

5. DRAFT ENVIRONMENTAL ASSESSMENT

DRAFT ENVIRONMENTAL ASSESSMENT
Prepared in Support of



Prepared for:
Department of Planning
County of Maui
250 South High Street
Wailuku, HI 96793

Prepared by:

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I. I. PROJECT OVERVIEW

A. PROPOSED ACTION:

This Environmental Assessment was prepared to ascertain the potential impacts associated with the subdivision of approximately 1.385-acres into two (2) rural (RU-0.5) lots. The property is located in Makena, Maui, Hawaii; identified as TMK No.: (2) 2-1-005:117 and is accessed by Makena-Keoneoio Road.

The property is south of Makena Resort, in the Urban District, and east of existing rural land owned by the State of Hawaii and part of the Makena-La Perouse State Parks near Puu Olai. The property is adjacent to a four-lot rural subdivision (RU-0.5) and surrounded by vacant marginal agricultural lands. The proposed project will not impact prime agricultural lands. The Kihei-Makena Community Plan, 1998, also identifies this area for future rural growth.

To conform to the Kihei-Makena Community Plan, no improvements to Makena-Keoneoio Road, fronting the project, are proposed. Makena-Keoneoio Road is a two-lane State roadway with varying right-of-way widths. There are no curbs, gutters, or sidewalks in the area. A lot for an ultimate 48 feet right-of-way along Makena-Keoneoio Road will be dedicated to the County for future road widening and improvement purposes.

The project is designed to ensure the rural setting of Makena is maintained. Architectural guidelines established through protective Covenants, Conditions and Restrictions (CCRs) control the design standards of homes, landscaping, view corridors and location of house sites to further preserve the rural sense of Makena. Site and infrastructure improvements include underground utilities, water distribution, fire protection system, drainage management, and paved roadway. “Best Practices” in Crime Prevention through Environmental Design will be incorporated into the project design to the maximum extent practicable.

The project will require concurrent processing of a County Change in Zoning (CIZ) from Interim to Rural (RU-0.5), Community Plan Amendment from Single-Family (SF) to Rural (RU-0.5), State Land Use Commission District Boundary Amendment (DBA) from Agricultural (AG) to Rural (R), and a Special Management Area (SMA) Use Permit. Entitlement request approval would establish conformity between the State Land Use District, County Zoning and Community Plan.

Support for the Change in Zoning, Community Plan Amendment and Boundary Amendment can be identified in the adjacent parcel (TMK 2-1-005:116) known as the Kaufman Subdivision, LUCA File #2.2427 and LUCA File #2.2628; DWS SD No. 97-12.

A few hundred yards south of the project, the Tavares Property (TMK No. 2-1-006:15) also successfully amended the Kihei-Makena Community Plan from Single-Family (SF) to Rural (RU-0.5).

Recently (October 1, 2007) the owners of Lot 4 Makena Road (TMK: 2-2-1-05:118) applied for a Change in Zoning, Community Plan Amendment and Boundary Amendment to rezone that parcel from State Agricultural, County Interim, Community Plan Single Family to Rural (RU-0.5).

B. IDENTIFICATION OF OWNER AND APPLICANT:

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Phone: 852-2527-5228

C. AUTHORIZED AGENT

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Kihei, HI 96753
808-283-7704 phone
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D. ACCEPTING AGENCY:

Maui Planning Commission
c/- Department of Planning
County of Maui
250 High Street
Wailuku, HI 96793
Phone: 270-7735
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E. CONTACTED AGENCIES AND PRIVATE PARTIES:

1. State of Hawaii: Department of Land and Natural Resources, State Historic Preservation Division
2. County of Maui: Department of Planning
3. County of Maui: Department of Water Supply
4. County of Maui: Department of Parks and Recreation
5. County of Maui: Development Services Administration, Public Works Department,
6. County of Maui: Department of Fire Control
7. Maui Electric Company
8. Hawaiian Telecom
9. Neighboring property owners

F. EXISTING LAND USE:

The subject property is located in Makena, Maui, approximately 1.5 miles south of the Maui Prince Hotel, and directly adjacent to Makena State Park, identified as TMK No.: (2) 2-1-005:117 and is accessed by Makena-Keoneoio Road. The property is undeveloped and overgrown with weeds, grasses, cactus, *and kiawe and koa haole* trees.

G. LAND USE DESIGNATIONS:

State Land Use Classification:	Agricultural (AG)
County Zoning:	Interim
Kihei-Makena Community Plan	Single-Family (SF)
Special Designations	Special Management Area
Flood Zone Designation	‘C’ (see Exhibit 4)

H. REQUIRED DEVELOPMENT AND LAND USE PERMITS:

10. Change in Zoning from interim to RU-0.5, Rural
11. Community Plan Amendment from Single-Family to Rural
12. State Land Use Commission District Boundary
Amendment from Agricultural to Rural
13. Special Management Area Permit
14. Final Subdivision Approval

I. IMPROVEMENT SCHEDULE:

Site improvements and associated infrastructure include: underground utilities (electric, telephone, cable), water distribution system, fire protection system and paved roadway. Improvements are anticipated to be initiated during Summer 2008 and will be completed in 6-9 months.

H. ALTERNATIVE USES:

Various alternative uses were contemplated during the design of the project.

1. *No Action.* The subject property is identified for urban use and has a Community Plan designation of Single-Family. The subject property is located in the area of a variety of land uses including rural, residential, agricultural and park use. The site is not viable for agricultural use and has been vacant and undeveloped for decades. Given the adjacent proximity to a similar four-lot rural subdivision, the proposed uses are appropriate for the site. Failure to improve the site would result in a loss of short-term employment during construction and long-term, loss of increased property tax revenues generated by the project.

2. *More Lots.* Changing the State Land Use Commission District Boundary and County Zoning to conform to the Community Plan and creating a Single-Family subdivision, would result in smaller lots, and greater density. Such a change would be in conflict to applicant's desire to maintain the rural residential character of the area.

II. DESCRIPTION OF THE EXISTING ENVIRONMENT

A. PHYSICAL ENVIRONMENT

1. SURROUNDING LAND USE

The subject property is located on the lower southwestern slopes of Haleakala on the Island of Maui in the vicinity of Makena, a rural residential community. More particularly, the property is situated on the *mauka* (east) side of Makena-Keone'o'io Road opposite the southern portion of Makena State Park and approximately 1.5 miles south of the Maui Prince Hotel. The property is identified as Tax Map Key (2) 2-1-005:117 being portions of Royal Patent Grant Number 1478 made to Kenui, in the traditional district of Honua'ula, Maui Island.

The subject property is located in the area of a variety of land uses including single and multi-family residential, rural, and agricultural and park use. The Kihei-Makena Community Plan map illustrates a range of potential and planned land use within the immediate area. The following represents a description of surrounding land uses:

North: Immediately north is the Kaufman Subdivision, a four-lot rural subdivision, two vacant lots as well as a master plan drainage lot. While further north, approximately 1000 feet, are the Maui Prince Golf Course and the Master Planned Makena resort. Additionally the State Urban District is just north of the subject property.

East (*mauka*): Along the *mauka* boundary of the subject parcel is vacant land proposed for Single-Family (SF) residential development in the Master Plan Update Makena Resort.

West (*makai*): Across Makena-Keoneoio Road is Makena State Park and "Big Beach", a white sand beach stretching some 0.5 miles in length. State rural and conservation lands extend makai of the property and northward along the coast.

South: Immediately south is undeveloped land (similarly zoned), while further south are upscale single-family residential homes which front the *mauka* and *makai* sides of Makena-Keoneoio Road.

Mitigation Measures. Proposed project should have no any adverse impacts upon neighboring properties.

2. LAND USE HISTORY

- a. State land Use Classification: “**AG Agricultural**” (circa 1960’s)
- b. County Zoning: “**Interim District**” (circa 1996)
- c. Kihei-Makena Community Plan: “**SF Single-Family**” (1998)
- d. Record of Code Violations: None Found
- e. Previous and Current Uses: Vacant Land

Mitigation Measures. Development of subject property conforms to adjacent compatible land uses. Supporting infrastructure and services are nearby to the property. There are no adverse impacts to surrounding uses anticipated as a result of the proposed project.

3. TOPOGRAPHY AND SOIL CHARACTERISTICS

The subject property is situated inland of a shoreline that is characterized by rugged, low wave-cut cliffs and is interspersed with sections of narrow sand beaches and coves. The property slopes towards the shoreline (west), and Aa lava rock outcroppings are exposed at certain locations. The Land Study Bureau Detailed Land Classification – Island of Maui identifies the predominated soil type as “E-28”, “rocky and not suited for machine tillability” with a moderate soil depth of “20 or more inches” and an “average slope between 7 and 12 per cent”. The “Kamaole, Makena, Manawainui soil series” (MXC soil type) in this geographic area is, typically, “dark brown”, of “medium texture and suited for grazing”. The “mean annual rainfall is 15 to 25 inches” and the soil productivity rating is the lowest of Class “E” pursuant to the rating system “using the letters A, B, C, D, and E with A representing the class of highest productivity and E the lowest.” This soil has moderately rapid permeability, slow to medium runoff and poses a slight to moderate erosion tendency (Foote, et. al, 1972).

Mitigation Measures. Prior soil and topographical analysis has shown this land is compatible with the proposed project uses, including roadways and housing.

4. FLOOD AND TSUNAMI HAZARD

According to the Flood Insurance Rate Map, June 1, 1981 (see Exhibit 4), prepared by the United States Federal Emergency Management Agency, the subject property is located within Flood Zone C, which represents areas of minimal flooding.

Mitigation Measures. Proposed project should pose no flood hazard potential or have any adverse impacts upon neighboring properties.

5. STREAMS AND WETLANDS

There are no brackish or fresh water bodies located on the property. There are no streams and the Federal Department of Interior (DOI) Wetland Maps do not indicate the presence of wetlands on property. The DOI Wetland Maps do indicate a small area approximately 150 meters northwest of the subject parcel as a wetland. The wetland type classification is Estuarine-Emergent-Intertidal-Persistent (E2EM1P).

Mitigation Measures. There are no known wetlands or streams on the subject property. The project will not impact the small wetland area approximately 150 meters to the northwest. Best Practices will be employed during grading to contain silt and runoff.

6. FLORA AND FAUNA

Vegetation on the subject property consists mainly of draught tolerant native and alien species. The property is predominantly vegetated by alien species including *kiawe* (*Prosopis pallida*), *koa haole* (*Leucaena leucocephala*), *panini cactus* (*Opuntia ficus-indica*) *basil* (*Ocimum basilicum*), *buffel grass* (*Cenchrus ciliaris*), other grasses and succulent annual weeds. Two native shrubs are present on the property, ‘*ilima* (*Sida fallax*) and ‘*Uhaloa* (*Waltheria americana*) and a few moderately sized endemic trees, *wiliwili* (*Erythrina sandwicensis*) are located on the *mauka* or eastern portion of the property.

The concentration of fauna located on the property is “low in concentration” and is not identified by the Forestry and Wildlife Division as “critical” habitat for any plant or animal. Common mammals found in the area include feral cats (*Felix catus*), axis deer (*Axis axis*), mongoose (*Herpestes edwardsi*), rats (*Rattus rattus*) and mice (*Mus musculus*).

Typical bird fauna found in the area include American Cardinal (*Cardinalis cardinalis*), Gray francolin (*Francolinus pondicerianus*), Spotted dove (*Streptopelia chinensis*), Spotted munia (*Lonchura punctulata*), House finch (*Carpodacus mexicanus*), house sparrow

(Passer domesticus), Cattle egret (Bubulcus ibis), Japanese White-eye (Zosterops japonica), Mockingbird (Mimus polyglottos) and Common mynah (Acridotheres tristis). No native bird species have been observed on the subject property.

Mitigation Measures. No rare, endangered, threatened species or critical habitat are located on the property, thus none will be impacted by the project. However applicants will undertake the following:

- All *wiliwili* trees will be preserved to the extent possible.
- All significant outdoor lighting will be hooded to direct the light downward to minimize light ‘pollution’ in the area.
- Silt screens will be installed during construction to prevent any runoff.
- Vector control: applicant will comply with Hawaii Administrative Rules, Chapter 11-26, “Vector Control”, related to rodent eradication.

7. AIR QUALITY

There are no point sources of airborne pollutants emissions in the immediate vicinity of the subject property. The air quality in Makena in general is considered good with existing air pollution attributed from vehicle exhaust from Makena-Keoneoio Road. Other sources of airborne pollutants include residual smoke from sugarcane harvesting in Central Maui and dust from construction activities. These sources are intermittent and generated particulates rapidly dispersed by prevailing trade winds.

Mitigation Measures. Grading and site work could generate dust. Adequate dust control measures that comply with the provisions of HAR Chapter 11-60.1 “Air Pollution Control: Fugitive Dust” will be implemented during all phases of construction. Such measures include:

- Installation of dust fences.
- On-site watering and control of dust hauled debris, project entrance and shoulders – both after hours and weekends.
- Debris and dirt stockpiles covered and watered to reduce wind distribution of particulate matter.
- Phased planting and landscaping of bare areas

In the long term, the proposed action will not result in any adverse air quality impacts.

8. NOISE CHARACTERISTICS

There are not permanent sources of noise, which are considered to have an adverse impact on the proposed action, except temporary construction activities, park users and vehicles traveling along Makena-Keoneoio Road.

Mitigation Measures. To minimize noise related to construction, applicant will abide by Hawaii Administrative Rules, Chapter 11-46 relating to “Community Noise Control”. Construction will occur only during daylight hours and not to exceed permissible levels established by the Department of Health. Further construction is limited in the CCRs to the following hours:

- (a) Monday – Friday: 7 am – 5 pm
- (b) Saturday: 8 am – 4 pm
- (c) Construction shall not be allowed at any other times.

In the long term, the proposed action will not result in any adverse noise impacts.

9. SCENIC AND OPEN SPACE RESOURCES

Scenic resources to the east of the project site include Haleakala while Puu Olai cinder cone, Makena State Park, the Pacific Ocean and the islands of Molokini and Kaho’olawe are visible to the west.

Mitigation Measures. The subject project is not located within a scenic view corridor and no unique public scenic resources will be impacted by the development.

10. ARCHEOLOGICAL AND CULTURAL RESOURCES

Erik M. Fredericksen, Xamanek Researches, LLC conducted an Archeological Inventory Survey of the subject property in December 2006 (See Appendix E). The 1.385-acre subject project (TMK (2) 2-1-05:117) is located east of Makena-Keoneoio Road. The property is located in the ahupua’a of Mo’oloa, in the traditional district of Honua’ula, Maui Island. It is part of Royal Patent Grant 1478 made to Kehui. According to the County tax map there are three other properties included within this land grant.

The study area lies an estimated 100 meters east of the shoreline of Ahihi Bay. A prominent cinder cone, Pu’u Ola’i is located across Old Makena-Keone’o’io Road to the northwest. This landform and is contained within Makena State Park, along with Oneloa Beach (Big Beach), Oneuli Beach (Black Sand Beach or Naupaka Beach) and Pu’u Ola’i Beach (Little Beach). This state park is approximately 165 acres in size.

The project area is situated on the western flank of Haleakala volcano in East Maui. The *makai* or western portion of the study parcel ranges from c. 6 to 8 feet AMSL, while the *mauka* or eastern section has a maximum elevation of 28 feet AMSL. The land slopes downward from the southeastern corner to a drainage system on the northwestern side of the parcel that lies at 5 to 10 feet AMSL. The study area lies in the rain shadow of Haleakala Volcano, and therefore is a relatively dry region with an annual rainfall of about 20 inches. In general, the months of January, February and March are considered to be the wet season. Visibility was generally fair on the subject parcel, although vegetation was filling in after some fall rains.

The archeological assessment survey did not identify any surface structural remains on the subject parcel. There is some evidence of other past bulldozing activity on portions of the property. In addition, an old brush and wood push pile was noted on the lower portion of the parcel. Finally portions of Site 6224 were visible from the southern boundary of the project area. The 6 subsurface tests revealed two common strata, but did not produce any evidence of significant material culture remains. Stratigraphy was composed of an upper c. 7-9 cm thick layer of dark brown (7.5 YR 3/3) silty loam, underlain by strong brown (7.5 YR 4/6) silty clay. Given the proximity of Site 4185 *heiau* on the adjacent Kaufman Subdivision, precautionary archaeological monitoring during earthmoving activities is recommended.

Mitigation Measures. Impacts to potential cultural resources from the Proposed Action would be limited to the effects of ground disturbing activities. Archaeological monitoring during earthmoving activities will be conducted in accordance with a Monitoring Plan approved by the State Historic Preservation Division (See Appendix D)

11. AGRICULTURAL RESOURCES

The subject property is not rated on the Agricultural Lands of Importance to the State of Hawaii (ALISH) map. The Land Study Bureau (1967) established a rating system regarding the productivity of agricultural lands in Maui County. The five class rating system is based on using the letters A – E, with E representing the lowest productivity and A the highest. The subject property is rated “E”, identifying the land at the lowest productivity rating.

Mitigation Measures. The proposed activity will not displace any agricultural activities. Monitoring will be conducted in accordance with a Monitoring Plan already approved by the State Historic Preservation Division (See Appendix D).

12. HAZARDOUS WASTE

A review of databases and records that contain information on hazardous waste, underground storage tanks, sanitary landfills and other environmental sites was conducted as part of this EA and no sites were found near the subject property.

Mitigation Measures. The proposed activity will not create any hazardous waste or byproducts of hazardous waste.

B. SOCIO-ECONOMIC ENVIRONMENT

1. LAND USE AND COMMUNITY CHARACTER

The subject property is part of the Kihei-Makena Community Plan region that stretches from Ma'alaea to La Perouse Bay. The region includes a diverse range of physical and socio-economic environments. With its dry and mild climate and proximity to recreation-oriented resources, the visitor-based industry has steadily grown over the past decades. Kihei serves as the commercial and residential center, while master-planned communities of Wailea and Makena serve as a focal point for visitors. The master-planned Makena Resort borders the subject property.

Mitigation Measures. No mitigation measures would be required.

2. Population

According to the U.S. Census Bureau, Maui County has experienced a 10.3 growth from April 1 2000 to July 1, 2006 with the population increasing from 128,094 to 141,320. The number of visitors to Maui grew 6.3% from 2004 to 2005 from 2,207,826 to 2,346,480. Average daily visitor count in 2005 was 47,808 (DBEDT, 2005). The population of residents and visitors in the County on any given day (De Facto population) is projected to increase from 169,499 in 2000 to 262,264 in 2030. The County's resident population is expected to grow at nearly an identical rate as De Facto population, with the resident population of the County of Maui reaching 199,550 by 2030 (MCPD, 2006).

The Kīhei–Makena region of Maui is the third largest residential community on Maui. This area has combined a growing visitor economy, new jobs associated with both visitors and the tech sector, and expanding residential areas. It has had the smallest average household size. Of the total island population, 25.5 percent of the people fall in the age class of under 18 years old (DBEDT 2001). However, the population is aging. (The median age increased from 33.5 between 1990 and 2000) (MCPD, 2006).

Population growth is expected to continue in the District and on Maui in the two decades. Kihei-Makena is projected to grow by 19% 2010. The population of the Kihei-Makena region in 2020 is estimated to reach 31,576. Non-resident tourist visitors to the region vary seasonally and increase the total number of persons in the area by as much as are 19,000.

Mitigation Measures. Residential population growth based on the proposed four lot rural subdivision is projected to be minimal.

3. ECONOMY

The economy of Maui is largely dependent upon the visitor industry; however there has been an emergence of high tech industry and resurgence in agriculture as of late. The rates of growth in resident population, housing, and jobs are higher than the rate of growth for visitors. Wage and salary jobs are expected to increase by about 1.7% annually and per capita income will increase very little (in constant dollars) (MCPD. 2006). In 2006, slightly over 2.4 million visitors visited Maui (DEBDT, 2007). Visitor counts are expected to increase by about 1.5% annually. Hawaii's unemployment rate is one of the lowest in the nation, dropping from 6% in 1997 to 2.4% in 2007.

Mitigation Measures. On-site and off-site construction and trade activities will provide construction, transportation, manufacturing and service employment with economic impacts that have generally short-term effects. From a long-term perspective, however, the proposed action is not anticipated to have a significant impact upon the local economy.

C. PUBLIC SERVICES

1. POLICE AND FIRE PROTECTION

The Maui Police Department headquarters is located at its Wailuku Station. The Kihei-Makena area is served by the Kihei District Station, located at the Kihei Town Centers, about eight (8) miles north of the project site. Currently there are 30 Uniform Patrol Officers assigned to the Kihei District, all of who are Investigative Officers.

There are two fire stations in the Kihei-Makena region, one located near Kalama Park in Kihei -- about ten miles from the property; and the second located at Kilohana Street in Wailea -- about 6 miles from the property. The site is bounded by three fire hydrants, all within 300 feet.

Mitigation Measures. The project is not anticipated to have an adverse impact on existing police and fire protection services. Applicant proposes to further augment police and fire protection through the following measures:

- Installation of a fire hydrant within the subject property, if needed. Fire protection system will be rated at a minimum of 1,000 gallons a minute for a two-hour duration and any hydrants shall be spaced no further than 350 feet apart.
- “Best Practices” in Crime Prevention through Environmental Design will be incorporated into the project design to the maximum extent practicable.

2. MEDICAL FACILITIES

Maui Memorial Medical Center (MMMC), the only major medical facility on the island, is approximately 223 miles northeast of the project site. MMMC provides acute, emergency and general care services. Dental and medical offices located in Wailea and Kihei provide health care services for Kihei-Makena residents and visitors.

Mitigation Measures. The proposed project will result in a fractional increase in the local population creating some increased health care demand. However, in the scheme of Maui’s overall projected population growth, there will be no significant impact on the region’s health care facilities.

3. RECREATION FACILITIES

In the Makena-Wailea area there are five golf courses, two tennis centers, and open space for jogging and walking. There is a designated bike path one mile from the subject property that runs from Makena through Ma’alaea. Shoreline resources in the vicinity include Makena State Park (165 acres), Ahihi-Kinau Natural Area Reserve and LaPerouse Bay. Currently, Kihei-Makena has 27 Regional and Seibu-regional Parks totaling more than 189 acres. Makena Landing, Kihei Small Boat harbor and Ma’alaea Small Boat harbor are all located in Kihei-Makena region, providing opportunities for whale watching, snorkeling, surfing, scuba diving, fishing, kayaking and sailing. Nearby, comfort stations can be found at Makena Landing and the Makena-Keone’o’io pedestrian walkway, with temporary facilities located at Makena State Park and LaPerouse.

Mitigation Measures. A marginal increase in neighborhood and regional park facilities will result from the relatively small population increase created by the project.

4. SCHOOLS

The following schools serve the Kihei-Makena region: Kihei Elementary School (Gr. K-5, 800 students), Kamali'i Elementary School (Gr. K-5, 850 students), Lokelani Intermediate School (Gr. 6-8, 800 students) and Kihei Charter High and Intermediate School Gr. 6 - 12, 200 students). The two public high schools closest to Kihei are Baldwin High School and Maui High School. At least six hundred students from Kihei-Makena attend Maui High School, which is and at least two hundred students from Kihei- Makena attend Baldwin High School. Maui and Baldwin High Schools are located in Kahului, approximately 22 miles north of the project site. Kihei Elementary School, Kamahi's Elementary School, Lokelani Intermediate School, and Kihei Charter High and Intermediate School are all located within 8 – 10 miles of the project site. The Kihei Public Library is located near Kalama Park, some 10 miles north of the project site.

Mitigation Measures. The proposed project will not significantly impact public education facilities given the relatively small population increase created by the project.

5. SOLID WASTE

The County of Maui collects solid waste in the Makena Region on a weekly basis. Solid waste from Makena is disposed of at the County's 55-acre Central Maui Landfill located approximately four miles southeast of Kahului Airport. A second landfill can be found in Hana. The County provided collection service for 22,500 residential accounts in fiscal year 2006. Maui Eko-Systems is located at the Central Maui Landfill and processes approximately 54,000 tons of sludge and yard waste annually. Maui County handles E-waste through CompuSwap, which makes an effort to reuse the material to assist schools and non-profit organizations. SOS Metals Island Recycling also recycles computers, electronics, metals, machinery, appliances and vehicles. Maui Recycling Service provides curbside service for paper, glass, plastic, aluminum, steel/tin, cardboard, printer cartridges, cell phones and household batteries.

Mitigation Measures. Every effort will be made to recycle materials, mulch and compost green waste resulting from the project. The project CCRs require enrollment in a curbside recycling service.

D. INFRASTRUCTURE

1. ROADWAYS

The Piilani Highway and South Kihei Road provide access the Kihei-Makena region. Wailea Alanui is a four lane divided road that carries traffic north – south through Wailea and joins Makena Alanui. Makena Alanui is a two-way, two-lane road, within a 60-foot right-of-way linking to Makena-Keone'o'io Road. Makena-Keone'o'io Road is a two-way, two-lane roadway that fronts the subject property.

Access for the proposed two-lot subdivision will be from Makena-Keoneoio Road, with each lot having separate driveway entrances from Makena-Keoneoio Road. The existing right-of-way of Makena-Keoneoio Road varies. The County of Maui established a centerline for the roadway and designated an ultimate 48 right-of-way of 48 feet.

A road widening lot with a varying width will be created 24 feet from the established centerline of Makena-Keoneoio Road. The road widening lot will be part of the subdivision application dedicated to the County. The existing pavement width is approximately 20 feet, therefore, no pavement widening improvements are expected along Makena-Keoneoio Road fronting the subject property.

Traffic in this area is limited to local residential traffic and beach park users. It is estimated the proposed project would generate between five and six peak hour trips during morning and afternoon peak periods (reference: *Traffic-Count Based Distribution Model for Site Impact Studies*, Yi et. al, 2005).

Mitigation Measures. Some delays may be anticipated during construction, however, these are expected to be of minimal duration to accommodate construction equipment staging and movement. The connecting highway intersection operates at below capacity and traffics impacts associated with the project are expected to be minimal.

2. WATER

The County of Maui Central Maui Water System serves the Kihei-Makena region. Main sources of water for this system are the designated Iao aquifer, Waihee aquifer, the Iao tunnel and the Iao-Waikapu Ditch. New source development projects include Waikapu South well and Maluhia well. Storage for the project area is provided by a 1.5 million gallon concrete tank at an elevation of 265 feet and located approximately 7,300 feet to the northeast of the project site.

There is an existing 12-inch waterline that reduces to an 8-inch waterline along Makena-Keoneoio Road near subject property. The subject property currently has one 5/8 inch water meter located at the southwesterly corner, however. A existing fire hydrant is located on the makai side Makena-Keone'o'io Road near the southwest corner of the subject property.

In accordance with the Department of Water Supply's Domestic Consumption Guidelines for single-family residential development, the average daily demand is 600 gallons per day or 3,000 gallons per acre. Based on these criteria, the average daily demand for the proposed 2-lot subdivision is 4,185 gallons per day.

Fire flow demand for a rural development is 1000 gallons per minute for a 2-hour duration. Fire hydrants will be installed with a maximum spacing of 500 feet.

Mitigation Measures. The primary water source for this project is the Central Maui Water System and is a ground-water management area under the State Commission on Water Resource Management. If pumping from the Central Maui Water System is restricted, it could result in restrictions of use within the area. The project CCRs requires use of brackish and/or reclaimed water sources during construction and other non-potable uses, low flow fixtures, landscaping using xeriscaping (less water, less fertilizer and fewer pest controls), native plants, irrigated turf limited to 25% or less of total landscape area, water-cooled systems in compliance with County Code subsection 14.21.20, and water conservation through well-designed efficient irrigation systems.

3. WASTEWATER

There is no County of Maui wastewater system in the vicinity of the subject property, and existing residences in the area are served by septic systems. The nearest County-owned sewer system is located approximately 3 miles north of the project site. The subject property is up gradient of the State Department of Health UIC (Underground Injection Control) line. The UIC line identifies areas that contain underground sources of drinking water wherein injection wells (including cesspools) are highly restricted.

Mitigation Measures. Upon development of any structures on the parcel, an individual wastewater system will be installed. All systems will be designed and constructed in strict compliance with the State of Hawaii Department of Health regulations and standards pursuant to Chapter 11-62 Hawaii Revised Statutes.

4. DRAINAGE

There are no improved public storm drainage systems in the vicinity of the subject parcel. The elevation on the site ranges from 33 feet above mean sea level at the easterly boundary to 7 feet above mean sea level at the northwesterly boundary at Makena-Keoneoio Road, averaging approximately 7.7%.

It is estimated that the existing 50-year storm runoff from the project site is 1.55 cubic feet per second (cfs). Presently, onsite runoff sheet flows across the project site in an east to west direction toward Makena-Keoneoio Road and eventually into the ocean.

After the development of the proposed project, it is estimated that the 50-year storm runoff will be 3.62 cfs, a new increase of 2.07 cfs. Onsite runoff will continue to flow in a westerly direction toward Makena-Keoneoio Road. The runoff will be conveyed to an onsite detention basin, which will be constructed within one of the lots as part of the subdivision improvements. The detention will be designed and sized to accommodate the increase in surface runoff volume from a 50-year 1-hour storm created by the proposed project. The drainage design criteria will be to minimize any alterations to the natural pattern of the existing onsite surface runoff.

Mitigation Measures. Best Management Practices shall be incorporated in site construction activities in accordance with Chapter 20.08 of the Maui County Code. No adverse effects are anticipated on adjacent or downstream properties.

5. ELECTRICAL, TELEPHONE, AND CABLE SYSTEMS

Electrical and telephone services to Makena region are provided by Maui Electric and Hawaiian Telecom. At present there are no cable services available to subject property. Any onsite electrical, telephone and cable systems will be designed to the specifications and requirements of the utility companies.

Mitigation Measures. All electrical, telephone and cable systems will be placed underground and all overhead lines along Makena-Keone'o'io Road fronting the project will be placed underground. Appropriate design and construction coordination will be undertaken with both Maui Electric Company and Hawaiian Telecom. The proposed project will not significantly impact utility services in the area.

III. RELATIONSHIP TO GOVERNMENTAL PLANS, POLICIES AND CONTROLS

A. STATE LAND USE DISTRICTS

Chapter 205, Hawaii Revised Statutes, relating to the Land Use Commission, establishes four major land use districts in which all lands in the State are placed. These districts are designated “Urban”, “Rural”, Agricultural”, and “Conservation”. The subject property is within the Agricultural District. The applicant is proposing a district boundary amendment from Agricultural to Rural in order to allow for the creation of the proposed lots.

Pursuant to §15-15-21, Land Use Rules, Subchapter 2, Standards for determining "R" Rural District Boundaries, the proposed request is consistent with the following standards:

1. Areas consisting of small farms; provided that the areas need not be included in this district if their inclusion will alter the general characteristics of the areas.

Analysis: The subject property is located in the area of a variety of land uses including single family residential, rural, and agricultural and park.

2. Activities or uses as characterized by low-density residential lots of not less than one-half acre and a density of not more than one single-family dwelling per one-half acre in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low-density residential lots.

Analysis: The subject property is situated on the *mauka* (east) side of Makena-Keone'o'io Road opposite the southern portion of Makena State Park and adjacent to the four lot Kaufman Subdivision, zoned Rural RU. 05 (LUCA File #2.2427 and LUCA File #2.2628; DWS SD No. 97-12.). The proposed project lot sizes will all be greater than one-half acre in size and contain not more than one single family dwelling per lot.

3. It may also include parcels of land that are surrounded by, or contiguous to this district, and are not suited to low-density residential uses for small farm or agricultural uses.

Analysis: The subject property is adjacent to the Makena Resort that has master planned the adjacent property for single family use, parks and golf course use, and is also adjacent to Makena State Park.

B. GENERAL PLAN OF THE COUNTY OF MAUI

The General Plan of the County of Maui (1990 Update) sets forth broad objectives, goals and policies to help guide long-range development of the County. The following General Plan Themes, Policies and Objectives are applicable:

I. POPULATION, LAND USE, THE ENVIRONMENT AND CULTURAL RESOURCES

B. Land Use

Objective:

1. *To preserve for present and future generations existing geographic, cultural and traditional community lifestyles by limiting and managing growth through environmentally sensitive and effective use of land in accordance with the individual character of the various communities and regions of the County.*

Policies:

- b. *Provide and maintain a range of land use districts sufficient to meet the social, physical, environmental and economic needs of the community.*

III. HOUSING AND URBAN DESIGN

A. Housing

Objective:

1. *To provide a choice of attractive, sanitary and affordable homes for all our residents.*

Policies:

- b. *Encourage the construction of housing in a variety of price ranges and geographic locations.*

B. Urban Design

Objective:

1. *To see that all developments are well designed and are in harmony with their surroundings.*

Policies:

- a. *Require that appropriate principles of urban design be observed in the planning of all new developments.*

Objective:

2. *To encourage developments which reflect the character and the culture of Maui County's people.*

Policies:

- a. Establish urban design guidelines and standards which will reflect the unique traditional architectural values of each community plan area.*
- b. Encourage community design which establishes a cohesive identity.*

C. KIHAI-MAKENA COMMUNITY PLAN

The subject property is located in the Kihei-Makena Community Plan region, one of nine (9) community plan regions for Maui County. The Kihei-Makena Community Plan reflects current and anticipated conditions in the Kihei-Makena region and advances planning goals, objectives, policies, and implementation considerations to guide decision-making in the region. The Kihei-Makena Community Plan provides specific recommendations to address the goals, objectives, and policies contained in the General Plan, while recognizing the values and unique attributes of the Kihei-Makena area in order to enhance the region's overall living environment.

The following Kihei-Makena Community Plan goals, objectives and policies are applicable to the proposed action:

LAND USE

Goal: *A well-planned community with land use and development patterns designed to achieve the efficient and timely provision of infrastructural and community needs while preserving and enhancing the unique character of Ma'alaea, Kihei, Wailea and Makena as well as the region's natural environment, marine resources and traditional shoreline uses.*

- c. Upon adoption of this plan, allow no further development unless infrastructure, public facilities, and services needed to service new development are available prior to or concurrent with the impacts of new development.*
- p. Prevent urbanization of important agricultural lands.*
- q. Allow ohana units only where sufficient infrastructure is available.*

Analysis. The subject property is community planned Single Family residential use. The applicant is proposing a Community Plan amendment from Single Family residential to Rural (RU-.0.5). Infrastructure in the area is adequate for the proposed Plan amendment, and the proposed use is consistent with current land uses and objectives (see LUCA File #2.2427 and LUCA File #2.2628; DWS SD No. 97-12).

The proposed project with for one-half acres lots or greater in size, would require less infrastructure, services and facilities that a high density single family subdivision. The property is designated for urban development and does not involve productive or important agricultural lands.

ENVIRONMENT

Goal: *Preservation, protection, and enhancement of Kihei-Makena's unique and fragile environmental resources.*

Analysis: As described in Section IIA of this report, Kihei-Makena's unique and fragile environmental resources, including archeological resources, water, endangered flora and fauna, scenic view corridors, beaches or near or off-shore water quality, will not be significantly impacted by this project due undertaking protective measures.

CULTURAL RESOURCES

Goal: *Identification, preservation, enhancement, and appropriate use of cultural resources, cultural practice, and historic sites that:*

- a. *provides a sense of history and defines a sense of place for the Kihei-Makena region.*

Objectives and Policies:

- a. *Identify, preserve, protect and restore significant historical and cultural sites.*

Implementing Actions:

- b. *Require development projects to identify all cultural resources located within or adjacent to the project area, prior to application, as part of the County development review process. Further require that all proposed activity include recommendations to mitigate potential adverse impacts on cultural resources, including site avoidance, adequate buffer areas and interpretation. Particular attention should be directed toward the southern areas of the planning region.*
- e. *Formulate and adopt rural and historic district roadway standards for the old Makena Road to promote the maintenance of historic landscapes and streetscapes in character with the region, so long as these standards are for public roadway purposes, and do not obstruct or interfere with the rights of the public for the use and enjoyment of the area. Makena Road shall be kept open for public use.*

Analysis: Erik Fredericksen, Xamanek Researches, LLC, conducted a detailed Archeological Inventory Survey in December 2006 (see Appendix E). The survey also examined past history and cultural uses of the area. Four sites were identified as significant for preservation as to their information content.

However, none of the sites were identified for preservation. Archaeological monitoring during earthmoving activities will be conducted in accordance with a Monitoring Plan , approved by the State Historic Preservation Division (see Appendix D). No sites were related to gathering, access or other customary activities. Pursuant to Act 50, there were no activities identified, thus there are not adverse affects.

HOUSING AND URBAN DESIGN

Goal: *A variety of attractive, sanitary, safe and affordable homes for Kihei's residents, especially for families earning less than the median income for families within the County. Also, a built environment which provides complementary and aesthetically pleasing physical and visual linkages with the natural environment.*

Objectives and Policies:

- d. *Provide for integration of natural physical features with future development of the region. New development shall incorporate features such as gulches and wetlands into open space and pedestrian pathway and bikeway systems.*

Analysis: The CCRs for the project require all structures to reflect the texture, scale and materials of the natural surroundings and blend in with the Makena landscape.

- f. *Incorporate the principles of xeriscaping in all future landscaping.*

Analysis: To minimize water consumption and fertilizer use the project CCRs require xeriscaping be utilized to the greatest extent possible.

- g. *Encourage the use of native plants in landscaping in the spirit of Act 73, Session Laws of Hawaii, 1992.*

Analysis: The project CCRs require native plants be utilized to the greatest extent possible.

PHYSICAL AND SOCIAL INFRASTRUCTURE

Goal: *Provision of facility systems, public services projects in an efficient, reliable, cost effective, manner which accommodates the needs of the and fully support present and planned land uses, project district implementation. Allow no development for which infrastructure concurrent with the development's impacts.*

Objectives and Policies:

- f. *Protect and preserve the traditional rural scale and character of existing portions of old Makena Road in a manner similar to that existing at Keawalai Church.*

Analysis: Section II C & D of this report addresses the impact the project will have upon existing public facilities, service systems and infrastructure. Based upon analysis presented, there appears to be adequate capacity to serve the project and therefore no public facilities, service systems and infrastructure will be significantly impacted. The necessary public facilities, service systems and infrastructure are currently available for development of this project. Applicant proposes no improvements that will adversely affect or change the rural scale or character of Makena Road.

WATER DISTRIBUTION

Objectives and Policies:

- d. *Encourage the use of non-potable water for irrigation purposes and water features. Prohibit the use of potable water in large water features or require substantial mitigation fees.*
- e. *Encourage the use of plants which have a relatively low need for water.*

Analysis: To minimize water consumption the project CCRs requires use of brackish and/or reclaimed water sources during construction and other non-potable uses, low flow fixtures, landscaping using xeriscaping (less water, less fertilizer and fewer pest controls), native plants, irrigated turf limited to 25% or less of total landscape area, water-cooled systems in compliance with County Code subsection 14.21.20, and water conservation through well-designed efficient irrigation systems.

Applicant plans to connect to the County Water System for domestic, fire flow and irrigation purposes.

DRAINAGE

Objectives and Policies:

- a. *Design drainage systems that protect coastal water quality by incorporating best management practices to remove pollutants from runoff. Construct and maintain, as needed, sediment retention basins and other best management practices to remove sediments and other pollutants from runoff.*

Analysis: Best Management Practices (BMP) shall be incorporated in site construction activities in accordance with Chapter 20.08 of the Maui

County Code. No adverse effects are anticipated on adjacent or downstream properties. BMP actions will include:

- Installation of temporary silt screens along the project's boundaries;
- Rapid covering and stabilization of topsoil stockpiles;
- Retain ground cover until last possible date
- Stabilize denuded areas by sodding or planting (using high seeding rates);
- Proper disposal of debris and sediment generated during construction activities;
- Prevention of oil, fuel, grease, cement products or other toxic substances from leaching or falling into the water;
- Keep run-off on site;
- Construct drainage control features, such as berms;
- Avoid fertilizers and biocides, or apply during periods of low rainfall to minimize chemical run-off
- Cover open vehicles carrying soils, gravel other particulate matter.

The foregoing mitigation measures will ensure the project is in compliance with the community's goal to not affect the marine environment and near/offshore water quality.

D. MAUI COUNTY ZONING

The subject property is currently zoned "Interim" by the County of Maui. The applicant is requesting a Change in Zoning from County "Interim" to "Rural" (RU-0.5). A request for a "Change in Zoning" must meet the following criteria (see MCC 19.510.040.4):

1. The proposed request meets the intent of the general plan and the objectives and policies of the community plans of the county;

Analysis: As described in Section II B & C, the proposed action meets the intent of the general plan and the objectives and policies of the Kihei-Makena Community Plan.

2. The proposed request is consistent with the applicable community plan use of the map of the county;

Analysis: The Kihei-Makena Community Plan adopted on March 6, 1998, through ordinance No. 2641 identifies the subject parcel as Single Family. The Community Plan also

indicates that two adjacent parcels Tavares Property (TMK No. 2-1-006:15) and the Kaufman Property (TMK No. 2-2-1-

005:116) was rezoned from Single Family to Rural in 1998. The applicant is seeking a change in the Community Plan from Single Family to Rural. The subject property is located directly adjacent to the four lot Kaufman Subdivision (see (LUCA File #2.2427 and LUCA File #2.2628; DWS SD No. 97-12.).

3. The proposed request meets the intent and purpose of the district being requested;

Analysis: Pursuant to MCC Section 19.29.010 the rural district was established to “to provide low density development which preserves the rural character of certain areas; to allow small-scale agricultural uses and the keeping of animals; and to serve as a transition between standard residential or other urban density development and agricultural lands.

The proposed Change In Zoning accomplishes these objectives and will preserve the rural character of the area while serving as a transition between standard residential and other urban density development in the area.

4. The application, if granted, would not adversely affect or interfere with public or private schools, playgrounds, water systems, sewage and solid waste disposal, drainage, roadway and transportation systems, or other public requirements, conveniences and improvements;

Analysis: As described in Section II C & D, the proposed Change in Zoning will not significantly impact schools, parks, playgrounds, water, sewage, solid waste, drainage, traffic or other public services or infrastructure.

5. The application, if granted, would not adversely the social, cultural, economic, environmental, and ecological character and quality of the surrounding area.

Analysis: As described in Section II, the proposed Change In Zoning would not affect the social, cultural, economic, environmental, and ecological character and quality of the surrounding area.

6. If the application change in zoning involves the establishment of an agricultural district with a minimum lot size of two acres, an agricultural feasibility study shall be required and reviewed by the Department of Agriculture and the U.S. Soil Conservation Service.

Analysis: Not Applicable

IV. SPECIAL MANAGEMENT AREA

The proposed project limits are within the County of Maui's Special Management Area (SMA). Pursuant to Chapter 205A, Hawaii Revised Statutes, and the Rules and Regulations of the Maui County Planning Commission of the County of Maui, projects located within the SMA are evaluated with respect to SMA objectives, policies and guidelines.

This section addresses the project's relationship to applicable coastal zone management considerations, as set forth in Chapter 205A and the Rules and Regulations of the Maui Planning Commission.

A. RECREATIONAL RESOURCES

***Objective:** Provide coastal recreational opportunities accessible to the public.*

Policies:

- 1. Improve coordination and funding of coastal recreational planning and management; and*
- 2. Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:*
 - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;*
 - (ii) Requiring replacement of coastal resources having significant recreational value including, but not limited to, surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;*
 - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;*
 - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;*
 - (v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;*
 - (vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where*

- feasible, restore the recreational value of coastal waters;*
- (vii) *Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and*
 - (viii) *Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting such dedication against the requirements of section 46-6.*

Analysis: The proposed action is not anticipated to affect existing coastal recreational resources. Access to the shoreline areas or public's use will remain unaffected.

B. HISTORIC RESOURCES

Objective: *Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.*

Policies:

- a. Identify and analyze significant archaeological resources;*
- b. Maximize information retention through preservation of remains and artifacts or salvage operations; and*
- c. Support state goals for protection, restoration, interpretation, and display of historic resources.*

Analysis: Erik Fredericksen of Xamanek Researches, LLC in December 2006, prepared an archeological inventory survey. The State Historic Preservation Division (SHPD), Department of Land and Natural Resources accepted the survey report in 2007. An archeological monitoring plan has been prepared and accepted by SHPD in 2007. Therefore, the proposed development supports the community's objective of insuring that new development does not disturb historic or prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

C. SCENIC AND OPEN SPACE RESOURCES

Objective: *Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.*

Policies:

- a. Identify valued scenic resources in the coastal zone management area;*
- b. Ensure that new developments are compatible with their visual environment by designing and locating such developments to*

- minimize the alteration of natural landforms and existing public views to and along the shoreline;*
- c. Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and*
- d. Encourage those developments that are not coastal dependent to locate in inland areas.*

Analysis: The proposed project is not anticipated to impact any significant public coastal and scenic open space resources.

D. COASTAL ECOSYSTEMS

Objective: *Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.*

Policies:

- a. Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;*
- b. Improve the technical basis for natural resource management;*
- c. Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;*
- e. Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and*
- f. Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures.*

Analysis: As described in Section II of this report, the project will not have a significant impact on the region's coastal ecosystem. The incorporation of Best Practices during construction and other appropriate mitigation efforts during construction should ensure no significant adverse impacts from point or nonpoint source pollution affect the near shore waters.

E. ECONOMIC USES

Objective: *Provide public or private facilities and improvements important*

Policies:

- a. Concentrate coastal dependent development in appropriate areas;*
- b. Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry*

facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
c. Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:

- (i) Use of presently designated locations is not feasible;*
- (ii) Adverse environmental effects are minimized; and*
- (iii) The development is important to the State's economy.*

Analysis: The property will support short-term construction and construction related jobs and provides for long-term housing units in the Makena area. The project does not affect coastal development necessary to the State's economy.

F. COASTAL HAZARDS

Objective: *Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.*

Policies:

- a. Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;*
- b. Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;*
- c. Ensure that developments comply with requirements of the Federal Flood Insurance Program; and*
- d. Prevent coastal flooding from inland projects.*

Analysis: The property lies within Zone "C", which is defined as areas of minimal flooding. It is noted that changes in drainage patterns are not anticipated with construction of the proposed improvements and no adverse drainage impacts to surrounding properties are anticipated.

G. MANAGING DEVELOPMENT

Objective: *Improve the development review process, communication, and public participation in the management of coastal resources and hazards.*

Policies:

- a. Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;*
- b. Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit*

requirements; and

c. Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process.

Analysis: Public participation will occur through review of the proposed land use amendments and SMA permit process agency review. The applications will be filed with the Department of Planning and undergo public review, public hearing and decision by the Maui County Council (land use amendments) and the Maui Planning Commission (SMA permit).

H. PUBLIC PARTICIPATION

Objective: *Stimulate public awareness, education, and participation in coastal management.*

Policies:

- a. Promote public involvement in coastal zone management processes;*
- b. Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and*
- c. Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.*

Analysis: Opportunity for public awareness, education and participation pertaining to significant resource attributes of the coastal zone is provided through the SMA permit process. Applicant has conducted informal meetings with neighboring property owners and Makena community members.

I. BEACH PROTECTION

Objective: *Protect beaches for public use and recreation.*

Policies:

- a. Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;*
- b. Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and*
- c. Minimize the construction of public erosion-protection structures seaward of the shoreline.*

Analysis: The proposed project will not impact shoreline activities. No adverse impact to beach processes is anticipated.

J. MARINE RESOURCES

Objective: Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

Policies:

- a. Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;*
- b. Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;*
- c. Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;*
- d. Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and*
- e. Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources. [L 1977, c 188, pt of §3; am L 1993, c 258, §1; am L 1994, c 3, §1; am L 1995, c 104, §5; am L 2001, c 169, §3]*

Analysis: The proposed project does not involve the direct use or development of marine and coastal resources. The project will not produce any significant impacts on marine and coastal resources.

V. ENVIRONMENTAL SIGNIFICANCE CRITERIA

Based on the “Significant Criteria”, listed in Section 12 of Hawai‘i Administrative Rules Title 11, Chapter 200, an applicant or agency must determine whether an action may have a significant impact on the environment, including all phases of the project, its expected consequences both primary and secondary, its cumulative impact with other projects, and its short and long-term impacts. In making the determination, the “Significant Criteria” Rules established are employed as the basis for identifying whether the proposed project has significant environmental impacts.

The proposed project is not expected to have a significant negative impact on the surrounding environment, and the proposed action is anticipated to result in a Finding of No Significant Impact (FONSI).

Therefore an environmental impact statement will not be required for the proposed action. The following analysis is provided:

1. The proposed project would not result in irrevocable commitment to loss or destruction of any natural or cultural resources.

- The proposed project will not result in any adverse environmental impacts. There are no known endangered or threatened species of flora, fauna or avifauna within the project site. No adverse archeological or cultural resource impacts are anticipated. All ground altering activities will be monitored in accordance with the SHPD approved Archeological Monitoring Plan.

2. The proposed project would not result in irrevocable commitment to loss or destruction of any natural or cultural resources.

- The subject property is located in the State Agricultural District and rated “E”, indicating low agricultural capacity and productivity. It is not in use and has not been for many decades.

The County’s current land use policies support urbanization of the parcel as indicated by the Kihei-Makena Community Plan’s identification of the property as Single Family. Therefore, the proposed action will not curtail the range of beneficial uses of the environment.

3. The proposed action does not conflict with the State’s long-term environmental policies or goals or guidelines as expressed in Chapter 334, Hawaii Revised Statutes.

- As detailed in this report, the proposed project will not cause a negative impact on water sources, shoreline and coastal waters, scenic resources, flora and fauna, archeological and cultural resources and to the environment in general. The project will be developed in compliance with the State’s long-term environmental goals.

4. The economic or social welfare of the community and/or State will be positively impacted.

- The proposed project would have direct beneficial effect on the local economy during construction through the creation of a small number of jobs. There are no adverse long-term economic or social welfare impacts anticipated from the project.

5. The proposed action does not affect public health

- No impacts to the public’s health and welfare are anticipated as a result of the proposed action. Occupants of the project are projected to use existing medical facilities in Kihei, Wailea, Kahului and Wailuku and that such facilities will not be significantly impact by the project.

6. No substantial secondary impacts, such as population changes or effects on public facilities are anticipated.

- A slight affect on local population levels will result from the construction of four single-family residences. This projected increase is not significant in relation to existing population levels and projected growth for the Kihei-Makena area. There will be minimal impacts to public services and infrastructure, recreational resources, water and air quality.

7. No substantial degradation of environmental quality is anticipated.

- During the construction phase of the project, there will be short-term air quality and noise impacts. In the long-term, effects upon air quality and ambient noise levels should be minimal. Mitigation efforts will be implemented during the construction phase to ensure minimal negative environmental impacts, especially with regards to construction runoff. The project will not significantly flora and fauna, water quality, archeological resources, open space or scenic character of the area.

8. The Proposed Action does not involve a commitment to larger actions, nor would cumulative impacts result in considerable effects on the environment.

- The project does not involve a commitment for larger action on behalf of a public agency or the applicant. The property is community planned for urban development; therefore the proposed development is consistent with planned future growth in the area. The proposed project will not significantly affect public services or facilities, water systems or drainage. The project will not significantly induce population growth beyond what is generated by the project and as such, not produce a considerable effect on the environment nor require commitment for additional larger actions by government agencies.

9. No rare, threatened or endangered species or their habitats would be affected.

- There are no rare, threatened or endangered species of flora, fauna, avifauna or their habitats at the project site.

10. Air quality, water quality or ambient noise levels would not be detrimentally affected.

- The proposed project will not adversely affect air or water quality. It also will not generate solid wastes or produce emissions that will have significant impacts on the public health or the environment. Short-term impacts from construction activity include increased noise levels, dust and exhaust from construction machinery, which will be mitigated by to the maximum extent possible by implementation of construction Best Management Practices set forth by the Maui County Planning Department.

11. The proposed action would not affect environmentally sensitive areas, such as flood plains, tsunami zones, erosion-prone areas, geologically hazardous lands, estuaries, fresh waters or coastal waters.

- The project area is not located within and would not affect environmentally sensitive areas. The project site is situated within Zone C, an area that is subject to minimal flooding.

12. The project does not substantially affect scenic vistas and view plains in the County or State plans and studies.

- The project site is not identified as a scenic vista or viewplane. The proposed project is not anticipated to significantly impact public view corridors and will not produce significant adverse impact upon the visual character of the site or the surrounding environment.

13. The proposed action would not require substantial energy consumption.

- The proposed project will involve the short-term commitment of fuel for equipment, vehicles and machinery during construction activities. This use, however, is not anticipated to result in substantial consumption of energy resources. Energy consumption will be increased as the project is built out, but this will be insignificant compared to existing use levels. Construction of all structures will comply with Chapter 16.26.1300 “Energy Conservation”, Maui County Code. Where practical and economically feasible, all new structures will meet or exceed the building efficiency standard for the State of Hawaii. The use of solar energy will be utilized wherever practicable.

VI. FINDINGS AND CONCLUSIONS

This Environmental Assessments describes and examines the socio-economic and environmental impacts associated with the Applicants proposal to develop a two (2) lot rural subdivision (RU-0.5) on approximately 1.385 acres located along Makena-Keoneoio Road Makena, Maui, Hawaii.

The proposed project is not anticipated to result in significant environmental impacts to surrounding properties, natural resources, near shore waters, archeological and historic resources on or in the immediate area. The proposed project is not anticipated produce significant adverse impacts on the visual character of the site and it immediate surroundings. The proposed project is not anticipated to impact public or scenic view corridors. Public services and infrastructure including parks, schools, water systems, roadways and sewer systems are not anticipated to be significantly impacted by the project.

The subject property is located within the State's Agricultural District and is County zoned Interim and community planned for single-family development. The Applicant's proposal to change the Land Use District from Agricultural to Rural, the County Zoning from Interim to Rural (RU-0.5), and the Community Plan Designation from Single-Family (SF) to Rural (RU-0.5) in order to develop a low density rural subdivision supports the existing mix of rural, residential, resort and park land uses that characterize the surrounding area. The proposed action is consistent with the objectives and policies of the Kihei-Makena Community Plan, the Rules and Regulations of the Planning Commission of the County of Maui, as well as Chapter 205A, Hawaii Revised Statutes.

The nature and scale of the proposed project are such that no significant environmental effects are anticipated. A few negative impacts, which have been identified in this Environmental Assessment, can be mitigated or minimized through sensitive site planning and engineering design, implementation of careful construction methods and compliance with governmental requirements.

On the basis of the foregoing information, it is anticipated that the Proposed Action would not have significant impacts on the environment. As such, a notice of anticipated determination of **Finding of No Significant Impact** (FONSI) for the proposed project is appropriate.

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VII. REFERENCES (continued)

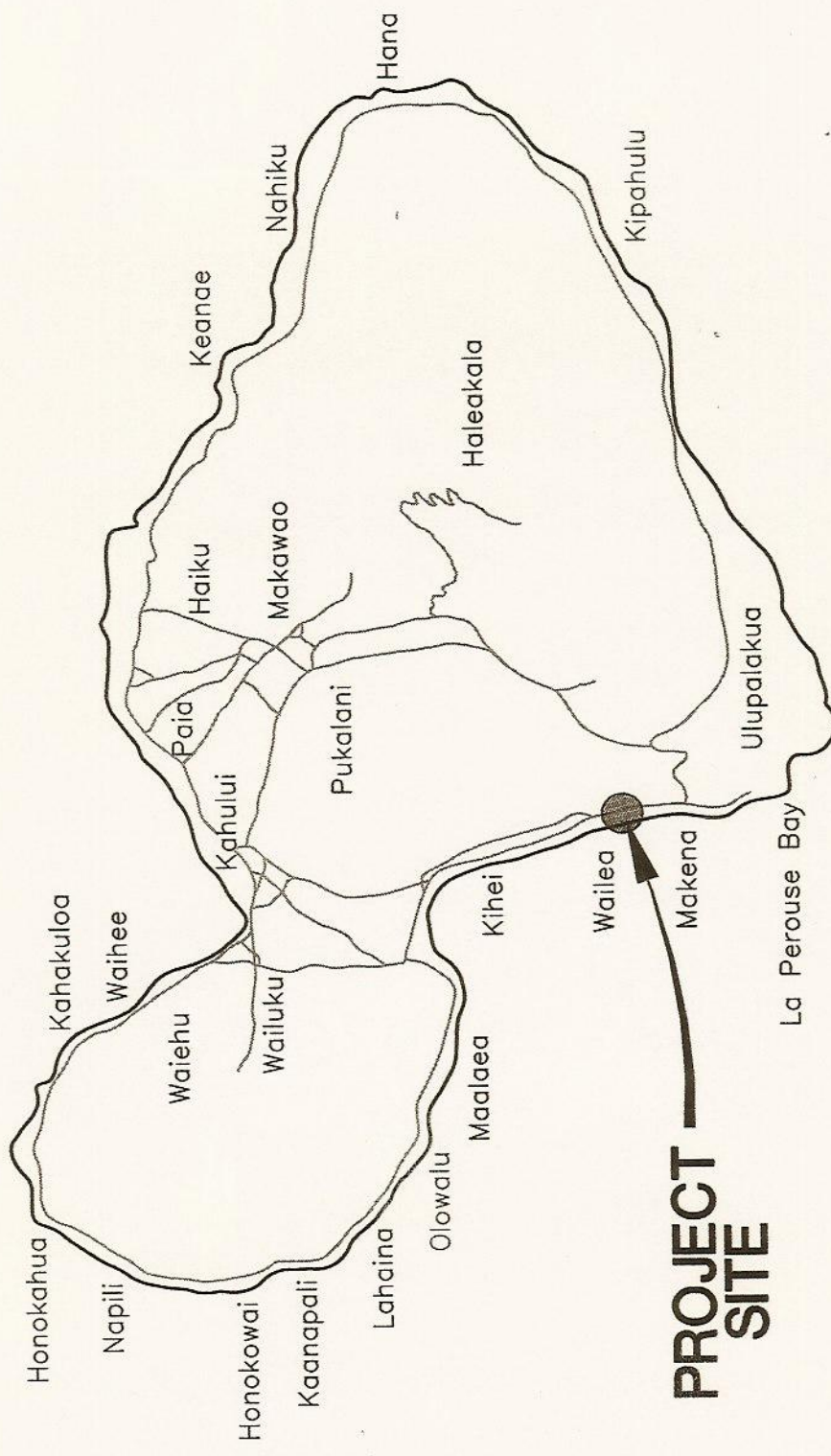
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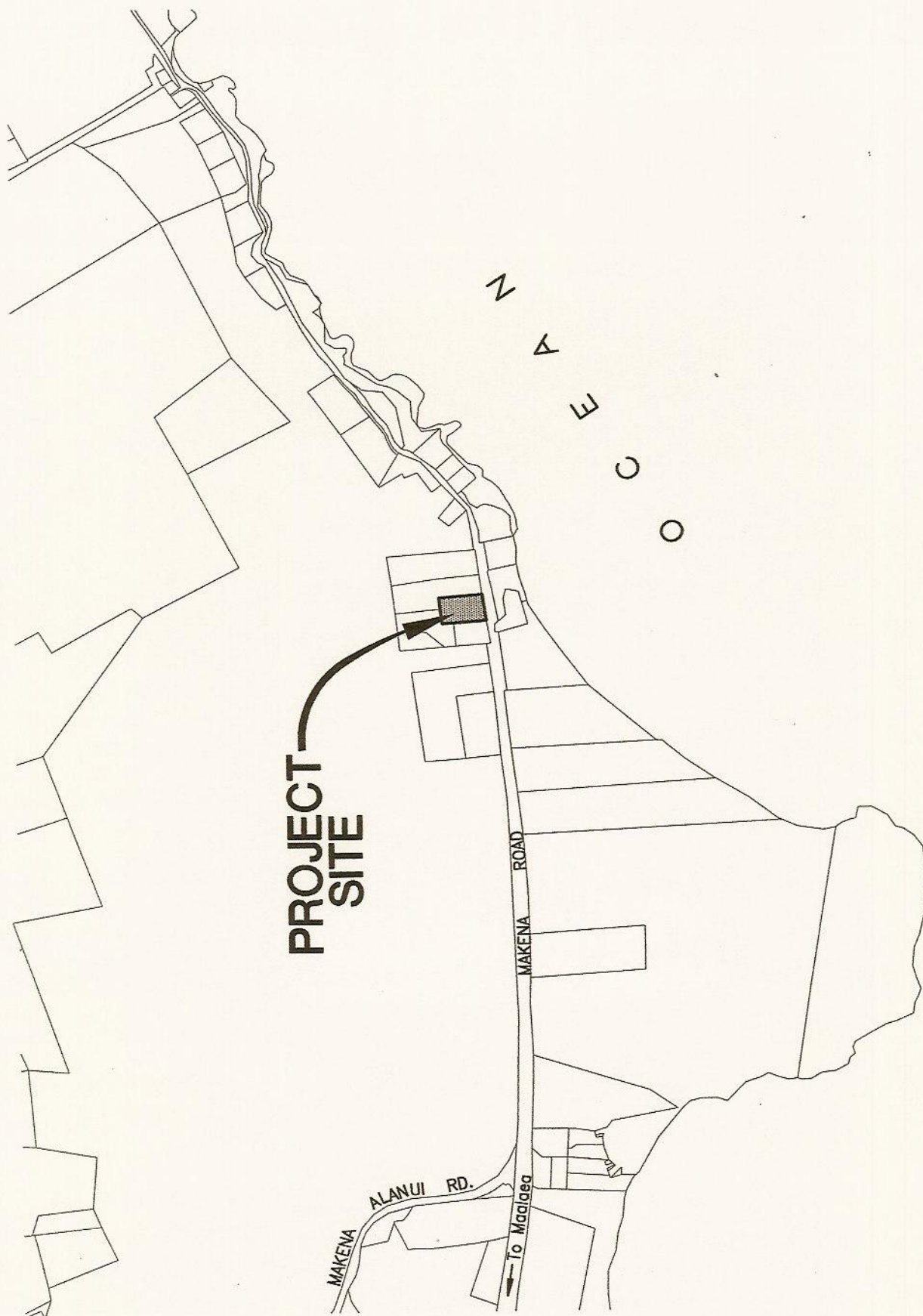
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Exhibits





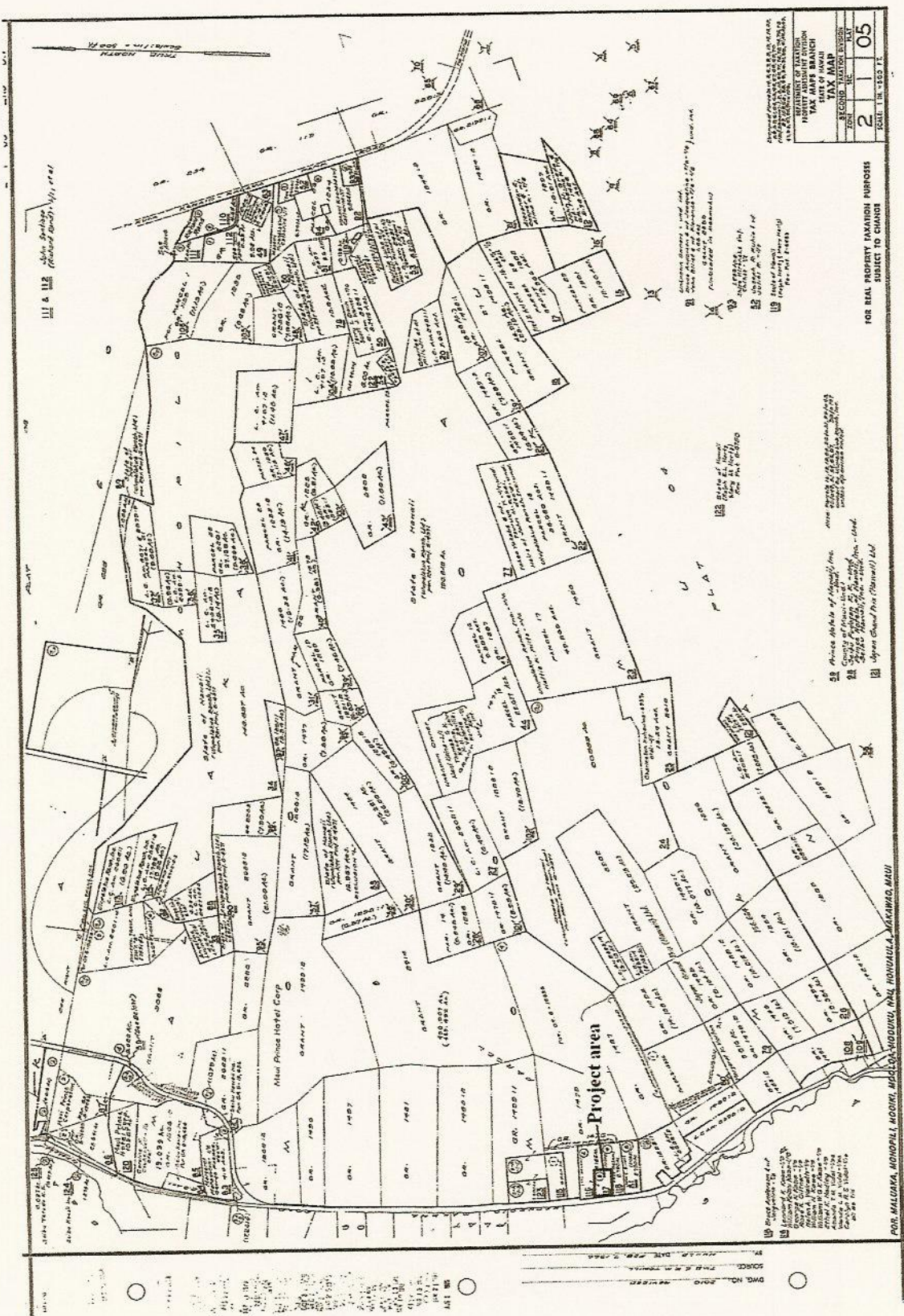
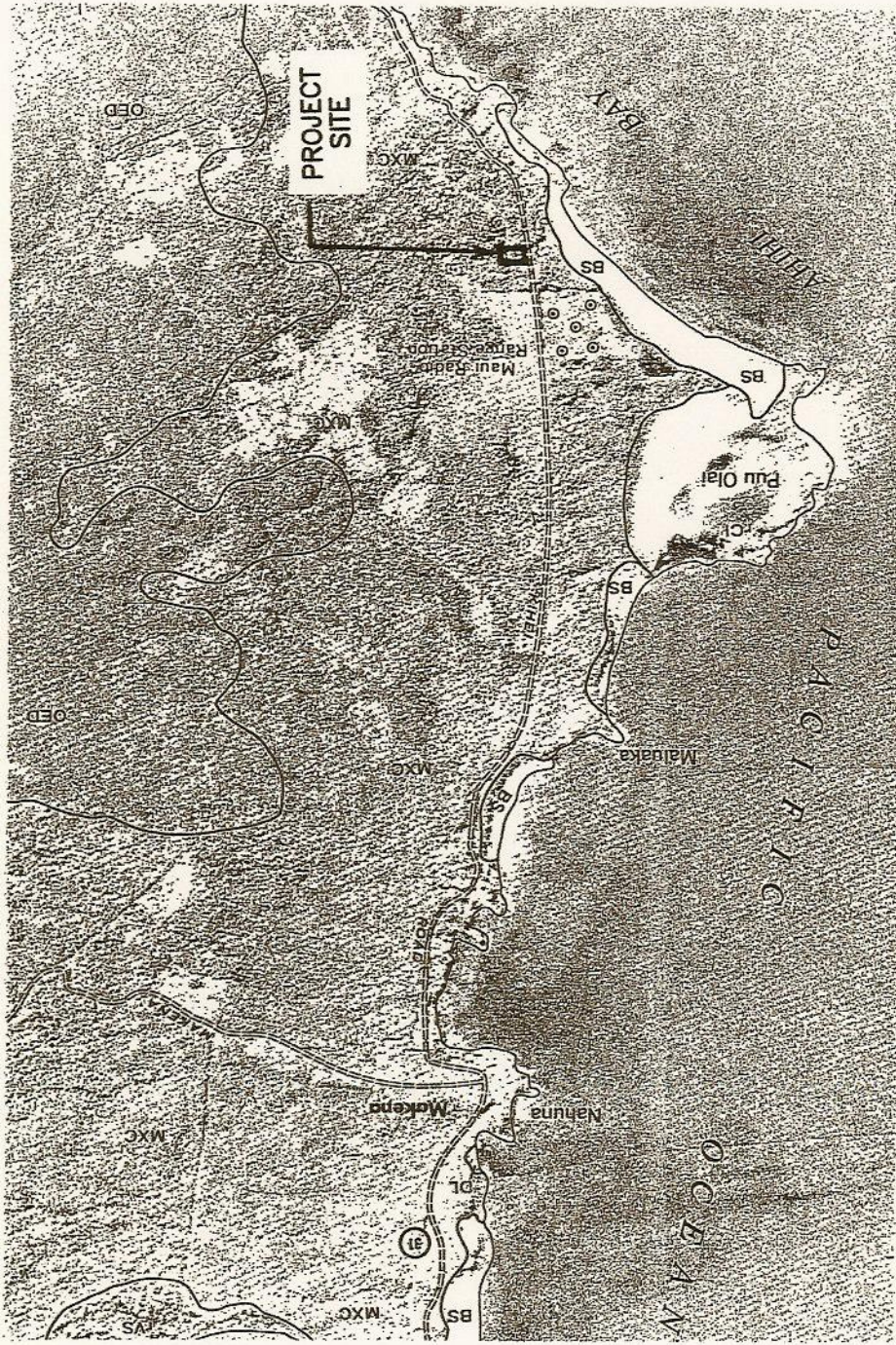
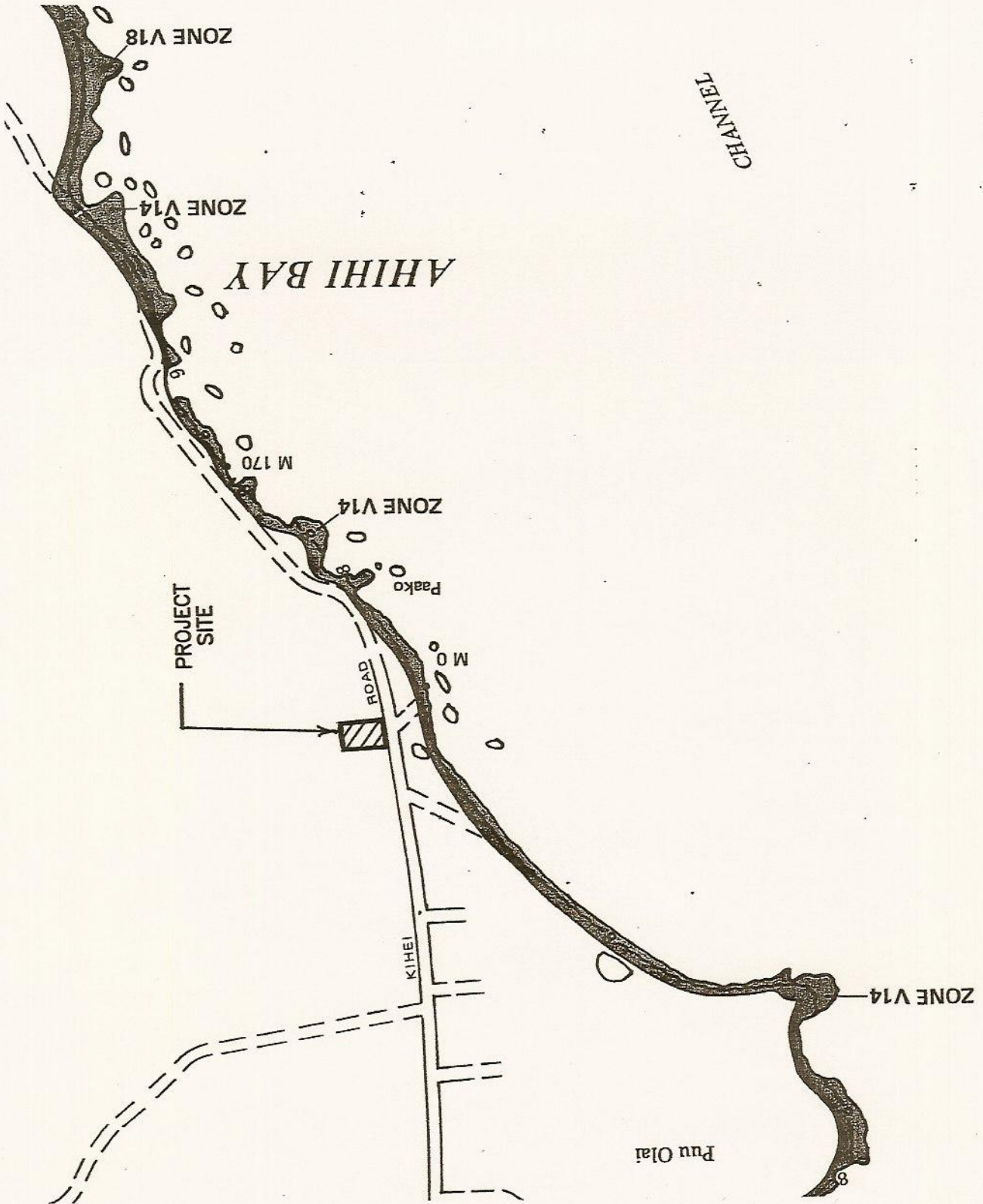


Figure 2: Tax Map Zone 2, Section 1, Plat 05 with the location of the project area—TMK: (2) 2-1-5: 117.



FLOOD INSURANCE
RATE MAP
EXHIBIT 4





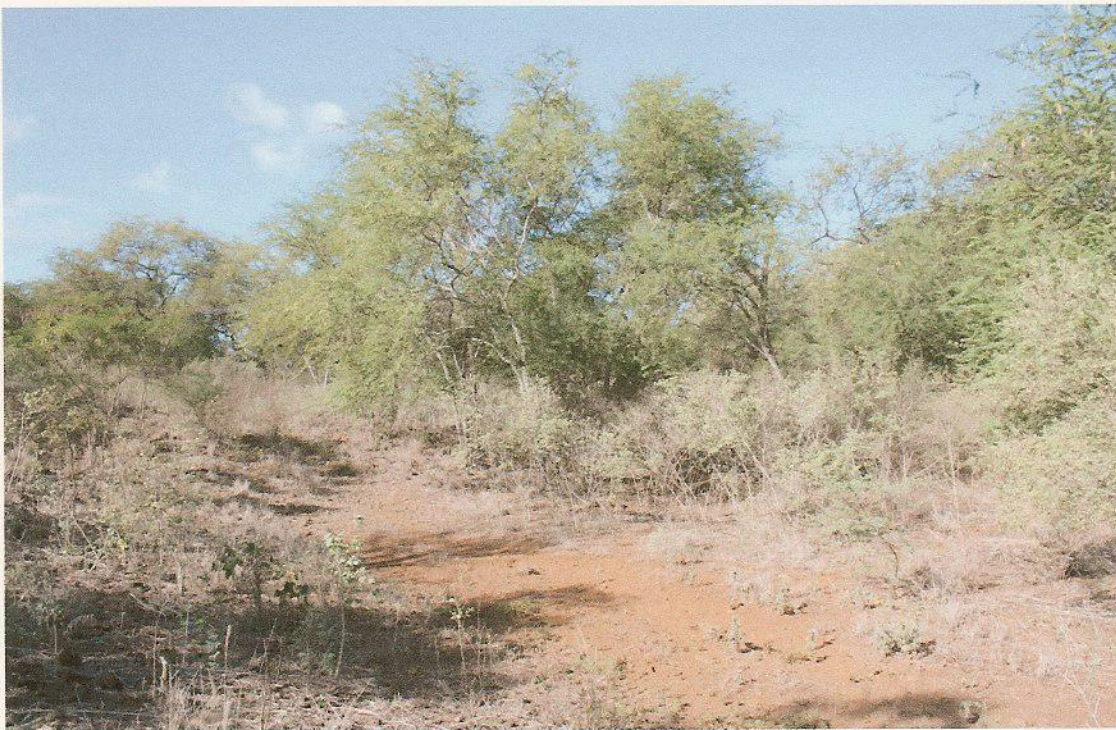
1. The frontage of the property along Makena-Keoneoio Road, looking north.



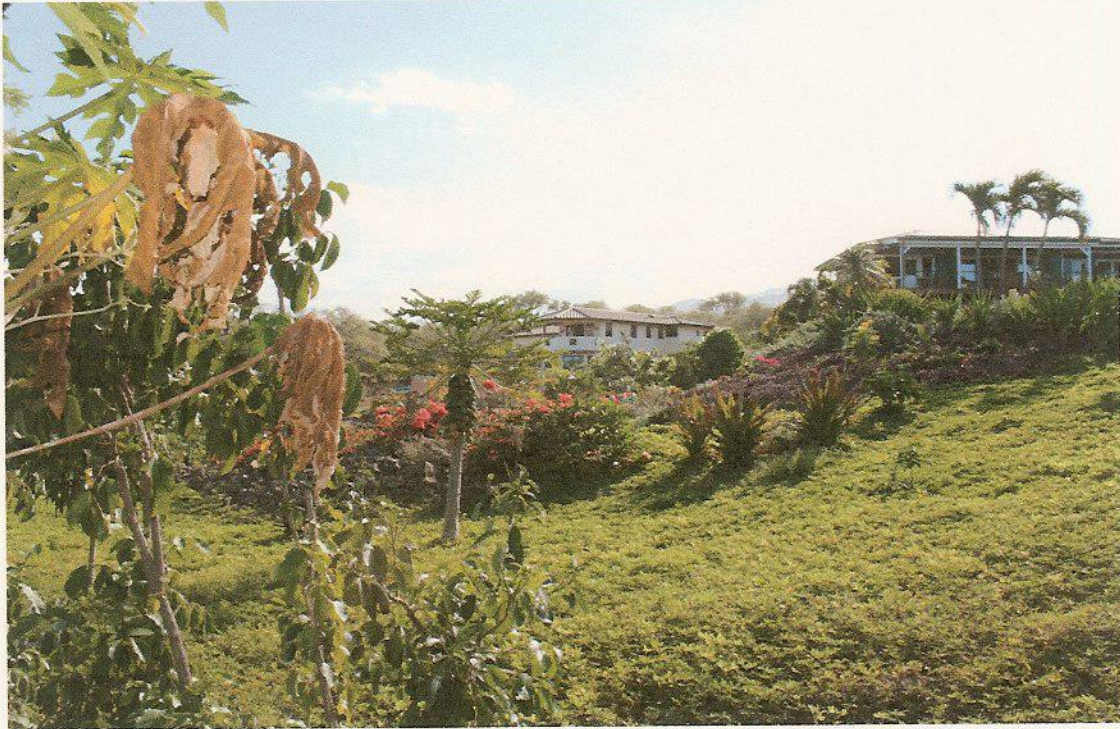
2. View of rock wall surrounding entry of Kaufman subdivision (four rural lots, RU-0.5), adjacent and north of subject property



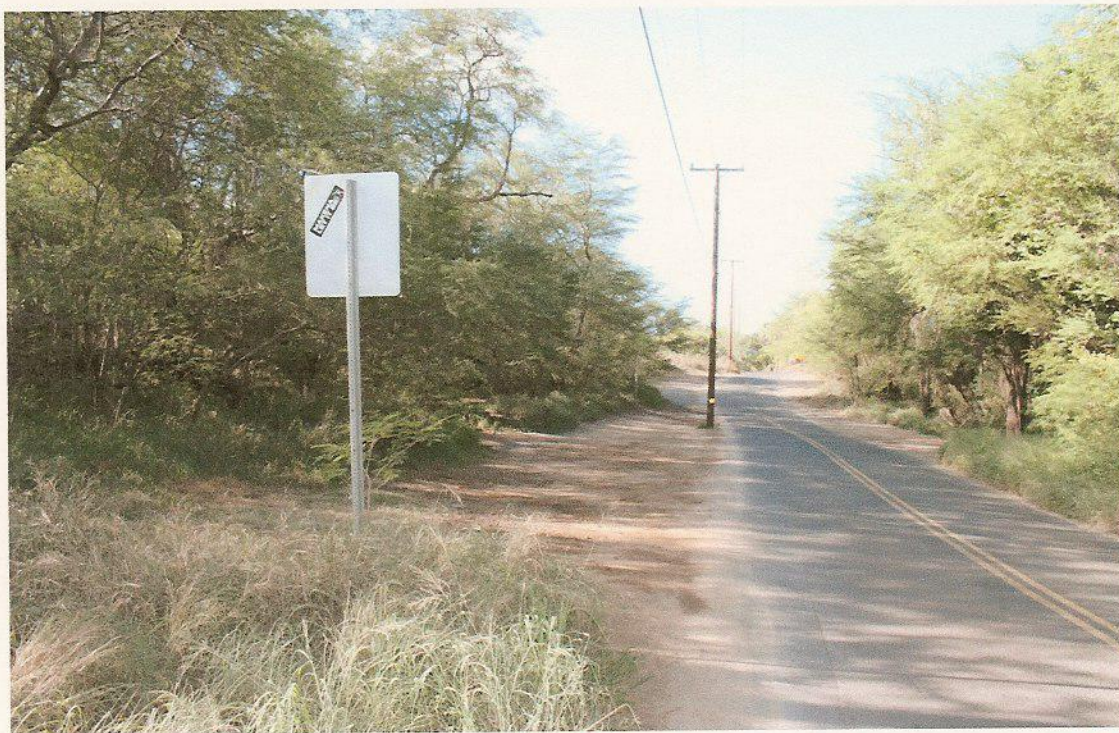
3. State Park at Makena, "Big Beach", fronting property on right (west).



4. Interior of property looking south from northern boundary.



5. View from eastern property boundary, looking east. Visible are homes on Lots 2-B-2 and 2-C of the Kaufman subdivision, a four lot rural (RU-0.5) subdivision.



6. The frontage of the property along Makena-Keoneio Road, looking south



7. View looking west along the northern property boundary. Home on Lot 2-A of Kaufman subdivision visible on right.

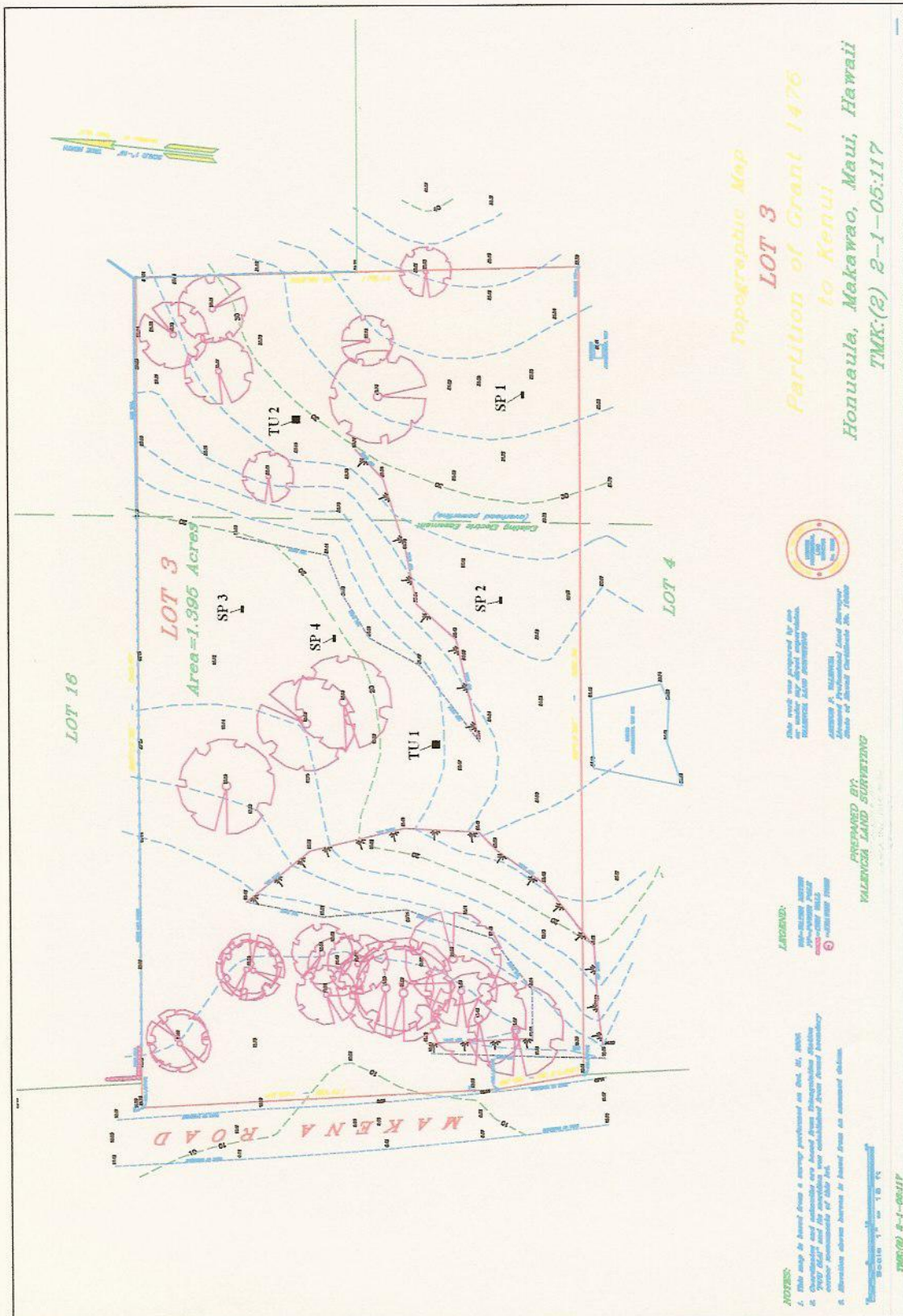
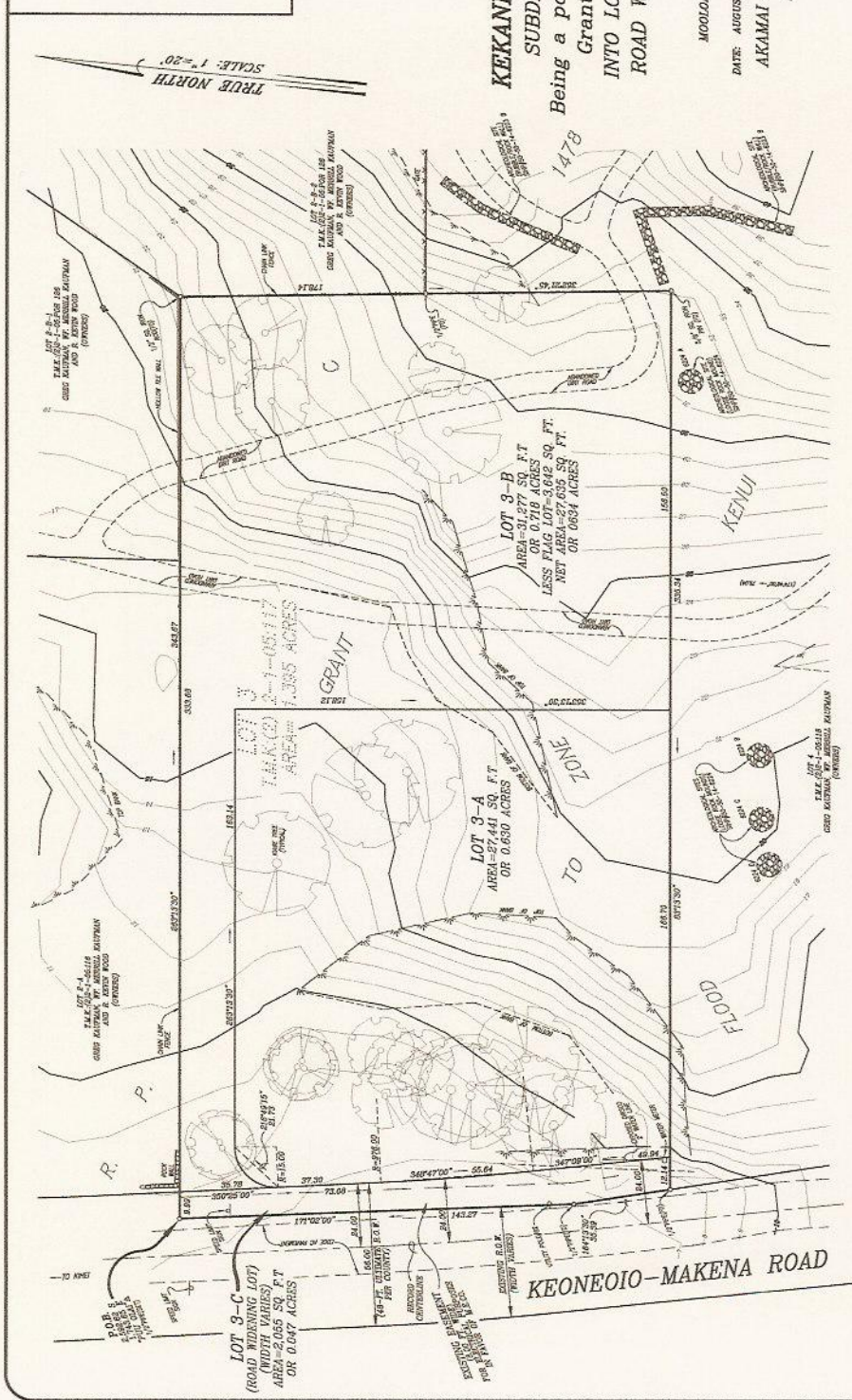
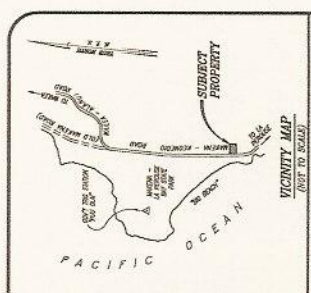


Figure 3: Topographic map of the project area, with subsurface test locations, Makena, Maui.



KEKANIKA SUBDIVISION
SUBDIVISION OF LOT 3
 Being a portion of Royal Patent
 Grant 1478 to Kenui
 INTO LOTS 3-A, 3-B AND
 ROAD WIDENING LOT 3-C

SITUATE AT
 MOOLOA, HONOLULU, MAUI, HAWAII

DATE: AUGUST 30, 2007 SCALE: 1" = 20'
 AKAMAI LAND SURVEYING, INC.
 P.O. BOX 1748
 HAKIPAK, MAUI, HAWAII 96708

PREPARED FOR & ORDERED BY:
 MAUI COUNTY DEPARTMENT OF PUBLIC WORKS
 200 N. MAUI AVENUE
 MAUI, HAWAII 96703

THIS MAP WAS DRAWN BY ME OR UNDER MY DIRECT SUPERVISION
 I AM A LICENSED PROFESSIONAL SURVEYOR
 IN THE STATE OF HAWAII
 MY EXPIRATION DATE IS 12/31/2011
 MY LICENSE NO. IS 10000
 MY REGISTRATION NO. IS 10000
 MY EXPIRATION DATE IS 12/31/2011

NOTES:
 1. ELEVATION SURVEY HEREON IS BASED ON USGS TIDE GAUGE MARK NO. 1611, NAD 1984 ELEVATION TAKEN IN 1981 FEET
 2. TOPOGRAPHIC FRANCHISE SURVEY ARE BASED ON AN ACTUAL FIELD SURVEY PERFORMED DURING OCTOBER & NOVEMBER 1985, AND
 3. ELEVATIONS AND COORDINATES ARE RECORDED AND REFER TO GOVERNMENT SURVEY TRIANGULATION STATION "YOU GAT" A.
 4. FLOOD ZONE INFORMATION SHOWN HEREON IS BASED ON F.I.R.M. INDEX DATED JUNE 1, 1981. SUBJECT PROPERTY IS LOCATED ENTIRELY WITHIN FLOOD ZONE C.
 5. SUBJECT PARCEL IS ZONED "AC"-AGRICULTURAL PER MAUI COUNTY ZONING ORDINANCE.

6. PURSUANT TO MAUI COUNTY ORDINANCE SECTION 3.44.01(4)(C), THE COUNTY OF MAUI IS NOT RESPONSIBLE FOR ANY PARK, ROWWAY, EASEMENT (INCLUDING BUT NOT LIMITED TO EASEMENTS FOR UTILITY LINES, EASEMENTS FOR WATER MAINS, EASEMENTS FOR ANY OTHER INTEREST IN REAL PROPERTY SHOWN ON THIS MAP OR ANY OTHER MAP OR RECORD) OR FOR THE MAINTENANCE OF ANY OF THE ABOVE DESCRIBED EASEMENTS. THE MAUI COUNTY COUNCIL HAS ADOPTED ITS REGULATION BY A RESOLUTION APPROVED BY THE MAUI COUNTY COUNCIL'S MEMBERS AT A REGULAR OR SPECIAL MEETING OF THE MAUI COUNTY COUNCIL.

7. LOT 3-C IS FOR ROAD WIDENING PURPOSES (WIDTH VARIES) TO BE DEDICATED TO THE COUNTY OF MAUI.

8. OWNERS OF ADJACENT LAND PARCELS ARE TAKEN FROM TAX MAP RECORDS.

Appendix A.
Ownership and Agent
Authorization Documents



R-227 STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
JUN 30, 2006 08:01 AM
Doc No(s) 2006-120824



/s/ CARL T. WATANABE
REGISTRAR OF CONVEYANCES

CTax (35): \$8330.00

20 1/1 Z8

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: ☒ MAIL ☐ PICKUP



Pine State Limited
Rm, 1307-1308, Dominion Centre
43-59 Queen's Road East
Wan Chai, Hong Kong

File No. 14-2391872 (CB)
First American Title Company

2391872

RS

TAX KEY NO.: (2) 2-1-05-117

Total No. of Pages: 5

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

ROBERT B. RECTOR and MIRIAM T. RECTOR, as Trustees of the Robert B. Rector Trust of 1999 dated December 15, 1999, with powers to sell, lease, mortgage and other powers, whose residence is in Incline Village, Nevada and whose post office address is P. O. Box 4833, Incline Village, Nevada 89450, hereinafter called the "Grantor", in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration to the Grantor, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto PINE STATE LIMITED, a Hong Kong corporation, whose business and post office address is Rm. 1307-1308, Dominion Centre, 43-59 Queen's Road East, Wan Chai, Hong Kong, hereinafter called the "Grantee", as Tenant in Severalty, the property described in Exhibit "A" attached hereto and incorporated herein by reference.


AND the reversions, remainders, rents, issues and profits thereof, and all of the estate, right, title and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with the improvements thereon and all rights, easements, privileges and appurtenances thereunto belonging or appertaining, unto the Grantee, according to the tenancy herein set forth, forever.

AND the Grantor hereby covenants with the Grantee that the Grantor is lawfully seised in fee simple of the premises described herein and has good right to sell and convey the same; that the same are free and clear of all encumbrances except as set forth herein and except for the lien of real property taxes not yet required by law to be paid; and that the Grantor will WARRANT AND DEFEND the same unto the Grantee against the lawful claims and demands of all persons, except as aforesaid.

This conveyance and the covenants of the Grantor shall be jointly and severally binding upon the person or persons identified above as "Grantor" and the Grantor's heirs, successors and assigns, and shall run in favor of and inure to the benefit of the person or persons identified above as "Grantee" and the Grantee's heirs, successors and assigns and the heirs and assigns of the survivor of them. The use herein of the singular in reference to a party shall include the plural and the use of a pronoun of any gender shall include all genders. The term "person" shall mean and include an individual, partnership, association or corporation, as the context may require.

IN WITNESS WHEREOF, the Grantor has caused these presents to be duly executed this 16th day of JUNE, 2006.



ROBERT B. RECTOR,
Trustee as Aforesaid



MIRIAM T. RECTOR,
Trustee as Aforesaid

Grantor

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

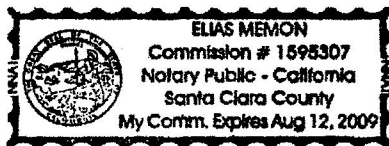
State of California

County of SANTA CLARA

ss.

On 06/16/2006 before me, ELIAS MEMON, NOTARY PUBLIC.
Date Name and Title of Officer (e.g., Jane Doe, Notary Public)
 personally appeared ROBERT B. RECTOR AND MIRIAM T. RECTOR
Name(s) of Signer(s)

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in ~~his/her~~ their authorized capacity(ies), and that by ~~his/her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Elias Memon
 Signature of Notary Public
Elias Memon

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: WARRANTY DEED

Document Date: _____ Number of Pages: 5

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: ROBERT B. RECTOR AND MIRIAM T. RECTOR

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☒ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
 OF SIGNER
 Top of thumb here

EXHIBIT "A"

ALL of that certain parcel of land situate, lying and being on the easterly and mauka side of the Makena-Keoneoio Government Road at Mooloa, Honuaula, District of Makawao, Island and County of Maui, State of Hawaii, being LOT 3 of the Partition of Grant 1476 to Kenui, and thus bounded and described as per survey of James Melmuth Brock, Registered Land Surveyor, with Brock and Associates, dated June 12, 1981, to-wit:

Beginning at a concrete monument with bronze disk marked "3218-13-82" on the easterly and mauka side of Makena-Keoneoio Government Road at the southwesternmost corner of this lot, a common corner with Lot 4 of this partition, the coordinates of said point of beginning being:

South 2,768.19 feet
East 1,775.60 feet

referred to Government Survey Triangulation Station "PUU OLAI" and running by azimuths measured clockwise from True South (meridian of said "PUU OLAI"; thence

- | | | | | | |
|----|------|-----|-----|--------|---|
| 1. | 164° | 13' | 30" | 35.39 | feet along the easterly and mauka side of Makena-Keoneoio Government Road to a ¾" iron bar; thence, |
| 2. | 171° | 02' | | 143.27 | feet along same to a concrete monument with bronze disk marked "3218-14-81"; thence, |
| 3. | 263° | 13' | 30" | 343.67 | feet along Lot 2 of this partition to a ¾" iron bar; thence, |
| 4. | 352° | 21' | 45" | 178.14 | feet along Lots 2 and 4 of this partition to a ¾" iron bar; thence, |
| 5. | 83° | 13' | 30" | 335.34 | feet along Lot 4 of this partition to the point of beginning and containing an area of 1.395 acres, more or less. |

Being all of the premises conveyed by QUITCLAIM DEED recorded July 12, 2005 as Regular System Document No. 2005-137170 of Official Records, from ROBERT B. RECTOR and MIRIAM TIENZO RECTOR, husband and wife as Grantor, to ROBERT B. RECTOR and MIRIAM T. RECTOR, as Trustees of The Robert B. Rector Trust of 1999 dated December 15, 1999 as Grantee.

SUBJECT, HOWEVER, to the following:

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
2. All customary and traditional rights, of native Hawaiians as provided for by law, for subsistence, cultural and religious purposes, which rights may involved access to the subject property.
3. Existing easement for electrical purposes in favor of M. E. Co., as shown on or disclosed by the Topographic survey Map dated November 1995, prepared by Sherman Dudley DePonte, Registered Professional Land Surveyor, as set forth or disclosed by the Quitclaim Deed recorded July 12, 2005 as Regular System Document No. 2005-137170 of Official Records.
4. Dirt Road, as shown on or disclosed by the Topographic survey Map dated November 1995, prepared by Sherman Dudley DePonte, Registered Professional Land Surveyor, as set forth or disclosed by the Quitclaim Deed recorded July 12, 2005 as Regular System Document No. 2005-137170 of Official Records.

END OF EXHIBIT "A"
Tax Map Key No. (2) 2-1-05-117

COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

July 2, 2007

To Whom It May Concern:

This notarized letter gives written authorization by Pine State, Ltd., Owner of Lot 3 Makena-Keoneoio Road, Kihei, Maui, HI 96753 (Tax Map Key No. (2) 2-1 - 05 - 117) to Gregory D. Kaufman, 6699 Makena Road, Kihei, HI 96753, to act on our behalf in the preparation, processing and representation of any and all applications required for a County of Maui Community Plan Amendment (CPA) ; State Land Use District Boundary Amendment (LUDBA); Maui County Change in Zoning (CIZ); Environmental Assessment (EA); and Special Management Area (SMA) Permit.

Should you have any questions regarding this authorization please do not hesitate to contact me.

Pine State Limited
Sincerely,

.....
Authorized Signature
Pine State Limited
Room 1307/8, Dominion Centre
43-59 Queen's Road East
Wan Chai, Hong Kong
Tel 852-2527-5228

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Marin

SS.

On 7-7-07

Date

before me, JUDITH F. EDGHILL

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

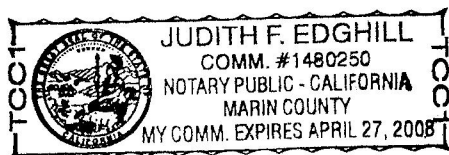
personally appeared Michael Lauterman

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Judith F. Edghill
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Appendix B.
Flood and Zoning Confirmation



COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 South High Street,
Wailuku, Hawaii 96793
Telephone: (808) 270-7735
Facsimile: (808) 270 7634
E-mail: planning@co.maui.hi.us

ZONING AND FLOOD CONFIRMATION REQUEST FORM

APPLICANT: GREG KAUFMAN, PINE STATE LTD PHONE NO.: 283-7704
ADDRESS: 6699 MAKENA ROAD, KIHEI, HI 96753
PROJECT NAME: KE KANI KAI SUBDIVISION
ADDRESS AND/OR LOCATION:
TMK NUMBER(S): 2-2-1-05:117

ZONING INFORMATION

STATE LAND USE AGRICULTURE COMMUNITY PLAN SINGLE-FAMILY
COUNTY ZONING INTERIM DIST. SPECIAL DISTRICT
OTHER SMA

FLOOD INFORMATION

FLOOD HAZARD AREA ZONE C
BASE FLOOD ELEVATION N/A mean sea level, 1929 National Geodetic Vertical Datum
or for Flood Zone A0, FLOOD DEPTH N/A feet.

FLOODWAY [] Yes or [X] No

FLOOD DEVELOPMENT PERMIT IS REQUIRED [] Yes or [X] No

* For flood hazard area zones B or C; a flood development permit would be required if any work is done in any drainage facility or stream area that would reduce the capacity of the drainage facility, river, or stream, or adversely affect downstream property.

FOR COUNTY USE ONLY

REMARKS/COMMENTS: _____

- ☐ Additional information required.
☐ Information submitted is correct.
☐ Correction has been made and initialed.

Reviewed and Confirmed by:

[Signature]
(Signature)
Zoning Administration and Enforcement Division

07.02.07
(Date)

Appendix C.
Preliminary Engineering Report

PRELIMINARY ENGINEERING REPORT

FOR

KE KANI KAI

Makena, Maui, Hawaii

T.M.K.: (2) 2-1-005: 117

Prepared for:

Pine State Limited
c/o Greg Kaufman
6699 Makena Road
Kihei, Maui, Hawaii 96753



Prepared by:



OTOMO
ENGINEERING, INC.

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PHONE: (808) 242-0032
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August 2007

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**PRELIMINARY ENGINEERING REPORT
FOR
KE KANI KAI
T.M.K.: (2) 2-1-005: 117**

1.0 INTRODUCTION

The purpose of this report is to provide information on the existing infrastructure which will be servicing the proposed project. It will also evaluate the adequacy of the existing infrastructure and anticipated improvements which may be required for the proposed project.

The subject parcel is identified as T.M.K.: (2) 2-1-005: 117 and encompasses an area of 1.395 acres. The project site is bordered by an existing rural subdivision to the north and east, vacant land the south, and Makena-Keoneoio Road to the west.

The development plan includes the subdivision of the parcel into two rural lots with a minimum lot size of one-half acre. Associated improvements include grading, paved parking areas, utility connections, and landscaping.

2.0 EXISTING INFRASTRUCTURE

2.1 ROADWAYS

Piilani Highway is the primary roadway linking Kihei, Wailea and Makena to other areas on Maui. Piilani Highway is a four-lane highway which is owned and maintained by the State. At the southern terminus of Piilani Highway, Wailea Ike Drive intersects with Piilani Highway and connects to Wailea Alanui Drive. As Wailea Alanui Drive heads south, it turns into Makena Alanui Road south of the Wailea Resort area. Makena Alanui Road terminates at Makena-Keoneoio Road.

Makena-Keoneoio Road is a two-lane roadway which parallels the coastline and serves most of the residential communities and beach parks in the Makena region. Makena-Keoneoio Road terminates near La Perouse Bay.

2.2 DRAINAGE

The elevation on the site ranges from elevation 33 feet above mean sea level at the southeasterly boundary to 7 feet above mean sea level at Makena-Keoneoio Road, averaging approximately 7.7%.

According to Panel Number 150003 0340 B of the Flood Insurance Rate Map, June 1, 1981, prepared by the United States Federal Emergency Management Agency, the project site is situated in Flood Zone C, which represents areas of minimal flooding.

According to the "Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii (August, 1972)," prepared by the United States Department of Agriculture Soil Conservation Service, the soil within the project site is classified as Makena loam, stony complex (MXC). Makena loam, stony complex is characterized as having moderately rapid permeability, slow runoff and a slight to moderate erosion hazard for the Makena part of the complex. On the Stony land part of the complex, permeability is very rapid and there is no erosion hazard.

It is estimated that the existing 50-year storm runoff from the project site is 1.55 cfs. Presently, onsite runoff sheet flows across the project site in an east to west direction toward Makena-Keoneio Road and eventually into the ocean.

2.3 SEWER

There are no public sewer facilities in this part of Maui. Sewerage from residential developments in the area are handled by individual wastewater systems such as septic systems.

2.4 WATER

Domestic water and fire flow will be provided by the County's water system. There is an existing 12-inch waterline which reduces to an 8-inch waterline along Makena-Keoneio Road near the subject property. An existing fire hydrant is located near the north end of the subject property. The subject property currently has a 5/8-inch water meter located at the southwesterly corner.

Storage for the project area is provided by a 1.5 million gallon concrete tank at an elevation of 265 feet and located approximately 7,000 feet to the northeast of the project site. The source for the water system is the Moku hau wells located in Happy Valley.

2.5 ELECTRIC, TELEPHONE AND CABLE TV

There are existing overhead electrical, telephone and cable TV distribution systems along Makena-Keoneoio Road on the mauka side of the roadway.

3.0 ANTICIPATED INFRASTRUCTURE IMPROVEMENTS

3.1 ROADWAYS

Access for the proposed two lot subdivision will be from Makena-Keoneoio Road, with each lot having separate driveway entrances from Makena-Keoneoio Road. The existing right-of-way of Makena-Keoneoio Road varies. The County of Maui established a centerline for the roadway and designated an ultimate right-of-way of 48 feet.

A road widening lot with a varying width will be created 24 feet from the established centerline of Makena-Keoneoio Road. The road widening lot will be part of the subdivision application and dedicated to the County. The existing pavement width is approximately 20 feet, therefore no pavement widening improvements are expected along Makena-Keoneoio Road fronting the subject property.

3.2 DRAINAGE

After the development of the proposed project, it is estimated that the 50-year storm runoff will be 3.62 cfs, a net increase of 2.07 cfs. Onsite runoff will continue to sheet flow in a westerly direction toward Makena-Keoneoio Road. The runoff will be conveyed to an onsite detention basin, which will be constructed within one of the lots as part of the subdivision improvements. The detention will be designed and sized to accommodate the increase in surface runoff volume from a 50-year 1-hour storm created by the proposed project.

The drainage design criteria will be to minimize any alterations to the natural pattern of the existing onsite surface runoff.

3.3 SEWER

There will be no sewer improvements for the subdivision. As each lot owner applies for a building permit for any structure, they will be required to design and install an individual wastewater system (IWS), such as a septic system. As part

of the building permit process, they will be required to submit the design of the IWS to the State Department of Health for review and approval.

3.4 WATER

In accordance with the Department of Water Supply's Domestic Consumption Guidelines for single family residential development, the average daily demand for is 600 gallons per day or 3,000 gallons per acre. Based on this criteria, the average daily demand for the proposed 2-lot subdivision is 4,185 gallons per day.

Fire flow demand for a rural development is 1,000 gallons per minute for a 2-hour duration. Fire hydrants will be installed with a maximum spacing of 500 feet.

3.5 ELECTRIC, TELEPHONE AND CABLE TV

The proposed electrical, telephone and cable TV distribution systems in the subject development will be installed underground from Makena-Keoneoio Road. Interior project lighting will be provided as approved by the Department of Planning.

APPENDIX A
HYDROLOGIC CALCULATIONS

Hydrologic Calculations

Purpose: Determine the increase in onsite surface runoff from the development of the proposed project based on a 50-year storm.

A. Determine the Runoff Coefficient (C):

EXISTING CONDITIONS:

Infiltration (Medium)	= 0.07
Relief (Rolling)	= 0.03
Vegetal Cover (High)	= 0.00
Development Type (Open)	= <u>0.15</u>
C	= 0.25

DEVELOPED CONDITIONS:

Infiltration (Slow)	= 0.14
Relief (Rolling)	= 0.03
Vegetal Cover (Good)	= 0.03
Development Type (Rural)	= <u>0.30</u>
C	= 0.50

B. Determine the 50-year 1-hour rainfall:

$$i_{50} = 2.5 \text{ inches}$$

Adjust for time of concentration to compute Rainfall Intensity (I):

Existing Condition:

$$T_c = 17 \text{ minutes}$$
$$I = 4.44 \text{ inches/hour}$$

Developed Condition:

$$T_c = 11 \text{ minutes}$$
$$I = 5.18 \text{ inches/hour}$$

C. Drainage Area (A) = 1.395 Acres

D. Compute the 50-year storm runoff volume (Q):

$$Q = CIA$$

Existing Conditions:

$$\begin{aligned} Q &= (0.25)(4.44)(1.395) \\ &= 1.55 \text{ cfs} \end{aligned}$$

Developed Conditions:

$$\begin{aligned} Q &= (0.50)(5.18)(1.395) \\ &= 3.62 \text{ cfs} \end{aligned}$$

The increase in runoff due to the proposed development is $3.62 - 1.55 = 2.07$ cfs.

Hydrograph Plot

English

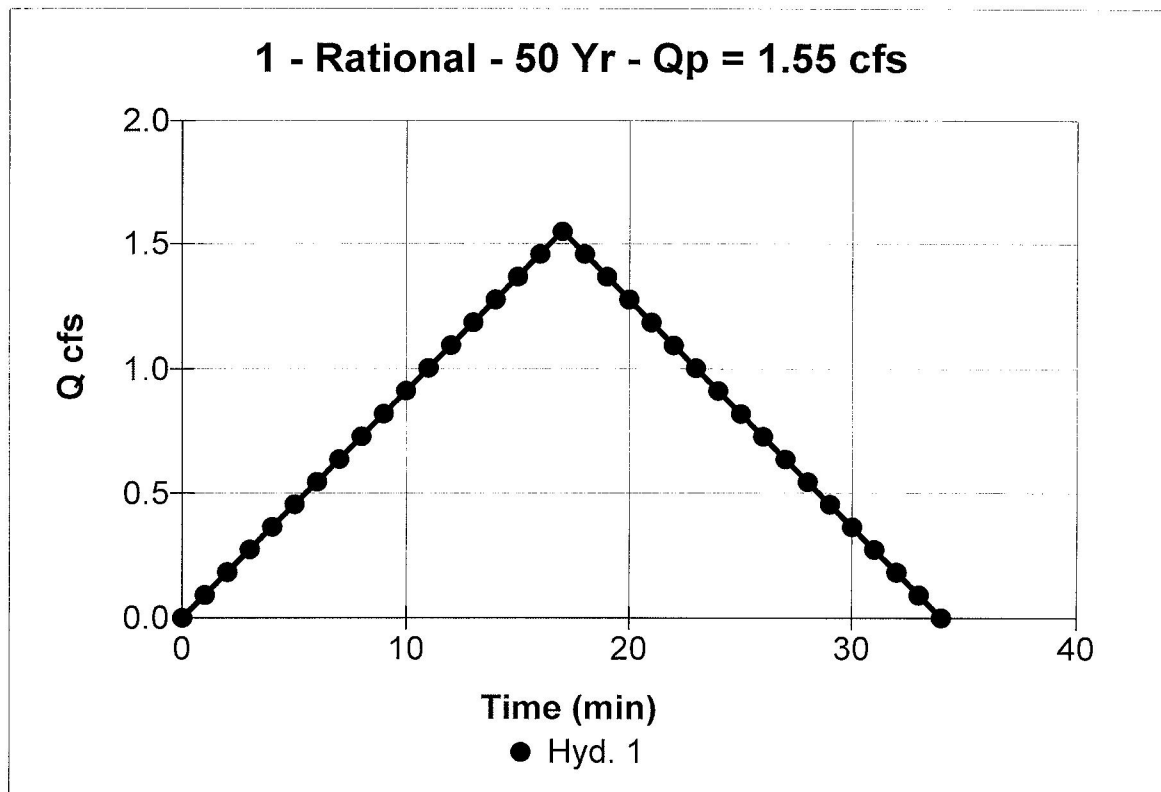
Hyd. No. 1

EXISTING CONDITIONS

Hydrograph type = Rational
Storm frequency = 50 yrs
Drainage area = 1.4 ac
Intensity = 4.44 in
I-D-F Curve = 2-5.IDF

Peak discharge = 1.55 cfs
Time interval = 1 min
Runoff coeff. = 0.25
Time of conc. (Tc) = 17 min
Reced. limb factor = 1

Total Volume = 1,580 cuft



Hydrograph Plot

English

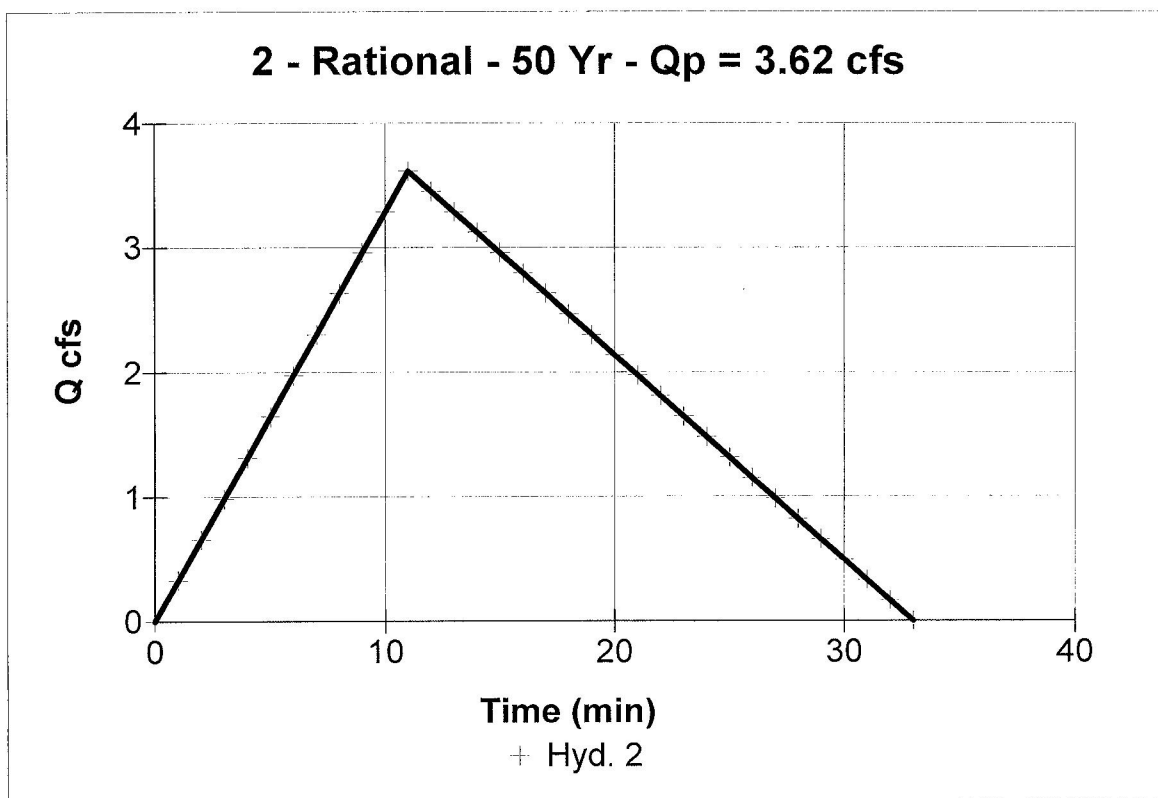
Hyd. No. 2

DEVELOPED CONDITIONS

Hydrograph type = Rational
Storm frequency = 50 yrs
Drainage area = 1.4 ac
Intensity = 5.18 in
I-D-F Curve = 2-5.IDF

Peak discharge = 3.62 cfs
Time interval = 1 min
Runoff coeff. = 0.5
Time of conc. (T_c) = 11 min
Reced. limb factor = 2

Total Volume = 3,580 cuft



APPENDIX B
WATER DEMAND CALCULATIONS

WATER DEMAND CALCULATIONS

Per 2002 Water System Standards:

Average Daily Demand (ADD) = 600 gallons per unit or 3,000 gallons per acre

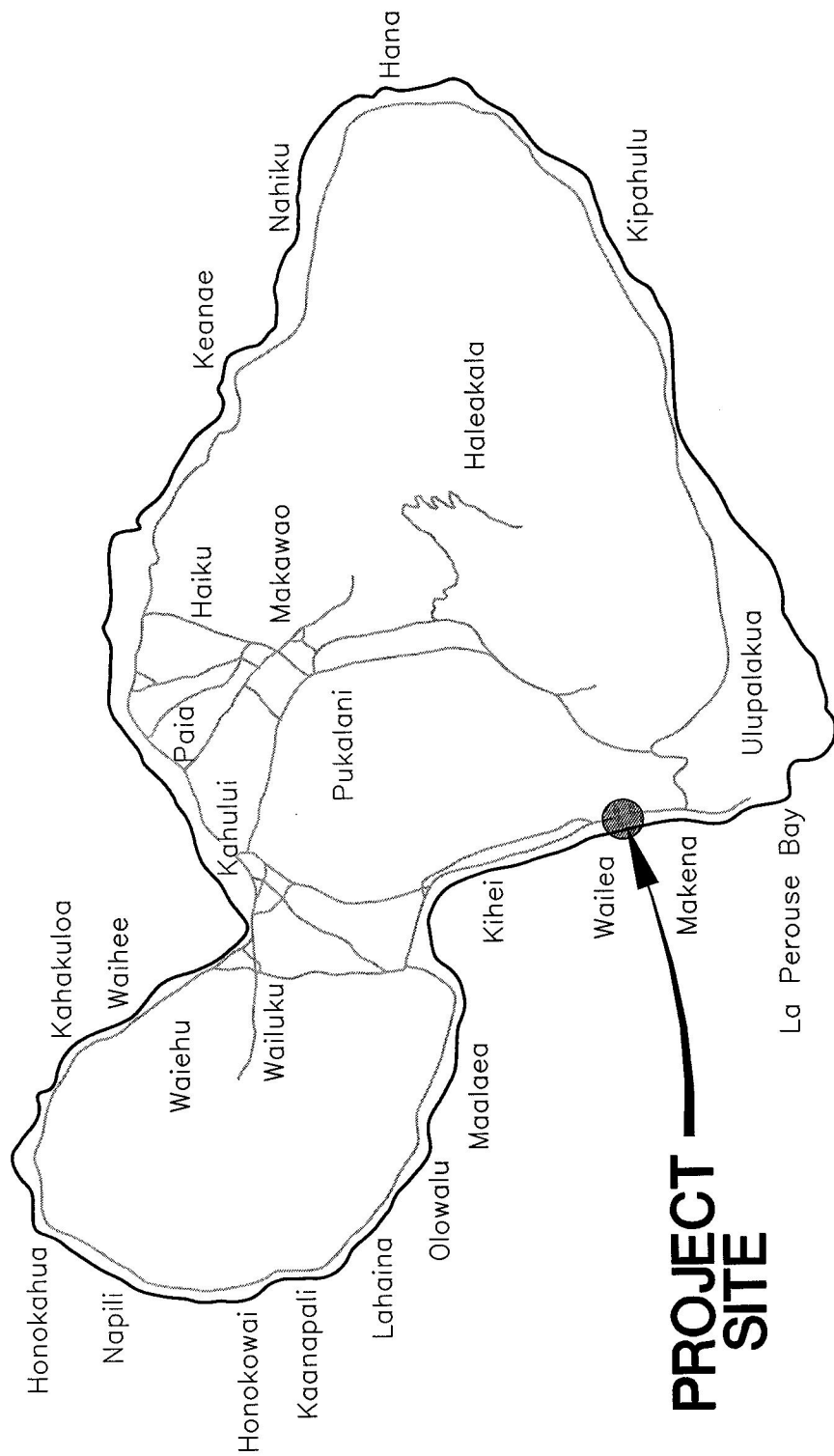
$ADD = (600 \text{ gallons/unit}) \times (2 \text{ units}) = 1,200 \text{ gallons per day}$

$ADD = (3,000 \text{ gallons/acre}) \times (1.395 \text{ acres}) = 4,185 \text{ gallons per day}$

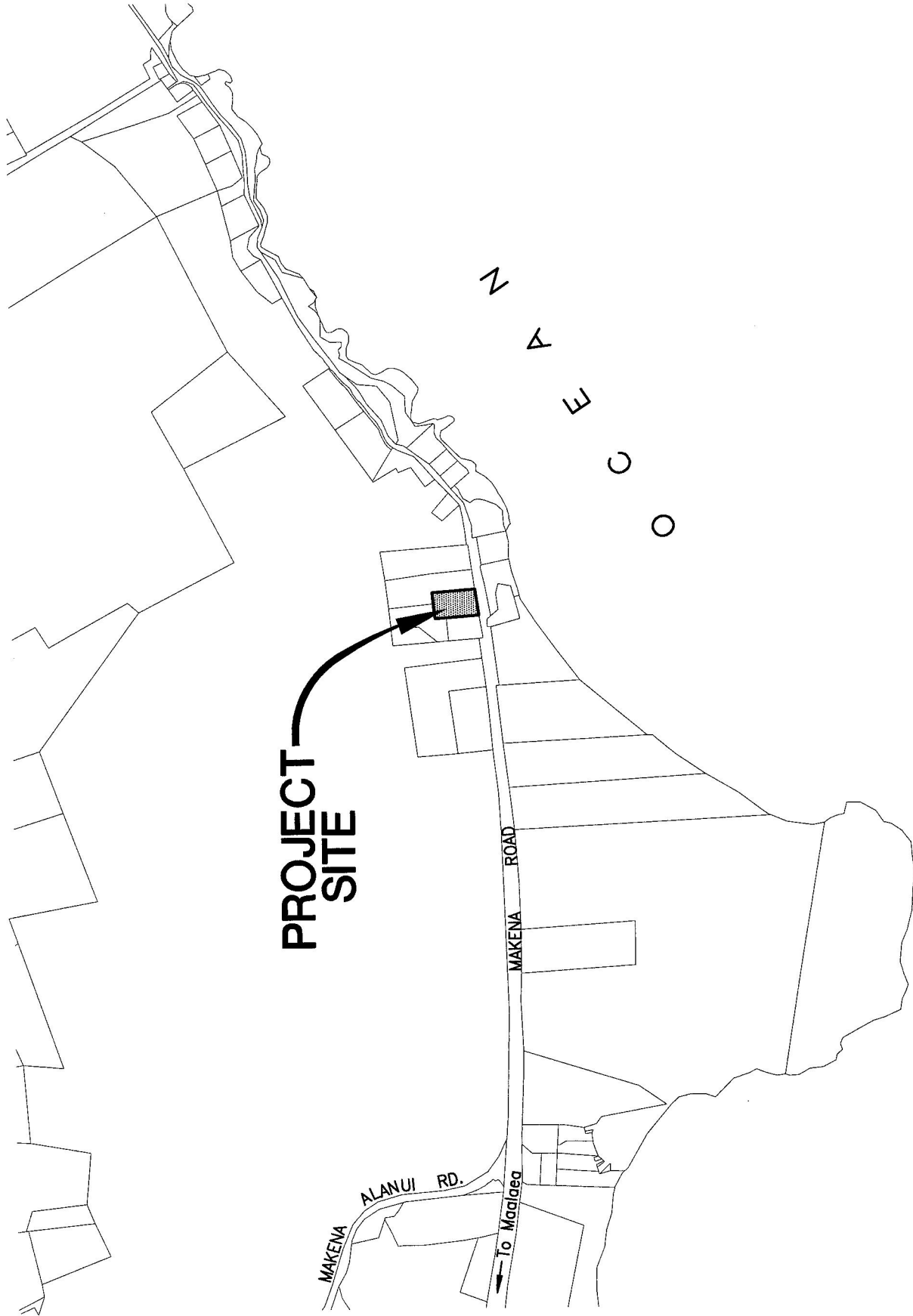
Average Daily Demand is 4,185 gallons (Greater of the two consumption)

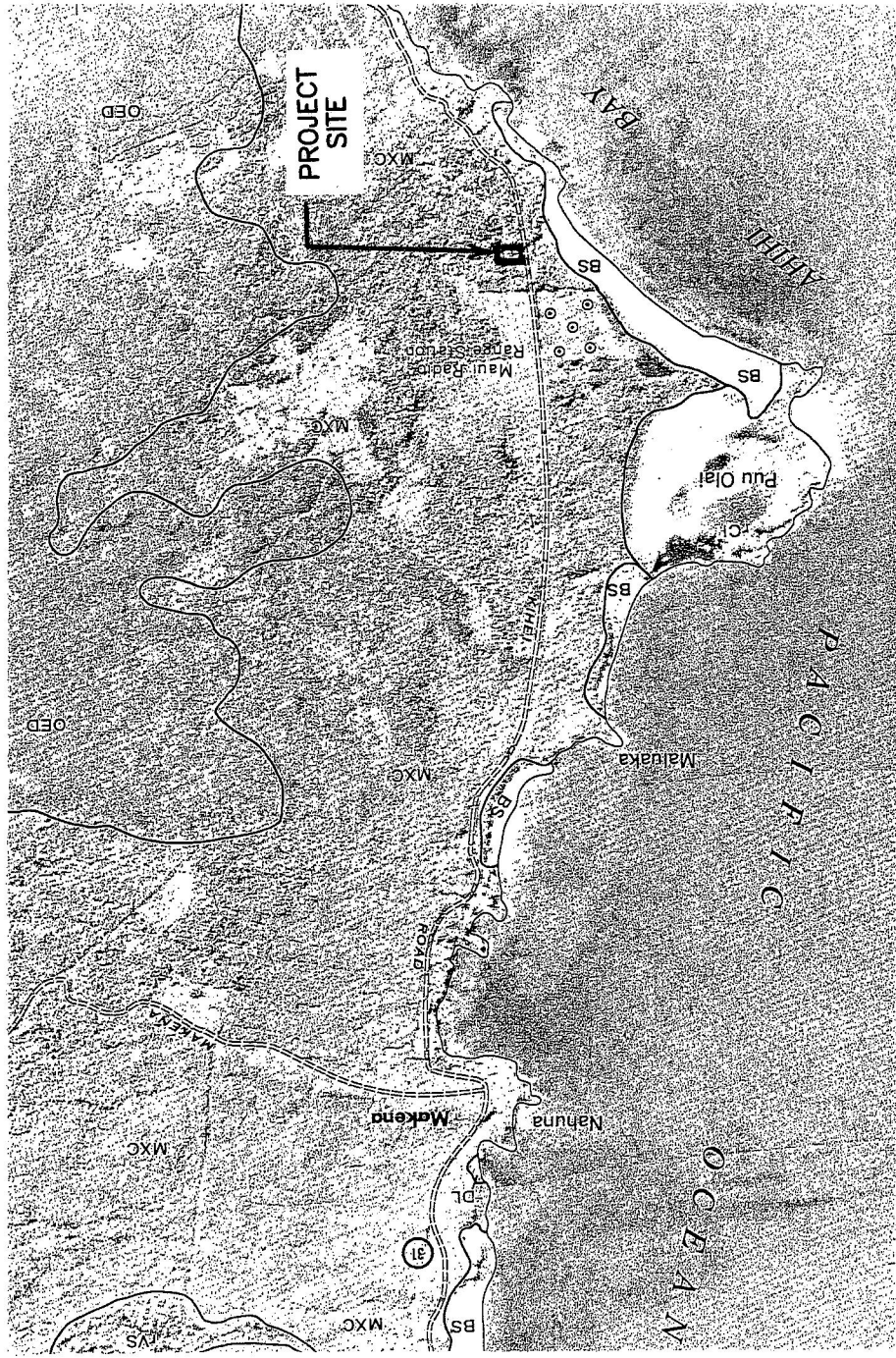
EXHIBITS

- 1 Location Map
- 2 Vicinity Map
- 3 Soil Survey Map
- 4 Flood Insurance Rate Map



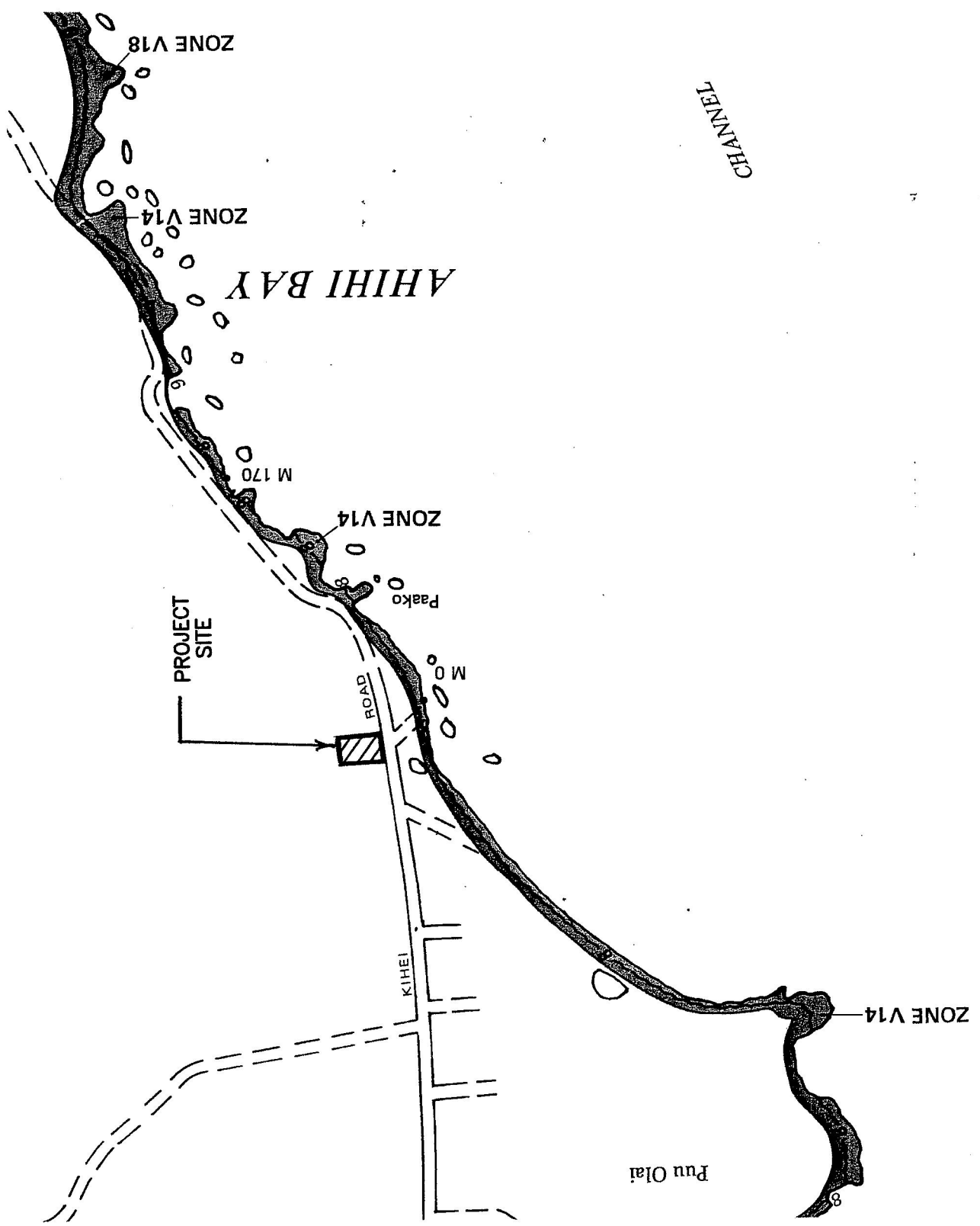
VICINITY MAP
EXHIBIT 2





SOIL SURVEY MAP
EXHIBIT 3

FLOOD INSURANCE
RATE MAP
EXHIBIT 4



Appendix D.
SHPD Archaeological
Monitoring Letter

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

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

ROBERT K. MASUDA
DEPUTY DIRECTOR

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

May 11, 2007

Mr. Erik Fredericksen
Xamanek Researches
P.O. Box 880131
Pukalani, Hawaii 96788

LOG NO: 2007.0064
DOC NO: 0705MK11
Archaeology

Dear Mr. Fredericksen:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
Archaeological Monitoring Plan for
Proposed On and Off-Site Improvements for Mr. Michael Lauterman
Mooloa Ahupuaa, Makawao District, Island of Maui
TMK (2) 2-1-005:117**

Thank you for the opportunity to review this plan which was received by our staff on December 26, 2006 (Fredericksen 2006, *A General Archaeological Monitoring Plan for Proposed on-and Off-Site Improvements for a Parcel of land in Mooloa Ahupuaa, Honuaula, Makawao District, Maui Island [TMK (2) 2-1-05:117]*)...Xamanek Researches, LLC, ms. We have recently provided comments on an Archaeological Inventory Survey (Assessment) (DOC NO: 0704MK42)

The survey adequately covered the project area documenting no historic properties. No surface structural remains of any kind were visible on the surface. Evidence of previous bulldozer activity included pushed old roadway sections and push piles. Portions of the SIHP 6224 (on the adjacent parcel) were visible from the southern boundary. Subsurface testing yielded no evidence of cultural remains, although recent refuse was identified on the surface.

We concurred that although no historic properties were identified on the subject parcel or within the shallow subsurface deposit, precautionary archaeological monitoring is warranted. The presence of significant archaeological features on adjacent parcels, and the depth of prehistoric and historic use of the area supports this recommendation.

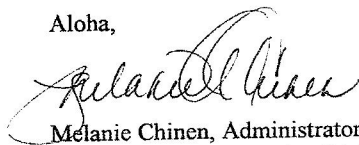
The plan conforms to Hawaii Administrative Rules Chapter 13-279 which govern standards for monitoring; the subject plan includes the following provisions. An archaeologist will be on site on a full-time basis (one archaeologist per piece of heavy equipment) and will have the authority to halt excavation in the event that cultural materials are identified. Consultation with Maui SHPD will occur in this event, to determine acceptable course of action. If human burials are identified, work will cease, the SHPD Burial Sites Program, Maui SHPD, Oahu SHPD and the Maui/Lanai Islands Burial Council will be notified, and compliance with procedures outlined in HRS 6.E-43 will be followed. Coordination meetings with the construction crew will be held prior to project initiation. The plan further indicates that an acceptable report will be submitted to this office within 180 days of project completion.

Mr. Erik Fredericksen
Page 2

Please notify our Maui and Oahu offices, via facsimile, at onset and completion of the project and monitoring program (FAX 808 243-5838 on Maui and 808 692-8020 on Oahu).

The plan is acceptable. We believe there will be "no historic properties affected" with the implementation of this monitoring plan. If you have any questions, please contact Dr. Melissa Kirkendall at (808) 243-5169.

Aloha,



Melanie Chinen, Administrator
State Historic Preservation Division

MK:kf

c: Bert Ratte, DPWEM, County of Maui, FAX 270-7972
Jeff Hunt, Director, Dept of Planning, FAX 270-7634
Maui Cultural Resources Commission, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793
Hinano Rodrigues, Cultural Historian-SHPD

Appendix E.
Archaeological Inventory Survey

**AN ARCHAEOLOGICAL ASSESSMENT
SURVEY OF A 1.395 ACRE PARCEL
LOCATED AT MO'OLOA AHUPUA'A,
HONUA'ULA, MAKAWAO DISTRICT,
MAUI ISLAND
(TMK: [2] 2-1-05: 117)**

Prepared for:

**Mr. Michael Lauterman, Director
Pine State Limited, Hong Kong**

Prepared by:

**Xamanek Researches, LLC
Pukalani, Hawaii
Erik M. Fredericksen**

7 December 2006

ABSTRACT

Xamanek Researches, LLC carried out an archaeological assessment survey of a 1.39 acre parcel located in Makena, Maui in October 2006. The study area is located in Mo'oloa *Ahupua'a*, Honua'ula, Makawao District, Maui (TMK (2) 2-1-05: 117). The survey included a 100 % pedestrian inspection of the parcel and some limited subsurface testing. Portions of the subject parcel appear to have been impacted by previous bulldozing activities, while other areas are vegetated with mature *kiawe* trees. There were no significant material culture remains located during our survey of the project area.

No further archaeological work beyond the assessment level is recommended for this parcel. However, given the proximity of the Site 4185 *heiau* on the adjacent property to the north of project area, three newly identified sites on an adjacent parcel to the east and south, and per discussions with Dr. Melissa Kirkendall, SHPD Maui staff archaeologist, precautionary archaeological monitoring during earthmoving activities is recommended for TMK (2) 2-1-05: 117.

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Figure 1: Location of the Lauterman parcel, Makena, Maui.

INTRODUCTION

Xamanek Researches, LLC was contacted by Mr. Michael Lauterman of Corte Madera, California in August 2006 and asked about what archaeological work would be required for a 1.39 acre parcel in Makena, Maui (TMK: 2-1-5: 117). Given the proximity of a nearby *heiau*, Site 50-50-14-4185, on an adjacent parcel to the north, the State Historic Preservation Division (SHPD) was contacted. During discussions with Dr. Melissa Kirkendall, SHPD Maui staff archaeologist, it was determined that an inventory/assessment survey would need to be conducted on the subject parcel. We provided a proposal to Mr. Lauterman, and were subsequently given the notice to proceed with this project.

The study area is located in Mo`oloa *Ahupua`a*, Honua`ula, Makawao District, Maui. The following report presents the results of our assessment survey, which was conducted in October 2006. This report has been prepared at the direction of Mr. Michael Lauterman, Director of Pine State Limited, Hong Kong.

STUDY PARCEL

The subject parcel (TMK (2) 2-1-05: 117) is located *mauka* of Old Makena-Keone`o`io Road, c. 1 mile south of Makena Landing. The Makena Golf Course, associated with the Seibu Development Project is adjacent to the property on the northern side (Figure 4). The study area is located in the *ahupua`a* of Mo`oloa, in the traditional district of Honua`ula, Maui Island. It is part of Grant 1476, made to Kenui. According to the tax map there are three other properties included in this land grant.

The study area lies an estimated 100 meters east of the shoreline of Ahihi Bay. A prominent cinder cone, Pu`u Ola`i is located across Old Makena-Keone`o`io Road to the northwest. This landform and is contained within Makena State Park, along with Oneloa Beach (Big Beach), Oneuli Beach (Black Sand Beach or Naupaka Beach) and Pu`u Ola`i Beach (Little Beach). This state park is approximately 165 acres in size.

A utility access road, bulldozed sometime in the 1990s, bisects the Lauterman property in a roughly north-south direction.¹ The parcel is bordered by Old Makena-Keone'o'io Road on the west (Photographs 1 and 2), and two privately owned properties. The study area was vacant at the time of our assessment survey.

Natural History

The project area is situated on the western flank of Haleakala volcano in East Maui. The *makai* or western portion of the study parcel ranges from c. 6 to 8 feet AMSL, while the *mauka* or eastern section has a maximum elevation of 28 feet AMSL. The land slopes downward from the southeastern corner to a drainage system on the northwestern side of the parcel which lies at 5 to 10 feet AMSL. The study area lies in the rain shadow of Haleakala Volcano, and therefore is a relatively dry region with an annual rainfall of about 20 inches. In general, the months of January, February and March are considered to be the wet season. Visibility was generally fair on the subject parcel, although vegetation was filling in after some fall rains.

Nearby Pu'u Ola'i is a geologically recent volcanic vent. It is from the Hana series of eruptions of Haleakala Volcano, which is the same series that forms Molokini Islet directly offshore (Macdonald, Abbott, and Peterson, 1983). Soils are part of the Keawakapu-Makena association—gently sloping to moderately steep, well-drained soils that have a fine-textured to medium-textured subsoil that vary from shallow to deep over fragmental lava. The soil is classified as Makena (MXC), which is considered to be silt loam soil noted for stony occurrence in places, and interspersed with occasional 'a'a outcroppings (Foote, et. al, 1972).

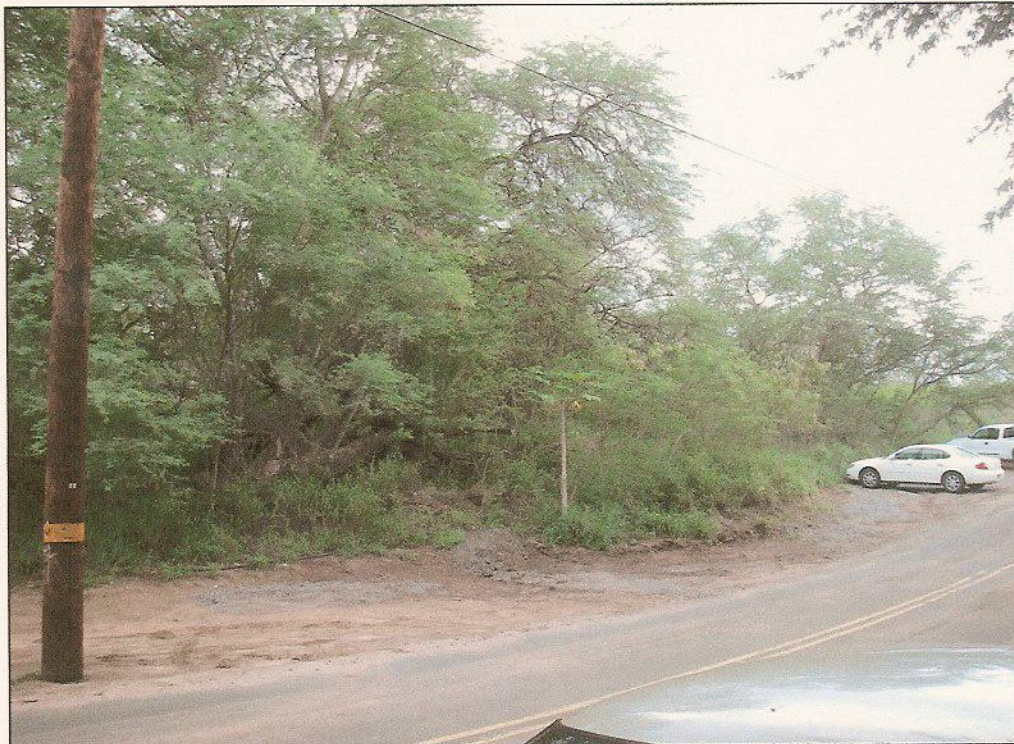
Vegetation on the parcel consisted primarily of draught tolerant native and alien species. The study area is predominantly vegetated by alien species including *kiawe* (*Prosopis pallida*), *koa haole* (*Acacia leucifera*), basil (*Ocimum basilicum*), buffel grass (*Cenchrus ciliaris*), other grasses and succulent annual weeds. A few isolated *panini* cactus (*Opuntia ficus-indica*) plants were also present.

Two native indigenous shrubs were present on the study area. In particular, *'ilima* (*Sida fallax*) was relatively common. *'Uhaloa* (*Waltheria americana*) was not as prevalent as *'ilima*. A few immature endemic trees—*wiliwili* (*Erythrina sandwicensis*) were also noted to the east, off of the project area on the adjacent Parcel 118.

¹ A portion of this old utility access road impacted a section of the Site 4185 heiau on the adjacent Parcel 116 to the north of the project area.



Photograph 1: View to the northeast of the project area along Old Makena-Keone'o'io Road.



Photograph 2: View to the southeast of the project area along Makena-Keone'o'io Road. Note, this photo also includes a portion of the adjacent parcel to the south.

BACKGROUND RESEARCH

Traditional History

There are not many references in traditional literature to the Makena region of Maui. However, one reference is to be found in the "Myths of Sacred Hills", related in Beckworth (1970, pg. 189). Here she tells of the formation of Pu`u Ola`i:

"The two hills beyond Maalaea bay on Maui are named Pu`u-hele and Pu`u-o-kali. They are mo`o beings and their first child is a daughter born of Pu`u-o-kali and named Pu`u-o-inaina. She is placed on the sacred island of Kahoolawe, called at that time Kohe-malamalama. She becomes the wife of the two sons of the kahuna of Hua, Kaakakai and Kaanahua, who take the form of birds and retreat to Hana-ula when the great drought comes and there alone rain falls. Pu`u-o-inaina takes Lohiau for her husband while he is living at Maalaea. Pele is angry and cuts her in two in the middle. The tail becomes the hill Pu`u-o-lai at Makena, and the head becomes the rock islet of Molokini."

Another reference is contained in Inez Ashdown's *Ke Alaloe o Maui* (1971) and a synopsis is found in Carpenter and Yent (1995, p. 6):

"Inez Ashdown mentions a sacred cave at Pu`u Ola`i associated with "guardian angels" and shark deities:

The large cave beneath Pu`u O-lai between One-uli and Nau-paka beaches at Makena has ever been a sacred dwelling-place for these ancestral deities [Ashdown 1970:22].

Ashdown makes several references to Oneuli and the area around Keawala`i Church, about a mile north of Pu`u Ola`i. She mentions a "bowling field for rolling the `ulu mai-ka stones in the game of that name, and a holu-sled [sic] slide also, in the area mauka of One`uli, but they are gone now" (ibid.:51). She also states that Makena was known for a "coconut grove where many types of niu grew, including the sacred Niu Hiwa used only for ceremonial purposes (ibid.:67)." This coconut grove is called Nahawale and the remnants of the grove remain around Keawala`i Church. Nahawale was also known as a pu`uhonua. The heiau for Oneuli is just mauka of the church and is recorded as a healing heiau (ibid.: 50). These sites of Oneuli reflect the cultural importance of this area as a chiefly residence for the Honua`ula district."

The features of Oneuli Beach and Pu'u Ola'i cinder cone lie *makai* of the study parcel to the northwest.

Precontact Period

A brief history of the significant Maui chiefs is contained in Dorothy Barrere's work on Wailea, prepared in 1975. She relies heavily on the collection of traditions and chants put together by Judge Abraham Fornander, who arrived in the Hawaiian Islands in 1842. He served as the circuit judge of Maui for more than 15 years. His genealogical reckoning begins with Kamaloohua, who ruled over the greater part of Maui, probably in the 15th century (Barrere, p. 5). Three generations after him, his descendents—2 brothers named Kaka'e and Kaka'alaneo—ruled jointly over Maui and Lanai. The older brother Kaka'e's son was Kahekili I, who inherited the rule. Kahekili's son, Ka-wa-o-Kaohele then succeeded his father as ruler. Ka-wa-o-Kaohele's niece (his sister's daughter), La'ie-lohelohe, married his son, Pi'ilani, linking the two branches of the senior line and establishing the dynastic line for the descendants of Pi'ilani (Ibid.).

Lono-a-Pi'ilani, the eldest son of Pi'ilani, succeeded his father, but his younger brother Kiha-a-Pi'ilani, with the help of their sister and her husband who was a paramount chief of Hawaii, wrested power from him. Kiha-a-Pi'ilani's eldest son, Kamalalawalu, became the paramount chief of the island of Maui sometime in the 16th century. The island is still referred to as Maui-a-Kama, or Kamalalawalu—and the people of Maui are "his children" (Ibid., p. 1).

The fifth generation descendant of Kamalalawalu to become ruler was Kekaulike. While his reign began peacefully, following the pattern established by his ancestors, he decided to try to seize power from chiefs of the island of Hawaii, by mounting an invasion of that island with his warriors. Unsuccessful in his campaign, he retreated to Kaupo, Maui, intending to undertake another raid. However, his health failed before this could take place. He chose a younger son Kamehameha-nui to succeed him, thus breaking the long, previous pattern of primogeniture for Maui rulers. There is some question as to how long Kamehameha-nui reigned—but upon his death his brother, Kahekili, became the ruler of Maui (Ibid., pp.7-9).

From this time hence, the ruling chiefs were to be part of the irrevocable changes which were brought about by the meeting of two cultures. We know that it was during Kahekili's time that Europeans first came to Maui. On November 27, 1778 his presence aboard Captain James Cook's ship, *Discovery*, is noted by the ship's surgeon, David Samwell:

In the afternoon Ka-he-kere [Kahekili] the King of this Island & of another which we saw to Leeward called Morotai came on board the Discovery in a large double Canoe attended by a large Train dressed in red feathered Cloaks and Caps. As the Canoe approached the Ship one man stood up and waved his Cloak about his Head while the rest sung in concert much after the manner of the Otaheiteans. The King & some of his Courtiers were taken into the cabin & some presents were made to them, he himself is a

middle aged Man, is rather of a mean appearance, the Hair on each side of his head is cut short & a ridge left on the upper part from the forehead to the Occiput; this is a common Custom among all of these people, but each side of his head where the Hair was off was tattawed in lines forming half Circles which I never saw any other person have (Samwell, in Beaglehole, 1967, 2:1151) [in Barrere, p. 11].

Samuel Kamakau (1992, p. 166) adds another note about Kahekili's appearance and demeanor:

"Ka-hekili was a famous chief, a tabu chief, one who ruled men, and was so sacred that whatever had touched his body was burned with fire [after he was through with it, so that no one else could use it]. He was a famous leaper from a cliff into water (lelekawa), sometimes from a height of 500 or 600 feet or even higher, and he could climb cliffs which no other person could ascend. He elected to have his skin black; one half of his body from head to foot was tatooed black, and his face was tattooed black, and this became an established law with him: Any person taken in crime who passed his dark side, escaped with his life."

Kahekili's brother-in-law was Kalani'opu'u, a high chief from Hawaii. Almost continuous warfare occurred between these two leaders, from 1775 to 1782—at which time Kalani'opu'u died (Barrere, p. 13). Kamakau tells of one battle in 1776, where Kalani'opu'u and his army landed at Keone'o'io:

"their double canoes extending to Makena at Honua'ula. There they ravaged the countryside, and many of the people of Honua'ula fled to the bush. When Ka-hekili heard of the fighting at Honua'ula he got his forces together—chiefs, fighting men, and left-handed warriors whose sling-shots missed not a hair of the head or a blade of grass." (1972, p. 85).

Post-contact Period

Following the visit of Captain James Cook, other European explorers showed up on the shores of Maui. The French captain Jean-Francois Galaup de la Perouse² visited Maui on May 29, 1786 and noted in his journal:

At nine in the morning the point of Mowee bore west 15° north, and a small island also appeared...The aspect of the island of Mowee was delightful. I coasted along it's shore at the distance of a league. It projects into the channel in the direction of south-west by west. We beheld water falling in cascades from the mountains, and running in streams to the sea. After having watered the habitations of the natives, which are so numerous that a space of three or four leagues may be taken for a single village: but all the huts are on the sea-coast, and the mountains are so near, that the habitable part of the island appeared to be less than half a league in depth. ...

² La Perouse was the name of a farm, which was one of his family's country properties. He added this to his own name in later years, and when he attended court he was known as Comte de la Perouse (Dunmore, 1991, p. 151).

The breeze had freshened, and we were running at the rate of two leagues an hour, which encouraged me in an endeavour before night to explore this part of the island as far as Morokinne, near which I hoped to find an anchoring place sheltered from the trade winds. ...After having steered south-west by west, as far as the south-west point of the island of Mowee, I hauled to the west, and afterwards to the northwest, in order to gain the anchorage [Keoneoio] where the Astrolabe had already brought up in twenty-three fathoms, hard grey sand, about a mile from the shore. ...

The Indians of the villages of this part of the island hastened alongside in their canoes, bringing us articles of commerce, hogs, potatoes, bananas, roots of arum, which they call tarro, with cloth and some other curiosities making part of their dress. I told them that I was taboo, a word which I had learned from the English accounts, and which was attended with all the success I expected. ...[La Perouse, 1798: 341-351, in Barrere, p. 18].

Meanwhile, the warfare between Kahekili and the Hawaiian chiefs continued. By 1786, Kamehameha of Hawaii was powerful enough to begin sending expeditions of warriors to the districts of Hana and Kipahulu. These were repelled by Maui forces. But by 1790, Kamehameha had consolidated his power on Hawaii, and invaded Maui himself, leading a large army. With him were two Europeans, whom he had "detained" from foreign ships. One, Isaac Davis, was the sole survivor of the tender Fair American, which had been captained by the son of Captain Simon Metcalf, the man responsible for the "massacre of Olowalu" in February of 1790. On the same day as the sacking of the Fair American, the boatswain of the elder Metcalf's ship, Eleanor, John Young, went ashore at Kealahakua Bay, where he was held lest he relay the news of the death of the younger Metcalf and his crew. After a couple of days, the Eleanor sailed away without him (Barrere, p. 21).

The two young men became Kamehameha's advisors, particularly in the tactics of foreign warfare. When they accompanied Kamehameha's army to Maui in 1790, they brought along a cannon called Lopaka, which played a decisive part in the defeat of the Maui forces at the battle of Kepaniwai in Iao Valley. This proved to be a turning point for Kamehameha in his quest for power over Kahekili. Though still seen as the leader of Maui, Kahekili's power was on the wane.

Captain George Vancouver, commander of the British surveying ships Discovery and Chatam, reported on his March 1793 meeting with Kahekili in Lahaina:

...his arrival [was not] attended by any accumulation in the number of natives on the shores or in the canoes about the vessels. He came boldly alongside, but entered the ship with a sort of partial confidence, accompanied by several chiefs who constantly attended him. His age, I suppose, must have exceeded sixty. He was greatly debilitated and emaciated, and from the colour of his skin I judged his feebleness to have been brought on by an excessive use of the ava [awa]. His faltering voice bespoke the decline of life, and his countenance, though furrowed by his years and irregularities, still

preserved marks of his having been in his juvenile days a man of cheerful and pleasing manners, with a considerable degree of sensibility, which the iron hand of time had not entirely obliterated [1801, 3:305] (in Barrere, p. 22).

The increasing presence of foreigners brought about extensive changes to the traditional culture. Kamehameha saw the *haole* as an element which could be manipulated to increase his power—but the relentless impact of foreign desires—particularly for land, slowly eroded the power from the Hawaiian rulers. By 1848, the Mahele divided the lands of the kingdom. On the island of Maui, the lands of Honua`ula were claimed as government lands.

In the historic period between 1831 and 1836, the Honua`ula District saw a severe population decline—believed to be the result of both economic change and introduced diseases. Those who remained in the district were primarily fishermen (Carpenter and Yent, 1995, p. 9).

Post-1850s

The Mahele of 1848, or division of lands, saw the transference of land titles from the king to his subjects.³ The largest portion of Honua`ula was designated as government lands. Only 6 LCAs were granted in the *ahupua`a* of Mo`oiki and Mo`oloa, and these were generally small house lots near the ocean, and one or two large agricultural lots in the uplands (Carpenter and Yent, p. 9). The population Honua`ula District was estimated to be 750 in 1853, with the bulk of the residents concentrated along the coast north of Pu`u Ola`i (Ibid.).

During the Mahele period, a “potato boom” occurred in the Makena region. The 1848 gold rush in California created a great need for Irish Potatoes, as it was cheaper to import them from Hawaii than from other parts of the mainland. Native Hawaiians, as well as the *haole* owned plantations engaged in this lucrative production, but most seems to have taken place at higher elevations, where more abundant rainfall was present.⁴

The government lands of Honua`ula began to be carved up when land grants became available in the 1880s. The study parcel is part of Land Grant 1476, awarded to Kenai.

Sugarcane was commercially cultivated in Honua`ula, the earliest recorded planters being M. J. Nowlein and S.D. Burrows. They had leased lands from Kamehameha III at Ulupalakua (Kaeo *ahupua`a*) in 1841. They transferred their lease and other interests to Linton L. Torbert in 1845—which encompassed 2087 acres of land with growing cane, a mill and animal stock. The Torbert plantation was acquired by

³ The district of Honua`ula was one of 12 traditional districts of Maui. However, in 1859 it became part of Wailuku District for tax and judicial purposes, and in 1909 it was incorporated into the Makawao District (Barrere, p. 56).

⁴ Chinese farmers also participated in the “potato boom”, especially in the Kula area. Traditional Hawaiian dryland agricultural terrace systems were often taken over and expanded for this production.

Captain James Makee in 1856, and renamed, Rose Ranch. While Makee planned to raise cattle⁵ as the primary activity of the ranch, in 1865 he was growing and processing sugarcane in a steam-mill erected for that purpose at Ulupalakua⁶ (Barrere, p. 50).

A drought in 1878 caused the Makee Plantation began to cut back on sugarcane cultivation, and the last crop was processed at Ulupalakua Mill in March of 1883.⁷ Cattle were turned out on the remaining cane fields and ranching became the dominant activity of this region (Ibid., p. 59). Makena Landing served as the cattle loading port, and during this period over a hundred families lived in the area around Makena. In the 1920s, commercial shipping shifted to Kahului Harbor, and families began to move away from the Makena area (Carpenter and Yent, 1995, p. 10).

During World War II, the military presence in Makena area was considerable. A remnant of this military activity can be seen today in the form of a bunker on the southern end of Oneloa Beach (Ibid.).

In the 1960s and 1970s the area became a Mecca for transients. By the late 1970s, Seibu Corporation purchased large acreages in the area around Makena for a resort community. The Makena Golf Course lies just to the north of the present study area. Numerous private residences occupy the shoreline south of the project area, but the much of the land *mauka* of the Makena-Keone'o'io Road remains undeveloped.

Settlement Patterns

The traditional settlement pattern in the study area had been based on subsistence agriculture, and fishing. E. S. Craighill Handy discusses:

Between Makena and the lava-covered terrain of Keoneoio (another famous fishing locality) the coastal region includes the small ahupua'a of Onau, Moomuku, Mooloa, Mooiki, Maluaka, and Kaeo. According to an old kamaaina, these ahupua'a had in former times a continuous population of fisher folk who cultivated potatoes and exchanged their fish for taro, bananas, and sweet potatoes grown by the upland residents of the Ulupalakua section. A few Hawaiians still live here. One living near Puu Olai has a sizable sweet potato patch in the dusty soil near the shore; another raises fine potatoes

⁵ Cattle were first introduced to the Big Island by Captain George Vancouver in 1793. Later the same year he presented Kahekili with some goats, which were considered to be a valuable present. Vancouver requested that Kamehameha place a *kapu* on the cattle for a period of ten years, at the end of which time, wild cattle roamed the mountain slopes of northern Hawaii. There is no record of when cattle were brought to Maui, but by 1845 they were so many running loose on the isthmus, that numerous complaints were lodged from people whose lands were being destroyed. Many Hawaiians were driven from their homes and fields. The legislature finally passed a joint resolution in 1846 providing penalties for those who allowed their animals to trespass on others' lands. Soon "cattle walls" became a prominent feature of the landscape (Barrere, pp. 52-53).

⁶ The Civil War provided an active market for sugar.

⁷ Beginning in the 1880s, the ranch passed through several owners: James Dowsett in 1886; his son-in-law J. Raymond in 1900; Frank Baldwin in 1923; and P. Erdman in 1963 (Cordy and Athens, 1988, p. 15).

in a low flatland of white sand near the abandoned schoolhouse of Makena (Handy, 1940, p. 159).

Another reference, discussing the 5 centers of population on the island of Maui, described the area further:

On the south coast of East Maui, from Kula to `Ulupalakua, a consistently dry and lava-strewn country, Makena and Keone`o`io were notable for good fishing; this brought many people to live by the shore and inland. There were some patches of upland taro, not irrigated; but this was notable area for sweet potato, which combined with the fishing, must have supported a sizable population although it cannot be counted as one of the chief centers (Handy, Handy, & Pukui, 1972, p. 272).

Continuing the discussion, Handy, Handy, & Pukui state:

Maui, despite the high mountains forming the west and east sections, had an even more extensive dry area than Hawaii. All the country below the west and south slopes of Haleakala, specifically Kula, Honua`ula, Kahikinui, and Kaupo, in old Hawaiian times depended on the sweet potato. ...There was excellent deep-water fishing available to the folk of Kula and Honua`ula, but it was very poor along the Kahikinui and Kaupo shores; and there was little shellfish and limu. The coast and coast lands of southern Maui are perhaps the poorest in the islands. The sparse population there must have suffered severe famine at times (Ibid., p. 276).

This area of Maui did not have the rich soils and abundant rainfall which was necessary to maintain a large population. It appears to have been not used extensively until the late precontact period when overall population on the island caused agriculture to expand into this less favorable area.

PREVIOUS ARCHAEOLOGICAL WORK

The earliest archaeological survey carried out in the Makena area was carried out in 1930-1931 by Winslow Walker. A single *heiau* was identified by him near Keawala`i Church at Makena Landing (#196).⁸ According to Walker (1931, p. 267) this feature was named *Kalani*, and was located in the *kiawe* and cactus not far from the church on the *mauka* side of the road. He described it as a large structure, said to have been used for sacrifice, but now largely a shapeless pile of rocks. It measured 126 feet across the front

⁸ This was later recorded by a Bishop Museum in a 1978 study for Seibu Hawaii, Inc., as Site B8-1 (Haun, 1978, p.3).

and had a width of 98 feet. No walls were apparent—only an open platform 8 feet above the surrounding countryside. It was built of rough 'a'a blocks with some coral and pebbles on top. He notes that the interior structure had been demolished by cattle.

Another *heiau*, a short distance to the north, named Pohakunahaha (#197) was identified. It was a fairly well preserved structure 60 feet long by 38 feet wide. It was built of basalt blocks, with pebbles and coral pavement. The front of the platform was 3 feet high, but the wall at the back was 5 feet high and 3 feet thick. It contained a platform in the center and a paved enclosure on the northeast side.

What remains of these structures probably lie within the Makena Complex (Site 50-50-14-1266), which extends c. 200 meters south of Keawala'i Church. This area was identified by the Statewide Inventory of Historic Places conducted in 1973.

Seibu Project

In 1974, the Bishop Museum conducted a brief archaeological reconnaissance survey of the Seibu project area and surrounding lands. Ninety-two sites were recorded, consisting of 101 features such as rectangular and circular enclosures, caves, platforms, terraces, pits, walls and burials (Clark, 1974).

Parcel III-A lies to the north of the study parcel, while Parcel III-B lies inland to the southeast. Parcel III-A contains a cluster of sites with SIHP Numbers 50-50-14-1838 to 1899, which consisted of 10 platforms, 4 walls, 35 enclosures, 3 shelter caves, 2 terraces, 4 pits, 1 possible burial, 1 well, 1 *heiau* complex, 2 mounds, and 1 terraced platform. Another cluster of sites (Sites 2200 to 2250) consists of 3 walls, 27 enclosures, 5 shelter caves, 1 pit, 5 platforms, 3 C-shaped enclosures, 1 oval mound, 1 pen, 1 terraced platform, 2 terraces, and 1 *ahu* (Ibid., pp. 9-25). These site clusters are between 80 and 200 feet AMSL, making them somewhat higher in elevation than the study parcel.

In 1978 the Bishop Museum conducted salvage excavations on sites located by Clark (1974), and on some newly discovered ones, as part of an effort to mitigate the adverse impact on them by the development of the Makena Golf Course. A total of 85 sites were located, including 17 previously identified by Clark, and 68 additional ones between 40 and 130 foot elevation. Some of Clark's sites were not easily identifiable and may have been given new numbers—and some may have been destroyed in the interim (Haun, 1978, p. 5). The sites consisted of 51 enclosures, many of which appeared to be associated with post-contact cattle ranching activity. These enclosures included 21 C-shaped structures, 6 L-shaped structures, 9 circular enclosures, 14 post-contact walls and 26 probable precontact walls. Five terraces were interpreted as prehistoric retaining walls, and 14 as having had an agricultural function. One stone-filled terrace was thought to have been a residential site. Four prehistoric platforms and a single historic one were identified. Four small caves that contained midden were recorded, but these features were deemed too small for habitation, so a storage function was suggested (Ibid., pp. 5-10).

According to Haun, the settlement pattern suggested by the data from this study

"...is one of extensive utilization of exposed areas of lava, particularly on knolls and ridges. These areas are frequently characterized by clusters of features (e.g., walls, C-shapes, enclosures, modified depressions, etc.). In part, this may be explainable by the abundance of building materials at these locations. Also, the occasional occurrence of flash-floods, which have deposited thick layers of soil in some low-lying areas, may have been an influence. The higher locations receive more breezes, are cooler, and often command a view of the ocean, which would be important for fishermen.

A distribution pattern on a larger scale is also discernible. ... Fourteen ...clusters of sites are identifiable in the survey area. ...The possibility that most of these clusters represent single residential groups is a reasonably derivable hypothesis." (Ibid., p. 86).

Other work for Seibu, Inc. was conducted by Cordy (1978) and Cordy and Athens (1985) in the *ahupua`a* of Kaeo, farther to the north of the project area. These studies tended to support the earlier findings of the clustering of temporary habitation sites around agricultural features. These sites fell into the late-precontact period. Cordy concludes:

The different sources of information indicate that the area of Makena from about 0.25 mile inland (the 80 foot contour) up to the old forest line at the 1,200 foot elevation, 2.1 miles inland, was the cultivation zone. This zone was divided into land sections with fields which were used by households. (Cordy and Athens, p. 22).

Additional work on Makena Resort Corporation lands (formerly Seibu, Inc.) has been done more recently by the Bishop Museum (Gosser et. al., 1996) and Aki Sinoto Consulting (Titchenal, 1996). The former study reports on the data recovery phase of the portions of Parcel III which were impacted by the Makena Golf Course.

The latter concentrated on a partially surveyed 20-acre portion of Parcel III-B which lies between 190 and 260 feet of elevation, and is 1 kilometer inland (east) from the present study parcel. Six sites and 34 associated features were recorded, consisting of stone boundary walls, agricultural complexes, temporary shelters, and a large enclosure. The sites are interpreted as being associated with an expansion of post-contact agricultural activities between the period of 1780 and 1850 (Ibid.).

Makena State Park

Directly *makai* and southwest of the study parcel, Makena State Park has been the location of several archaeological studies. Three burials (Site 50-50-14-1814) were recovered from the southern slope of Pu`u Ola`i and the north end of Oneloa Beach (Carpenter and Yent, p. 14). Paniaka Fishpond is located just beyond the southern boundary of the park. Site 2909 lies to the south of the fishpond and consists of 11 features, including walls, probable enclosures, and mounds. Some of these features may have been used for habitation, and several others appeared to be associated with an historic house site (Donham, 1992).

Three archaeological complexes have been identified within Makena State Park—Site 3136, 3137 and 3138. Site 3136 appears to be a complex of enclosures, platforms and low walls on the coastline and lower slopes of the northwestern side of Pu'u Ola'i. Site 3137 is a complex of stacked 'a'a rock structures within the central crater of Pu'u Ola'i. Some of these features may be of recent origin, but others appear to be traditional⁹ Hawaiian structures. The Site 3138 is complex of short walls and natural platforms on the southern end of Oneloa Beach. An historic cistern and fireplace were also recorded (Carpenter and Yent, 1995, p. 15).

There are also 5 concrete foundations within the park. One is associated with the Maui Radio Range Station, another appears to have been a slaughterhouse from the ranching era, and the remaining foundations seem to be associated with ranching. A military bunker is situated at the southern end of Oneloa Beach, as well (Ibid., p. 16).

A precontact burial was exposed during a high period in 1995. The burial was located in the dune at the southern end of Oneloa Beach, and designated Site 50-50-14-4120 (Ibid.).

Kaufman Project

Xamanek Researches conducted an archaeological inventory survey of a 4.186 acre parcel (TMK (2) 2-1-05: 116) that is adjacent to a north of the study area in 1996 and 1997 (Fredericksen and Fredericksen, 1997). A total of 7 sites were located and assigned SIHP Site Numbers 50-50-14-4185 through 4191. The most significant site, Site 4185, consisted of a large precontact religious enclosure – a *heiau*, a possible burial, an associated platform and a surface scatter. Subsurface investigations conducted at Site 4185 indicate that it was utilized for ceremonial purposes. This site was placed in permanent as-is preservation status by the landowner.¹⁰ Other sites included post-contact modified outcrops, old boundary wall segments, a post-contact habitation site, and a precontact rock shelter. Precautionary archaeological monitoring was recommended for any future earthmoving activities on this parcel.

Parcel 118 Project

Xamanek Researches, LLC carried out an archaeological inventory survey of the adjacent parcel to the south and east in October and November 2006 (Fredericksen, 2006 [draft]). Three previously unrecorded sites were located during this inventory survey. These newly identified sites were designated Sites 50-50-14-6223, 6224 and 6225. Site 6223 consists of two dry laid rock walls (Features A and B) that have been impacted by previous bulldozing activities. In addition rocks from some sections of this site appear to have been removed at some time in the past. Site 6224 is composed of five semi-circular rock mounds (Features A – E). These features appear to represent possible agricultural

¹⁰ This *heiau* on the adjacent parcel to the north is partly visible from the Lauterman property.

clear piles/planting mounds. Site 6225 consists of a low density surface scatter of indigenous cultural materials. Sites 6223, 6224 and 6225 are considered significant under Criterion "d" of Federal and State historic preservation guidelines for their information content. Adequate information has been gathered and no further archaeological work is recommended for these sites. However, given the proximity of the Site 4185 *heiau* on nearby Kaufman project and discussions with Dr. Melissa Kirkendall, SHPD Maui staff archaeologist, precautionary archaeological monitoring during earthmoving activities is recommended.

Summary and expected Project Area Settlement Patterns

While no previous archaeological work has been done on the subject property, the areas on 3 sides have been studied at the inventory level. The kinds of precontact sites that might be expected to be found on the Lauterman parcel should be consistent with the findings elsewhere in the immediate vicinity at lower elevations. These sorts of sites include stone walls, dryland agricultural features, rock overhang features (because of a drainage gully that is located near the study parcel), and stone enclosures. The settlement patterns in precontact times of the *ahupua`a* consisted of a system of dryland cultivation plots in small *kipuka* where adequate soil and moisture occurred, coastal exploitation of marine resources, and a system of trails connecting the coast with inland habitation and agricultural areas. Later land usage was connected with ranching activities, and features from that era, such as cattle walls and perhaps habitation sites would represent this time period. Finally, there was a possibility that former military operations in this part of Maui could have left features and/or impacts associated with the World War II era.

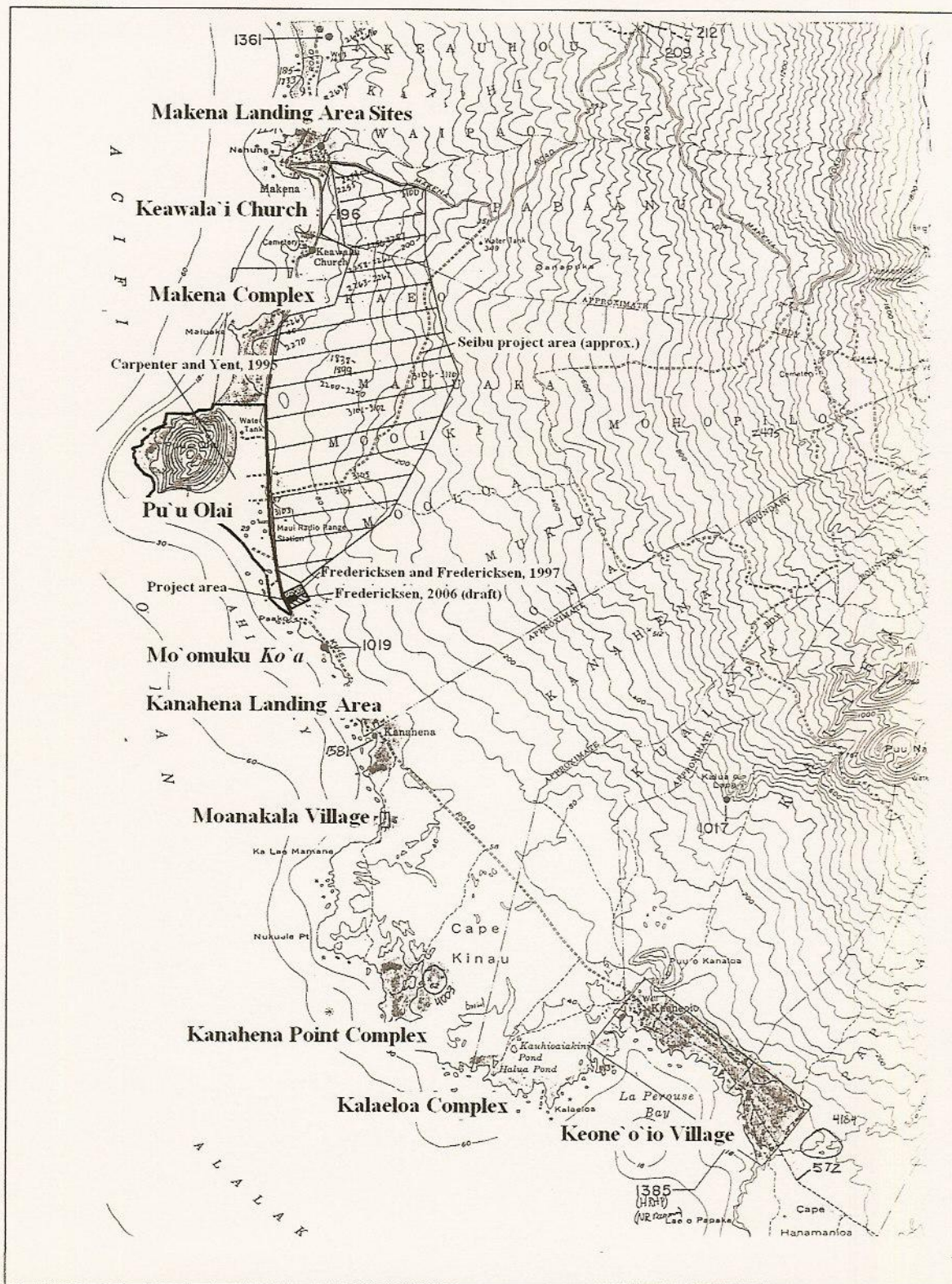


Figure 4: Topographic map with locations of sites in Makena area (adapted from Theresa Donham, 1997), with location of nearby archaeological studies.

ARCHAEOLOGICAL METHODS

Field work was carried out during early November of 2006 by Hugh Coflin and Erik Fredericksen. Erik Fredericksen was also the project director for this archaeological assessment.

The archaeological survey consisted of two phases. A 100% walk-over of the 1.39 acre study area was first conducted. This pedestrian survey was performed using 5 m sweeps between field members. Surface visibility was generally fair to good due to previous dry summer conditions. Buffel grass (Cenchrus ciliaris) cover was moderate with numbers of immature 'ilima (Sida fallax) shrubs, and several kiawe (Prosopis pallida). Written notes were recorded in the field, and photographs were taken in a digital format.

Following the completion of the pedestrian survey, limited subsurface testing was undertaken on the parcel. This testing consisted of two 0.5 x 0.5 m. test units and three shovel probes. The test units were excavated by stratigraphic layer, with 10 cm. artificial levels used in layers greater than 10 cm in thickness. All soil removed during subsurface testing was sifted through 1/8 inch mesh screen. Standard laboratory methods were utilized at our facility in Pukalani, Maui.

ARCHAEOLOGICAL FIELD RESULTS

The surface walkover portion of the assessment survey did not identify any surface structural remains on the subject parcel. As mentioned earlier, evidence of previous bulldozing activity was present in the form of old road sections and push piles (Photographs 3 and 4). In addition, an old brush and wood push pile was noted on the lower portion of the parcel (Photograph 3). Finally portions of Site 6224 were visible from the southern boundary of the project area. The 6 subsurface tests revealed two common strata, but did not produce any evidence of significant material culture remains. Stratigraphy was composed of an upper c. 7-9 cm thick layer of dark brown (7.5 YR 3/3) silty loam, underlain by strong brown (7.5 YR 4/6) silty clay. Subsurface results are presented below.



Photograph 3: View to the east of an interior section of the project area near Old Makena-Keone'o'io Road.



Photograph 4: View to the north of a portion of the old utility access road. Note: Site 4185 heiau is located in the upper mid-center of photo.



Photograph 5: View to the south of a clear pile – Site 6224 (Feature C) on the adjacent property to the south.

Test Unit 1 (Figure 5, Photograph 6)

Layer I (0 to 8 cmbs) silty loam, dark brown (7.5 YR 3/3); medium and single grain; loose, non-sticky and non-plastic consistency; smooth boundary; contains no cultural material.

Layer II (8 to 24 cmbs) silty clay, strong brown (7.5 YR 4/6) medium and single grain; semi-compacted to compacted, slightly sticky and slightly plastic consistency; contains no cultural material. Excavation halted because of rocks.



Photograph 6: View to the east of Test Unit 1, Makena, Maui.

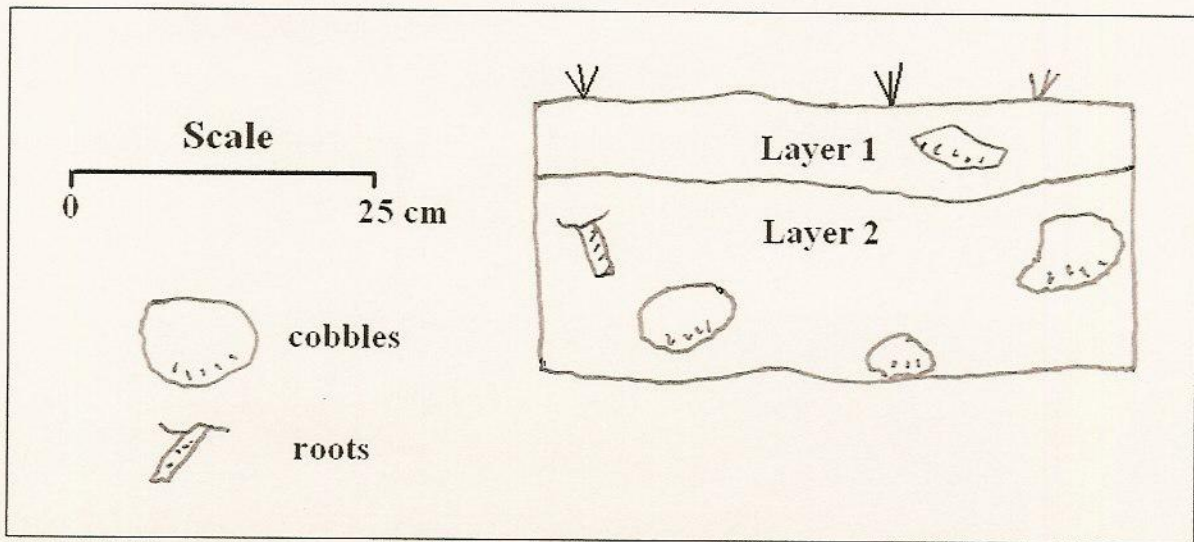


Figure 5: West face profile of Test Unit 1, Lauterman project.

Test Unit 2 (Figure 6)

Layer I (0 to 7 cmbs) silty loam, dark brown (7.5 YR 3/3); medium and single grain; loose, non-sticky and non-plastic consistency; smooth boundary; contains no cultural material.

Layer II (7 to 19 cmbs) silty clay, strong brown (7.5 YR 4/6) medium and single grain; semi-compacted to compacted, slightly sticky and slightly plastic consistency; contains no cultural material. Excavation halted because of rocky subsurface conditions.

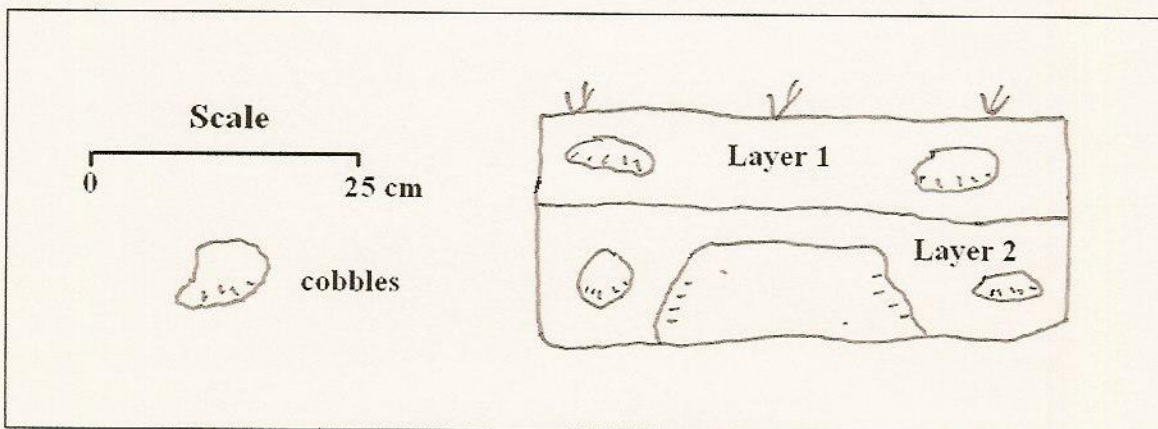


Figure 6: West face profile of Test Unit 2, Lauterman project.

Shovel Probes 1-4 (Table 1)

Four shovel probes c. 40 cm by 30 cm were also used to assess portions of the parcel (Figure 3). Stratigraphy was similar to that located in the two test units, and consisted of a c. 6-9 cm thick layer of dark brown (7.5 YR 3/3) silty loam, underlain by strong brown (7.5 YR 4/6) silty clay. Table 1 below presents additional information for the shovel probes.

TABLE 1 - Summary of Shovel Probe Results

ST#	Length x width ¹¹	Stratigraphy	cmbs ¹²	Remarks
1	40 x 30	Layer I: dark brown (7.5 YR 3/3) silty loam, loose, single and medium grain;	0 - 7	Layer I: sterile
		Layer II: strong brown (7.5 YR 4/6) silty clay, semi-compact	7 - 21	Layer II: sterile; surface refuse in vicinity
2	40 x 30	Layer I: dark brown (7.5 YR 3/3) silty loam, loose, single and medium grain;	0 - 7	Layer I: sterile
		Layer II: strong brown (7.5 YR 4/6) silty clay, semi-compact	7 - 21	Layer II: sterile
3	40 x 30	Layer I: dark brown (7.5 YR 3/3) silty loam, loose, single and medium grain;	0 - 7	Layer I: sterile
		Layer II: strong brown (7.5 YR 4/6) silty clay, semi-compact	7 - 21	Layer II: sterile; surface refuse in vicinity
4	40 x 30	Layer I: dark brown (7.5 YR 3/3) silty loam, loose, single and medium grain;	0 - 7	Layer I: sterile
		Layer II: strong brown (7.5 YR 4/6) silty clay, semi-compact	7 - 21	Layer II: sterile

¹¹ Dimensions are in centimeters.

¹² cmbs = centimeters below surface

SUMMARY AND CONCLUSIONS

We did not locate any significant material culture remains during our archaeological assessment survey of the project area. Portions of this parcel appear to have been impacted by previous bulldozing activities. Several push piles and the remains of bulldozed road sections were noted. It is interesting to note that portions of two newly identified historic properties, Site 6223 and Site 6224, are visible on the adjacent parcel to the east and south, respectively. Subsurface results from two test units and three shovel probes did not yield any cultural remains. Low amounts of relatively recently deposited refuse were noted in some portions of the study area.

Significance Assessment

The following significance evaluations are based on the Rules Governing Procedures for Historic Preservation Review (DLNR 1996; Chapter 275). According to these rules, a site must possess integrity of location, design, setting, materials, workmanship, feeling and association and shall meet one or more of the following criteria:

Criterion "a"—Be associated with events that have made an important contribution to the broad patterns of our history;

Criterion "b"—Be associated with the lives of persons important in our past;

Criterion "c"—Embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; or possess high artistic value;

Criterion "d"—Have yielded, or is likely to yield, important information for research on prehistory or history;

Criterion "e"—Have an important traditional cultural value to the native Hawaiian people or to another ethnic group of the state due to associations with traditional cultural practices once carried out, or still carried out, at the property or due to associations with traditional beliefs, events or oral accounts.

As mentioned earlier in this report, we did not locate above surface remains or a subsurface cultural deposit during our assessment survey. Consequently, there can be no site significance assessments made at this time.

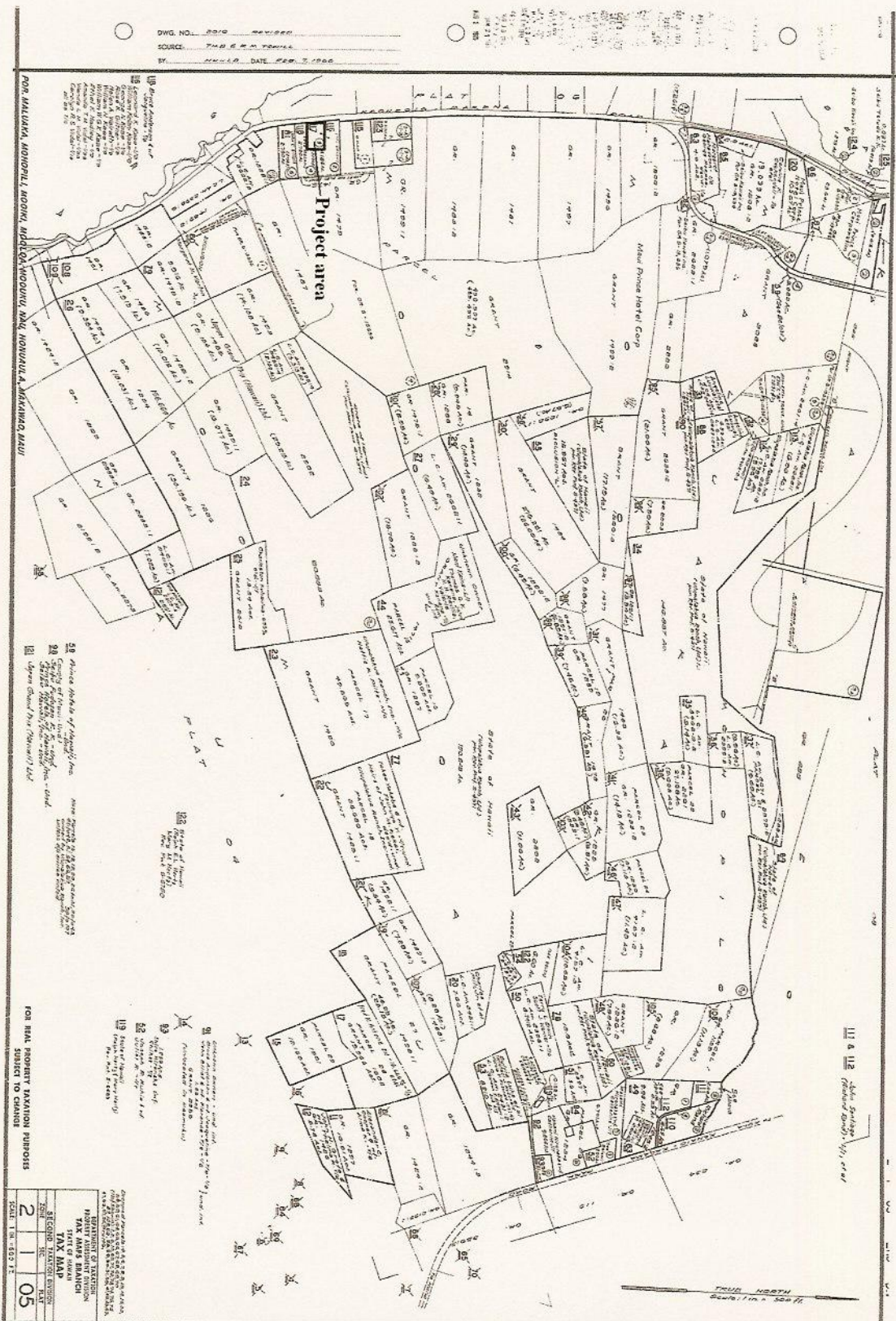
Mitigation and Recommendations

While there were no significant material culture remains located during the course of this assessment survey, it is important to note that newly identified Sites 6223, 6224 and 6225 are on the adjacent parcel to the east and south. In addition, the Site 4185 *heiau* lies to the north of the adjacent parcel. Given the presence of these sites and per discussions with Dr. Melissa Kirkendall, SHPD Maui staff archaeologist, archaeological monitoring is the recommended mitigation for any future earthmoving activities on this portion of land in Makena, Maui (TMK: 2-1-5: 117).

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Appendix F.
List of Owners and Lessees within
500' of the Subject Property

Owner	Addressee	Taxbill Street Address	Taxbill City State	Taxbill Zip Code	Taxkey
ELLIOTT OHANA LTD PTSP	ELLIOTT OHANA LTD PTSP	1764 HALAMA ST	KIHEI, HI	96753	2-2-1-5-81
MAKENA GOLF CORP	MAKENA GOLF CORP	5415 MAKENA ALANUI RD	KIHEI, HI	96753	2-2-1-5-108
FERREIRA FAMILY PARTNERS LP	FERREIRA FAMILY PARTNERS L P	C/O 317 MOI PL	KIHEI, HI	96753	2-2-1-5-115
MCDONALD, MICHAEL J TR	MCDONALD,MICHAEL J TRUST	810 HAIKU #150	HAIKU, HI	96708	2-2-1-5-116
PINE STATE LIMITED	PINE STATE LIMITED	RM 1307-1308 DOMINION CENTRE,43-59 QUEEN'S RD EAST	WAN CHAI, HONG KONG		2-2-1-5-117
MAKENA GOLF CORP	MAKENA GOLF CORP	5415 MAKENA ALANUI RD	KIHEI, HI	96753	2-2-1-5-120
KEAUHOU O HONUALA INC	KEAUHOU O HONUALA INC	2087 WELLS ST	WAILUKU, HI	96793	2-2-1-5-123
KAUFMAN,GREGORY & MERRILL/ETAL	KAUFMAN,GREGORY	P O BOX 1518	KIHEI, HI	96753	2-2-1-5-126
NAIDITCH, JACK R	NAIDITCH,JACK ROBERT	P O BOX 790279	PAIA, HI	96779	2-2-1-5-127
WINTNER,ROBERT TRUST /ETAL	WINTNER,ROBERT TRUST	6689 MAKENA RD	KIHEI, HI	96753	2-2-1-5-128
ALEXANDER COURT LLC	ALEXANDER COURT LLC	1880 CENTURY PARK EAST #1600	LOS ANGELES CA	90067	2-2-1-6-12
STATE OF HAWAII	STATE OF HAWAII	DLNR/STATE PARKS PO BOX 621	HONOLULU, HI	96809	2-2-1-6-26
STATE OF HAWAII	STATE OF HAWAII	DLNR/STATE PARKS PO BOX 621	HONOLULU, HI	96809	2-2-1-6-27
STATE OF HAWAII	STATE OF HAWAII	DLNR/STATE PARKS PO BOX 621	HONOLULU, HI	96809	2-2-1-6-80
STATE OF HAWAII	STATE OF HAWAII	DLNR/STATE PARKS PO BOX 621	HONOLULU, HI	96809	2-2-1-6-99
TAVARES,CLARENCE/HARRIET /ETAL	TAVARES CLARENCE/HARRIET	6925 MAKENA ROAD	KIHEI, HI	96753	2-2-1-6-101
STATE OF HAWAII	STATE OF HAWAII	DLNR/STATE PARKS PO BOX 621	HONOLULU, HI	96809	2-2-1-6-102
ALEXANDER COURT LLC	ALEXANDER COURT L L C	1880 CENTURY PARK EAST #1600	LOS ANGELES CA	90067	2-2-1-6-103

Appendix G. Draft Covenants, Conditions and Restrictions

**KE KANI KAI SUBDIVISION
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is dated _____, 200__ and is executed by Pine State Limited, a Hong Kong corporation, whose address is Room 1307-1308, Dominion Centre, 43059 Queen's Rad East, Wan Chai, Hong Kong (the "Declarant").

1. RECITALS

1.01 The land to which the Declaration applies is the land described in Exhibit "A", attached and made a part of the Declaration. This land has been subdivided into two (2) residential lots, all to be known as the "Ke Kani Kai" Subdivision" ("Ke Kani Kai").

1.02 It is the Declarant's intention to create a common development plan, enforceable by the Declarant or any Owner within Ke Kani Kai in accordance with the Declaration. The Declaration will encumber and run with the land comprising Ke Kani Kai The Declaration shall be binding on and will inure to the benefit of each Lot within Ke Kani Kai(except the Declaration will not bind any road lot or road widening lot after dedication of such road lot or road widening lot to a governmental body) and each successive Owner and Occupant of each Lot within Ke Kani Kai.

1.03 The Declaration shall be deemed incorporated into each Deed, Lease, Agreement of Sale or other instrument by which any right, title or interest in Ke Kani Kai or any Lot (or any portion thereof) is granted, devised or conveyed. The acceptance of such Deed, Lease, Agreement of Sale, or other instrument shall constitute acceptance of the Declaration, whether or not the Declaration is expressly referred to in such Deed, Lease, Agreement of Sale or other instrument.

1.04 The Declaration shall be binding upon and enforceable against each Owner, buyer, tenant and Occupant of any part or the whole of any Lot, and their respective successors in interest.

2. DEFINITIONS

The following terms shall have the following meanings:

2.01 "Archaeological Site" means any archaeological site designated by the State of Hawaii Department of Land and Natural Resources.

2.02 "Buildable Area" means the portion of each Lot the boundaries of which are the setback distances from the Lot boundaries.

2.03 "Bureau" means the Bureau of Conveyances, State of Hawaii.

2.04 "County" means the County of Maui, State of Hawaii.

2.05 "Code" means the Maui County Code duly adopted by the County.

2.06 "Declarant" means Pine State Limited, a Hawaii limited liability company, and its successors, assigns or designees identified as such in any executed by Declarant (or a successor or assign of Declarant), recorded in the Bureau.

2.07 "Declaration" means the Declaration of Covenants, Conditions and Restrictions, as it may be amended from time to time.

2.08 "Dwelling" means any Improvement used for Residential Purposes as a Single Family Residence, whether the use is temporary, permanent, primary or secondary.

2.09 "Frontage Rock Wall" means the rock wall built along the Makena Road boundary of the Property on Lot 1.

2.10 "Hazardous Materials" means inflammable explosives, radioactive materials, asbestos, organic compounds (including polychlorinated biphenyls), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminates, hazardous wastes, toxic substances, petroleum and gasoline products or related materials and all substances defined as or included in the definitions for "hazardous substances", "hazardous wastes", "extremely hazardous wastes", "hazardous materials", or "toxic substances" under the Hazardous Materials Laws; provided, however, that the term "Hazardous Materials" shall not mean

or include petroleum and gasoline products, fertilizations or pesticides used by Owner in the ordinary course of Owner's use of a Lot.

2.11 "Hazardous Materials Laws" means any and all Federal, State, County or local laws, ordinances, rules or regulations, now or hereafter in effect, relating to environmental conditions, or Hazardous Materials, on, under or about the Property.

2.12 "Improvements" means buildings, outbuildings, roads, driveways, parking areas, lighting, paving of whatever nature, fences, screening walls, retaining walls, stairs, decks, hedges, windbreaks, landscaping, poles, swimming pools, ponds, signs and all other structures or Landscaping of every type and kind, but shall not include any temporary structures constructed or be to constructed by the Declarant on the Property. Within all drainage easements the term "Improvements" shall include all pipes, catch basins, swales, culverts, and other drainage structures, which may be located therein.

2.13 "Ke Kani Kai" means the Ke Kani Kai Subdivision as described on the Plan.

2.14 "Landscape Area" means the portion of each Lot on which a Dwelling or Structure is not located.

2.15 "Landscaping" means non-wild grass as is typically planted, seeded or sodded in residential neighborhoods, commercially available ground cover, vegetables, plants, flowers, shrubs, palms, trees, and rock gardens.

2.16 "Law" means any and all applicable statutes, ordinances, rulings, rules or regulations of any State, County, Federal, municipal or local government or governmental body, as the case may be.

2.17 "Lot" means each of the two (2) subdivided rural lots numbered 1 and 2, inclusive, described on the Plan.

2.18 "Monitoring Plan" means that certain Monitoring Plan for archeological artifacts as promulgated and approved by the State Department of Land and Natural Resources/State Historic Preservation Division, as such plan may be amended from time-to-time.

2.19 "Occupant" means any person who resides in a Dwelling on a Lot or who is an invitee of any person who resided in a Dwelling on a Lot.

2.20 "Ohana" means any Dwelling, including any garage, deck, shed, or storage, that is not used or intended to be used as the Primary Residence.

2.21 "Owner" means any person, persons or entities, including Declarant, now or hereafter acquiring any title in any Lot, or any part thereof.

2.22 "Perimeter" means the outer boundary of Ke Kani Kaibut shall not include the boundaries or lot lines between any Lot.

2.23 "Perimeter fence" or "Perimeter Wall" means any fence or wall which is located around the perimeter of Ke Kani Kai, except for the area comprising the Frontage Rock Wall. For purposes herein, "perimeter" does not mean any interior lot lines within the subdivision.

2.24 "Person" means any person, individual or entity.

2.25 "Pet" means cat, dog, other mammal normally kept as a household pet, caged bird or fish, but shall not mean livestock, bees, poultry, game bird or game fowl.

2.26 "Plan" means the subdivision plat entitled "Ke Kani Kai Subdivision" dated _____ prepared by Akamai Land Surveying and as approved by the County on _____, as the same may be amended from time to time.

2.27 "Primary Residence" means any Dwelling that is used or intended to be used as the chief Single Family Residence, including any Improvement that belongs with, is a part of, adjoins, or is an amenity of the Primary Residence.

2.28 "Residential Use" means occupation and use of a Dwelling by a single household in conformity with the Declaration and the requirements imposed by zoning codes or other State or County land use statutes, administrative rules or ordinances.

2.29 "Rural Use" means occupation and use of a Lot in conformity with Chapter 19.30 of the Code, as it may be amended from time-to-time.

2.30 "Specially Trained Animal" means a dog individually trained by a licensed guide dog trainer for guiding a blind person by means of a harness attached to the dog and a rigid handle grasped by the person, or any dog that is trained to alert a deaf person to intruders or sounds, or any animal that is trained to provide those life activities limited by the disability of any person, as those terms are defined by Chapter 515, Hawaii Revised Statutes, as amended.

2.31 "State" means the State of Hawaii.

2.32 "Structure" means any Dwelling and any building or amenity that is an accessory to any Dwelling.

2.33 "Subdivision Map" means any map of the subdivision approved by the County and/or recorded in the Bureau.

3. COVENANTS.

Each Owner and Occupant shall be subject to the following covenants concerning use, design, construction and administration which are adopted to provide for harmony and a unified community.

3.01 General Covenants.

Compliance with Law

3.01.1 All work, whether for grading, construction, landscaping, or use of any Improvement or on any Lot shall comply with Law. Best Management Practices shall be incorporated in site construction activities in accordance with Section 20.08 of the Code, as amended.

3.01.2 If any provision of this Declaration is more stringent than any Law, the provision shall control and take priority over the Law, except for a Law that governs a constitutionally protected class or right.

3.01.3 Any activity that violates a Law promoting public safety or health.

3.01.4 No firearm shall be discharged on a Lot.

Noise

3.01.5 Noise levels shall be kept at a minimum. Radios, musical instruments, sound systems, horns, whistles, bells or other sound devices (but not including alarm systems or devices for home or vehicle security) will be operated at levels that shall not interfere with any other Owner's or Occupant's use and enjoyment of his or her Lot.

Pets and Animals

3.01.6 Each Pet and each Specially Trained Animal shall be in a fully enclosed gated area or shall be kept on a leash.

3.01.7 A reasonable number of Pets may be kept on a Lot.

3.01.8 Any Pet that endangers the health of any Owner or Occupant of a Lot, that makes

objectionable noise, that endangers the safety of any Owner or Occupant of a Lot shall constitute a nuisance.

3.01.9 No animals of any kind shall be bred or kept for commercial purposes on any Lot.

3.01.10 No Owner or Occupant shall capture, trap, hunt or kill animals within Ke Kani Kai unless the animal poses an imminent to the safety or health of an Owner or Occupant.

3.01.11 No Owner or Occupant shall permit any thing or condition to exist on a Lot that will induce, breed or harbor insects or infectious plant diseases.

Temporary and Manufactured Housing

3.01.12 No Quonset hut, shack, travel trailer, mobile home, manufactured home, tent, yurt, teepee, or similar building or structure shall be kept, placed, maintained, constructed, reconstructed, installed or placed on any Lot

Vehicles, Equipment and Parking

3.01.13 No semi-tractor, trailer pulled by use of a fifth wheel, bus, recreational vehicle, motor home, commercial truck or van for which a Class 4 driver's license or commercial driver's license of any category is required, agricultural tractor of _____ horsepower or more, backhoe, excavator, bulldozer or other heavy equipment, boat, step van, delivery truck, or truck camper shall be kept, maintained, stored, repaired, serviced or placed on any Lot, provided, however, such vehicle may be kept on the Lot for the period of construction of an Improvement but only for the period of time during which such vehicle is being used for construction of the Improvement.

3.01.14 Any vehicle, other than a car or pick-up truck which is $\frac{3}{4}$ ton or less, which is kept on a Lot must be placed inside an enclosed garage.

3.01.15 No unregistered or inoperable vehicle shall be kept on any Lot in any twelve (12) month period for a period of more than three (3) consecutive business days or an aggregate of ten (10) calendar days.

3.01.16 No machinery or equipment shall be placed, operated, repaired or maintained on any Lot or in Ke Kani Kai except for that machinery or equipment that would be usual and customary in the use, maintenance or repair of Improvements.

3.01.17 No parking shall be allowed on the Roadway at any time.

Grass and Vegetation

3.01.18 Each Lot shall be kept clean, neat and orderly by keeping it free and clear of weeds, invasive shrubbery, brush, dead and/or dried wood, or other natural materials that may be flammable.

3.01.19 Grass, vegetation and landscaping on each Lot, whether vacant or improved with a Dwelling, will be kept neatly trimmed and hedges and other vegetation pruned.

3.01.20 Landscaping shall be consistent and in harmony with the natural topography and environment of the Property, and with other existing, landscaped Lots, but shall not include weeds, invasive plants, brush or the like. Landscaping should, to the extent possible, use of brackish and/or reclaimed water sources during construction and other non-potable uses, low flow fixtures, landscaping using xeriscaping (less water, less fertilizer and fewer pest controls), native plants, irrigated turf limited to 25% or less of total landscape area, water-cooled systems in compliance with County Code subsection 14.21.20, and water conservation through well-designed efficient irrigation systems.

Garbage and Rubbish

3.01.21 No garbage, rubbish, or trash shall be thrown, placed or burned on any Lot.

3.01.22 Household garbage, rubbish and trash, including green waste from landscaping on the Lot, shall be placed in refuse containers that have a cover or lid, which refuse containers shall not be located or placed within 30 feet of the boundary line of the Lot and which refuse containers shall be hidden from the view of any other Lot by landscaping or structures.

3.01.23 Each Owner shall arrange for the removal and disposal of household garbage, rubbish or trash, including green waste from landscaping on the Lot, on a weekly basis. The refuse containers holding the household garbage, rubbish and trash, including the green waste from landscaping on the Lot, shall be placed in front of the roadway gate(s) to Ke Kani Kaino more than twelve (12) hours before the arranged

pick-up day and time and shall be removed from the area in front of the roadway gate(s) no later than twelve (12) hours after the arranged pick-up time and day.

3.01.24 Each Owner shall participate in and comply with any solid waste recycling program imposed by Law.

Exterior of Improvements

3.01.25 Each Owner shall maintain the exterior of each Improvement on his or her Lot, keeping the exterior of the Improvements in attractive condition, in good repair, condition and appearance, and free from visible deterioration. Exterior maintenance shall include painting, repair and replacement of exterior surfaces, exterior glass, exterior lighting and other exterior components of the structure.

3.01.26 Exterior lighting shall be maintained, kept in working condition and shall be subdued and indirect so as to prevent direct exposure to any other Lot.

3.01.27 Exterior lighting shall be used for purposes of illumination only and shall not be used for commercial purposes.

3.01.28 Outdoor recreational facility lighting is prohibited except for underwater swimming pool lights. Tennis court or other outdoor recreational facility lighting is prohibited.

3.01.29 Illumination for aesthetic or dramatic purposes of any Structure is prohibited.

3.01.30 Illumination of outdoor signs, except for street address signage, is prohibited.

Signage, Antennas and Displays

3.01.31 Signage shall not be permitted in Ke Kani Kai except as necessary to identify the Owner or address of each Lot.

3.01.32 No antennas, satellite dishes, or reception equipment shall be mounted on the roof of any Improvement; each antenna, satellite dish or other reception equipment shall be shielded from visibility by persons located on the other Lots, but, with respect to television antennas and satellite antennas one meter or less in diameter, only to the extent allowed by the Telecommunications Act of 1996, _____ U.S.C. § _____, as amended, and the Federal

Communications Commission Over-the-Air Reception Devices Rule, 47 C.F.R. § 1.4000, as amended.

3.01.33 No windmill or similar structure shall be constructed, placed, kept, repaired or rebuilt on any Lot.

3.01.34 Each Owner shall have the right to display religious and holiday signs, symbols and decorations of the kinds typically displayed in residential neighborhoods having single family residences, provided, however, that lighting displays shall be energized for no more than a single continuous period of two (2) hours or less in each twenty-four (24) hour period.

3.01.35 Each Owner shall have the right to place political signage outside the Frontage Rock Wall provided that the signage shall not be placed more than thirty (30) days before the event for which the signage is being used and shall be removed within seven (7) days of the event and further that the signage shall comply with applicable Law.

3.01.36 Each Owner shall have the right to place a single sign of no more than two (2) square feet of face area stating the Lot is "For Sale" or a Dwelling is "For Rent", which sign shall be placed outside the Frontage Rock Wall.

Rural Use, Subdivision, Condominiumization, Time Shares and

Transient Vacation Rentals

3.01.37 Each Lot shall comply and conform to use allowed for Rural Use.

3.01.38 No Lot shall be have its zoning or land use designation or classification changed from Rural Use unless each Lot in Ke Kani Kaiis changed to the same zoning or land use.

3.01.39 No Lot shall be subdivided, condominiumized (under Chapter 514B, Hawaii Revised Statutes, as amended), or held in a time share plan (under Chapter 514E, Hawaii Revised Statutes, as amended).

3.01.40 No Dwelling shall be used for transient vacation rentals as that term is defined under Title 19, Code, as amended.

Hazardous Materials, Pesticides and Storage of Fuels

3.01.41 No Owner shall use, generate, store or dump any Hazardous Materials on any Lot.

3.01.42 No Owner or Occupant shall apply or permit the application of insecticides, herbicides, pesticides, hazardous substances or toxic substances, any of which require a license for purchase or application, provided, however, that an Owner or Occupant may hire a licensed applicator to apply such products.

3.01.43 No gasoline, heating oil, propane, diesel, or other fuel shall be stored or kept on any Lot except for a reasonable amount that is necessary for emergency purposes, or for the operation of pool heaters, spa heaters, natural gas or propane appliances, yard equipment, or other equipment related to the Rural Use of a Lot.

Fires

3.01.44 No fire shall be permitted on any Lot except for those which are contained within outside ovens, barbeques, chimneys, or other structures designed for the purpose of containing a fire.

Trade or Business

3.01.45 No trade or business may be conducted in or from any Lot except that an Owner or Occupant may conduct a trade or business in or from a Lot so long as: (a) the existence or operation of the trade or business is not readily apparent or detectable by sight, sound or smell from any boundary of the Lot; (b) the trade or business involves only occasional visitation to the Lot by clients, customers, suppliers, delivery services, or other business invitees; (c) the trade or business does not involve door-to-door solicitation of any Owner or Occupant of a Lot in Ke Kani Kai; (d) the trade or business does not constitute a nuisance or hazardous use or offensive use; and (e) the trade or business does not threaten the security or safety of any Owner or Occupant of a Lot in Ke Kani Kai.

Miscellaneous

3.01.46 Upon abandonment of any swimming pool, pond, or other Improvement, or should the Improvement become a nuisance, the Owner will demolish same and, insofar as is practicable, restore that portion of the Lot to a condition approximating that which existed

before the construction of the Improvement, and will Landscape and maintain said restored portion of the Lot.

3.01.47 Any unregistered or inoperable vehicle that is in violation of this Declaration may be removed by any Owner who shall provide written notice to the Owner of the Lot on which the inoperable or unregistered vehicle is located. So long as the Complaining Owner removing the unregistered or inoperable vehicle provides at least five (5) calendar days notice to the Owner of the Lot on which such vehicle rests, the Owner of the Lot on which such vehicle rests shall be responsible for all costs involved (whether or not he is the owner of the motor vehicle) and shall pay to the Complaining Owner who removed such motor vehicle all costs incurred, and the Owner who removed such motor vehicle shall not be liable for trespass or for conversion or for any damages to such motor vehicle or for the taking of the same. Enforcement of sums due under this provision will be done by following the steps stated in Section 5.02, below.

3.01.48 Converting any garage, Structure or Improvement into a finished space for use as an apartment or other integral part of a living area on any Lot.

3.01.49 No rubbish or debris of any kind shall be placed or permitted to accumulate on or adjacent to a Lot, and no odors shall be permitted to arise there from, so as to render any Lot or portion thereof unsanitary, unsightly, harmful or detrimental to any property in the vicinity thereof or to the occupants thereof, including property and occupants not within the Subdivision. No nuisance shall be permitted to exist or operate upon any Lot so as to be harmful or detrimental to any of the property in the vicinity thereof or to the occupants thereof, including property and occupants not within the subdivision. Should undue noise result from the operating of any air-conditioning system or swimming pool filtering pump unit or units, the Owner shall, without delay, upon request by any other Owner, design and construct additional soundproofing methods and proceed expeditiously with necessary adjustments.

3.02 Design Covenants

Overall Design

3.02.01 The design philosophy for the construction within Ke Kani Kai is to create a cohesive, visually unified community with a sense of identity and relationship to Makena.

3.02.02 The general character or style of architecture should include Hawaiian architectural elements such as cascading hipped or split pitched roof forms with strong overhanging masses and covered lanais.

3.02.03 The exterior materials shall be composed of or painted basic earth tone colors which harmonize and blend into the natural setting of Ke Kani Kai.

3.02.04 Improvements which combine numerous exterior materials or multiple architectural styles (e.g. colonial combined with Victorian) will not be permitted.

3.02.05 Improvements shall blend with each Lot's natural characteristics and topography. Views, both of the Lot and from the Structure, sun angles and topography are important considerations in the design of the Improvements.

3.02.06 All Dwellings constructed on any Lot shall be designed by and built in accordance with the plans and specifications of a licensed architect or a licensed structural engineer.

3.02.07 All Dwellings shall utilize solar hot water heating systems.

3.02.08 To the extent possible, the Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ shall be used for the design, construction, and operation of all Dwellings in `Ke Kani Kai.

3.02.09 "Best Practices" in Crime Prevention through Environmental Design will be incorporated into Dwelling design to the maximum extent practicable.

Grading, Excavation and Drainage

3.02.10 The grading of the Lot and of any building pads shall be confined to the minimum amount necessary to provide for the architectural concepts. Step pads or building pads, which conform to the topography of the Lot, are required.

3.02.11 Grading and/or excavation work shall not adversely affect adjacent Lots. For example, grading work on one Lot must not create an unstable

condition on the adjacent Lot. The drainage system plans shall indicate that the proposed drainage improvements will not cause adverse drainage conditions. Owners are responsible for the design of their drainage systems as well as the correction of any violations.

3.02.12 Unusable areas under buildings shall be enclosed to give the appearance that the building grows out of the Lot. Open lathwork will not be permitted.

3.02.13 Natural conditions of draining should be preserved and any changes to natural contours should not cause damage to adjacent and nearby properties. Where required, it will be necessary to use contoured swales planted with natural watercourse vegetation or lined with rock riprap or approve material.

3.02.14 Reasonable dust control measures, including watering the Lot, to alleviate the generation of dust shall be specified in all building plans.

3.02.15 Underground pipes and gutters should be routed to energy dissipaters to reduce the possible effect of erosion.

3.02.16 The Lot design should not obstruct the flow of surface water drainage across the Lot.

3.02.14 Each Owner shall continue to allow storm water runoff from all roadways and adjoining areas to pass through such Owner's Lot where such a condition existed at the time that the original Subdivision Improvements, including roadway and utility improvements, were completed. All Improvements made to each Lot shall be constructed in a manner that avoids concentrating runoff or changing the original drainage pattern across such Lot in a manner that will create a nuisance to other Lots or properties downstream. Each Lot Owner shall be responsible for mitigating any increases in runoff caused by changes in vegetal cover or the construction of buildings, grading and other improvements where such an increase may create a nuisance to other Lots or properties downstream.

Dwelling and Structure Design

3.02.15 No more than one Primary Residence and One Ohana may be built on a Lot within Ke Kani Kai.

3.02.16 Structures that are accessory to a Primary Residence or an Ohana shall not contain a kitchen or other space in which meals may be prepared.

3.02.17 Lowest level floor lines should be located within 6 feet of grade that existed before any fill is brought onto a Lot.

3.02.18 No Improvement built by any Owner on a Lot shall encroach upon any adjoining Lot or easement.

3.02.19 The maximum height of any structure shall not exceed a plane of 30 feet above the existing grade of the Lot. In order to preserve the sloping hillside of Ke Kani Kai, all two-story structures shall be terraced and stepped with the natural terrain.

3.02.20 The height at the eave line of all structures shall be limited to 20 feet above existing grade.

3.02.21 Roofs shall be gable and hip or combination thereof. Flat roofs will not be permitted. All Structures and the Ohana shall have a roof form complimentary to the Primary Residence. Gable and hip roofs shall have a minimum slope of 4 in 12 and a maximum of 8 in 12.

3.02.22 Skylights shall be integrated into the roof forms.

3.02.23 No vents other than plumbing vents will be allowed to penetrate the roof. Plumbing vents shall be interconnected below the roof to minimize roof penetrations. All roof penetrations shall be painted to match the roofing color.

3.02.24 No chimney, vent or other approved apparatus shall extend more than 4 feet above the adjacent roof unless specifically required by Code. In no event may any projection extend above the 30 feet maximum height.

3.02.25 No used building materials shall be used in the construction of or incorporated into any building, improvement or structure on any Lot, provided, however, that antique or aged materials may be used in the construction of improvements to achieve a desired aesthetic effect

3.02.26 The Primary Residence constructed upon any Lot shall contain a covered and enclosed floor area of not less than 2,500 square feet, exclusive of the area for a garage, attached or detached open lanai(s) or other auxiliary building or structure.

3.02.27 No structures, except for walkways, fences, walls, and Landscaping, shall be allowed outside the Buildable Area of a Lot. Roof or trellis overhangs may extend no more than five (5) feet outside of the Buildable Area.

3.02.28 Declarant shall record as an addendum to this Declaration a true and correct copy of the final location, boundaries and dimensions of each such Buildable Area when the final plat map of the Subdivision is submitted and approved by the County.

3.02.29 Front, rear, and side setbacks are established for each Lot as follows:

- Lot 1 Front yard setback shall be 25 feet from the Rock Wall fronting Makena Road.
- Lots 2-3 Front yard setback shall be 20 feet from respective Lot front boundary (facing Makena Road).
- Lots 1-4 Side yard setbacks are designated at 15 feet.
- Lots 1-3 Rear yard setback shall be a minimum of 20 feet from the rear property line.
- Lot 4 Rear yard setback shall be a minimum of 15 feet.

3.02.29 Each Primary Residence shall include an enclosed garage designed to hold a minimum of 2 cars, with garage doors. The garage shall be located within the Buildable Area. Porte cocheres will be permitted in addition to the 2-car garage.

3.02.30 Garages for the Primary Residence shall have a minimum inside dimension of 20 feet by 20 feet.

3.02.31 Storage areas and workshops within the garage will be in addition to the minimum 400 square foot interior size requirements.

3.02.32 An enclosed garage designed to hold a single car will be permitted to service the Ohana.

3.02.33 Window openings should be designed as part of the sculptural character of the exterior wall. Window openings merely cut out of the exterior wall, and not fully integrated into the exterior design, will not be permitted.

3.02.34 Window frames should generally be recessed from the plane of the exterior wall.

3.02.35 Retaining walls placed on embankments of cut or fill more than 3 feet in height must be designed by an architect or civil or structural

engineer holding a professional license issued by the State of Hawaii.

3.02.36 Retaining walls over 6 feet in height must be terraced at vertical intervals no greater than 6 feet. Terraces must be at least 3 feet wide and landscaped.

3.02.37 All Foundations must be designed by an architect or civil or structural engineer holding a professional license issued by the State of Hawaii.

3.02.38 Walls and fences shall be a maximum of six feet in height from grade, including retaining walls.

3.02.39 Walls located outside of the Buildable Area shall be constructed to match the walls located within the building area.

3.02.40 Access driveways shall be sited to avoid water laterals and underground utility service lines.

3.02.41 Each Lot shall have only one access driveway.

3.02.42 A driveway may be allowed within the side yard setback, but shall be a minimum of 10 feet from any adjoining lot.

3.02.43 All Porte cocheres and turnarounds shall be within the Buildable Area.

3.02.44 Exterior lighting shall be subdued and indirect. Exterior light displays which significantly increase the brightness or visual awareness of any Primary Residence, Ohana, or Improvement, will be prohibited.

3.02.45 All exterior lights must be shielded and shall not be directly visible from the common roadway, neighboring properties or other Lots in Ke Kani Kai.

3.02.46 All light fixtures must be mounted within the Buildable Area except for driveway lights. Driveway lights must be shielded, ground level lights illuminating only the driveway and may extend no more than 18 inches above grade.

3.02.47 Light fixtures for any light source of whatever type shall be shielded from above in such a manner that the edge of the shield shall be level with or below the center of the light source so that any direct light emitted above the horizontal is minimized. Light-directing refractors shall be considered to be light sources

3.02.48 Lighting shall be used for the purposes of illumination only, and not designed for or used as an advertising display or dramatically highlighting any Primary Residence, Ohana or Improvement.

3.02.49 Light fixtures shall be so designed and adjusted to direct light away from any road or street and away from any adjoining Lot.

3.02.50 No light or glare shall be transmitted or reflected in such concentrated quantities or intensities as to be detrimental or harmful to or interfere with the use of surrounding properties or streets.

3.02.51 Exterior lighting fixtures must be compatible with the architectural design of the building or buildings they serve. Lighting must be indirect and diffused. Exposed or visible light bulbs will not be allowed.

3.02.52 All solar panels shall be an integral part of the roof forms and shall conform to the slope of the roof form. All panels should appear as skylights within the context of the roof. There shall be no exposed plumbing.

3.02.53 All solar panels should be located to the greatest extent possible, away from road views. No tanks or other apparatus shall be exposed.

3.02.54 Each Owner shall provide a mailbox enclosure adjacent to Makena Road and the Entry Roadway for each Dwelling on his or her Lot. Mailbox enclosures shall be of the same design standard.

3.02.55 All above-ground septic tanks and all other sewage disposal facilities shall be fully screened from the view of any other Lot, shall be located no closer than thirty (30) feet from the property line of any other Lot, shall be approved by the County of Maui Department of Public Health and shall be constructed by a licensed contractor.

3.02.56 All air conditioning and pool pump installations, and similar noise producing objects, shall be concealed and muffled to meet Code Noise Standards, and State of Hawaii Department of Health notice regulations.

3.02.57 Air conditioning, swimming pool filter pump unit(s) or other mechanical equipment systems shall be sound treated to prevent noise nuisance.

3.02.58 The level of noise or sound pressure emanating from any Lot shall not exceed the maximum level permitted for Residential zoning under the Code

or the following guidelines, whichever is more restrictive. The level of sound or noise emanating from air conditioning and other mechanical equipment on any Lot shall not exceed 40 dBA (decibels) at any point on the property line of any Lot. No swimming pool pump system may be located closer than thirty (30) feet from the property line of any Lot. All swimming pool pump systems shall be contained in partial (three- or four-sided) equipment enclosures, designed to absorb the sound of such equipment in accordance with the foregoing provisions.

3.02.59 No window or roof top air conditioning units or air handlers will be allowed. Ground mounted units shall be enclosed behind grills and screen walls.

3.02.60 All recreational facilities including basketball courts, backstops, tennis courts, paddle courts, volleyball nets, etc., shall only be allowed within the Buildable Area. All such facilities shall be sited and landscaped to be screened, to the greatest extent possible, from neighboring views.

3.02.61 Swimming pools and ponds are allowed only within the Buildable Area of a Lot. In general, they should be designed as a part of the Dwelling through walls or courtyards, and screened or separated from direct view of the street, access roadway, other Lots and neighboring properties. If physically detached from the Dwelling, the pool or pond should be visually blended into the Landscape and not within direct view of the street, access roadway, other Lots or neighboring properties. All pools and ponds must be constructed and kept operable in accordance with Code and State of Hawaii Department of Health rules and regulations.

3.02.62 Propane gas tanks shall either be shielded and screened from view by walls, landscape or structures or shall be installed or constructed underground in compliance with the County of Maui and the State of Hawaii Laws and Regulations.

3.02.63 Landscaping shall be consistent and in harmony with the natural topography and environment of the Property, and with other existing, landscaped Lots, but shall not include weeds, invasive plants, brush or the like.

3.02.64 An area of four (4) feet wide on either side of the Roadway will be allocated for landscaping. The design and installation of the Roadway Landscaping

shall be determined by a majority of Owners of Lots 2, 3 and 4.

3.02.65 The design and construction of the Frontage Rock Wall shall be determined by a majority of Owners. All costs to construct the Frontage Rock Wall shall be shared equally by each and every Lot Owner.

3.02.66 Two (2) entry gates will be constructed in the Frontage Rock Wall. Such gates shall be built of high quality material such as metal or a teak or similar wood. One gate will open up to the Roadway that serves Lot 2. The other gate will serve Lot 1 and will be located no further than within fifteen (15) feet from the pin located on southwest corner of Lot 1. The cost of design, construction and maintenance of the gate serving Lot 1 shall be born by the Owner of Lot 1. The cost of design, construction and maintenance of the gate serving Lot 1 shall be born by the Owner of Lot 2. Both entry gates will be of a similar design.

3.02.67 Every Lot Owner shall share all costs of placing overhead lines underground along Makena Road equally.

3.02.68 Each Owner shall construct, maintain and keep in repair a perimeter fence or wall along the entire perimeter boundary of their Lot (except for the Makena Road boundary of Lot 1, on which the Frontage Rock Wall shall be built).

3.02.69 Any interior Lot fence or Lot wall shall be no higher than eight (8) feet (except for necessary retaining walls).

Materials

3.02.68 Exterior Materials for all structures shall be made of:

- Wood
- Textured plaster with painted or integral color
- Wood composites with battens
- Stone
- Brick in earth tones used as accent walls.

3.02.69 The following shall not be permitted for use as Exterior Materials:

- Red brick
- Mica plaster

Concrete block (including but not limited to
exposed, textured, or colored)
Corrugated metal;
Standard precision block;
Gloss-glazed ceramic tile; and
Plastic or vinyl materials

3.02.70 Wood window frames are encouraged.
Colored anodized aluminum or other factory lamina
frames may be used. Non-anodized or clear aluminum
frames will not be allowed.

3.02.71 All glass and glazing materials shall
be used in a manner to minimize any form of
reflectance or glare.

3.02.72 Skylights shall be clear, bronze or
smoke color plastic or glass with the metal frame
colored to match the surrounding roof color. White
plastic and clear aluminum will not be permitted.

3.02.73 All roofing materials shall be wood
shake, clay, slate, concrete tiles or metal (not
corrugated). All material shall be non-reflecting and
non-glare. No other roofing material will be allowed.

3.02.74 Walls shall be made of the same
materials as allowed for Exterior Materials.

3.02.75 Wrought iron, galvanized steel or
aluminum, with proper color treatment may be permitted
as accents.

3.02.76 Interior fences or walls shall be
constructed of stucco, lava or blue rock, redwood or
cedar (but not chain link) and shall have siding of
the same quality and finish on both sides.

3.02.77 The following wall and fence materials
and styles are prohibited:

Chain-link
Hog wire (and similar open material)
Open slat wood
Unplastered standard precision block
Plastic
Plywood

3.02.78 Driveways shall use asphalt or concrete
pavement, and shall not be made of gravel or contain
other material that causes excessive dust.

3.02.79 The use of incandescent, sodium type or
amber color is encouraged. No mercury vapor lamps are
allowed. Lamps or lighting equipment which emit bright
light or glare, exposed fluorescent lamps, flashing

lights, colored lights and unshielded exterior lights are prohibited. Light fixtures should be of sturdy construction. Poles should be vertical and any wood part underground protected from rot by prior treatment with wood preservatives or embedding in concrete. Black or gray paint is preferred on metal poles. Wood poles shall be painted or stained and conform to exterior subdued paint palate. Plantings at the base of the poles are encouraged.

3.02.80 No building, Improvement or structure located on any Lot shall contain highly reflective material or incorporate mirrored glass on the exterior of such building, Improvement or structure.

Color Scheme

3.02.81 The color scheme of all exterior elements of all Improvements on the Lot, including but not limited to exterior walls, roofing, trims, windows, doors, privacy walls, accessory enclosures, porches, lanais, covered walkways, exposed foundations, solar heating panels, mailboxes, entry features, gates and louvers, shall be subdued and complement the natural setting. Minor accents of deeper or brighter tones (window trim, etc.) will be permitted. However, large areas of bright, contrasting or glaring colors will not be permitted.

3.02.82 Color of all roofing materials throughout the Subdivision shall be muted brown, blue, green or gray. Contrasting colors such as chromatic yellow, blue and red will not be allowed.

3.02.83 All metal frames for solar panels shall be color coated to match the basic design of the roof.

3.03 Construction Covenants

3.03.1 Construction of any and all Improvements within Ke Kani Kai, including any Dwelling, must be undertaken only by the Owner of the Lot or a general contractor holding a current contractor's license issued by the State of Hawaii.

3.03.2 Before beginning construction of Improvements on a Lot, the Owner and/or the general contractor shall secure and maintain adequate public liability and builder's risk insurance.

3.03.3 All construction or grading may be subject to monitoring by certified archaeologists (as

required by the Department of Land and Natural Resources, State Historic Preservation Department.

3.03.4 The Owner, General Contractor and workforce shall not use the Roadway for any temporary storage or parking of vehicles. All construction materials shall be stored on the Owner's lot only.

3.03.5 Construction equipment is to be accessed and operated on the Owner's Lot only. Damages made to any common area will be assessed to the responsible Owner.

3.03.6 Construction activity will be limited to the following times:

Monday – Friday: 7 am – 5 pm

Saturday: 8 am – 4 pm

Construction shall not be allowed at any other times.

3.03.7 Construction of Improvements should be conducted expeditiously with the least possible disruption to adjacent and neighboring Lots.

3.03.8 A house trailer or other similar structure for use during construction or improvement to a Lot may be kept on such Lot until such construction or improvement is substantially complete.

3.03.9 Temporary buildings or structures used during such construction or improvement shall be removed immediately after substantial completion of construction.

3.03.10 During construction, the Lot will be kept in a clean, neat and orderly appearance, free and clear of trash, garbage, rubbish, and debris and junk.

3.03.11 All excess vegetation, soil and debris resulting from clearing, grubbing and excavation of a Lot must be removed from the Lot prior to completion of the Improvement unless used for fill elsewhere on the Lot.

3.03.12 Owner and the general contractor during the construction period shall control dust during the grading process and throughout the construction and landscaping grow-in period to minimize annoyance that may be caused to other Owners. A silt fence is required during Lot clearing and grading and must remain in place until vegetation is established.

3.03.13 No used building or structure may be moved onto any Lot and installed thereon.

3.03.14 No accumulated waste materials will be permitted on any Lot. Each Owner shall make arrangements (at such Owner's expense) for disposal of all trash and garbage.

3.03.15 Owner will be responsible for installing all utility lines (electricity, telephone, cable, etc.) within his or her Lot. All such utility lines shall be contained in conduits or cables and placed underground in accordance with all Law and requirements of any applicable utility companies. All pipes, conduits and wiring shall be placed underground from point of connection throughout the Buildable Area from the Lot boundary to the Structure serviced by the utility. No overhead service will be permitted.

3.03.16 Upon completion of the Primary Residence and garage for such Primary Residence, the Lot shall contain landscaping equal to at least sixty percent (60%) of the total square footage of the portion of such Lot, excluding the square footage comprised of Improvements other than Landscaping.

3.04 Maintenance Covenants

3.04.1 If within the ocean view of any other Lot, all trees and hedges shall be kept trimmed to a height not exceeding twenty-two (22) feet from grade.

3.04.2 Maintenance and repair of the Frontage Rock Wall, and any associated landscaping, upon completion and thereafter will be the sole responsibility of the Owner of Lot 1.

3.04.4 The Owners of Lot 2 shall be responsible in equal shares for keeping the Gate that services Lots 2 good working order at all times and to pay for all costs to build, maintain, and repair said gate.

3.04.5 Each Owner shall maintain the perimeter fence around his or her Lot. Notwithstanding anything in this Declaration to the contrary regarding the commencement of construction or otherwise, the Owner shall install all such perimeter fences/walls within nine (9) months of the receipt of final subdivision approval. If any Owner fails to install, maintain and/or repair his perimeter fence/wall, any other Owner or Owners may, but shall not be obligated to, undertake and complete such maintenance and/or repair, and said failing Owner shall pay forthwith on demand to such other Owner or Owners all such costs and expenses, together with interest at the rate of twelve percent (12%) per annum. Without limitation to any other remedy set forth in this Declaration any such Owner or Owners who undertakes such maintenance and/or

repair shall not be liable for trespass or for conversion or for any damages to such failing Owner for such maintenance and/or repair.

4. EASEMENTS

General

4.1 Each of the easements provided for in this Declaration shall be deemed established upon the recordation of this Declaration in the Bureau.

4.2 Each of the easements provided for in this Declaration shall be deemed to be a covenant running with the land for the use and benefit of the Lots served by such easements, and, as such, shall be binding upon all successive Owners of Lots burdened and/or benefited by such easements.

4.3 Each of the easements provided for in this Declaration shall be superior to all other encumbrances applied against or in favor of any portion of the Lots which are the subject of this Declaration.

4.4 Each of the easements provided for in this Declaration shall bind the Owners of the Lots burdened and/or benefited by such easements, even if the easements are not state in the individual conveyance documents to any Lot in Ke Kani Kai.

Utility Easements

4.5 Some Lots may be served by utility lines or conduits which are located on or under another Lot or Lots of Ke Kani Kai. In that event, this Declaration creates appurtenant easements for the use and benefit of the respective Lots served, as dominant tenements, on, under and across the Lots burdened thereby, as servient tenements, for ingress and egress for pedestrians and vehicles, utility, electrical, cable television, telephone, conduits, utility meters and lines. The specific location of each such utility easement shall be determined by the physical location of the utility lines or conduits thereon and there under installed, constructed and completed by or after the time of the first conveyance of each respective servient tenement.

Frontage Rock Wall/Gate Easement

4.6 An area of six (6) feet in width on the western boundary of Ke Kani Kai fronting Makena Road on Lot 1 shall be reserved for a Frontage Rock Wall. There is hereby created a perpetual easement for the benefit of each Lot for the placement and maintenance of the Frontage Rock Wall.

4.13 The actual placement of the Frontage Rock Wall shall take into accommodation the location of any utility, water, and/or phone fixtures, the Roadway and any other easements benefiting Ke Kani Kai or any Lot within Ke Kani Kai.

4.14 Two entry gates will be constructed in the Frontage Rock Wall. There is hereby created a perpetual easement for the benefit of Lot for the placement, use and maintenance of the entry gate servicing such Lots and a separate perpetual easement for the benefit of Lot 1 for the placement, use and maintenance of the entry gate servicing Lot 1.

4.15 There is hereby reserved to Declarant and Owners of all Lots such easements as are necessary to construct, maintain, improve, operate, repair and replace the Frontage Rock Wall, Frontage Gates and to install lines for utility service in, over or under such Frontage Rock Wall and/or Frontage Gates.

Makena Road Overhead Electrical Lines

4.16 There are hereby created perpetual easements for the use and benefit of the respective Lots served, as dominant tenements, on, under and across the Lots burdened thereby, as servient tenements, for ingress and egress to remove said poles and to replace said lines underground. The specific location of each such easements shall be determined by the physical location of the improvements thereon and hereunder installed, constructed and completed at the time said improvement is made.

5. ADMINISTRATIVE PROVISIONS

5.01 Enforcement of Provisions of this Declaration.

5.01.1 Declarant and/or any Owner of a Lot in Ke Kani Kai may enforce this Declaration or any provision of this Declaration.

5.01.2 This Declaration shall be made a part of the construction contract document specifications

for each Residence or other Improvements on a Lot and all Contractors, Owners and other persons shall be bound by this Declaration. Any violation by a Contractor shall be deemed a violation of the Owner of the Lot.

5.01.3 If any Owner or other person subject to this Declaration shall breach or fail to comply with any provision of this Declaration other than those items identified in Sections 5.02 and 5.03, below, and such breach or non-compliance shall not be fully remedied within ten (10) days after written notice of the breach or non-compliance is sent to the Owner at the address the Owner provided to the County for real property tax notifications, or if such breach or non-compliance cannot reasonably be remedied within said 10-day period, such Owner shall have failed to begin to remedy such non-compliance within said 10-day period and shall have failed to exercise good faith and due diligence to remedy such breach or non-compliance as soon as reasonably possible, then any other Owner (the "Enforcing Person") shall have the following rights and remedies, in addition to any other right or remedy stated elsewhere in this Declaration or at law or in equity:

5.01.3.1 Without liability to the Owner or any other person for trespass or damages, and upon not less than three (3) days prior written notice to the Owner, to enter upon the Lot or any Improvements thereon (but not into any Dwelling) and to perform, or require the Owner to perform immediately, in either case at the Owner's sole cost and expense, all work (including but not limited to the planting, watering, fertilizing, cutting and trimming of trees, shrubbery and other vegetation) necessary or desirable to remedy such breach or non-compliance, and/or to abate summarily and remove any Improvement or anything else or any condition which is not in compliance;

5.01.3.2 To commence and maintain actions and suits to require the Owner and/or other person to remedy such breach or non-compliance or for specific performance, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration, or to restrain or enjoin any breach or threatened breach of this Declaration, or to recover damages;

5.01.3.3 To pursue all other rights and remedies available at law or in equity.

5.02 In the event that any Owner fails to pay any cost or expense of constructing, maintaining or repairing any common Improvement required to be paid by such Owner (the "Non-Contributing Owner"), including the Frontage Rock Wall, the Roadway, Perimeter Lot Fencing or the underground placement of utility/electric lines along Makena Road (if said lines are so placed underground), the following procedure shall apply.

5.02.1 Any Owner that has paid more than his or her share of the cost or expense for such Common Improvement (the "Contributing Owner") shall be entitled to recover from the Non-Contributing Owner a sum equal to the amount that the Contributing Owner paid over and above his or her share of the cost or expense for such Common Improvement, together with interest at the rate of twelve percent (12 %) per annum simple interest from the date of default until the date of full recovery.

5.02.2 The date of default shall be the date on which the Contributing Owner gave written notice to the Non-Contributing Owner of the payment of more than his or her share of the cost or expense for such Common Improvement and of the amount of the payment.

5.02.3 The Non-Contributing Owner shall pay the Contributing Owner the amount stated in the written notice given in Section 5.02.2, above, within ten (10) calendar days of the date of the written notice.

5.02.4 Should the Non-Contributing Owner fail to pay the amount due, together with interest at the rate stated in Section 5.02.1 above, the Contributing Owner may bring a claim for the amount due in the District Court of the Second Circuit, State of Hawaii, Wailuku Division.

5.02.5 The Non-Contributing Owner hereby waives his or her right to a jury trial on a default in payment of his or her share of the cost or expense for such Common Improvement, and consents to venue and personal jurisdiction in the District Court of the Second Circuit

5.03 In the event that an Owner does not complete construction of the Primary Residence timely, the following provisions control the rights and obligations of the Owners.

5.03.1 For the full enjoyment and use of their respective lots, the Owners desire to prevent protracted construction in Ke Kani Kai. The Owners acknowledge that construction activities will disrupt the other Owners' quiet enjoyment of their property by dirt, noise, the presence of a construction site and the presence of construction activities. To prevent protracted construction and to lessen the time that construction activities may impact an Owner's use and enjoyment of his or her lot, each Owner covenants that construction of the Primary Residence, garage, accessory structures (which shall include a pool, pond or recreational facility) and landscaping will be completed as soon as reasonably possible following final subdivision approval. For purposes of this Declaration and this section 5.03, all construction of the Primary Residence, garage, accessory structures and landscaping on each Lot shall be completed within twenty-four (24) months (the "Targeted Completion Date") of the commencement of construction. Commencement of construction shall mean the date of issuance of the building permit by the County for the Primary Residence, garage, or accessory structure (which can include a retaining wall) if within a single building permit or the earliest of any of such building permits if one or more building permits were issued for such Improvements. Completion of construction shall mean the date on which the last final inspection by the County was passed, the date on which an Owner's Notice of Completion was first published, or the date on which permanent financing for the Improvements made the subject of the building permit(s) was put in place, whichever event last occurs.

5.03.2 It is the intent of the Owners that the Primary Residence, garage, accessory structures and landscaping shall be completed before an Ohana is constructed. In the event that a building permit for an Ohana or any other Structure is issued by the County before a

building permit is issued for the Primary Residence, garage or accessory structure, then for purposes of this Declaration and this Section 5.03, all construction of the Ohana shall be completed within twelve (12) months (the "Ohana Targeted Completion Date") of the commencement of construction. Commencement of construction shall mean the date of issuance of the building permit by the County for the Ohana. Completion of construction shall mean the date on which the last final inspection by the County was passed, the date on which an Owner's Notice of Completion was first published, or the date on which permanent financing for the Improvements made the subject of the building permit(s) was put in place, whichever event last occurs.

5.03.3 In the event that commencement of construction of an Ohana occurs before commencement of construction of the Primary Residence, garage and accessory structures, and commencement of construction of the Primary Residence, garage and accessory structures begins within eighteen (18) months of the date of commencement of construction of the Ohana, all construction of the Primary Residence, garage, accessory structures and landscaping must be completed within thirty (30) months of the commencement of construction of the Ohana.

5.03.4 Any Owner who fails to complete construction within the time periods stated in sections 5.03.1, 5.03.2 or 5.03.3, above (the "Dilatory Owner"), shall be subject to monetary damages to each other Owner who has completed a Dwelling in Ke Kani Kai before the Targeted Completion Date and/or the Ohana Targeted Completion Date. The Owners agree that the costs of increased cleaning, increased maintenance, increased noise, reduced lifespan of exterior finishes and Structures, and reduced enjoyment of Ke Kani Kai are difficult to determine but that a reasonable rate of compensation for such costs is One Hundred Fifty and 00/100 Dollars (\$150.00) per day for each day from the Targeted Completion Date and/or the Ohana Targeted Completion Date to the date on which construction is completed by the Dilatory Owner.

5.03.5 In the event that construction has not been completed on the Improvements so that the Dilatory Owner has not met both the Targeted Completion Date and the Ohana Targeted Completion Date, the daily compensation for such combined failures shall be One Hundred Fifty and 00/100 Dollars (\$150.00) and shall not be Three Hundred and 00/100 Dollars (\$300.00).

5.03.6 Each Owner entitled to compensation from the Dilatory Owner may seek to impose a lien on the Dilatory Owner's property in the Circuit Court of the Second Circuit, State of Hawaii. For purposes of such an action, the Owners agree and acknowledge the following:

5.03.6.1 The Owner seeking to impose a lien shall make written demand on the Dilatory Owner for payment of the compensation for violation of this Section 5.03, including in the demand a statement of the date of commencement of construction, the Targeted Completion Date, and the amount of the compensation payment demanded.

5.03.6.2 If the Dilatory Owner shall not make a written response to the written demand within ten (10) days of the date of the written demand, the lack of response will be deemed to be a rebuttable presumption of the validity and accuracy of the date of commencement, Targeted Completion Date, and amount of compensation due.

5.03.6.3 The Second Circuit Court shall have personal jurisdiction over the Dilatory Owner

5.03.6.4 The Second Circuit Court is the court of proper venue

5.03.6.5 The date of commencement of construction shall be the date on which the County issued the first building permit to the Dilatory Owner

5.03.6.6 The Dilatory Owner shall have the burden of establishing the date of completion

5.03.6.7 The Dilatory Owner shall be responsible for the attorneys fees and costs incurred by the other Owners

5.04 In any action for enforcement of the provisions of this Declaration or for damages or any other form of relief, the prevailing party in such action shall be entitled to recover from the losing party all of the prevailing party's costs and reasonable attorneys' fees.

5.05 No remedy in this Declaration is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to any remedy given hereunder or now or hereafter existing at law or in equity. The Enforcing Persons shall have the right to hire contractors and agents in performing any work to be performed by the Enforcing Person.

5.06 No Enforcing Person, nor any other person, shall have any liability whatsoever if it or any other Enforcing Person elects not to enforce any of the provisions of this Declaration or if it or any other Enforcing Person undertakes such enforcement and thereafter terminates enforcement activities or does not succeed in such enforcement activities.

6. MISCELLANEOUS

6.01 Acknowledgement of Rural Use. The Property is located within a 'Rural' district under the State of Hawaii land use laws and the zoning ordinances of County of Maui, and is also designated 'Rural' on the Kihei/Makena Community Plan. Accordingly, all uses conducted on any Lot within Ke Kani Kai are restricted to the uses expressly permitted by the Law and Code. Each Lot is hereby designated for and restricted to Rural Use. Rural Use shall be conducted on each and every Lot in an effort to provide economic benefit to the Owners as required by, and in a manner consistent with, the Law and Code. Under no circumstances shall the Rural Use of any Lot include raising, breeding, or keeping of llamas, horses, cattle, pigs or any other livestock nor chickens, turkeys, or any other poultry.

6.02 Nonwaiver. The failure to enforce the provisions of any covenant, condition, limitation, restriction or obligation contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provisions thereof.

6.03 Duration of Covenants. The limitations, covenants, conditions and restrictions contained herein shall be binding for a period of fifty (50)

years from the date this instrument is recorded in the Bureau. Thereafter, they shall automatically be extended without any documentation or any action of any person or Owner for successive periods of ten (10) years each unless terminated at the end of said initial 50-year period or at the end of any successive 10-year period by the unanimous vote or written election of all Owners of all Lots, evidenced by an instrument reciting said vote or election, signed and sworn by the Owners of all Lots, and recorded in the Bureau.

6.04 Amendment of Covenants. These covenants may be amended or terminated at any time by two-thirds vote or written consent of the Owners of all Lots. Said amendment shall be effective upon the filing in the Bureau of an instrument which shall (a) recite said amendment; (b) recite that two thirds of the Owners of all Lots voted for, or gave their written approval for, said amendment or termination; and (c) be signed and sworn by said two thirds of the Owners of all Lots. Notwithstanding anything herein to the contrary, the Declarant may from time to time amend this Declaration unilaterally without the consent of any Owner or mortgagee of any Lot, for any of the following purposes: (I) to correct any drafting or typographical error, or (ii) to comply with any applicable law, rule, regulation, ordinance or statute of the State, County or any governmental agency.

6.05 Perpetuities. If any provision of this Declaration shall be void or void able for violation of the Rule Against Perpetuities in effect in the State, said provision shall continue only until the end of such period as shall not violate the Rule Against Perpetuities, measured by the lives of the following persons on the date of this Declaration: The Members of the United States Senate serving in office on the date of this Declaration, and the descendants of such persons living on the date of this Declaration.

6.06 Notice of Sale or Transfer of Title. Upon the transfer of title to any Lot, or upon execution of an agreement of sale pertaining to any Lot, the transferee shall promptly notify each Lot Owner in writing of the name of each new Owner of said Lot (or the contract purchaser of said Lot if by agreement of sale) and said new Owner's or contract purchaser's mailing address and home and business phone numbers.

6.07 Construction All of the covenants, obligations, conditions, restrictions and limitations of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the Subdivision as set forth in this Declaration.

6.08 Restrictions Severable. Notwithstanding anything contained herein to the contrary, the covenants, conditions, limitations and restrictions contained herein shall be independent and severable, and the invalidity of any one or more of these limitations, covenants, restrictions or conditions by judgment or court order shall not affect any of the other provisions hereof.

6.09 Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

6.10 Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the terms or provisions hereunder.

6.11 Recitals. The provisions of the "Recitals" clauses are incorporated into and made part of this Declaration.

6.12 Record of Ownership and Notices. Any notice or other document permitted or required by the Declaration to be delivered may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) days after the copy of the same has been deposited in the United States first class mail, postage prepaid, addressed to the Owner or Declarant. The post office address of an Owner shall be the street address of the Lot of such Owner. Where there is more than one Owner of a Lot the delivery personally or by mail to any Owner shall be effective delivery to all Owners of such Lot. The post office address of Declarant shall be care of Mike Lauterman, Room 1307-1308, Dominion Centre, 43059 Queen's Rad East, Wan Chai, Hong Kong or such other address as Declarant shall notify Owners of in writing.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

Ke Kani Kai

Pine State Limited

By: _____
Its President

CHANGE IN ZONING APPLICATION,
COMMUNITY PLAN AMENDMENT
APPLICATION, DISTRICT BOUNDARY
RECLASSIFICATION AND SPECIAL
MANAGEMENT AREA PERMIT
APPLICATION

For

KE KANI KAI

TMK No.: (2) 2-1-005:117

Pine State Limited
Room 1307-1308, Dominion Centre
43-59 Queen's Road East
Wan Chai, Hong Kong

NOVEMBER 9, 2007

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Appendix A.
Ownership and Agent Authorization Documents

Appendix B.
Flood and Zoning Confirmation

Appendix C.
Preliminary Engineering Report

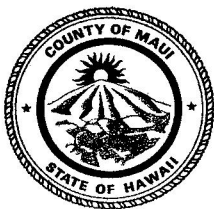
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1. CHANGE IN ZONING APPLICATION



COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

APPLICATION TYPE: CHANGE IN ZONING APPLICATION

DATE: November 9, 2007 VALUATION: \$ \$105,000

PROJECT NAME: Ke Kani Kai

PROPOSED DEVELOPMENT: Two (2) lot rural subdivision. Associated infrastructure and site development including underground utilities, water distribution and fire systems.

TAX MAP KEY NO.: (2) 2 -1-05-117 CPR/HPR NO.: _____ LOT SIZE: 1.385 acres

PROPERTY ADDRESS: Lot 3 Makena-Keoneoio Road, Maui, Hawaii

OWNER: Pine State Limited PHONE: (B) 852-2527-5228 (H) _____

ADDRESS: Rm 1307-1308 Dominion Centre, 43-59 Queens Rd. East

CITY: Wan Chai STATE: Hong Kong ZIP CODE: _____

OWNER SIGNATURE: See Letter of Authorization

APPLICANT: Same as Owner

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

PHONE (B): _____ (H): _____ FAX: _____

APPLICANT SIGNATURE: See Letter of Authorization

AGENT NAME: Greg Kaufman

ADDRESS: 6699 Makena Road

CITY: Kihei STATE: HI ZIP CODE: 96753

PHONE (B): 808-283-7704 (H): _____ FAX: 808-879-1473

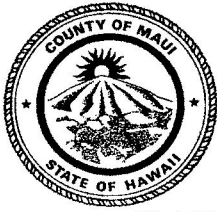
EXISTING USE OF PROPERTY: Vacant

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Agricultural

COMMUNITY PLAN DESIGNATION: Single Family ZONING DESIGNATION: Interim

OTHER SPECIAL DESIGNATIONS: Special Management Area (SMA)

2. COMMUNITY PLAN AMENDMENT APPLICATION



COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

APPLICATION TYPE: COMMUNITY PLAN AMENDMENT APPLICATION

DATE: November 9, 2007 VALUATION: \$105,000

PROJECT NAME: Ke Kani Kai

PROPOSED DEVELOPMENT: Two (2) lot rural subdivision. Associated infrastructure and site improvements including underground utilities, water distribution and fire protection system.

TAX MAP KEY NO.: (2)-2-1-05:117 CPR/HPR NO.: _____ LOT SIZE: 1.385 acres

PROPERTY ADDRESS: Lot 3 Makena-Keoneoio Road, Kihei, HI 96753

OWNER: Pine State Limited PHONE:(B) 852-2527-5228 (H) _____

ADDRESS: Rm 1307-1308 Dominion Centre, 43-59 Queen's Rd East

CITY: Wan Chai STATE: Hong Kong ZIP CODE: _____

OWNER SIGNATURE: See Letter of Authorization

APPLICANT: Same as Owner

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

PHONE (B): _____ (H): _____ FAX: _____

APPLICANT SIGNATURE: See Letter of Authorization

AGENT NAME: Greg Kaufman

ADDRESS: 6699 Makena Road

CITY: Kihei STATE: HI ZIP CODE: 96753

PHONE (B): _____ (H): _____ FAX: 808-879-1473

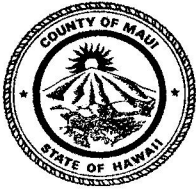
EXISTING USE OF PROPERTY: Vacant

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Agricultural

COMMUNITY PLAN DESIGNATION: Single Family ZONING DESIGNATION: Interim

OTHER SPECIAL DESIGNATIONS: Special Management Area (SMA)

3. DISTRICT BOUNDARY RECLASSIFICATION



COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

APPLICATION TYPE: LAND USE COMMISSION DISTRICT BOUNDARY
CHANGE/RECLASSIFICATION

DATE: November 9, 2007 VALUATION: \$105,000
PROJECT NAME: Ke Kani Kai

PROPOSED DEVELOPMENT: Two (2) lot rural subdivision. Associated infrastructure and site
improvements including underground utilities, water distribution and fire protection systems.

TAX MAP KEY NO.: (2)-2-1-05:117 CPR/HPR NO.: LOT SIZE: 1.385 acres

PROPERTY ADDRESS: Lot 3 Makena-Keoneoio Road, Kihei, HI 96753

OWNER: Pine State Limited PHONE: (B) 852-2527-5228 (H)

ADDRESS: RM 1307-1308 DOMINION CENTRE, 43-59 QUEEN'S RD EAST,

CITY: Wan Chai STATE: Hong Kong ZIP CODE: 96753

OWNER SIGNATURE: See Letter of Authorization

APPLICANT: Same as Owner

ADDRESS:

CITY: STATE: ZIP CODE:

PHONE (B): (H): FAX:

APPLICANT SIGNATURE: See Letter of Authorization

AGENT NAME: Greg Kaufman

ADDRESS: 6699 Makena Road

CITY: Kihei STATE: HI ZIP CODE: 96753

PHONE (B): 808-283-7704 (H): FAX: 808-879-1473

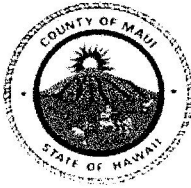
EXISTING USE OF PROPERTY: Vacant

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Agricultural

COMMUNITY PLAN DESIGNATION: Single Family ZONING DESIGNATION: Interim

OTHER SPECIAL DESIGNATIONS: Special Management Area (SMA)

4. SPECIAL MANAGEMENT AREA PERMIT APPLICATION



COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 S. HIGH STREET
WAILUKU, HI 96793
270-7735 (office) 270-7634 (fax)

SPECIAL MANAGEMENT AREA ASSESSMENT APPLICATION

APPLICATION FORM

Please print legibly or type the following.

APPLICANT INFORMATION

Name(s): Pine State Limited, "Ke Kani Kai" Email: _____
Address: Rm 1307-08 Dominion Centre, 43-59 Queens Rd E. City: Wan Chai State: Hong Kong Zip: _____
Phone Number(s): (bus.) 852-2527-5228 (hm) (fax) (cel)
Signature(s): See Letter of Authorization

Contact Name(s): Greg Kaufman Email: hulamaui@verizon.net
Address: 6699 Makena Road City: Kihei State: HI Zip: 96753
Phone Number(s): (bus.) 283-7704 (hm) (fax) 879-1473 (cel)

OWNER INFORMATION

Name(s): Same as Applicant Email: _____
Address: _____ City: _____ State: _____ Zip: _____
Phone Number(s): (bus.) (hm) (fax) (cel)
Signature(s): See Letter of Authorization

PROPERTY/PROJECT INFORMATION

Tax Map Key No.: (2)-2-1-05:117 Total Area: 1.385 acres sq.ft./acreage
Location: Lot 3 Makena-Keoneoio Road, Kihei, HI 96753
(Street Address, City and/or Description)

DESCRIPTION OF PROPOSED ACTION

Written description of the proposed action shall include, but not be limited to: use, length, width, height, depth, building material(s), and statement of objectives of the proposed action.

Attach additional sheets, if needed.

Describe Existing Use: Vacant Land

Describe Proposed Action: Two (2) lot rural subdivision. Associated infrastructure and site improvements including underground utilities, water distribution and fire protection systems, and drainage retention area.

Building Permit Application No. (if applicable) : N/A

Valuation: \$ 105,000.00

Total cost or fair market value as estimated by an architect, engineer, or contractor licensed by the Department of Commerce and Consumer Affairs, State of Hawaii; or, by the administrator of Department of Public Works, Development Services Administration.