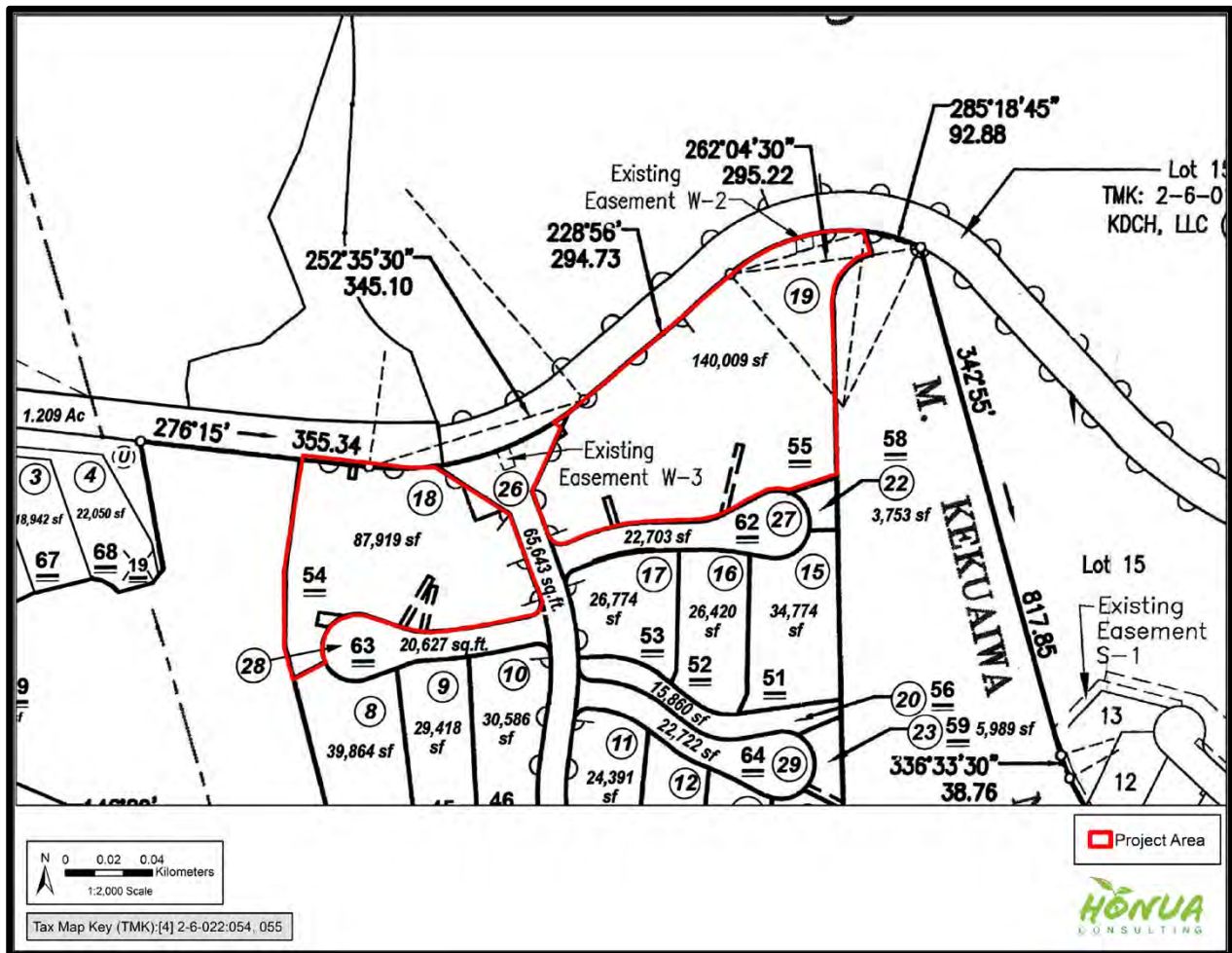


Figure 27. TMK map showing Parcel H Lots 18 and 19.

CSH completed a *Final Archaeological Assessment Report for the Kukui’ula Community Development Parcel H Project* date December 2015 (AA 2015). The title of the report in and of itself is an indication of the parcel being clear of any historic sites.

No historic properties were identified within the project area during the initial AIS investigation, therefore this report is termed an archaeological assessment, per HAR §13-13-284-5(b)(5)(A): “Results of the survey shall be reported either through an archaeological assessment, if no sites were found, or an archaeological survey report which meets the minimum standards set forth in chapter 13-276-5.

### 4.3 Natural Resources with Cultural Significance

To employ the Hawaiian landscape perspective and emphasize the symbiosis of natural and cultural resources, Honua Consulting uses the term 'biocultural' to refer to natural and cultural resources, with additional sub-classifications by attributes.

A brief further discussion of environmental zones and traditional Hawaiian land management practices is necessary to understand the tangible and intangible aspects of the Hawaiian landscape. Additionally, it is important to point out once again that in the Hawaiian landscape, all natural and cultural resources are interrelated and culturally significant. Natural unaltered landscape features such as rocky outcrops, cinder cones, intermittent streams, or an open plain can carry as much significance as a planted grove of wauke (*Broussonetia papyrifera*) or a boulder-lined 'auwai (canal).

The large districts (moku-o-loko) and sub-regions ('okana and kālana) were divided into manageable units of land that were tended to by the maka'āinana (people of the land). Perhaps the most significant management unit was the ahupua'a. Ahupua'a are subdivisions of land that were usually marked by an altar with an image or representation of a pig placed upon it (thus the name ahu-pua'a or pig altar). In their configuration, the ahupua'a may generally be compared to wedge-shaped pieces of land that radiate out from the center of the island, extending to the ocean fisheries fronting the land unit. Their boundaries are defined by topographic or geological features such as pu'u (hills), ridges, gullies, valleys, craters, or areas of a particular vegetation growth (cf. Malo 1951: 16-18; Lyons 1875; and testimonies recorded before the Boundary Commission).

The ahupua'a were also divided into smaller manageable parcels of land (such as the 'ili, kō'ele, māla, kīhāpai, mo'ō and paukū etc.), generally running in a mauka-makai orientation, and often marked by stone wall alignments. In these smaller land parcels, the native tenants cared for and cultivated crops necessary to sustain their families and the chiefly communities they were associated with. As long as sufficient tribute was offered and kapu (restrictions) were observed, the common people, who lived in a given ahupua'a, had access to most of the resources from mountain slopes to the ocean. These access rights were almost uniformly tied to residency on a particular land and earned as a result of taking responsibility for stewardship of the natural environment and supplying the needs of ones' ali'i (see Malo 1951:63-67 and Kamakau 1992:372-377).

Entire ahupua'a, or portions of the land were generally under the jurisdiction of appointed konohiki or lesser chief-landlords, who answered to an ali'i-'ai-ahupua'a (chief who controlled the ahupua'a resources). The ali'i-'ai-ahupua'a in turn, answered to an ali'i 'ai moku (chief who claimed the abundance of the entire district). Thus, ahupua'a resource supported not only the maka'āinana and 'ohana who lived on the land, but also contributed to the support



of the royal community of regional and/or island kingdoms. This form of district subdividing was integral to Hawaiian life and was the product of strictly adhered to resources management planning. In this system, the land provided fruits and vegetables, and some meat in the diet, and the ocean provided a wealth of protein resources. Also, in communities with long-term royal residents, divisions of labor (with specialists in various occupations on land and in procurement of marine resources) came to be strictly adhered to (Malo 1951: 63-67).

#### 4.2.1 Plants – Kauanoē o Kōloa

A biological assessment conducted by Tetra Tech in December 2021 only identified a single native plant in the Project Area for the Kauanoē o Kōloa project: ‘uhaloa. ‘Uhaloa is primarily a medicinal plant. The leaves, stems and roots were pounded, strained and used as a gargle for sore throats, which is a practice that continues today (Abbott 1992). ‘Uhaloa was also combined with other plants to create a tonic for young and older children, and seldom adults (Krauss 1993). Canoe builders would also occasionally add the sap of ‘uhaloa to a concoction of kukui root, ‘akoko, and banana inflorescence to create a paint that would stain the hull (Krauss 1993). This native plant remains abundant throughout the Hawaiian Islands and is still treasured as a natural and safe tonic for bodily ailments today.

#### 4.2.2 Wildlife – Kauanoē o Kōloa

A number of different species of native wildlife were identified in the biological assessment for the Kauanoē o Kōloa project as being in, adjacent to, or potentially using the ahupua‘a (geographic extent) as habitat:

- Kōlea (Pacific golden-plover)
- Ae‘o (Hawaiian stilt)
- Nēnē (Hawaiian goose)
- ‘Alae kea (Hawaiian coot)
- ‘Alae ‘ula (Hawaiian gallinule)
- Koloa (Hawaiian duck)
- ‘Ua‘u (Hawaiian petrel)
- A‘o (Newell’s shearwater)
- ‘Akē‘akē (Band-rumped storm-petrel)
- ‘Ōpe‘ape‘a (Hawaiian hoary bat)
- Pinao (Globe skimmer dragonfly)
- Pe‘e pe‘e maka ‘ole (Kaua‘i cave wolf spider)
- Kaua‘i cave amphipod (possibly ‘ami kai in Hawaiian)

The non-native pig was also identified in the Kauanoe o Kōloa project area. Pig hunting is a legally recognized customary practice. Pigs are hunted and then used as a food resource throughout the islands.

There are numerous practices associated with birds in Hawaiian culture, including lei making and other traditional practices. The birds identified in the area are all protected by various state and federal laws, limiting contemporaneous cultural practices.

All of the species could potentially be ‘aumākua, spiritual guardians, and interviewees identified these species as such in the ethnographic data. Additionally, the larvae of the pinao, called lohelohe, is used in hula and heiau ceremonial practices.

### **4.3 Intangible Cultural Resources – Kōloa Ahupua‘a**

It is important to note that Honua Consulting’s unique methodology divides cultural resources into two categories: biocultural resources and built environment resources. We define biocultural resources as elements that exist naturally in Hawai‘i without human contact. These resources and their significance can be shown, proven, and observed through oral histories and literature. We define built environment resources as elements that exist through human interaction with biocultural resources whose existence and history can be defined, examined, and proven through anthropological and archaeological observation. Utilizing this methodology is critical in the preparation of a CIA as many resources, such as those related to akua, do not necessarily result in material evidence, but nonetheless are significant to members of the Native Hawaiian community.

Hawaiian culture views natural and cultural resources as being one and the same: without the resources provided by nature, cultural resources could and would not be procured. From a Hawaiian perspective, all natural and cultural resources are interrelated, and all natural and cultural resources are culturally significant. Kepā Maly, ethnographer and Hawaiian language scholar, points out, “In any culturally sensitive discussion on land use in Hawaii, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends and nature begins” (Maly 2001:1).

#### **4.3.1 ‘Ōlelo No‘eau**

‘Ōlelo no‘eau are another source of cultural information about the area. ‘Ōlelo no‘eau literally means “wise saying,” and they encompass a wide variety of literary techniques and multiple layers of meaning common in the Hawaiian language. Considered to be the highest form of cultural expression in old Hawai‘i, ‘ōlelo no‘eau bring us closer to understanding the everyday thoughts, customs, and lives of those that created them.

While Mary Kawena Pukui's important collection of 'ōlelo no'ēau does not contain proverbs for Kōloa, Kaua'i, there are but a small sampling of the numerous poetic sayings and epithets Hawaiians had for important places. One such saying for Kōloa is "ka ua noe o Kōloa," or "the misty rain of Kōloa." A variation of this 'ōlelo no'ēau is "ka ua noe kaulana o Kōloa," (the famous misty rain of Kōloa) (*Ka Puuhonua o na Hawaii*, September 7, 1917: 4). There are nearly one hundred references to this 'ōlelo no'ēau found in articles between 1900-1920s published in various Hawaiian language newspapers (for examples, see Peter Kemamo in *Ka Nupepa Kuokoa*, June 1, 1922: 4, and "Ka Ua Noe o Koloa, *Ka Nupepa Kuokoa*, July 12, 1918: 8). Another variation is, "e mau ana nō ke kilihune o ka ua noe o Kōloa" (the fine drizzle of the misty rain of Kōloa endures) (Oliver Kua, "Ike i ka Nani o Poipu," *Ka Nupepa Kuokoa*, January 21, 1921: 8) and "ke kilihune mai nei nō ka ua noe o Kōloa" (the misty rain of Kōloa continues to drizzle down) (Kiu Hana Meahou, "Na Me[a]hou Ono o Koloa," *Ka Nupepa Kuokoa*, May 8, 1924:6). In another article, Mrs. Nani Mahu includes another variation, "'o ka ua noe o Kōloa ka helu 'ekahi" (the misty rain of Kōloa is number one [the best]), and utilizes a variant of the chorus of the mele "Ka Ua Noe o Kōloa" ([he] nani maoli nō ka ua noe o Kōloa / He makalapua i ka waokele / Ka hiona o ku'u ipo / Ua like me ka 'ano'i) as an 'ōlelo no'ēau (Mahu, "He Hoomaikai," *Ka Nupepa Kuokoa*, November 19, 1920: 8).

Many of these references are utilized by Peter Kemamo Sr. of Kōloa, Kaua'i. In a number of published articles, he references similar 'ōlelo no'ēau for his homeland, including:

"Ka 'o'opu kalekale o ka ua noe o Kōloa" (the soft 'o'opu fish of the misty rain of Kōloa) ("Moses Puahi Keoua o ia mau na Oopu Kalekale o ka Uanoe o Koloa," *Ka Nupepa Kuokoa*, October 7, 1921: 3).

"[Ka] i'o nenuē 'ono o ka ua noe o Kōloa" (the delicious meat of the the nenuē fish of the misty rain of Kōloa) ("Oia mau no na Kuhina o Koloa," *Ka Nupepa Kuokoa*, May 11, 1922: 3).

"Nā l'o Wana Momona o ka Ua Noe" (the fat, delicious sea urchin flesh of the misty rain) (*Ka Nupepa Kuokoa*, June 8, 1922:5).

He also variously references the concept of 'ono (delicious, primarily referring to food, but also applicable to other kinds of enjoyment): "nā 'ono huikau o ka ua noe o Kōloa" (the surprising flavors of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, April 28, 1922: 3); "nā kuhinia 'ono o ka ua noe o Kōloa" (the rich flavors of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, August 10, 1922: 3); "nā mea hou 'ono o ka ua noe o Kōloa" (the new delicious things of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, September 27, 1923: 6); and "ho'oheno mau nō nā 'ono o ka ua noe o Kōloa" (forever cherished are the delicious flavors of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, February 14, 1924: 2).

### 4.3.2 Mele (Songs)

The *Buke Mele Lahui* (Hawaiian National Songbook), published in 1895, is “the largest number of political and patriotic Hawaiian songs ever printed in one place,” featuring mele that “echo the steadfast resilience of Hawaiians of that time as they weathered the political turbulence of the 1880s and 1890s that completely altered their world” through the overthrow and establishment of a foreign-led provisional government and subsequent annexation to the U.S. (Nogelmeier and Stillman 2003:xii). There are numerous mele and oli composed for and inspired by the larger project area, and there is at least one mele specifically composed in or for the project area of Kōloa. Nonetheless, Kōloa<sup>3</sup> is referenced in mele ‘āina of Kaua‘i.

In 1907, a mele for Kōloa, “Ka Ua Noe o Koloa” (The misty rain of Kōloa) was published in the Hawaiian language newspaper *Ka Na‘i Aupuni* by R.W.

#### Ka Ua Noe o Koloa

Nani Haupu kilakila i ka la‘i

Hanohano Kilohana i ka nahele  
Aia i laila ka maka o ka ‘ōpua  
Kīhene i ka wai o Kemamo

Chorus:

He nani maoli nō ka ua noe o Kōloa

He makalapua i ka waokele

Nā hiona o ku‘u ipo ua like me ka ‘ano‘i,

Nā kulu kēhau o ke aumoe

Ka hana a ka mana‘o lihi lau i ke pili

Makamaka pua o ka ‘ōhi‘a

Ua ho‘ohie nā manu o ka nahele

Kilipohe i ka ua nāulu

#### The Misty Rain of Kōloa

Beautiful is Hā‘upu standing majestic in the  
calm,

Kilohana (hill) is glorious bedecked by the  
forest

There is the eye of the cloudbanks (gathered)  
Where the fresh waters of the heights of

Kemamo are gathered

Truly beautiful is the misty rain of Kōloa

Beautiful in the forest

The beauty of my beloved sweetheart with my  
love,

In the drowsy mist of midnight

The desire on the leaf blade of the pili grass

The buds of the ‘ōhi‘a blossom

The birds of the forest are made attractive

By the well-shape droplets of the nāulu rain

(R.W., *Ka Na‘i Aupuni*, March 29, 1907: 3)

<sup>3</sup> It is important to note for this survey that there is also another place named Kōloa on Hawai‘i Island. There are also mele that speak of this place, which were not included in this survey as they are not related to Kaua‘i.

This mele is referenced in a 1925 article as an entry in a song contest by the women of Kōloa (“Ku i ka Nani ka Ahamele a ko Kauai Poe,” *Ka Nupepa Kuokoa*, June 25, 1925: 2).

### Kōloa - Robert Waialeale

Nani Hā’upu kū kila i ka laii	Beautiful Haupu, rising in the calm
Hanohano kilohana i ka nahele	Magnificent is the view of the forest
Aia i laila ka maka e ka ‘ōpua	There the cloudbanks
Kihene i ka wai o Kemamo	Gather over the waters of Kemamo
Hui:	Chorus:
He ani maoli no ka ua noe o Kōloa	Beautiful indeed, the misty rain of Kōloa
He makalapua i ka wao kele	Bringing forth blossoms in the upland forest
Nā hi’ona o ku`u ipo ua like me ka ‘ano’i	The appearance of my sweetheart awakens
Nā dews kēhau o ke aumoe	my desire
	Like the dews at midnight

In this mele, the composer, Robert Waialeale, father of famed Hawaiian musician Lena Machado, writes this mele ‘āina (song about the land) for Kīpukai, located within Kōloa. Waialeale writes of different places and resources in this mele, specifically Kemamo, which was a spring said to be reserved for ali’i in the Kōloa area. The notes for this composition also state that some kūpuna believed Kōloa to be named for the steep rock feature in the area called Pali-o-Kōloa.

### Nani Kaua’i - Traditional

A he nani Kaua’i ‘eā	Beautiful Kaua’i
‘O ku’u ‘āina	My homeland
Ke one Nohili ‘eā	The sand of Nohili
E kani mai nei	Makes sound
Ka wai ‘anapanapa ‘eā	The sparkling water
I ke kula o Mānā	On the plain of Mānā
‘O ke kaupoku hale ‘eā	The roofs of houses
Lau a’o Limaloa	Are many of Limaloa
A he nani Hā’upu ‘eā	Beautiful is Hā’upu
Ka ua noe o Koloa	The misty rain of Koloa



A he nani Lihu'e 'eā  
I ka ua Pā'upili

Beautiful is Lihu'e  
In the Pā'upili rain

A he nani Hanalei 'eā  
I ka wai o NāmoloKama

Beautiful is Hanalei  
With the falls of NāmoloKama

A he nani Ha'ena 'eā  
I nā pali 'o ahi

Beautiful is Ha'ena  
With the cliffs where the firebrands were hurled

A he nani Kalalau 'eā  
Nā pali o Ko'olau

Beautiful is Kalalau  
And the cliffs of Ko'olau

Ha'ina ka puana 'eā  
A he nani Kaua'i

The end of my song  
Beautiful is Kaua'i

There are many songs that speak to the beauty of Kaua'i. There are also more than one mele titled, "Nani Kaua'i." This traditional composition above is less commonly known than another mele, also called "Nani Kaua'i." Both mele speak of many famed places across the island; this mele in particular references Kōloa and its famed rain, the hā'upu rain.

## 5.0 Ethnographic Data

As discussed previously in **Section 2.5 (Ethnographic Methodology)**, information was collected from a wide range of individuals and sources. The findings of those efforts are discussed in this section. Ethnographic data is utilized to supplement the other research methods utilized. It is one in a range of research tools employed to gather information about the project area.

Honua Consulting was tasked with gathering information from individuals with lineal and cultural ties to the area and its vicinity regarding regional biocultural resources, potential impacts to these biocultural resources, and mitigation measures to minimize and/or avoid these impacts.

The bulk of the information available from practitioners and kūpuna were drawn from native testimonies and Hawaiian language sources and integrated into the cultural and historic overview section of this assessment. Those sources, along with responses to this project, were considered when researching the traditional or customary practices discussed in a previous section. Interviews were conducted with sixteen (16) individuals. This data helped to identify additional resources and practices in the area; this information also helped to confirm research conducted for this report.

Each participant was asked or provided the same questions:

### Interview Questions

1. Please provide your name.
2. What is your profession?
3. Where were you born and raised?
4. Where do you live now?
5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?
6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?
7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?
8. Is there anything about the project area that's particularly significant you would like to share?
9. Are there any stories associated with the project area we should be aware of?
10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?

11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?
12. Do you have any recommendations for conditions or best management practices for the project, should it proceed?
13. Is there anything else you would like to share?
14. Is there anyone else we should talk with about the projects or the Project Areas?
15. Is there anything in this interview you would like us to omit from the summary?

Participants were invited to respond or participate in whatever manner was most comfortable for them. Some participants elected to be verbally interviewed while others chose to respond in writing.

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## 5.1 Interview with Ana Mo Des

**Interviewer:** Fern Holland

**Interviewee:** Ana Mo Des

**Date:** June 10, 2022

**Location:** Written / Phone

### Biography

Ana Mo Des was born and raised in Miami, FL and currently lives in Kalaheo. Ana has lived on Kaua'i since 2007 and is a full-time mom and instructor.

While Ana does not practice Hawaiian cultural practices in this area herself, she is connected with those that do and has been following this issue and concerns over development at the Kauano'e o Kōloa location for over a year now.

### Overview

Ana's engagement and concern has been based around the Kauano'e o Kōloa project site particularly, but she is concerned overall with the developers actions. She is a concerned resident that has supported efforts by Hawaiian friends to bring attention to what they believe is significant destruction of cultural sites on the property.

### General Discussion

Ana walked the Kauano'e o Kōloa property in February 2021, just after it was freshly mowed. She saw many sites worth exploring with a data recovery survey (the second part of a three-part process that is involved in a proper cultural survey). She saw a large heiau, ancient stone pilings that easily provide habitat for endangered species and what could very well be a burial mound among many lava tubes easily identified as she walked throughout the property. She also saw the native protected nēnē living comfortably in what she described was overgrown lush habitat at the time.

Ana believes that these areas should instead be preserved in perpetuity so we may regain access to what the island culture has to provide, not only for its people but for visitors and resident transplants alike. She sees the value of these sites and the cultural resources they could again provide in the future.

### Cultural Resources

Ana sees the remnants of these rock structures and these important caves as cultural resources worth protecting.

## Traditions and Customs

Ana is not personally aware or connected to traditions and customs in this area but emphasizes that she believes the sensitivity of the site warrants full deep investigation prior to any approvals.

## Impacts

Ana sees the impacts of complete destruction of potential cultural sites, caves and other artifacts as chipping away at the soul of the kanaka people. She sees the blasting, bulldozing and works that have occurred as severely impacting the site and those connected to it and believes that cannot be undone and the developer must answer for this destruction.

She sees the larger impacts of this development as displacement since it is in a visitor destination area and the starting price is over \$1,000,000 for a two bedroom. There is no way local residents can attain that.

Ana is particularly concerned about the impacts developments like these will continue to have on economic disparity. Ana said she quietly paid attention and observed for 10 years before stepping forward to testify before Council about the economic disparity caused by exploitation which results in drug and alcohol abuse, domestic violence, crime, homelessness, survival trafficking and eventual suicide in 2017.

This has motivated her engagement in an attempt to make a difference in this area. Ana sees these results coming from the failure of the State and County level governments who allow these types of developers to disregard the rules. She believes the County and State and decision makers are responsible for the aforementioned impacts.

## Mitigation Measures and Recommendations

Ana believes that these developers claiming that nothing of significance is on the property is completely false and fraudulent. She also points out that the evidence on the property that has been documented and photographed would have triggered a merited data recovery survey.

She explains that Missy Kamai after her initial inventory survey said that her recommendation will be to have a large team come in to do the data recovery portion of the survey and that all mowing would be done by hand since the area is so sensitive. It is not clear what led to it being reported completely different and Ana can only wonder if threats or bribes were made for the report to conclude that nothing of significance is present.



By logic standards how could such a large parcel right next to HAPA trail not have enough triggers to do a full and complete investigation.

Ana's biggest issue with the developer is that they are not following due process and feels it is a complete disregard for the Rule of Law and what appears as evident corruption that has been unveiled since these lies ensued.

She believes that instead of Poverty Awareness Week or Suicide Prevention Month, elected and appointed officials need to ensure developers follow the Law and best practices. She specifically referred to the Law that was quoted in the first page she read of this Ka Pa'akai packet.

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## 5.2 Interview with Chadley (Chad) Schimmelfennig

**Interviewer:** Fern Holland

**Interviewee:** Chadley (Chad) Schimmelfennig

**Date:** June 3, 2022

**Location:** Zoom

### Biography

Chad is the Executive Director of Kawaikini Charter School. He was born and raised on Kauai and currently resides in Hanapēpē.

Chad's association to the project area is through genealogy. Kōloa and Po'ipū area is where his family lineage descends as far back as his family can recall. Currently he works on restoration efforts on Kamalo'ula heiau and is familiar with the history and sites in Po'ipū and Koloa.

### Overview

Chad explains that while a great deal of the cultural sites in this area and the resources that were associated have been destroyed over the last century, there is a lot of rich culture and history in this area and significant coastal ecosystems that are continuing to be impacted.

Chad likes to stay neutral and factual and has concerns about recent activism mislabeling some of these significant sites and is concerned that when sites are renamed to suit agendas. He has an issue with names being ascribed to different names to fit something else that is not based in historical research.

### General Discussion

Chad explains that while he doesn't recall all the names of the specific sites in this area there are quality records of the original place names and maps that can provide this. He explains a lot of these areas were created in the 1400s under the reign of Manokalanipō. There are records of that and structures like Kamalo'ula heiau is a smaller section of the greater heiau structure that has been demolished.

There are at least two heiau in this area Chad is aware of. The Kukui'ula area is significant because it has several heiau and it has another area that is a ko'a and connects to Prince Kuhio or Ho'ai Park. As far as what this area was, it was significant, but as far as what it is now, is really nothing, because almost all of it has been lost. He describes it as simple carelessness of resource protections when building golf courses and developments. There are

a handful of heiau that are accessible and being managed and restored in this area, which he is thankful for.

### **Cultural Resources**

Chad says that unfortunately he really doesn't have any immediate resources to gather from the project sites, only because the plantation during the latter part of the 1800s and early 1900s wiped out the natural resources in this area leaving only sugarcane. At one time Chad explains there were cultural resources associated with having a large population in that area.

Chad speaks of the shoreline area as a cultural resource that has been impacted over time. He talks about the shoreline area being impacted by the developments and poor land use choices. He mentions particularly the impacts to the reef and coastal ecosystem, emphasizing the huge difference in his lifetime and species he saw prevalent as a child, which are now harder to find.

He particularly mentions remembering harvesting fish and 'opihi along this shore that are no longer common in this area.

Chad included that one of the heiau in this region is commonly called the wrong name. He said while he has heard people refer to the heiau at Kiahuna as laka heiau, because the name of the street is Pā'ū a Laka, he clarifies that the site is registered to his 5 great grandparents and is a house site that is still registered to Nāhinu and 'Auhea in the state archives. It was their home site. Chads great grandparents would take his father there to show him where they lived and ate. The developers had a kumu hula name the streets during the building of the area, and they named it Pā'ū a Laka. Now, people keep calling it the incorrect name. The true name that it's registered as is Mauna Pōhaku. It was their site that they lived in after the rebellion of Kaumuali'i. They retained their status as ali'i only because 'Auhea was aunt to Kamehameha II.

### **Traditions and Customs**

Theoretically there were significant traditions down here but the earliest western records are from the 1920s and a large percentage of this area was a village then. There were absolutely at one time abundant agricultural resources in this area. He explains that there were absolutely structures and with them traditions and customs associated with this highly populated area but much of this has been destroyed with the destruction of the sites. He also mentions that now specifics about locations are hard to pinpoint.

Chad mentions the birthplace of Prince Kūhio is in this area and that there is history associated with ali'i here. He explains that the area where Prince Kūhio was born was also the

area of previous ali'i and could be dating back to Manokalanipō and Kukona because that was as far back as we could find in any history books the sites of ali'i.

He describes the traditions and customs most practiced in this area as being based around agriculture. He explains since the 1800s these systems have been impacted and continue to be. Chad explains that the whole area was an agriculture complex with 10 miles of 'auwai system. This started at the tree tunnel, Kahili, spawning out to the south end of Kaua'i and branching off for another 10 miles of 'auwai branches.

He describes any practices and traditions as subjective now since it is hard to know what was whereas the sites are largely gone and demolished and the memory of those practices largely lost with it. He clarifies there is no one here today to explain what the specific practices were and where. He does say there are some old audio recordings of his kupuna in the 1930s and 1940s that tell stories of the area and what the practices were and what the various places were, but all are no longer existent.

Chad mentions that his kupuna had many old style mo'olelo that were recorded. His great great grandma was one of the influential people in that area in the 1920s and before and she had these old stories that talk about the folklore of the Kōloa area. Some of these do correlate to the areas where these projects are planned. One speaks of a flying turtle and certain caves that were dedicated to a specific turtle.

## Impacts

The Kauano'e o Kōloa development is close to a lot of cave systems that still exist in that area. Most of these have been closed in or blocked off according to Chad. He believes the level of impact varies depending on the specific site. He explains some areas were just caves and shelters but some could have been used for other things, like burial sites. This practice of burial ways still happens on Hawai'i Island.

Chad says that where Kauano'e o Kōloa is proposed was another portion of the agricultural complex. He says he met people in the 1960s that saw the bulldozing of a lot of these areas that resulted in these large rock mounds and there are over 3 dozen mounds in the area that were from bulldozed rock piles. Whatever wasn't collected for use locally for rock walls in peoples' yards were just left in piles and a lot of that is the ancient walls and 'auwai structures that were a part of this system.

Chad mentions the massive impacts to these areas in the past and the dynamiting that happened in the 1990s. He explains that the entire area was leveled and the cave systems and lava tubes were largely destroyed along with that. He specifically remembers closer to the Ho'ai area the land was dynamited for at least a year straight. He remembers this destruction

and the leveling that happened. He describes most of those structures as now flat and destroyed. He mentions one site in that immediate area that was spared and it is a hale ali'i site and a cooking area that was blocked off and preserved.

Since most of this area was agriculture and provided food a lot of the drastic impacts already happened in the 1870s and the real use has already been lost, and impacts continue.

Chad sees the impacts of these additional developments as potential continued destruction to what remains. He clarifies that the specific impacts of what is being impacted varies from site to site. He explains some of the sites are demolished and some have remained intact. Disturbance to these sites therefore has different impacts because some have been sitting there for 30 years untouched but exploded and dead and some areas have existing structures that are now being pushed to the side that are intact, especially the 'auwai system, which is unique within the Hawaiian Islands.

### **Mitigation Measures and Recommendations**

Chad isn't comfortable suggesting measures that would be appropriate. He feels that would be speculation on his part and he likes to look at the facts and specifics before making those recommendations and specific suggestions.

He said everyone on all sides needs to do what is right. He believes that there needs to be communication and transparency and a process of healing.

He said that concerned community members need to focus on saying the things we know to be true about these places because if we do not use correct resources and facts, it does a disservice. He sees some of this as taking everything and giving nothing back and that requires a process for healing to move through.

Chad recommended we reach out to some of the older families that are still living today. He mentions his Aunt Betsy Ludington who has been there for a long time and has some great stories and knows things that normally people don't know. He suggests that Randy Wichman be engaged because of his records and maps of historical knowledge of this area.

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### 5.3 Responses and Documents from Elizabeth Okinaka

1. Elizabeth Okinaka - Spiritual indigenous woman
2. Stay at home mother/Cultural Practitioner
3. Born in CA raised in Koloa, HI and have lived there through the present
4. Koloa, HI
5. I used hapa trail as a child and frequently use the trail today with my children for beach access.
6. Yes spring water, native plants, indigenous species who is revered to as a 'aumakua. Endangered species, the blind cave spider and amphipod found no where else in the world.
7. Yes prayer and spiritual practice took place on subject property daily. Many cultural practitioners access this site prior to development happening. I practiced protocol here daily and am now threatened with arrest by developer if I step foot off hapa trail.
8. This entire parcel is significant. The birthing stone, the alter which I visited daily and prayed at is now destroyed. The burial sites and chiefs sitting area are now being destroyed. Chief Palikua is buried underneath this property within a burial cavern and a part of the cave system. Laka heiau and the cave directly behind this property shows the lack of preservation for this entire area. This property has lava tubes and caves exposed since blasting which developer is denying. 3 caves were destroyed in Wainani subdivision which is directly next to this lot. The developer of Wainani admitted to the LUC and there are LUC records that confirm the destruction of the 3 caves in Wainani, destroyed with bulldozers during development. See attached. The developer of Pili Mai, the parcel just below the project area, had problems with its foundation as it was also built over a cave system. There are at least 3 designated habitat caves in the area immediately adjacent to the project site and knowing about the caves under Wainani and Pili Mai, it is unlikely that they are not also under the project area. Hal Hammett and Cultural Survey's Hawaii advertise the use of ground penetrating radar (GPR) on their website and claim to have trained personnel with the technological ability to use GPR. Yet no GPR was used on the project area prior to extensive grading, excavating, blasting and filling with dozens of truck loads of dirt and rock being delivered to the project area.
9. I have read stories of great events held by Kaikioewa here, the procession of helpers he was followed by and also his Spanish friend who traveled with him often was present.
10. Yes, in answering this survey, I am responding to the questions relating to the project area on Kiahuna Plantation Drive, 5425 Pau a Laka. I object to the developers effort to secure answers to these questions for the cottages near Kukuiula boat harbor and the luxury homes in Kukuiula. If I am expected to answer Ka Pa`akai questions for other developments, I should receive a questionnaire with more details about those developments so that I can properly respond. Since my young childhood and to present I have been a frequent visitor to the Kukuiula boat harbor, beach and Lawaii coast and

am requesting that I be allowed to comment on a separate questionnaire for any development in that area. I refuse to combine 2 completely separate areas into this single question. Kukuiula is almost entirely in a different ahupua'a. I believe developer should have to conduct 3 surveys, One for each project area. Impacts for substantial destruction of cave system and lava tubes. Continued desecration of burial sites and culturally significant sites in Koloa. Why not give a more in-depth explanation or TMK number for every property? 2 species found no where's else which reside in the the Koloa cave ecosystem consider to be one of the 10 most endangered cave systems in the world.

11. Yes I am being threatened by arrest daily if I try to access my once daily prayer site. KPD is being privately hired by developer and has given out trespass warning for the property and the adjacent road that the public uses to enter Kiahuna development and Wainani subdivision. Even though this road is accessed by the public, I and other practitioners have been told that we are not allowed to walk on the public road and we will be arrested if we step foot off of Hapa Trail. The difficulty is that no one has ever determined where Hapa Trail begins and ends. In fact, there are rock formations on Hapa Trail that abut the fence recently built by the developer which raises serious questions about whether or not the developer is actually fencing us off of parts of Hapa Trail. Colin Thompson the VP has been harassing us as we document the desecration from Hapa Trail. He calls out and yells at us and asks why we are there. Recently, he started flying a drone right next to us as we stand on Hapa Trail. I took pictures of his drone and strongly object to this threatening and harassing behavior by this developer.
12. No it should NOT proceed. This developer has blatantly and repeatedly broken the law. He is pending IRS charges for a similar instance of depreciation of value of land. He is blocking cultural and lineal descendants from accessing this culturally significant site. I do not trust this process. I do not believe in this process, how can you ask for our input of such a culturally significant site while the developer is grading with bulldozers and front end loaders and blasting, destroying the resources? I was on site the day Missy Kamai conducted her survey for cultural surveys Hawaii. She herself told me she could see the cultural significance in this property and promised us that the lot would be cleared by hand before a full team came in and concluded a final archaeological survey This never happened. I was also approached by Rick Paul Cassidy the same day Missy came, I was on site when he attempted to bribe me offering a payout for each child I had and a donation to each school my children attended if, in return, I stop being vocal against this project. I declined his offer. I told him I was not interested in money.
13. I do not trust cultural surveys Hawaii and I do not trust Honua consulting and have been made aware that they have been a part of burial desecration on Oahu and Kauai. This entire process is wrong and there are still pending burial registration for this land. With multiple ex-county attorneys and employee working for developer of this project and the developer who is relying on a Christmas Eve county agreement that was never

approved by the LUC. The Decisions and Orders by the LUC affecting the project area have not been followed and the developer applicants and County are jointly obligated to follow the LUC decisions. See attached for 3 party agreement between County and developers with no LUC approval.

14. Yes there are many community members who did not get a chance to give input. This process is completely being done backwards and the wrong way, how is the county of Kauai now asking for our input on this property when we have been trying for almost 2 years to protect this site? County of Kauai was required to conduct this analysis before granting the grading and grubbing permit that was illegally given without a final biological or archaeological report. (grading permit granted 3/22 final biologic survey not done until 5/12/2022 and alleged archeological clearance from Cultural Survey's Hawaii is dated 5/9/2022, more than a month following excavation and extensive grading.

(This area intentionally left blank.)

X	<p>The Applicant shall preserve:</p> <p>a. The five (5) archeological sites identified in the archeological and biological report and shall cause no construction or alteration or other land disturbances on said sites except for preservation and restoration of the sites.</p> <p>b. The two lava tubes containing the habitat of the eyeless big-eyed hunting spider and protect these from man made encroachments. Permission to re-survey three (3)</p>	X	
<b>CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY</b>			
SOURCE		STATUS	
LUC	COK	MET	NOT MET
	<p>other caves that are potential habitats, shall be granted for scientific purposes, before these caves are destroyed.</p>		
X	<p>No site identified in the report, "Archeological and Biological survey of the Proposed Kiahuna Golf Course Village Area, Koloa, Kona, Kauai Island, Hawaii" shall be graded, grubbed, bulldozed, or in any way destroyed unless in accordance with a plan, mutually agreed upon by the Applicant and the archeologist that has been prepared whereby the archeological salvage will be accomplished by means of coordinating any grading, grubbing or similar work by the Applicant with the archeological salvage.</p>	X	

Figure 28. Document provided by interviewee

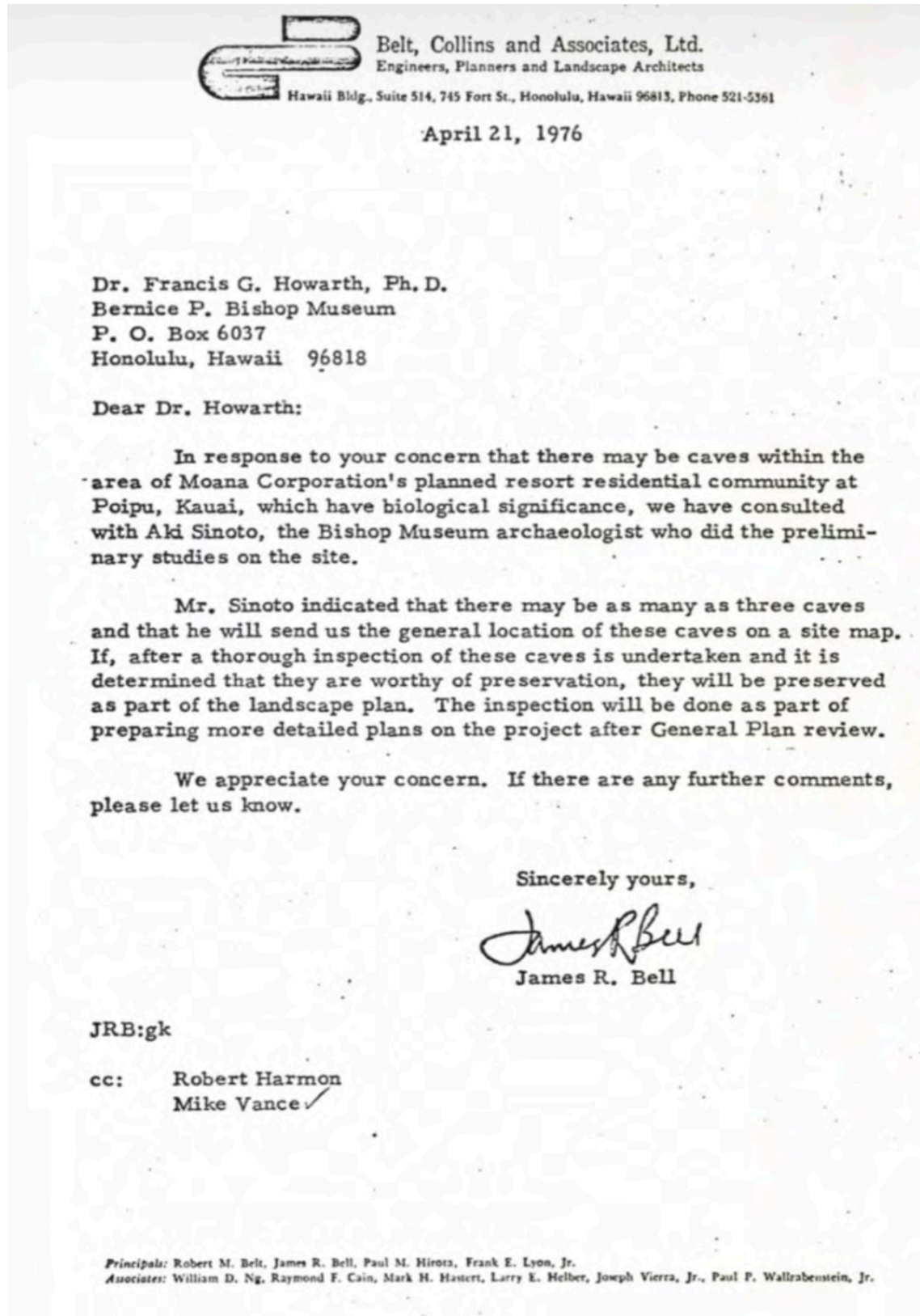


Figure 29. Document provided by interviewee



#### 5.4 Responses from Elvira Kimokeo

1. Please provide your name.

Elvira (Ella) Kimokeo

2. What is your profession? Retired

3. Where were you born and raised? Born and Raised in Koloa on family parcel in Poipu, Nalo Rd

4. Where do you live now? Hanapepe, Kauai

5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)? Walked regularly to the Catholic Church from our home in Poipu on Hapa Trail with my Grandmother and Mother Mary Costa Kimokeo

6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources? We would visit the Lava Tubes and Caves near Hapa Trail and we would pick mauna loa and black-eyed susan for lei making.

7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)? Yes for lei making and cultural practices seeds for lei's and keawe wood for kaula pig. Moho lived in lava tubes and we were told by Kupuna that the Ali`i were buried in the caves under or near the project area.

8. Is there anything about the project area that's particularly significant you would like to share?

It was my way to the get to Church with grandma Mary Kimokeo, to Koloa town and school. We used Hapa Trail almost every day. It has now been fenced and access is much more difficult.

9. Are there any stories associated with the project area we should be aware of? We all learned from our elders that the mo`o lived in the cave and traveled the cave to the fish pond near the coast to keep the fish pond clean and then return to the cave in the Kiahuna area of the project where he lived and propagated to preserve the fish ponds like the one at kaneiolouma. The mo`o was a lizard like creature that lived in the water and on land. The parcel that is now being developed was known to have underground springs and water that traveled through lava tubes to the ocean. The explosions that are being done we know from our elders are not good for the health of the ocean because of the debris that travels in the water underground to the coast contaminating the Limu, Opihi and Ayukuki/Wana.

10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided? No one talks to us. The property is already graded. Mounds that used to be on the property are now flat. Many rock formations have been blown up or crushed. How do we get that back? I don't know how to mitigate this damage except to ask that you please stop the development and allow the kupuna buried there to rest in peace.

11. Are you aware of any traditions or customs that may be impacted by such a project,

including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided? Ali`i iwi will be impacted. Plants that we used to gather can no longer be gathered as they have been cleared away. Our sacred trail is now fenced with barbed wire on one side and fence posts that are sunk in concrete. A worker was seen adding dirt to the top of the concrete to hide all the concrete that is poured in the ground right next to Hapa Trail. This is a desecration of our environment. The amakua underground has been permanently violated.

12. Do you have any recommendations for conditions or best management practices for the project, should it proceed? Stop the projects, make it a park. A place that people can enjoy. We don't need more people and more cars to compete with to get to our coastline and beaches. Developer greed is changing the life we've known and the land we love.

13. Is there anything else you would like to share? No, other than to ask you to please consider and change your plan to keep so many more people from being hurt.

14. Is there anyone else we should talk with about the projects or the Project Areas? Families and descendants that still live on Kuai Rd

15. Is there anything in this interview you would like us to omit from the summary? No

## 5.5 Responses from Glenn Silva

### Interview Questions

1. Please provide your name.

Glen Silva

2. What is your profession?

Retired - Land Title Research

3. Where were you born and raised?

Born Oakland, CA; Raised Koloa

4. Where do you live now?

Puhi, Kauai

5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?

Family Land ties. Please see deed that granted my family more than 3,300 acres between Wiliwili tract and Kukuiula harbor. I went with my grandparents to a family burial sites that were in the property along what is now Kiahuna Plantation Drive. We accessed the property from Hapa Trail and I went with my Aunt and grandparents to take ho 'okipa to grave sites in tribute to our kupuna. Place Names - Kana Moku and my family name was Kukona which my great grandfather changed to just Kana. Because the Kana family was deeded so much land on the South Shore, the family name was used for the name of the Moku. My great grandmother signed the Pala pa la Hoopii Kue Hoohuianina Petition Against Annexation, copy which she gave me attached which bares her signature, last on the list.

6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?

On the lot being developed now in Kiahuna I remember going to honor kupuna that were buried there. There used to be a mossed rock formation on the part of the property nearest the golf course. It had a rock wall nearby that was broken by bulldozers that worked on the property in January 2021. I was visiting family in Koloa and saw the damage to what was an ancient Heiau. I have walked Hapa Trail many times and it was used most by young people on their way to the beach to fish, throw net and swim when I was growing up in Koloa. We used to collect plants for my grandmother and aunt who would make medicine for our family. I also collected lima kohu, threw net and fished from the shore which several of my friends still do.

7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?

From my family, I know there was a long history of loi and sweet potato planting in the area. There were ceremonial practices for the planting and harvest season that we remember today when we walk the historic Hapa Trail. I would like my children and grandchildren to know of these practices like walking Hapa Trail which is now much more difficult because the access on the east and west side has been fenced. The Kiahuna property was an area for hunting as well and also a place for births and deaths with burials in the caves that we believe go throughout and connect all the parcels.

8. Is there anything about the project area that's particularly significant you would like to share?

My aunt and grandmother took to the graves of our ancestors but with the recent changes on the property with the fencing that keeps me from walking on the parcel I am not sure I can find their graves today.

9. Are there any stories associated with the project area we should be aware of?

I had family members who would connect spiritually with the Kupuna in the Kukona and Kon a family. I recall auntie Stella telling me it is important to remember and try and preserve the family stories.

10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?

Yes, Koloa is a small community with many older plantation families, 2 small grocery stores and 1 post office. I'm concerned that the proposed development will impact my friends and family being able to get to the beach. It is already difficult, if not impossible, to find a place to park when we want to swim, fish or enjoy our coastline. It's not that we don't want to share but we have 3 large resorts in the area and more vacation rental properties than properties for Koloa residents. There are already many more tourist here than local families and these planned developments will bring even more traffic, waste, runoff to the ocean during construction directly changes my families ability to enjoy this community which has been home to most of my family for hundreds of years. The size of the proposed developments are too large for this community. The 3 planned developments will add more than 400 cars to our roads which are all single lane and the tree tunnel is the only way in or out unless we are routed to Omao Rd which is a windy residential road. We already have problems when there are threats of hurricanes or tsunami and our single lane roads become gridlocked as people try to exit and head for higher ground. Any natural disaster requiring evacuation is already a problem for Koloa and Poipu. Adding so many more units is only going to add to the problem.

11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?

Yes, Absolutely Access, Access, for all traditional and customary practices (see #7) = Destruction of Kanaka way of life. STOP! Now!

12. Do you have any recommendations for conditions or best management practices for the project, should it proceed?

Recommend you respect and honor all customs, traditions and access to our lands and the ocean. Hapa Trail has been open for years and could be accessed from its east and west side which are now fenced. Developer said the fencing was temporary. I saw the fence going in and there were concrete footings for each fence post that went at least 2 feet into the ground. Some workers cave back and put dirt on top of the concrete to disguise that it's built in concrete but we saw it being built.

13. Is there anything else you would like to share?

It scares me to think of more than 300 new homes in this small community. With the added people and cars, Koloa and the people that have enjoyed its small-town culture and traditions will be lost. That make me very sad for my children and grandchildren.

14. Is there anyone else we should talk with about the projects or the Project Areas?

Hopefully others in my community like uncle Billy, Rupert and Kane will send in their responses. We all know that these developments are going to limit our access to Kukuiula boat harbor, Koloa landing, Sheraton beach, Waiohi beach and Poipu Beach.

15. Is there anything in this interview you would like us to omit from the summary?

No, and I would recommend that you contact and consult the Wichman family, Kauai Historical Society, and read *Na Pua Ali'i o Kauai* which will help you understand how important this area is to our people and the local residents.





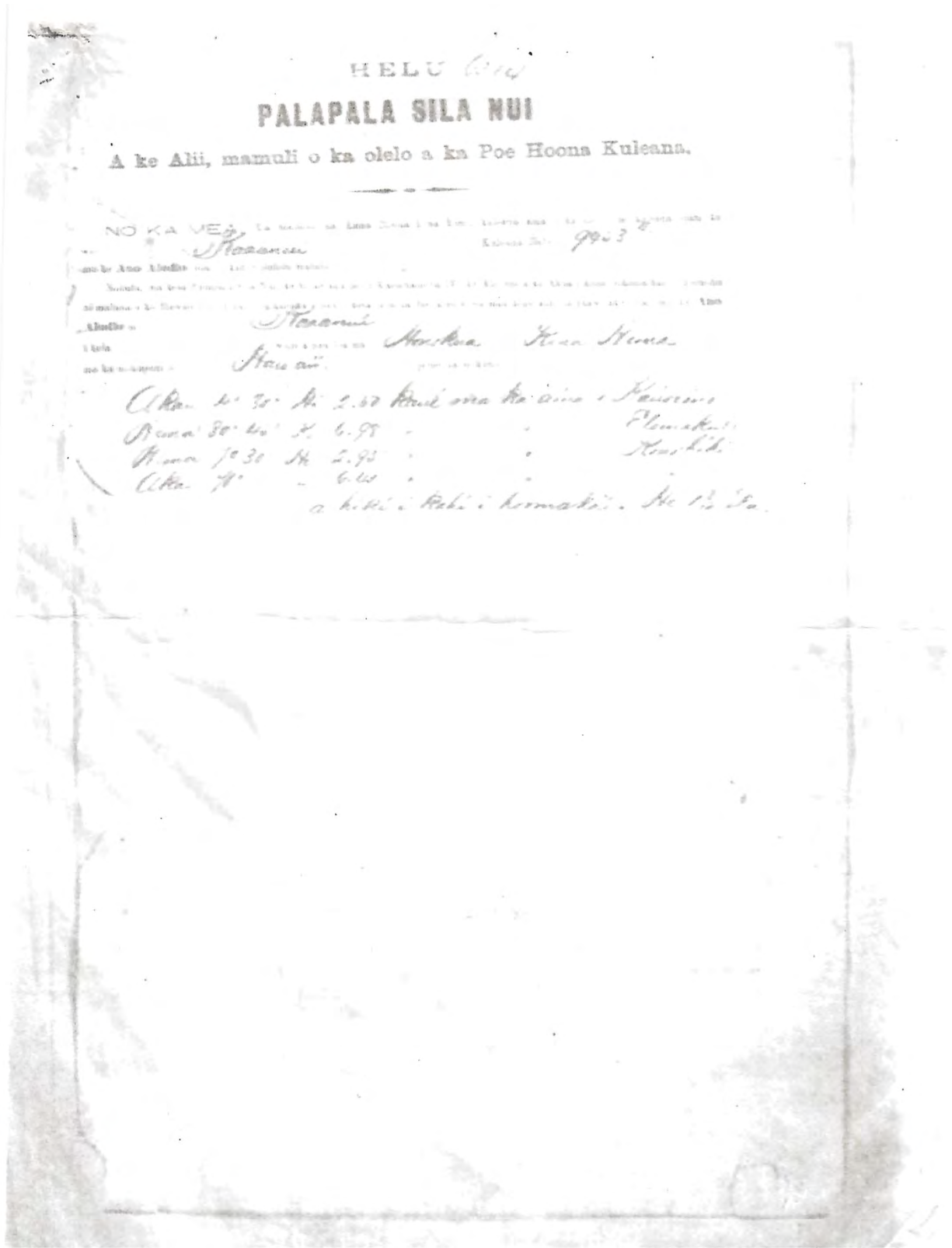


Figure 31. Document provided by interviewee.

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### PALAPALA HOOPII KUE HOOHUIAINA

*Ma ka Mea Mahaloia WILLIAM McKINLEY, Peresidena, a me ka Aha Senate, o Amerika Huipua.*

**ME KA MAHALOIA**—  
 No ka Mea, ua waihoia aku inua o ka Aha Senate o Amerika Huipua he Kuikahi no ka Hooiui aku ia Hawaii nei ia Amerika Huipua i oleloia, no ka noonooia ma kona kaa mau iloko o Dekemaba, M. H. 1897; nolaila, O MAKOU, na poe no lakou na inoa malalo iho, na wahine Hawaii oivi, he poe mkaainana a poe noho hoi no ka Aha o *Kanaka*, Mokuupuni o *Kauai* he poe lala no ka AHAHUI ALOHA AINA HAWAII O NA WAHINE O KO HAWAII PAHA AINA, a me na wahine e me i ike ka mana noakee me ko ka Ahahui i oleloia, ke kua aku nei me ka mana ikaika loa, i ka hooiui aku o ko Hawaii Paahina i oleloia ia Amerika Huipua i oleloia ma kekahi ano a loina paha.

**IKAA-ATTEST:**  
*Mrs. Lilia Ahola* *Kaunaloa—Secretary.*  
*Mrs. Kuehelani Campbell* *Peresidena—President.*

### PETITION AGAINST ANNEXATION. 110

To His Excellency WILLIAM McKINLEY, President, and the Senate, of the United States of America.

**GREETING:**—  
 WHEREAS, there has been submitted to the Senate of the United States of America a Treaty for the Annexation of the Hawaiian Islands to the said United States of America, for consideration at its regular session in December, A. D. 1897; therefore,  
 We, the undersigned, native Hawaiian women, citizens and residents of the District of \_\_\_\_\_ Island of \_\_\_\_\_, who are members of the WOMEN'S HAWAIIAN PATRIOTIC LEAGUE OF THE HAWAIIAN ISLANDS, and other women who are in sympathy with the said League, earnestly protest against the annexation of the said Hawaiian Islands to the said United States of America in any form or shape.

INOA—NAME.	AGE.	INOA—NAME.	AGE.
<i>Mrs. Masuohi Inoue</i>	38		
<i>E. D. Cronenberg</i>	32		
<i>Mrs. Sarah O'Neil</i>	42		
<i>Miss Ann Kahilina</i>	16		
<i>Mrs. Sarah Awa</i>	24		
<i>Mrs. Kahawaini</i>	30		
<i>Mrs. Keliyaka Hakas</i>	65		
<i>Mrs. Polly Mokuini</i>	20		
<i>Mrs. Daniel Makiakoa</i>	17		
<i>Pale Kamihaukila</i>	45		
<i>Mrs. Julia J. Hake</i>	16		
<i>Miss Lily Malahi</i>	14		
<i>Mrs. Kela K. Hake</i>	34		
<i>Lizzie Chiamani</i>	14		
<i>Mary Himamani</i>	21		
<i>Mrs. Sarah W.</i>	20		
<i>Mrs. Kawainika</i>	42		
<i>Mrs. P. P. O'ama</i>	38		
<i>Miss Ellen Tawa</i>	20		
<i>Mrs. Apelehama Holke</i>	25		
<i>Kamaka Kaiti</i>	30		
<i>Mrs. Malaea Kaka</i>	28		
<i>Maria Makani</i>	39		
<i>Kiema Kona</i>	45		

Figure 32. Documenta provided by interviewee.

## 5.6 Interview with Keao NeSmith

**Interviewer:** Fern Holland

**Interviewee:** Keao NeSmith - kumukeao@gmail.com

**Date:** June 9, 2022

**Location:** Zoom

### Biography

Keao NeSmith is an independent researcher and consultant. He was born in Waimea, Kaua'i and raised in Kekaha. He currently resides in Honolulu.

Keao grew up in the project area and is a local who accessed and utilized resources along this area throughout his life. He is a Hawaiian researcher and has an interest as such in this area. He has worked to clean and restore Kānei'olouma heiau.

### Overview

Keao's particular interest in the area is mostly around Kānei'olouma heiau and complex. His interest is based around his research and ongoing discussions about the sites in this area and their uses in the past and their potential uses today and in the future.

Keao is opposed to further development of this area and points out it is already so heavily impacted. Keao mentions the rich history this area has spanning centuries. He talks about the overall importance of this area and the important educational opportunities it offers and solutions for the future. He describes the impacts he sees because of these developments.

### General Discussion

Keao says he, and many Kaua'i residents, don't want more development in general. He says Kaua'i roads are jammed packed and there are already too many cars. He describes the over development as drowning out Kaua'i and its people with foreigners. He feels people need to do whatever they can to slow down this displacement of locals and bring the population to sustainable levels.

### Cultural Resources, Traditions and Customs

The Kānei'olouma complex was along the coast. He explains the significance of Kānei'olouma complex and the extensive network that runs along the coast, much of which he notes has already been destroyed by existing development and commercial projects. He explains that, looking at the archeological record all these cultural sites are a connected network, all the way to Lāwa'i Beach Resort and Kūhiō Park to Māhā'ulepū in the other direction, is one system. We don't know specifically some of the uses of certain areas. A lot of it was mixed use, a lot of it was heiau, some villages, even rock quarrying. A lot of the rocks in the stories of menehune were taken from this area.



Another form of cultural resource Keao points out is the study of the old aquaculture systems in this area. Kānei'olouma has raised aqueducts, which is an amazing feat of engineering and these troughs are still there that were raised above the ground in order to use water through a gravity fed system. He says we don't completely understand how these systems worked and if they are even aqueducts, but it appears this way. This would have been part of a system that went mauka that would have been connected to the streams in this area.

Keao says another important resource is access to important land for agriculture. He explains the mauka areas were extensively farmed for 'uala, kalo, etc and the records show there were lo'i kalo up there and the fields were planted in 'uala in other areas.

Kukona, father of Manokalanipō, in the 1400s, was involved in a battle here and Kamapua'a was involved. This battle was with the ali'i of Maui and they fought a really bloody battle along this coastline. It ended with Kamapua'a jumping in to support Kukona and the Kaua'i army to defeat the Maui army. Then there was the time of peace under the reign of Manokalanipō. This was about 400 years of peace and prosperity for Kaua'i that followed this battle. This could be the time these complexes were built. Later, Kamehameha landed here in this area also.

These are events that he believes memorials should be created for in these areas.

Limaloa is an ali'i that became best friends with Kamapua'a. Limaloa was the ali'i of this area, not sure if it was the ali'i of the ahupua'a or a moku, but according to legend he would hang out with Kamapua'a and at some point, he fell out of favor with the people of the area and they kicked him out and he ended up in Mānā. Limaloa became a kakua, god, in Mānā and he is connected to the story La'ieikawai, goddess of the rainbows, which always followed her. La'ieikawai was the goddess of the lake of Mānā area and the mirage of the Mānā. Limaloa became her lover. There are lots of chants and hula that reference Limaloa, Lā'ieikawai and other ali'i and important figures. Limaloa is originally from this area.

Salt beds were once in that coastal area but those have been destroyed. Uncle Billy Kaohelauli'i would have more insight on the locations of salt beds and traditions related to this.

### **Impacts**

Much of this area has already been destroyed from existing developments, particularly since statehood, 1959. This was the beginning of the era of large-scale developments. Many sacred grounds and ali'i estates were rapidly developed post 1959. The destruction of a lot of these sites like Kānei'olouma then occurred, to create roads. County and state departments should



have maps and records of the developments of the road systems and that means they should have maps that show these cultural sites in this area.

Keao says this development is the continuation of the destruction of these cultural sites. He notes that the destruction is already extensive and he feels we should not be piling onto it.

He explains if these agricultural systems are destroyed, we have lost all opportunity to study, understand and learn from them. If Hawaiians are further restricted from these agricultural areas and these sites convert from important agricultural features to commercial venture projects, it prevents the possibility of Kaua'i becoming independent and self-sustaining agriculturally.

He is concerned there isn't proper recognition of the important treasures we have in these valuable sites. He believes all of these sites should be considered national treasures instead of ventures for capitalism.

For locals, he sees it as a chain reaction that's been happening since occupation. He notes one of the first things to go in colonization was the aspects of the education system that taught the value of these places. This disregard for education about these cultural sites led to lack of knowledge among locals about these sites and their importance. In turn this lends to ambivalence to developments like this, like they don't matter, which extends from a previously existing, decades long, exclusion from the education system.

In order for Hawaiians to arrive at a common understanding development like this need to be stopped and education needs to happen.

There are many ways to look at the impacts to resources. If we are talking about resources we use on a daily basis today, he thinks immediately of water primarily.

Many projects do not write into their plans to make sure locals don't have access, but it is the natural result of developments such as these.

Cultural practices returning to these areas could be impacted. Just because Kānei'olouma is protected and being restored doesn't mean we are asking that locals return to that practice. The fact that this exists and the stories continue is a resource.

Projects like this aren't built for or to attract locals, they attract foreigners by their very nature. The more we edge out the local population and allow in the foreign population the less appreciation there is for all of this and these resources. Locals in turn feel less connected to their history, land and culture by actual segregation and developing them out of the area. He compares it to the overdevelopment of Kīhei on Maui, and does not look kindly on over

development of the south shore such as this. He sees Kīhei as totally overdeveloped and not resembling Hawai'i anymore and believes the problem is projects like this.

Keao struggles with the rationale behind these types of projects. He does not want more developments such as these. He says he speaks for many on Kaua'i when he says Kaua'i roads are already jam packed, there are already way too many cars and we are drowning out Kaua'i locals with foreigners of all kinds. He feels we need to do whatever we can to slow down that change and bring the population down to sustainable levels. The problem is already severe when it comes to the overpopulation and over use of commercial spots and the beaches in this area and these developments will further exacerbate this problem.

Keao believes that projects like these also result in an increasing economic divide on Kaua'i. He explains these developments keep locals with few options but low paying jobs that are hard to survive on here anymore. Developments like these like to brag about job creation, but they are often offering only low paying jobs, without security. Projects like these do not provide opportunities for highly educated residents, who have to go elsewhere to find jobs that suit their educational background. He does not feel like it is brag worthy for developers to boast to the community about their job creation, especially at the cost of what is lost. All things considered, when he looks at the pros and cons, it seems to Keao that the advantages are to the mega rich and developers, but not for locals who do not obtain secure and economically sustainable lives for themselves through these developments.

### **Mitigation Measures and Recommendations**

Speaking of mitigation, Keao feels like if they are going to mitigate the project it would have to be significant. He described it like, if they want to take some, they have to give some and it has to be equal. It cannot be take a lot and give a little. He explains that if these developers are going to take, they need to provide in equal proportion.

This is an extremely sensitive cultural area because it is so packed with historical events that took place centuries ago. Really Keao is against the project and would rather it not happen altogether.

He suggests further conversation with Canen Ho'okano & Members of the Knudsen Trust, Kumu Leina'ala Jardin, Uncle Billy Kaohelaui'i, Andre Perez and Momi Kapahulehua.

## 5.7 Interview with Malia Chun

**Interviewer:** Fern Holland

**Interviewee:** Malia K Chun

**Date:** June 1, 2022

**Location:** Zoom

### Biography

Malia Chun from is the Program Director for Nā Pua No'eau. Nā Pua No'eau is a keiki cultural enrichment program, which is a program of the University of Hawai'i. Malia was born and raised in the Moku of Puna, in the ahupua'a of Wailuanuiaho'āno on Kaua'i. She currently resides in the Moku of Kona in the ahupua'a of Waiawa.

### Overview

Although Malia grew up in the Moku of Puna, when she was like 1-4 years old she lived on the south side, while her father was the sous chef at the Waiohai. She explains that back then all that surrounding area was still sugarcane. There were also still fishing families there beachside that were sustaining themselves and their families from resources along the shoreline there. Her family gathered and fished from this coastline and her connection is one that was fed and nurtured by this area and its resources.

This project area is extremely significant to her, as well as this whole south shoreline, not just because of its rich history for her as a kanaka but because of the potential for what it could be restored to in the future and what that would mean for the survival of future Hawaiians and everyone that lives here. The site is significant to Malia as a kanaka and as a mother and as a connection to her identity.

### General Discussion

Malia explained that these types of questions and processes seek forms of additional proof of the cultural and historical significance of an area when it is already blatantly there in our history. She explains it is true that there is cultural and historical significance in this entire Koloa area. She tells of how it is well known that this area housed an ancient elaborate and unique Hawaiian agricultural system, numerous heiau and burials and 'auwai and stream systems that fed this area in a unique manner.

She explains that the problem from a kanaka, indigenous, perspective is that the proof comes in the form of mo'olelo and genealogy and cultural practices. She mentions that these forms of evidence are not considered relevant in a western system of occupation. She feels that these forms of evidence do not count as enough under American law, unless it is validated by a white man.

Malia explains that the cultural significance of this entire area has already been thoroughly established and that the complete desecration by development of this entire area is also clear.

### **Cultural Resources**

Malia mentioned that there are too many site names to mention in this area.

Malia says that despite the destruction of these areas and over development of Koloa, the remnants of this ancestral blueprint of her people still exist. Malia talks about the many relevant mo'olelo that refer to this area and feels that these historical accounts should be enough to warrant deep investigation and due diligence for any disturbance.

She goes on to explain that for her to pinpoint exactly what is in a specific location would take too long and a lot of deep research, if provable at all. Malia stresses that what we need to consider is what we value. To Malia this ancestral blueprint to self-sufficiency is a priceless part of her history and culture that will lead us into the future. She asks what is more of "value"? Is it multimillion dollar homes and condos or this ancient and historic blueprint to self-sufficiency and sustainability and food production for Kaua'i? She feels that with every additional development though this area we are bulldozing this important blueprint.

Malia mentions the HAPA Trail exists in this area and that it had an ancient name, even before the times of the HAPA trail, she believes it was named Luahine Alapa'i. This highlights the need to look at the various layers of history in this area.

Kānei'olouma nearby was also mentioned and Malia mentioned that it has so much mana and relevance to Hawaiian traditions and customs and yet it is completely surrounded by development. Kānei'olouma heiau housed navigation, agriculture, makahiki games and was a dynamic and elaborate complex.

Malia recalls that the whole shoreline along the coast as a child was covered in ko'a, or fishing ahus or markers. These were used to mark important places and specific resources, traditions and places of religious practice. As a child she remembers some of these ko'a and seeing practitioners utilize these fishing traditions. She says it may be irrelevant or not noticeable to foreigners, but for kanaka this is a story of the prized value of the fishing resources in this area. Malia explains also that this is matched by mo'olelo about the fishing gods and legends that relate to these fishing resources along this coastline.

She emphasizes the uniqueness of the once thriving dry land agricultural complex in this area. Malia explains that Hawaiian natural scientists and engineers were developing and maximizing the lands with this complex system. She mentions the ingenuity that it took of her ancestors to maximize the limitations of this area to sustain such a large population.

### **Traditions and Customs**

Malia mentions that makahiki traditions and customs were practiced in this area. She also explains that unique fishing, agriculture and navigation history and traditions occurred in this area and that a great deal of the ancient mo'olelo is largely neglected. Many practices occurred in this immediate area associated with these important features.

Malia knows general stories about this area and explains that many mo'olelo are general in nature and it can be hard to pinpoint the exact spaces where some of these things happened based on mo'olelo, but we know it is in this area.

She specifically referred to the stories associated with the wars that happened along this coastline. She mentions that 500 years before Kamehameha united the islands there was a huge war during the time of Kukona's reign. She explained that this war called on warriors from the two biggest moku on Kauai and that many of them perished in this area. This incredible mo'olelo talks of perseverance and what it means to care for people. It speaks of grace and dignity. This is one of Malia's favorite mo'olelo about this area and its history and specifically relates to the areas closer to Māhā'ulepū where the actual battles ensued.

The other specific stories from this area that she is aware of relate to the incredible agricultural complex which is a huge mo'olelo in itself.

### **Impacts**

To Malia it is sickening that this desecration is continuing today. She acknowledges it is just one small example of the desecration that happens daily in the islands and explains that she feels like despite all the marching and screaming, things will not change until the paradigm shifts and this ancestral knowledge is valued by western society.

Malia says that she thinks that the bulldozing, blasting and development happening in this area poses a threat to many things. She describes that for some kanaka, whether it has been proven or not, their ancestors still reside and are at rest in these areas. For others these areas are places of worship and where they gather and practice traditional customary rights. Malia asks how one can consciously build over these important sites. She talks about the existing impacts and how developments that have already been built in the area do not want to give practitioners access or work with Hawaiian practitioners. She does not feel this will be different with these new proposed developments.

Malia talks about how she has tried to access some of these cultural sites and has to try to get access through people's yards. She is appalled that this is still happening today. She compares it to developers still going by the old rules and mentality when they have new tools and understandings to go by these days. Malia believes something is really wrong if Hawaiians



have to go through gated communities and multimillion dollar homes to practice their culture because their places of worship are in someone's backyard.

Malia believes these developments in particular, pose a huge threat to the cultural landscape of this place. She says the big question is when is enough, enough and how much more abuse can a place and people take before they break. She goes on to ask who are we serving with these projects? She does not believe it serves the health and wellbeing of this 'āina and certainly doesn't have the future of our keiki in mind.

Malia sees the impacts of the destruction and erasing of these sites as something that will lead to further displacement and restricted access to places of historical and cultural significance for Hawaiians. She sees it as isolation from important places to practice and exercise which in turn completely strips kanaka of their identity while erasing their history. She mentions that kanaka fail to exist without 'āina, yet 'āina can thrive without people. If a people are connected to a place and they are no longer given access to those places that shape and grow their identity as an individual and as a people then we lose the essence of Hawai'i.

When she looks at how far we have come in such a short time, away from sustainability and instead to luxury condominiums, it hurts her heart. She points out that we as a society must reobtain these skills and knowledge to survive in our changing world. She feels that the next generations are being robbed of what should be their opportunity to revitalize this agricultural system to help us thrive in this remote place. She continues to point out that the next generations can't eat the dollars that come from cleaning multimillion dollar condos and gated communities. Malia thinks about it as what kind of future will her children and their children have and she sees these developments as greatly impacting this future.

Malia talks about the imminent food crisis we are facing and the housing crisis and how we should be doing what we can to address these issues but instead are bulldozing these gifts our ancestors gave us to deal with these challenges. She believes the impacts of this will leave the next generations bankrupt in every aspect of their lives.

Malia talked about the many cases of desecration that have occurred to date on the south shore. She lists many examples like the Hyatt where the surrounding area is the location where many battles happened and it was no surprise that they would uncover hundreds of iwi to develop there. She mentioned they paved right over a heiau to make a parking lot for the golf course. She also mentioned Kōloa landing as another example and yet feels like Hawaiians are still wrongfully tasked with continuing to prove that this area is significant and will result in further desecration.

She asks, if as a society are we blind? Did we not learn from all the other developments that have happened on the south shore, in which hundreds and hundreds of iwi and the destruction of these valuable ancient blueprint, is that not proof enough to halt development in this area and reassess.

Malia understands that if these sites are lost her keiki will no longer have this important blueprint to refer to about how to survive and sustain themselves in their homeland and in return they will continue to be prisoners of this system, where the only way to sustain themselves is to be servants to the wealthy. She finds it mind boggling that it is being allowed.

Malia said as a kanaka and as a makua the impact on a personal level is discouraging and upsetting. She believes it is important to create spaces that native intelligence, genealogy and mo'olelo are relevant and unfortunately does not feel those spaces exist currently.

### **Mitigation Measures and Recommendations**

Malia wants the desecration of this area to stop. Malia does not think the project should proceed. She does not think they have engaged the community or practitioners or done their due diligence.

As far as luxury housing, luxury condominiums and luxury multimillion dollar homes, that are inaccessible to her keiki and the next generation of Hawaiians, Malia does not see any solution besides stopping these kinds of ridiculous developments. Malia believes we need to address the issues at hand, the houselessness and lack of food security on Kaua'i before such foolish developments. She points out we have enough luxury accommodations that sit empty half the time while our local Hawaiian people struggle to put food in their mouth and roof over their head. She believes until we have addressed these critical issues, we should not be allowing developments such as these to even be considered.

Even if these sites were being developed for local housing needs, she does not feel it would be right to desecrate these significant sites. She said, whatever affordable housing means in this day in age it would at least make more sense than luxury condos. Malia does not support development on cultural sites at all but definitely not for the development of luxury vacation homes and transient accommodations, which feels like another layer of adding insult to injury. She feels the development of these areas means that the reference point for Hawaiian mo'olelo genealogy and history are erased. The impact of erasing important things that connect kanaka to this space erases self-identity as a kanaka. She sees the bulldozer as an eraser of identity.

Malia feels that as long as the wrong people are in positions of power and decision making this abuse and desecration will continue. She believes that Hawaiians need to understand the

laws and loopholes and learn the process to use it to their advantage to stop this type of desecration and foolish development.

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## 5.8 Interview with Mason Chock

**Interviewer:** Fern Holland

**Interviewee:** Mason Chock

**Date:** June 2, 2022

**Location:** Zoom

### Biography

Mason Chock is a Kaua'i Council Member. He was born and raised in Wailua, Kaua'i as well as Kapa'a and Kōloa. He currently resides in the Wailua Homesteads. Mason is familiar with the Koloa and Po'ipū area from his time growing up there as a child.

### Overview

Masons emphasizes the unique structures, complexes and practices that occurred in this area and his connection to them. Mason discusses the potential impacts he sees of these developments and the recommendations he has.

### General Discussion

Mason discussed the significance of this area to him, as a Hawaiian, and to all Hawaiians and its rich history. Mason describes the importance of these fishing resources and the structures that were associated with them along this coastline. He also mentioned that the unique structures and complexes in this area are extremely significant and have a great deal to teach us about ways to live sustainably in Hawai'i.

Mason described his involvement with the site as one of visiting and participating in some cultural events in the Kānei'olouma area and also along HAPA trail and the heiau that is closer to the coast by the Kukui'ula parcels. From a practitioner's standpoint, Mason accesses these areas to gather, and has his whole life and monitored that coastline closely for many years. Mason has participated in rituals and celebrations that acknowledge his kupuna along this area from Kukui'ula to Makahū'ena.

Mason mentions the resources from this area he has personally used include surfing, collecting limu (mentions Kohu, 'Ele'ele, Wāwae'iole and others) and fishing in these historic and prized fishing areas. He notes the changes in his lifetime and how many of these resources are now depleted and heavily impacted. He mentioned that as a child moi was extremely plentiful, especially along the Māhā'ulepū side. He notes the big caves along Makena. At one time there was a huge abundance and assemblage of species and Masons fished daily along this area. He has specifically caught menpachi and even pelagic fish and tako are prevalent in this area. Opihi used to be prevalent along the coast. He also notes high shark populations here.

### **Cultural Resources**

Mason sees the area as providing a wide range of cultural resources and spiritual sites important to Hawaiian practitioners. Mason points out that near these projects there are a multitude of significant sites and a rich history and lots of coastal resources.

He mentions the important cave systems in this area. He mentions the environmental and cultural significance of the presence of the endemic endangered spiders that are found only in Koloa and notes there should be US Fish & Wildlife protective measures to avoid impacts to these populations of spiders.

Mason mentions Kānei'olouma and the larger complex that runs from mauka to Kānei'olouma and transverses multiple properties. Mason describes this system as a rich cultural resource and an elaborate complex of sporting activities, community-based fishing traditions and rich with canoe history. Mason compared the Kānei'olouma system to acting like its own self-sufficient ahupua'a incorporating a wide range of land uses and forms of agriculture and land management together in a small area.

Mason describes this entire area as being well used in ancient times. He marveled at the complexities of the system his ancestors developed, describing the level of engineering skill and land management understandings that would have established these agricultural complexes within this largely dry and arid area. He specifically noted the amazing rock structures that were used to move and manage water in this area.

There are significant loko i'a and water management systems that were in this area, he notes that these would have specific names that should be able to be researched.

There are significant cultural sites around Kukui'ula and some of these sites reference to burials, including for ali'i burials hidden in these areas. As far as he understands some of these have already been destroyed and developed over.

Mason mentions that the proposed Kauano'e o Kōloa development is near the HAPA Trail.

Mason shared that growing up in this area he was aware of historic sites and heiau related to fishing along the coastline. Mason participated in cultural events at some of these sites and at a heiau in Kōloa. As a practitioner from an access perspective, Mason has and will continue to use these areas and resources.

### **Traditions and Customs**

Mason referred to the rich mo'olelo that comes from this area that would likely describe more of the traditions and customs associated with this area. In addition to the ceremonial aspects



He talked about the traditions that would have occurred for ali'i in this area. Mason explained that ali'i were known to have resided in this area and some of their burials are referred to but their location is not known. He said so much of this area was frequented by ali'i and there were specific structures related to ali'i that are worth noting.

Mason shared that this area was rich in makahiki traditions and customs. He described the unique custom to pull together a wide range of purposes into a small area.

Mason reiterated that this was an extremely unique area and incorporated a wide range of ingenuity that would have been associated with a wide range of its own traditions and customs.

Mason mentioned the agricultural importance of this area and that he thought a lot of this is very significant for the future of Hawai'i. He explained this area can provide important education and understanding about the traditions and customs of our ancestors regarding engineering and land management that will allow us to plan for the future.

### **Impacts**

Mason feels it is quite possible that cultural resources, caves and burials could be present on these parcels or immediately adjacent given the significance of this entire project area. He emphasizes the need to exhaust due diligence for a project like this.

Mason explains that the Kōloa and Po'ipū area have always had issues with managing water. Whether it's not enough access to water and how you get it there or in terms of development and how you manage what is coming off of it. There is no significant response to how runoff and drainage has affected and continue to affect our low-lying areas such as our beaches or coastal resources and fisheries. It also impacts health and safety. He explains the land use and developments above these coastlines greatly impact the resources and health of the coastal ecosystem and fishing grounds as well as the safety of recreational swimmers and subsistence fishermen.

Mason points out that the impacts of previous developments in this area are clear. He explains, if you look at the parcels and talk to the old-timers the loko i'a that was there helped serve an important function to manage the drainage. He explains that loko i'a were prevalent along the coast and acted as filters and basins to protect water and coastal water quality. This loko i'a was covered by the County, and now the runoff literally has to be pumped out of the Sheraton and parking lots. Mason explains the costs associated with the destruction of these ancient water management systems that we do not often consider. These other parcels could have major impacts on the long-term restoration efforts of these fishponds and cultural sites.

The impacts to water quality Mason said is already prevalent offshore in this area. The data is clear that what we have done and are doing is having a huge impact on the coastal resources from a health and safety standpoint. The coastal waters and the adjacent water bodies are known to be polluted with human waste. To add more development in this area without a regional plan that takes into consideration the existing degradation and the compounded impacts on future restoration efforts. He sees additional development without these concerns being addressed first as the certain destruction of the remaining reef ecosystem and fisheries.

In relation to access Mason says we have to do better than just recognizing the site is there but then also connect it to the practice and access needs for the site to be honored properly. Mason talks about the impacts to practitioners who are unable to make those connections and use these sites as they are meant to be used. He explains if the site is enclosed in a hotel, or surrounded by multimillion-dollar homes, it loses its relevance and when we don't acknowledge the connections and purpose of the site, it is not really protected. He feels that while we have started looking more to preserving these sites, it is not enough, we need to look at restoring their purpose and the knowledge that came with it.

He goes on to explain that if, for example, he is going to utilize a historical navigational point and honor the movement of celestial bodies in some way, imagine how difficult it will be with a multi-story building blocking the view. He points out it becomes impossible for some of these practices to continue.

As Mason explained the correlation of sites to each other with the navigation perspective, regarding access specifically in Koloa, he spoke of the interconnected relationship of specific heiau and 'auwai systems. He described these as having been broken or dismantled over time leaving gaps in Hawaiian history and its significance as a complex agricultural and religious system. Cultural stewardship organizations are working hard to make those reconnections and to support this effort. Mason believes we need to more clearly outline the whole region and protect the access between them for when we are ready and able to restore it.

He addressed that continued access for practitioners is always an issue. He mentioned golf courses that surround important ceremonial sites and how we have to do better in recognizing and honoring the true purpose of the site and providing the right kind of access. It's understanding the connections a site has to what is around it that he says matters.

Mason believes we should be looking at all developments appropriately and investigating how they fit into the surrounding landscape in a way that works with nature rather than against it and questions the goals we have and if they revolve around community, and honoring traditional land uses. Mason points out that as we are looking more at the land management

of the past in an attempt to find balance, these sites will become more and more important to learn from.

Mason said that human impact is always prevalent, regardless of how intent we are on preservation and protection. When we look at it from a standpoint of how we encourage those that don't understand the significance and impact they create, it becomes amplified. That is what we seem to be supporting here, exploitation of our resources just by the nature of the properties we are developing.

### **Mitigation Measures and Recommendations**

Mason points out that historically we have seen a lot of illegal activity around this area and a lot of destruction of significant sites in this area. Mason said that while regulatory frameworks have somewhat changed to better protect some of these resources the development practices and processes seem to remain the same.

Mason spoke of the complexity of this area in the sense of cultural and historical significance and suggested it may even need a specific progress with the highest level of due diligence. Because of its uniqueness Mason believes we should be even more cautious than usual of how we move forward and revisit and exhaust our resources and assessment methods before we clear the way for developments.

Mason pointed out that in the case of Kauanoe o Kōloa, the community does not have faith that due diligence was undertaken. They have lost faith in the regulatory process that has occurred and getting clarity on the findings and mitigating measures have not been easy, even for him as a council person. He explains that while some of the boxes may have been checked off, in the eyes of the community there are significant holes in what was presented and the developer has clearly not engaged with the Hawaiian practitioners in this area or combed through available resources. It highlights how important it is to conduct good thorough assessments and outreach especially in sensitive areas like this.

Mason suggested we revisit the process if it's not addressing the impacts in a regional manner. He says we need stronger wider coordination from a regional perspective relating to collective impacts. Mason explains we too often look only at a subject parcel rather than with a lens of the wider impacts to the entire region.

Mason said that we should be mapping and marking out the remnants of this major complex before it is entirely lost. One of the regional pieces we are lacking, he explains, is connecting these cultural sites and looking at the system as a whole. There is important connectivity between the structures in this area and there is a correlation to each one that is significant and our processes are not recognizing that.

Mason suggested we need a regional watershed plan and we have a responsibility to understand the added impact of various developments and ensure due diligence when approving projects such as these. We need to think beyond swales and a single property or project best management practices and think on a larger scale collectively about how to manage discharge of all kinds. We need to include the way over land flow moves and plan accordingly to limit the impacts not just to human infrastructure but to the coastal waters and environment.

Mason mentioned that detailed drainage plans that mitigate impacts from waste water is crucial. Managing all waste and runoff in a way that not only avoids further negatively impacting the environment but works in correlation with the cultural restoration projects needed in this area would be key.

Mason feels like the regulating agencies need to do their job and apply extra due diligence in this sensitive area. He says we need developers to consider these things holistically, for example, considering the uses of a place and incorporating such uses into its preservation. In doing this we help things not just become relics and sites that are for aesthetics but instead we are protecting the connections and the importance of the place and its purpose.

Mason is disappointed that we cannot have better smoother communications relating to the surveys and assessments that are used to determine impacts in this area. He notes that departments and overseeing regulatory bodies don't have the resources to manage everything they need to, and this needs to change.

## 5.9 Interview with Peleke Flores

**Interviewer:** Fern Holland

**Interviewee:** Peleke Flores

**Date:** May 25, 2022

**Location:** Zoom

### Biography

Peleke Flores was born in Hilo, Hawai'i and raised in Waimea, Kaua'i where he still lives today. Peleke currently works for Mālama Hulē'ia on Hulē'ia Kaua'i as a Field Operations Manager and Community Outreach Coordinator, currently working to restore Alakoko Fishpond. He has experience in traditional hale building, Uhau Humu Pōhaku (Hawaiian dry set) and restoring traditional Hawaiian food systems such as lo'i kalo, lo'i pa'akai, ko'a/limu, and loko i'a.

### Overview

In his 'āina based land restoration role(s) Peleke has a special interest in the historical sites and their restoration, not just protection. His interest is in trying to learn more about what specifically is still here that could be restored and what the impacts are to these sites.

Peleke spoke about being on site to pay his respects and see the project site and his interest to learn more about what is going on and learn the facts for himself. He mentioned he has been unable to access or inspect the site. He mentioned a consistent pattern of lack of trust in archeological determinations that say no archeological findings when major concerns are being voiced by Hawaiians. He was concerned that the investigations into the sites and potential archeological sites on and in the area may not have looked deep enough. Peleke mentioned that he wished he had the time, in addition to what he is already doing with his full-time job, volunteer positions and family responsibility, to check all those records and resources himself. It was clear he felt like due processes are often not being followed correctly.

### General Discussion

Peleke described his association with the site and current developments as one of mostly curiosity. He explained that he has been trying to learn more about the specifics of the cultural surveys to date and what is recorded in this area and how any significant sites are being impacted. He said he was trying to investigate if due diligence was done but was unable to get the reports or surveys that showed what was surveyed and the findings.

Peleke said he felt it was wrong of the developer to start breaking down rock structures, and grading and grubbing, given the cultural significance of this area and concerns without



thoroughly exhausting cultural resources and clearly demonstrating that no sites are being impacted.

Peleke talks about his view of the resources that are here in the sense of restoration and not just historical preservation but the restoration and reuse of these sites for practicing Hawaiians and for their intended purpose again in the future.

He described the entire area surrounding these projects as a footprint of what his kupuna left behind and a knowledge of how Hawaiian people thrived in this area. He mentioned the entire area surrounding these developments is rich with culture and history and hopes, what can be, is restored in his lifetime.

### **Place Names & Sites**

Peleke mentions the Kōloa Complex, and the unique style of agriculture practices and structures that were built in this area for a significant dryland food production system.

Peleke pointed out sites in the area like Kānei'olouma Heiau. He mentioned that there are old villages in this area and different makahiki sites. He also mentioned the unique water system ditch that connected across the road and then climbed up mauka from there. He explained that a lot of those systems and sections and the large fishpond in front of Kānei'olouma has been cut off and the system requires the water that runs down and through that site.

He also mentioned the presence of HAPA trail and koloa flats area and the historic nature of this entire site.

Peleke mentioned the presence of unique caves and burials and a unique raised 'auwai system that all had specific names he is not familiar with offhand.

### **Cultural Resources**

Peleke described the resources in these areas as old structures and cultural sites where a range of practices from spiritual to agricultural and sustainable living occurred. He talked in general of sites expected in this area that would include unique caves, burials and water and food production systems that he considers cultural resources for spiritual practice and facilitating a return to our native foodways. Peleke referred to the 'auwai system that connected through the areas all connected to growing food and irrigation.

He mentioned that it is hard to prove every cultural site every time, knowing enough that there was stuff in that spot, it shouldn't be the community's job to identify them, the developers should exhaust the resources available and prove without a doubt no harm will come. A unique system especially with moving water and amplifying.

Peleke mentioned that the resources in this area today are used mostly for spiritual practice, given its rich history there is a desire to restore whatever can be. To him, and he said to others, this is a place of rich culture and worthy of protection and thorough investigation.

Peleke talked about the historic nature of the HAPA trail and importance to be protected.

### **Traditions and Customs**

Peleke spoke about the makahiki games and gatherings that happened in that area and the traditions and customs that were practiced associated with makahiki. Kānei'olouma Heiau was a place of makahiki celebrations and the best and biggest games and gatherings on Kaua'i.

He mentioned again the presence of old villages in this area and the traditions that were used for the waterways that produced food and the desire to restore these sites. There were many traditions and customs that were done in this area relating to fishing and aquaculture and agricultural fields.

Peleke knows of people that are spiritually practicing at these specific sites and trying to restore and maintain cultural sites in this area and the areas that are sitting surrounded by development now or poised for future development. He also spoke of the many known burial areas and caves and the traditions of using these places for burials and worship.

Peleke mentioned that he is aware that there are a lot of stories that are written about this area in general and he would have to do the research to list the names of them. Personally, he also spoke of family stories from his tutu about respecting this place and lessons he learned as a kid about the history and presence of a village connected to fishponds, above ground 'auwai and the marvels of this ancient system his ancestors built.

### **Impacts**

Peleke explained that some of the sites have largely been destroyed already. He said that now people that are trying to restore and protect these sites and are hoping to be honored, and respected but instead are being disrespected and threatened.

Peleke sees the impacts of these projects as potentially being ones that further degrades the remaining infrastructures that we have to restore which will make it harder to recreate some of these systems and knowledge and properly manage our resources along this coastline.

Peleke described the impacts of disturbing desecrating iwi kupuna burial sites and defiling Hawaiian graveyards as another layer of impact and trauma to those that are trying to preserve their iwi kupuna.

Peleke described the overall impact of these developments as a destruction of our history, which is a major resource especially in the uncertain times that we face and the enhanced need to look to our ancient food and land management ways to bring us back to self-sufficiency.

He talked about the loss of self-identity should these sites be destroyed further. He mentioned that people can still connect their genealogy back to this place and once it is erased, he feels like they are floating souls and unable to trace back their history to these sites and restore them. Given the history of illegal land grabs and displacement, the destruction of the sites becomes a way that people are completely cut off from their access to self-identity.

### **Mitigation Measures and Recommendations**

Peleke mentioned he felt that developers had the responsibility to prove without a doubt that there are no impacts to these resources. He mentioned modern Lidar technology, mahele, kipuka database and other existing record sources (kuleana records, maps, stories eventually and mo'olelo) that can be searched. He felt that developers and people associated with the projects should be able to clearly identify or prove the absence of significant sites on the project sites and surrounding areas and present this to the community.

It is ridiculous and abusive to him that Hawaiians have to struggle through life, and then also stop and prove these places exist despite all these resources developers could exhaust to determine that nothing is there and prove it sufficiently. He felt like it was Hawaiians that care that end up having to do the work for the developers to prove why they cannot build in a certain place instead of these developers doing the work to prove to Hawaiians, using good resources and facts, that they can build in a place without any impacts. He felt like this treatment is a way that Hawaiians are being abused and disrespected and killed slowly over generations. He pointed out that with full time jobs and busy lives trying to survive already and then they are expected to also be the ones to do the work for developers to prove to the developers why they can't build on something significant seems absurd.

He said there should be a template for every resource they go through, for all places not just Koloa, to ensure that due diligence is followed. If it was there should be no impact, and there should be facts to show it.

Peleke mentioned that we should be attempting to reconnect these old place names back to places that have been renamed and reconnect in the process with the history and purpose of

those places. If no sites of significance exist it should be clearly able to be demonstrated by exhausting these resources.

His main recommendation was that developers use resources, due diligence and follow the existing laws completely and ensure that significant sites are not being destroyed or else the project should not go ahead. He mentioned looking through cultural research, papers, mahele records, kuleana reports, census, internet, museums, maps, mo'olelo and pictures to really be clear about what is and isn't impacted and make sound assessments about what should go ahead where.

## 5.10 Interview with Puali'ili'imaikalani Rossi-Fukino

**Interviewer:** Fern Holland

**Interviewee:** Puali'i Rossi-Fukino

**Date:** May 31, 2022

**Location:** Zoom

### Biography

Puali'ili'imaikalani Rossi-Fukino (Pua) is a Hawaiian Studies Instructor and Program Coordinator for University of Hawai'i at Kaua'i Community College campus in Līhu'e, Kaua'i. She was born in Kalāheo and raised in Wailua Kaua'i. She currently still lives in Wailua. Pua does have ancestral ties to Koloa and her grandmother was born where Kukui'ula market is now. Her family names associated with the area include Kaio, Hipa and Kiheihipa.

### Overview

Pua provided general information about the region and the history and unique nature of the structures there. She shared some of the stories and legends she was familiar with and her overall thoughts about the importance of this area.

### General Discussion

Pua is less familiar with place names outside of what is documented and familiar with multiple legends from this area. She feels that the area is very culturally significant and shared about the isolation of important sites in this area and the potential for continued displacement with this development and others in the area.

### Place Names & Sites

There is a 'forgotten' ahupua'a that is named Aepo that she recalled in this area. This is a land district that is close to where parcel H development is planned. Aepo cuts through near the Lodge at Kukui'ula is marked on the map. This is an old name and not referred to on many maps.

There are several heiau in this area she mentioned. One sits where the golf course is now, mauka of the Lodge at Kukui'ula, closer to parcel H. Some say it was lamakū, or a navigational point for canoes. Makai of the site there is supposed to be another of these points closer to the shore.

Pua mentioned that this entire area was significant for ali'i and while Wailua and Waimea are commonly considered the most royal sites on Kaua'i but that ali'i frequented and had history and significant presence in Kōloa too. From Aepo to Pā'ā, Weliweli, area particularly has significant ali'i history. It was a site of a lot of activity both ali'i and maka'āinana.



According to modern history as well she recounts that we had ali'i living there in the 1870s. The original site of Queen Emma was also relatively close to this area and was moved to the NTBG site later. Pua shared that her home was near where the Kukui'ula golf course ends and where you start overlooking the road to National Tropical Botanical Gardens (NTBG). Up mauka of that is where her home was located. Queen Emma renamed that area Mauna Kilohana around that time. Her house site suggests further significant sites for ali'i also. Queen Emma had ancestral ties to Kōloa, and obtained that during the mahele. Queen Emma established there in the 1860's. People think of the house, but the house was moved. This original site is above where Parcel H is mapped.

Within the Parcel H area, she said that there is Niukapukapu Heiau. She describes it as right on the cusp of where NTBG starts, and slightly west of parcel H.

Makai of the Kauano'e O Kōloa development area there is also a heiau dedicated to Kāne.

Kihahouana Heiau, Nukumoi surf spot and Kānei'olouma Heiau are also in the surrounding areas, more toward the Grand Hyatt, but in the wider area surrounding these developments.

Pua shared that the site is associated with the unique dry land field system; there were also fishponds, and lo'i. There is one heiau (Mauna Pōhaku) that was once cared for by Nāhinu and 'Auhea, who lived there around the 1800s, I believe. There was an 'auwai system going through that heiau. There is also another heiau (Kamalo'ula) which I was told had the only untouched above-ground 'auwai. They used these irrigation ditches as part of the heiau. There is some really unique architecture that is not seen elsewhere.

Really significant fishing resources and cultural practices.

There were really different styles of heiau structures in this area. Very unique systems like the raised 'auwai systems. Kānei'olouma Heiau is another example of these rarer designs of heiau, which is very unique and significant to Hawaiian history.

### **Cultural Resources**

There used to be impressive bird populations, lo'i and fishing grounds that were significant in this area. Lots of important fishing grounds. To the north of these developments there are also some sites she mentioned including Waikomo stream which was a major cultural resource and site in this area. There are stories of mo'o, like Kihawahine where the Maulili pool is.

Pua shared that there was a dry land field system in this area. Dry land systems we know the least about and were incredibly important where there wasn't an abundance of water. Right now there are very few areas that have this and this is the only one known on Kaua'i. It was a

rotating crop system. It was a very unique system and I know that in the Kauanoë koloa area was where it was identified.

### **Traditions and Customs**

Pua discussed the unique styles of architecture and with them traditions and customs that would have occurred with them.

The area is known for mo'ō traditions and legend. She shared about the history of spouting horn, which was associated with a mo'ō tradition and a unique story of the salt water mo'ō. This is located makai of Parcel H. She shared the history of the destruction of the original Spouting Horn which was blown up leaving the existing one today that people call Spouting Horn. Tradition says that there were certain fishing grounds that were guarded by this mo'ō. A young boy was said to have trapped the mo'ō in the old spouting horn. The spout used to go very high and then the sugar industry blew it up to stop water flowing back into the fields and killing the cane.

Maulili Pool is tied to Waikomo stream along Kukui'ūla area. This site is associated with Kihawahine, probably one of the most dominant mo'ō who was known to frequent Waikomo area. Certain traditions that are specific to the worshiping of Mo'ō. Traditions associated with worship of mo'ō included building of certain hale structures, giving certain offerings, practicing customs associated with the kapu system that restricted various types of fishing and access at some times. There was a definite mo'ō relationship with the people there and with it significant unique practices and traditions.

### **Impacts**

Pua was definitely concerned about the impacts to fishing grounds and underground water systems that feed them Pua is concerned about. She understands that historically, because of less outfall points and the dry nature of the coastline, water quality was very clear and clean in the past. She is concerned that the development will further degrade and add to continued degradation of the water quality along the coastline.

Pua mentioned the potential impacts to a returning bird population and the stifling that these developments could result in for the restoration of these cultural sites and systems that the future bird habitat that could be restored in this area.

She was concerned about the potential for impacts to HAPA Trail, burial sites and caves and lava tubes which are hugely present in this immediate area and culturally significant burial sites and hiding locations historically. Pua discussed the presence of many in this area and their importance and her concern about them being damaged or impacted during works.

Having access to heiau, fishing sites, cultural practice sites and historical agricultural sites was some Pua was definitely concerned about the impacts to. Pua discussed the potential for future displacement and how families she knows are being impacted from surrounding existing development. She said these families who were caretakers for some of these heiau have been unable to access the sites and practice their kuleana to mālama them. She is concerned that the proposed development will negatively impact families who have a generational responsibility to care for these sites and restore them as they were tasked. Pua was specifically concerned with having access to these sites further limited or cut off altogether.

Pua mentioned the impacts around access but also stressed the impacts associated with the loss of these sites altogether. She described the overall impacts of the loss of these sites as generations who will lose their history and knowledge that was passed down from generations of her ancestors that practiced and lived in this area. She described the impacts of this loss as a loss of cultural identity, connection and family history. She is concerned about the loss of culture and knowledge should this important area continue to be developed for luxury homes and tourism.

Pua said she believes the place has reached maximum capacity and it's not beneficial to local families to proceed with these developments. She is worried about the overdevelopment for hotels and transient accommodation while the affordable housing crisis for local families worsens.

There are families that are now unable to access or use sites they were entrusted to care for. While legally Pua acknowledged that she knew she had a right to supposedly have that access and practice she pointed out that it doesn't feel that way, and it is not really enforced or allowed in many cases including some places in Kōloa.

There are reasons they were there. Within this small area there are a significant number of these important sites and stories which means this significant site meant a lot to our people. To me it's glaringly obvious that this site should not be used for luxury housing.

She sees the impacts as one of loss of generational history and knowledge, and a loss of cultural identity, connection and family history. Pua sees this as a potential significant loss of knowledge and cultural identity.

### **Mitigation Measures and Recommendations**

Pua does not think the project should go ahead, and doesn't see reasonable mitigation measures that could be taken to avoid major impacts to the sites she is concerned about.

She did say should it proceed; her advice is that the right Hawaiian families need to be included in the conversation and the developer needs to be educated on the significance of the site and the necessary protections of all of the areas mentioned. She mentioned cultural monitors there as advisors and independent oversight to ensure that these sites are not being impacted and that the works respect the cultural significance of that area.

She talked about planning for any future development having the cultural significance built in with respect to its history and the traditional owners from the beginning.

She suggested that it was wrong to blast, crush or break through the rocks and recommended avoiding such works. She said overall that any development in this area would need to tread lightly and work around the many significant sites and cultural uses of this area.

She suggested working with the community, with the kahuna of the area and lineal descendants of Kōloa and she talked about the long-term responsibility to educate visitors and people that move to these sites about the rights, practices and significance of these areas to Hawaiians.

### 5.11 Responses from Roslyn Cummings

Pule, Prayer

E I'O mahalo no kēia lā,  
mahalo no kō mākou ola,  
no kō mākou ea a kō mākou mana.

Aia no mākou i nei 'Āina 'O Kauai ke kū nei no ka palekana o nā iwi kūpuna, 'āina, na kamali'i, wahine, kane

He noi ha'aha'a kēia no kou palekana i luna o mākou pākahi a pau.

E mālama i ka pono ma ke aō a me ka pō.

E kōkua iā mākou e kū me ka ha'aheo no kō mākou kūpuna a no kō mākou lau manamana. Me ke aloha pau 'ole, 'āmama ua noa, 'amene.

Kou Inoa Manawaiakea, noho Kalaheo Ahupua'a, Kona Moku, Mokupuni Kauai (Manokalanipo, Kamawaelualani),

Wahine Maoli (Women) taught to me by my tutu Kane

Kalani Pai'ea Wohi o Kaleikini Keali'ikui Kamehameha o 'Iolani i Kaiwikapu kau'i Ka Liholiho Kūnuiākea he called me a- "Wahine Maoli"

Kuleana: Kahuna Papakulo, Mana Lomi, Kahea, Kea

(Child of God) Alo to be present in Hā life essence as equals (not above, nor below) as equals

He āina Ha Wai 'I I am of Hawaii

Home of our ancestors, those that walk before us.

Kou hanau Waimea, Kauai (Ka Ua 'I)

Hapai 'ia Pokiikauna, Kauai, Makaweli, Kauai, Ko'ula Kauai, Polihale Kauai, Nualolo Kauai, Lawai, Kauai, Kalaheo, Kauai, Kōloa, Kauai, Kailua-Kona, Hawaii

Ike Papalua

Kukuiula is a place where our ancestral burials and cave systems are so vast we hold near and dear the secrets of their passage. Palekana (DO NOT TRESPASS)

To forgive us our trespasses as we forgive those we trespass against us. Modern day Kukuiula is known for its reinterment site amongst high end luxury homes. Specifically the Kapu burials of our tutu wahine chiefess along with the burial that had been desecrated back in the 2000's of George Humehume our tutu kane through Eke, Ese Oponui. He aligns with the birthing place of Prince Kuhio the one of whom descends from those that are buried in these vast burial systems which hold a large amount of our wealth (waiwai) wai (waters) a large part of our sustenance. Without it we are malnourished. As our ancestors were in the times of disease



and famine. Bought to our lands by greed. The area host a large amount of spiritual, cultural, religious significance. To each a kuleana, to have respect and be responsible for. It seems that kanaka maoli in the past 50-60 years have failed their kuleana.

Kamakahahei would summon her warriors at the heiau of Kanaloa. A large voyaging Heiau dedicated to Kanaloa, rededicated to 'I'O 'I supreme, 'O earth, universe ever revolving. In the time of 'I'O, the great awakening, the reckoning (knowing what is right by doing what is right)

Amongst our Ali'i (Ali 'I) are the warriors and it's people. The villagers. Held in high respect, regard is the Ahupua'a. Where many thrived.

Koloa borders the ahupuaa of Lawai to the west and Weliweli to the east.

Developments are detrimental to our people, kanaka maoli. Its effects are felt for generations. I am here as you should be to stop the progress of DEVELOPMENT. Damaging our eco-system. Kukuiula as wetlands. Depleted by the unset of large luxury homes. Waste and Water usage damaging our waters from Mauka to Makai. Water needing to be diverted to feed into these man made systems what is protected under law! Effecting our wai. Our reefs which host a large amount of our healthy iron (limu) is being depleted on the entire coastline throughout Kona Moku.

We fish here, we gather here. We pray here. We visit our ancestral burials here.

The original name prior to Prince Kuhio Birthplace was Kualu a name carried down through my Great grandfather William Waikaka Kakanui Kualu. A name Kapu to most. A name that came before our time. Since time immemorial- Kualukiniakua of the Mu, Kualunuikupaumokumoku of the Wao, and Kualunuiakua of the Menehune.

The developer, limited warranty deed holder Gary Pinkston if Meridian Pacific Ltd. A brand of MP Financial (Nevada based Corporation of investors) removed the surface layers of the seating house of Kualunuikupaukokumoku. He removed the birthing stone of Kamawaelualani son of Wakea and Papanuihanaumoku Haumea I am a descendant as we are, kanaka maoli.

Kiahuna in the 1950's it was shared that a mummified burial surrounded by shrunken skulls were found.

In Ike papalua that area from modern time going back in history: host a lot of our waiwai; collective. Kaikioewa the first governor of Kauai elected at the time by his hanai son Kauikeaouli is kanu in the proposed area we call Palikua lot. He is also known as Palikua.

There is a piko that is present day in that particular development. Where all souls exit when it leaves the outer islands. They enter through here. 'O oio spirit pathway. The heiau is shaped in the creation symbol. Like a labyrinth. On the west side of the fraudulent tmk is the cave system that has been collapsed during Kiahuna development. You can still see the tree trunk and the lauhala tree which sits in the collapsed cave, lava tube, cavern. Bars within tells-burials!

On the north side of the āina the Catholic Church built an altar right over a known cave, cave systems as shown in previous maps. To the east of said property there is also a preserve area. So, how can slap, dab in the middle not be significant as KAUAI COUNTY, DLNR, SHPD, and numerous Agencies have made claims to. Accountability goes a long way.

On the southwest you have Pa'u a Laka Heiau and to the southwest of that another preserved area. Both are surrounded by development. Homes of foreign investors.

I say foreign because there is no pilina in the area. It's culture and history. Not even to our practices. To the south there are the remnants of the Kōloa field system of which Hallett Hammett of Culural Survyes Hawaii speaks so highly of and later claims "no significance". To whose belief?

Our people come from oral history. Āina is our foundation. You cannot build a house where one is already standing.

In the story of Kawelo whose villagers are buried kanu in these lands and its surrounding. The heiau is part of the Kiahuna development which the archeologists stated somewhere along the lines of- it's just landscape for the golf course. So, I ask- what was here first? Our ancestors the kanaka maoli or the golf course. There are many Kalweo make sure what you perceive comes from the source- lke papalua

Right above you have maulili a well known historical site of the legends of Kane and Kanaloa

There are waterways underground of this property and using our natural resource foreigners call Blue Rock. Again, depleting resources that do not belong to foreigners. Resources that need to be preserved and protected.

The blind eyed spiders and the amphipods they feed on are FEDERALLY protected species. U.S. Fish and Wildlife claim they do not have a full survey of the area. Then why is the County of Kauai, SHPD, and DLNR permitting projects over preserved lands. Lands that since the 1970's have been monitored and written about. Desecration of burials documented but controlled narratives. Large amount of burials have been taken out, destroyed and sold in the history of Kōloa!

Mainly, Ike papalua will share that these lands is a huge part of the battle, war in the time of Kukona and his son Manokalanipo. Why would we allow such history to be erased for modern day process by the hands of those who are greedy. Which only see on the surface. Not below nor above. They only see the view. Sooner or later we won't have the practice of papakulo if this does not stop.

Kauai cannot be another Oahu. These projects are a stem from Moana Corporation Kiahuna Land Commission Use. Where from the early 2000's through the mid 2015 lahui fought against development. Knudsen trust who in a 1970's newspaper article admitted to "stewards" of the land not ownership. Their title is held through a 1920's Anne Sinclair (Knudsen) land grant after the unlawful overthrow of our Hawaiian Kingdom Government. These people control our waters and sold our lands including our ancestral burials and artifacts.

History cannot repeat itself.

the Hawaiian Kingdom

On May 28, 1892, in her opening address to the last lawful Legislature, her Majesty Queen Liliuokalani declared her intentions and legislative agenda:

'...I shall firmly endeavor to preserve the autonomy and absolute independence of this Kingdom and to assist in perpetuating the rights and privileges of all who are subject to our laws and in promoting their welfare and happiness...'

On November 25, 1892 'An Act, To Reorganize The Judiciary Department' was enacted by the Hawaiian Kingdom Legislature, and became law on January 1. 1893:

'The common law of England, as ascertained by English and American decisions, is hereby declared to be the common law of the Hawaiian Islands in all cases, except as otherwise expressly provided by the Hawaiian Constitution or laws, or fixed by Hawaiian judicial precedent, or established by Hawaiian national usage, provided however, that no person shall be subject to criminal proceedings except as provided by the Hawaiian laws' [Section 5. Chapter LVII. An Act, To Reorganize The Judiciary Department, enacted on November 25, 1892, effect on January 1. 1893]

In no way can this interview over email be altered. In no way will it bring harm upon my 'Ohana. I pray this will help the next 7-21 generations in a way that they are provided a foundation of sustenance. An end to systematic failures upon our people. To our children I pray you find peace of what I am giving. To stand in protection of āina!

Aloha No,

Manawaiakea  
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E Ola Kakou Hawaii

The United States of America must uphold:

On December 20, 1849, the Treaty between the United States of America and the Hawaiian Kingdom was concluded and signed in Washington, D.C. Ratifications by both countries were exchanged in Honolulu on the Island of O‘ahu, on August 24, 1850. Article VIII of the treaty provides:

“...each of the two contracting parties engages that the citizens or subjects of the other residing in their respective States shall enjoy their property and personal security in as full and ample manner as their own citizens or subjects, or the subjects or citizens of the most favored nation, but subject always to the laws and statutes of the two countries, respectively.”

In addition, Article XVI of the said treaty provides that any:

“...citizen or subject of either party infringing the articles of this treaty shall be held responsible for the same, and the harmony and good correspondence between the two governments shall not be interrupted thereby, each party engaging in no way to protect the offender, or sanction such violation.”

Neither the United States nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XVI of the 1849 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date.

## 5.12 Interview with Rupert Henry Rowe

**Interviewer:** Fern Holland

**Interviewee:** Rupert Henry Rowe

**Date:** June 7, 2022

**Location:** Kapahi at his home on Kawaihau Rd

### Biography

Rupert's lineage dates back to Wailuanuiaho'āno, Koloa and Hulē'ia areas. He is 80 years old and is a retired fireman. Rupert was born at Kapi'olani after traveling by steamer to O'ahu from Kaua'i while his mother was at full term. He was born an hour after arriving in Honolulu. Rupert was raised in Kōloa, Kaua'i in his younger years but then in 1949 was sent to O'ahu to learn the western ways. He spent most of his time in 'Iolani Palace until 1959. At the time his mom worked for the territory and his uncle was the genealogist for Hawaiian Homelands, which was in the basement of the palace. He did not officially move back to Kaua'i until 1978. He now resides in Kapahi on the east side of Kaua'i.

Rupert's relationship to the project area is one of deep cultural connection, ancestral lineage and past involvement intervening in previous developments and restoration works in the area, particularly for Kānei'olouma complex, which he began working to protect and restore in 1998. He is very familiar with longer term impacts and changes to this region and how past officials and the county have incorrectly built infrastructure and developments across important cultural sites in the past, some of which have still not been corrected or moved.

### Overview

Rupert expressed concern with the amount of development in this area and referred multiple times to carrying capacity for both the island as a whole and as individual smaller sections, such as the south side or Koloa area. He is very concerned about the continued loss of identity that colonization results in and sees the project as a part of the ongoing process of displacement. Rupert mentions stories from kupuna that engrained common sense and respect for this place into him as a child.

### General Discussion

Rupert shared that at some point in the 1990s he testified against land use changes for a rezoning attempt for 475 acres in this area. He spoke of the previous failures by planners and developers to provide drainage plans and adequate water and wastewater management for projects in the area.



He repeatedly shared his disappointment in government departments and land developers who approved and continue to approve these projects that result in the destruction of important cultural sites in Kōloa, for what he sees as simply greed and money. He described the immense loss to self-identity, important structural features, history and ancient knowledge that overdevelopment has caused in Koloa to date and sees the project as a continuation of this. Rupert described a lifetime of changes to this coastline and Hawai'i land use and management in general. He believes that some of these initial approvals and development plans came from as far back as 1962.

Rupert understands the hesitancy for Hawaiians to share their secrets about what is taken and used and from where because he feels it is often appropriated and used against them. He feels that sometimes the sharing of that culture helps to rob the self-identity of Hawaiians because those that come to get it try to become it and then it becomes a stranger to its original people and warped. He feels that this is a form of displacement in his own lands.

He mentioned the impacts on Hawaiians when archeologists check off boxes and make statements of no significance on places that Hawaiians know are important but that so much has been lost through the loss of language and cultural practice that sometimes it is hard to prove every time.

### **Cultural Resources**

Rupert shared that there are lots of heiau in this area. He talked about the already impacted and destroyed sites, although believing with the right efforts some of them could be restored. He mentioned the Waiohai side of the Po'ipū Beach parking lot area was built in the fishpond that was a part of this larger system. He describes the larger Kānei'olouma complex as being from where Kalapaki Joes is today to Kiahuna down to the fence line to the Waiohai all the way back to Nukumoi Surf Shop and back up to Kalapaki Joes.

Rupert spoke of the cultural sites in this area that provide an important connection for him and other Hawaiians. He sees these as sites as important parts of self-identity and as important sites for us to restore and regain that connection to Hawaiian heritage and ancient knowledge. Rupert describes the cultural resources that this area had, and estimated roughly 70% are probably destroyed with only 30% remaining in this area. He feels the 30% remaining are more important than ever to protect and that their restoration is a way of reconnecting that Hawaiian cultural practice, land management knowledge and self-identity.

Rupert shared that the HAPA Trail, while commonly referred to as such, is actually the royal pathway with its own royal patent. He describes the extensive nature of that royal pathway that went all the way through Koloa Town to Lihue and beyond.

Rupert also mentions burial caves are located throughout the project area.

Rupert mentions the largely destroyed Kōloa irrigation system that was coming down from Waita and the extensive nature of this system. While he said much of this has been destroyed, there are sections and areas that remain that can be protected and restored.

Rupert says this entire coastline was rich in resources but that most of those are gone due to impacted water quality due to development over the last 50 years.

### **Traditions and Customs**

Throughout the interview Rupert mentions reference to Makahiki games and festivals that occurred in this area.

Rupert refers to the high population that resided in this area and the traditions and customs that were associated with their burial, food production, and unique traditions that went along with the unique structures and systems Kōloa is known for.

There would have been specific fishing traditions and food production traditions associated with the fishpond(s) in the surrounding area also.

### **Impacts**

Rupert mentioned that injury to 'āina anywhere feels like an injury to all kanaka because what we see today, we will not see tomorrow and once we lose these sites they are gone. He mentioned society's failure to appreciate the infrastructure and legacy laid down for the betterment of those that come after us. He felt that this project continues to impact all future Hawaiians. That mentality was ingrained in him growing up but he said seems largely forgotten.

Rupert spoke of the drastic changes he has seen in his life and was concerned that these were continuing to accelerate with this additional development.

He was concerned about the impacts of current and future injection wells in the Koloa area. He referred to the impacts of too many people being present in an area without the proper management of all forms of waste. He was particularly concerned about injection wells from the existing Kiahuna property.

He talked about the compounding impacts that we are not considering from climate change and rising sea levels. He questioned if we are thinking 25 years or so into the future about how we will deal with all of these impacts with the changes coming.

Rupert was particularly concerned about the solid waste concerns and where we will be putting all the waste coming out of these growing developments and pointed out there is no plan on how we will be dealing with our waste in the coming decades.

Rupert questioned the initial authorities that granted the right to develop this area and rezone these important agricultural systems for luxury and transient development and pointed out the impacts of these careless decisions as a form of genocide and an attempt to erase Hawaiian history and knowledge. He says he sees this as the result of intentional brainwashing that has happened in his lifetime to convince Hawaiians that the selling of their lands and tourism and western social structure were somehow going to provide a better life for them. He also said that 80 years later he sees that as a continued lie that has resulted in the displacement of Hawaiians from their own land and no one is better off, except those who have profited on the backs of these land grabs.

He mentioned Kiahuna had burial and cultural sites on their property, but the project pushed ahead and the continued pain that this causes for kanaka maoli. He described that these impacts of loss of identity happen when we lose language, cultural practice and important places and infrastructure such as what has happened and continues to happen in Kōloa.

Rupert mentioned that for anyone to recite specifics of the impacts to what burials and features is hard offhand and that there is so much has already been lost.

Rupert was concerned about the loss of cultural sites and the further loss of self-identity which he sees as a form of genocide and to him this project is a part of that perpetuated colonization which is to blame. He sees the impact as kanaka losing an understanding of where they come from and the connection to place. He sees these developments as also being a perpetuation of colonization with more foreigners moving here and changing the culture and impacting Hawaiian practice and way of life.

Rupert understands that if we mālama the 'āina and work with it, it will give back to us; but when we instead continue to just take whatever we can, we all lose. Hawaiian culture teaches us the land will reject us if we do not properly care for it.

Impacts to access were referred to as an ongoing struggle and Rupert mentioned that the system and processes as are clearly not functioning that are meant to allow Hawaiians access to important places and cultural sites.

### **Mitigation Measures and Recommendations**

Rupert did not mention specific mitigation measures that can be taken but instead asked the larger questions relating to why this project was able to go ahead considering there are no

clear answers provided by developers. He feels that there aren't easy mitigation measures that could stop the problems happening with this project because no clear answers have been provided about the impacts and how the projects will deal with waste, carrying capacity for Koloa and other important planning issues and again mentioned climate change and the rising oceans as an added challenge.

Rupert feels that one of the sad parts of this is that royal patents are not given the respect they deserve. He describes the differences between royal patent land titles and corporate warranty titles and how this is part of the overthrow of Hawaiian lands and lifestyle by bringing in the American property ownership model. He does not feel that this westernized land ownership and management model is appropriate or sustainable for our small island.

He believes the mentality of our county employees and officials needs to change to value the true worth of sites like those in Koloa. He mentioned that previous county department heads and employees are hired by land developers and the concerns he has with the 'revolving door' on a local county level that sees people in important regulatory positions then go to work for developers and private interests. He mentioned the ongoing trust issues these patterns have created in the community and feels like it is a form of local corruption when conflicts of interest are ignored on this level.

Rupert mentions how overpopulation of this area and poor planning has resulted in excessive impacts already to this area and that he doesn't see ways that this area could cope with more development. Rupert suggested a plan for assessing how many people can this area, and others on our small island, responsibly handle. He referred to the loss of environmental quality and resources when development continues to not only destroy important ancient infrastructure but then fails to protect environmental quality. He pointed out there is no plan for how we can responsibly accommodate this kind of growth.

One of the things he specifically mentioned was solid waste concerns. He feels there are no good answers for how we will manage the increase in not just construction waste but the long-term waste production from these additional sites at a time when our solid waste situation is already dire. He does not see a responsible way we can continue to develop without first addressing our waste issue. He asked who is liable for the production and poor disposal of all the waste associated with these developments.

He also mentioned he did not see viable ways to avoid impacts when these condos continue to perpetuate colonization and the loss of local lifestyle and ways through displacement of Hawaiians. He sees the destruction as two-fold, both in the physical destruction but also in the destructive nature of the continued colonization by more foreigners coming here who then in turn change this place to be more like their home rather than Hawai'i. He sees this as further displacement and does not have a mitigation measure to address it.

Rupert sees the goal as one of restoring as many of these sites as possible. He sees the reconstruction training the next generation has undertaken as a path to not just protect these sites but to restore them and learn from them and he sees this revival in restorative knowledge as originating from Kānei'olouma protection and restoration efforts in the Kōloa area.



### 5.13 Responses from Blyth Kahokule'a Blake

1. 'O Blythe Kahokule'a Blake (hoku) ko'u inoa. - my name is Blythe Kahokule'a Blake.
2. Full time mother, full time Hawaiian Studies student at Kaua'i Community College, Kia'i of Kōloa.
3. I was Born in Lihue at Wilcox Hospital, I was raised in Kōloa.
4. Noho au ma Kōloa. - I live in Kōloa
5. My association as Hawaiian practitioner who prays and teaches my keiki in these areas. E kala mai but I don't see how one questionnaire can answer for multiple projects as each area has different cultural purposes. I'll try my best but I believe there would need to be specific questions for each project separately.
6. Kiahuna -the upper part of Kiha Honua wasn't always easily accessible. Growing up, Kiahuna drive stopped at the golf course entry/ restaurant. My ohana used to go for brunch on the weekends so when the development for Pili mai and the housing started it was very obvious. I remember driving up as far as could go with my great-uncle Heartwel "Hanalei" Blake and my great-grandmother Thelma Blake, they spoke about how "back in the day" assuming pre-missionary contact, there was a village, an ohana system that belonged to this area, even a Heiau we could only see if we went in the golf course, Laka Heiau. I was also baptized at St.Raphael so I'm familiar with the church property and was told by my grandfather Dennis Blake when he was a kid they would walk down near the church, on Hapa trail to go to the beach. So being the curious kid I was I took my bike to the trail yet saw the pastures and gate up so I decided not to head down. It wasn't until my great-uncle Ted "teddy" Blake restored Hapa trail did I actually walk it. Talking about this area with my uncle Blake, he told me there is an ahu - Hawaiian altar, along the hapa trail. I asked him to take me but he didn't remember exactly where it was, being this was almost 30 years ago when he stumbled upon it.
7. Kiahuna- protocol is something that is done within these wahipana - significant area, upon entry and before exiting. Protocol is when the person/persons offer an Oli- chant followed by their mo'okuauhau - genealogy, intention of why they are there is stated, ho'okupu may also be given, closed with an oli.
8. Kiahuna- or it's original inoa Kiha Honua, getting shortened over time by newcomers is believed to be a resting area of a Kihawahine, Mo'o goddess, with the cave system beneath kiahuna drive. (Along the shore front of this area there's a plaque dedicated to the "remaining" pohaku of a Heiau dedicated to her and a couple more gods. Yet it wasn't just the shore that was important. It was the whole surrounding area. Going inland There is Literally houses surrounding a Heiau. Surrounding Laka Heiau, in a very disrespectful manner). It is without a doubt to say this area in general is significant irregardless of the current development.

9. Pali Kua, Laka Heiau, hapa trail, the beginning of the sugar era, the blind spiders, the nene who call this area home, or did. Pueo, the aquifer beneath it, the cave system Pu'u wanawana is not even a mile away. The missing Heiau.
10. I can't speak for three spectate areas in one.
11. The tradition of honoring the dead within this area will be lost. Honoring gods at their Heiau, teaching keiki of the wahipana, Hawaiians won't be able to access, let alone get near those sites, when it becomes occupied. We can't even get there now. This can all be prevented by bringing an immediate halt to the current plans of development.
12. There should actually be cultural monitors, burial council member present, on site the ENTIRE time of operation. I also believe The department of Land and Natural Resources should also be present considering the cave system. There also needs to be revised or simply new environmental impact reports. Let's not forget the brackish water or the redirection of Waikomo stream. There has always been nene around the kiahuna area, I would see many ohana and now just a few birds themselves. Their disappearance is obvious. Isn't it a law that any construction / development has to stop or isn't allowed in the nene's habitat, or does that not apply to multi million dollar companies.
13. The south side is already over developed and overcrowded with tourists. Where are the Kanaka maoli ? Most of us got pushed out of the south side. Excluding myself I only know two other households in Kōloa that are actually Hawaiian. The County of Kaua'i should be ashamed of themselves for putting visitors above residents. Putting visitors above the families who actually took care of this land so they the county can profit money. Not only is our community not built for this, where am I supposed to go for my cultural practices when access to those areas are being taken away? Where am I supposed to teach my kids how to be Hawaiian when there's nowhere to practice. Where are we all gonna do grocery shopping ? Big save can barely keep the shelves full with the amount of people we have on the south side, right now. Sueoka's got sold and now Sells souvenirs, Kukuiula store never has parking available (not the store's fault, just too many tourists). Where are all the cars gonna go? Anytime poipu road or Ala kalanikaumaka has work being done the cars are bumper to bumper. Where will my kids go to swim? I can't even put a mat down at poipu beach because there is simply no room let alone find a stall to park in. You can't even get a plate lunch in Kōloa without waiting 30+ minutes because everywhere is always packed with tourists. There is simply no room and I refuse to be pushed out of my hometown.
14. There should be a survey done by residents within the south side, If we oppose or support these developments. Where was the public meetings, when do residents actually get to speak up without being dismissed as protesters?
15. The county of Kaua'i should listen to the people and not allow themselves to be bought out by companies who will displace the local community. The county of Kaua'i

should be protecting endangered species all over our island and not choose what species gets to be important and what gets to die off. The actions done by the county of Kaua'i and by the Kaua'i police department all contribute to the continues displacement of Kanaka Maoli and local residents. Their actions comite cultural genocide. Our Mayor Derek Kawakami is not fit to fulfil his duties and role of our leadership. He can put an end to all of this and his words were “ when the bones are found, they'll stop”. No they won't because if that was the case Pili mai wouldn't exist and neither would, Kōloa landing, Kuku'i'ula club, the Sheraton, the Hyatt, the point at poipu, whaler's cove, kiahuna, the Waioahi, all those rentals along Pe'e road. The Kōloa estates, or Kiahuna golf course. They are selling our culture while killing it off at the same time, where is the “paradise” going to be if it's all dug out.

## 5.14 Responses from Terry Kuribayashi

## Interview Questions

1. Please provide your name. Terry Kuribayashi
2. What is your profession? manager/ou
3. Where were you born and raised? kauai
4. Where do you live now? koloa, poi pu
5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?
6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?
7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?
8. Is there anything about the project area that's particularly significant you would like to share? where parcel # is where my inlaws had their grocery store in the 60's
9. Are there any stories associated with the project area we should be aware of?
10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?
11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?
12. Do you have any recommendations for conditions or best management practices for the project, should it proceed?
13. Is there anything else you would like to share?
14. Is there anyone else we should talk with about the projects or the Project Areas?
15. Is there anything in this interview you would like us to omit from the summary?

Hi !! 6/12/22

To whom it may concern:

I have lived here all my life, but have been living here in poiipu for the last 25 years. My inlaws had a little grocery store by Kūkūiāle harbor back in the 60's we are also the best mom and pop store on island.

and i've seen a lot of changes not just ~~you~~ here but all over the island.

when Kūkūiāle first came to develop I was already in poiipu.

you came and told us and also a few people of the community what your plan was. and at that time you said you were ~~only~~ going to build a building of a couple offices, a retail store and a restaurant, so far from your original plan it became this monster of a shopping area which increased traffic and now a bunch of million dollar homes.

and I understand progress and all of that.



But now, you want to have more of these projects which is ~~defint~~ definitely not at all for the community. (2)

you have been selling all of the land to the people from out of state and pushing local people out. honestly, what kind of ~~legende~~ ~~you~~ do you have?

maybe some of you are already set in life with land and a home, but the people of the community who have strived so hard to buy somewhere and have strived so hard to keep this place their

home. people have been buying from out of state as the second home (for investment) and building million dollar homes and when it doesn't suit them anymore they leave these million dollar homes and how can anyone else be able to buy.

Do you think there could be a way where you could do a low amount of years ~~then~~ if anyone ~~to~~ lives here for an amount of years ~~then~~ then they could purchase?

I honestly believe there is <sup>always</sup> room <sup>③</sup>  
for progress, but we also need a  
balance of some kind.

Do you honestly think that we need  
additional luxury homes, condos,  
cottages.

killing almost everything that we  
treasure.

We have a special culture, can we  
try to keep most of culture?

people come here because they love  
the beauty, the people and our  
culture.

please don't ruin the important  
things that we treasure so, for  
money

The developers are laughing in our  
faces and saying the people in  
office on kaula can be so easily  
played and bought.

all we have to do is show money  
in their faces and we can get  
what we want

Is this honestly how you want to  
look?

In this honestly, how you want <sup>(17)</sup>  
to be looked at  
I honestly thought we had more  
close and pride for who we are  
and you as our electives were  
looking out for our community.

all we are asking is  
balance for the island  
thank you so much!!



BALANCE

sincerely yours  


Terry Kuribayashi



## 5.15 Responses from Val Kane Turalde

1. VAL KANE TURALDE
2. RETIRED - CULTURAL ADVISOR  
& CULTURAL CONSULTANT  
(RECOGNISED BY STATE OF HAWAII)
3. BORN - KO'OLAUPOKO  
- Ahupua'a of Kaalaea Kaalaea)  
MOKU O LEHUA, OHAU  
RAISED: Kaalaea - Kaneohe;  
- WAIMEA, KAUAI
4. WAIMEA, KAUAI
5. PROTECT KAUAI OHANA (c. 1973)  
w/ PROTECT KAHOOHAIKI (AFWOOD  
MAKANANI)
6. Kukuiula (Harbor); LANA'I BEACH  
Yes\* cleaned TARO there (TARO PATCHES  
LOI KALO by PK'S); ROSIE APPLE
- 7) HUKILAN by RUKUIULA (AKULE;  
OHIO; KALA; MANINI; MENPACHA  
= FISH); CANOE RACES;  
Prince Kuhio CANOE RACE;  
Birthplace of Prince Kuhio  
Hukilan pa'i pa'i (splash for fish)

Baby's Beach (ca. 2017 9<sup>th</sup>)

7- <sup>cont</sup> ~~KANE~~

8. HAPA TRAIL Ancient Pathway;  
 KOLOA Known for Sweet Potatoe + TARO;  
 KOLOA Landing original (HARBOR)

8. My RUPUNA SAID "Sweet potatoe  
 WAS KOLOA", spoke that Kupuna  
~~Buried~~ ~~buried~~ were all along from MAHALEPU  
 to KANAI KAI.

- HELEN WAIACELE TARO PATCH  
 WAS THERE!

AFTER  
TWO  
ATTEMPS

Fish pond water comes SPRING  
 used to feed the TARO PATCHES + PK'S

9. King Kamehameha connected to prince Kuhio's  
 Came on Owea Kamehameha's (BARDGE; Brodtime)  
 He went to ANATOLIA to prove his STRENGTH to people  
 of Kanai - thru his SPEAR THRU THE  
 HOLE in the MOUNTAIN = KALALEA.

He went to WAIMEA & passing thru the  
 the KONA PASSAGE, told KAMAULI to  
 keep his land for him & his people. <sup>cont</sup>



(KANE TURALOE)

9. (Kamaulii lived Wailua during the Summer & Waimea during the WINTER)

10. Resources impacted - WATER (need clean; ~~not~~ contaminated)  
FISHING; ROADS + TRAFFIC; NOISE + AIR;  
Beaches; HAPA TRAIL; ACCESS TO ALL OF THE  
A BOVE; NATURAL HABITATS; LAVA TUBE CAVE  
SYSTEM.

KU PUNA IWI - PLANTS; ~~ALL~~ <sup>FOR</sup> ~~MAHEI~~  
DRAINAGE; SEWER RUNOFF

~~IMPACTS~~ DONT DEVELOP - Turn all areas  
into PARKS! + Natural FARMING AREAS

11) YES, ANYTHING in the areas (HEIAU; CAVES; Burial sites)  
- DONT DO ANY MORE DAMAGE - STOP the desecration  
& disrespecting the people of the culture!!  
<sup>No Access to</sup>

12) For the Project!! STOP

13) TRADITIONAL + CUSTOMARY PRACTICES  
need to BE PRACTICED ~~NOT~~ BY KUHUNA

14) ~~BY~~ KNOWLEDGEABLE PRACTITIONERS &  
(Not just talked ABOUT)

15) No - THE PRESIDENT OF THE US;  
UNITED NATIONS;

TEMOANA ANUI AKIVA  
Royal Union of the PACIFIC NATIONS  
met them in N.Z. 2009

invited Kōpuna  
- Nam +  
- Report +  
- went

## 5.16 Responses and Documents from Llewelyn H. Kaohelauli'i

### Questionnaire Responses of Llewelyn H. Kaohelauli'i (aka Billy)

#### Interview Questions

1. Please provide your name.  
Llewelyn H. Kaohelauli'i (aka Billy)
2. What is your profession?  
Retired – Now Aha Moku Advisory Council Po`o for the island of Kauai – appointed by the Governor. I also serve as the Kona Moku for AMAC.
3. Where were you born and raised?  
Born Waimea, raised Koloa, Kauai
4. Where do you live now?  
Koloa, Kauai on the coast of Poipu adjacent to the Kaneioulouma archaeological site.
5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?  
My mother and sister, Ella, walked to the San Raphael Church on Hapa Trail weekly. Ella would gather flowers (ilima, ginger for lei). We used Hapa Road/Trail to get to Koloa and to school.
6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?  
Caves and the spiders are there, plants for Medicine and flowers for leis. Water, this was a major part of the awai network that was relied on for sweet potato and kalo.
7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?  
Fishing and throwing net, Brenenke coastline, Poipu, Waiohi, Lawai Beach and lava rocks and Kukuiula boat harbor. There was also extensive farming (Mahiai), in the area and there was still evidence of sweet potato and kalo and the awai transport of water when I walked the property with Hal Hammett of Cultural Services Hawaii. Burials, Births, all scared which took place at heiau near and on the project site.
8. Is there anything about the project area that's particularly significant you would like to share?  
Mauka to Ma`kai:
  - a. Transport of Clean water, cave tubing essential.
  - b. Sacred areas are being destroyed ie cave, burial sites, habitat for blind wolf cave spider revered by my ancestors as amakua.
  - c. Awai system unique to Kauai Koloa aha pua`a Kona moku.
9. Are there any stories associated with the project area we should be aware of?  
Moho near the fishpond help clean the water. "Moho live in the lave tube!!"
10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?  
Yes, Water, Fisheries, Air, Roads and No Evacuation Plan!
11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or

## Questionnaire Responses of Llewelyn H. Kaohelauli1i (aka Billy)

avoided?

Yes:

- a. Limit traffic and development
- b. Create evacuation plan
- c. Runoff and sewer and rubbish must be addressed immediately!
- d. Stop unnecessary over development

- 12.** Do you have any recommendations for conditions or best management practices for the project, should it proceed?

The developer should meet with longtime residents and members of the community to fully appreciate the impact this dense development is likely to have. Reducing the number of units by 50% would be in keeping with the plan submitted to the LUC and the Kauai County Council resolution which expressly planned for no more than 144 units on the project parcel. See attached. Cultural consultant should always be present.

- 13.** Is there anything else you would like to share?

Stop the dynamite NOW! Holes are spontaneously opening along Hapa Trail. The damage to any burials and endangered species can't be fixed, the blasting destroys any hope of finding kupuna burials, iwi or evidence of our amakua.

- 14.** Is there anyone else we should talk with about the projects or the Project Areas?

Kane Turalde, 'Branch' Kalanikumai Schimelpfenig, Rupert Rowe, Archaeologist, Burial Council

- 15.** Is there anything in this interview you would like us to omit from the summary?

NO



# Resolution

RESOLUTION RELATING TO LAND USE COMMISSION  
DOCKET NO. A76-418 MOANA CORPORATION

WHEREAS, the Kauai County Council has requested that the Land Use Commission of the State of Hawaii withdraw its conditions numbered 1, 2, 3 and 4 relating to housing as contained in the Decision and Order in Docket No. A76-418 dated July 7, 1977; and

WHEREAS, in lieu of the aforementioned conditions imposed by the Land Use Commission, the applicant, Moana Corporation, has agreed to contribute the sum of \$2 million to the County of Kauai for the purpose of implementing a County Housing Program; and

WHEREAS, Knudsen Trusts has agreed to sell to the County of Kauai approximately 28 acres of fee simple land abutting the Moana development to be used for low income housing; and

WHEREAS, the County Council intends to purchase the above-described 28 acres and market the housesites to be developed thereon primarily to Koloa residents provided that such preference or priority to Koloa residents is legally permissible; now, therefore,

DOCKET NO. A76-418  
COUNTY County of Kauai

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that upon withdrawal by the Land Use Commission of the above enumerated conditions and in consideration of the contribution of \$2 million by Moana Corporation to the County of Kauai as specified in Ordinance No. PM-31-79, the County Council will purchase and develop the 28-acre site abutting the Moana development for low cost housing.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Val Knudsen, Trustee for Knudsen Trusts, Clyde French, Vice President and Trust Officer of First Hawaiian Bank, Bob German, President of Moana Kauai Corporation and Teresa Tico.

Introduced By: \_\_\_\_\_  
Councilman

Approved:

\_\_\_\_\_  
Councilman  
*George Hew*  
\_\_\_\_\_  
Councilman  
*Shay Hibata*  
\_\_\_\_\_  
Councilman  
 \_\_\_\_\_  
Councilman  
 \_\_\_\_\_  
Councilman  
 \_\_\_\_\_  
Councilman

Adopted

	Ag	No	A/E
BAPTISTE			
HEW			
SAHITA			
TSUCHIYA			
*****			

We hereby certify that Resolution No. \_\_\_\_\_ was adopted by the Council of the County of Kauai, Tihue, Kauai, Hanalei, on



JUSTIFICATION SHEET

**Title:** Ordinance Establishing Trust Fund for Contributions by Developers.

**Purpose:** To establish a trust fund and to provide policies regarding the use of such fund.

**Justification:** Construction on Kauai has risen tremendously over the recent years, expanding the socio-economic impacts of such development throughout the island. This rapid growth has also placed an increased financial burden on the County, thus necessitating contributions from developers to partially alleviate the cost of infrastructures imposed by such developments. The Council feels that these contributions should be expended for housing or other related capital improvements on which the greatest impact is imposed. Therefore, a trust fund is urgently needed to ensure that these monies are utilized for the specific purpose of relieving impacts on the County created by developments.

CKET NO.	A76-418
RTY	County of Kauai
CH. NO.	F
DATE IDENTIFIED	7/11/19
EVIDENCE	7/12/19
BY	A. Dink

## 6.0 Traditional or Customary Practices Historically in the Study Area and Surrounding Area

In traditional (pre-western contact) culture, named localities served a variety of functions, informing people about: (1) places where the gods walked the earth and changed the lives of people for good or worse; (2) heiau or other features of ceremonial importance; (3) triangulation points such as ko'a (fishing markers) for fishing grounds and fishing sites (4) residences and burial sites; (5) areas of planting; (6) water sources; (7) trails and trail side resting places (o'io'ina), such as a rock shelter or tree shaded spot; (8) the sources of particular natural resources/resource collections areas, or any number of other features; or (9) notable events which occurred at a given area. Through place names knowledge of the past and places of significance was handed down across countless generations. There is an extensive collection of native place names recorded in the mo'olelo (traditions and historical accounts) published in Hawaiian newspapers.

This is not intended to be a comprehensive list of all the practices that historically or contemporaneously occur in Kōloa. This is meant to show the range of traditional or customary practices that took place in the larger geographic extent. Many of these practices may not have taken place within the specific confines of the Project Area(s), and many of those that may have do not currently take place within the Project Area(s), although that may actively occur within the larger region.

### 6.1 Mo'olelo

Mo'olelo is the practice of storytelling and developing oral histories for the purpose of transmitting knowledge information and values intergenerationally. Mo'olelo are particularly critical in protecting and preserving traditional culture in that they are the primary form through which information was transmitted over many generations in the Hawaiian Islands and particularly in the Native Hawaiian community.

Storytelling, oral histories, and oration are widely practiced throughout Polynesia and important in compiling the ethnohistory of the area. The Native Hawaiian newspapers were particularly valued for their regular publication of different mo'olelo about native Hawaiian history. Were it not for the newspapers having the foresight to allow for the printing and publication of mo'olelo, far less information about the cultural history of the Hawaiian people would be available today.

There are numerous mo'olelo about Kaua'i and specifically the Kōloa area. Two of these mo'olelo are provided in Sections 3.1 (Traditional Period). Additionally, multiple informants note that there are many, significant stories about the area.

### 6.2 Habitation

Hawaiians lived extensively throughout the islands. Handy, Handy, and Pukui (1991) identify how different kānaka and their 'ohana lived in accordance with what the authors termed "occupational contrasts" (286), meaning that based on occupation (i.e., planter or fisherman,

for example), habitation systems differed. They describe, “The typical homestead or *kauhale*... consisted of the sleeping or common house, the men’s house, women’s eating house, and storehouse, and generally stood in relative isolation in dispersed communities. It was only when topography or the physical character of an area required close proximity of homes that villages exist. There was no term for village. *Kauhale* meant homestead, and when there were a number of *kauhale* close together the same term was used. The old Hawaiians, in other words, had no conception of village or town as a corporate social entity. The terrain and the subsistence economy natural created the dispersed community of scattered homesteads” (284). Traditionally, as shown in historic maps and through ethnographic data, *kānaka* inhabited areas throughout Kōloa. Some of the informants still have lineal ties to their family’s lands.

### 6.3 Travel and Trail Usage

The ability to travel was essential to Hawaiians and enabled their sustainability. Travel, and the freedom to move throughout different areas, had different names, including *huaka’i*, *ka’apuni*, or *ka’ahale*. Traveling by sea had distinct names as well, like *‘aumoana*. Traveling through the mountains was sometimes referred to as *hele mauna*. Travel, and moving throughout various places and regions was an essential practice and way of life in traditional Hawai’i.

The freedom to travel safely was so important that Kamehameha I would come to pass a well-known law protecting travelers, *Ke Kānāwai Māmalahoe* (The Law of the Splintered Paddle). It is explained by the William S. Richardson School of Law as follows:

As a young warrior chief, Kamehameha the Great came upon commoners fishing along the shoreline. He attacked the fishermen, but during the struggle caught his foot in a lava crevice. One of the fleeing fishermen turned and broke a canoe paddle over the young chief’s head. The fisherman’s act reminded Kamehameha that human life was precious and deserved respect, and that it is wrong for the powerful to mistreat those who may be weaker.

Years later when Kamehameha became ruler of Hawai’i, he declared one of his first laws, *Ke Kānāwai Māmalahoe* (the Law of the Splintered Paddle), which guaranteed the safety of the highways to all. This royal edict was law over the entire Hawaiian kingdom during the reign of Kamehameha the Great. Considered one of the most important *kānāwai* (royal edict), the law gave the Hawaiian people an era of freedom from violent assault (William S. Richardson School of Law 2021).

The *kānāwai* (law) reads:

E nā *kānaka*

O my people

E mālama 'oukou i ke akua	Honor thy god
A e mālama ho'i	Respect alike, the rights of
Ke kānaka nui a me kānaka iki	All men great and humble
E hele ka 'elemakule	See to it that our aged,
Ka luahine, a me ke kama	Our women, and children
A moe i ke ala	Lie down to sleep by the roadside
A'ohe mea nana e ho'opilikia	Without fear of harm
Hewa no, make	Disobey, and die

The law would have such long-lasting resonance that it would be expressly incorporated into the Hawai'i State Constitution.<sup>4</sup>

As traveling through traditional trails was the primary means by which people traveled on land throughout most of Hawaiian history, the traditional trail system is particularly important throughout the Hawaiian Islands. Throughout the islands, there were numerous trails that allowed for people to access different locations. This trail system was critical not only for maintaining a healthy population and managing this population, but it was also important for the traditional economic system of bartering. The trail system allowed for different localized communities to engage and interact. This also allowed for the trade of goods throughout island communities.

Traditionally, trails were widely used, as there was no other means of land transportation. This meant that these trails were essential to the ability of different ahupua'a communities to interact. There were also important to allow for the governance of different ahupua'a by konohiki and ali'i.

From the historic maps provided in Section 3.1, it is clear that kānaka traveled extensively throughout this area. Figures 6-9 in particular show trails that routed through Kōloa. Additionally, Hapa Trail, State Inventory of Historic Places (SIHP) # 50-30-10-00992, is immediately east of Lot 4 of the Kauanoe o Kōloa development. Multiple interviewees spoke to the cultural importance of this site and its continued usage.

The historic trail was previously known as Hapa Road and was the government road that connected Kōloa and Poipu.

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<sup>4</sup> Article IX. Section 10 of the Hawaii State Constitution reads: "The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I—Let every elderly person, woman and child lie by the roadside in safety—shall be a unique and living symbol of the State's concern for public safety."

## 6.4 Ceremonial Practices

There are numerous heiau located in Kōloa. While numerous heiau were destroyed following foreign contact, there are also contemporaneous efforts to protect and preserve heiau in the region. Numerous informants identified the importance of heiau in Kōloa. Some even identified their ongoing work on heiau, specifically Kamalo'ula and Kānei'olouma heiau.

In this area, there are numerous preservation and restoration activities associated with Uhau Humu Pōhaku, as this region of Kaua'i enjoys numerous practitioners skilled in this traditional practice. There are numerous practitioners in this area, some of whom were interviewed for this survey, who are familiar with the customary practices associated with building and consecrating traditional structures.

## 6.5 Farming and Fishing

Since poi was the staple food for Native Hawaiians, it was of the utmost priority for the first settlers to establish lo'i. Kalo's prominence in the Hawaiian diet derived from its nutritional value, but even more so from its mythological significance. According to Hawaiian traditions, the first human (male) was born from the taro plant:

The first-born son of Wakea and Papa was of premature birth and was given the name Haloa-naka. The little thing died, however, and its body was buried in the ground at one end of the house. After a while, a taro plant shot up from the child's body, the leaf of which was named lau-kapa-lili, quivering leaf; but the steam was given the name Haloa.

After that another child was born to them, whom they called Haloa, from the stalk of the taro. He is the progenitor of all the peoples of the earth. (Malo 1951:244)

As discussed in **Section 3.1 (Traditional Period)**, the area has an extensive history of farming that extends well back into the pre-European contact era. Informants also identified important fishing practices in the coastal waters off Kōloa.

## 6.6 Traditional Clothing (Clothes Making, Dyeing, and Lei Making)

Kapa (commonly known as bark cloth) was the traditional material made through a traditional method of gathering, treating, and beating plant fibers, often, but not limited to, wauke (*Broussonetia papyrifera*) to make fabric that was used to make iole (clothing). Pacific and Hawaiian kapa was known for its wide range of colors and the application of watermarks.

One article describes the process for making kapa:



The finest kapa came from the paper of the mulberry tree. These trees were cultivated on plantations and grew to heights of more than twelve feet. As the tree grew, the branches were nipped off along the main trunk, ensuring a long piece of bark which was easily peeled from the tree.

The manufacture of kapa was an important occupation for women. After the bark had been peeled from the tree, the inner bark was separated and soaked in sea water to make it soft and pulpy. The softened bark was placed on an anvil and beaten with a cylindrical wooden beater. The first beating separated the fibers and produced strips about eight or nine feet long and ten to fourteen inches wide. These strips could be dried and stored until needed. When needed, the strips were soaked in water, placed in layers between banana leaves, and left for about ten days to mature by "retting" which is the decomposition and removal of softened tissues, leaving the finer fibers. These partially decomposed layered strips were beaten a second time with specially carved four-sided beaters. The patterns carved on the beaters were functional as they produced the necessary characteristics in the kapa for its end use. These carved designs left the equivalent of a watermark on the kapa.

Kapa which was to be extremely soft and pliable, such as that used for the malo or loincloth, was subjected to an additional softening process. This process, which produced a finely ribbed fabric, was done by dampening the cloth, stretching it over a grooved board, and running a wooden grooving tool along the indentations in the board. When the cloth dried, permanent ribs remained. The hand was very similar to our crinkle gauze of today (Furer 1981:109-110).

Hawaiians were skilled at utilizing plants and materials to dye their clothing and other materials. Different methods would be employed to hō'awa, extract dye colors from their source material(s). These dyes would be placed in a cup, known as a kā kāpala. Even foreign or exotic plants were utilized for this practice. Hawaiians used different words for the various types of dyeing activities and methods.

- We'a – a red dye or to print or dye red
- Hili – bark dye, as hili kukui, hili kōlea, hili noni; also kapa dyed with bark or the name for dyeing with the use of bark
- Kūhili – to dye (or stain) by soaking in water containing mashed bark, such as used for nets; also mulberry bark before it is beat into kapa
- Kūpenu – to dye by dipping material
- Ki'olena – to dye kapa
- Hōlei – native tree (*Ochorosia compta*) related to the hao (*Rauwolfia*), which yields a yellow dye for kapa

- Kīhe‘ahe‘a pala‘ā – dye made from the pala‘ā (*Sphenomeria chinensis* syn. *chusana*) fern; pala‘ā also references a kapa made from the māmakī (*Pipturus* spp.) bark which is then dyed a brownish-red with pala‘ā fern

Hawaiians also had a lexicon for the various colors that could be achieved through this traditional practice.

- ‘Ōlenalena – yellow
- Hili – Dark-brown dye made from bark
- Puakai – red
- Nao – dark red
- Pōkohukohu – color made from the noni (*Morinda citrifolia*) root
- ‘Ākala – color made from raspberry or thimbleberry juice
- ‘Ōma‘oma‘o – light green color made from ma‘o leaves

Similarly, lei making was a regular occurrence in traditional Hawaii. Anderson-Fung and Maly (2009) write about the traditional practice:

In old Hawai‘i, lei could have important ceremonial functions, such as in religious offerings and for chiefly regalia, but lei were also enjoyed as personal adornment by Hawaiians of all levels of society. The ali‘i (chiefs) and the maka‘āinana (the common people who tended the land) all wore lei. Even the akua (gods, deities, spirits), it was believed, sometimes wore lei when they walked the land in human form. The following observation by the French botanist Gaudichaud, who visited the islands in 1819, paints a picture of Hawai‘i as a place where the lei was an integral part of everyday life:

“It is indeed rare to encounter one of the natives of this archipelago who does not have an ornamental plant on his head or neck or some other part of his body...[The] women ... change [the plants they wear] according to the seasons, [and for them] all the fragrant plants, all flowers, and even the colored fruits, serve as attire, one after another. ...The young girls of the people, those of the island of Hawai‘i especially, seem to be fond of the [kou, *Cordia subcordata*], a tree very abundant in all the cultivated areas... The young girls of the mountains, who live near the forests, give their preference to the flowers of the [*Erythrina* (wiliwili) and a species of *Canavalia*, called ‘awikiwiki], the lively color of which makes magnificent garlands. Such natural attire is much more rich, much more striking, than all the dazzling creations of the elegant European ladies.”

This account and others like it suggest that lei worn for personal adornment were fashioned from the favorite plant materials that were readily available and abundant in the lei maker’s environment (4).

Lei making continues as an important practice today, as the making and giving of lei as an expression of aloha to loved ones still regularly occurs throughout the Hawaiian Islands. Practitioners of these crafts actively practice in the project area, especially hula practitioners who use the forest to gather plants for their ceremonial purposes. In the ethnographic data, informants also identified lei making as a practice that occurs in the area.

Additionally, historic records show that these ethnobotanical practices occurred in the Kōloa ahupua‘a. Bernice Judd’s 1936 piece in the *Forty-Fourth Annual Report of the Hawaiian Historical Society for the Year 1935* clearly states, “The Hawaiians planted pia (arrowroot) as well as wauke (mulberry) in patches in the hills wherever they would grow naturally with but little cultivation. In the uplands they also gathered the leaves of the hala for mats and the nuts of the kukui for light” (Judd 1936: 53).

### 6.7 Haku Mele, Haku Oli, and Hula

This practice is related to the composition of song and chants. This is a practice that has existed for many centuries in the Hawaiian culture. When the Hawaiian culture primarily relied on an oral tradition to pass on knowledge and information, the ability to create songs and chants was essential to pass information from one generation to the next. As Donaghy (2013) notes, Hawaiians had hundreds of terms associated with this practice.

Songs and chants are largely influenced by the environment around them. As a pedagogical device it was important if not imperative that these songs or chants effectively captured data from the environment around the composer and passed on this information for others to utilize when managing natural resources. In a very real sense, the land and natural resources act as a muse for composers. The category of songs that provide information on or speak to natural resources are called mele ‘āina (songs of the land). As shown in the previous section, there are numerous traditional chants and songs about the area.

Much like mele and oli, hula serves as a way of both honoring place and telling the story of place. Many hula, especially those based on mele ‘āina, require intimate understanding of the place where the mele was composed, including the natural elements of that ‘āina. Hula hālau will regularly take huaka‘i, or journeys, to visit and honor the place a particular mele speaks of. The ability to visit the place and learn about it is important to the practice of hula.

Hula, as well as mele or oli, are also offered as gifts to kupuna or gods. This practice also requires access to traditional sites. Associated with hula would have been the practices of lei making and the use of plants to dye clothing (see Section 5.6 for additional information on ethnobotanical practices related to clothing, weaving, and lei making).

Section 4.3.2 provided mele that were composed for Kōloa or in part for Kōloa. Additionally, the area enjoys haku mele (composers) who contemporaneously write mele for Kaua‘i.

## 7.0 Impact Assessment

As previously mentioned, CIAs are not required for the applicant's Project Area(s) as the environmental impact statements completed for the Kiahuna Development area – that encompasses applicant's Kauano'e o Kōloa project - and the Kukui'ula Development area – that encompasses applicant's two Kukui'ula projects - was completed in 1976 and 1989, respectively, prior to the passage of Act 50. Nonetheless, this CIA is being prepared under applicable regulatory standards.

When the Hawai'i State Legislature passed Act 50 in 2000, the purposes of the Act were clear: “1) Require that environmental impact statements include the disclosure of the effects of a proposed action on the cultural practices of the community and State; and 2) Amend the definition of “significant effect” to include adverse effects on cultural practices” (Act 50, SLH 2000).

HRS 343-2, as amended per Act 50, defines an “Environmental impact statement” as “an informational document prepared in compliance with the rules adopted under 343-6 and which discloses the environmental effects of a proposed action, effects of a proposed action, effects of a proposed action on the economic welfare, social welfare, and *cultural practices of the community and State*, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects” (emphasis added) (HRS Chapter 323-2).

Under the same part, “Significant effects” is defined under state law as “the sum of the effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State's environmental policies or long-term environmental goals as established by law, or adversely affect the economic welfare, social welfare, or *cultural practices of the community and State*” (emphasis added) (HRS Chapter 323-2). Therefore, an adverse effect to cultural practices of the community or State constitutes a “significant effect” under Chapter 343.

Any tangible or physical impacts to historic sites are addressed in the work completed for HRS Chapter 6E by Cultural Surveys Hawaii and as reviewed by SHPD and are not covered by this CIA. This separate review is necessary to meet both the statutory requirements of HRS Chapter 6E and the conditions set forth by the County of Kaua'i.

Similarly, any tangible physical impacts to flora or fauna are address in the biological section of the SMA application and other entitlement processes and not covered by this CIA. This CIA focuses on affects to cultural practices of the community.

The role of this assessment is to primarily identify effects of the proposed action on cultural practices. Cultural practices historically and contemporaneously associated with the project area fall into three general eras: a traditional pre-contact era, a historic post-contact era (i.e., plantation era), and a contemporaneous era during which these lands have been under primate ownership.

As shown through the preceding discussions regarding traditional and customary practices, the project area saw different cultural practices through the different eras. During the traditional era, cultural practices would have only been limited by the kapu system. The kapu system was the widely employed political system that allowed for chiefs to oversee their people and manage resources. Under the kapu system, access to and use of the resources in the project era were generally allowed under Kaua'i chiefs. The area would have also enjoyed extensive traditional habitation, due to its abundance of fresh water. The Hawaiian Kingdom would undergo a series of significant changes after foreign contact in 1778. From the unification of the Kingdom under Kamehameha I to the end the kapu system. Once foreigners arrived, changes came quickly.

Liholiho's reign, while significant for the end of the kapu system, would ultimately be short, as he and his wife, Kamāmalu, would succumb to the measles while visiting London in 1824. His younger brother Kauikeaouli, Kamehameha III, succeeded Liholiho as mō'ī (high chief or king). It was under the rule of Kauikeaouli that the Kingdom became a constitutional monarchy with the promulgation of the 1840 Constitution. Further changes under his governance included changes to the land title system. A land commission that served to quiet land titles was first formed in February of 1846. The Māhele, which occurred in 1848, "was a division of nearly all the lands of the Hawaiian Kingdom" (Beamer 2014: 142). Beamer further explains, "The Māhele – which established distinct land bases for the mō'ī, the government, and the chiefs and ultimately made large-scale private ownership possible – was nevertheless still subject to the rights of maka'āinana to make their claims for land" (Beamer 2014: 142). Many native tenants failed to make successful claims for their ancestral lands, and this would open the door to land ownership by foreigners.

Changes in cultural practices within the project area pre-dated the political changes that would take place within the Kingdom in the 19<sup>th</sup> century. As discussed in Section 3.2, and in more detail in Section 3.2.1, of this assessment, sugar and the plantation economy would move into Kōloa in the early 1800s. This would have a significant impact on the area, as it would change land ownership, land and resource management, water usage, and the demographics of the area.

In Hawaiian culture, natural and cultural resources are largely viewed as being one and the same. Without the resources provided by nature, cultural resources could not and would not be procured. From a Hawaiian perspective, all natural and cultural resources are interrelated,



and all natural and cultural resources are culturally significant. Ethnographer and Hawaiian language scholar Kepā Maly observed, “In any culturally sensitive discussion on land use in Hawaii, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends and nature begins” (Maly, 2001:1).

The kinship between Hawaiians and their land extends back across many generations, and it was the depth and intimacy of this relationship that enabled Hawaiians to thrive sustainability in the islands for hundreds of years prior to the arrival of Westerners. Therefore, Hawaiians are entitled to the pain and anguish they feel at the loss of their lands and resources. There is no gain from ignoring the fact that the acquisition of lands by foreigners, including the U.S. Military, has caused and continues to cause Hawaiians pain and even trauma.

This loss lies at the heart of Hawaiian struggles for traditional or customary access. Therefore, the obligation of the state to ensure that these rights are protected is much more than a legal obligation, as such rights are a necessity of indigenous human life. Recognition and respect for these rights also enables a more mutually respectful and beneficial relationship between the military and Hawaiians.

Act 50 was passed by the State recognizing:

... the past failure to require native Hawaiian cultural impact assessments has resulted in the loss and destruction of many important cultural resources and has interfered with the exercise of native Hawaiian culture. The legislature further finds that due consideration of the effects of human activities on native Hawaiian culture and the exercise thereof is necessary to ensure the continued existence, development, and exercise of native Hawaiian culture (Act 50, SLH 2000).

Despite Act 50 not be applicable in to this project, the legislative intent quoted above is critical to the due consideration of the effects the proposed action has and will have on cultural practices, because it specifies the importance of ensuring “the continued existence, development, and exercise” of culture. This recognizes that culture is not static; it is dynamic. It changes over time. And Act 50 specifically calls for consideration of the effects a proposed action may have on the continued “development” of native Hawaiian culture. Which means it is insufficient to simply look back to historic practices. Considering effects to the continued development of culture means the State, specifically the County of Kaua‘i in this case, must contemplate how an action may affect a culture’s ability to evolve, innovate, and develop.

Additionally, OEQC offers specific guidelines for what elements and issues a CIA should address. They are detailed in Table 4, and the section of this CIA which addresses that element is also provided.

Table 4. Table listing OEQC compliance requirements and their corresponding sections in this assessment

<p><b>OEQC notes that in addition to the content requirements for the draft environmental impact statement, which are set out in HAR §11-200.1 et seq., the assessment concerning cultural impacts should address, but not necessarily be limited to, the following matters:</b></p>	
<p><b>A. A discussion of the methods applied and results of consultation with individuals and organizations identified by the preparer as being familiar with cultural practices and features associated with the project area, including any constraints or limitations which might have affected the quality of the information obtained.</b></p>	<p>A detailed methodology section is provided in Section 2.</p>
<p><b>B. A description of methods adopted by the preparer to identify, locate, and select the persons interviewed, including a discussion of the level of effort undertaken.</b></p>	<p>A discussion of the effort to gather into from persons familiar with the area or other stakeholders is provided in Section 2.5.</p>
<p><b>C. Ethnographic and oral history interview procedures, including the circumstances under which the interviews were conducted, and any constraints or limitations which might have affected the quality of the information obtained.</b></p>	<p>A discussion of procedures, including constraints or limitations, is provided in Section 2.5.</p>
<p><b>D. Biographical information concerning the individuals and organizations consulted, their expertise, and their historical and genealogical relationship to the project area, as well as information concerning the persons submitting information or interviewed, their particular knowledge and cultural expertise, if any, and their historical and genealogical relationship to the project area.</b></p>	<p>Biographical information was provided in and through the surveys in Section 5.0.</p>
<p><b>E. A discussion concerning historical and cultural source materials consulted, the</b></p>	<p>A discussion of the materials consulted are provided in Section 2. An extensive cultural</p>

<p>institutions and repositories searched and the level of effort undertaken. This discussion should include, if appropriate, the perspective of the authors, any opposing views, and any other relevant constraints, limitations or biases.</p>	<p>and historical overview, which uses both Hawaiian and English language resources is also provided in Section 2.</p> <p>Stakeholders are given significant consideration. Petitions and other materials by project opponents are included in the appendices and are addressed in the context of this assessment.</p>
<p><b>F. A discussion concerning the cultural resources, practices and beliefs identified, and, for resources and practices, their location within the broad geographical area in which the proposed action is located, as well as their direct or indirect significance or connection to the project site.</b></p>	<p>In addition to the cultural and historical overview, an extensive discussion concerning cultural resources, practice and beliefs are provided throughout the document, specifically in Section 6.0.</p>
<p><b>G. A discussion concerning the nature of the cultural practices and beliefs, and the significance of the cultural resources within the project area affected directly or indirectly by the proposed project.</b></p>	<p>A thorough discussion concerning the nature of traditional or customary practices and the significance of the cultural resources affected directly or indirectly by the proposed alternatives are provided in Section 7.0 and Section 8.0.</p>
<p><b>H. An explanation of confidential information that has been withheld from public disclosure in the assessment.</b></p>	<p>There has no confidential information withheld from public disclosure, except for personal emails, addresses, or phone numbers.</p>
<p><b>I. A discussion concerning any conflicting information regarding identified cultural resources, practices and beliefs.</b></p>	<p>There was no conflicting information regarding cultural resources, practices, or beliefs.</p>
<p><b>J. An analysis of the potential effect of any proposed physical alteration on cultural resources, practices or beliefs; the potential of the proposed action to isolate cultural resources, practices or beliefs from their setting; and the potential of the proposed action to introduce elements which may alter the setting in which cultural practices take place.</b></p>	<p>Thorough analyses are provided in Section 7.0 and Section 8.0.</p>
<p><b>K. A bibliography of references and attached records of interviews which were allowed to be disclosed.</b></p>	<p>References are included in Section 9.0</p>

## 8.0 Findings and *Ka Pa‘akai* Analysis

It has long been the law of the land that the State of Hawai‘i has an “obligation to protect the reasonable exercise of customary and traditionally exercised rights of Hawaiians to the extent feasible” *Public Access Shoreline Hawai‘i v. Hawai‘i County Planning Commission* (“PASH”) 79 Hawai‘i 425, 450 n. 43, 903 P.2d 1246, 1271 n. 43 (1995). In 2000, in the *Ka Pa‘akai* decision, the Court established a framework “to help ensure the enforcement of traditional and customary Native Hawaiian rights while reasonably accommodating competition private development interests.” 94 Hawai‘i 31, 35, 7 P.3d 1068, 1972 (2000). This analysis is used here to fulfill the goals of this survey and assessment (Section 1.4).

Based on the guidelines set forth in *Ka Pa‘akai*, the Hawai‘i Supreme Court provided government agencies an analytical framework to ensure the protection and preservation of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development, or other, interests. The Court has stated: “that in order to fulfill its duty to preserve and protect customary and traditional Native Hawaiian rights to the extent feasible, as required by Article XII, Section 7 of the Hawai‘i Constitution, an administrative agency must, at minimum, make specific findings of fact and conclusions of law as to the following:

- 1) The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area.
- 2) The extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and
- 3) The feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist. *Ka Pa‘akai*, 94, Hawaii at 47, 7 P.3d at 1084. Cited in *Matter of Contested Case Hearing Re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka‘ohe Mauka, Hāmākua, Hawai‘i*, 143 Hawai‘i 379, 431 P.3d 752 (2018) (“*Mauna Kea II*”).”

In order to complete a thorough analysis that complies with statutory and case law, it is necessary to fully consider information available from, and provided by, Native Hawaiian cultural practitioners and cultural descendants from the Project Area(s).

The *Ka Pa‘akai* analysis is largely a legal analysis, as the applicable tests are legal standards. Therefore, a strong analysis will be conducted by someone with sufficient legal training. Additionally, at the core of a thoughtful *Ka Pa‘akai* analysis is a comprehensive understanding of traditional and customary practices. In breaking down the Court’s tests, it is important to the different elements that contribute to each test.

### **8.1 Identify whether any valued cultural, historical, or natural resources are present within the project area, and identify the extent to which traditional and customary Native Hawaiian rights are exercised**

In addition to the language taken from the *Ka Pa‘akai* decision, the County also identifies additional criteria for review:

- o Describe the project area in relation to traditional and customary practices that occurred in the region or district.
- o Describe the extent that traditional and customary practices were practiced in the ahupua‘a and project area.
- o Describe the community members you consulted with including their genealogical ties, long-standing residency, and relationship to region, ahupua‘a and project area.
- o Describe the Land Commission Awards provided on the property?
- o Describe the prior archaeological studies that were conducted for the property.
- o Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
- o Does the property contain any evidence that trails were in existence on the property?
- o Have any individuals ever requested access to the property for any reason?

The first part of the *Ka Pa‘akai* test – “The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area” – actually consists of two separate elements.

The first element is the simple identification and existence of valued cultural, historical, or natural resources. These resources are tangible in nature. They can include sacred places, culturally valuable plants, or a religious or historic site. This assessment sought to exhaustively identify the multitude of resources that may exist in the Project Area(s) or adjacent areas.

As to this test, and as to the County’s inquiries: 1) “[d]escribe the project area in relation to traditional and customary practices that occurred in the region or district”, and 2) “[d]escribe the extent that traditional and customary practices were practiced in the ahupua‘a and project area,” this assessment shows there are potentially resources within or immediately outside the Kauanoe o Kōloa and Parcel H project areas. Interviews indicate that practitioners made use of the plants in the Kauanoe o Kōloa area for lei making, specifically “mauna loa and black-eyed Susan” (see Section 5.4). Neither of these plants were identified in the biological assessment as being in the Kauanoe o Kōloa Project Area, but it does not mean that these resources are not in the surrounding region.



A full listing of community members consulted and their biographies are included in Section 5.0, meeting the county requirement to: “Describe the community members you consulted with including their genealogical ties, long-standing residency, and relationship to region, ahupua'a and project area.”

The second element of the first part of the *Ka Pa‘akai* framework is access. There are two critical components of access. One is the existence of a resource. Whether a plant, an animal, a place, or site, the resource must exist in order for a practitioner to access it. The second component is physical access. This includes, but it is not limited to, the ability to physically access a plant, animal, site, or location associated with a particular practice. This can also include the traditional and customary route or path taken to access the resource. This can also include cultural protocols that existed in accessing a resource. These are often temporal, in that access protocols can be at a certain time of day or year. Makahiki would be a good example of a traditional custom that has specific cultural protocols associated with access. In the case of Makahiki, the custom takes place at a certain time of year.

Therefore, the first element under *Ka Pa‘akai* should include not only a listing of resources, but the identification of ways in which those resources are accessed and utilized in association with a traditional and customary practice. In this case, the resources include access to the ocean and the various plant resources utilized by practitioners located on property. One informant identified that they access the area for prayer: “Yes prayer and spiritual practice took place on subject property daily. Many cultural practitioners access this site prior to development happening.” (responses from Elizabeth Okinaka).

Okinaka also claims there are numerous significant resources in the Project Area(s):

This entire parcel is significant. The birthing stone, the alter which I visited daily and prayed at is now destroyed. The burial sites and chiefs sitting area are now being destroyed. Chief Palikua is buried underneath this property within a burial cavern and a part of the cave system. Laka heiau and the cave directly behind this property shows the lack of preservation for this entire area. This property has lava tubes and caves exposed since blasting which developer is denying. 3 caves were destroyed in Wainani subdivision which is directly next to this lot. The developer of Wainani admitted to the LUC and there are LUC records that confirm the destruction of the 3 caves in Wainani, destroyed with bulldozers during development. See attached. The developer of Pili Mai, the parcel just below the project area, had problems with its foundation as it was also built over a cave system. There are at least 3 designated habitat caves in the area immediately adjacent to the project site and knowing about the caves under Wainani and Pili Mai, it is unlikely that they are not also under the project area. Hal Hammett and Cultural Survey's Hawaii advertise the use of ground penetrating radar (GPR) on their website and claim to have trained personnel with the technological ability to use

GPR. Yet no GPR was used on the project area prior to extensive grading, excavating, blasting and filling with dozens of truckloads of dirt and rock being delivered to the project area (responses from Elizabeth Okinaka).

It is understandably concerning that an area that once enjoyed: “583 interconnected archaeological features were identified, including 175 stone enclosures, 108 stone house platforms, ten habitation caves, a *heiau* extensive ‘*auwai* networks, ponded fields, terraced plots, and mounds” appears to now be entirely absent significant historic sites. While the myriad of surveys and reports done over the last 40+ years might not yield an easily-traceable record of the small subset of these sites that were directly within the boundaries of the Kauanoē o Kōloa project area, nor when, how and why they were removed, the surveys and reports do reflect that none remained on Lot 1 of the Kauanoē o Kōloa project area as of 2013.

The complexities of the administrative history of the Kukui'ula and Kiahuna Developments, given the massive archive of archaeological work that has been done for numerous developers in these areas for the past 40+ years, was a concern for respondents. Mason Chock noted his disappointment that we cannot have better smoother communications relative to the surveys and assessments that are used to determine impacts in the area. Peleke Flores mentioned that he wished he had the time, in addition to what he is already doing with his full-time job, volunteer positions and family responsibility, to check all those records and resources himself.

There is no doubt that there were extensive archaeological features throughout the Kōloa area. There is also no doubt that many of these sites have been destroyed over time, particularly those that were not slated for preservation, which includes all of those that were located within the applicant's Project Areas. In its March 1, 2022 letter to the County, SHPD concurred with the findings of the December 2021 LRFI, stating:

The Folk et al. (2021) archaeological literature review and field inspection (LRFI) report prepared in support of the proposed development of Lot 1 indicates that previous archaeological studies within the (Lot 1) project area and vicinity include Hammatt et al. (1978), Hammatt (1989), and Hammatt et al. (2003, 2004, 2005). Hammatt et al. (1978) documented 583 interconnected archaeological features were identified, including 175 stone enclosures, 108 stone house platforms, ten habitation caves, a *heiau* extensive ‘*auwai* networks, ponded fields, terraced plots, and mounds. These features were recognized as an intensive pre-Contact and early post-Contact Hawaiian settlement with a focus on irrigated and dryland agriculture; together they reflected “a complex Hawaiian adaptation of intensive agriculture and settlement to a dry, rocky leeward environment” (Hammatt et al. 1978:vii) now referred to as the Kōloa Field System; notably absent are human burials.

Folk et al. (2021) LRFI report indicates that previously recorded sites within the Lot 1 project area are: Site #50-30-10-3857 (complex) which includes Site #50-30-10-3656 (agricultural field), 50-30-10-3657 (C-shaped temporary habitation), 50-30-10-3658 (temporary habitation enclosure), 50-30-10-3659 (C-shaped temporary habitation), 50-30-10-3764 (permanent platform habitation), 50-30-10-3789 (field catchment basin), 50-30-10-3841 (permanent platform habitation), 50-30-10-3851 (two agricultural mounds) and 50-30-10-3853 (cattle wall system). None of these sites were recommended for preservation by Hammatt et al. (1978) or subsequent survey and/or testing studies.

The Folk et al. (2021) LRFI included a 100-percent coverage pedestrian survey which occurred on February 22 and March 20, 2021 and documented that the archaeological sites previously recorded within the southeastern portion of Lot 1 had been destroyed by bulldozing and other ground disturbing activities that occurred over the last several decades. Nine surface features were identified during the field inspection: three remnant sections of ranch walls, two bulldozed boulder piles, one pile of asphalt debris, and one pile of concrete debris, and two outcroppings of boulders in the southeast corner (likely associated with the leveled fill where a former trailer and shed roof structure were visible in a 2013 aerial photo). The three remnants of the cattle walls no longer have integrity except in location, and the seven other features are modern remnants of previous grubbing and bulldozing activities in the project area since the 1990s. The bulldozed and dispersed rock and rock piles may have been portions of some of the previously recorded historic properties within the project area. The cattle wall remnants were not assigned site or feature numbers.

Based on the field inspection findings, Folk et al. (2021) recommend no further archaeological work within Lot 1. Additionally, the USDA (Foote et. al 1972) identifies the soils within Lot 1 as Waikomo very rocky silty clay (Wt), and Waikomo extremely rocky silty clay (Wu). Low potential exists to encounter subsurface historic properties (SHPD 2022: 2).

Similar to the what the archaeological record for Kiahuna reveals regarding remaining sites in the vicinity of the Kauano'e o Kōloa project area, many of the previously identified sites in Kukui'ula were not slated for preservation and no longer exist. In its January 21, 2022 letter to County of Kaua'i, SHPD concurred with the findings in the 2021 Field Inspection Letter Report for Parcel HH, stating:

An archaeological inventory survey (AIS) conducted for the Kukui'ula Bay Community (Hammatt et al. 1988) identified 58 archaeological sites, including 150 features within a 1,000-acre area from Poipu Rd. on the east to the edge of Lawai Valley to the west.

Three previously identified historic properties were documented in the western portion of the project area: a habitation and agricultural site (Site # 50-30-10-01947), and two habitation sites (Site # 50-30-10-01949 and Site # 50-30-10-01950). Additional work within the Kukui‘ula development included data recovery (Hammatt 1998, Hammatt 1989) and the establishment of five archaeological preserves. No preserves are within the current Parcel HH project area. The three sites (Site #s 50-30-10-01947, 50-30-10-01949, and 50-30-10-01950) were not slated for preservation and the 2021 archaeological field inspection conducted in support of the current project (Hammatt, June 2021) indicates the three sites are no longer present and that they likely were removed during permitted mass grading activities in the 1980s. No historic properties are present in the current project area.

Similarly, in its letter dated January 11, 2016, SHPD concurred with the *Final Archaeological Assessment Report for the Kukui‘ula Community Development Parcel H Project* stating:

The AA is an Archaeological Inventory Survey with negative findings. The AA was conducted for 26 acres of the 270.1 acre property, and is not intended to represent the findings of the entire subject property, which contains historic properties. Dave Hutchinson and Lindsay Crawford of Kukui‘ula Development Company contacted our office and clarified that the grading permit is for Parcel H - the 26 acres designated as the Kahela Subdivision. We have determined that no historic properties will be affected by the proposed grading.

In answering the first part of the *Ka Pa‘akai* test: this survey finds there to be valued cultural, historical, or natural resources within the larger geographic extent of Kōloa. Ethnographic data shows that traditional or customary practices take place particularly around the Kauanoē o Kōloa Project Area and in the surrounding Kōloa ahupua‘a. These specifically include Native Hawaiian beliefs, ceremonial practices, and ethnobotanical practices.

As to the remainder of the county’s inquiries:

- Describe the Land Commission Awards provided on the property?
  - This information is provided in the archaeological reports, although based on the LCA-related maps provided in Sections 4.1 and 4.2, there is only one LCA located within the entirety of the Project Areas, which is a portion of Land Commission Award 2668 R.A. Walsh for [Roman Catholic] Mission Church (Figure 20).

- Describe the prior archaeological studies that were conducted for the property.
  - This information is provided in the archaeological reports.
- Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
  - This information is provided in the archaeological reports.
- Does the property contain any evidence that trails were in existence on the property?
  - This information is provided in the archaeological reports.
- Have any individuals ever requested access to the property for any reason?
  - Honua would not have knowledge of this information, it should be provided to the county by the project applicant.

## **8.2 Identify the extent to which the identified resources and rights will be affected or impaired by the proposed project**

The second test – “The extent to which those resources – including traditional and customary Native Hawaiian rights – will be affected or impaired by the proposed action” – also looks at two separate elements. The first element seeks to determine whether the proposed action and its alternatives have an adverse impact on the existence of resources. This would include the alteration, destruction, modification, or harm of sites, including biological resources, sacred places, burial sites, etc. It also includes a loss of species. Any adverse impact or harm to resources is alone an affect or impairment caused by the proposed action.

Based on this test, should any of the tangible cultural resources identified by the practitioners be present in the Project Area(s) and impacted by the development, that would be an affect to traditional or customary practices. Additionally, should access be denied to practitioners for spiritual practices, include offering prayer, that would also constitute an affect to those traditional or customary practices that would require the County to identify feasible action that would reasonably protect these Native Hawaiian rights.

Many of the informants also spoke to how expansive development in Kōloa not only poses an immediate threat to traditional or customary practices, but poses a threat to the future restoration of practices. This is best addressed by the County through a holistic consideration of the applicant’s proposed activities, which is why the transparent disclosure of all potential development proposed by the applicant for consideration is the appropriate approach under a *Ka Pa‘akai* analysis.



### **8.3 Specify any mitigative actions to be taken to reasonably protect native Hawaiian rights if they are found to exist**

The third part of the *Ka Pa‘akai* test aims to identify “[t]he feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.” Determining whether or not action is suitably “feasible” is a matter reserved by the Court as the exclusive jurisdiction of the State, or in this case, the County. Nonetheless, from the ethnographic data gathered for this assessment, the County would be justified in finding such action appropriate for the applicant’s proposed project(s).

As to potential impacts to historic properties, appropriate mitigation would be determined jointly by the SHPD and County of Kaua‘i under HRS Chapter 6E.

Such feasible action to mitigate impacts to traditional or customary practices could potentially include designated access areas and/or times to conduct traditionally or customary practices, including offering prayer. Additionally, feasible action could also include implementing best management practices and/or monitoring measures to ensure that cultural resources, including but not limited to plants, animals, or historic sites, in the Project Area are not adversely impacted by project activities. It is the responsibility of the County to identify these actions and properly implement them in their decision making.

The County should also carefully consider how development in Kōloa may cumulatively impact traditional or customary practices throughout the entire region. The ethnographic data showed a strong concern for how development may force kānaka out of the area. Therefore, in identifying feasible action to reasonably protect Native Hawaiian rights in Kōloa, the County would be best served to consider a holistic approach that protects resources and practices throughout this entire region and significant cultural landscape.

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## Appendix I: Glossary of Hawaiian Terms

The following list of terms were used frequently throughout this report. All definitions were compiled using Pukui and Elbert's Hawaiian Dictionary (1986).

Ahupua'a	Land division usually extending from the uplands to the sea, so called because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua'a), or because a pig or other tribute was laid on the altar as tax to the chief.
'Āina	Land, earth. Lit. That which feeds.
Akua	1. God, goddess, spirit, ghost. 2. Divine, supernatural, godly.
Ala	Path, road, trail.
Ali'i	1. Chief, chiefess, ruler, monarch. 2. Royal, regal. 3. To act as chief, reign.
'Aumakua	Family or personal gods, deified ancestors who might assume the shape of sharks, owls, hawks, dogs, plants, etc. A symbiotic relationship existed; mortals did not harm or eat them, and the 'aumakua warned or reprimanded mortals in dreams, visions, and calls.
'Aumākua	Plural of 'aumakua.
'Auwai	Irrigation ditch, canal, waterway.
Hālau	1. Long house, as for canoes or hula instruction; meeting house. 2. Large, numerous; much.
Hale pili	House thatched with pili grass.
Heiau	Pre-Christian place of worship, shrine. Some heiau were elaborately constructed stone platforms, other simple earth terraces.
Ho'i	1. To leave, go or come back; to cause to come back. 2. To enter, as an institution or last resting place. 3. A parting chant to which hula dancers dance as they leave the audience. 4. Marriage of a chief with the daughter of a brother or sister; to do so (a means of increasing offspring).
Hula	A Hawaiian dance form accompanied by chant or song.
'Ili	Land section, next in importance to ahupua'a and usually a subdivision of an ahupua'a.
'Ili kū	Shorted form of 'ili kūpono.
'Ili kūpono	A nearly independent 'ili land division within an ahupua'a, paying tribute to the ruling chief and not to the chief of the ahupua'a. Transfer of the ahupua'a from one chief to another did not include the 'ili kūpono located within its boundaries. Sometimes shorted to 'ili kū.
Kanaka	Human being, person, individual, party, humankind, population; often used for man.
Kānaka	Plural of kanaka.

Kāne	Male, husband, male sweetheart, man; brother-in-law of a woman.
Kanikau	1. Dirge, lamentation, chant of mourning, lament. 2. To chant, wail, mourn.
Kapu	1. Taboo, prohibition. 2. Special privilege or exemption from ordinary taboo. 3. Sacredness, prohibited, forbidden, sacred, holy, consecrated. 4. No trespassing, keep out.
Kuleana	Right, privilege, concern, responsibility, title, business, property, estate, portion, jurisdiction, authority, liability, interest, claim, ownership, tenure, affair, province.
Kupuna	Grandparent, ancestor, relative or close friend of the grandparent's generation, grandaunt, granduncle.
Kūpuna	Plural of kupuna.
Limu	A general name for all kinds of plants living under water, both fresh and salt, also algae growing in any damp place in the air, as on the ground, on rocks, and on other plants; also mosses, liverworts, lichens.
Lo'i	Irrigated terrace, especially for taro, but also for rice and paddy.
Loko i'a	Traditional Hawaiian fishpond.
Makai	On the seaside, toward the sea, in the direction of the sea.
Mālama	To take care of, tend, attend, care for, preserve, protect, beware, save, maintain.
Mauka	Inland, upland, towards the mountain.
Mele	1. Song, anthem, or chant of any kind. 2. Poem, poetry. 3. To sing, chant.
Mele māka'ika'i	Travel chant.
Mō'i	King, sovereign, monarch, majesty, ruler, queen.
Moku	1. District, island, islet, section, forest, grove, clump, fragment. 2. To be cut, severed, amputated, broken in two.
Mo'o	Lizard, reptile of any kind, dragon, serpent.
Mo'olelo	Story, tale, myth, history, tradition, literature, legend, journal, log, yard, fable, essay, chronicle, record, article.
Mo'owahine	Female lizard deity.
Nī'aupi'o	Offspring of the marriage of a high-born brother and sister, or half-brother and half-sister.
'Ōlelo no'eau	Proverb, wise saying, traditional saying.
Oli	Chant that was not danced to, especially with prolonged phrases chanted in one breath, often with a trill at the end of each phrase; to chant thus.
Pi'o	Marriage of full brother and sister of nī'aupi'o rank, presumably the highest possible rank. Their offspring had the rank of naha, which is less than pi'o but probably more than nī'aupi'o. Later pi'o included marriage with half-sibling.

Pueo	Hawaiian short-eared owl ( <i>Asio flammeus sandwichensis</i> ), regarded often as a benevolent 'aumakua.
'Ūniki	Graduation exercises, as for hula, lua fighting, and other ancient arts (probably related to niki, to tie, as the knowledge was bound to the student).
Wahi pana	A legendary place; a place made special celebrated in stories associated with it. Often sacred.
Wahine	Woman, lady, wife; sister-in-law, female cousin-in-law of a man, female.
Wao	1. Realm. 2. A general term for inland region usually forested but not precipitous and often uninhabited.

# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR  
 JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
 MICHAEL A. DAHLIG, MANAGING DIRECTOR

## SUBDIVISION REPORT

(REVISED)

### I. SUMMARY

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2022-2 that involves a seven (7) lot subdivision.

**Subdivision Permit No.** Application No. S-2022-2

**Name of Applicant(s)** KUKUI'ULA VISTAS, LLC.

### II. PROJECT INFORMATION

<b>Map Title</b>	Revised Tentative. Subdivision of Lot 18 Kukui'ula Parcel H Subdivision Being a Portion of Royal Patent 6714, L.C. Aw. 7714-B, Ap. 2 to M. Kekuaiwa no M. Kekuanaoa into Lots 18-A Thru 18-G, Inclusive and Cancellation of Easements S-2 and D-2 at Kōloa, Kaua'i, Hawai'i.				
<b>Tax Map Key(s):</b>	2-6-022:054	<b>Area:</b>	2.02 acres		
<b>Zoning:</b>	Residential (R-4)				
<b>State Land Use District(s):</b>	Urban	<b>General Plan Designation:</b>	Residential Community/ Open Space		
<b>AGENCY COMMENTS</b>					
<input checked="" type="checkbox"/> COK Public Works	03.30.2023	<input type="checkbox"/> State DOT-Highways:			
<input checked="" type="checkbox"/> COK Water:	02.17.2023	<input checked="" type="checkbox"/> State Health:	01.30.2023		
<input type="checkbox"/> Other(s)		<input checked="" type="checkbox"/> DLNR – SHPD:	pending		
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>					
Road Name	Existing Width	Required Width	Pavement YES	NO	Reserve
Ala Kukui'ula	60 feet	60 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Kāhela Place	44 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Pua Kāhela Way	44 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>APPLICABLE FEES</b>					
<b>Environmental Impact Assessment (EIA)</b>	\$3,500.00				
<b>Park Dedication</b>	\$ TBD. Appraisal required				
<b>Appraisal Report Required</b>	Yes				

*G. I. B. I.*

APR 11 2023



### III. EVALUATION

The action required is a consideration of a Revised Preliminary Subdivision Map Approval involving the proposed subdivision that was previously granted Preliminary Approval on December 14, 2021. At the time of preliminary approval, the development involved the subdivision of Lot 18 into five (5) residential lots and one (1) roadway lot with a vehicular access point connection taken from Kāhela Place.

On September 28, 2022, the Applicant applied for a Variance Permit (processed through Class IV Zoning Permit Z-IV-2023-6 and Variance Permit V-2023-2) to allow a deviation from Section 8-4.4(a) (3) (A) of the Comprehensive Zoning Ordinance (CZO), relating to the Lot Length requirement for parcels located within the County Residential (R-4) zoning district. The revised subdivision layout as proposed involved a subdivision of Lot 18 into six (6) residential lots and one (1) roadway lot. Lots 18-B and 18-C of the revised layout had an average lot length three times greater than their average lot widths, which warranted the variance. In considering the proposal, the Department could not support the revised layout since the Applicant did not exhaust all efforts to comply with the Lot Length requirement. It was the department's position that the subdivision layout could be reconfigured such that the lots in question could comply with the lot length standard.

Subsequently, the Applicant worked with the Planning Department to configure the subdivision layout in a way that all of the lots within the subdivision meet the Lot Length requirement. As a result, this "new" revised subdivision layout establishes five (5) residential lots, one (1) roadway lot, and one (1) non-residential lot (Lot 18-G) that would be intended to be used for drainage purposes. Vehicular access to the subdivision will also be taken from Kāhela Place as originally proposed. The Applicant should be made aware that Lot 18-G is intended to serve as a drainage basin for the subdivision, and therefore, it should have no residential density.

In evaluating the newly revised layout, it was determined that a Variance Permit was no longer necessary. The Applicant submitted a letter dated December 9, 2022 to withdraw Class IV Zoning Permit Z-IV-2023-6 and Variance Permit V-2023-2. The Planning Commission at its meeting held on January 10, 2023, received the Applicant's letter to withdraw the subject permit applications. Consequently, these applications were officially terminated on January 11, 2023.

It should also be noted that the previous Tentative Subdivision Map approval involving the subdivision on December 14, 2021, included a Modification of Requirement that allowed a deviation from Section 9-2.3(e) of the Subdivision Ordinance relating to the construction of curbs, gutters, and sidewalks. The deviation allowed the use of drainage swales on both sides of the street in lieu of raised curbs, gutters and sidewalks, and no provisions for sidewalks since there was a sidewalk fronting the subdivision along Ala Kukui'ula and along Kāhela Place. In re-evaluating the revised subdivision layout as it relates to the provision of Section 9-2.3(e) of the Subdivision Ordinance, the previous approval of the Modification of Requirement should be respected since there is an existing 'arterial' sidewalk along the makai side of Ala Kukui'ula and along Kāhela Place which is adjacent to and runs parallel with proposed roadway (Lot 18-F) that serves the revised subdivision layout. As such, constructing a sidewalk

within the development would be unnecessary since the existing arterial sidewalk serves its purpose to provide for adequate pedestrian access within the master planned development.

Further, Lot 18 is part of the Kukui'ula Parcel H Subdivision (Subdivision Application No. S-2016-2) that is currently under construction and infrastructure improvements have not been completed. It should be noted that no development shall be within any of the newly created lots until the infrastructure improvements relating to Subdivision No. S-2016-2 are inspected and certified completed.

Lot 18 contains a total area of 87,919 sq. ft. or 2.018 acres. The subject property is located within the Residential (R-4) zoning district and within the State Land Use Urban District. The parcel abuts Ala Kukui'ula on the North, Kāhela Place on the East and Pua Kāhela Way on the South. The surrounding parcels are also within the Residential (R-4) zoning district and within the State Land Use Urban District.


#### Native Hawaiian Traditional and Cultural Rights

A Ka Pa'akai O Ka'aina Analysis was prepared by Honua Consulting, for the proposed development. The analysis describes the historic and traditional accounts associated with the Kōloa Ahupua'a as well as provides a thorough analysis of the project site and potential impacts to cultural resources, historical resources, and archaeological sites. The analysis also provides a detailed summary of the community outreach that was conducted including oral and written testimony from sixteen (16) individuals that were contacted.

Based on the information contained in the analysis and evaluating the historical information that was available to the department, the department finds that the proposed development at its designated location should have no impact on any known Hawaiian traditional or customary practices for the following reasons:

- a. No historic properties were identified in the project area.
- b. There are no known traditional or customary practices of Native Hawaiians that are presently occurring at the project site.
- c. There are no known special gathering practices taking place at the project site or within the vicinity of the project site.
- d. The Project should not detrimentally inhibit access to any streams; access to the shoreline or other adjacent shoreline areas; gathering along any streams, the shoreline or in the ocean.
- e. There are no known religious practices taking place within the project site.

**IV. RECOMMENDATION**

TENATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input type="checkbox"/> Approval <input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the follow pages:	All conditions have been complied with
 Director of Planning	3/31/2023 Date
	Director of Planning Date

**V. AGENCY REQUIREMENTS**

1. Requirements of the Planning Department:
  - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - d. The subdivider is advised that no development shall be within any of the newly created lots until the infrastructure improvements relating to Subdivision No. S-2016-2 are inspected and certified complete by the respective government agencies.
  - e. Pursuant to Ordinance No. PM-2004-370, the Applicant is allowed to credit Environmental Impact Assessment and Park Dedication fees for developments within their Project Area. Since the Applicant has not resolved with the Planning Department whether they will pay fees or provide improvements for credit, the following fees are being assessed:
    - 1) An Environmental Impact Assessment Fee of Three Thousand Five Hundred Dollars (\$3,500.00) shall be paid to the County of Kaua'i.

- 2) The Applicant shall pay a Park Dedication fee pursuant to Section 9-2.8 of the Kaua'i County Code Subdivision Ordinance. An appraisal report and price list shall be provided to the Planning Department to forward to the Real Properties Division to help calculate the fee amount.
- f. Relative to Condition No. 1.e. and prior to final subdivision map approval, the Applicant shall meet with the Planning Department to resolve the applicable requirements of Ordinance No. PM-2004-370. Specifically, the following conditions shall apply to this subdivision:

**Conditions of Ordinance No. PM-2004-370:**

- o 3. (prohibition of Additional Dwelling Units)
  - o 7. (improvements to roadway system)
  - o 14. (EIA credit)
  - o 15. (recreation)
  - o 16. (park dedication credit)
  - o 23. (wastewater system master plan)
  - o 27. (solid waste management plan)
  - o 30. (blasting plan)
- g. The Applicant shall establish bus stops/shelters pursuant to Ordinance No. 406. The details shall be resolved with the Planning Department and Department of Public Works prior to construction plan approval.
  - h. The applicant shall identify on the final subdivision map lots that are to be used for Transient Vacation Rental (TVR) purposes, if applicable. If so, the total amount of the lots within this development shall be counted towards the total amount approved through Ordinance No. PM-2004-370.
  - i. The Applicant is made aware that the street designated within the subdivision must be officially named before the Department approves the construction plans. Street names should be in Hawaiian and be submitted to our Department for review and approval, along with a request letter and 12 maps (on "Letter" or "Legal" sized paper). The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.
  - j. The Applicant shall prepare and obtain construction plan approvals for necessary road, water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.
  - k. The subdivider is made aware that Ala Kukui'ula is classified as a "Major Street" and relative to the requirement in Section 9-2.3(b)(2) of the Kaua'i County Code (1987), there shall be no direct access permitted onto Ala Kukui'ula from Lots 18-A and 18-F. Semi-circles denoting "No Direct Access Permitted" shall be shown on the final

subdivision map. These provisions shall be incorporated as a restrictive covenant for the subject lots, draft copies of which shall be submitted to the Planning Department for review and approval.

- I. Additionally, there shall be no direct access permitted onto Kāhela Place from Lot 18-E and no direct access onto Pua Kāhela Way from Lots 18-C, 18-D and 18-E. Semi-circles denoting "No Direct Access Permitted" shall be shown on the final subdivision map. These provisions shall be incorporated as a restrictive covenant for the subject lots, draft copies of which shall be submitted to the Planning Department for review and approval.
- m. Lot 18-G shall have no residential density as it will be used for drainage purposes to serve the subdivision. This provision shall be incorporated into the deed description of Lot 18-G, draft copies of which shall be submitted to the Planning Department for review and approval.

2. Requirements of the Department of Public Works (DPW):

- a. The applicant shall comply with all provisions of the "Sediment and Erosion Control Ordinance No. 808" to safeguard the public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County's Sediment and Erosion Control Ordinance, which is required if any of the following conditions apply:
  - The work area exceeds one (1) acre.
  - Grading involving excavation or embankment, or combination thereof exceeds 100 cubic yards.
  - Grading exceeds five (5) feet in vertical height or depth at its deepest point.
  - The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.
- b. During construction, best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible to ensure that BMPs are satisfactorily implemented at all times.

3. Requirements of the Department of Water (DOW):

- a. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
  - 1) A Facilities Reserve Charge (FRC) of \$84,690 (6 lots at \$14,115 per lot).



- b. Prepare and receive DOW's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:
  - 1) All facilities required in the approved Kukui'ula Water Master Plan for the proposed project.
- c. Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance and operation of the subdivision water system improvements installed in other than County-owned property.
- d. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:
 

"Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kaua'i."

This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
- e. Kukui'ula Development Company (KDC) will be required to:
  - 1) Submit an updated Kukui'ula Water Demand and System Capacity Tracking Matrix.
  - 2) Be made aware that the Facilities Reserve Charge and the adequacy of the source, storage and transmission facilities for the proposed Development will be dependent on the approved updated Kukui'ula Water Demand and System Capacity Tracking matrix.

4. Requirements of the Department of Health (DOH):

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

**Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.**

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

### **Clean Air Branch**

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
3. Standard comments for the Clean Air Branch are at:  
<https://health.hawaii.gov/epo/landuse/>

### **Clean Water Branch**

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55:  
<https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standardcomments/>.

### **Hazard Evaluation & Emergency Response Office**

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at: <https://health.hawaii.gov/epo/landuse/>.

### **Indoor and Radiological Health Branch**

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at  
<https://health.hawaii.gov/irhb/asbestos/>.

### **Safe Drinking Water Branch**

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program: <https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Solid & Hazardous Waste Branch**

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.
3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Wastewater Branch**

By Revised Statute 11-62-31.1 If the parcel is less than 10,000sq feet, an individual onsite waste-water unit may not be possible for future construction. Please contact Sina Pruder at the DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at [doh.www@doh.hawaii.gov](mailto:doh.www@doh.hawaii.gov).

### **Sanitation / Local DOH Comments:**

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or



absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

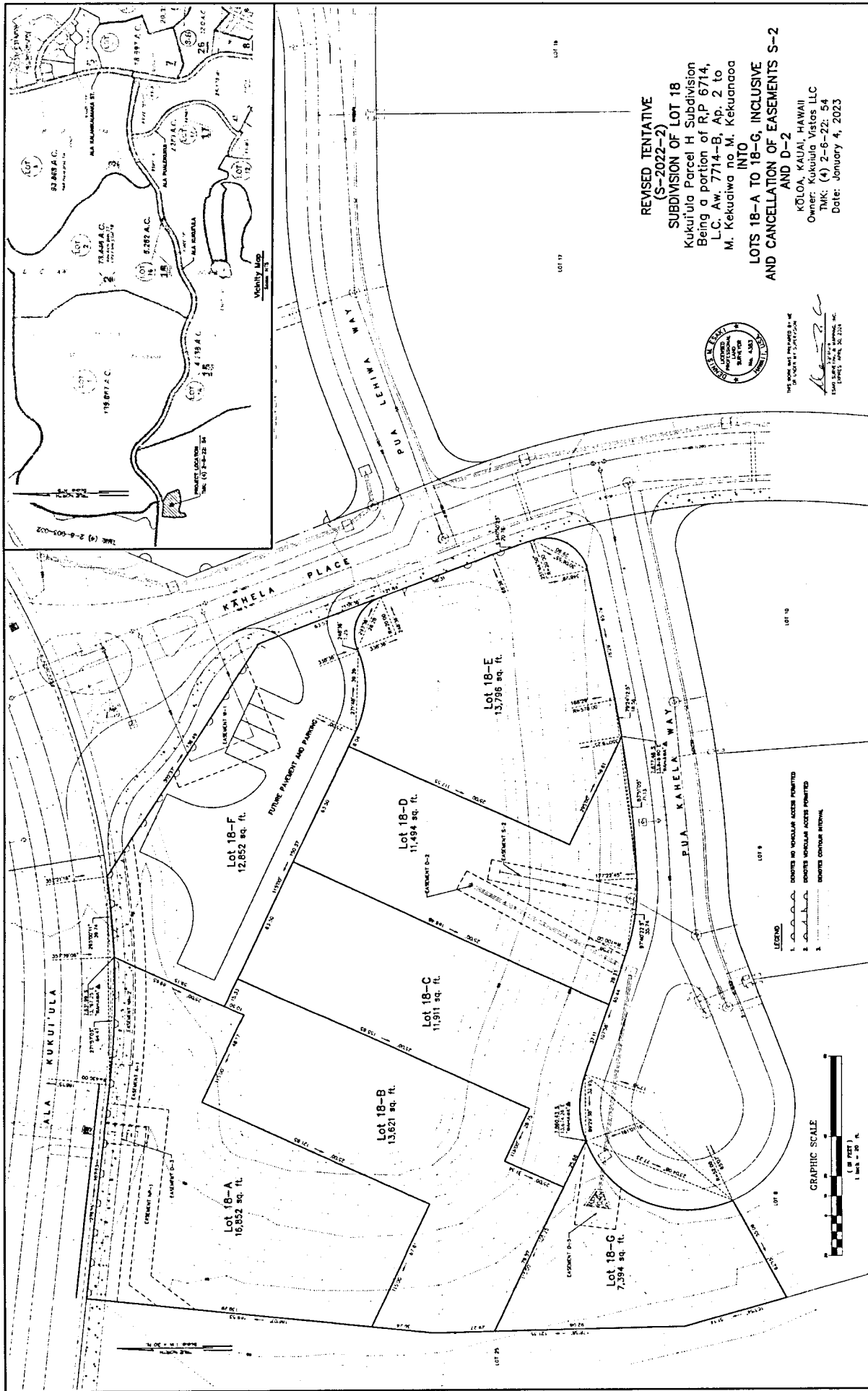
## Other

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.
5. Requirements of the State Historic Preservation Division (SHPD):
  - a. The subdivider shall comply with the requirements of the State Historic Preservation Division, if any, prior to final subdivision approval. The subdivider shall be notified upon receipt of their report.
6. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
7. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for APRIL 11, 2023 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By   
KENNETH A. ESTES  
Planner



**REVISED TENTATIVE  
(S-2022-2)  
SUBDIVISION OF LOT 18**

Kukui'ula Parcel H Subdivision  
Being a portion of R.P. 6714,  
L.C. Aw. 7714-B, Ap. 2 to  
M. Kekuaia no M. Kekuaanao  
INTO

**LOTS 18-A TO 18-G, INCLUSIVE  
AND CANCELLATION OF EASEMENTS S-2  
AND D-2**

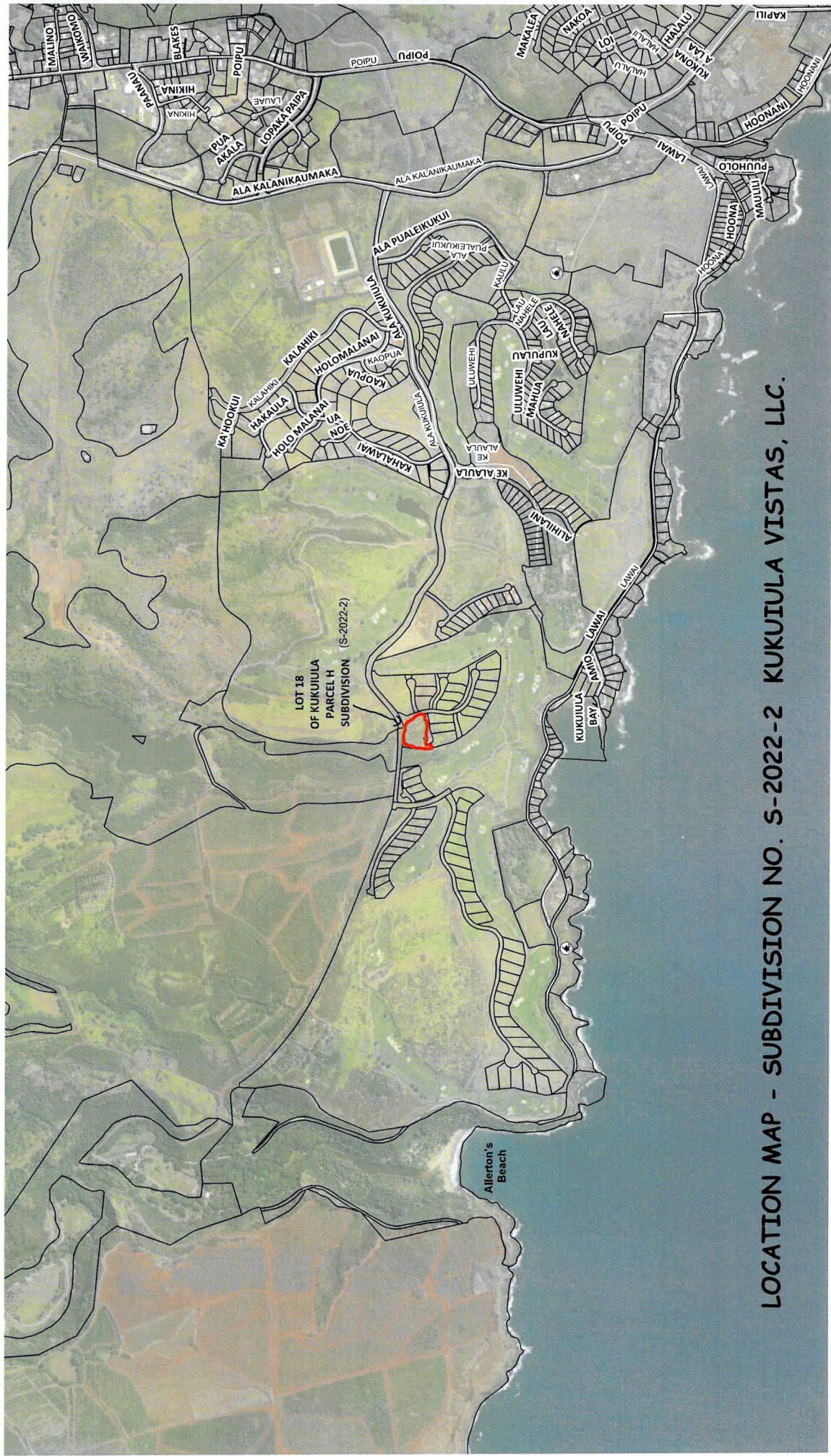
KOLOA, KAUAI, HAWAII  
Owner: Kukui'ula Vistas LLC  
TMK: (4) 2-6-22: 54  
Date: January 4, 2023



THIS WORK WAS PREPARED BY ME  
ON BEHALF OF THE CLIENT  
*[Signature]*  
REGISTERED PROFESSIONAL ENGINEER  
STATE OF HAWAII, LICENSE NO. 10000  
EXPIRES 12/15/2021

Scale: 1" = 50' (AS SHOWN)  
Date: 1/4/23  
Drawing No: 21-18-01-18-01-000-000  
1110 - Measure 5' - 1/2"  
Plot: 18-A, 18-B, 18-C, 18-D, 18-E, 18-F, 18-G

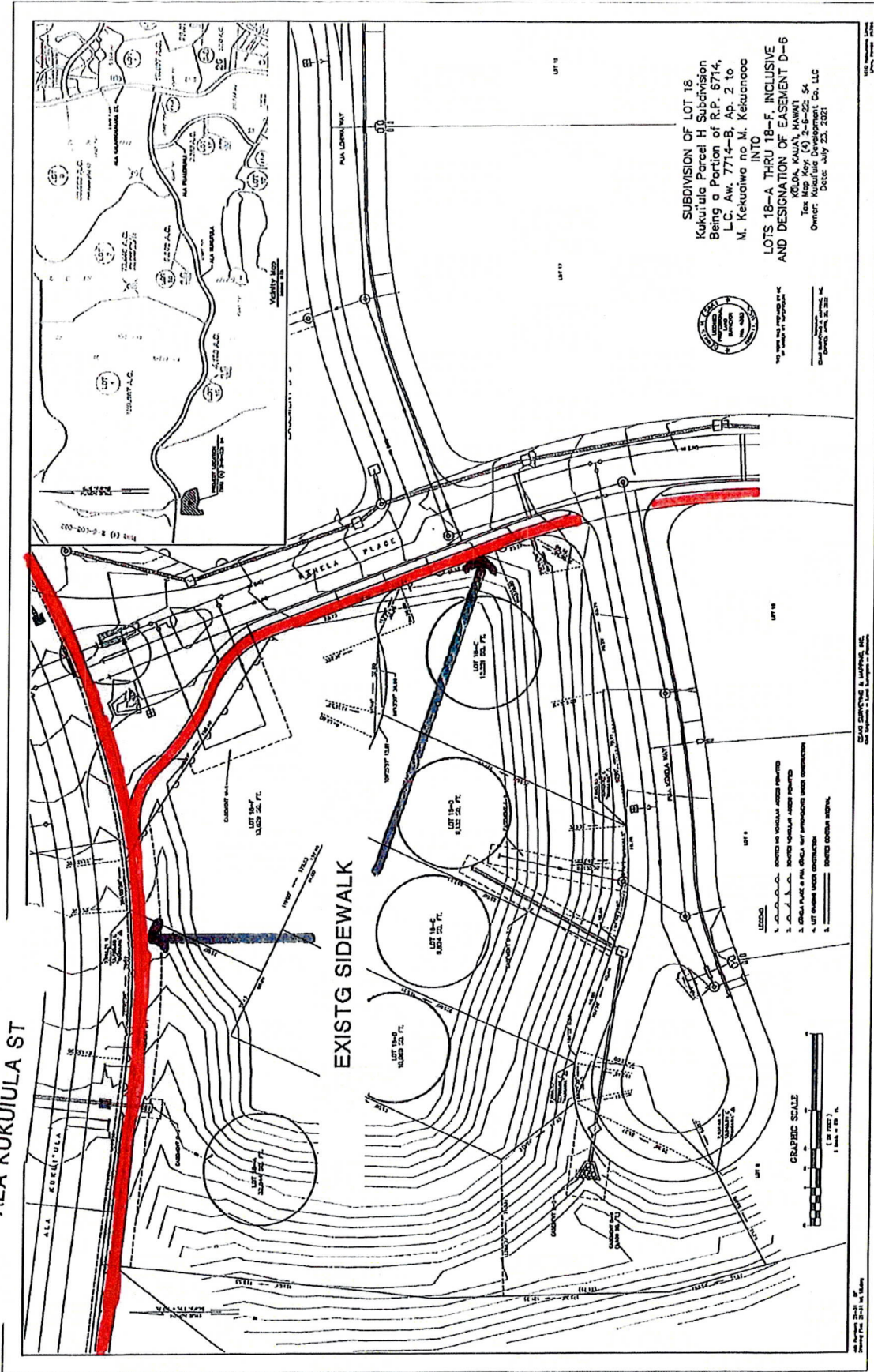




LOCATION MAP - SUBDIVISION NO. S-2022-2 KUKUIULA VISTAS, LLC.



ALA KUKUIULA ST



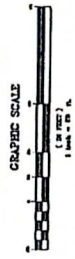
EXISTG SIDEWALK

SUBDIVISION OF LOT 18  
 Kukuiula Parcel H Subdivision  
 Being a Portion of R.P. 5714,  
 L.C. Aw. 7714-B, Ap. 2 to  
 M. Kekuaie no M. Kekuaie  
 INTO  
 LOTS 18-A THRU 18-F, INCLUSIVE  
 AND DESIGNATION OF EASEMENT D-6

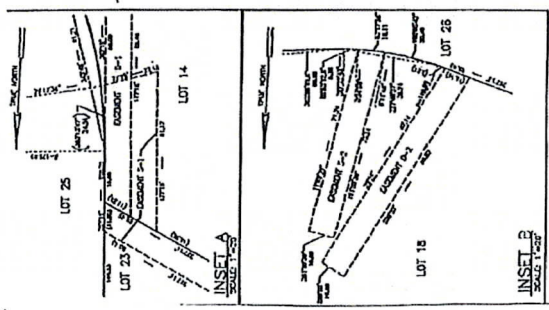
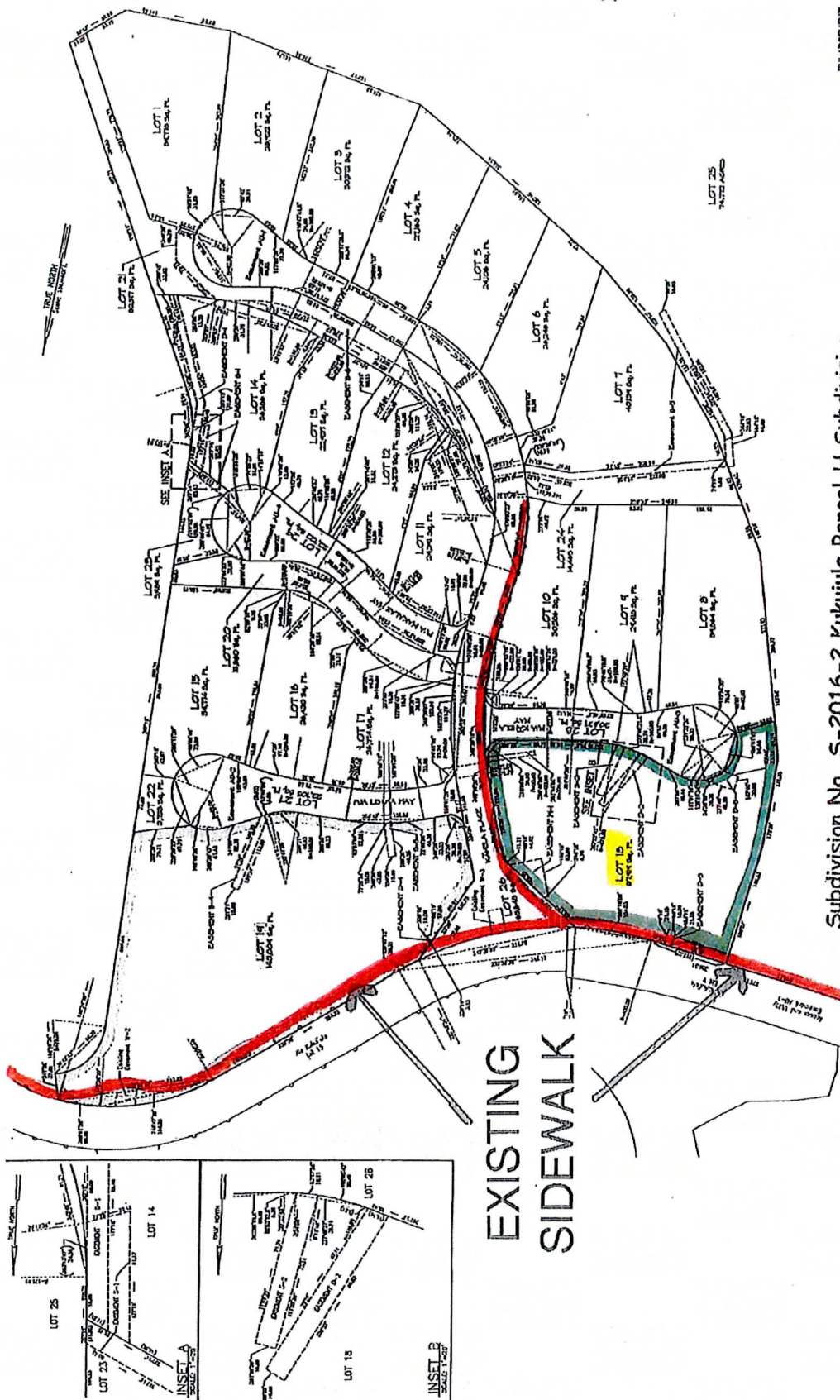


STATE OF HAWAII  
 DEPARTMENT OF LAND AND NATURAL RESOURCES  
 DIVISION OF LAND MANAGEMENT  
 1505 KALANIANA'OLA HWY, SUITE 200  
 HONOLULU, HI 96813  
 TEL: (808) 586-2500  
 FAX: (808) 586-2501  
 DATE: JULY 23, 2021

- LEGEND
- 1. LOT BOUNDARIES AS SHOWN ON PREVIOUS RECORDS
  - 2. LOT BOUNDARIES AS SHOWN ON THIS PLAN
  - 3. EXISTING SIDEWALK
  - 4. LOT EASEMENT D-6
  - 5. EXISTING LOT BOUNDARIES



CLAY SWARTZ & PARTNERS, INC.  
 1505 KALANIANA'OLA HWY, SUITE 200  
 HONOLULU, HI 96813  
 TEL: (808) 586-2500  
 FAX: (808) 586-2501  
 DATE: JULY 23, 2021



**EXISTING  
SIDEWALK**

Subdivision No. S-2016-2 Kukuila Parcel H Subdivision

ENLARGEMENT  
Scale 1" = 50' PL

DATE: 01-24-2016, 04





COUNTY OF KAUA'I  
 PLANNING DEPARTMENT  
 4444 RICE STREET, SUITE A473 LIHU'E, HAWAII 96766  
 (808) 241-4050

**SUBDIVISION APPLICATION ROUTING FORM**  
**DATE: March 30, 2023**

Subdivision Map Review and Approval			
REQUEST:	<input checked="" type="checkbox"/>	Preliminary (Revised Tentative)	<input type="checkbox"/> Final
	<input type="checkbox"/>	Pre-Final	<input type="checkbox"/> Extension
SUDIVISION APPLICATION NO:		Subdivision S-2022-2	
Owner(s)/Applicant(s):		Kukui'ula Vistas, LLC	
Name of Surveyor/Engineer/Authorized Agent:			
Tax Map Key:	Tax Map Key: (4) 2-6-022:054	Assigned to:	Kenny
Improvements:	Lot 18 of Kukui'ula Parcel H Subdivision		

**Route To:** **DPW Engineering**

COMMENTS:

- The applicant shall comply with all provisions of the "Sediment and Erosion Control Ordinance No. 808" to safeguard the public health, safety, and welfare, to protect property, and to control soil erosion and sedimentation. This shall include, but not be limited to, a grading and/or grubbing permit in compliance with the County's Sediment and Erosion Control Ordinance, which is required if any of the following conditions apply:
  - The work area exceeds one (1) acre.
  - Grading involving excavation or embankment, or combination thereof exceeds 100 cubic yards.
  - Grading exceeds five (5) feet in vertical height or depth at its deepest point.
  - The work area unreasonably alters the general drainage pattern to the detriment of abutting properties.
- During construction, best management practices (BMPs) shall be incorporated to the maximum extent practicable to prevent damage by sedimentation, erosion, or dust to watercourses, natural areas, and other properties. The permittee and the property owner shall be responsible to ensure that BMPs are satisfactorily implemented at all times.

Sincerely,

Digitally signed by  
 Michael Moule  
 Date: 2023.03.30  
 09:29:56 -10'00'

Michael Moule, P.E.  
 Chief, Engineering Division



4398 PUA LOKE STREET
LIHU'E, KAUA'I, HAWAII 96766
PHONE: (808) 245-5400 / FAX: (808) 245-5813

Water has no substitute.....Conserve it!

SUBDIVISION REPORT

TO: PLANNING DEPARTMENT
FROM: DEPARTMENT OF WATER

TMK: 2-6-022:054 NAME: Kukuiula Vistas LLC. SURVEYOR: Dennis Esaki REPORT NO: Revised S-2022-2

- 1. Domestic water is adequate. Tentative approval is recommended.
2. All requirements have been fully met and; therefore, Final approval is recommended.
3. Before final approval can be recommended, the subdivider must:
A. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
1) The Facilities Reserve Charge (FRC): 6 Lots @ \$14,115 per lot = \$ \*\* (See Item 5)
2) Payment to install, or relocate, service connections(s) at the fixed cost of \$ since final map approval, the subdivider shall be charged the increase in the fixed cost, if any.
3) Deposit (the subdivider will either be billed or returned the difference between this deposit and the actual cost of construction of \$ for construction by the DOW.
B. Submit to the Department of Water a copy of the subdivider's permit to perform work upon a State highway from the State Highways Division
C. Prepare and receive DOW's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:
1) All facilities required in the approved Kukui'ula Water Master Plan for the proposed project.
D. Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance and operation of the subdivision water system improvements installed in other than County-owned property.
E. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:
'Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kaua'i.'
This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
4. Installation of service connections will not be required until request for water service is made. The applicant for service will be charged the applicable service connection charges at that time.
5. Other (or remarks):
Kukui'ula Development Company (KDC) will be required to:
a. Submit an updated Kukui'ula Water Demand and System Capacity Tracking Matrix.
b. \*\* Be made aware that the Facilities Reserve Charge and the adequacy of source, storage and transmission facilities for the proposed Development will be dependent on the approved updated Kukui'ula Water Demand and System Capacity Tracking Matrix

Jason Kagimoto
Jason Kagimoto, P.E.
Engineering Division
Water Resources & Planning Section

2/17/23
Date

SUBDIVISION REPORT NO.

Revised S-2022-2



**JOSH GREEN M.D.**  
GOVERNOR OF HAWAII

**KENNETH S. FINK, M.D., M.G.A., M.P.H.**  
DIRECTOR OF HEALTH



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
3040 Umi St. Lihue  
Hawaii 96766

**DATE:** January 30, 2023

**TO:** **Kenneth Estes**

**FROM:** Janet M. Berreman, M.D., M.P.H.,  
District Health Officer (Acting for District Environmental Health Program  
Chief)

**SUBJECT:** RESPONSE\_Kukui'ula Vistas\_S-2022-2

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

**Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.**

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wherever possible.

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#### **Hazard Evaluation & Emergency Response Office**

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at:  
<https://health.hawaii.gov/epo/landuse/>.

#### **Indoor and Radiological Health Branch**

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

#### **Safe Drinking Water Branch**

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program:  
<https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at:  
<https://health.hawaii.gov/epo/landuse/>.

#### **Solid & Hazardous Waste Branch**

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred

options over disposal. The Office of Solid Waste Management also oversees the electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.

3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at: <https://health.hawaii.gov/epo/landuse/>.

### **Wastewater Branch**

By Revised Statute 11-62-31.1 If the parcel is less than 10,000sq feet, an individual onsite waste-water unit may not be possible for future construction. Please contact Sina Pruder at the DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at [doh.wwb@doh.hawaii.gov](mailto:doh.wwb@doh.hawaii.gov).

### **Sanitation / Local DOH Comments:**

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

### **Other**

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.

*Janet Berreman*

Janet M. Berreman, MD, MPH, FAAP  
Kauai District Health Officer  
Office Phone: (808) 241-3614



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County of Kauai  
Transportation Agency

COUNTY OF KAUA'I  
PLANNING DEPARTMENT  
4444 RICE STREET, SUITE A473 LIHU'E, HAWAI'I 96766  
(808) 241-4050

**SUBDIVISION APPLICATION ROUTING FORM**  
DATE: September 20, 2021

Subdivision Map Review and Approval			
REQUEST:	<input checked="" type="checkbox"/> Preliminary	<input type="checkbox"/> Final	
	<input type="checkbox"/> Pre-Final	<input type="checkbox"/> Extension	
SUBDIVISION APPLICATION NO:	Subdivision Permit NO. S-2022-2,		
Owner(s)/Applicant(s):	Kukuiula Vistas LLC		
Name of Surveyor/Engineer/Authorized Agent:	Dennis M. Esaki		
Tax Map Key:	Tax Map Key: (4) 2-6-022:054	Assigned to:	Kenny
Improvements:			

**Route To:**

<input checked="" type="checkbox"/> DPW-Engineering	<input type="checkbox"/> Department of Transportation - STP
<input type="checkbox"/> DPW-SolidWaste	<input type="checkbox"/> DOT-Highway, Kauai
<input checked="" type="checkbox"/> DPW-Wastewater	<input checked="" type="checkbox"/> State Department of Health
<input type="checkbox"/> Fire-Department	<input checked="" type="checkbox"/> State Historic Preservation Division
<input type="checkbox"/> Department of Parks & Recreation	<input type="checkbox"/> UH Sea Grant
<input checked="" type="checkbox"/> County Housing-Agency	<input checked="" type="checkbox"/> U.S. Postal Department
<input type="checkbox"/> KHPRC	<input type="checkbox"/> Other:
<input checked="" type="checkbox"/> County Water Department	
<input checked="" type="checkbox"/> County Transportation Agency	

COMMENTS (Comment Due Date: 10/20/2021 ):

9/28/2021

CTA HAS NO FURTHER COMMENT ON THIS PROJECT.

THANK



COUNTY OF KAUA'I  
 PLANNING DEPARTMENT  
 4444 RICE STREET, SUITE A473 LIHU'E, HAWAII 96766  
 (808) 241-4050

**SUBDIVISION APPLICATION ROUTING FORM**

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SUDIVISION APPLICATION NO:		Subdivision Permit NO. S-2022-2,	
Owner(s)/Applicant(s):		Kukuiula Vistas LLC	
Name of Surveyor/Engineer/Authorized Agent:		Dennis M. Esaki	
Tax Map Key:	Tax Map Key: (4) 2-6-022:054	Assigned to:	Kenny
Improvements:			

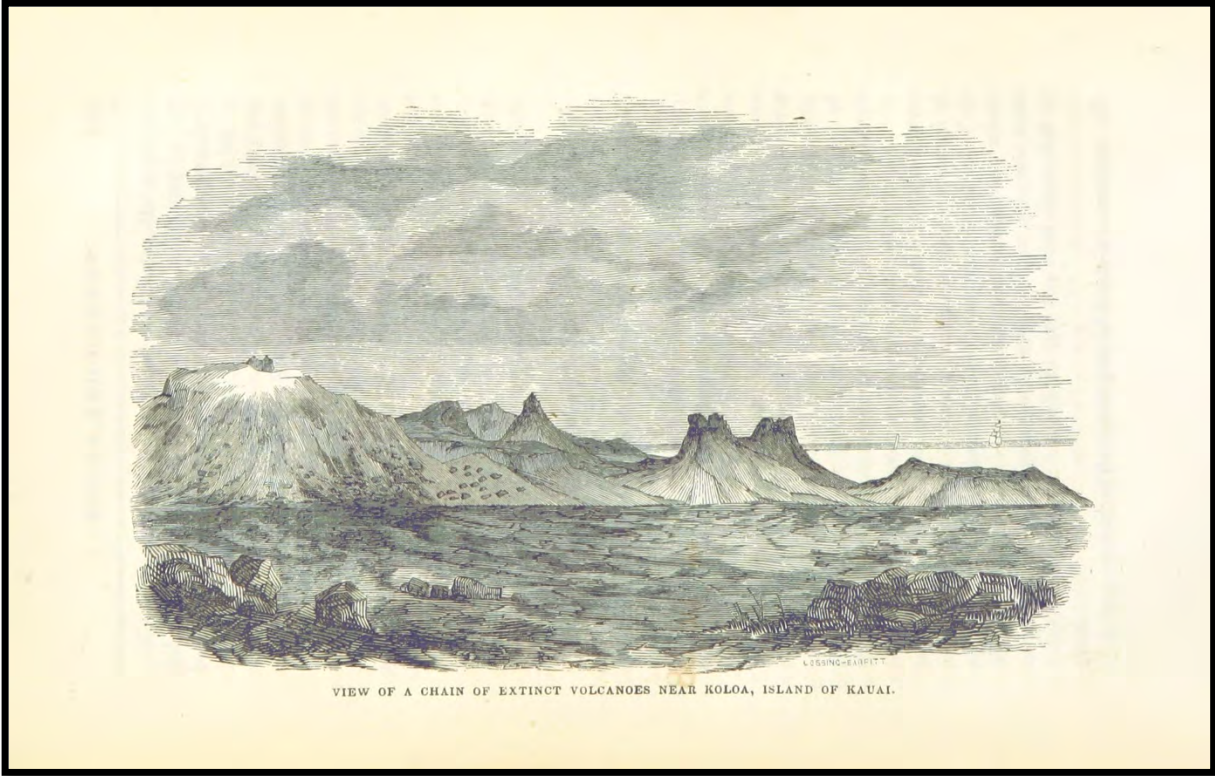
**Route To:**

<input checked="" type="checkbox"/>	DPW-Engineering	<input type="checkbox"/>	Department of Transportation - STP
<input type="checkbox"/>	DPW-SolidWaste	<input type="checkbox"/>	DOT-Highway, Kauai
<input checked="" type="checkbox"/>	DPW-Wastewater	<input checked="" type="checkbox"/>	State Department of Health
<input type="checkbox"/>	Fire-Department	<input checked="" type="checkbox"/>	State Historic Preservation Division
<input type="checkbox"/>	Department of Parks & Recreation	<input type="checkbox"/>	UH Sea Grant
<input checked="" type="checkbox"/>	County Housing-Agency	<input checked="" type="checkbox"/>	U.S. Postal Department
<input type="checkbox"/>	KHPRC	<input type="checkbox"/>	Other:
<input checked="" type="checkbox"/>	County Water Department		
<input checked="" type="checkbox"/>	County Transportation Agency		

COMMENTS (Comment Due Date: 10/20/2021 ):

*PW-WW-Property Not on County Sewer.*





Cultural Impact Assessment, Ethnographic Survey, and *Ka Pa'akai* Analysis of Three Developments in Kōloa, Kaua'i

Prepared for



County of Kaua'i 

Prepared by



June 2022

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## **Note on Hawaiian Language Use**

In keeping with other Hawaiian scholars and current Indigenous language style guidelines, we do not italicize Hawaiian words. Hawaiian is both the native language of the pae'āina (archipelago) of Hawai'i and an official language of the State of Hawai'i. Some authors will leave Hawaiian words italicized if part of a quote; we do not. In the narrative, we use diacritical markings to assist our readers, except in direct quotes, in which we keep the markings used in the original text. We provide translations contextually when appropriate. Unless otherwise noted, all translations are by Honua Consulting authors.

## **Front Cover Credit**

1854 Bates, G.W. (photographer), "Sandwich Islands Notes. By a Haole [i.e., G. W. Bates.]," British Library Digital Store 10491.d.25, Monograph, New York.

## Executive Summary

This cultural impact assessment and ethnographic survey looked to identify cultural resources and practices in Kōloa. Numerous interviews were conducted in preparation of this survey. Interviewees identified numerous practices in the Kōloa region, many of which have been practiced for numerous generations, extending back to the time before foreign contact.

Research in preparation of this report consisted of a thorough search of Hawaiian language documents, including but not limited to the Bernice Pauahi Bishop Museum Mele Index and archival documents, including the Hawaiian language archival caché. All Hawaiian language documents were reviewed by Hawaiian language experts to search for relevant information to include in the report. Documents considered relevant to this analysis are included herein, and translations are provided when appropriate to the discussion. Summaries of interviews with lineal and cultural descendants with ties to the project area are included in the study, and information on other past oral testimonies are also provided herein. Data was extrapolated from these sources that provide an unprecedented comprehensive look at the previous cultural resources on this 'āina.

This assessment thoroughly identified valued cultural, historical, and natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area. It also identifies the impacts that may potentially result from the proposed action. The primary cultural activities identified in the ethnographic data for the area were ceremonial access, trail access, and gathering. Some interviewees identified some activities to occur in the Project Areas, while other interviewees identified the activities as occurring in the larger Kōloa region.

Based on the information gathered and the assessment of the resources conducted, the project has the potential to affect cultural resources, traditions, customs, or practices, and the County should work with the project applicant to identify best management practices, conditions, and other measures to serve as the feasible action required under law to protect Native Hawaiian rights.

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**Abbreviations and Acronyms**

- AIS: Archaeological Inventory Survey
- BMP: Best Management Practice
- CIA: Cultural Impact Assessment
- CoK: County of Kaua‘i
- EIS: Environmental Impact Statement
- ESP: Environmental Review Project, Office of Planning and Sustainable Development
- HAR: Hawaii Administrative Rules
- HRS: Hawaii Revised Statutes
- ILK: Indigenous Local Knowledge
- Ka Pa‘akai: Ka Pa‘akai O Ka ‘Āina v. Land Use Commission, 94 Haw. 31 (2000)*
- LCA: Land Commission Award
- LRFI: Literature Review and Field Inspection
- LUC: State Land Use Commission
- NRHP: National Register of Historic Places
- OEQC: Office of Environmental Quality and Control
- ROI: Range of Influence
- SHPD: State Historic Preservation Division
- SIHP: State Inventory of Historic Places
- SLH: Session Laws of Hawaii
- SMA: Special Management Area
- TEK: Traditional Ecological Knowledge
- TMK: Tax Map Key
- USGS: U.S. Geological Survey

## 1.0 Project Description and Compliance

Honua Consulting, LLC is preparing this Cultural Impact Assessment, Ethnographic Survey, and *Ka Pa'akai* Analysis analysis for three proposed developments in Kōloa, Kaua'i. This analysis is anticipated to be used by the County of Kaua'i in making findings of fact as to the projects' impacts to cultural resources and practices as required under law.

### 1.1 Project Description and Proposed Action

Meridian Pacific, Ltd. (Meridian) is currently developing the Kauanoē o Kōloa project in Kōloa Ahuapa'a, Kona District, on the Island of Kaua'i (TMK: [4] 2-8-014-032 Lot 1.) Kauanoē o Kōloa will eventually extend to additional Lots in this same area. Meridian acquired this parcel in June of 2021.

Meridian also has additional planned developments in the Kukui'ula Development area of Kōloa. Parcel HH (TMK: [4] 2-6-019-029) and Parcel H: Lots 18 and 19 (TMKs: [4] 2-6-022-054 and [4] 2-6-022-055.) These developments are located seaward and west of the Kauanoē o Kōloa project (Figure 1). Meridian acquired Parcels H and HH in August and December of 2021, respectively.

(This area intentionally left blank.)



Figure 1. Meridian Pacific, Ltd. project map showing the current and future developments in Kōloa (provided to Honua Consulting, LLC by Meridian Pacific, Ltd.)

## 1.2 Background

Articles IX and XII of the State Constitution, other state laws, and the courts of the state require government agencies to protect and preserve cultural beliefs, practices, and resources of Native Hawaiians and other ethnic groups. To assist decision makers in the protection of cultural resources, Chapter 343, HRS and Hawai'i Administrative Rules (HAR) § 11-200.1 rules for the environmental impact assessment process require project proponents to assess proposed actions for their potential impacts to cultural properties, practices, and beliefs.

This process was clarified by the Act 50, Session Laws of Hawai'i (SLH) 2000. Act 50 recognized the importance of protecting Native Hawaiian cultural resources and required that some environmental review documents include the disclosure of the effects of a proposed action on the cultural practices of the community and state, and the Native Hawaiian community in particular. Specifically, the Environmental Council suggested the CIAs should include information relating to practices and beliefs of a particular cultural or ethnic group or groups. Such information may be obtained through public scoping, community meetings, ethnographic interviews, and oral histories.

There is no statutory requirement however for CIAs on these any of applicant's projects, as the environmental impact statements completed for the Kiahuna Development area (that encompasses applicant's Kauano'e o Kōloa project) and the Kukui'ula Development area (that encompasses applicant's two Kukui'ula projects) were completed in 1976 and 1989, respectively, prior to the passage of Act 50. While this CIA is being undertaken voluntarily by the applicant, it is nonetheless being prepared under applicable regulatory standards.

The County of Kaua'i has however requested that a *Ka Pa'akai* analysis be completed for the Parcel HH project in the Kukui'ula Development Area (Table 1).

Table 1. Agency action requiring analysis

County of Kaua'i Agency Action	Applicant(s)	Project and Parcel Information
Subdivision Application No. S-2022-6	Kukui'ula Development Company, LLC / MP Kaua'i HH Development Fund, LLC	Kukui'ula Parcel HH Subdivision  Proposed 51-lot Subdivision  TMK: (4) 2-6-019: 026, 029, &031  Kōloa, Kaua'i



In the Agency Requirements section of its tentative approval of Subdivision Permit Application S-2022-6, the County of Kaua'i's Planning Department included requirement 1.p. that for the most part mirrors the three-part analytical framework referred to as the *Ka Pa'akai* analysis that was an outcome of *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, 94 Haw. 31 [2000] (*Ka Pa'akai*). The County went on, in this particular Permit Application S-2022-6, to add 8 sub-components to part one of the framework such that the requirement reads:

1. p. In *Ka Pa'akai o Ka'āina v Land Use Commission*, the Hawaii Supreme Court established a three-part analytical framework to fulfill the constitutional duty to preserve and protect traditional and customary native Hawaiian rights and resources while reasonably accommodating competing private interests. Prior to the final subdivision approval, the Applicant shall describe the actions taken and examination conducted to analyze the following:

- 1) Identify whether any valued cultural, historical, or natural resources are present within the project area, and identify the extent to which traditional and customary Native Hawaiian rights are exercised. This part may include but not be limited to the following analyses:
  - o Describe the project area in relation to traditional and customary practices that occurred in the region or district.
  - o Describe the extent that traditional and customary practices were practiced in the ahupua'a and project area.
  - o Describe the community members you consulted with including their genealogical ties, long-standing residency, and relationship to region, ahupua'a and project area.
  - o Describe the Land Commission Awards provided on the property?
  - o Describe the prior archaeological studies that were conducted for the property.
  - o Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
  - o Does the property contain any evidence that trails were in existence on the property?
  - o Have any individuals ever requested access to the property for any reason?
- 2) Identify the extent to which the identified resources and rights will be affected or impaired by the proposed project.
- 3) Specify any mitigative actions to be taken to reasonably protect native Hawaiian rights if they are found to exist.

This report is intended to directly address the three main parts of this requirement that mirror the *Ka Pa'akai* framework (discussed further below). We will also directly address the first three sub-components of part one and cover all the others, save the last which is best addressed by the applicant. This survey will be submitted to the County of Kaua'i for consideration during the entitlement process specific to the Parcel HH, Kukui'ula project.

As discussed further in section 1.3 Geographic Extent, given agency guidance, case law, and existing policy, the *Ka Pa'akai* analysis herein – that aligns with the approach being followed for Parcel HH, Kukui'ula project – will cover all three of the applicant's projects that are within in the Kōloa ahupua'a.

While four of the sub-components of part one (bulleted below) will be referenced throughout this report, they will be more directly addressed as part of Agency Requirement 5 in the same tentative approval of Subdivision Permit Application S-2022-6 that reads:

5. Requirements of the State Historic Preservation Division (SHPD):

- a. The subdivider shall comply with the requirements of the State Historic Preservation Department (sic), if any, prior to final subdivision approval.

Regarding the following sub-components of the *Ka Pa'akai* framework of the County of Kaua'i's Planning Department requirement 1.p. of Subdivision Permit Application S-2022-6, SHPD – in alignment with Requirement 5 above - would be the appropriate governing entity with the prerequisite expertise to determine if these conditions have been satisfactorily addressed.

- Describe the Land Commission Awards provided on the property.
- Describe the prior archaeological studies that were conducted for the property.
- Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
- Does the property contain any evidence that trails were in existence on the property?

It is important to note that while similar in their areas of studies, archaeological surveys and CIAs are concerned with distinct and different foci. Archaeological studies are primarily concerned with historic properties and tangible heritage, whereas CIAs, or ethnographic surveys, look at cultural practices and beliefs, which can be associated with a specific location, but are also often intangible in nature. Archaeological studies are referenced in this report, particularly in the Cultural Resources section, to the extent that they inform historic practices and beliefs in particular locations and potential impact to those practices and beliefs. However, this CIA – like most - is not meant to be an exhaustive review of all prior archaeological studies.

*Ka Pa‘akai* analyses take these completed studies and assessments into consideration to evaluate both tangible and intangible cultural resources and cultural practices and beliefs, and as such, typically both archaeological studies and ethnographic studies or cultural impact assessments are utilized to complete a *Ka Pa‘akai* analysis.

As further referenced in the [1.5 Compliance](#) section below, the State and its agencies have an affirmative obligation to preserve and protect Native Hawaiians’ customarily and traditionally exercised rights to the extent feasible.<sup>1</sup> In *Ka Pa‘akai*, the Hawai‘i Supreme Court provided government agencies an analytical framework to ensure the protection and preservation of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development interests. This is accomplished through:

- 1) The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area;
- 2) The extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and
- 3) The feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.

The appropriate information concerning Kōloa has been collected, focusing on areas near or adjacent to the Project Area(s). A thorough analysis of the projects and potential impacts to cultural resources, historical resources, and archaeological sites is included in this assessment.

This cultural impact assessment and ethnographic survey provide an overview of cultural and historic resources in the Project Area(s) via a thorough literature review, community and cultural practitioner consultation, and high-level, project-specific surveys. The survey will focus on identifying areas in which disturbance should be avoided or minimized to reduce impacts to historic properties or culturally important features. The paramount goal is to prevent impacts through avoidance of sensitive areas and mitigating for impacts only if avoidance is not possible.

### **1.3 Geographic Extent**

The geographic extent for impacts to cultural resources and historic properties includes the Project Area(s) and localized surroundings. This survey also reviews some of the resources primarily covered by the regulatory review. It primarily researches and reviews the range of

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<sup>1</sup> Article XII, Section 7 of the Hawai‘i State Constitution, *Ka Pa‘akai O Ka ‘Āina v. Land Use Commission*, 94 Haw. 31 [2000] (*Ka Pa‘akai*), Act 50 SLH 2000.

biocultural resources identified through historical documents, traditional knowledge, information found in the Hawaiian language historical caché, and oral histories and knowledge collected from cultural practitioners and experts.

There is clear guidance from the Office of Environmental Quality and Control (OEQC), now known as the Environmental Review Project, Office of Planning and Sustainable Development (ESP), that recommends a geographic extent beyond the identified or typical boundaries of the geographic project area. The recommended area is typically the size of the traditional land area (ahupua'a) or region (moku), but this can be larger or smaller depending on what best helps to identify the resources appropriately.

The geographic extent of this survey is based on the position that the Project Area(s) are part of a cultural landscape or cultural landscapes and therefore it is most appropriate to set and study the proposed alternatives within that cultural context. In this case, the Project Area includes the three discontinuous Project Area(s) and surrounding area(s) in the lands considered part of the Kōloa ahupua'a, which is located in the Kona moku of Kaua'i.

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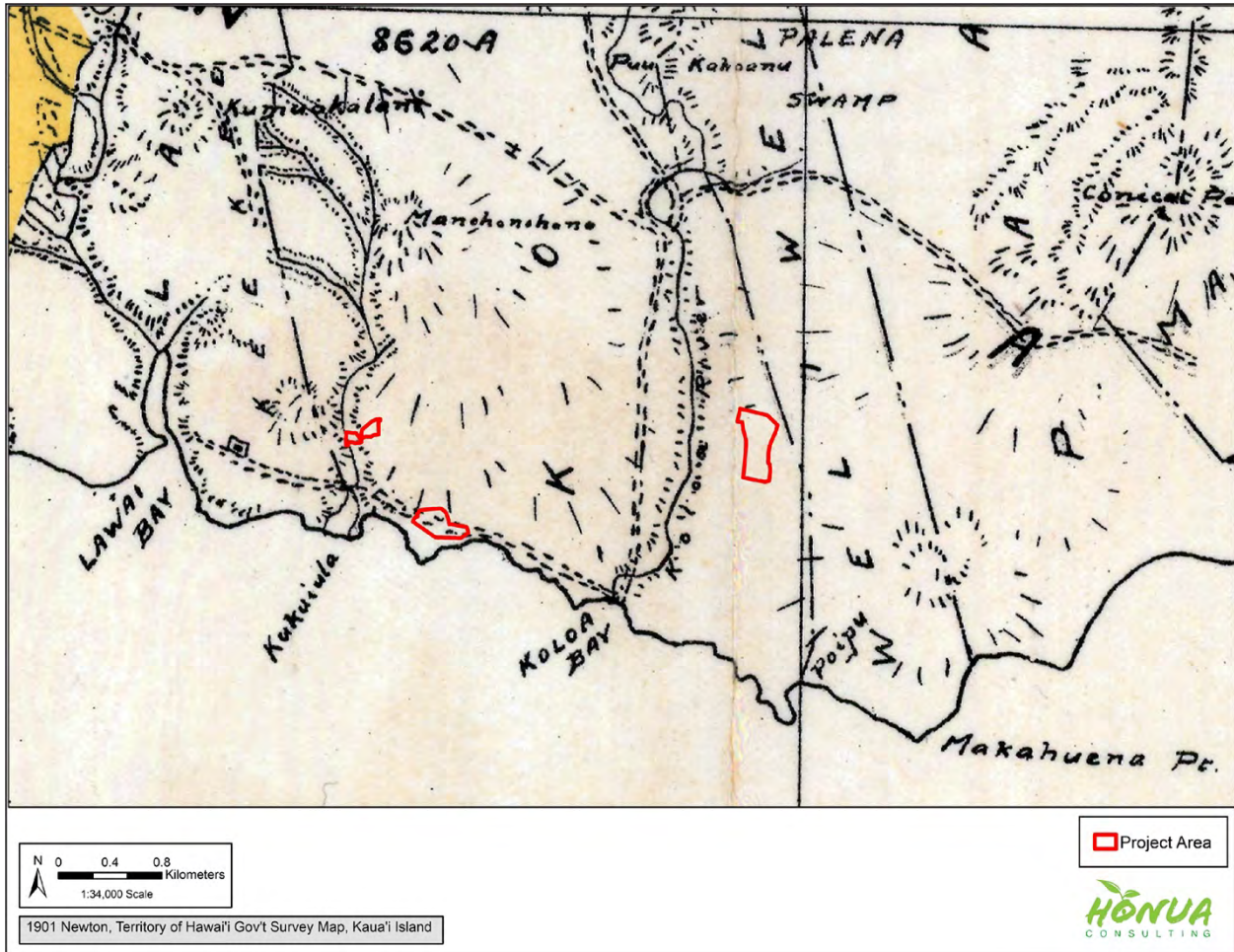


Figure 2. 1901 historic map showing the Project Areas.



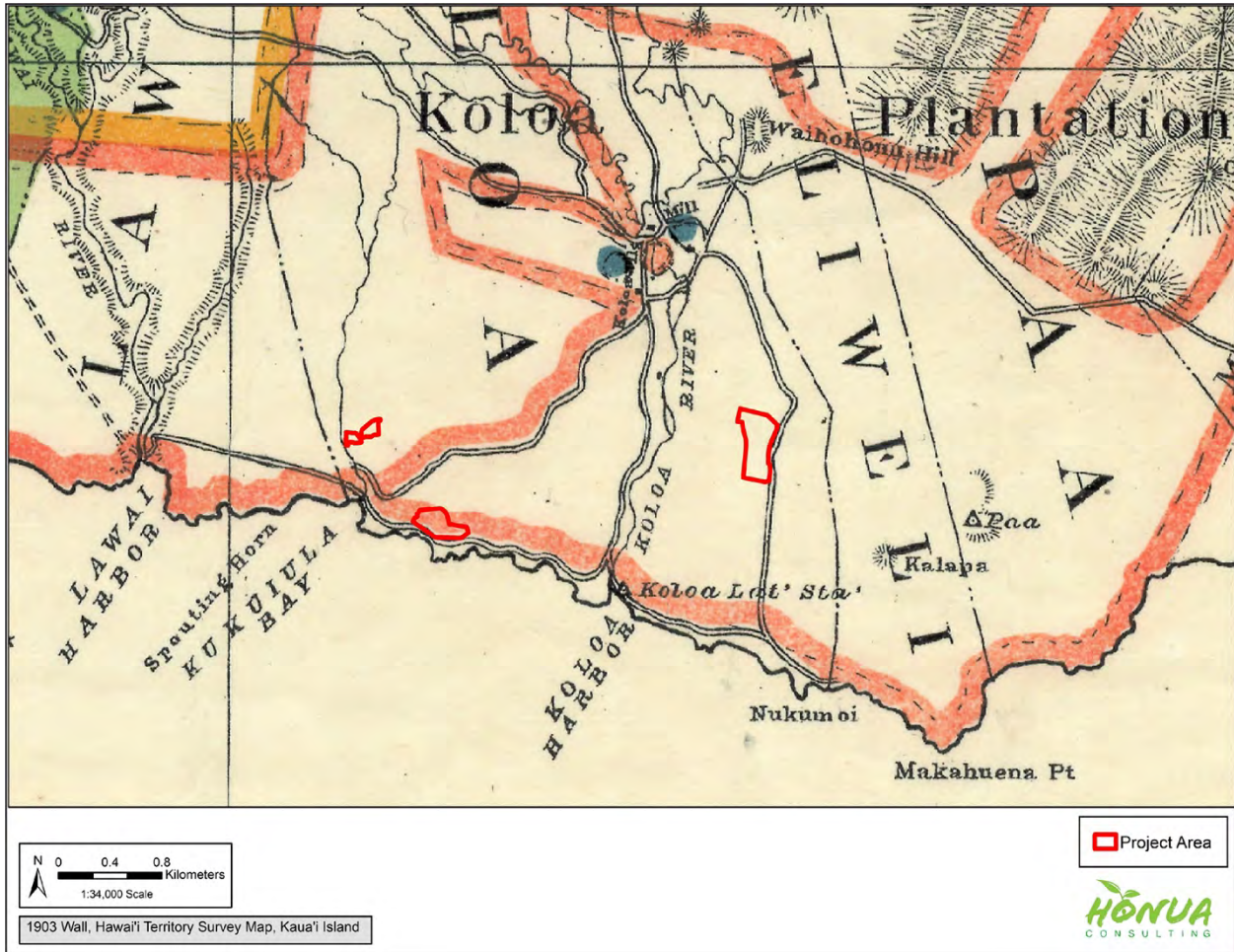


Figure 3. 1903 historic map showing the Project Areas.

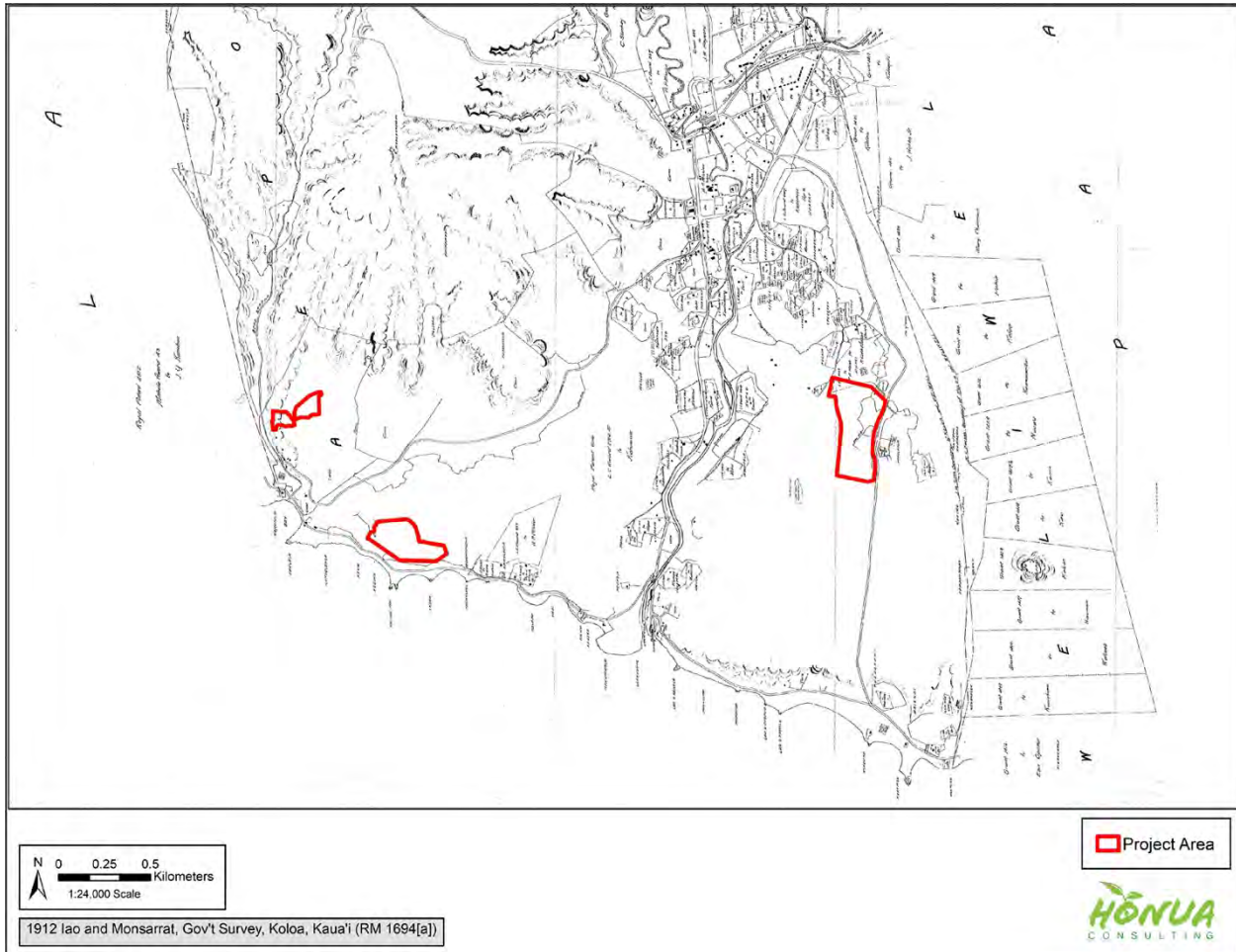


Figure 4. 1912 historic map showing the Project Areas.

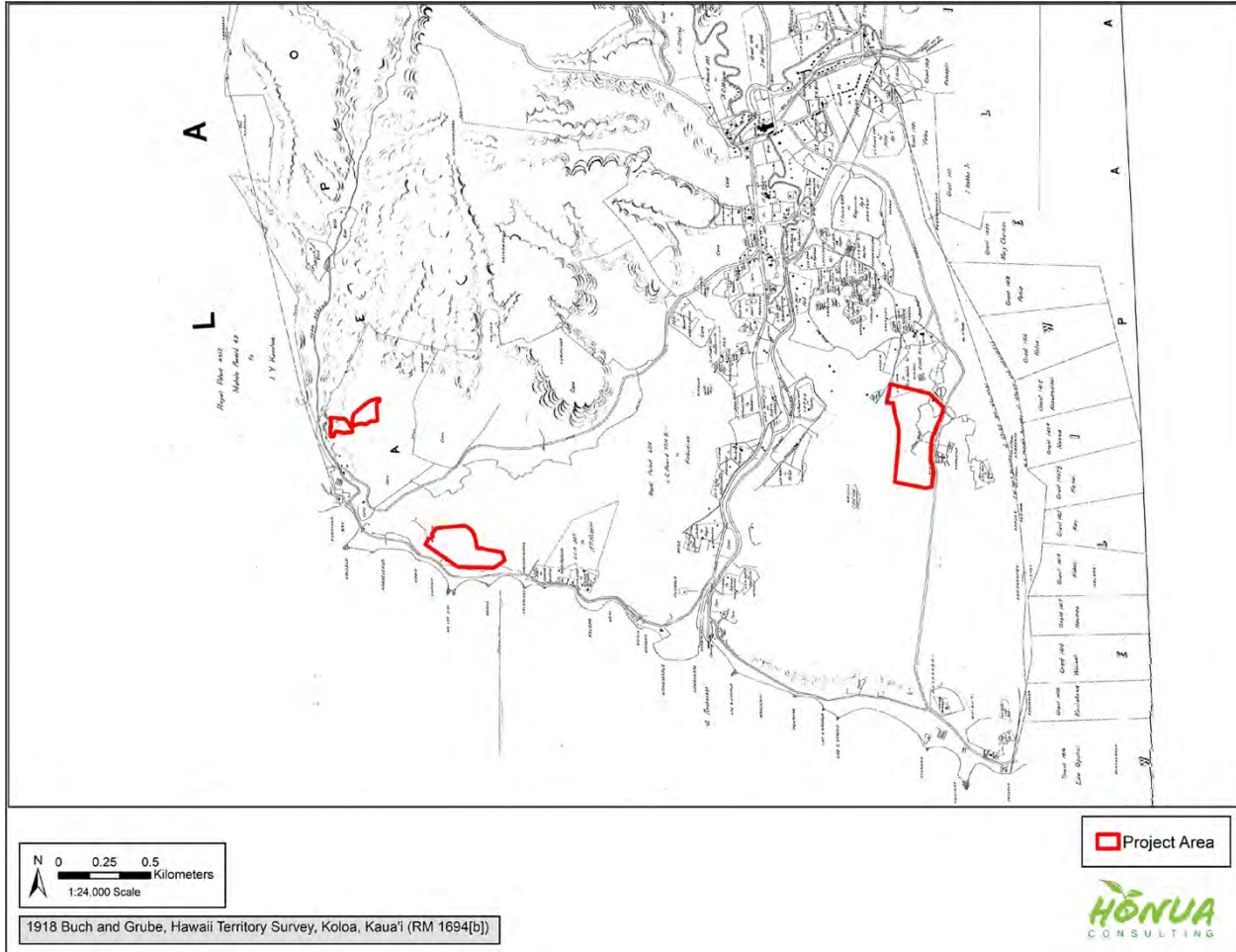


Figure 5. 1918 historic map showing the Project Areas. (This registered map shows the mauka portion of the Kauano'e o Kōloa project to include a portion of Land Commission Award 2668 R.A. Walsh for [Roman Catholic] Mission Church.)

Some of the interviewees contested the use of a single analysis for three discontinuous projects and project areas, yet, unlike other analyses which are bound to geographic area, cultural impact assessments, ethnographic surveys, and *Ka Pa‘akai* analyses are intended to look at practices within a cultural landscape. As such, existing policies on these surveys recommend a geographic extent that considers practices throughout the entire ahupua‘a instead of a geographically limited project area. Additionally, many of the informants spoke to potential impacts the individual projects could have on the entire Kōloa area and its collective community of practitioners or practices. Given, therefore, per the agency-directed guidelines, that the geographic extent is the ahupua‘a of Kōloa, we maintain that it is important to transparently identify all the applicant’s potential development activities in said geographic extent and look at the potential cumulative and indirect impacts of their actions, in addition to considering the potential impacts of the projects individually.

#### **1.4 Goal of Ethnographic Survey**

This survey looks to partially fulfill the requirement of taking into account the Projects’ potential impacts on historic and cultural resources and, at a minimum, describe: a) any valued cultural, historic, or natural resources in the areas in question, including the extent to which traditional and customary native Hawaiian rights are exercised in the area, b) the extent to which those resources – including traditional and customary native Hawaiians rights – will be affected or impaired by the Project; and c) the feasible action, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist.

#### **1.5 Compliance**

As noted previously, the State and its agencies have an affirmative obligation to preserve and protect Native Hawaiians’ customarily and traditionally exercised rights to the extent feasible. State law further recognizes that the cultural landscapes provide living and valuable cultural resources where Native Hawaiians have and continue to exercise traditional and customary practices, including hunting, fishing, gathering, and religious practices. The *Ka Pa‘akai* framework is a means to ensure the protection and preservation of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development interests.

While not attached to an HRS Chapter 343 action, this ethnographic survey was prepared under HRS Chapter 343 and Act 50 SLH 2000 as those are the prevailing standards and best practices for CIAs. These standards have been applied to this ethnographic survey, as there are currently no state standards for ethnographic surveys. The appropriate information concerning the ahupua‘a of Kōloa has been collected, focusing on areas near or adjacent to the Project Area(s). A thorough analysis of this project and potential impacts to cultural resources, historical resources, and archaeological sites is included in this assessment.



The present analyses of archival documents, oral traditions (oli or chants, mele or songs, and/or hula or dance texts), and Hawaiian language sources including books, manuscripts, and newspaper articles, are focused on identifying recorded cultural and archaeological resources present on the landscape, including: Hawaiian and non-Hawaiian place names; landscape features (ridges, gulches, cinder cones); archaeological features (kuleana parcel walls, house platforms, shrines, heiau or places of worship, etc.); culturally significant areas (viewsheds, unmodified areas where gathering practices and/or rituals were performed); and significant biocultural resources. The information gathered through research helped to focus interview questions on specific features and elements within the Project Area(s).

Interviews with lineal and cultural descendants are instrumental in procuring information about the Project Area(s)' transformation through time and changing uses. Interviews conducted with recognized cultural experts and summaries of those interviews are included herein.

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## 2.0 Methodology

The approach to developing the ethnographic survey and *Ka Pa'akai* analysis is as follows:

- 1) Gather Best Information Available
  - a) Gather historic cultural information from stories and other oral histories about the affected area to provide cultural foundation for the report;
  - b) Inventory as much information as can be identified about as many known cultural, historic, and natural resources, including previous archaeological inventory surveys, CIAs, etc. that may have been completed for the possible range of areas; and
  - c) Update the information with interviews with cultural or lineal descendants or other knowledgeable cultural practitioners.
- 2) Identify Potential Impacts to Cultural Resources
- 3) Develop Reasonable Mitigation Measures to Reduce Potential Impacts
  - a) Involve the community and cultural experts in developing culturally appropriate mitigation measures; and
  - b) Develop specific Best Management Practices (BMPs), if any are required, for conducting the project in a culturally appropriate and/or sensitive manner as to mitigate and/or reduce any impacts to cultural practices and/or resources.

While numerous studies have been conducted on this area, few have utilized Hawaiian language resources and Hawaiian knowledge. This appears to have impacted modern understanding of this location, as many of the relevant documents are native testimonies given by Kanaka Hawai'i (Hawaiians) who lived on this land.

While hundreds of place names and primary source historical accounts (from both Hawaiian and English language narratives) are cited on the following pages, it is impossible to tell the whole story of these lands in any given manuscript. A range of history, spanning the generations, has been covered. Importantly, the resources herein are a means of connecting people with the history of their communities—that they are part of that history. Knowledge of place will, in turn, promote appreciation for place and encourage acts of stewardship for the valued resources that we pass on to the future.

OEQC (now ERP) provides guidance on properly scoping the range of cultural practices. In their guidance documentation, they explain:

In scoping the cultural portion of an environmental assessment, the geographical extent of the inquiry should, in most instances, be greater than the area over which the proposed action will take place. This is to ensure that cultural practices which may not occur within the boundaries of the project area, but which may nonetheless be

affected, are included in the assessment. Thus, for example, a proposed action that may not physically alter gathering practices but may affect access to gathering areas would be included in the assessment. An ahupua'a is usually the appropriate geographical unit to begin an assessment of cultural impacts of a proposed action, particularly if it includes all of the types of cultural practices associated with the project area. In some cases, cultural practices are likely to extend beyond the ahupua'a and the geographical extent of the study area should take into account those cultural practices (OEQC 2012: 11).

Background research for the literature review was conducted using materials obtained from the State Historic Preservation Division (SHPD) library in Kapolei and the Honua Consulting LLC. report library. Online materials consulted included the Ulukou Electronic Hawaiian Database ([www.ulukou.com](http://www.ulukou.com)), Papakilo Database ([www.papakilodatabase.com](http://www.papakilodatabase.com)), the State Library online (<http://www.librarieshawaii.org/Serials/databases.html>), and Waihona 'Āina Māhele database (<http://www.waihona.com>). Hawaiian terms and place names were translated using the online Hawaiian dictionaries (Nā Puke Wehewehe 'Ōlelo Hawai'i) ([www.wehewehe.com](http://www.wehewehe.com)), *Place Names of Hawai'i* (Pukui et al. 1974), and *Hawai'i Place Names* (Clark 2002). Historic maps were obtained from the State Archives, State of Hawai'i Land Survey Division website (<http://ags.hawaii.gov/survey/map-search/>), UH-Mānoa Maps, Aerial Photographs, and GIS (MAGIS) website (<http://guides.library.manoa.hawaii.edu/magis>). Maps were geo-referenced for this report using ArcGIS 10.3. GIS is not 100% precise and historic maps were created with inherent flaws; therefore, geo-referenced maps should be understood to have some built-in inaccuracy.

M. P. Nogelmeier (2010) discusses the adverse impacts of methodology that fails to properly research and consider Hawaiian language resources. He strongly cautions against a mono-rhetorical approach that marginalizes important native voices and evidence from consideration, specifically in the field of archaeology. For this reason, Honua Consulting consciously employs a poly-rhetorical approach, whereby all data, regardless of language, is researched and considered. To fail to access these millions of pages of information within the Hawaiian language cache could arguably be a violation of Act 50, as such an approach would fundamentally fail to gather the best information available, especially considering the voluminous amounts of historical accounts available for native tenants in the Hawaiian language.

Hawaiian culture views natural and cultural resources as largely being one and the same: without the resources provided by nature, cultural resources could and would not be procured. From a Hawaiian perspective, all natural and cultural resources are interrelated, and all natural and cultural resources are culturally significant. Kepā Maly (2001), ethnographer and Hawaiian language scholar, points out, "In any culturally sensitive discussion on land use in

Hawai'i, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends and nature begins" (Maly 2001:1). As a leading researcher and scholar on Hawaiian culture, Maly, along with his wife, Onaona, have conducted numerous groundbreaking studies on cultural histories throughout Hawai'i. A substantial part of the archival research utilized in this study was previously compiled and published by Kepā and Onaona Maly, who have granted their permission to use this important work and are identified properly as associated authors and researchers of this study.

This study also specifically looks to identify intangible resources. Tangible and intangible heritage are inextricably linked (Bouchenaki 2003). Intangible cultural resources, also identified as intangible cultural heritage (ICH), are critical to the perpetuation of cultures globally. International and human rights law professor Federico Lenzerini notes, "At present, we are aware on a daily basis of the definitive loss—throughout the world—of language, knowledge, knowhow, customs, and ideas, leading to the progressive impoverishment of human society" (Lenzerini 2011:12). He goes on to warn that:

the rich cultural variety of humanity is progressively and dangerously tending towards uniformity. In cultural terms, uniformity means not only loss of cultural heritage—conceived as the totality of perceptible manifestations of the different human groups and communities that are exteriorized and put at the others' disposal—but also standardization of the different peoples of the world and of their social and cultural identity into a few stereotyped ways of life, of thinking, and of perceiving the world. Diversity of cultures reflects diversity of peoples; this is particularly linked to ICH, because such a heritage represents the living expression of the idiosyncratic traits of the different communities. Preservation of cultural diversity, as emphasized by Article 1 of the UNESCO Universal Declaration on Cultural Diversity, 'is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind'. Being a 'source of exchange, innovation and creativity', cultural diversity is vital to humanity and is inextricably linked to the safeguarding of ICH. Mutual recognition and respect for cultural diversity—and, *a fortiori*, appropriate safeguarding of the ICH of the diverse peoples making up the world—is essential for promoting harmony in intercultural relations, through fostering better appreciation and understanding of the differences between human communities. (Lenzarini 2011:103)

Therefore, tradition and practice, as elements of Hawaiian ICH, are essential to the protection of Hawaiian rights and the perpetuation of the Hawaiian culture.

## 2.1 Identifying Traditional or Customary Practices

It is within this context that traditional or customary practices are studied. The concept of traditional or customary practices can often be a challenging one for people to grasp. Traditional or customary practices can be defined as follows:



Figure 6. Diagram of elements that contribute to traditional or customary practices (Honua Consulting)

The first element is knowledge. This has been referred to as traditional ecological knowledge (TEK), Indigenous local knowledge (ILK), or ethnoscience. In the context of this study, it is the information, data, knowledge, or expertise Native Hawaiians or local communities possessed or possess about an area's environment. In a traditional context, this would have included information Hawaiians possessed in order to have the skills to utilize the area's resources for a range of purposes, including, but not limited to, travel, food, worship or habitation. This element is largely intangible.

The second element is the resources themselves. These are primarily tangible resources, either archaeological resources (i.e., habitation structures, walls, etc.) or natural resources (i.e., plants, animals, etc.). These can also be places, such as a sacred or culturally important sites or wahi pana. Sometimes these wahi pana are general locations, this does not diminish their importance or value. Nonetheless, it is important to recognize that potential eligibility as a "historic site" on the National Register of Historic Places (NRHP) would require identifiable boundaries of a site.

The third element is access. The first two elements alone are not enough to allow for traditional or customary practices to take place. The practitioners must have access to the resource in order to be able to practice their traditional customs. Access does not just mean the ability to physically access a location, but it also means access to resources. For example, if a particular plant is used for medicinal purposes, there needs to be a sufficient amount of that plant available to practitioners for use. Therefore, an action that would adversely impact the population of a particular plant with cultural properties would impact practitioners' ability to access that plant. By extension, it would adversely impact the traditional or customary practice.

Traditional or customary practices are, therefore, the combination of knowledge(s), resource(s), and access. Each of these individual elements should be researched and identified in assessing any potential practices or impacts to said practices.

## 2.2 Traditional Knowledge, or Ethnoscience, and the Identification of Cultural Resources

The concept of ethnoscience was first established in the 1960s and has been defined as “the field of inquiry concerned with the identification of the conceptual schemata that indigenous peoples use to organize their experience of the environment” (Roth 2019). Ethnoscience encompasses a wide range of subfields, including, but not limited to, ethnoecology, ethnobotany, ethnozoology, ethnoclimatology, ethnomedicine and ethnopedology. All of these fields are important to properly identify traditional knowledge within a certain area.

Traditional Native Hawaiian practitioners were scientists and expert natural resource managers by necessity. Without modern technological conveniences to rely on, Hawaiians developed and maintained prosperous and symbiotic relationships with their natural environment for thousands of years. Their environments were their families, their homes, and their laboratories. They knew the names of every wind and every rain. The elements taught and inspired. The ability of indigenous peoples to combine spirituality and science led to the formation of unique land-based mythologies that spurred unsurpassed innovation. Therefore, identifying significant places requires a baseline understanding of what made places significant for Hawaiians.

Hawaiians were both settlers and explorers. In *Plants in Hawaiian Culture*, B. Krauss explains: “Exploration of the forests revealed trees, the timber of which was valuable for building houses and making canoes. The forests also yielded plants that could be used for making and dyeing tapa, for medicine, and a variety of other artifacts” (Krauss 1993). Analysis of native plants and resource management practices reveals the depth to which Hawaiians excelled in their environmental science practices:

[Hawaiians] demonstrated great ability in systematic differentiation, identification, and naming of the plants they cultivated and gathered for use. Their knowledge of the gross morphology of plants, their habits of growth, and the requirements for greatest yields is not excelled by expert agriculturists of more complicated cultures. They worked out the procedures of cultivation for every locality, for all altitudes, for different weather conditions and exposures, and for soils of all types. In their close observations of the plants they grew, they noted and selected mutants (spores) and natural hybrids, and so created varieties of the plants they already had. Thus, over the years after their arrival in the Islands, the Hawaiians added hundreds of named varieties of taro, sweet potatoes, sugarcane, and other cultivated plants to those they had brought with them from the central Pacific (Krauss 1993).



Thus, Native Hawaiians reinforced the biodiversity that continues to exist in Hawai'i today through their customary traditional natural resource management practices.

The present analyses of archival documents, oral traditions (oli or chants, mele or songs, and/or hula dances and ha'i mo'olelo or storytelling performances), and Hawaiian language sources including books, manuscripts, and newspaper articles, are focused on identifying recorded cultural resources present on the landscape, including: Hawaiian and non-Hawaiian place names; landscape features (ridges, gulches, cinder cones); archaeological features (kuleana parcel walls, house platforms, shrines, heiau [places of worship], etc.); culturally significant areas (viewsheds, unmodified areas where gathering practices and/or rituals were performed); and significant biological, physiological, or natural resources. This research also looks to document the wide range of Hawaiian science that existed within the geographic extent.

### **2.3 Mo'olelo 'Āina: Native Traditions of the Land**

Among the most significant sources of native mo'olelo are the Hawaiian language newspapers which were printed between 1838 and 1948, and the early writings of foreign visitors and residents. Most of the accounts that were submitted to the papers were penned by native residents of areas being described and by noted native historians. Over the last 30 years, Kepā Maly has reviewed and compiled an extensive index of articles published in the Hawaiian language newspapers, with particular emphasis on those narratives pertaining to lands, customs, and traditions. Many traditions naming places around Hawai'i are found in these early writings. Many of these accounts describe native practices, the nature of land use at specific locations, and native mo'olelo (history, narrative, story). Thus, these resources are a means of understanding how people related to their environment and sustained themselves on the land.

### **2.4 Historic Maps**

There are also numerous, informative historic maps for the region. Surveyors of the eighteenth and nineteenth centuries were skilled in traversing land areas and capturing important features and resources throughout Hawai'i's rich islands. Historic maps were carefully studied, and the features detailed therein were aggregated and categorized to help identify specific places, names, features, and resources throughout the study area. From these, among other documents, new maps were created that more thoroughly capture the range of resources in the area.

## 2.5 Ethnographic Methodology

Information from lineal and cultural descendants is instrumental in procuring information about the Project Area(s)' transformation over time and its changing uses. The present analyses of archival documents, oral traditions (including oli or chants, mele or songs), and/or hula dance), and Hawaiian language sources including books, manuscripts, and newspaper articles, are focused on identifying recorded cultural and archaeological resources present on the landscape, including: Hawaiian and non-Hawaiian place names; landscape features (ridges, gulches, cinder cones); archaeological features (kuleana parcel walls, house platforms, shrines, heiau or places of worship, etc.); culturally significant areas (viewsheds, unmodified areas where gathering practices and/or rituals were performed); and significant biocultural resources. The information gathered through research helped to focus interview questions on specific features and elements within the Project Area(s).

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### 3.0 Historic Background

The purpose of this section is to characterize the Hawaiian cultural landscape within which the Project Area(s) are located, which is the ahupua‘a of Kōloa. This includes a description of Kōloa’s relevant and representative inoa ‘āina (place names), mo‘olelo (oral-historical accounts), wahi pana (legendary places), and other natural and cultural resources.

#### 3.1 Traditional Period

Kaua‘i is “the oldest geologically of the major islands of the Hawaiian chain” (Handy et al. 1972: 391). This difference in geological time accounts for notable differences between Kauai in comparison to the other inhabited islands, specifically “[its] interior mountains are less rugged and its streams have carved out real river beds” (Handy et al. 1972:391).

Kōloa is in the Kona moku (district) of Kaua‘i, which includes fourteen (14) ahupua‘a. Handy et al. describe Kōloa and its neighboring areas as:

... Pa‘a is very dry. Breadfruit, yams, and bananas were planted in the gulches.

Weliweli is about like Pa‘a. Both of these narrow land sections lie on a slight seaward promontory, Makahuena Point. W.C. Bennett (1931, p. 118) found an irrigation ditch and terraces, indicating that there used to be some wet taro grown in the area which is now dry. Desiccation may have been partly caused by clearing the woodland when the first sugar plantation on Kauai was established there.

Koloa had a stream which at its seaward end was called Waikomo (Hidden-water), suggesting that the stream much have gone underground. Three streams in upper Koloa may have watered some taro terraces, since they flow through relatively flat land, although a kama‘aina told us he knew of none. However, there were a few terraced areas, whose names we obtained, in localities now dry because the water is diverted upstream for sugar-cane irrigation. There were extensive terraces on land now planted with sugar cane near what is now Kuhio Park, seaward of Koloa Valley. There were fresh-water ponds in both Weliweli and Koloa. Possibly this was why Koloa was so named, for koloa means duck, and duck were attracted to fresh water (Handy et al. 1972: 427-428).

Handy et al. identify two important impacts of early contact in Kōloa: desiccation from clearing vegetation and water diversion.

##### 3.1.1 Mo‘olelo

Mo‘olelo (traditional narratives, stories, history) were once passed down through oral tradition and later recorded in print upon the arrival of the printing press in the 1830s. One of the

beautiful elements of Hawaiian storytelling is that many versions of mo'olelo exist, told from the perspective of storytellers who are native to varying areas. By collecting and celebrating the multiple versions of mo'olelo, the depth and breadth of Kānaka 'Ōiwi perspective about 'āina can be understood. Information about culture, language, and places are held within those stories, and can continue to live on through those mo'olelo.

Portions of many famous mo'olelo take place in the Kōloa area, some sections of which will be presented in this section in order to demonstrate the cultural significance of this 'āina. It should be noted that this is not a comprehensive list of mo'olelo, but a selection of mo'olelo to demonstrate the use of this practice in the region.

Kōloa is long-standing traditional name that has been retained into the present, while other place names in the region have largely been lost in the rapid development of mass agricultural plantations at the beginning of the 20<sup>th</sup> century when Hawai'i became a U.S. Territory. Kōloa has a rich and interesting cultural history, and there are numerous of mele and mo'olelo associated with this region. Kōloa alternatively means long sugar cane [stalk(s)] or to make a long roaring sound. One mo'olelo says the region “was named for a steep rock called Pali-o-kō-loa [cliff of long sugar cane]” (Pukui, Elbert, and Mookini 1974: 116). Koloa is also the name of a native Hawaiian duck (*Anas wyvilliana*) now called koloa maoli to distinguish it from foreign and introduced duck species which are also called koloa. Koloa were prevalent on Kaua'i and their presence is suggested in the kaona (poetic referencing) of this inoa 'āina (place name). Pīwai is one species of ducks common to the Kōloa area (Wichman 1998: 40). Multiple interpretations of Hawaiian place names are not only common, they are sometimes intentional because of the Hawaiian penchant for kaona. As H. Kekahuna observed:

The literal translation of the name Ko-loa is Long (loa) Sugarcane (ko). The name of the Hawaiian duck is koloa pronounced as a single word with a lighter o. The full-sounded word ko means success, or to succeed, as well as sugarcane, which is symbolic of success. With the same full sound the word also means the movement of a wind or current, or the drawing of the tide (ko' ke au). Thus, through the astonishing versatility and flexibility of the Hawaiian language there is for a project in Ko-loa an augury of success (ko') that is long-enduring (loa), like the moving of a current (ko') that flows afar (loa). (Kekahuna 1959: 2)

The traditional knowledge imbedded in place names reveals the history of place, people, and the depth of their traditions. Although fragmented, the surviving place names describe a rich culture. On these lands are found many place names that have survived the passing of time. The occurrence of place names demonstrates the broad relationship of the natural landscape to the culture and practices of the Hawaiian people. In *A Gazetteer of the Territory of Hawaii*, J. W. Coulter observed that Hawaiians had place names for all manner of features, ranging from “outstanding cliffs” to what he described as “trivial land marks” (1935:10). In 1902,

W.D. Alexander, former Surveyor General of the Kingdom (and later Government) of Hawai'i, wrote an account of "Hawaiian Geographic Names." Under the heading "Meaning of Hawaiian Geographic Names" he observed:

It is very difficult, if not impossible, to translate most of these names, on account of their great antiquity and the changes of which many of them have evidently undergone. It often happens that a word may be translated in different ways by dividing it differently. Many names of places in these islands are common to other groups of islands in the South Pacific, and were probably brought here with the earliest colonists. They have been used for centuries without any thought of their original meaning. (395)

Moreover, historically named locations were significant in past times and it has been observed that "Names would not have been given to [or remembered if they were] mere[ly] worthless pieces of topography" (Handy et al. 1972: 412).

In traditional (pre-western contact) culture, named localities served a variety of functions, informing people about: (1) places where the gods walked the earth and changed the lives of people for good or worse; (2) heiau or other features of ceremonial importance; (3) triangulation points such as ko'a (fishing markers) for fishing grounds and fishing sites (4) residences and burial sites; (5) areas of planting; (6) water sources; (7) trails and trail side resting places (o'io'ina), such as a rock shelter or tree shaded spot; (8) the sources of particular natural resources/resource collections areas, or any number of other features; or (9) notable events which occurred at a given area. Through place names knowledge of the past and places of significance was handed down across countless generations. There is an extensive collection of native place names recorded in the mo'olelo (traditions and historical accounts) published in Hawaiian newspapers. The mo'olelo provided below is only a very small sample of the larger body of work created by kánaka about Kōloa.

### **3.1.1.1 Pele and Hi'iakaikapoliopole**

In the famous epic tale of the two sisters, Pele, the renowned goddess of the volcano, sends her youngest Hi'iaka sister, Hi'iakaikapoliopole, on a journey across the island chain to fetch the young lover that Pele discovers in a dream, the handsome chief of Kaua'i named Lohi'auipo. On her journey, Hi'iaka grows into her goddess nature by facing many obstacles including mo'o or dangerous reptilian water guardians, lethal storms, and countless other challenges, only to find that she must revive her sister's lover using her powers to bring him back to life.

### **3.1.1.2 He Kaa no Kapunohu**

Kōloa serves as part of the setting for the mo'olelo of Kapunohu, who was a chief from Hawai'i Island. Kapunohu was famed for possessing a spear said to have magical powers called



Kanikawi. Kapunohu was also the brother of Konahuanui, who was the wife of the O'ahu chief Olopana. Kapunohu travels to O'ahu to meet with his sister. Olopana, upon seeing Kapunohu and the powers held by Kanikawi, recruits Kapunohu to be one of his warriors and sets out to battle Kakuhihewa. Kapunohu defeats Kakuhihewa, after which all of O'ahu is ruled by Olopana (Fornander 1918).

A make o Olopana, haalele iho la o Kapunohu ia Oahu nei, holo aku la ia ma ka waa a pae ma Poki i Waimea, Kauai, hele aku la ia malaila aku, a hiki i Wahiawa, malaila aku a Lawai i Koloa noho. I laila o Kemamo kahi i noho ai, he koa ia, he kanaka ikaika i ka maa ala, aohe ona lua ma ia hana o ka lima hema kona oi loa, e hiki ia ia ke maa i ka ala hookahi, i na mile eono, a i ka hiku o ka mile, pio ka ikaika o ka ala. Aole he kanaka aa o Kauai, e hakaka me Kemamo aole alii, aole koa. Nolaila, ua makau loa ia ka hele ana mai Koloa aku a Nawiliwili, aole hiki i ko Koolau ke hele mai maanei o Nawiliwili a pela ko Kona nei, aole hiki ke hele aku ma o o Koloa. No ka mea, e noho ana o Kemamo ma waena o Koloa a me Nawiliwili, me kana wahine o Waialeale.

A hiki o Kapunohu i laila, moe iho la ia a ao ae, i kau hale kamaaina, hoou ac la o Kapunohu e hele, olelo mai kamaaina: "Mai hele oe, o make auanei oe i ke koa o makou nei." Ninau aku o Kapunohu: "Owai ia koa?" "O Kemamo." "Pehea kona ikaika?" "He maa ala kona ikaika, aole e hala ka ala ke lele mai, aole hoi e nawaliwili i na mile elima, nolaila mai hele oe, o make auanei." I aku o Kapunohu: "Aole hoi ha he ikaika, he mea paani ka maa ala, na ko makou kamalii mai lewalewa, a he mea ikaika ole no." No keia olelo a Kapunohu, kaulana aku la ia a lohe o Kemamo, i iho o Kemamo: "Ae, akahi mea nana i hoole kuu maa, oia, ina he manao kona e hele mai e hoike i na ikaika o maua, e hele mai no." A lohe o Kapunohu, hele aku la ia a hiki, i mai la o Kemamo: "Ea! O oeke kanaka nana i hoole kuu ala?" I aku o Kapunohu: "Ae, owau no, no ka olelo mai a lakou nei, he ikaika oe i ka maa i ka ala. Nolaila, olelo aku au, he mea paani ia na ko makou kamalii mai lewalewa."

A lohe o Kemamo, huhu iho la ia ia Kapunohu, a olelo mai la: "E! Heaha kau pili, ekamalihini?" I aku o Kapunohu: "O na iwi ka'u pili." Ae mai o Kemamo: "Ae, a heaha hou ae?" I aku keia: "O ka waiwai iho la no ia a kamahela o na iwi, ina wau e eo, alaila make au, a ina hoi oe e eo, make oe ia'u." Ae mai la o Kemamo: "Ae ua mau ia pili ana." Olelo aku o Kemamo: "O ka pahu a kaua, e ku ai a maa, mai Koloa a Moloaa i Koolau ka pahu ia ma waena o laila ka kaua hana, a i puka ma o o Moloaa eo kekahi o kaua." Ae aku la o Kapunohu. I aku nae o Kapunohu: "O ka'u hana i ike o ka pahee, malaila no wau, o kau hana hoi i ike o ka maa, malaila no oe." Ae mai la o Kemamo. I aku o Kemamo: "Ia wai mua, i kamaaina paha, i ka malihini paha?" I aku o Kemamo: "I kamaaina ka mua, he hope ka ka malihini."

Ia wa, maa o Kemamo a pau eono maila, a i ka hiku nawaliwili, pela ka nawe hele ana

a hiki i Anahola waiho, ilaila loa i ke kukini mama o Kauai, o Kawaikuaehoe kona inoa. Pahee o Kapunohu i kana ihe, holo aku la kana ihe mai Koloa aku a Niumalu, o ka malu o ka la i ka ihe a Kapunohu, kapaia ia aina o Niumalu a hiki i keia la. Mailaila aku ka holo ana, a hiki i Kawelowai mauka o Wailua, nolaila keia inoa, e pili la, o Kawelowai, a me Waiehu, no ke komo ana o ka ihe i loko o ka wai, a lele hou, mailaila aku a Kalalea i Anahola, o ia keia puka e hamama ala a hiki i keia la, malaila aku a hiki i Moloaa, malaila aku a Waiakalua a Kalihikai maalili ka ihe, a Hanalei pau ka holo o ka ihe. A eo ae la o Kemamo hooko ia ka laua pili, a lilo ae la o Kapunohu i al holo. Kauai.

After the death of Olopana, Kapunohu left Oahu and journeyed to Kauai. Boarding his canoe he set sail and first landed at Poki, in Waimea; from this place he continued on to Wahiawa and then on to Lawai in Koloa where he settled down. There lived at this place a great warrior, by the name of Kemamo, who was noted for his great strength and skill in the use of the sling; he was without equal in its practice; his left hand was considered better than his right, and he could throw a stone for a distance of six miles and in the seventh mile its force ceased. No person in Kauai was found who could face him, not from amongst the chiefs or soldiers. Because of this man people were afraid to travel between Koloa and Nawiliwili; those on the Koolau side could not pass over to Nawiliwili and those, from the Kona side were afraid to travel toward the Koloa side, for the reason that Kemamo and his wife Waialeale lived between Koloa and Nawiliwili.

When Kapunohu arrived at Lawai he was entertained that night by some of the people of the place, and on the next day he prepared to continue on his journey. When he was ready to start, the people said: "You must not go by this way or you will get killed by our great warrior." Kapunohu then asked: "Who is this warrior?" "Kemamo." "In what is his strength?" "He is very skilful in the use of the sling. He never misses a shot, and the strength of his flying stone will go over five miles. Therefore you must not go for you will get killed." Kapunohu said: "Then he is not strong. The sling is only a plaything for the boys of our place and it is not considered of any consequence." These remarks made by Kapunohu were carried around until they reached Kemamo; so Kemamo made the remark: "Yes, this is the first time that my strength in the use of the sling has been denied. Well and good; if he desires to come and test as which of us is the stronger, let him come on." When Kapunohu heard this, he went out to meet Kemamo. Upon seeing Kapunohu, Kemamo asked: "Are you the man that has said that I have no strength in the use of the sling?" Kapunohu replied: "Yes, I am the man. It is because these people said that you are very skilful in the use of the sling, so I said, that it is the plaything with the small boys at our place."

When Kemamo heard this he became very angry toward Kapunohu and said: "What will the stranger bet on the proposition?" Kapunohu replied: "My life will be my stake."

“Yes,” said Kemamo, “and what else?” Kapunohu replied: “That is all a traveler takes with him. If you beat me my life shall be forfeited, and if I should beat you your life shall be forfeited.” Kemamo agreed to this and the bet was declared made. Kemamo then said: “The course over which we shall compete in throwing the stone with the sling, shall be from Koloa to Moloaa in Koolau. We must make our throws over these points and toward Moloaa; whoever throws the greatest distance beyond Moloaa wins.” Kapunohu replied: “Yes, I will agree to that, but I am going to use my spear while you use your sling.” Kemamo agreed to this. Kemamo then asked: “Who shall take the first chance? Shall it be the stranger, or shall it be the native son?” Kapunohu answered: “Let the native son take the first chance and the stranger the last.”

Kemamo then took up his sling and threw his stone, which went six miles and over, and it only fell and rolled after it had entered into the seventh mile, stopping at Anahola, where it was picked up by the best runner of Kauai, a man by the name of Kawaikuauhoe. Kapunohu then threw his spear, darting along from Koloa and over Niupalu, and as it shielded the sun from the coconut trees at this place the land was given the name of Niupalu, as known to this day; then it went on and into the water in upper Wailua, giving the place the name of Kawelowai as well as the land next to it which is called Waiehu; from this place it again took an upward flight flying along till it pierced through a ridge at Anahola, which is called Kalaea, leaving a hole through it, which can be seen to this day; from this place it went on past Moloaa, then past Waiakalua, then into Kalihikai, where it grew weaker and finally stopped at Hanalei.

Kemamo was therefore beaten and the conditions of their bet were carried out. Kapunohu became thereby king of Kauai (Fornander 1918).

### 3.1.2 Inoa ‘Āina

Honua Consulting developed a list of place names from the ahupua‘a of Kōloa in the vicinity of the Project Area(s), which includes but is not limited to the following places and terms, to help guide research and analyses (Table 1). The development of this list stemmed from extensive research into a wide range of documents related to the project area. In many cases, land divisions would be referred to as both ahupua‘a and ‘ili, depending upon the document. It was also unclear from documents where land was identified as ‘ili as to if the ‘ili were simply a subdivision of larger ahupua‘a or if they were ‘ili kūpono, distinct land areas unto themselves.

Historic maps were also reviewed to help identify specific place names within the region.

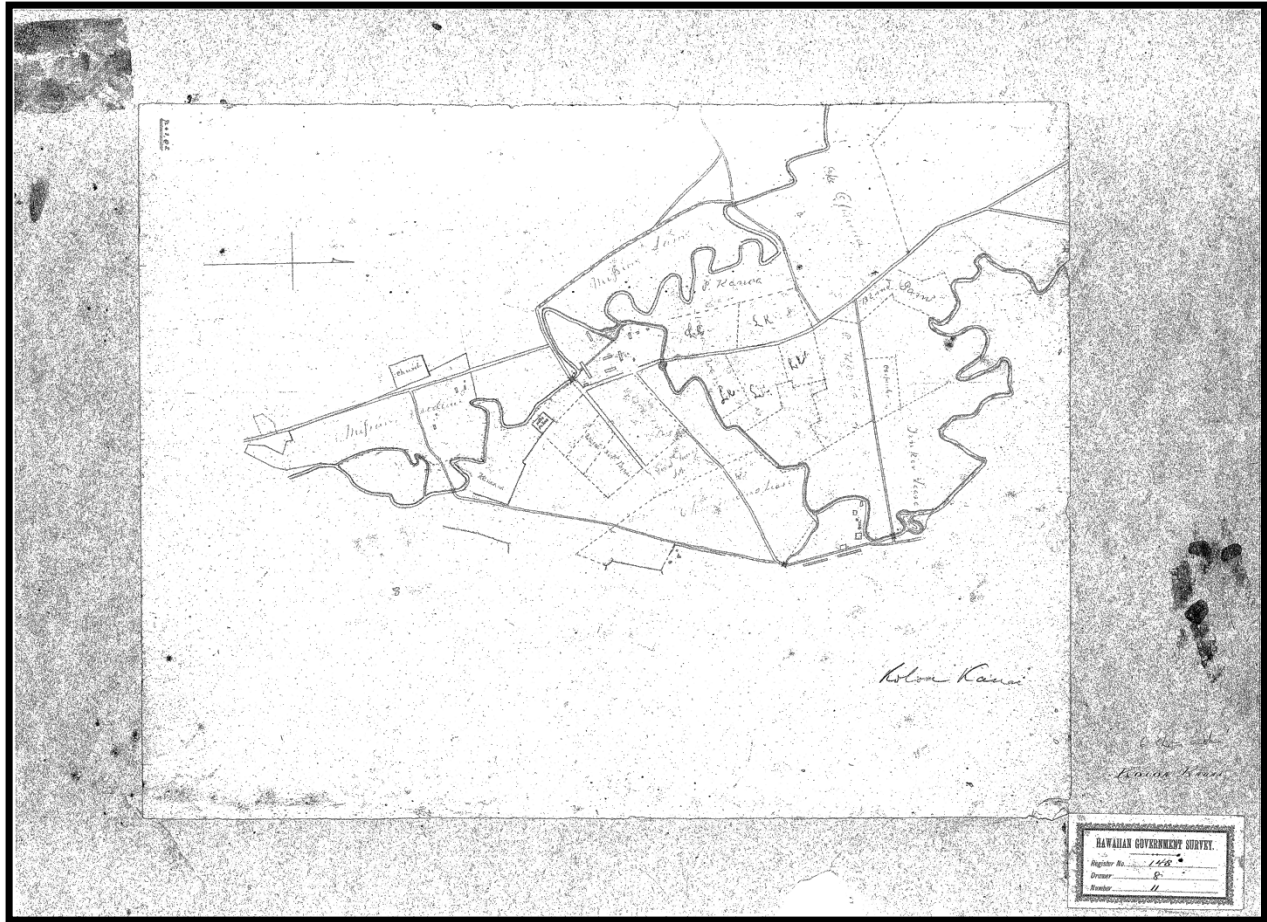


Figure 7. Registered Map 148 showing Kōloa Village (Metcalf 1849)







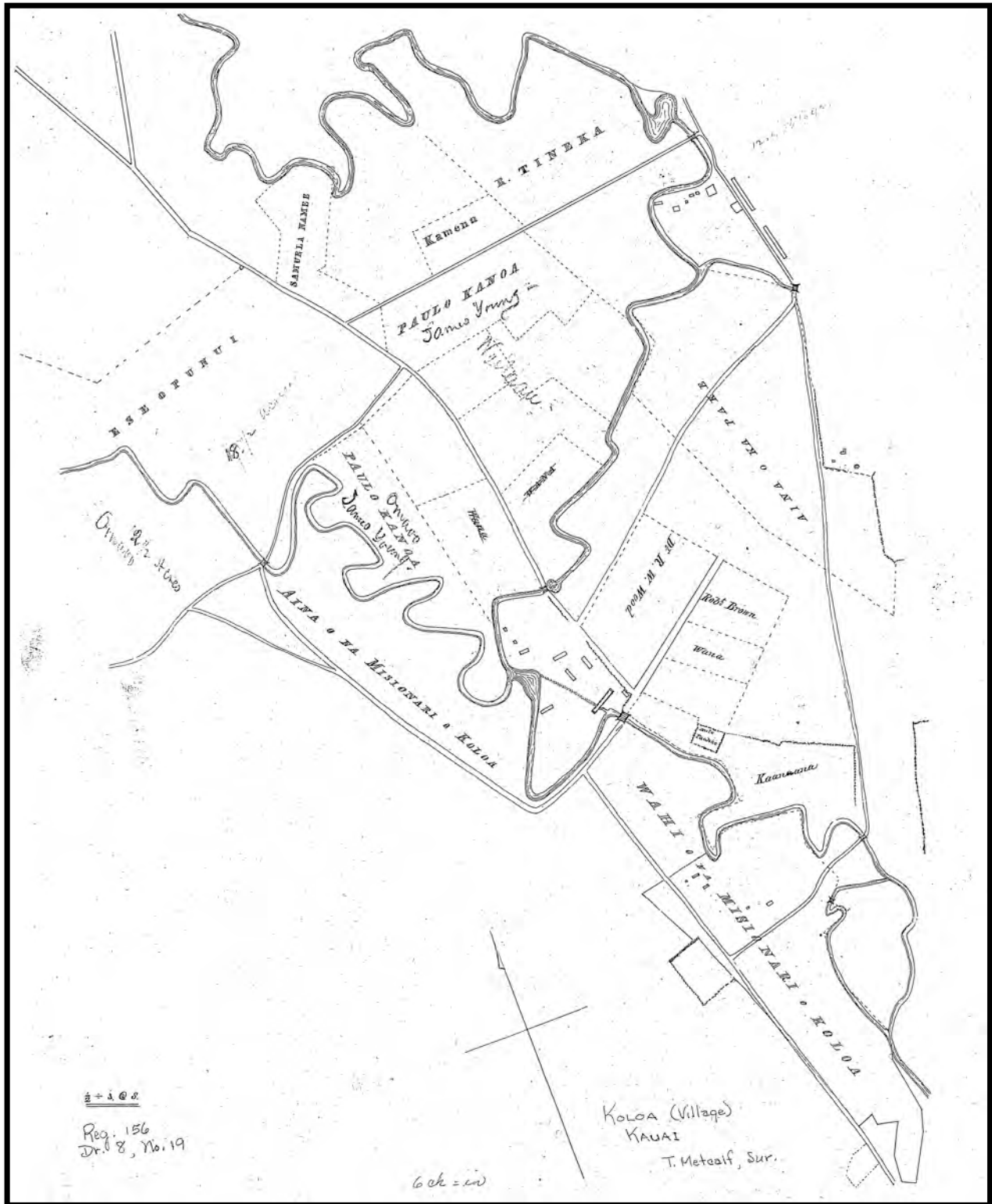


Figure 9. Registered Map 156 showing Kōloa Village (Metcalf 1849)

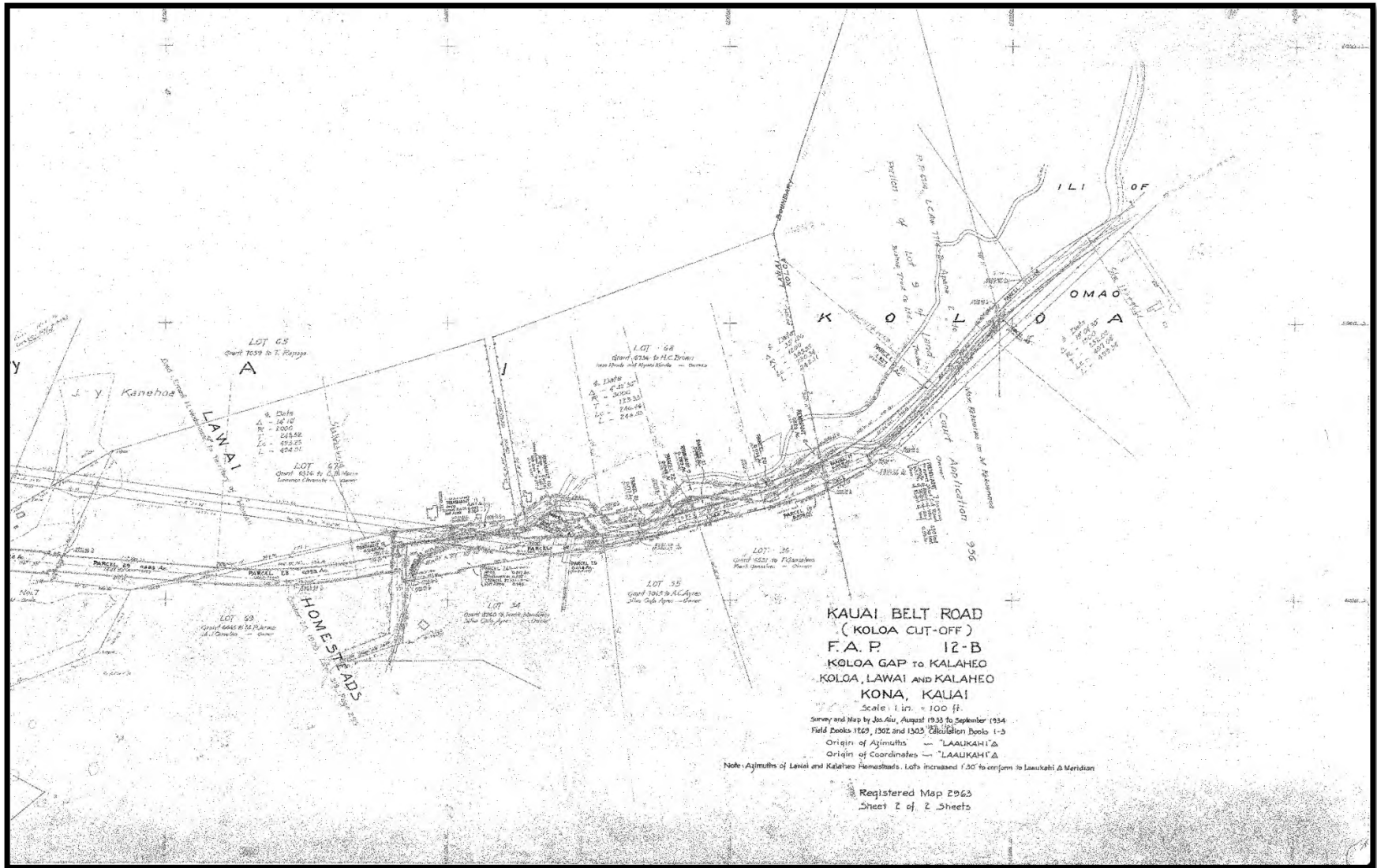


Figure 10. Portion of Registered Map 2963 showing Kōloa (Aiu 1934)

## Historic Background

From the historical land records, there appeared to be little concern for specific boundaries, as foreigners, many of them missionaries who converted to businessmen, eagerly maneuvered their relationships with the new formalized government to acquire themselves strategically located parcels of land that proved valuable as new capitalist economic industries like sugar developed across the islands, including on Kaua'i; Kōloa is the location of the first successful commercial sugar plantation, which began in 1835 (Pukui, Elbert, and Mookini 1974: 116).

Table 2. Selected Inoa 'Āina of Kōloa

Selected Place Names of Kōloa Ahupua'a in Vicinity of the Project Area(s)			
Inoa 'Āina (Place Name)	Description	Meaning	Reference
'Ālanapō	Heiau where the Kaua'i hero Palila was taken by his grandmother to be raised by the gods.	Night offering	Fornander; Wichman 1998
'Ēkaha	Bay to the east of Ka Lae Kīkī	'Ēkaha (bird's nest fern) bay; also, a kind of seaweed	Google maps, Google Earth
Hālauakalena	Heiau dedicated to the mo'owahine Kihawahine	Shed [to store] 'ōlena (tumeric) [roots]	Wichman 1998
Hanakā'ape	A small harbor or bay along the shoreline later called Whalers' Bay and now Kōloa Landing	Bay of the 'ape ( <i>Alocasia macrorrhiza</i> , <i>Xanthosoma robustum</i> ) plant; headstrong bay	Wichman 1998
Hanakalaua'e	Heiau located at Mahaulepu; destroyed by Frendenberg to build cattle pens (Thrum)	Bay of the laua'e fern	Bennett 1931
Hō'ai	Beach near Kaheka and Kolopā	To feed	Google map
Ho'oleinakapua'a	Located next to a small pond along Waikomo stream	Place to throw the pig	Wichman 1998

	above the pond of Mauhili		
Humu'ula	Land area in Kōloa where the heiau 'Ālanapō was located	Red jasper stone used for adze making	Fornander; Wichman 1998
Kāheka	Land area; n.d.	Shallow pool	Google maps
Kāhili	3,016 ft. high mountain peak on Wai'ale'ale that marks the mauka boundary of Kōloa ahupua'a; waterfall	The royal feather standard	PNH
Ka Lae Kīkī	Point	Spouting; name of a bird	Google Earth
Kamo'oloa	Mauka plains area below Kāhili; site of many battles	The long ridge or lizard	Wichman 1998
Kānehā'ule	Heiau located at Kaunu'ie'ie where "rites of circumcision" were preformed (Thrum)	Kāne falling	Bennett 1931
Kāneiolouma	Heiau for sports and food. Located just inland of Po'ipū beach. Part of a larger complex documented by Kekahuna.	Kāne who drove and pushed	Kekahuna map; kaneiolouma.org; P. Young blog
Ka'ōleloohawai'i	Rock located just below Waihānau rock at Mauhili pool. Brought to this location by the Kaua'i chief Kaweloleimakua from Hawai'i Island.	The language of Hawai'i	Wichman 1998
Kapōhakau	1,4000 ft. Peak on Kāhili mountain;	The placed or set rock	Wichman 1998

## Historic Background

	mauka boundary point separating the ahupua'a of Lāwa'i from Kōloa.		
Kapunakea	Pond, Mahaulepu	The white coral	Bennett 1931
Kauhu'ula	Ridge on Kāhili that divides the East Kona from the Puna moku	The red uhu (parrot) fish	Wichman 1998
Kaunu'ie'ie	Land area near a small east branch of 'Ōma'o stream. Site of Kānehā'ule heiau	n.d.	Bennett 1931
Keonelo	Beach, petroglyph site	The long sand	Bennet 1931
Kiahuna	Beach; no data	n.d.	
Kihouna	Point; walled heiau (130 by 89 feet)		Bennet 1931
Kōloa	Ahupua'a, town, stream, reservoir.	Long sugar cane stalk or long roaring sound	PNH
Kolopā	n.d.		Google Earth
Kū'ia	Stream	Obstructed	
Kukui'ula	Bay, surf site	Red kukui (light)	PNH, HPN
Lae o Kāhala	Point, immediately west of Hanakā'ape and Waikomo stream	Point (cape) of the kāhala ( <i>Seriola dumerilii</i> ) or amberjack fish	Google Earth
Lae o Ka'ōpua	Point; n.d.		Google Earth
Lāwa'i	Ahupua'a bordering Kōloa to the west; gulch, stream; considered part of Kōloa district in some sources	Day to end fishing kapu	PED, PNH
Louma	A small heiau dedicated to Lono and built by Kapueomakawalu with stones brought	n.d.	Wichman 1998



	<p>from O’ahu. Also attributed to menehune. Offerings of pigs, red fish, and vegetable were given here. Possibly the same as Kāneioulouma.</p>		
Makahū’ena	Point at Po’ipū	Eyes overflowing heat; very angry eyes or face	PNH, HPN
Manini	A ko’a (fishing shrine) dedicated to the shark deity Kūha’imoana located along the Kōloa shoreline	A silverreef surgeon fish ( <i>Acanthurus triostegus</i> ) with black stripes; also varieties of kalo, ‘uala, and kō	Wichman 1998
Mauhili	Fresh water pool located in Waikomo stream; sleeping forms of the gods Kāne and Kanaloa are found here. Wichman renders the name as “Maulili.”	Entangled; interwoven	PNH (HM 65)
Maulili	Alternate name for Mauhili, a deep pool located in Waikomo stream about midway through the ahupua’a. Home of the mo’owahine Kihawahine; when she was there, the water turned red, warning of her presence.	Constant jealousy	Wichman 1998
Maulili	Heiau built by Kapueomakawalu, who used it as a		Wichman 1998

## Historic Background

	luakini for human sacrifice. Location was lost, until 'Aikanaka sought it out and had the heiau rebuilt.		
Nahumā'alo	Point, west of Hanakā'ape	Bite in passing	PNH
Nukumoi	Tomobolo or point, west side of Po'ipū beach	Moi or threadfish ( <i>Polydactylus sexfilis</i> ) snout	HPN
'Ōmao	Stream	Green	Wichman 1998
Pa'a	Small ahupua'a once part of Kōloa; sand dune burial site	Secure	Bennett 1931
Pā'ōhi'a	Stream	'Ōhia log fence	
Pihakekua	n.d.	The full back	Google maps
Pō'ele'ele	Stream	Black night	Wichman 1998
Po'ipū	Beach	Completely overcast; crashing, as waves	PNH, HPN
Punahoa	Land area (fresh water spring?), just inland of Hanakā'ape bay; n.d.	Companion spring	Google Earth
Pu'u o Hewa	Hill, inland of Kōloa town. Location of a hōlua sled site	Hill of wrongdoing	Bennett 1931
Waihānau	Stone located on the eastern bank of Mauhili pond.	Birthing waters	Wichman 1998
Waihohonu	Hill, stream. A "hole" was formed here when the hero Palilo felled a tree with a single stroke.	Deep fresh water	PNH (HM 414-415)
Waikomo	Stream; both 'Ōmao and Pō'ele'ele streams join to	Entering fresh water	PNH; Wichman 1998

	create Waikomo; named “because from time to time the stream disappears for a bit before reappearing farther down the slope” (Wichman 1998: 40)		
Wai’ohai	Beach, surf site, fresh water spring	‘Ohai nectar	Kekahuna map; HPN
Waiopili	Heiau, Mahaulepu, northeast of Kapunakea pond		Bennett 1931
Waitā	Fresh water reservoir, originally called Kōloa		PNH
Weliweli	Ahupua’a bordering Kōloa to the east; po’okanaka heiau located along the shore	Revered, respected; feared, dreadful; immense, prolific	PED; Bennett 1931
Weoweopilau	Stream below the plains of Kamo’oloa	Rotten big eye (‘āweoweo) fish or sugar cane; spoiled red banana	Wichman 1998

### 3.1.2.1 Maulili

In *Place Names of Hawai’i*, Elbert, Pukui and Mo’okini identify a fresh water pool located in Waikomo Stream as Mauhili. They note that it is the location where the gods Kāne and Kanaloa come ashore, and that “sleeping forms of the gods” are found here (224). In *Kaua’i Place Names*, F. B. Wichman says this place name is Maulili, “a deep pool located in Waikomo stream about midway through the ahupua’a” ( ). Maulili is a home of the mo’owahine Kihawahine, and that she was present, the water turned red ( ). This story of Kihawahine is similar to one for her river mouth home on the other side of the island in Kīlauea river. Wichman also says that Maulili is the name of a luakini heiau built here by the ancient chief Kapueomakawalu, and that its location was lost until the later chief ‘Aikanaka searched for it, found it, and had the heiau rebuilt ( ). In an 1876 article in the newspaper *Ka Lahui Hawaii*, D. Keaweamahi describes Maulili on a visit to Kaua’i.

Aia no hoi ma keia wahi, he kawa auau no na 'Ili, o Maulili ka inoa, aia no hoi i keia kawa ke alelo o Hawaii, he pohaku, a maluna ae o keia kawa he mau oawa, oia ka kahi o Kane a me Kanaloa i moe ai, he mau kanaka, aia no hoi ilaila na koi pohaku a laua i oki ai i ka puu pahoeheoe a kahe ai ka wai i Maulili. A mahope iki aku olaila kahi i kauia'i o Kawelo i ka lele mahope iho o kona hailukuia ana i ka pohaku i Wahiawa, me ka manao ia ua make, aka, i ka wa i manao ia ai e make, ua ala mai la kela a hele, a o ke ola no ia o Kawelo. Ua kokoke loa keia wahi ma ka hale noho o Rev. Mahoe. A ma keia aina no hoi he hui mahiko, aole nae e wili ana ke ko i ko'u wa ilaila, a o ka ona nona keia mahiko, o Charman. (Keaweamahele, "Huakai Makaikai ia Kauai," *Ka Lahui Hawaii*, August 10, 1876: 3)

Here at this place is a leaping place into a pool for the chiefs called Maulili. This leaping stone is a tongue of Hawai'i, a stone, and above this stone are valleys, the place where [the gods] Kāne and Kanaloa slept, two men, there are located adze stones they cut so that in the smooth lava hill so that the fresh water flowed into Maulili. Right above this place is where [the chief] Kawelo hid from being stoned by the rocks of Wahiawa, where it was believed he was dead, however, he escaped with his life. This place is close to the house of Rev. Māhoe. This is the land indeed of the sugar plantations, although no sugarcane was being harvested while I was there; the owner of this plantation is [Mr.] Charman.

### 3.2 Kingdom and Historic Era

Kōloa would be impacted by foreign contact within a few decades of the time in which Captain Cook first happened upon the Hawaiian Islands. There are accounts of Chinese immigrants and other foreigners to the islands growing and cultivating sugar in Kōloa in the early 1800s (Alexander 1937:1-2). Kōloa would already be largely under the control of settlers when the Kingdom began to adjust its land tenure system to suit the needs of foreign business who steadily pressured the Kingdom to westernize its government.

The Kingdom Government passed modern boundaries outlined in the 1859 Civil Code "For taxation, educational, and judicial purposes..."(Civil Code of 1859, Section 498). In this, it specifically stated of Kaua'i and Ni'ihau:

The islands of Kauai and Niihau shall be divided into six districts, as follows: 1. From Nualolo to Hanapepe, inclusive, to be styled the Waimea district; 2. From Wahiawa to Mahaulepu, inclusive, to be styled the Koloa district; 3. From Kipu to Kamalomalo, inclusive, to be styled the Lihue district; 4. From Anahola to Kilauea, inclusive, to be styled the Anahola district; 5. From Kalihiwai to Honopou, inclusive, to be styled the Hanalei district; 6. Niihau.

This was the beginning of the district known as the modern Kōloa district. From historic records, identifying the differences between which land areas were consider ahupua'a versus 'ili can be challenging.

This determination mattered not only in regard to disposition of land, but for tax purposes. The Laws of 1848 called for property taxes to be paid to the Kingdom accordingly:

All landed divisions, denominated Ili, through the islands, shall pay a yearly tax, as follows:

- Ili No. 1, five dollars.
- Ili No. 2, three dollars.
- Ili No. 3, one dollar and a half.

In those parts of the islands where there is no distinct division into ilis, but merely into ahupuaas, each ahupuaa shall pay a yearly tax for support of the government, as follows:

- Ahupuaa No. 1, ten dollars.
- Ahupuaa No. 2, five dollars.
- Ahupuaa No. 3, three dollars.

This tax however, may be diminished, at the discretion of the tax officer, he keeping in view, not merely the size of the land, but also the number of its occupants and its value, and preserving a just proportion between said value and the taxation.

This shift to the use of the 'auhau tax system and away from a ho'okupu tribute system marked a significant social and political change for the young monarchy. Until approximately 1839, kānaka effectively paid taxes to the chiefly class through the sharing of crops or crafts. In the early to mid-1800s, the kingdom began to codify this tax, and it changed from food and materials goods into the need to pay the tax in cash. The new government's need for money, particularly against the influx of foreigners, motivated this change (Woods 2011).

Eventually, the growing pressure from Westerns began to erode the authority of the Kingdom, Woods explains: "Unlike previous laws, these new laws from 1850 to 1852 completely separated the Kingdom from its traditional kapu laws and weakened the monarchy as the Kingdom conformed to a constitutional government and Western-style law. The tax law of 1850 reflected this rush toward Westernization. In a major change, for the first time, the Kingdom required payment of taxes in currency only (Woods 2011: 27). A 1935 description explained the resulting changes:



The system of land tenure which prevailed in ancient times was radically changed in the reign of Kamehameha III by the Mahele of 1848, yet the boundaries of the ancient subdivisions of land remain unchanged to the present day. This applies particularly to the ahupua'a which has been termed the unit of land in Hawaii; the boundaries of ahupua'a are said to have been "fixed about twenty generations back in Hawaiian tradition," or about five hundred years ago if the Stokes based of chronology is used. The district boundaries were fixed at the same time as that of the ahupua'a, and there is no known instance where an ahupua'a boundary overruns an ancient district boundary.

Since the advent of legislative government, or from about 1846, many modifications have been made of the ancient district boundaries and there are many instances where other names have been substituted for the old district names. Some of these changes were made for political reasons and others for convenience, but the principal changes in boundaries were caused by movements in population reflecting new uses of the land areas. These new district boundaries did not always conform to the ahupua'a boundary and there are examples today of an ahupua'a being situation in more than one district where no such condition existed in ancient times (King in Coulter 1935).

The changes to Kaua'i would impact the districts' boundaries:

On Kauai the ancient district of Kona was divided into two, namely Waimea and Koloa, each named from an *ahupuaa* and important town within its confines: the name of the ancient district of Puna was changed to Lihue, a place name borrowed from Oahu<sup>41</sup> and used subsequently for the name of an important town in that district: the name of the ancient district of Koolau was changed to Anahola, the name of an *ahupuaa* within its boundaries: the ancient districts of Halelea and Na Pali were merged and called Hanalei after an *ahupuaa* and town in Halelea. The island of Niihau was made a separate district of Kauai.

No changes were made in the names or boundaries of districts until 1878 and 1880 and then only with respect to the island of Kauai. By an act approved August 1, 1878, a new district was created by re-subdividing Lihue and Anahola districts, reducing Lihue district about a third, and adding to what was then known as Anahola district the *ahupuaas* of Olohena, Waipouli, Kapaa, Kealia, and Kamalomalo, the act, however, changing the name of this newly created district to Kawaihau. The reason for this change forms an interesting page in the history of the reign of King Kalakaua, the details of which may be found in *The Friend* of April, 1920, a monthly, published in Honolulu, and re-published in *The Honolulu Advertiser* of Oct. 21, 1929.

The amendment to Chapter 498 of the Civil Code of 1859, made in 1878, reads as follows:

The Islands of Kauai and Niihau shall be divided districts as follows: 1. From Nualolo to Hanapepe, inclusive, to be the Wai-mea district; 2. From Wahiawa to Mahaulepu inch the Koloa district; 3. From Kipu to Wailua. Lihue district; 4. From Waipouli to Kilauea. Kawaihau district; 5. From Kalihiwni to styled the Hanalei district; 6. Niihau.

The changes in 1880 included a slight between the districts of Waimea and Koloa. Koloa by boundary of Koloa to include the ili of forms the east boundary of Waimea: and aeing (sic) Lihue, Kawaihau and Hanalei dist reduced by taking from it and adding to Kawai Wailua: and Kawaihau district was reduced by taking from it and adding to Hanalei district, the *ahupuaas* of Lepeuli, Waipake. Pilaa, Waiakalua, Kahili and Kilauea.

That portion of Chapter XI Laws of 1880 enacting these changes reads as follows:

The islands of Kauai and Niihau shall be divided into six districts as follows: 1. From Nualolo to Hanapepe inclusive, to be styled the Waimea district; 2. From ili of Eleele to Mahaulepu inclusive, to be styled the Koloa district; 3. From Kipu to Hanamaulu to be styled the Lihue district; 4. From Wailua to Moloaa inclusive, to be styled the Kawaihau district; 5. From Lepeuli to Honopou inclusive, to be styled the Hanalei district; 6. Niihau.

The changes up to 1884 are consolidated in the *Compiled Laws of 1884* as an amendment to Section 498 of the *Civil Code of 1859*. The compiled laws were a compilation, not enacted (King in Coulter 1935).

It is likely that many of the changes that specifically applied to Kōloa were the result of lobbying by the foreign businessmen who settled in the area. Sugar would dominate the Kōloa region for well over 100 years and significantly shape its cultural environment.

Despite the growing influence of sugar, Kōloa would continue to be an important place for the Kingdom. In 1871, Prince Kūhiō Kalanianaʻole was born in Kōloa to the House of Kalākaua, the ruling family of the sovereign Kingdom of Hawaiʻi. He was the child of Princess Kinoiki Kekaulike and Chief David Kahalepouli Piʻikoi. Kekaulike was the daughter of Kauai's revered King, Kaumualiʻi, and as such Kūhiō enjoyed lineage to both the reigning dynasty of the Kingdom of Hawaiʻi and to the independent Islands of Koaʻi and Niʻihau.

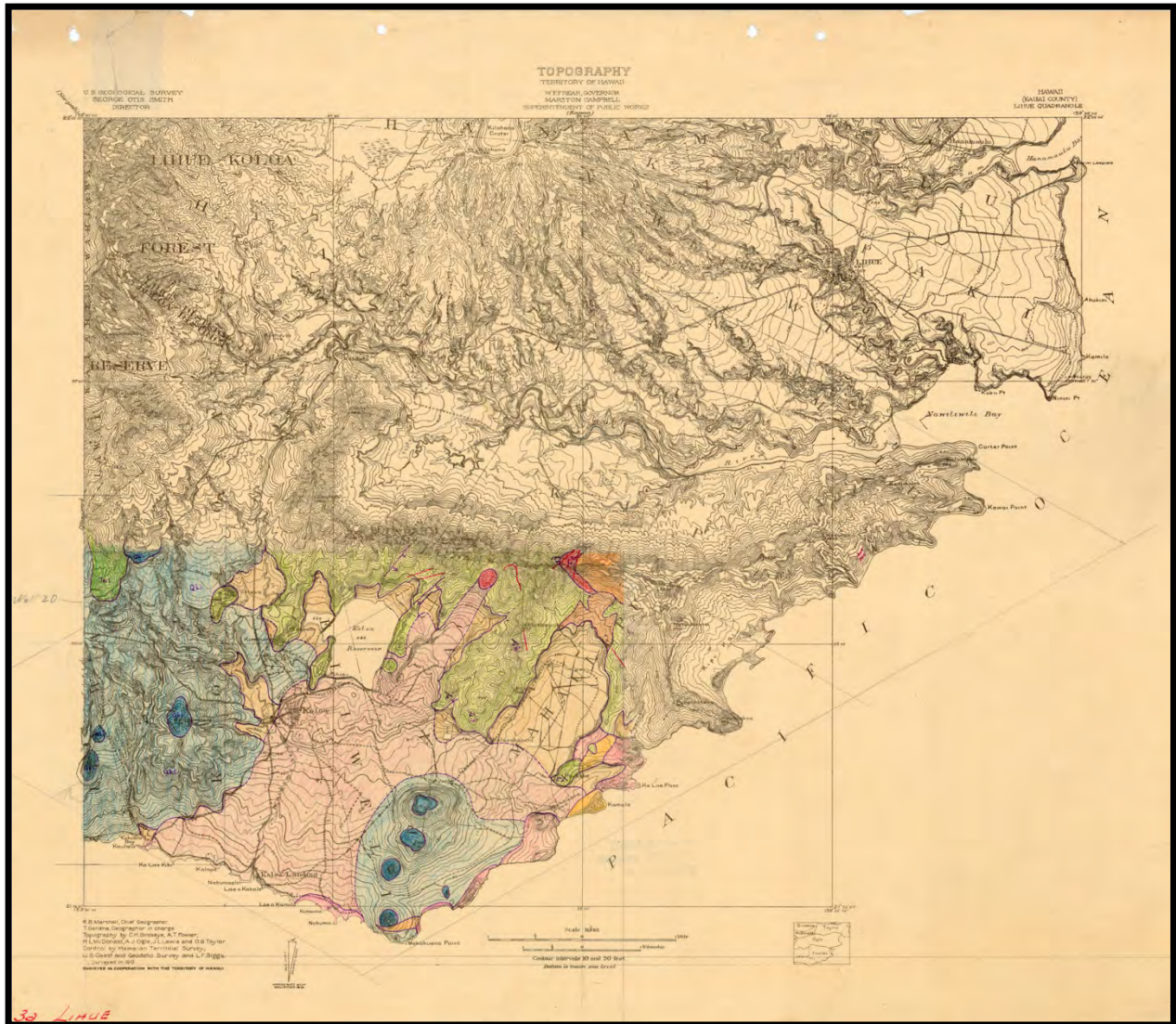


Figure 11. USGS Map of Koloa (USGS 1910)





Figure 12. 1950 Aerial Image of Kōloa (USGS 1950)



Figure 13. 1959 USGS Aerial image of Kōloa (USGS 1959)



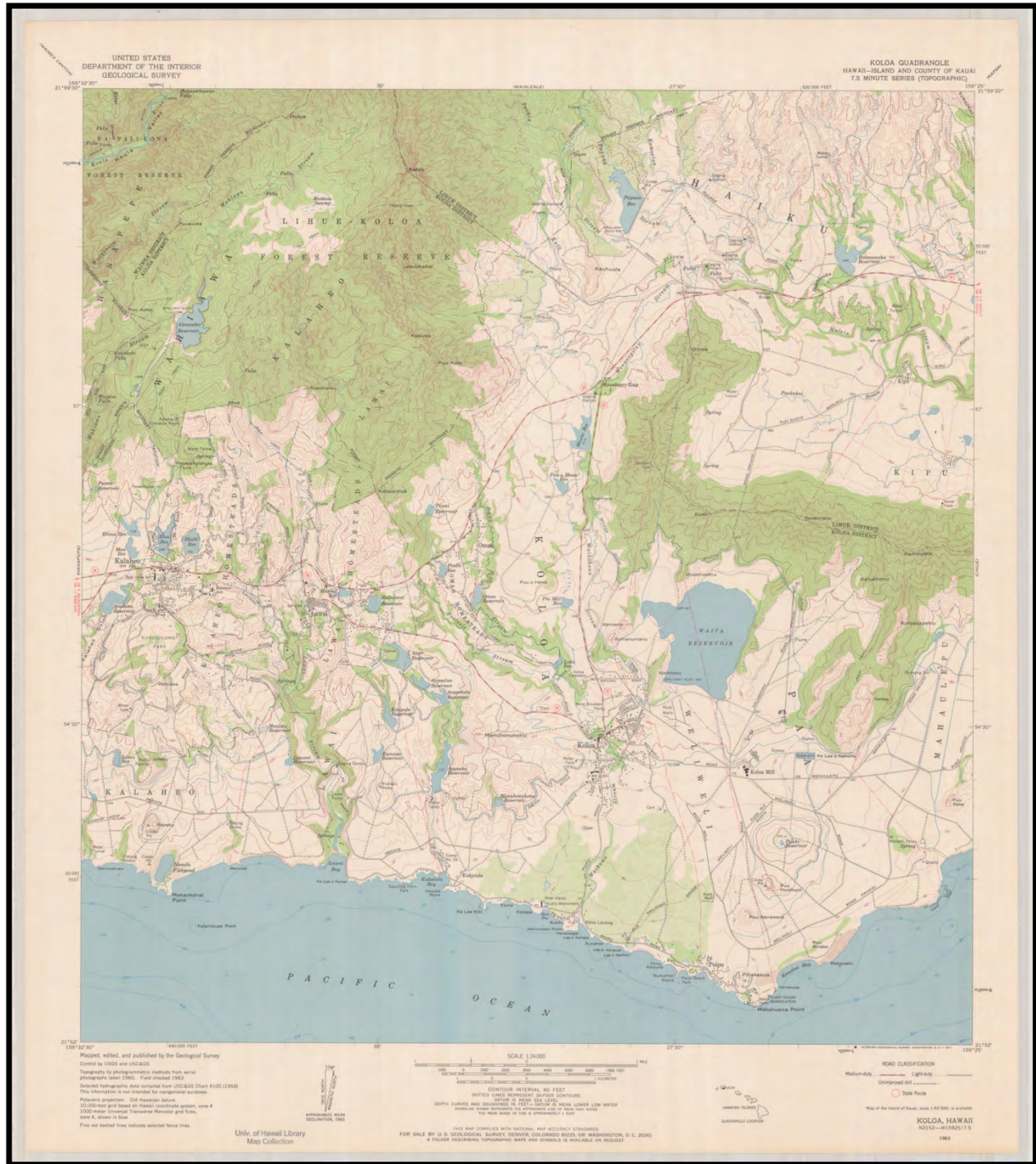


Figure 14. 1963 USGS Map of Kōloa (USGS 1963)



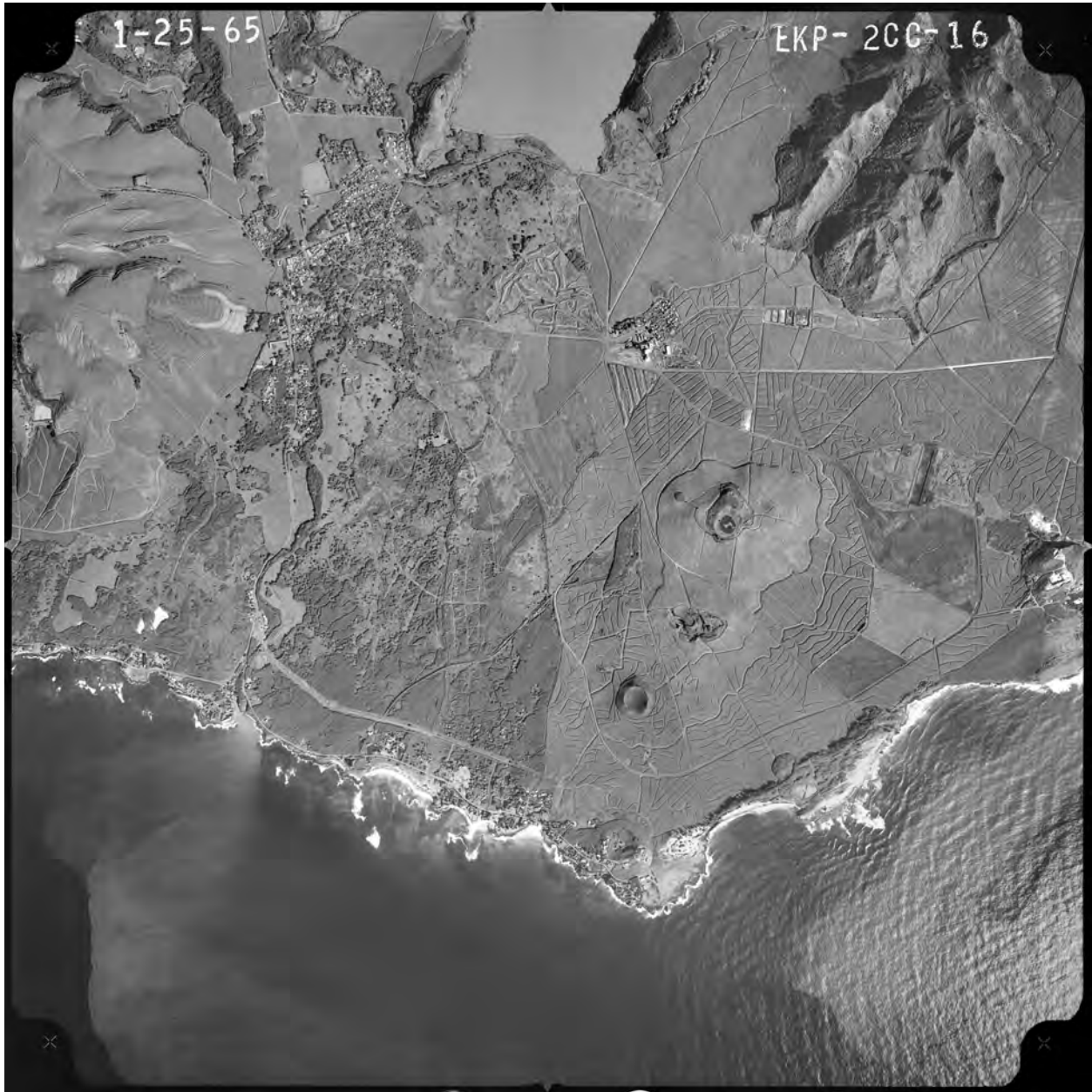


Figure 15. USGS 1965 Aerial Photo of Kōloa (USGS 1965)

### 3.2.1 Kōloa Plantation

In the early half of the 19th century, Kōloa became the location of the first commercially successful sugar plantation not only on Kaua'i, but in the Hawaiian archipelago. Kōloa Plantation officially formed in 1835, but according to accounts from the first plantation manager, William Hooper, “sugar cane was grown and sugar and molasses were manufactured in the District of Koloa, in a small way, prior to 1835” (Alexander 1937:1).

Like many other foreigners of the time, the founders of Kōloa Plantation traveled from the United States to the Kingdom of Hawai'i to start private businesses. The three founders were Peter Allan Brinsmade, William Ladd, and William Hooper, all in their 20s when they arrived in Hawai'i (Alexander 1937:2-3). Arthur Alexander would write of the original partners:

The partners, after their arrival, conducted a profitable commission and mercantile business in Honolulu. However, they were eager to expand their business. Convinced that the greatest business opportunities here at that time lay in the development of agriculture, they selected a tract of land at Koloa, Kauai, for the cultivation of sugar cane on the east side of the Koloa, or Waihohonu, Stream. Stephen Reynolds on June 5th, 1835, wrote in his Journal: “[Brig. Velocity went out for Hanalei, Kauai, Mr. Ladd and Dr. Peabody passengers. Ladd & Co. went to view the place and lay out a large cane plantation. I hope they will succeed and put it in operation with success.”

After Mr. Ladd's return they leased from King Kamehameha III this tract of land, together with a mill site, 360 ft. By 360 ft. At the Maulili pool, with the use of the waterfall for power. The lease was for fifty years from July 29th, 1835, at an annual rental of \$300.00. It contained a clause giving them the privilege of building a road to the landing and the free use of the latter. From Kaikioewa, the Governor of Kauai, they later leased a warehouse site at the landing, at a place called Hanakaape. The land covered by the original lease has an area of 980 acres, of which 303 acres have since been demonstrated to be good cane land (Alexander 1937: 3-4).

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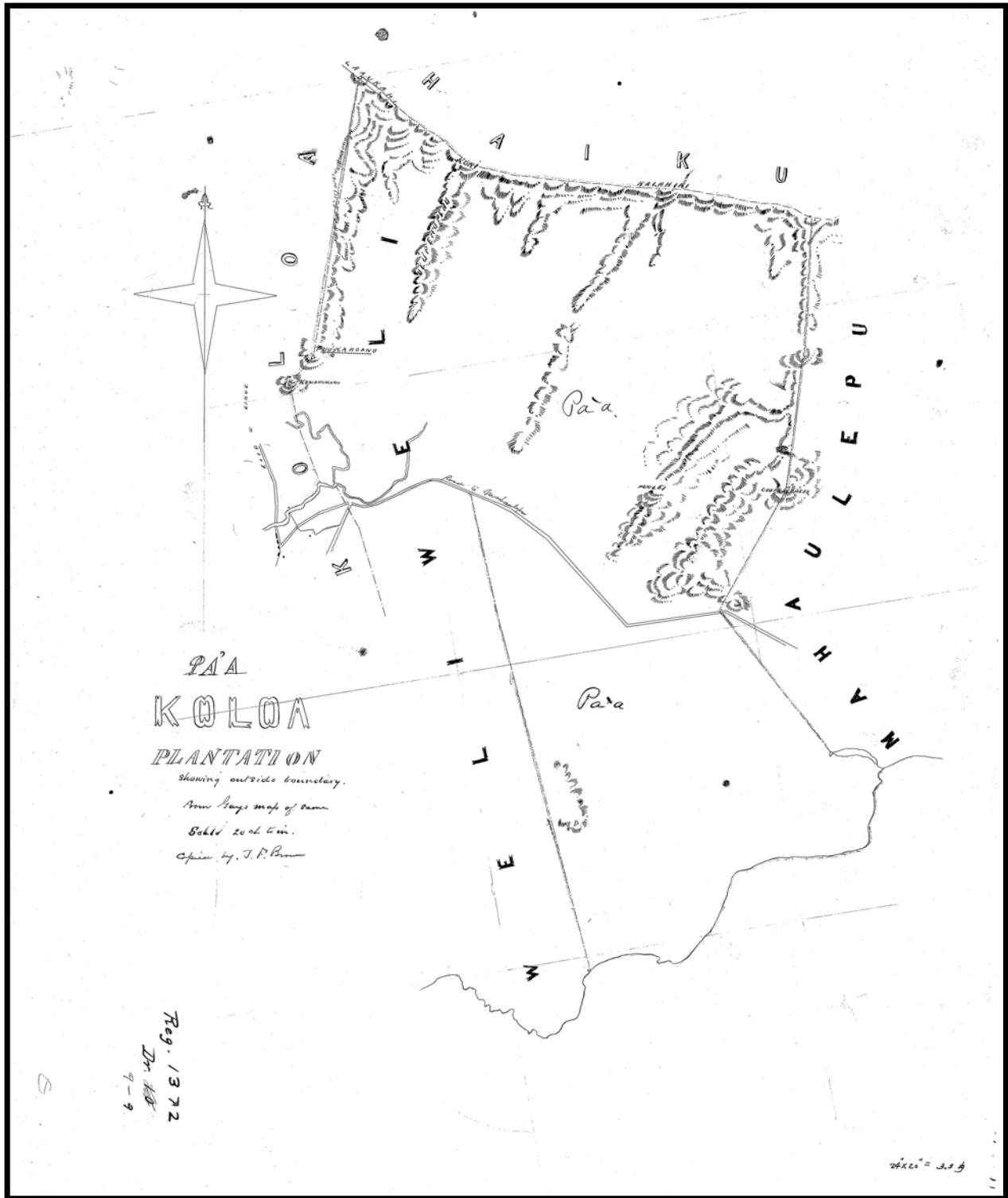


Figure 16. Registered Map 1372 (n.d.)



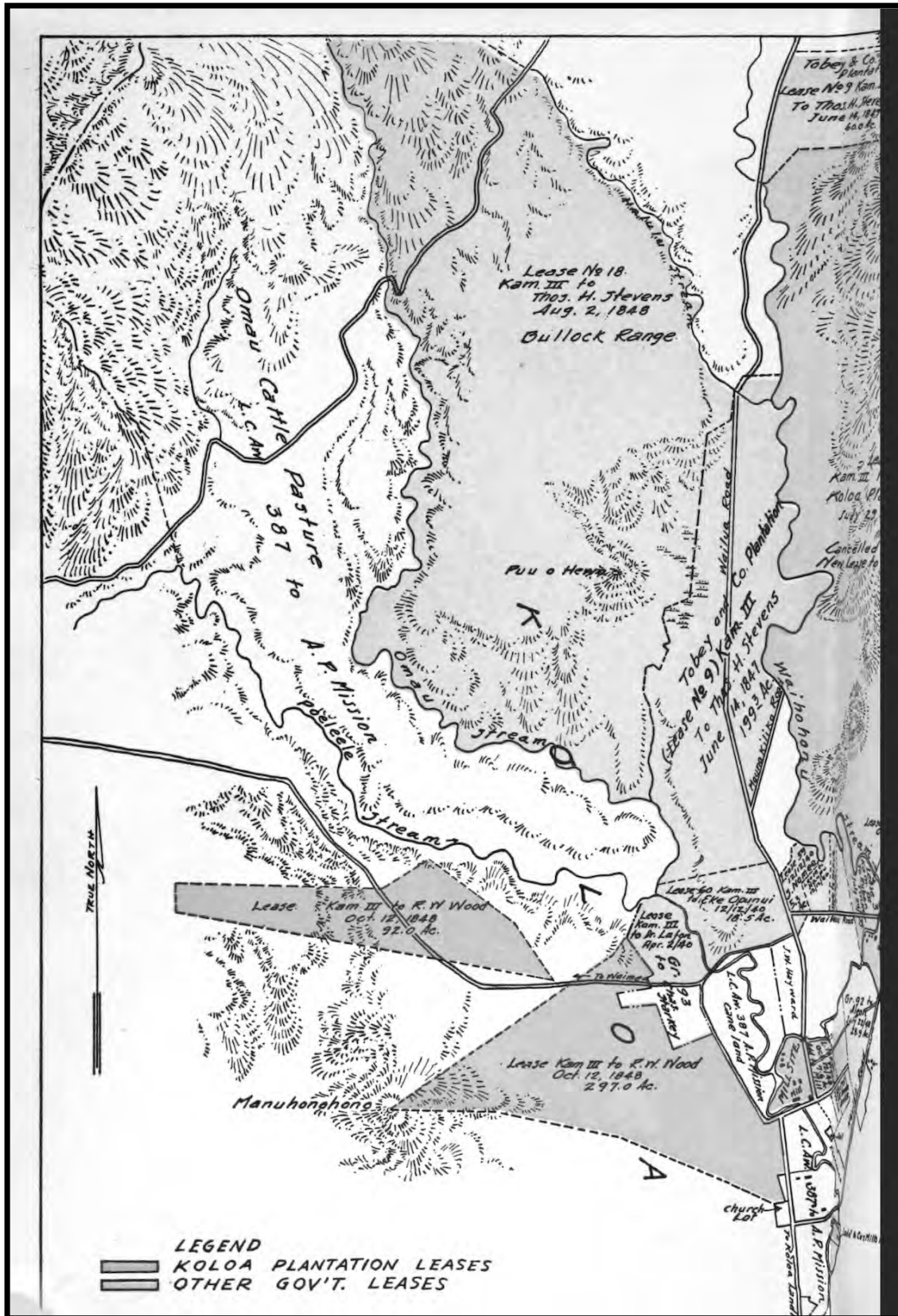


Figure 17. Portion of map showing Koloa Plantation Leases (Alexander 1937)



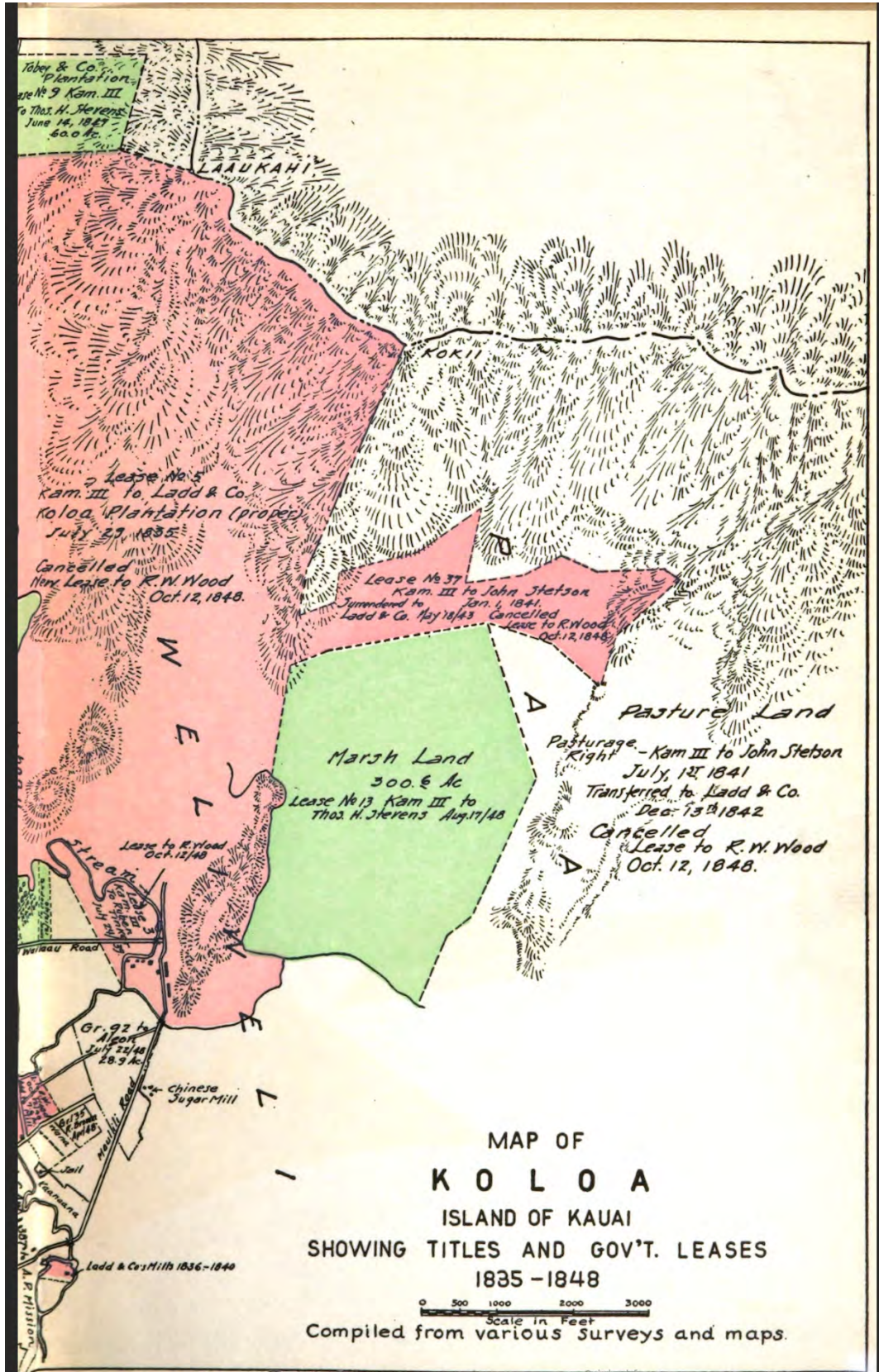


Figure 18. Map of Koloa (Alexander 1937)

## 4.0 Cultural Resources

This section reviews and references archaeological studies and results in and around the Project Area(s) in order to identify resources that may be of significance to the community. Honua Consulting, LLC is an archaeology firm but did not complete any of the archaeology fieldwork for these Projects, neither did we conduct any archaeological field or site visits for this report. The cultural resource information is extrapolated from other archaeology reports, and primarily those recently completed by Cultural Surveys Hawaii (CSH).

The historical reports are numerous, voluminous and – as with most large-scale development projects – include surveys, remapping, data recovery and preservation plans, monitoring plans, and reports on completed recovery, preservation, and monitoring work. The archaeological studies on the development projects that encompass the applicant’s Project Area(s) span decades, with the seminal survey for Kauanoe o Kōloa being completed in 1978 and in 1988 for the Kukui’ula projects. Those reports covered over 1400 acres – 1000 in Kukui’ula and 460 in Kiahuna – and identified over 700 archaeological features – 150 in Kukui’ula and 583 in Kiahuna. All three of the applicant’s projects were entitled by previous owners and have been included in multiple development plans over the last 45 years. The resulting historical record is therefore both substantial and complex.

Although Honua is not the archaeological firm of record for these projects and an exhaustive analysis of every study and report is beyond the scope of this report, upwards of 100 documents, equating to multiple thousands of pages, were reviewed to provide a foundation for assessing cultural resources and impact. Mapping was conducted as part of this report and estimates regarding historic properties in the areas are provided below. These estimates should not however supersede the reporting completed by CSH or the reviews conducted by SHPD.

It is commonly understood that once grading is permitted and begins, any previously identified sites within the project area that were not set aside under SHPD-accepted plans for preservation will be destroyed; hence the preservation plans. The reports discussed below do adequately show that: (a) none of the sites set aside for preservation are within the applicant’s Project Areas; (b) all of the Project Areas had been grubbed and graded prior to applicant taking ownership; (c) and no surface sites were visible in the Project Areas by the time the applicant took ownership.

It is important to note that while the reports reviewed are thorough and have been accepted by SHPD, an administrative history tracing when and where the 700+ sites were identified, and when those that no longer exist were lost, is not part of the record nor is it easily compiled. This is understandable given the substantial and complex historical record. However, when dealing with such a large number of sites, many of which represent

treasured cultural resources, the loss of the majority of these sites has and will continue to cause distress in the community without this clear administrative history.

While it may not entirely satisfy the community's concern, contemporaneous documentation could prove extremely beneficial especially if it includes: comprehensive maps of historical sites (overlaid on current parcel maps) that note preserves and sites that still exist; corresponding tables listing site numbers (both SHIP #'s and CSH #'s); as well as a historical listing of owners and developers, including an indication as to when they were granted grading permits.

#### **4.1 Cultural and Historic Sites – Kauanoë o Kōloa**

Cultural Surveys Hawaii, Inc. (CSH) prepared a Literature Review and Field Inspection report (LRFI) for Lot 1 of the Kauanoë o Kōloa project in August of 2021 (Figure 19).

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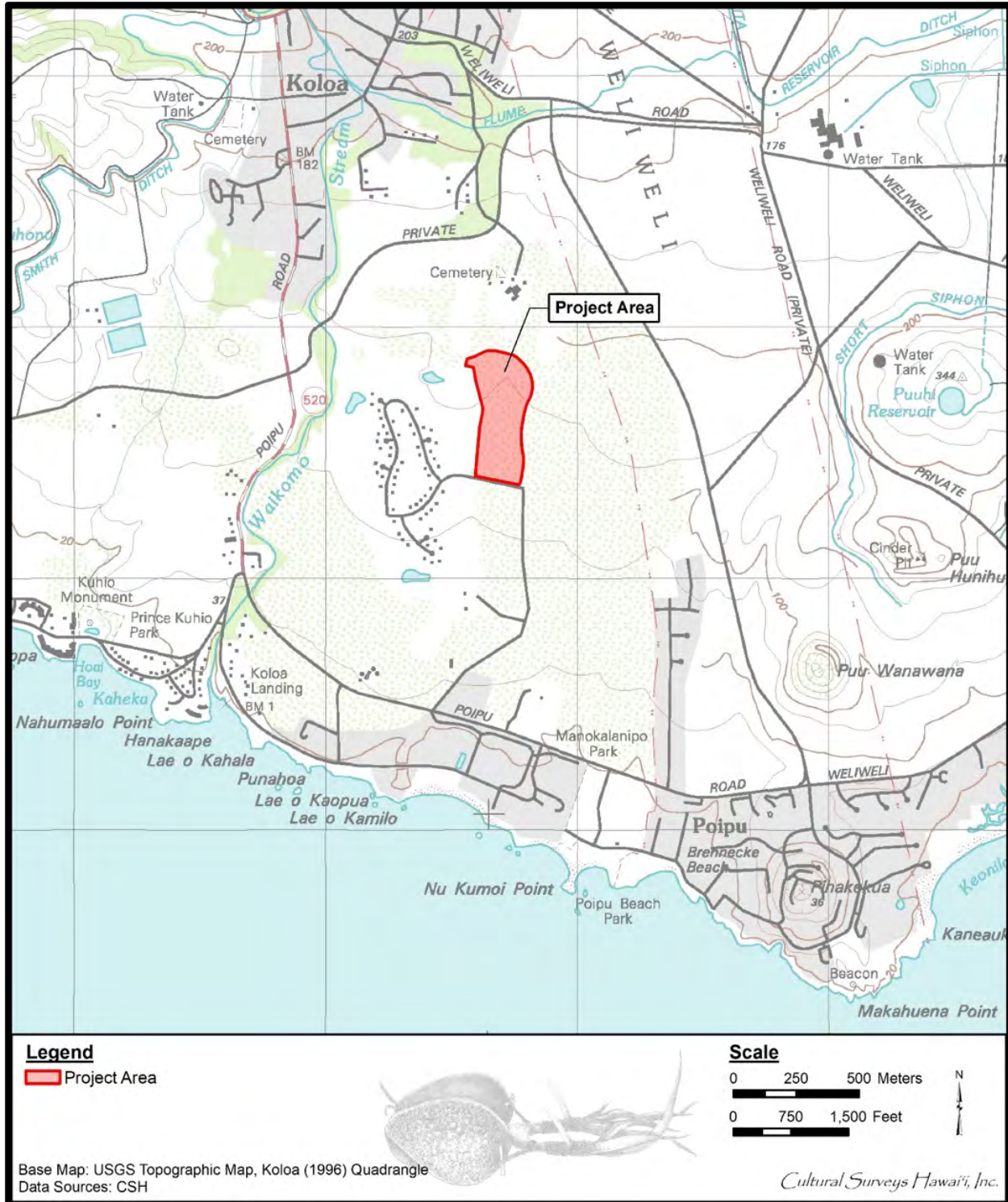


Figure 19. CSH (Figure 1 of LRFI) showing the location of project area (Folk et al. 2022: 2)

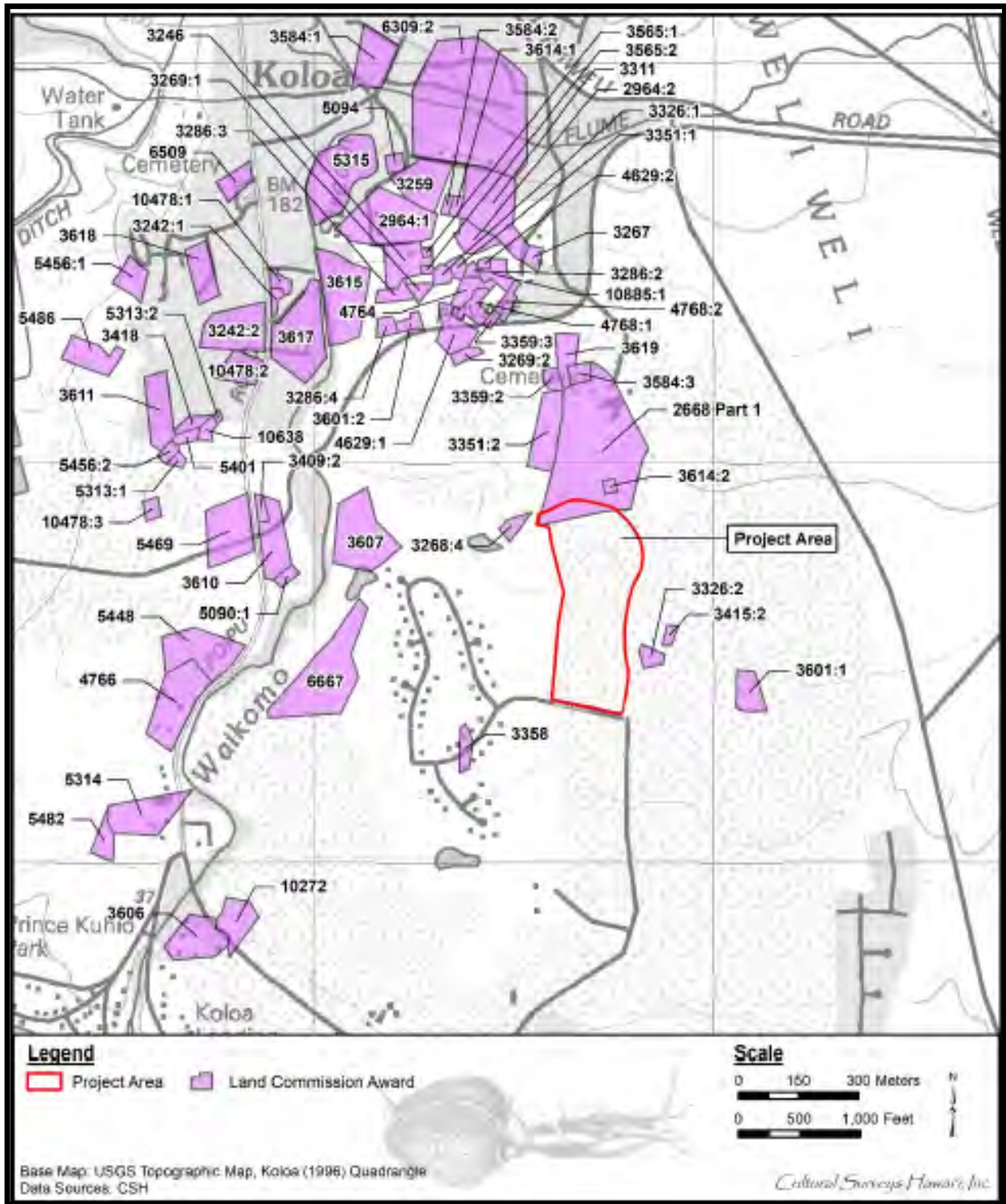


Figure 20. CSH (Figure 6 of LRFI) showing the LCA claims in the area (Folk et al. 2022: 13)



The Archaeological Investigations within the Project Area and in the Vicinity section of the LRFI speak to the voluminous record of archaeological identification, assessment, and preservation work that has been done and accepted by SHPD that deal directly with the Kauanoe o Kōloa project area dating back to a 1978 archaeological survey that covered 460 acres. The project area includes less than 28 of those 460 acres in the extreme northeast corner of the surveyed area.

One of the many reports historical reports referenced in the LRFI, is the *Kiahuna Project: Kiahuna Golf Village and KMP Development Project in Approximately 400 Acres at Koloa Ahupuaa Kona District, Kauai Island Volume III Summary of Inventory Survey and Data Recovery Results and Archaeological Interpretations*. (Volume III) The LRFI references this Volume III report noting:

Volume III summarizes and brings together the findings of both the inventory survey and data recovery for Project Areas 1 and 2. Included are an analysis of the sites involved, summary discussions of the artifacts and midden found, summarization and interpretation of the Kōloa Field System, significance, and recommendations regarding development and preservation in the area, and the areas designated as preserves (Folk et al. 2022:3).

The Hammat, Shideler, O'Hare, and Folk 2005 report details the five preserve areas, all of which are well outside of the Kauanoe o Kōloa project area (Figure 21).

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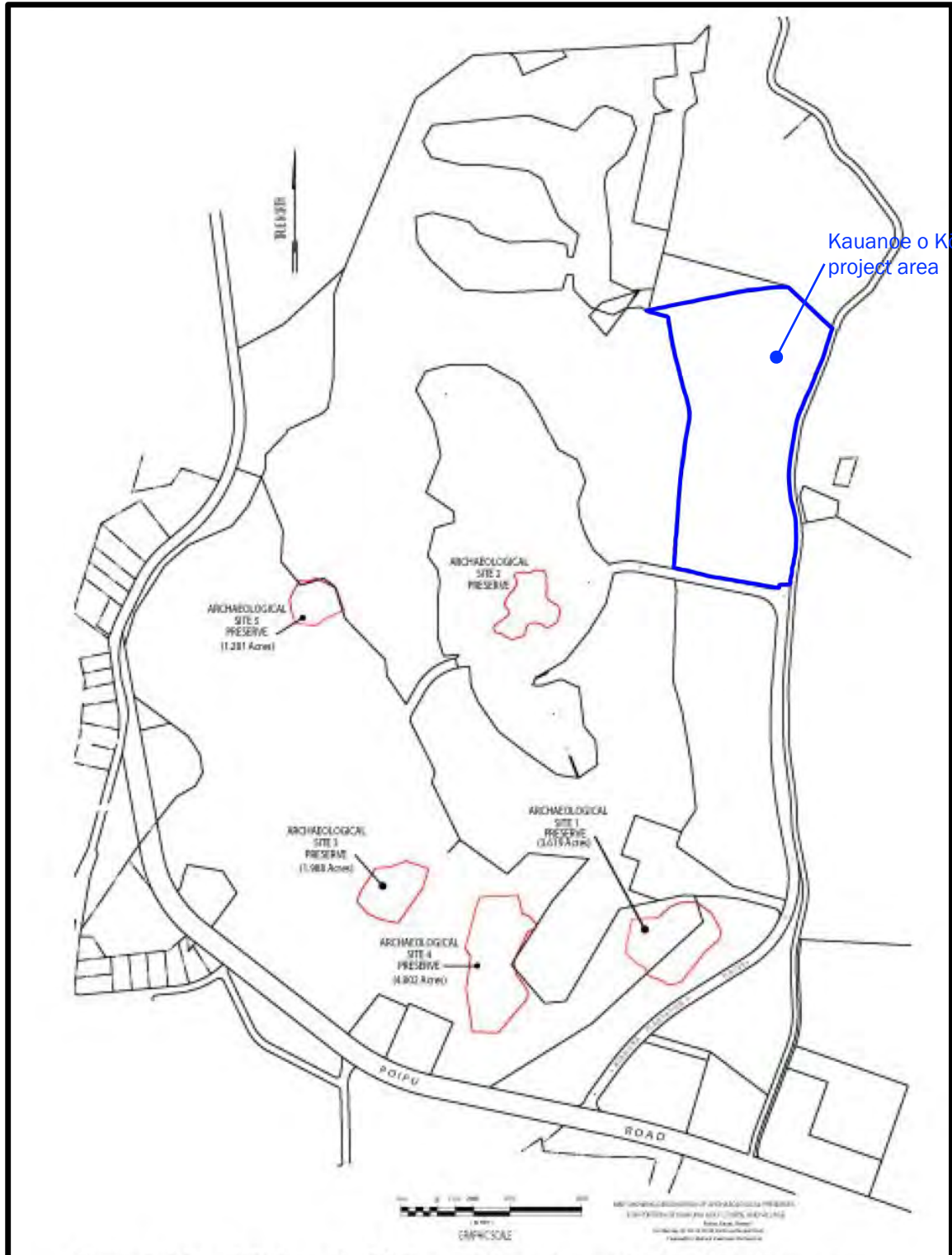


Figure 21: CSH (Figure 9 of Volume III) showing locations of Archaeological Preserves outlined in red, all of which are beyond the Kauanoe o Kōloa project area. (Hammat, Shideler, O’Hare, and Folk 2005:42); Blue outline and label for project area added for reference.

The project area was part of numerous development plans by several entities that did extensive grubbing and grading to the project area before the current applicant's acquisition of the property in June, 2021.

A field check of 16 June 2003, related to reporting in the Hammatt et al. (2004) inventory survey noted previous grubbing in the parcel resulting from the parcel receiving clearance for construction development, based on a letter dated 22 August 1991, from Dr. Don Hibbard of SHPD approving the end of data recovery fieldwork for this parcel. The survey report relates that ten SIHP-numbered sites of the Kōloa Field System documented in the original 1978 survey (Hammatt et al. 1978) were still present during the 2003 field check in the southern portion of the project area. These former historic properties' locations are shown in Figure 9 and they are listed in Table 1. SIHP #s 50-30-10-3841 and -3851 were excavated during the data recovery field work completed in 1989–1991 and are reported on in Hammatt, Cordy, Rainalter, Gomes, Shideler, and Folk (2005B) as well as in the Hammatt et al. (2004) inventory survey report; no further archaeological work was recommended. None of the sites in the project area, TMK: [4] 2-8-014:032 Lot 1, were recommended for further archaeological work and all data was collected prior to grubbing of the project area. (Folk et al. 2022:20)

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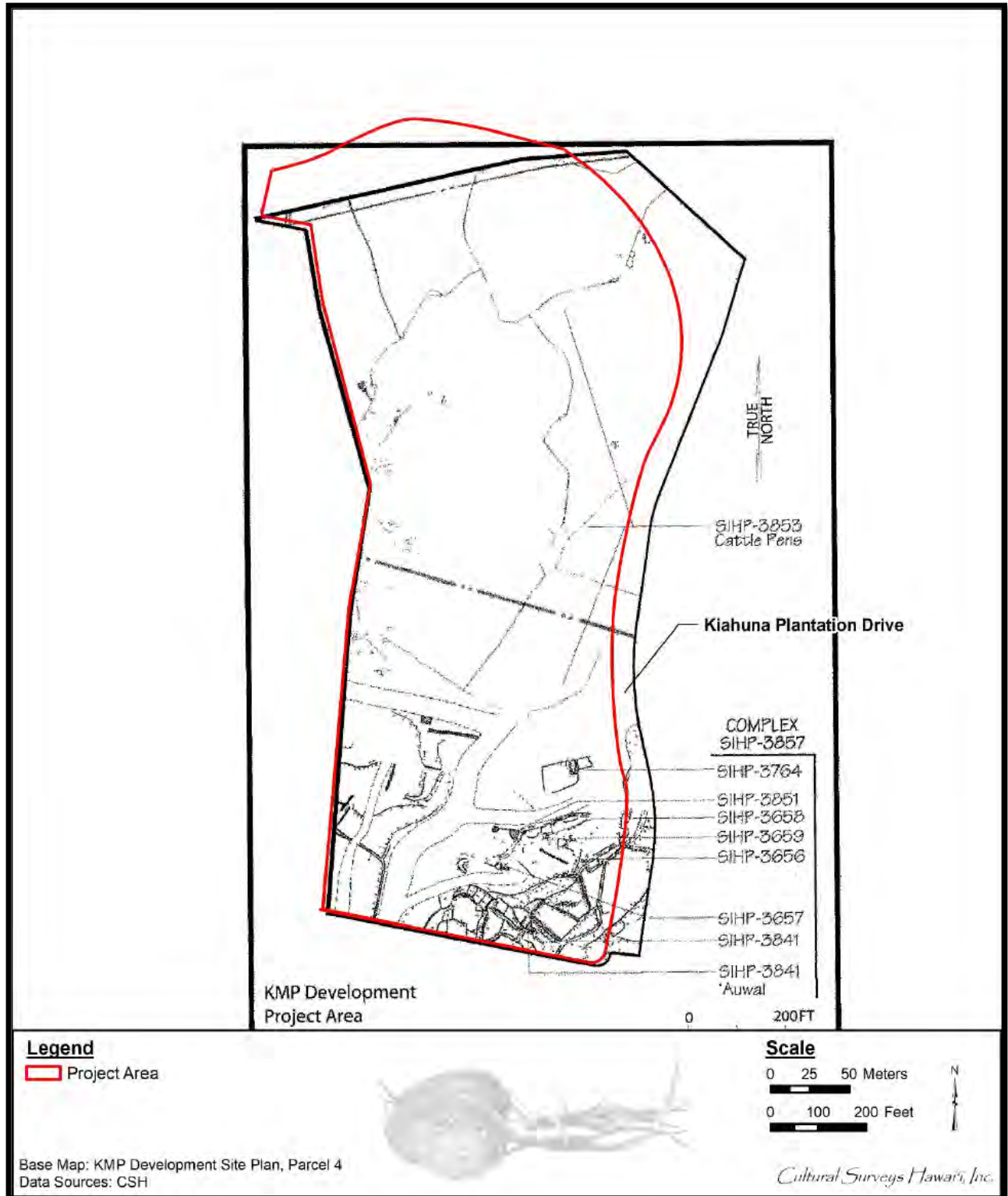


Figure 22. CSH (Figure 9 of LRFI) showing previously identified historic properties in Kauanoe o Kōloa project area (Folk et al. 2022:31).

The LRFI goes on to note that:

The results of the 22 February 2021 field inspection conducted in the proposed Kauanoē o Kōloa Lot 1 project area (TMK: [4] 2-8-014:032 Lot 1) found that the parcel has been completely grubbed with evidence of grading and substantial bulldozing, probably multiple times since 1991. The most recent clearing is illustrated by the uniform height of ground cover in Figure 10 and Figure 11. Previous ground disturbance occurred during construction of the Kiahuna Golf Course, the construction of Kiahuna Plantation Drive, and during preparation for former proposed projects that never materialized, e.g., the turf farm proposed for the parcel by two previous owners. The integrity of, and in most cases the entire former historic properties, have been destroyed. The southeast corner of Lot 1 also appears to have been filled and graded, and supported a modern structure visible in 2013 aerial photos but which is no longer present. These findings are consistent with the literature review demonstrating documentation of the former historic properties and SHPD concurrence with the archaeological documentation. (Folk et al. 2022:34).

The entire project area has been grubbed and bulldozed with some filling and grading in the southeast corner of the lot. All former archaeological sites have been removed (Folk et al. 2022:46).

One of the 2013 aerial photos referenced above is included below as Figure 23.





Figure 23: CSH (Figure 2 of LRFI) showing the TMK: [4] 2-8-014:032 Lot 1 project area location (Google Earth 2013); note the modern structure at the southeast corner of the parcel, bulldozing cuts throughout, and the bulldozer road across the north end of the parcel (Folk et al. 2022:3).

CSH also points out that:

The entire 460 acres of the Kōloa Field System in Kiahuna, including the proposed Kauanoē o Kōloa project area, were an agricultural and habitation complex notable for lack of human burials. There are no burial finds in the project area comprising TMK: [4] 2-8-014:032 Lot 1 and none are anticipated (Folk et al. 2022:46).

#### 4.1.1 Compliance with Land Use Commission Condition No. 7

An ongoing concern for the community, directly related to historical and cultural resources, has been compliance with the State Land Use Commission (LUC) Decision and Order (D&O) issued in 1977 for the subject parcel<sup>2</sup>. In 1977, the LUC issued a D&O *In the Matter of the Petition of MOANA CORPORATION, For Reclassification of Certain Lands Situated at Poipu, Island of Kauai* (Docket No. A 76-418). Findings of Fact related to Reclassification No. 31 reads:

31. The presence of extensive archeological remains on and in the area of the subject property is generally known. Petitioner, therefore, commissioned the Bernice P. Bishop Museum to conduct an archeological survey of the area which was filed in this proceeding as Petitioner's Exhibit "X" and is entitled *Archeological Reconnaissance Survey Of Knudsen Trust Land At Koloa, Poipu, Kauai*. That survey reveals and the Commission therefore finds as follows:

(a) A substantial number of archeological sites exist on approximately 200 acres within the southern and eastern portions of the subject property;

(b) These sites fall within the categories of platforms or varied forms; enclosures; modified actual features such as outcrops and sinkholes; large wall structures; agricultural complexes with varied mounds, terraces and plots; lava tubes; simple stone structures with no definite functions; irrigated pondfields (lo'i) and irrigation ditches (auwai); foot trails and historic sites such as houses, tombs, and ovens;

(c) These sites appear to be the remains of extensive agricultural complex that at one time stretched from Koloa Town to the Coast. There is a general paucity of information on aboriginal agriculture, and because most of the central, northern, and western portions of the subject property were cleared in the past

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<sup>2</sup> The full LUC Docket is available online at <https://luc.hawaii.gov/completed-dockets/boundary-amendments/kauai/a76-418/>



for agricultural activity such as sugar cane cultivation and grazing, these sites represent the only substantially intact complex of sites remaining;

(d) Further archeological investigation will be necessary to determine the significance of these sites and the feasibility of their salvage or preservation. As a condition upon General Plan Amendment, the Kauai County Council has required that a more detailed and comprehensive archeological study be conducted and submitted to the County of Kauai Planning Department for approval prior to actual development of the proposed project. That comprehensive study will cost a minimum of \$40,000 and will take three to four months to complete;

(e) The Petitioner has represented that he is committed to a more detailed and comprehensive archeological study of the subject property and that he would preserve those areas or sites within the subject property which the Bernice P. Bishop Museum determines to be archeological significant and worthy of preservation (LUC 1977: 19-20).

As part of their D&O granting the reclassification of lands, the LUC placed conditions on the reclassification. Condition No. 7 as originally ordered by the LUC read:

7. That prior to application for rezoning and before any grading of the subject property begins, Petitioner commission and complete a comprehensive archeological and biological study with actual inventories of archeological sites and flora and fauna on the subject property, and that the Petitioner preserve any archeological sites which the Bernice P. Bishop Museum believes to be significant and worthy of preservation and protect and preserve the present habitats of any blind, eyeless, big-eyed, hunting spiders and blind terrestrial sandhoppers which the Bernice P. Bishop Museum believes to be worthy of preservation (LUC 1977: 37).

This condition, Condition No. 7, was amended by the LUC one year later on July 5, 1978. The amended Condition No. 7 reads:

7. That Petitioner commission and complete a comprehensive archaeological and biological study with actual inventories of archaeological sites and flora and fauna on the subject property, and that the Petitioner preserve any archaeological sites which archaeologist conducting such archaeological study believes to be significant and worthy of preservation and protect and preserve the present habitats of any blind, eyeless, big-eyed, hunting spiders and blind terrestrial sandhoppers which the biological conducting the biological study believes to be worthy of preservation. The Petition may commission such archaeological and biological study to any

archaeological and biological or firm connected therewith who is qualified to conduct such a study to satisfy the foregoing condition. The Petitions may apply to the County of Kauai for rezoning of the subject property before the completion of the study, provided that no actual work on any portion of the subject property begins until the archaeological and biological study for that portion to be worked on has been completed. Actual work on any portion of the subject property may be commenced by the Petitioner upon certification by the archaeologist and biologist that the area for which work is to commence does not contain any archaeological sites deemed significant and worthy of preservation, nor contains any habitats of any blind, eyeless, big-eyed, hunting spiders and blind terrestrial sandhoppers deemed worthy of preservation” (LUC 1978: 2).

The most recent annual report filed under the docket (2020-2021 Annual Report, filed March 10, 2022), regarding Condition No. 7 states:

**Current Status:** As shown in the 2009 Amended Status Report, the 2010 Annual Status Report, the 2011 Annual Status Report, and the 2012 Annual Status Report, this condition has been fulfilled. As noted in the prior Annual Status Reports, a comprehensive Archaeological and Biological Survey of the Proposed Kiahuna Golf Village Area, dated September 1978, was prepared for the petitioner Moana Corporation by Archaeological Research Center of Hawaii, Inc., towards meeting this condition.

Additionally, an Inventory Survey Report, Data Recovery Report and Preservation Plans for identified Preserves were submitted and approved by the State Historic Preservation Division of the Department of Land and Natural Resources (herein “SHPD”).

This resulted in four archaeological preserves, totaling approximately 11 acres, and their metes and bounds descriptions were established pursuant to agreement with SHPD and the Kauai Historic Preservation Review Commission.

Preservation Plans were prepared for these four Preserves, and those plans have been approved by SHPD, as well, fully completing the archaeological requirements for the project. An easement granting public access, as required by SHPD, has been recorded, and actual implementation of public access to and interpretive signage of Preserve 1 is available and is used by the public.

A flora survey and a fauna survey, covering all project sites, was completed and submitted to the County of Kauai on or about March 29, 2004. As no endangered or threatened species were found, no further work is planned in this area. With respect

to the habitats of any blind, eyeless, big-eyed hunting spiders and blind terrestrial sandhoppers, and despite finding none of these spiders and sandhoppers in at least the past eight years, the Project has established areas identified as critical habitats to support these species should they reappear (Kiahuna Mauka Partners, LLC, 2022: 5-6).

Additionally, as related to the archaeological condition, CSH Principal Hallett H. Hammatt submitted a letter dated May 12, 2022 regarding Kauanoë o Koloa [TMK (4) 2-8-014:032], which the Planning Department found to sufficiently meet the preceding condition.

Based on the public filings submitted to and accepted by the LUC, Condition No. 7, as related to archaeological resources, has long been fulfilled. Additionally, the County of Kaua‘i Planning Department contemporaneously affirmed that this condition has been fulfilled. As such, the conditions and mitigation for the archaeological sites as called for under state and county authorities have been met. It is not the role of this assessment to revisit these agency decisions.

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#### 4.2 Cultural and Historic Sites – Kukui‘ula

A total of 58 archaeological sites comprising 150 features were located, mapped, and described in CSH’s June 1988  $\beta$ . (Hammat et al. 1988). The 1988 AIS notes the marked difference between the Kiahuna Complex (where Kauanoe o Kōloa is located) and Kukui‘ula, due to the extensive amount of cane cultivation in Kukui‘ula.

This picture of the Kiahuna complex and its high degree of preservation is in sharp contrast to the present study area. Both areas were probably equally as heavily inhabited and used for intensive irrigated Hawaiian agriculture. However, the Kukui‘ula study area the last hundred years or so has seen heavy land modification which has destroyed many sites. Even areas presently in pasture were formerly under cane cultivation and the process of field clearing described elsewhere resulted in the survival of mere remnants of former sites.

So while the Kukui‘ula Development covered more than double the acreage of Kiahuna, because a majority of that land had been cleared for sugar cultivation, there was a quarter of the number of archeological features identified in Kuuki‘ula (150) as in Kiahuna (583).

Of the 58 sites (that encompassed the 150 features), 16 of those sites were identified in a series of preservation plans that established the four Kukui‘ula archaeological preserves (Figure 24).

As with the applicant’s Kauanoe o Kōloa project in Kiahuna, none of the Kukui‘ula archeological preserves are within either of the applicant’s Kukui‘ula project areas and as detailed below, no surface sites were visible in the Project Areas by the time the applicant took ownership.

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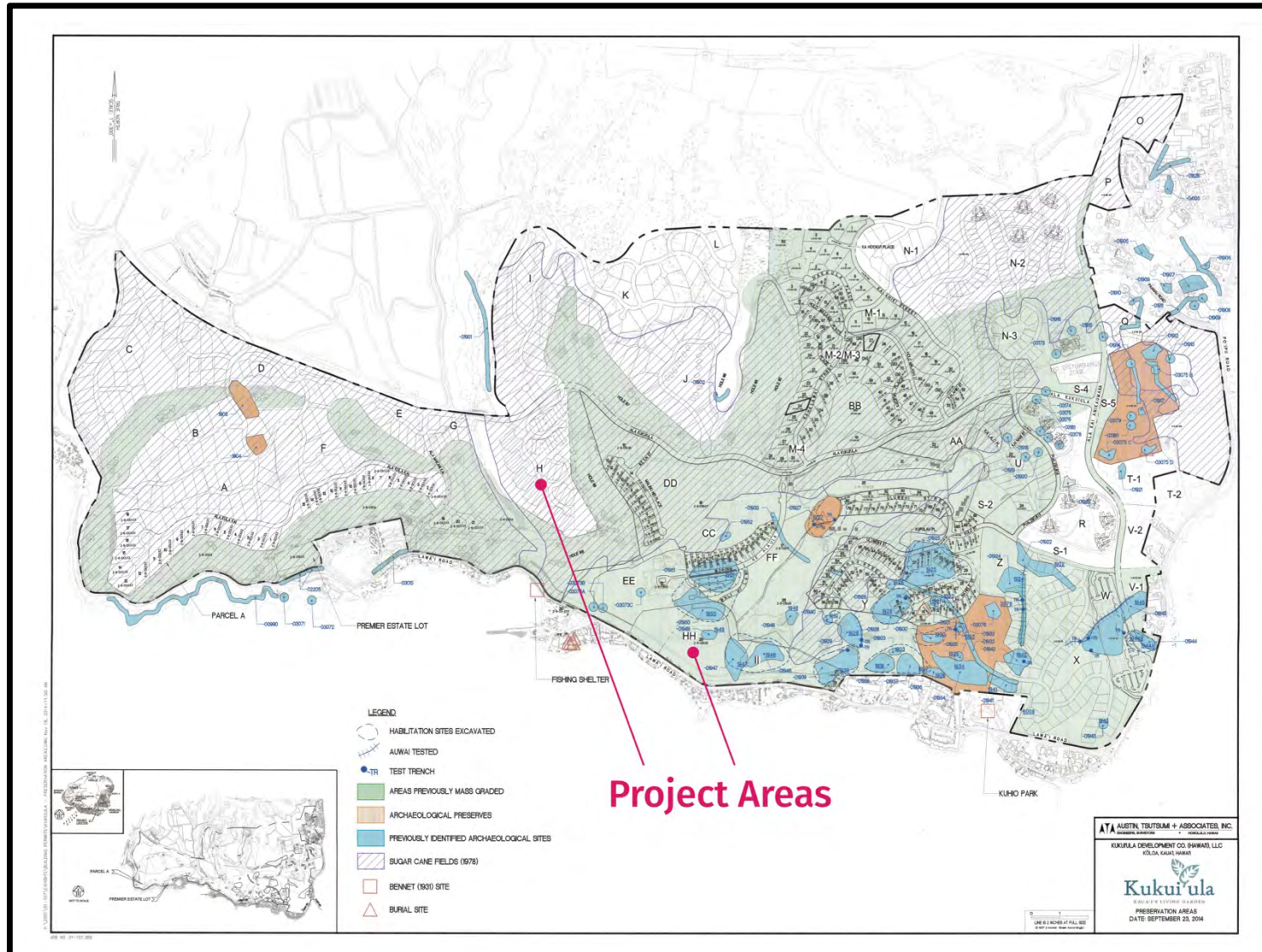


Figure 24: Map (courtesy of client) showing Kūkui‘ula Preservation Areas, none of which are located within Parcels H or HH. (Project Area Labeling added for clarity.)



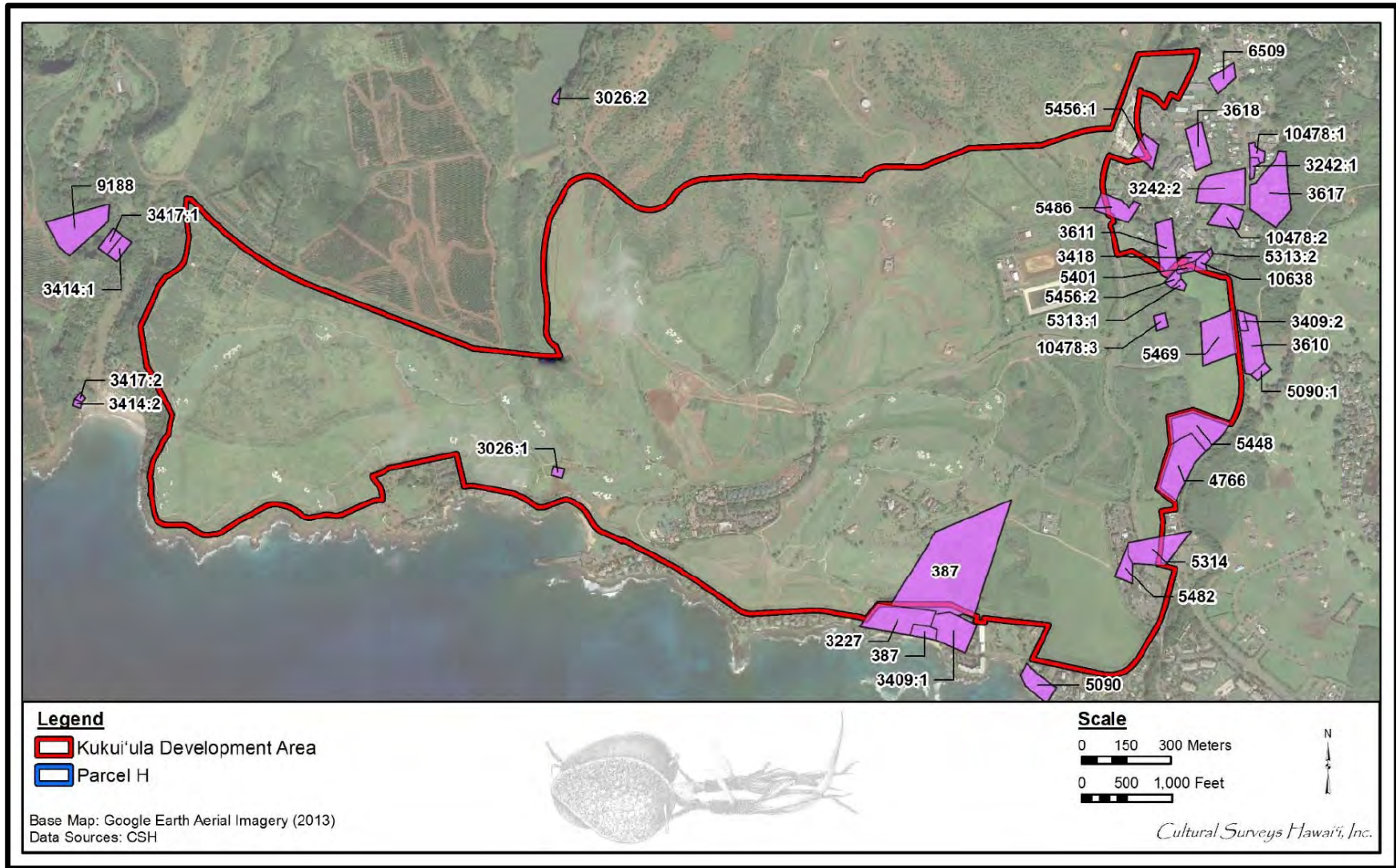


Figure 25: CSH (Figure 11 of Field Letter; Parcel H outline removed) showing LCAs, shaded in purple, in the vicinity of the Kukui'ula Development area.

4.2.1. Parcel HH

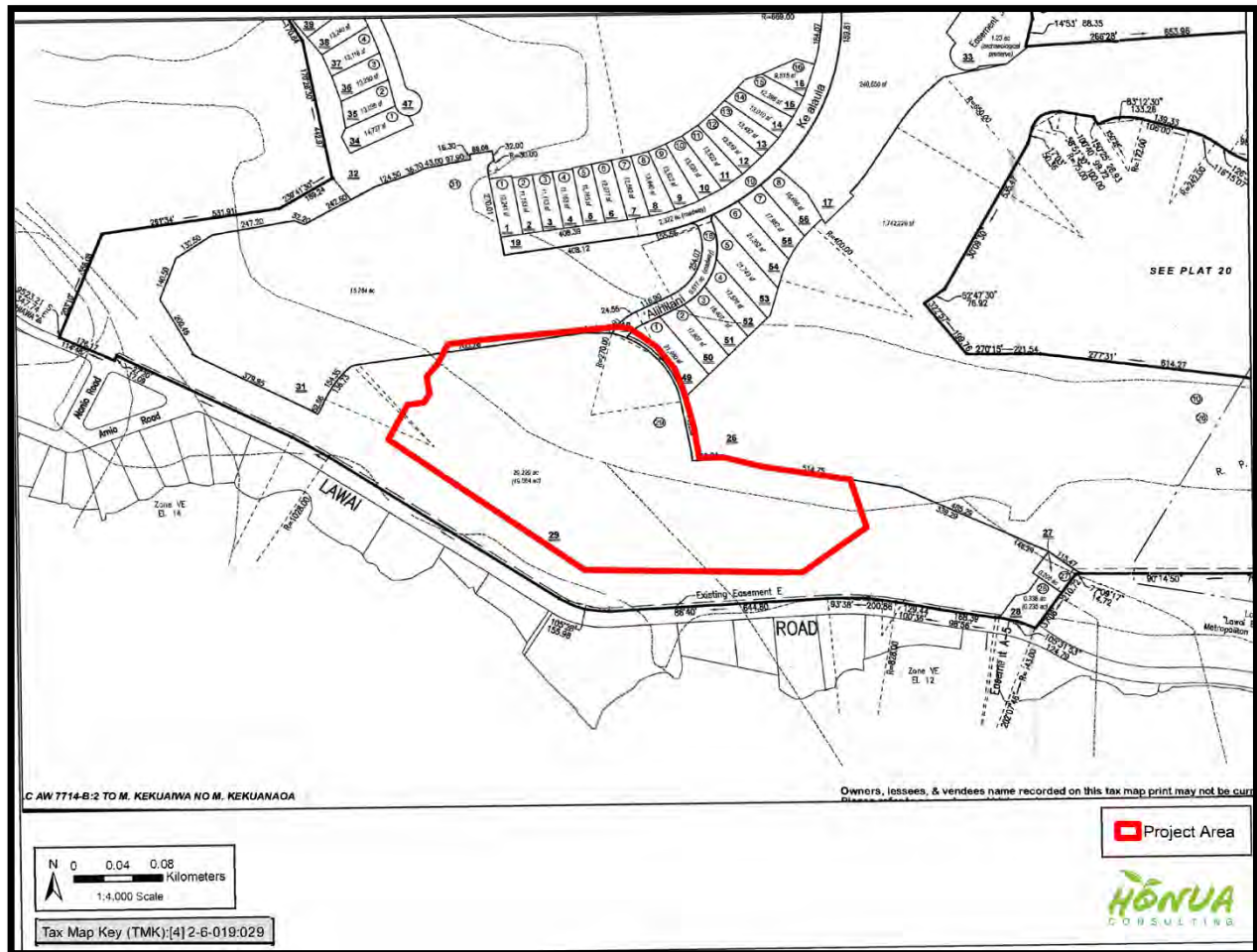


Figure 26. TMK (4) 2-6-019:029 which is to be subdivided. Parcel HH is located on a portion of this TMK.

Cultural Surveys Hawaii, Inc. (CSH) prepared an *Archaeological Field Inspection Letter Report for Parcel HH of the Kukui‘ula Community Develop Project, TMK [4] 2-6-015:029* on June 8, 2021. (Field Inspection Letter Report) Regarding the field inspection that was completed on May 6, 2021, CSH states that:

No historic properties were identified during this field inspection and there are no archaeological concerns. SIHP #'s -01947, -01949, and -01950 identified by Hammatt et al. (1988) has been since destroyed per Borthwick et al. (1990). The Parcel HH project will not have any adverse effects to historic properties.

Table 3. Identified Historic Properties within TMK [4] 2-6-015:029 based on review of maps in *Archaeological Data Recovery Report for Kukui‘ula Bay Planned Community Phase I Development, Kōloa Ahupua‘a, Kona District, Island of Kaua‘i, Volume 1*, referenced in the June 8, 2021 Letter Report.

Site Number	Description	Citation	Current Status (as of July 2022)
SIHP 50-30-10-01947	Habitation and agricultural sites	Hammatt 2021: 2	Destroyed prior to 1990
SIHP 50-30-10-01949	Habitation sites	Hammatt 2021: 2	Destroyed prior to 1990
SIHP 50-30-10-01950	Habitation sites	Hammatt 2021: 2	Destroyed prior to 1990
SIHP 50-30-10-01946 (per CSH June 8, 2021 Letter Report, located outside Parcel HH)	Permanent Habitation; Enclosures, Platforms	Hammatt et al. 1998: 5, 7	Unknown, assumed destroyed prior to 1990
SIHP 50-30-10-01939 (per CSH June 8, 2021 Letter Report, located outside Parcel HH)	‘Auwai	Hammatt et al. 1998: 5, 8	Unknown, assumed destroyed prior to 1990

While the Field Inspection Letter Report does not reference SIHP #s -01946 nor -01939, they are located within TMK [4] 2-6-015:029 and therefore included in the table above. Based however on the green areas in Figure 24 that denote mass grading that took place before 2014, it can arguably be presumed that these two sites, like the other four in TMK [4] 2-6-015:029, were destroyed prior to 1990, at minimum prior to 2014.



4.2.2 Parcel H: Lots 18 and 19

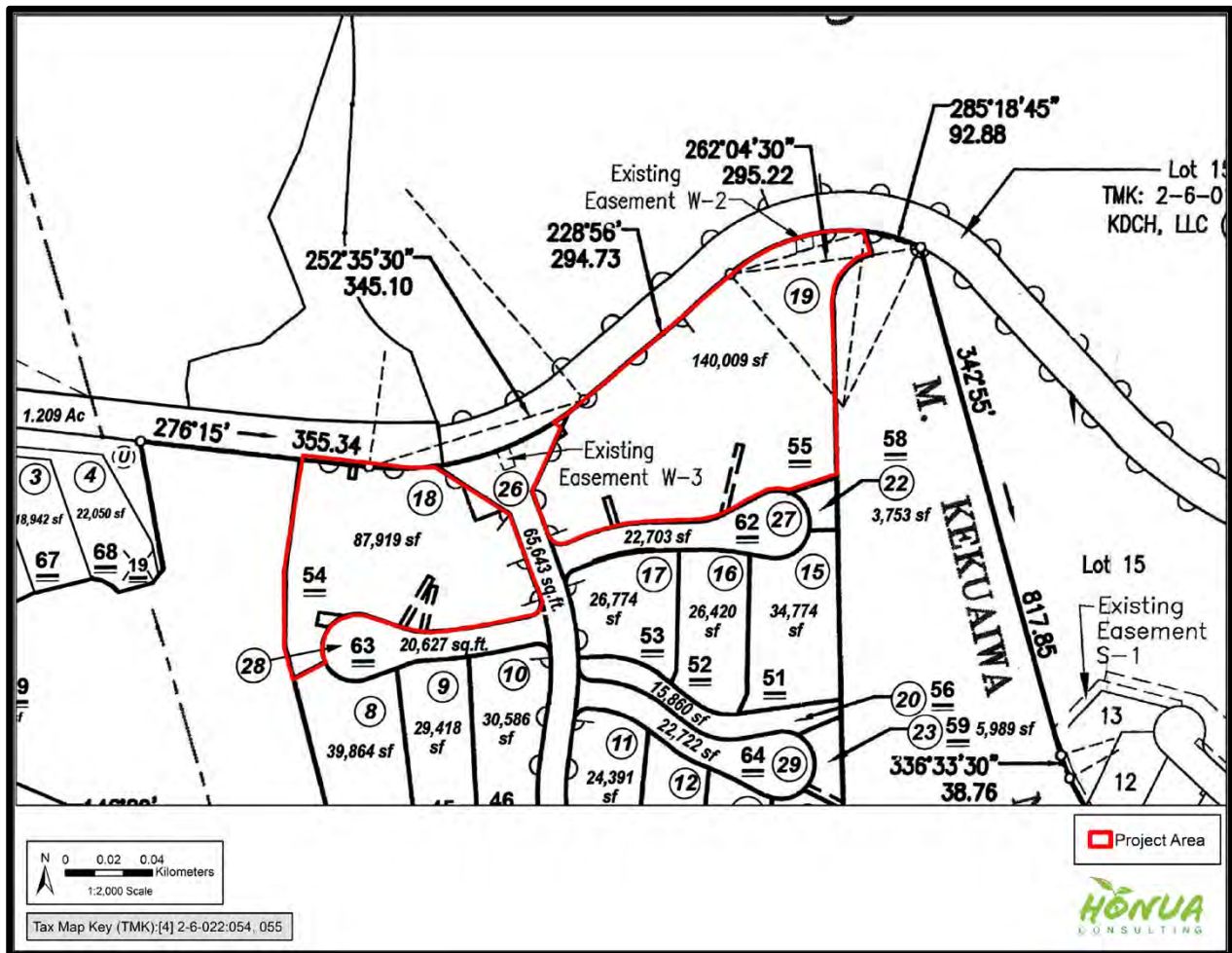


Figure 27. TMK map showing Parcel H Lots 18 and 19.

CSH completed a *Final Archaeological Assessment Report for the Kukui’ula Community Development Parcel H Project* date December 2015 (AA 2015). The title of the report in and of itself is an indication of the parcel being clear of any historic sites.

No historic properties were identified within the project area during the initial AIS investigation, therefore this report is termed an archaeological assessment, per HAR §13-13-284-5(b)(5)(A): “Results of the survey shall be reported either through an archaeological assessment, if no sites were found, or an archaeological survey report which meets the minimum standards set forth in chapter 13-276-5.

### 4.3 Natural Resources with Cultural Significance

To employ the Hawaiian landscape perspective and emphasize the symbiosis of natural and cultural resources, Honua Consulting uses the term 'biocultural' to refer to natural and cultural resources, with additional sub-classifications by attributes.

A brief further discussion of environmental zones and traditional Hawaiian land management practices is necessary to understand the tangible and intangible aspects of the Hawaiian landscape. Additionally, it is important to point out once again that in the Hawaiian landscape, all natural and cultural resources are interrelated and culturally significant. Natural unaltered landscape features such as rocky outcrops, cinder cones, intermittent streams, or an open plain can carry as much significance as a planted grove of wauke (*Broussonetia papyrifera*) or a boulder-lined 'auwai (canal).

The large districts (moku-o-loko) and sub-regions ('okana and kālana) were divided into manageable units of land that were tended to by the maka'āinana (people of the land). Perhaps the most significant management unit was the ahupua'a. Ahupua'a are subdivisions of land that were usually marked by an altar with an image or representation of a pig placed upon it (thus the name ahu-pua'a or pig altar). In their configuration, the ahupua'a may generally be compared to wedge-shaped pieces of land that radiate out from the center of the island, extending to the ocean fisheries fronting the land unit. Their boundaries are defined by topographic or geological features such as pu'u (hills), ridges, gullies, valleys, craters, or areas of a particular vegetation growth (cf. Malo 1951: 16-18; Lyons 1875; and testimonies recorded before the Boundary Commission).

The ahupua'a were also divided into smaller manageable parcels of land (such as the 'ili, kō'ele, māla, kīhāpai, mo'ō and paukū etc.), generally running in a mauka-makai orientation, and often marked by stone wall alignments. In these smaller land parcels, the native tenants cared for and cultivated crops necessary to sustain their families and the chiefly communities they were associated with. As long as sufficient tribute was offered and kapu (restrictions) were observed, the common people, who lived in a given ahupua'a, had access to most of the resources from mountain slopes to the ocean. These access rights were almost uniformly tied to residency on a particular land and earned as a result of taking responsibility for stewardship of the natural environment and supplying the needs of ones' ali'i (see Malo 1951:63-67 and Kamakau 1992:372-377).

Entire ahupua'a, or portions of the land were generally under the jurisdiction of appointed konohiki or lesser chief-landlords, who answered to an ali'i-'ai-ahupua'a (chief who controlled the ahupua'a resources). The ali'i-'ai-ahupua'a in turn, answered to an ali'i 'ai moku (chief who claimed the abundance of the entire district). Thus, ahupua'a resource supported not only the maka'āinana and 'ohana who lived on the land, but also contributed to the support

of the royal community of regional and/or island kingdoms. This form of district subdividing was integral to Hawaiian life and was the product of strictly adhered to resources management planning. In this system, the land provided fruits and vegetables, and some meat in the diet, and the ocean provided a wealth of protein resources. Also, in communities with long-term royal residents, divisions of labor (with specialists in various occupations on land and in procurement of marine resources) came to be strictly adhered to (Malo 1951: 63-67).

#### 4.2.1 Plants – Kauanoē o Kōloa

A biological assessment conducted by Tetra Tech in December 2021 only identified a single native plant in the Project Area for the Kauanoē o Kōloa project: ‘uhaloa. ‘Uhaloa is primarily a medicinal plant. The leaves, stems and roots were pounded, strained and used as a gargle for sore throats, which is a practice that continues today (Abbott 1992). ‘Uhaloa was also combined with other plants to create a tonic for young and older children, and seldom adults (Krauss 1993). Canoe builders would also occasionally add the sap of ‘uhaloa to a concoction of kukui root, ‘akoko, and banana inflorescence to create a paint that would stain the hull (Krauss 1993). This native plant remains abundant throughout the Hawaiian Islands and is still treasured as a natural and safe tonic for bodily ailments today.

#### 4.2.2 Wildlife – Kauanoē o Kōloa

A number of different species of native wildlife were identified in the biological assessment for the Kauanoē o Kōloa project as being in, adjacent to, or potentially using the ahupua‘a (geographic extent) as habitat:

- Kōlea (Pacific golden-plover)
- Ae‘o (Hawaiian stilt)
- Nēnē (Hawaiian goose)
- ‘Alae kea (Hawaiian coot)
- ‘Alae ‘ula (Hawaiian gallinule)
- Koloa (Hawaiian duck)
- ‘Ua‘u (Hawaiian petrel)
- A‘o (Newell’s shearwater)
- ‘Akē‘akē (Band-rumped storm-petrel)
- ‘Ōpe‘ape‘a (Hawaiian hoary bat)
- Pinao (Globe skimmer dragonfly)
- Pe‘e pe‘e maka ‘ole (Kaua‘i cave wolf spider)
- Kaua‘i cave amphipod (possibly ‘ami kai in Hawaiian)

The non-native pig was also identified in the Kauanoe o Kōloa project area. Pig hunting is a legally recognized customary practice. Pigs are hunted and then used as a food resource throughout the islands.

There are numerous practices associated with birds in Hawaiian culture, including lei making and other traditional practices. The birds identified in the area are all protected by various state and federal laws, limiting contemporaneous cultural practices.

All of the species could potentially be ‘aumākua, spiritual guardians, and interviewees identified these species as such in the ethnographic data. Additionally, the larvae of the pinao, called lohelohe, is used in hula and heiau ceremonial practices.

### **4.3 Intangible Cultural Resources – Kōloa Ahupua‘a**

It is important to note that Honua Consulting’s unique methodology divides cultural resources into two categories: biocultural resources and built environment resources. We define biocultural resources as elements that exist naturally in Hawai‘i without human contact. These resources and their significance can be shown, proven, and observed through oral histories and literature. We define built environment resources as elements that exist through human interaction with biocultural resources whose existence and history can be defined, examined, and proven through anthropological and archaeological observation. Utilizing this methodology is critical in the preparation of a CIA as many resources, such as those related to akua, do not necessarily result in material evidence, but nonetheless are significant to members of the Native Hawaiian community.

Hawaiian culture views natural and cultural resources as being one and the same: without the resources provided by nature, cultural resources could and would not be procured. From a Hawaiian perspective, all natural and cultural resources are interrelated, and all natural and cultural resources are culturally significant. Kepā Maly, ethnographer and Hawaiian language scholar, points out, “In any culturally sensitive discussion on land use in Hawaii, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends and nature begins” (Maly 2001:1).

#### **4.3.1 ‘Ōlelo No‘eau**

‘Ōlelo no‘eau are another source of cultural information about the area. ‘Ōlelo no‘eau literally means “wise saying,” and they encompass a wide variety of literary techniques and multiple layers of meaning common in the Hawaiian language. Considered to be the highest form of cultural expression in old Hawai‘i, ‘ōlelo no‘eau bring us closer to understanding the everyday thoughts, customs, and lives of those that created them.

While Mary Kawena Pukui's important collection of 'ōlelo no'ēau does not contain proverbs for Kōloa, Kaua'i, there are but a small sampling of the numerous poetic sayings and epithets Hawaiians had for important places. One such saying for Kōloa is "ka ua noe o Kōloa," or "the misty rain of Kōloa." A variation of this 'ōlelo no'ēau is "ka ua noe kaulana o Kōloa," (the famous misty rain of Kōloa) (*Ka Puuhonua o na Hawaii*, September 7, 1917: 4). There are nearly one hundred references to this 'ōlelo no'ēau found in articles between 1900-1920s published in various Hawaiian language newspapers (for examples, see Peter Kemamo in *Ka Nupepa Kuokoa*, June 1, 1922: 4, and "Ka Ua Noe o Koloa, *Ka Nupepa Kuokoa*, July 12, 1918: 8). Another variation is, "e mau ana nō ke kilihune o ka ua noe o Kōloa" (the fine drizzle of the misty rain of Kōloa endures) (Oliver Kua, "Ike i ka Nani o Poipu," *Ka Nupepa Kuokoa*, January 21, 1921: 8) and "ke kilihune mai nei nō ka ua noe o Kōloa" (the misty rain of Kōloa continues to drizzle down) (Kiu Hana Meahou, "Na Me[a]hou Ono o Koloa," *Ka Nupepa Kuokoa*, May 8, 1924:6). In another article, Mrs. Nani Mahu includes another variation, "'o ka ua noe o Kōloa ka helu 'ekahi" (the misty rain of Kōloa is number one [the best]), and utilizes a variant of the chorus of the mele "Ka Ua Noe o Kōloa" ([he] nani maoli nō ka ua noe o Kōloa / He makalapua i ka waokele / Ka hiona o ku'u ipo / Ua like me ka 'ano'i) as an 'ōlelo no'ēau (Mahu, "He Hoomaikai," *Ka Nupepa Kuokoa*, November 19, 1920: 8).

Many of these references are utilized by Peter Kemamo Sr. of Kōloa, Kaua'i. In a number of published articles, he references similar 'ōlelo no'ēau for his homeland, including:

"Ka 'o'opu kalekale o ka ua noe o Kōloa" (the soft 'o'opu fish of the misty rain of Kōloa) ("Moses Puahi Keoua o ia mau na Oopu Kalekale o ka Uanoe o Koloa," *Ka Nupepa Kuokoa*, October 7, 1921: 3).

"[Ka] i'o nenue 'ono o ka ua noe o Kōloa" (the delicious meat of the the nenue fish of the misty rain of Kōloa) ("Oia mau no na Kuhina o Koloa," *Ka Nupepa Kuokoa*, May 11, 1922: 3).

"Nā l'o Wana Momona o ka Ua Noe" (the fat, delicious sea urchin flesh of the misty rain) (*Ka Nupepa Kuokoa*, June 8, 1922:5).

He also variously references the concept of 'ono (delicious, primarily referring to food, but also applicable to other kinds of enjoyment): "nā 'ono huikau o ka ua noe o Kōloa" (the surprising flavors of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, April 28, 1922: 3); "nā kuhinia 'ono o ka ua noe o Kōloa" (the rich flavors of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, August 10, 1922: 3); "nā mea hou 'ono o ka ua noe o Kōloa" (the new delicious things of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, September 27, 1923: 6); and "ho'oheno mau nō nā 'ono o ka ua noe o Kōloa" (forever cherished are the delicious flavors of the misty rain of Kōloa) (*Ka Nupepa Kuokoa*, February 14, 1924: 2).



### 4.3.2 Mele (Songs)

The *Buke Mele Lahui* (Hawaiian National Songbook), published in 1895, is “the largest number of political and patriotic Hawaiian songs ever printed in one place,” featuring mele that “echo the steadfast resilience of Hawaiians of that time as they weathered the political turbulence of the 1880s and 1890s that completely altered their world” through the overthrow and establishment of a foreign-led provisional government and subsequent annexation to the U.S. (Nogelmeier and Stillman 2003:xii). There are numerous mele and oli composed for and inspired by the larger project area, and there is at least one mele specifically composed in or for the project area of Kōloa. Nonetheless, Kōloa<sup>3</sup> is referenced in mele ‘āina of Kaua‘i.

In 1907, a mele for Kōloa, “Ka Ua Noe o Koloa” (The misty rain of Kōloa) was published in the Hawaiian language newspaper *Ka Na‘i Aupuni* by R.W.

#### Ka Ua Noe o Koloa

Nani Haupu kilakila i ka la‘i

Hanohano Kilohana i ka nahele  
Aia i laila ka maka o ka ‘ōpua  
Kīhene i ka wai o Kemamo

Chorus:

He nani maoli nō ka ua noe o Kōloa

He makalapua i ka waokele

Nā hiona o ku‘u ipo ua like me ka ‘ano‘i,

Nā kulu kēhau o ke aumoe

Ka hana a ka mana‘o lihi lau i ke pili

Makamaka pua o ka ‘ōhi‘a

Ua ho‘ohie nā manu o ka nahele

Kilipohe i ka ua nāulu

#### The Misty Rain of Kōloa

Beautiful is Hā‘upu standing majestic in the  
calm,

Kilohana (hill) is glorious bedecked by the  
forest

There is the eye of the cloudbanks (gathered)  
Where the fresh waters of the heights of

Kemamo are gathered

Truly beautiful is the misty rain of Kōloa

Beautiful in the forest

The beauty of my beloved sweetheart with my  
love,

In the drowsy mist of midnight

The desire on the leaf blade of the pili grass

The buds of the ‘ōhi‘a blossom

The birds of the forest are made attractive

By the well-shape droplets of the nāulu rain

(R.W., *Ka Na‘i Aupuni*, March 29, 1907: 3)

<sup>3</sup> It is important to note for this survey that there is also another place named Kōloa on Hawai‘i Island. There are also mele that speak of this place, which were not included in this survey as they are not related to Kaua‘i.

This mele is referenced in a 1925 article as an entry in a song contest by the women of Kōloa (“Ku i ka Nani ka Ahamele a ko Kauai Poe,” *Ka Nupepa Kuokoa*, June 25, 1925: 2).

### Kōloa - Robert Waialeale

Nani Hā'upu kū kila i ka laii	Beautiful Haupu, rising in the calm
Hanohano kilohana i ka nahele	Magnificent is the view of the forest
Aia i laila ka maka e ka 'ōpua	There the cloudbanks
Kihene i ka wai o Kemamo	Gather over the waters of Kemamo
 Hui:	 Chorus:
He ani maoli no ka ua noe o Kōloa	Beautiful indeed, the misty rain of Kōloa
He makalapua i ka wao kele	Bringing forth blossoms in the upland forest
Nā hi'ona o ku`u ipo ua like me ka 'ano'i	The appearance of my sweetheart awakens
Nā dews kēhau o ke aumoe	my desire
	Like the dews at midnight

In this mele, the composer, Robert Waialeale, father of famed Hawaiian musician Lena Machado, writes this mele 'āina (song about the land) for Kīpukai, located within Kōloa. Waialeale writes of different places and resources in this mele, specifically Kemamo, which was a spring said to be reserved for ali'i in the Kōloa area. The notes for this composition also state that some kūpuna believed Kōloa to be named for the steep rock feature in the area called Pali-o-Kōloa.

### Nani Kaua'i - Traditional

A he nani Kaua'i 'eā	Beautiful Kaua'i
'O ku'u 'āina	My homeland
 Ke one Nohili 'eā	 The sand of Nohili
E kani mai nei	Makes sound
 Ka wai 'anapanapa 'eā	 The sparkling water
I ke kula o Mānā	On the plain of Mānā
 'O ke kaupoku hale 'eā	 The roofs of houses
Lau a'o Limaloa	Are many of Limaloa
 A he nani Hā'upu 'eā	 Beautiful is Hā'upu
Ka ua noe o Koloa	The misty rain of Koloa

A he nani Lihu'e 'eā I ka ua Pā'upili	Beautiful is Lihu'e In the Pā'upili rain
A he nani Hanalei 'eā I ka wai o NāmoloKama	Beautiful is Hanalei With the falls of NāmoloKama
A he nani Ha'ena 'eā I nā pali 'o ahi	Beautiful is Ha'ena With the cliffs where the firebrands were hurled
A he nani Kalalau 'eā Nā pali o Ko'olau	Beautiful is Kalalau And the cliffs of Ko'olau
Ha'ina ka puana 'eā A he nani Kaua'i	The end of my song Beautiful is Kaua'i

There are many songs that speak to the beauty of Kaua'i. There are also more than one mele titled, "Nani Kaua'i." This traditional composition above is less commonly known than another mele, also called "Nani Kaua'i." Both mele speak of many famed places across the island; this mele in particular references Kōloa and its famed rain, the hā'upu rain.

## 5.0 Ethnographic Data

As discussed previously in **Section 2.5 (Ethnographic Methodology)**, information was collected from a wide range of individuals and sources. The findings of those efforts are discussed in this section. Ethnographic data is utilized to supplement the other research methods utilized. It is one in a range of research tools employed to gather information about the project area.

Honua Consulting was tasked with gathering information from individuals with lineal and cultural ties to the area and its vicinity regarding regional biocultural resources, potential impacts to these biocultural resources, and mitigation measures to minimize and/or avoid these impacts.

The bulk of the information available from practitioners and kūpuna were drawn from native testimonies and Hawaiian language sources and integrated into the cultural and historic overview section of this assessment. Those sources, along with responses to this project, were considered when researching the traditional or customary practices discussed in a previous section. Interviews were conducted with sixteen (16) individuals. This data helped to identify additional resources and practices in the area; this information also helped to confirm research conducted for this report.

Each participant was asked or provided the same questions:

### Interview Questions

1. Please provide your name.
2. What is your profession?
3. Where were you born and raised?
4. Where do you live now?
5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?
6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?
7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?
8. Is there anything about the project area that's particularly significant you would like to share?
9. Are there any stories associated with the project area we should be aware of?
10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?

11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?
12. Do you have any recommendations for conditions or best management practices for the project, should it proceed?
13. Is there anything else you would like to share?
14. Is there anyone else we should talk with about the projects or the Project Areas?
15. Is there anything in this interview you would like us to omit from the summary?

Participants were invited to respond or participate in whatever manner was most comfortable for them. Some participants elected to be verbally interviewed while others chose to respond in writing.

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## 5.1 Interview with Ana Mo Des

**Interviewer:** Fern Holland

**Interviewee:** Ana Mo Des

**Date:** June 10, 2022

**Location:** Written / Phone

### Biography

Ana Mo Des was born and raised in Miami, FL and currently lives in Kalaheo. Ana has lived on Kaua'i since 2007 and is a full-time mom and instructor.

While Ana does not practice Hawaiian cultural practices in this area herself, she is connected with those that do and has been following this issue and concerns over development at the Kauano'e o Kōloa location for over a year now.

### Overview

Ana's engagement and concern has been based around the Kauano'e o Kōloa project site particularly, but she is concerned overall with the developers actions. She is a concerned resident that has supported efforts by Hawaiian friends to bring attention to what they believe is significant destruction of cultural sites on the property.

### General Discussion

Ana walked the Kauano'e o Kōloa property in February 2021, just after it was freshly mowed. She saw many sites worth exploring with a data recovery survey (the second part of a three-part process that is involved in a proper cultural survey). She saw a large heiau, ancient stone pilings that easily provide habitat for endangered species and what could very well be a burial mound among many lava tubes easily identified as she walked throughout the property. She also saw the native protected nēnē living comfortably in what she described was overgrown lush habitat at the time.

Ana believes that these areas should instead be preserved in perpetuity so we may regain access to what the island culture has to provide, not only for its people but for visitors and resident transplants alike. She sees the value of these sites and the cultural resources they could again provide in the future.

### Cultural Resources

Ana sees the remnants of these rock structures and these important caves as cultural resources worth protecting.

## Traditions and Customs

Ana is not personally aware or connected to traditions and customs in this area but emphasizes that she believes the sensitivity of the site warrants full deep investigation prior to any approvals.

## Impacts

Ana sees the impacts of complete destruction of potential cultural sites, caves and other artifacts as chipping away at the soul of the kanaka people. She sees the blasting, bulldozing and works that have occurred as severely impacting the site and those connected to it and believes that cannot be undone and the developer must answer for this destruction.

She sees the larger impacts of this development as displacement since it is in a visitor destination area and the starting price is over \$1,000,000 for a two bedroom. There is no way local residents can attain that.

Ana is particularly concerned about the impacts developments like these will continue to have on economic disparity. Ana said she quietly paid attention and observed for 10 years before stepping forward to testify before Council about the economic disparity caused by exploitation which results in drug and alcohol abuse, domestic violence, crime, homelessness, survival trafficking and eventual suicide in 2017.

This has motivated her engagement in an attempt to make a difference in this area. Ana sees these results coming from the failure of the State and County level governments who allow these types of developers to disregard the rules. She believes the County and State and decision makers are responsible for the aforementioned impacts.

## Mitigation Measures and Recommendations

Ana believes that these developers claiming that nothing of significance is on the property is completely false and fraudulent. She also points out that the evidence on the property that has been documented and photographed would have triggered a merited data recovery survey.

She explains that Missy Kamai after her initial inventory survey said that her recommendation will be to have a large team come in to do the data recovery portion of the survey and that all mowing would be done by hand since the area is so sensitive. It is not clear what led to it being reported completely different and Ana can only wonder if threats or bribes were made for the report to conclude that nothing of significance is present.

By logic standards how could such a large parcel right next to HAPA trail not have enough triggers to do a full and complete investigation.

Ana's biggest issue with the developer is that they are not following due process and feels it is a complete disregard for the Rule of Law and what appears as evident corruption that has been unveiled since these lies ensued.

She believes that instead of Poverty Awareness Week or Suicide Prevention Month, elected and appointed officials need to ensure developers follow the Law and best practices. She specifically referred to the Law that was quoted in the first page she read of this Ka Pa'akai packet.

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## 5.2 Interview with Chadley (Chad) Schimmelfennig

**Interviewer:** Fern Holland

**Interviewee:** Chadley (Chad) Schimmelfennig

**Date:** June 3, 2022

**Location:** Zoom

### Biography

Chad is the Executive Director of Kawaikini Charter School. He was born and raised on Kauai and currently resides in Hanapēpē.

Chad's association to the project area is through genealogy. Kōloa and Po'ipū area is where his family lineage descends as far back as his family can recall. Currently he works on restoration efforts on Kamalo'ula heiau and is familiar with the history and sites in Po'ipū and Koloa.

### Overview

Chad explains that while a great deal of the cultural sites in this area and the resources that were associated have been destroyed over the last century, there is a lot of rich culture and history in this area and significant coastal ecosystems that are continuing to be impacted.

Chad likes to stay neutral and factual and has concerns about recent activism mislabeling some of these significant sites and is concerned that when sites are renamed to suit agendas. He has an issue with names being ascribed to different names to fit something else that is not based in historical research.

### General Discussion

Chad explains that while he doesn't recall all the names of the specific sites in this area there are quality records of the original place names and maps that can provide this. He explains a lot of these areas were created in the 1400s under the reign of Manokalanipō. There are records of that and structures like Kamalo'ula heiau is a smaller section of the greater heiau structure that has been demolished.

There are at least two heiau in this area Chad is aware of. The Kukui'ula area is significant because it has several heiau and it has another area that is a ko'a and connects to Prince Kuhio or Ho'ai Park. As far as what this area was, it was significant, but as far as what it is now, is really nothing, because almost all of it has been lost. He describes it as simple carelessness of resource protections when building golf courses and developments. There are

a handful of heiau that are accessible and being managed and restored in this area, which he is thankful for.

### **Cultural Resources**

Chad says that unfortunately he really doesn't have any immediate resources to gather from the project sites, only because the plantation during the latter part of the 1800s and early 1900s wiped out the natural resources in this area leaving only sugarcane. At one time Chad explains there were cultural resources associated with having a large population in that area.

Chad speaks of the shoreline area as a cultural resource that has been impacted over time. He talks about the shoreline area being impacted by the developments and poor land use choices. He mentions particularly the impacts to the reef and coastal ecosystem, emphasizing the huge difference in his lifetime and species he saw prevalent as a child, which are now harder to find.

He particularly mentions remembering harvesting fish and 'opihi along this shore that are no longer common in this area.

Chad included that one of the heiau in this region is commonly called the wrong name. He said while he has heard people refer to the heiau at Kiahuna as laka heiau, because the name of the street is Pā'ū a Laka, he clarifies that the site is registered to his 5 great grandparents and is a house site that is still registered to Nāhinu and 'Auhea in the state archives. It was their home site. Chads great grandparents would take his father there to show him where they lived and ate. The developers had a kumu hula name the streets during the building of the area, and they named it Pā'ū a Laka. Now, people keep calling it the incorrect name. The true name that it's registered as is Mauna Pōhaku. It was their site that they lived in after the rebellion of Kaumuali'i. They retained their status as ali'i only because 'Auhea was aunt to Kamehameha II.

### **Traditions and Customs**

Theoretically there were significant traditions down here but the earliest western records are from the 1920s and a large percentage of this area was a village then. There were absolutely at one time abundant agricultural resources in this area. He explains that there were absolutely structures and with them traditions and customs associated with this highly populated area but much of this has been destroyed with the destruction of the sites. He also mentions that now specifics about locations are hard to pinpoint.

Chad mentions the birthplace of Prince Kūhio is in this area and that there is history associated with ali'i here. He explains that the area where Prince Kūhio was born was also the



area of previous ali'i and could be dating back to Manokalanipō and Kukona because that was as far back as we could find in any history books the sites of ali'i.

He describes the traditions and customs most practiced in this area as being based around agriculture. He explains since the 1800s these systems have been impacted and continue to be. Chad explains that the whole area was an agriculture complex with 10 miles of 'auwai system. This started at the tree tunnel, Kahili, spawning out to the south end of Kaua'i and branching off for another 10 miles of 'auwai branches.

He describes any practices and traditions as subjective now since it is hard to know what was whereas the sites are largely gone and demolished and the memory of those practices largely lost with it. He clarifies there is no one here today to explain what the specific practices were and where. He does say there are some old audio recordings of his kupuna in the 1930s and 1940s that tell stories of the area and what the practices were and what the various places were, but all are no longer existent.

Chad mentions that his kupuna had many old style mo'olelo that were recorded. His great great grandma was one of the influential people in that area in the 1920s and before and she had these old stories that talk about the folklore of the Kōloa area. Some of these do correlate to the areas where these projects are planned. One speaks of a flying turtle and certain caves that were dedicated to a specific turtle.

## Impacts

The Kauano'e o Kōloa development is close to a lot of cave systems that still exist in that area. Most of these have been closed in or blocked off according to Chad. He believes the level of impact varies depending on the specific site. He explains some areas were just caves and shelters but some could have been used for other things, like burial sites. This practice of burial ways still happens on Hawai'i Island.

Chad says that where Kauano'e o Kōloa is proposed was another portion of the agricultural complex. He says he met people in the 1960s that saw the bulldozing of a lot of these areas that resulted in these large rock mounds and there are over 3 dozen mounds in the area that were from bulldozed rock piles. Whatever wasn't collected for use locally for rock walls in peoples' yards were just left in piles and a lot of that is the ancient walls and 'auwai structures that were a part of this system.

Chad mentions the massive impacts to these areas in the past and the dynamiting that happened in the 1990s. He explains that the entire area was leveled and the cave systems and lava tubes were largely destroyed along with that. He specifically remembers closer to the Ho'ai area the land was dynamited for at least a year straight. He remembers this destruction

and the leveling that happened. He describes most of those structures as now flat and destroyed. He mentions one site in that immediate area that was spared and it is a hale ali'i site and a cooking area that was blocked off and preserved.

Since most of this area was agriculture and provided food a lot of the drastic impacts already happened in the 1870s and the real use has already been lost, and impacts continue.

Chad sees the impacts of these additional developments as potential continued destruction to what remains. He clarifies that the specific impacts of what is being impacted varies from site to site. He explains some of the sites are demolished and some have remained intact. Disturbance to these sites therefore has different impacts because some have been sitting there for 30 years untouched but exploded and dead and some areas have existing structures that are now being pushed to the side that are intact, especially the 'auwai system, which is unique within the Hawaiian Islands.

### **Mitigation Measures and Recommendations**

Chad isn't comfortable suggesting measures that would be appropriate. He feels that would be speculation on his part and he likes to look at the facts and specifics before making those recommendations and specific suggestions.

He said everyone on all sides needs to do what is right. He believes that there needs to be communication and transparency and a process of healing.

He said that concerned community members need to focus on saying the things we know to be true about these places because if we do not use correct resources and facts, it does a disservice. He sees some of this as taking everything and giving nothing back and that requires a process for healing to move through.

Chad recommended we reach out to some of the older families that are still living today. He mentions his Aunt Betsy Ludington who has been there for a long time and has some great stories and knows things that normally people don't know. He suggests that Randy Wichman be engaged because of his records and maps of historical knowledge of this area.

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### 5.3 Responses and Documents from Elizabeth Okinaka

1. Elizabeth Okinaka - Spiritual indigenous woman
2. Stay at home mother/Cultural Practitioner
3. Born in CA raised in Koloa, HI and have lived there through the present
4. Koloa, HI
5. I used hapa trail as a child and frequently use the trail today with my children for beach access.
6. Yes spring water, native plants, indigenous species who is revered to as a 'aumakua. Endangered species, the blind cave spider and amphipod found no where else in the world.
7. Yes prayer and spiritual practice took place on subject property daily. Many cultural practitioners access this site prior to development happening. I practiced protocol here daily and am now threatened with arrest by developer if I step foot off hapa trail.
8. This entire parcel is significant. The birthing stone, the alter which I visited daily and prayed at is now destroyed. The burial sites and chiefs sitting area are now being destroyed. Chief Palikua is buried underneath this property within a burial cavern and a part of the cave system. Laka heiau and the cave directly behind this property shows the lack of preservation for this entire area. This property has lava tubes and caves exposed since blasting which developer is denying. 3 caves were destroyed in Wainani subdivision which is directly next to this lot. The developer of Wainani admitted to the LUC and there are LUC records that confirm the destruction of the 3 caves in Wainani, destroyed with bulldozers during development. See attached. The developer of Pili Mai, the parcel just below the project area, had problems with its foundation as it was also built over a cave system. There are at least 3 designated habitat caves in the area immediately adjacent to the project site and knowing about the caves under Wainani and Pili Mai, it is unlikely that they are not also under the project area. Hal Hammett and Cultural Survey's Hawaii advertise the use of ground penetrating radar (GPR) on their website and claim to have trained personnel with the technological ability to use GPR. Yet no GPR was used on the project area prior to extensive grading, excavating, blasting and filling with dozens of truck loads of dirt and rock being delivered to the project area.
9. I have read stories of great events held by Kaikioewa here, the procession of helpers he was followed by and also his Spanish friend who traveled with him often was present.
10. Yes, in answering this survey, I am responding to the questions relating to the project area on Kiahuna Plantation Drive, 5425 Pau a Laka. I object to the developers effort to secure answers to these questions for the cottages near Kukuiula boat harbor and the luxury homes in Kukuiula. If I am expected to answer Ka Pa`akai questions for other developments, I should receive a questionnaire with more details about those developments so that I can properly respond. Since my young childhood and to present I have been a frequent visitor to the Kukuiula boat harbor, beach and Lawaii coast and

am requesting that I be allowed to comment on a separate questionnaire for any development in that area. I refuse to combine 2 completely separate areas into this single question. Kukuiula is almost entirely in a different ahupua'a. I believe developer should have to conduct 3 surveys, One for each project area. Impacts for substantial destruction of cave system and lava tubes. Continued desecration of burial sites and culturally significant sites in Koloa. Why not give a more in-depth explanation or TMK number for every property? 2 species found no where's else which reside in the the Koloa cave ecosystem consider to be one of the 10 most endangered cave systems in the world.

11. Yes I am being threatened by arrest daily if I try to access my once daily prayer site. KPD is being privately hired by developer and has given out trespass warning for the property and the adjacent road that the public uses to enter Kiahuna development and Wainani subdivision. Even though this road is accessed by the public, I and other practitioners have been told that we are not allowed to walk on the public road and we will be arrested if we step foot off of Hapa Trail. The difficulty is that no one has ever determined where Hapa Trail begins and ends. In fact, there are rock formations on Hapa Trail that abut the fence recently built by the developer which raises serious questions about whether or not the developer is actually fencing us off of parts of Hapa Trail. Colin Thompson the VP has been harassing us as we document the desecration from Hapa Trail. He calls out and yells at us and asks why we are there. Recently, he started flying a drone right next to us as we stand on Hapa Trail. I took pictures of his drone and strongly object to this threatening and harassing behavior by this developer.
12. No it should NOT proceed. This developer has blatantly and repeatedly broken the law. He is pending IRS charges for a similar instance of depreciation of value of land. He is blocking cultural and lineal descendants from accessing this culturally significant site. I do not trust this process. I do not believe in this process, how can you ask for our input of such a culturally significant site while the developer is grading with bulldozers and front end loaders and blasting, destroying the resources? I was on site the day Missy Kamai conducted her survey for cultural surveys Hawaii. She herself told me she could see the cultural significance in this property and promised us that the lot would be cleared by hand before a full team came in and concluded a final archaeological survey This never happened. I was also approached by Rick Paul Cassidy the same day Missy came, I was on site when he attempted to bribe me offering a payout for each child I had and a donation to each school my children attended if, in return, I stop being vocal against this project. I declined his offer. I told him I was not interested in money.
13. I do not trust cultural surveys Hawaii and I do not trust Honua consulting and have been made aware that they have been a part of burial desecration on Oahu and Kauai. This entire process is wrong and there are still pending burial registration for this land. With multiple ex-county attorneys and employee working for developer of this project and the developer who is relying on a Christmas Eve county agreement that was never

approved by the LUC. The Decisions and Orders by the LUC affecting the project area have not been followed and the developer applicants and County are jointly obligated to follow the LUC decisions. See attached for 3 party agreement between County and developers with no LUC approval.

14. Yes there are many community members who did not get a chance to give input. This process is completely being done backwards and the wrong way, how is the county of Kauai now asking for our input on this property when we have been trying for almost 2 years to protect this site? County of Kauai was required to conduct this analysis before granting the grading and grubbing permit that was illegally given without a final biological or archaeological report. (grading permit granted 3/22 final biologic survey not done until 5/12/2022 and alleged archeological clearance from Cultural Survey's Hawaii is dated 5/9/2022, more than a month following excavation and extensive grading.

(This area intentionally left blank.)



X	<p>The Applicant shall preserve:</p> <p>a. The five (5) archeological sites identified in the archeological and biological report and shall cause no construction or alteration or other land disturbances on said sites except for preservation and restoration of the sites.</p> <p>b. The two lava tubes containing the habitat of the eyeless big-eyed hunting spider and protect these from man made encroachments. Permission to re-survey three (3)</p>	X	
<b>CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY</b>			
SOURCE		STATUS	
LUC	COK	MET	NOT MET
	<p>other caves that are potential habitats, shall be granted for scientific purposes, before these caves are destroyed.</p>		
X	<p>No site identified in the report, "Archeological and Biological survey of the Proposed Kiahuna Golf Course Village Area, Koloa, Kona, Kauai Island, Hawaii" shall be graded, grubbed, bulldozed, or in any way destroyed unless in accordance with a plan, mutually agreed upon by the Applicant and the archeologist that has been prepared whereby the archeological salvage will be accomplished by means of coordinating any grading, grubbing or similar work by the Applicant with the archeological salvage.</p>	X	

Figure 28. Document provided by interviewee

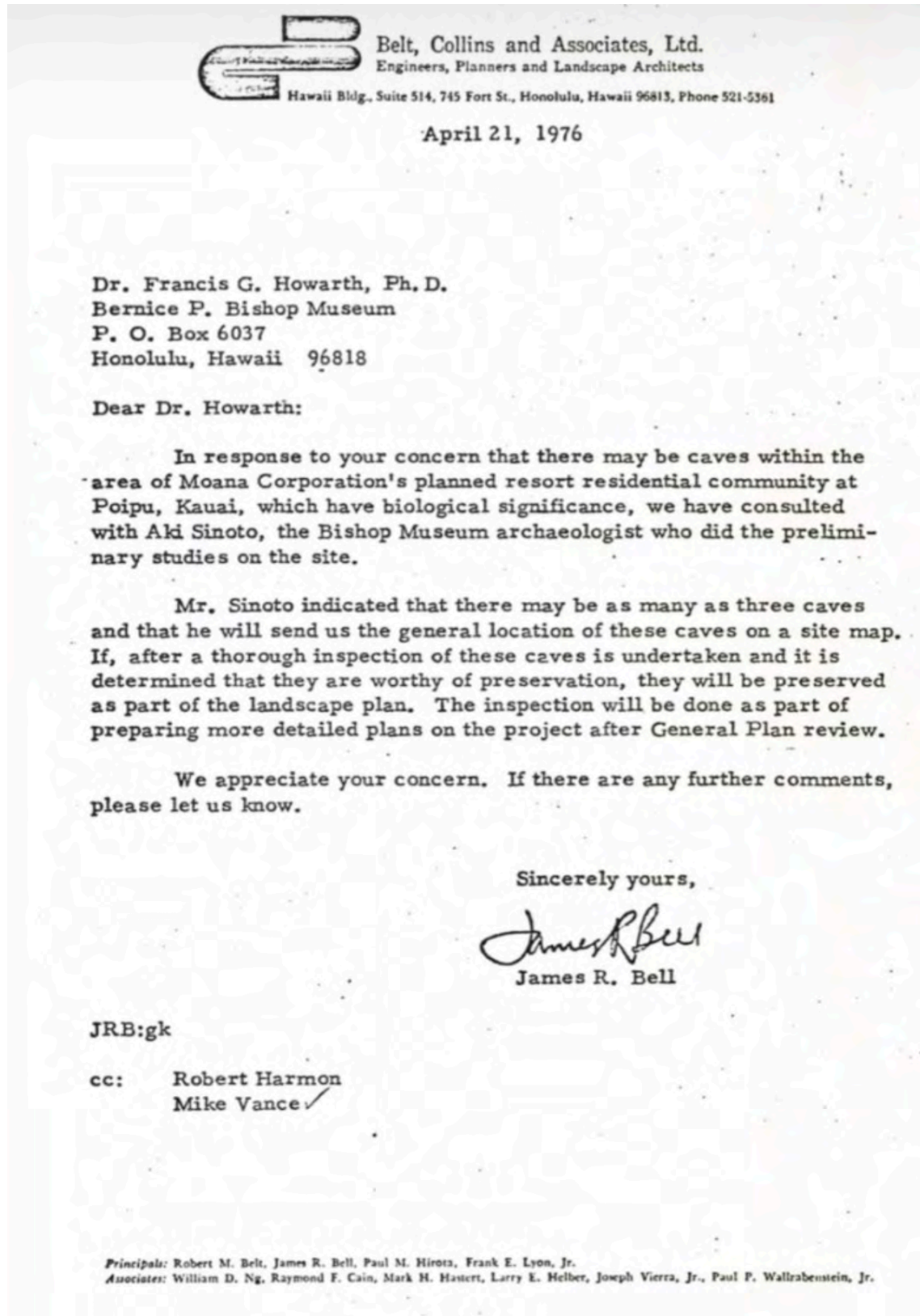


Figure 29. Document provided by interviewee

#### 5.4 Responses from Elvira Kimokeo

1. Please provide your name.

Elvira (Ella) Kimokeo

2. What is your profession? Retired

3. Where were you born and raised? Born and Raised in Koloa on family parcel in Poipu, Nalo Rd

4. Where do you live now? Hanapepe, Kauai

5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)? Walked regularly to the Catholic Church from our home in Poipu on Hapa Trail with my Grandmother and Mother Mary Costa Kimokeo

6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources? We would visit the Lava Tubes and Caves near Hapa Trail and we would pick mauna loa and black-eyed susan for lei making.

7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)? Yes for lei making and cultural practices seeds for lei's and keawe wood for kaula pig. Moho lived in lava tubes and we were told by Kupuna that the Ali`i were buried in the caves under or near the project area.

8. Is there anything about the project area that's particularly significant you would like to share?

It was my way to the get to Church with grandma Mary Kimokeo, to Koloa town and school. We used Hapa Trail almost every day. It has now been fenced and access is much more difficult.

9. Are there any stories associated with the project area we should be aware of? We all learned from our elders that the mo`o lived in the cave and traveled the cave to the fish pond near the coast to keep the fish pond clean and then return to the cave in the Kiahuna area of the project where he lived and propagated to preserve the fish ponds like the one at kaneiolouma. The mo`o was a lizard like creature that lived in the water and on land. The parcel that is now being developed was known to have underground springs and water that traveled through lava tubes to the ocean. The explosions that are being done we know from our elders are not good for the health of the ocean because of the debris that travels in the water underground to the coast contaminating the Limu, Opihi and Ayukuki/Wana.

10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided? No one talks to us. The property is already graded. Mounds that used to be on the property are now flat. Many rock formations have been blown up or crushed. How do we get that back? I don't know how to mitigate this damage except to ask that you please stop the development and allow the kupuna buried there to rest in peace.

11. Are you aware of any traditions or customs that may be impacted by such a project,

including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided? Ali`i iwi will be impacted. Plants that we used to gather can no longer be gathered as they have been cleared away. Our sacred trail is now fenced with barbed wire on one side and fence posts that are sunk in concrete. A worker was seen adding dirt to the top of the concrete to hide all the concrete that is poured in the ground right next to Hapa Trail. This is a desecration of our environment. The amakua underground has been permanently violated.

12. Do you have any recommendations for conditions or best management practices for the project, should it proceed? Stop the projects, make it a park. A place that people can enjoy. We don't need more people and more cars to compete with to get to our coastline and beaches. Developer greed is changing the life we've known and the land we love.

13. Is there anything else you would like to share? No, other than to ask you to please consider and change your plan to keep so many more people from being hurt.

14. Is there anyone else we should talk with about the projects or the Project Areas? Families and descendants that still live on Kuai Rd

15. Is there anything in this interview you would like us to omit from the summary? No

## 5.5 Responses from Glenn Silva

### Interview Questions

1. Please provide your name.

Glen Silva

2. What is your profession?

Retired - Land Title Research

3. Where were you born and raised?

Born Oakland, CA; Raised Koloa

4. Where do you live now?

Puhi, Kauai

5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?

Family Land ties. Please see deed that granted my family more than 3,300 acres between Wiliwili tract and Kukuiula harbor. I went with my grandparents to a family burial sites that were in the property along what is now Kiahuna Plantation Drive. We accessed the property from Hapa Trail and I went with my Aunt and grandparents to take ho 'okipa to grave sites in tribute to our kupuna. Place Names - Kana Moku and my family name was Kukona which my great grandfather changed to just Kana. Because the Kana family was deeded so much land on the South Shore, the family name was used for the name of the Moku. My great grandmother signed the Pala pa la Hoopii Kue Hoohuianina Petition Against Annexation, copy which she gave me attached which bares her signature, last on the list.

6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?

On the lot being developed now in Kiahuna I remember going to honor kupuna that were buried there. There used to be a mossed rock formation on the part of the property nearest the golf course. It had a rock wall nearby that was broken by bulldozers that worked on the property in January 2021. I was visiting family in Koloa and saw the damage to what was an ancient Heiau. I have walked Hapa Trail many times and it was used most by young people on their way to the beach to fish, throw net and swim when I was growing up in Koloa. We used to collect plants for my grandmother and aunt who would make medicine for our family. I also collected lima kohu, threw net and fished from the shore which several of my friends still do.

7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?

From my family, I know there was a long history of loi and sweet potato planting in the area. There were ceremonial practices for the planting and harvest season that we remember today when we walk the historic Hapa Trail. I would like my children and grandchildren to know of these practices like walking Hapa Trail which is now much more difficult because the access on the east and west side has been fenced. The Kiahuna property was an area for hunting as well and also a place for births and deaths with burials in the caves that we believe go throughout and connect all the parcels.



8. Is there anything about the project area that's particularly significant you would like to share?

My aunt and grandmother took to the graves of our ancestors but with the recent changes on the property with the fencing that keeps me from walking on the parcel I am not sure I can find their graves today.

9. Are there any stories associated with the project area we should be aware of?

I had family members who would connect spiritually with the Kupuna in the Kukona and Kon a family. I recall auntie Stella telling me it is important to remember and try and preserve the family stories.

10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?

Yes, Koloa is a small community with many older plantation families, 2 small grocery stores and 1 post office. I'm concerned that the proposed development will impact my friends and family being able to get to the beach. It is already difficult, if not impossible, to find a place to park when we want to swim, fish or enjoy our coastline. It's not that we don't want to share but we have 3 large resorts in the area and more vacation rental properties than properties for Koloa residents. There are already many more tourist here than local families and these planned developments will bring even more traffic, waste, runoff to the ocean during construction directly changes my families ability to enjoy this community which has been home to most of my family for hundreds of years. The size of the proposed developments are too large for this community. The 3 planned developments will add more than 400 cars to our roads which are all single lane and the tree tunnel is the only way in or out unless we are routed to Omao Rd which is a windy residential road. We already have problems when there are threats of hurricanes or tsunami and our single lane roads become gridlocked as people try to exit and head for higher ground. Any natural disaster requiring evacuation is already a problem for Koloa and Poipu. Adding so many more units is only going to add to the problem.

11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?

Yes, Absolutely Access, Access, for all traditional and customary practices (see #7) = Destruction of Kanaka way of life. STOP! Now!

12. Do you have any recommendations for conditions or best management practices for the project, should it proceed?

Recommend you respect and honor all customs, traditions and access to our lands and the ocean. Hapa Trail has been open for years and could be accessed from its east and west side which are now fenced. Developer said the fencing was temporary. I saw the fence going in and there were concrete footings for each fence post that went at least 2 feet into the ground. Some workers cave back and put dirt on top of the concrete to disguise that it's built in concrete but we saw it being built.

13. Is there anything else you would like to share?

It scares me to think of more than 300 new homes in this small community. With the added people and cars, Koloa and the people that have enjoyed its small-town culture and traditions will be lost. That make me very sad for my children and grandchildren.

14. Is there anyone else we should talk with about the projects or the Project Areas?

Hopefully others in my community like uncle Billy, Rupert and Kane will send in their responses. We all know that these developments are going to limit our access to Kukuiula boat harbor, Koloa landing, Sheraton beach, Waiohi beach and Poipu Beach.

15. Is there anything in this interview you would like us to omit from the summary?

No, and I would recommend that you contact and consult the Wichman family, Kauai Historical Society, and read *Na Pua Ali'i o Kauai* which will help you understand how important this area is to our people and the local residents.

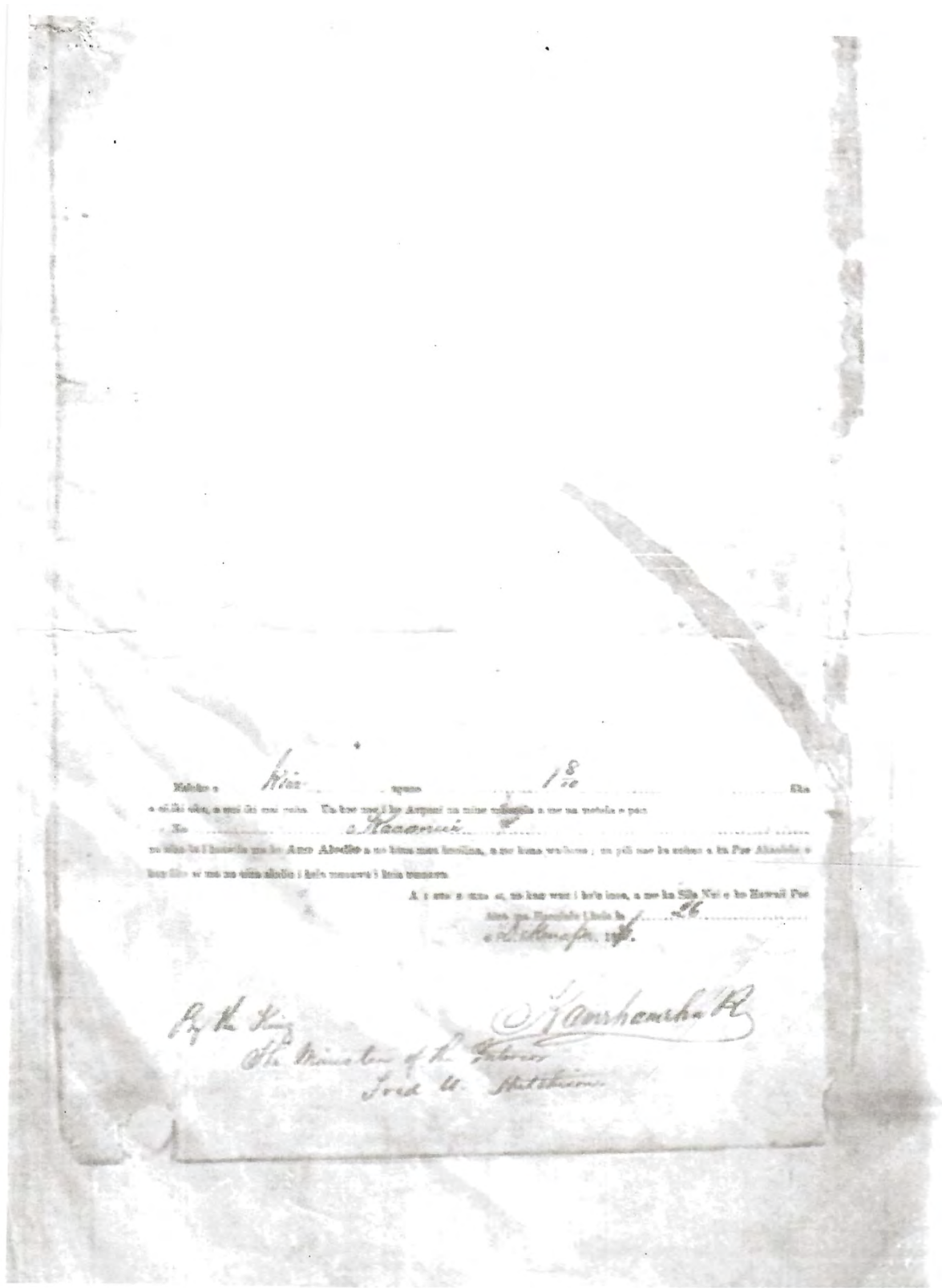


Figure 30. Document provided by interviewee

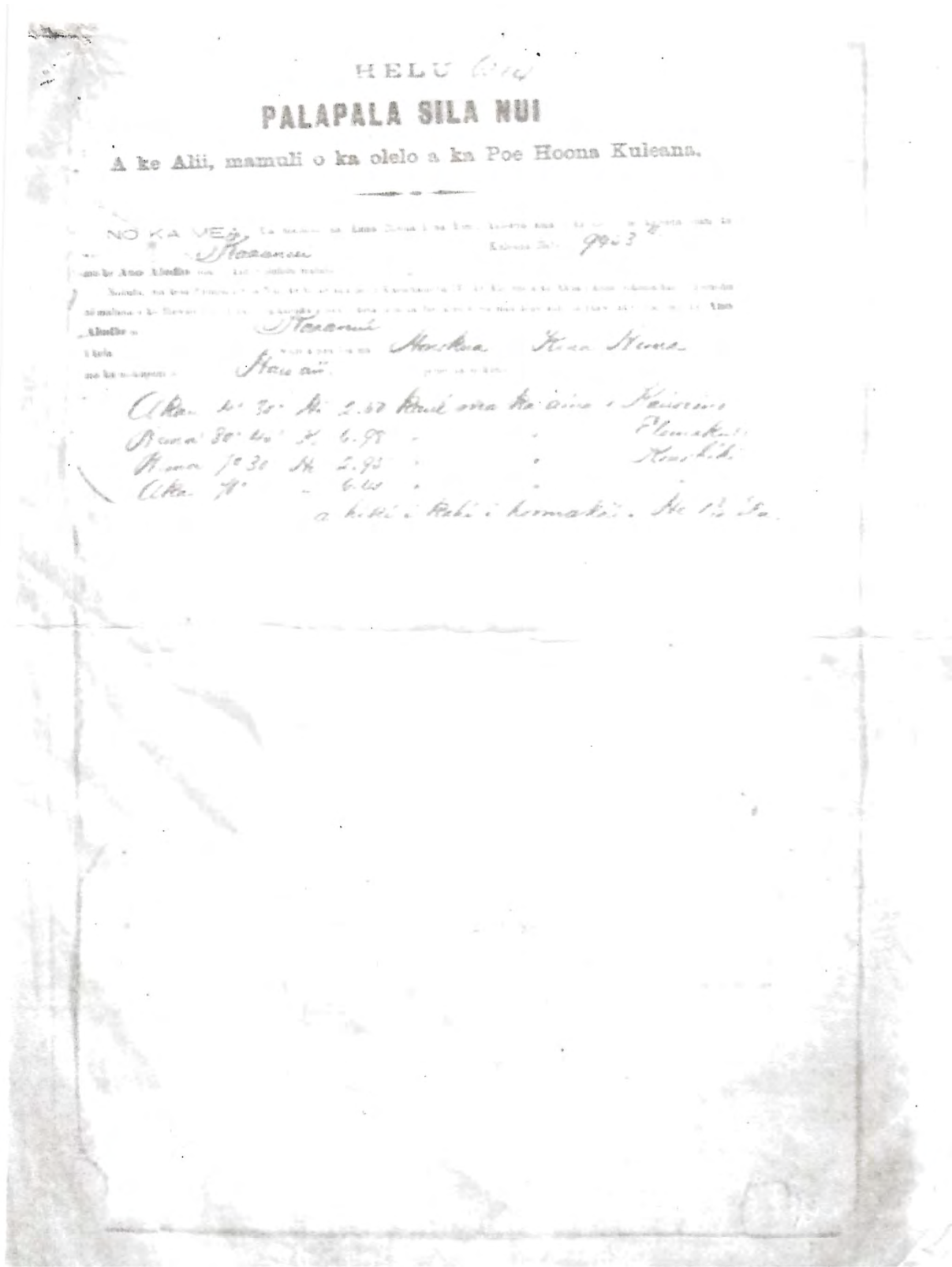


Figure 31. Document provided by interviewee.







## 5.6 Interview with Keao NeSmith

**Interviewer:** Fern Holland

**Interviewee:** Keao NeSmith - kumukeao@gmail.com

**Date:** June 9, 2022

**Location:** Zoom

### Biography

Keao NeSmith is an independent researcher and consultant. He was born in Waimea, Kaua'i and raised in Kekaha. He currently resides in Honolulu.

Keao grew up in the project area and is a local who accessed and utilized resources along this area throughout his life. He is a Hawaiian researcher and has an interest as such in this area. He has worked to clean and restore Kānei'olouma heiau.

### Overview

Keao's particular interest in the area is mostly around Kānei'olouma heiau and complex. His interest is based around his research and ongoing discussions about the sites in this area and their uses in the past and their potential uses today and in the future.

Keao is opposed to further development of this area and points out it is already so heavily impacted. Keao mentions the rich history this area has spanning centuries. He talks about the overall importance of this area and the important educational opportunities it offers and solutions for the future. He describes the impacts he sees because of these developments.

### General Discussion

Keao says he, and many Kaua'i residents, don't want more development in general. He says Kaua'i roads are jammed packed and there are already too many cars. He describes the over development as drowning out Kaua'i and its people with foreigners. He feels people need to do whatever they can to slow down this displacement of locals and bring the population to sustainable levels.

### Cultural Resources, Traditions and Customs

The Kānei'olouma complex was along the coast. He explains the significance of Kānei'olouma complex and the extensive network that runs along the coast, much of which he notes has already been destroyed by existing development and commercial projects. He explains that, looking at the archeological record all these cultural sites are a connected network, all the way to Lāwa'i Beach Resort and Kūhiō Park to Māhā'ulepū in the other direction, is one system. We don't know specifically some of the uses of certain areas. A lot of it was mixed use, a lot of it was heiau, some villages, even rock quarrying. A lot of the rocks in the stories of menehune were taken from this area.

Another form of cultural resource Keao points out is the study of the old aquaculture systems in this area. Kānei'olouma has raised aqueducts, which is an amazing feat of engineering and these troughs are still there that were raised above the ground in order to use water through a gravity fed system. He says we don't completely understand how these systems worked and if they are even aqueducts, but it appears this way. This would have been part of a system that went mauka that would have been connected to the streams in this area.

Keao says another important resource is access to important land for agriculture. He explains the mauka areas were extensively farmed for 'uala, kalo, etc and the records show there were lo'i kalo up there and the fields were planted in 'uala in other areas.

Kukona, father of Manokalanipō, in the 1400s, was involved in a battle here and Kamapua'a was involved. This battle was with the ali'i of Maui and they fought a really bloody battle along this coastline. It ended with Kamapua'a jumping in to support Kukona and the Kaua'i army to defeat the Maui army. Then there was the time of peace under the reign of Manokalanipō. This was about 400 years of peace and prosperity for Kaua'i that followed this battle. This could be the time these complexes were built. Later, Kamehameha landed here in this area also.

These are events that he believes memorials should be created for in these areas.

Limaloa is an ali'i that became best friends with Kamapua'a. Limaloa was the ali'i of this area, not sure if it was the ali'i of the ahupua'a or a moku, but according to legend he would hang out with Kamapua'a and at some point, he fell out of favor with the people of the area and they kicked him out and he ended up in Mānā. Limaloa became a kakua, god, in Mānā and he is connected to the story La'ieikawai, goddess of the rainbows, which always followed her. La'ieikawai was the goddess of the lake of Mānā area and the mirage of the Mānā. Limaloa became her lover. There are lots of chants and hula that reference Limaloa, Lā'ieikawai and other ali'i and important figures. Limaloa is originally from this area.

Salt beds were once in that coastal area but those have been destroyed. Uncle Billy Kaohelauli'i would have more insight on the locations of salt beds and traditions related to this.

### **Impacts**

Much of this area has already been destroyed from existing developments, particularly since statehood, 1959. This was the beginning of the era of large-scale developments. Many sacred grounds and ali'i estates were rapidly developed post 1959. The destruction of a lot of these sites like Kānei'olouma then occurred, to create roads. County and state departments should

have maps and records of the developments of the road systems and that means they should have maps that show these cultural sites in this area.

Keao says this development is the continuation of the destruction of these cultural sites. He notes that the destruction is already extensive and he feels we should not be piling onto it.

He explains if these agricultural systems are destroyed, we have lost all opportunity to study, understand and learn from them. If Hawaiians are further restricted from these agricultural areas and these sites convert from important agricultural features to commercial venture projects, it prevents the possibility of Kaua'i becoming independent and self-sustaining agriculturally.

He is concerned there isn't proper recognition of the important treasures we have in these valuable sites. He believes all of these sites should be considered national treasures instead of ventures for capitalism.

For locals, he sees it as a chain reaction that's been happening since occupation. He notes one of the first things to go in colonization was the aspects of the education system that taught the value of these places. This disregard for education about these cultural sites led to lack of knowledge among locals about these sites and their importance. In turn this lends to ambivalence to developments like this, like they don't matter, which extends from a previously existing, decades long, exclusion from the education system.

In order for Hawaiians to arrive at a common understanding development like this need to be stopped and education needs to happen.

There are many ways to look at the impacts to resources. If we are talking about resources we use on a daily basis today, he thinks immediately of water primarily.

Many projects do not write into their plans to make sure locals don't have access, but it is the natural result of developments such as these.

Cultural practices returning to these areas could be impacted. Just because Kānei'olouma is protected and being restored doesn't mean we are asking that locals return to that practice. The fact that this exists and the stories continue is a resource.

Projects like this aren't built for or to attract locals, they attract foreigners by their very nature. The more we edge out the local population and allow in the foreign population the less appreciation there is for all of this and these resources. Locals in turn feel less connected to their history, land and culture by actual segregation and developing them out of the area. He compares it to the overdevelopment of Kīhei on Maui, and does not look kindly on over

development of the south shore such as this. He sees Kīhei as totally overdeveloped and not resembling Hawai'i anymore and believes the problem is projects like this.

Keao struggles with the rationale behind these types of projects. He does not want more developments such as these. He says he speaks for many on Kaua'i when he says Kaua'i roads are already jam packed, there are already way too many cars and we are drowning out Kaua'i locals with foreigners of all kinds. He feels we need to do whatever we can to slow down that change and bring the population down to sustainable levels. The problem is already severe when it comes to the overpopulation and over use of commercial spots and the beaches in this area and these developments will further exacerbate this problem.

Keao believes that projects like these also result in an increasing economic divide on Kaua'i. He explains these developments keep locals with few options but low paying jobs that are hard to survive on here anymore. Developments like these like to brag about job creation, but they are often offering only low paying jobs, without security. Projects like these do not provide opportunities for highly educated residents, who have to go elsewhere to find jobs that suit their educational background. He does not feel like it is brag worthy for developers to boast to the community about their job creation, especially at the cost of what is lost. All things considered, when he looks at the pros and cons, it seems to Keao that the advantages are to the mega rich and developers, but not for locals who do not obtain secure and economically sustainable lives for themselves through these developments.

### **Mitigation Measures and Recommendations**

Speaking of mitigation, Keao feels like if they are going to mitigate the project it would have to be significant. He described it like, if they want to take some, they have to give some and it has to be equal. It cannot be take a lot and give a little. He explains that if these developers are going to take, they need to provide in equal proportion.

This is an extremely sensitive cultural area because it is so packed with historical events that took place centuries ago. Really Keao is against the project and would rather it not happen altogether.

He suggests further conversation with Canen Ho'okano & Members of the Knudsen Trust, Kumu Leina'ala Jardin, Uncle Billy Kaohelaui'i, Andre Perez and Momi Kapahulehua.

## 5.7 Interview with Malia Chun

**Interviewer:** Fern Holland

**Interviewee:** Malia K Chun

**Date:** June 1, 2022

**Location:** Zoom

### Biography

Malia Chun from is the Program Director for Nā Pua No'eau. Nā Pua No'eau is a keiki cultural enrichment program, which is a program of the University of Hawai'i. Malia was born and raised in the Moku of Puna, in the ahupua'a of Wailuanuiaho'āno on Kaua'i. She currently resides in the Moku of Kona in the ahupua'a of Waiawa.

### Overview

Although Malia grew up in the Moku of Puna, when she was like 1-4 years old she lived on the south side, while her father was the sous chef at the Waiohai. She explains that back then all that surrounding area was still sugarcane. There were also still fishing families there beachside that were sustaining themselves and their families from resources along the shoreline there. Her family gathered and fished from this coastline and her connection is one that was fed and nurtured by this area and its resources.

This project area is extremely significant to her, as well as this whole south shoreline, not just because of its rich history for her as a kanaka but because of the potential for what it could be restored to in the future and what that would mean for the survival of future Hawaiians and everyone that lives here. The site is significant to Malia as a kanaka and as a mother and as a connection to her identity.

### General Discussion

Malia explained that these types of questions and processes seek forms of additional proof of the cultural and historical significance of an area when it is already blatantly there in our history. She explains it is true that there is cultural and historical significance in this entire Koloa area. She tells of how it is well known that this area housed an ancient elaborate and unique Hawaiian agricultural system, numerous heiau and burials and 'auwai and stream systems that fed this area in a unique manner.

She explains that the problem from a kanaka, indigenous, perspective is that the proof comes in the form of mo'olelo and genealogy and cultural practices. She mentions that these forms of evidence are not considered relevant in a western system of occupation. She feels that these forms of evidence do not count as enough under American law, unless it is validated by a white man.



Malia explains that the cultural significance of this entire area has already been thoroughly established and that the complete desecration by development of this entire area is also clear.

### **Cultural Resources**

Malia mentioned that there are too many site names to mention in this area.

Malia says that despite the destruction of these areas and over development of Koloa, the remnants of this ancestral blueprint of her people still exist. Malia talks about the many relevant mo'olelo that refer to this area and feels that these historical accounts should be enough to warrant deep investigation and due diligence for any disturbance.

She goes on to explain that for her to pinpoint exactly what is in a specific location would take too long and a lot of deep research, if provable at all. Malia stresses that what we need to consider is what we value. To Malia this ancestral blueprint to self-sufficiency is a priceless part of her history and culture that will lead us into the future. She asks what is more of "value"? Is it multimillion dollar homes and condos or this ancient and historic blueprint to self-sufficiency and sustainability and food production for Kaua'i? She feels that with every additional development though this area we are bulldozing this important blueprint.

Malia mentions the HAPA Trail exists in this area and that it had an ancient name, even before the times of the HAPA trail, she believes it was named Luahine Alapa'i. This highlights the need to look at the various layers of history in this area.

Kānei'olouma nearby was also mentioned and Malia mentioned that it has so much mana and relevance to Hawaiian traditions and customs and yet it is completely surrounded by development. Kānei'olouma heiau housed navigation, agriculture, makahiki games and was a dynamic and elaborate complex.

Malia recalls that the whole shoreline along the coast as a child was covered in ko'a, or fishing ahus or markers. These were used to mark important places and specific resources, traditions and places of religious practice. As a child she remembers some of these ko'a and seeing practitioners utilize these fishing traditions. She says it may be irrelevant or not noticeable to foreigners, but for kanaka this is a story of the prized value of the fishing resources in this area. Malia explains also that this is matched by mo'olelo about the fishing gods and legends that relate to these fishing resources along this coastline.

She emphasizes the uniqueness of the once thriving dry land agricultural complex in this area. Malia explains that Hawaiian natural scientists and engineers were developing and maximizing the lands with this complex system. She mentions the ingenuity that it took of her ancestors to maximize the limitations of this area to sustain such a large population.

### **Traditions and Customs**

Malia mentions that makahiki traditions and customs were practiced in this area. She also explains that unique fishing, agriculture and navigation history and traditions occurred in this area and that a great deal of the ancient mo'olelo is largely neglected. Many practices occurred in this immediate area associated with these important features.

Malia knows general stories about this area and explains that many mo'olelo are general in nature and it can be hard to pinpoint the exact spaces where some of these things happened based on mo'olelo, but we know it is in this area.

She specifically referred to the stories associated with the wars that happened along this coastline. She mentions that 500 years before Kamehameha united the islands there was a huge war during the time of Kukona's reign. She explained that this war called on warriors from the two biggest moku on Kauai and that many of them perished in this area. This incredible mo'olelo talks of perseverance and what it means to care for people. It speaks of grace and dignity. This is one of Malia's favorite mo'olelo about this area and its history and specifically relates to the areas closer to Māhā'ulepū where the actual battles ensued.

The other specific stories from this area that she is aware of relate to the incredible agricultural complex which is a huge mo'olelo in itself.

### **Impacts**

To Malia it is sickening that this desecration is continuing today. She acknowledges it is just one small example of the desecration that happens daily in the islands and explains that she feels like despite all the marching and screaming, things will not change until the paradigm shifts and this ancestral knowledge is valued by western society.

Malia says that she thinks that the bulldozing, blasting and development happening in this area poses a threat to many things. She describes that for some kanaka, whether it has been proven or not, their ancestors still reside and are at rest in these areas. For others these areas are places of worship and where they gather and practice traditional customary rights. Malia asks how one can consciously build over these important sites. She talks about the existing impacts and how developments that have already been built in the area do not want to give practitioners access or work with Hawaiian practitioners. She does not feel this will be different with these new proposed developments.

Malia talks about how she has tried to access some of these cultural sites and has to try to get access through people's yards. She is appalled that this is still happening today. She compares it to developers still going by the old rules and mentality when they have new tools and understandings to go by these days. Malia believes something is really wrong if Hawaiians

have to go through gated communities and multimillion dollar homes to practice their culture because their places of worship are in someone's backyard.

Malia believes these developments in particular, pose a huge threat to the cultural landscape of this place. She says the big question is when is enough, enough and how much more abuse can a place and people take before they break. She goes on to ask who are we serving with these projects? She does not believe it serves the health and wellbeing of this 'āina and certainly doesn't have the future of our keiki in mind.

Malia sees the impacts of the destruction and erasing of these sites as something that will lead to further displacement and restricted access to places of historical and cultural significance for Hawaiians. She sees it as isolation from important places to practice and exercise which in turn completely strips kanaka of their identity while erasing their history. She mentions that kanaka fail to exist without 'āina, yet 'āina can thrive without people. If a people are connected to a place and they are no longer given access to those places that shape and grow their identity as an individual and as a people then we lose the essence of Hawai'i.

When she looks at how far we have come in such a short time, away from sustainability and instead to luxury condominiums, it hurts her heart. She points out that we as a society must reobtain these skills and knowledge to survive in our changing world. She feels that the next generations are being robbed of what should be their opportunity to revitalize this agricultural system to help us thrive in this remote place. She continues to point out that the next generations can't eat the dollars that come from cleaning multimillion dollar condos and gated communities. Malia thinks about it as what kind of future will her children and their children have and she sees these developments as greatly impacting this future.

Malia talks about the imminent food crisis we are facing and the housing crisis and how we should be doing what we can to address these issues but instead are bulldozing these gifts our ancestors gave us to deal with these challenges. She believes the impacts of this will leave the next generations bankrupt in every aspect of their lives.

Malia talked about the many cases of desecration that have occurred to date on the south shore. She lists many examples like the Hyatt where the surrounding area is the location where many battles happened and it was no surprise that they would uncover hundreds of iwi to develop there. She mentioned they paved right over a heiau to make a parking lot for the golf course. She also mentioned Kōloa landing as another example and yet feels like Hawaiians are still wrongfully tasked with continuing to prove that this area is significant and will result in further desecration.

She asks, if as a society are we blind? Did we not learn from all the other developments that have happened on the south shore, in which hundreds and hundreds of iwi and the destruction of these valuable ancient blueprint, is that not proof enough to halt development in this area and reassess.

Malia understands that if these sites are lost her keiki will no longer have this important blueprint to refer to about how to survive and sustain themselves in their homeland and in return they will continue to be prisoners of this system, where the only way to sustain themselves is to be servants to the wealthy. She finds it mind boggling that it is being allowed.

Malia said as a kanaka and as a makua the impact on a personal level is discouraging and upsetting. She believes it is important to create spaces that native intelligence, genealogy and mo'olelo are relevant and unfortunately does not feel those spaces exist currently.

### **Mitigation Measures and Recommendations**

Malia wants the desecration of this area to stop. Malia does not think the project should proceed. She does not think they have engaged the community or practitioners or done their due diligence.

As far as luxury housing, luxury condominiums and luxury multimillion dollar homes, that are inaccessible to her keiki and the next generation of Hawaiians, Malia does not see any solution besides stopping these kinds of ridiculous developments. Malia believes we need to address the issues at hand, the houselessness and lack of food security on Kaua'i before such foolish developments. She points out we have enough luxury accommodations that sit empty half the time while our local Hawaiian people struggle to put food in their mouth and roof over their head. She believes until we have addressed these critical issues, we should not be allowing developments such as these to even be considered.

Even if these sites were being developed for local housing needs, she does not feel it would be right to desecrate these significant sites. She said, whatever affordable housing means in this day in age it would at least make more sense than luxury condos. Malia does not support development on cultural sites at all but definitely not for the development of luxury vacation homes and transient accommodations, which feels like another layer of adding insult to injury. She feels the development of these areas means that the reference point for Hawaiian mo'olelo genealogy and history are erased. The impact of erasing important things that connect kanaka to this space erases self-identity as a kanaka. She sees the bulldozer as an eraser of identity.

Malia feels that as long as the wrong people are in positions of power and decision making this abuse and desecration will continue. She believes that Hawaiians need to understand the

laws and loopholes and learn the process to use it to their advantage to stop this type of desecration and foolish development.

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## 5.8 Interview with Mason Chock

**Interviewer:** Fern Holland

**Interviewee:** Mason Chock

**Date:** June 2, 2022

**Location:** Zoom

### Biography

Mason Chock is a Kaua'i Council Member. He was born and raised in Wailua, Kaua'i as well as Kapa'a and Kōloa. He currently resides in the Wailua Homesteads. Mason is familiar with the Koloa and Po'ipū area from his time growing up there as a child.

### Overview

Masons emphasizes the unique structures, complexes and practices that occurred in this area and his connection to them. Mason discusses the potential impacts he sees of these developments and the recommendations he has.

### General Discussion

Mason discussed the significance of this area to him, as a Hawaiian, and to all Hawaiians and its rich history. Mason describes the importance of these fishing resources and the structures that were associated with them along this coastline. He also mentioned that the unique structures and complexes in this area are extremely significant and have a great deal to teach us about ways to live sustainably in Hawai'i.

Mason described his involvement with the site as one of visiting and participating in some cultural events in the Kānei'olouma area and also along HAPA trail and the heiau that is closer to the coast by the Kukui'ula parcels. From a practitioner's standpoint, Mason accesses these areas to gather, and has his whole life and monitored that coastline closely for many years. Mason has participated in rituals and celebrations that acknowledge his kupuna along this area from Kukui'ula to Makahū'ena.

Mason mentions the resources from this area he has personally used include surfing, collecting limu (mentions Kohu, 'Ele'ele, Wāwae'iole and others) and fishing in these historic and prized fishing areas. He notes the changes in his lifetime and how many of these resources are now depleted and heavily impacted. He mentioned that as a child moi was extremely plentiful, especially along the Māhā'ulepū side. He notes the big caves along Makena. At one time there was a huge abundance and assemblage of species and Masons fished daily along this area. He has specifically caught menpachi and even pelagic fish and tako are prevalent in this area. Opihi used to be prevalent along the coast. He also notes high shark populations here.

### **Cultural Resources**

Mason sees the area as providing a wide range of cultural resources and spiritual sites important to Hawaiian practitioners. Mason points out that near these projects there are a multitude of significant sites and a rich history and lots of coastal resources.

He mentions the important cave systems in this area. He mentions the environmental and cultural significance of the presence of the endemic endangered spiders that are found only in Koloa and notes there should be US Fish & Wildlife protective measures to avoid impacts to these populations of spiders.

Mason mentions Kānei'olouma and the larger complex that runs from mauka to Kānei'olouma and transverses multiple properties. Mason describes this system as a rich cultural resource and an elaborate complex of sporting activities, community-based fishing traditions and rich with canoe history. Mason compared the Kānei'olouma system to acting like its own self-sufficient ahupua'a incorporating a wide range of land uses and forms of agriculture and land management together in a small area.

Mason describes this entire area as being well used in ancient times. He marveled at the complexities of the system his ancestors developed, describing the level of engineering skill and land management understandings that would have established these agricultural complexes within this largely dry and arid area. He specifically noted the amazing rock structures that were used to move and manage water in this area.

There are significant loko i'a and water management systems that were in this area, he notes that these would have specific names that should be able to be researched.

There are significant cultural sites around Kukui'ula and some of these sites reference to burials, including for ali'i burials hidden in these areas. As far as he understands some of these have already been destroyed and developed over.

Mason mentions that the proposed Kauano'e o Kōloa development is near the HAPA Trail.

Mason shared that growing up in this area he was aware of historic sites and heiau related to fishing along the coastline. Mason participated in cultural events at some of these sites and at a heiau in Kōloa. As a practitioner from an access perspective, Mason has and will continue to use these areas and resources.

### **Traditions and Customs**

Mason referred to the rich mo'olelo that comes from this area that would likely describe more of the traditions and customs associated with this area. In addition to the ceremonial aspects

He talked about the traditions that would have occurred for ali'i in this area. Mason explained that ali'i were known to have resided in this area and some of their burials are referred to but their location is not known. He said so much of this area was frequented by ali'i and there were specific structures related to ali'i that are worth noting.

Mason shared that this area was rich in makahiki traditions and customs. He described the unique custom to pull together a wide range of purposes into a small area.

Mason reiterated that this was an extremely unique area and incorporated a wide range of ingenuity that would have been associated with a wide range of its own traditions and customs.

Mason mentioned the agricultural importance of this area and that he thought a lot of this is very significant for the future of Hawai'i. He explained this area can provide important education and understanding about the traditions and customs of our ancestors regarding engineering and land management that will allow us to plan for the future.

### **Impacts**

Mason feels it is quite possible that cultural resources, caves and burials could be present on these parcels or immediately adjacent given the significance of this entire project area. He emphasizes the need to exhaust due diligence for a project like this.

Mason explains that the Kōloa and Po'ipū area have always had issues with managing water. Whether it's not enough access to water and how you get it there or in terms of development and how you manage what is coming off of it. There is no significant response to how runoff and drainage has affected and continue to affect our low-lying areas such as our beaches or coastal resources and fisheries. It also impacts health and safety. He explains the land use and developments above these coastlines greatly impact the resources and health of the coastal ecosystem and fishing grounds as well as the safety of recreational swimmers and subsistence fishermen.

Mason points out that the impacts of previous developments in this area are clear. He explains, if you look at the parcels and talk to the old-timers the loko i'a that was there helped serve an important function to manage the drainage. He explains that loko i'a were prevalent along the coast and acted as filters and basins to protect water and coastal water quality. This loko i'a was covered by the County, and now the runoff literally has to be pumped out of the Sheraton and parking lots. Mason explains the costs associated with the destruction of these ancient water management systems that we do not often consider. These other parcels could have major impacts on the long-term restoration efforts of these fishponds and cultural sites.

The impacts to water quality Mason said is already prevalent offshore in this area. The data is clear that what we have done and are doing is having a huge impact on the coastal resources from a health and safety standpoint. The coastal waters and the adjacent water bodies are known to be polluted with human waste. To add more development in this area without a regional plan that takes into consideration the existing degradation and the compounded impacts on future restoration efforts. He sees additional development without these concerns being addressed first as the certain destruction of the remaining reef ecosystem and fisheries.

In relation to access Mason says we have to do better than just recognizing the site is there but then also connect it to the practice and access needs for the site to be honored properly. Mason talks about the impacts to practitioners who are unable to make those connections and use these sites as they are meant to be used. He explains if the site is enclosed in a hotel, or surrounded by multimillion-dollar homes, it loses its relevance and when we don't acknowledge the connections and purpose of the site, it is not really protected. He feels that while we have started looking more to preserving these sites, it is not enough, we need to look at restoring their purpose and the knowledge that came with it.

He goes on to explain that if, for example, he is going to utilize a historical navigational point and honor the movement of celestial bodies in some way, imagine how difficult it will be with a multi-story building blocking the view. He points out it becomes impossible for some of these practices to continue.

As Mason explained the correlation of sites to each other with the navigation perspective, regarding access specifically in Koloa, he spoke of the interconnected relationship of specific heiau and 'auwai systems. He described these as having been broken or dismantled over time leaving gaps in Hawaiian history and its significance as a complex agricultural and religious system. Cultural stewardship organizations are working hard to make those reconnections and to support this effort. Mason believes we need to more clearly outline the whole region and protect the access between them for when we are ready and able to restore it.

He addressed that continued access for practitioners is always an issue. He mentioned golf courses that surround important ceremonial sites and how we have to do better in recognizing and honoring the true purpose of the site and providing the right kind of access. It's understanding the connections a site has to what is around it that he says matters.

Mason believes we should be looking at all developments appropriately and investigating how they fit into the surrounding landscape in a way that works with nature rather than against it and questions the goals we have and if they revolve around community, and honoring traditional land uses. Mason points out that as we are looking more at the land management

of the past in an attempt to find balance, these sites will become more and more important to learn from.

Mason said that human impact is always prevalent, regardless of how intent we are on preservation and protection. When we look at it from a standpoint of how we encourage those that don't understand the significance and impact they create, it becomes amplified. That is what we seem to be supporting here, exploitation of our resources just by the nature of the properties we are developing.

### **Mitigation Measures and Recommendations**

Mason points out that historically we have seen a lot of illegal activity around this area and a lot of destruction of significant sites in this area. Mason said that while regulatory frameworks have somewhat changed to better protect some of these resources the development practices and processes seem to remain the same.

Mason spoke of the complexity of this area in the sense of cultural and historical significance and suggested it may even need a specific progress with the highest level of due diligence. Because of its uniqueness Mason believes we should be even more cautious than usual of how we move forward and revisit and exhaust our resources and assessment methods before we clear the way for developments.

Mason pointed out that in the case of Kauanoē o Kōloa, the community does not have faith that due diligence was undertaken. They have lost faith in the regulatory process that has occurred and getting clarity on the findings and mitigating measures have not been easy, even for him as a council person. He explains that while some of the boxes may have been checked off, in the eyes of the community there are significant holes in what was presented and the developer has clearly not engaged with the Hawaiian practitioners in this area or combed through available resources. It highlights how important it is to conduct good thorough assessments and outreach especially in sensitive areas like this.

Mason suggested we revisit the process if it's not addressing the impacts in a regional manner. He says we need stronger wider coordination from a regional perspective relating to collective impacts. Mason explains we too often look only at a subject parcel rather than with a lens of the wider impacts to the entire region.

Mason said that we should be mapping and marking out the remnants of this major complex before it is entirely lost. One of the regional pieces we are lacking, he explains, is connecting these cultural sites and looking at the system as a whole. There is important connectivity between the structures in this area and there is a correlation to each one that is significant and our processes are not recognizing that.



Mason suggested we need a regional watershed plan and we have a responsibility to understand the added impact of various developments and ensure due diligence when approving projects such as these. We need to think beyond swales and a single property or project best management practices and think on a larger scale collectively about how to manage discharge of all kinds. We need to include the way over land flow moves and plan accordingly to limit the impacts not just to human infrastructure but to the coastal waters and environment.

Mason mentioned that detailed drainage plans that mitigate impacts from waste water is crucial. Managing all waste and runoff in a way that not only avoids further negatively impacting the environment but works in correlation with the cultural restoration projects needed in this area would be key.

Mason feels like the regulating agencies need to do their job and apply extra due diligence in this sensitive area. He says we need developers to consider these things holistically, for example, considering the uses of a place and incorporating such uses into its preservation. In doing this we help things not just become relics and sites that are for aesthetics but instead we are protecting the connections and the importance of the place and its purpose.

Mason is disappointed that we cannot have better smoother communications relating to the surveys and assessments that are used to determine impacts in this area. He notes that departments and overseeing regulatory bodies don't have the resources to manage everything they need to, and this needs to change.

## 5.9 Interview with Peleke Flores

**Interviewer:** Fern Holland

**Interviewee:** Peleke Flores

**Date:** May 25, 2022

**Location:** Zoom

### Biography

Peleke Flores was born in Hilo, Hawai'i and raised in Waimea, Kaua'i where he still lives today. Peleke currently works for Mālama Hulē'ia on Hulē'ia Kaua'i as a Field Operations Manager and Community Outreach Coordinator, currently working to restore Alakoko Fishpond. He has experience in traditional hale building, Uhau Humu Pōhaku (Hawaiian dry set) and restoring traditional Hawaiian food systems such as lo'i kalo, lo'i pa'akai, ko'a/limu, and loko i'a.

### Overview

In his 'āina based land restoration role(s) Peleke has a special interest in the historical sites and their restoration, not just protection. His interest is in trying to learn more about what specifically is still here that could be restored and what the impacts are to these sites.

Peleke spoke about being on site to pay his respects and see the project site and his interest to learn more about what is going on and learn the facts for himself. He mentioned he has been unable to access or inspect the site. He mentioned a consistent pattern of lack of trust in archeological determinations that say no archeological findings when major concerns are being voiced by Hawaiians. He was concerned that the investigations into the sites and potential archeological sites on and in the area may not have looked deep enough. Peleke mentioned that he wished he had the time, in addition to what he is already doing with his full-time job, volunteer positions and family responsibility, to check all those records and resources himself. It was clear he felt like due processes are often not being followed correctly.

### General Discussion

Peleke described his association with the site and current developments as one of mostly curiosity. He explained that he has been trying to learn more about the specifics of the cultural surveys to date and what is recorded in this area and how any significant sites are being impacted. He said he was trying to investigate if due diligence was done but was unable to get the reports or surveys that showed what was surveyed and the findings.

Peleke said he felt it was wrong of the developer to start breaking down rock structures, and grading and grubbing, given the cultural significance of this area and concerns without

thoroughly exhausting cultural resources and clearly demonstrating that no sites are being impacted.

Peleke talks about his view of the resources that are here in the sense of restoration and not just historical preservation but the restoration and reuse of these sites for practicing Hawaiians and for their intended purpose again in the future.

He described the entire area surrounding these projects as a footprint of what his kupuna left behind and a knowledge of how Hawaiian people thrived in this area. He mentioned the entire area surrounding these developments is rich with culture and history and hopes, what can be, is restored in his lifetime.

### **Place Names & Sites**

Peleke mentions the Kōloa Complex, and the unique style of agriculture practices and structures that were built in this area for a significant dryland food production system.

Peleke pointed out sites in the area like Kānei'olouma Heiau. He mentioned that there are old villages in this area and different makahiki sites. He also mentioned the unique water system ditch that connected across the road and then climbed up mauka from there. He explained that a lot of those systems and sections and the large fishpond in front of Kānei'olouma has been cut off and the system requires the water that runs down and through that site.

He also mentioned the presence of HAPA trail and koloa flats area and the historic nature of this entire site.

Peleke mentioned the presence of unique caves and burials and a unique raised 'auwai system that all had specific names he is not familiar with offhand.

### **Cultural Resources**

Peleke described the resources in these areas as old structures and cultural sites where a range of practices from spiritual to agricultural and sustainable living occurred. He talked in general of sites expected in this area that would include unique caves, burials and water and food production systems that he considers cultural resources for spiritual practice and facilitating a return to our native foodways. Peleke referred to the 'auwai system that connected through the areas all connected to growing food and irrigation.

He mentioned that it is hard to prove every cultural site every time, knowing enough that there was stuff in that spot, it shouldn't be the community's job to identify them, the developers should exhaust the resources available and prove without a doubt no harm will come. A unique system especially with moving water and amplifying.

Peleke mentioned that the resources in this area today are used mostly for spiritual practice, given its rich history there is a desire to restore whatever can be. To him, and he said to others, this is a place of rich culture and worthy of protection and thorough investigation.

Peleke talked about the historic nature of the HAPA trail and importance to be protected.

### **Traditions and Customs**

Peleke spoke about the makahiki games and gatherings that happened in that area and the traditions and customs that were practiced associated with makahiki. Kānei'olouma Heiau was a place of makahiki celebrations and the best and biggest games and gatherings on Kaua'i.

He mentioned again the presence of old villages in this area and the traditions that were used for the waterways that produced food and the desire to restore these sites. There were many traditions and customs that were done in this area relating to fishing and aquaculture and agricultural fields.

Peleke knows of people that are spiritually practicing at these specific sites and trying to restore and maintain cultural sites in this area and the areas that are sitting surrounded by development now or poised for future development. He also spoke of the many known burial areas and caves and the traditions of using these places for burials and worship.

Peleke mentioned that he is aware that there are a lot of stories that are written about this area in general and he would have to do the research to list the names of them. Personally, he also spoke of family stories from his tutu about respecting this place and lessons he learned as a kid about the history and presence of a village connected to fishponds, above ground 'auwai and the marvels of this ancient system his ancestors built.

### **Impacts**

Peleke explained that some of the sites have largely been destroyed already. He said that now people that are trying to restore and protect these sites and are hoping to be honored, and respected but instead are being disrespected and threatened.

Peleke sees the impacts of these projects as potentially being ones that further degrades the remaining infrastructures that we have to restore which will make it harder to recreate some of these systems and knowledge and properly manage our resources along this coastline.

Peleke described the impacts of disturbing desecrating iwi kupuna burial sites and defiling Hawaiian graveyards as another layer of impact and trauma to those that are trying to preserve their iwi kupuna.

Peleke described the overall impact of these developments as a destruction of our history, which is a major resource especially in the uncertain times that we face and the enhanced need to look to our ancient food and land management ways to bring us back to self-sufficiency.

He talked about the loss of self-identity should these sites be destroyed further. He mentioned that people can still connect their genealogy back to this place and once it is erased, he feels like they are floating souls and unable to trace back their history to these sites and restore them. Given the history of illegal land grabs and displacement, the destruction of the sites becomes a way that people are completely cut off from their access to self-identity.

### **Mitigation Measures and Recommendations**

Peleke mentioned he felt that developers had the responsibility to prove without a doubt that there are no impacts to these resources. He mentioned modern Lidar technology, mahele, kipuka database and other existing record sources (kuleana records, maps, stories eventually and mo'olelo) that can be searched. He felt that developers and people associated with the projects should be able to clearly identify or prove the absence of significant sites on the project sites and surrounding areas and present this to the community.

It is ridiculous and abusive to him that Hawaiians have to struggle through life, and then also stop and prove these places exist despite all these resources developers could exhaust to determine that nothing is there and prove it sufficiently. He felt like it was Hawaiians that care that end up having to do the work for the developers to prove why they cannot build in a certain place instead of these developers doing the work to prove to Hawaiians, using good resources and facts, that they can build in a place without any impacts. He felt like this treatment is a way that Hawaiians are being abused and disrespected and killed slowly over generations. He pointed out that with full time jobs and busy lives trying to survive already and then they are expected to also be the ones to do the work for developers to prove to the developers why they can't build on something significant seems absurd.

He said there should be a template for every resource they go through, for all places not just Koloa, to ensure that due diligence is followed. If it was there should be no impact, and there should be facts to show it.

Peleke mentioned that we should be attempting to reconnect these old place names back to places that have been renamed and reconnect in the process with the history and purpose of



those places. If no sites of significance exist it should be clearly able to be demonstrated by exhausting these resources.

His main recommendation was that developers use resources, due diligence and follow the existing laws completely and ensure that significant sites are not being destroyed or else the project should not go ahead. He mentioned looking through cultural research, papers, mahele records, kuleana reports, census, internet, museums, maps, mo'olelo and pictures to really be clear about what is and isn't impacted and make sound assessments about what should go ahead where.

## 5.10 Interview with Puali'ili'imaikalani Rossi-Fukino

**Interviewer:** Fern Holland

**Interviewee:** Puali'i Rossi-Fukino

**Date:** May 31, 2022

**Location:** Zoom

### Biography

Puali'ili'imaikalani Rossi-Fukino (Pua) is a Hawaiian Studies Instructor and Program Coordinator for University of Hawai'i at Kaua'i Community College campus in Līhu'e, Kaua'i. She was born in Kalāheo and raised in Wailua Kaua'i. She currently still lives in Wailua. Pua does have ancestral ties to Koloa and her grandmother was born where Kukui'ula market is now. Her family names associated with the area include Kaio, Hipa and Kiheihipa.

### Overview

Pua provided general information about the region and the history and unique nature of the structures there. She shared some of the stories and legends she was familiar with and her overall thoughts about the importance of this area.

### General Discussion

Pua is less familiar with place names outside of what is documented and familiar with multiple legends from this area. She feels that the area is very culturally significant and shared about the isolation of important sites in this area and the potential for continued displacement with this development and others in the area.

### Place Names & Sites

There is a 'forgotten' ahupua'a that is named Aepo that she recalled in this area. This is a land district that is close to where parcel H development is planned. Aepo cuts through near the Lodge at Kukui'ula is marked on the map. This is an old name and not referred to on many maps.

There are several heiau in this area she mentioned. One sits where the golf course is now, mauka of the Lodge at Kukui'ula, closer to parcel H. Some say it was lamakū, or a navigational point for canoes. Makai of the site there is supposed to be another of these points closer to the shore.

Pua mentioned that this entire area was significant for ali'i and while Wailua and Waimea are commonly considered the most royal sites on Kaua'i but that ali'i frequented and had history and significant presence in Kōloa too. From Aepo to Pā'ā, Weliweli, area particularly has significant ali'i history. It was a site of a lot of activity both ali'i and maka'āinana.

According to modern history as well she recounts that we had ali'i living there in the 1870s. The original site of Queen Emma was also relatively close to this area and was moved to the NTBG site later. Pua shared that her home was near where the Kukui'ula golf course ends and where you start overlooking the road to National Tropical Botanical Gardens (NTBG). Up mauka of that is where her home was located. Queen Emma renamed that area Mauna Kilohana around that time. Her house site suggests further significant sites for ali'i also. Queen Emma had ancestral ties to Kōloa, and obtained that during the mahele. Queen Emma established there in the 1860's. People think of the house, but the house was moved. This original site is above where Parcel H is mapped.

Within the Parcel H area, she said that there is Niukapukapu Heiau. She describes it as right on the cusp of where NTBG starts, and slightly west of parcel H.

Makai of the Kauano'e O Kōloa development area there is also a heiau dedicated to Kāne.

Kihahouana Heiau, Nukumoi surf spot and Kānei'olouma Heiau are also in the surrounding areas, more toward the Grand Hyatt, but in the wider area surrounding these developments.

Pua shared that the site is associated with the unique dry land field system; there were also fishponds, and lo'i. There is one heiau (Mauna Pōhaku) that was once cared for by Nāhinu and 'Auhea, who lived there around the 1800s, I believe. There was an 'auwai system going through that heiau. There is also another heiau (Kamalo'ula) which I was told had the only untouched above-ground 'auwai. They used these irrigation ditches as part of the heiau. There is some really unique architecture that is not seen elsewhere.

Really significant fishing resources and cultural practices.

There were really different styles of heiau structures in this area. Very unique systems like the raised 'auwai systems. Kānei'olouma Heiau is another example of these rarer designs of heiau, which is very unique and significant to Hawaiian history.

### **Cultural Resources**

There used to be impressive bird populations, lo'i and fishing grounds that were significant in this area. Lots of important fishing grounds. To the north of these developments there are also some sites she mentioned including Waikomo stream which was a major cultural resource and site in this area. There are stories of mo'o, like Kihawahine where the Maulili pool is.

Pua shared that there was a dry land field system in this area. Dry land systems we know the least about and were incredibly important where there wasn't an abundance of water. Right now there are very few areas that have this and this is the only one known on Kaua'i. It was a

rotating crop system. It was a very unique system and I know that in the Kauanoe koloa area was where it was identified.

### **Traditions and Customs**

Pua discussed the unique styles of architecture and with them traditions and customs that would have occurred with them.

The area is known for mo'ō traditions and legend. She shared about the history of spouting horn, which was associated with a mo'ō tradition and a unique story of the salt water mo'ō. This is located makai of Parcel H. She shared the history of the destruction of the original Spouting Horn which was blown up leaving the existing one today that people call Spouting Horn. Tradition says that there were certain fishing grounds that were guarded by this mo'ō. A young boy was said to have trapped the mo'ō in the old spouting horn. The spout used to go very high and then the sugar industry blew it up to stop water flowing back into the fields and killing the cane.

Maulili Pool is tied to Waikomo stream along Kukui'ula area. This site is associated with Kihawahine, probably one of the most dominant mo'ō who was known to frequent Waikomo area. Certain traditions that are specific to the worshiping of Mo'ō. Traditions associated with worship of mo'ō included building of certain hale structures, giving certain offerings, practicing customs associated with the kapu system that restricted various types of fishing and access at some times. There was a definite mo'ō relationship with the people there and with it significant unique practices and traditions.

### **Impacts**

Pua was definitely concerned about the impacts to fishing grounds and underground water systems that feed them Pua is concerned about. She understands that historically, because of less outfall points and the dry nature of the coastline, water quality was very clear and clean in the past. She is concerned that the development will further degrade and add to continued degradation of the water quality along the coastline.

Pua mentioned the potential impacts to a returning bird population and the stifling that these developments could result in for the restoration of these cultural sites and systems that the future bird habitat that could be restored in this area.

She was concerned about the potential for impacts to HAPA Trail, burial sites and caves and lava tubes which are hugely present in this immediate area and culturally significant burial sites and hiding locations historically. Pua discussed the presence of many in this area and their importance and her concern about them being damaged or impacted during works.

Having access to heiau, fishing sites, cultural practice sites and historical agricultural sites was some Pua was definitely concerned about the impacts to. Pua discussed the potential for future displacement and how families she knows are being impacted from surrounding existing development. She said these families who were caretakers for some of these heiau have been unable to access the sites and practice their kuleana to mālama them. She is concerned that the proposed development will negatively impact families who have a generational responsibility to care for these sites and restore them as they were tasked. Pua was specifically concerned with having access to these sites further limited or cut off altogether.

Pua mentioned the impacts around access but also stressed the impacts associated with the loss of these sites altogether. She described the overall impacts of the loss of these sites as generations who will lose their history and knowledge that was passed down from generations of her ancestors that practiced and lived in this area. She described the impacts of this loss as a loss of cultural identity, connection and family history. She is concerned about the loss of culture and knowledge should this important area continue to be developed for luxury homes and tourism.

Pua said she believes the place has reached maximum capacity and it's not beneficial to local families to proceed with these developments. She is worried about the overdevelopment for hotels and transient accommodation while the affordable housing crisis for local families worsens.

There are families that are now unable to access or use sites they were entrusted to care for. While legally Pua acknowledged that she knew she had a right to supposedly have that access and practice she pointed out that it doesn't feel that way, and it is not really enforced or allowed in many cases including some places in Kōloa.

There are reasons they were there. Within this small area there are a significant number of these important sites and stories which means this significant site meant a lot to our people. To me it's glaringly obvious that this site should not be used for luxury housing.

She sees the impacts as one of loss of generational history and knowledge, and a loss of cultural identity, connection and family history. Pua sees this as a potential significant loss of knowledge and cultural identity.

### **Mitigation Measures and Recommendations**

Pua does not think the project should go ahead, and doesn't see reasonable mitigation measures that could be taken to avoid major impacts to the sites she is concerned about.



She did say should it proceed; her advice is that the right Hawaiian families need to be included in the conversation and the developer needs to be educated on the significance of the site and the necessary protections of all of the areas mentioned. She mentioned cultural monitors there as advisors and independent oversight to ensure that these sites are not being impacted and that the works respect the cultural significance of that area.

She talked about planning for any future development having the cultural significance built in with respect to its history and the traditional owners from the beginning.

She suggested that it was wrong to blast, crush or break through the rocks and recommended avoiding such works. She said overall that any development in this area would need to tread lightly and work around the many significant sites and cultural uses of this area.

She suggested working with the community, with the kahuna of the area and lineal descendants of Kōloa and she talked about the long-term responsibility to educate visitors and people that move to these sites about the rights, practices and significance of these areas to Hawaiians.

### 5.11 Responses from Roslyn Cummings

Pule, Prayer

E I'O mahalo no kēia lā,  
mahalo no kō mākou ola,  
no kō mākou ea a kō mākou mana.

Aia no mākou i nei 'Āina 'O Kauai ke kū nei no ka palekana o nā iwi kūpuna, 'āina, na kamali'i,  
wahine, kane

He noi ha'aha'a kēia no kou palekana i luna o mākou pākahi a pau.

E mālama i ka pono ma ke aō a me ka pō.

E kōkua iā mākou e kū me ka ha'aheo no kō mākou kūpuna a no kō mākou lau manamana.  
Me ke aloha pau 'ole, 'āmama ua noa, 'amene.

Kou Inoa Manawaiakea, noho Kalaheo Ahupua'a, Kona Moku, Mokupuni Kauai  
(Manokalanipo, Kamawaelualani),

Wahine Maoli (Women) taught to me by my tutu Kane

Kalani Pai'ea Wohi o Kaleikini Keali'ikui Kamehameha o 'Iolani i Kaiwikapu kau'i Ka Liholiho  
Kūnuiākea he called me a- "Wahine Maoli"

Kuleana: Kahuna Papakulo, Mana Lomi, Kahea, Kea

(Child of God) Alo to be present in Hā life essence as equals (not above, nor below) as equals

He āina Ha Wai 'I I am of Hawaii

Home of our ancestors, those that walk before us.

Kou hanau Waimea, Kauai (Ka Ua 'I)

Hapai 'ia Pokiikauna, Kauai, Makaweli, Kauai, Ko'ula Kauai, Polihale Kauai, Nualolo Kauai,  
Lawai, Kauai, Kalaheo, Kauai, Kōloa, Kauai, Kailua-Kona, Hawaii

Ike Papalua

Kukuiula is a place where our ancestral burials and cave systems are so vast we hold near  
and dear the secrets of their passage. Palekana (DO NOT TRESPASS)

To forgive us our trespasses as we forgive those we trespass against us. Modern day Kukuiula  
is known for its reinterment site amongst high end luxury homes. Specifically the Kapu burials  
of our tutu wahine chiefess along with the burial that had been desecrated back in the 2000's  
of George Humehume our tutu kane through Eke, Ese Oponui. He aligns with the birthing place  
of Prince Kuhio the one of whom descends from those that are buried in these vast burial  
systems which hold a large amount of our wealth (waiwai) wai (waters) a large part of our  
sustenance. Without it we are malnourished. As our ancestors were in the times of disease

and famine. Bought to our lands by greed. The area host a large amount of spiritual, cultural, religious significance. To each a kuleana, to have respect and be responsible for. It seems that kanaka maoli in the past 50-60 years have failed their kuleana.

Kamakahahei would summon her warriors at the heiau of Kanaloa. A large voyaging Heiau dedicated to Kanaloa, rededicated to 'I'O 'I supreme, 'O earth, universe ever revolving. In the time of 'I'O, the great awakening, the reckoning (knowing what is right by doing what is right)

Amongst our Ali'i (Ali 'I) are the warriors and it's people. The villagers. Held in high respect, regard is the Ahupua'a. Where many thrived.

Koloa borders the ahupuaa of Lawai to the west and Weliweli to the east.

Developments are detrimental to our people, kanaka maoli. Its effects are felt for generations. I am here as you should be to stop the progress of DEVELOPMENT. Damaging our eco-system. Kukuiula as wetlands. Depleted by the unset of large luxury homes. Waste and Water usage damaging our waters from Mauka to Makai. Water needing to be diverted to feed into these man made systems what is protected under law! Effecting our wai. Our reefs which host a large amount of our healthy iron (limu) is being depleted on the entire coastline throughout Kona Moku.

We fish here, we gather here. We pray here. We visit our ancestral burials here.

The original name prior to Prince Kuhio Birthplace was Kualu a name carried down through my Great grandfather William Waikaka Kakanui Kualu. A name Kapu to most. A name that came before our time. Since time immemorial- Kualukiniakua of the Mu, Kualunuikupaumokumoku of the Wao, and Kualunuiakua of the Menehune.

The developer, limited warranty deed holder Gary Pinkston if Meridian Pacific Ltd. A brand of MP Financial (Nevada based Corporation of investors) removed the surface layers of the seating house of Kualunuikupaukumoku. He removed the birthing stone of Kamawaelualani son of Wakea and Papanuihanaumoku Haumea I am a descendant as we are, kanaka maoli.

Kiahuna in the 1950's it was shared that a mummified burial surrounded by shrunken skulls were found.

In Ike papalua that area from modern time going back in history: host a lot of our waiwai; collective. Kaikioewa the first governor of Kauai elected at the time by his hanai son Kauikeaouli is kanu in the proposed area we call Palikua lot. He is also known as Palikua.

There is a piko that is present day in that particular development. Where all souls exit when it leaves the outer islands. They enter through here. 'O oio spirit pathway. The heiau is shaped in the creation symbol. Like a labyrinth. On the west side of the fraudulent tmk is the cave system that has been collapsed during Kiahuna development. You can still see the tree trunk and the lauhala tree which sits in the collapsed cave, lava tube, cavern. Bars within tells-burials!

On the north side of the āina the Catholic Church built an altar right over a known cave, cave systems as shown in previous maps. To the east of said property there is also a preserve area. So, how can slap, dab in the middle not be significant as KAUAI COUNTY, DLNR, SHPD, and numerous Agencies have made claims to. Accountability goes a long way.

On the southwest you have Pa'u a Laka Heiau and to the southwest of that another preserved area. Both are surrounded by development. Homes of foreign investors.

I say foreign because there is no pilina in the area. It's culture and history. Not even to our practices. To the south there are the remnants of the Kōloa field system of which Hallett Hammett of Culural Survyes Hawaii speaks so highly of and later claims "no significance". To whose belief?

Our people come from oral history. Āina is our foundation. You cannot build a house where one is already standing.

In the story of Kawelo whose villagers are buried kanu in these lands and its surrounding. The heiau is part of the Kiahuna development which the archeologists stated somewhere along the lines of- it's just landscape for the golf course. So, I ask- what was here first? Our ancestors the kanaka maoli or the golf course. There are many Kalweo make sure what you perceive comes from the source- lke papalua

Right above you have maulili a well known historical site of the legends of Kane and Kanaloa

There are waterways underground of this property and using our natural resource foreigners call Blue Rock. Again, depleting resources that do not belong to foreigners. Resources that need to be preserved and protected.

The blind eyed spiders and the amphipods they feed on are FEDERALLY protected species. U.S. Fish and Wildlife claim they do not have a full survey of the area. Then why is the County of Kauai, SHPD, and DLNR permitting projects over preserved lands. Lands that since the 1970's have been monitored and written about. Desecration of burials documented but controlled narratives. Large amount of burials have been taken out, destroyed and sold in the history of Kōloa!

Mainly, Ike papalua will share that these lands is a huge part of the battle, war in the time of Kukona and his son Manokalanipo. Why would we allow such history to be erased for modern day process by the hands of those who are greedy. Which only see on the surface. Not below nor above. They only see the view. Sooner or later we won't have the practice of papakulo if this does not stop.

Kauai cannot be another Oahu. These projects are a stem from Moana Corporation Kiahuna Land Commission Use. Where from the early 2000's through the mid 2015 lahui fought against development. Knudsen trust who in a 1970's newspaper article admitted to "stewards" of the land not ownership. Their title is held through a 1920's Anne Sinclair (Knudsen) land grant after the unlawful overthrow of our Hawaiian Kingdom Government. These people control our waters and sold our lands including our ancestral burials and artifacts.

History cannot repeat itself.

the Hawaiian Kingdom

On May 28, 1892, in her opening address to the last lawful Legislature, her Majesty Queen Liliuokalani declared her intentions and legislative agenda:

'...I shall firmly endeavor to preserve the autonomy and absolute independence of this Kingdom and to assist in perpetuating the rights and privileges of all who are subject to our laws and in promoting their welfare and happiness...'

On November 25, 1892 'An Act, To Reorganize The Judiciary Department' was enacted by the Hawaiian Kingdom Legislature, and became law on January 1. 1893:

'The common law of England, as ascertained by English and American decisions, is hereby declared to be the common law of the Hawaiian Islands in all cases, except as otherwise expressly provided by the Hawaiian Constitution or laws, or fixed by Hawaiian judicial precedent, or established by Hawaiian national usage, provided however, that no person shall be subject to criminal proceedings except as provided by the Hawaiian laws' [Section 5. Chapter LVII. An Act, To Reorganize The Judiciary Department, enacted on November 25, 1892, effect on January 1. 1893]

In no way can this interview over email be altered. In no way will it bring harm upon my 'Ohana. I pray this will help the next 7-21 generations in a way that they are provided a foundation of sustenance. An end to systematic failures upon our people. To our children I pray you find peace of what I am giving. To stand in protection of āina!

Aloha No,



Manawaiakea  
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E Ola Kakou Hawaii

The United States of America must uphold:

On December 20, 1849, the Treaty between the United States of America and the Hawaiian Kingdom was concluded and signed in Washington, D.C. Ratifications by both countries were exchanged in Honolulu on the Island of O‘ahu, on August 24, 1850. Article VIII of the treaty provides:

“...each of the two contracting parties engages that the citizens or subjects of the other residing in their respective States shall enjoy their property and personal security in as full and ample manner as their own citizens or subjects, or the subjects or citizens of the most favored nation, but subject always to the laws and statutes of the two countries, respectively.”

In addition, Article XVI of the said treaty provides that any:

“...citizen or subject of either party infringing the articles of this treaty shall be held responsible for the same, and the harmony and good correspondence between the two governments shall not be interrupted thereby, each party engaging in no way to protect the offender, or sanction such violation.”

Neither the United States nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XVI of the 1849 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date.

## 5.12 Interview with Rupert Henry Rowe

**Interviewer:** Fern Holland

**Interviewee:** Rupert Henry Rowe

**Date:** June 7, 2022

**Location:** Kapahi at his home on Kawaihau Rd

### Biography

Rupert's lineage dates back to Wailuanuiaho'āno, Koloa and Hulē'ia areas. He is 80 years old and is a retired fireman. Rupert was born at Kapi'olani after traveling by steamer to O'ahu from Kaua'i while his mother was at full term. He was born an hour after arriving in Honolulu. Rupert was raised in Kōloa, Kaua'i in his younger years but then in 1949 was sent to O'ahu to learn the western ways. He spent most of his time in 'Iolani Palace until 1959. At the time his mom worked for the territory and his uncle was the genealogist for Hawaiian Homelands, which was in the basement of the palace. He did not officially move back to Kaua'i until 1978. He now resides in Kapahi on the east side of Kaua'i.

Rupert's relationship to the project area is one of deep cultural connection, ancestral lineage and past involvement intervening in previous developments and restoration works in the area, particularly for Kānei'olouma complex, which he began working to protect and restore in 1998. He is very familiar with longer term impacts and changes to this region and how past officials and the county have incorrectly built infrastructure and developments across important cultural sites in the past, some of which have still not been corrected or moved.

### Overview

Rupert expressed concern with the amount of development in this area and referred multiple times to carrying capacity for both the island as a whole and as individual smaller sections, such as the south side or Koloa area. He is very concerned about the continued loss of identity that colonization results in and sees the project as a part of the ongoing process of displacement. Rupert mentions stories from kupuna that engrained common sense and respect for this place into him as a child.

### General Discussion

Rupert shared that at some point in the 1990s he testified against land use changes for a rezoning attempt for 475 acres in this area. He spoke of the previous failures by planners and developers to provide drainage plans and adequate water and wastewater management for projects in the area.

He repeatedly shared his disappointment in government departments and land developers who approved and continue to approve these projects that result in the destruction of important cultural sites in Kōloa, for what he sees as simply greed and money. He described the immense loss to self-identity, important structural features, history and ancient knowledge that overdevelopment has caused in Koloa to date and sees the project as a continuation of this. Rupert described a lifetime of changes to this coastline and Hawai'i land use and management in general. He believes that some of these initial approvals and development plans came from as far back as 1962.

Rupert understands the hesitancy for Hawaiians to share their secrets about what is taken and used and from where because he feels it is often appropriated and used against them. He feels that sometimes the sharing of that culture helps to rob the self-identity of Hawaiians because those that come to get it try to become it and then it becomes a stranger to its original people and warped. He feels that this is a form of displacement in his own lands.

He mentioned the impacts on Hawaiians when archeologists check off boxes and make statements of no significance on places that Hawaiians know are important but that so much has been lost through the loss of language and cultural practice that sometimes it is hard to prove every time.

### **Cultural Resources**

Rupert shared that there are lots of heiau in this area. He talked about the already impacted and destroyed sites, although believing with the right efforts some of them could be restored. He mentioned the Waiohai side of the Po'ipū Beach parking lot area was built in the fishpond that was a part of this larger system. He describes the larger Kānei'olouma complex as being from where Kalapaki Joes is today to Kiahuna down to the fence line to the Waiohai all the way back to Nukumoi Surf Shop and back up to Kalapaki Joes.

Rupert spoke of the cultural sites in this area that provide an important connection for him and other Hawaiians. He sees these as sites as important parts of self-identity and as important sites for us to restore and regain that connection to Hawaiian heritage and ancient knowledge. Rupert describes the cultural resources that this area had, and estimated roughly 70% are probably destroyed with only 30% remaining in this area. He feels the 30% remaining are more important than ever to protect and that their restoration is a way of reconnecting that Hawaiian cultural practice, land management knowledge and self-identity.

Rupert shared that the HAPA Trail, while commonly referred to as such, is actually the royal pathway with its own royal patent. He describes the extensive nature of that royal pathway that went all the way through Koloa Town to Lihue and beyond.

Rupert also mentions burial caves are located throughout the project area.

Rupert mentions the largely destroyed Kōloa irrigation system that was coming down from Waita and the extensive nature of this system. While he said much of this has been destroyed, there are sections and areas that remain that can be protected and restored.

Rupert says this entire coastline was rich in resources but that most of those are gone due to impacted water quality due to development over the last 50 years.

### **Traditions and Customs**

Throughout the interview Rupert mentions reference to Makahiki games and festivals that occurred in this area.

Rupert refers to the high population that resided in this area and the traditions and customs that were associated with their burial, food production, and unique traditions that went along with the unique structures and systems Kōloa is known for.

There would have been specific fishing traditions and food production traditions associated with the fishpond(s) in the surrounding area also.

### **Impacts**

Rupert mentioned that injury to 'āina anywhere feels like an injury to all kanaka because what we see today, we will not see tomorrow and once we lose these sites they are gone. He mentioned society's failure to appreciate the infrastructure and legacy laid down for the betterment of those that come after us. He felt that this project continues to impact all future Hawaiians. That mentality was ingrained in him growing up but he said seems largely forgotten.

Rupert spoke of the drastic changes he has seen in his life and was concerned that these were continuing to accelerate with this additional development.

He was concerned about the impacts of current and future injection wells in the Koloa area. He referred to the impacts of too many people being present in an area without the proper management of all forms of waste. He was particularly concerned about injection wells from the existing Kiahuna property.

He talked about the compounding impacts that we are not considering from climate change and rising sea levels. He questioned if we are thinking 25 years or so into the future about how we will deal with all of these impacts with the changes coming.

Rupert was particularly concerned about the solid waste concerns and where we will be putting all the waste coming out of these growing developments and pointed out there is no plan on how we will be dealing with our waste in the coming decades.

Rupert questioned the initial authorities that granted the right to develop this area and rezone these important agricultural systems for luxury and transient development and pointed out the impacts of these careless decisions as a form of genocide and an attempt to erase Hawaiian history and knowledge. He says he sees this as the result of intentional brainwashing that has happened in his lifetime to convince Hawaiians that the selling of their lands and tourism and western social structure were somehow going to provide a better life for them. He also said that 80 years later he sees that as a continued lie that has resulted in the displacement of Hawaiians from their own land and no one is better off, except those who have profited on the backs of these land grabs.

He mentioned Kiahuna had burial and cultural sites on their property, but the project pushed ahead and the continued pain that this causes for kanaka maoli. He described that these impacts of loss of identity happen when we lose language, cultural practice and important places and infrastructure such as what has happened and continues to happen in Kōloa.

Rupert mentioned that for anyone to recite specifics of the impacts to what burials and features is hard offhand and that there is so much has already been lost.

Rupert was concerned about the loss of cultural sites and the further loss of self-identity which he sees as a form of genocide and to him this project is a part of that perpetuated colonization which is to blame. He sees the impact as kanaka losing an understanding of where they come from and the connection to place. He sees these developments as also being a perpetuation of colonization with more foreigners moving here and changing the culture and impacting Hawaiian practice and way of life.

Rupert understands that if we mālama the 'āina and work with it, it will give back to us; but when we instead continue to just take whatever we can, we all lose. Hawaiian culture teaches us the land will reject us if we do not properly care for it.

Impacts to access were referred to as an ongoing struggle and Rupert mentioned that the system and processes as are clearly not functioning that are meant to allow Hawaiians access to important places and cultural sites.

### **Mitigation Measures and Recommendations**

Rupert did not mention specific mitigation measures that can be taken but instead asked the larger questions relating to why this project was able to go ahead considering there are no



clear answers provided by developers. He feels that there aren't easy mitigation measures that could stop the problems happening with this project because no clear answers have been provided about the impacts and how the projects will deal with waste, carrying capacity for Koloa and other important planning issues and again mentioned climate change and the rising oceans as an added challenge.

Rupert feels that one of the sad parts of this is that royal patents are not given the respect they deserve. He describes the differences between royal patent land titles and corporate warranty titles and how this is part of the overthrow of Hawaiian lands and lifestyle by bringing in the American property ownership model. He does not feel that this westernized land ownership and management model is appropriate or sustainable for our small island.

He believes the mentality of our county employees and officials needs to change to value the true worth of sites like those in Koloa. He mentioned that previous county department heads and employees are hired by land developers and the concerns he has with the 'revolving door' on a local county level that sees people in important regulatory positions then go to work for developers and private interests. He mentioned the ongoing trust issues these patterns have created in the community and feels like it is a form of local corruption when conflicts of interest are ignored on this level.

Rupert mentions how overpopulation of this area and poor planning has resulted in excessive impacts already to this area and that he doesn't see ways that this area could cope with more development. Rupert suggested a plan for assessing how many people can this area, and others on our small island, responsibly handle. He referred to the loss of environmental quality and resources when development continues to not only destroy important ancient infrastructure but then fails to protect environmental quality. He pointed out there is no plan for how we can responsibly accommodate this kind of growth.

One of the things he specifically mentioned was solid waste concerns. He feels there are no good answers for how we will manage the increase in not just construction waste but the long-term waste production from these additional sites at a time when our solid waste situation is already dire. He does not see a responsible way we can continue to develop without first addressing our waste issue. He asked who is liable for the production and poor disposal of all the waste associated with these developments.

He also mentioned he did not see viable ways to avoid impacts when these condos continue to perpetuate colonization and the loss of local lifestyle and ways through displacement of Hawaiians. He sees the destruction as two-fold, both in the physical destruction but also in the destructive nature of the continued colonization by more foreigners coming here who then in turn change this place to be more like their home rather than Hawai'i. He sees this as further displacement and does not have a mitigation measure to address it.

Rupert sees the goal as one of restoring as many of these sites as possible. He sees the reconstruction training the next generation has undertaken as a path to not just protect these sites but to restore them and learn from them and he sees this revival in restorative knowledge as originating from Kānei'olouma protection and restoration efforts in the Kōloa area.

### 5.13 Responses from Blyth Kahokule'a Blake

1. 'O Blythe Kahokule'a Blake (hoku) ko'u inoa. - my name is Blythe Kahokule'a Blake.
2. Full time mother, full time Hawaiian Studies student at Kaua'i Community College, Kia'i of Kōloa.
3. I was Born in Lihue at Wilcox Hospital, I was raised in Kōloa.
4. Noho au ma Kōloa. - I live in Kōloa
5. My association as Hawaiian practitioner who prays and teaches my keiki in these areas. E kala mai but I don't see how one questionnaire can answer for multiple projects as each area has different cultural purposes. I'll try my best but I believe there would need to be specific questions for each project separately.
6. Kiahuna -the upper part of Kiha Honua wasn't always easily accessible. Growing up, Kiahuna drive stopped at the golf course entry/ restaurant. My ohana used to go for brunch on the weekends so when the development for Pili mai and the housing started it was very obvious. I remember driving up as far as could go with my great-uncle Heartwel "Hanalei" Blake and my great-grandmother Thelma Blake, they spoke about how "back in the day" assuming pre-missionary contact, there was a village, an ohana system that belonged to this area, even a Heiau we could only see if we went in the golf course, Laka Heiau. I was also baptized at St.Raphael so I'm familiar with the church property and was told by my grandfather Dennis Blake when he was a kid they would walk down near the church, on Hapa trail to go to the beach. So being the curious kid I was I took my bike to the trail yet saw the pastures and gate up so I decided not to head down. It wasn't until my great-uncle Ted "teddy" Blake restored Hapa trail did I actually walk it. Talking about this area with my uncle Blake, he told me there is an ahu - Hawaiian altar, along the hapa trail. I asked him to take me but he didn't remember exactly where it was, being this was almost 30 years ago when he stumbled upon it.
7. Kiahuna- protocol is something that is done within these wahipana - significant area, upon entry and before exiting. Protocol is when the person/persons offer an Oli- chant followed by their mo'okuauhau - genealogy, intention of why they are there is stated, ho'okupu may also be given, closed with an oli.
8. Kiahuna- or it's original inoa Kiha Honua, getting shortened over time by newcomers is believed to be a resting area of a Kihawahine, Mo'o goddess, with the cave system beneath kiahuna drive. (Along the shore front of this area there's a plaque dedicated to the "remaining" pohaku of a Heiau dedicated to her and a couple more gods. Yet it wasn't just the shore that was important. It was the whole surrounding area. Going inland There is Literally houses surrounding a Heiau. Surrounding Laka Heiau, in a very disrespectful manner). It is without a doubt to say this area in general is significant irregardless of the current development.

9. Pali Kua, Laka Heiau, hapa trail, the beginning of the sugar era, the blind spiders, the nene who call this area home, or did. Pueo, the aquifer beneath it, the cave system Pu'u wanawana is not even a mile away. The missing Heiau.
10. I can't speak for three spectate areas in one.
11. The tradition of honoring the dead within this area will be lost. Honoring gods at their Heiau, teaching keiki of the wahipana, Hawaiians won't be able to access, let alone get near those sites, when it becomes occupied. We can't even get there now. This can all be prevented by bringing an immediate halt to the current plans of development.
12. There should actually be cultural monitors, burial council member present, on site the ENTIRE time of operation. I also believe The department of Land and Natural Resources should also be present considering the cave system. There also needs to be revised or simply new environmental impact reports. Let's not forget the brackish water or the redirection of Waikomo stream. There has always been nene around the kiahuna area, I would see many ohana and now just a few birds themselves. Their disappearance is obvious. Isn't it a law that any construction / development has to stop or isn't allowed in the nene's habitat, or does that not apply to multi million dollar companies.
13. The south side is already over developed and overcrowded with tourists. Where are the Kanaka maoli ? Most of us got pushed out of the south side. Excluding myself I only know two other households in Kōloa that are actually Hawaiian. The County of Kaua'i should be ashamed of themselves for putting visitors above residents. Putting visitors above the families who actually took care of this land so they the county can profit money. Not only is our community not built for this, where am I supposed to go for my cultural practices when access to those areas are being taken away? Where am I supposed to teach my kids how to be Hawaiian when there's nowhere to practice. Where are we all gonna do grocery shopping ? Big save can barely keep the shelves full with the amount of people we have on the south side, right now. Sueoka's got sold and now Sells souvenirs, Kukuiula store never has parking available (not the store's fault, just too many tourists). Where are all the cars gonna go? Anytime poipu road or Ala kalanikaumaka has work being done the cars are bumper to bumper. Where will my kids go to swim? I can't even put a mat down at poipu beach because there is simply no room let alone find a stall to park in. You can't even get a plate lunch in Kōloa without waiting 30+ minutes because everywhere is always packed with tourists. There is simply no room and I refuse to be pushed out of my hometown.
14. There should be a survey done by residents within the south side, If we oppose or support these developments. Where was the public meetings, when do residents actually get to speak up without being dismissed as protesters?
15. The county of Kaua'i should listen to the people and not allow themselves to be bought out by companies who will displace the local community. The county of Kaua'i

should be protecting endangered species all over our island and not choose what species gets to be important and what gets to die off. The actions done by the county of Kaua'i and by the Kaua'i police department all contribute to the continues displacement of Kanaka Maoli and local residents. Their actions comite cultural genocide. Our Mayor Derek Kawakami is not fit to fulfil his duties and role of our leadership. He can put an end to all of this and his words were “ when the bones are found, they'll stop”. No they won't because if that was the case Pili mai wouldn't exist and neither would, Kōloa landing, Kuku'i'ula club, the Sheraton, the Hyatt, the point at poipu, whaler's cove, kiahuna, the Waioahi, all those rentals along Pe'e road. The Kōloa estates, or Kiahuna golf course. They are selling our culture while killing it off at the same time, where is the “paradise” going to be if it's all dug out.



## 5.14 Responses from Terry Kuribayashi

## Interview Questions

1. Please provide your name. Terry Kuribayashi
2. What is your profession? manager/ou
3. Where were you born and raised? kawai
4. Where do you live now? koloa, poi pu
5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?
6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?
7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?
8. Is there anything about the project area that's particularly significant you would like to share? where parcel # is where my inlaws had their grocery store in the 60's
9. Are there any stories associated with the project area we should be aware of?
10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?
11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?
12. Do you have any recommendations for conditions or best management practices for the project, should it proceed?
13. Is there anything else you would like to share?
14. Is there anyone else we should talk with about the projects or the Project Areas?
15. Is there anything in this interview you would like us to omit from the summary?

Hi !! 6/12/22

To whom it may concern:

I have lived here all my life, but have been living here in poiipu for the last 25 years. My inlaws had a little grocery store by Kūkūiāle harbor back in the 60's we are also the best mom and pop store on island.

and i've seen a lot of changes not just ~~you~~ here but all over the island.

when Kūkūiāle first came to develop I was already in poiipu.

you came and told us and also a few people of the community what your plan was. and at that time you said you were ~~only~~ going to build a building of a couple offices, a retail store and a restaurant, so far from your original plan it became this monster of a shopping area which increased traffic and now a bunch of million dollar homes.

and I understand progress and all of that.

But now, you want to have more of these projects which is ~~defint~~ definitely not at all for the community. (2)

you have been selling all of the land to the people from out of state and pushing local people out. honestly, what kind of ~~legende~~ ~~you~~ do you have?

maybe some of you are already set in life with land and a home, but the people of the community who have strived so hard to buy somewhere and have strived so hard to keep this place their

home. people have been buying from out of state as the second home (for investment) and building million dollar homes and when it doesn't suit them anymore they leave these million dollar homes and how can anyone else be able to buy.

Do you think there could be a way where you could do a low amount of years ~~then~~ if anyone ~~to~~ lives here for an amount of years ~~then~~ then they could purchase?



I honestly believe there is <sup>always</sup> room <sup>③</sup>  
for progress, but we also need a  
balance of some kind.

Do you honestly think that we need  
additional luxury homes, condos,  
cottages.

killing almost everything that we  
treasure.

We have a special culture, can we  
try to keep most of culture?

people come here because they love  
the beauty, the people and our  
culture.

please don't ruin the important  
things that we treasure so, for  
money

The developers are laughing in our  
faces and saying the people in  
office on kaula can be so easily  
played and bought.

all we have to do is show money  
in their faces and we can get  
what we want

Is this honestly how you want to  
look?

In this honestly, how you want to be looked at. I honestly thought we had more close and pride for who we are and you as our electives were looking out for our community. (17)

all we are asking is balance for the island  
thank you so much!!



BALANCE

sincerely yours  


Terry Kuribayashi



## 5.15 Responses from Val Kane Turalde

1. VAL KANE TURALDE
2. RETIRED - CULTURAL ADVISOR  
& CULTURAL CONSULTANT  
(RECOGNISED BY STATE OF HAWAII)
3. BORN - KO'OLAUPOKO  
- Ahupua'a of Kaalaea Kaalaea)  
MOKU O LEHUA, OHAU  
RAISED: Kaalaea - Kaneohe;  
- WAIMEA, KAUAI
4. WAIMEA, KAUAI
5. PROTECT KAUAI OHANA (c. 1973)  
w/ PROTECT KAHOOHAI (Atwood  
MAKANANI)
6. Kukuiula (Harbor); LANA'I BEACH  
Yes\* cleaned TARO there (TARO PATCHES  
LOI KALO by PK'S); ROSIE APPLE
- 7) HUKILAN by Kukuiula (AKULE;  
OHIO; KALA; MANINI; MENPACHA  
= FISH); CANOE RACES;  
Prince Kuhio CANOE RACE;  
Birthplace of Prince Kuhio  
Hukilan pa'i pa'i (splash for fish)

Baby's Beach (ca. 2019 9<sup>th</sup>)

7- Cont KANE

8. HAPA TRAIL Ancient Pathway;  
Koloa Known for Sweet Potato + TARO;  
Koloa Landing original (HARBOR)

8. My RUPONA SAID "Sweet Potato  
was Koloa", spoke that Kupuna  
Buried ~~buried~~ were all along from MAHALEPU  
to KANAI KAI.  
- HELEN WAIACELE TARO PATCH  
WAS THERE!

AFTER  
TWO  
ATTEMPS

Fish pond water comes SPRING  
used to feed the TARO PATCHES + PK'S

9. King Kamehameha connected to prince Kuhio's  
Came on Owea Kamehameha's (BARDGE; Brother-in-law)  
He went to ANATOLIA to prove his STRENGTH to people  
of Kanai - thru his SPEAR THRU THE  
HOLE in the MOUNTAIN = KALALEA. ~~for~~

He went to WAIMEA & passing thru the  
the KONA PASSAGE, told KAMAULII to  
Keep his land for him & his people. ~~cont~~



(KANE TURALOE)

9. (Kamaulii lived Wailua during the Summer & Waimea during the WINTER)

10. Resources impacted - WATER (need clean; ~~not~~ contaminated)  
FISHING; ROADS + TRAFFIC; NOISE + AIR;  
Beaches; HAPA TRAIL; ACCESS TO ALL OF THE  
A BOVE; NATURAL HABITATS; LAVA TUBE CAVE  
SYSTEM.

KU PUNA IWI - PLANTS; ~~ALL~~ <sup>FOR</sup> ~~MAHEI~~  
DRAINAGE; SEWER RUNOFF

~~IMPACTS~~; DON'T DEVELOP - Turn all areas  
into PARKS! + Natural FARMING AREAS

11) YES, ANYTHING in the areas (HEIAU; CAVES; Burial sites)  
- DON'T DO ANYMORE DAMAGE - STOP the desecration  
& disrespecting the people of the culture!!  
<sup>No Access to</sup>

12) For the Project!! STOP

13) TRADITIONAL + CUSTOMARY PRACTICES  
need to BE PRACTICED ~~NOT~~ BY KUHUNA

14) ~~BY~~ KNOWLEDGEABLE PRACTITIONERS &  
(Not just talked ABOUT)

15) No - THE PRESIDENT OF THE US;  
UNITED NATIONS;

TEMOANA ANUI AKIVA  
Royal Union of the PACIFIC NATIONS  
met them in N.Z. 2009

invited Kōpana  
- Nam +  
- Report +  
- went

## 5.16 Responses and Documents from Llewelyn H. Kaohelauli'i

### Questionnaire Responses of Llewelyn H. Kaohelauli'i (aka Billy)

#### Interview Questions

1. Please provide your name.  
Llewelyn H. Kaohelauli'i (aka Billy)
2. What is your profession?  
Retired – Now Aha Moku Advisory Council Po`o for the island of Kauai – appointed by the Governor. I also serve as the Kona Moku for AMAC.
3. Where were you born and raised?  
Born Waimea, raised Koloa, Kauai
4. Where do you live now?  
Koloa, Kauai on the coast of Poipu adjacent to the Kaneioulouma archaeological site.
5. What is your association, if any, with the Project Area(s)? Based on the provided map, what place names do you know for the project area(s) or near the project area(s)?  
My mother and sister, Ella, walked to the San Raphael Church on Hapa Trail weekly. Ella would gather flowers (ilima, ginger for lei). We used Hapa Road/Trail to get to Koloa and to school.
6. Are you aware of any cultural resources in the Project Area(s) or near the Project Area(s)? And have you ever accessed those resources?  
Caves and the spiders are there, plants for Medicine and flowers for leis. Water, this was a major part of the awai network that was relied on for sweet potato and kalo.
7. Are you aware of any traditions or customs that may take place near the Project Area(s) or are otherwise associated with the Project Area(s)?  
Fishing and throwing net, Brenenke coastline, Poipu, Waiohi, Lawai Beach and lava rocks and Kukuiula boat harbor. There was also extensive farming (Mahiai), in the area and there was still evidence of sweet potato and kalo and the awai transport of water when I walked the property with Hal Hammett of Cultural Services Hawaii. Burials, Births, all scared which took place at heiau near and on the project site.
8. Is there anything about the project area that's particularly significant you would like to share?  
Mauka to Ma`kai:
  - a. Transport of Clean water, cave tubing essential.
  - b. Sacred areas are being destroyed ie cave, burial sites, habitat for blind wolf cave spider revered by my ancestors as amakua.
  - c. Awai system unique to Kauai Koloa aha pua`a Kona moku.
9. Are there any stories associated with the project area we should be aware of?  
Moho near the fishpond help clean the water. "Moho live in the lave tube!!"
10. The proposed project includes three new developments in Koloa. Are you aware of any resources that may be impacted by such a project or projects? What might those impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or avoided?  
Yes, Water, Fisheries, Air, Roads and No Evacuation Plan!
11. Are you aware of any traditions or customs that may be impacted by such a project, including your ability to access cultural resources? What might that impacts be? Can you think of ways in which any potential impacts can be minimized, mitigated, or

## Questionnaire Responses of Llewelyn H. Kaohelauli1i (aka Billy)

avoided?

Yes:

- a. Limit traffic and development
- b. Create evacuation plan
- c. Runoff and sewer and rubbish must be addressed immediately!
- d. Stop unnecessary over development

- 12.** Do you have any recommendations for conditions or best management practices for the project, should it proceed?

The developer should meet with longtime residents and members of the community to fully appreciate the impact this dense development is likely to have. Reducing the number of units by 50% would be in keeping with the plan submitted to the LUC and the Kauai County Council resolution which expressly planned for no more than 144 units on the project parcel. See attached. Cultural consultant should always be present.

- 13.** Is there anything else you would like to share?

Stop the dynamite NOW! Holes are spontaneously opening along Hapa Trail. The damage to any burials and endangered species can't be fixed, the blasting destroys any hope of finding kupuna burials, iwi or evidence of our amakua.

- 14.** Is there anyone else we should talk with about the projects or the Project Areas?

Kane Turalde, 'Branch' Kalanikumai Schimelpfenig, Rupert Rowe, Archaeologist, Burial Council

- 15.** Is there anything in this interview you would like us to omit from the summary?

NO



# Resolution

RESOLUTION RELATING TO LAND USE COMMISSION  
DOCKET NO. A76-418 MOANA CORPORATION

WHEREAS, the Kauai County Council has requested that the Land Use Commission of the State of Hawaii withdraw its conditions numbered 1, 2, 3 and 4 relating to housing as contained in the Decision and Order in Docket No. A76-418 dated July 7, 1977; and

WHEREAS, in lieu of the aforementioned conditions imposed by the Land Use Commission, the applicant, Moana Corporation, has agreed to contribute the sum of \$2 million to the County of Kauai for the purpose of implementing a County Housing Program; and

WHEREAS, Knudsen Trusts has agreed to sell to the County of Kauai approximately 28 acres of fee simple land abutting the Moana development to be used for low income housing; and

WHEREAS, the County Council intends to purchase the above-described 28 acres and market the housesites to be developed thereon primarily to Koloa residents provided that such preference or priority to Koloa residents is legally permissible; now, therefore,

DOCKET NO. A76-418  
COUNTY County of Kauai

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII, that upon withdrawal by the Land Use Commission of the above enumerated conditions and in consideration of the contribution of \$2 million by Moana Corporation to the County of Kauai as specified in Ordinance No. PM-31-79, the County Council will purchase and develop the 28-acre site abutting the Moana development for low cost housing.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Val Knudsen, Trustee for Knudsen Trusts, Clyde French, Vice President and Trust Officer of First Hawaiian Bank, Bob German, President of Moana Kauai Corporation and Teresa Tico.

Introduced By: \_\_\_\_\_  
Councilman

Approved:

\_\_\_\_\_  
Councilman  
*George Hew*  
\_\_\_\_\_  
Councilman  
*Shay Hibbs*  
\_\_\_\_\_  
Councilman  
 \_\_\_\_\_  
Councilman  
 \_\_\_\_\_  
Councilman  
 \_\_\_\_\_  
Councilman

Adopted

	Ag	No	A/E
BAPTISTE			
HEW			
SAHITA			
TSUCHIYA			

We hereby certify that Resolution No. \_\_\_\_\_ was adopted by the Council of the County of Kauai, Tihue, Kauai, Hanalei, on

JUSTIFICATION SHEET

**Title:** Ordinance Establishing Trust Fund for Contributions by Developers.

**Purpose:** To establish a trust fund and to provide policies regarding the use of such fund.

**Justification:** Construction on Kauai has risen tremendously over the recent years, expanding the socio-economic impacts of such development throughout the island. This rapid growth has also placed an increased financial burden on the County, thus necessitating contributions from developers to partially alleviate the cost of infrastructures imposed by such developments. The Council feels that these contributions should be expended for housing or other related capital improvements on which the greatest impact is imposed. Therefore, a trust fund is urgently needed to ensure that these monies are utilized for the specific purpose of relieving impacts on the County created by developments.

CKET NO.	A76-418
RTY	County of Kauai
CH. NO.	F
DATE IDENTIFIED	7/11/19
EVIDENCE	7/12/19
BY	A. Dink

## 6.0 Traditional or Customary Practices Historically in the Study Area and Surrounding Area

In traditional (pre-western contact) culture, named localities served a variety of functions, informing people about: (1) places where the gods walked the earth and changed the lives of people for good or worse; (2) heiau or other features of ceremonial importance; (3) triangulation points such as ko'a (fishing markers) for fishing grounds and fishing sites (4) residences and burial sites; (5) areas of planting; (6) water sources; (7) trails and trail side resting places (o'io'ina), such as a rock shelter or tree shaded spot; (8) the sources of particular natural resources/resource collections areas, or any number of other features; or (9) notable events which occurred at a given area. Through place names knowledge of the past and places of significance was handed down across countless generations. There is an extensive collection of native place names recorded in the mo'olelo (traditions and historical accounts) published in Hawaiian newspapers.

This is not intended to be a comprehensive list of all the practices that historically or contemporaneously occur in Kōloa. This is meant to show the range of traditional or customary practices that took place in the larger geographic extent. Many of these practices may not have taken place within the specific confines of the Project Area(s), and many of those that may have do not currently take place within the Project Area(s), although that may actively occur within the larger region.

### 6.1 Mo'olelo

Mo'olelo is the practice of storytelling and developing oral histories for the purpose of transmitting knowledge information and values intergenerationally. Mo'olelo are particularly critical in protecting and preserving traditional culture in that they are the primary form through which information was transmitted over many generations in the Hawaiian Islands and particularly in the Native Hawaiian community.

Storytelling, oral histories, and oration are widely practiced throughout Polynesia and important in compiling the ethnohistory of the area. The Native Hawaiian newspapers were particularly valued for their regular publication of different mo'olelo about native Hawaiian history. Were it not for the newspapers having the foresight to allow for the printing and publication of mo'olelo, far less information about the cultural history of the Hawaiian people would be available today.

There are numerous mo'olelo about Kaua'i and specifically the Kōloa area. Two of these mo'olelo are provided in Sections 3.1 (Traditional Period). Additionally, multiple informants note that there are many, significant stories about the area.

### 6.2 Habitation

Hawaiians lived extensively throughout the islands. Handy, Handy, and Pukui (1991) identify how different kānaka and their 'ohana lived in accordance with what the authors termed "occupational contrasts" (286), meaning that based on occupation (i.e., planter or fisherman,

for example), habitation systems differed. They describe, “The typical homestead or *kauhale*... consisted of the sleeping or common house, the men’s house, women’s eating house, and storehouse, and generally stood in relative isolation in dispersed communities. It was only when topography or the physical character of an area required close proximity of homes that villages exist. There was no term for village. *Kauhale* meant homestead, and when there were a number of *kauhale* close together the same term was used. The old Hawaiians, in other words, had no conception of village or town as a corporate social entity. The terrain and the subsistence economy natural created the dispersed community of scattered homesteads” (284). Traditionally, as shown in historic maps and through ethnographic data, *kānaka* inhabited areas throughout Kōloa. Some of the informants still have lineal ties to their family’s lands.

### 6.3 Travel and Trail Usage

The ability to travel was essential to Hawaiians and enabled their sustainability. Travel, and the freedom to move throughout different areas, had different names, including *huaka’i*, *ka’apuni*, or *ka’ahale*. Traveling by sea had distinct names as well, like *‘aumoana*. Traveling through the mountains was sometimes referred to as *hele mauna*. Travel, and moving throughout various places and regions was an essential practice and way of life in traditional Hawai’i.

The freedom to travel safely was so important that Kamehameha I would come to pass a well-known law protecting travelers, *Ke Kānāwai Māmalahoe* (The Law of the Splintered Paddle). It is explained by the William S. Richardson School of Law as follows:

As a young warrior chief, Kamehameha the Great came upon commoners fishing along the shoreline. He attacked the fishermen, but during the struggle caught his foot in a lava crevice. One of the fleeing fishermen turned and broke a canoe paddle over the young chief’s head. The fisherman’s act reminded Kamehameha that human life was precious and deserved respect, and that it is wrong for the powerful to mistreat those who may be weaker.

Years later when Kamehameha became ruler of Hawai’i, he declared one of his first laws, *Ke Kānāwai Māmalahoe* (the Law of the Splintered Paddle), which guaranteed the safety of the highways to all. This royal edict was law over the entire Hawaiian kingdom during the reign of Kamehameha the Great. Considered one of the most important *kānāwai* (royal edict), the law gave the Hawaiian people an era of freedom from violent assault (William S. Richardson School of Law 2021).

The *kānāwai* (law) reads:

E nā *kānaka*

O my people



E mālama 'oukou i ke akua	Honor thy god
A e mālama ho'i	Respect alike, the rights of
Ke kānaka nui a me kānaka iki	All men great and humble
E hele ka 'elemakule	See to it that our aged,
Ka luahine, a me ke kama	Our women, and children
A moe i ke ala	Lie down to sleep by the roadside
A'ohe mea nana e ho'opilikia	Without fear of harm
Hewa no, make	Disobey, and die

The law would have such long-lasting resonance that it would be expressly incorporated into the Hawai'i State Constitution.<sup>4</sup>

As traveling through traditional trails was the primary means by which people traveled on land throughout most of Hawaiian history, the traditional trail system is particularly important throughout the Hawaiian Islands. Throughout the islands, there were numerous trails that allowed for people to access different locations. This trail system was critical not only for maintaining a healthy population and managing this population, but it was also important for the traditional economic system of bartering. The trail system allowed for different localized communities to engage and interact. This also allowed for the trade of goods throughout island communities.

Traditionally, trails were widely used, as there was no other means of land transportation. This meant that these trails were essential to the ability of different ahupua'a communities to interact. There were also important to allow for the governance of different ahupua'a by konohiki and ali'i.

From the historic maps provided in Section 3.1, it is clear that kānaka traveled extensively throughout this area. Figures 6-9 in particular show trails that routed through Kōloa. Additionally, Hapa Trail, State Inventory of Historic Places (SIHP) # 50-30-10-00992, is immediately east of Lot 4 of the Kauano'e o Kōloa development. Multiple interviewees spoke to the cultural importance of this site and its continued usage.

The historic trail was previously known as Hapa Road and was the government road that connected Kōloa and Poipu.

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<sup>4</sup> Article IX. Section 10 of the Hawaii State Constitution reads: "The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I—Let every elderly person, woman and child lie by the roadside in safety—shall be a unique and living symbol of the State's concern for public safety."

## 6.4 Ceremonial Practices

There are numerous heiau located in Kōloa. While numerous heiau were destroyed following foreign contact, there are also contemporaneous efforts to protect and preserve heiau in the region. Numerous informants identified the importance of heiau in Kōloa. Some even identified their ongoing work on heiau, specifically Kamalo'ula and Kānei'olouma heiau.

In this area, there are numerous preservation and restoration activities associated with Uhau Humu Pōhaku, as this region of Kaua'i enjoys numerous practitioners skilled in this traditional practice. There are numerous practitioners in this area, some of whom were interviewed for this survey, who are familiar with the customary practices associated with building and consecrating traditional structures.

## 6.5 Farming and Fishing

Since poi was the staple food for Native Hawaiians, it was of the utmost priority for the first settlers to establish lo'i. Kalo's prominence in the Hawaiian diet derived from its nutritional value, but even more so from its mythological significance. According to Hawaiian traditions, the first human (male) was born from the taro plant:

The first-born son of Wakea and Papa was of premature birth and was given the name Haloa-naka. The little thing died, however, and its body was buried in the ground at one end of the house. After a while, a taro plant shot up from the child's body, the leaf of which was named lau-kapa-lili, quivering leaf; but the steam was given the name Haloa.

After that another child was born to them, whom they called Haloa, from the stalk of the taro. He is the progenitor of all the peoples of the earth. (Malo 1951:244)

As discussed in **Section 3.1 (Traditional Period)**, the area has an extensive history of farming that extends well back into the pre-European contact era. Informants also identified important fishing practices in the coastal waters off Kōloa.

## 6.6 Traditional Clothing (Clothes Making, Dyeing, and Lei Making)

Kapa (commonly known as bark cloth) was the traditional material made through a traditional method of gathering, treating, and beating plant fibers, often, but not limited to, wauke (*Broussonetia papyrifera*) to make fabric that was used to make iole (clothing). Pacific and Hawaiian kapa was known for its wide range of colors and the application of watermarks.

One article describes the process for making kapa:

The finest kapa came from the paper of the mulberry tree. These trees were cultivated on plantations and grew to heights of more than twelve feet. As the tree grew, the branches were nipped off along the main trunk, ensuring a long piece of bark which was easily peeled from the tree.

The manufacture of kapa was an important occupation for women. After the bark had been peeled from the tree, the inner bark was separated and soaked in sea water to make it soft and pulpy. The softened bark was placed on an anvil and beaten with a cylindrical wooden beater. The first beating separated the fibers and produced strips about eight or nine feet long and ten to fourteen inches wide. These strips could be dried and stored until needed. When needed, the strips were soaked in water, placed in layers between banana leaves, and left for about ten days to mature by "retting" which is the decomposition and removal of softened tissues, leaving the finer fibers. These partially decomposed layered strips were beaten a second time with specially carved four-sided beaters. The patterns carved on the beaters were functional as they produced the necessary characteristics in the kapa for its end use. These carved designs left the equivalent of a watermark on the kapa.

Kapa which was to be extremely soft and pliable, such as that used for the malo or loincloth, was subjected to an additional softening process. This process, which produced a finely ribbed fabric, was done by dampening the cloth, stretching it over a grooved board, and running a wooden grooving tool along the indentations in the board. When the cloth dried, permanent ribs remained. The hand was very similar to our crinkle gauze of today (Furer 1981:109-110).

Hawaiians were skilled at utilizing plants and materials to dye their clothing and other materials. Different methods would be employed to hō'awa, extract dye colors from their source material(s). These dyes would be placed in a cup, known as a kā kāpala. Even foreign or exotic plants were utilized for this practice. Hawaiians used different words for the various types of dyeing activities and methods.

- We'a – a red dye or to print or dye red
- Hili – bark dye, as hili kukui, hili kōlea, hili noni; also kapa dyed with bark or the name for dyeing with the use of bark
- Kūhili – to dye (or stain) by soaking in water containing mashed bark, such as used for nets; also mulberry bark before it is beat into kapa
- Kūpenu – to dye by dipping material
- Ki'olena – to dye kapa
- Hōlei – native tree (*Ochorosia compta*) related to the hao (*Rauwolfia*), which yields a yellow dye for kapa

- Kīhe‘ahe‘a pala‘ā – dye made from the pala‘ā (*Sphenomeria chinensis* syn. *chusana*) fern; pala‘ā also references a kapa made from the māmakī (*Pipturus* spp.) bark which is then dyed a brownish-red with pala‘ā fern

Hawaiians also had a lexicon for the various colors that could be achieved through this traditional practice.

- ‘Ōlenalena – yellow
- Hili – Dark-brown dye made from bark
- Puakai – red
- Nao – dark red
- Pōkohukohu – color made from the noni (*Morinda citrifolia*) root
- ‘Ākala – color made from raspberry or thimbleberry juice
- ‘Ōma‘oma‘o – light green color made from ma‘o leaves

Similarly, lei making was a regular occurrence in traditional Hawaii. Anderson-Fung and Maly (2009) write about the traditional practice:

In old Hawai‘i, lei could have important ceremonial functions, such as in religious offerings and for chiefly regalia, but lei were also enjoyed as personal adornment by Hawaiians of all levels of society. The ali‘i (chiefs) and the maka‘āinana (the common people who tended the land) all wore lei. Even the akua (gods, deities, spirits), it was believed, sometimes wore lei when they walked the land in human form. The following observation by the French botanist Gaudichaud, who visited the islands in 1819, paints a picture of Hawai‘i as a place where the lei was an integral part of everyday life:

“It is indeed rare to encounter one of the natives of this archipelago who does not have an ornamental plant on his head or neck or some other part of his body...[The] women ... change [the plants they wear] according to the seasons, [and for them] all the fragrant plants, all flowers, and even the colored fruits, serve as attire, one after another. ...The young girls of the people, those of the island of Hawai‘i especially, seem to be fond of the [kou, *Cordia subcordata*], a tree very abundant in all the cultivated areas... The young girls of the mountains, who live near the forests, give their preference to the flowers of the [*Erythrina* (wiliwili) and a species of *Canavalia*, called ‘awikiwiki], the lively color of which makes magnificent garlands. Such natural attire is much more rich, much more striking, than all the dazzling creations of the elegant European ladies.”

This account and others like it suggest that lei worn for personal adornment were fashioned from the favorite plant materials that were readily available and abundant in the lei maker’s environment (4).

Lei making continues as an important practice today, as the making and giving of lei as an expression of aloha to loved ones still regularly occurs throughout the Hawaiian Islands. Practitioners of these crafts actively practice in the project area, especially hula practitioners who use the forest to gather plants for their ceremonial purposes. In the ethnographic data, informants also identified lei making as a practice that occurs in the area.

Additionally, historic records show that these ethnobotanical practices occurred in the Kōloa ahupua'a. Bernice Judd's 1936 piece in the *Forty-Fourth Annual Report of the Hawaiian Historical Society for the Year 1935* clearly states, "The Hawaiians planted pia (arrowroot) as well as wauke (mulberry) in patches in the hills wherever they would grow naturally with but little cultivation. In the uplands they also gathered the leaves of the hala for mats and the nuts of the kukui for light" (Judd 1936: 53).

### 6.7 Haku Mele, Haku Oli, and Hula

This practice is related to the composition of song and chants. This is a practice that has existed for many centuries in the Hawaiian culture. When the Hawaiian culture primarily relied on an oral tradition to pass on knowledge and information, the ability to create songs and chants was essential to pass information from one generation to the next. As Donaghy (2013) notes, Hawaiians had hundreds of terms associated with this practice.

Songs and chants are largely influenced by the environment around them. As a pedagogical device it was important if not imperative that these songs or chants effectively captured data from the environment around the composer and passed on this information for others to utilize when managing natural resources. In a very real sense, the land and natural resources act as a muse for composers. The category of songs that provide information on or speak to natural resources are called mele 'āina (songs of the land). As shown in the previous section, there are numerous traditional chants and songs about the area.

Much like mele and oli, hula serves as a way of both honoring place and telling the story of place. Many hula, especially those based on mele 'āina, require intimate understanding of the place where the mele was composed, including the natural elements of that 'āina. Hula hālau will regularly take huaka'i, or journeys, to visit and honor the place a particular mele speaks of. The ability to visit the place and learn about it is important to the practice of hula.

Hula, as well as mele or oli, are also offered as gifts to kupuna or gods. This practice also requires access to traditional sites. Associated with hula would have been the practices of lei making and the use of plants to dye clothing (see Section 5.6 for additional information on ethnobotanical practices related to clothing, weaving, and lei making).

Section 4.3.2 provided mele that were composed for Kōloa or in part for Kōloa. Additionally, the area enjoys haku mele (composers) who contemporaneously write mele for Kaua'i.



## 7.0 Impact Assessment

As previously mentioned, CIAs are not required for the applicant's Project Area(s) as the environmental impact statements completed for the Kiahuna Development area – that encompasses applicant's Kauano'e o Kōloa project - and the Kukui'ula Development area – that encompasses applicant's two Kukui'ula projects - was completed in 1976 and 1989, respectively, prior to the passage of Act 50. Nonetheless, this CIA is being prepared under applicable regulatory standards.

When the Hawai'i State Legislature passed Act 50 in 2000, the purposes of the Act were clear: "1) Require that environmental impact statements include the disclosure of the effects of a proposed action on the cultural practices of the community and State; and 2) Amend the definition of "significant effect" to include adverse effects on cultural practices" (Act 50, SLH 2000).

HRS 343-2, as amended per Act 50, defines an "Environmental impact statement" as "an informational document prepared in compliance with the rules adopted under 343-6 and which discloses the environmental effects of a proposed action, effects of a proposed action, effects of a proposed action on the economic welfare, social welfare, and *cultural practices of the community and State*, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects" (emphasis added) (HRS Chapter 323-2).

Under the same part, "Significant effects" is defined under state law as "the sum of the effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State's environmental policies or long-term environmental goals as established by law, or adversely affect the economic welfare, social welfare, or *cultural practices of the community and State*" (emphasis added) (HRS Chapter 323-2). Therefore, an adverse effect to cultural practices of the community or State constitutes a "significant effect" under Chapter 343.

Any tangible or physical impacts to historic sites are addressed in the work completed for HRS Chapter 6E by Cultural Surveys Hawaii and as reviewed by SHPD and are not covered by this CIA. This separate review is necessary to meet both the statutory requirements of HRS Chapter 6E and the conditions set forth by the County of Kaua'i.

Similarly, any tangible physical impacts to flora or fauna are address in the biological section of the SMA application and other entitlement processes and not covered by this CIA. This CIA focuses on affects to cultural practices of the community.

The role of this assessment is to primarily identify effects of the proposed action on cultural practices. Cultural practices historically and contemporaneously associated with the project area fall into three general eras: a traditional pre-contact era, a historic post-contact era (i.e., plantation era), and a contemporaneous era during which these lands have been under primate ownership.

As shown through the preceding discussions regarding traditional and customary practices, the project area saw different cultural practices through the different eras. During the traditional era, cultural practices would have only been limited by the kapu system. The kapu system was the widely employed political system that allowed for chiefs to oversee their people and manage resources. Under the kapu system, access to and use of the resources in the project era were generally allowed under Kaua'i chiefs. The area would have also enjoyed extensive traditional habitation, due to its abundance of fresh water. The Hawaiian Kingdom would undergo a series of significant changes after foreign contact in 1778. From the unification of the Kingdom under Kamehameha I to the end the kapu system. Once foreigners arrived, changes came quickly.

Liholiho's reign, while significant for the end of the kapu system, would ultimately be short, as he and his wife, Kamāmalu, would succumb to the measles while visiting London in 1824. His younger brother Kauikeaouli, Kamehameha III, succeeded Liholiho as mō'ī (high chief or king). It was under the rule of Kauikeaouli that the Kingdom became a constitutional monarchy with the promulgation of the 1840 Constitution. Further changes under his governance included changes to the land title system. A land commission that served to quiet land titles was first formed in February of 1846. The Māhele, which occurred in 1848, "was a division of nearly all the lands of the Hawaiian Kingdom" (Beamer 2014: 142). Beamer further explains, "The Māhele – which established distinct land bases for the mō'ī, the government, and the chiefs and ultimately made large-scale private ownership possible – was nevertheless still subject to the rights of maka'āinana to make their claims for land" (Beamer 2014: 142). Many native tenants failed to make successful claims for their ancestral lands, and this would open the door to land ownership by foreigners.

Changes in cultural practices within the project area pre-dated the political changes that would take place within the Kingdom in the 19<sup>th</sup> century. As discussed in Section 3.2, and in more detail in Section 3.2.1, of this assessment, sugar and the plantation economy would move into Kōloa in the early 1800s. This would have a significant impact on the area, as it would change land ownership, land and resource management, water usage, and the demographics of the area.

In Hawaiian culture, natural and cultural resources are largely viewed as being one and the same. Without the resources provided by nature, cultural resources could not and would not be procured. From a Hawaiian perspective, all natural and cultural resources are interrelated,

and all natural and cultural resources are culturally significant. Ethnographer and Hawaiian language scholar Kepā Maly observed, “In any culturally sensitive discussion on land use in Hawaii, one must understand that Hawaiian culture evolved in close partnership with its natural environment. Thus, Hawaiian culture does not have a clear dividing line of where culture ends and nature begins” (Maly, 2001:1).

The kinship between Hawaiians and their land extends back across many generations, and it was the depth and intimacy of this relationship that enabled Hawaiians to thrive sustainability in the islands for hundreds of years prior to the arrival of Westerners. Therefore, Hawaiians are entitled to the pain and anguish they feel at the loss of their lands and resources. There is no gain from ignoring the fact that the acquisition of lands by foreigners, including the U.S. Military, has caused and continues to cause Hawaiians pain and even trauma.

This loss lies at the heart of Hawaiian struggles for traditional or customary access. Therefore, the obligation of the state to ensure that these rights are protected is much more than a legal obligation, as such rights are a necessity of indigenous human life. Recognition and respect for these rights also enables a more mutually respectful and beneficial relationship between the military and Hawaiians.

Act 50 was passed by the State recognizing:

... the past failure to require native Hawaiian cultural impact assessments has resulted in the loss and destruction of many important cultural resources and has interfered with the exercise of native Hawaiian culture. The legislature further finds that due consideration of the effects of human activities on native Hawaiian culture and the exercise thereof is necessary to ensure the continued existence, development, and exercise of native Hawaiian culture (Act 50, SLH 2000).

Despite Act 50 not be applicable in to this project, the legislative intent quoted above is critical to the due consideration of the effects the proposed action has and will have on cultural practices, because it specifies the importance of ensuring “the continued existence, development, and exercise” of culture. This recognizes that culture is not static; it is dynamic. It changes over time. And Act 50 specifically calls for consideration of the effects a proposed action may have on the continued “development” of native Hawaiian culture. Which means it is insufficient to simply look back to historic practices. Considering effects to the continued development of culture means the State, specifically the County of Kaua‘i in this case, must contemplate how an action may affect a culture’s ability to evolve, innovate, and develop.

Additionally, OEQC offers specific guidelines for what elements and issues a CIA should address. They are detailed in Table 4, and the section of this CIA which addresses that element is also provided.

Table 4. Table listing OEQC compliance requirements and their corresponding sections in this assessment

<p><b>OEQC notes that in addition to the content requirements for the draft environmental impact statement, which are set out in HAR §11-200.1 et seq., the assessment concerning cultural impacts should address, but not necessarily be limited to, the following matters:</b></p>	
<p><b>A. A discussion of the methods applied and results of consultation with individuals and organizations identified by the preparer as being familiar with cultural practices and features associated with the project area, including any constraints or limitations which might have affected the quality of the information obtained.</b></p>	<p>A detailed methodology section is provided in Section 2.</p>
<p><b>B. A description of methods adopted by the preparer to identify, locate, and select the persons interviewed, including a discussion of the level of effort undertaken.</b></p>	<p>A discussion of the effort to gather into from persons familiar with the area or other stakeholders is provided in Section 2.5.</p>
<p><b>C. Ethnographic and oral history interview procedures, including the circumstances under which the interviews were conducted, and any constraints or limitations which might have affected the quality of the information obtained.</b></p>	<p>A discussion of procedures, including constraints or limitations, is provided in Section 2.5.</p>
<p><b>D. Biographical information concerning the individuals and organizations consulted, their expertise, and their historical and genealogical relationship to the project area, as well as information concerning the persons submitting information or interviewed, their particular knowledge and cultural expertise, if any, and their historical and genealogical relationship to the project area.</b></p>	<p>Biographical information was provided in and through the surveys in Section 5.0.</p>
<p><b>E. A discussion concerning historical and cultural source materials consulted, the</b></p>	<p>A discussion of the materials consulted are provided in Section 2. An extensive cultural</p>

<p>institutions and repositories searched and the level of effort undertaken. This discussion should include, if appropriate, the perspective of the authors, any opposing views, and any other relevant constraints, limitations or biases.</p>	<p>and historical overview, which uses both Hawaiian and English language resources is also provided in Section 2.</p> <p>Stakeholders are given significant consideration. Petitions and other materials by project opponents are included in the appendices and are addressed in the context of this assessment.</p>
<p><b>F. A discussion concerning the cultural resources, practices and beliefs identified, and, for resources and practices, their location within the broad geographical area in which the proposed action is located, as well as their direct or indirect significance or connection to the project site.</b></p>	<p>In addition to the cultural and historical overview, an extensive discussion concerning cultural resources, practice and beliefs are provided throughout the document, specifically in Section 6.0.</p>
<p><b>G. A discussion concerning the nature of the cultural practices and beliefs, and the significance of the cultural resources within the project area affected directly or indirectly by the proposed project.</b></p>	<p>A thorough discussion concerning the nature of traditional or customary practices and the significance of the cultural resources affected directly or indirectly by the proposed alternatives are provided in Section 7.0 and Section 8.0.</p>
<p><b>H. An explanation of confidential information that has been withheld from public disclosure in the assessment.</b></p>	<p>There has no confidential information withheld from public disclosure, except for personal emails, addresses, or phone numbers.</p>
<p><b>I. A discussion concerning any conflicting information regarding identified cultural resources, practices and beliefs.</b></p>	<p>There was no conflicting information regarding cultural resources, practices, or beliefs.</p>
<p><b>J. An analysis of the potential effect of any proposed physical alteration on cultural resources, practices or beliefs; the potential of the proposed action to isolate cultural resources, practices or beliefs from their setting; and the potential of the proposed action to introduce elements which may alter the setting in which cultural practices take place.</b></p>	<p>Thorough analyses are provided in Section 7.0 and Section 8.0.</p>
<p><b>K. A bibliography of references and attached records of interviews which were allowed to be disclosed.</b></p>	<p>References are included in Section 9.0</p>



## 8.0 Findings and *Ka Pa‘akai* Analysis

It has long been the law of the land that the State of Hawai‘i has an “obligation to protect the reasonable exercise of customary and traditionally exercised rights of Hawaiians to the extent feasible” *Public Access Shoreline Hawai‘i v. Hawai‘i County Planning Commission* (“PASH”) 79 Hawai‘i 425, 450 n. 43, 903 P.2d 1246, 1271 n. 43 (1995). In 2000, in the *Ka Pa‘akai* decision, the Court established a framework “to help ensure the enforcement of traditional and customary Native Hawaiian rights while reasonably accommodating competition private development interests.” 94 Hawai‘i 31, 35, 7 P.3d 1068, 1972 (2000). This analysis is used here to fulfill the goals of this survey and assessment (Section 1.4).

Based on the guidelines set forth in *Ka Pa‘akai*, the Hawai‘i Supreme Court provided government agencies an analytical framework to ensure the protection and preservation of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development, or other, interests. The Court has stated: “that in order to fulfill its duty to preserve and protect customary and traditional Native Hawaiian rights to the extent feasible, as required by Article XII, Section 7 of the Hawai‘i Constitution, an administrative agency must, at minimum, make specific findings of fact and conclusions of law as to the following:

- 1) The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area.
- 2) The extent to which those resources—including traditional and customary Native Hawaiian rights—will be affected or impaired by the proposed action; and
- 3) The feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist. *Ka Pa‘akai*, 94, Hawaii at 47, 7 P.3d at 1084. Cited in *Matter of Contested Case Hearing Re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka‘ohe Mauka, Hāmākua, Hawai‘i*, 143 Hawai‘i 379, 431 P.3d 752 (2018) (“*Mauna Kea II*”).”

In order to complete a thorough analysis that complies with statutory and case law, it is necessary to fully consider information available from, and provided by, Native Hawaiian cultural practitioners and cultural descendants from the Project Area(s).

The *Ka Pa‘akai* analysis is largely a legal analysis, as the applicable tests are legal standards. Therefore, a strong analysis will be conducted by someone with sufficient legal training. Additionally, at the core of a thoughtful *Ka Pa‘akai* analysis is a comprehensive understanding of traditional and customary practices. In breaking down the Court’s tests, it is important to the different elements that contribute to each test.

### **8.1 Identify whether any valued cultural, historical, or natural resources are present within the project area, and identify the extent to which traditional and customary Native Hawaiian rights are exercised**

In addition to the language taken from the *Ka Pa‘akai* decision, the County also identifies additional criteria for review:

- o Describe the project area in relation to traditional and customary practices that occurred in the region or district.
- o Describe the extent that traditional and customary practices were practiced in the ahupua‘a and project area.
- o Describe the community members you consulted with including their genealogical ties, long-standing residency, and relationship to region, ahupua‘a and project area.
- o Describe the Land Commission Awards provided on the property?
- o Describe the prior archaeological studies that were conducted for the property.
- o Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
- o Does the property contain any evidence that trails were in existence on the property?
- o Have any individuals ever requested access to the property for any reason?

The first part of the *Ka Pa‘akai* test – “The identification of valued cultural, historical, or natural resources in the project area, including the extent to which traditional and customary Native Hawaiian rights are exercised in the project area” – actually consists of two separate elements.

The first element is the simple identification and existence of valued cultural, historical, or natural resources. These resources are tangible in nature. They can include sacred places, culturally valuable plants, or a religious or historic site. This assessment sought to exhaustively identify the multitude of resources that may exist in the Project Area(s) or adjacent areas.

As to this test, and as to the County’s inquiries: 1) “[d]escribe the project area in relation to traditional and customary practices that occurred in the region or district”, and 2) “[d]escribe the extent that traditional and customary practices were practiced in the ahupua‘a and project area,” this assessment shows there are potentially resources within or immediately outside the Kauanoe o Kōloa and Parcel H project areas. Interviews indicate that practitioners made use of the plants in the Kauanoe o Kōloa area for lei making, specifically “mauna loa and black-eyed Susan” (see Section 5.4). Neither of these plants were identified in the biological assessment as being in the Kauanoe o Kōloa Project Area, but it does not mean that these resources are not in the surrounding region.

A full listing of community members consulted and their biographies are included in Section 5.0, meeting the county requirement to: “Describe the community members you consulted with including their genealogical ties, long-standing residency, and relationship to region, ahupua'a and project area.”

The second element of the first part of the *Ka Pa'akai* framework is access. There are two critical components of access. One is the existence of a resource. Whether a plant, an animal, a place, or site, the resource must exist in order for a practitioner to access it. The second component is physical access. This includes, but it is not limited to, the ability to physically access a plant, animal, site, or location associated with a particular practice. This can also include the traditional and customary route or path taken to access the resource. This can also include cultural protocols that existed in accessing a resource. These are often temporal, in that access protocols can be at a certain time of day or year. Makahiki would be a good example of a traditional custom that has specific cultural protocols associated with access. In the case of Makahiki, the custom takes place at a certain time of year.

Therefore, the first element under *Ka Pa'akai* should include not only a listing of resources, but the identification of ways in which those resources are accessed and utilized in association with a traditional and customary practice. In this case, the resources include access to the ocean and the various plant resources utilized by practitioners located on property. One informant identified that they access the area for prayer: “Yes prayer and spiritual practice took place on subject property daily. Many cultural practitioners access this site prior to development happening.” (responses from Elizabeth Okinaka).

Okinaka also claims there are numerous significant resources in the Project Area(s):

This entire parcel is significant. The birthing stone, the alter which I visited daily and prayed at is now destroyed. The burial sites and chiefs sitting area are now being destroyed. Chief Palikua is buried underneath this property within a burial cavern and a part of the cave system. Laka heiau and the cave directly behind this property shows the lack of preservation for this entire area. This property has lava tubes and caves exposed since blasting which developer is denying. 3 caves were destroyed in Wainani subdivision which is directly next to this lot. The developer of Wainani admitted to the LUC and there are LUC records that confirm the destruction of the 3 caves in Wainani, destroyed with bulldozers during development. See attached. The developer of Pili Mai, the parcel just below the project area, had problems with its foundation as it was also built over a cave system. There are at least 3 designated habitat caves in the area immediately adjacent to the project site and knowing about the caves under Wainani and Pili Mai, it is unlikely that they are not also under the project area. Hal Hammett and Cultural Survey's Hawaii advertise the use of ground penetrating radar (GPR) on their website and claim to have trained personnel with the technological ability to use

GPR. Yet no GPR was used on the project area prior to extensive grading, excavating, blasting and filling with dozens of truckloads of dirt and rock being delivered to the project area (responses from Elizabeth Okinaka).

It is understandably concerning that an area that once enjoyed: “583 interconnected archaeological features were identified, including 175 stone enclosures, 108 stone house platforms, ten habitation caves, a *heiau* extensive ‘*auwai* networks, ponded fields, terraced plots, and mounds” appears to now be entirely absent significant historic sites. While the myriad of surveys and reports done over the last 40+ years might not yield an easily-traceable record of the small subset of these sites that were directly within the boundaries of the Kauanoē o Kōloa project area, nor when, how and why they were removed, the surveys and reports do reflect that none remained on Lot 1 of the Kauanoē o Kōloa project area as of 2013.

The complexities of the administrative history of the Kukui'ula and Kiahuna Developments, given the massive archive of archaeological work that has been done for numerous developers in these areas for the past 40+ years, was a concern for respondents. Mason Chock noted his disappointment that we cannot have better smoother communications relative to the surveys and assessments that are used to determine impacts in the area. Peleke Flores mentioned that he wished he had the time, in addition to what he is already doing with his full-time job, volunteer positions and family responsibility, to check all those records and resources himself.

There is no doubt that there were extensive archaeological features throughout the Kōloa area. There is also no doubt that many of these sites have been destroyed over time, particularly those that were not slated for preservation, which includes all of those that were located within the applicant's Project Areas. In its March 1, 2022 letter to the County, SHPD concurred with the findings of the December 2021 LRFI, stating:

The Folk et al. (2021) archaeological literature review and field inspection (LRFI) report prepared in support of the proposed development of Lot 1 indicates that previous archaeological studies within the (Lot 1) project area and vicinity include Hammatt et al. (1978), Hammatt (1989), and Hammatt et al. (2003, 2004, 2005). Hammatt et al. (1978) documented 583 interconnected archaeological features were identified, including 175 stone enclosures, 108 stone house platforms, ten habitation caves, a *heiau* extensive ‘*auwai* networks, ponded fields, terraced plots, and mounds. These features were recognized as an intensive pre-Contact and early post-Contact Hawaiian settlement with a focus on irrigated and dryland agriculture; together they reflected “a complex Hawaiian adaptation of intensive agriculture and settlement to a dry, rocky leeward environment” (Hammatt et al. 1978:vii) now referred to as the Kōloa Field System; notably absent are human burials.

Folk et al. (2021) LRFI report indicates that previously recorded sites within the Lot 1 project area are: Site #50-30-10-3857 (complex) which includes Site #50-30-10-3656 (agricultural field), 50-30-10-3657 (C-shaped temporary habitation), 50-30-10-3658 (temporary habitation enclosure), 50-30-10-3659 (C-shaped temporary habitation), 50-30-10-3764 (permanent platform habitation), 50-30-10-3789 (field catchment basin), 50-30-10-3841 (permanent platform habitation), 50-30-10-3851 (two agricultural mounds) and 50-30-10-3853 (cattle wall system). None of these sites were recommended for preservation by Hammatt et al. (1978) or subsequent survey and/or testing studies.

The Folk et al. (2021) LRFI included a 100-percent coverage pedestrian survey which occurred on February 22 and March 20, 2021 and documented that the archaeological sites previously recorded within the southeastern portion of Lot 1 had been destroyed by bulldozing and other ground disturbing activities that occurred over the last several decades. Nine surface features were identified during the field inspection: three remnant sections of ranch walls, two bulldozed boulder piles, one pile of asphalt debris, and one pile of concrete debris, and two outcroppings of boulders in the southeast corner (likely associated with the leveled fill where a former trailer and shed roof structure were visible in a 2013 aerial photo). The three remnants of the cattle walls no longer have integrity except in location, and the seven other features are modern remnants of previous grubbing and bulldozing activities in the project area since the 1990s. The bulldozed and dispersed rock and rock piles may have been portions of some of the previously recorded historic properties within the project area. The cattle wall remnants were not assigned site or feature numbers.

Based on the field inspection findings, Folk et al. (2021) recommend no further archaeological work within Lot 1. Additionally, the USDA (Foote et. al 1972) identifies the soils within Lot 1 as Waikomo very rocky silty clay (Wt), and Waikomo extremely rocky silty clay (Wu). Low potential exists to encounter subsurface historic properties (SHPD 2022: 2).

Similar to the what the archaeological record for Kiahuna reveals regarding remaining sites in the vicinity of the Kauanoë o Kōloa project area, many of the previously identified sites in Kukui'ula were not slated for preservation and no longer exist. In its January 21, 2022 letter to County of Kaua'i, SHPD concurred with the findings in the 2021 Field Inspection Letter Report for Parcell HH, stating:

An archaeological inventory survey (AIS) conducted for the Kukui'ula Bay Community (Hammatt et al. 1988) identified 58 archaeological sites, including 150 features within a 1,000-acre area from Poipu Rd. on the east to the edge of Lawai Valley to the west.



Three previously identified historic properties were documented in the western portion of the project area: a habitation and agricultural site (Site # 50-30-10-01947), and two habitation sites (Site # 50-30-10-01949 and Site # 50-30-10-01950). Additional work within the Kukui‘ula development included data recovery (Hammatt 1998, Hammatt 1989) and the establishment of five archaeological preserves. No preserves are within the current Parcel HH project area. The three sites (Site #s 50-30-10-01947, 50-30-10-01949, and 50-30-10-01950) were not slated for preservation and the 2021 archaeological field inspection conducted in support of the current project (Hammatt, June 2021) indicates the three sites are no longer present and that they likely were removed during permitted mass grading activities in the 1980s. No historic properties are present in the current project area.

Similarly, in its letter dated January 11, 2016, SHPD concurred with the *Final Archaeological Assessment Report for the Kukui‘ula Community Development Parcel H Project* stating:

The AA is an Archaeological Inventory Survey with negative findings. The AA was conducted for 26 acres of the 270.1 acre property, and is not intended to represent the findings of the entire subject property, which contains historic properties. Dave Hutchinson and Lindsay Crawford of Kukui‘ula Development Company contacted our office and clarified that the grading permit is for Parcel H - the 26 acres designated as the Kahela Subdivision. We have determined that no historic properties will be affected by the proposed grading.

In answering the first part of the *Ka Pa‘akai* test: this survey finds there to be valued cultural, historical, or natural resources within the larger geographic extent of Kōloa. Ethnographic data shows that traditional or customary practices take place particularly around the Kauanoe o Kōloa Project Area and in the surrounding Kōloa ahupua‘a. These specifically include Native Hawaiian beliefs, ceremonial practices, and ethnobotanical practices.

As to the remainder of the county’s inquiries:

- Describe the Land Commission Awards provided on the property?
  - This information is provided in the archaeological reports, although based on the LCA-related maps provided in Sections 4.1 and 4.2, there is only one LCA located within the entirety of the Project Areas, which is a portion of Land Commission Award 2668 R.A. Walsh for [Roman Catholic] Mission Church (Figure 20).

- Describe the prior archaeological studies that were conducted for the property.
  - This information is provided in the archaeological reports.
- Are you aware of any resources that found any evidence of subsurface habitation or excavation on the property?
  - This information is provided in the archaeological reports.
- Does the property contain any evidence that trails were in existence on the property?
  - This information is provided in the archaeological reports.
- Have any individuals ever requested access to the property for any reason?
  - Honua would not have knowledge of this information, it should be provided to the county by the project applicant.

## **8.2 Identify the extent to which the identified resources and rights will be affected or impaired by the proposed project**

The second test – “The extent to which those resources – including traditional and customary Native Hawaiian rights – will be affected or impaired by the proposed action” – also looks at two separate elements. The first element seeks to determine whether the proposed action and its alternatives have an adverse impact on the existence of resources. This would include the alteration, destruction, modification, or harm of sites, including biological resources, sacred places, burial sites, etc. It also includes a loss of species. Any adverse impact or harm to resources is alone an affect or impairment caused by the proposed action.

Based on this test, should any of the tangible cultural resources identified by the practitioners be present in the Project Area(s) and impacted by the development, that would be an affect to traditional or customary practices. Additionally, should access be denied to practitioners for spiritual practices, include offering prayer, that would also constitute an affect to those traditional or customary practices that would require the County to identify feasible action that would reasonably protect these Native Hawaiian rights.

Many of the informants also spoke to how expansive development in Kōloa not only poses an immediate threat to traditional or customary practices, but poses a threat to the future restoration of practices. This is best addressed by the County through a holistic consideration of the applicant’s proposed activities, which is why the transparent disclosure of all potential development proposed by the applicant for consideration is the appropriate approach under a *Ka Pa‘akai* analysis.

### **8.3 Specify any mitigative actions to be taken to reasonably protect native Hawaiian rights if they are found to exist**

The third part of the *Ka Pa‘akai* test aims to identify “[t]he feasible action, if any, to be taken to reasonably protect Native Hawaiian rights if they are found to exist.” Determining whether or not action is suitably “feasible” is a matter reserved by the Court as the exclusive jurisdiction of the State, or in this case, the County. Nonetheless, from the ethnographic data gathered for this assessment, the County would be justified in finding such action appropriate for the applicant’s proposed project(s).

As to potential impacts to historic properties, appropriate mitigation would be determined jointly by the SHPD and County of Kaua‘i under HRS Chapter 6E.

Such feasible action to mitigate impacts to traditional or customary practices could potentially include designated access areas and/or times to conduct traditionally or customary practices, including offering prayer. Additionally, feasible action could also include implementing best management practices and/or monitoring measures to ensure that cultural resources, including but not limited to plants, animals, or historic sites, in the Project Area are not adversely impacted by project activities. It is the responsibility of the County to identify these actions and properly implement them in their decision making.

The County should also carefully consider how development in Kōloa may cumulatively impact traditional or customary practices throughout the entire region. The ethnographic data showed a strong concern for how development may force kānaka out of the area. Therefore, in identifying feasible action to reasonably protect Native Hawaiian rights in Kōloa, the County would be best served to consider a holistic approach that protects resources and practices throughout this entire region and significant cultural landscape.

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## Appendix I: Glossary of Hawaiian Terms

The following list of terms were used frequently throughout this report. All definitions were compiled using Pukui and Elbert's Hawaiian Dictionary (1986).

Ahupua'a	Land division usually extending from the uplands to the sea, so called because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua'a), or because a pig or other tribute was laid on the altar as tax to the chief.
'Āina	Land, earth. Lit. That which feeds.
Akua	1. God, goddess, spirit, ghost. 2. Divine, supernatural, godly.
Ala	Path, road, trail.
Ali'i	1. Chief, chiefess, ruler, monarch. 2. Royal, regal. 3. To act as chief, reign.
'Aumakua	Family or personal gods, deified ancestors who might assume the shape of sharks, owls, hawks, dogs, plants, etc. A symbiotic relationship existed; mortals did not harm or eat them, and the 'aumakua warned or reprimanded mortals in dreams, visions, and calls.
'Aumākua	Plural of 'aumakua.
'Auwai	Irrigation ditch, canal, waterway.
Hālau	1. Long house, as for canoes or hula instruction; meeting house. 2. Large, numerous; much.
Hale pili	House thatched with pili grass.
Heiau	Pre-Christian place of worship, shrine. Some heiau were elaborately constructed stone platforms, other simple earth terraces.
Ho'i	1. To leave, go or come back; to cause to come back. 2. To enter, as an institution or last resting place. 3. A parting chant to which hula dancers dance as they leave the audience. 4. Marriage of a chief with the daughter of a brother or sister; to do so (a means of increasing offspring).
Hula	A Hawaiian dance form accompanied by chant or song.
'Ili	Land section, next in importance to ahupua'a and usually a subdivision of an ahupua'a.
'Ili kū	Shorted form of 'ili kūpono.
'Ili kūpono	A nearly independent 'ili land division within an ahupua'a, paying tribute to the ruling chief and not to the chief of the ahupua'a. Transfer of the ahupua'a from one chief to another did not include the 'ili kūpono located within its boundaries. Sometimes shorted to 'ili kū.
Kanaka	Human being, person, individual, party, humankind, population; often used for man.
Kānaka	Plural of kanaka.

Kāne	Male, husband, male sweetheart, man; brother-in-law of a woman.
Kanikau	1. Dirge, lamentation, chant of mourning, lament. 2. To chant, wail, mourn.
Kapu	1. Taboo, prohibition. 2. Special privilege or exemption from ordinary taboo. 3. Sacredness, prohibited, forbidden, sacred, holy, consecrated. 4. No trespassing, keep out.
Kuleana	Right, privilege, concern, responsibility, title, business, property, estate, portion, jurisdiction, authority, liability, interest, claim, ownership, tenure, affair, province.
Kupuna	Grandparent, ancestor, relative or close friend of the grandparent's generation, grandaunt, granduncle.
Kūpuna	Plural of kupuna.
Limu	A general name for all kinds of plants living under water, both fresh and salt, also algae growing in any damp place in the air, as on the ground, on rocks, and on other plants; also mosses, liverworts, lichens.
Lo'i	Irrigated terrace, especially for taro, but also for rice and paddy.
Loko i'a	Traditional Hawaiian fishpond.
Makai	On the seaside, toward the sea, in the direction of the sea.
Mālama	To take care of, tend, attend, care for, preserve, protect, beware, save, maintain.
Mauka	Inland, upland, towards the mountain.
Mele	1. Song, anthem, or chant of any kind. 2. Poem, poetry. 3. To sing, chant.
Mele māka'ika'i	Travel chant.
Mō'i	King, sovereign, monarch, majesty, ruler, queen.
Moku	1. District, island, islet, section, forest, grove, clump, fragment. 2. To be cut, severed, amputated, broken in two.
Mo'o	Lizard, reptile of any kind, dragon, serpent.
Mo'olelo	Story, tale, myth, history, tradition, literature, legend, journal, log, yard, fable, essay, chronicle, record, article.
Mo'owahine	Female lizard deity.
Nī'aupi'o	Offspring of the marriage of a high-born brother and sister, or half-brother and half-sister.
'Ōlelo no'eau	Proverb, wise saying, traditional saying.
Oli	Chant that was not danced to, especially with prolonged phrases chanted in one breath, often with a trill at the end of each phrase; to chant thus.
Pi'o	Marriage of full brother and sister of nī'aupi'o rank, presumably the highest possible rank. Their offspring had the rank of naha, which is less than pi'o but probably more than nī'aupi'o. Later pi'o included marriage with half-sibling.



Pueo	Hawaiian short-eared owl ( <i>Asio flammeus sandwichensis</i> ), regarded often as a benevolent 'aumakua.
'Ūniki	Graduation exercises, as for hula, lua fighting, and other ancient arts (probably related to niki, to tie, as the knowledge was bound to the student).
Wahi pana	A legendary place; a place made special celebrated in stories associated with it. Often sacred.
Wahine	Woman, lady, wife; sister-in-law, female cousin-in-law of a man, female.
Wao	1. Realm. 2. A general term for inland region usually forested but not precipitous and often uninhabited.

COUNTY OF KAUAI  
PLANNING DEPARTMENT

TO: Subdivision Committee, Planning Commission

SUBJECT: Extension Request

PURPOSE:  File Final Subdivision Maps  
 Complete Subdivision Improvements  
 Other: \_\_\_\_\_

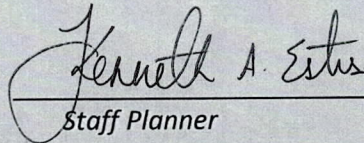
<b>Subdivision Application No.</b>		<b>Applicant(s)</b>	
S-2019-8		Stephanie Fernandes	
<b>Location:</b>	Wailua Homesteads	<b>Tax Map Key:</b>	(4) 4-2-005:044
<b>Extension Request No. (1<sup>st</sup>, 2<sup>nd</sup>, etc.)</b>		<b>Tentative Approval Granted On:</b>	<b>Previous Ext. Expired On:</b>
4 <sup>th</sup>		January 22, 2019	January 22, 2023
<b>Subdivision Bonded:</b>		<b>Deadline to Complete Improvements:</b>	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Not Applicable	

**APPLICANT'S REASONS:** Additional time is being requested to comply with the conditions/requirements of tentative approval. The Applicant is currently with the various reviewing agencies in resolving the required infrastructure improvements for the subdivision.

**PLANNING DEPARTMENT  
EVALUATION & RECOMMENDATION**

**EVALUATION:** Please refer to next page...

**RECOMMENDATION:** Please refer to next page...

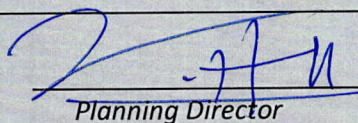
  
Kenneth A. Estes  
Staff Planner

03.30.2023  
Date

Approved and Recommended  
to Planning Commission

Denied

Comments:

  
Planning Director

3/31/2023  
Date

G. 2. a. 1.

APR 11 2023

## COUNTY OF KAUA'I PLANNING DEPARTMENT

Extension requests are primarily processed for the purpose of continuing a tentative approval for a subdivision application. An extension approval allows an applicant additional time to comply with the requirements in order to obtain final subdivision approval.

In determining whether additional time should be granted, an evaluation is made of the project's progress as well as compliance with the requirements of tentative approval. The evaluation is primarily based on determining whether the applicant is **progressively working** towards obtaining final subdivision approval with the various reviewing agencies. The **tentative approval conditions** are then re-evaluated to determine whether the conditions/requirements are adequate to address the impacts of the proposed development in consideration of the time that has lapsed.

Pending evaluation of an extension request, one of the following can occur:

1. The extension is approved without changes to the tentative approval requirements;
2. The extension is approved with modified time frames but no modifications or additions to the tentative approval requirements;
3. The extension is approved with modifications and/or additions to the requirements; and
4. The extension is denied.

### FINDINGS/BACKGROUND:

The proposed development involves a subdivision of a parcel into five (5) lots in the Wailua Homesteads area. This application was granted tentative approval by the Planning Commission on January 22, 2019, and the Applicant's request is the **fourth** extension of the Preliminary Subdivision Map Approval.

The subject property is situated in close proximity to the Kuamo'o Road/Kamalu Road intersection in Wailua Homesteads and the total area involved is approximately 10.818 acres. The subject property is County zoned Residential District (R-2) and Open (O) District, and is within the State Land Use Rural District. The surrounding parcels to the North and West are also within the County Residential District (R-2) and Open (O) District, and are within the State Land Use Rural District. The parcels to the South and East are County zoned Residential District (R-4) and are within the State Land Use Urban District. The surrounding parcels are developed with single-family residences.

### PROGRESS OF THE SUBDIVISION:

In considering the extension request, it should be noted that the Applicant has made some progress in addressing the requirements of the subdivision. As represented, they are currently resolving the requirements of the COK Department of Public Works, Engineering Division relating to a flood study to address drainage from the natural drainage swale on Lot 2. Further, they are currently working with the

COK Department of Water to resolve the draft Water Agreement and the infrastructure improvements associated with the development. Since it is uncertain as to when the Applicant will be in compliance with the requirements of Tentative Approval, another time extension is being requested.

Based on the foregoing circumstances, the Applicant's reasons are justifiable and no problems are foreseen in granting the extension request. The Departments of Public Works and Water have no objections to the request.

Additionally, the Applicant should demonstrate further progress with the subdivision within one (1) year from the approval of this extension request. As such, the Applicant shall be made aware that in further considering extension requests involving the proposed development, the Applicant shall continue to submit to the Planning Department an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date in order to allow sufficient time to evaluate whether progress have been made and conditions satisfied.

**RECOMMENDATION:**

It is recommended that an extension until **JANUARY 22, 2024** be granted to obtain final subdivision approval. However, the Applicant is made aware that an updated status report on the subdivision with a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department for review for further extensions requests. The status report shall be submitted to the Planning Department no later than sixty (60) days prior to the expiration date.











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DAVID W. PROUDFOOT  
DONALD H. WILSON

County of Kauai  
PLANNING DEPT.

22 DEC -2 P1:35

November 29, 2022

RECEIVED

Mr. Gerald Ako, Chairperson  
Subdivision Committee  
Planning Commission  
c/o County of Kauai Planning Department  
4444 Rice Street, Suite A473  
Lihue, Kauai, Hawaii 96766

Re: **Subdivision of Lot 21 A-9 Portion of Lot 21 Wailua Homestead,  
First Series also Portion of Grant S-14157 to William E. Fernandes  
Wailua, into lots 1 to 5, inclusive,  
Kawaihau, Kauai, Hawaii  
Kauai Tax Map Key No. (4) 4-2-005-044  
S-2019-8, Stephanie Fernandes**

Dear Chairperson Ako and Subdivision Committee Members:

I am writing to you as the court appointed commissioner in Fernandes v. Fernandes-Salling, et al., Civil No. 15-1-0010, Fifth Circuit Court, State of Hawaii, that has been tasked to pursue the above-entitled subdivision. The Planning Commission Subdivision Committee granted Tentative Approval to the above subdivision at its meeting held on January 22, 2019. On July 12, 2022, the Planning Commission granted an extension of the tentative subdivision approval to January 22, 2023.

The January 22, 2023 extension provided that "if further subdivision extension requests are sought, an updated status report on the subdivision that includes a detailed time chronology on the progress of the tentative approval requirements shall be submitted to the Planning Department no later than sixty days (60) from the expiration date of the extension." We apologize for not submitting this updated report earlier. We had hoped that all of the conditions might have been fulfilled by December of this year, but unfortunately, we might not be able to meet the January 22, 2023 date so we are submitting this updated report and request for an extension for the Committee's consideration.

Mr. Gerald Ako, Chairperson  
Page 2  
November 29, 2022

The following are the conditions that were contained in the Commission's Tentative Subdivision Approval and their status:

- a. Payment of a park dedication fee in the amount of \$600.00.

Status: Fee will be paid prior to Final Approval.

- b. Payment of an environmental impact assessment fee of \$750.00.

Status: Fee will be paid prior to Final Approval.

- c. Dedication of an 8' wide strip of line fronting Kamalu Road.

Status: A reserve will be created and shown on the Final Subdivision Map and conveyed to the County of Kauai upon request.

- d. Locate and indicate on the subdivision map the location of the Open and Residential Districts.

Status: Esaki Surveying and Mapping, Inc. has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki Surveying and Mapping, Inc. ("Esaki") will include the Open and Residential District boundaries on the final subdivision map. Esaki is still working on finalizing the map and we anticipate it to be finished in 2023.

- e. Payment of a Facilities Reserve Charge to the Department of Water in the amount of \$56,460.00.

Status: Fee will be paid prior to Final Approval.

Mr. Gerald Ako, Chairperson

Page 3

November 29, 2022

f. Prepare construction drawings for the domestic water service connections for approval by the Department of Water. Show on final subdivision map location of the existing water meter and location of proposed 4 new meters.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki is preparing the required construction drawings for the Department of Water. We anticipate Esaki will finalize their drawings in 2023.

g. Enter into an agreement with the Department of Water restricting the subdivision to one single family dwelling per lot or one 5/8-inch water meter per lot.

Status: On February 20, 2021, a draft Water Agreement was prepared and submitted to the Water Department for acceptance and recordation. The Water Department provided comments to the draft Water Agreement stating it would prefer to just enter into a Deed Restriction, which was agreeable to this Commissioner. The Water Department, however, is requesting that the owners enter into an indemnity, release and waiver agreement. The Commissioner does not have the authority to bind the owners to an indemnity, release and waiver agreement and, if the Department of Water insists on this provision, the Commissioner will need to seek a Court order authorizing this action. It is anticipated that if a Court order is required the earliest it could be obtained would be in early 2023.

h. Preparation of a flood study to address drainage from the natural drainage swale that is located on proposed Lot 2.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. We anticipate Esaki will be able to finish its flood study in 2023.

i. Address the Department of Public Works' suggestion to consolidate entry points along Kamalu Road and provisions for common driveways.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki is working with the Department of Public Works regarding any required entry points for the common driveways.

Mr. Gerald Ako, Chairperson

Page 4

November 29, 2022

j. Enter into a workforce housing agreement with the Housing Agency to comply with County of Kauai's workforce housing requirements.

Status: The Applicant has discussed this matter with the County of Kauai Housing Agency and on May 7, 2021, a fully executed Workforce Housing Agreement was recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-77970593.

k. Prepare metes and bounds descriptions for final lots.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki will prepare metes and bounds descriptions for the final lots. We anticipate this work will be completed by Esaki in 2023.

l. Install property pins for final lots.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki will install property pins for the final lots.

m. Prepare final subdivision map for approval incorporating the above conditions.

Status: Esaki has been retained to fulfill the conditions contained in the Tentative Subdivision Approval. Esaki will be preparing the final subdivision map for the County's review and approval. We anticipate this work will be completed in 2023.

We estimate Esaki would need another extension of six to twelve months to complete the work required of it under the tentative subdivision approval. We are in contact with the Kauai Water Department as to approval of the draft Water Agreement. If the Department of Water insists on an indemnity, waiver and release provision the earliest then can be done with Court approval is early 2023.

Based on the above, the Applicants respectfully request another extension of 12 months to obtain final subdivision approval.

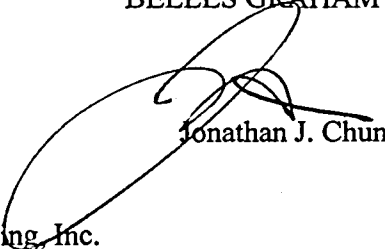


Mr. Gerald Ako, Chairperson  
Page 5  
November 29, 2022

Thank you very much for your consideration of this request.

Sincerely,

BELLES GRAHAM LLP



Jonathan J. Chun

JJC:so

cc: Esaki Surveying and Mapping, Inc.  
Allison Mizuo Lee, Esq.  
David J. Minkin, Esq.  
Shaylene L. M. Iseri, Esq.  
Mr. Benjamin B. Fernandes  
Mr. W. Kihei Fernandes

**DEPARTMENT OF PLANNING**

KA'ĀINA HULL, DIRECTOR  
 JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
 MICHAEL A. DAHLIG, MANAGING DIRECTOR

SUBDIVISION REPORT

**I. SUMMARY**

**Action Required by Planning Commission:** Consideration of Subdivision Application No. S-2022-4 that involves a twenty-five (25) lot boundary adjustment.

**Subdivision Permit No.** Application No. S-2022-4

**Name of Applicant(s)** TOWER KAUA'I LAGOONS SUB 4, LLC.

**II. PROJECT INFORMATION**

<b>Map Title</b>	Consolidation of Lots 400 to 423, Inclusive and Roadway Lot A as shown on Kaua'i County Subdivision No. S-2008-24 being portion of Royal Patent 4480 Land Commission Award 7713, Apana 2, Part 1 to V. Kamamalu and Resubdivision into Lots 1 to 25, Inclusive, Including Designation of Easement XY affecting Lots 1 to 13, Inclusive, Easement X affecting Lots 14 to 24, Inclusive, and Easement Y affecting Lot 25 in its Entirety, Including Cancellation of the following Easements H, J, and K as shown on Kaua'i County Subdivision No. S-2008-24, Easements RD-4 and a Portion of UE-1 as Shown on Kaua'i County Subdivision No. S-2010-11 at Kalapakī, Līhu'e, Kaua'i, Hawai'i.				
<b>Tax Map Key(s):</b>	3-5-004: 400 to 424	<b>Area:</b>	15.55 acres		
<b>Zoning:</b>	Residential (R-2)				
<b>State Land Use District(s):</b>	Urban	<b>General Plan Designation:</b>	Resort		
<b>AGENCY COMMENTS</b>					
<input checked="" type="checkbox"/> <b>COK Public Works</b>	pending	<input type="checkbox"/> <b>State DOT-Highways:</b>			
<input checked="" type="checkbox"/> <b>COK Water:</b>	pending	<input checked="" type="checkbox"/> <b>State Health:</b>	09.23.2021		
<input type="checkbox"/> <b>Other(s)</b>		<input type="checkbox"/> <b>DLNR – SHPD:</b>			
<b>EXISTING ROAD RIGHT-OF-WAY(S)</b>					
Road Name	Existing Width	Required Width	Pavement YES	NO	Reserve
Kāhilipulu Way	44 feet	44 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Pōhai'ula Place	40 feet	40 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	
<b>APPLICABLE FEES</b>					
<b>Environmental Impact Assessment (EIA)</b>	N/A				
<b>Park Dedication</b>	N/A				
<b>Appraisal Report Required</b>	N/A				

G.S.A.I. I.V.B.I.

APR 11 2023

(DEC 14 2021)



**III. EVALUATION**

The proposal involves a twenty-five (25) lot boundary adjustment within the County Residential (R-2) Zoning District. The project was originally a part of the Kaua'i Lagoons Resort Single-Family Subdivisions 1 and 4, previously processed through Subdivision Application No. S-2008-24 that was approved by the County of Kaua'i Planning Commission on December 9, 2008. As represented by the Applicant, the site design for Subdivision 4 has progressed substantially and it has been determined that lot boundary adjustments were necessary to accommodate the preferred site layout and a new cul-de-sac. The proposal will redefine the lot lines within Subdivision 4 and there will be no change to the existing overall boundary.

The Applicant should be aware that the approved construction plans for Subdivision 4 will need to be amended to accommodate the revised site layout, especially the addition of the proposed cul-de-sac and extension of the roadway lot (Proposed Lot 25). Since there are no additional lots being created with this application, there will be no assessment of EIA and Park Dedication Fees.

In further evaluating the project, it will be subject to the requirements that were imposed through the Planning Commission's action on August 11, 2009, involving SMA Use Permit SMA (U)-2005-08, Project Development Use Permit U-2005-26, Use Permit U-2005-25, Variance Permit V-2005-7, and Class IV Zoning Permit Z-IV-2005-30.

**IV. RECOMMENDATION**

TENTATIVE APPROVAL	FINAL APPROVAL
<input checked="" type="checkbox"/> Approval <input type="checkbox"/> Denied	<input type="checkbox"/> Approval <input type="checkbox"/> Denied
Tentative Approval subject to all requirements as noted on the follow pages:	All conditions have been complied with
 Director of Planning	 Director of Planning
11/24/2021 Date	3/31/2023 Date

## V. AGENCY REQUIREMENTS

1. Requirements of the Planning Department:
  - a. An updated preliminary title report for the existing lot shall be submitted to the Planning Department for review.
  - b. All existing and proposed easements, if any, shall be identified in the deed descriptions of the affected lots, draft copies of which shall be submitted to the Planning Department for review and approval.
  - c. Pursuant to Section 9-3.8(b) of the Subdivision Ordinance, Kaua'i County Code (1987), the Applicant shall submit to the Planning Department an electronic record (digitized format) of the final subdivision map(s) on disk for record keeping purposes prior to final subdivision approval.
  - d. The roadway lot for Subdivision 4 has been officially named as **Pōhai'ula Place** through Subdivision Application No. S-2008-24. However, for addressing purposes, the new cul-de-sac shall be named differently from Pōhai'ula Place and must be officially named prior to construction plan approval. The Street name should be in Hawaiian and submitted to our Department for review and approval, along with a request letter and 12 maps (on 8½" x 14" paper). The new maps should depict the new subdivision layout that includes Pōhai'ula Place and the proposed street name. The maps should be detailed such that emergency vehicles, police services, postal deliveries, etc., are able to locate the street. References to roadway, such as the highway and other surrounding roads, should be shown on the street-naming map.
  - e. The Applicant shall revise and update the approved construction plans for Subdivision 4 (S-2008-24), and prepare and obtain construction plan approvals for the revised subdivision layout. This includes the new cul-de-sac and the extension of the roadway lot, as well as any water, drainage, electrical and telephone utilities and facilities, and either construct the same or post a surety bond for completion.
  - f. Prior to final subdivision approval, the Applicant shall comply with the applicable conditions/requirements of SMA Use Permit SMA (U)-2005-08, Project Development Use Permit U-2005-26, Use Permit U-2005-25, Variance Permit V-2005-7, and Class IV Zoning Permit Z-IV-2005-30. The Applicant shall provide the department an updated status report on the compliance of the conditions.





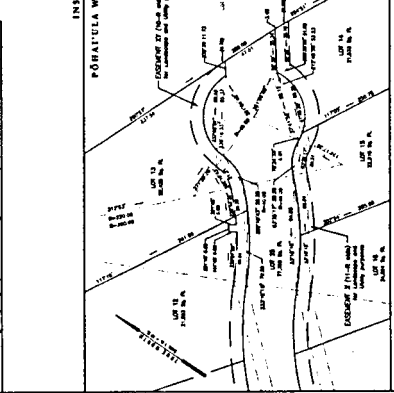
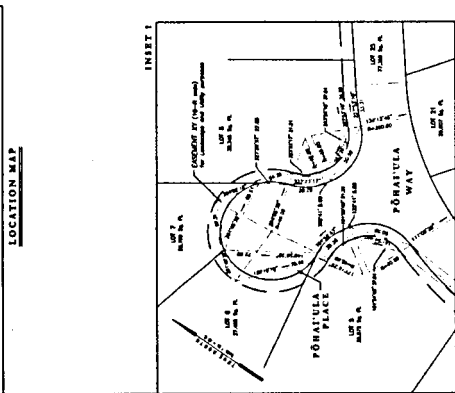
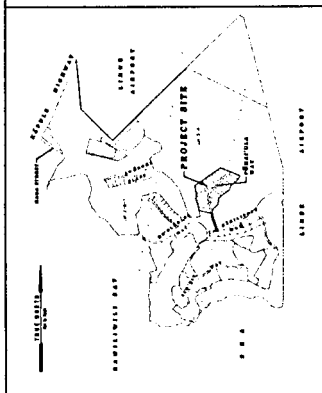
enter/exit the project. The control measures include but are not limited to the use of water wagons, sprinkler systems, dust fences, etc.

- d. The construction waste that will be generated by the project shall be disposed of at a solid waste disposal facility that complies with the applicable provisions of Title 11, HAR, Chapter 11-58.1 "Solid Waste Management Control", the open burning of any of these wastes on or off site prohibited.
5. The Applicant is advised the should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the applicant shall contact the State Department of Land and Natural Resources, Historic Preservation Division and the Planning Department to determine mitigation measures.
6. The Applicant is advised that prior to and/or during construction and use additional conditions may be imposed by government agencies. Should this occur, the applicant shall resolve these conditions with the respective agency(ies).

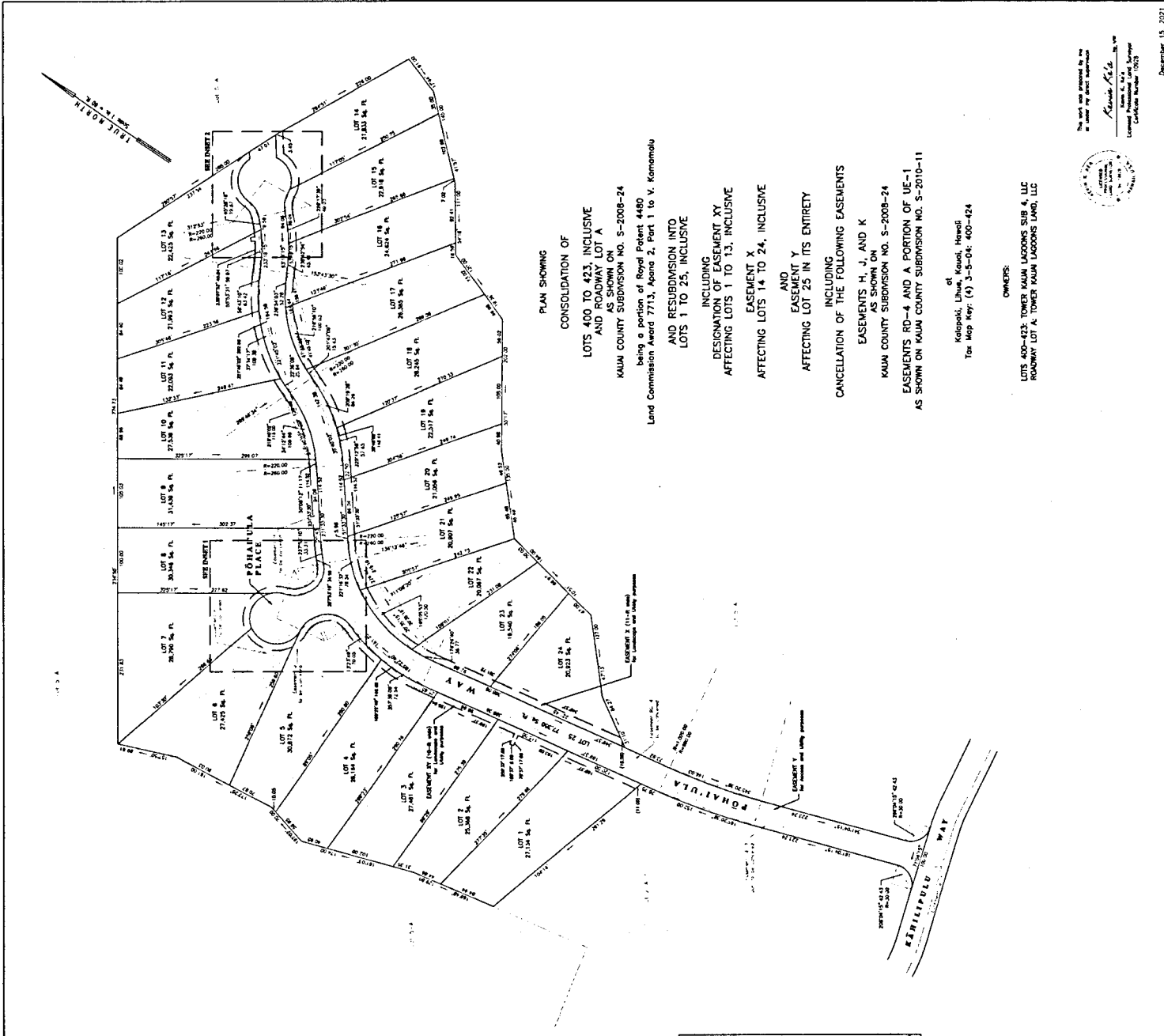
The Planning Commission is further advised that this report does not represent the Planning Department's final recommendation in view of the forthcoming public hearing process scheduled for DECEMBER 14, 2021 whereby the entire record should be considered prior to decision-making. The entire record should include but not be limited to:

- a. Pending government agency comments;
- b. Testimony from the general public and interested others; and
- c. The Applicant's response to staff's report and recommendation as provided herein.

By   
KENNETH A. ESTES  
Planner



- NOTE:
1. Origin of curvilinear referenced to Government Survey Intersection Station "Zero".
  2. Owner information shown on plan are from records filed at the Real Property Mapping Branch.
  3. Surveyed Lot 16 within Road Zone II, being determined to be outside the 0.7% Flood Hazard Zone, effective Date Mar. 28, 2010.
  4. The property is "not" within a tsunami or dark inundation zone.
  5. EASEMENT ZY = 13,472 square feet.
  6. EASEMENT X = 13,175 square feet.
  7. EASEMENT Y = 71,350 square feet.



**PLAN SHOWING  
CONSOLIDATION OF  
LOTS 400 TO 423, INCLUSIVE  
AND ROADWAY LOT A  
AS SHOWN ON  
KAUAI COUNTY SUBDIVISION NO. S-2008-24**

being a portion of Royal Patent 4480  
Land Commission Award 7713, Apone 2, Part 1 to V. Kōmōmōlu

- AND RESUBDIVISION INTO  
LOTS 1 TO 25, INCLUSIVE  
INCLUDING  
DESIGNATION OF EASEMENT XY  
AFFECTING LOTS 1 TO 13, INCLUSIVE  
EASEMENT X  
AFFECTING LOTS 14 TO 24, INCLUSIVE  
AND  
EASEMENT Y  
AFFECTING LOT 25 IN ITS ENTIRETY  
INCLUDING  
CANCELLATION OF THE FOLLOWING EASEMENTS  
EASEMENTS H, J, AND K  
AS SHOWN ON  
KAUAI COUNTY SUBDIVISION NO. S-2008-24  
EASEMENTS RD-4 AND A PORTION OF UE-1  
AS SHOWN ON KAUAI COUNTY SUBDIVISION NO. S-2010-11

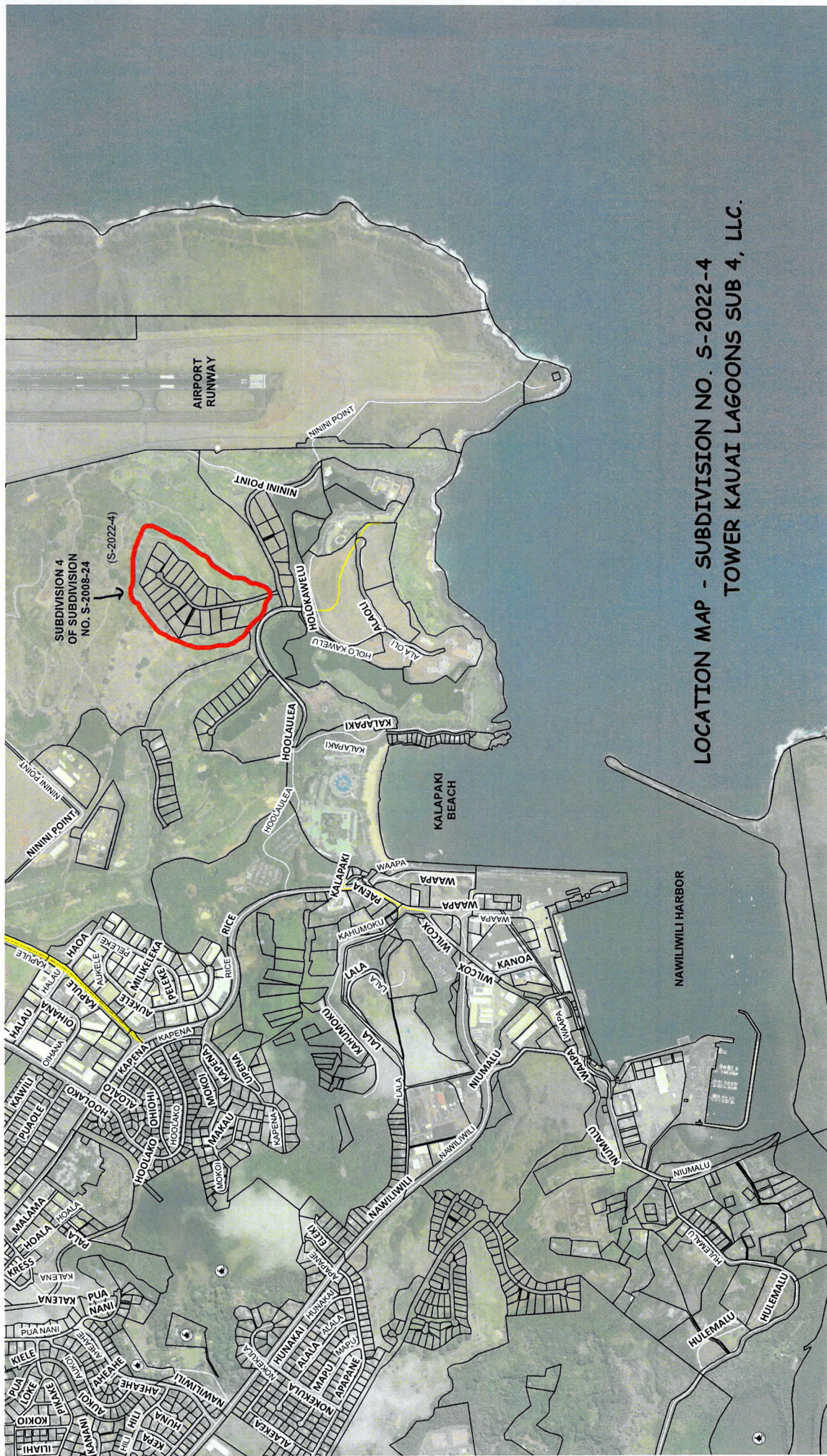
of  
Kalepoki, Lihue, Kauai, Hawaii  
Tax Map Key: (4) 3-5-04; 400-424

**OWNERS:**  
LOTS 400-423: TOWER KAUAI LAGOONS SUB 4, LLC  
ROADWAY LOT A: TOWER KAUAI LAGOONS LAND, LLC

This work was prepared by me  
in the State of Hawaii  
*Kenneth A. Lee*  
Surveyor  
License No. 1000  
Commission Expires 12/31/2013







SUBDIVISION 4  
OF SUBDIVISION  
NO. S-2008-24  
(S-2022-4)

LOCATION MAP - SUBDIVISION NO. S-2022-4  
TOWER KAUAI LAGOONS SUB 4, LLC.





COUNTY OF KAUA'I  
 PLANNING DEPARTMENT  
 4444 RICE STREET, SUITE A473 LIHU'E, HAWAII 96766  
 (808) 241-4050

**SUBDIVISION APPLICATION ROUTING FORM**  
**DATE: March 20, 2023**

Subdivision Map Review and Approval			
REQUEST:	<input type="checkbox"/> Preliminary	<input checked="" type="checkbox"/> Final	
	<input type="checkbox"/> Pre-Final	<input type="checkbox"/> Extension	
SUDIVISION APPLICATION NO:		Final Subdivision Permit NO. S-2022-4	
Owner(s)/Applicant(s):		Tower Kaua'i Lagoons Sub 4 LLC and Tower Kaua'i Lagoons Land LLC	
Name of Surveyor/Engineer/Authorized Agent:			
Tax Map Key:	Tax Map Key: (4) 3-5-004: 400-424	Assigned to:	Kenny
Improvements:			

**Route To:**

<input checked="" type="checkbox"/>	DPW-Engineering	<input type="checkbox"/>	Department of Transportation - STP
<input type="checkbox"/>	DPW-SolidWaste	<input type="checkbox"/>	DOT-Highway, Kauai
<input checked="" type="checkbox"/>	DPW-Wastewater	<input checked="" type="checkbox"/>	State Department of Health
<input type="checkbox"/>	Fire-Department	<input checked="" type="checkbox"/>	State Historic Preservation Division
<input type="checkbox"/>	Department of Parks & Recreation	<input type="checkbox"/>	UH Sea Grant
<input checked="" type="checkbox"/>	County Housing-Agency	<input checked="" type="checkbox"/>	U.S. Postal Department
<input type="checkbox"/>	KHPRC	<input type="checkbox"/>	Other:
<input checked="" type="checkbox"/>	County Water Department		
<input checked="" type="checkbox"/>	County Transportation Agency		

COMMENTS from DPW Engineering:

We have no comments and recommend proceeding to final map.

Sincerely,

Bryan Wienand, P.E.  
 Regulatory Section Head  
 Engineering Division

**ENGINEERING DIVISION**  
**DEPARTMENT OF PUBLIC WORKS**  
**TROY K. TANIGAWA, P.E., COUNTY ENGINEER**  
**BOYD GAYAGAS, DEPUTY COUNTY ENGINEER**



**DEREK S.K. KAWAKAMI, MAYOR**  
**MICHAEL A. DAHLIG, MANAGING DIRECTOR**

## MEMORANDUM

TO: Kaaina Hull, Planning Director

FROM: Michael Moule, PE, Chief of Engineering

VIA: Troy K. Tanigawa, PE, County Engineer

Troy Tanigawa (Mar 15, 2023 13:47 HST)

DATE: March 14, 2023

RE: CERTIFICATION OF COMPLETION FOR SUBDIVISION S-2022-4  
HOKUALA SUBDIVISION No. 4 - Grading Permit 22-1910  
TMK: (4)3-5-004:400 to 424 Lihue, Kaua'i

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All grading work and subdivision improvements have been completed in conformity with the Sediment and Erosion Control Ordinance No. 808 and in accordance with the approved grading and subdivision plan and specifications for: S-2022-4. We recommend that the site improvement portion of the subdivision bond for Subdivision S-2022-4 be released at this time.

Should you have questions, contact Brock Tacata at (808) 241-4995.





4398 PUA LOKE STREET
LIHU'E, KAUA'I, HAWAII 96766
PHONE: (808) 245-5400 / FAX: (808) 245-5813

Water has no substitute.....Conserve it!

SUBDIVISION REPORT

TO: PLANNING DEPARTMENT
FROM: DEPARTMENT OF WATER

3-5-004 Tower Kauai Lagoons Enter
parcels 400- NAME: Sub 4, LLC Surveyor: Surveyor REPORT NO: S-2022-4
TMK: 424

- 1. Domestic water is adequate. Tentative approval is recommended.
2. All requirements have been fully met and; therefore, Final approval is recommended.
3. Before final approval can be recommended, the subdivider must:
A. Pay the Department of Water the following charges in effect at the time of receipt. At the present time, these charges include:
1) The Facilities Reserve Charge (FRC):
Lots @ \$14,115 per lot = \$
2) Payment to install, or relocate, service connections(s) at the fixed cost of \$
If the subdivider causes a delay in the service connection installation after one year since final map approval, the subdivider shall be charged the increase in the fixed cost, if any.
3) Deposit (the subdivider will either be billed or returned the difference between this deposit and the actual cost of construction of \$ for construction by the Department of Water.
B. Submit to the Department of Water a copy of the subdivider's permit to perform work upon a State highway from the State Highways Division
C. Prepare and receive Department of Water's approval of construction drawings for the necessary water system facilities and either construct said facilities or post a performance bond for construction. These facilities shall also include:
1) All facilities required in the approved Kukui'ula Water Master Plan for the proposed project.
D. Prepare and convey to the Department of Water a Right-of-Entry and Temporary Grant of Easement for the purpose of construction, repair, maintenance and operation of the subdivision water system improvements installed in other than County-owned property.
E. If a bond is filed, to secure final subdivision approval, the subdivider shall clearly letter the following on the approved construction plans, final subdivision map, and deeds:
'Domestic water service will not be available until the required construction improvements for this subdivision are completed and accepted by the Department of Water, County of Kauai.'
This deed restriction shall be recorded with the Bureau of Conveyances within ninety (90) days of final subdivision approval by the Planning Department.
4. Installation of service connections will not be required until request for water service is made. The applicant for service will be charged the applicable service connection charges at that time.
5. Other (or remarks):

Jason Kagimoto
Jason Kagimoto, P.E.
Engineering Division

12/13/22
Date

SUBDIVISION REPORT NO. S-2022-4



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
3040 Umi St. Lihue  
Hawaii 96766

DATE: Thursday, October 13, 2022

TO: Kenneth Estes, Planner, County of Kauai

FROM: Janet M. Berreman, MD, MPH, District Health Officer  
(Acting for District Environmental Health Program Chief)

SUBJECT: Tower Kauai Lagoons Sub 4; S-2022-04

The Department approves the consolidation of lots 400 to 423 inclusive and roadway Lot A as shown on Kauai County Subdivision #S-2008-24. The Department approves the re-subdivision into lots 1 to 25 inclusive, including the designation of easements XY, X, Y. The Department approves the cancellation of easements H, J, and K, as shown on Kauai County subdivision #S-2008-24, and the cancellation of easements RD-4 and a portion of UE-1, as shown on Kauai County subdivision #S-2010-11. This approval is limited to the scope of the submittal and does not confer any approvals to build, modify or make any land improvements.

If the new lots are not connected to an existing public sewer system, they will need a Department-approved wastewater system. If the new lots are not connected to a current public water system, additional Departmental requirements may exist. If further information is found or changes are made to your submittal, we reserve the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please get in touch with the Department of Health at 808-241-3323

We recommend that you review all of the Standard Comments on our website:  
<https://health.hawaii.gov/epo/home/landuse-planning-review-program/> Any comments specifically applicable to this or a future project(s) should be adhered to.

The same website also features a Healthy Community Design Smart Growth Checklist (Checklist) created by the Built Environment Working Group (BEWG) of the Hawaii State Department of Health. The BEWG recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply the healthy built environment principles in the Checklist whenever they plan or review new developments or redevelopments projects. We also ask you to share this list with others to increase community awareness of healthy community design.

*Janet Berreman*

Janet M. Berreman, MD, MPH, FAAP (she, her/s)  
Kauai District Health Officer