

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

November 8, 2019

180-Day Exp. Date: February 23, 2020

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

REGARDING: Conservation District Use Application (CDUA) HA-3853 Public Purpose Subdivision of Land

APPLICANT: County of Hawai'i- Department of Water Supply
AGENT: Makena White of Planning Solutions, Inc.

TMK: (3) 7-3-009:027
LOCATION: 73-4051 Hina Lani St., Kaloko, N. Kona, Hawai'i

AREA OF USE: ≈ 1.243-acres

SUBZONE: General

DESCRIPTION OF AREA/CURRENT USE (Exhibit A)

The subject area exists on the west side of Hawai'i, within the ahupua'a of Kaloko, in the moku of Kona on the island of Hawai'i and lies within the General subzone of the Conservation District. The site is approximately 115-feet above mean sea level on soils predominantly lava flows comprised of alkalai basalt from the 1800-1801 Hualalai eruption.

On December 7, 1990, the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) HA-2405 for the Kaloko Water System Improvements for a private developer at the subject location. While this authorization approved a 10⁶ G water storage tank, a control building and 3 booster pumps, no subdivision of land was included with the application. The water system and the property it exists upon was later conveyed to the County of Hawai'i

AFTER THE FACT LAND USE (Exhibits B & C)

Approximately 54,145-ft² of land was subdivided out of Tax Map Key: (3) 7-3-009:017 within the Conservation District creating Tax Map Key: (3) 7-3-009:027. This application seeks after the fact authorization for the subdivision of land for public purpose use.

SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands referred the application to the following agencies for review and comment: the Department of Land and Natural Resource's Hawai'i District Land Office, Conservation and Resource Enforcement, Engineering and the Commission on Water Resource Management; Office of Hawaiian Affairs; Office of Environmental Quality Control; and the County of Hawai'i Department of Planning. In addition, this application was also sent to the nearest public library, the Kailua-Kona Public Library, to make this information readily available to those who may wish to review it.

Comments were received by the following agencies and summarized by Staff as follows:

THE STATE

DEPARTMENT OF LAND AND NATURAL RESOURCES

Engineering

No comments

Hawai'i District Land Office (ODLO)

No comments

Commission on Water Resource Management

We recommend coordination with the County to incorporate this project into the County's Water Use and Development Plan. Please contact the respective Planning Department or the Department of Water Supply for further information.

A well construction permit is required before the commencement of any well construction work.

The Commission has reviewed and issued a letter of assurance on 2-11-2019 that the commission is ready to issue a well construction permit for HDWS monitor well 4161-013 pending approval of the CDUP HA-3853. This well is instrumental at providing more aquifer information and monitoring in the Keauhou Aquifer System Area and is situated directly makai of the Commission's deep monitor well 4159-001 located at the 620 elevation at HDWS Tank 2. Both these wells are part of the Commission's directive to further explore the ground water hydrology in the area near the National Park Service Kaloko-Honokōhau National Historical Park and the Keauhou Aquifer System area in general.

Applicant's response

As the water utility for the County of Hawai'i, DWS has developed this undertaking in accordance with the purpose and intent of its *Water Use and Development Plan*. While the purpose of this CDUA is limited to obtaining after the fact approval for subdivision of parcel 027 from the original larger TMK: (3) 7-3-009:017, the DWS will obtain all required permits and approvals before implementation of any subsequent well construction. To that end, it has submitted a pending application for Monitor well No. 4161-013 for consideration by the CWRM.

DWS acknowledges that the Commission is ready to issue a well construction permit for a mid-level monitoring well located within the existing facility on this site. Approval of this CDUA is a necessary prerequisite to development of this monitoring well, needed both to resolve the parcel's outstanding subdivision approval and to address the need to further explore the groundwater hydrology in the area near the Kaloko-Honokōhau National Historic Park and in the Keauhou Aquifer System Area in general.

ANALYSIS

Following review and acceptance of the application on August 27, 2019, the Department has found that:

1. The after the fact use is an identified land use in the General subzone of the Conservation District, pursuant to §13-5-22, Hawaii Administrative Rules (HAR), P-10, SUBDIVISION OR CONSOLIDATION OF PROPERTY, D-1, "Subdivision of property into two or more legal lots of record that serves a public purpose and is consistent with the objectives of the subzone." Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to HAR, §13-5-40 of, a Public Hearing will not be required;
3. In conformance with Hawaii Revised Statutes (HRS), Chapter 343, as amended, and HAR, Chapter 11-200.1-15, (c) (1) Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing; and pursuant to the DLNR Comprehensive Exemption List dated 6/05/2015, specifically: 1-48, Subdivision or consolidation of lots not previously subdivided, the proposed use is exempt; and
4. The subject area does not appear to be located in the Special Management Area.

Notice of CDUA HA-3853 was published in the September 8, 2019, issue of the Environmental Notice.

CONSERVATION CRITERIA

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

- 1) *The proposed 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 after the fact subdivision, should not conflict with any of the above objectives. The purpose of the subdivision appears to be to convey land and facilities to the County

Department of Water Supply for appropriate management of the water resource that will contribute to maintaining public health safety and welfare.

- 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 General subzone is to designate open space where specific conservation uses may not be defined but where urban use would be premature. Subdivision of land for public purpose is an identified land use that could be applied for within the General subzone. The use does not conflict with these objectives and no land disturbing activities took place under this action.

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

Staff believes Chapter 205A, HRS is not applicable for this proposal.

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

Staff is of the opinion that this will not have any adverse impact on existing natural resources as no land disturbing activities have taken place under this action.

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

No physical structures were created under this after the fact action.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The action has no physical impact on the land. Staff is of the opinion that the open space characteristics of the Conservation District will be maintained.

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

The subdivision of land did not change the existing use of the area nor create any land disturbing activities.

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

Staff is of the opinion that the subdivision action was not detrimental to the public health, safety and welfare.

DISCUSSION (Exhibits D&E)

The County of Hawai‘i Department of Water Supply is seeking after the fact approval for the subdivision of land that created parcel 027. CDUP HA-2405 for the Kaloko Water System Improvements that approved the existing water facilities on the subject parcel was part of a larger water system that included the development of four 10⁶ G water storage tanks and appurtenant facilities with a 20” water transmission line along the mauka-makai roadway that were outside of the Conservation District. According to the recommendation to the Board for CDUP HA-2405, the water system was also to be “an important supplement to the County of Hawai‘i’s municipal water system for the North Kona area.”

Staff notes the County Planning Director authorized the subdivision of parcel 027 along with parcels 029 and 030 that also contain water storage tanks and water facility improvements on December 21, 1992. Staff further notes these parcels were also conveyed to the County at the same time. Staff believes during the subdivision review; the Conservation District designation was overlooked along with the required Board’s authorization to allow the public purpose subdivision of Conservation lands. By receiving after the fact authorization from the Board, this will rectify the matter.


RECOMMENDATION

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this after the fact CDUA for public purpose subdivision of land located at 73-4051 Hina Lani St., Kaloko, N. Kona, Hawai‘i, that created tax map key: (3) 7-3-009:027 subject to the following conditions:

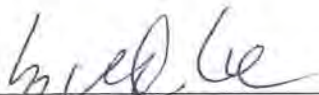
- 1) The permittee shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The permittee shall provide documentation (e.g. book and page or document number) that this permit approval has been placed in recordable form as a part of deed instrument;
- 4) In issuing this permit, the Department has relied on the information and data that the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 5) The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;

- 6) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- 7) Other terms and conditions as prescribed by the Chairperson; and
- 8) Failure to comply with any of these conditions shall render a permit void under HAR, Chapter 13-5 as determined by the chairperson or board.

Respectfully submitted,



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



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

Conservation District Subzone Map

CDUA HA-3853

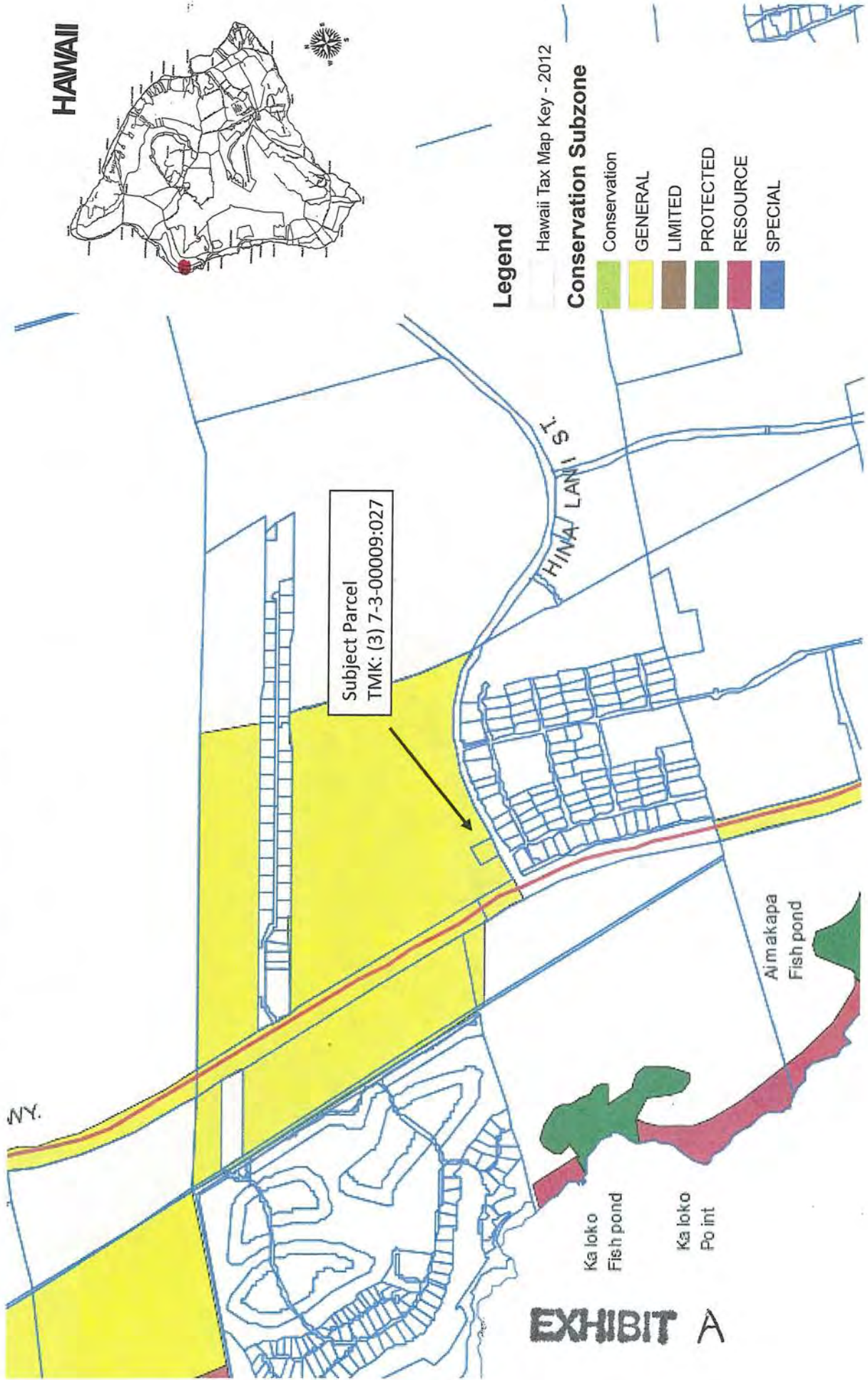


EXHIBIT A

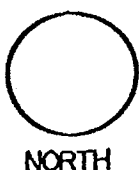
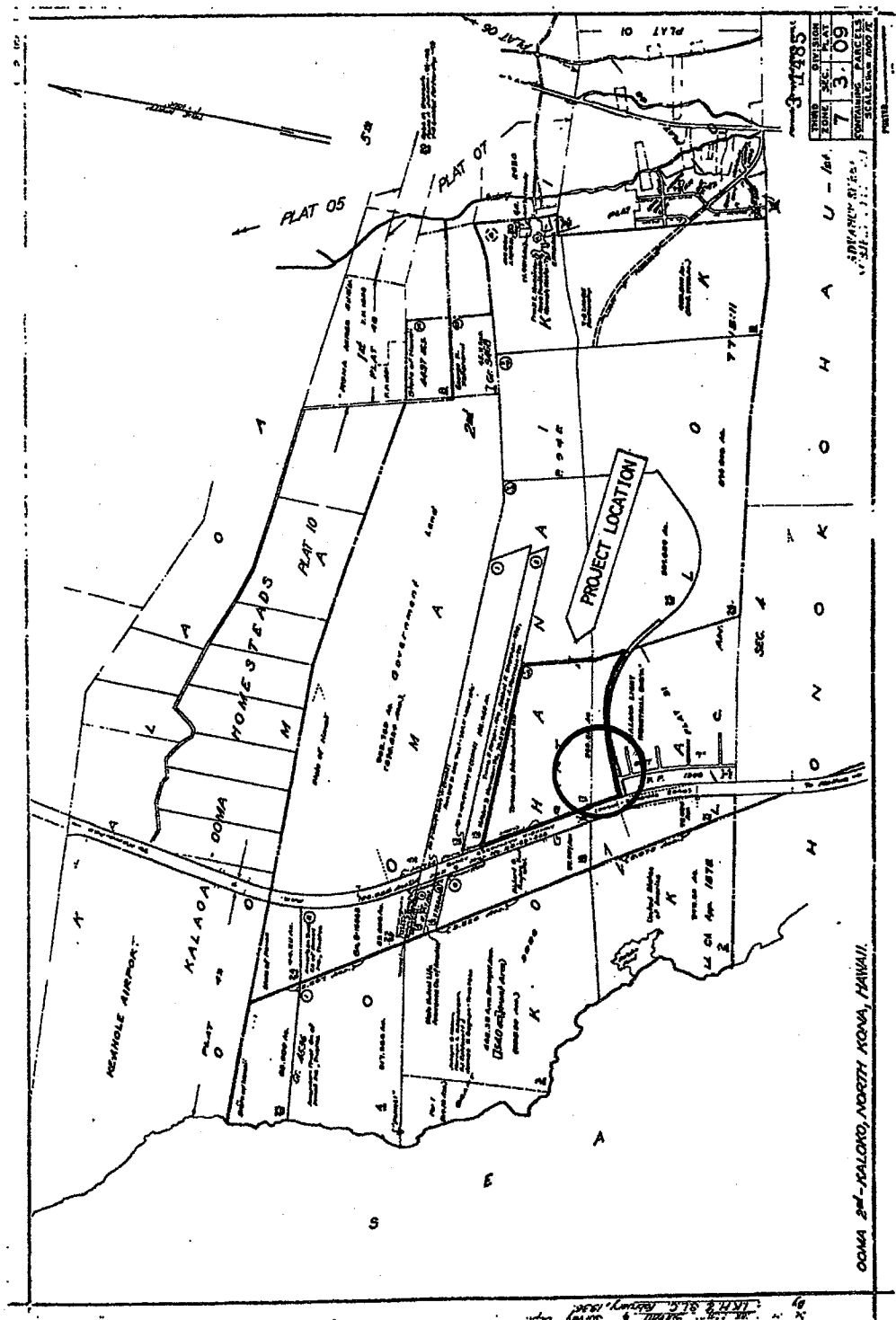


EXHIBIT A

Google Earth

© 2019 Google

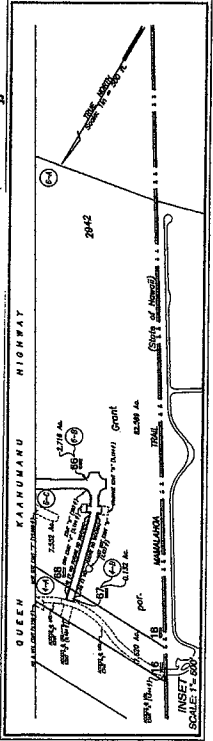
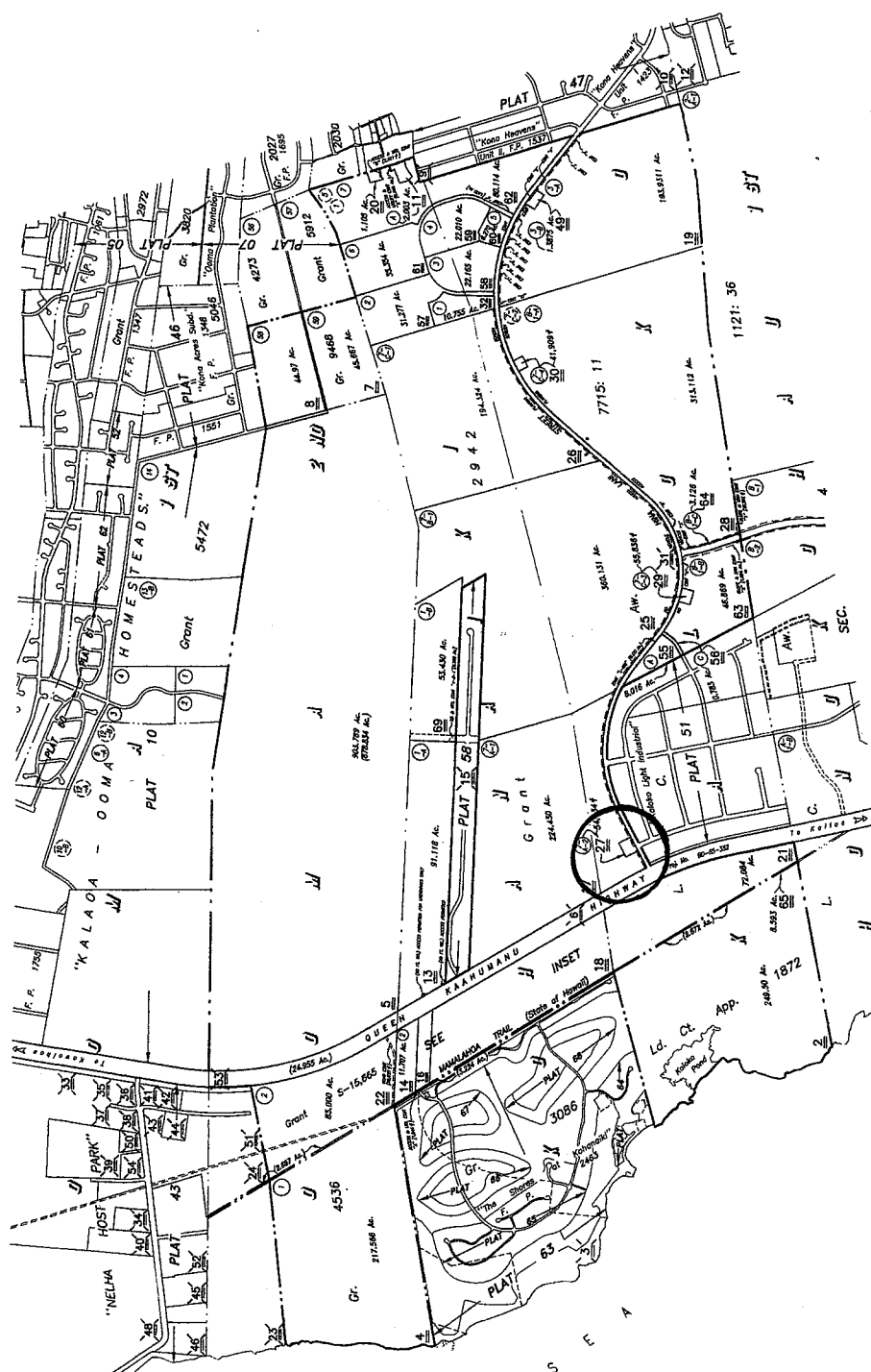
© 2018 Google



CDUA NO. HA-2405 (1990)
 APPLICANT TSA International, Limited
 AGENT Wilson Okamoto & Associates
 TMK 7-3-9: 17

- SUBZONE
- PROTECTIVE
 - RESOURCE
 - LIMITED
 - GENERAL

EXHIBIT B



2016

EXHIBIT C

01/28/11
05/20/15
05/11/16

DWG NO. 97 HS DATE February 12, 2010

Dropped Parcel: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

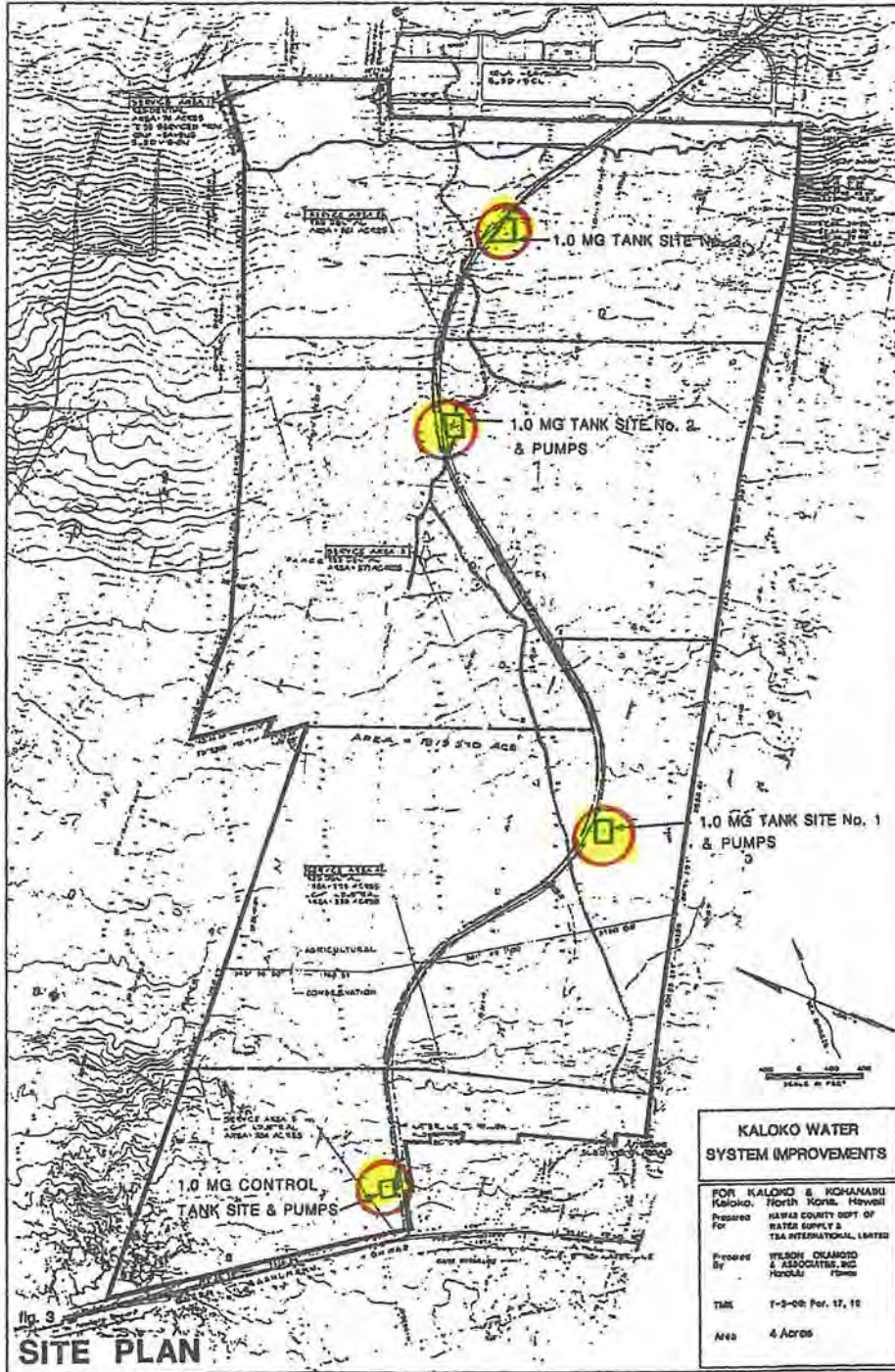
DEPARTMENT OF TAXES PROPERTY ASSESSMENT DIVISION MAPPING BRANCH TAX MAP			
COUNTY OF HAWAII			
ZONE	SECTION	PLAT	
7	3	09	

SCALE: 1 IN = 1000 FT.

Overlays, easements, & encumbrances shown on this tax map shall not be construed as a warranty of title or a guarantee of accuracy. The Department of Taxation is not responsible for current owners.

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

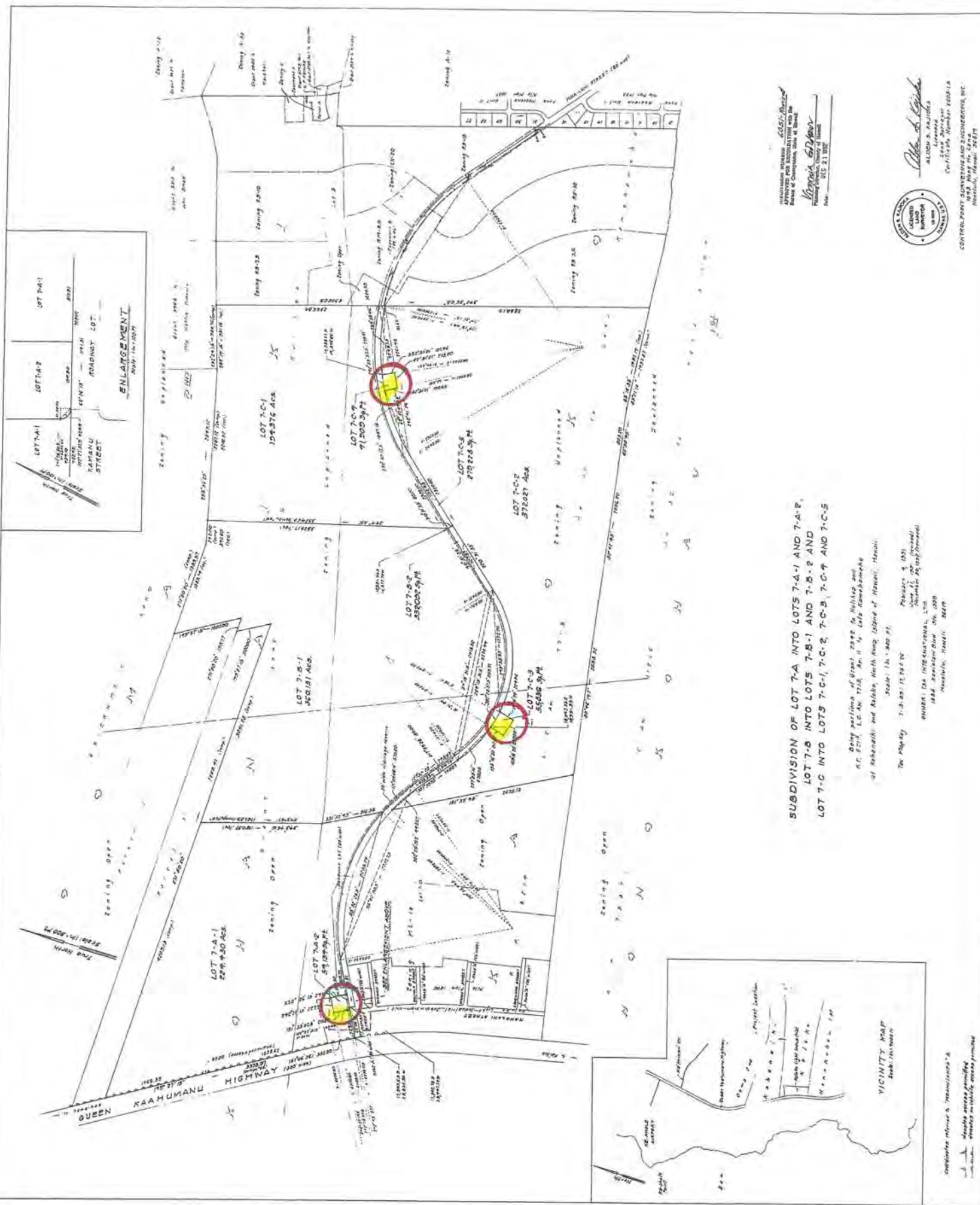
PRINTED:



CDUA NO. HA-2405 1990
 APPLICANT TSA International, Limited
 AGENT Wilson Okamoto & Associates
 TMK 7-3-9: 17

SUBZONE PROTECTIVE
 RESOURCE
 LIMITED
 GENERAL

EXHIBIT D



APPROVED FOR THE
 BOARD OF SUPERVISORS
 COUNTY OF HAWAII
 DATE: 02/21/2002

Alfred S. ...
 State Engineer
 HAWAII



CENTRAL PORT CONSTRUCTION AND ENGINEERING, INC.
 1000 KANIHIKI STREET, SUITE 100
 HONOLULU, HAWAII 96813

**SUBDIVISION OF LOT 7-A INTO LOTS 7-A-1 AND 7-A-2,
 LOT 7-B INTO LOTS 7-B-1 AND 7-B-2 AND
 LOT 7-C INTO LOTS 7-C-1, 7-C-2, 7-C-3, 7-C-4 AND 7-C-5**

Being portions of Grant made to William and
 A. C. ... L.C. No. 7115, A. C. ... L.C. No. 7116
 of Honolulu and Kalaheo, North King, Island of Hawaii, Hawaii.

The Property: 7-A-2-1, 7-A-2-2, 7-A-2-3, 7-A-2-4, 7-A-2-5, 7-A-2-6, 7-A-2-7, 7-A-2-8, 7-A-2-9, 7-A-2-10, 7-A-2-11, 7-A-2-12, 7-A-2-13, 7-A-2-14, 7-A-2-15, 7-A-2-16, 7-A-2-17, 7-A-2-18, 7-A-2-19, 7-A-2-20, 7-A-2-21, 7-A-2-22, 7-A-2-23, 7-A-2-24, 7-A-2-25, 7-A-2-26, 7-A-2-27, 7-A-2-28, 7-A-2-29, 7-A-2-30, 7-A-2-31, 7-A-2-32, 7-A-2-33, 7-A-2-34, 7-A-2-35, 7-A-2-36, 7-A-2-37, 7-A-2-38, 7-A-2-39, 7-A-2-40, 7-A-2-41, 7-A-2-42, 7-A-2-43, 7-A-2-44, 7-A-2-45, 7-A-2-46, 7-A-2-47, 7-A-2-48, 7-A-2-49, 7-A-2-50, 7-A-2-51, 7-A-2-52, 7-A-2-53, 7-A-2-54, 7-A-2-55, 7-A-2-56, 7-A-2-57, 7-A-2-58, 7-A-2-59, 7-A-2-60, 7-A-2-61, 7-A-2-62, 7-A-2-63, 7-A-2-64, 7-A-2-65, 7-A-2-66, 7-A-2-67, 7-A-2-68, 7-A-2-69, 7-A-2-70, 7-A-2-71, 7-A-2-72, 7-A-2-73, 7-A-2-74, 7-A-2-75, 7-A-2-76, 7-A-2-77, 7-A-2-78, 7-A-2-79, 7-A-2-80, 7-A-2-81, 7-A-2-82, 7-A-2-83, 7-A-2-84, 7-A-2-85, 7-A-2-86, 7-A-2-87, 7-A-2-88, 7-A-2-89, 7-A-2-90, 7-A-2-91, 7-A-2-92, 7-A-2-93, 7-A-2-94, 7-A-2-95, 7-A-2-96, 7-A-2-97, 7-A-2-98, 7-A-2-99, 7-A-2-100.

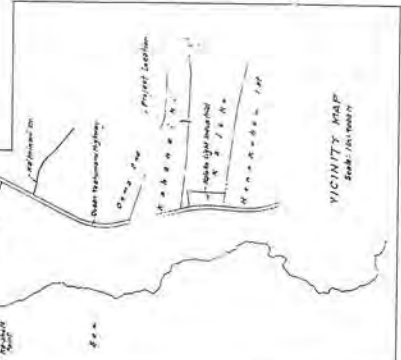
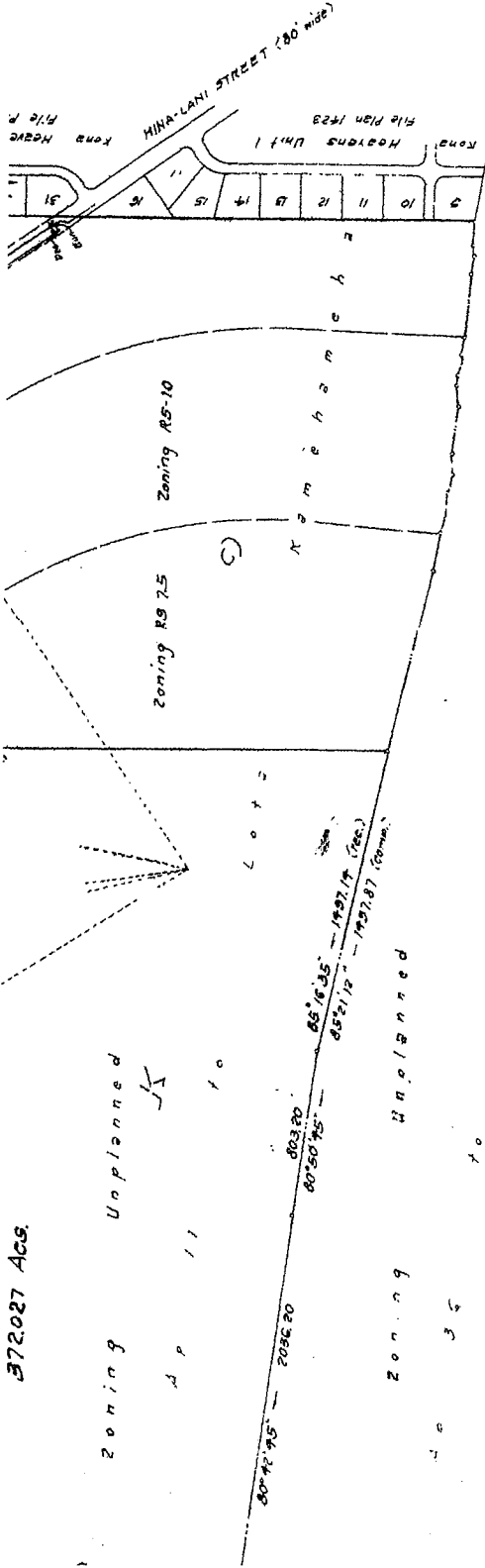


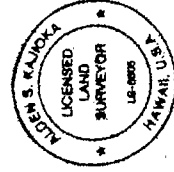
EXHIBIT E

372027 Acqs.



PLANS DIVISION NUMBER 6051- Revised
 APPROVED FOR RECORDATION with the
 Bureau of Conveyances, State of Hawaii

Margaret Edinger
 Planning Director, County of Hawaii
 Date: DEC 21 1992



Alden S. Kajioaka
 ALDEN S. KAJIOAKA
 Licensed
 Land Surveyor
 Certificate Number 6605-15

CONTROL POINT SURVEYING AND ENGINEERING, INC.
 1043 King Ho Lane
 Honolulu, Hawaii 96814

A-1 AND 7-A-2,
 B-2 AND
 C-4 AND 7-C-5

EXHIBIT E,

and
 imaha
 ali, Hawaii

v 9 1991
 (201, Revised)
 1-30-1992 (Revised)

