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

File No: HA-3895

180-Day Exp. Date: November 5, 2022

October 27, 2022

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

REGARDING: Conservation District Use Application (CDUA) HA-3895 for a

Single Family Residence

APPLICANT/

LANDOWNER: Sean Winterer

AGENT: J M Leonard Planning, LLC

LOCATION: 32-620 Piha-Kahuku Road

Piha Homestead, North Hilo, Hawaii

TAX MAP KEY

(TMK): (3) 3-2-004:037

AREA OF PARCEL: 17.24-acres (total); 12,860 sq. ft. (graded disturbance footprint)

USE: Single-family residence (SFR) and additional improvements (total:

2,396 sq. ft.)

SUBZONE: Resource

SUMMARY

The proposed land use is a single story, post and pier foundation that will occupy a building footprint of 1,693 sq. ft: storage loft, two bathrooms, a living room and kitchen, front and rear stairways, and several covered lanai. Additional improvements will include a separate 2-car carport/utility storage structure, water catchment tank, and a propane tank. In total the SFR and improvements will be 2,396 sq. ft. The proposed SFR will additionally include solar photovoltaic panels on the garage, a satellite telecommunications dish, a back-up electrical generator, and an individual wastewater system. Total disturbed area would be less than 1 acre of the total parcel area.

DESCRIPTION OF AREA/CURRENT USE

This parcel of land is located in the Resource Subzone of the State Land Use Conservation District (**Exhibit 1: subzone map**). The parcel is currently vacant and is not along the coast. It is a portion of a long-standing homestead subdivision (Lot 2 of the Piha-Kahuku Homestead Subdivision) with lots of various sizes accessed from a public road (**Exhibit 2: location map**).

The property is located in Ninole near the 1,700-foot elevation and is accessed from an extension of the Piha-Kahuku Road, which extends along the south-east property boundary. The Piha-Kahuku Road is a county-owned and maintained facility for most of its length, up to about 1,200 feet from the property. The portion of the road fronting this property is outside the County's jurisdiction and maintenance is the responsibility of the adjoining property owners.

A single-lot, Lot 1 of the Piha Homestead Subdivision, is located between the subject property and the Hilo Forest Reserve. Waikaumalo Stream and its associated gulch extends near the northwest property boundary and the smaller Kahaeha Stream crosses nearly midway through the property. To the northeast is an SFR and to the southwest is an SFR that is currently under development.

The property is situated on the southeastern flank of Mauna Kea. The lava flows underlying the property are dated prior to 14,000 years ago. Lava flows in this area are mantled with a thick layer of volcanic ash. Soil in this area is classified as Kaiwiki, highly organic, hydrous silty clay loam, which is fairly well drained but have medium to high runoff such that localized boggy conditions can quickly develop when the soil is compressed by cultivation, vehicles and animals.

Hazards

The volcanic hazard mapping produced by the U.S. Geological Survey places the property in Lava Flow Hazard Zone 8 on a scale of ascending risk from 9 (low) to 1 (high). This zone includes areas that have had no lava flows in the last 750 years and only a few percent covered by lava in the past 10,000 years.

The island of Hawai'i experiences high seismic activity and the property is subject to regular seismic activity due to active volcanic processes. The proposed SFR site is on a slightly flattened topographic ridge and not near steep slopes. Therefore, the project is not at substantial risk from subsidence, landslides, or other forms of mass wasting.

This parcel is in Flood Zone X, which constitutes areas outside the mapped 500-year floodplain. At above 1,700 feet, this SFR is not a risk for tsunami inundation and is outside the Sea Level Rise Exposure Area.

There are two steep stream channels: Waikaumalo and Kalaeha. Waikaumalo Stream is outside the property's northwestern edge and over 1,000 feet from the project site. Kalaeha Stream crosses lengthwise through the middle of the property; is at a lower elevation from the lowest point of the project area; and is more than 350 feet away.

Flora and Fauna

This property is thickly vegetated. Vegetation on the property consists of 'ōhi'a, strawberry guava (*Psidium cattleianum*) and paperbark (*Melaleuca quinquenervia*). Other than 'ōhi'a, few native tree species are found. There is a dense shrub layer dominated by *Melastoma candidum* with

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additional cover of uluhe and hapu'u. On the ground, non-native grasses and weeds dominate such as Koster's curse (*Clidemia hirta*).

Very few individual birds were detected and only four bird species: Japanese white-eyes (*Zosterops japnicus*), northern cardinals (*Cardinalis cardinalis*), Japanese bush warblers (Cettia diphone), and red-billed leiothrix (*Leiothrix lutea*).

The biological surveys were conducted during the Hawaiian hawk (Buteo solitarius) nesting season (March 1- September 30). A hawk survey was conducted, and no hawks were seen or heard, and no nests were observed.

The Hawaiian goose or nēnē (Branta sandwicensis) was not observed. The lack of grassy areas or water bodies near the project site makes it an unlikely habitat for nēnē browsing and nesting.

Several threatened or endangered pelagic seabirds may fly over the area on their way to and from mountain nesting areas and the open ocean. These birds include the endangered Hawaiian petrel (*Pterodroma sandwichensis*), the endangered band-rumped storm petrel (*Oceanodroma castro*), and the threatened Newell's shearwater (*Puffinus auricularis newelli*). The project area habitat is unsuitable for these birds because it does not have an open downhill flight path, which is needed to become airborne.

Some native waterbirds may be present on or near the property, particularly near the two streams. These birds may include: the indigenous, black-crowned night heron, or 'auku'u (*Nycticorax nycticorax hoactli*), nēnē, kola maoli (Anas wyvilliana), and the Hawaiian coot or 'alae ke'oke'o (*Fulica alai*). During field visits to the property, no waterbirds were observed.

Hawaiian hoary bats (*Lasiurus cinereus semotus*) are likely present on this property. No bats were observed during the fauna survey but it is assumed they are present at least some of the time because they are frequently detected by ultrasound and radar in 'ōhi'a-uluhe-strawberry guava-Asian meastome forests.

Other mammalian fauna of the project area consists of introduced species: small Indian mongooses (*Herpestes a. auropunctatus*), feral cats (*Felis cattus*), and various rat species (*Rattus* spp.). Several species of non-native reptiles and amphibians are also likely present. The Coqui frog (*Eleutherodactylus coqui*) were heard, and an undetermined skink lizard was seen.

Historic/Cultural

ASM Associates conducted an archeological survey of the project area. A pedestrian survey was conducted, and no archaeological remains of any kind were identified on the surface of the study area. Due to these findings, the archaeologists concluded that construction of the proposed SFR and its associated improvements would have no effect on any historic properties and recommended that no further work was required.

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 submittal was assigned Project Number 2022PR00605. The SHPD responded in a correspondence that it concurred with the OCCL's project effect determination of "no historic properties affected." The SHPD stated that project initiation may proceed (Exhibit 3: SHPD letter).

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Additionally prepared by ASM Affiliates was a Cultural Impact Assessment (CIA) study. Historical records indicate that the forested areas of Pīha were traditionally used by bird hunters and canoe carvers to gather native bird species and koa logs. Both these activities are not known to be currently practiced but are recognized as important past traditions within Pīha's culturally valued forest lands to the area's native inhabitants.

The Pīha-Kahuku Road, from which this parcel is accessed, is a public road that provides public access into the surrounding Hilo Forest Reserve. The CIA emphasizes that this public access provides local hunters and other practitioners access into the Pīha portion of the Hilo Forest Reserve and that there should be no efforts to block or restrict access along this roadway.

PROPOSED USE

The applicant proposes to construct a 1,693 single-story, post and pier, single-family residence (SFR) with a storage loft, two bathrooms, a living room and kitchen, front and rear stairways, and several covered lanai. Additional improvements will include a separate 2-car carport/utility storage structure, water catchment tank (10,000 gallons), and a propane gas tank. In total the SFR and improvements will be 2,396 sf. The property is accessed off Pīha-Kahuku Road along the parcel's southeastern boundary (Exhibit 4: site plan).

The applicant places the carport separate from the home due to locational characteristics. More specifically, to minimize the ground disturbance area; excavation quantity; structure heights; and the number of 'ōhi'a trees to be removed, the applicant considers the separate location the best alternative to minimize project impact. Other carport alternatives either (1) increased the grading required for the carport and driveway approach or (2) increased the SFR's height over the maximum building height of 25 feet.

The applicant estimates approximately 55-80 'ōhi'a could be impacted and would need to be removed for the proposed SFR. The area of impact is contained in the 12,860-sf graded area as outlined within the blue dotted area called "new extents of grading" (**Exhibit 5: grading site plan**). No tree removal is proposed outside of this graded area. The applicant proposes to replace these removed 'ōhi'a on a one-to-one basis; thus, for every 'ōhi'a planted another will be planted elsewhere within the project area (**Exhibit 6: landscape plan**).

The structure will be set back a minimum of 25-feet from the property boundary. The proposed improvements will be located adjacent to the unpaved Piha-Kahuku Road extension. A total area of less than half an acre of the property will be used for SFR construction and its related improvements.

A pig-proof hog wire perimeter fence will enclose the developed footprint which will include a rock wall entry feature and a metal gate at the project entry. Trenching is proposed for the septic system, water lines, and electrical power lines. Grading for the project area will involve approximately 450 cubic yards of cut and would be balanced with fill.

The proposed SFR will additionally include 24-roof-mounted solar photovoltaic panels on the garage, a satellite telecommunications dish, a back-up electrical generator, and an individual

wastewater system. The domestic water supply would be provided from a roof catchment system which will be located adjacent to the carport.

Landscaping will include removing invasive species and replanting with native trees and ground covers such as 'ōhi'a, uluhe and hapu'u ferns. All removed 'ōhi'a within the landscaped area will be replaced on a one-to-one basis.

Two streams are located near or within the property's boundary: Waikaumalo and Kalaeha. Waikaumalo stream is just outside the northwestern edge of the property and Kalaeha stream crosses lengthwise through the property's middle section. The proposed SFR and improvements would be over 325 feet from Kalaeha stream and would be over 1,000 feet from Waikaumalo stream.

OTHER ALTERNATIVES CONSIDERED

Alternative 1: No Action. Under the No Action Alternative, the residence would not be built. The lot would remain unused except for temporary camping and picnicking by the owner. 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, Engineering

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 Laupahoehoe Public Library, and the Hawaii Document Center to make this information readily available to those who may wish to review it.

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

THE STATE

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Division of Forestry and Wildlife (DOFAW)

<u>Comments:</u> DOFAW concurs with the proposed mitigation measures included in the permit application intended to avoid construction and operational impacts to State-listed species including the Hawaiian Hoary bat, Hawaiian Hawk, and seabirds. DOFAW appreciates the measures outlined to minimize the movement of plant and soil material to prevent the spread of invasive species such as Rapid 'Ōhi'a Death and for the use of native plants for landscaping. Lastly, DOFAW recommends that a survey be conducted by a qualified entomologist to determine if listed damselflies are present in the project area and to assess any potential impacts to those species.

<u>Response:</u> The applicant appreciates DOFAW's acknowledgements regarding the above referenced mitigation measures. Concerning the potential impacts of the damselflies, the applicant states that there are only two species that have any potential to be on the island: Pacific damselfly (*Megalagrion pacificum*) and orange-black damselfly (*M. xanthomelas*). The Pacific damselfly has only one known population on the island and the orange-black damselfly is a coastal wetland species. Additionally, the subject property is near 1,700-foot elevation and the current known maximum habitation elevation of these species is 1,246 feet. Therefore, the applicant's consultant states that it is extremely unlikely that a listed damselfly is present in the area, and all reasonable mitigation measures to protect any damselflies have already been included for this project.

Engineering Division

<u>Comments:</u> The rules and regulations of the National Flood Insurance Program (NFIP), Title 44 of the Code of Federal Regulations (44CFR), are in effect when development falls within a Special Flood Hazard Area (high-risk areas). The property owner is responsible to research the Flood Hazard Zone designation for the project.

<u>Response:</u> The flood hazard information is located as an exhibit (Figure 4, Flood Zone Map) showing the Flood Hazard Assessment Report in Section 3.1.2 of the Environmental Assessment.

DEPARTMENT OF HEALTH

Clean Air Branch

Comments: Reference to DOH-CAB standard comments with no further comments.

<u>Response:</u> No existing structures are currently present on the property, and it does not require an Air Pollution Control Permit.

ANALYSIS

Following review and acceptance for processing, the applicant was notified, by correspondence dated May 9, 2022, that:

- 1. The proposed uses are identified land uses in the Resource subzone of the Conservation District, pursuant to Hawai'i Administrative Rules (HAR), §13-5-24, R-7, SINGLE FAMILY RESIDENCE, (D-1), A single family residence that conforms to design standards as outlined in HAR, §13-5;
- 2. HAR, §13-5-23, L-2, LANDSCAPING (D-1) Landscaping (including clearing, grubbing, grading, and tree removal), including chemical and mechanical control methods, in accordance with state and federal laws and regulations, in an area of or more than 10,000 square feet. Any replanting shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to Hawaii. The introduction of invasive plant species is prohibited;
- 3. HAR, §13-5-22, P-2, STRUCTURES, ACCESSORY, (B-1) Construction or placement of structures accessory to existing facilities or uses;
- 4. Pursuant to HAR §13-5-40 HEARINGS, a Public Hearing will not be required;
- 5. 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 August 8, 2022, edition of the Environmental Review Program's (ERP) *The Environmental Notice*; and
- 6. The subject property is not in the Special Management Area (SMA).

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in §13-5-30, HAR.

1) The proposed use is consistent with the purpose of the Conservation District.

The objective of the Conservation District is to conserve, protect, and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.

The proposed house site and access driveway are planned with the aim of minimizing the potential disturbance to the native vegetation, especially the native 'ōhi'a. Proposed landscaping includes new 'ōhi'a plantings, which would be grown onsite from existing 'ōhi'a. Special precautions will be taken to prevent the spread of Rapid 'Ōhi'a Death (ROD). The removed 'ōhi'a will be replaced on a one-to-one basis.

To minimize ground disturbance, the proposed SFR is designed with a post and pier foundation, which will minimize grading for the house site construction. Grading for the

project area will involve approximately 450 cubic yards of cut and would be balanced with fill.

Located near this property is the Hilo Forest Reserve which is accessed from the Piha-Kahuku Road. This road boarders and provides access to the proposed SFR and improvements. While considered a County Road, the final section of Piha-Kahuku Road lays beyond the County's jurisdiction and is the responsibility of the abutting property owners to maintain and repair this portion of the road. Thus, the property owner will contribute to the ongoing maintenance and repair of this road section. This road upkeep serves to enhance the ability for State agencies and the public to access the Hilo Forest Reserve for management and cultural purposes.

The OCCL believes that the proposed landscaping, SFR construction, and road management continues and contributes to the objectives of the Conservation district.

2) The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.

The objective of the Resource subzone is to ensure, with proper management, the sustainable use of the natural resources of those areas. HAR, §13-5-24, R-7, SINGLE FAMILY RESIDENCE (D-1) A single family residence that conforms to design standards as outlined in this chapter. This is an identified land use in the Resource subzone.

The design and construction of the proposed SFR will conform to the design standards in HAR, §13-5-41, Single family residences except for the separation of the carport from the SFR. Exhibit 4 of HAR §13-5 states that all structures be connected, or best alternative. The applicant states the best alternative is a separate carport in order to minimize the amount of grading required for the carport and driveway approach.

The SFR's design will incorporate the use of earth-tones in the selection of the roof and building colors. The proposed landscaping will use primarily native species for landscaping. The total grading area will be 12,860 sq. ft.

Provided the applicant's adherence to the design standards as outlined in HAR, §13-5 and small disturbance footprint size, the OCCL believes that the proposed SFR and improvements are consistent with the objectives of the Resource subzone.

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 not a coastal lot and is located at the approximately 1,700-foot elevation and over 3 miles from the coastline. It is not in the SMA. 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 property is 17.24-acres, and the total project area will be approximately 35,500 sq. ft (.81 acres). The proposed SFR is a post and pier construction that is designed to fit to the natural contours of the site. In constructing the home and associated improvements, the applicant will require the construction contractor implement best management practices (BMPs) to ensure minimization of land disturbance; dust and runoff control; and vegetation replanting.

There are existing 'ōhi'a on the home site. To protect the existing 'ōhi'a, protections will be implemented to limit the spread of Rapid 'Ōhi'a Death (ROD) disease. Additionally, any 'ōhi'a proposed to be removed will be replaced on a one-to-one basis within the project area as part of the planned landscaping for the SFR.

The biological survey concluded that the Hawaiian hoary bat, Hawaiian duck, and Hawaiian hawk could fly over and be present on the property. To avoid potential impacts to these species, the applicant will commit to certain conditions pertaining to the timing of land clearing activities and the use of exterior lighting.

Provided the proposed construction precautions, the OCCL concludes that the proposed SFR and its additional improvements 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 parcel is part of a homestead subdivision accessed from a public road. In the initial Territorial survey map this parcel was described as Lot 2 of the Piha-Kahuku Homestead Subdivision, which was created in the early 1900s. This survey map includes roughly 45 large acre lots that extend on either side of the Piha-Kahuku Road. Along this road there currently exist several farms as well as water storage and communications facilities.

The design of the home is post and pier and total ground disturbance will use less than six percent of the total property area. Other than the house site and a home garden, most of the property would be left undisturbed. The SFR will not be visible from any of the surrounding properties in the subdivision.

Therefore the proposed use is consistent with HAR §13-5-24 SINGLE FAMILY RESIDENCES (D-1) A single family residence that conforms to design standards as outlined in this chapter.

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 and related improvements will occupy less than six percent of the full property and are located at its upper elevations. At this upper elevation, it will be located above and well removed from the nearest stream on the property.

To minimize ground disturbance, the SFR is designed with a post and pier foundation. The applicant will control alien vegetation growth and replant native species. Proper precautions will be made to reduce the risk of ROD and many removed 'ōhi'a trees will be replanted on the property site.

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 Hilo Forest Reserve is located mauka of this property. The Piha-Kahuku Road is a way the public and state may access this reserve. The County of Hawaii currently only maintains the lower portions of Piha-Kahuku Road, and it is the individual property owner's responsibility to maintain along the upper road portion. The proposed SFR construction would require the landowner to contribute to the ongoing maintenance of this upper road portion that is not currently maintained by the County.

The proposed SFR and related improvements will be in a total area of less than an acre of a 17.24-acre property. The home will be a post and pier type construction that will minimize the amount of grading required for home construction.

The OCCL does not believe that the construction of this home will be materially detrimental to the public health, safety, and welfare.

CULTURAL IMPACT ANALYSIS:

A cultural impact assessment (CIA) was conducted on the property and its history did not reveal any cultural resources or traditional and customary Native Hawaiian practices on the project site. Regarding the overall cultural landscape of the general area, the CIA revealed that the upland forest lands were used for the procurement of special resources for bird-catching and the hewing and carving of koa wood for canoes. The traditional cultural practices and craft specialization associated with these traditions are no longer practiced in Piha.

The nearby forest lands, mauka of the Winterer lot, remained virtually untouched by the sugar industry that dominated the more makai lands of Piha and adjacent areas in the prior century. Protected within these forests are many of the same natural resources that were present during the Pre-contact and early Historic Periods. The creation of the Hilo Forest Reserve in 1905, initially for watershed protection, also saw the controlling of the feral pig population. Although no evidence

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was uncovered as part of the CIA, the Hilo Forest Reserve may be used for gathering forest resources such as wood or lei materials. Additionally, the nearby forest is used by hunters.

The home's construction will not impair or interfere with Native Hawaiian rights for access, fishing, hunting, gathering, ceremonial, or other cultural practices. The Piha-Kahuku Road is a public roadway that provides local hunters and other practitioners access into the Piha portion of the Hilo Forest Reserve. The proposed SFR and related improvements will not block or restrict access to this road for forest access.

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 project entails a single-family residence built upon a post and pier foundation. The proposed SFR will occupy a building footprint of 1,693 sq. ft. (proposed SFR) and a developed area of 2,396 sq. ft. (inclusive of additional improvements). Pursuant to HAR 13-5 Exhibit 4, the Maximum Developable Area (MDA) for lots larger than one (1) acre is 5,000 square feet. This lot is approximately 17.24 acres; therefore, the maximum MDA for this lot is 5,000 square feet. The proposed land use is within the MDA maximum limit.

The project site is located near the 17,000-foot elevation and accessed from an extension of the Piha-Kahuku Road, which extends along the property's south-east property boundary. Waikaumalo Stream and its associated gulch extends near the northwest property boundary and the smaller Kahaeha Stream crosses nearly midway through the property. The proposed improvements will be located over 325-feet, at their closest point, from Kahaeha Stream.

Exhibit 4 of the HAR §13-5 states that structures are to be designed with standard conditions and criteria, including: all structures connected, or best alternative. The applicant sites the carport separate from the home due to locational characteristics. More specifically, this separation is cited to minimize the ground disturbance area; excavation quantity; structure heights; and the number of 'ōhi'a trees to be removed. The applicant considers the separate location the best alternative to minimize project impact. Other carport alternatives either (1) increased the grading required for the carport and driveway approach or (2) increased the SFR's height over the maximum building height of 25 feet. The OCCL finds the requested deviation from Exhibit 4 to be a reasonable request in order to minimize ground disturbance.

The SFR will additionally include solar photovoltaic panels (24 panels) on the garage, a satellite telecommunications dish, a back-up electrical generator, an individual wastewater system, and a roof-catchment and water storage system. The telecommunications dish would be mounted on the carport roof. The water storage will include a 10,000-gallon portable water storage tank which would be set on a pad of crushed rock and would be located adjacent to the carport. Wastewater would be treated by an individual septic system and would be located near the residence. The septic system would have a tank capacity of 1,000 gallons and an absorption field extending approximately 320 square feet.

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Site grubbing and grading will occur in the areas of the driveway; the portable water tank; house site; carport; construction staging area; and trenching areas required for the septic system and wastewater transmission lines. The total grubbing and grading area will be approximately 12,860 square feet. The individual septic system and potable water storage tank will be located adjacent to the house site to help minimize the amount of trenching for transmission lines and thus ground disturbance. The contractor will follow best management practices as part of the home construction to minimize the potential for erosion, sedimentation, and pollution of any nearby streams.

Currently the site is heavily vegetated and consists of a mix of native-non-native forest dominated by 'ōhi'a, strawberry guava, and paperbark trees. The landscaping plan is aimed at reestablishing the site's natural character through the removal of invasive species and replanting with native trees and ground covers that are common to the area (such as 'ōhi'a, uluhe and hapu'u ferns). The 'ōhi'a plantings would be grown from the existing, onsite trees by a trained arborist.

This property is located in flood Zone X, which are areas outside the mapped 500-year floodplain. At 1,700 feet, the property is outside both the tsunami evacuation zone and any dam evacuation zone. The property is not located within the sea level rise exposure area.

The SHPD concurred with the OCCL's project effect determination of "no historic properties affected." The SHPD stated that project initiation may proceed.

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.

Included with the standard condition recommendations are the following conditions based upon the OCCL's review and agency consultation:

- 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;
- 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;
- Rapid 'Ōhi'a Death protocols shall be observed. There shall be no transport of 'ōhi'a to and from the property and no soil transport from the property;

RECOMMENDATION

Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE Conservation District Use Application HA-3895 for the Winterer Single-Family Residence (SFR) and additional improvements located at 32-620 Piha-Kahuku Road, further

described as Piha Homestead, North Hilo, Hawaii, Tax Map Key (3) 3-2-004:037 and is 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 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;
- 10. 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;
- 11. The permittee shall utilize Best Management Practices for the proposed project;
- 12. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
- 13. 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;
- 14. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
- 15. 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;
- 16. 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;
- 17. 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;
- 18. 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;
- 19. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
- 20. 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;

- 21. 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;
- 22. 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;
- 23. 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;
- 24. 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;
- 25. Rapid 'Ōhi'a Death Protocol shall be observed. There shall be no transport of 'ōhi'a to and from the property and no soil transport from the property;
- 26. A pre-construction 'Io nest search by a qualified ornithologist using standard methods shall be conducted prior to land clearing between the months of March and September, inclusive;
- 27. Other terms and conditions as may be prescribed by the Chairperson; and
- 28. 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.

R-B-

Respectfully submitted,

Rachel Beasley, Staff Planner

Office of Conservation and Coastal Lands

Approved for submittal:

Sgame Q. Code

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

mc

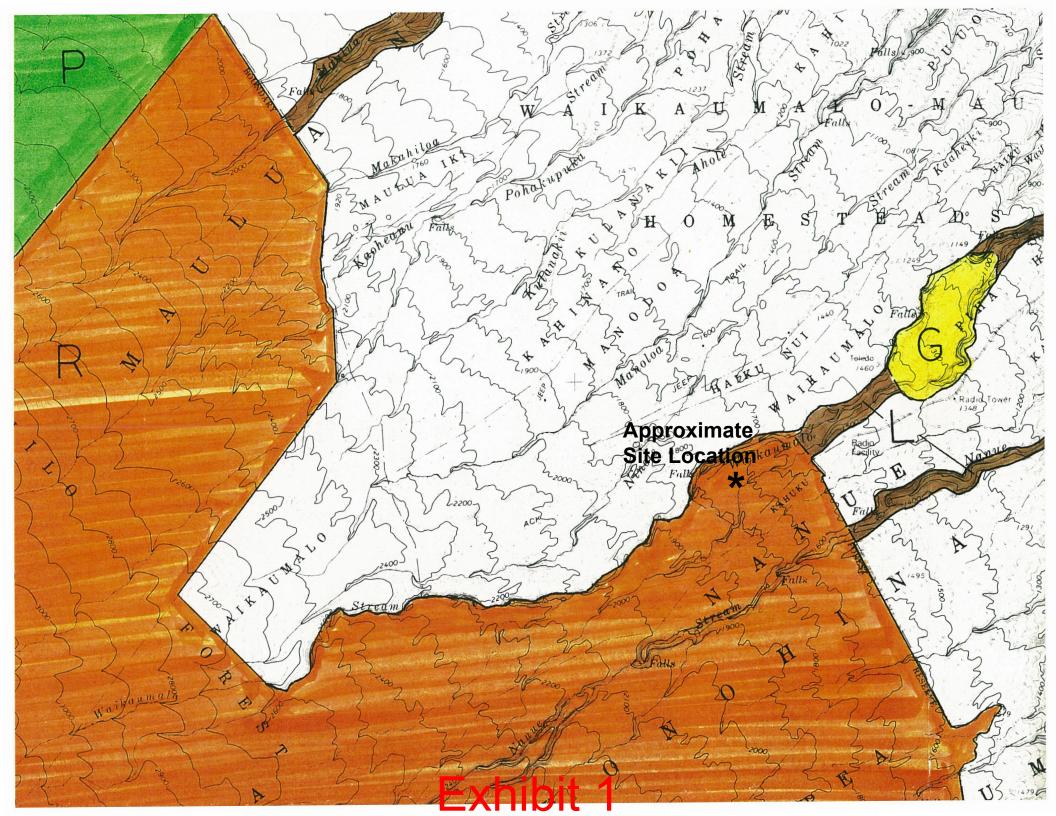




Figure 1	Island/Regional Location Map
Winterer Single-Family Residence	

Conservation District Use Permit Application 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, HI 96707

May 31, 2022

Michael Cain, Acting Administrator Office of Conservation and Coastal Lands P. O. Box 621 Honolulu, Hawaii 96809 c/o: rachel.e.beasley@hawaii.gov

Dear Ms. Mills:

SUBJECT:

Chapter 6E-42 Historic Preservation Review – Request for Concurrence for the Winterer Residence Conservation District Use Application Archaeological Inventory Survey Pīhā Ahupua'a, North Hilo District, Island of Hawai'i

TMK: (3) 3-2-004:037 por.

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

> ROBERT K. MASUDA FIRST DEPUTY

M. KALEO MANUEL DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATTHG AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CUNSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAW EISLAND RESERVE COMMISSION

LAND STATE PARKS

IN REPLY REFER TO: Project No. 2022PR00605 Doc. No. 2205SN12 Archaeology

This letter provides the State Historic Preservation Division's (SHPD's) review of the Office of Conservation and Coastal Lands (OCCL) request for the SHPD's concurrence with the OCCL determination of "no historic properties affected" for the proposed construction of a single-family residence. The submittal includes a OCCL cover letter requesting SHPD's concurrence with the effect determination, a TMK map, a SHPD Chapter 6E Form and construction drawings. The submittal also includes a draft report titled, An Archaeological Assessment of a Portion of Lot 2 of the Pīhā Homesteads TMK: (3) 3-2-004:037 (por.) Pīhā Ahupua'a North Hilo District Island of Hawai'i (ASM Affiliates, 2021). SHPD received the submittal on May 10, 2022.

The applicant proposes to construct a single-family residence and related improvements on a 0.81-acre portion of the 17.24-acre parcel located at 32-620 Pħā-Kahukui Road in Ninole. The planned improvements for the property include a single-family residence, carport, driveway, water storage and propane gas tanks, utilities and landscaping. Hog-wire fencing is planned at the perimeter of the house site, together with a rock-wall entry feature and constructed metal gate at the project entry. Ground disturbance related to the project would be limited to the areas of the house site and carport and their related utilities, and the access driveway. Trenching for the transmission of water, power, and telecommunication lines from the area of the carport to the residence and for the septic system that would be adjacent to the house site, excavations would encompass a total area of about 466 sq. ft. x 2 feet deep with the exception of the excavation for the septic tank, which would be approximately 6 feet deep and cover an area of approximately 40 sq. ft.

ASM Affiliates conducted the archaeological inventory survey (ASM Affiliates 2021) in anticipation of a Conservation District Use Application (CDUA) and an associated Environmental Assessment (EA) to support a project effect determination. ASM completed the pedestrian survey on July 27, 2021. Fieldwork consisted of a 100% pedestrian survey consisting of systematic transects spaced 10 meters apart. Ground visibility was good at the time of the survey. The survey identified no historic properties within the current project area.

Due to the negative findings of significant historic properties during the AIS, this report was prepared as an Archaeological Assessment (AA) report in accordance with HAR 13§13-275-5(b)(5)(A). The report meets the minimum requirements of HAR §13-276-5. It is accepted. Please send two hard copies of the report, clearly marked FINAL, along with a text-searchable PDF version, and a copy of this acceptance letter to the Kapolei SHPD office,



K. Tiger Mills May 31, 2022 Page 2

attention SHPD Library. Additionally, please upload a text-searchable PDF version of the document to HICRIS Project No. 2022PR00605 using the Project Supplement option and send a PDF copy to lehua.k.soares@hawaii.gov.

Based on the information provided, **SHPD concurs** with the OCCL's project effect determination of "No historic properties affected" for the project. Pursuant to HAR §13-284-7(e), when the SHPD agrees that the action will not affect any significant historic properties, SHPD hereby notifies the OCCL that the HRS 6E historic preservation review process is ended. <u>Project initiation may proceed</u>.

In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, 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.

Please contact Sean Nāleimaile at (808) 933-7651 or at Sean.P.Naleimaile@hawaii.gov if you have any questions or concerns regarding this letter

Aloha,

Alan Downer

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

cc: Sean Winterer, sean_ca2000@yahoo.com

Benjamin Barna, HICRIS@asmaffiliates.com

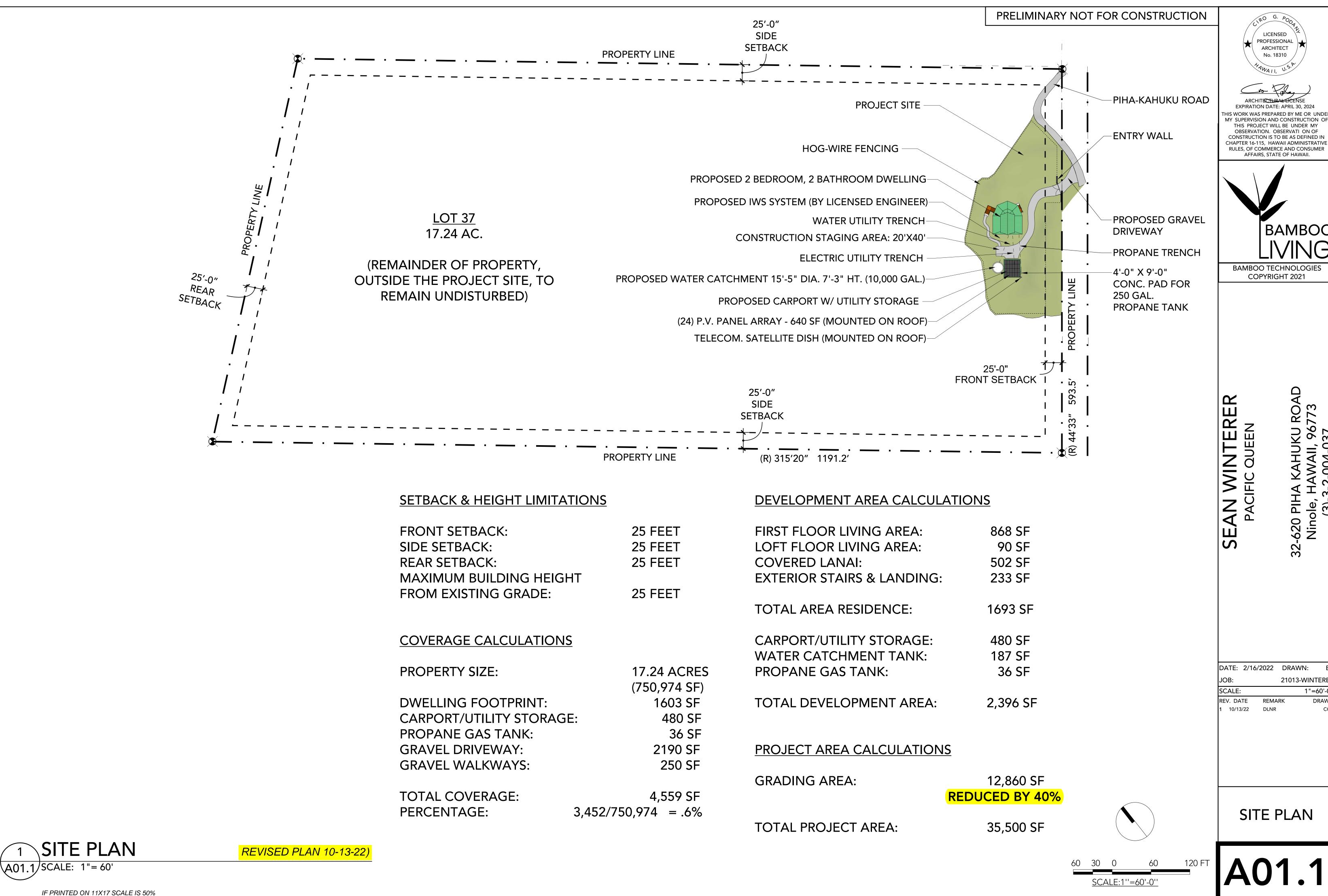


Exhibit 4

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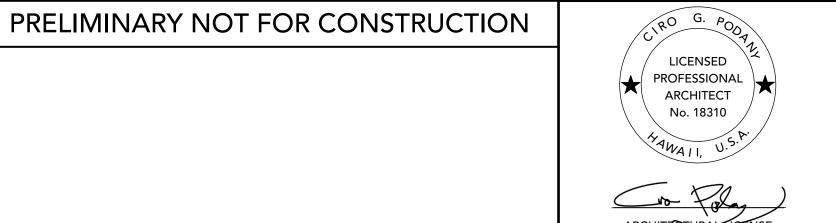


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32-620 PIHA KA Ninole, HAW (3)-3-2-0

SITE PLAN



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32-620 PIHA KAHUKU ROAD NINOLE, HAWAII, 96773 (3)-3-2-004-037

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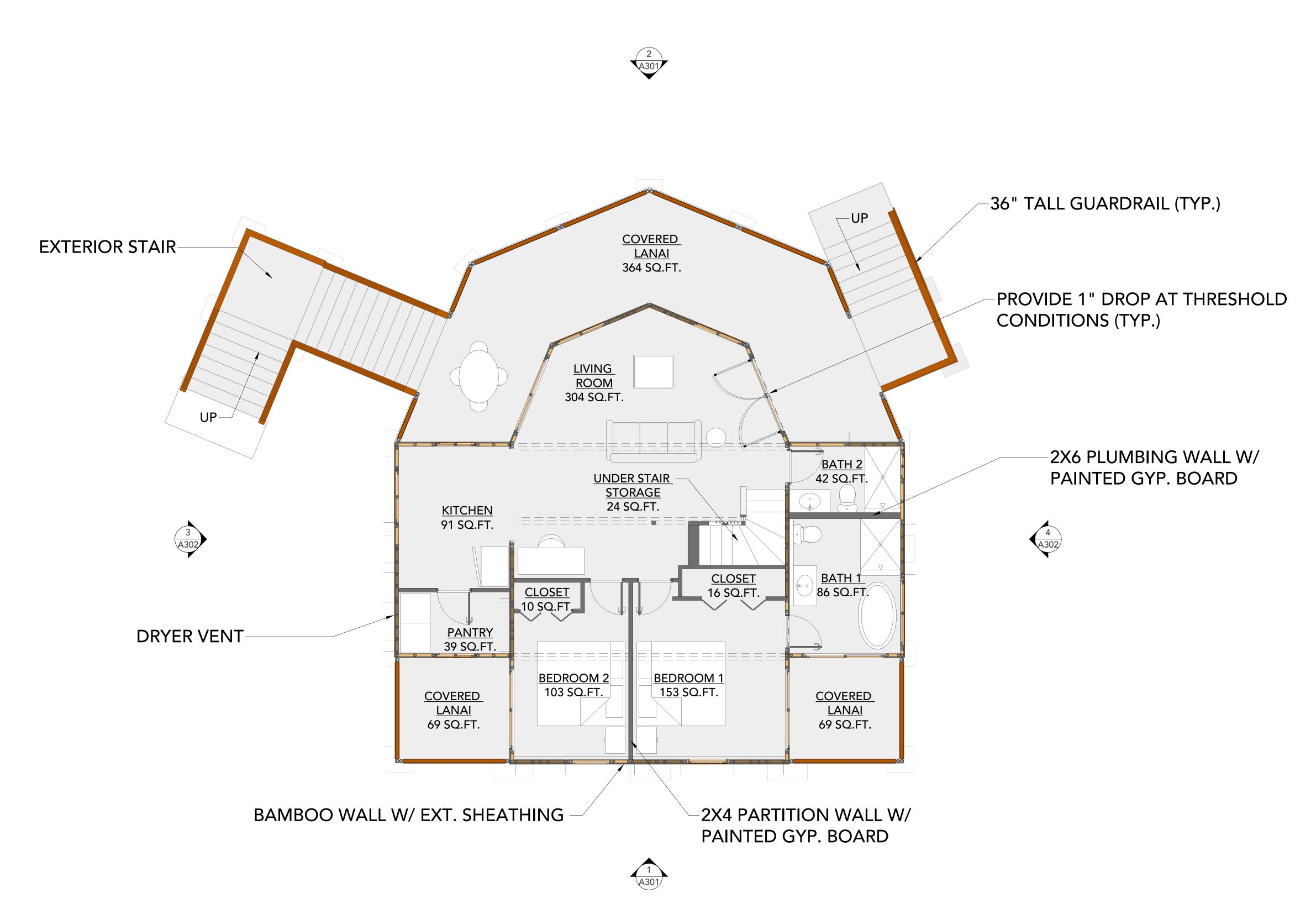
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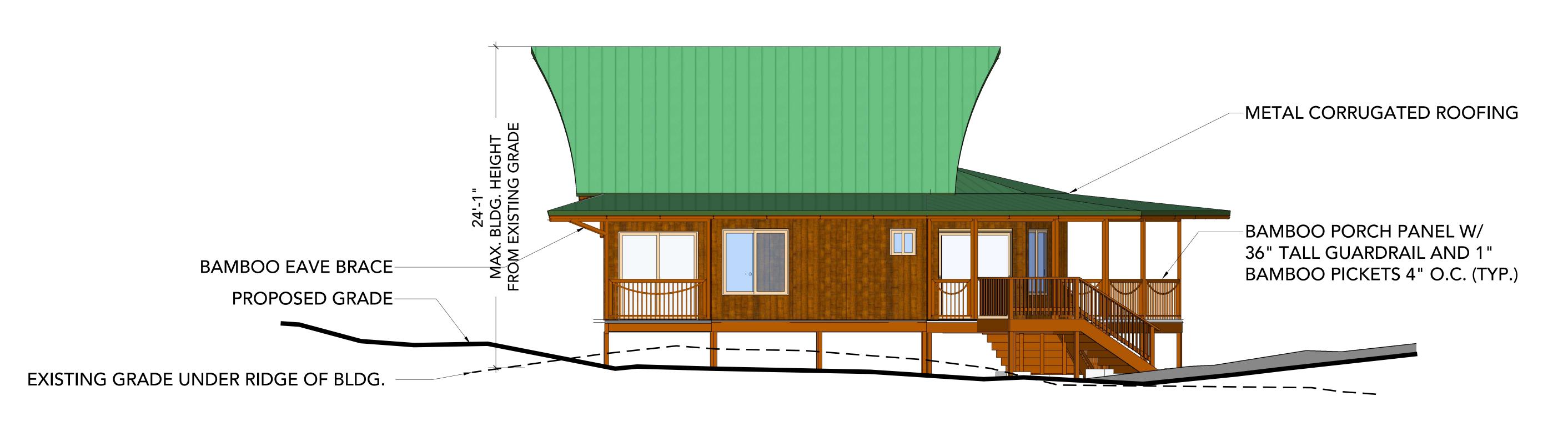
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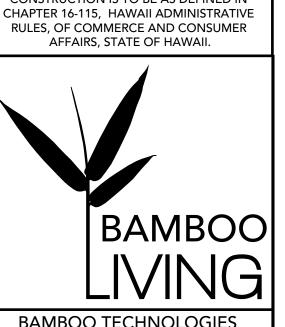
SOUTH ELEVATION

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SEAN WINTERER
PACIFIC QUEEN

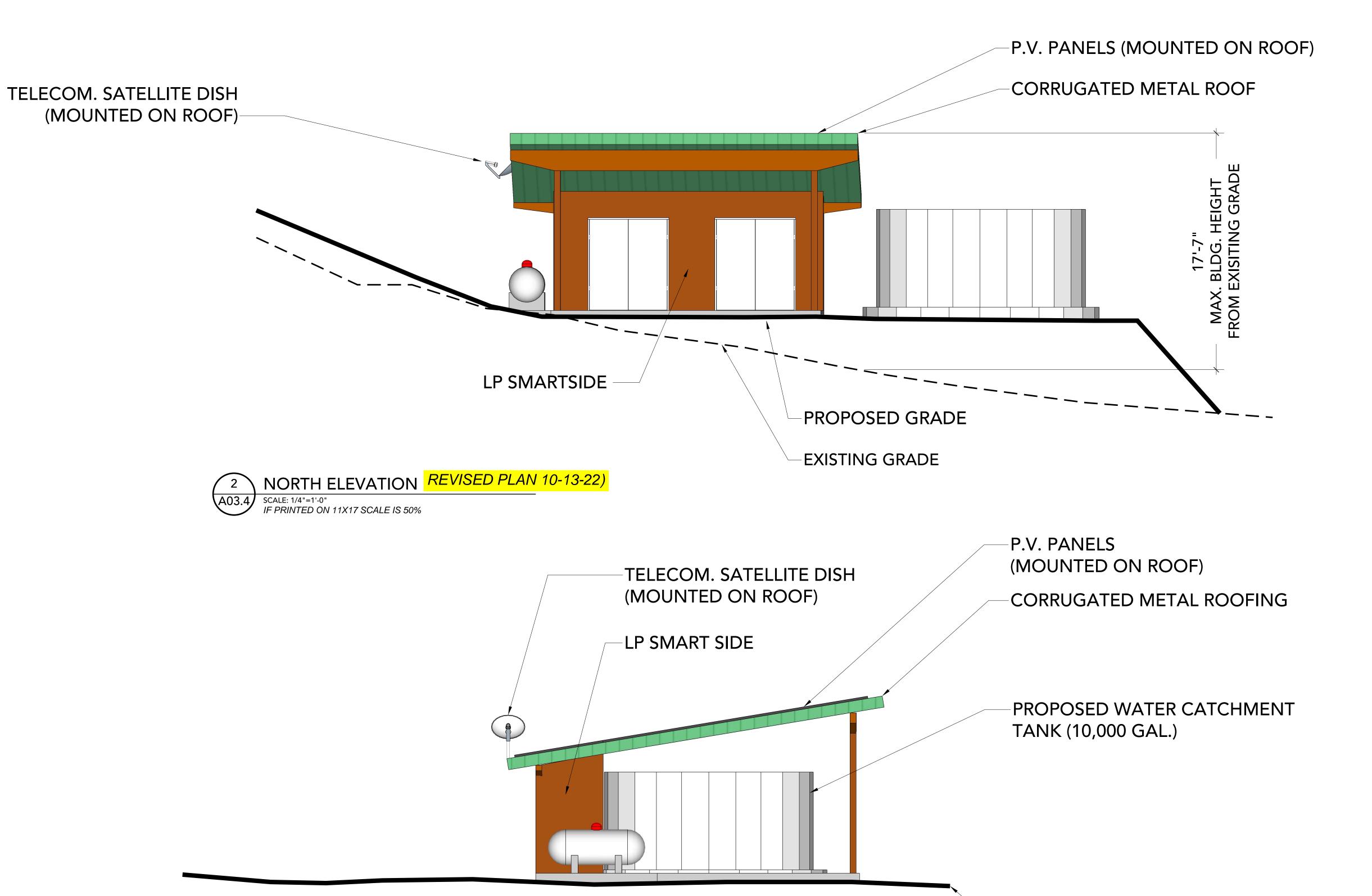
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EXTERIOR ELEVATIONS

A03.1



WEST ELEVATION REVISED PLAN 10-13-22)

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PROFESSIONAL



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SEAN WINTERER
CUSTOM PORTE COCHERE

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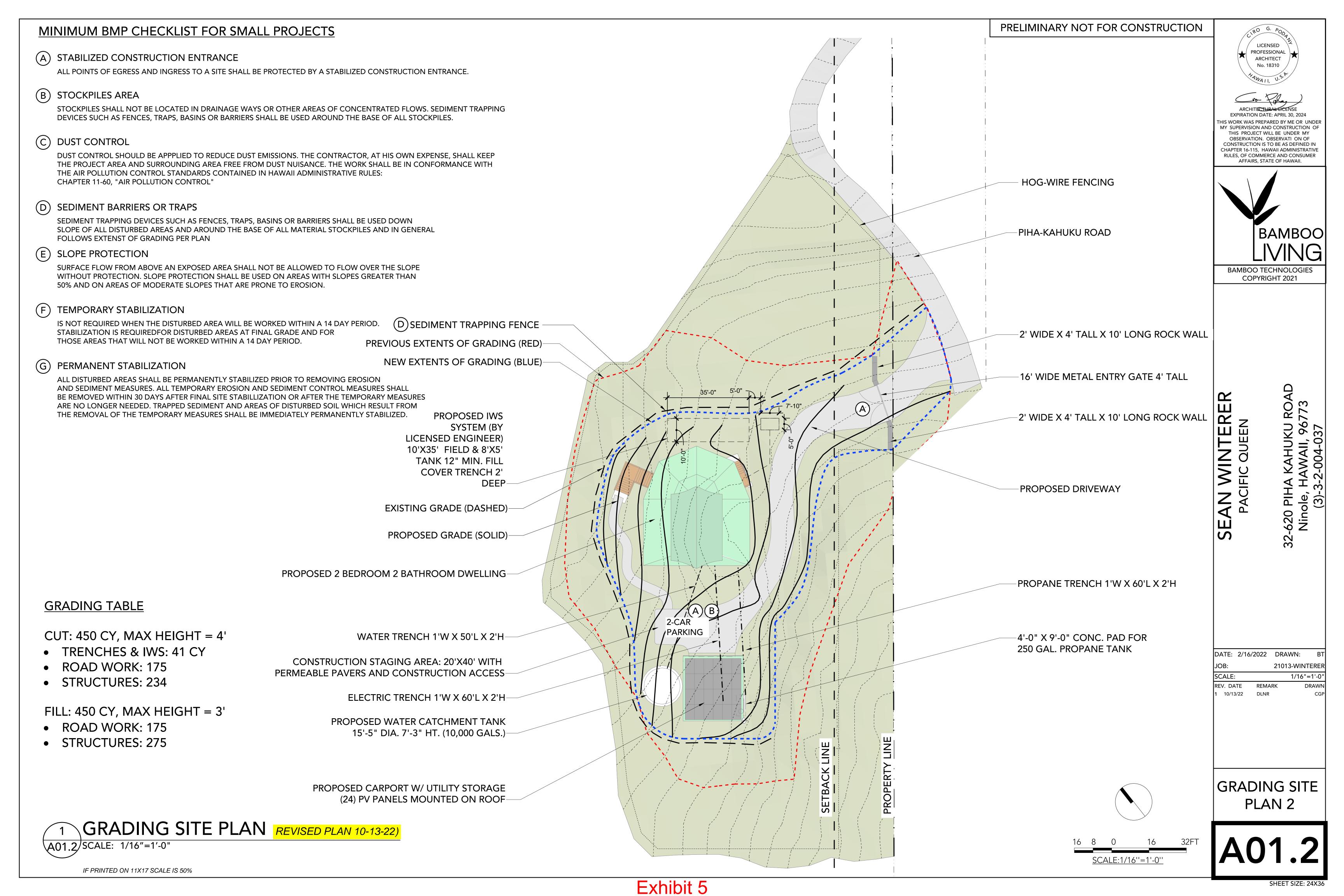
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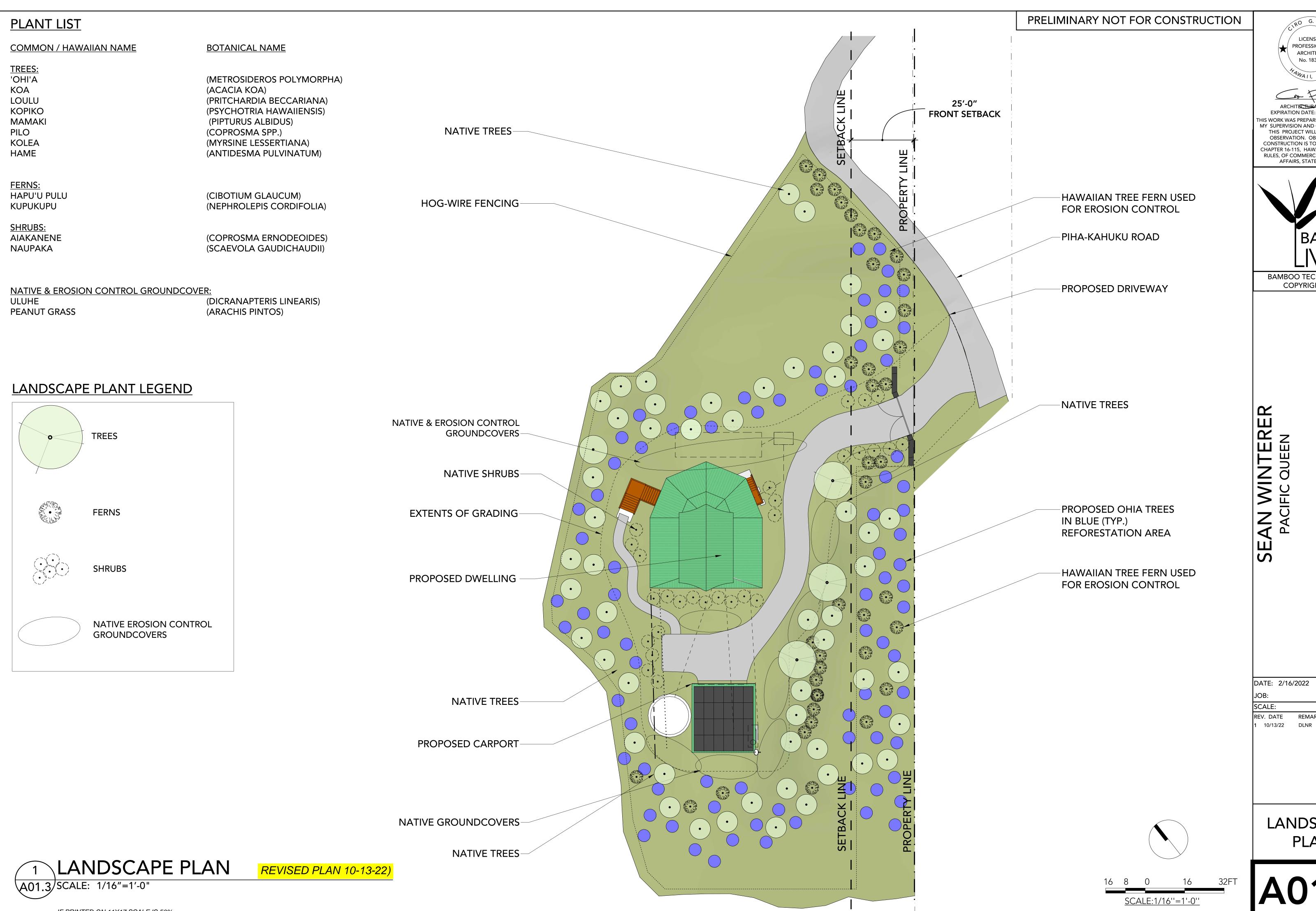
ELEVATIONS

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PROPOSED GRADE





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32-620 PIHA Ninole, HA

DATE: 2/16/2022 DRAWN: 21013-WINTERER 1/16"=1'-0" REMARK

LANDSCAPE PLAN