

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 11, 2022

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 21HD-065

Hawaii

Cancellation of Revocable Permit No. S-7531, Winifred A. Sullivan, Successor Trustee of the Sullivan Family Trust, Permittee; Request for Waiver of Phase I Environmental Site Assessment Requirement; Issuance of a Revocable Permit to Puako View, LLC for Landscaping Purposes, Puako, Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-9-002:006.

REQUEST:

Cancellation of Revocable Permit No. S-7531 effective August 31, 2021.
Issuance of a revocable permit to Puako View, LLC, a Washington limited liability company (Applicant) for landscaping purposes.

LEGAL REFERENCE:

Sections 171-13 and -55 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Government lands of Puako, Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-9-002:006, as shown on the attached map labeled Exhibit A.

AREA:

22,942 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: V – Resort, Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Currently encumbered under Revocable Permit No. S-7531, Winifred A. Sullivan, Successor
Trustee of the Sullivan Family Trust, for landscaping purposes.

CHARACTER OF USE:

Landscaping purposes.

COMMENCEMENT DATE:

Effective date of September 1, 2021.

MONTHLY RENTAL:

Continuation of previous permit rent for land only.

\$293.00 per month – September 1, 2021 through December 31, 2021
\$337.21 per month – effective January 1, 2022

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

JUSTIFICATION OF REVOCABLE PERMIT:

The subject property is unsuitable for sale at public auction for the following reasons. i) It is an irregular, substandard lot as indicated by the map attached as Exhibit A. ii) The Applicant will only be utilizing property for landscaping purposes and will not be receiving economic benefit from it. No other parties have requested use of this land.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Registered business name confirmed:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>
Applicant in good standing confirmed:	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>

Puako View, LLC is a Washington State limited liability company and is not required to register with the DCCA in the State of Hawaii solely by virtue of its ownership of an interest in real property in the State. Puako View, LLC represents that it does not conduct business in the State.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR)§ 11-200.1-16 (a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," and Item 44 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." (Exhibit B)

REMARKS:

Applicant Puako View, LLC (Applicant) is the owner of a 1.155-acre parcel in Puako identified by TMK: (3) 6-9-002:005 (Parcel 5). The State parcel is situated between the Applicant's property and Puako Road. Access to the Applicant's property is afforded by a 2,074 square foot easement (LOD S-26,994) over the western end of the subject property.

At its meeting of August 26, 1983, under agenda item F-1-f, the Board approved Revocable Permit No. S-6056 (RP S-6056) issued to Miles F. Sullivan, Trustee of the Sullivan Family Trust (Sullivan Family Trust), for landscaping purposes. Shortly thereafter, a rock wall was constructed along the roadway (Exhibit C). RP S-6056 was replaced by RP S-7531 also to the Sullivan Family Trust in 2010¹.

The Sullivan Family Trust sold Parcel 5 in August 2021 to Applicant. Because revocable permits are not transferrable, the Sullivan Family Trust is requesting a cancellation of RP S-7531 and the new owner, Applicant Puako View, LLC, is asking that a new permit be issued to it. There will be no change to the current existing use of the property.

Staff is recommending the Board cancel Revocable Permit No. S-7531 to Winifred A. Sullivan, Successor Trustee of the Sullivan Family Trust, and issue a new permit to Applicant Puako View, LLC. As this will be a continued use of the State property, staff is proposing the Board waive the Phase I Environmental Site Assessment requirement contained in the current revocable permit.² An inspection of the property was performed on January 7, 2022 with no evidence of any use other than for landscaping. In the event that the Land Board does require a Phase I report, Applicant has indicated it will provide a report to the Land Division.

¹ The Department implemented revisions to older permits. Updated language regarding insurance requirements and environmental responsibilities were included in the revised agreement to the Permittee.

² Section B, page 7, paragraph 14 requires the permittee to conduct a Phase I ESA prior to the termination or revocation of the subject permit.

A request for comments was sent to various government agencies with no objection or comments on the proposed month-to-month revocable permit.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of Revocable Permit No. S-7531 to Winifred A. Sullivan, Successor Trustee of the Sullivan Family Trust in the manner specified by law.
2. Waive the Phase I Environmental Site Assessment requirement as detailed on Section B, page 7, paragraph 14, upon cancellation of Revocable Permit No. S-7531.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
4. Authorize the issuance of month-to-Month Revocable Permit to Puako View, LLC covering the subject area for landscaping purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State

Respectfully Submitted,

Gordon C. Heit

for

Gordon C. Heit
District Land Agent

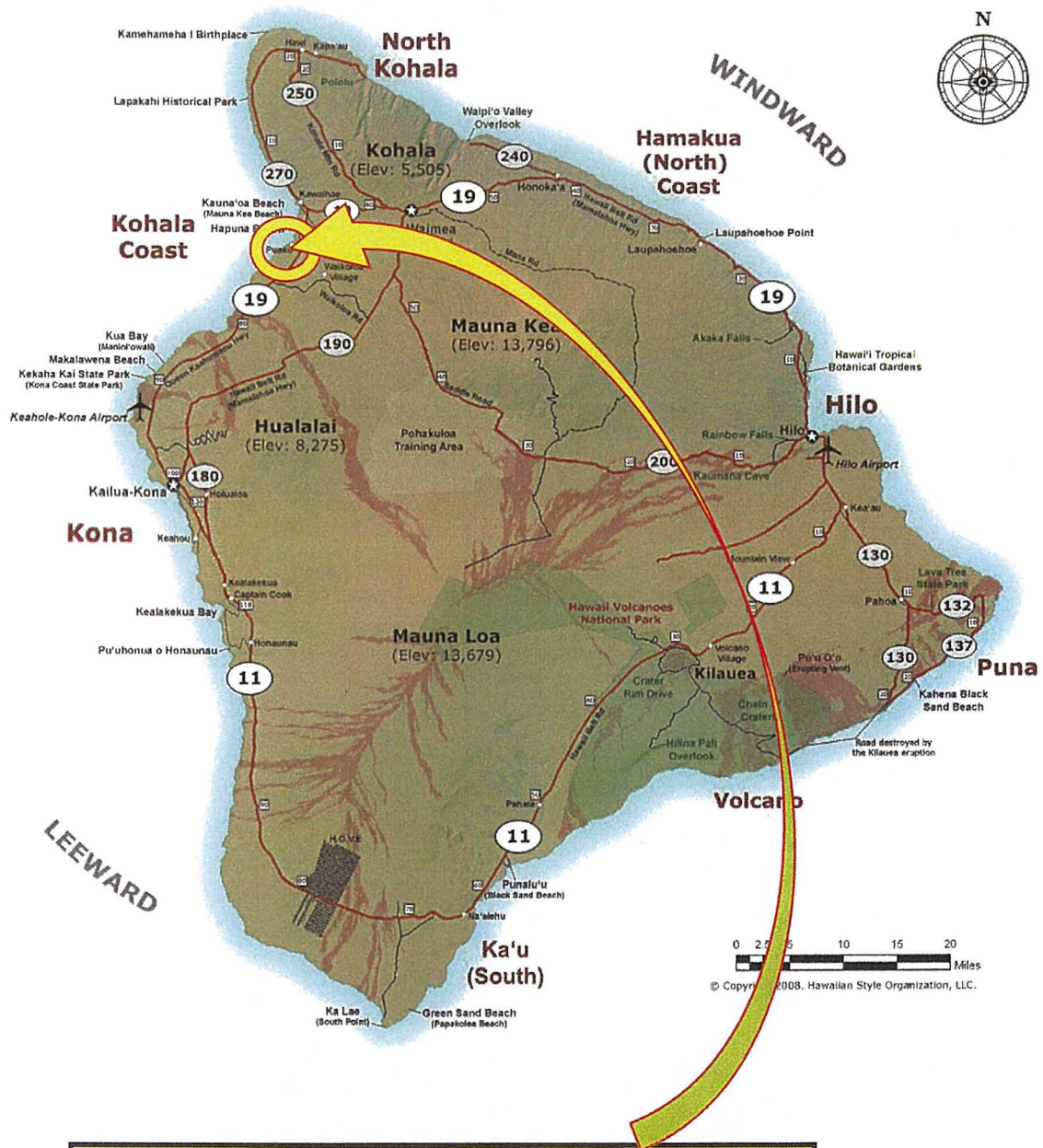
APPROVED FOR SUBMITTAL:

Suzanne D. Case

RT

Suzanne D. Case, Chairperson

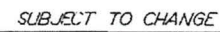
EXHIBIT A

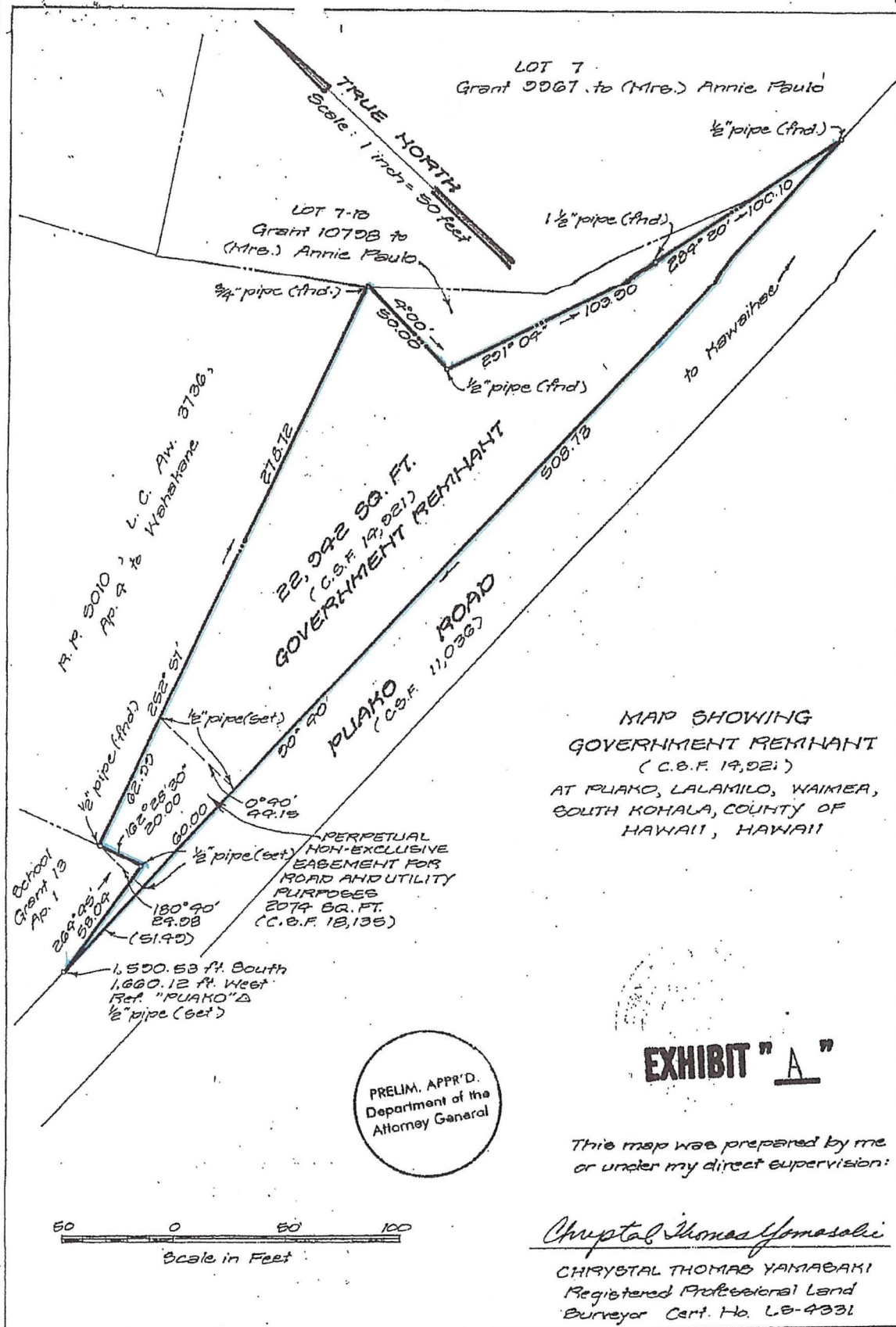


Sullivan Trust – RP S-7531,
South Kohala, Hawaii

SUBJECT PROPERTY

LALAMILO, S. KOHALA, HAWAII





DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 4, 2022

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

Project Title: Request for Month-to-month Revocable Permit for Landscaping Purposes to Puako View, LLC

Project / Reference No.: 21HD-065

Project Location: Government lands of Puako, Lalamilo, South Kohala, Island of Hawaii; Identified by Tax Map Key: (3) 6-9-002:006

Project Description: The requested parcel is currently encumbered under RP S-7531 for landscaping purposes. The Permittee, Sullivan Family Trust sold the residential property adjacent to the State lands. The new owners would like to continue use of the State property and have applied for a new revocable permit.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with Hawaii Administrative Rules (HAR)§ 11-200.1-16 (a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, which states, "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." Part 1, Item 44 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

Cumulative Impact of Planned Successive Actions in Same Place Significant?: No. Staff believes there are no cumulative impacts involved.

EXHIBIT B

**Action May Have
Significant Impact on
Particularly Sensitive
Environment?:**

No. There are no particular sensitive environmental issues involved with the proposed use of the property.

Analysis:

There will be no change in use of the State property as the applicant intends use it for the same landscaping purposes.

Consulted Parties:

State of Hawaii, DOH Environmental Division
County of Hawaii, Planning Department,

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

INSPECTION REPORT
Commercial/Industrial/Resort/Other Business

FINAL INSPECTION

General Information

Document Number: GLS _____ or RPS 7531

Character of Use Landscaping Purposes

Inspection Date: 1/07/22 Inspection Time: 9:30 a.m.

Land Agent: Gordon Heit

TENANT INFORMATION

Name: Sullivan Family Trust

Home Phone: _____

Address: [REDACTED]

Business Phone: _____

Incline Village, NV 89451

Fax: _____

Contact Person: Winifred A. Sullivan

Contact Phone: _____

SITE INFORMATION

TMK: (3) 6-9-002:006

Area: 22,942 square feet

Site Address: Puako, Lalamilo, South Kohala, Hawaii

FISCAL INFORMATION

ITEM	N/A	CURRENT= COMPLIANCE	DEFAULT = NON-COMPLIANCE	COMMENTS
Rent			X	\$337.00 per month.
Liability Insurance		X		
Fire Insurance		X		
Bond		X		\$376.00 cash deposit .

FIELD INSPECTION RESULTS (refer to Field Inspection Worksheet)

ITEM	N/A	COMPLIANCE	NONCOMPLIANCE	COMMENTS
Subleases	X			
Improvements	X			
Premises		X		
Character of Use				
Phase I Environmental Site Assessment		X		Request waiver from Land Board .

Field Inspection Worksheet
Commercial/Industrial/Resort/Other Business

File Review

LICENSES/PERMITS/CONSENTS

ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Subletting	X			attach copy of list or map if applicable
Improvement Construction Buildings	X			note deadlines for % completion No improvements were made to existing structures
Improvement Construction Other structures/misc.		X		note deadlines for % completion A six-foot rock wall was built along the roadway in 1983 shortly after original permit began.

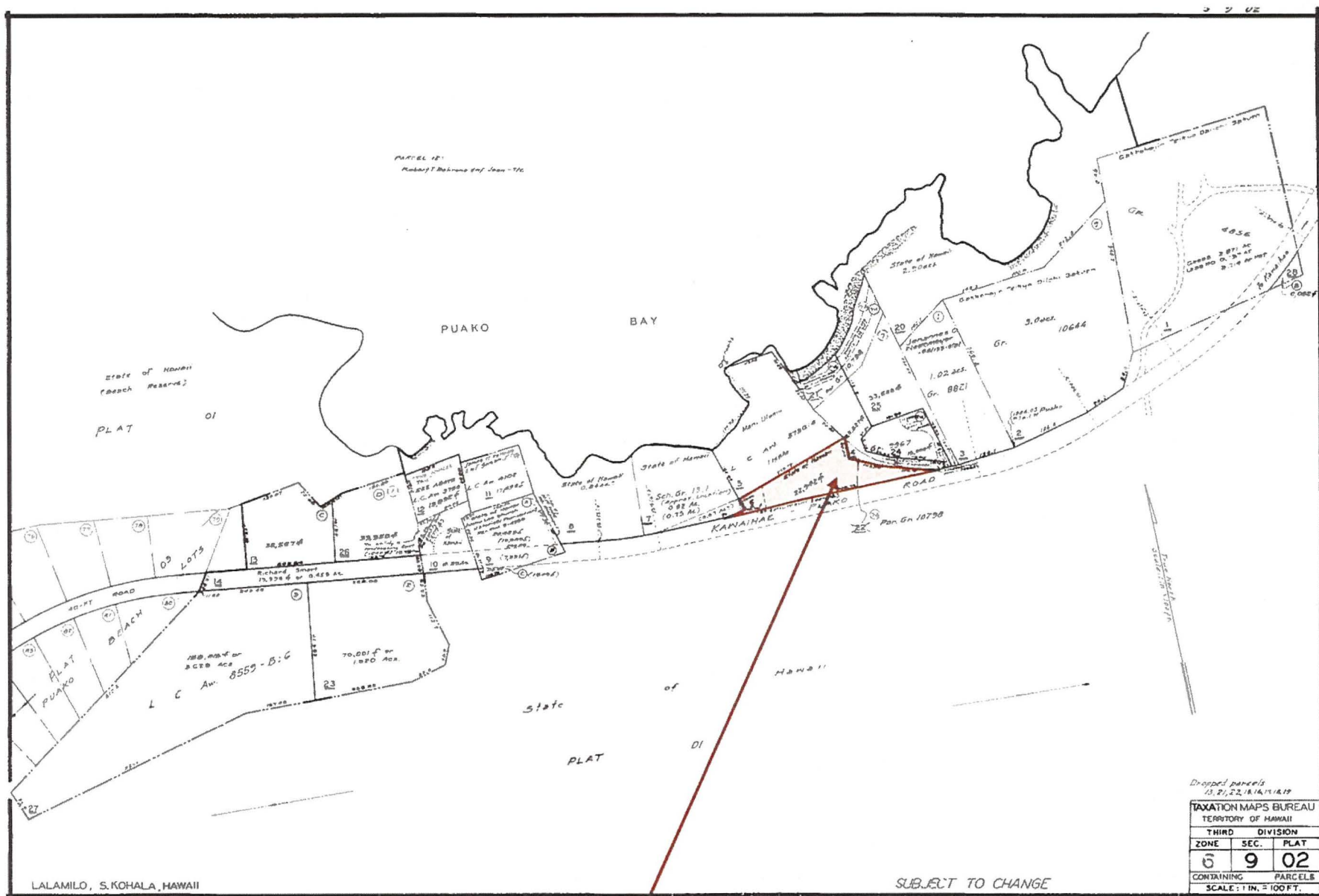
Field Inspection

ITEM	SATISFACTORY?			COMMENTS/NOTES
	N/A	YES	NO	
SUBLEASES				
Consents approved	X			
Use adheres to lease purpose	X			
IMPROVEMENTS				
<u>Buildings/Residences:</u> roof	X			
paint	X			
exterior	X			
interior	X			
<u>Structures:</u> roads	X			
walkways	X			
fencelines		X		
others				
PREMISES				
clean, sanitary, orderly		X		
appropriate storage/use of hazardous materials		X		
CHARACTER OF USE		X		
adheres to lease purpose				Landscaping purposes.

ITEM	SATISFACTORY?			COMMENTS/NOTES
	N/A	YES	NO	
Other:				

SUBJECT PROPERTY

LALAMILO, S. KOHALA, HAWAII

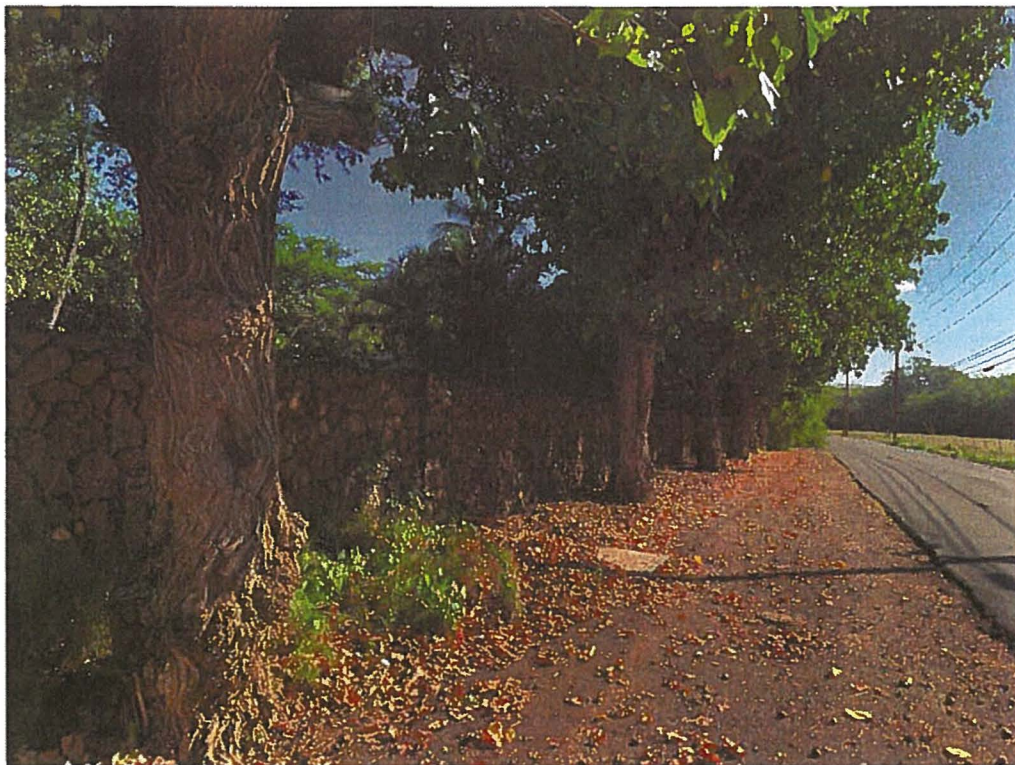


SUBJECT TO CHANGE

REVOCABLE PERMIT No. S-7531



South View of Rock Wall along Puako Road

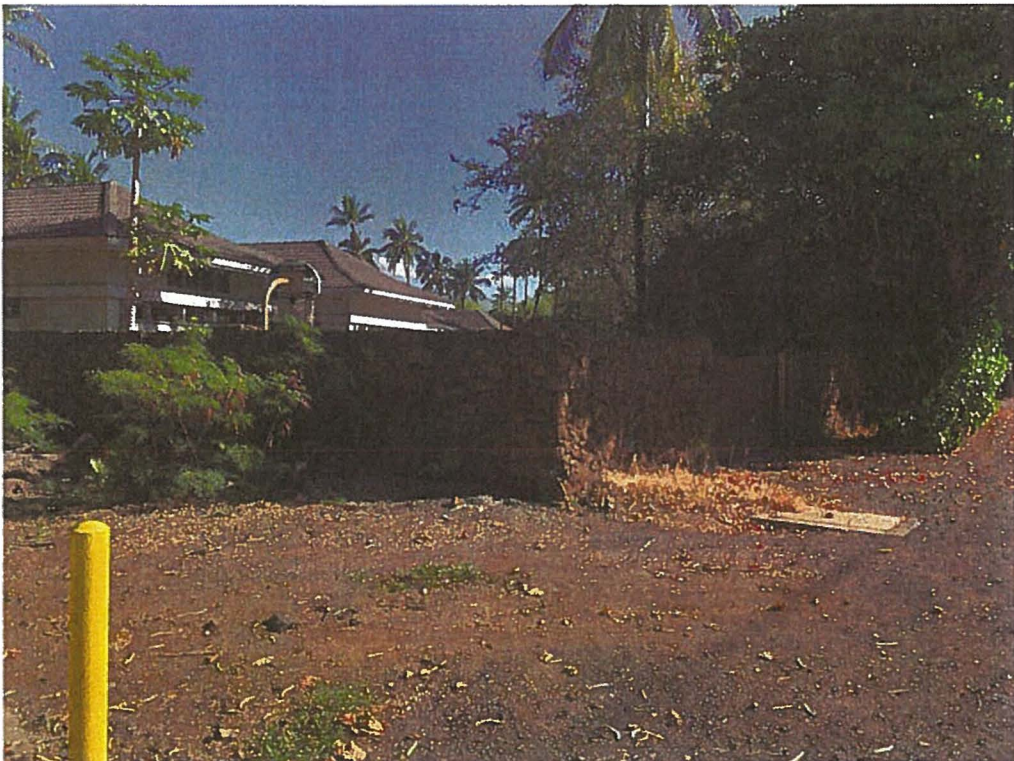


North View of Rock Wall along Puako Road

REVOCABLE PERMIT No. S-7531



Main Entrance to Sullivan Property



Secondary Entrance to Sullivan Property