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**MEMORANDUM**

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

**FROM:** Dierdre S. Mamiya, Acting Administrator  
Office of Conservation and Coastal Lands

**SUBJECT:** Final Environmental Assessment (FEA)/Finding of No Significant Impact (FONSI) for Conservation District Use Application (CDUA) KA-3133 for Browning Single Family Residence (SFR), located in Haena, Hanalei District, Island of Kauai, TMK: (2) 5-9-002:062

The Department has reviewed the Browning's revised CDUA KA-3133, and Final Environmental Assessment (FEA) for the construction of a Single Family Residence. The Draft Environmental Assessment (DEA) for CDUA KA-3133 was published in OEQC's May 23, 2003 Environmental Notice for the subject project.

The FEA is being submitted to OEQC. We have determined that this project will not have significant environmental effects, and have therefore issued a FONSI. Please publish this notice in OEQC's upcoming August 23, 2003 Environmental Notice.

We have enclosed four copies of the FEA and CDUA KA-3133 for the project. The OEQC Bulletin Publication Form is attached. Comments on the draft EA were sought from relevant agencies and the public, and were included in the FEA.

Please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380 if you have any questions on this matter.

**Enclosures**

cc: Ben Welborn

AUG 23 2003

**FILE COPY**

2003-08-23-KA-FEA-

**Final Environmental Assessment**  
**Browning Single-Family Residence**

*TMK (4) 5-9-02: 062  
Ha`ena, Kauai, Hawaii*

Submitted by:

**Roger & Marilyn Browning**

August 2003

*In Accordance with the Requirements for Chapter 343, HRS and  
Chapter 200 of Title II, Administrative Rules  
Department of Health, State of Hawai'i*



**LANDMARK**  
CONSULTING

**Attention:**

**REGARDING REVISIONS**

**FINAL ENVIRONMENTAL ASSESSMENT**

This Final Environmental Assessment (FEA) has been amended to reflect the comments that were received from various agencies and private individuals after their review of the Draft Environmental Assessment (DEA) during the statutory 30-day public comment period. The revised FEA addresses each recommendation and/or concern, which was raised by those who took the opportunity to comment on the proposed actions.

Documentation of the comments that were received and responses thereto are included herewith in Appendix 1 and referenced throughout the FEA where applicable. All changes and additions to the content of the FEA are ***highlighted for ease of recognition by the use of an emboldened and italicized script with a font that differs from the body of the original text of the DEA.*** Additional exhibits have been included with the FEA and the numbering of the appendices differs slightly from that of the DEA.

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## **LIST OF EXHIBITS**

<b>Exhibit 1</b>	<b>Location Map – Island of Kauai</b>
<b>Exhibit 2</b>	<b>Vicinity Map – Ha`ena</b>
<b>Exhibit 3</b>	<b>Tax Map of Subject Parcel</b>
<b>Exhibit 4</b>	<b>State Conservation District Subzone Map</b>
<b>Exhibit 5</b>	<b>County Zoning Map</b>
<b>Exhibit 6</b>	<b>Flood Zone Map</b>
<b>Exhibit 7</b>	<b>Site Plan</b>
<b>Exhibit 8</b>	<b>Proposed Floor Plan</b>
<b>Exhibit 9</b>	<b>Proposed West Elevation</b>
<b>Exhibit 10</b>	<b>Proposed South Elevation</b>
<b>Exhibit 11</b>	<b>Site Photos</b>
<b>Exhibit 12</b>	<b>Engineer's Elevation Certificate</b>
<b>Exhibit 13</b>	<b>SMA Exemption</b>

## **APPENDICES**

<b>Appendix 1</b>	<b>Documentation of Draft EA Comment Letter and Accompanying Responses</b>
<b>Appendix 2</b>	<b>Archeological Assessment</b>
<b>Appendix 3</b>	<b>Cultural Impact Assessment</b>

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

**A. OWNER / APPLICANT**

Marilyn & Roger Browning  
636 Crater Camp Dr.  
Calabasas, CA 91302-2118

**Consultant for Applicants:**

Landmark Consulting Services  
Contact: Ben Welborn  
P.O. Box 915  
Hanalei, HI 96714  
Phone: (808) 828-6332  
Fax: (808) 828-6242  
Email: welborn@aloha.net

**B. APPROVING AGENCY**

State of Hawaii  
Board of Land and Natural Resources (BLNR)  
P.O. Box 621  
Honolulu, HI 96813

**C. PROPOSED ACTION**

The Applicants, Marilyn & Roger Browning propose to construct a two (2) bedroom Single-Family Residence (SFR) of approximately 3,093 square feet, on the subject .38 acre (16,718 square foot) parcel. The structure will be constructed on piers, elevated approximately 14 feet, 3.5 inches above the existing grade to conform to applicable County and Federal flood standards. ***The bottom of the lowest horizontal structural member of the residence shall be at or above the determined base elevation of 23 feet above mean sea level (MSL).*** The 3,093 square foot structure will be comprised of approximately 1,622 square feet of interior living space, 416 square feet of lanai areas, and 1,055 square feet of garage and storage areas. Refer to Exhibits 7-10 for a Site Plan, Floor Plan, and Exterior Elevation perspectives of the proposed residence.

The architecture of the building is of a simple contemporary tropical design, which takes full advantage of the beautiful mountain views that the parcel has to offer. The exterior colors will be in neutral earth tones, complemented by natural island style finishes such as bamboo and hardwoods. The Applicants' intent in designing the home

was to develop a residence which would be compatible with the surrounding environment and existing development on nearby parcels. Minimal site grading will occur, primarily for the driveway and within the footprint of the home site itself. The maximum height of the proposed structure is 29 ft., 3.5 inches above existing grade.

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

**D. ANTICIPATED DETERMINATION**

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

**E. PROJECT SITE LOCATION**

The subject parcel is located in Haena, approximately 7.2 miles west of Hanalei town on the northern coast of Kauai. Refer to exhibits and photos for a graphic representation of the site location and characteristics.

TMK:	(4) 5-9-02: 062
Island:	Kauai
District:	Hanalei
Zoning:	Conservation
State Land Use:	Conservation (Limited Subzone)
County General Plan:	Conservation; Open / Special Management Area (SMA)
Current Land Use:	Vacant Undeveloped Land
Proposed Land Use:	Single-Family Residence
Adjacent Land Use:	Residential Development & Vacant Parcels

**F. NECESSARY PERMITS AND ENVIRONMENTAL REQUIREMENTS**

- 1. State Conservation District Use Permit (CDUP)**  
Department of Land and Natural Resources, Planning Branch
- 2. Final Environmental Assessment**  
State Office of Environmental Quality Control  
Department of Health

3. **County of Kauai Building Permit**  
Department of Public Works (with approval from other County agencies)
4. **Special Management Area (SMA)**  
Determination of Exempt Status for Single-Family Residence (**Exhibit 33**)  
County of Kauai Planning Department
5. **Individual Wastewater System (IWS) Permit**  
State Department of Health (*see attached comments from the Dept. of Health in Appendix 1*).

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

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

- DLNR, State Historic Preservation Division
- County of Kauai, Planning Department
- T.S. Dye & Colleagues, Archaeologists, Inc.
- Landmark Consulting Services
- Chipper Wichman, Director Limahuli Gardens
- Hui Maka Ainana O Makana
- Mary Requilman, Kauai Historical Society
- Rick Tsuchiya, DLNR, Historical Resources, Kauai Office
- Michael Olanolan – Neighboring Property Owner
- Thomas Hashimoto – Local Kupuna
- Samson Mahuiki – Neighboring Property Owner, Local Kupuna
- **Wynne Ushigome – County of Kauai, Dept. of Public Works**
- **Harold Yee – Department of Health, Wastewater Branch**
- **George Young – Army Corps of Engineers**
- **Lolly Silva – Army Corps of Engineers**
- **Denis Lau – Department of Health, Clean Water Branch**
- **Joanna Seto – Department of Health, Clean Water Branch**
- **Genevieve Salmonson – OEQC**
- **Gregg Fujikawa – Department of Water, County of Kauai**
- **Eric Hirano – DLNR, Engineering Division**
- **Thomas Arizumi – DOH, Environmental Management Division**
- **Holly McEldowney – State Historic Preservation Division**
- **Nancy McMahon – State Historic Preservation Division**
- **Peter Yee – Office of Hawaiian Affairs**
- **Pua Aiu – Office of Hawaiian Affairs**
- **LaFrance Kapaka-Arboleda – Kauai Island Burial Council**



## H. PUBLIC POLICIES

### 1. STATE LAND USE LAW

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

The Applicants are proposing an identified use within the Limited Subzone. A Board Permit is being requested.

### 2. COUNTY GENERAL PLAN

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

The Applicants are proposing to develop within a footprint of less than 2500 square feet on the 0.38-acre parcel, which is equivalent to about 15% of the overall area *of the parcel*. The remaining 85% of the parcel will be kept in open space, in a naturally landscaped setting consistent with the intent of the County's General Plan.

### 3. COUNTY ZONING

Conservation / Open

### 4. SPECIAL MANAGEMENT AREA

The project site is located within the Coastal Zone Special Management Area (SMA); it is therefore subject to the SMA Rules and Regulations of the County of Kauai. However, at the discretion of the County Planning Department, the construction of a Single-Family Residence such as that which the Applicants are proposing is typically exempted from obtaining an SMA permit. The proposed residence is not part of a larger development planned for the area. Additionally, the proposed project is located approximately 1/4 mile from the shoreline and is therefore not subject to the shoreline setback requirements of the County of Kauai. *A letter verifying SMA exempt status from the County of Kauai, Planning Dept. is attached hereto as Exhibit 13.*

I. **PROJECT CHARACTERISTICS**

1. **GENERAL CHARACTERISTICS**

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

2. **TECHNICAL CHARACTERISTICS**

Technically this action will authorize the Applicants to:

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

3. **ECONOMIC CHARACTERISTICS**

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

4. **SOCIAL CHARACTERISTICS**

There are no significant social benefits or negative impacts that are anticipated as a result of the proposed action. The Applicants will apply Best Management Practices (BMP) during the development of the parcel. Landscaping will be used to screen the proposed structure from the adjoining property owners. The proposed use will not displace any existing residences. The project site is currently vacant except for a few old sheds that are duly noted on the Site Plan. A single new household in the area will not overburden existing public services or facilities.

5. **ENVIRONMENTAL CHARACTERISTICS**

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

**6. TIME FRAME OF PROJECT**

The completion of project design and permitting is anticipated for the third quarter of 2003. Construction of the residence is expected to commence shortly thereafter, most likely during the first quarter of 2004. Construction activities are expected to have a duration of approximately 8 to 12 months, with the completion of the residence projected toward the end of 2004.

**7. FUNDING AND SOURCE**

Development of the residence and appurtenant infrastructure is estimated to cost approximately \$ 464,000.00, which is roughly calculated as \$150.00 per square foot of the proposed 3,093 feet of development area. The Applicants will privately fund the development of the project.

## SECTION II

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

#### A. PHYSICAL SITE DESCRIPTION

The subject parcel is located in Haena, in the district of Hanalei, on the northern coastline of the Island of Kauai, Hawaii. The parcel is designated by Kauai Tax Map Key No. (4) 5-9-02: 062, and consists of approximately .38 acres or equivalently 16,718 square feet of undeveloped land. The location of the parcel is graphically depicted in the exhibits attached hereto.

The subject parcel is accessed along "Road G" which runs along the western boundary of the property. "Road G" is a 30-foot wide private roadway which provides the parcel with direct vehicular access to Kuhio Highway. To the north and south the subject parcel shares its boundaries with TMKs (4) 5-9-02: 061 & 063 respectively. Both adjoining parcels are developed with single-family residences. To the east the subject parcel is bounded by an intermittent storm drainage/stream, which is typically dry in all but the wettest of weather conditions. *This unnamed stream is classified as a Class 2, Inland Water (HAR, Section 11-54-05.1). The Army Corps of Engineers has been contacted for their input regarding permitting requirements (if any) due to the proximity of the project to the drainage channel. The subject property is bounded along the drainage channel by a rock wall of modern construction, which was constructed an indeterminable time ago by one of the former owners of the property (the rock wall is evident in Photo D, of Exhibit 11). The proposed residence will be setback approximately 10 to 15 feet from the rock wall (see site plan). No alteration to the rock wall or to the drainage channel is proposed in association with the current action. No work will occur within the waterway. Nor is any discharge into the drainage channel, be it associated with hydrotesting, construction-dewatering effluent, or otherwise expected as a result of the proposed actions. In order to eliminate the potential for any detrimental surface water runoff, siltation, and/or the introduction of other contaminants that may be associated with construction activities into nearshore waters, a silt retention/construction fence will be erected along the back boundary of the parcel adjacent to the intermittent storm drainage prior to the commencement of construction activities.*

## **B. EXISTING LAND USE**

The project parcel is currently vacant and undeveloped except for three small sheds in the southeastern corner of the parcel (refer to Site Plan).

## **C. TOPOGRAPHY**

The topography of the subject parcel is generally level at elevations ranging from approximately 8.5 to 10.0 feet above mean sea level. The topography of the parcel will be negligibly impacted within the footprint of the proposed SFR and along the course of the proposed driveway. No other site grading is anticipated.

## **D. FLORA AND FAUNA**

The subject parcel was maintained and kept clear of large vegetation by its former owners. No rare or endangered plant or animal species and/or significant habitats of environmental concern currently exist on the property. The subject parcel is primarily comprised of a well-maintained lawn with a few clusters of the following plant species (common names given):

- Sea Grape
- Bananas
- Hibiscus
- Kukui Nut

It is the Applicants' intent to retain *most* of the plants that are currently growing on the parcel and to supplement these with additional landscape varieties.

## **E. SOILS**

According to the Soil Survey of the Island of Kauai, State of Hawaii, prepared by the U.S. Soil Conservation Service, Department of Agriculture, the project parcel is located on land characterized by *Mt - Mokuleia fine sandy loam* type soils. *Mt* soils have a moderately rapid permeability in the surface layer and rapid permeability in the subsoil. Runoff is very slow, and the erosion hazard is slight. Nevertheless, as previously described, in order to eliminate the potential for any detrimental surface water runoff, siltation, and/or the introduction of other contaminants that may be associated with construction activities, a silt retention/construction fence will be erected along the back boundary of the parcel adjacent to the intermittent storm drainage prior to the commencement of construction activities. This silt fence will remain until construction of the residence is completed and the soils are stabilized through the planting of permanent landscaping.

## **F. CLIMATE**

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

## **G. AIR QUALITY**

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

During construction, minimal short-term impacts on air quality will result from dust-generated grading activities. The impacts will be temporary and relatively insignificant. *The owner/applicants have been familiarized with the provisions of Hawaii Administrative Rules, Chapter 11-60.1-33 on Fugitive Dust, a copy of which is attached hereto in Appendix 1. The owners and their general contractor shall comply with the following guidelines and Best Management Practices in order to control and minimize fugitive dust emissions associated with the project:*

- 1. Grading activities will be minimized, inasmuch as is possible, in order to limit the extent of exposed soils and fugitive dust. Areas that are necessarily exposed by construction activities shall be revegetated as soon as the completion of construction activity within a given vicinity allows.*
- 2. A 5/8 inch water tap will be hooked-up and activated at the project site prior to the commencement of grading and construction related activities. Water will be used where and when necessary to control fugitive dust emissions during grading and grubbing activities and throughout construction operations.*
- 3. On-site vehicular traffic will be contained within a centralized area to prevent unnecessary exposure of bare soils.*
- 4. Best Management Practices shall be implemented to contain dust generating equipment and activities to areas of least impact. Job site clean-up shall occur regularly to contain and properly dispose of dust generated by construction activities.*
- 5. Construction related debris shall be removed from the job site in covered dumpsters and/or covered open-bodied trucks.*
- 6. Access roadways (Road "G"), roadway shoulders, and nearby areas shall be maintained in a clean manner. Water shall be applied where and when necessary.*

## H. NOISE IMPACT

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

Noise levels are anticipated to temporarily increase with the onset of construction. Increased noise will be associated with the use of heavy machinery during grading, as well as with the use of power tools and hammers during construction of the residence. Once the house is completed, the construction-related noise will cease. Mitigative measures will be implemented to lessen the impact of the short-term noise generated by construction. This shall include the use of muffling devices on all gasoline or diesel-powered equipment. Furthermore, construction activities shall be restricted to the working hours between 8:00 AM and 5:00 PM.

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

## I. ARCHAEOLOGICAL AND HISTORICAL SITES

As is required by the State Historic Preservation Division (SHPD), an Archaeological Assessment was conducted by *T.S. Dye & Colleagues, Archaeologists, Inc.* to determine the presence or absence of archaeological features on the subject property and to assess their significance. Upon review of the assessment report, the SHPD in a letter dated April 24, 2002, made a determination that "... it is highly unlikely that significant historic sites still exist on this (subject) lot. The lot has been cultivated with lawn, fruit and other trees. A modern retaining wall exists on the boundary. Therefore, we agree with your consulting archaeologist that the construction of a single-family dwelling on this parcel will have 'no effect' on significant historic sites. We also approve this archaeological assessment report." Refer to Appendix 2 for full documentation of the archaeological assessment and corresponding SHPD determination. There are no historic or archaeological sites listed on the State or Federal Registers for the subject parcel.

**Following publication of the Draft Environmental Assessment for the project, the Office of Hawaiian Affairs (OHA) expressed an opinion that they (OHA) "did not believe that the SHPD had done an adequate review of the archaeological assessment..."; consequently OHA requested further review of the archaeological requirements for the project in order to safeguard historical sites including the potential for discovering native Hawaiian burials. OHA also requested that the Kauai Island Burial Council (KIBC) be involved in the review of the project characteristics. As a result of OHA's comments, and follow-up consultation with the State Historic Preservation Division, the owner/applicants shall carryout the following additional**

measures in order to ensure a "no adverse effect" on significant sites and human burials. Specifically, the applicant/landowners shall be required to:

1. Hire a qualified archaeologist to conduct on-site monitoring during ground disturbance activities. It is understood that prior to the commencement of monitoring work, the applicant shall submit a monitoring plan (scope of work) to SHPD for review and approval. The monitoring plan shall spell out a process for documenting sites that are found, for evaluating significance in consultation with SHPD and for developing and executing any required mitigation work with the approval of SHPD. It is understood that if historic sites, including burials, are uncovered during monitoring activities, construction must stop in the immediate vicinity and the project archaeologist shall be allowed sufficient time to evaluate the site and carry out mitigation as needed. At the end of the project a monitoring report, documenting all findings shall be submitted to SHPD for review and approval.
2. In the event that burials are discovered during monitoring, the applicant/landowners shall prepare a burial treatment plan following the procedures outlined in Chapter 6E-43.6 and HAR 13-300. Coordination with the Kauai Island Burial Council, as required by statute shall become a part of the burial treatment procedures and report.
3. As per OHA's request, on Tuesday, August 5<sup>th</sup>, 2003 the proposed project and mitigation measures shall be presented to the Kauai Island Burial Council at a regularly scheduled meeting. Input and recommendations from the KIBC will be solicited and incorporated into the monitoring and burial treatment protocol for the project.

\* Complete documentation of comments from OHA and SHPD is included herewith in Appendix 1.

## **J. CULTURAL IMPACTS**

See attached Cultural Impact Assessment – Appendix 3

OHA has requested that a cultural monitor approved by the Kauai Island Burial Council be on site during ground excavating activities. This matter will be discussed and decided upon during the KIBC meeting on August 5<sup>th</sup>, 2003.



## **K. VISUAL IMPACTS**

The proposed residence will be situated in a partially developed residential neighborhood. The residence will be compatible with the surrounding environment. Vegetation will be used to soften the visual impact of the new residence as it is viewed from the abutting private roadway and the adjacent parcels.

## **L. NATURAL HAZARDS**

The project is situated within Flood Zone VE 23 as designated on the Federal Flood Insurance Rate Map (FIRM) - - refer to FIRM Panel 15000-0030-C dated March 4, 1987 (Exhibit 6). Zone VE is defined as a coastal flood area with a velocity hazard due to its potential susceptibility to 100-year inundation by tsunami. County regulations regarding structures located within this coastal high-hazard area require *that the bottom of the lowest horizontal structural member of the residence must be at or above the determined base flood elevation of 23 feet above mean sea level (MSL)*. The design of the proposed residence is entirely compliant with these County guidelines.

Kauai is the oldest of the major Hawaiian Islands; therefore, there are no active or dormant volcanoes which pose a threat to the parcel. Within the boundaries of the parcel itself, soil erosion concerns are negligible due to the relatively flat topography of the parcel, and the high permeability of the soil.

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

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

No land use change is required as the proposed action is consistent with, and supportive of both the State's and the County's intended land uses.

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

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

### **1. ACCESS**

The parcel is provided with vehicular access via Kuhio Highway and "Road G".

### **2. WATER**

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

### **3. WASTEWATER**

There are no municipal sewage treatment facilities or public sewer pipelines associated with the project area, nor are any planned for the future. Therefore, residential and public wastewater within the project vicinity is treated through the use of individual septic systems. Prior to the construction of the proposed SFR, the Applicants will be required to apply for a building permit from the County of Kauai. A component of the building permit application is a requirement for a State Department of Health approved Individual Wastewater System (IWS), *which must be designed and constructed in conformance with the Department of Health's Administrative Rules, Chapter 11-62 "Wastewater Systems". In commenting on the Draft EIR, the Dept. of Health noted that "information available to the Department indicates that groundwater was encountered approximately five (5) feet below ground level." This information has been communicated to the septic engineer and will be taken into account when designing the IWS for the property.*

### **4. SOLID WASTE**

Residential solid waste is collected at curbside along Kuhio Highway on a weekly basis. Collected waste is compacted and transported to the Kekaha landfill for disposal.

**5. FIRE PROTECTION**

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

**6. EMERGENCY MEDICAL SERVICE**

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

**7. POLICE PROTECTION**

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

**8. PUBLIC SCHOOLS**

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

**9. UTILITIES**

Electrical power is provided by Kauai Electric and telephone service is provided by GTE Hawaiian Telephone. Utilities are supplied via overhead distribution lines along Kuhio Highway and then underground within the "Road G" corridor. All utility easements are in place.

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

A. **SUMMARY OF MAJOR IMPACTS**

The subject parcel is currently characterized by undeveloped land. The proposed action will result in the construction of a Single-Family Residence, which will occupy a footprint of less than 15% of the total lot area. The remainder of the lot (approximately 85%) will be landscaped and kept in open space. Site grading will be minimal in the vicinity of the footprint and access driveway for the proposed structure (refer to Site Plan in Exhibit 7). The residential design and construction materials shall be compatible with the natural environment and the existing development of the area.

Long-term impacts of the proposed action shall include a marginal increase in traffic along Kuhio Highway and the perpetual increase in demand for associated public utilities. Short-term impacts associated with the development of the proposed residence will include construction noise, minor dust, and construction related traffic along Kuhio Highway. Erosion will be negligible due to the gentle slopes of the parcel and the permeability of the sandy soil characteristic of the area.

B. **ALTERNATIVES CONSIDERED**

1. **NO ACTION**

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

2. **ALTERNATIVE LOCATION**

The location of the proposed structure on the subject parcel, as graphically depicted in the Site Plan (Exhibit 7), is the most appropriate and preferred location in the opinion of the Applicants. The Applicants wish to locate their residence toward the back boundary of the property in order to take best advantage of the mountain views that the parcel affords and at the same time create a reasonable buffer between their home and "Road G". Furthermore, by placing their residence in the proposed location, the Applicants will help to protect the primary view plain from the neighboring parcel (TMK (4) 5-9-02: 061) towards the mountains. *In their comments on the Draft Environmental Assessment, the Office of Hawaiian Affairs recommended that the "house be situated as far from the assumed margin of the traditional Hawaiian settlement*

(area) as possible. However, it is the opinion of Tom Dye, project archaeologist that shifting the house further inland as OHA suggests would not reduce the potential of finding historic burials or pre-contact remains. Archaeological excavations in the vicinity of the Browning parcel have not found a cultural deposit nor have they found pre-contact burials. Furthermore, based upon an interpretation of the archaeological information from nearby parcels, it is likely that the margin of the traditional Hawaiian settlement area is situated makai of the Browning parcel and most likely makai of Kuhio Highway.

### 3. ALTERNATIVE USE

The Applicants have not identified any alternative uses for the subject parcel which would satisfy their needs. The construction of a residence was the primary reason for the purchase of the property from its previous owner.

### C. SUMMARY OF MITIGATIVE MEASURES

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

The Applicants will implement all of the mitigative measures describe herein to prevent or reduce anticipated construction related impacts. Best Management Practices will be employed during construction to minimize airborne pollutants and dust. The heavy equipment that will be used for site grading will be properly maintained and equipped with exhaust systems and muffling devices to minimize their emissions and noise levels. Construction activities will be limited to the working hours between 8:00 AM and 5:00 PM. Noise levels shall comply with the State of Hawaii, Department of Health noise regulations. In order to eliminate the potential for any detrimental surface water runoff, siltation, and/or the introduction of other contaminants that may be associated with construction activities into nearshore waters, a silt retention/construction fence will be erected along the back boundary of the parcel adjacent to the intermittent storm drainage prior to the commencement of construction activities. Furthermore, the Applicants agree to adhere to any additional measures that the Board may recommend to insure against environmental degradation.

## SECTION IV

### EXPECTED DETERMINATION & SIGNIFICANCE CRITERIA

#### A. DETERMINATION:

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

#### B. SIGNIFICANCE CRITERIA:

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

1. **Involves an irrevocable commitment to loss or destruction of any natural or cultural resources.**  
The proposed action will not involve a loss or destruction of any natural or cultural resources.
2. **Curtails the range of beneficial uses of the environment.**  
The proposed action will not curtail the range of beneficial uses of the environment. Long-term negative environmental impacts are not anticipated as a result of the proposed action. All development is proposed to occur on private property.
3. **Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders.**  
The project does not conflict with the State's long-term environmental policies, goals and guidelines.

- 4. Substantially affects the economic or social welfare of the community or State.**  
The project will not have a significant impact upon either the economic or social welfare of the community or State.
- 5. Substantially affects public health.**  
The proposed action is not anticipated to substantially or negatively impact public health. The air quality and noise impacts that will result during the construction of the proposed residence will be of a short-term and insubstantial nature.
- 6. Involves substantial secondary impacts, such as population changes or effects on public facilities.**  
The proposed action will not involve substantial secondary impacts. The development of a Single-Family Residence in an area which is already characterized by similar residential development, will not create any additional pressures of a substantial nature.
- 7. Involves a substantial degradation of the environmental quality.**  
The proposed action is not anticipated to have a negative impact upon the environment.
- 8. Is individually limited, but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.**  
The proposed project will not create a commitment for any larger action, nor will it contribute to a cumulative negative effect upon the environment. The proposed action is a stand-alone development project for the construction of a Single-Family Residence.
- 9. Substantially affects a rare, threatened, or endangered species or habitat.**  
The project area is devoid of any rare, threatened or endangered species. The project will not place any nearby habitat at risk.
- 10. Detrimentially affects air or water quality or ambient noise levels.**  
As identified in the text of this Environmental Assessment, air quality and noise levels will be negatively affected throughout the various phases of project construction. Nevertheless, measures are proposed herein which will help to mitigate the extent of such impacts. No long-term negative impacts will result upon the air or water quality or upon ambient noise levels as a result of the proposed action.

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

The project is situated in Zone VE 23 as designated on the Federal Flood Insurance Rate Map (FIRM) prepared by the National Flood Insurance Program. Zone VE is defined as a coastal flood area with a velocity hazard (wave action) susceptible to a 100-year tsunami inundation. County regulations regarding structures located within this coastal high hazard area require ***the bottom of the lowest horizontal structural member of the residence to be at or above the determined base flood elevation of 23 feet above mean sea level (MSL)***. The design of the proposed residence is entirely compliant with these FIRM guidelines.

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

The proposed action will not substantially affect scenic vistas and/or public view plains. The proposed residence will not be visible from Kahi Highway. The Applicants propose to landscape the parcel with appropriate vegetation to soften the visual impact of the development from adjoining property owners

13. **Requires substantial energy consumption.**

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



## SECTION V

### PERMITS, VARIANCES, AND APPROVALS

#### A. SPECIAL MANAGEMENT AREA USE PERMIT

Since the project site is located within the Special Management Area (SMA), it is subject to the SMA Rules and Regulations of the County of Kauai; however, because the project is a Single-Family Residence, it is specifically exempt from the SMA requirements. *A letter verifying SMA exempt status from the County of Kauai, Planning Department is attached hereto as Exhibit 13.*

#### B. SHORELINE SETBACK CERTIFICATION / VARIANCE

The proposed project is located approximately 1/4 mile from the shoreline; it is therefore not subject to the shoreline setback requirements of the County of Kauai.

#### C. OTHER DEPARTMENTAL PERMITS

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

# EXHIBITS

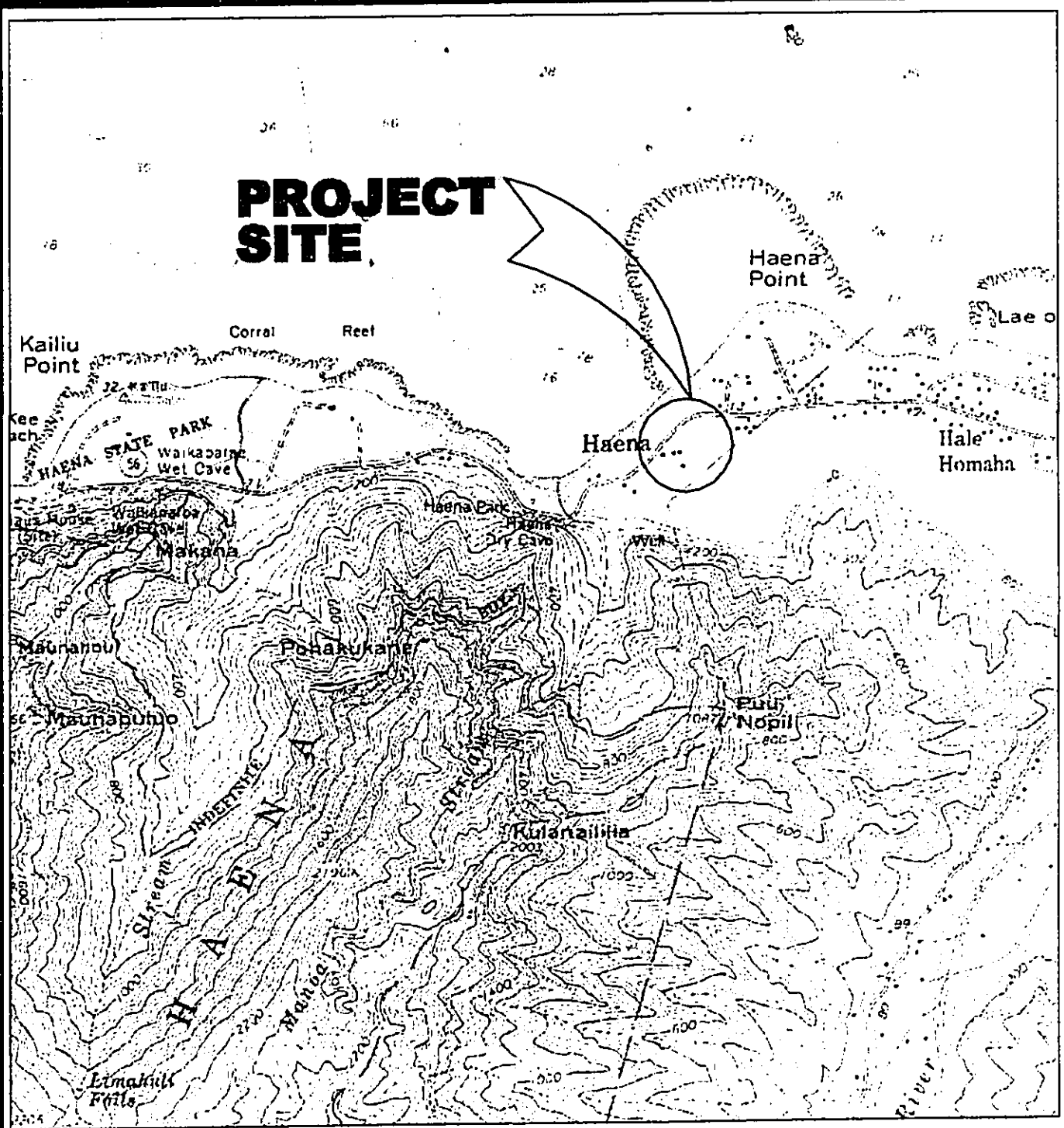




Wagner Engineering Services, Inc.

P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

# PROJECT SITE



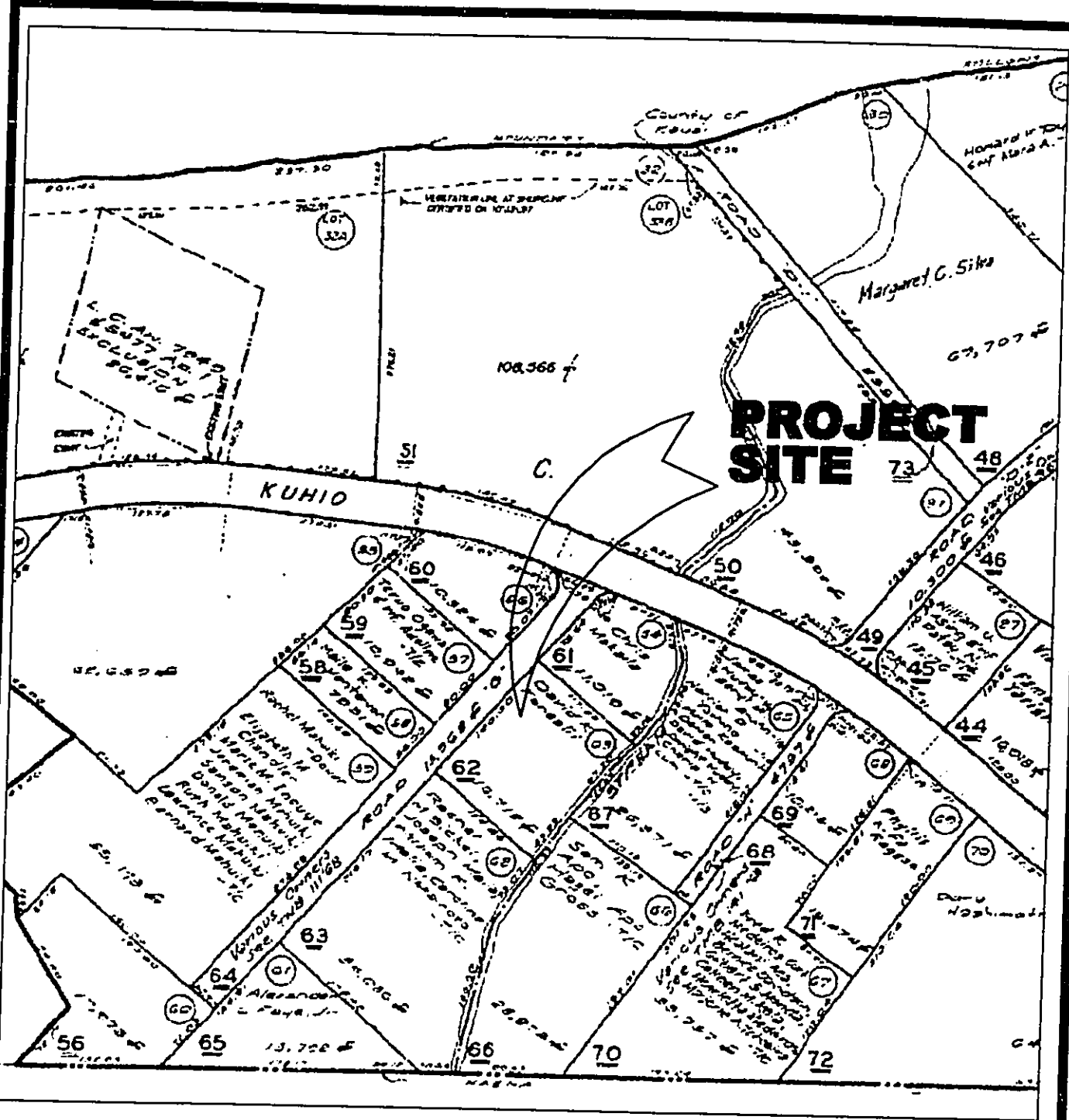
BROWNING RESIDENCE  
VICINITY MAP  
HAENA, KAUAI, HAWAII

SHEET
2

**EXHIBIT 2**



Wagner Engineering Services, Inc.  
 P.O. Box 851 Honolulu, HI 96714 (808) 826-7256



BROWNING RESIDENCE  
 TAX MAP (4) 5-9 -02:62  
 HAENA, KAUAI, HAWAII

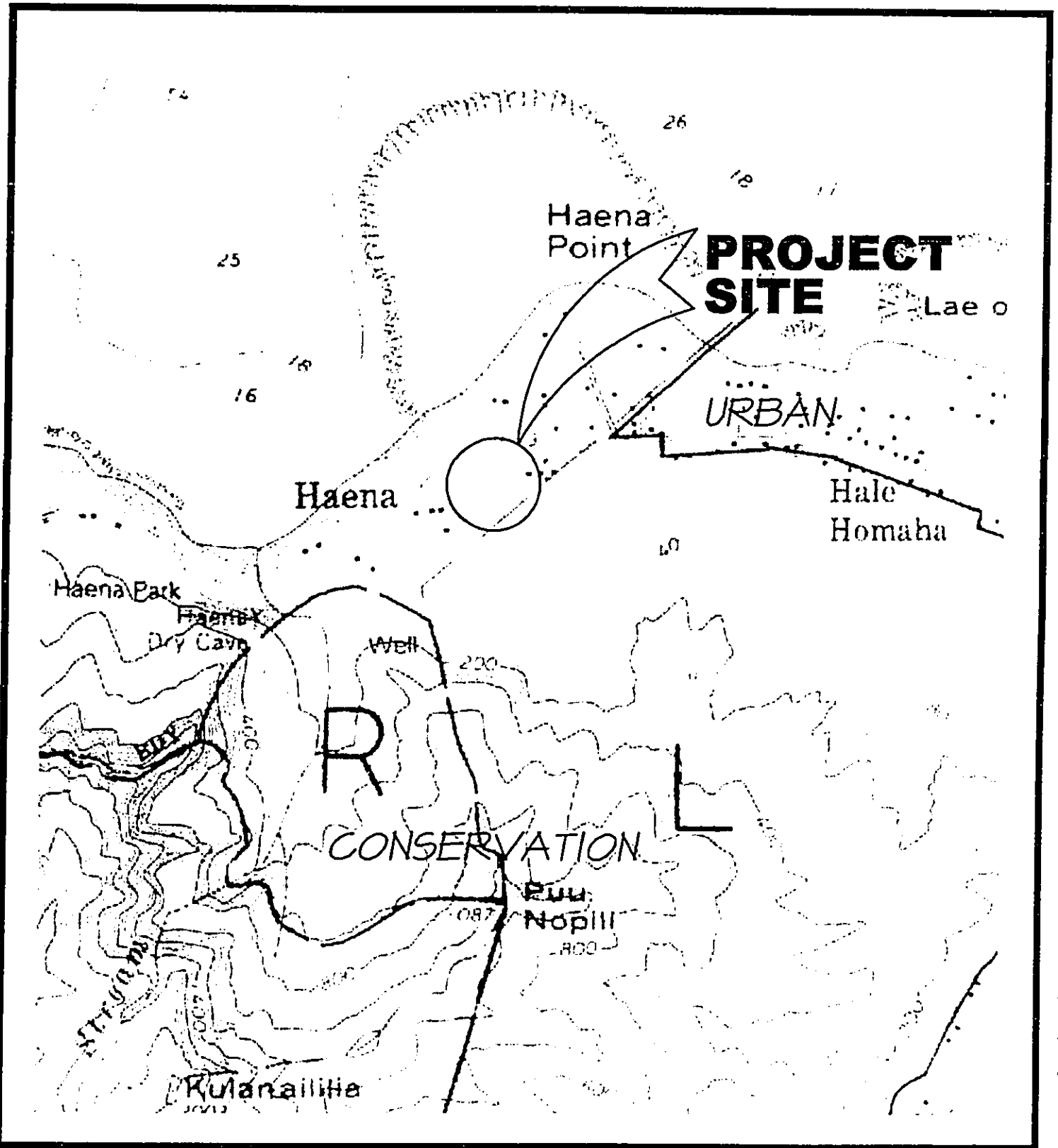
SHEET

3

EXHIBIT 3



Wagner Engineering Services, Inc.  
 P.O. Box 351 Hanalei, HI 96714 (808) 826-7256



BROWNING RESIDENCE

STATE CONSERVATION DISTRICT SUBZONE MAP  
 HAENA, KAUAI, HAWAII

SHEET

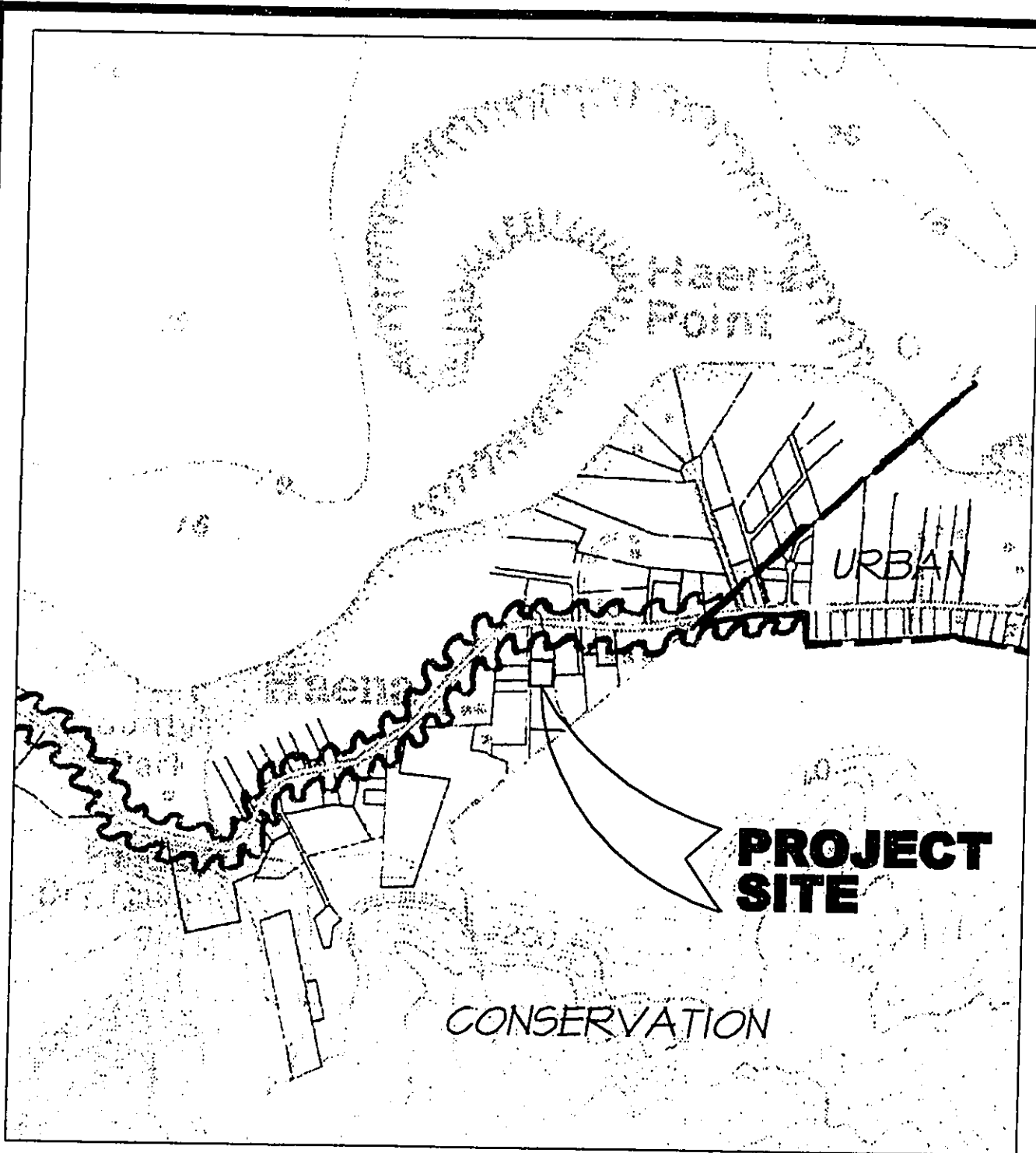
4

EXHIBIT 4



Wagner Engineering Services, Inc.

P.O. Box 851 Hanalei, HI 96714 (808) 826-7256



BROWNING RESIDENCE

COUNTY ZONING MAP

HAENA, KAUAI, HAWAII

SHEET

5

EXHIBIT 5



Wagner Engineering Services, Inc.  
 P.O. Box 851 Hanalei, HI 96714 (808) 826-7256

EL 34)

**PROJECT  
 SITE**

VE23  
 FLOODZONE  
 BOUNDARIES

**VE 23**

SUBJECT PARCEL LIES WITHIN FLOOD ZONE VE 23  
 COASTAL HIGH HAZARD AREA SUSCEPTIBLE TO  
 TSUNAMI INUNDATION

BROWNING RESIDENCE  
**FLOOD ZONE**  
 HAENA, KAUAI, HAWAII

SHEET
6

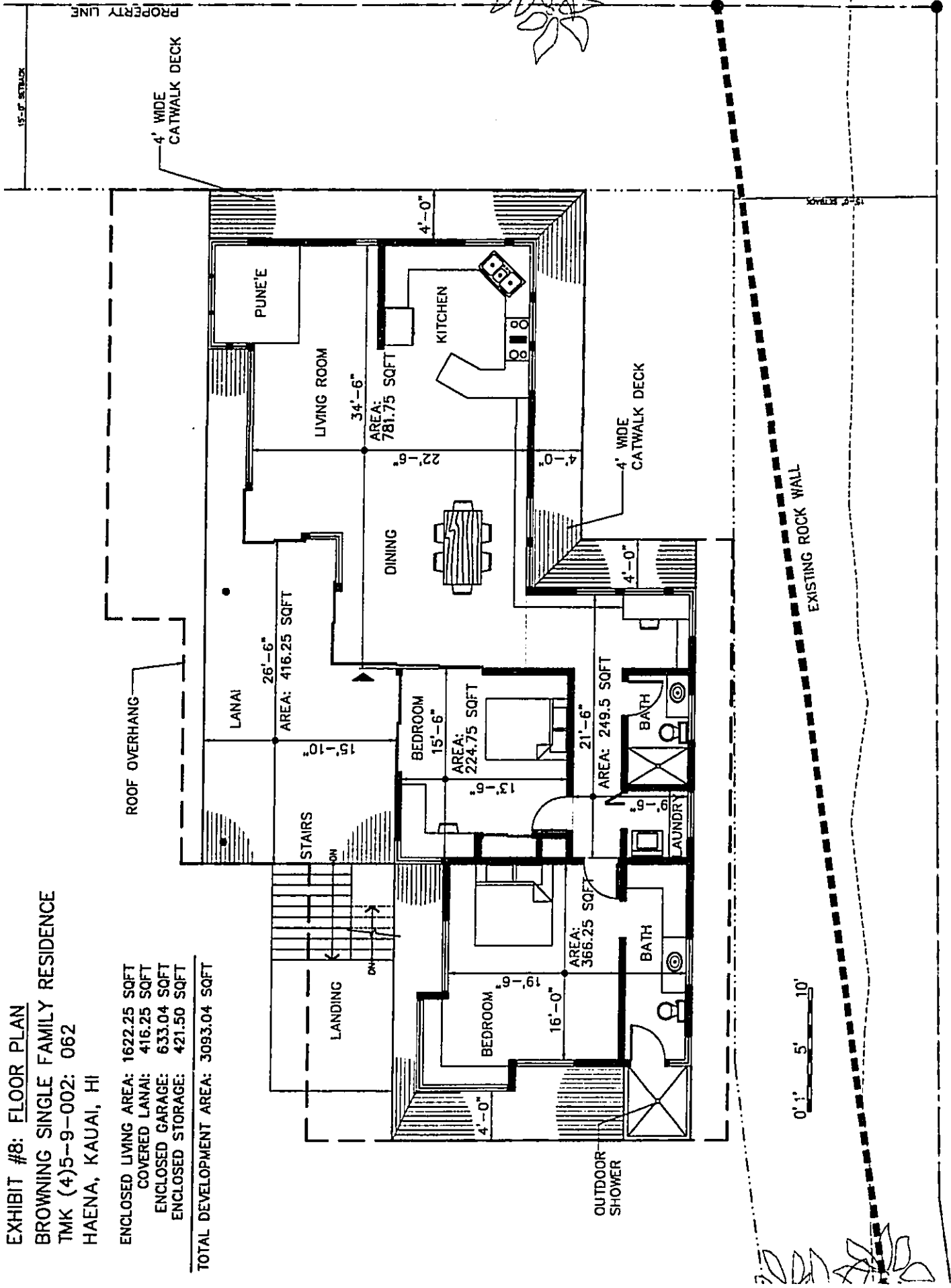
**EXHIBIT 6**





**EXHIBIT #8: FLOOR PLAN**  
**BROWNING SINGLE FAMILY RESIDENCE**  
**TMK (4)5--9--002: 062**  
**HAENA, KAUAI, HI**

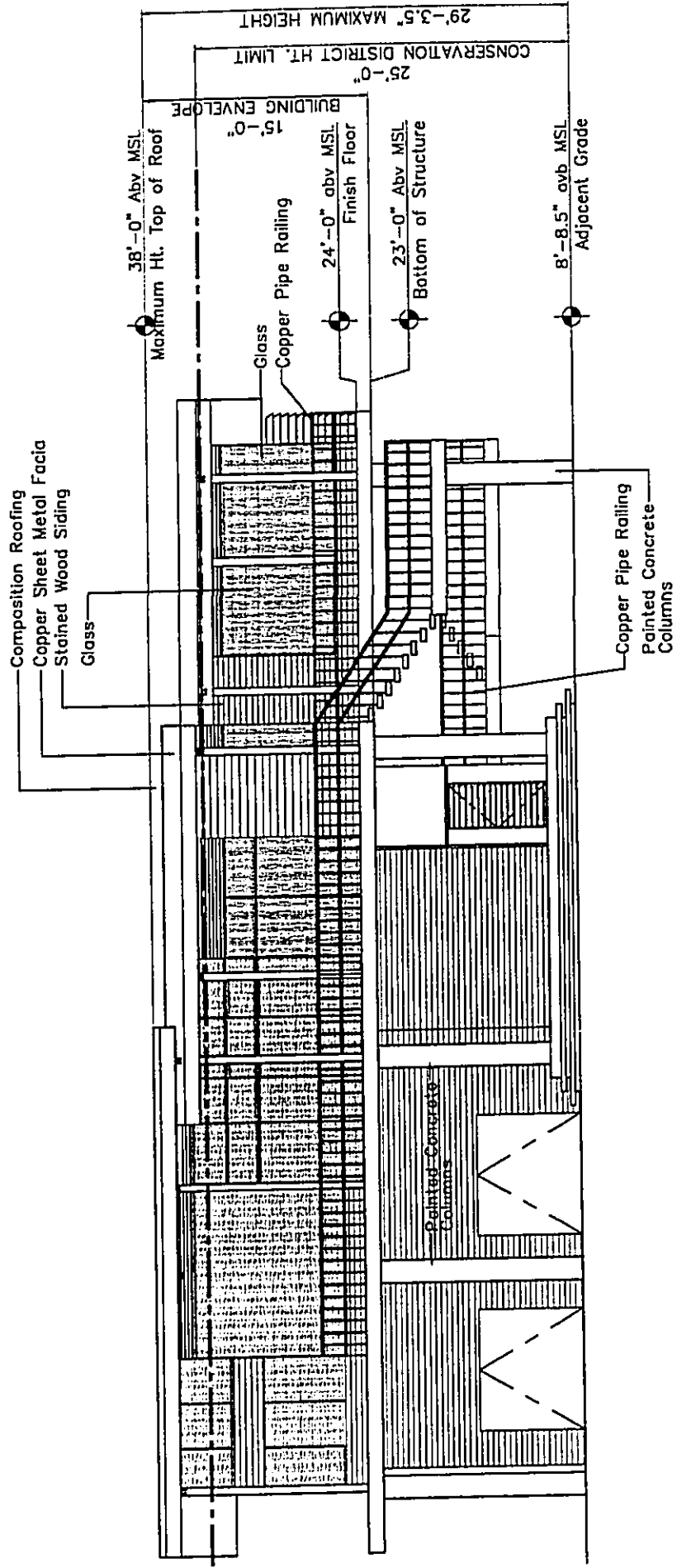
ENCLOSED LIVING AREA: 1622.25 SQFT  
 COVERED LANAI: 416.25 SQFT  
 ENCLOSED GARAGE: 633.04 SQFT  
 ENCLOSED STORAGE: 421.50 SQFT  
**TOTAL DEVELOPMENT AREA: 3093.04 SQFT**



**EXHIBIT #9: WEST ELEVATION**  
**BROWNING SINGLE FAMILY RESIDENCE**  
**TMK (4)5-9-002: 062**  
**HAENA, KAUAI, HI**

**Minimum Elevation:**  
 Minimum Elevation of Structure  
 Per FIRM Map Panel 30:  
 23' above MSL

**Site Elevation:**  
 Minimum Surveyed elevation 8'-8.5"

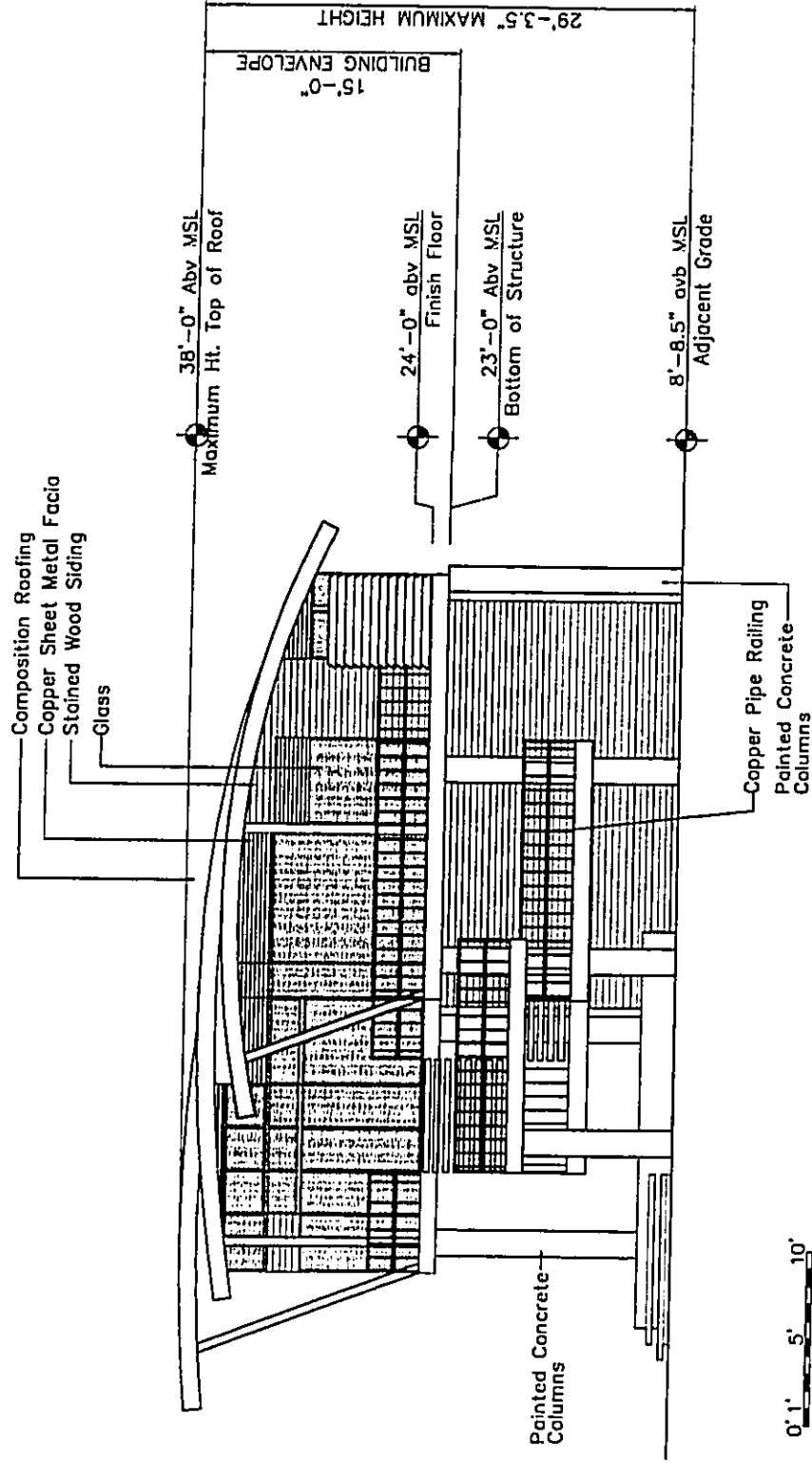


0' 1' 5' 10'

EXHIBIT #10: SOUTH ELEVATION  
 BROWNING SINGLE FAMILY RESIDENCE  
 TMK (4)5-9-002: 062  
 HAENA, KAUAI, HI

Minimum Elevation:  
 Minimum Elevation of Structure  
 Per FIRM Map Panel 30:  
 23' above MSL

Site Elevation:  
 Minimum Surveyed elevation 8'-8.5"



# EXHIBIT 11 - Site Photos

PHOTO A

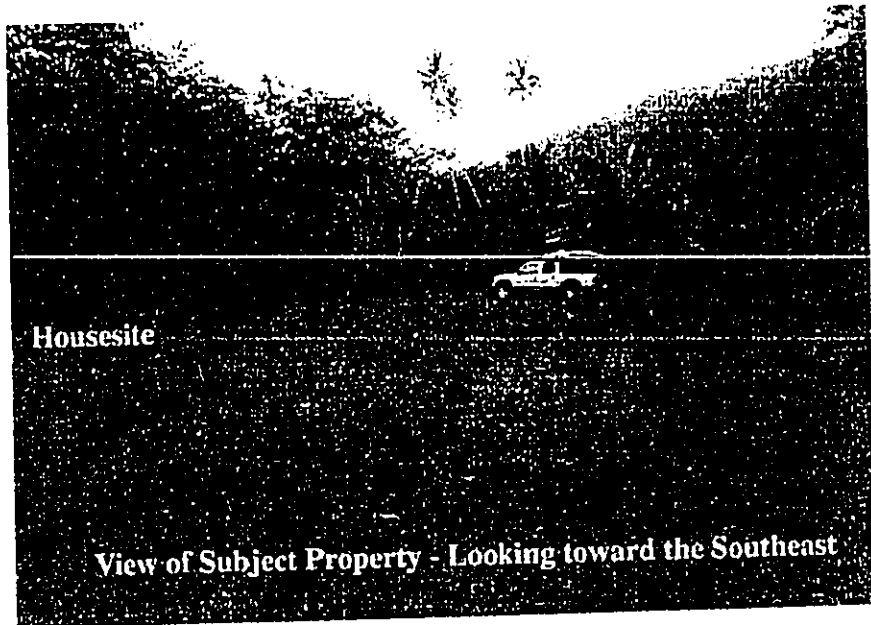


PHOTO B

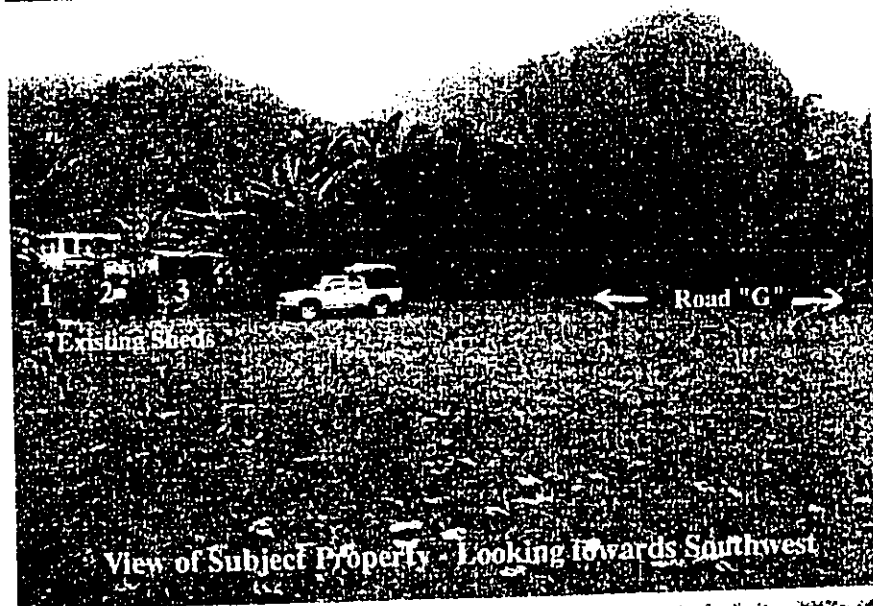


PHOTO C

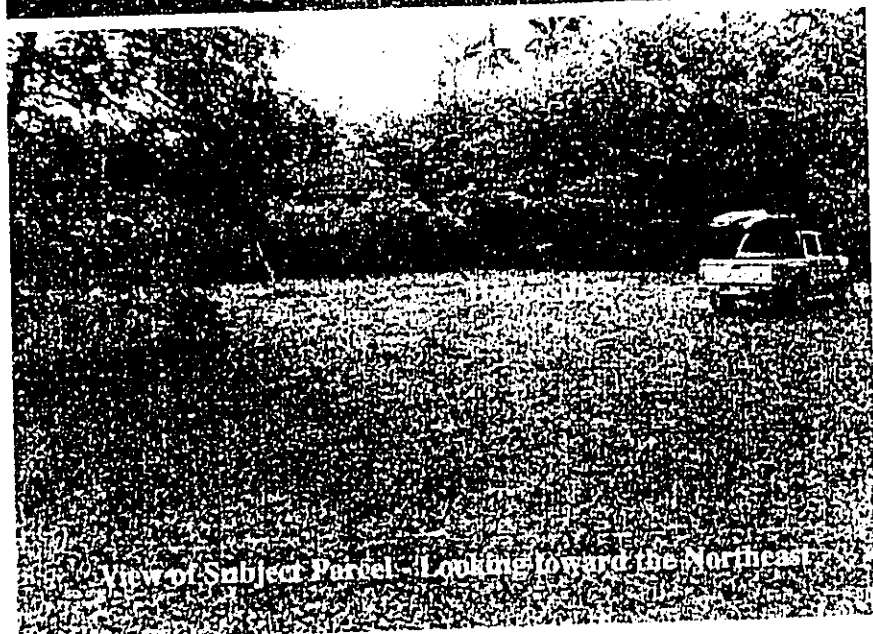


PHOTO D

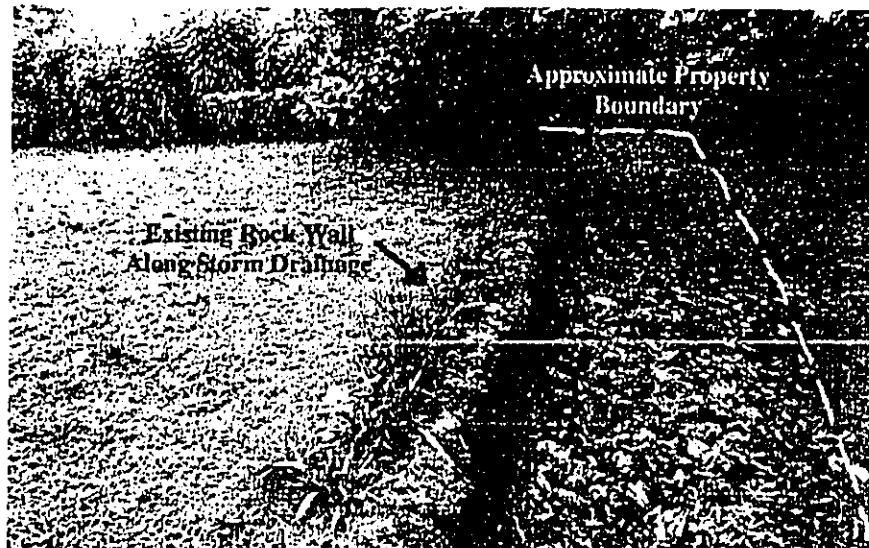
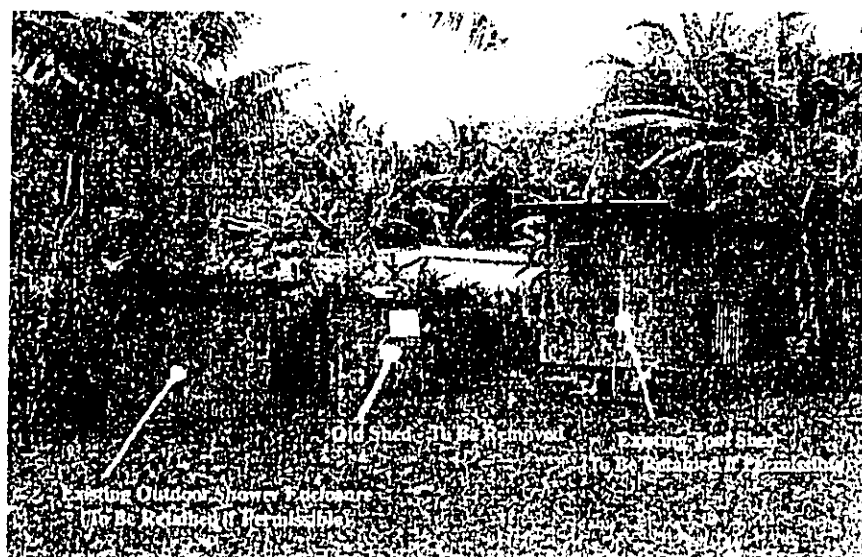


PHOTO E



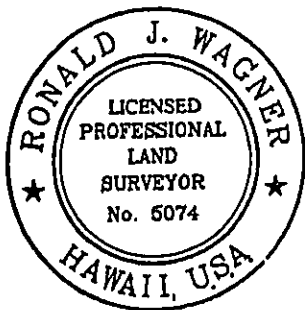
PHOTO F



# EXHIBIT 12

## CERTIFICATION OF ELEVATION

This is to certify that I, Ronald J. Wagner, a registered      civil engineer X surveyor in the State of Hawaii with license number 5074 have conducted on the ground field surveys for the X single family dwelling      other at tax map key parcel (4) 5-9-02:62. The existing ground elevations (contour lines) shown are based on mean sea level. The lowest existing ground elevation adjacent to the proposed structure is 8.7 feet above mean sea level.



Signature

Ronald J. Wagner

Date:

5/28/02

The property is located within flood zone designated VE 23 FIRM Panel 150002-0030-C dated March 4, 1987.

Project No. 3022

**BRYAN J. BAPTISTE**  
Mayor



**IAN K. COSTA**  
Director of Planning

**SHEILAH N. MIYAKE**  
Deputy Director of Planning

## **EXHIBIT 13**

# **SMA EXEMPTION**

### **COUNTY OF KAUAI**

### **PLANNING DEPARTMENT**

Kapule Building  
4444 Rice Street Suite A473  
Lihue, Hawaii, 96766-1326

TELEPHONE: 808.241.6677  
FAX: 808.241.6699

April 1, 2003

Ben Welborn  
P. O. Box 1261  
Hanalei, HI  
96714

Subject: Special Management Area Requirements  
Single Family Dwelling  
TMK:5-9-02:062  
Haena, Kauai

Dear Mr. Welborn:

This letter is being sent in response to your request for a determination regarding the need for a Special Management Area (SMA) Permit for construction of one single family dwelling on the above identified property. Based upon a review of our County of Kauai Special Management Area maps, it appears that the subject property is located within the Special Management Area. However, as noted in your letter, the County of Kauai SMA Rules and Regulations, Section 1.4.H states that development does not include construction of a single family residence that is not part of a larger development. Therefore, provided that the property does not currently contain other development, the proposed construction of one single family dwelling would not require an SMA Permit.

Please be advised that construction of a second single family dwelling or Additional Dwelling Unit (ADU) may require an SMA Permit. In addition, the proposed development may be subject to other requirements of the Planning Department and other government agencies, and it will be the applicant's responsibility to comply with those requirements.

Please contact George Kalisik of my staff at 241-6677 if you have any questions or wish to discuss this matter further.

Sincerely,



Ian K. Costa  
Planning Director



# APPENDICES

**Final Environmental Assessment**  
Proposed Browning Single Family Residence  
TMK (4) 5-9-02: 062 - - Haena, Kauai, Hawaii

# **APPENDIX 1**

## **DOCUMENTATION OF DRAFT EA COMMENTS AND RESPONSES**

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU  
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

REF:PB:DH

FILE NO.: KA-3133

JUL 16 2003

Ben Welborn  
Landmark Consulting Services, Inc.  
P.O. Box 915  
Hanalei, Hawaii 96714

Dear Mr. Welborn,

SUBJECT: Browning CDUA KA-3133

This letter is regarding the processing of CDUA application KA-3133. The public and agency comment period on your application has closed (June 8, 2003). Attached to this letter are copies of the comments received by the Office of Conservation and Coastal Lands (OCCL) regarding your CDUA. The final copy of your Environmental Assessment (EA) needs to include your responses to the queries raised in these letters. These responses can be attached to the end of the final EA document. Please send 6 (six) copies of the final EA to the OCCL by **July 25, 2003**, so it can be published the OEQC's August 8, 2003 Environmental Notice.

After the OCCL receives the final version of your Environmental Assessment with all the necessary amendments your CDUA will be placed on the agenda of the Board of Land and Natural Resources for their consideration. Early submittal of your EA document will expedite the review process. Should you have any questions, please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Sincerely,

A handwritten signature in black ink, appearing to read "Dierdre S. Mamiya".

Dierdre S. Mamiya, Acting Administrator  
Office of Conservation and Coastal Lands



**LANDMARK**  
CONSULTING

July 28, 2003

Dierdre S. Mamiya, Acting Administrator  
DLNR, Office of Conservation and Coastal Lands  
P.O. Box 621  
Honolulu, HI 96809

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Ms. Mamiya,

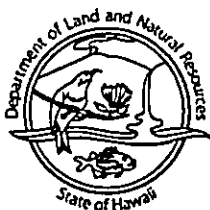
Attached hereto for your review and files are responses to all of the comment letters which were received by your office regarding CDUA KA-3133 for the proposed Browning Single-Family Residence.

Each of the agency comment letters have been included in the Final Environmental Assessment for the project along with the attached response letters. The Final EA will be submitted to your office on Thursday, July 31<sup>st</sup> for processing and publication in the next available OEQC Environmental Notice. Thank you for you time and assistance with this project.

Sincerely,

Ben Welborn  
Project Consultant

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
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CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**MAY - 2 2003**

REF:PB:DH

FILE NO.: KA-3133A - 2

Acceptance Date: May 2, 2003  
180 Day Expiration Date: October 29, 2003

Ben Welborn  
Landmark Consulting Services, Inc.  
P.O. Box 915  
Hanalei, Hawaii 96714

**NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL  
DETERMINATION**

Conservation District Use Application (CDUA) File No. KA-3133  
(BOARD Permit)

This acknowledges the receipt and acceptance for the processing of your CDUA for the proposed Browning elevated Single-Family Residence (SFR), located in Haena, Hanalei District, Island of Kauai, TMK: (2) 5-9-002:062.

According to your information, the 0.38-acre (16,718 square foot) subject parcel is located in Haena, in the District of Hanalei, on the Island of Kauai. Access to the subject parcel is provided by a thirty (30) foot wide private roadway corridor (identified as Road G), which provides direct access to Kuhio Highway. The subject parcel is bounded on the north and south by private landowners, to the west by Road G, and to the east by an intermittent storm drain channel. Existing vegetation consists of a well-maintained lawn, with a few clusters of sea grape, banana, hibiscus, and kukui nut. The applicant notes there are no rare or endangered native plants and/or animals present on the subject parcel.

The applicant proposes to build a 3,093 square foot elevated SFR, which includes 1,622 square feet of living space, 416 square feet of decks, and 1,055 square feet of an enclosed garage and storage area(s). The living space consists of two (2) bedrooms, two (2) bathrooms, laundry room, and living-dining-kitchen area. Beneath the elevated structure is the proposed two (2) car garage and storage area. The SFR's architecture is of a simple, contemporary tropical design (to take advantage of the mountain views), and will be painted in neutral earth tone colors, complemented by natural island style finishes (bamboo, hardwoods). Additional landscaping is also proposed. The SFR is

setback from Road G, and located adjacent to the intermittent storm drain channel. The SFR meets the required minimum setback of fifteen feet from all sides of the subject parcel.

The applicant notes an Archaeological Assessment of the subject property was conducted, and no significant cultural sites and/or deposits were discovered. The applicant notes if any archeological findings are discovered during construction, activities will cease and the proper authorities would be notified prior to continuing work. Underground utilities, such as, electrical, water, refuse collection, telephone, cable, and natural gas services are available to the subject property, via Road G. An individual wastewater system septic tank and leach field will be located adjacent to the SFR.

According to the applicant, the SFR is located in the State Land Use Conservation District, Limited subzone, and in a Coastal High Hazard Flood Area. On Flood Insurance Rate Map (FIRM) Panel 15000-0030-C (dated March 4, 1987), the subject parcel is located within Flood Zone VE 23, which is designated as an area inundated by 100-year flooding with velocity hazard (wave action); Base Flood Elevations (BFE) have been determined at twenty-three (23) feet above mean sea level (MSL).

The SFR has a maximum height of twenty-nine (29) feet, 3.5 inches to meet Federal and County flood regulations. The existing grade of the subject parcel is approximately eight (8) feet, 8.5 inches above MSL, thus the finished floor height of the building must be a minimum of fourteen (14) feet, 3.5 inches above existing grade to comply with flood standards. This would allow the applicant to construct the enclosed living areas, and overlying roof structure of the SFR within a fifteen (15) foot building height envelope above the minimum MSL floor elevation as required by flood elevations.

Therefore, the applicant is requesting a variance of four (4) feet, 3.5 inches from the Maximum Height Limit as noted in Hawaii Administrative Rules (HAR), Chapter 13-5, Section 13-5-41(a), SINGLE FAMILY RESIDENCES; STANDARDS, which notes "the maximum height of the building shall not exceed twenty-five feet, measured from the highest point of the roof structure, down to the lower of the existing or finished grade at the lowest corner of the building."

Lastly, the applicant notes there are three (3) small, old wooden on the subject parcel. The applicant proposes to retain the use of the outdoor shower shed (64 square feet) and the tool shed (48 square feet), and will demolish the remaining shed. The total square footage for the proposed project is 3205 square feet.

After reviewing the application, we find that:

1. The proposed use is an identified land use (L-6, SINGLE FAMILY RESIDENCES, D-1) within the Limited Subzone of the Conservation District, according to Section 13-5-23, Hawaii Administrative Rules (HAR); please be advised, however, that this finding does not constitute approval of the proposal;

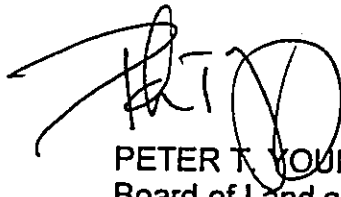
2. Pursuant to Section 13-5-40, HAR, a public hearing will not be required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a finding of no significant impact (FONSI) to the environment is anticipated for the proposed project. The draft environmental assessment (DEA) for the project will be submitted to OEQC to be published in the May 23, 2003 Environmental Notice.

Please be informed that, as the applicant, your responsibility includes complying with the provisions of Hawaii's Coastal Zone Management law (Chapter 205A, HRS) that pertain to the Special Management Area (SMA) requirements administered by the various counties. Negative action by the Board of Land and Natural Resources (BLNR) on this application can be expected should you fail to obtain and provide us, at least thirty (30) days prior to the 180-day expiration date as noted on the first page of this notice, one of the following from the appropriate county:

1. An official determination that the proposal is exempt from the provisions of the county rules relating to the SMA;
2. An official determination that the proposed development is outside the SMA; or
3. An SMA Use Permit for the proposed development.

Your cooperation and early response to these matters will be appreciated, and will help facilitate the processing of your application. Your CDUA will be placed on the agenda of the BLNR for their consideration after all reviews and evaluations of the proposal have been made. Should you have any questions, please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Aloha,



PETER T. YOUNG, Chairperson  
Board of Land and Natural Resources

cc: Kauai Board Member  
Kauai District Land Office  
DOH/OHA  
County of Kauai Planning Department  
Department of Public Works  
Department of Water Supply  
DOFAW/DOCARE/HPD/ENGINEERING/DSP  
OEQC

LINDA LINGLE  
GOVERNOR OF HAWAII

RECEIVED



GENEVIEVE SALMONSON  
DIRECTOR

2003 MAY 19 A 10:20

STATE OF HAWAII  
OFFICE OF ENVIRONMENTAL QUALITY CONTROL  
735 SOUTH KEAHANA STREET  
SUITE 702  
HONOLULU, HAWAII 96813  
Telephone (808) 586-4185  
Facsimile (808) 586-4188  
Email: oeqc@health.state.hi.us

May 16, 2003

Deirdre Mamiya  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96809

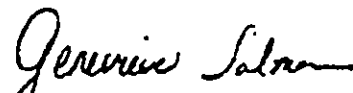
Attention: Dawn Hegger

Dear Ms. Mamiya:

Subject: Draft Environmental Assessment (EA) for Browning Single Family Residence  
Haena, Kauai

We have no comments at this time. If you have any questions, call Nancy Heinrich at 586-4185.

Sincerely,

  
GENEVIEVE SALMONSON  
Director

c: Ben Welborn





**LANDMARK**  
CONSULTING

July 28, 2003

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

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Ms. Salmonson,

Thank you for taking the time to review and comment upon the proposed Browning Single-Family Residence. You offered no comments on the Draft Environmental Assessment.

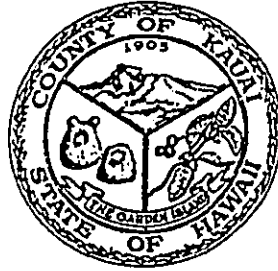
Your correspondence in this regard shall be incorporated into the Final Environmental Assessment for the proposed action.

Sincerely,

Ben Welborn  
Project Consultant

cc: Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands

BRYAN J. BAPTISTE  
MAYOR



COUNTY ENGINEER  
TELEPHONE 241-6600

GARY K. HEU  
ADMINISTRATIVE ASSISTANT

WYNNE M. USHIGOME  
DEPUTY COUNTY ENGINEER  
TELEPHONE 241-6640

AN EQUAL OPPORTUNITY EMPLOYER  
COUNTY OF KAUA'I  
DEPARTMENT OF PUBLIC WORKS  
4444 RICE STREET  
MO'IKEHA BUILDING, SUITE 275  
LIHU'E, KAUA'I, HAWAII 96766-1340

June 10, 2003

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

Dear Mr. Young:

SUBJECT: Conservation District Use Application (CDUA) File No. KA-3133  
TMK (4) 5-9-2:62 PW 5.031

We are in receipt of your NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL DETERMINATION dated May 2, 2003 for the captioned property. We wish to comment on the 6<sup>th</sup> paragraph in regards to the finished floor height of the building.

Based on the Federal Insurance Rate Map (FIRM) Panel 30 D dated October 18, 2002, the subject property is susceptible to flooding. The flood zone is a zone VE with a corresponding flood elevation of 23 feet MSL. The bottom of the lowest horizontal structural member shall be at or above the determined base flood elevation of 23 feet MSL.

Should you have questions, please contact Valentino Reyna of my staff at (808) 241-6619.

Very truly yours,

WYNNE M. USHIGOME  
Deputy County Engineer

VR

cc: Planning Department

COMMISSION ON WATER  
RESOURCE MANAGEMENT

03 JUN 23 11:19

RECEIVED



**LANDMARK**  
CONSULTING

July 28, 2003

Wynne M. Ushigome  
Deputy County Engineer  
County of Kauai, Department of Public Works  
4444 Rice Street  
Mo'ikeha Building, Suite 275  
Lihu'e, HI 96766-1340

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Mr. Ushigome,

Thank you for your letter dated June 10, 2003 with comments on the proposed Browning Single-Family Residence in Haena. In your letter you provided clarification on the flood zone characteristics of the parcel. As per your recommendations, we will amend the Final Environmental Assessment (FEA) and other planning documents to be consistent with the language which you specified. Specifically, the FEA will state that *“the bottom of the lowest horizontal structural member of the residence shall be at or above the determined base flood elevation of 23 feet MSL.”*

Your comments will be included with the filing of the FEA and shall become a permanent part of the public record and permitting documentation. If you have any further comments, please do not hesitate to direct them to my office.

Sincerely,

Ben Welborn  
Project Consultant

cc: Peter T. Young, DLNR  
Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands

LINDA LINGLE  
GOVERNOR OF HAWAII



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

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P.O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
EMD / WB

K5 09 02 62.wpd  
WFB 030567

June 27, 2003

Ms. Dierdre S. Mamiya  
Acting Administrator  
Office of Conservation and Coastal Lands  
Department of Land & Natural Resources  
P.O. Office Box 621  
Honolulu, Hawaii 96809

Dear Ms. Mamiya:

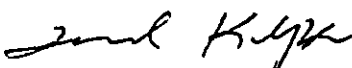
Subject: Request for Comments  
Conservation District Use Application (CDUA)  
Board Permit  
Marilyn & Rodger Browning  
Construct Single Family Residence  
Haena, Hanalei District, Kauai  
TMK: (4) 5-9-002: 062 16,718 sf

We have reviewed the subject document which requests comments for the construction of a single family residence on Kauai.

Ultimately, we would appreciate that any new construction be connected to the County sewer service system. After consultation with our Kauai District Health Office personnel, it has been determined that the subject property is currently serviced by a cesspool (see attachment). As the subject project is not within the vicinity of a County sewer service system, we concur with the use of a new individual wastewater system serving the proposed dwelling. It should be noted that information available to the Department indicates that groundwater was encountered approximately five (5) feet below the ground surface. This may affect the type of individual wastewater system use.

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

Sincerely,

  
HAROLD K. YEE, P.E., CHIEF  
Wastewater Branch

Attachment: Copy of Cesspool Record

ENV HEALTH KAUAI  
5-9-02:62  
FHA \_\_\_\_\_

8082413566  
IMK 5-9-02-02-03

06/26 '03 08:29 NO.768 02/02

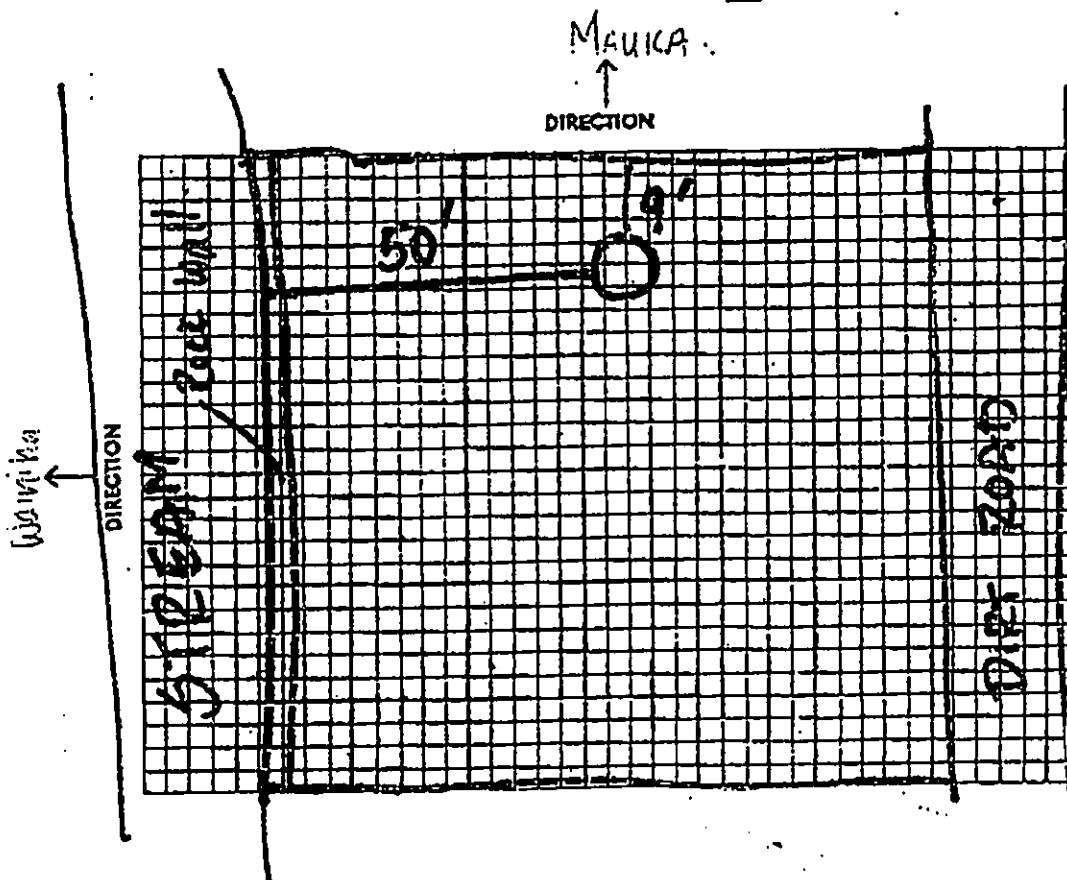
SAN. FORM 40

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
ENVIRONMENTAL HEALTH DIVISION  
SANITARIAN'S REPORT OF CESSPOOLS

10

Cert. No. \_\_\_\_\_  
Issued: \_\_\_\_\_  
Date: \_\_\_\_\_ 19\_\_\_\_

Property owner David Kanealii Address Hana  
Island Kauai City Hana District Hana  
Builder or Contractor Self Intended for 1 dwelling  
Primary Yes Secondary No Spillage No  
Distances from building No Bldg at Time Boundary 9' Stream, well, body or water, etc. 50'  
Dis. (clear)-ft. 6' Depth-ft. 6' 6" Capacity (Gal) \_\_\_\_\_ No. ft. down to water 5' 3"  
Ground slope Level State soil or rock formation starting from surface Sand  
Kind of well or curb Rocks with mortar Reinforced concrete cover Yes  
Distance from surface of ground to top of cover-ft. To be covered with 1 ft of cover material as stated by owner.  
Approved Nov 19, 1976 Clyde Tatekuma  
SANITARIAN



REMARKS



**LANDMARK**  
CONSULTING

July 28, 2003

Harold K. Yee, P.E., Chief  
State of Hawaii, Department of Health  
Wastewater Branch  
P.O. Box 3378  
Honolulu, HI 96801

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Mr. Yee,

Thank you for your letter dated June 27, 2003 with comments on the proposed Browning Single-Family Residence.

As an integral component of the County building permitting process, the applicant/owners shall submit plans for an Individual Wastewater System (IWS) in compliance with HAR, Chapter 11-62. It is the owner's intention to site the IWS in the far southwest portion of the property as far from the intermittent drainage channel as is reasonably possible. Your comments regarding groundwater at a shallow depth of approximately five (5) feet below the ground surface shall be conveyed to the septic engineer and who will take this factor into account in designing an appropriate IWS for the project.

Your comments and this correspondence shall be included in the Final Environmental Assessment for the proposed action and shall thereby become a permanent part of the public records and project permitting documentation. If you have any further input, please do not hesitate to contact my office.

Sincerely,

Ben Welborn  
Project Consultant

cc: Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands

LINDA LINGLE  
GOVERNOR OF HAWAII



2003 JUN 13 AM 11:23

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

June 18, 2003

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON  
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU  
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

MEMORANDUM

LOG NO: 2003.0820  
DOC NO: 0306NM05

TO: Diedre S. Mamiya, Administrator  
Land Division

FROM: P. Holly McEldowney, Acting Administrator *PMM*  
State Historic Preservation Division

SUBJECT: Chapter 6E-42 Historic Preservation Review – KA-3133 CDUA for  
Single Family Residence for Roger and Marilyn Browning  
Haena, Hanalei, Kauai, (TMK: (4) 5-9-02:062)

Thanks you for submitting this application which we received on May 23, 2003. An archaeological assessment was conducted on this parcel in January 2002 (Dye, 2002) which we approved on April 24, 2002. The assessment report concluded that no further archaeological work was needed based on findings which indicated that the subject parcel had an existing lawn, fruit trees and a modern rock wall. The literature search conducted for this assessment indicated that archaeological testing in nearby parcels had found no sites. Based on all of this information, we concurred with the recommendation that no further archaeological work was needed, and approved the assessment report.

Subsequently, two burials were found on a nearby property at Parcels 69 and 70 during an inventory survey with subsurface testing conducted in 2002. In addition, our Kauai/Niihau Islands Burial Council (KNIBC) insists that we treat the Haena area with sensitivity with regards to Hawaiian burial sites since a number of burial cases from this area have come before the commission. The Office of Hawaiian Affairs (OHA) has also indicated to our office their concern on the subject permit application. Given the new information on the potential for significant historic sites being present in subsurface deposits, we now believe that subsurface deposits, including cultural layers and human burials, may be present on the subject parcel. Consequently, the construction of a residence may have an "adverse effect" on any significant historic sites present in subsurface deposits on the subject parcel.

Therefore, we recommend the following conditions be attached to any approved permit, to ensure a "no adverse effect" on significant historic sites and human burials so that they are properly identified and treated:

1) A qualified archaeologist shall be hired to conduct on-site monitoring during ground disturbance. Prior to starting the monitoring work, an acceptable monitoring plan (scope of work) shall be submitted to the State Historic Preservation Division for review and approval. That monitoring plan will spell out a process for documenting sites that are found, for evaluating significance in consultation with our Division and for developing and executing any required mitigation work with the approval of our Division, and for mitigation treatment (as needed) with the approval of our Division.. It must be clear that if historic sites, including burials, are uncovered during the monitoring, construction must stop in the immediate vicinity and the archaeologist shall be allowed sufficient time to evaluate the site and carry out mitigation, as needed. The plan must include provisions for an acceptable monitoring report, documenting all the findings, to be approved by our Division.

2) If burials are discovered during the survey, a burial treatment plan shall be prepared following the procedures outlined in Chapter 6E-43.6 and HAR 13-300. Coordination with the Kauai Island Burial Council is required as part of the approval of burial treatment. Contact DLNR Historic Preservation Burials Program for information on this matter (Kanai Kapeliela at 692-0037).

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

c. Chair, Kaua'i/Ni'ihau Islands Burial Council  
Kana'i Kapeliela, Burial Sites Program  
Kaua'i Historic Preservation Review Commission

NM:ak





## LANDMARK CONSULTING

Holly McEldowney, Acting Administrator  
DLNR, State Historic Preservation Division  
Kakuhihewa Building, Room 555  
601 Kamokila Blvd.  
Kapolei, HI 96707

July 28, 2003

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Dr. McEldowney,

Thank you for your comments, in your letter dated June 18, 2003 pertaining to the Conservation District Use Application (CDUA KA-3133) and Draft Environmental Assessment (DEA) for the proposed Browning Single Family residence. On behalf of the applicant/land owner, we hereby acknowledge and agree to carry out the additional conditions which you have recommended in order to ensure a "no adverse effect" on significant sites and human burials. Specifically, the applicant/land owner shall:

1. Hire a qualified archaeologist to conduct on-site monitoring during ground disturbance. It is understood that prior to the commencement of monitoring work, the applicant shall submit a monitoring plan (scope of work) to SHPD for review and approval. The monitoring plan shall spell out a process for documenting sites that are found, for evaluating significance in consultation with SHPD and for developing and executing any required mitigation work with the approval of SHPD. It is understood that if historic sites, including burials, are uncovered during monitoring activities, construction must stop in the immediate vicinity and the project archaeologist shall be allowed sufficient time to evaluate the site and carry out mitigation as needed. At the end of the project a monitoring report, documenting all findings shall be submitted to SHPD for review and approval.
2. In the event that burials are discovered during monitoring, the applicant/land owner shall prepare a burial treatment plan following the procedures outlined in Chapter 6E-43.6 and HAR 13-300. Coordination with the Kauai Island Burial Council, as required by statute shall become a part of the burial treatment procedures and report.

With regards to these matters, I have contacted Nancy McMahon and Kana'i Kapelieli of your staff. Furthermore, in response to the comments received, I have been in contact with the Office of Hawaiian Affairs and LaFrance Kapaka-Arboleda of the Kauai Island Burial Council (KIBC). By so doing, it is my intention to involve all of the stakeholders in the appropriate treatment of these historic preservation objectives. On Tuesday, August 5<sup>th</sup>, 2003 I am scheduled to go before the KIBC to present a summary of the

project and affected area along with Tom Dye's analysis of the site, your recommendations, and proposed mitigation measures.

In closing, be assured that your recommendations will be duly addressed and incorporated into the Final Environmental Assessment (FEA) for the project. If you wish to offer any further comments, then please do not hesitate to contact me. Additionally, for your review and files, I have included herewith my response to those concerns and recommendations posed by the Office of Hawaiian Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Welborn". The signature is fluid and cursive, with a large initial "B" and "W".

Ben Welborn  
Project Consultant

cc: Nancy McMahon, SHPD  
LaFrance Kapaka-Arboleda, Kauai Island Burial Council  
Dierdre S. Mamiya, DLNR Office of Conservation and Coastal Lands  
Peter L. Yee, Office of Hawaiian Affairs  
Tom Dye, Archaeologist

PHONE (808) 594-1888

FAX (808) 594-1885



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

HRD03/960

June 4, 2003

Deirdre S. Mamiya  
Land Division  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, HI 96809

RE: Conservation District Use Application, Browning Residence, Hā'ena, Kauai, TMK:  
(2) 5-9-002:062. File No. KA-3133

Dear Ms. Mamiya,

OHA is in receipt of your May 22, 2003 request for comments on the above referenced CDUA application. We offer the following comments.

#### Archaeological Review

The archaeological assessment provided in the Draft EA suggests that there is a likelihood that buried cultural deposits, including Native Hawaiian Human Remains may be found on parts of the property (p. 15). OHA does not believe the State Historic Preservation Division has done an adequate review of the archaeological assessment and we will request that they re-open review of this project.

OHA's concern stems from the fact that the lot is on the margin of a large traditional Hawaiian settlement at Hā'ena Point (p. 3). In the past year development of several nearby single family residences have unearthed Native Hawaiian human remains and the archaeological report does not suggest that this property differs significantly from their neighbors.

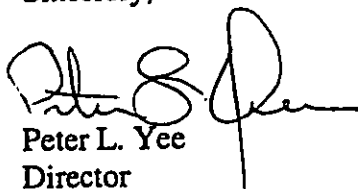
In order to limit the possibility of disturbing human remains, we suggest that house be situated as far from the assumed margin of the traditional Hawaiian settlement as possible.

We also request that this project be reviewed by the Kauai Island Burial Council. We suggest that proponents of the project prepare a burial treatment plan for review by Council, in the event that burials are discovered during construction.

Finally, OHA requests that a cultural monitor approved by the Kauai Island Burial Council be on site during ground excavating activities.

Thank you for the opportunity to review this project. If you have further questions, please contact Pua Aiu at 594-1931 or e-mail her at [paiu@oha.org](mailto:paiu@oha.org).

Sincerely,



Peter L. Yee  
Director  
Nationhood and Native Rights

C: Holly McEldowney, SHPD  
Landmark Consulting Services  
P.O. Box 915  
Hanalei, HI 96714  
La France Kapaka-Arboleda, Kauai Island Burial Council (by e-mail)

...1:KAUAI HISTORIC PRES 8087427329  
an From-STATE Historic Preservation  
/ / / /

808 692 8020

TO: 808 828 6242

T-362 P.002/003 F-223

529-0884  
P.1/2

JUN -9 2003

PHONE (808) 594-1888

FAX (808) 594-1886



STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS  
711 KAPOLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

HRD03/960B

June 4, 2003

Holly McEldowney, Ph.D.  
Acting Administrator  
State Historic Preservation Division  
Kakuhikewa Building Room 555  
601 Kamokila Boulevard  
Kapolei, HI 96706

RE: Archaeological Assessment, Browning Residence, Ha'ena, Kauai, TMK: (2) 5-9-002:062. Log No 29677, DOC No: 0204NM10

Dear Dr. McEldowney,

OHA does not believe the State Historic Preservation Division has done an adequate review of the archaeological assessment of the above referenced project. By this letter we request that your division re-open review of the archaeological assessment.

OHA's concern stems from the fact that the lot is on the margin of a large traditional Hawaiian settlement at Ha'ena Point (p. 3). In the past year development of several nearby single family residences have unearthed Native Hawaiian human remains and the archaeological report does not suggest that this property differs significantly from their neighbors. Thus, we do not believe that construction of this single family dwelling will have "no effect" on significant historic sites. We also believe that the project should be reviewed by the Kauai Island Burial Council.

I am enclosing our review of the CDUA permit for the project with this letter.

# CORRECTION

THE PRECEDING DOCUMENT(S) HAS  
BEEN REPHOTOGRAPHED TO ASSURE  
LEGIBILITY  
SEE FRAME(S)  
IMMEDIATELY FOLLOWING

TO: KAUAI HISTORIC PRES 8087427329  
FROM: STATE Historic Preservation

TO: 808 828 6242  
T-362 P.002/003 F-223

529-0884  
P.1/2

JUN -9 2003

PHONE (808) 594-1838

FAX (808) 594-1836



STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS  
711 KAPOLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

HRD03/9603

June 4, 2003

Holly McEldowney, Ph.D.  
Acting Administrator  
State Historic Preservation Division  
Kakuhikewa Building Room 555  
601 Kamokila Boulevard  
Kapolei, HI 96706

RE: Archaeological Assessment, Browning Residence, Hā'ena, Kauai, TMK: (2) 5-9-002:062. Log No 29677, DOC No: 0204NM10

Dear Dr. McEldowney,

OHA does not believe the State Historic Preservation Division has done an adequate review of the archaeological assessment of the above referenced project. By this letter we request that your division re-open review of the archaeological assessment.

OHA's concern stems from the fact that the lot is on the margin of a large traditional Hawaiian settlement at Hā'ena Point (p. 3). In the past year development of several nearby single family residences have unearthed Native Hawaiian human remains and the archaeological report does not suggest that this property differs significantly from their neighbors. Thus, we do not believe that construction of this single family dwelling will have "no effect" on significant historic sites. We also believe that the project should be reviewed by the Kauai Island Burial Council.

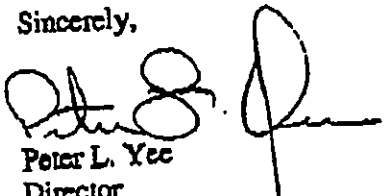
I am enclosing our review of the CDUA permit for the project with this letter.

4 FROM: KAUAI HISTORIC PRES 8087427329  
iam From-STATE Historic Preservation

TO: 808 828 6242 P.2/2  
808 892 8020 T-362 P.008/008 F-223

If you have further questions, please contact Pua Aiu at 594-1931 or e-mail her at [paiu@oha.org](mailto:paiu@oha.org).

Sincerely,



Peter L. Yee  
Director  
Nationhood and Native Rights

C: Deirdre Mamiya  
Landmark Consulting Services  
P.O. Box 915  
Hanalei, HI 96714  
La France Kapaka-Arboleda, Kauai Island Burial Council (by e-mail)





**LANDMARK**  
CONSULTING

July 28, 2003

Peter L. Yee  
Director, Nationhood and Native Rights  
Office of Hawaiian Affairs  
711 Kapi`olani Boulevard, Suite 500  
Honolulu, HI 96813

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Ha`ena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Mr. Yee,

I have been provided with your comment letters dated June 4, 2003; one of which was addressed to the State Historic Preservation Division (SHPD) and the other to the Office of Conservation and Coastal Lands (OCCL). Your concern for potential adverse impacts upon historic sites, including human burials, as a result of the proposed construction of the Browning residence is duly noted and addressed herein.

Following receipt of your letter, I contacted Pua Aiu of your staff as well as members of the SHPD staff. As a result of those conversations, the owner/applicants hereby agree to adopt the following additional measures in order to ensure a "no adverse effect" on significant sites and human burials. Specifically, the owner/applicants shall:

1. Hire a qualified archaeologist to conduct on-site monitoring during ground disturbance. It is understood that prior to the commencement of monitoring work, the applicant shall submit a monitoring plan (scope of work) to SHPD for review and approval. The monitoring plan shall spell out a process for documenting sites that are found, for evaluating significance in consultation with SHPD, and for developing and executing any required mitigation work with the approval of SHPD. It is understood that if historic sites, including burials, are uncovered during monitoring activities, construction must stop in the immediate vicinity and the project archaeologist shall be allowed sufficient time to evaluate the site and carry out mitigation as needed. At the end of the project a monitoring report, documenting all findings shall be submitted to SHPD for review and approval.
2. In the event that burials are discovered during monitoring, the applicant/land owner shall prepare a burial treatment plan following the procedures outlined in Chapter 6E-43.6 and HAR 13-300. Coordination with the Kauai Island Burial Council, as required by statute shall become a part of the burial treatment procedures and report.
3. On Tuesday, August 5<sup>th</sup>, 2003, well in advance of CDUA approval and the commencement of project activities, I shall present the project characteristics and

proposed mitigation measures to the Kauai Island Burial Council (KIBC) for their review and comment. During the KIBC meeting acceptable and preferred burial treatment protocol shall be discussed and agreed upon for implementation in the event that inadvertent burials are discovered during construction activities. Additionally, we shall discuss your recommendation that a cultural monitor, approved by the KIBC, be on site during ground disturbing activities.

Lastly, with regards to your recommendation that the proposed residence be situated as far from the assumed margin of the traditional Hawaiian settlement area as possible, we offer the following input. As described in the Draft Environmental Assessment, the subject property is fairly level. This leads to a reasonable speculation that the parcel may have undergone some sort of grading or leveling activity at an indeterminable time in the past. This leveling may have been a result of some undocumented human intervention or it may have been the consequence of past tsunami inundations. Irrespective of the cause, whether natural or otherwise, the parcel is absent of any type of dune formations, which characteristically have a higher tendency and concentration of burials. Archaeological excavations in the vicinity of the Browning parcel have not found a cultural deposit nor have they found pre-contact burials. Furthermore, based upon an interpretation of the archaeological information from nearby parcels, it is likely that the margin of the traditional Hawaiian settlement area is situated makai of the Browning parcel and most likely makai of Kuhio Highway. Only one of the two burials which you generally refer to in your comments is a recent discovery (Parcel 69), the other burial (located on Parcel 70) has been recorded for many years and is marked by a large concrete crypt. Both of these burials are of a historic nature, and are therefore associated with the post-contact period rather than with a traditional settlement pattern in Ha`ena. For these reasons, Tom Dye, the project archaeologist is of the opinion that shifting the house further inland as you suggest would not reduce the potential of finding historic burials or pre-contact remains.

In closing, please be advised that your recommendations will be incorporated into the Final Environmental Assessment (FEA) for the project. If you wish to offer any further comments, then please do not hesitate to contact me.

Sincerely,



Ben Welborn  
Project Consultant

cc: Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands  
Holly McEldowney, SHPD  
Nancy McMahan, SHPD  
LaFrance Kapaka-Arboleda, KIBC  
Tom Dye

LINDA LINGLE  
GOVERNOR OF HAWAII



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

2003 JUN 13 A 9 51

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

In reply, please refer to:  
END / CWB

06048PJS.03

June 13, 2003

Ms. Dierdre S. Mamiya  
Acting Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
State of Hawaii  
P.O. Box 621  
Honolulu, Hawaii 96809

Attention: Ms. Dawn Hegger

Dear Ms. Mamiya:

**Subject: Request for Comments**  
**Conservation District Use Application (CDUA)**  
**Marilyn and Rodger Browning Single Family Residence**  
**Haena, Hanalei, Kauai, Hawaii**  
**TMK: (4) 5-9-002:062**  
**File Number: CDUA KA-3133**

The Department of Health, Clean Water Branch (CWB), has reviewed your transmittal, date stamped May 22, 2003, regarding the construction of a single family residence on a 0.38 acre parcel.

Please note that the Pacific Ocean between Hikimoe Valley and Makahoa Point (including the area west of Haena Point) is classified as a Class AA, Open Coastal Marine Waters (Hawaii Administrative Rules [HAR], Section 11-54-06(b)(2)(A)(vii)). However, the "intermittent storm drain channel" or unnamed stream to the east of the parcel is classified as a Class 2, Inland Water (HAR, Section 11-54-05.1).

1. The Army Corps of Engineers should be contacted at (808) 438-9258 to identify whether a Federal permit (including a Department of Army permit) is required for this project. Pursuant to Section 401(a)(1) of the Federal Water Pollution Act (commonly known as the "Clean Water Act"), a Section 401 Water Quality Certification is required for "[a]ny applicant for Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters...."

Ms. Dierdre S. Mamiya  
June 13, 2003  
Page 2

2. A National Pollutant Discharge Elimination System (NPDES) general permit coverage is required for the following activities:
  - a. Construction activities, including clearing, grading, and excavation, that result in the disturbance of equal to or greater than one (1) acre of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. **An NPDES permit is required before the commencement of the construction activities.**
  - b. Discharge of hydrotesting water; and
  - c. Discharge of construction dewatering effluent.

The CWB requires that a Notice of Intent (NOI) to be covered by a NPDES general permit for any of the above activities be submitted at least 30 days before the commencement of the respective activities. The NOI forms may be picked up at our office or downloaded from our website at <http://www.hawaii.gov/doh/eh/cwb/forms/genl-index.html>.

3. The applicant may be required to apply for an individual NPDES permit if there is any type of activity in which wastewater is discharged from the project into State waters and/or coverage of the discharge(s) under the NPDES general permit(s) is not permissible. An application for the NPDES permit is to be submitted at least 180 days before the commencement of the respective activities. The NPDES application forms may also be picked up at our office or downloaded from our website at <http://www.hawaii.gov/doh/eh/cwb/forms/indiv-index.html>.
4. Hawaii Administrative Rules, Section 11-55-38, also requires the owner to either submit a copy of the NOI or NPDES permit application to the State Department of Land and Natural Resources, State Historic Preservation Division (SHPD) or demonstrate to the satisfaction of the DOH that the project, activity, or site covered by the NOI or application has been or is being reviewed by SHPD. Please submit a copy of the request for review by SHPD or SHPD's determination letter for the project.

If you have any questions, please contact Ms. Joanna L. Seto of the Engineering Section, CWB, at 586-4309.

Sincerely,



DENIS R. LAU, P.E., CHIEF  
Clean Water Branch

JLS:

c: Environmental Planning Office, DOH



**LANDMARK**  
CONSULTING

July 28, 2003

Denis R. Lau, P.E., Chief  
Department of Health, Clean Water Branch  
P.O. Box 3378  
Honolulu, HI 96801-3378

**Re: Comments on Draft Environmental Assessment  
Conservation District Use Application; CDUA KA-3133  
Proposed Browning Single-Family Residence  
Haena, Hanalei, Kauai, Hawaii  
TMK: (4) 5-9-02: 062**

Dear Mr. Lau,

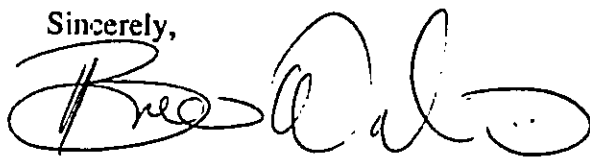
I spoke with Ms. Joanna L. Seto of your staff to review the comments contained in your letter dated June 13, 2002 pertaining to the proposed Browning Single-Family Residence. Ms. Seto clarified the applicability of your comments as they relate to the proposed action, and as a result of said conversation, I offer the following response:

- 1) As per your request, I have contacted the Army Corps of Engineers, initially by phone and then via follow-up correspondence (a copy of which is attached hereto for your review) to inquire into the Army's permitting requirements for the proposed action as it relates to the unnamed stream which is located directly to the east of the subject property. The Army Corp has been provided with a copy of the CDUA application, the Draft Environmental Assessment (DEA) and a copy of your comment letter. We are awaiting comments from the Army, the conditions of which (if any) shall be complied with. If the Army Corps requires a Section 404 permit, then it is the applicant's understanding that this requirement shall trigger a Section 401 permitting requirement with the Clean Water Branch.
- 2) Regarding the requirement for a National Pollutant Discharge Elimination System (NPDES) general permit, the proposed actions do not trigger the criteria for a general permit. Specifically:
  - (a) Construction activities, including clearing, grading, and excavation do not result in the disturbance of equal to or greater than one (1) acre of total land area. The subject parcel is approximately 16,718 square feet in size (equivalent to approximately 0.38 acres) and the proposed action is for the construction of a residence of approximately 3,093 square feet. Ground disturbance outside of the immediate footprint of the proposed residence will be minimal and shall be limited primarily to excavation for an Individual Wastewater System. No grading, grubbing, or excavation is intended within close proximity to the intermittent storm drainage channel.

- (b) As a component of the proposed action, we do not intend nor do we anticipate the need to undertake any hydrotesting or any discharge associated therewith.
  - (c) No discharge of construction dewatering effluent into the adjacent unnamed stream is anticipated. In the unlikely event that dewatering is necessary as a result of construction activities, then construction effluent shall be contained on the project site to ensure that no contaminants reach the stream channel.
- 3) Regarding the requirements for an individual NPDES permit, it is the applicant's understanding that based upon the proposed project characteristics and my conversation with Ms. Seto an individual NPDES permit will not be necessary. It is anticipated that there will be no wastewater discharged into the State waters as a result of the proposed actions.
- 4) Lastly with regards to the requirement that the owner/applicant submit a copy of the NOI and/or NPDES permit application to the State DLNR, Historic Preservation Division, we offer that since a NOI and a NPDES permit will not be necessary, these requirements shall likewise be unnecessary. Nevertheless, please be advised that an integral component of the CDUA and Environmental Assessment for the proposed action is an Archaeological Assessment, which has been reviewed and accepted by the SHPD. As a condition of the issuance of a Conservation District Use Permit (CDUP), a number of monitoring and reporting requirements will be imposed by SHPD to safeguard the integrity of historical and cultural resources.

We are currently in the process of revising the Final Environmental Assessment (FEA) for the proposed actions. Your comments and our manner of addressing these requirements will be incorporated into the FEA, as will our correspondence and resulting feedback with the Army Corps. Should you wish to offer any additional input, we request that you do so as soon as possible so that we can meet our 180-project assessment deadline of October 29, 2003. On behalf of the applicants, thank you for your time and assistance with these matters.

Sincerely,



Ben Welborn  
Project Consultant

cc: Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands



**LANDMARK**  
CONSULTING

July 28, 2003

George P. Young, P.E.  
Chief, Regulatory Branch  
Department of the Army  
U.S. Army Engineer District, Honolulu  
Building #230  
Fort Shafter, HI 96858-5440

**Re: Request for Comments**  
**Conservation District Use Application, CDUA KA-3133**  
**Marilyn & Rodger Browning Single Family Residence**  
**Haena, Hanalei, Kauai, Hawaii**  
**TMK (4) 5-9-002: 062**

Dear Mr. Young,

A Draft Environmental Assessment (DEA) covering the proposed action was accepted by the State DLNR, Office of Conservation and Coastal Lands (OCCL) on May 2, 2003. Subsequently, the OCCL sent copies of the DEA to various agencies for review and comment. Unfortunately, however, the Department of the Army was overlooked as a necessary agency in this review and comment process. Therefore, included herewith is a copy of the DEA for your review. At your earliest convenience, please respond with your comments to our office and to that of Ms. Dierdre S. Mamiya, Acting Administrator of the Office of Conservation and Coastal Lands, Department of Land and Natural Resources, State of Hawaii, P.O. Box 621, Honolulu, Hawaii 96809 (Attention: Ms. Dawn Hegger).

The requirement for Department of the Army input was made apparent in comments received from the State Department of Health, Clean Water Branch which requested that we contact your office to "*identify whether a Federal permit (including a Department of Army permit) is required for the proposed action*" (see attached letter dated June 13, 2003 from the Dept. of Health). Specifically, your feedback is requested with regards to permitting requirements for the "intermittent storm drainage channel" which is associated with the northeastern boundary of the subject property. According to the Clean Water Branch, this unnamed stream is classified as a Class 2, Inland Water (HAR, Section 11-54-05.1). Typically this stream/drainage channel is dry in all but the wettest of weather conditions whereupon it becomes a source of drainage for the pasturelands inland of the subject property. During such flood events, the storm waters drain out onto the nearby beachfront and oftentimes seep into the sand prior to reaching the ocean. After an episode of heavy rains, the stream channel will hold water for a period of days while seepage occurs. On average, based upon my local knowledge over the last 24 years and a familiarity with the drainage, significant runoff will reach the

ocean approximately once every two years. A photograph of the typically dry nature of the drainage channel is included in Photo D, Exhibit 11 of the Draft EA.

The proposed action is for the new construction of a 3,093 square foot single-family residence. The subject property is bounded along the intermittent stream channel by a rock wall of modern construction, which was constructed many years ago by one of the former owners of the property (the rock wall is evident in Photo D, of Exhibit 11). The proposed residence will be setback approximately 10 to 15 feet from the rock wall. No alteration to the rock wall or to the drainage channel is proposed in association with the current action. Nor is any discharge into the drainage channel, be it associated with hydrotesting, construction-dewatering effluent, or otherwise expected as a result of the proposed actions. In order to eliminate the potential for any detrimental surface water runoff, siltation, and/or the introduction of other contaminants that may be associated with construction activities into nearshore waters, a silt retention/construction fence will be erected along the back boundary of the parcel adjacent to the intermittent storm drainage prior to the commencement of construction activities.

On the opposing side of the drainage embankment there is a large forest of false kamani trees. A significant amount of leaf litter from these trees and the obstruction of sunlight to the underlying ground have resulted in a negligible understory of vegetation along the drainage channel (evidenced in the photo exhibit). Inland a short distance, the stream channel opens up into pastureland, which is dominated by a mixture of invasive alien plant species. To the best of my knowledge, no floral survey has been conducted of the microenvironment surrounding the drainage channel. However, if such a survey were conducted, it is my professional opinion that it would not reveal any significant or endangered habitats.

Given this information, please let us know whether or not any permitting requirements shall be imposed by the Department of the Army prior to the commencement of construction. Your comments (if any) will be included with the project file and a copy of the Final Environmental Assessment will be made available to your offices in the coming weeks. If, in order to make your determination you require any additional information, then please do not hesitate to call upon me.

Sincerely,



Ben Welborn  
Project Consultant

cc: Denis R. Lau, P.E., Chief, DOH, Clean Water Branch  
Dierdre S. Mamiya, DLNR, Office of Conservation & Coastal Lands





Water has no substitute.....Conserve it

3266

June 5, 2003

Ms. Dierdre S. Mamiya, Acting Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, HI 96809

Dear Ms. Mamiya:

Subject: Conservation District Use Application (CDUA) for Browning Single  
Family Residence at Haena, Hanalei District, Kauai, TMK: 5-9-2:62, Kuhio  
Highway

This is regarding your letter which we received on May 22, 2003 on the subject matter.  
Our records indicate that there is one existing 5/8-inch water meter serving this parcel.

We have no comments for this CDUA to construct the first single family dwelling on this  
parcel.

If you have any questions, please call Edward Doi at 245-5417.

Sincerely,

  
Gregg Fujikawa  
Water Resources and Planning Division Head

ED:emi  
23-181 Haena-Mamiya



**LANDMARK**  
CONSULTING

July 28, 2003

Gregg Fujikawa  
Water Resources and Planning Division Head  
Department of Water, County of Kauai  
P.O. Box 1706  
Lihue, HI 96766

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Mr. Fujikawa,

Thank you for your letter dated June 5, 2003 with comments on the proposed Browning Single-Family Residence in Haena. Your confirmation of a 5/8-inch water meter serving the parcel is hereby acknowledged.

Your comments will be included with the filing of the Final Environmental Assessment for the proposed action.

Sincerely,

Ben Welborn  
Project Consultant

cc: Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands

DEPARTMENT OF LAND AND NATURAL RESOURCES  
ENGINEERING DIVISION

File NO.:CDUA KA-3133

COMMENTS

We have reviewed the subject application, and concur that the property is located in the NFIP special flood hazard zone VE-23. Being in that special flood hazard zone, the subject development would be required to comply with NFIP regulations.

If there are questions regarding the NFIP, please contact the State Coordinator, Mr. Sterling Yong, of the Department of Land and Natural Resources at 587-0248. If there are questions regarding flood ordinances, please contact Mr. Wallace Kudo at 241-6620 of the County of Kauai, Department of Public Works.

Should you have any questions, please call Mr. Andrew Monden of the Planning Branch at 587-0229.

Signed:

  
ERIC T. HIRANO, CHIEF ENGINEER

Date:

6/12/03



**LANDMARK**  
CONSULTING

July 28, 2003

Eric T. Hirano, Chief Engineer  
DLNR, Engineering Division  
P.O. Box 621  
Honolulu, HI 96809

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

Dear Mr. Hirano,

Thank you for your memo dated June 12, 2003 with comments on the proposed Browning Single-Family Residence. Your confirmation of the NFIP flood zone designation of VE-23 for the subject parcel is hereby acknowledged.

The proposed residence is designed to comply with the NFIP regulations as administered by the County of Kauai, Department of Public Works.

Sincerely,

Ben Welborn  
Project Consultant

cc: Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands

LINDA LINGLE  
GOVERNOR OF HAWAII



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

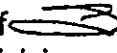
STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

June 16, 2003

03-650A CAB

**TO:** Dierdre S. Mamiya, Acting Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources

**FROM:** FOR Thomas E. Arizumi, P.E., Chief   
Environmental Management Division

**SUBJECT:** Conservation District Use Application for Marilyn and Rodger Browning,  
Haena, Kauai; TMK: (4) 5-9-002:062

This memo is to transmit the following comments on the subject document:

Control of Fugitive Dust:

There is a significant potential for fugitive dust emissions during all phases of construction. Proposed construction activities will occur in proximity to existing residences, public areas and major thoroughfares, thereby exacerbating potential dust problems. It is recommended that a dust control management plan be developed which identifies and addresses all activities that have a potential to generate fugitive dust. Implementation of adequate dust control measures during all phases of development and construction activities is warranted.

Construction activities must comply with the provisions of Hawaii Administrative Rules, §11-60.1-33 on Fugitive Dust.

The contractor should provide adequate measures to control dust from the road areas and during the various phases of construction. These measures include, but are not limited to, the following:

- a) Plan the different phases of construction, focusing on minimizing the amount of dust-generating materials and activities, centralizing on-site vehicular traffic routes, and locating potential dust-generating equipment in areas of the least impact;

Ms. Dierdre S. Mamiya  
June 16, 2003  
Page 2

- b) Provide an adequate water source at the site prior to start-up of construction activities;
- c) Landscape and provide rapid covering of bare areas, including slopes, starting from the initial grading phase;
- d) Minimize dust from shoulders and access roads;
- e) Provide adequate dust control measures during weekends, after hours, and prior to daily start-up of construction activities; and
- f) Control dust from debris being hauled away from the project site.

If you have any questions, please contact Mr. Barry Ching of the Clean Air Branch at 586-4200.

BC:jhm

(2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty per cent opacity.

(c) Compliance with visible emission requirements shall be determined by evaluating opacity of emissions pursuant to 40 CFR Part 60, Appendix A, Method 9 and other EPA approved methods.

(d) Emissions of uncombined water, such as water vapor, are exempt from the provisions of subsections (a) and (b), and do not constitute a violation of this section. [Eff 11/26/93; comp 10/26/98; comp 9/15/01]  
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)  
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-32 is based substantially upon §11-60-3. [Eff 11/29/82; am, ren §11-60-3 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-33 Fugitive dust. (a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions. Examples of reasonable precautions are:

- (1) Use of water or suitable chemicals for control of fugitive dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
- (2) Application of asphalt, water, or suitable chemicals on roads, material stockpiles, and other surfaces which may result in fugitive dust;
- (3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Reasonable containment methods shall be employed during sandblasting or other similar operations;

- (4) Covering all moving, open-bodied trucks transporting materials which may result in fugitive dust;
- (5) Conducting agricultural operations, such as tilling of land and the application of fertilizers, in such manner as to reasonably minimize fugitive dust;
- (6) Maintenance of roadways in a clean manner; and
- (7) Prompt removal of earth or other materials from paved streets which have been transported there by trucking, earth-moving equipment, erosion, or other means.

(b) Except for persons engaged in agricultural operations or persons who can demonstrate to the director that the best practical operation or treatment is being implemented, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates. [Eff 11/26/93; comp 10/26/98; comp 9/15/01] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-33 is based substantially upon §11-60-5. [Eff 11/29/82; am, ren §11-60-5 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

~~§11-60.1-34 Motor vehicles. (a) No person shall operate a gasoline-powered motor vehicle which emits visible smoke while upon streets, roads, or highways.~~

~~(b) No person shall operate a diesel-powered motor vehicle which emits visible smoke for a period of more than five consecutive seconds while upon streets, roads, or highways.~~

~~(c) No person shall cause, suffer, or allow any engine to be in operation while the motor vehicle is stationary at a loading zone, parking or servicing area, route terminal, or other off street areas except:~~





**LANDMARK**  
CONSULTING

July 28, 2003

Thomas E. Arizumi, P.E., Chief  
Department of Health  
Environmental Management Division  
P.O. Box 3378  
Honolulu, HI 96801-3378

**Re: Proposed Browning Single Family Residence  
Draft Environmental Assessment – Response to Comments  
Conservation District Use Application, CDUA KA-3133  
Haena, Hanalei, Kauai, Hawaii  
TMK (4) 5-9-02: 062**

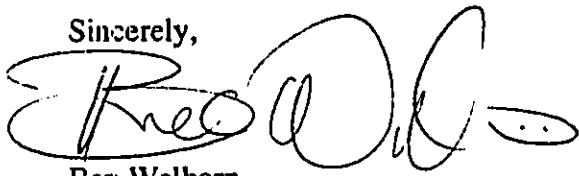
Dear Mr. Arizumi,

Thank you for your letter dated June 16, 2003 commenting on the proposed construction of the Browning Single-Family residence in Haena, Kauai. As per your recommendation, the owner/applicant has been familiarized with the provisions of Hawaii Administrative Rules, Chapter 11-60.1-33 on Fugitive Dust. The owners and their general contractor shall comply with the following guidelines and best management practices in order to control and minimize fugitive dust emissions associated with the project:

1. Grading activities will be minimized, inasmuch as is possible, in order to limit the extent of exposed soils and fugitive dust. Areas that are necessarily exposed by construction activities shall be revegetated as soon as the completion of construction activity within a given vicinity allows.
2. A 5/8 inch water tap will be hooked-up and activated at the project site prior to the commencement of grading and construction related activities. Water will be used where and when necessary to control fugitive dust emissions during grading and grubbing activities and throughout construction operations.
3. On-site vehicular traffic will be contained within a centralized area to prevent unnecessary exposure of bare soils.
4. Best Management Practices shall be implemented to contain dust generating equipment and activities to areas of least impact. Job site clean-up shall occur regularly to contain and properly dispose of dust generated by construction activities.
5. Construction related debris shall be removed from the job site in covered dumpsters and/or covered open-bodied trucks.
6. Access roadways (Road "G"), roadway shoulders, and nearby areas shall be maintained in a clean manner. Water shall be applied where and when necessary.

Your comments and recommendations along with this commitment of compliance shall be included with the Final Environmental Assessment (FEA) for the proposed action. A copy of Hawaii Administrative Rules, Chapter 11-60.1-33 will also be included within the FEA for reference. If you wish to offer any further comments, then please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Welborn". The signature is stylized and cursive, with a large initial "B" and "W".

Ben Welborn  
Project Consultant

cc: Dierdre S. Mamiya, DLNR, Office of Conservation and Coastal Lands

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Office of Conservation and Coastal Lands

2003 JUN -5 A 9:52


Ref.:PB:DH

File Number: CDUA KA-3133

Acceptance Date: May 2, 2003  
180 Day Expiration Date: October 29, 2003  
SUSPENSE DATE: 21 Days from  
stamped date MAY 22 2003

**MEMORANDUM**

TO: Division of Aquatic Resources, Division of State Parks, Historic Preservation Division, Engineering Division, and Kauai District Land Agent

FROM: Dierdre S. Mamiya, Acting Administrator   
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS  
Conservation District Use Application (CDUA)  
BOARD PERMIT

APPLICANT: Rodger and Marilyn Browning

FILE NO.: KA-3133

REQUEST: Construct Single Family Residence

LOCATION: Haena, Hanalei District, Kauai, TMK (4) 5-9-002:062

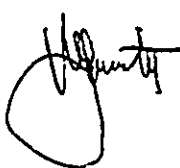
PUBLIC HEARING: YES NO X

Attached please find a copy of the subject CDUA, and our Department's Notice of Acceptance and Preliminary Environmental Determination. Please return the CDUA attachment.

Should you require additional information, please call Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380. If no response is received by the suspense date, we will assume there are no comments.

No Comments

Comments Attached

 6/2/03

AM10:48:38

MAY 23 '03

DLNR KDLD RCUJ

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Office of Conservation and Coastal Lands

DIVISION OF AQUATIC RESOURCES	
DIRECTOR	Suspense Date: <input checked="" type="checkbox"/>
COM FISHERIES	Draft Reply <input type="checkbox"/>
AG REC/ENV	Reply Direct <input type="checkbox"/>
AQ RECR'N	Comments <input type="checkbox"/>
STAFF SVCS	Information <input type="checkbox"/>
FISH DEV	Comp Act & File <input type="checkbox"/>
STATISTICS	Return to: _____
AFRC	Copies to: _____
EDUCATION	Remarks: _____
SECRETARY	_____
CDUA/AVES-3133	03-295
FED AID	_____

Ref.:PB:DH

File Number: 03-295

Acceptance Date: May 2, 2003  
180 Day Expiration Date: October 29, 2003  
SUSPENSE DATE: 21 Days from  
stamped date MAY 22 2003  
6/12

MEMORANDUM

TO: Division of Aquatic Resources, Division of State Parks, Historic Preservation Division, Engineering Division, and Kauai District Land Agent

FROM: *[Signature]*  
Dierdre S. Mamiya, Acting Administrator  
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS  
Conservation District Use Application (CDUA)  
BOARD PERMIT

APPLICANT: Rodger and Marilyn Browning

FILE NO.: KA-3133

REQUEST: Construct Single Family Residence

LOCATION: Haena, Hanalei District, Kauai, TMK (4) 5-9-002:062

PUBLIC HEARING: YES NO X

2003 JUN 16 P 3 35

Attached please find a copy of the subject CDUA, and our Department's Notice of Acceptance and Preliminary Environmental Determination. Please return the CDUA attachment.

Should you require additional information, please call Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380. If no response is received by the suspense date, we will assume there are no comments.

No Comments

Comments Attached

FONSI

6/12/03

*[Signature]*



# APPENDIX 2

## **Archaeological Assessment for Residential Parcel at Ha`ena, Kaua`i TMK (4) 5-9-02: 062**

May 02 02 07:52p

roger.browning

818 2226387

p.1

BENJAMIN J. CAYETANO  
GOVERNOR OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION  
KAKULIHEWA BUILDING, ROOM 565  
801 KAMOKIJA BOULEVARD  
KAPOLEI, HAWAII 96707

GILBERT S. COLMAN-AGARAN, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCES MANAGEMENT

DEPUTES  
ERIC T. HIRANO  
LAWEL N. HOKA

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND  
STATE PARKS

April 24, 2002

Ms. Marilyn Browning  
636 Crater Camp  
Calabasas, CA 91302

LOG NO: 29677 ✓  
DOC NO: 0204NM10

Dear Mrs. Browning:

**SUBJECT: Historic Preservation Review -- Archaeological Assessment for a Residential Lot at Haena, Kaua'i  
TMK: 4-5-9-02: 62, (Tom Dye, 2002)**

Thank you for sending us this assessment report (Dye 2002. Archaeological Assessment of a Residential Lot at Haena, Kaua'i. T.S. Dye & Colleagues ms.). Although no subsurface testing was conducted, based on the information in this report, it is highly unlikely that significant historic sites still exist on this lot. The lot has been cultivated with lawn, fruit and other trees. A modern retaining wall exists on the boundary. Therefore, we agree with your consulting archaeologist that the construction of a single-family dwelling on this parcel will have "no effect" on significant historic sites. We also approve this archaeological assessment report.

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

Aloha,

DON HIBBARD, Administrator  
State Historic Preservation Division

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Archaeological Assessment for a Residential Lot  
at Hā'ena, Kaua'i (TMK:5-9-02:62)

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## 1 Introduction

At the request of Marilyn M. Browning of Calabasas, California, *T. S. Dye & Colleagues, Archaeologists, Inc.* has prepared an archaeological assessment of a 16,718 ft.<sup>2</sup> residential lot at Hā'ena, Kaua'i, TMK:5-9-02:62. The assessment included a brief field check of the parcel to document existing conditions and an extensive review of maps and other documents to determine the likely presence or absence of unrecorded historic properties. Information on historic land-use patterns before, during, and after the *māhele* is presented, as are the results of archaeological surveys at Hā'ena Point and in the vicinity of the residential lot. The archaeological information is synthesized and used in conjunction with information on land-use patterns to formulate expectations for inventory survey results. The assessment concludes that construction of a single-family dwelling on the parcel will have "no effect" on historic properties because it is unlikely that significant historic properties are present.

## 2 Existing Conditions

The residential lot is located *mauka* of Kūhio Highway on Road "G" of the "Haena Hui" portion of Hā'ena *ahupua'a* (fig. 3). On the north and south it is bordered by developed residential lots, on the east by a small stream, and on the west by Road "G." The parcel is a flat lawn with banana, *kukui*, and sea grape trees along its edges and a small stand of bananas and hibiscus near the center. A low rock retaining wall with mortar bounds the parcel along the stream (fig. 2). Pieces of asphalt paving are also incorporated into the wall. Three sheds and a table are located at the *mauka* end of the parcel.

Soils at the residential lot are classified as Mokuleia fine sandy loam, which formed in recent alluvium deposited over coral sand (Foote et al. 1972:95). The soil is typically used for pasture.

There are no historic properties visible on the surface of the parcel. The only surface structure of possible historic age, the stone retaining wall, appears to be a modern construction. The use of mortar and inclusion of other modern materials indicate that the wall was either constructed or modified in the recent past.

## 3 Background Research

This section presents background information that can be used to predict the kinds and distributions of historic properties that might be present in the residential lot. The information also provides context for understanding and evaluating the significance of historic properties.

Documents and materials at the State Historic Preservation Division (SHPD) library and correspondence files, the SHPD geographic information system database, the Survey Office of the State of Hawai'i Department of Accounting and General Services, the Hawai'i State Library, the library of International Archaeological Research Institute, Inc. (IARII), and the library of *T. S. Dye & Colleagues, Archaeologists, Inc.*





Figure 1. A view of the residential lot from its southwest corner.

were consulted. All available archaeological project reports for Hā'ena *ahupua'a* were reviewed for this project. Most of these were found in the SHPD library, but one relatively recent report was consulted in the IARII library; a copy of this report was provided to SHPD for its library. Tax maps and information on the 1946 *tsunami* were found in the State Library. A nineteenth century map of Hā'ena was found in the Survey Office.

*ahupua'a*

*tsunami*

Materials in the State Archives were not reviewed because the pertinent nineteenth century land records for Hā'ena are presented by Hammatt et al. (1993).

Review of these materials indicates that the residential lot is on the margin of a large traditional Hawaiian settlement at Hā'ena Point. The general distribution of archaeological remains from this settlement is relatively well known, but the archaeological deposit itself hasn't been investigated in great depth.

The residential lot was also peripheral to the main mid-nineteenth century settlement in Hā'ena at Limahuli. The land commission awarded unirrigated agricultural lands to several claimants in the vicinity of the residential lot, and one of the many parcels awarded to the *konohiki* was nearby. Later in the nineteenth century a survey map shows the Hā'ena Point area was sparsely populated.

*konohiki*

### 3.1 Historic Land Use Patterns

This section presents information on historic land use patterns derived from available literature and records specific to Hā'ena *ahupua'a*, but also including more general references, as appropriate.

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Figure 2. A view of the residential lot from its eastern boundary, looking southwest. Note the use of mortar in the rock wall and the various outbuildings at the *mauka* end of the parcel.

### 3.1.1 Land Use Prior to the *Māhele*

*māhele*  
§13-276-5(b)(1)(A)(i)

Information on land use patterns in Hā'ena prior to the *māhele* comes from archaeological investigations, which typically assign broad patterns of land use to periods established with dates on archaeological charcoal and/or volcanic glass. The periods thus defined for Hā'ena are useful interpretive devices, but their temporal limits should be understood as loose approximations because the dating procedures used in their construction are now known to be unreliable. Volcanic glass dating was discredited some time ago (Olson 1983). None of the  $^{14}\text{C}$  dates on charcoal from Hā'ena have identified the type of wood used for dating. The use of unidentified wood charcoals introduces the possibility of in-built age and the potential for dates that are too old by several centuries (Dye 2000).

Yent (1980) presents a model of settlement pattern development at Hā'ena in a series of four cultural phases.

**Phase I** Transient settlement along the coastal terrace of Ke'e Beach with a marine-oriented economy. At present, the earliest date for this pe-

riod at Haena is A.D. 989.

**Phase II** Semi-permanent settlements along the coastal terrace with some inland expansions. Expanded resource base which included both marine resource utilization and limited agricultural resources on the alluvial plain accompanied by population increases. Dates for these developments center around A.D. 1200.

**Phase III** Permanent settlements on both the coastal terrace and the alluvial plain. Development of an intensive irrigated agricultural complex on the alluvial plain around A.D. 1400. Subsistence economy now consists of marine resources, agricultural products, and domesticated mammals.

**Phase IV** Historic contact period with a decrease in population and reduced occupation of the Haena area around A.D. 1700-1800. Historically, the agricultural system in Haena continued into the 1950s with wet taro being grown in the terraced system on the alluvial plain irrigated by Limahuli Stream and sweet potatoes being grown on the coastal terrace (Handy and Handy 1972:419).

Another four phase model was developed by Griffin (1884), which emphasizes the archaeological record of the historic period. The sequence begins with a poorly known Early Occupation phase of transient beach use by a population using a generalized strand-looping adaptation. No evidence of agriculture is known for this phase. A Mid-millennium stability phase encompasses the eleventh through eighteenth centuries, virtually the entire traditional Hawaiian era. This phase saw an increased reliance on taro production, with diminished exploitation of the sea.

[B]y the time of European arrival, most of the taro pondfields were completed, the *heiau* built, and the importance of Ha'ena as a social, political, and economic center established (Griffin 1884:14).

A nineteenth century Historic Transition Phase is posited on the basis of historical records, but the lack of excavated material from the houses and fields of individuals identified in the records is noted. The final Twentieth Century Adjustment phase is based primarily on excavations carried out by Riley and Ibsen-Riley (1979) in the abandoned hippy community at Taylor camp.

While these two models differ in many respects, they agree on an early period of coastal habitation followed by expansion of agricultural activities. Here it should be noted that the archaeological evidence for an early period of coastal habitation is highly susceptible to problems of in-built age in  $^{14}\text{C}$  dates. The reason for this is the likelihood that early settlers in a region had access to large stores of driftwood (Strong and Skolmen 1963) for firewood; driftwood on Hawaiian beaches has been shown to be several hundred to a thousand years old (Emory and Sinoto 1969). Given this situation, reliable dates from early beach deposits can only be obtained on identified wood charcoals selected to minimize the possible effects of in-built age.

### 3.1.2 Land Use at the Time of the *Māhele*

Silva (1995) researched land titles in Hā'ena, with emphasis on lands in the Hā'ena State Park. In the *māhele* of 1848, Hā'ena *ahupua'a* was reserved for Abenera Pākī, husband of Kamehameha I's grand-daughter L. Konia and father of Bernice Pauahi Bishop, last heir in the Kamehameha line. Pākī was a *kaukauali'i* who received six *ahupua'a* in the *māhele* (Kame'eiehiwa 1992:268), of the nine, including Hā'ena, he had held previously. Pākī claimed twelve *kō'ele* within Hā'ena, named Pākī, Kahookumaka, Oahu, Kapalaa, Akole, Kaluahine, Kailiili, Peekauai, Kalaole, Koi, Kanaele, and Keokea, and placed a *kapu* on taking octopus in the shallow waters of the *ahupua'a*, reserving them for his own use and enjoyment.

About 1837, Pākī appointed a woman, E. Kekela, *konohiki* of Hā'ena. Although not a native of Kaua'i, Kekela lived for 14 years in Halele'a district, prior to being named *konohiki*. Kekela was a widow of Kamehameha I's half-brother Kalaimamahū in 1810 when she was given by Kamehameha to Kamaholelani, a nephew of the Kaua'i chief Kaumuali'i. She lived with Kamaholelani at Lumaha'i, near Hā'ena, from 1810 until Kamaholelani died in 1820. She left for O'ahu with the civil unrest on Kaua'i that followed Kaumuali'i's death in 1824. She returned to Kaua'i in 1837 to take up her *konohiki* duties.

The award to Pākī respected the claims of twenty-three native tenants in Hā'ena.<sup>1</sup> Fifteen of the claimants received their lands from Kaua'i chief Kaumuali'i prior to 1824. Seven claimants received their lands sometime after Kaumuali'i's death, when the chiefs of Kaua'i's traditional chiefly lines were dispossessed and, in the words of an O'ahu chronicler, "the loafers and hangers-on (*palaualelo*) of Oahu and Maui obtained the rich lands of Kauai" (Kamakau 1992:268–269). The rights of the *kama'āina* who held lands granted them by Kaumuali'i were well-respected at Hā'ena, a circumstance attributed to Kekela's long tenure in Halele'a, and her familiarity with the older residents of the land:

Haena was relatively fortunate in this regard; the corps of older tenants [sic] was respected and their holdings were honored and protected (Silva 1995:34).

The locations of land commission awards in Hā'ena *ahupua'a* recorded on the tax map for Zone 5, Section 9 are shown in fig. 3. The map distinguishes the *konohiki* lands from those of the *maka'āinana*, and within the *maka'āinana* lands distinguishes four types of use. Houselots and *kula* are directly indicated in either the native register or foreign testimony for the parcel. The *lo'i* category includes parcels described as *lo'i kalo*, *mo'o kalo*, and *loko kalo*; it should be taken to indicate irrigated production of the staple taro. The mixed category includes parcels where the houselot and taro fields were contiguous, a settlement pattern that was common on the good taro lands in what is now Hā'ena State Park.

The land commission awarded five parcels in Hā'ena *ahupua'a* near Mānoa Stream and the residential lot (fig. 3). Descriptions of the parcels in the native register and foreign testimony records of the land commission are reproduced by Hammatt et al.

<sup>1</sup>The number of claims is given variously as 22 (Calis 2000:8), about 24 (Hammatt and Shideler 1998:9), and 32 (McGerty and Spear 1999:9).

§13-276-5(b)(1)(A)(ii)

*kaukauali'i*

*kō'ele*

*kapu*

*kama'āina*

*maka'āinana*

*kula*

*lo'i*

*lo'i kalo*

*mo'o*

*loko*

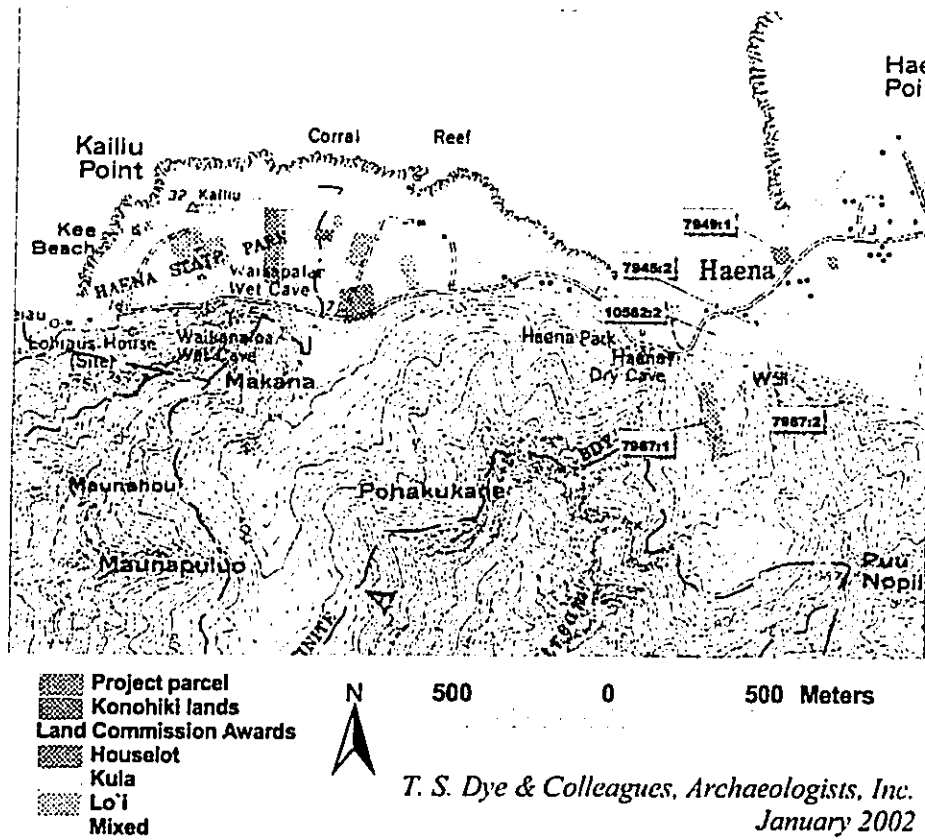


Figure 3. Land commission awards in Hā'ena ahupua'a

(1993). The award to the *konohiki* (LCA 7949:1) is described by Kamakama as a houselot in Waioli, which is most likely an error. More likely is Kamakama's description of 'āpana 2, as a houselot in Kalele-Haena. This type of inconsistency is relatively common in records of the land commission.<sup>2</sup> Large parcels of *kula* land were awarded to Keahiaka (LCA 7967:2) and to Opu (LCA 10562:2). Keahiaka was also awarded *lo'i kalo* along Mānoa Stream (LCA 7967:1). This was an 0.72 ha alluvial terrace irrigation system that took its water from a small independent stream with a 120 m 'auwai (Earle 1978:125, table 3). Foreign testimony makes it clear that the award to Kekala (LCA 7945:2) is the *kula* land described as 'āpana 1, bounded on one side by Keahiaka's *kula* and on the other by Opu's *kula*.

<sup>2</sup>See, for example, Earle's comments on the limitations of land commission records (Earle 1978:122 fn. 3)

'āpana

### 3.1.3 Land Use Since the *Māhele*

A survey map (Gay 1871) shows land use in Hā'ena *ahupua'a* twenty years after the *māhele* (fig. 4). A grove of trees, possibly coconut palms, is shown at Hā'ena Point extending back from the strand about 100 m. Four houses are shown *mauka* of the roadway, the easternmost of which is labelled "Clark's house." The other three unlabelled houses are closer to Mānoa Stream, in the vicinity of the *kula* lands awarded in the *māhele* (see fig. 3). The vicinity of the residential lot is blank on the map, indicating that it was vacant at the time.

*mauka*

§13-276-5b(1)(A)(iii)

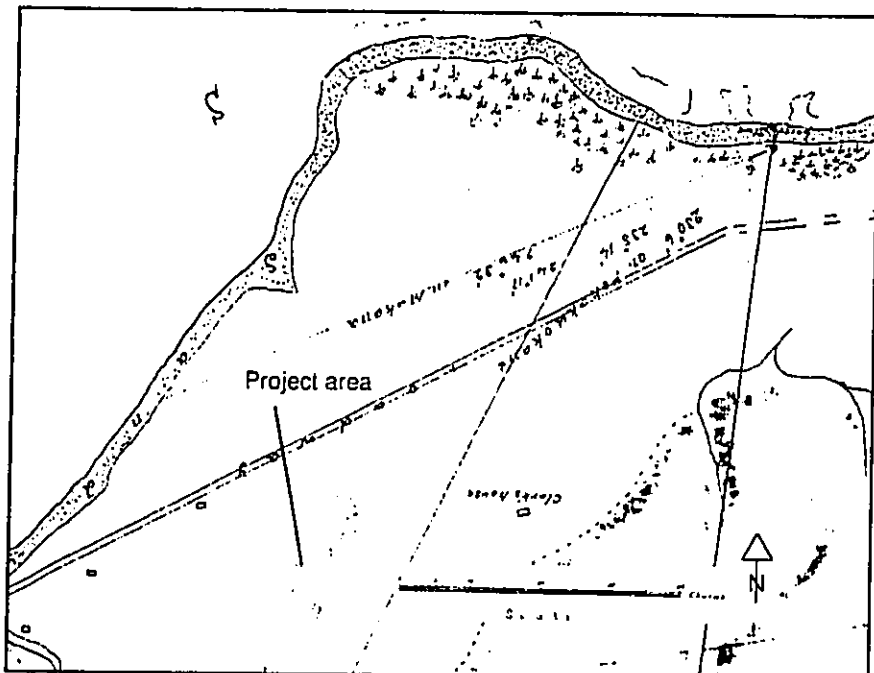


Figure 4. The Hā'ena Point portion of Gay (1871) showing the approximate location of the residential lot. Note that the map has been rotated so magnetic north is at the top of the figure. A scale and north arrow have been added to the annotated figure.

The twentieth century saw use of Hā'ena Point for habitation, with much of the area *mauka* of the highway used for pasture. Currently, the lands *makai* and *mauka* of the highway are being developed as single family residences.

## 3.2 Archaeological Background Information

This section reviews archaeological studies carried out in Hā'ena *ahupua'a*, with an emphasis on the eastern portion of the *ahupua'a* from Mānoa Stream to Hā'ena Point, which has been surveyed intensively in the last twenty years. It summarizes the findings

with a map of survey coverage in the vicinity of the residential lot (fig. 5). The results of the archaeological studies are analyzed from the points of view of settlement pattern and chronology. The results of this analysis are compared to and contrasted with the land use patterns derived from historical sources (pg. 3). In general, the archaeological studies indicate a more intensive use of Hā'ena Point than is indicated in the *māhele* records, although the levels of investigation and reporting are limited and place rather strong constraints on synthesis.

### 3.2.1 Archaeological Survey in Hā'ena Ahupua'a

There have been a great number of small archaeological surveys completed in Hā'ena ahupua'a near the residential lot and to the east at Hā'ena Point. These are reviewed below to determine the site types likely to be found at the residential lot.

§13-276-5(b)(2)(A)

**Surveys Near the Residential Lot** Earle (1978) mapped the *lo'i* system on the west bank of Mānoa stream (fig. 5, 19). The *lo'i* are associated with dry terraces, mounds, and an enclosure on the talus slopes and with a *heiau* at the top of the system near the origin of the 'auwai (Earle 1978:fig. 6.6). No excavations were undertaken.

Kennedy (1989a) excavated four backhoe trenches in a previously bulldozed lot *makai* of Kūhiō Highway (fig. 5, 12). A soil horizon was exposed at and near the surface, but no indication is given whether this soil layer represents a cultural deposit. Later, it was reported that "no significant cultural deposits were present" (Moore and Kennedy 1995:15, emphasis added) at the parcel. Moore and Kennedy (1995) report results from an additional four backhoe trenches immediately east (fig. 5, 11). Stratigraphic descriptions indicate that they found what appears to be a buried cultural layer in trench 4 and possibly trench 3, but failed to recognize it. Marine shells recovered from the trenches "could not be attributed to anthropomorphic [sic] activities" (Moore and Kennedy 1995:15). Incomplete remains of one individual, presumably Hawaiian, were discovered during house construction (McMahon 1996).

*makai*

Shun (1994) excavated four long trenches across a property adjacent to the residential lot, *mauka* of Kūhiō Highway (fig. 5, 14). No cultural materials were found in the surface alluvium or in the basal calcareous sand.

Kennedy (1989b) excavated four backhoe trenches immediately *mauka* of Kūhiō Highway (fig. 5, 13). The trenches exposed calcareous sand, which is not further described in the report. Presumably, the sand is light-colored because "no cultural material of any kind was present" (Kennedy 1989b:2), although the dog skeleton recovered from a depth of about 1 m presumably represents an intentional burial and not natural deposition.

Dye (1998) recorded three sites on a property *mauka* of Kūhiō Highway west of the residential lot (fig. 5, 15). Two stone structures, Sites 50-30-02-1994 and -1996, are located at the *mauka* end of the property at the base of the talus slope. Site -1994 is a *heiau*. Site 50-30-02-1995 is a remnant cultural deposit exposed at the *makai* east corner of the property, near Kūhiō Highway.

Hammatt et al. (1993) excavated 17 backhoe trenches, exposing a buried cultural layer at the *mauka* end of a property *makai* of Kūhiō Highway (fig. 5, 17). The cultural layer "probably occurs throughout the property, but is buried . . . by as much as 3 meters

of dune and fill sand" (Hammatt et al. 1993:29). An *imu* cut from the cultural layer yielded a  $^{14}\text{C}$  date of  $80\pm 60$  indicating either a late prehistoric or historic-era age for the deposit. Although the authors interpret the  $^{14}\text{C}$  date to indicate late prehistoric traditional Hawaiian use of the area (Hammatt et al. 1993:27), the possibility of in-built age for the unidentified wood charcoal makes this interpretation somewhat tenuous. The cultural layer yielded only three basalt flakes.

Wickler (1989) carried out an extensive program of auger and shovel testing west of the residential lot, immediately inland of Kūhiō Highway (fig. 5, 16). A basal deposit of calcareous sand was found near the surface near the highway and at increasing depths toward the *mauka* edge of the property. It was buried by alluvial sediments containing some charcoal and modern cultural material, such as glass and plastic. No traditional Hawaiian cultural deposit was found.

McGerty and Spear (1999) assign a deeply buried and stratigraphically variable layer of dark sand at Hā'ena Beach Park to State Site 50-30-02-788 (fig. 5, 18). They provide no evidence that the layer represents a cultural deposit; instead they assume that the layer "derived from past human activity in the area" (McGerty and Spear 1999:32). A sample of sediment from the supposed cultural layer yielded a  $^{14}\text{C}$  date of  $370\pm 70$ , which falls within the traditional Hawaiian period. This result is not interpretable, however, because the sediment is not associated with an archaeological event and the source(s) of the dated carbon were not identified. Evidence for cultural activity associated with this buried layer should be obtained before it is considered a traditional Hawaiian site. It could just as well represent a *paleosol*, whose presence is due to natural and not cultural processes.

McMahon (1988) recorded the remains of possibly four individuals disturbed when a bulldozer removed ironwood trees from the crest of a "semi-U shape" sand dune on either side of Kūhiō Highway east of the residential lot (fig. 5, 8). A cultural layer was present, but was disturbed by the tree removal, and was not described in detail. It appears that the individuals were assumed to be Hawaiian and were reinterred in place with the participation of the Office of Hawaiian Affairs.

Folk (1990) found a traditional Hawaiian cultural deposit whose *makai* edge is about 100 m from the beach and which runs to Road D-2 at the *mauka* end of a beach-front property (fig. 5, 9). It is found between 13 cm and 100 cm below surface and has a maximum thickness of at least 54 cm. Profiles of the cultural deposit (Folk 1990:figs. 6 and 7) indicate that it was located on the gently sloping *mauka* face of the Hā'ena dune, and that the eastern edge of the deposit was possibly truncated by an intermittent stream.

Hammatt and Shideler (1998) excavated trenches totalling 45.6 m on a parcel immediately *makai* and to the east of the residential lot, on the *makai* side of Kūhiō Highway (fig. 5, 10). No subsurface cultural remains were found, due possibly to the erosional effects of tidal waves (Hammatt and Shideler 1998:27-29). However, all of the trenches were excavated west of the expected location of the cultural deposit, based on the results reported by Folk (1990).

**Surveys at Hā'ena Point** Dixon et al. (1997) and Soldo and Dixon (1994) report a concentration of the extinct landsnail *Carelia dolei isenbergi* at State Site 50-30-10-



1031 *makai* of Kūhiō Highway, east of the residential lot (fig. 5, 7). The *C. dolei* shells were in a sealed deposit with the Polynesian introduced landsnail *Lamellidea oblonga*, indicating that the *C. dolei* extinction event occurred after Polynesian colonization of the islands. A single  $^{14}\text{C}$  date of  $1390 \pm 60$  on *C. dolei* includes an unknown but potentially substantial in-built age, and the calibrated age of A.D. 252–549 provides a *terminus post quem* for extinction. Thus, *C. dolei* became extinct sometime within the last 1,750–1,450 years, well after their hypothesized Pleistocene demise (Cooke 1931). Whether they were extinguished during traditional Hawaiian times, or later in the historic period, cannot be distinguished with the information provided by Dixon et al. (1997).

They also report eleven archaeological features recorded in two stratigraphic layers in the upper 50 cm of unconsolidated calcareous sand. These include seven firepits, one *imu*, two landsnail deposits, and one modern trash pit.  $^{14}\text{C}$  dates on unidentified wood charcoal from one of the firepits and the *imu* returned conventional  $^{14}\text{C}$  ages of  $460 \pm 60$  and  $520 \pm 80$ , respectively. These dates have unknown but potential in-built age of up to about 200 years due to the possibility that the dated materials were long-lived species of relatively great age when they were burned in traditional Hawaiian times. Interpreted conservatively, the  $^{14}\text{C}$  dates indicate use of the coastal plain sometime in the fifteenth to early eighteenth centuries.

Hammatt and Shideler (1989c) and Hammatt (1989) excavated 35 m<sup>2</sup>, revealing a discontinuous traditional Hawaiian cultural layer in the *makai* and *mauka* portions of the property (fig. 5, 5). The layer yielded an artifact assemblage dominated by basalt and volcanic glass flakes, but also including coral, sea urchin spine, and basalt files, and a cowrie shell octopus lure. Faunal remains include a relatively large number of seabird and mammal bones, as well as *Neritina* sp. shells that indicate harvesting in Mānoa stream.  $^{14}\text{C}$  dates on unidentified wood charcoal yielded calibrated ages ranging from the last half of the thirteenth to seventeenth centuries. Given the possible influence of in-built age, a conservative interpretation of the  $^{14}\text{C}$  evidence indicates traditional Hawaiian use of Hā'ena point by the fifteenth century. Denham and Kennedy (1993) describe the discovery of the partial remains of at least 18 individuals from disturbed deposits after construction of the Zimmerman house had begun. A large collection of traditional Hawaiian artifacts, also from disturbed contexts was made. The artifacts include adzes, chisels, a mother-of-pearl pendant in the shape of a *niho palaoa*, and a possible *kā'ula*.

Hammatt and Shideler (1989a) investigated remnants of a truncated traditional Hawaiian cultural layer at Hā'ena Point (fig. 5, 4), recovering a small collection of mostly marine shell midden, a single flake of volcanic glass, and the remains of two individuals, one disturbed by excavation and the other intact at a depth of 2 m below surface. Thirty-one sets of human remains were discovered during construction, along with a small collection of burial goods (including two *Pinctada* shell ornaments), and artifacts including hammerstones, adzes, basalt and volcanic glass flakes, a stone bowl or lamp, cowrie shell octopus lures, coral and sea urchin spine files, a bone ornament and a fishhook blank (Rechtman 1994).

Hammatt and Shideler (1989b) report results of 10.5 m<sup>2</sup> excavation at the Rasten property (fig. 5, 8). Excavations yielded 307 traditional Hawaiian artifacts, primarily basalt flakes, many with polish indicating they derived from a finished tool such as an

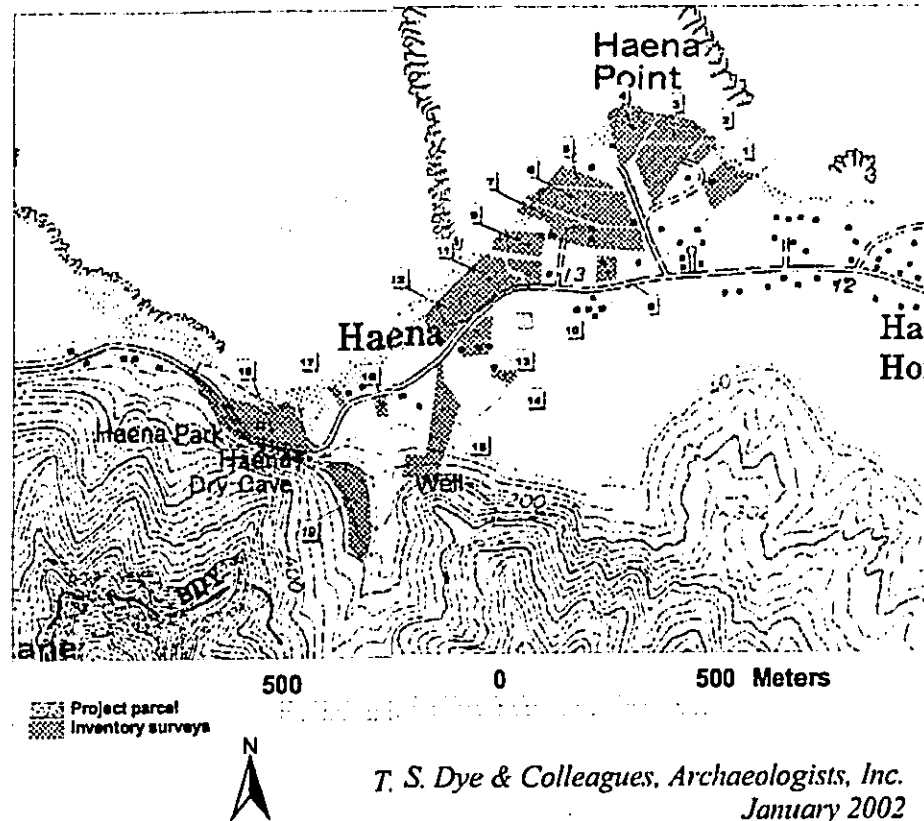


Figure 5. Archaeological survey coverage in the vicinity of the residential lot. See text for results of inventory surveys at numbered parcels.

adze, volcanic glass flakes, several adzes, a hammerstone, basalt, coral and sea urchin spine abraders of various forms, bone and shell fishhooks, and dog tooth and shell ornaments. Historic-era artifacts were absent. Vertebrate faunal remains include fish, birds, pig, dog, Polynesian rat, and turtle, and indicate consumption of relatively large numbers of pigs. Historically-introduced taxa were not recovered. Among the birds were bones of albatross and goose, neither of which were known to nest on Kaua'i during the historic period. Fish bone was composed primarily of inshore taxa, with a large number of shark or ray vertebrae. Marine invertebrate remains include primarily shells that could have been collected from the inshore waters adjacent to the property, but also *Neritina* sp., probably collected from Mānoa Stream, and 'ōpili, which might have been collected along the Nā Pali coast. Two  $^{14}\text{C}$  dates on unidentified charcoal yielded calibrated ages ranging from the fourteenth to fifteenth centuries. Given the possibility of in-built age, these dates can be conservatively interpreted to indicate traditional

Hawaiian use of the area by the fifteenth century. A "basalt boulder feature" associated with abundant charcoal was uncovered at the base of the cultural layer (Hammatt and Shideler 1989b:fig. 9), but it is not interpreted.

Kruse (1994) presents field notes from monitoring house construction at Hā'ena Point (fig. 5, 1). The notes record in minimal detail the discovery and reinterment of a single individual from burial Site 50-30-02-870.

Rosendahl (1989) identified "a dark grey to black cultural deposit which evidenced aboriginal occupation and exploitation of the area" but failed to note the stratigraphic position of the deposit (fig. 5, 3).

Hammatt (1980) discovered a cultural layer in a wave-cut bank within 30 cm of the present land surface at Hā'ena Point (fig. 5, 2). It contained artifacts, marine shell midden, and charcoal. Four years later, Hammatt (1984b) returned to the parcel, excavated three test pits along the wave-cut bank and reported no indication of buried cultural deposits. As a result of these investigations, Hammatt concluded that there are "no archaeological remains in the dune deposits" and recommended no further archaeological investigations. Subsequently, Hammatt (1984a) returned to the parcel, excavated six test pits, and rediscovered the cultural deposit which is described as having "fairly heavy midden content" and which yielded an 'ulu maika and basalt and volcanic glass cores and flakes.

'ulu maika

### 3.3 Synthesis of Archaeological Information

Archaeological investigations in Hā'ena *ahupua'a* near Mānoa Stream have revealed the presence of a widespread buried traditional Hawaiian cultural layer in the sandy soils near the shore, stone structures including a *heiau* at the base of talus slopes near the mountains, and agricultural fields, *heiau*, shelters and enclosures in the Mānoa Stream valley. No traditional Hawaiian sites have been found on the former pasture lands between the base of talus slopes and the sandy soils mostly *makai* of the highway.

The discontinuous traditional Hawaiian cultural layer at Hā'ena Point is listed as Site 50-30-02-1809 (State Historic Preservation Division 2001) in the SHPD geographic information system database. This site was probably established by the fifteenth century A.D.; claims for an earlier settlement do not take into account the likely effects of in-built age on unidentified wood charcoal used in  $^{14}\text{C}$  dating. The wide range of traditional Hawaiian artifacts recovered from the site indicate use for habitation and burial. Subsurface archaeological features associated with habitation are present and include *imu* and stone structures. These have received relatively little attention, despite their importance in reconstructing traditional Hawaiian settlement at Hā'ena Point. The site has yielded a wide range of faunal material indicating animal husbandry of pig, dog, and chicken and fishing in the shallow and deep water offshore. It has been suggested that 'ōpīhi were brought to the site from the Nā Pali coast and that inhabitants of the settlement at Hā'ena Point regularly harvested snails from Mānoa Stream. Recovery of bones from a seabird and a goose not known to nest on Kaua'i during the historic period indicate either different environmental conditions in the past, or possible inter-island transport of birds. Dates for the presence of these birds at Hā'ena can be established by dating the bones directly, using sample preparation techniques described by Stafford et al. (1991).

The discontinuous nature of Site 1809 is explained as a result of twentieth century land modifications and erosion due to tsunami. Coastal sand deposits generally develop as a series of ridges and swales that parallel the coast; land modifications typically flatten this undulating topography by pushing the crests of ridges into the swales. In places, this creates a discontinuous cultural deposit buried in former swales and absent on former ridges. The situation at Hā'ena Point might be more complex than this, however, and awaits a more detailed analysis. The effects of tsunami are believed to have been greatest at the western edge of the site (Hammatt and Shideler 1998). Records of the 1946 tsunami indicate wave heights up to 14 m behind the channel in the coral reef at Mānoa Stream (fig. 6). The wave had devastating effects on the land. Cultural deposits are found in the sandy soils here, but they haven't been explored in depth so it is not possible to specify what effects, if any, tsunami have had on them.

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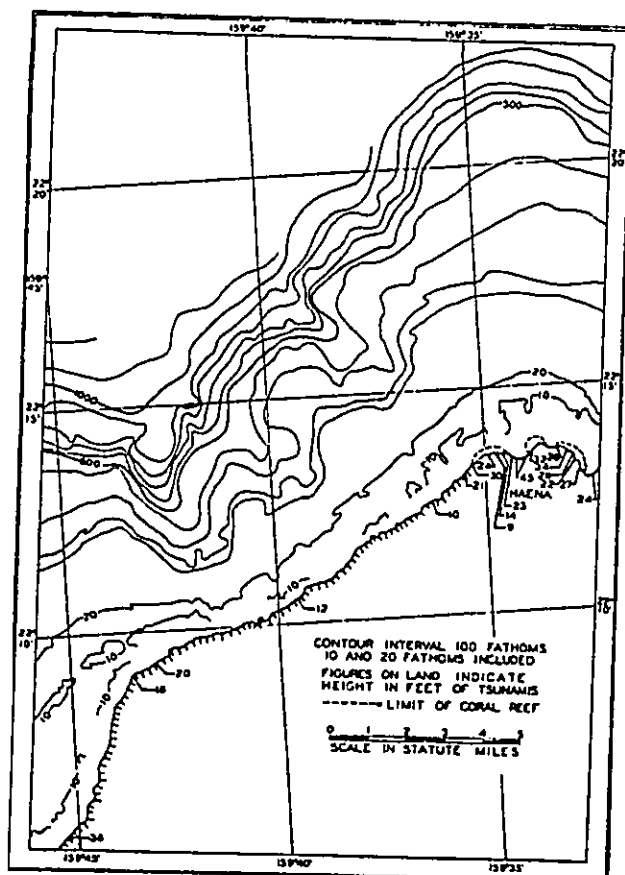


Figure 6. Wave heights in Hā'ena during the 1946 tsunami. Source: Shepard et al. (1950).

Human burial remains are numerous in the sandy coastal soils of Hā'ena Point. In general, archaeological inventory survey techniques employed to date have been

unsuccessful in locating or predicting the locations of burial sites at Hā'ena Point. These techniques, which include augering, excavation of small test pits, and backhoe trenching, are all designed to yield stratigraphic information and concentrate on the vertical dimension, rather than the horizontal. An alternative technique that has been used successfully to identify burial sites elsewhere in the islands maximizes horizontal exposure by scraping the surface. The goal of this technique is to expose the tops of possible grave shafts, which can be identified by the mixed sediment used to fill them, without exposing human remains.

#### 4 Summary and Conclusions

The residential lot at TMK:5-9-02:64<sup>62</sup> is located in the lands between the talus slopes and the coastal sands where numerous surface and subsurface archaeological inventory surveys indicate traditional Hawaiian archaeological sites are absent. The residential lot itself has been landscaped with a lawn and fruit and other trees. A modern retaining wall maintains the level topography and protects the land from a small stream that runs along its eastern boundary. Thus, it is expected that there are no significant historic sites at this parcel.

Construction of a single-family dwelling on the residential lot at TMK:5-9-02:64<sup>62</sup> will have "no effect" on historic properties because it is unlikely that historic properties are present.

It is possible that human burial remains will be unearthed during routine construction activities. Should this be the case, all work in the vicinity of the remains must stop. The burial remains must be reported to the SHPD, which will consult with interested parties to determine whether the remains shall be preserved in place or reburied at another location.

## Glossary

Entries for Hawaiian words are excerpted or paraphrased, where possible, from the *Hawaiian Dictionary* (Pukui and Elbert 1971), or from Lucas (1995).

**ahupua'a** Traditional Hawaiian land division usually extending from the uplands to the sea.

**'āpana** Piece, slice, portion, fragment, section, land division, lot, district, sector.

**'auwai** Ditch.

**heiau** Traditional Hawaiian place of worship.

**'ili** A land section, next in importance to *ahupua'a* and usually a subdivision of an *ahupua'a*.

**imu** Earth oven.

**kama'āina** Native-born, one born in a place, host.

**kapu** Taboo, prohibition; special privilege or exemption from ordinary taboo; sacredness; prohibited, forbidden; sacred, holy, consecrated; no trespassing, keep out.

**kaukauali'i** Class of chiefs of lesser rank than the high chief, the father a high chief and the mother of lower rank but not a commoner.

**kō'ele** Small land unit farmed by a tenant for the chief.

**konohiki** Headman of an *ahupua'a* land division under the chief; land or fishing rights under control of the *konohiki*; such rights are sometimes called *konohiki* rights.

**kula** Plain, field, open country, pasture. Land with no water rights.

**kū'ula** Any stone god used to attract fish, whether tiny or enormous, carved or natural, named for the god of fishermen.

**lo'i** A single irrigated taro patch. Irrigated terrace, especially for taro.

**lo'i kalo** Irrigated taro patch. See *lo'i*.

**loko** Pond, lake, pool.

**māhele** Land division of 1848.

**maika** Ancient Hawaiian game suggesting bowling.

**maka'āinana** Commoner, populace, people in general.

**makai** Seaward.

**mauka** Inland, upland, toward the mountain.

*mo'o* Narrow strip of land, smaller than an *'ili*. In Halele'a district, of which Hā'ena is an *ahupua'a*, a narrow strip of irrigated land along an irrigation ditch (Earle 1978:146).

*niho palaoa* Whale tooth, whale-tooth pendant, a symbol of royalty.

*'ōpili* A limpet, *Cellana* sp.

*tsunami* Tidal wave.

*'ulu maika* Stone used in *maika* game.





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# APPENDIX 3

**Cultural Impact Assessment  
Proposed Browning Single-Family Residence  
Ha`ena, Kaua`i  
TMK (4) 5-9-02: 062**

# Cultural Impact Assessment

## Proposed Browning Single Family Residence

TMK (4) 5-9-02:062  
Ha`ena, Kaua`i, Hawai`i

This report is an assessment of the potential impacts upon cultural resources as a result of the proposed construction of a single-family residence on the subject property, TMK (4) 5-9-02:062. Cultural impacts are defined as those "relating to the practices and beliefs of a particular cultural or ethnic group." The information contained within this report was gathered through interviews with knowledgeable informants and supplemental documentary research.

Protocol for assessing cultural impacts as prescribed by the Office of Environmental Quality Control (OEQC), was adhered to in preparing this report. The methods used included:

- (1) Identification and consultation with individuals and organizations with expertise concerning the types of cultural resources, practices and beliefs found within the ahupua`a in which the parcel is located.
- (2) Identification and consultation with individuals and organizations with knowledge of the area potentially affected by the proposed action.
- (3) Conducting ethnographic interviews and gathering oral histories from persons having knowledge of the area.
- (4) Conducting ethnographic, historical, anthropological, and culturally related documentary research.
- (5) Assessing the impacts of the construction of a single-family residence on TMK (4) 5-9-02:062 on the cultural resources, practices and beliefs of native Hawaiians in the area.

I. Consultation with Individuals and Organizations

1) **Mary Requilman**

Kaua`i Historical Society  
4396 Rice St., Suite 101  
Lihue, HI 96766  
Phone (808) 245-3373

A visit to the offices and archives of the Kaua`i Historical Society turned up no information regarding cultural resources or practices in the immediate vicinity of the subject parcel. Ms. Requilman stated that she was unaware of any identified historical or cultural resources connected to this parcel, and said that she doubted anything would be found to contradict information received from local informants. She suggested researching the Hawai`i State Archives, "Land Commission Awards of Kaua`i" translated in 1995 from the Hawaiian language. This was done, and nothing was found to suggest cultural importance for this parcel, which was part of L.C. Award # 10618, Apana 6, awarded to Abner Paki.

2) **Chipper Wichman**

Director, Limahuli Gardens  
National Tropical Botanical Gardens  
Director, Hui Maka Ainana o Makana (local grassroots org.)  
P.O. Box 808  
Hanalei, HI 96714  
Phone (808) 826-5547

Mr. Wichman was interviewed and recorded on June 27, 2002. He has been involved in historic preservation, the restoration of archeological sites, and the preservation of native culture for 25 years. For the past two years he has also been involved in a project documenting both the historical and modern cultural practices in the Ahupua`a of Ha`ena.

Mr. Wichman stated: "Since the time of the Hui partition, which started in 1955 and was concluded in 1967, that property has been designated as a house lot. It was already graded, and there hasn't been any traditional cultural use of the property. The property is all sand, and to my knowledge there is no archaeological construction there. There has been no modern usage. There are no native species growing there, so there has been no gathering of medicinal plants. So I would say that there is no existing cultural use of that property."

When asked whether he felt there would be any cultural impacts from building a single-family residence on the subject lot, he replied, "On that property no, because it would not be restricting access to any cultural resources."

**3) Thomas Dye, Ph.D.**

Thomas S. Dye, Ph.D. & Colleagues, Archaeologists, Inc.  
735 Bishop St., Suite 315  
Honolulu, HI 96813  
Phone (808) 529-0866

Mr. Dye is an experienced and respected archaeologist with considerable experience conducting archaeological studies in the Ahupua`a of Ha`ena. Reference is made his report entitled an "Archaeological Assessment for a Residential Lot at Ha`ena, Kaua`i (TMK: 5-9-02: 62) which contains detailed research and discussions regarding the archaeological, historical and cultural resources of the area. This report has been reviewed and approved by Mr. Ross Cordy, State Archaeologist, with the DLNR, State Historic Preservation Division. Mr. Dye's conclusion is that the, "Construction of a single-family dwelling on the residential lot at TMK: 5-9-02:62 will have 'no effect' on historic properties because it is unlikely that historic properties are present."

**4) Rick Tsuchiya**

Kaua`i Historic Preservation Review Commission  
Administrator, County of Kaua`i, Planning Department  
4444 Rice Street, Suite 473  
Lihue, HI 96722

Mr. Tsuchiya consulted the State's Historic and Non-Historic Resource Inventory Composite List for the Island of Kaua`i (rev. 9/7/98). The subject parcel was not listed within the State's inventory, indicating that no sites of historic or cultural significance are known to exist on the subject property.



## II. Ethnographic and Oral History Interviews

The following individuals were interviewed based upon their knowledge of the Ha`ena Ahupua`a and their familiarity with general history of the area:

### 1) **Chipper Wichman** (Interviewed on June 27, 2002 - - preserved on tape)

Mr. Wichman is perhaps the most knowledgeable ethnographic and historical informant on the North Shore of Kaua`i. The Director of Limahuli Gardens, and a prominent board member of the Hui Maka Ainana o Makana, a local cultural/historical preservation group, Mr. Wichman's knowledge is well documented and highly respected. Mr. Wichman has recently been involved in a two-year project documenting the historical and modern cultural practices in Ha`ena.

Question: What is your genealogical relationship to this area?

Answer: "My family has been here for five generations."

Question: What expertise or knowledge do you have of this area?

Answer: "I have been involved in historic preservation and restoration of archeological sites as well as the preservation of our people's culture for 25 years. That is my life."

Question: Are you aware of any past or current cultural practices associated with this property?

Answer: "Since the time of the Hui partition, which started in 1955 and was concluded in 1967, that property has been designated as a house lot. It was already graded, and there has not been any traditional cultural use of that property. The property is all sand, and to my knowledge there is no archaeological construction there. (I used to visit there when Mitchell Kaneali`i lived there, 15-20 years ago.) There has been no modern usage, there are no native species growing there, so there has been no gathering of

medicinal plants, so I would say that there is no existing cultural use of that property."

Mr. Wichman stated that there is no way of knowing what religious practices may have taken place historically, as private ceremonies often took place at the homes, rather than at organized religious sites.

"Historically though, there may well have been the possibility of burials. The kahuna would bury loved ones in the floor of their huts. There is no way to predict this. In 1946 and '57, the area was inundated by tidal waves, so burials and structures could have been moved or bones from elsewhere may have been washed there. But since it has been graded, they (the bones) would have been on the surface."

"This area has also been heavily walked on by cattle, which roamed wild there. In the days of the Hui, everyone fenced their home property, and the cattle roamed everywhere." He cited this fact as being one of the things which had a major impact on cultural resources, plants, and structures that may have formerly been in the area.

Question: In general, is there any cultural impact to be had from building a residence on that site?

Answer: "On that property, probably not, because it would not have been restricting access to any cultural resources. Probably the greatest impact, in my opinion, would be if the home became a vacation rental. What's happening in our community is that houses are being developed into very expensive vacation rentals, and it's really tearing the fabric of our community apart. It affects our culture..."

## 2) Michael Olanolan (Interviewed on June 25, 2002)

Michael Olanolan is the senior member of the Olanolan family, lifelong resident of the North Shore, and neighbor to the subject property. The interview with Mr. Olanolan was not tape-recorded. Mr. Olanolan stated that he was unaware of any cultural resources associated with the

subject property, which he has known well for decades. He informed the interviewer that that area was once part of a local rodeo arena, where he and other youngsters practiced their skills with cattle and held informal competitions about thirty years ago. He expressed support of the project and helped to arrange other interviews with local kupuna (elders).

3) **Thomas Hashimoto a.k.a. "Uncle Tom"** (Interviewed on June 27, 2002)

\* Mr. Hashimoto declined to be tape-recorded but agreed to have his name used for this report and to have his comments summarized by the interviewer.

Tom Hashimoto is a local kupuna (elder), a preservationist, and a principal member of the Hui Maka Ainana o Makana. Mr. Hashimoto is 68 years old and was raised in Ha`ena. He was a taro farmer for many years and he works closely with Chipper Wichman. He has also been a fisherman. His is very involved with the local preservation society which is restoring taro fields on the north shore just down the road from Ke`e beach and across from the Wet Cave. We discussed that project and its history and his work with it at length.

When asked whether he was aware of any cultural practices which took place in the area around what is now Road G, he said, "Nope, not in my lifetime." When asked whether he felt there would be any cultural impact from building a single-family residence on the subject lot, he said he did not think so because, "that area used to all be part of the Robinson ranch, and there were cattle running around there for years." He reported that he and his playmates used to go there and practice roping cattle. According to him, there was not an arena there, but it was a place where local boys "played at rodeo, not on that lot, but in the outlying area."

He also noted that a residence on the parcel would not affect access to any cultural resources, plants, or the beach. He said, "I used to think that that lot belonged to the Kaneali`i family for a long time, but it didn't. It was part of the ranch, and then it changed hands many times. It had a mainland owner before Kaneali`i." His feeling was that the parcel had been designated a residential lot and had therefore been open to development for a long time and also that it had not been in native Hawaiian hands for a long time.

Mr. Hashimoto gave his "blessing" to the project but said that it had to be "pono," which he described as meaning "with good feeling, agreement, and respect." The most important thing to him was that the project be built in a way which is pono.

4) **Sampson Mahuiki** (Interviewed on July 1, 2002 - - preserved on tape)

The senior member of Mahuiki family and a neighbor to the subject parcel who owns most of the property to the south side of Road G. He describes his wife as being "a real kahuna," to whom people come for help and ceremonies. Mr. Mahuiki's family has been on this land, "since the Mahele." Mr. Mahuiki could identify no current cultural resources or practices that would be affected by building a residence on the subject lot.

He spoke of his frustration with the permitting process and the public hearings. "Why should we have all these processes now? All this was built without it? Why should we change it? It's too late." He said the State should have done this assessment long ago, and said, "If we gave you flack, then you couldn't build, but we wouldn't do that. There are houses all over here. Why should we deprive you?" he asked, when the interviewer suggested that this process was to protect him.

He said, "You won't get opposition from those who know the place. This thing was all one house lot. Up 'til 1946 my uncle lived here. Tsunami got it, and they rebuilt. But now, with all these buildings here, they shouldn't even worry about holding up your process. They didn't do this early enough to substantiate about the cultural part."

He discussed his frustration with the lack of enforcement of the rules. He discussed how the Hawaiian way is to build a cheap house and if a tsunami or hurricane takes it, then you build another. The rules require building an expensive 15-foot high house, and then you have to insure it.

Mr. Mahuiki expressed his hope that the interviewer would include the above comments about the process.

### III. Documentary Research

Documentary research was conducted at the Kaua'i Historical Society archives and the Hawai'i State Archives as previously discussed. Documentary research was also

conducted at the County Planning Department, and reference is also made to the extensive documentary research done by Thomas Dye, Ph.D. in his Archaeological Assessment. Further research was undertaken at the Kaua`i Community College in July of 2002, with the assistance of the research librarians there. The sources and information obtained are outlined below.

- 1) **Videotape #57**  
**Keahualaka (Ke`e Beach, Ha`ena)**  
KCC Learning Resource Center  
Produced by Prof.. John Allerton, KCC Anthropology Club  
1983

The videotape shows the hula Heiau at Ke`e beach, 2 miles west of the subject property and describes cultural practices which were carried out at that site.

- 2) **"Historic Sites of Kaua`i"**  
**Textbook Manuscript for Course HAWNA 097**  
William K. Pilakikuchi  
1994

The section of the text concerning the Ancient District of Halele`a, which included the Ahupua`a of Ha`ena is relevant to the area potentially affected by this project. Attached are maps relating to the historical sites of Ha`ena. The significant cultural/historical sites listed in the text for Ha`ena are the Ha`ena Archeological Complex (map included) and Makana `Ohai firebrand throwing cliffs.

The text describes how in Halele`a the traditional Hawaiian land use patterns, as well as other Hawaiian traditions were maintained much longer than elsewhere in the islands. The system of land ownership, which held into the late sixties, was a reason for this, as well as the fact that the North Shore was insulated by geography and economics. In 1876, 36 Hawaiians bought 1800 acres of the Ha`ena Ahupua`a which was held by them and their descendents in common for 100 years until the 1955-1976 during which time the land was partitioned to settle disputed and confused ownership questions. Ha`ena was the last large Hui in Hawai`i to be dissolved. The result was the opening of this land for sale, which over time brought in housing development and new non-native landowners and residents. The communal "old-style" ways of living

receded. Also, taro cultivation declined because of a slackening in demand. The text states that because of its beauty and the scattered pattern of housing, the area has been classified as a Special Treatment (Conservation) Zone.

- 3) "Complete List of Heiau and Sites"  
Island of Kaua`i, pages 138-142  
Hawaiian Annual, 1938  
Thomas G. Thrum

Nothing was noted on this list that is in the immediate vicinity of the subject property. There are 3 sites in Wainiha, several miles to the east, and some in the Hanalei area, even further away. The two sites listed in Ha`ena approximately 8/10<sup>th</sup> of a mile to the west are Lohiau's housesite near Ke`e Beach, and the hula heiau Ka ulu o paoa a.k.a. Ke ahu o Laka which was dedicated to Laka also near Ke`e at the end of the road.

IV. Assessment of the Impact of the Project on Cultural Resources and Practices

The informants were unanimous in indicating that there are no modern or historical cultural resources or practices on the subject parcel, and that building a single-family residence would not restrict access to any cultural resources or practices. Nothing was found in documentary research to contradict the information from the informants and ethnographic interviews.

It appears that the only significant cultural impact of the proposed action is its incremental contribution to the continuing decline of the rural, native community, which is a result of private land ownership and the relocation of new residents to the island. However, in this regard, the proposed single family residence it is on a street where all four of the lots on the north side of the street are owned by non-native landowners, and two of these four lots already have modern residences constructed on them while the other two are in process of securing permits. The subject residence would be constructed between these two existing houses. The subject property has been designated as a residential lot for decades, and a permit was already granted for a single family to David Kaneali`i in 1994. (CDUP #KA-2677).

The owners intend to construct a residence of a size and character to be as much in keeping with the rural, tropical setting as possible, given the current building codes. The owners intend to coexist with neighboring long-time native residents with respect and harmony, and they have already formed cordial relationships. Immediate native Hawaiian neighbors express support for the project and indicate that cultural impact will not be an issue. (ref. Olanolan, Mahuiki, Hashimoto).

V. Summary & Conclusion

Based upon the information gathered through interviews, documentary research, and archaeological investigation, the proposed action for the construction of a single family residence on the subject parcel shall not have a significant or adverse impact upon the historical or cultural resources of the Ahupua`a, the Island or the State.

HAENA ARCHAEOLOGICAL COMPLEX  
 HAENA, HALELEA, KAUI  
 STATE SITE NO. 3201

REDRAWN FROM ARCH, 1978

- 2 FEATURE DESIGNATION
- 13 AGRICULTURAL TERRACES (FEATURE 13)
- 15 CULTURAL DOME DEPOSITS (FEATURE 15)
- SWAMPY AGRICULTURAL AREAS
- WATER CHANNELS



400ft  
100m

KE'E BEACH

PACIFIC OCEAN

