

21. 81° 12' 00" 288.97 feet to a 3/4-inch pipe;
22. 111° 13' 00" 151.09 feet along said Lot 3 of the G and R Von Tempsky Trust Subdivision and along the remainder of said Royal Patent 7453, Land Commission Award 8452, Apana 21 to A. Keohokalole to a 3/4-inch pipe;

Thence along same on the arc of a curve to the right, concave Northeasterly with a radius of 615.00 feet, the chord azimuth and distance being:

23. 117° 47' 30" 140.84 feet to a 3/4-inch pipe;
24. 34° 22' 00" 5.00 feet along said Lot 3 of the G and R Von Tempsky Trust Subdivision and along the remainder of said Royal Patent 7453, Land Commission Award 8452, Apana 21 to A. Keohokalole to a 3/4-inch pipe on the Northeasterly boundary of Parcel 8 of Tax Map Key: (2) 2-2-011, being also the Northeasterly boundary of said Grant 11988 to Louis Kaai Fernandez;
25. 124° 22' 00" 196.15 feet along said Parcel 8 of Tax Map Key: (2) 2-2-011 and said Grant 11988 to Louis Kaai Fernandez to the point of beginning and containing an area of 3.05 Acres, more or less.

4833-8380-1608.1.059661-00001

Exhibit "8"

Revised Application for Affordable Housing Development
Pursuant to Section 201H-38, Hawai'i Revised Statutes
(August 2010)

(Bound Booklet Attached at the End)

Exhibit "9"

Warranty Deed
(Document No. 2005-209685)



R-1260 STATE OF HAWAII
 BUREAU OF CONVEYANCES
 RECORDED
 OCT 14, 2005 08:02 AM
 Doc No(s) 2005-209685



/s/ CARL T. WATANABE
 REGISTRAR OF CONVEYANCES

20 1/2 Z2

CTax (30): \$10500.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:

Kula Ridge, LLC
 Attn: Clayton Nishikawa
 655 Maakani Street
 Wailuku, HI 96793

TG: 200534538-5

TGE: A52040472
 Michael Gambordell

RS (1)

(2) 2-3-001-174

Area Assessed: 48.117 acres

Total No. of Pages: 214

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT HELEN TROY VON TEMPSKY, DEBORAH A. VON TEMPSKY and ALEXA V. T. DUDOIT, Co-Trustees of the Raymond M. Von Tempsky Trust, dated May 14, 1979, as amended April 11, 1983 and amended by the declaration dated January 22, 1993, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 93-015776, with full power to purchase, sell, mortgage, dispose or otherwise hypothecate real property, whose address is 460 Mauna Place, Kula, Maui, Hawaii 96790, hereinafter called the "Grantor", in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to it paid by KULA RIDGE, LLC, a Hawaii Limited Liability Company, whose principal place of business and post office address is 1849 Wili Pa Loop, Wailuku, Maui, Hawaii 96793, hereinafter called the "Grantee", the receipt of which is hereby acknowledged, does hereby grant and convey unto the Grantee, as tenant in severalty, the premises more particularly described in Exhibit "A" attached

Exhibit "9"

hereto and by this reference incorporated herein; subject, however, to all encumbrances noted on said Exhibit "A" (hereafter the "Property".)

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

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

AND THE GRANTOR for itself and its successors does hereby covenant with the Grantee, and its heirs, personal representatives, successors and assigns, that it has good right to convey said premises; that the interest of the Grantor is free and clear of all encumbrances, except as herein mentioned and current real property taxes, if any, which are to be prorated as of the date of recording of this instrument, and it will warrant and defend the same unto the Grantee and its heirs, personal representatives, successors and assigns, against the lawful claims and demands of all persons, except as aforesaid.

IT IS MUTUALLY AGREED that the terms "Grantor" and "Grantee", as and when used hereinabove or hereinbelow shall mean and include the masculine or feminine, the singular or plural number, individuals, trustees or corporations, and each of their respective successors in interest, heirs, representatives, administrators and permitted assigns, according to the context thereof, and that if these presents shall be signed by two or more Grantors or by two or more Grantees, all covenants of such parties shall be and for all purposes, deemed to be joint and several.

IT IS MUTUALLY AGREED that Grantee is and hereby assumes all of Grantors' obligations under Grantors' agreement as amended and modified with the County of Maui Board of Water Supply in which it was agreed, amongst other things, that the County of Maui issue final subdivision approval, without requiring the sub-dividers G&R Von Tempsky, to construct the required fire protection improvements, but instead would allow the sub-dividers to defer the construction of said fire protection requirement improvements until a later time. Grantee hereby agrees to hold Grantors harmless from any further

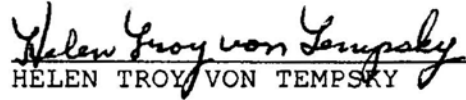
obligation under said agreement including, without limitation, any obligation to contribute to the cost of said improvements, whether or not they benefit any other parcels owned by Grantors.

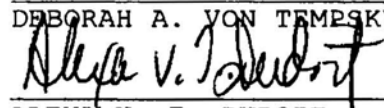
IT IS MUTUALLY AGREED that Grantee shall have no right, without Grantors' consent, which may be withheld in Grantors absolute discretion to further develop the Property into more than five (5) agricultural lots, each consisting of no less than four (4) acres and that Grantee further agrees that a view plain corridor and construction limitation easements restricting the construction of any improvements that would block and/or obscure the view from the property located at 460 Mauna Place, Kula, Maui, Hawaii, 96790 to the Catholic Church (aka the Round Church) shall be observed and enforced, and providing further that there shall not be visible from 460 Mauna Place, Kula, Maui, Hawaii, 96790 more than five (5) structures and/or homes.

IT IS MUTUALLY AGREED Should Grantee, or Grantee's successor-in-interest ever desire to further develop the Makai portion of the Property to the maximum permitted by the Community Plan, the County of Maui has heretofore stated that it will require that the Property owner convey three (3) acres of the property adjacent to Kula Community Center to Maui County, as a condition of any approval by Maui County for any such further development. Further, if Grantee, or Grantee's successors-in-interest ever desire to so fully develop said Makai portion of the Property then, in such event, Grantee or Grantee's successor in interest shall pay Grantors or Grantors' successor in interest an amount equal to five percent (5%) of the gross sales price, or other consideration received by Grantee or Grantee's successor in interest, for the sale or lease of any of the so fully-developed Makai portion of the Property.

The parties 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 agreement, binding all of the parties hereto, notwithstanding all of the parties are not signatory 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 document.


IN WITNESS WHEREOF, the Grantor and the Grantee have hereunto executed these presents this 12 day of October, 2005.


HELEN TROY VON TEMPSKY

DEBORAH A. VON TEMPSKY

ALEXA V. T. DUDOIT

Co-Trustees of the Raymond M. Von Tempsky Trust, dated May 14, 1979, as amended April 11, 1983 and amended by the declaration dated January 22, 1993, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 93-015776

Grantor


KULA RIDGE, LLC, a Hawaii Limited Liability Company,
By: ADC Development, LLC,
Its Manager
By: Clayton Nishikawa,
It's Manager

Grantee

IN WITNESS WHEREOF, the Grantor and the Grantee have hereunto executed these presents this ___ day of October, 2005.

HELEN TROY VON TEMPSKY



DEBORAH A. VON TEMPSKY

ALEXA V. T. DUDOIT

Co-Trustees of the Raymond M. Von Tempsky Trust, dated May 14, 1979, as amended April 11, 1983 and amended by the declaration dated January 22, 1993, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 93-015776

Grantor

KULA RIDGE, LLC , a Hawaii Limited Liability Company,
By: ADC Development, LLC,
Its Manager
By: Clayton Nishikawa,
It's Manager

Grantee

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

On this _____ day of October, 2005, before me personally appeared HELEN TROY VON TEMPSKY, 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 capacity shown, having been duly authorized to execute such instrument in such capacity.

Print Name: _____
Notary Public, State of Hawaii.

My commission expires: _____

STATE OF HAWAII)
) SS.
COUNTY OF ~~HONOLULU~~ ^{MAUI})

NP

On this 7 day of October, 2005, before me personally appeared DEBORAH A. VON TEMPSKY, 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.



Michael E. Gamberdell
Print Name: _____
Notary Public, State of Hawaii.

My commission expires: _____

Michael E. Gamberdell
Expiration Date: November 23, 2007

EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 7453, Land Commission Award Number 8452, Apana 21 to A. Keohokalole) situate, lying and being at Kealahou 3 and 4, Makawao, District of Kula, Island and County of Maui, State of Hawaii, being LOT 2 of the "G AND R VON TEMPSKY TRUST SUBDIVISION" and thus bounded and described as per survey dated December 16, 1996,

Together with Easement "B-1" for access and utility purposes, and with Easements C-1, C-2, C-3, C-4, C-5 and C-6 for waterline purposes;

Together also with Easement "B-2" for access and utility purposes

BEING THE PREMISES ACQUIRED BY EXCHANGE DEED

GRANTOR : HELEN TROY VON TEMPSKY, MS. DEBORAH A. VON TEMPSKY, and ALEXA V.T. DUDOIT, trustees of the Raymond M. Von Tempsky Trust, dated May 14, 1979, as amended by the amendment dated April 11, 1983, a short form of which is recorded as Document No. 93-015776, with full power to purchase, sell, mortgage, dispose or otherwise hypothecate real property, ROBERT GORDON VON TEMPSKY, JR., and MARY B. VON TEMPSKY as Trustees of the R. Gordon Von Tempsky, Jr. Trust established by Trust Agreement dated

April 11, 1979, as restated by instrument dated December 11, 1996, with full power to sell, mortgage, lease, and otherwise hypothecate real property, and ROBERT GORDON VON TEMPSKY, JR., and MARY B. VON TEMPSKY as Trustees of the Mary B. Von Tempsky Trust established by Trust Agreement dated November 25, 1991, as restated by instrument dated December 11, 1996, with full power to sell, mortgage, lease and otherwise hypothecate real property

GRANTEE : HELEN TROY VON TEMPSKY, MS. DEBORAH A. VON TEMPSKY, and ALEXA V.T. DUDOIT, trustees of the Raymond M. Von Tempsky Trust, dated May 14, 1979, as amended by the amendment dated April 11, 1983, a short form of which is recorded as Document No. 93-015776, with full power to purchase, sell, mortgage, dispose or otherwise hypothecate real property

DATED : April 4, 1997, April 14, 1997 and April 21, 1997

RECORDED : Document No. 97-088514

SUBJECT, HOWEVER, TO:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Any and all existing roadways, trails, easements, rights-of-way, flumes and irrigation ditches.
3. Grant in favor of Maui Electric Company, Limited and Hawaiian Telephone Company, now known as Hawaiian Telcom, Inc., dated August 3, 1961, recorded in Liber 4132 at Page 175; granting a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and/or underground power lines,

etc., for the transmission of electricity, over, across, through and under Easement "1", being more particularly described therein.

4. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

DATED : August 18, 1982
RECORDED : Liber 16584 Page 24

5. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : AGREEMENT

DATED : June 16, 1987
RECORDED : Liber 20818 Page 234
PARTIES : ROBERT GORDON VON TEMPSKY, JR., and
RAYMOND M. VON TEMPSKY, "Owners", and
DEBORAH A. VON TEMPSKY, "Applicant",
and the COUNTY OF MAUI and its
DEPARTMENT OF WATER SUPPLY, "County"
RE : Owners and Applicant agree to hold
the County, its employees and
assigns, harmless from damages,
injury, etc., resulting from the
inadequacy of the existing County
water system and the County's
approval of Building Permit to
construct a dwelling on subject land

6. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : SUBDIVISION AGREEMENT (AGRICULTURAL USE)

DATED : as of October 5, 1993
RECORDED : Document No. 93-184216
PARTIES : HELEN TROY VON TEMPSKY, DEBORAH A.
VON TEMPSKY, and ALEXA V. T. DUDOIT,
Trustees of the Raymond M. von
Tempsky Trust dated May 14, 1979, as
amended by the Amendment dated April

11, 1983, and ROBERT GORDON VON TEMPSKY, JR. and MARY B. VON TEMPSKY, as Trustees of the R. Gordon von Tempsky, Jr. Trust, established by Trust Agreement dated April 11, 1979, as amended by instrument dated April 26, 1982, made by Robert Gordon von Tempsky, Jr., as Settlor, "Owners", and COUNTY OF MAUI, through its Department of Public Works, "County"

7. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the following:

INSTRUMENT : MODIFICATION OF
SUBDIVISION REQUIREMENTS AGREEMENT

DATED : December 19, 1994
RECORDED : Document No. 95-074002
PARTIES : HELEN TROY VON TEMPSKY, DEBORAH A. VON TEMPSKY and ALEXA V. T. DUDOIT, Trustees of the Raymond M. Von Tempsky Trust dated May 14, 1979, as amended by the amendment dated April 11, 1983, ROBERT GORDON VON TEMPSKY, JR. and MARY B. VON TEMPSKY, Trustees of that certain unrecorded Restates Revocable Trust Agreement of Robert Gordon Von Tempsky, Jr. dated April 22, 1992, and the BOARD OF WATER SUPPLY of the County of Hawaii

Said above instrument was amended by AMENDMENT OF THE MODIFICATION OF SUBDIVISION REQUIREMENTS AGREEMENT dated October 16, 2001, recorded as Document No. 2001-199376.

8. UNRECORDED LEASE

LESSORS : RAYMOND M. VON TEMPSKY TRUST dated May 14, 1979, by its Trustees, HELEN TROY VON TEMPSKY, ALEXA V.T. DUDOIT and DEBORAH A. VON TEMPSKY
LESSEE : TED RODRIGUES
DATED : April 1, 2003

TERM : month to month starting April 1, 2003

Leasing and demising that certain parcel of land situate at Kealahou, Kula , County of Maui, State of Hawaii, as marked and shown on the map attached thereto as Exhibit "A". Reserving, however, unto the Lessors, their successors and assigns, a right of way for animal and vehicular traffic over the established roads, ways, paths and trails on said property.

Said Lease is subject to any matters arising from or affecting the same.

9. UNRECORDED LEASE

LESSORS : RAYMOND M. VON TEMPSKY TRUST dated May 14, 1979, by its Trustees, HELEN TROY VON TEMPSKY, ALEXA V.T. DUDOIT and DEBORAH A. VON TEMPSKY

LESSEE : THOMAS OHARA

DATED : December 1, 2004

TERM : one year starting from January 1, 2005 and ending December 31, 2005

Leasing and demising that certain parcel of land situate at Kealahou, Kula , County of Maui, State of Hawaii, as marked and shown on the map attached thereto as Exhibit "A". Reserving, however, unto the Lessors, their successors and assigns, a right of way for animal and vehicular traffic over the established roads, ways, paths and trails on said property.

-Note:- Exhibit "A" referred to above has not been provided to Title Guaranty of Hawaii, Inc. for it's review.

Said Lease is subject to any matters arising from or affecting the same.

10 Any other unrecorded leases and matters arising from or affecting the same.

11 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.

12. Encroachments or any other matters which a correct survey or archaeological study would disclose.

END OF EXHIBIT "A"

Tax Map Key: (2) 2-3-001-174

Exhibit "10"

Kula Ridge, LLC Balance Sheet (as of January 13, 2011)
and
Kula Ridge, LLC Profit and Loss (January 1, 2006 through
January 13, 2011)

Kula Ridge, LLC
Balance Sheet
 As of January 13, 2011

Jan 13, 11

ASSETS

Current Assets

Checking/Savings	
1010 · BOH Checking	119,479.43
Total Checking/Savings	119,479.43
Accounts Receivable	
1200 · Accounts Receivable	7,200.00
Total Accounts Receivable	7,200.00
Total Current Assets	126,679.43

Other Assets

0110 · ACQUISITION COSTS	
0111 · Purchase Price Undeveloped Land	3,508,936.66
0113 · Legal Fees	83,350.74
0114 · Appraisals	12,500.00
0116 · Interest and Financing Fees	487,470.03
0117 · Land Purchase - Other	1,271.06
Total 0110 · ACQUISITION COSTS	4,093,528.49
0120 · LAND PLANNING AND DESIGN	
0123 · Permits	507.00
0124 · Architecture Fees	257,141.34
0125 · Survey and Subdivision	22,271.48
0126 · Project Planning	233,574.58
0127 · Administrative Services	199,945.27
0128 · Legal Fees	10,843.12
0129 · Web Design/Marketing	1,036.00
Total 0120 · LAND PLANNING AND DESIGN	725,318.79
0130 · ENGINEERING	
0131 · Civil Engineering	73,035.90
0133 · Traffic Engineering	38,693.68
0134 · Flora and Fauna	4,036.43
0135 · Archaeological Study	62,768.32
0136 · Agricultural Impact	15,625.00
0137 · Electrical Engineering	11,589.60
0138 · Wastewater Engineering	25,000.00
0139 · Landscaping Architecture	2,700.00
0187 · Archaeological Services	3,600.00
Total 0130 · ENGINEERING	237,048.93
0140 · EARTHWORK	
0142 · Clearing Lot	470,137.30
0145 · Dust Control	1,200.00
Total 0140 · EARTHWORK	471,337.30
0150 · UTILITIES	
0151 · Sewer Lines	300.00
0152 · Storm Sewer	11,551.01
0153 · Water Lines	29,476.65
0150 · UTILITIES - Other	53.00
Total 0150 · UTILITIES	41,380.66
0180 · LANDSCAPING	
0185 · Other Landscaping Materials	170.62
0186 · Other Landscaping Labor	4,240.00
0180 · LANDSCAPING - Other	9,181.43
Total 0180 · LANDSCAPING	13,592.05
0200 · LAND EXPENSES	
0201 · Property Taxes	29,460.17
Total 0200 · LAND EXPENSES	29,460.17
1950 · Organization Costs	17,308.91

Exhibit "10"

Kula Ridge, LLC
Balance Sheet
As of January 13, 2011

	Jan 13, 11
1951 · Accumulated Amortization	-7,070.73
Total Other Assets	5,621,904.57
TOTAL ASSETS	5,748,584.00
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
2200 · Loans Payable Clayton Nishikawa	75,000.00
Total Other Current Liabilities	75,000.00
Total Current Liabilities	75,000.00
Long Term Liabilities	
2800 · Loans Payable Von Tempsky	2,000,000.00
Total Long Term Liabilities	2,000,000.00
Total Liabilities	2,075,000.00
Equity	
3100 · Capital Contribution Accounts	
3105 · Maccarone Family Trust	2,347,926.97
3106 · Maccarone Revocable Trust	1,163,964.48
3110 · Clayton Nishikawa, Capital Cont	11,523.15
Total 3100 · Capital Contribution Accounts	3,523,414.60
3111 · Investment-ADC Office Building	150,000.00
3900 · Retained Earnings	-430.60
Net Income	600.00
Total Equity	3,673,584.00
TOTAL LIABILITIES & EQUITY	5,748,584.00

2:11 PM

01/13/11

Accrual Basis

Kula Ridge, LLC

Profit & Loss

January 1, 2006 through January 13, 2011

	Jan 1, '06 - Jan 13, 11
Income	
Interest Income	20,726.23
Rental Income	
Cottage Rent	36,600.00
Total Rental Income	36,600.00
Total Income	57,326.23
Expense	
Operating Supplies	140.62
6500 · Bank Service Charges	447.57
6501 · Postage	6.11
6505 · Insurances	
6506 · General Liability	3,440.40
Total 6505 · Insurances	3,440.40
6510 · Office Supplies	710.79
6511 · Political Contributions	2,650.00
6512 · Amortization Expense	6,745.73
6513 · Marketing	1,461.10
6514 · Chairitable Contributions	60.00
6515 · Accounting & Tax Preparation Ex	12,914.86
6518 · Licenses/Registration	25.00
6520 · Site Utilities	
6521 · Water & Sewer	4,089.24
Total 6520 · Site Utilities	4,089.24
6540 · Taxes	
6541 · GE Taxes	1,957.05
Total 6540 · Taxes	1,957.05
Total Expense	34,648.47
Net Income	<u>22,677.76</u>

Exhibit "11"

Burial Site Component for a Preservation Plan for a Human
Burial (SIHP No. 50-50-10-6671) in Kealahou 1 and 2
Ahupua'a, Makawao (Kula) District, Island of Maui, Hawai'i
[TMK: (2) 2-3-001:174], FINAL January 2010

**BURIAL SITE COMPONENT OF A PRESERVATION PLAN
FOR A HUMAN BURIAL (SIHP NO: 50-50-10-6671) IN
KEALAHOU 1 AND 2 AHUPUA'A,
MAKAWAO (KULA) DISTRICT
ISLAND OF MAUI, HAWAII
[TMK: (2) 2-3-001:174]**

Prepared by:
David Perzinski, B.A.
and
Robert L. Spear, Ph.D.
FINAL January 2010

Prepared for:
Clayton Nishikawa
1849 Wili Pa Loop
Wailuku, HI 96793

Exhibit "11"

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INTRODUCTION

Scientific Consultant Services (SCS), Inc. has prepared this Burial Site Component of a Preservation Plan (BSC) for Kula Ridge Mauka, LLC (landowner) in advance of residential construction on 48 acres of land in the Ahupua`a of Kealahou 1 and 2, Makawao (Kula) District, Island of Maui [TMK: (2) 2-3-001:174] (Figures 1 and 2). To date, an Archaeological Inventory Survey was conducted on the parcel (McGerty *et al.* 2006) and accepted by the State Historic Preservation Division (SHPD; LOG NO:2007.0636; DOC NO:0702MK21) On September 8, 2009, human remains (MNI=1) were inadvertently encountered during backyard gardening work by a leasing tenant near a residence located within the parcel.

On September 9, 2009, Mr. Ian Bassford (SCS Archaeologist) examined the remains and observed buried, sub-surface architecture that appeared to form a crypt structure. H. Rodrigues of SHPD-Maui also conducted a site visit on September 9, 2009. No measurements of the underground structure were conducted at that time, nor were any additional excavations undertaken. The affected area was then secured and no additional archaeological work or gardening work was done in the area of the find.

The purpose of this BSC is to provide both interim and long-term preservation measures for Site -50-50-10-6671 and discusses the project area location and general results of archaeology conducted in the area, field work methodology, and an assessment of the human remains identified in the subject property. This plan outlines the methods to be used to re-inter the disturbed remains as well as methods used to permanently preserve the *in situ* remains associated with SIHP No. -6671.

PROJECT AREA

OVERVIEW

The project area is parcel 174 of TMK 2-3-001. It consists of 48.117 acres of undeveloped land, owned by Clayton Nishikawa, AIA. The project area is located in the town of Kula, located in leeward east Maui, on the southwestern slopes of Haleakalā (see Figure 1). Kula exists between the elevations of 2,792 and 3,017 ft. amsl (above mean sea level), in Kealahou Ahupua`a. It lies between Keāhuaiwi Gulch to the north, and Waiakoa Gulch to the south. The property is bounded by an easement to the south and southeast, which separates it from mostly undeveloped land. On its east and northeast perimeter, it is bounded by Keāhuaiwi Gulch. To the north, is a former quarry site. To the west is Kealahou Subdivision, and Kula Community Center (Randal and Dora Von Tempsky Memorial Park). A portion of the property has been used historically for habitation, and a currently occupied historic house exists on the property. At

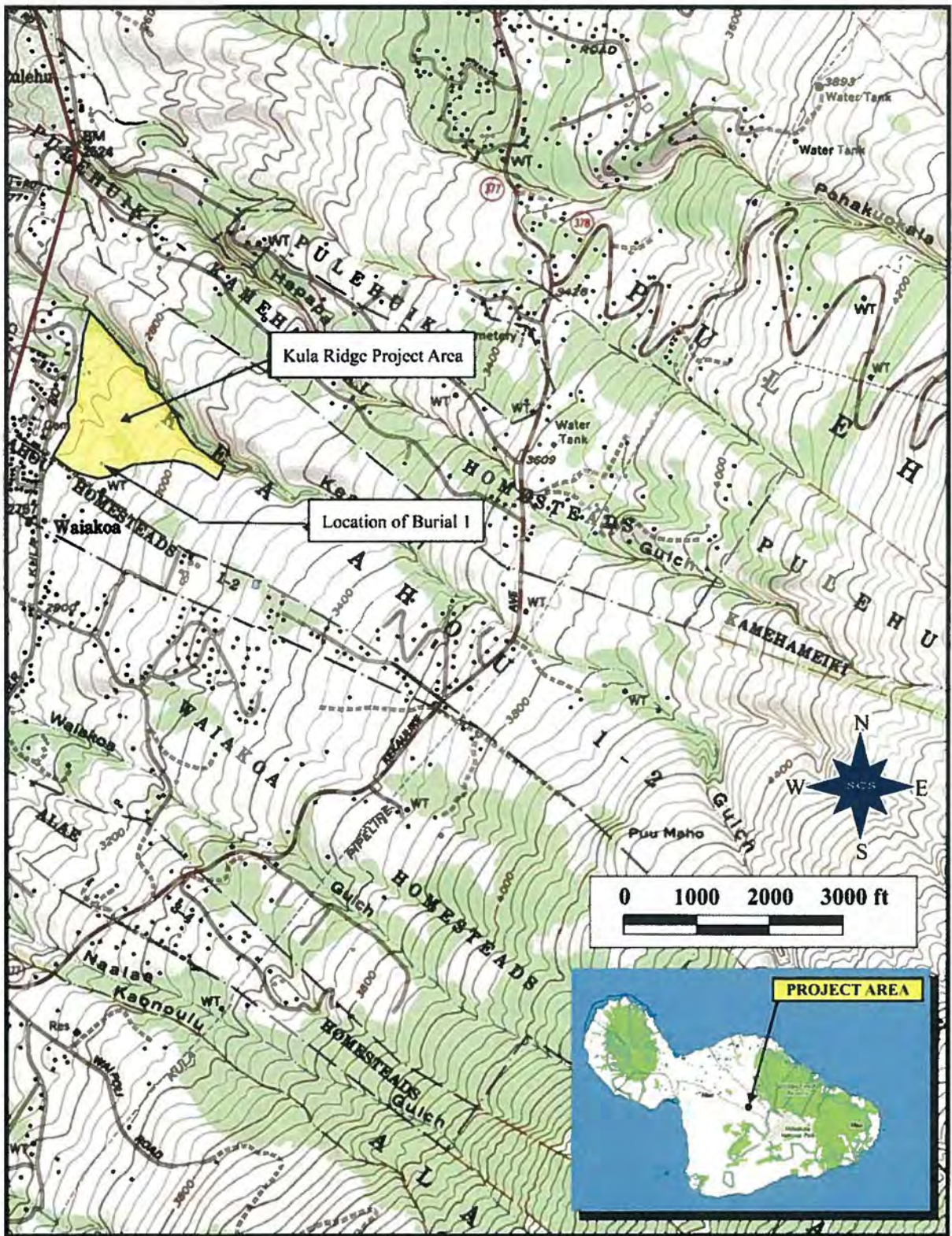


Figure 1: USGS Quadrangle (Kilohana) Showing Project Area Location.

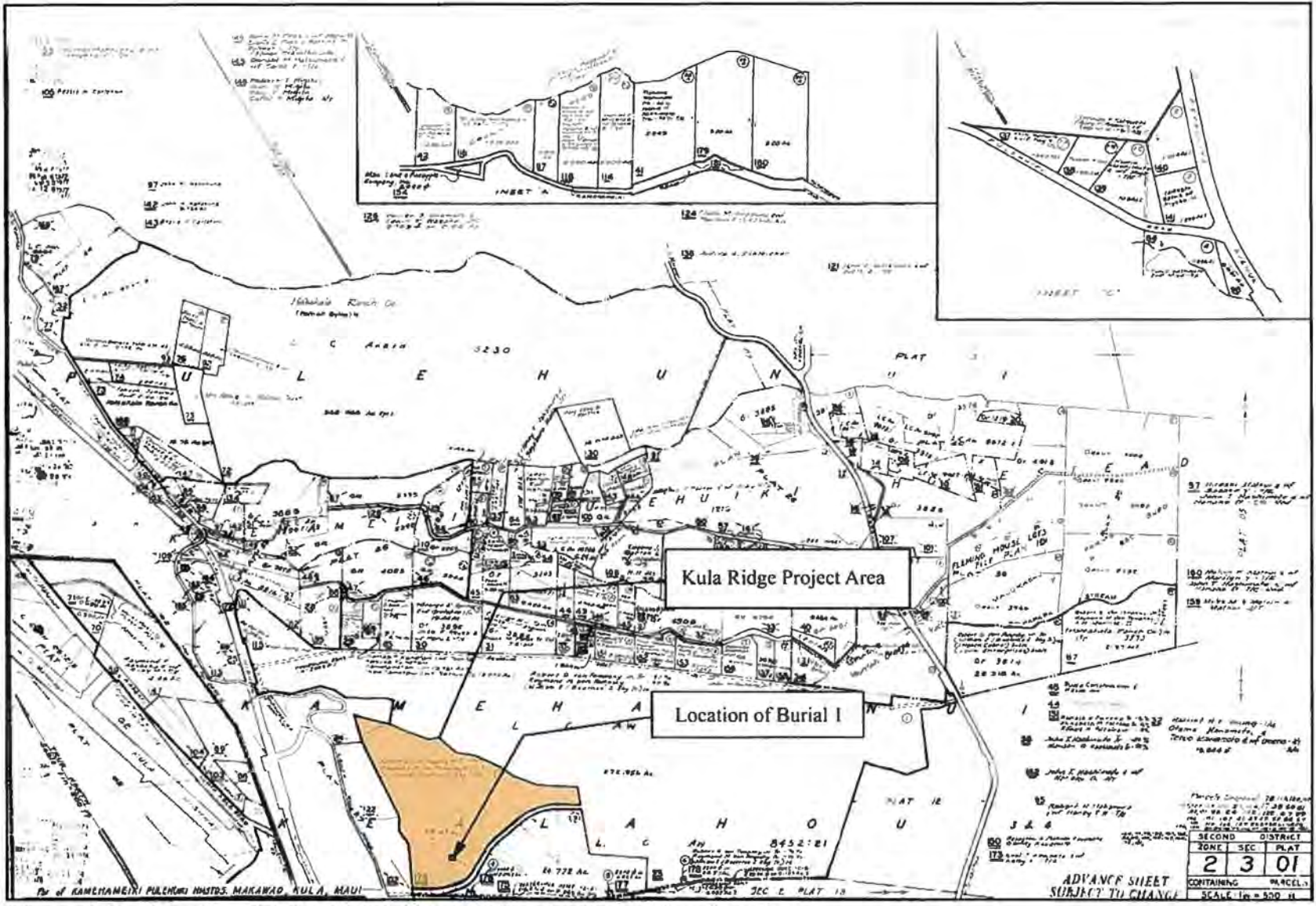


Figure 2: Tax Map Key [TMK] (2) 2-3-001: 174 Showing Project Area Location.

present, the property is also being utilized as a horse pasture. Extensive machine (bulldozer) alterations are evident in many areas of the project area. A four-wheel drive access road traverses through the project area.

CLIMATE

Kula can be translated as "open country," "field," or "plain." These descriptions are all fitting to Kula, where the land is spread out for many miles, along two parallel highways. Kula exists between the elevations of approximately 2,000 and 3,500 feet amsl. Kula is known for its temperate conditions, with an average annual temperature of 66° F. The region is relatively dry, with an average annual rainfall of 25 to 40" per year (Juvik and Juvik 1998).

SOILS

Kula lies on the southwestern slopes of Haleakalā. As this volcano reached maturity, cinder cones formed along rifts that extended to the east, southwest, and north of the summit. Volcanic flows from this development are classified as the Kula Volcanic Series. After a long period of erosion, huge canyons were cut and later filled by the volcanic flows of the Hana Volcanic Series (Kyselka and Lanterman 1980:22). Cones of this series can still be seen today, stretching from Hāna up to Haleakalā, and down to La Perouse Bay.

Kula is the physiographic region of Maui classified as "Kula Slightly Dissected Upland" (Juvik and Juvik 1998). The abundance of vegetation here is a reflection of the richness of the soils that exist in this region. Kula lies in the convergence zone of the Kula Volcanic Series and the Hana Volcanic Series. Soils found here developed in material weathered by volcanic ash and overlying fragmented *a`ā* lava.

The soils found in Kula are classified as having Puu Pa-Kula-Pane association. It is well-drained, medium textured, and exists on the medium to high uplands of Maui. These soils are gently sloping to steep, and make up about nine percent of the island. The Puu Pa-Kula-Pane association is utilized for truck crops, orchards, pasture, and wildlife habitat (Foote *et al.*, 1973).

PREVIOUS ARCHAEOLOGICAL STUDIES

OVERVIEW

The earliest archaeological studies on Maui were conducted in the early twentieth century by Winslow Walker (1931). At that time, there was a heavy emphasis in recording religious sites and features. Walker conducted an island-wide survey for the Bishop Museum in 1930. According to Kolb *et al.* (1997), Walker documented 23 *heiau* in the Kula area, all situated in a band existing between 1,800 to 3,000 feet in elevation. Other site types in the district were of significantly lower in number: 3 fishponds, 11 abandoned villages, and 5 ancient villages (replaced with modern communities). In his 1930 island-wide survey, Walker noted the presence of one *heiau* in the land of Waiakoa, which is adjacent to the land of Kealahou (Sterling 1998).

Two large-scale archaeological studies of Kēōkea and Waiohuli to the west and south of the project area have produced an abundance of information on the archaeological patterns and cultural history of upcountry Maui (Figure 3).

In 1986, the Bishop Museum conducted a Reconnaissance Survey of both Kēōkea and Waiohuli. An Inventory Survey by Brown *et al.* (1989) identified 159 archaeological sites consisting of 274 features. One hundred and eighty-seven of the features were associated with permanent habitation. According to Brown *et al.* (1989), radiocarbon dates from this study revealed dates ranging from A.D. 1680 to 1890.

In 1992, the SHPD conducted research in Waiohuli with limited investigation of Kēōkea. Investigations conducted in Kēōkea were limited to re-identifying selected sites, which had been previously identified, for comparative purposes. (Not all sites discussed in Kolb *et al.* (1997) were newly identified). During this survey, a total of 217 sites were identified consisting of 1,093 features. More than half of the features were associated with agriculture. Two hundred and twelve features were associated with permanent habitation, and 121 were associated with temporary habitation. Six *heiau* were also identified. According to Kolb *et al.* (1997), radiocarbon dates from this study revealed dates ranging from A.D. 1399 to 1955.

Over 200 radiocarbon dates presented in Kolb's study (*ibid*) provides an extensive chronology and a detailed account of settlement and subsistence for Kula. Kolb's analysis of upland residential sites suggested that the area was inhabited primarily by commoners and low-ranking chiefs. The primary subsistence was based on sweet potato, dry land taro, and banana.

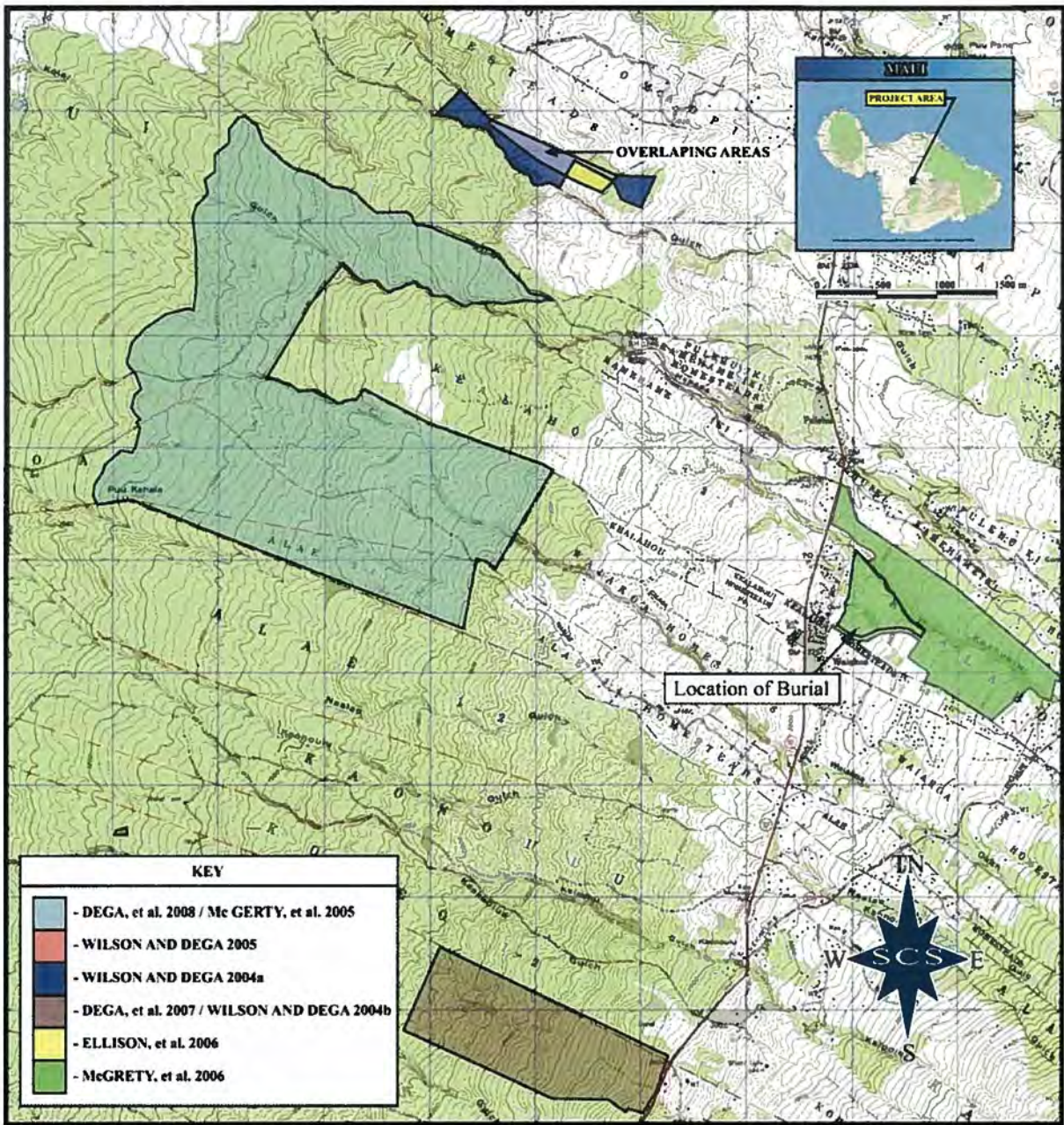


Figure 3: USGS Quadrangle (Kilohana) Showing Previous Archaeological Studies in the Area.

Between the years A.D. 1660 and 1700, settlements in the uplands began to grow along with growth of pig husbandry. It is thought that these settlements supported the political structure of the *ali`i* (Haun and Henry 2001).

Department of Hawaiian Homelands (DHHL) landholdings in the *ahupua`a* of Kēōkea, are located approximately 5.5 miles to the southwest of Kealahou. Landholdings in Waiohuli are located approximately 3.4 miles from Kealahou. The extensive archaeological testing that has been conducted in these areas has greatly contributed to the overall understanding of the archaeological patterns of upcountry Maui, as well as the cultural traditions of the past in both ancient and historic times.

In 2001, Haun & Associates conducted an inventory survey in the land of Kamehamenui, which is adjacent to Kealahou. In this survey, three historic sites were identified, including an agricultural clearing mound and two cattle walls.

Within the Kealahou Ahupua`a and the project area, archaeological field studies are very few and are limited in scope. The majority of archaeological studies in the region have focused on neighboring *ahupua`a*. Ethnographic information for Kealahou *ahupua`a* is also extremely limited.

Petroglyphs and pictographs were identified in Keāhuaiwi Gulch by Sterling (1962). She stated:

.....we went first to Keahuaiwi Gulch in Kealahou about 1/4 of a mile up the gulch from the old quarry. Here there is a natural crossing and on the Ulupalakua side is a bluff shelter. There were traces of alaea rubbings on the walls but it could not be determined whether they were actual pictographs...Further up the gulch on the Makawao side is a deposit of alaea and a series of pictographs fairly high up on the walls. In the streambed we found porous cooking stone and opihi shell....We then went below the Lower Kula Road to about .6 of mile down the same gulch from the old quarry. Here are a collection of petroglyphs fairly high up on the Makawao side of the gulch.

This site has been designated State Inventory of Historic Properties State Site 50-50-11-1050.

In 2003, Scientific Consultant Services conducted an Inventory Survey in Kealahou. This survey was of a 0.7 acre parcel of land, and two sites was identified, including two features, a

historic cattle wall/boundary wall, and a pre-Contact agricultural terrace (Morawski and Dega 2002).

Scientific Consultant Services, Inc. conducted Archaeological Data Recovery investigations of eight sites located in Waiohuli Ahupua`a (Dega *et al.* 2007) (see Figure 4). The findings of this study show that only a sparse population exploited the Waiohuli landscape prior to the A.D. 1400s. The population grew through time by a combination of locals and a more ephemeral population, which brought about a gradual demographic increase in the area during the A.D. 1400 to 1600 range. From this point, the population (and construction on the landscape) grew multifold, with greatest population figures estimated during the A.D. 1600 to 1800 range. The Waiohuli population appears to have stabilized through the late 1700s then gradually declined from about A.D. 1800.

In 2006, SCS conducted an Inventory Survey in Pulehu Nui Ahupua`a and in Waiakoa and Alae 3 & 4 Ahupua`a (Dega *et. al*) (see Figure 3). The Survey led to the identification and documentation of 117 sites comprised of 358+ features. These sites are assigned as State Site Number 50-50-10-6089 through 50-50-10-6205. Variability in site type and site function was fairly high. Fifteen different feature types were documented (in order of ubiquity): terrace, enclosure, mound, modified outcrop, planting area, wall, C-shape, U-shape, petroglyph/pictograph panel, overhang, rock shelter, alignment, garden enclosure, platform, foundation, road section. A majority of these features were related to habitation or agricultural activities and were estimated to have been constructed and occupied during traditional times.

Six site classes/functions were documented: habitation (both permanent and temporary), agriculture, ceremonial, symbolic, ranching, and transportation. A total of 98 sites (84% of the total identified) were interpreted as traditional period sites, 14 sites (12%) were assessed as historic in origin, and 5 sites (4%) were interpreted as either traditional or historic sites or having components of both time periods. Prehistoric sites included those related to habitation (both permanent and temporary), agriculture (complexes, garden enclosures, clearing mounds, and such), ceremonial (possible *heiau*), and symbolic (petroglyphs) pursuits. Historic Era sites include ranching walls, push piles (mostly modern), animal husbandry, and historic road sections.

SCS conducted Archaeological Inventory Survey on 272 acres of land located immediately *mauka* of the subject property between October 2006 and March 2007 (Bassford *et al.* 2008). The survey was conducted under the direct supervision of Robert L. Spear, Ph.D.,

Principal Investigator. During the survey a total of forty sites were documented (50-50-11-6300 through 6338) and one site (50-50-11-1050) was previously identified (Figure 4).

The Archaeological Inventory Survey consisted of full pedestrian survey of the 272 acres during which the forty archaeological sites, State Site 50-50-11-6300 through 50-50-11-6338, and -1050 were documented and recorded. Of the forty sites, thirty-nine (Sites -6300 through -6338) were newly recorded and one site containing a rock shelter and numerous petroglyphs and pictographs (State Site 50-50-11-1050) was previously identified. The vast array of agricultural features (N=1254) which extend across the entire project area was designated State Site 50-50-11-6338. Excluding all of the agricultural features included in Site -6338, a total of 75 features was documented. Twenty features were determined to be pre-Contact, 22 were Historic, and the age of 13 features could not be determined. Eighteen features were interpreted as demonstrating characteristics from both the pre-Contact and Historic periods. Based on similar construction methods and materials of other known sites, the features identified during the Inventory Survey were interpreted as related to habitation, refuse sites/privies, agricultural functions, animal husbandry and ranching activities or storage or water control. A variety of features were identified, including terraces, enclosures, C-shaped structures, L-shaped structures, U-shaped structure, linear mounds, rock piles, ditches, and cisterns and refuse sites (privies) possibly associated with historic house sites also located on the property. Thirty-three excavations were dug at 21 sites; eight subsurface features were identified. All were associated with habitation, agriculture, and water storage.

PROJECT AREA ARCHAEOLOGY

INVENTORY SURVEY

SCS conducted Archaeological Inventory Survey of the subject property from April 17-May 5, 2006 (McGerty *et al.* 2006). A total of 18 archaeological sites consisting of 32 individual features were documented during the Inventory Survey (Table 1; Figure 4). Identified sites included agricultural and habitation features represented by terraces, alignments, walls, modified outcrops, a rock mound, and an enclosure. Eighteen archaeological sites (50-50-11-5970 to 50-50-11-5987) were assessed as significant under Criterion D of Hawaii's State Historic Preservation criteria. All 18 sites have yielded sufficient information and no additional archaeological work is recommended.

Table 1: Sites Identified During Inventory Survey

Site #	# of Fe.'s	Type	Function	Age
50-50-11-				
5970	1	Wall	Ranching	Historic
5971	1	Wall	Ranching	Historic
5972	1	Alignment/wall	Agriculture	Pre-Historic
5973	3	Ag Complex	Agricultural	Early Historic
5974	1	Modified Outcrop	Agriculture	Undetermined
5975	1	Terrace	Agricultural	Pre-Historic
5976	1	Modified Outcrop	Undetermined	Undetermined
5977	1	Platform	Habitation	Pre-Historic
5978	4	Terraces	Agricultural	Pre-Historic
5979	2	Terraces	Agricultural	Pre-Historic
5980	8	Modified Outcrop/Terrace/en-closure	Agriculture/Habitation	Pre-Historic
5981	1	Wall	Ranching	Historic
5982	1	Terraces	Agriculture	Pre-Historic
5983	1	Mound	Activity Area	Pre-Historic
5984	1	House	Habitation	Historic
5985	2	Enclosure/Wall	Activity Area/Ranching	Historic
5986	1	Modified Outcrop, Rock Mound	Undetermined	Undetermined
5987	1	Wall	Ranching	Historic



Figure 4: Site Map Showing Location of Sites Located in Study Parcel.

SITE DESCRIPTION

SITE 50-50-10-6671

On September 8, 2009, a human burial was inadvertently encountered when Kula resident Mr. Matt Holton was working in his yard preparing a new garden plot. The burial is located in Kcalahou Ahupua`a, Makawao (Kula) District, Island of Maui [TMK: (2) 2-3-001:174]. The remains were encountered when Mr. Holton was digging in his garden and exposed an open space in the ground. When Mr. Holton began trying to clear out the soil that had fallen into the space he encountered a bone he thought might be human. After discussions with SCS archaeologist Ian Bassford, Mr. Holton covered the open hole. Following Mr. Bassford's discussion with Mr. Holton, the SHPD Cultural Historian (Mr. Hinano Rodrigues) was informed about the possible human remains. Subsequently, the landowner (Mr. Clayton Nishikawa) was contacted by SCS to obtain his permission to inspect the find. This permission was granted and Mr. Bassford conducted the field inspection with Mr. Rodrigues on September 9th to identify the remains.

On September 9, 2009, Mr. Bassford examined the bone (a human femur) and the underground open space. In his examination, Mr. Bassford observed buried, sub-surface architecture that appeared to form a crypt structure. No measurements of the underground structure were conducted at that time, nor were any additional excavations undertaken. It was his estimate that the open space of the crypt was between 1.5 to 2.0 m long and 0.6 to 1.0 m wide. The remains were then covered by the aluminum sheets and no additional archaeological work or gardening work was done in the area of the find.

On October 7, 2009, at the landowner's request (and approved by SHPD administration), the burial was further exposed (manually) to gather more information for a more accurate assessment of the individual's age, ethnicity and gender. Manual exposure included excavating a 2.0 by 2.0 m test unit within the interior of the three-sided, roughly squared C-shape, exposing both the human remains and the subsurface burial crypt (Figure 5).

The C-shape was constructed of basalt, with some metal and brick fragments strewn about the feature surface and walls. The exterior of the C-shape measures 4.2 by 4.3 m with the walls ranging from 50-80 cm in thickness. The interior dimensions measured 3.0 by 3.0 m with the interior walls ranging from 41-62 cm in height.

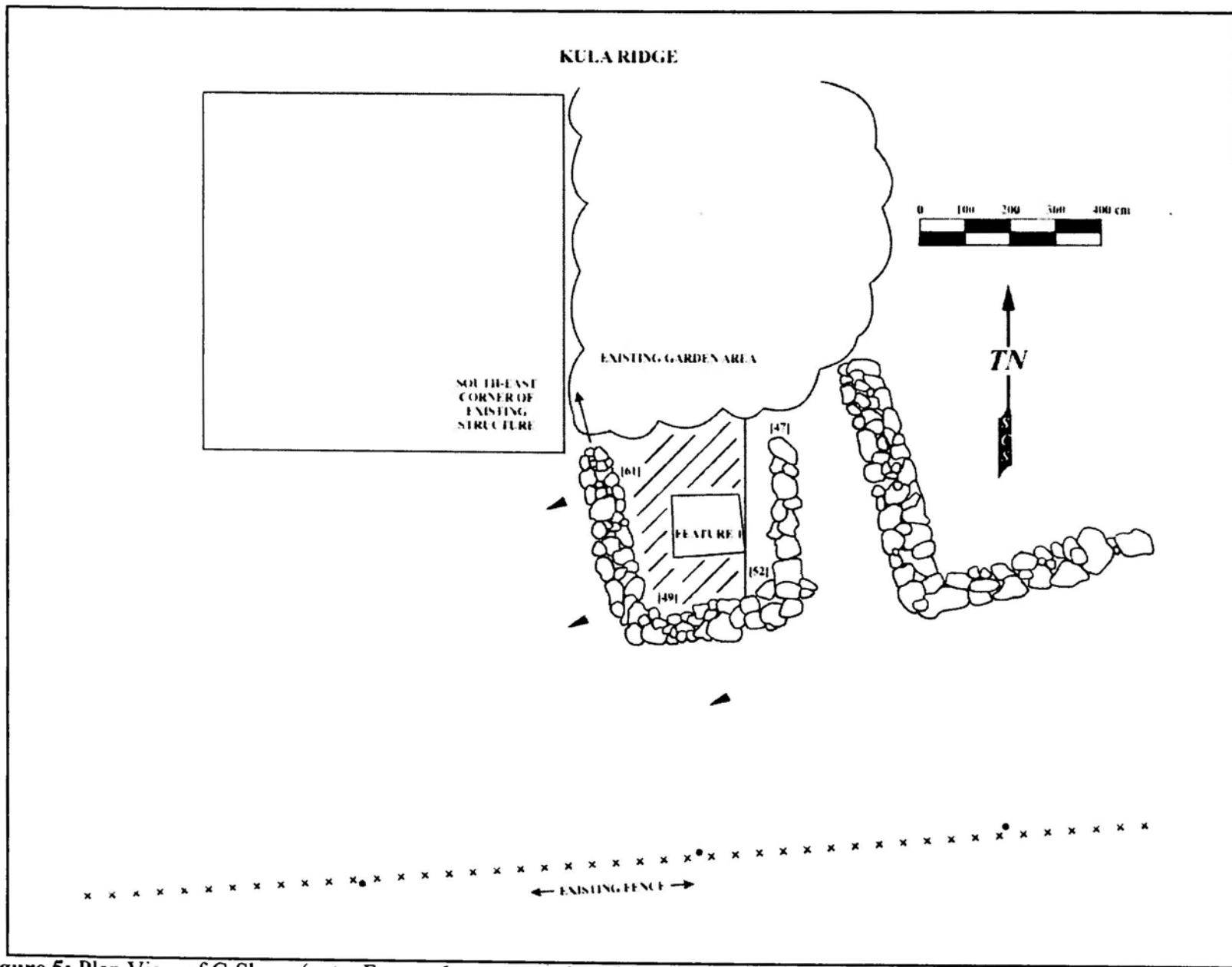


Figure 5: Plan View of C-Shape (note- Feature 1 represents the subsurface location of burial crypt).

The crypt was constructed of basalt slabs lining the walls and creating a “cap” over the entire feature (Figure 6). The top of the crypt walls were situated 53 to 63 cm below the ground surface, entirely within the interior of the C-shape surface feature. The interior dimensions of the crypt measure 160 cm long by 50 cm wide. Once the crypt was opened, it was immediately evident that a single individual was present.

The burial was oriented 92°/272° in an extended, supine position with the top of the skull facing east and located 98 to 111 cm below surface (see Figure 6). A basalt slab measuring roughly 30 cm square was observed atop the chest of the individual. It was unclear, however, if the slab was placed there intentionally, or was the result of subsequent roof collapse.

Observation of the skeleton showed that the adult individual’s stature was slight, though due to the extremely friable nature of the remains, any contact with the skeletal material was avoided. Though the individual was interred intact, severe subterranean weathering had deteriorated the skeletal material to a consistency of dust or chalk. It was estimated that the individual was ca. 150 cm in height or just under 5 feet, had on a broad greater sciatic notch, relatively worn dentition and at least two caries in its dentition.

Sediments surrounding the burial and its associated features were similar. The burial crypt was interred within a dark brown (10 YR 3/3) silt that contained few small cobbles and pebbles. Within the crypt, the matrix consisted of similar sediments that had likely trickled into the crypt over time. A small ash stain feature was also observed 32-38 cm above the crypt capstones, though it is unclear if there was a functional association with the interment.

Evaluation

Age: 36+

Based on completely fused epiphysis on the cranium and the presence of well worn dentition and dental caries, it is suggested that the individual was a minimum of 36 years old at the time of death.

Gender: Female

Gender determination was made based on a broad greater sciatic notch in the pelvis.

Ethnicity: Asian/Chinese

Based on the likely historic date of interment, its location adjacent to a house constructed ca. 1930 in an area known for its Chinese population, its interment within a stone lined crypt and slight stature, our interpretation is that the individual was of Asian/Chinese ancestry.

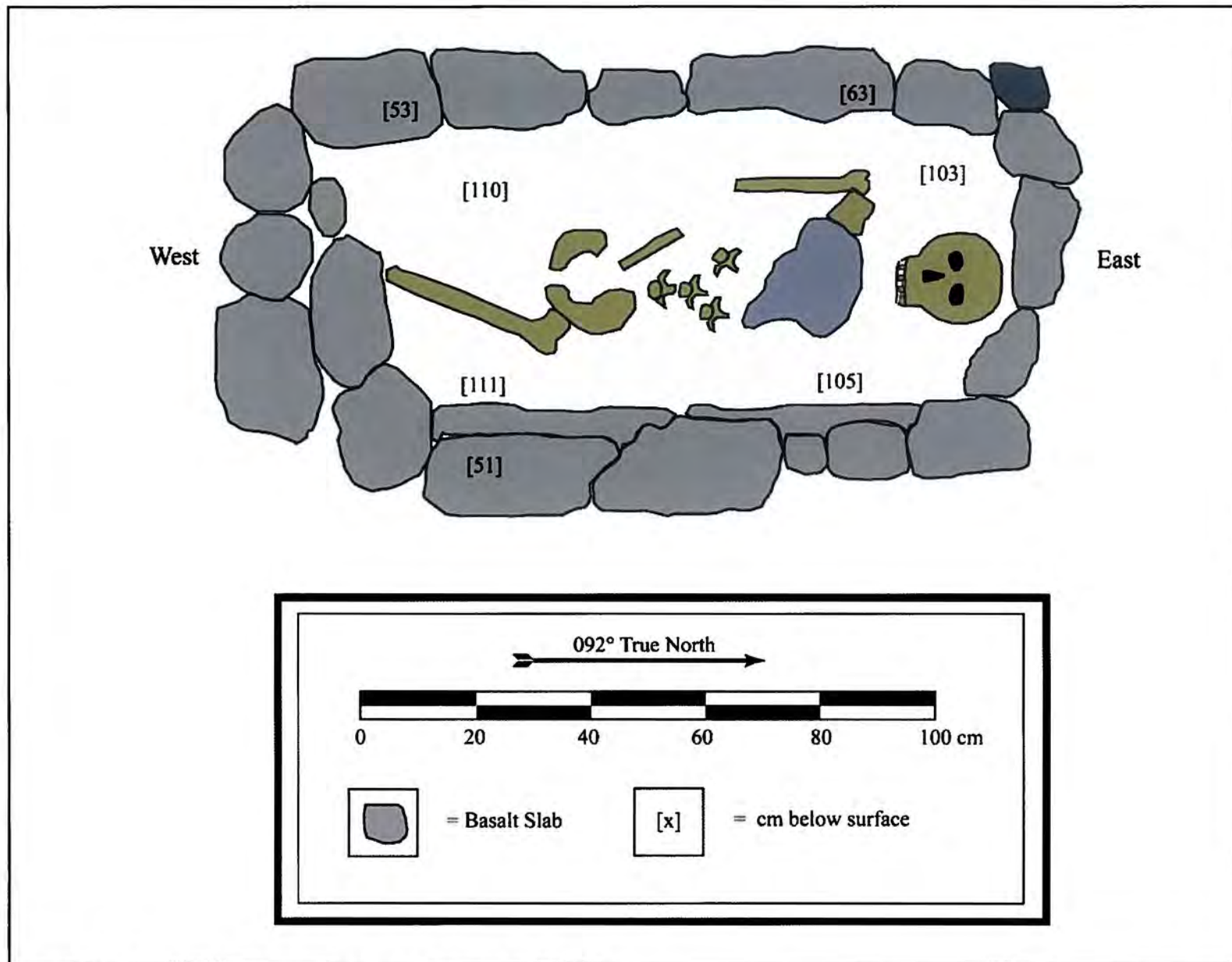


Figure 6: Plan View of Burial 1 within Basalt Lined Burial Crypt.

BURIAL SITE COMPONENT: PRESERVATION PLAN

The SHPD, in consultation with the MLIBC and landowners, has determined that SIHP No. 50-50-10-6671 shall be preserved in place. Interim and permanent horizontal and vertical buffer zone are proposed herein.

Recognized Cultural or Lineal Descendents

Currently, no cultural or lineal descendents have been recognized by the SHPD. No potential descendents have come forward at meetings of the Maui/Lanai Islands Burial Council (MLIBC) during which this project has been discussed.

Interim and Long-Term Protective Measures for the Re-interment Site

The burial is currently interred within its original burial crypt and partially encircled by a U-shaped enclosure. The sole occupant of the private residence has maintained an interim buffer of 3 m around the burial area. For permanent preservation, additional structures (*i.e.* burial crypt) would not likely aid in protection of the remains and it is therefore recommended that the area be planted with native vegetation, creating a roughly 10-foot (3 meter) radius from the outside of the U-shape (overlying the extant burial crypt). Following the establishment of buffers, the site's location will then be professionally surveyed to create a permanent preservation easement and that data, along with this Plan, will be recorded at the Bureau of Conveyances within 60 days of final site creation.

The following measures will be carried out to provide the maximum preservation and conservation for the single burial locus within the context of the proposed development and future land use in the project area:

- 1 The permanent preservation area for the site will include a minimum 3 m (10 feet) buffer zone established around Site -6671 and encompass a total area of 790 m² or 2,592 sq. ft. The interim buffer zone of 3 m (10 feet) will stay in place around the burial feature until all construction on the parcel has been completed. Permanent preservation measures will remain in perpetuity.
- 2 Verification that the interim buffer zone was set will be completed by SCS through contacting H. Rodrigues of the SHPD-Maui. Verification to the SHPD that the fence remains in place prior to any work near the existing residence will occur and be accompanied by photographic documentation of the set buffer fence. This action will precede any construction work on the residential lot (date unknown at present).
- 3 No construction will be allowed to be conducted within the established burial preservation area. Both the interim and permanent buffer zone shall be kept free of all

structures. Landscaping with native plants may occur within the permanent buffer zone, provided that the plants shall not visually obscure the feature being preserved. No trees, deeply rooted, or invasive plants and root systems will be allowed in the buffer zone. No landscaping shall be allowed inside the feature crypt itself.

- 4 Interim and long-term preservation will ensure that the integrity and context of the burial feature and associated bedrock outcrop is preserved. Demarcation of the feature's buffer zone will be duly recorded by the client's surveyors and will be reviewed and accepted as appropriate by the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) prior to construction on the respective lot. The buffer zone shall be surveyed and plotted on all construction plans.
- 5 No heavy equipment or other construction-related machines or materials will be allowed to be moved or stored in the respective preservation area. The burial feature and the preservation buffer zone surrounding the feature shall not be used as a staging and/or storage area.
- 6 All trees and understory brush may be removed from the preservation easement using hand-clearing techniques.
- 7 All existing stones within the permanent buffer zone, whether stacked or not, will be left in place.
- 8 Should storm, earthquake, or other natural or cultural damage occur to the site and its environs, and should this necessitate repairs to ensure the safety of confirmed descendants wishing to visit the site, the landowner or the Association will notify SHPD of the situation and reach an agreement with the SHPD on how to proceed prior to implementing any alterations to the ground surface, site, or vegetation within the preservation easement.
- 9 The permanent buffer zone wall will provide one barrier against modern debris being blown into the feature preservation area, with the landowner(s) also taking precautions against the accumulation of debris at the feature. However, any inadvertent debris in the feature buffer zone may be removed by hand from within the preservation easements whenever is deemed necessary by the landowner, any descendants, or by the Association.
- 10 If the tenant or landowner finds that Site -6671 has been disturbed in any way, they will immediately notify the SHPD. Repairs or stabilization of any damage to the feature cannot proceed until directed to do so by the SHPD.
- 11 This Burial Treatment Plan shall be made part of the binding title agreement for the land parcel known as TMK:2-3-001:174 and this BTP will be listed with the property deed as an encumbrance. This BTP shall also be registered with a map that has metes and bounds descriptions of the preservation area. This map will be registered with the State of Hawai'i Bureau of Conveyances within 60 days of receipt of written approval of this plan

by DLNR-SHPD. Once Site -6671 has been registered with the Bureau, copies of the official document shall be submitted to SHPD and the Maui/Lana`i Island Burial Council.

- 12 Successive landowners of Lot 174 must be made aware of the burial preserve area.
- 13 There will be special provisions accorded verified cultural and lineal descendants (as determined by the MLIBC or SHPD-Culture History Branch) for allowing access to the site for cultural practices, if any should come forward. Access will be allowed to the site only by confirmed lineal and/or cultural descendants and the landowner for care and upkeep of the site, as needed. Prior to entry to the site, the landowner must approve the dates and times for access to the site.
- 14 A provision is made for on-going preservation of the burial location: the specified portion of Lot 174 will be preserved, with the preservation provisions being binding on successive owners of the parcel.

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Exhibit "12"

Resolution No. 10-57,
Approving With Modification The Kula Ridge Affordable
Housing Subdivision Project Pursuant to Section 201H-38,
Hawaii Revised Statutes, adopted October 19, 2010

Resolution

No. 10-57

APPROVING WITH MODIFICATION THE
KULA RIDGE AFFORDABLE HOUSING SUBDIVISION PROJECT
PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, Kula Ridge, LLC, a Hawaii Limited Liability Company, proposes the development of the Kula Ridge Affordable Housing Subdivision Project and related improvements (the "Project") for qualified residents; and

WHEREAS, the proposed Project will provide a total of fifty-nine affordable housing units to families earning at or less than one-hundred and forty percent (140%) of Maui County's median family income. Specifically, seventeen (17) senior housing units will be provided for below-moderate income households, seventeen (17) senior housing units and twelve (12) single family units will be provided for moderate income households, and thirteen (13) single family units will be provided for above-moderate income households, as defined by Section 2.96.020, Maui County Code; and

WHEREAS, the Project will provide needed affordable housing to meet the current and growing demand for affordable housing; and

WHEREAS, on September 8, 2010, the Department of Housing and Human Concerns submitted the preliminary plans and specifications to the Council of the County of Maui ("Council") recommending approval of the Project pursuant to Section 201H-38, Hawaii Revised Statutes (HRS); and

WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five (45) days after the Department of Housing and Human Concerns has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on September 8, 2010; and

WHEREAS, pursuant to Section 4-1 of the Revised Charter of the County of Maui (1983), as amended, the Council is authorized to act by resolution; now, therefore,

Exhibit "12"

Resolution No. 10-57

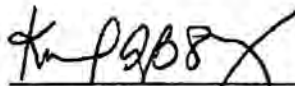
BE IT RESOLVED by the Council of the County of Maui:

1. That, based upon the transmittals and the representations of the Department of Housing and Human Concerns and Kula Ridge, LLC, the Council approves the Project with the modifications specified in Exhibit "1", including the Project's preliminary plans and specifications, as submitted to the Council on September 8, 2010, pursuant to Section 201H-38, HRS; provided that Kula Ridge, LLC shall comply with all statutes, ordinances, charter provisions, and rules of governmental agencies relating to planning, zoning and construction standards for subdivisions, development and improvement of land, and the construction of units thereon, except for the exemptions specified in Exhibit "2", attached hereto and made a part hereof; and

2. That the final plans and specifications for the Project shall be deemed approved by the Council if the final plans and specifications do not substantially deviate, as determined by the Director of Housing and Human Concerns, from the preliminary plans and specifications approved by the Council. Any substantial deviation from the preliminary plans and specifications shall be submitted to the Council for prior approval. The final plans and specifications shall constitute the zoning, building, construction, and subdivision standards for the Project; and

3. That certified copies of this resolution be transmitted to the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, and Kula Ridge, LLC.

APPROVED AS TO FORM AND LEGALITY:



KIMBERLY A. B. SLOPER
Deputy Corporation Counsel
County of Maui

PROJECT MODIFICATIONS TO THE KULA RIDGE 201H AFFORDABLE
HOUSING APPLICATION

1. The applicant shall install a street-lighting system that will be shielded and directed downward where the light is needed with zero scattering upon the mountain slopes of Haleakala, and shall abide by the outdoor lighting ordinance (Chapter 20.35 of the Maui County Code).
2. The applicant shall comply with all provisions of Chapter 14.12, Maui County Code, relating to water availability.
3. The applicant shall provide for a comfort station in the development's three-acre park.
4. The applicant shall fund and construct a sidewalk and crosswalks between the Kula Community Center and the Haleakala Waldorf School. The proposed design shall incorporate traffic-calming and other safety measures, such as raised crosswalks, speed humps, warning lights, or other measures deemed appropriate by the Department of Public Works to support the objective of creating a safer pedestrian environment along this segment of roadway. The specific alignment of the sidewalk, mauka or makai, shall be defined by the applicant in coordination with the Department of Public Works and neighboring property owners.
5. Upon the completion of the affordable housing agreement between the applicant and the Department of Housing and Human Concerns, the plan shall be forwarded to the Council for approval.
6. The applicant shall provide ADA-compliant walkways that will connect the various senior housing units.
7. No accessory dwelling shall be allowed in the Kula Ridge Affordable Housing Subdivision. However, each four-acre rural lot located at the mauka extent of the project shall be allowed one main dwelling and one accessory dwelling, with no further subdivision.
8. The Applicant shall pay the Department of Education the appropriate school impact fee for each of the market units in the Kula Ridge Affordable Housing Subdivision. Such fees shall benefit Kula Elementary School, Kalama Intermediate School, and/or King Kekaulike High School.

9. Archaeological monitoring for the Kula Ridge Affordable Housing Subdivision shall be required for ground-altering activities. The monitoring shall be undertaken in accordance with a monitoring plan approved by the State Historic Preservation Division.
10. In the event the Kula Ridge Affordable Housing Subdivision's water-system improvement involves the crossing of Keahuaiwi Gulch or the Kula Ridge Mauka Parcel, the applicant shall coordinate with the State Historic Preservation Division to ensure that all archaeological-review procedures for waterline crossing are appropriately addressed.
11. The minimum lot size for the single-family affordable units (house/lot packages) shall be 6,000 square feet.
12. The affordable single-family homes and senior affordable duplexes shall be built at a rate of two single-family homes or one senior affordable duplex for each market-rate home built or market-rate lot sold, whichever is earlier.
13. The applicant, through the Department of Housing and Human Concerns, shall update the Council on the status of the project and the applicant's progress in complying with the modifications adopted by the Council's resolution on at least an annual basis, commencing one year from the adoption of the Council's resolution. For modifications that contain specific due dates, the Department shall update the Council as to the status of each modification no later than two months prior to the date specified in the modification.
14. Construction of the Kula Ridge Affordable Housing Subdivision shall be initiated within one year of granting of a bonded final subdivision approval. If the applicant chooses to implement construction of subdivision improvements as part of the normal final subdivision approval process (i.e., non-bonding scenario), construction shall be initiated within one year of receipt of approval of the project's subdivision construction plans. Initiation of construction shall be defined as initiation of subdivision grading work or subdivision-related offsite infrastructure improvements. A time extension to the construction initiation date shall be considered by the Council upon timely receipt of a request for time extension at least 90 days prior to the expiration of the initial construction start date.
15. For the purposes of this 201H application, the term "senior" shall mean those income-qualified prospective purchasers who are 55 years in age or older.

16. The following zoning standards shall apply to the four-acre rural lots:

Minimum Lot Size	4 acres
Minimum Lot Width	150 feet
Front Yard Setback	35 feet
Side Yard Setback	20 feet
Rear Yard Setback	20 feet
Walls within Setback Area	4 feet maximum height
Maximum Building Height	30 feet

17. All references in the Revised Application to eleven (11) single-family residential workforce housing units shall be deemed stricken.

PROPOSED REVISED EXEMPTIONS FOR AFFORDABLE HOUSING SUBDIVISION
PROPOSED SECTION 201H, HRS, EXEMPTIONS
FROM THE MAUI COUNTY CODE ("MCC")

A. EXEMPTION FROM TITLE 2, MCC, ADMINISTRATION AND PERSONNEL

1. An exemption from Chapter 2.80B, MCC, General Plan and Community Plans, shall be granted to permit the project without obtaining a general plan and community plan amendment.
2. An exemption from Chapter 2.96, MCC, Residential Workforce Housing Policy shall be granted for the project in accordance with Section 2.96.030.B.6, MCC.

B. EXEMPTION FROM TITLE 14, PUBLIC SERVICES

1. Exemption from Chapter 14.74, Impact Fees for Traffic and Roadway Improvements in Makawao-Pukalani-Kula, Maui, Hawaii, to exempt the project from traffic impact fees should such fees be adopted prior to the issuance of building permits for the project.

C. EXEMPTIONS FROM TITLE 16, MCC, Buildings and Construction

1. Exemptions from MCC Chapters 16.04B, Fire Code, 16.18B, Electrical Code, 16.20A, Plumbing Code, and 16.26, Building Code, shall be granted to exempt the project from fire, electrical, plumbing, building permit fees and demolition permit fees, as well as inspection fees.

D. EXEMPTIONS FROM TITLE 18, MCC, SUBDIVISIONS

1. Exemptions from Section 18.04.030, MCC, Administration, and related land use consistency requirements of Title 18, shall be granted to exempt the project from obtaining a change in zoning and community plan amendment to enable subdivision approval.
2. An exemption from Section 18.16.320, MCC, Parks and Playgrounds, shall be granted to allow the 3.0 acres of park land and accompanying comfort station within the project to satisfy the park dedication and assessment requirements.

3. An exemption from Section 18.16.050 MCC, Minimum Right-of-way and Pavement Widths, shall be granted to allow 24 ft. right-of-way and 20 ft. pavement widths for private streets within the subdivision.

E. EXEMPTIONS FROM TITLE 19, MCC, ZONING

1. An exemption from Chapter 19, MCC, shall be granted to permit the development and use of the parcel for single-family, duplex, and rural residential purposes, including supporting infrastructure requirements. Further, this exemption shall allow the subdivision of the property in the plat configuration shown in Attachment "A". The following zoning standards shall apply to the proposed lots:

Affordable Lots

Minimum Lot Size 5,000 square feet
 Minimum Lot Width 60 feet
 Front Yard Setback 10 feet
 Zero Lot Line In conformance with R-0 Standards
 Access Yard Setback Line 15 feet

Other Setback Lines 6 feet at 1-story
 Height No building shall exceed 1-story or
 24 feet in height from finished
 grade of the subdivision

Duplex Standards

Minimum Lot Size 7,500 square feet
 (There may be more than one duplex dwelling on any lot,
 provided that there is not less than 7,500 square feet
 for each two-family dwelling (duplex).)
 Minimum Lot Width 65 feet
 Front Yard Setback 15 feet
 Side Yard Setback 6 feet at 1-story
 Rear Yard Setback 20 feet
 Height No building shall exceed 1-story or
 24 feet in height from finished
 grade of the subdivision

Market Lots

Minimum Lot Size 6,000 square feet
Minimum Lot Width 60 feet
Front Yard Setback 15 feet
Other Setback
Lines 6 feet at 1-story, 10 feet at 2-story

Height: No building shall exceed 2-story or 30 feet in height from finished grade of the subdivision.

F. EXEMPTIONS FROM TITLE 20, MCC, ENVIRONMENTAL PROTECTION

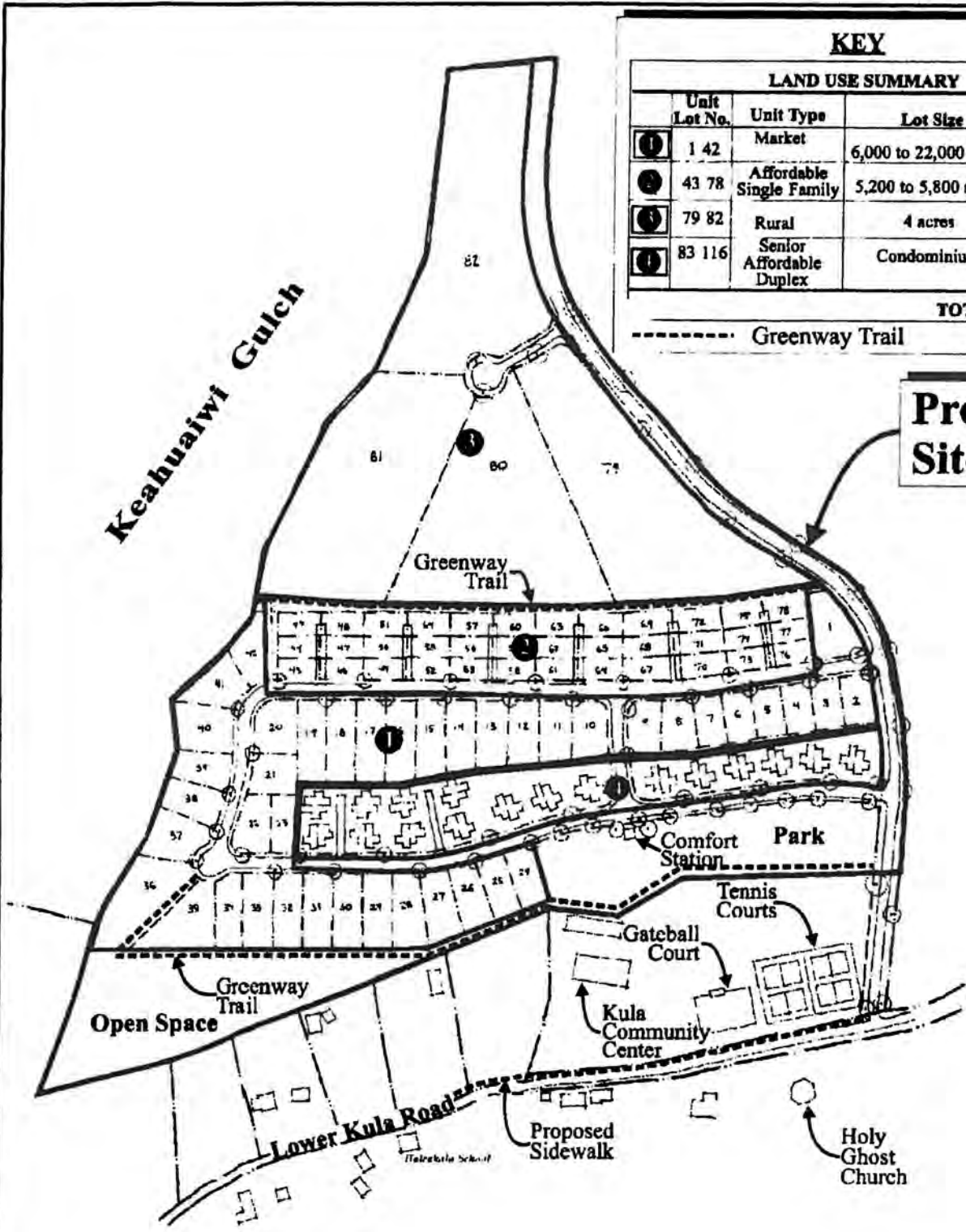
1. An exemption from Section 20.08.090, MCC, Grubbing and Grading Permit Fees, shall be granted to exempt the project from payment of grading, grubbing and excavation permit fees, as well as inspection fees.

KEY

LAND USE SUMMARY				
Unit	Lot No.	Unit Type	Lot Size	Quantity
1	42	Market	6,000 to 22,000 sq. ft.	42
2	43 78	Affordable Single Family	5,200 to 5,800 sq. ft.	36
3	79 82	Rural	4 acres	4
4	83 116	Senior Affordable Duplex	Condominium	34
TOTAL				116

----- Greenway Trail

Project Site



Source: Architectural Design & Construction, Inc.

Proposed Kula Ridge Affordable Housing Subdivision
Revised Conceptual Site Plan

NOT TO SCALE



Prepared for: Kula Ridge, LLC

MUNEKIYO & HIRAGA, INC.


COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 10-57 was adopted by the Council of the County of Maui, State of Hawaii, on the 19th day of October, 2010, by the following vote:

MEMBERS	Dennis A. MATEO Chair	Michael J. MOLINA Vice-Chair	Gladys C. SAISA	Jo Anne JOHNSON	Solomon P. KAHO'OHALAHALA	William J. MEDEIROS	Wayne K. NISHIKI	Joseph PONTANILLA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	No	Aye	No	Aye	Excused



COUNTY CLERK

Exhibit "13"

Affidavit of Service of Petition for
District Boundary Amendment

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A11-790
KULA RIDGE, LLC)
To Amend the Land Use District Boundary of)
Certain Lands Situated at Kula, Island of)
Maui, State of Hawaii, Consisting of 51.17)
Acres from the Agricultural District to the)
Urban and Rural Districts, Tax Map Key Nos.)
2-3-001:174 and 023 (por.))
_____)

**AFFIDAVIT OF SERVICE OF PETITION
FOR DISTRICT BOUNDARY AMENDMENT**

STATE OF HAWAII)
COUNTY OF MAUI) ss.

B. MARTIN LUNA, being first duly sworn on oath, deposes and says:

1. Affiant is the attorney for KULA RIDGE, LLC, the Petitioner for a State of Hawaii Land Use District Boundary Amendment from the Agricultural District to the Urban and Rural Districts, for land situated at Kula, Maui, Hawaii, and identified as TMK Nos. 2-3-001:174 and 023 (por.).

2. In compliance with §15-15-48(a), Hawaii Administrative Rules, Affiant will on January 24, 2011, serve a copy of the Petition for District Boundary Amendment by depositing the same in the United States mail, post paid, or by hand delivery, to each of the following persons, addressed as follows:

EXHIBIT "13"

MARY LOU KOBAYASHI
Planning Program Administrator
Office of Planning , Land Use Division
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

BY MAIL

BRYAN C. YEE
Deputy Attorney General
Department of the Attorney General
425 Queen Street
Honolulu, Hawaii 96813

BY MAIL

WILLIAM SPENCE
Director, Planning Department
County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

PLANNING COMMISSION
County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

PATRICK WONG
Acting Corporation Counsel
Department of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

BY HAND DELIVERY

MAUI ELECTRIC COMPANY, LIMITED
Attention: Greg Kauhi
P. O. Box 398
Kahului, Hawaii 96733-6898

BY MAIL

HAWAIIAN TELCOM INC.
Attention: Legal Department
P. O. Box 2200
Honolulu, Hawaii 96816

BY MAIL

KULA RIDGE MAUKA, LLC
1849 Wili Pa Loop
Wailuku, Hawaii 96793

BY HAND DELIVERY

This Affidavit is provided in compliance with §15-15-50(c)(5)(C), HAR.

That further Affiant sayeth naught.

DATED: Wailuku, Hawaii, January 20, 2011.

B. Martin Luna

B. MARTIN LUNA

The attached document: AFFIDAVIT OF SERVICE OF PETITION FOR DISTRICT BOUNDARY AMENDMENT dated January 20, 2011, which consists of three (3) pages (including this page), was executed by B. MARTIN LUNA, who was subscribed and sworn to before me this 20th day of January, 2011 in the Second Judicial Circuit of the State of Hawaii.

Robyn Petersen
[Notary Signature]



Printed Name: Robyn Petersen
My commission expires: 08/23/2013

