

**STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i**

180-Day Exp. Date: May 11, 2019

April 12, 2019

**Board of Land and
Natural Resources
State of Hawai'i
Honolulu, Hawai'i**

REGARDING: Conservation District Use Application (CDUA) HA-3830
for a Single Family Residence (SFR) & Related
Improvements

**APPLICANT/
LANDOWNER:** Pedro P. Ramos
AGENT: James Leonard of JM Leonard Planning LC.

LOCATION: Pihā, North Hilo, island of Hawai'i
TMKs: (3) 3-2-004:038

AREA OF PARCEL: Approximately (≈) 18.3-acres

USE: ≈ 0.5-acres

SUBZONE: Resource

DESCRIPTION OF AREA AND CURRENT USE (EXHIBITS A, B, C & D)

The subject property exists in the North Hilo District of the island of Hawai'i within the very mauka portion of Pihā adjacent to the Hilo Forest Reserve at about the 1,800-ft. elevation. The property is approximately (≈) 18.3-acres and lies within the Resource subzone of the Conservation District.

The property is located in a relatively remote and heavily wooded area, with the nearest residence being located close to a quarter mile away. According to what was presented in the application, a number of farms and residences are present makai of this property along the Pihā-Kahuku Road, the access to the property. While there are communication and water utilities within the right of way, these utilities do not extend to the parcel. The property does not have electrical power, municipal water or sewer services and can be described as vacant with no structures.

The property is on the southeastern flank of Mauna Kea and is bordered by Waikaumalo Stream and gulch to the northwest; by the Hilo Forest Reserve to the southwest; the overgrown Pihā-Kahuku Road along the southeast and a vacant undeveloped property to the northeast. The property is bisected by Kahaeha Stream in a generally north-south

direction and separates the proposed site in the eastern section from the remaining western portion.

Historical records indicate that portions of the property may have been used for ranching during the prior century. Other than the area of the existing driveway into the property and a previously disturbed area at the proposed house site, the property is largely overgrown and there are few signs of prior use.

Natural Resources

The property receives an average of about 205-inches of rain annually. Soil is highly organic, hydrous silty clay loam that is characterized as fairly well drained but has medium to high runoff such that localized boggy conditions can quickly develop when the soil is compressed by cultivation, vehicles or animals.

Regarding existing natural hazards, the volcanic hazard for the area has been assessed by the USGS scale has been determined to be in Zone 8 on a scale of 1-9 with Zone 1 having the highest hazard rating. The applicant is aware the entire island of Hawai'i experiences seismic activity. The property is within Flood Zone X, an area outside the mapped 500-year floodplain.

Flora/Fauna

The vegetation is a mixed native/non-native forest dominated by paperbark, strawberry guava, and 'ōhi'a. Ground cover is non-native grasses and weeds, including the highly invasive Koster's Curse. A number of native ferns and few non-native ones are present as epiphytes. A few common native species are found in scattered locations such as hame and 'ie'ie. The native plants found on the property are all common in the region, island, State.

Common birds such as the Mejiro, Northern Cardinals, Japanese Bush Warblers, Spotted Doves and Striped Doves have been observed on the property. It is likely the Hawai'i 'Amakihi may visit the site. As with all of East Hawai'i, several endangered native avifauna may be present in the general area or may overfly, roost, nest, or utilize resources of the property. This would include: 'Io, the endangered Hawaiian Hawk; 'U'au, the endangered Hawaiian Petrel; 'Akē'akē, the endangered Band-rumped Storm Petrel; and the threatened 'A'o, the Newell's Shearwater.

In addition, some native water birds may utilize other parts of the property such as the two streams that cross the property outside of the project site. This may include: the 'Auku'u, the Black-crowned Night Heron; Nēnē, the endangered Hawaiian Goose; Koloa maoli, the endangered Hawaiian Duck; and the 'Alae ke'oke'o, the endangered Hawaiian Coot.

Aside from the Ope'ape'a, the endangered Hawaiian Bat, other mammals found in the project area are common and invasive such as feral cats, feral pigs, mongoose and various rats. In addition, the coqui frog, an invasive amphibian is also present.

Historic/Cultural

An archaeological survey of a portion of the property, from the Kahaeha Stream and Pīhā-Kahuku Road, was conducted. Within this area, no archaeological remains of any kind were identified on the surface of the study area as a result of the pedestrian survey. It was concluded that construction of the proposed residence and its associated improvements would have no impact on any historic properties.

The applicant describes the general cultural landscape in the area as the wao (wildlands) of Pīhā that were used by the Hawaiians to procure special resources, specifically for bird-catching and the hewing and carving of koa wood for canoes. Boundary Commission testimony for Pīhā in 1875 revealed that an old trail utilized by bird catchers extended along the boundary of Pīhā and Kahuku Ahupua‘a, which is coterminous with the eastern boundary of the property. Further according to the testimony, a canoe road in Nanue, the ahupua‘a that begins slightly northeast of the property, extends mauka and led to a place named Ka‘ahina where canoes were made. The presence of these trails and their association with known traditional customs and practices in the area emphasize Pīhā’s significance as a cultural landscape and its value to the Hawaiian people’s cultural identity.

Part of the CDUA process requires that the applicant submit a HRS, 6E form developed by the State Historic Preservation Division. Pursuant to HRS, §6E-42, prior to any agency or officer of the State [in this case, the Board] approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office [OCCL] shall advise SHPD prior to any approval and allow SHPD an opportunity to review and comment on the effect of the proposed project on historic properties.

On November 9, 2018, OCCL submitted the required HRS, 6E form and supplemental information to SHPD for review with an Effect Determination of “no historic properties affected” and noted as SHPD Log No. 2018.01129. No response was received within the 30-45 day review period by SHPD.

Hilo Forest Reserve Access

Currently, there is no formal access to the Pīhā section of Forest Reserve from the Pīhā-Kahuku Road. The road right-of-way is nearly completely overgrown from the point of the driveway to access the property, up to the boundary of the State Forest Reserve. While there are a number of informal accesses into the Reserve, it is difficult to monitor and assess the number of individuals seeking to hunt in the mauka area.

Prior to submitting this CDUA, the applicant has been authorized under Site Plan Approval HA 18-78 to conduct repairs and improvements to the existing Pīhā-Kahuku Road, with County of Hawai‘i’s permission, and the existing driveway to provide safe and consistent access to the parcel and to permit larger vehicles to access the site in the future. Improvements consist of adding crush rock/gravel to the road and minor depressions and widening portions of the roadway and providing sufficient visibility by clearing brush.

PROPOSED USE

Site (EXHIBIT E)

According to the applicant, the project site is on a slightly flattened topographic ridge at the end of the existing driveway in a previously cleared area. The nearby Kahaeha Stream is situated at the base of a large gulch that is 40-feet lower in elevation from the top of the gulch. The siting of the residence is 70-feet from the stream itself, therefore no effect on any stream ecosystems is expected to occur due to the physical and topographical separation between the house site and nearest stream.

According to the information provided, a total area of less than a quarter of an acre will be used for the construction of the home and related improvements. Minimal grading will be required due to the relatively level character of the site and design of the structure to fit the site. Grading for portions of the property will be done to minimize altering existing topography as design features have been incorporated to work within the slope and natural configuration of the property's terrain. Grading will be limited to the area of the residence, septic system, water tank and driveway turnaround.

Other than the proposed residence, off-grid utilities and food garden, the majority of the property would be left undisturbed and the single-story residence would not be visible from any of the surrounding properties of the Pihā-Kahuku homestead area. The structure will be set back a minimum of 25-feet from the property boundaries and over 70-feet from the stream, which crosses the property to the northwest. The area between the house site and driveway and stream, as well as the full majority of the property that extends northwest of the stream, will be left undisturbed.

Residence and Associated Improvements (EXHIBITS F, G, H & I)

The residential development shall consist of a single family residence, driveway improvements, and utilities consisting of water storage, propane gas tanks, pump-house, roof and ground mounted solar photovoltaic panels and a Board of Health certified wastewater system. Telecommunications would be provided via a roof mounted a satellite dish.

The residence is a split-level 2-bedroom, 2-bathroom, with a kitchen, dining and living area, a foyer, wardrobe and laundry room, lanais and a carport. The total area of development is 3554-ft². Sustainable fruit trees will be planted and a vegetable garden will be created. The driveway leading to the residence will be gated and a hog-wire fence, to prevent pig damage, will enclose the home and about ¾'s of an acre in the southern corner of the property where the garden and fruit trees would be located. Additional fencing will secure the utility features.

The residence will be largely self-sufficient in terms of power and water use. Electrical power to the house will be generated on-site with the use of roof-top photovoltaic panels, back-up generator and use of a battery storage system. Water would be collected by means of a roof-catchment and storage system. In that much of the energy for the home use will be provided by on-site systems, the home is being designed with the efficient use of power and resources in mind, through the use of passive-design features of the house itself and the use of energy efficient lighting and appliances.

Turn Around Area (See Exhibit F)

While the State has not established formal access from the Pihā-Kahuku Road to the State Forest Reserve, the applicant recognizes that portions of the road are occasionally used by hunters to access the Reserve, generally through adjacent private properties. As part of the planned improvements with the residence, a turnaround area is planned at the makai portion of the property to accommodate those using the road to access the nearby forest, as well as for those exploring in the area as a means of turning around at the current terminus of the road.

Landscaping (EXHIBITJ)

Near the southwestern property boundary, several large eucalyptuses will be removed and replaced with native plants that will include 'ōhi'a, hapu'u, manono and hame; all currently found on the property. In addition, the use of native ground covers that would include laua'e fern, 'uki'uki and pōhinihina, are also planned. While some 'ōhi'a may be removed in the construction of the residence, other native plants found in steeper areas of the property will be preserved.

The vegetation between the stream and site will be left undisturbed. The remainder of the property will be maintained with the existing native and non-native flora. The application has stated the owner would serve as a steward of the land to help protect against the further spread of invasive plants and encourage the regeneration of the native forest.

Sustainable food trees proposed for the site would include citrus, avocado, mountain apple, mango, banana, soursop, rambutan, pomegranate, cacao and breadfruit. The native 'ōhi'a and tree ferns that are found scattered at the residential site and upon the property most likely will be preserved. Mitigation for Rapid 'Ōhi'a Death shall be strictly adhered to.

Expected Mitigative Actions and Practices

Mitigative actions for endangered species:

- Refrain from construction activities that disturb or remove shrubs or trees taller than 15-feet between June 1 and September 15 during Ope'ape'a pupping season;
- For land clearing between the months of March and September, inclusive, a pre-construction 'Io nest search by a qualified ornithologist using standard methods will be conducted. If 'Io nests are present, no land clearing will be allowed until October; and
- Any exterior lighting shall be shielded to protect the night sky.

Mitigative actions for Rapid 'Ōhi'a Death (ROD):

- Prior to construction identify and tag any other 'ōhi'a near the construction site to insure their branches are not damaged or broken during construction;
- Treat any unavoidable scars to prevent infestation of the fungus;
- Stock all removed 'ōhi'a for disposal onsite by means of burying or chipping;

- No 'ōhi'a shall be removed from the site;
- All new 'ōhi'a plantings will be grown by a trained arborist from cuttings taken from plants on site as there shall be no new introduction of 'ōhi'a; and
- Decontaminating shoes and work tools prior to entering and leaving the construction site.

Construction and Best Management Practices (BMP)

The proposed residence has been designed to be compatible with the surrounding environment by incorporation measures such as:

- Use of native/noninvasive landscaping to blend the structure with the surrounding environment;
- Use of "earth tones" in the selection of roof and building colors;
- Limiting the disturbed areas to those areas required for the construction of the residence and related infrastructure and siting and designing the structure in consideration of the existing topography so as to minimize the amount of grading required; and
- Siting the home in a less vegetated area consisting of mostly non-native flora; and
- Retaining the vegetation along the road/pathway to retain the wooded scenery.

The structural design and siting of the residence as well as the design of the wastewater system has taken into consideration the soil conditions. Construction shall be in compliance with Federal, State and Hawaii County laws. Standard Best Management Practices will be observed. Within the Environmental Assessment, the applicant has proposed and will observe several practices and mitigation for the short-term construction phase and long-term residential living to insure no adverse impacts to the environment, neighbors and household.

All runoff will be retained on site and absorbed into the generally porous ground. It should be noted that the driveway will remain as a gravel to encourage water retention on site and minimizing the potential for water runoff and erosion.

Alternatives

The applicant has explored other location sites on the property but all would involve more clearing and most would site the proposed residence closer to the streams. The other alternative would be no action- the residence would not be built and the lot would remain undeveloped. No other uses are desired by the landowner for the property at this time.

SUMMARY OF COMMENTS

The application was referred to the following agencies for their review and comment: the **State**: Department of Health; Office of Hawaiian Affairs; Office of Environmental Quality Control; Department of Transportation; Department of Land and Natural Resources Divisions of: Forestry and Wildlife, Na Ala Hele, Hawai'i District Land Office, Historic Preservation, and the Commission of Water Resource Management; and the **County of Hawai'i**: Department of Planning and the Department of Water Supply. In addition, this application was also sent to the nearest public library, the Lapāhoehoe

State Public Library, to make this information readily available to those who may wish to review it.

Responses were received and have been summarized from the following agencies:

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

Engineering

The owner of the project property and/or their representative is responsible to research the Flood Hazard Zone designation for the project.

Applicant's Response

This is discussed in the Environmental Assessment Section 3.1.2 Flood Zones. The property is in Zone X, areas outside the 500-year floodplain.

Forestry and Wildlife

The State and Federal listed Hawaiian Hoary Bat has the potential to occur in the vicinity of the project area and may roost in trees. To avoid the potential for impacts to this tree-roosting species, site clearing should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15). If this cannot be avoided woody plants greater than 15 feet (94.6 meter) tall should not be disturbed, removed, or trimmed without consulting DOFAW. Barbed wire should be avoided for any construction because bat mortalities have been documented as a result of becoming ensnared by barbed wire during flight.

The State and federal listed Hawaiian Hawk or 'Io may occur in the project vicinity. DOFAW recommends surveying the area to ensure no Hawaiian Hawk nests are present if trees are to be cut.

We note that artificial lighting can adversely impact seabirds that may pass through the area at night causing disorientation that could result in collision with manmade objects or grounding of birds. For nighttime lighting that might be required, DOFAW recommends that any lights be fully shielded to minimize impacts. Night time work that requires outdoor lighting should be avoided during seabird fledging season from September 15 through December 15. This is the period when young seabirds take their maiden voyage to the open sea.

We recommend using native plant species for landscaping that are appropriate to the area (i.e. climate conditions are suitable for the plants to thrive, historically occurred there, etc.) Do not plant invasive species. DOFAW recommends consulting the Hawaii-Pacific Weed Risk Assessment website to determine the potential invasiveness of plants proposed for use in the project

To prevent the spread of rapid 'ōhi'a death (ROD), if 'ōhi'a trees are to be removed, trimmed, or potentially injured, DOFAW requests that the information and guidance at the following website be reviewed and followed: cms.ctahr.hawaii.edu/rod.

You should avoid moving soil or other plant material within and between the islands due to the potential presence of pathogens. We recommend consulting the Hawai'i Interagency Biosecurity Plan at dlnr.hawaii.gov/hisc/plans/hibp/ in planning, design, and construction of the project.

We appreciate your efforts to work with our office for the conservation of our native species. Should the scope of the project change significantly, or should it be apparent that threatened or endangered species may be impacted, please contact DOFAW staff as soon as possible.

Additional DOFAW comments

- The Environmental Assessment states that the applicant agreed to construct an unpaved parking and turn-around area at the makai boundary of his property where the driveway and Pīhā-Kahuku Road diverge, to allow public access to the Hilo Forest Reserve along his boundary. DOFAW would like this clearly stated in the approval documents;
- Our research finds that the government laid out and appropriated money in 1939 for the Pīhā-Kahuku Road, which today is a public county road pursuant to HRS, Chapter 264-1. As a public road, Pīhā-Kahuku Road provides direct access for members of the public to the Hilo Forest Reserve. Individuals wishing to access the forest reserve from this point will be able to park in the unpaved parking lot agreed to be built by the applicant near the boundary of his property and walk along the right of way to access the Pīhā section of the Hilo Forest Reserve which is also a Hunting Unit B area. Unit B is open for hunting daily. This has been an important access corridor to the forest reserve for decades and it is important to keep it open.

Na Ala Hele

The land of Piha 1 & 2 was never assigned or awarded at the time of the Mahele of 1848. Controversy arose over the ownership of this land when the Trustees of the Estate of Bernice Pauahi Bishop claimed this land as an heir to certain lands which had been continuously held and claimed by her ancestors. In order to settle the controversy a compromise was proposed whereby the Minister of the Interior conveyed other lands to the Trustees who in turn conveyed the land of Pīhā (besides other lands) to the Kingdom of Hawai'i on December 20, 1890. Thus the land of Pīhā was made a part of the Government land of the Kingdom of Hawai'i. Unaware of this settlement, the author of the Archaeological Assessment of the subject CDUA erroneously categorized the land of Pīhā as Crown land.

The government laid out and appropriated money in 1939 for construction of the Pīhā-Kahuku Road. Pīhā-Kahuku Road is a public county road pursuant to HRS, §§264-1 and 2. The CDUA reports the portion of Pīhā-Kahuku Road in the vicinity of the Ramos parcel is overgrown up to the boundary of the State Forest Reserve property. As a public road access is secure for all persons who wish to enter the Forest Reserve.

Applicant's Response

We note that DOFAW's recommended mitigation measures for threatened or endangered species and ROD are essentially the same as those proposed in the EA. Although no barbed wire was planned as part of the project, the recommendation to not allow it in order to avoid bat entanglement has been explicitly added as a mitigation measure in the Final EA, with the possible exception of a bottom strand on the hogwire fence surrounding the home, which would not be expected to entangle bats because of its low location near the ground. We note that no night construction will occur. The Hawai'i Pacific Weed Risk Assessment was consulted prior to development of the landscape plan concerning the invasiveness of the species proposed for landscaping and no invasive species are proposed. No soil will be moved between islands.

We appreciate the research on the origin and status of the road by Na Ala Hele. It confirms the findings of our own research and reinforces the need to protect public access by providing a turn-around area/parking spot just outside the gate on the driveway near the makai boundary that can accommodate a car or truck. We would note that there are several locations lower down along the unpaved portion of Pihā-Kahuku Road that have previously been used for parking. The applicant is in agreement with the suggestion that the public access condition be part of any approval documents. Information regarding the ownership of the land prior to 1890 has been added to the EA.

Hawai'i District Land Office

No comments

Office of Conservation and Coastal Lands (OCCL)

Please respond to Conservation Criteria 3 in regards to the ten objectives and policies of the Coastal Zone Management Program to complete the CDUA.

In reviewing previous County of Hawai'i's Fire Department comments, due to the location and condition of the road, it is apparent should an emergency occur, the residence most likely will be on their own. Please identify fire prevention actions, [storage of fuels, firebreak, etc.] that would be implemented and provide a discussion of the Fire Department's 'Early Consultation' comments as it relates to the site and identify the dedicated water source for firefighting. A Fire Contingency Plan shall be required should the proposed land use be granted.

Regarding what appears to be a separate structure with doors identified as the WATER/GAS TANKS/PUMP ROOM 380 SF on Figure 4 of the CDUA; this feature is not on Figure 7 East Elevation of the CDUA nor fully described in the application. Explain the dimensions of this area/structure, what it is; it's purpose and if it is attached to the SFR.

Regarding our former comments on road improvements in the Conservation District, it appears the road belongs to the County of Hawai'i, should improvements be required to facilitate the proposed construction, authorization should be sought from the County that has jurisdiction over the road pursuant to HRS, Chapter 265A.

Applicant's response

The evaluation of the Coastal Zone Management and HRS, 205A has been included with the Final EA. No aspect of the project is inconsistent with the CZM objectives and policies.

Regarding the Fire Department comments, we note that the applicant's architect has reviewed the Fire Code requirements that would be applicable to the proposed single-family residence with the Department of Public Works, Building Division staff and has planned and designed the house accordingly. The designer will also review the plans with the appropriate Fire Department personnel prior to the applicant's submittal for building permit approval to ensure the residence is designed in full compliance with applicable Fire Department regulations.

Regarding the WATER/GAS TANKS/PUMP ROOM 380 SF on Figure 4 of the CDUA, this is the combined area of the separate utility features that are located together in an open area adjacent to the driveway. What appear to be doors are, in fact, the gates within a fence line that would run between the driveway and this utility area. The purpose of the pump room, is to house and protect the water pump, pressure tank and water filtration system and would be a simple wood structure about 70-ft² approximately 8-feet in height. Regarding the road, the landowner has become aware of the jurisdiction of the (mostly paper) road and will coordinate with the County of Hawai'i DPW as needed. This information has been added to the Final EA.

COUNTY OF HAWAI'I

Department of Water Supply

The subject parcel does not have an existing water service with the Department, as the parcel is not within the service limits of the Department's existing water system. The Department has no objections to the proposed application, subject to the applicant understanding and accepting that the Department cannot provide service to the proposed dwelling.

Applicant's response

The applicant has proposed and designed the home with this understanding, which is now stated explicitly in the Final EA.

ANALYSIS

After reviewing the application, by correspondence dated November 9, 2018, the Department has found that:

1. The proposed use is an identified land use in the Resource subzone of the Conservation District, pursuant to §13-5-24, Hawaii Administrative Rules (HAR), R-7, SINGLE FAMILY RESIDENCE, (D-1) A single family residence that conforms to design standards as outlined in Chapter 13-5, HAR. Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to §13-5-40 of the HAR, a Public Hearing will not be required;

3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, a finding of no significant impact to the environment (FONSI) is anticipated for the proposed project; and
4. Please be informed that, the applicant's responsibility includes complying with the provisions of Hawaii's Coastal Zone Management law (Chapter 205A, HRS) that pertain to the Special Management Area (SMA) requirements administered by the various counties.

The OCCL notes the subject parcel does not lie within the Special Management Area. In addition, a FONSI to the environment was published in the February 8, 2019 Environmental Notice.

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in Section 13-5-30, HAR.

1. *The proposed land use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.

The proposed use is an identified land use in the Resource subzone of the Conservation District; as such, it is subject to the regulatory process established in Chapter 183C, HRS and detailed further in Chapter 13-5, HAR.

No rare, threatened or endangered plant or animal species or significant habitats are known to exist on the subject property. No Archaeological and cultural resources have been identified on the property. A number of mitigative practices have been identified within the application and the EA to insure appropriate management and action shall be implemented to protect natural resources.

2. *The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.*

The objective of the Resource subzone is to ensure, with proper management, the sustainable use of the natural resources of those areas. A Single Family Residence is an identified land use pursuant to the HAR, §13-5-24, R-7, SINGLE FAMILY RESIDENCE (D-1) A single family residence that conforms to design standard as outlined in Chapter 13-5.

The design and construction of the residence conforms to the design standards set forth in 13-5, HAR. The property owner is committed to manage his property in a manner that is protective of the natural resources present. Staff believes the proposed land use is consistent with the objectives of the subzone, provided identified mitigation and best management practices are adhered to.

3. *The proposed land use complies with provisions and guidelines contained in Chapter 205, HRS, entitled "Coastal Zone Management," where applicable.*

The project site is not located within the Special Management Area. Staff believes the proposed project complies with provisions and guidelines contained in Chapter 205, HRS regarding Coastal Zone Management: No significant public views will be impacted, the project has been designed to minimize grading; Best Management Practices (BMPs) will be implemented to minimize potential impacts during construction and an approved wastewater treatment system will be utilized to dispose of wastewater.

4. *The proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community, or region.*

Staff believes the proposed land use should not cause substantial adverse impacts to existing natural resources within the surrounding area, community or region provided that mitigative measures are implemented and the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard that the project may cause.

With a presence on the property, stewardship of the land may increase. There may be short-term adverse effects on the surrounding area associated with construction activities such as potential noise and air quality.

5. *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding area, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

Staff is of the opinion that the proposed project will be compatible with the locality and surrounding areas and is appropriate to the physical conditions and capability of the specified parcel. The majority of the property will remain unimproved.

6. *The existing physical and environmental aspect of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, which ever is applicable.*

The site does not contain unique features either topographically or geologically. Although a structure will exist where no structure existed before, the applicant will take appropriate steps to mitigate potential impacts to enhance the subject parcel. The proposed project is intended to blend visually with the surroundings and it is believed there shall be no view impacts to the public or the neighbors.

7. *Subdivision of the land will not be utilized to increase the intensity of land uses in the Conservation District.*

No subdivision of land is proposed for this project.

8. *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff believes the proposed land use will not be materially detrimental to the public health, safety and welfare as mitigated. With the incorporation of an appropriately designed and operated individual wastewater system, combined with other BMPs identified, the proposed residential land use will not result in materially detrimental impacts to public health, safety and welfare.

CULTURAL IMPACT ANALYSIS

A Cultural Impact Assessment was completed for the parcel. No cultural resources or practices were identified on the vacant property. No consulted individuals with ties to and history with the area had any specific information concerning the property and no archaeological features were discovered on site. No traditional gathering of resources has been observed or is known to take place on the property.

Regarding the laid out existing Pīhā-Kahuku Road, while the State has not established a formal access from this road to the Hilo Forest Reserve, the applicant recognizes that portions of the road are occasionally used informally by hunters to access the state lands. As part of the planned improvements, a pull-off and turn-around area is planned at the makai boundary of the property to accommodate those utilizing the road to access the nearby forest lands.

The application describes the general cultural landscape in the area as the wao (wildlands) of Pīhā that were used by the Hawaiians to procure special resources, specifically for bird-catching and the hewing and carving of koa wood for canoes. Boundary Commission testimony for Pīhā in 1875 revealed that an old trail utilized by bird catchers extended along the boundary of Pīhā and Kahuku Ahupua'a, which is coterminous with the eastern boundary of the property. Further according to the testimony, a canoe road in the ahupua'a of Nanue, that begins slightly northeast of the property, extends mauka and led to a place named Ka'ahina where canoes were made. The presence of these trails and their association with known traditional customs and practices in the area emphasize Pīhā's significance as a cultural landscape and its value to the Hawaiian people's cultural identity.

During the processing of this application, no comments were received from native practitioners or the Office of Hawaiian Affairs. The proposed action does not appear to affect traditional Hawaiian rights. It is believed that the project will not impair, diminish, or preclude customary or traditional native Hawaiian rights and no action is necessary to protect these rights.

In the unlikely event that important archaeological, historical or cultural features are discovered, all work will stop and immediate archaeological consultation will be sought with the State Historic Preservation Division in accordance with applicable regulations.

DISCUSSION

The proposed residential development entails a single family residence, driveway improvements, and utilities consisting of water storage, propane gas tanks, pump-house, roof/ground mounted solar photovoltaic panels and a Board of Health certified wastewater system. Telecommunications would be provided via a roof mounted a satellite dish.

The residence is a split-level 2-bedroom, 2-bathroom, with a kitchen, dining and living area, a foyer, wardrobe and laundry room, lanais and a carport. The total area of development is 3554-ft². Sustainable fruit trees will be planted and a vegetable garden will be created. The driveway leading to the residence will be gated and a hog-wire fence, to prevent pig damage, will enclose the home and about ¾'s of an acre in the southern corner of the property where the garden and fruit trees would be located. Additional fencing will secure the utility features.

The proposal is consistent with Chapter 13-5, Hawaii Administrative Rules, Exhibit 4, Single Family Residential Standards. Compatibility provisions such as the use of earth toned or compatible colors with the surrounding area will be utilized on the exterior of the residence.

The applicant has incorporated a number of design features to minimize grading and altering existing topography and to work within the slope and natural configuration of the property's terrain. Staff notes during construction, Standard Best Management Practices will be observed. Within the Environmental Assessment, the applicant has identified a number of mitigative measures, conditions and practices to ensure that the proposal will have minimal effects on the natural resources of the land. As such these proposed measures, conditions and practices are incorporated into the permit.

This would include:

- Site clearing should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15). If this cannot be avoided woody plants greater than 15 feet (94.6 meter) tall should not be disturbed, removed, or trimmed without consulting DOFAW;
- For nighttime lighting that might be required, all lights shall be fully shielded to minimize impacts;
- No night work that requires outdoor lighting during seabird fledging season from September 15 through December 15. This is the period when young seabirds take their maiden voyage to the open sea;
- A pre-construction 'Io nest search by a qualified ornithologist using standard methods shall be conducted prior to land clearing between the months of March and September, inclusive;
- Rapid 'Ōhi'a Protocol shall be observed. There shall be no transport of 'ōhi'a to and from the property and no soil transport from the property; and
- A Fire Contingency Plan reviewed by DOFAW.

In addition to accommodate hunters that may wish to hunt in the Hilo Forest Reserve and adventure seekers, the applicant has agreed to construct an unpaved parking spot and

turn-around area at the makai boundary of his property where the driveway and Pihā-Kahuku Road diverge.

Staff believes that the project will have negligible adverse environmental or ecological effects provided that best management practices and mitigation measures as described in the application and environmental assessment, and as required by rule or laws, are fully implemented.

RECOMMENDATION

Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE Conservation District Use Application HA-3830 for a Single Family Residence (SFR) & Related Improvements located at Pihā, North Hilo, island of Hawai'i, TMK: (3) 3-2-004:038, subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. **Rapid 'Ōhi'a Protocol shall be observed. There shall be no transport of 'ōhi'a to and from the property and no soil transport from the property;**
4. **The permittee has agreed to construct an unpaved parking and turn-around area at the makai boundary of his property where the driveway and Pihā-Kahuku Road diverge, to allow public access to the Hilo Forest Reserve along his boundary;**
5. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
6. The permittee shall comply with all applicable department of health administrative rules;
7. The single family residence shall not be used for rental or any other commercial purposes unless approved by the board. **Transient rentals are prohibited**, with the exception of wilderness camps approved by the board;
8. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit

- application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
9. Unless otherwise authorized, any work or construction to be done on the land shall be **initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use;**
 10. The permittee shall notify the Office of Conservation and Coastal Lands (OCCL) in writing prior to the initiation and upon completion of the project;
 11. All representations relative to mitigation set forth in the accepted application and environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
 12. The applicant shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
 13. **Site clearing should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15). If this cannot be avoided woody plants greater than 15 feet (94.6 meter) tall should not be disturbed, removed, or trimmed without consulting DOFAW;**
 14. **No night work that requires outdoor lighting during seabird fledging season from September 15 through December 15;**
 15. **Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;**
 16. **A pre-construction 'To nest search by a qualified ornithologist using standard methods shall be conducted prior to land clearing between the months of March and September, inclusive;**
 17. The permittee shall utilize Best Management Practices for the proposed project;
 18. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;

19. **The permittee shall file a Fire Contingency Plan with the Department and implement recommendations [e.g. fire breaks, vegetative debris removal] as required;**
20. The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawaii Administrative Rules, Chapter 13-5;
21. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
22. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
23. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
24. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
25. Obstruction of public roads, trails, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, or pathways acceptable to the department;
26. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
27. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
28. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries. All exterior lighting shall be shielded to protect the night sky;
29. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;

30. Any landscaping will shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawai'i. **The introduction of invasive plant species is prohibited;** and

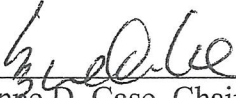
31. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under Chapter 13-5, as determined by the chairperson or board.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

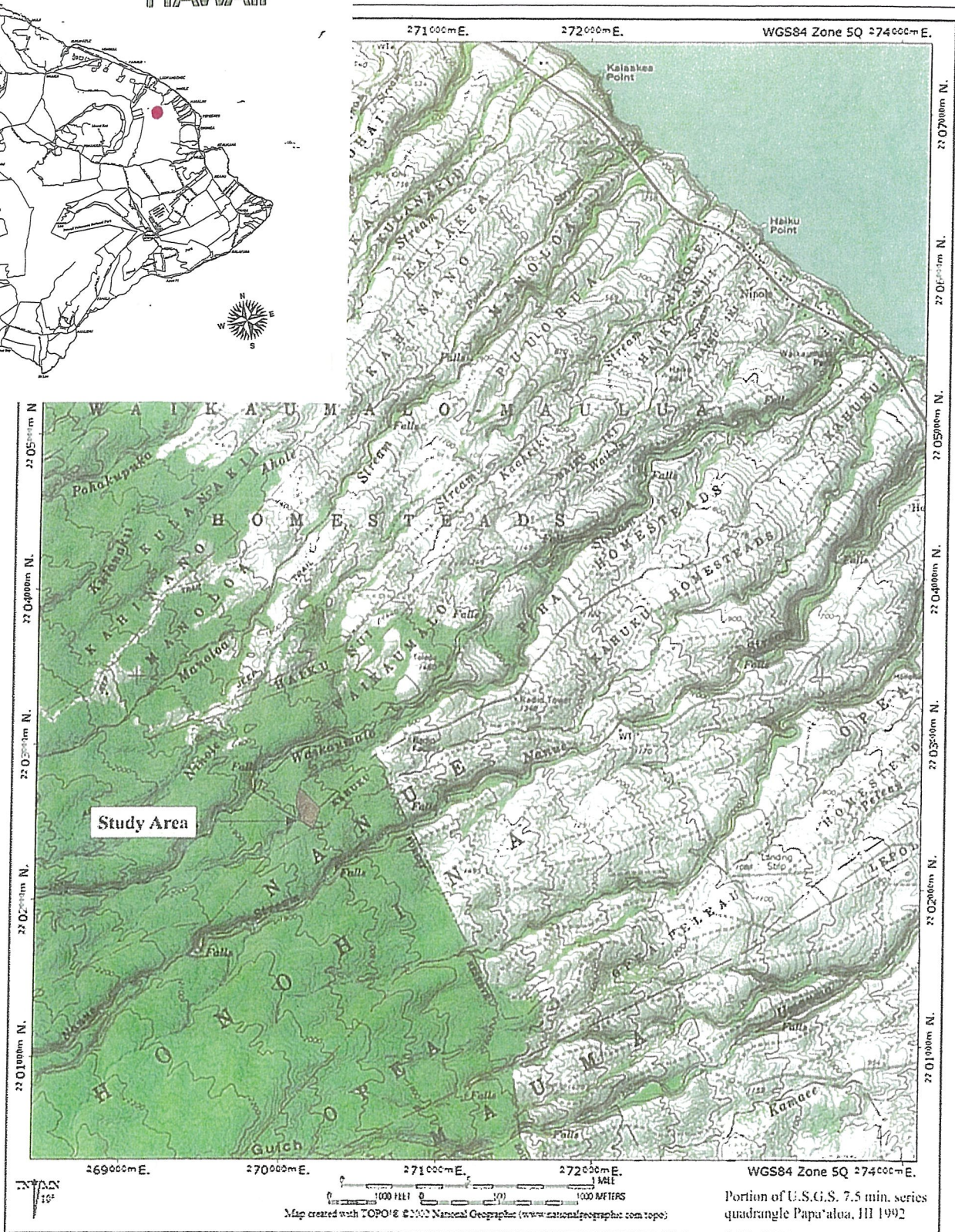
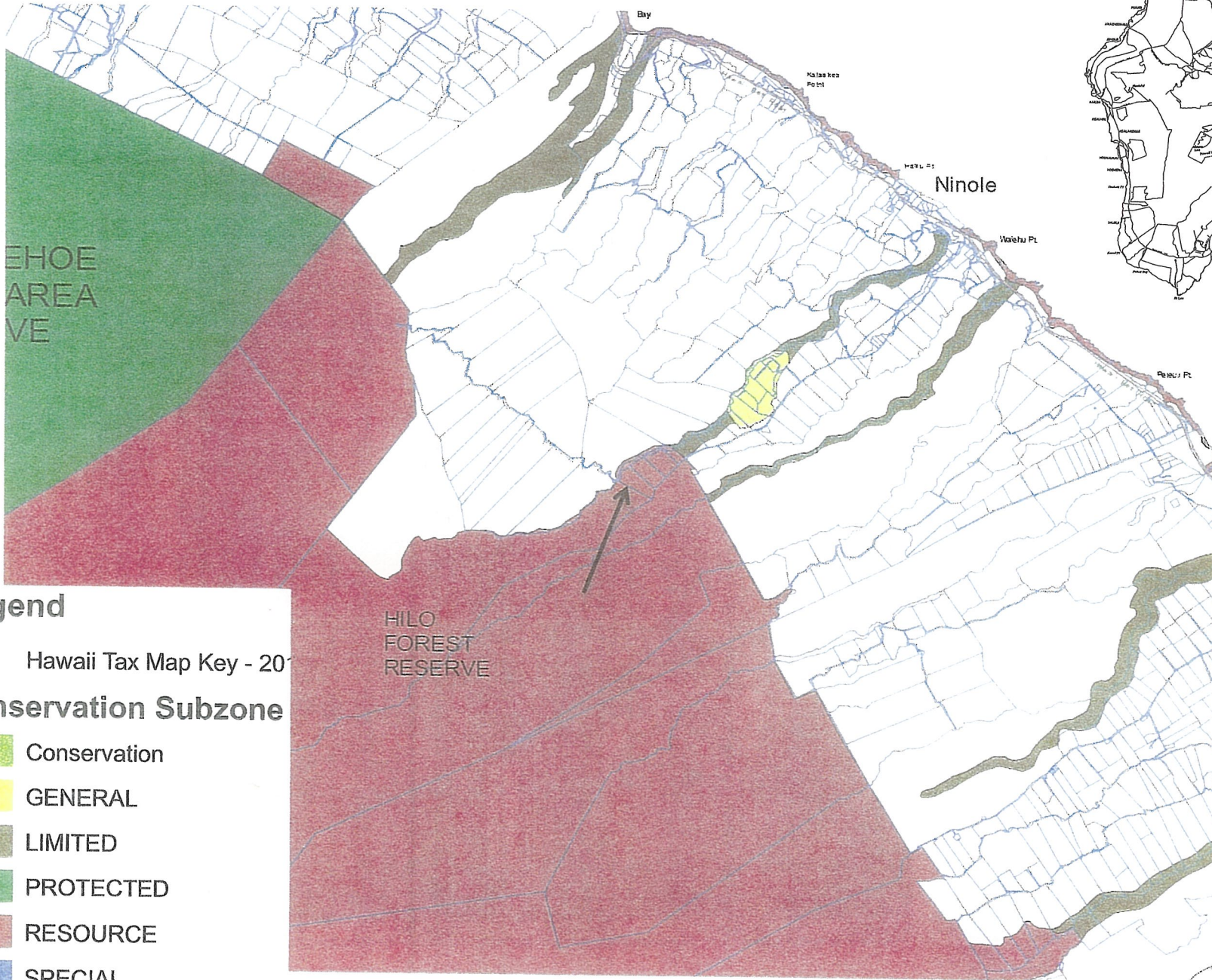
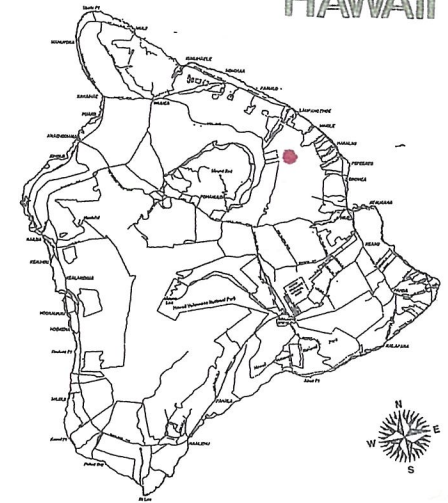
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Figure 1. Study area location.

EXHIBIT A



Legend

Hawaii Tax Map Key - 20

Conservation Subzone

-  Conservation
-  GENERAL
-  LIMITED
-  PROTECTED
-  RESOURCE
-  SPECIAL

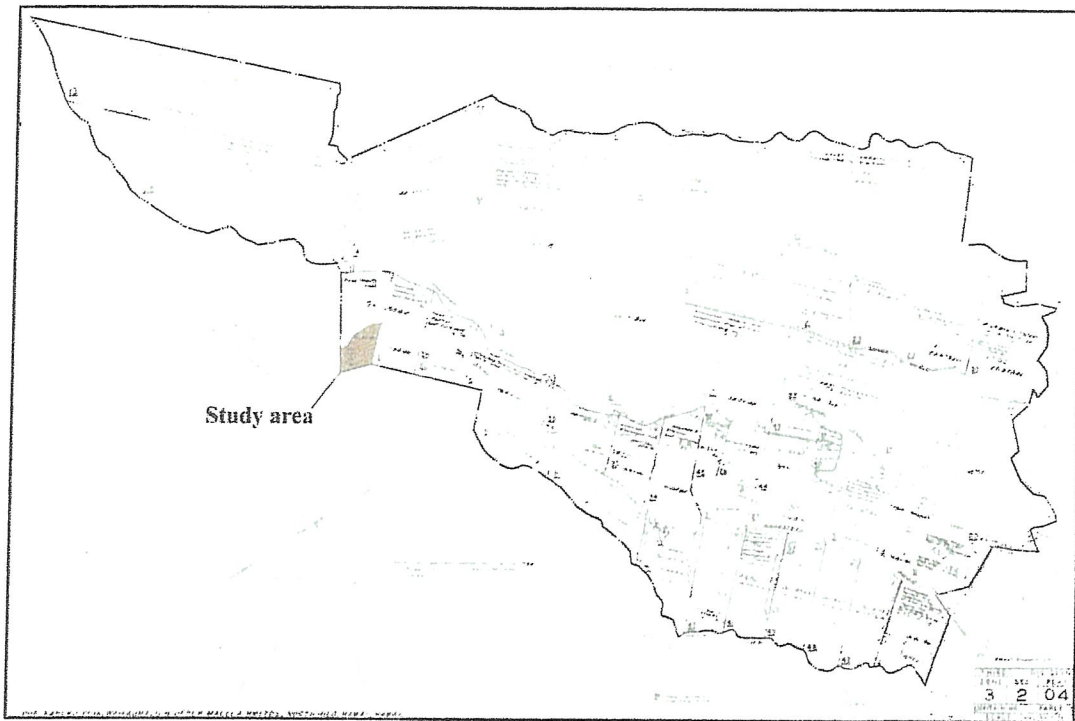


Figure 2. Tax Map Key (TMK): (3) 3-2-004 showing the current study area (portion of Parcel 038).

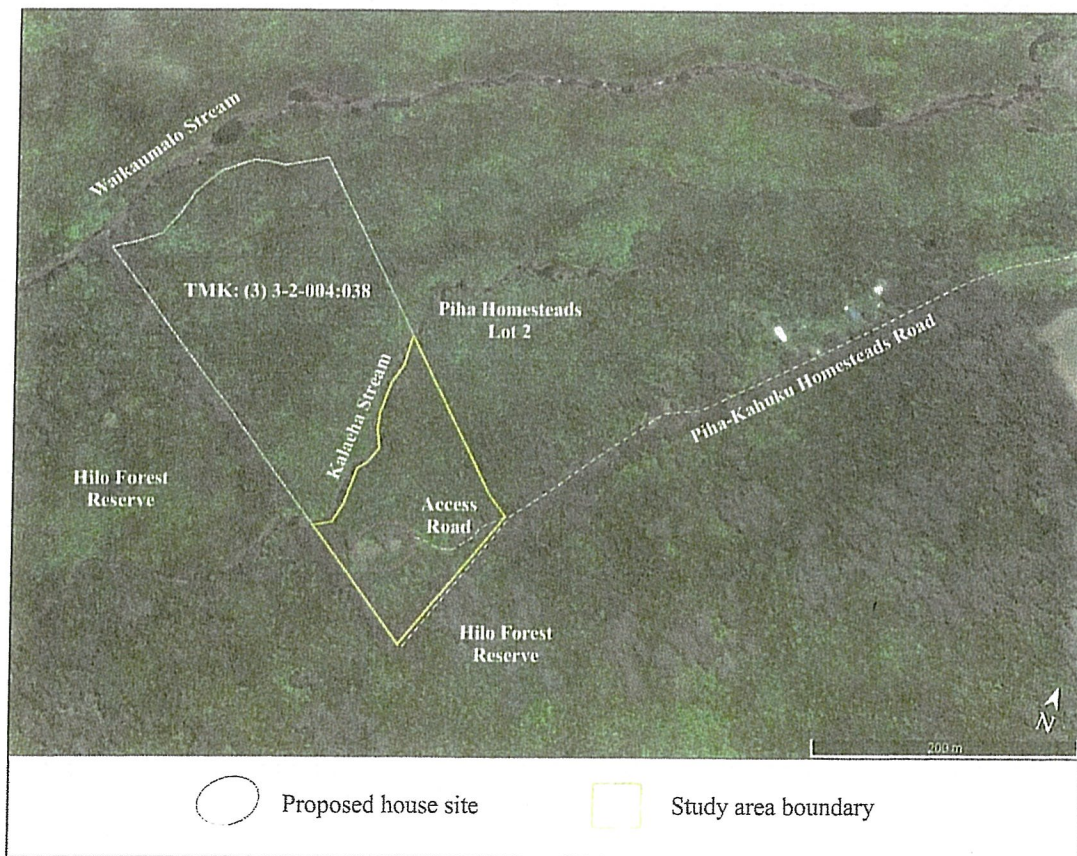


Figure 3. Google Earth image showing the current study area.



Figure 4. Pihā-Kahuku Homestead Road near the eastern corner of the study area, view to the southwest.



Figure 5. Old fence line along the southwestern boundary of the study area, view to the southwest.



Figure 6. Kalaeha Stream, view to the north.



Figure 7. Hand cleared vegetation at the proposed house location, view to the east.

EXIT

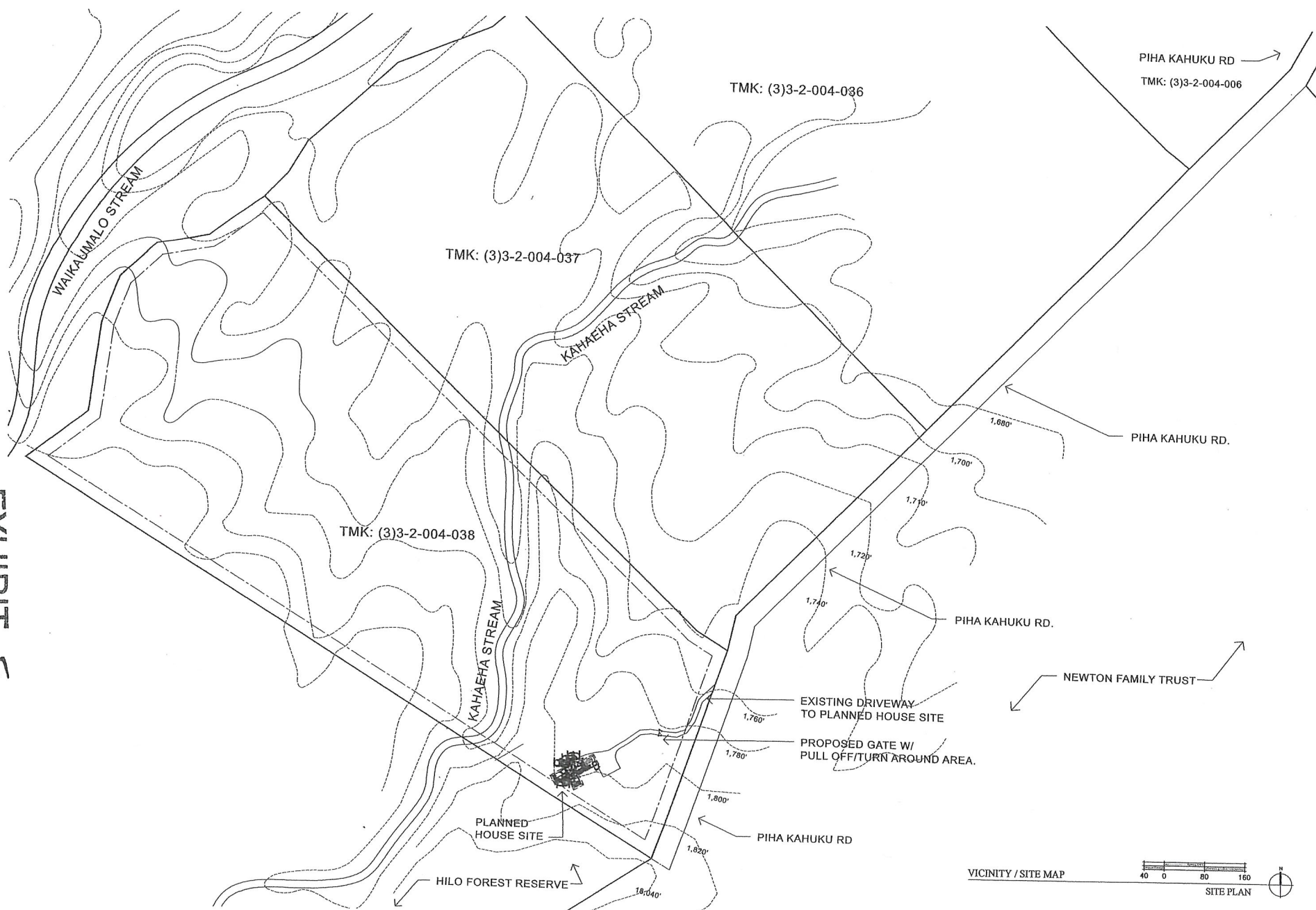


EXHIBIT F

AREA SUMMARY

RESIDENCE	1,306 SF
COVERED LANAI / WALKS / STAIRS	523 SF
CARPORT / STORAGE / MECH ROOM	380 SF
PAVED WALKWAY / PATIO / HOT TUB	215 SF
WATER / GAS TANKS / PUMP ROOM	380 SF
GARDEN PLANTERS	250 SF
GROUND MOUNTED SOLAR ARRAY	500 SF
TOTAL AREA	3,554 SF

RAMOS RESIDENCE
NINOLE, ISLAND OF HAWAII



SITE PLAN

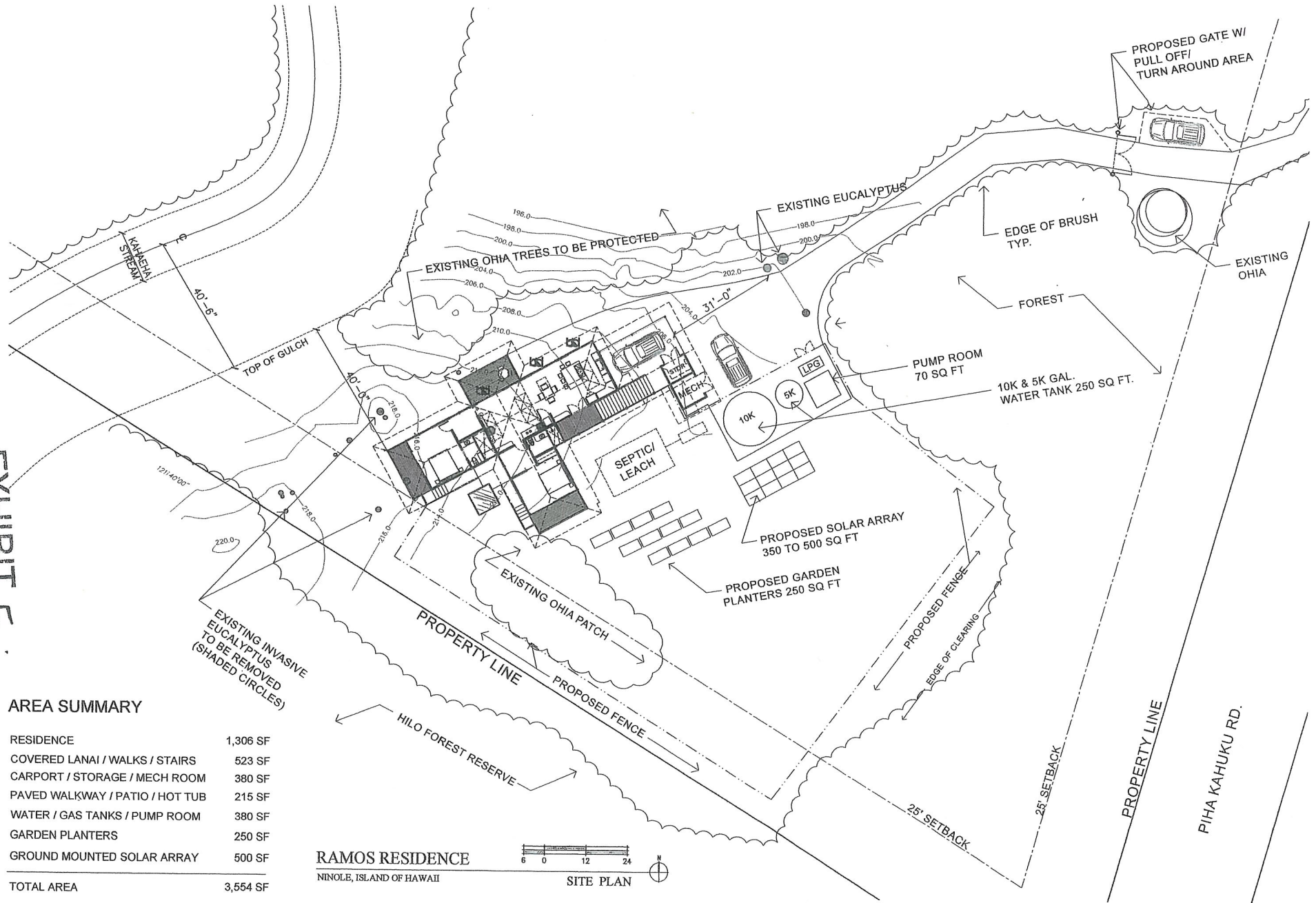
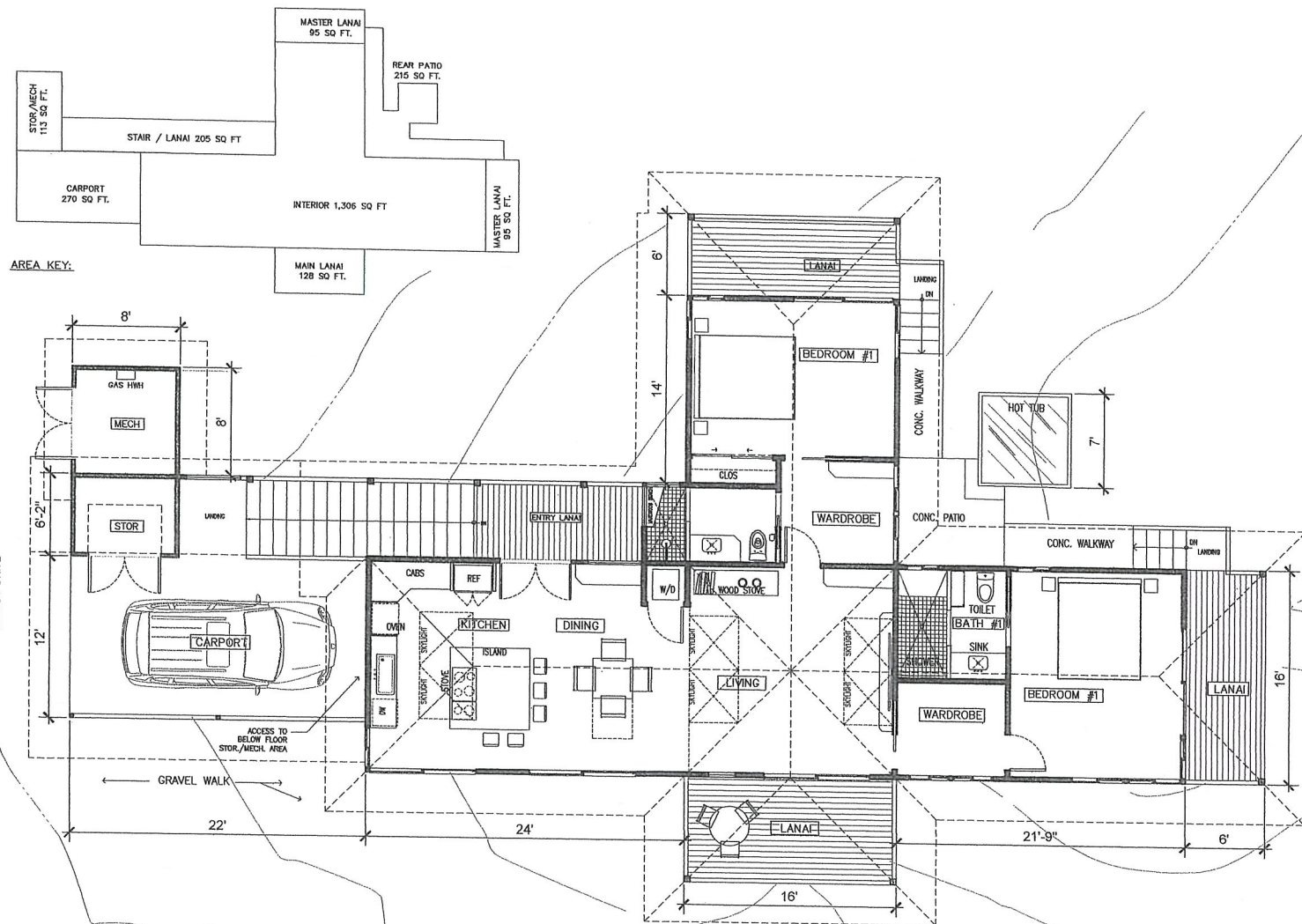


EXHIBIT
G



RAMOS RESIDENCE
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FLOOR PLAN



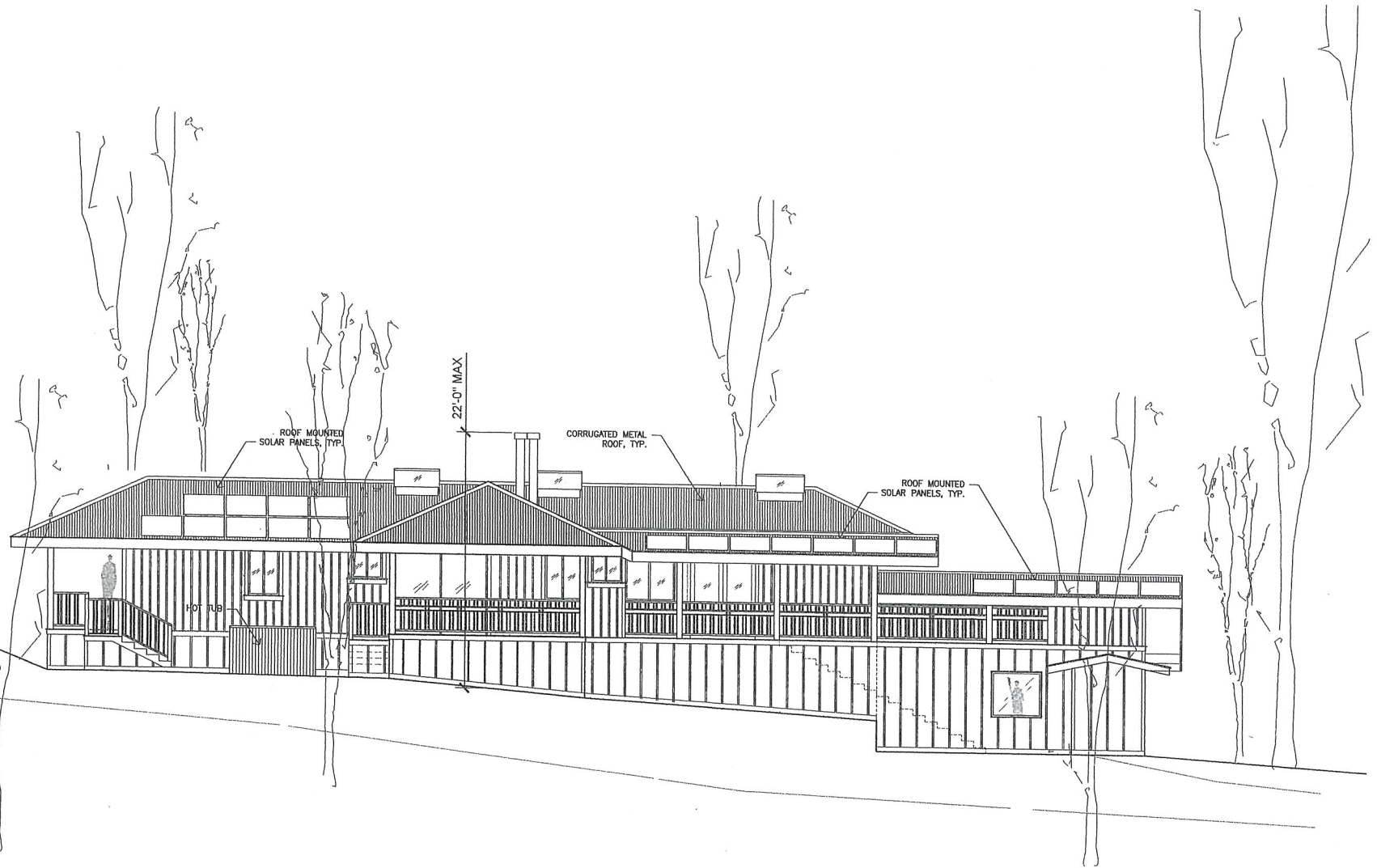
EXHIBIT H



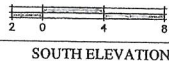
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2 0 4 8
EAST ELEVATION

EXHIBIT 1



RAMOS RESIDENCE
NINOLE, ISLAND OF HAWAII



EXISTING TREES/PLANTS
 Manono (Kadua spp.), Hame (Antidesma Pulvinatum),
 'Ōhi'a, and Hapu'u pulu.

PROPOSED NATIVE TREES TO BE PLANTED:
 Ohia, Kopiko (Psychotria sp.), Kanawao (Broussaisia arguta), Kolea (Myrsine
 spp.), manono (Kadua spp.), and Hame (Antidesma Pulvinatum)

PROPOSED GROUND COVER TO BE PLANTED:
 Lauai Fern, 'Uki'uki, and Pohinahina

PROPOSED FRUIT TREES:
 Mango, Avocado, Banana, Soursop, Rambutan, Citrus
 (lemon, lime orange, mandarin orange, etc.), Pomegranate,
 Cacao, Mountain apple, and Ulu (breadfruit).

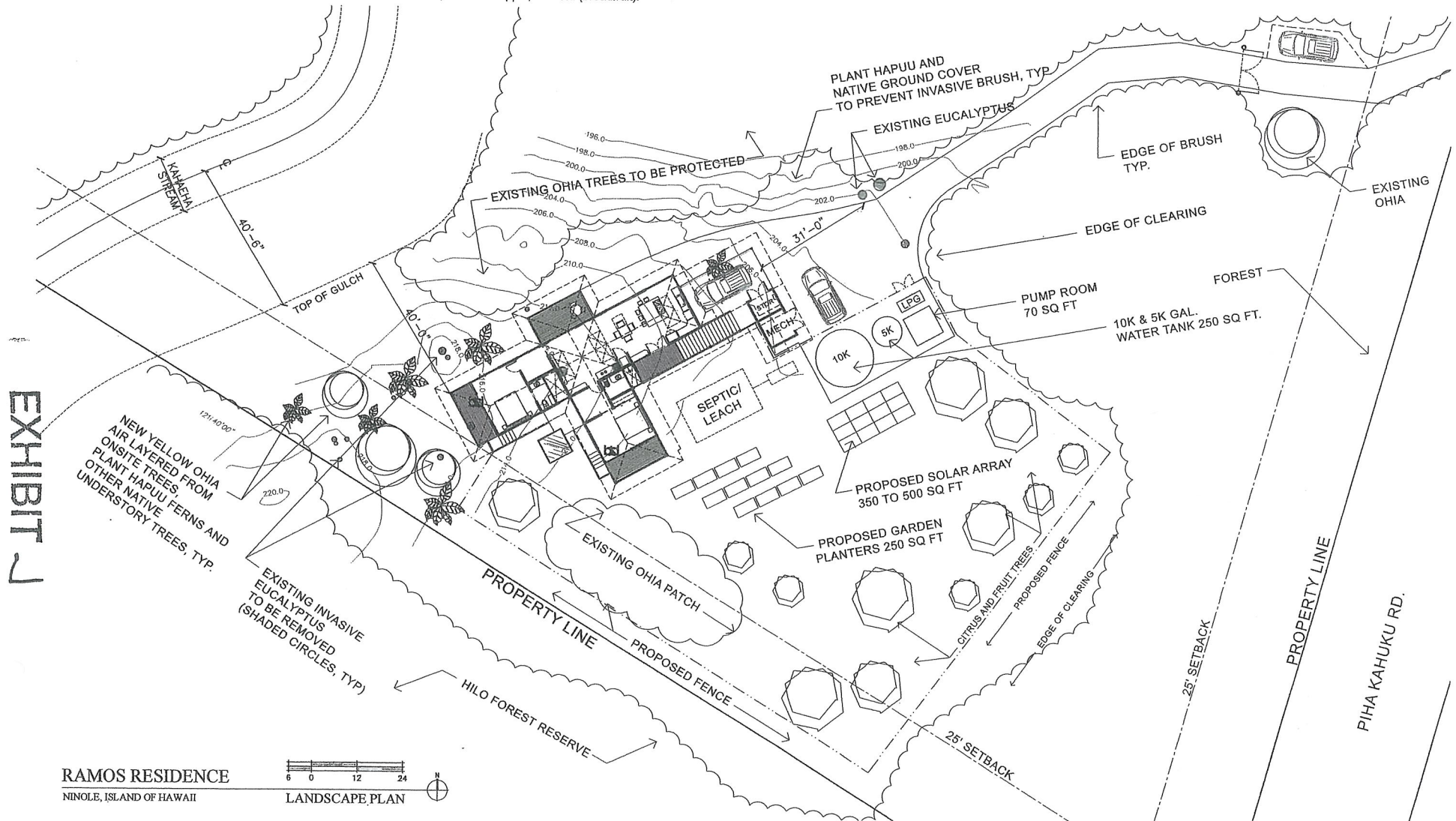


EXHIBIT 1

RAMOS RESIDENCE
 NINOLE, ISLAND OF HAWAII

LANDSCAPE PLAN