

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**OFFICE OF CONSERVATION AND COASTAL LANDS**  
Honolulu, Hawaii

REF:OCCL:DH

CDUA KA-3460

May 13, 2011

**Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii**

**REGARDING:** Request for Board of Land and Natural Resources (BLNR)  
Approval for Conservation District Use Permit (CDUP) KA-3460  
Single Family Residence (SFR) Plans

**APPLICANT:** Timothy Bradley, T & M Architecture, P.O. Box 797, Kapaa,  
Hawaii, 96746

**LANDOWNER:** Ohana Hale LLC c/o Patricia Nickum, 1020 Airport Way, Hailey,  
Idaho, 83333

**LOCATION:** Haena, Island of Kauai

**TMK:** (4) 5-9-005:027

**AREA OF PARCEL/  
USE:** 3,196 Square Feet  
Same

**SUBZONE:** Limited

**DESCRIPTION OF AREA/CURRENT USE:**

The proposed project is located on a 15,030 square foot (9,724 square foot pending Shoreline Certification) parcel TMK: (4) 5-9-002:057, in Haena, Island of Kauai. Access to the parcel is provided by Kuhio Highway. The subject parcel is bounded on the south by Kuhio Highway, to the north by the ocean, and to the east and west by private landowners. The parcel is located in the State Land Use (SLU) Conservation District, Limited subzone.

**CONSERVATION DISTRICT USE PERMIT KA-3460:**

The OCCL notes on August 8, 2008, the BLNR approved CDUP KA-3460; subject to 23 terms and conditions. The applicant proposed to construct a 2,672 square foot elevated SFR (538 square foot enclosed multiple level stairwell and entry way, 1,894 square foot of living space,

240 square foot deck) with three (3) bedrooms, three (3) bathrooms, kitchen, and dining/family room. The SFR was set back 80 feet from the shoreline due to the lot size and SFR's configuration. The BLNR also approved a five (5) foot variance to the Minimum side yard Setbacks and a variance of five (5) feet to the Maximum Height Limit (MHL).

On October 28, 2009, the department granted a two year time extension request. The deadline to initiate construction is February 9, 2012 and to complete construction is February 9, 2014 (**Exhibit 1**).

**DISCUSSION:**

It was understood at the August 8, 2008 Land Board meeting that the relocation of the SFR 80 feet landward from the shoreline would require a significant re-design. A general SFR footprint was provided but a more detailed design would be more forthcoming. Staff recommended when the applicant submitted the final plans a staff submittal would be submitted to the BLNR for approval. Thus, the new landowner is before the Land Board, pursuant to CDUP KA-3460 Condition # 17.

The OCCL notes an additional 524 square feet was added to the SFR's design; 3,196 total square feet. Key components include the addition of a fourth bedroom, a 416 square foot garage, and a 66 square foot beach storage and outdoor shower. The entryway was reduced by 215 square feet. The house will consist of four (4) bedrooms, three (3) bathrooms, kitchen, and dining/family room (**Exhibit 2**). The SFR is still setback 80 feet from the certified shoreline and setback ten feet from the side yard property boundaries. The maximum height of the SFR is 29'6."

Staff notes the proposed SFR is still less than the maximum allowable size for a residence on a lot of one acre or less in the Conservation District, which is 3,500 square feet. Therefore, staff recommends that the Board of Land and Natural Resources APPROVE Conservation District Use Permit KA-3460 single family residence plans.

**RECOMMENDATION:**

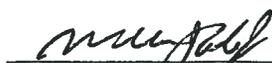
That the Board of Land and Natural Resources APPROVE Conservation District Use Permit KA-3460 single family residence plans.

Respectfully Submitted,



Dawn T. Hegger  
Senior Staff Planner

By:



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William J. Aila Jr, Chairperson  
Board of Land and Natural Resources

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

OFFICE OF CONSERVATION AND COASTAL LANDS  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA R. THIELAN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCES MANAGEMENT  
RUSSELL Y. TSUIJ  
FIRST DEPUTY  
KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONSERVANCIES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAREKOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

008 AUG 2 2008

FILE NO: CDUA KA-3460

Acceptance Date: April 3, 2008  
180-Day Exp. Date: September 3, 2008  
AUG 13 2008

REF:OCCL:DH

Ben Welborn  
Landmark Consulting Services, Inc.  
P.O. Box 915  
Hanalei, Hawaii 96714

Dear Mr. Welborn:

SUBJECT: Conservation District Use Application (CDUA) KA-3460 for the Catherine Moragne Bartmess and Russ Bartmess proposed Single Family Residence (SFR), Haena District, Island of Kauai, Subject Parcel TMK: (4) 5-9-005:027

This letter is to inform you that CDUA KA-3460 for the proposed Bartmess Single Family Residence, located in Haena District, Island of Kauai, has been approved by the Board of Land and Natural Resources on August 8, 2008, and was subject to the following terms and conditions:

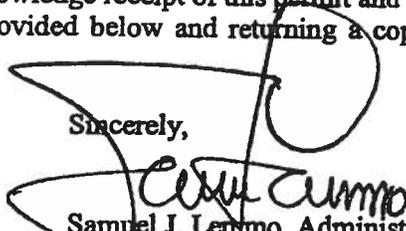
1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, State and county governments, and the applicable parts of Section 13-5-42, HAR;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR), Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control," and Chapter 11-54 National Pollutant Discharge Elimination System;
4. Before proceeding with any work authorized by the Board, the applicant shall submit four copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three copies will be returned to the

EXHIBIT 1

- applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
5. Any work or construction to be done on the land shall be initiated within one and a half years of the approval of such use, in accordance with construction plans that have been approved by the Department; further, all work and construction must be completed within three and a half years of the approval;
  6. The applicant shall notify the Office of Conservation and Coastal Lands in writing prior to the initiation, and upon completion, of the project;
  7. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
  8. The applicant will use Best Management Practices for the proposed project;
  9. The applicant will give preference towards using native plants for the remaining landscape work, and that prior to any construction the applicant will submit a landscape plan for the Office of Conservation and Coastal Land's approval;
  10. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
  11. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
  12. In the event that unrecorded historic remains (i.e., artifacts, or human skeletal remains) are inadvertently uncovered during construction or operations, all work shall cease in the vicinity and the applicant shall immediately contact the State Historic Preservation Division;
  13. The applicant shall provide documentation (i.e. book/page document number) that this approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
  14. That the applicant shall execute a waiver and indemnity prior to construction plan approval that is satisfactory to the Department;
  15. This action by the Board in no way legitimizes the sand bag groin located on the seaward side of the property, and the Department of Land and Natural Resources has the right to seek the removal of the structure, should the landowner fail to comply with the County of Kauai Emergency SMA Permit (E)-97-03 declarations, or if it is determined that the structure is causing harm to the public beach;

- 16. That the Board approve the request for a five foot Maximum Height Limit variance to meet Federal and County flood regulations, and a five foot variance from the minimum side yard setbacks to accommodate long-term erosion hazards;
- 17. That the Board of Land and Natural Resources will review the final proposed plans;
- 18. That the approval of CDUA KA-3460 is subject to full compliance with HRS, Chapter 343;
- 19. Other terms and conditions as may be prescribed by the Chairperson;
- 20. That failure to comply with any of these conditions may render this Conservation District Use Permit null and void;
- 21. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes shall be prohibited of the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as permitted pursuant to Section 205A-71, HRS;
- 22. That the Single Family Dwelling shall not be used for rentals or any other commercial purposes unless approved by the Board; and
- 23. That the applicant will follow the Seabird Protection Protocol developed with the US Fish and Wildlife Service and Division of Forestry;

Should you have any questions, please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380. Please acknowledge receipt of this permit and acceptance of the above conditions by signing in the space provided below and returning a copy to the OCCL within thirty (30) days.

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

Receipt acknowledged:

➔ Catherine M. Bastness, trustee

Date: 8-22-08

c: OHA/KDLO  
 County of Kauai Planning Department  
 Haena – Hanalei Community Association  
 Sierra Club Kauai Chapter

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Office of Conservation and Coastal Lands  
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BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

PAUL J. CONRY  
ACTING FIRST DEPUTY

LENORE N. OHYE  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:DH

FILE NO: CDUA KA-3460

Roy A. Vitousek  
Cades Schutte - Kona Office  
75-170 Hualalai Road, Suite 303  
Kailua Kona, Hawaii, 96740

NOV 16 2010

Dear Mr. Vitousek,

SUBJECT: Conservation District Use Permit (CDUP) KA-3460 for Single Family Residence (SFR) Catherine M. Bartmess Trust, Subject Parcel TMK: (4) 5-9-005:027, Haena District, Island of Kauai

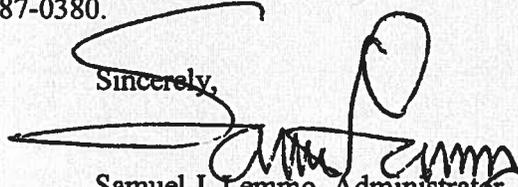
The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is in receipt of your letter, dated September 20, 2010, seeking clarification regarding the dates for the deadline to initiate construction and to complete construction for CDUP KA-3460 for Catherine M. Bartmess Trust SFR, Subject Parcel TMK: (4) 5-9-005:027, Haena District, Island of Kauai.

The OCCL notes on August 8, 2008, the Board of Land and Natural Resources (BLNR) approved CDUA KA-3460; subject to 23 terms and conditions (**Exhibit 1**). Condition # 5 noted, "any work or construction to be done on the land shall be initiated within one (1) and a half years of the approval of such use, in accordance with construction plans that have been signed by the Department, further, all work and construction must be completed within three (3) and a half years of the approval."

On October 28, 2009, the department granted a two year time extension request, pursuant to Chapter 13-5, Hawaii Administrative Rules (HAR), Section 13-5-43, TIME EXTENSIONS (b), "time extension may be granted as determined by the Chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant." The OCCL confirms that the deadline to initiate construction is **February 9, 2012** and to complete construction is **February 9, 2014**.

Should you have any question regarding this matter, please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Sincerely,

A handwritten signature in black ink, appearing to read 'Samuel J. Lemmo', written over a horizontal line.

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

c: KDLO/County of Kauai Planning Department  
Haena - Hanalei Community Association  
Catherine Moragne Bartmess  
356 Meridian, Crystal Lake, Illinois, 60014

T & M ARCHITECTURE, LLC.

P. O. BOX 797, KAPAA, KAUAI, HI 96746

April 4, 2011

Dawn T. Hegger, Senior Planner  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809-0621

RECEIVED  
OFFICE OF CONSERVATION  
& COASTAL LANDS  
PHONE: (808) 821-9727  
FAX: (808) 821-9726  
2011 APR -6 P 12: 03

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Dear Ms. Hegger:

Subject: Preliminary Construction Plans for Ohana Hale, LLC. Residence at Haena Kauai (TMK: (4)5-9-5: 27) Former Catherine M. Bartmess Trust property. Conservation District Use Application KA-3460

Thank you for sending the staff report dated August 8, 2008 for CDUA KA-3460 via email on 3/2/11. The Nickum family members have requested some minor changes to the proposed design sent to your office in early February that will aid in complying with the recommendations listed in this report. A description of the proposed design is as follows:

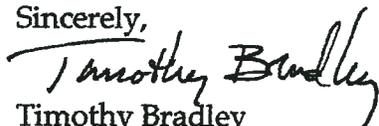
We propose to construct an elevated single family residence totalling 3,196 sq. ft., including an enclosed entry stair of 215 sq. ft., garage of 416 sq. ft., beach storage and outdoor shower of 66 sq. ft. at ground level; with 2,147 sq. ft. of living space and 352 sq. ft. of covered deck at the upper level. The living space consists of four (4) bedrooms, three (3) bathrooms, kitchen and dining/family room. This design is larger than the residence proposed by the Bartmess family by a total of 524 sq.ft.

As noted in the staff report, the required Base Flood Elevation (BFE) is thirty (30) feet above mean sea level (MSL). This means that the lowest horizontal floor member must be above this elevation. The lowest point of existing grade adjacent to the proposed elevated residence is 16'-3" feet above MSL. The highest point of the proposed structure is 45'-9" feet above MSL, for a maximum total height of 29'-6" at the lowest corner of the building. The enclosed living area and roof will be built within a fifteen (15) foot building height envelope, with the lowest horizontal floor member at 30'-9" above MSL. We are requesting a variance of five feet from the maximum height limit of twenty-five (25) as noted in the staff report in order to comply with Federal and County flood regulations.

The proposed single family residence will not encroach into the setbacks established in the 8/8/08 recommendation. These are an 80 foot shoreline setback, 10 foot side yard setbacks and a 15 foot highway boundary setback. Total lot coverage is 31.65%, including the proposed concrete driveway.

Please call me at (808) 821-9727 should you have any questions.

Sincerely,

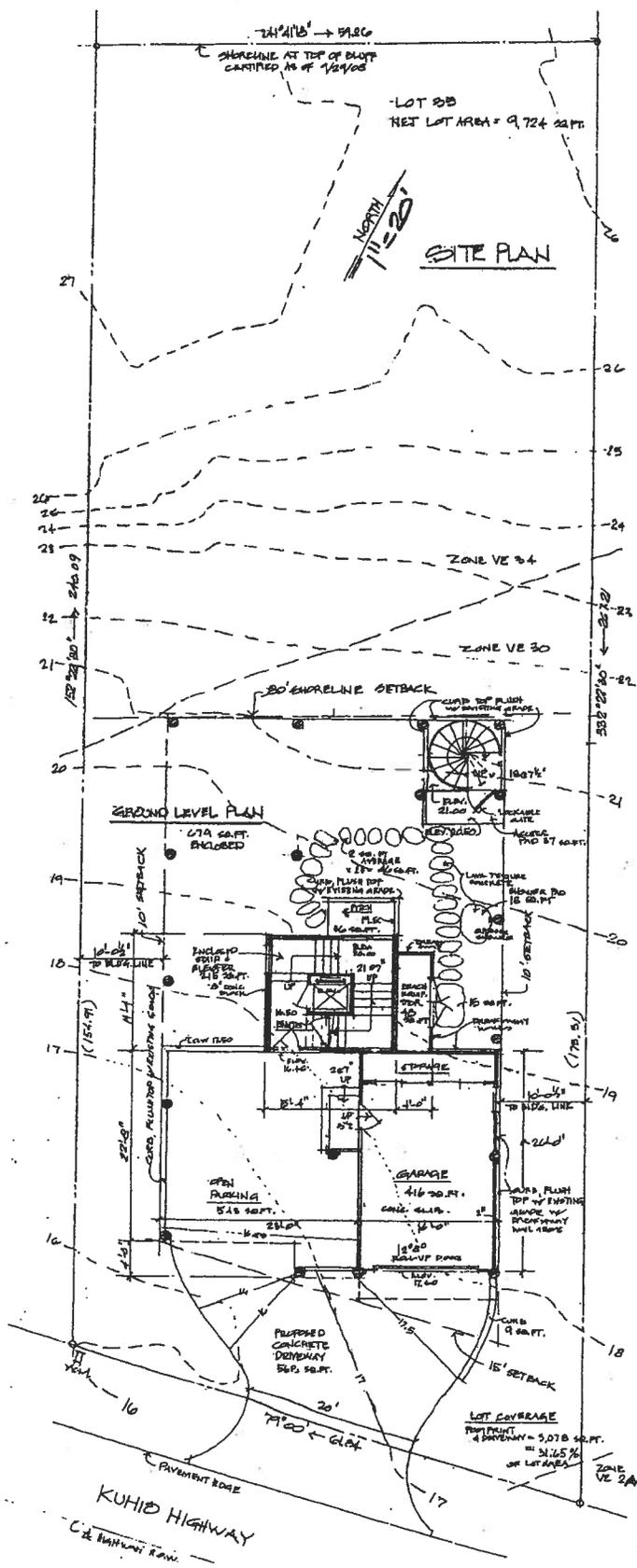


Timothy Bradley

Authorized Representative (6 pages of exhibits attached)

EXHIBIT 2

← SANDY BEACH →



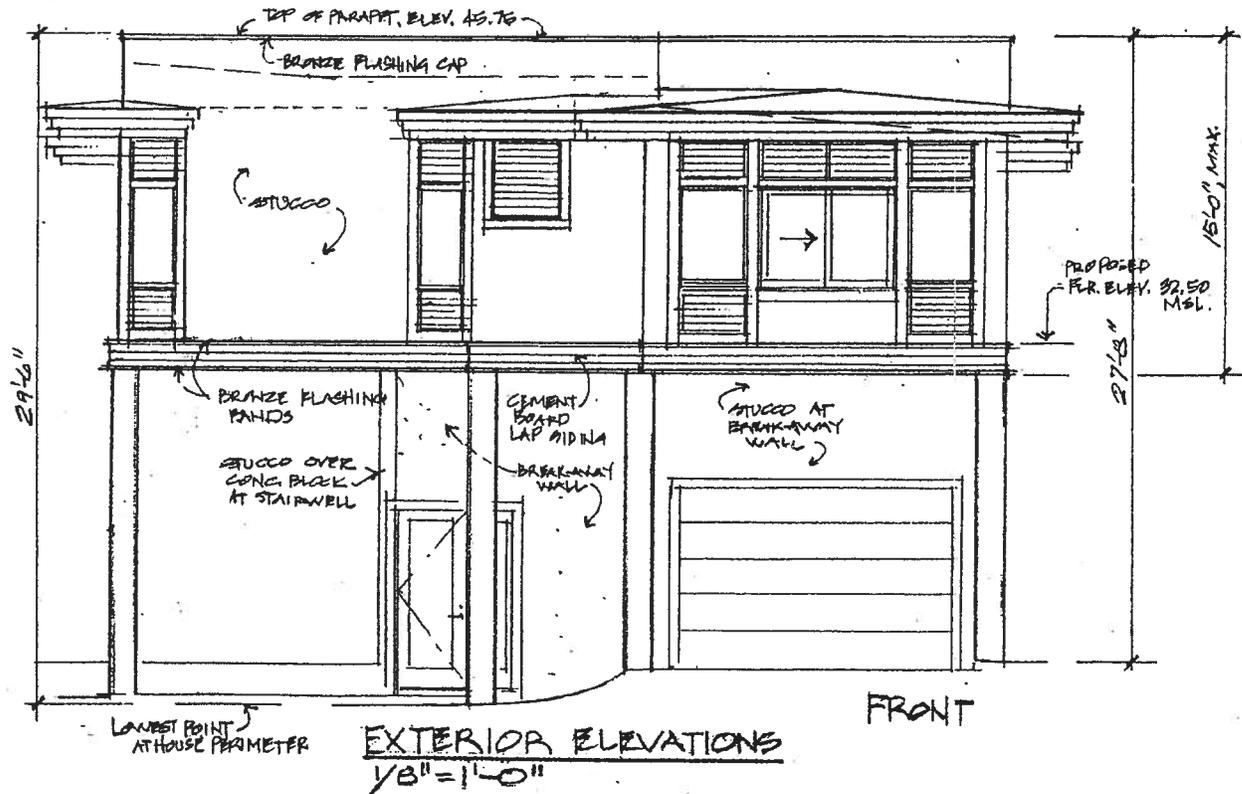
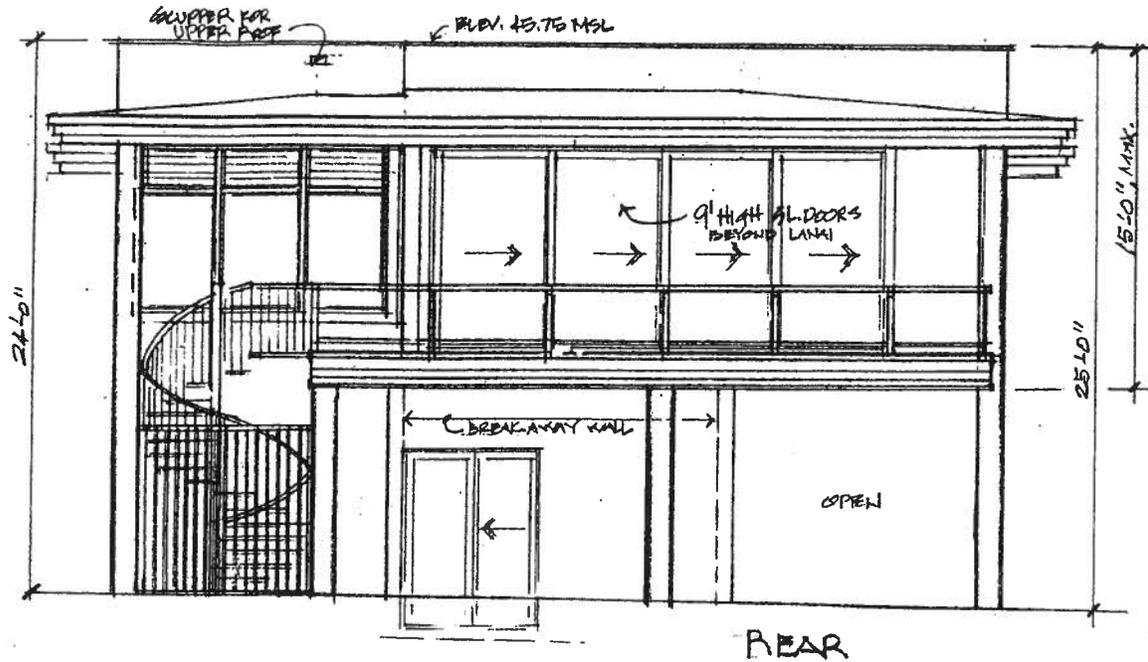
**SITE PLAN**

PAGE 1 OF 6

Proposed New Residence for:  
**Ohana Hale, LLC.**  
 Kuhio Highway, Haena, Kauai, Hawaii  
 Tax Map Key (4th) 5-9-05: 27, lot 35

**T & M ARCHITECTURE, LLC.**

P. O. BOX 797, KAPAA, KAUI, HI 96746  
 Phone: (808) 821-9727 Fax: (808) 821-9726

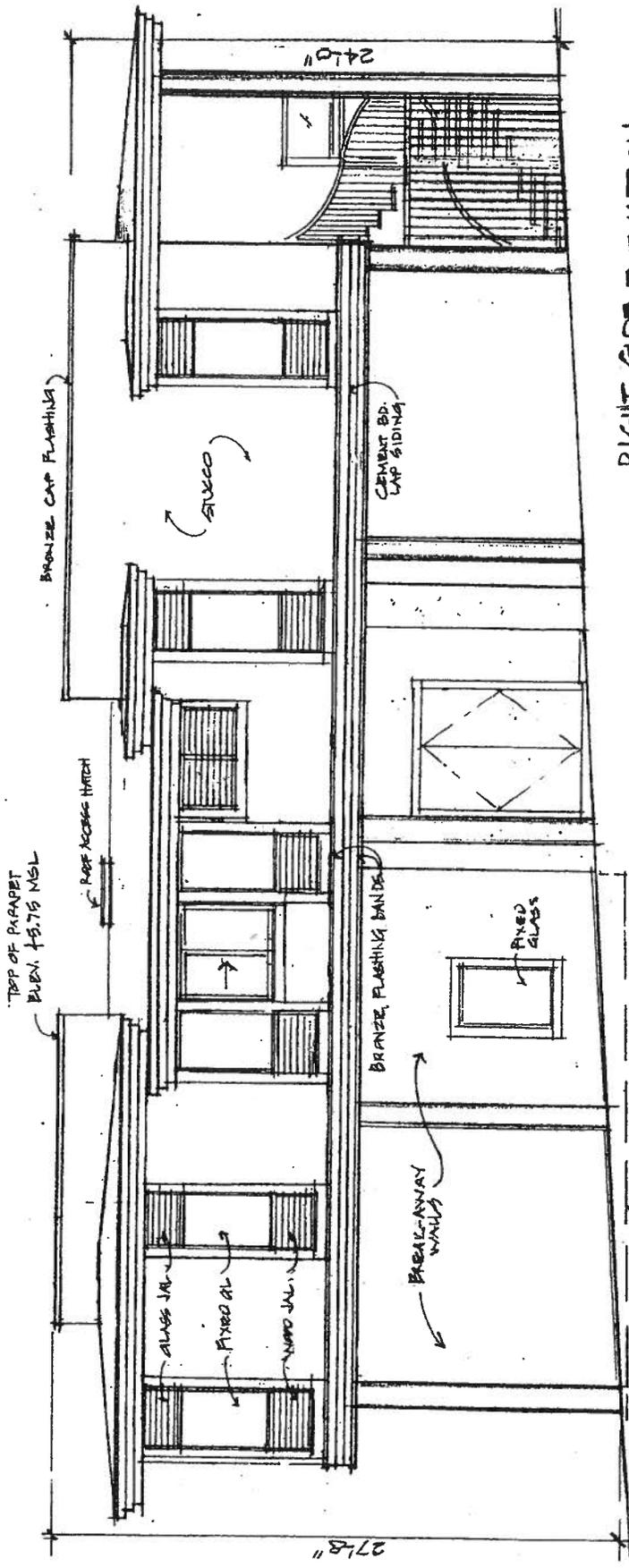


**EXTERIOR ELEVATIONS**  
 1/8" = 1'-0"

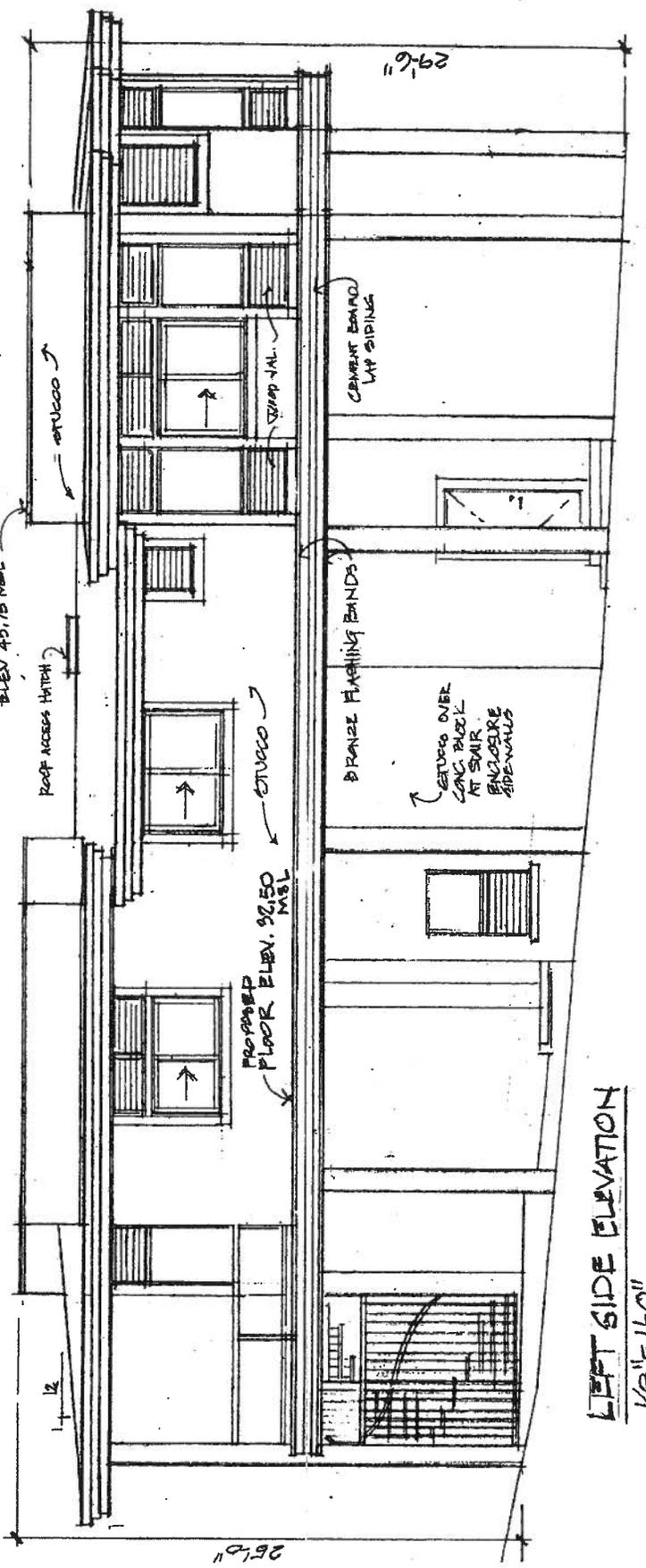
**EXTERIOR ELEVATIONS**  
**FRONT & REAR**  
 PAGE 2 OF 6

Proposed New Residence for:  
**Ohana Hale, LLC.**  
 Kuhio Highway, Haena, Kauai, Hawaii  
 Tax Map Key (4th) 5-9-05: 27, lot 35

**T & M ARCHITECTURE, LLC.**  
 P. O. BOX 797, KAPAA, KAUAL HI 96746  
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RIGHT SIDE ELEVATION  
1/8" = 1'-0"

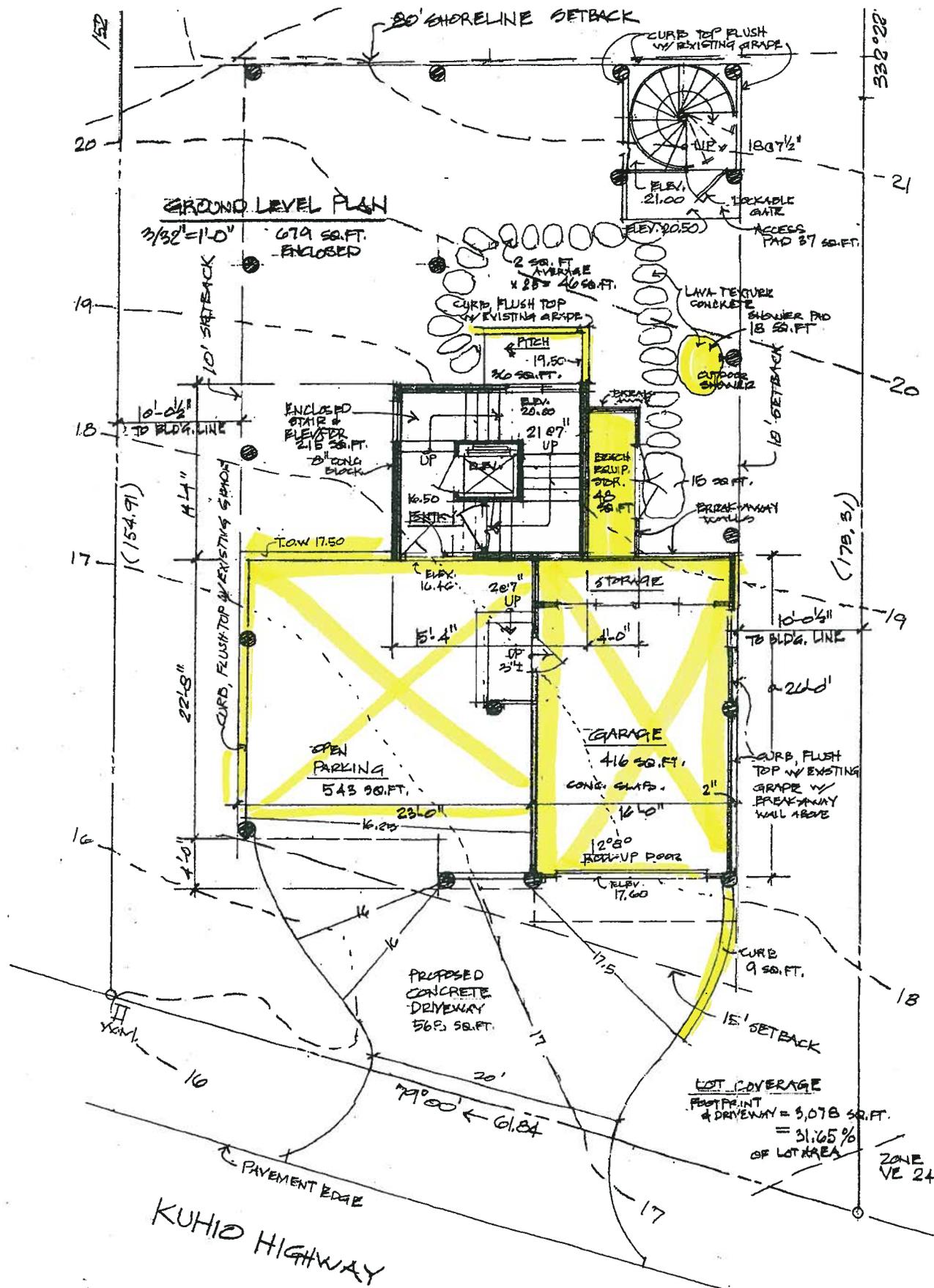


LEFT SIDE ELEVATION  
1/8" = 1'-0"

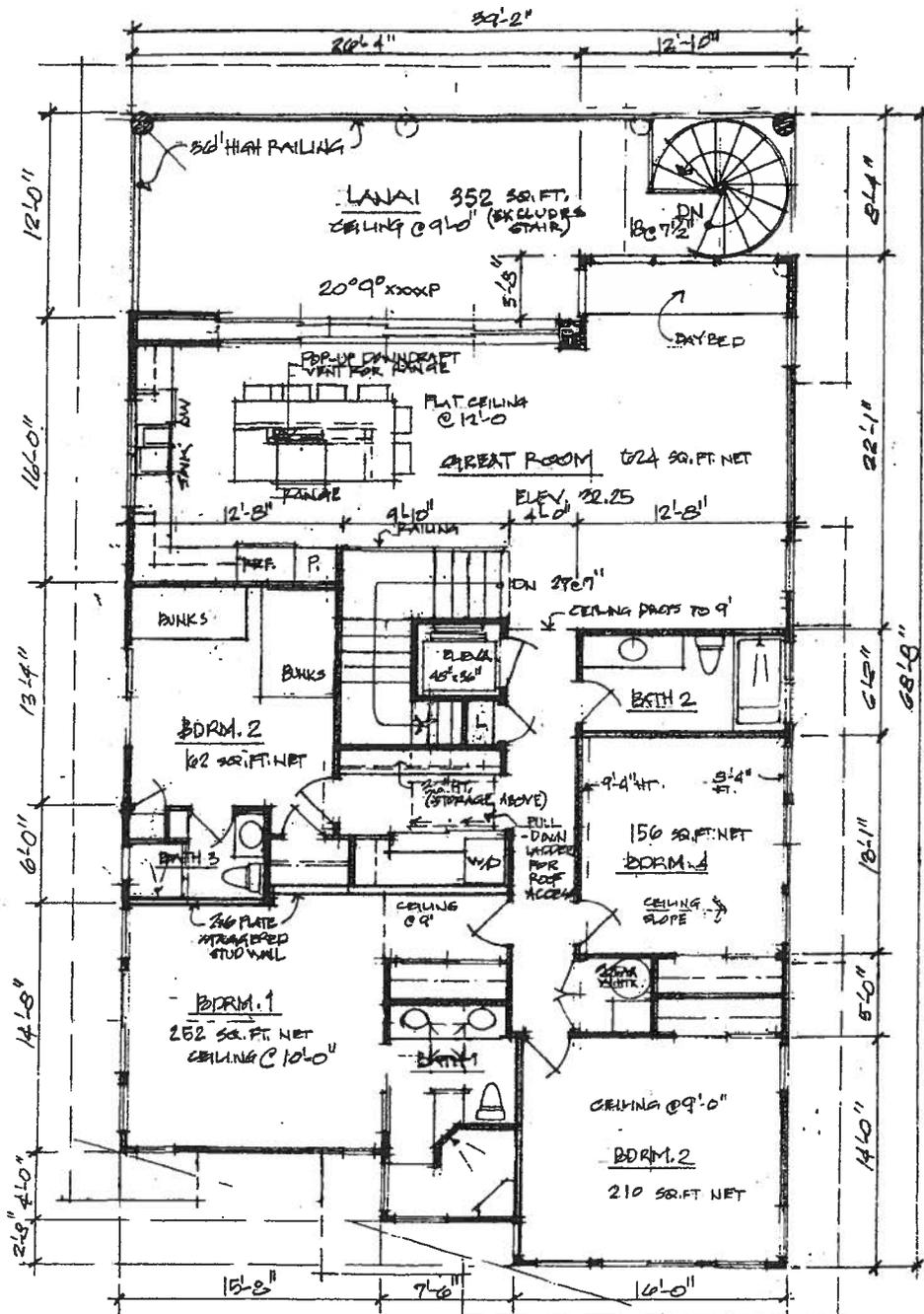
EXTERIOR ELEVATIONS, LEFT & RIGHT SIDES  
PAGE 3 OF 6

Proposed New Residence for:  
**Ohana Hale, LLC.**  
Kuhio Highway, Haena, Kauai, Hawaii  
Tax Map Key (4th) 5-9-05: 27, lot 35

**T & M ARCHITECTURE, LLC.**  
P. O. BOX 797, KAPAA, KAULAI, HI 96746  
Phone: (808) 821-9727 Fax: (808) 821-9726



<p><b>GROUND LEVEL FLOOR PLAN</b> PAGE 4 OF 6</p>	<p>Proposed New Residence for: <b>Ohana Hale, LLC.</b> Kuhio Highway, Haena, Kauai, Hawaii Tax Map Key (4th) 5-9-05: 27, lot 35</p>	<p><b>T &amp; M ARCHITECTURE, LLC.</b> P. O. BOX 797, KAPAA, KAUAI, HI 96746 Phone: (808) 821-9727 Fax: (808) 821-9726</p>
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**UPPER LEVEL FLOOR PLAN**

FRONT SETBACK

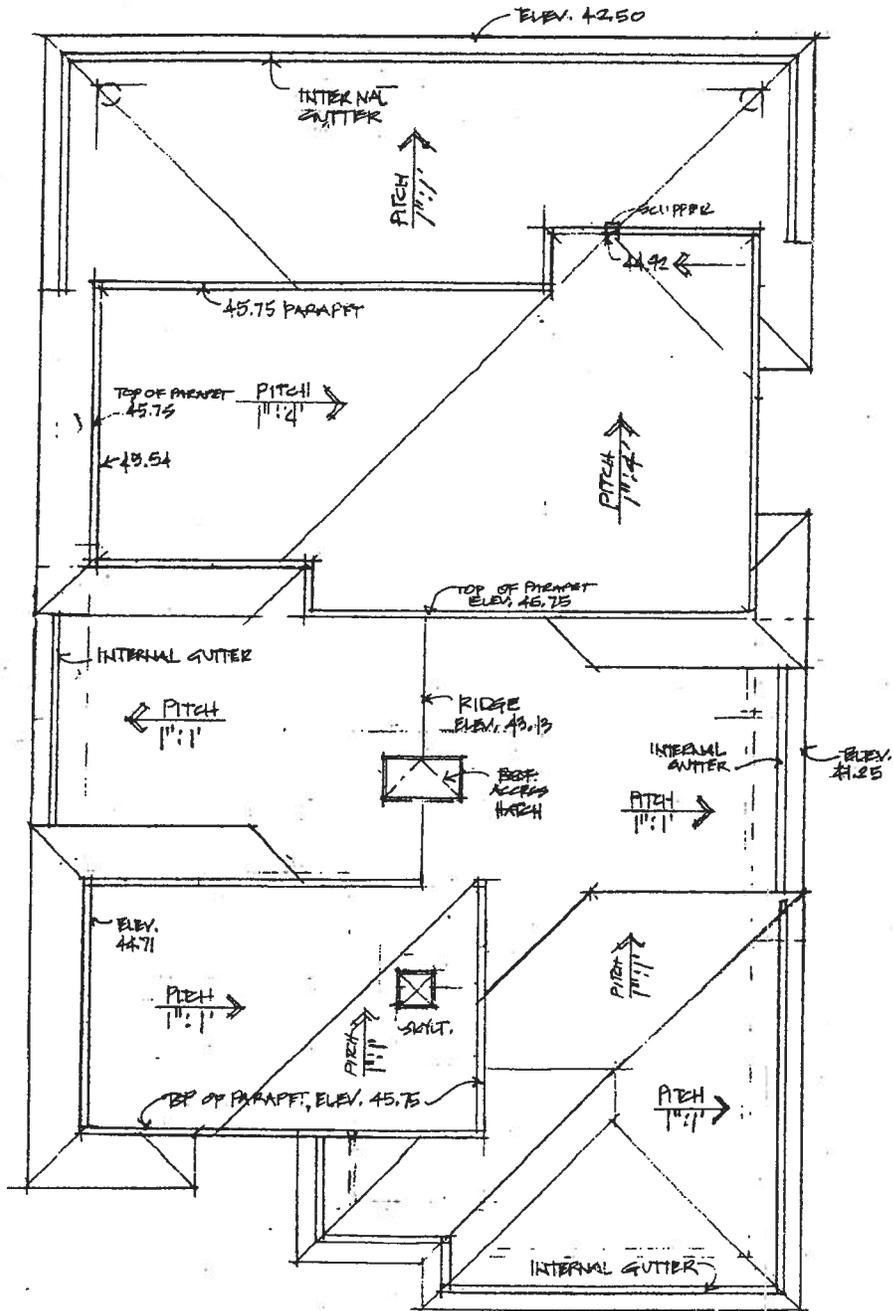
3/32" = 1'-0" 2,147 SQ. FT. INTERIOR } UPPER LEVEL  
 352 SQ. FT. LANAI }

215 SQ. FT. ENCLOSED STAIR } GROUND LEVEL  
 410 SQ. FT. ENCL. GARAGE }  
 45 SQ. FT. DECK EQUIP. STORAGE }  
 13 SQ. FT. OVERLAP PAD }

**UPPER LEVEL FLOOR PLAN**  
 PAGE 5 OF 6

Proposed New Residence for:  
**Ohana Hale, LLC.**  
 Kuhio Highway, Haena, Kauai, Hawaii  
 Tax Map Key (4th) 5-9-05: 27, lot 35

**T & M ARCHITECTURE, LLC.**  
 P. O. BOX 797, KAPAA, KAUAI, HI 96746  
 Phone: (808) 821-9727 Fax: (808) 821-9726



**ROOF PLAN**

3/32" = 1'-0"

<p>ROOF PLAN</p> <p>PAGE 0 OF 6</p>	<p>Proposed New Residence for:  <b>Ohana Hale, LLC.</b>          Kuhio Highway, Haena, Kauai, Hawaii          Tax Map Key (4th) 5-9-05: 27, lot 35</p>	<p><b>T &amp; M ARCHITECTURE, LLC.</b>          P. O. BOX 797, KAPAA, KAUAI, HI 96746          Phone: (808) 821-9727 Fax: (808) 821-9726</p>
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