

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
BACKGROUND REPORT

KAIMU COVE LLC
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION
(PL-SMA-2024-000063)

KAIMU COVE LLC Application for a Special Management Area Use Permit to create a 5-lot subdivision for future residential development and related improvements all within a 3.677-acre parcel in the Special Management Area. The subject property is located on the makai side of Kalapana-Kapoho Road, approximately 2,450 feet from its intersection with Pāhoa-Kalapana Road, Kaimu-Makena Homesteads, Kaimu, Puna, Hawai‘i, TMK: (3) 1-2-018:001.

PROPOSED DEVELOPMENT

- 1. Request:** The proposed development is for a 5-lot subdivision on a 3.677-acre shoreline parcel within the Special Management Area (SMA). Each lot is intended for the construction of a single-family dwelling, along with related facilities such as driveways, wastewater systems, and utility installations. The development aims to provide housing opportunities in an area zoned for residential-agricultural use.
 - Lot size: The proposed development involves subdividing a 3.677-acre property into five lots, with each lot having a minimum size of half an acre (each lot will cover at least 21,780 square feet), with four of the lots fronting the shoreline and accommodating the required 40-foot shoreline setback.
 - Building height: Each dwelling will not exceed 35 feet in height and will adhere to yard setback requirements (25 feet front and rear, 15 feet side).
 - Utilities: Water will be supplied via lateral connections from the existing water main. Wastewater will be handled by individual septic systems approved by the State Department of Health. Other utilities, including electrical, cable, and telephone services, will be available to each lot.
 - Additional improvements: The project includes grubbing, grading, access driveways, pedestrian shoreline access pathway, water meter installations, and electrical poles.

The subdivision will not adversely affect the environment or surrounding lands, and it will comply with Hawaii regulations related to wastewater treatment, erosion control, and sedimentation to minimize impacts to the shoreline. Additionally, public pedestrian shoreline access will be provided, ensuring community access to coastal resources. The overall intent is to maintain the rural character of the area while adhering to land use policies (**Planning Department Exhibit 1 – SMA Use Permit Application dated July 5, 2024**).

2. **Project Objectives:** The primary objective of the proposed project is to subdivide a 3.677-acre property into five residential lots. This will provide housing opportunities within an area designated for residential-agricultural use, consistent with zoning established in the 1960s. The project aims to create a low-density subdivision, maintaining the rural character of the Kaimu-Makena Homesteads while offering individual home sites. Each lot will support the construction of a single-family dwelling and related improvements.
3. **Cost/Time of Project:** The total estimated cost for the proposed project is \$147,000.
4. **Landowner:** Mark Wyatt

BACKGROUND INFORMATION

5. **Special Management Area (SMA):** A Notice of Violation and Order (ZCV-2022-015) was issued to the landowner in 2022 for the unauthorized clearing of land, removal of trees, grubbing and grading. However, the vegetation has regrown, and the applicant is pursuing the SMA as a part of the resolutions to this enforcement.
6. **Chapter 343, HRS:** The proposed project was evaluated with respect to Hawaii Revised Statutes (HRS) Ch. 343-5, and staff notes that no triggers were identified. The Applicant has stated that no work will occur within the shoreline setback area and has stated that no heavy machinery will be permitted within the 40-ft. setback area.

STATE AND COUNTY PLANS

7. **State Land Use Designation:** Urban
8. **General Plan LUPAG MAP:** Extensive Agriculture (ea)
9. **County Zoning:** Residential – Agriculture 0.5-acres, (RA-.5a)

10. **Puna Community Development Plan (PCDP):** The original Puna Community Development Plan was adopted by the Hawai‘i County Council on September 10, 2008, through Ordinance No. 08-116. The amended Puna Community Development Plan was adopted by the Hawai‘i County Council by Ordinance No. 10-104 on November 4, 2010.
11. **Special Management Area (SMA):** The project is located within the Special Management Area and therefore, the proposed development is subject to SMA review.

DESCRIPTION OF PROPERTY AND SURROUNDING AREA

12. **Subject Property:** The project area is bordered to the makai side by the shoreline and to the mauka side by Kalapana-Kapoho Beach Road. The elevation ranges from 10 to 25 feet above mean sea level, with a 40-foot shoreline setback established to protect coastal resources. This area is characterized by its recent volcanic activity from the lower flanks of Kīlauea Volcano, leading to a landscape comprised of multiple lava flows, including ‘a‘ā and pāhoehoe formations. The landscape of the site currently exhibits some signs of previous ground disturbance, primarily due to previous clearing and grubbing activities.
13. **Surrounding Land Zoning/Uses:** The parcels surrounding the proposed project are primarily zoned for Residential and Agricultural (RA) uses, with a minimum lot size of half an acre. Specifically: To the east and makai (towards the ocean) of Kalapana-Kapoho Beach Road, the land is State-owned and zoned for Open (O) uses. Mauka (towards the mountains) along Kalapana-Kapoho Beach Road, the lands are zoned Agricultural (A-3a). These zoning designations support low-density residential and agricultural use in this rural area. The Kaimu Cove project parcel is situated in a region predominantly zoned as Residential and Agricultural (RA-.5a) with a minimum lot size of 1/2 acre. The area has been designated for residential and agricultural uses since the late 1960s. Surrounding lands include:
 - State Lands: To the east and makai of the Kalapana-Kapoho Beach Road, which are zoned for Open (O) uses.
 - Agricultural Land: Lands further mauka (inland) along Kalapana-Kapoho Beach Road are designated for agricultural uses, consistent with the historical agriculture that characterized this coastal community.
 - Residential Areas: The project site lies at the eastern edge of the Kaimu-

Makena Homesteads, which consists of various residential lots with sizes ranging from 5,300 square feet to over 3 acres.

14. **Soil Type:** The soil on the project parcel is classified as Hāmākua highly organic hydrous loam. These soils are shallow, moderately well-drained, and formed in basic volcanic ash over pahoehoe lava. They are typically found on low elevation, windward slopes of Mauna Loa and Kilauea volcanoes, with slopes ranging from 2 to 10 percent. This soil is characterized by its poor agricultural productivity rating (Class E).
15. **Land Study Bureau's Detailed Land Classification System:** The project site is listed as “Unclassified”.
16. **Flood Insurance Rate Map (FIRM):** Most of the subject property is within Flood Zone X, outside the 500-year flood plain, with coastal areas *makai* of the shoreline within flood zone VE. Staff notes the property is not located within the wave inundation zone according to the State Sea level rise viewer (SLR-Xa).
17. **Flora/Fauna Resources:** The project area has been assessed for its ecological characteristics, revealing a presence of various floral species such as Monkeypod trees (*Samanea saman*), Hala (*Pandanus tectorius*), Milo (*Thespesia copulnea*), Coconut palms (*Cocos nucifera*), Naupaka (*Scaevola* sp.), ‘ōhi‘a lehua (*Metrosideros polymorpha*). Ground cover includes various grasses, morning glory (*Ipomoea indica*), Boston fern (*Nephrolepis exaltata*), and non-native species like gunpowder trees (*Trema orientalis*) and guava (*Psidium guajava*). No specific endangered fauna are found within the parcel itself. However, due to the proximity to coastal environments, there is potential for transient or endangered species to inhabit or visit the area, including: The Hawaiian Hoary Bat, Hawaiian (koloa) Duck, Hawaiian (Nene) Goose, and other bird species such as the Hawaiian Petrel and Hawaiian Stilt.
18. **Archaeological Resources:** There are four archaeological sites identified on the project property from a 1992 survey, including two C-shaped structures, an agricultural feature, a post-contact boundary wall, and a modified lava bubble used for storage or planting. However, these sites are considered "no longer significant" as sufficient data has been collected. Further archaeological work is not required, but if any discoveries are made during construction, work will halt, and authorities will be notified. Additionally, no

significant cultural or historical resources have been identified, and local consultations did not reveal any burial sites or traditional practices. (SHPD response)

19. **Cultural/Historic Resources:** The proposed project is not expected to have any significant adverse impacts on Native Hawaiian rights or cultural practices. There is no evidence of traditional or customary Native Hawaiian rights being exercised on the subject property, however, the shoreline area makai of the project site is heavily utilized for fishing and gathering. The applicant will be constructing a permanent shoreline access pathway from the road to the shoreline to allow for continued use. Furthermore, archaeological surveys and consultations with residents did not identify any burial sites or other valued cultural resources. The project complies with the State Supreme Court's PASH and Ka Pa'akai O Ka 'Āina rulings, and no adverse impacts on gathering or fishing rights are anticipated.
20. **Scenic and Open Space Resources:** The project site is not identified as an area of natural beauty by the General Plan, and there are no notable scenic resources specifically mentioned for the subject property. However, the property is largely vegetated with restricted coastal viewplanes from Kalapana-Kapoho Beach Road. State-owned lands to the north, located on a 1750 a'ā lava flow, provide greater coastal viewplane opportunities than the project site itself.

Staff notes that the applicant conducted land management activities without prior approval, which included impacts to the neighboring State Conservation District parcel to the north. According to the Office of Conservation and Coastal Lands the grubbing has ceased and most of the vegetation has re-established itself, and they note that the applicant will remove all remaining deteriorated vegetation and dispose of the green waste in an appropriate manner.

21. **Public Access:** The proposed development includes a 5-foot-wide public pedestrian access easement to the shoreline. This pathway will be cinder-surfaced and run along the northern boundary of the property, adjacent to state-owned lands. The access is designed to ensure continued public access between Kalapana-Kapoho Beach Road and the shoreline, providing safe and convenient entry to coastal resources.

PUBLIC UTILITIES AND SERVICES

22. **Access:** The property is accessed via a private driveway entrance from Kalapana-Kapoho Beach Road (State Route 137), a State owned and maintained roadway.
23. **Water:** According to the Department of Water supply (DWS) there is one (1) existing 5/8-inch meter serving the subject parcel. Water can be made available to each of the new lots from an existing 8-inch waterline along Kalapana-Kapoho Beach Road with an appropriate water commitment deposit and the construction of necessary water system improvements, and facilities charge.
24. **Wastewater:** Each single-family dwelling to be located within the new development will include a DOH approved individual wastewater treatment system.
25. **Other Essential Utilities and Services:** All other utilities, including electrical, telephone, and cable services are available to the site.

AGENCIES' COMMENTS

26. **State Department of Health: (Planning Department Exhibit 2 – July 30, 2024, Memo).**
27. **Department of Public Works (DPW) - Engineering: (Planning Department Exhibit 3 – September 9, 2024, Memo).**
28. **Department of Land and Natural Resources –SHPD: (Planning Department Exhibit 4 – September 6, 2024, Letter).**
29. **Department of Land and Natural Resources – OCCL: (Planning Department Exhibit 5- August 20, 2024, Letter).**
30. **Department of Water Supply (DWS): (Planning Department Exhibit 6 – August 28, 2024, Memo).**
31. **Department of Land and Natural Resources – Commission on Water Resource Management (CWRM): (Planning Department Exhibit 7 – August 5, 2024, Memo).**

AGENCIES - NO COMMENT

32. County of Hawai'i Police Department; Department of Land and Natural Resources, Land Division, Engineering Division.

AGENCIES - NO RESPONSE

33. Hawaii Fire Department; DPW-Building; Department of Environmental Management (DEM); Office of Planning and Sustainable Development (OPSD).

PUBLIC COMMENTS

34. The Department has not received any comments or objections from the public or adjacent landowners on the subject application.

APPLICANTS RESPONSE

35. The Applicant provided the following response to agencies comments **(Planning Department Exhibit 8 – September 16, 2024, Letter)**.

July 5, 2024

Mr. Zendo Kern, Director
County of Hawai'i Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720

Dear Director Kern:

Subject: SMA Use Permit Application (3rd resubmittal)
Applicant: Kaimu Cove LLC
Request: To allow proposed 5-lot subdivision of minimum 1/2-acre sized lots
and its related improvements including eventual construction of
5 single-family dwellings
TMK: 1-2-018: 001; Kaimu-Makena Homesteads, Kaimu, Puna

Accompanying this letter, we present for your consideration and processing before the Windward Planning Commission the revised request by Kaimu Cove LLC for a Special Management Area Use Permit to allow for a proposed 5-lot subdivision consisting of parcels at least 1/2-acre in size and the eventual construction of a single-family dwelling on each of the proposed lots. The subject property is located along the coastal section of Kaimu-Makena Homesteads in the Puna District.

Pursuant to your application requirements to be filed via the EPIC system, please find accompanying this letter the following:

- a. Original of the completed SMA Use Permit application form and accompanying environmental report that includes a location map and site plan;
- b. Completed application form with landowners' authorizations
- c. List of the surrounding property owners within 500 feet of the subject property.

Should you have questions on this matter, please feel free to contact me. Thank you very much.

Sincerely,



Daryn Arai

copy via email: Mark Wyatt, Kaimu Cove LLC

**SPECIAL MANAGEMENT AREA USE PERMIT
APPLICATION**

Applicant: KAIMU COVE LLC

**Request: Proposed 5-lot subdivision and related
subdivision improvements including eventual
construction of 5 single-family dwellings**

Tax Map Key: (3) 1-2-018:001
Kaimu-Makena Homesteads, Kaimu, Puna District
Hawai‘i Island

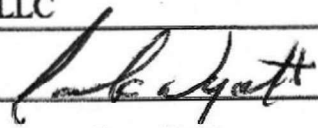
Prepared by: Daryn Arai, Planning Consultant
July 2024

SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION

COUNTY OF HAWAII PLANNING COMMISSION

(Type or legibly print the requested information)

APPLICANT(S): Kaimu Cove LLC

APPLICANT'S SIGNATURE: 

DATE: July 5, 2024

ADDRESS: 12-55 Likoliko Loop, Box 4866
Pahoa, Hawaii 96778-6810

LIST APPLICANT'S INTEREST (if not owner): _____

PHONE: (Bus.) _____ (Res.) (808) 965-5404 (Email) wyattinhawaii@gmail.com

REQUEST: Proposed 5-lot residential and agricultural subdivision consisting of lots minimum 1/2-acre
sized lots along with the construction of related subdivision improvements and the
eventual construction of 5 single-family dwellings.

TAXMAPKEY: (3) 1-2-018:001 ZONING: RA-.5a

SIZE OF PROPERTY / AREA OF REQUESTED USE: 3.677 acres / 3.677 acres

LANDOWNER(S): Mark Wyatt / Lisa Ann Benham / Edward Utyro

FEE SIMPLE LANDOWNER(S) WRITTEN AUTHORIZATION

(may be provided by letter with the below statement included):

DATE: _____

For Lisa Ann Benham & Edward Utyro, see attached authorization letters

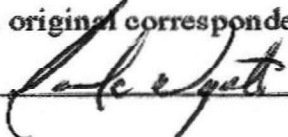
DATE: _____

AGENT: Daryn Arai

AGENT ADDRESS: PO Box 4501
Hilo, Hawaii 96720

PHONE: (Bus.) 895-3218 (Daryn) (Res.) _____ (Email) Daryn.Arai@outlook.com

Please indicate to whom original correspondence and copies should be sent.

ORIGINAL: Applicant  COPIES: Agent

~~Effective 11/27/2022~~
~~Expires 10/27/2023~~

I, Edward S Utyro, as shareholder in Kaimu Cove LLC, agree to have Mark Wyatt serve as proxy for and authorized representative for document submissions to the State of Hawaii and County of Hawaii related to the SMA applications for TMK (3) 1-2-018:001 and the subdivision thereof into 7 parcels. In this regard he can sign on behalf of me as a shareholder in Kaimu Cove, LLC.

~~Edward S Utyro 10/22/2022~~
~~Edward S Utyro~~

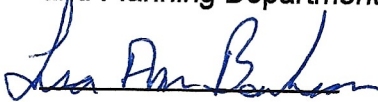
~~Extended thru 10/1/2025~~ ~~Effective - 4/3/2024~~

~~Edward S Utyro - 4/3/2024~~
~~Edward S. Utyro~~

June 20, 2022

I, Lisa Ann Benham allow Mark Wyatt to act as proxy and sign on my behalf.

Mark Wyatt is my authorized representative to sign documents for Building and Planning Department documents.



Lisa Ann Benham

LIST OF SURROUNDING PROPERTY OWNERS

TAX MAP KEY	OwnerName	OwnerAddress2	OwnerCityStZip
120040010000	STATE OF HAWAII	75 AUPUNI STREET, ROOM 204	HILO HI 96720
120060330000	STATE OF HAWAII	75 AUPUNI STREET, ROOM 204	HILO HI 96720
120060340000	STATE OF HAWAII	75 AUPUNI STREET, ROOM 204	HILO HI 96720
120060360000	STATE OF HAWAII	75 AUPUNI STREET, ROOM 204	HILO HI 96720
120180160000	NEVO,VALERIE TR	12-7800 KALAPANA KAPOHO BEACH RD	PAHOA HI 96778 8040
120180190000	NEVO,VALERIE TR	12-7800 KALAPANA KAPOHO BEACH RD	PAHOA HI 96778 8040
120180330000	MORGAN,CHERYL ANN	RR 2 BOX 7801	PAHOA HI 96778
120180020000	MORGAN,DAVID & CHERYL ANN	RR 2 BOX 7801	PAHOA HI 96778
120180030000	O'SHAUGHNESSY,MICHAEL & SUSAN	PO BOX 728	PAHOA HI 96778 0728



BACKGROUND AND ENVIRONMENTAL REPORT

SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION

Applicant: KAIMU COVE LLC

Tax Map Key: (3) 1-2-018:001
Kaimu-Makena Homesteads, Kaimu, Puna District
Hawai'i Island

Prepared by: Daryn Arai, Planning Consultant
July 2024

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**COUNTY ENVIRONMENTAL REPORT
IN SUPPORT OF SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION FOR
MARK WYATT**

Affecting Tax Map Key: (3) 1-2-018: 001; Kaimu-Makena Homesteads, Kaimu, Puna

A. DETAILS OF PROPOSED USE / DEVELOPMENT

1. Applicant's Request

Mark Wyatt, hereinafter referred to as "Applicant", is requesting a Special Management Area (SMA) Use Permit to allow for the development of a 5-lot subdivision consisting of parcels at least one-half (1/2) acre in size, on the subject property consisting of approximately 3.677 acres of land situated along the Kalapana-Kapoho Beach Road within the Kaimu-Makena Homesteads, District of Puna. The proposed development also includes the construction of a proposed single-family dwelling and related improvements on each of the proposed lots as determined by the individual lot owners.

2. Location of Property

The subject property is located at along the makai side of the Kalapana-Kapoho Road (State Route 137), approximately 2,450 feet to the northeast from its intersection with the Pahoa-Kalapana Road (State Highway 130), and identified as TMK: 1-2-018: 001 (refer to Figure 1 - Location Map and Figure 2 - Tax Map below).

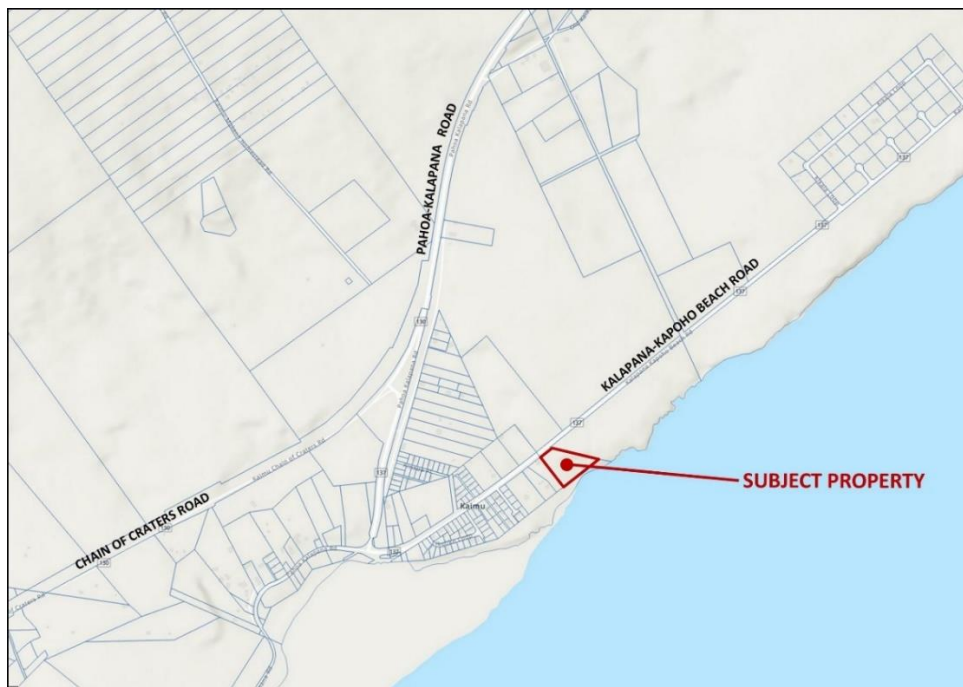
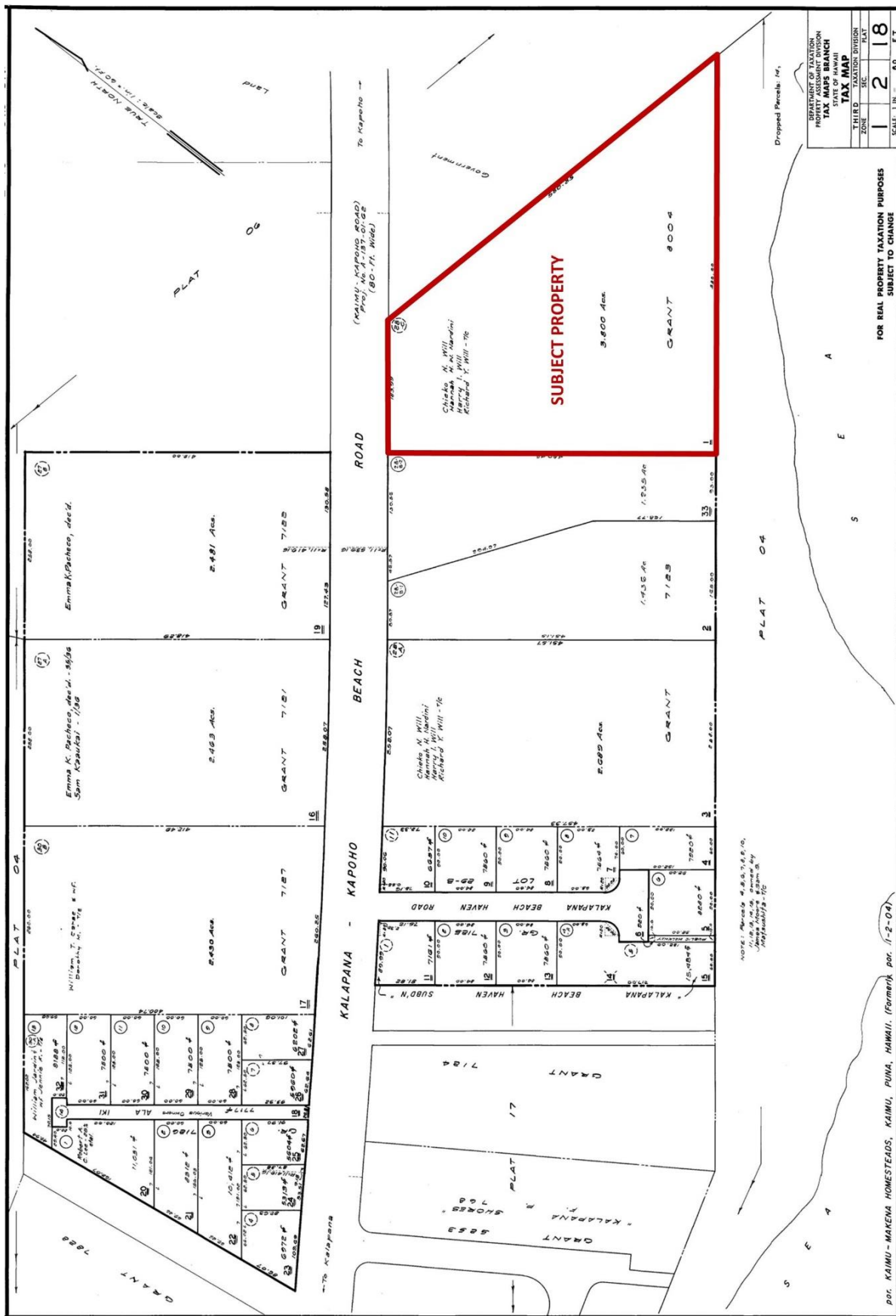


Figure 1 - Location Map



3. Statement of Objectives and reasons for the request

The Applicant wishes to subdivide the subject property into five (5) individual parcels, each consisting of a land area of least one-half (1/2) acre. The Applicant will retain two (2) of the proposed lots to construct single-family dwellings, one on each parcel. The remaining three (3) lots will be sold to individuals, with each lot accommodating a proposed single-family dwelling and related facilities, such as driveway and wastewater systems, utilities, and possibly accessory structures such as storage sheds, carports, and other improvements typical of a single-family residential homesite. In total, the proposed 5-lot subdivision will result in the construction of five (5) single-family dwellings and related improvements within the 3.677-acre property.

The reason for the request is to provide housing opportunities within an area designated for residential-agricultural uses (RA zoning) since the late 1960s with the adoption of the Zone District Maps as part of the Zoning Code. The subject property is part of the Kaimu-Makena Homesteads, that maintains a similar RA zoning as the subject property, with lots ranging in size from as small as 5,300 square feet to 3 acres.

4. Proposed Project Details (see Figure 3 – Proposed Subdivision Plan)

- a. Proposed Subdivision: Subdivision of 3.677-acre property into five (5) lots, each of which will maintain a minimum lot size of at least one-half (1/2) acre. The four (4) shoreline fronting properties will accommodate the required 40-foot shoreline setback.
- b. Access: Each lot within the proposed subdivision will have direct frontage with a proposed private cul-de-sac roadway, which then connects with the Kalapana-Kapoho Beach Road.
- c. Public Access: a 10-foot wide, cinder-surfaced public pedestrian access easement will be provided along the entire northern boundary of the subject property, adjacent to the existing adjoining State lands.
- d. Water: County water is available to support the proposed 5-lot subdivision. The subject property is currently serviced by one (1) existing water meter. The water main along the mauka side of the Kalapana-Kapoho Beach Road will need to be tapped by lateral services and extended to the subject property.

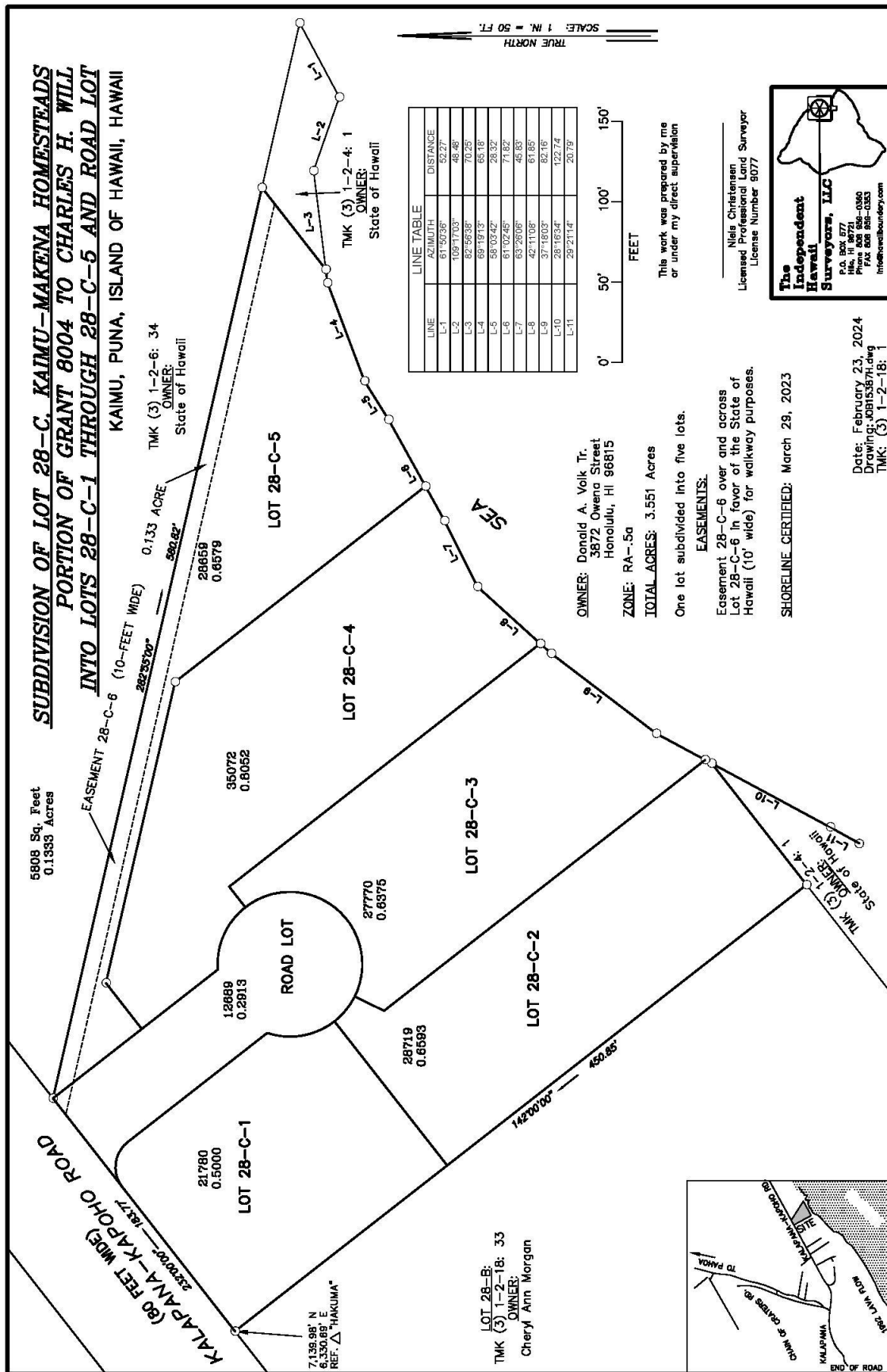


Figure 3 - Proposed Subdivision Plan

- e. Wastewater: Each proposed single-family dwelling will be serviced by an individual septic system designed to meet State Department of Health standards.
- f. Site Improvements: The Applicant and subsequent owners of the individual lots will be grubbing and grading each subdivided lot to accommodate a proposed single-family dwelling. Each proposed single-family dwelling will be constructed in accordance with applicable minimum yard setbacks of 25 feet for the front and rear yards and 15 feet for the side yards. Each single-family dwelling will not exceed 35 feet in building height. Along with the construction of each single-family dwelling will be the installation of associated utility improvements, such as access driveways (paved, grassed or gravel), water meter and waterline installations, electrical utility poles, and septic systems. No use, land alteration or vertical construction will be permitted within the 40-foot shoreline setback area as established by a shoreline survey of the subject property certified by the Board of Land and Natural Resources on March 29, 2023.
- g. Remedial Actions: As further discussed in Section B of this report, past un-permitted actions by the previous landowner and the Applicant resulted in the clearing and laying of surface fill material within the northeastern section of the subject property that intruded within a portion of the 40-foot shoreline setback area as well as upon a portion of the adjoining State-owned lands as shown on Figure 4-Past Grading/Grubbing Activities. The intrusion within the adjoining State-owned lands consisted primarily pushed vegetation that has since partially deteriorated with most of the vegetation reestablishing itself. The Applicant will remove all pushed vegetation that has not deteriorated for proper disposal at a greenwaste facility. Black cinder was placed within the 40-foot shoreline setback area to create a safer walking path along the shoreline trail. The Applicant will remove the black cinder from within the shoreline setback area and restore it to its previous condition to the extent practical. In both instances, the Applicant will coordinate both site restoration activities with the Planning Department, and if deemed necessary, the State Department of Land and Natural Resources. These restoration efforts will be completed, to the satisfaction of the Planning Department, prior to the issuance of Final Subdivision

Approval. As these remedial actions are to remove any unpermitted physical material from within the shoreline setback area or upon state-owned lands and restore it to its previous, natural-like condition, that Applicant is thereby removing any intended “use” of these areas as either a stockpile for grubbed material on State-owned lands or as an improved walking path within the 40-foot shoreline area. Therefore, pursuant to Hawai‘i Revised Statute Section 343-5(8), no “use” is proposed and no environmental assessment is required in order to proceed with the processing of this application.

5. Timeframe and cost

Upon issuance of an SMA Use Permit, the Applicant will promptly file a subdivision application with approval anticipated within five (5) years from the effective date of the permit. Associated known costs and estimates associated with the proposed subdivision action is anticipated to be as follows:

- Surveyor contract for subdivision and certified shoreline survey - \$25,000
- Rock wall and gate at entrance - \$15,000
- Construction of private cul-de-sac roadway - \$50,000
- Water meters (4 additional) - \$25,000
- Land clearing operator fees estimated at 300hrs - \$15,000
- Approximately 10 loads of cinder to fill voids between rock - \$7,000
- Removal of unwanted trees - \$10,000

Each owner of individual lots within the proposed subdivision will determine the type of home to be constructed, along with its supporting facilities. Timing of the construction of each home will also be determined by the individual lot owners. Therefore, unknown costs at this time, as it would be premature to request quotes or develop subdivision construction drawings at this early stage in the overall review process, would include the following items:

- Cost of wastewater (septic) improvements for each proposed home, sizing dependent on type of home constructed and site conditions.
- Drainage report not prepared as it will be associated with subdivision construction drawings prepared as part of the subdivision process.
- Cost of utilities, aside from water, will be determined during the subdivision process when utility engineering plans are developed.
- Legal fees for deeds and recordation are undetermined at this time, as it will occur after issuance of Final Subdivision Approval.

B. HISTORICAL PROPERTY INFORMATION

6. 1992: Prior landowner activities

Based on information provided by previous landowner, Applicant understands that prior landowner intended to construct their home on the subject property, and commenced with the clearing and grading of the property to the extent as shown on Figure 4-Past Grading/ Grubbing Activities. Over the intervening decades, the previously grubbed and graded areas were allowed to overgrow, with the exception of one clearing effort sometime around 2017. Aside from this one known clearing event, the cleared areas were allowed overgrow once again until the purchase of the property by the Applicant.

7. May 28, 2022: Transfer of ownership

Applicant purchases subject property.

8. June 1, 2022: SMA Use Permit Assessment Application (PL-SAA-2022-000080)

Applicant files SMA Use Permit Assessment application to grub entire subject property to allow for the construction of seven (7) dwellings. Application subsequently returned by Planning on July 31, 2022 for additional information.

9. June 2, 2022: Application for grading permit (PW.ENG2022-00139)

Applicant file grading permit application with Department of Public Works (DPW) for clearing and grading of northern-most access driveway to proposed housepad location as shown on Figure 4-Past Grading/Grubbing Activities. Permit application subsequently rejected by DPW as not required due to total affected area less than one (1) acre of land.

10. Late July 2022 till mid-August (approximately 2 weeks)

Applicant commences with grubbing of existing vegetation *only* within the northern-most driveway access and proposed housepad location as extensive vegetation had regrown. The Applicant mistakenly understood in discussions with both Planning and DPW that grubbing activities could commence. The grubbing activities inadvertently extended into the adjoining State-owned lands by about 20 feet at the most. The Applicant also laid down 3 truck loads (approximately 36 cubic yards) of black cinder within the eastern most portion of the subject property in proximity to the proposed housepad to fill the voids on the ground and to not significantly alter the existing grade

as it existed prior to the purchase of the property by the Applicant. Unfortunately, the black cinder was laid down in a portion of the 40-foot shoreline setback area, as shown on Figure 4-Past Grading/Grubbing Activities to create a more walkable path along the shoreline area where people have previously navigated.

11. September 1, 2022: Subdivision Application (PL-SUB-2022-000094)

Applicant files application for proposed 7-lot subdivision of subject property.

Application subsequently returned for more information, including securing a certified shoreline survey of property and SMA Use Permit for the proposed development.

12. September 29, 2022: Cessation of grubbing and grading work

Applicant is verbally informed by Planning Department to cease and desist from any grading and grubbing activities within the subject property until such time proper SMA-related approval is issued by the Planning Department. Applicant promptly stops all activities upon the subject property.

13. October 7, 2022: SMA Use Permit Assessment Application (PL-SAA-2022-000119)

Applicant files SMA Use Permit Assessment application to allow for grubbing of subject property so that a topographical assessment can be made for the proposed subdivision of the property. Application subsequently returned by Planning on October 26, 2022 for additional information.

14. October 10, 2022: Notice of Violation (PL-PCV-2022-00015)

Planning Department formally notifies Applicant to cease and desist from all grubbing and grading activities within the subject property until an SMA Use Permit is issued.

15. October 19, 2022: SMA Use Permit Assessment Application (PL-SAA-2022-000126)

Applicant files SMA Use Permit Assessment application to for after-the-fact grading and grubbing that had previously occurred on the subject property and subject to Notice of Violation dated October 10, 2022. Application subsequently returned by Planning on October 26, 2022 for additional information.

16. December 15, 2022: Time Extension to Comply with Order

At the request of the Applicant, the Planning Department issues a 6-month time extension with a new deadline of June 15, 2023 by which to comply with corrective actions described in the Department's October 10, 2022 NOV and Order.

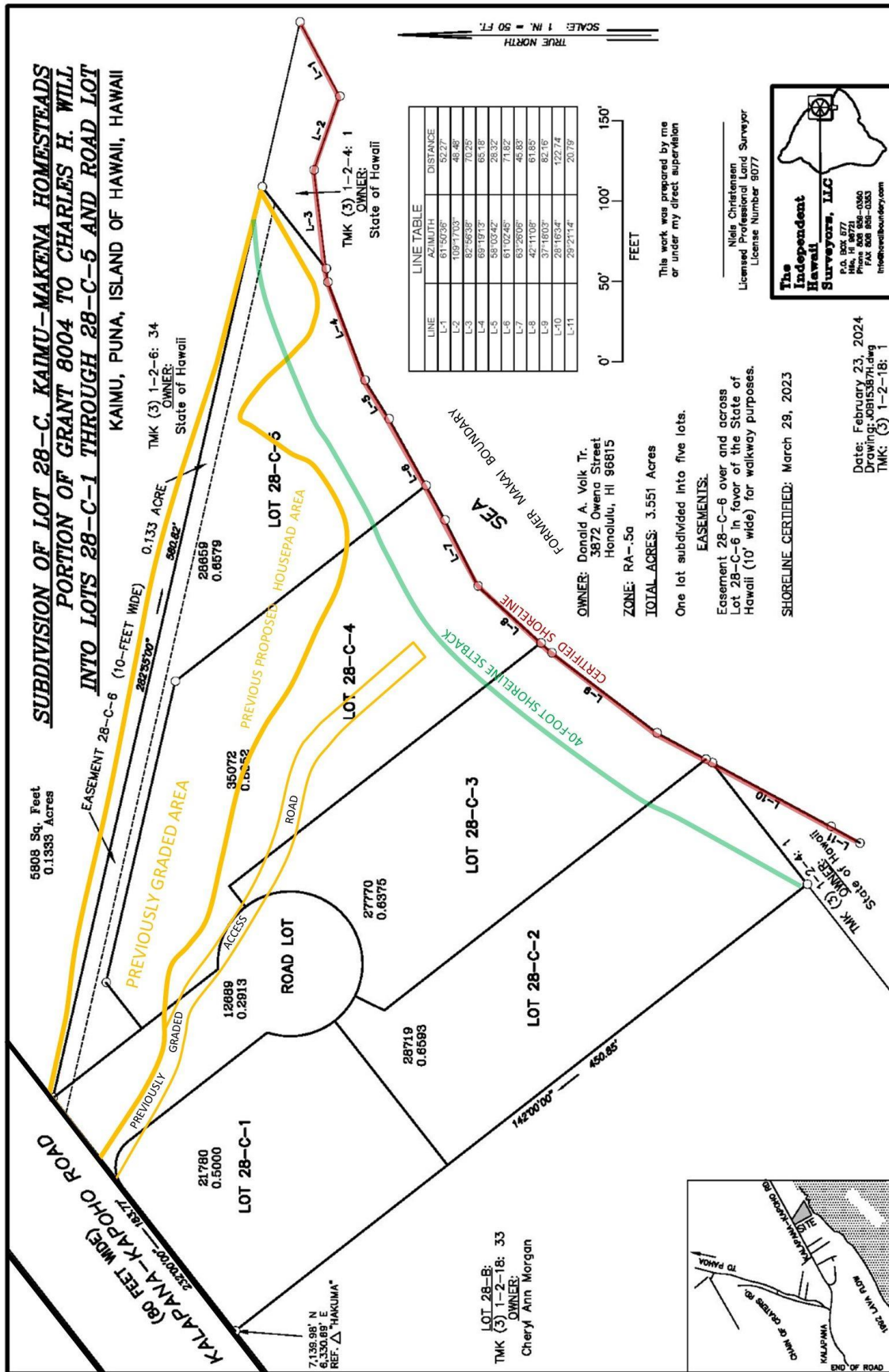


Figure 4-Past Grading/Grubbing Activities

17. August 4, 2023: Commencement of Daily Fines

Planning Department informs Applicant that due to failure to comply with corrective actions by the June 15, 2023 deadline, daily fines commenced as of October 11, 2022.

18. August 9, 2023: Applicant's Response to Daily Fines Letter

The Applicant, through its consultant, responds to the Daily Fines Letter with a demonstration of its on-going efforts to comply with all corrective actions as specified within the Department's October 10, 2022 Order

19. December 26, 2023: Applicant secures additional time

Applicant secures additional time until June 26, 2024 by which to comply with corrective actions.

C. LAND USE AND OTHER REGULATORY CONSIDERATIONS

20. State Land Use Designation: Urban.

The subject property is situated within an area designated for Urban uses by the State Land Use Commission, as shown on Figure 5 – State Land Use

21. Current County Zoning: Residential and Agricultural-0.5 acre minimum lot size (RA-.5a)

The Residential and Agricultural (RA) zoning district provides for activities or uses characterized by low density residential lots in rural areas where “city-like” concentrations of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with low density residential lots. The RA district is intended to be only within areas designated as being in the State land use rural or urban districts. (see Figure 6 - Current Area Zoning)

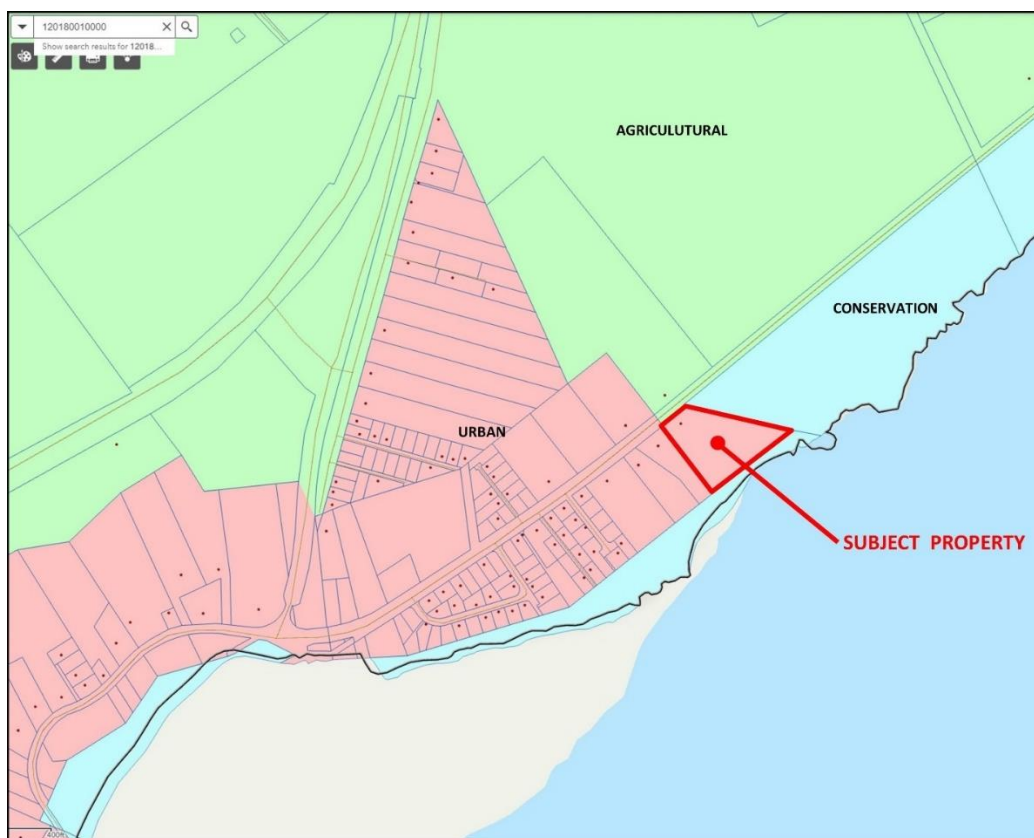


Figure 5 – State Land Use

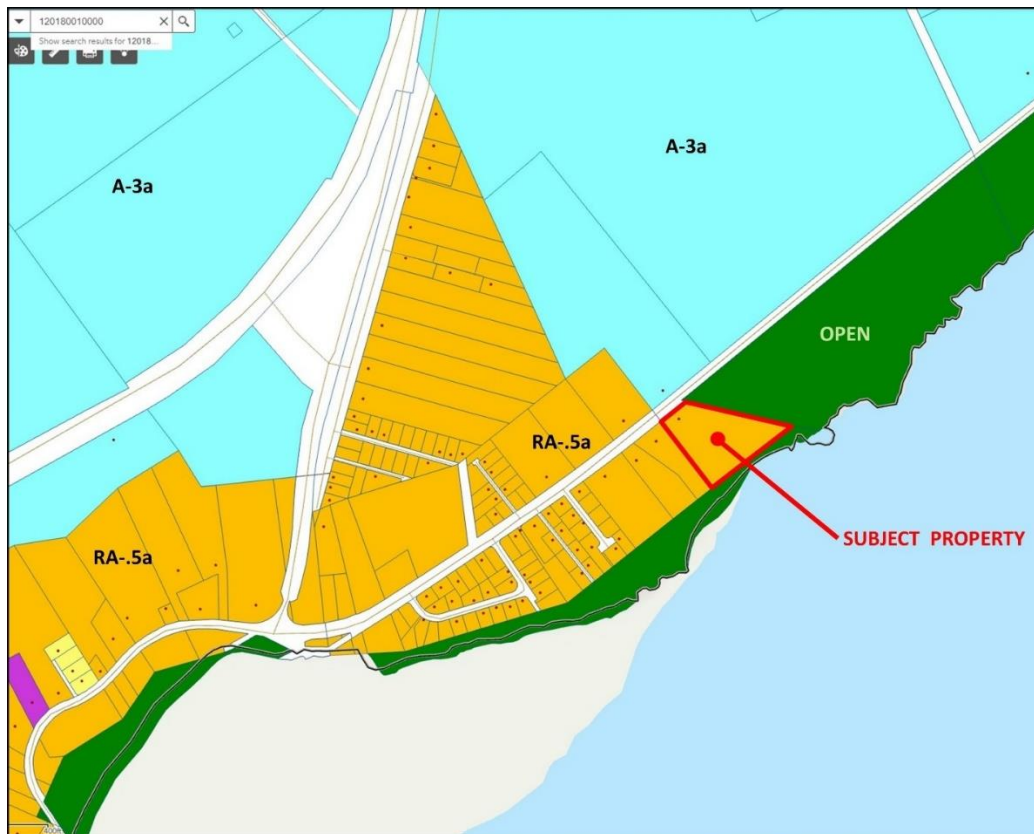


Figure 6 – Current Area Zoning

22. General Plan Land Use Pattern Allocation Guide (LUPAG) Map:

The County of Hawai'i General Plan is the policy document for the long-range comprehensive development of the island of Hawai'i. The General Plan Land Use Pattern Allocation Guide (LUPAG) map classifies the subject property and area directly inland (mauka) for Extensive Agricultural uses, which are lands not classified as Important Agricultural Land. Such lands are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. Other less intensive agricultural uses such as grazing and pasture may be included in the Extensive Agriculture category. Portion of the subject property along the shoreline prior to the certified shoreline is designated Open (see [Figure 7-General Plan LUPAG Map](#))

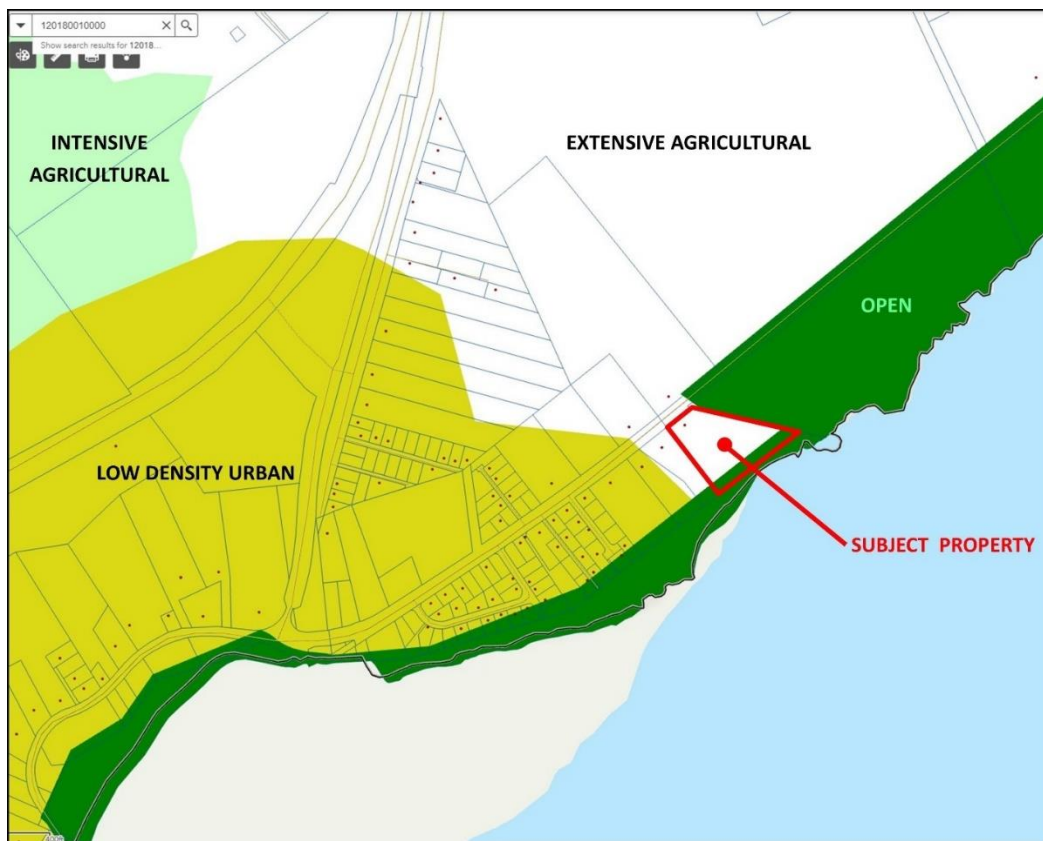


Figure 7 – General Plan LUPAG Map

23. Puna Community Development Plan:

The Puna CDP (PCDP) was developed and adopted by the Hawai'i County Council on August 27, 2008. It became effective on September 10, 2008 as Ordinance No. 08 116. The PCDP does not define any specific land use pattern for the area in proximity to the subject property. However, the PCDP established three (3) major themes that guided the development of the plan:

- Malama I Ka`Aina which “establishes how the contextual natural, historic and cultural features of Puna should be preserved.” (emphasis added)
- Growth Management which “addresses how the future pattern of human settlement and land use should be shaped to respect that context and support the desired quality of life for Puna’s residents.” (emphasis added)
- Transportation which “focuses on sustainable approaches to transportation to support the goals of the two above themes.”

Relative to the Malama I Ka`Aina theme, four (4) major elements were identified and assigned goals, objectives, and actions. These elements and their relationship to the proposed action follow:

1. Historic, Cultural, and Scenic Resources

An archaeological inventory survey of the subject property did identify four (4) sites as significant for the information they contain, but because sufficient data has been collected from each site, they can be evaluated as “no longer significant” and that no further archaeological work be required on the subject property. Nonetheless, should there be inadvertent discoveries during the construction of this project, work will stop and contacts with the County Planning Department and State Historic Preservation Division will be made. Furthermore, the project site is not known as hosting any cultural or scenic resources.

2. Native Forests and Geological Features

An assessment of floral and faunal resources and its geology indicates that the goals and objectives of this element would not be applicable to the

proposed project. The subject property is not part of any established native forest area, neither does it have any significant or unique geological features.

3. Aquifers, Coastal Waters and Stormwaters

The subject property is not proximate to potable wells in this area. Notwithstanding that factor, the proposed subdivision will utilize septic systems meeting with the approval of the State Department of Health.

The subject property is also not subject to storm waters or coastal flooding nor the effects of sea level rise. Given the above, the goals and objectives of this element would be fulfilled.

4. Shoreline Area

The Applicant has secured a certified shoreline survey of the subject property, and has conformed its proposed subdivision to the location of the certified shoreline, as well as providing a public pedestrian shoreline access to allow public access to coastal resources.

The other theme is Managing Growth. For this, six (6) elements were identified. These elements and their relationship to the project follow.

1. Land Use Pattern

Evaluating this request against the articulated goals and objectives of the Managing Growth theme, the request would be consistent with the following Goals of the PCDP:

- Puna retains a rural character while it protects its native natural and cultural resources.
- Reduces the exposure to high risk from natural hazard situations.

2. Agriculture and Economic Development

The PCDP identifies the following:

Goals

- Increase opportunities for diversified agriculture
- Preserve lands for agricultural use
- Increase local market share of Puna agricultural products

Objectives

- Discourage urban growth and further subdivision on lands that have been identified as having agricultural value.

While the General Plan does identify the subject property for extensive agricultural activities, its small size and location between a public road and the ocean precludes its use for extensive agricultural activities. As such, the proposed subdivision should not have an adverse impact on the agriculture industry since the location, size and soil conditions do not present the subject property as having any significant agricultural value.

3. Social Services and Housing

As this is not a social service or more affordable housing project, this section is not applicable.

4. Public Safety and Sanitation Services

Public safety services are available Pahoā. All solid waste generated by the project will be disposed of at either the transfer station in Pahoā or at the Hilo Transfer Station. No sewer system exists in the subject area, and the Applicant will comply with Department of Health requirements regarding proper wastewater disposal methods.

5. Parks and Recreation

This section is not applicable, as the project would have no direct impacts on parks. Nonetheless, the Applicant will provide a public pedestrian shoreline access to ensure public access to coastal recreational resources.

6. Energy Sustainability

While the proposed subdivision has access to the electrical grid, it will be up to the individual homeowners whether they wish to live off-grid or rely upon the utility for its electrical needs.

The third theme is Transportation. As a small 5-lot residential and agricultural subdivision, the goals and policies of this theme is not applicable to this project. However, the proposed subdivision will occur within the established Kaimu-Makena Homestead community within a residential area having lot sizes ranging from 5,300

square feet to over 3 acres. The effectiveness of enhancing transportation facilities and options is dependent upon the density and distribution of users. In this particular instance, creating a 5-lot subdivision within an existing homestead community will be less detrimental to any planning efforts to enhance transportation services and facilities.

In summary, the proposed 5-lot residential and agricultural subdivision will maintain the rural character of this area of Puna while remaining consistent with the themes outlined by the PCDP.

24. Coastal Zone Management, HRS, Chapter 205A

The entire State of Hawai'i lies within the Coastal Zone Management area. The intent of the Coastal Zone Management Program is to guide and regulate public and private uses in the coastal zone management area with respect to recreational resources, historic resources, public access to the shoreline, scenic and open space resources, coastal ecosystems, marine resources, economic uses, coastal hazards, managing development, public participation, and beach protection.

25. Special Management Area (SMA)

The Special Management Area (SMA) is a part of the Coastal Zone Management Program that is regulated by the County, established to promote the State's policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawai'i. Therefore, special controls on development within the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to ensure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves, by dedication or other means. The subject property is situated within the SMA due to its immediate proximity to the shoreline. An SMA Use Permit is required from the Windward Planning Commission in order to support the development of the proposed 5-lot subdivision and associated single-family residential dwellings.

26. Certified Shoreline Survey

A certified shoreline survey of the subject property was secured on March 29, 2023 from the Board of Land and Natural Resources. The certified shoreline migrated inland from the makai boundaries of the 3.800-acre subject property as defined by tax maps,

reducing the overall land area of the subject property to 3.677 acres, as shown on Figure 8 – Certified Shoreline Survey.

D. DESCRIPTION OF PROPERTY AND SURROUNDING AREA

27. Subject Property

The property is trapezoid in shape and 3.677-acres in size and is situated between the Kalapana-Kapoho Beach Road and the shoreline (see Figure 9 - Aerial Site Map). The Aerial Site Plan is based on March 7, 2023 imagery obtained via Google Earth. The subject property is currently vacant of any use or structure, aside from some limited clearing by the previous landowner for a proposed driveway and house pad circa 1992. However, the proposed home was never constructed and the previously cleared driveway and house pad is now overgrown with vegetation. More recently, the Applicant cleared and graded a portion of the subject property along its northern boundary, beginning at the Kalapana-Kapoho Beach Road and extending all the way down to the shoreline. Upon issuance of a Notice of Violation by the Planning Department, all work has ceased and the Aerial Site Map shows that vegetation has begun to reestablish itself.

28. Surrounding Zoning/Land Uses

The subject property is located within a portion of the Kaimu-Makena Homesteads, a collection of lots and subdivisions that span an area along the eastern side of the junction of Pahoia-Kalapana (Hwy 130) and Kalapana-Kapoho (Hwy 137) roads, and is predominately zoned for Residential and Agricultural (RA) uses with a minimum lot size of 1/2-acre. Adjacent to the east and makai of the Kalapana-Kapoho Beach Road are State lands zoned for Open (O) uses with agricultural-zoned lands (A-3a) along the mauka side of this road. The subject property basically defines the eastern-most extent of the Kaimu-Makena Homesteads.

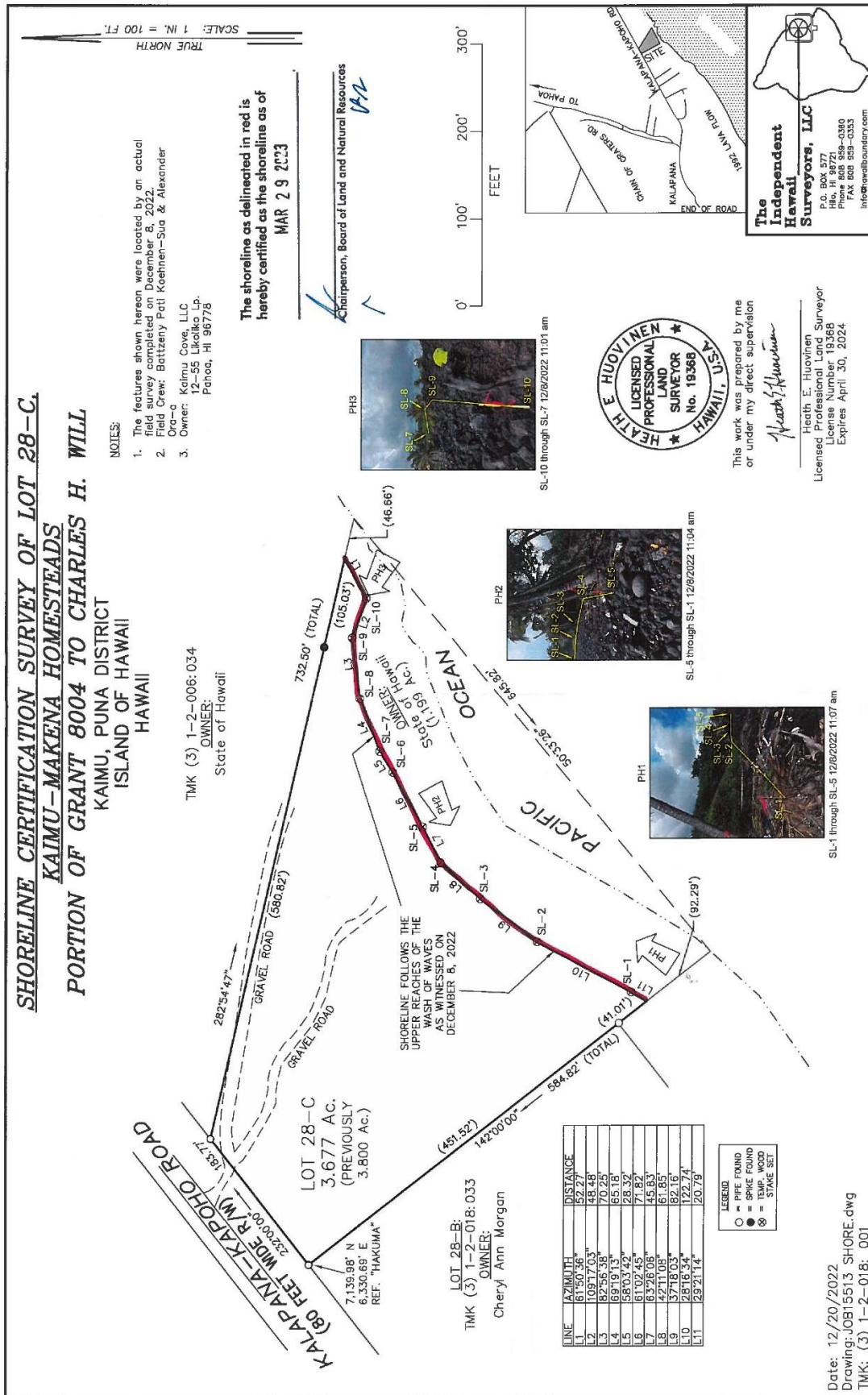


Figure 8 – Certified Shoreline Survey

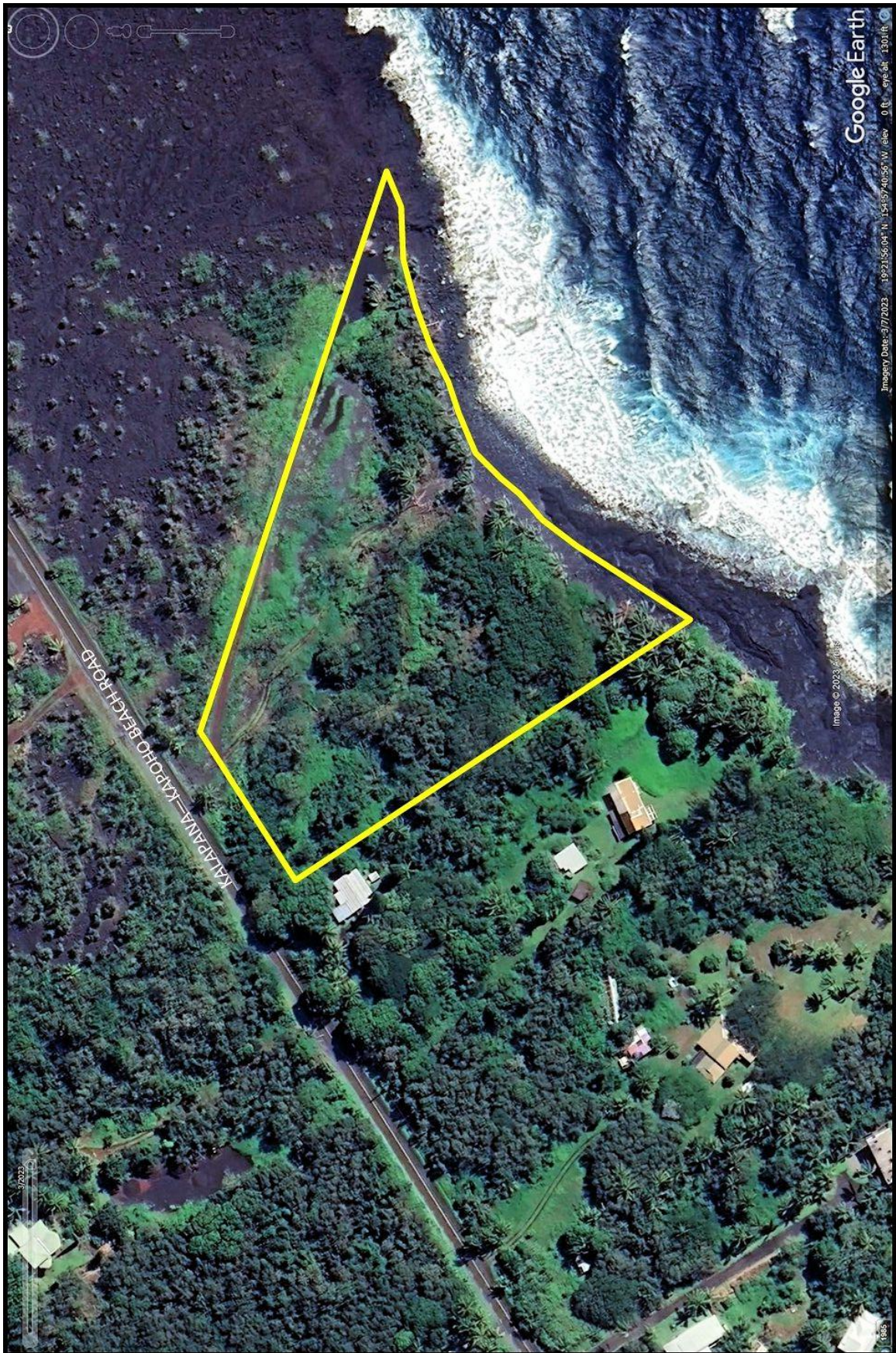


Figure 9 – Aerial Site Map

29. ALISH: Other Important Agricultural Lands

The subject property is not classified as by the Agricultural Lands of Importance to the State of Hawai‘i.

30. Land Study Bureau's Detailed Land Classification System

Soils within the subject property are classified as having very poor agricultural productivity rating (Class E soils).

31. US Soil Survey: Hakuma highly organic hydrous loam (666)

These soils series consist of shallow, moderately well drained soils formed in basic volcanic ash over pahoe-hoe lava. Hakuma soils are on the low elevation, windward slopes of Mauna Loa and Kilauea volcanoes. Slopes range from 2 to 10 percent. Mean annual rainfall is about 154 inches. Hakuma soils are generally found in open canopied forest. A few areas are used for pasture. Natural vegetation is ohia lehua (*Metrosideros polymorpha*), treefern (*Cibotium chamissoi* or *C. glauca*), uluhe (*Dicranopteris linearis*) and guava (*Psidium guajava*).

32. FIRM

Zone "X" - determined to be outside the 500-year flood plain (see [Figure 10 – Flood Hazard Map](#)). There are no known existing drainageways that traverse through the subject property.

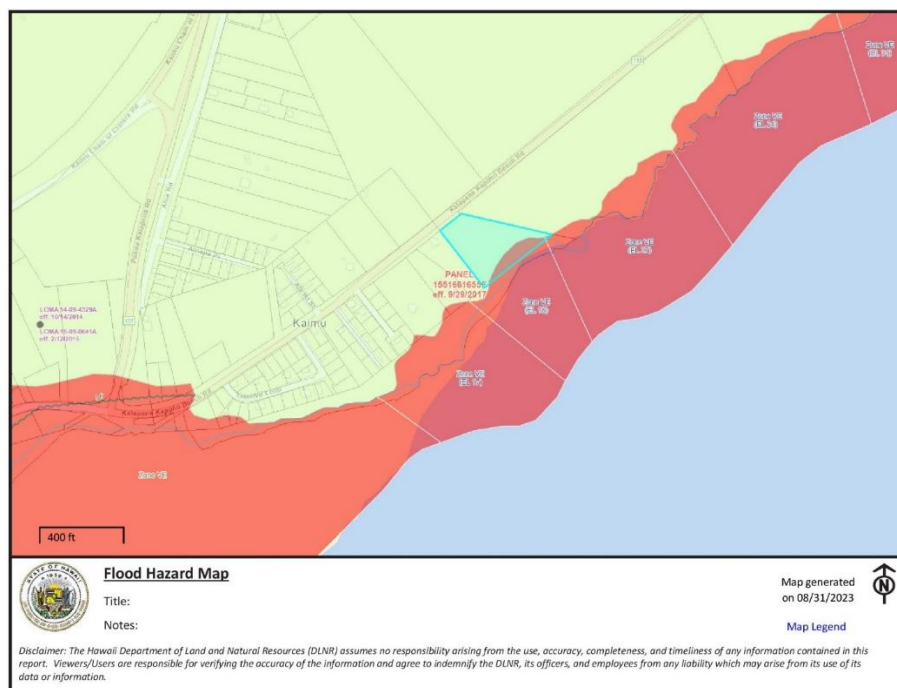


Figure 10 – Flood Hazard Map

33. Sea Level Rise Vulnerability and Adaptation Report (2017)

The Sea Level Rise Vulnerability and Adaptation Report (“report”) provides the first state-wide assessment of Hawaii’s vulnerability to sea level rise and offered recommendations to reduce the exposure and sensitivity to sea level rise and increase the State’s capacity to adapt.

The report assessed the best available science on climate change and sea level rise and provides recommendations based on emerging good practices. One such practice is that the magnitude and rate of sea level rise warrants planning for 3.2 feet of sea level rise by 2100. Towards that end, the Sea Level Rise Exposure Area (SLR-XA) shows that the subject property and its proposed 5-lot subdivision and future homesites will not be vulnerable to 3.2 feet of sea level rise, as depicted in Figure 11 - SLR Viewer.

Sea Level Rise : State of Hawai‘i Sea Level Rise Viewer

An Interactive Mapping Tool in Support of the State of Hawai‘i Sea Level Rise Vulnerability and Adaptation Report

[view full-screen map](#)

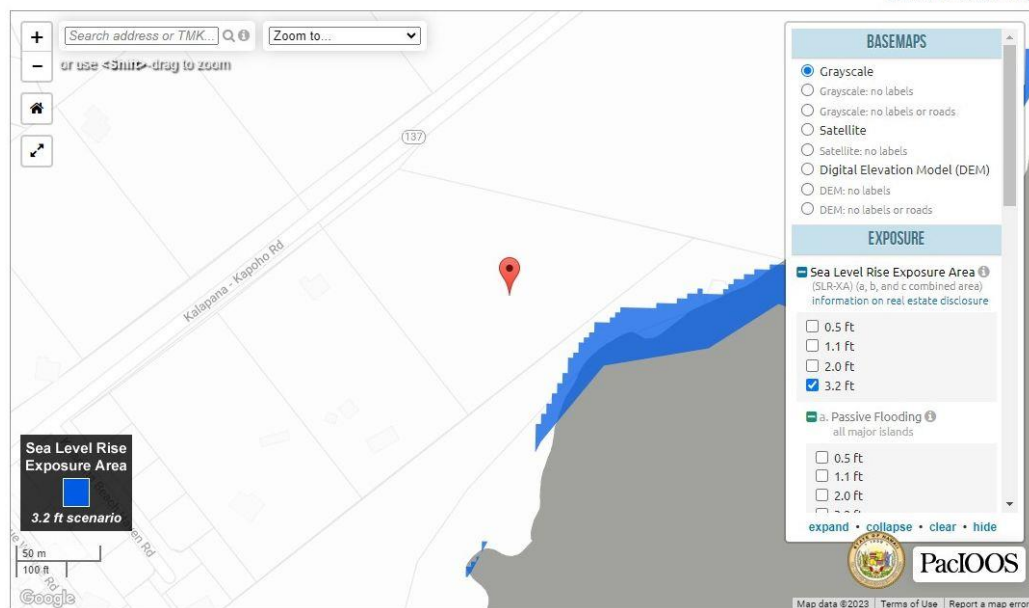


Figure 11 – SLR Viewer

34. Flora/Fauna Resources

No professional flora or faunal surveys were conducted of the subject property.

However, the Applicant has identified any endangered species of plants or animals within the subject property. The on-site vegetation includes guava, lauae, ti, noni, hau,

hala, milo, ohia, monkeypod, christmas berry, melochia, gunpowder trees, cane grass, java plum and verbena. Near the west property line there are some common mangos, avocado and banana from the neighbors. Naupaka occurs along the shoreline areas. While no endangered species of fauna was observed on the subject property, its location and shoreline proximity could see threatened or endangered species such as the Hawaiian Hoary Bat, Hawaiian (koloa) Duck, Hawaiian (Nene) Goose, Hawaiian Petrel, Hawaiian Coot, Band-rumped Storm-petrel, Hawaiian Stilt, Newell's Townsend's Shearwater and the Short-tailed Albatross. The Blackburn's Sphinx Moth is the only endangered species of insect that could inhabit the affected area.

35. Archaeological Resources

1992 Archaeological Inventory Survey

The subject property was subject to an inventory level archaeological survey conducted by Robert Spear, Ph.D. in 1992 (**Exhibit A**). The report, titled *“An Inventory Level Survey of the Robinson Property, Puna District, Island of Hawai‘i (TMK: 1-2-18:1) November 1992”*, identified four (4) archaeological sites within the subject property that include:

- Site 18,525 – C-shaped structure built of stacked sub-angular to sub-rounded basalt cobbles and small boulders. No buried cultural features were found in this structure, which functioned as a temporary structure.
- Site 18,526 – two surface features consisting of a C-shape and a rock mound, both consisting of sub-angular and sub-rounded basalt cobbles and small boulders. No cultural material was found in the C-shaped structure, which functioned as a temporary shelter. The small mound probably functioned as an agricultural feature.
- Site 18,527 – a post-contact wall structure that extended along the base of the fill for the Kalapana-Kapoho Beach Road and extended beyond the subject property to the southwest until it was eventually covered by fill associated with the road construction. Most likely served as a boundary wall.
- Site 18528 – small modified hole in a lava bubble. No cultural material was found in association with this feature and there proved to be no potential for

excavation inside the opening. The feature function is unclear, but could have served as a storage area or small planting area.

The presence of a nearby cemetery (locally known as Makena Cemetery) was a specific concern during the survey, so special attention was paid to determine if structures similar to those identified in the cemetery were also present within the subject property. No such features were identified, nor were there other features identified that were interpreted as burials. The archaeological also concluded that the soil build-up within the subject property was so shallow as to preclude the presence of subsurface burials.

The report concluded that all four (4) sites are significant under Criterion D because of the information they contain. However, because sufficient data has been collected from each site, they can be evaluated as “no longer significant” and that no further archaeological work be required on the subject property.

January 2024 Archaeological Field Inspection and Cultural Consultation (Exhibit B)

The Applicant contracted with ASM Affiliates who conducted an archaeological field inspection of the subject property to confirm and update findings from the earlier archaeological inventory survey and a cultural consultation to confirm the presence or absence of burial sites.

According to the report, *“There has been some prior ground disturbance along the northeast, southwest, and mauka edges of the project area. On the ‘a ‘ā flow in the northeastern portion of the parcel, a grubbed and graded driveway (Figure 8) meanders along the property line and accesses a graded house pad near the coast on a promontory that overlooks the rest of the parcel (this area was mostly recently cleared in 2022). There is a second roadway which diverts from the upper road and is routed down through the middle of the project area to the coast (Figure 9). This road may have been already present when previously surveyed in 1992, as something resembling it is mentioned by Spear (1992). Bulldozer push piles were also observed along the boundary with the adjacent residential property to the southwest near the middle of the project area. These push piles appear to be related to the clearing of that neighboring parcel. A*

number of brush piles, seemingly from hand clearing activities, were also noted in the northeastern portion of the project area at the base of the ‘a‘ā flow.

The pedestrian survey conducted located three of the four sites previously documented by Spear in 1992. The fourth site, a C-shaped feature [Site 15,525] located within the eastern portion of the project site at the base of an ‘a‘ā flow, could not be located as it was destroyed by mechanical ground disturbance after the acceptance of the Spear (1992) survey.

The result of the current survey supports the findings of the Spear (1992) survey, with the three relocated sites in similar condition to what was previously described and indicate that the subject property was used during the Precontact to early Historic periods for temporary habitation purposes, with associated storage and limited agricultural also occurring. No potential burial features were identified within the subject property nor were any possible burial locations identified as a result of consultation by the archaeologist.

A consultation with several long-time residents of the area was also conducted, that included descendants of the ‘ohana Keli‘iho‘omalū and Kealoha families, namely Ms. Ke‘ala Keli‘iho‘omalū, Mrs. Leialoha Ilāe-Kaleimāmahū, and Mrs. Ku‘ulei Kealoha-Cooper by phone. According to the report, *“Following the initial phone calls, each of the three consulted parties were provided with a consultation letter and maps specifying ASM’s search for persons who may have knowledge of any burials within the project area and information on the nearby cemetery. Each of the consulted parties contacted additional family members to seek such information. Ms. Keli‘iho‘omalū spoke with elder relatives Prince Keli‘iho‘omalū, Sam Keli‘iho‘omalū, Noenoe Dunn, Tiana Dunn, Jerry Dunn, Princess Keli‘iho‘omalū, Jr. Keli‘iho‘omalū, and Tiara Keli‘iho‘omalū. Ms. Keli‘iho‘omalū indicated that her uncle Sam also attempted to reach out to Aku Hauani‘o and Kamu Quihano and that her father attempted to reach out to Annie Ka‘aukai and Leslie Enriques. Mrs. Ilāe-Kaleimāmahū also contacted members of the ‘ohana Keli‘iho‘omalū and recommended that ASM staff contact Mrs. Kealoha-Cooper since she had heard that the cemetery belonged to the Kealoha family. Mrs. Kealoha-*

Cooper was contacted by ASM and she spoke with several of her relatives, including her mother.”

According to the report, none of the consulted parties knew of any burial sites within the project area. Subsequent email correspondence with Mrs. Kealoha-Cooper clarified that the cemetery did not belong to the Kealoha ‘Ohana, however, her mother related that in the 1930s and 1940s, the Kalapana Church was located near the cemetery and that her *tūtū* (Mrs. Kealoha-Cooper’s great-grandmother) Emma Nai‘a was a pillar of that church. She added that there is a Kealoha cemetery in ‘Opihikao but was not aware of any such family cemetery in Kaimū.

Based on these findings, the current study, combined with the findings of the previous survey, supports a HRS Chapter 6E-42 determination of “No historic properties affected” for the proposed subdivision and development of the subject property.

36. Cultural or Native Gathering Rights

According to the Applicant, there are no known customary or Native Hawaiian cultural rights exercised within the subject property. Upon clearing of a gravel driveway along the northern property line of the subject property in 2022, the public has been using the driveway to access the shoreline area and adjoining State lands. As previously mentioned, the Applicant will be providing a 10-foot wide shoreline public pedestrian access along its entire northern boundary adjacent to the adjoining State-owned lands. The presence of Makena Cemetery nearby along the mauka side of the Kaimu-Kapoho Beach Road was of special concern by the archaeologist (Spear 1992) who paid special attention to look for features within the subject property that could be interpreted as burials, and none was found. As mentioned previously, recent consultation with several long-time residents of the area was also conducted during the current study, that included descendants of the ‘*ohana* Keli‘iho‘omalua and Kealoha families, none of whom knew of any burial sites within the project area.

If a burial is encountered during land disturbance activities, the Applicant will immediately cease all work and notify the Planning Department and the State Historic Preservation Division to await proper direction and clearance before any land alteration work can resume.

37. Public Access

The nearest formal access to the shoreline is situated along Kalapana Beach Haven Road, situated approximately 640 feet to the southwest of the subject property along the Kalapana-Kapoho Beach Road. As mentioned, upon clearing of a gravel driveway along the northern property line of the subject property in 2022, the public has been using the driveway to access the shoreline area and adjoining State lands. As previously mentioned, the Applicant will be providing a 10-foot wide shoreline public pedestrian access along its entire northern boundary adjacent to the adjoining State-owned lands.

E. PUBLIC UTILITIES AND SERVICES

38. Access:

Access to the subject property is from the Kalapana-Kapoho Beach Road, a State-maintained roadway with a roughly 10-foot wide pavement and unimproved shoulders within an approximately 80-foot wide right-of-way.

39. Water

County water is currently available to support the proposed 6-lot single-family residential subdivision. Should this SMA Use Permit be approved and tentative approval granted to the proposed subdivision, the Applicant will install lateral connections from the water main within the Kalapana-Kapoho Beach Road to individual proposed lots.

40. Wastewater

There is no municipal sewer system servicing the subject area. Each proposed single-family dwelling will be serviced by individual septic systems meeting with the approval of the State Department of Health.

41. Solid Waste

Solid waste will be handled through commercial haulers or disposal by the landowner into authorized landfill sites or transfer stations. All waste generated by construction-related activities will have to be transported to the West Hawaii Sanitary Landfill in Pu‘uanahulu, North Kona.

42. Essential Utilities and Services

Other utilities, such as electrical, cable and telephone services, will be made available to the subject property.

F. STATEMENT IN SUPPORT OF SMA USE PERMIT REQUEST

The approval of the Applicant's request to develop a proposed 5-lot single-family residential subdivision is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management. The subject property is not subject to any coastal hazard nor anticipated to have any adverse impact upon coastal resources. The Applicant will be providing shoreline public access through the proposed subdivision as required by Chapter 34 of the Hawai'i County Code regarding Public Access. The proposed subdivision and homesites will not have any adverse impact on cultural or historical resources in the area or upon any endangered species of plants or animals.

In view of the Hawai'i State Supreme Court's "PASH" and "Ka Pa'akai O Ka'Aina" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

It is unlikely that there are any valued cultural, historic and natural resources to be found within the property. Two archaeological studies conducted on the subject property concludes that all four (4) sites are significant under Criterion D because of the information they contain. However, because sufficient data has been collected from each site, they can be evaluated as "no longer significant" and that no further archaeological work be required on the subject property. Consultation with several long-time residents of the area was also conducted and none of the consulted parties knew of any burial sites within the project area.

For these reasons, the Applicant could find no evidence of any possible adverse effects or impairments that will occur to any valued resources should the proposed 5-lot subdivision and its associated construction of single-family dwellings be allowed. Should the Applicant inadvertently encounter any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, the Applicant agree to cease any work in the immediate area and contact the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-HPD), resuming activities only upon securing archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.

Approval of the request to create a 5-lot single-family residential subdivision, if approved, will not be contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management nor the guidelines for approval of an SMA Use Permit as prescribed by Planning Commission Rule No. 9 regarding the Special Management Area.

The subject property is situated within the Special Management Area with direct frontage along the shoreline. However, the subject property is not subject to any **coastal hazard** nor the effects of sea-level rise. Therefore, the development of the subject property as a single-family residential subdivision is not anticipated to have any adverse impact upon coastal resources such as **coastal recreational** and **marine resources, coastal ecosystems** or the **public use and recreational use of any beach**. Based on a March 29, 2023 certified shoreline survey, a 40-foot wide shoreline setback is established that will manage all structures and land use activities within this shoreline setback area to ensure that coastal processes and resources are protected.

The subject property was subject to an inventory level archaeological survey conducted by Robert Spear, Ph.D. in 1992 which identified four (4) archaeological sites within the subject property that include two C-shaped structures probably used as a temporary structure and an agricultural feature, a post-contact boundary wall, and a modified hole in a lava bubble probably used for storage or a small planting area. There were no features identified that could be interpreted as burials. The archaeological also concluded that the soil build-up within the subject property was so shallow as to preclude the presence of subsurface burials.

The report concluded that all four (4) sites are significant under Criterion D because of the information they contain. However, because sufficient data has been collected from each site, they can be evaluated as "no longer significant" and that no further archaeological work be required on the subject property.

A January 2024 archaeological field inspection and cultural consultation confirmed these previous findings and found that the current study, combined with the findings of the previous survey, supports a HRS Chapter 6E-42 determination of "No historic properties affected" for the proposed subdivision and development of the subject property.

Therefore, it is not anticipated that the proposed request will have any adverse impact on **cultural or historical resources** in the area.

The subject property, zoned RA-.5a, is similarly designated as the rest of the area referred to as the Kaimu-Makena Homesteads. The subject property itself represents the eastern extent of this homestead area, with lands beyond retained by the State. While the General Plan suggests that the subject property be utilized for extensive agricultural purposes, it designates it as the only lot on the makai side of the Kalapana-Kapoho Beach Road, squeezed between Low Density Urban uses for the rest of the homestead area, and Open uses for the State lands immediately to the east. Extensive agricultural pursuits simply cannot happen on this 3.677-acre shoreline parcel, which is clearly best suited for residential uses as is the rest of the Kaimu-Makena Homesteads. For these reasons, the Applicant feels that allowing this proposed 5-lot residential subdivision in this particular location is supportive of the County's efforts towards **managing development** through the General Plan that also encourages the County to:

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.

With a policy that:

- Vacant lands in urban areas and urban expansion areas should be made available for residential uses before additional agricultural lands are converted into residential uses.

Finally, in terms of the **public participation** objective, this is generally a public agency function. This is achieved through the Marine and Coastal Zone Management Advisory Group (MACZMAG) and the public hearing process required pursuant to the Planning Commission's Rules and County Council's meetings on this application. Notices of this application will become available through the posting of a sign on the property, as well as sending two (2) notices to surrounding property owners, one at the time the application is filed and again, prior to the public hearing.

33. Anticipated effects upon the Special Management Area

a. Relationship of proposed action to land use plans, policies and control

The subject property represents the eastern extent of that area designated Urban by the State Land Use Commission and recognized as a part of the Kaimu-Makena Homesteads. The Puna Community Development Plan does not offer any land use policies specific to the Kaimu area, but as stated above, the General Plan does focus more urban types of uses in existing Urban areas, which is the case presented by the Applicant.

b. Description of how project will affect area and surrounding lands

The subject property lies within a long-established homestead area that has a number of single-family residences. This proposed single-family residential homestead will be no different. Lands beyond the subject property to the east and north (mauka) being owned by the State.

All necessary utilities and services to support the proposed subdivision and its single-family residential use is or will be made available. Kalapana-Kapoho Beach Road is a two-lane County-maintained roadway that can easily accommodate the traffic generated by this small subdivision.

c. Description of impacts that cannot be avoided and applied mitigation measures

The development of the subject property into a subdivision consisting of five (5) single-family residential dwellings will forever change the landscape in this particular section of the Kaimu-Makena Homesteads. But as a part of this homestead area, the proposed development will not be contrary to the existing residential character within this section of Kaimu. Lands to the east beyond the subject property is owned by the State, providing adequate coastal open space opportunities along this scenic roadway.

During construction of the subdivision and its associated single-family dwellings, best management practices will be implemented to insure that excessive dust or runoff is controlled. If required by the Department of Public Works, a grubbing and grading permit will be secured prior to land alteration activities. No such land alteration activities will be permitted within the 40-foot shoreline setback

area, which will be clearly delineated with flags or temporary construction fencing, as deemed appropriate by the Planning Department. Wastewater generated by these homesites will be managed by septic systems approved by the Department of Health.

To mitigate the impacts of the proposed development on these vacant lands, the Applicant will provide a 10-foot wide public shoreline pedestrian access easement along its northern boundary to preserve access to coastal resources.

d. Alternatives to the proposed project

The only reasonable alternative is to maintain the subject property in its current vacant and vegetated state. Attempts could be made to cultivate the land or place it into pasture, but at only 3.677 acres, the subject property provides little agricultural opportunity, especially given the poor soil conditions immediately adjacent to the ocean.

While the proposed project can be reduced to one single-family dwelling on the entire 3.677-acre property, the fact is that it still represents the introduction of residential uses on this property. Whether one dwelling or six, if adequate support facilities are provided and impacts properly mitigated and managed, the actual number of dwellings is irrelevant. The purpose of the SMA is to ensure that development will not have a substantial adverse effect upon coastal resources, and the Applicant believes that he has accomplished this goal with the information provided within this application.

e. Irreversible and irretrievable commitment of resources

Given the limited scope of the proposed 5-lot subdivision and associated single-family dwellings and related improvements, the Applicant is not able to identify any irreversible or irretrievable commitment of cultural, historical, recreational or ecological resources as a result of the proposed subdivision development. In fact, a benefit in the form of a formal shoreline public pedestrian easement where none currently exists is a commitment towards enhancing access to a public resource, the shoreline.

G. OBJECTIVES AND POLICIES OF CHAPTER 205A AND SMA GUIDELINES

a. Recreational resources

While the subject property itself is not known to accommodate any coastal recreational opportunities, its shoreline proximity does provide access opportunities. Therefore, to mitigate the effects of the proposed 5-lot subdivision upon access to coastal resources, the Applicant will establish a 10-foot wide, cinder-surfaced public pedestrian shoreline access along its northern property boundary. The proposed subdivision has modified its makai shoreline boundary to reflect the location of the recent certified shoreline, thereby providing additional opportunities for lateral access along the shoreline. The subject property has lost approximately 10,846 square feet of land area due to the encroachment of the shoreline.

b. Historic resources

The subject property was subject to an inventory level archaeological survey conducted by Robert Spear, Ph.D. in 1992 (Exhibit A). The report, titled "*An Inventory Level Survey of the Robinson Property, Puna District, Island of Hawai'i (TMK: 1-2-18:1) November 1992*", identified four (4) archaeological sites within the subject property that include:

- Site 18,525 – C-shaped structure built of stacked sub-angular to sub-rounded basalt cobbles and small boulders. No buried cultural features were found in this structure, which functioned as a temporary structure.
- Site 18,526 – two surface features consisting of a C-shape and a rock mound, both consisting of sub-angular and sub-rounded basalt cobbles and small boulders. No cultural material was found in the C-shaped structure, which functioned as a temporary shelter. The small mound probably functioned as an agricultural feature.
- Site 18,527 – a post-contact wall structure that extended along the base of the fill for the Kalapana-Kapoho Beach Road and extended beyond the subject property to the southwest until it was eventually covered by fill associated with the road construction. Most likely served as a boundary wall.

- Site 18528 – small modified hole in a lava bubble. No cultural material was found in association with this feature and there proved to be no potential for excavation inside the opening. The feature function is unclear, but could have served as a storage area or small planting area.

The presence of a nearby cemetery was a specific concern during the survey, so special attention was paid to determine if structures similar to those identified in the cemetery were also present within the subject property. No such features were identified, nor were there other features identified that were interpreted as burials. The archaeological also concluded that the soil build-up within the subject property was so shallow as to preclude the presence of subsurface burials.

The report concluded that all four (4) sites are significant under Criterion D because of the information they contain. However, because sufficient data has been collected from each site, they can be evaluated as “no longer significant” and that no further archaeological work be required on the subject property.

The State Historic Preservation Division will be notified and all work shall immediately cease should inadvertent discovery of any archaeological feature be encountered during development of the proposed subdivision.

A January 2024 archaeological field inspection and cultural consultation conducted by ASM affiliates in January 2024 confirmed these previous findings and found that the current study, combined with the findings of the previous survey, supports a HRS Chapter 6E-42 determination of “No historic properties affected” for the proposed subdivision and development of the subject property.

c. Scenic and Open Space resources

The subject property is not identified as an area of natural beauty by the General Plan. The subject property remains largely vegetated with restricted coastal viewplanes from the Kalapana-Kapoho Beach Road. Immediately to the north are State-owned lands situated upon a 1750 A‘a lava flow that affords greater coastal viewplane opportunities than does the subject property. The requested small 6-lot subdivision with 1/2-acre sized lots will offer low density building sites that should not have a significant impact upon any viewplane. It could be argued that

permitting the proposed subdivision to proceed forward will allow for clearing of the existing vegetation, allowing for greater coastal viewplane opportunities. For these reasons, the Applicant finds that the proposed 5-lot subdivision will not have significant adverse impacts upon any scenic or open space resources within the project area.

d. Coastal ecosystems

The subject property has direct shoreline frontage, along with a 40-foot shoreline setback that will be imposed and enforced by the County, ameliorating the effects of any development activities upon coastal resources. The small scale and low density of the proposed subdivision at only 5 lots will further manage the scale of improvements and uses upon these lands and its effects upon coastal ecosystems. The Applicant will comply with all applicable government regulations to mitigate the effects of the project upon coastal resources, such as regulation related wastewater treatment and disposal, erosion and sedimentation control, grubbing and grading activities.

e. Economic uses

The intent of the proposed subdivision is to subdivide lands that have been designated for the past 50-plus years for residential and agricultural uses, providing such opportunities within an area long established as a homestead community. From an economic standpoint, jobs will be created as part of the subdivision process as well as the construction of homes on each property. The County will gain in real property tax revenues and fees associated with the construction and occupancy of the proposed single family residential dwellings within this subdivision.

f. Coastal hazards

The subject property is not subject to coastal flooding nor the effects of sea level rise, as discussed in Sections D(21) and D(22).

In view of the Hawai'i State Supreme Court's "PASH" and "Ka Pa'akai O Ka'Aina" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the

associated traditional and customary practices of the site. The Applicant nor past studies have identified the subject property as being host to any valued cultural, historical, and natural resources. The proximity of the subject property immediately adjacent to State-owned lands and the requirements of Chapter 34 of the Hawai‘i County Code has prompted the Applicant to provide a 10-foot wide public pedestrian shoreline access along the northern boundary of the proposed subdivision. This will ensure coastal access between the Kalapana-Kapoho Beach Road and the coastline. With this mitigating action, the Applicant could find no evidence of any possible significant adverse effects or impairments that will occur to any valued resources should this SMA Use Permit be approved. A cultural consultation with long-time residents of the area found that none of those consulted were aware of any burials within the subject property. However, should the Applicant inadvertently encounter any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, the Applicant agree to cease work in the immediate area and contact the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-HPD), resuming activities only upon securing archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.

The Applicant has not encountered any evidence of traditional or customary Native Hawaiian rights being practiced on the subject property, nor existence of any known valued cultural, historical or native resources in the area. Thus, it is believed that the project would have no adverse impact relative to the cultural and historical resources of the area. To the extent to which traditional and customary Native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights.

Based on the above findings, the Applicant maintains that allowing the development of the proposed 5-lot subdivision and single-family dwelling units and related improvements will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No.9 of the Planning Commission relating to the Special Management Area.

H. CONCLUSION

Based on the discussion above, the Applicant finds that approval of an SMA Use Permit to allow for the development of a 5-lot residential-agricultural subdivision and the construction of a single-family dwelling and related improvements on each of the proposed lots will conform to the goals, policies and standards of the General Plan; adheres to the general policies and objectives of the Puna Community Development Plan; will not have a significant adverse impact upon coastal resources; and would result in an appropriate land use pattern that will further the public necessity and convenience and the general welfare.

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**AN INVENTORY LEVEL SURVEY
OF THE ROBINSON PROPERTY
PUNA DISTRICT,
ISLAND OF HAWAII
(TMK: 1-2-18-1)**

By

Robert A. Spear, Ph.D.

November, 1992

For

Mr. Bruce Robinson

*acting for
Mr. Bruce Robinson*

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SCIENTIFIC CONSULTANT SERVICES, INC.

EXHIBIT A

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INTRODUCTION AND SETTING

At the request of Mr. Bruce Robinson, an Archaeological Inventory Survey was conducted by Scientific Consultant Services on a parcel of land located at TNG:3-1-2-18:1, Kaimū Ahupua'a, Puna District, Island of Hawai'i (Figure 1). The purpose of this survey was to determine the presence or absence of significant cultural remains in the project area. The fieldwork was carried out on October 23 and 24, 1992 by Robert L. Spear, Ph.D. (Principal Investigator) and Lisa Anderson (Field Assistant).

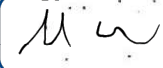
The project area encompassed 3.8 acres bordered on the north by an A.D. 1750 a'a flow, on the east by the ocean, on the south by an occupied house lot, and on the west by Kalapana-Kapoho Beach Road. Vegetation in the project area included, but was not limited to, guava, ti, banana, ferns, vines, noni, hau, ohia, monkey pod, and a low ground cover. Small green chili peppers were identified in the area of site 50-10-53-18, 526. The general soil classification of the project area was lava flows (a'a) and Punaluu extremely rocky peat (Soil Survey 1973:34, 48).

HISTORICAL AND ARCHAEOLOGICAL FRAMEWORK

A review of the Land Commission Award (LCA) books found no LCA's within or near the project area(n.d.).

Recorded archaeological sites in Kaimū Ahupua'a include Kūmakaula Heiau (Stokes 1991:147), Kāipuuāleale Cemetery (Bavaqua

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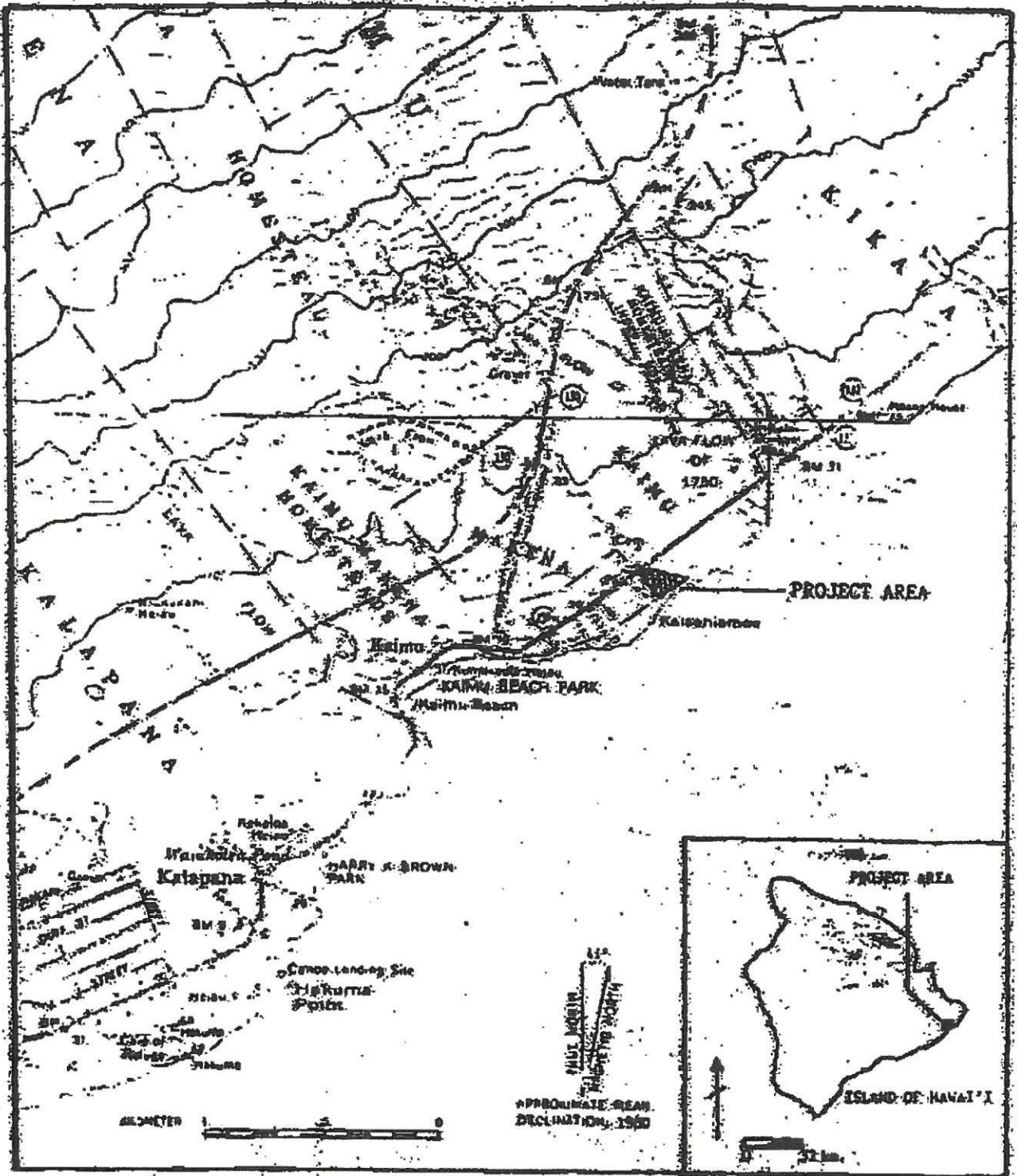


FIGURE 1: USGS KALAPANA AND PAHOEHOE SOUTH QUADRANGLES SHOWING PROJECT AREA.

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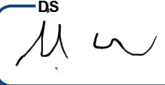
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and Dye 1972), a habitation complex and a stepping stone trail (Ching et al), two walls (Palana and Bordner 1977), ahu, terraced areas, and a series of trails (Bordner 1977).

Bordner has suggested that the Kaimū-Kalapana area saw general use throughout the region, with small areas of highly intensive planting areas mixed with habitation units (Bordner 1977:5). Bordner's settlement plan for the Kaimū-Kalapana area is reflected in McEldowney's settlement model which proposed five zones of Hawaiian settlement and land use. Zone 1 of McEldowney's model consists of a coastal settlement strip which included structures representing both permanent and/or temporary use along the entire coast (McEldowney 1979:13). Settlements could occur singularly, clustered in small, widely spaced groups, or concentrated around specific locations such as Hilo Bay (McEldowney 1979:15). Garden plots and other agricultural features were directly associated with the habitation features (McEldowney 1979:16). McEldowney suggests that environmental features such as the occurrence of ash soils, or better developed organic soils important for crops, potable fresh or brackish water, local coastline formations amenable to sea exploitation, ponds or streams for aquaculture and/or marshland taro cultivation appear to be major factors associated with population concentrations (McEldowney 1979:15).

The general usefulness of Kaimū for agriculture is noted by Handy and Handy (1978:34) who said that upper Kaimū formerly supported taro and lower Kaimū supported sweet potatoes. Ellis described Kaimū as covered with a light and fertile soil. The

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area was extensively cultivated and included plantations, groves of coconut, and clumps of koa trees. Ellis also notes that Kaimū had a fine sandy beach (Ellis 1825:160).

It is the beach area, including Kumakaula Halea and the associated habitation complex and trail, that was one of the higher density use areas suggested by Bordner and McElDowney. The present project area located northeast from the beach up the coast may have been a less intensively utilized area possibly due to thin soils and the lack of a permanent water source. This being the case, expected sites might include temporary habitations and agricultural features. The presence of Kaipuuhele Cemetery immediately across the road from the project area gives rise to the possibility of human burials being present in the project area.

METHODOLOGY

The purpose of this inventory survey was to determine the presence or absence of significant remains through surface survey and subsurface testing. The surface reconnaissance was conducted by walking the project area in systematic sweeps with the surveyors no more than 10 m apart. Since surface visibility was fair to good this spacing between surveyors was deemed adequate for site discovery. All identified cultural features were flagged and marked with a temporary site number.

The subsurface testing was carried out by excavating small

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stratigraphic trenches which were used to examine soil deposits and explore for buried cultural materials. The soil from the excavations was not screened.

Records were kept through the use of fieldnotes, planview drawings of selected architectural features, and the use of a black and white photo record. All soil colors were based on the Munsell color charts. Mapping was done by tape and compass. All project materials are stored at the office of Scientific Consultant Services, Kaneohe, Hawai'i.

FIELDWORK RESULTS

Four archaeological sites were located during the fieldwork, these were site 50-10-63-18,525 to 18,528 (Figure 2). Each of these sites is described below.

Site 18,525, Feature 1 was a C-shape located near the base of the A.D. 1750 a'a flow and at the end of the bulldozer push road (Figures 3 and 4). The opening of the C-shape was oriented to the west. The maximum width of the structure was 5.10 m and the depth of the C-shape from its interior wall to the tip of the C-shape was 1.45 m. The maximum wall thickness was 2.10 m and the maximum interior wall height was 0.36 m.

The feature was built of stacked sub-angular to sub-rounded basalt cobbles and small boulders. The exterior wall of the structure had been disturbed by several hau trunks. The southern half of the feature was more disturbed than the northern half.

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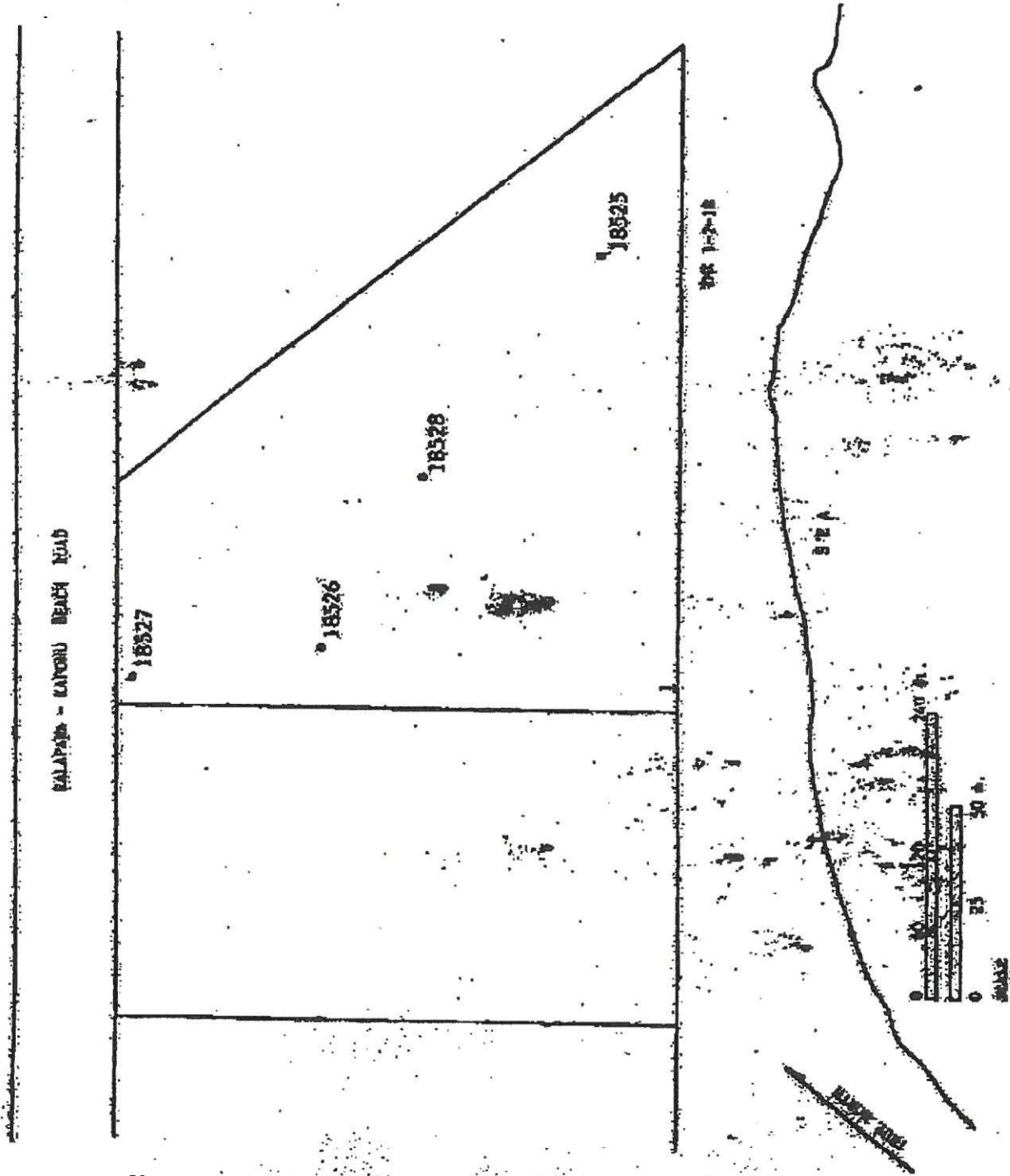


FIGURE 2: MAP IDENTIFIERS AND THE IDENTIFICATION IDENTIFICATION CODE

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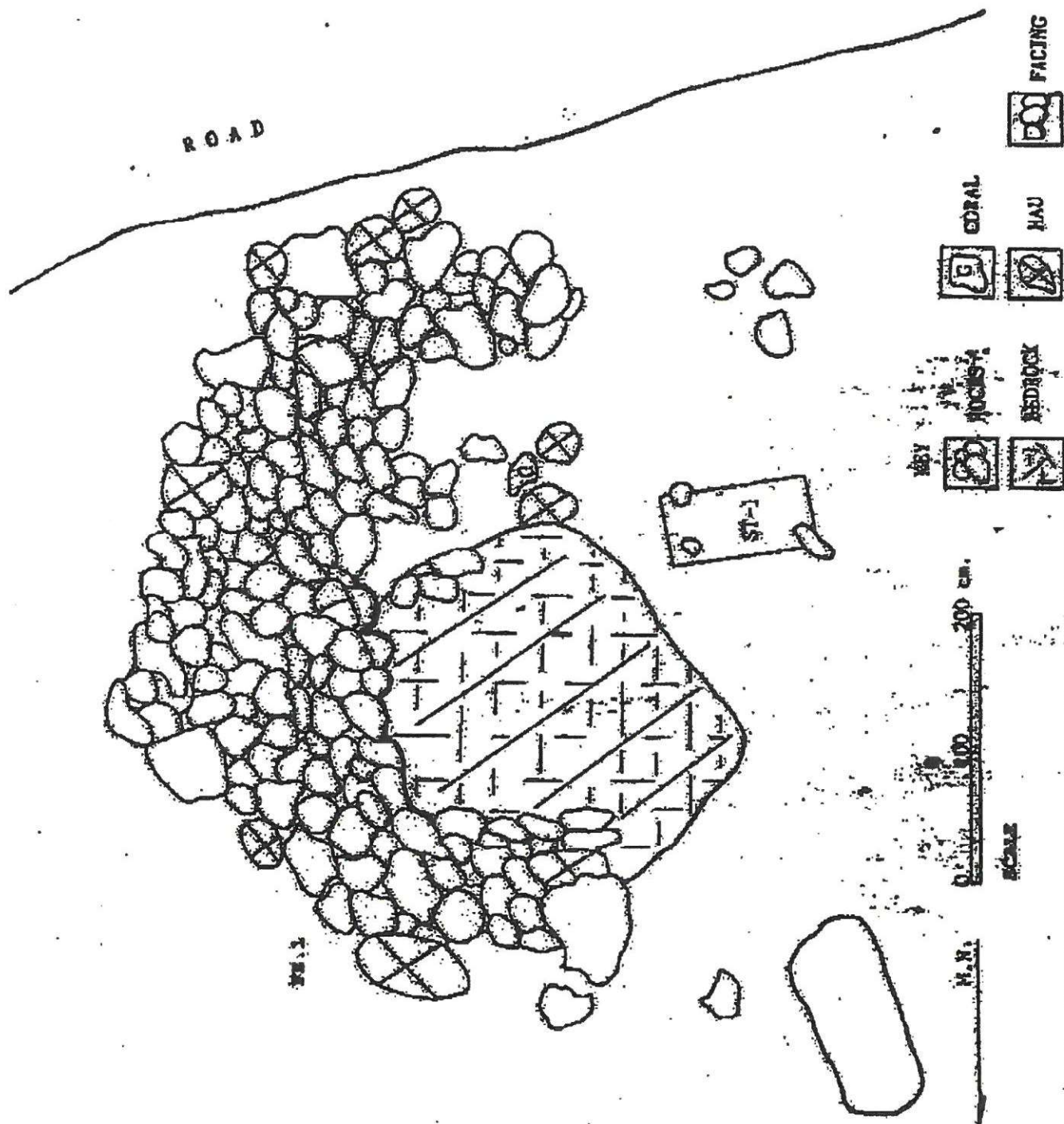
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FIGURE 4r AN INTERIOR VIEW OF SITE 50-10-62-18, 525,
FEATURE 1, LOOKING SOUTHEAST.

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A large piece of coral (23 by 15 cm) was found on the ground surface on the inside of the C-shape.

A single stratigraphic trench (ST) was excavated just outside the opening of the C-shape to test for buried cultural deposits. This unit measured 1.00 by 0.50 m and was dug to a depth of 40 cm below surface.

Only one natural layer was encountered. This layer was a black (10 YR 2/1, d) silt with abundant gravel sized pieces of basalt. Most of the eastern half of the unit was rock immediately below the surface. The western half of the unit bottomed out on rock between 35 and 40 cm below surface. No cultural materials of any kind were recovered.

Site 18.526 was comprised of two surface features (Figures 5, 6, and 7). Feature 1 was a C-shape with its opening oriented to the south. The maximum width of the structure was 3.70 m and the depth of the C-shape from its interior wall to the tip of the C-shape was 1.20 m. The maximum wall thickness was 1.00 m and the maximum interior wall height was 0.75 m.

This feature was constructed of sub-angular to sub-rounded basalt cobbles and small boulders. The eastern third of the structure was collapsed and in bad condition. The other two-thirds of the structure was well stacked and fitted. A single plant grew at the center of the interior wall.

Feature 2 was situated slightly more than two meters to the south of Feature 1. Feature 2 was a rock mound which measured 1.85 m north/south by 1.50 m east/west, with a maximum height of 0.60 m. This feature was constructed of sub-angular to sub-

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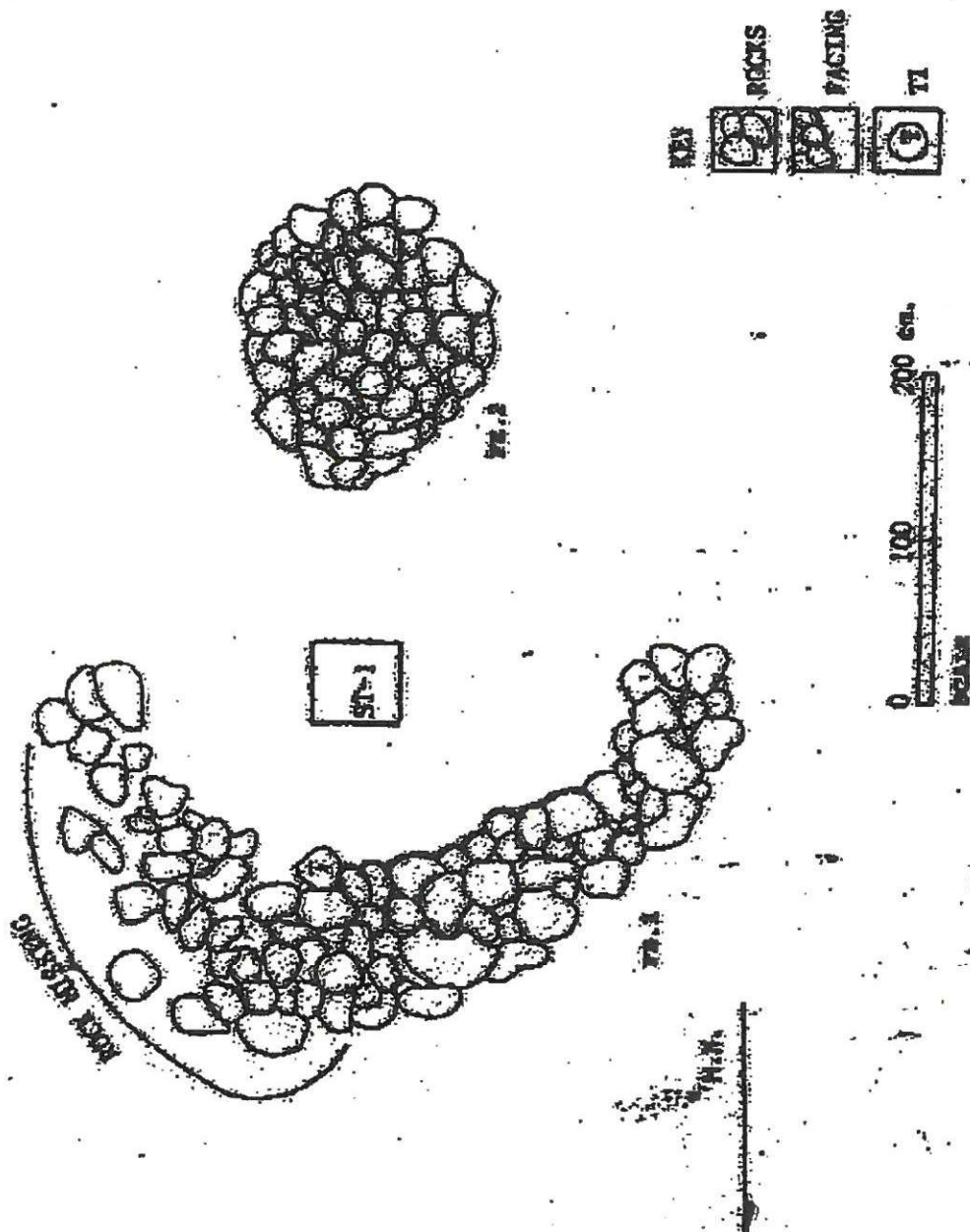


FIGURE B: PLANVIEW OF SITE 50-10-63-18, 529, FEATURES 1 AND 2.

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FIGURE 6: AN INTERIOR VIEW OF SITE 50-10-02-18, 526,
FEATURE 1, LOOKING NORTH.

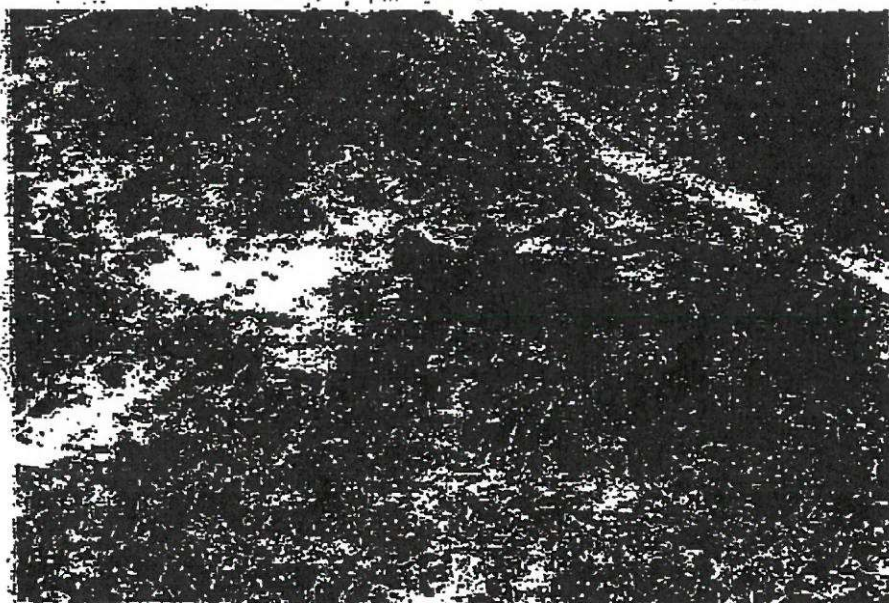


FIGURE 7: SITE 50-10-02-18, 526, FEATURE 2, LOOKING WEST.

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rounded basalt cobbles and small boulders.

A single stratigraphic trench, measuring 0.50 by 0.50 m, was excavated between Features 1 and 2. This unit was dug to a maximum depth of 36 cm below surface. Only one natural layer was encountered. This layer consisted of a dark reddish brown (5 YR 2.5/2, d) silt with abundant gravel sized pieces of basalt. The unit bottomed out on a bedrock of basalt. No cultural materials of any kind were recovered.

Site 18,527, Feature 1 was a wall that extended along the base of the fill for the Kalapana-Kapoho Beach Road (Figure 8). The wall extended beyond the project area to the southwest and was covered by the road fill at its northeast end. The length of the wall within the project area was 28.00 m, the wall height was 1.10 m, and its width was 0.50 m.

The wall was constructed of well stacked and faced large cobble to small boulder sized a'a basalt. A large pig jaw was found on top of the wall.

Site 18,528, Feature 1 was a small modified lava bubble (Figure 9). The interior measurements of this feature were 0.82 m north/south by 0.80 m east/west, with a depth of 0.92 m. The opening was cleared of rock which was used to build up the south-west portion of the feature. No cultural material was found in association with the feature and there proved to be no potential for excavation inside the opening.

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FIGURE 8: SITE 50-10-63-18, 527, FEATURE 1 WALL
LOOKING SOUTHWEST.

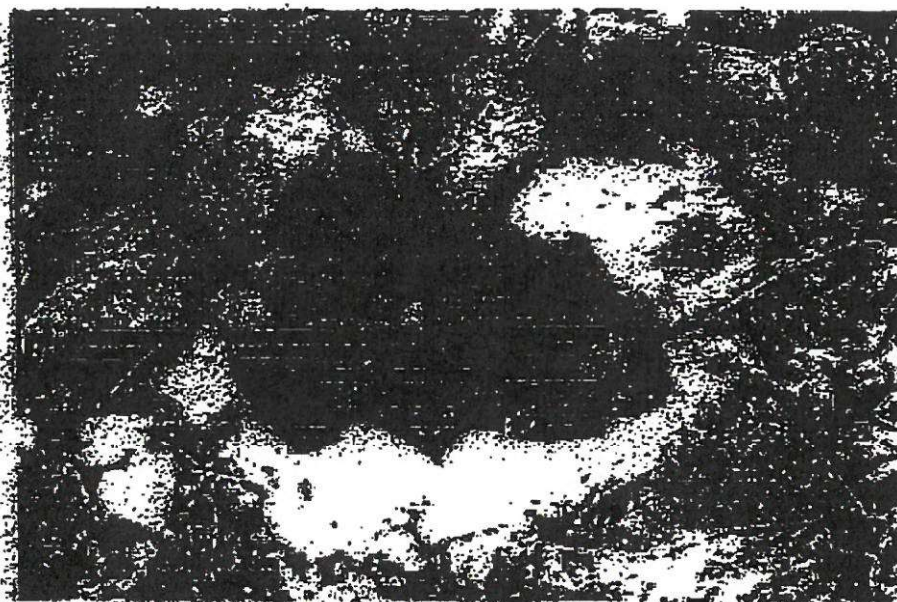


FIGURE 9: SITE 50-10-63-18, 528, FEATURE 1, CLOSE-UP VIEW.

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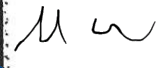
The presence of the nearby cemetery was a specific concern during this project. Special attention was paid to the mauka portion of the project area to determine if structures similar to those identified in the cemetery were also present in the project area. No such features were identified, nor were any other features identified that were interpreted as burials. In addition the soil build-up in the project area was so shallow as to preclude the presence of subsurface burials.

Four archaeological sites were identified within the project area. Site 18,525, a C-shaped structure, functioned as a temporary shelter. A single stratigraphic trench was placed near the C-shape but no buried cultural materials were found and no absolute date for the feature could be obtained. However, the type of architectural feature found at site 18,525 is a typical pre-Contact and early post-Contact feature. Thus, the structure is estimated to be a pre-Contact or early post-Contact feature.

The coral found in association with the C-shape at site 18,525 is of interest. Numerous similar pieces of coral are present on the nearby beach yet only one piece was present at the site. Coral is often used as a religious offering but its meaning in association with the C-shape is not clear.

Site 18,526, Feature 1, also functioned as a temporary shelter. Feature 2, a small mound, probably functioned as an agricultural feature. As with site 18,525, no absolute dates or cultural materials were obtained from this site. Site 18,526 is estimated to be pre-Contact to early post-Contact in age.

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Site 18,527 is a section of a post-Contact wall. The wall pre-dates the Kalapana-Kapoho Beach Road now existing since the northeast end of the wall was covered by the road fill. The wall may have served as a boundary wall.

Site 18,528 is a small, modified hole in a lava bubble. No cultural material or dates were obtained from this feature. The feature function is unclear but it could have served as a storage area or a small planting area. If this site is associated with sites 18,525 and 18,526 then the site would date to pre-Contact to early post-Contact times.

Overall three of the four sites indicate that the project area was used for temporary shelter and limited agricultural activities in the pre-Contact to early post-Contact period. This fits with the model proposed earlier in this report. Some 20th century impact is indicated by the presence of the wall at site 18,527.

SITE SIGNIFICANCE AND RECOMMENDATIONS

All four of the sites are significant under Criterion 1 because of the information they contain. However, because sufficient data has been collected from each site they can be evaluated as no longer significant. Although none are expected, if human burials are encountered as the property is developed, work in the immediate area of the burial must be halted and the State Historic Preservation Division notified.

Based on the results of this project it is recommended that no further archaeological work be required at TMS-1-2-18-1.

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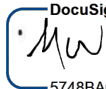
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January 20, 2024

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Pahoa, HI, 96778
Email: wyattinhawaii@gmail.com

Subject: Results of an archaeological field inspection and cultural consultation conducted in support of an SMA use permit application for the proposed subdivision of TMK: (3) 1-2-018:001, Kaimū Ahupua‘a, Puna District, Island of Hawai‘i.

Dear Mark:

As requested, ASM Affiliates (ASM) conducted an archaeological field inspection and cultural consultation in support of an application for an SMA use permit, concerning the proposed subdivision of TMK: (3) 1-2-018:001, Kaimū Ahupua‘a, Puna District, Island of Hawai‘i (Figures 1, 2, and 3). The field inspection was conducted to help address the concerns of the County of Hawai‘i Planning Department regarding the proposed 6-lot subdivision of the 3.551-acre subject parcel by confirming and updating the findings of an earlier archaeological inventory survey (AIS) prepared for the property by Spear (1992). Furthermore, consultation was undertaken seeking information from knowledgeable individuals regarding the presence (or absence) of burial sites within the subject property.

Project Area Description

The project area is the entirety of TMK: (3) 1-2-018:001 located within Kaimū Ahupua‘a, Puna District, Island of Hawai‘i. The 3.551-acre subject parcel is bounded on the *mauka* side by the Kalapana-Kapoho Road (see Figure 3), on the *makai* side by a 40 foot exclusion zone along the coast (Figure 4), to the northeast by an undeveloped State-owned parcel consisting of ‘a‘ā lava, and to the southwest by a developed residential property. The project area situated at an elevation of 10 to 25 feet (3.05 to 7.62 meters) above mean sea level and is 40 feet inland from the coast. An Historic cemetery is located to the northeast of the project area on the opposite side of the Kalapana-Kapoho Road; Figure 5)

Geologically, the project area is located on the lower flanks of Kīlauea Volcano and is comprised of multiple lava flows (Sherrod et al. 2021), with a Puna basalt flow that erupted between 400 and 750 years before present (BP) forming much of the central and southern part of the parcel; a younger Puna basalt flow of ‘a‘ā lava dating to 200-400 years BP creating the northeastern edge; and a more recent *pāhoehoe* flow that occurred between 1986 and 1992 present at the coast (Figure 6). Soil classifications within the project area (Figure 7) mimic the geologic substrates and are comprised primarily of dry Hakuma highly organic loam on 2 to 10 percent slopes, with dry Malama-Lava flows complex on 2 to 40 percent slopes on the ‘a‘ā flow along the northeastern edge, and *pāhoehoe* lava flows on 2 to 20 percent slopes present at the coast (Soil Survey Staff 2022).

There has been some prior ground disturbance along the northeast, southwest, and *mauka* edges of the project area. On the ‘a‘ā flow in the northeastern portion of the parcel, a grubbed and graded driveway (Figure 8) meanders along the property line and accesses a graded house pad near the coast on a promontory that overlooks the rest of the parcel (this area was mostly recently cleared in 2022). There is a second roadway which diverts from the upper road and is routed down through the middle of the project area to the coast (Figure 9). This road may have been already present when previously surveyed in 1992, as

something resembling it is mentioned by Spear (1992). Bulldozer push piles were also observed along the boundary with the adjacent residential property to the southwest near the middle of the project area. These push piles appear to be related to the clearing of that neighboring parcel. A number of brush piles, seemingly from hand clearing activities, were also noted in the northeastern portion of the project area at the base of the 'a'ā flow.

Vegetation cover within the project area is influenced by the extent of prior ground disturbance. In the undisturbed portions of the project area (Figure 10), the overstory consists predominately of monkeypod trees (*Samanea saman*), *hala* (*Pandanus tectorius*), *hau* (*Hibiscus tiliaceus*), *milo* (*Thespesia copulnea*), with coconut palm (*Cocos nucifera*), and *naupaka* (*Scaevola* sp.) along the *makai* section, 'ōhi'a *lehua* (*Metrosideros polymorpha*) along the northern boundary, a scattering of *noni* (*Morinda citrifolia*) throughout the property, and a single eucalyptus tree (*Eucalyptus globulus*). The ground cover consists of morning glory (*Ipomoea indica*), particularly in the *makai* portion of the project area, with Boston fern (*Nephrolepis exaltata*), and various species of grasses. In the previously disturbed portions, the vegetation is comprised of a mix of grasses, purslane (*Portulaca* sp.), gunpowder trees (*Trema orientalis*), Melochia (*Melochia umbellata*), guava (*Psidium guajava*), and other non-native weeds (Figure 11).

A Brief Culture-Historical Background for the Subject Parcel

The project area lies on the southern shores of the Puna District of the Island of Hawai'i within the *ahupua'a* of Kaimū. Kaimū is bordered to the southwest by the *ahupua'a* of Kalapana and Kupahua, to the north by the *ahupua'a* of Waiakahiula and Ka'ōhe, and to the west by the *ahupua'a* of Kīkala 1-2 and Kēōkea. Traditionally, the primary village for this *ahupua'a* was (and still is) known as Kaimū, a name that has been translated to mean “gathering [at the] sea [to watch surfing]” (Pukui et al. 1974:69). The shoreline of this *ahupua'a*, according to Pukui et al. (1974:69), is “noted for its surf and its black sand beach” and was originally called Hō'eu and Ka-poho. Pukui et al. (1974) note that this beach was likely formed after a 1750 lava flow, during which time steam explosions formed the characteristic black sand of the area (the beach at Kaimū was covered by lava flows that occurred during the 1980s and is no longer present).

The English missionary William Ellis embarked on a circumnavigation of Hawai'i Island in the 1820s in the hopes of identifying population centers that would be receptive of Christian missionary teachings. During his travels, he collected observations of the environments and people he encountered. After leaving the district of Ka'ū, Ellis entered southern Puna along its coastline and described the string of villages he traveled through, including Kaimū, which he described as being:

...pleasantly situated near the sea shore, on the south-east side of the island, standing on a bed of lava considerably decomposed, and covered over with a light and fertile soil. It is adorned with plantations, groves of cocoa-nuts, and clumps of kou trees. It has a fine sandy beach, where canoes may land with safety; and, according to the houses numbered to-day, contains about 725 inhabitants. Including the villages in its immediate vicinity along the coast, the population would probably amount to 2,000. . . . The extent of cultivation in the neighbourhood, together with the decent and orderly appearance of the people, induce us to think they are more sober and industrious, than those of many villages through which we have passed (Ellis 1825:160).

Indeed, the habitation and agricultural patterns of southern Puna were often dependent on the path of the lava flows from Kīlauea Volcano. As Handy and Handy (1972:751) note, the lands of Makena and lower Kaimū were suitable for growing sweet potatoes but not taro, and the neighboring *ahupua'a* of “Keakea [Kēōkea] supported neither, being mostly *pahoehoe* lava.” Additionally, Hawaiian traditions imply 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” (Handy and Handy 1972:752).

By the mid-19th century, the traditional Hawaiian land tenure system was radically altered through a process of land division known as the *Māhele 'Āina*. This change in land tenure was promoted by the missionaries and the growing foreign population and business interests in the island kingdom who were generally

hesitant to enter business deals on leasehold lands. The *Māhele* (division) defined the land interest of Kamehameha III (the King), the high-ranking chiefs and *konohiki* (headman of an *ahupuaʻa*). As a result of the *Māhele*, all lands in the Kingdom of Hawaiʻi were placed into one of three categories: (1) Crown Lands (lands personally claimed by Kamehameha III); (2) *Konohiki* Lands (lands claimed by lesser *aliʻi* and *konohiki*) and; (3) Government Lands (lands surrendered by the King or the *konohiki* in lieu of commutation) with the caveat that the rights of the *hoaʻāina* (tenants) were to be reserved (Chinen 1958:vii; 1961:13). In the case of the lands of Kaimū, the *ahupuaʻa* was originally claimed by Mataio Kekūānaʻo, who managed the estate of his daughter the *aliʻi* Victoria Kamāmalu. However, in January of 1848, Kekūānaʻo surrendered this land to the King, and Kaimū was placed into the inventory of Crown Lands (Buke Māhele 1848).

As the King and his *aliʻi* and *konohiki* made claims to large tracts of land via the *Māhele*, questions arose regarding the protection of rights for the *hoaʻāina*. To resolve this matter, on August 6th, 1850, the Kuleana Act (also known as the Enabling Act) was passed, clarifying the process by which native tenants could claim fee simple title to any portion of lands that they physically occupied, actively cultivated, or had improved (Garovoy 2005). Within Kaimū, no *kuleana* lands were awarded and within the entirety of the Puna District only two *kuleana* were awarded (Office of Hawaiian Affairs 2018).

A map of lands in the vicinity of Kalapana, Puna (Hawaiʻi Registered Map No. 1614) prepared by E. D. Baldwin in 1892 shows the lands in the vicinity of the subject parcel and indicates the locations of nearby cultural features located to the southwest of the current project area, including a *heiau*, several houses and other named places located within Kaimū Village, and a trail extending inland from the village (Figure 12). The *ʻaʻā* point located in the eastern corner of the subject parcel is labeled “Keoneana” on that map. A later tracing of the 1892 map showing the Crown Land Homesteads of Kaimū (Hawaiʻi Registered Map No. 1812) shows that the subject parcel was subdivided and sold to C.H. Will (Grant No. 8004) as Lot 28-C of the Kaimu-Makena Homesteads by late December 1921. Records from 1932 list the subject parcel as being owned by a Mrs. Chieko, who acted as a trustee for the minors Hanayo Will, Yoshio Will, and Isami Will, each of whom held a 1/3 interest in the lot. By the 1960’s, ownership of the parcel had split between the previously mentioned members of the Will family, who would own the parcel until the late 1980s.

Summary of Prior Archaeological Study within the Subject Parcel

The current project area (TMK: (3) 1-2-018:001) was the subject of an intensive archaeological inventory survey prepared by Scientific Consultant Services, Inc. in 1992 (Spear 1992). As a result of that study, four archaeological sites were identified within the property (SIHP Sites 50-10-63-18525, 50-10-63-18526, 50-10-63-18527, and 50-10-62-18528; Figure 13) that were interpreted as having been used for Precontact to early Historic Period for temporary habitation purposes, with associated storage and limited agricultural also occurring. All four sites were described and mapped by Spear (1992), and two of the sites (Sites 18525 and 18526) were excavated to help refine their functional interpretations and test for the presence of buried cultural deposits. Spear (1992) assessed all four sites as significant under Criterion d for the information they had contributed to understanding past lifeways within the project area. He noted that sufficient data had been collected from the sites as a result of the AIS to warrant a treatment recommendation of “no further work.” The State Historic Preservation Division (SHPD) agreed with the significance assessments and treatment recommendations for the sites, and accepted the Spear (1992) AIS, in a letter dated March 3, 1993 (LOG NO: 7604, DOC NO: 9302ks25). The descriptions of the sites recorded by Spear (1992) are summarized below.

Site 18525 was recorded by Spear (1992) as a C-shape located near the base of the *ʻaʻā* lava flow, at the end of a bulldozer push road, in the eastern corner of the parcel. According to Spear (1992), the opening to the C-shape was oriented to the west and measured 5.1 meters wide and 1.45 meters deep. The walls were 2.1 meters thick, and the maximum height was 0.36 meters. The feature was disturbed at the southern end, and *hau* growth affected the exterior wall (Spear 1992). One large piece of coral was found on the ground surface on the inside of the C-shape. A single stratigraphic trench was excavated outside of the opening of the C-shape to test for buried cultural deposits. Measuring 1.0 meter by 0.5 meter, the trench was dug to a

depth of 0.4 meters below the surface, but no cultural materials of any kind were encountered. Based on its formal attributes, this site was interpreted as a Precontact/Historic temporary habitation shelter.

Site 18526 was recorded by Spear (1992) as consisting of two surface features (Features 1 and 2). Feature 1 was described as a C-shape with its opening oriented to the south, with a width of 3.7 meters and a depth of 1.2 meters. The maximum wall thickness and height were 1.09 meters and 0.75 meters respectively. The eastern third of the structure was collapsed and in poor condition. Feature 2 was situated slightly more than two meters to the south of Feature 1, and consisted of a rock mound which measured 1.85 meters N/S and 1.5 meters E/W. The maximum height of the mound was 0.6 meters, and a single stratigraphic trench measuring 0.5 by 0.5 meters was excavated between Features 1 and 2. Excavation extended to a maximum depth of 0.36 meters and no cultural materials were encountered. Spear (1992) interpreted Feature 1 as a temporary habitation shelter and Feature 2 as a small agricultural mound.

Site 18527 was documented by Spear (1992) as a wall that extended along the base of the fill for the Kalapana-Kapoho Beach Road. At the time of the 1992 study, the wall extended beyond the project area to the southwest and was covered with road fill at its northeast end. The length of the wall within the project area was recorded as 28 meters, with a maximum height and width 1.1 meters and 0.5 meters respectively. No excavation was undertaken at Site 18527 by Spear (1992), who interpreted the site as a boundary wall that predates the construction of the adjacent roadway.

Site 18528 was documented by Spear (1992) as a modified lava bubble, with interior measurements of 0.82 meters (north/south) by 0.8 meters (east/west) and a depth of 0.92 meters. The opening was cleared of rock which had been used to build up the southwest portion of the feature. No cultural material was found in association with the feature and according to Spear (1992), who interpreted the site as a possible storage feature or small planting pit, there was no potential for excavation.

The presence of the nearby cemetery (located to the northeast of the project area on the *mauka* edge of the Kalapana-Kapoho Road; see Figure 5) was a specific concern of the earlier study, and Spear (1992) noted that special attention was paid to the *mauka* portion of the project area to determine if structures similar to those identified in the cemetery were also present in the project area. No such features were identified in that area, or anywhere else within the project area. Additionally, as noted by Spear (1992), the soil buildup in the project area was so shallow as to preclude the presence of subsurface features or burials.

Results of the Current Field Inspection

On October 27, 2023, David King, M.A., Colsen Balai, B.A., and Jonas Leon, B.A., and Matthew R. Clark, M.A. (ASM Principal Investigator), conducted a thorough surface survey of the subject parcel, as well as a general inspection of the 'a 'ā flow bordering the northeastern side of the project area. The survey included a surface inspection of the entire parcel utilizing north/south pedestrian transects with fieldworkers spaced at 10-meter intervals. As was previously done by Spear (1992), special care was taken in the *mauka* portion of the project area, especially on the surface of the adjacent 'a 'ā flow, to look for burial features similar to those contained within the Historic cemetery across the street.

As a result of the pedestrian survey, three of the four sites previously documented by Spear (1992) within the subject parcel were found (SIHP Sites 50-10-63-18526, 50-10-63-18527, and 50-10-62-18528; Figure 14). The locations of these sites were documented using a GPS, and the current condition of each of these sites is briefly described below. Site 50-10-63-18525 (a C-shape) could not be relocated, and it is thought that this site, which was formerly located in the eastern portion of the subject parcel at the base of the 'a 'ā flow (Figure 15), was destroyed by mechanical ground disturbing activities after the acceptance of the Spear (1992) AIS. The location and distribution of sites and features identified within the subject parcel, as well as the relative location of the cemetery to the project area, is depicted in Figure 14.

Site 18526 Features 1 (a C-shape) and 2 (a mound) were both in similar condition to what was described by Spear (1992), but the features are currently obscured by heavy overgrowth and two large trees that have fallen across them (Figures 16 and 17). Site 18527 (a historic wall) is in the same condition as described by Spear and no changes to that site were noted (Figure 18). Site 18528 (a modified lava blister) has been

disturbed by land clearing activities since it was first documented in 1992. Small boulders from that push have fallen into blister and the site is currently obscured by thick brush covering its edges (Figure 19).

No additional archaeological sites were identified within the project area as a result of the fieldwork conducted by ASM, but several recent rock constructions and modern landscape modifications were noted (see Figure 14). These more recent features, which include rock stacks, stone-lined paths (Figure 20), and rock cleared areas on the ground surface, are largely concentrated in the coastal-central portion of the subject parcel, in areas that appear to be used recurrently and recently for camping and fishing activities. The lack of mention of these features in the Spear (1992) AIS report, as well as the modern vegetation disturbance and debris associated with them, suggests that all of the additional rock constructions identified within project area were built during the last 30 years. None of these more recently constructed features appear to be burial monuments.

Consultation

To address the concerns of the County of Hawai'i Planning Department regarding the proximity of the cemetery to the project area and to determine the presence (or absence) of burial sites within the project area, ASM's Senior Ethnographer, Lokelani Brandt, M.A. conducted consultation with several long-time residents of the area including descendants of the 'ohana Keli'iho'omalu and Kealoha families. Consultation occurred during a period between October 31, 2023, and December 13, 2023, when ASM staff contacted Ms. Ke'ala Keli'iho'omalu, Mrs. Leialoha Ilae-Kaleimāmahū, and Mrs. Ku'ulei Kealoha-Cooper by phone. Following the initial phone calls, each of the three consulted parties were provided with a consultation letter and maps specifying ASM's search for persons who may have knowledge of any burials within the project area and information on the nearby cemetery. Each of the consulted parties contacted additional family members to seek such information. Ms. Keli'iho'omalu spoke with elder relatives Prince Keli'iho'omalu, Sam Keli'iho'omalu, Noenoe Dunn, Tiana Dunn, Jerry Dunn, Princess Keli'iho'omalu, Jr. Keli'iho'omalu, and Tiara Keli'iho'omalu. Ms. Keli'iho'omalu indicated that her uncle Sam also attempted to reach out to Aku Hauani'o and Kamu Quihano and that her father attempted to reach out to Annie Ka'aukai and Leslie Enriques. Mrs. Ilae-Kaleimāmahū also contacted members of the 'ohana Keli'iho'omalu and recommended that ASM staff contact Mrs. Kealoha-Cooper since she had heard that the cemetery belonged to the Kealoha family. Mrs. Kealoha-Cooper was contacted by ASM and she spoke with several of her relatives, including her mother.

None of the consulted parties knew of any burial sites within the project area. Subsequent email correspondence with Mrs. Kealoha-Cooper clarified that the cemetery did not belong to the Kealoha 'Ohana, however, her mother related that in the 1930s and 1940s, the Kalapana Church was located near the cemetery and that her *tūtū* (Mrs. Kealoha-Cooper's great-grandmother) Emma Nai'a was a pillar of that church. She added that there is a Kealoha cemetery in 'Opihikao but was not aware of any such family cemetery in Kaimū.

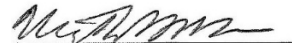
Conclusion and Recommendations

The results of the current study support the findings of the Spear (1992) AIS. Three of the four sites previously documented by Spear (1992) within the subject parcel were identified during the field inspection (SIHP Sites 50-10-63-18526, 50-10-63-18527, and 50-10-62-18528; see Figure 14). These sites are all in similar condition to what was previously described, and indicate that the parcel was used during the Precontact to early Historic Period for temporary habitation purposes, with associated storage and limited agricultural also occurring. All three of these sites were observed to be in similar condition to what was previously described by Spear (1992). The fourth site (Site 50-10-63-18525, a C-shape) could not be found, and is thought to have been destroyed by land clearing activities that have occurred within the subject parcel since the Spear (1992) AIS was accepted by SHPD. No potential burial features were identified within the subject parcel as a result of the current fieldwork, nor were any possible burial locations identified as a result of the consultation conducted by ASM. The only features identified within the property that were not reported on by Spear (1992) appear to be less than 50 years old and related to on-going camping and fishing activities that still occur within the project area. The findings of the current study, combined with the

SHPD's prior review of the Spear (1992) AIS (LOG NO: 7604, DOC NO: 9302ks25), support an HRS Chapter 6E-42 determination of "No historic properties affected" pursuant to HAR §13-275-7(a)(1) for the proposed subdivision and development of the subject parcel.

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

Sincerely,



Matthew R. Clark, M.A.
Senior Archaeologist – ASM Hilo Director

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Figures

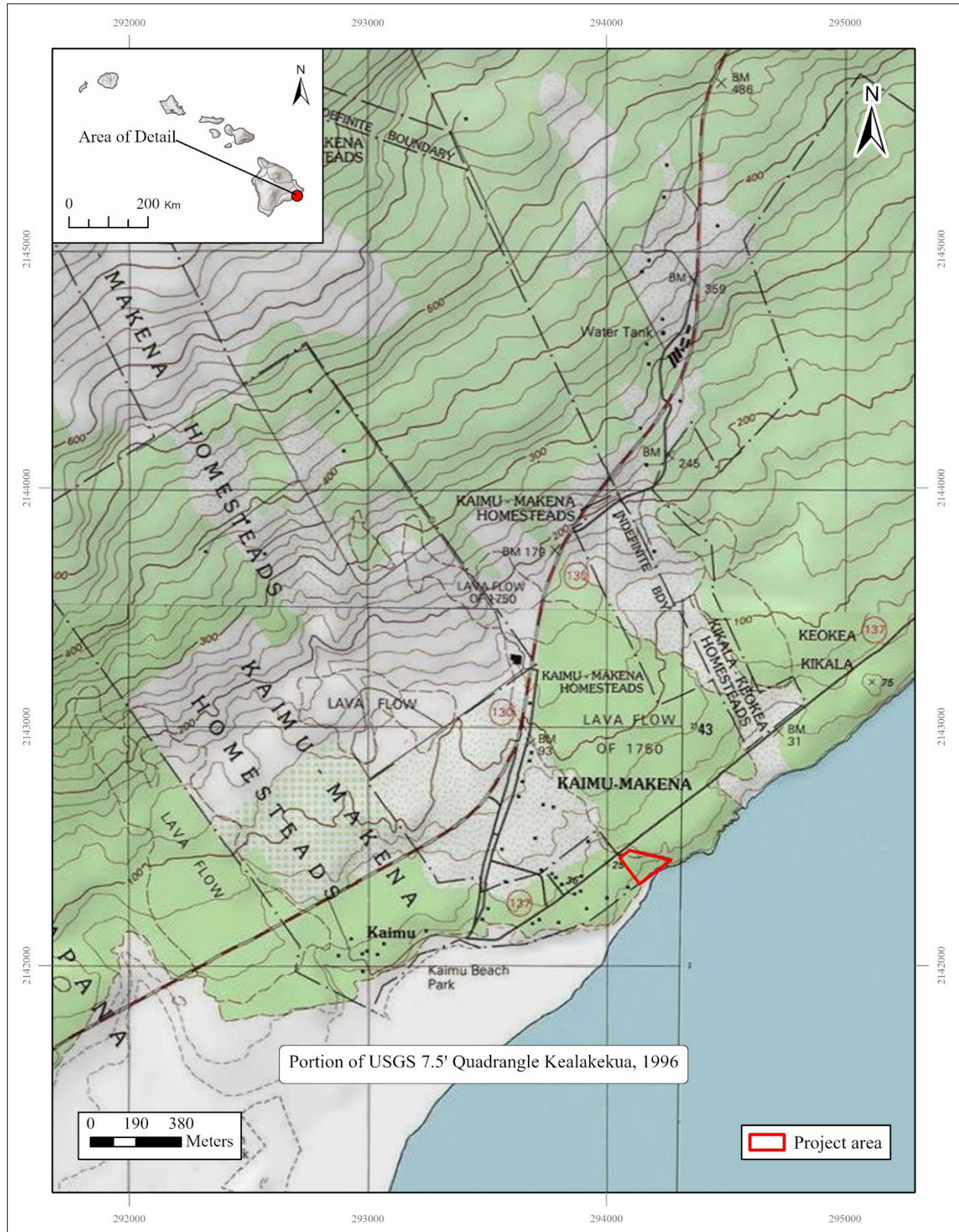


Figure 1. USGS map showing location of project area.

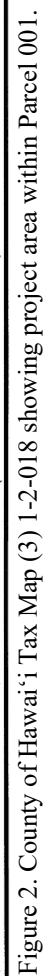




Figure 3. Google Earth™ showing project area.



Figure 4. Coastline fronting the current project area, view to the southwest.



Figure 5. Historic cemetery located to the northeast of the current project area, *mauka* of the Kalapana-Kapoho Road, view to the northeast.

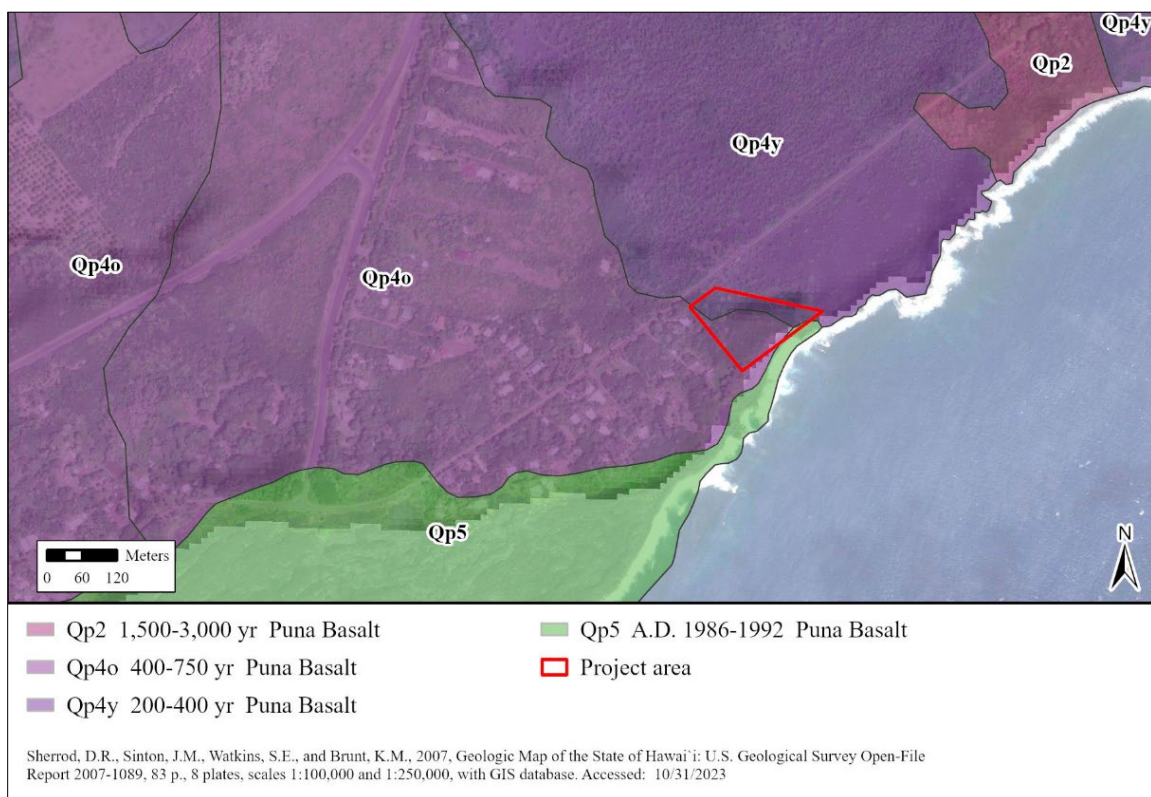


Figure 6. Geology underlying the project area and surrounding vicinity.

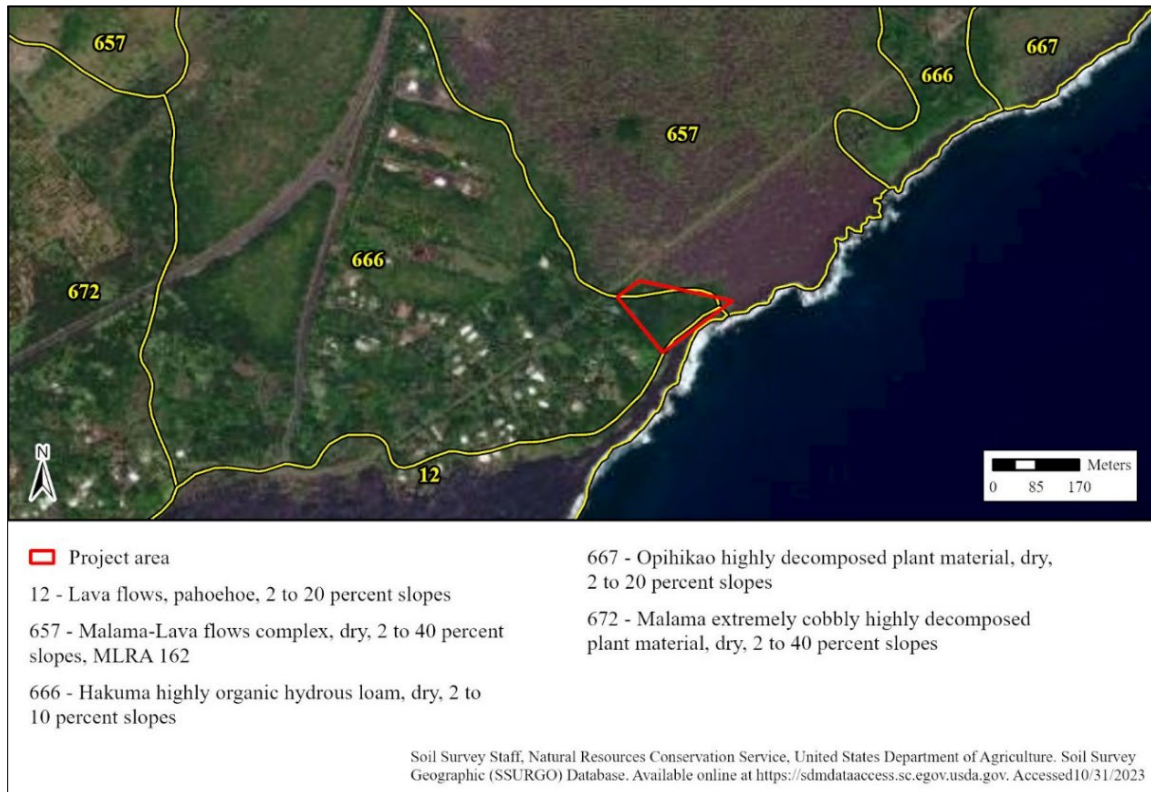


Figure 7. Soil composition in the project area and surrounding vicinity.



Figure 8. Graded area along northeastern boundary of project area, view to the west.



Figure 9. Road extending to the coast of the project area, view to the northwest.



Figure 10. Vegetation within the undisturbed portion of the project area, view to the southwest.



Figure 11. Example of vegetation within previously disturbed portions of the project area, view to the southeast.



Figure 12. Portion of Hawaii Registered Map No. 1614 (prepared by E.D. Baldwin in 1892) showing the location of the current project area.

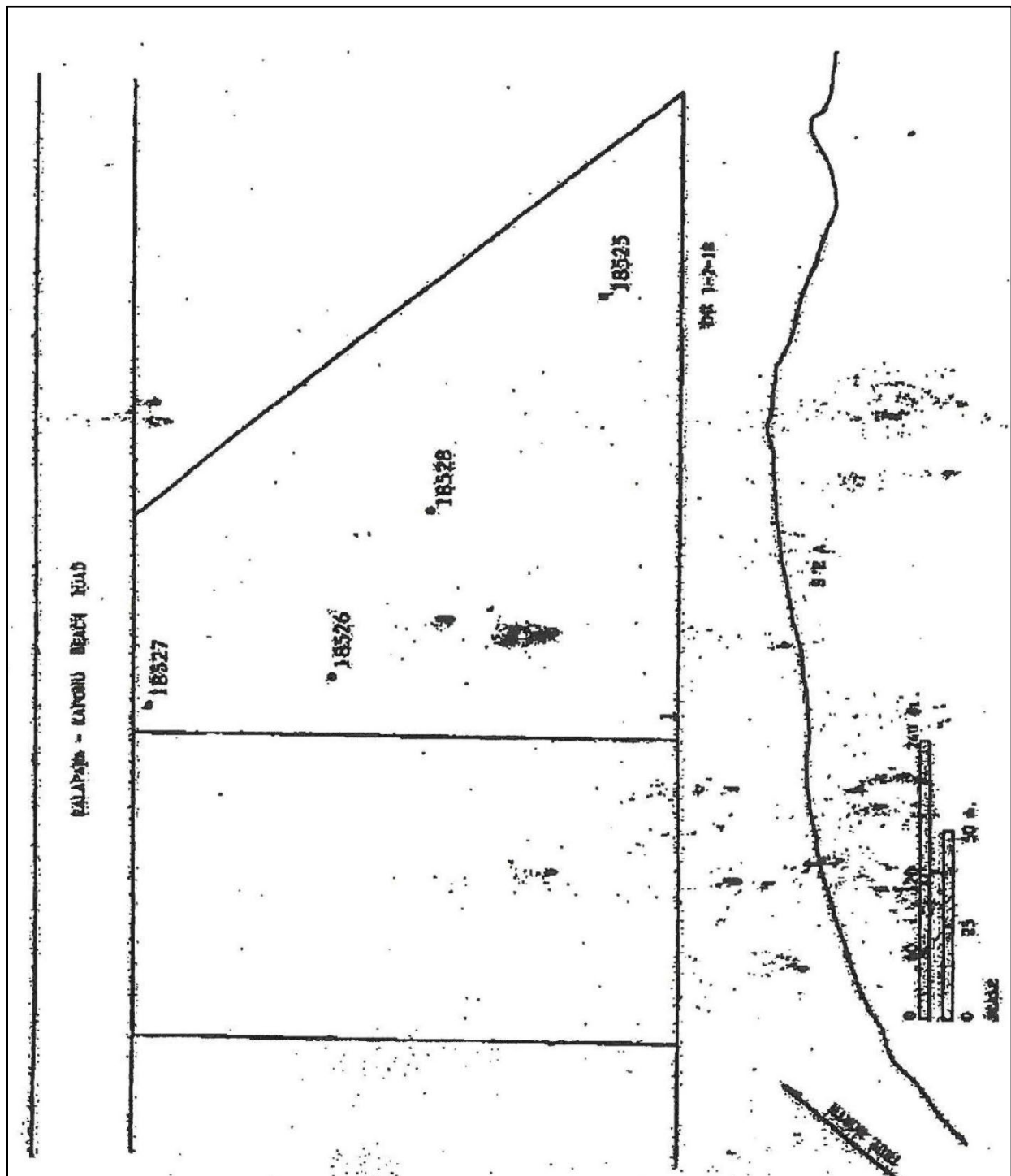


Figure 13. Spear (1992:6) site location map.

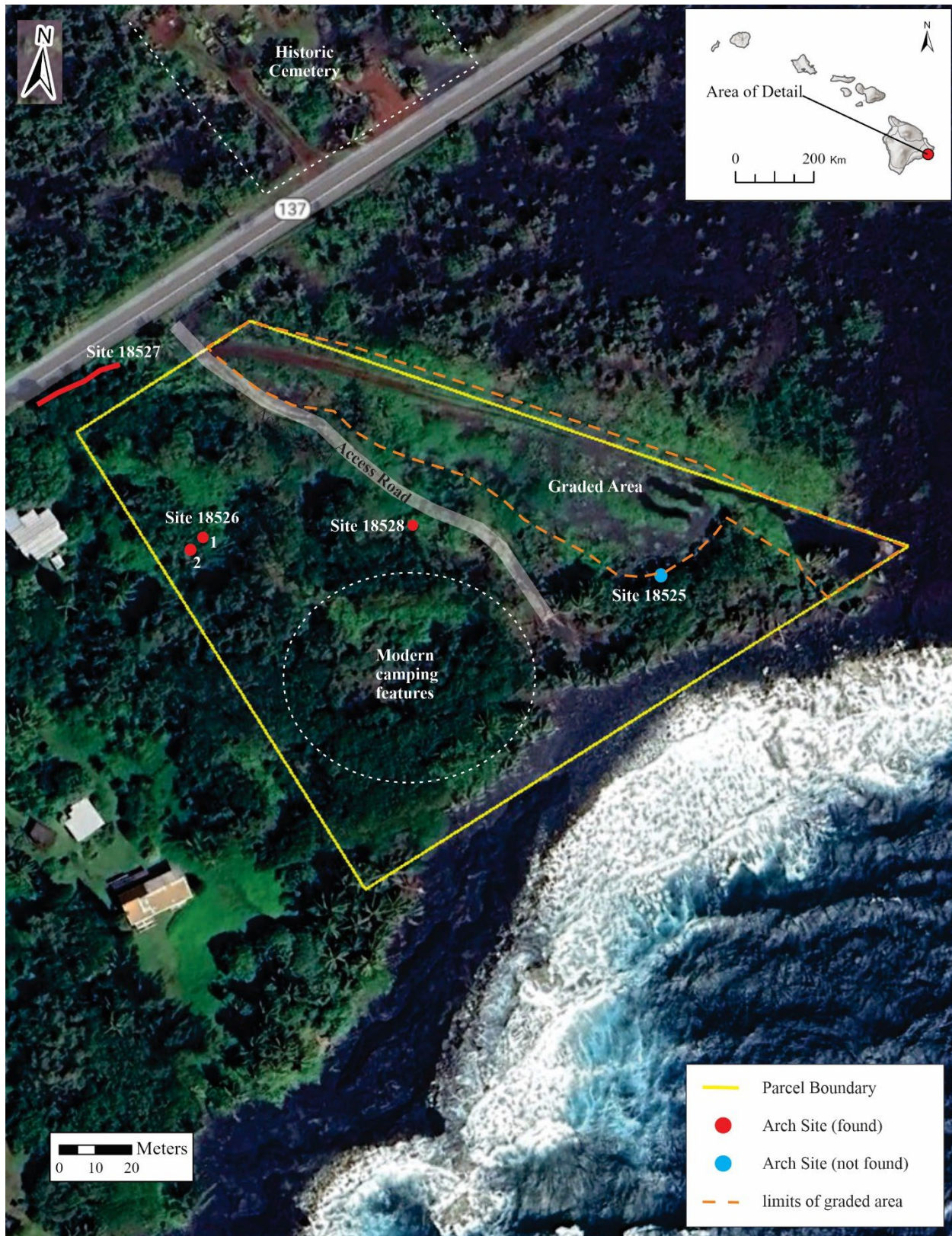


Figure 14. Location of sites and features identified during the current study.



Figure 15. Bulldozed slope at the former location of Site 50-10-63-18525, view to the south.



Figure 16. Site 50-10-63-18526 Feature 1, c-shape, view to the northeast.



Figure 17. Site 50-10-63-18526 Feature 2, mound, view to the northeast.



Figure 18. Site 50-10-63-18527, wall, view to the west with the Kalapana-Kapoho Road visible in the background.



Figure 19. Location of Site 50-10-63-18528, lava blister, view to the northeast.



Figure 20. Recently constructed path in the central-coastal portion of the project area, view to the east.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 916
HILO, HAWAII 96721-0916

MEMORANDUM

DATE: July 30, 2024

TO: Mr. Zendo Kern
Planning Director, County of Hawaii

FROM: Eric Honda
District Environmental Health Program Chief

SUBJECT: Special Management Area Use Permit Application (PL-SMA-2024-000063)
Applicant: Kaimu Cove, LLC.
Request: To Develop a Five (5) Lot Subdivision Including the Construction
Of Single-Family Dwellings and Related Improvements
TMK: 1-2-018:001, Kaimu, Puna, Hawaii

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

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

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

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

Clean Air Branch

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.

2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.
3. Standard comments for the Clean Air Branch are at: <https://health.hawaii.gov/epo/landuse/>

Clean Water Branch

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

Hazard Evaluation & Emergency Response Office

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

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, and 11-504.
2. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
3. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

Safe Drinking Water Branch

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

Solid & Hazardous Waste Branch

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

Wastewater Branch

For comments, please email the Wastewater Branch at doh.wwb@doh.hawaii.gov.

Sanitation / Local DOH Comments:

1. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure. A demolition permit is required prior to demolition.

Other

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Hawaii District Health Office, at (808) 933-0917.

**DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII**

DATE: September 9, 2024

Memorandum

TO: Zendo Kern, Planning Director

FROM: Department of Public Works, Engineering Division



SUBJECT: Special Management Area Use Permit Application (PL-SMA-2024-000063)
Applicant: Kaimu Cove, LLC
Request: To Develop a Five (5) Lot Subdivision Including the Construction of
Single-Family Dwellings and Related Improvements
TMK: 1-2-018:001

Sorry for the delay. We have reviewed the subject request and provide the following comments:

1. The subject parcel is in an area designated as Flood Zone X and VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Flood Zone VE is the Special Flood Hazard Area inundated by the 100-year coastal flood (1% chance of occurring in any given year) with velocity hazard (wave action). All construction within Flood Zone VE shall comply with the requirements of Hawaii County Code, Chapter 27, Floodplain Management.
2. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code (HCC).
3. Construction within the County right-of-way shall comply with HCC, Chapter 22, County Streets.

Questions may be referred to Robyn Matsumoto at 961-8924.

Planning Dept.
Exhibit <u>3</u>

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

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

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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

September 6, 2024

Zendo Kern, Director
County of Hawai'i, Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720
planning@hawaiiicounty.gov

IN REPLY REFER TO:
Project No. 2024PR00930
Doc. No. 2409JG07
Archaeology

Dear Zendo Kern:

**SUBJECT: Hawaii Revised Statutes (HRS) Chapter 6E-42 Historic Preservation Review
County of Hawaii Special Management Area Use Permit: PL-SMA-2024-000063
Field Inspection Letter Report
Applicant: Kaimu Cove LLC (Landowner's representative)
Kaimū Ahupua'a, Puna District, Island of Hawai'i
TMK: (3) 1-2-018:001**

This letter provides the State Historic Preservation Division's (SHPD's) review of the subject County of Hawaii Special Management Area (SMA) Assessment permit application received by our office on July 26, 2024. The submittal included an SMA Use Permit Assessment Application, site plans, copies of a previous archaeological survey report (Spear 1992), an archaeological field inspection letter report (Clark 2024), and photos of the project area.

The proposed project area comprises the entire 3.677-acre parcel. The project proponent proposes the development of a 5-lot subdivision consisting of parcels of at least 0.5 acres each for residential purposes. The following is also proposed as part of the subject project:

- A 10-foot wide, cinder-surfaced public pedestrian access easement will be provided along the entire northern boundary of the subject property, adjacent to the existing adjoining State lands.
- The water main along the mauka side of the Kalapana-Kapoho Beach Road will need to be tapped by lateral services and extended to the subject property.
- The applicant and subsequent owners of the individual lots will be grubbing and grading each subdivided lot to accommodate a proposed single-family dwelling.
- The intrusion within the adjoining State-owned lands consisted primarily of pushed vegetation that has since partially deteriorated with most of the vegetation reestablishing itself. The Applicant will remove all pushed vegetation that has not deteriorated for proper disposal at a greenwaste facility. Black cinder was placed within the 40-foot shoreline setback area to create a safer walking path along the shoreline trail. The Applicant will remove the black cinder from within the shoreline setback area and restore it to its previous condition to the extent practical. In both instances, the Applicant will coordinate both site restoration activities with the Planning Department, and if deemed necessary, the State of Hawaii Department of Land and Natural Resources. These restoration efforts will be completed, to the satisfaction of the Planning Department, prior to the issuance of final subdivision approval.

Planning Dept.
Exhibit 4

The submittal materials indicate that an archaeological survey conducted in the early 1990s (Spear 1992; Doc. No. 9302ks25) included the current project area. The survey identified four historic properties within the project parcel: Site 50-10-63-18525 [c-shape], Site 50-10-63-18526 [complex], Site 50-10-63-18527 [wall], and Site 50-10-63-18528 [lava tube]). Each was assessed as significant under criterion d and as adequately documented and, thus, were recommended for no further archaeological work.

The Clark (2024) Field Inspection (FI) report describes the project area, summarizes the previous archaeological studies and the results of the field inspection, and provides a project effect recommendation of “No historic properties affected” for the current project. Clark (2024) indicates that ASM Affiliates archaeologists conducted a 100% surface pedestrian survey of project area on October 27, 2023. The FI relocated three of the previously identified historic properties (Sites 50-10-63-18526, 50-10-63-18527, and 50-10-63-18528). Site 50-10-63-18525 was not relocated and was assumed to have been destroyed as the area exhibited evidence of ground-disturbing activities. Site 50-10-63-18526 and Site 50-10-63-18527 were observed to be in a similar condition as originally recorded by Spear (1992); Site # 50-10-63-18528 was observed as having been impacted by land-clearing (push) activities. No historic properties were newly identified. However, Clark (2024) indicates that additional rock constructions were observed and suggests that they were constructed sometime after the Spear (1992) archaeological survey.

Due to the proximity of the subject project area to a nearby cemetery, consultation was conducted between October 31 and December 13, 2023. None of the consulted parties knew of any burials being located within the current project area.

Based on the information provided, SHPD’s project effect determination is “**No historic properties affected**” pursuant to HAR §13-284-7(a)(1) for the current project. Additionally, pursuant to HAR §13-284-7(e), when SHPD comments that the proposed project shall not affect significant historic properties, the HRS 6E historic preservation review process ends. The permit issuance process may continue.

Although the field inspection does not fulfill the requirements of an archaeological inventory survey as specified in HAR §13-276-5, it serves to facilitate project planning and supports the historic preservation review process. **Please submit** one hard copy of the report, clearly labeled Library Copy INAL, along with a text-searchable PDF copy of the report and a copy of this letter to the SHPD Kapolei office, Attn. Library and one hard copy to the SHPD Hilo office, Attn. Joshua Gastilo. Also submit a text-searchable PDF copy of the report to HICRIS Project No. 2024PR00930 using the Project Supplement option, and a PDF copy of the report to lehua.k.soares@hawaii.gov.

Attach to permit: If historic properties such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities please cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division at (808) 933-7653.

Please contact Joshua Gastilo at Joshua.Gastilo@hawaii.gov for any questions regarding archaeological resources or concerns regarding this letter.

Aloha,



Jessica L. Puff
Architecture Branch Chief
Acting Administrator, State Historic Preservation Division

cc: Alex Roy, alex.roy@hawaiicounty.gov
Daryn Arai, daryn.aai@outlook.com
Kaimu Cove LLC, wyattinhawaii@gmail.com
Matthew Clark, mclark@asmaffiliates.com

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
OFFICE OF CONSERVATION AND COASTAL LANDS
P.O. BOX 621
HONOLULU, HAWAII 96809

COH PLANNING DEPT
AUG 27 2024 PM 4:48

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT

ENGINEERING
FORESTRY AND WILDLIFE

HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION

LAND
STATE PARKS

REF:OCCL:CM

Correspondence: HA 25-18

Aug 20, 2024

Zendo Kern
Planning Director
County of Hawaii – Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720

REC'D BY MAIL

SUBJECT: Request for Comments for Special Management Area (SMA) Major Permit No. PL-SMA-2024-000063 to Develop a 5-Lot Subdivision Including the Construction of Single-Family Dwellings Construction Project Located Within the Kaimu-Makena Homestead; Puna, Hawaii; Tax Map Key: (3) 1-2-018:001

Dear Mr. Kern,

The Office of Conservation and Coastal Lands (OCCL) has reviewed your correspondence regarding request for comments for the proposed development of a 5-lot subdivision at the subject location. The proposed development will include the construction of 5 new single-family dwelling with related improvements on each lot as determined by the individual lot owners. The related improvements may include driveways, carports, wastewater systems, utilities, and possibly storage sheds. Additionally, a proposed private cul-de-sac roadway will be constructed for ingress and egress to Kalapana-Kapoho Beach Road. You are requesting comments on the proposed construction project.

It appears the project is located within the State of Hawaii Urban Land Use District. The OCCL regulates land uses in the State Land Use Conservation District, as such, the project appears to be located outside of our jurisdiction. As a ocean-front subdivision, I encourage you to review the State of Hawai'i Sea Level Rise Viewer (<https://www.pacioos.hawaii.edu/shoreline/slr-hawaii/>) to assess the potential impacts of sea level rise on the parcels. The structural design should consider post on pier rather than slab on grade as the properties may be affected by coastal hazards such as flooding and erosion. Additionally, please note that Act 16, which amended Hawaii Revised Statutes 205A, prohibits the construction of private shoreline hardening structures in front of private properties where there is a sandy beach.

Planning Dept.
Exhibit 5

It should be noted that prior grubbing activities by the previous owner (around 1992) on the lots resulted in inadvertent vegetation pushing that extended northward into the adjacent State-owned lands by approximately 20 feet. The grubbing activity ceased upon recognition that the activity had gone beyond the property boundary. Most of the vegetation has re-established itself. The applicant stated that any remaining deteriorated vegetation remaining on State lands will be removed and disposed at a green-waste facility.

Should you have any questions regarding this correspondence, contact Cal Miyahara of the Office of Conservation and Coastal Lands at (808) 798-6147 or calen.miyahara@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

C: HDLO

AFTER 10 DAYS, RETURN TO
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
P.O. BOX 621
HONOLULU, HAWAII 96809

HONOLULU HI 967
21 AUG 2024PM 5

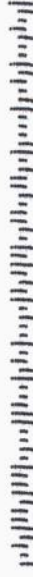
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County of Hawaii
Planning Department
101 Pauahi St., Suite 3
Hilo, Hawaii 96720

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AUG 27 2024 PM 4:48

95720-422403





DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 28, 2024

COH PLANNING DEPT
AUG 29 2024 PM 3:22

REC'D HAND DELIVERED

TO: Mr. Zendo Kern, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Special Management Area Use Permit Application (PL-SMA-2024-000063)**
Applicant - Kaimu Cove, LLC
Request - To Develop a Five (5) Lot Subdivision Including the Construction of
Single-Family Dwellings and Related Improvements
Tax Map Key: (3) 1-2-018:001

We have reviewed the subject application and have the following comments.

Please be informed that there is an existing 5/8-inch meter serving the subject parcel, which is limited to an average daily usage of 400 gallons and suitable for only one (1) single-family dwelling.

Water can be made available from an existing 8-inch waterline along Kalapana-Kapoho Beach Road fronting the subject parcel in accordance with the Department's existing water availability conditions, which are subject to change without notice.

Therefore, pursuant to Rule 5 of the Department's Rules and Regulations, a copy of which is being forwarded to the applicant, a water commitment may be issued. Based on the four (4) additional units requested in the proposed 5-lot development, the required water commitment deposit is \$600.00.

Remittance by the applicant of the deposit is requested as soon as possible so that a water commitment may be formally issued. The commitment will be in writing with specific conditions and effective dates stated. Please keep in mind that this letter shall not be construed as a water commitment. In other words, unless a water commitment is officially effected, water availability is subject to change without notice, depending on the water situation.

For the applicant's information, final subdivision approval will be subject to compliance with the following requirements:

1. Construct necessary water system improvements, which shall include, but not be limited to:

Mr. Zendo Kern, Director

Page 2

August 28, 2024

- a. water mains capable of delivering water at adequate pressure and volume under peak-flow and fire-flow conditions; minimum diameter of mains shall be 6 inches from Kalapana-Kapoho Beach Road extending approximately into the cul-de-sac,
- b. service laterals that will accommodate 5/8-inch sized meters to each lot,
- c. existing service lateral must be cut and plugged at the main and relocated to the appropriate lot,
- d. fire hydrants spaced no more than 600 feet apart and within 300 feet of the driveway or access for each lot. On dead-end streets, the last fire hydrant shall be located at one half the distance from the last house, or unit, fronting the property line, or to the driveway or access for the property, and
- e. subject to other agencies' requirements to construct improvements within the road right-of-way fronting the property affected by the proposed development, the applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary.

Submit construction plans and design calculations prepared by a professional engineer, registered in the State of Hawai'i, for review and approval.

2. Remit the prevailing facilities charge, which is subject to change, as shown below:

FACILITIES CHARGE (FC):

1 existing service	0.00
4 additional units @ \$6,095.00/unit	\$24,380.00
Total FC	\$24,380.00

This is due and payable upon completion of the installation of the required water system improvements and prior to final subdivision approval being granted.

For your information, water commitment deposits are credited towards the final facilities requirement for the development. Note that the amount of water commitment deposit may exceed the prevailing facilities charge amount; for example, when requests for time extensions continue and are approved. Until the development is finally completed, these are separate and unrelated items. In the event that water commitment deposits exceed the facilities charge, no refunds are applicable.

Mr. Zendo Kern, Director

Page 3

August 28, 2024

3. Submit the appropriate documents, properly prepared and executed, to convey the water system improvements and necessary easements to the Water Board of the County of Hawai'i prior to final subdivision approval being granted. A registered land surveyor shall stamp and certify the metes and bounds description within the conveyance documents. However, prior to water meter services being granted to the development, or any lots within, the conveyance documents shall be accepted by the Water Board.

Should there be any questions, please contact Mr. Ryan Quitariano of our Water Resources and Planning Branch at (808) 961-8070, extension 256.

Sincerely yours,



Keith K. Okamoto, P.E.
Manager-Chief Engineer

RQ:dfg

copy – Kaimu Cove, LLC
Mr. Daryn Arai



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'ŌI HANA KUMUWAIWAI 'ĀINA
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 621
HONOLULU, HAWAII 96809

Aug 05, 2024

REF: RFD.6302.8

TO: Zendo Kern, Planning Director
County of Hawaii'i, Planning Department

FROM: Dean D. Uyeno, Acting Deputy Director 
Commission on Water Resource Management

SUBJECT: Special Management Area Use Permit Application (PL-SMA-2024-000063)

FILE NO.: RFD.6302.8
TMK NO.: (3) 1-2-018:001

Thank you for the opportunity to review the subject document. The Commission on Water Resource Management (CWRM) is the agency responsible for administering the State Water Code (Code). Under the Code, all waters of the State are held in trust for the benefit of the citizens of the State, therefore all water use is subject to legally protected water rights. CWRM strongly promotes the efficient use of Hawaii's water resources through conservation measures and appropriate resource management. For more information, please refer to the State Water Code, Chapter 174C, Hawaii Revised Statutes, and Hawaii Administrative Rules, Chapters 13-167 to 13-171. These documents are available via the Internet at <http://dlnr.hawaii.gov/cwrn>.

Our comments related to water resources are checked off below.

- ☐ 1. We recommend coordination with the county to incorporate this project into the county's Water Use and Development Plan. Please contact the respective Planning Department and/or Department of Water Supply for further information.
- ☐ 2. We recommend coordination with the Engineering Division of the State Department of Land and Natural Resources to incorporate this project into the State Water Projects Plan.
- ☐ 3. We recommend coordination with the Hawaii Department of Agriculture (HDOA) to incorporate the reclassification of agricultural zoned land and the redistribution of agricultural resources into the State's Agricultural Water Use and Development Plan (AWUDP). Please contact the HDOA for more information.
- ☒ 4. We recommend that water efficient fixtures be installed and water efficient practices implemented throughout the development to reduce the increased demand on the area's freshwater resources. Reducing the water usage of a home or building may earn credit towards Leadership in Energy and Environmental Design (LEED) certification. More information on LEED certification is available at <http://www.usgbc.org/leed>. A listing of fixtures certified by the EAP as having high water efficiency can be found at <http://www.epa.gov/watersense>.
- ☒ 5. We recommend the use of best management practices (BMP) for stormwater management to minimize the impact of the project to the existing area's hydrology while maintaining on-site infiltration and preventing polluted runoff from storm events. Stormwater management BMPs may earn credit toward LEED certification. More information on stormwater BMPs can be found at <http://planning.hawaii.gov/czm/initiatives/low-impact-development/>
- ☐ 6. We recommend the use of alternative water sources, wherever practicable.
- ☐ 7. We recommend participating in the Hawaii Green Business Program, that assists and recognizes businesses that strive to operate in an environmentally and socially responsible manner. The program description can be found online at <http://energy.hawaii.gov/green-business-program>.
- ☐ 8. We recommend adopting landscape irrigation conservation best management practices endorsed by the Landscape Industry Council of Hawaii. These practices can be found online at http://www.hawaiiscape.com/wp-content/uploads/2013/04/LICH_Irrigation_Conservation_BMPs.pdf.

- ☒ 9. There may be the potential for ground or surface water degradation/contamination and recommend that approvals for this project be conditioned upon a review by the State Department of Health and the developer's acceptance of any resulting requirements related to water quality.
- ☐ 10. The proposed water supply source for the project is located in a designated water management area, and a Water Use Permit is required prior to use of water. The Water Use Permit may be conditioned on the requirement to use dual line water supply systems for new industrial and commercial developments.
- ☐ 11. The Hawaii Water Plan is directed toward the achievement of the utilization of reclaimed water for uses other than drinking and for potable water needs in one hundred per cent of State and County facilities by December 31, 2045 (§174C-31(g)(6), Hawaii Revised Statutes). We strongly recommend that this project consider using reclaimed water for its non-potable water needs, such as irrigation. Reclaimed water may include, but is not limited to, recycled wastewater, gray water, and captured rainwater/stormwater. Please contact the Hawai'i Department of Health, Wastewater Branch, for more information on their reuse guidelines and the availability of reclaimed water in the project area.
- ☐ 12. A Well Construction Permit(s) is (are) are required before the commencement of any well construction work.
- ☐ 13. A Pump Installation Permit(s) is (are) required before ground water is developed as a source of supply for the project.
- ☐ 14. There is (are) well(s) located on or adjacent to this project. If wells are not planned to be used and will be affected by any new construction, they must be properly abandoned and sealed. A permit for well abandonment must be obtained.
- ☐ 15. Ground-water withdrawals from this project may affect streamflows, which may require an instream flow standard amendment.
- ☐ 16. A Stream Channel Alteration Permit(s) is (are) required before any alteration can be made to the bed and/or banks of a steam channel.
- ☐ 17. A Stream Diversion Works Permit(s) is (are) required before any stream diversion works is constructed or altered.
- ☐ 18. A Petition to Amend the Interim Instream Flow Standard is required for any new or expanded diversion(s) of surface water.
- ☐ 19. The planned source of water for this project has not been identified in this report. Therefore, we cannot determine what permits or petitions are required from our office, or whether there are potential impacts to water resources.
- ☐ OTHER:

If you have any questions, please contact Ryan Imata of the Regulation Branch at (808) 587-0225 or Katie Roth of the Planning Branch (808) 587-0216

Daryn Arai
Land Use Planning Consultant

September 16, 2024

Mr. Zendo Kern, Planning Director
County of Hawai'i Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720

Dear Director Kern:

Subject: Response to Agencies' comments regarding
SMA Use Permit Application PL-SMA-2024-000063
Applicant: Kaimu Cove, LLC
TMK: 1-2-018:001, Kaimū, Puna, Hawai'i

Thank you for providing the Applicant with comments received from the various reviewing agencies regarding the subject application, to which we provide the following responses for your consideration.

1. Department of Land and Natural Resources-Office of Conservation and Coastal Lands (letter dated August 20, 2024)

The Office of Conservation and Coastal Lands (OCCL) confirms the subject property as being situated outside of the Conservation District, and therefore outside of their jurisdiction.

However, OCCL did request the department to assess the potential impacts of sea level rise and other coastal hazards upon the proposed subdivision, which the Applicant addressed in its SMA application by confirming the proposed subdivision as not being subject to coastal flooding as defined by FEMA or sea level rise.

OCCL also noted prior grubbing activities that occurred on adjacent State-owned lands, and recited the Applicant's commitment to remove any remaining deteriorated vegetation for disposal at an approved green waste facility.

2. Department of Land and Natural Resources-Historic Preservation Division (memo dated September 6, 2024)

The Applicant is pleased that its effort to prepare a field inspection report earlier this year was helpful to the DLNR-SHPD in supporting the historic preservation review process by relocating three historic properties previously identified by an earlier archeological study conducted by Robert Spear, Ph.D. in 1992, that included Site 50-10-63-18526 (complex)

and Site 50-10-63-18527 (wall), and Site 50-10-63-18528 (lava tube). A fourth site, (Site 50-10-63-18525 [c-shape feature]) was not relocated and was assumed to have been destroyed as the area exhibited evidence of ground-disturbing activities. The report did not identify any new historic properties, although it did indicate that additional rock constructions were observed and suggests that they were constructed sometime after the Spear (1992) archaeological survey. Due to the proximity of the subject project area to a nearby cemetery, consultation was conducted between October 31 and December 13, 2023 and found that none of the consulted parties knew of any burials being located within the current project area.

Based on the information provided above, SHPD's project effect determination is "**No historic properties affected**" pursuant to HAR §13-284-7(a)(1) for the current project. Additionally, pursuant to HAR §13-284-7(e), when SHPD comments that the proposed project shall not affect significant historic properties, the HRS 6E historic preservation review process ends and the SMA permit issuance process may continue.

3. Department of Land and Natural Resources-Commission on Water Resource Management (memo dated August 5, 2024)

The Commission on Water Resource Management (CWRM) promotes the efficient use of Hawai'i's water resources through conservation measures and appropriate resource management.

As recommended by CWRM, the Applicant will encourage lot owners to install efficient water fixtures and implement water efficient practices within the proposed dwellings and throughout the proposed subdivision. As a proposed subdivision with individual lot owners and individual needs and capabilities, the Applicant cannot assure that the design of these homes will achieve LEED standards, but the water conservation information provided by CWRM can be shared with potential lot owners.

The Applicant will explore the use of best management practices for stormwater management to minimize the impact of the proposed subdivision upon the existing area's hydrology. One such effort is to reduce the amount of pavement within the subdivision access roadway, which directly translates to the amount of runoff generated due to impervious surfaces. The Applicant also agrees to comply with applicable requirements of the State Department of Health to minimize the potential for ground or surface water degradation or contamination to protect groundwater quality.

4. Department of Land and Natural Resources-Engineering Division (memo dated July 29, 2024)

The Engineering Division reminded the County and Applicant of the need to research the Flood Hazard Zone designation for the subject property, and the need to comply with local flood ordinances, which may stipulate higher minimum flood standards that can be more restrictive than the National Flood Insurance Program (NFIP).

5. Department of Water Supply (letter dated August 28, 2024)

The Department of Water Supply (DWS) confirmed water availability to support the proposed 5-lot subdivision from an existing 8-inch waterline located along the Kalapana-Kapoho Beach Road that fronts the subject property. The Applicant will submit the required water commitment payment to secure these 4 additional water commitments promptly after approval of the requested change of zone request.

Should this rezoning request be approved, the Applicant will construct all necessary water system improvements required by DWS prior to the issuance of Final Subdivision Approval, which shall include:

- Construct necessary water system improvements, which shall include, but not be limited to:
 - water mains capable of delivering water at adequate pressure and volume under peak-flow and fire-flow conditions; minimum diameter of mains shall be 6 inches from Kalapana-Kapoho Beach Road extending approximately into the cul-de-sac,
 - service laterals that will accommodate 5/ 8-inch sized meters to each lot,
 - existing service lateral must be cut and plugged at the main and relocated to the appropriate lot,
 - fire hydrant(s) spaced no more than 600 feet apart and within 300 feet of the driveway or access for each lot. On dead-end streets, the last fire hydrant shall be located at one half the distance from the last house, or unit, fronting the property line, or to the driveway or access for the property.
 - subject to other agencies' requirements to construct improvements within the road right-of-way fronting the property affected by the proposed development, the Applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary.
- Submit construction plans and design calculations prepared by a professional engineer, registered in the State of Hawai'i, for review and approval.

6. Department of Public Works (memo dated September 9, 2024)

The Applicant acknowledges that the subject property is situated in an area designated as Flood Zone X and VE on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The Applicant also understands that the Flood Zone VE is the Special Flood Hazard Area inundated by the 100 -year coastal flood (1% chance of occurring in any given year) with velocity hazard (wave action) that will prompt all construction within Flood Zone VE to comply with the requirements of Hawai'i County Code, Chapter 27, Floodplain Management.

For clarification, the Applicant referenced the entire subject property, situated as that portion being situated mauka of the certified shoreline, as being situated within Flood Zone X, and lands makai of the certified shoreline being situated within the Flood Zone VE. We understood this as lands makai of the certified shoreline is owned by the State of Hawai'i. Therefore, our preliminary assessment is that the subject property and the proposed 5-lot subdivision will be situated entirely in Flood Zone X.

The Applicant will comply with all earthwork and grading requirements as specified within Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code. Finally, the Applicant will ensure that construction within the County right-of-way complies with Chapter 22, County Streets of the Hawaii County Code.

We hope that we have adequately responded to comments offered by the respective agencies. Please feel free to contact me should there be any questions or need for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daryn Arai', with a stylized flourish at the end.

DARYN ARAI
Land Use Planning Consultant

copy via email: Mr. Mark Wyatt