

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

June 10, 2021

180-Day Exp. Date: September 12, 2021

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

REGARDING: Conservation District Use Application (CDUA) KA-3876 Public Purpose Subdivision of Land

**LANDOWNER/
APPLICANT** State of Hawai'i-Department of Accounting and General Services on behalf of the Office of Enterprise Technology Services (ETS)

AGENT: Ronald Sato of HHF Planners

Tax Map Key: (4) 1-2-001:009
LOCATION: Waimea Canyon State Park, Kaua'i

AREA OF USE: ≈ 1.251-acres

SUBZONE: Resource

BACKGROUND (Exhibit A)

The US Air Force, under General Lease S-4259 approved by the Board of Land and Natural Resources on October 10, 1969, for access roadway and microwave relay station purposes, established the subject site as a telecommunication facility. At that time, the lease identified the property as TMK: (4) 1-2-001: portion of 003. During the USAF tenure on the site, the County of Kaua'i was authorized to operate a radio repeater and antenna at the site under a license from the USAF.

On September 11, 1992, Hurricane Iniki devastated the island of Kaua'i. The site was deemed inoperable and emergency repairs and upgrades were conducted. An After the Fact CDUA KA-2731 was approved by the Board for the emergency improvements noted as the County of Kaua'i 800Mhz Trunked Radio Station Upgrade Project on February 10, 1995. By this time, the site was no longer a portion of parcel 003 but had been partitioned and was now noted as tax map key (4) 1-2-001:009.

On November 9, 2017, the Board approved the reset aside of this parcel to the Department of Accounting and General Services, Information and Communication Services Division (DAGS/ICSD) for Microwave and Radio Communication Site Purposes.

ITEM K-1

DESCRIPTION OF AREA/CURRENT USE (Exhibits B & C)

The subject area exists on the west side of Kaua'i, within the Pu'u Ka Pele Forest Reserve at Waimea Canyon State Park and lies within the Resource subzone of the Conservation District. The property is known as the Kukui Communication Facility and is located along Koke'e Road in Waimea Canyon State Park on the island of Kaua'i. The 1,25-acre property has been utilized continuously since October 1969 for telecommunication purposes.

A botanical survey indicates the area is a lowland mesic forest with a mix of native and non-native plants. According to the application, the surveyed area is dominated by a forest of koa trees. Endangered petrels and shearwaters may fly over the site and Ope'ape'a (Bat) may roost in tall trees in the vicinity. Koa'e kea (White-tailed tropicbird) was detected on site during the avian survey.

AFTER THE FACT LAND USE (Exhibit D)

According to the application, the property was most likely partitioned in the early 1990's with DAGS Survey Division creating a metes and bounds description of the telecommunication site in 1992 under Copy of Survey Furnished (C.S.F) No. 21,645. Documentation of the County's subdivision of this site was unavailable; however the site was issued Tax Map Key: (4) 1-2-001:009. This application seeks after the fact authorization for a subdivision of land for public purpose use within the Conservation District.

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 Kaua'i District Land Office, Conservation and Resource Enforcement, Forestry and Wildlife, and Parks; the Office of Hawaiian Affairs; the Office of Environmental Quality Control; and the County of Kaua'i's Department of Planning. In addition, this application was also sent to the nearest public library, the Waimea 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

State Parks
No comments

ANALYSIS

Following review and acceptance of the application on March 17, 2021, the Department has found that:

1. The after the fact use is an identified land use in the Resource 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.
4. The subject area does not appear to be located in the Special Management Area.

Notice of CDUA HA-3853 was published in the March 23, 2021, 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 applicant, DAGS-ETS is responsible for managing the State's information processing, telecommunication systems, and related services to State agencies. The Kukui communication facility provides a critical public safety function for Hawai'i and has been used continuously since the 1960's as a radio telecommunication site by the USAF and other governmental entities. The land was most likely partitioned and issued a parcel ID number in the early 1990's. The purpose of the partition appears to have been to demarcate the Microwave Antenna Site. The use of the site by DAGS-ETS 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 Resource subzone is to ensure, with proper management, the sustainable use of the natural resources of those areas. Subdivision of land for public purpose is an identified land use that could be applied for within the Resource subzone. The applicant would manage the property and telecommunication facility. 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. No land disturbing activities are proposed as the after the fact land use is an administrative procedure.

- 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

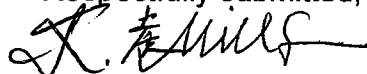
The State of Hawai'i-Department of Accounting and General Service on behalf of the Office of Enterprise Technology Services (ETS) is seeking after the fact approval for the subdivision of land that created parcel 009. It appears the site was previously partitioned to facilitate management control of the telecommunication improvements. By receiving after the fact authorization from the Board, this will rectify the matter.

RECOMMENDATION

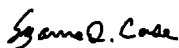
Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this after the fact CDUA for public purpose subdivision of land located at the Pu'u Ka Pele Forest Reserve at Waimea Canyon State Park, Kaua'i, that created tax map key: (4) 1-2-001:009 subject to the following conditions:

- 1) The permittee shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) 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;
- 3) The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
- 4) 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;
- 5) Other terms and conditions as prescribed by the Chairperson; and
- 6) 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,



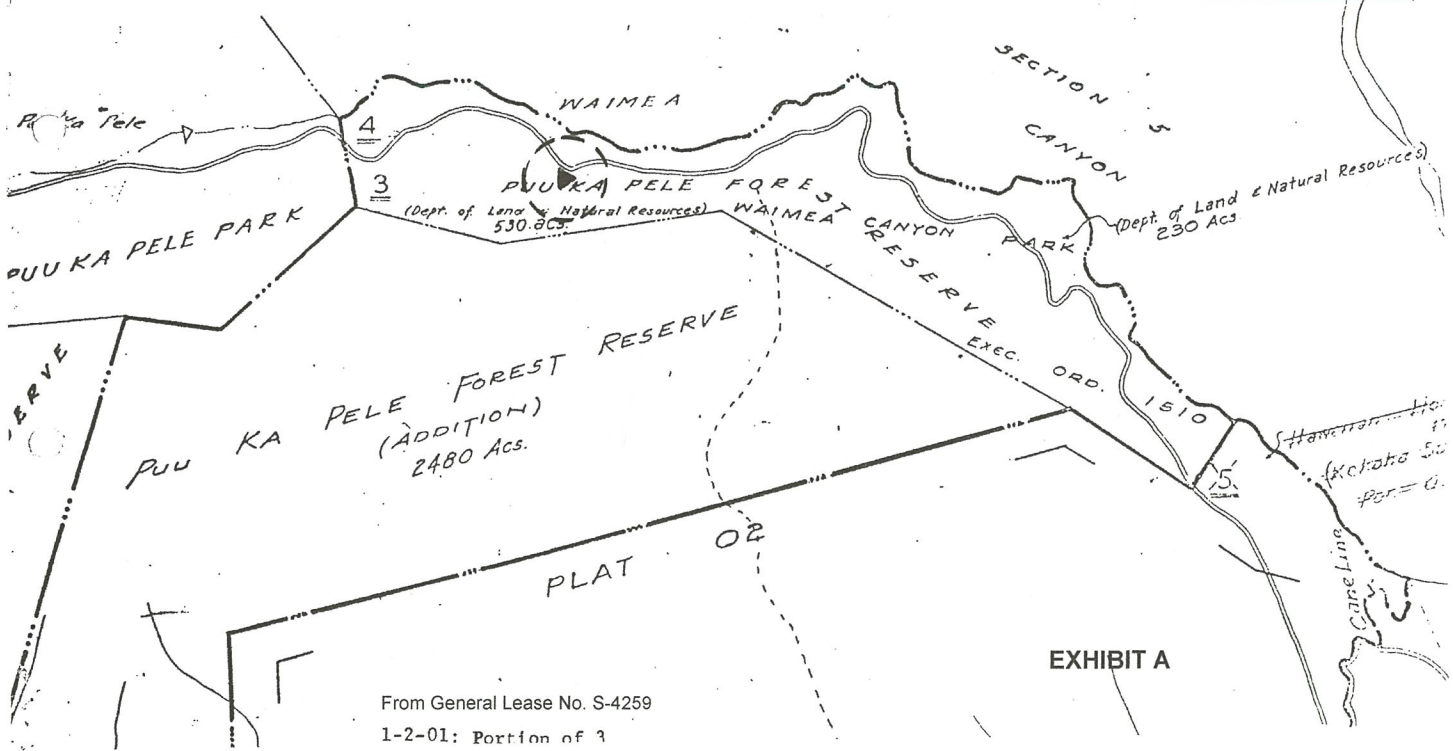
K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands



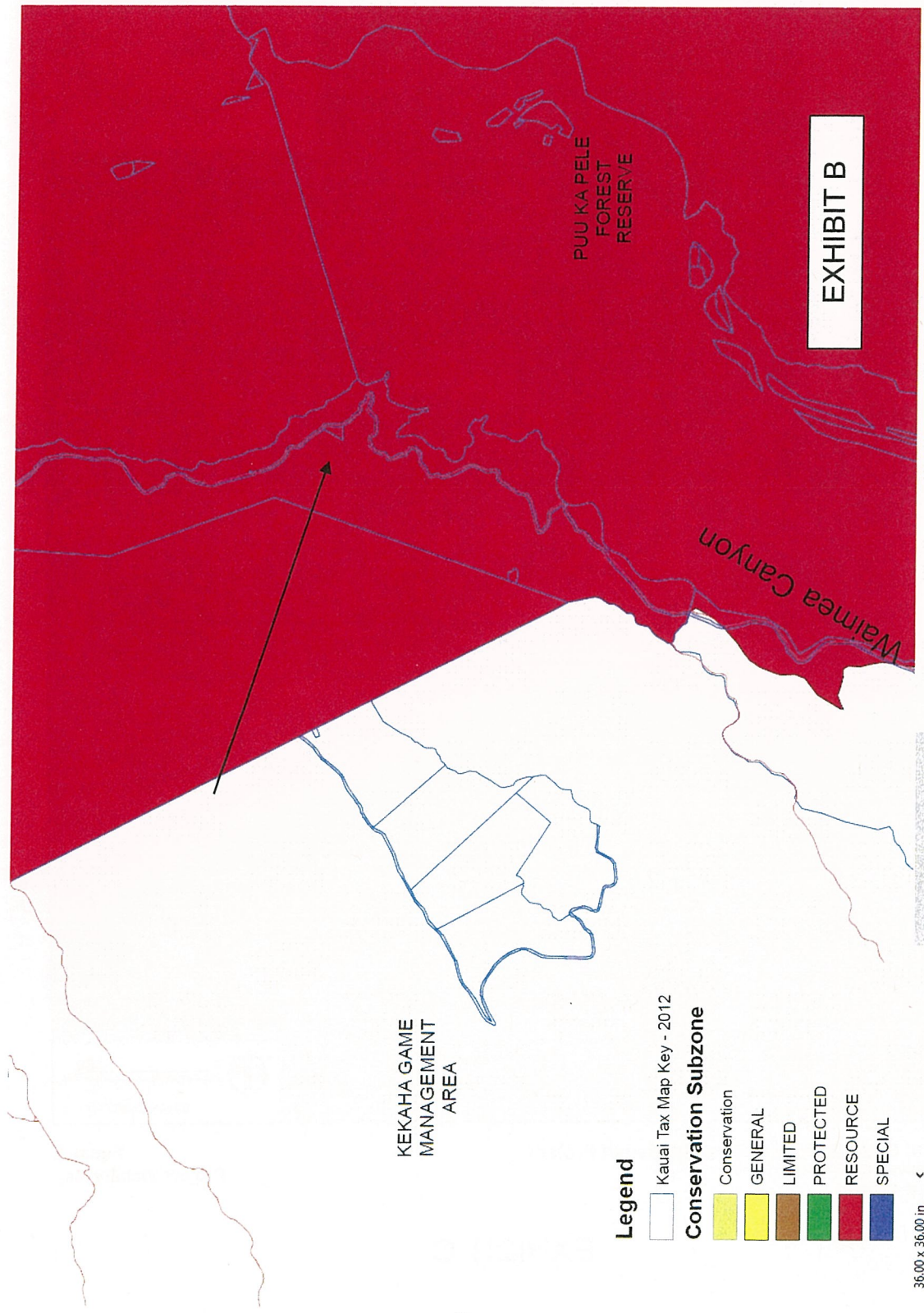
Suzanne D. Case, Chairperson
Board of Land and Natural Resources

EXHIBITS

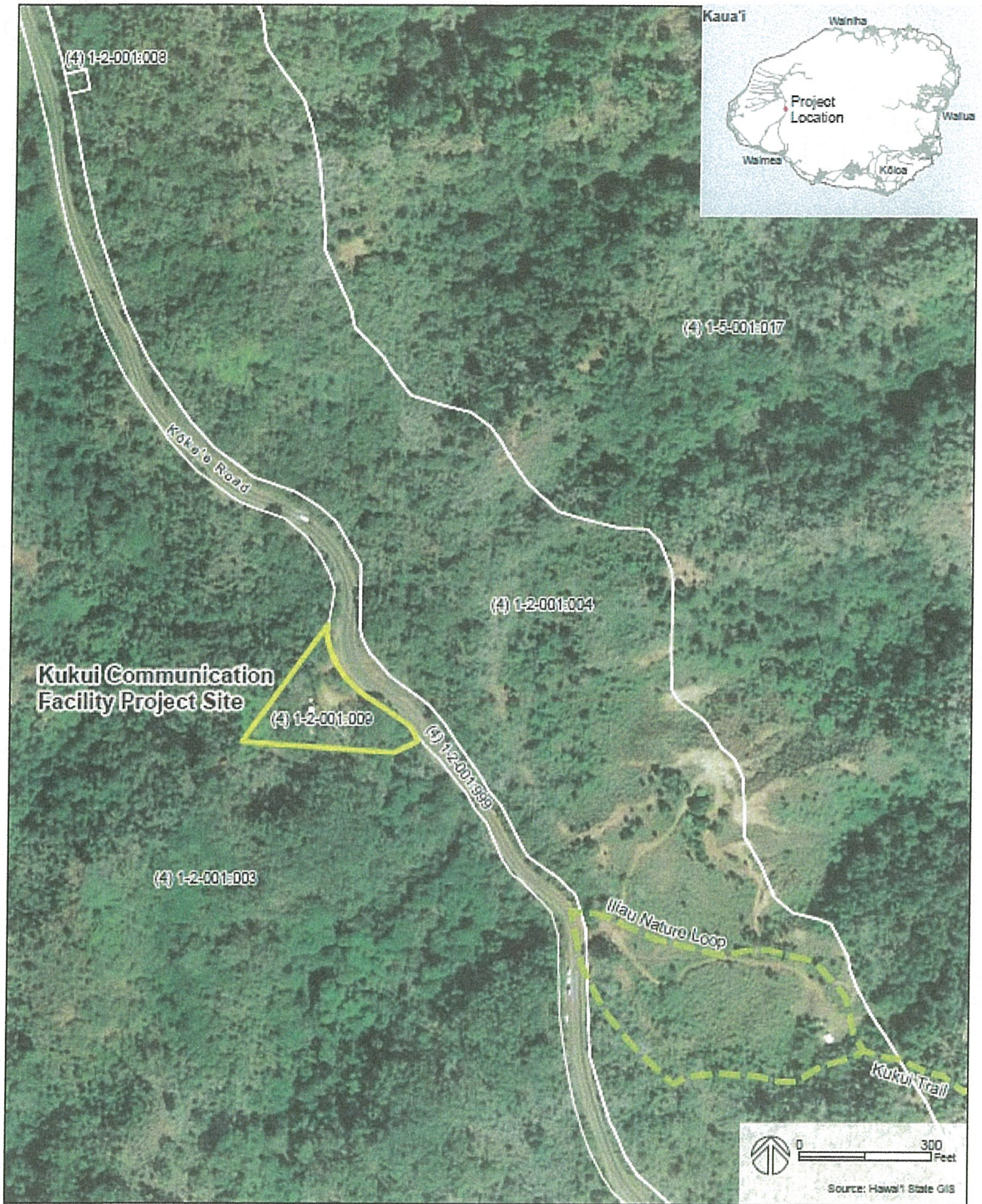
- A Original Parcel**
- B Vicinity Subzone Map**
- C Project Vicinity Map**
- D State DAGS Survey Map; C.S.F. 21,654**



From General Lease No. S-4259
1-2-01: Portion of 3



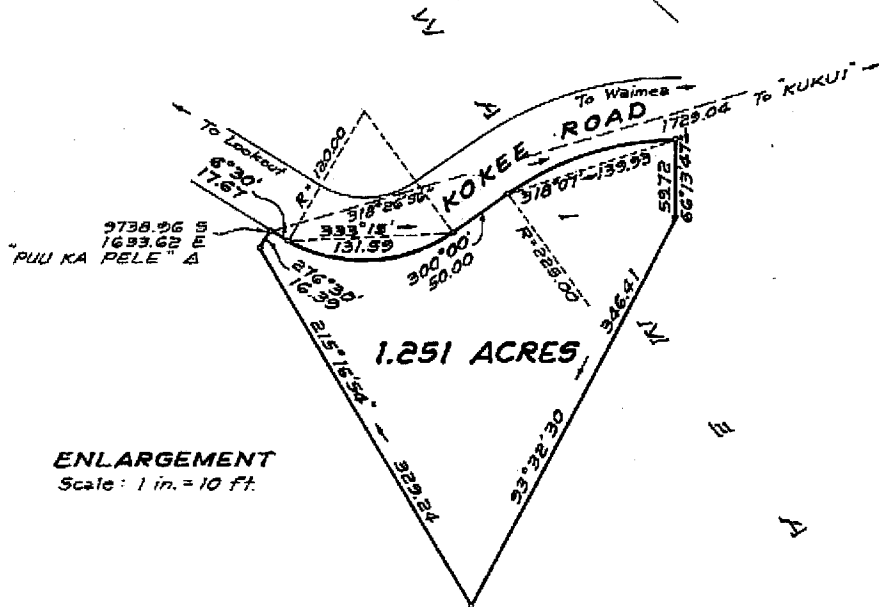
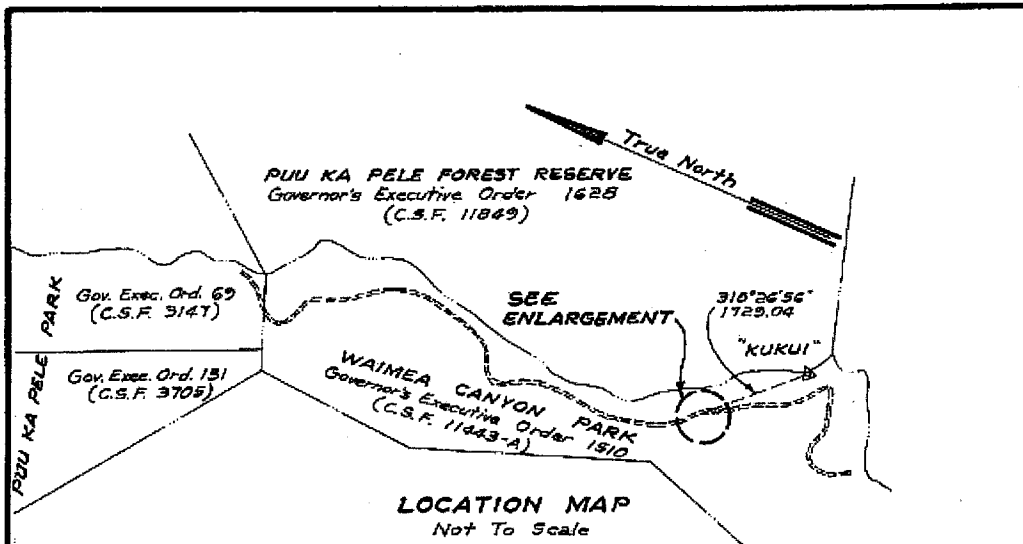
Vicinity Subzone Map



ETS Kukui Communication Facility, Kauai Project
 Conservation District Use Permit Application
 Waimea, Kauai, Hawaii

Figure 2
 Project Vicinity Map

EXHIBIT C



**MICROWAVE ANTENNA SITE
PARCEL 2**

Waimea, Kauai, Hawaii
Scale: 1 inch = 10 feet.

EXHIBIT D

DB K-353(91)
L.M. I. G. Kadani

TAX MAP 1-2-011 part 9

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.S.F. NO. 21,654

GJK January 16, 1992