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GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P.O. BOX 621
HONOLULU, HAWAII 96809

*Nahona Partners
Easement Over Judd
Trail*
MICHAEL D. WILSON
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

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'98 JUN 24 A8:11

JUN 23 1998

REC'D
QUALITY CONTROL

Mr. Gary Gill, Director
Office of Environmental Quality Control
235 South Beretania Street Suite 702
Honolulu, Hawaii 96813

SUBJECT: Finding of No Significant Impact for a perpetual, non-exclusive easements for roadway, utility and driveway purposes over, under and across portions of the Judd Trail and review of treatment proposals for the Judd Trail and the Great Wall of Kuakini at Kaumalumu and Pahoehoe 1st, North Kona, Hawaii, tmk: (3) 7-7-4-2 and 7-7-8-27 and a construction right-of-entry for the maintenance of said easements, roadways and buffer areas.

Dear Mr. Gill:

The Department has reviewed the comments received during the 30-day public comment period which began on March 8, 1998. The agency has determined that this project will not have significant environmental effects and has issued a FONSI. Please public this notice in the June 23, 1998 OEQC Environmental Notice.

We have enclosed a completed OEQC Publication Form and four copies of the final EA. Please call contact Charlene Unoki at (808) 974-6203 if you have any questions.

Sincerely,

Michael D. Wilson
MICHAEL D. WILSON
Chairperson

xc: Hawaii BM
Support Services

1998-07-08-HI-~~FEA~~-Judd Trail
Easement

JUL 8 1998

FILE COPY

FINAL
ENVIRONMENTAL ASSESSMENT

"Ho'omalulu on Alii" Subdivision

**Request for Approval of Roadway, Utility and Driveway Access Easements,
and Rights of Entry for Construction and Maintenance,
over, under and across the Judd Trail,
and Review of Treatment Proposals for the Judd Trail
and the Great Wall of Kuakini**

**Kaunalumalu and Pahoehoe 1st
District of North Kona, Island of Hawaii
Tax Map Keys: (3) 7-7-04:02 and 7-7-08:27
Tax Map Keys: (3) 7-7-04:02 and 7-7-08:27 (portions of Great Wall of Kuakini)
Tax Map Keys: (3) 7-7-04 and 08: portions of Judd Trail**

**Prepared for:
Department of Land and Natural Resources
State of Hawaii**

May 1998

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**Attorney for Applicant
Nohona Partners, Inc., a Hawaii corporation**

2004664.1.050834-1

Final Environmental Assessment

"Ho'omalau on Alii" Subdivision

**Request for Approval of Roadway, Utility and Driveway Access Easements,
and Rights of Entry for Construction and Maintenance,
over, under and across the Judd Trail,
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- Exhibit 8:** Access Point Renderings
- Exhibit 9:** "Interim Report: Phased Archaeological Inventory Survey for Ho'omalulu on Alii Subdivision. Part 1: Site Relocation and Detailed Recording" dated February 1998, Paul H. Rosendahl, Ph.D., Inc. (P.H.R.I.)
- Exhibit 10:** State Historic Preservation Division (DLNR-SHPD) letter to Hawaii County Planning Department dated March 17, 1998
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- Exhibit 20:** Life of the Land letter dated April 4, 1998
- Exhibit 21:** E Mau Na Ala Hele letter dated April 6, 1998
- Exhibit 22:** State Office of Environmental Quality Control letter dated April 7, 1998
- Exhibit 23:** Applicant's responsive letter to governmental agencies/community groups dated May 31, 1998

FINAL
ENVIRONMENTAL ASSESSMENT

"Ho'omalulu on Alii" Subdivision

**Request for Approval of Roadway, Utility and Driveway Access Easements,
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Kaumalumu and Pahoehoe 1st
District of North Kona, Island of Hawaii
Tax Map Keys: (3) 7-7-04:02 and 7-7-08:27
Tax Map Keys: (3) 7-7-04:02 and 7-7-08:27 (portions of Great Wall of Kuakini)
Tax Map Keys: (3) 7-7-04 and 08: portions of Judd Trail

1. Applicant and Approving Agency.

1.1 Identification of Applicant.

The applicant is Nohona Partners, Inc., a Hawaii corporation, whose principal place of business is 245 Nene Street, Hilo, Hawaii 96720 (hereinafter the "Applicant").

1.2 Identification of Owner.

The Applicant is the fee owner of the subject property.

1.3 Project Summary.

1.3.1 "Ho'omalulu on Alii" - Judd Trail Easements and Treatment of Judd Trail.

Applicant is herein requesting approval from the State Department of Land and Natural Resources (hereinafter the "DLNR") of perpetual, non-exclusive easements for roadway, utility and driveway access over, under

and across portions of the Judd Trail bisecting the west-to-east length of Applicant's property, and the necessary rights of entry for construction and maintenance of said easements, roadways and buffer areas (hereinafter the "Requested Easements"). With the exception of an approximately 500- to 600-foot long portion located between existing cattle walls, the Judd Trail has been previously cleared by many years of chain dragging and cattle activities. The Requested Easements are located within, but are not part of the "Ho'omalulu on Alii" subdivision, since the Judd Trail is wholly owned by the State of Hawaii.

Increment 1 of the "Ho'omalulu on Alii" subdivision contemplates 10 buildable five-acre lots and one 101.386-acre remainder lot, for which Applicant has secured Special Management Area (SMA) Minor Use Permit approval on March 13, 1998, and tentative subdivision approval on March 23, 1998, from the Hawaii County Planning Department (hereinafter the "Planning Department"). Increment 2 of the "Ho'omalulu on Alii" subdivision would entail development of the remainder 101.386-acre lot.

Conditions of tentative subdivision approval for Increment 1 include, but, are not limited to: 1) construction of a water system and payment of installation and facilities charges; 2) identification of watercourses and drainageways, and installation of appropriate drywells; and 3) construction of roadway and access improvements as required by the affected governmental agencies. (**Exhibit 1A: Tentative Subdivision Approval-Increment 1 dated March 23, 1998/Exhibit 1B: Preliminary Plat Map-Increment 1 approved March 23, 1998**).

Conditions of the SMA minor permit approval for Increment 1 include, but, are not limited to compliance with recommendations of the DLNR-State Historic Preservation Division (hereinafter the "DLNR-SHPD") regarding "the implementation of mitigation measures, if any, to portions of the Judd Trail, Great Wall of Kuakini and other identified historical and archaeological sites situated within the project site". In issuing SMA Minor Permit No. 69, the Planning Department determined, in part, that: 1) "the development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest"; 2) "the proposed development is consistent with the Hawaii County General Plan and Zoning Code"; and 3) "the proposed development does not conflict with objectives of Chapter 205A, Hawaii Revised Statutes" related to the Special Management Area. (**Exhibit 2: SMA Minor Permit No. 69 dated March 13, 1998**).

DOCUMENT CAPTURED AS RECEIVED

1.3.2 "Ho'omalulu on Alii" - Treatment of Great Wall of Kuakini.

Applicant is also herein requesting: 1) assessment by the DLNR of the potential impacts of "Ho'omalulu on Alii" (Increments 1 and 2) on the segment of the Great Wall of Kuakini which bisects the width of Applicant's property at approximately mid-level; and 2) review by the DLNR of treatment of the affected portions of the Great Wall of Kuakini, which is eligible for inclusion in the State and National Registers of Historic Places, and is currently listed on the Statewide Inventory of Historic Sites, pursuant to Chapter 7-6302 by the

1.4 Identification of Approving Agency

Section 106

The instant Environmental Assessment is being prepared to fulfill requirements contained in Chapter 343-5 (HRS), as a "use of State or County land" pursuant to HRS Section 343-5(a)(1). The approving agency for the subject EA, Requested Judd Trail Easements, and treatment of the Great Wall of Kuakini is the DLNR.

1.5 Agencies Consulted.

Agencies consulted during preparation of this EA were the Na Ala Hele Advisory Council, Peoples Advocacy for Trails Hawaii (PATH), DLNR-SHPD, DLNR-Land Management Division, DLNR-Forestry and Wildlife Division, the State Office of Environmental Quality Control, and the Hawaii County Planning and Public Works Departments.

2. Project Description.

2.1 Location.

The "Ho'omalulu on Alii" project consists of approximately 27 buildable five-acre lots. (Exhibit 3: Preliminary Composite Map-Increments 1 and 2). Increment 1, consisting of 10 buildable five-acre lots, is currently being developed, pursuant to the tentative subdivision and SMA minor permit approvals discussed above. The development of Increment 2, currently contemplating approximately 17 buildable five-acre lots, is contingent upon final location of the Alii Drive Realignment through the project area by the County of Hawaii (hereinafter the "County"), and the outcome of the County's State Land Use Commission (hereinafter the "LUC") Petition in Docket No. 94-705 for a boundary amendment from the Agricultural to the Urban District for lands in North Kona, including the project site. Should the County's LUC Petition be approved, Increment 2 may be developed for increased density; however, the preservation and mitigation

1.3.2 "Ho'omalulu on Alii" - Treatment of Great Wall of Kuakini.

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1.4 Identification of Approving Agency.

The instant Environmental Assessment (hereinafter "EA") was prepared to fulfill requirements contained in Chapter 343, Hawaii Revised Statutes (hereinafter "HRS"), as a "use of State or County lands" as related to the Judd Trail, pursuant to HRS Section 343-5(a)(1). The approving agency for the subject EA, Requested Judd Trail Easements, and treatment of the Great Wall of Kuakini is the DLNR.

1.5 Agencies Consulted.

Agencies consulted during preparation of this EA were the Na Ala Hele Advisory Council, Peoples Advocacy for Trails Hawaii (PATH), DLNR-SHPD, DLNR-Land Management Division, DLNR-Forestry and Wildlife Division, the State Office of Environmental Quality Control, and the Hawaii County Planning and Public Works Departments.

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treatment plans for portions of the Judd Trail and the Great Wall of Kuakini which bisect the Property shall remain the same as proposed herein.

To recap Applicant's objectives, Applicant is requesting: 1) DLNR approval of perpetual, non-exclusive easements for roadway, utility and driveway access over, under and across limited portions of the Judd Trail (hereinafter the "Judd Trail Lot"), which bisects the west-to-east length of the project site, and the necessary rights of entry for construction and maintenance of said easements, roadways and buffer areas; and 2) DLNR review of preservation and mitigation treatment proposals for the Judd Trail Lot, and the segment of the Great Wall of Kuakini which bisects the north-to-south width of the project site at approximately mid-level.

The project site is located mauka of Alii Drive, approximately four miles south of Kailua-Kona and one mile north of Keauhou, in the District of North Kona, Island, County and State of Hawaii (hereinafter the "Property"). (**Exhibit 4: Location/Vicinity Maps**). Specifically, the Property was comprised of two contiguous tax map key parcels identified as (3) 7-7-04:02, situate at Kaumalumalu, and (3) 7-7-08:27, situate at Pahoehoe 1st, with a combined gross land area of approximately 173.139 acres. (**Exhibit 5: Tax Maps**). As further background, the Planning Department on December 18, 1997, approved consolidation and resubdivision of the aforementioned parcels with tax map key parcels (3) 7-7-04:04 and 06 into five buildable lots and one roadway lot (designated as the Future Alii Drive Realignment), in recognition of pre-existing lots, as depicted in **Exhibit 6: Consolidation/Resubdivision into Lots 1 and 2**. Subsequently, on March 13, 1998 and March 23, 1998, respectively, the Planning Department issued SMA minor permit approval and tentative subdivision approval for a 10 buildable five-acre lot development and related improvements comprising Increment 1, and a remainder lot of approximately 101.386 acres comprising Increment 2, as depicted in **Exhibit 1B** (hereinafter the "proposed subdivision").

2.2 Existing and Surrounding Uses.

2.2.1 Existing Use.

The irregularly-shaped, unimproved Property is located between Alii Drive and Kuakini Highway, in the Kailua-to-Keauhou area of North Kona, currently situated within the State Land Use Agricultural District. In the past, the Property was chain-dragged and cleared for cattle grazing, which continued for many years until recently phased out. As stated above, the Property is included among approximately 955.78 acres of land situate in the Keahuolu-to-Keauhou area of North Kona, submitted by the Planning Department for reclassification from the

Agricultural to the Urban District and currently under review by the LUC in Docket No. A94-705.

For purposes of this EA, the Property will alternately be designated as "A-5a" and "Unplanned" with respect to County zoning, given pending litigation in the Third Circuit Court of the State of Hawaii over adoption in December 1996 of the amended Zoning Code of the Hawaii County Code, under which all lands formerly designated "Unplanned" were redesignated "A-5a" (Agricultural-minimum 5 acres).

Situated inland on the mauka side of Alii Drive, at Kaumalumu and Pahoehoe 1st, North Kona, the Property is currently located within the County's Special Management Area (SMA).

Lastly, given the scale of the County's General Plan Land Use Pattern Allocation Guide (LUPAG) Map, the Property is located within an area which appears to be a mix of Urban Expansion and Extensive Agriculture land use designations. The "Urban Expansion" designation allows for low, medium and high density urban development as well as industrial and open space uses, and the "Extensive Agriculture" designation provides for rural-style residential-agricultural developments typified by the proposed subdivision.

2.2.2 Surrounding Uses.

The Property is located within the populous Kailua-to-Keauhou area, which is developed with infrastructural improvements accommodating single-family dwellings, apartment and condominium complexes, resort-hotels and commercial complexes. It abuts other unimproved tracts of land, except at its extreme northeastern corner which borders the Kona Sea View subdivision, and is situated near developments fronting Alii Drive of denser scale than is being proposed herein. The Judd Trail Lot, which bisects the west-to-east length of the Property, and the Great Wall of Kuakini, which bisects the north-to-south width of the Property at approximately mid-level, are currently absent any preservation measures and are exposed to potential damage by overgrowth of non-native vegetation and passive grazing activities.

2.3 Proposed Action.

2.3.1 Approval of Judd Trail Easements and Review of Judd Trail Lot Treatment Proposal.

As depicted in Exhibit 3, the Judd Trail Lot bisects the west-to-east length of the Property inland from Alii Drive to Kuakini Highway. Pursuant to the requirements

of DLNR-SHPD, Applicant proposes to separate the Judd Trail Lot from developable areas of the proposed subdivision as follows: 1) during the interim construction period, by establishing 30-foot wide preservation buffer zones along both sides of the Judd Trail Lot; and 2) as a long-term preservation measure, by preserving intact portions of the historic alignment and isolating other portions of the alignment within 10-foot wide "no-build" buffers designated along both sides of the Judd Trail Lot. Applicant presented an outline of the foregoing proposal to the Na Ala Hele Advisory Council (hereinafter "Na Ala Hele") in November 1997, at which time Applicant discussed a 30 buildable five-acre lot subdivision as one possible development option. Na Ala Hele responded with a comment letter dated December 18, 1997, expressing no significant objection, with the exception that Na Ala Hele asked Applicant to attempt to incorporate the Judd Trail Lot as a benefit to adjacent property owners and as a project amenity. (**Exhibit 7A: Na Ala Hele Comment Letter dated December 18, 1997/Exhibit 7B: Former 30-Lot Development Option**). As further background, Applicant is no longer the current fee owner of Lots 4, 5 and 6 depicted on **Exhibit 7B**, and, therefore, the subject "Ho'omalua on Alii" subdivision (Increments 1 and 2) currently contemplates approximately 27 lots rather than 30 lots as depicted in **Exhibit 3**.

As a follow up to consultation with Na Ala Hele, Applicant is requesting approval from the DLNR of perpetual, non-exclusive easements for roadway, utility and driveway access over, under and across the Judd Trail Lot for access onto project roadways and existing collector roads as shown in **Exhibit 3**, and the necessary rights of entry for construction and maintenance of said easements, roadways and buffer areas. In light of the current stage of project planning, and the fact that the location of individual lot driveways will not be determined until home sites are selected within each lot, the exact metes and bounds description for each easement within an affected lot as it would cross the Judd Trail Lot is undetermined at this time. Applicant, therefore, respectfully requests that the Requested Easements be described as all areas of the Judd Trail Lot which will not be required to be preserved-in-place by DLNR-SHPD. At full buildout of the subdivision under its minimum five-acre lot proposals for Increments 1 and 2, Applicant anticipates that there will be approximately 9 to 12 roadway, utility and driveway access points over the Judd Trail Lot, each between 10 to 20 feet wide. Treatment of said access points would consist of inlaid rock or pebbles imbedded into concrete or asphalt designed to demarcate the Judd Trail Lot as it crosses each private driveway, as depicted in **Exhibit 8: Access Point Renderings**. If necessary, Applicant will agree to particularly describe the Requested Easement for each lot upon completion of construction by individual lot owners of roadway, driveway and utility access points across the Judd Trail Lot. Applicant will also undertake interim preservation and mitigation measures related to the Judd Trail Lot (and the Great Wall of Kuakini) as set forth herein, in conjunction with subdivision improvements in Increment 1, to ensure that these historic alignments will be

protected from any future development activities and density issues related to subdivision improvements in Increment 2.

2.3.2 Review of Great Wall of Kuakini Treatment Proposal.

As depicted in **Exhibit 3**, a portion of the Great Wall of Kuakini bisects the width of the Property in the north-to-south direction at approximately mid-level. Pursuant to the requirements of DLNR-SHPD, Applicant proposes to separate the Great Wall of Kuakini which bisects the Property from developable areas of the proposed subdivision as follows: 1) during the interim construction period, by establishing 30-foot wide preservation buffer zones along both sides of the Great Wall of Kuakini; and 2) as a long-term preservation measure, by preserving intact portions of the historic alignment and isolating other portions of the alignment within 15-foot wide "no-build" buffers designated along both sides of the Great Wall of Kuakini. Under its minimum five-acre lot subdivision proposals for Increments 1 and 2, Applicant will also develop an existing breach in the Great Wall of Kuakini near its intersection with the Judd Trail Lot (until recently, utilized as a cattle run and pen) into the proposed subdivision access road, as depicted in **Exhibit 3**. Any other access easements required over the portion of the Great Wall of Kuakini bisecting the Property, which alignment is not owned by the State or County and is, therefore, included in the subdivision proper, will be granted by Applicant to individual lot owners. As with access points over the Judd Trail Lot, treatment would consist of inlaid rock or pebbles imbedded into concrete or asphalt designed to demarcate the Great Wall of Kuakini as it crosses the main subdivision access road and each private driveway, as depicted in **Exhibit 8**, said treatment being required of all affected lot owners by subdivision covenant or condition of grant of easement.

2.4 Proposed Timetable and Cost.

Applicant intends to promptly begin construction of Increment 1 of the proposed subdivision, and the mitigation treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, upon securing all of the necessary DLNR-SHPD approvals, pursuant to the County subdivision and SMA minor permit approvals already secured in March 1998. In requesting DLNR approval of the Requested Easements and review of treatment proposals for the Judd Trail Lot and Great Wall of Kuakini located within the Property, Applicant, and its successors and assigns, shall assume all costs of survey and preservation and mitigation measures related to the historic alignments and construction of the Requested Easements.

The timeline for completion of subdivision improvements for Increment 1 is approximately September 1998, to include construction of a 400-foot private access road and 400-foot waterline from Alii Drive to the Property, installation of

a water master meter and water service laterals, minimal land grading and entry landscaping, and preservation and mitigation measures related to the Judd Trail Lot and Great Wall of Kuakini within the Property. The timeline for completion of subdivision improvements related to Increment 2 is contingent upon the progress and outcome of the County's State Land Use boundary amendment petition and its Alii Drive Realignment project.

2.5 Applicant's Objectives for Proposed Action.

As outlined above, Applicant's objectives are to obtain DLNR approval of perpetual, non-exclusive easements over, under and across limited portions of the Judd Trail Lot for roadway, utility and driveway access onto subdivision and existing collector roadways, and the necessary rights of entry for construction and maintenance of said easements, roadways and buffer areas. In anticipation of the foregoing objectives, Applicant has consulted with Na Ala Hele and received a comment letter attached as Exhibit 7A.

Applicant's objectives also include review by DLNR of its treatment proposals for the Judd Trail Lot and that portion of the Great Wall of Kuakini which bisects the project site. To that end, Applicant is committed to preserving identifiable portions of the Judd Trail Lot and the Great Wall of Kuakini, pursuant to requirements of DLNR-SHPD, and to protecting those historic alignments from developable areas of the subdivision through the creation of preservation easements, flanked by interim construction and permanent "no-build" buffers alongside each easement, as discussed in the attached report and communications exchanged among Applicant and relevant County and State governmental agencies: 1) **"Interim Report: Phased Archaeological Inventory Survey for Ho'omalulu on Alii Subdivision. Part 1: Site Relocation and Detailed Recording"** dated February 1998, prepared by archaeological consultant P.H.R.I. (Exhibit 9); 2) State DLNR-SHPD's letter to the County Planning Department dated March 17, 1998 (Exhibit 10); 3) P.H.R.I.'s letter to the County Planning Department dated April 28, 1998 (Exhibit 11); 4) State DLNR-SHPD's letter to P.H.R.I. dated May 7, 1998 (Exhibit 12); 5) P.H.R.I.'s letter to the County Public Works Department dated May 12, 1998 (Exhibit 13); and 6) P.H.R.I.'s letter to the County Planning Department dated May 19, 1998 (Exhibit 14).

The Requested Easements, and treatment of the Judd Trail Lot and Great Wall of Kuakini bisecting the Property, will be situated within a proposed transitional agricultural-residential subdivision, which use is consistent with the policies contained in the Hawaii State Plan, State Land Use Law, HRS Chapter 205A-Coastal Zone Management, County General Plan/LUPAG Map, and County Planning Commission Rule 9-Special Management Area, as discussed below.

3. **Alternatives Considered.**

3.1 **No Action Alternative.**

Under the "No Action" alternative, the Requested Easements, and remaining intact portions of the Judd Trail Lot and Great Wall of Kuakini bisecting the Property, will continue to be exposed to passive grazing and overgrowth by non-native vegetation. However, DLNR approval of the Requested Easements, coupled with preservation and mitigation measures to be undertaken by Applicant for treatment of the historic alignments, will promote the objectives of DLNR-SHPD for protection of cultural resources.

3.2 **Maximum Buildout.**

Under its current "A-5a" County zoning designation (and also its former "Unplanned" designation), the approximately 150-acre project site could be subdivided into approximately 30 buildable five-acre lots, one of the development options originally contemplated by Applicant and presented to Na Ala Hele in November 1997, as reflected in **Exhibit 7B**. Applicant has since phased its subdivision plan to develop Increment 1, consisting of 10 buildable five-acre lots and one remainder lot, as reflected in the preliminary plat map attached as **Exhibit 1B**, which was granted SMA minor use permit approval and tentative subdivision approval by the Planning Department on March 13, 1998 and March 23, 1998, respectively. At a future date and pending the County's resolution of its State Land Use boundary amendment petition and Alii Drive Realignment project, Applicant intends to apply to the Planning Department for SMA and subdivision approval for Increment 2, currently contemplating subdivision of the remainder 101.386-acre lot into 17 similar buildable five-acre lots consistent with the Property's current "A-5a" County zoning designation, as depicted in **Exhibit 3**. However, as stated earlier, Applicant will execute interim mitigation and treatment plans for the Judd Trail Lot and the Great Wall of Kuakini within the entire 150-acre project site as part of subdivision improvements in Increment 1, in order to ensure protection of these historic alignments from any future development activities or density issues related to subdivision improvements in Increment 2.

As discussed above, the Property is included among approximately 955.78 acres of land situate in the Keahuolu-to-Keauhou area of North Kona, submitted by the Planning Department for approval of a boundary amendment from the Agricultural to the Urban District by the LUC in Docket No. A94-705. Should the reclassification petition be granted, Increment 2 of the proposed subdivision could theoretically be subdivided for maximum buildout consistent with an Urban District reclassification into much smaller parcels than herein proposed. However, as set forth above, Applicant is committed to: 1) maintaining through subdivision

covenants a minimum five-acre parcel size for Increment 1, consistent with County SMA minor permit and tentative subdivision approvals issued in March 1998; and 2) obtaining DLNR approval of the Requested Easements and review of its proposed treatment plans for the Judd Trail Lot and Great Wall of Kuakini within the Property, and executing the foregoing as a part of subdivision improvements in Increment 1. In this way, the final density proposal for Increment 2 will not impact upon the historic alignments located within the 150-acre project site, since preservation and mitigation measures will already be in place prior to development of the remainder 101.386-acre lot which comprises Increment 2.

4. The Affected Environment.

4.1 Climate.

The climate in this area of North Kona is semi-tropical and generally warm, with an average annual rainfall of 25 to 30 inches, and an average annual temperature of 75 degrees Fahrenheit. Relative humidity is generally stable, with the daily average ranging from 71 to 77 per cent. Seasonal changes are mild and fairly uniform, except for occasional winter storms characterized by strong winds and heavy surf. The Kona coast is largely sheltered from the Hawaiian Island chain's trade wind system by land masses at Hualalai, Mauna Kea and Mauna Loa, with a prevailing pattern of on-shore winds in the morning and early afternoon, becoming off-shore breezes in the late afternoon and evening.

4.2 Topography and Soils.

The Judd Trail Lot bisects the east-west length of the Property, which extends approximately one-half mile inland from Alii Drive from an elevation of approximately 25 feet above mean sea level along Alii Drive, to approximately 500 feet above mean sea level along Kuakini Highway. The upper one-half to two-thirds of the Property from Kuakini Highway down to the Great Wall of Kuakini is moderately sloped. The remaining portion of the Property flattens to a gradual slope from the Great Wall of Kuakini down to Alii Drive.

The soils in this general area are classified as the Kaimu (rKED) series, characterized by well-drained, thin organic soils over A'a lava. Their surface layer is comprised of extremely stony peat, with permeability rapid, runoff slow, and erosion hazard slight. Its overall productivity rating for agricultural use is rated "E", or "Very Poor", by the Land Study Bureau. The State Department of Agriculture's Lands of Importance to the State of Hawaii (ALISH) map does not classify the area as containing lands of importance to agriculture.

4.3 Natural Hazards.

The Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (hereinafter the "FIRM") indicates that a portion of the Property, roughly corresponding to tax map key parcel (3) 7-7-08:27 and comprising approximately 39.354 acres, is substantially located within Zone AE, an identified Special Flood Hazard Area subject to 100-year flood inundation. However, said flood hazard area is isolated within the Kaumalumu Drainageway, and none of the Requested Easements will be located within Zone AE flood areas as designated by the FIRM. The FIRM also indicates that a larger portion of the Property located north of said drainageway, roughly corresponding to tax map key parcel (3) 7-7-04:02 and comprising approximately 133.785 acres, is located within Zone X, or outside the 500-year flood plain. The whole of the Property is also located outside the tsunami inundation area for North Kona. (Exhibit 15 - Flood Maps.)

The Requested Easements, Judd Trail Lot and portion of the Great Wall of Kuakini which bisect the Property are exposed to no greater volcanic hazards than are other areas in the North Kona district. According to U. S. Geological Survey maps, the Property is located within Hazard Zone 4 for lava flows, on the western slope of Hualalai, a dormant volcano, last known to have erupted in 1800 and 1801. Other noted prehistoric lava flows in the general area are located south of Kailua Bay and near Keauhou Bay, with lava at the current Kona Surf Hotel site estimated at 300 years old.

4.4 Flora/Fauna.

Grazing and overgrowth by non-native vegetation have removed most, if not all, of endemic vegetation and animal life from the Property. Existing terrain is marked by a dense overgrowth of ground cover and mature trees, including pasture grasses, kiawe, koa haole and pandu, and by introduced animal species, such as mongoose and rats. While still being passively grazed, the Property is absent any other agricultural activity, and there is no record that it has served as a habitat for rare or endangered species. (Exhibit 16 - Site Photographs.) DLNR's approval of the Requested Easements, and Applicant's implementation of preservation efforts related to the Judd Trail Lot and Great Wall of Kuakini, will further the objectives of DLNR-SHPD for protection of these historic alignments from damage caused by unmanaged plant growth, animal grazing and unmonitored development.

4.5 Archaeological/Historic Sites.

While the makai portion of the general area in question (which does not include the Property) is believed to have contained a settlement complex referred to as the

Kaumalumu Complex, which included a cluster of habitation sites, burial platforms and the Judd Trail, the Property itself has largely been eradicated of its endemic and archaeological features by prior site clearing and grazing activities. As discussed above, the Great Wall of Kuakini bisects the width of the Property at approximately mid-level, and Applicant will include this historic alignment in its preservation efforts. Where intact remnants of the Judd Trail and the Great Wall of Kuakini can be identified, they will be preserved pursuant to the requirements of DLNR-SHPD. Where only their historic alignments can be located, they will be isolated within preservation easements, flanked by appropriate "no-build" buffer zones alongside each easement, to demarcate them from developable areas of the proposed subdivision. Any other archaeological features uncovered during development activities will be submitted for interpretation by appropriate governmental agencies. Pre-development activities undertaken by the Applicant include: 1) preparation of access point renderings (Exhibit 8); 2) preparation by archaeological consultant P.H.R.I. (Paul H. Rosendahl, Ph.D., Inc.) of the "Interim Report: Phased Archaeological Inventory Survey", discussing the historical significance of the Judd Trail and Great Wall of Kuakini (Exhibit 9); and 3) dialogue and consultation among Applicant, P.H.R.I., the Na Ala Hele Advisory Council, DLNR-SHPD, and the County Planning and Public Works Departments, addressing treatment of these cultural assets within the proposed subdivision (Exhibits 7A, 10, 11, 12, 13 and 14).

4.6. Air Quality.

Air quality in the North Kona district is largely affected by air pollutants from natural rather than vehicular sources. The most predominant source of natural pollutants is from Kilauea volcano located approximately 100 miles away in East Hawaii. Emissions from the ongoing eruption can be seen in the form of a volcanic haze which intermittently blankets the area. Vehicular exhaust is a lesser source of air pollutants, as is fugitive dust from ongoing construction activities. Fugitive dust specifically arising from construction of the proposed subdivision and Requested Easements, and treatment of the historic alignments, can be mitigated by observance of standard industry practices for air quality management.

4.7. Noise.

Noise in the general area is associated with construction activities and traffic along Alii Drive and Kuakini Highway and other minor roadways. Noise generated by additional traffic within the proposed subdivision and Requested Easements should be minimal, and additional noise generated by construction activities will be short-term and can be mitigated by observance of standard industry practices for noise attenuation.

4.8 Infrastructure and Public Facilities.

4.8.1 Roadways.

The preliminary plat map approved by the County on March 23, 1998 and attached as **Exhibit 1B**, depicts the Judd Trail Lot traversing the east-to-west length of the Property as a distinct alignment separate from the subdivision proper, since it is wholly owned by the State of Hawaii. The Requested Easements over limited portions of the Judd Trail Lot will secure roadway, utility and driveway access from subdivision lots onto project and existing collector roadways, and the necessary rights of entry for construction and maintenance of said easements, roadways and buffer areas. As discussed above, Applicant anticipates that approximately 9 to 12 access easements over the Judd Trail Lot, each between 10 to 20 feet wide, will be required, with treatment of said easements being reflected in the access renderings attached as **Exhibit 8**. Any similar access easements required over the Great Wall of Kuakini, which alignment is not owned by the State or County, and is, therefore, included in the subdivision proper (as depicted in the preliminary composite map attached as **Exhibit 3**), will be granted by Applicant to individual lot owners, with treatment of said easements to be required of affected individual lot owners by subdivision covenant or condition of grant of easement, as reflected in **Exhibit 8**.

Project access will be located at the makai end of the proposed subdivision via a landscaped entry off Alii Drive, a County owned and maintained roadway, and the proposed Alii Drive Realignment, if implemented, may serve as an additional mid-level access road. The preliminary plat map approved by the County on March 23, 1998 and attached as **Exhibit 1B**, depicts the Future Alii Drive Realignment at approximately the mid-level point of the project site. The lots as configured on **Exhibit 1B** do not encroach into the proposed Alii Drive Realignment, which realignment may be relocated by the County to another alignment within the proposed subdivision to accommodate significant archaeological sites identified to the north and south of the Property.

Interior subdivision roadways, while not intended for dedication to the County, will be constructed in compliance with all applicable County requirements.

4.8.2 Water.

The Requested Easements will secure utility access to subdivision lots from the following existing County waterlines: 1) an eight-inch waterline along

Alii Drive; 2) a 12-inch waterline along Kuakini Highway; and 3) a six-inch waterline along Sea View Circle, subject to the requirements of the County Department of Water Supply. (Exhibit 17: County Department of Water Supply Letter dated March 16, 1998).

4.8.3 Wastewater Management.

Wastewater generated within the proposed subdivision will be managed by private septic systems installed by individual lot owners in compliance with all applicable State and County regulations.

4.8.4 Utilities.

The Requested Easements will secure utility access to subdivision lots, with electrical power available from the Hawaii Electric Light Company and telephone service from GTE Hawaii Tel.

4.8.5 Police, Fire and Medical Services.

The Property, within which the Requested Easements and portions of the historic alignments are situated, is located within a five-mile radius of protective and emergency services, with County police headquarters at Kealakehe, County fire stations at Kailua-Kona and Keauhou, and medical, surgical, acute care and skilled nursing facilities available at Kona Community Hospital in Kealahou.

4.9 Socio-economic Characteristics.

The 1990 Census estimated the resident population of North Kona at 22,284, and the Hawaii General Plan projects that it will increase to between 43,250 and 64,500 by the year 2005, based on the demise of the sugar industry in East Hawaii and modest expansion of the visitor industry in West Hawaii. The proposed subdivision will provide short-term construction employment, and long-term real property tax revenues to the County, with the Requested Easements providing the necessary roadway, utility and driveway accesses for completion of the proposed subdivision. Incorporation of the Judd Trail and Great Wall of Kuakini alignments as a project amenity and benefit to adjacent landowners, as recommended by Na Ala Hele and PATH, will help to foster a sense of community.

4.10 Cultural Characteristics.

Over the past two decades, West Hawaii has gradually evolved from its former rural, agricultural profile to an increasingly urban environment. The majority of

residential communities and urban activities have been concentrated at lower elevations and coastal areas, with residential and commercial/industrial activities centralized in the Kailua-to-Keauhou area. The Property is situated within this increasingly urbanized Kailua-to-Keauhou area, and its immediate neighborhood is characterized by transitional agricultural and open space areas interspersed with pockets of urban development. Therefore, the proposed use of the Property is consistent with lifestyle and community trends in the area. Approval of the Requested Easements, coupled with treatment measures for preservation of the Judd Trail Lot and portion of the Great Wall of Kuakini bisecting the Property, will allow for a transitional agricultural/residential development of the unimproved project site, consistent with the policies of the County General Plan for lands designated for "Agriculture" and "Urban Expansion".

As discussed above, Applicant has consulted with community representatives through Na Ala Hele regarding inclusion and treatment of the Judd Trail Lot as a cultural asset within the proposed subdivision. As indicated in its letter attached as **Exhibit 7A**, Na Ala Hele has, in turn, consulted with PATH regarding Applicant's incorporation of the historic alignment as a benefit to adjacent property owners. Applicant will similarly address issues related to treatment of the Great Wall of Kuakini within the proposed subdivision in its final archaeological survey report being prepared by archaeological consultant P.H.R.I.

5. Indirect and Cumulative Impacts upon the Affected Environment, and Proposed Mitigative Measures.

5.1 Scenic and Open Space Resources.

Impact: Construction of the Requested Easements, and preservation measures related to the Judd Trail Lot and Great Wall of Kuakini within the Property, should not affect scenic or open space resources.

Mitigative Measures: Construction of the Requested Easements across limited portions of the Judd Trail Lot, and preservation of the Judd Trail Lot and portion of the Great Wall of Kuakini bisecting the Property, should not adversely impact views to the shoreline or open space resources. Conversely, clearing of non-native overgrowth now obscuring the historic alignments should enhance scenic and open space vistas.

5.2 Shoreline and Coastal Water Resources.

Impact: While located mauka of Alii Drive and therefore not within a shoreline property, the Requested Easements and preservation measures related to the Judd

Trail Lot and Great Wall of Kuakini may result in changes to runoff quality and quantity, thereby impacting coastal waters and nearby shoreline areas.

Mitigative Measures: As discussed earlier, the Requested Easements will not be situated within Zone AE flood areas as designated by the FIRM. With regard to preservation measures for the Judd Trail Lot and Great Wall of Kuakini within the Property, every reasonable engineering and construction effort will be undertaken to minimize necessary grading and reshaping of existing terrain, so as not to increase flood hazards within the Property or divert runoff to other properties. Design covenants will further define those drainage improvements appropriate for construction by individual lot owners, and private septic systems installed by individual lot owners will prevent subdivision runoff and effluent from migrating to coastal waters and shoreline areas.

5.3 Archaeological/Historical Resources.

Impact: Archaeological features which have been identified on the Property may be adversely affected by construction of the Requested Easements and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property.

Mitigative Measures: As discussed above, Applicant is committed to preserving those intact significant segments of the Judd Trail Lot and Great Wall of Kuakini contained within the Property, and to isolating both historic alignments within preservation easements and adjacent "no-build" buffers alongside each easement to separate them from the developable areas of the subdivision. Applicant will comply with the requirements of DLNR-SHPD on these issues, and will exercise restraint in its engineering and construction plans to minimize the size and number of Requested Easements, as outlined more particularly in Section 2.3 above, and discussed and depicted in Exhibits 7A, 8, 9, 11, 13 and 14.

5.4 Endemic Plant and Animal Resources.

Impact: Rare or endangered plant and animal life, if any, may be disrupted by construction of the Requested Easements and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property.

Mitigative Measures: Since prior disturbances have denuded the Property of its native vegetation and animal life, only introduced species are currently evidenced. Therefore, clearing the Property of its dense overgrowth, and identification and preservation of the Judd Trail Lot and portion of the Great Wall of Kuakini bisecting the project site, should enhance these historic features without disruption to endemic flora and fauna. As stated above, Applicant will exercise restraint in the design of the Requested Easements to minimize breaching of the Judd Trail

Lot, and will develop an existing breach in the Great Wall of Kuakini near its intersection with the Judd Trail Lot into the proposed subdivision access road, as depicted in Exhibits 1B and 3.

5.5 Clean Air Resources.

Impact: Construction of the Requested Easements, and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, may disrupt air quality and increase vehicular noise during and after the building process.

Mitigative Measures: For the short-term, fugitive dust and noise from construction and preservation activities will be mitigated by observance of standard industry practices for dust control and noise abatement. For the long-term, increase in vehicular emissions and noise generated within the Requested Easements and proposed development should be minimal under the total 27 buildable lot subdivision plan currently contemplated for the 150-acre project site. Potential increased population density, and its attendant impacts on air and noise quality, will largely be influenced by the County's final location of the Alii Drive Realignment which will divert heavy traffic away from the congested resort/commercial/urban core along existing Alii Drive.

5.6 Existing Infrastructure Resources.

Impact: The Requested Easements, and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, may tax existing infrastructure in the area, impacting upon roadways, water supply, wastewater management and provision of utilities.

Mitigative Measures: As discussed above, the Requested Easements are required for roadway, utility and driveway access onto project and existing collector roads, and, if approved, will be incorporated within preservation easements to be constructed by Applicant to demarcate the Judd Trail Lot and Great Wall of Kuakini from developable areas of the proposed subdivision. While subdivision roadways are not intended for dedication to the County, Applicant will construct the same in compliance with all applicable governmental regulations, including an enhanced entry feature off Alii Drive at the makai end of the subdivision. Construction by the County of the Future Alii Drive Realignment, if implemented, may also provide mid-level access to the Property. As stated earlier, the lot configurations reflected in the preliminary plat map for the subdivision approved by the County on March 23, 1998 (Exhibit 1B), and the preliminary composite map prepared by Applicant to depict Increments 1 and 2 of the proposed subdivision (Exhibit 3), do not encroach into the proposed Alii Drive Realignment as currently sited by the County, and should not impact upon either the proposed

realignment or the portion of the Judd Trail Lot which bisects it. Should the County relocate the realignment within the proposed subdivision to accommodate archaeological sites identified to the north and south of the Property, lot configurations in Increment 2 of the subdivision will be amended to conform with the new alignment, so that proposed lots will not encroach upon the relocated alignment or any portion of the Judd Trail Lot which may bisect it. Water service is available via County mains located along Alii Drive, Kuakini Highway and Sea View Circle. Electrical and telephone service is also available from overhead transmission lines located along Alii Drive and Kuakini Highway, and wastewater generated within the subdivision will be managed by private septic systems installed by individual lot owners. The aforementioned infrastructure should adequately address anticipated impacts upon roadways, water supply, wastewater management and utilities, since the Property is situated within an area already designated for mixed land uses under the County General Plan, including "Urban Expansion" (low/medium/high density urban development and industrial/open space uses) and "Extensive Agriculture" (rural-style and transitional agricultural-residential development).

5.7 Public Resources.

Impact: Approval of the Requested Easements, and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, may overburden public resources in the area.

Mitigative Measures: As discussed above, the Requested Easements, Judd Trail Lot and affected portion of the Great Wall of Kuakini are situated within Property located within a five-mile radius of County police and fire substations and the Kona Community Hospital, and within two miles of recreational facilities, including the State Keolonahiki (Kamoa Point) Park and County Pahoehoe Park and Magic Sands Beach Parks, and the incremental development of the proposed subdivision should guard against overburdening of these public resources.

5.8 Socio-economic Resources.

Impact: Approval of the Requested Easements, and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, may be detrimental to the socio-economic resources of the area.

Mitigative Measures: Approval of the Requested Easements should impact beneficially upon the socio-economic resources of the County and State, since construction activities and related employment will be enhanced in the local community for the short-term, increased real property tax revenues will be enjoyed by the County over the long-term, and, most importantly, Applicant will pay for

costs for survey and treatment of the Judd Trail Lot and segment of the Great Wall of Kuakini contained within the Property.

5.9 Cultural Resources.

Impact: Cultural resources which have been identified on the Property may be adversely affected by construction of the Requested Easements and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property.

Mitigative Measures: Approval and construction of the Requested Easements will allow for development of a transitional agricultural/residential subdivision within the increasingly urbanized Kailua-to-Keauhou area, thereby serving as a buffer against encroachment of the commercial/resort core of North Kona into the project area. Applicant's demarcation of the Judd Trail Lot and Great Wall of Kuakini within the Property, and preservation of significant portions of both historic alignments, will preserve these cultural features, which are currently undergoing archaeological survey including protocol for identification and mitigation of potential impacts.

As noted by DLNR-SHPD, the Kaumalumalu and Pahoehoe ahupua'a comprising the Property were heavily ranched with cattle operations, and with the exception of the Judd Trail Lot and the Great Wall of Kuakini, there are no significant pre-contact houses or sites in the mauka area of the Property. Moreover, there are significant examples of culturally significant walled house yards and burials along Alii Drive within Lots A, B and C which were previously conveyed to third parties, and are no longer a part of the "Ho'omalulu on Alii" project. DLNR-SHPD states in Exhibit 10 that: "The walled house yards are the best surviving and only large set of such walled house yards in Kona north of Keauhou. These sites are clearly eligible for inclusion on the Hawaii and National Registers of Historic Places under criteria A (associated with broad patterns of history -- housing and population of the shore of Kona), C (excellent example of a site type -- walled house yards), D (information content on prehistory/history), and probably cultural significance (given its association with native Hawaiian history and their uniqueness)." As stated above, Lots A, B and C are not part of the "Ho'omalulu on Alii" project; however, the lots were conveyed to their current owners with the requirement that they comply with all requirements of DLNR-SHPD in the development of those properties.

6. Relationship to Land Use Plans, Policies and Controls.

6.1 Hawaii State Plan (Chapter 226, Hawaii Revised Statutes).

The Hawaii State Plan establishes goals, objectives and policies to serve as long-range guidelines for the growth and development of the State. Hawaii Revised Statutes (hereinafter "HRS") Section 226-4 sets forth three components to this plan:

(1) To achieve a strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations;

(2) To achieve a desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people;

(3) To achieve physical, social, and economic well-being, for individuals and families in Hawaii, that nourishes a sense of community responsibility, of caring, and of participation in community life.

Approval of the Requested Easements, and review of proposed treatment proposals for the Judd Trail Lot and portion of the Great Wall of Kuakini located within the Property, should satisfy all of the foregoing objectives, by: (1) allowing for completion of a transitional agricultural-residential development, thereby increasing housing options to service employment centers and increasing the real property tax base in the North Kona district; (2) allowing for completion of a buffer community from the commercial/resort core of the North Kona district, thereby ensuring protection of the area's unique physical environment; and (3) providing for the preservation of the Judd Trail Lot and Great Wall of Kuakini alignments within the Property, thereby protecting archaeological and cultural resources and fostering a sense of community history and responsibility.

6.2 State Land Use Law (Chapter 205, Hawaii Revised Statutes).

The State Land Use Law provides for the classification of all lands within the State into one of four land use districts: Urban, Rural, Agricultural or Conservation. The Requested Easements are located within Property currently situated in the State Land Use Agricultural District.

Pursuant to HRS Section 205-4.5, "Permissible uses within the agricultural districts", and Section 205-5, "Zoning", accessory agricultural uses and services may be further defined by each county by zoning ordinance, for lands with soil classified by the Land Study Bureau with an overall productivity rating of C, D, E or U. Since the Land Study Bureau productivity rating for the Property is "E", or "Very Poor", the County enjoys flexibility in determining use of the Property, especially as related to public, private and quasi-public utility and roadway purposes. The projected use of the Property will be improved small-scale lots, with residential/farm dwelling and accessory uses, utilizing the Requested Easements for access onto subdivision and collector roadways, and incorporating preservation measures related to the Judd Trail Lot and portion of the Great Wall of Kuakini within the Property, which uses should not be contrary to the purposes of the State Land Use Law.

As discussed earlier, the County has initiated a petition for a State Land Use Boundary Amendment from the Agricultural to the Urban District in LUC Docket No. A94-705, for approximately 955.78 acres of land located in the Keahuolu-to-Keauhou area of North Kona, which includes the project site. However, Applicant is committed to maintaining through subdivision covenants a minimum five-acre parcel size for the 10 buildable lots which comprise Increment 1, consistent with the current State Land Use Agricultural District and County "A-5a" zoning designations and the County's SMA minor permit and tentative subdivision approvals for the Property. As discussed earlier, Applicant's plans for subdivision of the 101.386-acre remainder lot which comprises Increment 2 are contingent upon the County's resolution of its State Land Use boundary amendment petition and its Alii Drive Realignment project. Nonetheless, interim preservation and mitigation measures affecting the Judd Trail Lot and portion of the Great Wall of Kuakini located within the Property will be executed by Applicant consistent with the DLNR approvals requested herein and in conjunction with subdivision improvements in Increment 1. Treatment of the historic alignments will, therefore, be addressed prior to the development of Increment 2.

6.3 Hawaii County General Plan/LUPAG Map.

The General Plan provides for long-range comprehensive development and balanced growth within the County, and includes the Land Use Pattern Allocation Guide (LUPAG) map which designates land utilization for the County. The LUPAG map locates the Property in an area of mixed land use designations, including "Urban Expansion" and "Extensive Agriculture" uses. The Property is especially suited for "the development of rural-style residential-agricultural developments", one of the County's policies for lands designated for "Agriculture", since its soil rating is "Very Poor" according to the Land Study Bureau. The transitional agricultural-residential development would also be a

consistent use under the "Urban Expansion" designation, which allows for low, medium and high density urban development as well as industrial and open spaces uses. Approval of the Requested Easements for roadway, utility and driveway access, and rights of entry for construction of the same, would allow for implementation of this type of transitional development, and review of the proposed treatment proposals for the Judd Trail Lot and Great Wall of Kuakini within the Property would allow for incorporation of open spaces within the development, which would be consistent with the goals and policies of the General Plan.

**6.4 County Special Management Area (Planning Commission Rule 9)/
State Coastal Zone Management (Chapter 205A, Hawaii Revised Statutes).**

The Property is currently located within the County's Special Management Area (SMA), as provided under HRS Chapter 205A. Pursuant to HRS Section 205A-22 and Hawaii County Planning Commission Rule 9-4(24), the Planning Director may issue an SMA Minor Permit authorizing a development, provided: 1) the valuation of said development does not exceed \$125,000; and 2) the development shall have no substantial adverse environmental or ecological effect, taking into account potential cumulative effects.

To recap earlier discussion and determination by the Planning Department in issuance of SMA Minor Permit No. 69 for Increment 1 of the proposed subdivision (**Exhibit 2**), the Requested Easements, and proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, do not conflict with the objectives and policies contained in HRS Chapter 205A (Coastal Zone Management), nor do they conflict with guidelines contained in Planning Commission Rule 9 (Special Management Area), in the following areas:

6.4.1 Recreational Resources.

The Requested Easements will not restrict access to publicly owned recreational resources within the SMA of North Kona, since they are located mauka of Alii Drive and well inland of shoreline areas, including recreational facilities at Keolonahihi (Kamoa Point), Pahoehoe and Magic Sands Beach Parks located within two miles of the Property. Preservation of the Judd Trail Lot and Great Wall of Kuakini alignments within the Property will enhance public awareness of these cultural features.

6.4.2 Historic/Archaeological Resources.

As discussed at length, Applicant will attempt to identify and preserve those intact portions of the Judd Trail Lot and Great Wall of Kuakini within the Property not

disrupted by prior clearing and grazing activities, and to identify and preserve both historic alignments by implementing preservation easements and adjacent "no-build" buffer zones, in order to separate them from the developable areas of the proposed subdivision. Applicant will also exercise restraint in engineering and construction activities to minimize the size and number of Requested Easements breaching the Judd Trail Lot, and will develop an existing (cattle run and pen) breach in the Great Wall of Kuakini near its intersection with the Judd Trail Lot into the proposed subdivision access road.

6.4.3 Scenic and Open Space Resources.

As discussed above, Applicant is committed to: 1) minimizing alteration of natural landforms by exercising restraint in its engineering and construction plans, and 2) protecting public views to the shoreline by implementing subdivision covenants governing construction of structural improvements by individual lot owners. The proposed subdivision and Requested Easements, should, therefore, only minimally impact upon existing scenic and open space resources, and the proposed treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, should help to restore scenic and open space resources by removing the Property of its non-native overgrowth.

6.4.4 Coastal Ecosystems.

Approval of the Requested Easements, and proposed treatment of the Judd Trail Lot and the Great Wall of Kuakini within the Property, should not disrupt coastal ecosystems. Applicant will minimize altering of existing terrain and disruption of existing drainageways to protect against increased flood and erosion hazards within the Property and to adjacent properties. Individual lot owners will also be required to install private septic systems to manage wastewater disposal within the proposed subdivision to protect ground and nearshore water quality.

6.4.5 Economic/Social/Cultural Uses.

Approval of the Requested Easements, and proposed treatment of the Judd Trail Lot and the Great Wall of Kuakini within the Property, could modestly contribute to coastal dependent development by: 1) allowing completion of a transitional agricultural/residential subdivision, thereby providing alternative housing options within proximity to employment centers in North Kona and increasing real property tax revenues to the County; and 2) unburdening the State of costs related to survey and treatment of the Judd Trail Lot and Great Wall of Kuakini within the Property, while enhancing cultural awareness and public access to these historic features.

6.4.6 Coastal Hazards.

The Property is located outside the tsunami inundation area for North Kona, and therefore, should be minimally impacted by storm wave and tsunami hazards. Although a portion of the Property contains an identified Special Flood Hazard Area subject to 100-year flood inundation, it is isolated within the Kaumalumalu Drainageway, and none of the Requested Easements will be located within Zone AE flood areas as designated by the FIRM. Engineering and construction methods will be employed to minimize altering of existing drainage patterns and possible coastal flooding from inland development. The Requested Easements, treatment measures related to the Judd Trail Lot and Great Wall of Kuakini within the Property, and overall development will comply with all applicable requirements of the Federal Flood Insurance Program and other applicable State and County regulations.

7. Irreversible and Irretrievable Commitments of Resources.

As with any development, the Proposed Action will result in commitment of land, capital, material, public services, utilities, and other area resources. However, the incremental development of the proposed subdivision should mitigate the extent to which these resources are encumbered, with interim preservation measures for the entire project addressed in Increment 1. Regarding commitment of archaeological resources by the Proposed Action, Applicant proposes to undertake appropriate mitigative measures: 1) to preserve identifiable remnants of the Judd Trail and Great Wall of Kuakini within the Property; 2) to identify and preserve the historic alignments within preservation easements and adjacent "no-build" buffer zones; 3) to limit the number and size of Requested Easements over, under and across the Judd Trail Lot; and 4) to develop an existing breach in the Great Wall of Kuakini near its intersection with the Judd Trail Lot into the proposed subdivision access road.

8. List of Applicable Governmental Permits and Approvals.

8.1 County Permits and Approvals.

See above, Section 1.3 for discussion of tentative subdivision and Special Management Area minor permit approvals approved in March 1998 by the Hawaii County Planning Department (**Exhibits 1A, 1B and 2**).

8.2 State Permits and Approvals.

See above, Environmental Assessment for discussion of: 1) the requested DLNR approval of perpetual, non-exclusive easements over, under and across portions of the Judd Trail for roadway, utility and driveway accesses, and the necessary rights

of entry for construction and maintenance of said easements, roadways and buffer areas; and 2) the requested DLNR review of treatment proposals related to the Judd Trail Lot and Great Wall of Kuakini located within the Property.

8.3 Federal Permits and Approvals.

See above, Sections 4.3 and 6.4.6 for discussion of the Federal Emergency Management Agency (FEMA) flood designation for the Property.

9. Written Comments and Responses on Early Consultation.

- 9.1. Na Ala Hele comment letter dated December 18, 1997. (Exhibit 7A)
- 9.2. Office of Hawaiian Affairs letter dated March 2, 1998. (Exhibit 18)
- 9.3. DLNR-SHPD letter dated March 17, 1998. (Exhibit 10)
- 9.4. Environmental Hawaii letter dated April 2, 1998. (Exhibit 19)
- 9.5. Life of the Land letter dated April 4, 1998. (Exhibit 20)
- 9.6. E Mau Na Ala Hele letter dated April 6, 1998. (Exhibit 21)
- 9.7. State Office of Environmental Quality Control letter dated April 7, 1998. (Exhibit 22)
- 9.8. P.H.R.I. letter to County Planning Department dated April 28, 1998. (Exhibit 11)
- 9.9. DLNR-SHPD letter to P.H.R.I. dated May 7, 1998. (Exhibit 12)
- 9.10. P.H.R.I. letter to County Public Works Department dated May 12, 1998. (Exhibit 13)
- 9.11. P.H.R.I. letter to County Planning Department dated May 19, 1998. (Exhibit 14)
- 9.12. Applicant's responsive letter to the foregoing agency/community groups dated May 31, 1998. (Exhibit 23)

10. Agencies Consulted for Environmental Impact Statement (EIS) Preparation.

(Not applicable.)

11. Significance Criteria; Findings and Reasons Supporting Anticipated Determination.

To determine whether the Proposed Action may have a significant impact on the environment, all phases of the project, its expected consequences, both primary and secondary, its cumulative impact with other projects, and its short- and long-term effects have been evaluated by Applicant as set forth herein. Based on studies undertaken and consultation with governmental agencies and community groups, a finding of no significant impact is anticipated and is summarized in this section.

Department of Health Rules (11-200-12) establish "Significance Criteria" to be used as a basis for identifying whether significant environmental impact will occur. According to said Rules, a Proposed Action shall be determined to have a significant impact on the environment if it meets any one of the following criteria:

11.1 Involves an irrevocable commitment to loss or destruction of any natural or cultural resources.

Granting of the perpetual, non-exclusive easements over, under and across the Judd Trail Lot for roadway, utility and driveway access onto subdivision and existing collector roads, and the necessary rights of entry for construction and maintenance of the same, will result in a commitment of only limited portions of the historic alignment. However, a larger commitment to the protection of historic alignments will be made by Applicant via preservation of identifiable segments of the Judd Trail Lot and Great Wall of Kuakini located within the Property, and isolation of both historic alignments within preservation easements flanked by "no-build" buffer zones alongside each said easement. An archaeological survey, including identification of potential impacts upon cultural practices related to these historic alignments, has been undertaken by Applicant, and Applicant will comply with the requirements of the DLNR-SHPD regarding mitigation of said impacts.

11.2 Curtails the range of beneficial uses of the environment.

The Property is currently unimproved, and until recently was being passively grazed, but is absent any other agricultural activity, given its "Very Poor" soil productivity rating. Therefore, DLNR approval of the Requested Easements, and the mitigation and preservation treatment plans proposed by Applicant for the Judd Trail Lot and affected portion of the Great Wall of Kuakini located within the proposed subdivision, will not remove the Property from ALISH lands of agricultural importance or curtail beneficial use of the environment.

11.3 Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, Hawaii Revised Statutes; and any revisions thereof and amendments thereto, court decisions or executive orders.

Environmental resources will be protected by Applicant's preservation of the Judd Trail and Great Wall of Kuakini within the Property in connection with approval of the Requested Easements, and quality of life will be enhanced by Applicant's incorporation of the Requested Easements into a transitional agricultural/residential development, which uses are consistent with the Environmental Policies established in Chapter 344, Hawaii Revised Statutes, and the National Environmental Policy Act.

11.4 Substantially affects the economic or social welfare of the community or State.

The proposed incremental development is designed to support surrounding land use patterns and will respond to projected population growth, and will not negatively or significantly alter existing residential areas or stimulate unplanned population growth or its distribution. As discussed above, the Requested Easements will be incorporated into a transitional agricultural/residential subdivision, which will provide short-term construction employment and longer-term real property tax revenues to the County, and the implementation by Applicant of preservation plans related to segments of the Judd Trail and Great Wall of Kuakini contained within the Property will unburden the State of said costs.

11.5 Substantially affects public health.

As stated above, Applicant will comply with all applicable requirements of the Federal Flood Insurance Program, and other State and County public health and environmental safety regulations related to the design and construction of the proposed subdivision and the Requested Easements, and the treatment of historic alignments located therein. Again, the incremental development of the proposed subdivision will help to mitigate any air, noise and traffic impacts affecting public health, said negative impacts being significantly outweighed by the positive impact upon the community associated with the preservation of the historic Judd Trail and Great Wall of Kuakini alignments within the Property

11.6 Involves substantial secondary impacts, such as population changes or effects on public facilities.

As discussed above, the Requested Easements, and treatment of the Judd Trail and Great Wall of Kuakini alignments within the Property, will be incorporated into a transitional agricultural/residential subdivision to be incrementally developed, so as not to stimulate unplanned population growth or overburden existing public facilities and services by unmanaged growth in the area.

11.7 Involves a substantial degradation of environmental quality.

The proposed development will utilize unimproved, non-productive agricultural land. The installation of urban landscaping will significantly mitigate the visual impact of the development, and the clearing of non-native grasses and trees from the Property will make visible and accessible the now overgrown alignments of the historic Judd Trail and Great Wall of Kuakini. Applicant will also comply with all applicable requirements of the Federal Flood Insurance Program, and other State and County public health and environmental safety regulations related to the construction of the proposed subdivision and Requested Easements, and the execution of preservation measures within the Property.

11.8 Is individually limited but cumulatively has considerable effect on the environment, or involves a commitment for larger actions.

The incremental development of the proposed subdivision, and Applicant's commitment to execution in Increment 1 of interim preservation and mitigation treatment plans related to the Judd Trail Lot and Great Wall of Kuakini for the entire project, should safeguard against any considerable negative effect upon the environment, and should protect cultural and historic features within the Property from impact by future and/or larger development activities.

11.9 Substantially affects a rare, threatened or endangered species, or its habitat.

Since there is no record that the Property has served as a habitat for rare, threatened or endangered species, DLNR approval of the Requested Easements, and the proposed treatment plans for segments of the Judd Trail and Great Wall of Kuakini contained within the Property, should not affect native flora and fauna.

11.10 Detrimentially affects air or water quality or ambient noise levels.

The following safeguards to mitigate environmental impacts will be observed: 1) implementation of standard industry practices for dust control and noise attenuation during construction and preservation work; 2) exercise of restraint in

engineering and construction activities to minimize disruption of existing drainageways; and 3) installation of private septic systems by individual lot owners for wastewater management within the subdivision. Incremental development of the proposed subdivision will also help to curtail detrimental impacts of unmanaged growth on air and water quality and noise levels in the area.

11.11 Affects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal waters.

As previously discussed, Applicant will comply with all applicable requirements of the Federal Flood Insurance Program, and other State and County public health and environmental safety regulations related to the proposed subdivision, including the construction of the Requested Easements and implementation of preservation measures related to the Judd Trail Lot and Great Wall of Kuakini within the Property.

11.12 Substantially affects scenic vistas and view planes identified in county or state plans or studies.

The following safeguards for preservation of scenic vistas and view planes will be observed: 1) the exercise of restraint in engineering and construction activities to minimize the alteration of natural landforms; and 2) the implementation of subdivision covenants requiring construction of structural improvements by individual lot owners to comply with all applicable laws, ordinances, rules and regulations of the County and State of Hawaii.

11.13 Requires substantial energy consumption.

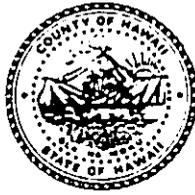
Infrastructural improvements and utility connections are already in place in the Kailua-to-Kona area to accommodate single-family dwellings, apartment and condominium complexes, resort-hotels and commercial complexes which service the area's resident and transient populations, and the incremental development of the proposed transitional agricultural/residential subdivision should mitigate the extent to which these energy resources are encumbered.

12. Anticipated Determination.

Based on the foregoing criteria, and the discussion of environmental impacts and mitigative measures contained in this document, it is anticipated that approval of the Requested Easements and the proposed treatment proposals for segments of the Judd Trail and Great Wall of Kuakini contained within the Property, should not significantly alter the environment. Therefore, it is anticipated that a Finding of No Significant Impact

(FONSI) will be filed with the State Office of Environmental Quality Control, and that preparation of an Environmental Impact Statement (EIS) will not be deemed warranted.

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

March 23, 1998

Steven S.C. Lim, Esq.
Carlsmith Ball Wichman Case & Ichiki
Attorneys At Law
PO Box 686
Hilo, HI 96721-0686

Dear Mr. Lim:

TENTATIVE APPROVAL
SUBDIVIDER: MATSUZATO HAWAII, INC. (Nohona Partners, Inc.)
"HO'OMALU ON ALII"
Proposed Subdivision of Lot 1 and Lot 2
Being Portions of L.C. Aw. 9971, Ap. 28,
R.P. 3683, L.C. Aw. 6133 and Grant 1857
Into Lots 1-11, Inclusive
Kaumalumalu and Pahoehoe 1st, North Kona,
Island of Hawaii, Hawaii
TMK: 7-7-004:002, 004 & 006 and 7-7-008:027 (SUB 98-006)

Please be informed that tentative approval of the preliminary plat map dated December 18, 1997, is hereby granted with modifications and conditions.

The subdivider is now authorized to prepare detailed drawings of the subdivision plan in accordance with Chapter 23, Subdivision Control Code, County of Hawaii, as modified. Before final approval can be granted, the following conditions must be met:

1. Provide a water system meeting with the approval of the Department of Water Supply.
2. Submit water system construction plans for approval by affected agencies.
3. Pay installation and facilities charges as required by the Department of Water Supply.
4. Identify all watercourses and drainage ways and identify areas within as "approximate areas of flood inundation."

EXHIBIT 1A

Steven S.C. Lim, Esq.
Page 2
March 23, 1998

5. Roadway design including allowable street grades and minimum curve radii shall conform to the standards of the code.
6. Based on the prevailing Ag-5a zoning, access to Lots 1, 2, 3, 9 and 10 from Alii Drive shall be constructed with minimum 20-ft. agricultural pavement within a minimum 50-ft. width right-of-way conforming to Standard Detail R-39.
7. Provide improved access to Lot 11.
8. Access for subdivision's Lot 2 shall not encroach onto the slope Easement "S4."
9. Portions of the subdivision are located within Zone "AE" according to the current Flood Insurance Rate Map (FIRM).
 - a. Identify the Zone "AE" boundaries and areas on the final plat.
 - b. Provide adequate drainage to reduce exposure to flood damage.
10. The Soil Conservation Service (SCS) had conducted a flood study of the area and determined that more portions of the subject subdivision are in flood hazard areas besides what the FIRM shows. Show these areas on the final plat map.
11. Submit construction plans and drainage report for review and comment. Additional storm runoff due to development shall be disposed within the subdivision and shall not be discharged onto adjacent properties or roadways. For planned drywells, satisfy Department of Health (DOH) drywell requirements, including issuance of an underground injection control (UIC) permit to the subdivider.
12. Access to Kuakini Highway shall meet with the State Department of Transportation, Highways Division requirements.
13. Comply with all conditions of approved Special Management Area (SMA) Minor Use Permit No. 69.

Steven S.C. Lim, Esq.
Page 3
March 23, 1998

14. Submit written proof that all taxes and assessments on the property are paid to date.
15. Place property markers in accordance with the final plat map. Surveyor shall submit certification upon completion.
16. Submit nine (9) copies of the final plat map prepared in conformity with Chapter 23, Subdivisions, within one year from the date of tentative approval, on or before March 23, 1999. If not, tentative approval to the preliminary plat map shall be deemed null and void. Only upon written request from the subdivider and for a good cause can a time extension be granted, provided it is submitted forty-five (45) days before the expiration of said period of one year.
17. Subdivider shall complete all requirements specified as conditions for tentative approval of the preliminary plat map within three (3) years of said tentative approval, on or before March 23, 2001. An extension of not more than two (2) years may be granted by the director upon timely request of the subdivider.

As part of final plat map submittal, the Planning Director requests an additional copy of the final plat map be submitted as a ".dwg" or ".dxf" diskette file prepared by CAD software.

Please submit a proposed street name conforming to the adopted street naming policy of the County of Hawaii.

Please be aware that if at any time during the fulfillment of the foregoing conditions, should concerns emerge such as environmental problems or other problems which were earlier overlooked or not anticipated/accounted for in data/reports available to date, this could be sufficient cause to immediately cease and desist from further activities on the proposed subdivision, pending resolution of the problems. The Planning Director shall confer with the listed officers to resolve the problems and notify you accordingly.

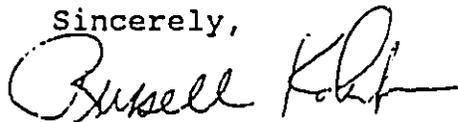
No final approval for recordation shall be granted until all the above conditions have been met.

Land shall not be offered for sale, lease or rent until final approval for recordation of the subdivision.

Steven S.C. Lim, Esq.
Page 4
March 23, 1998

Should you have any questions, please feel free to contact
Ed Cheplic of this department.

Sincerely,



VIRGINIA GOLDSTEIN
Planning Director

ETC:lnm
98006mat.ten

Enc.-PPM (12-18-97)

xc: Manager, DWS
Chief Engineer, DPW
Dist. Env. Health Prog. Chief, DOH
District Engineer, DOT
PLNG-KONA
DPW-ENG-KONA
Matsuzato Hawaii, Inc. c/o Nohona Partners, Inc.
Jon Gomes, President, Nohona Partners, Inc.
Hilo Engineering, Inc.
SUB 4599, 4970, 6919; SLU 94-6
SMM 69(7-7-4:2 & 7-7-8:27)

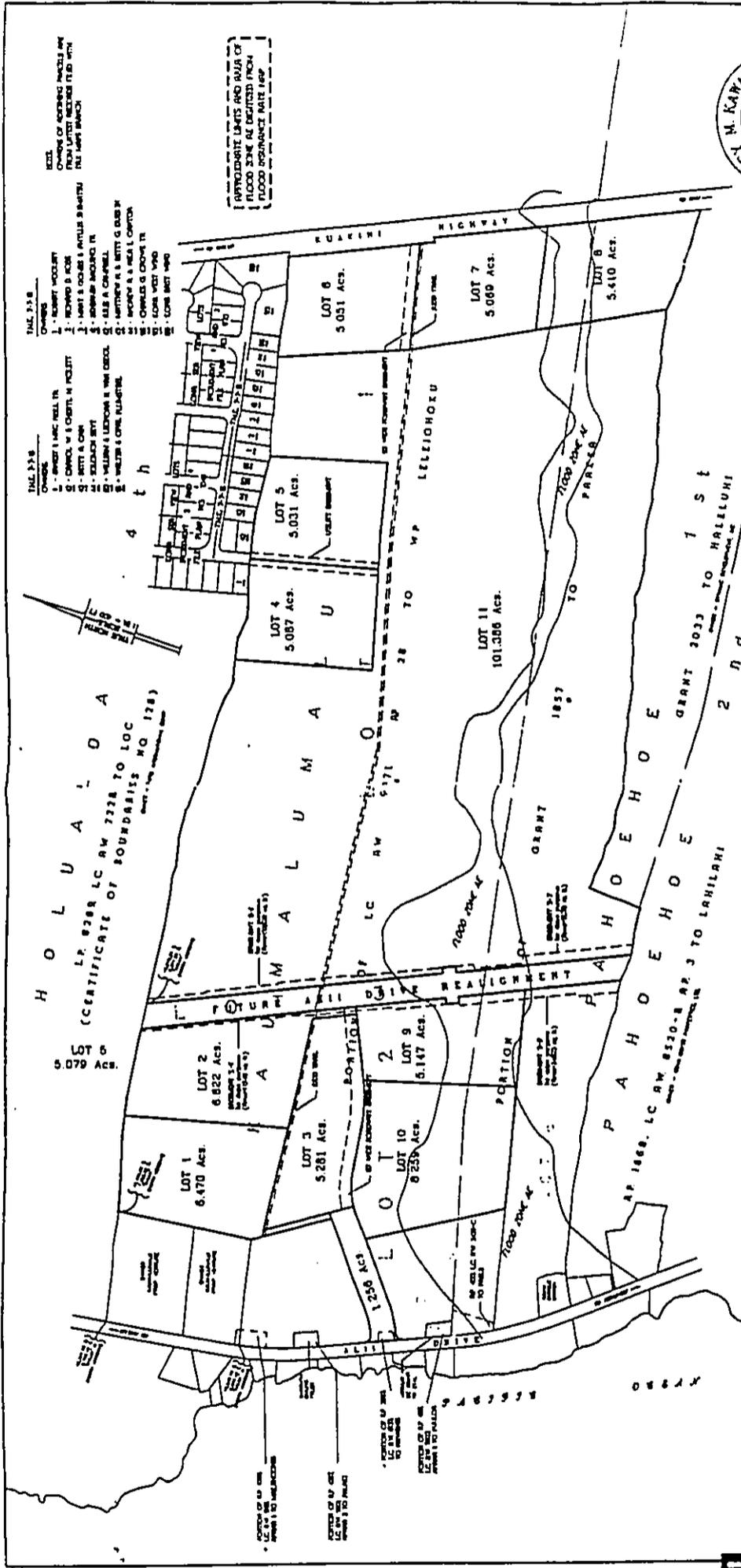
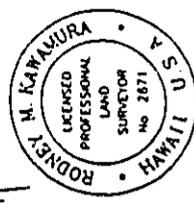


TABLE 33-B
OWNER

OWNER	ACRES
1. HAWAIIAN LAND CO.	1.0000
2. HAWAIIAN LAND CO.	1.0000
3. HAWAIIAN LAND CO.	1.0000
4. HAWAIIAN LAND CO.	1.0000
5. HAWAIIAN LAND CO.	1.0000
6. HAWAIIAN LAND CO.	1.0000
7. HAWAIIAN LAND CO.	1.0000
8. HAWAIIAN LAND CO.	1.0000
9. HAWAIIAN LAND CO.	1.0000
10. HAWAIIAN LAND CO.	1.0000
11. HAWAIIAN LAND CO.	1.0000



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION

PROPOSED

SUBDIVISION OF LOT 1 AND LOT 2
BEING PORTIONS OF L.C. AW. 9971, AP. 28 TO W.P. LELEIOHOKU,
R.P. 3683 L.C. AW. 6133 TO NAWAHE AND GRANT 1857 TO PAAKEA
INTO LOTS 1-11, INCLUSIVE

Subdivider Authorized To Prepare Detailed Drawings On
That As Submitted Including Corrected Notes, Reconciliation
With The Bureau Of Conveyances, State Of Hawaii, Not
Authorized Until Approved For Record At A Later Date.

TENTATIVE APPROVAL
DATED: MAR 23 1970

APPLICANT:
MOHONA PARTNERS, INC.
245 NEHE STREET
HILO HAWAII 96720

PREPARED BY:
HILO ENGINEERING, INC.
64 EULAWA ST. HILO HAWAII 96720
DATE: DECEMBER 18 1971

AT KAUMALUMALU AND PAKEHOE 1ST, NORTH KONA
ISLAND OF HAWAII, HAWAII
T.M.K.: 3rd Div. 7-7-04: 02, 04 & 06 & 7-7-08: 27

EXHIBIT 1B

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

March 13, 1998

Mr. Steve Lim
Carlsmith Ball Wichman Case & Ichiki
121 Waiianuenu Avenue
Hilo, HI 96720

Dear Mr. Lim:

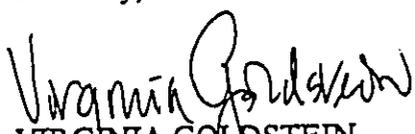
Special Management Area (SMA) Use Permit Assessment Application No. 97-62
SMA Minor Permit No. 69
Applicant: Jon Gomes, President, Nohona Partners, Inc.
Approved Development: 10 Lot Agricultural Subdivision and Related Improvements
TMK: 7-7-04: 02 & 7-7-08: 27, Kaumalumalu & Pahoehoe, N. Kona

Pursuant to county Planning Commission SMA Rule 9-10E, SMA Minor Use Permit No. 69 is being issued to allow the development of the proposed 10-lot agricultural subdivision and related improvements within the above-described properties.

The applicant is required to comply with the terms and conditions contained within the permit.

Please contact either Norman Hayashi or Earl Lucero for any matters concerning the SMA Minor Permit.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

EML:NH:pak
f:\wp60\czm\1998\smaa 9762.da2

Enclosure: SMA Minor Permit No.69

EXHIBIT 2

Mr. Steve Lim
Carlsmith Ball Wichman Case & Ichiki
Page 2
March 13, 1998

c w/enclosure: Mr. Jon Gomes, President
Nohona Partners, Inc.
245 Nene Street
Hilo, HI 96720

cc: SMA Section
West Hawaii Planning Office
Ms. Donna Faye Kiyosaki, Chief Engineer
DPW-Engineering Division, Kona Office
Mr. Ed Cheplic, Subdivision Section

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

SPECIAL MANAGEMENT AREA MINOR USE PERMIT NO. 69

Approved Development (describe in detail):

To allow for the development of a ten (10) lot agricultural subdivision and associated infrastructural improvements on approximately 70 acres of land within a larger 173.139-acre project site. The proposed agricultural lots will have a minimum lot size of five acres. The remainder of the project site consisting of approximately 101.40 acres (identified as Lot 11) will not be developed under this permit.

Applicant's Name: Nohona Partners, Inc.

TMK: TMK:7-7-04: 02 & 7-7-08: 27, Kaunalumalu & Pahoehe, N. Kona Land Area: 173.139 ac.

**Compliance with Objectives and Policies of Chapter 205-A, Hawaii Revised Statutes
regarding the Special Management Area**

Check all objectives and policies found to be consistent with proposed development.
Issuance of SMA Minor Use Permit requires that activity be consistent with all objectives & policies.

- Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.
- The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

**Compliance with Objectives and Policies of Chapter 205-A, Hawaii Revised Statutes
regarding the Special Management Area**

Check all objectives and policies found to be consistent with proposed development.

Page 2 Issuance of SMA Minor Use Permit requires that activity be consistent with all objectives & policies.

- The proposed development does not conflict with the following objectives of Chapter 205A, Hawaii Revised Statutes to:
 - Provide coastal recreational opportunities accessible to the public.
 - Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
 - Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - Stimulate public awareness, education, and participation in coastal management.
 - Protect beaches for public use and recreation.

- The proposed development is consistent with the following policies of Chapter 205A, Hawaii Revised Statutes relating to:
 - Recreational resources
 - Historic resources
 - Scenic and Open Space resources
 - Coastal Ecosystems
 - Economic Uses
 - Coastal Hazards
 - Managing Development
 - Public Participation
 - Beach Protection

Conditions of Approval

Page 3

1. The applicant(s), its successors or assigns shall be responsible for complying with all stated conditions of approval. Should any conditions not be met or substantially complied with, the Planning Director may revoke this permit.
2. Development of the proposed 10-lot agricultural subdivision and its related improvements shall be completed within three (3) years from the date of approval of this permit.
3. The applicant shall comply with the recommendations of the State Department of Land and Natural Resources-Historic Preservation Division, regarding the implementation of mitigation measures, if any, to portions of the Judd Trail, Great Wall of Kuakini and other identified historical and archaeological sites situated within the project site.
4. Discovery of any unidentified sites or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease; and, the Planning Director shall be immediately notified. Work may proceed upon securing an written archeological clearance from the Planning Director.
5. An extension of time for the performance of conditions within this permit may granted by the Planning Director. In accordance with Planning Commission Rule 9-11E, an extension of time requires a written request filed with the Planning Department within sixty (60) days before date of compliance. The extension request shall state: (a) The length of time requested; and, (b) the reasons for the time extension.

APPROVAL:

Virginia Goldstein

VIRGINIA GOLDSTEIN
Planning Director

MAR 18 1998

Date

APPROVAL:

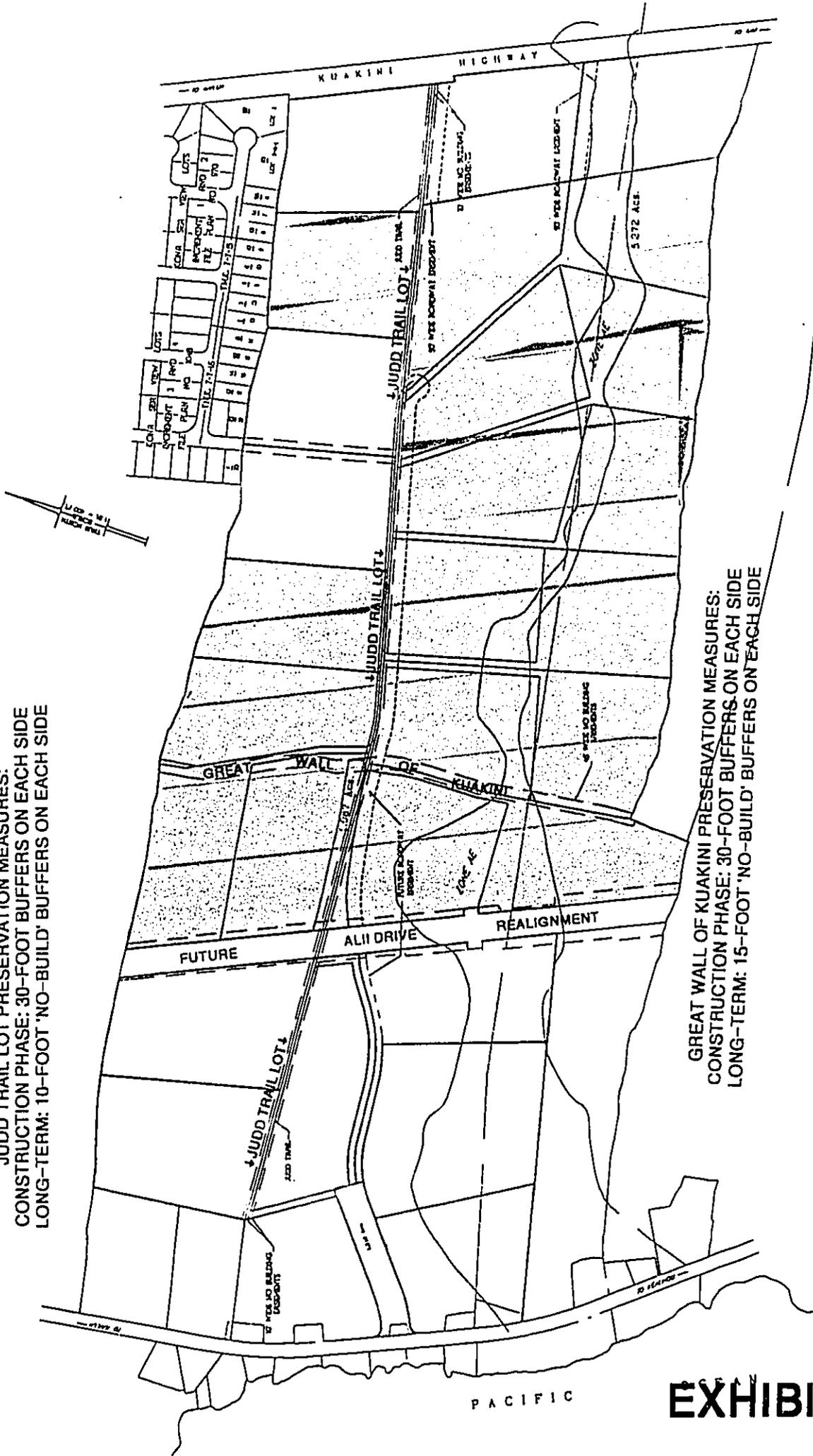
Donna F. Kiyosaki

DONNA F. KIYOSAKI
Chief Engineer

3 - 16 - 98

Date

JUDD TRAIL LOT PRESERVATION MEASURES:
 CONSTRUCTION PHASE: 30-FOOT BUFFERS ON EACH SIDE
 LONG-TERM: 10-FOOT 'NO-BUILD' BUFFERS ON EACH SIDE

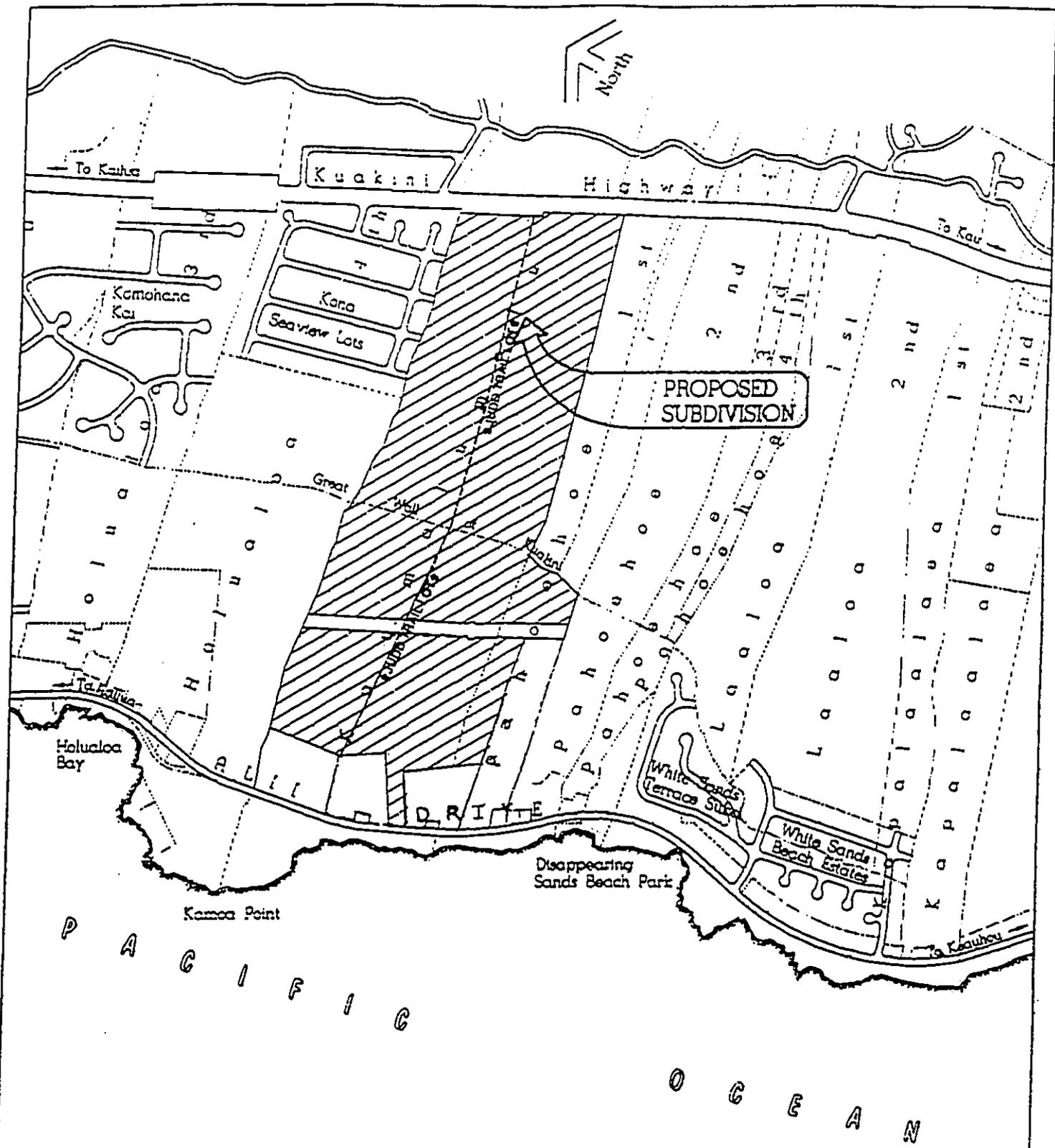


GREAT WALL OF KUAKINI PRESERVATION MEASURES:
 CONSTRUCTION PHASE: 30-FOOT BUFFERS ON EACH SIDE
 LONG-TERM: 15-FOOT 'NO-BUILD' BUFFERS ON EACH SIDE

PRELIMINARY COMPOSITE MAP
 YELLOW = INCREMENT 1
 GREEN = INCREMENT 2

HO'OMALU ON ALII

EXHIBIT 3



VICINITY MAP

TAX MAP KEY: 3rd DIV. 7-7-04. 02, 04 AND 06
 AND TAX MAP KEY: 3rd DIV. 7-7-08. 27
 AT KAUMALUMALU AND PAHOEHOE 1st NORTH KONA
 ISLAND OF HAWAII HAWAII

SCALE: 1 INCH = 1000 FEET

JOB NO.: 7-7-97-11
 DWG. NO.: 9711VC.DWG

EXHIBIT 4

DOCUMENT CAPTURED AS RECEIVED

TMK 7-7-04, PARCEL 2
Kaumalumu, North Kona, Hawaii

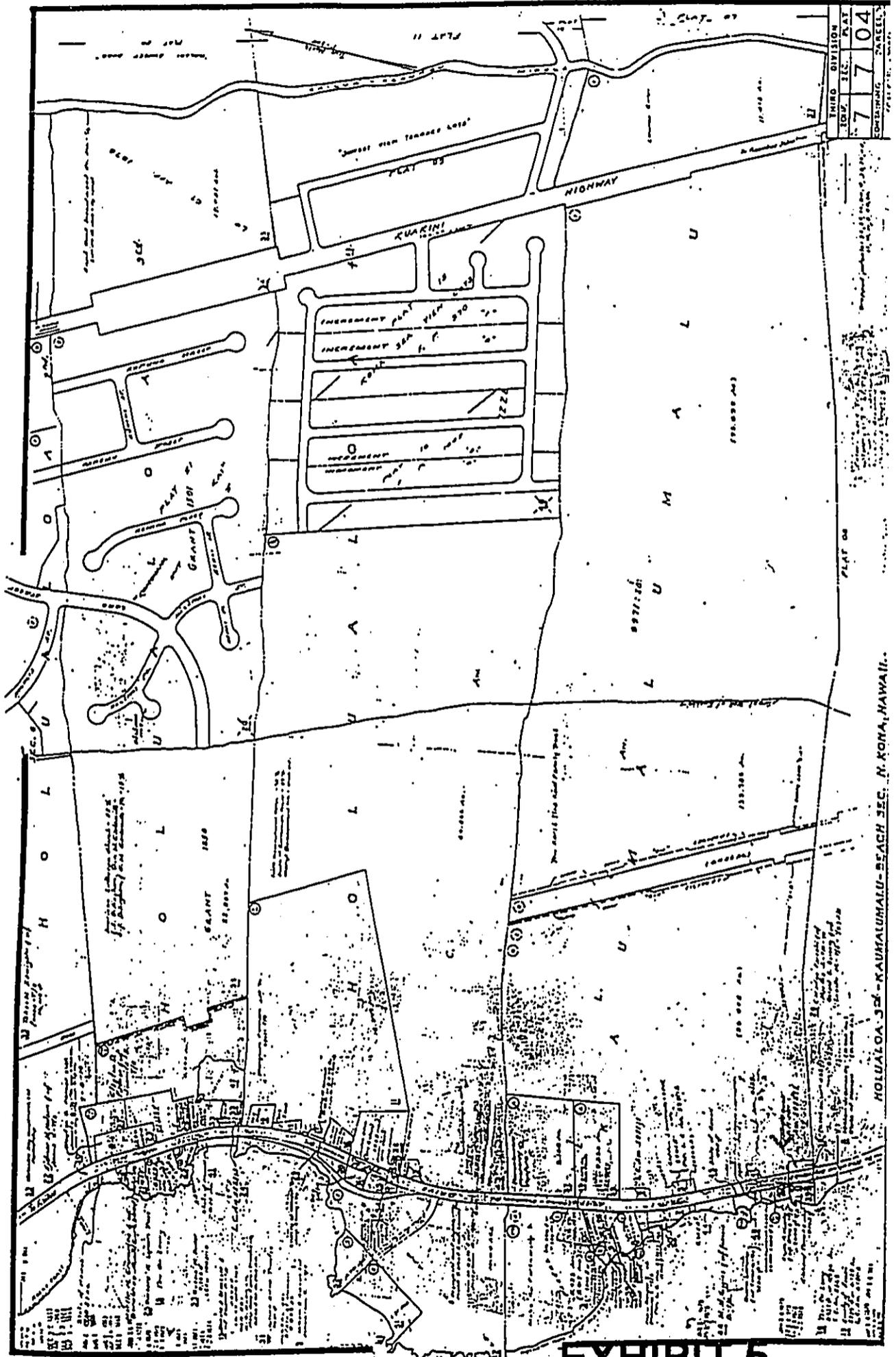
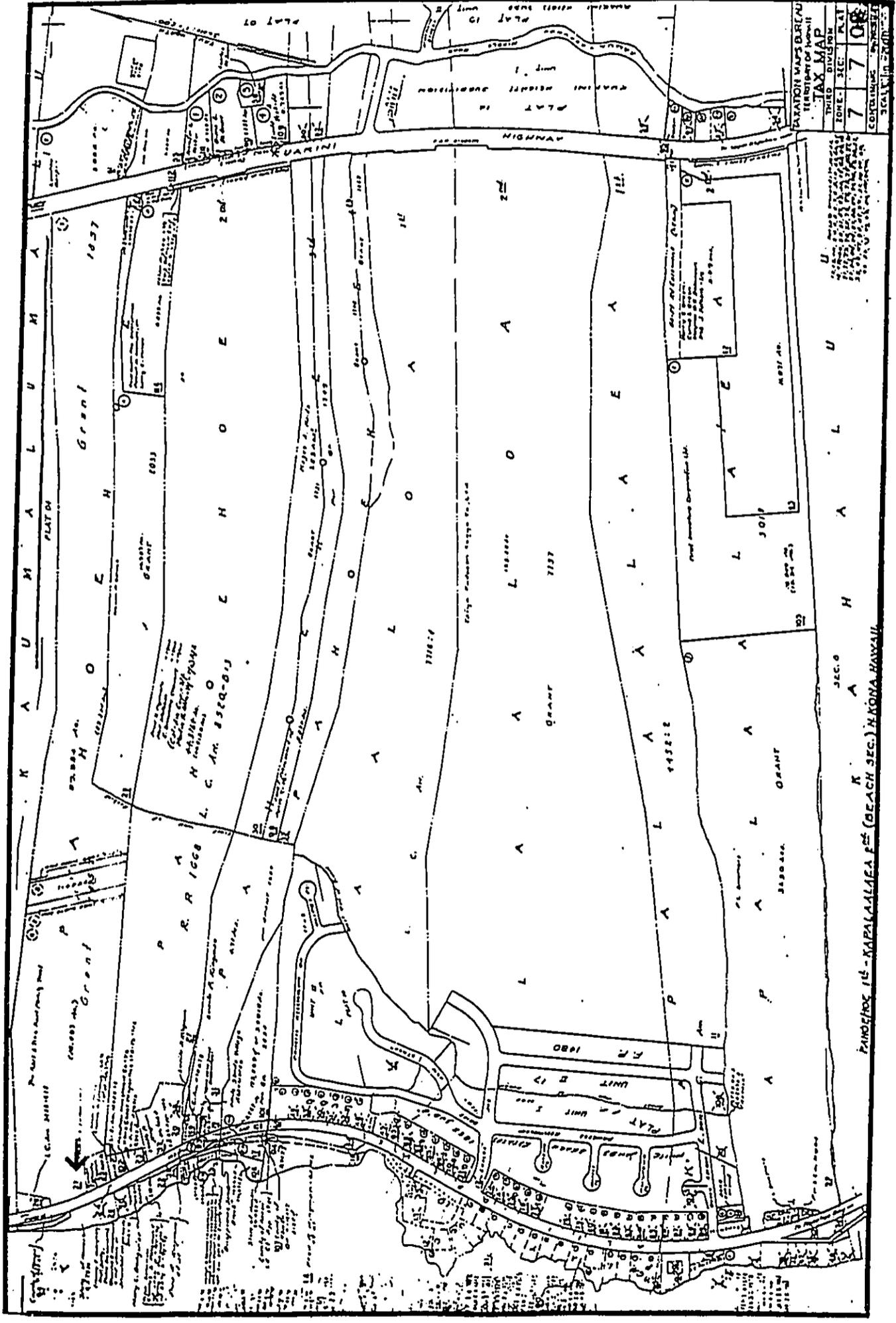


EXHIBIT 5

HOLUALOA 32 - KAUMALUMU - BEACH SEC. N. KONA, HAWAII.

DOCUMENT CAPTURED AS RECEIVED

TMK 7-7-08, PARCEL 27
Pahoehoe 1st, North Kona, Hawaii





NA ALA HELE
Hawai'i Trail & Access System

December 18, 1997

Mr. Jon Gomes
245 Nene Street
Hilo, HI 96720

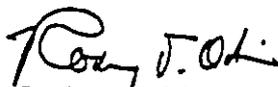
Dear Mr. Gomes:

We were able to canvass the members of the Na Ala Hele Advisory Council on your proposed AG 5 subdivision plan at Kaumalumahu and Pahoehoes 1" in North Kona.

There appears to be no significant objection except for a general disappointment that the Judd Trail will need to be breached in several areas and the trail is not treated as a possible asset to the subdivision.

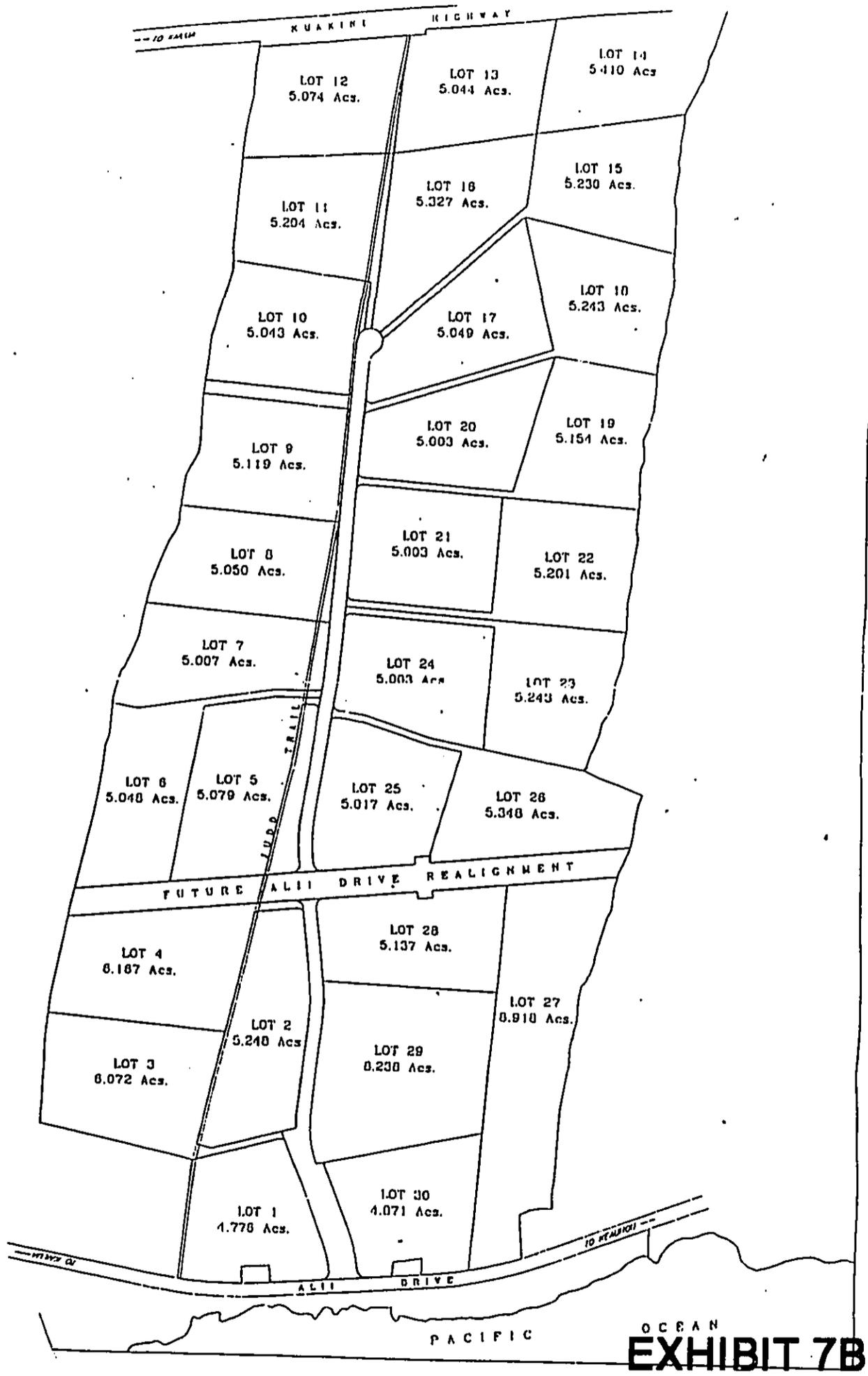
Conversation with Ann C. Peterson, Executive Director of P.A.T.H. (Peoples Advocacy for Trails Hawaii) indicate the possibility of incorporating the trail alignment as a benefit to adjacent property owners, raise property value and serve as a selling point for the lots. We would like to recommend you contact her at (808) 326-9495 in Kailua-Kona to explore the possibility of achieving some of these objectives.

Sincerely,


Rodney Oshiro
Na Ala Hele

c: Steven Lim, Esq.

EXHIBIT 7A



OCEAN
EXHIBIT 7B

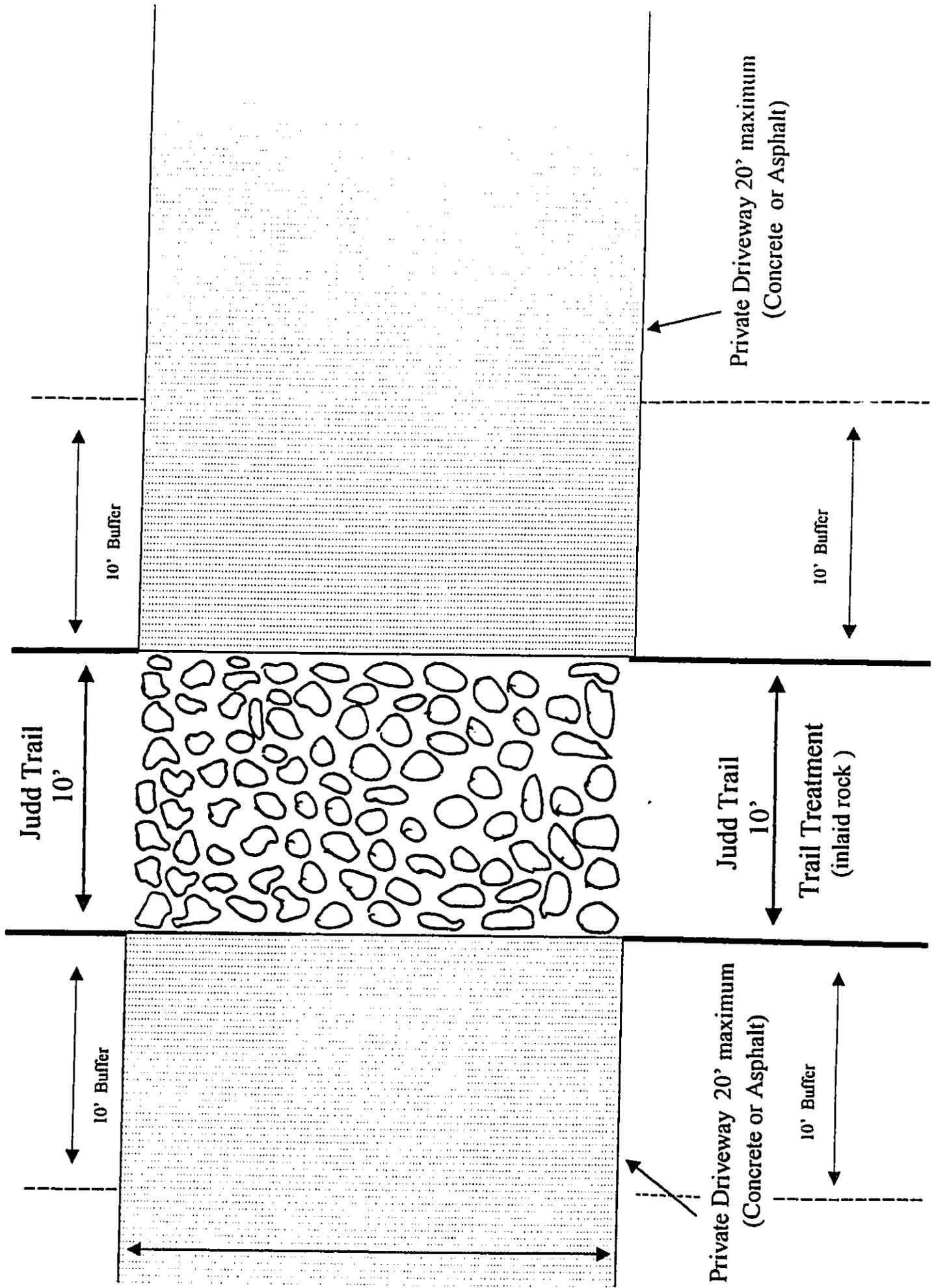


EXHIBIT 8

Report 1828-022898

**Interim Report: Phased
Archaeological Inventory Survey
for Ho'omalulu on Alii Subdivision
Part 1: Site Relocation and
Detailed Recording**

Land of Kaumalualu and Pahoehoe 1st,
North Kona District, Island of Hawaii
(TMK:3-7-7-04:2; 3-7-7-08:27)

BY

*Thomas R. Wolfarth, M.S. • Projects Manager
and
Paul H. Rosendahl, Ph.D. • Principal Investigator*

PREPARED FOR

*Jon Gomes & Associates
245 Nene Street
Hilo, HI 96720*

FEBRUARY 1998

PHRI

Paul H. Rosendahl, Ph.D., Inc.
Archaeological • Historical • Cultural Resource Management Studies & Services

HAWAII: 204 Waianuenue Avenue • Hilo, Hawaii 96720 • (808) 969-1763 • GUAM: P.O. Box 23305 • G.M.F. Guam 96921 • (671) 472-3117

EXHIBIT 9

INTRODUCTION

This Interim Report is for the phased archaeological Inventory Survey, Part I - site relocation and detailed recording of approximately 173 acres for the Ho'omalulu on Alii Subdivision in the Lands of Kaunaloa and Pahoehehe 1st, North Kona District, Island of Hawaii (TMK:3-7-7-04:2; 3-7-7-08:27). The boundaries of the project are: north-boundary between the ahupua'a of Holualoa 4th and Kaunaloa; west-Ali'i Drive at about 6 meters above sea level, minus several small excluded areas; south-boundary between the ahupua'a of Pahoehehe 1st and Pahoehehe 2nd; and east-Kuakini Highway about 120 meters above sea level (*Figure 1*).

Previous investigations have been conducted within the current project area (Hammatt 1980; Hommon 1982) and nearby (Henry et al. 1996; Hommon 1980; Rosendahl 1974). Surface survey was conducted over the entire parcel in 1980, resulting in the recording of 112 sites in the project area in (Hammatt 1980). Archaeological sites are concentrated within a 120 to 200 foot zone parallel and immediately inland of Ali'i Drive (*Figure 1*). Sites are also concentrated along the southern boundary of the project area to the west (seaward) of the Kuakini Wall. Smaller concentrations of sites occur along the southern boundary of the project area to the east (inland) of the Kuakini Wall, and near the center of the project area just west of the Kuakini Wall. A few other sites, mostly historic-era walls and enclosures, are scattered throughout the project area. Test excavations were subsequently conducted in 1982 at three sites (Hommon 1982). Results of the surface survey and test excavations have not been reviewed or approved by the Department of Land and Natural Resources State Historic Preservation Division (SHPD).

The purpose of the current investigation is to provide information sufficient to facilitate planning for future development within the 173 acre parcel. Based on the results of previous investigations, and discussion between the client, Paul H. Rosendahl, Ph.D., Inc. (PHRI), and SHPD, a phased approach to the cultural resources management identification, assessment, and evaluation process was considered appropriate for this project. The goal for the first part of investigation is to be able ascertain the number and nature of the cultural resources present, preliminarily assess their significance, and anticipate the level of effort needed to fully comply with all appropriate rules and regulations. The following tasks comprise the agreed upon Part I plan: field inspection to determine the current condition of sites in the project area; delineation of bulldozing impact; create plan maps for sites lacking plan maps; photographically record all sites to standards; and detailed recording of wall sites. Sites known to exist within the proposed Ali'i Drive Realignment were not inspected during this investigation, because they had been surveyed recently for the realignment study (Henry et al. 1996). These tasks were carried out by PHRI over a period of one month ending Wednesday January 14, 1998. The investigations were conducted in accordance with all current historic preservation regulatory review guidelines (draft rules) of the State of Hawaii Department of Land and Natural Resources-State Historic Preservation Division, as contained within Hawaii Administrative Rules, Title 13, Subtitle 6, State Historic Preservation Division Rules (DLNR 1996).

Two landuse actions have taken place recently that are related to the planning for future development within the 173 acre parcel: the delineation of alternate routes for the proposed Ali'i Drive Realignment through the project area, and the movement into escrow of several lots within the project area. The three lots in escrow (Lots A, B, and C) are located along existing Ali'i Drive (*Figure 2*). These two actions effect proposed plans throughout the Ho'omalulu on Alii Subdivision, particularly with regard to ingress and egress. Consequently, the initial proposed development for the project area consists of 10 lots located in three sections of the project area. Lots 1, 2, 3, 9, and 10 are connected to one another and to Ali'i Drive via a 100 foot wide roadway easement. Lots 4 and 5 form one polygon, and will be accessed via the Kona Sea View lots to the north. Lots 6, 7, and 8 are side by side along the Kuakini Highway. For the purposes of this report, Lots 1 through 10 and the roadway easement will be referred to as Increment 1.

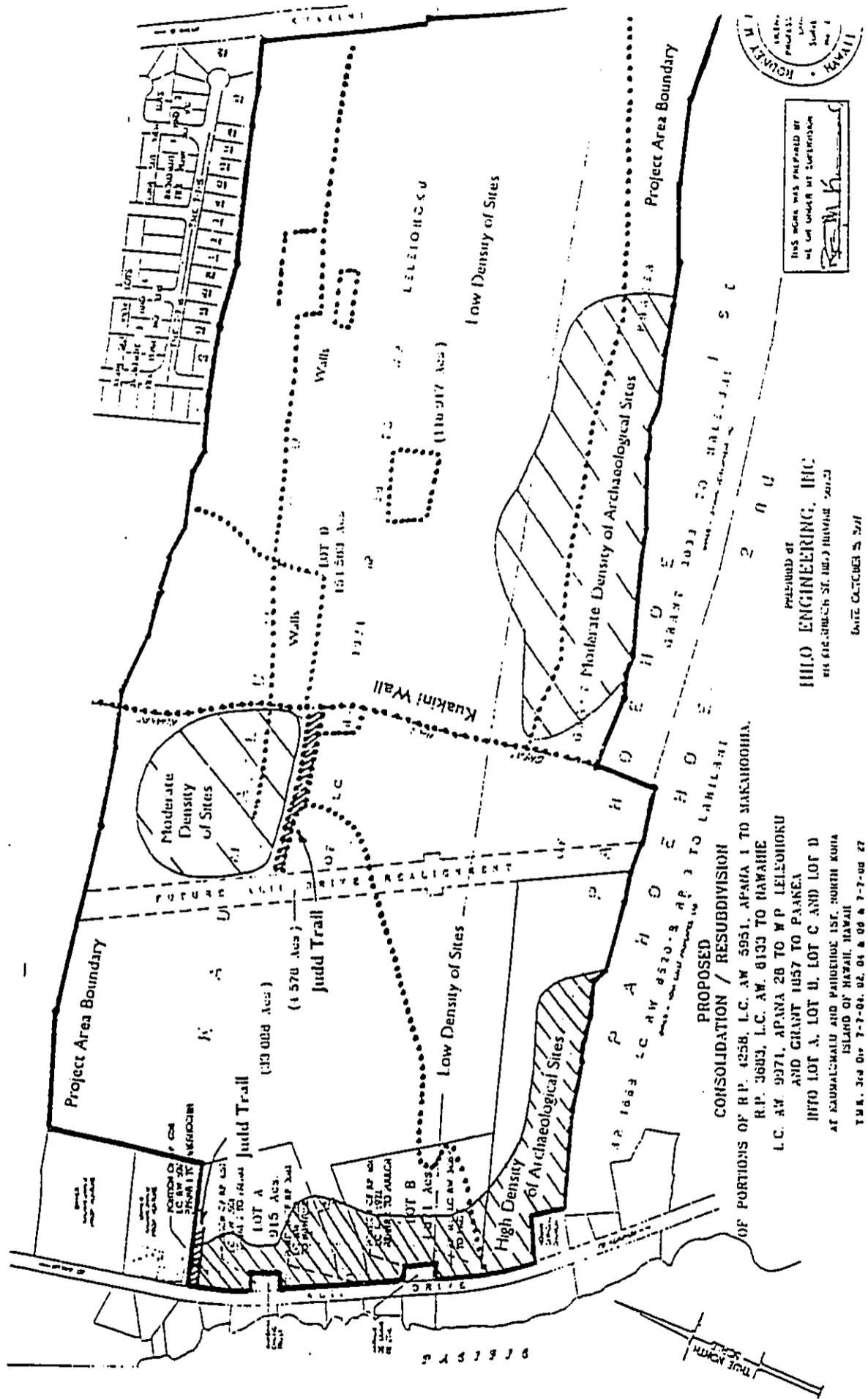


Figure 1

PROPOSED
 CONSOLIDATION / RESUBDIVISION
 OF PORTIONS OF R.P. 4258, L.C. AW 5951, A.P.A. 1 TO MAAHOAHA,
 R.P. 3603, L.C. AW 8133 TO HAWAII
 L.C. AW 9371, A.P.A. 28 TO W.P. LELEIOHOKU
 AND GRANT 1057 TO PAAEA
 INTO LOT A, LOT B, LOT C AND LOT D
 AT MAUMALOMAU AND PAHOEHOE 1ST, NORTH KUIA
 ISLAND OF HAWAII, HAWAII
 T.M.S. 3rd Ed. 7-7-04, 02, 04 & 09 & 7-7-08 27

PREPARED BY
HILO ENGINEERING, INC.
 615 KIELOA ST. HILO HAWAII 96720

DATE: OCTOBER 2, 2011



THIS WORK WAS PREPARED BY
 ME OR UNDER MY SUPERVISION

FINDINGS

OVERALL PROJECT AREA

Ninety-nine (88%) of the previously recorded 112 sites were relocated during the current investigation. The disposition of the 13 sites that could not be relocated is uncertain due to several factors. The maps generated by Hammatt (1980) are generally clear and relatively accurate, however, there are several problems that relate to site relocation. Primarily, there are many structures that have no site number assigned to them. The rationale for assigning site numbers is not provided, so it is unclear why some structures are without them. It may be that the sites that could not be found are indeed mapped in Hammatt (1980), but are simply missing a site label on those maps. Another problem is that site delineations are lacking on the Hammatt (1980) maps, so it is unclear what the site labels refer to at times. This problem is compounded by the sparse site descriptions in the text. Although most structures are mapped in relatively good detail in Hammatt (1980), some structures were observed but not mapped in at all. This is particularly germane to the area of moderate density of sites in the north-central portion of the project area (Figure 1). An additional problem noted with the Hammatt (1980) maps is that some sites do not appear to be in the correct position relative to other sites. This problem is probably a byproduct of having few landmarks to locate and map in the sites by. Based on the issues regarding site mapping outlined above, it is impossible to know whether the 13 sites currently exist or not; without a location on the Hammatt (1980) maps, they cannot be relocated. There is no indication of the destruction of sites after the Hommon (1980) and Hammatt (1982) work, and before the current investigation. The limits of bulldozing are unchanged from that observed and mapped in by Hammatt (1980). Bulldozing activity has been concentrated in the area between the future Ali'i Drive Realignment and the concentration of archaeological sites along existing Ali'i Drive. Consequently, there are no intact archaeological sites in that area.

Fifty-five (55) new sites were identified during the recent PHRI investigation. Most of the newly identified sites (n=35, 64%) are walls that had been observed during previous investigations, but were never given site numbers and were not appropriately recorded (Table 1). The 13 previously identified sites that could not be relocated due to lack of previous maps, are probably included within the 55 newly recorded sites. The total of 157 sites within the 173 acre project area yields a site density of 0.9 sites per acre.

Table 1. Distribution of Site Types Over Entire 173 Acres

Site Type	No.	Functions
Wall	45	45 Boundary and ranching
Complex	27	Various, 4 possible burial
Platform	24	15 Possible burial, 9 habitation
Enclosure	23	Mostly ranching
Modified outcrop	9	8 Ag, 1 habitation
Terrace	7	4 Ag, 3 habitation
Blister cave	3	3 Habitation
C-shape	3	2 Ag, 1 habitation
Depression	3	2 Ag, 1 habitation
Mound	3	2 Ag, 1 water control
Trail	3	3 Transportation
Cupboard	2	2 Storage
Modified blister	2	1 Habitation, 1 storage
Ahu	1	1 Marker
Lined Trail	1	Transportation
Planting area	1	1 Ag

During the current investigation, the maps for the 99 relocated sites were checked while inspecting each site. The maps were modified when post-1980 disturbance had occurred, or structural elements were overlooked in the Hammatt (1980) maps. New maps were made for sites that were incompletely mapped (in the area of moderate density of sites in the north-central portion of the project area), and for newly defined sites. The condition of each site was assessed and recorded. Photographs were taken of all sites. Wall sites were thoroughly documented by taking measurements, photographs, and commenting on the condition of each wall at 100 m intervals, and at areas of major disturbance or termination. This data is used to generate a profile of the norm and variation in wall morphology. No archaeological test excavations were dug. Test excavations are needed for 62 sites to complete inventory survey level investigations.

Walls are the most common site in the project area (n=45, 29%). These are all historic-era sites related to property boundaries and ranching. One wall site is the Kuakini Wall (Site 6302). The Kuakini Wall crosses the width of the project area in the west-central portion of the parcel. Complexes with a variety of habitation, agricultural, and possible burial features, are also common (n=27, 17%). The complexes are concentrated in the zone along Ali'i Drive and the southeastern portion of the project area. There are 24 platform sites (15%). Based on the location and architecture of the platforms, 9 appear to be habitation sites, while 15 may contain burials. Enclosures (n=23, 15%) associated with prehistoric habitation complexes or historic ranching occur throughout the project area. A variety of other sites (n=38, 24%) associated with habitation, agriculture, and ranching are present. Although the DLNR has not reviewed and approved an inventory report for this project area, they have provided the following comments on the project area archaeological sites in a letter to Mr. N. Hayashi dated July 8, 1991: a) Areas A and B, the high density of prehistoric habitations, merit preservation; b) the Judd Trail merits preservation; c) the Kuakini Wall is clearly significant and would require preservation, and d) the remaining sites in the Kona Field System would appear to require some recovery work and/or preservation. Most of the high density site area is located in the lots that are currently in escrow.

INCREMENT 1

Total acreage for Increment 1 is approximately 59 acres. There are 21 sites in Increment 1 (Table 2).

Table 2. Inventory of Sites in Increment 1.

Lot	Site	Type	Function	Sig	Treatment
1,2,4,5,6,7	6343	Judd Trail	Transportation	D	Preserve
4	8115	Cupboard	Storage	D	None
4	8114	Cupboard	Storage	D	Test excavate
4	8092	Terrace	Agriculture	D	None
4	T-55	Wall	Boundary	D	None
4-5	8093	Wall	Boundary	D	None
4-5	8093	Wall	Boundary	D	None
5	8124	Enclosure	Ranch	D	None
5	8126	Wall	Ranch	D	None
5	T-7	Enclosure	Az/Habitation	D	Test excavate
5	T-8	Terrace	Agriculture	D	None
5-6	8125	Enclosure/Wall	Ranch/Boundary	D	None
8	8094	Wall	Boundary	D	None
9	8081	Wall	Boundary	D	None
9-10	6344	Wall	Boundary	D	None
10	8066	Terrace	Habitation	D	Test excavate
10	T-2	Enclosure	Agriculture	D	None
Roadway	8046	Complex	Habitation*	D	Test excavate
Roadway	T-37	Wall	Boundary	D	None
Roadway	T-38	Wall	Boundary	D	None
Roadway	T-43	Wall	Boundary	D	None

* A possible burial feature in Site 8046 (see Table 3) is outside of Increment 1

The 21 sites within the 59 acre Increment 1 yields a site density of 0.3 sites per acre. Historic ranching and boundary walls (n=10, 48%) and ranching enclosures (n=4, 19%) occur most frequently in Increment 1. Prehistoric terraces (n=3, 14%), two cupboards (9%), one platform (5%), and one complex (5%) are scattered across Increment 1. The historic Judd Trail alignment is located along or within all three groupings of lots in Increment 1. No burials sites, or potential burial features are located in Increment 1.

PRELIMINARY CONCLUSIONS

DISCUSSION

All of the Traditional Hawaiian sites in the project area are associated with the Kona Field System (Cordy 1995, Newman 1970, Schilt 1984), the agricultural and population center of the Kona District, where dryland cultivation, habitation, and other occupation and exploitation sites and features are concentrated. This large complex of settlement and subsistence features extends north at least to Kau Ahupua'a and south to Honaunau (Cordy 1995:1). A large portion of this area is designated in the SIHP (State Inventory of Historic Places) as Site 6601 and has been determined eligible for inclusion in the National Register of Historic Places (NRHP) since 1977.

A Kona Field System land use model emphasizes the correlation of environmental subzones (based on location, elevation and annual rainfall), with the prehistoric and historic crops cultivated in the subzones. The project area is situated within *kula* zone (located from shoreline to 150 m AMSL), with an annual rainfall between 75 and 125 cm (Armstrong 1983). This lower elevation zone was traditionally associated with the cultivation of sweet potatoes (*'uala*), paper mulberry (*wauke*), and gourds (*ipu*). The *shoreline* is a subdivision of the *kula* zone (Cordy 1995). The shoreline zone, extending inland approximately 200 m, was used primarily for habitation and other non-agricultural activities. Permanent occupations, burials, and agricultural sites are relatively frequent in this part of the Kona Field System (Cordy 1981, 1995).

The results of the current investigation do not deviate from the expectations generated from the Kona Field System model. Prehistoric sites are dominated by habitation elements along the shoreline, and some habitation, probably temporary, occurs at the higher elevations of the project area. Potential burial sites occur, and agricultural sites are present at higher elevations. There are no *heiau* in the project area.

Land use patterns changed during the 19th century with the introduction of ranching. Boundary walls, animal enclosures, and trails were made during this time. The Judd Trail (Site 6343) represents an early attempt to build a cross-island road. The building of Judd Trail was initiated in 1849 by Government Minister Gerritt Judd and Kamehameha III (Elwes 1854:193-5). Work stopped when the road was about two miles above Ahu-a-'Umi, and west of Ka'ohē and the 1859 lava flow.

PRELIMINARY ASSESSMENTS: INCREMENT 1

Pursuant to DLNR (1996) Chapter 275-6 (d), the initial significance assessments are not final until concurrence from the DLNR has been obtained. The findings of the current project are being evaluated under the draft state rules and regulations governing cultural resource management. Consequently, sites identified and relocated during this survey are assessed for significance based on the criteria outlined in the Rules Governing Procedures for Historic Preservation Review (DLNR 1996:Chap 275). According to the rules referred to above, a site must possess integrity of location, design, setting, materials, workmanship, feeling, and association and shall meet one or more of the following criteria:

- (1) Criterion "a". Be associated with events that have made an important contribution to the broad patterns of our history;

- (2) Criterion "b". Be associated with the lives of persons important in our past;
- (3) Criterion "c". Embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; or possess high artistic value;
- (4) Criterion "d". Have yielded, or is likely to yield, information important for research on prehistory or history;
- (5) Criterion "e". Have an important traditional cultural value to the native Hawaiian people or to another ethnic group of the state due to associations with traditional cultural practices once carried out, or still carried out, at the property or due to associations with traditional beliefs, events or oral accounts--these associations being important to the group's history and cultural identity.

Tentative significance evaluations, effect determinations, and recommended treatments (mitigation measures) are provided for all sites in the 173 project area (*Table 3*). All of the 21 sites in Increment 1 are recommended as significant under Criterion D only (*Table 2*). Determinations will be confirmed or altered based on the results of tests excavations yet to be conducted. The four sites that will require test excavations to fulfill inventory survey level investigation are shown in Figure 3.

Based on the current level of archaeological work conducted at Increment 1, there are three categories of activities that need to take place to fulfill the requirements of an archaeological inventory survey for Increment 1: no further work, test excavate, and preserve.

No Further Work

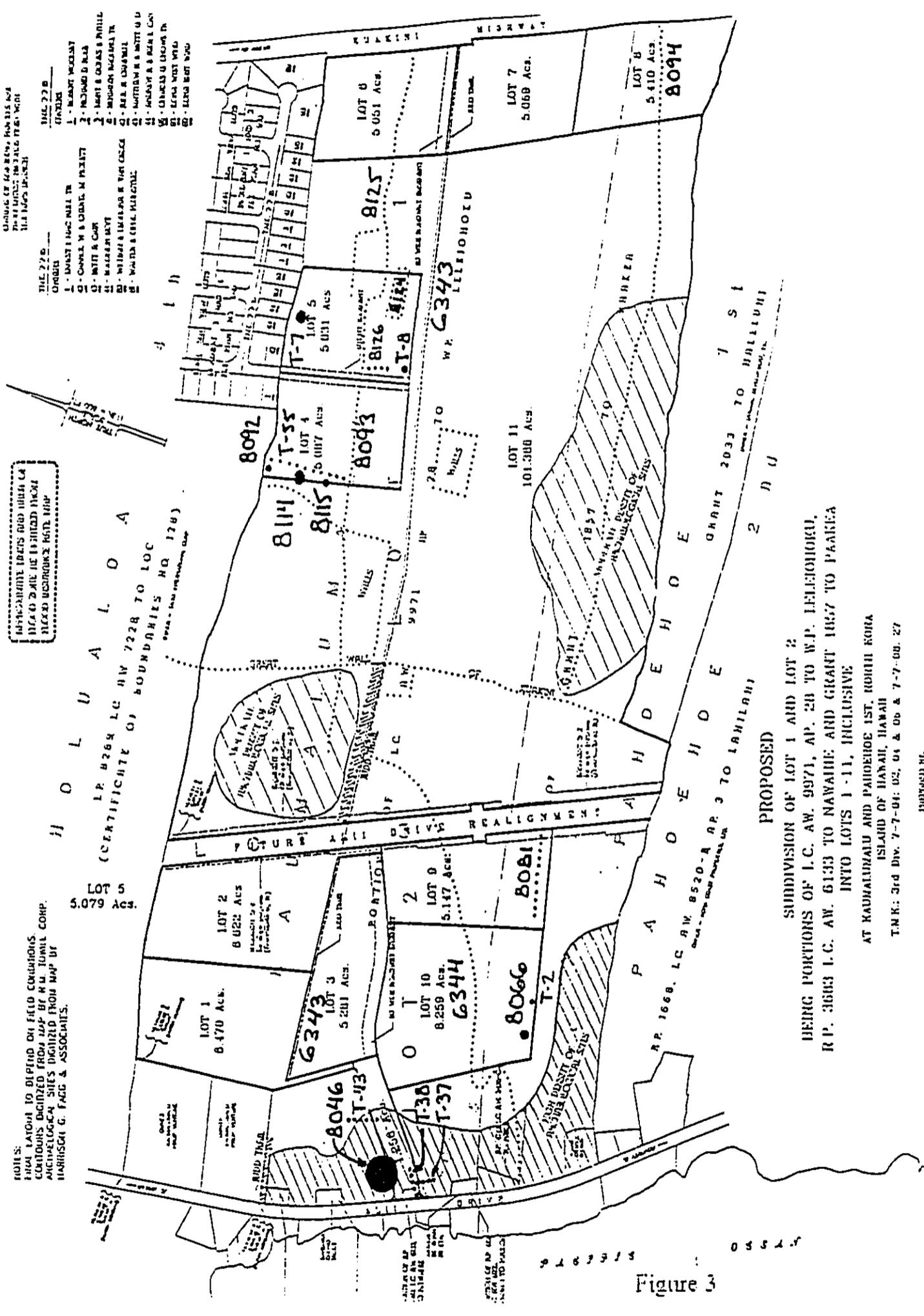
Sixteen (16) sites will require no further work to fulfill the requirements of an inventory survey. These are boundary walls, empty cupboards, ranching enclosures, and agricultural terraces. The data that makes them significant has already been gathered in the form of photographs, measurements, descriptions, and documentation of their research and historical context.

Test Excavations

Four (4) sites will require test excavations to document their apparent function, internal and subsurface morphology and context, and date of origin, use, and abandonment. These sites are potential prehistoric habitation structures (one platform, one terrace, and one enclosure), and a cupboard with deposits. Test excavations may provide enough data to complete the investigations at the sites, or additional mitigative measures may be warranted depending upon the data retrieved during testing.

Preserve

One (1) site, the Judd Trail (6343) will be preserved. Preservation commitments have been made by the applicant and presented in the Draft Environmental Assessment for this project (Lim 1998:7). Commitments include: preserving identifiable portions of the trail; protecting remaining portion of the historic alignment from developable areas of the subdivision through the creation of preservation easements flanked by no-build buffers; complying with requirements of SHPD on preservation issues; and exercising restraint in engineering and construction plans (Lim 1998:7 and 23). Details on exact location of the identifiable trail and historic alignment are yet to be worked out, and a formal preservation plan pursuant to Title 13.13 Chapter 277: Rules Governing Minimal Requirements for Archaeological Site Preservation and Development have yet to be drafted and reviewed by SHPD.



UNRECORRED TRACTS SHOWN WITH CAUTION AS TO THE LOCATION OF THESE TRACTS. RECORDS HAVE BEEN CHECKED.

NOTES:
 1. LOTS 1 TO 11 SHOWN ON FIELD CONDITIONS.
 2. LOTS 1 TO 11 SHOWN ON FIELD CONDITIONS.
 3. LOTS 1 TO 11 SHOWN ON FIELD CONDITIONS.
 4. LOTS 1 TO 11 SHOWN ON FIELD CONDITIONS.

- FILE 27 B
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PROPOSED
 SUBDIVISION OF LOT 1 AND LOT 2
 BEING PORTIONS OF L.C. AW. 9971, AP. 28 TO W.P. ILELEIHOE,
 R.P. 3663 L.C. AW. 6133 TO NAWAHE AND GRANT 1857 TO PAKEA
 INTO LOTS 1-11, INCLUSIVE
 AT KAUAI, HAWAII
 T.M.K.: 3rd Div. 7-7-01: 02, 04 & 05 & 7-7-00: 27

Figure 3

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Table 3. Tentative Assessment and Treatments for Project Area Sites

Site	Area ^a	# of Features	Site type	Site function	Tentative Significance ^b	Work needed to complete Inventory Survey	Tentative Treatment
6302	Low-Mid	1	Wall	Boundary	A, C, D#	None	Preserve
6329	All	1	Wall	Boundary	D	None	-
6343	Low-Mid	1	Trail	Transportation	D	None	Preserve
6344	Lower	1	Wall	Boundary	D	None	-
6345	Lower	11	Complex	Hab/ Ag	D	Test excavate	Data Recovery
6346	Middle	1	Wall	Boundary	D	None	-
6378	Lower	5	Complex	Ag	D	None	-
6379	Lower	16	Complex	Hab/ Ag	D	Test excavate	Data Recovery
6381	All	1	Wall	Boundary	D	None	-
8020	A	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8021	A	2	Complex	Burial (poss)/Hab	D, E	Test excavate	Burial plan
8022	A	5	Complex	Hab/Ag/Ranch	D	Test excavate	Data Recovery
8023	A	1	Platform	Hab	D	Test excavate	Data Recovery
8024	A	1	Platform	Hab	D	Test excavate	Data Recovery
8025	A	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8026	A	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8027	A	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8028	A	1	Enclosure	Hab	D	Test excavate	Data Recovery
8029	A	3	Complex	Ag	D	None	-
8030	A	3	Complex	Hab/Ag	D	Test excavate	Data Recovery
8031	A	1	Platform	Hab	D	Test excavate	Data Recovery
8032	A	2	Complex	Hab	D	Test excavate	Data Recovery
8033	A	1	Enclosure	Ranch	D	None	-
8034	A	1	Wall	Boundary	D	None	-
8036	A	1	Depressions	Ag	D	Test excavate	Data Recovery
8038	A	6	Complex	Burial	D, E	Test excavate	Data Recovery
8039	A	1	Enclosure	Ranch	D	None	-
8040	A	1	Wall/Terrace	Ag	D	None	-
8041	A	1	Terrace	Ag	D	None	-
8042	A	1	Depressions	Ag	D	Test excavate	Data Recovery
8043	A	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8044	A	1	Enclosure	Ranch	D	None	-
8045	A	1	Platform	Hab	D	Test excavate	Data Recovery
8046	A	3	Complex	Hab, Burial (poss)	D, E	Test excavate	Burial plan
8047	B	1	Enclosure	Ranch	D	None	-
8048	B	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8049	B	2	Complex	Hab, Ranch	D	Test excavate	Data Recovery
8051	B	1	Enclosure	Ranch	D	None	-
8056	B	1	Platform	Hab	D	Test excavate	Data Recovery
8057	B	1	Mod. Out	Hab	D	Test excavate	Data Recovery
8058	B	2	Complex	Ranch	D	None	-
8061	B	1	Platform	Hab	D	Test excavate	Data Recovery

*Significance criteria:

A: associated with events that have made an important contribution to the broad patterns of our history

B: associated with the lives of persons important in our past

C: embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master, or possess high artistic value;

D: have yielded, or is likely to yield, information important for research on prehistory or history

E: have an important traditional cultural value to the native Hawaiian people or to another ethnic group of the state due to associations with traditional

cultural practices, beliefs, events or oral accounts.

#already determined significant

^a Areas A, B, and C correspond to Hammatt (1980) area designations.

Lower = seaward of Kuakini Wall

Middle = Kuakini Wall to proposed subdivision road

Upper = inland of proposed subdivision road

Site	Area	# of Features	Site type	Site function	Tentative Significance*	Work needed to complete Inventory Survey	Tentative Treatment
8062	B	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8063	B	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8064	B	1	Mound	Ag	D	None	-
8065	B	2	Complex	Hab	D	Test excavate	Data Recovery
8066	B	1	Terrace	Hab	D	Test excavate	Data Recovery
8068	C	1	Mod. Out.	Ag	D	None	-
8069	C	1	Platform	Hab	D	Test excavate	Data Recovery
8070	C	1	Enclosure	Ranch	D	None	-
8071	C	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8072	C	1	Enclosure	Ranch	D	None	-
8073	C	1	Mod. Out.	Ag	D	None	-
8074	C	1	Mod. Out.	Ag	D	None	-
8075	C	1	Terrace	Hab	D	Test excavate	Data Recovery
8076	C	1	C-shape	Ag	D	None	-
8077	C	1	Mod. Out.	Ag	D	None	-
8078	C	1	Enclosure	Ranch	D	None	-
8079	C	2	Complex	Ag	D	None	-
8080	C	1	Mod. Out.	Ag	D	None	-
8081	C	1	Wall	Boundary	D	None	-
8082	C	1	Mod. Out.	Ag	D	None	-
8083	Lower	1	Blister Cave	Hab	D	Test excavate	Data Recovery
8084	D	1	Enclosure	Ranch	D	None	-
8085	D	1	Enclosure	Ranch	D	None	-
8086	D	2	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8087	D	5	Complex	Hab, Ag	D	Test excavate	Data Recovery
8088	E	1	Platform	Hab	D	Test excavate	Data Recovery
8089	D	1	Trail	Transportation	D	None	-
8090	D	1	Mound	Ag	D	None	-
8092	Middle	1	Terrace	Ag	D	None	-
8093	Low-Up	1	Wall	Boundary	D	None	-
8094	All	1	Wall	Boundary	D	None	-
8095	Middle	1	Depression	Hab	D	Test excavate	Data Recovery
8096	Middle	3	Complex	Hab	D	Test excavate	Data Recovery
8097	Middle	1	Mod. Blister	Hab	D	Test excavate	Data Recovery
8098	Middle	45	Complex	Hab, Ag, Storage	D	Test excavate	Data Recovery
8099	Middle	1	Planting Area	Ag	D	Test excavate	Data Recovery
8100	Middle	2	Complex	Ag	D	None	-
8101	Middle	1	Blister Cave	Hab	D	Test excavate	Data Recovery
8102	Middle	1	Enclosure	Ag	D	None	-
8103	Middle	1	Blister Cave	Hab	D	Test excavate	Data Recovery
8104	Middle	3	Complex	Hab/Ag	D	Test excavate	Data Recovery
8105	Middle	1	Mod. Out.	Ag	D	None	-
8106	Middle	1	Enclosure	Hab	D	Test excavate	Data Recovery
8107	Middle	14	Complex	Hab, Ag	D	Test excavate	Data Recovery
8108	Middle	34	Complex	Hab, Ag	D	Test excavate	Data Recovery
8109	Middle	2	Complex	Ag/ Ranch	D	None	-
8110	Middle	1	C-shape	Hab	D	Test excavate	Data Recovery
8111	Middle	1	Terrace	Ag	D	None	-
8112	Middle	1	Enclosure	Ranch	D	None	-
8114	Middle	1	Cupboard	Storage	D	Test excavate	Data Recovery
8115	Middle	1	Cupboard	Storage	D	None	-
8116	Middle	1	Lined Trail/Road	Transportation	D	None	-
8117	Upper	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8118	Upper	3	Complex	Hab, Storage	D	Test excavate	Data Recovery
8119	Upper	29	Complex	Hab, Ag	D	Test excavate	Data Recovery

Site	Area	# of Features	Site type	Site function	Tentative Significance*	Work needed to complete Inventory Survey	Tentative Treatment
8120	Upper	51	Complex	Ag	D	None	-
8121	Upper	1	Mound	Water Control	D	None	-
8123	Upper	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
8124	Upper	1	Enclosure	Ranch	D	None	-
8125	Upper	1	Enclosure/Wall	Ranch/Boundary	D	None	-
8126	Upper	1	Wall	Ranch	D	None	-
9845	E	38	Complex	Burial (poss)/ Hab/ Ag	D, E	Test excavate	Burial plan
T-01	B	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
T-02	B	1	Enclosure	Ag	D	None	-
T-03	D	1	Platform	Burial (poss)	D, E	Test excavate	Burial plan
T-04	Middle	1	Mod. Out.	Ag	D	None	-
T-05	Middle	1	Mod. Blister	Storage	D	Test excavate	Data Recovery
T-06	Upper	1	Platform	Hab	D	Test excavate	Data Recovery
T-07	Upper	1	Platform	Hab/Burial (poss)	D, E	Test excavate	Burial plan
T-08	Upper	1	Terrace	Ag	D	None	-
T-09	Lower	1	Enclosure	Ranch	D	None	-
T-10	A/B	1	Wall	Boundary	D	None	-
T-11	Upper	1	Wall	Boundary	D	None	-
T-12	Lower	43	Complex	Hab/Ag	D	Test excavate	Data Recovery
T-13	B	1	Enclosure	Ranch	D	None	-
T-14	B	2	Complex	Hab/Burial (poss)	D, E	Test excavate	Burial plan
T-15	B	1	Enclosure	Ranch	D	None	-
T-16	B	1	Enclosure	Ranch	D	None	-
T-17	B	1	Enclosure	Ranch	D	None	-
T-18	B	1	Enclosure	Ranch	D	None	-
T-19	C	1	Wall	Boundary	D	None	-
T-20	C	1	Ahu	Marker	D	None	-
T-21	C	1	C-shape	Ag	D	None	-
T-22	C	1	Terrace	Hab	D	Test excavate	Data Recovery
T-23	C	1	Wall	Boundary	D	None	-
T-24	C	1	Wall	Boundary	D	None	-
T-25	C	1	Wall	Boundary	D	None	-
T-26	A	1	Wall	Boundary	D	None	-
T-27	A	1	Wall	Boundary	D	None	-
T-28	A	1	Wall	Boundary	D	None	-
T-29	A	1	Wall	Boundary	D	None	-
T-30	A	1	Wall	Boundary	D	None	-
T-31	A	1	Wall	Boundary	D	None	-
T-32	A	1	Wall	Boundary	D	None	-
T-33	A	1	Wall	Boundary	D	None	-
T-34	A	1	Wall	Boundary	D	None	-
T-35	A	1	Wall	Boundary	D	None	-
T-36	A	1	Wall	Boundary	D	None	-
T-37	A	1	Wall	Boundary	D	None	-
T-38	A	1	Wall	Boundary	D	None	-
T-39	A	1	Wall	Boundary	D	None	-
T-40	A	1	Wall	Boundary	D	None	-
T-41	A	1	Wall	Boundary	D	None	-
T-42	A	1	Wall	Boundary	D	None	-
T-43	A	1	Wall	Boundary	D	None	-
T-44	A	1	Wall	Boundary	D	None	-
T-45	A	1	Wall	Boundary	D	None	-
T-46	A	1	Wall	Boundary	D	None	-
T-47	A	1	Wall	Boundary	D	None	-

Site	Area	# of Features	Site type	Site function	Tentative Significance*	Work needed to complete Inventory Survey	Tentative Treatment
T-48	A	1	Wall	Boundary	D	None	-
T-49	A	1	Trail	Transportation	D	None	-
T-50	B	1	Wall	Boundary	D	None	-
T-51	B	1	Wall	Boundary	D	None	-
T-52	B	1	Wall	Boundary	D	None	-
T-53	B	1	Wall	Boundary	D	None	-
T-54	B	1	Wall	Boundary	D	None	-
T-55	Middle	1	Wall	Boundary	D	None	-

BENJAMIN J. DAYLOND
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
33 SOUTH KING STREET, 6TH FLOOR
HONOLULU, HAWAII 96813

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March 17, 1998

Ms. Virginia Goldstein, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

LOG NO: 21202 ✓
DOC NO: 9803RC21

Dear Ms. Goldstein:

**SUBJECT: Proposed Agricultural Subdivision -- Gomes
Kaumalumalu & Pahoeheo 1, North Kona, Hawaii
TMK: 7-7-08:27**

We had material on this proposed subdivision sent on March 10, 1998, to Ross Cordy, our Branch Chief for Archaeology. The package included an interim archaeological inventory survey report (Wolforth & Rosendahl 1998. Interim Report: Phased Archaeological Inventory Survey for Ho'omalulu on Ali'i Subdivision. Part 1: Site Relocation and Detailed Recording. PHRI ms. 1828-022898.). Given the incomplete nature of information that is available, it is difficult to make recommendations to your agency for this project.

Background

11 lots are proposed in this subdivision. 10 are small lots with access presumably for single-family dwellings and one large lot (Lot 11). Initial development, as we understand it, is to be focused in lots 1-10 (Increment 1). The interim report indicates that an archaeological inventory survey of the entire project area is in progress (with some testing still needed) or complete. The results cannot be evaluated without our Division seeing the complete survey report.

However, the interim report indicates that 21 sites are in Increment 1. Most are ranching era walls, a few are precontact houses or farm sites, and another is the Judd Trail. No burials or religious structures are noted as present. The mitigation proposal is to preserve the Judd Trail and conduct salvage archaeology in 4 precontact sites. It is claimed that the ranching era sites need no further work.

EXHIBIT 10

The report also correctly notes that our Division has long stated the need to preserve the Kuakini Wall and the Judd Trail, and a series of walled house yards (with burials) along Ali'i Drive. The report notes that the Judd Trail and Kuakini Wall will be preserved. Lots A-C, which are not part of this subdivision, contain most of the walled houseyards. Only the access road off Alii Drive for this subdivision passes through this area, and in speaking with Dr. Rosendahl of PHRI, he indicates that this road follows an old bulldozed path where the houselots no longer survive. However, we are very concerned that Lots A-C are no longer part of this larger parcel and are in escrow (evidently having been sold by the same applicant) and seem to have had no preservation conditions attached to them. The walled houseyards are the best surviving and only large set of such walled houseyards in Kona north of Keauhou. These sites are clearly eligible for inclusion on the Hawaii and National Registers of Historic Places under criteria A (associated with broad patterns of history -- housing and population of the shore of Kona), C (excellent example of a site type -- walled houseyards), D (information content on prehistory/history), and probably cultural significance (given its association with native Hawaiian history and their uniqueness). They are a very important remnant of prior settlement. That is why we have long argued for their preservation, with interpretation. PHRI informed us privately that the purchasers were informed of the sites and concerns for interpretive preservation and that the purchasers plan on preserving the sites, but no conditions seem to exist to guarantee this concern.

Recommendation

At this point, we would actually recommend no action be taken on this application until a complete archaeological survey report of the work summarized by the interim report can be reviewed by our office. We can then evaluate the nature of the sites and the extent of the information recorded. Until then we cannot evaluate significance evaluations or mitigation proposals. The proposals seem reasonable, but we cannot evaluate them without the complete report.

Assuming the PHRI information and conclusions are correct, then suitable conditions to protect significant historic sites to be attached to any approved subdivision might be:

1. The Kuakini Wall and Judd Trail shall be preserved. A preservation plan must be submitted to the State Historic Preservation Division and the County Planning Department for review. This plan must include buffer zones, interim protection measures, and long term preservation plans. It must be approved by these agencies prior to implementation. The State Historic Preservation Division must also verify in writing to the Planning Department that the plan has been successfully carried out. Minimally, interim protection measures of the plan must be in place before any land alteration may occur in the project area.

2. An acceptable archaeological inventory survey report for Increment 1 shall be completed. It must identify significant historic sites and propose mitigation measures for sites other than the Judd Trail and Kuakini Wall. This report must be approved by the State Historic Preservation Division. This must occur prior to land alteration.

3. For Increment 1, archaeological mitigation plans for any significant historic sites committed to mitigation (preservation or data recovery) must be submitted to the State Historic Preservation Division and the County Planning Department for review. It must be approved by these agencies prior to implementation. The State Historic Preservation Division must also verify in writing to the Planning Department that the plan has been successfully carried out. Minimally, interim protection measures of the plan must be in place before any land alteration may occur in the project area.

4. For Increment 2, an acceptable archaeological inventory survey report for shall be completed. It must identify significant historic sites and propose mitigation measures for sites other than the Judd Trail and Kuakini Wall. This report must be approved by the State Historic Preservation Division. This must occur prior to any land alteration in Increment 2.

5. For Increment 2, archaeological mitigation plans for any significant historic sites committed to mitigation (preservation or data recovery) must be submitted to the State Historic Preservation Division and the County Planning Department for review. It must be approved by these agencies prior to implementation. The State Historic Preservation Division must also verify in writing to the Planning Department that the plan has been successfully carried out. Minimally, interim protection measures of the plan must be in place before any land alteration may occur in Increment 2.

6. To ensure preservation of the extremely significant walled houselots and burials in Lots A-C (in escrow), prior to allowing any land alteration in Increments 1 and 2 of the proposed subdivision, the applicant shall ensure that acceptable preservation plans are developed for Lots A-C. These plans must be acceptable by the State Historic Preservation Division and the County of Hawaii's Planning Department. These plans must ensure accurate mapping of these sites, acceptable protection measures, and provisions for interpretation and public access. These points are consistent with the stance the State Historic Preservation Division has long made to the County of Hawaii.

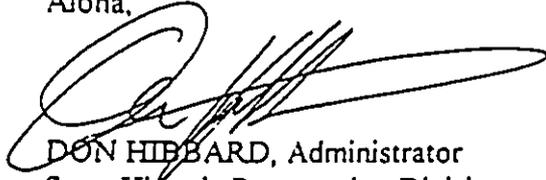
If a complete inventory survey report for both increments is received and is acceptable, then these conditions could be reduced solely to a mitigation condition (requiring preservation and archaeological data recovery) and Condition 6. The reason for Condition 6 is to ensure protection of these sites. It may be difficult to include such a condition, but we believe that it is desirable. If it is not possible, then we formally request that prior to approving any grading plans or building permits for Lots A-C, our office be given the opportunity to comment under Chapter 6E-42, and our recommendation will be similar to Condition 6. But, if Condition 6 is followed, that would be unneeded.

E. M. Lucero
Page 4

It also should be cautioned that once the survey reports are accepted, more sites might be slated for preservation (although it does not look that way at present). Also, buffer zones need agreement, which might be wider than what the applicant is anticipating at this time.

If you have any questions, please call Ross Cordy at 587-0012.

Aloha,



DON HIBBARD, Administrator
State Historic Preservation Division

c: Public Works Director, Public Works Department, County of Hawaii
Office of Hawaiian Affairs

MAR 18 1998

PHRI

Paul H. Rosendahl, Ph.D., Inc.

Archaeological · Historical · Cultural Resource Management Studies & Services

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Letter 1828-042398

April 28, 1998

Ms. Virginia Goldstein, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Subject: Proposed Agricultural Subdivision - Ho'omalū on Ali'i
Kaumalūmalū and Pahoeheo 1st, North Kona District
Island of Hawai'i (TMK:3-7-7-04:2; 3-7-7-08:27)

Dear Ms. Goldstein:

At the request of my client, Mr. Jon Gomes of Nohona Partners, Inc., I have discussed with Dr. Ross Cordy, Chief Archaeologist at the Department of Land and Natural Resources-State Historic Preservation Division (SHPD), the recommendations contained within the SHPD letter of March 17, 1998 to you (LOG NO:21202; DOC NO:9803RC21) regarding the archaeological resources affected by the above subject project. The recommendations were discussed with Dr. Cordy initially on April 8, 1998, and then on April 23, 1998; the substance of our discussions is summarized below.

Recommendation 1: Preservation of Kuakini Wall and Judd Trail

Dr. Cordy agreed that preparation of a long term preservation plan for Kuakini Wall and Judd Trail could be deferred until all inventory survey work has been completed (Recommendations 2 and 4), and appropriate mitigation plans have been prepared (Recommendations 3 and 5). For the immediate future, Dr. Cordy agreed with our recommendations for interim preservation measures to assure the protection and continued physical preservation of Kuakini Wall and Judd Trail. Proposed interim preservation measures would consist of the following:

1. Preservation buffer zones to be established for both sites-- as fifteen (15) feet extending out from each side of Kuakini Wall, and as ten (10) feet extending out from each side of Judd Trail;
2. Both sites to be accurately plotted on grading plans prior to initiation of any grubbing or grading within the vicinity of either site, with appropriate notation to be included in the grading plan specifications;

EXHIBIT 11

3. Approved buffer zone perimeters to be fenced with highly visible barrier fencing prior to the start of any grubbing or grading activity within 100 feet of the buffer zones, with no construction activity of any kind to be allowed to occur within the buffer zones, and correct placement of fencing to be verified prior to any construction activity;
4. Prior to any grubbing or grading activity, construction supervisors to be explicitly notified of the nature and locations of preservation sites, significance of the buffer zones, and the color and meaning of site perimeter and buffer zone fencing; and
5. Initial grubbing and grading in the immediate vicinity of the sites to be monitored by on-site personnel.

Recommendations 2 and 4: Inventory Surveys for Increments 1 and 2

Acceptable inventory surveys for Increments 1 and 2 would be completed as soon as possible, in accordance with the current development plans and schedules of our client. If scheduling considerations prevent completion of remaining inventory survey field work (subsurface testing) for both increments to be done expeditiously, then remaining field work for Increment 1 would be done first and a full final report would be prepared for Increment 1 only. Remaining field work for Increment 2 would follow-- possibly within 2 to 4 months, and the Increment 1 final report would be expended to include both increments.

Recommendations 3 and 5: Mitigation Plans for Increments 1 and 2

Upon completion of acceptable inventory surveys for Increments 1 and 2, an appropriate mitigation plan for preservation and/or data recovery would be prepared. If scheduling considerations prevent completion of remaining inventory survey field work and preparation of a single comprehensive final report for both increments, then a mitigation plan for Increment 1 would be prepared for Increment 1 only. Following completion of the final report for the Increment 2 inventory survey, a mitigation plan for Increment 2 would then be prepared.

Recommendation 6: Lots A, B, and C (along Ali'i Drive)

The three lots have been sold, and all historic preservation tasks (including completion of inventory survey work and preparation of mitigation plans) are the responsibility of the new owners. Both realtors and potential purchasers were previously advised of the presence of significant sites and the requirements for appropriate historic preservation

Letter 1828-042398
April 28, 1998

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review compliance. Declaration to this effect were included in each of the applicable warranty deeds. Furthermore, I personally have had several discussions with the realtor who represented two of the new lot owners concerning the nature and scope of historic preservation work that would be needed.

The foregoing has, I trust, accurately summarized my discussions with Dr. Cordy. If you have any questions or need any additional information, please contact me at my Hilo office (969-1763).

Sincerely yours



Paul H. Rosendahl, Ph.D.
President and Principal
Archaeologist

cc: J. Gomes - Nohona Partners
S. Lim, Esq. - Carlsmith, Ball et al.
R. Cordy - SHPD

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GOVERNOR OF HAWAII



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STATE HISTORIC PRESERVATION DIVISION
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HONOLULU, HAWAII 96813

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RESOURCES MANAGEMENT
CONSERVATION
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
DIVISION
LAND DIVISION
STATE PARKS
WATER AND LAND DEVELOPMENT

May 7, 1998

Dr. Paul Rosendahl
PHRI
204 Waiianuenue Avenue
Hilo, Hawaii 96720

LOG NO: 21472 ✓
DOC NO: 9805RC01

Dear Dr. Rosendahl:

SUBJECT: Proposed Agricultural Subdivision
Kaunamalulu & Pahoehoe 1, North Kona, Hawaii
TMK: 7-7-04: 2: 7-7-08: 27

We received a copy of an April 28, 1998, letter on this project from you to Virginia Goldstein, Planning Director for the County of Hawaii. This letter summarized phone discussions with Ross Cordy, our Branch Chief for Archaeology. While the summary is to a large degree correct, some of the points are slightly different, as Dr. Cordy recalls the discussion.

1. Dr. Cordy did not agree to any specific interim buffer zones for the Kuakini Wall or the Judd Trail. In the phone discussion, he said that an interim protection plan that would eventually be submitted to our office should propose buffers. A commonly used buffer for these sites might well be acceptable. But, this would depend on what was being constructed nearby. Also, we might have to make a fieldcheck. An alternative might be to suggest a bigger buffer initially during construction. The aim is not to disturb the land surface within what would be a final, acceptable buffer -- as the intent of the buffer is to preserve the physical and visual setting around the wall and trail.

2. Dr. Cordy and you did not discuss warranty deed information for the Lots A,B, C. So the information in your letter was new and interesting. But, it does not change what we recommended for those lots.

In sum, we would still view our prior recommendations as holding. The preservation plan for the Kuakini Wall and the Judd Trail can be done in two parts -- interim protection plan and long-term plan. We would need to see an interim protection plan (discussing the buffer points noted above). Currently, our recommendations for inventory survey and mitigation are in two increments, as that is the way the project was proposed to us. But, it is fine if the applicant wishes to do the

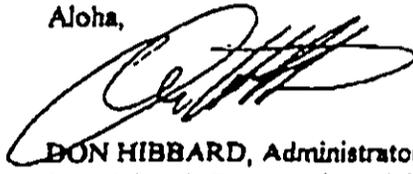
EXHIBIT 12

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PHRI
Page 2

survey for the entire project and then the mitigation plans for the entire project. Our recommendations for Lots A-C still would remain the same, with the two alternatives proposed to the County.

Aloha,



DON HIBBARD, Administrator
State Historic Preservation Division

RC:amk

c. Virginia Goldstein, Planning Director, County of Hawaii

PHRI

Paul H. Rosendahl, Ph.D., Inc.

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Letter 1828-050698

May 12, 1998

Mr. Tom Pak
Department of Public Works-
Engineering Division
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Subject: Proposed Agricultural Subdivision - Ho'omalū on Ali'i
Kaumalūmalū and Pahoeheo 1st, North Kona District
Island of Hawai'i (TMK:3-7-7-04:2; 3-7-7-08:27)

Dear Mr. Pak:

At the request of my client, Mr. Jon Gomes of Nohona Partners, Inc., I have discussed with Dr. Ross Cordy, Chief Archaeologist at the Department of Land and Natural Resources-State Historic Preservation Division (SHPD), Mr. Gomes' plan to grade an access road connecting Ali'i Drive with Lots 1, 2, 3, 9, and 10 of the above subject subdivision. The existing road corridor and the proposed grubbing and grading alignment limits are indicated on the attached Figures 1 and 2 respectively.

As you are aware, there is a concentration of archaeological features along the inland side of Ali'i Drive, situated almost entirely within Lots A, B, and C. These three lots have been sold, and all historic preservation tasks (including completion of inventory survey work and preparation of mitigation plans) are the responsibility of the new owners. Both realtors and potential purchasers were previously advised of the presence of significant sites and the requirements for appropriate historic preservation review compliance. Declarations to this effect were included in each of the applicable warranty deeds.

Dr. Cordy and I discussed and agreed upon appropriate interim preservation measures which would assure the protection and continued physical preservation of significant archaeological remains in the immediate area, and at the same time allow grubbing and grading of the proposed access road. More specifically, the interim preservation measures would protect the features of Site 8046 to the north and those of Sites 8047 and 8048 to the south (see Fig. 2). The short wall sections within the road alignment have already been documented, and Dr. Cordy agreed that they could be removed as they were "no longer significant."

Proposed interim preservation measures agreed upon by Dr. Cordy and myself would consist of the following (see Fig. 2):

EXHIBIT 13

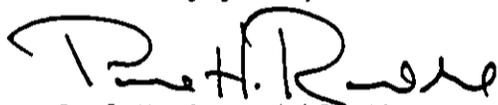
Letter 1828-050698
May 12, 1998

2

1. Grubbing and grading limits to be fenced with highly visible barrier fencing prior to the start of any grubbing or grading activity, with correct placement of fencing to be verified prior to any construction activity, and no activity of any kind to be allowed outside of the fenced limits;
2. Prior to any grubbing or grading activity, job-site supervisor and/or machinery operator to be explicitly notified of the nature and location of preservation sites, significance of the barrier fencing, and the color and meaning of site perimeter and buffer zone fencing; and
3. Initial grubbing and grading to be monitored by on-site personnel.

We believe the foregoing interim preservation measures adequate to assure the protection and continued physical preservation of significant adjacent historic resources while at the same time allowing the property owner, Mr. Gomes, to proceed with his to grade an access road connecting Ali'i Drive with Lots 1, 2, 3, 9, and 10 of his subdivision project. If you have any questions or need any additional information, please contact me at my Hilo office (969-1763).

Sincerely yours,



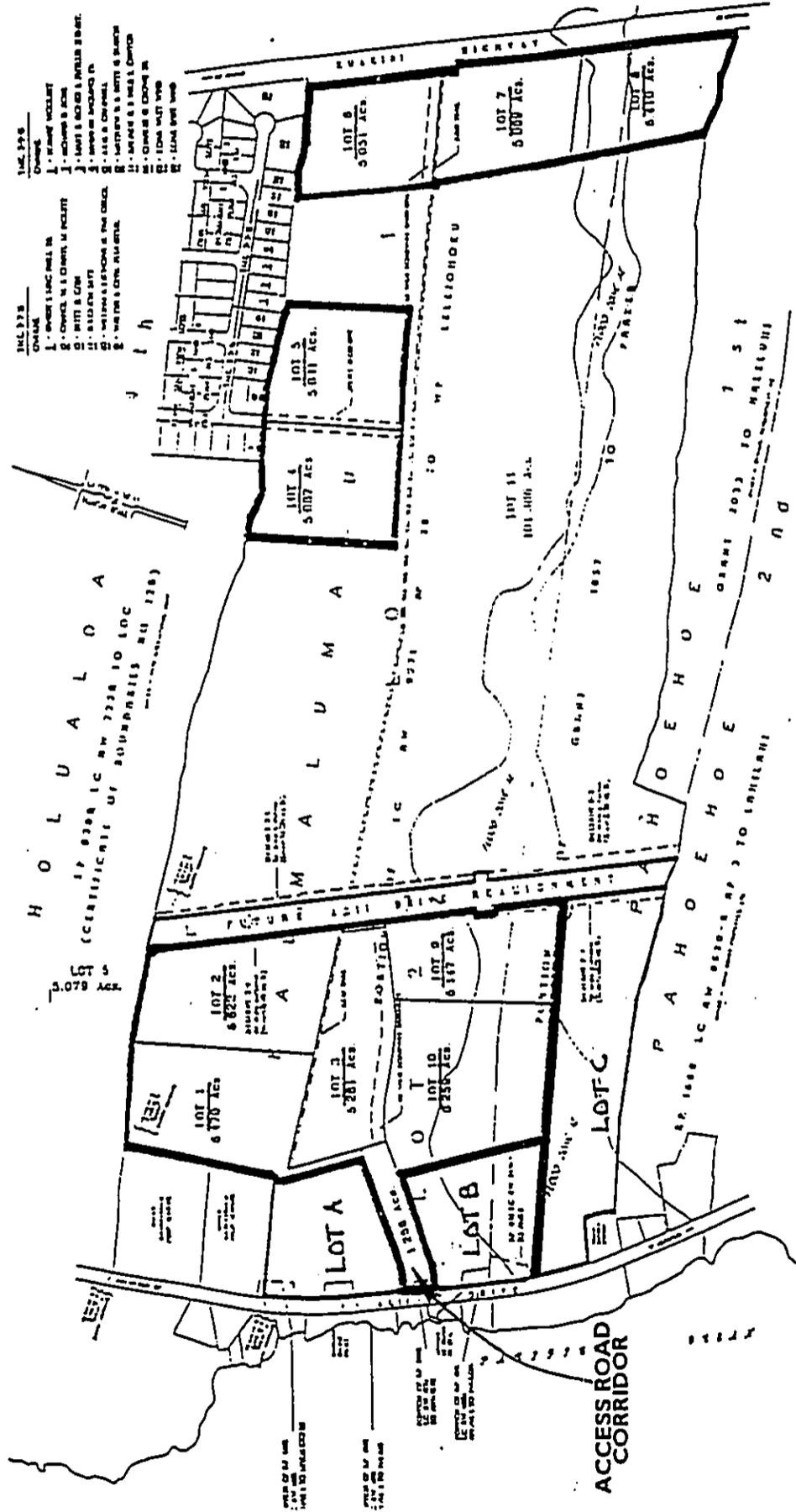
Paul H. Rosendahl, Ph.D.
President and Principal
Archaeologist

Attached: Figures 1, 2

cc: J. Gomes - Nohona Partners
S. Lim, Esq. - Carlsmith, Ball et al.
R. Cordy - SHPD (Hono)
M. Smith - SHPD (Hilo)

Letter 1828-050698
May 12, 1998

Attachment: Fig. 1



PHRI

Paul H. Rosendahl, Ph.D., Inc.

Archaeological • Historical • Cultural Resource Management Studies & Services

204 Waiānū Avenue • Hilo, Hawaii 96720 • (808) 969-1763 • FAX (808) 961-6998
P.O. Box 23305 • G.M.F., Guam 96921 • (671) 472-3117 • FAX (671) 472-3131

Letter 1828-051998

May 19, 1998

Ms. Virginia Goldstein, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Subject: Interim Protection Plan for Kuakini Wall and Judd Trail
Proposed Agricultural Subdivision - Ho'omalū on Ali'i
Kaumalumalu and Pahoehe 1st, North Kona District
Island of Hawai'i (TMK:3-7-7-04:2; 3-7-7-08:27)

Dear Ms. Goldstein:

I make reference is made to my previous letter of April 28, 1998 to you (copy attached) concerning the above subject project, and to a subsequent letter of May 7, 1998 to me from the Department of Land and Natural Resources-State Historic Preservation Division (SHPD) (copy attached) which commented upon my earlier communication to you. In the SHPD letter, Division Administrator Dr. Don Hibbard suggested that I had somehow misunderstood my discussion with Branch Chief for Archaeology, Dr. Ross Cordy, with regards to the specific size of the proposed preservation buffer zones. The purpose of the present communication is to provide a revised Interim Protection Plan for Kuakini Wall and Judd Trail which would more accurately reflect the present position of SHPD.

Based on my earlier discussions of April 8 and 23 with Dr. Cordy, the subsequent SHPD letter of May 7, and at the instruction of my client, Mr. Jon Gomes of Nohona Partners, Inc., a revised interim plan consisting of the following measures to assure short-term construction period protection is proposed:

1. Interim construction period preservation buffer zones to be established for both sites--as thirty (30) feet extending out from each side of Kuakini Wall, and as thirty (30) feet extending out from each side of Judd Trail;
2. Both sites to be accurately plotted on grading plans prior to initiation of any grubbing or grading within the vicinity of either site, with appropriate notation to be included in the grading plan specifications;
3. Approved buffer zone perimeters to be fenced with highly visible barrier fencing prior to the start of any grubbing or grading activity within 100 feet of the buffer zones,

EXHIBIT 14

Letter 1828-051998
May 19, 1998

2

with no construction activity of any kind to be allowed to occur within the buffer zones, and correct placement of fencing to be verified prior to any construction activity;

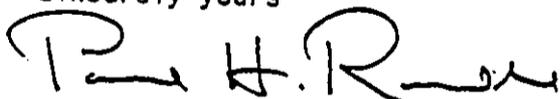
4. Prior to any grubbing or grading activity, construction supervisors to be explicitly notified of the nature and locations of preservation sites, significance of the buffer zones, and the color and meaning of site perimeter and buffer zone fencing; and
5. Initial grubbing and grading in the immediate vicinity of the sites to be monitored by on-site personnel.

We believe that the interim protection plan proposed here would assure the protection and continued physical preservation of Kuakini Wall and Judd Trail until permanent final preservation buffer zones can be established within the context of a long-term site preservation plan.

One minor final clarification should be made concerning the reference in the SHPD letter of May 7, 1998 to Lots A, B, and C (along Ali'i Drive). In my earlier discussions with Dr. Cordy, I noted--and Dr. Cordy agreed, that because these three lots had been sold, all historic preservation tasks (including completion of inventory survey work and preparation of mitigation plans) were now the responsibility of the new owners. I further stated that prior to the sale of these three lots, realtors and potential purchasers had been advised of the presence of significant sites and the general requirements for appropriate historic preservation review compliance, and that declarations to the effect had been made in "appropriate title transfer documents." My letter of April 28, 1998 simply added the updated and more specific information that the "appropriate title transfer documents" were, in fact, warranty deeds.

The foregoing has, I believe, more accurately summarized my discussions with Dr. Cordy. If you have any questions or need any additional information, please contact me at my Hilo office (969-1763).

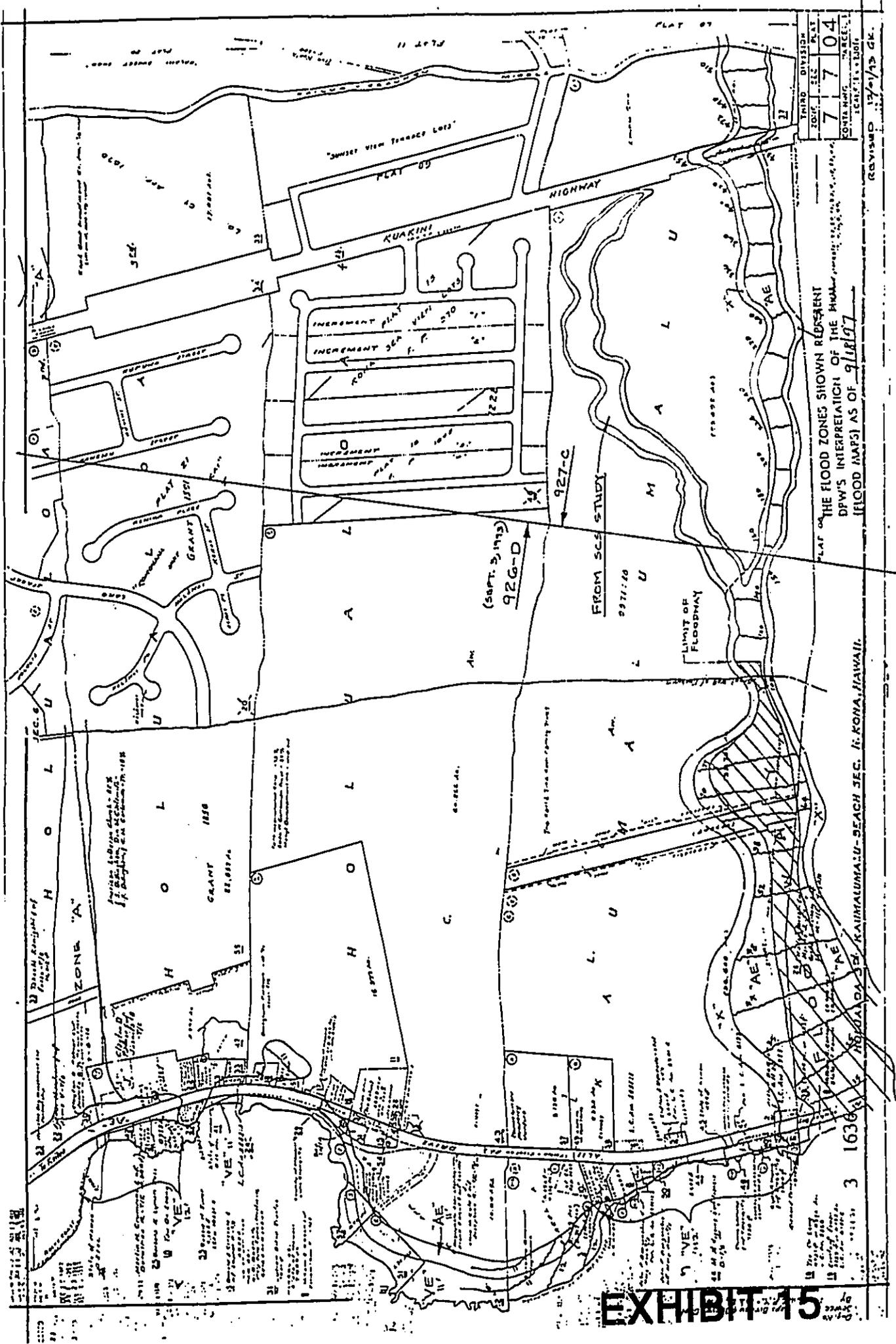
Sincerely yours



Paul H. Rosendahl, Ph.D.
President and Principal
Archaeologist

Attachments: (a) PHRI letter of April 28, 1998
(b) SHPD letter of May 7, 1998

cc (w/o attachments): J. Gomes - Nohona Partners
S. Lim, Esq. - Carlsmith, Ball et al.
R. Cordy - SHPD

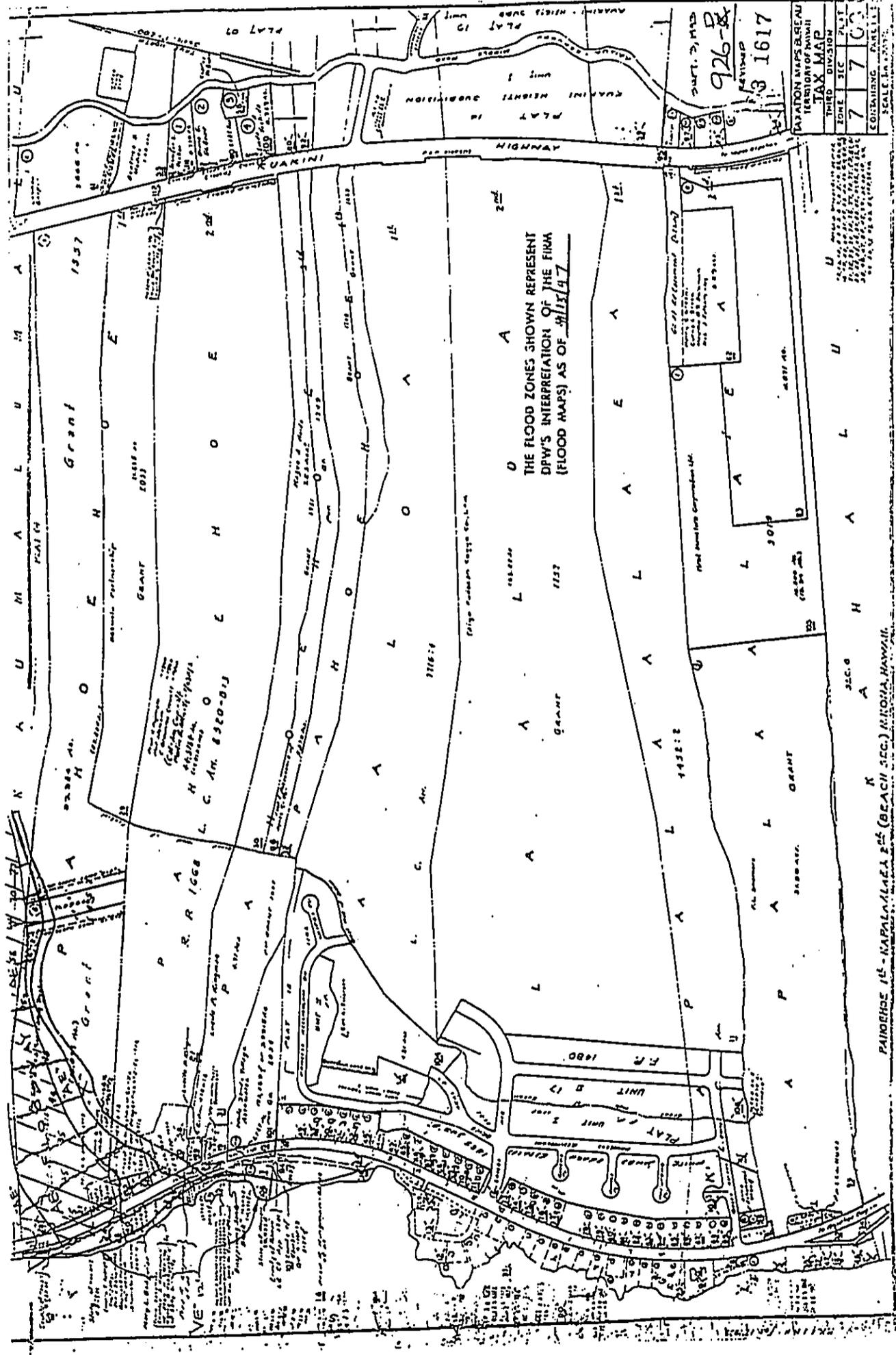


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PLAT OF THE FLOOD ZONES SHOWN REPRESENT DPW'S INTERPRETATION OF THE FLOOD ZONES (FLOOD MAPS) AS OF 9/18/77

3 1636 KAIMALUMA-U-SEACH SEC. II, KONA, HAWAII.

EXHIBIT 15



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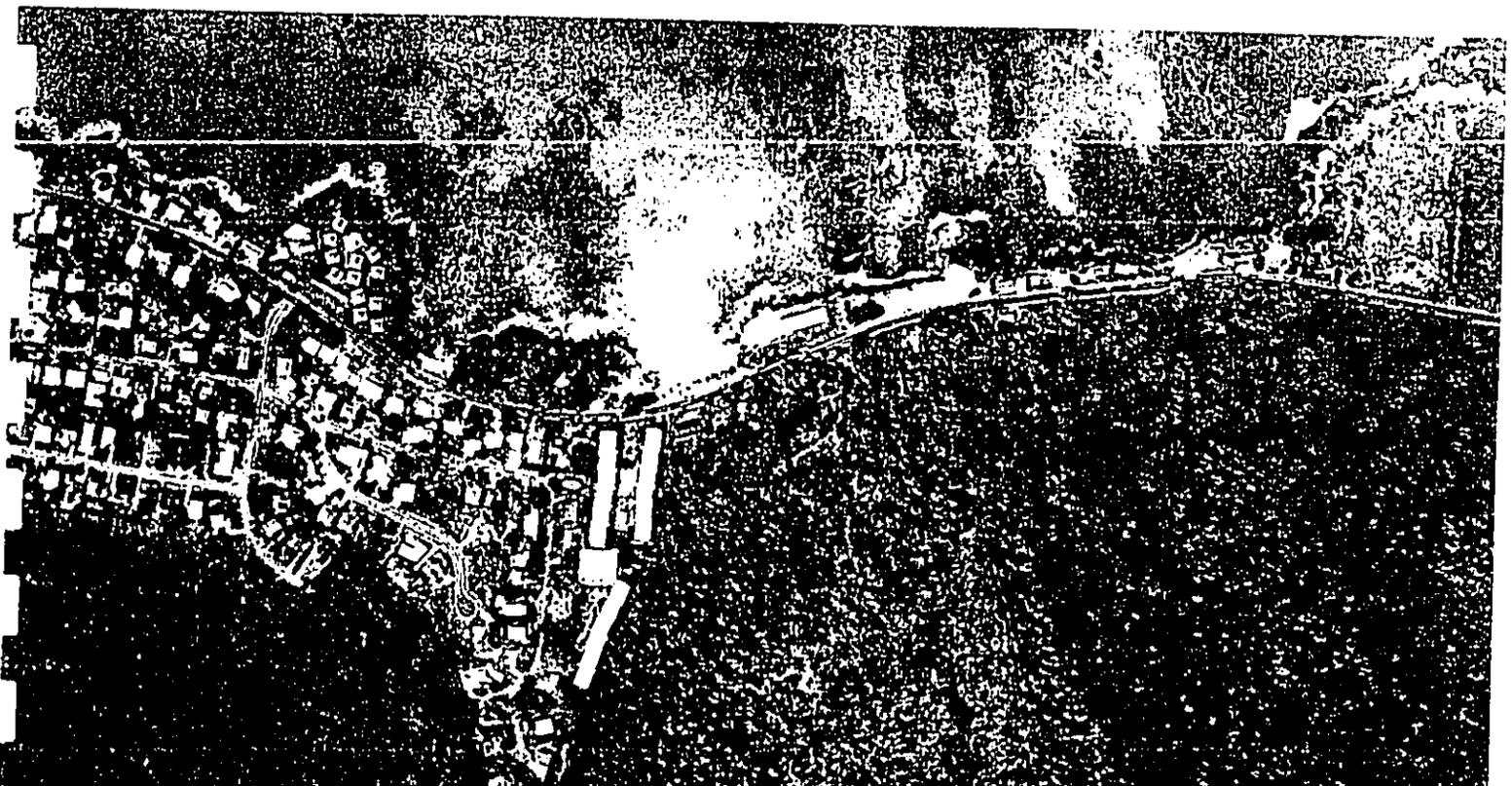
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DOCUMENT CAPTURED AS RECEIVED



EXHIBIT 16



DOCUMENT CAPTURED AS RECEIVED



JUDD TRAIL
VIEW FROM MAUKA TO MAKAI,
NOTE: CURBSTONES INSIDE CATTLE WALLS



JUDD TRAIL
VIEW FROM MAUKA TO MAKAI
IN AREA OF PRESERVATION

DOCUMENT CAPTURED AS RECEIVED



JUDD TRAIL
VIEW FROM MAUKA TO MAKAI,
NOTE: CURBSTONES INSIDE CATTLE WALLS



JUDD TRAIL
VIEW FROM MAKAI TO MAUKA
AT TRAILHEAD ALONG ALII DRIVE



MAUKA TO MAKAI VIEW
OF KUAKINI WALL NEAR
CATTLE CORRAL



SOUTH TO NORTH VIEW
OF KUAKINI WALL
IN DISREPAIR



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

25 AUPUNI STREET • HILO, HAWAII 96720
TELEPHONE (808) 961-8660 • FAX (808) 961-8557

March 16, 1998

TO: Planning Department

FROM: Milton D. Pavao, Manager

SUBJECT: SUBDIVISION APPLICATION NO. 98-006
APPLICANT - MATSUZATO HAWAII, INC. (NOHONA PARTNERS, INC.)
"HO'OMALU ON ALII"
TAX MAP KEY 7-7-004:002, 004, AND 006 AND 7-7-008:027

This memorandum is a follow-up to our January 13, 1998 memorandum.

For your information, the applicant has agreed to revise the 50-foot-wide roadway easement, adjacent to Lots 3, 9, and 10, to a roadway lot on the final plat map.

Further, we have no objections to the deferral of the water service installation to Lot 11 subject to payment of the facilities charge and capital assessment fee.

Water for the proposed subdivision can be made available from an existing 8-inch waterline along Alii Drive, a 12-inch waterline along Kuakini Highway, and at the end of a 6-inch waterline along Sea View Circle.

Pursuant to the Department's "Water Commitment Guidelines Policy," a copy of which is being forwarded to the applicant, a water commitment may be issued. Based on the five (5) additional lots requested in the proposed eleven (11)-lot subdivision development, the required water commitment deposit is \$750.00.

Remittance by the applicant of the \$750.00 is requested as soon as possible so 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 depending on the water situation.

... *Water brings progress.* **EXHIBIT 17**

Planning Department
Page 2
March 18, 1998

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

1. Water mains capable of delivering water at adequate pressure and volume under peak-flow conditions: minimum diameter of mains shall be 4 inches.
2. Service laterals that will accommodate a 5/8-inch meter to each lot, except Lot 11.

Submit construction plans and design calculations prepared by a professional engineer, registered in the State of Hawaii, for review and approval.
3. Remit the prevailing facilities charge and capital assessment fee, which are subject to change, of \$20,253.00 and \$2,500.00, respectively. These are due and payable upon completion of the construction of the water system improvements and prior to final subdivision approval being granted.
4. Convey the water system improvements along with the necessary easements to the Water Commission, County of Hawaii.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8660.



Milton D. Pavao, P.E.
Manager

WA:gms

Att.

copy - (w/att.) Matsuzato Hawaii, Inc. (Nohona partners, Inc.)
(w/o att.) Steven S.C. Lim, Esq. ✓
Hilo Engineering, Inc.



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPIOLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813-5249
PHONE (808) 594-1888
FAX (808) 594-1865

March 02, 1998

Mr. Steven S. S.C. Li
Carlsmith Ball Wichman Case & Ichiki
121 Waianuenue Ave.
Hilo, HI 96720

Doc. No. EIS-149

Subject: Draft environmental assessment (DEA) for the request of easements, and rights of entry for construction and maintenance, over, under and across the Judd Trail, for roadway, utility and driveway access to lands within the proposed "Ho'omalua on Alii" subdivision, Kaunakakai and Pahoahehe 1st, North Kona, Island of Hawaii

Dear Mr. Li:

Thank you for the opportunity to review the draft environmental assessment (DEA) for the request of easements, and rights of entry for construction and maintenance, over, under and across the Judd Trail, for roadway, utility and driveway access to lands within the proposed "Ho'omalua on Alii" subdivision, Kaunakakai and Pahoahehe 1st, North Kona, Island of Hawaii.

Given the high density of cultural resources occurring along the remnants of Judd Trail, the Office of Hawaiian Affairs (OHA) urges the developer to provide with specific attention strategies for the protection of archaeological resources in the area. The developer has outlined some measures in pages 11 and 23 of the DEA. But OHA feels that a comprehensive archaeological monitoring is warranted given the cultural sensitivity of the area.

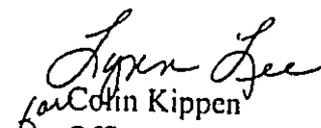
EXHIBIT 18

Letter to Mr. Steven S.C. Li
March 02, 1998
Page 2

Please contact Colin Kippen (594-1938), LNR Officer, or Luis Manrique (594-1758), should you have any questions on this matter.

Sincerely yours,


Randall Ogata
Administrator


for Colin Kippen
Officer,
Land and Natural
Resources Division

cc: Board of Trustees
CAC, Island of Hawaii

187-C Hokulani Street
Hilo HI 96720

April 2, 1998

Charlene Unoki
Land Division
DLNR
P.O. Box 936
Hilo HI 96721

Subject: Nohona Partners Easement over Judd Trail, Draft EA

Dear Charlene,

I wish to submit comments on the environmental assessment identified above.

Page 2: Judd Trail ownership. The statement that the Judd Trail "traverses a portion of owner's property" is misleading, I believe. The Judd Trail is owned in fee by the state of Hawai'i, as per an opinion issued in 1990 by the state Attorney General. It is more correct to state that the Judd Trail "bisects" the privately owned property, to avoid any suggestion that the land lying under the Judd Trail alignment is *not* owned by the state.

Page 2: SMA permit status. The draft EA refers to a Special Management Area Use Permit "Assessment" Application. I do not know what an "assessment" application is. The draft EA states that this "Assessment" application is being "concurrently processed for approval by the Hawaii County Planning Department." In fact, I believe that this permit has been granted. The final environmental assessment should reflect this and mention conditions, if any, that have been attached to that permit.

Page 3: Project location. Several of the maps provided in the draft EA are illegible and not helpful in giving the reader an understanding of the configuration of the lands at issue. TMK maps depicting 7-7-04:2 and 7-7-08:27 contain small arrows pointing only to the parcel number. It would be far more useful if there were some cross-hatching of the parcels themselves, suggesting the area subject to the Parcel Consolidation and Resubdivision (PCR) that is discussed in the narrative on page 3.

The map labeled Exhibit 3 is also extremely confusing. In the narrative on page 3, it is suggested that this map shows "consolidation/resubdivision into lots 1 and 2." I don't understand this. The PCR referred to earlier (approved on Dec. 18, 1997) was for a consolidation and resubdivision of a total of 6 lots. I do not believe there was a separate PCR for lots 1 and 2. Exhibit 3 also shows a total of 6 lots, including the future Ali'i Drive alignment.

If what is being said here is that the land that is subject to this draft EA consists of lots 1 and 2 resulting from the Dec. 18, 1997, PCR approval, this should be stated clearly. Exhibit 3 could reflect this, again by placement of cross-hatches or shading over the affected area. As it stands, the maps are confusing, illegible, and bear little relation to the facts that they are to illustrate, as described in the narrative.

Using Exhibit 4 as a description of the project that is the subject of this EA, I am further confused as to exactly what the applicant is seeking. This map shows only one lot -- Lot 1 of the proposed subdivision -- that is landlocked without some access across the Judd Trail (via a flagpole extension). The adjoining Lot 2, fronting the future Ali'i Drive extension, presumably would not need to use its "flagpole" across the

EXHIBIT 19

Judd Trail if that road is built. The other lots shown also have direct access onto existing roads, and thus presumably would not need to employ the Judd Trail for an easement.

Page 4: Existing use. The statement is made that, "The property is included among approximately 955.78 acres of land... submitted by the Planning Department for reclassification to the Urban District..." It should be made clear in the final environmental assessment that the Judd Trail is not part of the land included in the county of Hawai'i petition to the LUC. The county has itself made this clear in testimony to the LUC, and at no time has the state of Hawai'i given permission to include the land under the Judd Trail in the county's petition. Instead, it is only the surrounding, privately owned property that is included in the LUC petition.

At the bottom of page 4 of the narrative, the statement is made that the Judd Trail alignment traverses property designated for "orchards" and "extensive agriculture" on the county's general plan land use pattern allocation guide (LUPAG) map. However, in the area covered by this EA, there is no "orchard" designation, but rather only "extensive agriculture."

Page 5: Surrounding uses. The statement that the Judd Trail "traverses property located within the populous Kailua-to-Keauhou area" is somewhat misleading. As a glance at the aerial photographs included in the draft EA show, the immediate area is undeveloped. There is no existing infrastructure, other than as described in the document.

Page 5: Proposed action. This is most problematic. There is no limit proposed to be placed upon the applicant in his use of the Judd Trail, except in those areas "required to be preserved in place by DLNR-SHPD." In effect, then, what the applicant is seeking is far vaster than the easements depicted in Exhibit 4. A map provided separately to the state Na Ala Hele program (and attached to this letter) depicts a possible development scenario with as many as 30 lots, at least 13 of which would have portions of the Judd Trail incorporated as their front yards or driveways. If the county's LUC petition for reclassification of this land as Urban is approved, the potential for development could be greater than even this.

This potential is not clearly spelled out in the draft EA. The statement is made that the applicant anticipates "approximately 12 roadway, utility, and driveway access points over the Judd Trail." However, without knowing where these are, I do not see how it is possible for the state to approve such a request. Moreover, if the pending LUC petition is approved, there is no guarantee that the developer will not seek more intensive development on this parcel. After all, if that petition is approved, the applicant will have more than 100 acres in the Urban zone; subdividing it into lots smaller than the 3-5 acre lots he has drawn in his proposed configuration (as attached) may be too tempting a prospect to reject. At that point, should the state approve this EA, I do not see how it could keep the developer from putting easements over the Judd Trail as he saw fit.

The draft EA states that the applicant "would agree to particularly describe the requested easement for each lot upon full development of the proposed subdivision." I do not see how this could be done while complying with Chapter 343, unless the public would again have the same chance to comment on the easement "for each lot" that it now has through the Chapter 343 process. Somehow, I do not anticipate that the developer would agree to go through the Chapter 343 process again at that future date, should he succeed in winning approval of this "conceptual" proposal.

In conclusion, what the applicant seeks is so vague that I do not know how it is possible at this point to be considered a project under the ambit of Chapter 343.

Should the developer wish to restrict his request for an easement merely to that portion of the Judd Trail affected by his proposed subdivision pending before the county of Hawai'i at this time (as shown in Exhibit 4), or even for the proposal outlined in the attached map, then that might make it qualify as a well-defined project. In that case, I would still have the concerns outlined earlier, relating to the very need

for use of the Judd Trail as an easement, in light of other accesses to most of the lots. However, I do think it is inappropriate for the state to be asked now to give a blanket approval to the developer for any and all easements he may claim to need in the future.

Page 7: Applicant's objectives. In this paragraph, reference is made to a "determination letter" from the state Na Ala Hele program. Inasmuch as Na Ala Hele is not the approving agency, I do not know how its letter can be characterized as a "determination" letter -- that term appearing to refer to a determination of no significant impact.

In addition, there is the statement that the "requested easements will be situated within a proposed agricultural lot subdivision." That is true of the lots that would be created in the application now pending before the county Planning Department, and also of the "maximum build-out" scenario described on page 8 (anticipating as many as 30 ag lots). However, elsewhere the applicant has stated that the vast bulk of land that will not be developed in his pending subdivision application (i.e., Lot 11, which is a lot of 101.388 acres) will be developed more intensively when the county petition is approved:

The remainder lot of approximately 101.386 acres is proposed to remain a bulk lot subject to future development or disposition once the final alignment of the Future Ali'i Drive Realignment project is determined, and when the outcome of the County of Hawai'i's urbanization petition in State Land Use Commission Docket No. A94-705 for lands in North and South Kona is known.
(Source: "Environmental Report" accompanying Special Management Area Use Permit Assessment Application on file with the County of Hawai'i for the proposed "Ho'omalua on Ali'i" subdivision; page 4).

In light of this statement, I believe it is disingenuous for the applicant to lead the state to believe that the full "build-out" scenario is limited to agricultural lots.

Page 11: Archaeological/Historic Sites. The applicant has recently completed a preliminary archaeological inventory on the subject site. I believe it would be appropriate to append this survey to the environmental assessment, as it gives a much fuller description of the historic value of this area.

Thank you for your consideration of my comments.

Yours truly,

Patricia Tummons

Enclosure

cc: Gary Gill, OEQC
Christopher Yuen, BLNR member
Gil Coloma-Agaran, Deputy Director, DLNR
✓ Steve Lim for Nohona Partners
Russell Kokubun, County of Hawai'i Planning Department



LIFE OF THE LAND

April 4, 1998

Ms. Charlene Unoki
DLNR Land Division
P.O. Box 936
Hilo, HI 96721

Dear Ms. Unoki;

Life of the Land would like to offer comments on a draft environmental assessment (EA) appearing in the current OEQC bulletin. The applicant, Nohona Partners, is requesting easements across the historic Judd trail, located in North Kona. We have received a copy of the draft EA and will make reference to it in these comments.

In a nutshell, we find the EA to be incomplete in that it does not describe the full action (the project) of which the easement request is a part. Consequently it fails to assess the environmental impacts which may result from the project. HRS 343 and the implementing rules set forth by the Department of Health (Chapter 200) make it clear that the full action must be assessed. We quote the DOH rules:

11-200-7 Multiple or phased applicant or agency actions. A group of actions proposed by an agency or an applicant shall be treated as a single action when:

- (1) The component actions are phases, or increments of a larger total undertaking;
- (2) An individual project is a necessary precedent for a larger project;

The applicant references the larger project, calling it the proposed "Ho'omalulu on Alii" subdivision. But the assessment maintains a vagueness about the specifics of the subdivision, never describing it in any detail nor assessing its expected impacts. This is odd in light of the fact that the applicant presented a map describing a "potential full development scenario" with its submission to the Na Ala Hele Advisory Council. (See enclosed.) And the applicant has also submitted an SMA permit application to the County of Hawaii.

1111 Bishop Street, suite 503 Honolulu, HI 96813

EXHIBIT 20

Life of the Land, page 2

Our sense is that the applicant does not have a clear project plan. Perhaps the easement application before the BLNR is an attempt to add value to the property, which would then be marketed to a potential developer. It appears that the applicant is also attempting to downplay the potential density of the project, thereby creating a feeling that the environmental impacts would be of less magnitude. The applicant describes the parcel as lying within the State Land Use Agricultural District, and within the County General Plan Land Use area designated for "Orchards" and "Extensive Agriculture". However our understanding is that the parcel actually lies within the "Urban Expansion" area of the County General Plan. A larger area encompassing this parcel is before the state Land Use Commission for redesignation as Urban. The motive given by the County of Hawaii for its application to the Land Use Commission is one of bringing the statewide designation into conformity with the county General Plan. And the County of Hawaii has estimated a four to ten unit per acre density for the lands within its LUC petition.

The draft assessment is also missing an archeological study of the area which will become the "Ho'omalau on Alii" subdivision. Our belief is that the subject area may be rich in archaeological resources. Has a study been undertaken?

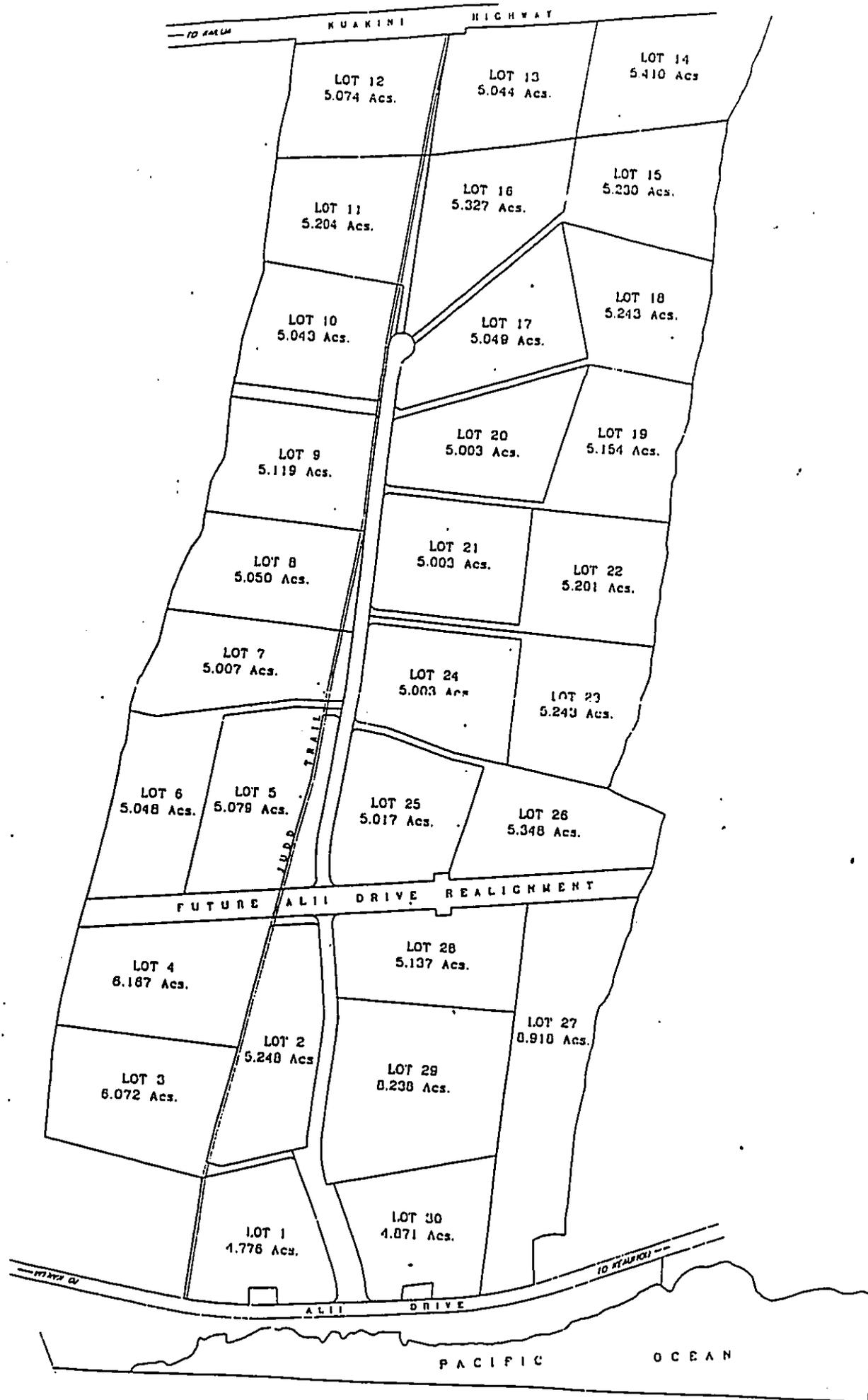
Finally, if one were to assume that a subdivision is an appropriate use for the property, then what are the alternatives to the requested 12 vehicular easements? Could the developer not build two separate mauka-makai subdivision roads, which could be connected by one or two easements across the Judd trail? The lack of any meaningful assessment or description of the larger project has precluded a serious discussion of alternatives.

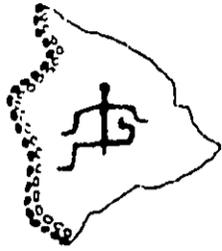
We believe the subject draft EA is misleading and incomplete and not in conformity with HRS Chapter 343 and the applicable DOH rules.

Bill Graham

Bill Graham (884-5557)
LOL director, Big Island
P.O. Box 155
Hawi, HI 96719

cc: Gary Gill, DEAC
Chris Yuen, BLNR
Hannah Springer, OHA
Steven Lim, CBWC + I





**E MAU
NA ALA HELE**
P.O. BOX 6384
KAMUELA, HAWAII 96743

April 6, 1998

Ms. Charlene Unoki
Department of Land & Natural Resources
Land Management Division
P.O. Box 936
Hilo, HI 96721

Dear Ms. Unoki:

**SUBJECT: Draft Environmental Assessment for Nohona
Partners Easements Over Judd Trail**

Our nonprofit organization has been advocating the preservation of historic Hawaiian trails since our inception in 1979. The Judd Trail is a significant historic trail that is owned in fee by the State of Hawai'i. The State's ownership of the trail was formally declared by the State Attorney General in 1990. We have been closely monitoring the treatment of this approximately 16-mile long trail, and want to express our firm opposition to approval by the State of "perpetual, non-exclusive easements for roadway, utility and driveway purposes over, under and across portions of the Judd Trail and a construction right of way for the maintenance of said easements, roadways and buffer areas" as set forth in the draft EA and request by Nohona Partners, Inc.

We find the draft EA unsatisfactory and oppose this request for the following reasons:

1. The proposed actions are vague and poorly defined. The maps which accompany the draft EA are barely legible. Page 5 refers to "appropriate 'no-build' buffers" but does not specify how wide those buffers would be. The width of the Judd Trail is not limited to 10-feet wide, as claimed on p. 5. The varying width of the Judd Trail which can be close to 20 feet and more in a few places should require a significantly wider set-aside of trail plus buffer area than described in the draft EA. It is essential that a metes and bounds land survey be done by the applicant to determine the exact location and width of the trail, as well as to determine the corresponding widths of the buffers. Who will determine what is "appropriate" for buffer widths?

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2. The number of intended breaches of the trail for utility, driveway, and road access is described in the draft EA as approximately twelve, 20-foot wide breaches. We consider 12 breaches to be excessive and disruptive of the anticipated public use of the trail. Approval of the present request would amount to a liberal grant to the applicant to breach the trail as many times as the applicant wishes.

The applicant is also awaiting urban reclassification approval through Hawai'i County's petition to the Land Use Commission, Docket # 94-705. Should that reclassification be approved, the applicant will have the opportunity to increase the build-out density of the subject property to as many as 600 or more units. This would greatly increase the traffic on the proposed easements crossing the trail. The State might not be able to intervene re: breaches later if the present EA and request are approved, based on the pre-urban reclassification plan.

The State cannot responsibly review proposed alterations to the historic trail by a private developer without knowing the extent of traffic, and how many and exactly where along the historic alignment, these interruptions are to take place. The draft EA states that the applicant "would agree to particularly describe the requested easement for each lot upon full development of the proposed subdivision." Shouldn't the draft EA contain all of that information? Instead it appears that the applicant is offering to provide that information after-the-fact as a courtesy to the landowner of the trail.

3. It is unacceptable to commit to preserving only the "intact portions" of the historic alignment (p.5) and to request state approval to alter other portions of the trail that are no longer intact. It is our position that the entire trail corridor must be "preserved in place;" and not only the presently intact portions. The EA should address the alternative of preserving the entire trail corridor "in place." A notable characteristic of the historic alignment is its straight-line construction which greatly eases the task of determining its location in the areas where its physical remains are no longer visible. We maintain that the trail should be restored and again be available for foot and possibly horseback travel, as it was used historically. The Judd Trail represents a valuable, public amenity that is already in public ownership in a prime real estate area. This is a rare opportunity for the State to provide a recreational greenway at little cost to the taxpayers.

Nohona Partners EA - Judd Trail

4. The applicant fails to recognize the full extent of State ownership and interest in the trail. This is illustrated on p. 2 when the applicant states that the trail "traverses a portion of Owner's property." The property beneath the Judd Trail is publicly owned. The draft EA makes no provision for the continuous right of the public to freely access the trail.

5. A correction to another statement made in the draft EA is in order, to avoid a misleading impression. Please note that the affected land is already designated for low and medium urban density, and urban expansion, on the County General Plan LUPAG maps, and not for "extensive agriculture" as the draft EA indicates. This means that should the LUC approve Hawai'i County's reclassification petition, a General Plan amendment will not be necessary for the subject property and the right to urbanize will be assured. We understand that the applicant has recently completed an archaeological inventory of the subject property. It would be helpful to make that information available as part of the Chapter 343 review process. We've also enclosed a copy of the map that was given by the applicant to the Na Ala Hele Citizens Advisory Council a few months ago. It more clearly depicts the breaches of the Judd Trail that are being considered should the 5-acre lot agricultural subdivision be implemented.

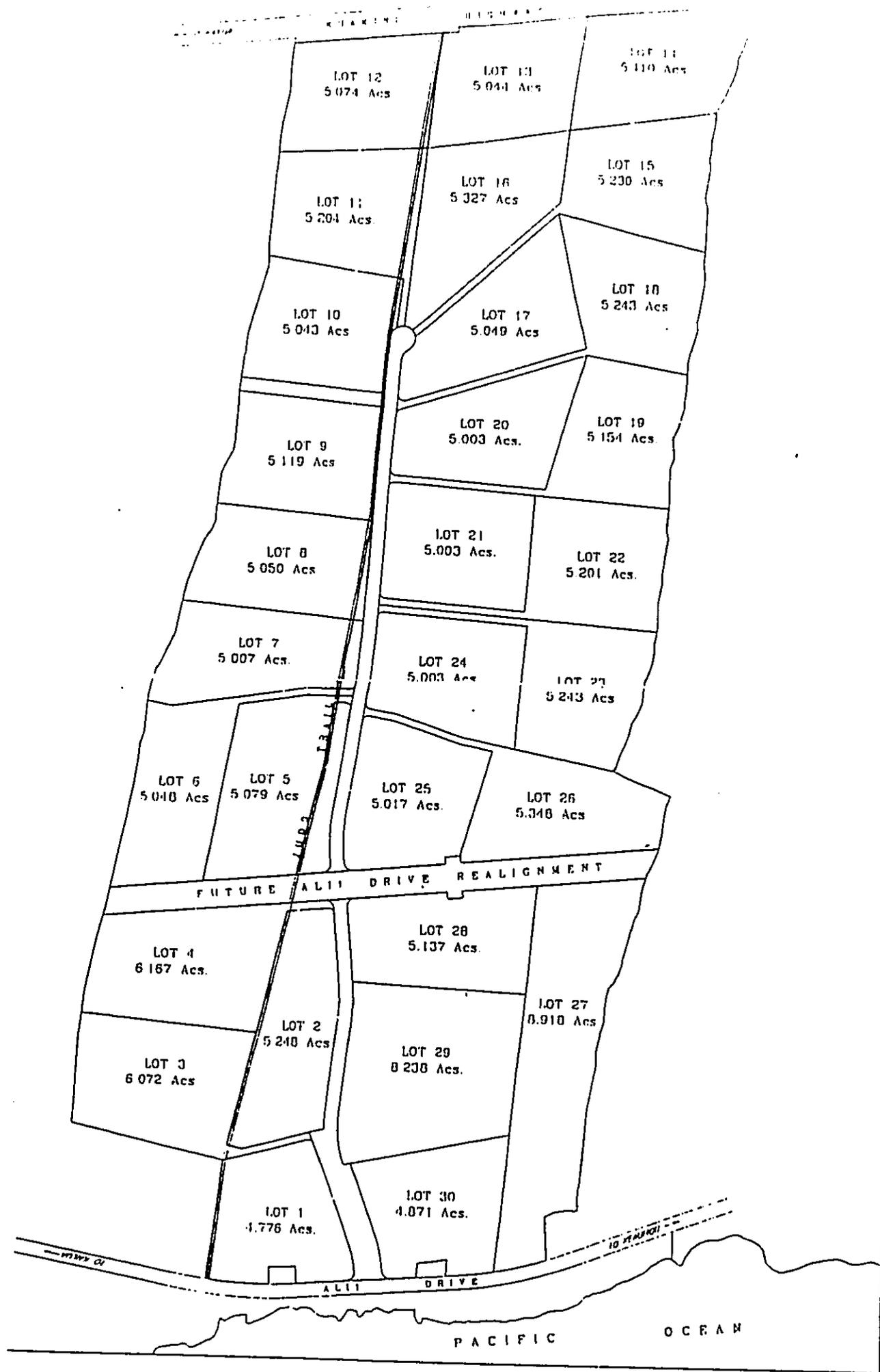
Mahalo for your time and consideration.

Sincerely,



Hugh Montgomery, Ph.D.
President

cc: Ross Cordy, SHPD
Gary Gill, OEQC
Nohona Partners, Inc.
Rodney Oshiro, Na Ala Hele
Christopher Yuen, BLNR



BENJAMIN J. CAYETANO
GOVERNOR



GARY GILL
DIRECTOR

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

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April 7, 1998

Steven S. C. Lim, Esq.
Attorney for Nohona Partners, Inc.
c/o Carlsmith Ball Wichman Case & Ichiki
P.O. Box 686
Hilo, Hawai'i 96721

Dear Mr. Lim:

Having reviewed the draft environmental assessment for "Request for Easements and Rights of Entry for Construction and Maintenance, Over, Under and Across the Judd Trail, for Roadway, Utility and Driveway Access to Lands Within the Proposed "Ho'omalua on Ali'i" Subdivision", Tax Map Key (3) 7-7-04:02 and 7-7-08:27, we submit the following comments for your response.

1. **SCOPE OF THE ENVIRONMENTAL ASSESSMENT:** When a proposed project triggers the requirement for environmental assessment under Chapter 343, HRS, the administrative rules (see HAR §11-200-7) provides that "[a] group of actions proposed by an agency or applicant shall be treated as a single action when: (1) [t]he component actions are phases or increments of a larger total undertaking; [or] (2) [a]n individual project is a necessary precedent for a larger project." In the draft EA, the overall action proposed by Nohona Partners is the development of 5-acre agricultural lots. The proposed easements over, under, and across the Judd Trail is part of the overall action and is a "necessary precedent" for the development. The easements have no independent utility. The easements would not be granted, except as part of the overall action. Isolating only that particular component of the development for environmental assessment would be segmentation of the project. For further information on this issue, please see *Kahana Sunset Owners Association v. County of Maui*, 1997 WL 697926 (Hawai'i). Please revise the environmental assessment to discuss not just the easement, but the direct, indirect and cumulative effects of the proposed development.
2. **INDIRECT AND CUMULATIVE EFFECTS:** Please discuss whether the requested easements and the proposed development will induce indirect and cumulative effects (e.g., increases in population with subsequent increases in air pollution and cumulative effects on groundwater and nearshore water quality, need for improved roadways, sewer and waterlines, need for additional police, fire, school and library services, etc.)
3. **FUTURE ALI'I DRIVE REALIGNMENT AND BREACH OF THE JUDD TRAIL:** Please consult with the County Department of Public Works (or State Department of Transportation, as appropriate) and the State Historic Preservation Division. Please discuss direct, indirect and cumulative impacts of the future Ali'i Drive realignment on the proposed subdivision and the Judd Trail.

EXHIBIT 22

Steven S. C. Lim, Esq.
Attorney for Nohona Partners, Inc.
April 7, 1998
Page 2 of 2

4. **GREAT WALL OF KUAKINI:** Please describe the Great Wall of Kuakini and indicate whether it is on, or is eligible for nomination to, the National or State Registers of Historic Places. Please discuss the direct, indirect and cumulative impacts of the overall action on the Great Wall of Kuakini.
5. **SIGNIFICANCE CRITERIA:** Please discuss the thirteen significance criteria (see August 31, 1996 compilation of HAR §11-200-12) as they relate to the overall action. A sample discussion from another environmental assessment is enclosed for your information.
6. **RENDERING OF THE OVERALL DEVELOPMENT IN RELATION TO THE TRAIL:** Please show what the trail would look like after development is complete. In the rendering, indicate which areas will be preserved, and where road and utility access points will be.

Please submit copies of all comment letters and your responses to the Division of Land Management, Department of Land and Natural Resources, for their notice of determination for this project. If there are any questions, please call Leslie Segundo of my staff at 586-4185.

Sincerely,



GARY GILL
Director of Environmental Quality Control

c: Charlene Unoki, DNLR Hilo Land Division

CARLSMITH BALL WICHMAN CASE & ICHIKI

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May 31, 1998

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Re: "Ho'omalulu on Alii" Subdivision - Final Environmental Assessment
Applicant: Nohona Partners, Inc., a Hawaii corporation
Request: Approval of Roadway, Utility and Driveway Access Easements, and Rights of Entry for
Construction and Maintenance over, under and across the Judd Trail, and Review of Treatment
Proposals for the Judd Trail and the Great Wall of Kuakini
Tax Map Keys: (3) 7-7-04:02 and 7-7-08:27, Kaunalumalu and Pahoehoe 1st, North Kona, Hawaii

EXHIBIT 23

May 31, 1998
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Dear Interested Parties:

Enclosed please find a copy of the Final Environmental Assessment (EA) being submitted for review to the State Department of Land and Natural Resources (DLNR) in the above-referenced matter. The EA includes among its exhibits copies of comment letters received from you, and incorporates your recommendations for clarification of the proposed project, the DLNR approvals being requested, and the mitigation/preservation plans being proposed by the Applicant for treatment of those portions of the Judd Trail and Great Wall of Kuakini which bisect the project site.

Thank you for the opportunity to respond to your comments and address your concerns.

Very truly yours,

CARLSMITH BALL WICHMAN
CASE & ICHIKI


STEVEN S.C. LIM

SSL:JEC
Enclosure
xc w/enclosure: Nohona Partners, Inc.
PHRI, Inc.

2004722.1.050834-1