

# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

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DEREK S.K. KAWAKAMI, MAYOR  
REIKO MATSUYAMA, MANAGING DIRECTOR

July 8, 2024

Public Testimony and Agency comments received by the Planning Department as of July 8, 2024, 9:00 am for the July 9, 2024, Planning Commission meeting regarding the following item:

- F2.a. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-10) allow construction of a new single-family residence within Lot 79-A of the Wainiha Hui Partition in Wainiha, involving a parcel situated on the makai side of Kuhio Highway, approximately 200 feet west of the Kuhio Highway/Alamihi Road intersection, further identified as 5-7070 Kuhio Highway, Tax Map Key: (4) 5-8-011:049 containing a total area of 22,736 square feet = **BRUCE HOLDINGS LLC.**

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

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'AINA



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

July 1, 2024

Ka'āina S. Hull, Director  
County of Kaua'i  
Planning Department  
4444 Rice Street, Suite A473  
Līhu'e, Hawai'i 96766  
[khull@kauai.gov](mailto:khull@kauai.gov)

IN REPLY REFER TO:  
Project No. 2024PR00632  
Doc. No. 2406DB09  
Archaeology

Dear Mr. Hull:

SUBJECT: **Hawaii Revised Statutes (HRS) Chapter 6E-42 Historic Preservation Review –  
County of Kaua'i Special Management Area Use Permit Application SMA(U)-2024-10  
Bruce Holdings, LLC Second Dwelling Project  
5-7070 B Kuhio Highway – Hanalei, HI  
Wainiha Ahupua'a, Halele'a District, Island of Kaua'i  
TMK: (4) 5-8-011:049**

This letter provides the State Historic Preservation Division's (SHPD's) HRS §6E-42 review of the subject permit application [SMA(U)-2024-10] for the Bruce Holdings, LLC Second Dwelling Project, located in Wainiha. The SHPD received the submittal on May 20, 2024, which included the SMA permit application packet, construction/site plans, TMK map, aerial and site photographs, and documents titled: *Archaeological Assessment Survey of a 22,736 Sq. Ft. Parcel for an SMA Permit for Second Dwelling, Wainiha Ahupua'a, Halele'a District, Kaua'i, TMK: (4) 5-8-011:049* (McMahon, November 2022); and *Ka Pa'akai O Ka'āina Analysis – Native Hawaiian Traditions, Customary Practices and Perspectives of Wainiha Ahupua'a Moku o Halele'a, Kaua'i Island for TMK (4) 5-8-011:049* (Exploration Associates, Ltd., December 2022).

This private project will occur within a ~10,000-sq.-ft. portion of the 0.52-acre parcel. The project involves the construction of a second single-family dwelling unit on the property, which will be an elevated single-story structure (~1,682 sq. ft.) designed in a modern Hawaiian plantation architecture style. Additionally, the project will include the construction of a storage area on the ground floor, outdoor shower, driveway improvements, drainage improvements, landscaping, and related site utilities. An IWS septic system will also be installed as part of the project, although it is not part of the SMA permit application review.

Exploration Associates, Ltd. completed the two supporting documents (McMahon, November 2022; Exploration Associates, Ltd., December 2022). The archaeological inventory survey (AIS) identified no historic properties within the project area. The negative findings are presented in an Archaeological Assessment (AA) report (McMahon, November 2022). However, Historic properties within close proximity to the current project area include an inadvertent discovery of human remains and three features (Site 50-30-02-02393) located on the adjacent parcel 54 at 5-7084 Kuhio Highway, just northwest of the current project area. Another inadvertent discovery of human remains (Site 50-30-02-02403) occurred ~730 ft. to the southeast on the mauka side of the highway. Additionally, a subsurface refuse deposit (Site 50-30-02-02498) has been documented ~610 ft. to the south. Lastly, recent inadvertent discoveries have also been documented to the northeast, off of Oneone Place (no State Inventory of Historic Places [SIHP] site

Mr. Ka'āina S. Hull  
July 1, 2024  
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number has yet been assigned). The USDA (Foote et. al 1972) identifies the soil within the project area as Mokuleia fine sandy loam (Mr) with Beaches soil along east border.

Based on project information provided, previous studies and historic properties documented within the area, SHPD has insufficient information for making a determination that the project will not adversely affect significant archaeological historic properties or human burials. Therefore, **SHPD requests archaeological monitoring for identification purposes** be conducted for the project to identify any archaeological historic properties or burials present and, if identified, to determine potential impacts to them, and to ensure that appropriate mitigation is implemented. For a list of firms with permits to conduct archaeological work in Hawai'i, visit SHPD's website at: <http://dlnr.hawaii.gov/shpd/about/branches/archaeology>.

**SHPD also requests** an archaeological monitoring plan (AMP) meeting the requirements of HAR §13-279-4 be submitted for SHPD review and acceptance prior to issuance of the permit. Please submit the AMP, the associated submittal review fee, and a copy of this letter to HICRIS Project 2024PR00632 using the Project Supplement option.

**SHPD shall notify the County** when the AMP is accepted, and the permit issuance process may continue.

Please contact David Buckley, Kaua'i Lead Archaeologist, at (808) 462-3225 or at [David.Buckley@hawaii.gov](mailto:David.Buckley@hawaii.gov) for questions regarding this letter.

Mahalo,

*Lesley Iaukea*

Lesley Iaukea, PhD  
Acting Administrator, State Historic Preservation Division

cc: Romio Idica, Kaua'i County Planning Department, [ridica@kauai.gov](mailto:ridica@kauai.gov)  
Ian K. Jung, Belles Graham LLP, [ikj@kauai-law.com](mailto:ikj@kauai-law.com)

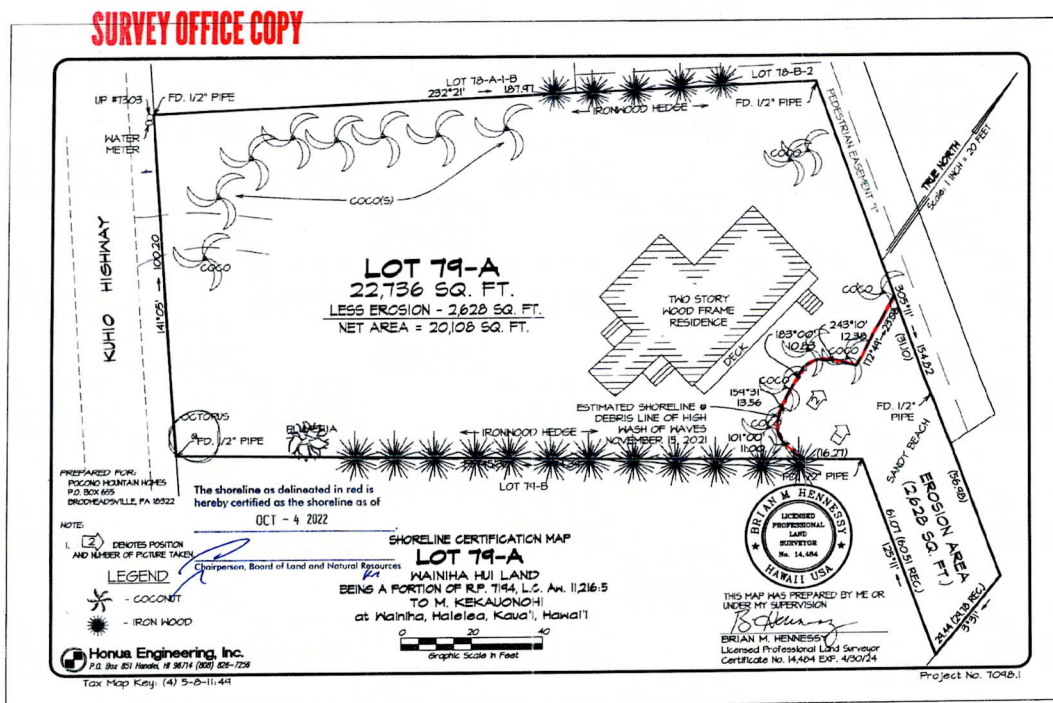
County of Kauai Planning Commission  
 4444 Rice Street, Suite A473,  
 Lihue, Hawaii, 96766  
[planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov)  
 SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-10)  
 7/07/2024  
 Comments Re: Agenda Item F. 2 a

SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-10) allow construction of a new single-family residence within Lot 79-A of the Wainiha Hui Partition in Wainiha, involving a parcel situated on the makai side of Kuhio Highway, approximately 200 feet west of the Kuhio Highway/Alamihi Road intersection, further Identified as 5- 7070 Kuhio Highway, Tax Map Key: (4) 5-8-011:049 containing a total area of 22,736 square feet= BRUCE HOLDINGS LLC.

Planning Commission Chair Apisa, Vice-Chair Ako and Commissioners,

The application as submitted has some deficiencies and inconsistencies that should be corrected and clarified before accurate evaluation of the development.

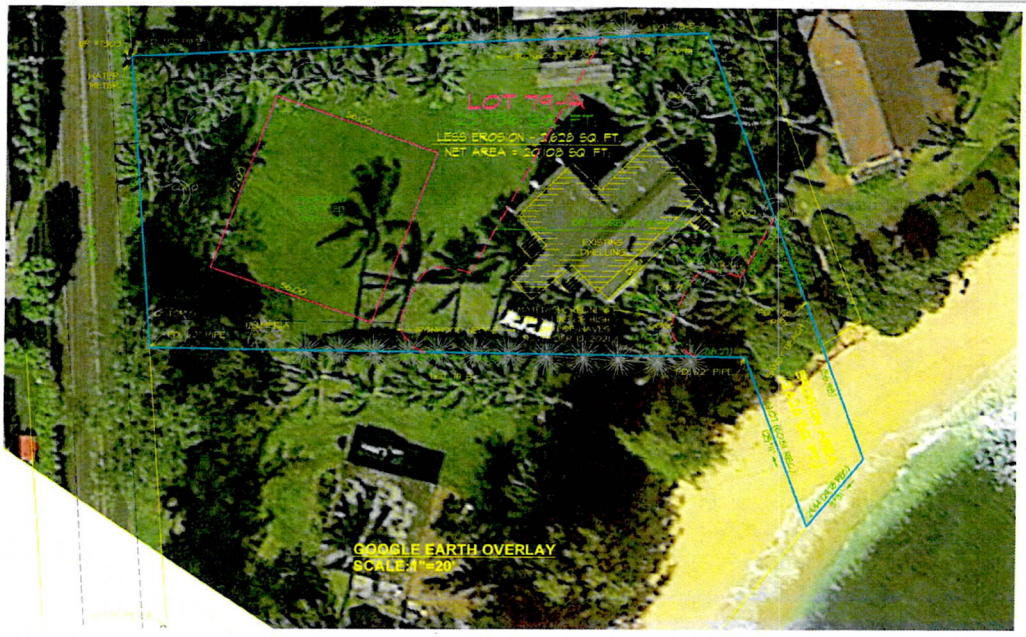
1. Correct and refigure accurate land coverage. The Net Area of the property after the certified shoreline is 20,108 Sq. Ft. In Section 3.4, the applicant uses 22,736 Sq. Ft. to determine total proposed land coverage.



Certified Shoreline Map October 4, 2022



- Resolve house size discrepancy regarding SSD 2023-44 and current SMA application. SSD 2023-44 applied for an ADU; this was the photo on page 11 in the SSD application. The SMA is for a second dwelling unit of a larger size and footprint, not an ADU.



The proposed structure should be required to downsize. Applicants Exhibit E-1 shows outsized new construction that infills almost the whole lot

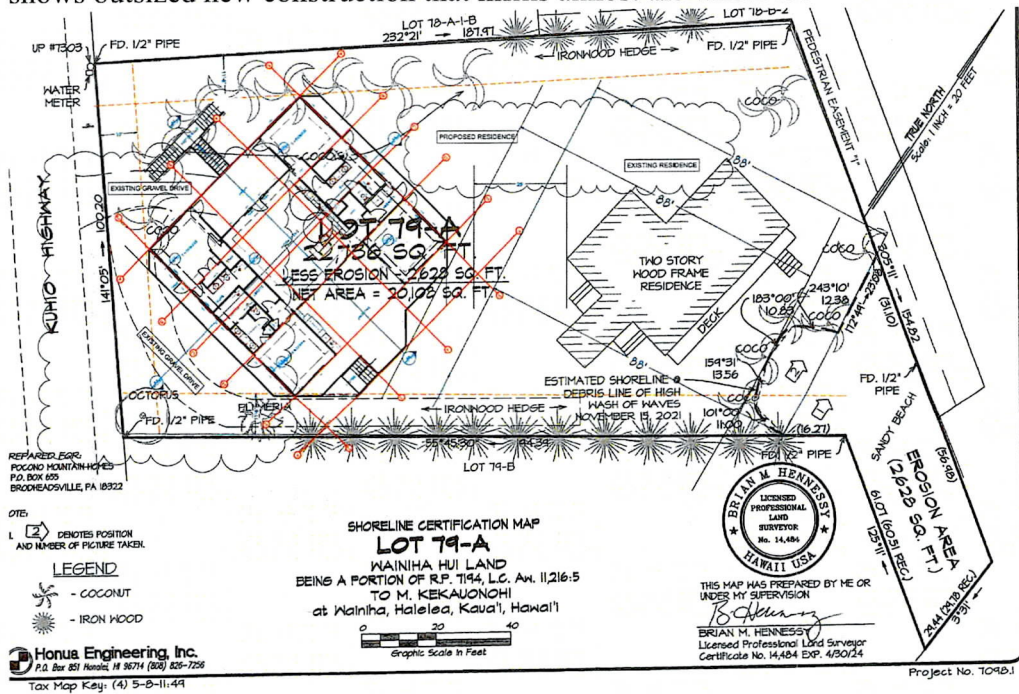


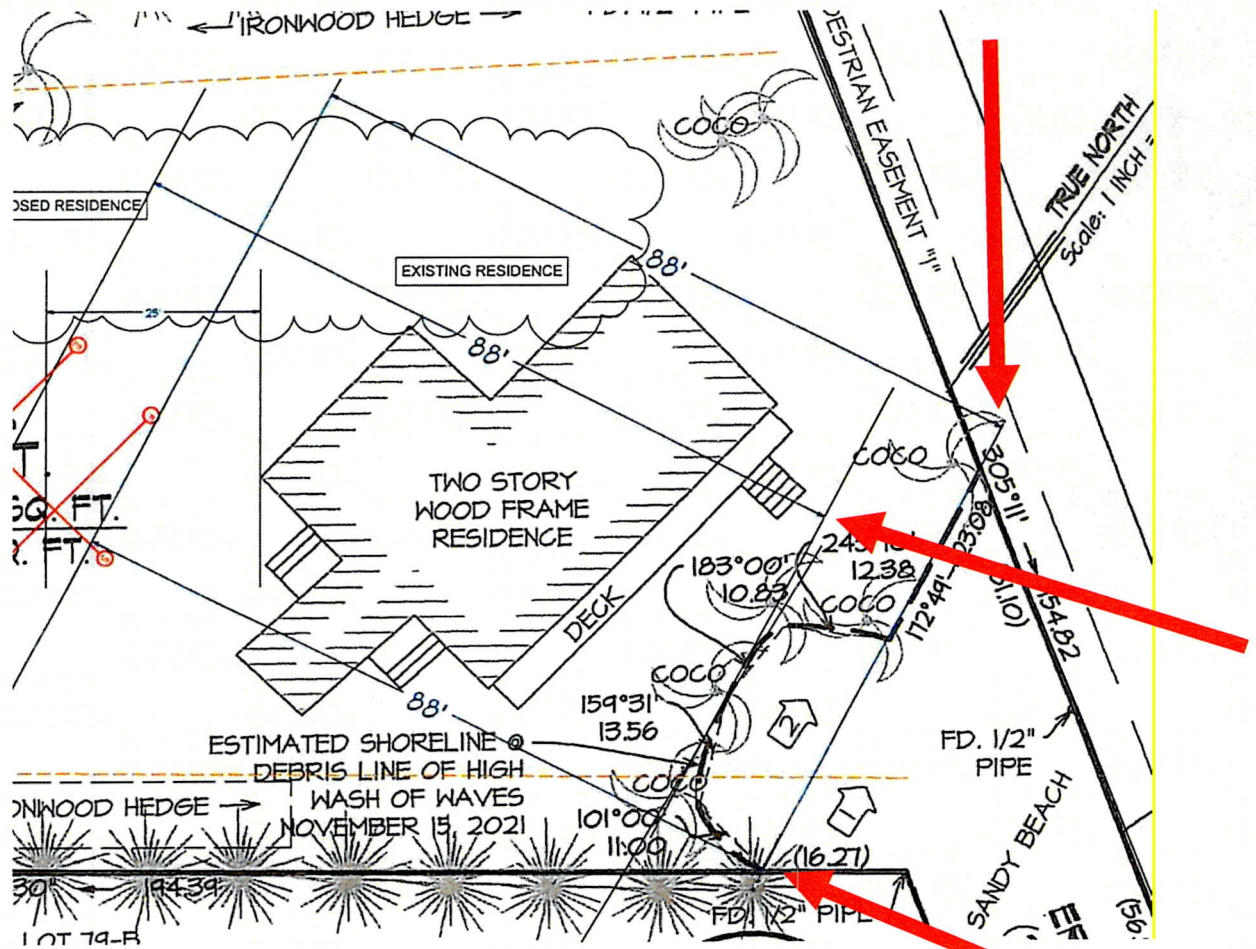
EXHIBIT "E-1"

<b>MATTHEW SCHALLER, ARCHITECT INC.</b> P.O. BOX 120 HANALEI, KAUAI, HAWAII 96714 (PHONE) 832-4899; FAX 832-8997	
<b>NEW RESIDENCE</b> TMK: (4) 5-8-011-049; KUHIO HWY., HANALEI, KAUAI, HAWAII	
SITE PLAN	
THIS MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION Brian M. Hennessy Licensed Professional Land Surveyor Certificate No. 14,484 EXP. 4/30/24	Project No. 10946.1
	PERMIT 11-24-23 rev-625-24
<b>SP1</b>	

SITE PLAN



3. Setback distance needs to be corrected on the maps and verified on the ground.



Red arrows added/ Exhibit E-1 appears to measure the setback distance of the structure incorrectly; setback distance needs ground-truthing that the setback distance is measured from the certified shoreline location.

4. Resolve discrepancy and clarify the size of the proposed structure. Page 131 of the document, the Ka Pa'akai Analysis for a Wainiha parcel says

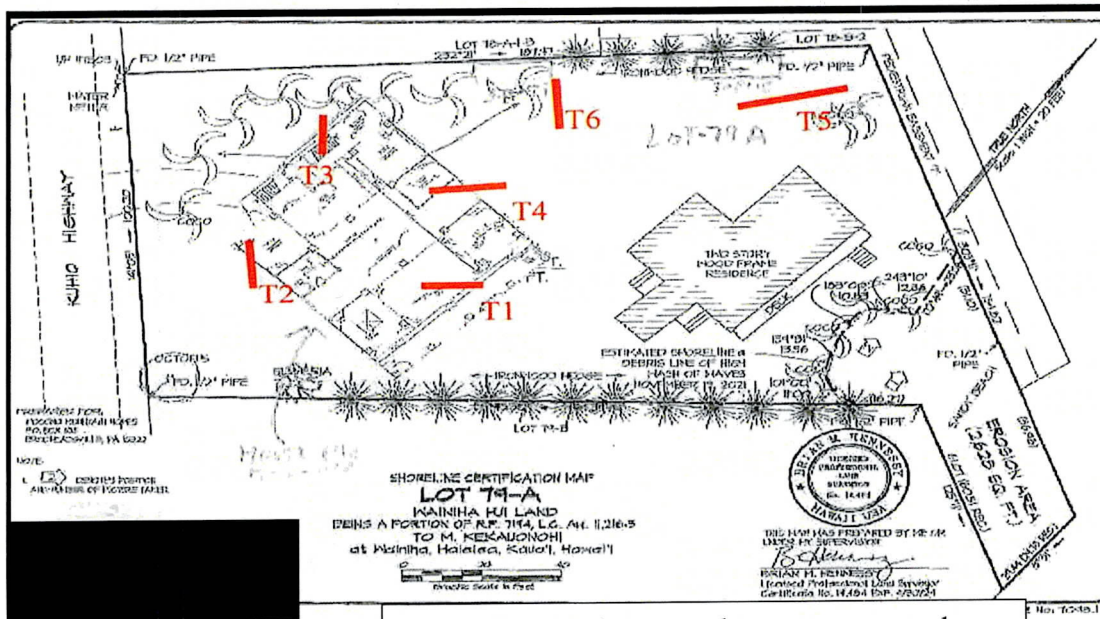
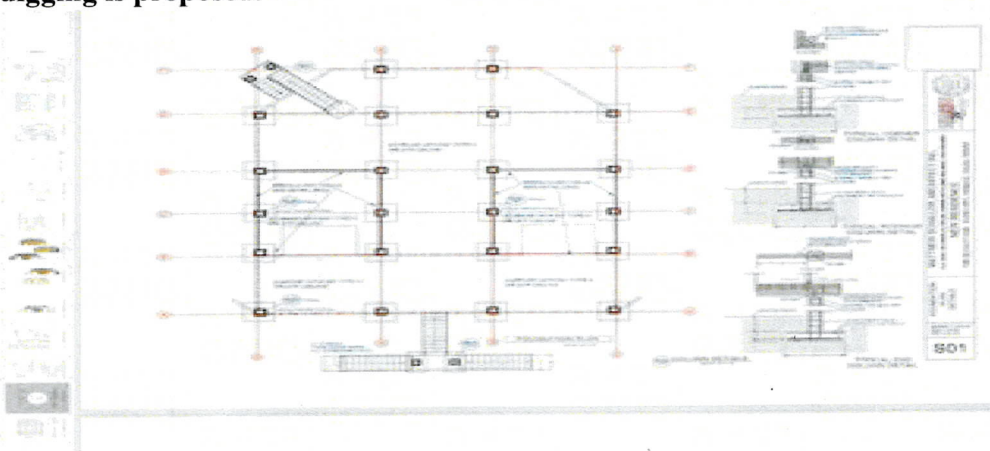
*“Bruce Holdings LLC, the owner of the subject property, is planning to build a 2, 448 sq. ft. second single family residence which includes septic systems for the new residence and the existing residence.”*

Exhibit E-1 in the SMA application, lists the structure size as 2,541 sq feet and the Lanai 1,679 sq. ft., 4, 220 sq. ft! Proposed structure is too large and inappropriate for the known hazards of the area. Sad that developers are infilling existing house lots with more development despite

predicted SLR and known tsunami hazards. Is the proposed structure size 1,682 Sq. feet, 2,448 sq. feet, 4,220 sq. ft. or other? The proposed development in the SMA application must be consistent with the development approved in SSD 2023-44, and should not have conflicting information throughout the submittals on the size. Reduce the size to be compatible with the surrounding area. Clarify what is the proposed size?

5. Wastewater/ testing arbitrary trenches not located where development and the footings are proposed to be located is meaningless.

Foundation plan details in Schaller drawings show the extensive foundation. The location of the archaeological testing as shown in Figure 13 has no correlation to the foundation locations. Test trench locations appear to be arbitrary and not where the actual foundation or wastewater systems are proposed to be located. **Ground penetrating radar should be required where digging is proposed.**



Red indicates where trenches were surveyed

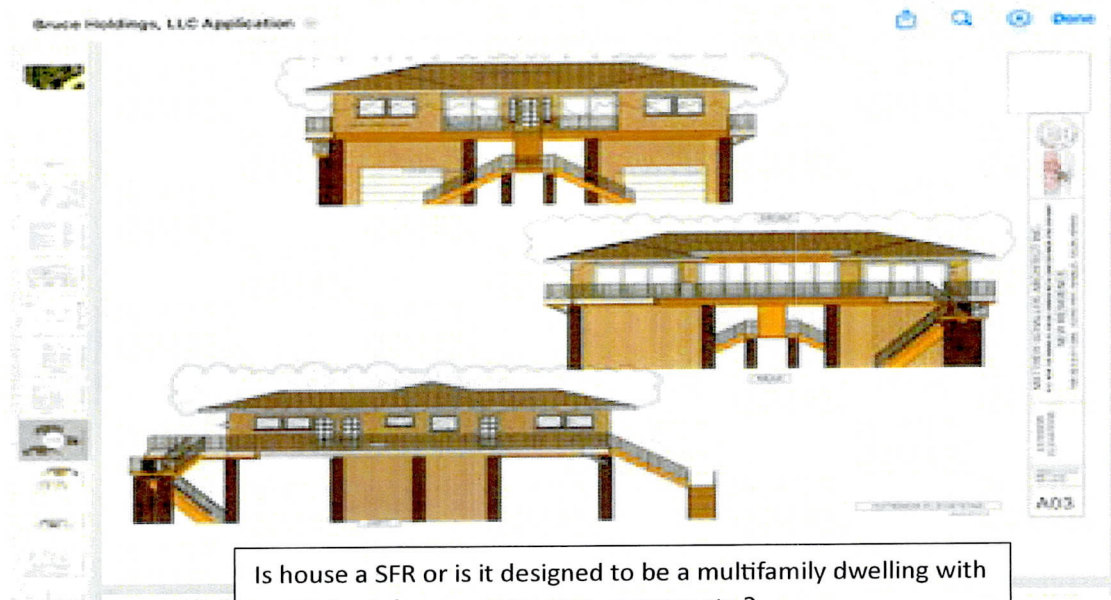


In coastal areas of Wainiha, almost every time people dig to put in septic systems they bulldoze Iwi. This is a known area of burials. The Recommendations on page 126 acknowledge

*“There still is the possibility of finding human remains during the deeper excavation of the septic systems it is recommended that a “effect with mitigation” be the determination with precautionary on-call and on-site archaeological monitoring by a qualified archaeology.”*

It is inadequate to “monitor” ; modern methods for location of Iwi need to be required **BEFORE** digging, before construction, before final approval. **In this area of known burials, ground penetrating radar should be required in advance of excavation to prevent desecration of the Iwi. Tools that do not desecrate Iwi while digging must be used, including hand digging with no bulldozer.**

- a. Clarify proposed wastewater location(s) and use ground penetrating radar to test in advance. Reference is made to Wastewater page 105 of the SMA application. The drawing is too small to decipher where the wastewater systems and leach field are proposed to be located. Please provide readable map.
  - b. Why install 2 separate wastewater systems on this one lot of record? Is this project segmenting development and being setup to CPR the property once approved? **Add condition prohibiting CPR or subdivision after building.**
  - c. **Reduce impacts, reduce house size, design and install one new wastewater system for both dwellings.**
  - d. Cesspool for existing structure should be upgraded prior to building another house
6. Clarify structure is a single-family structure, not 2 separate units, or a multi-family dwelling. Add condition prohibiting Lockouts, add condition dwelling is to be occupied and used by one family. Consolidate to 1 entrance and staircase.







7. Preserve valued scenic views. Arriving in Wainiha, when one comes around the curve at Kepuhi Point and along this stretch of the Historic Roadway Corridor, the wind and the fresh smell of the ocean pervade one's senses. The ocean, wind and waves are glorious, welcoming all to the exquisite beauty of Wainiha. The proposed house will block these glorious views and conflicts with HRS 205A-2. As shown (above), Exhibit E-2, the proposed house as designed will block beautiful views from the highway to the ocean that have always existed. Not building below the base flood elevation would preserve important views along this stretch of road as would reducing the size of the structure.

**Project should be amended to comply with §205A-2 Coastal zone management program; objectives and policies.**

*(c)Policies (3) Scenic and open space resources;(B) Ensure that new developments are compatible with their visual environment by designing and locating those developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;*

8. The ocean is coming for the existing structure, the size of the new proposed house takes up the rest of the lot, eliminating the possibility for future retreat of the existing structure. **Add condition, existing house must be removed before or when the shoreline reaches the structure.** SLR, erosion, high waves must be planned for. The addition of the new proposed structure will foreclose all options of retreat on the property for the existing structure necessitating the condition to remove. Condition of retreat must be



added as a condition of approval and required to be filed with the BOC before building permits are issued for building another structure on the lot.



The existing structure has very little setback from the waves. SMA planning must plan for retreat of the existing structure at the same time as planning and approval of any new development on the parcel.



Construction in the neighborhood has many impacts. Additional Conditions to add to the SMA to reduce the impacts should include:

1. Add condition, existing house must be removed before or when the shoreline reaches the structure.
2. Add condition prohibiting seawalls or any type of shoreline hardening
3. Require ground penetrating radar study where footings, wastewater tanks, leach-fields and structure are proposed
4. Add condition, existing wastewater upgrade must happen before additional construction
5. Add condition to reduce wastewater system to one to service both dwellings
6. Add condition to reduce size of the second structure
7. Require scenic views be preserved by reducing size of structure and prohibiting enclosure of the structure below the base flood elevation
8. Require shoreline and setback distance to be located and marked on the ground before construction
9. Add condition to require all construction related vehicles to park off site during construction, with a further prohibition not allowing workers to park on the historic highway
10. Add condition no storage of construction refuse/trash onsite allowed
11. Add condition prohibiting further subdividing or CPR of lot.



Mahalo for your consideration , Caren Diamond

*Caren Diamond*