

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

September 9, 2022

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

**HAWAII**

Amend Grant of Perpetual, Non-Exclusive Easements under Land Office Deed (LOD) No. 28,942, State of Hawaii, Board of Land and Natural Resources, Grantor, to RCFC Kaloko Heights, LLC, Grantee, for Access and Utility Purposes Over the Road To The Sea Trail at Kaloko, North Kona, Hawaii, TMK: (3) 7-3-009: portions of 032 and 071.

The purpose of the amendment is to relocate one (1) of the four easements to allow development of the Kaloko Heights Affordable Housing Project.

APPLICANTS:

RCFC Kaloko Heights, LLC (RCFC), a limited liability company.  
Hawaii Island Community Development Corporation (HICDC), a Hawaii non-profit corporation.

LEGAL REFERENCE:

Section 171-6 and -13, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portions of Government lands of the Road To The Sea Trail, situated at Kaloko, North Kona, Hawaii, which traverses private properties identified as TMKs: (3) 7-3-009: portions of 032 and 071 (previously a part of parcel 057) as shown on the attached map labeled Exhibit A & A-1.

AREA:

Existing easement T-4 is 742 square feet.  
The proposed easement T-4A is 800 square feet more or less. Exact area to be determined by survey.

ZONING:

State Land Use District:	Urban
County of Hawaii CZO:	Residential, Multi-Family Residential and Neighborhood Commercial

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:

Encumbered by Grant of Non-Exclusive Easements under Land Office Deed No. S-28,942, State of Hawaii, grantor, to RCFC Kaloko Heights, LLC.

CHARACTER OF USE:

Right, privilege and authority to construct, lay, install, use maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE OF AMENDMENT:

To be determined by the Chairperson.

CONSIDERATION:

None. The easement instrument allows the Grantee to relocate the easements “without payment of monetary consideration” when the substitute easements are of “similar width within the reasonable vicinity of the original alignment....”

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 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 negligible or no expansion or change of use beyond that previously existing,” and Item 39 that states, “Creation or termination of easement, covenants, or other rights in structures or land”. Refer to attached Exhibit B.

DCCA VERIFICATION:

RCFC and HICDC:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

BACKGROUND:

Historically, it is believed that the Road To The Sea (RTS) trail provided a mauka to makai route linking the upper reaches of Kaloko to the Kaloko fish ponds. The fish ponds are now part of the Kaloko-Honokohau National Historical Park. The trail traverses across private lands from the Queen Kaahumanu Highway to the upper reaches of the Kaloko ahupuaa.

A portion of the RTS trail crosses the private lands designated for development of the Kaloko Heights Master Planned Community which are owned by RCFC and HICDC. An archaeological inventory survey (AIS) performed in 2005 determined no further work needed for the trail. However, the Na Ala Hele Advisory Council (NAH) and interested Kona community members expressed the opinion that due to the historical and cultural value of the trail, the alignment of even the extremely disturbed portions of the trail should remain in place to preserve the historical and cultural context of the trail.

In 2006, RCFC consulted with the NAH and the Kona community to reach a consensus regarding the future treatment of the trail, the results of which were memorialized in a letter dated November 17, 2006 from the developer to the County of Hawaii Planning Director. The letter, in part, commits to preserving the horizontal alignment of the trail and adding a green space buffer of a minimum of 10' on each side of the trail for a total alignment width of 30 feet.

At its meeting of June 8, 2007 agenda item D-2, the Board approved the granting of four (4) perpetual easements crossing the RTS trail within the subject area and amended the submittal to include the November 17, 2006 letter from the developer to the planning director as a condition in the new easement document. The letter is attached as Exhibit C.

In the time since, much progress has been made in the planning process. RCFC has transferred ownership of 10 acres to HICDC for the required affordable housing component of the master development. The transfer did not require Board approval as the

perpetual easements “run with land”. Along with the transfer of the land was the agreement to assist in relocating one of the easements onto the HICDC parcel.

In 2021, HICDC contracted ASM Affiliates to update the previous AIS with respect to the 10.75 acre Affordable Housing project as required for State and Federal Affordable Housing funding. The updated AIS concluded that the trail alignment was significant under Criterion e for the cultural significance it contains for Hawaiian communities and recommended preservation. SHPD accepted the proposed Preservation Plan which allocates a 30 foot wide preservation buffer for the trail alignment and one 80 foot wide breach for the proposed easement area. (See attached SHPD letter dated September 13, 2021 as Exhibit D).

Therefore, the applicants are requesting relocation of the T-4 easement from its current location makai to the HICDC parcel as represented in Exhibit A-1.

REMARKS:

The T-4 easement is delineated in Land Office Deed No. S-28,942 which includes the following provision at paragraph 7:

7. Should future development necessitate a relocation of the easement granted herein, or any portion thereof, the relocation shall be accomplished at the Grantee’s own cost and expense; provided, however, that if other lands of the Grantor are available, the Grantor will grant to the Grantee without payment of any monetary consideration, a substitute easement of similar width within the reasonable vicinity of the original alignment, which substitute easement shall be subject to the same terms and conditions as that herein granted and as required by law.

As indicated in Exhibit A-1 the proposed relocated easement is within the reasonable vicinity of the original alignment and appears to be of similar width to the original alignment. The area of the final alignment will need to be determined by survey. If the surveys show that relocated easements are not of “similar width” to the original alignment, then staff will bring the matter back to the Board for a decision on how to proceed.

This submittal was sent out for comments to the following agencies:

State Historic Preservation Division, DLNR;  
Na Ala Hele Trails, DLNR;  
County of Hawaii Planning Department; and  
Office of Hawaiian Affairs.

Na Ala Hele Trails and the Planning Department had no objections. No response was received by the deadline for preparation of this submittal from State Historic Preservation

or Office of Hawaiian Affairs.

Staff is recommending approval of the relocation of the easement as SHPD has reviewed the relocation and approved the breach. Staff also consulted with NAH regarding the relocation and received an affirmative response.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, Hawaii Administrative Rules, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the amendment of Grant of Perpetual Non-Exclusive Easements under Land Office Deed No. S-28,942, State of Hawaii, by its Board of Land and Natural Resources, Grantor, to RCFC Kaloko Heights, LLC, Grantee, to relocate one (1) easement for access and utility 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 amendment of easement document form, as may be amended from time to time;
  - B. Applicant will follow the State Historic Preservation Division conditions and mitigation measures as outlined in Exhibit D along with any subsequent conditions that SHPD may recommend;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be proscribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Gordon C. Heit*

*for*

Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

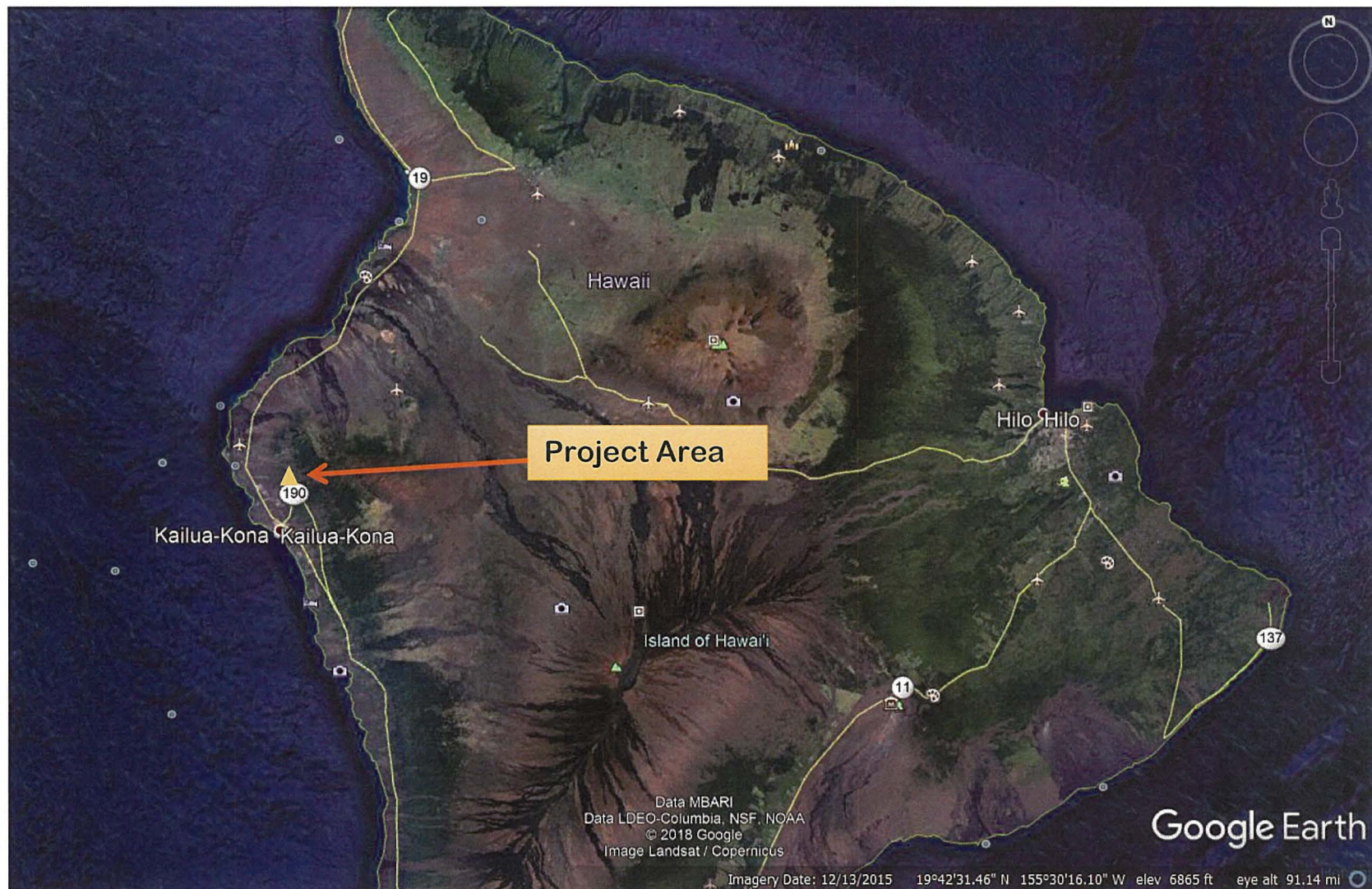
*Suzanne D. Case*

RT

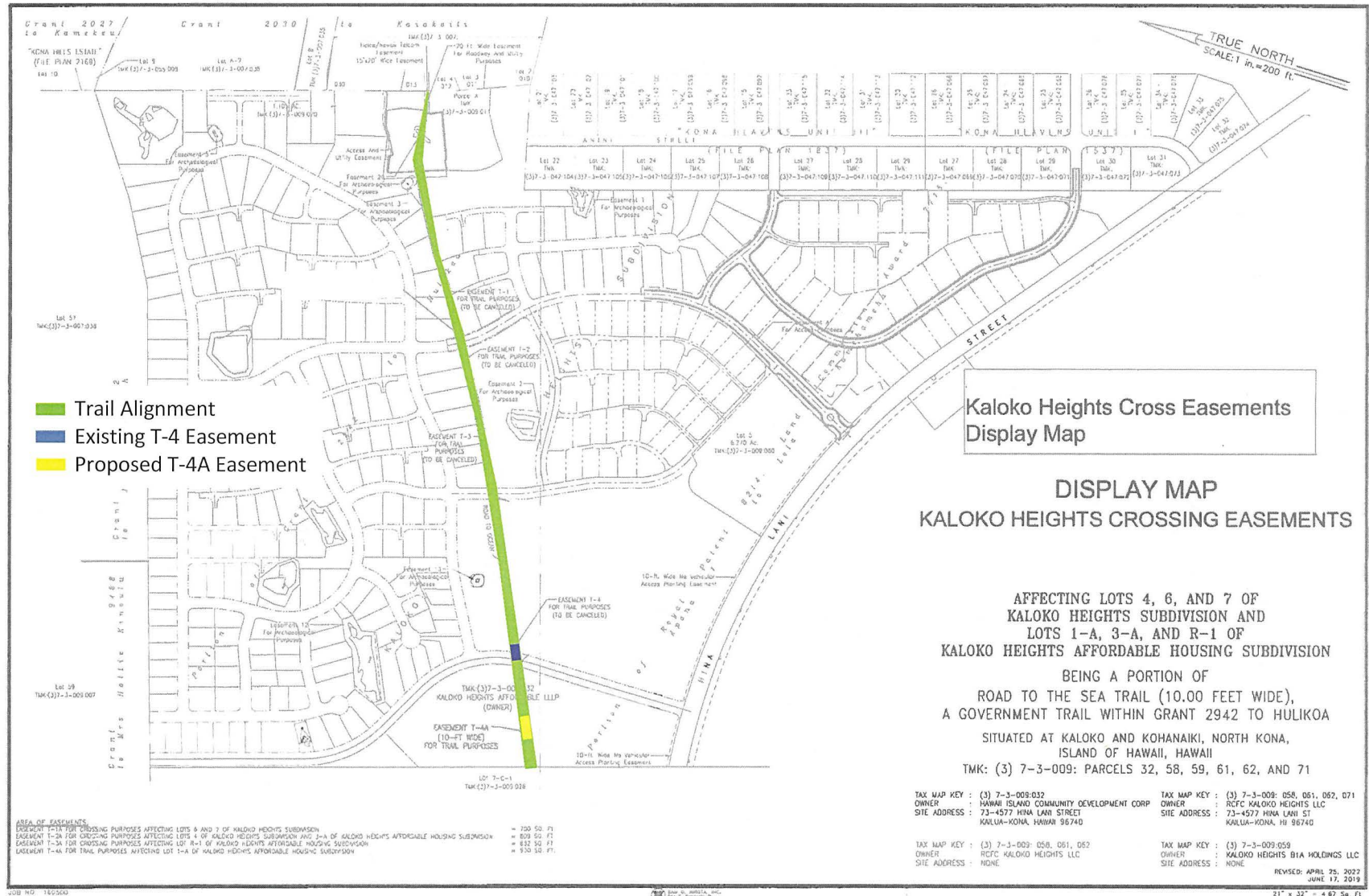
Suzanne D. Case, Chairperson



## EXHIBIT A

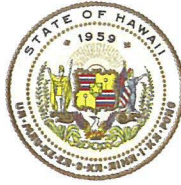


# EXHIBIT A1





DAVID Y. IGE  
GOVERNOR OF HAWAII



## EXHIBIT B

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

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
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

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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

September 9, 2022

#### 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:** Amend Grant of Perpetual, Non-Exclusive Easements under Land Office Deed (LOD) No. 28,942, State of Hawaii, Board of Land and Natural Resources, Grantor, to RCFC Kaloko Heights, LLC for Access and Utility Purposes Over the Road To The Sea Trail.

**Project / Reference No.:** LOD S-28,942

**Project Location:** Kaloko, North Kona, Hawaii, TMK: (3) 7-3-009: portions of 032 and 071.

**Project Description:** Request to relocate one (1) existing easement along the Road to the Sea trail. The easement is for access and utility purposes across the trail. Development of the affordable housing project requires an 80 foot wide crossing of the trail. Easement T-4 is to be relocated approximately 150 feet makai of its current position.

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

**Exemption Class No. and Description:** In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 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 negligible or no expansion or change of use beyond that previously existing," and Item 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land".



**Cumulative Impact of  
Planned Successive  
Actions in Same Place  
Significant?:**

No. The relocation of the easement is a single action and no planned successive actions are occurring.

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

No. There are no particularly sensitive environmental issues involved with the proposed use of the property. The subject area is part of an approved preservation plan.

**Analysis:**

The relocation of the existing easement along the trail route will not change the use of the trail. The number of crossings remains the same both in size and number. The proposed use will involve negligible or no expansion or change of use beyond that previously existing.

**Consulted Parties:**

State Historic Preservation Division; Na Ala Hele Trails; County of Hawaii Planning Department; and Office of Hawaiian Affairs.

**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.



STANFORD CARR DEVELOPMENT, LLC

## EXHIBIT C

November 17, 2006

Christopher Yuan, Planning Director  
County of Hawaii  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

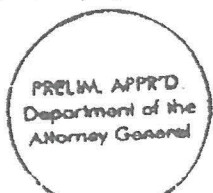
**SUBJECT: Kaloko Heights Master Planned Community, TMKs 7-3-9: 19, 32, 57 - 62**

Dear Chris:

In regards to the subject project, the roadway and water improvement construction plans that had been submitted in connection thereto, and issues related to the Kohanaiki Trail ("Trail") that runs through the property, I wanted to apprise you of recent developments between ourselves and a community group consisting of certain ohana members from the area (the "ohana group").

On Tuesday November 14<sup>th</sup> we conducted a second meeting with the ohana group at which we presented illustrations of plans to incorporate and preserve the existing Trail alignment within the planned community. A consensus was reached, and following are the results:

1. The original mauka-makai alignment ("footprint") of the Trail and public use and interests thereof shall be retained in perpetuity across the subject property.
2. The Trail will be at least 10-feet wide and will be bordered by perpetual open space buffers of at least 10-feet wide on each side. These buffers are intended to be sloped and otherwise modified as necessary to make grade adjustments. In combination with the buffers, the total width of this perpetual public right of way will be at least 30-feet throughout its length across the subject property.
3. In direct consideration of federal, state and county rules, regulations and laws relating to land use, subdivisions, streets and accessibility, and to further ensure a safer walking surface for the Trail user, vertical changes (that is, cutting and filling in comparison to the surrounding development) in the original Trail elevation may be necessary and will be allowed, as long as the horizontal alignment is kept the same. Such changes are to be kept to the minimum and, wherever possible and practical, the original Trail surface, rocks, and other cultural resources within the Trail, are to be set aside and re-incorporated and/or renaturalized as part of the Trail at its new elevation.
4. Wherever vertical changes are not required, the original Trail surface and other cultural resources located within the Trail, including, but not limited to, existing native trees, will be retained.
5. Whenever possible, cultural features found along the existing Trail (such as papamu/konane board) shall be retained and incorporated into the cultural landscape, in living celebration of and consistent with their cultural heritage and significance. Likewise, to the extent it is feasible and appropriate, significant cultural resources located outside the designated right of way and adjacent to the Trail, may be relocated within the right of way.
6. In further consideration of existing governmental rules and regulations pertaining to land use and requisite street and sidewalk requirements, the parties understand that it will be necessary to cross the existing Trail alignment at specific and limited points.
7. The proposed crossings of the trail are acceptable, as long as:



KONA DIVISION • 73-4577 HINA-LANI STREET • KAILUA-KONA, HAWAII 96740  
PHONE: (808) 325-2255 • FACSIMILE: (808) 325-2257 • WEBSITE: [www.StanfordCarr.com](http://www.StanfordCarr.com)

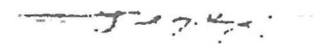
## EXHIBIT "C"

- a. pahoehoe from the project site, preferably from the Trail section that is being crossed, is embedded in the roadway paving as the means to mark where the original Trail footprint is located (similar to the "King's Trail" crossing the road to Anaehoomalu Bay); and
  - b. the number and width of such crossings are kept to an absolute minimum and, in no case, to exceed a maximum of four.
8. Other development-related items discussed and agreed upon:
- a. Whenever existing rock walls must be removed, the rocks from these walls will be set aside and reused in the construction of new screen, buffer and retaining walls built within the project.
  - b. Whenever possible, rocks from the subject property will be used for such walls (minimize importation of rock from offsite).
  - c. To promote and encourage traditional and customary cultural practices, the harvesting of native woods (such as alaahee, elama, manele, iliahi and ulei) as well as other exotics like mango, from trees downed during the grubbing work or ones that must be removed during permitted land grading, will be allowed by ohana members and/or their designated representatives. If requested and where possible and practical, the landowner or his designated representative(s) will assist the ohana in the gathering and temporary storage of such woods. Such activities will be coordinated in advance with site personnel.
  - d. Members of the ohana group will assist the landowner in understanding and compiling oral histories related to the subject property and area, so these can be used within the new community (such as for neighborhood identities, street names, and the like -- initial suggestion was for use of names associated with the old homesteads).
  - e. With the vision of perpetuating the life of the land in that which is pono (righteous) and to promote better understanding and aloha among the parties and the larger community, the landowner and ohana group wish to continue to meet, consult and cooperate regarding the protection and incorporation of Hawaiian cultural perspectives, traditions and practices in appropriate areas and segments of this project, as well as related properties.

Curtis Tyler is a member of the ohana group, and he has agreed to distribute this letter to the other members.

Should you wish to discuss any aspect of the above, please feel free to contact me 325-2255.

Sincerely,



Paul J. Kay  
Vice President/Sr. Development Manager  
STANFORD CARR DEVELOPMENT, LLC

encl. Kaloko Heights Master Planned Community Site Plan, rev. 11/17/06

cc: Curtis Tyler  
Peter Young, DLNR  
Paul Conry, DOFAW  
Curt Cottrell, Na Ala Hele  
Irving Kawashima, Na Ala Hele  
Debbie Chang, Na Ala Hele Advisory Council  
Brad Kurokawa, Planning  
Daryn Arai, Planning  
Steve Lim, esq.  
Stanford Carr





DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD, STE 555  
KAPOLEI, HAWAII 96707

**EXHIBIT D**

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

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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CONSERVATION AND COASTAL LANDS  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

September 13, 2021

Suzan Kunz, Administrator  
Office of Housing and Community Development  
1990 Kino'ole Street, Suite 102  
Hilo, HI 96720  
[REDACTED]

IN REPLY REFER TO:  
Project No. 2021PR00218  
Submission No. 2021PR00218.009  
Log No. 2020.02779  
Doc. No. 2109NM01  
Archaeology

Keith Kato, Executive Director  
Hawaii Island Community Development Corporation  
100 Pauahi St., Suite 201  
Hilo, HI 96720  
[REDACTED]

Dear Suzan Kunz and Keith Kato:

SUBJECT: Chapter 6E-42 and National Historic Preservation Act (NHPA) Section 106 Review  
County of Hawaii Grading Permit Application  
Continuation of NHPA Section 106 Consultation  
Archaeological Preservation Plan for the Kaloko Affordable Housing Project  
Hawai'i Island Community Development Corporation  
Kaloko and Kohanaiki Ahupua'a, North Kona District, Island of Hawai'i  
TMK: (3) 7-3-009:032

This letter provides the State Historic Preservation Division's (SHPD's) review of the grading permit application for the proposed construction of a 100-unit affordable housing project and the supporting document titled *An Archaeological Preservation Plan for SIHP Sites 50-10-28-10714 and -31243, TMK (3) 7-3-009:032 Kaloko and Kohanaiki Ahupua'a, North Kona District, Island of Hawai'i* (Ketner and Clark, August 2021). SHPD received the draft archaeological preservation plan (PP) on August 19, 2021 (Submission No. 2021PR00218.007). SHPD requested revisions to the PP via HICRIS on September 2, 2021, which were addressed on September 3, 2021 (Submission No. 2021PR00218.009). Previously, SHPD received an archaeological inventory survey for the project (Rechtman and Glennon, February 2021) on February 2, 2021 (Project No. 2020PR34886). Subsequently, SHPD received the permit submittal from the County of Hawai'i Office of Housing and Development (OHCD) on February 24, 2021 that included a Department of Public Works Form 33, a SHPD 6E Submittal Form completed by the OHCD, a site location map and a TMK map (Project No. 2021PR00218). The archaeological preservation plan (PP) for Sites 50-10-28-10714 and 50-10-28-31243 was completed by ASM Affiliates at the request of the landowner, Hawai'i Island Community Development Corporation (HICDC), and SHPD (Project No. 2021PR00218, Project No. 2020PR34886, Doc. No. 2102NM02).

The OHCD submittal indicates that the HICDC is the landowner and project proponent. This private housing project is subject to HRS 6E-42 historic preservation review. Additionally, as the project will involve federal funding from the U.S. Department of Housing and Urban Development (HUD), the project is a federal undertaking as defined in 36 CFR 800.16(y) and, thus, is subject to NHPA Section 106 consultation. The OHCD is authorized by the HUD to conduct NHPA Section 106 consultation on their behalf. SHPD records indicate that SHPD received a letter from OHCD on June 14, 2019 initiating the NHPA Section 106 consultation, on behalf of HUD, and requesting the State Historic Preservation Officer's (SHPO's) concurrence with the proposed area of potential effects (APE) for the subject housing project. **The SHPO concurred** with the APE which totals 10.75 acres, the entirety of TMK: (3) 7-3-009:032 (SHPD letter dated October 14, 2019; Log No. 2019.01326, Doc. No. 1910SN11). The findings of the

AIS for this project, along with mitigation commitments presented in the preservation plan, will be used to inform a future historic properties effects determination for the project with respect to Section 106 of the National Historic Preservation Act (NHPA) (separate Section 106 consultation for this project is currently on going and, as agreed upon with the SHPD, will be continued once the HRS Chapter 6E-42 review of the project has been completed).

According to the submittal materials, HICDC proposes grading for a 100-unit affordable housing project that will consist of a six multi-family two- and three-story structures, a community center, a play court, parking lots, sidewalks, landscaping and utilities. The project area comprises the entire 10.775-acre parcel and is synonymous with the APE. A 4.5-acre portion of the project area has been previously disturbed by clearing, grubbing, and grading activities.

The project area was previously included in an AIS for a larger area (Wolforth et al. 2005) that identified a total of 89 sites. Of the 89 sites, 48 required no further work, 29 were recommended for data recovery, and the remaining twelve sites, including seven burials and one *heiau* containing a burial were recommended for preservation. The Wolforth et al. (2005) AIS was conducted for a different development project that intended to subdivide the larger property and allow for future development. SHPD accepted the Wolforth et al. (2005) AIS in a letter dated October 24, 2005 (Log No. 2005.2295, Doc. No. 0510NM42). Subsequently, SHPD received a data recovery plan that included interim protection measures and archaeological monitoring (Wolforth 2006a), a preservation plan (Wolforth 2006b), and a burial treatment plan (Wolforth 2006c) for the larger project area presented in the Wolforth et al. (2005) AIS. SHPD accepted a data recovery plan and archaeological monitoring plan (Log. No. 2006.2022, Doc. No. 0606CM17), the preservation plan (Log No. 2006.2021, Doc. No. 0606CM16), and the burial treatment plan (Log No. 2006.2686, Doc. No. 0611KL09) for the larger project area. The data recovery work for the larger project was completed and a data recovery report (Wolforth et al. 2009) was submitted to SHPD for review and acceptance. SHPD has not yet reviewed and accepted the DRR. It has been uploaded to HICRIS Project No. 2021PR00218 for review.

The Wolforth et al. (2005) AIS documented five archaeological sites (Sites 50-10-28-10705, 50-10-28-10712, 50-10-28-10714, 50-10-28-10748 and 50-10-28-10768) within the current project area and 121 features associated with the Kona Field System (KFS; Site 50-10-28-6601). Site 50-10-28-10705 is a complex with four permanent habitation features that was recommended for data recovery. Site 50-10-28-10712 is a historic period *ahupua'a* boundary wall that was recommended for no further work. Site 50-10-28-10714 is a pre-Contact/historic road that was recommended for no further work. Site 50-10-28-10748 is a pre-Contact temporary habitation cave that was recommended for no further work, and Site 50-10-28-10768 is a walled field that functioned as a pre-Contact/Historic period habitation and garden with 43 features and was recommended for data recovery. The features of the KFS were recorded in three sample blocks within the Wolforth et al. (2005) project area, one of which was within the current project area. The data recovery work (Wolforth et al. 2009) included one site within the current project area, Site 50-10-28-10768.

On November 26 and December 5, 2019, in support of the current project, ASM Affiliates conducted a field inspection of the current project area (Brandt 2019). The field inspection identified grubbing and grading activities within the project area that occurred after the Wolforth et al. (2005) AIS was completed. These activities included the grading of a 4.5-acre area that destroyed at least 35 features of the Kona Field System, along with portions of additional sites. Site 50-10-28-10705 was also determined to have been removed by bulldozing activity and was documented during the field inspection as being located outside of the current project area.

Based on the results of the field inspection, SHPD requested that an AIS of the project area be conducted to update the findings of the earlier Wolforth et al. (2005) AIS. SHPD's request for the AIS was in response to community concerns that the prior AIS (Wolforth et al. 2005) did not adequately document the historic properties within the project area, specifically the "road to the sea," Site 50-10-28-10714. The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW), Nā Ala Hele Trail and Access, and Ala Kahakai National Historic Trail, challenged the previous AIS, stating during ongoing NHPA Section 106 consultation that the trail was improperly documented, and potential damage occurred to the site in the intervening years between when the Wolforth et al. (2005) AIS was completed and present. Additionally, the trail was recommended for "no further work" in the Wolforth et al. (2005) AIS and the community is advocating for preservation in place, stating that the trail is a public right of way.

ASM Affiliates subsequently conducted the AIS of the entire current project area/APE at the request of HICDC. The AIS was prepared to update the findings of the Wolforth et al. (2005) AIS with respect to the 10.75 acre, Kaloko



Affordable Housing Project Area and to meet HRS 6E requirements, including HAR §13-276-5. The AIS conducted by ASM Affiliates (Rechtman and Glennon, February 2021) documented four previously identified sites (50-10-28-10712, 50-10-28-10714, 50-10-28-10748, and 50-10-28-10768) and two newly identified sites (50-10-28-31243 and 50-10-28-31244) (Table 1). Additionally, features of the Kona Field System (Site 50-10-28-6601) were relocated but not reassessed and not redocumented. Subsurface testing consisting of two 1 X 1-meter test units and one 0.5 X 0.5-meter test unit was undertaken at the two newly identified sites. Additionally, the Rechtman and Glennon (2021) AIS presented the results of data recovery excavation undertaken by Woforth et al. (2009) at Site 50-10-28-10768, which included 20 shovel probes, 5 excavation units, and 4 stratigraphic trenches.

Table 1. Archaeological sites documented during the current Updated AIS.

SIHP # 50-10-28-	Site Description	Temporal Association	Previous Significance	Current Significance	Previous Mitigation Recommendation	Current Mitigation Recommendation
-10712	Boundary wall	Historic	d	d	NFW	NFW
-10714	Trail	Pre-Contact/ Historic	d, e	d, e	NFW	P
-10748	Habitation Cave	Pre-Contact	d	d	NFW	NFW
-10768	Agricultural/Habitation Complex	Pre-Contact/ Historic	d	d	DR	NFW
-31243	Ceremonial Complex	Pre-Contact	N/A	c, d, e	N/A	P
-31244	Burial	Historic	N/A	d, e	N/A	P

\*no further work (NFW), preservation (P), data recovery (DR)

\*note KFS (Site 50-10-28-6601) is not included in table because it was not reassessed during the AIS.

During the current AIS (Rechtman and Glennon, February 2021), the 6 sites were assessed as exhibiting various degradation of integrity but significant under Criterion d for their information content. Site 50-10-28-31243 was also assessed as significant under Criterion c for being an excellent example of a site type. Site 50-10-28-10714, Site 50-10-28-31243 and Site 50-10-28-31244 were additionally assessed as significant under Criterion e for the cultural significance they contain for Hawaiian communities. The Rechtman and Glennon (February 2021) AIS report recommended no further historic preservation work for Sites 50-10-28-10712, 50-10-28-10748, and 50-10-28-10768 and preservation for Sites 50-10-28-10714, 50-10-28-31243, and 50-10-28-31244. Archaeological monitoring was also recommended during construction. In a letter dated February 26, 2021 (Project No. 2021PR00218, Project No. 2020PR34886, Doc. No. 2102NM02), SHPD accepted the AIS and agreed with the site integrity, significance assessments, mitigation commitments and the determination of "Effect, with agreed upon mitigation commitments" for the current project. SHPD accepted a burial treatment plan (Brandt and Ketner 2021) for the current project in a letter dated August 5, 2021 (Project No. 2021PR00218, Log No. 2108JC02). SHPD accepted an archaeological monitoring plan (Ketner and Clark 2021) for the current project in a letter dated August 27, 2021 (Project No. 2021PR00218, Log No. 2108NM11).

The subject PP (Ketner and Clark, August 2021) proposes the following conservation measures for Sites 50-10-28-10714 and 50-10-28-31243:

**Buffer Zones:**

- The buffer zone around the western portion of Site 10714 will measure 140 feet long (east/west) by 30 feet total width (north/south).
- The buffer zone on the eastern portion will include Sites 10714, 31243, and 31244. The buffer zone will extend a minimum of 20 feet from the defined edge of the sites. This part of the preserve will measure 220 feet long (east/west) by 60 to 160 feet wide (north/south). This preserve area will consist of approximately 0.62 acres.
- A single breach will occur at approximately the center of the project area through Site 10714. The breach will be 80 feet wide.

**Interim Preservation Measures:**

- The interim protection of Sites 10714, 31243, and 31244 during construction activities will be achieved through the placement of brightly colored construction fencing at the perimeter of the buffer zones.



- Proper placement of the fencing will be checked by a qualified archaeologist and verified by photograph(s) emailed to DLNR-SHPD prior to the commencement of any development activities and will remain in place until all construction activities are completed.
- Grading plans will contain specifications for the preservation sites including avoidance instructions.
- Archaeological monitoring will also occur, and a coordination meeting will be conducted between the construction team and monitoring archaeologist prior to construction activities so the construction team is informed of the stipulations detailed in the plan.

Long-Term Preservation Measures:

- Permanent preservation easements will be established for the sites that matches the buffer zones.
- No permanent physical markers will be placed for the larger eastern preserve section, aside from signage.
- Rock walls will mark the edges of the western buffer zones on either side of trail Site 10714.
- Appropriate cultural use will be allowed for the sites. Two designated parking stalls will be set aside for recognized descendants and visitors will have to check into the Community Center.
- Landscaping, litter control and stabilization will be the responsibility of the landowner. Community members, descendants, and residents can also assist in care for the trail.
- Interpretive signage will be established in various locations around the site preserves, with prior SHPD approval.
- No construction, land modification, or unauthorized activities are permitted to occur within the permanent preservation easements.
- All renters will be made aware of the sites through their required renters' orientation; and
- Staff members will be trained in the proper cultural protocols to follow around the preservation sites and the preservation measures specified in this plan (and in the burial treatment plan for Site 31244), and that staff will help educate all new tenants entering the housing complex about their collective responsibility as residents of the area to help care for and protect the preservation sites.
- A licensed land surveyor will establish the metes and bounds description for of the preservation area which will be recorded with the State of Hawaii Bureau of Conveyances. All requirements and restrictions of this preservation plan, including the metes and bounds description of the permanent buffers will be incorporated into the property deed as a restrictive covenant; and
- A copy of the Recordation with the Bureau of Conveyances will be sent to SHPD.

The preservation plan (Ketner and Clark, August 2021) meets the minimum requirements pursuant to HAR §13-277. **It is accepted.** Please send two hard copies of the document, clearly marked FINAL, along with a text-searchable PDF copy of the document and a copy of this acceptance letter to the Kapolei SHPD office, attention SHPD Library. Additionally, please upload a text-searchable PDF version of the PP to HICRIS Project No. 2021PR00218 using the Project Supplement option and send a PDF copy to [REDACTED]

**The SHPD hereby notifies** the County and HICDC that the preservation plan has been accepted and project initiation may not proceed until the following have been completed: (1) SHPD has received verification of implementation of the interim protection measures, and (2) conclusion of the NHPA Section 106 consultation process.

Please contact Susan A. Lebo, Archaeology Branch Chief, at [REDACTED] or Nicole A. Mello, Historic Preservation Archaeologist IV, at [REDACTED] for matters regarding archaeological resources or this letter.

Aloha,  
*Alan Downer*

Alan S. Downer, PhD  
Administrator, State Historic Preservation Division  
Deputy State Historic Preservation Officer

cc: Matt Clark, [REDACTED]  
Bob Rechtman, [REDACTED]  
Ben Barna, [REDACTED]  
Cherry Kunert, [REDACTED]