

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii

File No: HA-3894
180-Day Exp. Date: September 24, 2022

September 23, 2022

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

REGARDING: Conservation District Use Application (CDUA) HA-3894 for the Nakoia Single Family Residence (SFR) with Accessory Structures

**APPLICANT/
LANDOWNER:** The Puna Wai Trust

AGENT: Roy A. Vitousek III, Esq., Cades Schutte LLP

LOCATION: Keauhou-Kainaliu Beach Road/Old Government Beach Road (Alanui Aupuni) Por. Honalo, Kawanui, No. Kona, Hawaii

**TAX MAP KEY
(TMK):** (3) 7-9-005:012

AREA OF PARCEL: .17-acres

USE: Single-family residence (SFR) and accessory structures: 1,845 sq. ft. kuleana application

SUBZONE: Limited¹

SUMMARY

The proposed land use is a single story, post and pier foundation that will occupy a building footprint of 1,600 sq. ft: living area; kitchen and dining area; laundry and pantry area; master bedroom; master bathroom; master closet; second bedroom; second bathroom; storage; and hallway. The accessory structures will total 245 sq. ft.: water well; two water storage tanks; a salt pan; aumakua; lele; propane tank; two split-system air conditioning condensers; and a pool. Total proposed SFR and associated improvements are 1,845 sq. ft. This is a kuleana land use application.

¹ Acceptance letter stated the parcel to be in the Resource subzone. Please note that this is in the Limited subzone.

DESCRIPTION OF AREA/CURRENT USE

This parcel of land was granted by Land Commission Award (LCA) 8575:2 as a kuleana and was a home site. Pursuant to Hawaii Administrative Rules (HAR) §13-5-7 Nonconforming uses and structures (b) *any land identified as a kuleana may be put to those uses which were historically, customarily, and actually found on the particular lot including, if applicable, a single family residence.*

This is not an oceanfront parcel and its makai boundary is approximately 115 feet inland from the shoreline. The SFR is proposed in the parcel's northern portion (**Exhibit 1**: location map). Access to the parcel is via Keauhou-Kainaliu Road/Old Government Road. Surrounding the parcel on the north, south, and west is an undeveloped coastal parcel. Further south (~20 feet) is a 3,500 sq. ft. SFR.

This parcel is located in the Limited Subzone of the State Land Use Conservation District (**Exhibit 2: subzone map**). The parcel is currently vacant and there are no existing utilities servicing the property. The property ranges in elevation from approximately 24 feet at its northwest corner to 41 feet at the southeast corner and is situated approximately 115 feet inland of the shoreline at Ma'ihī Bay (**Exhibit 3**: shoreline relationship). The soil is classified as Kainaliu very stony silty clay loam; the soil has rapid permeability, a slow runoff, and a slight erosion hazard. This soil is underlain by fragmental a'ā lava. There are no water sources present on the property and the property is primarily unvegetated.

Hazards

The volcanic hazard mapping produced by the U.S. Geological Survey places the property in Lava Flow Hazard Zone 4 on a scale of ascending risk from 9 (low) to 1 (high). Approximately 5 percent of Zone 4 areas have been covered by lava flows since 1800, and less than 15 percent within the past 750 years.

There is minimal erosion risk because the property is located 24-41 feet above sea level and contains no surface bodies of water. The island of Hawai'i experiences high seismic activity and the property is subject to regular seismic activity due to active volcanic processes.

Most of the parcel is in Flood Zone VE, which constitutes a coastal zone with velocity hazard (wave action). The remaining inland parcel portion is located in Flood Zone X, which is an area determined to be outside the 0.2% annual chance floodplain. A portion of the SFR and pool will be located within Flood Zone X; the remainder of the SFR and improvements will be located in Flood Zone VE.

The Sea Level Rise Exposure Area map places the home site out of the effective flood zone.

Flora and Fauna

Vegetation on the property consists of low grass with scattered kiawe (*Prosopis pallisa*), koa haole (*Leucaena glauca*), purslane (*Portulaca villosa*), and bitter melon (*Momordica balsamina*).

No listed, candidate or proposed endangered animal or plant species were found or would be expected in the area. In terms of conservation value, no botanical or zoological resources requiring special protection are present.

The mammalian fauna of the project area consists of introduced species: small Indian mongooses (*Herpestes a. auropunctatus*), roof rat (*Rattus r. rattus*), feral cats (*Felis catus*), Norway rats

(*Rattus norvegicus*), European house mice (*Mus domesticus*) and possible Polynesian rats (*Rattus exulans hawaiiensis*).

Hawaiian hoary bats (*Lasiurus cinereus semotus*) may be present in the general area. Provided the project site's small size and minimal vegetation cover, it is unlikely to provide any substantial habitat for the bats.

Historic/Cultural

An archeological inventory survey (AIS) was prepared for the property by Haun & Associates. The AIS concluded that the entire property consists of an archaeological site (Site 50-10-37-7723). The property was a habitation complex consisting of three features: a terrace (Feature A), an enclosure (Feature B), and a perimeter stone wall enclosure that extends around the perimeter of the property (Feature C). The Feature C wall served to delineate the house lot boundaries. Feature A and B are located within the large Feature C enclosure. The current examination of Feature C indicates that the entire structure has been rebuilt with prepared openings along the east and west side; despite wall alteration, it appears this Feature occupies its original location (**Exhibit 4**: historic sites).

Feature A is a roughly rectangular shaped terrace located in the southern half of the Feature C enclosure; site inspection indicates that it has been dismantled. Although altered, the size and formal type of Feature A suggest it likely served as the foundation for a roofed structure and was likely occupied by Kaiakahauli, awarded LCA 8575:2 for this lot. The Feature B enclosure is a modern addition (built prior to 2000) to the site and is a roughly square-shaped enclosure located 4.0 meters to the north-northwest of Feature A. The walls of Feature B are built of roughly stacked boulders and cobbles with a core-filled cobble interior.

Feature C is a stone wall that extends around the project area's perimeter. The enclosure is roughly rectangular shaped and there is a 5.1-meter-wide opening in the enclosure along the island side. The enclosure walls are built of stacked and faced boulders and cobbles with a core-filled cobble interior. Feature C enclosure served to delineate the boundary of the house lot and likely functioned to keep free ranging cattle out.

The AIS assessed the entire property under Criterion "d." The property has yielded information important to understanding the late prehistoric/early historic habitation activity in the area. Due to the property's generally disturbed nature, and the limited pre-contact cultural deposit noted beneath the Feature A terrace, no further work is recommended for the property. The landowner has elected to preserve the Feature C enclosure and as much of the Feature A terrace as feasible.

Part of the CDUA process requires that the applicant submit a Hawai'i Revised Statutes (HRS), 6E form developed by the State Historic Preservation Division (SHPD). The SHPD concurred that Site 50-10-37-7723 has been successfully documented and the proper treatment is a combination of preservation for Feature C and part of Feature A and no further work for Feature B. Additionally, archeological monitoring should occur during construction activities. Therefore, the SHPD's determination is "Effect, with agreed upon mitigation commitments" and the mitigation commitments include preservation and archeological monitoring as previously stated (**Exhibit 5**: SHPD Letter).

PROPOSED USE

The applicant proposes to construct a single story, post and pier foundation that will occupy a building footprint of 1,600 sq. ft: living area; kitchen and dining area; laundry and pantry area; master bedroom; master bathroom; master closet; second bedroom; second bathroom; storage; and hallway. The accessory structures will total 245 sq. ft.: water well; two water storage tanks; a salt pan; aumakua; lele; propane tank; two split-system air conditioning condensers; and a pool. Total proposed SFR and associated improvements are 1,845 sq. ft. The property is accessed off Keauhou-Kainaliu Beach Road/Old Government Beach Road. There is an existing 5.1-meter opening in the stone wall perimeter enclosure which will provide access to the SFR (**Exhibit 6**: site plan).

The proposed home design avoids disturbing the structural foundation (Feature A) of the traditional home that was on the property. To avoid disturbance of Feature A, the applicant requests a 13.5-foot building footprint setback in lieu of the 15-foot setback under Exhibit 4 to HAR §13-5 to accommodate the site characteristics and conditions. The 13.5-foot setback represents a deviation of 1.5 feet, which is within the 15% deviation outlined in HAR §13-5-41.

The proposed SFR will be off-grid and powered by rooftop photovoltaic (PV) system with battery storage. A propane system will be used to power appliances and serve as a back-up power system. Potable water will be provided via a catchment system with a 1,000-gallon potable water storage tank. The applicant also proposes a water well with reverse osmosis (RO) treatment and a 1,000-gallon storage tank for landscaping purposes. An individual wastewater treatment system (IWS) comprised of a 1,000-gallon storage tank with a 12' x 12' leach field is proposed. The applicant will use only cellular service for telephone needs; thus, no telephone service is proposed to be connected to the SFR.

The proposed SFR site will be located on the northern portion of the property. The most seaward portion of the SFR will be approximately 130 feet inland. Proposed SFR construction will require minimal grading and grubbing; the IWS system and swimming pool will require approximately 300 cubic yards. Proposed landscaping will include the use of native Hawaiian plants (**Exhibit 7**: landscaping plan). Access to the proposed home site will require no grading and would be accessed from an existing 5.1-meter opening in the wall perimeter enclosure. Paving of driveway areas would be limited to permeable materials and would be approximately 530 square feet.

OTHER ALTERNATIVES CONSIDERED

Alternative 1: No Action. Under the No Action Alternative, the residence would not be built. The No Action alternative is used as the baseline by which to compare environmental effects from the project.

SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands referred the application, as well as the Draft Environmental Assessment (EA) to the following agencies and organizations for review and comment:

State Agencies:

DLNR, Division of Conservation and Resource Enforcement
DLNR, Hawaii Land Division
DLNR, Division of Forestry and Wildlife
DLNR, Commission on Water Resource Management
DLNR, Na Ala Hele
Office of Hawaiian Affairs

County Agencies:

County of Hawai'i, Department of Planning
County of Hawai'i, Fire Department

Federal Agency:

U.S. Fish and Wildlife

In addition, this application was also sent to the nearest public library, the Kealahou Public Library, and the Hawaii Document Center to make this information readily available to those who may wish to review it. Additionally, the application was sent to Aloha Kuamoo Aina via USPS, but was returned to the OCCL undeliverable.

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

THE STATE

DEPARTMENT OF LAND AND NATURAL RESOURCES

Commission on Water Resource Management:

Comments: CWRM recommends water efficient fixtures be installed and water efficient practices be implemented; the use of best management practices (BMPs) for stormwater management; the use of alternative water sources, wherever practicable; adopt landscape irrigation conservation BMPs endorsed by the Landscape Industry Council of Hawaii; and DOH review for water quality. Additionally, CWRM states that a well construction permit and a pump installation permit are required.

Response: Applicant will provide the information to the architect designing the SFR and will review the design plans with CWRM prior to submittal for building permit approval.

Office of Hawaiian Affairs

Comments: OHA requests to know what happened to the human teeth found during the AIS and if HAR 13-300 was followed. Second, OHA recommends archaeological monitoring be carried out during construction activities. Finally, OHA requests the applicant/owner conduct community outreach and work with the approving agency.

Response: Regarding the first request, Mr. Nakoa followed up with Haun & Associates and confirmed that no additional human remains were present in association with the two teeth, and they do not represent human burials. Because of the circumstances which the teeth were found, they were transported to the Haun & Associates laboratory for analysis where they are currently being temporarily curated. Regarding the second request, the applicant states that SHPD has agreed that the information collected during the AIS is adequate to successfully mitigate any potential impacts on the property. Finally in regard to the community outreach, the applicant states that the description of the consultation and the Ka Pa‘akai analysis conducted by and on behalf of Mr. Nakoa begins on page 26 of the AIS.

DEPARTMENT OF HEALTH

Clean Air Branch

Comments: Reference to DOH-CAB standard comments.

Response: Applicant will provide comments to the contractor responsible for the single-family residence project to assure that the Pollution Control Permit is secured, and the required measures are in place to control airborne and visible fugitive dust.

COUNTY OF HAWAI‘I

Fire Department

Comments: The Fire Department provided relevant codes pursuant to NEPA 1, UNIFORM FIRE CODE, 2006 Edition to which the applicant should adhere.

Response: Applicant or his designer and/or contractor will review the design plans with your Department prior to submittal for building permit approval for adherence to the relevant sections of the Fire Code.

ANALYSIS

Following review and acceptance for processing, the applicant was notified, by correspondence dated March 28, 2022, that:

1. The proposed uses are identified land uses in the Limited subzone of the Conservation District, pursuant to Hawai‘i Administrative Rules (HAR), §13-5-22, P-3, **KULEANA LAND USES**, (D-1) Agriculture and a single family residence, if applicable, when such land use was historically, customarily, and actually found on the property. Agriculture means the planting, cultivating, and harvesting of horticultural crops, floricultural crops, or forest products, and subsistence livestock²;
2. Pursuant to HAR §13-5-40 HEARINGS, a Public Hearing will not be required;

² Acceptance letter stated additional land uses (HAR §13-5-24 R-7, SINGLE-FAMILY RESIDENCE (D-1); HAR §13-5-23, L-2, LANDSCAPING (C-1), and HAR §13-5-22, P-2, STRUCTURES, ACCESSORY (B-1)); these additional land uses are not being applied for this staff report.

3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200.1, HAR, a finding of no significant impact to the environment (FONSI) was determined for the Final Environmental Assessment (FEA) which was published in the July 8, 2022, edition of the Environmental Review Program's (ERP) *The Environmental Notice*; and
4. The subject property is in the Special Management Area (SMA). The applicant's responsibility includes complying with the provisions of Hawaii's Coastal Zone Management law (Chapter 205A, HRS) that pertain to the SMA requirements administered by the various counties. Staff notes an SMA Use Permit Assessment Application was submitted by the applicant and accepted on September 21, 2020. The County of Hawaii approved the permit subject to conditions. One of these conditions, Condition No. 4, stated that a CDUP must be obtained within one year from the date of SMA approval. On October 5, 2021, the applicant received a time extension for Condition No. 4, which granted a one-year time extension to September 21, 2022 (**Exhibit 8**: SMA Letter).

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.

This parcel of land was granted by Land Commission Award (LCA) 8575:2 to Kaiakahauli as a kuleana and was intended for use as a home. The applicant is proposing an SFR which is allowing a continued kuleana use.

Existing on the property is archaeological site (Site 50-10-37-7723) consisting of a terrace, an enclosure, and a stone wall enclosure that extends around the perimeter of the property. The applicant has integrated hale terrace into the proposed home and is also preserving the stone wall perimeter enclosure.

To minimize ground disturbance, the proposed SFR is designed with a post and pier foundation. The proposed project will include minimal grubbing and grading: the IWS system and swimming pool will require approximately 300 cubic yards. Additionally, the parcel is primarily unvegetated and does not appear to host any threatened or endangered plant species. Landscaping will use native plants and is planned to keep the property consistent with the surrounding area and to minimize visual impact.

- 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 Limited subzone is to limit uses where natural conditions suggest constraints on human activities. HAR, §13-5-22, P-3, **KULEANA LAND USES**, (D-1) Agriculture and a single family residence, if applicable, when such land use was historically, customarily, and actually found on the property. Agriculture means the planting, cultivating, and harvesting of horticultural crops, floricultural crops, or forest products, and subsistence livestock. This is an identified land use in the Limited subzone.

This land use is consistent with the objectives of this subzone and it is consistent with HAR §13-5-7 Nonconforming uses and structures (b) *any land identified as a kuleana may be put to those uses which were historically, customarily, and actually found on the particular lot including, if applicable, a single family residence.*

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

The objectives, policies, and guidelines of the Coastal Zone Management (CZM) program contained in Chapter 205A, Hawai'i Revised Statutes (HRS), are focused on the preservation, protection, and where possible, the restoration of the natural resources of the coastal zone in Hawai'i. The subject property is in the SMA and the County of Hawaii determined the proposed home to be exempt from SMA permitting requirements.

The proposed SFR is not a coastal lot. It will not interfere with views along the coast. It will not restrict shoreline access and uses.

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

The historical use of this area has been that of a kuleana home sites amidst a larger agricultural area. The AIS confirmed that this parcel was the site of an historical habitation. The proposed use does not represent a change to the surrounding area.

The applicant would conduct minimal clearing for SFR construction and would take precautions during construction to prevent soil and sediment runoff. Any agricultural plants use for subsistence would be consistent with traditional Hawaiian agriculture, including kalo.

Therefore the OCCL concludes that the proposed SFR and its accessory uses will not cause an adverse impact to the existing natural resources.

- 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.*

This is a kuleana home site parcel which was awarded LCA 8575:2; therefore, the proposed use of an SFR is consistent with HAR §13-5-7 (b) *any land use identified as a kuleana may be put to those uses which were historically, customarily, and actually found on the particular lot including, if applicable, a single family residence.*

The design of the home is post and pier and will incorporate the existing pā hale. Vegetation removal will be minimal, and any landscaping will use native plants.

The surrounding area south of this parcel has a 3,500 square foot SFR. The proposed SFR for this parcel is 1,600 square feet with accessory structures. The roof design takes advantage of the historically prevalent winds of the Kona region during most of the year. Additionally, the roof will be kept in one line imitating the traditional hale that once occupied this parcel.

The proposed use is consistent with HAR §13-5-22 KULEANA LAND USES (D-1) *Agriculture and a single family residence, if applicable, when such land use was historically, customarily, and actually found on the property.* The proposed SFR and accessory uses are consistent with this use.

- 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 proposed SFR will be setback 115 feet inland from the shoreline. To minimize ground disturbance, the SFR is designed with a post and pier foundation. The roof will be kept in one line which imitates the traditional hale that once occupied this kuleana parcel. This proposed SFR will preserve the foundation of the former hale; the proposed SFR sits parallel to the northern side of the pā hale and was designed to avoid interference with the original hale remnants. The existing perimeter stone wall enclosure will not be damaged, and the home will not materially impact or alter views to or along the coast.

The applicant will control alien vegetation growth, replant native species, and selectively trim some of the vegetation that adversely affects the open space. Landscaping will include only native plants.

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

No subdivision of land is proposed for this project.

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

Staff believes the proposed land use will not be materially detrimental to the public health, safety, and welfare as mitigated. The proposed residence is setback 115 feet inland from the shoreline. The property itself is not positioned over any natural drainage system or

water feature that would flow into the coastal system. Shoreline activities will not be impeded or impacted, and no natural or cultural resources are likely to be lost as a result of the proposed construction.

CULTURAL IMPACT ANALYSIS:

The Archaeological Inventory Survey (AIS) documented the remnants of an historic house compound within the project area (Site 7723). This historic habitation site was likely occupied by Kaiakahauli, who was awarded the subject parcel during the Māhele as LCA 8575:2. The property was a habitation complex that consisted of three features: a terrace, an enclosure, and a perimeter stone wall enclosure that extends around the perimeter of the property.

The AIS states that while it is possible that additional, previously undocumented features may be present within the property, it is unlikely that substantial features would be missed during previous studies. The applicant states that they will use BMPs during all construction activities to preserve the terrace and stone wall perimeter enclosure.

The applicant states that the home's construction will not impair or interfere with Native Hawaiian rights for access, fishing, hunting, gathering, ceremonial, or other cultural practices. The AIS states that the property itself does not contain any visible archaeological structures such as shrines or heiau. The AIS discloses no trails on the property that indicate ongoing cultural use.

Based upon the landowner's SFR design and statement to not impair or interfere with Native Hawaiian access to cultural practices, the OCCL believes that minimal impacts on any traditional customary practices will occur.

DISCUSSION

The proposed SFR and accessory land uses application is being applied for as a kuleana use. To apply under kuleana land³ pursuant to HAR §13-5-31(f) *the burden of proving that a parcel of land is a kuleana rests with the applicant. The following information shall accompany an application in which the applicant is requesting nonconforming use of kuleana land as defined in this chapter: (1) deed of property; (2) Land Commission Award (LCA) number; (3) Land Patent Grant documentation; (4) documentation showing current ownership of the kuleana; (5) tax map key number; (6) documentation showing modern metes and bounds of the kuleana (if required by the department); (7) identification of legal access to the kuleana; and (8) identification of uses to which the kuleana land was historically, customarily, and actually found on the particular lot, if applicable, a single family residence.* This is LCA 8575:2 and the applicant has provided evidence of a kuleana use as a home site.

The proposed project entails a single-family residence built upon a post and pier foundation. The proposed SFR will occupy a building footprint of 1,600 sq. ft. (proposed SFR) and a developed

³ Pursuant to HAR §13-5 "kuleana land" means those lands granted to native tenants pursuant to L. 1850, p. 202 entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as originally enacted and amended.

area of 1,845 sq. ft. (inclusive of accessory uses). Pursuant to HAR 13-5 Exhibit 4, the Maximum Developable Area (MDA) for lots up to 14,000 sf is 25% of the total lot area. This lot is approximately 7,405 sf; therefore the maximum MDA for this lot is approximately 1,851 sf. The proposed land use is within the MDA maximum limit.

The applicant states that access to the proposed site will require no grading and paving would be limited to permeable materials. There is an existing 5.1-meter opening in the stone wall perimeter enclosure which will provide access off Keauhou-Kainaliu Beach Road/Old Government Beach Road.

The proposed home design avoids disturbing the structural foundation of the traditional home that was on the property. To avoid disturbance of Feature A, the applicant requests a 13.5-foot building footprint setback in lieu of the 15-foot setback under Exhibit 4 to HAR §13-5 to accommodate the site characteristics and conditions. The 13.5-foot setback represents a deviation of 1.5 feet, which is within the 15% deviation outlined in HAR §13-5-41. Thus, the proposed residence is consistent with Chapter 13-5, Hawaii Administrative Rules, Exhibit 4, Single Family Residential Standards, except for this setback deviation request. The OCCL finds the requested deviation is a reasonable request in order to preserve certain cultural elements of this property.

The proposed SFR will be off-grid and powered by rooftop photovoltaic (PV) system with battery storage. A propane system will be used to power appliances and serve as a back-up power system. Potable water will be provided via a catchment system with a 1,000-gallon potable water storage tank. The applicant also proposes a water well with reverse osmosis (RO) treatment and a 1,000-gallon storage tank for landscaping purposes. An individual wastewater treatment system (IWS) comprised of a 1,000-gallon storage tank with a 12' x 12' leach field is proposed. The applicant will use only cellular service for telephone needs; thus, no telephone service is proposed to be connected to the SFR.

The proposed SFR site will be located on the northern portion of the property. The most seaward portion of the SFR will be approximately 130 feet inland. The applicant states that construction of the proposed SFR will require minimal grading and grubbing; the IWS system and swimming pool will require approximately 300 cubic yards. Proposed landscaping will include the use of native Hawaiian plants.

This property is an historic habitation site that was likely occupied by Kaiakahauli, who acquired the land in 1819. The AIS confirmed the use of this property as a kuleana property that was historically, customarily, and actually a house compound. It was awarded LCA 8575:2.

This is not an oceanfront parcel. The majority of this lot is located in flood Zone VE, an area that constitutes a coastal flood zone with velocity hazard (wave action). The remaining inland portion of the lot is located in flood Zone X, an area determined to be outside the 0.2% annual chance floodplain. A portion of the home and the pool will be located within the flood plain area (Zone X); the remainder of the home and improvements will be located in Zone VE.

The property is 24-41 feet above sea level and contains no surface bodies of water. According to the 2017 Hawai'i Sea Level Rise Viewer, the property is not located within the sea level rise exposure area.

The SHPD concurred that Site 50-10-37-7723 has been successfully documented and the proper treatment is a combination of preservation for Feature C (stone wall enclosure) and part of Feature A (terrace) and no further work for Feature B (enclosure). Additionally, archeological monitoring should occur during construction activities. Therefore, the SHPD's determination is "Effect, with agreed upon mitigation commitments" and the mitigation commitments include preservation and archeological monitoring as previously stated. The OCCL concurs with the SHPD's determination and recommends as a condition of this permit that archeological monitoring will occur during construction.

Based on the information provided, staff believes that the project will have negligible adverse environmental or ecological effects provided that best management practices and mitigation measures as described in the application and environmental assessment, and as required by rule or laws, are fully implemented.

RECOMMENDATION

Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE Conservation District Use Application HA-3894 for the Nakoa Single Family Residence (SFR) with Accessory Structures located at Por. Honalo, Kawanui 1st, No. Kona, Hawaii, TMK (3) 7-9-005:012 subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and 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 comply with all applicable Department of Health administrative rules;
4. The single family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;
5. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in a recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
6. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three

of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;

7. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
8. All representations relative to mitigation set forth in the accepted application and environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
9. The permittee shall have an archaeological monitor during construction activities;
10. The permittee shall plan to minimize the amount of dust generating materials and activities. Material transfer points and on-site vehicular traffic routes shall be centralized. Dusty equipment shall be located in areas of least impact. Dust control measures shall be provided during weekends, after hours and prior to daily start-up of project activities. Dust from debris being hauled away from the project site shall be controlled. Landscaping and dust control of cleared areas will be initiated promptly;
11. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (808-692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
12. The permittee shall utilize Best Management Practices for the proposed project;
13. The permittee shall include preservation and archeological monitoring during construction;
14. No signs shall exceed twelve square feet in area and shall be non-illuminated. All signs shall be erected to be self-supporting and be less than or equal to eight feet above finished grade;
15. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
16. The single-family residence shall conform to the single-family residential standards included as Exhibit 4 of the Hawai'i Administrative Rules, Chapter 13-5;
17. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;

18. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;
19. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
20. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
21. Obstruction of public roads, trails, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, or pathways acceptable to the department;
22. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
23. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
24. To avoid potential seabird downing through interaction with outdoor lighting, no construction or unshielded equipment lighting will be used after dark between the months of April and October;
25. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawai'i, and by Hawai'i statutory and case law;
26. Any landscaping shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawai'i. The introduction of invasive plant species is prohibited;
27. Trees taller than 15 feet shall not be removed or trimmed during the Hawai'i Hoary bat birthing and pup rearing season from June 1st to September 15th and no barbed wire shall be constructed;
28. Other terms and conditions as may be prescribed by the Chairperson; and

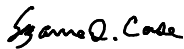
29. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under Chapter 13-5, as determined by the chairperson or board.

Respectfully submitted,



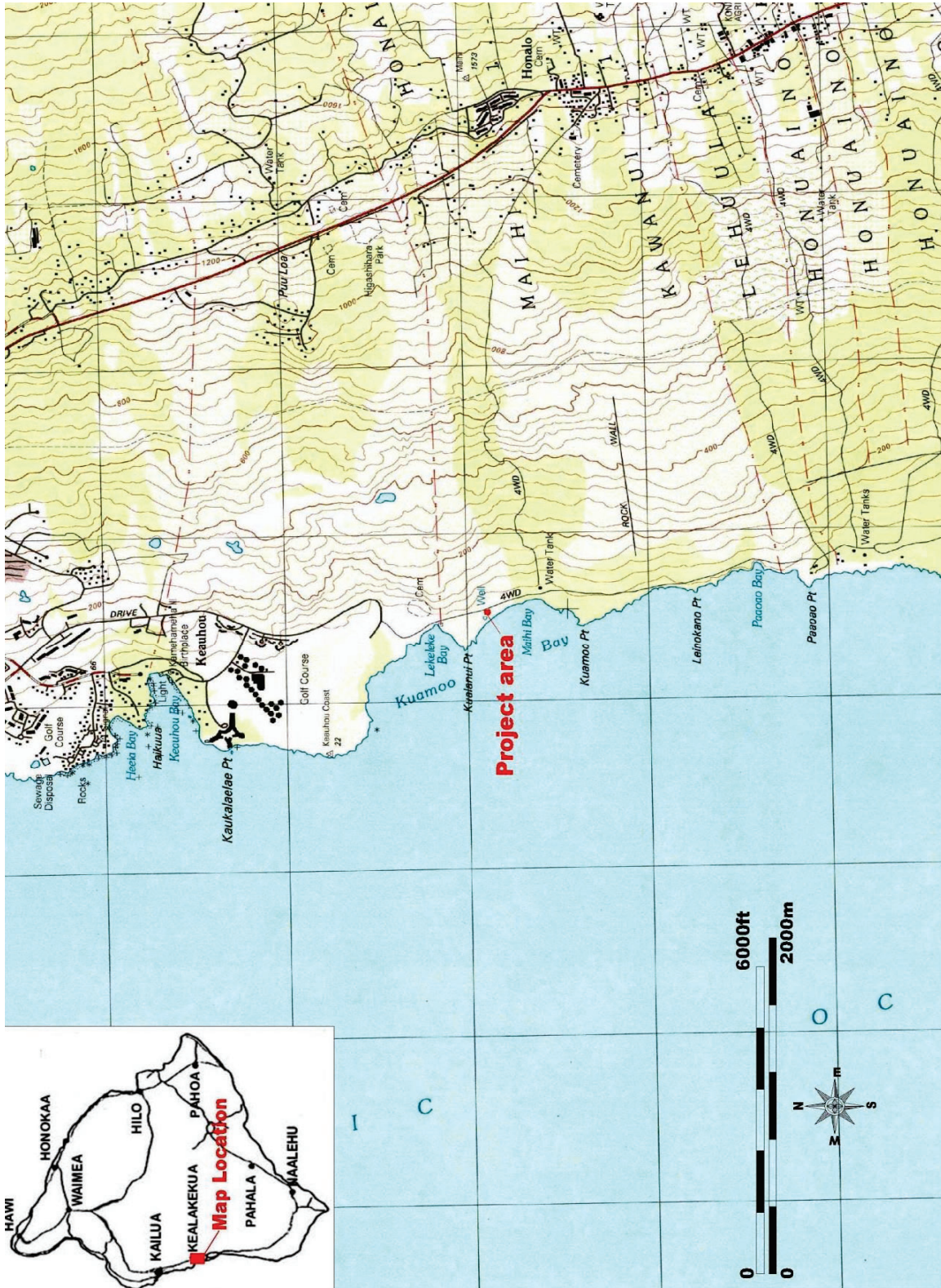
Rachel Beasley, Staff Planner
Office of Conservation and Coastal Lands

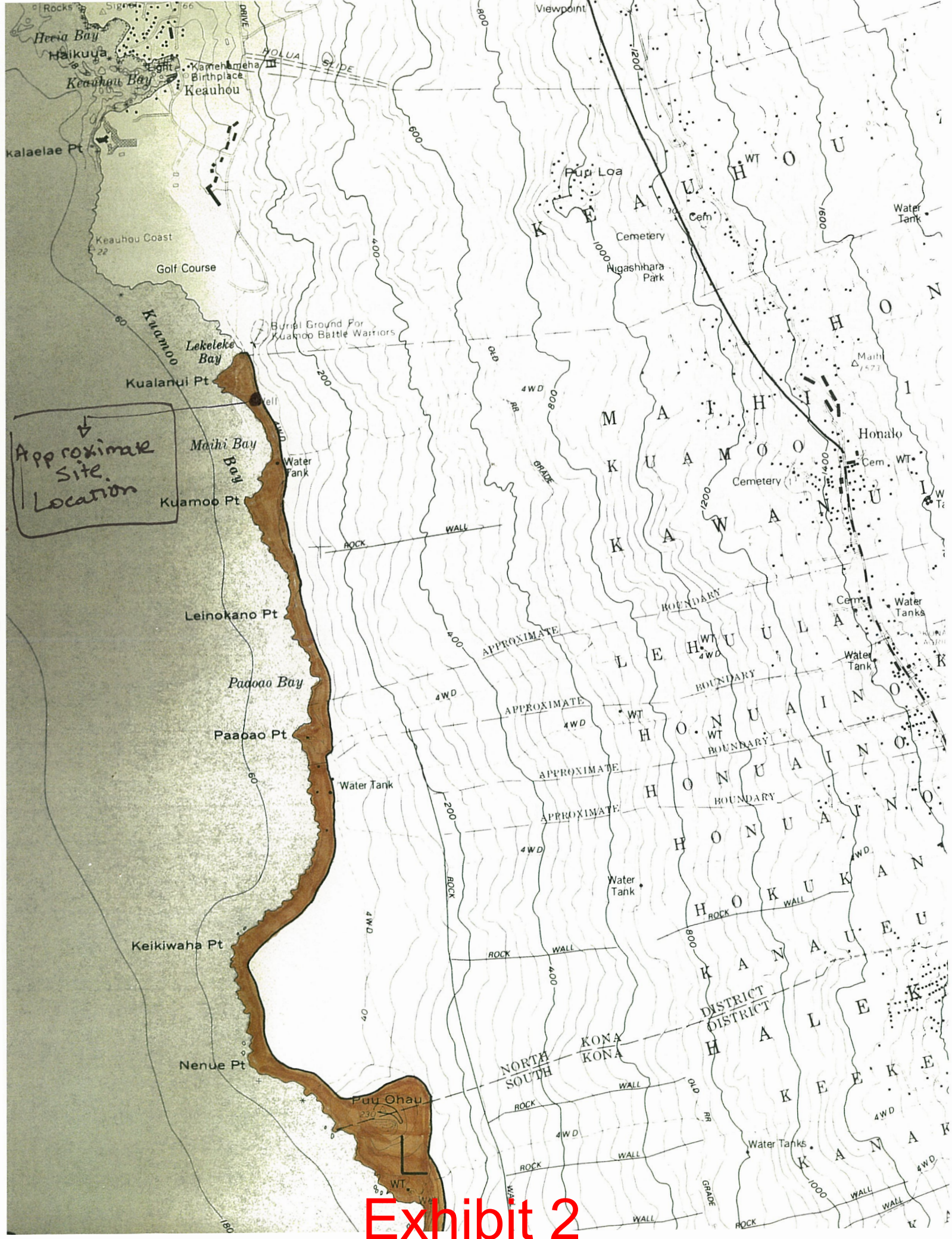
Approved for submittal:



SUZANNE D. CASE., Chairperson
Board of Land and Natural Resources MC

Figure 1 Project Location Map





Approximate Site Location

Exhibit 2

Figure 3 Project Site Photos



3a Aerial Image ▲ ▼ 3b House Site/SE View Across Property Showing House Site



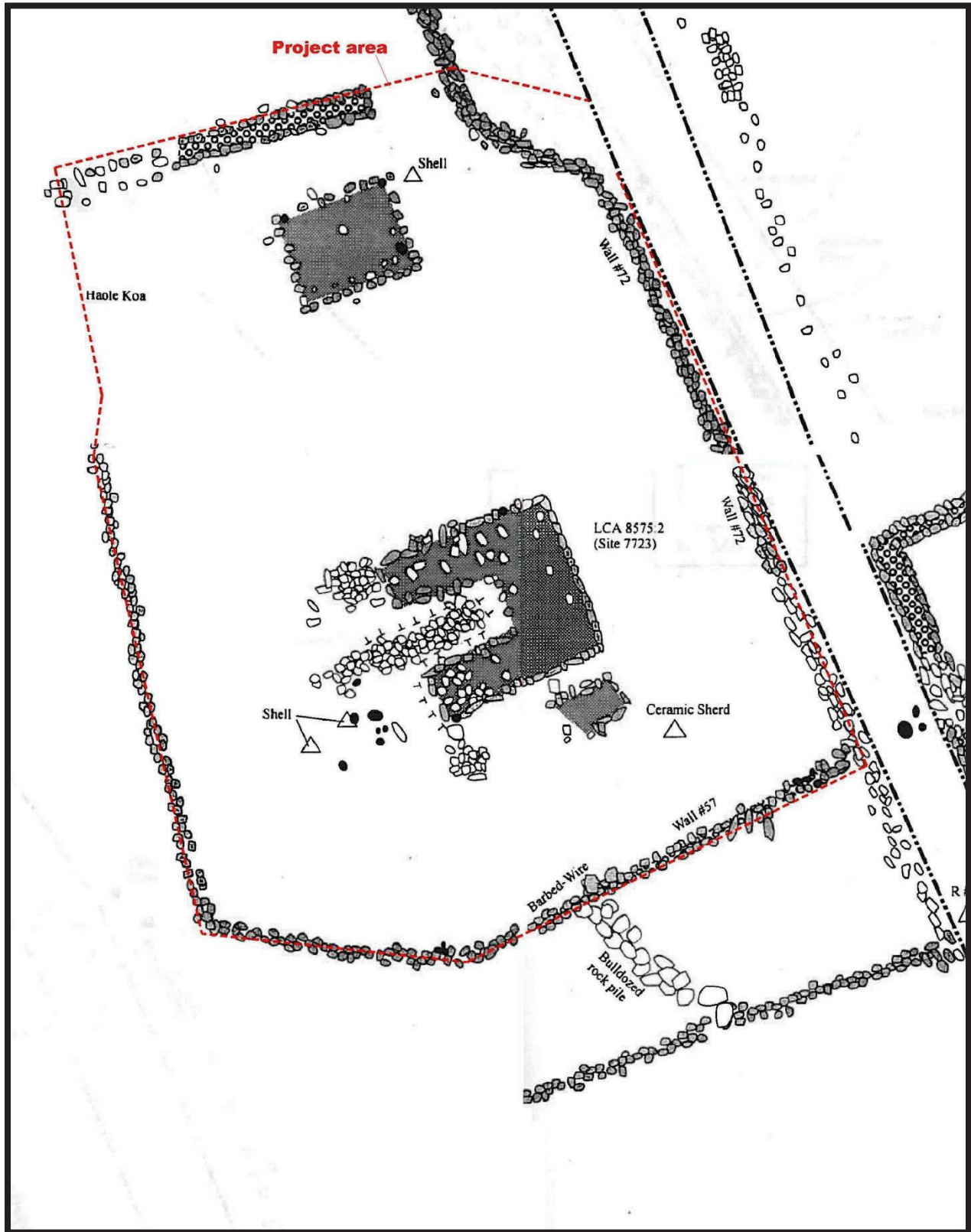


Figure 16. Plan map of Site 7723 compiled from Mills and Irani (2000:155-157)

Exhibit 4

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

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

March 9, 2021

Samuel Lemmo, Administrator
Office of Coastal and Conservation Lands
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809
Sam.J.Lemmo@hawaii.gov

IN REPLY REFER TO:
Project No. 2020PR35089
Project No. 2020PR33069
Log No. 2020.00962
Doc. No. 2103NM01
Archaeology

Dear Samuel Lemmo:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
County of Hawaii Conservation District Use Permit (CDUP) for Walter Kaleo O Kalani Nakoa
Archaeological Inventory Survey
Honalo Ahupua‘a, North Kona District, Island of Hawai‘i
TMK: (3) 7-9-005:012**

This letter provides the State Historic Preservation Division’s (SHPD’s) review of the State of Hawaii, Department of Land and Natural Resources, Conservation District Use Permit (CDUP) application for the proposed construction of a single-family residence as Kuleana Land Use and the supporting document titled *Draft Archaeological Inventory Survey TMK (3) 7-9-005:012 Honalo Ahupua‘a, North Kona District, Hawai‘i Island* (Haun and Henry, revised March 2021). SHPD received the archaeological inventory survey (AIS) report on April 28, 2020 (Project No. 2020PR33069, Log No. 2020.00962). Subsequently, SHPD received the permit submittal from the State of Hawai‘i, Office of Conservation and Coastal Lands (OCCL). The permit submittal received on December 23, 2020 included a Department of Land and Natural Resources CDUP application, the proposed building plans, a copy of the AIS (Haun and Henry, March 2020), photographs of the project area, and a TMK map (Project No. 2020PR35089). SHPD requested revisions to the AIS on March 5, 2021 and the revisions were addressed on March 9, 2021 (Email correspondence between Susan Lebo and Nicole Mello [SHPD] and Alan Haun [Haun and Associates]).

Haun and Associates conducted the AIS of the project area at the request of the landowner, Walter Kaleo O Kalani Nakoa. According to the submittal materials, the landowner applied for a CDUP permit to build a single-story, single-family residence as a Kuleana Land use. The project area consists of the total 0.17-acre parcel. The proposed two-bedroom residence will consist of a total of 1,773 square feet. The proposed construction activities also include a catchment system with a 1,000-gallon capacity storage tank, a propane tank, two air conditioning condensers, a spa area with a jacuzzi, and a swimming pool totaling 286 square feet. An additional Individual Wastewater System (IWS) that consists of 189 square feet is also proposed.

Previous archaeological studies that included the project area consist of a reconnaissance survey by Soehren (1980a) and a survey of the Old Beach Road by Mills and Irani (2000). Site 50-10-37-7723, a complex with three features, and located within the current project area, was briefly documented by Soehren (1980a) and mapped by Mills and Irani (2000).

The current AIS (Haun and Henry, March 2021) incorporates a summary of the history of the pre-Contact and Historic use of the Honalo Ahupua‘a. The report indicates the project area was awarded to Kaiakahauli in Land Claim Award (LCA) 8575:2 as a result of the *Māhele*. The coastal portion of the LCA and the location of the current project area was comprised of a house lot (*pā hale*) while the *mauka* portion (outside of the project area) contained garden plots. The fieldwork component of the current AIS was conducted between November 15-29, 2018. The fieldwork included a 100% pedestrian surface survey of the project area. Site 50-10-37-7723 comprises the entirety

Exhibit 5

Samuel Lemmo
March 9, 2021
Page 2

of the current project area. The site consists of a terrace (Feature A), and two enclosures (Feature B and Feature C). The identified site was documented, mapped, GPS recorded, and photographed. Excavations involved 6 shovel probes (one in Feature B and five in Feature C) and one 1 x 1-meter test unit in the Feature A terrace.

The current AIS (Haun and Henry, March 2021), states that Site 50-10-37-7723 retains integrity of location and materials and was assessed as significant under Criterion d for having yielded information important to late pre-historic/early historic use of the area. The site was recommended for no further work although the landowner intends to preserve (as is) the Feature C enclosure and part of the Feature A terrace.

SHPD agrees with the site integrity and significance assessment. Additionally, SHPD concurs that Site 50-10-37-7723 has been successfully documented and the proper treatment for Site 50-10-37-7723 is a combination of preservation for Feature C and part of Feature A and no further work for Feature B. Additionally, archaeological monitoring should occur during construction activities. Therefore, SHPD's determination is "Effect, with agreed upon mitigation commitments" and the mitigation commitments include preservation and archaeological monitoring as previously stated.

The Haun and Henry (March 2021) AIS report satisfies the requirements of HAR §13-276-5. **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 document to [HICRIS Project No. 2020PR35089](#) using the Project Supplement option and send a PDF copy to lehua.k.soares@hawaii.gov.

The SHPD hereby notifies the Office of Conservation and Coastal Lands that the AIS has been accepted and, prior to project initiation, SHPD looks forward to receiving for review and acceptance an archaeological preservation plan for Site 50-10-37-7723 Feature A and Feature C that meets the requirements of HAR §13-277 and an archaeological monitoring plan for the current project that meets the requirements of HAR §13-279-4. Please submit these two plans to HICRIS Project No. 2020PR35089.

Please contact Nicole A. Mello, Historic Preservation Archaeologist IV, at Nicole.Mello@hawaii.gov for matters regarding archaeological resources or this letter.

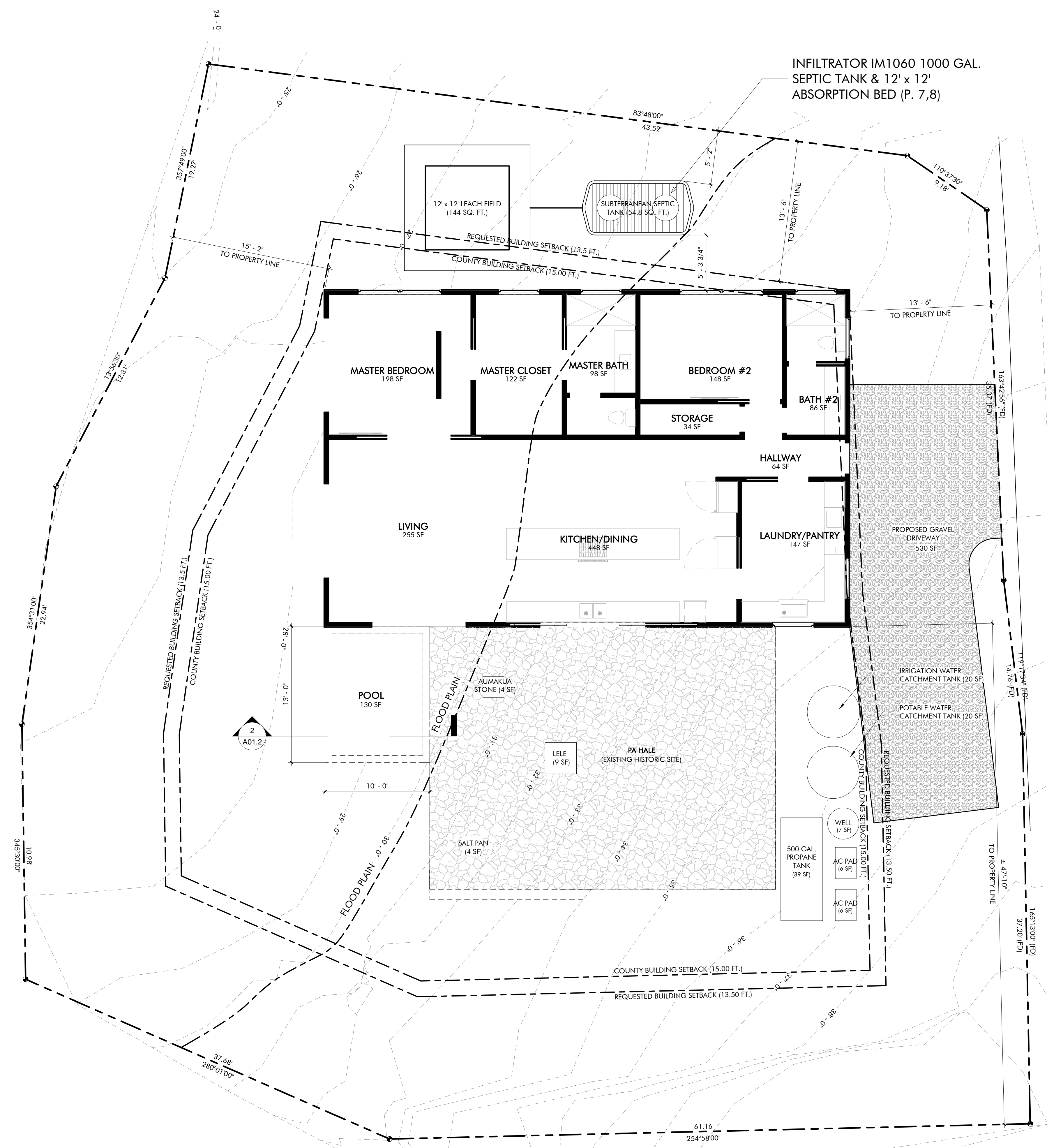
Aloha,

Alan Downer

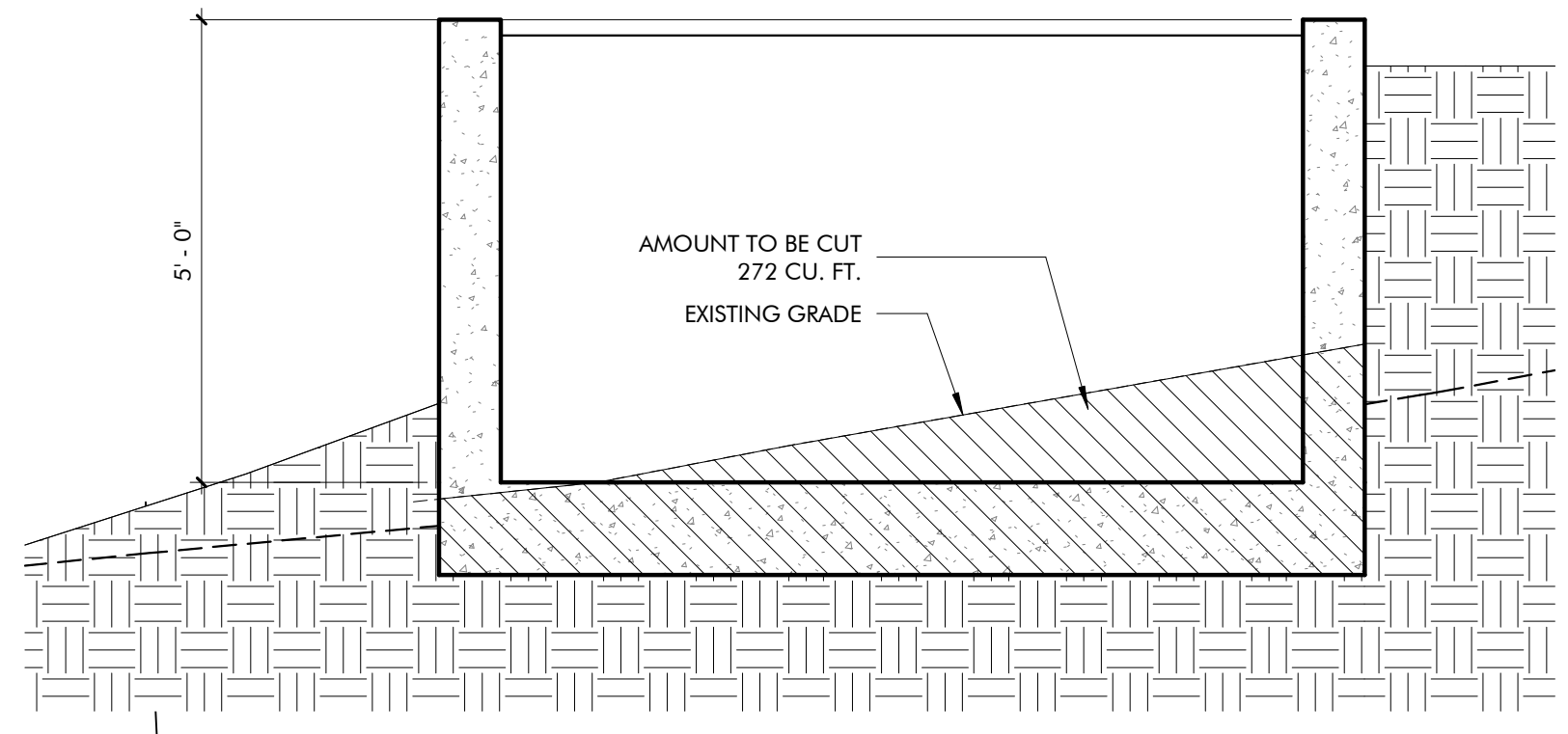
Alan S. Downer, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Alan Haun, Ahaun@haunandassociates.com
Barbara Huitt, Bhuitt@cades.com
Roy Vitousek, Rvitousek@cades.com
Kalani Nakoa, Kalani.nakoa@gmail.com

Exhibit 5



INFILTRATOR IM1060 1000 GAL.
SEPTIC TANK & 12' x 12'
ABSORPTION BED (P. 7,8)



2 POOL - SECTION
A01.2 1/2" = 1'-0"

KEAHOU KAINALIU BEACH RD
DIRT

1 SITE PLAN
A01.2 3/16" = 1'-0"



NICHOLSON
DESIGN • BUILD • MANAGE
77-6425 KUAKINI HWY., SUITE C2-77
KAILUA-KONA, HAWAII 96740
808-331-1511 OFFICE
808-331-1522 FAX



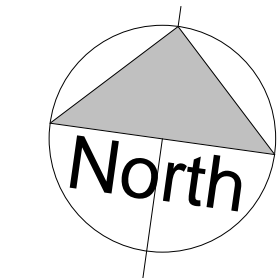
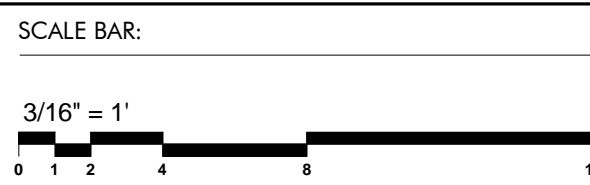
4/30/2022
EXP. DATE
This work was prepared by me or
under my supervision and
construction of this project will be
under my observation

A PROPOSED NEW CONSTRUCTION FOR:

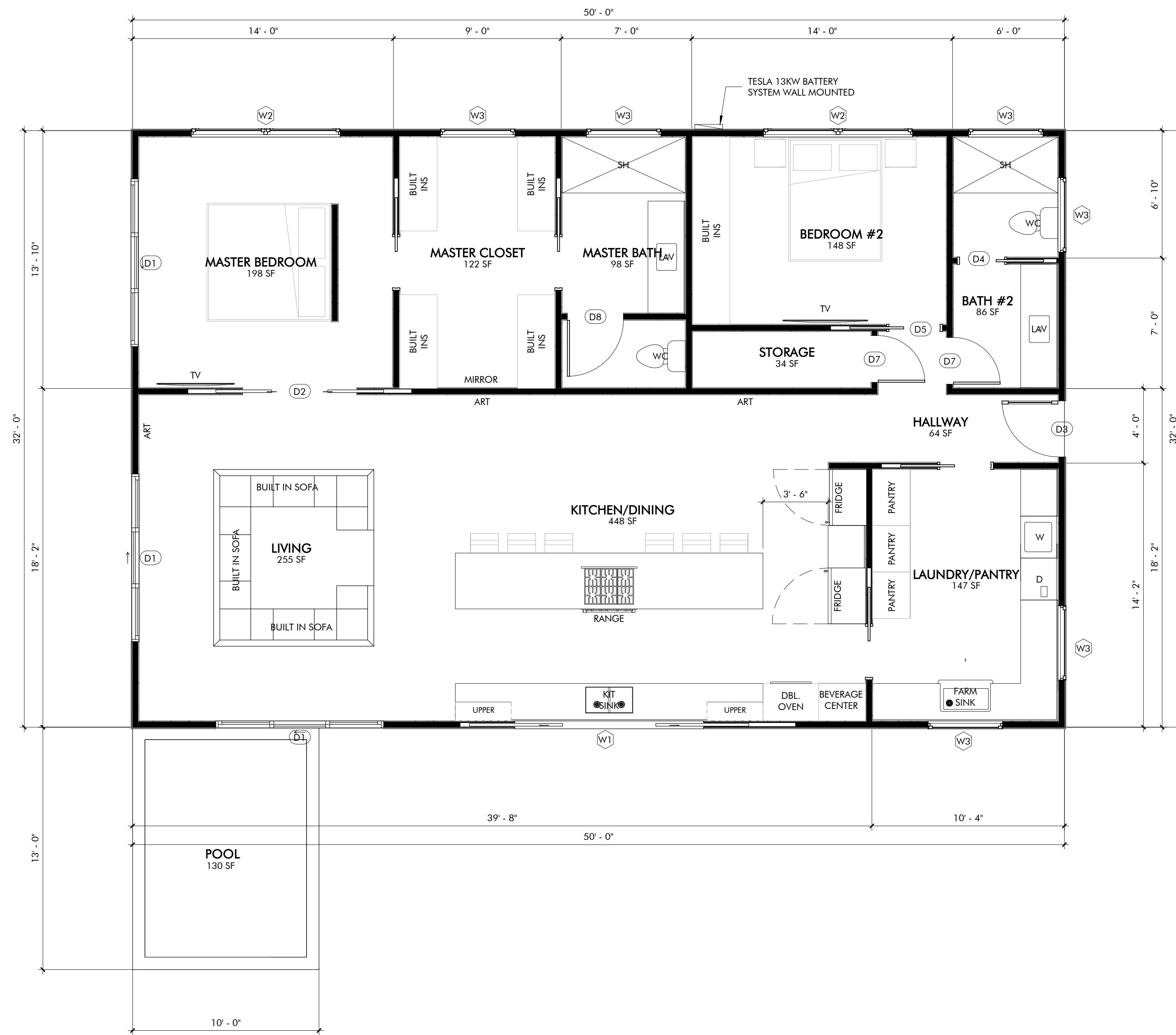
PUNA WAI, TRUST
KEAHOU KAINALIU BEACH RD.
HONALO MAKAI

T.M.K. (3)7-9-005-012

| REVISIONS: | NO. | DATE |
|------------|-----|------|
| | | |

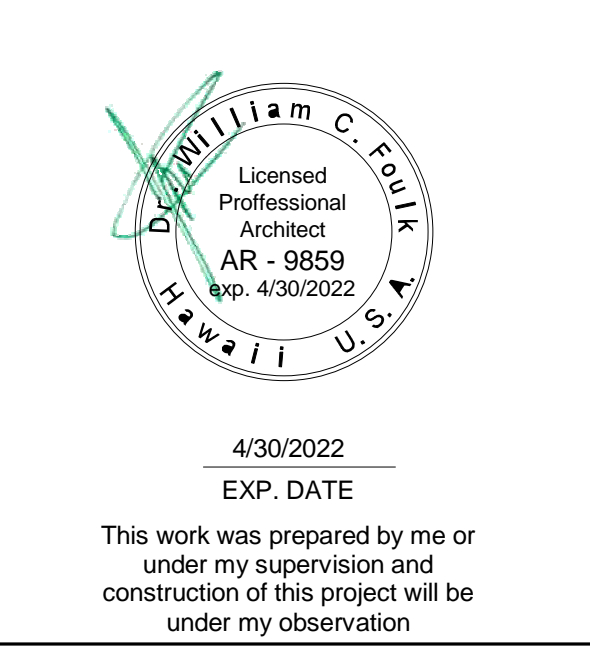


SITE PLAN
SHEET: **A01.2**
ISSUED: 11/30/2021
PERMIT DOCUMENT



| DOOR SCHEDULE | | | | | | | | |
|-----------------|-----------------------|------|-------|--------|-----------|-------|----------|---------|
| DOOR NO. | DOOR TYPE | QTY. | SIZE | | | GLASS | FUNCTION | REMARKS |
| | | | WIDTH | HEIGHT | THICKNESS | | | |
| D1 | 3-Panel Sliding - OXO | 3 | 9'-0" | 8'-0" | 0'-4 5/8" | Yes | Exterior | |
| D2 | Double-Pocket Slider | 1 | 6'-0" | 6'-8" | 0'-1 3/4" | No | Interior | |
| D3 | Single-Swing Glass | 1 | 3'-0" | 8'-0" | 0'-2" | Yes | Exterior | |
| D4 | Single-Pocket Slider | 1 | 2'-8" | 8'-0" | 0'-1 3/8" | No | Interior | |
| D5 | Single-Pocket Slider | 5 | 3'-0" | 8'-0" | 0'-1 3/8" | No | Interior | |
| D6 | Single-Swing | 2 | 3'-0" | 6'-8" | 0'-1 3/8" | No | Interior | |
| D7 | Single-Swing | 2 | 2'-6" | 8'-0" | 0'-1 3/8" | No | Interior | |
| D8 | Single-Swing | 1 | 3'-0" | 8'-0" | 0'-1 3/8" | No | Interior | |
| Grand total: 16 | | | | | | | | |

| WINDOW SCHEDULE | | | | | | | |
|-----------------|---------------------------------|------|--------|--------|-------------|------|---------|
| WINDOW NO. | WINDOW TYPE | QTY. | SIZE | | SILL HEIGHT | SHGC | REMARKS |
| | | | WIDTH | HEIGHT | | | |
| W1 | Double-Pocket | 1 | 10'-0" | 5'-0" | 3'-0" | | |
| W2 | Window-Awning-Double-Horizontal | 2 | 8'-0" | 5'-0" | 3'-0" | | |
| W3 | Window-Awning-Single | 6 | 4'-0" | 5'-0" | 3'-0" | | |
| Grand total: 9 | | | | | | | |

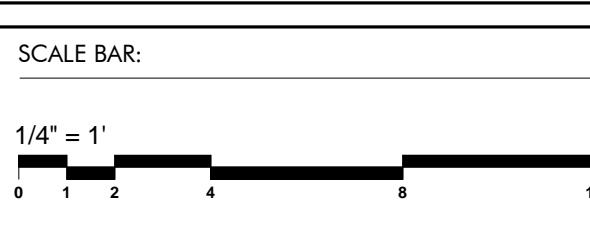


A PROPOSED NEW CONSTRUCTION FOR:

PUNA WAI, TRUST
 KEAUHOU KAINALIU BEACH RD.
 HONALO MAKAI

T.M.K. (3)7-9-005-012

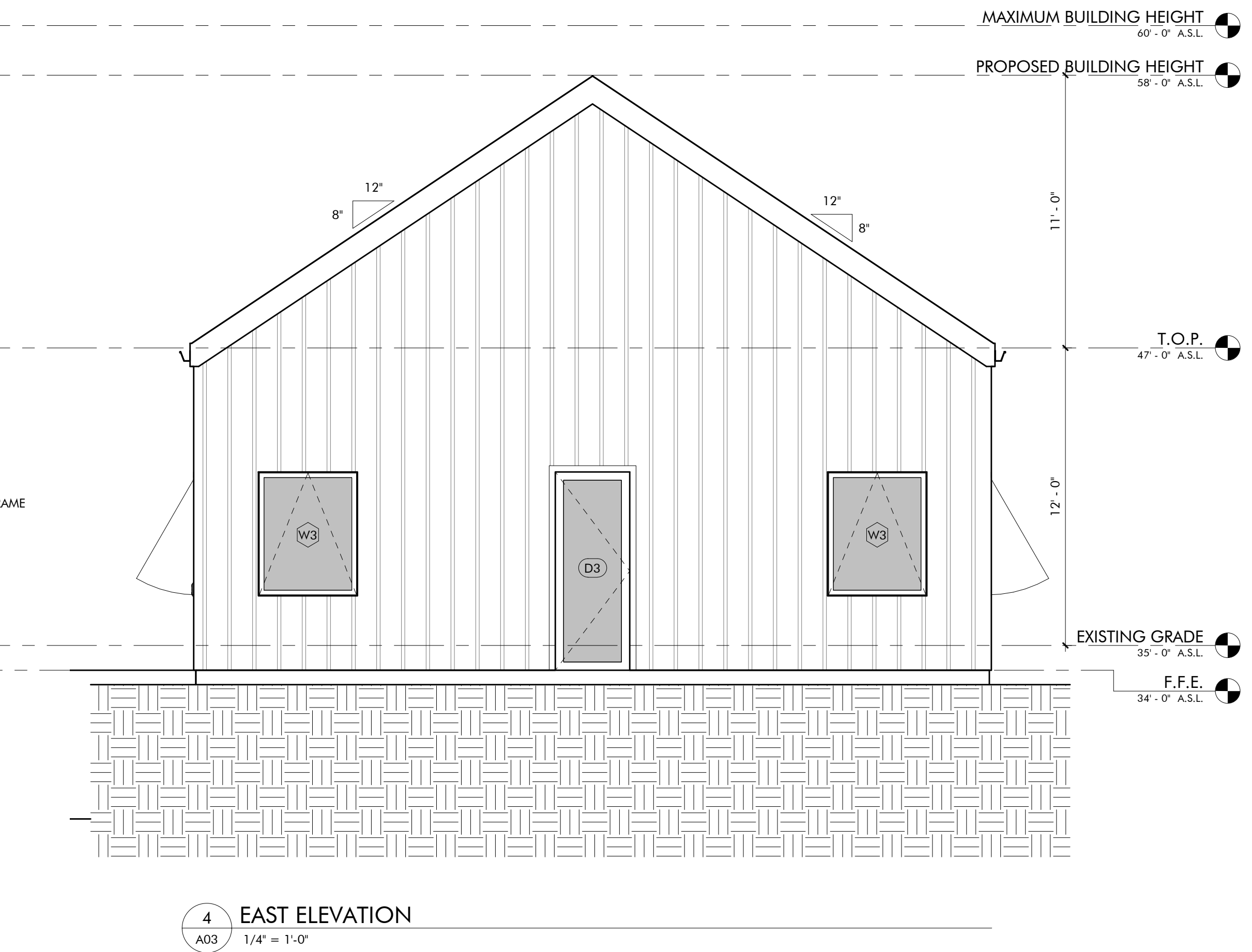
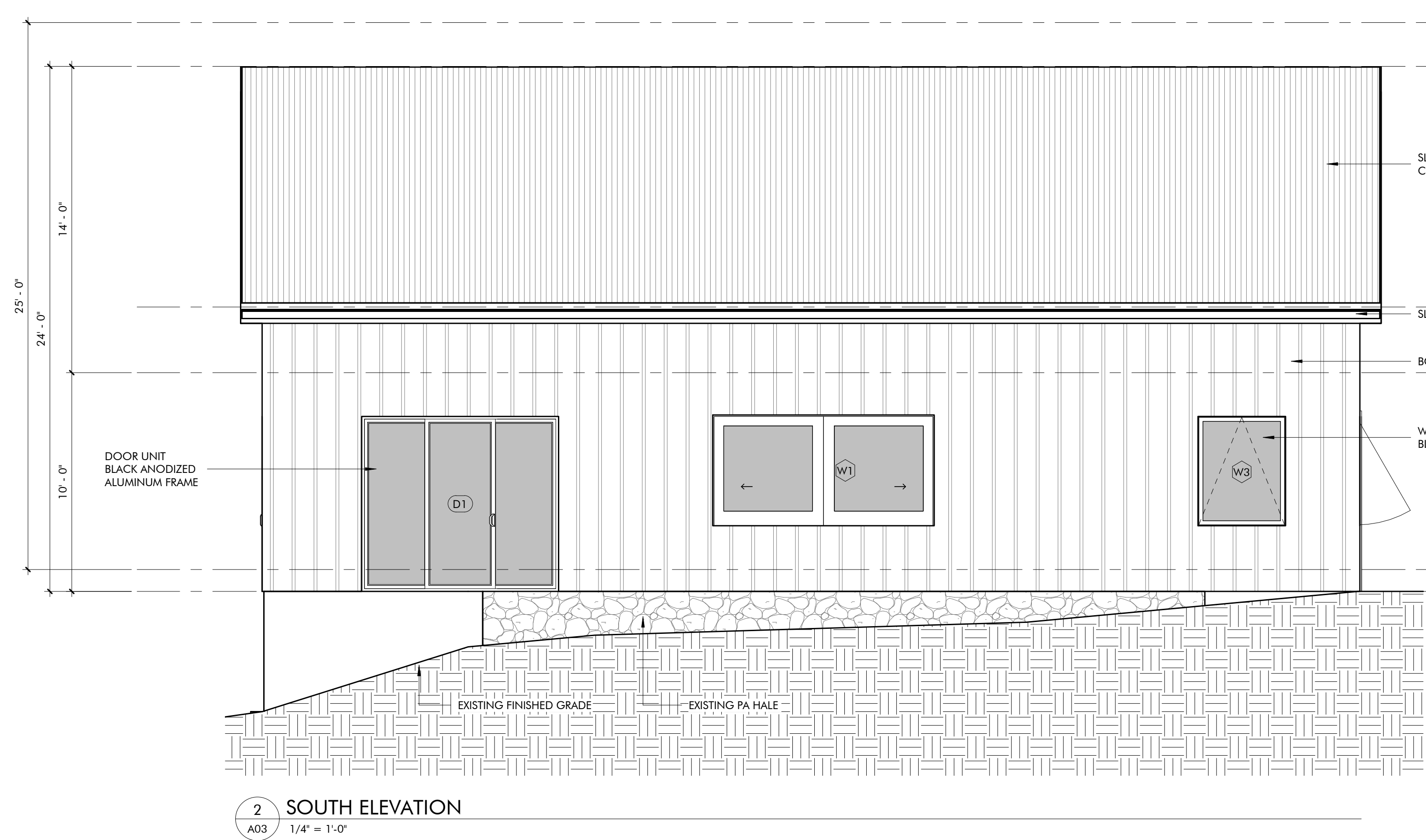
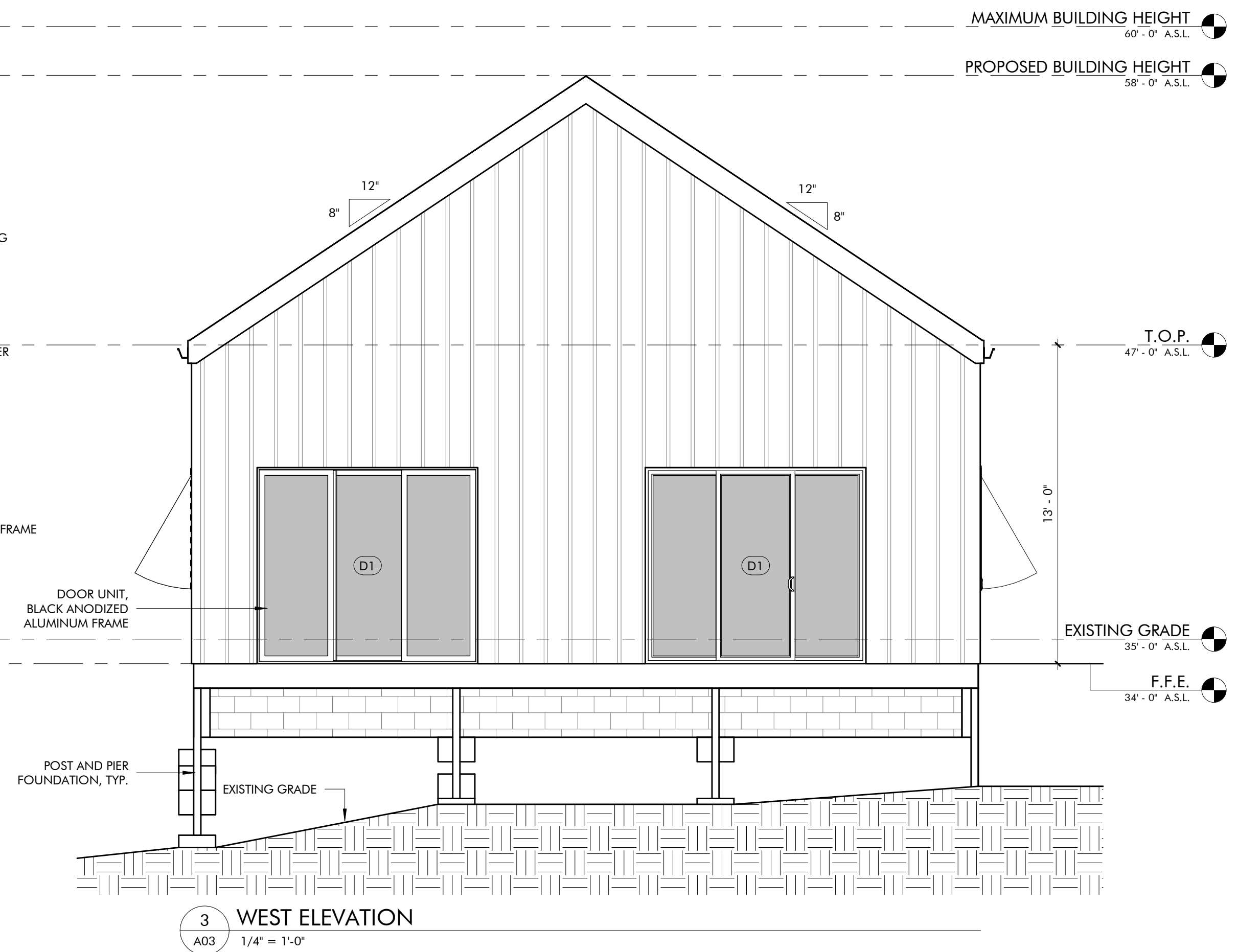
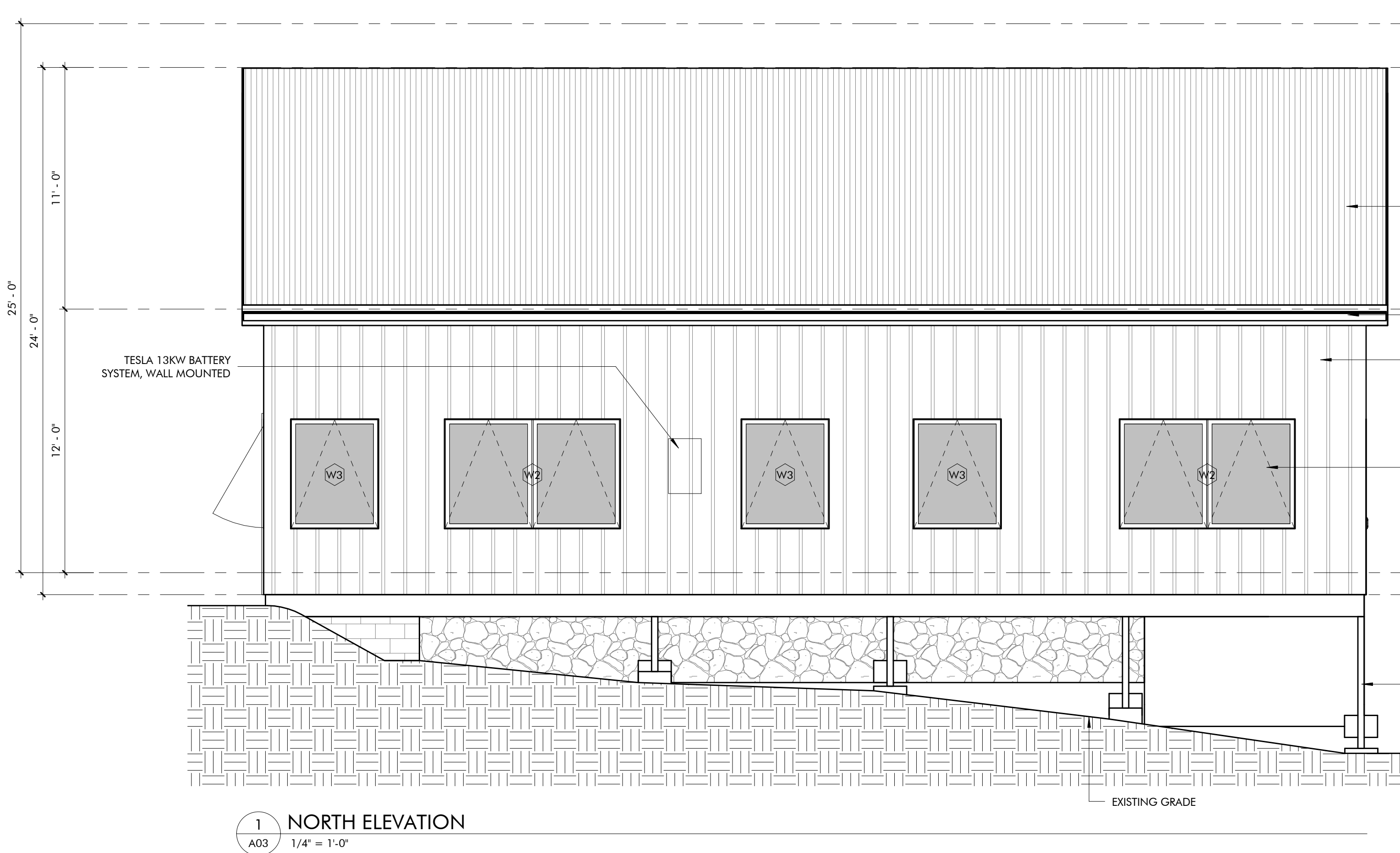
| REVISIONS: | |
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| NO. | DATE |
| | |



FLOOR PLAN & DOOR & WINDOW SCHEDULES

SHEET: **A02.0**

ISSUED: 11/30/2021
 PERMIT DOCUMENT



MAXIMUM BUILDING HEIGHT
60'-0" A.S.L.

PROPOSED BUILDING HEIGHT
58'-0" A.S.L.

T.O.P.
47'-0" A.S.L.

EXISTING GRADE
35'-0" A.S.L.

F.F.E.
34'-0" A.S.L.

MAXIMUM BUILDING HEIGHT
60'-0" A.S.L.

PROPOSED BUILDING HEIGHT
58'-0" A.S.L.

T.O.P.
47'-0" A.S.L.

EXISTING GRADE
35'-0" A.S.L.

F.F.E.
34'-0" A.S.L.



4/30/2022
EXP. DATE

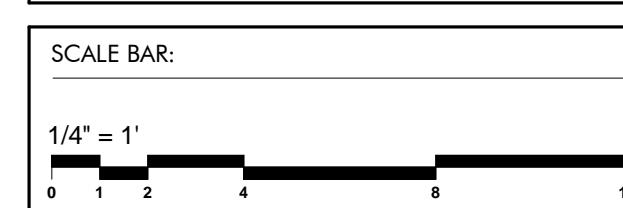
This work was prepared by me or under my supervision and construction of this project will be under my observation

A PROPOSED NEW CONSTRUCTION FOR:

PUNA WAI, TRUST
KEAUHOU KAINALIU BEACH RD.
HONALO MAKAI

T.M.K. (3)7-9-005-012

| REVISIONS: | NO. | DATE |
|------------|-----|------|
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BUILDING ELEVATIONS

SHEET: **A03**

ISSUED: 11/30/2021

PERMIT DOCUMENT



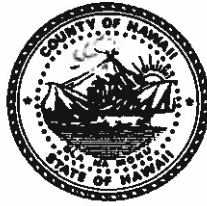
EXISTING ENTRY TO PROPERTY
FROM OLD GOVERNMENT ROAD

EXHIBIT K

Harry Kim
Mayor

Roy Takemoto
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Michael Yee
Director

April Surprenant
Acting Deputy Director

East Hawai'i Office
101 Pauahu Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

September 21, 2020

Mr. Roy A. Vitousek III
Cades Schutte LLP
75-170 Hualālai Road Suite B-303
Kailua-Kona HI 96740

Dear Mr. Vitousek:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(SAA-20-001762)**
Applicant(s): Walter Kaleo O Kalani Nakoa
**Land Owner(s): Walter Kaleo O Kalani Nakoa, Trustee of the Puna Wai
Trust Living Trust**
Project: Single-Family Dwelling with Related Improvements
Tax Map Key: (3) 7-9-005:012, North Kona, Hawai'i

We have reviewed your Special Management Area Use Permit Assessment Application (SAA-20-001762) submitted to our office on May 26, 2020.

The applicant is proposing to construct a 1,773 square-foot, single-story, single-family dwelling with a 1,250 gallon septic tank and 12'x30' leach field, a water well and a 2,000 gallon water storage tank, salt pan, propane tank, two air conditioning condensers, a spa area with a jacuzzi, a pool, and a rooftop photovoltaic system with battery storage. The driveway may be improved using permeable materials. Also proposed are native plant landscaping and agriculture cultivation.

The subject 7,405 square-foot parcel is zoned Agricultural (A-5a) by the County and designated Conservation District by the State Land Use Commission. The parcel is designated as Open (ope) and Extensive Agriculture (ea) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. Although this parcel is located entirely within the Special Management Area (SMA), it is mauka (inland) of TMK: (3) 7-9-005:008 and is approximately 35 meters (114.8 feet) from the shoreline at Ma'ihī Bay and therefore is not a shoreline parcel.

It is our understanding that you will be filing a Conservation District Use Application with the State Board of Land and Natural Resources to allow the development of the proposed project. Since the property is situated within the State Land Use Conservation District, the proposed project also triggers the review under Chapter 343, HRS, relating to Environmental Impact Statements.

Special Management Area Determination:

Pursuant to Hawai'i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(1) relating to the Special Management Area, "*Development*" means any of the [listed] uses, activities, or operations on land or in or under water within the special management area. According to the application, the following definitions of "Development" can be applied to the proposed single-family dwelling use:

- Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
 - Grading, removing, dredging, mining, or extraction of any materials;
 - Construction, reconstruction, demolition, or alteration of the size of any structure.
1. Pursuant to Planning Commission Rule 9-4(e)(3), "*any proposed use, activity, or operation listed in Section 9-4(e)(2) shall be deemed to be "Development" until the Director has determined it to be exempted from the definition of "Development"*". According to 9-4(e)(2) "*Development*" does not include the following uses, activities or operations, and therefore is determined to be *exempt* from the definition of "Development":
 - Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area and is not part of a larger development. Floor area shall be the total area of all floors of a building(s) associated with the single-family residence, including a basement and accessory structures, measured along the exterior walls of such building(s). The floor area of a building(s), or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.
 2. Pursuant to Planning Commission Rule 9-4(e)(4), "*whenever the Director finds that any excluded use, activity, or operation may have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area, that use, activity, or operation shall be defined as "Development" for the purposes of this rule.*"

- At this time, the Director finds that the construction of a 1,773 square-foot single-family residence that includes associated site improvements will not have a cumulative impact, or significant adverse environmental or ecological effect on the Special Management Area.

However, please note that any substantive changes to the proposed improvements may require further review by this office and possibly the submittal of another SMA Use Permit Assessment Application.

Future Special Management Area Determinations:

The Planning Department would like to inform the applicant/landowner that prior to submitting any future Special Management Area Use Assessment Applications for any activities conducted on the subject parcel, that the applicant/landowner contact this office to determine if the proposed use will require review. This will aim to alleviate unnecessary reviews and approvals for this site which is well established. However, please note that the Planning Department will continue to evaluate any proposed use for consistency with SMA rules and regulations, as well as the proposed projects cumulative impact on coastal resources.

While further review of the proposed activities against the Special Management Area rules and regulations will not be required, all other applicable Zoning and Building Code requirements must be satisfied. Additionally, pursuant to Planning Commission Rule 9-10(g), "*the Director may impose certain conditions with the exemption determination to assure that the proposed use, activity, or operation does not have a substantial adverse effect on the Special Management Area*". The Director has added the following conditions:

Director's Conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies (i.e., Building Department) as necessary to comply with all applicable laws and regulations.
3. The proposed work shall comply with the requirements of Hawai'i County Code (HCC), Chapter 27 Flood Control, and HCC Chapter 10 Erosion and Sedimentation Control.
4. A Conservation District Use Permit from the Board of Land and Natural Resources or other written approval from the Department of Land and Natural Resources Office of Conservation and Coastal Lands must be obtained for the construction of the single-

family dwelling within one (1) year from the date of approval of this permit.

5. The Building Permit for the proposed single-family dwelling shall be secured within two (2) years from the date of approval of the Conservation District Use Permit.
6. The applicant shall remove all construction debris, contractor waste, and other deleterious material from the property at the completion of construction.
7. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
8. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward the shoreline and ocean waters, except as may otherwise be permitted pursuant to Section 205A-71(b), Hawai'i Revised Statutes.
9. Any further development, including but not limited to, the construction of additional structures or improvements not included in this approval shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
10. That in issuing this permit, the Department has relied on the information and data that the applicant has provided in connection with this permit. If, subsequent to 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.
11. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon the following circumstances:
 - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence;
 - b) Granting of the time extension would not be contrary to the original reasons for the granting of the determination; and

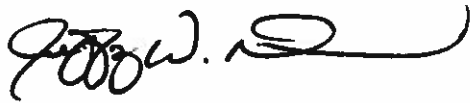
Mr. Roy A. Vitousek III
Cades Schutte LLP
September 21, 2020
Page 5

- c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).

12. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

If you have questions, please contact Esther Imamura of this office at (808) 961-8139.

Sincerely,



MY MICHAEL YEE
Planning Director

ETI:kvs

P:\Wpwin60\CZM\SM\AA\2020\SAA-20-001762 Vitousek Nakoa.Doc

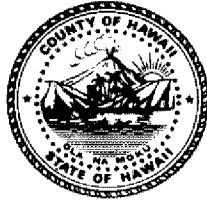
cc: Planning Department, Kona

Exhibit 8

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

October 5, 2021

Roy A. Vitousek III
75-170 Hualālai Rd., Ste. B-303
Kailua-Kona, HI 96740-1737

Dear Mr. Vitousek:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 20-001762)**
Applicant: Walter Kaleo O Lalani Nakoa, Trustee of the Puna Wai Trust Living Trust
Request: Single-Family Dwelling and Related Improvements
Landowners: Walter Kaleo O Lalani Nakoa, Trustee of the Puna Wai Trust Living Trust
Subject: Time Extensions for Condition No. 4 (Secure Conservation District Use Permit)
TMK: (3) 7-9-005:012, North Kona District, Island of Hawai'i

This is to acknowledge receipt of your letter on September 10, 2021, requesting a one-year time extension to comply with Condition No. 4 (time to secure Conservation District Use Permit) of Special Management Area Use Permit Assessment No. 20-001762 (SAA 20-001762). This permit was approved on September 21, 2020, to allow for the construction of a single-family dwelling with related improvements on the subject parcel.

We note the following Conditions of Approval of SAA 20-001762:

Condition No. 4 - "A Conservation District Use Permit from the Board of Land and Natural Resources or other written approval from the Department of Land and Natural Resources Office of Conservation and Coastal Lands must be obtained for the construction of the single-family dwelling within one (1) year from the date of approval of this permit."

Condition No. 11 - Allows for an administrative time extension for a period not to exceed the period originally granted (1 year).

Roy A. Vitousek III
October 5, 2021
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A Conservation District Use Application (CDUA) was filed with the Department of Land and Natural Resources (DLNR) on December 16, 2020, for the proposed project. On February 13, 2021, the DLNR advised the applicant that it would not be able to process the application. After discussions between the applicant's agent and DLNR, the applicant was provided the opportunity to modify the design of the single-family residence to address DLNR's concerns. The CDUA will be revised accordingly and resubmitted to the DLNR after revised plans are received.

As the non-performance of Condition No. 4 is the result of conditions that could not have been foreseen and were beyond the control of the applicant, a **one-year time extension to September 21, 2022, is approved.**

Please note, however, that it is the responsibility of the landowners to read and comply with all conditions outlined in SAA-20-001762. Also, any substantive changes to the project as proposed under the original application may require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.

If you have questions, please contact Alex J. Roy of this department at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

Sincerely,



Zendo Kern (Oct 11, 2021 07:43 HST)

ZENDO KERN
Planning Director

AJR:jaa

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Exhibit 8