

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



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

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT
WATER RESOURCE MANAGEMENT

Ref.:PB:SL

MAR 20 1997

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OFFICE OF ENVIRONMENTAL
QUALITY CONTROL
File.:KA-2843

MEMORANDUM

To: Gary Gill, Director
Office of Environmental Quality Control

From: Dean Y. Uchida, Administrator *Uchida*
Land Division, Department of Land and Natural Resources

Subject: Final Environmental Assessment for a Single Family
Residence at Niualu, Kauai (TMK:3-2-01:01)

The Department of Land and Natural Resources has reviewed the applicant's response to agency/public comments received during the review period which began on November 23, 1996. The Department has determined that the applicant has met the minimum content requirements for a Final Environmental Assessment for this project, and hereby issues a Finding of No Significant Impact (FONSI) to the environment. [Note: Acceptance of a Final Environmental Assessment does not constitute the Department's endorsement of a project.] Please publish notice of availability for this project in the OEQC Bulletin as soon as possible.

There remain some outstanding issues that the applicant will address if the application is approved, including necessary archaeological work, sediment and erosion control plans and further mitigation of potential viewplane impacts.

We have enclosed a completed OEQC Bulletin Publication Form (on disk) and four copies of the Final EA. Please contact Sam Lemmo of our Land Divisions's Planning and Technical Services Branch, at 587-0367, should you have any questions.

Attachments

cc: Kauai Board Member
Walton D. Y. Hong

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1997-04-08 - KA-PEA - Niimalu
Single Family Residence

APR 8 1997

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DIVISION OF
LAND MANAGEMENT

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FINAL

ENVIRONMENTAL IMPACT ASSESSMENT

FOR

SINGLE-FAMILY RESIDENCE

AT

NIUMALU, ISLAND OF KAUAI, STATE OF HAWAII

TAX MAP KEY: 3-2-01-01 (4th)

ENVIRONMENTAL IMPACT ASSESSMENT
FOR
SINGLE-FAMILY RESIDENCE
AT
NIUMALU, ISLAND OF KAUAI, STATE OF HAWAII
TAX MAP KEY: 3-2-01-01 (4th)

ENVIRONMENTAL IMPACT ASSESSMENT

FOR

SINGLE-FAMILY RESIDENCE

AT

NIUMALU, ISLAND OF KAUAI, STATE OF HAWAII

TAX MAP KEY: 3-2-01-01 (4th)

The following is the final environmental impact assessment for a proposed single family residence, and attendant garage and storage shed within the "Resource (R)" subzone, at Niumalu, Island and County of Kauai, State of Hawaii, on real property more particularly identified as Kauai Tax Map Key: 3-2-001-001, pursuant to §13-5-23, L-6, which identifies:

"A single family residence that conforms to design standards as outlined in this chapter."

As the area of the proposed residence and attendant structures is heavily overgrown, the Applicant also proposes to remove vegetation in the area of approximately 12,500 square feet, which would be replanted by lawn or appropriate landscaping.

(1) Identification of Applicant:

Okada Trucking Company, Ltd.
c/o Walton D. Y. Hong
3135-A Akahi Street
Lihue, HI 96766
Tel. 245-4757

(2) Identification of Approving Agency:

Department of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, HI 96809

(3) Identification of agencies consulted:

Department of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, HI 96809

Planning Department
County of Kauai
4280 Rice Street
Lihue, HI 96766

Department of the Army
U.S. Army Engineer District, Honolulu
Ft. Shafter, Hawaii 96858-5440

Department of Health
Environmental Health Services
3040 Umi Street
Lihue, HI 96766

Kauai Historic Preservation Review Commission
County of Kauai Planning Department
4444 Rice Street, Suite 473
Lihue, HI 96766

(4) General description of action's characteristics:

(a) Technical: The subject property is situated at Niimalu, Island and County of Kauai, State of Hawaii, and is more particularly identified as Kauai Tax Map Key: 3-2-01-01. The property contains an area of approximately 55.408 acres, more or less. The Alekoko Fish Pond, more commonly known as the Menehune Fish Pond is located within the subject property. A map of the island of Kauai is attached hereto as Exhibit "A", showing the location of the project site in relation to the island. A copy of the tax map, showing the location of the subject property is attached hereto as Exhibit "B". The approximate location of the proposed dwelling is marked on Exhibit "B".

The subject property is within the State Land Use "Conservation" district. The boundary line of the "Conservation" district is the makai or southern boundary of Hulemalu Road, as shown on the copy of the Land Use Commission's district boundary map for the applicable area, attached hereto as Exhibit "C" and made a part hereof.

While the majority of the subject property (including that portion in which the Alekoko Fish Pond is situated) is within the "Resource (R)" subzone, the area furthest downstream is within the "Limited (L)" subzone. A copy of a portion of the Department of Land and Natural Resources subzone map number "K-11, Lihue", indicating the boundaries of the subzones, is attached hereto as Exhibit "D".

The Applicant proposes to construct a single family dwelling on the eastern portion of the subject property, just inside of the "Resource (R)" subzone. The original application also indicated an attendant garage and storage shed. However, these have been incorporated into the residence structure

itself, and will not be free standing. The structure will be approximately 3,000 square feet of living area, and will be nestled on the higher ground against the pali backdrop of Hulemalu Road. A site plan, showing the location of the proposed building site is attached hereto as Exhibit "E".

Attached hereto as Exhibit "F" is a more detailed site plan, indicating the proposed structure in greater detail. The site plan also indicates the size and location of the driveway extension to the proposed residence. The driveway will be gravel, thereby minimizing the impervious surfaces resulting from the proposed use. The calculated amount of impervious surfaces resulting from the proposed use is approximately 4,050 square feet.

Also submitted herewith as Exhibit "G" and made a part hereof, are preliminary elevation drawings of the proposed structure, with the second drawing showing the line of sight from the Menehune Fishpond lookout. A preliminary floor plan for the proposed residence is attached hereto as Exhibit "H".

As noted above, single family residences are identified uses within the "Resource (R)" subzone, provided they conform to the design standards set forth in Chapter 13-5 of the Hawaii Administrative Rules. The proposed structure will be in conformity with the said chapter.

The Applicant also proposes to clear an area of approximately 12,500 square feet in the vicinity of the proposed residence to allow for a lawn/landscaped area around the residence. The area to be landscaped is also shown on the site plan (Exhibit "F"). A preliminary landscaping plan is attached hereto as Exhibit "I", which shows that landscaping for the proposed use will be minimal, consisting of a lawn, a few coco trees, and ground cover.

The proposed building site is partially within Special Flood Hazard area inundated by 100-year flood (Zone "VE"). Attached hereto as Exhibit "J", and made a part hereof, is a copy of a portion of the Federal Insurance Rate Maps (FIRM), which show the applicable floodplain and coastal high hazard area. The base flood elevation is approximately 9.4 feet above mean sea level. The ground elevation of the proposed building site varies from 6.5 to 14 feet above mean sea level. The Applicant intends to construct the residence such that the lowest portion of the structure's floor remains at least 10 feet

above mean sea level, in conformity with the Federal Flood Insurance requirements.

(b) Economic: As the proposed use is for a single family residence, there would not be any significant benefit or adverse economic effects resulting from the proposed action, except increased real property taxes and the short term employment benefits during the course of construction.

(c) Social: The proposed action should not result in any social effects due to its limited scope.

(d) Environmental: The environmental characteristics of the proposed action are as follows:

(1) Flora and Fauna: The proposed dwelling will be placed approximately 175-200 feet from the Alekoko Fish Pond. Because of this distance, the fauna which may be found in and around the Alekoko Fish Pond will not be disturbed. Fauna around the proposed dwelling site consists of birds and animals generally found on the Island of Kauai, such as mynahs, sparrows, doves, and rodents. The Applicant is not aware of any endangered or threatened species of fauna at the site of the proposed action.

Flora at the proposed dwelling site consists of grasses, java plum trees, and an ironwood tree, none of which are endangered or threatened species. A botanical survey of the site was conducted by Kenneth R. Wood, Research Botanist/Rare Plant Specialist at the National Tropical Botanical Garden, on December 20 and 26, 1996. The survey showed the absence of any rare plant species in the area. A copy of the results of the survey is attached hereto as Exhibit "K" and made a part hereof.

(2) Drainage: The present drainage pattern of the entire 55 acres is into either the Huleia Stream or the Alekoko Fish Pond. The site of the proposed dwelling would naturally drain into the Alekoko Fish Pond. However, the drainage can be directed away from the pond through the implementation of a landscaping swale. A proposed drainage plan is attached hereto as Exhibit "L" and made a part hereof, which shows the extent of the landscaping and the location of a proposed drainage cutoff swale to intercept and direct any surface runoff away from the pond and towards the existing lawn area. The surface runoff will eventually percolate into the ground or run off into Huleia Stream below the Alekoko Fishpond.

(3) Erosion: A topographic map of the area of proposed use is attached hereto as Exhibit "M" and made a part hereof. As can be seen from the topographic map, as well as the site plan (Exhibit "F") and elevation drawings (Exhibit "G"), the area of the proposed structure is on gently sloping land. Because of this relatively flat topography, no erosion problems are anticipated.

(4) Historical and Archaeological: The Applicant acknowledges that the Alekoko or Menehune Fish Pond was declared a Registered National Historic Landmark in 1973. However, the closest corner of the proposed dwelling is approximately 175-200 feet away from nearest edge of the pond. The Applicant does not plan at this time, and is not seeking as part of this application, to do any work on the pond itself. Work on the subject site will only entail the clearing of the area for the proposed dwelling and construction of the approved dwelling and attendant structures. As such, the proposed action should not have any effect on the archaeological or historical significance of the Alekoko Fish Pond.

The Applicant acknowledges that the area of proposed use may have some archaeological remains or significance, and is willing to have an archaeological survey of the building site conducted prior to commencement of construction, if deemed necessary. Further, if any remains are found during the course of construction, the Applicant will cease work until the Historic Sites Section of the Department of Land and Natural Resources is notified and appropriate action taken.

The Applicant notes that the State Historic Preservation Division of the Department of Land and Natural Resources has recommended that an archaeological inventory survey with subsurface testing be conducted prior to the granting of the permit for the proposed use.

The Applicant does not agree with this recommendation, as it would require the immediate incurring of costs and expenses without any assurance that the Applicant would be able to proceed. The Applicant believes that its willingness to accept a condition that such a survey be conducted prior to commencement of construction is a reasonable and equitable solution to insure that archaeological concerns are properly addressed while avoiding unnecessary costs and expense to the Applicant should the permit not be issued.

(5) Management Plans for the Fishpond: It is the Applicant's long range plan to eventually restore the Alekoko Fish Pond and use the same for the raising of fish as well as making the same available as an educational tool for Kauai's students. However, as the Applicant has not yet progressed with his long term plan to the point where application for necessary permits can be made, this application is only for construction of the dwelling as aforesaid. Required permits for the restoration of the pond, clearing of mangrove, and removal of silt from the pond will be submitted at an appropriate later time.

Current management of the fishpond consists of attempting to maintain the wall along the Huleia Stream as much as possible, as well as keeping trespassers out of the pond.

There will be little change in the current management plan for the fishpond until the Applicant has determined its long range plans for restoring the pond. Until then, changes in the management of the pond may include increased efforts to maintain the existing wall and curtailing the growth of mangrove.

(6) Visual: The Alekoko Fish Pond is a major scenic resource of the island, with a lookout on Hulemalu Road overlooking the pond.

Visitors view the Alekoko Fishpond from the lookout in a southwesterly direction. The proposed residence would not be within the normal southwestern viewplane of the fishpond. Attached hereto as Exhibit "N" are copies of a composite photograph of the Alekoko Fishpond from the lookout.

The proposed dwelling will be sited closer to the base of the pali and to the left side of the lookout, where it would not be readily visible from the lookout while viewing the Alekoko Fishpond.

Moreover, due to the heavy vegetation and tall trees growing on the slopes between the lookout and the proposed dwelling site, the intervening vegetative growth will also screen the proposed dwelling from the lookout. The location of the proposed residence has been marked on Exhibit "N", which will be behind the trees shown on the photograph.

At the request of the Department of Land and Natural Resources and the Kauai Historic Preservation Review Commission, the corners of the proposed residence were located on the ground and staked. At each such corner, poles were erected, with different colored ribbons showing a height of 20 feet from the ground at that location as well as the height of the roof of the proposed structure at that corner. The limits of the proposed landscaping were also flagged on the ground.

Visual checks, with representatives of both agencies in attendance, were made from the Menehune Fishpond lookout, to determine the visual impacts, if any of the proposed residence. The visual checks revealed that only two small portions of the roof would be visible through the vegetation buffer, and only if one was standing at the extreme right side of the lookout.

The Applicant intends to paint the residence in an earthen tone paint scheme, with either earth tone tile or shingle roof. Roofing material will be non-reflective. This is will virtually hide those two portions of the roof which would be visible from the lookout.

(7) Sewage Treatment and Disposal: Sewage treatment and disposal will be handled through a Department of Health approved system of septic tank and leachfields. The Department of Health regulations on individual waste water systems require that the system be placed no closer than fifty feet from any body of water. The septic tank/leachfields could be placed to the east of the proposed residence within the "Limited Subzone" and further from the pond, if permitted by the Department of Land and Natural Resources, or to the south of the proposed residence within the "Resource Subzone". In either case, the waste facility would greatly exceed the distance from the pond required by the Department of Health.

(8) Construction Impacts and Mitigation: During the construction phase, there will be some impacts to the site which would not be normally encountered. These include dust, noise, fumes, and possible erosion and siltation from runoff. These impacts, however, are temporary in nature, and would not continue beyond the completion of construction. Construction is estimated to take eight months after commencement.

These temporary impacts can be mitigated. Dust can be minimized by keeping ground clearing to a minimum

and wetting if necessary. Noise and fumes would be blown or directed away from the lookout by the prevailing trade winds. During the course of construction, the contractor would implement erosion and drainage control measures to assure that runoff will not adversely affect the pond. These drainage control measures would include berming, minimal ground clearing and grubbing, silt screens, and temporary intercept ponds and ditches, as may be appropriate or necessary.

(5) Summary description of the Affected Environment: The Applicant proposes to construct a single family dwelling of approximately 3,000 square feet on the subject property. The subject property is 55.408 acres in size, of which approximately 10+ acres is outside of the pond.

The construction of the proposed dwelling in its designated location is not an intensive use of the property relative to the size of the parcel. The proposed residential use of the property is appropriate in that it is a innocuous use, would not result in any significant adverse environmental or ecological effects, and would allow the Applicant reasonable use of its property.

(6) Identification and summary of major impacts and alternatives considered: Due to its limited scope, the proposed use will not result in any significant beneficial or adverse environmental or ecological effects. Although it will be necessary to clear a portion of the subject property for the proposed construction and to provide a lawn and landscaping, it is the intention of the Applicant to minimize the area of impervious surfaces. No major living trees will be removed as part of the construction.

A single family residence on a 55 acre parcel will not result in any significant levels of water usage, sewage generation, noise and traffic, so as to cause any significant adverse effects to the surrounding environment.

The other alternative to the proposed use is not to construct the proposed single family dwelling. This "do nothing" alternative, however, deprives the Applicant of the reasonable use of its property, and is not deemed a viable alternative as it would deprive the owner of the reasonable use of the land without reasonable compensation and justification.

(7) Proposed mitigation measures: Mitigative measures proposed by the Applicant include:

(a) Siting of dwelling on higher ground: The siting of the home on the higher portion of the subject property minimizes the possibility of flooding in times of inclement weather;

(b) Siting of dwelling away from pond: The placing of the proposed dwelling as far away as possible from the Alekoko Fish Pond minimizes any intrusion on the natural activities at the Alekoko Fish Pond;

(c) Siting of dwelling near the base of the pali: The placing of the dwelling against the backdrop of the pali towards the rear of the property minimizes the visual impact, if any, which the residence will have as people view the Alekoko Fish Pond from the lookout on Hulemalu Road. The dwelling site is tucked below and to the left of the lookout, away from the normal viewplane of the fish pond from the lookout;

(d) Use of earthen tones: The Applicant would use earthen tones in the color scheme of the dwelling, which would minimize the visual effect, if any, of the structure.

(8) Notice to Neighbors: In response to comments by the Office of Environmental Quality Control, the abutting neighbors were notified of the proposed action and provided copies of the initial environmental impact assessment. A copy of the letter sent to such neighbors (without the attached initial environmental impact assessment) is attached hereto as Exhibit "O" and made a part hereof.

(9) Comments Received and Responses: Comments were received from the Department of Land and Natural Resources, Office of Environmental Quality Control, County of Kauai Planning Department, State Historic Preservation Division of the Department of Land and Natural Resources, Kauai Historic Preservation Review Commission, Sierra Club, and the Department of Army. Copies of these comments, and the Applicant's responses thereto are attached hereto.

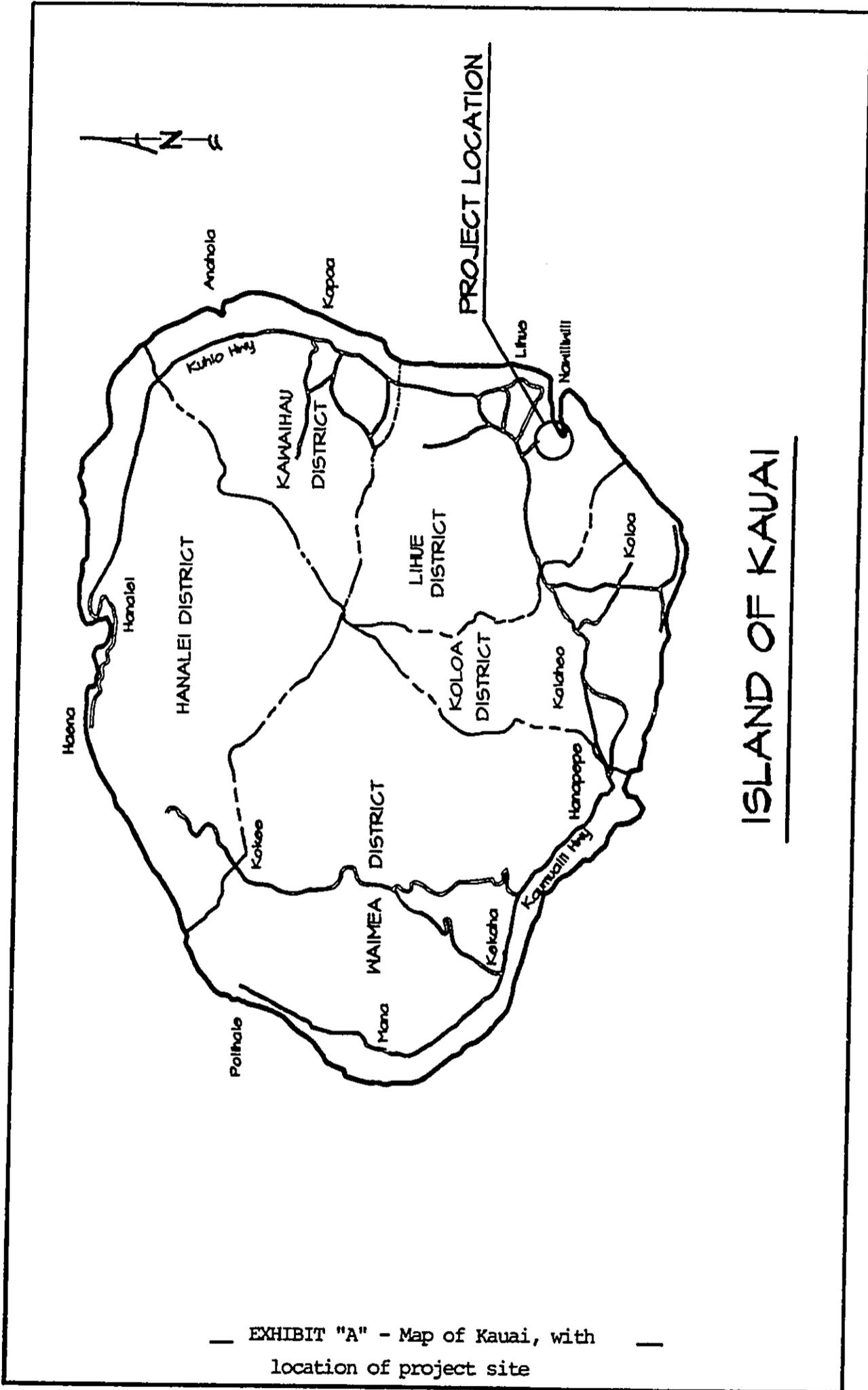
(10) Determination: Based on the foregoing, it is recommended that a finding that the proposed action will not result in any significant adverse environmental and ecological impacts

be adopted, and that an environmental impact statement not be required of the Applicant for the proposed action.

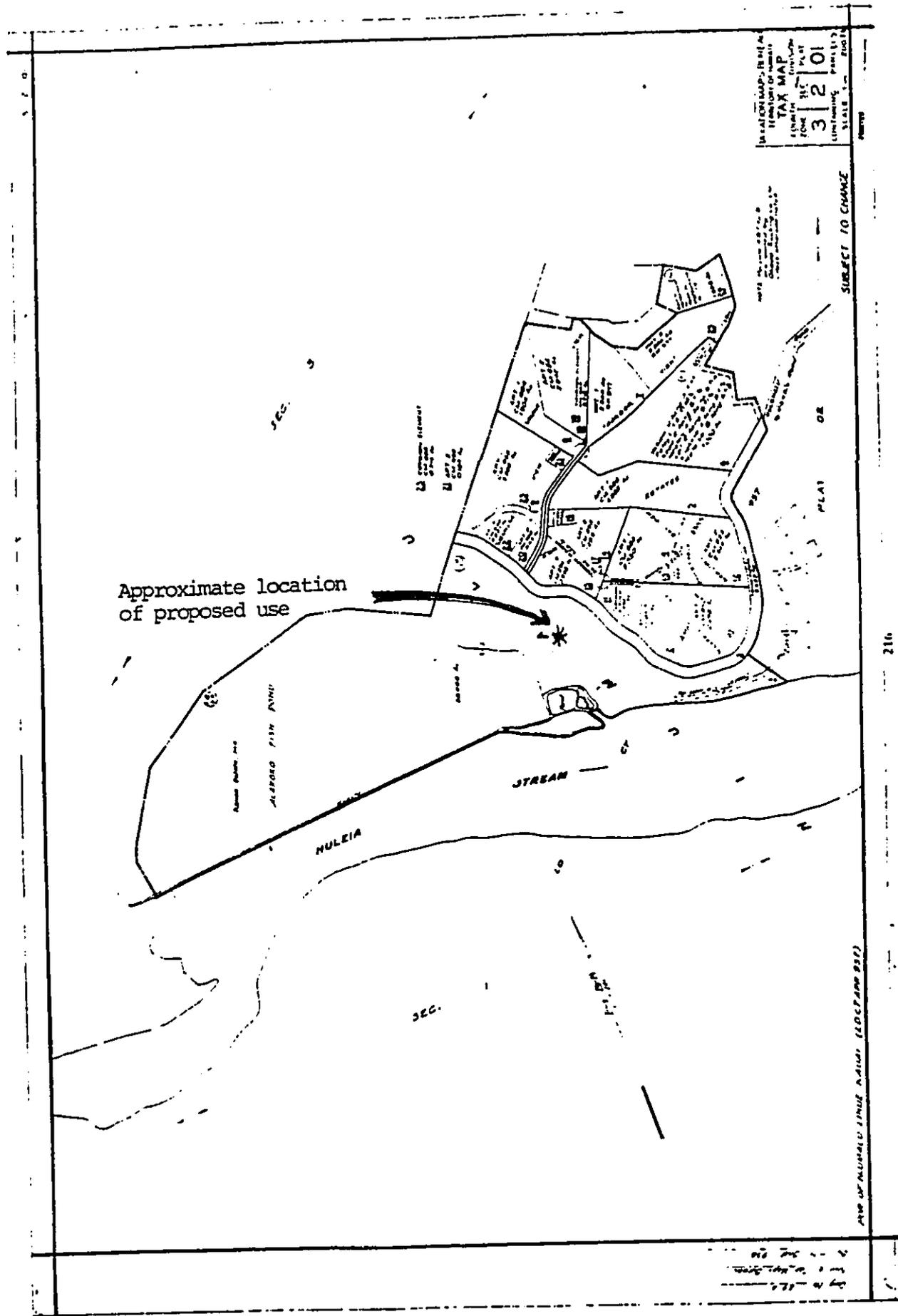
(11) Findings and Reasons Supporting Determination: As the foregoing indicate, the proposed action within the Conservation District is a relative limited use which will not result in any significant adverse environmental or ecological impacts. The selection of the site for the proposed use and its mitigative effects, as set forth above, are supportive of the finding of no significant impacts.

(12) Agencies to be consulted: As a recommendation of negative declaration is proposed, no other agency need to be consulted for preparation of an environmental impact statement.

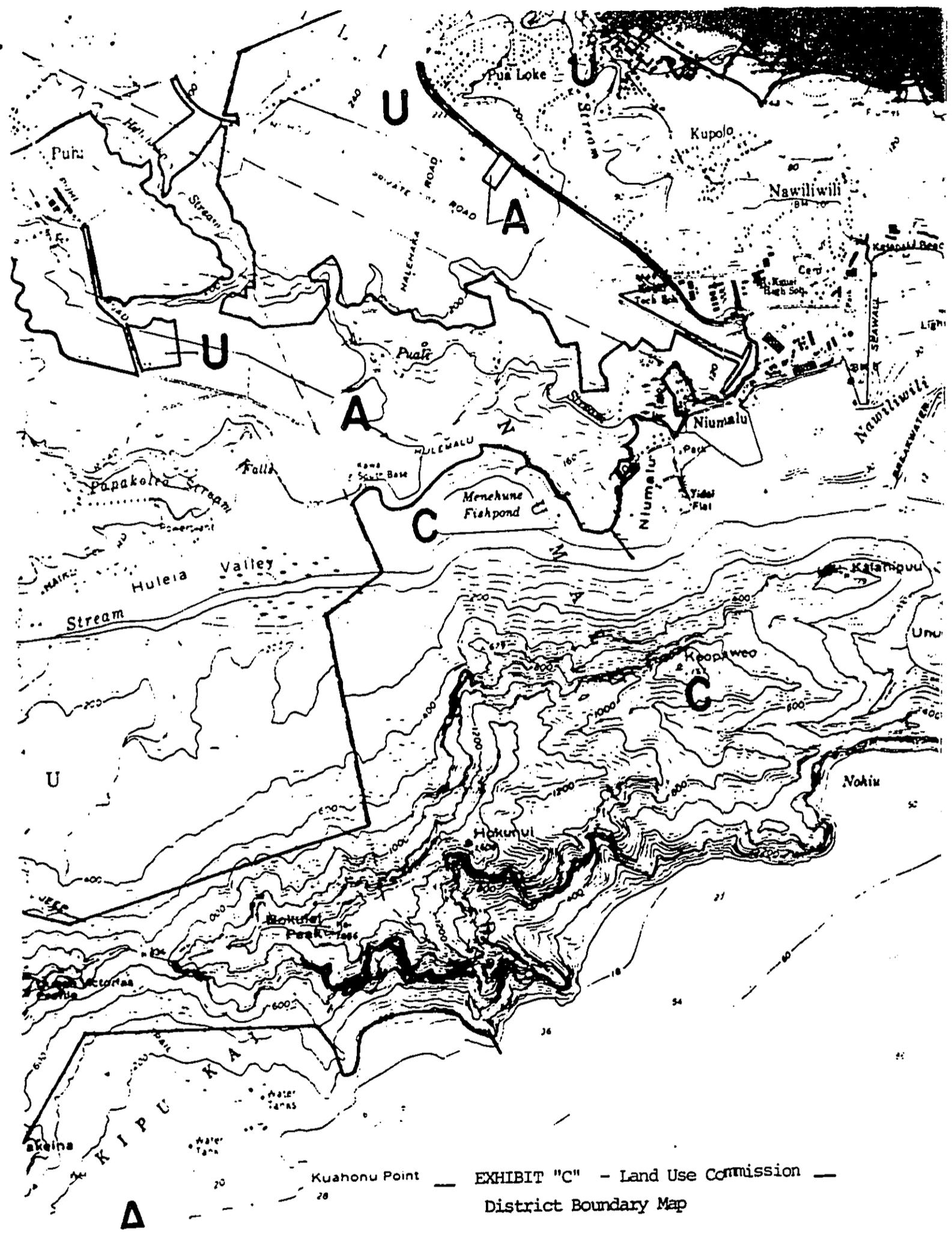
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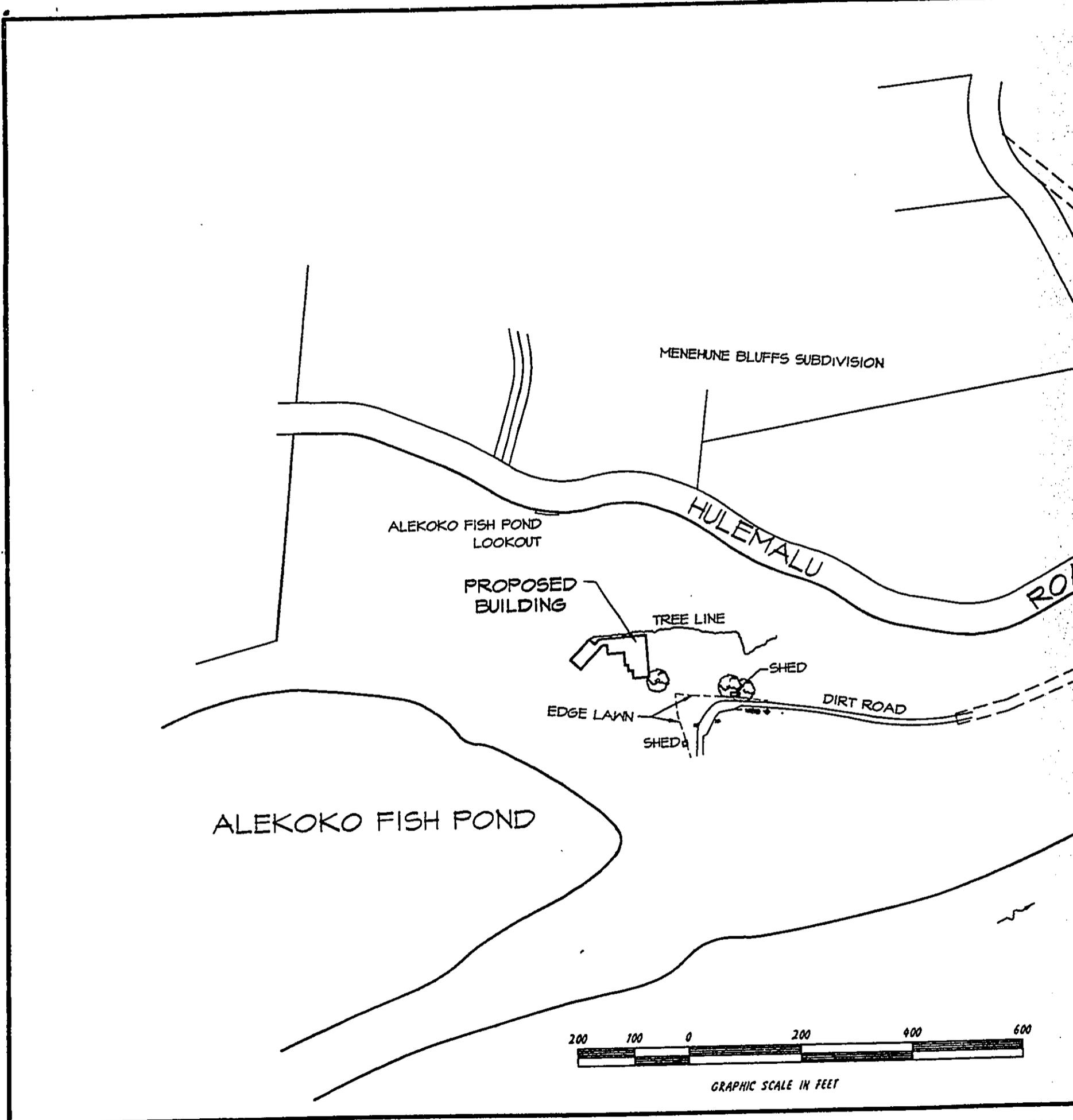


— EXHIBIT "A" - Map of Kauai, with —
 location of project site



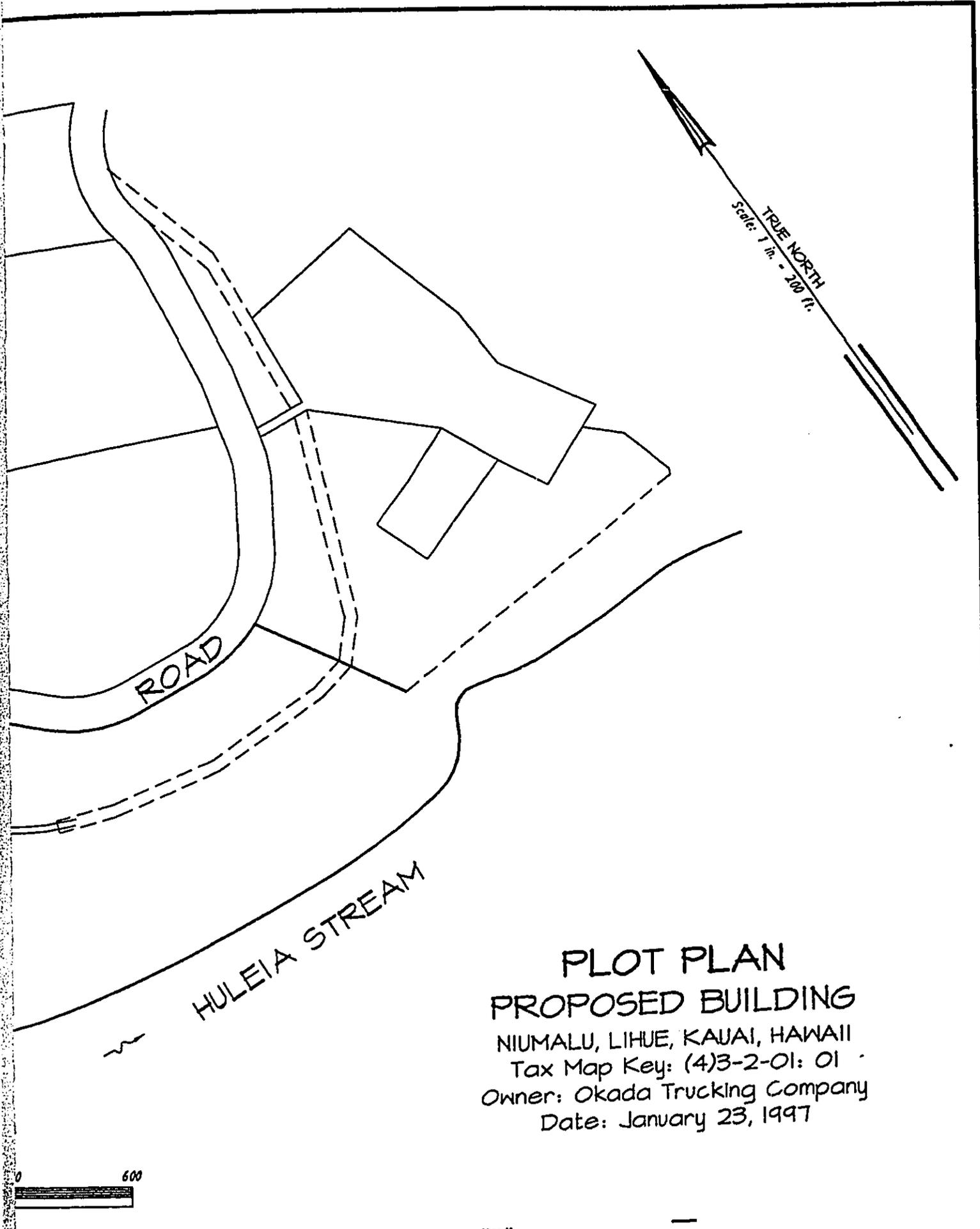
— EXHIBIT "B" - Tax Map of property, —
with approximate location of residence





Job Number: 93-36
 Drawing file: Okada.dwg

ESAKI SURVETING & MAPPING, INC.
 Civil Engineers - Land Surveyors - Planners



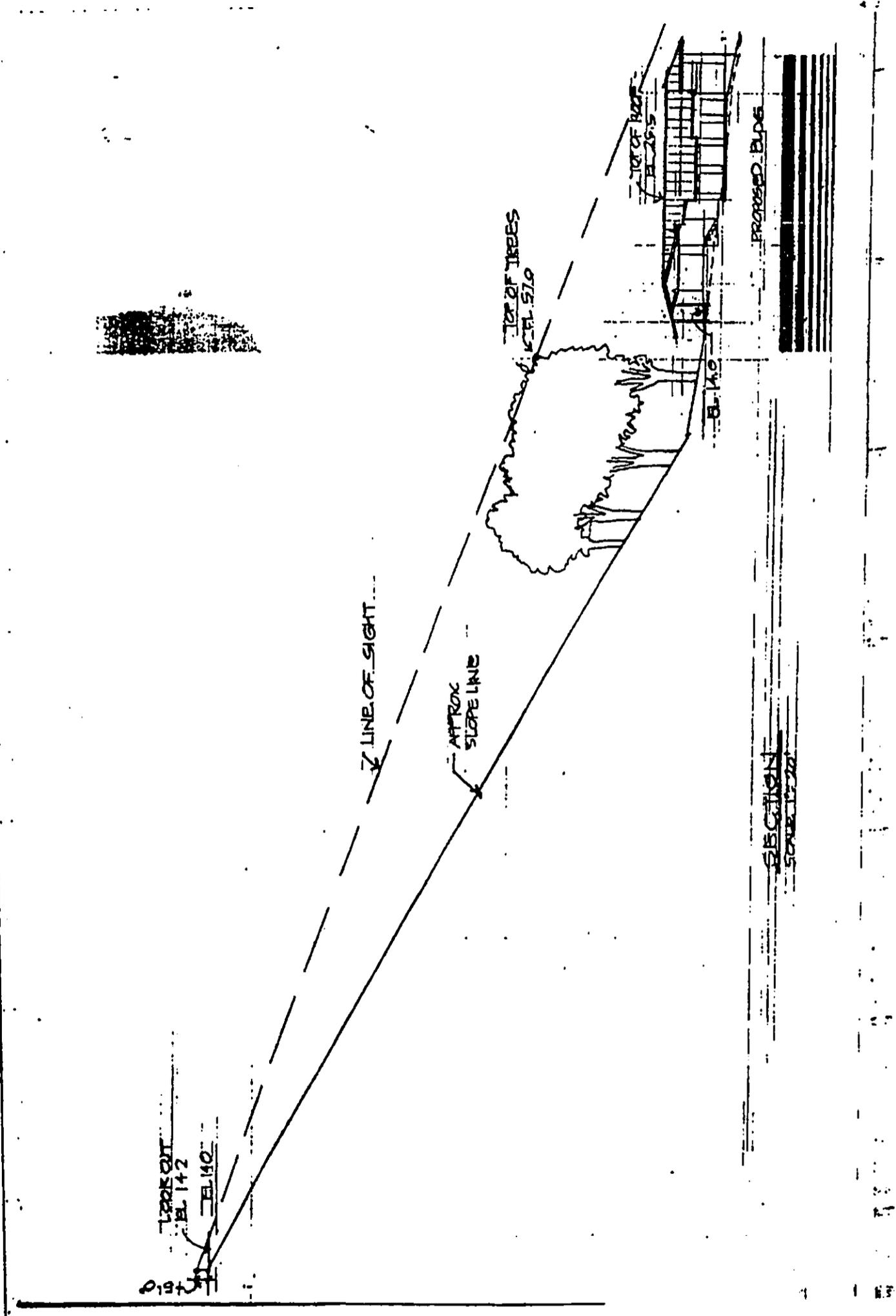
PLOT PLAN
PROPOSED BUILDING
 NIUMALU, LIHUE, KAUAI, HAWAII
 Tax Map Key: (4)3-2-01: 01
 Owner: Okada Trucking Company
 Date: January 23, 1997



EXHIBIT "E"

MAP MAPPING, INC.
 Planners

1610 Halaekane Street
 Lihue, Kauai, Hawaii 96766



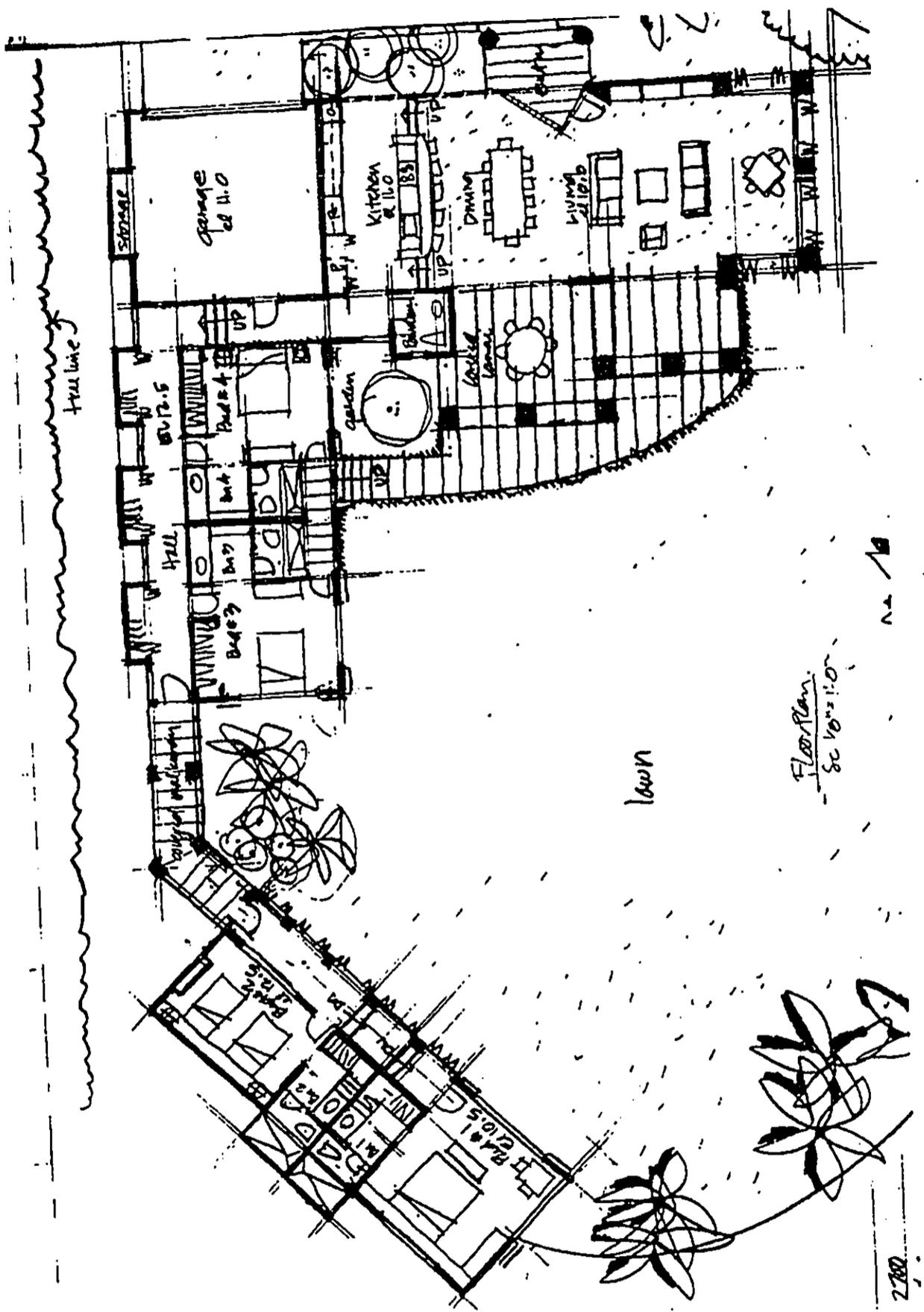


EXHIBIT "H" - Preliminary Floor Plan of residence (not to stated scale)

0106788 10688840/3

0-10-2961

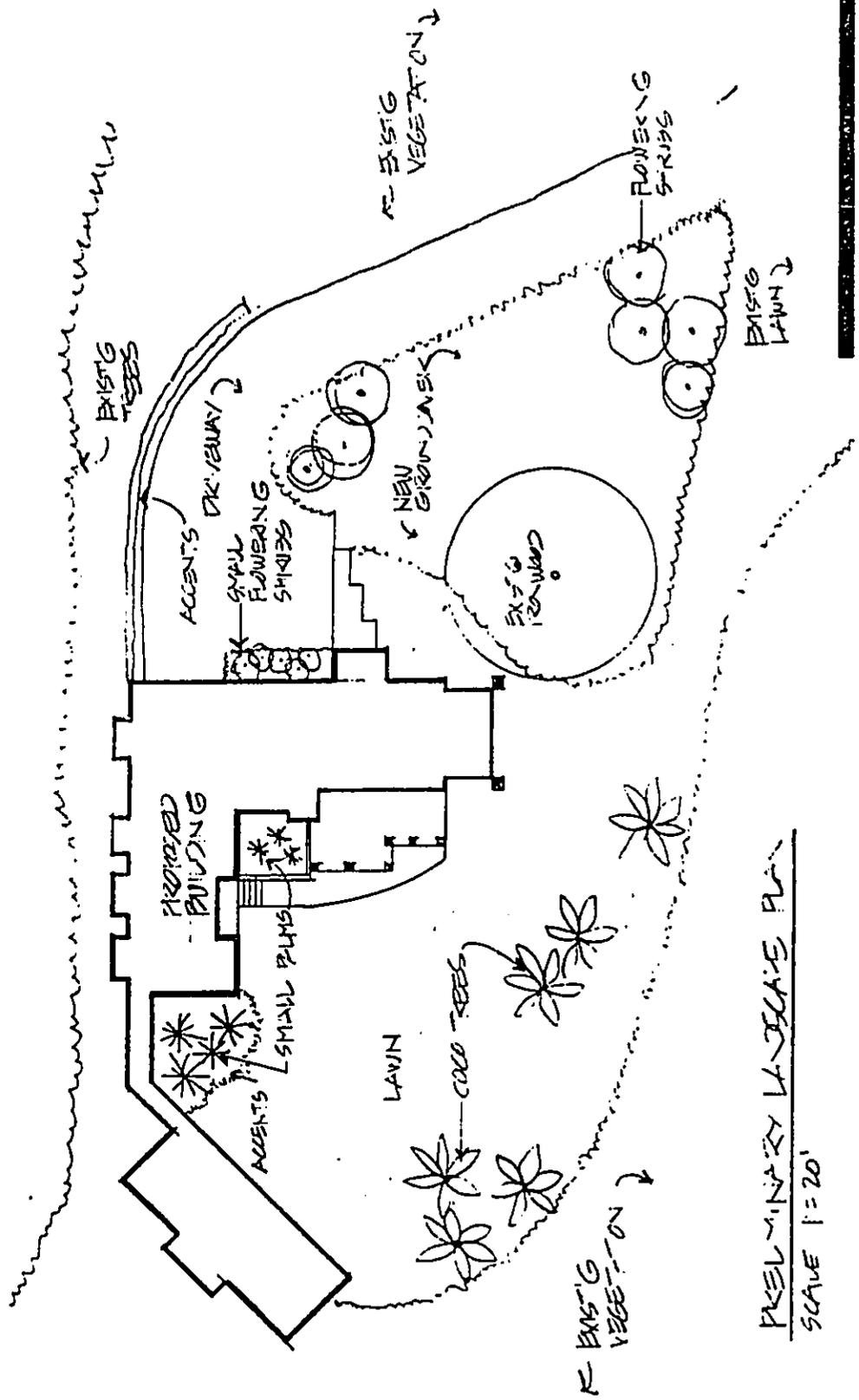
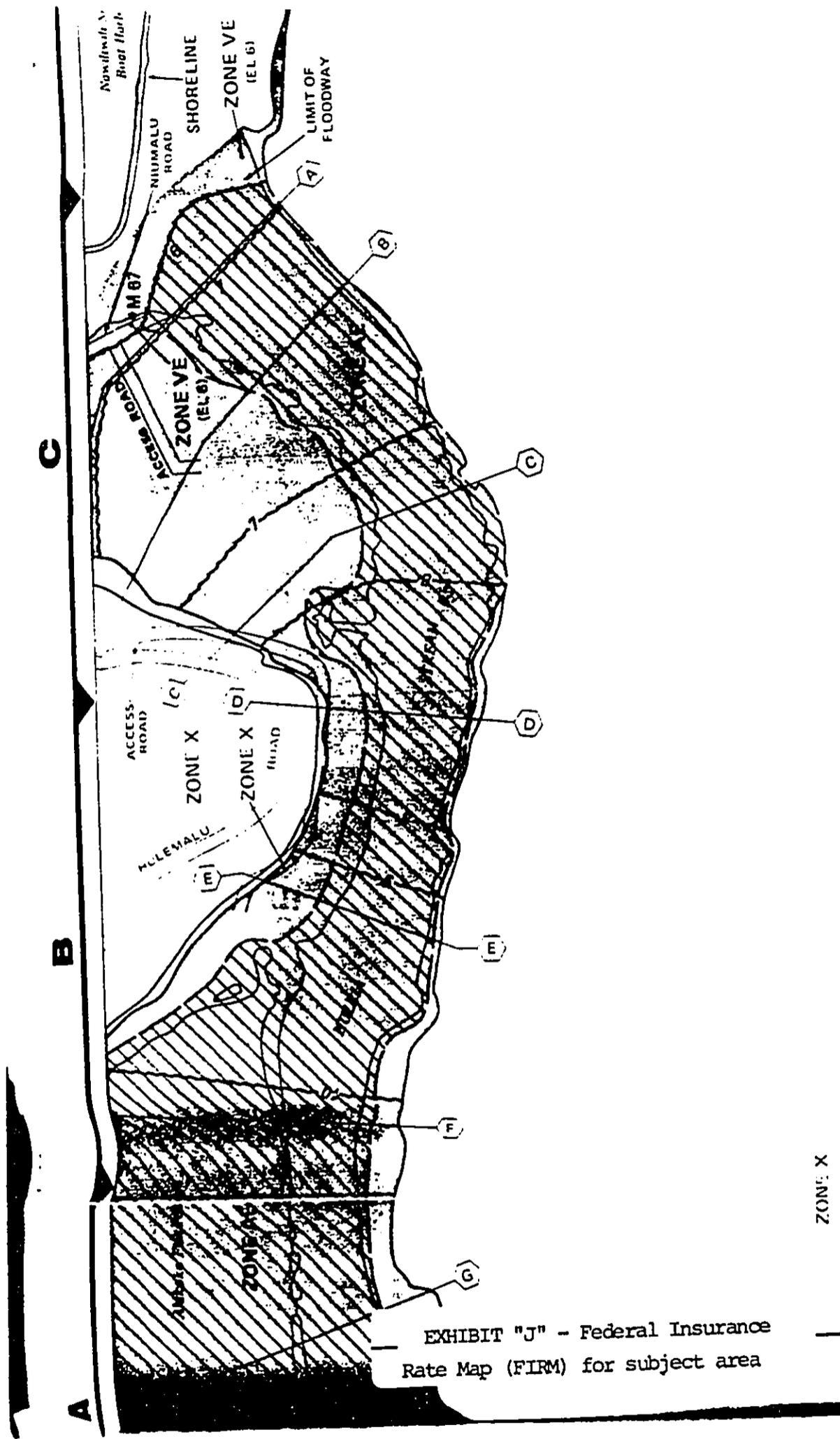


EXHIBIT "I" - Preliminary Landscaping
 Plan (not to stated scale)



January 1, 1997

Walton D. Y. Hong
ATTORNEY AT LAW
3135-A Akahi Street
Lihue, Kauai, Hawaii 96766
Phone: (808) 245-4757
Fax: (808) 245-5175

A rare species botanical survey was conducted on December 20, & December 26, 1996 at the Okata property near Alakoko Fish Pond (map enclosed). This parcel located north of Huleia Stream and south of Hulemalu road was dominated by secondary alien vegetation. After a thorough investigation of the premises I hereby ascertain the absence of any rare plant species in this area.

I have in my records a copious list of species observed on this property, and can produce a report (species list) if required. As I understood at our meeting you only wished me to report any rare species found, and in this case none were.

You have a copy of my curriculum vitae which shows that both the State of Hawaii & the Federal Government recognize me as reputable RARE PLANT RESEARCH BOTANIST for the Hawaiian Islands.

If I can be of any further assistance please feel free to call. It was a pleasure meeting you.

Service
4%
Total

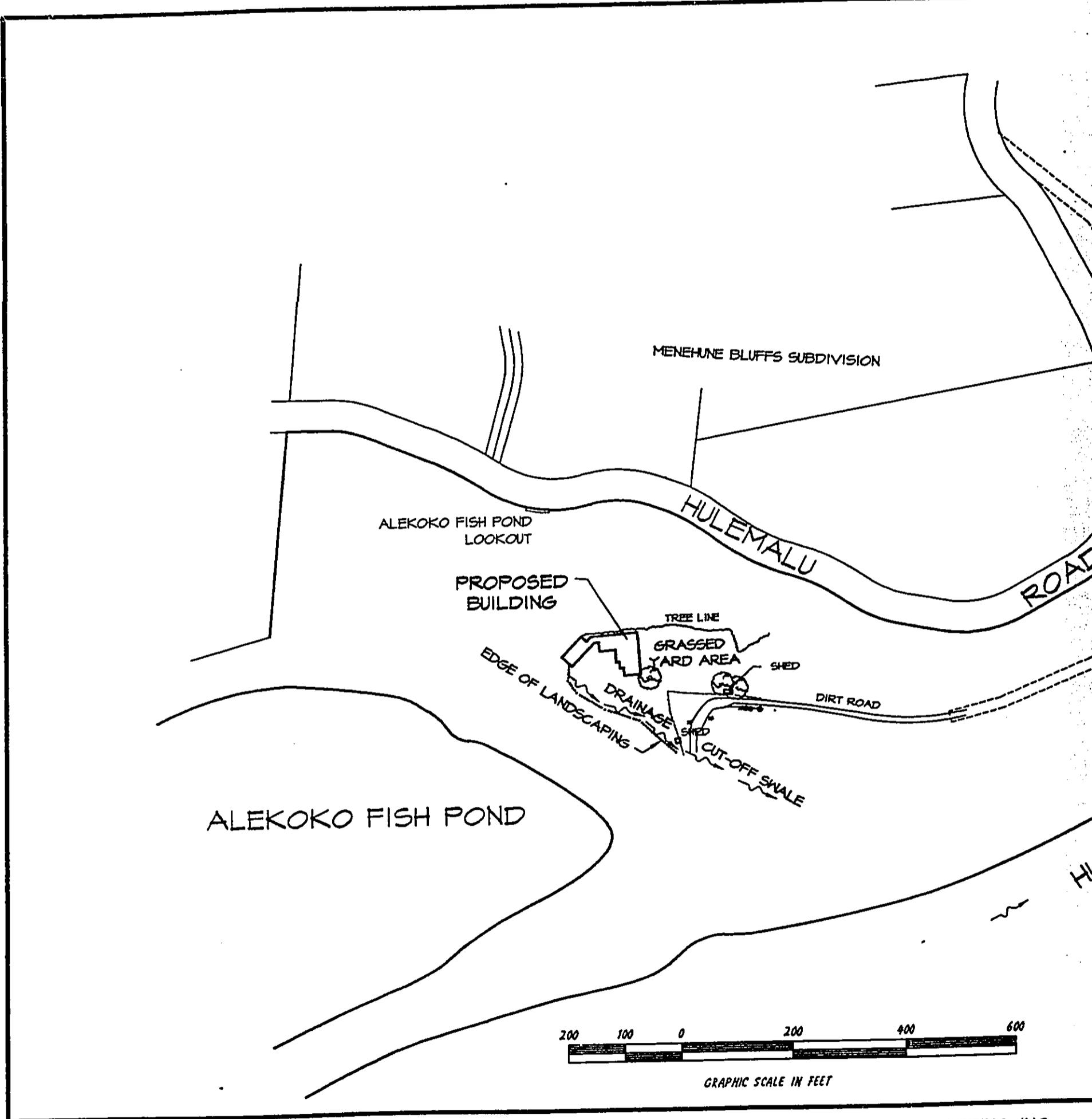


Respectfully submitted.



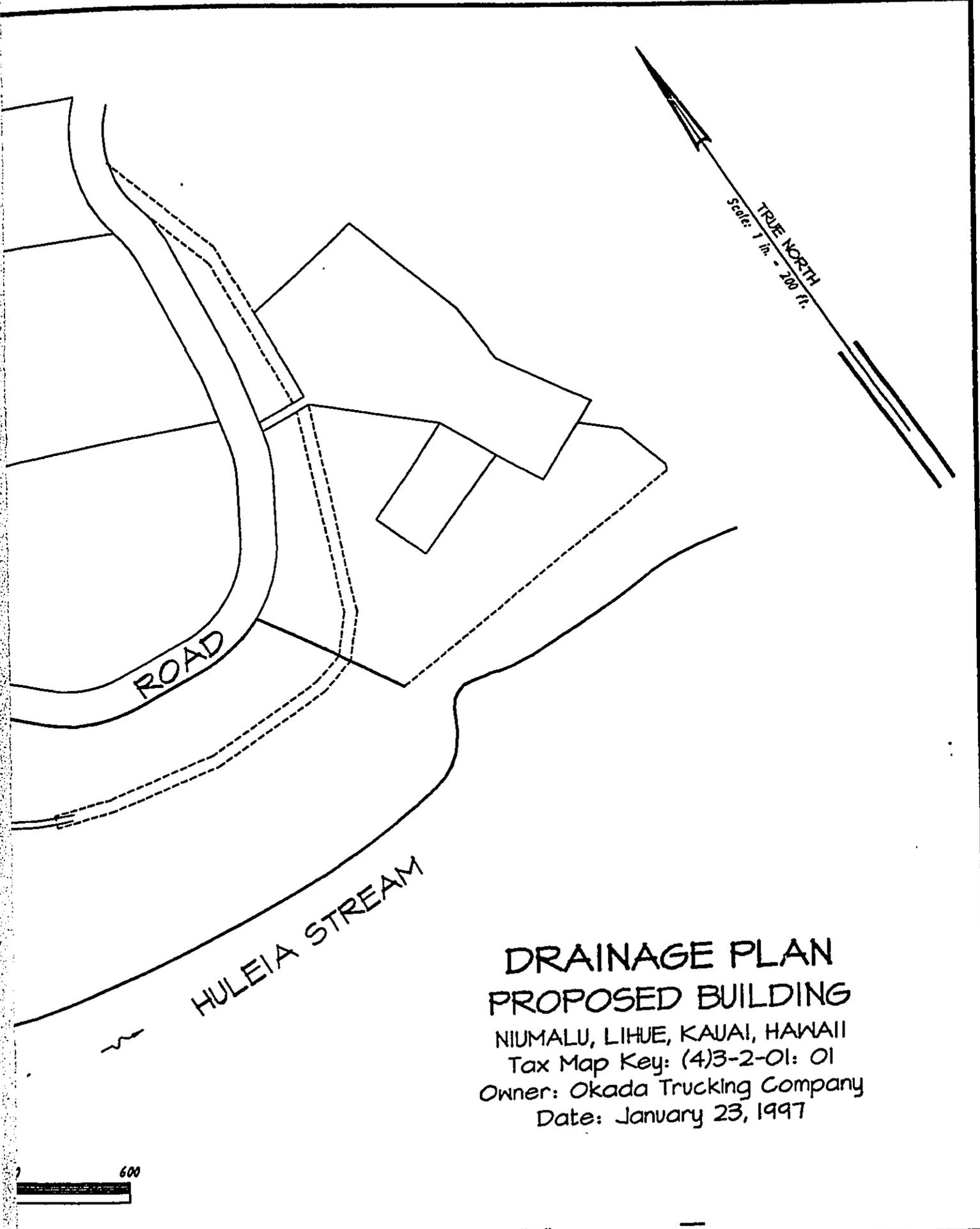
K.R. Wood Δ Research Botanist/Rare Plant Specialist
P.O. Box 745
Eleele, Kauai, Hawaii 96705

EXHIBIT "K"
Botanical Survey Letter



Job Number: 93-36
 Drawing file: Okoda.dwg

ESAKI SURVEYING & MAPPING, INC.
 Civil Engineers - Land Surveyors - Planners



DRAINAGE PLAN
PROPOSED BUILDING
 NIUMALU, LIHUE, KAUAI, HAWAII
 Tax Map Key: (4)3-2-01: 01
 Owner: Okada Trucking Company
 Date: January 23, 1997

EXHIBIT "L"

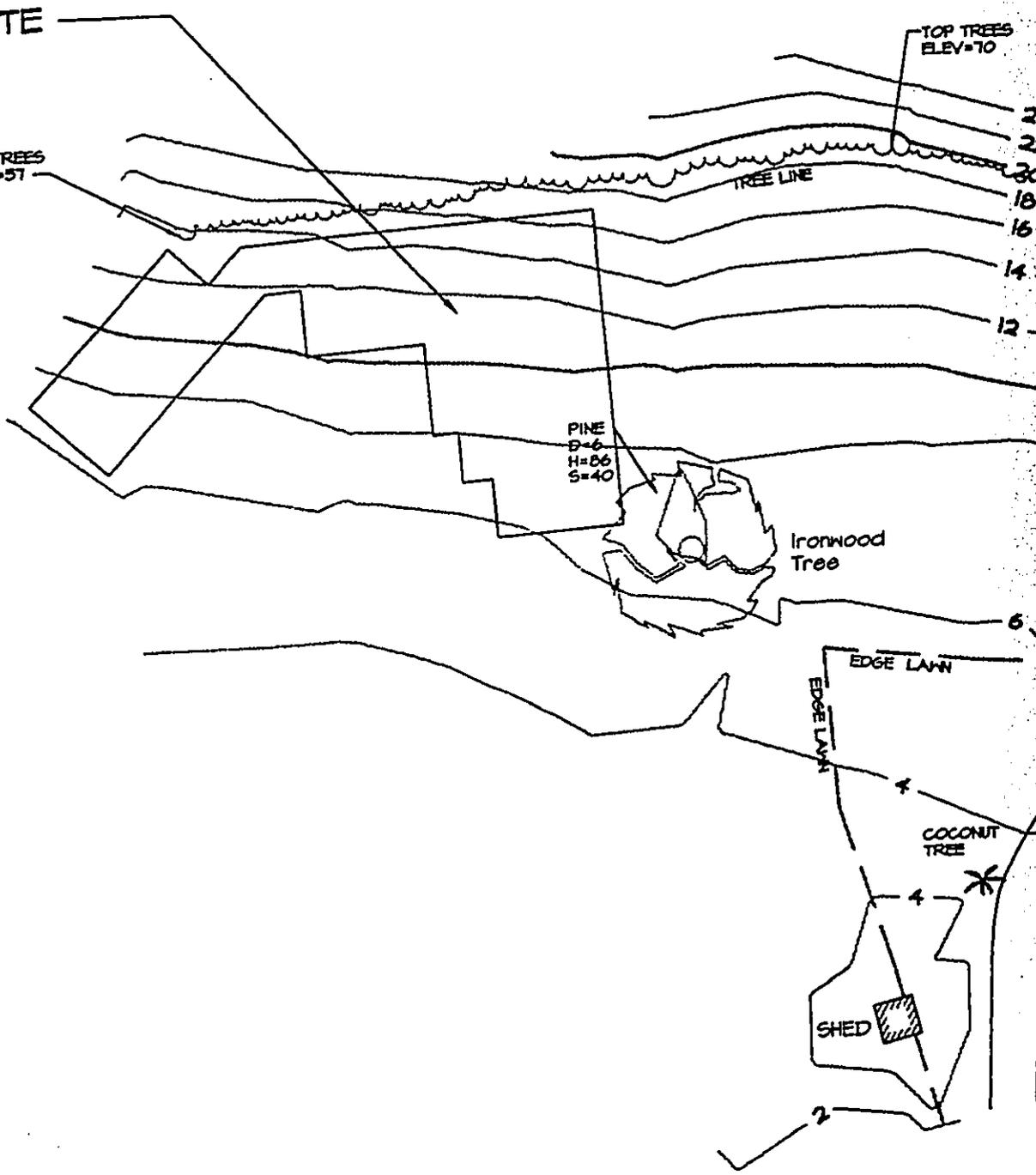
MAPPING, INC.
 Planners

1610 Haleukana Street
 Lihue, Kauai, Hawaii 96766

PROPOSED
BUILDING SITE

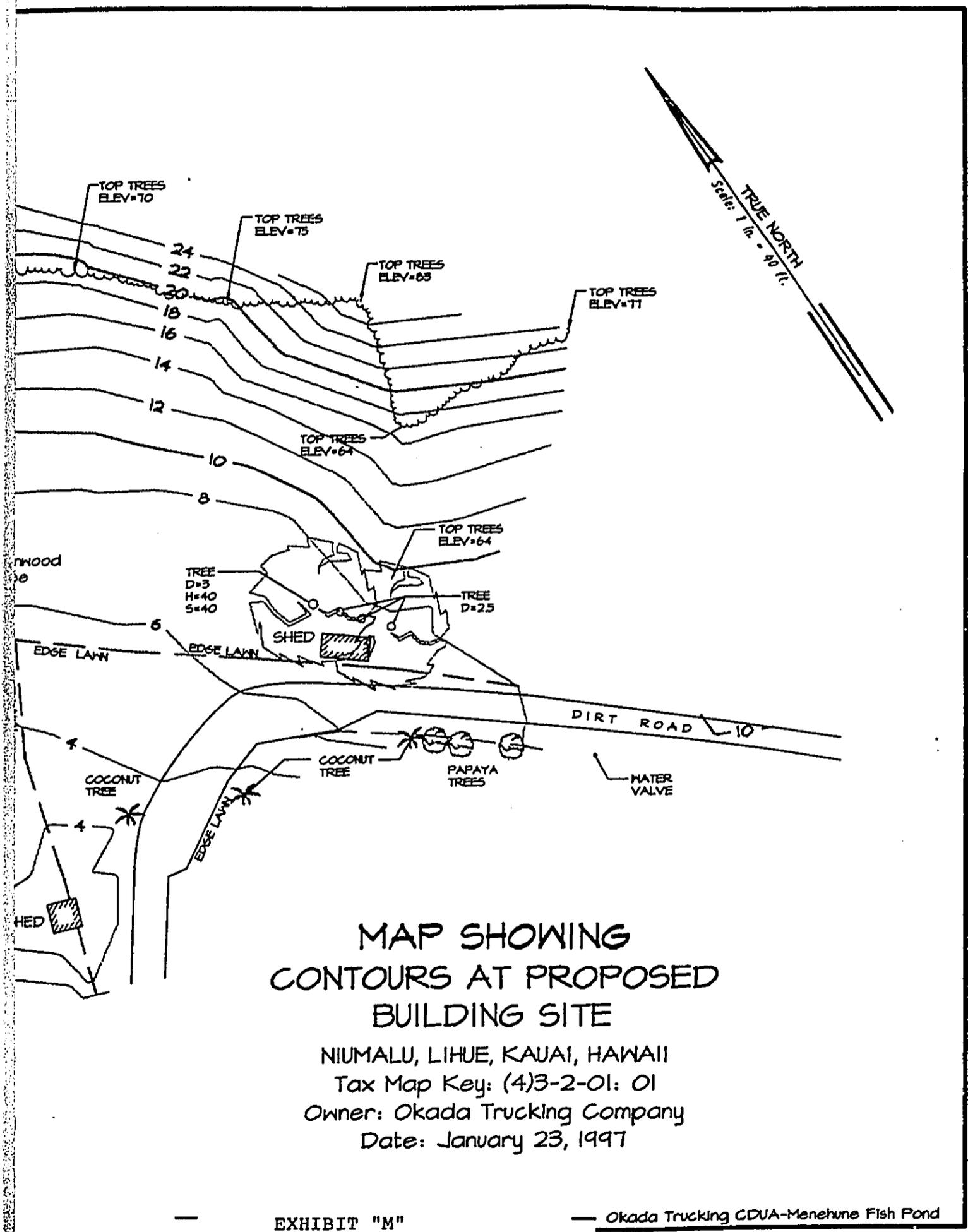
TOP TREES
ELEV=57

TOP TREES
ELEV=70



Notes:

Azimuths and Coordinates are referred to Government
Survey Triangulation Station "NAWILIWILI"
Elevation is referred to "Mean Sea Level"



**MAP SHOWING
CONTOURS AT PROPOSED
BUILDING SITE**

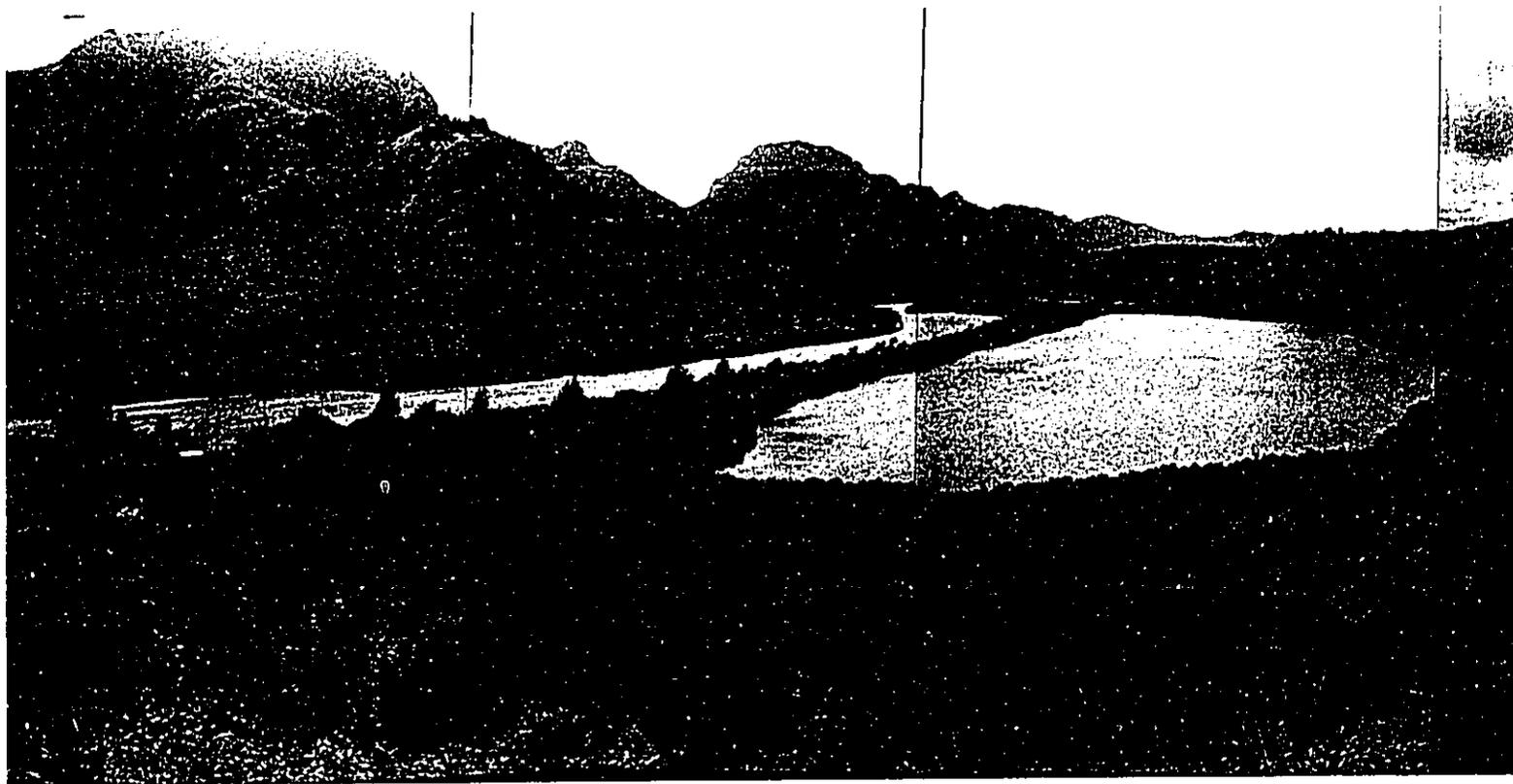
NIUMALU, LIHUE, KAUAI, HAWAII
 Tax Map Key: (4)3-2-01: 01
 Owner: Okada Trucking Company
 Date: January 23, 1997

EXHIBIT "M"

Okada Trucking CDUA-Menehune Fish Pond

MAPPING, INC.
Planners

1630 Haleukana Street
Lihue, Kauai, Hawaii 96766



Approximate location of proposed residence, located behind and below existing tree line.

EXHIBIT " N "

WALTON D.Y. HONG
LORNA A.M. ROSA

LAW OFFICES OF
WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

December 5, 1996

Mr. Donn R. Campion
1257 Oakhead Parkway, #A
Sunnyvale, CA 94086

Kanoa Estates, Inc.
Bishop Trust Co., Ltd.
P. O. Box 2390
Honolulu, HI 96804

Clifford and Gloria Nakea
5684 Ohelo Road
Kapaa, HI 96746

Michael N. Nii, et al.
4371 Rice Street
Lihue, HI 96766

Mr. Ralph S. Kouchi, et al.
5062 Paka Drive
Lihue, HI 96766

Harumi Kouchi, et al.
5062 Paka Drive
Lihue, HI 96766

Louis K. Rego Sr., et al.
P. O. Box 3212
Lihue, HI 96766

United States of America
c/o U. S. Attorney's Office
PJK Federal Building
Ewa Wing, 6th Floor
Honolulu, HI 96813

Re: Application for Conservation District Use
Permit for single family residence at
Niumalu, Lihue, Kauai (TMK: 3-2-001-001)

Ladies and Gentlemen:

We represent Okada Trucking Company, Ltd., which is the owner of that certain property situated at Niumalu, Lihue, Island and County of Kauai, State of Hawaii, more particularly identified as Kauai Tax Map Key: 3-2-001-001. The property is located on the banks of the Huleia Stream and contains the Alekoko Fishpond, more commonly known as the Menehune Fishpond.

The landowner desires to construct a single family residence of approximately 3,000 square feet of living area, together with attendant garage and storage shed, and clearing for lawn of approximately 12,500 square feet. These improvements are proposed to be nestled against the cliff backdrop of Hulemalu Road, within the "Resource (R)" subzone of the Conservation District.

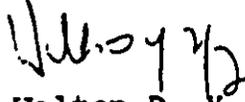
The landowner has applied for a Conservation District Use Permit for the proposed use. Enclosed herewith is a copy of the

— EXHIBIT "O" —

draft Environmental Impact Assessment, which discusses the proposed use.

If you have any questions or wish to comment on the proposed action, please address them to the undersigned at the above address. Requests and comments must be postmarked by January 6, 1997.

Your very truly,


Walton D. Y. Hong

WDYH:wh

Encl.

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



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

MICHAEL D. WILSON
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTY
GILBERT S. COLOMA-AGARAN

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

REF:PB:SL

FILE NO.:KA-2843
Acceptance Date:10/28/96
180-Day Exp. Date:04/25/96

Okada Trucking Co., Ltd.
c/o Walton D.Y. Hong
3135-A Akahi Street
Lihue, Hawaii 96766

Dear Mr. Okada:

NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL DETERMINATION
Conservation District Use Application (KA-2843)
BOARD PERMIT

This acknowledges the receipt and acceptance for processing your application to construct a single family residence at Niumalu, Lihue, Kauai (TMK:3-2-001:001).

According to your information, you propose to construct a 3,000 sq./ft. single family residence as well as clear an area of about 12,000 sq./ft. for a lawn and landscaping. The proposed residence is intended to be used by Okada Trucking Company Ltd's officers as a vacation home.

After reviewing the application, we find that:

1. The proposed use "may" be an identified use within the Resource subzone of the Conservation District according to Administrative Rules, Title 13, Chapter 5-24;
2. No public hearing pursuant to Chapter 183C, will be required in that the proposed use is of a commercial nature; and
3. In conformance with Title 11, Chapter 200, of the Administrative Rules, a finding of no significant impact (FONSI) is anticipated for the project.

As the applicant, please be advised that it will be your responsibility to comply with the provisions of Section 205A-29(b), Hawaii Revised Statutes, relating to Interim Coastal Zone Management (Special Management Area) requirements.

Negative action as required by law, on your application by the Board of Land and Natural Resources can be expected should you fail to obtain from the County thirty (30) days prior to the 180-day expiration date, as noted on the first page of this notice, one of the following:

1. A determination that the proposed development is outside the Special Management Area (SMA);
2. A determination that the proposed development is exempt from the provisions of the county ordinance and/or regulation specific to Section 205A-29(b), HRS; OR
3. A Special Management Area (SMA) permit for the proposed development.

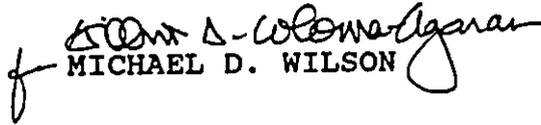
For your information, it has been a practice of the Board of Land and Natural Resources (Board) to discourage the development of vacation rentals in the Conservation District. Although it is stated in the application that the house will not be used as a rental or other commercial purposes, we must determine whether a vacation retreat for a Company is considered to be an identified use and is consistent with previous Board practice as well as the Conservation District Administrative Rules (Chapter 13-5, HAR).

Also, please provide us with the following information in the environmental assessment:

1. A more specific plot plan for the project, which illustrates the location of the proposed single family residence, garage and storage shed, in relation to the fish pond and bluff. Please include a topographic survey showing the project elevations as well as a preliminary landscaping plan.
2. There is no discussion of the need for a driveway. Please identify if a driveway will be constructed and where the driveway would be located. In addition, a drainage plan would help determine drainage patterns and potential increases in runoff which could impact the adjacent fish pond and Huleia Stream. Also, please discuss erosion control measures that would be followed to mitigate sedimentation, during and after construction of the project.
3. Please provide photographs of the proposed building site in relation to the bluff and lookout.

Pending action on your application by the Land Board in the near future, your cooperation and early response to the matters presented herein will be appreciated. Should you have any questions, please contact Sam Lemmo of our Land Division's Planning Branch, at 587-0386.

Aloha,


MICHAEL D. WILSON

Attachment (receipt)

cc: Kauai Board Member
Kauai Land Agent
Kauai County Departments
DOH/DBED&T(OP)/DOT
U.S. Fish and Wildlife Service

WALTON D.Y. HONG
LORNA A.N. ROSA

LAW OFFICES OF
WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

January 31, 1997

Department of Land and Natural
Resources, State of Hawaii
Attention: Mr. Michael D. Wilson
P. O. Box 621
Honolulu, HI 96809

Re: File No. KA-2843
Conservation District Use Permit for
single family residence at Alekoko (Menehune)
Fishpond, Lihue, Kauai, Hawaii

Dear Mr. Wilson:

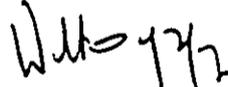
Thank you for your comments in your letter (undated,
received November 7, 1996), regarding the above application and
additional information requested for the environmental assess-
ment.

The revised draft of the environmental impact assessment
for the proposed use will address your concerns, which include
the following:

- (a) A more specific plot plan, with the location of
the proposed use in relation to the fishpond and bluff;
- (b) A topographic survey, showing project elevations;
- (c) A preliminary landscaping plan;
- (d) Discussion as to the driveway, drainage plans and
erosion control measures; and
- (e) Photographs of the proposed building site in
relation to the lookout.

If there are any questions, please feel free to contact me.

Yours very truly,


Walton D. Y. Hong

WDYH:wh

BENJAMIN J. CAYETANO
GOVERNOR



GARY GILL
DIRECTOR

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

220 SOUTH KING STREET
FOURTH FLOOR
HONOLULU, HAWAII 96813
TELEPHONE (808) 586-4186
FACSIMILE (808) 586-4186

November 19, 1996

Michael Wilson, Director
Department of Land and Natural Resources
PO Box 621
Honolulu, Hawaii 96809

Attention: Sam Lemmo

Dear Mr. Wilson:

Subject: Draft Environmental Assessment (EA) for Single Family Residence and
Attendant Structures at Niumalu, Kauai; TMK 3-2-1: por. 1

We have the following comments to offer:

1. **The subject property:** Please include a complete description of that section of the property on which the proposed house, garage and shed will be built. Will a driveway be installed and, if so, of what material? The draft EA mentions that "impervious surfaces will be minimized." Where are these surfaces found, what will their size be and how will excess runoff from them be prevented from entering Huleia Stream?
2. **Construction:** Include a description and drawings of the structures to be built and their locations on the property with reference to the fishpond. Fully discuss construction impacts and how related runoff will be prevented from entering Huleia Stream.
3. **Significant resources:** Consult with the State Historic Preservation Division of the Department of Land & Natural Resources regarding the possibility of significant remains on the property and include documentation of your contacts in the final EA. Also apprise this division of your plans to restore Alekoko Fish-pond.

Michael Wilson
November 19, 1996
Page 2

4. *Maps:* Add a title to all exhibits. On exhibits A and B, indicate the location of the proposed dwelling. Include a map of the island indicating the project location.
5. How are *Alekoko Fishpond* and the surrounding areas currently managed and how will management change upon addition of the new facilities?
6. Confirm the absence of *threatened and endangered species* on the property by attaching a survey done by a professional botanist.
7. *Neighbors:* Inform the nearest neighbors or neighboring landowners of the proposed construction and include documentation of your contacts in the final EA.

If you have any questions, please call Nancy Heinrich at 586-4185.

Sincerely,



GARY GILL
Director

c: Walton Hong
Okada Trucking

WALTON D.Y. HONG
LORNA A.N. ROSA

LAW OFFICES OF
WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHU STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

January 31, 1997

Office of Environmental Quality Control
Attention: Mr. Gary Gill, Director
220 South King Street, Fourth Floor
Honolulu, HI 96813

Re: Conservation District Use Permit for
single family residence at Alekoko (Menehune)
Fishpond, Lihue, Kauai, Hawaii
Kauai TMK: 3-2-1: por. 1

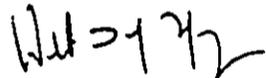
Dear Mr. Gill:

Thank you for your comments and concerns stated in your letter of November 19, 1996, addressed to Director Michael Wilson of the Department of Land and Natural Resources regarding the above application.

We have taken the contents of your letter to heart, and the final environmental impact assessment for the proposed use will have addressed your stated concerns and additional information requested, as set forth in your letter.

If there are any questions, please feel free to contact me.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

MARYANNE W. KUSAKA
MAYOR



COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE 473
LIHUE, KAUAI, HAWAII 96766

DEE M. CROWELL
PLANNING DIRECTOR
IAN K. COSTA
DEPUTY PLANNING DIRECTOR
TELEPHONE (808) 241-6677
FAX (808) 241-6699

November 20, 1996

COPY

Honorable Michael D. Wilson, Chairperson
Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Attn: Dean Y. Uchida

Subject: Conservation District Use Application
File No.: KA-2843
Proposed Single Family Residence
TMK: 3-2-001: Por. 1 Niualu, Kauai

We have reviewed the subject permit application for the construction of a single family residence and associated clearing of vegetation and offer the following comments.

The subject property is within the Special Management Area (SMA) of the County of Kauai. Pursuant to Section 1.4 H. of the SMA Rules and Regulations the construction of a single family residence that is not part of a larger development is not a "Development" and does not require an SMA Permit.

We also take this opportunity to acknowledge that the Alekoko Fish Pond, which is listed on the National Register of Historic Places, is part of the subject property. In addition to its historic/archaeological significance, the Alekoko Fish Pond area is a highly significant scenic resource for Kauai's residents and visitors, alike. As such, the potential impacts of the project on the scenic quality of the Alekoko Fish Pond should be seriously evaluated. Specifically, we concur with the requirements of your Department to have the applicant provide additional information, such as photographs and maps, in order to further evaluate and assess the visual impacts of the project on the scenic quality of the Alekoko Fish Pond.

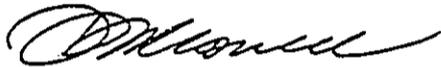
AN EQUAL OPPORTUNITY EMPLOYER

Page 2
Michael D. Wilson, Chairperson
November 20, 1996

We also concur with the concern raised by your Department regarding the location of the driveway or vehicular access to the proposed residence.

Finally, since the property is listed on the National Register of Historic Places we will be forwarding the subject application to the Kauai Historic Preservation Review Commission for review and comments. The Historic Commission's scheduled meeting is in early December 1996 and their comments will be forwarded to you for your consideration.

Thank you for consulting us on this matter. Should you have any questions, please contact Myles Hironaka of my staff at 241-6677.



DEE M. CROWELL
Planning Director

cc: Walton D.Y. Hong
KHPRC

WALTON D.Y. HONG
—
LORNA A.N. ROSA

LAW OFFICES OF
WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

January 31, 1997

Planning Department of the
County of Kauai
Attention: Mr. Dee M. Crowell, Planning Director
4444 Rice Street, Suite 473
Lihue, HI 96766

Re: Conservation District Use Permit for
single family residence at Alekoko (Menehune)
Fishpond, Lihue, Kauai, Hawaii
Kauai TMK: 3-2-1: por. 1

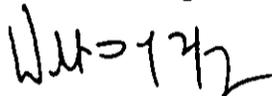
Dear Mr. Crowell:

Thank you for your comments and concerns stated in your letter of November 20, 1996, addressed to Chairperson Michael Wilson of the Department of Land and Natural Resources regarding the above application.

We have taken the contents of your letter to heart, and the final environmental impact assessment for the proposed use will have addressed your stated concerns and additional information requested, as set forth in your letter.

If there are any questions, please feel free to contact me.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

BENJAMIN J. CAYSTANO
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

December 4, 1996

MEMORANDUM

TO: Dean Uchida, Administrator
Land Division

FROM: *Don Hibbard*
Don Hibbard, Administrator
State Historic Preservation Division

SUBJECT: Historic Preservation Review -- KA-2843 (Okada Trucking)
TMK: 3-2-1: 1 por.
Niumalu, Lihue, Kauai

There has been no acceptable archaeological inventory survey of the project area. Limited reconnaissance surveys suggest sites could have been present.

It is unclear if the parcel has had its land surface extensively disturbed in the past. If the land is undisturbed or minimally disturbed, again sites could be present. In this case, we recommend that before the Board makes a decision, it be determined if significant sites are present. An archaeological inventory survey with subsurface testing would need to be conducted by a qualified archaeologist to determine if significant historic sites are present. Findings must be submitted to our Division for review in a report format which needs to include: 1) maps showing testing locations, 2) stratigraphic profiles of the test excavations, 3) photographs, 4) documentation of the nature and age of any sites, and 5) an initial significance evaluation of all sites (if any are found). If significant sites are present, then we would work with the applicant to determine an acceptable mitigation plan, and we would recommend an appropriate condition to the Board. Alternatively, if the impact area has had its land surface extensively altered, making it unlikely that historic sites are present, the applicant needs to provide our Division with a statement to that effect and supportive documentation (some description of the nature of the disturbance and, if useful, photographs). If this proves to be the case, then no survey would be needed.

MICHAEL D. WILSON, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES

Gilbert Coloma-Agaran

AQUACULTURE DEVELOPMENT
PROGRAM

AQUATIC RESOURCES
CONSERVATION AND

ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT

CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
DIVISION

LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

LOG NO: 18489

DOC NO: 9611NM01

CORRECTION

THE PRECEDING DOCUMENT(S) HAS
BEEN REPHOTOGRAPHED TO ASSURE
LEGIBILITY
SEE FRAME(S)
IMMEDIATELY FOLLOWING

DOCUMENT CAPTURED AS RECEIVED

BENJAMIN I. CAYSTANO
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

December 4, 1996

MEMORANDUM

TO: Dean Uchida, Administrator
Land Division

FROM: *Don Hibbard*
Don Hibbard, Administrator
State Historic Preservation Division

SUBJECT: Historic Preservation Review -- KA-2843 (Okada Trucking)
TMK: 3-2-1: 1 por.
Niumalu, Lihue, Kauai

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It is unclear if the parcel has had its land surface extensively disturbed in the past. If the land is undisturbed or minimally disturbed, again sites could be present. In this case, we recommend that before the Board makes a decision, it be determined if significant sites are present. An archaeological inventory survey with subsurface testing would need to be conducted by a qualified archaeologist to determine if significant historic sites are present. Findings must be submitted to our Division for review in a report format which needs to include: 1) maps showing testing locations, 2) stratigraphic profiles of the test excavations, 3) photographs, 4) documentation of the nature and age of any sites, and 5) an initial significance evaluation of all sites (if any are found). If significant sites are present, then we would work with the applicant to determine an acceptable mitigation plan, and we would recommend an appropriate condition to the Board. Alternatively, if the impact area has had its land surface extensively altered, making it unlikely that historic sites are present, the applicant needs to provide our Division with a statement to that effect and supportive documentation (some description of the nature of the disturbance and, if useful, photographs). If this proves to be the case, then no survey would be needed.

MICHAEL D. WILSON, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

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Gilbert Coloma-Agaran

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DIVISION

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WATER AND LAND DEVELOPMENT

LOG NO: 18489

DOC NO: 9611NM01

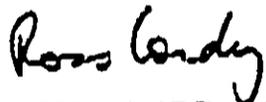
DOCUMENT CAPTURED AS RECEIVED

D. Uchida
Page 2

An additional concern with this application is that the proposed single family residence is only 400 ft. away from the Alekoko Fishpond. However, it appears that attempts are going to be made to reduce the visual impacts of the residence on the pond through exterior color of the house, landscaping and the like. To ensure the visual impacts are reduced, we would like a condition attached to any approved CDUA that requires reducing the visual impacts on the fishpond through a mitigation plan to be approved by our Division. That plan would specify exterior color, landscaping (e.g., screening with trees), and the like.

If you have any questions, please call Nancy McMahon 587-0006.

Aloha,



for DON HIBBARD, Administrator
State Historic Preservation Division

NM:ank

WALTON D.Y. HONG
LORNA A.N. ROSA

LAW OFFICES OF
WALTON D.Y. HONG
ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

January 31, 1997

State Historic Preservation Division
Department of Land and Natural Resources
Attention: Mr. Don Hibbard, Administrator
33 South King Street, 6th Floor
Honolulu, HI 96813

Re: Conservation District Use Permit for
single family residence at Alekoko (Menehune)
Fishpond, Lihue, Kauai, Hawaii
Kauai TMK: 3-2-1: por. 1

Dear Mr. Hibbard:

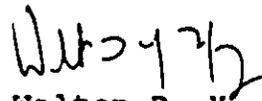
Thank you for your comments in your letter of December 4, 1996 to Dean Uchida of the Land Division, regarding the above referenced application.

Please be advised that we will be requesting that the Board of Land and Natural Resources impose a condition if the application is approved, that an archaeological inventory survey with subsurface testing be conducted by a qualified archaeologist before construction is commenced on the project site.

We believe that such a course will provide the same protection to preserve any significant archaeological sites, but without the need of unnecessarily incurring the costs of the survey should the permit not be granted.

If there are any questions regarding the above, please feel free to call me.

Yours very truly,


Walton D. Y. Hong

WDYH:wh

MARYANNE W. KUSAKA
MAYOR



COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE 473
LIHUE, KAUAI, HAWAII 96766

DEE M. CROWELL
PLANNING DIRECTOR
IAN K. COSTA
DEPUTY PLANNING DIRECTOR
TELEPHONE (808) 241-6677
FAX (808) 241-6699

December 10, 1996

Honorable Michael D. Wilson, Chairperson
Board of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii 96809

Attn: Dean Y. Uchida

RE: Conservation District Use Permit
Okada Trucking Company, Ltd.
TMK No. 3-2-001: Por. 1, Niumalu, Kauai

This is to inform you that at its December 5, 1996 meeting, the Kauai Historic Preservation Review Commission (KHPRC) reviewed the above application and offered the following comments:

1. The Commission concurs with the recommendations set forth in the State Department of Land & Natural Resources - Historic Preservation Division's Dec. 4, 1996 memo;
2. That the KHPRC be given the opportunity to provide further comments as more detailed construction, landscaping, archaeological and other mitigation plans are submitted;
3. That poles with the approximate height and building footprint of all proposed structures (including accessory buildings, utility poles and yard areas to be cleared of existing vegetation) be staked out to help address the visual impact from the look-out to the fishpond;
4. That the KHPRC and any other concerned party be informed upon the installation of the poles as set forth in item No. 3 above and given the opportunity to provide comments.

Thank you for the opportunity to comment on this matter.

Susan Remoaldo

SUSAN REMOALDO, Acting Chairperson
Kauai Historic Preservation Review Commission

cc: Kauai County Planning Department
-Walton D. Y. Hong, Agent for Applicant

AN EQUAL OPPORTUNITY EMPLOYER

WALTON D.Y. HONG
LORNA A.M. ROSA

LAW OFFICES OF
WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

January 31, 1997

Kauai Historic Preservation
Review Commission
4444 Rice Street, Suite 473
Lihue, HI 96766

Re: Conservation District Use Permit for
single family residence at Alekoko (Menehune)
Fishpond, Lihue, Kauai, Hawaii
Kauai TMK: 3-2-1: por. 1

Dear Commission Members:

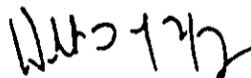
Thank you for the opportunity to address you, as well as your comments and concerns stated in your letter of December 10, 1996, addressed to Chairperson Michael Wilson of the Department of Land and Natural Resources, regarding the above application.

We have taken the contents of your letter to heart, and believe that we have addressed the possible visual impacts in a satisfactory manner through the erection of poles with colored markers to indicate the height of the building at the various corners as well as a height of 20' at each of these points.

The final environmental impact assessment for the proposed use will also address the other concerns set forth in your letter.

If there are any questions, please feel free to contact me.

Yours very truly,


Walton D. Y. Hong

WDYH:wh



Kaua'i Group of the Hawai'i Chapter
Post Office Box 3412
Lihu'e, Kaua'i, Hawai'i 96766

Sam Lemmo
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Dear Mr. Lemmo,

The Kauai Group of the Sierra Club requests that the final environmental assessment for the single family residence at Niumalu (near the Alekoko Fishpond) contain more detail and that the CDUA undergo serious scrutiny. Please consider these comments in both the environmental assessment process and the conservation district use application process so that members of the Board of Land and Natural Resources will read our concerns.

I. Sewage

The Department of Land and Natural Resources rules require that proposed uses "will not cause substantial adverse impact to existing natural resources" and "will not be materially detrimental to the public health, safety and welfare." HAR 13-5-30(c)

The applicant must discuss in the environmental assessment how it will address sewage issues. It is our understanding that the elevation of the site is too low -- and too close to the fishpond -- to allow for the proper disposal of sewage. It is not sufficient for the applicant to assure DLNR that it will address sewage issues in consultation with the Department of Health. Often, inappropriate land use decisions are left for DOH to address. DOH can only attempt to minimize poor land use decisions after they have been made. DOH staff members often complain that they are required to allow polluting activities to take place in inappropriate places simply because land use decision-makers made poor decisions. Before any decision is made on this CDUA, DLNR should consult extensively with DOH to ensure that DOH believes that any sewage generated on site can be properly disposed.

II. Views

The Department of Land and Natural Resources rules require that proposed uses "shall be compatible with the locality and

surrounding areas" and "the existing natural beauty and open space characteristics, will be preserved or improved upon." HAR 13-5-30(c)

Self-serving statements are not appropriate in an environmental assessment. DLNR staff must independently assess the impact of this project on views. The DEA itself declares that the Alekoko Fishpond is a major scenic resource of the island. While the DEA declares that the proposed residence would not be within the "normal southwestern viewplane," the EA must disclose -- and DLNR independently determine -- whether any of the viewplane is affected. The applicant's definition of "normal" and the public's may be substantially different. What does "readily visible" mean?

III. Future Use of Fishpond

Reasonable use of the property includes restoration of the fishpond (a reasonable use not requiring compensation). The applicant notes that "it is the Applicant's long range plan to eventually restore the Alekoko Fish Pond and use the same for the raising of fish as well as making the same available as an educational tool for Kauai's students." Therefore, a denial of the proposed housing development is not an unwarranted taking of property.

IV. Other Issues

The final environmental assessment should disclose the risks posed by flooding. The final EA should disclose what measures will be taken to prevent sediment runoff during clearing, grading and construction.

Sincerely,



Rob Culbertson
Chair

cc. Walton Hong
3135-A Akahi St
Lihue, HI 96766

WALTON D.Y. HONG
LORNA A.M. ROSA

LAW OFFICES OF
WALTON D.Y. HONG
ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

January 31, 1997

Sierra Club
Kaua'i Group of the Hawai'i Chapter
Attention: Mr. Rob Culbertson, Chair
P. O. Box 3412
Lihue, HI 96766

Re: Conservation District Use Permit for
single family residence at Alekoko (Menehune)
Fishpond, Lihue, Kauai, Hawaii
Kauai TMK: 3-2-1: por. 1

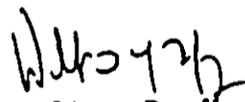
Dear Mr. Culbertson:

Thank you for your comments and concerns stated in your undated letter (received by me on December 19, 1996), addressed to Sam Lemmo of the Department of Land and Natural Resources, regarding the above application.

The final environmental impact assessment for the proposed use will address the concerns set forth in your letter, i.e., sewage treatment and disposal, views, future use of the pond, and flooding.

If there are any questions, please feel free to contact me.

Yours very truly,


Walton D. Y. Hong

WDYH:wh



REPLY TO
ATTENTION OF
Office of Counsel

DEPARTMENT OF THE ARMY
U S ARMY ENGINEER DISTRICT, HONOLULU
FT SHAFTER, HAWAII 96858-5440

January 6, 1997

Walton D.Y. Wong, Esq.
3135-A Akahi Street
Lihue, Kauai, Hawaii 96766

Subject: Environmental Impact Assessment and Application
for Conservation District Use Permit (CDU permit) for single
family residence at Niualu, Lihue, Kauai
(TMK: 3-2-001-001)

Dear Mr. Wong,

Thank you for your letter of December 5, 1996, with an
enclosed Environmental Impact Assessment for the subject
residence.

We recommend that your client contact the Corps of
Engineers, Operations Division, for a determination whether
the proposed work is outside the Corps' regulatory
jurisdiction under the Clean Water Act and Section 10 of the
Rivers and Harbors Act of 1899. Your client may contact Ms.
Lolly Silva at 438-9258, extension 17. If you have
questions, please call me at 438-9972.

Sincerely,

Patricia E. Billington
Assistant Division Counsel

Copies furnished:

Michael Chun, Chief, Civil Division, U.S. Department of
Justice, United States Attorney, District of Hawaii, 300 Ala
Moana Blvd., Honolulu, Hawaii 96813; FAX: (808) 541-2958

Karen Evans, U.S. Fish and Wildlife Service, 300 Ala
Moana Blvd., Honolulu, Hawaii 96813; FAX: (808) 541-3470

Terrell Kelley, U.S. Natural Resources Conservation
Service, 300 Ala Moana Blvd., Honolulu, Hawaii 96813
FAX: (808) 541-1335

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TELECOPIER (808) 245-5175

January 31, 1997

Department of the Army
U.S. Army Engineer District, Honolulu
Office of Counsel
Attention: Patricia E. Billington
Assistant Division Counsel
Ft. Shafter, Hawaii 96858-5440

Re: Environmental Impact Assessment and Application
for Conservation District Use Permit (CDU Permit)
for single family residence at Niumalu, Lihue,
Kauai (TMK: 3-2-001-001)

Dear Ms. Billington:

Thank you for your letter of January 6, 1997, regarding the
above referenced matter.

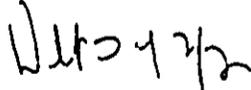
We have taken your recommendation and contacted Lolly Silva
on January 10, 1997 for a determination whether the proposed
work is outside the Corps of Engineers' regulatory jurisdiction.
Several follow up calls were made since then.

To date, however, Ms. Smith has not been able to advise us
of a determination.

Be assured that if it should be determined that the
proposed action falls within the jurisdiction of the Corps of
Engineers, the applicant will comply with all applicable
requirements.

If there are any questions, please feel free to call me.

Yours very truly,



Walton D. Y. Hong

WDYH:wh