

FINAL ENVIRONMENTAL ASSESSMENT

SINGLE-FAMILY RESIDENCE & RELATED IMPROVEMENTS

**Lot 8, being a portion of Grant 3232, Apana 2 to Naahumakua,
all of Remnant A of Grant 13,514 to Gordon T. & Yuki S. Shigeura, and
a portion of Remnant B of Grant 13,514 to Gordon T. & Yuki S. Shigeura**

**Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071**

Prepared for:

Edward S. Utyro and Gary R. Hauler
1870 Wyoming Avenue, NW, Apt. 402
Washington, D.C. 20009

Prepared by:

Steven S.C. Lim
Carlsmith Ball LLP
121 Waianuenue Avenue
Hilo, Hawaii 96720
Telephone: 808.935.6644
Facsimile: 808.935.7975

November, 2008

SUMMARY

Applicants/Owners: Edward S. Utyro and Gary R. Hauler

Property Location: Opihikao, District of Puna, Hawaii

Tax Map Key: 1-3-002:071

Parcel Size: 7.180± acres

Approving Agency: Department of Land & Natural Resources, P.O. Box 621, Honolulu, Hawaii 96809

Consultant: Steven S. C. Lim, Carlsmith Ball LLP, 121 Waiianuenu Avenue, Hilo, Hawaii 96720
Telephone No: 808.935.6644 Facsimile No.: 808.935.7975 E-mail: slim@carlsmith.com

Proposed Action: The Applicants are seeking approval to construct a one-story, three bedroom, three bath, single-family residential dwelling of approximately 2,631 square feet living area, related accessory use improvements (swimming pool, spa, lanai, on-grade terrace, gravel driveway and entrance gate, separate garage and equipment-storage structure, private water well and concrete underground storage catchment tank system, and private septic tank and percolation field wastewater treatment system), and landscaping on an approximately 0.500± acre portion of the 7.180± acre Parcel. In addition, the Applicants will remove 26 trees (1 coconut, 1 papaya, 4 noni and 5 pandanus trees and 15 ironwood trees) to develop the Project, replace these trees with the replanting of 20 pandanus plants and request approval of periodic landscaping maintenance within the Property. The Property is located makai of the Kapoho-Kalapana Road (also known as Highway 137) between Pohoiki Beach Park to the north and Kehena Beach to the south at the approximately 16 mile marker in the area generally known as Opihikao, situate at Kaueleau, District of Puna, Island, County and State of Hawaii ("Project Area"). The Property is located within the State Land Use Conservation District, Resource or (R) subzone, and zoned Open under the Hawaii County Zoning Code (Chapter 25, Hawaii County Code). The County of Hawaii General Plan LUPAG map designates the Property as "Open". The entire Property is located within the County of Hawaii's Special Management Area ("SMA") which runs along (makai) the Kapoho-Kalapana Road. The Project Area is accessed via the Keaau-Pahoa Highway, Pahoa-Kalapana Road, Kamaili-Opihikao Road and Kapoho-Kalapana Road.

Determination: The proposed action is expected to have no significant impact on the environment, therefore, a Finding of No Significant Impact ("FONSI") is anticipated, subject to the provisions of Section 11-200-9, HAR.

Agencies Consulted: State of Hawaii

- Department of Land & Natural Resources, Historic Preservation Division; Land Division; Office of Conservation and Coastal Lands; Conservation and Resource Enforcement; Forestry and Wildlife
- State Land Use Commission
- Department of Health, Environmental Planning Office; Office of Environmental & Quality Control
- Office of Hawaiian Affairs

County of Hawaii

- Planning Department
- Department of Public Works
- Department of Parks and Recreation
- Police Department
- Department of Water Supply
- Fire Department
- Department of Research and Development

Community

- Approximately 50 individuals in attendance at the community scoping meeting held on October 1, 2008 at Kalani Honua
- Rev. Violet Makuakane and 160 petitioners
- Hawaii County Councilmember Emily Naeole
- Leila Kealoha and Students of Kua 'o Ka Lā PCS
- Emily Claspell
- Ann Lum
- Avi Okin
- Valdeane Odachi
- Gloria-Ann Pualani Muraki
- Woody Hanalei Vaspra
- Joni Mae Makuakane-Jarrell
- State Rep. Faye Hanohano
- Kanaka Council
- Jill Monroe
- J. Puakea Miller
- Katie R. Lowrey
- Dr. Manu Aluli Meyer
- Ronald S. Fujiyoshi
- Kenneth Makuakane
- Dotty Kaiser
- Cheri Okada
- Mary Ann Ward
- Allyson Durkin
- Mary Miller
- Mei Lin Wong-Gary
- Terry Leianuenu Reveira

TABLE OF CONTENTS

	Page
1. INTRODUCTION.....	1
1.1 Identification of Applicants and Ownership.....	1
1.2 Identification of Approving Agency.....	1
1.3 Identification of Agencies Consulted in Making Assessment.....	1
2. PROJECT DESCRIPTION	2
2.1 Location.....	2
2.2 Existing Uses and Activities.....	2
2.3 Surrounding Area Uses and Activities	3
2.4 Proposed Uses and Activities	3
2.5 Timetable for Development.....	6
3. ENVIRONMENTAL SETTING, IMPACTS & MITIGATION MEASURES	6
3.1 Physical Characteristics.....	6
3.1.1 Physiography and Soils	6
3.1.2 Natural Hazards	6
3.1.3 Flora/Fauna.....	6
3.1.4 Historical/Cultural and Archaeological Resources.....	8
3.1.5 Air and Noise Quality.....	12
3.1.6 Scenic and Open Space Resources	12
3.1.7 Coastal Resources.....	13
3.2 Socioeconomic Considerations.....	13
3.3 Public Facilities and Services.....	13
3.3.1 Access.....	13
3.3.2 Water Resources.....	13
3.3.3 Utilities	14
3.4 Police and Fire Protection.....	14
4. RELATIONSHIP OF THE PROPOSED ACTION TO LAND USE PLANS, POLICIES AND CONTROLS FOR THE AFFECTED AREA	14
4.1 Chapter 205, Hawaii Revised Statutes, State Land Use Law.....	14
4.2 State Administrative Rules Governing Land Uses within Conservation Districts, Section 13-5-13, Hawaii Administrative Rules	15
4.3 Hawaii State Plan, Chapter 266, Hawaii Revised Statutes.....	15
4.4 Hawaii County General Plan	16
4.5 Hawaii County Zoning	20

TABLE OF CONTENTS
(continued)

	Page
4.6 County Special Management Area	20
4.7 Countal Zone Management, Chapter 205A, Hawaii Revised Statutes.....	21
4.8 Shoreline Setback Area	23
4.9 Environmental Impact Statement	23
5. IDENTIFICATION OF MAJOR IMPACTS AND ALTERNATIVES CONSIDERED	23
5.1 Major Impacts.....	23
5.2 Alternatives to the Proposed Action.....	24
6. OTHER PERMITS AND APPROVALS	24
7. PRE-ASSESSMENT CONSULTATION	24
8. WRITTEN COMMENTS AND RESPONSES DURING PUBLIC REVIEW PERIOD.....	25
9. AGENCY ANTICIPATED DETERMINATION AND FINDINGS AND REASONS SUPPORTING ANTICIPATED DETERMINATION.....	25

1. INTRODUCTION

1.1 Identification of Applicants and Ownership

The Applicants are Edward S. Utyro, single, and Gary R. Hauler, single, whose mailing address is 1870 Wyoming Avenue, NW, Apt. 402, Washington, D.C. 20009. The Applicants are the fee owners of the Property involved in the subject project, being Lot 8, being a portion of Grant 3232, Apana 2, to Naahumakua and a portion of Grant 13,514 to Gordon T. and Yuki S. Shigeura, situate at Kaueleau, District of Puna, Island, County and State of Hawaii, more particularly identified as tax map key parcel: (3) 1-3-002:071. The Applicants' ownership of the Property is evidenced by Warranty Deed dated April 5, 2001, and recorded in the Bureau of Conveyances of the State of Hawaii on April 27, 2001 as Document No. 2001-061540, and by Correction to Warranty Deed dated December 10, 2007, and recorded in the Bureau of Conveyances of the State of Hawaii on December 24, 2007, as Document No. 2007-220047 (Exhibits 4a and 4b-Deed and Correction Deed).

1.2 Identification of Approving Agency

This final environmental assessment is being submitted in conjunction with an application to the Board of Land & Natural Resources for a Conservation District Use Permit ("CDUP"), in accordance with Sections 13-5-11, 13-5-13, 13-5-22(b), 13-5-24(c), 13-5-34 and 13-5-41 of the Department of Land & Natural Resources ("DLNR") Administrative Rules. The approving agency for this environmental assessment is the Department of Land & Natural Resources.

1.3 Identification of Agencies Consulted in Making Assessment

The following agencies and community members have provided assistance or information in preparing this assessment:

State of Hawaii

- Department of Land & Natural Resources, Historic Preservation Division; Land Division; Office of Conservation and Coastal Lands; Conservation and Resource Enforcement; Forestry and Wildlife
- State Land Use Commission
- Department of Health, Environmental Planning Office; Office of Environmental & Quality Control
- Office of Hawaiian Affairs

County of Hawaii

- Planning Department
- Department of Water Supply
- Department of Public Works
- Fire Department
- Department of Parks and Recreation
- Department of Research and Development
- Police Department

Community

- Approximately 50 individuals in attendance at the community scoping meeting held on October 1, 2008 at Kalani Honua
- Rev. Violet Makuakane and 160 petitioners
- Joni Mae Makuakane-Jarrell
- Kenneth Makuakane

- Hawaii County Councilmember Emily Naeole
- State Representative Faye Hanohano
- Dotty Kaiser
- Leila Kealoha and Students of Kua 'o Ka Lā PCS
- Kanaka Council
- Cheri Okada
- Emily Claspell
- Jill Monroe
- Mary Ann Ward
- Ann Lum
- J. Puakea Miller
- Allyson Durkin
- Avi Okin
- Katie R. Lowrey
- Mary Miller
- Valdeane Odachi
- Dr. Manu Aluli Meyer
- Gloria-Ann Pualani Muraki
- Ronald S. Fujiyoshi
- Mei Lin Wong-Gary
- Terry Leianuenue Reveira
- Woody Hanalei Vaspra

2. PROJECT DESCRIPTION

2.1 Location

The irregular shaped Property of approximately 7.180± acres is located makai of the Kapoho-Kalapana Road (also known as Highway 137) between Pohoiki Beach Park to the north and Kehena Beach to the south at the approximately 16 mile marker in the area generally known as Opihikao, District of Puna, Island, County and State of Hawaii. The Property is more particularly designated by TMK No.:(3) 1-3-002:071 ("Property") (Exhibit 1-Location Map; Exhibit 2-Tax Map). The Property is not an oceanfront parcel and is flanked by State of Hawaii owned oceanfront parcel at TMK: (3) 1-3-002:036 ("Parcel 36") along its southeastern, eastern (makai) and northeastern boundaries. The Property's northern (Kapoho direction) and western boundary of approximately 868 lineal feet abuts the Kapoho-Kalapana Road, and its southwestern boundary abuts other privately owned parcels (Exhibit 3-Site Plan).

The Property is classified "Conservation" by the State Land Use Commission, and designated within the Resource (R) subzone, and zoned "Open," under the Hawaii County Zoning Code (Chapter 25, Hawaii County Code). The County of Hawaii General Plan LUPAG map designates the Property as "Open". The entire Property is located within the County of Hawaii's Special Management Area ("SMA") which runs along (makai) the Kapoho-Kalapana Road.

2.2 Existing Uses and Activities

An approximately 5.00± acre portion of the Property (to the southwest) have been impacted by modern agricultural activities and bulldozer disturbances by the Applicants' predecessor-in-interest. The southwestern end of the Property is currently planted in young coconut trees. The Project access will be off the Kapoho-Kalapana Road at the

southwest end of the Property, along a dirt road lined with betel nut and royal palms which extends to the southwest into an 1.5± acre level area planted by the prior landowner in fruit trees such as noni, banana, mango, breadfruit, avocado and papaya, and various flowering ornamentals plants.

The remaining portion of the Property is undisturbed, and consists of a puhala grove, with scattered coconut trees, noni, cecropia, ohia, guava and ironwood. A second existing dirt road located at the northwest end of the Property from the Kapoho-Kalapana Road will be closed (Exhibit 3).

2.3 Surrounding Area Uses and Activities

Lands west and north of the Property (mauka of the Kapoho-Kalapana Road) are characterized by other privately owned lots which are classified "Agricultural" by the State Land Use Commission, zoned "Agricultural" with a minimum lot size of one-acre (A-1a) under the Hawaii County Zoning Code, designated "Important Agricultural Lands" on the LUPAG map, and are located entirely outside of the SMA.

The Property and the lands to the south and east of the Property (makai of the Kapoho-Kalapana Road) are characterized by other privately owned lots, including the State of Hawaii owned oceanfront Parcel 36, and are similarly classified "Conservation" by the State Land Use Commission, zoned "Open" under the Hawaii County Zoning Code, designated "Open" on the LUPAG map, and are located entirely within the SMA. Within these adjoining lands at TMKs: (3) 1-3-002:50, 52, 70, 88 and 89, other single-family residential dwellings and accessory uses have obtained Conservation Use District Permits and/or Planning Department SMA exemptions to allow for the residential development.

2.4 Proposed Uses and Activities

Community concerns relating to the Pua'akanu Cemetery Site, shoreline access, the preservation of the historical and cultural values and native Hawaiian gathering rights, and the preservation of the bushy 'Ohi'a Lehua trees and puhala grove within the Project were raised during the Draft Environmental Assessment review period. As such, the Applicants relocated the proposed residential dwelling and now propose an alternative site for the placement of the Project approximately 157 feet to the east (Kalapana direction) within a portion of the Property that was previously disturbed for agricultural pursuits by the Applicants' predecessor-in-interest. This 1.5± acre area is relatively level and is currently planted in fruit and palm trees. In conjunction with the relocation of the Project within the Property, the Applicants have redesigned the single-family residential dwelling and related accessory uses to complement the existing topography of the alternative site.

The Applicants are seeking a State Conservation District Use Permit for the purpose of constructing a one-story, single-family residential dwelling and related accessory use improvements (swimming pool and spa, on-grade terrace, gravel driveway and gate entrance, separate garage and equipment-storage structure, private water well and concrete underground storage catchment tank system, and private septic tank and percolation field wastewater treatment system), and landscaping. In addition, the Applicants propose to remove 26 trees to develop the Project, replace these trees with the replanting of 20 pandanus plants and request approval of periodic landscaping maintenance within the Property (Exhibit 3-Site Plan).

For purposes of this assessment, the improvements being proposed by the Applicant will be called either the "Project" or the "Proposed Action", and the Conservation District land on which the Project is proposed will be called the "Project Area" or "Property."

- A. Single-Family Dwelling: Construction of a new one-story, new three bedroom, three bath, single-family residential dwelling of approximately 2,631 square feet in living area on concrete flooring, consists of a master bedroom, bath and dressing area, study, kitchen, pantry-laundry room, dining-living room, and two bedrooms with two full baths. These improvements are permitted land uses within the Resource (R) subzone under Sections 13-5-24(a) and (c), HAR. The Applicants are also proposing to construct a private septic tank and percolation field wastewater treatment system meeting all applicable County and State regulations, a private water well system (with concrete underground storage catchment water tank to be housed beneath the garage and storage-utility structure) meeting all State regulations, a 588 square feet lanai, a 650 square feet at-grade swimming pool and spa, a 110 square feet on-grade terrace (with more than 8-inches of fill), an 880 square feet garage and equipment-storage structure, a gate entrance and gravel driveway (approximately 20 foot wide by 290 lineal feet). No additional water features are proposed. Approximately 90% of the proposed Project will be placed on grade, with approximately 435 cubic yards of grading and fill of approximately 280 cubic yards to accommodate the natural contours of the land. The proposed improvements will be sited at the southeastern portion of the Property, approximately 50 feet from the southern Property boundary and 78 feet from the southeastern Property boundary.

R-8 Single Family Residence: A single-family residence that conforms to design standards as outlined in this chapter. (D-1).

The proposed improvements comply with Section 13-5-41, HAR and "Single-Family Residential Standards", dated September 6, 1994, attached as Exhibit 4 to Chapter 13-5, "Conservation District", Hawaii Administrative Rules as set forth below:

<u>Single-Family Residential Standards</u>	<u>Project Dimensions</u>
Minimum Lot Size: 10,000 square feet	Lot Size: 7.180+ acres
Minimum Setbacks: Front: 25 feet Sides: 25 feet Back: 25 feet	Front: 236 feet (mauka) Sides: 580 feet and 78 feet Back: 50 feet (makai)
Maximum Developable Area: 5,000 square feet	Developable Area: 4,859 square feet Living area: 2,631 square feet Lanai: 588 square feet Swimming pool/Spa: 650 square feet Portion of Terrace greater than 8 inches of fill: 110 square feet Garage/Equipment-Storage: 880 square feet
Maximum Height limit: 25 feet	Maximum Height: 20.90 feet

Compatibility Provisions: Landscaping	Landscaping will emphasize a naturally occurring plant community consisting of native plants.
Color/surface of structures	Neutral colors and materials such as wood, stone and slate will be used on the exterior of the dwelling to harmonize with the existing physical environment.
Wastewater treatment system	Construction of a private septic tank and percolation field wastewater treatment system meeting all applicable County and State regulations.
Minimum grading/contouring of property	An approximately 1.5± acre portion of the Property was previously bulldozed by the Applicants' predecessor-in-interest and is level. Existing topography will require grading/contouring of less than 1% of the Property. Given the existing topography, the proposed dwelling will be sited with minimal grading/contouring and will occupy an approximately 0.50-acre portion of this area.
Connecting structures	The garage/equipment-storage structure is not connected to the main dwelling. No plumbing fixtures will be housed in this structure.
Building/grading code, shoreline setback compliance	Applicants will comply with all building/grading code and shoreline setback requirements.
One kitchen	The dwelling has only one kitchen.

- B. Landscaping Improvements: Periodic landscaping maintenance within the Property, in addition to planting of small shrubbery, ground cover and trees, around the perimeter of the residential dwelling is proposed as permitted land uses within the Resource (R) subzone under Sections 13-5-24(a) and (c), HAR. The landscaping will improve upon the beauty of the Property by replacing existing weed species and will emphasize a naturally-occurring plant community consisting of native plants. Plant species being considered are ground cover/low mass plantings (naupaka, ihi and pa'uohi'iaka) and bushes and shrubs (pohinahina, 'akia, naupaka kahakai, nehe, 'ilima, ulei, nanu, hibiscus, ti, a'ali'i and ihi) and trees (ulu and kukui nut) (Exhibit 3-Landscaping Plan). The final landscaping plan, which will depend in part on the availability of planting materials at the time of construction, will be submitted during construction plan approval.

R-5 Landscaping: Landscaping, defined as alternation of plant cover, including trees, in an area of more than ten thousand square feet (C-1).

- C. **Tree Removal:** Removal of approximately 15 ironwood within the existing puhala grove, 1 coconut, 1 papaya, 4 noni and 5 pandanus trees, six inches or greater in diameter (Exhibit 7), as permitted land uses within the Resource (R) subzone under Sections 13-5-24(a) and (c), HAR and Protection (P) subzone under Sections 13-5-22(a) and (b), HAR.

P-12 Tree Removal: Removal of more than five trees, six inches or greater in diameter measured at ground level. (D-1).

2.5 Timetable for Development

The Applicants propose to begin work on the proposed improvements within six months of receipt of all required permits from the State and County. It is anticipated that these improvements will be completed within one year of commencement of construction.

3. ENVIRONMENTAL SETTING, IMPACTS & MITIGATION MEASURES

3.1 Physical Characteristics

3.1.1 Physiography and Soils

Setting. The elevation of the Property ranges from 80 feet to 100 feet above mean sea level along the Kapoho-Kalapana Road. The overall slope of the Property is relatively flat along the Kapoho-Kalapana Road boundary, and approximately 240 feet makai (seaward) the elevation of the Property gradually increases to 50 feet in height and plateaus for an additional 200 feet to the Property's eastern boundary (Exhibit 7-topographical map).

The United States Department of Agriculture, Soil Conservation Services, Soil Survey Report classifies the soils as "Malama Series" or "rMAD" and lava flows, A'a ("rLV"). The Malama Series soil overlies relatively young A'a lava flows on the windward side of Kilauea Crater. In a representative profile, the surface layer is very dark brown, extremely stony muck about 3 inches thick. It is underlain by fragmental A'a lava. This soil is strongly acid. Permeability is rapid, runoff is very slow, and the erosion hazard is slight. This soil is used for woodland, pasture, and orchards. A'a lava flow is a miscellaneous land type. This lava is rough and broken and has practically no soil covering and is bare of vegetation, except for mosses, lichens, ferns, and a few small ohia trees.

The Land Study Bureau Overall Master Productivity Rating classifies the soil within the Property as "E", or "Very Poorly Suited" to agricultural productivity. The Property is not classified as "Prime", "Unique" or "Other Important Agricultural Lands" by the State of Hawaii, Department of Agriculture's Land of Importance to the State of Hawaii ("ALISH") map.

Impacts and Mitigation Minor changes to the land form will result from the construction of the new single-family residential dwelling and related accessory use improvements; however, no significant adverse impacts are expected. The Proposed Action does not involve a substantial degradation of environmental quality and would not result in loss of any valuable agricultural lands since the soils on the Property are rocky in character and content, and the Property has not been in active commercial agricultural use.

3.1.2 Natural Hazards

Setting. The Property is located sufficiently west (mauka) of the shoreline and makai of the current volcanic hazards to mitigate the potential impact of natural hazards on the Project.

Flood and Coastal Hazards. The shoreline characteristics makai of the Property on the abutting State of Hawaii owned oceanfront Parcel 36 and adjoining oceanfront properties are historical A'a flows. The Flood Insurance Rate Map ("FIRM") prepared by the Federal Emergency Management Area ("FEMA") designates the Property as being located within an area designated as "X" or outside the 500-year flood plain.

The Property is located within the County of Hawaii Civil Defense Agency's evacuation area for hazards due to tsunami and possible surges from hurricanes. The adjoining State of Hawaii owned oceanfront Parcel 36 and other shoreline parcels along the coast have remained stable during seasonal coastal storms (Exhibit 8-tsunami evacuation area map).

Volcanic and Earthquake Hazards. According to the United States Geological Survey map, the Property is located within Lava Flow Hazard Zone 2, on a scale of ascending risk 9 to 1. Zone 2 areas include the areas that are adjacent to, and down slope from, the East Rift Zone of Kilauea volcano. The entire area south of the East Rift Zone lies in Zone 2. Lava flows are most likely to travel in this direction due to the ground sloping downhill from the rift zone to the ocean. Lava flows in this area are 400 to 750 years old (Exhibit 9 -Volcanic and seismic hazards map).

The Building Code designates the entire island of Hawaii in Earthquake Zone 3 and contains certain structural requirements to address the relative seismic hazards.

Impacts and Mitigation. Although the Property is located within the County of Hawaii Civil Defense Agency's evacuation area, the Property has remained stable during coastal storms, and is buffered by the State of Hawaii owned oceanfront Parcel 36. The placement of the proposed improvements are sufficiently inland from the shoreline, and thus there is no risk to human life and property. In addition, although the Property is located in the area flanked by Kilauea volcano and is subject to down slope lava flows, those lava flows have historically been slow-moving and thus the degree of risk to human life is minimal.

3.1.3 Flora/Fauna

Setting. No plant species listed by the U.S. Fish & Wildlife Services or State protected plant species as threatened or endangered, proposed, or a candidate species or "species of concern" occur on the Property or immediate vicinity. Natural vegetation consists of ironwood (*Casuarina equisetifolia* L), cecropia (*Cecropia schrebiana* Miq), ohia (*Metrosideros collina*) and pandanus (*Pandanus odoratissimus* L. f.) grove, with understory of lauae ferns, naupaka, noni (*Morinda citrifolia* L.) shrubs and guava (*Psidium cattleianum* f. *lucidum*). The dense puhala grove is located within northwestern portion of the Property (Exhibit 3-Landscaping plan.) Noni, banana, mango, breadfruit, avocado and papaya trees, and various flowing ornamentals were planted by the prior landowner. The southwestern end of the Property is planted in young coconut (*Cocos nucifera* L.) trees. Betel nut palms (*Areac catechu* L.) and royal palms line the existing dirt roadway from the Kapoho-Kalapana Road to the southwest to the adjacent property at TMK: (3) 1-3-002:70.

No endangered or otherwise rare bird or mammal species were observed within the Project Area. The area is not included within the critical habitat for protected species.

Known occupied fauna within the Property consists predominantly of lowland urban birds, such as common mynah (*Acridotheres tristis*), house finch (*Carpodacus mexicanus*), northern cardinal (*Cardinalis cardinalis*) and Japanese white-eye (*Zosterops japonica*). None of these species are rare or endangered. Additionally, no resident endemic and indigenous land birds, resident indigenous seabirds, resident endemic and indigenous water birds and migratory indigenous birds have been recorded on the Property. Mammal species which are expected to occur on the Property include mongoose, feral cat, mouse and rat. These are common species which are found throughout the island.

Impacts and Mitigation. No rare or endangered plant or animal species or habitats would be affected since there is no evidence of threatened, endangered or rare plants, birds, mammals, or marine mammals within the Property. The existing puhala grove will be preserved "as is". The removal of the 5 pandanus trees will be replaced with the replanting of 20 pandanus plants. The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove.

3.1.4 Historical/Cultural and Archaeological Resources

Setting. The Project area is situated in the *ahupua'a* of Kaueleau in Puna District. The *ahupua'a* covers 1,822 acres and extends from the coast to approximately 1,100 ft elevation. The USGS quadrangle and tax maps both give the same spelling for the *ahupua'a* (Kaueleau). During the Mahele, the entire *ahupua'a* was awarded to Victoria Kamamalu (LCA 7713:13). The Indices of Awards (Indices 1929), Native Register (NR n.d; 440-444v5), and Foreign Testimony (FT n.d; 408-411v3) all indicate that the *ahupua'a* name was Kauwalehua.

There is no mention of Kaueleau or Kauwalehu in Hawaiian traditional and legendary accounts. In Puna, few pre-missionary traditions and legends survived because of intensive mission work by Reverend Titus Coan between 1835 and the 1870s. Puna's traditional history is difficult to follow because of the dominating influence of the ruling families in the neighboring districts of Hilo and Ka'u. Hawaiian traditions suggest that Puna "was once Hawaii's richest agricultural region and it is only in relatively recent time that volcanic eruption has destroyed much of its best land".

Hua'a was the chief of Puna when it was seized by 'Umi-a-Liloa, unifying his control over the Island of Hawaii. Hua'a was killed during a battle with one of 'Umi's warrior sons, Pi'imai-wa'a, at Kuolo in Kea'au. Kalani'opu'u unified his control over Hawaii Island when he gained control of Ka'u and Puna following Alapa'i's defeat in a battle at Mahinaakaka. During Kalani'opu'u's rule, the Puna chief, I-maka-koloa, attempted a rebellion and seized the valuable products of the district including 'o'o and *mamo* bird features, hogs, fine mats made from pandanus blossoms and from young pandanus leaves, gray tapa cloth made from *mamaki* bark.

Following the death of Kalani'opu'u, in 1782, a dispute over ascendancy ensued culminating in the battle of Moku'ohai. Following the battle, control over the island was divided between Keoua Ku'ahulu'ula, who held Ka'u and a portion & Puna; Keawema'uhili, who controlled the remainder of Puna, Hilo, and southern Hamakua; and Kamehameha, who controlled northern Hamakua, Kohala, and Kona. A feud between Keoua and Keawema'uhili in 1785, resulted in Keawema'uhili's death and the expansion of Keoua's territory, including the unification of Puna. The island was finally re-unified

in 1791 when Kamehameha killed Keoua at Kawaihae. In 1790, a lava flow extended diagonally across Kaueleau from the northeast above Opihikao to the coast at Kamaili.

Early historic accounts document that Puna was well populated and intensively cultivated. In 1823, Ellis (1825) traveled along the coast from Kaimu to Kapoho, probably passing through, or very close to, the project area. At Kaimu, there was a sandy beach and village with an estimated 725 occupants. Also described, are plantations and groves of coconuts and *kou*. Ellis estimated that the population of Kaimu and nearby villages was approximately 2,000. Ellis described a village surrounded by plantations at Kamaili, which is immediately south of Kaueleau, where they were given taro and potatoes. Other crops noted by Ellis in Puna included bananas and sugar cane. In 1841, the Wilkes Expedition passed through the inland portion of Kaueleau.

During the Mahele, Kaueleau was awarded to Victoria Kamamalu (LCA 7713:13). Prior to the 1870s, foreign influence in Puna primarily was limited to missionaries. In the late 1870s, Robert Rycroft moved to Pohoiki and built a home, wharf, sawmill, jail and courthouse. He later began growing coffee in the area and built a coffee mill. In the mid-1880s, the government began selling land in Puna for homesteads. Most of the homestead land was acquired for coffee cultivation in the 1890s.

Nine place names are shown for coastal Kaueleau. From east to west the names are Waiwelo, Puupuuohahaloa, Lolia, Maikoikoi, Kaleano, Kaulupo, Kaeha, Hanalioli, and Kalaula.

Puna Sugar Company was established in 1900 at Kapoho. Between 1900 and the 1930s, the population of the region grew dramatically with the expansion of sugar cane cultivation, pineapple production, the timber industry, and other commercial developments. In the early 1900s, the Hilo Railroad Company developed a rail system from Hilo Town to Puna. A section of the railway extended through the inland portion of Kaueleau. In 1907, the Hawaiian Mahogany Lumber Co. was established by James B. Castle to provide railroad ties to the mainland United States. A mill was built at Pahoa and lands being cleared for sugar cane cultivation provided a steady supply of timber. The mill lost its contract to provide railroad ties in 1913 because the ties did not last as long as anticipated. The mill was leased for sugar plantation use in 1917.

By the late 1920s, concern over forest depletion and watershed maintenance led to the creation of the Puna, Nanawale, and Malama-Ki Forest Reserves. Handy and Handy (1972) citing oral historical sources; indicate that in the 1930s there were homesteading areas in 'Opihikao, Kaueleau, Kamaili, Ke'eke'e, Kehena, and Keauohana. Dry land taro was grown throughout the inland portions of these *ahupua'a*. A particular taro cultivation method, *pa-hala*, is described for the area from Kalapana to Kamaili. The method involved excavating a hole in a lava in a pandanus grove. The hole was then filled with weeds, which were allowed to rot for six weeks or more. A taro cutting (*huli*) was wrapped in pandanus leaves and planted in the hole. After the cutting which produced three or four leaves, the pandanus branches were cut to provide sunlight and the taro plant was covered with pandanus leaves. After the pandanus leaves were sufficiently dry, the leaves were burned reducing them to ash that provided nourishment to the taro plant, which grew tall enough to hide a man beneath the leaves.

Puna Sugar Company continued in operation until the early 1980s. Beginning in the late 1950s, real estate development, along with tourism and diversified agriculture gradually replaced plantation agriculture in Puna. Today, most of the project area is undeveloped except for a coconut grove at the southwestern edge, the remains of a recent wooden shelter on the seaward side of the parcel, and a dirt road.

The OEQC guidelines identify several possible types of cultural practices and beliefs that are subject to assessment. These include subsistence, commercial, residential, agricultural, access-related, recreational, and religious and spiritual customs. The guidelines also identify the types of potential cultural resources, associated with cultural practices and beliefs that are subject to assessment. Essentially these are natural features of the landscape and historic sites, including traditional cultural properties.

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

Information obtained of the current Project indicates that the puhala was historically utilized by residents of the area, and continues to be a resource for cultural practitioners. Legend has it that:

... Manu'u-ke-ue was the name of a mythical hala tree that once grew in Puna. the seed was brought from Kahiki by Ka-moho-ali'i when he came to Hawaii with Pele. They ate the blossom with salt and sugar cane, and then Ka-moho-ali'i planted the seed. The tree thereafter was regarded as a kupua (nature spirit).

There are many traditional uses for hala, which includes various parts of the tree (i.e. leaf, blossom, fruit, truck, and pendant roots). The lau (leaves) are dried and processed for various functions. The lauhala was used to make ulana (plaiting mats), hina'i (baskets), peahi (fans), thatch mats for house thatching, and pillows. The hinano (male blossom) is used for the perfuming of tapa and bodies and making of fine mats. The hala (fruit) was used to make lei and was eaten as a famine food. The word hala itself was associated with the passing of time. The hala lei was an appropriate lei given at times of passage during phases in a person's life (i.e. funerals, graduation, and New Years). The ule hala (aerial or pendant roots) has several uses including medicinal properties, making canes, ukeke (music bow), and has fibers that have properties similar to hau, which were used as braiding for cordage. The male tree produced a wood that was used for making bowls and boards. The mu'o hala (leaf buds) were used in medicinal practices. Many people today employed the use of woven sails in the traditional style of the Hawaiian voyagers. Numerous practitioners continue to gather from the puhala grove within the Project.

As part of the current study, an effort was made to obtain information about any potential traditional cultural properties that might be present, or associated practices that may have taken place within the Project area. A site visit of the Project was held on October 1, 2008 with Hawaii Councilmember Emily Naeole, and her sister, Dotty Kaiser, who are descendents of the Makuakane 'ohana. Ms. Naeole and Ms. Kaiser were consulted regarding past land use in and around the Project area. They recalled their 'ohana gathering ti-leaves and lauhala and papaya cultivation within the Project area, and opihi picking and shoreline fishing along the State owned oceanfront parcel. In addition, Ms. Kaiser's niece, Leila Kealoha, who is a teacher at Kua 'o Ka Lā brought her cultural class to the site visit so she could share and teach the next generation the traditional uses for the hala and the resources that were still available to the Hawaiian community.

The Applicants remain committed to allow pedestrian public access to and along the shoreline area and puhala grove. The Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northwestern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove (Exhibit 3-Site Plan; Exhibit 10-Survey).

An archaeological inventory survey of the Property was prepared by Haun & Associates (April 19, 2002) which was accepted by the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD") (Exhibits 12b and 16). No archaeological sites or features were identified during the survey. The report further found that given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is unlikely. The Pua'akanu Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002:036 and SHPD acknowledged that a significant buffer of trees will mitigate any indirect impacts on this Site. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002 (Exhibit 12a-SHPD letter). SHPD by letter dated September 9, 2008, reaffirmed its 2002 determination that "no historic properties will be effected by this project." (Exhibit 12b-SHPD letter) The DLNR-OCCL by letter dated September 24, 2008 requested that SHPD revisit its "no effect" determination. SHPD has not changed its prior clearance (Exhibit 12c-OCCL letter).

Further, the Property is not among those listed as historic properties in the Hawaii State Register of Historic Places, has not been determined to be eligible for inclusion in the National Register of Historic Places, and is not profiled as a significant cultural and/or historic site in the General Plan within the Puna District, and in the Puna Community Development Plan.

Impacts and Mitigation. Any cultural, historical or natural resources customarily and traditionally gathered along the shoreline area will be recognized and allowed to continue by the Applicants. The alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest will address the concerns requesting the preservation of the puhala grove. In addition, the Applicants remain committed to allow pedestrian public access to and along the shoreline area and puhala grove. The Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northeastern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

Therefore, the Proposed Action does not involve an irrevocable commitment to loss or destruction of any natural or cultural resources. Accordingly, the Proposed Action does not conflict with the historic resources objectives and policies which aim to protect, preserve and where desirable restore significant historic and prehistoric resources in the coastal zone management area.

The Pua'akanu Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002:036, approximately 580 feet to the west of the

alternative Project site. SHPD acknowledged that the existing significant buffer of trees will mitigate any indirect impacts on this Site.

There are no known historical and/or cultural sites on the Property as confirmed by the Department of Land & Natural Resources, State Historic Preservation Division. In addition, the Property is not listed as a historic property in the Hawaii State Register of Historic Places, has not been determined to be eligible for inclusion in the National Register of Historic Places, and is not profiled as a significant cultural and/or historic site in the General Plan within the Puna District, and in the Puna Community Development Plan. The Applicants anticipate no adverse impacts as a result of implementing the Proposed Action. Should any previously unidentified archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, stone platforms, pavings or walls be found, the Applicants shall stop work in the immediate vicinity and contact the SHPD.

3.1.5 Air and Noise Quality

Setting. The air and noise quality of the lands surrounding the Property will not be adversely affected by development of the Project.

Air. The air quality in the Puna District is largely affected by air pollutants from natural rather than vehicular sources. The most predominant source of natural pollutants is from the Kilauea volcano's east rift eruption located west of the Property. Emissions from the ongoing eruption can be seen in the form of a volcanic haze which intermittently blankets the area. Vehicular exhaust is a lesser source of air pollutants.

Noise. The noise generated in the vicinity of the Project Area is associated with existing vehicular sources along the Kapoho-Kalapana Road. Other noises in the Project Area come from natural sources (ocean and wind).

Impacts and Mitigation. Given the limited nature of the Project, no short-term or long-term increase in air quality or noise level will be experienced in the Project Area.

3.1.6 Scenic and Open Space Resources

Setting. The Property's natural landscape consist of ironwood, ohia, coconut trees, puhala grove with understory of lauae ferns, naupaka, noni shrubs and guava. The prior owner planted a fruit orchard consisting of banana, mango, breadfruit, avocado and papaya trees, and lined the existing dirt road with betel nut and royal palms. The Property is not listed as a distinctive and identifiable land form distinguished as landmarks or as having a front yard vista of distinctive features as identified in the General Plan within the Puna District, nor in the Puna Community Development Plan.

Impacts and Mitigation. The proposed location and design of the residential dwelling and related accessory use improvements will ensure that the development is compatible with the visual environment and will have minimal impact upon the public's view to and along the shoreline. In addition, the Applicants will comply with Section 13-5-41, HAR and "Single-Family Residential Standards" to create an exterior which harmonizes with the existing physical environment.

3.1.7 Coastal Resources

Setting. The coastal resources between the low-tide mark and the upper reaches of the wave-splash zone of the State of Hawaii owned oceanfront Parcel 36 located makai of the Property consist of approximately 40 feet high jagged, barren lava sea cliffs.

The County of Hawaii Public Access to the Shoreline Inventory (1979) lists the Kapoho-Kalapana Road as providing access to the shoreline through the State of Hawaii lands. The Opihikao Reserve is located one mile east (Kapoho direction) of the Property. (Exhibit 11-Inventory of Public Shoreline Access Map.)

Impacts and Mitigation. The Project will not involve any direct or chemical modifications to the near shore environment, nor will it cause the possibility of erosion and sedimentation seepage into the coastline. Therefore, there should be no physical disruption of the existing coastal resources, and more important, no changes that would affect the amount of wave energy striking the shoreline. The Applicants remain committed to allow pedestrian public access to and along the shoreline area. The Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along its northeastern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove (Exhibit 3-Site Plan). Any cultural, historical or natural resources customarily and traditionally gathered along the shoreline area will be recognized and continued by the Applicants.

3.2 Socioeconomic Considerations

The Proposed Action will provide short-term employment opportunities, thereby creating a short-term economic benefit. The long-term economic or social welfare of the community will not be affected by the Proposed Action, and will not preclude the development of coastal dependent economic uses or public and private facilities.

3.3 Public Facilities and Services

3.3.1 Access

Setting. Access to the Property is provided from the Keaau-Pahoa Highway that connects to the Pahoa-Kalapana Road, Kamaili-Opihikao Road, and Kapoho-Kalapana Road, a coral packed based 20-foot wide roadway within a 60-foot wide right-of-way. The Applicants propose a gated entrance from the existing dirt road located at the eastern end of the Property from the Kapoho-Kalapana Road (Exhibit 3-Site Plan).

Impacts and Mitigation. The existing roadway is adequate to accommodate the Proposed Action, and is not anticipated to create any substantial adverse impact upon access.

3.3.2 Water Resources

Setting. No municipal water system is available to the Project Area. The nearest point of connection is provided by an 8-inch waterline within Kapoho-Kalapana Road, approximately 4.0 miles southwest of the Property. Potable water for the Project Area will be by private water well with concrete underground storage catchment water tank (to be housed beneath the garage and storage-utility structure) system meeting all State regulations. The mean annual rainfall in the vicinity is about 80 to 120" a year.

Impacts and Mitigation. Since there is no municipal water service to the Project Area, there will be no adverse impact upon the municipal system by reason of the Proposed Action. The availability of potable water from the private water system meeting all State regulations is sufficient to service the requirements for the proposed uses.

3.3.3 Utilities

Setting. The Property is not serviced by electrical and telephone services. The Applicants are proposing to utilize private solar and generator systems.

Impacts and Mitigation. There is no anticipated adverse impact upon electrical and telephone utility services by reason of the Proposed Action since the Applicants are proposing to utilize private solar and generator systems.

3.4 Police and Fire Protection

Setting. Police and fire protection services are provided from the Puna police and fire stations located in Pahoā.

Impacts and Mitigation. The Proposed Action is not anticipated to increase the demand for police and fire services which are available to the Project Area.

4. RELATIONSHIP OF THE PROPOSED ACTION TO LAND USE PLANS, POLICIES AND CONTROLS FOR THE AFFECTED AREA

4.1 Chapter 205, Hawaii Revised Statutes, State Land Use Law

All lands within the State have been classified into one of four land use districts: Urban, Rural, Agricultural and Conservation, by the State Land Use Commission, pursuant to Chapter 205, HRS. The Property is located within the State Land Use Conservation District, Resource (R) Subzone (see, Exhibit 13-SLU subzone map).

Section 205-2(e), HRS, provides that Conservation District shall include:

areas necessary for protecting watersheds and water sources; preserving scenic and historic area; providing park lands, wilderness, and beach reserves; conserving endemic plants, fish and wildlife; preventing floods and soil erosion; forestry; open space area whose existing openness; natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities or would maintain or enhance the conservation of natural or scenic resources; areas of value for recreational purposes; other related activities; and other permitted uses not detrimental to a multiple use conservation concept.

Lands located within the State Land Use Conservation Districts are administered by DLNR, pursuant to Chapter 183C, HRS.

The Proposed Action to construct a new single-family residence and related accessory uses for residential use for the enjoyment of the Applicants is consistent with, and compatible with, the provisions and objectives of the Resource (R) Subzone. Therefore, the proposed land uses are consistent with the purpose and objectives of the Conservation District which seeks to develop areas with proper management to ensure sustained use of the natural resources of those areas.

4.2 State Administrative Rules Governing Land Uses within Conservation Districts, Section 13-5-13, Hawaii Administrative Rules

Title 13 of the Hawaii Administrative Rules ("HAR") for the Department of Land and Natural Resources under Subtitle 1, Chapter 5, regulates land uses within the Conservation District. The rules establish five subzones within the Conservation District: the Protective (P), Limited (L), Resource (R), General (G) and Specific subzones. All land within the Conservation District has been designated within one of the five subzones by the Board of Land and Natural Resources ("BLNR"). The Property is designated within the Resource (R) subzone.

Section 13-5-13, HAR, provides that the objective of the Resource (R) subzone "is to develop, with proper management, areas to ensure sustained use of the natural resources of those area." The (R) subzone shall encompass:

- (1) Lands necessary for providing future parkland and lands presently used for national, state, county, or private parks;
- (2) Lands suitable for growing and harvesting or commercial timber or other forest products;
- (3) Lands suitable for outdoor recreational uses such as hunting, fishing hiking, camping, and picnicking;
- (4) Offshore islands of the State of Hawaii, unless placed in a (P) or (L) subzone;
- (5) Lands and state marine waters seaward of the uppers reaches of the wash of wavers, usually evidences by the edge of vegetation or by the debris left by the wash of waves on shore to the extent of the State's jurisdiction, unless placed in a (P) or (L) subzone.

All identified land uses listed for the General (G) subzone (Section 13-5-24, HAR), Protective (P) subzone (Section 13-5-22, HAR), and Limited (L) subzone (Section 13-5-23, HAR), also apply to the Resource (R) subzone under Section 13-5-24, HAR.

4.3 Hawaii State Plan, Chapter 266, Hawaii Revised Statutes

The Hawaii State Plan, Chapter 2, HRS, establishes a set of goals, objectives and policies to serve as long-range guidelines for the growth and development of the State. The following sections of the Hawaii State Plan contain guidelines that are relevant to the Proposed Action.

Section 226-11. Objective and policies for the physical environment - scenic, natural beauty, and historic resources.

Objectives:

- Prudent use of Hawaii's land-based, shoreline, and marine resources.
- Effective protection of Hawaii's unique and fragile environmental resources.

Policies:

- Exercise an overall conservation ethic in the use of Hawaii's natural resources.
- Take into account the physical attributes of areas when planning and designing activities and facilities.
- Manage natural resources and environs to encourage their beneficial and multiple use without generating costly or irreparable environmental damages.

Analysis: The Proposed Action has been designed to harmonize with the existing physical environment. No changes in the shoreline or topography are envisioned. The Applicants remain committed to allow pedestrian public access to and along the shoreline area and puhala grove. The Applicants will establish a 10-foot wide pedestrian (maukamakai) public access easement along the northeastern western Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove. The residential dwelling's proposed site location of approximately 50 feet inland from the shoreline will exceed the mandatory minimum 40-foot shoreline setback requirements and therefore will not generate costly or irreparable environmental damages.

Section 226-12. Objective and policies for the physical environment - scenic, natural beauty, and historic resources.

Objective:

- Planning for the State's physical environment shall be directed towards achievement of the objective of enhancement of Hawaii's scenic assets, natural beauty, and multiple-cultural/historic resources.

Policies:

- Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, oceans, scenic landscapes and other natural features.
- Encourage the design of development and activities that complement the natural beauty of the islands.

Analysis: The Proposed Action is proposed on approximately 0.500± acre of the 7.180± acre parcel within an area previously impacted by modern agricultural activities and bulldozer disturbances by the Applicants' predecessor-in-interest. The southwestern end of the Property is currently planted in, and the remaining portion of the Property will continue to remain in its natural condition, including the preservation of the puhala grove. In addition, the proposed redesign and relocation of the residential dwelling and related accessory use improvements in this area will ensure that the development is compatible with the visual environment, thus preserving the natural beauty of the coastline's view and vistas and aesthetic value of the area.

4.4 Hawaii County General Plan

The Hawaii County General Plan is a policy document for the long range comprehensive development of all lands within the County of Hawaii. The Plan contains goals, policies and standards, as well as, a set of land use maps designated as the General Plan Land Use Pattern Allocation Guide ("LUPAG") maps which depicts the location of desired land uses.

The LUPAG map designates the Property as "Open," (Exhibit 14-LUPAG map). The Open designation includes parks and other recreational areas, historic sites and open shoreline areas. The Proposed Action does not conflict with the General Plan designations since the Project Area encompasses approximately 0.500± acre of the 7.180± acre parcel, and the remaining 6.680± acres will remain in its natural setting. The proposed use conforms to the following elements under the General Plan:

Environmental Quality:

Goal:

- Maintain and, if feasible, improve the existing environmental quality of the island.

Discussion: The existing puhala grove will be preserved "as is". Further, the Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. Therefore, the Proposed Action will not result in any significant adverse effect on the environment. Those potential short-term adverse effects on the surrounding area associated with construction activities, such as potential noise, air quality, or drainage impacts would be reduced or eliminated through the implementation of appropriate mitigative measures in compliance with applicable State and County rules and regulations.

Flood and Other Natural Hazards:

Goals:

- Protect human life
- Prevent damage to man-made improvements.
- Reduce surface runoff and sediment runoff.

Policies:

- Review land use policy as it relates to flood plains, high surf, and tsunami hazards areas.
- Development-generated runoff shall be disposed of in a manner acceptable to the Department of Public Works and in compliance with all State and Federal laws.

Discussion: The Proposed Action is a low-profile development that will not affect scenic view planes in the area. Approximately 90% of the proposed house site will be placed on existing grade, with approximately 435 cubic yards of grading and fill of approximately 280 cubic yards to accommodate the natural contours of the land. It is not located within any flood way or flood plain. Development of the Project site will not have any significant adverse effect on the drainage patterns off- and on-site. Consequently, no naturally occurring or well-defined drainage ways or drainage outlets are found on-site, and surface water run-off occurs only at rare times of intense rainfall. Surface water runoff and sedimentation will be minimized by methods approved by the Department of Public Works. In addition, the Property is located in Zone X according to the Flood Insurance Rate Maps (FIRM) prepared by FEMA. Project grading and landscaping will be designed to minimize need for fertilizers and maximize entrapment and containment of storm water runoff.

Although the Property is located within the County of Hawaii Civil Defense Agency's evacuation area for hazards due to tsunami and possible surges from hurricanes, the

adjoining State of Hawaii owned oceanfront Parcel 36 and other shoreline parcels have remained stable during seasonal coastal storms. The Applicants will also comply with applicable State and County rules and regulations to ensure that construction and landscaping activities will not result in any discharge into coastal waters.

Historic Sites:

Goal:

- Protect, restore, and enhance the sites, buildings and objects of significant historical and cultural importance to Hawaii.

Discussion: In response to concerns raised by the community and Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhala grove. The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northwestern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

The Property is not among those listed as historic properties in the Hawaii State Register of Historic Places, has not been determined to be eligible for inclusion in the National Register of Historic Places, and is not profiled as significant cultural and/or historic sites in the General Plan within the Puna District, and in the Puna Community Development Plan.

Natural Beauty:

Goals:

- Protect, preserve and enhance the quality of areas endowed with natural beauty, including the quality of coastal scenic resources.
- Protect scenic vistas and view planes from becoming obstructed.
- Maximize opportunities for present and future generations to appreciate and enjoy natural and scenic beauty.

Discussion: Along the coast of the Puna District, the black sand beaches and tidal ponds are noted features of natural beauty. The Proposed Action is not anticipated to change the visual attributes of the existing coastline. Although vacant of any structures, the Property is vegetated with ironwood, ohia, coconut trees, and puhala grove, with understory of lauae ferns, naupaka, noni shrubs and guava, and a fruit orchard consisting of banana, mango, breadfruit, avocado and papaya trees. The Property is also not listed as a distinctive and identifiable land form distinguished as landmarks or as having a front

yard vista of distinctive features as identified in the General Plan within the Puna District, nor in the Puna Community Development Plan.

Natural Resources and Shoreline:

Goals:

- Protect and conserve the natural resources of the County of Hawaii from undue exploitation, encroachment and damage.
- Provide opportunities for the public to fulfill recreational, economic, and educational needs without despoiling or endangering natural resources.
- Protect and promote the prudent use of Hawaii's unique, fragile and significant environmental and natural resources.
- Ensure that alterations to existing land forms and vegetation, except crops and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of an earthquake.

Policies:

- Encourage the use of native plants for screening and landscaping.
- Establish a system of pedestrian access trails to places of scenic, historic, cultural, natural or recreational values.

Discussion: The shoreline located makai of the Property within the State of Hawaii owned oceanfront Parcel 36, and adjoining oceanfront properties are characterized by predominantly historical A'a flows that slope to the sea. The County of Hawaii Public Access to the Shoreline Inventory (1979) lists the Kapoho-Kalapana Road as providing access to the shoreline through State of Hawaii lands. The Opihikao Reserve is located one mile east (Kapoho direction) of the Property. Therefore, the Proposed Action will not reduce the size of the coastline or other areas used for public recreational activities, and should not impact upon recreational resources. The Applicants remain committed to allow pedestrian public access to and along the shoreline area and puhala grove. The Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northwestern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove. In addition, the proposed landscaping will improve upon the beauty of the Property by replacing existing weed species and will emphasize a naturally-occurring plant community consisting of native plants.

Housing:

Goals:

- Attain safe, sanitary and livable housing for the residents of the County of Hawaii.
- Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- Encourage and expand home ownership opportunities for residents.

The Proposed Action will be constructed in accordance with the standards and requirements of the Department of Public Works. Similar single-family residential dwellings are located within the vicinity of the Property (Kapoho and Kalapana sides) within TMKs: (3) 1-3-002:50, 52, 70, 88 and 89.

Recreation:

Goals:

- Provide a wide variety of recreational opportunities for the residents and visitors of the County.
- Maintain the natural beauty of recreation areas.
- Provide a diversity of environments for active and passive pursuits.

Policy:

- Public access to the shoreline shall be provided in accordance with an adopted program of the County of Hawaii.

Discussion: The County of Hawaii Public Access to the Shoreline Inventory (1979) lists the Kapoho-Kalapana Road as providing access to the shoreline through State of Hawaii lands. The Opihikao Reserve is located one mile east (Kapoho direction) of the Property. The Proposed Action will not reduce the size of the coastline or other areas used for public recreational activities, and should not impact upon recreational resources, since lateral access will be available. Pedestrian public access to and along the shoreline area and puhala grove will not be curtailed. The Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northwestern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access.

4.5 Hawaii County Zoning

The Property is zoned under the Hawaii County Zoning Code (Chapter 25, Hawaii County Code) as Open (Exhibit 6-Zoning map). The Open district applies to areas that contribute to the general welfare, the full enjoyment, or the economic well-being of open land-type use which has been established, or is proposed. Since the Property is within the State Conservation District, those stricter State Conservation District development standards will control.

4.6 County Special Management Area

The Property is located within the Special Management Area ("SMA") which runs makai of the Kapoho-Kalapana Road, as defined in Chapter 205A, HRS, and Rule 9 of the County of Hawaii Planning Commission Rules.

Rule 9-4(10)B provides that "Development" does not include the following uses, activities or operations:

(i) Construction of a single-family residence that is not part of a larger development.

* * * * *

(viii) Use of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes subject to review by the Department in accordance with Rule 9.4(10)(C).

Rule 9.4(10)C provides that: "Any proposed use, activity, or operation listed in paragraph B shall be deemed to be 'Development' until the Director has determined it to be exempted from the definition of 'development.'"

By letter dated January 11, 2008, the Planning Director determined that the proposed development of the new single-family dwelling and related accessory use improvements are exempt from the definition of "development" (Exhibit 15-SMA exemption).

Due to the relocation of the proposed Project within the Property, the Applicants by letter dated November 5, 2008 transmitted to the Planning Department at its request, a copy of the revised site plan for its records. The Planning Department has verbally informed the Applicants that no further action will be required, since the alternative location of the Project continues to meet with and complies with the previously granted exemption from the definition of "development" under Planning Commission Rule 9.4(10)B.

4.7 **Coastal Zone Management, Chapter 205A, Hawaii Revised Statutes**

The Proposed Action complies with the provisions and guidelines contained in Chapter 205A, HRS as follows:

A. **Recreational resources.**

The Proposed Action should not impact upon recreational resources, since the Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement at the northeastern Property boundary from the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access.

B. **Historic resources.**

An archaeological inventory survey of the Property was prepared by Haun & Associates (April 19, 2002) which was accepted by SHPD. No archaeological sites or features were identified during the survey. The report further found that given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is unlikely. The Pua'akanu Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002:036 and SHPD acknowledged that the existing significant buffer of trees will mitigate any indirect impacts on this Site. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002, and by letter dated September 9, 2008, reaffirmed its 2002 determination that "no historic properties will be effected by this project." In addition,

DLNR-OCCL by letter dated September 24, 2008 requested that SHPD revisit its "no effect" determination. SHPD has not changed its prior clearance.

Further, the Property is not among those listed as historic properties in the Hawaii State Register of Historic Places, has not been determined to be eligible for inclusion in the National Register of Historic Places, and is not profiled as a significant cultural and/or historic site in the General Plan within the Puna District, nor in the Puna Community Development Plan.

The Proposed Action will be limited to a 0.500± acre area along the southwestern boundary of the Property approximately 580 feet to the west of the alternative Project site. The remaining 6.680± acres will provide a natural buffer from the Pua'akanu Cemetery Site. Therefore, the Proposed Action will not involve an irrevocable commitment to loss or destruction of any natural or cultural resources. Accordingly, the Proposed Action does not conflict with the historic resources objectives and policies which aim to protect, preserve and where desirable restore significant historic and prehistoric resources in the coastal zone management area.

C. Scenic and open space resources.

The Property is not listed as a distinctive and identifiable land form distinguished as landmarks or as having a front yard vistas of distinctive features as identified in the General Plan within the Puna District, nor in the Puna Community Development Plan. The Proposed Action is not anticipated to change the visual attributes of the Project Area. The Proposed Action will continue to foster the goals, policies and standards of the scenic and open space resources of the General Plan.

D. Coastal ecosystems.

The coastal resources between the low-tide mark and the upper reaches of the wave-splash zone consist of low/medium height jagged, barren lava sea cliffs. The County of Hawaii Public Access to the Shoreline Inventory (1979) lists the Kapoho-Kalapana Road as providing access to the shoreline through State of Hawaii lands. The Opihikao Reserve is located one mile east (Kapoho direction) of the Property. The Proposed Action does not involve any direct or chemical modifications to the near shore environment, nor will it cause the possibility of erosion and sedimentation seepage into the coastline. There should be no physical disruption of the existing habitat, and more important, no changes that would affect the amount of wave energy striking the shoreline. Pedestrian public access to the coastal shoreline and puhala grove within the Project Area will not be curtailed since the Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northwestern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access. Therefore, the proposed development is consistent with the coastal ecosystem objectives and policies which aim to protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.

E. Economic uses.

The Proposed Action will generate minor improvements to the economy resulting from construction related jobs for the proposed improvements. The long-term economic or social welfare of the community will not be affected by the Proposed Action, and will not preclude the development of coastal dependent economic uses or public and private facilities.

F. Coastal hazards.

The Proposed Action will be limited to an area along the southwestern boundary of the Property. In addition, the Property is designated as "X" or outside the 500-year flood plain per the U.S. Corps of Engineers Flood Insurance Rate Maps (FIRM). Accordingly, the proposed Project is consistent with the coastal hazard objectives and policies which provide for the control of development in areas subject to tsunami, flood, erosion and subsistence hazard.

4.8 Shoreline Setback Area

The Property is not an oceanfront parcel and is not subject to the 40-foot shoreline setback area as defined by Rule 8 of the County of Hawaii Planning Commission Rules.

4.9 Environmental Impact Statement

Section 343-5(a)(2), HRS, provides that any use that is proposed within any land classified as Conservation District land by the State Land Use Commission under Chapter 205, is subject to the Environmental Impact Statement law, Chapter 343, HRS.

Section 343-5(c), HRS, provides that applicants proposing actions subject to Chapter 343, HRS, ". . . shall prepare an environmental assessment of such proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required."

This environmental assessment has been prepared to fulfill these requirements.

**5. IDENTIFICATION OF MAJOR IMPACTS AND ALTERNATIVES
CONSIDERED**

5.1 Major Impacts

The modest scope of the proposed improvements are not expected to contribute to any economic or environmental concerns, or cause adverse environmental or cultural impacts, except for minor temporary noise and dust inconveniences during the construction period which can be mitigated by implementation of control measures standard to the industry.

In addition, no major long-term impacts are anticipated as a result of the implementation of Applicants' proposal since the proposed single-family residence, accessory use improvements, and landscaping are identified and permitted uses within the Resource (R) subzone, pursuant to Sections 13-5-24(a) and (c), HAR and Protective (P) subzone, pursuant to Sections 13-5-22(a) and (b), HAR.

In compliance with County SMA approval, the Applicants will site the proposed residential improvements approximately 50 feet inland from the eastern Property

boundary. The Applicants will also construct a private septic tank and percolation field wastewater treatment system meeting with all applicable governmental regulations to further protect against shoreline impacts.

5.2 Alternatives to the Proposed Action

In response to concerns raised by the community and Big Island lauhala weavers, the Applicant held a community scoping meeting on October 1, 2008 at Kalani Honua which was attended by approximately 50 individuals. The Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhala grove. The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northwestern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana Road, which will connect to the existing 20-foot wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

Under the "No-Action" alternative, the Applicants would abandon the Proposed Action and the Project Area would remain vacant land. This alternative deprives the Applicants of the reasonable use of their Property. The Applicants also submit that the County would realize no benefit if the Property were left unused or underutilized.

6. OTHER PERMITS AND APPROVALS

- Conservation District Use Permit
- County NPDES Permit
- County Building Permits
- Commission on Water Resource Management Well Construction/Pump Installation Permit (WCPIP) process

7. PRE-ASSESSMENT CONSULTATION

Pre-assessment consultation letters were sent to the following: Department of Land & Natural Resources, DLNR- State Historic Preservation Division, Office of Hawaiian Affairs, Department of Health, Environmental Planning Office, Department of Business, Economic Development and Tourism, County of Hawaii Planning Department, County of Hawaii Department of Water Supply, County of Hawaii Department of Public Works, County of Hawaii Department of Parks & Recreation, County of Hawaii Fire Department, County of Hawaii Department of Research and Development and County of Hawaii Police Department. Responses were received from the Office of Hawaiian Affairs, County of Hawaii Fire Department, County of Hawaii Police Department,

County of Hawaii Department of Water Supply and County of Hawaii Planning Department (Exhibit 17-Agency Pre-assessment Consultation letters and responses).

8. WRITTEN COMMENTS AND RESPONSES DURING PUBLIC REVIEW PERIOD

Agency comments on the Draft Environmental Assessment were received from the County of Hawaii Planning Department; State of Hawaii, Department of Land & Natural Resources, Land Division, Office of Conservation and Coastal Lands, Department of Conservation and Resource Enforcement, and the Office of Hawaiian Affairs (Exhibit 18, agency comments and Applicant's responsive letters).

Comments from the community were received from Rev. Violet Makuakane and 160 petitioners, Joni Mae Makuakane-Jarrell, Kenneth Makuakane, Kanaka Council Moku O Keawe, Cheri Okada, Emily Claspell, Jill Monroe, Mary Ann Ward, Ann Lum, J. Puakea Miller, Allyson Durkin, Avi Okin, Katie R. Lowrey, Mary Miller, Valdeane Odachi, Gloria-Ann Pualani Muraki, Kua 'o Ka Lā PCS, Dr. Manu Aluli Meyer, Ronald S. Fujiyoshi, Mei Lin Wong-Gary, Terry Leianuenue Reveira and Woody Hanalei Vaspra (Exhibit 18, community comments and Applicant's responsive letters).

9. AGENCY ANTICIPATED DETERMINATION AND FINDINGS AND REASONS SUPPORTING ANTICIPATED DETERMINATION

Based on the information described herein, the Proposed Action will not result in significant social, economic, cultural or environmental impacts. Consequently, a Finding of No Significant Impact ("FONSI") is anticipated, subject to the public review provisions of Section 11-200-9.1, HAR.

In considering the significance of potential environmental effects, the Applicants have considered the sum of effects on the quality of the environment and evaluated the overall cumulative effects of the Proposed Action. The Applicants have considered the expected consequences, both primary and secondary, and the cumulative, as well as, the short- and long-term effects of the Proposed Action. As a result of these considerations, the Applicants have determined that the approval of the Proposed Action will have no significant effect on the environment since:

1. There are no known archaeological/cultural resources in the area that would involve an irrevocable commitment to loss or destruction of any natural or cultural resources as confirmed by the Department of Land & Natural Resources, State Historic Preservation Division by letters dated September 12, 2002 and September 9, 2008. In addition, the Proposed Action will be limited to a 0.500± acre area along the southwestern boundary of the Property and the remaining 6.680± acres will provide a natural buffer from the Pua'akanu Cemetery Site, approximately 580 feet to the west of the alternative Project site. The alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest will address the concerns requesting the preservation of the puhala grove.
2. The beneficial uses of the environment for recreational and access purposes will not be curtailed since the Applicants will establish a 10-foot wide pedestrian (mauka-makai) public access easement along the northeastern Property boundary at the entry of the former jeep road located along the existing Kapoho-Kalapana

- Road which will connect to the existing 20-foot wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.
3. The preparation of the environmental assessment is in compliance with Chapter 344, HRS, and the proposed action does not conflict with the short- or long-term policies, goals and guidelines of Chapter 343, HRS.
 4. The economic or social welfare of the community will be positively affected from creation of construction related jobs. The Proposed Action should not preclude the development of coastal dependent economic uses and/or public and private facilities.
 5. Public health will not be affected since temporary construction activities for the proposed single-family residential dwelling and related accessory use improvements are anticipated to last less than a year and can be properly mitigated through standard construction practices.
 6. The Proposed Action will not cause substantial secondary impacts, nor adversely affect population changes on public facilities. Access is provided off of the Kapoho-Kalapana Road. Utilities will be provided via private solar and generator systems. Wastewater disposal will be handled by private septic tank and percolation field wastewater treatment system to be installed by the Applicants in compliance with applicable governmental agencies. Potable water for the Project Area will be by private water well system meeting all State regulations. There are no additional burdens on public facilities anticipated from the Proposed Action.
 7. The Proposed Action does not involve a substantial degradation of environmental quality as the proposed improvements do not compromise the character of the Property and surrounding area since the Project Area encompasses approximately 0.500± acre of the 7.180± acre parcel in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest.
 8. The Property will remain consistent in character and size with other property in the area, and will neither conflict with nor intensify existing land uses, nor burden existing area resources and available public services, and therefore does not have a cumulative effect upon the environment or involve a commitment for larger action.
 9. There are no plant species listed by the U.S. Fish & Wildlife Services or State protected plant species as threatened or endangered, proposed, or a candidate species or "species of concern" on the Property or immediate vicinity. There are no endangered or otherwise rare bird or mammal species on the Property or immediate vicinity and the area is not included within the critical habitat for protected species.

10. The Proposed Action will not detrimentally affect air or water quality or ambient noise levels since the air quality in the area is largely affected by air pollutants from natural rather than vehicular sources, does not involve any direct or chemical modifications to the near shore environment nor change the amount of wave energy striking the shoreline, and will not create an increase in noise level.
11. The Property is located outside of the 500-year flood plain. Although the Property is located within the Hawaii County Civil Defense Agency's evacuation area for hazards due to tsunami and possible surges from hurricanes, there is no tsunami data for the Project Area, and the shoreline along the abutting State of Hawaii owned oceanfront Parcel 36 has remained stable during seasonal coastal storms. Further, although the Property is located in the area flanked by Kilauea volcano, and is subject to down slope lava flows, the degree of risk to human life is minimal.
12. The Property is not listed as a distinctive and identifiable land form distinguished as landmarks or as having a front yard vistas of distinctive features as identified in the General Plan within the Puna District, nor the Puna Community Development Plan. The Project will not substantially impact upon the scenic vistas and view planes of surrounding properties.
13. No energy consumption will be required for the Proposed Action, other than that used to support the residential use.

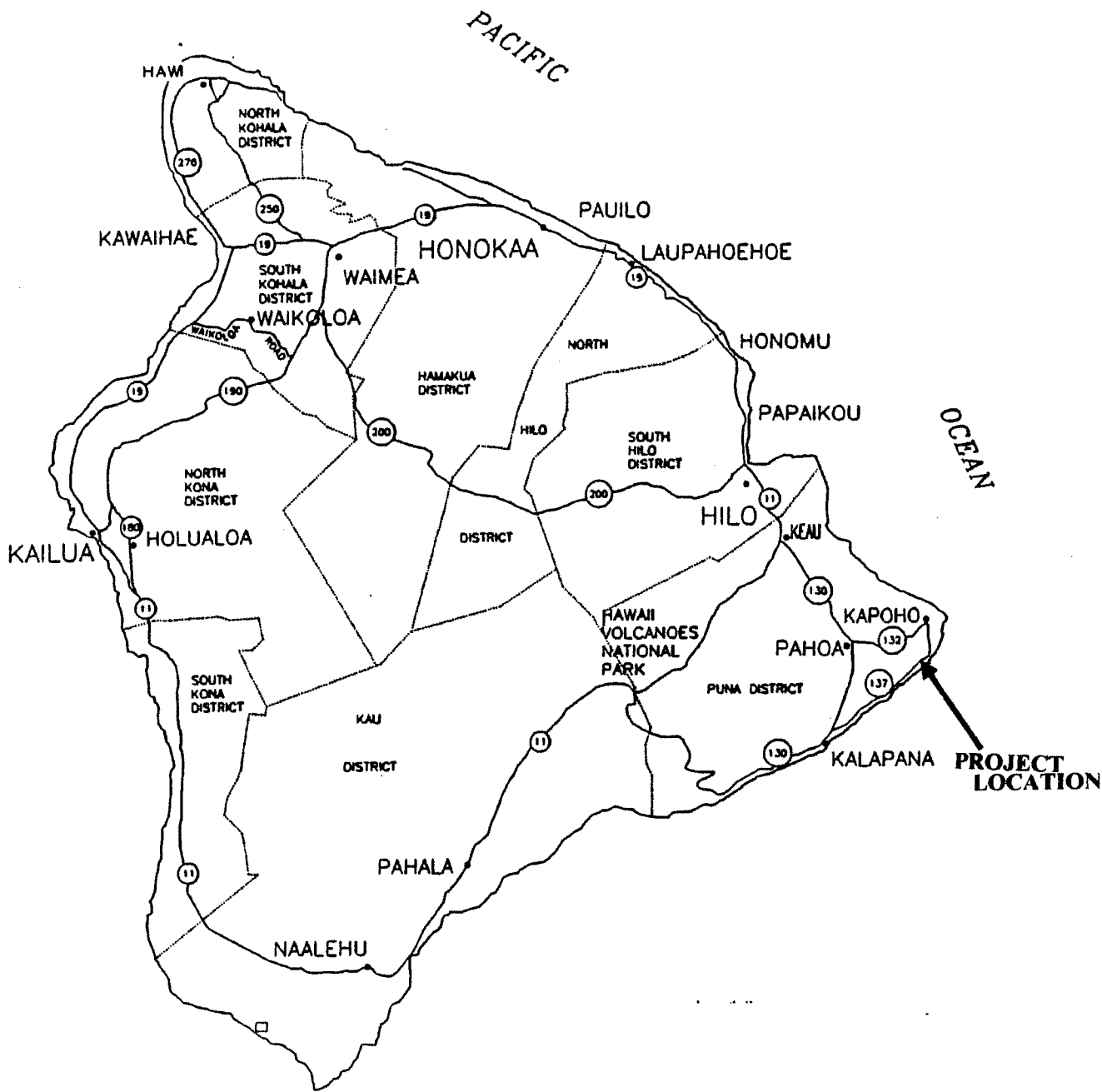
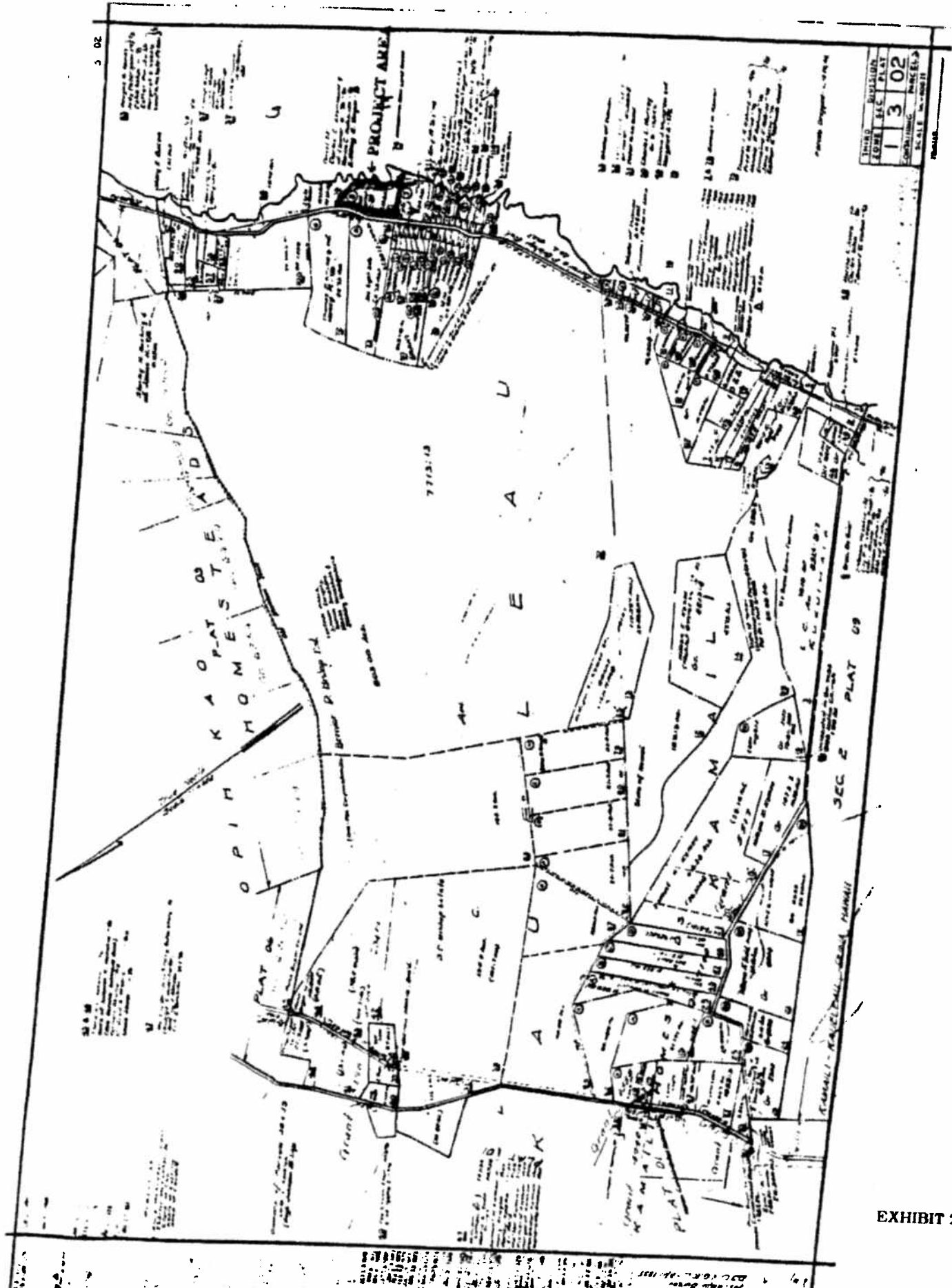


FIGURE 1
PROJECT LOCATION
 Island of Hawai'i



NOT TO SCALE



TOWN OF BURLINGTON
 PLAT 1302
 SUBDIVISION

EXHIBIT 2

PUNA

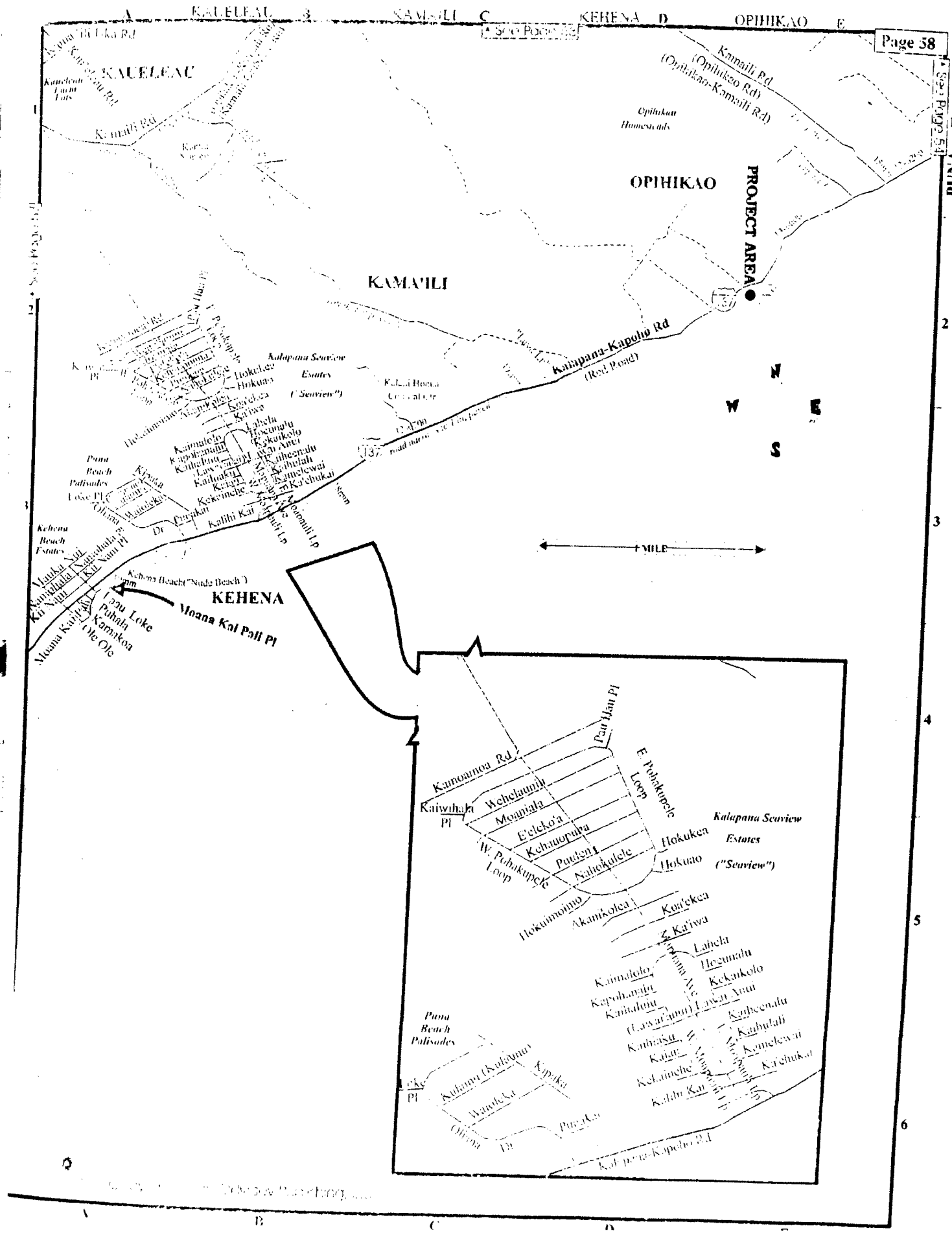
2

3

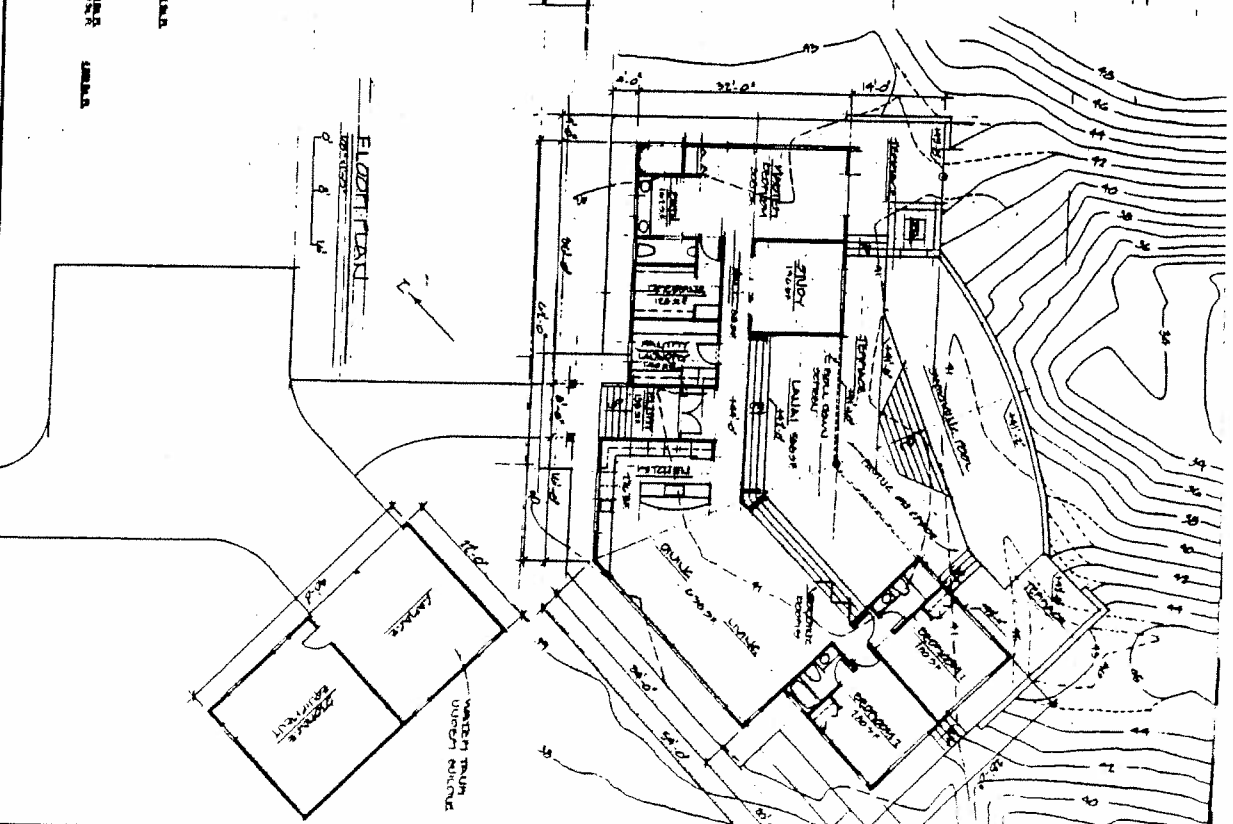
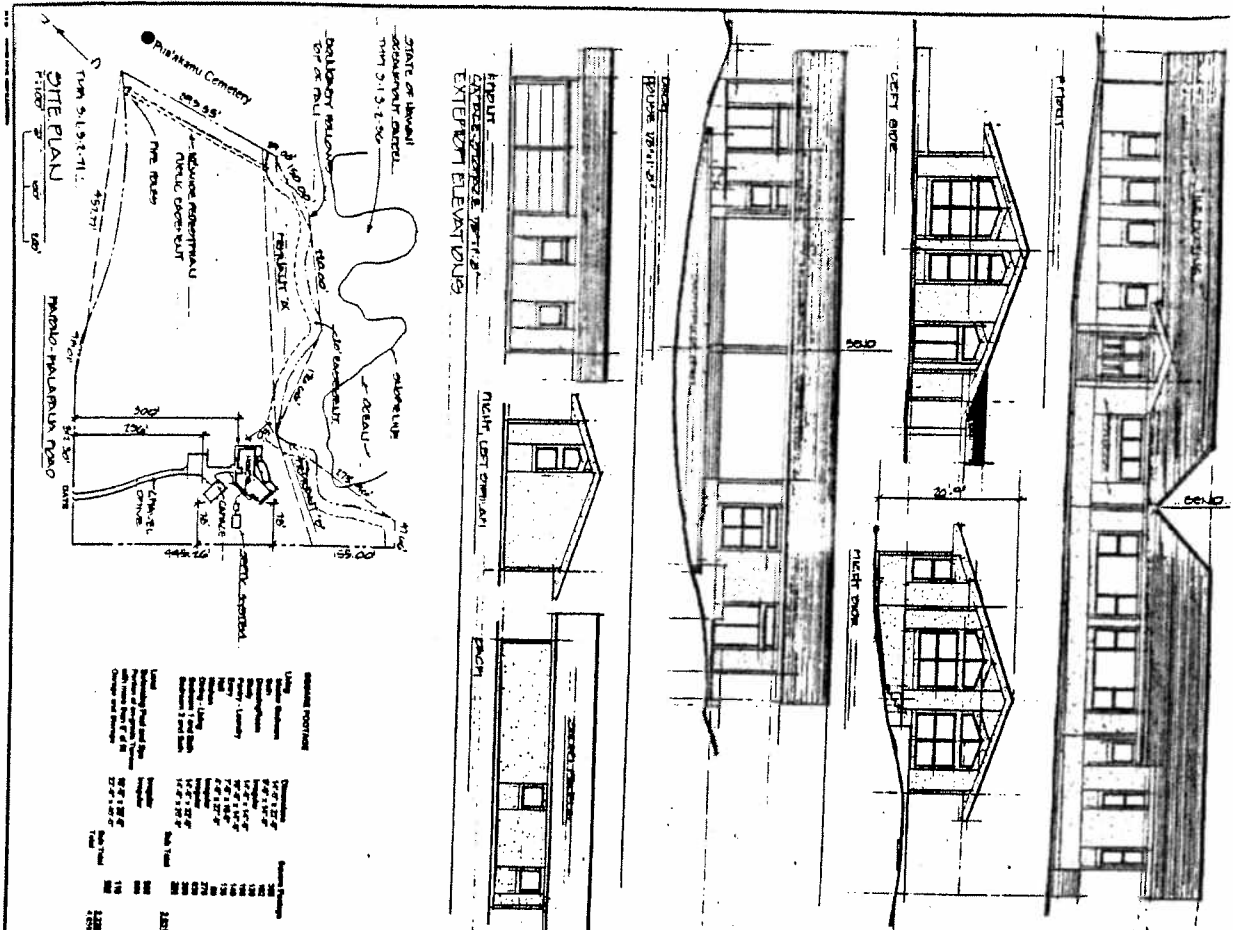
4

5

6



Copyright © 1999 by the Board of Water Supply, Honolulu, Hawaii



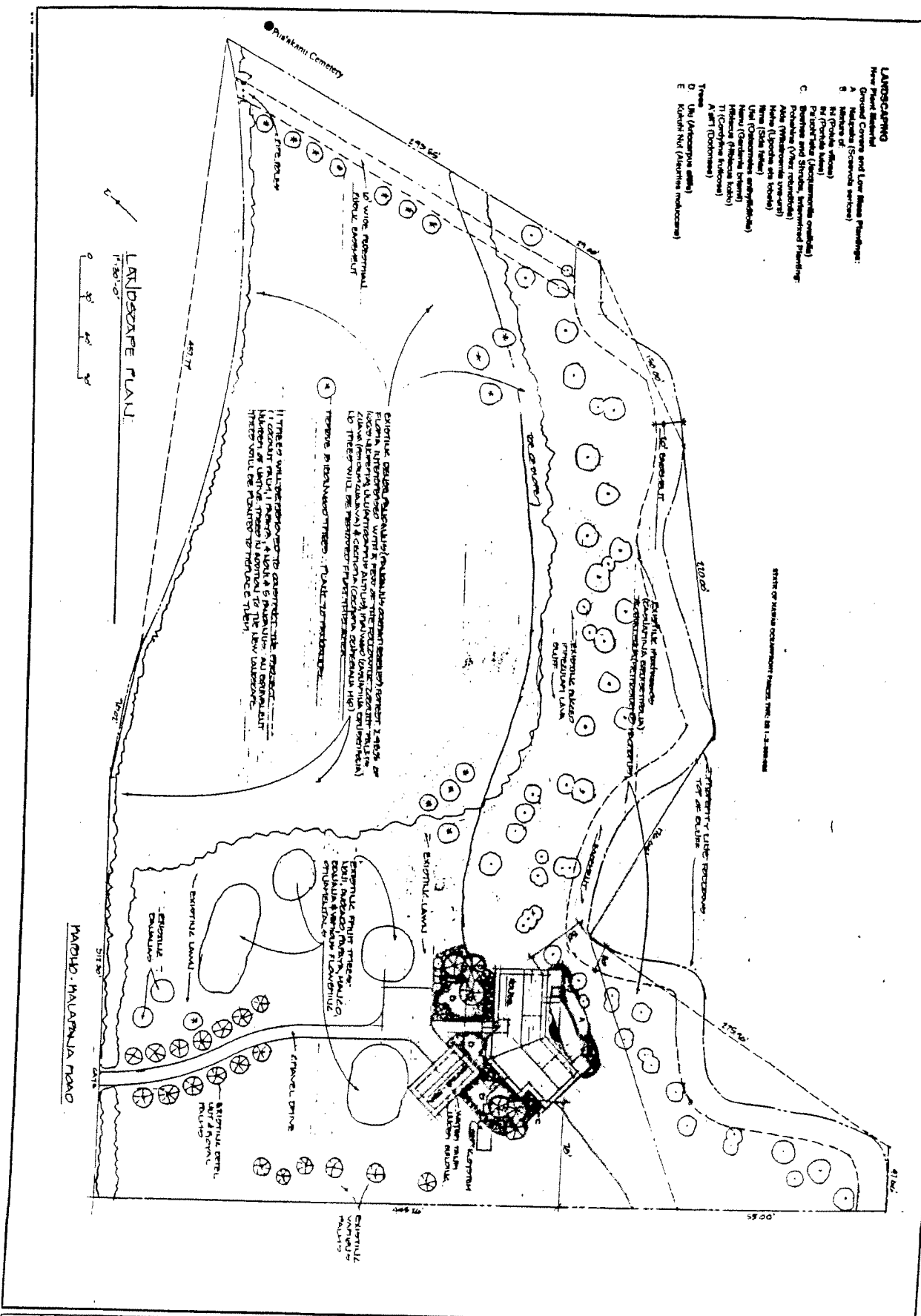
	NEW UTYRO-HAULER RESIDENCE		DENNIS PRESTON DAVIS	
	TKM 3-1-3-71		ARCHITECT	
	KAUKOLEAU, PUNA, HAWAII		P. O. BOX 461, PUNA, HI 96778	
			(808) 217-2988	

EXHIBIT 3

LANDSCAPING

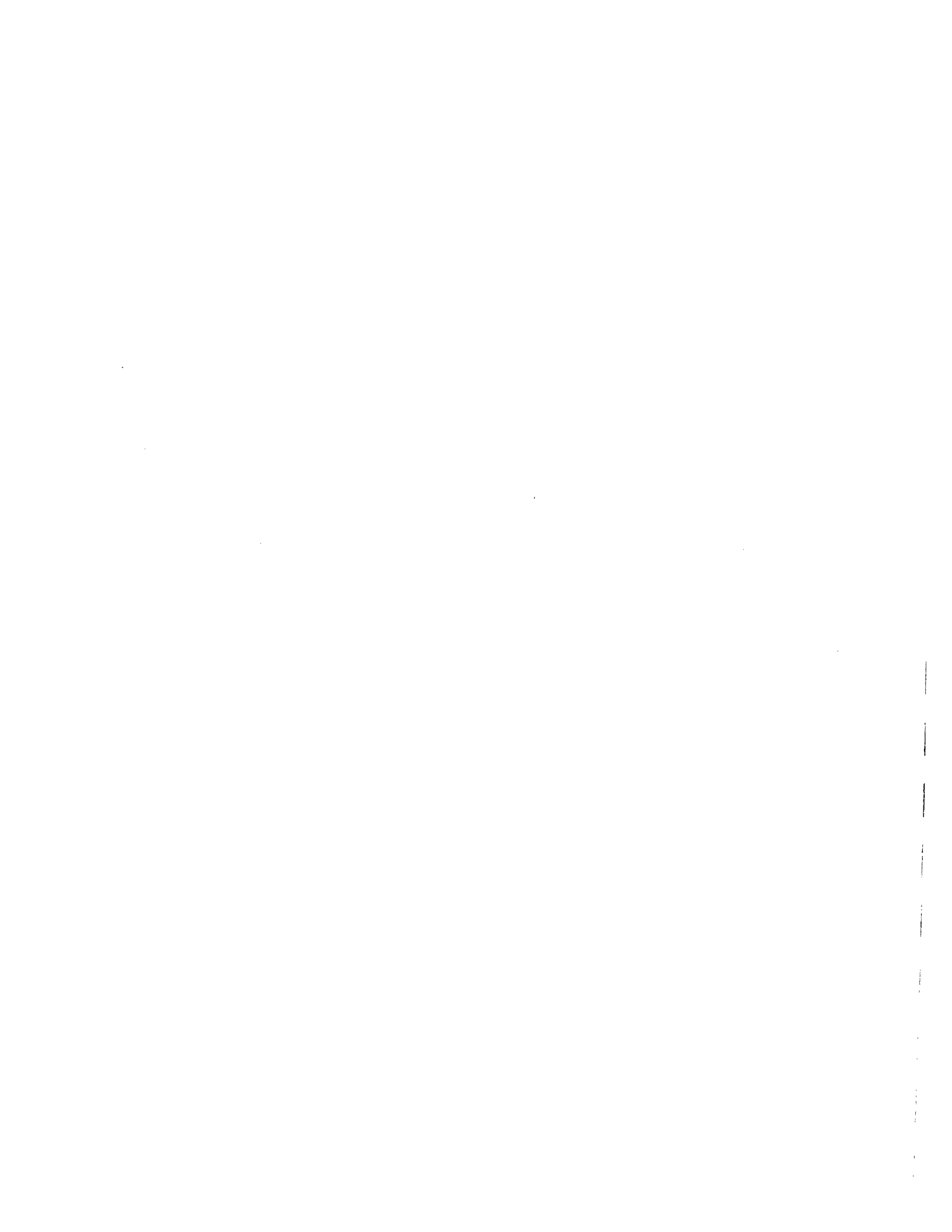
New Plant Material
Ground Covers and Low Bush Plantings:

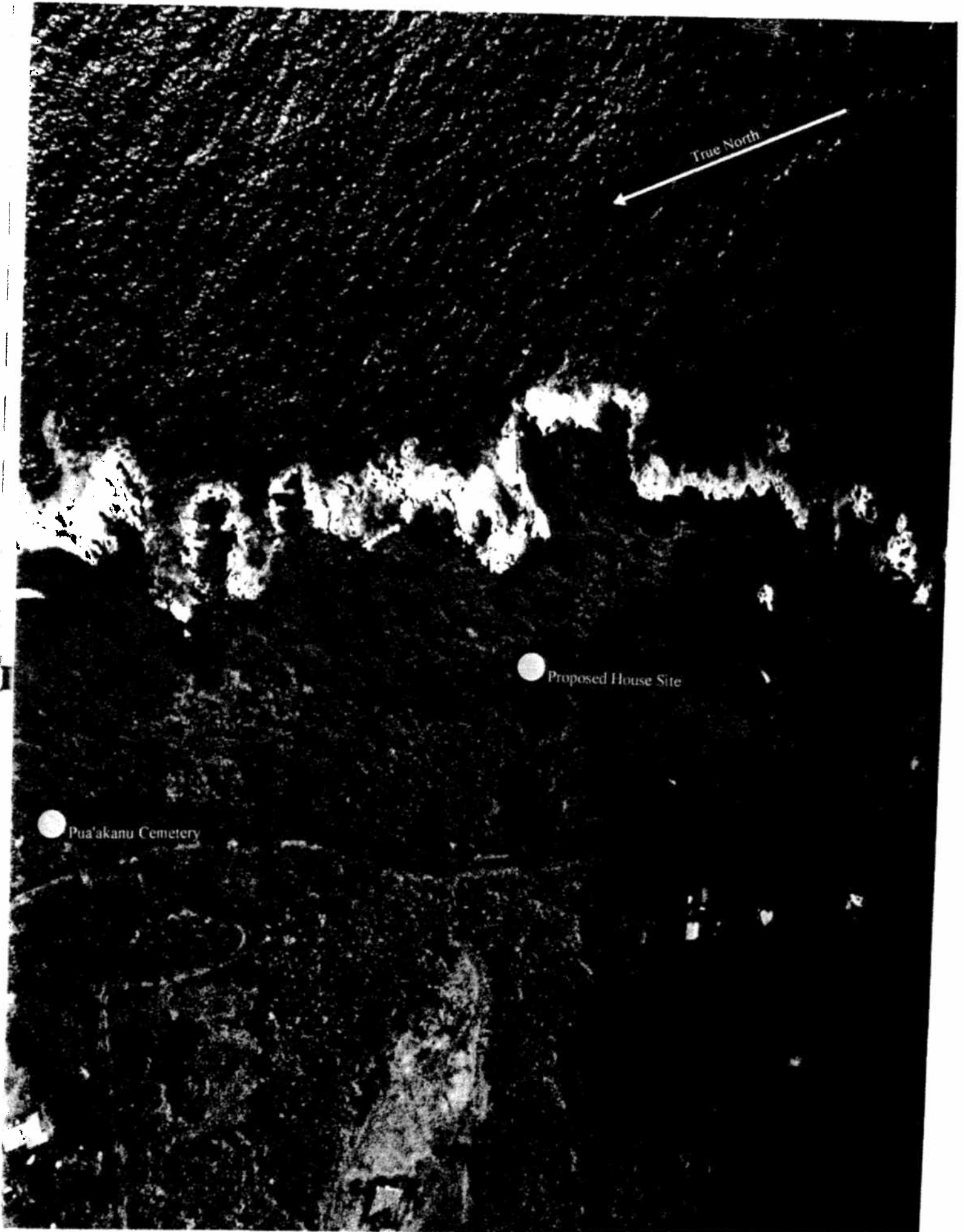
- A Heliconia (Scaevola sericea)
- B Heliconia (Scaevola sericea)
- C Heliconia (Scaevola sericea)
- D Heliconia (Scaevola sericea)
- E Heliconia (Scaevola sericea)



STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

NEW UTYRO-HAULER RESIDENCE		DENNIS PRESTON DAVIS	
ARCHITECT		ARCHITECT	
708 3-1-3-271		P. O. BOX 481, PAHOA, HI 96778	
KAUAI, HAWAII		(808) 962-7963	

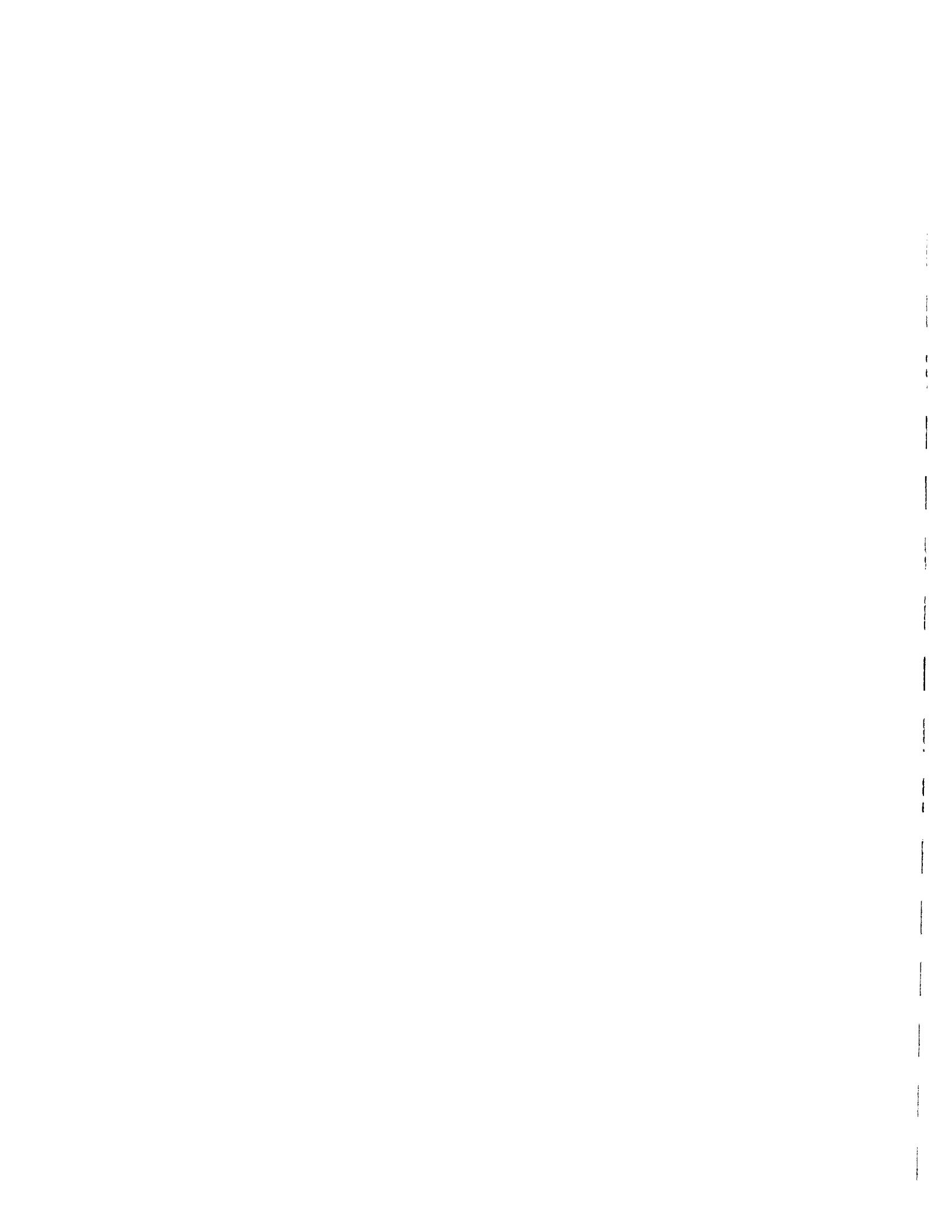




True North

Proposed House Site

Pua'akanu Cemetery



R-547

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

APR 27, 2001 08:01 AM

Doc No(s) 2001-061540

/s/CARL T. WATANABE
ACTING
REGISTRAR OF CONVEYANCES
CONVEYANCE TAX: \$200.00

After Recordation, Return by Mail to:

EDWARD S UTYRO
GARY R HAULER
1870 WYOMING AVE NW APT 402
WASHINGTON DC 20009

TG: 86782-B
TGE: A13020382
Yvonne Santos

TOTAL PGS. 5

TAX MAP KEY: 3rd/1-3-002:071

WARRANTY DEED

This Indenture, Made this 5th day of April, 2001,
between

THOMAS P. KNAPP and VIRGINIA M. KNAPP, Co-Trustees of the
unrecorded Sandpiper Point Living Trust UTA dated 6-20-90, with
powers to sell, mortgage, lease, etc., of Vero Beach, Florida
32963, parties of the first part,

and

EDWARD S. UTYRO (an unmarried man) and GARY R. HAULER (an
unmarried man), both of whose address is 1870 Wyoming Avenue NW,
Apt. 402, Washington, District of Columbia 20009, parties of the
second part,

Witnesseth, That the said parties of the first part, in consideration of the sum of TEN (10) DOLLARS, to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell and convey unto the said parties of the second part, as Joint Tenants, their assigns, the survivor of them, and the heirs and assigns of such survivor, forever, that certain piece or parcel of land lying and being in the County of Hawai'i and State of Hawai'i, which is described as follows, to wit:

All of the property described in Exhibit A attached hereto and by reference made a part hereof.

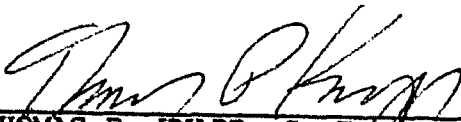
To Have and to Hold the Same, Together with all the hereditaments and appurtenances thereunto belonging, or in anywise appertaining to the said parties of the second part, as Joint Tenants, their assigns, the survivor of them, and the heirs and assigns of such survivor, forever.

And the said parties of the first part, as Co-Trustees aforesaid, do covenant with the said parties of the second part, as Joint Tenants, their assigns, the survivor of them, and the heirs and assigns of such survivor, forever, that they are well seized in fee of the land and premises aforesaid and have good right to sell and convey the same in manner and form aforesaid, and that the same is free from all encumbrances, except as aforesaid. And the above bargained and granted land and premises in the quiet and peaceable possession of the said parties of the


second part, as Joint Tenants, their assigns, the survivor of them, and the heirs and assigns of such survivor, forever, against all persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part will WARRANT AND DEFEND.

And the said parties of the first part, as Co-Trustees aforesaid, do covenant for and in behalf of the said unrecorded SANDPIPER POINT LIVING TRUST UTA DATED 6-20-90, that neither THOMAS P. KNAPP or VIRGINIA M. KNAPP as Co-Trustees, nor said unrecorded SANDPIPER POINT LIVING TRUST UTA DATED 6-20-90, have done or suffered anything whereby the said premises has been encumbered in any way whatever.

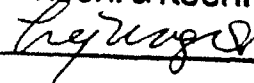
In Testimony Whereof, the said parties of the first part have hereunto set their hands the day and year first above written.



THOMAS P. KNAPP, Co-Trustee of the
unrecorded Sandpiper Point Living
Trust UTA dated 6-20-90

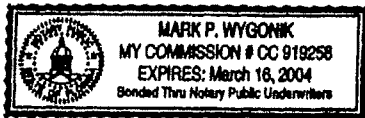


VIRGINIA M. KNAPP, Co-Trustee of
the unrecorded Sandpiper Point
Living Trust UTA dated 6-20-90

APPROVED AS TO FORM
KUSHI & KUSHI
BY 

STATE OF FLORIDA)
COUNTY OF INDIAN RIVER) SS:

On this 5 day of APRIL, 2001, before me personally appeared THOMAS P. KNAPP, Co-Trustee of the unrecorded Sandpiper Point Living Trust UTA dated 6-20-90, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed as Co-Trustee aforesaid.

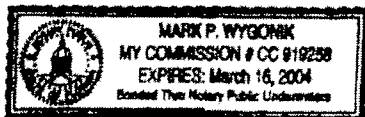


Mark P. Wygonik
Signature
Print Name: MARK P. WYGONIK
Notary Public

My Commission expires: MARCH 16, 2004

STATE OF FLORIDA)
COUNTY OF INDIAN RIVER) SS:

On this 5 day of APRIL, 2001, before me personally appeared VIRGINIA M. KNAPP, Co-Trustee of the unrecorded Sandpiper Point Living Trust UTA dated 6-20-90, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed as Co-Trustee aforesaid.



Mark P. Wygonik
Signature
Print Name: MARK P. WYGONIK
Notary Public

My Commission expires: MARCH 16, 2004

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 3232, Apana 2 to Naahumakua, all of Remnant A of Grant 13,514 to Gordon T. & Yuki S. Shigeura) situate, lying and being at Kaueleau, District of Puna, Island and County of Hawaii, State of Hawaii, being LOT 8, bearing Tax Key designation (3) 1-3-002-071, and containing an area of 7.180 acres, more or less.

BEING THE PREMISES ACQUIRED BY QUITCLAIM DEED

GRANTOR : THOMAS P. KNAPP, husband of Virginia M. Knapp

GRANTEE : THOMAS P. KNAPP and VIRGINIA M. KNAPP, Co-Trustees of the unrecorded Sandpiper Point Living Trust, UTA, dated June 20, 1990

DATED : December 3, 1999

RECORDED : Document No. 99-199889

SUBJECT TO:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
 2. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.
- Note:- A current survey, with metes and bounds description, should be made of said premises.
3. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

EXHIBIT A



R-66 STATE OF HAWAII
 BUREAU OF CONVEYANCES
 RECORDED
 DEC 24, 2007 08:01 AM
 Doc No(s) 2007-220047



20 1/1 28

/s/ CARL T. WATANABE
 REGISTRAR OF CONVEYANCES
 CONVEYANCE TAX: \$0.00

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL () PICK UP (X) RS
 Edward S. Utyro & Gary R. Hauler TG: 200109603-A
 1870 Wyoming Avenue NW, Apt. 402 TGE: A1-302-0382
 Washington, DC 20009

Tax Map Key No. (3) 1-3-002-071

Total Pages: 9

CORRECTION TO WARRANTY DEED

THIS INSTRUMENT is dated DECEMBER 10, 2007 but effective as of April 27, 2001, and made by and between THOMAS P. KNAPP and VIRGINIA M. KNAPP, as Co-Trustees of that certain unrecorded Sandpiper Point Living Trust UTA dated 6-20-90, with powers to sell, mortgage, lease, etc., whose post office address is 1305 Little Harbour Lane, Vero Beach, Florida 32963 ("Grantor"), and EDWARD S. UTYRO, an unmarried man, and GARY R. HAULER, an unmarried man, both of whose post office address is 1870 Wyoming Avenue NW, Apt. 402, Washington, DC 20009 ("Grantee").

WITNESSETH:

WHEREAS, Grantor executed that certain Warranty Deed dated April 5, 2001 in favor of Grantee ("Deed"), and said Deed was recorded at the Bureau of Conveyances of the State of Hawaii on April 27, 2001 as Document No. 2001-061540; and

WHEREAS, when the Deed was executed and recorded, through inadvertence, one of the sources of title and an easement in favor of the State of Hawaii were omitted from the legal description attached thereto; and

WHEREAS, Grantor and Grantee now desire to correct said legal description;

NOW, THEREFORE, it is mutually agreed by and between Grantor and Grantee as follows:

1. Exhibit "A" of the Deed shall be, and is hereby deleted, and substituted in its place with Exhibit "A" attached hereto.

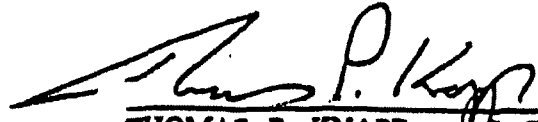
2. Except as hereby corrected, said Deed as recorded as aforesaid, is hereby ratified and confirmed and shall remain in full force and effect, and the correction herein shall be considered incorporated in said Deed as of the date of execution thereof.

AND the terms "Grantor" and "Grantee" as and when used herein or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, limited liability companies or corporations, and their and each of their respective successors, heirs, personal representatives and assigns, according to the context thereof. All obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention shall be clearly expressed elsewhere herein.

AND the undersigned hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same instrument, binding all of the parties hereto, notwithstanding that all of the parties are not signatories to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate, unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one instrument.

(The remainder of this page is intentionally left blank.)

BY SIGNING HEREINBELOW, the undersigned agree to all the terms and provisions set forth hereinabove.



THOMAS P. KNAPP, as Co-Trustee as
aforesaid



VIRGINIA M. KNAPP, as Co-Trustee as
aforesaid

"Grantor"

EDWARD S. UTYRO

GARY R. HAULER


"Grantee"

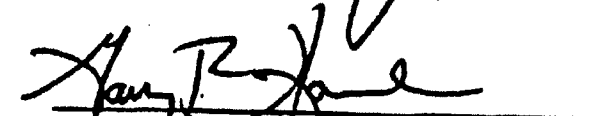
BY SIGNING HEREINBELOW, the undersigned agree to all the terms and provisions set forth hereinabove.

THOMAS P. KNAPP, as Co-Trustee as
aforesaid

VIRGINIA M. KNAPP, as Co-Trustee as
aforesaid

"Grantor"


EDWARD S. UTYRO


GARY R. HAULER

"Grantee"

STATE OF FLORIDA

COUNTY OF INDIAN RIVER

SS:

On this 10TH day of DECEMBER, 2007, before me appeared THOMAS P. KNAPP and VIRGINIA M. KNAPP, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Mark P. Wygant
My Commission 00298677
Expires March 16, 2008

A handwritten signature in black ink, appearing to read "Mark P. Wygant", written over a horizontal line.

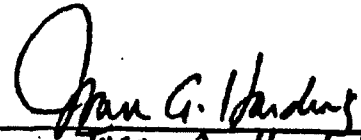
Name: MARK P. WYGANT
Notary Public, State of Florida

My commission expires: 3/16/2008

DISTRICT OF COLUMBIA

SS:

On this 13 day of November 2007, before me appeared EDWARD S. UTYRO, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



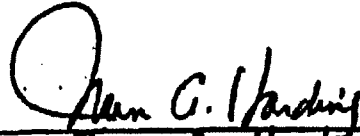
Name: Joan A. Harding
Notary Public, District of Columbia

My commission expires: 4-30-2009

DISTRICT OF COLUMBIA

SS:

On this 13 day of November 2007, before me appeared GARY R. HAULER, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



Name: Joan A. Harding
Notary Public, District of Columbia

My commission expires: 4-30-2009

EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 3232, Apana 2 to Nashumakua, all of Remnant A of Grant 13,514 to Gordon T. and Yuki S. Shigeura, and also a portion of Remnant B of Grant 13,514 to Gordon T. and Yuki S. Shigeura) situate, lying and being at Kaueleau, District of Puna, Island and County of Hawaii, State of Hawaii, being LOT 8 and thus bounded and described:

Beginning at the west corner of this parcel of land and on the southeasterly side of the Kalapana-Kapoho Beach Road (60 feet wide), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KALIU" being 12,781.07 feet south and 9,948.09 feet east and running by azimuths measured clockwise from true South:

1. 224° 50' 312.30 feet along the southeast side of the Kalapana-Kapoho Beach Road;
2. Thence following along the southeast side of the Kalapana-Kapoho Beach Road along a curve to the right having a radius of 240.00 feet, the chord azimuth and distance being:

 236° 37' 98.02 feet;
3. Thence following along the southeast side of the Kalapana-Kapoho Beach Road along a curve to the left having a radius of 800.00 feet, the chord azimuth and distance being:

 231° 46' 30" 457.77 feet;
4. 343° 40' 322.55 feet along Government Land to a point at the top of sea bluff;

Thence following along the top of sea bluff along all of its windings for the next five courses, the direct azimuths and distances being:

5. 17° 15' 150.00 feet;
6. 36° 05' 220.00 feet;
7. 74° 33' 176.66 feet;
8. 349° 10' 30" 275.96 feet;
9. 45° 51' 30" 47.66 feet;
10. 134° 50' 600.26 feet along Lot 7 to the point of beginning and containing an area of 7.18 acres, more or less.

Being the premises described in that certain Quitclaim Deed dated December 3, 1999, recorded at the Bureau of Conveyances of the State of Hawaii as Document No. 99-199889.

SUBJECT HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. A 20-foot easement in favor of the Territory of Hawaii, now known as the State of Hawaii, along courses 5, 6, 7, 8, and 9 of Lot 8 being more particularly described above.
3. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

END OF EXHIBIT "A"

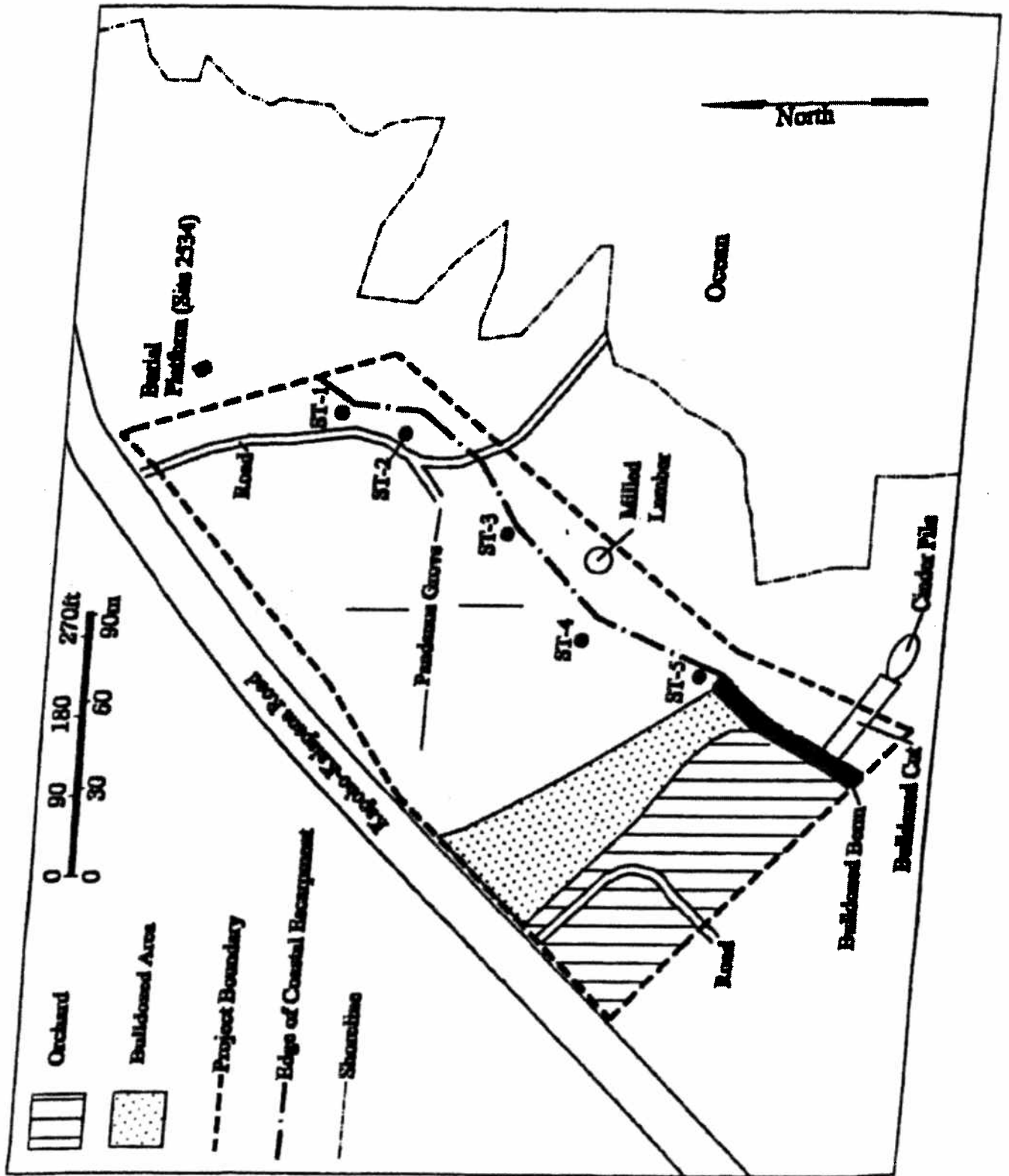
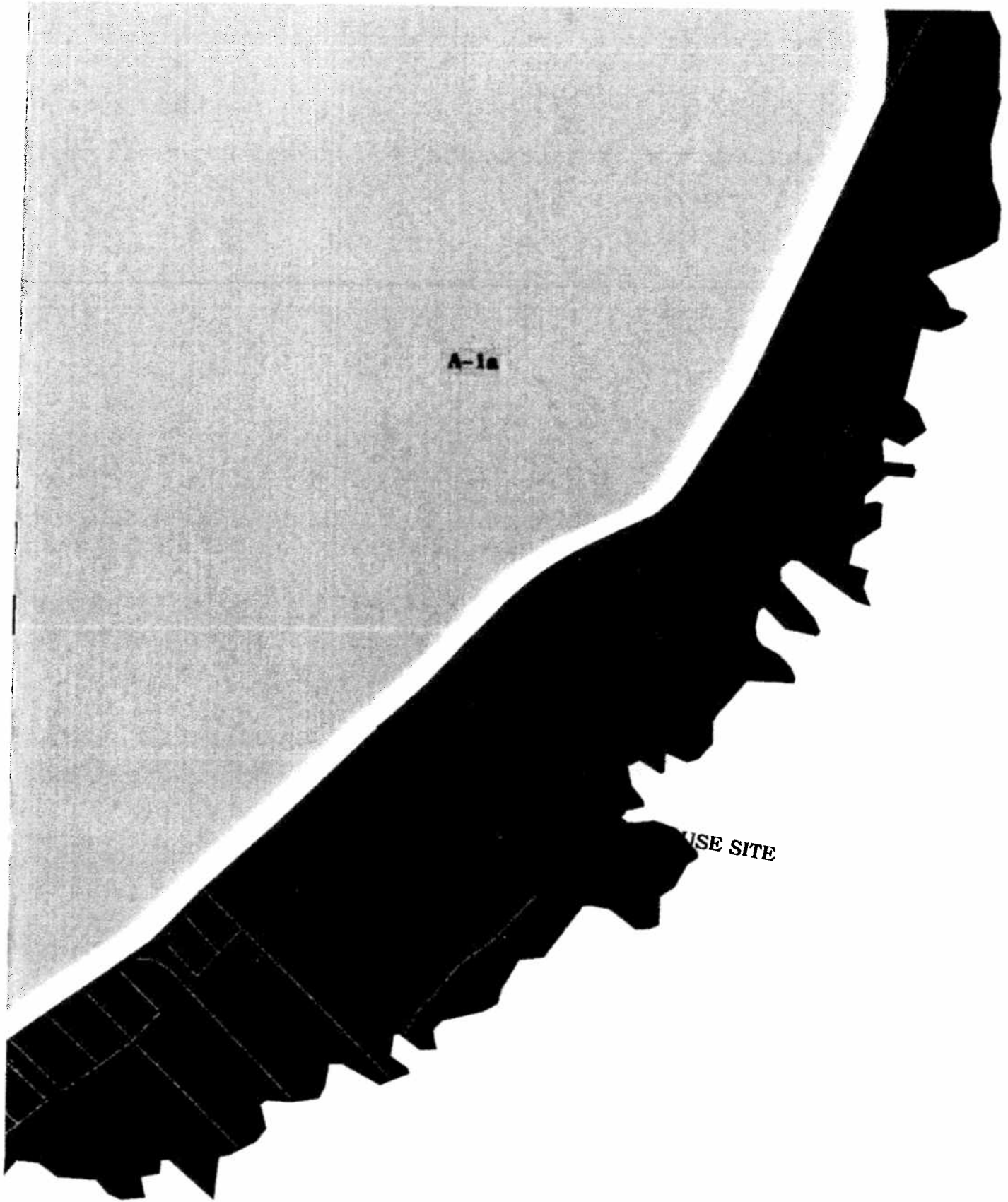


EXHIBIT 5



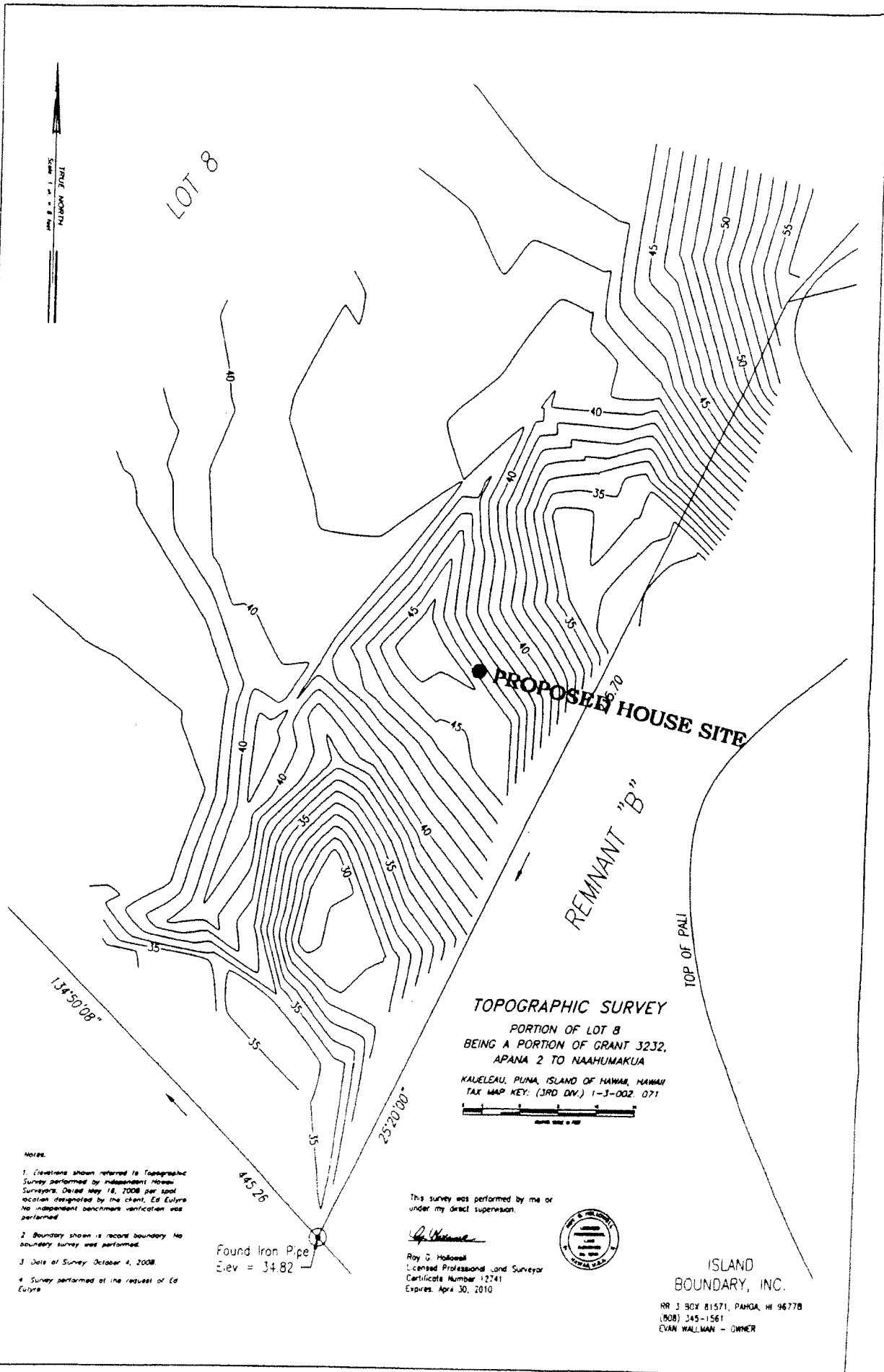
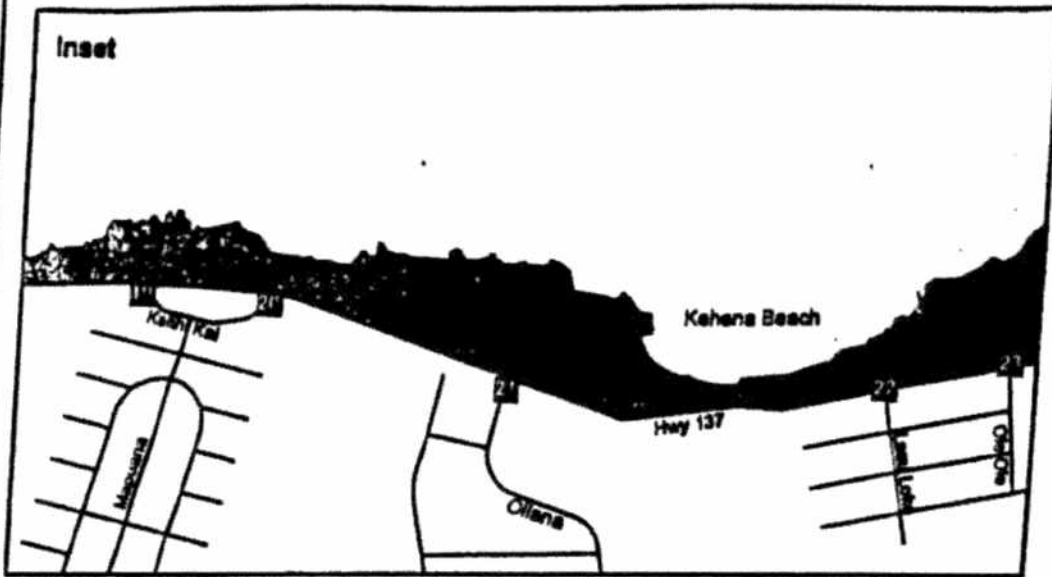


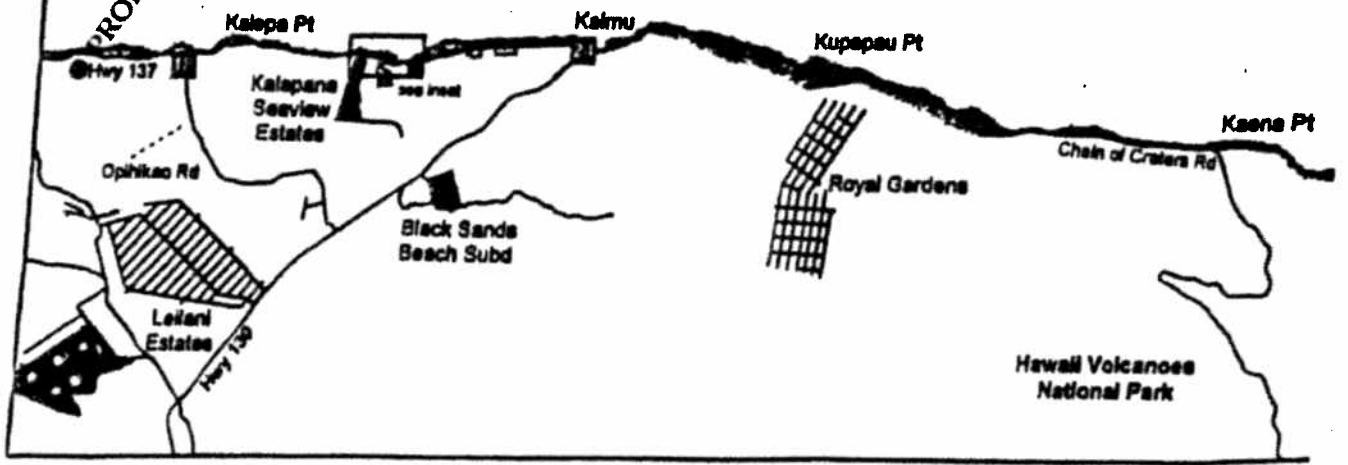
EXHIBIT 7

TSUNAMI EVACUATION HAWAII MAP 4: PUNA (Part 2)



- Manned Roadblocks**
- Hwy 137/Ophikao Rd
 - Hwy 137/Kahi Kai E
 - Hwy 137/Kahi Kai W
 - Hwy 137/Olohe Dr
 - Hwy 137/Lani Lani
 - Hwy 137/Olohe Crater
 - Kalapana Beach Rd/Hwy 130 E

DISASTER PREPAREDNESS GUIDE

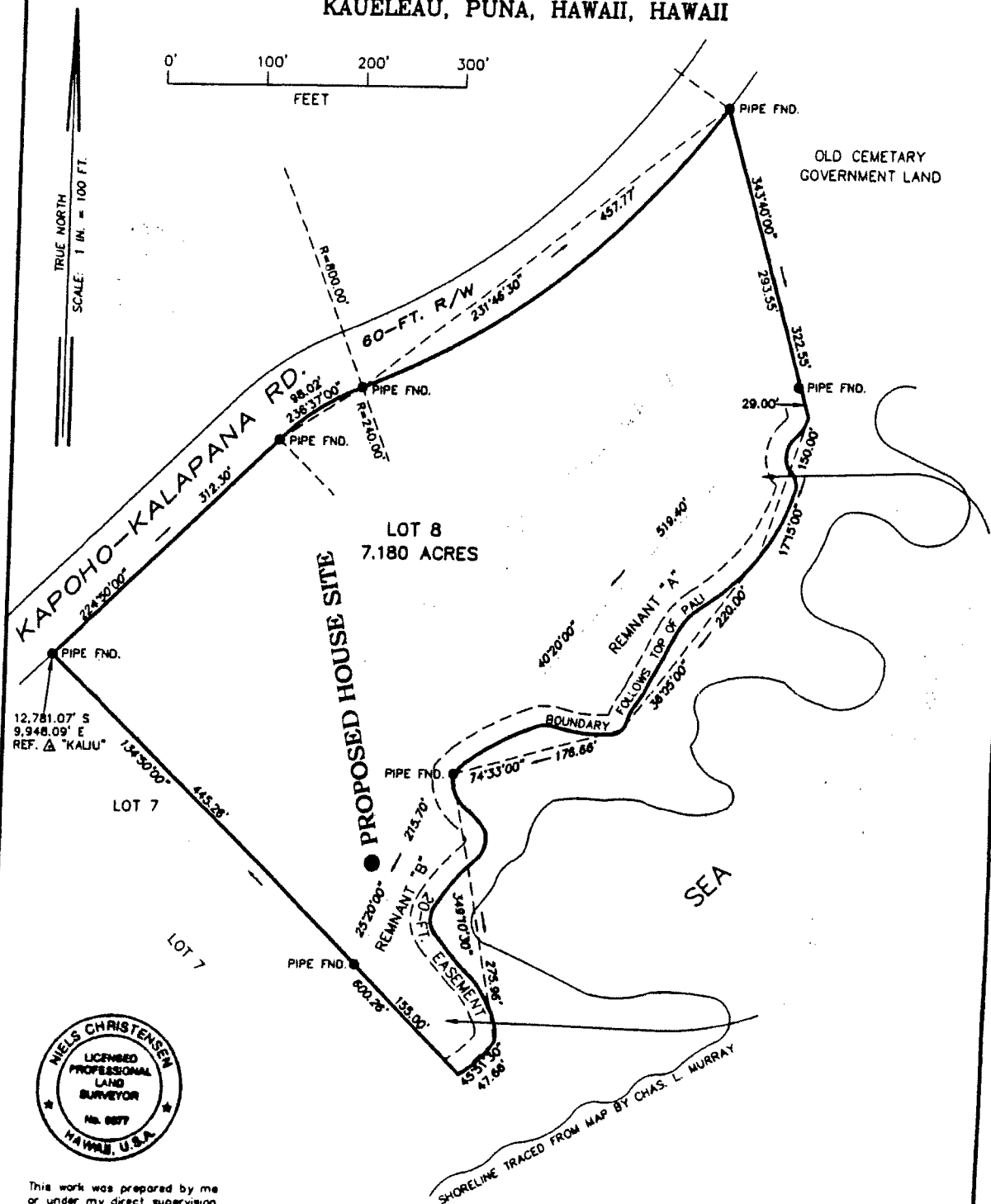


EVACUATE ALL SHADED AREAS



MAP OF LOT 1

PORTION OF GRANT 3232, APANA 2 TO NAAHUMAKUA AND PORTIONS OF GRANT 13514 TO GORDON T. & YUKI S. SHIGEURA KAUELEAU, PUNA, HAWAII, HAWAII



12,781.07° S
9,948.09° E
REF. Δ "KALIU"



This work was prepared by me or under my direct supervision

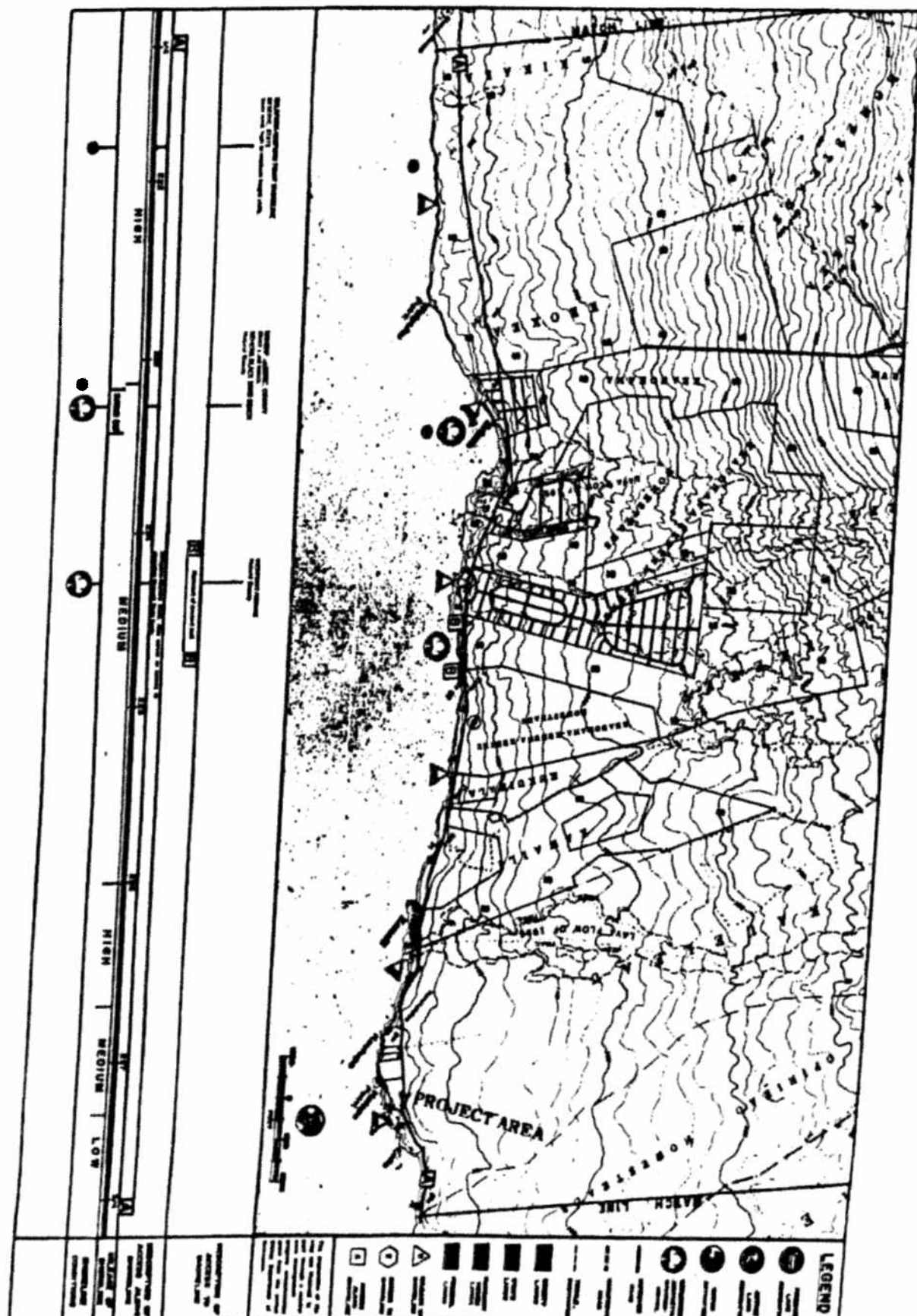
Niels Christensen
Niels Christensen
Licensed Professional Land Surveyor
License Number 9077

The Independent Hawaii Surveyors, LLC
P.O. BOX 577
HALE, HI 96721
Phone 808 858-0360
FAX 808 858-0333
info@theihsurveyors.com

NOTES:

1. The features shown hereon were located by an actual field survey performed on January 30, 2002.
2. Boundaries of Remnants "A" and "B" were drawn from Record.
3. No improvements were located since this was a staking.
4. Field measured dimensions (F) are within acceptable tolerances as compared to record dimensions (R) for land of this type and in this subdivision.

Revised October 15, 2007
Drawing: JOB8186 legal.dwg
TMK: (3) 1-3-2: 71



45

INVENTORY OF PUBLIC SHORELINE ACCESS

KEHENA - KAMALI

DATE MAP REVISED: 1-8-80

PREPARED FOR: PLANNING DEPARTMENT, COUNTY OF HAWAII
 PREPARED BY: HIROSHI KABAMOTO, INC. P. YOSHIMURA, INC.

EXHIBIT 11

WILLIAM J. CAYETANO
GOVERNOR OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KALEIHEHEA BUILDING, ROOM 405
801 KAMOEHA BOULEVARD
HONOLULU, HAWAII 96813

11/24/02 R
ALBERT S. GOLOMB-AGARAS, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

DEPUTY
AND T. HIRANO
LAUREL MEBROKA

AGRICULTURE RESOURCES
BOATING AND OCEAN RECREATION
COMMISSION ON WATER RESOURCES
MANAGEMENT
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCE
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND
STATE PARKS

LOG NO: 30705 ✓
DOC NO: 0209PM02

September 12, 2002

Dr. Alan Haun
Haun & Associates
HCR 1 Box 4730
Koona, Hawaii 96749

Dear Dr. Haun:

SUBJECT: Final Report: "Archaeological Inventory Survey of
TMK: (3) 1-3-2:71 Land of Kaneohe, Puna District,
Island of Hawaii" (Haun and Henry, 2002)
Kaneohe, Puna, Hawaii Island, TMK: (3) 1-3-2:71

Thank you for transmitting a copy of the above referenced report for our review and approval. The report, which was prepared for Bolton Offutt Donovan, Inc., was received in our office in early August, 2002.

An archaeological inventory survey of the roughly 7 acre parcel was undertaken on April 19, 2002. No historic sites were found in the survey area, parts of which were found to have been previously disturbed and other parts of which appear to be uninhabitable. Test excavations suggest that the potential for buried cultural deposits is low.

We agree with the findings of the survey. The report is acceptable, and the historic preservation review process is concluded.

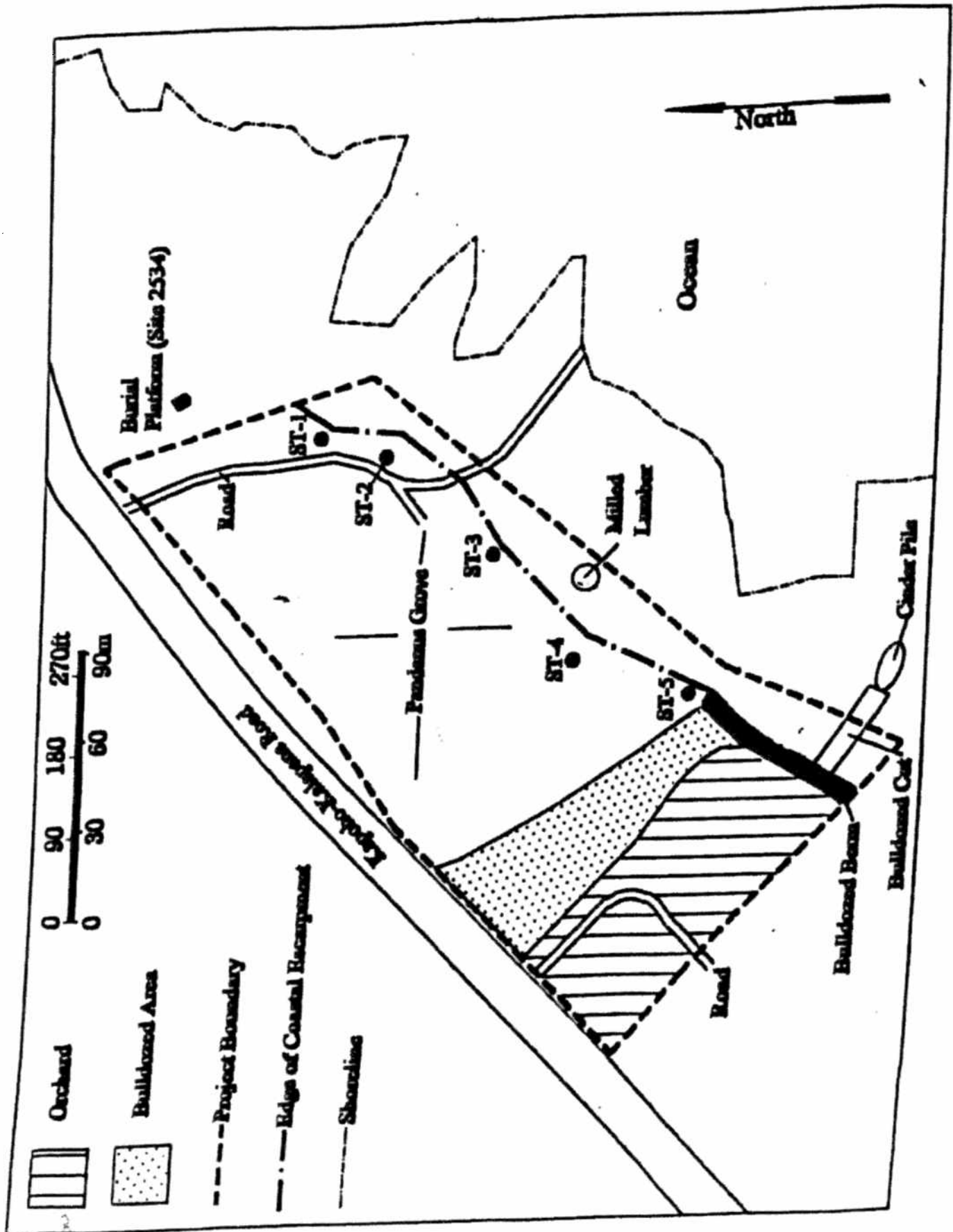
Development of this parcel will have "no effect" on significant historic sites. However, if the parcel is going to be developed, the development plans need to take into consideration possible indirect impacts on the Pua'akama Cemetery (Site 2534) located in close proximity on the east.

Aloha

DON HIBBARD, Administrator
State Historic Preservation Division

- c. **Chris Yuen, County of Hawaii Planning Department**
- Kai Emblar, County of Hawaii Department of Public Works**
- Kamama'o Mills, SHPD Burials Program**

PM:amk



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

September 5, 2008

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands
State of Hawaii, DLNR
PO Box 621
Honolulu, Hawaii 96809

LAURA H. THIKLEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER OF WATER RESOURCE MANAGEMENT
REISSUE TOWN
FIRST DEPUTY
KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER
2008 SEP 11
NATIVE
STATE OF HAWAII
SOIL AND WATER CONSERVATION
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 OF HAWAII, APATE PARKS

LOG NO: 2008.3576
DOC NO: 0809MD42
Archaeology

Dear Mr. Lemmo:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
Request for Comment on Conservation District Use Application HA-3474, Board
Permit for a Single Family Residence
Kauaeleau Ahupua‘a, Puna District, Island of Hawai‘i
TMK: (3) 1-3-002:071**

Thank you for the opportunity to comment on the aforementioned project, which we received on August 13, 2008. This project involves a proposed single family home construction, with a half acre located within the conservation district proposed as the site for a pool. We determine that **no historic properties will be affected** by this project because:

- Intensive cultivation has altered the land
- Residential development/urbanization has altered the land
- Previous grubbing/grading has altered the land
- An accepted archaeological inventory survey (AIS) found no historic properties
- SHPD previously reviewed this project and mitigation has been completed
- Other: *An archaeological assessment of this parcel (Haun and Henry 2002) found no historic properties at this location, and SHPD concurred with that assessment (Log No. 30705, Doc No. 0209PM02). Although the Pua‘akanu Cemetery, SHIP no. 2534, is located close to the eastern border of this parcel, the current building plans include a significant buffer of trees that will mitigate any indirect impacts on this Site.*

In the event that historic resources, including human skeletal remains, cultural materials, lava tubes, and lava blisters/bubbles are identified during the construction activities, all work needs to cease in the immediate vicinity of the find, the find needs to be protected from additional disturbance, and the State Historic Preservation Division, Hawaii Island Section, needs to be contacted immediately at (808) 981-2979. If you have questions about this letter please contact Morgan Davis at (808) 981-2979.

Aloha,

Nancy McMahon, Deputy SHPO/State Archaeologist
and Historic Preservation Manager
State Historic Preservation Division

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

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

REF:OCCL:MC

FILE NO.: HA-3474

MEMORANDUM:

SEP 24 2008

TO: Pua Aiu, Administrator
Historic Preservation Division

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

SUBJECT: Conservation District Use Application HA-3474
Impact on Kau`eleau Pūhala Grove and Pua`akanu Cemetery

TMK: (3) 1-3-02:71

LOCATION: Kau`eleau, Puna, Hawai`i

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo", written over the typed name in the "FROM" field.

The Office of Conservation and Coastal Lands has received your office's determination that "no historic properties will be affected" by the proposed residence on the above subject parcel (**Exhibit 1**). OCCL has since received information from cultural practitioners in the area that indicate that Kau`eleau has more historic significance than we originally believed. OCCL respectfully asks that HPD staff revisit this determination in light of this new information.

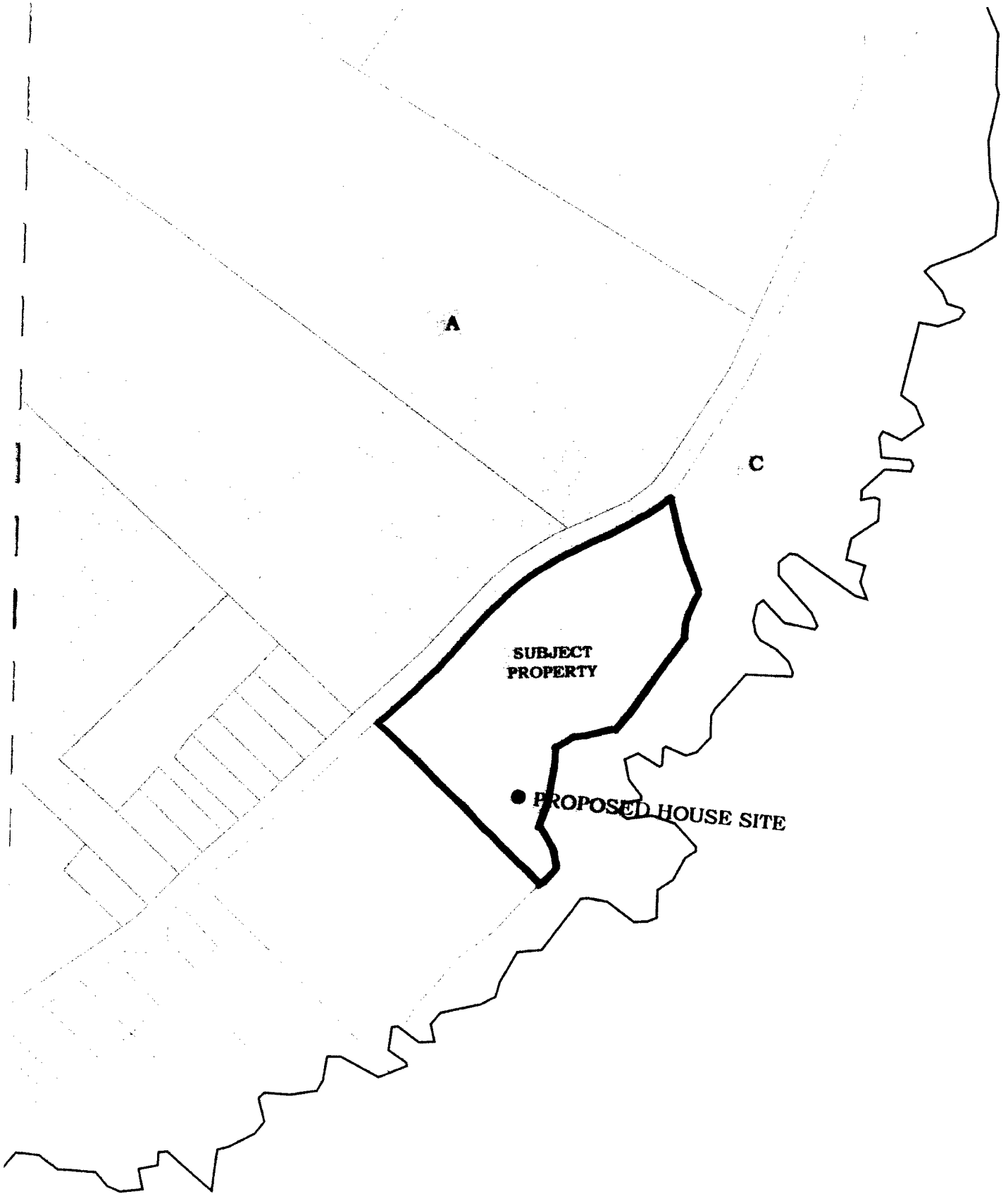
We have attached the letters we received from the community (**Exhibit 2**). Members of *`Aha Pūhala O Puna*, the local weavers' organization, are stating that the Kau`eleau pūhala grove is more than remnant forest. They are offering evidence that it is a unique historical site that has been actively nurtured and managed for over a century, and that it is still in use by cultural practitioners today.

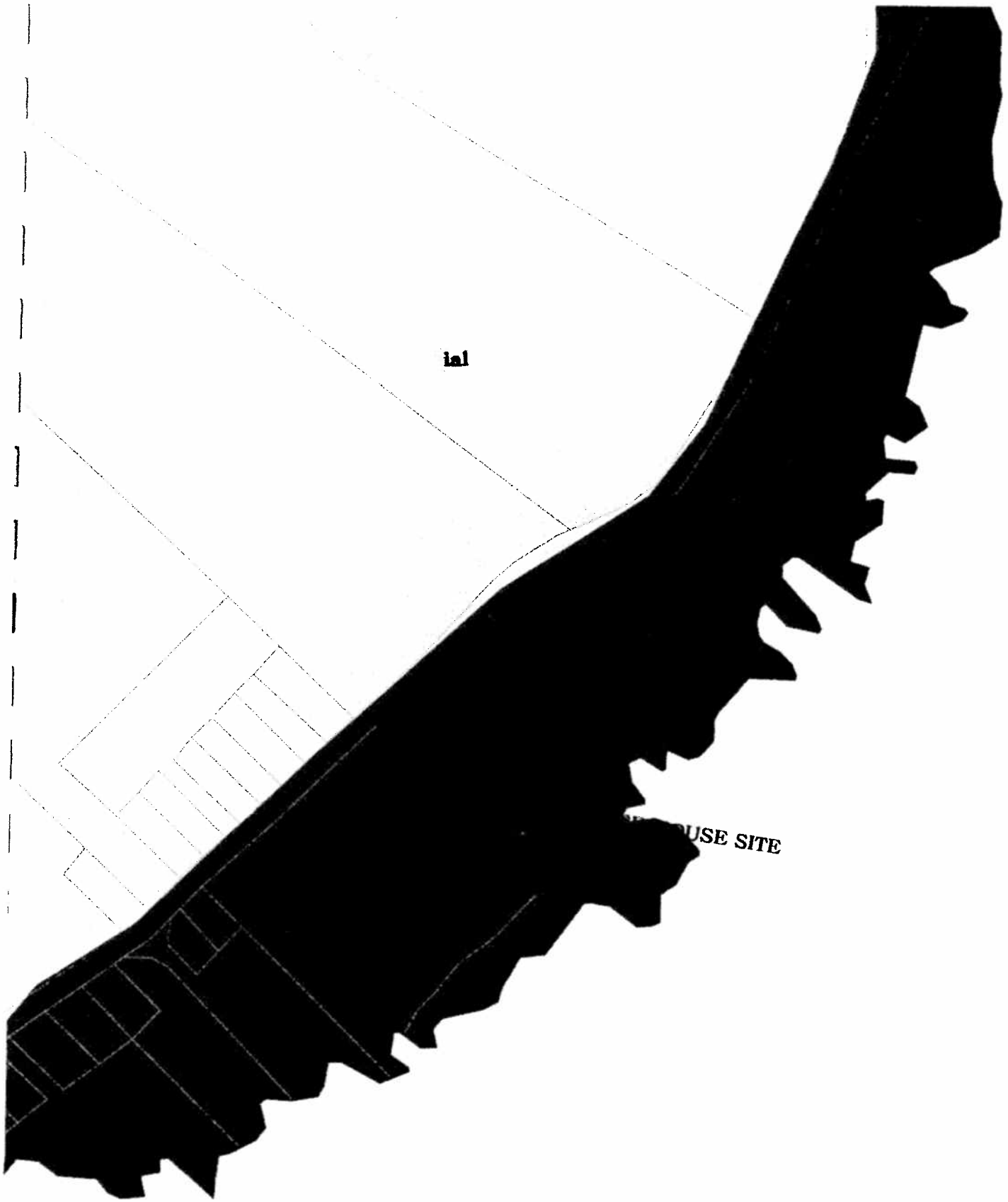
We have also attached the archaeological survey (Haun & Associates, 2002; **Exhibit 3**) that was included in the application. The survey concludes that *the presence of an historic cemetery adjacent to the parcel provides support for a traditional perception of the vicinity as not being suitable for habitation or agriculture*. Community members are reporting instead that the Kau`eleau grove is historically and culturally tied to the adjacent 10-acre Pua`akanu burial field.

OCCL appreciates your assistance in revisiting this matter. The application itself is being handled by Carlsmith Ball LLP. Our primary contact there is Katherine Luga at 935.6644. Our contact for the *`Aha Pūhala O Puna* is through Kale Gumapac; he can be reached at 982-9020. Our primary contact for information on the Pua`akanu burial field is the Reverend Violet May Makuakane of the *`Opihikao* Congregational Church. She can be reached at 959-2231.

Please contact Michael Cain at 587-0048 should you have any questions on this matter.

cc: Katherine Luga, Kale Gumapac, Rev. Makuakane





Harry Kim
Mayor



RECEIVED JAN 14 2008

Christopher J. Yi
Director

Brad Kurokawa, AS
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

January 11, 2008

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Attn: Ms. Katherine Y. Luga
P. O. Box 686
Hilo HI 96721-0686

Dear Ms. Luga:

Subject: Special Management Area Use Permit Assessment Application (SAA 07-275)
Applicant: Edward S. Utyro and Gary R. Hauler
Request: Construction of a Single Family Dwelling and Related Improvements
Tax Map Key: 1-3-2:71, Kaueleau, Puna, Hawaii

This is in response to the Special Management Area Use Permit Assessment Application received on July 31, 2007 for the construction of a single family dwelling and related improvements on the subject parcel. With receipt of additional information and submittals, the application is deemed complete on January 4, 2008.

We appreciate your diligence and cooperation in submitting the requested information and allowing us a site inspection of the subject property on December 3, 2007.

The subject parcel is situated within the State Land Use Conservation District. Therefore, the proposed action triggers the review under Chapter 343, HRS, relating to Environmental Impact Statements. It is our understanding that you will be filing a Conservation District Use Application and Draft Environmental Assessment with the State Board of Land and Natural Resources for its decision.

This 7.18 acre property is zoned Open (O) by the County. It does not front the ocean as a portion of TMK: 1-3-2:36 is makai of the subject parcel. However, this portion of Parcel 36 is a slope that drops down to a beach area below the pali.

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Attn: Ms. Katherine Y. Luga
Page 2
January 11, 2008

At the December 3, 2007 site inspection, staff noted that the pin marked "Pipe Fnd." in the "Topo Area" was approximately 17'9" from the first initial drop off the pali. This drop is not as severe as the second one which slopes steeply down to the sea.

According to Subdivision Map No. 1294 for TMK: 1-3-2 which was approved on October 6, 1958, there is a 20-foot Easement that runs parallel to the makai property line. It starts from the State of Hawaii owned TMK: 1-3-2: 36, crosses the subject parcel and then continues on to the adjacent western parcel, TMK: 1-3-2:70.

All of the proposed improvements were proposed to be located within the "Topo Area" as denoted on the Second Revision Map dated May 16, 2006. Subsequently, by letter dated December 6, 2007, the construction of a north-end gate along the Kapoho-Kalapana Road was proposed for that end of the existing driveway.

According to Chapter 205A-22, Hawaii Revised Statutes and Planning Commission Rule 9-4(10) B (i) relating to Special Management Area, "development" does not include *"Construction of a single-family residence that is not part of a larger development."* Therefore, we have determined that the proposed single family dwelling and related improvements are exempt from the definition of development.

The most makai improvements is the swimming pool. It is proposed to be located approximately 57 feet from the top of the pali. Therefore, the requirement of a certified shoreline survey is waived.

Finally, in this area, public pedestrian mauka-makai access is available from the adjacent eastern State owned Parcel 36. Public lateral shoreline access is provided along this parcel through the "20-foot Easement" along the coastline. Also, the proposed improvements will not have a substantial adverse effect on the environment.

While further review of the construction of the proposed improvements against the Special Management Area rules and regulations will not be required, all other applicable Zoning and Building Code requirements must be satisfied.

As a reminder, however, except for the installation of the north-end gate, only approval for improvements within the "Topo Area" as denoted on the "Second Revision, Survey Date: May 16, 2006" map is granted. Due to the large acreage of the subject parcel, any additional improvement outside of the "Topo Area" will require submittal of another Special Management Area Use Permit Assessment Application for the proposed use(s).

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Attn: Ms. Katherine Y. Luga
Page 3
January 11, 2008

If you have questions, please contact Esther Imamura of this office at 961-8288,
extension 257.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

ETI:cd

P:\wpwin60\CZMSMAA\2007\SAA 07-275 Utyro Hauler.doc

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

November 5, 2008

Christopher J. Yuen
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720
Attention: Alice Kawaha

Re: Special Management Area Assessment (SAA 07-275)
Applicants: Edward S. Utyro and Gary R. Hauler
TMK: (3) 1-3-002:071

Dear Mr. Yuen:

In response to concerns raised by the community and Big Island lauhala weavers during the Draft Environmental Assessment review period, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhala grove. As requested, enclosed please find a copy of the revised site plan for the proposed single-family residential dwelling and related improvements ("Project") for your records.

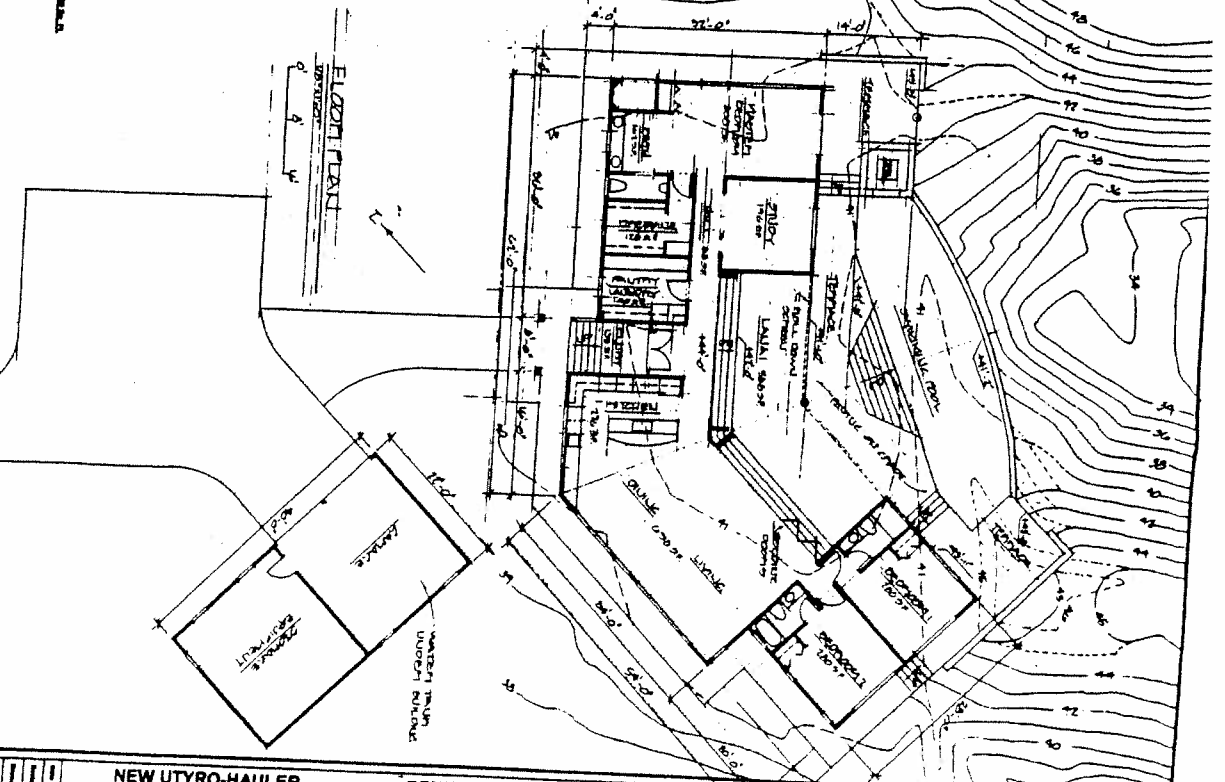
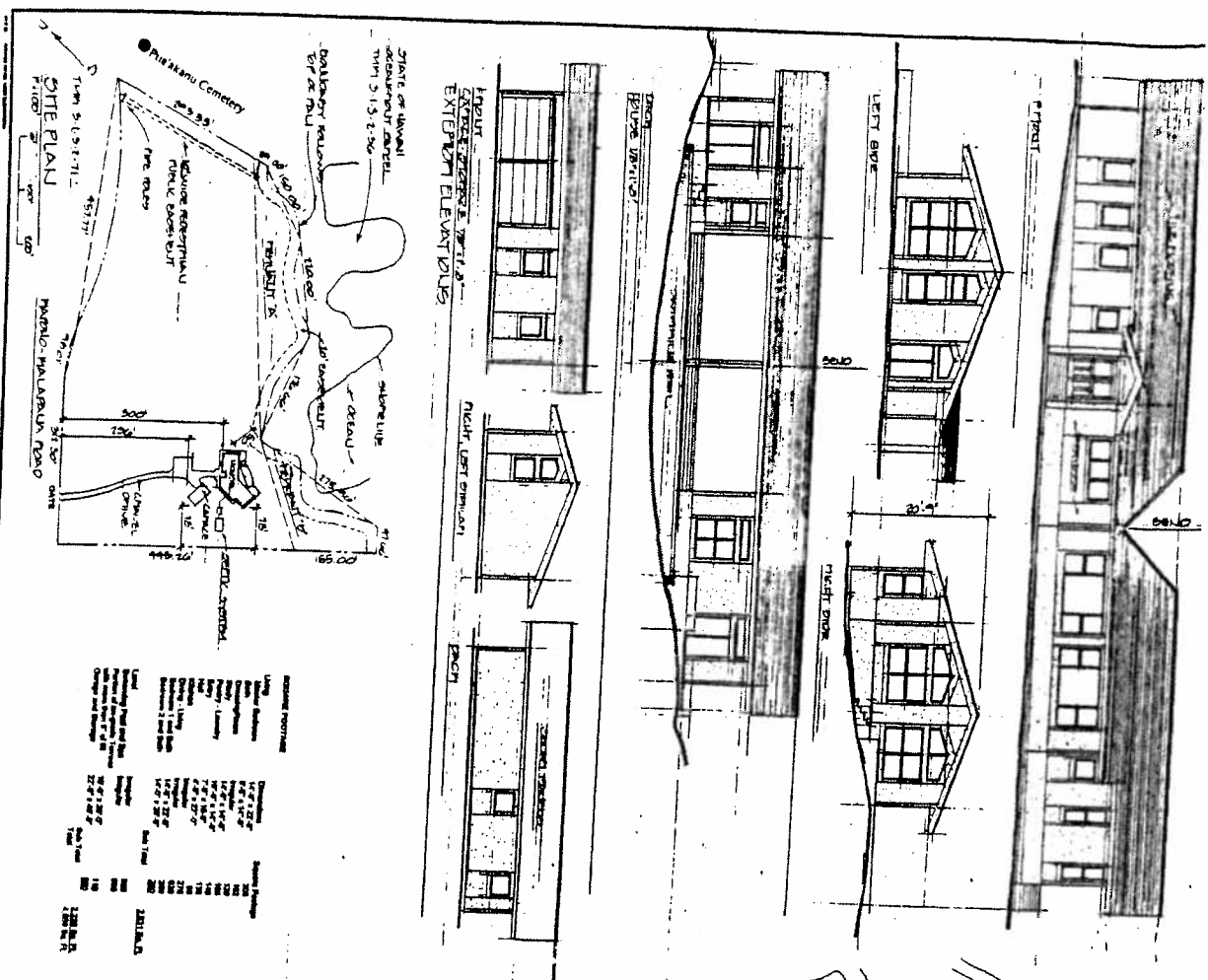
This will confirm the Planning Department's position that the alternative location of the Project continues to meet with and complies with the January 11, 2008 Planning Director determination that the Project is exempt from the definition of "development" under Planning Commission Rule 9.4(10)B.

Please feel free to contact me or my paralegal Katherine Luga should you have any questions or require additional information on this matter. Thank you for your assistance.

Very truly yours,


Steven S. C. Lim

SSL:KYL
Enclosure
xc: Client
DLNR-OCCL



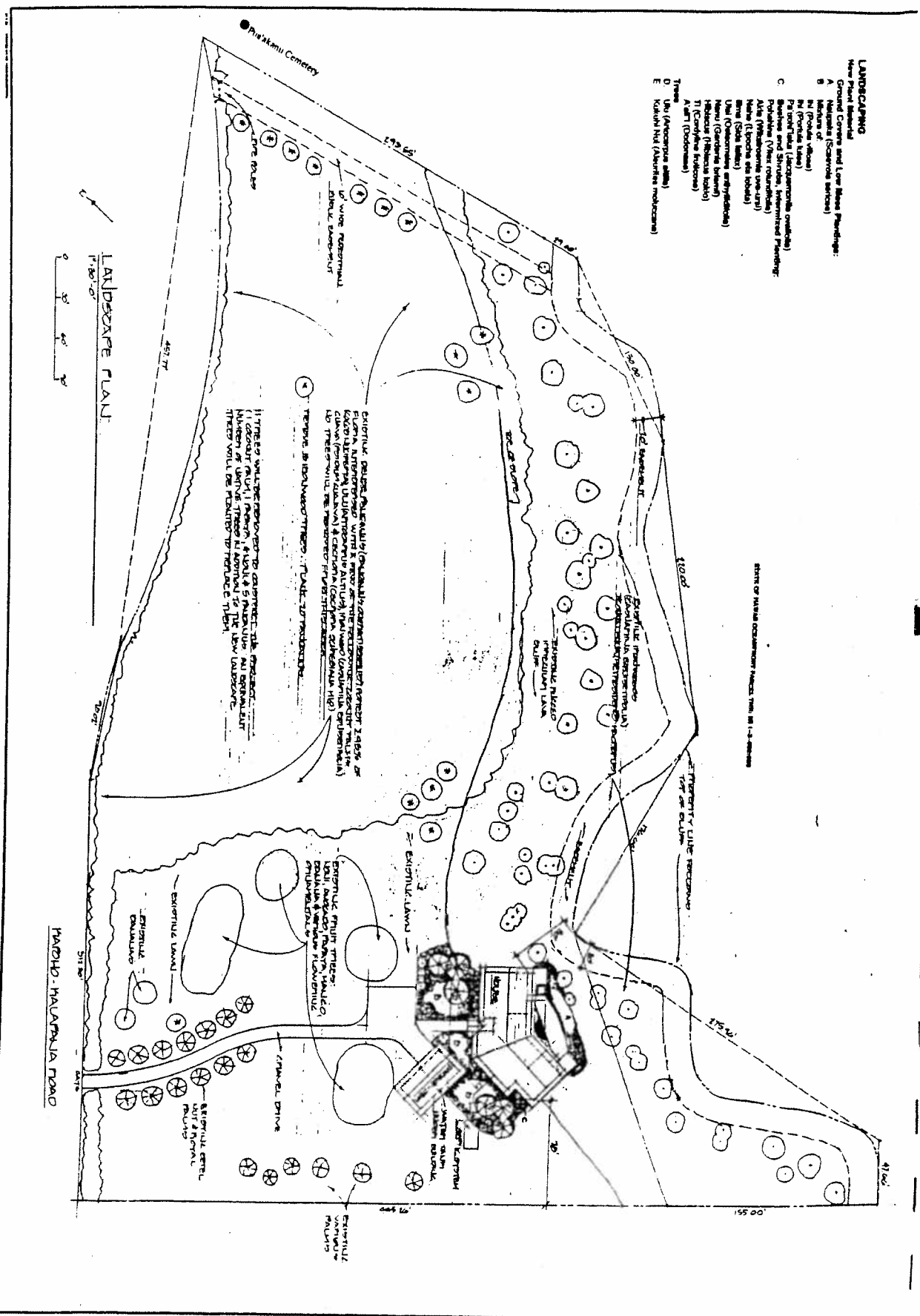
NEW UTYRO-HAULER RESIDENCE

DENNIS PRESTON DAVIS
ARCHITECT
P. O. BOX 401, PAHOA, HI 96778
(808) 217-2988

TRK 3-1-3-2-71
KAUKELEAU, PUNA, HAWAII

DATE: 10/1/78
SCALE: AS SHOWN
SHEET: 1 OF 1

- LANDSCAPING**
New Plant Material
- Ground Covers and Low Shrub Plantings:
- A Heliconia (Scaevola variegata)
 - B Melastoma (Scaevola variegata)
 - C Heliconia (Scaevola variegata)
 - D Heliconia (Scaevola variegata)
 - E Heliconia (Scaevola variegata)
- Trees:
- A Ulu (Anacardium occidentale)
 - B Ulu (Anacardium occidentale)
 - C Ulu (Anacardium occidentale)
 - D Ulu (Anacardium occidentale)
 - E Ulu (Anacardium occidentale)
 - F Ulu (Anacardium occidentale)
 - G Ulu (Anacardium occidentale)
 - H Ulu (Anacardium occidentale)
 - I Ulu (Anacardium occidentale)
 - J Ulu (Anacardium occidentale)
 - K Ulu (Anacardium occidentale)
 - L Ulu (Anacardium occidentale)
 - M Ulu (Anacardium occidentale)
 - N Ulu (Anacardium occidentale)
 - O Ulu (Anacardium occidentale)
 - P Ulu (Anacardium occidentale)
 - Q Ulu (Anacardium occidentale)
 - R Ulu (Anacardium occidentale)
 - S Ulu (Anacardium occidentale)
 - T Ulu (Anacardium occidentale)
 - U Ulu (Anacardium occidentale)
 - V Ulu (Anacardium occidentale)
 - W Ulu (Anacardium occidentale)
 - X Ulu (Anacardium occidentale)
 - Y Ulu (Anacardium occidentale)
 - Z Ulu (Anacardium occidentale)



NEW UTYRO-HAULER RESIDENCE		DENNIS PRESTON DAVIS	
THK 3-1-3-3-71		ARCHITECT	
KAUAI, HAWAII		P.O. BOX 481, PAHOA, HI 96778	
		(808) 982-7982	

Report 172-042002

**ARCHAEOLOGICAL INVENTORY SURVEY
OF TMK: (3)1-3-2:71
LAND OF KAUELEAU, PUNA DISTRICT
ISLAND OF HAWAI'I**

Haun & Associates

Archaeological, Cultural, and Historical Resource Management Services
HCR 1 Box 4730, Keaau, Hawaii 96749 Phone: 982-7755 Fax: 982-6343

**ARCHAEOLOGICAL INVENTORY SURVEY
OF TMK: (3)1-3-2:71
LAND OF KAUELEAU, PUNA DISTRICT
ISLAND OF HAWAI'I**

By:

Alan E. Haun, Ph.D.

and

Dave Henry, B.S.

Prepared for:

Mr. Edward Utyro
Bolton Offutt Donovan, Inc.
818 Connecticut Ave., NW Suite 303
Washington, D.C. 20006

July 2002

Haun & Associates

Archaeological, Cultural, and Historical Resource Management Services
HCR 1 Box 4730, Kaaau, Hawaii 96749 Phone: 982-7755 Fax: 982-6343

SUMMARY

At the request of Mr. Edward Utyro, Haun & Associates conducted an archaeological inventory survey of a c. 7-acre parcel located in the Land of Kaueleau, Puna District, Island of Hawai'i (TMK: (3)1-3-2:71). The objective of the survey was to satisfy historic preservation regulatory review inventory requirements of the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD), as contained within Hawaii Administrative Rules, Title 13, DLNR, Subtitle 13, State Historic Preservation Rules.

No archaeological sites or features were identified during the survey. Given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is very unlikely and no further archaeological work is recommended for the property. The absence of sites in the undeveloped portion of the project area is probably related to the lack of soil and the relatively inaccessible shoreline that is characterized by low cliffs.

CONTENTS

Introduction	·	1
Scope of Work	·	1
Project Area Description	·	1
Field Methods	·	4
Archaeological and Historical Background	·	4
Historical Documentary Research	·	4
Previous Archaeological Work	·	11
Project Expectations	·	14
Findings	·	15
Conclusion	·	15
References	·	18
ILLUSTRATIONS		
Figure 1. Portion of USGS Hilo Quadrangle Showing Survey Areas	·	2
Figure 2. Coconut Orchard	·	3
Figure 3. Cinder Pile	·	3
Figure 4. Secondary Growth Vegetation in Bulldozed Area	·	5
Figure 5. Pandanus Grove	·	5
Figure 6. Ahupua'a Boundaries and Previous Archaeological Work	·	6
Figure 7. Reg. Map No. 1411	·	8
Figure 8. Undated Map of Kehena Lots	·	9
Figure 9. Portion of Wall's 1902 Map of Puna District	·	10
Figure 10. Portion of Wall's 1915 Puna Gov't. Tracts Map	·	13
Figure 11. Project Area Map	·	16
Figure 12. Burial Platform Outside Project Area	·	17
Figure 13. Additional Platforms to East of Project Area	·	17
TABLES		
Table 1. Summary of Previous Archaeological Work	·	12

INTRODUCTION

At the request of Mr. Edward Utyro, Haun & Associates conducted an archaeological inventory survey of a c. 7-acre parcel located in the Land of Kaueleau, Puna District, Island of Hawai'i (TMK: (3)1-3-2:71; *Figure 1*). The objective of the survey was to satisfy historic preservation regulatory review inventory requirements of the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD), as contained within Hawaii Administrative Rules, Title 13, DLNR, Subtitle 13, State Historic Preservation Rules (DLNR 1998).

The survey fieldwork was conducted April 19, 2002, under the direction of Dr. Alan Haum. Described in this final report are the project scope of work, field methods, background information, survey findings, and significance assessments of the sites with recommended further treatments.

Scope Of Work

Based on DLNR-SHPD rules for inventory surveys, the following specific tasks were determined to constitute an appropriate scope of work for the project:

1. Conduct background review and research of existing archaeological and historical documentary literature relating to the project area and its immediate vicinity—including examination of Land Commission Awards, *ahupua'a* records, historic maps, archival materials, archaeological reports, and other historical sources;
2. Conduct a high intensity, 100% pedestrian survey coverage of the project area;
3. Conduct detailed recording of all potentially significant sites including scaled plan drawings, written descriptions, and photographs, as appropriate;
4. Conduct limited subsurface testing (manual excavation) at selected sites (a) to determine the presence or absence of potentially significant buried cultural deposits or features, and (b) to obtain suitable samples for radiocarbon age determination analyses;
5. Analyze background research and field data; and
6. Prepare and submit Final Report.

Project Area Description

The project area consists of a c. 7-acre, roughly rectangular-shaped parcel located in the Land of Kaueleau, Puna District, Island of Hawai'i. The parcel is bordered on the northeast by the Kapoho-Kalapana Road, on the east and southeast by State of Hawaii Conservation Lands, and on the southwest by a plantation of young coconut trees. The parcel ranges in elevation from 80-100 feet. Rainfall in the area ranges from 60 to 100 inches per year (Juvik and Juvik 1998:57).

Portions of the parcel have been impacted by modern agricultural activity and bulldozer disturbance. The southwestern end of the parcel is currently planted in young coconut (*Cocos nucifera* L.) trees (*Figure 2*). A dirt road originates at the Kapoho-Kalapana Road, and extends to the southeast into this area, eventually angling to the southwest and leading to the residence of an adjacent landowner. Betel nut palms (*Areca catechu* L.) line this road. The area is very level and has been bulldozed, evidenced by a large push-pile of earth and stones at the southeastern end, northwest of the coastal escarpment. There is a large pile of imported lava cinders located to the southeast of the parcel, on State Land (*Figure 3*). A bulldozer cut extends from the berm to the cinder pile. This cut is bordered by linear pushpiles of stone and soil.

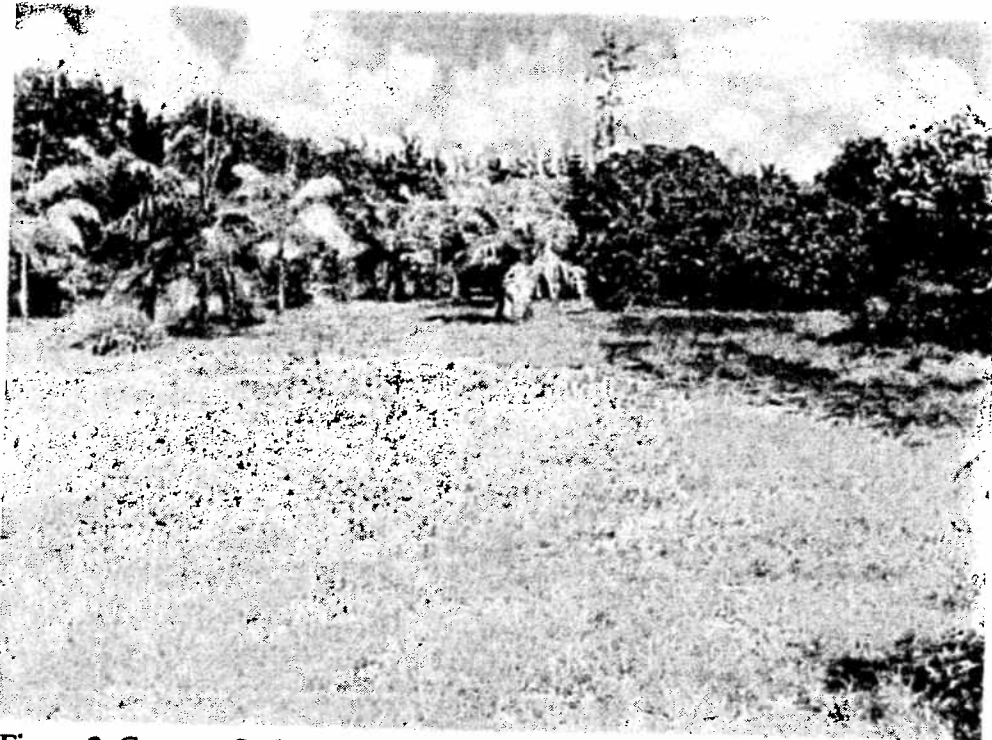


Figure 2. Coconut Orchard, view to southwest



Figure 3. Cinder Pile, view to southeast

The area immediately to the northeast of the dirt road has also been disturbed. The ground surface here is also level, and secondary growth vegetation consisting of guava (*Psidium cattleianum* f. *lucidum* Degener), vines, and grasses dominates the area (Figure 4). The bulldozer berm mentioned above extends along the seaward portion of this area.

The southeastern side of the parcel consists of a coastal escarpment comprised of bare lava in the seaward portion and scattered pandanus (*Pandanus odoratissimus* L. f.) and ohia (*Metrosideros collina* (Forst.) Gray) growing in a thin humus layer over bedrock. A pile of modern milled lumber was observed in this area, possibly representing the remnants of recent shack. State of Hawaii Conservation Land abuts this area on the seaward side.

The remaining portion of the parcel appears to be relatively undisturbed. The vegetation in this area is comprised predominately of pandanus, with scattered coconut, noni (*Morinda citrifolia* L.) and ironwood (*Casuarina equisetifolia* L.; Figure 5). A dirt road is also located at the eastern end of the project area, originating at the Kapoho-Kalapana Road, and extending to the south and southwest where it eventually splits. One fork of the road extends to the south, terminating at the edge of an eroding cliff above the ocean. The second fork continues to the southwest, where it terminates within the pandanus grove.

Geologically, the project area is situated on Kilauea lava flows that date to between 400 and 750 years before present (Wolfe and Morris 1996). The soil within the project area is comprised of Malama extremely stony muck on 3-15% slopes (Sato et al. 1973:37). This soil is typified by a thin (3") very dark brown very stony muck over fragmented a'a lava. It has a rapid permeability, a slow runoff and a slight erosional hazard. Sato et al. indicate that this soil is most commonly used for woodland, pasture and orchards (1973:37). The lava substrate in this area consists of a Holocene Era flow from Kilauea (Wolfe and Morris 2001).

Field Methods

The project area was subjected to a 100% surface examination with surveyors spaced at 10 m intervals. The transects were oriented in a northeast by southwest direction, or parallel to the Kapoho-Kalapana Road. No archaeological sites were identified within the parcel, though a well-constructed stone platform was observed c. 12 m east of the eastern project area boundary. The location of this platform was determined with the aid of a Garmin Global Positioning System (GPS) III+. Due to its close proximity to the project area, the platform was briefly described and photographed. Numerous additional platforms were observed to the east of the project area, on a rugged lava flow.

Five shovel tests were excavated along the inland side of the coastal escarpment, in order to test for the presence of buried cultural deposits. The shovel tests were dug within stratigraphic layers and were terminated on bedrock. The soil removed during the excavations was screened through 1/4" mesh. No portable remains were recovered. The soils identified during subsurface testing were briefly documented, using Munsell soil colors and U.S. Soil Conservation Service terminology, then the tests were backfilled.

ARCHAEOLOGICAL AND HISTORICAL BACKGROUND

Historical Documentary Research

The project area is situated in the *ahupua'a* of Kaeleau in Puna District (Figure 6). The *ahupua'a* covers 1,822 acres and extends from the coast to approximately 1,100 ft elevation. The USGS quadrangle and tax maps both give the same spelling for the *ahupua'a* (Kaeleau). During the Mahele, the entire *ahupua'a* was awarded to Victoria Kamamalu (LCA 7713:13). The Indices of Awards (Indices 1929), Native Register (NR n.d; 440-444v5), and Foreign Testimony (FT n.d; 408-411v3) all indicate that the *ahupua'a* name was Kauwalehua.

There is no mention of Kaeleau or Kauwalehua in Hawaiian traditional and legendary accounts. Crozier and Barrere (1971) note that in Puna, few pre-missionary traditions and legends survived because



Figure 4. Secondary Growth Vegetation in Bulldozed Area, view to northwest



Figure 5. Pandanus Grove, view to northwest

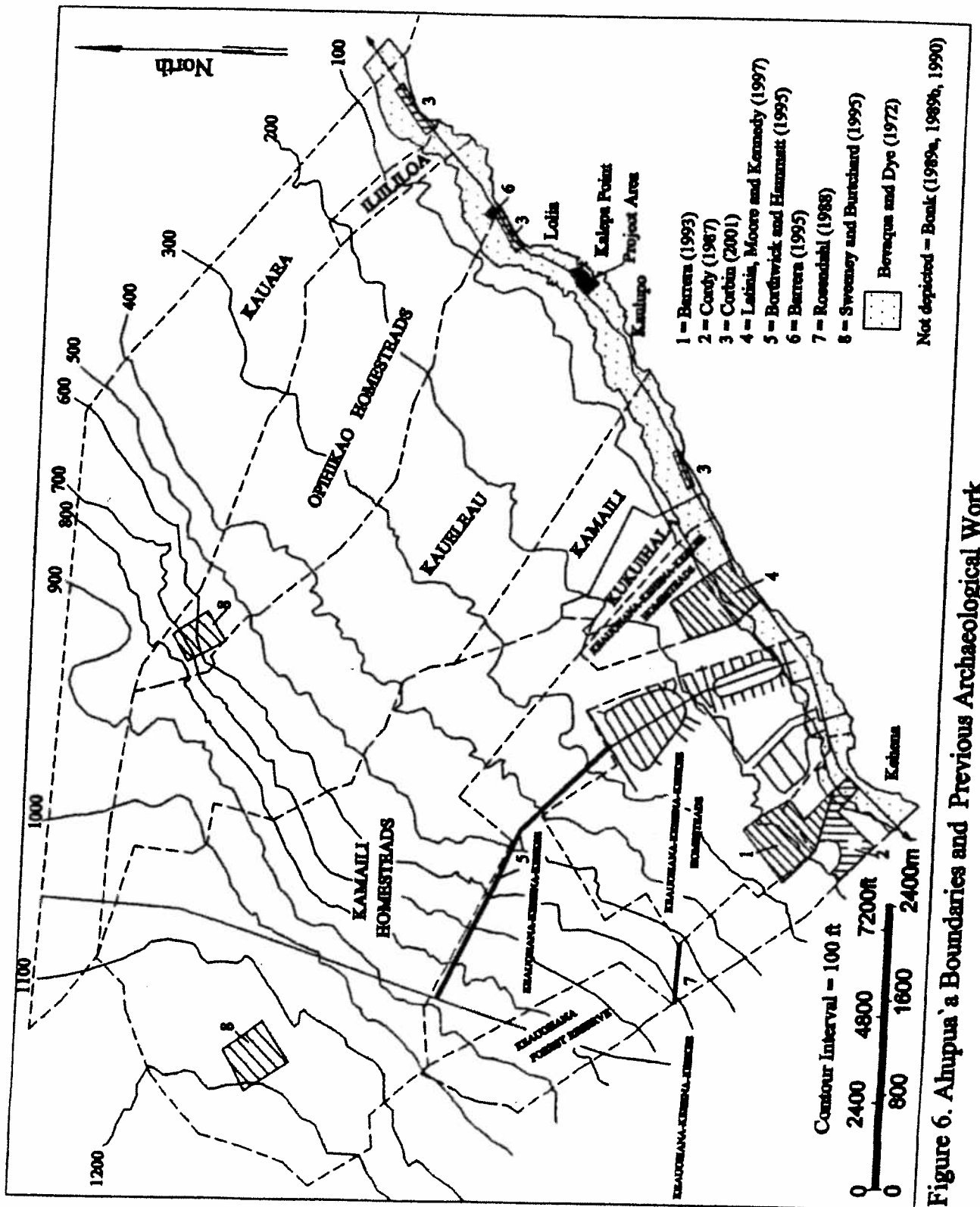


Figure 6. Ahupua'a Boundaries and Previous Archaeological Work

of intensive mission work by Reverend Titus Coan between 1835 and the 1870s. Emory et al. (1959) suggest that Puna's traditional history is difficult to follow because of the dominating influence of the ruling families in the neighboring districts of Hilo and Ka'u. Handy and Handy (1972:542) state that Hawaiian traditions suggest that Puna "was once Hawaii's richest agricultural region and that it is only in relatively recent time that volcanic eruption has destroyed much of its best land".

Hua'a was the chief of Puna when it was seized by 'Umi-a-Liloa, unifying his control over the Island of Hawaii (Kamakau 1961). Hua'a was killed during a battle with one of 'Umi's warrior sons, Pi'imai-wa'a, at Kuolo in Kea'au. Kalani'opu'u unified his control over Hawaii Island when he gained control of Ka'u and Puna following Alapa'i's defeat in a battle at Mahinaakaka. During Kalani'opu'u's rule, the Puna chief, I-maka-koloa, attempted a rebellion and seized the valuable products of the district including 'o'o and *mamo* bird features, hogs, fine mats made from pandanus blossoms and from young pandanus leaves, gray tapa cloth, and tapa cloth made from *mamaki* bark (Kamakau 1961).

Following the death of Kalani'opu'u, in 1782, a dispute over ascendancy ensued culminating in the battle of Moku'ohai (Kamakau 1961, Kurykendall 1938). Following the battle, control over the island was divided between Keoua Ku'ahulu'ula, who held Ka'u and a portion of Puna; Keawema'uhili, who controlled the remainder of Puna, Hilo, and southern Hamakua; and Kamehameha, who controlled northern Hamakua, Kohala, and Kona. A feud between Keoua and Keawema'uhili in 1785, resulted in Keawema'uhili's death and the expansion of Keoua's territory, including the unification of Puna. The island was finally re-unified in 1791 when Kamehameha killed Keoua at Kawaihae. In 1790, a lava flow extended diagonally across Kaueleau from the northeast above Opihikao to the coast at Kamaili (Wolfe and Morris 1996).

Early historic accounts document that Puna was well populated and intensively cultivated. In 1823, Ellis (1825) traveled along the coast from Kaimu to Kapoho, probably passing through, or very close to, the project area. At Kaimu, there was a sandy beach and village with an estimated 725 occupants. Also described, are plantations and groves of coconuts and *kou*. Ellis estimated that the population of Kaimu and nearby villages was approximately 2,000. Ellis described a village surrounded by plantations at Kamaili, which is immediately south of Kaueleau, where they were given taro and potatoes. Other crops noted by Ellis in Puna included bananas and sugar cane. In 1841, the Wilkes Expedition passed through the inland portion of Kaueleau (Burtchard 1994).

During the Mahele, Kaueleau was awarded to Victoria Kamamalu (LCA 7713:13). The following summarizes Burtchard (1994) discussion of Puna's later history. Prior to the 1870s, foreign influence in Puna primarily was limited to missionaries. In the late 1870s, Robert Rycroft moved to Pohoiki and built a home, wharf, sawmill, jail and courthouse. He later began growing coffee in the area and built a coffee mill. In the mid-1880s, the government began selling land in Puna for homesteads. Most of the homestead land was acquired for coffee cultivation in the 1890s.

Figures 7 and 8 depict lands at 'Opihikao to be leased in 1892 and lots to be sold at Kehena, respectively. The 'Opihikao land consisted of 1,500 acres immediately north of Kaueleau to be auctioned for lease for a period of 25 years with an upset price of \$200 per year. *Figure 7* is an undated map, probably dating to the late 1800s to early 1900s showing two lots for sale inland of Kehena Village. The map also shows that the land bordering the coast consisted of a patchwork of bare a'a lava and a'a covered with guava or pandanus. The main road parallels the shoreline. Based on cartographic research, Burtchard (1994) identified an area of inland cultivation named Kama'a in Kaueleau.

Figure 9 is a portion of Wall's 1902 map of Puna. The map shows four grants in Kaueleau: an inland grant (3198) to J. Kalaokahaku of 136.14 acres; and two parcels on the inland side of the coastal Government Road, Grant 3232, Ap. 1 to Naohumakua (100.2 acres) and Grant 1359 to Makumaili (42.29 acres); and a coastal parcel, Grant 3232 Ap. 2, to Naohumakua (27.2 acres). A trail paralleling the coast extends through the inland grant. Nine place names are shown for coastal Kaueleau. From east to west the names are Waiwelo, Puupuohahaloa, Lolia, Maikoikoi, Kaleano, Kaulupo, Kaeha, Hanalioli, and Kalaula.

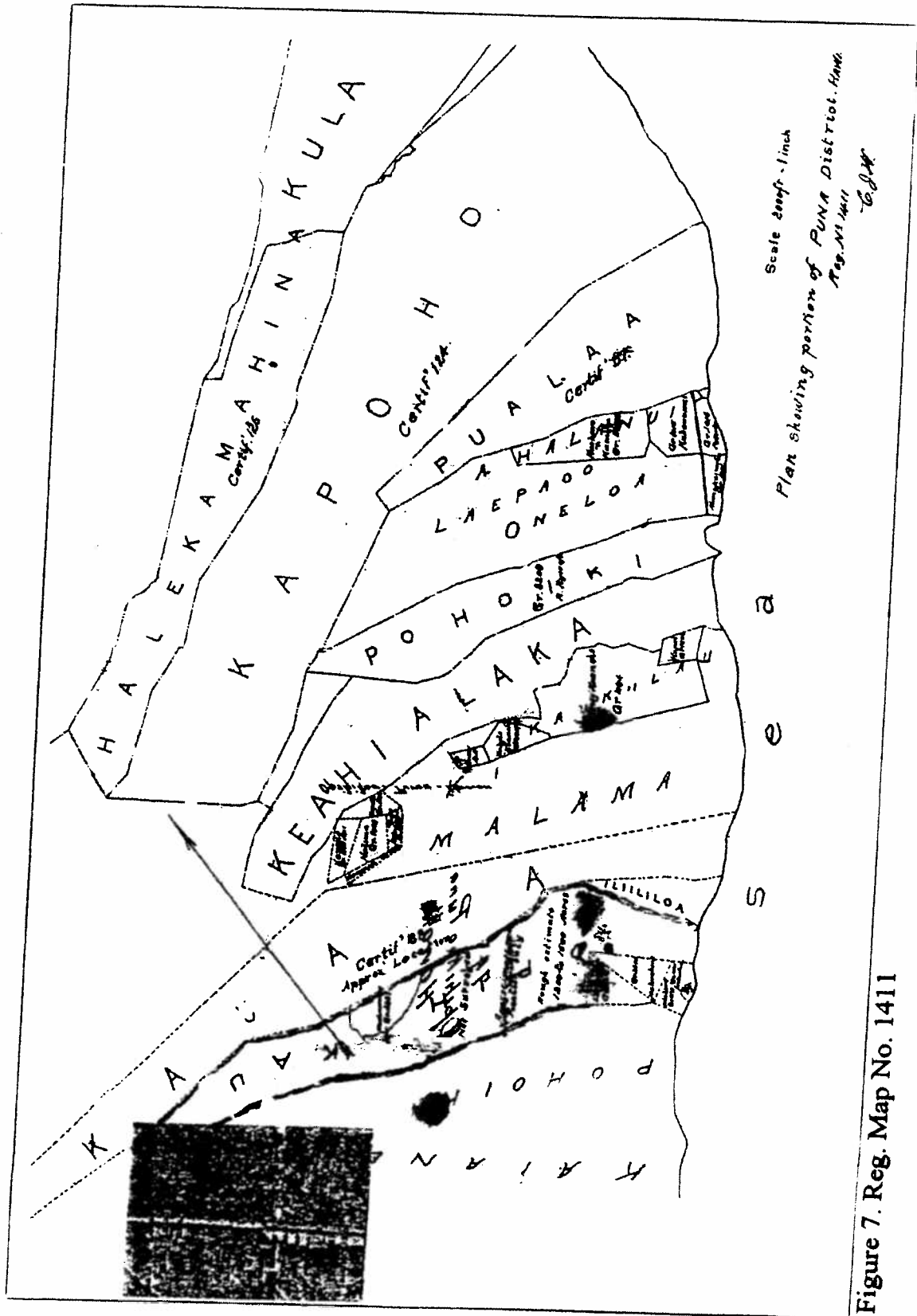


Figure 7. Reg. Map No. 1411

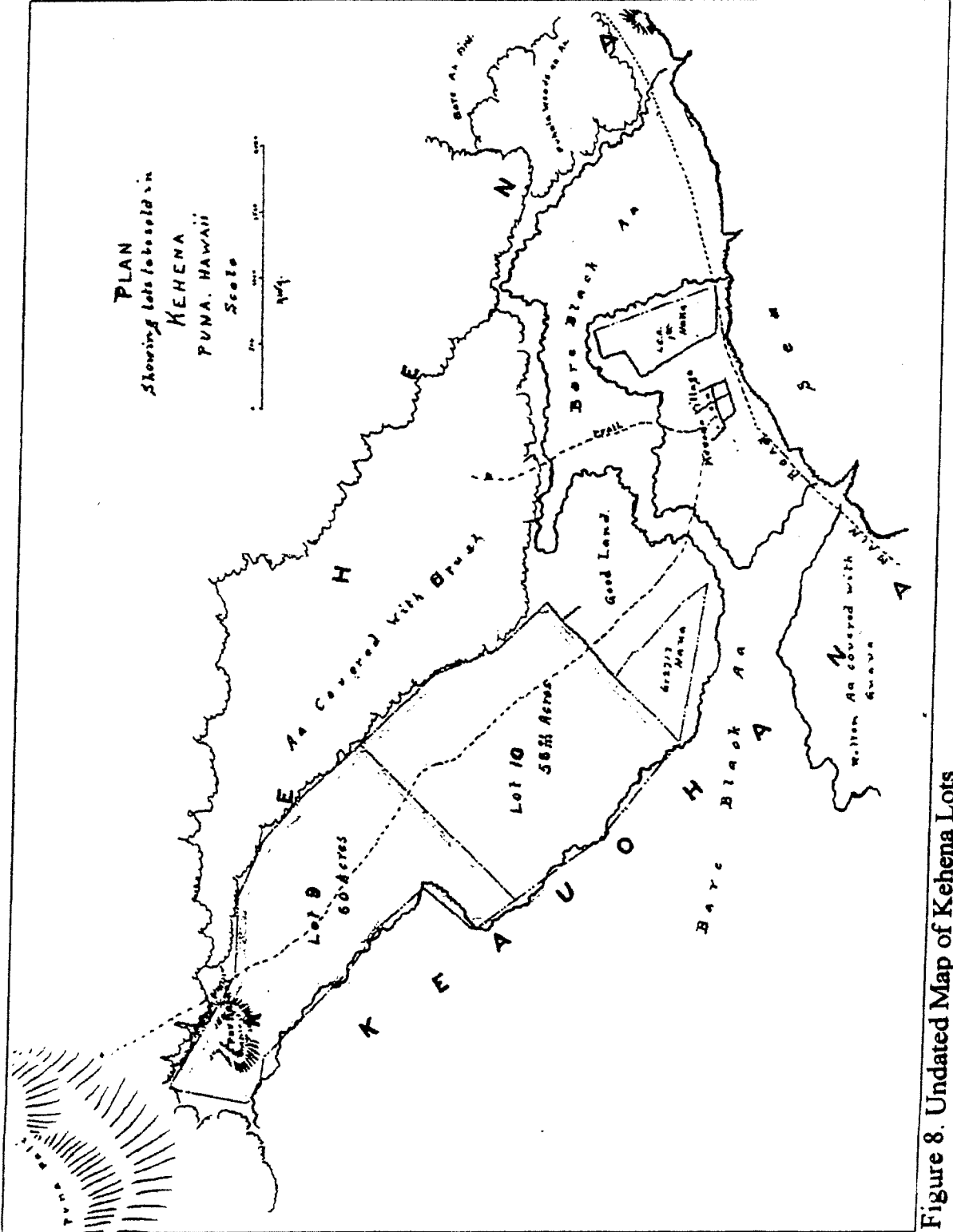


Figure 8. Undated Map of Kehena Lots

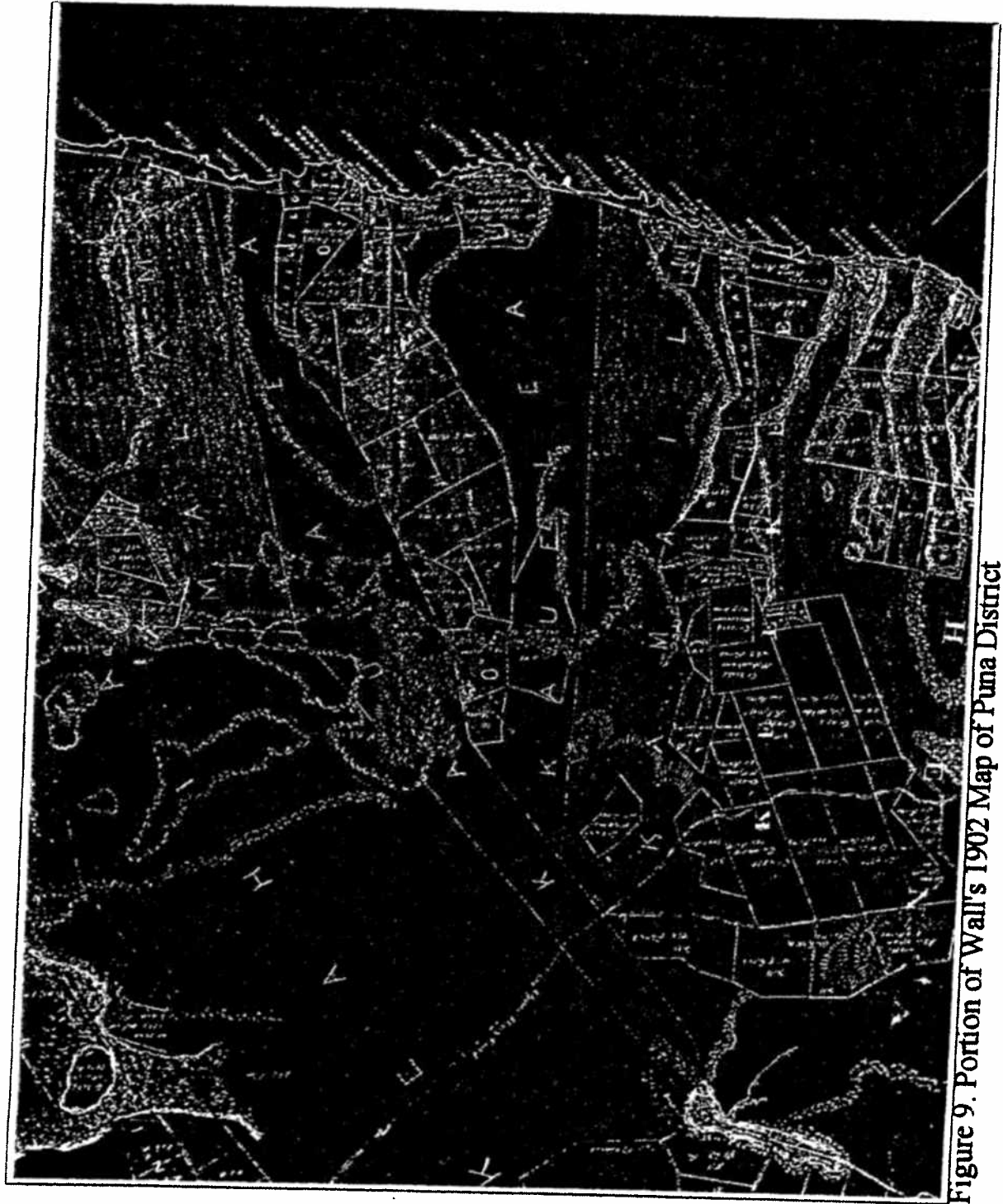


Figure 9. Portion of Wall's 1902 Map of Puna District

Figure 10 is a portion of Wall's 1915 map of government lands in Puna. The map shows a coastal road and villages at 'Opihikao and Kehena.

Puna Sugar Company was established in 1900 at Kapoho. Between 1900 and the 1930s, the population of the region grew dramatically with the expansion of sugar cane cultivation, pineapple production, the timber industry, and other commercial developments. In the early 1900s, the Hilo Railroad Company developed a rail system from Hilo Town to Puna. A section of the railway extended through the inland portion of Kaueleau (Burtchard 1994: Figure 11). In 1907, the Hawaiian Mahogany Lumber Co. was established by James B. Castle to provide railroad ties to the mainland United States. A mill was built at Pahoa and lands being cleared for sugar cane cultivation provided a steady supply of timber. The mill lost its contract to provide railroad ties in 1913 because the ties did not last as long as anticipated. The mill was leased for sugar plantation use in 1917.

By the late 1920s, concern over forest depletion and watershed maintenance led to the creation of the Puna, Nanawale, and Malama-Ki Forest Reserves. Handy and Handy (1972) citing oral historical sources, indicate that in the 1930s there were homesteading areas in 'Opihikao, Kaueleau, Kamaili, Ke'eke'e, Kehena, and Keauohana. Dry land taro was grown throughout the inland portions of these *ahupua'a*. A particular taro cultivation method, *pa-hala*, is described for the area from Kalapana to Kamaili. The method involved excavating a hole in a lava in a pandanus grove. The hole was then filled with weeds, which were allowed to rot for six weeks or more. A taro cutting (*huli*) was wrapped in pandanus leaves and planted in the hole. After the cutting produced three or four leaves, the pandanus branches were cut to provide sunlight and the taro plant was covered with pandanus leaves. After the pandanus leaves were sufficiently dry, the leaves were burned reducing them to ash that provided nourishment to the taro plant, which grew tall enough to hide a man beneath the leaves.

Puna Sugar Company continued in operation until the early 1980s. Beginning in the late 1950s, real estate development, along with tourism and diversified agriculture gradually replaced plantation agriculture in Puna. Today, most of the project area is undeveloped except for a coconut grove at the southwestern edge, the remains of a recent wooden shelter on the seaward side of the parcel, and a dirt road.

Previous Archaeological Research

A search of the DLNR-SHPD archaeological report database and other sources identified ten archaeological projects between Kauaea and Kehena. Figure 6 shows the project locations and Table 2 summarizes the projects. Not included in the figure or table are the studies by Stokes (Stokes and Dye 1991), which focused on major sites, primarily *heiau* throughout Hawaii Island and a survey of east Hawaii by Hudson (1932). The study by Bevaqua and Dye (1972) included the current project area. They identified two sites in Kaueleau: Pua'akanu Cemetery situated immediately east of the project area, and portions of the King's Highway along the coast.

Stokes (Stokes and Dye 1991), relying in part on the earlier observations of Thrum, reported fourteen *heiau* in Puna of which three were destroyed at the time of Stokes' fieldwork in 1906. Several of the *heiau* were reported to be agricultural temples. Hudson (1932) reported 32 sites along the coast between Kapoho and Kaimu including the Hilo-Puna Trail, habitation platforms and enclosures, water sources (cave and well), windbreak shelters, and four *heiau*: Mahina'akaka Heiau at Keahialaka, Kalepa at Kalepa Point, "Old" Wahaula Heiau at Kamaili, and Kumakaula at Ke'eke'e. Kalepa Point is situated west of the project area in Kaueleau Ahupua'a

The surveys in Table 2 cover nearly 630 acres of Puna between sea level and 2,000 ft elevation. Cultural remains identified by the surveys consist of 108 sites with over 900 features. To aid in reconstructing settlement patterns, features were quantified by probable age and function. Traditional Hawaiian features were categorized as habitation, agricultural, burial, ritual, and trail. Other features were categorized

Table 1. Previous Archaeological Work

Author	Date	Land	Study Type*	Elevation	Acres	No. of sites	Sites/acre	No. of Feas.	Feas/acre	Hab Feas	Hab Feas/acre	Ag Feas	Ag Feas/acre	Burial Feas	Ritual Feas	Trail	Misc	Historic Feas	Comment
Barrera	1983	Kauoehana	RN	120-300	66	1	0.02	187	2.53	5	0.06	150	2.27	3				9	
Cordy	1987	Kauoehana	RN	80-260	39	15	0.38	92	2.36			20	0.51	63		4		5	
Corbin	2001	Kamali, Kauae, Keueteleu	IN	20-40	6.3	1	0.19	40	7.55			40	7.55	1					
Lalinde, Moore and Kennedy	1987	Keelae	IN	100-300	94	6	0.06	128	1.36	3	0.03	86	0.94	24	3	4	2	4	
Sweeney and Burtchard/Burtchard	1966/1964	various	RN	0-2000	247	34	0.14	65	0.28	5	0.02	16	0.06	22	1	5	6	11	
Borthwick and Hammett	1965	Kamali, Keelae, Kahana, Kauoehana	AS	280-880	9.99	0													
Barrera	1996	Kauoehana	DR	36-40	3	3	1.00	9	3.00	2	0.67							7	
MLK Rosendahl	1988	Kauoehana and Kahana	FI	640-620	1.7	0													
Beeque and Dye	1972	Kapoho-Kalepuna	RN	20-40	151	48	0.32	426	2.82	61	0.40	many		156	3	5	188	7	feature labels estimated, moel not quantified in report; misc. incl. 165 petroglyphs
Bonk	1969/1990	Kaimu, Maikuu, Kaohu, Kahana, Kaepahu and Maunahi	RNV MON	1480-1540	10	0													
Total/Average					626.99	108	0.30	927	2.84	78	0.20	314	2.27	269	7	16	198	43	

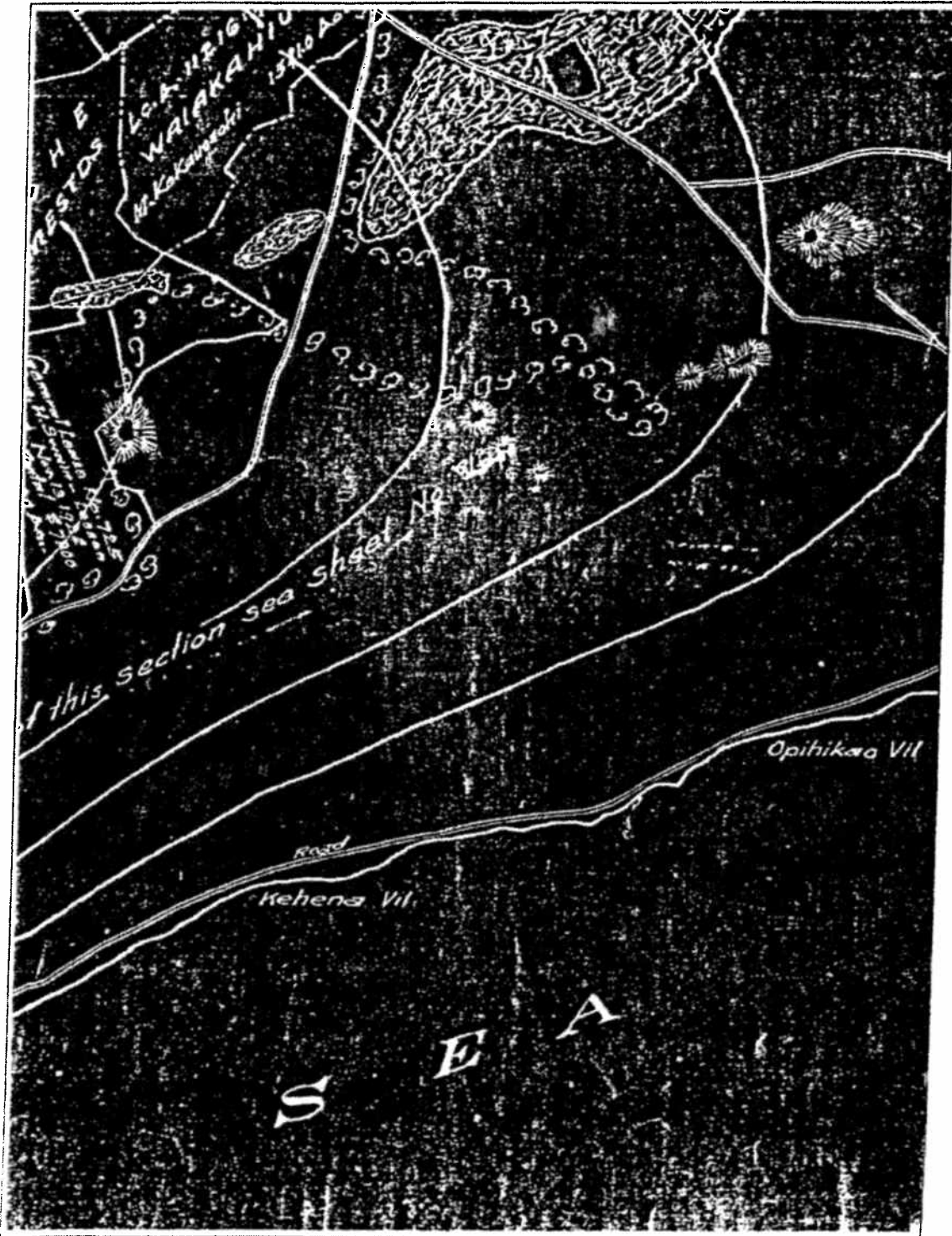


Figure 10. Portion of Wall's 1915 Puna Gov't Tracts Map

as miscellaneous. Traditional sites in this category include petroglyphs, *holua* slides, water sources, and *ahu*. Density values are given for sites, features, and habitation and agricultural features.

Overall, the studies have identified more than 76 habitation features, 314 agricultural features, 269 burials, 7 ritual features, and 18 trails. The large number of burials includes several historic cemeteries. Other historic features were not segregated by function. The majority of the historic features are walls and roads. None of the studies processed radiocarbon dates. With the exception of some small inland *kipuka* and a 1790 lava flow, the surface of the terrain in Kauaeleau is between 400 and 750 years old (Wolfe and Morris 1996). Thus, except for the *kipuka*, any evidence of occupation would post-date A.D. 1250.

McEldowney (1979) primarily used historic documentary evidence to develop a land use and settlement pattern model for the windward Hilo area that is probably applicable to most of Puna. The model consists of five elevationally-defined zones: Coastal Settlement, Upland Agricultural, Lower Forest, Rainforest, and Sub-Alpine or Montane. The Coastal Settlement Zone extended approximately 0.5 miles inland from the shoreline between sea level and 50 ft elevation. The zone was the most densely populated with both permanent and temporary habitations, high status chiefly residences, and *heiau*. Settlements were concentrated at Hilo Bay and sheltered bays and coves. Also present were fishponds and gardens where breadfruit, coconut, *kukui*, banana, *wauke*, sugar cane, sweet potato, and wet and dryland taro were cultivated. The ocean provided fish and other marine resources.

The Upland Agricultural Zone was situated between approximately 50 ft and 1,500 ft elevation. Settlement in the zone consisted of scattered residences among economically beneficial trees and agricultural plots of dryland taro and bananas. Lava tubes were utilized for shelter. A pattern of shifting cultivation is believed to have converted the original forest cover to parkland of grass and scattered groves of trees. Wetland cultivation of taro occurred along streams.

The Lower Forest Zone ranged from 1,500 ft to 2,500 ft elevation. Timber and other forest resources such as medicinal plants, *olona*, and birds were gathered from the zone. Site types consisted of temporary habitations, trails, shrines, and minor agricultural features in forest clearings and along streams. Sites in the Rainforest Zone (2,500-5,000 ft elevation) and Subalpine or Montane Zone (5,000-9,000 ft) were limited to trails and associated temporary habitations. These zones were used for intra-island travel and gathering of valued resources including hardwoods, birds, and stone for tool making.

PROJECT EXPECTATIONS

Prehistoric use of coastal Kauaeleau likely included habitation, fishing and collecting of marine resources, burial and ritual based on McEldowney's (1979) model. Historic sites dating to the 1900s potentially would consist of roads, ranching related features, and habitations.

FINDINGS

No archaeological sites or features were identified during the survey. Portions of the parcel have been impacted by bulldozer activity, evidenced by leveled areas, bulldozed berms and secondary growth vegetation (*Figure 11*). A well-constructed stone platform is present approximately 12.0 m to the east of the project area. This platform is located in an area of weathered lava with vegetation consisting of scattered ferns and *ohia* trees. It is rectangular in shape and is 5.1 m long (northeast by southwest), 3.75 m wide, and from 0.45 to 1.2 m in height. The sides of the structure are faced cobbles and small boulders and the surface of the platform is level and paved with small cobbles (*Figure 12*). There is a depression in the center of the platform that is 1.2 m long (northeast by southwest), 0.75 m wide, and 0.45 m in depth. The entrance to a small blister cave is present at the base of the depression.

Numerous other platforms are located to the east of this structure, on the lava flow (*Figure 13*). Bevacqua and Dye's survey of the Kapoho-Kalapana Highway area identified this burial complex as the Pua'akanu Cemetery (Site 2534), which reportedly contains 100 graves and encompasses 10 acres (1972:20).

Subsurface testing was undertaken within the project area to test for the presence of buried cultural deposits. Five shovel tests were excavated along the inland side of the coastal escarpment (see *Figure 11*). These shovel tests evidenced identical soil stratigraphy, consisting of 0.05 to 0.2 m of a dark brown (10YR 3/3) sandy loam organic layer. No cultural remains were present in any of the five shovel tests. The excavations were all terminated on bedrock.

CONCLUSION

There are no historic sites on the property. Given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is very unlikely and no further archaeological work is recommended for the property. The absence of sites in the undeveloped portion of the project area is probably related to the lack of soil and the relatively inaccessible shoreline that is characterized by low cliffs. The presence of an historic cemetery adjacent to the parcel provides support for a traditional perception of the vicinity as not being suitable for habitation or agriculture.

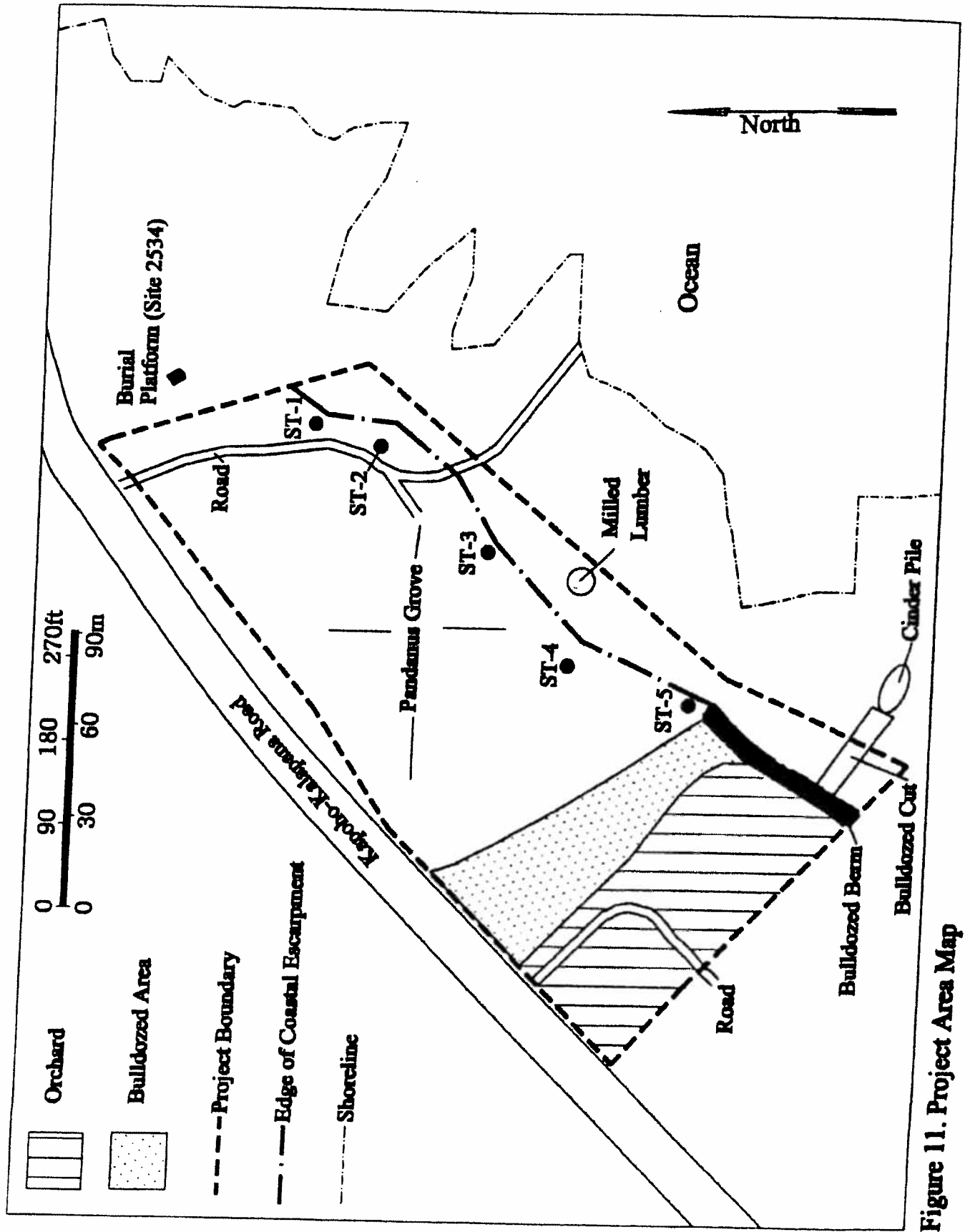


Figure 11. Project Area Map



Figure 12. Burial Platform Outside Project Area, view to east



Figure 13. Additional Platform to east, view to east

References

- Barrera, W.
1993 Keauohana, Puna, Hawaii Island. Archaeological Reconnaissance of TMK: 1-2-09:6 & 8. CHINAGO INC. Report prepared for Harriet M. Wedeman.
1996 Kaueleau, Puna, Hawaii Island: Archaeological Data Recovery of HRHP 15312 (TMK: 1-3-04:13). Comstock Cultural Resource Management, Inc. Report prepared for Bernard Garner.
- Bevacqua, R., and T. Dye
1972 Archaeological Reconnaissance of Proposed Kapoho-Kalapana Highway, District of Puna, Island of Hawaii. Dept. of Anthropology, B.P.B.M. Prepared for Sam Hirota, Inc. and Dept. of Public Works.
- Bonk, W.
1989a An Archaeological Reconnaissance Survey in the Geothermal Resource Subzone of Upper Kamaili, Kehena and Kikala, Puna, Hawaii. Prepared for Hawaii Natural Energy Institute.
1989b An Archaeological Monitoring and Additional Reconnaissance Survey in the Geothermal Resource Subzone of Upper Kaimu, Makuu, Kaohe, Kehena, Kaapahu and Kamili, Puna, Hawaii. Prepared for Mid-Pacific Geothermal, Inc.
1990 An Archaeological Reconnaissance Survey in the Geothermal Resource Subzone of Upper Kaimu, Makuu, Kaohe, Kehena, Kaapahu and Kamili, Puna, Hawaii. Prepared for Mid-Pacific Geothermal, Inc.
- Borthwick, D., and H. Hammatt
1995 An Archaeological Assessment for the Proposed Hawaii Electric Light Company, Inc. (HELCO) Electric Distribution System in the District of Puna, Hawaii Island (TMK: 1-2-09; Por 2, 1-2-30; 1-2-31).; Cultural Surveys Hawaii, Inc. Report prepared for R.M Towill Corp.
- Burchard, G.C.
1994 Archaeology in the Kilauea East Rift Zone, Part I: Land Use Model and Research Design: Kapoho, Kama'ili & Kilauea Geothermal Subzones, Puna District, Hawaii Island. Prepared by International Archaeological Institute, Inc. for U.S. Department of Energy, Oak Ridge National Laboratory.
- Corbin, A.
2001 Archaeological Inventory Survey, Kalapana Road Realignment Project, Lands of Kamaili, Kauaea and Kaueleau, District of Puna, Island of Hawaii (TMK: 3-1-3-02; 03, 04). PHRI Report 1999 prepared for Ronald Sato.
- Cordy, R.
1987 Archaeological Reconnaissance, Keauohana Ahupua'a, Puna, Hawaii Island. Historic Sites Section, Division of State Parks, Dept. of Land and Natural Resources, State of Hawaii.
- Crozier, N., and D. Barrere
1971 Archaeological and Historical Survey of the Ahupua'a of Pualaa, Puna District, Island of Hawaii. Report 71-1. Dept. of Anthropology, B.P. Bishop Museum. Honolulu.

- DLNR (Department of Land and Natural Resources)
 1998 Hawaii Administrative Rules, Title 13, Department of Land and Natural Resources, State Historic Preservation Division.
- Ellis, W.
 1963 Journal of William Ellis, Narrative of a Tour of Hawaii, or Owhyee... Honolulu: Advertiser Publishing Company.
- Emory, K., H. Cox, W. Bonk, Y. Sinoto, and D. Barrere
 1959 Natural and Cultural History Report on the Kalapana Extension of Hawaii National Park. Volume I, Cultural History Report. B.P. Bishop Museum Ms.
- FT
 n.d. Foreign Testimony Recorded by the Board of Commissioners to Quiet Land Titles in the Hawaiian Islands. Manuscript. Hawaii State Archives.
- Handy, E.S.C. and E.G. Handy
 1972 Native Planters in Old Hawaii. *B.P. Bishop Museum Bulletin* 233. Bishop Museum Press, Honolulu (with M.K. Pukui).
- Hudson, A.
 1932 Archaeology of East Hawaii. Bernice P. Bishop Museum.
- Indices
 1929 *Indices of Awards Made by the Board of Land Commissioners to Quiet Land Titles in the Hawaiian Islands*. Territory of Hawai'i, Honolulu.
- Juvik, S.P. and J.O. Juvik (editors)
 1998 *Atlas of Hawaii*, Third Edition. University of Hawaii Press. Honolulu.
- Kamakau, S.
 1961 *Ruling Chiefs of Hawai'i*. Honolulu: The Kamehameha Schools Press.
- Kuykendall, R.S.
 1938 *The Hawaiian Kingdom 1778-1854. Foundation and Transformation*. Honolulu: University Press of Hawaii.
- Latinis, D., J. Moore and J. Kennedy
 1997 An Archaeological Inventory Survey Including Subsurface Testing for a portion of the Ahupua'a of Keekee Located at TMK: 1-2-09:29 (The Kalani Kai Subdivision), Puna District, Island of Hawaii. Archaeological Consultants of the Pacific, Inc. Report prepared for Mr. Richard Koob.
- McEldowney, H.
 1979 Archaeological and Historical Literature Search and Research Design: Lava Flow Control Study, Hilo, Hawaii. Prepared for the U.S. Army Engineer District, Honolulu. Department of Anthropology. Bishop Museum.
- NT
 n.d. Native Testimony Recorded by the Board of Commissioners to Quiet Land Titles in the Hawaiian Islands. Manuscript. Hawaii State Archives.
- Rosendahl, M.
 1988 Archaeological Field Inspection, Access Road Corridor, Lands of Keauohana and Kehena, Puna District, Island of Hawaii (TMK: 1-2-09:03). PHRI Report 480 prepared for Mr. Glen Taguchi.

- Sato, H.H., E.W. Ikeda, R. Paeth, R. Smythe, and M. Takehiro Jr.
1973 *Soil Survey of the Island of Hawaii*. U.S. Dept. of Agriculture, Soil Conservation Service and University of Hawaii Agricultural Experiment Station. Washington D.C. Government Printing Office.
- Stokes and Dye
1991 *Heiau of the Island of Hawai'i*. *Bishop Museum Bulletin in Anthropology* 2. Bishop Museum Press, Honolulu.
- Sweeny, M. T. K., and G.C. Burtchard
1995 *Archaeology in the Kilauea East Rift Zone, Part II: A Preliminary Sample Survey, Kapoho, Kama'ili & Kilauea Geothermal Subzones, Puna District, Hawaii Island*. Prepared by International Archaeological Institute, Inc. for Oak Ridge National Laboratory.
- Wolfe, E., and J. Morris
2001 *Geological Map of the Island of Hawaii*. U.S. Department of the Interior. U.S Geological Survey

M HD CJ P ENCL
Date: 8-2-07 By JV

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Department of Land and Natural Resources
75 Aupuni Street, Suite 204
Hilo, Hawaii 96720


Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,

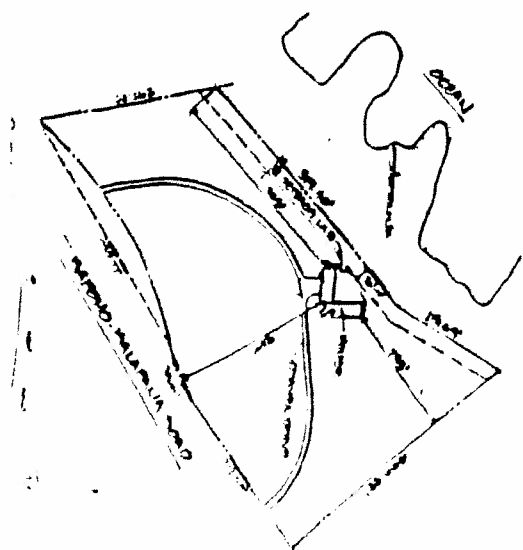
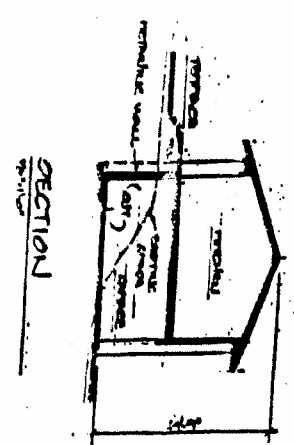
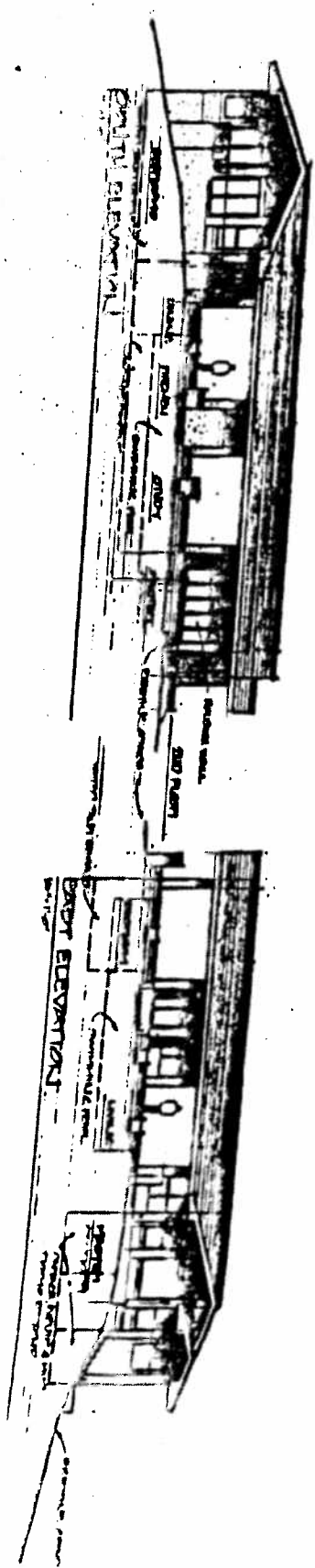
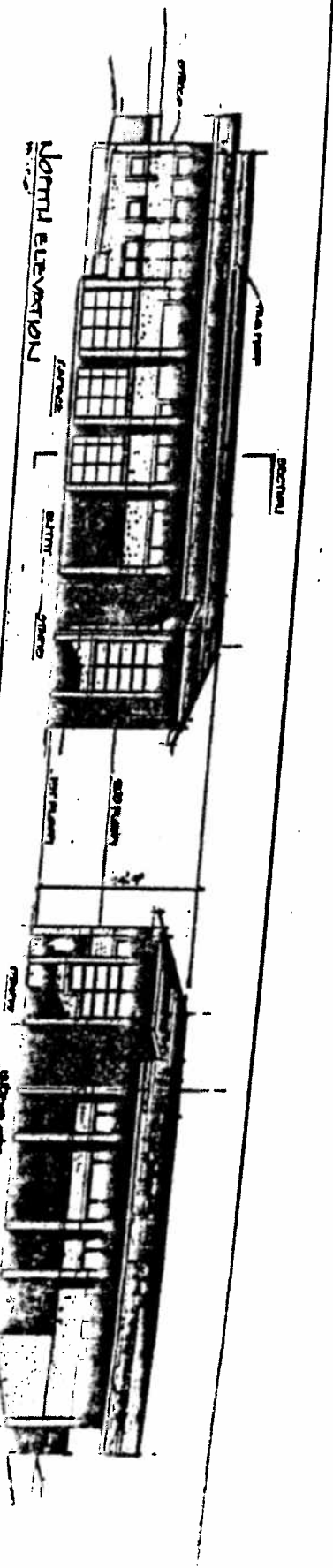

STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1.055599-0000

**NEW UTYRO - HAULER RESIDENCE
TMK 3-1-3-2-71**

SQUARE FOOTAGE

Area	Dimensions	Square Footage	
1st Floor			
Equipment Room	7'-8" x 15'-4"	115	
Mud Room	7'-8" x 20'-9"	158	
Garage	24'-0" x 33'-0"	792	
Entry	Irregular	261	
Stairs	Irregular	117	
Elevator	Irregular	<u>35</u>	
Sub Total		1,478	1,478 Sq. Ft.
2nd Floor			
Master Bedroom	15'-6" x 15'-6"	240	
Bath	3'-0" x 21'-0"	168	
Dressing Room	3'-0" x 21'-3"	172	
Study	15'-3" x 16'-0"	244	
Pantry	8'-0" x 11'-0"	86	
Hall	4'-8" x 8'-0"	27	
Kitchen	9'-5" x 24'-0"	228	
Dining Room	15'-3" x 24'-0"	366	
Foyer	Irregular	138	
Living Room	24'-0" x 28'-3"	678	
Bedroom 1 and Bath	12'-0" x 23'-9"	285	
Bedroom 2 and Bath	12'-0" x 23'-9"	285	
Swimming Pool and Spa	Irregular	<u>313</u>	
Sub Total		3,515	3,515 Sq. Ft.
Total			4,991 Sq. Ft.



of MD CJ P ENCL
Date: 0-2-07 By JM

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

State Historic Preservation Division
Department of Land and Natural Resources
601 Kamokila Blvd., Room 555
Kapolei, Hawaii 96707

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients

HD CJ P ENCL AL
Date: 8-2-07 By JMY

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 1250
Honolulu, Hawaii 96740

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1.055599-0000

✓ MD CJ P ENCL A
Date: 8-2-07 by JM

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Department of Health, Env. Planning Office
P.O. Box 3378
Honolulu, Hawaii 96801

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1 055599-0000

M F ENCL XC
Date: 8-2-07 by JMK

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Dept. Business, Econ. Dev. & Tourism
P.O. Box 2359
Honolulu, Hawaii 96804

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1.055599-0000

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

Dear Mr. Yuen:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1 055599-0000

HD CJ P ENCL XC
Date: 8-2-07 by JMK

N/ HD CJ P ENCL XC
Date: 8-2-07 by JMK

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Department of Water Supply
County of Hawaii
345 Kekuaaoa Street, Suite 20
Hilo, Hawaii 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the
construction of a split-level, single-family residential dwelling and related
accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

Dear Mr. Pavao:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1.055599-00002

✓ HD CJ P ENCL XC
Date: 8-2-07 by JMK

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Department of Public Works
County of Hawaii
Aupuni Center, Suite 7
101 Pauahi Street
Hilo, Hawaii 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

Dear Mr. McClure:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,



STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients

✓ HD CJ P ENCL XL
Date: 8-2-07 by JMK

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Department of Parks and Recreation
25 Aupuni Street
Hilo, Hawaii 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern::

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1 055599-00002

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Fire Department
25 Aupuni Street, Room 103
Hilo, Hawaii 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern::

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients

4815-3367-5265.1.055599-00002

MA HO CJ P ENCL XC
Date: 8-2-07 by JMK

✓ HQ W P ENCL
Date: 8-2-07 by JN

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Department of Research and Development
25 Aupuni Street
Hilo, Hawaii 96720


Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern::

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients
4815-3367-5265.1.055599-00002

HD CJ P ENCL XC
Date: 8-2-07 by JMK

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

August 2, 2007

Police Department
345 Kapiolani Street
Hilo, Hawaii 96720

Re: Pre-Assessment Consultation
Request for Agency Comments - Draft Environmental Assessment
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
Opihikao, Kaueleau, District of Puna, Hawaii
TMK: (3) 1-3-002:071 (7.180+ acres)

To Whom It May Concern:

This firm represents Edward S. Utyro and Gary R. Hauler, fee owners of the above-referenced property. We are in the process of preparing a Draft Environmental Assessment for the proposed action in accordance with the requirements of Chapter 343 HRS, Chapter 200, Subchapter 5, Section 11-200-6(b)(1)(F). Enclosed are a short narrative summary, proposed site plan and Project location map. We would appreciate your department's review and comments on the proposed Project which will be addressed in the Draft Environmental Assessment submitted to the Department of Land & Natural Resources and to the Office of Environmental Quality Control for publication and public review. We anticipate finalizing the Draft Environmental Assessment for submittal in early October, and would appreciate receiving your comments by September 1, 2007.

Should you have any questions, please feel free to contact me.

Very truly yours,


STEVEN S.C. LIM

SSL:KYL
Enclosures
xc: Clients

4815-3367-5265.1.055599-00002

PHONE (808) 594-1888

FAX (808) 594-1885



COPY

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

HRD07/3152

August 15, 2007

Steven S.C. Lim
Carlsmith Ball LLP
121 Waiuanue Ave.
Hilo, HI 96721-0686

RE: Pre-Assessment Consultation for Draft Environmental Assessment of the Proposed Action for a Conservation District Use Permit Application for the construction of a split-level, single-family residential dwelling and related accessory use improvements, TMK: (3) 1-3-002:071, 'Opihikao, Kaueleau, Puna, Hawai'i

Dear Steven Lim,

The Office of Hawaiian Affairs (OHA) is in receipt of your August 2, 2007 submission and offers the following comments:

The proposed Draft Environmental Assessment (DEA) for the Conservation District Use Permit Application of the split-level, single-family residential dwelling and related accessories could have an affect on historical, cultural, and environmental resources in the area and should be addressed in the DEA.

The proposed project is located in both the State Land Use Conservation District (Hawaii Revised Statues (HRS) §205) and the Special Management Area (HRS §205A). Potential environmental issues that should be addressed in the DEA are endangered species, pollution, and run-off that may affect the costal zone.

The project description submitted to our office included a number of ground disturbing activities. These consist of the construction of a swimming pool and spa, driveway, retaining wall, garage, underground water catchment system, private septic tank system, and landscaping. OHA recommends that the DEA include an evaluation of known historic properties in the project area.

Furthermore, a determination letter by the State Historic Preservation Division is the recommended course of action. If any significant cultural deposits or human skeletal remains that are encountered during the proposed project, work shall stop in the immediate vicinity and the State Historic Preservation Division (SHPD/DLNR) shall be contacted.

Steve Lim
Carlsmith Ball LLP
August 15, 2007
Page 2

Thank you for the opportunity to comment. We look forward to receiving the DEA to review and any further correspondence concerning this project. If you have further questions or concerns, please contact Jason Jeremiah, Policy Advocate-Preservation, Native Rights, Land and Culture, at (808) 594-1816 or jasonj@oha.org.

Aloha,



Clyde W. Nāmu'o
Administrator

C: Lukela Ruddle
OHA Community Affairs Coordinator (Hilo)
162 A Baker Avenue
Hilo, HI 96720-4869

Harry Kim
Mayor



RECEIVED AUG 1 2007
COPY

Darryl J. Oliveira
Fire Chief
Glen P.I. Honda
Deputy Fire Chief

County of Hawai'i
HAWAII FIRE DEPARTMENT
25 Aupuni Street • Suite 103 • Hilo, Hawai'i 96720
(808) 981-8394 • Fax (808) 981-2037

August 6, 2007

Carlsmith Ball LLP
121 Waianuenu Avenue
PO Box 686
Hilo, Hawaii 96721-0686

SUBJECT: PRE-ENVIRONMENTAL ASSESSMENT CONSULTATION
Applicants: Edward S. Utyro & Gary R. Hauler
Proposed Action: Conservation District Use Permit Application to allow for the construction of a split-level, single-family residential dwelling and related accessory use improvements
TAX MAP KEY: (3)1-3-002:071 Opihikao, Kaueleau, District of Puna, Hawaii

We have no comments to offer at this time in reference to the above-mentioned Pre-Assessment Consultation.


DARRYL OLIVEIRA
Fire Chief

PBE:lpc



Harry Kim
Mayor



August 16, 2007
Lawrence K. Mah
Police Chief

Harry S. Kuboji
Deputy Police Chief

COPY

County of Hawaii

POLICE DEPARTMENT

149 Kapiolani Street • Hilo, Hawaii 96720-3998
(808) 935-3311 • Fax (808) 961-8869

August 16, 2007

Mr. Steven S. C. Lim
Carlsmith, Ball, LLP
121 Waiianuenue Avenue
Hilo, Hawaii 96721-0686

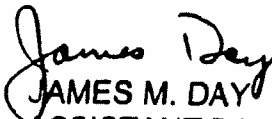
Dear Mr. Lim:

Subject: Pre-Assessment Consultation; Draft Environmental Assessment for Applicants Edward S. Utyro & Gary R. Hauler; Conservation District Use Permit Application to allow for the construction of a split level single family residential; TMK: (3)1-3-002:071

Staff, upon reviewing the provided documents and visiting the proposed site, does not anticipate any adverse public safety concerns at this time.

Thank you for allowing us the opportunity to comment.

Sincerely,


JAMES M. DAY
ASSISTANT POLICE CHIEF
AREA I OPERATIONS

SG:lli



4TYRO -
RECEIVED SEP 0 1 2007

DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8857

August 30, 2007

Mr. Steven S.C. Lim
Carlsmith Ball LLP
P.O. Box 686
Hilo, HI 96721-0686


**PRE-ENVIRONMENTAL ASSESSMENT CONSULTATION
TAX MAP KEY 1-3-002:071**

This is in response to your Pre-Environmental Assessment consultation letter, dated August 2, 2007.

Please be informed that the subject parcel is not within the Department's existing service limits. The nearest point of connection is from an 8-inch waterline within Kapoho-Kalapana Road, approximately 4.0 miles southwest of the property.

Should there be any questions, you may contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,



Milton D. Pavao, P.E.
Manager


FM:dfg

... Water brings progress...

Mr. Steven S. C. Lim
Carlsmith Ball LLP
Page 2
August 27, 2007

Please provide this office with a copy of the draft EA upon its publication. Should you have questions, please contact Maija Cottle of my staff at 961-8288 extension 253.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

MJC:cd

P:\public\wpwin60\Maija\EA-EIS\Carlsmith Utyro-Hauler 1-3-2-71 Pre-cmnts.doc

Harry Kim
Mayor



RECEIVED SEP 11 2007

Christopher J. Yu
Director

Brad Kurokawa, AS
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

August 27, 2007

Mr. Steven S. C. Lim
Carlsmith Ball LLP
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

Subject: Pre-Assessment Consultation for Draft Environmental Assessment (EA)
Project: Utyro/Hauler Single-Family Dwelling
Tax Map Key: 1-3-002:071

This is in response to your letter dated August 2, 2007, in which you requested our comments on any special environmental conditions or impacts related to the proposed development.

The subject 7.180-acre property is situated in the County of Hawaii's Special Management Area and the State Land Use Conservation district. A Special Management Area (SMA) Use Permit Assessment Application was submitted to the Planning Department on July 30, 2007, and is still under review.

The Draft EA should include discussion on how it is determined that the property has a 25-foot rear building setback, as indicated on the plot plan and floor plan. It should also include photographs of the property's coastal area.

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

1215 KAUAI AVENUE

HONOLULU, HI 96821-0686

TELEPHONE 808 935 6441 FAX 808 935 7975

WWW.CARLSMITH.COM

Handwritten: HD CU P ENCL NC
8/24/08 by JMK

Michael Cain
August 25, 2008
Page 2

Should you have any questions concerning this submittal, please feel free to contact me or my paralegal Katherine Luga. Thank you for your assistance.

Very truly yours,

Handwritten signature: Steven S.C. Lim
STEVEN S.C. LIM

Michael Cain
Department of Land & Natural Resources
Office of Conservation and Coastal Lands
Post Office Box 621
Honolulu, Hawaii 96809

August 25, 2008

Re: Draft Environmental Report and Conservation Use Permit Application
Applicants: Edward S. Ulyro and Gary R. Hauler
Proposed Action: Conservation Use Permit Application to allow for the construction of a single-family residential dwelling and related accessory use improvements (CDUA File HA-3474)
Kāneohe, District of Puna, Hawaii
TMK:(3) 1-3-012-071

Dear Mr. Cain:

We are in receipt of your July 31, 2008 Notice of Acceptance and Preliminary Environmental Determination ("acceptance letter") for the proposed single family residence and related accessory use improvements under CDUA File No. HA-3474.

This letter seeks to clarify your acceptance letter which erroneously states that the project is setback 25 feet from the makai property line. This information is repeated in the project summary in the 08/08/08 OEQC Bulletin. The Draft Environmental Assessment ("DEA") states that the makai boundary of the property is setback 57 feet from the makai property line.¹ We will address the issues in your acceptance letter in the Final Environmental Assessment.

¹ Page 3, Section 3.4 Proposed Use and Activities which states that "the proposed improvements will be sited along the southeastern (makai) boundary of the Property, approximately 57 feet from the southern property boundary."

1870 Wyoming Ave NTW
Apt 402
Washington, DC 20009
e-mail:
edward.utyro@hawaiiainet.net
September 4, 2008

Aloha Kahu Makuakane & the members of the Opihikao Congregational Church:

My name is Ed Utyro. Gary Hauler and I have owned the parcel below the burial grounds ending near mile marker 16 in Opihikao since May 2001. In recent years we have been typically spending a few months each year on the island. In the course of the years maintaining the property we have met various neighbors including Glory & Bernard. They recently let us know that several members of the Congregation have concerns about our proposed plans.

Our hope is to meet with you and any others who might have concerns. While we understand that there are specific concerns regarding the hala grove on the property we want to learn more about these concerns and all other concerns you and the others may have. I am hoping you will allow us to meet with you and interested members of the congregation to discuss this further. We do want to assure you that we will respect the part of our property near the burial grounds.

From the moment we first saw the property we knew we wanted to live and die there (hopefully at an old age). I hope you will recognize that over these last seven years we have in fact saved dozens if not hundreds of the hala from the maile pilau ("stink" maile) and other invasive species. When we purchased the property the southern portion near maile had downed several hala and was rapidly spreading. While we removed a lot of this invasive plant ourselves we have also paid others at great expense to help us protect the hala and the small Ohia forest makai of the main hala grove. Also you may have noticed the ironwoods are increasingly moving in from the coast and trying to take over the property. Over the 10 years we have been coming to the island we have observed deterioration of native plant species due to stink maile, other invasive species and human intervention. We have tried to be good neighbors and good stewards of the property by trying to keep these invasive species in check.

There are several important details that the State planner, Michael Cain, reported to you that are either factually incorrect or outdated. The day I received the letter from Michael Cain, I called him to advise him that the setbacks he cited were incorrect. In the final environmental assessment, that detail will be corrected and I expect other details will be corrected or modified. For example, we have identified another alternative route from the existing fishing road near the cemetery that would allow us to have a modified version of the proposed driveway without the removal of any additional hala. We also let

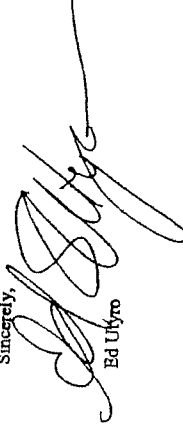
Michael know that we have never attempted to discourage people opihii picking or fishing and we see no reason to start now. We believe that these and other activities are part of the beauty of Hawaii. We hope in part to discuss with you and the congregation the possibility of replacing some other existing non-native species, e.g. ironwoods, with hala or other desirable native species to compensate for the loss of the hala on the proposed citing of the house.

We have tickets to return to the island on September 19. I understand that Glory will be off island during those weeks that Gary and I are both there but Bernard has offered to introduce us. I hope that you can arrange a meeting after church services with you and others who share concerns at the either at church on September 21 or September 28 or even the following Sunday if necessary. We propose to come try to answer any questions you have. Mostly we want to come to hear what concerns you and the others have. We hope you understand that there are technical aspects that we may not be able to explain. We also would like to walk the property with you and the others to show the proposed citing of the driveway and the house.

Feel free to contact us through the email above or call us at 808.987.6933. Because my job sometimes requires me to change my travel plans there is a slight chance I may have to change my dates. If that were to happen I would expect to provide you several days notice.

Sincerely,

Ed Utyro





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

ADAM H. HIRSH
 DIRECTOR
 MISSILEY ISIR
 DEPUTY DIRECTOR
 OFFICE OF CONSERVATION AND COASTAL LANDS
 100 DAY EMPLOYMENT DATE: JANUARY 24, 2009

RE: OCCLEME
 FILE NO. CDUA-HA-3474
 Katherine Luga
 Carlsmith Ball LLP
 121 Waiuanuenue
 Hilo, HI 96721

Acceptance Date: July 28, 2008
 100 Day Employment Date: January 24, 2009
 JUL 31 2008

NOTICE OF ACCEPTANCE and
 PRELIMINARY ENVIRONMENTAL DETERMINATION
 Conservation District Use Application (CDUA) File No. HA-3474
 (BOARD Permit)

This acknowledges the receipt and acceptance for the processing of your CDUA for the proposed single family residence (SFR) located at Kau'ieanu, Puna, Hawaii, TMK (3) 1-3-02-71. This 7,180 acre coastal property is located in the Resource Subzone of State Land Use Conservation District.

The applicants propose to build a 4991 square foot single family residence. The 2-story building will contain three bedrooms, three bathrooms, a swimming pool, spa, outdoor shower, and an "on-grade" terrace. Approximately 0.5 acres of the parcel will be landscaped. A circular driveway will connect the residence to the main road. The applicant proposes to construct two gates at each entry.

The parcel is located on the Kapoho-Kalapana Road, immediately to the southwest of 'Opuhiao. The land is part of the Kau'ieanu lava flow. The makai boundary of the property follows along the top of pali. There is an irregular state-owned parcel separating this parcel from the shoreline. The shoreline itself in this area is marked by 30-50 foot high pali.

The flora is dominated by a relatively intact hala (*Pandanus odoratissimus*) and 'ohi'a lehua (*Macrostelodes macrocarpus*) forest. A few introduced and invasive species are present in this section, including 'ulu (*Hylocarpus altita*), kokonut (*Coccol nucifera*), guava (*Psidium guajava*), and Cecropia (*Cecropia schrebiana*). Approximately 1.5 acres of the site has been previously graded and landscaped. The landscaped area is dominated by introduced decorative species.

Much of the project will occur outside the previously graded and landscaped areas, and will involve the removal of approximately 39 hala, 6 'ohi'a, and 4 ironwood trees. The applicant estimates that the new grading and contouring will involve 3.3% of the property, or an additional 11,000 square feet (0.25 acres).

There are no known archeological features on the property, although the immediate area is rich in historic resources. The Pua akamu Cemetery lies immediately north of the parcel. The project is setback 25 feet from the makai property line.

Carlsmith Ball
 121 Waiuanuenue
 Hilo, HI 96721

Lateral access to the shoreline in the area is provided by a twenty-foot wide public easement along the property's eastern boundary. The public uses the shoreline to fish and gather 'opihia, and traditional gatherers have utilized the native plants on the parcel.

After reviewing the application, we find that:

1. The SPR is an identified land use within the Conservation District, pursuant to Hawaii's Administrative Rules (HAR) §13-5-23 *Identified land uses in the resource subzone, R-8 SINGLE FAMILY RESIDENCE, (D-1) A single family residence that conforms to design standards outlined in this chapter.* This use requires a permit from the DLNR. **The final decision as to whether to grant or deny the permits lies with the Board of Land and Natural Resources.**
2. Pursuant to HAR §13-5-40 *Hearings; no public hearing will be required.*
3. Pursuant to HAR §13-5-31 *Permit applications*, the permit requires that an environmental assessment be carried out. A Finding of No Significant Impact (FONSI) to the environment is anticipated for the proposed project. The draft environmental assessment (DEA) for the project will be submitted to the Office of Environmental Quality Control (OEQC) to be published in the *Environmental Notice*.

Our office has a number of concerns with the project which will need to be addressed during the processing period:

- **Developed Area:** The calculations for developed area exclude the lanai area around the pool. The plans note that this area is "paving on grade." Pursuant to HAR §13-5, at-grade decks are excluded from calculations of maximum developable area. However, OCCLE notes that the proposal uses fill to create the grade to support the pool and terrace, and questions whether this can be considered on-grade.
- In similar cases the Board has countried lanai resting on fill as above-grade, and included them in the calculations of the Developed Area. If the pool terraces are included then the proposed project will exceed the Maximum Developable Area, and will need to be modified to bring it into compliance.
- **Project Siting:** The *Single Family Residential Standards* in HAR §13-5 states that *grading/contouring of property [be] kept to a minimum with consideration of slope.* Based upon the information provided, OCCLE cannot state that this condition has been met. The residence sits on a slight depression in the pali, in an area that appears to have not been graded. OCCLE notes that 1.5 acres of the parcel has already been graded and landscaped, that the residence sits associated improvements only require 0.5 acres, and therefore questions the need for additional grading in a coastal area.
- The Final EA should contain a greater discussion on the grading involved in the project, as well as an analysis of alternate siting options, and in particular a discussion of siting the project on lands already graded.
- **Preservation of Coastal Resources:** While 1.5 acres of the project area have been previously disturbed, the majority of the parcel contains a hala forest. Hala is a "keystone species" that helps support and preserve the indigenous coastal ecosystem in Hawaii. OCCLE questions the need for a second driveway through this forest. We would like to see the alternatives analysis discussed above include a review of the impact of the siting options on the existing flora.

We also note that the Draft EA states that *any native trees removed will be replaced by an equal number of native tree species*. We do not see this reflected in the landscaping plans that were submitted - the plan calls for the removal of 45 native trees, while the only native trees we can find on the landscaping plans are a single breadfruit and a single kukui.

- **Setback:** The residence meets the minimum setback requirements required by law. However, OCCL notes that survey maps show a twenty-foot wide pedestrian easement runs along the makai boundary of the property. According to the site plan, the proposed pool would lie five feet from the public access area, and the master bedroom twelve feet.

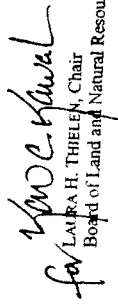
The applicant states that *any cultural, historical or natural resources customarily and traditionally gathered along the shoreline area will be recognized and continued by the Applicants*. OCCL questions whether the applicant truly intends to allow gatherers and fishermen unhampered right to exercise their traditional practices twelve feet from their bedroom window.

OCCL also notes that the pedestrian access is not limited to cultural practitioners as the application seems to indicate, but open to all.

OCCL will continue to process the application, with the understanding that the above issues will be addressed in the Final Environmental Assessment. We will need an additional fifteen copies of the Draft EA and CDUA to distribute for comment.

Should you have any questions, please contact Michael Cain at 587-0048.

Sincerely,


for LAURA H. THIELE, Chair
Board of Land and Natural Resources

cc: Office of Hawaiian Affairs
Hawaii County Planning
DLNR - Forestry, Land Division, Historic Preservation, Hawaii Land Division, DOCARE
Hilo Public Library
Kanaka Council, HC 2 Box 9807, Kea Au, HI 96749
Ohihako Congregational Church, 491 Makani Circle, Hilo, HI 96720 (Attn: Sr. Kahu Rev. Violet May Mokuakane)
DOH - Office of Environmental Quality Control

¹ See Public Access, Shoreline Hawaii v. Hawaii County Planning Commission, 903 P.2d 1246, 79 Haw. 425 (Haw. 1995)

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALLENBERG AVENUE
P.O. BOX 686
HONOLOULU, HAWAII 96721-0686
TELEPHONE: 808.938.6644 FAX: 808.938.7975
WWW.CARLSMITH.COM

SLM&C@CARLSMITH.COM

November 5, 2008

Laura H. Thielein
Chair
Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kauaieau, District of Uyu, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Ms. Thielein:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to developable area, Project siting and setback, and preservation of coastal resources.

In response to concerns raised by the community and Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalaupana direction), in an area previously disturbed for agricultural pursuits by the Applicants' predecessor-in-interest. This 1.54 acre area is relatively level with an existing remnant beam located to the south and is currently planted in fruit and palm trees. In conjunction with the relocation of the Project within the Property, the Applicants' have redesigned the single-family residential dwelling and related accessory uses to complement the existing topography of the relocated site. This alternative will address the concerns requesting preservation of the puhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement along the northern boundary of the Property

November 5, 2008
Page 2

from the entry of the former jeep road located along Red Road, at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, a 110 square feet on-grade terrace (with more than 8-inches of fill), an 880 square feet garage and equipment-storage structure, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. Approximately 90% of the proposed Project will be placed on grade, with approximately 435 cubic yards of grading and fill of approximately 280 cubic yards to accommodate the natural contours of the land. The proposed improvements will be sited along the southeastern (makai) boundary of the Property, approximately 50 feet from the southern Property boundary and 78 feet from the southeastern Property boundary.

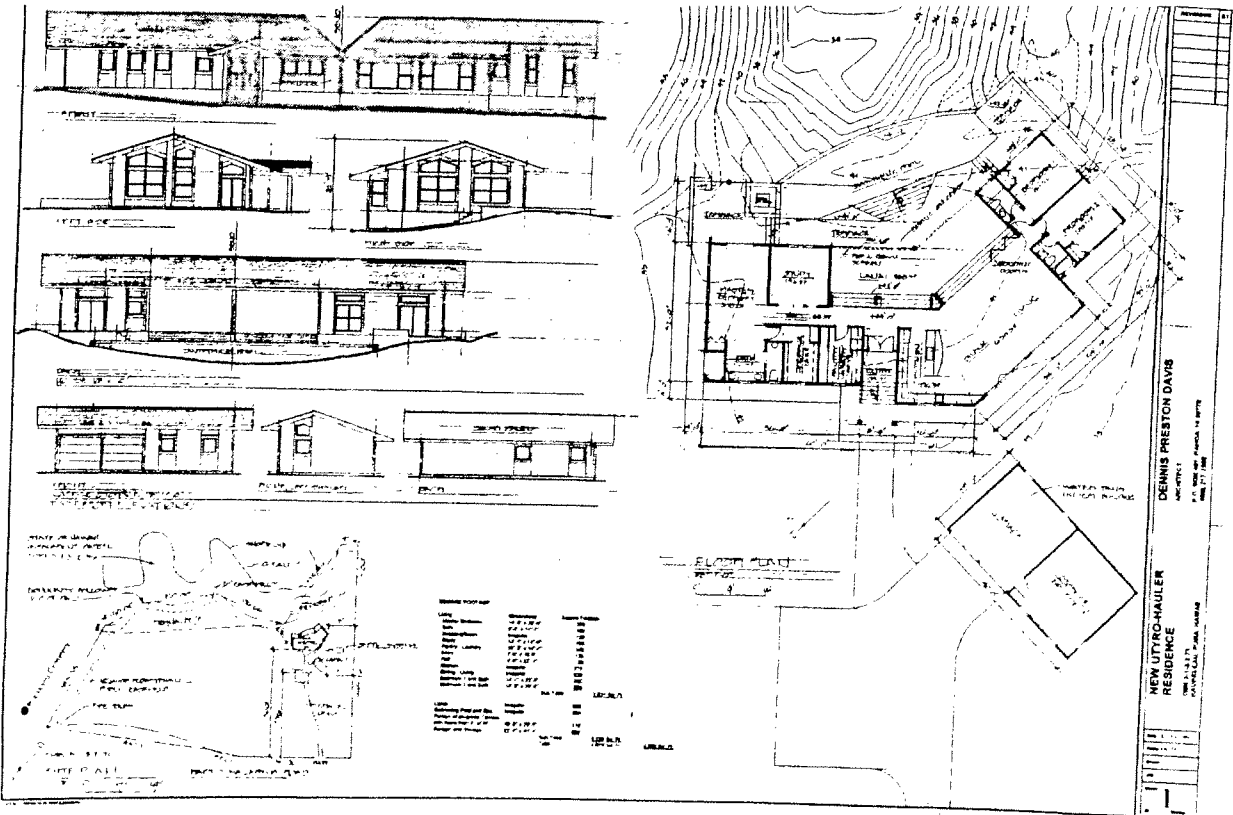
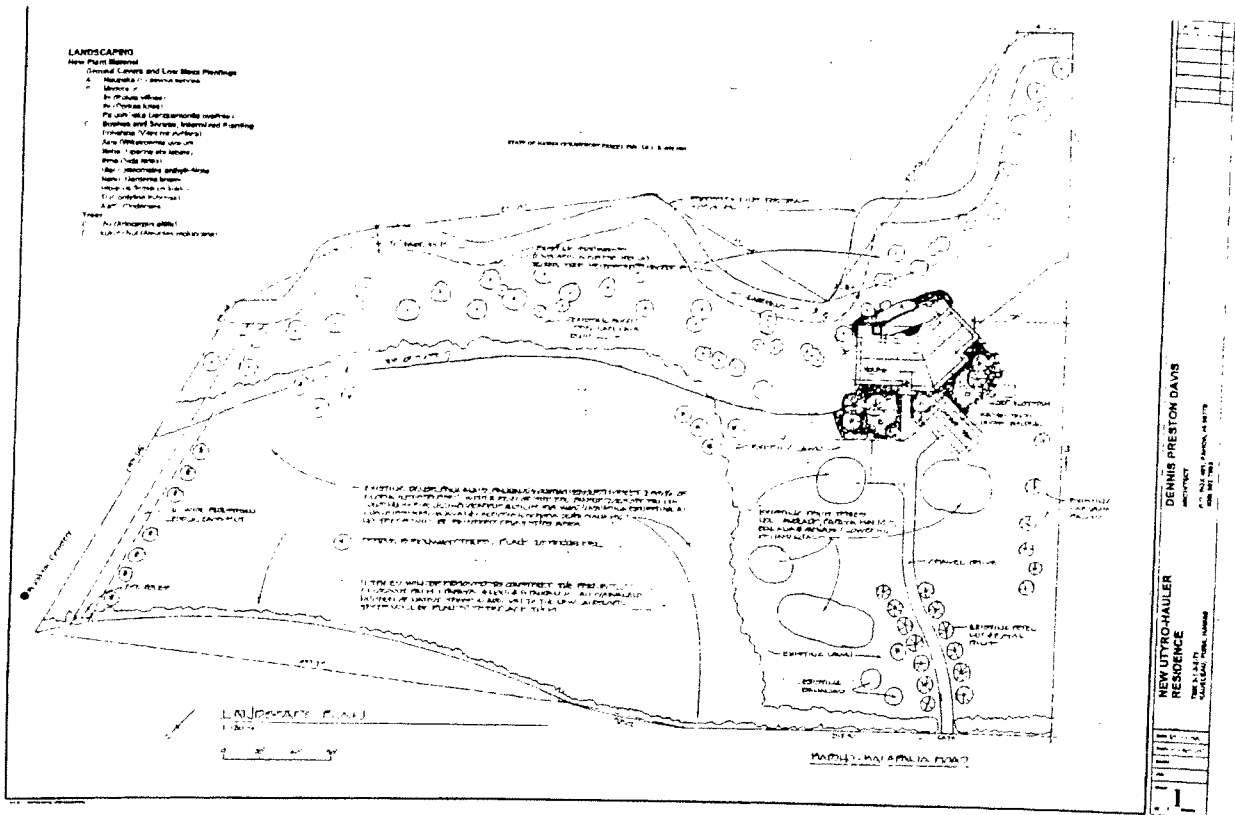
Development of the Project will require the removal of approximately 15 ironwood trees to preserve the existing puhala grove, 1 coconut, 1 papaya, 4 noni and 5 pandanus trees, six inches or greater in diameter. The Applicants propose to plant 20 replacement pandanus trees.

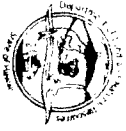
Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

SSL/KYL
cc: Client
OEOC


STEVEN S.C. LIM





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



LARNA B. THORNTON
DIRECTOR OF LAND AND NATURAL RESOURCES
RUSSELL Y. TSUI
DEPUTY DIRECTOR
JENNIFER M. WALKER
DEPUTY DIRECTOR
OFFICE OF PERMITS AND REGULATIONS
100 SOUTH KING STREET, 10TH FLOOR
HONOLULU, HAWAII 96813
TELEPHONE 808 535 6644 FAX 808 535 7975
WWW.CARLSMITH.COM

REF: OCCL MC
FILE NO. CDUA HA-3474

Katherine Luga
Carlsmith Ball LLP
121 Waiananaloa Avenue
Honolulu, HI 96721

Dear Ms. Luga,

SUBJECT: ADDITIONAL COMMENTS
Conservation District Use Application (CDUA) HA-3474
Utyro and Hauler Single Family Residence
Kaulauea, Puna, Hawaii I
TMK (1)4-4-017-111 & 35

The Office of Conservation and Coastal Lands has continued to receive comments from the public regarding Conservation District Use Application HA-3474. We have attached the new comments. The mailed envelope contains the original copies of all the earlier comments; you should have already received these in electronic form.

As a reminder, you will need to respond to all comments received during the public comment period, and will need to include the comments and your responses in the final Environmental Assessment. Although we recommend that you address all comments, we leave it up to your discretion on whether to respond individually to those that came in after the official comment period ended. OCCL does, however, strongly advise that you respond to the comments by the Office of Hawaiian Affairs.

Based upon the testimony and comments provided by cultural practitioners in the area, we will be asking the State Historic Preservation Division to revisit their determination that no historical properties will be affected by this proposal.

OCCL is still waiting for a decision on whether the applicant would or would not be willing to host a site visit with community members.

Should you have any questions, please contact Michael Cain at 587-0049.

Sincerely,

SAMUEL J. LEMMO, Administrator
Office of Conservation and Coastal Lands

c. Chau

Acceptance Date: July 28, 2008
180-Day Expiration Date: January 24, 2009

SEP 24 2008

CARLSMITH BALL LLP
A LIMITED LIABILITY LAW PARTNERSHIP
121 WAIANANALO AVE
HONOLULU, HI 96721-0686
TELEPHONE 808 935 6644 FAX 808 935 7975
WWW.CARLSMITH.COM

September 25, 2008
Michael Cain
Department of Land & Natural Resources
Office of Conservation and Coastal Lands
Post Office Box 621
Honolulu, Hawaii 96809

Re: Draft Environmental Report and Conservation Use Permit Application
Applicants: Edward S. Utyro and Gary R. Hauler
Proposed Action: Conservation Use Permit Application to allow for the construction of a single-family residential dwelling and related accessory use improvements (CDUA File HA-3474)
Kaulauea, District of Puna, Hawaii
TMK(3)1-3-002-071

Dear Mr. Cain:

Pursuant to your telecon of September 9, 2008, our clients are amenable to conducting a site visit on the property relative to the pending Draft Environmental Assessment / Conservation Use District Application for the single-family residence and accessory uses. Our clients will be available from November 10, 2008 to mid-December, 2008, including holidays and weekends. We believe that any community meeting on this Project should be held at the site in order to address the community concerns over the impact of the proposed single-family residential dwelling and related accessory uses on the existing hala grove and the cemetery site on the adjoining State of Hawaii parcel. As our clients need to coordinate work schedule and travel plans, please provide us with a firm date as soon as possible.

Please feel free to contact me or my paralegal Katherine Luga should you have any questions. Thank you for your cooperation and assistance.

Very truly yours,

STEVEN S. Q. LIM

SSL:KYL
xc: Clients

HONOLULU KOOAHI HILO KONA MAUI GILUA SAPAHA LOS ANGELES WASHINGTON, D.C.

LINDA LITTLE
ADMINISTRATIVE



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURAH THIELF
IN CHARGE, LAND AND NATURAL RESOURCES
DIVISION OF CONSERVATION AND COASTAL LANDS
1505 KALANANAKUI AVENUE, SUITE 200
HONOLULU, HAWAII 96813
PHONE: (808) 586-2200
FAX: (808) 586-2201
WWW.DLN.R.HAWAII.GOV

RTF/OCCL/MC
FILE NO: HA-3474

180 Day Expiration Date: January 24, 2009
Suspense Date: 21 Days from stamped date

MEMORANDUM

TO: DLNR - Historic Preservation Division
Forestry and Wildlife
7/ Land Division

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

SUBJECT: REQUEST FOR COMMENTS
Conservation District Use Application HA-3474
BOARD PERMIT
Single Family Residence

APPLICANT: Utyro & Hauler
TMKS: (3) 1-3-02:71
LOCATION: Kaneohe, Puna, Hawaii

PUBLIC HEARING: Yes No X

Please contact Michael Cain at 587-4048, should you have any questions on this matter.

If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp.

Comments Attached
 No Comments

Attachments: Environmental Assessment
Conservation District Use Application
Notice of Acceptance

RECEIVED
DEPT. OF LAND AND NATURAL RESOURCES
STATE OF HAWAII
AUG 18 4 59

RECEIVED
DOCARE
HILLO, HAWAII
AUG 13 3 10

DOCARE-18	File Number	3474-HA
Applicant	EDWARD UTYRO & GARY HAULER	
Contact	STEVEN LIM, 808-935-6644	
Location	TKM (3) 1-3-02-071, KAUOLEAU, PUNA, HAWAII	
Project Summary	REQUEST FOR COMMENTS - SINGLE FAMILY RESIDENCE	
Project Description	APPLICANTS ARE PROPOSING TO BUILD A 4891 SQUARE FOOT SINGLE FAMILY RESIDENCE WHICH WILL INCLUDE 3 BEDROOMS, THREE BATHROOMS, A SWIMMING POOL, SPA, OUTDOOR SHOWER AND AN ON-GRADE TERRACE. THE PROPERTY IS LOCATED WITHIN THE RESOURCE SUBZONE OF THE CONSERVATION DISTRICT.	
Branch Assigned	Date Referred	Date Due
HAWAII	8/12/2008	8/29/2008
Instructions	REVIEW THE ATTACHED APPLICATION AND COMMENT WITH RESPECT TO DOCARE'S CURRENT AND FUTURE PROGRAMS. NO SITE INSPECTION IS NEEDED. IF NO RESPONSE IS RECEIVED, OCCL WILL ASSUME THAT THERE ARE NO COMMENTS.	
Branch Report Number	Officer Assigned	Date of Inspection
HA 09-0054	A. F. K. L. P.	8-21-08
Date Assigned	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Has Work Been Initiated	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Describe		
Were Any Discrepancies Noted	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Remarks		
Is Approval Recommended	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Notes		
Final Disposition		

COPY

1. OCCIDENTAL CDUA	2. COUNTY	3. COUNTY	4. COUNTY
5. COUNTY	6. COUNTY	7. COUNTY	8. COUNTY
9. COUNTY	10. COUNTY	11. COUNTY	12. COUNTY
13. COUNTY	14. COUNTY	15. COUNTY	16. COUNTY
17. COUNTY	18. COUNTY	19. COUNTY	20. COUNTY
21. COUNTY	22. COUNTY	23. COUNTY	24. COUNTY
25. COUNTY	26. COUNTY	27. COUNTY	28. COUNTY
29. COUNTY	30. COUNTY	31. COUNTY	32. COUNTY
33. COUNTY	34. COUNTY	35. COUNTY	36. COUNTY
37. COUNTY	38. COUNTY	39. COUNTY	40. COUNTY
41. COUNTY	42. COUNTY	43. COUNTY	44. COUNTY
45. COUNTY	46. COUNTY	47. COUNTY	48. COUNTY
49. COUNTY	50. COUNTY	51. COUNTY	52. COUNTY
53. COUNTY	54. COUNTY	55. COUNTY	56. COUNTY
57. COUNTY	58. COUNTY	59. COUNTY	60. COUNTY
61. COUNTY	62. COUNTY	63. COUNTY	64. COUNTY
65. COUNTY	66. COUNTY	67. COUNTY	68. COUNTY
69. COUNTY	70. COUNTY	71. COUNTY	72. COUNTY
73. COUNTY	74. COUNTY	75. COUNTY	76. COUNTY
77. COUNTY	78. COUNTY	79. COUNTY	80. COUNTY
81. COUNTY	82. COUNTY	83. COUNTY	84. COUNTY
85. COUNTY	86. COUNTY	87. COUNTY	88. COUNTY
89. COUNTY	90. COUNTY	91. COUNTY	92. COUNTY
93. COUNTY	94. COUNTY	95. COUNTY	96. COUNTY
97. COUNTY	98. COUNTY	99. COUNTY	100. COUNTY

SYNOPSIS
OCCIDENTAL CDUA is requesting comments with regard to a CDUA to conduct a single family residence.

CDUA REVIEW
On 10/27/1408 Hours, I reviewed the applicant's CDUA and attached documents. DOC-CARE's only comments are to concur with the comments noted in their correspondence to the applicant.

DISPOSITION

It is recommended that this case be CLOSED. Records Only, and that a copy be routed to M. CAIN at OCCCL.

Harry Kim
Mayor



County of Hawaii
PLANNING DEPARTMENT
101 Puuhale Street, Suite 3 • Hilo, Hawaii 96720-4274
(808) 961-8288 • FAX (808) 961-8742

Christopher J. Yuen
Director
Brad Karukawa, ASILA
LEEDS AP
Deputy Director

Mr. Samuel J. Lemmo, Administrator
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Page 2
September 8, 2008

September 8, 2008

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

RECEIVED
PLANNING DEPARTMENT
OFFICE OF CONSERVATION
AND COASTAL LANDS
SEP 19 10 48 AM '08

Dear Mr. Lemmo:

SUBJECT: CDUA HA-1474
Owners: Edward S. Ulyro and Gary R. Hauler
Request: Single Family Residence
TMK: 1-3-2-71, Kauelean, Puna, Hawaii

This is in response to the above-referenced application by Edward S. Ulyro and Gary R. Hauler for a single family residence on the subject parcel.

On January 11, 2008, the enclosed Special Management Area Use (SMA) Permit Assessment Application (SAA 07-275) was approved for the construction of a new single family dwelling and related improvements.

We note that the site plan used to determine setbacks may not be identical or similar to the one submitted for our review and approval. Based on the Second Revision, Survey Date: May 16, 2006 map, the edge of the swimming pool appeared to be over 16 feet from the mauka edge of the easement. Further, the southern bedrooms' roof eave appear to be over 20 feet from the mauka edge of the easement.

Finally, subsequent to the approval of SAA 07-275, we would like the owners to comply with the following:

Artificial light from exterior lighting fixtures, including, but necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawaii Revised Statutes.

Should you have questions, please feel free to contact Esther Inamura of our office at 961-8288, extension 257.

Sincerely,

CHRISTOPHER J. YUEN
Planning Director

ETTs
P:\pwr\rdof\ETTC\CDUA\lemmo Ulyro Hauler 1-3-2-71.tif

Enclosure

Terry Kim
Mayor



RECEIVED JAN 14 2008

County of Hawaii
PLANNING DEPARTMENT
101 Pearl Street, Suite 3 • Hilo, Hawaii 96720-1234
(808) 961-4248 • FAX (808) 961-6743

Christopher J.
Downer
Brod Kurebary,
LEED AP
Deputy Director

January 11, 2008

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Attn: Ms. Katherine Y. Luga
P. O. Box 686
Hilo HI 96721-0686

Dear Ms. Luga:

Subject: Special Management Area Use Permit Assessment Application (SAA 07-275)
Applicant: Edward S. Uyro and Gary R. Haveler
Request: Construction of a Single Family Dwelling and Related Improvements
Tax Map Key: 1-3-2-71, Kawalea, Paia, Hawaii

This is in response to the Special Management Area Use Permit Assessment Application received on July 31, 2007 for the construction of a single family dwelling and related improvements on the subject parcel. With receipt of additional information and submittals, the application is deemed complete on January 4, 2008.

We appreciate your diligence and cooperation in submitting the requested information and allowing us a site inspection of the subject property on December 3, 2007.

The subject parcel is situated within the State Land Use Conservation District. Therefore, the proposed action triggers the review under Chapter 343, HRS, relating to Environmental Impact Statements. It is our understanding that you will be filing a Conservation District Use Application and Draft Environmental Assessment with the State Board of Land and Natural Resources for its decision.

This 7.18 acre property is zoned Open (O) by the County. It does not front the ocean as a portion of TMK: 1-3-2-36 is make of the subject parcel. However, this portion of Parcel 36 is a slope that drops down to a beach area below the pali.

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Attn: Ms. Katherine Y. Luga
Page 2
January 11, 2008

At the December 3, 2007 site inspection, staff noted that the pin marked "Pipe End" in the "Topo Area" was approximately 1779' from the first initial drop off the pali. This drop is not as severe as the second one which slopes steeply down to the sea.

According to Subdivision Map No. 1294 for TMK: 1-3-2 which was approved on October 6, 1958, there is a 20-foot Easement that runs parallel to the makai property line. It starts from the State of Hawaii owned TMK: 1-3-2-36, crosses the subject parcel and then continues on to the adjacent western parcel, TMK: 1-3-2-70.

All of the proposed improvements were proposed to be located within the "Topo Area" as denoted on the Second Revision Map dated May 16, 2006. Subsequently, by letter dated December 6, 2007, the construction of a north-end gate along the Kapoho-Kalapanana Road was proposed for that end of the existing driveway.

According to Chapter 205A-22, Hawaii Revised Statutes and Planning Commission Rule 9-4(10) B (i) relating to Special Management Area, "development" does not include "Construction of a single-family residence that is not part of a larger development." Therefore, we have determined that the proposed single family dwelling and related improvements are exempt from the definition of development.

The most make improvements is the swimming pool. It is proposed to be located approximately 57 feet from the top of the pali. Therefore, the requirement of a certified shoreline survey is waived.

Finally, in this area, public pedestrian make-makai access is available from the adjacent eastern State owned Parcel 36. Public lateral shoreline access is provided along this parcel through the "20-foot Easement" along the coastline. Also, the proposed improvements will not have a substantial adverse effect on the environment.

While further review of the construction of the proposed improvements against the Special Management Area rules and regulations will not be required, all other applicable Zoning and Building Code requirements must be satisfied.

As a reminder, however, except for the installation of the north-end gate, only approval for improvements within the "Topo Area" as denoted on the "Second Revision, Survey Date: May 16, 2006" map is granted. Due to the large acreage of the subject parcel, any additional improvement outside of the "Topo Area" will require submittal of another Special Management Area Use Permit Assessment Application for the proposed use(s).

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball, LLP
Attn: Ms. Katherine Y. Luga
Page 3
January 11, 2008

If you have questions, please contact Esther Imamura of this office at 961-8288,
extension 257.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

ETJ:cd

F:\temp\60CZM\SM\AA\300793AA 07-2713 Uyyn Hasler.doc

CARLSMITH BALL LLP

ATTORNEYS AT LAW PARTNERSHIP

121 WALKER AVENUE
P.O. Box 686
HILO, HAWAII 96721-0686
TELEPHONE 808 938 6644 FAX 808 938 7975
WWW.CARLSMITH.COM

EMAIL: CARLSMITH@COM

November 5, 2008

Christopher J. Yuen
Planning Department
101 Pauahi Street, Room 3
Hilo, Hawaii 96720
Attention: Esther Inamura

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kaulea, District of Puna, County and Island of Hawaii
TRK-03 1-3-002-071

Dear Mr. Yuen:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments.

In response to concerns raised by the community and Big Island Iauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address concerns requesting the preservation of the puhihala grove. We enclose a copy of the revised site plan for your reference.

The Applicant will comply with the conditions of approval under Special Management Area Assessment No. SAA 07-275 issued by your Department on January 11, 2008, in addition to compliance with the regulations prohibiting artificial light projection toward the shoreline and ocean waters from exterior lighting fixtures, except as permitted in HRS, Section 205A-71(b) as provided in your September 8, 2008 letter to DLNR-OCCCL.

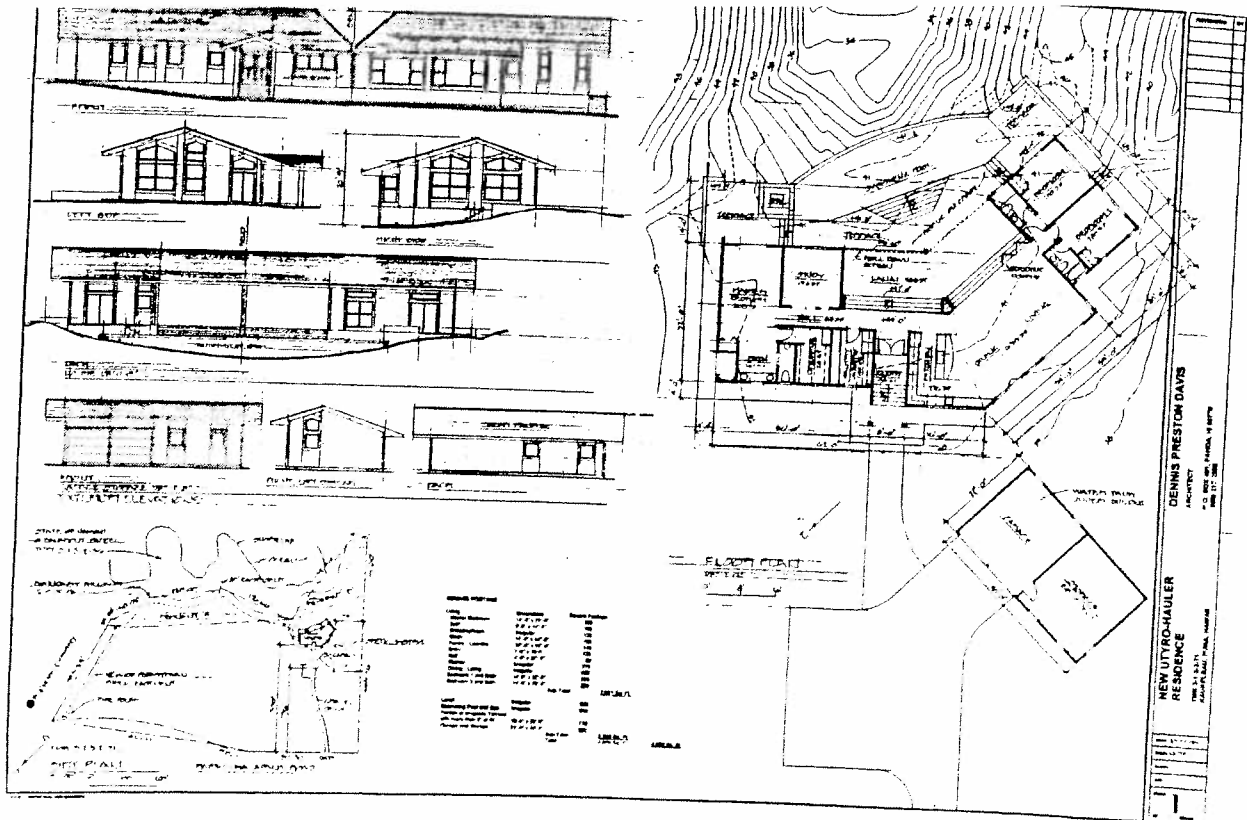
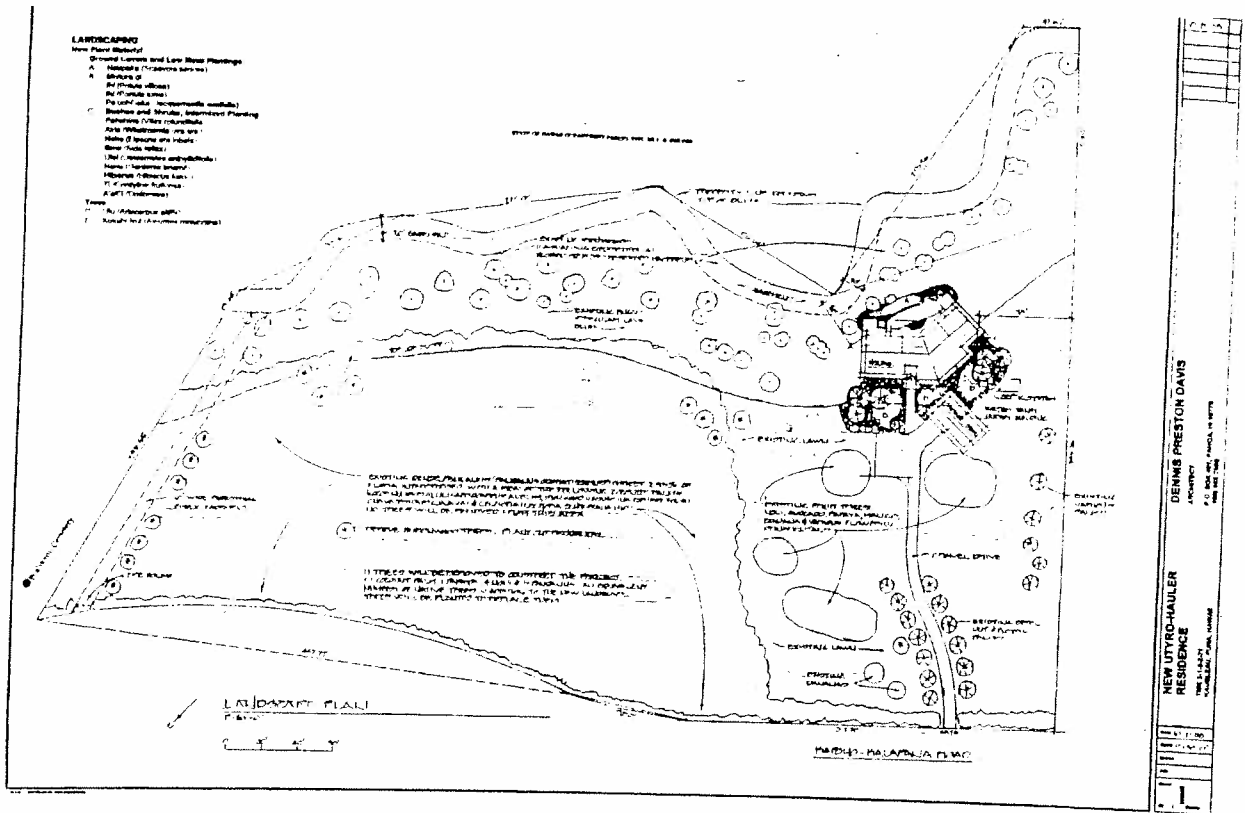
November 5, 2008
Page 2

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


STEVEN S.Q. LIM

SSL/KYL
xc: Client
DLNR-OCCCL
OEQC





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

2008 SEP 17 A 11: 17
RECEIVED
OFFICE OF HAWAIIAN AFFAIRS
SEP 17 2008

OFFICE FAX (808) 594-1855
FAX (808) 594-1855

HRD08/3152

September 4, 2008

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

RE: Request for comments on (Conservation District Use Application and Draft Environmental Assessment for the Utyro and Hauier single family home, Kau'elean, Puna, Hawaii, TMK: (3) 1-3-02:71. OCCU reference number: HA-3474.

Aloha e Samuel J. Lemmo,

The Office of Hawaiian Affairs (OHA) is in receipt of the above-mentioned letter dated August 8, 2008. The applicants propose to develop a three-bedroom, three-bath, two-story, single-family residential home, with swimming pool, spa, outdoor shower, garage, mud room and other accessory elements. The applicant indicates that the project will use half an acre of a 7.18-acre property in the state's Conservation District, located in Puna, Hawaii Island. The project also sits in the County of Hawaii's Special Management Area. OHA has reviewed the project and offers the following comments.

Native Hawaiian rights

Environmental Assessments and Environmental Impact Studies must include a Cultural Impact Assessment (CIA), in accordance with Chapter 343 of the Hawaii Revised Statutes (HRS). Moreover, Act 50, Session Laws of Hawaii 2000, indicates that a CIA shall include information relating to the practices and beliefs of Native Hawaiians of the area, and it is recommended that the community be involved in this assessment.

Samuel Lemmo, Administrator
September 4, 2008
Page 2

The current Draft Environmental Assessment (DEA) does not note whether a CIA was conducted for this project, nor is a CIA included in the appendix. However, the CDUA and DEA both indicate kupauna were consulted on the project. But neither document states who these kupauna are or where they are from. The transcripts of the consultations with these kupauna are also not provided. This is a major concern for OHA.

Generally, a CIA serves as a tool to inform applicants and decision makers, such as state and county permitting agencies, about how a given project will impact Native Hawaiian traditional and customary practices and what sort of measures can be implemented to mitigate those impacts.

For example, the unidentified kupauna who were consulted for this specific project apparently pointed out that there was "historical gathering of ti-leaves and lauhalala [sic] within the Property." Because transcripts of the kupauna interviews were not made available and no other information about what these kupauna said was provided, decision makers are left wondering if these practices are still occurring and, if so, to what extent and frequency. What's more, absent this additional information, decision makers are left in the dark about the degree of impact the applicant's proposal to remove 39 hala trees from the project will have on these gathering practices.

In addition, the DEA does not address how the project will impact the Puna'akau Cemetery located on a neighboring parcel - a specific question that was posed to the applicant in a September 12, 2002, letter from Don Hibbard, former administrator of the State Historic Preservation Division.

Moreover, OHA shares the same concern regarding Native Hawaiian gathering rights expressed by Board of Land and Natural Resources Chair Laura Thelen in her July 31, 2008, letter to the applicants' attorney. Like the BLNR chair, OHA is concerned that the applicants' home and pool are located too close to the 20-foot wide pedestrian easement located along the makai boundary of the property. In her letter, the BLNR chair said "OCCU questions whether the applicant truly intends to allow gatherers and fishermen unhindered right to exercise their traditional practices twelve feet from their bedroom window."

Yet despite the absence of the CIA, the applicant is still somehow able to come to the following conclusions about the impact the project will have on constitutionally-protected, traditional and customary Native Hawaiian rights:

There are no observable traditional and customary native Hawaiian practices being exercised outside the shoreline area. Known traditional and customary native Hawaiian practices and other valued cultural, historical and natural resources on the Property are located on the shoreline area and will be recognized and allowed by the Applicants. Therefore, other than the mitigative measures that would be monitored by DLNR there is no

other reasonable action to be taken to preserve these resources. (CDUA pages 11-12)

OHA recommends that a full CIA be conducted and completed for this project. It should include interview transcripts and recommendations on mitigation measures that will address the affects the project will have on Native Hawaiian rights. No determinations on this application should be made without a CIA, and OHA looks forward to reviewing it upon completion.

OHA will rely on the applicant's assurances that should iwi kūpuna or Native Hawaiian cultural or traditional deposits be found during the construction of the project, work will cease, and the appropriate agencies will be contacted pursuant to applicable law.

Flora and Fauna

The flora and fauna surveys conducted for the project are not included in the DEA and should be provided in the Final Environmental Assessment (FEA) for public review. Without these two surveys, decision makers are left wondering how the applicant came to the conclusions about what flora and fauna are found in the project site, and what impacts the project will have on these resources. OHA requests the opportunity to review these surveys as soon as possible. OHA would like to review the fauna survey to verify that no sea birds frequent the project site, and the flora survey for the reasons below.

The DEA does not describe the current size of the hala forest on the project site. The DEA states that the hala groves on the property will be "preserved substantially as is" except for the 39 hala trees that are proposed to be removed to accommodate the applicants' second driveway. Without the flora surveys, decision makers cannot verify whether the proposed project will actually leave the hala forest "substantially" preserved.

Moreover, the CDUA states on page 7 that the proposed project "will not result in a significant adverse effect on the natural resources within the surrounding area, community or region." Also on that same page, the CDUA states that the project "has been designed to harmonize with the existing physical environment." On page 15 of the DEA, the applicant states that the "Proposed Action will not result in any significant adverse effect on the environment." Decision makers once again cannot verify these statements without flora and fauna surveys that describe the current condition of the natural resources on the property. OHA questions those three statements in light of the applicants' proposal to remove the 39 hala trees from the naturally occurring pandanus forest on the property. OHA shares the opinion of the BLNR chair who questioned whether it was necessary to remove this "'keystone species' that helps support and preserve the indigenous coastal ecosystem in Hawaii" in order to build an extra, second driveway for the project. Before the application is considered, the applicant must explain why this second driveway is necessary and offer mitigation measures for its impacts on the environment and Native Hawaiian cultural practices.

It should be noted that the property's hala trees also hold significant cultural value to Native Hawaiians, who gather materials from these trees for cultural practices, according to page 9 of the DEA. Hala trees were also used in a traditional taro cultivation method called "pa-hala" (mentioned on page 9 of the DEA) that was common on the east side of Hawaii.

On page 7 of DEA, the applicant states that the hala trees that are slated for removal "will be replaced by an equal number of native tree species." This statement is not supported in other parts of this document. First, the landscaping plans for the project indicate that only two types of trees will be planted: ulu and kukui. While both of these plants are very important to Native Hawaiians and their culture, they are non-native trees as it is believed that they were introduced to Hawaii from other parts of Polynesia. While OHA doesn't in anyway object to the inclusion of these trees in the landscaping plan for the project, we ask that the applicant amend the above-referenced statement on page 7 to reflect the fact that the native hala trees will actually be replaced by two Polynesian-introduced plants.

More importantly, the landscaping plan seems to indicate that only three kukui and three ulu trees will be planted – not 45, which is the combined number of hala (39) and 'ōhi'a trees (6) that are slated for removal. If the applicant is allowed to remove any of the hala or 'ōhi'a trees, their landscaping plans must show that the number of native trees that will be planted will be equal to the number of hala and 'ōhi'a trees that will be removed, in accordance with the applicant's own statement on page 7 that the property will experience no net loss of native trees as a result of the project.

Coastal Resources

The "Coastal Resources" section on page 11 of the DEA, does not indicate any proposed measures to mitigate the effects the project will have on the ocean waters located near the property. All Hawaii state waters are classified as Class A or Class AA. Class A waters have strict pollution discharge regulations to protect them for recreational and aesthetic enjoyment. According to the standards for Class A waters, discharges are not permitted unless they have received the best degree of treatment or control compatible with the established criteria for receiving water. Class AA waters have regulations against discharge to protect the waters in a natural pristine state with an absolute minimum pollution or alteration of water quality from any human source or action, according to the state Department of Health. OHA inquires as to the classification of the waters adjacent to the subject property and adherence to best management practices preventing discharge and erosion.

On page 19 of the DEA, the applicant says that the project will not "cause the possibility of erosion and sedimentation seepage into the coastline." OHA asks the applicants to explain how they came to this conclusion.

OHA notes that impervious surfaces in the area will be increased as a result of this proposed project. Naturally, runoff will increase during rain events as a result. OHA inquires as

to the onsite runoff net increase estimated because of this proposed project. We also ask what actions are proposed to mitigate the effects of this increased runoff and if these mitigations have considered the state anti-degradation policy (Hawaii Administrative Rules, Section 11-54-1.1).

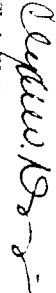
Alternatives

OHA is concerned that the DEA contains only the "no action" alternative. The heart of the environmental review document is its discussion of alternatives. It should contain a rigorous and objective analysis of all reasonable alternatives to the proposed action, including a discussion of the "no action" alternative as a base-point to which the proposed action can be compared.

The Office of Environmental Quality's *Environmental Guidebook* at page 17 states that "alternative methods and modes of [the] project be included in the draft EA." The purpose of the alternatives analysis is to compare different ways of carrying out a desired project. The applicant should then select the one that will result in the "least detrimental effect on the environment." Thus, the applicant should look at alternatives that consider factors such as different implementation methods and facility configurations.

Thank you for the opportunity to comment. If you have further questions, please contact Sterling Wong by phone at (808) 594-0248 or e-mail him at sterlingw@oha.org.

ʻO wau iho nō me ka 'ōia 'i'ō,


Clyde W. Nambu
Administrator

C: OHA Hilo CRC Office

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WASHINGTON AVENUE

P.O. Box 686

HONO KAUAI HAWAII 96711-0686

TELEPHONE 808 935 6644 FAX 808 935 7975

WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

November 5, 2008

Clyde W. Naimuro
Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, Hawaii 96813

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kauaieau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Ms. Naimuro:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to traditional and customary cultural practices, the preservation of the puhala grove and coastal resources.

Community concerns relating to the Puakalanu Cemetery Site, shoreline access, the preservation of the historical and cultural values and native gathering rights, and the preservation of the Dusky Ohia Lehua trees and the puhala grove within the Project were raised during the Draft Environmental Assessment review period. A community scoping meeting was held on October 1, 2008 at Kalani Honua, which was attended by approximately 50 individuals, followed by a site visit of the Property.

During the site visit, Hawaii Councilmember Emily Naeole and her sister, Doty Kaiser who are descendants of the Makuakane ohana were consulted regarding past land use in and around the Project area. They recalled their ohana gathering i-leaves and lauhala and papaya cultivation within the Project area, and ophi picking and shoreline fishing along the State owned oceanfront parcel. In addition, Ms. Kaiser's niece, Lela Keoloha, who is a teacher at Kua o Ka La brought her cultural class to the site visit so she could share and teach the next generation the traditional uses for the hala and the resources that were still available to the Hawaiian community.

HONOLULU KAUAI HILO KONA MAUI GIWA SUVA LOS ANGELES

November 5, 2008
Page 2

An archaeological inventory survey of the Property was prepared by Haun & Associates (April 19, 2002) which was accepted by SHPD. The Puakalanu Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002:036, and SHPD acknowledged that a significant buffer of trees will mitigate any indirect impacts on this Site. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002, and by letter dated September 9, 2008, reaffirmed its 2002 determination that "no historic properties will be effected by this project." DLNR-OCCCL by letter dated September 24, 2008 requested that SHPD revisit its "no effect" determination. To date, SHPD has not invalidated its prior clearance.

Based on the community concerns over the location of the proposed home within the puhala grove, the Applicants propose an alternative site for the placement of the Project approximately 157 feet to the east (Kalaupapa direction) within a portion of the Property that was previously disturbed for agricultural pursuits by the Applicants' predecessor-in-interest. This 1.5+ acre area is relatively level with an existing remnant berm located to the south and is currently planted in fruit and palm trees. In conjunction with the relocation of the Project within the Property, the Applicants have redesigned the single-family residential dwelling and related accessory uses to complement the existing topography of the relocated site.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement along the northern boundary of the Property from the entry of the former Jeep road located along Red Road, at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, a 110 square feet on-grade terrace (with more than 8-inches of fill), an 880 square feet garage and equipment-storage structure, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. Approximately 90% of the proposed Project will be placed on grade, with approximately 435 cubic yards of grading and fill of approximately 280 cubic yards to accommodate the natural contours of the land. The Property is not an oceanfront parcel and is flanked by State of Hawaii owned oceanfront parcel at TMK: (3) 1-3-002:036 ("Parcel 36") along its southeastern, eastern (makai) and northeastern boundaries. The proposed improvements will be sited along the southeastern (makai) boundary of the Property, approximately 50 feet from the southern Property boundary and 78 feet from the southeastern Property boundary (see attached site plans). As such, no impact to coastal waters is anticipated and during the construction phase the Applicants will comply with applicable State and County rules and regulations to ensure that construction and landscaping activities will not result in any discharge into coastal waters.

Development of the Project will require the removal of approximately 15 ironwood trees to preserve the existing puhala grove, 1 coconut, 1 papaya, 4 noni and 5 pandanus trees, six inches or greater in diameter. The Applicants propose to plant 20 replacement pandanus trees.

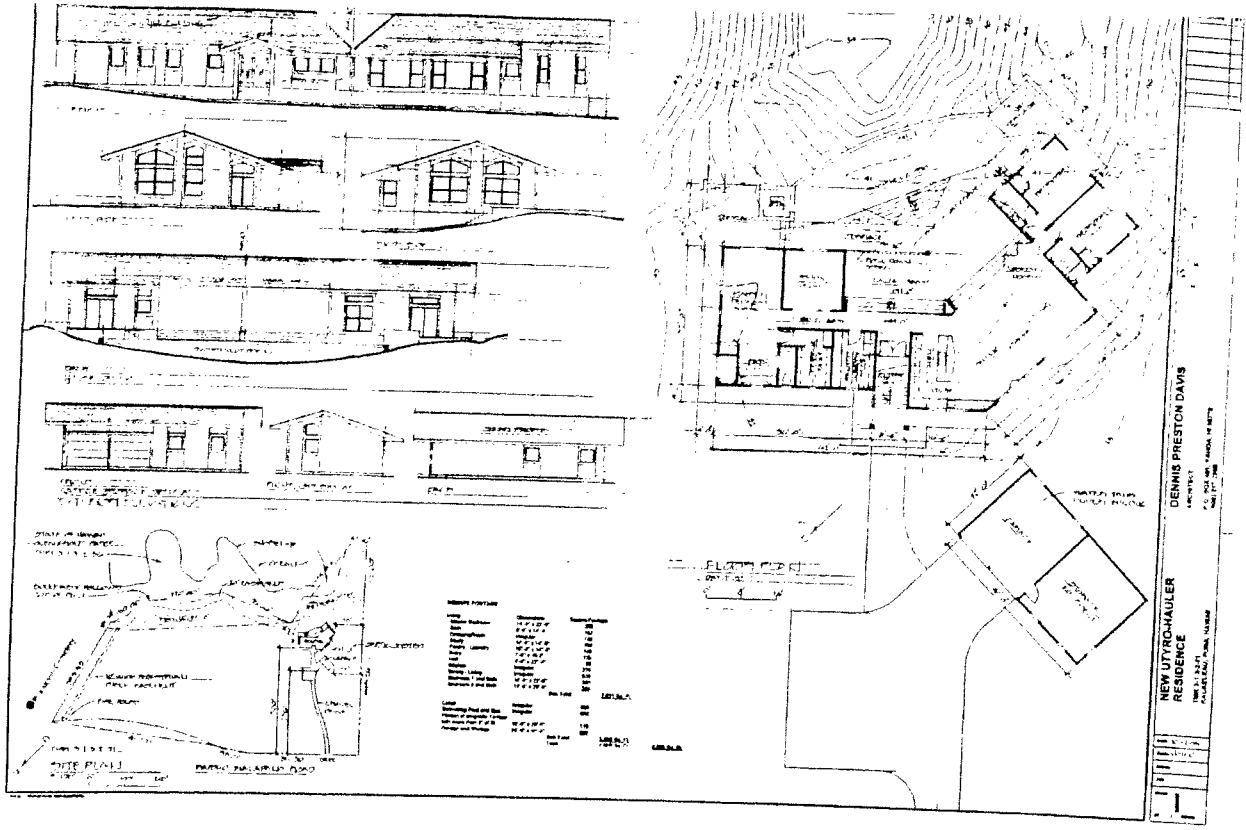
Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


STEVE S.C. LIM

SSL/KYL
xc: Client
OEQC

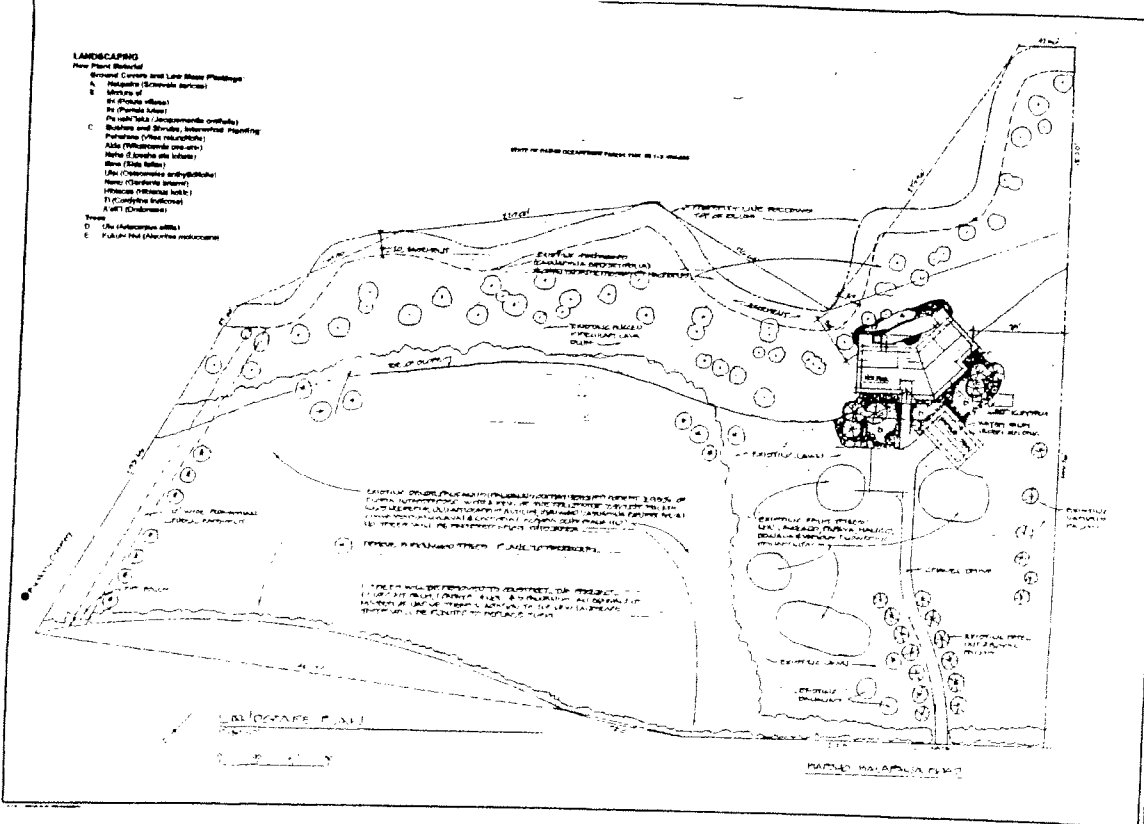
4827-6394-2883.1 055599-0002



LANDSCAPE

New Plant Species

- A Ground Covers and Low Mass Plantings
- B Moderate Shrub-like species
- C Shrubs of 10' or more height
- D Large Trees (deciduous or conifer)
- E Palms and Shrubs, International Planting
- F Palms and Other exotics
- G Acaes (deciduous or conifer)
- H Ferns (deciduous or conifer)
- I Other (deciduous or conifer)
- J Other (deciduous or conifer)
- K Other (deciduous or conifer)
- L Other (deciduous or conifer)
- M Other (deciduous or conifer)
- N Other (deciduous or conifer)
- O Other (deciduous or conifer)
- P Other (deciduous or conifer)
- Q Other (deciduous or conifer)
- R Other (deciduous or conifer)
- S Other (deciduous or conifer)
- T Other (deciduous or conifer)
- U Other (deciduous or conifer)
- V Other (deciduous or conifer)
- W Other (deciduous or conifer)
- X Other (deciduous or conifer)
- Y Other (deciduous or conifer)
- Z Other (deciduous or conifer)



NO.	DESCRIPTION	DATE
1	PRELIMINARY	10/1/80
2	REVISED	10/1/80
3	REVISED	10/1/80
4	REVISED	10/1/80
5	REVISED	10/1/80
6	REVISED	10/1/80
7	REVISED	10/1/80
8	REVISED	10/1/80
9	REVISED	10/1/80
10	REVISED	10/1/80

NEW UTTRIO-HALLER RESIDENCE
 ARCHITECT: DENNIS PRESTON DAVIS
 1000 10TH AVENUE, SUITE 100, DENVER, CO 80202
 303 733 4444

TO: Mr. Samuel J. Lemmo, Administrator
Department of Land and Natural Resources
PO Box 621
Honolulu, HI 96809

FROM: Terry Leianuenue Reveira
11-3831 Mokuna St., Volcano
Hawaii, 96785 (PUNA)

September 4, 2008

Aloha Mr. Samuel,

I am writing this to show my opposition to the granting of a Special Use Permit to Utyro and Hauler for a Single Family Residence on TMK13 1-3-02:71. The owners are proposing to build a two story home on this parcel of land.

This lot is next to the Opihikao area burial and graveyard and has cultural and natural resources such as: lauhala, small grove of ohia lehua (small coastal variety), okupukupu, native ferns, la'au lapa'au, fishing areas and burials. The lauhala grove is used by Puna lauhala weavers for the beautiful lauhala found there and for which Puna is well known. We would ask that the owner and builder chose a spot that is already cleared on the Kalapana end of the property.

I am a lauhala weaver who collects from this area and those trees along the seashore. The leaves are beautiful and have a special quality not found in other areas. In times where weavers from Maui and Oahu come to the Big Island to weave and to collect because they can not find good lauhala trees on their own islands due to development and resource loss. I enjoy taking walks with my family along the small trail there when I go to visit the kupuna and family buried there in the graves. There are also many more in the a'a papas close to the shoreline. I have seen people fishing there and there are fishing trails still found there along the shore.

I have also talked to people who call that area special because they have gone there on special nights and had Hawaiian chants and stories come to them from the kupuna who visit there and who have hala or passed but still share their knowledge with those of their families and to those who still speak our Hawaiian language or practice the traditional practices.

I hope the builders decide to build in a cleared area and not next to the burials or grave yard and also that they do not remove our precious puhala grove.

Mahalo nui loa for letting me share my mana'o about this special place.



Terry Leianuenue Reveira

Raised in Ka'u but family (grandparents) from Puna

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALKAPULENE AVENUE

P.O. Box 686

HONO, HAWAII 96721-0686

TELEPHONE: 808-935-6644 FAX: 808-935-7975

WWW.CARLSMITH.COM

STEW@CARLSMITH.COM

November 5, 2008

Terry Levanuene Reveira
11-3831 Mokuia Street
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kauleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Ms. Reveira:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the Puakaku Cemetery Site, preservation of the bushy Ohia Lehua trees and puhala grove, shoreline access, and the preservation of the historical and cultural values and native gathering rights.

In response to concerns raised by the community and Big Island lauhala weavers, like yourself, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the Ohia Lehua trees and puhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua'o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

November 5, 2008
Page 2

Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

An archaeological inventory survey of the Property was prepared by Haun & Associates in 2002, which was accepted by the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"). The report found that no archaeological sites or features were identified, and given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is unlikely. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002, as affirmed by letter dated September 9, 2008, that "no historic properties will be affected by this Project. The Puakaku Cemetery Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002-036, approximately 580 feet to the west of the alternative Project site. SHPD acknowledged that a significant buffer of trees will mitigate any indirect impacts on this Site.

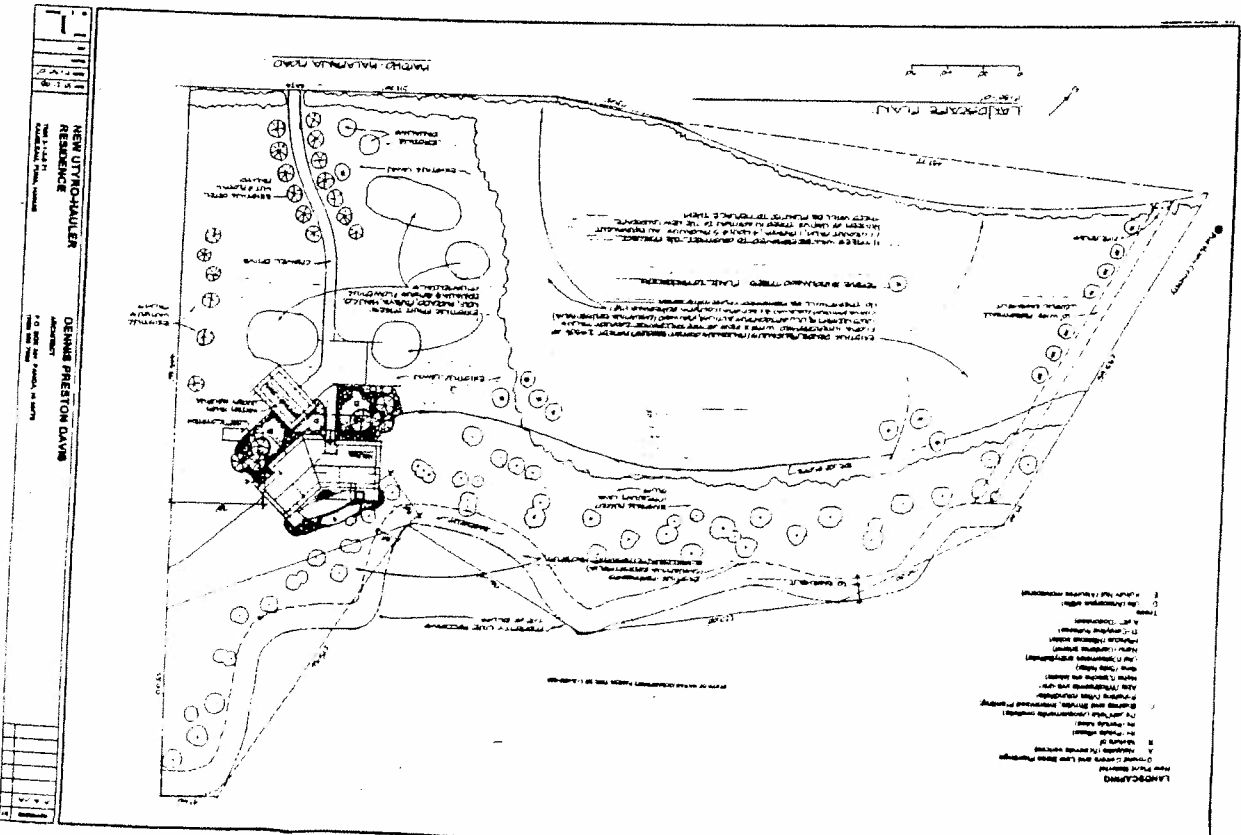
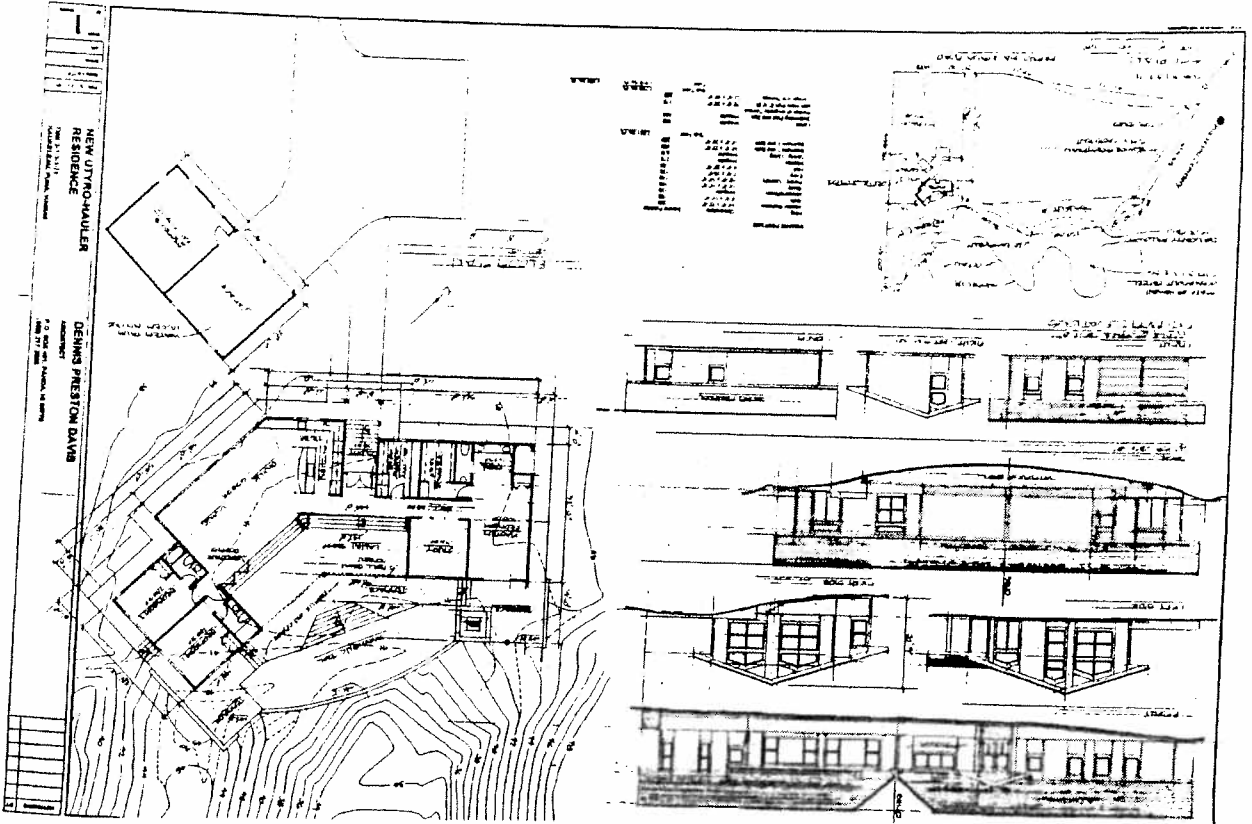
Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVENS C. JIM

SSLK/YL
xc: Client

DLNR-OCCL
OEQC



To Whom It May Concern,

As a weaver of the traditional art of lauhala weaving I am concerned about the proposed cutting down of a grove of pūhala trees along the Puna Coast down the road from Opihikao. My understanding is that this stand of trees are on Conservation Land and are being cut down to expose the ocean view for houses being build nearby.

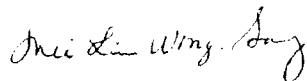
My assumption is that those wanting to cut down the trees are uneducated as to the value of this natural resource for weavers. I belong to a lauhala weaving club whose mission is to educate and perpetuate the art of lauhala weaving. Without material from these trees we are unable to perpetuate the art. The fact that these trees stand on Conservation Land indicates that someone or some entity recognized the value of the plan vegetation on this piece of land.

The lau (leaves) from this area are a dark rich color unique to our rainy climate. Our kupuna tell us that lau gathered from groves by the ocean are strong and preferable because of the makai winds and the environment they grow in.

Cutting some of the older trees so that the younger ones can grow more vibrant and produce better leaves may be a better way of maintaining this grove. A side affect of proper management may be an ocean view framed by beautiful pūhala trees with the fragrance of Hinano blossoms. I would strongly recommend forming an advisory committee with weavers or kūpuna who are knowledgeable on the maintenance of these trees. I would recommend those that want the trees down to put their money towards maintaining this grove and hire local experts to achieve such results. I am strongly against the clear cutting of this property.

In closing I would like to say that these views are my personal opinion and in no way represent the views of 'Aha Pūhala o Puna.

Aloha,



Mei Lin Wong-Gary

CARLSMITH BALL LLP

ALUMINUM LIABILITY LAW PARTNERSHIP

121 WASHINGTON AVENUE

P.O. BOX 686

HONOLULU, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7973

WWW.CARLSMITH.COM

MAIL@CARLSMITH.COM

November 5, 2008

Mei Lin Wong-Gary
P.O. Box 1746
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicant: Edward Uyro and Gary Hauler
Kaualea, District of Puna, County and Island of Hawaii
IMK-031-3-002-071

Dear Ms. Wong-Gary:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Uyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District, and for attending the community scoping meeting held on October 1, 2008 at Kalaani Honua. We appreciate your review of the DEA and have the following response to your comments relating to the pūhala grove within the Project.

In response to concerns raised by Big Island Iauhala weavers, like yourself, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalahana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address concerns requesting the preservation of the pūhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with Iauhala weaving organizations and educational institutions, such as Kua 'o Ka Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the pūhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and pūhala grove.

November 5, 2008
Page 2

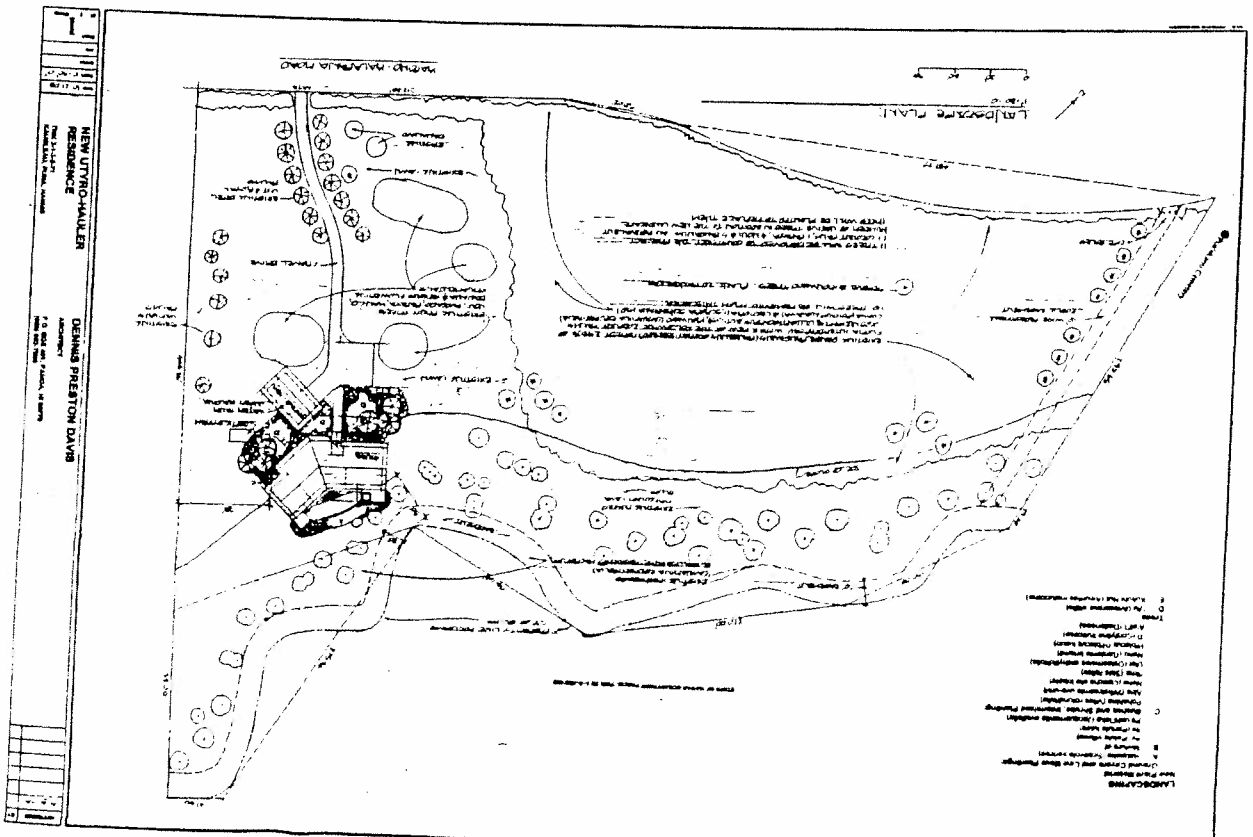
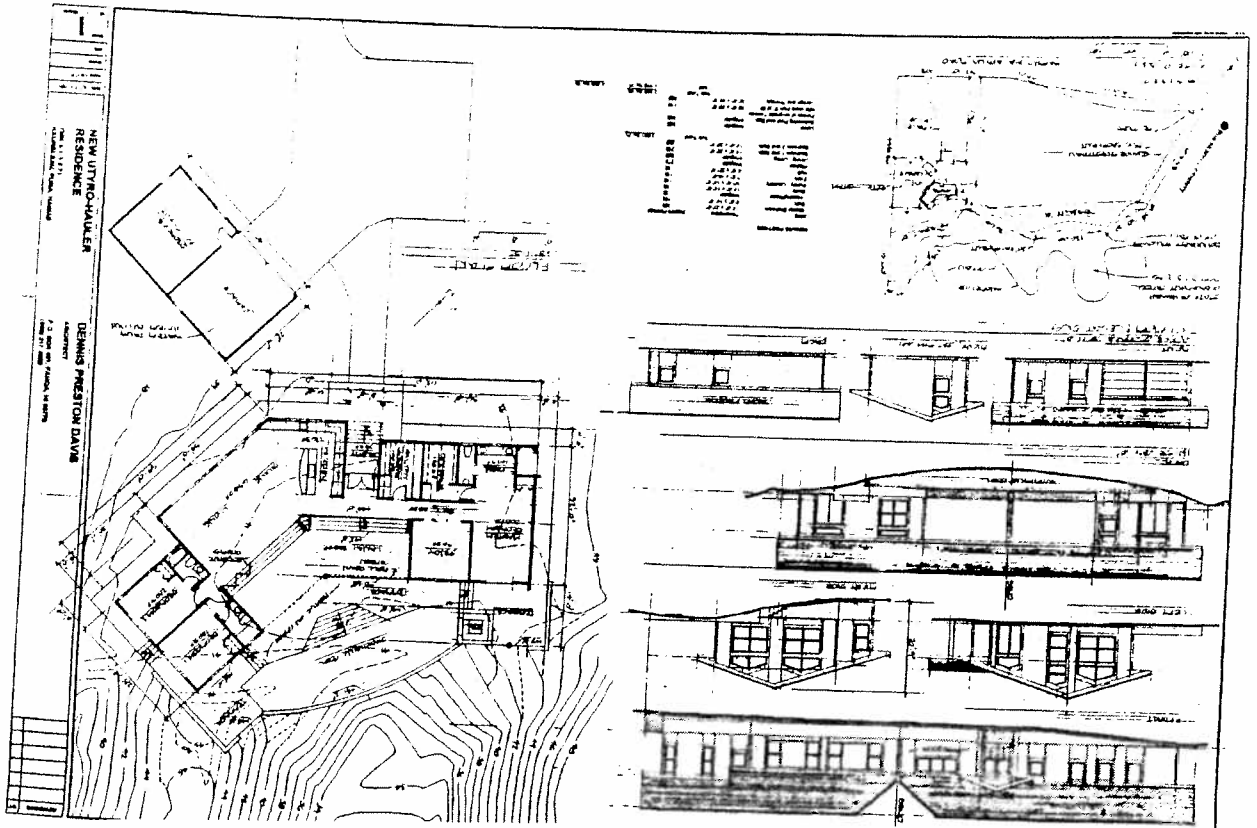
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

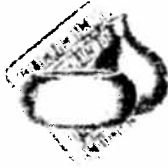
Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVEN S. C. LIM

SSL/KYL
xc: Client
DLNR-OCCL
OEQC





Association of Hawaiian Evangelical Churches

September 1, 2008

Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl St., Rm. 131
P.O. Box 621
Honolulu, HI 96809-0621

TO WHOM IT MAY CONCERN:

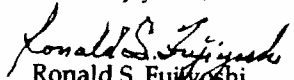
I am writing this letter in my individual capacity as the Luna Hoomalu of the Association of Hawaiian Evangelical Churches. One of our member churches, the Opihikao Congregational Church is concerned with an application to build a Single Family Residence next to the traditional cemetery of the Opihikao Church and destroying the Puhala Grove on that property.

I support the objections to building this single-family residence next to the cemetery and destroying the Puhala Grove for the following reasons:

1. This residence is planned on land that is zoned "Conservation." This land should remain for the purpose of what this zoning was intended.
2. There will definitely be religious impact to this land if the project is to proceed. While viewing the site personally I recognized on the land in question what were clearly old burial sites on the Oceanside of the lot. (TMK (3) 1-3-002:071.
3. The cemetery with its many ancient burial sites seems to be the cemetery for the Opihikao ahupua`a. The cemetery's boundaries are not clearly known.
4. I was present in the late 1990's at the burial of the daughter of Rev. Tuck Wah Lee in this cemetery. This cemetery is still in use as a cemetery. The cemetery should be allowed to expand as members of the Opihikao Congregational Church request burial in it.
5. The Puhala grove is one of the few left. There continues to be weavers and without this cultural resource, our ancient cultural arts and crafts will one day be no more. I am against removing any of the Puhala trees.

For these reasons and others raised by the Opihikao Congregational Church I stand in support of their objection to having a single-family residence built on designated Conservation lands.

Sincerely yours,


Ronald S. Fujiyoshi
1196 W. Kawaiiani St.
Hilo, HI 96720

CARLSMITH BALL LLP

A UMBRELLA LAW FIRM PARTNERSHIP

121 W. MAUNALEA AVENUE

P.O. BOX 686

HONOLOULU, HAWAII 96721-0686

TELEPHONE: 808.935.6644 FAX: 808.935.7975

WWW.CARLSMITH.COM

SUM@CARLSMITH.COM

November 5, 2008

Ronald S. Fujiyoshi
1196 W. Kawaihewa Street
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474

Applicant: Edward Ulyro and Gary Hauler
Kaelelanu, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Mr. Fujiyoshi:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the pūhala grove within the Project and adjoining Pua'akānu Cemetery Site.

In response to concerns raised by the community and Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kālapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the pūhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua'ōka'ia Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the pūhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and pūhala grove.

November 5, 2008
Page 2

Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

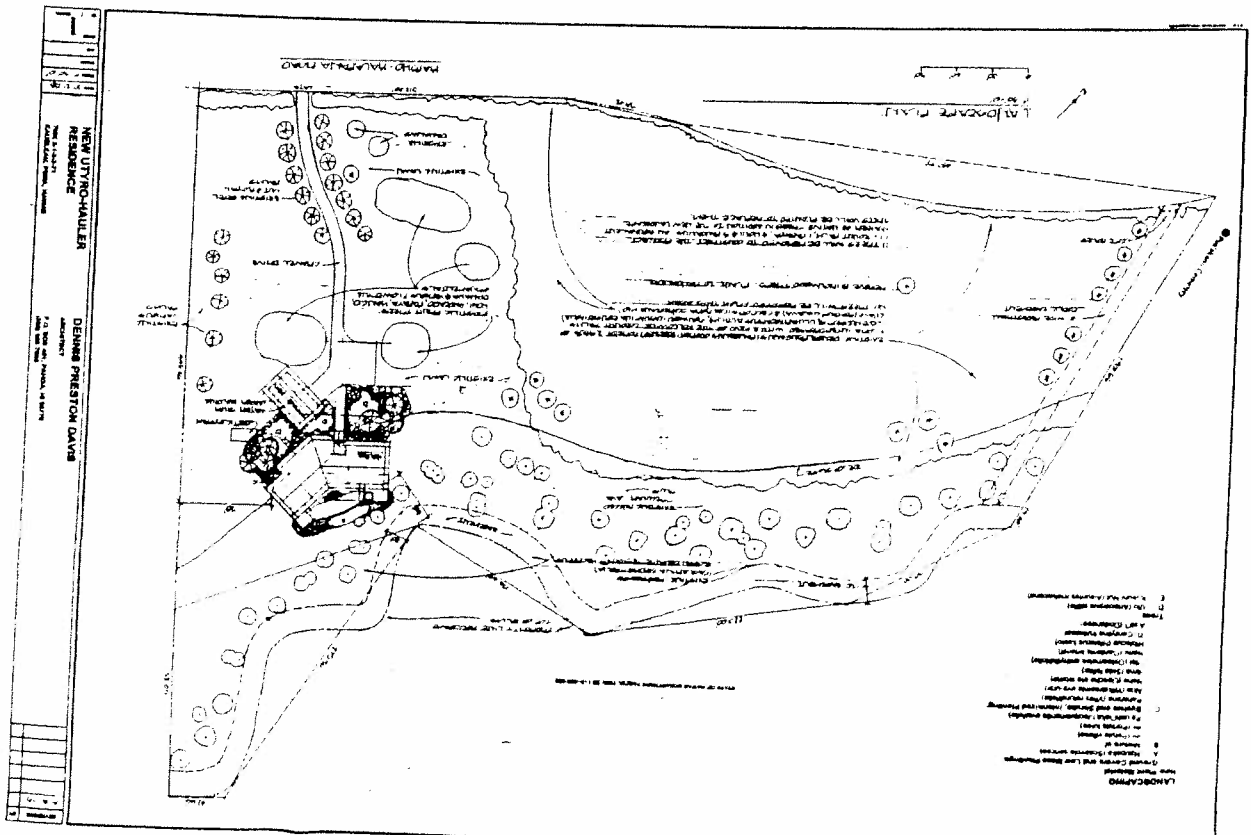
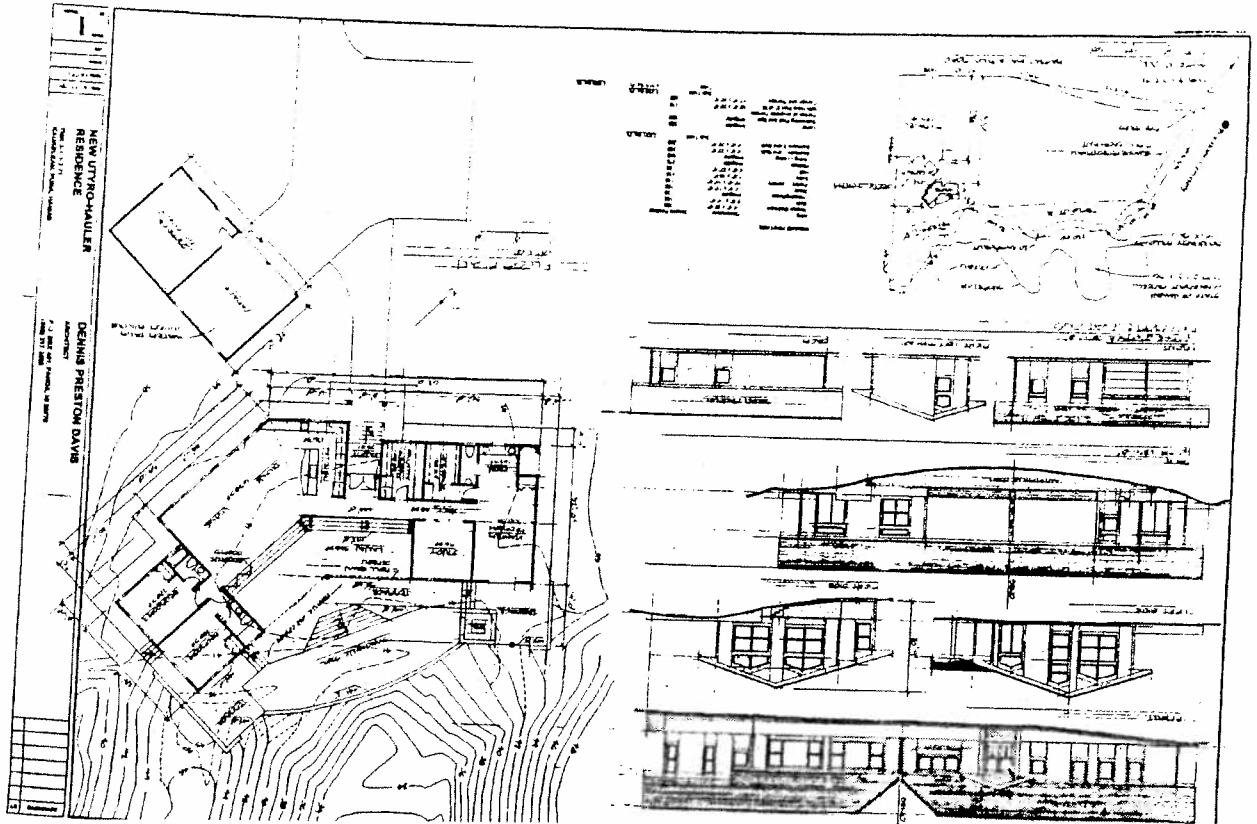
An archaeological inventory survey of the Property was prepared by Haun & Associates in 2002, which was accepted by the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"). The report found that no archaeological sites or features were identified, and given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is unlikely. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002, as affirmed by letter dated September 9, 2008, that "no historic properties will be affected by this Project. The Pua'akānu Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002-036, approximately 580 feet to the west of the alternative Project site. SHPD acknowledged that a significant buffer of trees will mitigate any indirect impacts on this Site.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVEN S. LIM

SSL/KYL
xc: Client
DENR-OCCL
OEOC



62491

Gloria-Ann Pualani Muraki
76-0186 Plumetera Rd.
Kailua-Kona, Hawaii 96740
Phone: 989-6008
Email: lolay1@hawaii.rr.com

September 4, 2008

Department of Land and Natural Resources
Kalaninokou Building
1151 Punchbowl St., Rm. 131
P.O. Box 621
Honolulu, HI 96809-0621

TO WHOM IT MAY CONCERN:

I am writing this letter in my individual capacity as a lauhala weaver practitioner and as a descendant of family who were born and raised in this area, also lauhala weavers. My understanding is that the Opihikao Congregational Church is concerned with an application "to build a Single Family Residence" next to the traditional cemetery of the Opihikao Church and destroying the Puhala Grove on that property.

I support the objections to building this single-family residence next to the cemetery and destroying the Puhala Grove for the following reasons:

1. This residence is planned on land that is zoned "Conservation." This land should remain as such for the purpose of what this zoning was intended.
2. There will definitely be religious impact to this land if the project is to proceed. The land in question clearly has evidence of old burial sites on the Ocean side of the lot. (TMK (3) 1-3-002-071.
3. The cemetery with its many ancient burial sites seems to be the cemetery for the Opihikao ahupua'a. The cemetery's boundaries are not clearly known.
4. Family members, one of them is the daughter of Rev. Truck Wah Lee, are buried in this cemetery. This cemetery is still in use. Instead of giving permission to destroy this area you should be making plans to reserve this place for cemetery purposes and register it as a historical site. Opihikao

DEPT OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

SEP -9 AM 22

RECEIVED

SEP 11 10 44 AM '08

Congregational Church continues to receive requests from family of this area to be buried at this cemetery. Burial areas are sacred to our culture and the utmost respect both culturally and spiritually should be acknowledged. The depth of being in touch with our past bears more merit than being pro development.

5. The type of lauhala species on this property is unlike any other on our island. This ahupua'a is known for their one of a kind lauhala especially to lauhala weavers as far back as anyone can remember. This type of Puhala grove is very rare and this type of "Red" lauhala is always in demand to lauhala weavers. Yes, we have red lauhala but every "red" lauhala colors and grows differently in each area. Some are lighter, some are darker and some are richer in color. There is no other that looks and feels like the lauhala from this area. Lauhala weaving is very unique not only because of the style of plaiting but because of the kind of lauhala leaf (based on the plant species) used and the location of where the plant is from. Once this area is demolished this kind of lauhala will be added to your "Ex tinct Hawaiian Plants" list. As the guardian of our aina this is not what you want to see happen.

For these reasons and others raised by the Opihikao Congregational Church I stand in support of their objection to having a single-family residence built on designated Conservation lands.

Sincerely yours,
Gloria-Ann Pualani Muraki
Gloria-Ann Pualani Muraki,
Practitioner, Lauhala Weaving

CARLSMITH BALL LLP

AN ATTORNEY-AT-LAW FIRM

121 WASHINGTON AVENUE

PO BOX 486

HONOLOULU HAWAII 96821-0486

TELEPHONE: 808.935.0644 FAX: 808.935.7975

WWW.CARLSMITH.COM

SEEN@CARLSMITH.COM

November 5, 2008

Gloria Ann Pualani Muraki
76-6186 Plumera Road
Kailua-Kona, Hawaii 96740

Re: Conservation District Use Application HA-3474
Applicant: Edward Utyro and Gary Hauler
Kaualea, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Ms. Muraki:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Utyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the puhalala grove within the Project and adjoining Pua'akana Cemetery Site.

In response to concerns raised by Big Island lauhala weavers, like yourself, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhalala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua' o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhalala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhalala grove.

November 5, 2008
Page 2

Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

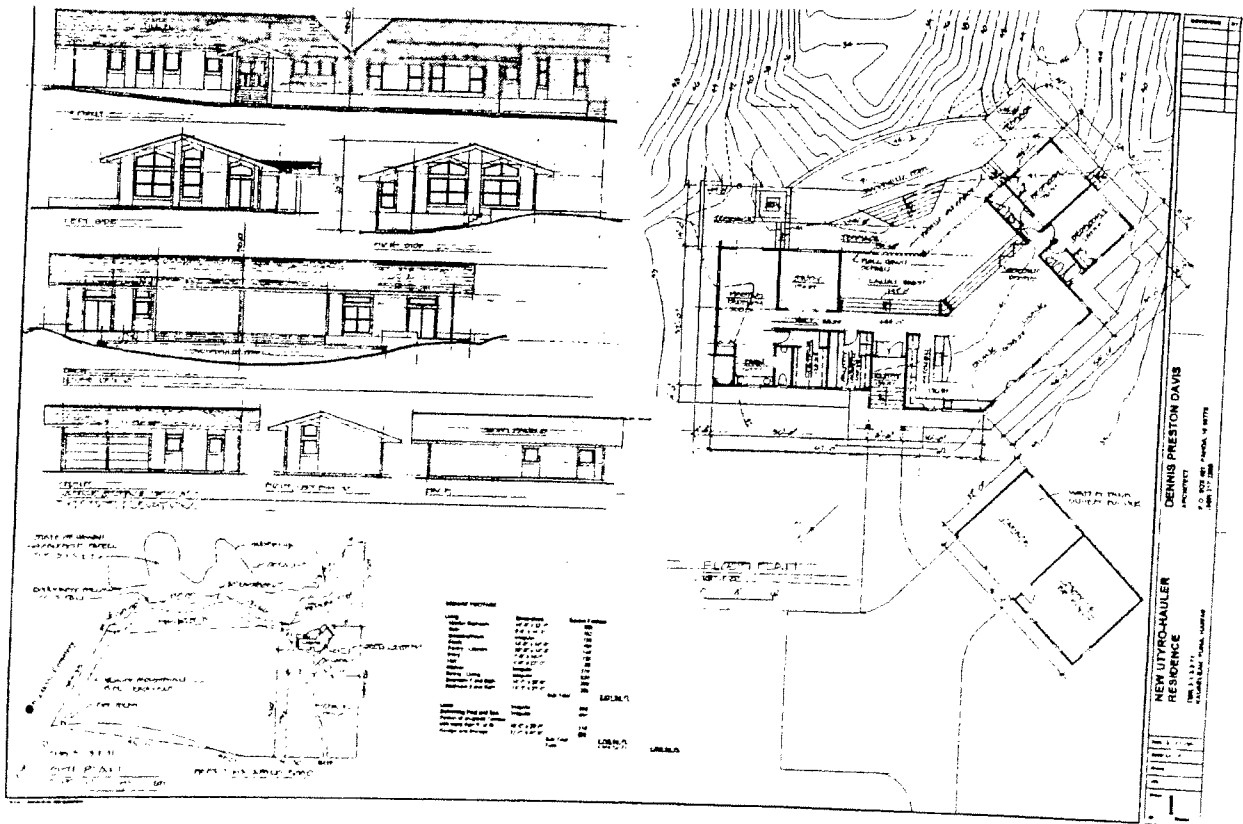
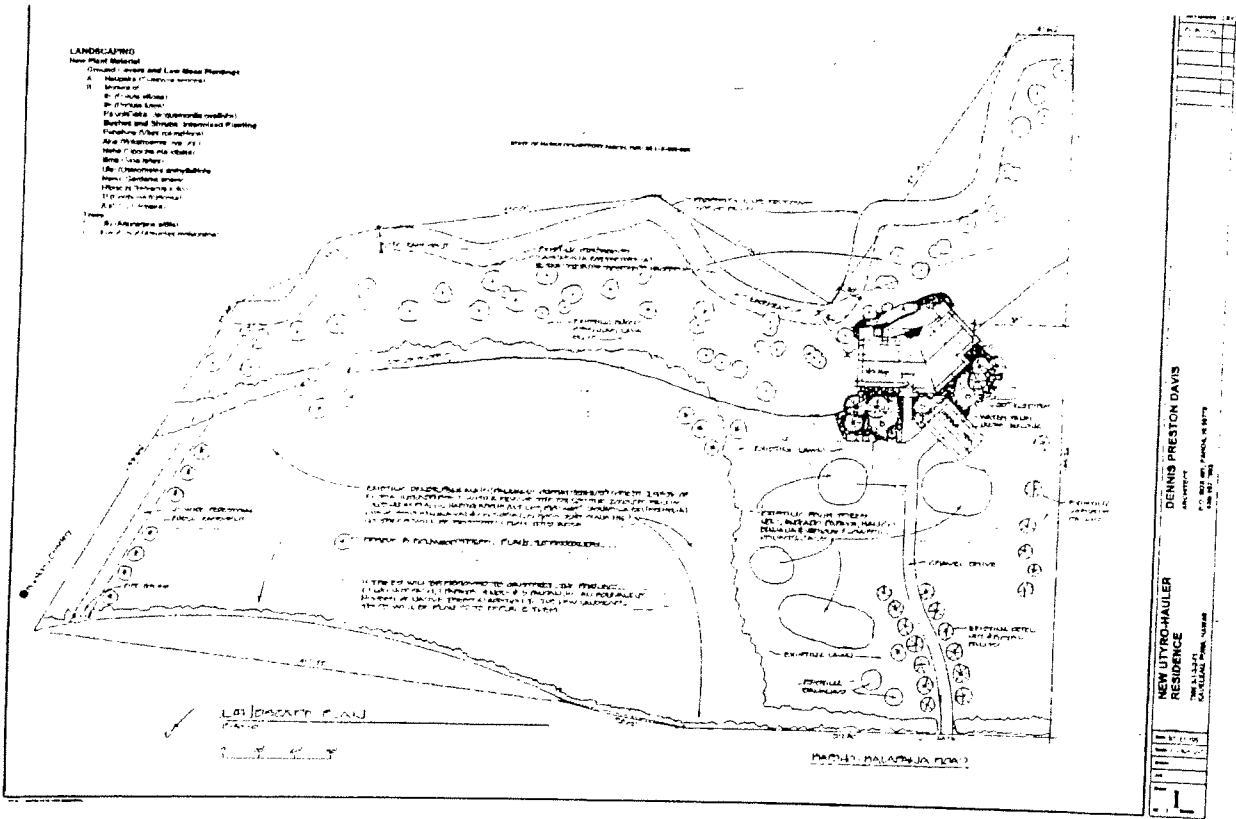
An archaeological inventory survey of the Property was prepared by Haun & Associates in 2002, which was accepted by the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"). The report found that no archaeological sites or features were identified, and given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is unlikely. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002, as affirmed by letter dated September 9, 2008, that "no historic properties will be affected by this Project. The Pua'akana Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002-026, approximately 580 feet to the west of the alternative Project site. SHPD acknowledged that a significant buffer of trees will mitigate any indirect impacts on this Site.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVEN S. CLIM

SSL/KYL
xc: Client
DINR-OCCL
OEOC



To Whom It May Concern,

My name is Joni Mae Makuakāne-Jarrell. I am an educator and native Hawaiian cultural practitioner born and raised in Hawai'i. I continue to gather and weave lauhala as my ancestors have done before me collecting in the 'Ōpīhikao to Kalapana coastline. My kupuna lived, worked, died and are buried in the district of Puna at Lae 'ō'io next to Kaueleau.

Recently, an alarming message arrived that the new landowners adjacent to our 'ohana cemetery were seeking a permit to destroy one of the last pūhala groves my family knows of and has gathered from; myself included. They also plan to eliminate the last few 'ōhi'a lehua trees, which were once dominant forest trees; habitat for the endangered Hawaiian Honeycreepers, 'Ōpe'ape'a, Hawaiian bats (yes, they do live in trees in Hawai'i), Pueo and other species. These already endangered species face their eventual demise, because uneducated and uncaring individuals plow down the last few pūhala and 'ōhi'a lehua trees that have no meaning or value to them, the pūhala and 'ōhi'a lehua trees, thereby disrupting and annihilating Hawai'i's delicate eco-system.

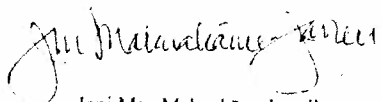
From the knowledge of kūpuna who have taught me to weave and from my personal experience, I know there are no other pūhala trees like these. The dark, chocolate color is prized by weavers to create the intricate dark and light patterns known as the 'anoni style weave. Few weavers today have mastered this technique because the pūhala groves are so limited. Hawaiians have lived in harmony with the land for generations, uprooting themselves rather than uprooting the land to conform to any selfish needs. An excellent example is when the lava was coming into the Kalapana district in 1989 and Kupuna Emma Kauhi was asked what she thought. Her response was to simply move out of its path. Like this wise thought, I am sure that this single-family house being planned, that is four times bigger than an average single-family house in Hawai'i, can be placed on another part of the land (it's still only on paper).

I have written and successfully received monetary grants from the County of Hawai'i, Department of Research and Development, Hawai'i Tourism Authority (HTA). The goal of the HTA Strategic Plan is to honor and perpetuate the Hawaiian language, knowledge and cultural traditions for both our residents and visitors alike that include the natural resources. Thousands of dollars are being distributed on all the islands to accomplish this purpose. How can the Department of Land and Natural Resources destroy the very ideals HTA strives to honor and perpetuate?

It grieves me that these buyers come from other lands to Hawai'i, purchase lands deemed **Conservation** and, lack consideration, bringing native natural resources and the right of native Hawaiians to preserve and perpetuate the host culture of Hawai'i to **EXTINCTION!** Please inform the new land owners that I am requesting that they go back to their own home lands and bring to extinction their own natural resources, traditions, values and culture. The true travesty here is that the State, County or Government agencies that received this request would even consider the landowners permit on **Conservation lands**. Further, to those who were paid to create a report of what is or is not on the land for the fleeting moment they spent on the property (good or bad intentions), I say, "you have not spent enough of your lifetime on this property or in this place to make those judgments." Let's use this nightmare as a launching pad to bring forth awareness, springboard understanding and drive home the protection and preservation issues at hand that warranted this property to be slated **Conservation lands**.

For the sake of the endangered species that cannot speak for themselves and who intentionally did not show themselves during inspection of the land for nā keiki, children of Hawai'i today and those yet to come, I will be their voice and proudly stand up and say, "NO MORE, stop the unrighteous acts of everyone involved and make things PONO now. Kū'ē!

Sincerely,



Joni Mae Makuakāne-Jarrell
September 4, 2008



Nā Kūpuna Lehua Domingo and
Pele Hanoa wearing and weaving
the 'anoni style pāpale lauhala.

CARLSMITH BALL LLP

ATTORNEYS AT LAW PARTNERSHIP

121 MANUKEHE AVENUE
P.O. BOX 686
HONO KAUAI HAWAII 96721-0686
TELEPHONE 808 925 6684 FAX 808 925 7975
WWW.CARLSMITH.COM

STEARNS@CARLSMITH.COM

November 5, 2008

Joni Mae Makuakane-Jarrell
P.O. Box 18
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kauaiean, District of Puna, County and Island of Hawaii
TMK: (3)1-3-002-071

Dear Ms. Makuakane-Jarrell:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the puhalala grove within the Project.

In response to concerns raised by Big Island lauhala weavers, like yourself, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalaipana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhalala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua'o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhalala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary, which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhalala grove.

November 5, 2008
Page 2

Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


STEVEN G. LIM

SSL/KYL
xc: Client
DLNR-OCCL
OEOC

'Ike A'o

Quality Education / Sustainable Communities
A non-profit community group

RECEIVED
CONSERVATION
DISTRICTS
2008 SEP 12 A 8:13
HAWAIIAN
STATE COLLEGE

Mr. Sam Lemmo
DLNR, P.O. Box 621
Honolulu, HI. 96809

Aloha Mr. Lemmo:

September 6, 2008

This is a letter responding to the issue we have in Kaueleau, lower Puna, here on the island of Hawai'i. It concerns the Conservation District Use Application (CDUA) HA-3474, Utyro and Hauler single family residence. TMK: (3)1-3-02:71, Kaueleau, Puna

We oppose the granting of the Special Use Permit to Utyro and Hauler for a single family residence on TMK (3) 1-3-02:71, which is zoned Conservation.

Because of the rich cultural heritage this area represents for all the people of Hawaii, may I bring to light some of the highlights of this special place?

- 1) Lauhala weaving has been an important Hawaiian practice that is now regaining importance with weaving conferences, education, and with practitioners traveling from all island to gather on our famous lands of hala in Puna. The place that is being targeted for a single family home is in the center of a Puhala grove. This Puhala grove is a special site as these groves are becoming rare, even here in this island.
- 2) A grove of hala trees is not only valuable for the weavers of lauhala, they stand as dynamic reminders of a *whole* environment where our birds, practitioners and rain clouds gather. Each grove, each stand of ohia lehua, each natural element in our native places must be guarded as they are remnants of our beloved kupuna who planted them, nourished them, and used them for their lives, commerce and leisure.

I know there are many other issues with regard to beach access, the spirit of conservation land being compromised with over-development, and the fragile ecosystem for our native birds, but I am writing as a concerned community member worried about the places where our children can go to learn the ways of their own identity that link us forever to our kupuna. Please, consider these ideas deeply when rendering a decision.

Me ke aloha,



Dr. Manu Aluli Meyer
'Ike A'o Founding Member
UH Hilo Faculty of Education

CARLSMITH BALL LLP

A LIMITED LIABILITY PARTNERSHIP

121 W. VANNESS AVENUE

P.O. Box 686

HONOLOULU, HAWAII 96821-0686

TELEPHONE 808 955 6644 FAX 808 555 7975

WWW.CARLSMITH.COM

MAIL@CARLSMITH.COM

November 5, 2008

Dr. Manu Aluli Meyer
The A'o Founding Member
11H Hilo Faculty of Education
136 Aiea Street
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
IMK: (3) 13-0022071

Dear Dr. Meyer:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the pūhala grove within the Project.

In response to concerns raised by the community and Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kaliapuna direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the pūhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua'ō Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the pūhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary

November 5, 2008
Page 2

which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and pūhala grove.

Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVENS Q. LIM

SSL/KYL
xc: Client
DLNR-OCCL
OEQC

Department of Land and Natural Resources
Attn: Sam Lemmo
P.O. Box 621
Honolulu, HI 96809

Re: TMK: (3) 1-3-002:071

Dear Sam,

Aloha! Kua O Ka La Public Charter School recently became aware of the intentions of Edward Utyro and Gary Hauler proposal to construct a split level, single family residential dwelling and related accessory use improvement (SFR Dwelling") on .500 acre of the 7.180+ acre property identified as TMK: (3)1-3-002:071 (Project Area).

We understand that a Draft Environmental Assessment and Conservation District Use Application has been filed. We would like to express our opposition regarding this development. Our Charter School exists to perpetuate Native Hawaiian cultural practices with a special emphasis on students "relationship to place". Puna is renowned for its puhala, the plant whose leaves are used for lauhala weaving. This is one of the core project based classes that we have and in fact, our first year graduating class students were so proficient in weaving that they wove their graduation gowns!

This past week, our school accessed the grove that exists on this property in question. This is clearly a planted grove with the specific purpose of harvesting the lau for weaving. The harvesting of lau has become more and more difficult since the construction boom on Hawaii Island over the past few years. It is totally inappropriate for a house to be developed on precious "conservation zoned" land especially one that hosts a rare and precious puhala grove.

Please be advised with this letter that Kua O Ka La Public Charter School is absolutely against this development. We must secure this precious resource for future generations before this important sustainable cultural knowledge is lost.

We request the application for rezoning in this conservation district TMK: (3) 1-3-002:071 be denied. We appreciate your attention to this matter and anticipate your expedient response. You may reach me at (808) 965-5098.

Me ke aloha,

Susie Leigh Osborne

Susie Leigh Osborne
Principal, Kua O Ka La PCS

Cc: Laura Thielan, Chairperson DLNR
Katherine Y. Luga, Carlsmith Ball LLP
Robert Lindsey, Trustee, Office of Hawaiian Affairs
Kai Markell, Director of Native Rights, Land and Culture, OHA

CARLSMITH BALL LLP

ATTORNEYS AT LAW PARTNERSHIP

121 WASHINGTON AVENUE

P.O. BOX 686

HONOLOULU, HAWAII 96821-0686

PHONE: 808.935.6644 FAX: 808.935.7975

WWW.CARLSMITH.COM

EMAIL: CARLSMITH.COM

November 5, 2008

Susie Leigh Osborne
Principal, Kua 'o Ka I'a P.C.S.
14-53322 Kaimu-Kapoho Road
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kauaieau, District of Puna, County and Island of Hawaii
(MK: 01) L-3-002-071

Dear Ms. Osborne:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate Kumu Leila Kealoha and students from her cultural class attending a site visit and participating in lauhala gathering on October 1, 2008. We appreciate your review of the DEA and have the following response to your comments relating to the puhala grove within the Project.

In response to concerns raised by the community and Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalaupana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address concerns requesting the preservation of the puhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka I'a Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary

November 5, 2008
Page 2

which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

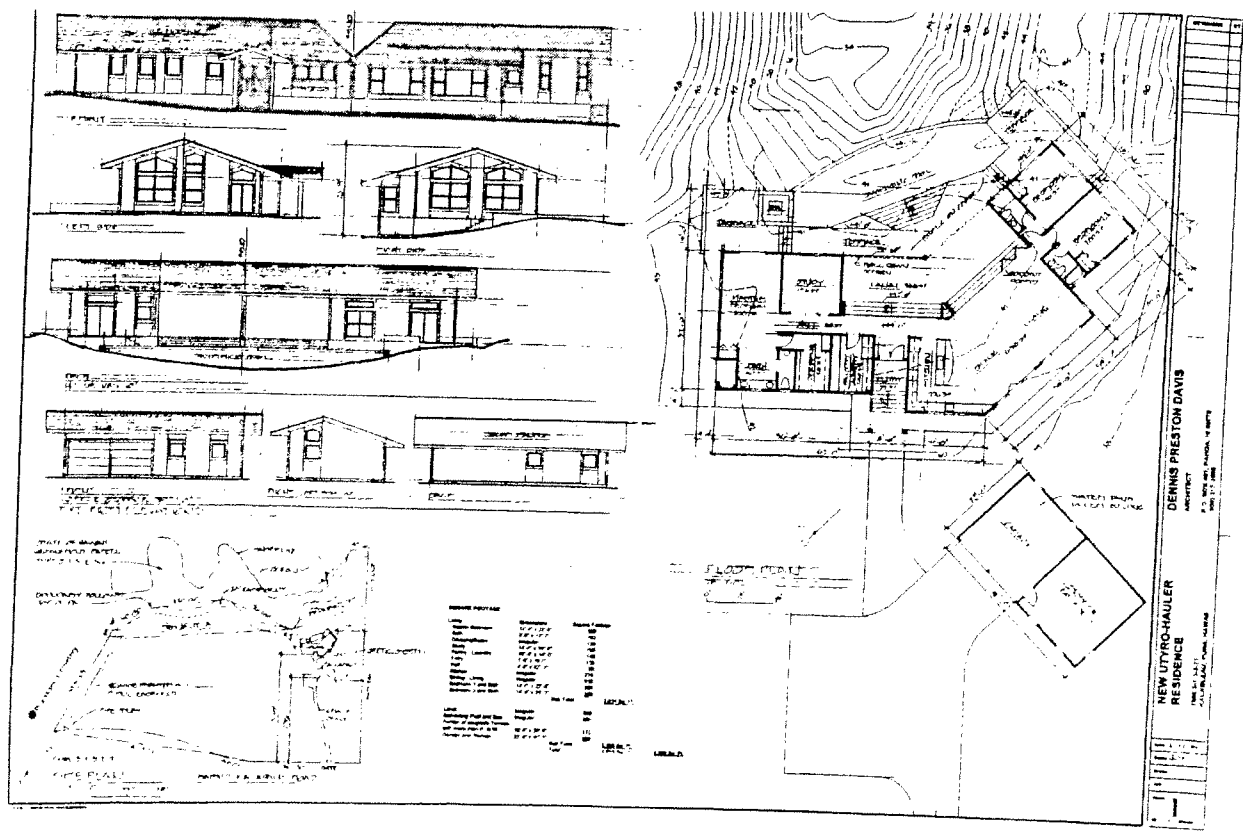
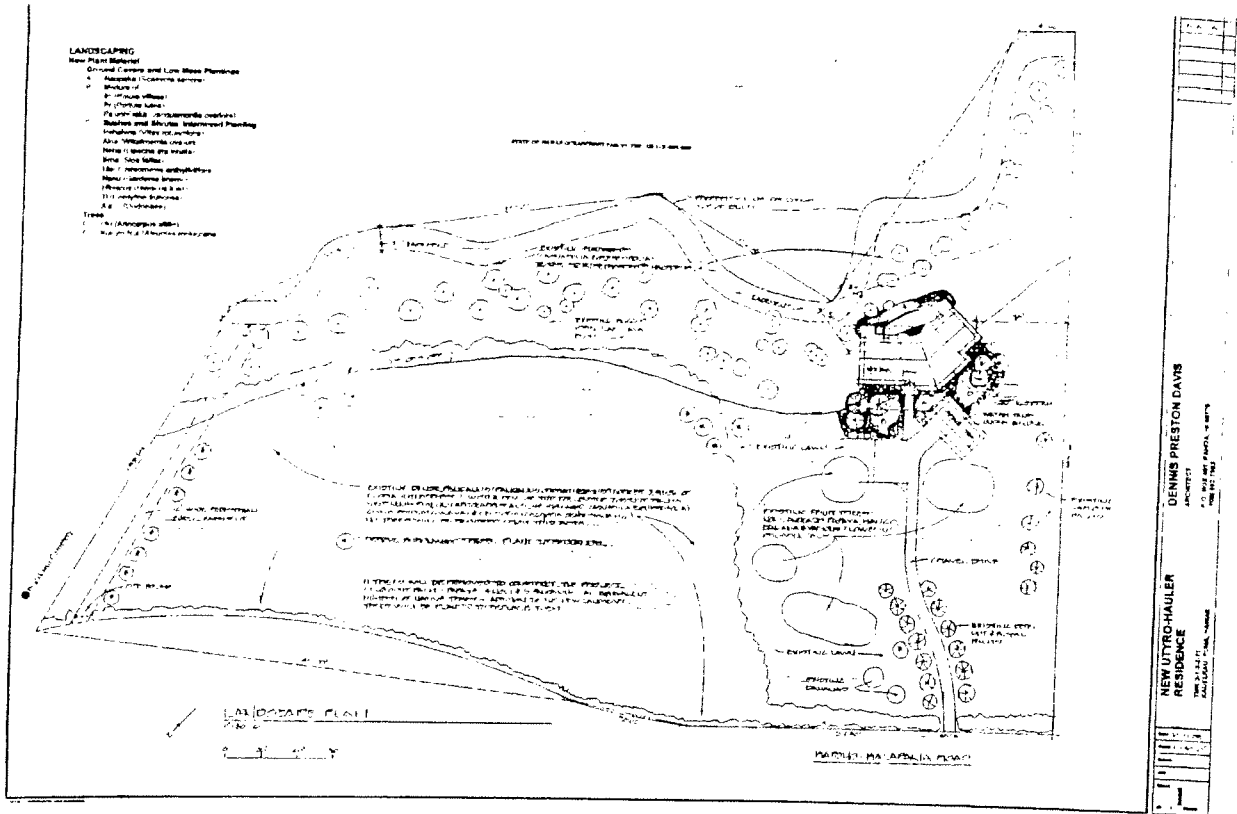
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVEN G. LIM

SSL/KYL
xc: Client
DLNR-OCCL
OEQC



Madame Blanche

SEP 24 A 8 45

September 21, 2008

Aloha Mr. Lemmo!

RE: TRK: (3) 1-3-02-71

Uryo & Hauier Single Family Residence in Kaeleau, Puna, HI

I am writing in regards to the "Request for Comments" regarding the above property. I ask that their request to build a residence at that site be denied.

An ancient lauhala grove is located at the site and aside from that, other native plants are at risk of being removed. The Hawaiians relied on many different parts of this plant. This particular species is indigenous to Hawaii. So versatile are the leaves from this plant, that the leaves were woven together for the sails of the ancient canoes. Kona coffee is collected in sturdy baskets woven of this leaf and modern day hula dancers still use the leaves in their attire. Other parts of the plant are also used for medicine, dyes and even fragrant lei are crafted from the colorful "keys" - the fruit from the female plant. Young male and female plants have been identified! I began weaving 2 years ago under several different kumu (teachers.) In May, I was honored to be the recipient of a full scholarship to attend the Ka Ulu Lauhala O Kona's Annual Weaving Conference and Workshops. It was truly a life changing event as I met amazing people of varied backgrounds and abilities. They were all there to learn and improve their skills in the use of a humble leaf! From simple bracelets and coasters to baskets, hats and even

lampshades, hundreds of individuals came together to share their passion.

I'm sure you have been receiving many letters from local lauhala weavers as to the importance of the lauhala grove located on this property. For a minute, I'm going to play devil's advocate and say what the land owner would say...

"Well, if it's that important, why was no one coming to use any of this stuff until we want to build our house on it?!" All I can say is that only in times of fear of losing what is dear to us, do we jump up and start making noise. And in these times, we are gently reminded of what truly is important. For me, I want to have a large variety of lauhala to choose from in the future and to share with my children.

And let us not forget the words of the famous song, Hilo Hanakahi.

"Pana paia ika i ka paia ika i ka haka"

Puna of the fragrant bowers
Fragrant with the blossoms of the hala

Mahalo Nui Loa,

Mellina White

CARL SMITH BALL LLP

A PARTNERSHIP OF ATTORNEYS

121 WASHINGTON AVENUE
P.O. Box 686
Honolulu, Hawaii 96721-3486
TELEPHONE: 808-935-0644 FAX: 808-935-7975
WWW.CARLSMITH.COM
SIBL@CARLSMITH.COM

November 5, 2008

Valdeane Odachi
P.O. Box 294
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kaneleau, District of Puna, County and Island of Hawaii
DMK: (3) 1-3-002-071

Dear Ms. Odachi:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the puhalala grove within the Project.

In response to concerns raised by Big Island lauhala weavers, like yourself, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kaliapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhalala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhalala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhalala grove.

November 5, 2008
Page 2

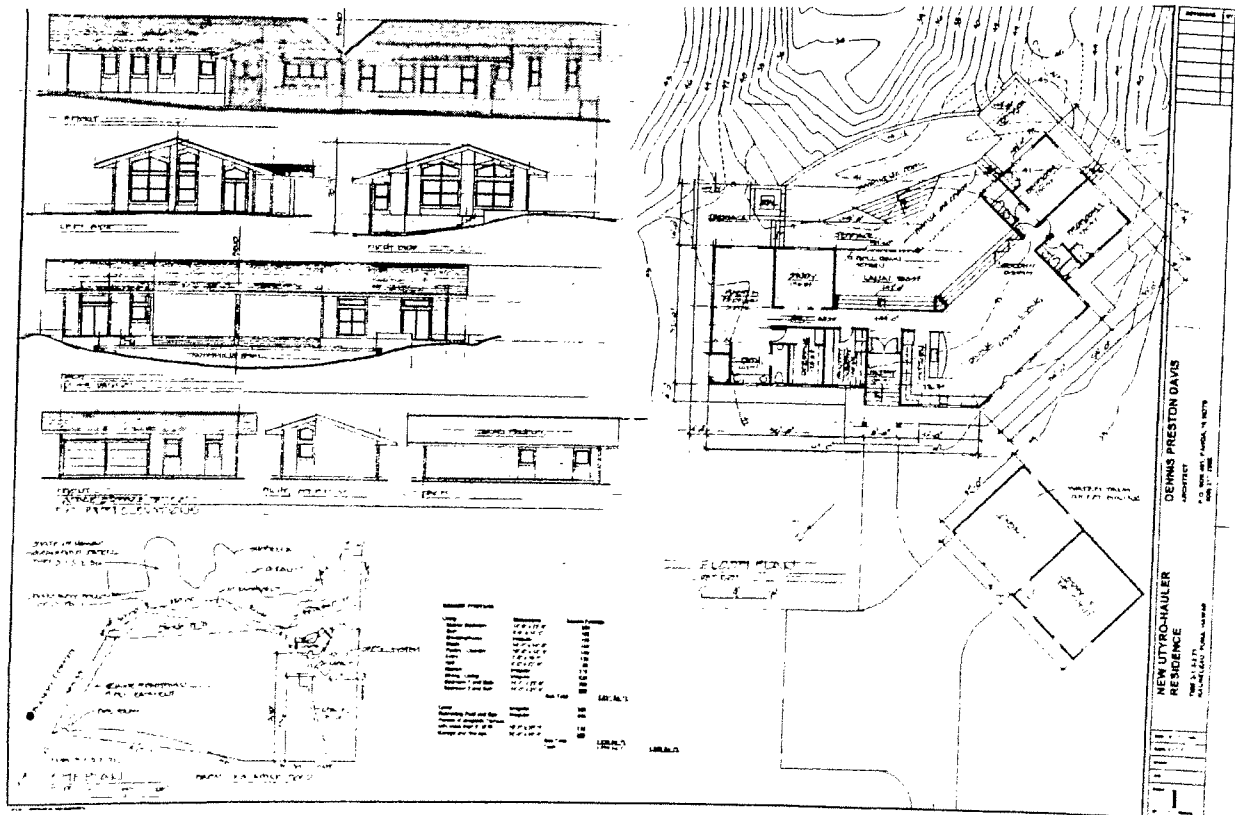
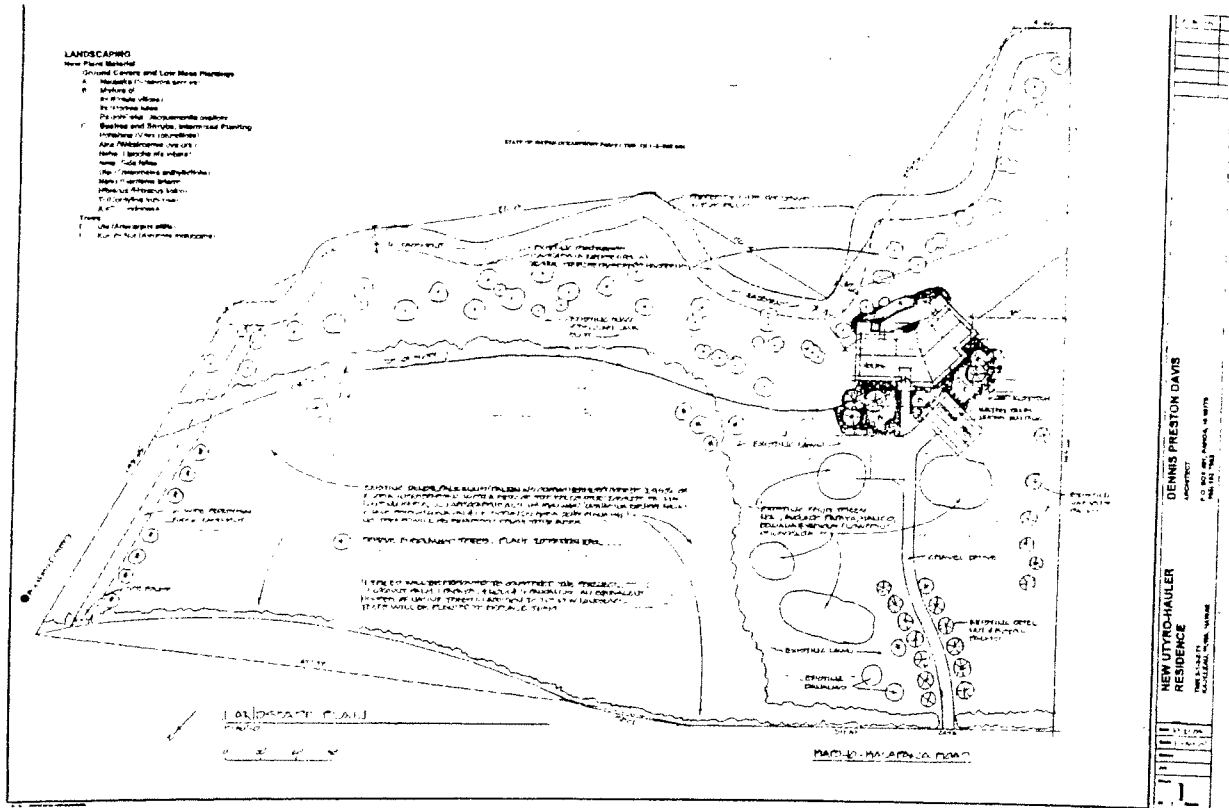
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


STEVENS C. LIM

SSL/KYL
xc: Client
DLNR-OCCCL
OEQC



RECEIVED
OFFICE OF CONSERVATION
COASTAL LANDS 215 Punahale St.
Hilo, HI 96720
2008 SEP 18 A 9 09

September 16, 2008

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Mr. Samuel J. Lemmo, Administrator
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Subject: Request for Comments
Conservation District Use Application (CDUA) HA-3474
Utyro and Hauler Single Family Residence
TMK: (3) 1-3-02:71

Thank you for allowing me to review and comment on the above-mentioned application.

I oppose the granting of the Special Use Permit to Utyro and Hauler for a Single Family Residence on TMK (3) 1-3-02:71, which is in a zoned Conservation District.

Sincerely,


Mary Miller

CARLSMITH BALL LLP

A LIMITED LIABILITY PARTNERSHIP

121 WALKERWAY AVENUE

P.O. BOX 686

HONO KAUAI HI 96721-0686

TELEPHONE 808 933 6644 FAX 808 935 7975

WWW.CARLSMITH.COM

STAC@CARLSMITH.COM

November 5, 2008

Mary Miller
215 Punahale Street
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicant: Edward Uhyro and Gary Hauler
Kaunakakai, District of Puna, County and Island of Hawaii
TAK: (3) 1-3-002,071

Dear Ms. Miller:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Uhyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the puhala grove within the Project.

In response to concerns raised by Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalaupana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka I'a Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

November 5, 2008
Page 2

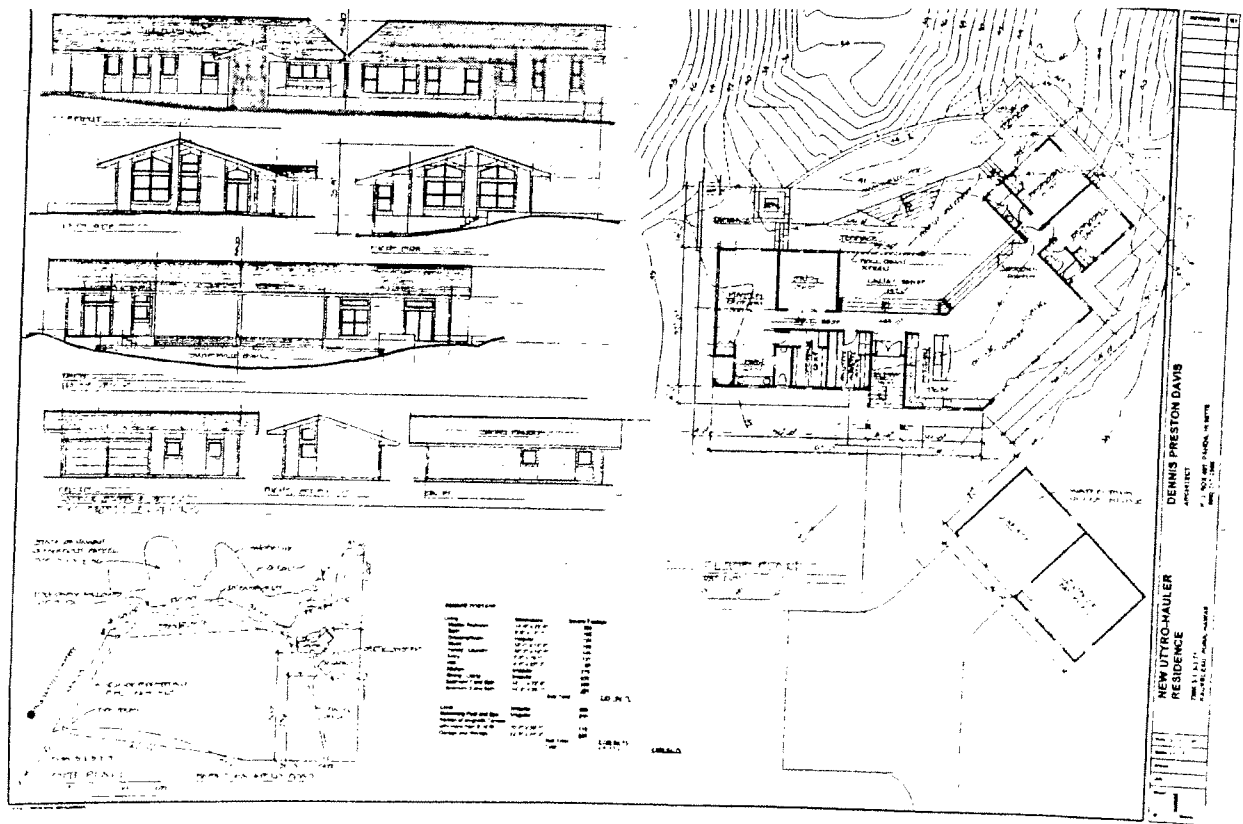
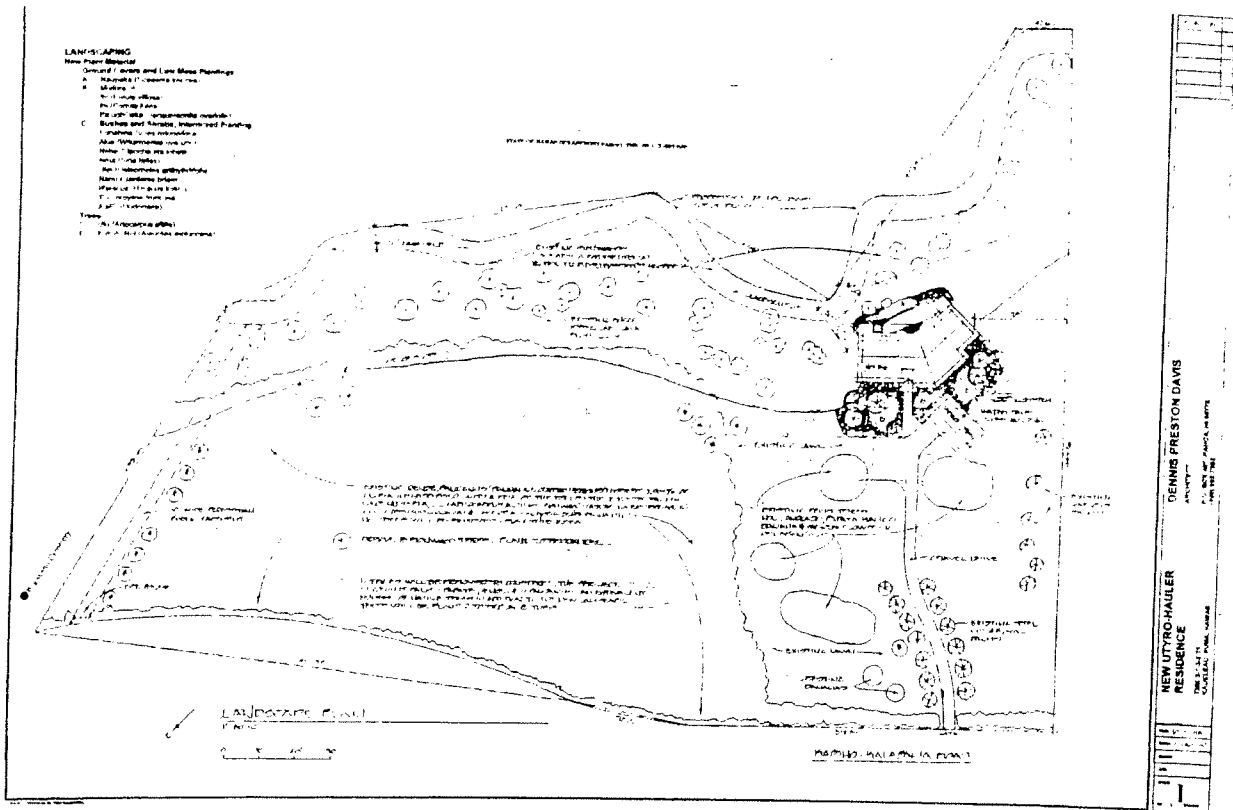
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


STEVEN K. C. LIM

SSL/KYL
cc: Client
DLNR-OCCL
OEQC



September 19, 2008

RECEIVED
CONSERVATION
LANDS
2008 SEP 22 A 9 32
LAND &
NATURAL RESOURCES
STATE OF HAWAII

Mr Samuel J. Lemmo, Administrator
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

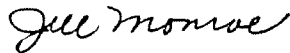
SUBJECT: REQUEST FOR COMMENTS
Utyro & Hauler Single Family Residence
TMK: (3) 1-3-02:71
Kaueleau, Puna, HI

Dear Mr. Lemmo,

It has come to my attention that the owners of the conservation zoned parcel identified above have applied to build a large (4000 sq. ft.) home on the above mentioned parcel. On this parcel exists a large hala forest that has been there for generations as well as other native plants. The leaves from this grove are excellent for lauhala weaving. Having been a lauhala weaver for fourteen years and seeing many beautiful and useful lauhala trees removed for development, it is very disconcerting to know that even on conservation land these valuable trees are at risk.

Here on Maui lauhala trees are becoming less common due to development as well as foreign pests and diseases. If you decide to allow a special permit for a large structure on this conservation parcel please consider protecting the hala grove by not allowing it to be destroyed to make way for the building and roadways. Better yet, let the parcel stand as it is and truly be preserved for future generations. If we do not start saving our natural resources now Hawaii's uniqueness and beauty will be greatly diminished.

Aloha,



Jill Monroe
149 Cane Place
Paia, Hawaii
96779

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WASHINGTON AVENUE
P.O. BOX 606
HONO, HAWAII 96721-0606
TELEPHONE: 808-935-6644 FAX: 808-935-7975
WWW.CARLSMITH.COM
SINCE@CARLSMITH.COM

November 5, 2008

Jill Monroe
149 Kane Place
Paia, Hawaii 96779

Re: Conservation District Use Application HA-3474
Applicant: Edward Uiyro and Gary Hauler
Kauleaun, District of Puna, County and Island of Hawaii
EMK (3) 1-3-002-071

Dear Ms. Monroe:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Uiyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the puhalala grove within the Project.

In response to concerns raised by Big Island Iauhala weavers like yourself, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kaupana direction) in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhalala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with Iauhala weaving organizations and educational institutions, such as Kua 'o Ka Lā Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhalala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former Jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhalala grove.

November 5, 2008
Page 2

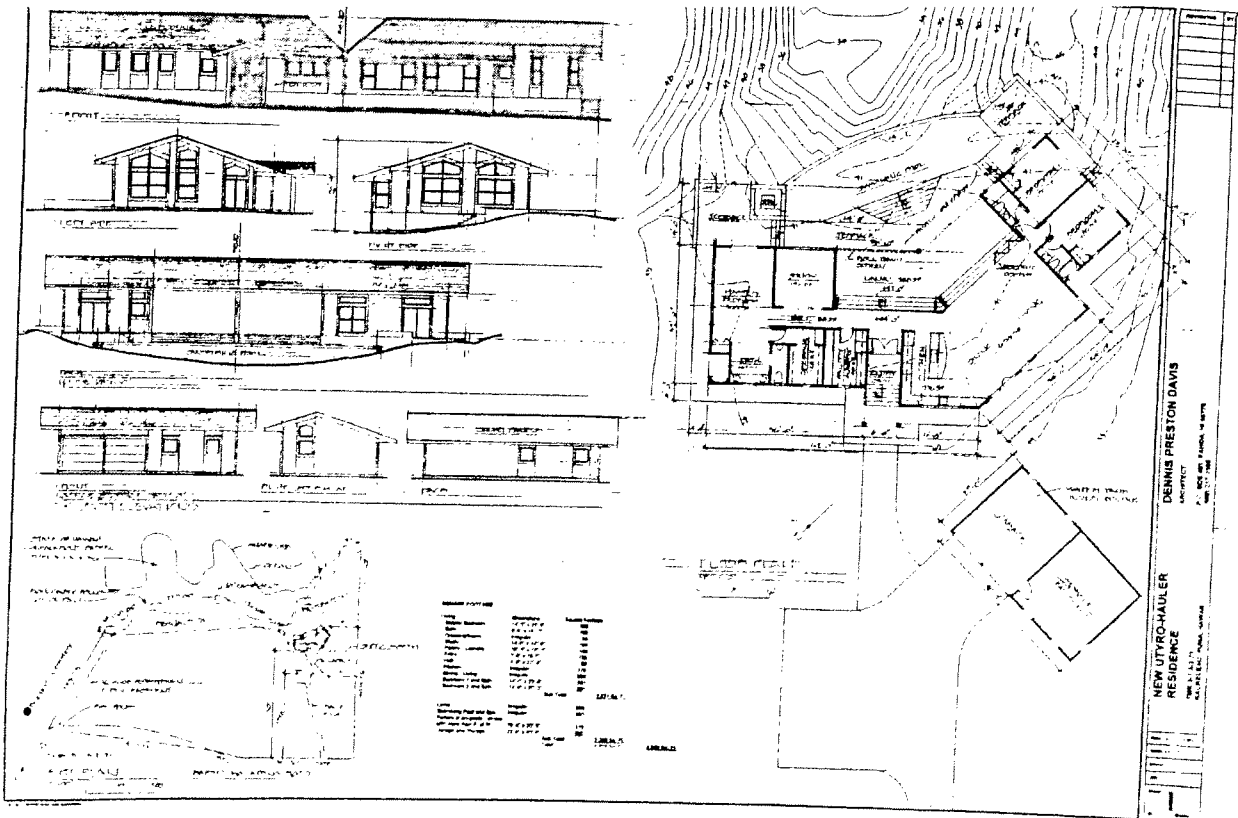
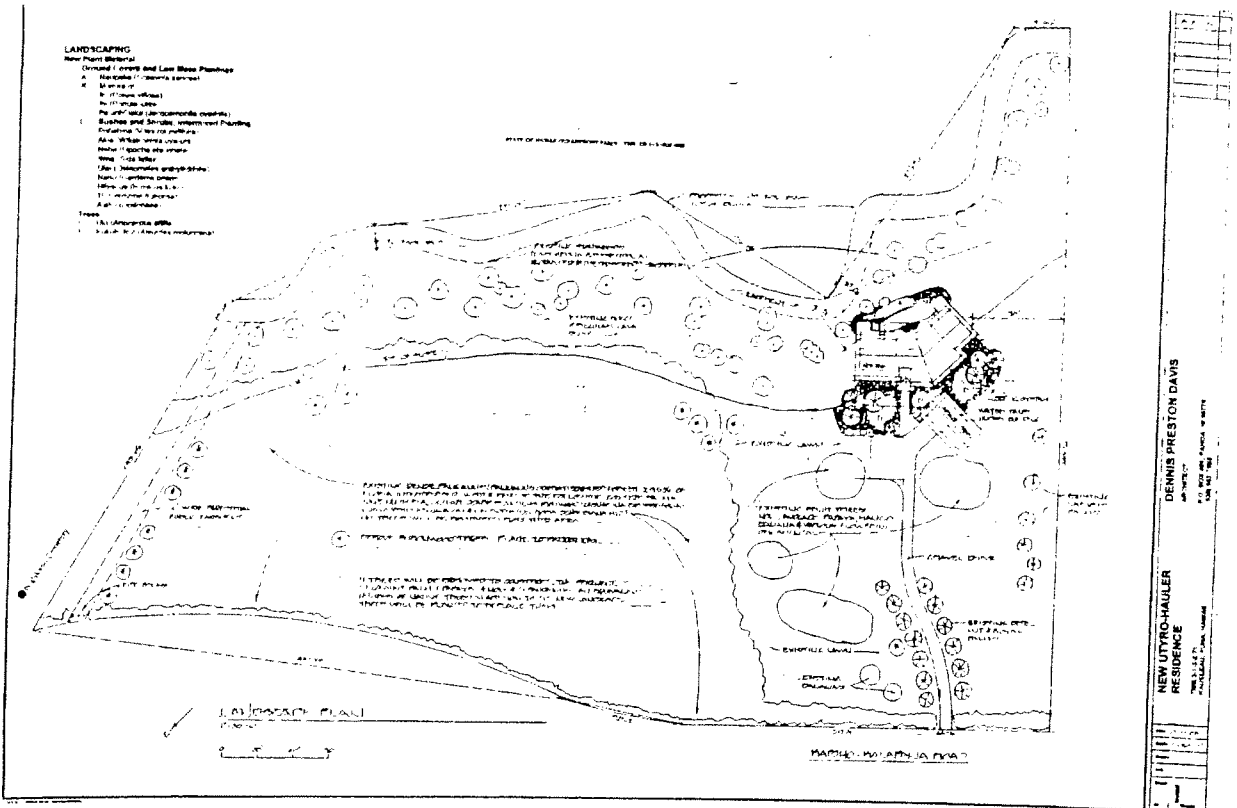
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


STEVEN S. LIM

SSL/KYL
xc: Client
DLNR-OCCL
OEQC



Copy of other letters:

September 19, 2008

Dear Mr. Lemmo,

Please help protect our established lauhala groves. There are a number of weavers who still rely on selling lauhala products for income. I am one of many of them. It is difficult to find good lauhala to weave with because they are slow growing and although the trees all seem to look alike, the quality and color of the leaves vary greatly from tree to tree. So when a good source is found, it's vital to protect it where it is because simply taking keiki (starter trees from the parents) and planting them elsewhere changes the quality of the leaves. The environment is important too.

It was heartbreaking to hear from one of my fellow weavers, Kattie Lowrey, on the Hilo side about this grove. Puna is known for the quality and rich color of their lauhala:

"The land in question is right on the ocean cliffs. On the ocean side there is beautiful ohia lehua growing, quite different from the mountain variety. Also, lots of puhala (lauhala trees) and some ironwood trees. We also saw quite a bit of the coastal maupaka. (One side of the property has been bulldozed at some time and there is lawn and introduced trees planted. (Like fruit trees and flowering trees.) That area is open and has a nice view to the ocean through some puhala and ironwood. That is not where they want to put their house though. They want to put it next to this area, right in the middle of the where the grove is. The proposed house is 4000 square feet and they want to build a split level, even though it is supposed to only be a single level dwelling.

The lauhala is nice and long and surprisingly soft. The ground is a bit but it is all flat underneath most of the trees, so it does appear that someone planted those trees. A lauhala is normally very rough walking. Auntie Vi remembers her husband's parents selling lauhala to Kimura's from those trees. I don't know how old they are, but the grove could be hundreds of years.

... It is zoned Conservation Land and as I understand it they have to get a special permit to build on it. A driveway and single family dwelling are commonly allowed on Conservation zoned land, but this is a HUGE house and there is no way to tuck such a big house into the trees. They want to put in a circular driveway and I can just imagine how much destruction that would cause. It seems to me that they bought conservation land and should not be building a huge house and driveway on it. They should have bought elsewhere to do that."

I completely agree her. Please do not grant the special permit to build the house

which will destroy the grove! Please do not allow them to diminish the grove which is still a resource of raw materials for the continuity of our Native Hawaiian traditional crafts!

Almost all of us weavers do not own parcels of land with established lauhala trees. We must forage for our materials from public and (with permission) private land. In the process, we malama the trees and the area that provide us with the lauhala. Please help CONSERVE one of our most Natural cultural and economic Resources!

Sincerely,

**Cherie Okada
83-5305 Mamanakoa Hwy
Captain Cook, HI 96704**

CARLSMITH BALL LLP

ALBERT EINSTEIN LAW PARTNERSHIP

121 WAWONA DRIVE AVENUE

P.O. BOX 6866

HONOLULU, HAWAII 96821-0686

TELEPHONE 808 933 6644 FAX 808 933 7975

WWW.CARLSMITH.COM

EMAIL: CARLSMITH@COM

November 5, 2008

Cherie Okada
83-5105 Mamalahoa Highway
Captain Cook, Hawaii 96704

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kaualea, District of Puna, County and Island of Hawaii
TMK: (1) 1-3-002-071

Dear Ms. Okada:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the puhalala grove within the Project.

In response to concerns raised by Big Island Iauhala weavers, like yourself, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kaliapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhalala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with Iauhala weaving organizations and educational institutions, such as Kua 'o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhalala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhalala grove.

November 5, 2008
Page 2

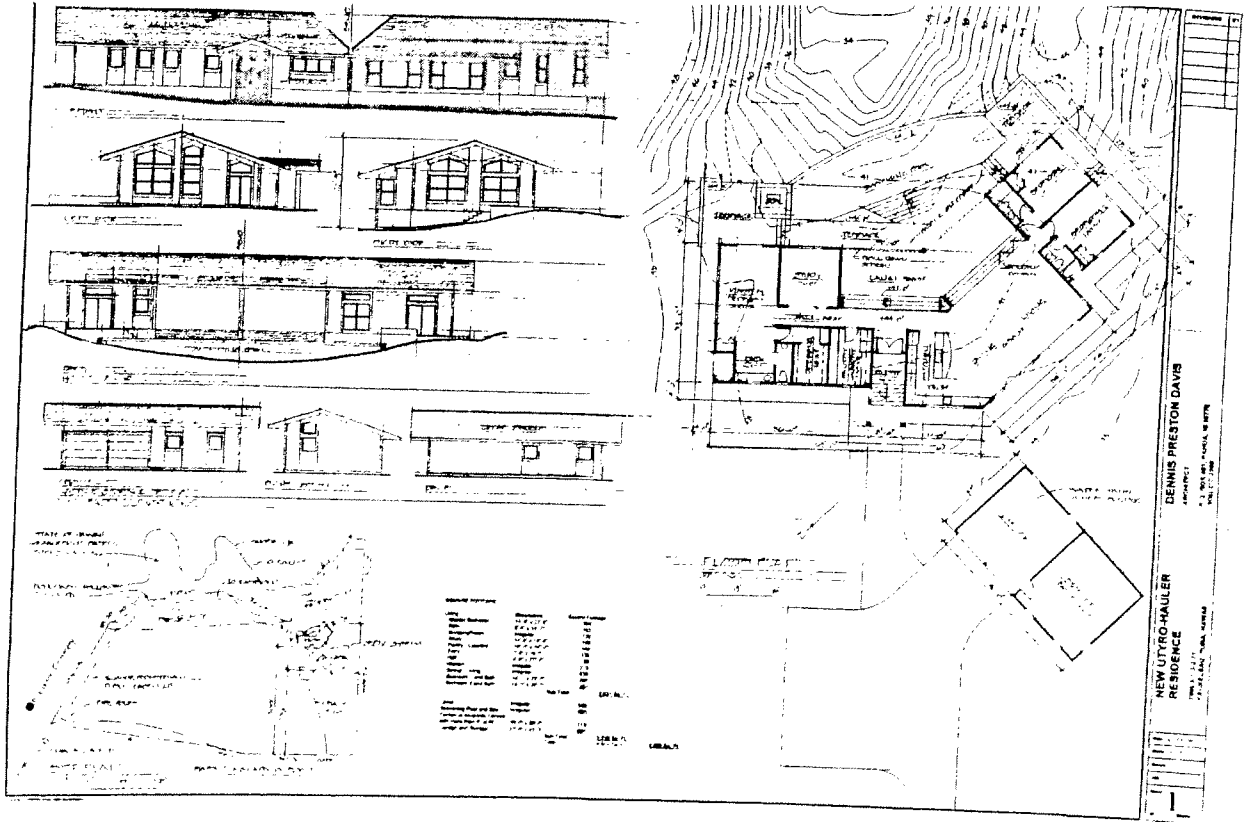
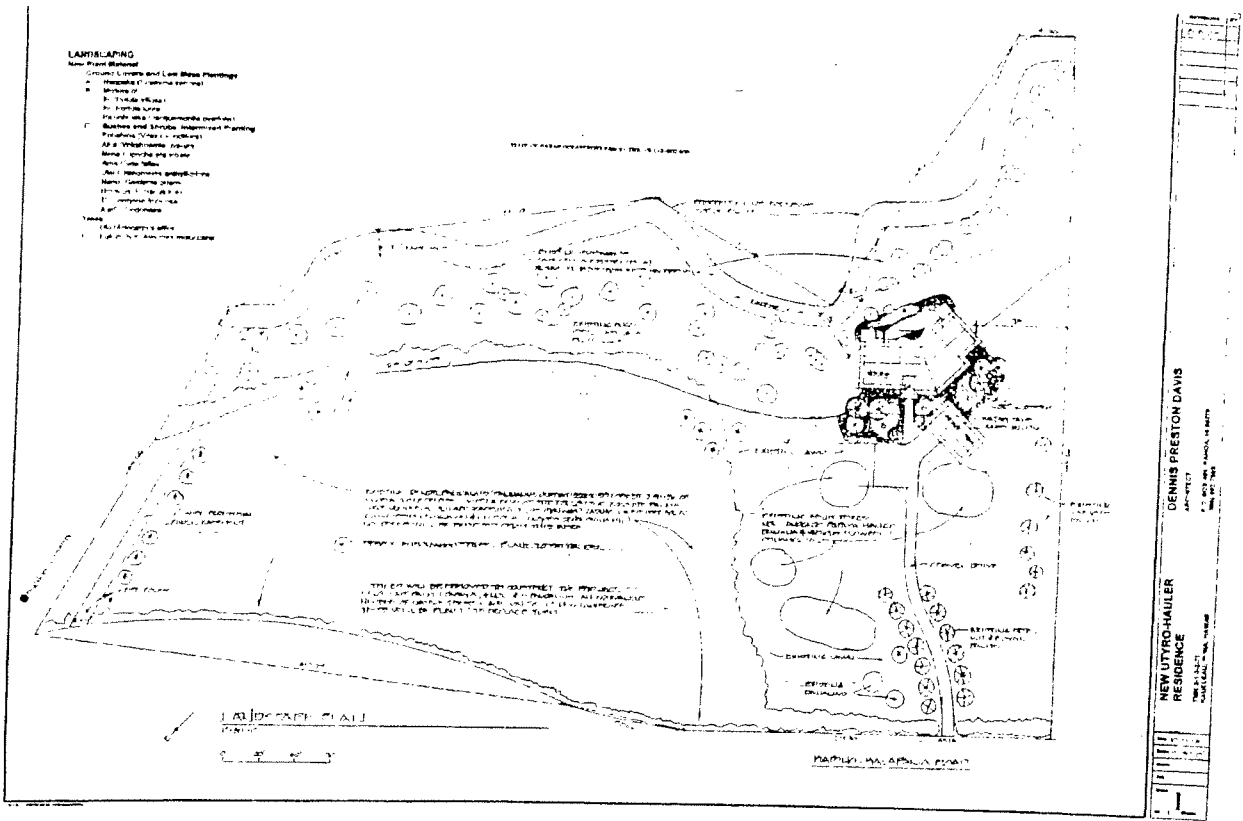
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVEN S. C. LIM

SSL/KYL
xc: Client
DLNR-OCCL
DEOC
488-2036-71071



To Whom It May Concern,

My name is Kenneth Makukāhāna. I am a record producer, recording engineer, music artist, composer, author and most importantly a kanaka maoli who has deep roots in the Opihikao and Kaipapa areas.

I was recently informed that a piece of property was purchased next to my family's cemetery and the new owner plans to eradicate the grove of hala. I am very alarmed that this person bought this land, having no consideration for its historical and cultural value. The hala grove is one of the last known kipua in the world.

As a composer, I have written several mele about this wahipapa. In many mele written by other Haku Mele, the hala is synonymous with Puna, just as the āpa āpa winds are famous in the Kohala area. Puna and 'Aiale' that speaks of the hala's bowery walls of fragrance.

It would be an immense travesty to have a man with no kuleana for this āna encroach upon our heritage and once again bring all that is Hawaii to a screeching halt. I call the cultural genocide. I call this CULTURAL EXTINCTION. It must not be allowed for the sake of future generations.

If we are to say that our children are the future, then we as makua are the present; and if we do not take up the cause for righteousness, then we are teaching our children that there is no future for them to step into. No cause is greater than that which we selflessly undertake for the sake of righteousness.

'Ua mau ke ea o ka āina i ka pono' The life (sovereignty) of the land is perpetuated in (by) righteousness! Respectfully submitted,



Kenneth Makukāhāna
September 1, 2008

Puna Pua `A`ala (Puna's Bow'ry Walls) - Lili uokalani

lā Puna pua `a`ala
Pih mau na ke ona ona
I hāla ke kānuu ana
Kau pono ana na ka mana`o

Puna's bowery walls of fragrance are
Groves laden with sweet flowers
There is where my heart yearns to be
To dwell there is my sincere desire

Hui:
Puna pua `a`ala
Kihāea i ke onāona
Ona wela i ke aloha
Ua hawaia `oe me a u

Chorus:
Puna a shaded bowery walls
Pleasant and redolent with perfume
Sweet language, full of love
Binding you to me, forever

Ho`ohihi i ka nani
Pua mai a ka lehua
Āhehe au e ki`i
I pua kau no ku`u unamaa

I long to see you
Flower of the lehua
Let me take you and pluck you
And press you close to me

`O ka `ike keia
`O wau nō kou hōa like
Pala hō hō i kaia
Ke ano ia i mai nei ka `ōpua

Now that I know
That you and I are alike
Let us wait a while
As the cloud bank reposes in serenity

Hai lohi ka mana`o
Loi`i nā pua i ka `iu
Kali ana ho`i pono i ka leo
A hea mai e ho`okomo wau

The thought is slow to confure
As the blossoms above repose
Awaiting, listening for the voice
To call me to come in

Source: Charles E. King Music Co. Composed July, 1865, this love song is set in the Puna district on the island of Hawaii; removed for it's groves of fragrant hala. The first 2 verses were published in He Buke Mele Hawaii and the 3rd verse is from a Bishop Museum manuscript. The 4th verse was preserved by Bill Kaniwa. Verse 1, 2, and hui translated by Lili uokalani. Verse 3 & 4 translated by Hui Hanai

Kanaka Council
HC 2 Box 9607
Keolu, Hawaii 96749

RECEIVED
OFFICE OF CONSERVATION
& COASTAL LANDS
2008 SEP -9 A 8 31
OFFICE OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

September 5, 2008

Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, HI 96813
Contact: Sam Lemmo (587-0377)

OEOC
235 S. Beretania St. #702
Honolulu, HI 96813

RE: COMMENTS ON CD/LA/HA-3474 and ACCOMPANYING
ENVIRONMENTAL ASSESSMENT REGARDING SINGLE FAMILY
RESIDENCE AND RELATED IMPROVEMENTS TMK: (3) 1-3-002:071,
KAUELEAU DISTRICT OF PUNA, HAWAII

Aloha Mr. Lemmo,

Thank you so much for this opportunity to comment on the proposed action. The CD/LA as well as the Draft Environmental Impact Statement for the proposed development of a single family residence on this coastal parcel in the Conservation District Resource sub zone fails to address known cultural, social, and religious impacts that could occur within the development area.

Specifically, the destruction of what is identified in the CD/LA and EA as 39 pandanus plants, or what is also known as lauhala, could have a deleterious effect on the active and historical and entirely legal practice of the gathering of that resource by local Hawaiian families.

This "lauhala forest" has been a resource for local families for generations and the proposed removal could have drastic social and cultural impact in the immediate community, forever creating a rift between that community and the new landowners who contemplate this action probably unknowing of the immense repercussions of their proposed actions.

How the development occurs and the corresponding changes on the ground, if not done thoughtfully, could have a negative effect on the plants that are left, thereby depleting the

remaining resource. The removal of a good portion of the resource as contemplated by the CD/LA will cause a limitation of ongoing traditional and customary practice.

The lack of any agreement as to the administration of access to the subject property for the purposes of traditional and customary practice renders the CD/LA and accompanying EA incomplete and unsatisfactory.

Attached to these comments are the personal affidavits of many of the practitioners who have frequented this lauhala forest to collect leaves for use in traditional manner as well as practitioners who have harvested it, sweet potato and taro in the subject area.

The rights of Hawaiians to gather for traditional purposes is well documented. The disappearing cultural landscape has an irreversible effect on that ability and eventually, if allowed, the culture itself will cease to exist.

Kanaka Council recommends that the Applicant/ owners sit down with these local practitioners to discuss how the resource needs to be treated to ensure survival and to come to an agreement about how access for the practitioners will be guaranteed and administered in the future. In this way, perspectives can be shared, the community and the new residents can be one in the circle, and everyone's dreams intact.

The CD/LA states (p. 5, par. 4) that, "Research of the area, and consultation with kupuna familiar with the area noted the historical gathering of ti-leaves and lauhala within the property," yet in the previous paragraph the EA states "there are no known archeological/ cultural resources in the area that would involve an irrevocable commitment to loss or destruction of any natural or cultural resources." Obviously there are cultural resources in the area that are contemplated to be impacted by the proposed development.

This present CD/LA/EA follows an all too familiar pattern of giving lip service to HRS 343 with a glossy presentation based on erroneous assumptions and contains very little substance.

The fact of ongoing practice of collecting ti and lauhala on the subject property is stated again on page 11, par. 2 and then later on page 11, paragraph 6 of the CD/LA, under the heading **Identify the extent to which those resources, including traditional and customary native Hawaiian rights will be affected or impaired by the proposed action.** The author once again states "there are no known historical and/or cultural sites on the property." He also states "There are no observable traditional and customary native Hawaiian practices being exercised outside the shoreline area. Known traditional and customary native Hawaiian practices and other valued cultural, historical or natural resources on the Property are located at the shoreline area and will be recognized and allowed by the Applicants."

Those statements are in direct conflict with the statements on page 5 par. 4 and page 11, par. 2. As well, the lot owner is not the repository of traditional and customary rights and has no authority to allow or disallow traditional and customary practice. However the

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW FIRM

121 WALL STREET AVENUE
P.O. Box 666
Honolulu, Hawaii 96821-6666
Tel: (808) 935-6644 Fax: (808) 935-7975
www.carlsmith.com

SLM-CARLSMITH.COM

November 5, 2008

Kanaka Council
HC 2 Box 9607
Keolu, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicant: Edward Uyiro and Gary Hauler
Kauelaue, District of Puna, County and Island of Hawaii
IMK: (3) 1-3-002-071

Dear Kanaka Council:

Thank you for your attendance at the community meeting held on October 1, 2008 and the comments on the Draft Environmental Assessment (DEA) for Mr. Uyiro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments relating to the puhala grove within the Project.

In response to concerns raised by the community and Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalaupapa direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. This alternative will address the concerns requesting the preservation of the puhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

November 5, 2008
Page 2

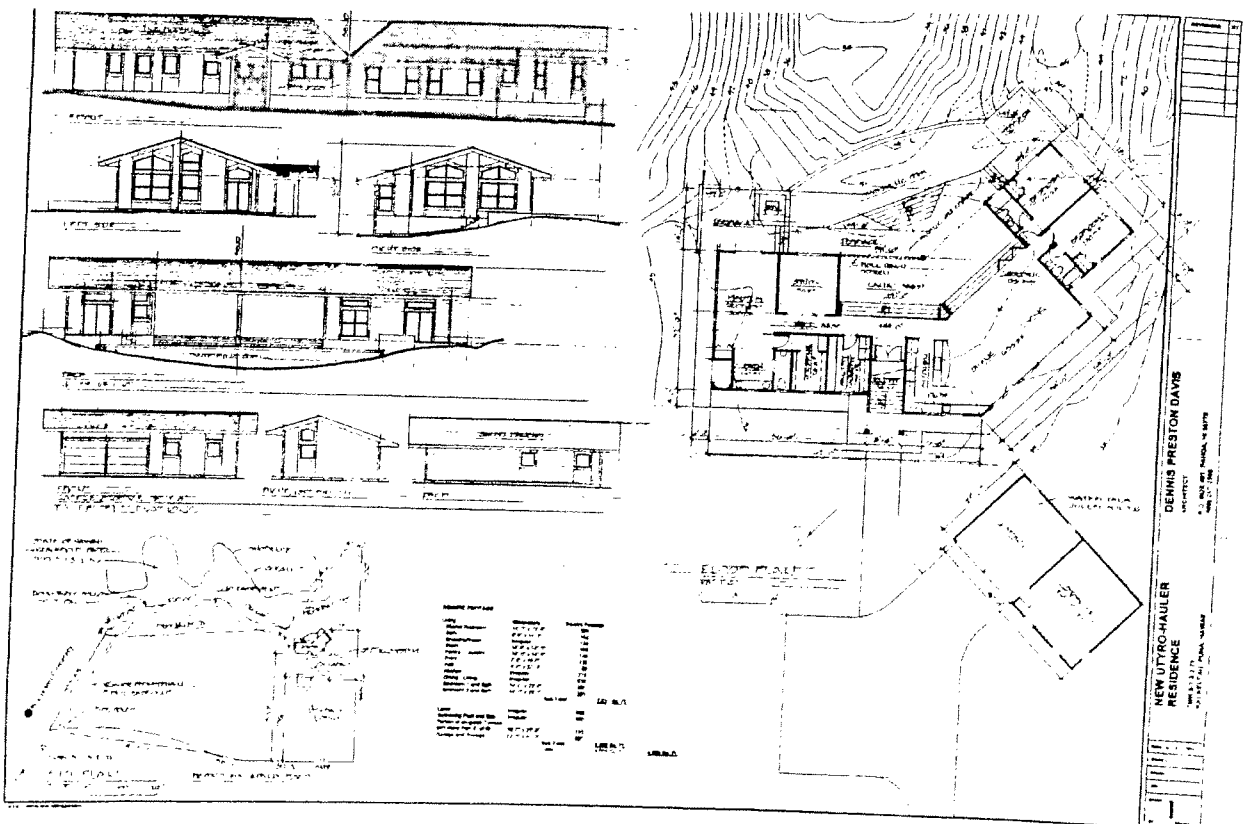
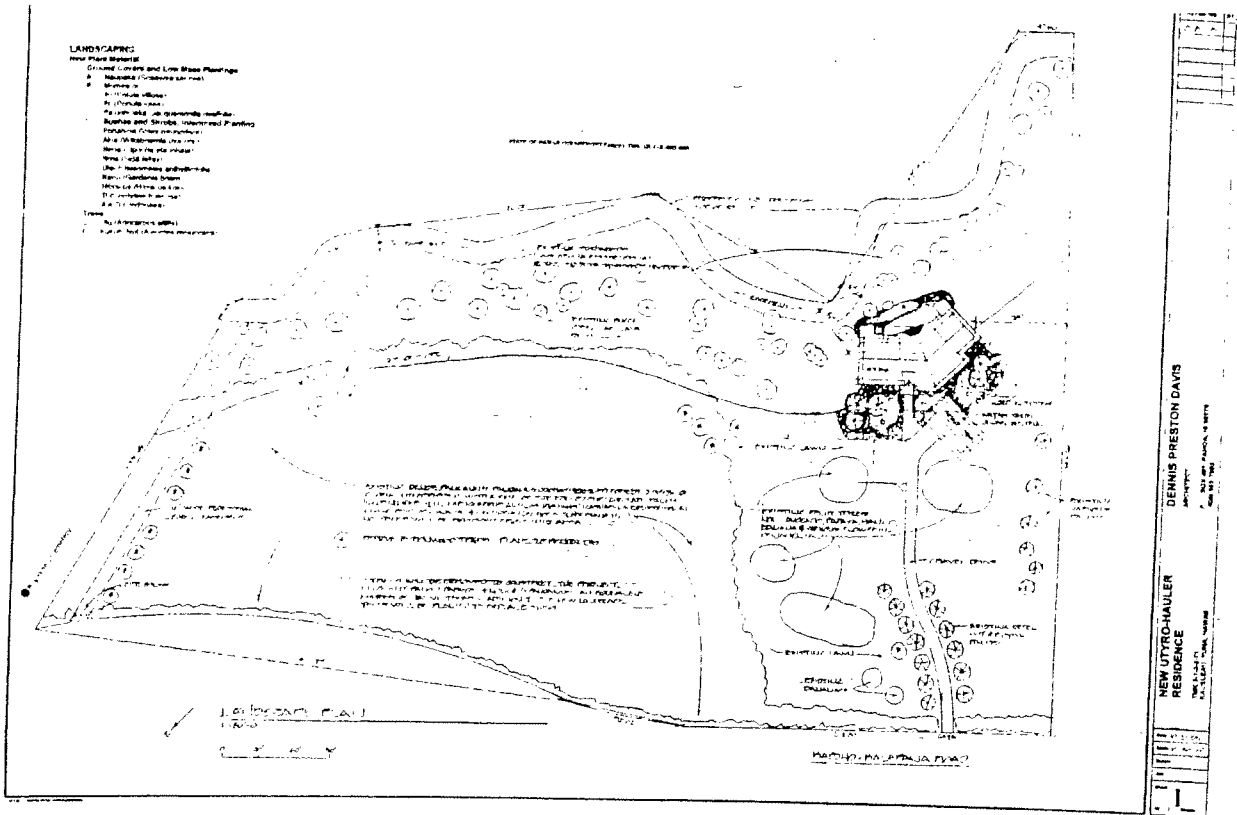
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


STEVEN C. LHM

SSL/KYL
xc: Client
DLNR-OCCL
OEQC



Woody Hanalei Vaspra
HCR 2, Box 9607
Keanu, Hawaii 96749

September 4, 2008

Department of Land and Natural Resources
Kalaninokū Building
1151 Punchbowl St., Rm. 131
P.O. Box 621
Honolulu, Hawaii 96809-0621

To Whom It May Concern:

In response to the application for a Special Use Permit to build a structure on coastal lands of Ophikao in the District of Puna, I am submitting questions as required of the procedures as set forth by the Department of Land and Natural Resources.

What is the definition of Conservation Land?

1. Why was the land in question given the category of Conservation Land?
2. Why was Conservation Land sold to original property owners?
3. What is the cultural significance of the Coastal Land in question?
4. What is the cultural significance of the Puhala Grove?
5. What is the ecological significance of the Puhala Grove?
6. What is the ecological significance of the Coastal Land in question?
7. What is the environmental significance of Coastal Land in question?
8. What is the environmental significance of the Puhala Grove?
9. What is the historical significance of the coastal gravesites, cemetery and Puhala grove?
10. What is the Spiritual/Religious Significance of the cemetery and coastal gravesites adjacent to the Land in question?
11. What is the historical significance of the church and gravesite near the land in question?

12. What is the historical significance of the gravesites on the coastline?
13. Why does the Special Use Permit Application not consider a buffer zone around the roadside cemetery and coastline gravesites?
14. Are the Applicants aware of the Burial Council requirements?
15. What is the cultural significance of the Land Division called the Ahupua'a in relation to Ophikao?
16. What is the significance of gathering rights in regards to the Puhala Grove?
17. What is the law in regards of public access to the coastline through private land?
18. What is the cultural significance of the walking trails right on the coastline?
19. What is the history of the walking trails on the coastline?
20. Is there endangered plant and animal ^{species} on the coastline in question?

These are just a few of the many questions that are being submitted to be answered by the Applicants of this Special Use Permit. Each question needs to be answered separately and not gathered together and given a general answer. There are specific answers for each question.

Sincerely,



Woody Vaspra
Kanaka Council Member

CARLSMITH BALL LLP

ALBANY PLAZA, 11TH FLOOR, PARKERSHIP

121 WASHINGTON AVENUE

P.O. BOX 666

HONOLOULU, HAWAII 96721-0666

TELEPHONE: 808-935-6644 FAX: 808-935-7975

WWW.CARLSMITH.COM

THECARLSMITH.COM

November 5, 2008

Woody Hanalei Vaspra
HC R 2, Box 9607
Keolu, Hawaii 96749

Re: Conservation District Use Application HA-3474

Applicant: Edward Ulyro and Gary Hauler
Kauaieau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Mr. Vaspra:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District. We appreciate your review of the DEA and have the following response to your comments.

Community concerns relating to the Puakalanu Cemetery Site, shoreline access, the preservation of the historical and cultural values and native gathering rights, and the preservation of the bushy 'Ohia Lehua trees and the puhala grove within the Project were raised during the Draft Environmental Assessment review period. A community scoping meeting was held on October 1, 2008 at Kalani Honua, which was attended by approximately 50 individuals, followed by a site visit of the Property.

During the site visit, Hawaii Councilmember Family Naeole and her sister, Doty Kaiser who are descendants of the Makukane 'ohana were consulted regarding past land use in and around the Project area. They recalled their 'ohana gathering t-leaves and lauhala and papaya cultivation within the Project area and ophi picking and shoreline fishing along the State owned oceanfront parcel. In addition, Ms. Kaiser's niece, Leila Kealooha, who is a teacher at Kua 'o Ka La brought her cultural class to the site visit so she could share and teach the next generation the traditional uses for the hala and the resources that were still available to the Hawaiian community.

An archaeological inventory survey of the Property was prepared by Haun & Associates (April 19, 2002) which was accepted by SHPD. The Puakalanu Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002:036, and

November 5, 2008
Page 2

SHPD acknowledged that a significant buffer of trees will mitigate any indirect impacts on this Site. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002, and by letter dated September 9, 2008, reaffirmed its 2002 determination that "no historic properties will be effected by this project." DLNR-OCCL by letter dated September 24, 2008 requested that SHPD revisit its "no effect" determination. To date, SHPD has not invalidated its prior clearance.

Based on the community concerns over the location of the proposed home within the puhala grove, the Applicants propose an alternative site for the placement of the Project approximately 157 feet to the east (Kalaupana direction) within a portion of the Property that was previously disturbed for agricultural pursuits by the Applicants' predecessor-in-interest. This 1.5+ acre area is relatively level with an existing remnant berm located to the south and is currently planted in fruit and palm trees. In conjunction with the relocation of the Project within the Property, the Applicants have redesigned the single-family residential dwelling and related accessory uses to complement the existing topography of the relocated site.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua 'o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement along the northern boundary of the Property, from the entry of the former jeep road located along Red Road, at the northern end of the Property boundary, which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along the eastern Property boundary, which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

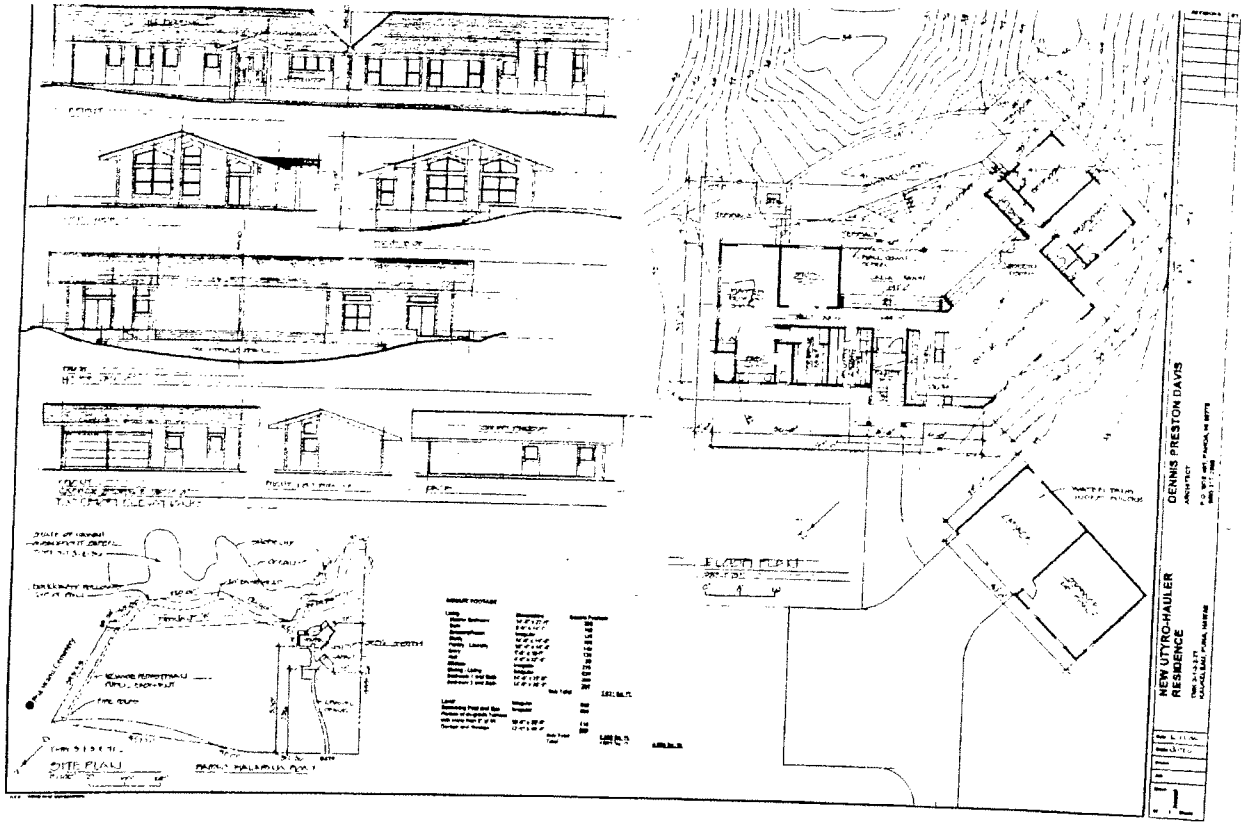
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, a 110 square feet on-grade terrace (with more than 8-inches of fill), an 880 square feet garage and equipment-storage structure, for a total maximum developable area of 4,859 square feet, with a maximum height limit of 20.9 feet. Approximately 90% of the proposed Project will be placed on grade, with approximately 435 cubic yards of grading and fill of approximately 280 cubic yards to accommodate the natural contours of the land. The Property is not an oceanfront parcel and is flanked by State of Hawaii owned oceanfront parcel at TMK: (3) 1-3-002:036 ("Parcel 36") along its southeastern, eastern (makai) and northeastern boundaries. The proposed improvements will be sited along the southeastern (makai) boundary of the Property, approximately 50 feet from the southern Property boundary and 78 feet from the southeastern Property boundary (see attached site plans). As such no impact to coastal waters is anticipated and during the construction phase the Applicants will comply with applicable State and County rules and regulations to ensure that construction and landscaping activities will not result in any discharge into coastal waters.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

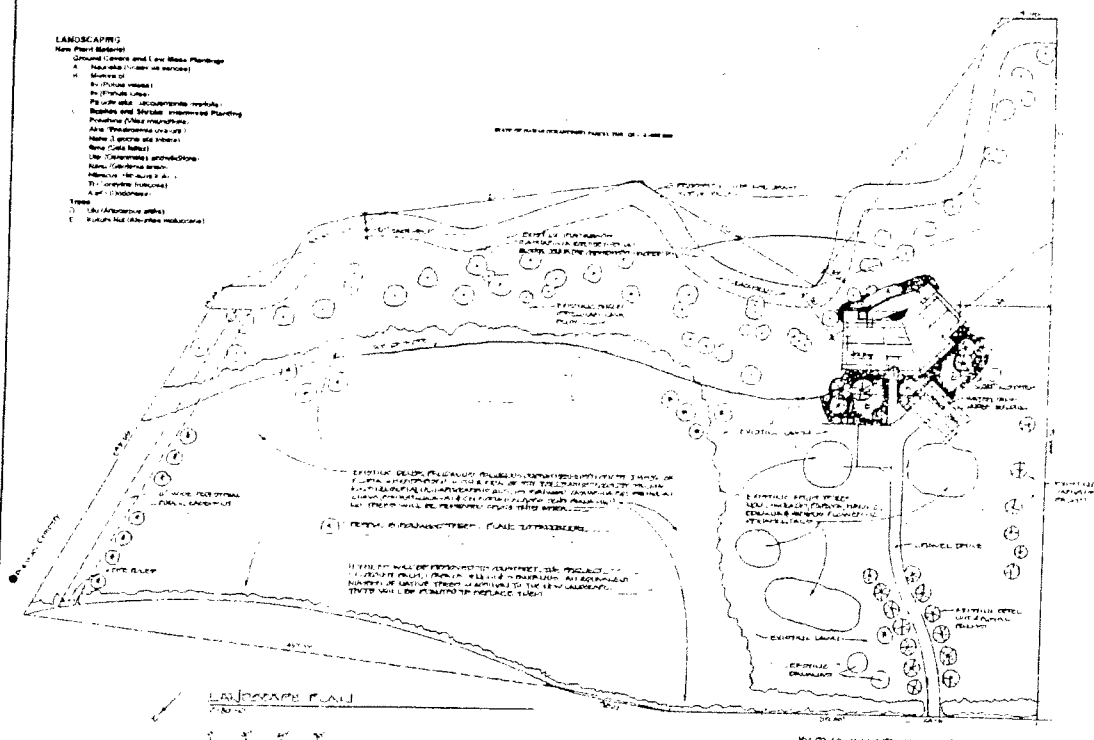
Very truly yours,


STEVEN S.C. LIM

SSL:KYL
xc: Client
DLNR-OCCL
OEOC



- LANDSCAPE**
New Plant Material
- 1 Ground Covers and Low Mass Plantings
 - 2 Shrubs (10' max. in height)
 - 3 Medium Trees
 - 4 Large Trees
 - 5 Palms and Cycads (10' max. in height)
 - 6 Climbers and Vines (10' max. in height)
 - 7 Foliage (10' max. in height)
 - 8 Water Features
 - 9 Stone Features
 - 10 Miscellaneous
 - 11 Fences
 - 12 Lighting
 - 13 Miscellaneous
- Notes**
1. All plantings to be installed within 90 days of completion of construction.
 2. All plantings to be installed within 90 days of completion of construction.
 3. All plantings to be installed within 90 days of completion of construction.



NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		
34		
35		
36		
37		
38		
39		
40		
41		
42		
43		
44		
45		
46		
47		
48		
49		
50		

**NEW HYDRO-HAULER
RESIDENCE**
ARCHITECT: DENNIS PRESTON DAVIS
LANDSCAPE ARCHITECT: MICHAEL MALINOWSKI PLAND

LANDSCAPE PLAN
7/20/02

MICHAEL MALINOWSKI PLAND

April 8, 2008

Department of Land and Natural Resources
ATTENTION: Mr. Sam Lemmo
P.O. Box 621
Honolulu, HI 96809

RE: TMK: (3) 1-3-002:071

Dear Mr. Lemmo:

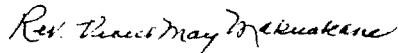
Aloha! Recently I became aware of the intentions of Edward Utyro and Gary Hauler's proposal to construct a split level, single family residential dwelling and related accessory use improvement (SFR Dwelling") on .500 acre of the 7.180+ acre property identified as TMK: (3)1-3-002:071 (Project Area).

We understand that a Draft Environmental Assessment and Conservation District Use Application have been filed. We would like to express our opposition regarding this development and clarify comments received from Carlsmith Ball LLP on Monday, March 03, 2008.

The letter dated March 3, 2008 from Carlsmith Ball states that, "You mentioned that your husband's ancestors **may** be buried at the Pua'akanu Cemetery." Please be advised that my husband's ancestors **ARE** buried at the Pua'akanu Cemetery. For generations our family has cared for the graves and resources of the area. As such, we would like to make you aware of the exceptional and valuable cultural resources in the Project area.

In closing, I would like to reiterate that we are in full opposition and request the application for rezoning in this conservation district TMK: (3) 1-3-002:071 be denied. We appreciate your attention to this matter and anticipate your expedient response. You may reach me at (808) 959-2231.

Me ke aloha pumehana,



Reverend Violet May Makuakane
Senior Kahu, Opihikao Congregational Church, UCC
491 Makani Circle
Hilo, HI 96720

Attachments

Cc: Laura Thielan, Chairperson DLNR
✓ Katherine Y. Luga, Carsmith Ball LLP
Robert Lindsey, OHA Trustee
Kai Markell, Director of Native Rights, Land, and Culture

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW FIRM

121 WALTON STREET, APT. 1E

P.O. Box 666

HONOOLULU, HAWAII 96813-0666

TELEPHONE: 808.525.6444 FAX: 808.935.7925

WWW.CARLSMITH.COM

WWW.CARLSMITH.COM

November 5, 2008

Rev. Violet May Makukane
Opihikao Congregational Church, UCC
491 Makani Circle
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicant: Edward Ulyro and Gary Hauler
Kaualea, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Rev. Makukane:

Thank you for your comments on the Draft Environmental Assessment (DEA) for Mr. Ulyro and Mr. Hauler's Conservation District Use Application to allow for the construction of a single-family residential dwelling and related accessory use improvements and landscaping ("Project") within the Conservation District, and for attending the community scoping meeting held on October 1, 2008 at Kalaiki Homa. We appreciate your review of the DEA and have the following response to your comments relating to the Pua'akanu Cemetery Site, shoreline access, the preservation of the historical and cultural values and native gathering rights, and the preservation of the bushy 'Ohia Lehua trees and the puhala grove within the Project.

In response to concerns raised by the community and Big Island lauhala weavers, the Applicants have redesigned and propose an alternative Project site to be located approximately 157 feet to the east (Kalaipana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicants' predecessor-in-interest. In addition, the Applicants will be removing approximately 15 ironwood within the existing puhala grove, and 1 coconut, 1 papaya, 4 monti and 5 pandanus trees for the building site, and replanting 20 pandanus trees. This alternative will address the concerns requesting the preservation of the bushy 'Ohia Lehua trees and puhala grove. We enclose a copy of the revised site plan for your reference.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua'o Ka La' Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located

November 5, 2008
Page 2

along Red Road at the northern end of the Property boundary, which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary which is in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastline and puhala grove.

An archaeological inventory survey of the Property was prepared by Haun & Associates in 2002, which was accepted by the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"). The report found that no archaeological sites or features were identified, and given the extent of prior earthmoving and the results of subsurface testing, the potential for buried cultural deposits is unlikely. SHPD agreed with the findings of the survey and issued a "no effect" letter dated September 12, 2002, as affirmed by letter dated September 9, 2008, that "no historic properties will be affected by this Project. The Pua'akanu Cemetery (Site 2534) is located north of the Property within the State of Hawaii owned Parcel at TMK: (3) 1-3-002-036, approximately 580 feet to the west of the alternative Project site. SHPD acknowledged that a significant buffer of trees will mitigate any indirect impacts on this site.

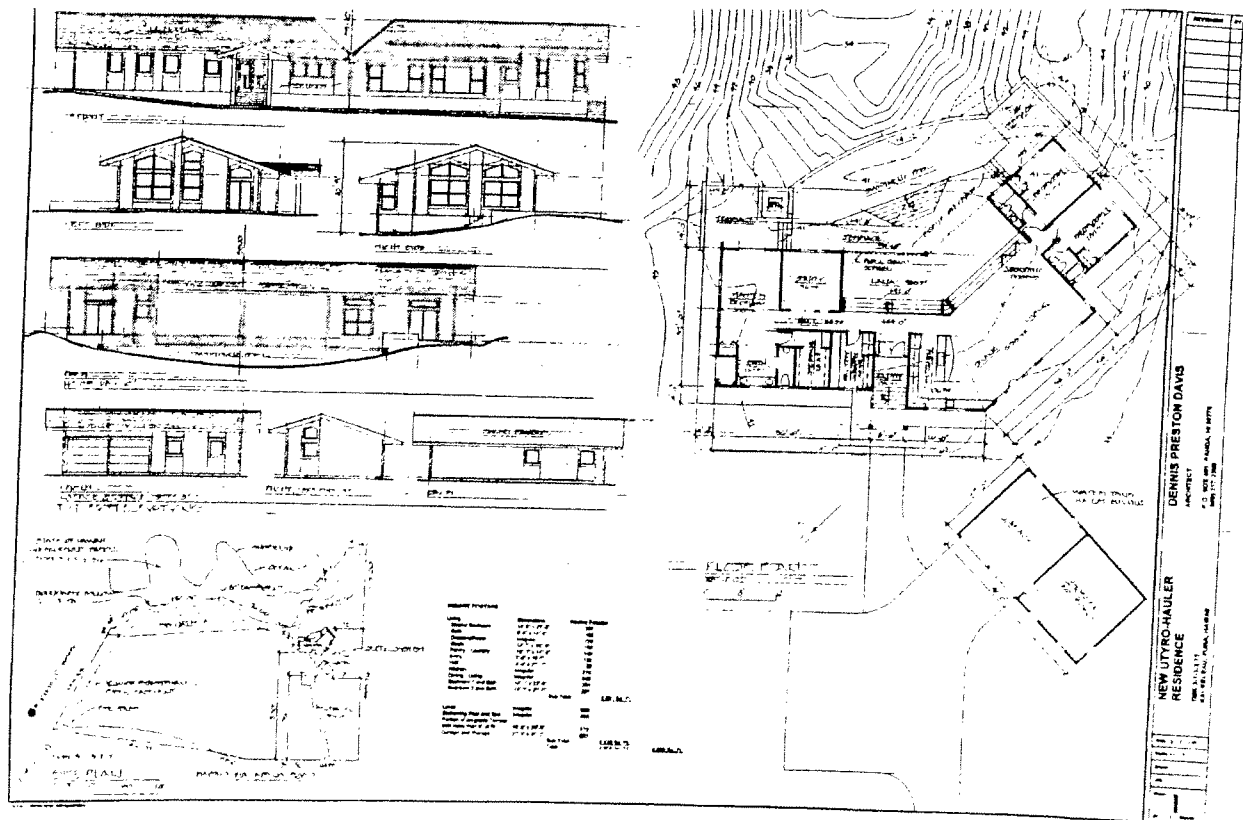
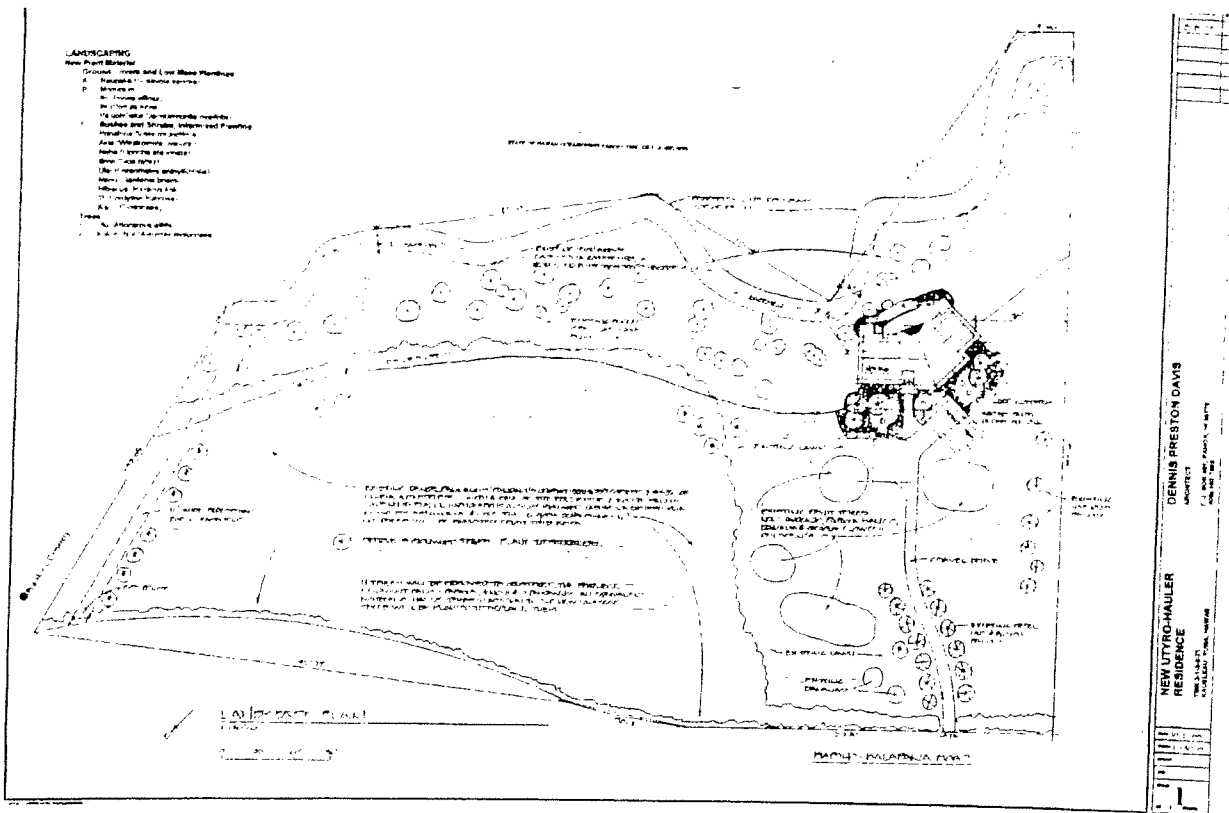
Further, the redesigned Project complies with the Department of Land and Natural Resources' "Single-Family Residential Standards" which allows a maximum developable area of 5,000 square feet as follows: 2,631 square feet living area, 588 square feet lanai, 650 square feet swimming pool/spa, 110 square feet terrace, 880 square feet garage/storage-equipment building, for a total maximum developable area of 4,839 square feet, with a maximum height limit of 20.9 feet. See the enclosed revised site plan.

Your letter and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

STEVEN S. LIM

SSL/KYL
cc: Client
DLNR-OCCL
OEQC



August 29, 2008

Mr. Samuel J. Lemmo, Administrator
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Dear Mr. Lemmo

SUBJECT: REQUEST FOR COMMENTS

Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence
TMK: (3) 1-3-02:71
Kauleau, Puna, HI

Thank you for allowing us to review and comment on the above-mentioned Application.

We continue to oppose the granting of the Special Use Permit to Utyro & Hauler for a Single Family Residence on TMK (3) 1-3-02:71, which is zoned Conservation District.

COMMENTS AND RECOMMENDATIONS:

1. Are two-story dwellings allowed on conservation lands?
2. The plans allow for a shoreline access, but how do we get there?
An access from the Kapoho-Kalapana Road (H-137) to the shoreline access is also needed.
3. The Puhala grove is a very valuable and precious cultural resource for its lauhala leaves. Lauhala weavers still practice the art of weaving here in Hawaii. In order to preserve the culture and the arts, DOE schools and Charter schools are beginning to teach youngsters the art of weaving lauhala. In Puna you will see scatterings of Puhala trees and very few groves as grown on this particular property. As one continues South, pass Kalapana, Puhala trees become rare to find. From the Volcano area, through Ka'u to Kona, Waimea, Honokaa to Hilo you will not see Puhala trees growing, in a grove, as here in Puna.
4. The Puhala grove on this land did not grow there by chance. It grows there because our kupuna (ancestors) tended them and it became their source of livelihood and people continue gathering there. Visit the

- property and you will see first hand the evidence of the care and nurturing. We oppose the destroying of any of these valuable trees because in time they will become extinct!
5. **Save and protect these trees. Continue to keep this grove, and all other trees, in conservation, opened for our cultural gathering rights.**
 6. **Save the 10 birds, that are still on the endangered list that live in this Puna area.** They are increasing in number, but without their habitat, where will they go?
 7. **Save the bushy 'Ohi'a Lehua.** They are a different variety from the tall ones that grow up mauka (inland).

Attached to this letter are signatures of petitioners in favor of preservation of the above-mentioned historical and cultural values and native gathering rights.

Me ke aloha pumehana,

Rev. Violet May Makuakane
Opihikao Congregational Church, UCC
491 Makani Circle
Hilo, HI 96720

Phone: (808) 959-2231

Attachments

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

- | Print & Sign Name: | Address |
|---|---|
| 1) HOLLY L. LINDENMAN
<i>Holly Lindenman</i> | P.O. Box 1166
Volcano HI 96785 |
| 2) <i>Betsy Horvath</i> | P.O. Box 76
HNP, HI 96718 |
| 3) Elizabeth Bell
<i>E. Bell</i> | P.O. Box 89
Hukua II Natl Park, HI 96718 |
| 4) Kous Linnanes
<i>Kous</i> | HR 1 Box 4052
Keana, HI 96749 |
| 5) <i>David K...</i> | 608 Keana - SE Hilo Hawaii
96720 |
| 6) <i>Wendy...</i> | P.O. Box 929
Hilo, HI 96712 |
| 7) <i>...</i> | P.O. Box 1073
Volcano, HI 96785 |
| 8) <i>Shirley Murphy</i> | P.O. Box 291
Kilauea
Volcano HI 96718 |
| 9) Connie S. Richey
Cecilia S. Richey | P.O. Box 1073
Volcano, HI 96785 |

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

- | Print & Sign Name: | Address |
|---|------------------------------------|
| 10) Wolfgang Thomas
<i>Wolfgang Thomas</i> | P.O. Box 67
HINALEI, HI 96718 |
| 11) <i>Silva Allen</i> | P.O. Box 58
HILO, HI 96718 |
| 12) Charlotte Morris
<i>Charlotte Morris</i> | 777 W. 1050
HILO, HI 96718 |
| 13) Robert Ely Robert Ely | P.O. Box 1091
Keana HI 96749 |
| 14) Michael McDaniel | HR 2 Box 6675
Keana, HI 96749 |
| 15) <i>Robert...</i> | P.O. Box 4185
Volcano HI 96785 |
| 16) Malie Larish
<i>Malie Larish</i> | P.O. Box 1073
Volcano HI 96785 |
| 17) Rachel Davis
<i>Rachel Davis</i> | P.O. Box 724
Volcano, HI 96777 |
| 18) Gregory L. Santos
<i>Gregory L. Santos</i> | P.O. Box 776,
Volcano, HI 96785 |

Attachments

PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Uyiro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

Print & Sign Name:

Address

- 19) *Fitzlyn L. Stevens* P.O. Box 8
- Tracy L. Stevens* 4100 44 56718
- 20) *Leila Tamami* P.O. Box 180306
- [Signature]* HWR, HI 96718
- 21) *Jim Gale* P.O. Box 69
- Jan Gale* HWR, HI 96718
- 22) *Mehta Lane* P.O. Box 160291
- Melinda Lane* Hawaii Mt Park HI 96718
- 23) *Kesly K Among* P.O. Box 899
- Henry K Among* Mt. View, HI 96771
- 24) *Andrea M Kawabata-Ovika* P.O. Box 5595
- Andrea* 1416 44 96720

Attachments

PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Uyiro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

Print & Sign Name:

Address

- 25) *Teresa L. Revere* Four Run P.O. Box 5551 Hills HI 96720
- 26) *JENNIFER Kawai* 880 Kupuna Pt
- Spring H. Kill* 11370 Ananea Pt
- 27) *Sidnie Kili* 11370 Ananea Pt
- Patrick Revere* 11370 Ananea Pt
- 28) *Nelson Handley* P.O. Box 5851 Hills HI 96720
- 29) *DAVID DEATON* P.O. Box 958 Kaimanui HI 96760
- David Deaton* P.O. Box 5371 Hills Hawaii HI 96720
- 30) *Arnold Newell* P.O. Box 1399 Kaimanui HI 96720
- 31) *MANN AUL MEYER* 136 Aiea Street, Hilo HI 96720
- 32) *Boris Daries* 136 Aiea St. Hilo HI 96720
- 33) *Alka Pereira* 11-3831 Mokuau St. HI HI 96785
- 34) *James Ende* Kihuna St. Volcano HI 96785
- 35) *Joey Huliana* 300 Andrews Ave. Hilo HI 96720
- 36) *Lisa Adams* P.O. Box 207 Volcano HI 96785
- 37) *Roxanne Koda* P.O. Box 412 Pahoa, HI 96778
- 38) *Shane Ken Clark* 1812 Kilauea Ave. HI, HI 96720
- 39) *Stacie Anatalia* P.O. Box 1746 Kaimanui HI 96720

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02-71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

Print + Signatures: Address:

- 12) Maite Orian-Collin
Maite Orian-Collin
13) Maite Orian-Collin
Maite Orian-Collin
14) Kapaewa E. Beter Kapuanani Behr
P.O. Box 1540 Pahoa, HI 96778
- 15) Jini Belter
13-3323 Naha St. Pahoa, HI 96778
- 16) Karin Baile
P.O. Box 1540 Pahoa, HI 96778
- 17) Allison Bowler
P.O. Box 355 Pahoa HI, 96778
- 18) Nancy Lee Spaulding
P.O. Box 355 Pahoa HI, 96778
- 19) Michelle Spaulding
RR2 Box 4571 Pahoa HI 96778
- 20) Justin Evans
P.O. Box 1302 Pahoa HI 96778
- 21) Penn Jamison
RR2 box 498 Pahoa HI 96778
- 22) Patricia Daog
208 King Ave. - 96778
- 23) RALPH W. COUNTS
13-1223 KAHUKAIST, PAHOA 96778
- 24) John Nulec
P.O. Box 677, Pahoa 96778
- Frank A. Buckley
P.O. Box 677 Pahoa HI 96778

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02-71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

Print + Signatures: Address:

- 55) Amy Evans
AMY EVANS
RR 2 Box 4209 Pahoa HI 96778
- 56) Mark A. Evans
13-3325 Moku St.
Pahoa, HI 96778
- 57) Nirmal A. Palani
HCR 1 Box 5480
Keanu, HI 96749
- 58) Aunty M. J. Spang
Lemeth M. Pavao Jr.
1259 Railroad Ave. Hi. 96780
- 59) Becky R. Takeya
175 SANGAI DRIVE # 212
HI, HI 96778
- 60) Jeff Fressen
13-16369 Kanihina Rd
Pahoa HI 96778

Attachments


PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Uyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

PRINT +
Signatures:

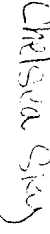
(61)  K. KAHUA



(62) Kirkman DeMello



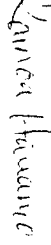
(63) Tara Crystal Jones-Coyne



(64) Debra B. Beavehan

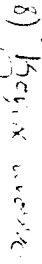


(65) Brandon Ferreira



(66) Kaveri Haverne



(67) 



Address:

Hc3 Box 15711 Kapa, HI
96749

RR 3 Box 1435

Pahoa HI 96778

Po Box 2151 Pahoa HI 96778

Po Box 1436 Pahoa HI 96778

Kahuli HI 96749

P.O. Box 1579 Pahoa HI

152705 Ikaolu HI 96778

P.O. Box 949 Pahoa HI

PO Box 5886 Kapa HI 96749

P.O. Box 1574

Pahoa HI 96778

Attachments

PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Uyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

PRINT +
Signatures:

(69) Denise McVie

(70) Ekaiki Desjars

(71) Cecilia R. Ruchler

(72) Ceceli Kuehling

(73) Warren Costa

(74) Kahuakani Costa

Address:

P.O. Box 521

Pahoa HI 96778

P.O. Box 16111

Pahoa HI 96778

Box 4550

Pahoa HI 96778

Hc 2 Box 6500

Pahoa HI 96778

Hc 2 Box 6908

Kapa HI 96749

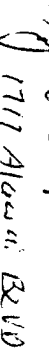
Hc 2 Box 6908

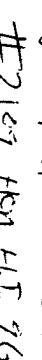
Kapa HI 96749

RR 2 Box 4769

Pahoa HI 96778

1311007, 131 96778

(75) 

(76) 

(77) John Erickson

1711 Alanai Blvd

#2109 Hc HI 96815

John Erickson

pg. 9

Attachment

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and
Recommendations for preservation of the historical and cultural
values and native gathering rights as stated in Kahu Makuakane's
letter.

PRINT +
Signatures:

- 1) Misses A. Manuells
Misses A. Manuells (later)
- 2) MATHINE NELSON
- 3) ANONABELLE PLATT
- 4) Annabelle Platt
- 5) Dyanne Nolson
- 6) Glenn W. Lamsieck
- 7) Richard W. Lamsieck
- 8) Rich Lamsieck
- 9) [Signature]
- 10) [Signature]
- 11) [Signature]
- 12) [Signature]
- 13) [Signature]
- 14) [Signature]
- 15) [Signature]
- 16) [Signature]
- 17) [Signature]
- 18) [Signature]
- 19) [Signature]
- 20) [Signature]
- 21) [Signature]
- 22) [Signature]
- 23) [Signature]
- 24) [Signature]
- 25) [Signature]
- 26) [Signature]
- 27) [Signature]
- 28) [Signature]
- 29) [Signature]
- 30) [Signature]
- 31) [Signature]
- 32) [Signature]
- 33) [Signature]
- 34) [Signature]
- 35) [Signature]
- 36) [Signature]
- 37) [Signature]
- 38) [Signature]
- 39) [Signature]
- 40) [Signature]
- 41) [Signature]
- 42) [Signature]
- 43) [Signature]
- 44) [Signature]
- 45) [Signature]
- 46) [Signature]
- 47) [Signature]
- 48) [Signature]
- 49) [Signature]
- 50) [Signature]
- 51) [Signature]
- 52) [Signature]
- 53) [Signature]
- 54) [Signature]
- 55) [Signature]
- 56) [Signature]
- 57) [Signature]
- 58) [Signature]
- 59) [Signature]
- 60) [Signature]
- 61) [Signature]
- 62) [Signature]
- 63) [Signature]
- 64) [Signature]
- 65) [Signature]
- 66) [Signature]
- 67) [Signature]
- 68) [Signature]
- 69) [Signature]
- 70) [Signature]
- 71) [Signature]
- 72) [Signature]
- 73) [Signature]
- 74) [Signature]
- 75) [Signature]
- 76) [Signature]
- 77) [Signature]
- 78) [Signature]
- 79) [Signature]
- 80) [Signature]
- 81) [Signature]
- 82) [Signature]
- 83) [Signature]
- 84) [Signature]
- 85) [Signature]
- 86) [Signature]
- 87) [Signature]
- 88) [Signature]
- 89) [Signature]
- 90) [Signature]
- 91) [Signature]
- 92) [Signature]
- 93) [Signature]
- 94) [Signature]
- 95) [Signature]
- 96) [Signature]
- 97) [Signature]
- 98) [Signature]
- 99) [Signature]
- 100) [Signature]

Address:

- P.O. Box 2077 Pahoa, HI 96772
- RR2 BOX 4590
PAHOA, HI 96778
- 12 p.m. - Cinnam. Laka, Pahoa, HI
P.O. BOX 4544, HI 96778
- Pahoa, HI 96778
- P.O. BOX 494
PAHOA
- Cominela (Pahoa) 13 3rd Alapai Pahoa, HI
PAHOA
- P.O. BOX 1386 PAHOA, HI 96778

pg. 10

Attachment

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and
Recommendations for preservation of the historical and cultural
values and native gathering rights as stated in Kahu Makuakane's
letter.

PRINT +
Signatures:

- 87) Gilbert Hesia
- Elizabeth Hesia
- 88) Yolanda Hesia
- Yolanda Hesia
- 89) Melchior Ojua
- Melchior Ojua
- 90) [Signature]
- [Signature]
- 91) [Signature]
- 92) [Signature]
- 93) [Signature]
- 94) [Signature]
- 95) [Signature]
- 96) [Signature]
- 97) [Signature]
- 98) [Signature]
- 99) [Signature]
- 100) [Signature]

Address:

- 6 Alaka'i Terrace
Hilo, HI 96720
- 112 Oikamey
Hilo, HI 96720
- 127 S. 2nd St.
Pahoa, HI 96778
- 1536 Kilauea, HI 96775
- 15369 Chikist
Pahoa, HI 96778
- 15369 Chikist
Pahoa HI, 96778

Attachments

PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Ulyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

PRINT +
Signatures:

- 96) *ANN ANGERIE FORD*
Ann Angerie Ford
Address: P.O. Box 6669
Hale, HI 96731
- 96) *Henry E. Atany*
Henry E. Atany
Address: 1601 Kalaniana'one Ave
Hale, HI 96730
- 97) *John Allen*
John Allen
Address: 151 S Moore Rd
Hale HI 96722
- 98) *Clifford W. Akau*
Clifford W. Akau
Address: 131 S. Waioloa Rd
Hale HI 96722
- 99) *Maia (Sara)*
Maia (Sara)
Address: 15-2754 One St
Pohukoa 96775
- 100) *Michelle Kaula*
Michelle Kaula
Address: 114 W. Lanihalewaia # 201
Hale HI 96720
- 101) *Michaela (Michelle)*
Michaela (Michelle)
Address: " "
- 102) *Michelle (Michelle)*
Michelle (Michelle)
Address: " "
- 103) *Michelle (Michelle)*
Michelle (Michelle)
Address: " "

Attachments

PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Ulyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

PRINT +
Signatures:

- 104) *Kimberly Patterson*
Kimberly Patterson
Address: 15 2784 One Street
Pohukoa HI 96778
- 105) *Conny Wenzel*
Conny Wenzel
Address: 15-2784 One St.
Pohukoa, HI 96778
- 106) *Carlyle Coker*
Carlyle Coker
Address: 154 Kulekua Loop
Hale, HI 96720
- 107) *Lisa Washburn*
Lisa Washburn
Address: 154 Kulekua Cr. Hale, HI 96722
P.O. Box 546 Kilauea, HI 96749
- 108) *Stacy (Stacy)*
Stacy (Stacy)
Address: 1305 Waioloa Ln, 1st Apt
Hale, HI 96720-41
- 109) *James (James)*
James (James)
Address: 402R 1 Box 5100
Hale HI 96779
- 110) *Nicole Kagan*
Nicole Kagan
Address: " "
- 112) *William (William)*
William (William)
Address: " "

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

PRINT +
Signatures:

- 113) *[Signature]*
Jennifer Ethelka
- 114) David Oliveira
- 115) Cayce K. Waipao
[Signature]
- 116) *[Signature]*
DARRIN MAMAHUNA
- 117) *[Signature]*
CRAIG D. GRAHAM
- 118) *[Signature]*
THOMAS J. KUMU
- 119) Guy Hawaiian
[Signature]
- 120) Brock Branton
Brock Branton
- 121) *[Signature]*
KATHLEEN KILIAN

Address:

- P.O. Box 24 HAWAII HI 96718
- P.O. Box 191
Pepee Keolu, HI 96781
- 13 1255 Waihaha St
Fahala HI 96778
- P.O. Box 742
Pahoa HI 96778
- P.O. Box 1631
PAHOA, HAWAII 96778
- P.O. Box 3144
KAWAHAHI HI 96749
- 15 2815 FULI MAHEKA LANE
P.O. Box 2075
Waihi HI 96778
- [Signature]*
KATHLEEN KILIAN
KAWAHAHI HI 96749

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

Print & Sign Name: Address

- 122) *[Signature]*
DORIS HENDERSON P.O. Box 5774 - Hilo HI 96720
- 123) *[Signature]*
Demise Keli P.O. Box 843 Mt View, HI 96771
- 124) Clara Madariga 5555 Pohakalani St Hilo HI 96720
- 125) *[Signature]*
PATTI PARR 15-173 Pine Lapa N. Pahoa 96778
- 126) *[Signature]*
Judy Leach PO Box 2168 Pahoa HI 96778
- 127) *[Signature]*
Laureyne Badenoch 593 Kalamini Place Hilo, HI 96720
- 128) *[Signature]*
AKENI I MOUVE 55 NANIKA ST. Hilo HI 96720
- 129) *[Signature]*
HORETIE SUMNER PO Box 1961 Hilo HI 96720
- 130) *[Signature]*
Mama Rytter 19 Hualala Ln Hilo, HI 96720
- 131) *[Signature]*
Jessica Harris 11-3188 N. Malakua St. Hilo HI 96720

Attachments

PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

Print & Sign Name:

Shirley Calhoun

Address
RR 3 Box 1220 Paha HI 96775

133) Fred F. Finkle
Fred F. Finkle

1205 AINAKA DR
HILO, HI 96720

134) Heleipe E. Soper

Po Box 1199 - Volcano HI, 96785

135) Patricia C. Soper

P.O. Box 1199, Volcano, HI 96785

136) Laura Nordie

P.O. Box 1213, Volcano, HI 96785

137) Manager Amigos
D. James Calhoun

152721 Kahuakoa St. Paha, HI 96778

138) Nikita M. Uye
Nikita M. Uye

101 Hualani Dr. Hilo 96720

139) Helenne Marie Upton

P.O. Box 1357 Hilo, HI 96721

140) Frances Falaris

P.O. Box 348 Hualakoa, HI 96778

Attachment

PETITION

Re: Request For Comments

Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

PRINT + Signatures:

Address:

141) Helenne Marie Upton

Helenne Marie Upton P.O. Box 1357 Hilo, HI 96721

142) Patricia C. Soper

Patricia C. Soper P.O. Box 1199 Volcano, HI 96785

143) Fred F. Finkle

Fred F. Finkle 1205 Ainaoka Dr Hilo, HI 96720

144) Laura Nordie

Laura Nordie P.O. Box 1213 Volcano, HI 96785

145) Frances Falaris

Frances Falaris P.O. Box 348 Hualakoa, HI 96778

Attachments

Attachments

PETITION

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauler Single Family Residence, TMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuakane's letter.

- PRINT +
Signatures:
- 146) JOHN KAPISKY / P. L. King
 - 147) DELICIA ENRIQUETA / Dita King
 - 148) MICHELE CONSONE / Michele
 - 149) Diane Napaka / Napaka
 - 150) The Napaka Family
 - 151) TOM WANGWOD
 - 152) Lorraine Fells / Lorraine
 - 153) SARA FARR
- Address:
- 30 KALEA ST HONOULULU HI 96813
 - PO Box 611 Pahoa HI 96772
 - PO Box 1953 Pahoa HI 96772
 - 1000 Kalaniana'olaha Pl., Honolulu HI 96813
 - Box 836 Hono HI 96721
 - PO Box 1184 Mokuauia HI 96721
 - PO Box 2267 Pahoa HI 96770

- Print & Sign Name: Address
- 154) K. Melin Wong-Gain P.O. Box 1746
 - 155) K. Melin Wong-Gain P.O. Box 1746
 - 156) John Moe Makuakane - Javelin P.O. Box 18
 - 157) John Moe Makuakane - Javelin Hawaii National Park, HI 96718

Attachments

PETITION

Re: Request For Comments
Conservation District Use Application (CDUA) HA-3474
Utyro & Hauker Single Family Residence, TMIK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and
Recommendations for preservation of the historical and cultural
values and native gathering rights as stated in Kahu Makuakane's
letter.

Signatures:

196) *Telisa H. Howard*
Belinda Hanover

Kanaka Council Moku O Keawe
HC 2, Box 9607, Kea'au, HI 96749
Ph: (808) 982-9020 Fax: (808) 966-6032

September 17, 2008
Michael Cain, Planner
Office of Conservation & Coastal Lands
Department of Land and Natural Resources
Kalaaimoku Building
1151 Punchbowl St., Rm 131. P. O. Box 621
Honolulu, HI 96809-0621

Re: Conservation District Use application (CDUA) HA - 3474
Utyro & Hauker single Family Residence, TMIK (3) 1-3-02:71

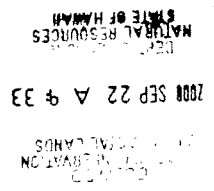
Dear Michael,

Attached is another petition to add to your list. These signatures are members of the Ala
Puhala O Puna Association

Mahalo nui loa,

Nolpa

Nolpa Chang - Crutcher
Member of the Kanaka Council Moku O Keawe



RECEIVED
DEPARTMENT OF CONSERVATION
NATURAL LANDS

Attachments

PETITION

2008 SEP 22 A 9 33

Re: Request For Comments
Conservation District Use Application (CDUA) MA-3474
Utyro & Hauler Single Family Residence, IMK (3) 1-3-02:71

WE, THE UNDERSIGNED, support the Comments and Recommendations for preservation of the historical and cultural values and native gathering rights as stated in Kahu Makuhane's letter.

Print & Sign Name:

Ashuko Kimoto

Duncan K. Seto *William V. Seto*

Katie Loomis

ANTONETTE SARDEGNA

Laurie Cook
SHARON COOK

Address

P.O. Box 10503 Hilo, HI 96721

P.O. Box 6094, Hilo, HI 96720

P.O. Box 321, Hakekai, HI 96710

HC 2 BOX 6820 KEMAU 96745

HC 1 Box 5025

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Holly Linneman
P.O. Box 1166
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Ms. Linneman :

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

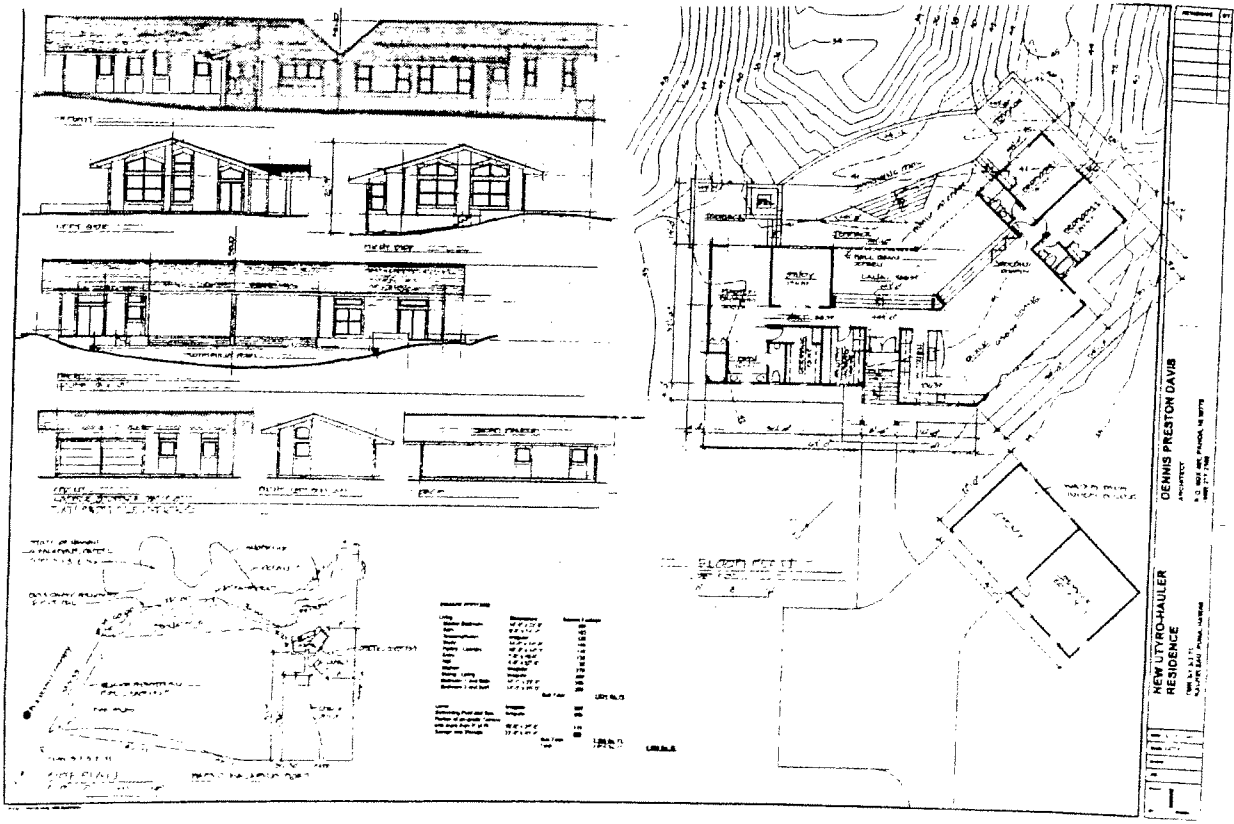
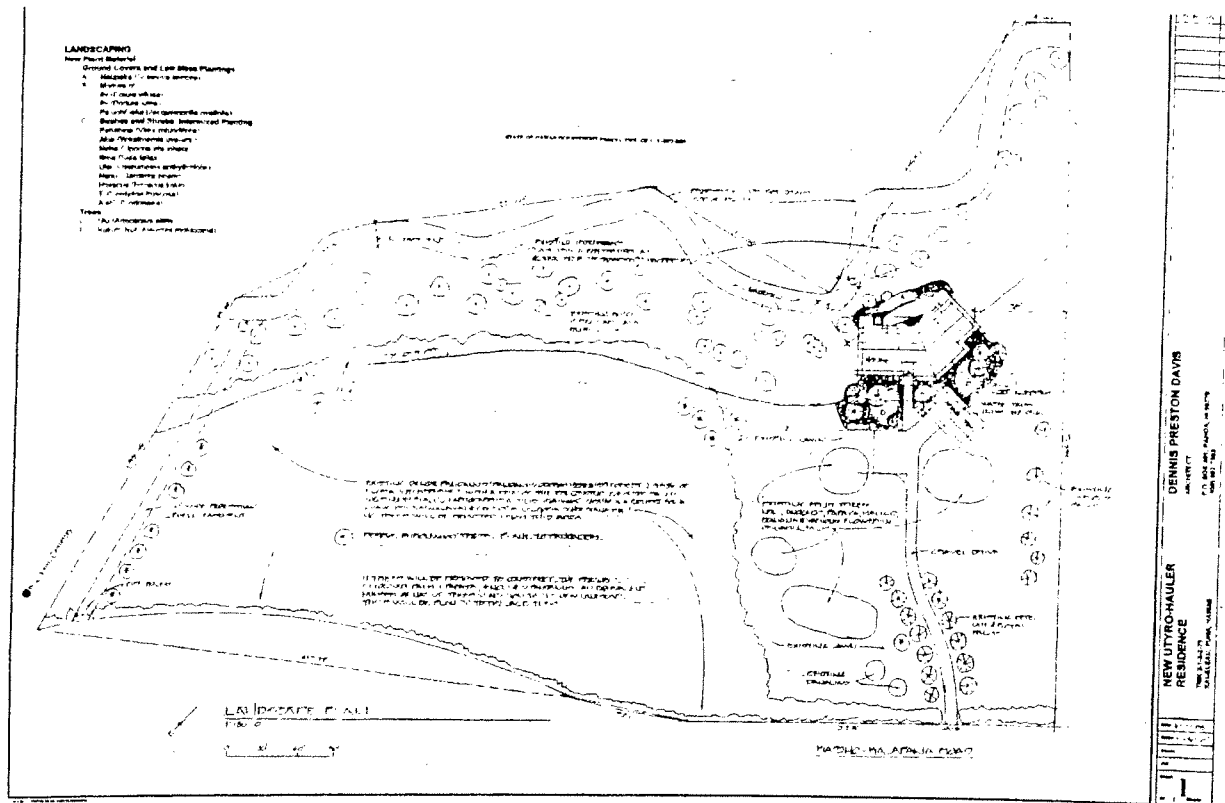
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

B. G. Hovart
P.O. Box 76
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear B. G. Hovart:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

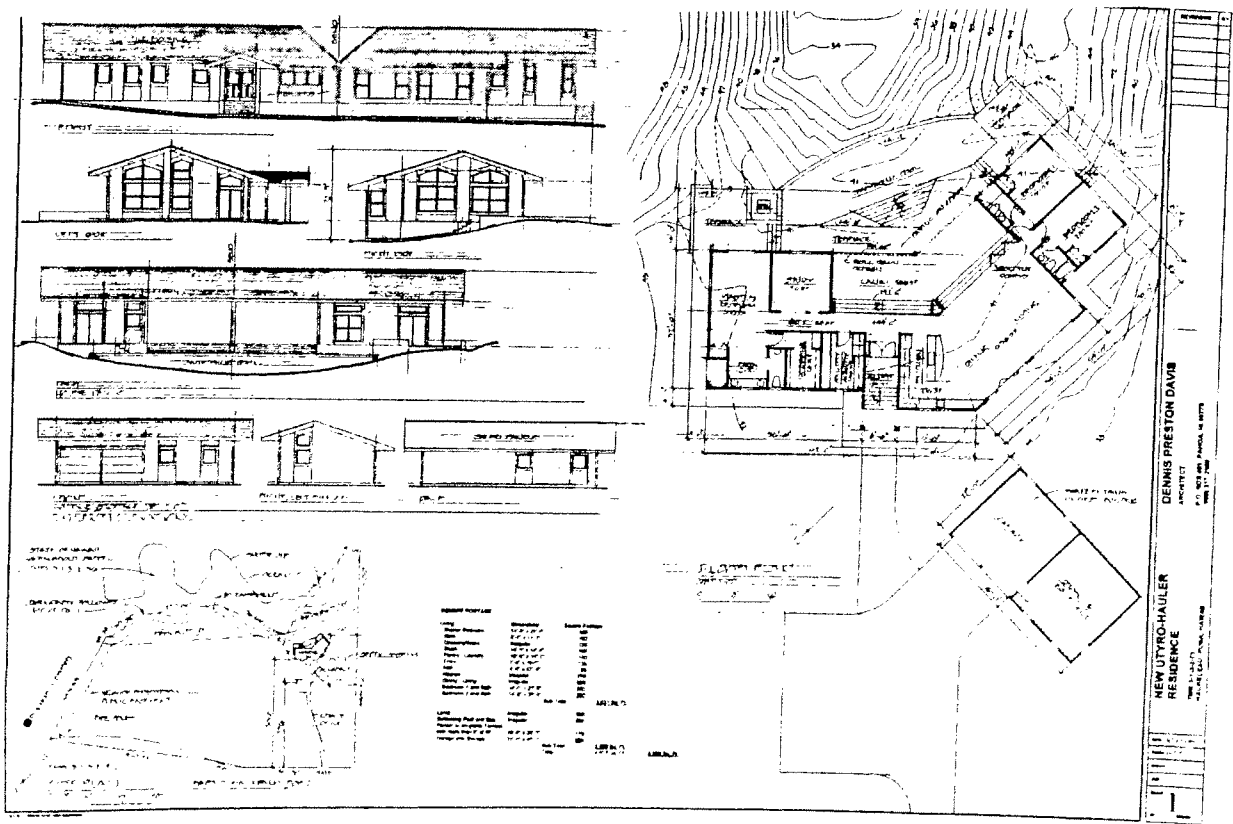
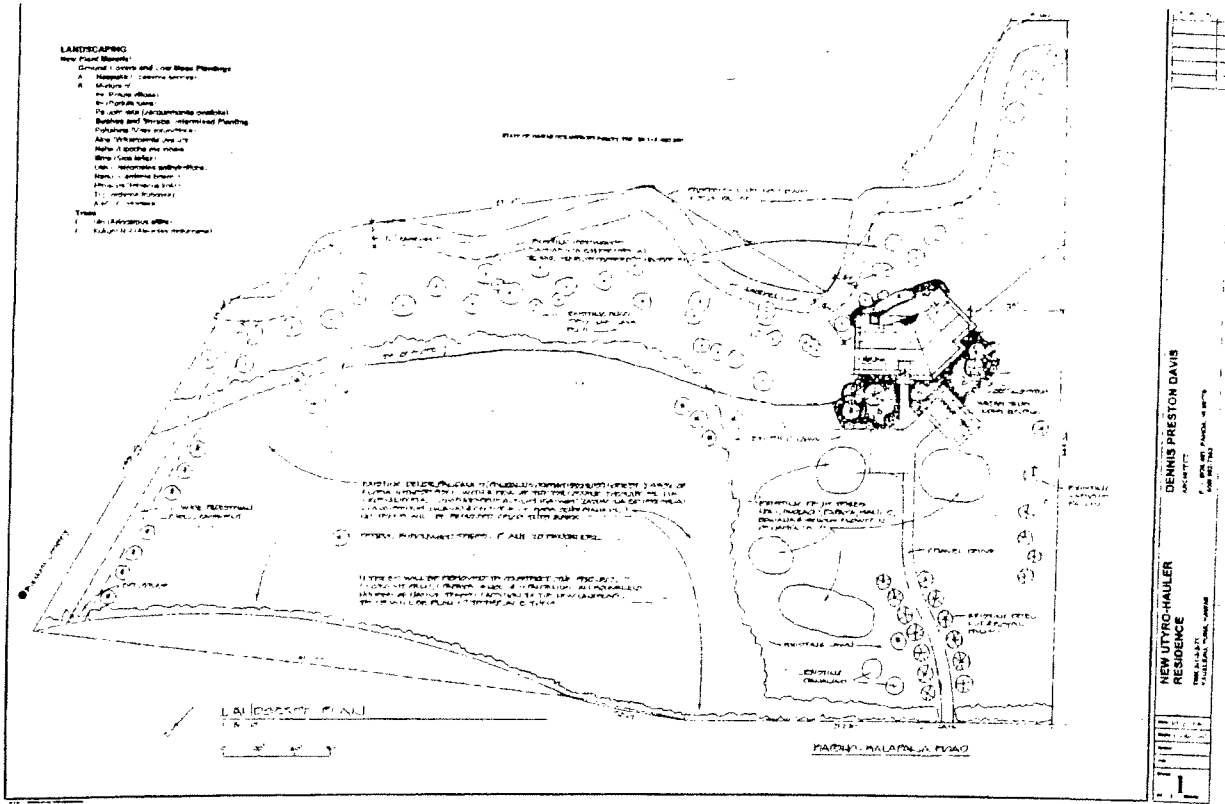
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJALENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Elizabeth Bell
P.O. Box 89
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Elizabeth Bell:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

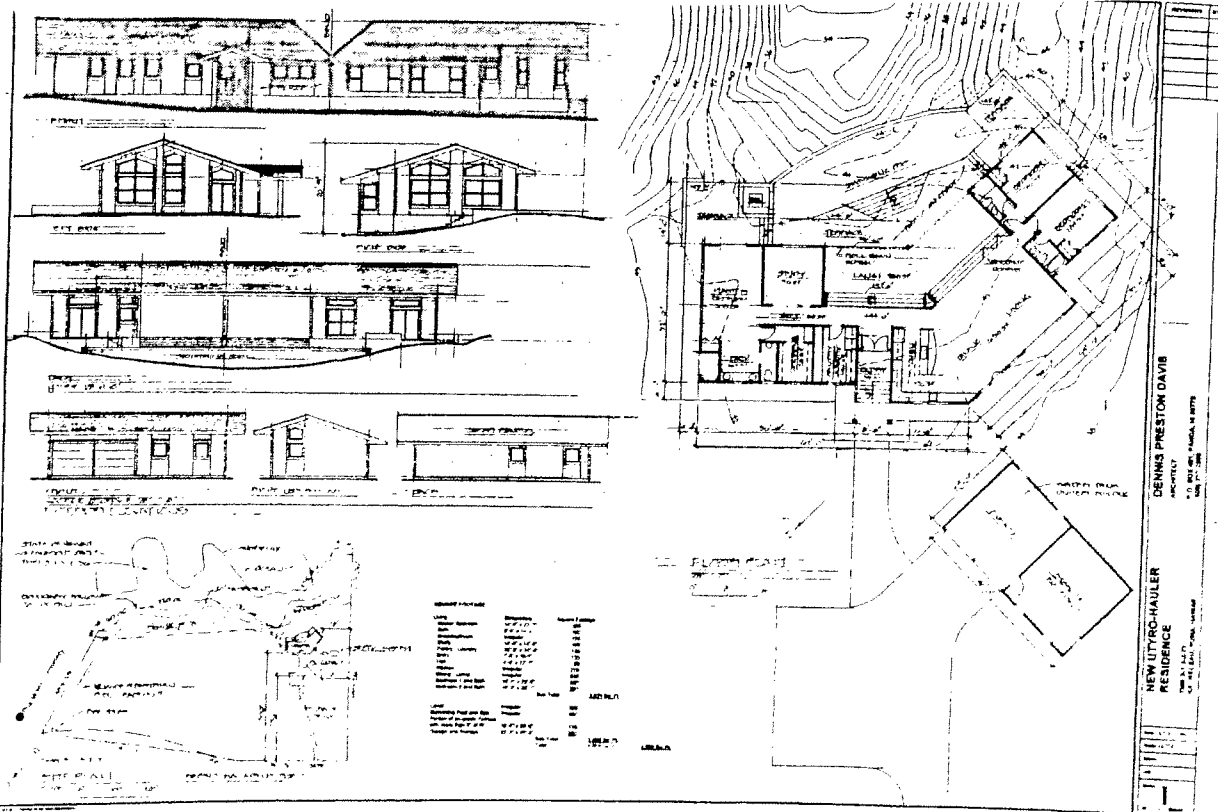
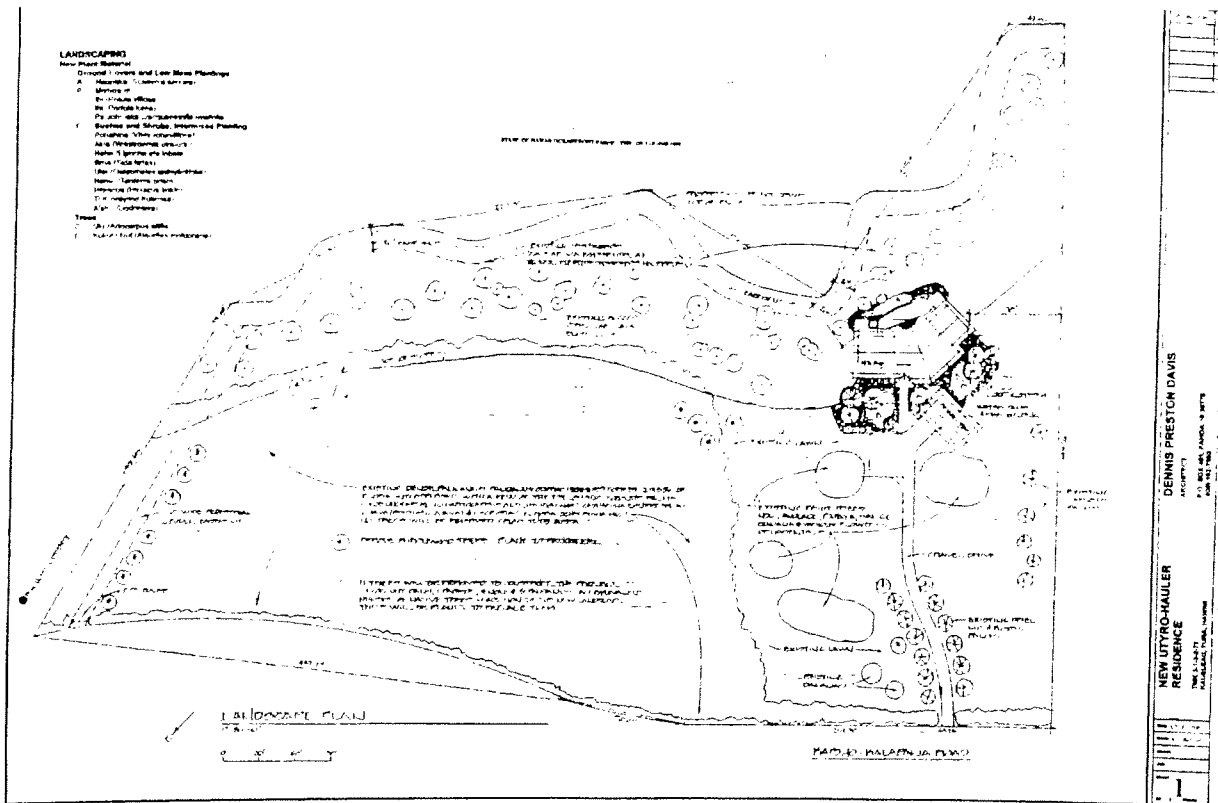
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Keis Marques
HCR 1 Box 4056
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

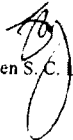
Dear Keis Marques:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohia Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohia Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIAANUELE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Alvin K. Asato
608 Kaawe Street
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Alvin K. Asato:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

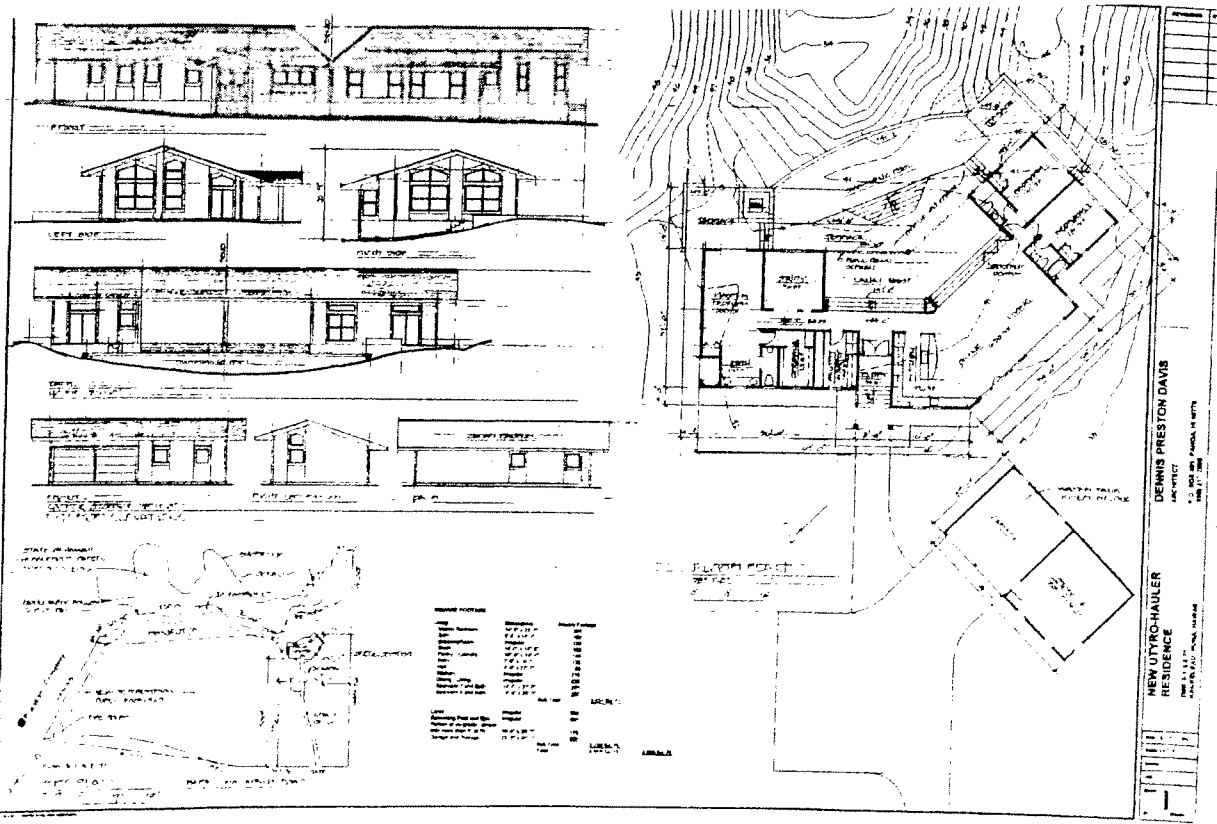
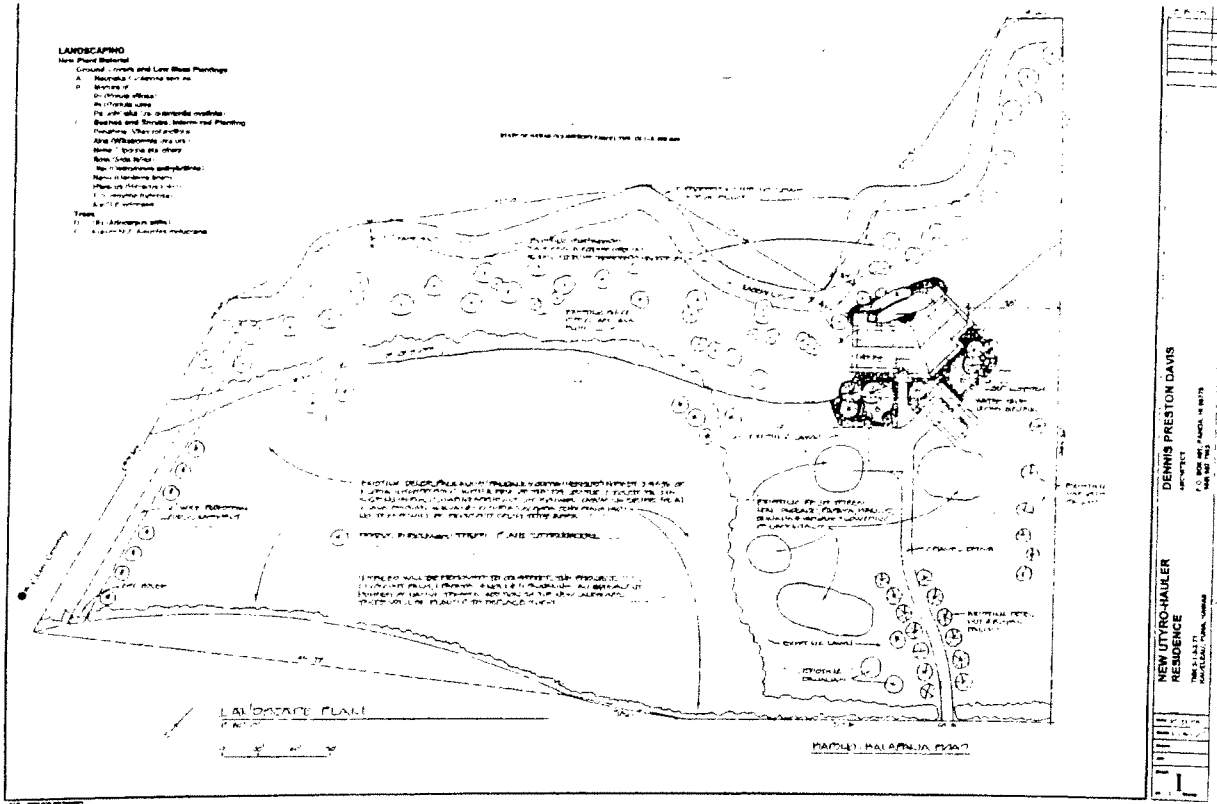
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Teri Murphy
P.O. Box 29
Kurtistown, Hawaii 96760

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Haufer
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Teri Murphy:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

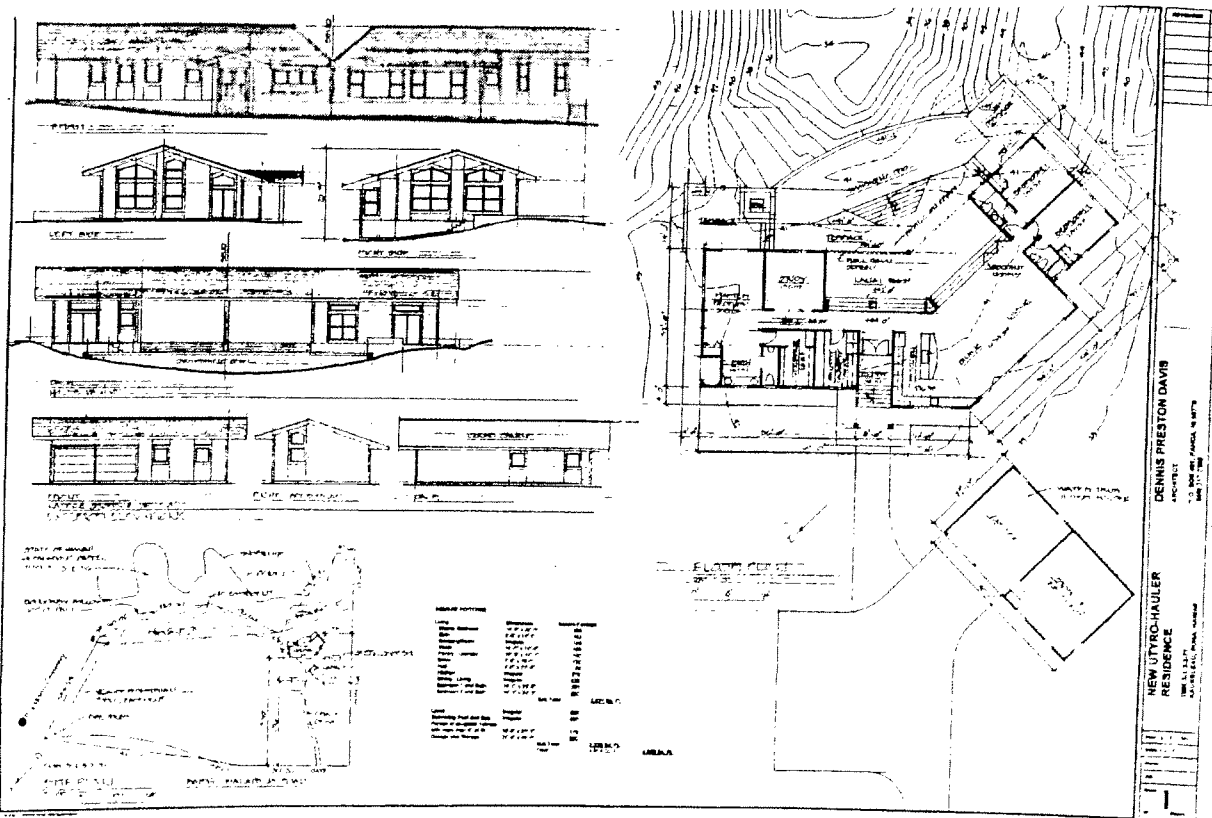
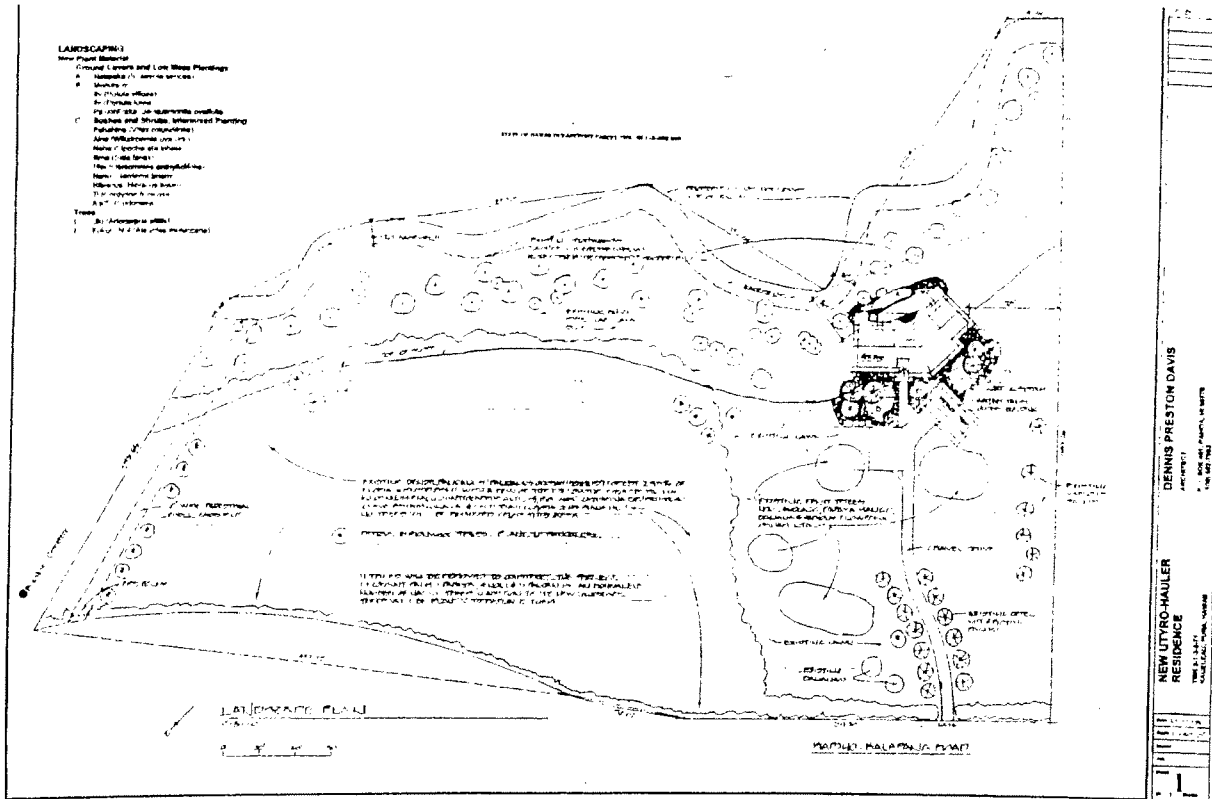
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM
KLUGA@CARLSMITH.COM

November 5, 2008

Connie S. Ritchey
P.O. Box 1073
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071


Dear Connie S. Ritchey :

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

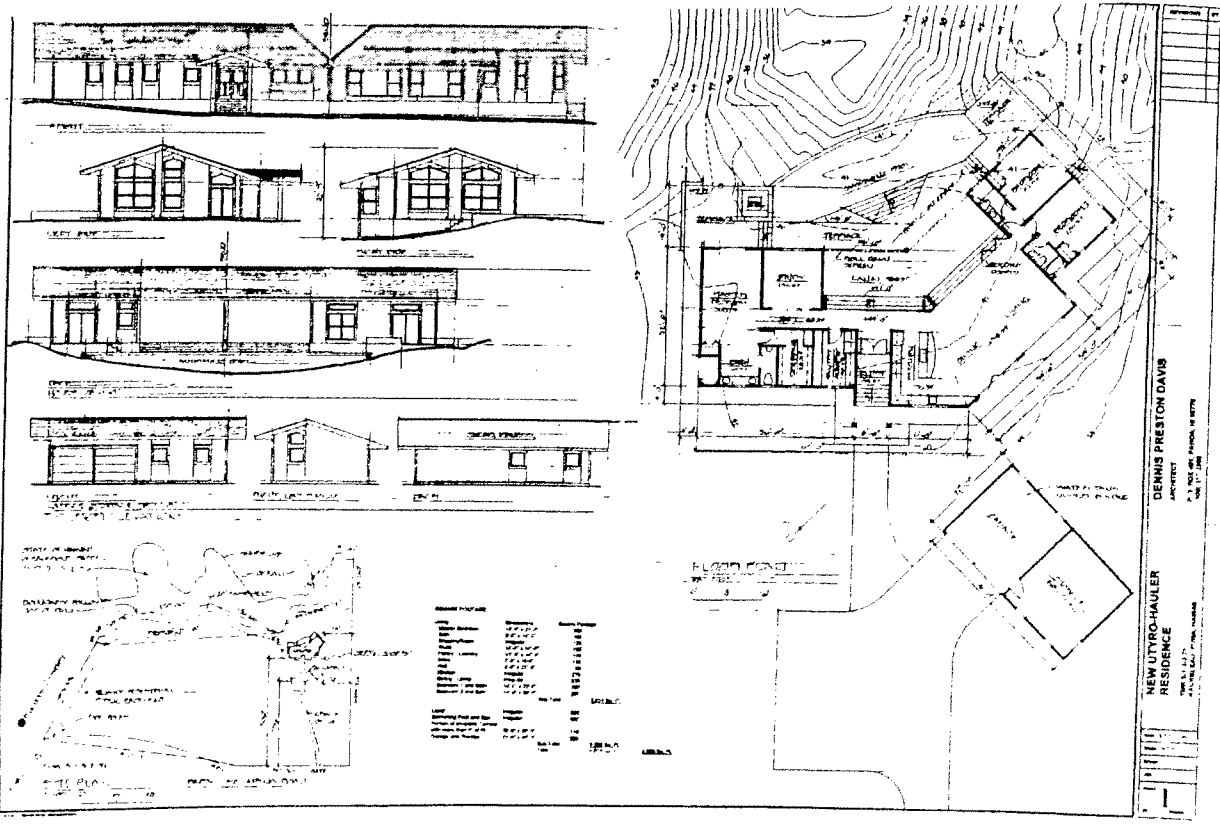
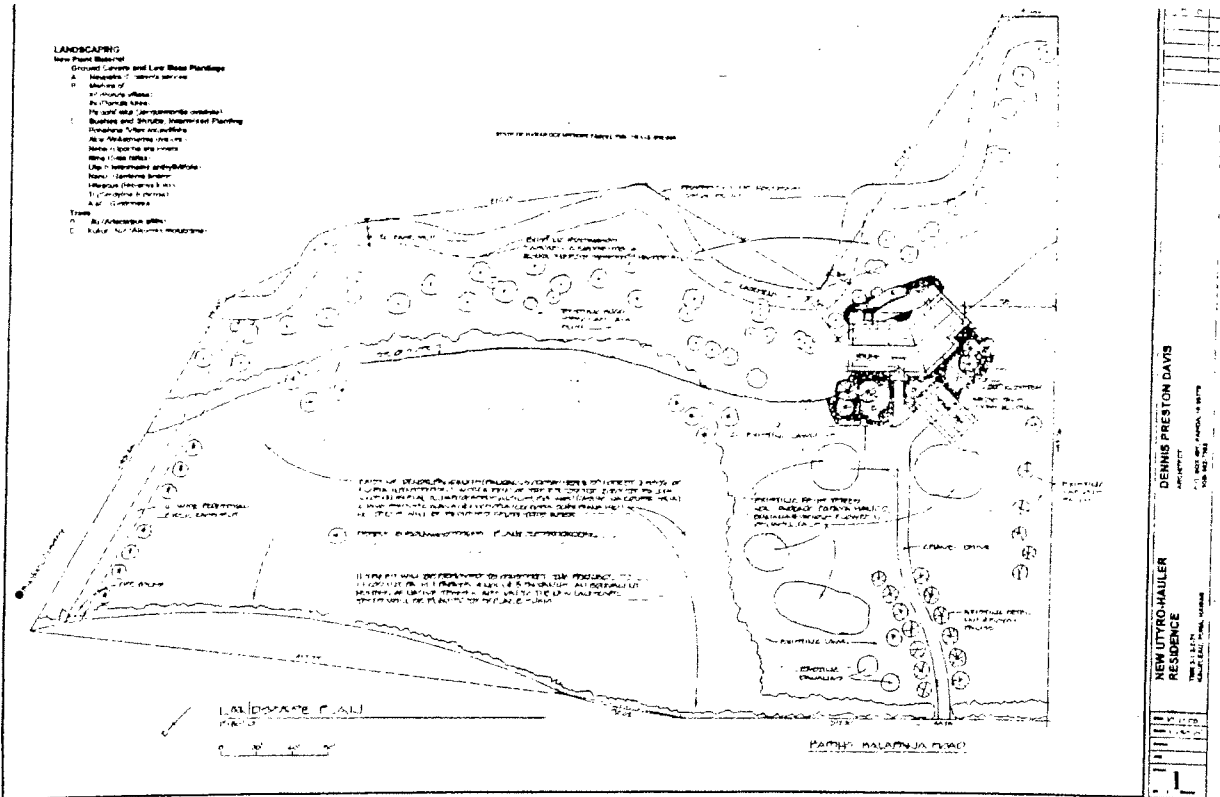
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIAKULUENUE AVENUE
P.O. Box 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Wolfgang Thomas
P.O. Box 67
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Haufer
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Wolfgang Thomas :

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

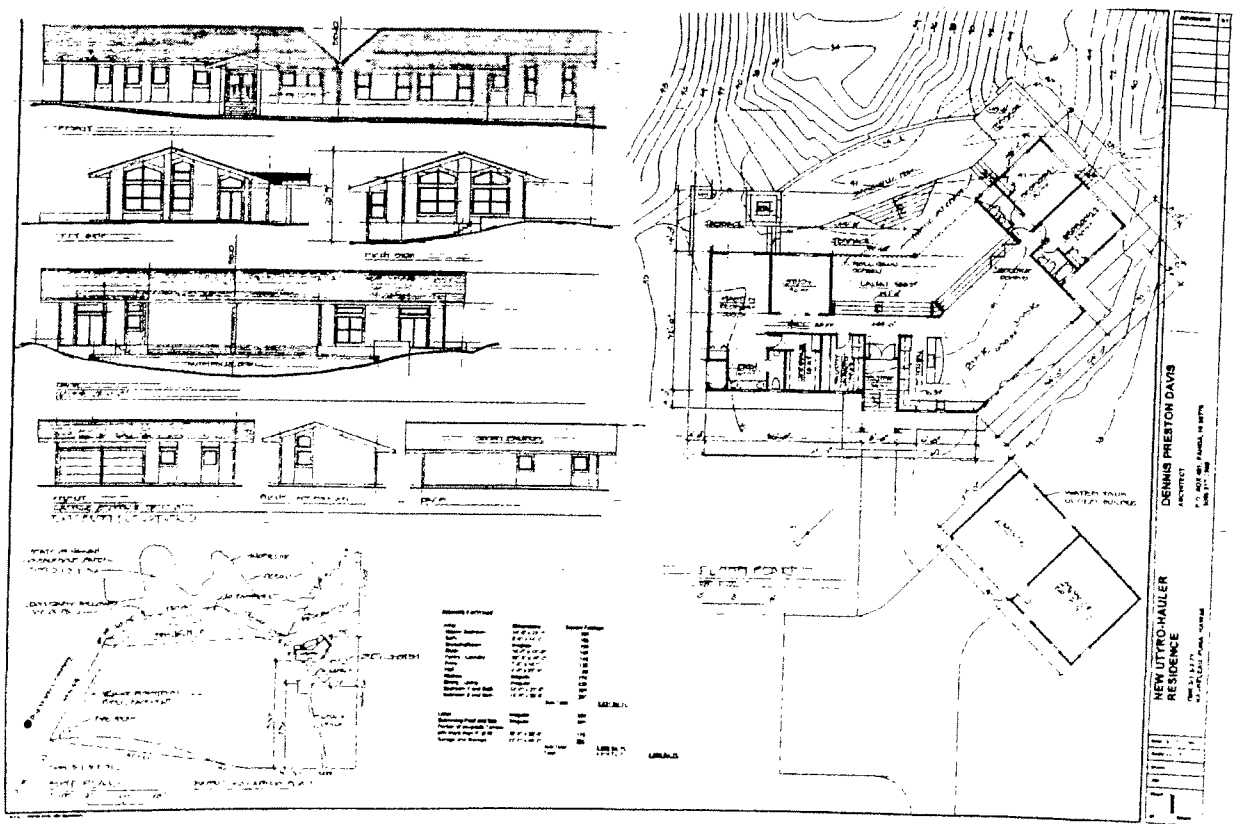
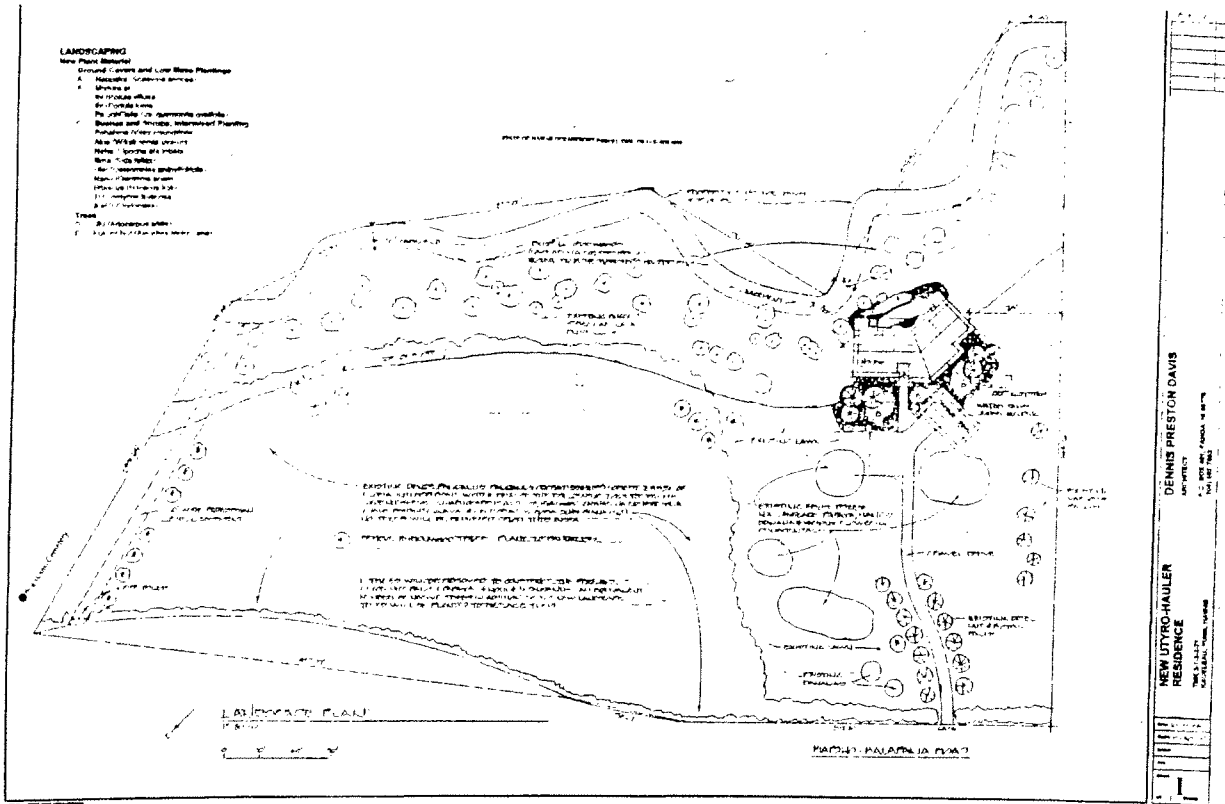
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANALELE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Claudette Moreno
P.O. Box 1058
Mt. View, Hawaii 96771

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071


Dear Claudette Moreno:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

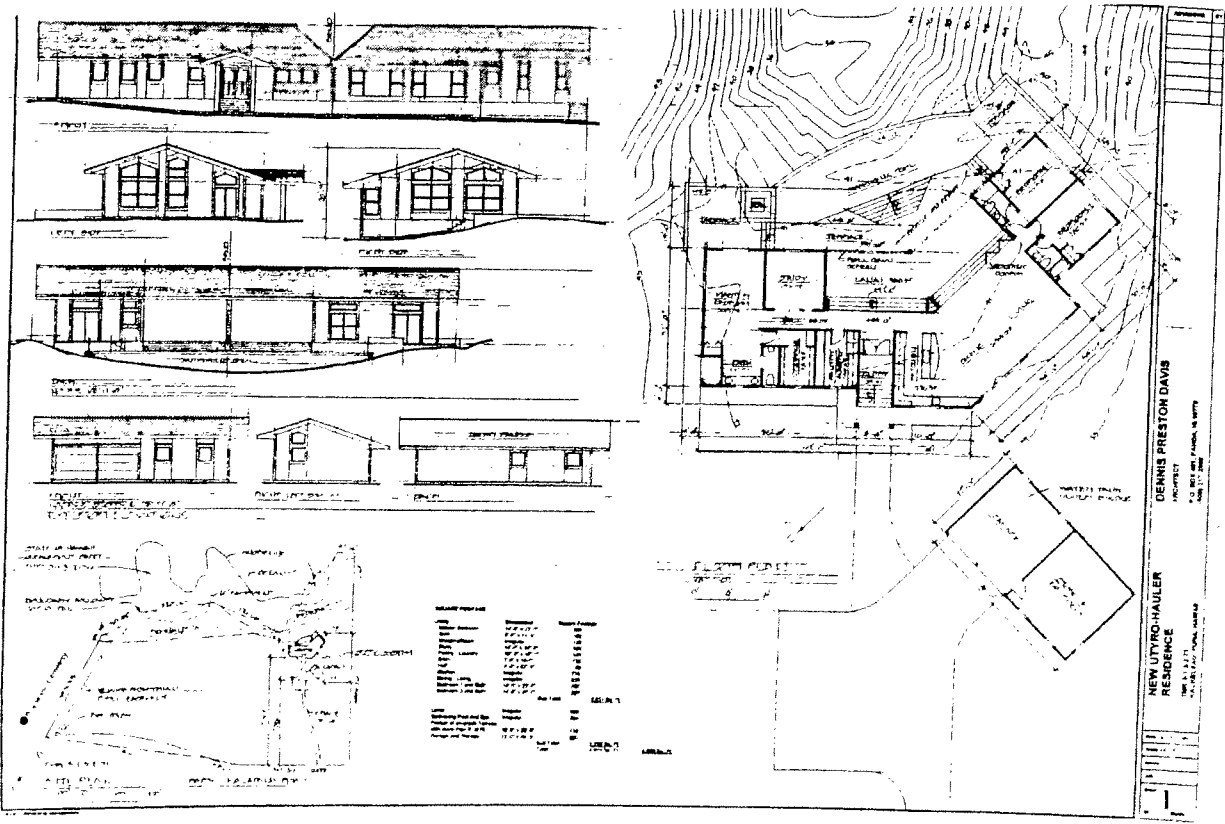
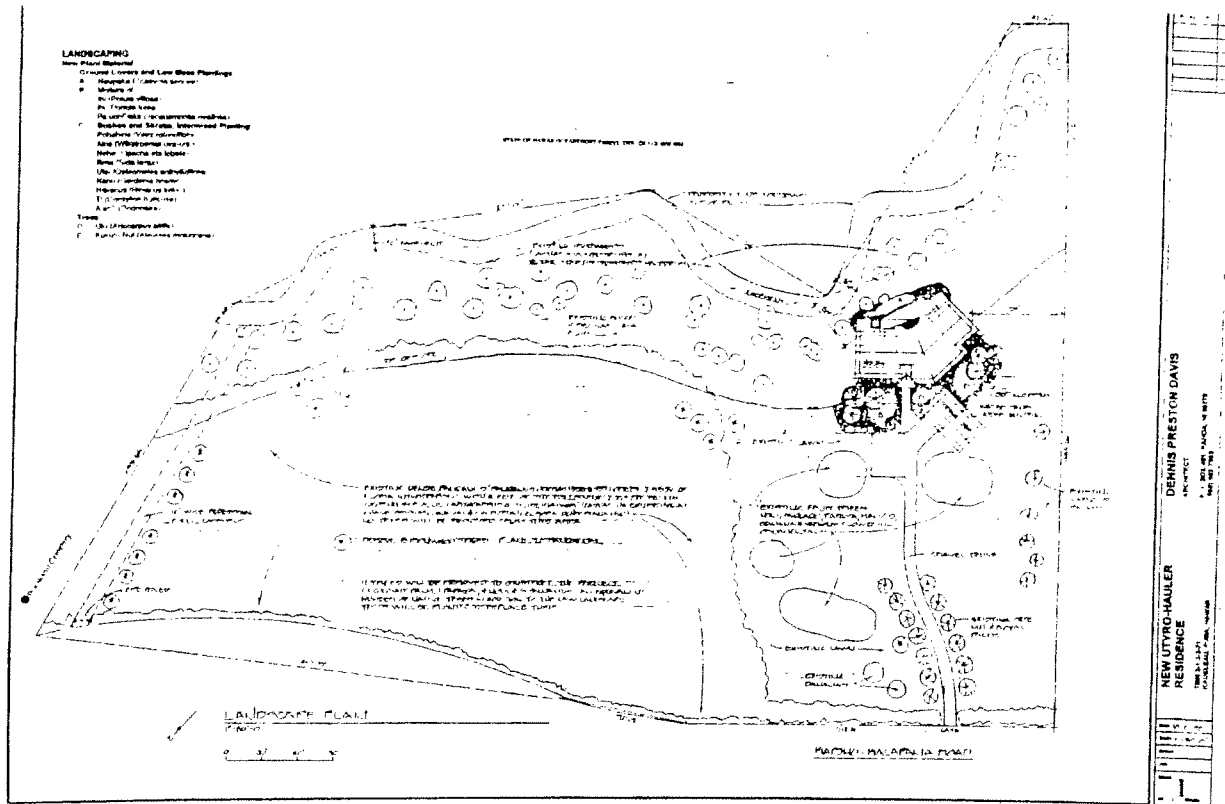
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Robert Ely
P.O. Box 1091
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Robert Ely:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

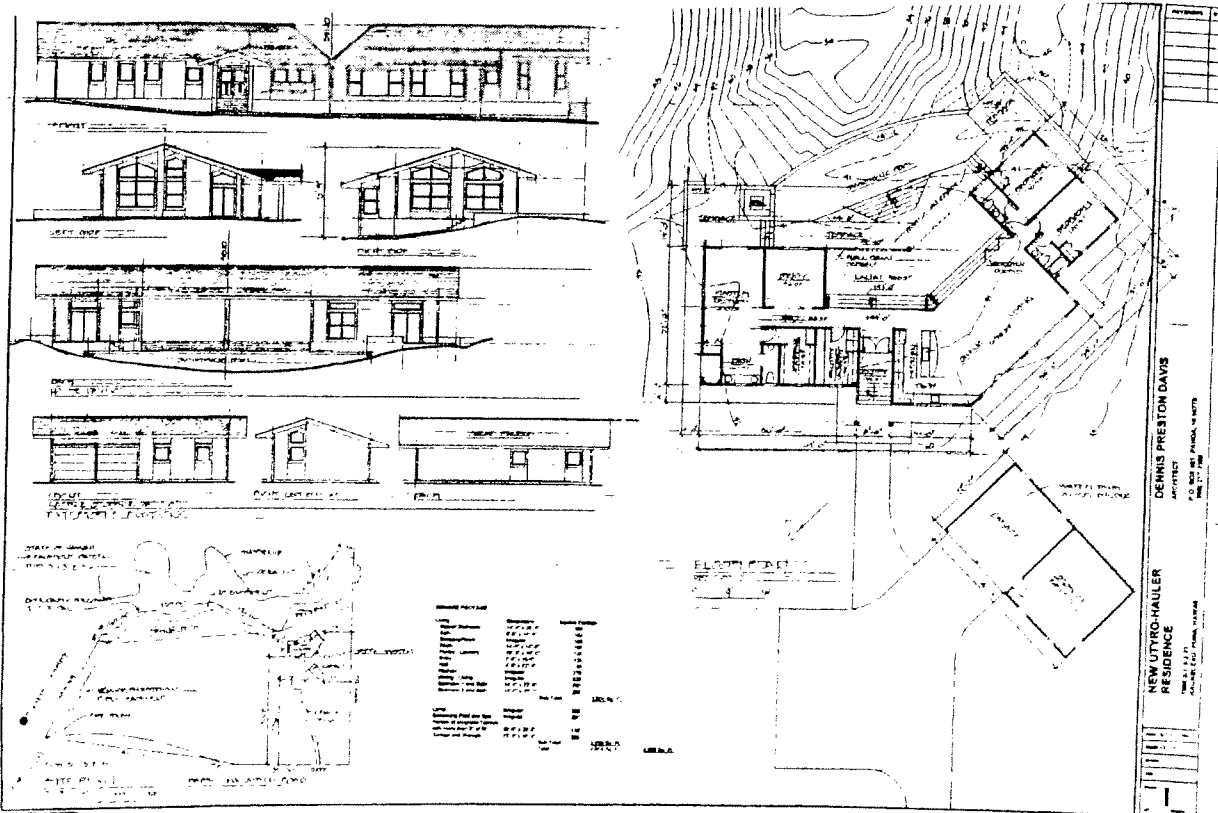
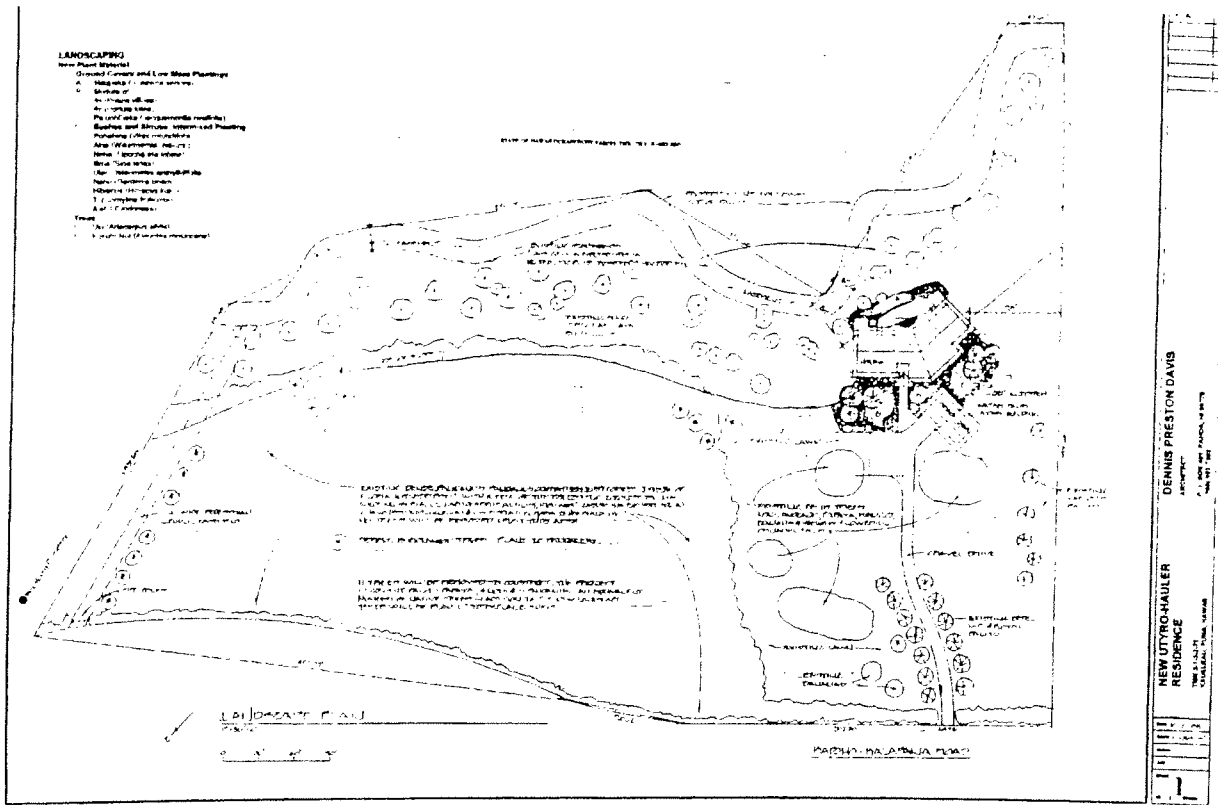
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

HONOLULU KAPOHI HILO KONA MAUI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM
KLUGA@CARLSMITH.COM

November 5, 2008

Michael McDaniel
HCR 2, Box 6695
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Michael McDaniel:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. Box 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Bobby Camara
P.O. Box 485
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071


Dear Bobby Camara:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kafapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

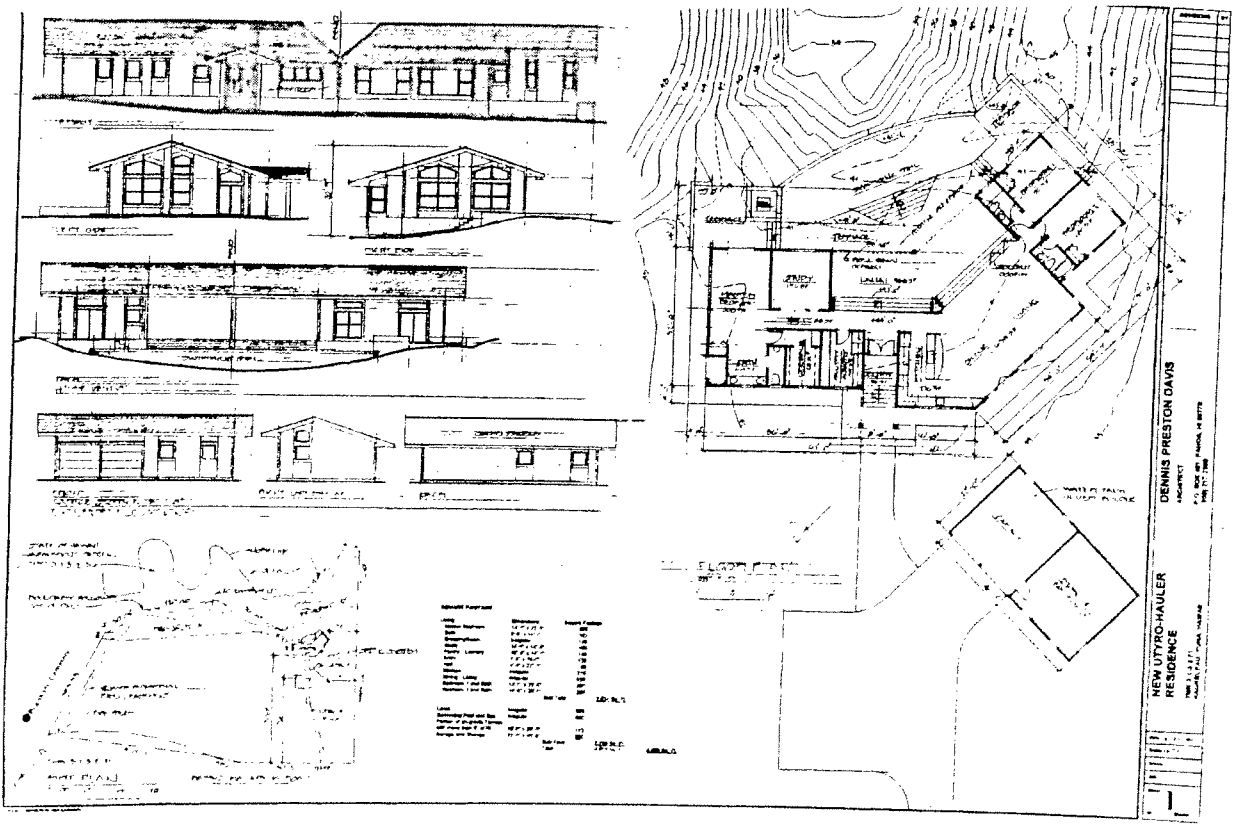
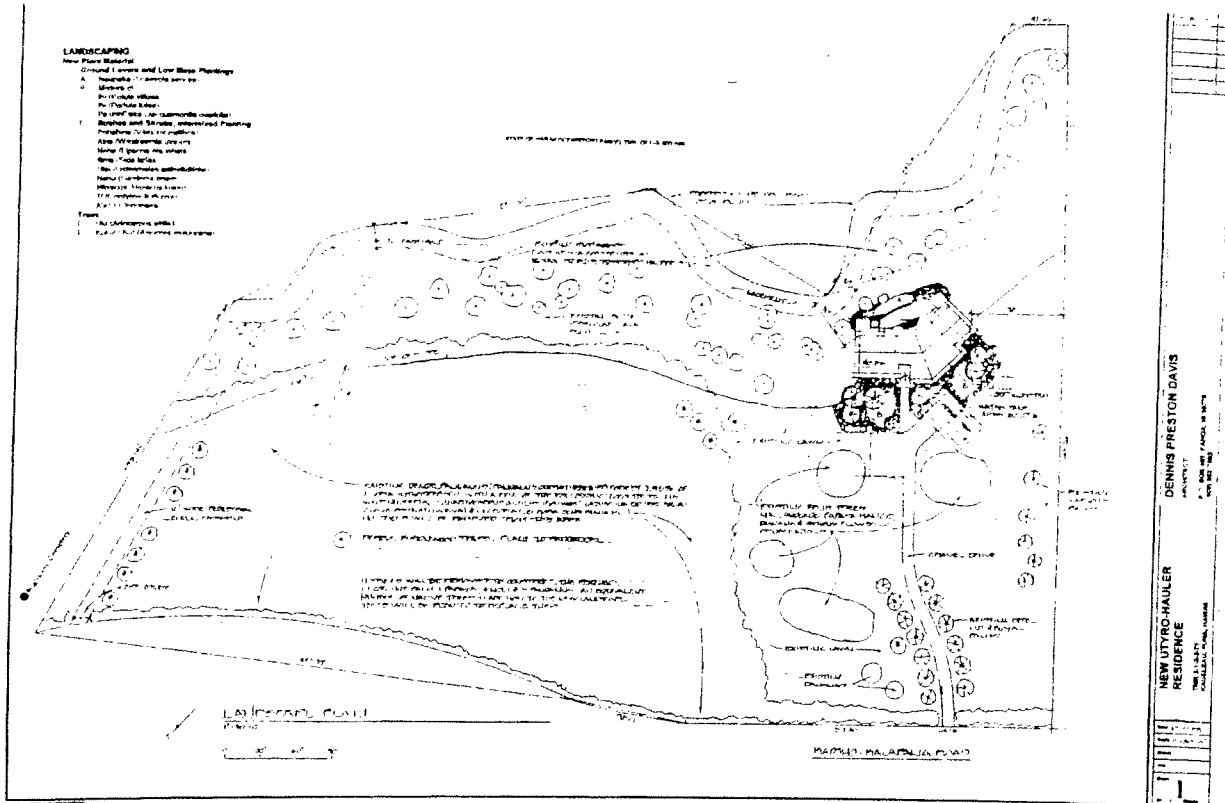
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Malie Larish
P.O. Box 1337
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Haufer
Kauefeau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071


Dear Malie Larish:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

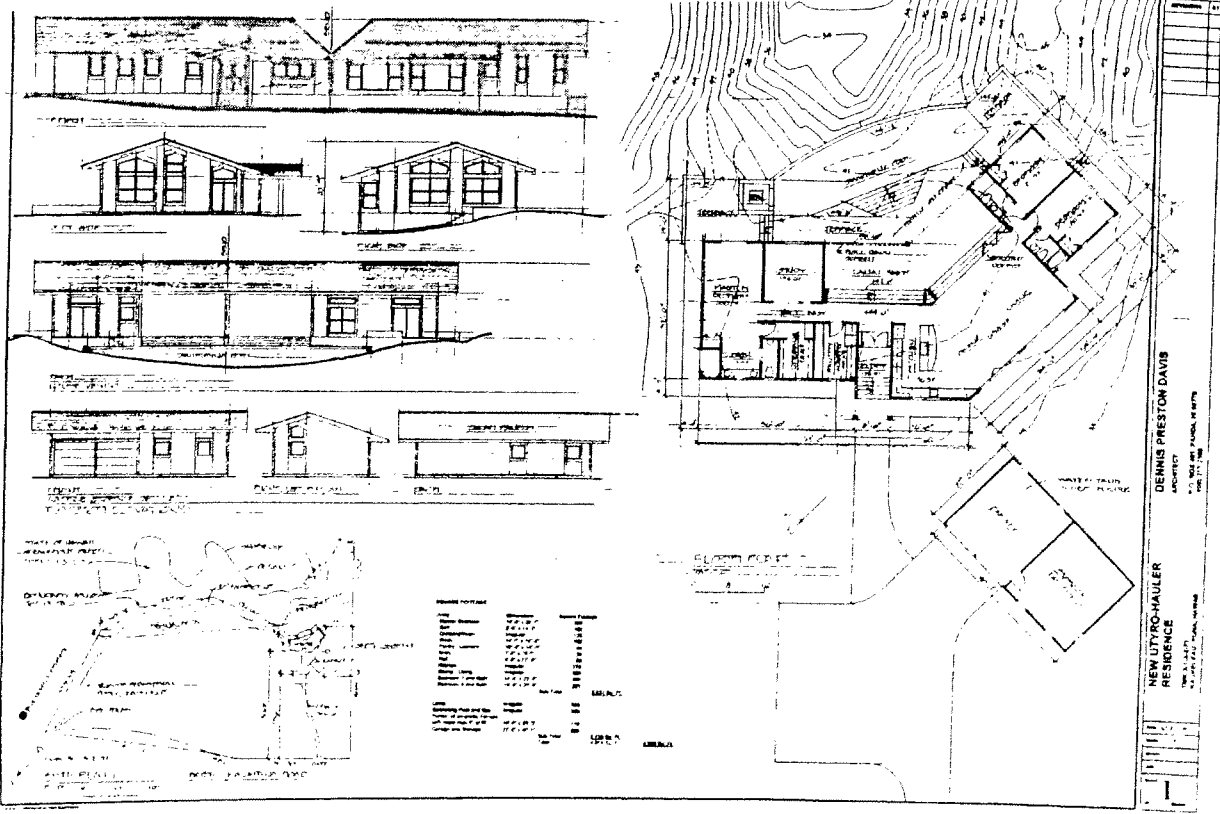
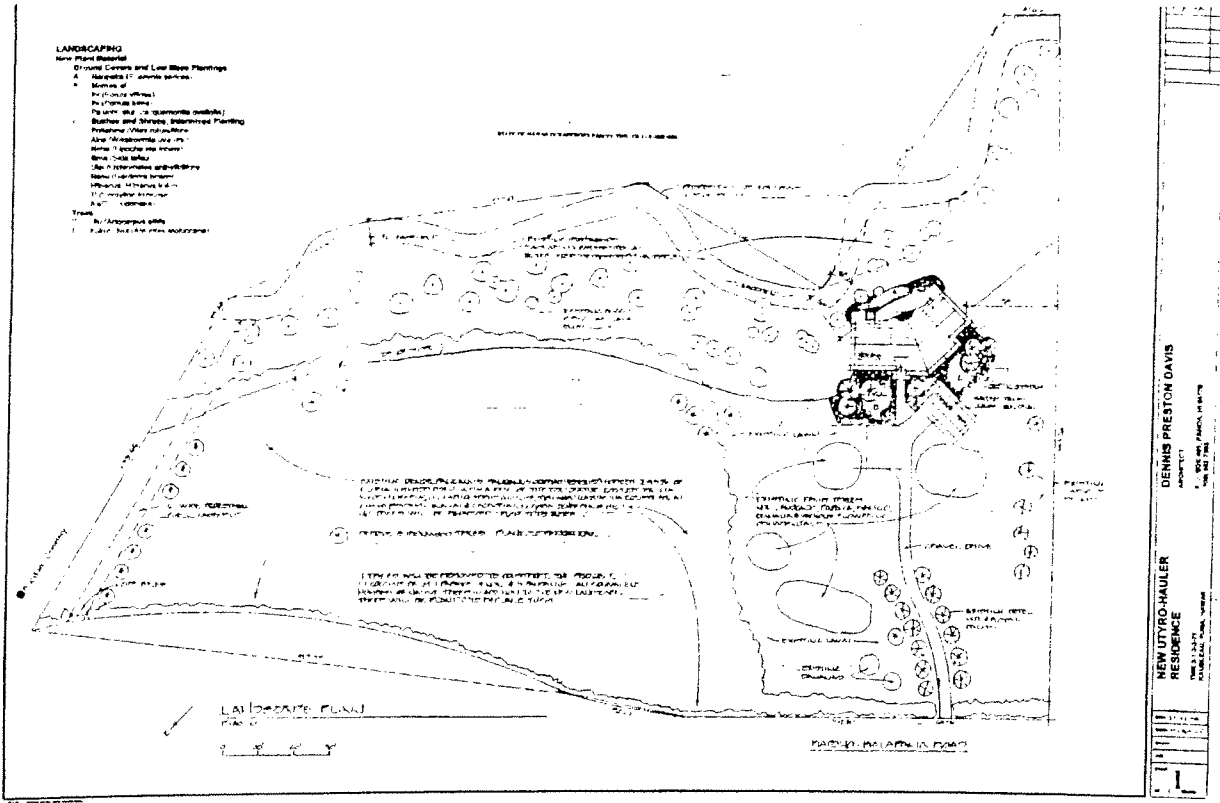
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S.C. Lim

SSL

HONOLULU KAPOHEI HILO KONA MAUI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Rochel Davis
P.O. Box 926
Pahala, Hawaii 96777

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaualeau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

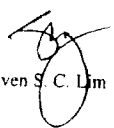
Dear Rochel Davis:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 W. MANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Gregory L. Santos
P.O. Box 776
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

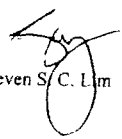
Dear Gregory L. Santos:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

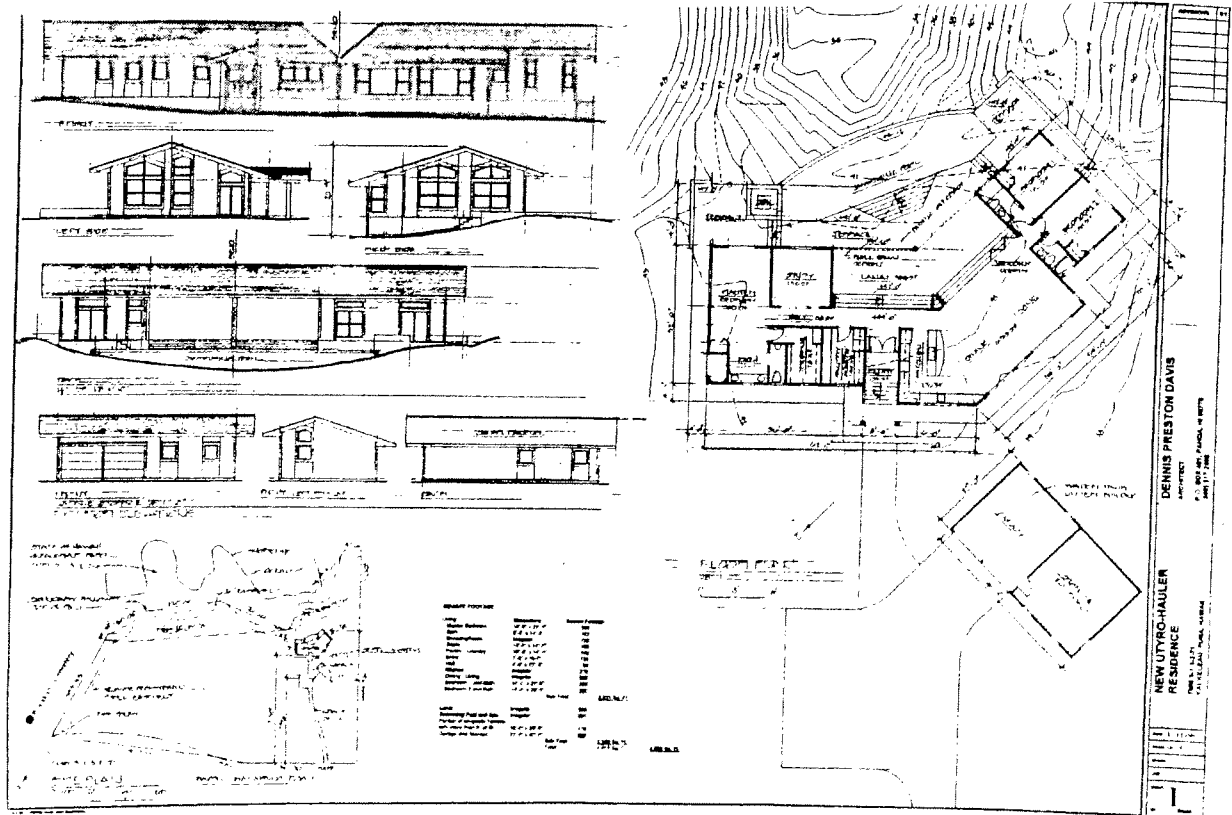
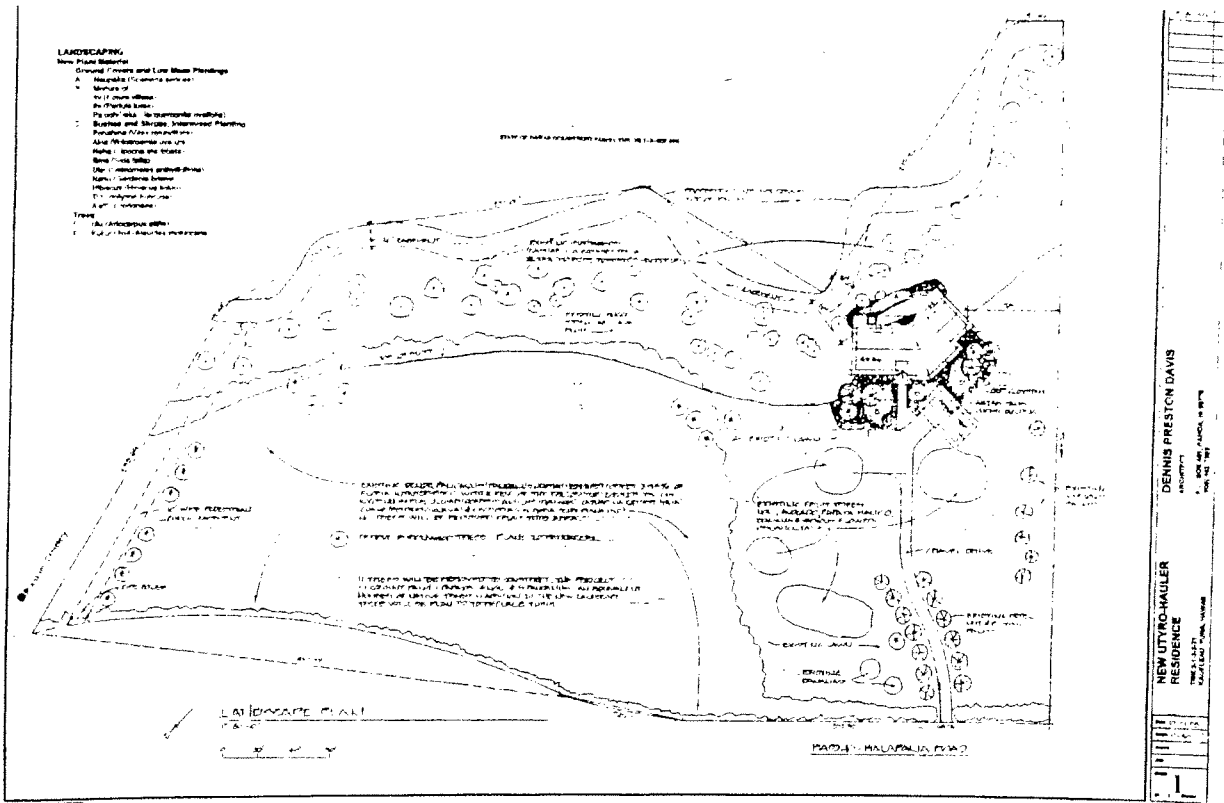
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lum

SSL

HONOLULU KAPOHEI HILO KONA MAUI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Jaelyn L. Jardine
P.O. Box 8
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

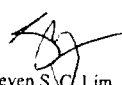
Dear Jaelyn L. Jardine:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

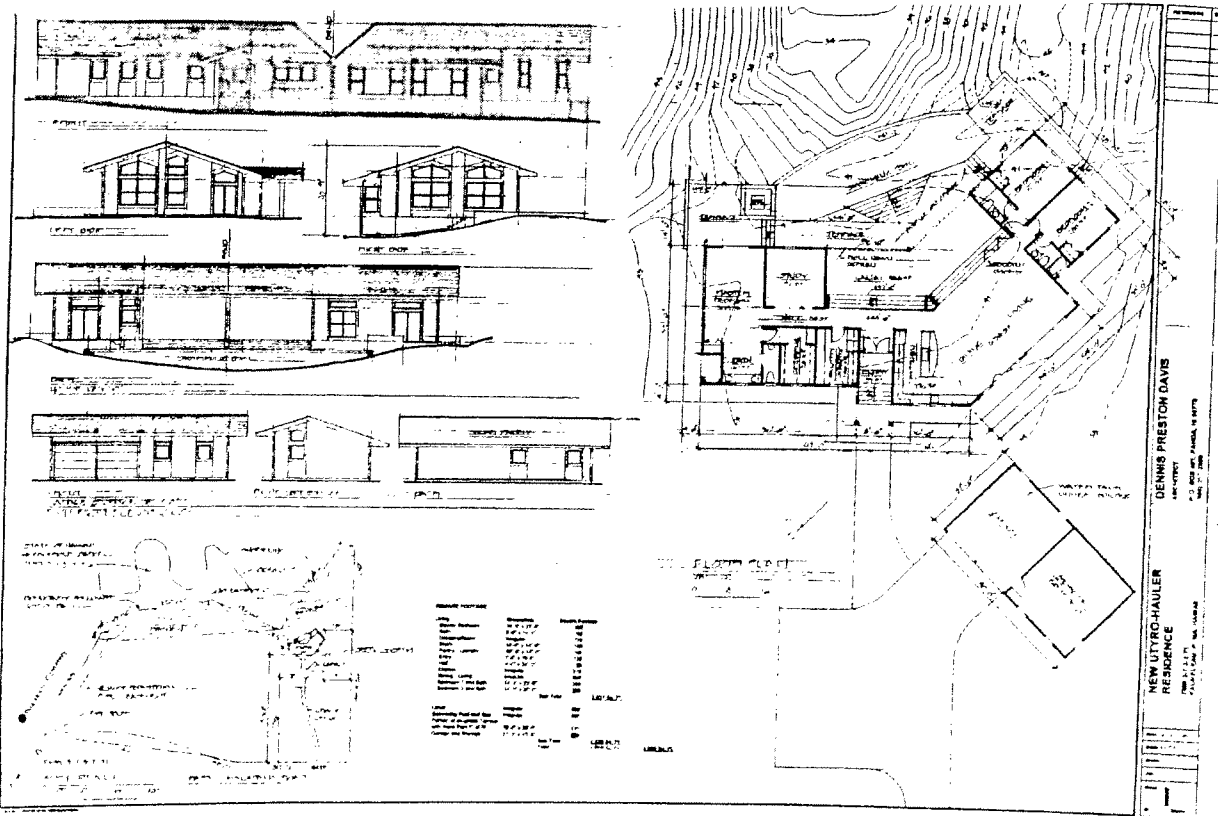
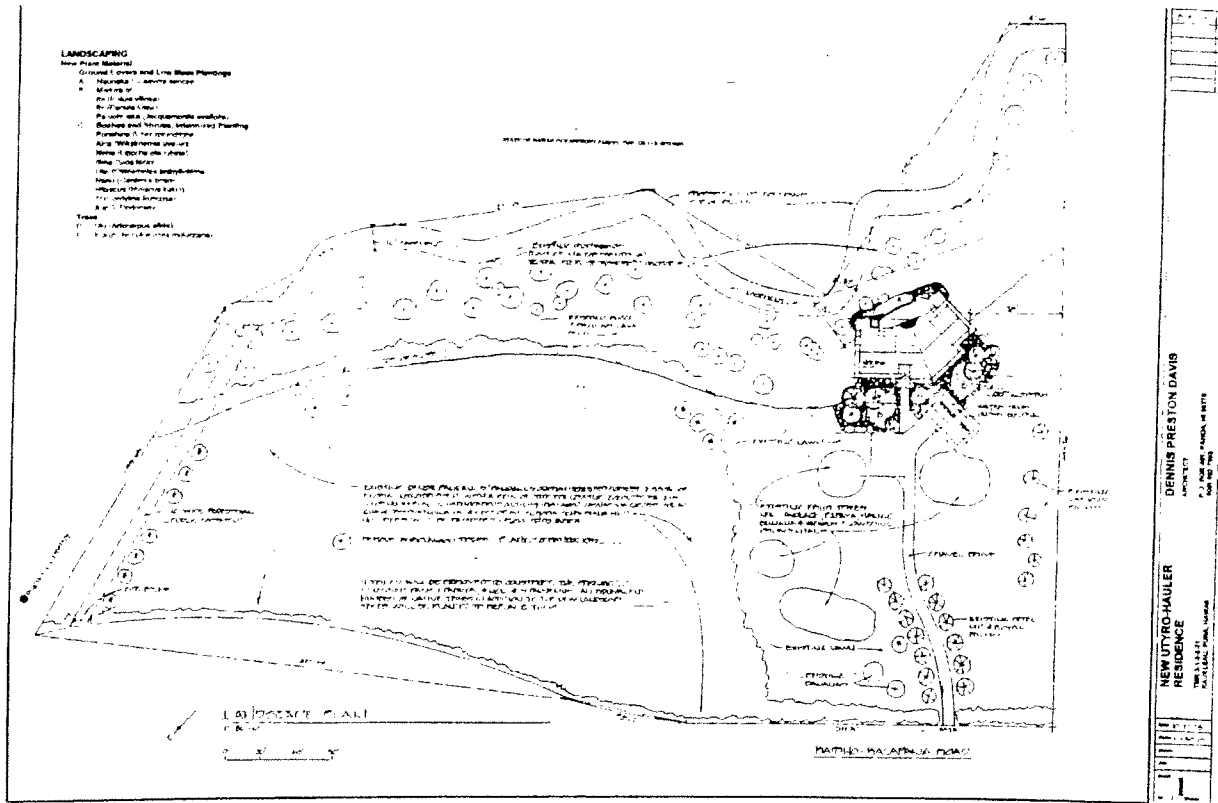
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIALEALE AVENUE
P.O. Box 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Laila Tammi
P.O. Box 180266
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Laila Tammi:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

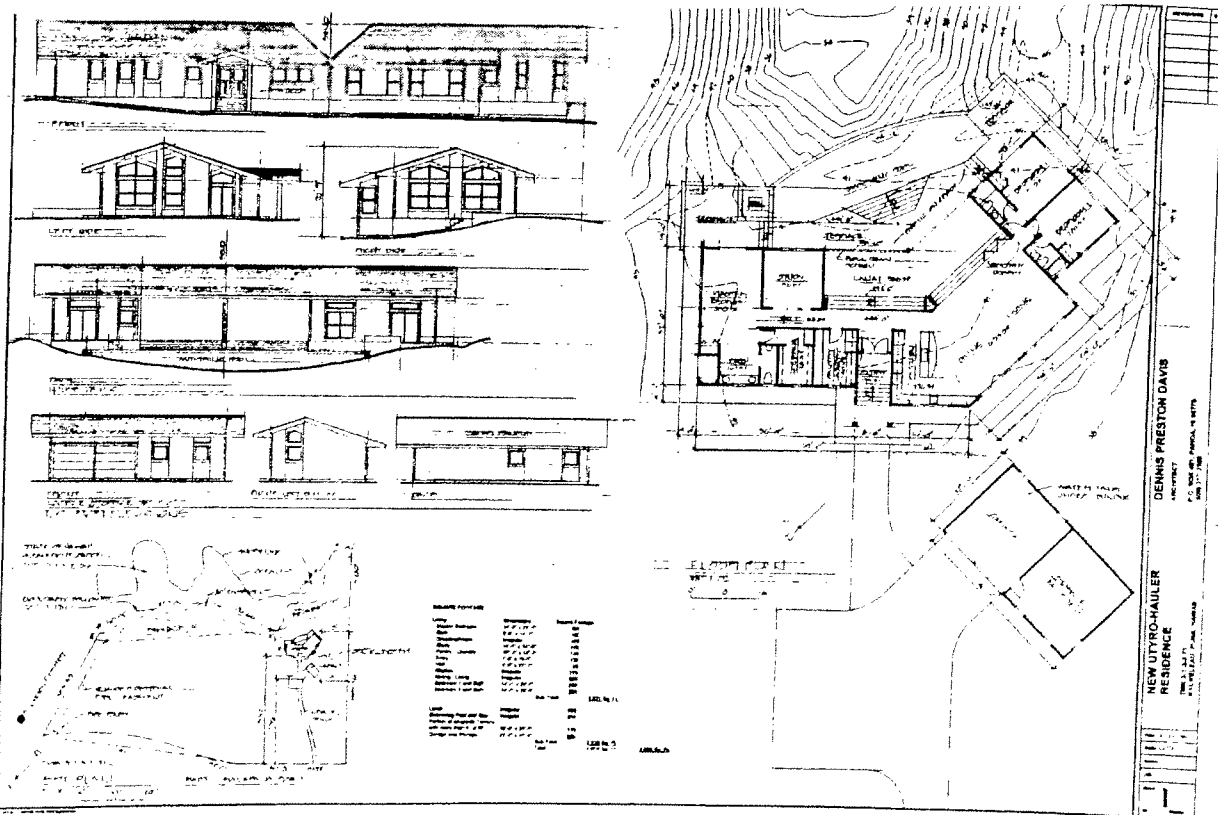
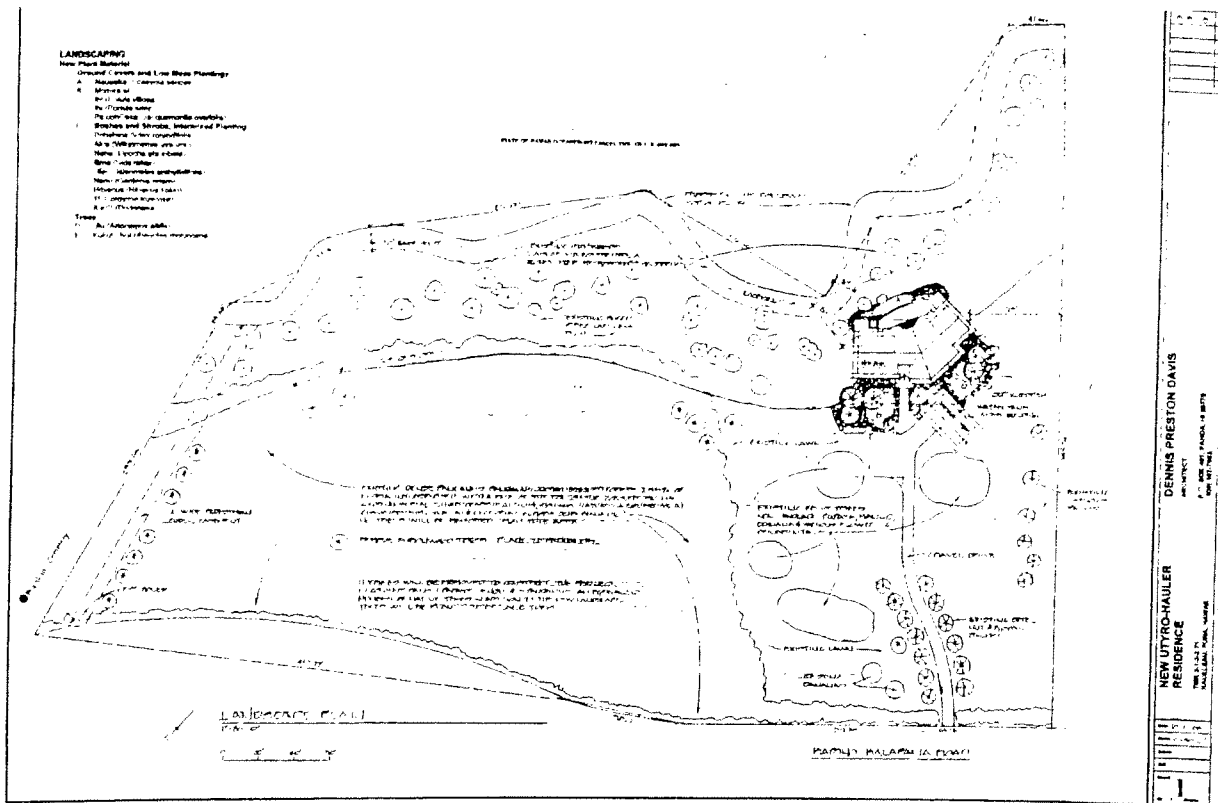
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

HONOLULU KAPOHEI HILO KONA MAUI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Jim Gab
P.O. Box 69
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

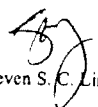
Dear Jim Gab:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

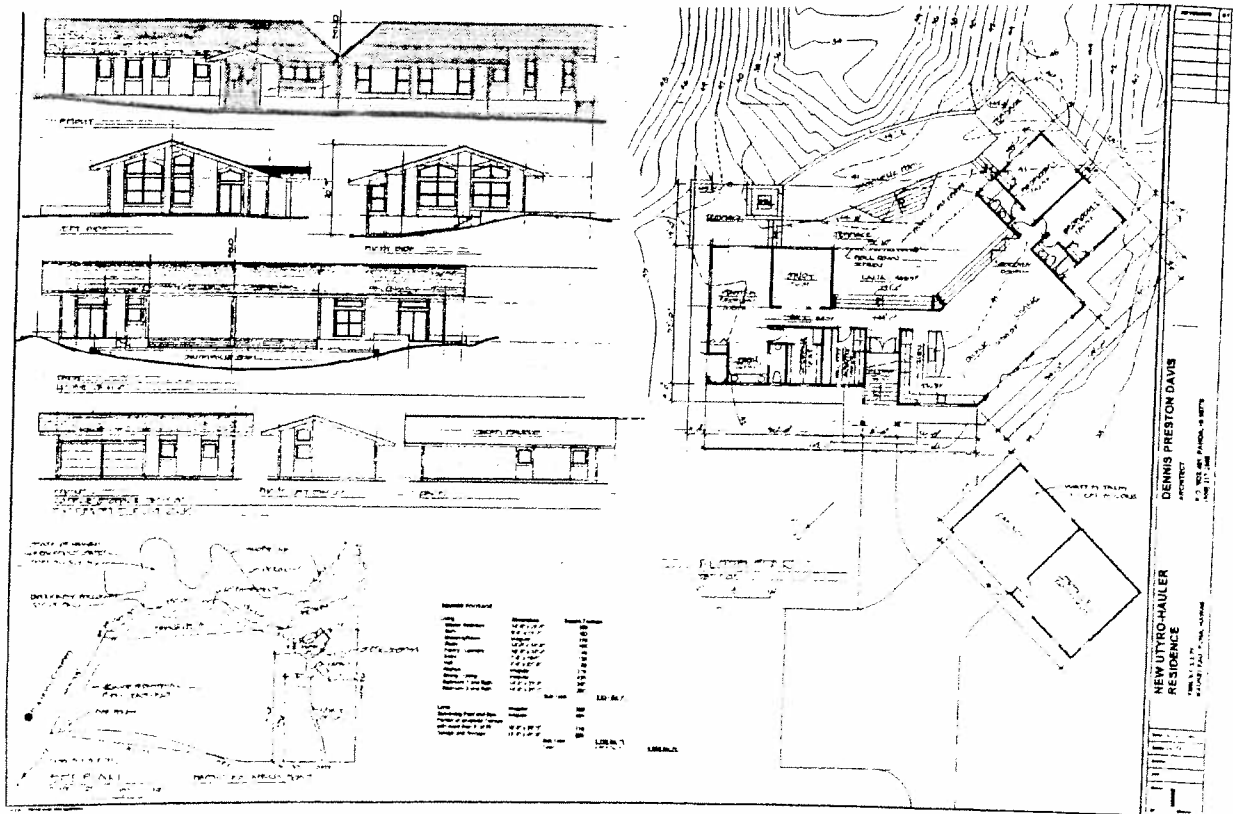
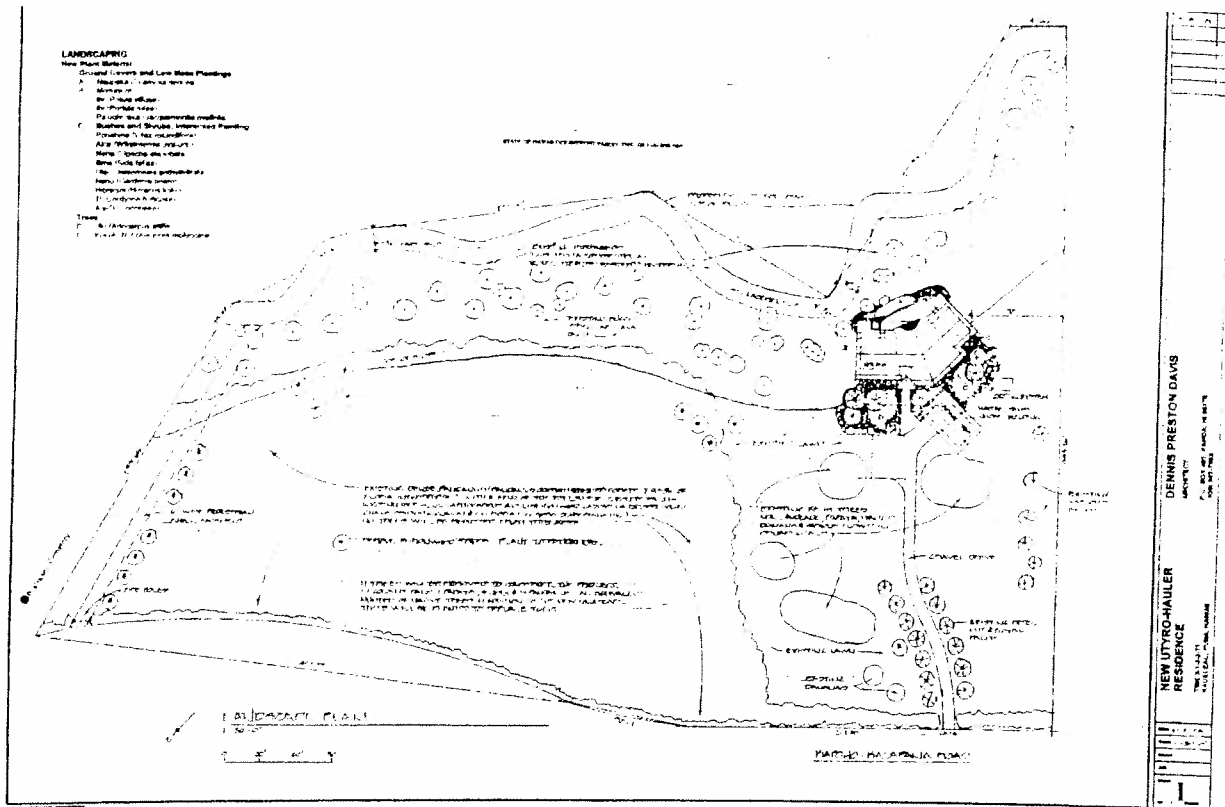
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIALEALE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Martha Lane
P. O. Box 180291
Hawaii National Park, Hawaii 96718

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

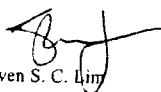
Dear Martha Lane:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Lesly K. Awong
P. O. Box 899
Mt. View, Hawaii 96771

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

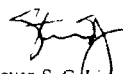
Dear Lesly K. Awong:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

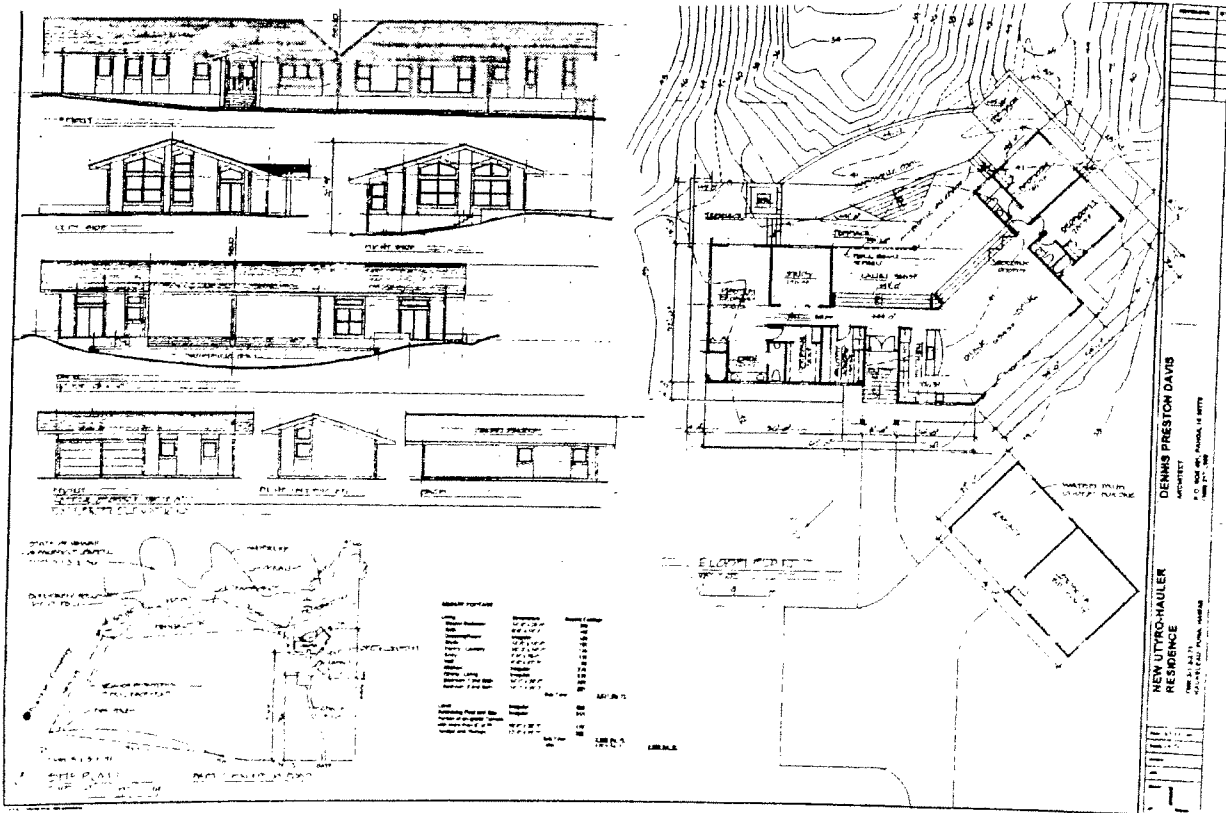
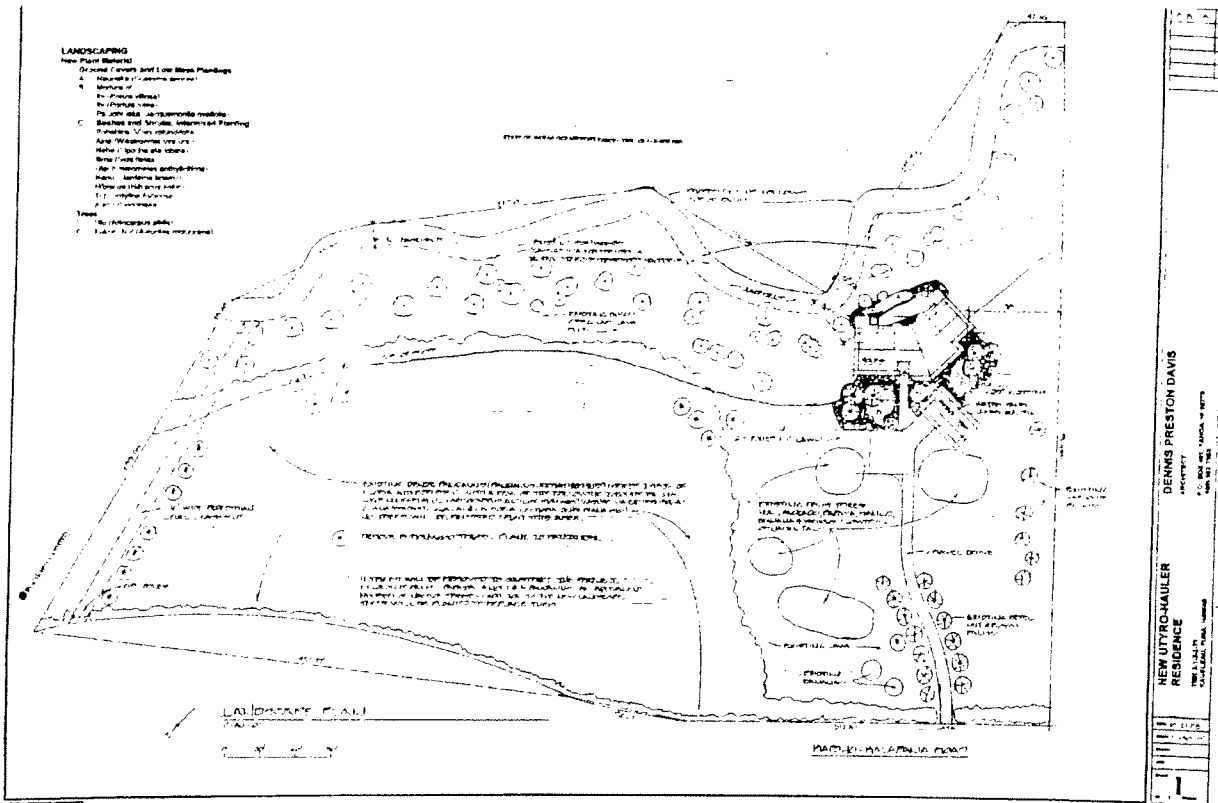
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJIANLENGE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Andrea M. Kaawaloa-Okita
P.O. Box 5595
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

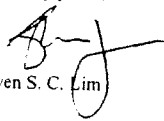
Dear Andrea M. Kaawaloa-Okita:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

HONOLULU

KAPOLI

HILO

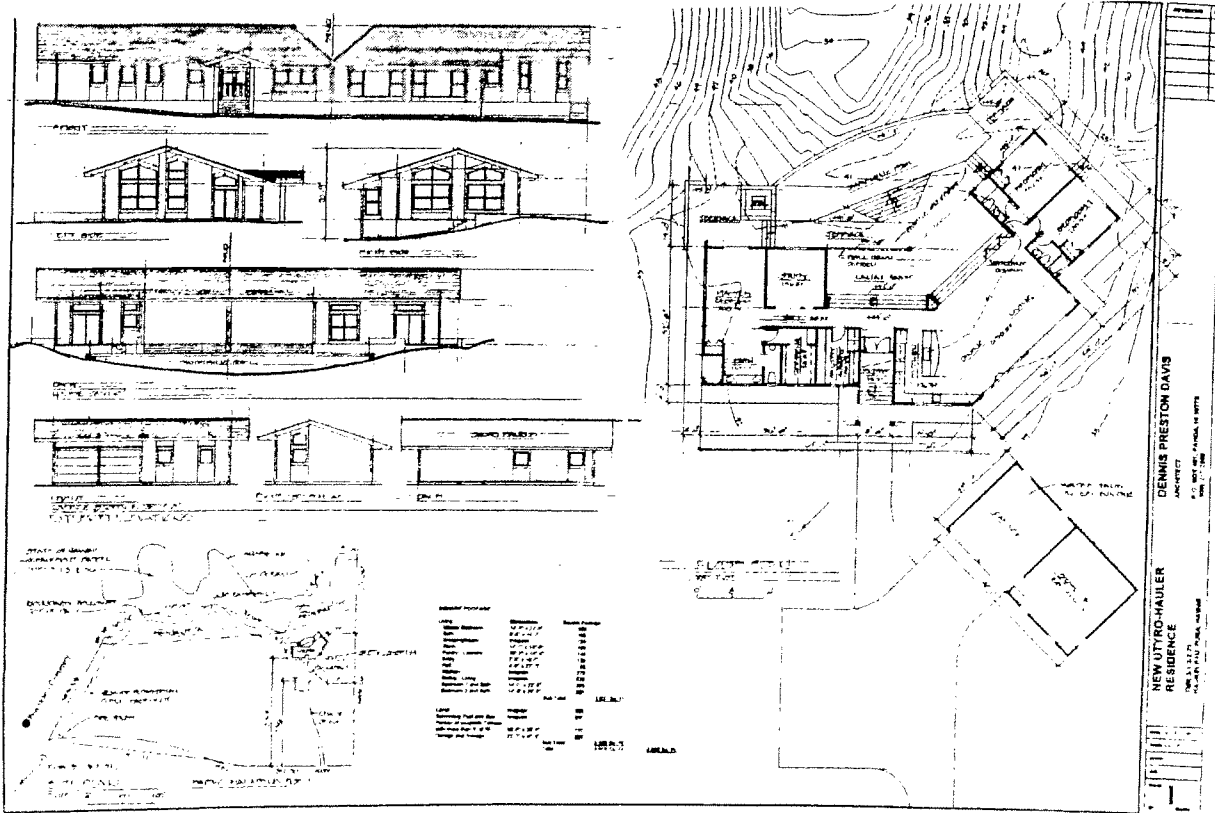
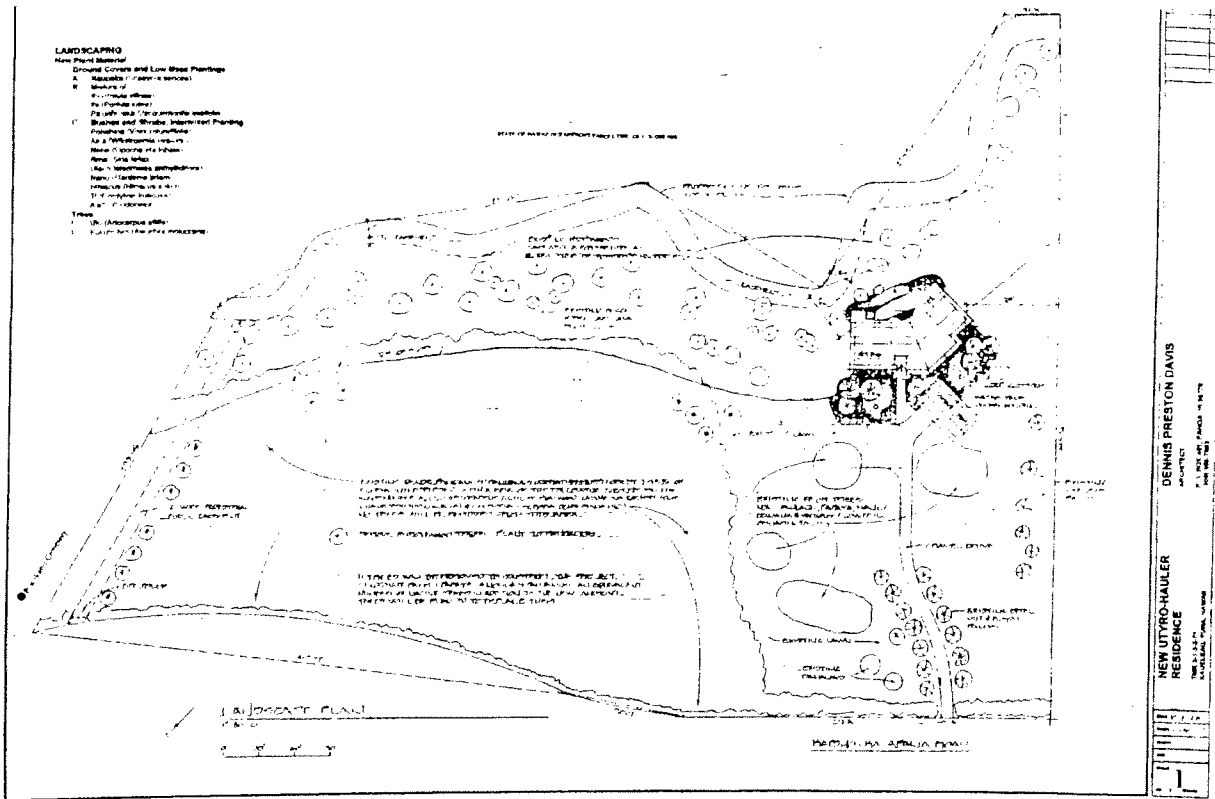
KONA

MAUI

GUAM

SAIPAN

LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIAANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Teresa L. Reveira
P.O. Box 5831
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaualea, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

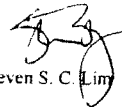
Dear Teresa L. Reveira:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

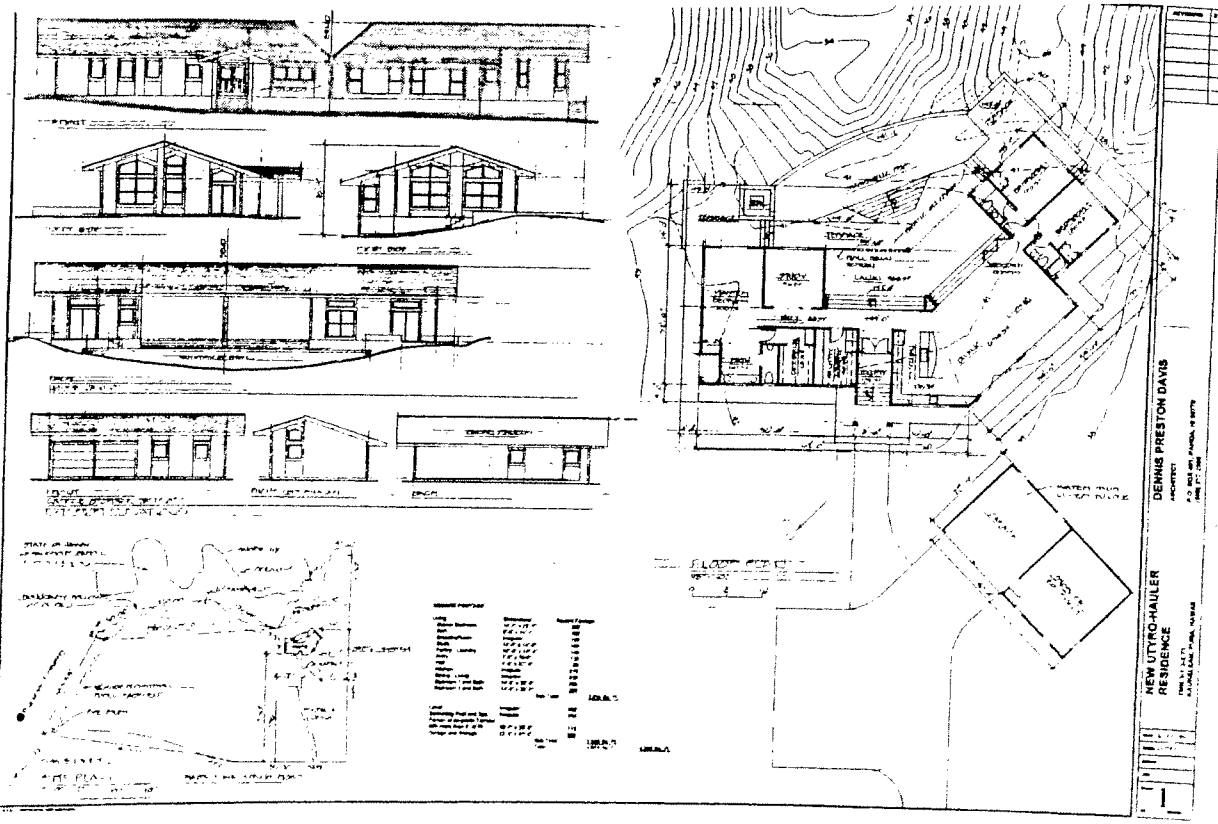
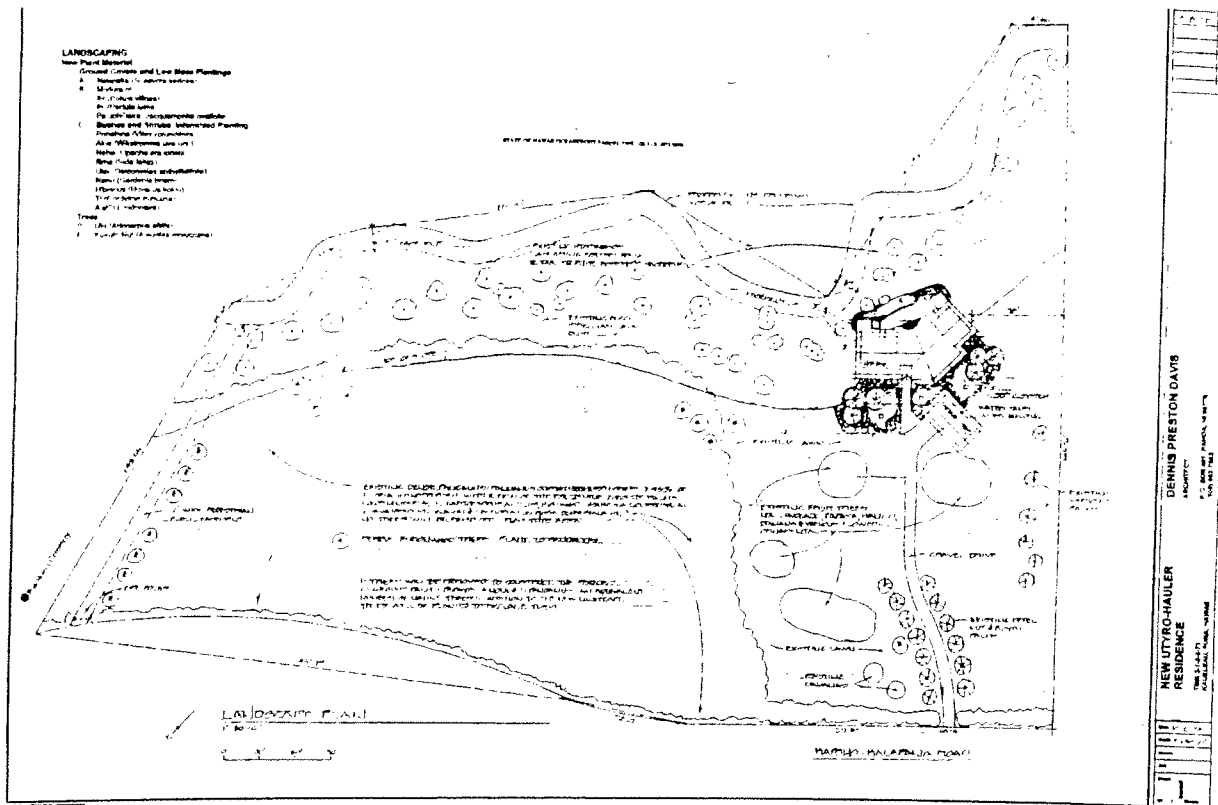
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Jennifer Kalauli
880 Kupulau Road
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071


Dear Jennifer Kalauli:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

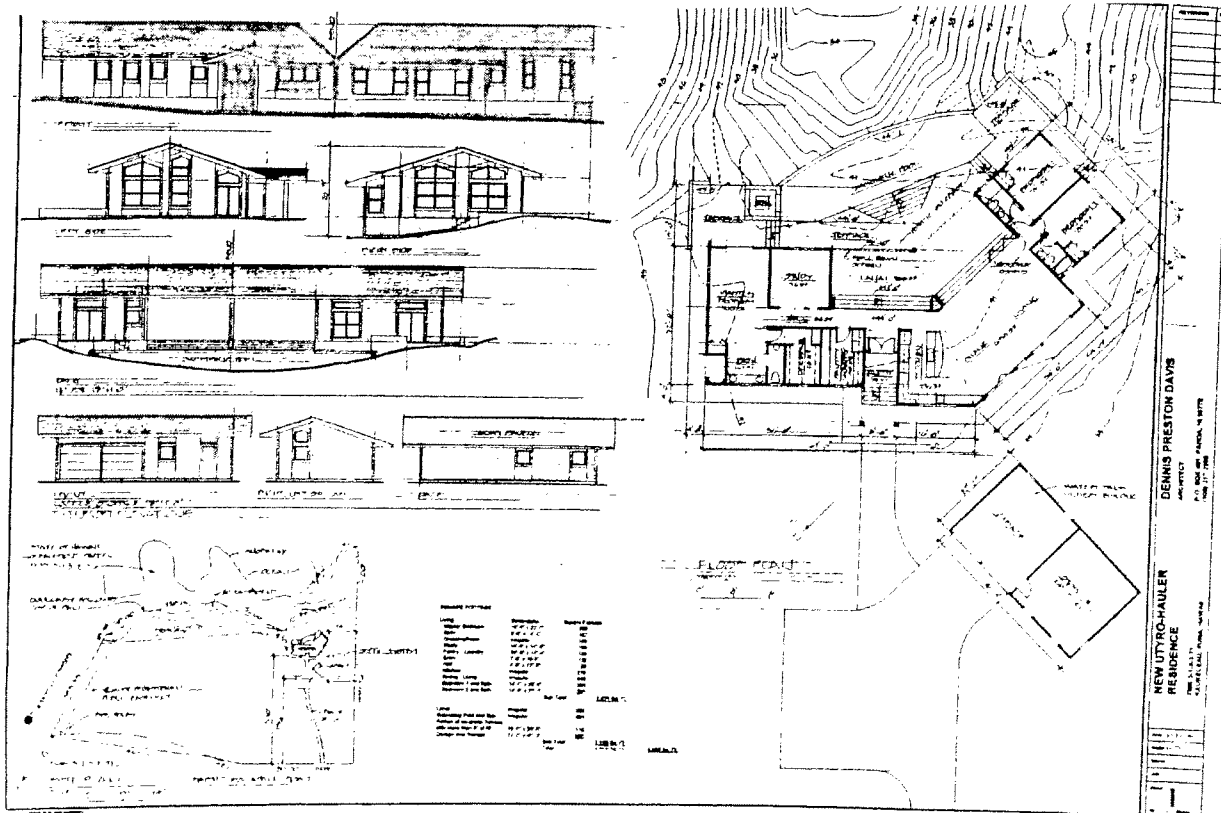
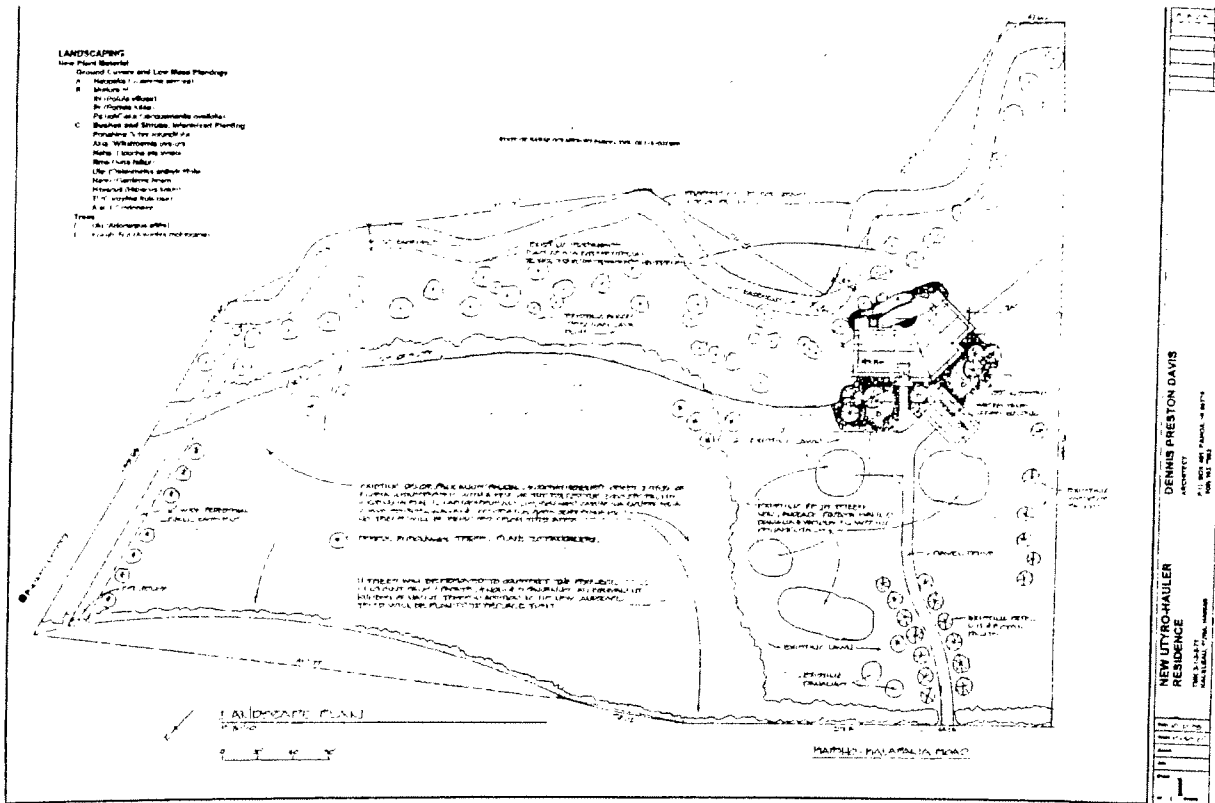
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Serina H. K'iili
Sidric K'iili
11-3276 Anuhea Road
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Serina H. K'iili:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

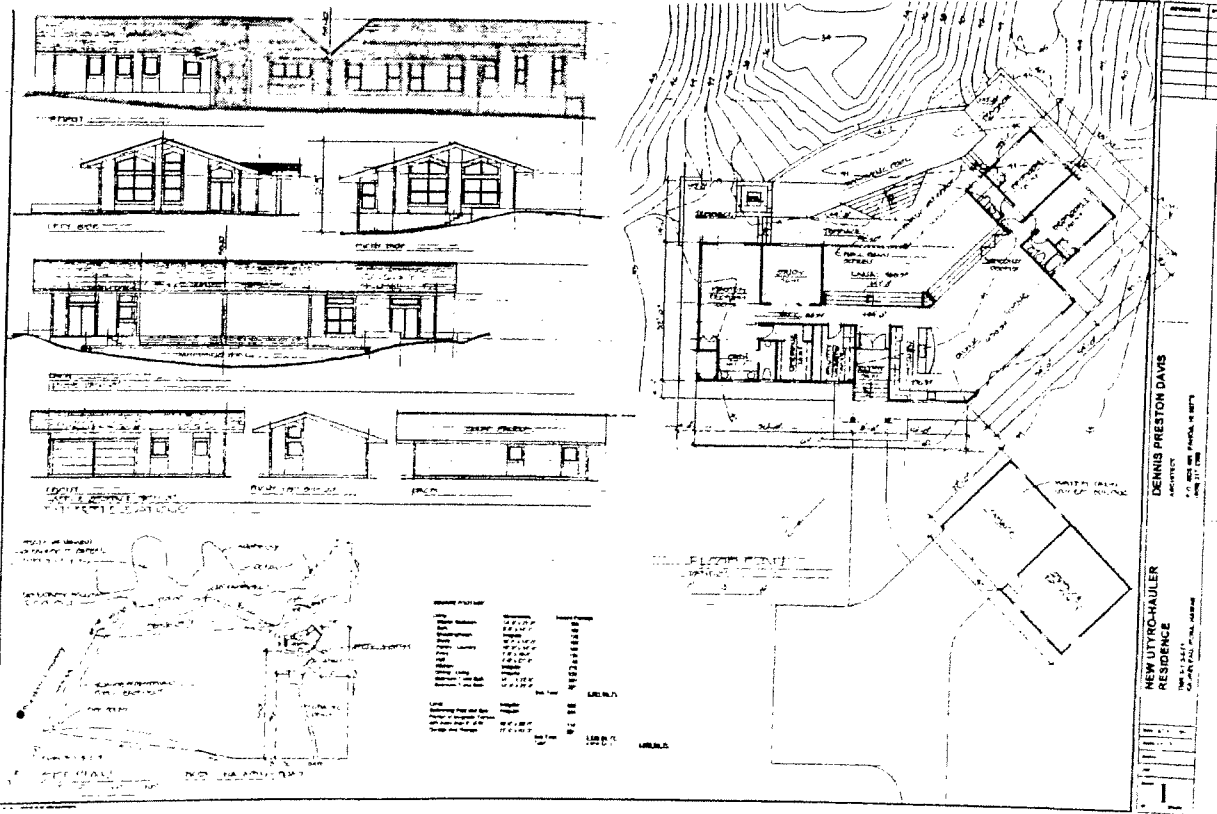
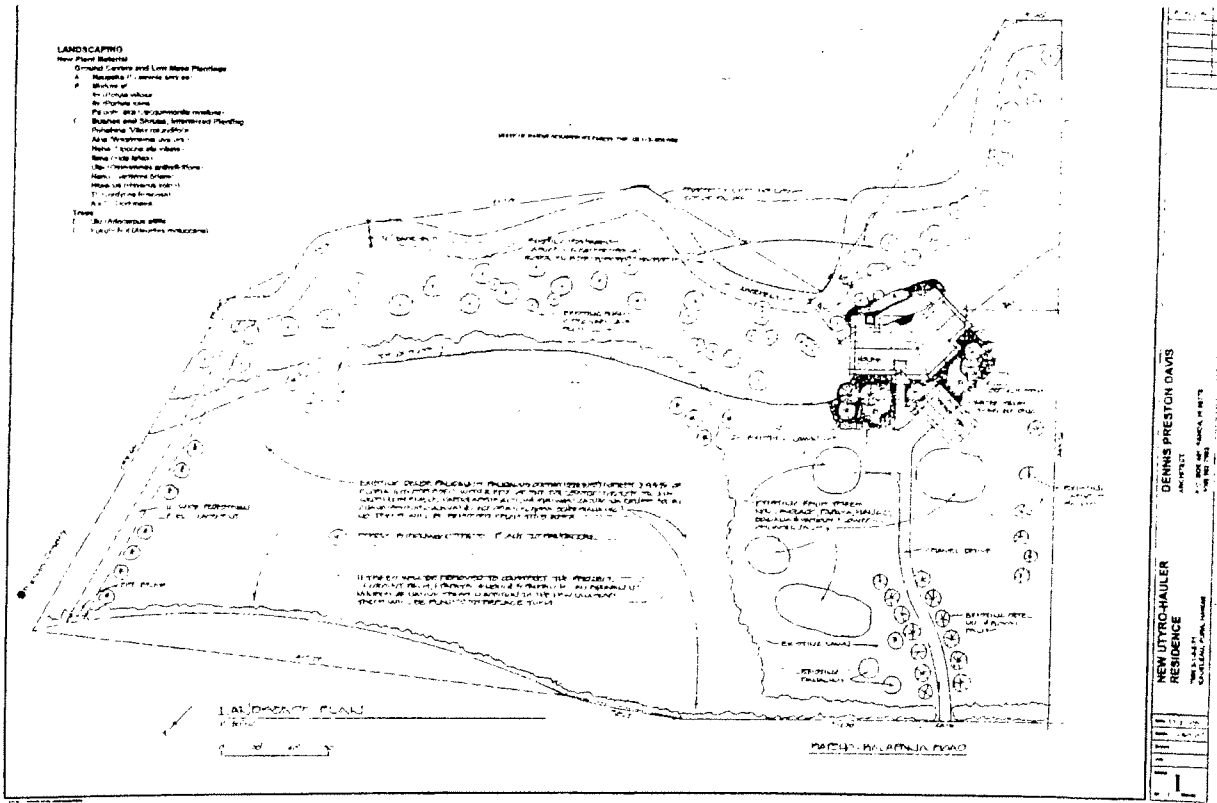
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S.C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 586
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Patrick Reveira
P.O. Box 8531
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

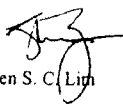
Dear Patrick Reveira:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

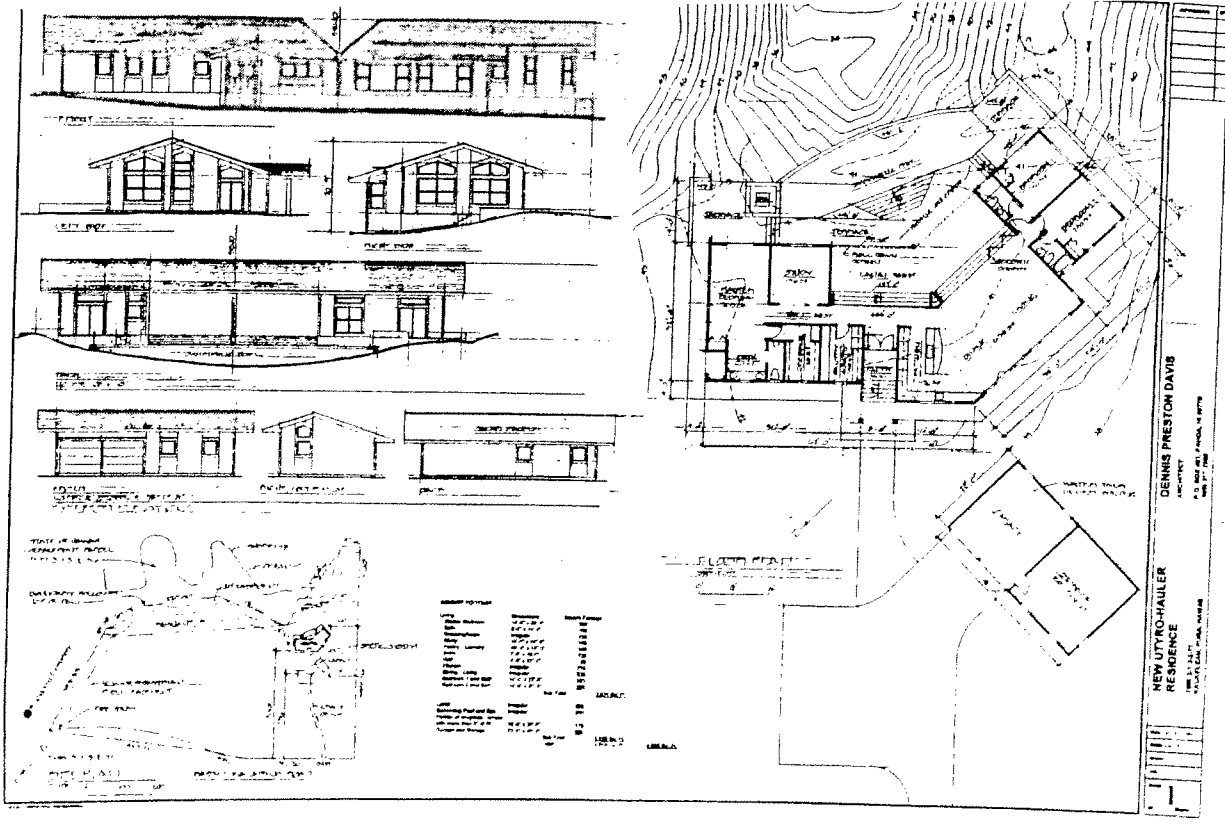
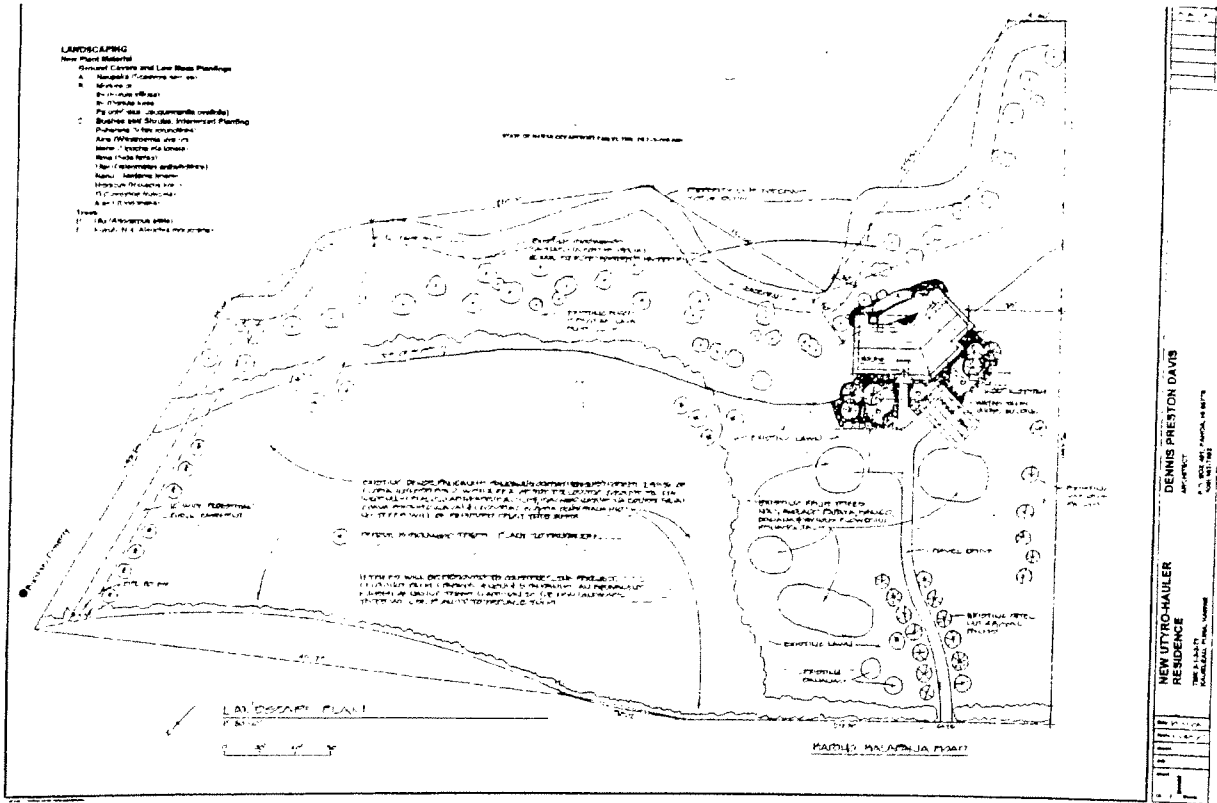
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

HONOLULU KAPOLEI HILO KONA MALI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Nalani Handley
P.O. Box 958
Kurtistown, Hawaii 96760

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

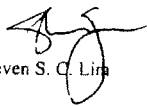
Dear Nalani Handley:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

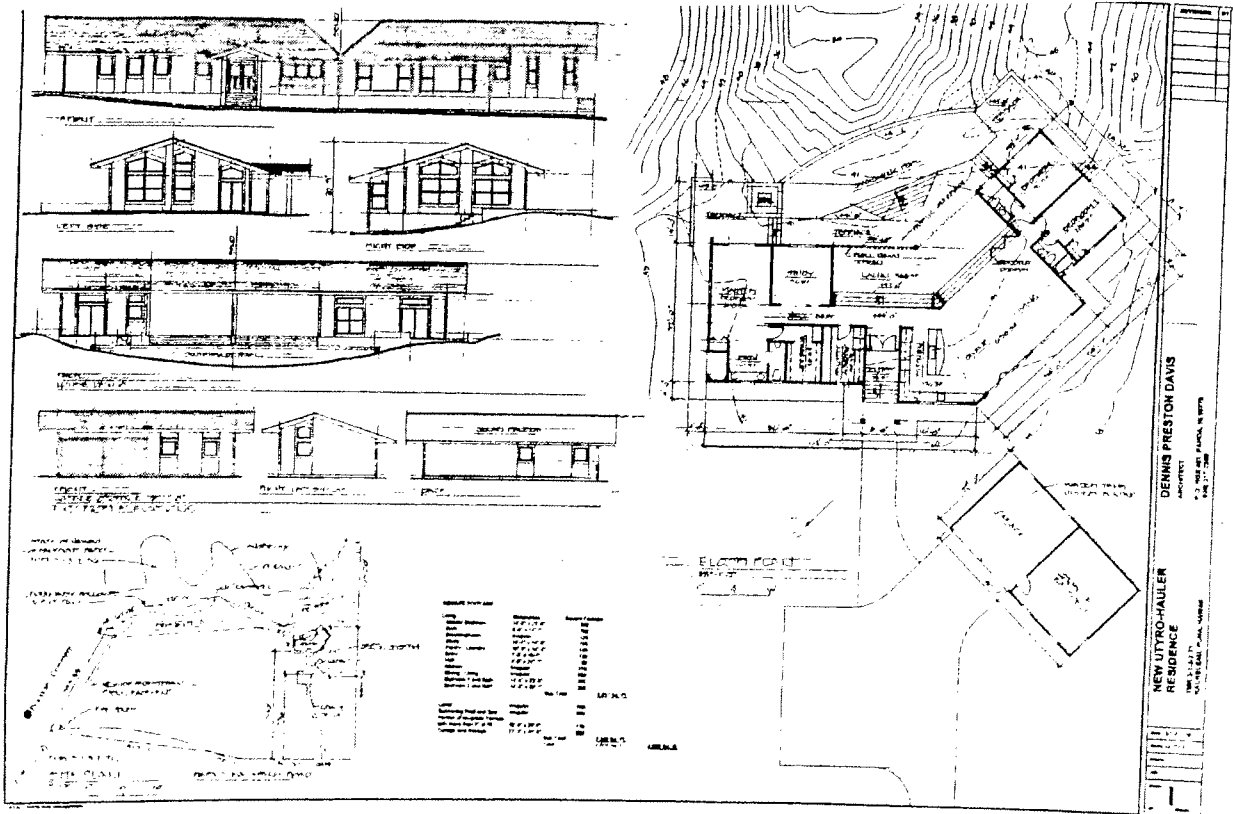
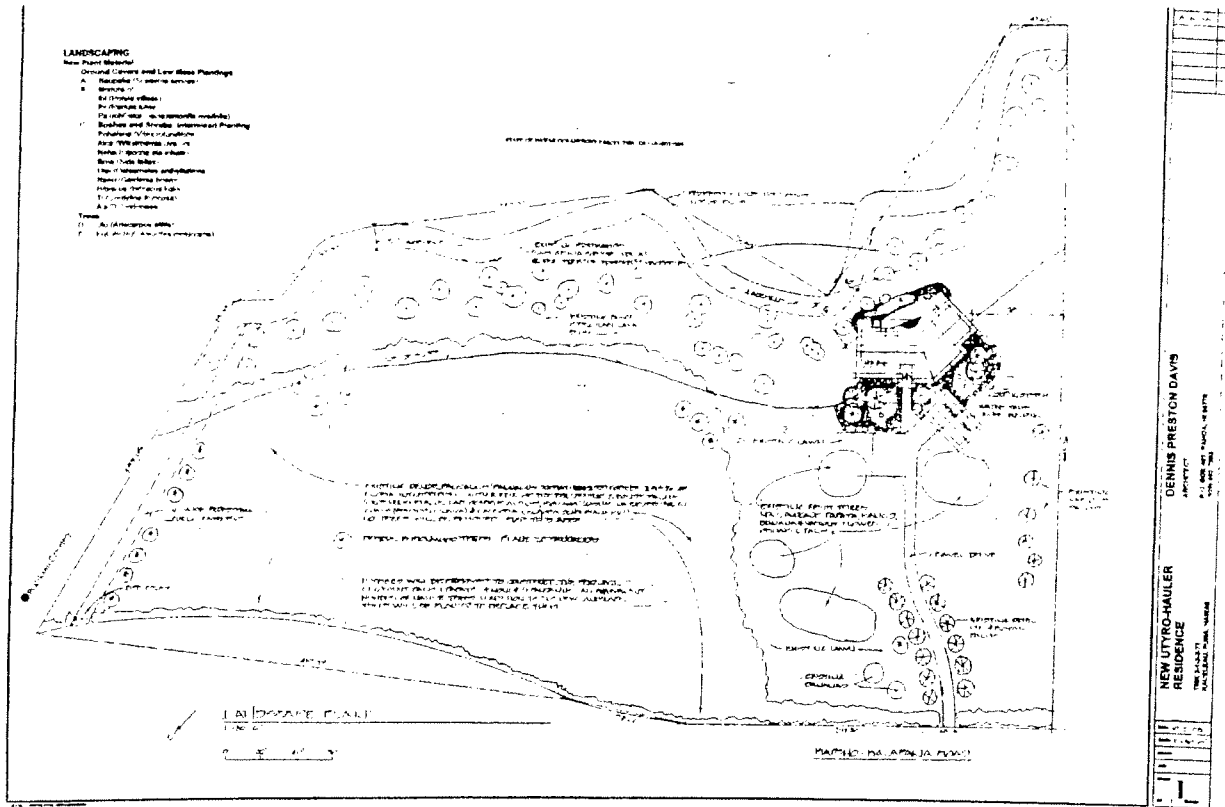
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. Box 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

David Urakami
P.O. Box 5371
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

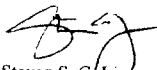
Dear David Urakami:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

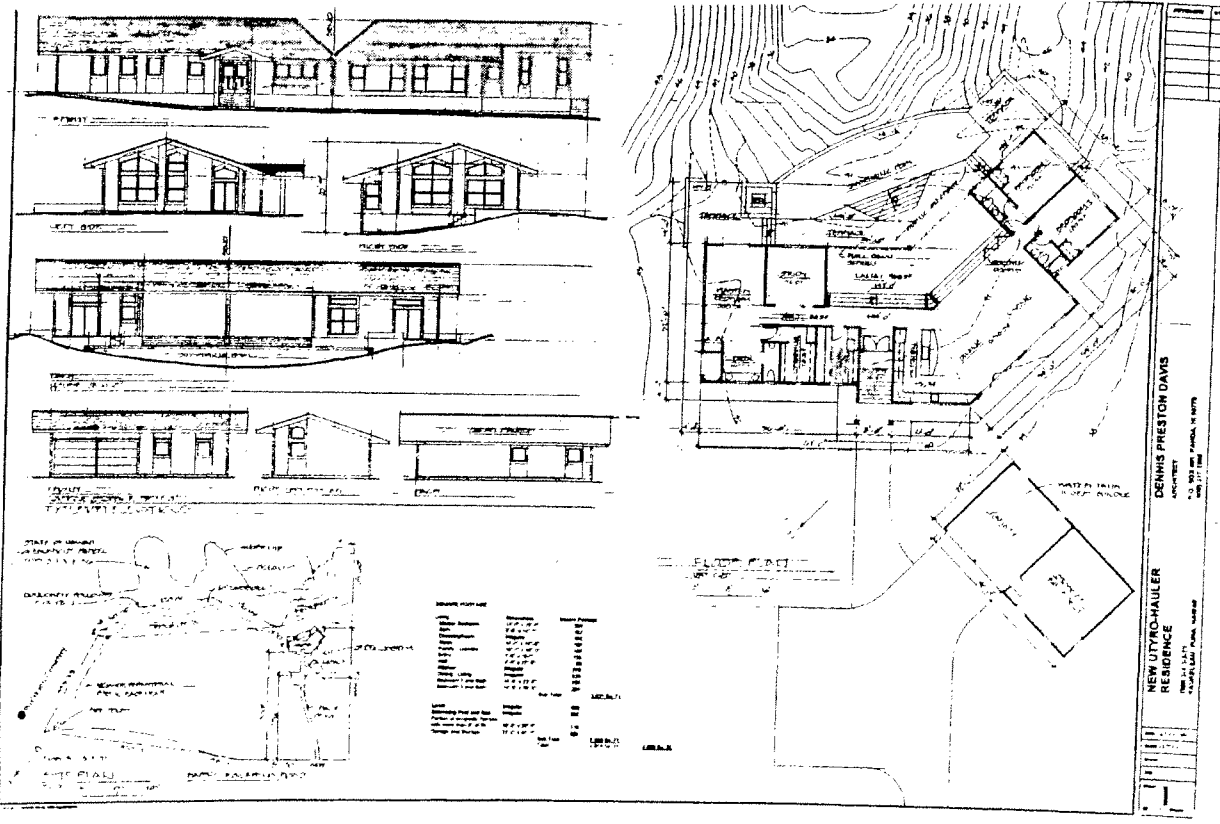
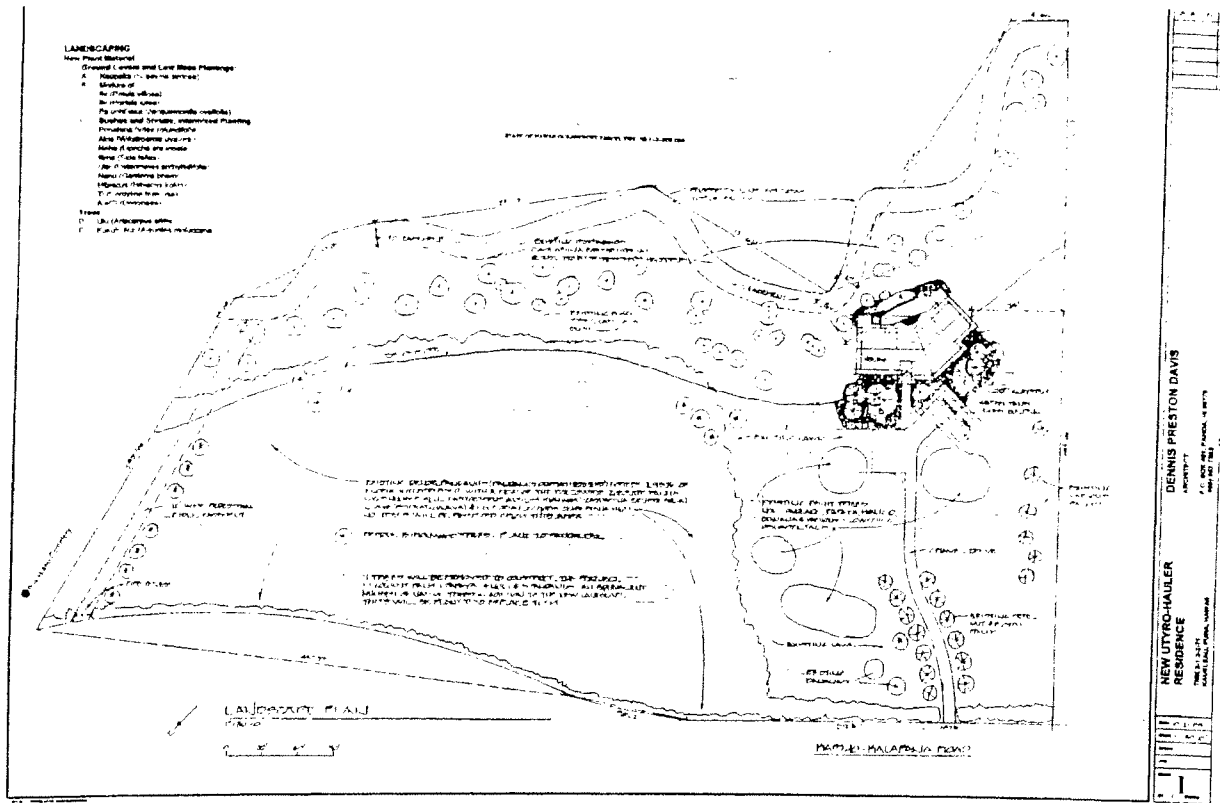
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Kawehi Nguyen
P.O. Box 1349
Kurtistown, Hawaii 96760

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Kawehi Nguyen:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

HONOLULU KAPOHEI HILO KONA MAUI GUAM SAIPAN LOS ANGELES

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Manu Aluli Meyer
Bodhe Searles
136 Alae Street
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaualeau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Manu Aluli Meyer:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Alika Rereira
11-3831 Mokuna Street
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

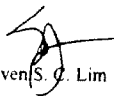
Dear Alika Rereira:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohia Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohia Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

James Inada
Kehauale'a Street
Volcano, Hawaii 96785

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear James Inada:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

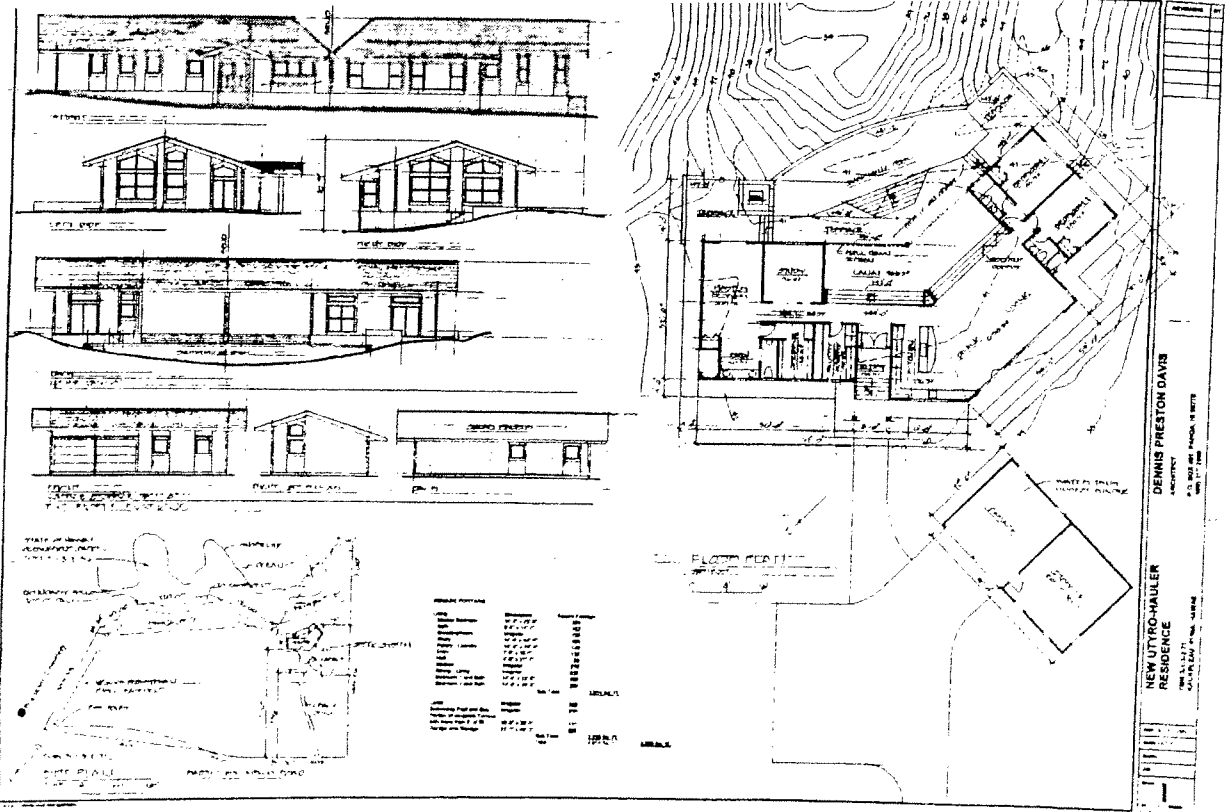
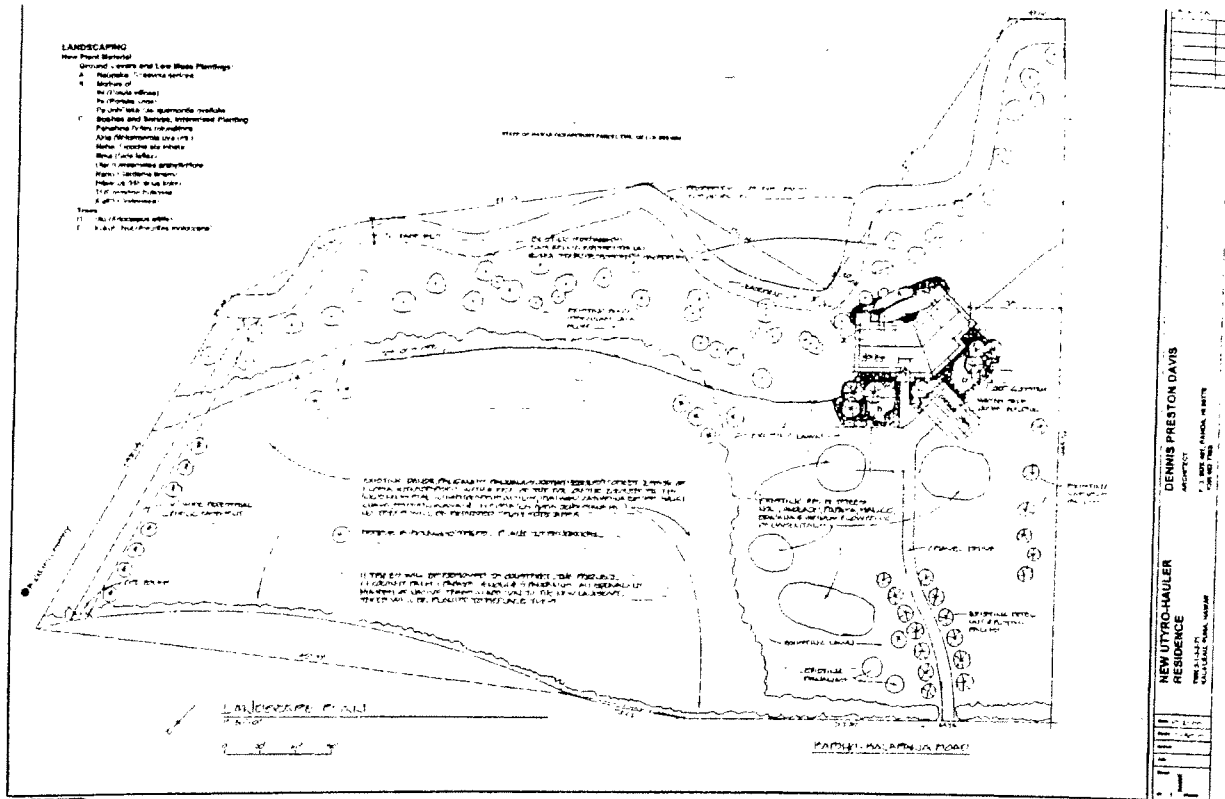
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Joey Hulama
360 Andrews Avenue
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Joey Hulama:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIALAENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Roxanne Kela
P.O. Box 42
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

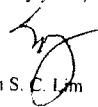
Dear Roxanne Kela:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

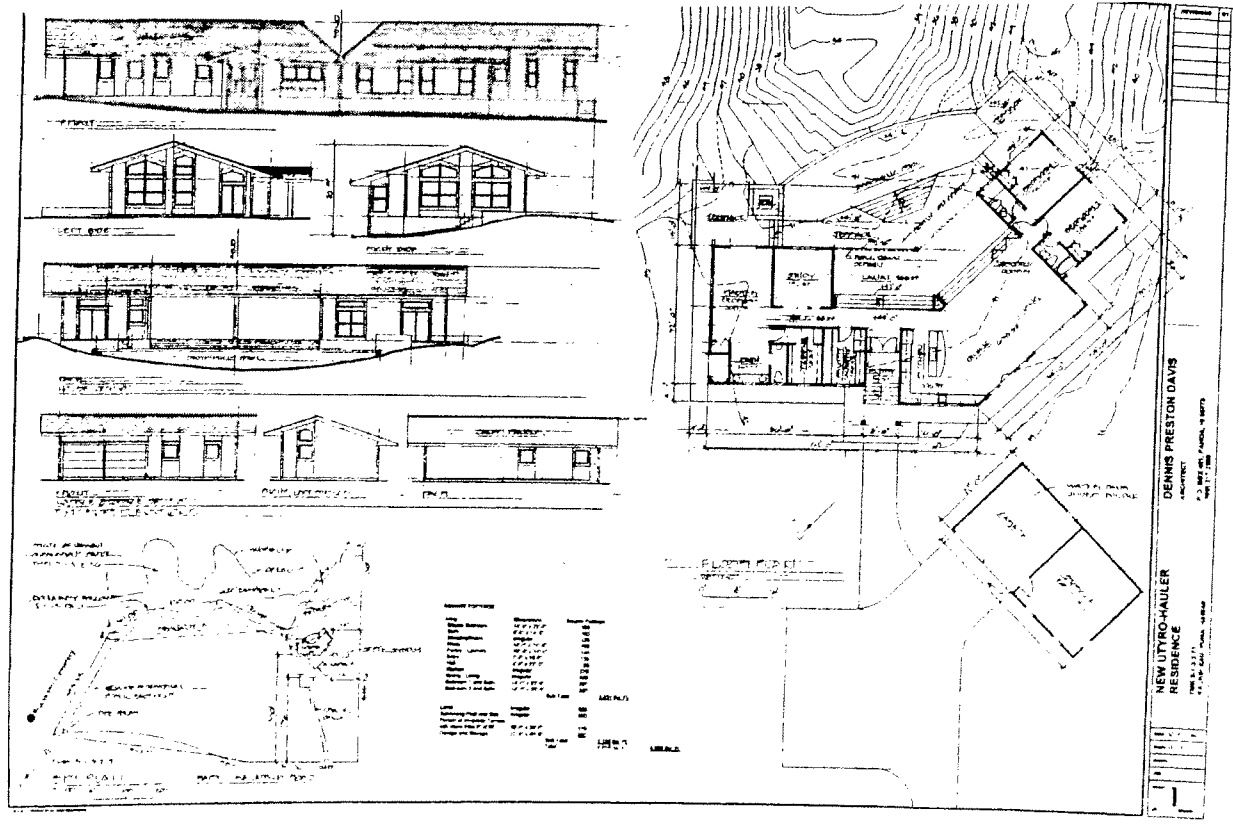
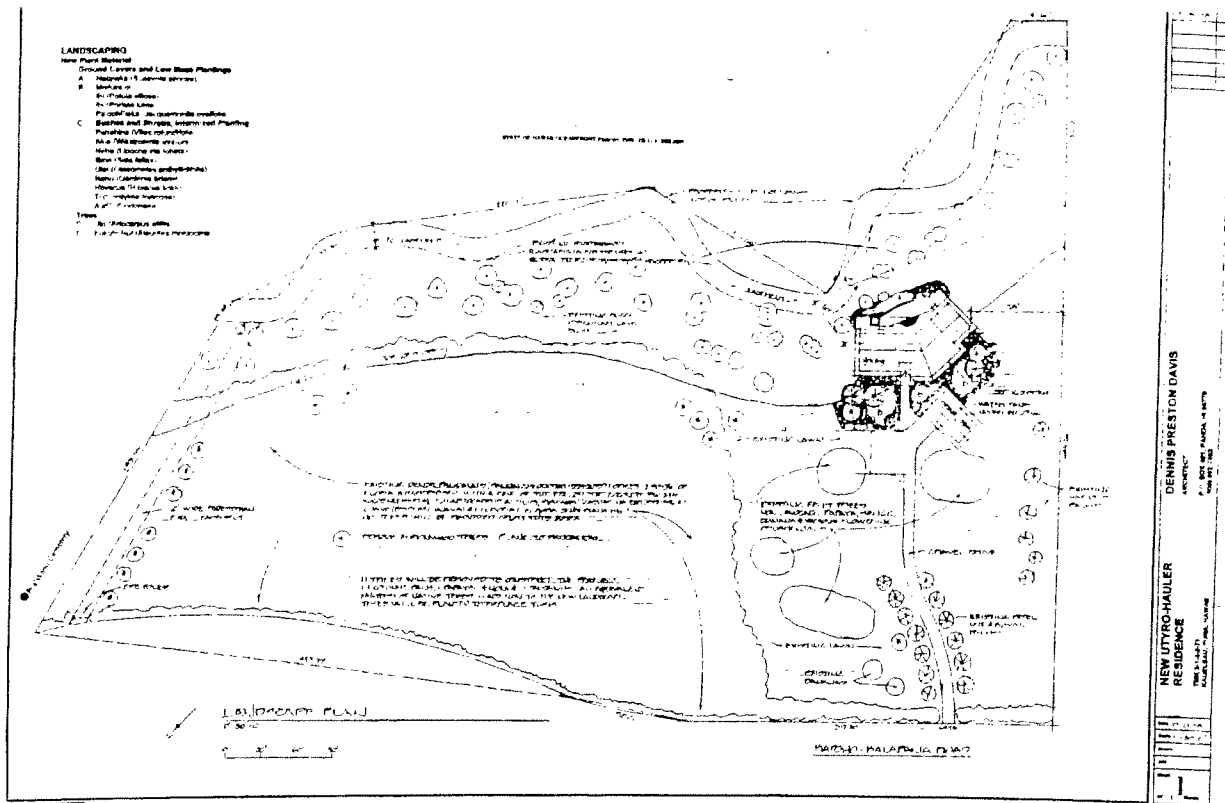
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM
KLUGA@CARLSMITH.COM

November 5, 2008

Steven K. Chiu
1862 Kilauea Avenue
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Steven K. Chiu:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

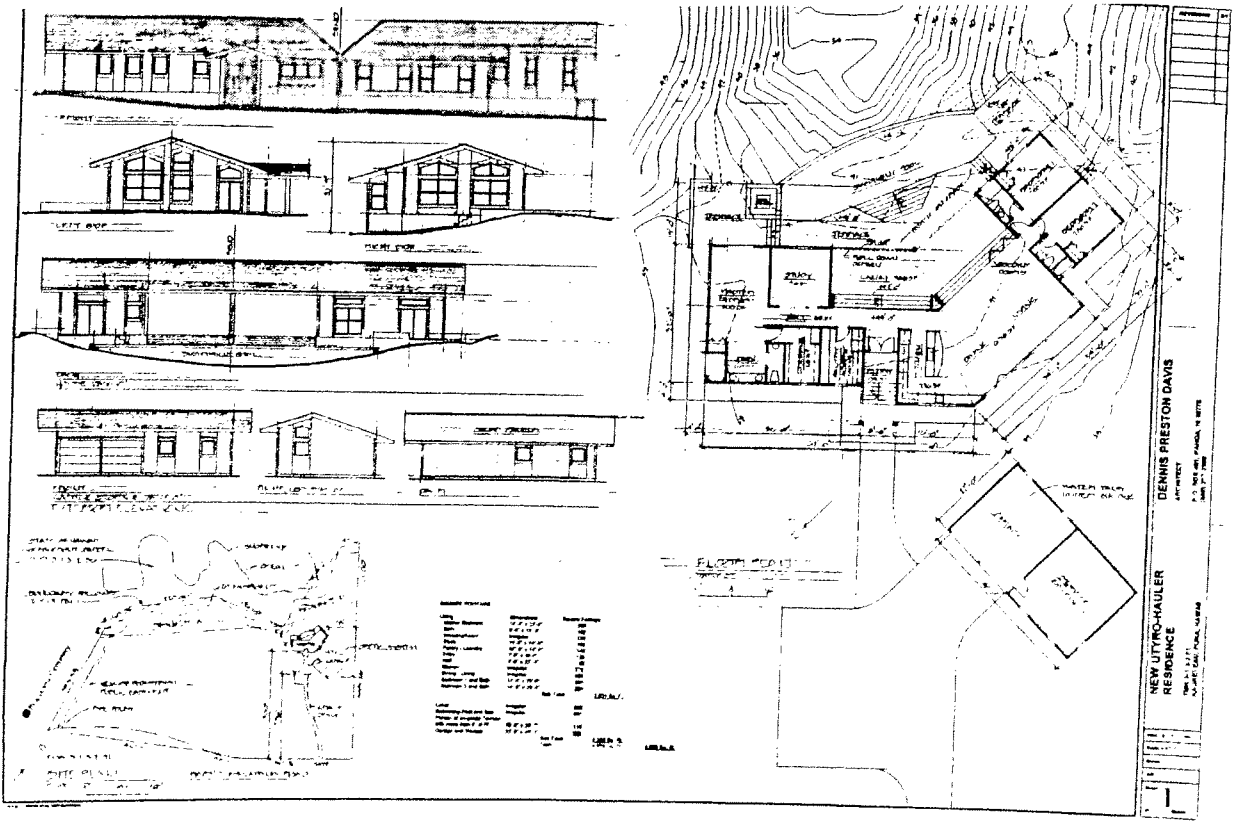
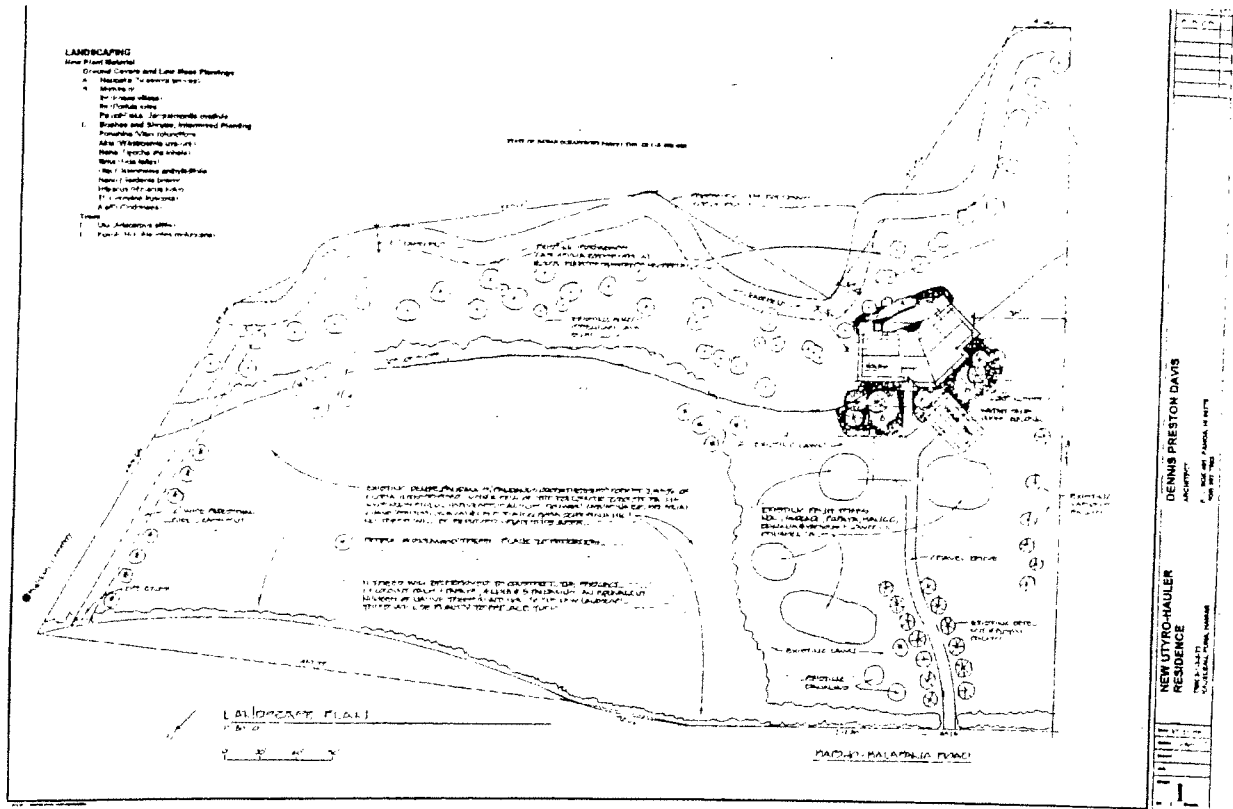
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Nicole Anakalea
P.O. Box 1746
Kamuela, Hawaii 96743

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

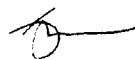
Dear Nicole Anakalea:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

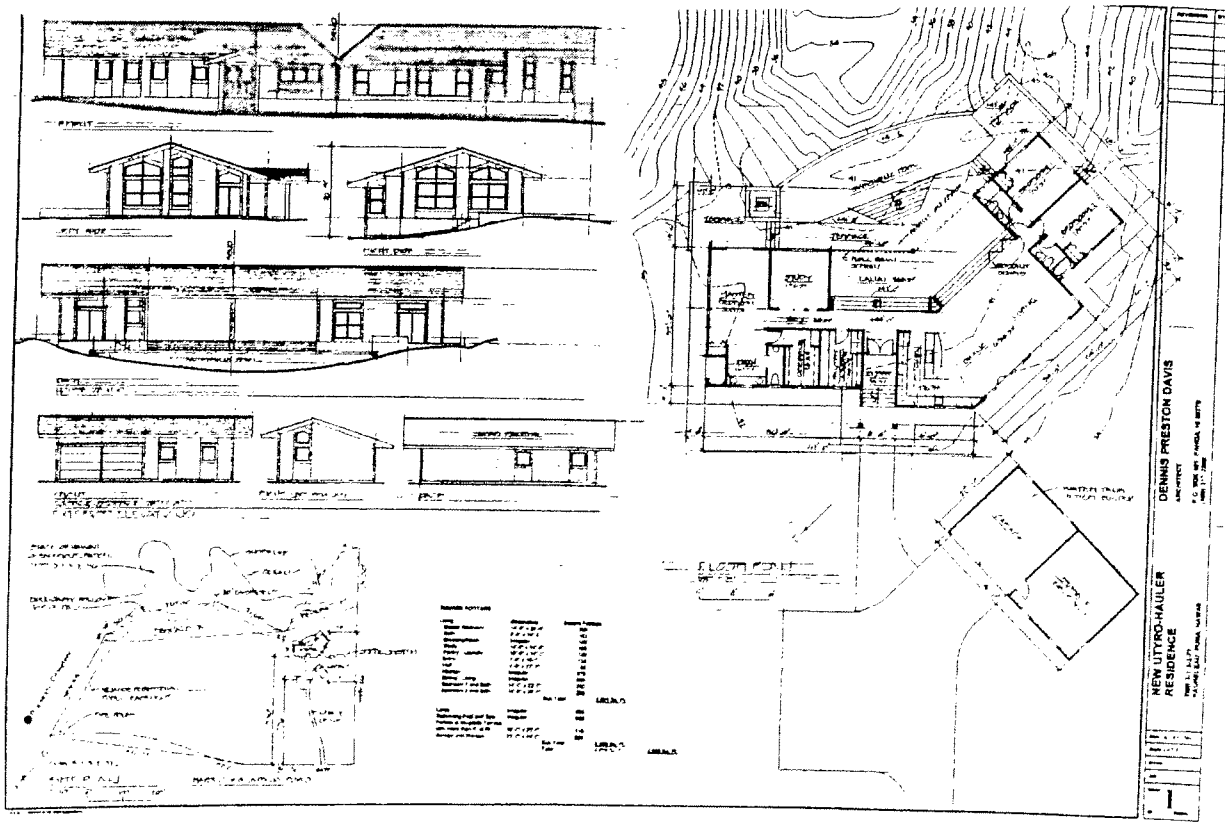
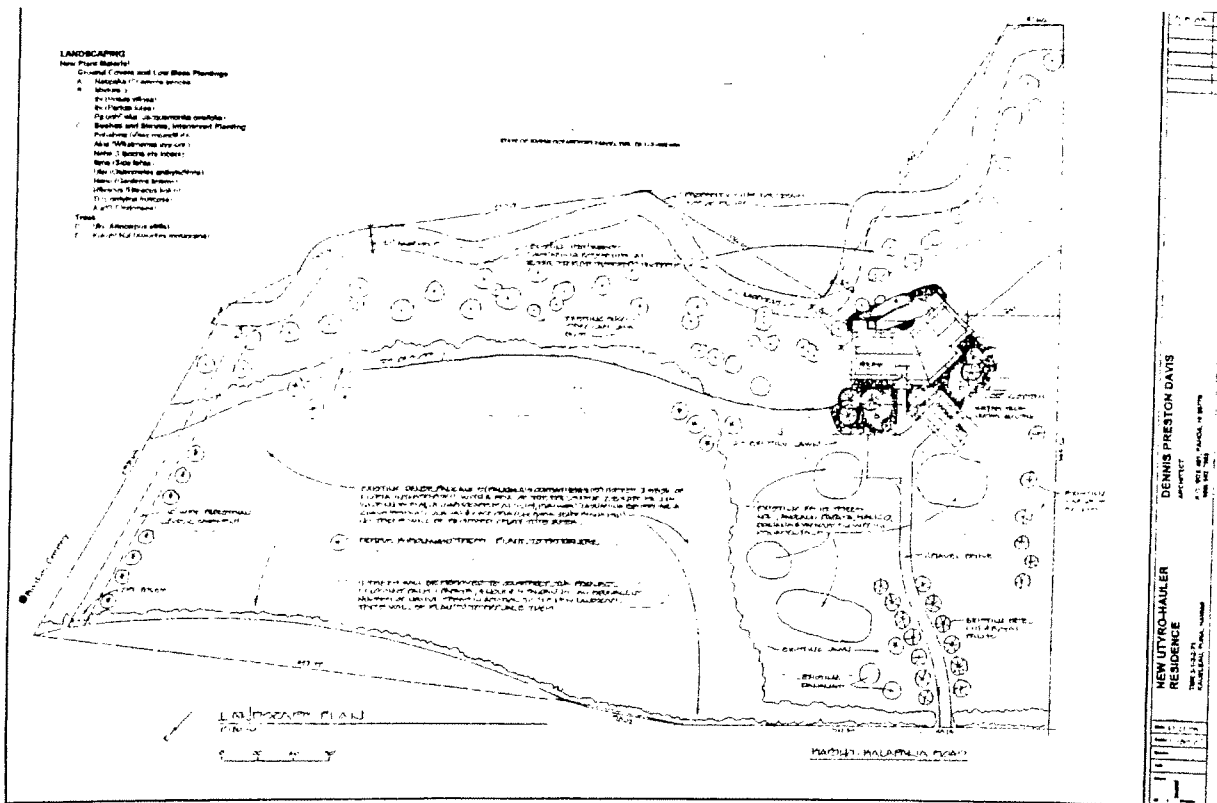
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Maile Orian-Collin
P.O. Box 1540
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Maile Orian-Collin:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

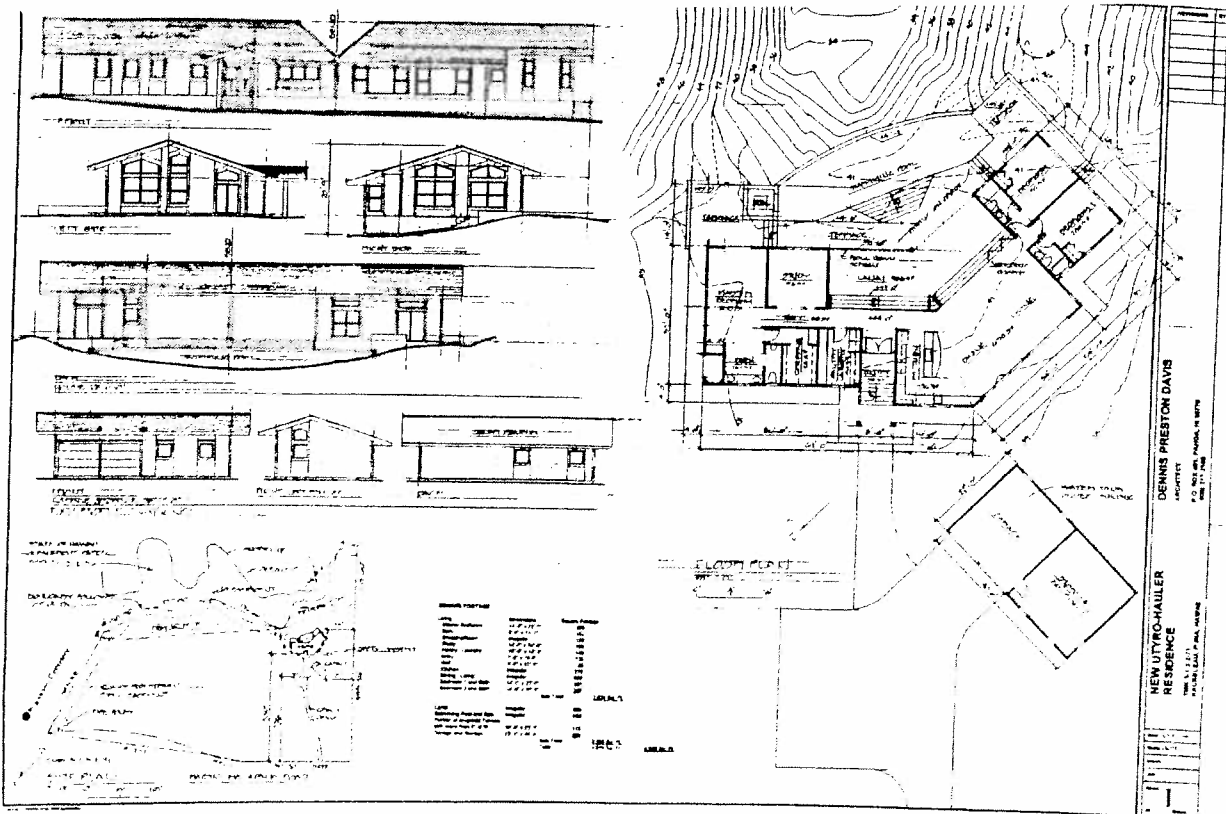
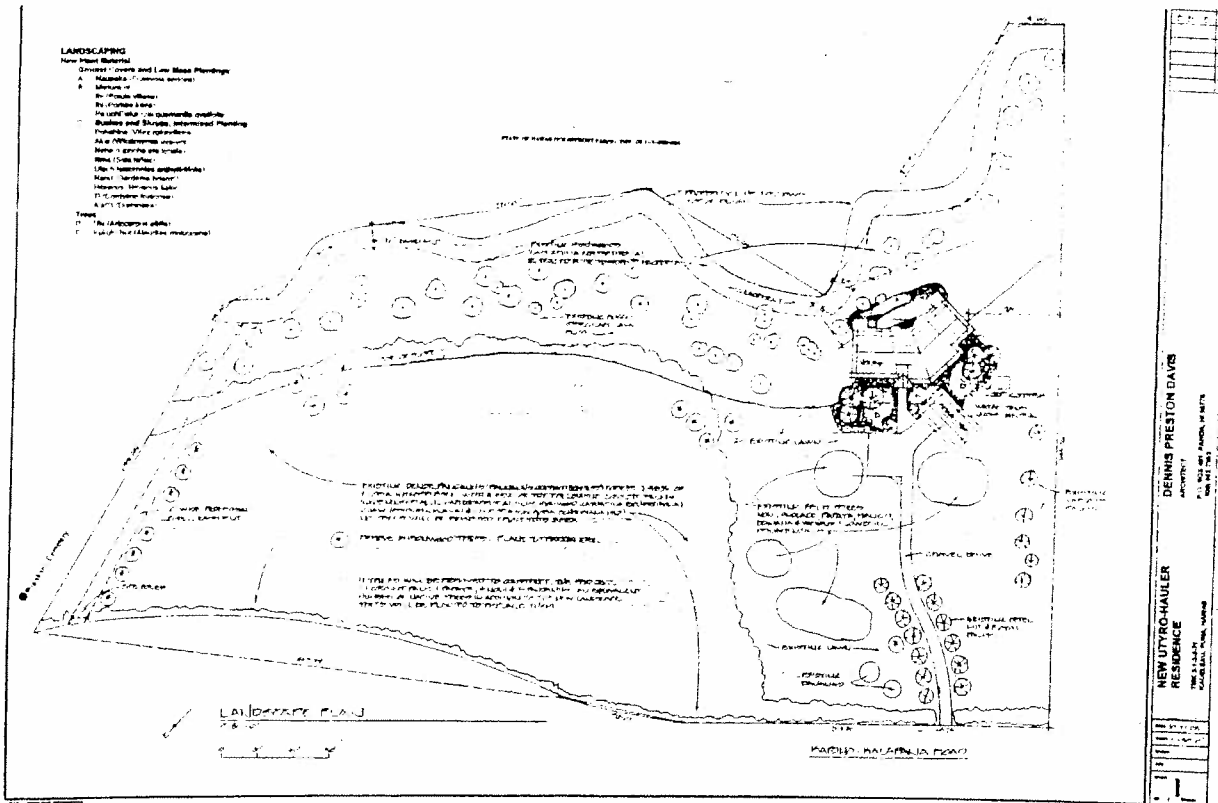
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Kapuanani Behr
Jon Behr
13-3323 Nohea Street
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Kapuanani and Jon Behr:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Kevin Bails
P.O. Box 1340
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Kevin Bails:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

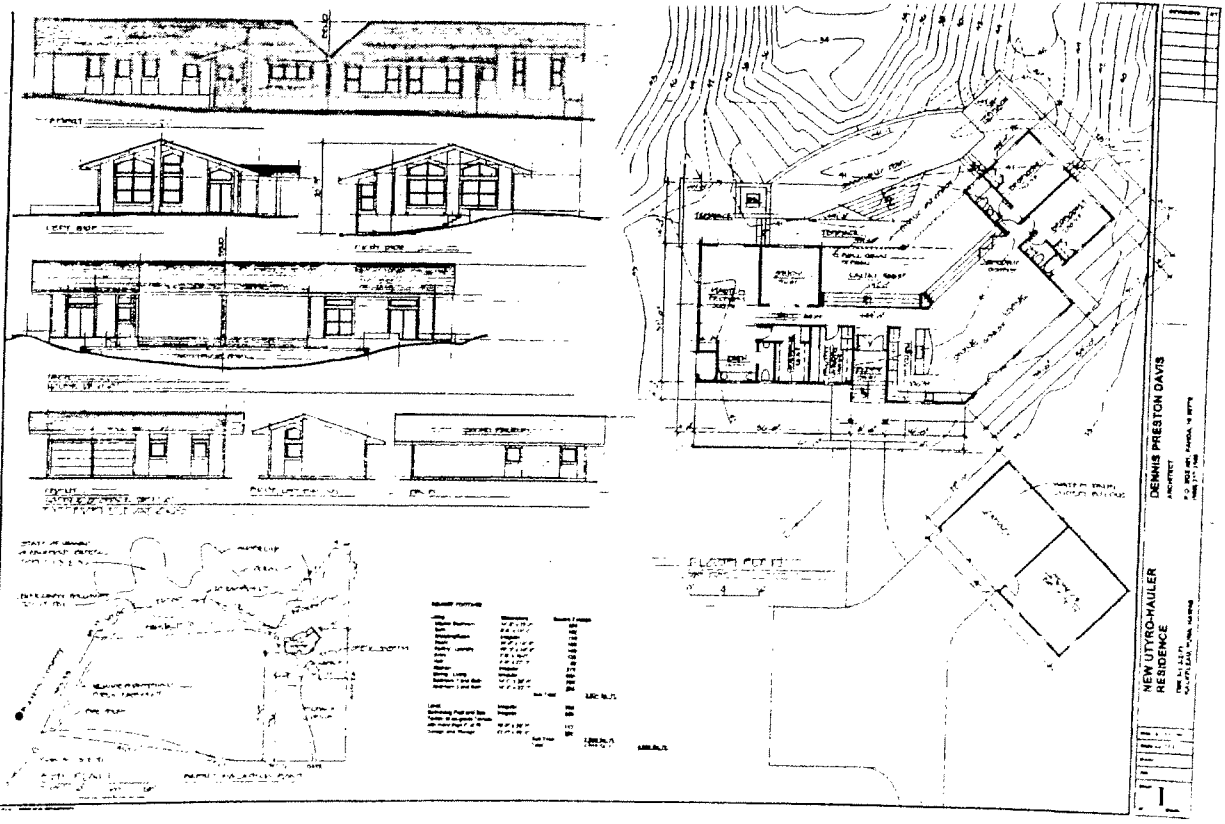
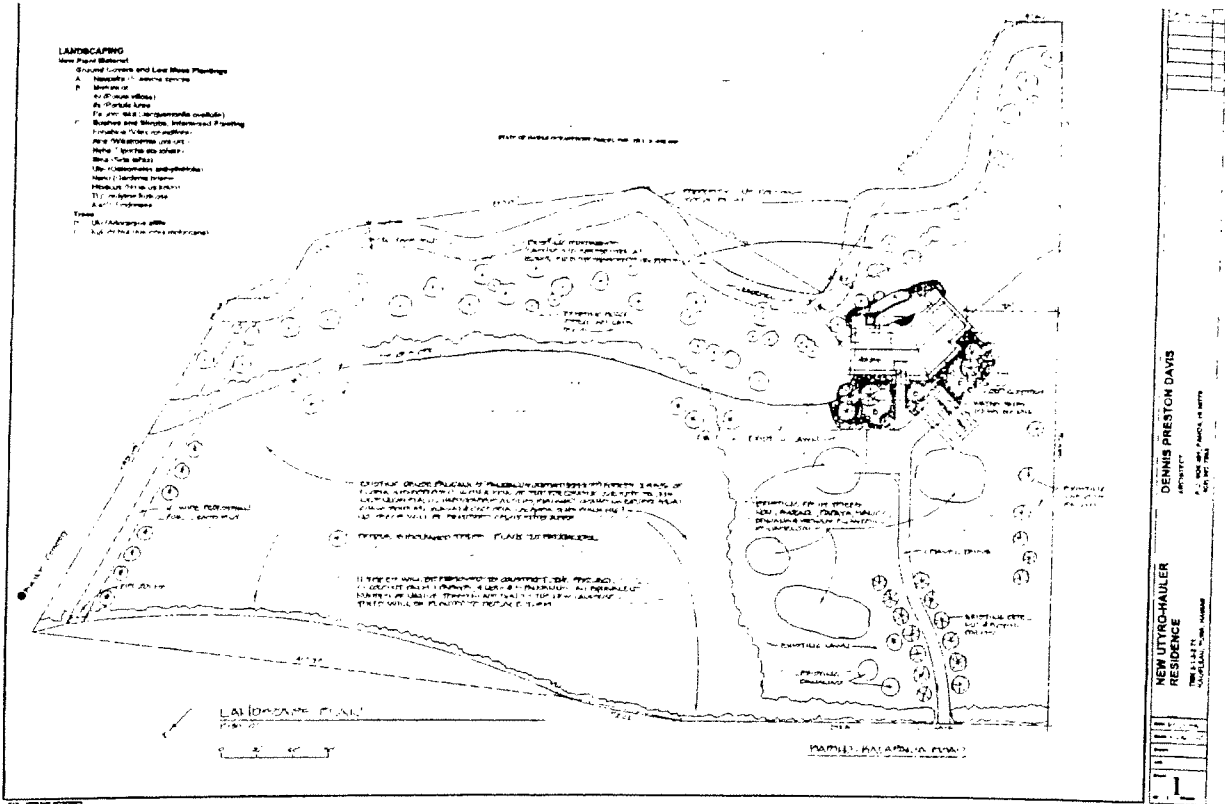
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENCE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Allan Bowles
Nancy Lee Bowles
P.O. Box 355
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Allan and Nancy Lee Bowles:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJUANULU AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Michael Dylonn
RR2 Box 4571
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Michael Dylonn:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

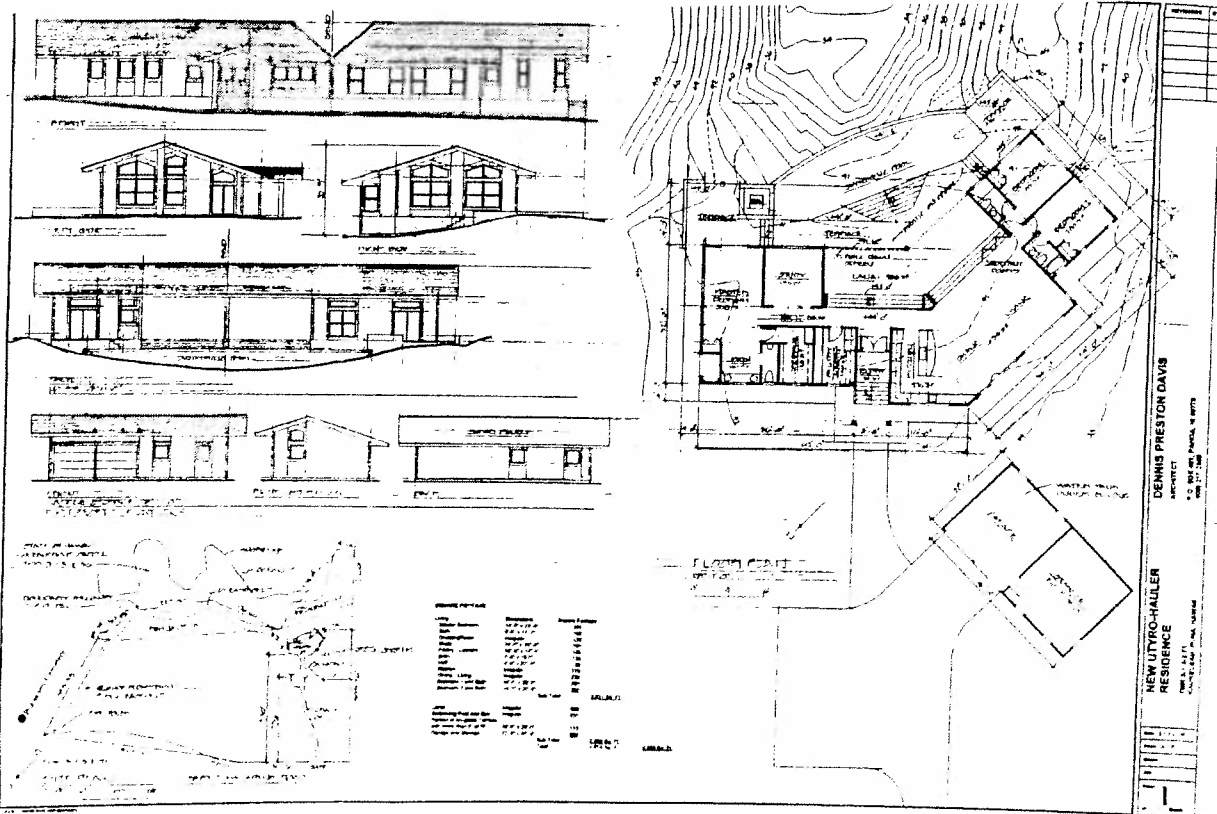
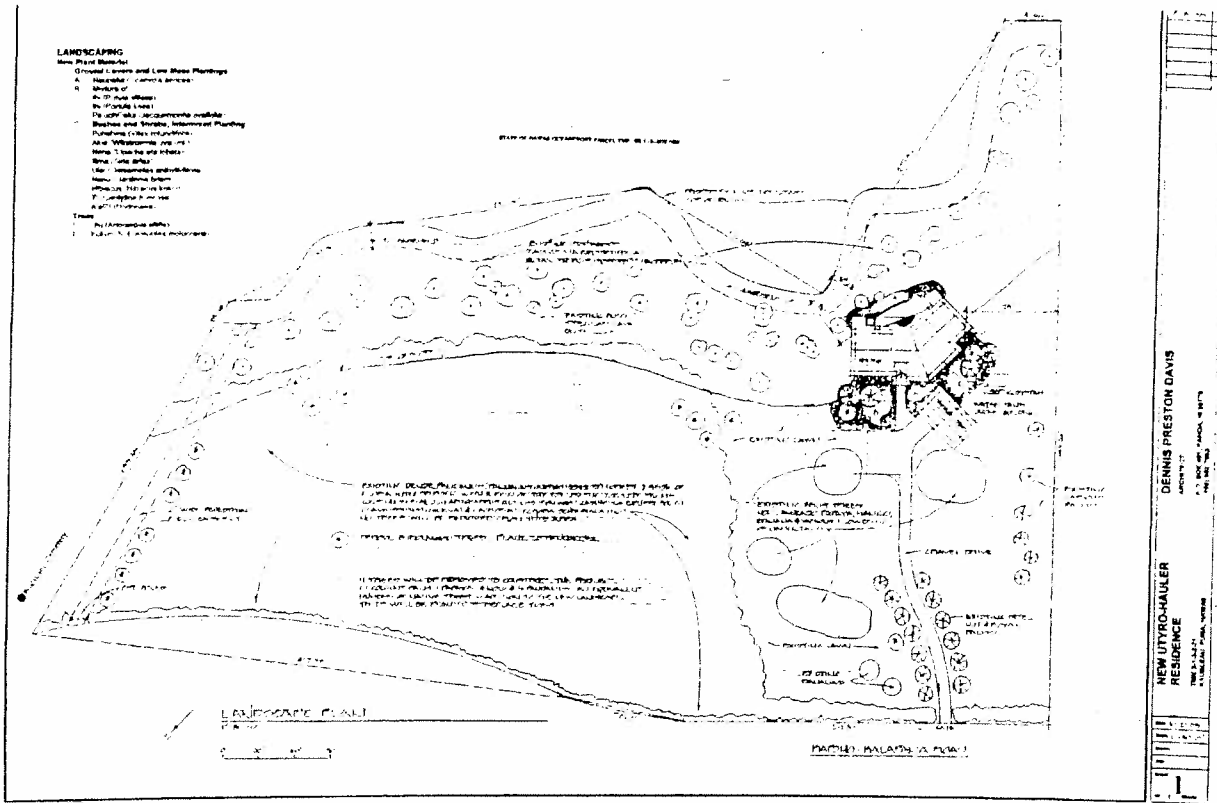
Very truly yours,



Steven S. C. Lim

SSL

HONOLULU KAPOLEI HILO KONA MAUI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Jasha Evans
P.O. Box 1302
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

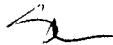
Dear Jasha Evans:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

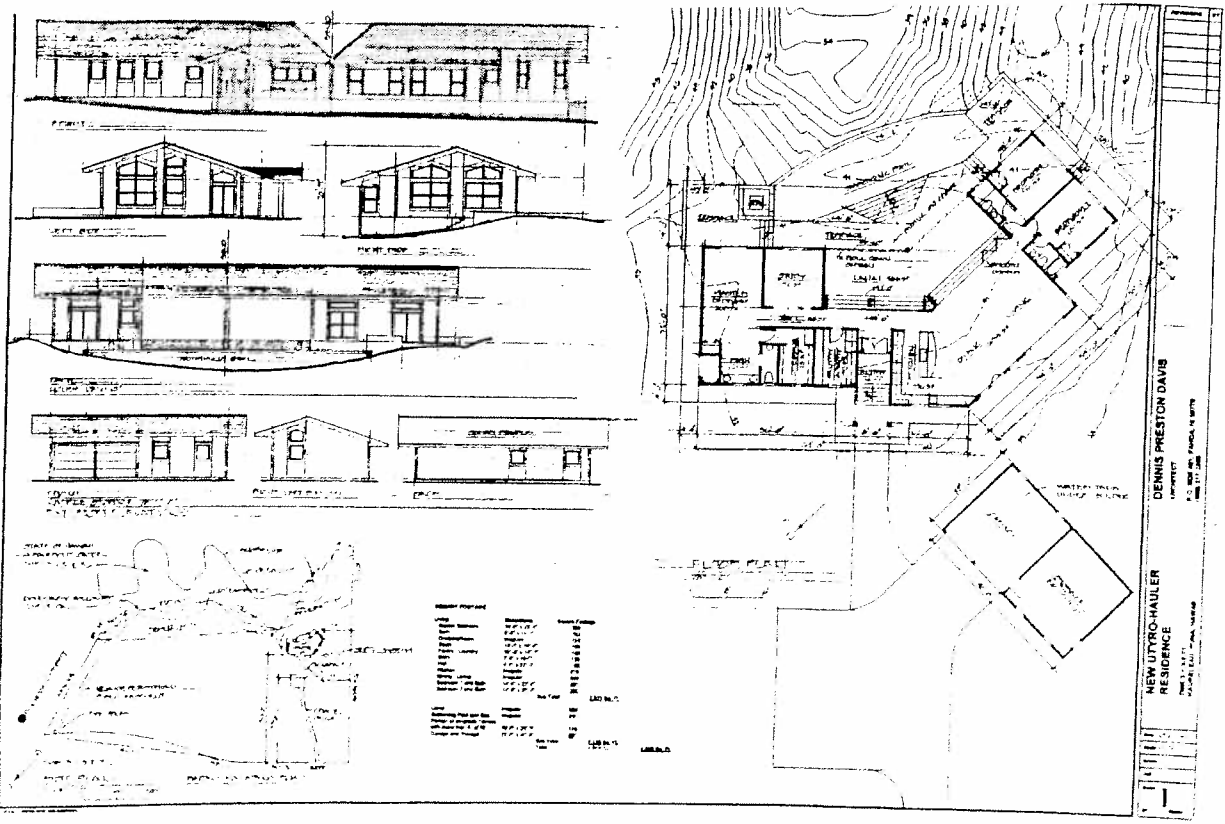
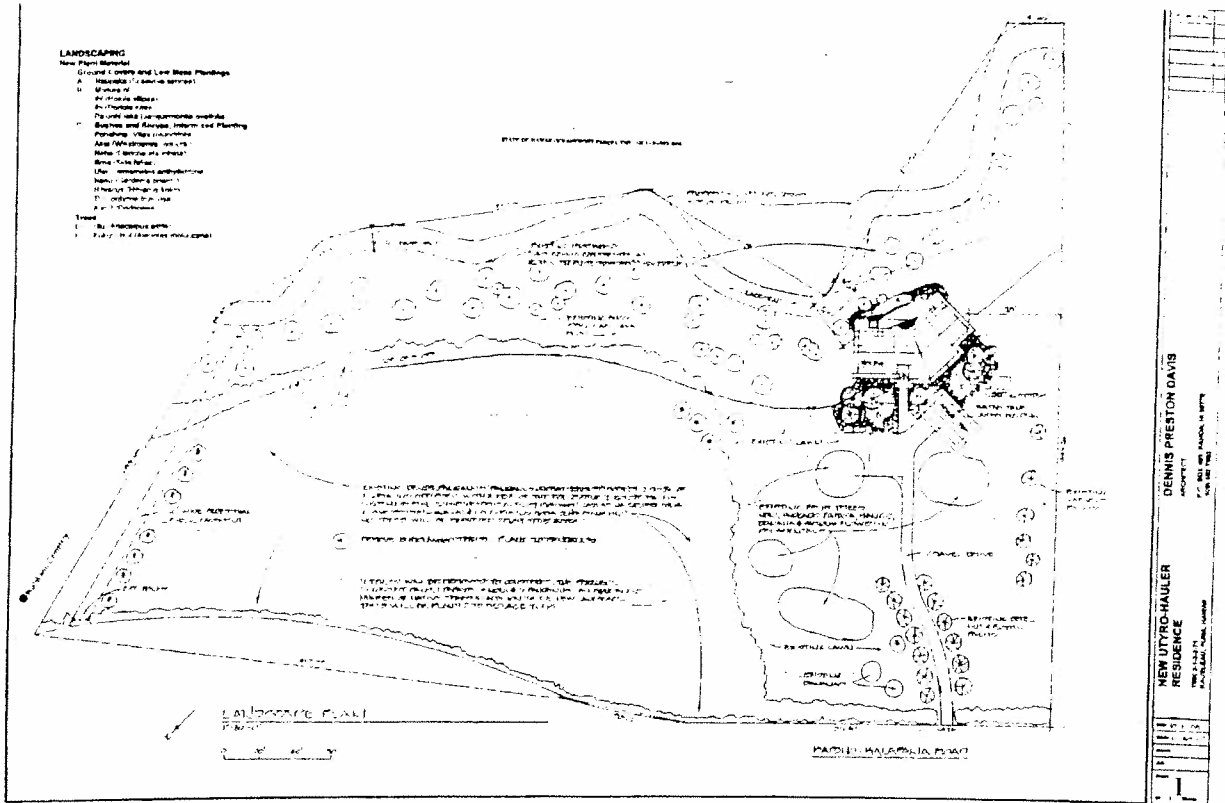
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Joann Jamieson
RR2 Box 4798
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

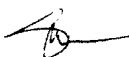
Dear Joann Jamieson:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 666
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Harriet Daog
208 King Avenue
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Harriet Daog:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

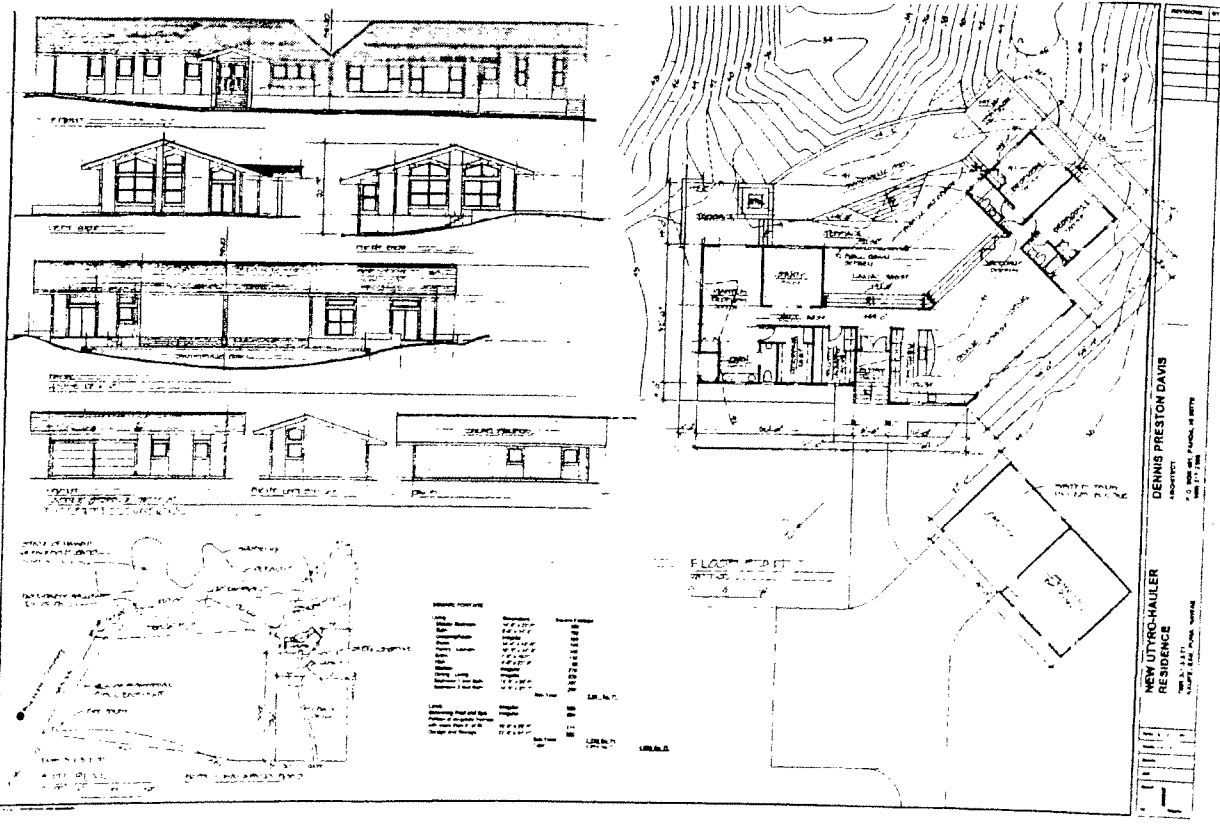
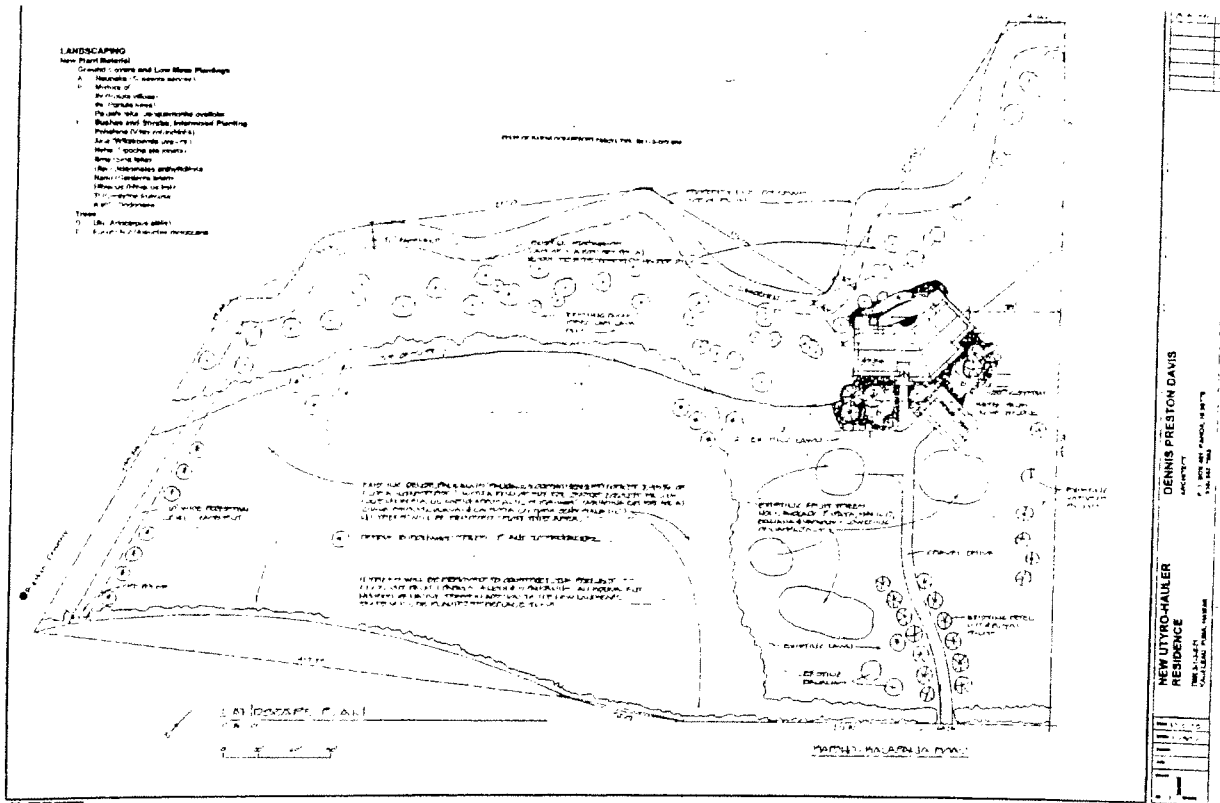
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Ralph W. Counts
13-1223 Kahukai Street
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Ralph W. Counts:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

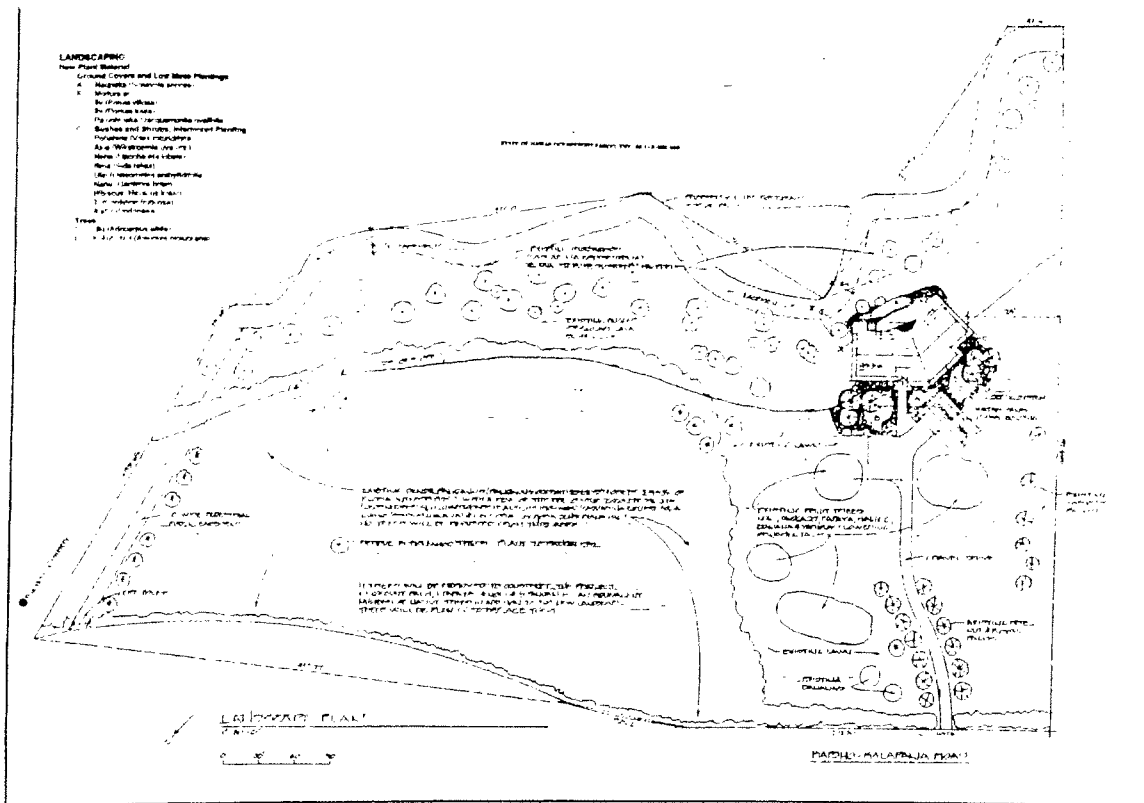
LANDSCAPE

Plant Material

- Ground Covers and Low Mass Plantings
- 1. Hebe
- 2. Manzanita
- 3. Phlox
- 4. Lavender
- 5. Sedum
- 6. Dianthus
- 7. Geranium
- 8. Verbena
- 9. Salvia
- 10. Echinacea
- 11. Rudbeckia
- 12. Aster
- 13. Liatris
- 14. Penstemon
- 15. Monarda
- 16. Coreopsis
- 17. Achillea
- 18. Yucca
- 19. Agave
- 20. Cordylina
- 21. Brunfelsia
- 22. Mimulus
- 23. Salpiglossis
- 24. Tradescantia
- 25. Zinnia
- 26. Ipomoea
- 27. Solanum
- 28. Nicotiana
- 29. Passiflora
- 30. Solanum
- 31. Mimulus
- 32. Salpiglossis
- 33. Tradescantia
- 34. Zinnia
- 35. Ipomoea
- 36. Solanum
- 37. Nicotiana
- 38. Passiflora
- 39. Solanum
- 40. Mimulus
- 41. Salpiglossis
- 42. Tradescantia
- 43. Zinnia
- 44. Ipomoea
- 45. Solanum
- 46. Nicotiana
- 47. Passiflora
- 48. Solanum
- 49. Mimulus
- 50. Salpiglossis
- 51. Tradescantia
- 52. Zinnia
- 53. Ipomoea
- 54. Solanum
- 55. Nicotiana
- 56. Passiflora
- 57. Solanum
- 58. Mimulus
- 59. Salpiglossis
- 60. Tradescantia
- 61. Zinnia
- 62. Ipomoea
- 63. Solanum
- 64. Nicotiana
- 65. Passiflora
- 66. Solanum
- 67. Mimulus
- 68. Salpiglossis
- 69. Tradescantia
- 70. Zinnia
- 71. Ipomoea
- 72. Solanum
- 73. Nicotiana
- 74. Passiflora
- 75. Solanum
- 76. Mimulus
- 77. Salpiglossis
- 78. Tradescantia
- 79. Zinnia
- 80. Ipomoea
- 81. Solanum
- 82. Nicotiana
- 83. Passiflora
- 84. Solanum
- 85. Mimulus
- 86. Salpiglossis
- 87. Tradescantia
- 88. Zinnia
- 89. Ipomoea
- 90. Solanum
- 91. Nicotiana
- 92. Passiflora
- 93. Solanum
- 94. Mimulus
- 95. Salpiglossis
- 96. Tradescantia
- 97. Zinnia
- 98. Ipomoea
- 99. Solanum
- 100. Nicotiana

Trees

- 1. Pines
- 2. Cedars
- 3. Oaks
- 4. Maples
- 5. Sycamores
- 6. Elms
- 7. Birches
- 8. Apples
- 9. Peaches
- 10. Plums
- 11. Cherries
- 12. Walnuts
- 13. Pecans
- 14. Chestnuts
- 15. Hickories
- 16. Locusts
- 17. Dogwoods
- 18. Magnolias
- 19. Camellias
- 20. Azaleas
- 21. Hydrangeas
- 22. Lilacs
- 23. Forsythias
- 24. Jasmine
- 25. Gardenias
- 26. Nandinas
- 27. Ligustras
- 28. Euonymus
- 29. Viburnum
- 30. Spirea
- 31. Weigela
- 32. Abutilon
- 33. Begonia
- 34. Fuchsia
- 35. Impatiens
- 36. Dianthus
- 37. Geranium
- 38. Verbena
- 39. Salvia
- 40. Echinacea
- 41. Rudbeckia
- 42. Aster
- 43. Liatris
- 44. Penstemon
- 45. Monarda
- 46. Coreopsis
- 47. Achillea
- 48. Yucca
- 49. Agave
- 50. Cordylina
- 51. Brunfelsia
- 52. Mimulus
- 53. Salpiglossis
- 54. Tradescantia
- 55. Zinnia
- 56. Ipomoea
- 57. Solanum
- 58. Nicotiana
- 59. Passiflora
- 60. Solanum
- 61. Mimulus
- 62. Salpiglossis
- 63. Tradescantia
- 64. Zinnia
- 65. Ipomoea
- 66. Solanum
- 67. Nicotiana
- 68. Passiflora
- 69. Solanum
- 70. Mimulus
- 71. Salpiglossis
- 72. Tradescantia
- 73. Zinnia
- 74. Ipomoea
- 75. Solanum
- 76. Nicotiana
- 77. Passiflora
- 78. Solanum
- 79. Mimulus
- 80. Salpiglossis
- 81. Tradescantia
- 82. Zinnia
- 83. Ipomoea
- 84. Solanum
- 85. Nicotiana
- 86. Passiflora
- 87. Solanum
- 88. Mimulus
- 89. Salpiglossis
- 90. Tradescantia
- 91. Zinnia
- 92. Ipomoea
- 93. Solanum
- 94. Nicotiana
- 95. Passiflora
- 96. Solanum
- 97. Mimulus
- 98. Salpiglossis
- 99. Tradescantia
- 100. Zinnia



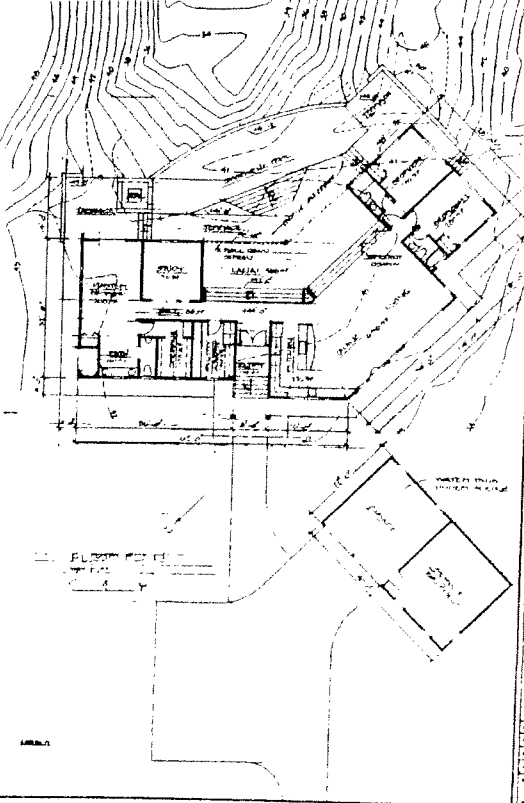
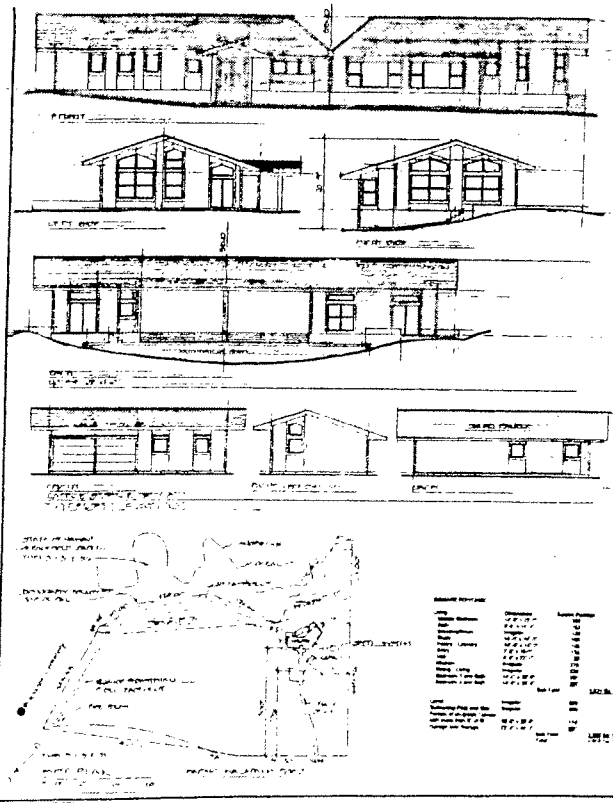
**NEW UTYRO-HAULER
RESIDENCE**

DENNIS PRESTON DAVIS

ARCHITECT

100 WEST 10TH AVENUE, SUITE 100
DENVER, CO 80202

DATE: 01/15/88



**NEW UTYRO-HAULER
RESIDENCE**

DENNIS PRESTON DAVIS

ARCHITECT

100 WEST 10TH AVENUE, SUITE 100
DENVER, CO 80202

DATE: 01/15/88

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIAANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Loha Mulec
Frank A. Mulec
P.O. Box 677
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Loha Mulec:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

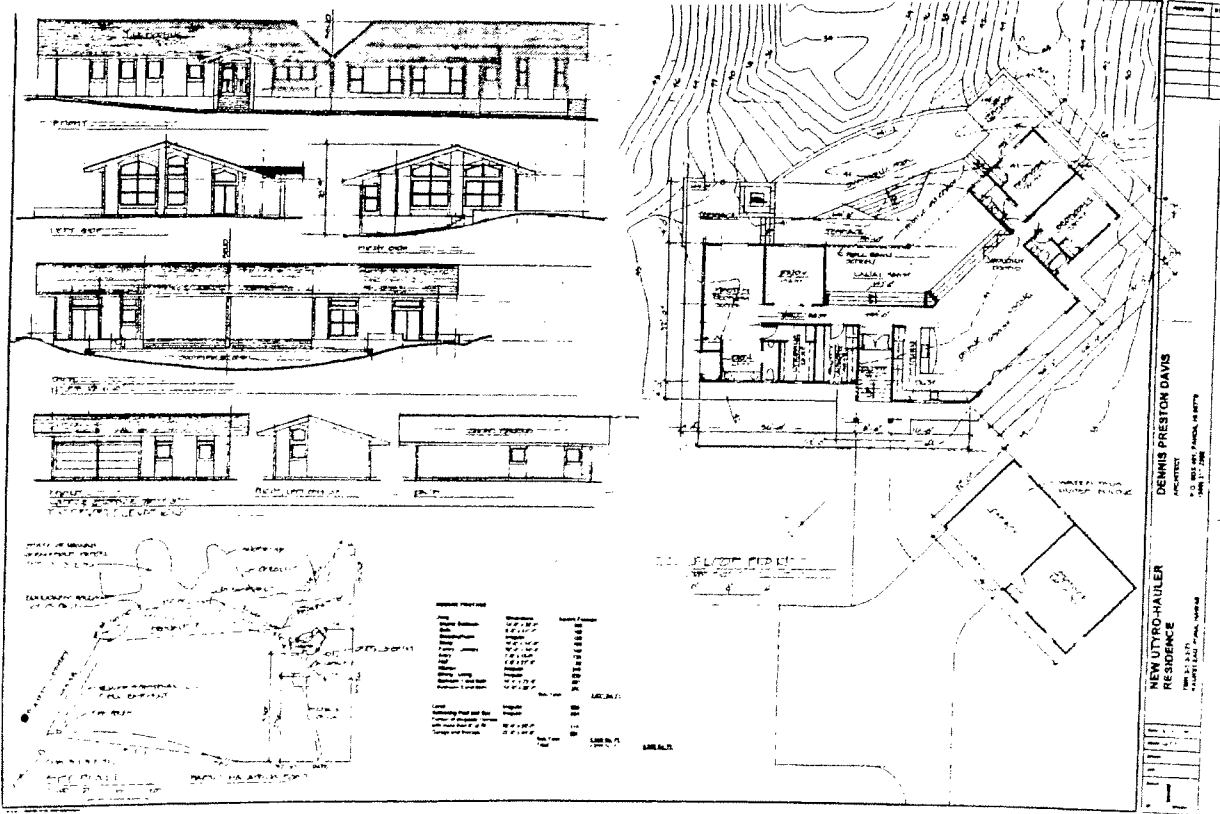
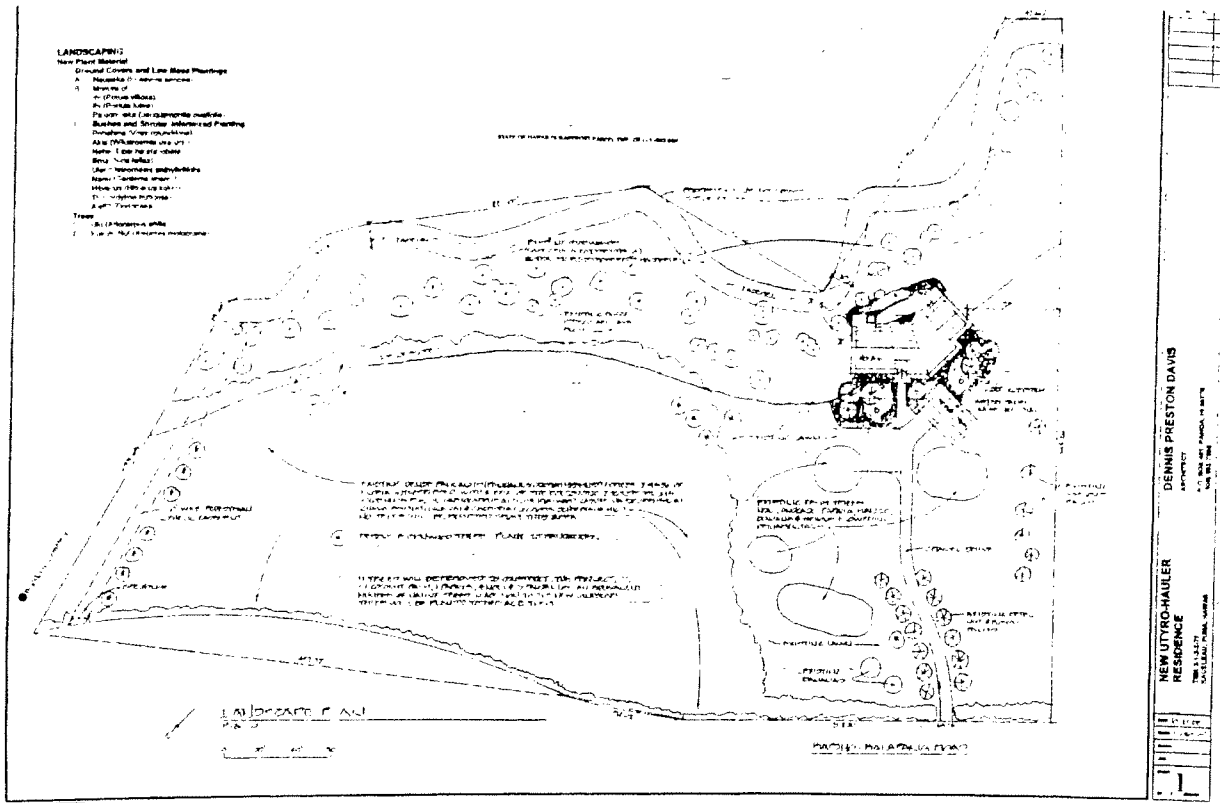
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Amy Evans
Mark Evans
RR2 Box 4209
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Amy and Mark Evans:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

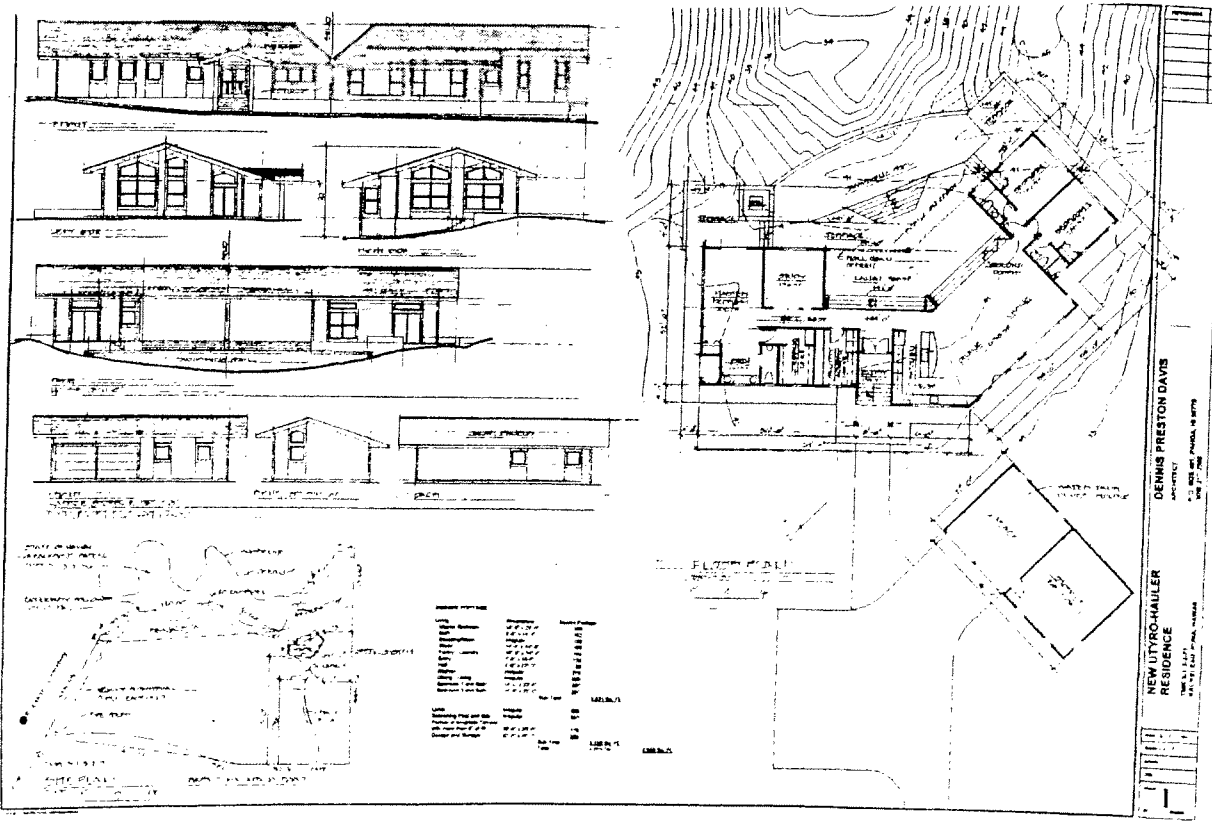
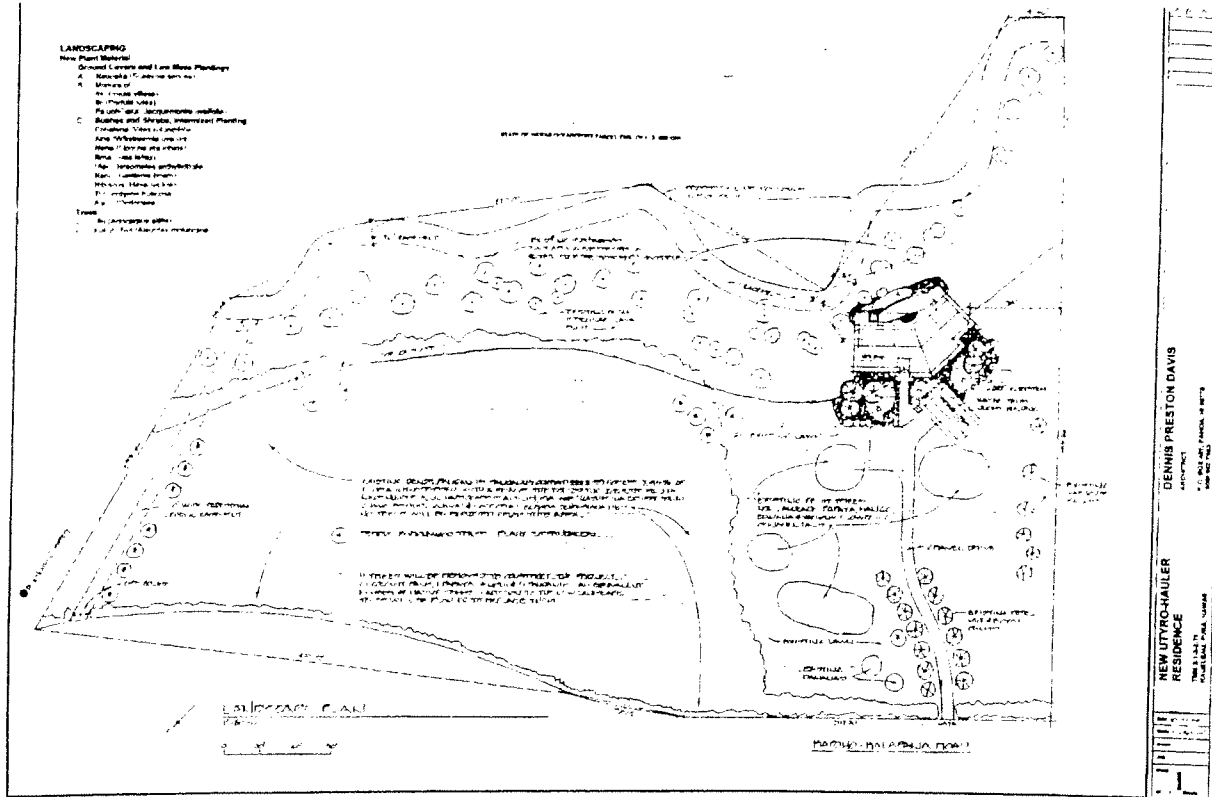
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIAANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Norman A. Palaka
13-3375 Moku Street
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Norman A. Palaka:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Lanneth M. Pavao Jr.
HCR 1 Box 5480
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Lanneth M. Pavao Jr.:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

HONOLULU

KAPOHE

HILO

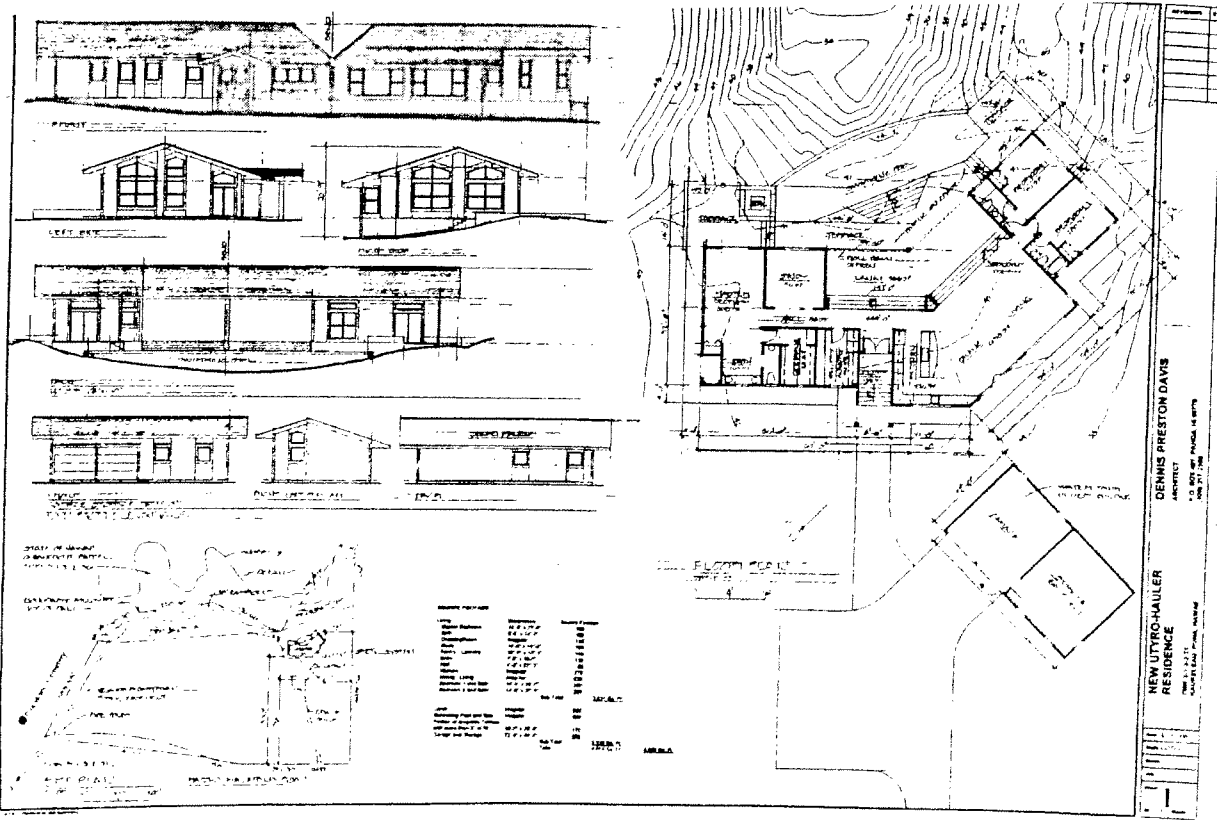
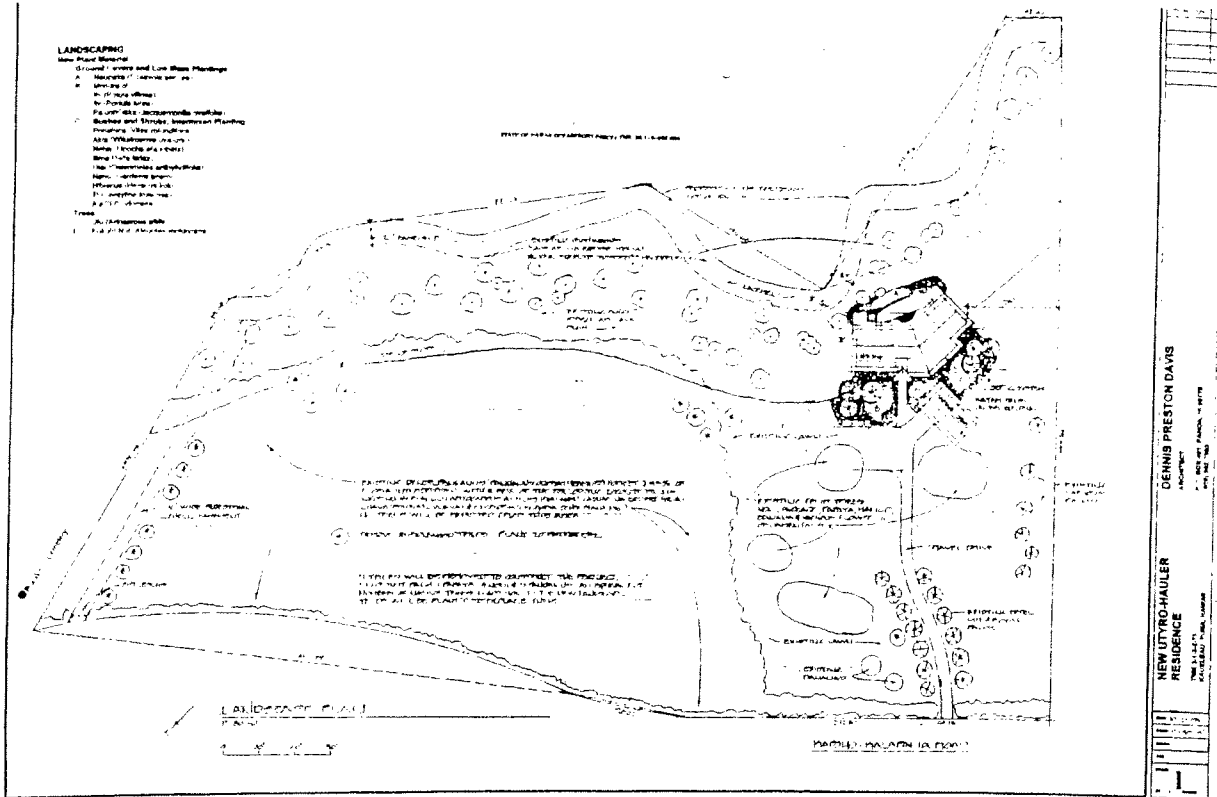
KONA

MAUI

GUAM

SAIPAN

LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA.CARLSMITH.COM

November 5, 2008

Becky K. Takeya
1239 Railroad Avenue
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

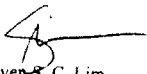
Dear Becky K. Takeya:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Jeff Pressey
175 Banyan Drive #217
Hilo, Hawaii 96720

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Jeff Pressey:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

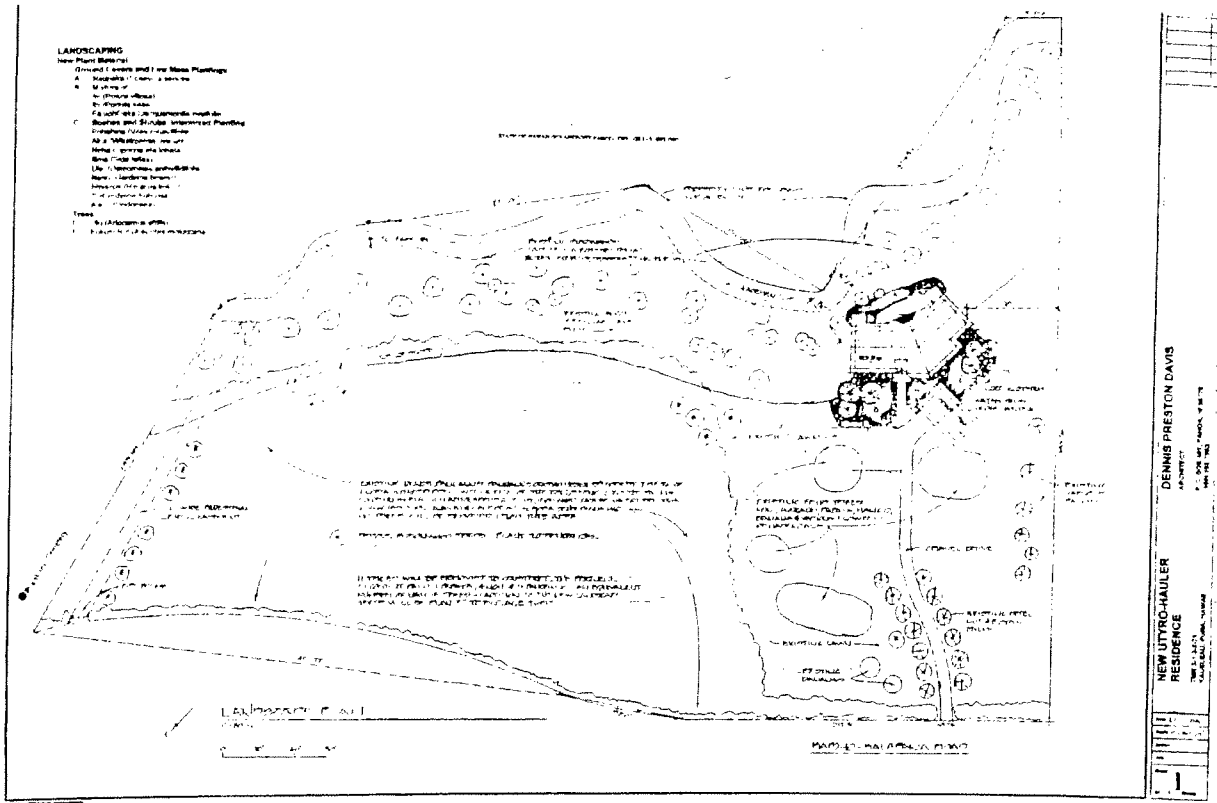
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

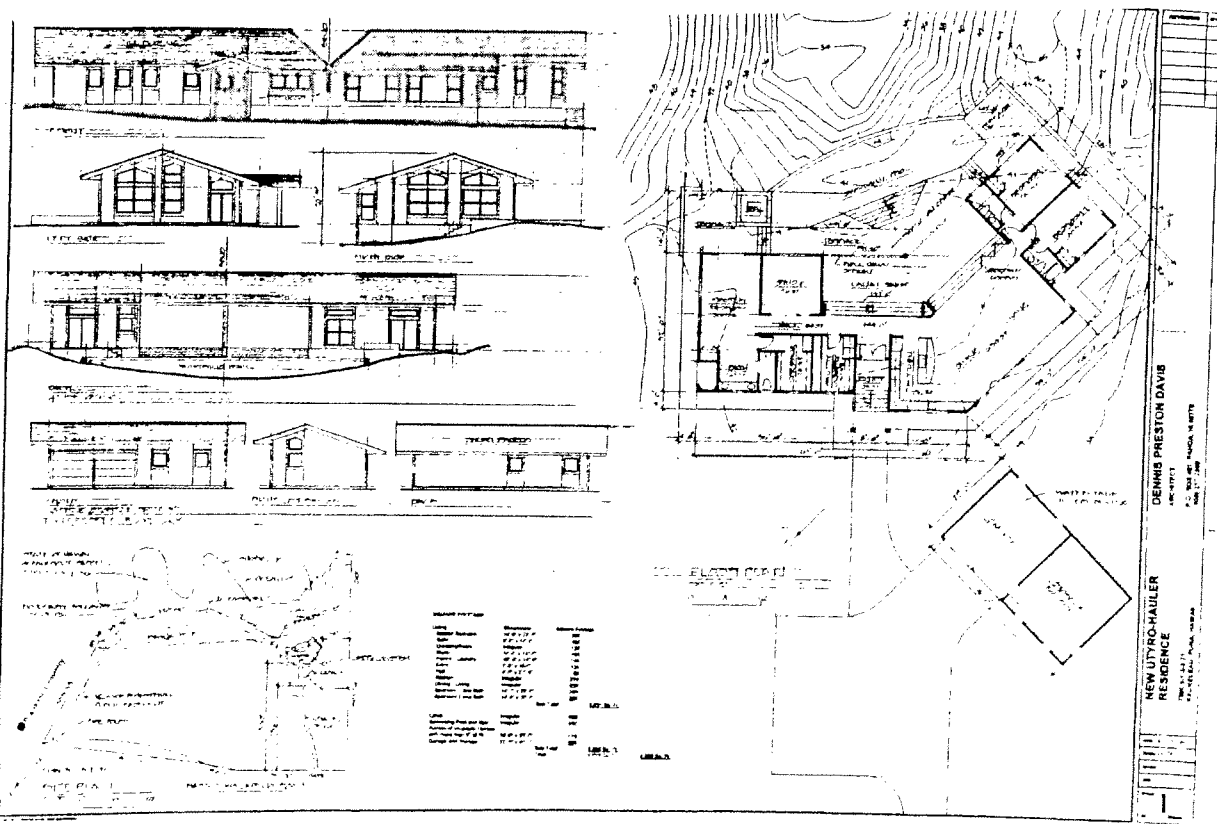


Steven S. C. Lim

SSL



NEW LUTY/HO-HAULER
 RESIDENCE
 DENNIS PRESTON DAVIS
 1400 11TH ST
 TULSA, OKLA. 74106
 516-234-1111



NEW LUTY/HO-HAULER
 RESIDENCE
 DENNIS PRESTON DAVIS
 1400 11TH ST
 TULSA, OKLA. 74106
 516-234-1111

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Jesse K. Kalua
HC3 Box 13511
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

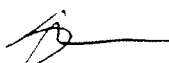
Dear Jesse K. Kalua:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

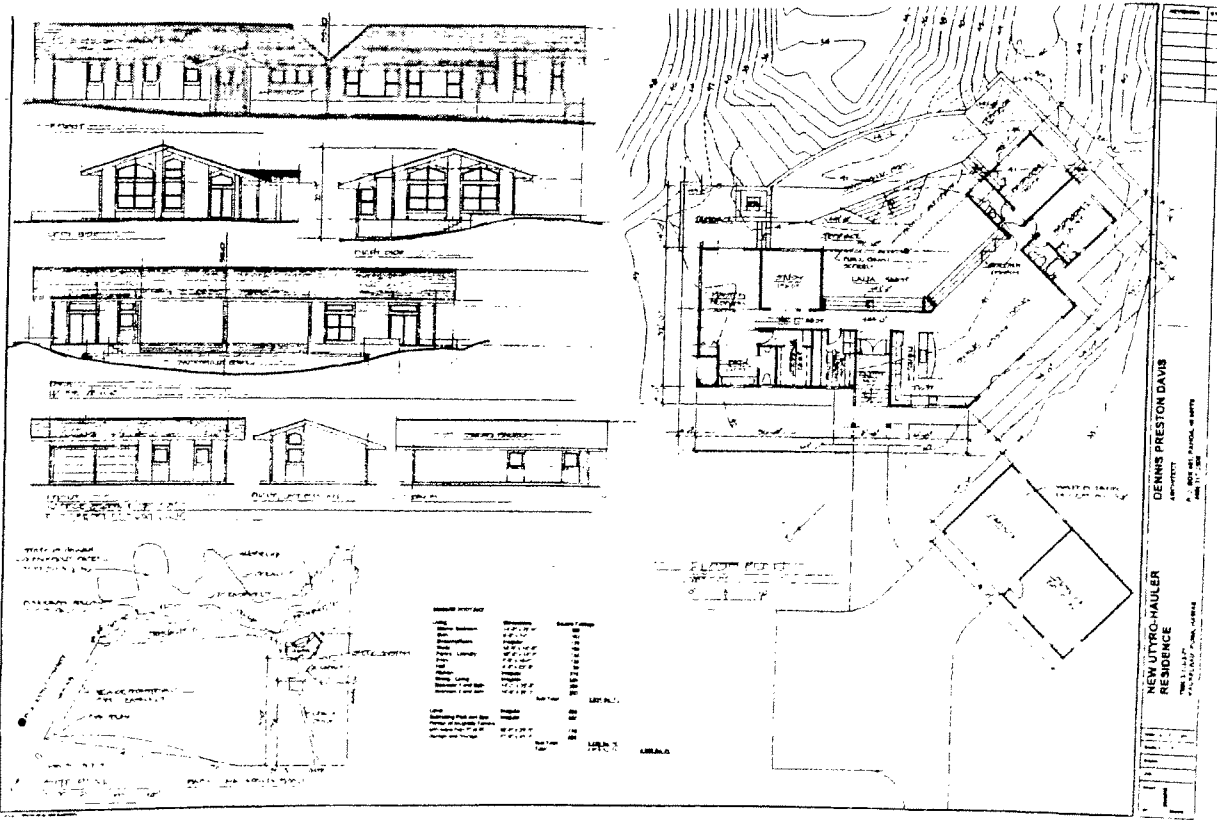
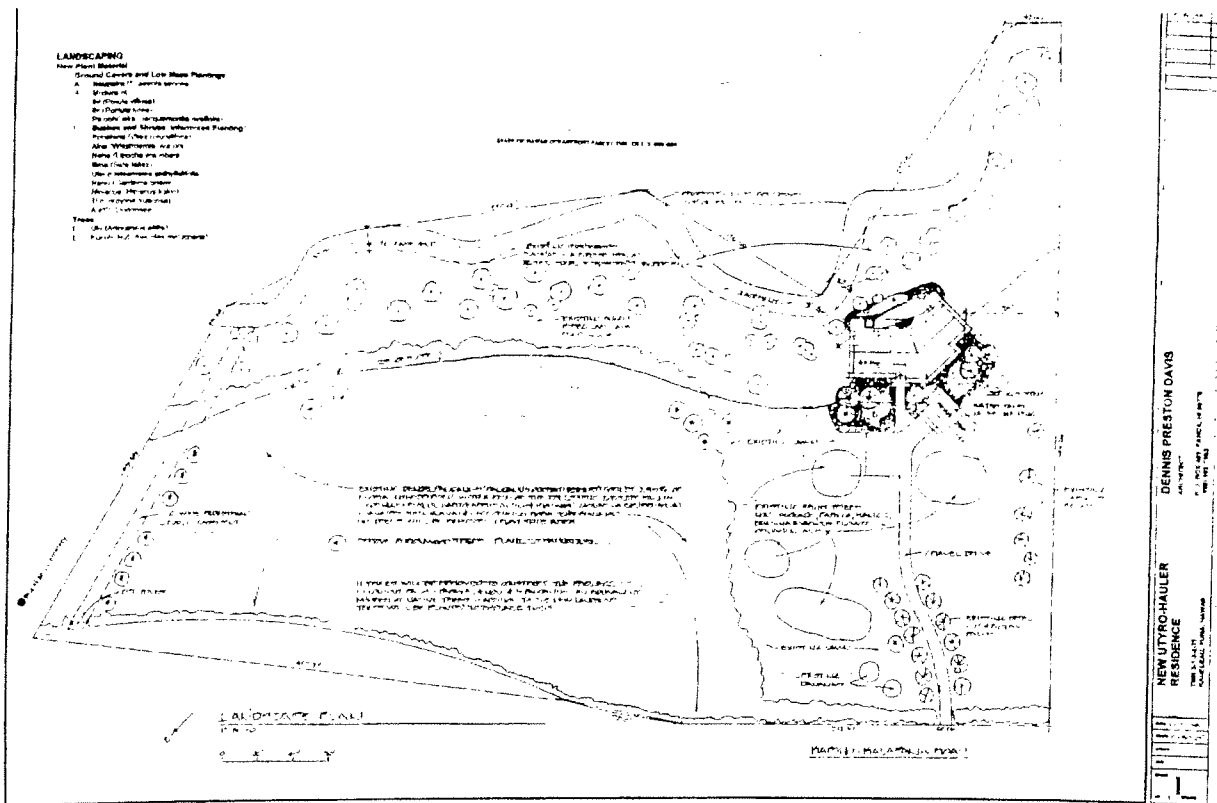
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL

HONOLULU KAPOLEI HILO KONA MAUI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Kirkwood DeMello
RR3 Box 1435
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Kirkwood DeMello:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WALANUENUE AVENUE
P.O. Box 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Tara Crystal
P. O. Box 2151
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Tara Crystal:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

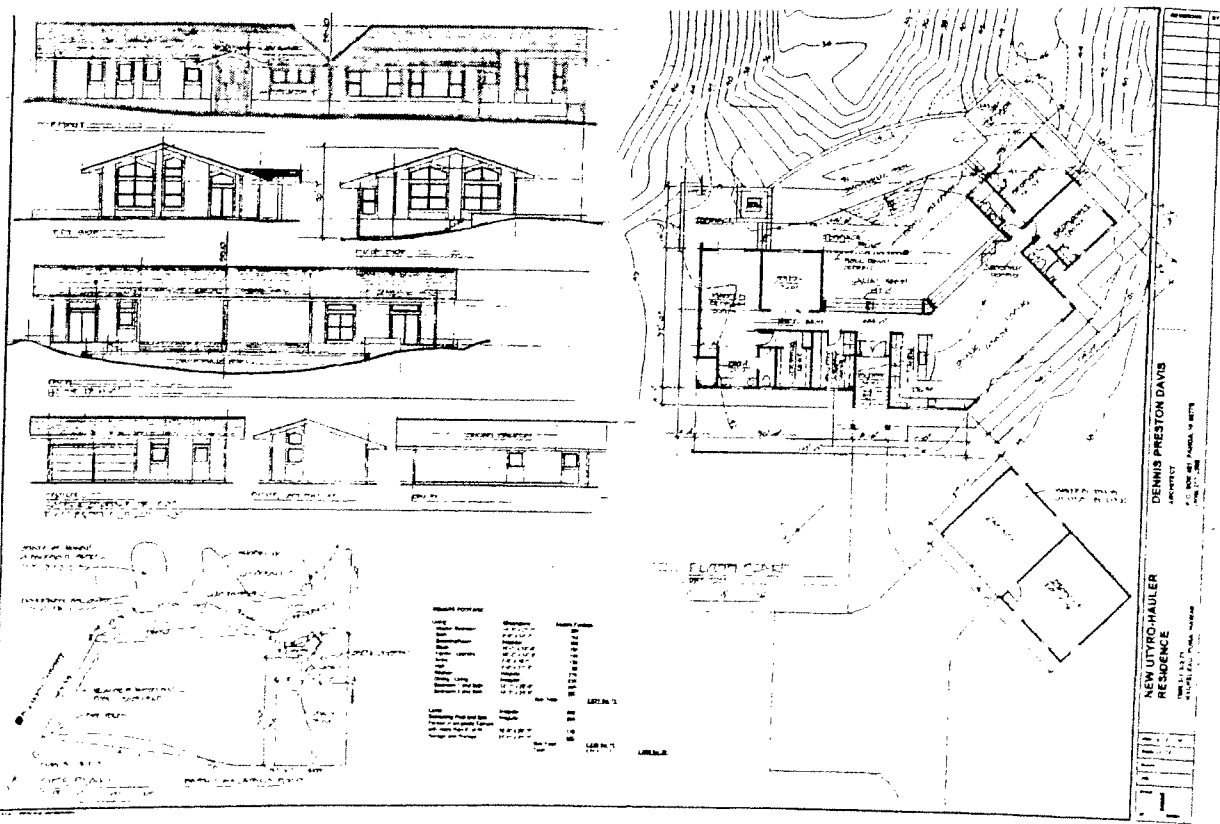
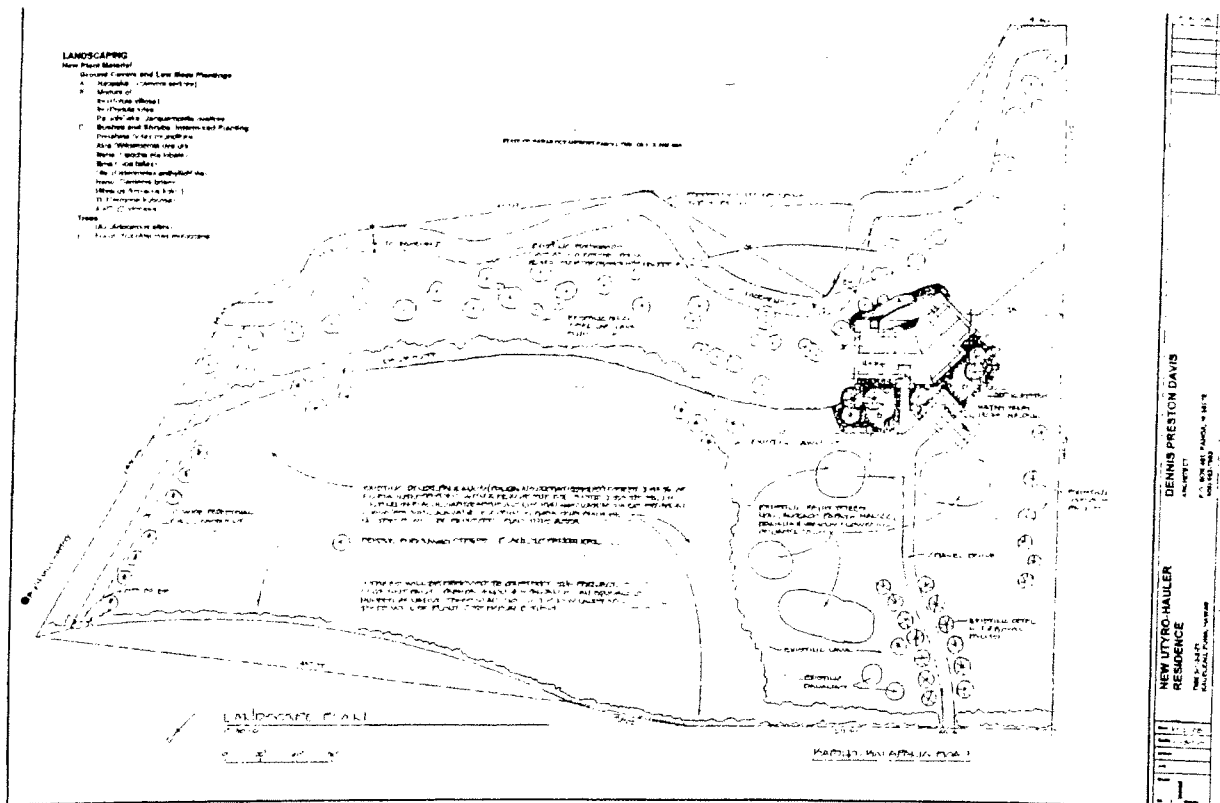
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Chelsea Sky
P.O. Box 1936
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauier
Kauleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Chelsea Sky:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

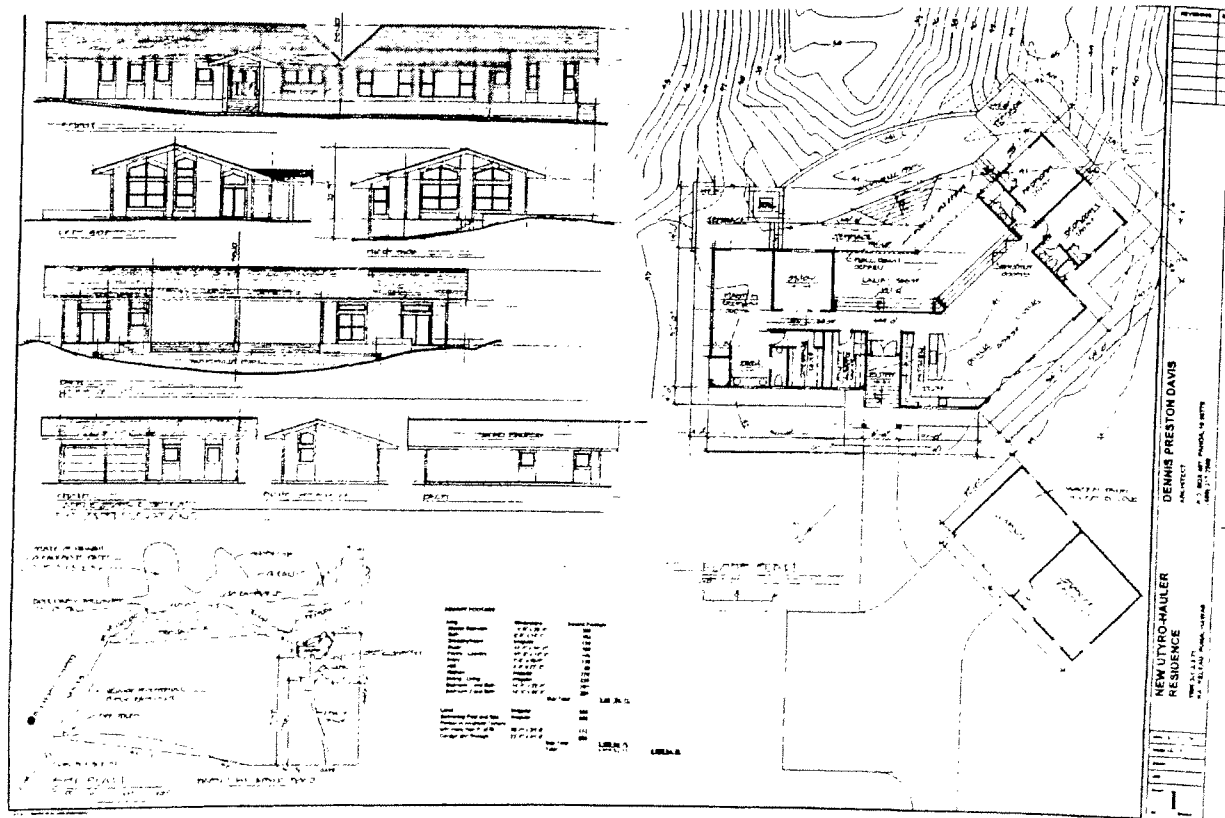
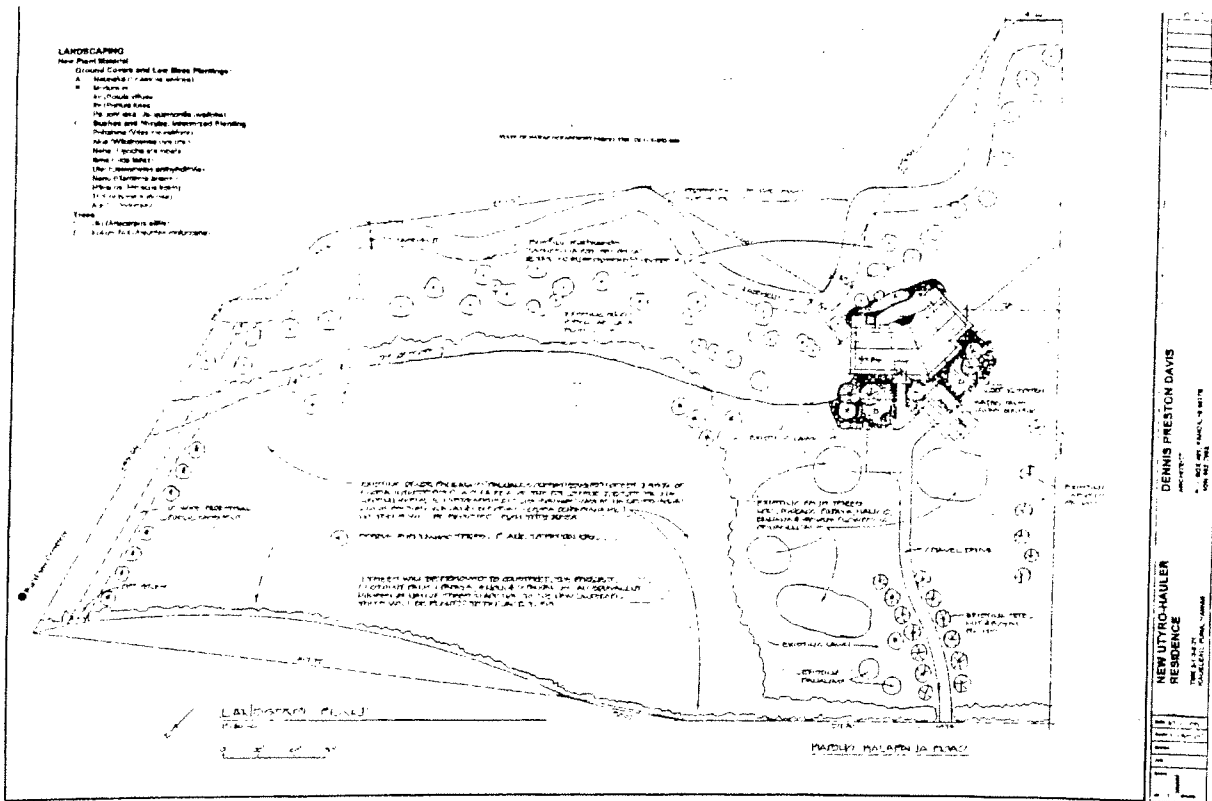
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANDENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Joshua Kahikaulana-Sulprizio
P.O. Box 1579
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Joshua Kahikaulana-Sulprizio:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

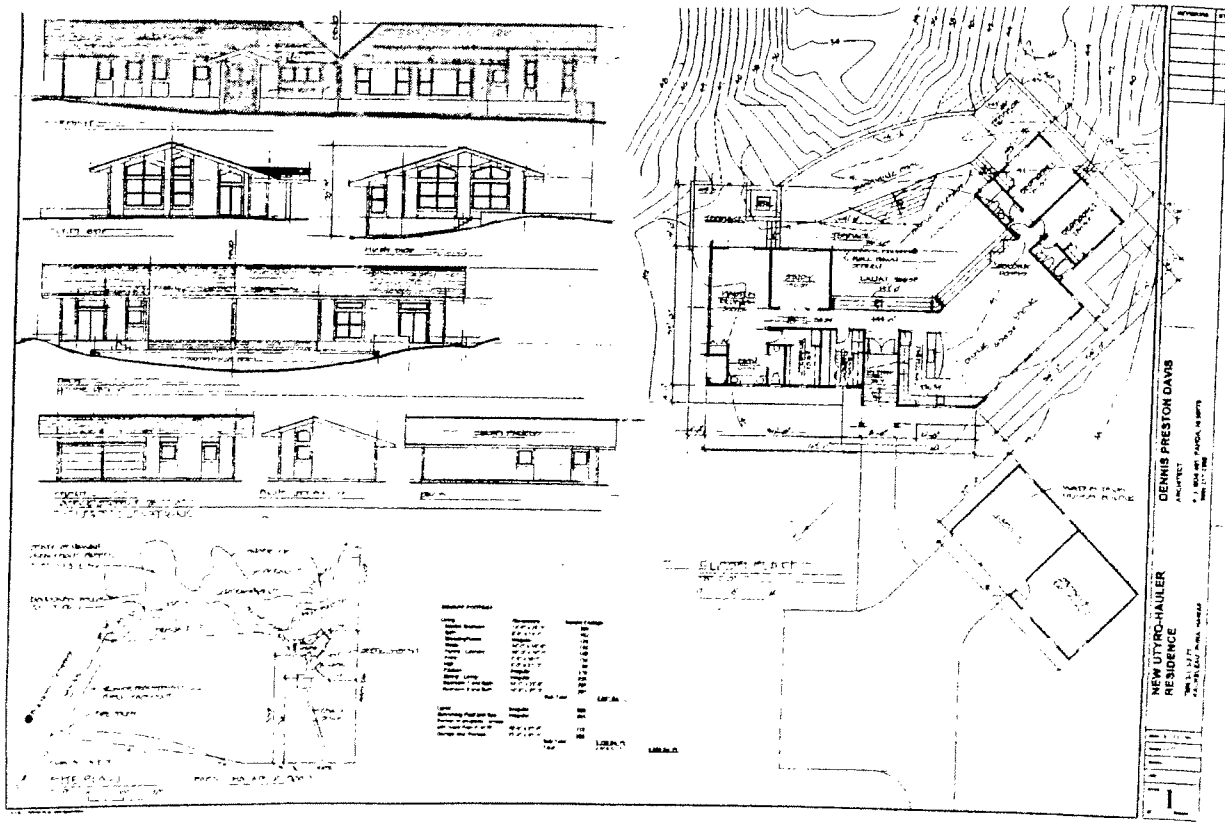
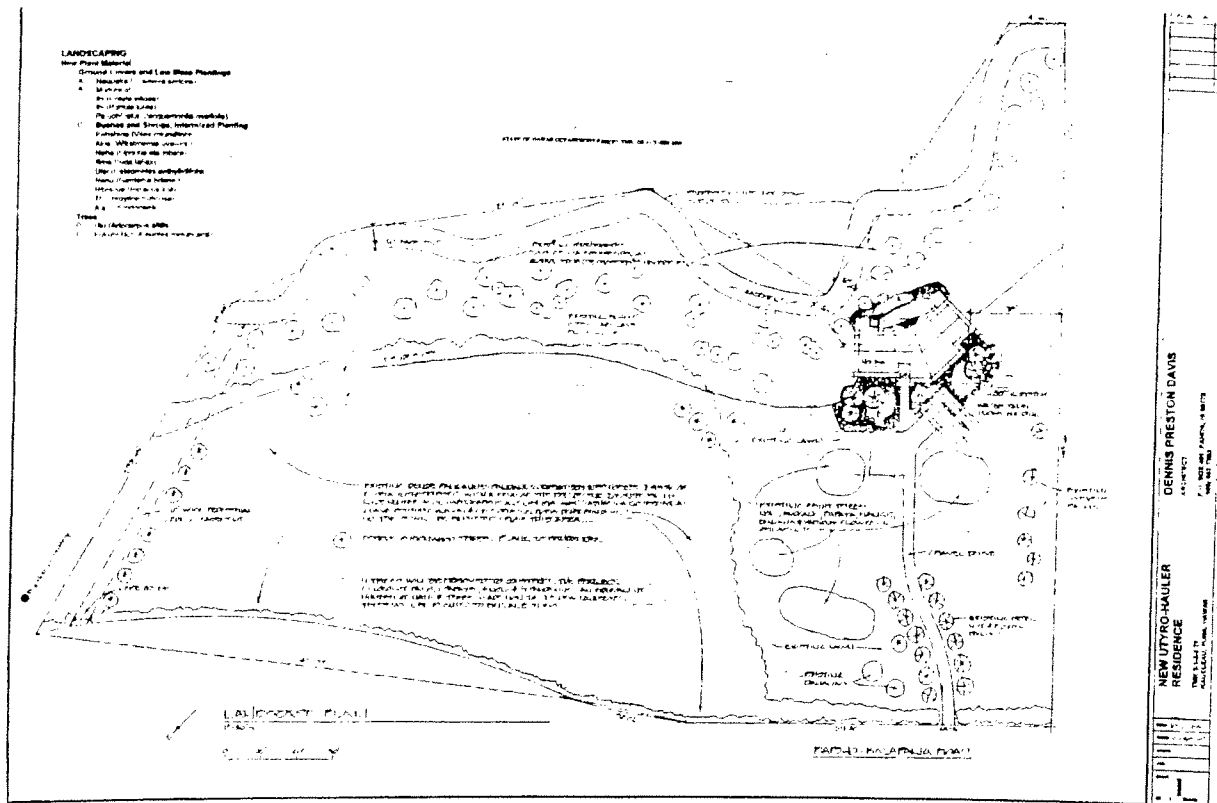
Very truly yours,



Steven S. C. Lim

SSL

HONOLULU KAPOLEI HILO KONA MAUI GUAM SAIPAN LOS ANGELES



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Branden Ferreira
15-2703 Iao Street
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Branden Ferreira:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,

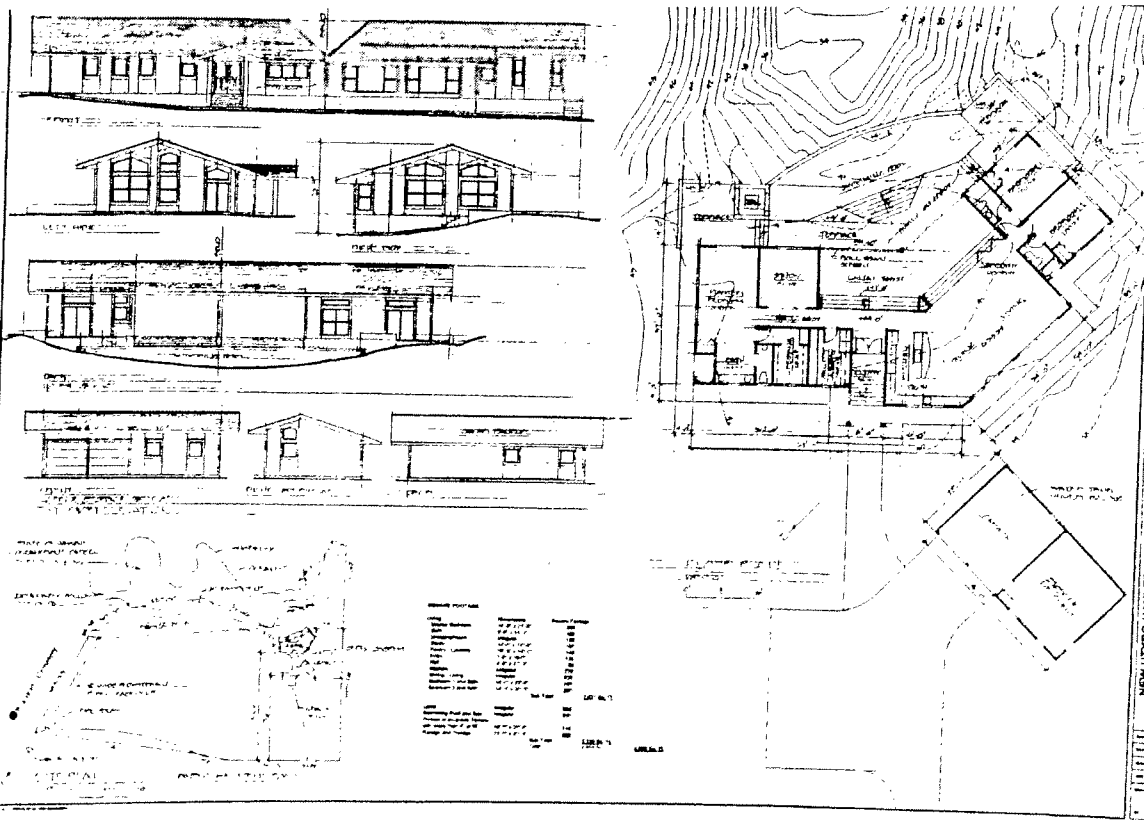
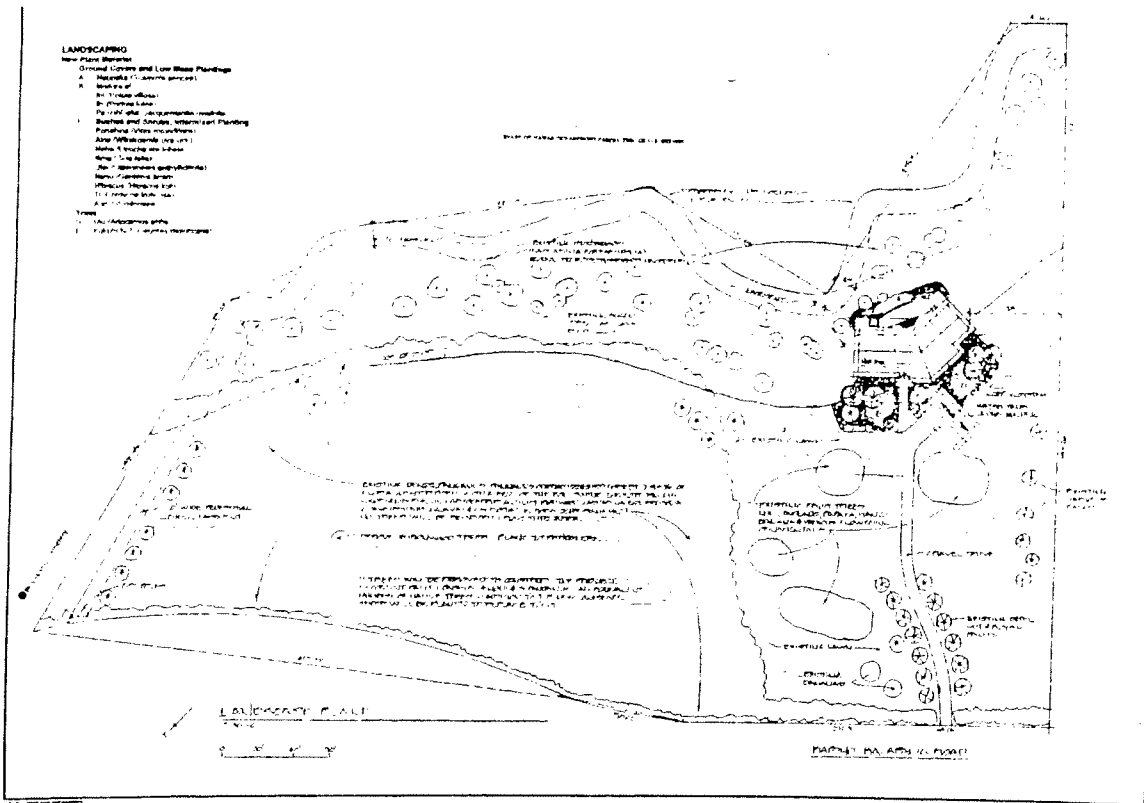


Steven S. C. Lim

SSL

LANDSCAPING

- New Plant Materials
- 1. Ground Covers and Low Bush Plantings
 - A. Hebe (1.5' x 1.5' x 1.5')
 - B. Spirea (1.5' x 1.5' x 1.5')
 - C. Yucca (1.5' x 1.5' x 1.5')
 - D. Phlox (1.5' x 1.5' x 1.5')
 - E. Lavender (1.5' x 1.5' x 1.5')
 - 2. Bushes and Shrubs - 4' x 4' x 4'
 - A. Forsythia (1.5' x 1.5' x 1.5')
 - B. Hydrangea (1.5' x 1.5' x 1.5')
 - C. Magnolia (1.5' x 1.5' x 1.5')
 - D. Camellia (1.5' x 1.5' x 1.5')
 - E. Nandina (1.5' x 1.5' x 1.5')
 - F. Japanese Quince (1.5' x 1.5' x 1.5')
 - G. Forsythia (1.5' x 1.5' x 1.5')
 - H. Magnolia (1.5' x 1.5' x 1.5')
 - I. Camellia (1.5' x 1.5' x 1.5')
 - J. Nandina (1.5' x 1.5' x 1.5')
 - 3. Trees
 - A. 1.5' x 1.5' x 1.5'
 - B. 1.5' x 1.5' x 1.5'



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Kainoa Hauanio
P.O. Box 949
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauaeleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Kainoa Hauanio:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

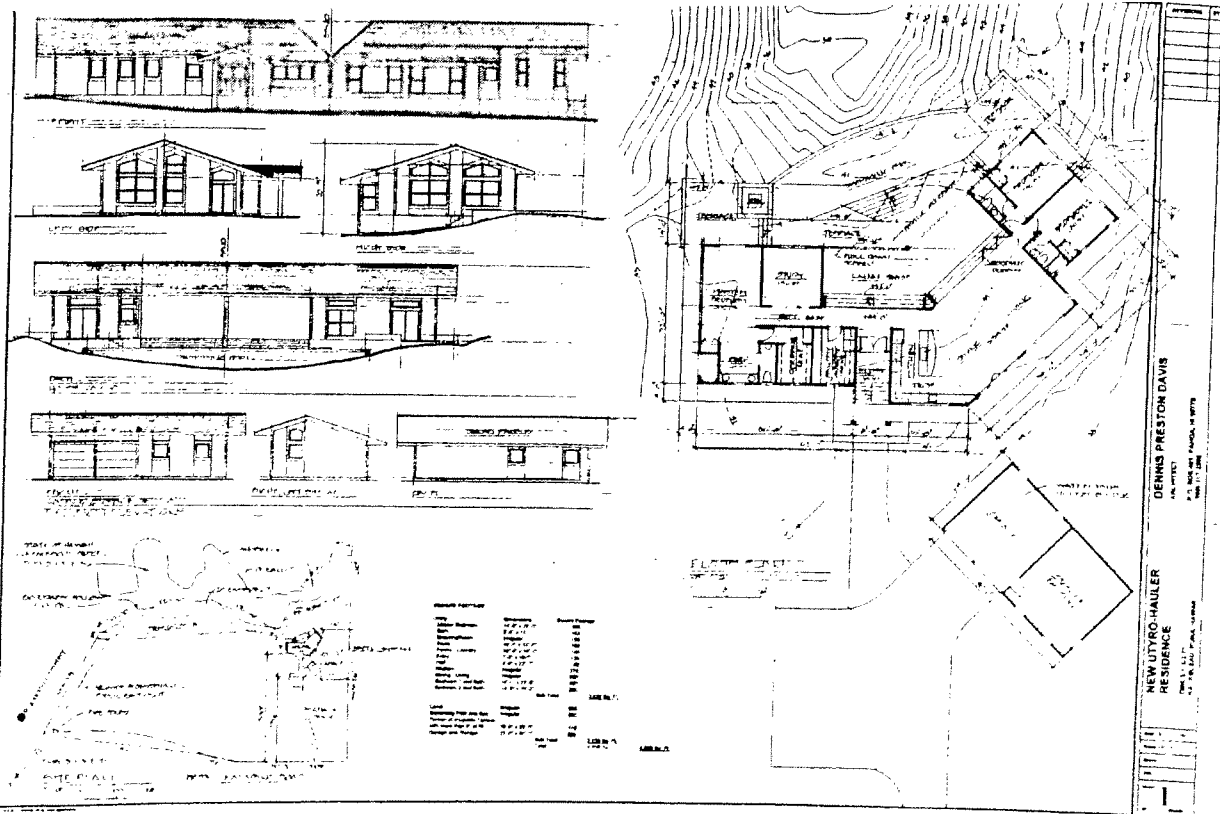
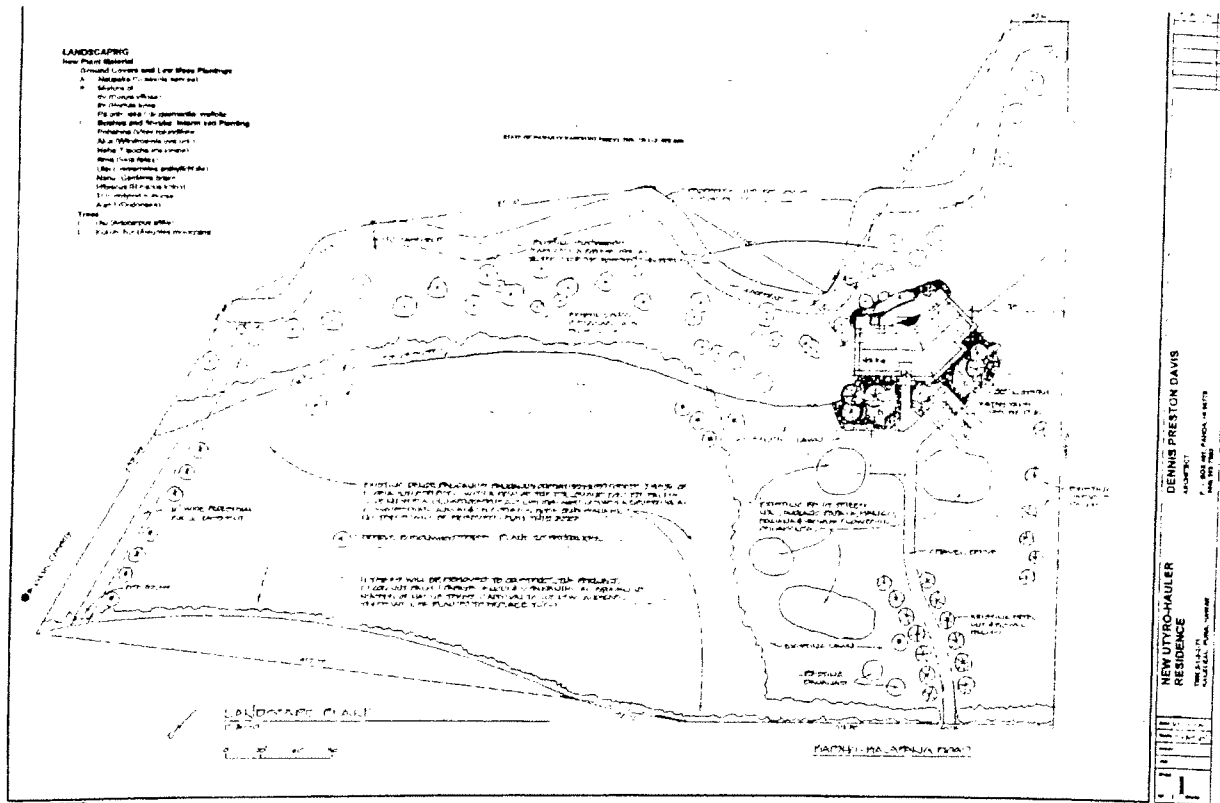
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

David Santiago
P.O. Box 5686
Keaau, Hawaii 96749

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kauleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

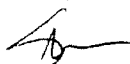
Dear David Santiago:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

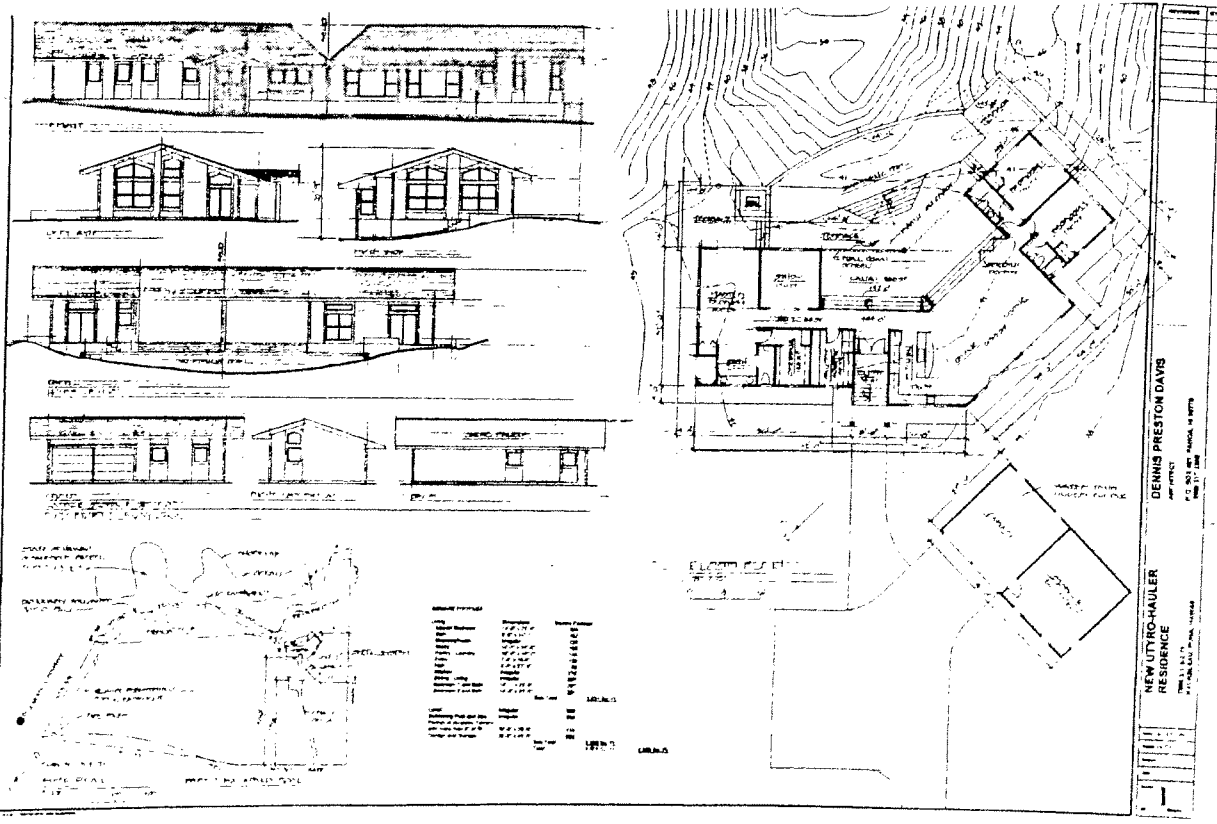
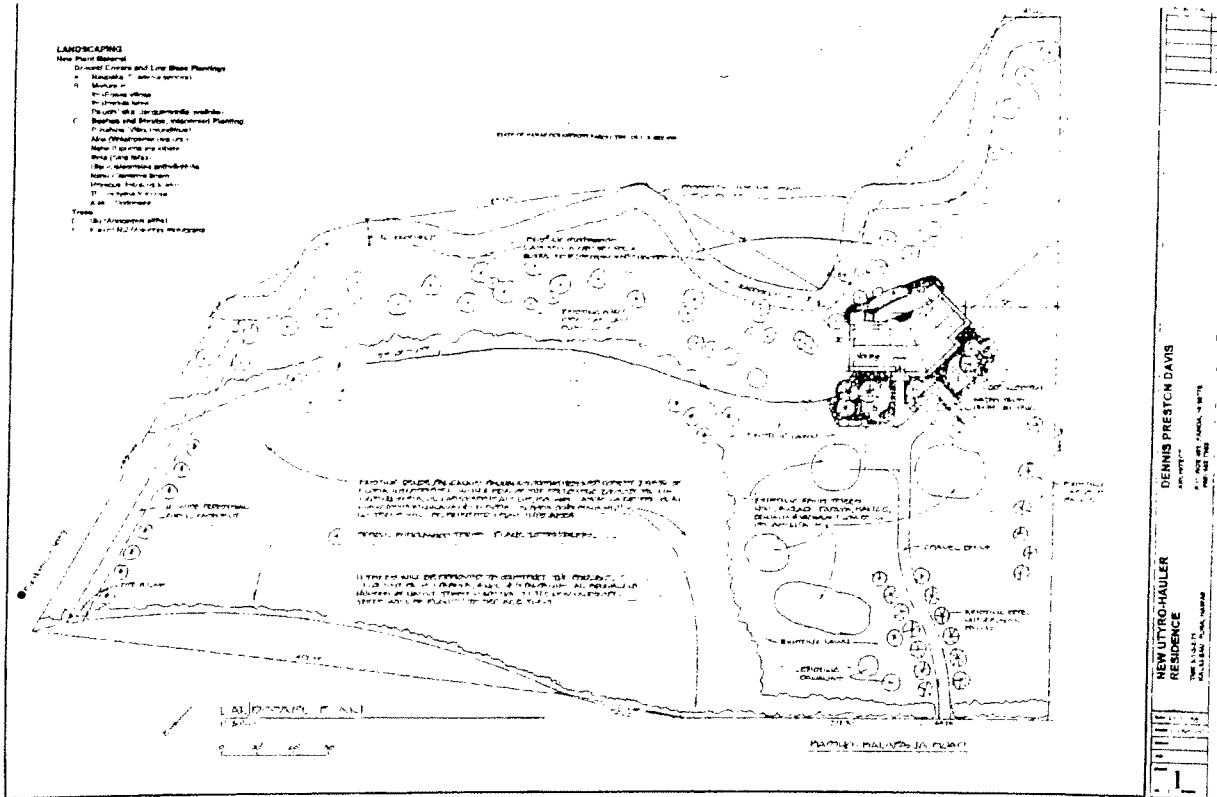
The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,


Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJAJUENE AVENUE
P.O. BOX 686
HILLO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Devin Arosso
P.o. Box 1594
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Devin Arosso:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

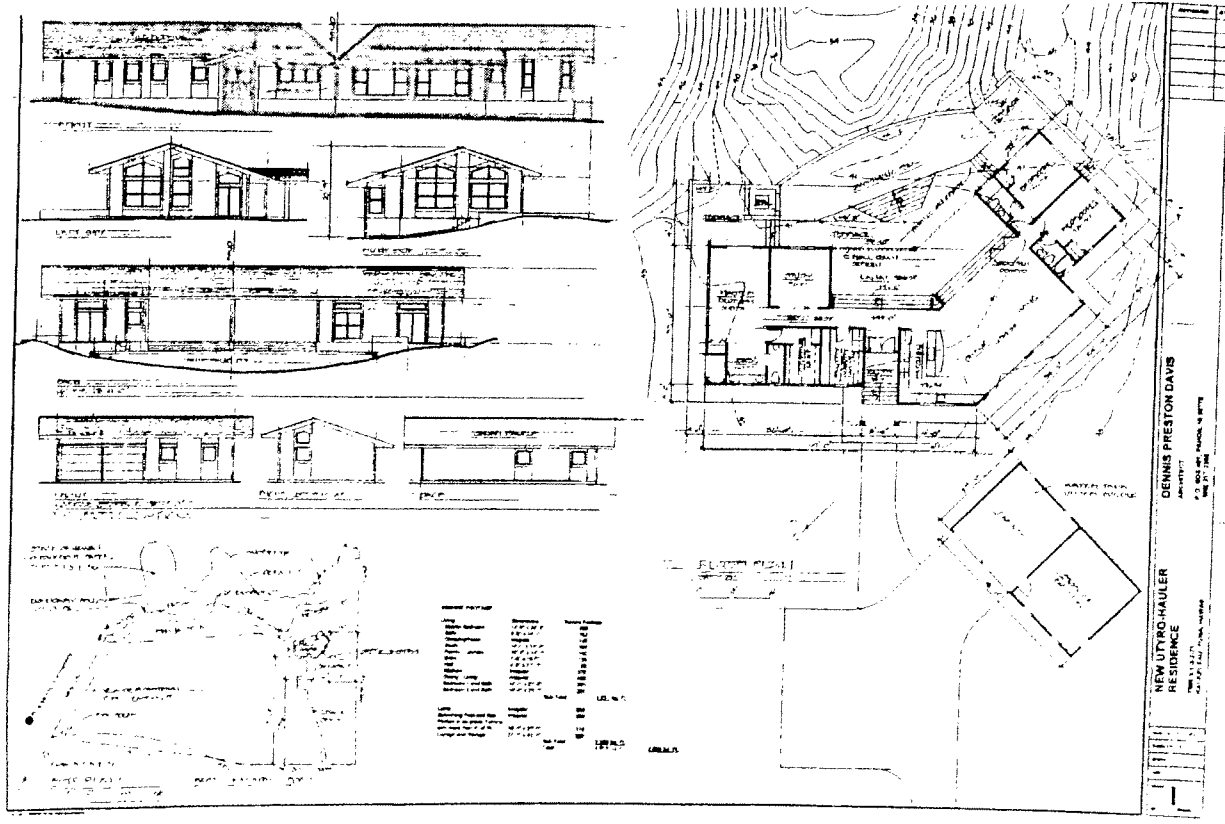
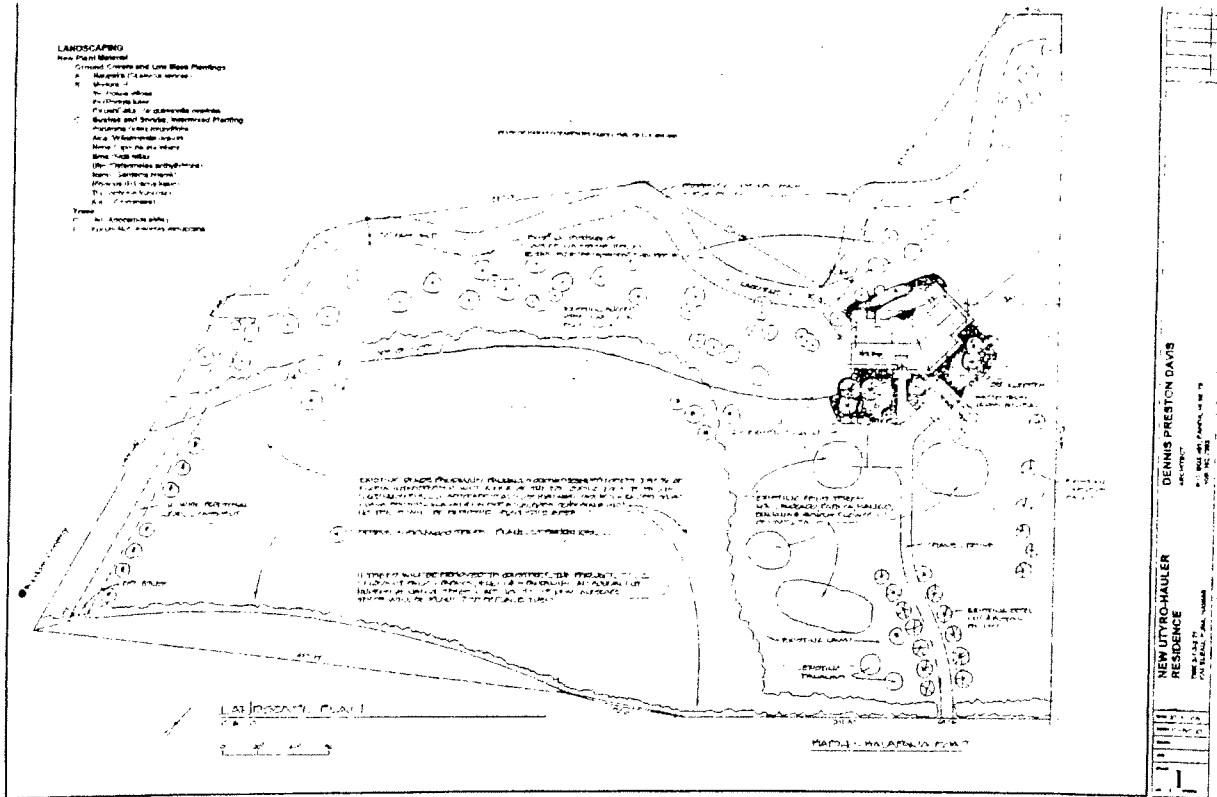
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIAUCUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Daniel McYsic
P.O. Box 621
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002-071

Dear Daniel Mc Ysic:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

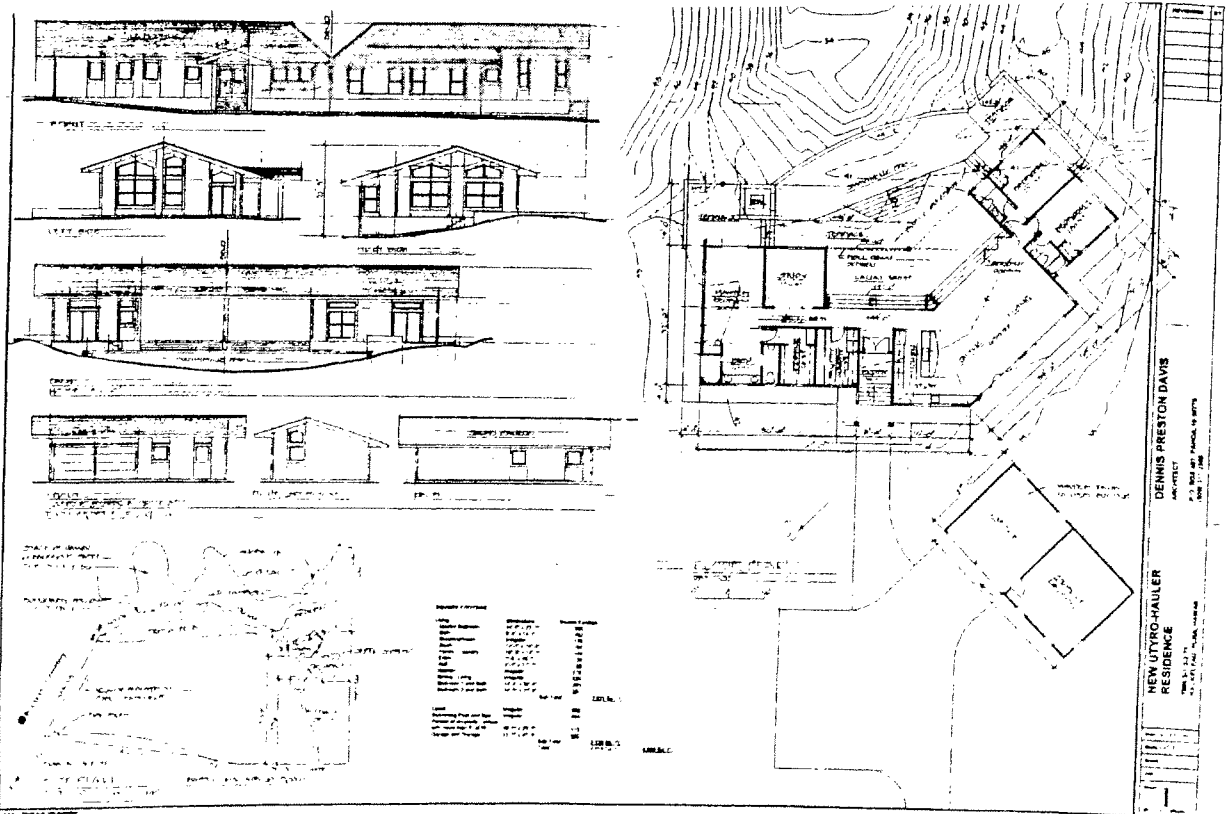
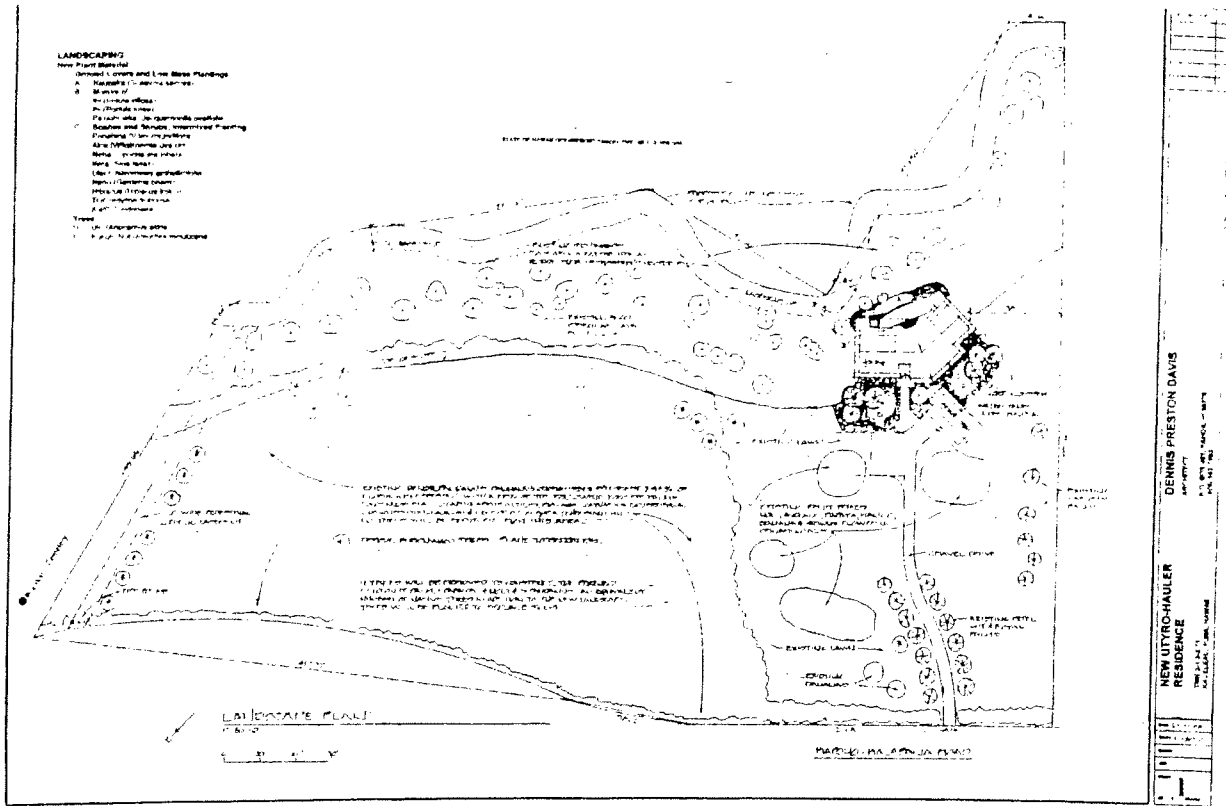
Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANALUENUE AVENUE
P.O. BOX 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

KLUGA@CARLSMITH.COM

November 5, 2008

Ekahi Douglas
P.O. Box 1644
Pahoa, Hawaii 96778

Re: Conservation District Use Application HA-3474
Applicants: Edward Utyro and Gary Hauler
Kaueleau, District of Puna, County and Island of Hawaii
TMK: (3) 1-3-002:071

Dear Ekahi Douglas:

We understand that Rev. Violet May Makuakane circulated a petition which raised concerns regarding the shoreline access, the preservation of the historical and cultural values and native gathering rights from the puhala grove, and the preservation of the bushy 'Ohi'a Lehua trees. In response the community concerns the Applicants have redesigned and propose an alternative Project site to be located approximately 150 feet to the east (Kalapana direction), in an area previously disturbed and currently planted with exotic fruit trees by the Applicant's predecessor-in-interest. This alternative will address the concerns requesting the preservation of the historical and cultural values relating to the puhala grove, shoreline access, and the preservation of the 'Ohi'a Lehua trees.

The Applicants are committed to working with lauhala weaving organizations and educational institutions, such as Kua o Ka La Public Charter School relating to traditional and customary native Hawaiian gathering rights, and these organizations' reciprocal cooperative maintenance of invasive species within the puhala grove. The Applicants will also establish a 10-foot wide pedestrian public access easement from the entry of the former jeep road located along Red Road at the northern end of the Property boundary which will connect to the existing 20-ft. wide lateral pedestrian public access easement located along its eastern Property boundary in favor of the State of Hawaii for any traditional and customary cultural practices and related shoreline access to the coastal access and puhala grove.

Rev. Violet May Makuakane's letter, the petition and this response will be appended to the final environmental assessment to ensure that the document adequately addresses pertinent development and environmental issues.

Very truly yours,



Steven S. C. Lim

SSL

