

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

180-Day Exp. Date: November 18, 2025

November 14, 2025

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

REGARDING: Conservation District Use Application (CDUA) HA-3982 for the Consolidation & Resubdivision of Two Adjacent Parcels, Single-Family Residence, Removal of Invasive Species, Landscaping, and Related Improvements Project.

**APPLICANT/
LANDOWNER:** Paul Pastorek (Ryan Pastorek/Opunaha LLC Parcel 026)

AGENT: John Pipan of Land Planning Hawaii LLC

LOCATION: Government Beach Road, Popoki, Puna, Island of Hawaii

**TAX MAP KEY
(TMK):** (3) 1-5-010:027 (& (3) 1-5-010:026)

AREA OF PARCEL: 3.00 acres (130,680 square feet)

USE: Consolidation & Resubdivision – 10.45 to 6.402-acres
Single-Family Residence – 4,983.74 square feet
Removal of Invasive Species – 3-acres/1-acre per year
Native Plant Restoration – 3-acres/1-acre per year
Landscaping & Related Improvements – 11,980 square feet

SUBZONE: Resource Subzone

EXHIBITS:

1. Location & Conservation District Maps (pages 31-34)
2. Photos of Parcel 027 & Project Area (pages 35-37)
3. USGS Makuu/Popoki Hazard Map (page 38)
4. 2021 Cert Shoreline & Erosion Rates (pages 39-41)
5. Applicants' Statement Regarding Hazards (page 42)
6. Parcel 026 & 027 Consolidation & Re-subdivision Map (pages 43-45)
7. Parcel 027 Construction Plans (pages 46-52)

8. Parcel 027 Landscape Plans (pages 53-54)
9. County of Hawaii SMA Permit for Parcels 026 & 027 (pages 55-58)

SUMMARY

Paul Pastorek is proposing to consolidate the subject property with adjacent Parcel 026, which is owned by his son Ryan Pastorek, the sole member of Opunaha LLC, and re-subdivide the consolidated parcels. In addition, if the proposed consolidation and re-subdivision is authorized by the Board, other proposed land uses include a single-family residence, removal of invasive species, landscaping, and related improvements on the re-subdivided Parcel 027 or what is identified in the application as Lot 3-A. Proposed structures and improvements will encompass approximately 0.5-acres and will be set back approximately 164 feet from the 2021 certified shoreline.

The 180-day deadline for CDUA: HA-3982 is November 18, 2025. If the Board fails to render a decision on this application at this Board meeting, the application is automatically approved on or after November 18, 2025, and the owner may put the owner's land to the use or uses requested in the application subject to the conditions in HAR §13-5-42.

Description of Area / Current Use (Exhibits 1 & 2)

The undeveloped parcel and lands are in the ahupuaa of Popoki, along the rugged Puna coastline and lie within the Resource Subzone of the State Land Use Conservation District. The Pacific Ocean is to the North/Northeast, to the Southeast is the adjacent Parcel 028 with a private residence that was approved by the Board on August 22, 2014 under Conservation District Use Permit (CDUP) HA-3705, to the South/Southwest is Government Beach Road, with small agricultural farms and residences as well as the Makuu Hawaiian Home Land lands beyond, and to the North/Northwest adjacent to the subject property is the undeveloped Parcel 026 owned by the applicant's son Ryan Pastorek, sole member of Opunaha LLC, and pending Conservation District Use Application (CDUA) HA-3981.

The surrounding community is rural and agriculturally based. Many, if not all, surrounding areas and properties are "off grid" lacking public utilities including the nearby and undeveloped Makuu Hawaiian Home Lands. Currently, there is no electrical or County water that services the property. Access to the remote property is via Government Beach Road, a substandard pot holed dirt road the County of Hawaii Department of Public Works classifies as a "road-in-limbo". The County of Hawaii Department of Public Works has noted that Government Beach Road is not currently maintained by any government entity and that no assurances are made that it will ever be. Although approximately 19 miles separate Pahoa and Hilo, the journey can take an hour and a half during heavy commute times, including access to essential services like health care, retail, or other life necessities.

While the area may have averaged approximately 120in to 200in of rain, the area is currently under moderate drought conditions. The temperature is around 75 degrees Fahrenheit.

The site is located on the flank of the active volcano Kilauea on lava flows 450 and 1,500 years in age and sits at an elevation range of approximately 15ft-50ft above mean sea level. The oldest flow reached the sea on what is now the northwest corner/shoreline area of the adjacent Parcel 026. This flow formed a 50ft tall littoral cone, "Opunaha" or "broken cluster", that contributed to the widespread cinder deposits from the interaction between the molten lava and seawater. "This name likely refers to the eroded nature of the cinder cone, likely caused by coastal surges and wave impacts." This is a relatively rare geographical and topographic feature or formation being one of the few littoral cone deposits on Kilauea's coastline. Between 450 and 750 years ago, another sequence of lava flows surrounded the shoreline and Puu Opunaha and covered the remaining portions of Parcel 027 and the adjacent Parcel 026.

Soils on the project site are classified as Opihikao series which is highly decomposed plant material over pahoehoe lava flows. This soil type is well drained and has high runoff. The subject area is unclassified according to the Agricultural Lands of Importance to the State of Hawaii (ALISH). According to the United States Department of Agriculture (USDA) Natural Resources Conservation Services (NRCS) Web Soil Survey and its online mapping tool, the subject area and soils are identified with a "*Farmland classification*: Not prime farmland".

Natural Hazards

The USGS volcanic hazard map places the property in Lava Flow Hazard Zone 3 on a scale of ascending risk from 9 (low) to 1 (high). The relatively high hazard risk is due to Kilauea being an active volcano. Additionally, the island of Hawaii experiences high seismic activity, with the entire island sans North Kohala within the VII-Very Strong (18-34%) 100-year Probabilistic Event. In this area, episodic sudden events triggered by volcanic seismic activity may occur with subsidence (land collapse) and tsunami.

Within the Environmental Assessment, Fletcher et al., 2004 noted the Overall Hazard Assessment as 6 out of 7 on a scale of 1 (low) to 7 (high) regarding tsunami, storms, sea level rise and seismic/volcanic activity (**Exhibit 3**). The coastal area is susceptible to strong trade winds, salt spray, and large waves as there is no barrier or fringing reefs offshore. The Atlas also notes that this seismically and volcanically active coast experiences rapid long-term subsidence that contributes to the rate of relative sea-level rise. These types of natural phenomena are uncontrollable.

In 2014, Hurricane Iselle made landfall on the eastern side of the Big Island as a tropical storm. Its high winds brought down invasive albizia trees in Puna which damaged homes and crops and blocked roads. Although it never made landfall, Hurricane Lane passed by close enough to Puna and the Big Island to dump approximately 58 inches of rain on the island.

While a Flood Zone Map obtained from the State's Flood Hazard Assessment Tool website shows that a majority the subject property and area is in Flood Zone X which is defined as areas that are outside of the 500-year floodplain, the seaward portion of Parcel 027 and 026 lies in the Flood Zone VE which is within the 100-year coastal flood range (1% chance of occurring in any given year) with high velocity wave hazard.

Coastal Erosion Study

A coastal erosion study was completed by tesARCH Services. The coastal erosion study which included anticipated and accelerating effects of sea level rise and global warming found that the annual erosion rate for the property and subject area averages 0.36 feet per year. When looking at the property as a whole, the different embayment's have various erosion rates. The area of Opunaha, an eroding littoral cone has an erosion rate of almost 1-ft/year and other portions of the subject coastline contain caves or shelves like the one in Embayment 5 that are likely to fall or are at risk of "block failure" (**Exhibit 4**).

According to the CDUA, the north portion of Parcel 026 and project area contains "tephra, ash, cinder (that) makes up Opunaha in the first embayment. This area is more friable than the south end of the property, which is made up of Pahoehe." Puu Opunaha "fills the greater part of the northwest portion and parcel 26," with remnants across embayment 1 to 3. Further, the erosion study notes that this area, "May not yet have reached a long-term, stable equilibrium."

Despite these known hazards, the applicant(s) have acknowledged and understand that the property and proposed improvements are in an area that is relatively isolated and has a high hazard assessment rating due to its exposure and susceptibility to storms, coastal hazards, and volcanic and seismic activity including land subsidence. The applicant(s) have acknowledged and understand that public services may be limited due to the area's isolation and exposure to hazards and have stated they are willing to assume the potential challenges and risks (**Exhibit 5**).

Flora and Fauna

A biotic survey was conducted for the subject property and area. It appears Parcel 027 was cleared previously and may have been used as pasture lands in the past which likely ceased in the 1960s/70s as the pasture lands are now primarily covered in non-native and invasive vegetation. For the biotic survey, special attention was paid during several field visits to potential endangered species, particularly *Ischaemum byrone*, a State and federally listed endangered grass known to grow in the general area; however, none was found at the site during the survey.

The on-site vegetation is dominated by invasive trees consisting of strawberry guava trees, autograph trees, and bingabing trees. The southwest corner of Parcel 027, contains approximately 3-5 lauhala trees and 1-2 coconut trees. Understory vegetation consists of owi, princess flower, sword fern, and moa fern. The makai portion of Parcel 027 contains mostly introduced grasses including California grass, Bermuda grass, and pangola grass with some clusters of naupaka and a few ironwood and coconut trees. The adjacent Parcel 026 and portion of the property that is the subject of the proposed consolidation and re-subdivision is primarily covered in introduced pasture grasses (**Exhibit 2**). No rare, threatened or endangered plant species have been observed or are present on the parcel and project site.

Birds observed during the biotic survey include common myna, northern cardinal, spotted dove, Japanese white-eye and house finch. During a site visit to the area on January 8, 2025, staff observed seabirds, including what appeared to be the common Hawaiian

seabird black noddy, flying near, roosting, and possibly nesting in the sea cliffs fronting the adjacent Parcel 026 and area.

Several endangered native birds may be present in the area as they may fly, roost, nest, or utilize resources of the property. These included the endangered Hawaiian hawk, the endangered Hawaiian petrel, the endangered band-rumped storm petrel, and the threatened Newell's shearwater. No other native birds, other than the black noddy were identified during the applicant and their agents site visits, and it is unlikely that many species of native forest birds would be expected to use the project site due to its low elevation, alien vegetation, and lack of adequate forest resources.

The application notes that it is highly likely that the endangered Hawaiian hoary bat, the only native Hawaiian land mammals, are sometimes present on the property. No bats were observed during the surveys of the property. Any other mammal species, such as feral cats, feral pigs, small Indian mongooses and various species of rats, that may be present on the property are introduced or non-native and are not of conservation concern.

Historic/Cultural

An archeological inventory survey and a cultural impact assessment were prepared for the property and project area. Public notices were published in the Star Advertiser, Hawaii Tribune Herald, and the West Hawaii Today to collect information on cultural and historical resources that may exist or occur at the site or in the area.

According to the cultural impact assessment, Puna was traditionally known for its Hala (pandanus) leaves and blossoms which was used for tapas and mats, and abundance for ulu or breadfruit. According to the cultural impact assessment prepared for the adjacent Parcel 028, a lineal descendant of the area noted that Opunaha was a canoe landing spot, and that Kula was a *koa* (a fishing ground) where *aholehole* were caught.

Two sites were identified as part of the archaeological inventory survey for Parcel 027 and the project area. Site 18419 is a pasture and property boundary rock wall located along the portion of the project area that abuts Government Beach Road. The newly recorded Site 31185 is also a rock wall that runs along the northwest portion of Parcel 026. Both sites were identified as Historic and Modern era agriculture and ranching structures and were assessed by the applicant's consultants as significant but were adequately documented as part of archaeological inventory survey process to recommend no further work needed at either site.

Additionally, the application notes that extensive efforts went into searching for the lateral coastal or shoreline trail, identified as Site 18418, that has been identified on TMK: (3) 1-5-010:028. In attempting to locate the lateral coastal or shoreline trail (Site 18418), consultation with Na Ala Hele was conducted. Na Ala Hele acknowledges that while the trail likely crossed both Parcel 026 and 027, its status as public property cannot be affirmed without any physical, archaeological, or cartographic proof of its existence on the parcels today. Although the historic shoreline trail has not been located at this time, by the Highways Act of 1892, the State of Hawaii owns fee simple title to the historic trail. Na Ala Hele has requested that the applicant respect and preserve the general area and enable lateral access along the general alignment of where the trail may be situated. The applicant notes that lateral access along both parcels will be allowed. Additionally, no

development is proposed within 130 feet of the shoreline, which the Na Ala Hele program has deemed sufficient to prevent any potential impacts to the trail.

Cultural practitioners have and continue to gather lauhala (pandanus leaves) from the district for various items of cultural importance and ornamental value. Cultural practitioners, fisherman, and community members access the shoreline area to gather a variety of marine resources. The general area of Puna is known to contain iwi kupuna and previous applications for proposed land uses in the area have indicated and stressed that landowners in the area take a proactive approach for care and preservation of human remains.

No gathering of plant materials from the subject property and project area were noted during cultural consultation efforts and the applicant states that lateral shoreline access for the public will be allowed. The archaeological inventory survey did not reveal the presence of human burials or iwi kupuna, and in the unlikely event that any archaeological resources are discovered during ground disturbing activities associated with the proposed development, the applicant(s) and their contractor(s) will cease work around the discovery and contact the State Historic Preservation Division (SHPD).

Part of the CDUA process requires that the applicant submit a Hawaii Revised Statutes (HRS), 6E form developed by SHPD. Pursuant to HRS, §6E-42, prior to any agency or officer of the State [in this case the Board] approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office [OCCL] shall advise SHPD prior to any approval and allow SHPD an opportunity to review and comment on the effect of the proposed project on historic properties.

On May 27, 2025, the OCCL submitted the required HRS, 6E form and supplemental information including the application and agency cover letter to SHPD via its HICRIS online submittal platform for review with an Effect Determination of “no historic properties affected”. On May 27, 2025, SHPD and its HICRIS system acknowledged acceptance of the submission assigned it the Project Number 2025PR00614. On July 23, 2025, SHPD and its HICRIS system noted that the submission had been consolidated into one review noted as HICRIS 2025PR00573. No further responses have been received from SHPD.

Proposed Land Uses

Consolidation/Re-subdivision with Parcel 026 & Parcel 027

The applicant is proposing to consolidate the approximately 3.00-acres TMK (3) 1-5-010:027 with the adjacent 7.45-acres TMK: (3) 1-5-010:026, which is owned by the applicant’s son, and re-subdivide the consolidated parcel to create Lot 3-A (approximately 6.402-acres) which would remain under the ownership of Paul Pastorek and Lot 2-A (approximately 4.048-acres). See **Exhibit 6**.

Single-Family Residence

On Lot 3-A, the applicant is proposing to construct an approximately 4,983.74 sq. ft 2-story single-family residence. The proposed residence would be a slab-on-grade dwelling consisting of 2 bedrooms, 2 bathrooms, a kitchen and living/dining room, and lanai areas. The second story of the proposed residence is identified as an approximately 690.67 sq. ft covered lanai, vestibule, and atrium. Proposed accessory structures to the dwelling

included in the maximum developable area (MDA – 5,000 sq. ft) include an approximately 1,050 sq. ft pool and spa, deck and lanai areas, and an approximately 893.31 sq. ft storage/art studio.

Proposed infrastructure and related improvements to support the single-family residence include a 400 linear feet 15 feet wide gravel driveway, a new gate, a liquid propane gas tank, and Individual Wastewater System (IWS) consisting of a septic tank and absorption bed, and roof-mounted solar panels and battery storage system for electricity generation.

As a potential source of potable water for the residence, the application notes that the landowner is proposing to drill and construct a water well. If the well does not adequately produce water, the applicant is proposing a rainwater catchment system which will be below grade and located under the dwelling's pool deck or lanai.

The application notes that the height of the proposed single-family residence will be approximately 23 feet 9 inches above grade slightly below the 25 feet limit for residences in the Conservation District. The application states that the proposed 893.31 sq. ft storage/art studio has been shifted closer and connected to the dwelling to better comply with Conservation District Residential Standards and the applicant notes that it will not be open to the public or used for commercial purposes. The storage/art studio will be utilized for activities such as painting, wood working, and storage of pool and spa chemicals, and contain improvements such as cabinets and benches.

As noted above, a coastal erosion study was performed for the shoreline parcel(s) and to help determine the shoreline setback for the property or properties. The average annual erosion rate for the subject area was determined to 0.36 feet per year thus setting a minimum shoreline setback of 65.2 feet. The proposed single-family residence will be setback approximately 164 feet from the shoreline. See **Exhibit 7**.

Removal of Invasive Species

On Lot 3-A and the area currently identified as Parcel 027, the applicant is proposing the removal of invasive species (including but not necessarily limited to strawberry guava trees, autograph trees, and bingabing trees) covering an area of approximately 3-acres at a rate of 1-acre per year over the course of 3 years.

Additionally, the applicant is proposing to replant and reforest the approximately 3-acres of Parcel 027 where invasive vegetation will be removed with native, indigenous, and endemic plants over the course of 4 years. The applicant notes that no fencing is proposed in association with proposed native plantings and will be watered by hand using temporary hoses and not by an irrigation system.

Landscaping

On Lot 3-A, approximately 11,980 sq. ft of landscaping is proposed primarily consisting of Polynesian introduced and fruit bearing/edible plants. No invasive species will be utilized in the proposed landscaping.

Proposed vegetation for landscaping includes Hala, Ohia, akia, pohinahina, ilima, and fruit bearing or edible plants such as banana, citrus, papaya, mango, ulu, rambutan, lychee, jackfruit, mountain apple, and persimmon. For a list of proposed vegetation for

landscaping, see **Exhibit 8**. The application states that all non-native plants have been evaluated for potential invasiveness; however, staff does have some concerns that some of the proposed vegetation may not be appropriate for this shoreline property and coastal setting due to exposure to wind, salt spray, and direct or intense sunlight.

Mitigation and Best Management Practices

Mitigation for the island wide-ranging endangered Hawaiian hoary bat and Hawaiian Hawk will be done through avoidance. To avoid impacts to the endangered but regionally wide-ranging Hawaiian hawk and bat, construction activities that would remove vegetation will not take place between June 1 and September 15 to protect the Hawaiian Hoary Bat. Should land clearing activities occur between the months of March and September, a pre-construction hawk nest search by a qualified ornithologist will be conducted. Should Hawaiian Hawks be present, no land clearing will be allowed until October. Exterior lights will be shielded to protect avifauna.

Construction activities will take place in compliance with Federal, State and Hawaii County laws. Standard Best Management Practices will be observed. The applicant has identified several mitigative measures, conditions and practices within the Environmental Assessment and their application related to handling of hazardous material, resource protection and potential coastal hazards to ensure that the proposal will have minimal effects on the natural and cultural resources of the land.

Further should the Board choose to approve the application, staff recommends a CDUP and/or deed condition that would prevent any future request for shoreline hardening to protect the residence, regardless of hardship and a condition requiring moving or dismantling the home if natural hazards eventually threaten the integrity of the structure. As such these proposed measures, conditions and practices are incorporated into the permit.

Other Alternatives Considered

Alternative 1: No Action. Under the No Action Alternative, the residence would not be built. The lot would remain undeveloped and maintained as pastureland through the periodic keeping of grazing animals and possibly utilized for temporary camping and picnicking by the owners. The Environmental Assessment considered the No Action Alternative as the baseline by which to compare environmental effects from the project

Alternative 2: Proposed Project, Alternative Sites, and Alternative Uses. As the applicant, and their neighbor/father, are proposing several land uses that were going to be applied for under one application but were subsequently filed under two individual but simultaneously filed CDUAs in an attempt to align with Conservation District rules.

2.1 Consolidate and Re-Subdivide

The application notes that the purpose of the proposed consolidation and re-subdivision is to lessen the potential impact on the more heavily vegetated lot (Parcel 027), allow for greater potential setbacks with the neighbor to the south (Parcel 028), and minimize potential impacts associated with scenic views, noise, and air quality. The application also states that avoiding construction activities within the heavily vegetated Parcel 027

may also reduce or avoid potential adverse impacts to native or endangered species, such as the Hawaiian hoary bay and Hawaiian Hawk, that may fly over, roost, or utilize the area.

The proposed consolidation/re-subdivision action will potentially reduce the size of Parcel 026 from 7.45-acres to 4.048-acres. The application does not discuss the potential advantages or disadvantages allowing the proposed consolidation/subdivision action would have for Parcel 026. Although the proposed residence on Parcel 026 is intended to be located approximately 131 feet from the shoreline, the proposed consolidation/re-subdivision would locate the dwelling closer to the highly friable and eroding littoral cone which OCCL has expressed concerns about that have been previously brought to the applicant's attention. Despite these concerns, the applicant has decided to move forward with the proposed consolidation and re-subdivision and the location of the proposed residence on Lot 2-A closer to the friable and eroding littoral cone.

2.2 Maintain Existing Lot Lines

Both Parcel 026 and 027 as currently configured are greater than 1-acre and would allow for an application for the proposed construction of a single-family residence of 5,000 sq. ft or less on each lot.

If the proposed consolidation and re-subdivision action were not carried forward or approved, the application states that proposed construction activities would require grading and grubbing of approximately 2-acres on Parcel 027. Although Parcel 027 is mainly covered in non-native vegetation, proposed construction activities would have to be timed to avoid potential native or endangered species that may fly over, roost, or utilize the area. The application states that maintaining the existing lot lines as currently found would decrease the potential setbacks from Parcel 027's southern boundary and site the proposed residence on the property closer to the existing dwelling on Parcel 028.

The application does not appear to discuss the potential advantages or disadvantages of maintaining the existing property lines for Parcel 026.

2.3 One Single-Family Residence on One of the Lots

The application and its Environmental Assessment (EA) analyzed the alternative of constructing one single-family residence on one of the parcels based on comments received from OCCL during the applicant's and their agent's early consultation efforts for the project(s). The application and EA notes that the potential impacts would be similar to the proposed action of constructing a single-family residence on each parcel but would be slightly reduced due to only one dwelling being potentially constructed.

2.4 Alternatives for Pond, Art Studio, and Animal Shelter

The application and its EA looked at omitting or changing the locations of these proposed structures. The proposed pond has been removed from the application(s) and proposed project(s). The proposed Art Studio has been located closer and connected to the proposed single-family residence on Parcel 027 and the Animal Shelter has been included in this application as part of the applicant's desire to keep and maintain grazing sheep on Parcel 026.

2.5 Independent Utilities

Utilities serving each of the parcels and proposed residences are included as part of the proposed action. Each lot will have its own drinking water well, if productive, electric connection, and LP gas line/tank. All trenching will remain within individual parcels, avoiding lot lines and setbacks. These changes make the project more consistent with Conservation District rules and setback requirements.

No other alternative uses for the property are desired by the applicants.

Summary of Comments

OCCL referred the application to the following agencies and organizations for review and comment:

State Agencies

DLNR: Water Resource Management, Division of Conservation and Resource Enforcement, Division of Aquatic Resources, Engineering Division, Division of Forestry and Wildlife, Hawaii District Land Office, Na Ala Hele, Aha Moku

Department of Health

Office of Hawaiian Affairs

County Agencies

County of Hawaii Department of Planning

County of Hawaii Fire Department

County of Hawaii Department of Public Works

County of Hawaii Department of Water

Other Individuals and Organizations

Malama O Puna

This application was also sent to the Pahoa Public and School Library and was made available on our website for those who may wish to review it. Additionally, notice of CDUA HA-3982 was published in the June 8, 2025, edition of *The Environmental Notice*.

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

State Agencies

Engineering Division: The rules and regulations of 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). Be advised that 44CFR, Chapter 1, Subchapter B, Part 60 reflects the minimum standards as set forth by the NFIP. Local community flood ordinances may stipulate higher standards that can be more restrictive and would take precedence over the minimum NFIP standards.

The owner of the project property and/or their representative is responsible for researching the Flood Hazard Zone designation for the project. Flood zones subject to NFIP requirements are identified on FEMA's Flood Insurance Rate Maps (FIRM). The official FIRMs can be accessed through FEMA's Map Service Center (msc.fema.gov).

Our Flood Hazard Assessment Tool (FHAT) (fhat.hawaii.gov) could also be used to research flood hazard information.

If there are questions regarding the local flood ordinances, please contact the applicable County NFIP coordinating agency below:

- Oahu: City and County of Honolulu, Department of Planning and Permitting (808) 768-8098.
- Hawaii Island: County of Hawaii, Department of Public Works (808) 961-8327.
- Maui/Molokai/Lanai: County of Maui, Department of Planning (808) 270-7139.
- Kauai: County of Kauai, Department of Public Works (808) 241-4849.

Division of Forestry and Wildlife: DOFAW concurs with the avoidance and minimization measures included in the CDUA application to protect State-listed waterbird species, including the aeo (Hawaiian stilt), alae keokeo (Hawaiian coot), koloa maoli (Hawaiian duck), and nene (Hawaiian goose). DOFAW also notes that archaeological surveys on adjacent properties documented a historic shoreline trail likely predating the Old Government Road. Although the trail was not identified within the subject parcel and project area, the landowner(s) in consultation with Na Ala Hele staff have confirmed that they are committed to allowing for public shoreline access. DOFAW therefore recommends that the applicant continue to allow unimpeded lateral public access along the shoreline.

DOFAW provided further recommendations to minimize potential impacts to protected fauna. The opeapea (Hawaiian hoary bat) may roost in trees near the site; therefore, vegetation clearing should be avoided between June 1 and September 15 to prevent disturbance during the birthing and pup-rearing season, and barbed wire should not be used. Lighting associated with construction or operation should be fully shielded to prevent disorientation and fallout of seabirds, particularly during the fledging season (September 15–December 15). DOFAW also notes that if endangered species such as the Ilio holo i ka uaua (Hawaiian monk seal), honuea (hawksbill turtle), or honu (green sea turtle) are observed within 100 feet of the project site, construction should immediately cease until the animals have left the area.

Additional recommendations include conducting pre-construction surveys for io (Hawaiian hawk) and pueo (Hawaiian short-eared owl) nesting activity and establishing buffer zones if active nests are detected. DOFAW emphasizes predator control, including keeping pet cats indoors and no feeding of feral cats on the property, to protect vulnerable native birds, recommends using native, non-invasive plants appropriate to the coastal environment, and advises against importing soil or plant material from off-island to prevent the spread of pathogens such as Rapid Ohia Death (ROD). Equipment and materials should be cleaned before entering or leaving the site to reduce invasive species risk. DOFAW also highlights the importance of complying with Hawaii Department of Agriculture's interim rule restricting movement of coconut rhinoceros beetle (CRB) host material to prevent spread between islands.

DOFAW further recommends coordinating with the Hawaii Wildfire Management Organization at (808)-850-0900 or admin@hawaiiwildfire.org, for wildfire prevention and implementing best management practices (BMPs) to control sedimentation and protect nearby coastal and marine ecosystems. When engaging in activities that have a high risk

of starting a wildfire—such as welding in or near tall grass—it is recommended that you: (1) wet down the area before starting your task, (2) continuously wet down the area as needed, (3) have a fire extinguisher on hand, and (4) if your vision is impaired (e.g., when using welding goggles), have a spotter watch for fire ignitions. Additionally, do not park vehicles in or near tall grass, as heat from the engine or exhaust may ignite dry vegetation. BMPs to control sedimentation and protect nearby coastal and marine ecosystems shall be implemented and followed.

Office of Conservation and Coastal Lands: Staff requested clarification on several aspects of the proposed project. The submitted plans for the proposed single-family residence appear to indicate a slab-on-grade foundation, though the proposed foundation is not described or stated in the application. Staff also requested clarification regarding whether improvements are proposed on Level 2 of the dwelling and whether the storage/art studio will include interior improvements or other uses beyond storage, including the type of art activities proposed and by whom. Further clarification was sought regarding compliance with the Single-Family Residential Standards (HAR Chapter 13-5 Exhibit 4), which state that all structures must be connected or demonstrate the best alternative—since the storage/art studio appears to be connected to the dwelling in a manner that maintains the art studio as essentially a separate structure. Staff also requested information on how water will be sourced, how the pool and hot tub will be filled and drained, and where drained pool and hot tube water will be disposed of.

Staff further inquired and sought confirmation regarding restoration components of the project, including whether irrigation will be required to establish the proposed native forest and whether the conversion of non-native forest on Parcel 027 to native vegetation could occur without the need for parcel consolidation and re-subdivision or if more the parcel and project area could be restored with native vegetation than the 3-acres identified in the application. Staff requested clarification on apparent discrepancies in the application, such as the statement that no existing structures are present despite the application figures indicating existing rock walls and fencing, and references to barbed wire, which imply existing fencing materials that may pose risks to native and endangered wildlife. Figures in the application also indicate possible encroachments of existing improvements (fences) onto the adjacent TMK: (3) 1-5-010:028, for which staff requested clarification on how the applicant intends to address or resolve.¹

Staff sought clarification regarding statements regarding potential water features that were identified in previous application submittals but not the current application that could attract vulnerable bird species and predators. Staff also noted the landowner/applicant's statement acknowledging the property's remote setting and exposure to natural hazards, accepting the risks associated with limited access and the challenges these potentially present emergency response capacity in this area. Staff commented that the simultaneous CDUA submittals for Parcels 026 and 027—each proposing a single-family residence and associated improvements on the consolidated and re-subdivided parcels—may indicate an intent to treat the combined 10.45-acre area as a multi-dwelling estate,

¹ The hog wire fence was approved by After-the-Fact SPA: HA 20-4 on Parcel 028 to keep out livestock from the neighboring property.

raising concerns regarding the project's consistency with the purpose of the Conservation District and HAR Chapter 13-5.

Applicant's Response: The applicant and their agent clarified that the proposed single-family residence will be constructed on a slab-on-grade foundation, with a covered lanai on Level 2 accessible through a sliding glass door and enclosed with railings and operable rain screens.

The proposed storage/art studio will be used solely for personal, non-commercial art activities such as painting and woodworking and will include only improvements consistent with storage and workspace use (e.g., cabinets, workbenches). They stated that it will not include bedrooms or a kitchen. The applicant confirmed that the art studio will be physically connected to the residence at the roof, consistent with the Exhibit 4 Single-Family Residential Standards in HAR Chapter 13-5.

Water for the proposed pool and hot tub will be sourced from the on-site well or via commercial water hauler, and any required draining would be handled through a contracted pump truck for proper disposal.

The applicant and their agent stated that it would be possible to propose the entirety of both parcels be converted to a native habitat and vegetation, but they believe that is not required. While the applicant(s) could pursue habitat restoration on both parcels, they believe the proposed consolidation and re-subdivision to create Lots 2-A and 3-A is more beneficial by maintaining setbacks, rural character, and trade wind flow, while incorporating feedback from neighboring property owners. The applicant notes that the proposed conversion of the non-native forest on Parcel 027 to native vegetation will rely primarily on rainfall, with hand-watering as needed during establishment.

The applicant clarified that there are no existing structures or residential buildings currently found on the parcel, and that rock walls and hog wire fences are remnants of former agricultural uses. These fences predate the applicant's ownership and help deter wild pigs; and they have noted that all barbed wire has been removed. The southern boundary fence crossing into TMK (3) 1-5-010:028 belongs to the neighboring landowner and is covered by an encroachment agreement and After-the-Fact Site Plan Approval (SPA: HA 20-04). Aside from the pool and hot tub, no other water features, such as the "aquaculture pond" identified in the project's Final Environmental Assessment, are proposed in this application.

The applicant asserts that the proposed consolidation/re-subdivision and construction of one single-family residence on each parcel are consistent with identified land uses in the Resource Subzone under HAR §13-5-22(b)(P-10)(C-1) and HAR §13-5-24(a) & (b)(R-7)(D-1). Each property is (or could be should the Board choose to approve the proposed consolidation and re-subdivision) a legal lot of record that may be developed independently, and the applicant and their agent believe would not increase density or intensity of use. The applicant maintains that the projects provide benefits through native habitat restoration, invasive species control, and improved local stewardship. Furthermore, they contend that family ownership of adjacent parcels does not constitute a "multi-dwelling estate" under HAR §13-5-41(b), as each parcel would contain only one residence in compliance with Conservation District regulations.

Division of Conservation and Resource Enforcement: No comments.

Hawaii District Land Office: No comments.

Department of Health: We have no individual wastewater system (IWS) file for the property. Further it is not within the County of Hawaii's sewer service system. Therefore, plans for a treatment IWS shall be submitted to the Wastewater Branch for review and approval. The installation of the IWS shall conform to requirements of Hawaii Administrative Rules (HAR), Chapter 11-62, Title 11, "Wastewater Systems." In addition, the IWS system shall be approved in writing before it may be used. An IWS system may serve up to five (5) bedrooms, whether they are in one (1) dwelling unit or two (2).

Please be informed that the proposed wastewater systems for the subdivision/development may have to include design considerations to address any effects associated with the construction of and/or discharges from the wastewater systems to any public trust, Native Hawaiian resources or the exercise of traditional cultural practices. In addition, all wastewater plans must conform to applicable provisions of the HAR, Chapter 11-62, "Wastewater Systems."

Office of Hawaiian Affairs: OHA notes that per the Environmental Assessment (EA) for the project, existing rock walls and trails are note likely to be affected by construction. However, OHA would be more comfortable if an archaeological monitor was present for all ground disturbing activities to better observe the undertaking and flag these sites ahead of time.

Additionally, OHA requests that we be provided with copies of any current and future comments provided by the State Historic Preservation Division (SHPD).

County Agencies

Planning Department: PL-SMA-2024-000055 was issued for this project. We have no further comments.

Individuals

Laura and Lorraine Melella: I am writing this letter in support of Ryan Pastorek and Paul Pastorek who own lot 26 and 27 on Government Beach Road in Pahoa on the big island of Hawaii. My mother, Lorraine Melella, and I have owned the neighboring property (lot 28) since 2017.

We appreciate that Ryan has consulted with us and made adjustments based on our input. For example, Ryan has told us about his request for the lot line of parcel 27 to be adjusted northward so that we can maintain our privacy and the rural character of our area. This is something we had hoped he would pursue and are very much in favor of this idea.

Ryan was also integral in the development of our local neighborhood watch organization, facilitated by former Hawaii police officer Duane Waipa. He attends every meeting he can and participates in our Beach Road cleanup endeavors when on island. He's also active

in our group communications where neighbors keep each other informed of local happenings.

Personally, I am always relieved when Ryan is on island. He makes sure to check in and spend time with the neighboring kupuna (Don and Audrey Wood and my mother) to make sure they have everything they need. The sense of security this brings is immeasurable. We have become quite close to both Ryan and Paul and enjoy spending time barbecuing and talking story with their ever expanding family. Having Ryan, Paul, and the rest of their ohana as neighbors only adds to the safety and serenity of our little piece of paradise.

We understand the need for responsible, conscientious development on Beach Road and look forward to the Pastorek ohana spending much more time on the island as Paul transitions into retirement. We believe the projects are thoughtful, well-planned improvements and look forward to the planning committee's approval.

Susan Audrey Wood and Don Wood: This letter is an enthusiastic statement of support for the efforts of Ryan Pastorek and his father, Paul Pastorek, to receive approval to construct homes on CDUA HA 3981, and CDUA HA 3982, respectively. We are Susan Audrey Wood and Don Wood, residents of 15-2179 Beach Road, Keaau, for 23 years. Our property neighbors their two proposed building sites.

We were thrilled to meet Ryan years ago, and to learn of his, and his father's plans, as they developed. They are exactly the neighbors we were hoping for; generous to the everyone, even before they are residents, and very community minded in all things, taking an active leadership role in Beach Road security matters, allowing the Beach Road Neighborhood Watch to meet frequently at a rented tent pitched on their beautiful property, and organizing several Beach Road clean-up efforts.

Ryan's Father, Paul, will also be an asset to the neighborhood and Hawaii. Paul has proved his dedication to the stewardship of delicate environments through his heroic efforts to save and propagate the endemic Louisiana Iris. Paul purchased and shipped an entire semi-truck trailer load of Iris seedlings to Paul's Louisiana bayou land, then he and Ryan planted the entire load by hand through two weeks of labor -- truly a heroic effort.

Ryan and Paul intend to live on the adjoining properties as neighbors, allowing Ryan to be close to his father and mother during their retirement years.

All members of the Pastorek family look forward to their Hawaiian ohanas, kids, grand-kids, and cousins.

Please look upon their applications positively. Ryan and Paul Pastorek, and families, residing on Beach Road, will be an ideal outcome for all involved, including Hawaii.

Applicant's Response: The applicant has received and acknowledges comments from various agencies, including: the Office of Hawaiian Affairs (OHA), DLNR Engineering, DLNR Na Ala Hele, DLNR Division of Forestry and Wildlife, and DOH Wastewater Branch. Requirements of these agencies will be complied with. The SMA permit for the proposed project has been approved by the County of Hawaii Windward Planning Commission on June 6, 2024 under Special Management Area Use Permit PL-SMA-2024-000055. In

addition, neighboring property owners, Laura and Lorraine Melella and Susan and Don Wood, have submitted letters in support of the applicant and the proposed project.

Analysis

Following review and acceptance for processing, the Applicant was notified, by correspondence dated May 5, 2025 that:

1. The proposed uses are identified land uses in the Resource Subzone of the Conservation District, pursuant to Hawaii Administrative Rules (HAR), §13-5-22 P-4 **REMOVAL OF INVASIVE SPECIES** (B-1) Removal of invasive species including chemical and mechanical control methods, in an area greater than one acre, in accordance with state and federal laws and regulations, for the purpose of protecting, preserving, or enhancing native species, native habitat, or native ecosystem functions that results in no, or only minor ground disturbance. The department or board reserves the right to require departmental or board approval if it is determined that the proposed action may cause significant negative secondary impacts on natural and cultural resources, or the surrounding community. Any replanting shall be appropriate to the site location and shall give preference to plant materials that are endemic or indigenous to the State. For existing developed lots, compliance with section 13-5-23(L-2) satisfies the requirements of this section; §13-5-22 P-10 **SUBDIVISION OR CONSOLIDATION OF PROPERTY** (C-1) Consolidation and resubdivision into an equal number of lots that does not result in increased density; 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; and 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. Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to HAR § 13-5-40(a) a public hearing may not be required. However, the Chairperson has the authority to require a public hearing should public interest necessitate a public hearing on the application;
3. In conformance with the Hawaii Revised Statutes (HRS) Chapter 343, as amended, and HAR Chapter 11-200.1, the Final Environmental Assessment (EA) has been reviewed, accepted, and a Finding of No Significant Impact (FONSI) for the project(s) determined by the Department of Land and Natural Resources and Chairperson²; and
4. Pertaining to the Special Management Area (SMA) requirements, the County of Hawaii Windward Planning Commission approved SMA Use Permit PL-SMA-2024-000055 to allow the consolidation and re-subdivision of two parcels totaling

² The [Final EA and FONSI](#) were published in the [March 8, 2024, issue of The Environmental Notice](#).

10.45-acres and the construction of one single-family residence and related improvements on each noted parcel subject to 15 conditions (**Exhibit 9**).

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.

While the proposed uses—residential development, removal of invasive species, and landscaping—are identified land uses within the Resource Subzone, the overall intensity and scope of the proposed actions appear inconsistent with the intent of the Conservation District. The development of two single-family residences and associated improvements on historically open pastureland represents an increase in human activity within a coastal area characterized by high natural and scenic value that is exposed to known hazards in a relatively isolated area.

Further, the absence of a confirmed, sustainable water source raises concerns regarding the project's long-term viability and potential impacts on local groundwater and coastal resources. When viewed cumulatively with the adjoining parcel's similar proposal, the project may contribute to incremental loss of open space, visual integrity, and natural coastal character. For these reasons, the proposed uses are inconsistent with the Conservation District's purpose of resource protection and long-term sustainability and therefore appear inconsistent with the purpose 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. The Resource Subzone encompasses lands in the Conservation District for providing future parkland and lands presently used for national, state, county, or private parks, lands suitable for growing and harvesting of commercial timber or other forest products, and lands suitable for outdoor recreational uses such as hunting, fishing, hiking, camping, and picnicking along with offshore islands (unless placed in the Protective or Limited Subzones) and submerged lands makai/seaward of the shoreline to the extent of the State's jurisdiction. HAR §13-5-13.

The approximately 4,983.74 sq. ft 2-story single-family residence design and construction appear to conform to the design standards for dwellings in the Conservation District as set forth in HAR Chapter 13-5. The applicant has stated and is willing to assume the risks and challenges associated with the area's exposure to hazards, isolation, and limited public services.

Regarding the proposed landscaping activities, some vegetation species may not be appropriate for this coastal landscape such as Ohia and Hapuu fern, Persimmon, Cacao, Heliconia, Monstera, and Philodendron that appear to be intolerant of salt spray and high winds. These types of vegetation will not likely survive in this shoreline setting or will require constant irrigation and soil amendments. Additionally, the applicant is proposing to plant several types of palm trees, including Coconut palms, which has the potential to introduce, attract, and spread the invasive Coconut rhinoceros beetle in this area.

The application notes that the landowner intends to allow the public to allow for lateral shoreline access. According to the County of Hawaii's Shoreline Public Access Map (<https://www.planning.hawaiicounty.gov/resources/shoreline-public-access/puna>), it appears the nearest public shoreline access point is Beach Road – Hawaiian Paradise Park approximately 1 to 2-miles to the north/northeast of the subject area or approximately 2.6-miles to the south at Waiakahiula Beach Park in the Hawaiian Beach Subdivision. It is unclear to staff how the public or cultural practitioners may access and traverse along the shoreline in this area despite representations by nearby shoreline property owners and the applicant(s) expressing their intent to allow such lateral shoreline access.

While the area has historically received approximately 120in to 200in of rain, given the uncertainty of future rainfall patterns due to climate change or a proposed well close to the shoreline and sea level rise, it is difficult to definitively say the proposed uses are consistent with the objectives of the Resource Subzone and are a sustainable use of the area's resources. For the above referenced concerns, the proposed uses are inconsistent with the objectives of the Resource Subzone.

- 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, Hawaii Revised Statutes (HRS), are focused on the preservation, protection, and where possible, the restoration of the natural resources of the coastal zone in Hawaii.

In regard to the policies of Chapter 205A, HRS, the proposal does not appear to be consistent with protecting valuable coastal ecosystems nor with reducing coastal hazards to life and property due to the siting of a home on a coastal location that has a high hazard assessment valuation, managing development responsibly and the recreational value of the shorefront may be diminished. The proposal will introduce urban residential uses that may negatively impact a relatively open coastal view area.

Several features of the proposal such as proposed landscaping plants that may not be appropriate for this high wind and salt-exposed shoreline property or properties, and a residence (or residences) with luxurious amenities such as outdoor showers, pools, and hot tubs will require a reliable source of water. This does not appear to be prudent management of development in Hawaii's coastal areas.

Although the design for the project or projects include shoreline setbacks and use of native vegetation, the subject location, its isolation and lack of services, intensity and cumulative effects are not consistent with the provisions and guidelines of the CZM program's intent to direct development away from the shoreline and hazardous areas, manage shoreline development prudently, and maintaining the visual integrity and open-space of Hawaii's coastal environments.

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

Although the applicant(s) and their agent assert that the proposed land uses will not cause substantial adverse impacts to existing natural resources and has identified certain mitigation measures to minimize potential effects during construction and operation, staff finds that the project raises concerns regarding its long-term compatibility with the surrounding natural environment and visual landscape.

The proposed development area, though previously grazed and containing primarily introduced grasses, remains part of an open coastal landscape that contributes to the region's natural character and scenic value. The construction of a single-family residence approximately 160 feet from the shoreline introduces new structural and visual elements into an area that has historically remained largely undeveloped likely due to the area's isolation, exposure to hazards, and lack of municipal services like water and sewer.

While the applicant references other nearby Conservation District Use Permits (CDUPs) for single-family residences, each application, or in this case applications, must be evaluated on its own merits and effects. The proposed use of on-site wastewater systems (septic tank and leach field) and a drilled well presents additional environmental concerns, as the property's well-drained soils and highly porous and fractured lava substrate increases the risk of effluent seepage and potential groundwater contamination. Since the approval of these former CDUPs, much more information regarding natural hazards, sea level rise, subsidence and lava movement with the eruption of Ahuilaau has been gained.

When considered alongside the companion application for similar land uses and development on the adjoining Parcel 026, the proposed project could contribute to the incremental loss of coastal open space and view planes in a relatively undeveloped and isolated area subject to known hazards resulting in the change in character of the rural landscape. For these reasons, staff cannot conclusively agree that the proposed land uses will not cause substantial adverse impact to the existing natural resources within the surrounding area, community, or region.

- 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.*

The subject parcel is a portion of a group of lots of various sizes located along and makai of the Government Beach Road that is about 1.5 miles southeast of the

Hawaiian Paradise Park Subdivision. The proposed use introduces very urbanized residential use with amenities to a rural landscape. Aerial images of the property indicate that the area identified for proposed residential development appears to have been periodically used and maintained as pasture lands.

The applicant is proposing land uses such as a residence, removal of invasive species and replanting of native or site appropriate vegetation covering approximately 3-acres, and landscaping that will require a reliable source of water in an area that lacks County services and future weather patterns may not be indicative of past records. When reviewed in conjunction with the application submitted for the adjacent parcel by the landowner's son, as well as prior submittals and correspondence related to both parcels and projects, the cumulative scope of the proposed developments appears to substantially change the character of the existing surrounding community of modest rural dwellings and open space to a multi-residential large estate. For the above reasons, staff finds that the proposed uses are not consistent with the purpose and intent of the Conservation District, which seeks to preserve or enhance the area's natural resources and open space character while limiting, and in some instances or uses prohibiting, urban-scale or estate style uses.

- 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 urban residence and amenities appear to comply with the design standards for single-family residences in the Conservation District contained in HAR Chapter 13-5. The application states that proposed landscaping plans will increase native vegetation on the property while attempting to preserve most of the existing ocean views from Government Beach Road. The application notes that the landscaping plan for the property has been modified to accommodate concerns expressed by some neighbors with respect to ocean view and trade wind flow impacts.

Despite these representations in the application, staff cannot conclusively agree that the proposed project, especially when considering the proposed land uses being applied for on the adjacent Parcel 026, will preserve or improve the existing physical and environmental aspects, such as the natural beauty and open space characteristics, of the land. The proposed consolidation and re-subdivision of Parcels 026 and 027 will essentially result in the location of both proposed single-family residences on what is currently the land identified as Parcel 026.³ Additionally, the proposed consolidation and re-subdivision may result in reducing the adjacent parcel forcing the siting of proposed residential structures closer to the eroding, friable, and slumping littoral cone Puu Opunaha.

While proposed removal of invasive species and landscaping plans may increase the presence of native vegetation on the property and may partially screen

³ Staff notes that the Conservation District rules only allow for one single-family residence on a legal lot of record. See HAR §13-5-41(b).

proposed structures, it is staff's opinion that proposed landscaping which is planned to be planted along Government Beach Road as well as the proposed structures have the potential to reduce the area's open space characteristics and existing views along this portion of Government Beach Road.

Further, the physical and environmental aspects of the site are a rough, rugged, wave-pounding shoreline that gets the brunt of the trade winds and may be susceptible to seismic activity. During Kona wind days, the area may be engulfed in vog. The physical and environmental aspects of the land will persist, but it may be at the expense of the residence and its occupants.

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

Both Parcel 026 (7.45-acres) and Parcel 027 (3.00-acres) are a sufficient size to allow for a CDUA to construct a 5,000 sq. ft, or less, single-family residence on each parcel. The applicants for both parcels have applied under separate CDUAs for Board permits, along with other proposed land uses, to consolidate and re-subdivide Parcels 026 and 027.

The proposed consolidation and re-subdivision of Parcels 026 and 027 will result in the creation of Lots 2-A (approximately 4.048-acres) and 3-A (approximately 6.402-acres)

Staff notes that if the applicants were pursuing only a consolidation of Parcels 026 and 027 into a single lot, then this would result in a potential decrease in intensity and density in the Conservation District. However, the applicants are not proposing to consolidate the subject parcels into one lot as it does not appear to align with their proposed planned land uses for each property.

The application states that the proposed consolidation and re-subdivision may reduce site disturbance as it will allow for the siting of the proposed residence on Lot 3-A that would consist of primarily grass land. Additionally, the applicants have revised their proposal to include separate utilities and infrastructure to better align with Conservation District rules regarding a single-family residence per legal lot of record and to potentially prevent issues that may arise in possible future real estate transactions should one of the landowners decide to sell one of the properties in the future.

When looking at both applications and the proposed projects in total, it appears that the proposed consolidation and re-subdivision action is somewhat irrelevant as the applicants, Paul Pastorek and his son, will appear to treat the property or properties as an approximately 10.45-acres multi-dwelling estate irrespective of property boundaries. In this regard, staff finds that the proposed consolidation and re-subdivision and the proposed uses to construct two large residential dwellings and accessory uses or structures in close proximity will increase density and the intensity of land uses in the Conservation District.

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

Staff notes that the property and proposed improvements will occur in an area that is relatively isolated and has a high hazard assessment rating due to its exposure and susceptibility to storms, coastal hazards, and volcanic and seismic activity including land subsidence. The application notes that the landowner along with their son are proposing improvements on Parcel 027 and 026 that are estimated to cost approximately \$1,000,000 on each property and \$2,000,000 in together.

Additionally, the applicant is proposing infrastructure to support their proposed land uses that includes a proposed well and septic system and leach field to treat wastewater. Since the underlying geology of the area is comprised of fractured blue and porous lava rock, it appears there is at least the potential for wastewater to seep into the groundwater aquifer below and eventually into the proposed well which will be used as potable water.

These represent significant investments in a predominantly undeveloped area exposed to known natural hazards that lacks or has limited utility services. Should the proposed land uses be approved, it would place individuals in a secluded area on an eastern facing rugged coastline susceptible to the elements and seismic and volcanic activity. If a natural disaster or medical emergency were to occur, it could also place first responders at risk as they would have to traverse the substandard Government Beach Road. Staff notes the landowners are aware of the inherent dangers of living near the sea and Kilauea.

Customary & Traditional Practices

Articles IX and XII of the State Constitution, other state laws, and the courts of the State, require government agencies to promote and preserve cultural beliefs, practices, and resources of Native Hawaiian and other ethnic groups.

A Ka Paakai Analysis is a legal framework used in Hawaii to assess how a proposed land use or development might affect Native Hawaiian traditional and customary rights. It originates from the Ka Paakai o ka Aina v. Land Use Commission case (2000), in which the Hawaii Supreme Court established a structured method for state and county agencies to evaluate and protect these rights. The three parts of the Ka Paakai Analysis are reviewed below:

Identification of Cultural Practices and Resources

An archaeological inventory survey and a cultural impact assessment were prepared for the property and project area. The applicants' consultants contacted 5 individuals known to have genealogical ties, long-standing residency, or knowledge of cultural and/or historical properties in the Popoki Ahupuaa. Public notices were published in the Star Advertiser, Hawaii Tribune Herald, and the West Hawaii Today to collect information on cultural and historical resources that may exist or occur at the site or in the area.

Parcel 026 contains a littoral cone, but the archaeological inventory survey and a cultural impact assessment did not identify it as culturally significant. The property does not contain springs or caves that might be culturally significant.

The cultural impact assessment and individuals consulted regarding cultural practices and resources in the area noted that cultural practitioners have and continue to gather lauhala (pandanus leaves) from the district for various items of cultural importance and

ornamental value. Cultural practitioners, fisherman, and community members access the shoreline area to gather a variety of marine resources. The general area of Puna is known to contain iwi kupuna and previous applications for proposed land uses in the area have indicated and stressed that landowners in the area take a proactive approach for care and preservation of human remains.

No gathering of plant materials from the subject property and project area were noted during cultural consultation efforts and the applicant states that lateral shoreline access for the public will be allowed. During the archaeological survey of the property, no burials or iwi kupuna were identified.

Assessment of Impacts on these Practices

Parcel 027 does contain a few lauhala and the applicant is proposing landscaping and planting of lauhala on the property so it is possible that the abundance of this resource in the area may improve.

Construction activities may cause temporary interruptions to practitioners and community members attempting to traverse, either along the shoreline or via Government Beach Road, to known sites or areas where cultural resources and practices may be found and occur.

Actions needed to Protect these Practices

The applicant has stated that they will not impede lateral shoreline access. They have also acknowledged that the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area of the subject property and project area is protected and provided for by the State Constitution and State law. They expect that the potential approval of their proposed uses will be conditioned to protect such practices.

Should the Board choose to approve this CDUA and its proposed uses, a condition of the authorization will state: *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 Hawaii, and by Hawaii statutory and case law.*

Additionally, potential approval of the applicant's landscaping plans for the property would include the planting of lauhala which could increase the presence of this resource in the area.

As it relates to the shoreline area of Parcels 026 and 027, the coastal portions of the subject area consist of the erodible littoral cone and various unstable sea cliffs along a portion of the Puna coastline that has an overall high hazard assessment. The shoreline area fronting these parcels may not be the best location to access the shoreline and gather marine resources. Staff notes that the projects were issued SMA Use Permit PL-SMA-2024-000055 by the County of Hawaii Windward Planning Commission and includes condition #4 which states *The applicants shall not construct any wood, metal, or rope ladder, platform, steps, concrete pads, or other constructed appurtenances from the top of the pali (sea cliff) to access the ocean along the entire length of shoreline of each parcel.*

However, there may be points along the Popoki and adjacent or nearby ahupuaa(s) and coastline that could allow for safer shoreline access for the gathering of marine resources if the public were allowed an access point at this site to traverse mauka-to-makai and laterally along the shoreline to access them. In addition, there is a known historic trail (Site 18418) that runs laterally along the makai portion of the adjacent Parcel 028, owned by the State, and at one point likely crossed Parcels 026 and 027. As such, the applicant(s) have acknowledged the historic trail and will allow for public lateral access.

Discussion

The stated purpose of the Conservation District law is to protect and conserve natural resources. HAR §13-5-1.

The proposed project or projects entail consolidation and re-subdivision of Parcels 026 (7.45-acres) and 027 (3.00-acres) to create Lots 2-A (approximately 4.048-acres) and 3-A (6.402-acres). Lot 3-A would remain under the ownership of Paul Pastorek.

On Lot 3-A, the applicant is proposing to construct an approximately 4,983.74 sq. ft 2-story single-family residence consisting of 2 bedrooms, 2 bathrooms, a kitchen and living/dining room, and lanai areas including the proposed second story. Proposed accessory structures to the dwelling include a hot tub, pool, deck and lanai areas, and an approximately 893 sq. ft storage/art studio along with driveway and utility improvements.

Proposed Consolidation & Re-Subdivision of Parcels 026 & 027

Regarding the proposed reconfiguration of Parcel 026 and 027, staff believes that more of the land could potentially be converted and reforested with native or endemic site-appropriate vegetation without the proposed consolidation/re-subdivision action. Without the proposed consolidation/re-subdivision action, staff believes that approximately 4 to 4.5-acres of the subject area could be converted to a native or endemic forest which is approximately 1 to 1.5-acres more than the applicant's or applicants' stated benefit of 3.00-acres.

The proposed movement of the lot line through the consolidation/re-subdivision action is somewhat irrelevant as the applicant and their son appear to be proposing to develop the properties as one 10.45-acre multi-dwelling estate. Based on the Coastal Erosion Study completed for the application, given the erosive nature of embayment 1 that is 0.95ft/yr, and embayment 3 at 0.46ft/yr, the proposed consolidation/re-subdivision action would place both residences closer to the highly "friable" (or easily crumbled) and eroding Puu Oponaha and should be reconsidered.

If the Board does not approve the proposed consolidation/re-subdivision of Parcels 026 and 027, the proposed Paul Pastorek single-family residence would not be valid as it has been sited on Parcel 026 and Conservation District rules only allow for one single-family residence on a legal lot of record. See HAR §13-5-41 Single family residences.

Single-Family Residence(s)

The applicant or applicants and their agent have indicated that they intend to occupy both properties as a multi-generational living arrangements on adjacent shoreline properties along and in a remote area exposed to known natural hazards. Additionally, the

applicant(s) and their agent have acknowledged that single-family residences in the Conservation District are prohibited from being used as transient vacation rentals (TVRs) and that the home or homes cannot be used for rental or any other commercial purposes unless approved by the Board. See HAR §13-5-42 (a)(5). Should the Board choose to approve the proposed single-family residential use, the authorization will be conditioned as such.

Based on past correspondences and submitted information for this project or projects, it is staff's opinion that the applicants' and their agent's expectation that they are entitled to a single-family residence, or residences, supersede the preservation and potential enhancement of the area's natural resources. Further, the applicants are proposing development and improvements on each of the properties that is estimated at \$1,000,000 individually and \$2,000,000 collectively.

Projects of this scale and character, when considered collectively along this remote and hazardous stretch of the Puna and Popoki coastline, may contribute to the gradual transformation of the area's natural and rural qualities. Incremental development of large, high-value residences within the Conservation District, particularly proposed dwellings at or near the 5,000 sq. ft maximum developable area limit, can lead to a slow erosion of the coastline's open-space character and scenic integrity. Over time, this pattern of development risks shifting the visual and environmental qualities of the Puna coast away from its raw undeveloped state toward one more reflective of estate-style luxury or urbanized residential use – contrary to the intent of the Conservation District to protect, maintain, and where possible enhance, natural landscapes and coastal resources.

Although the applicant(s) has acknowledged that the property and proposed improvements are in an area that is relatively isolated and exposed to known hazards, and are willing to assume those risks, staff remains unconvinced that the applicant(s) fully understand the challenges these issues may present for such an ambitious project or projects.

It is staff's belief that the applicants will face similar challenges (lack of skilled labor, contractors, materials, etc.) and potential delays as those that were presented to the Board on September 12, 2025, for a landowner a few parcels to the south in Popoki who was requesting a third time extension to complete a smaller residence with agricultural uses for a permit that was issued in 2019. Due to the area's remoteness, exposure to coastal hazards, and lack of services, staff has similar concerns that this project and proposed improvements could linger on in the construction phase for a similar amount of time if not longer.

Conservation District Compatibility and Resource Considerations

The applicant is proposing to construct an approximately 4,983.74 sq ft 2-story single-family residence that will include 2 bedrooms, 2 bathrooms, a kitchen, and a 1,050 sq. ft pool and spa/hot tub. The applicant is also proposing to remove approximately 3-acres of invasive vegetation and replant the area with native, indigenous, and endemic plants as well as approximately 11,980 sq. ft of landscaping improvements. These proposed uses and features will require a reliable source of water.

To supply water, the applicant is proposing to drill a well, and if the well does not produce an adequate source of water, the applicant proposes to install and a rainwater catchment system with a 10,000-gallon storage tank. According to the application and submitted construction plans, the proposed well will be approximately 200 to 300 feet from the shoreline, and that the area appears to receive approximately 120 to 200 inches of rainfall annually.

In the context of climate change, sea level rise, and changing weather and rainfall patterns (including prolonged drought), staff is concerned that the proposed uses are or will not be a sustainable and efficient use of the area's resources and more specifically water. As the Board may recall at its September 12, 2025, meeting, the agent for the landowner of Parcel 031 noted that it had been an unusually dry year in Popoki.

While the application(s) identifies that there are number of existing production water wells in the greater Puna area that are primarily clustered in the Hawaiian Paradise Park Subdivision, staff is concerned that locating a well so close to the shoreline could have negative impacts regarding potential saltwater intrusion into the groundwater aquifer as well as the potential impacts extraction of water resources from the ground could have on the land. Since the underlying geology of the area consists of fractured blue and porous lava rock, there is also concern that migration from the residence's septic system and leach/absorption field could contaminate the well and proposed source of potable water.

Staff is also concerned about the potential water waste that could occur in a proposed residence that is at or near the 5,000 sq. ft MDA and will require the proper installation and maintenance of interior and exterior fixtures like sinks, showers/bathtubs, pool and spa/hot tubs, washing machines, and dishwasher.

Regarding the proposed 1,050 sq. ft pool and hot tub along with the proposed Japanese hot or soaking tub on Parcel 026, it is staff's opinion that these features are luxury items and although they have been allowed in some instances, are not consistent with the purpose of the Conservation District. Pools and hot tubs require ground disturbance (excavation and grading), water resources, regular maintenance involving chemicals and energy use.

The County of Maui and its water shortages and conflicts over water usages offer a grim glimpse into the future if water resources and development are not carefully balanced. Staff notes that at the time of this writing the County of Maui is considering moratorium on new pools.⁴

Staff believes that water resources for the proposed keeping maintaining of grazing sheep, conversion of the invasive forest to a native forest, and landscaping improvements should be prioritized over such luxurious features like hot tubs and pools as the proposed agricultural and landscaping uses are more aligned with the recent historical uses of the property and the potential preservation or enhancement of the area's natural resources.

Natural Hazards, State Policy, and Public Safety Concerns

Based on the information provided, the proposed uses should be denied by the Board due to the project area's high exposure to multiple natural hazards that pose substantial

⁴ <https://www.civilbeat.org/2025/09/maui-officials-weigh-moratorium-on-new-backyard-pools/>

risks to life, property, and the environment. The Puna coastline is known to experience several natural hazards from lava flows that bury homes and roads, land subsidence from earthquakes that have sunk portions of the coastline, and Hurricanes such as Hurricane Iselle (2014) that fell trees, like Albeiza which are locally known as the trees that ate Puna, blocking roads and damaged homes and crops.

As documented in the application and this report, Parcel 027 and the surrounding project area have been assigned an Overall Hazard Assessment rating of 6 out of 7—on a scale from 1 (low) to 7 (high)—reflecting exposure to tsunamis, storms, sea level rise, seismic, and volcanic activity. The shoreline fronting the subject properties contains an eroding cinder cone, slumping landforms, and areas at risk of block failure. The site lies along a rugged and actively eroding coastline subject to strong winds, high surf, and rapid coastal retreat, with erosion rates approaching one foot per year in certain embayments.

The proposed consolidation and re-subdivision would place residential structures closer to these unstable coastal features, further heightening potential risk. The area also falls within Lava Flow Hazard Zone 3 and at least a portion of the properties are in a 100-year coastal flood zone, exposing it to volcanic, seismic, and high-velocity wave hazards. Combined with the site's isolation, lack of or limited public infrastructure, and limited emergency access, the proposed residential and related urban or luxury uses are incompatible with State policies directing development away from hazardous coastal areas. Approval under these conditions would place future occupants and first responders at undue risk and would contradict the Conservation District's purpose of protecting natural resources and public safety.

Staff further recommends denial of the proposed uses on the basis that the project is inconsistent with the State's established land use policies under the State Planning Act (HRS Chapter 226) and the Coastal Zone Management Act (HRS Chapter 205A), which collectively direct that development be sited away from the shoreline and other hazard-prone areas. Pursuant to HRS §§226-13, 226-104, 205A-2(b)(6)(A), and 205A-2(c)(6)(C), State policy seeks to reduce risks to public health and safety, protect coastal ecosystems, and ensure that land use decisions are compatible with long-term conservation and resource protection objectives.

The proposed consolidation and re-subdivision, and development of one or two large single-family residences with accessory urban and luxury features—such as pools, hot tubs, an art studio, and extensive landscaping—within an area characterized by active coastal erosion, high wave energy, and volcanic and seismic hazards, conflicts directly with these State objectives. Approval of the project would effectively sanction new residential development in a high-hazard coastal environment, contrary to the State's mandate to avoid increasing exposure to natural hazards.

The Department continues to be involved in several shoreline enforcement actions addressing structures constructed in hazardous coastal areas and is actively engaged in discussions on the need to move existing development away from eroding and high-risk shorelines. In this context, authorizing new development of this scale would undermine ongoing State efforts to protect life, property, and coastal resources. Accordingly, staff finds that the proposed land uses fail to conform to the intent of the State Planning Act

and Coastal Zone Management Program to promote responsible, hazard-aware land use planning and to safeguard Hawaii's coastal resources for present and future generations.

Staff also recommends denial of the proposed land uses due to the significant risks they pose to public safety, not only for future residents but also for the surrounding community and emergency responders. The project area is located within a remote and isolated coastal region that lacks reliable infrastructure, maintained roadways, and essential public services such as water, sewer, and emergency access. Government Beach Road, the sole access route, is classified as a "road-in-limbo," unpaved, and not maintained by any public agency, which would severely hinder timely emergency response in the event of a natural disaster or medical emergency.

The site's exposure to tsunamis, storm surge, high-velocity wave action, and volcanic and seismic activity further heightens these risks, as such events could cut off access or render rescue operations unsafe or impossible. Establishing high-value residential uses with accessory amenities in a known high-hazard area places occupants at unnecessary risk and would likely require public resources and first responders to assume additional danger during emergency situations. Approving development in this setting would therefore be contrary to the State's public safety objectives, which emphasize directing development away from hazardous areas and reducing the exposure of residents, responders, and infrastructure to preventable risks.

The OCCL staff has the onerous duty of evaluating the appropriateness of a project based on a complete and comprehensive assessment that has been assembled from the applicants' and their agent's required early consultation efforts, processing of the project or projects', review of previous submissions, acceptance of this application to the writing of this report. Based on the information submitted by the applicant(s) and their agent and compiled in this report, staff believes that the project, as proposed, is not consistent with, but not necessarily limited to, the Conservation District purpose and objectives.

Recommendation

The 180-day deadline for CDUA: HA-3982 is November 18, 2025. If the Board fails to render a decision on this application at this Board meeting, the application is automatically approved on or after November 18, 2025, and the owner may put the owner's land to the use or uses requested in the application subject to the conditions in HAR §13-5-42.

Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources DENY Conservation District Use Application HA-3982 for Consolidation and Re-subdivision, a Single-Family Residence, Agriculture, Landscaping, and Related Improvements located near Government Beach Road, Popoki, Puna, Island of Hawaii, TMK (3) 1-5-010:027 (and Parcel 026) due to the following:

1. The proposed uses are inconsistent with the following criteria established in HAR §13-5-30 including, but not necessarily limited to:
 - a. The proposed uses will contribute to the incremental loss of open space, visual integrity, and natural coastal character along this portion of the Puna and Popoki coastline, and are therefore inconsistent with the

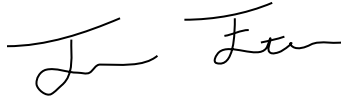
purpose of the Conservation District to conserve, protect, and preserve the State's natural and cultural resources;

- b. The proposed uses are not appropriate for this rural and rugged shoreline setting and would require ongoing resource input, maintenance, and management. For these reasons, they do not represent a sustainable use of the area's natural resources and are therefore inconsistent with the objectives of the Resource Subzone;
 - c. The proposed uses are inconsistent with the objectives and policies of the Coastal Zone Management (CZM) Program (HRS Chapter 205A), as they would introduce large dwellings or estate development with luxury accessory structures or amenities into a high-hazard coastal area, potentially degrading open-space character and visual integrity. The project's scale, location, and reliance on additional water and maintenance needs do not reflect prudent management of development in Hawaii's or Puna's coastal zone or the CZM Program's intent to protect environmentally sensitive coastal areas;
 - d. The proposed uses are likely to result in substantial adverse impacts to existing natural resources and the surrounding coastal environment, given the site's proximity to the shoreline, porous geology and well-drained soils, and exposure to multiple natural hazards. The introduction of large residential structures, on-site wastewater systems, and wells in an isolated, undeveloped coastal landscape would alter the area's natural character, increase risks of groundwater contamination, and contribute to the incremental loss of open space and scenic integrity likely resulting in the change in character of the rural landscape;
 - e. The proposed uses, when considered together with the adjacent parcel's application, have the potential to change the character of the existing surrounding community of modest rural dwellings and open coastal space to a multi-residential large estate, and therefore are not consistent with the locality, surrounding areas, and purpose of the Conservation District; and
 - f. The proposed development of large urban-style resident or residences and associated accessory structures and amenities in this rugged and open coastal setting would not preserve or improve the natural beauty and open space characteristics of the land.
2. The subject property and project area are exposed to multiple, overlapping natural hazards – including land subsidence, tsunami, storms, sea level rise, seismic, and volcanic activity – that pose substantial risks to the proposed improvements and to life, property, and the environment.
3. The proposed uses are inconsistent with the State's established land use policies under the State Planning Act (HRS Chapter 226) and the Coastal Zone Management Act (HRS Chapter 205A), which direct that development be sited away from the shoreline and other hazard-prone areas. The project therefore fails

to promote or conform to hazard-aware land use decisions and is inconsistent with the State objectives to protect Hawaii's natural and coastal resources for present and future generations.

4. The proposed development would create added and unacceptable risks to public safety for residents, the surrounding community, and emergency responders due to the area's remote coastal setting and exposure to known hazards, which lacks public infrastructure, limited emergency services, and reliably maintained access. Establishing high-value residential uses with accessory "urban" and "luxury" amenities in such an environment would endanger occupants and first responders and contradict the State's public safety objectives to direct development away from hazardous areas and minimize exposure to preventable risks.

Respectfully submitted,



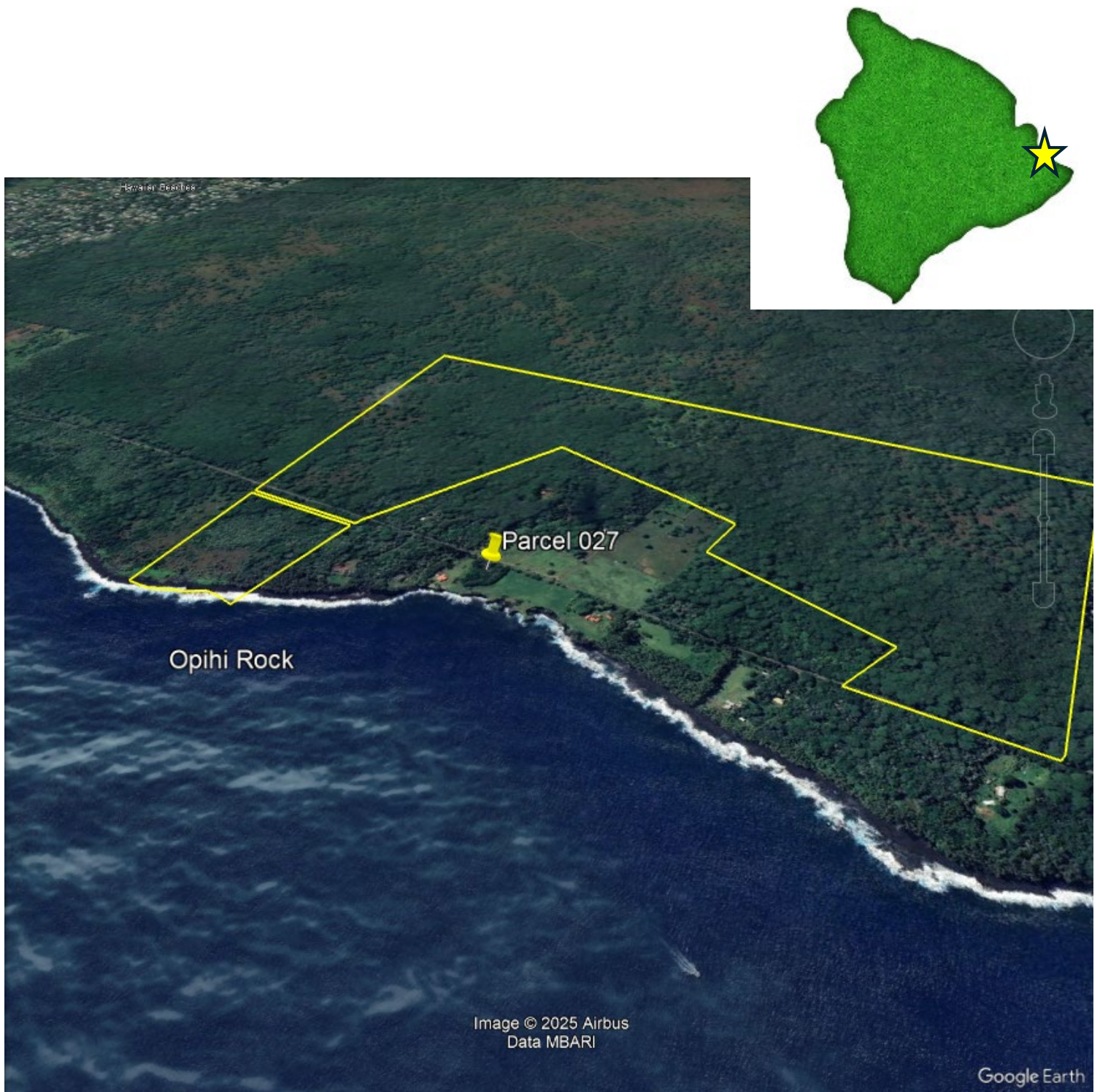
Trevor Fitzpatrick, Staff Planner
Office of Conservation and Coastal Lands

MC

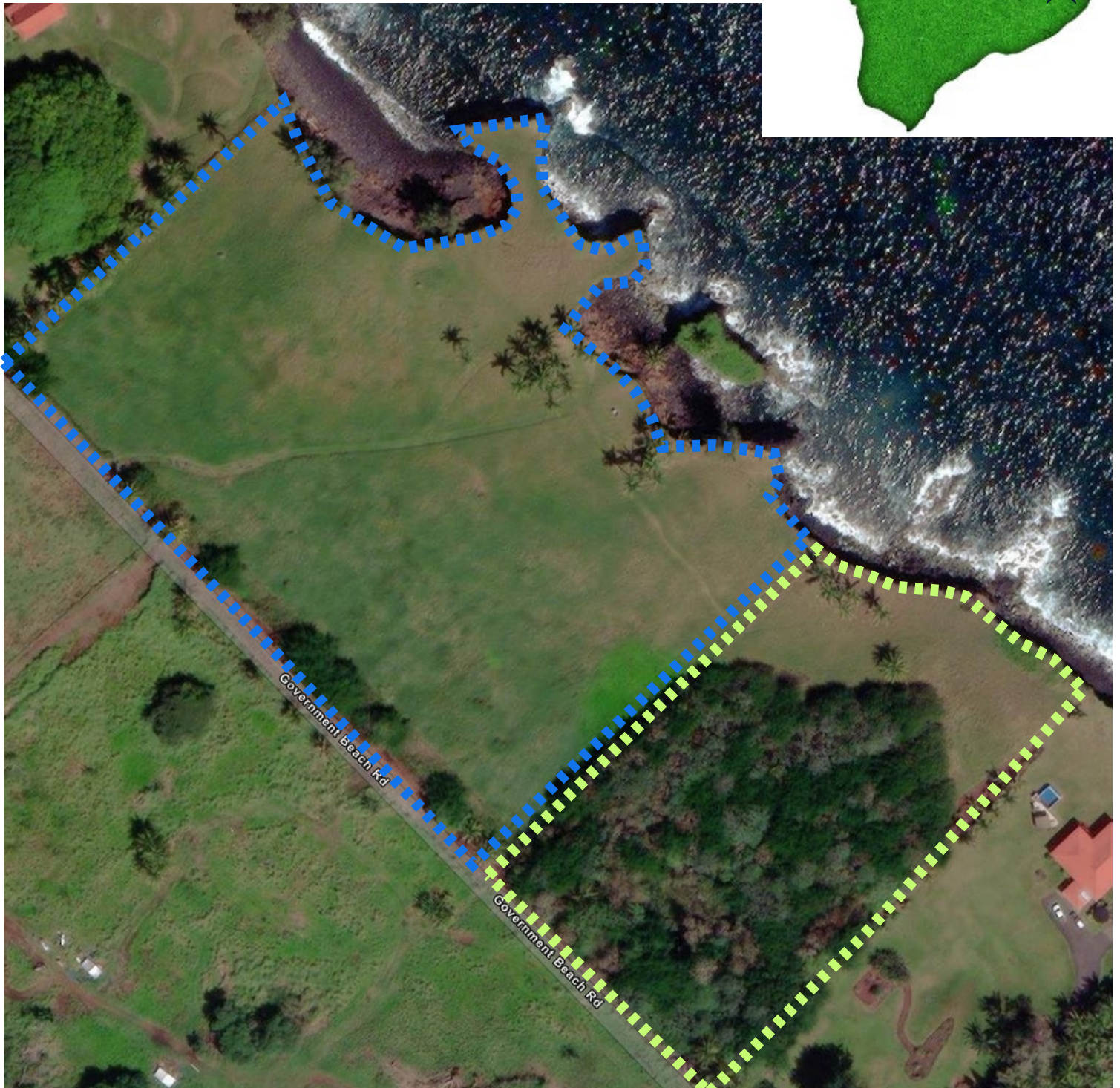
Approved for submittal:



DAWN N. S. CHANG, Chairperson
Board of Land and Natural Resources



Makuu and Popoki ahupuaa and region. **Yellow** = Undeveloped Makuu Hawaiian Home Lands (TMKs: (3) 1-5-010:005 & 006).

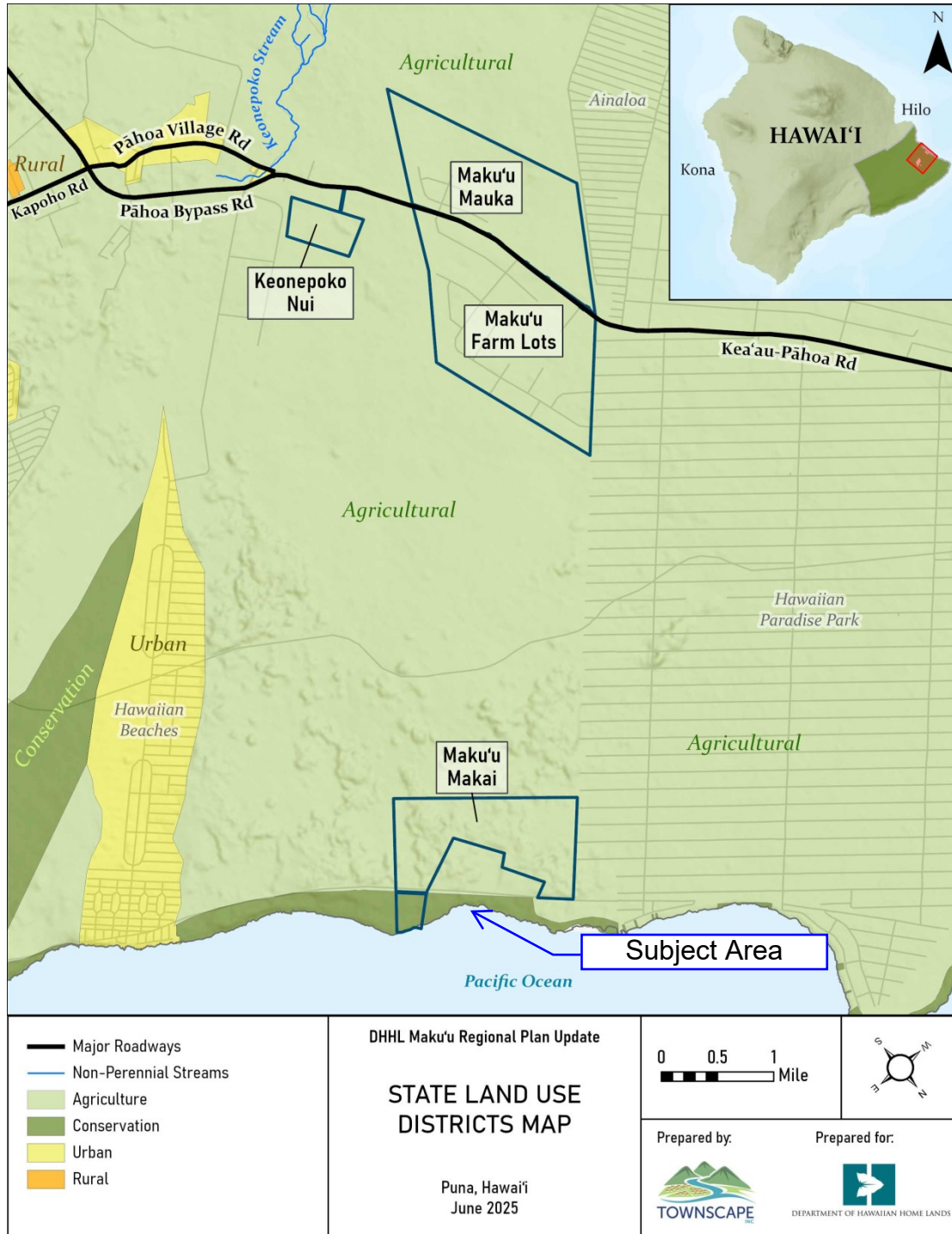


<https://experience.arcgis.com/experience/8a08f0493edd49abac6f168a5d59537c>

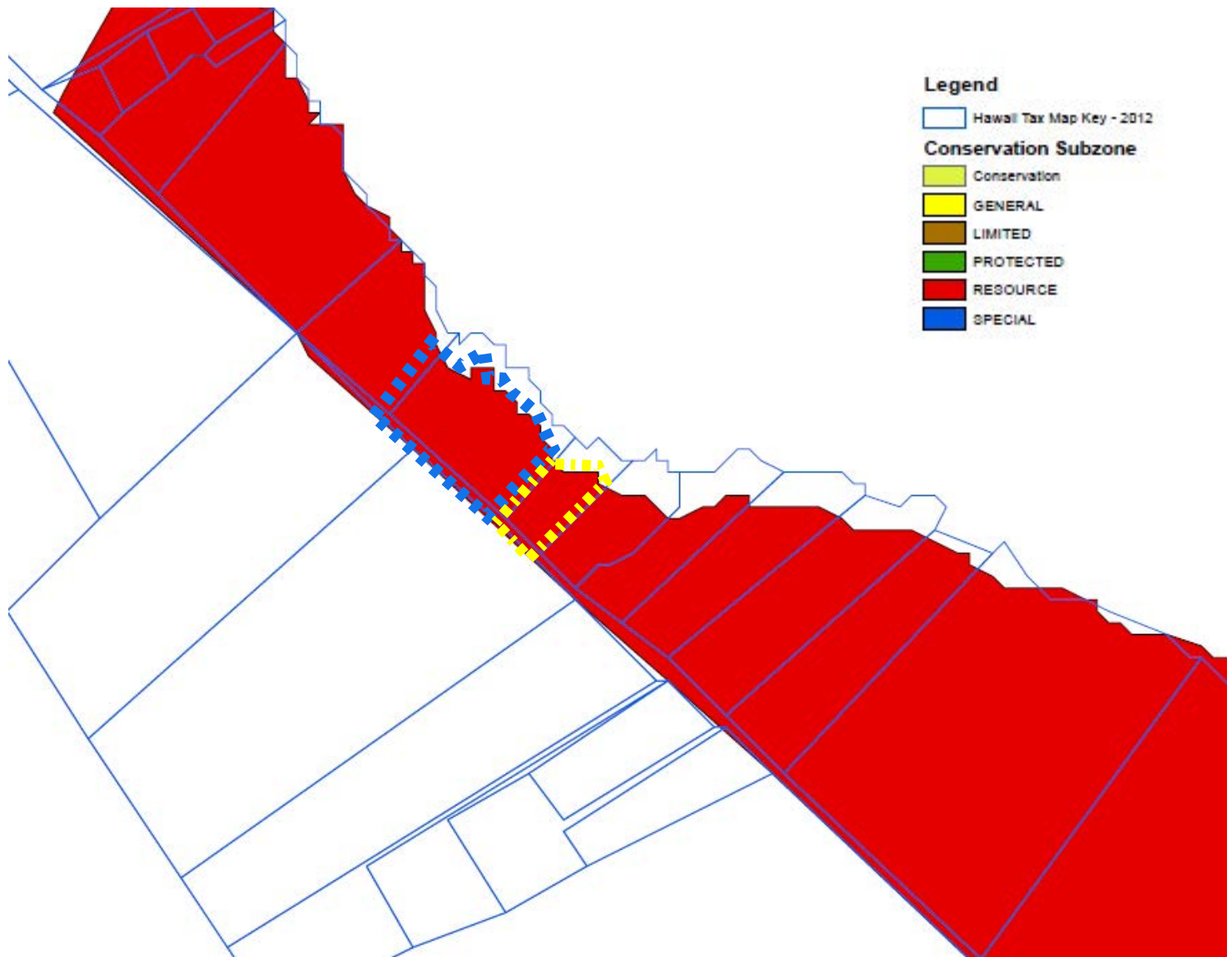
Blue dash = TMK: (3) 1-5-010:026/Yellow dash = TMK: (3) 1-5-010:027

Maku'u Regional Plan 2025

FIGURE 10. STATE LAND USE DISTRICTS



Source: https://dhhl.hawaii.gov/wp-content/uploads/2025/09/DHHL-Makuu-RPU_Draft-Plan.pdf



Blue dash = approximate boundaries of Parcel 026/ Yellow dash = approximate boundaries of Parcel 027; Both Parcels lie in the Resource Subzone



Applicant's Aerial Photo of TMK: (3) 1-5-010: 027



Applicant's Drone Photo of 026 (left) and 027 (right), Looking Northeast

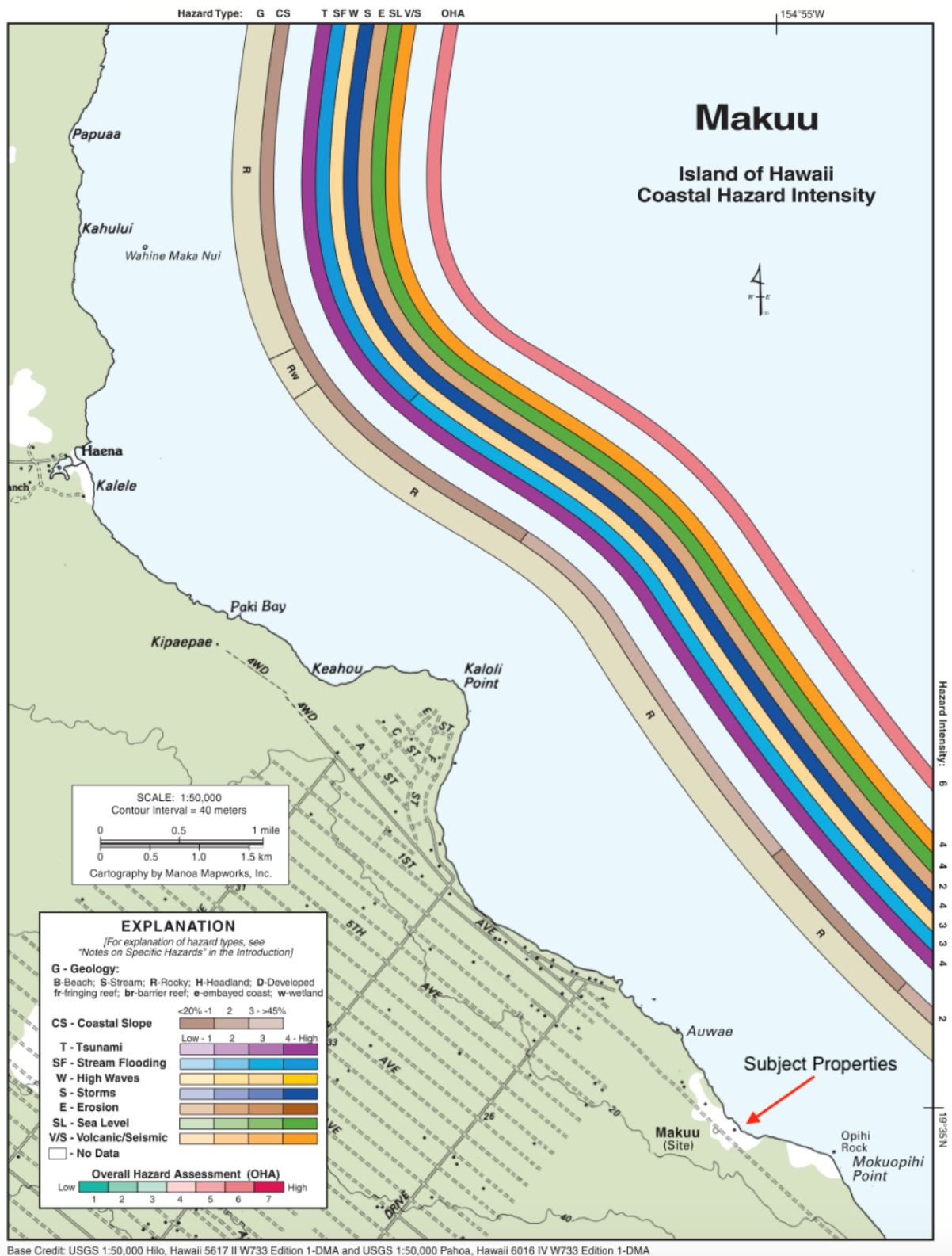




Applicant's Drone Photo of TMKs: (3) 1-5-010: 026 & 027 with Existing Lot Lines



Applicant's Front View of TMKs: (3) 1-5-010: 026, Looking West



USGS Hazard Map showing the subject properties lie along a portion of the Puna coast that has been assessed an overall hazard assessment score of 6 on a scale of 1 (low) to 7 (high)

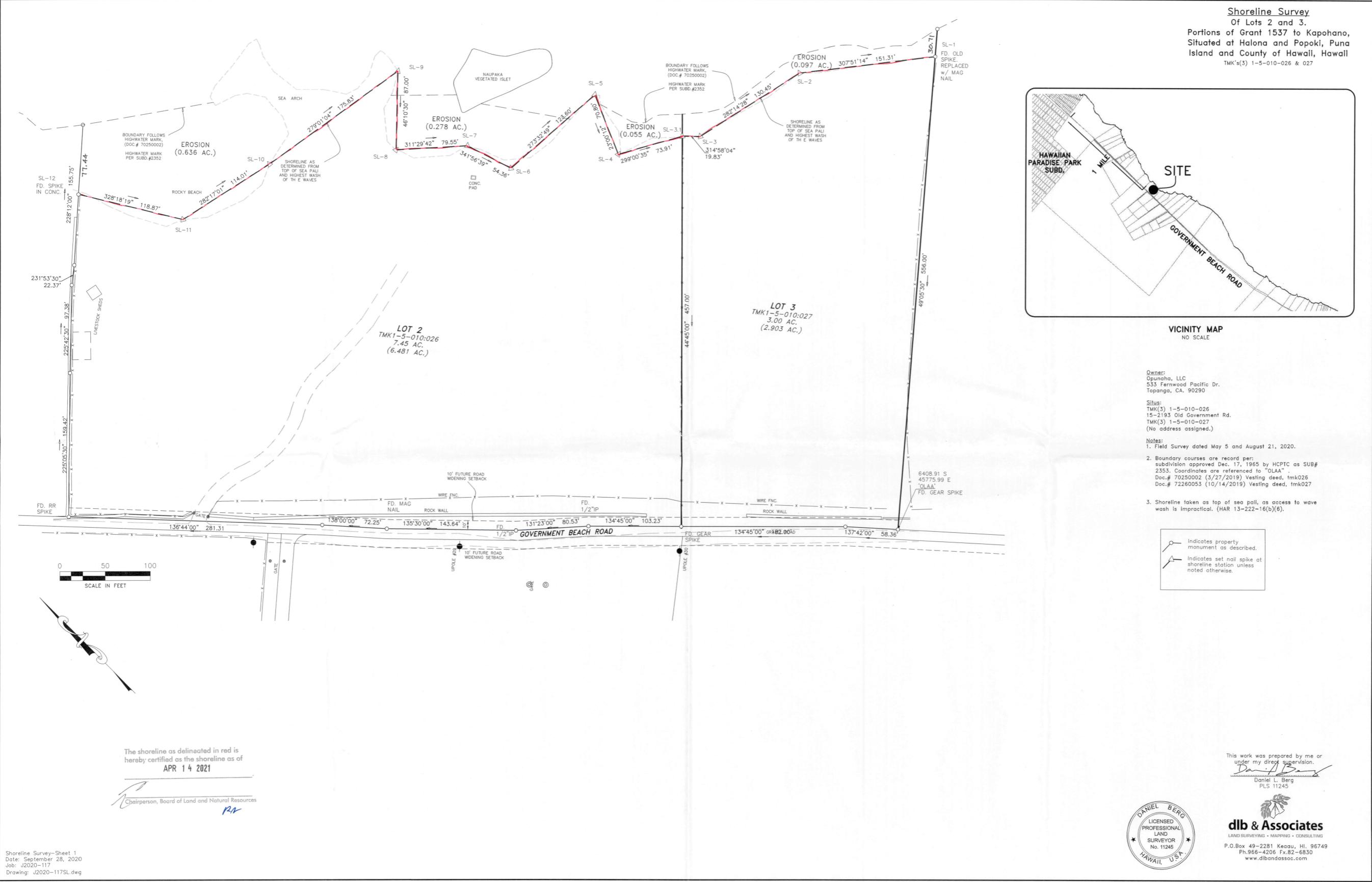
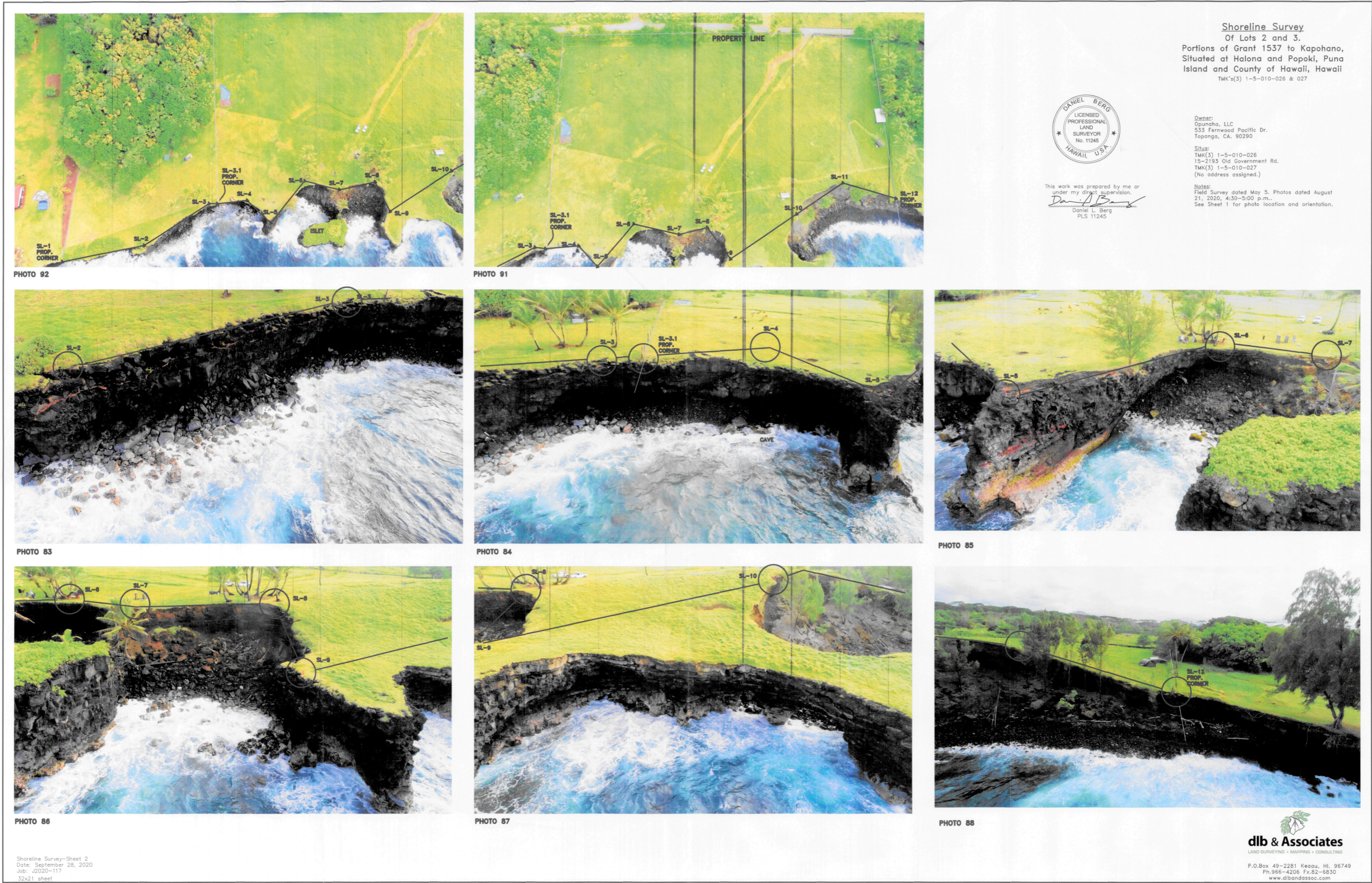
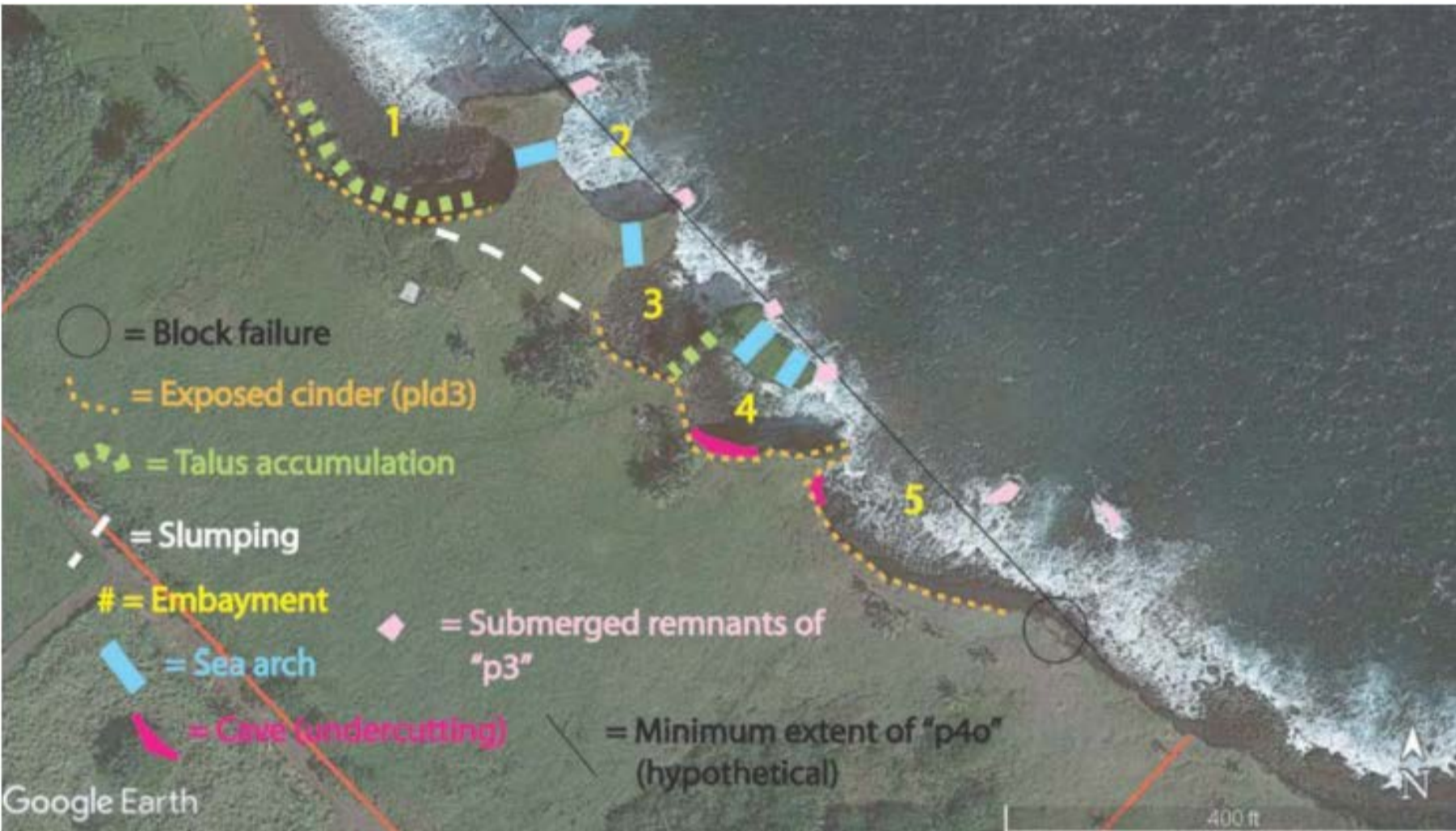


Exhibit 4 - 2021 Cert. Shoreline & Erosion Rate(s)





	Average Retreat Distance (feet)	AAERate (ft/yr)
Project Area (n=22)	21.1	0.36
Embayment 1 (n=5)	56.3	0.95
Embayment 2 (n=3)	23.7	0.40
Embayment 3 (n=2)	27.1	0.46
Embayment 4 (n=2)	20.0	0.34
Embayment 5 (n=5)	1.8	0.03

Table 3 Average Annual Erosion Rates

DocuSign Envelope ID: D913D927-206C-4BEC-B7DB-E0670F80EE68

Ryan Pastorek and Paul Pastorek
533 Fernwood Pacific Drive
Topanga, California 90290

October 24, 2023

Michael Cain, Administrator
State of Hawai'i
Department of Land and Natural Resources
Office of Conservation and Coastal Lands (OCCL)
P.O. Box 621
Honolulu, Hawai'i 96809

Dear Mr. Cain,

We are writing to formally acknowledge your letter dated September 15, 2023, in which you expressed concerns about our proposed single-family residences on TMK (3) 1-5-010: 026 & 027 in Maku'u, Puna.

We understand and appreciate that the isolated location of the properties along Government Beach Road poses some unique challenges, including the road's status as a road-in-limbo and the potential dangers of the area's exposure to natural elements and seismic hazards. We are fully aware of the inherent dangers associated with living near the ocean and in proximity to Kilauea volcano. Additionally, we acknowledge that the remote location lacks municipal services and may have limitations in terms of emergency response time.

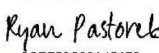
We share your commitment to ensure the safety and welfare of residents in the event of an emergency. We acknowledge that under such circumstances, we as residents in the area would need to take necessary precautions and actions to ensure our own well-being.

We have carefully considered the potential risks and benefits of the proposed development. While we are aware of the challenges associated with the area's remote location, we feel that the benefits outweigh the risks and wish to proceed with the permitting process.

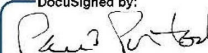
Once again, we appreciate the concerns raised and your commitment to addressing them responsibly. Thank you for your patience and collaboration with this project.

Mahalo,

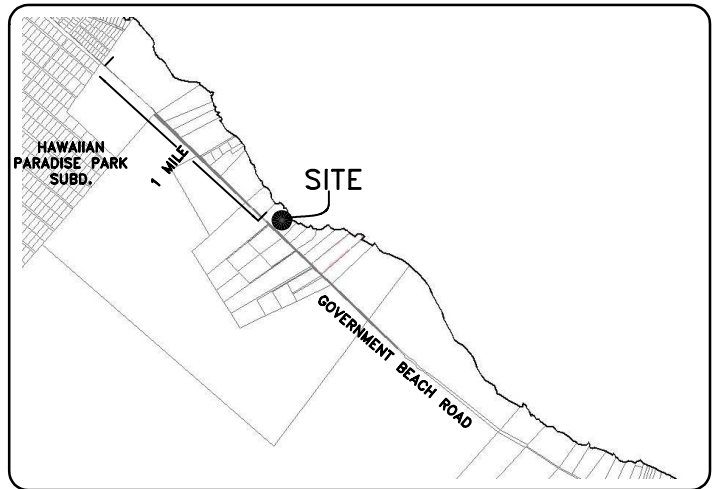
Ryan Pastorek and Paul Pastorek

DocuSigned by:

9CEF59C90A454F9...

Ryan Pastorek

DocuSigned by:

AB9B80CE7D424D8

Paul Pastorek



VICINITY MAP
NO SCALE

Owner:
Opunaha, LLC
533 Fernwood Pacific Dr.
Topanga, CA. 90290

Situs:
TMK(3) 1-5-010-026
15-2193 Old Government Rd.
TMK(3) 1-5-010-027
(No address assigned.)

Land Use Zone:
Designation: A-1a

Flood Zone:
Zone VE and X,
as derived from FEMA Flood Insurance Rate Map
No 1551661185F , Effective Sept. 29, 2017

No drainage courses observed on site.
Field survey dated May 4, 2020

Boundary courses are record per subdivision approved
Dec. 17, 1965 by HCPTC as SUB# 2353.

Coordinates are referenced to "OLAA"

Preliminary Subd. Map
Date: May 26, 2020
Job: J2020-117
Drawing: J2020-117.dwg

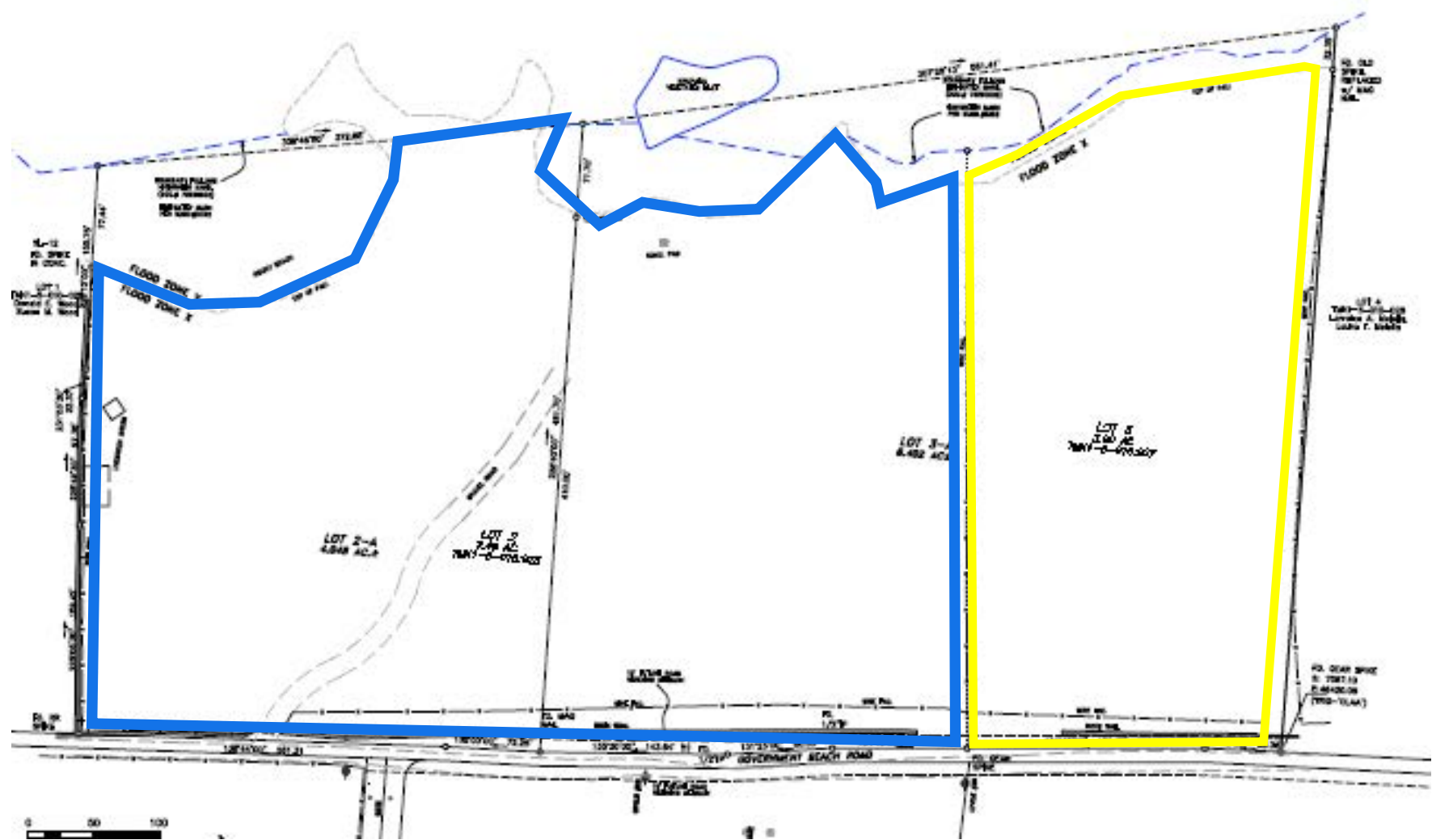


This work was prepared by me or
under my direct supervision.

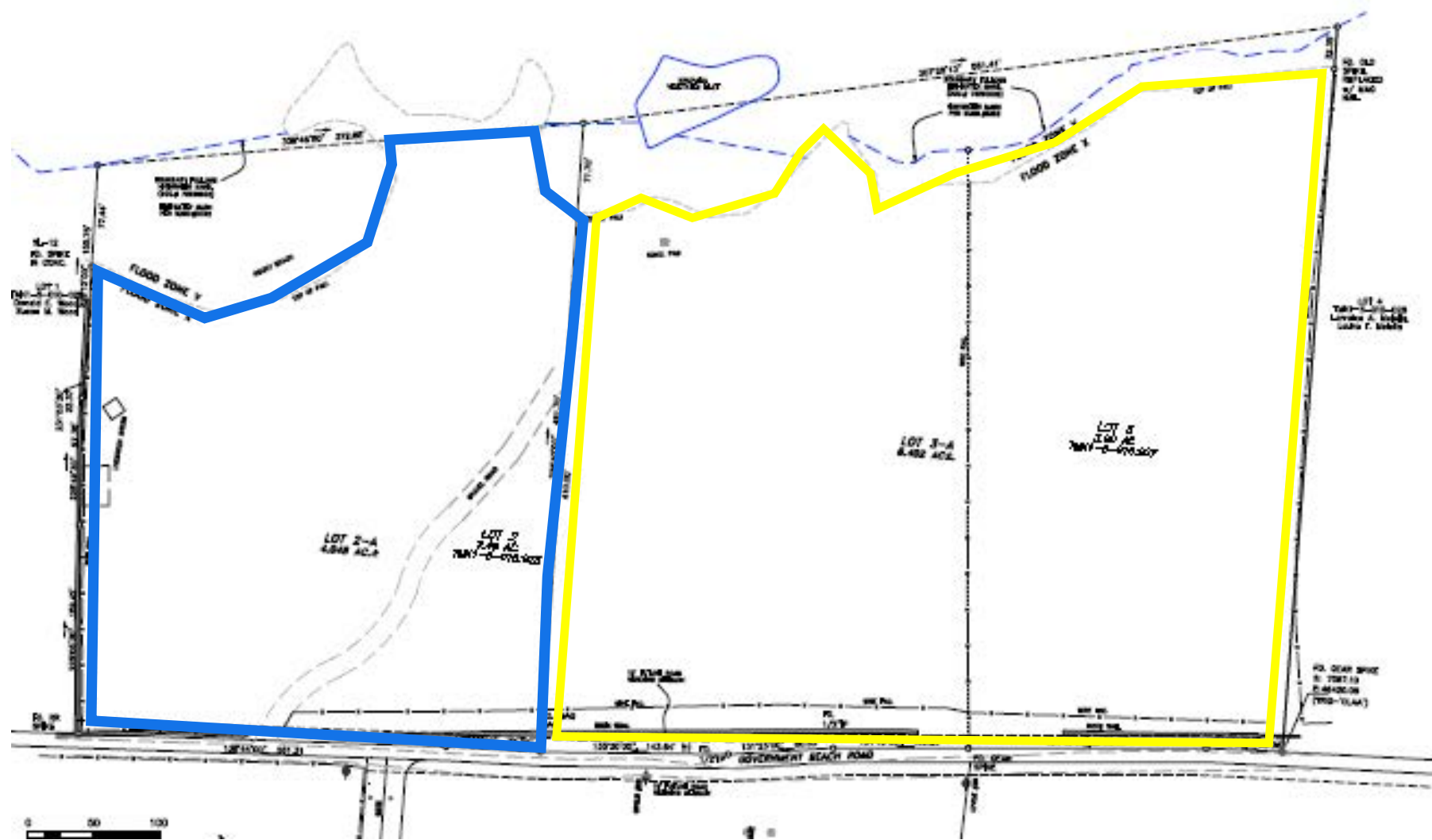
Daniel L. Ber
PLS 11245

**dlb & Associates**

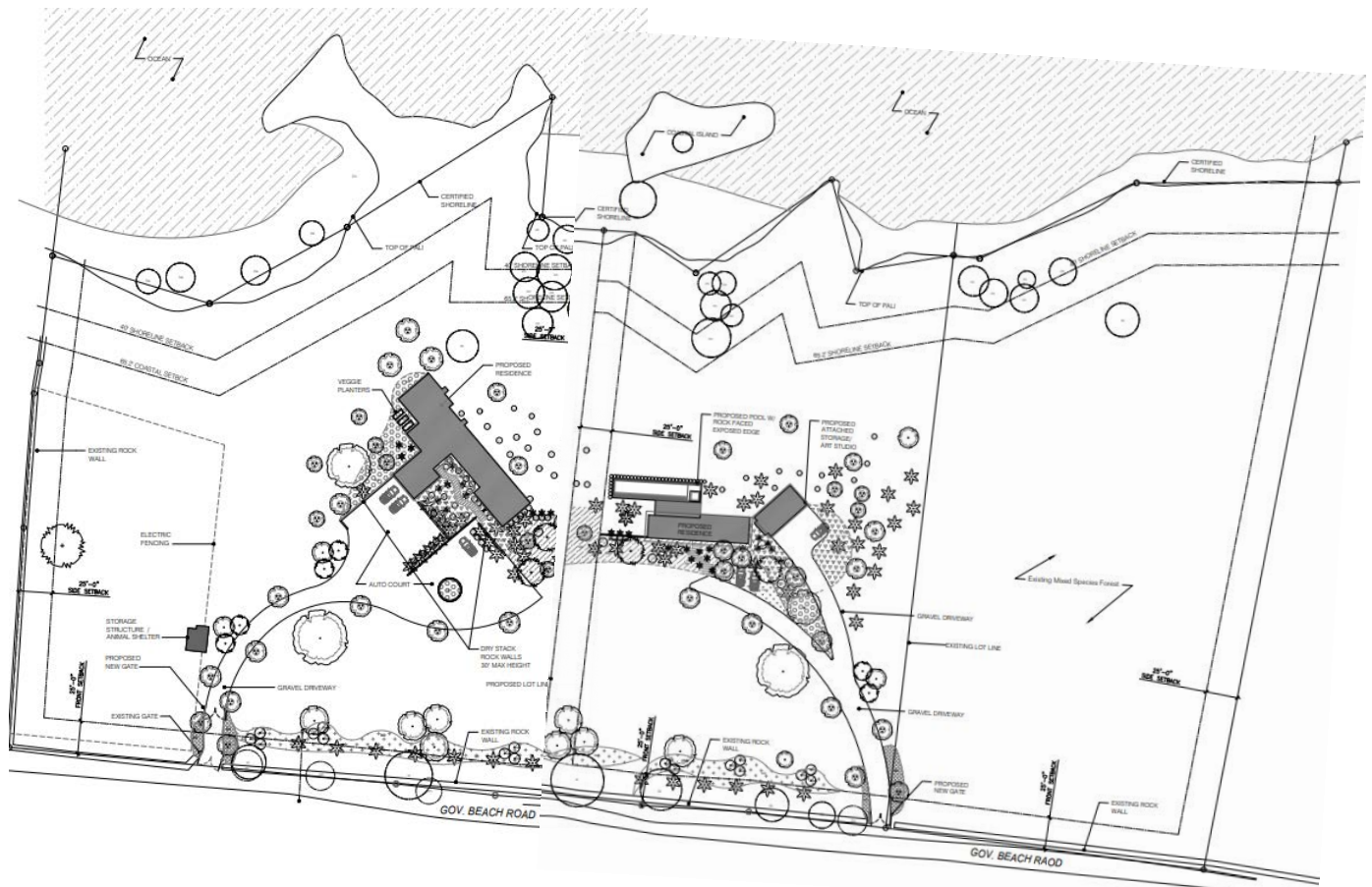
LAND SURVEYING • MAPPING • CONSULTING

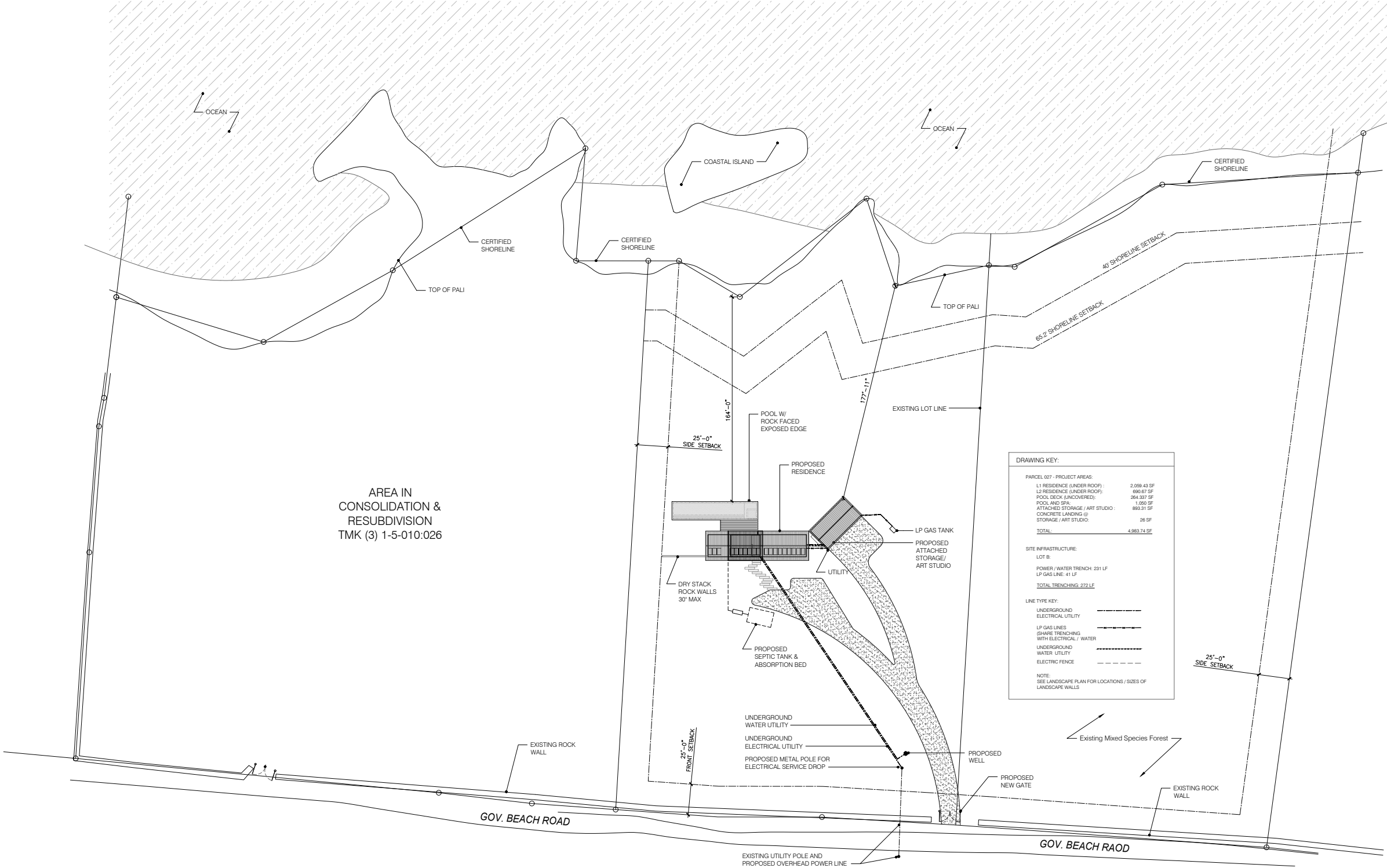


Blue = Existing Approx Property Boundaries for Parcel 026/Yellow = Existing Approx Property Boundaries for Parcel 027



Blue = Proposed Lot 2-A (Ryan Pastorek, sole member of Opunaha LLC)/Yellow = Proposed Lot 3-A (Paul Pastorek)





PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE

Project

SITE PLAN

Drawing No

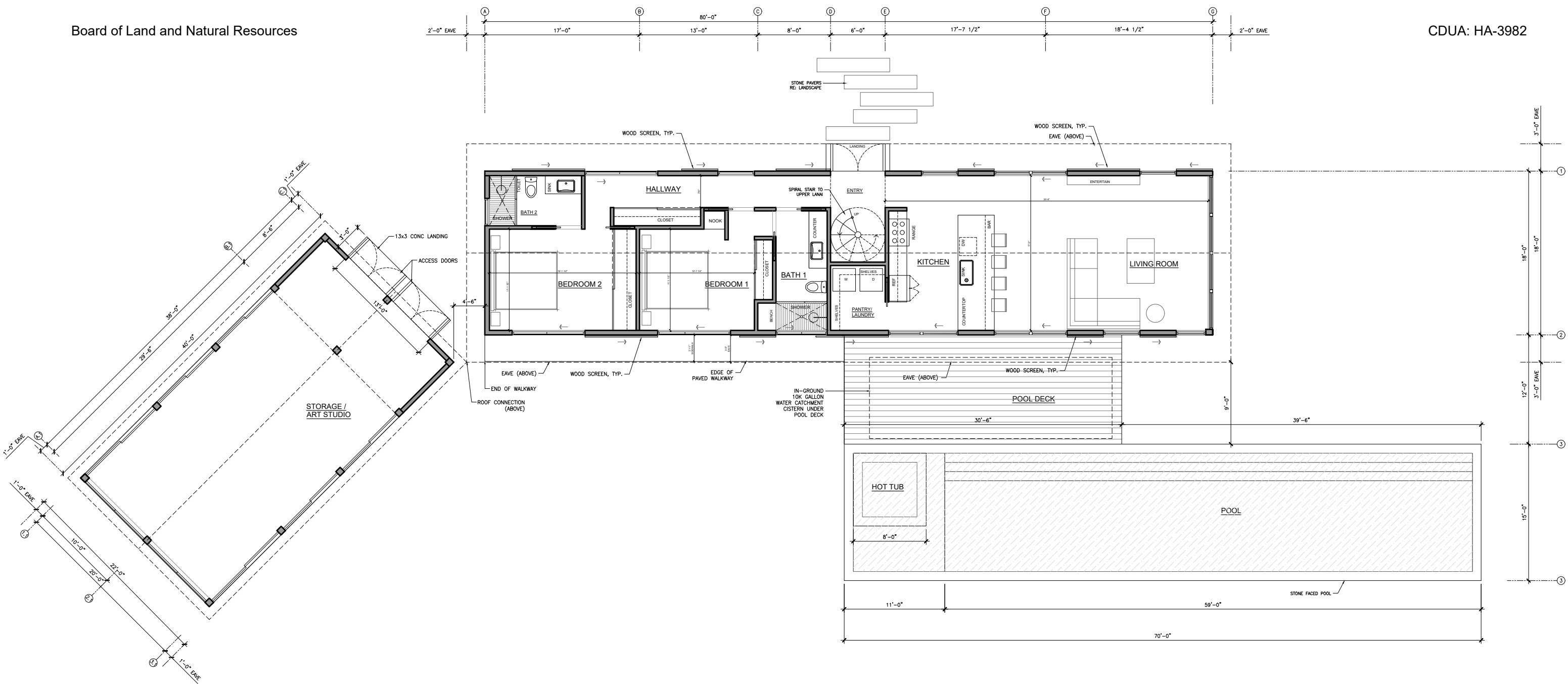
PRELIMINARY: NOT FOR CONSTRUCTION

1 SITE PLAN / INDEPENDENT UTILITIES ALTERNATIVE
S-1.0 SCALE: 1" = 80'



Figure 4

Please note full size prints attached separately



1 L1 FLOOR PLAN
A1.0 SCALE: 3/32"=1'



PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE & STORAGE / ART STUDIO

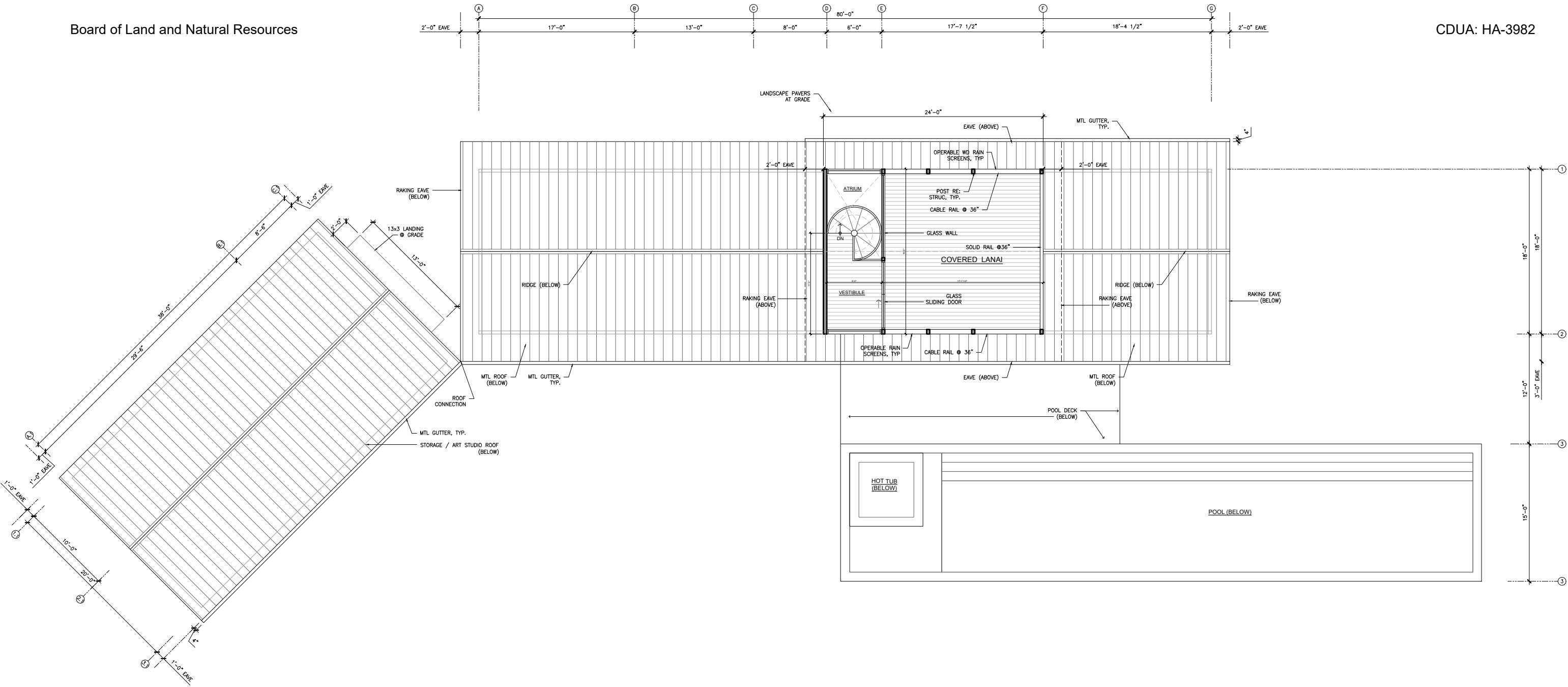
Project

A1.0 - L1 FLOOR PLAN

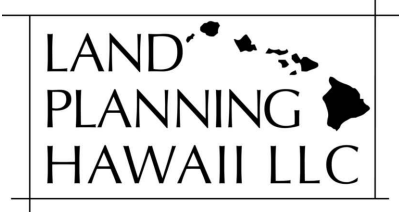
Drawing No

Figure 5

Please note full size prints attached separately

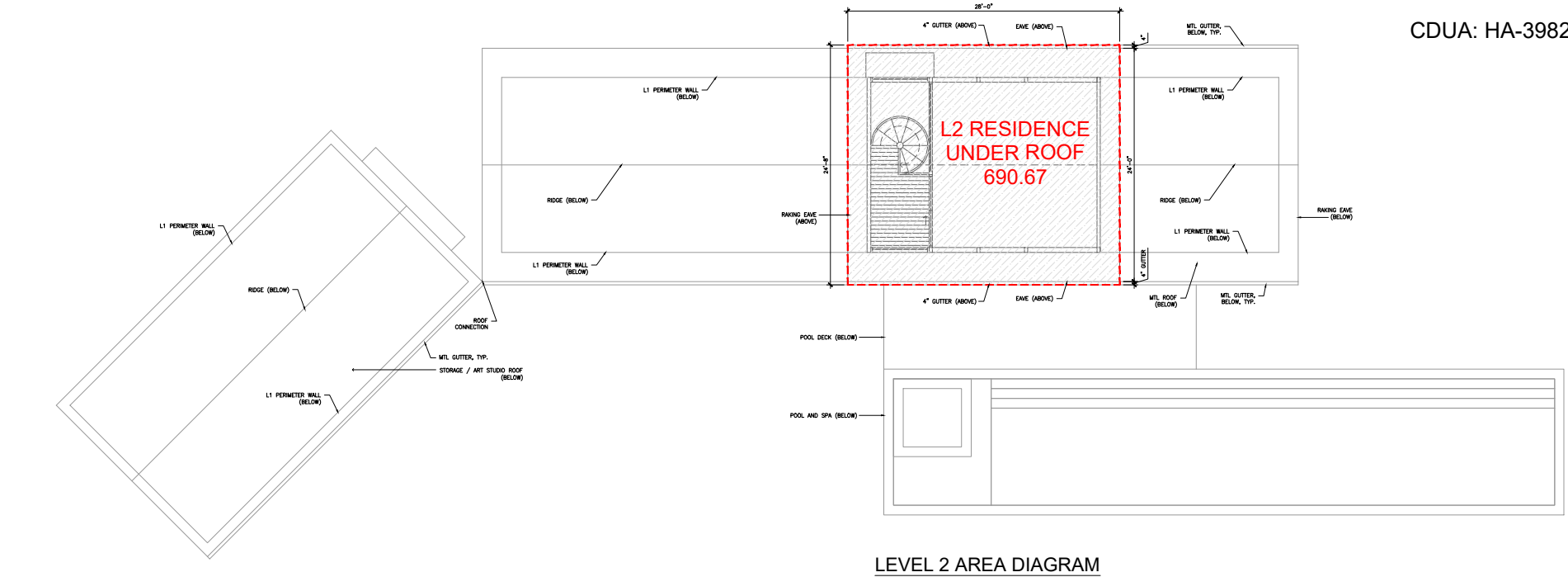


1 L2 FLOOR PLAN & L1 ROOF PLAN
A1.1 SCALE: 3/32"=1'
PLAN NORTH
TRUE NORTH

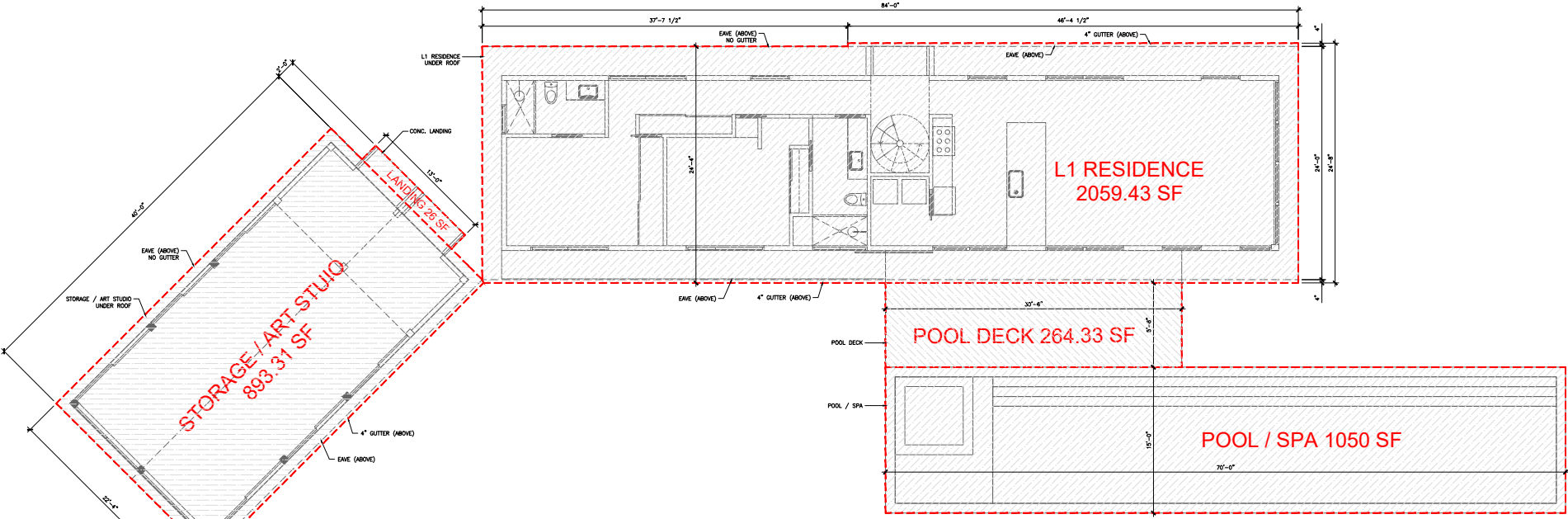


PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE & STORAGE / ART STUDIO
Project
A1.1 - L2 FLOOR PLAN & L1 ROOF PLAN
Drawing No

Figure 6
Please note full size prints attached separately



LEVEL 2 AREA DIAGRAM



LEVEL 1 AREA DIAGRAM

LOT 027 - AREA KEY:

L1 RESIDENCE (UNDER ROOF) :	2,059.43 SF
L2 RESIDENCE (UNDER ROOF):	690.67 SF
POOL DECK (UNCOVERED):	264.33 SF
POOL AND SPA:	1,050 SF
ATTACHED STORAGE / ART STUDIO :	893.31 SF
CONC. LANDING @	
STORAGE / ART STUDIO:	26 SF
TOTAL:	4,983.74 SF



PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE & STORAGE / ART STUDIO

Project

A1.3 - L1 & L2 AREA DIAGRAMS & KEY

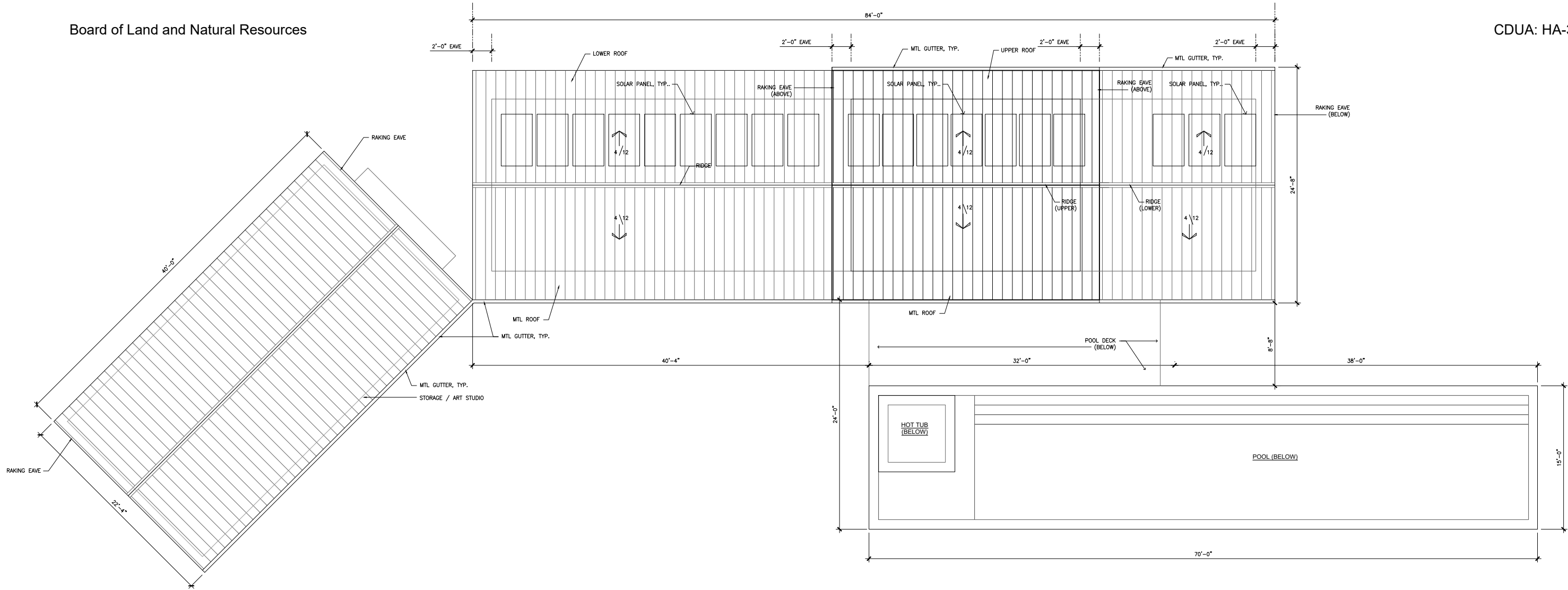
Drawing No

1
A1.3
SCALE: 1/16"=1'



Figure 9a

Please note full size prints attached separately



1 ROOF PLAN
A1.2 SCALE: 3/32"=1'



PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE & STORAGE / ART STUDIO

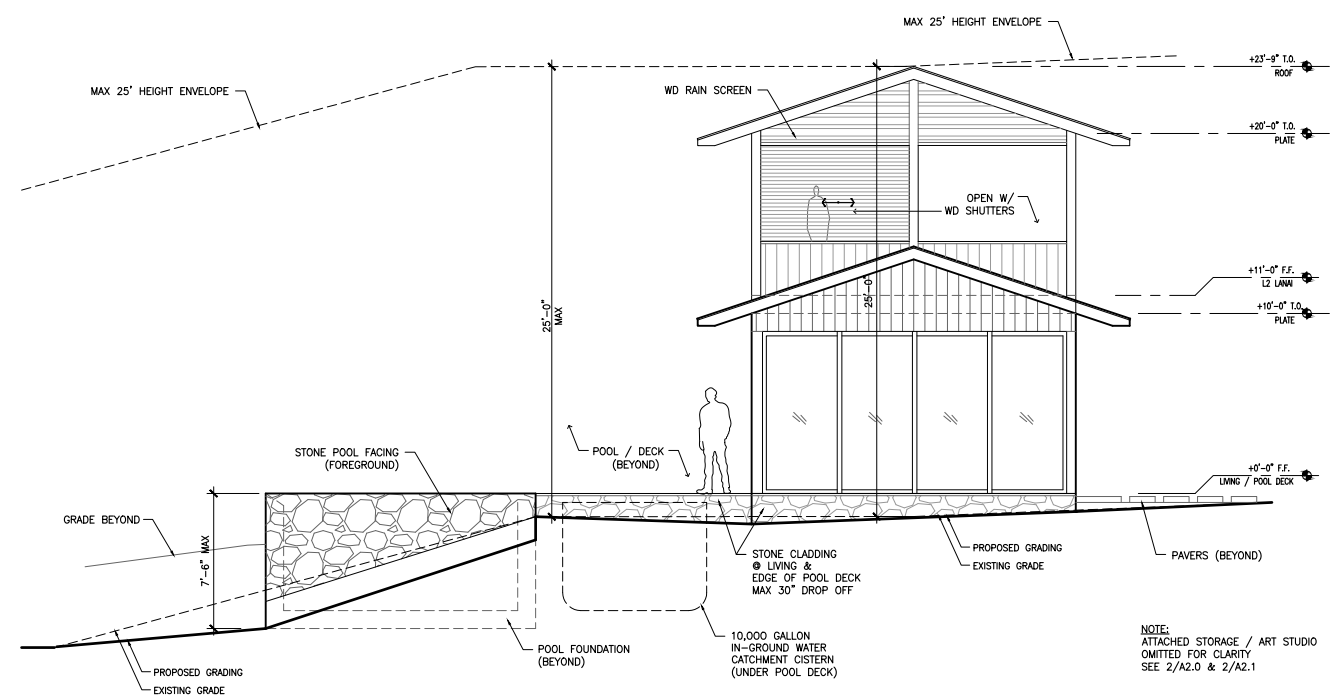
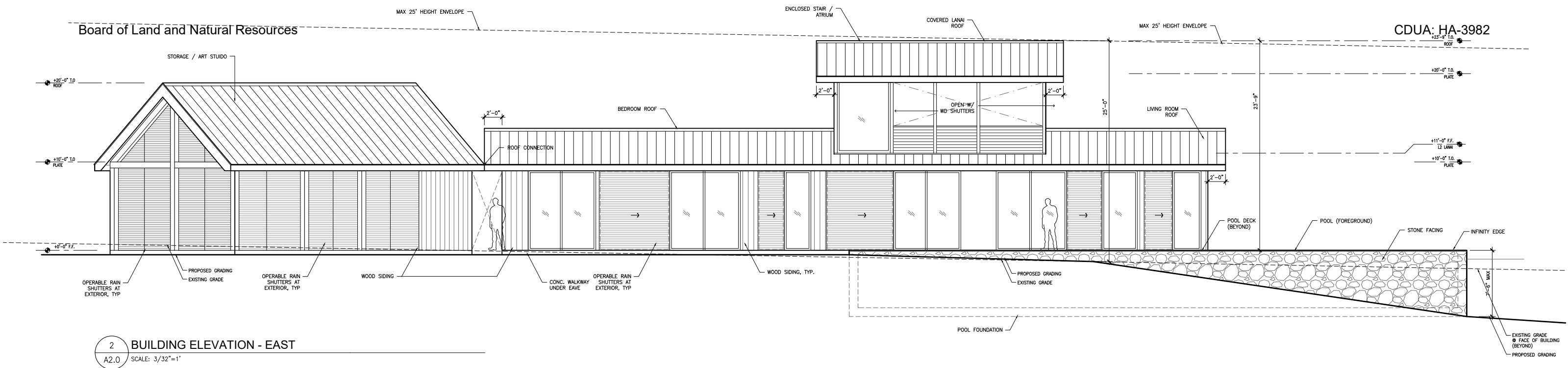
Project

A1.2 - ROOF PLAN

Drawing No

Figure 7

Please note full size prints attached separately



PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE & STORAGE / ART STUDIO

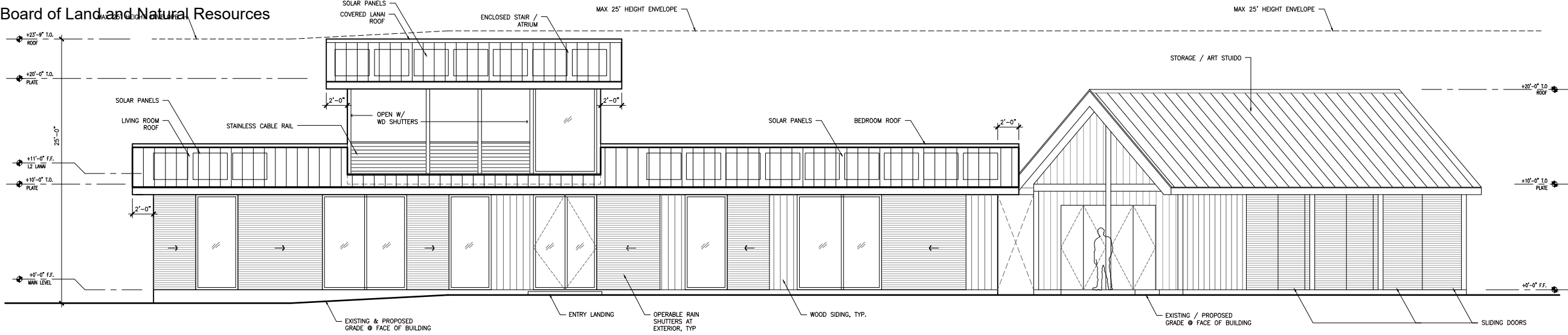
Project

A-2.0 - BUILDING ELEVATIONS

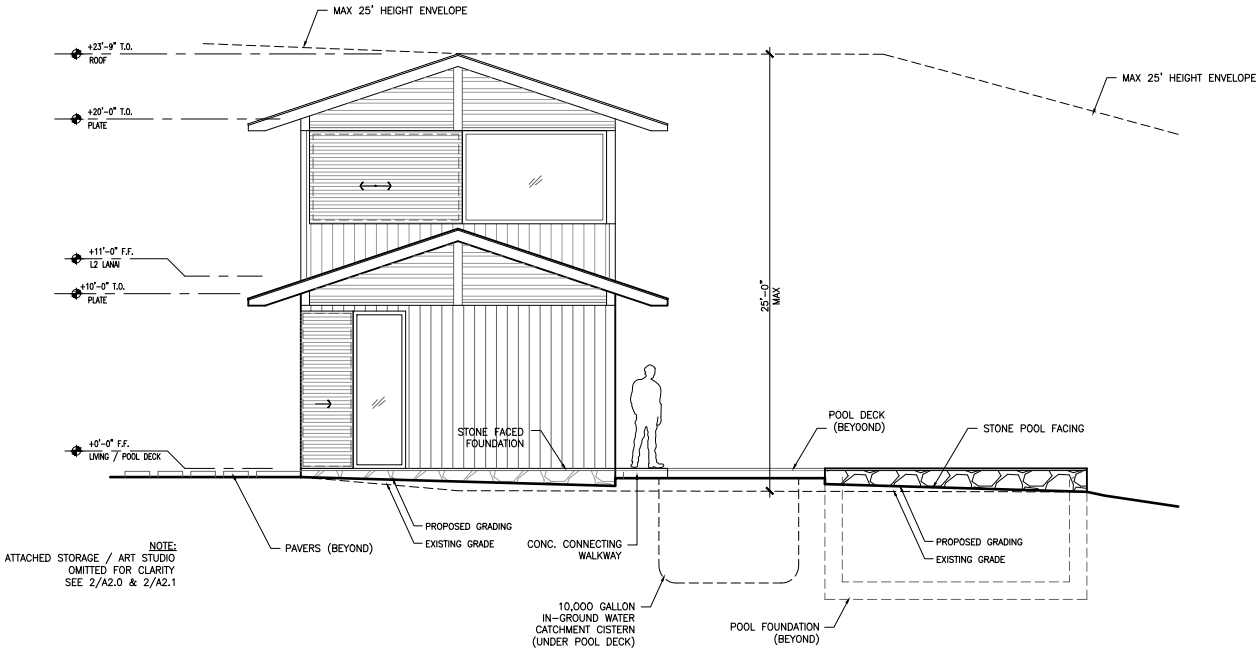
Drawing No

Figure 8

Please note full size prints attached separately



2 BUILDING ELEVATION - WEST
A2.1 SCALE: 3/32"=1'



1 BUILDING ELEVATION - SOUTH
A2.1 SCALE: 3/32"=1'

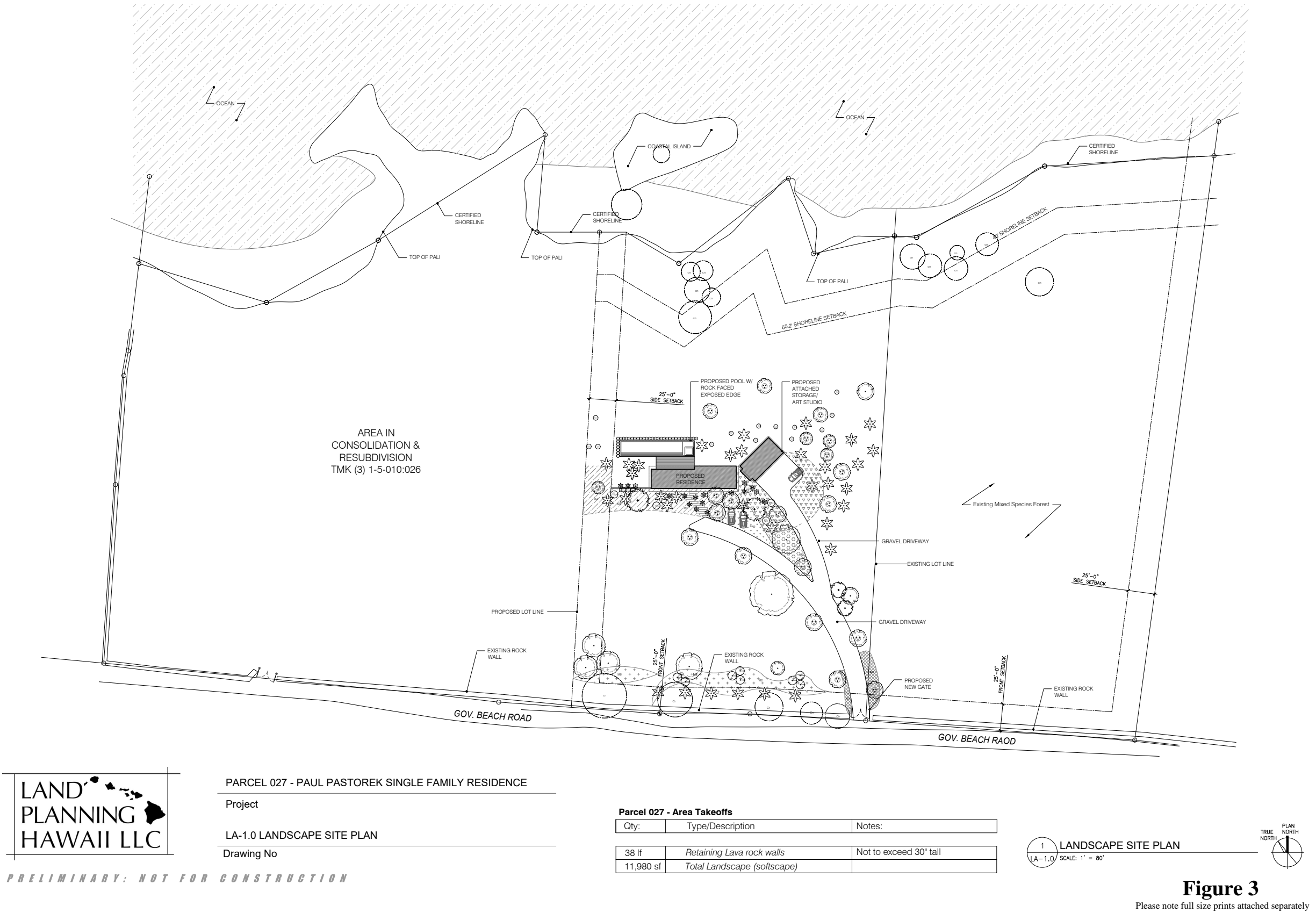


PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE & STORAGE / ART STUDIO
Project
A-2.1 - BUILDING ELEVATIONS
Drawing No

PRELIMINARY: NOT FOR CONSTRUCTION

Figure 9

Please note full size prints attached separately



Planting Schedule									
Key	Qty	Botanical Name	Common Name	Native/P.I./ Alien	Pono Plant	Container Size		Spacing	Notes:
Trees									
Pt	3	<i>Pandanus tectorius</i>	Hala (screwpine)	Native	Yes	15 gal		Per plan layout	
Cn	14	<i>Cocos nucifera</i>	Coconut palm	P.I.	Yes	15 gal		Per plan layout	
Dr	1	<i>Delonix regia</i>	Royal poinciana	Alien	Yes	30 gal		Per plan layout	
Tc	1	<i>Theobroma cacao</i>	Cacao tree	Alien	Yes	15 gal		Per plan layout	
Ht	3	<i>Hibiscus tiliaceus</i>	Hau	Native	Yes	15 gal		Per plan layout	
Ph	12	<i>Pritchardia hillebrandii</i>	Loulu Palm	Native	Yes	15 gal		Per plan layout	
Bm	15	<i>Beccariophoenix madagascariensis</i>	Window Palm	Alien	Yes	15 gal		Per plan layout	
Vj	7	<i>Veitchia joannis +</i>	Joannis palm	Alien	Yes	15 gal		Per plan layout	
Cm	5	<i>Cibotium menziesii</i>	Hapuu Tree fern	Native	Yes	15 gal		Per plan layout	
Ol	4	<i>Ohia lehua</i>	Ohia	Native	Yes	15 gal		Per plan layout	
Tp	3	<i>Thespesia populnea</i>	Milo	Native	Yes	15 gal		Per plan layout	
Cs	1	<i>Cordia subcordata</i>	Kou	Native & P.I.	Yes	15 gal		Per plan layout	
Css	2	<i>Citrus spp.</i>	Meyer Lemon, Orange & Lime	Alien	Yes	15 gal		Per plan layout	
Cp	3	<i>Carica papaya</i>	Papaya	Alien	Yes	15 gal		Per plan layout	
Mi	1	<i>Mangifera indica</i>	Mango	Alien	Yes	15 gal		Per plan layout	
Ma	6	<i>Musa acuminata</i>	Banana	P.I.	Yes	15 gal		Per plan layout	
Pa	2	<i>Persea americana</i>	Avocado	Alien	Yes	15 gal		Per plan layout	
Aa	0	<i>Artocarpus altilis</i>	Ulu - breadfruit	P.I.	Yes	15 gal		Per plan layout	
Lc	0	<i>Litchi chinensis</i>	Lychee	Alien	Yes	15 gal		Per plan layout	
Nl	0	<i>Nephelium lappaceum</i>	Rambutan	Alien	Yes	15 gal		Per plan layout	
Ah	0	<i>Artocarpus heterophyllus</i>	Jackfruit	Alien	Yes	15 gal		Per plan layout	
Am	1	<i>Annona muricata</i>	Soursop	Alien	Yes	15 gal		Per plan layout	
Sm	0	<i>Syzygium malaccense</i>	Mountain apple	P.I.	Yes	15 gal		Per plan layout	
Dk	0	<i>Diospyros kaki</i>	Persimmon	Alien	Yes	15 gal		Per plan layout	
Shrubs, Groundcovers, Vines and Grasses									
St	10	<i>Scaevola taccada</i>	Naupaka	Native	Yes	3 gal		Per plan layout	
Wu	0	<i>Wikstroemia uva-ursi</i>	Akia	Native	Yes	3 gal		Per plan layout	
Vr	3	<i>Vitex rotundifolia</i>	Pohinahina	Native	Yes	3 gal		Per plan layout	
Ha	5	<i>Hibiscus amottianus</i>	kokia keokeo	Native	Yes	3 gal		Per plan layout	
Ce	3	<i>Colocasia esculenta</i>	Kalo	P.I.	Yes	3 gal		Per plan layout	
Ps	34	<i>Phymatosorus scolopendria</i>	Lauae fern	Alien	Yes	3 gal		Per plan layout	

Planting Mixes:						
Key	Qty	Botanical Name	Common Name	Native/P.I./ Alien	Pono Plant	Container Size
M1	Mx 1 (Front Entry): 790 sq ft					
	30%	<i>Sida fallax</i>	Ilima	Native	Yes	1 gal
	10%	<i>Wikstroemia uva-ursi</i>	Akia	Native	Yes	1 gal
	10%	<i>Jacquemontia sandwicensis</i>	pa'u o hiaka	Native	Yes	1 gal
M2	Mx 2 (Food Forest): 3,252 sq ft					
	30%	<i>Ananas comosus</i>	pineapple	Alien	Yes	1 gal
	10%	<i>Colocasia esculenta</i>	Kalo	P.I.	Yes	1 gal
	10%	<i>Ipomoea batatas</i>	'Uala Sweet potato	P.I.	Yes	1 gal
	10%	<i>Cymbopogon sp.</i>	Lemongrass	Alien	Yes	1 gal
	10%	<i>Allium spp.</i>	Alliums	Alien	Yes	1 gal
	10%	<i>Passiflora edulis</i>	Lilikoi	Alien	Yes	1 gal
M3	Mx 3 (Transition Planting): 1,168 sq ft.					
	30%	<i>Wikstroemia uva-ursi</i>	Akia	Native	Yes	1 gal
	25%	<i>Vitex rotundifolia</i>	Pohinahina	Native	Yes	1 gal
	15%	<i>Nephrolepis cordifolia</i>	Kupukupu	Native	Yes	1 gal
	30%	<i>Scaevola taccada</i>	Naupaka	Native	Yes	1 gal
M4	Mx 4 (Front Garden): 3,885 sq ft.					
	20%	<i>Sida fallax</i>	Ilima	Native	Yes	1 gal
	20%	<i>Wikstroemia uva-ursi</i>	Akia	Native	Yes	1 gal
	10%	<i>Jacquemontia sandwicensis</i>	pa'u o hiaka	Native	Yes	1 gal
	10%	<i>Microlepia strigosa</i>	Palapalai fern	Native	Yes	1 gal
	20%	<i>Phymatosorus scolopendria</i>	Lauae fern	Alien	Yes	1 gal
	10%	<i>Gardenia brighamii</i>	Nanu	Native	Yes	1 gal
	10%	<i>Hibiscus amottianus</i>	Hibiscus	Native	Yes	1 gal
	10%	<i>Monstera deliciosa</i>	Monstera	Alien	Yes	1 gal
	10%	<i>Heliconia rostrata</i>	Heliconia	Alien	Yes	1 gal
	10%	<i>Zingiber zerumbet</i>	Awapuhi-soap ginger	P.I.	Yes	1 gal
	10%	<i>Osteomeles anthyllifolia</i>	Ulei	Native	Yes	1 gal
	10%	<i>Strelitzia reginae</i>	Bird of paradise	Alien	Yes	1 gal
M5	Mx 5 (Back Garden): 2,885 sq ft.					
	30%	<i>Sida fallax</i>	Ilima	Native	Yes	1 gal
	10%	<i>Wikstroemia uva-ursi</i>	Akia	Native	Yes	1 gal
	20%	<i>Jacquemontia sandwicensis</i>	pa'u o hiaka	Native	Yes	1 gal
	10%	<i>Nephrolepis cordifolia</i>	Kupukupu	Native	Yes	1 gal
	10%	<i>Jacquemontia sandwicensis</i>	pa'u o hiaka	Native	Yes	1 gal
	10%	<i>Vitex rotundifolia</i>	Pohinahina	Native	Yes	1 gal
	10%	<i>Spathoglottis unguiculata</i>	Grape scented orchid	Alien	Yes	1 gal
	10%	<i>Neomarica gracilis</i>	Walking iris	Alien	Yes	1 gal
	10%	<i>Cordyline fruticosa</i>	Green ti	Alien	Yes	1 gal
	10%	<i>Cinnum x amabile</i>	Giant Spider lily	Alien	Yes	1 gal
	10%	<i>Zingiber zerumbet</i>	Awapuhi-soap ginger	P.I.	Yes	1 gal

Existing Tree		
cn	<i>Cocos nucifera</i>	Coconut Palm
cr	<i>Clusia rosea</i>	Autograph Tree
ha	<i>Heliotropium arboreum</i>	Beach heliotrope



PARCEL 027 - PAUL PASTOREK SINGLE FAMILY RESIDENCE

Project

LA-1.1 PLANTING SCHEDULE

Drawing No

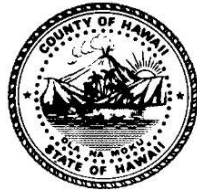
PRELIMINARY: NOT FOR CONSTRUCTION

Figure 3 Continued

Please note full size prints attached separately

Mitchell D. Roth
Mayor

Deanna S. Sako
Managing Director



Dennis Lin, Chair
Louis Daniele III, Vice Chair
Lauren Balog
Wayne De Luz
Matthias Kusch
Chantel Perrin

County of Hawai'i

WINDWARD PLANNING COMMISSION

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

June 28, 2024

John Pipan, Administrator
Land Planning Hawai'i, LLC
194 Wiwo'ole Street
Hilo, HI 96720
VIA EMAIL

Dear Mr. Pipan:

SUBJECT: Special Management Area Use Permit Application (PL-SMA-2024-000055)
Applicant: Ryan Pastorek and Paul Pastorek
Permitted Use: Allows to Consolidate and Re-Subdivide Two (2) Parcels
Totaling 10.45 Acres and Construct One (1) Single-Family
Residence and Related Improvements on Each Parcel
TMK: (3) 1-5-010:026 and 027, Maku'u and Keonepoko Nui, Puna, Hawai'i

The Windward Planning Commission, at its duly held public hearing on June 6, 2024, voted to approve the above-referenced request allows to consolidate and re-subdivide two (2) parcels totaling 10.45-acres within the Special Management Area and construct one (1) single-family residence and related improvements on each parcel. The subject properties are located approximately 1.25 miles south of the intersection of Old Government Road and Maku'u Drive on the makai side, Por. of Maku'u and Keonepoko Nui, Puna, Hawai'i.

Approval of this permit is subject to the following conditions:

- 1) The applicants, its successor(s), or assign(s) shall be responsible for complying with all stated conditions of approval.
- 2) The applicants shall secure all necessary approvals and permits from other affected Federal, State, and County agencies as necessary to comply with all applicable laws and regulation, including, but not limited to, a Conservation District Use Permit (CDUP), and an approved Aquaculture Pond Management Plan from the Department of Land and Natural Resources.

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John Pipan, Administrator
Land Planning Hawai'i, LLC
June 28, 2024
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- 3) Construction of each new single-family residence and related improvements shall be conducted in a manner that is substantially representative of plans and details as contained within the SMA Permit application dated March 26, 2024, and representations made to the Windward Planning Commission.
- 4) The applicants shall not construct any wood, metal, or rope ladder, platform, steps, concrete pads, or other constructed appurtenances from the top of the pali (sea cliff) to access the ocean along the entire length of shoreline of each parcel.
- 5) Construction of the proposed development, including the aquaculture pond, shall be completed within five (5) years from the effective date of this permit.
- 6) Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, up-lights 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.
- 7) All construction and maintenance activities shall comply with Chapter 27, Flood Control of the Hawai'i County Code.
- 8) All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
- 9) All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- 10) The method of sewage disposal shall meet with the requirements of the Department of Health.
- 11) During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
- 12) The applicants will comply with any recommendations or requests from the State Historic Preservation Division (SHPD) in conformance with the submitted Hawai'i Revised Statutes (HRS) Ch. 6E-42 review request.

John Pipan, Administrator
Land Planning Hawai'i, LLC
June 28, 2024
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- 13) In the 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, the applicants shall 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 SHPD when it finds that sufficient mitigation measures have been taken.
- 14) An initial extension of time for the performance of conditions within this permit 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 applicants and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of this permit.
 - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

If the applicants should require an additional extension of time, the Planning Department shall submit the applicants' request to the Planning Commission for appropriate action.

- 15) Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Approval of this request is based on the reasons given in the enclosed Findings Report.

John Pipan, Administrator
Land Planning Hawai'i, LLC
June 28, 2024
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Should you have any questions, please contact Alex Roy of this department at (808) 961-8140 or by email at alex.roy@hawaiicounty.gov

Sincerely,



June 28, 2024

Dennis Lin, Chairman
Windward Planning Commission

P:\wp60\PC\PCC2024-2\LPastorekPL-SMA-2024-055wpc

Enclosure: Planning Commission Findings Report
Site Plan

cc w/enclosure via email: Ryan Pastorek
Department of Public Works
County Real Property Tax Division
State Department of Health
GIS Section