

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, HI, 96813

August 13, 2021

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

Land Board Members:

SUBJECT: REQUEST TO APPROVE LOCATION OF THE HISTORIC TRAIL NOTED AS THE "BRIDLE PATH" ON REGISTERED MAP 603, WHERE IT CROSSES THROUGH LANDS IDENTIFIED AS TMKs (2) 2-4-012: 040-045, MAKAWAO DISTRICT, MAUI.

SUMMARY

Pursuant to an application for a subdivision approval, the County of Maui, Department of Planning requested a recommendation from the Division of Forestry and Wildlife as to whether known historic trails owned by the state in fee simple present on the lands proposed for subdivision should be identified and mapped as part of the subdivision documentation. In making its recommendation to identify and map the location of the trail, the Division determined that the location of the trail on site, as determined by Na Ala Hele Program staff, did not appear to coincide exactly with the apparent location of the trail shown on Registered Map 603, dated 1872, which is the only known map of the historic trail at that location. Since the location of the trail based on staff's assessment did not appear to coincide exactly with that shown on the historic map, staff is seeking Board approval to determine that the location of the trail is as documented by the field survey.

BACKGROUND

In 2015, the Division of Forestry and Wildlife was contacted by representatives of Hōkūnui Maui, LLC, requesting information regarding any potential historic trails that may be present on the subject lands. The request was made in connection with the development of a Cultural Impact Assessment (CIA), to be part of an Environmental Assessment (EA) for a proposed subdivision and development on the subject lands, which noted that historic maps showed one or more traditional trails in the area. The representatives of Hōkūnui Maui, LLC indicated an interest in knowing more about the trail, including its present-day location and any recommendations for restoration or public use. Pursuant to the request, staff met with representatives of Hōkūnui Maui LLC., which included a site visit, and provided relevant information. Although staff were not able to locate any remnants of the trail at the site due to a long history of land use for pineapple cultivation

and other uses that apparently destroyed the trail, staff affirmed the findings of the CIA, which documented the existence of a historic trail, noted as the "Bridle Path" on Registered Map (RM) 603 (Exhibit A), dated 1872 (see also inset provided in Exhibit B). The subject trail is shown on RM 603, as part of a network of trails in the area, to extend from Olinda Road near Po'okela Church, mauka and east to Pi'iholo Road and beyond. Staff informed the representatives of Hōkūnui Maui, LLC that it is the Department's opinion that the documentation of the existence of the trail in 1872, as provided by RM 603, establishes that the subject trail is owned by the state in fee simple pursuant to §264-1, Hawai'i Revised Statutes. Following those discussions with Hōkūnui Maui, LLC, it is staff's understanding that the project as proposed in the draft EA and CIA was withdrawn, and that alternative plans were under development.

In October 2020, Maui Branch of the Division of Forestry and Wildlife was contacted by the County of Maui, Department of Planning pursuant to its review of an application by Hōkūnui Maui LLC for further subdivision of certain existing parcels that were part of the subject lands. As part of its preliminary approval of the application, the Department of Planning required that the applicant identify any traditional access paths through the property. The Department of Planning further requested comment from the Division of Forestry and Wildlife as to whether those historic trails identified previously in connection with the 2015 inquiry should be identified on the final subdivision plat maps with regard to their location or other pertinent information. In an October 23, 2020 letter in reply to the Department of Planning (Exhibit C), staff informed the Department of Planning that the subject trails are owned by the state in fee simple, pursuant to §264-1, Hawai'i Revised Statutes, and recommended that the location of the state trail be identified on the subdivision plat maps.

In November 2020, staff were contacted by Hōkūnui Maui, LLC requesting technical assistance to establish the location of the trail on site, given that previous surveys had suggested that the trail had been destroyed by prior land use practices. Through a series of site visits accompanied by Hōkūnui Maui, LLC, staff established what we believe to be the present-day location of the trail (Exhibit D) where it crosses through the lots that are included in the application for consolidation and subdivision, being Lots 4-9.

TRAIL LOCATION

Many of the historic trails that are owned by the state pursuant to §264-1, HRS, are known only from maps that may be more than a hundred years old. Using those old maps to locate the present-day location of a trail can be challenging because historic maps may be imprecise and because trails may move over time. It is often the case that the present-day location documented on site using modern survey methods does not appear to coincide exactly with the apparent location shown on the historic maps. Where evidence of the trail can be discovered on site, staff can determine the present-day location with certainty. Determination may be more challenging in cases where the trails have fallen into disuse or have been damaged or destroyed and the only information available is from the very old maps.

To determine the location of the subject trail on site, staff traced the historic trail shown on RM 603 onto a digitized basemap and uploaded to the coordinates to a GPS unit. Staff then used the GPS unit in the field to walk the route as closely as possible, noting any discrepancies between what staff believed to be the likely location on site and the track shown on the RM 603 map. Overall, we found that the probable present-day location of the trail very closely matches the location shown apparently on RM 603, with a few minor differences (Exhibit D). In each location where an apparent difference was found, staff used the best available information to determine the most likely present-day location. In all instances, the differences were attributed to the conclusion that the actual trail had moved over time, as evidenced for example by an existing road or path, or to imprecision in the RM 603 map or trace where topography suggested the present-day location. Using a GPS unit, staff established the recommended present-day location of the trail as the centerline of the GPS track, for which the state trail extends five feet on each side, to establish a 10-foot trail corridor. The field surveys for the trail were done in collaboration with the applicant, Hōkūnui Maui, LLC, who has indicated to staff that they concur with the present-day location recommended by staff. Following determination of the present-day location of the trail in the field, Hōkūnui, LLC developed for the purposes of its applications to the county for subdivision approval a series of plat maps that include identification of the present-day location of the Bridle Path, as well as a written notice on the plat maps of the State's interest in the Bridle Path (Exhibit E).

Of note, at the southeast boundary of Lot 4, the RM 603 trail continues through adjacent Lot 3, then through another State parcel, and then to Pi'iholo Road. Lot 3 is not one of the parcels that is being subdivided and no part of the trail on Lot 3 will be affected by the application or the Board's approval. For the benefit of access to Pi'iholo Road from lot 4, the applicant has voluntarily included an additional segment of trail that connects the Bridle Path to Pi'iholo Road at the southeast boundary of Lot 4.

TRAIL DISPOSITION AND USE

Unless and until any change in disposition is approved by the Board, staff assumes the trail comprises unencumbered state lands subject to provisions in Chapter 13-221, Hawai'i Administrative Rules. Unencumbered lands are generally open for public access unless the Board or its authorized representative approves the closing of areas pursuant to §13-221-4. To our knowledge, no such closure has been approved. Pursuant to §198D-3, the subject trail will be placed on the inventory of state trails maintained by the Na Ala Hele Program, along with associated information as required by law, including its location. If approved by the Board, the location shall be defined as described above. The Division of Forestry and Wildlife does not have immediate plans to request that the Board set aside the trail to be designated as a Na Ala Hele Program Trail, nor do we have immediate plans for trail construction and maintenance. We may request approval for those actions in the future. We assume that the trail is now and will remain open for public access unless otherwise restricted by the Board.

With regard to the request from the County of Maui, Department of Planning for comments on the presence of any traditional access paths on the lands proposed for consolidation

and subdivision, if approved by the Board herein, staff will recommend that the Bridle Path be incorporated into the plat maps for the Hōkūnui Maui LLC applications for subdivisions as shown in Exhibit E.

RECOMMENDATION

That the Board approve the present-day location of the trail noted as the "Bridle Path" on Registered Map 603 to be as shown on the plat maps in Exhibit E.

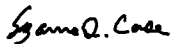
Respectfully submitted,

for



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



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

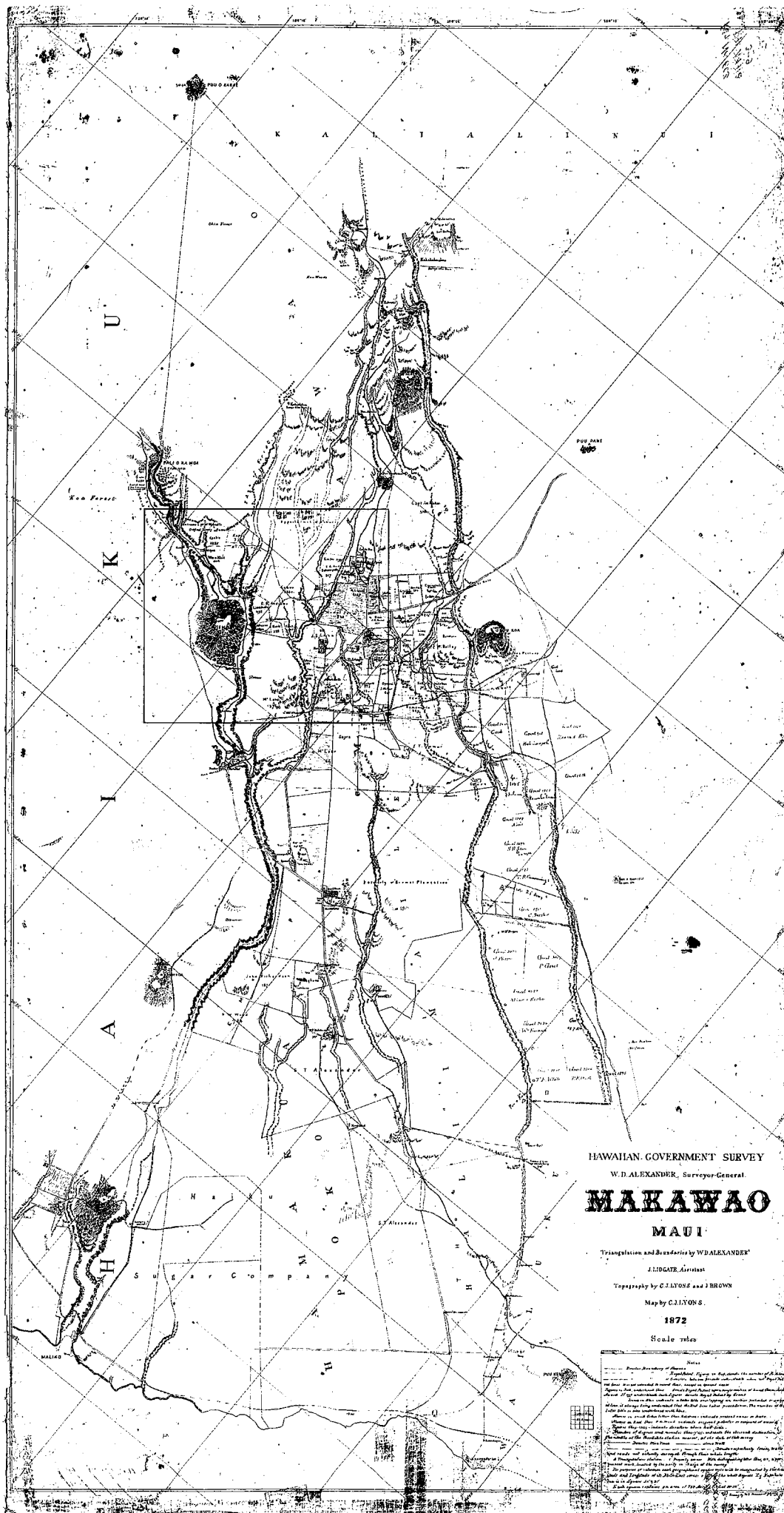
Exhibit A: Registered Map 603, with solid black box delineating area of inset shown in Exhibit B.

Exhibit B: Inset from RM 603 with yellow highlight marking the "Bridle Path".

Exhibit C: Reply to County of Maui, Department of Planning recommending that subdivision identify the "Bridle Path" shown on RM 603.

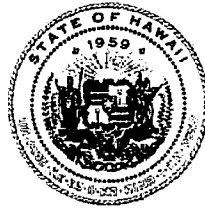
Exhibit D: Digitized trails overlain onto aerial imagery showing the apparent location of the trail shown on RM 603 and the present-day location recommended by staff based on the field survey.

Exhibit E: Plat maps depicting location of the Bridle Path and providing notice to future owners regarding the State's Interest.



[illegible]

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE, MAUI BRANCH
685 HALEAKALA HWY
KAHULUI, HAWAII 96732

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

KALEO L. MANUEL
DEPUTY DIRECTOR - WATER

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BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

October 23, 2020

Paul Critchlow
County of Maui
Department of Planning
2200 Main Street, Suite 315
Wailuku, Hawai'i 96793

Subject: Application for proposed Pi'iholo South Subdivision, TMKs: (2) 2-4-012: 040, 041, 042, 043, 044, and 045. Applicant Hokunui Maui, LLC.

Dear Mr. Critchlow:

Thank you for the opportunity to comment on the subject proposed subdivision. According to our research, a state trail known as the Bridle Path, shown on Registered Map 603, crosses through portions of the lands proposed for subdivision. Pursuant to Chapter 264-1, Hawai'i Revised Statutes, that trail is owned by the state in fee simple.

Based on our review of the application, it does not appear that the applicant has identified the state trail where it crosses through the parcels proposed for subdivision. Therefore, in order to ensure that property boundaries are properly established for subdivision purposes, the Division recommends that the applicant complete a metes and bounds survey to identify the boundaries of their property in relation to those of the state trail.

The Division of Forestry and Wildlife is available upon request to provide technical assistance with this project to ensure that the historic Bridle Path is protected in perpetuity.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Fretz".

Scott Fretz
Maui Branch Manager

Exhibit D. Present day location of the Bridle Path as recommended by staff (yellow) and apparent location digitized by trace from RM 603 (purple).

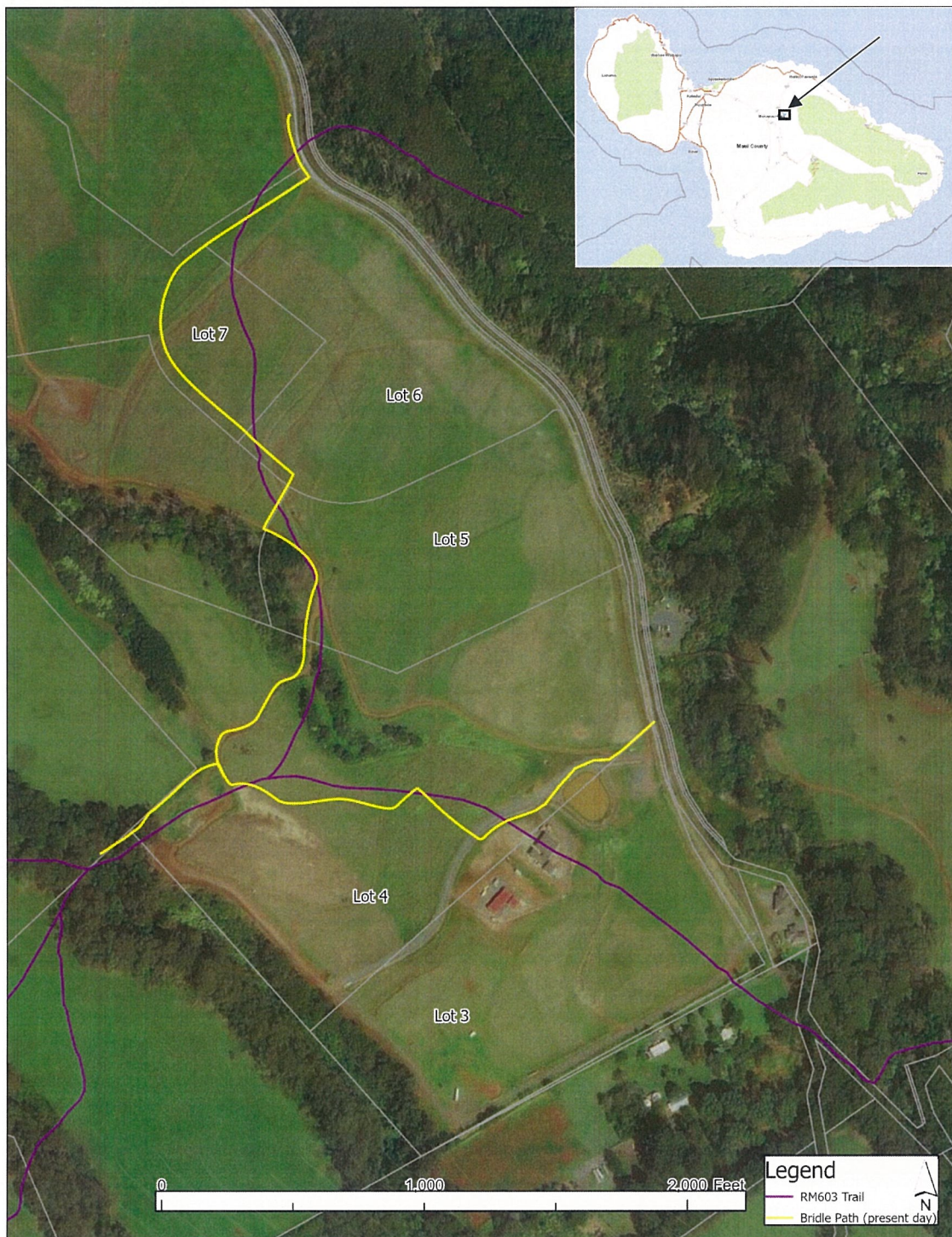
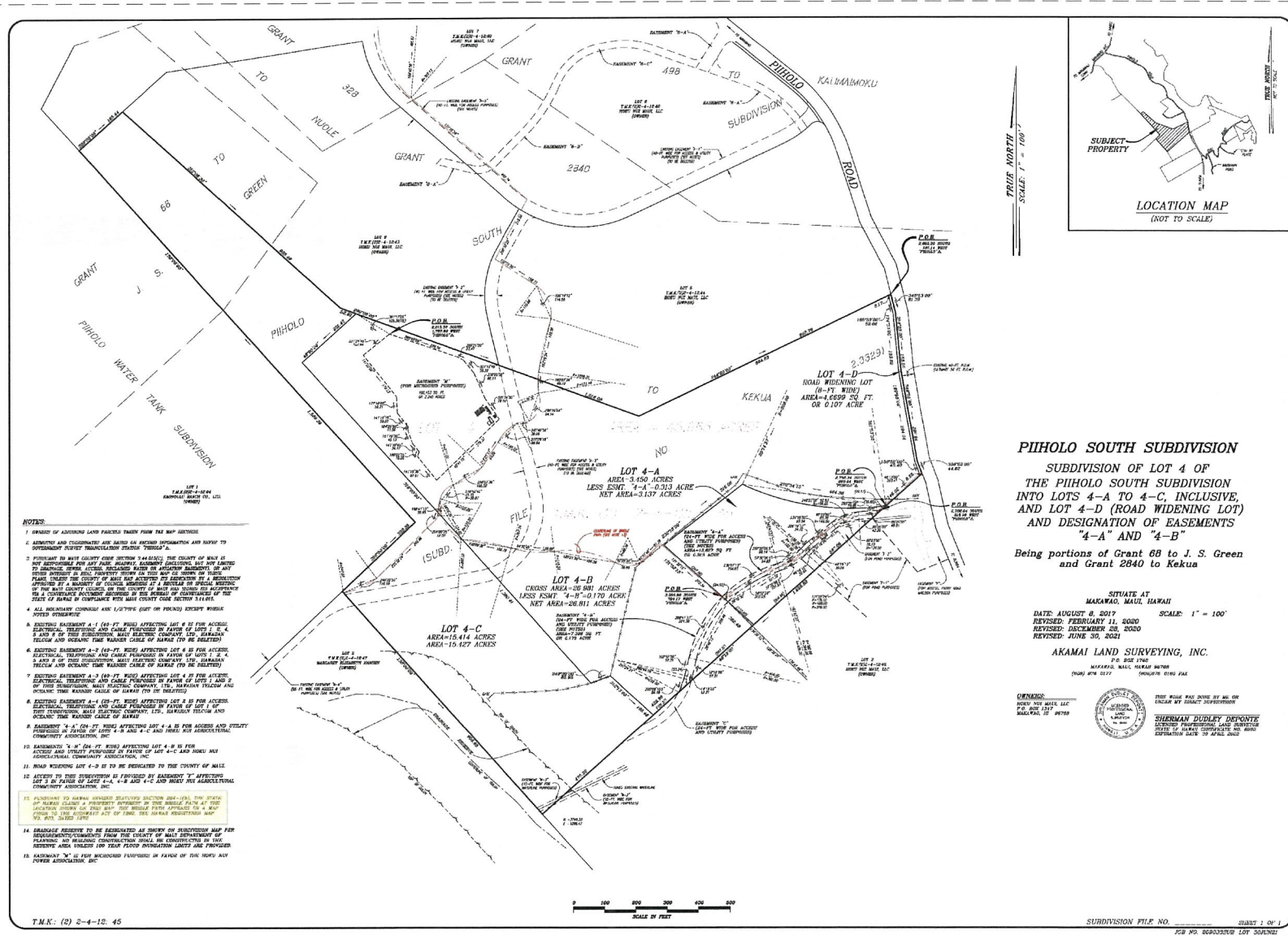
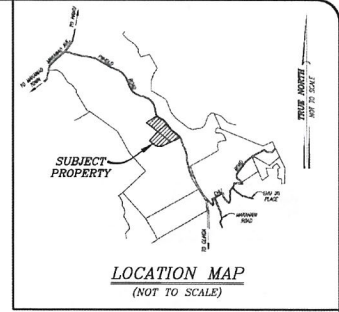
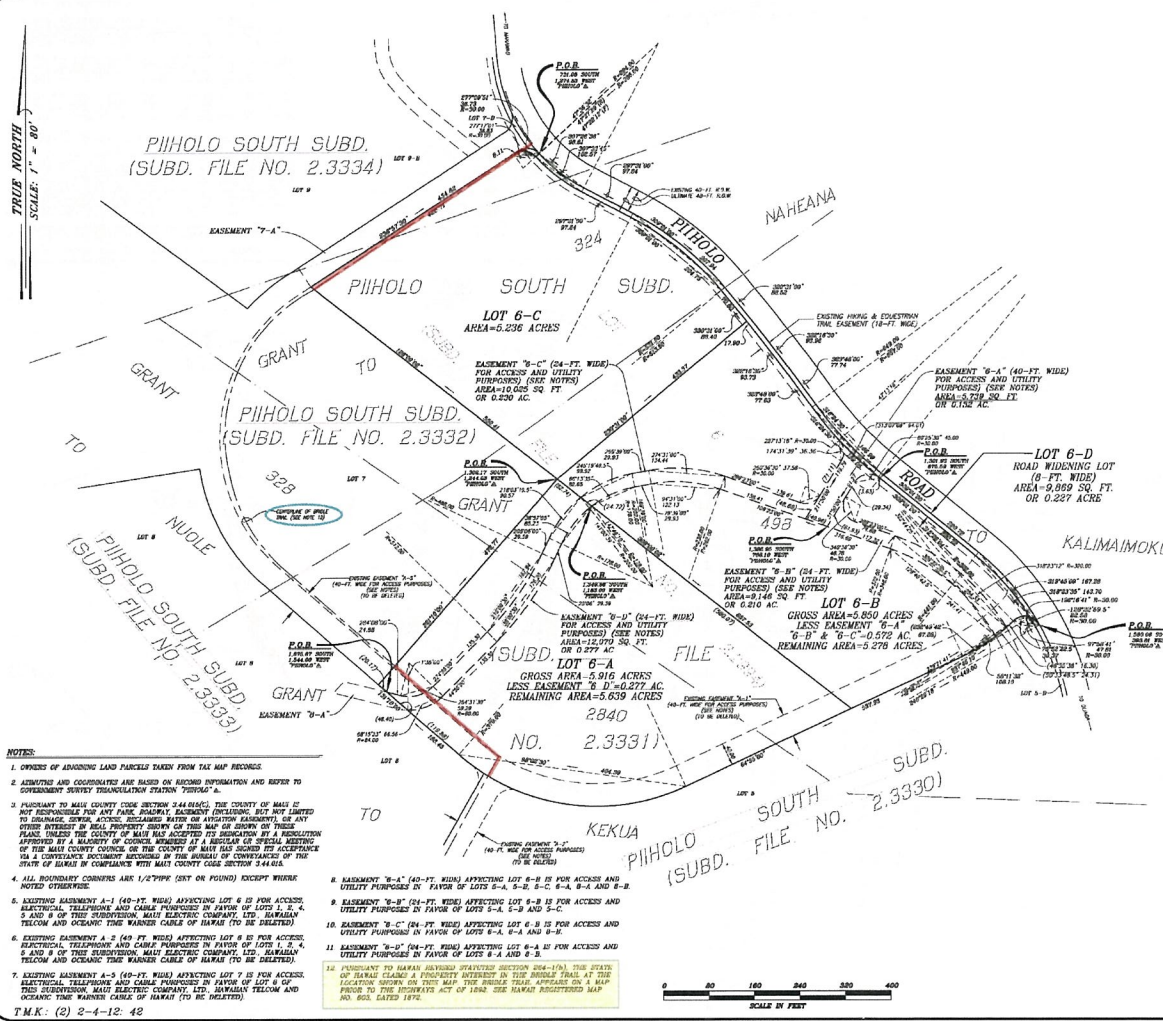


Exhibit E. Plat maps developed by Hokunui Maui, LLC pursuant to their request for consolidation and subdivision of the subject parcels.





PIIHOLO SOUTH SUBDIVISION
SUBDIVISION OF LOT 6 OF
THE PIIHOLO SOUTH SUBDIVISION
(SUBDIVISION FILE NO. 2.2994)
INTO LOTS 6-A TO 6-C, INCLUSIVE,
AND LOT 6-D (ROAD WIDENING LOT)
AND DESIGNATION OF EASEMENTS 6-A
TO 6-D, INCLUSIVE.

Being portions of Grant 324 to Naheana,
Grant 328 to Nuole, Grant 498
to Kalaimoku and Grant 2840
to Kekua

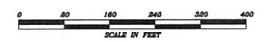
SITUATE AT
MAKAPAO, MAUI, HAWAII
DATE: AUGUST 8, 2017 SCALE: 1" = 80'
REVISED: FEBRUARY 10, 2020
REVISED: MARCH 30, 2021

AKAMAI LAND SURVEYING, INC.
P.O. BOX 1748
MAKAPAO, MAUI, HAWAII 96760
(808) 478-0177 (808) 478-0177 FAX

ENGINEER
SHERMAN DUDLEY DEPONT
LICENSED PROFESSIONAL LAND SURVEYOR
STATE OF HAWAII CERTIFICATE NO. 6980
EXPIRATION DATE: 30 APRIL 2022

- NOTES:
1. OPENS UP ADDITIONAL LAND PARCELS TAKEN FROM TAX MAP RECORDS.
 2. ADJUSTS AND COORDINATES ARE BASED ON RECORD INFORMATION AND REFER TO GOVERNMENT SURVEY TRANSLATION SECTION 700000-1-A.
 3. PURSUANT TO HAWAII COUNTY CODE SECTION 3.44.06(1), THE COUNTY OF MAUI IS NOT RESPONSIBLE FOR ANY PARTIAL EASEMENT DIVISIONS, BUT NOT LIMITED TO DRAINAGE, EASEMENT, ACCESS, EASEMENT, WATER OR AVIATION EASEMENTS, OR ANY OTHER INTEREST IN REAL PROPERTY SHOWN ON THIS MAP OR ANY OF THESE PLANS, UNLESS THE COUNTY OF MAUI HAS ACCEPTED ITS SIGNATURE BY A RESOLUTION APPROVED BY A MAJORITY OF COUNCIL MEMBERS AT A REGULAR OR SPECIAL MEETING OF THE MAUI COUNTY COUNCIL OR THE COUNTY OF MAUI HAS SIGNED ITS ACCEPTANCE IN A CONFERENCE DOCUMENT ATTACHED TO THE RECORDS OF THE COUNTY OF MAUI IN COMPLIANCE WITH HAWAII COUNTY CODE SECTION 3.44.01A.
 4. ALL BOUNDARY CORNERS ARE 1/2" PIPE (SIX OR POUND) EXCEPT WHERE NOTED OTHERWISE.
 5. EXISTING EASEMENT A-1 (40-FT. WIDE) AFFECTING LOT 6 IS FOR ACCESS, ELECTRICAL, TELEPHONE AND CABLE PURPOSES IN FAVOR OF LOTS 1, 2, 4, 5 AND 8 OF THIS SUBDIVISION, MAUI ELECTRIC COMPANY, LTD., HAWAIIAN TELCOM AND OCEANIC TIME WARNER CABLE OF HAWAII (TO BE DELETED).
 6. EXISTING EASEMENT A-2 (40-FT. WIDE) AFFECTING LOT 6 IS FOR ACCESS, ELECTRICAL, TELEPHONE AND CABLE PURPOSES IN FAVOR OF LOTS 1, 2, 4, 5 AND 8 OF THIS SUBDIVISION, MAUI ELECTRIC COMPANY, LTD., HAWAIIAN TELCOM AND OCEANIC TIME WARNER CABLE OF HAWAII (TO BE DELETED).
 7. EXISTING EASEMENT A-3 (40-FT. WIDE) AFFECTING LOT 7 IS FOR ACCESS, ELECTRICAL, TELEPHONE AND CABLE PURPOSES IN FAVOR OF LOT 6 OF THIS SUBDIVISION, MAUI ELECTRIC COMPANY, LTD., HAWAIIAN TELCOM AND OCEANIC TIME WARNER CABLE OF HAWAII (TO BE DELETED).
 8. EASEMENT "B-A" (40-FT. WIDE) AFFECTING LOT 6-B IS FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF LOTS 6-A, 6-B, 6-C, 6-A, 6-A, AND 6-B.
 9. EASEMENT "B-B" (24-FT. WIDE) AFFECTING LOT 6-B IS FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF LOTS 6-A, 6-B AND 6-C.
 10. EASEMENT "B-C" (24-FT. WIDE) AFFECTING LOT 6-B IS FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF LOTS 6-A, 6-B AND 6-C.
 11. EASEMENT "B-D" (24-FT. WIDE) AFFECTING LOT 6-B IS FOR ACCESS AND UTILITY PURPOSES IN FAVOR OF LOTS 6-A AND 6-B.
 12. PURSUANT TO HAWAII COUNTY CODE SECTION 3.44.06(1), THE STATE OF HAWAII CLAIMS A FUTURE INTEREST IN THIS EASEMENT TRAIL AT THE LOCATION SHOWN ON THIS MAP. THE EASEMENT TRAIL, APPEARING ON A MAP PRIOR TO THE HIGHWAYS ACT OF 1962, WAS REGISTERED MAP NO. 802, DATED 1970.

T.M.K.: (2) 2-4-12: 42



SUBDIVISION FILE NO. 2.3331 SHEET 1 OF 1
JOB NO. 2006031SUB-LOT 6-TK-20MAR21

