

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

August 22, 2014

**BOARD OF LAND AND
NATURAL RESOURCES
STATE OF HAWAII
HONOLULU, HAWAII**

REGARDING: Conservation District Use Application (CDUA) HA-3705

APPLICANT: Darrin Neal & Debra Louise Carlson

AGENT: Lincoln King; Native Tech, LLC

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

TMKs: (3) 1-5-010:028

AREA OF PARCELS: 3.5 acres

AREA OF USE: <0.25 acres

SUBZONE: Resource

DESCRIPTION OF AREA AND CURRENT USE:

The proposed project site is a grass/shrub dominated shoreline parcel located in the Puna District which is situated along the southeastern coast of the Island of Hawaii (**Exhibit 1, 1a**). The subject parcel is located adjacent to Government Beach Road, with the entire parcel within the State Land Use Conservation District Resource Subzone (**Exhibit 2**). The region surrounding the project site is comprised of limited residential and agricultural uses, with large scale, well developed subdivisions in the vicinity (**Exhibit 3**). The parcel is bounded by an historic rock wall along Government Beach Road and the south/southeastern property border; a pāhoehoe lava rock sea cliff (Pali) and ocean demarcate the north/northeast boundary (**Exhibit 4**). The rocky shoreline Pali bounding the makai (seaward) side of the parcel is comprised of primarily pāhoehoe lava flows, with some areas of rock overlain by a thin lens of soil development. The property has an average ground elevation of approximately 32.5 feet above sea level (asl), with higher elevations located at Government Beach Road. To the west/northwest the project site is bounded by Parcel 27 which includes the edge of a forested area dominated by *autograph trees*. There is no current use of the subject parcel as it remains vacant and undeveloped besides remnant structures that were part of the previously approved Single Family Residence (SFR). The surrounding parcels directly adjacent to the project site currently contain residential structures, vacant lands (unmanaged and managed) and minor agricultural uses.

A previous Conservation District Use Permit (CDUP) was granted in *November, 1989* for the construction of a SFR on the subject parcel; the SFR was never completed although some remnants remain. The project site currently contains two (2) existing concrete slabs as uncompleted remnants of a previously approved SFR (**Exhibit 5**); the concrete pads have been incorporated into the development design of the proposed SFR. On *September 3, 2013*, the landowner was fined via the Civil Resource Violation System (CRVS) for the construction of an unauthorized shed structure which appeared to be occupied; it was determined that the occupant was a "land manager" for the parcel. At this time the parcel is currently unoccupied and the shed structure has been removed. This parcel is part of a small coastal subdivision that contains a number of existing SFR and associated structures, minor agriculture uses and associated landscaping and plant cultivation; although a majority of the shoreline parcels remain undeveloped (**Exhibit 6**).

Existing Floral and Faunal Resources

The subject parcel and vicinity has a long history of agricultural uses that disturbed and graded most of the land in this area. The existing site condition is that of an overgrown, open grassland area with minor vegetation within the parcel and larger vegetation along the property boundaries (**Exhibit 7, 7a, 7b**) and shoreline.

Some native plant species were observed along the periphery of the parcel and along the shoreline Pali such as naupaka and hala trees. Additional native plants include the mau'u aki'aki sedge within the non-native grass stands along the shoreline; the non-native species include California grass, molasses grass, and Bermuda grass. Interspersed throughout the relatively cleared parcel are other invasive and non-native plant species such as Indian pluchea and strawberry guava with tall ironwood trees as the prominent large non-native species at the site. Naturalized ornamental plant species bordering the site include autograph trees, coconut trees, and ti.

No federally listed endangered Hawaiian Hawks, Hawaiian petrels or the Hawaiian Hoary Bat were observed during the *October, 2013* biological survey conducted for this proposed project. The Newell's shearwater, federally listed as a threatened species, was not observed during the survey, nor was the Hawaiian short-eared owl. The existing habitat is not suitable or favorable to supporting an individual or population of these sensitive species; however these species are all known to exist in the Puna region and could potentially utilize onsite sources for foraging or nesting. Bird species known to forage and nest in the adjacent areas include: zebra doves, spotted doves, mynah birds, feral chickens and cattle egrets; most likely these are all transient foragers and all are considered non-native.

Culture, Architecture and Archeology

A Cultural Impact Assessment (CIA) and Archeological Inventory Survey (AIS) were prepared by agents for the applicant in preparation for the development of the parcel. The surveys identified State Inventory of Historic Places (SIHP) site #18418A, an ancient coastal trail located near the shoreline Pali, and site #18419A, a historic cattle wall extending along the southeastern portion of the parcel (**Exhibit 8**). The coastal trail is of significance because it is likely to have extended along a significant length of the Puna Coast, as various segments of this coastal trail have been observed or located in several other cultural studies. The coastal trail is believed to have been, at one time, an elevated trail of water worn boulders and cobbles which runs fairly parallel to the shoreline pali (**Exhibit 9**). The trail was determined to be used primarily as a

shoreline access trail for distance travel; originally built during pre-contact times its use has continued into the historic era. The trail is traceable for a distance of approximately 10m along the subject parcel with the remainder of the trail either been destroyed by bulldozing activities or obscured by soil and dense vegetation. The visible remnants include water-worn basalt boulders and cobbles that appear to have been placed along the edge of a level surface, presumably to define the trail's alignment or edge. While no specific Hawaiian traditions or legendary accounts were discovered for this specific site it was concluded by the applicant's agent that the general shoreline area (and historic coastal trail) is, and has been, used for subsistence and recreation from Pre-contact times to historic times and therefore should be considered a significant historical resource to be preserved.

PROPOSED USE:

The applicants (Carlson) are proposing to construct a Single Family Residence structure on an existing 3.5 acre shoreline parcel located off of Government Beach Road, Puna District on the Island of Hawaii (**Exhibit 10**). The development of the parcel has been designed to include the following:

- ~3,371 sq. ft. SFR with an attached garage and wrap around lanai (**Exhibit 11, 11a, 11b**);
- Subsurface septic system with 1000-gallon septic tank and a 2-foot by 24-foot absorption bed;
- 10,000 gallon capacity water-catchment tank, standing approximately 4-feet high and 20-feet in diameter; and
- 375 foot long by 15-foot wide compacted gravel driveway and turnaround;

The SFR will be situated on approximately 7-foot high post-and-pier supports. The architectural elevation of the proposed structure from ground level is ~23-feet above current grade at the highest designed elevation. The project site contains two (2) existing concrete slabs from previous parcel development which will be incorporated into the design of the new SFR and other appurtenances. The slab situated on the southeast side of the proposed SFR will be used for the setup of the water catchment tank while the slab located on the north side of the parcel will be used as a picnic area for the main residence.

The SFR and accessory structures will be set back from the shoreline >110-feet from the Pali, and >120-feet from the rocky shoreline; all structures will be built at approximately +30 feet asl. Landscaping of the parcel will be minimal, confined to the maintenance of the grassy open area surrounding the proposed SFR and water tank along with the necessary general clearing activities associated with the development of the parcel (**Exhibit 12**); any future landscaping will be minimal and confined to the use of native and/or endemic plant species.

SUMMARY OF COMMENTS:

The Office of Conservation and Coastal Lands (OCCL) referred the application to the following state agencies for review and comment: DLNR - Division of Forestry and Wildlife (DOFAW), Engineering Division, Hawaii Island Land Division (HDLO), DLNR - Division of Aquatic Resources (DAR), the State Historic Preservation Division (SHPD); the Office of Hawaiian Affairs (OHA); DOFAW - *Na Ala Hele program* and the County of Hawaii - Department of

Planning and the County of Hawaii – Department Public Works. The application was also provided to the Hilo Public Library and to the Hawaiian Shores Community Association for review and comment.

Comments received from the following agencies have been summarized by staff as follows:

DLNR – Division of Forestry and Wildlife (DOFAW) – Na Ala Hele

Based on the recommendations by the State Historic Preservation Division, and the availability of public access along the Old Government Beach Road located along the mauka (western) boundary of the subject parcel, no further action is recommended by the Na Ala Hele Program, other than to identify this segment in its inventory pursuant to §198D-3.

Applicant Response:

The applicant will provide the Na Ala Hele Program with geographic coordinates of both ends of the historic coastal trail segment for inventory purposes.

DLNR – Engineering Division

Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is an area of minimal tsunami inundation.

Applicant Response:

We acknowledge that the subject parcel and proposed project area are designated as an area of “Minimal Tsunami Inundation”; there are no special restrictions or requirements concerning development in this area.

DLNR – Hawaii District Land Office (HDLO)

No comments on the proposed project.

DLNR – Division of Aquatic Resources (DAR)

DAR has substantial concerns regarding the potential impacts of development occurring in such close proximity (<130 ft from the shoreline) to near shore coastal waters and coral reefs. An increasing number of studies indicate rapid movement of groundwater from land to nearby coastal regions, creating and alarming connectivity between land use practices, water quality and coastal health. Nutrient enrichment beyond background ocean levels can lead to potentially explosive growth of certain undesirable algae. On-going studies by UH strongly suggest large scale disposal of wastewater provides nutrients to near shore waters that can promote substantial algae blooms which can permanently kill coral and negatively [impact] coral reef fishes and other reef inhabitants. The effect of such nutrient enrichment is likely cumulative and we need to minimize additional inputs in these sensitive coastal areas. There are a number of ways to dispose of residential wastewater, without the use of cesspools or septic system. Such an alternative need to be incorporated in the construction of this home, even if initially more expensive, because of the long term impacts to the health of coastal regions. Protection of groundwater and coastal waters from pollution is essential if we are to maintain sustainable and resilient ecosystems and the health of our coasts and ocean food supply.

Given the ever increasing threats to our highly valuable coral reefs concerted efforts must also be taken in this sensitive area to reduce/eliminate the potential deleterious effects of sedimentation impacts even if they are infrequent.

Applicant Response:

As referenced in your letter of comment, your concern pertains to nutrient enrichment of near shore waters by wastewater disposal systems and you recommend the inclusion of alternative systems other than the proposed septic system in the current plan of construction. On 4/9/2014 your office was contacted regarding this comment and information on specific alternative septic systems was provided to the applicant, along with contact information for an individual with insight into alternative systems. Subsequently, a conversation with the aforementioned individual occurred on that same date. That person was advised that the proposed residence was intended for use as a vacation home for a retired couple, and that the septic system would be placed in an area of the site where the surface level was approximately 40 ft asl. In response, it was noted that that alternative systems were designed for consistent and higher volume use and were a poor choice for the proposed development. It was also noted that due to this limited use and volume, and also due to the elevation of the site, that "a septic system is the best option" in this scenario.

Please also note that three (3) feet of cinder is to be placed below the proposed septic system which acts as an effective wastewater filter, and that as noted above, the system is substantially above sea-level and the groundwater table [in this area].

In consideration of the above referenced items, and that the proposed system readily meets the State of Hawaii Department of Health requirements of wastewater disposal system for the locality, the property owner intend to proceed with the installation of the wastewater system as planned.

State of Hawaii – Office of Hawaiian Affairs

Previous archeological studies, conducted in areas adjacent to the subject parcel, have identified numerous traditional and historic Hawaiian sites including: Heiau, multi-feature habitation and agricultural complexes, trails, and *iwi kupuna* (burials) from traditional and historic time periods. Feature types associated with these sites include; modified outcrops, depressions, lava blisters, walls, mounds, platforms, enclosures and terraces.

Many of these significant cultural sites are located nearby on adjacent parcels. The CDUA states that the parcel has been subject to grading and bulldozing in the past. While we concur that the presence of surface cultural/archeological features are absent from the majority of the parcel, with the exception of the raised coastal trail and the rock wall, we firmly believe that the possibility of sub-surface cultural deposits exists. Due to the large number of cultural sites located in close proximity to the subject parcel it is likely that cultural features were in existence on the subject parcel prior to the past grading and bulldozing activities. Remnants of these sites, including human remains, could remain partially intact or in disturbed sub-surface contexts across the parcel.

We believe that, with the preponderance of cultural sites identified on the adjacent parcels, a program of subsurface testing should be accomplished to determine if subsurface cultural deposits exist on the subject parcel, particularly in areas associated with the footprint of the post and pier

SFR construction and associated subsurface septic system, drain field and water catchment system infrastructure. Additionally we believe that archeological monitoring, conducted in accordance with Hawaii Administrative Rules (HAR) §13-279 should be conducted during the excavation associated with the post and pier foundation, the septic system, and any associated infrastructure for the proposed SFR. We would also like the opportunity to review a draft of the preservation plan, created for the historic coastal trail, once it has been prepared.

Applicant Response:

During the course of the Environmental Assessment we communicated extensively with the Hilo Office of the SHPD, the regulating agency for archeological concerns for the proposed project. Per the applicant's request, staff from the SHPD performed a site visit/inspection to the subject property and subsequently recommended that an Archeological Inventory Survey (AIS) be performed.

The applicants solicited the help of an archeological professional to perform the inventory survey which was submitted to the SHPD for review and acceptance. A Preservation Plan has since been submitted to the SHPD for review; construction on the property will not begin until the Preservation Plan is approved and finalized.

In regards to the comment related to subsurface testing we would like to note that the construction of the proposed residence entails minimal grading due to the flat nature of the project site, and subsurface intrusion will be limited to the footings for the structure [and septic system]. Should any items or sites of potential significance be discovered during construction activities, all work will immediately cease and the State Historic Preservation Division will be contacted for input [and recommendations on treatment of the inadvertent find].

NOTE: The Office of Hawaiian Affairs (OHA) was provided a copy of the Draft Preservation Plan and approval letter from the State Historic Preservation Division (SHPD) regarding the Preservation Plan on July 15, 2014.

County of Hawaii – Planning Department

The Draft Environmental Assessment (DEA) of the subject application notes that two (2) archeological features were identified on the property, SIHP Site No. 18419A (a historic cattle wall) and SIHP Site No. 18418A (an ancient coastal trail). We note that the map of Grant 1537 to Kapohoana, which was included with the DEA, and from which the subject parcel was derived, includes a rough depiction of the Alanui Aupuni (circle-island trail) on the parcel. It would be appropriate to solicit comments, if not already done so, from the Department of Land and Natural Resources – Nā Ala Hele and the National Parks Service – Ala Kahakai with regards to the ancient trail and its use, reservation, and ownership.

The DEA mentions that the ancient coastal trail was most likely used for lateral travel through Puna and for shoreline access purposes. The DEA's conclusion that shoreline recreation and cultural practices along the subject parcel will not be adversely impacted by the development is based upon the proposed 120-foot setback of the dwelling from the assumed shoreline, and not on dedication of a perpetual easement for these recreational or cultural activities. A finding that the proposed land use will not have negative or adverse effect on shoreline recreation or cultural

practices would be supported by including a plan to dedicate a perpetual easement to the County of State for safe public access along the coastal bluff, on or in the vicinity of the ancient trail.

As a Finding of No Significant Impact (FONSI) is anticipated for the proposed project, the County of Hawaii Planning Department will require the applicant to submit a Special Management Area (SMA) Use Permit Assessment Application for review against the SMA guidelines per Ch. 205A, HRS. The site plan submitted with the SMA Assessment Application should include location of the power poles, the location of any proposed sediment or construction barriers, the location or any required archeological buffers for SIHP Site 18418A, the location of any proposed easement for public access along the top of the sea-bluff, and the front, rear, and side yard setback distances for the subject parcel as determined by DLNR-OCCL.

Applicant Response:

In regards to your comment "We note that the map of Grant 1537 to Kapohoana, which was included with the draft EA, and from which the subject parcel was derived, includes a rough depiction of the Alanui Aupuni (circle island trail) on the parcel" we would like to note that Alanui Aupuni refers to the Government Road, not the circle-island trail. The Government Road [AKA: Government Beach Road] is not on the subject parcel but rather is on the mauka (landward) boundary of the parcel.

Please also note that comments were sought from Nā Ala Hele during the performance of an Archeological Preservation Plan for the subject parcel but to date no comments have been received [by the State or the applicant's agent]. The preservation plan has been submitted to the State Historic Preservation Division (the regulating agency for archeological concerns for the project). Construction on the parcel will not begin until the preservation plan has been approved and finalized.

In regards to your comment regarding the dedication of a perpetual easement for the ancient coastal trail, please note that the Preservation Plan includes the following plan of action:

"For the long-term preservation of Site 18418 feature "A", a preservation easement will be established on the property that will include the projected trail alignment and a buffer zone of 20 feet on either side of the projected alignment. No development activity will be permitted to occur within this preservation easement; however nothing in the Preservation Plan is intended to curtail pedestrian access along the trail within the easement not limit the landowner's access across the easement for the continued use of the shoreline area."

We also note your written requirement for the site plan to be provided with the SMA Assessment Application and intend to comply fully with these requirements.

In regards to the shoreline survey, please note that we have communicated extensively with the County of Hawaii Planning Department regarding this issue. The County of Hawaii indicated the likely waving of the shoreline survey requirement due to the substantial distance of the proposed SFR from the shoreline. We intend to comply fully with any request on this matter during the SMA Assessment period.

ANALYSIS:

Following review and acceptance for processing, the Applicant's Agent was notified, by letter dated *March 7, 2014* that:

1. Your proposal to construct a Single Family Residence (SFR) on the subject parcel is an identified land use within the Conservation District Resource Subzone pursuant to Hawaii Administrative Rules (HAR), §13-5-24, R-7, **SINGLE FAMILY RESIDENCE (D-1)**, *A single family residence that conforms to design standards as outlined in this chapter*. The decision to approve or deny this proposal rests with the Board of Land and Natural Resources;
 2. Pursuant to HAR §13-5-40, Hearings, a public hearing will not be required;
 3. A Draft Environmental Assessment (DEA) was submitted to this office for publication in the Office of Environmental Quality Control (OEQC) publication the Environmental Notice (EN). This document will be published in the next available issue of the EN; and
 4. A Special Management Area (SMA) determination will be required from the County of Hawaii prior to commencing work on this parcel.
- *On May 23, 2014 a notice of a Finding of No Significant Impact (FONSI) for the Carlson Single Family Residence (SFR) Final Environmental Assessment (FEA) was published in the Office of Environmental Quality Control (OEQC) publication the Environmental Notice; and*
 - *A Special Management Area (SMA) Minor Permit (No. 14-001115) was obtained from the County of Hawaii on June 13, 2014 for the proposed project.*

§13-5-30 CRITERIA:

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

- 1) *The proposed use is consistent with the purpose of the Conservation District.*
The objective of the Conservation District is to conserve, protect, and preserve the important natural resources' of the state through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The proposed use of the subject parcel for a SFR is an identified land use within the Conservation District Resource Subzone; requiring a Board Permit for such use. A commitment by the applicants to the management of the site will aim to conserve, protect, and preserve the natural features on the subject parcel. The proposed use will not impact the public ability to utilize the coastal resources in the vicinity of the proposed project. Additionally, due to the careful and limited design of the proposed development, there would be no significant impacts to natural or cultural resources in the general area of the

property. Additionally, the proposed SFR will be in direct character with the existing development and uses located throughout this area.

- 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 develop, with proper management, areas to ensure sustained use of the natural resources of those areas". The proposed construction of a SFR, which conforms to the design standards and requirements of HAR Ch. 13-5, will ensure that the existing character of the parcel is not altered heavily and that all proposed activities will be conducted in accordance with BMPs designated and/or proposed in the CDUA.

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

The project lies within the County of Hawaii *Special Management Area* (SMA) and is therefore subject to the regulatory authority of the Coastal Zone Management (CZM) Program. The CZM program is intended to promote the protection and preservation of fragile coastal resources through the state of Hawaii. Based on the analysis provided it appears the proposed use is consistent with Chapter 205A as the project has been designed not to affect/alter existing public access to recreational areas, historic resources, scenic and open space resources, coastal ecosystems, economic uses, or coastal hazards.

Shoreline recreation, such as fishing, swimming or kayaking, was not observed along the shoreline from the project site. Due to the geomorphology of the project site and shoreline Pali, the project site does not afford safe access to the rocky shoreline, nor are the conditions along the shoreline conducive to the above mentioned recreational activities.

The proposed improvements are not likely to result in any substantial adverse impact on the surrounding environment as the proposed SFR is in character with other parcels and land uses in this area. The proposed SFR has been designed to be set back from the shoreline ~120 feet and will not adversely impact scenic resources in any substantial way as the SFR and appurtenances will not be visible from the shoreline. The project is not anticipated to adversely impact the biological or economic aspects of the coastal ecosystem, nor is it expected to adversely affect any natural drainage to the nearby coastal area. Specific BMPs related to mitigating soil loss and/or soil erosion during construction activities will be in place until project completion; additionally, any exposed soil areas will be re-vegetated in accordance to the rules and regulations of the Conservation District.

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

The proposed land use is not likely to cause adverse biological impacts because of the relatively minor nature of the proposed SFR and associated land uses, and due to the lack of native or endemic floral and faunal species existing at the project site. The following

precautionary measures will also be taken to minimize potential impacts to endangered faunal species:

- *Existing trees and shrubs, which occur primarily along the property's perimeter, will remain intact, and will also be inspected for the presence of nest and roosts by a trained biologist prior to commencement of construction. If any evidence is discovered, the biologist will determine whether it is safe to proceed with construction, or if a delay will be necessary to protect the breeding or nesting of an endangered species;*
- *Grass stands, scrub guava, and other vegetation to be removed from the pasture area for construction and landscaping will be carefully inspected for the presence of fauna before removal; if nest or burrows are found, consultation with a biologist will be conducted before proceeding; and*
- *All exterior lighting will be shielded to prevent upwardly directed light from potentially disorienting seabirds.*

- 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 proposed use is consistent and in character with the existing single-family residential uses and the other land uses located on neighboring parcels (i.e., agriculture, landscaping, grazing). The adjoining parcel to the southeast of the project site includes a two-story SFR while the parcel to the northwest remains vacant, but previously cleared for past uses similar to the project site (i.e., agriculture). Two (2) large subdivisions bound the area in the vicinity of the proposed SFR, *Hawaiian Paradise Park* (northwest of the project site) and *Hawaiian Beaches Subdivision* (southwest of the project site), both of which are developed with numerous residential structures and associated development.

- 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 use of the project site and concurrent management of the parcel will help to conserve, protect, and preserve the natural features of the area. The physical beauty of the existing parcel will be preserved by leaving substantial portions of vegetation in place, minimizing the scope of the land uses and promoting the growth of native plant species. The project site is not associated with any sites listed as examples of *Natural Beauty Sites in the Puna District in Hawaii County's General Plan*.

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

The proposed project does not involve subdivision of Conservation District land.

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

The proposed construction of a SFR will not be out of character with the existing development of this area. The proposed SFR is situated approximately in the center of the subject parcel, with the other development clustered in that same area. Since there is no existing access through the property to the shoreline, or any observed or documented cultural or historical uses of the parcel, staff believes that this project will not impact the public in any way. Some minor nuisances (common to similar construction activities) may occur, but will be minimal and short lived. Disposal of wastewater and municipal refuse will conform to the State Department of Health standards and regulations.

CULTURAL AND HISTORICAL IMPACT REVIEW:

Based on the archival research and collected oral information it is recognized that the general shoreline area is, and has been, used for both recreational and subsistence purposes, and that the immediate off-shore ocean area was considered to be a Ko'a āholehole (*a fishing ground for aholehole*). While the subject parcel could be considered a traditional cultural property with the shoreline a location of traditional, cultural practices; no specific activities were identified for the shoreline area fronting the study parcel. Strict adherence to shoreline setbacks during construction will ensure that the proposed development of the parcel will not affect existing shoreline access, or potential shoreline related, and immediate offshore, traditional or cultural uses if required. In order to mitigate potential impacts to the cultural resources located on the subject parcel the applicant has prepared a comprehensive *Preservation Plan for SIHP Site No. 18418 "Feature A"* (i.e., coastal trail remnant) which was submitted to the State Historic Preservation Division (SHPD) for review and final approval.

According to the submitted *Preservation Plan*, long term preservation measures for Site No. 18418 (a trail remnant) will be "preservation in place" through avoidance and protection (conservation). While no signage will be developed for the site, the location of the site on the parcel, along with the preservation plan, will be recorded with the State of Hawaii Bureau of Conveyances. The site will be preserved as-is and a preservation easement including the projected trail alignment will be established on the parcel that will include a permanent buffer of 20 feet on either side of the projected alignment (**Exhibit 13**). Interim protection measures that will be in place prior to any construction activities include an awareness briefing for all members of the construction team informing them of the preservation easement. Construction fencing will be installed along the mauka edge of the permanent preservation buffer for the duration of construction activities; placement of the construction fencing will be verified in writing with SHPD. According to a letter, dated *July 24, 2014*, the *Na Ala Hele Hawaii Trail & Access System* acknowledges that the preservation plan and recommendations provided by the State Historic Preservation Division are considered adequate (**Exhibit 14**).

SHPD believes that the Preservation Plan meets the standards of HAR §13-277, and was accepted as an appropriate Preservation Plan by SHPD by letter dated May 30, 2014.

A Cultural Impact Assessment (CIA) report was submitted as part of this application process to meet applicable State and Federal requirements for the protection of cultural and historical

resources in the area. Although no specific shoreline activities were identified for the parcel, archeologists who studied the region and project site assert that strict adherence to the shoreline setback will ensure that shoreline access and any potential shoreline or immediate offshore traditional practices will not be adversely impacted by the proposed SFR. Additionally, the studies have found that the general shoreline area is and has been used for subsistence and recreation, although those documented uses occur outside the project area (i.e., Ōpūnahā as a canoe landing and Kula Bay as a fishing area).

DISCUSSION:

The primary purpose of this proposed project is to develop a currently vacant parcel with a Single Family Residence (SFR), water catchment tank, landscaping and an unpaved gravel driveway; all proposed activities fall within the guidelines of HAR §13-5. The proposed use is in character with the surrounding region which includes other SFR structures and associated development along with minor agriculture uses in farmlands located mauka of the project area. The project area has been heavily impacted by previous agricultural activities (i.e., sugar cane cultivation) and other land uses associated with a previously approved SFR that was never completed. The parcel is undeveloped, besides two concrete pads which are remnants of the previously approved construction on the parcel. Vegetation is typically non-native shrub/grass open space, with some larger trees around the periphery of the property. The site contains two (2) important historical sites, a rock wall that borders the parcel on two sides and a historical coastal trail segment that runs parallel to the rocky shoreline.

The proposed SFR structure has been designed to minimally impact or alter the existing landscape of the project site; only minor landscaping will be conducted, and construction will only take place in the vicinity of the SFR, driveway and proposed water catchment tank. Additionally, a septic system, approved via the State Department of Health will be located next to the proposed SFR.

While the existing historic rock wall and coastal trail segment will not be impacted by the proposed construction due to the distance of the sites from those activities, a *Preservation Plan* was submitted and approved to protect the trail segment and preserve the site in-place through conservation measures. A forty-foot (40') easement will span the entire assumed trail alignment located on the makai portion of the project area. No construction or uses will be conducted in this area. Based on the similar uses in the area, the minimal design of the proposed structure, the existing landscape and vegetation and the preservation measures being implemented staff believes that this proposed use is consistent with the objectives of the Conservation District and is in character with the surrounding area.

RECOMMENDATION:

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources **APPROVE** this application for the *Carlson Single Family Residence* located in the Puna District, Island of Hawaii, on *Tax Map Key: (3) 1-5-010:028*, subject to the following conditions pursuant to HAR §13-5-42:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;

2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall obtain appropriate authorization from the department for the occupancy of state lands, if applicable;
4. The permittee shall comply with all applicable department of health administrative rules;\
5. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
6. **The single family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;**
7. **The applicant will implement the approved *Preservation Plan for Site No. 18418 feature "A"* as described in this document and will record the *Preservation Plan* with the State of Hawaii Bureau of Conveyances;**
8. **The applicant will provide the Na Ala Hele program a set of geographic coordinates (i.e., two points) for each end of the coastal trail segment located on the subject parcel within 120 days of the Boards approval;**
9. **The State reserves its rights of ownership of historic trails through the Na Ala Hele trail system under the Highways Act of 1892 and §264, HRS;**
10. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
11. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
12. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
13. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;

14. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
15. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
16. Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
17. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
18. **Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized.** If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
19. Cleared areas shall be re-vegetated, in accordance with landscaping guidelines provided in this chapter, within thirty days unless otherwise provided for in a plan on file with and approved by the department;
20. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;
21. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
22. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in section 205A-1, HRS;
23. Artificial light from exterior lighting fixtures, including but not 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 be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
24. 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; and
25. Other terms and conditions as prescribed by the chairperson.

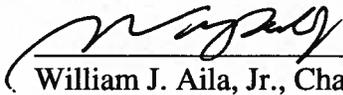
Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.

Respectfully submitted,



Alex J. Roy, M.Sc., Staff Planner
Office of Conservation and Coastal Lands

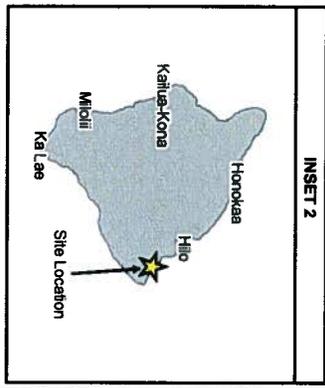
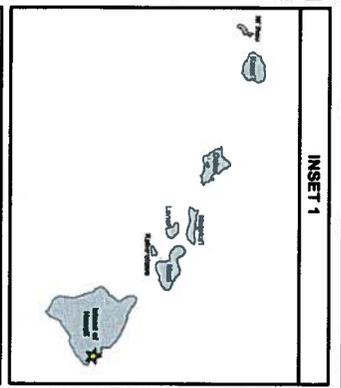
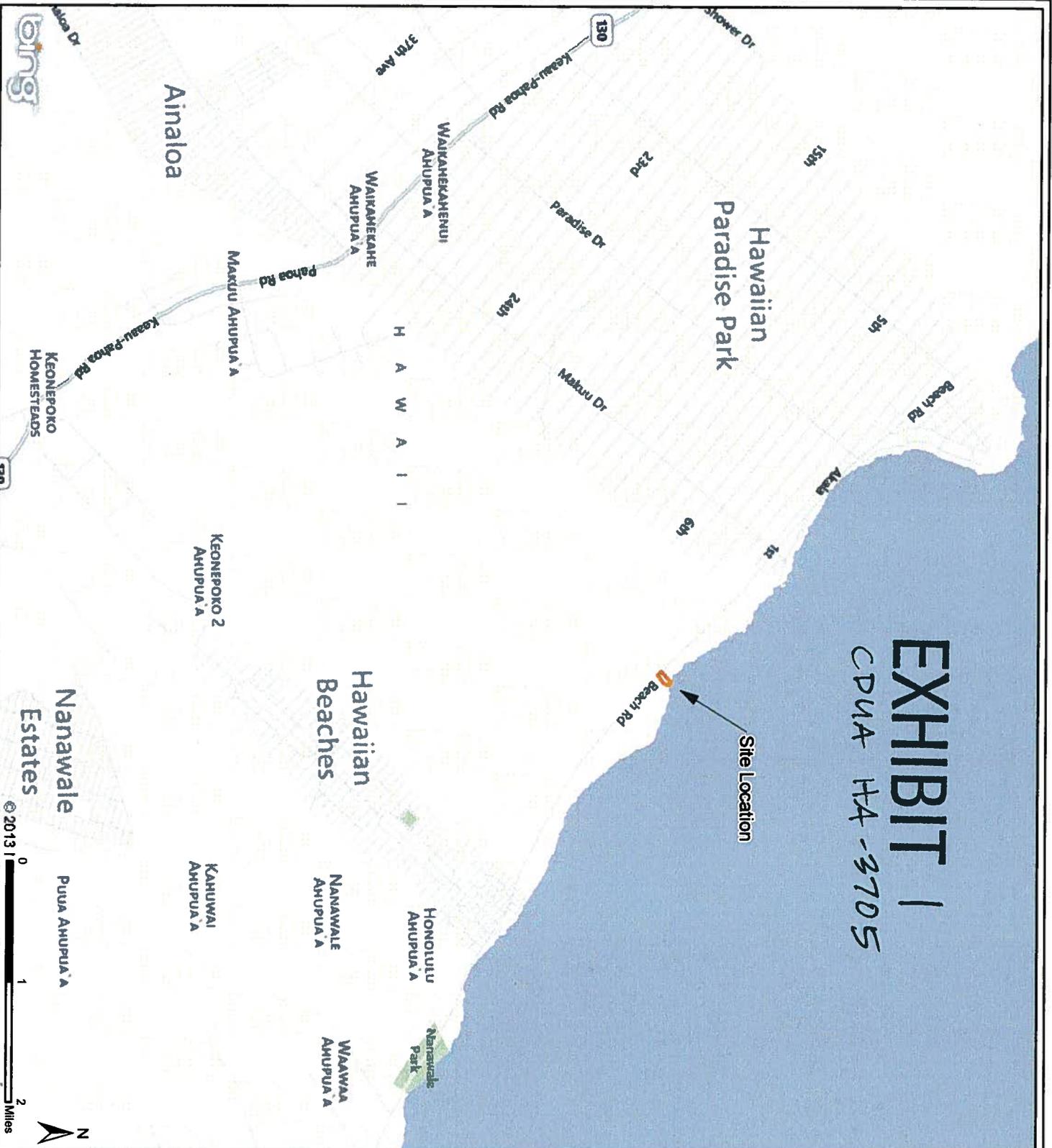
Approved for submittal:



William J. Aila, Jr., Chairperson
Board of Land and Natural Resources

EXHIBIT 1

CDMA HA-3705



LEGEND

Approximate TRM Boundary

NOTES

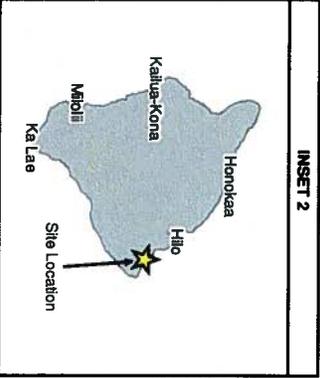
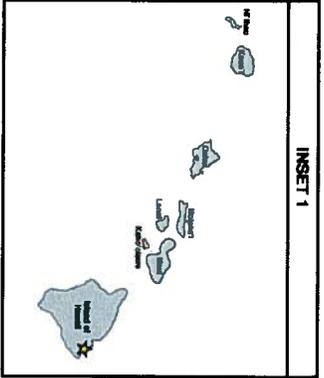
- 1) Base Map: Bing, 2013
- 2) Vector Data: Hawaii Statewide GIS Program, 2013
- 3) Map Projection: UTM Zone 4 NAD83

PROJ. NO.	13007001
PROJ. NAME	CARLSON RESIDENCE EA
DRAWN BY	L KING
DATE	10/20/2013
FIGURE	
TITLE	SITE LOCATION

Native Technologies
Construction Management • Environmental Consulting • Geomatics

EXHIBIT 1A

CDUA HA-3705



LEGEND

- Approximate TRK Boundary
- Neighboring TRK Boundaries
- Contour Line (20 ft)

NOTES

- 1) Base Map: Google Earth, 2013
- 2) Vector Data: Hawaii Statewide GIS Program, 2013
- 3) Map Projection: UTM Zone 4 NAD83

PROJ. NO.	13007001
PROJ. NAME:	CARLSON RESIDENCE EA
DRAWN BY:	L. KING
DATE:	10/20/2013
FIGURE:	
TITLE:	SITE LAYOUT

Native Technologies
Construction Management - Environmental Consulting - Geomatics

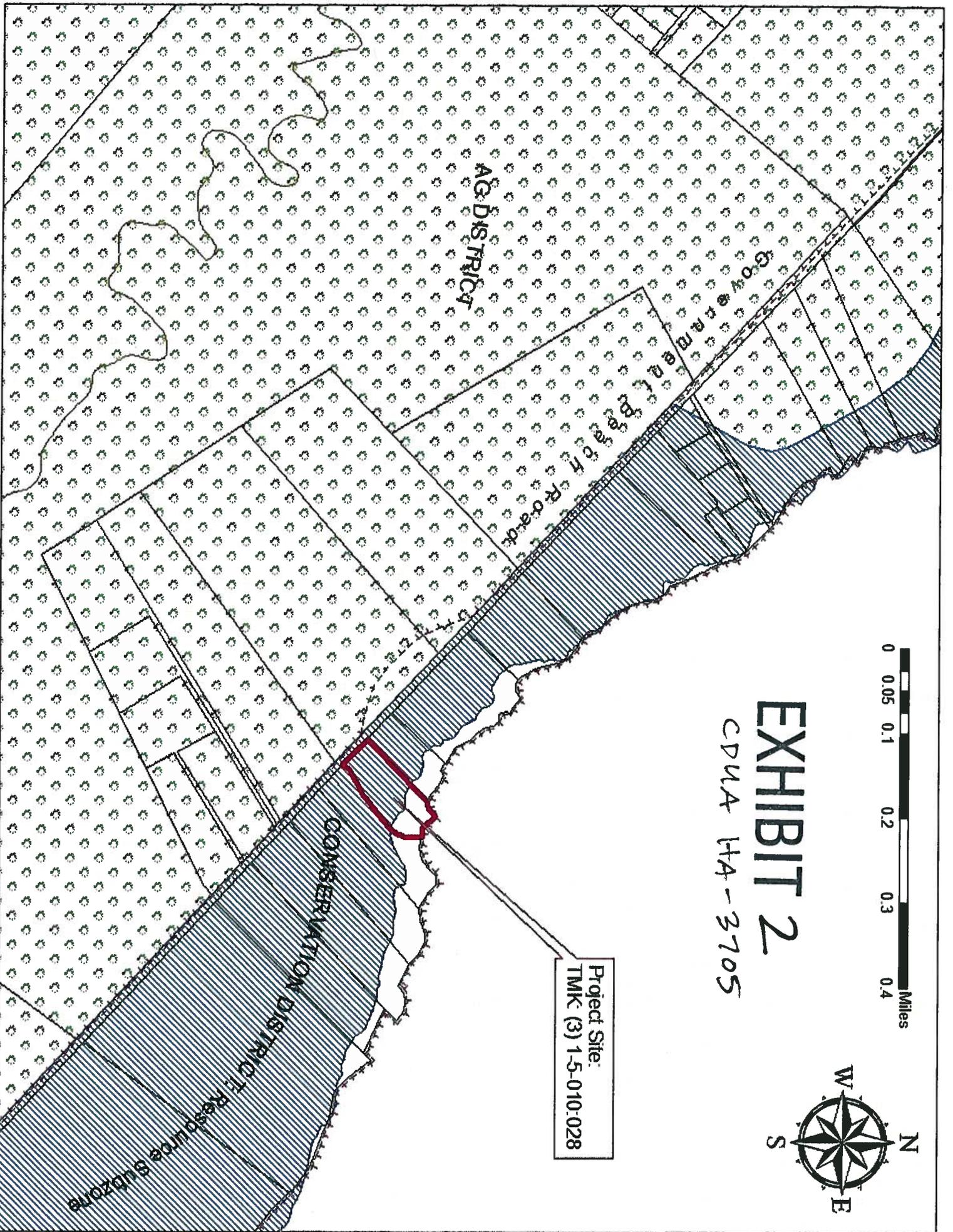
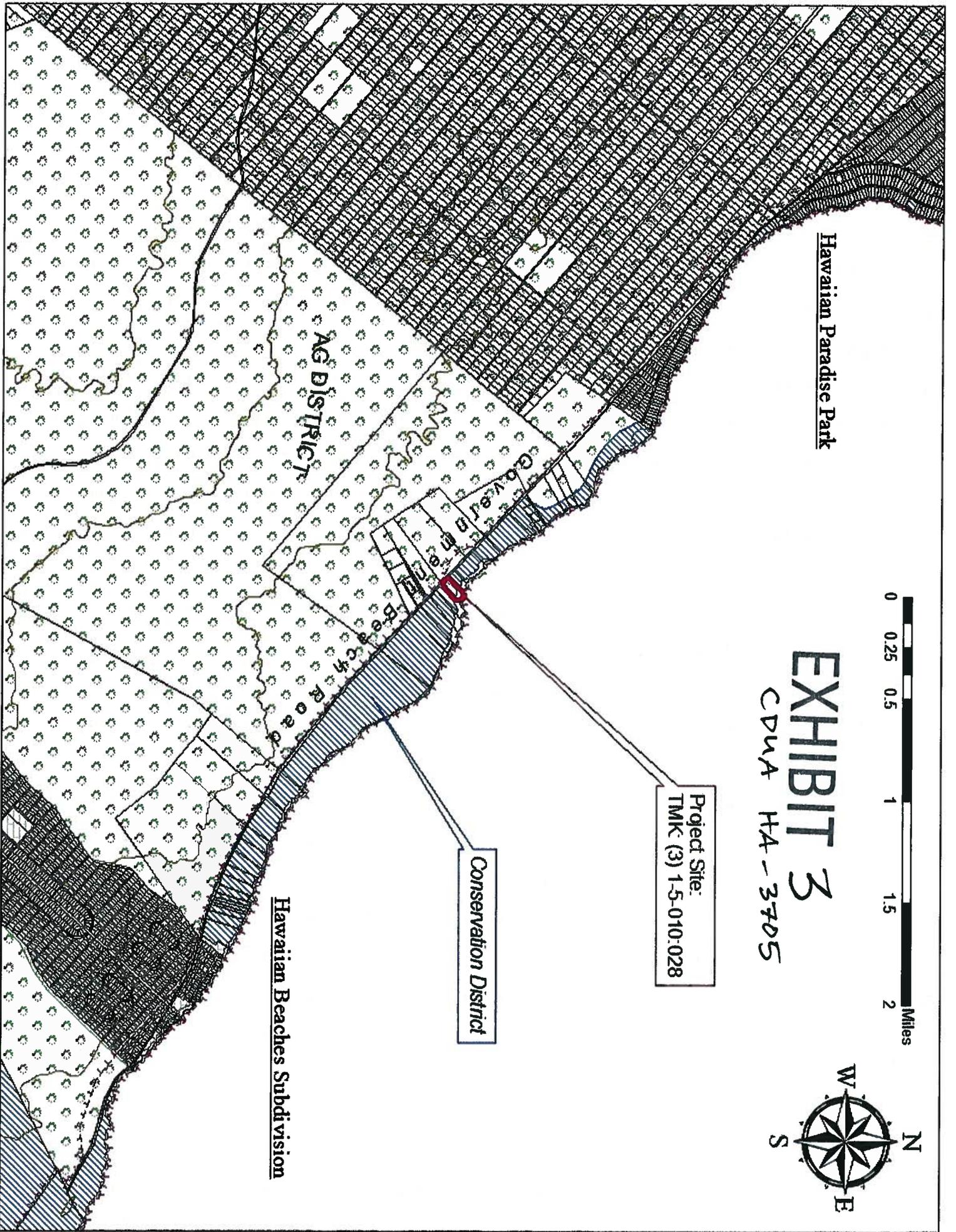


EXHIBIT 2

CDMA HA-3705



Project Site:
TMK (3) 1-5-010-028



Hawaiian Paradise Park

AG DISTRICT

Conservation District

Hawaiian Beaches Subdivision

EXHIBIT 3

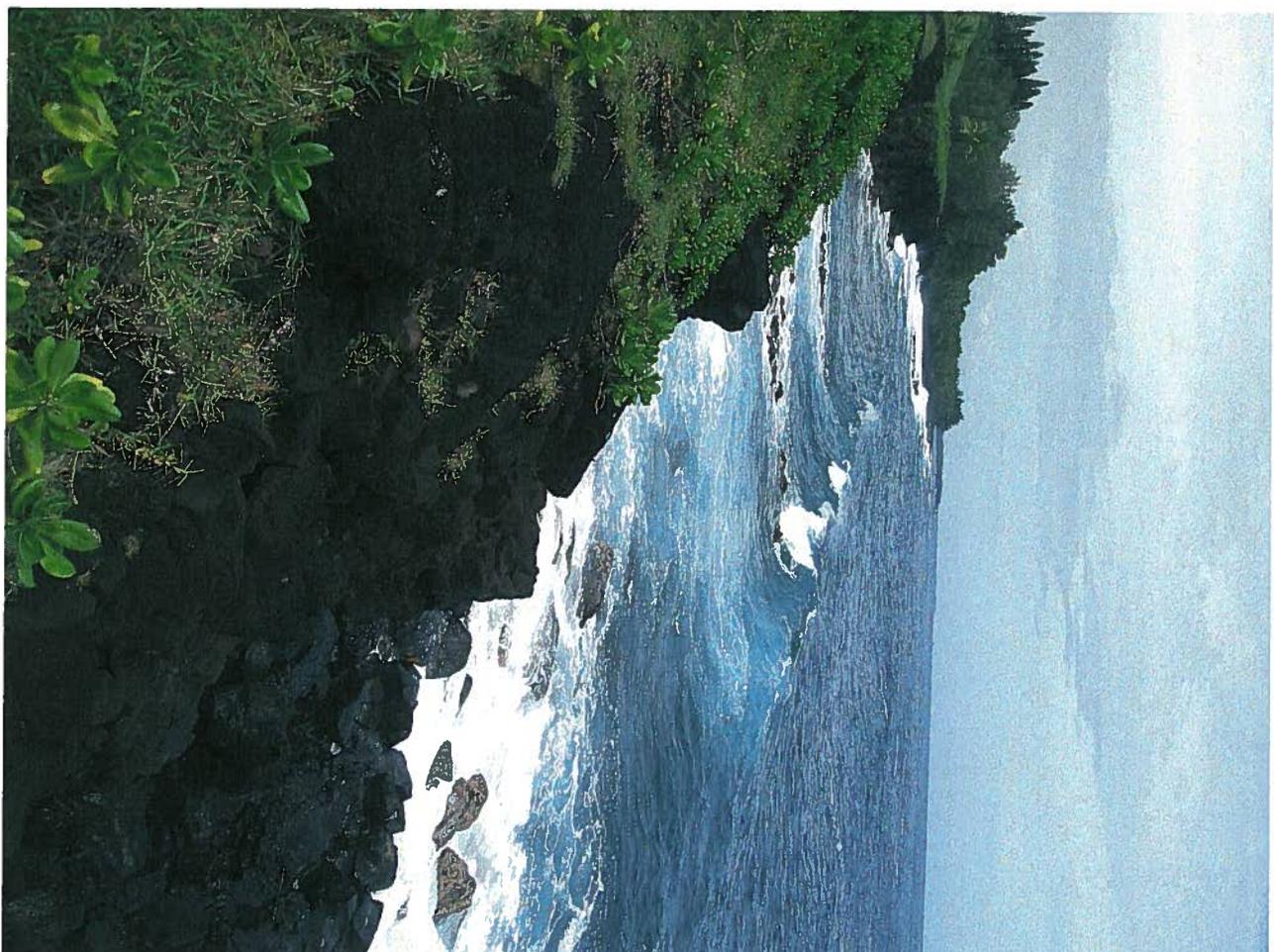
CDMA HA-3705

Project Site:
TMK (3) 1-5-010:028



EXHIBIT 4

CDMA HA-3405





View to NE of existing concrete slab near SE parcel boundary at the end of existing driveway



View to N of existing concrete slab near NW parcel boundary with remains of torn-down shed in background

EXHIBIT 5
 CDUA HA-3705



Native Technologies
 Native Technologies LLC
 P.O. Box 2998, Honolulu, HI 96822
www.nativetechs.com

EXHIBIT 6 CDUA HA-3705

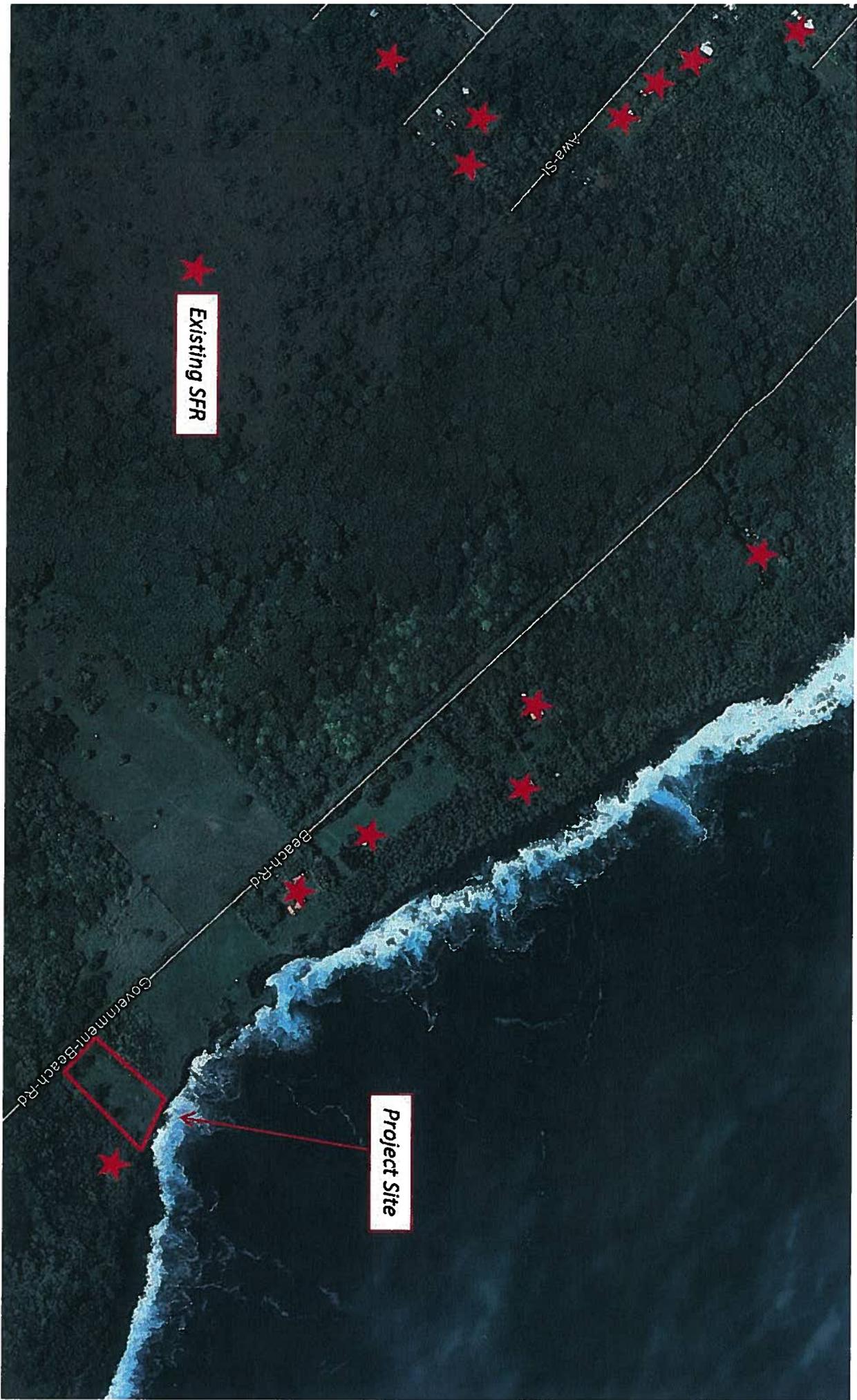


EXHIBIT 7 CDUA HA-3705



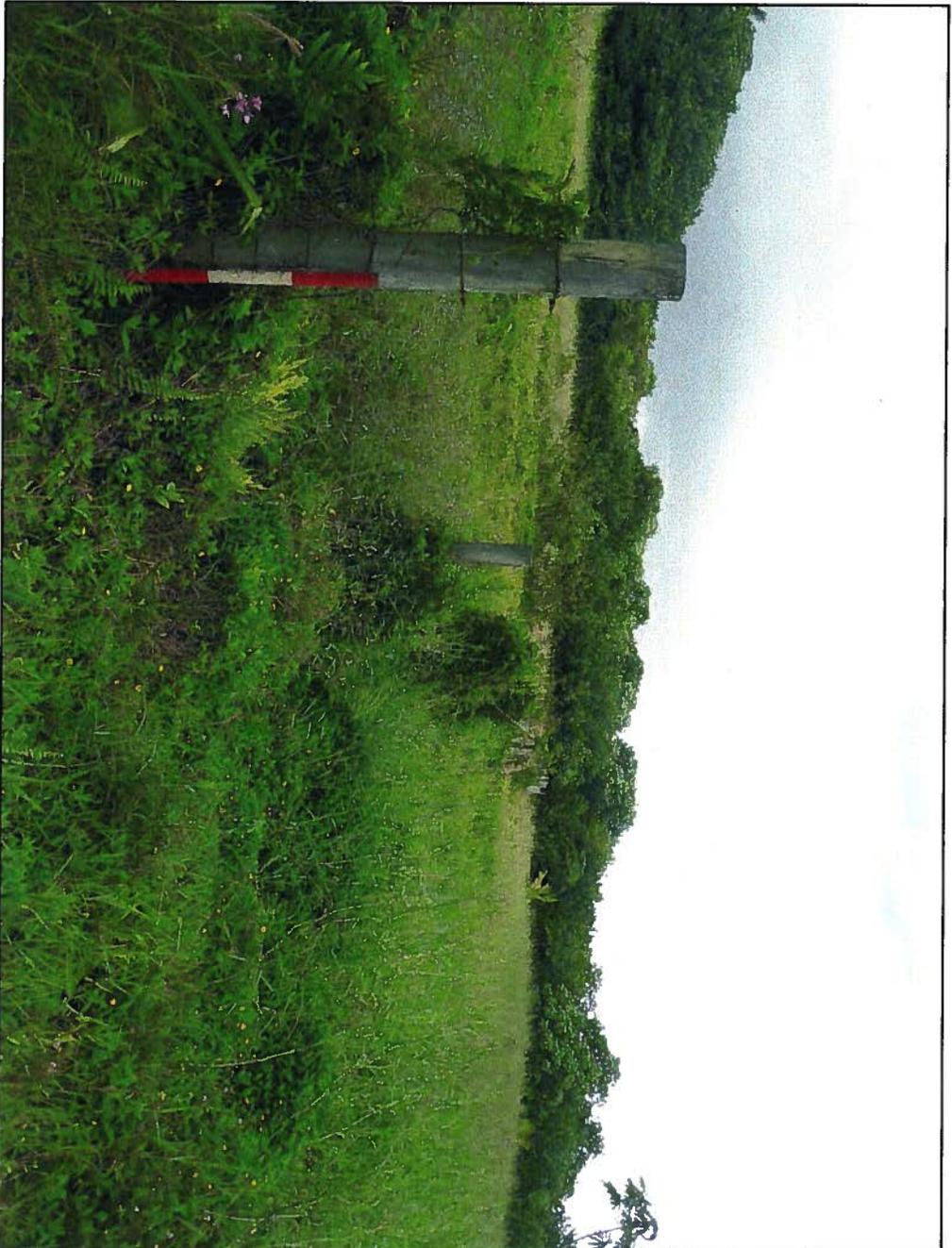
Driveway extending across the southeastern portion of the study parcel, view to the west.

EXHIBIT 7A CDUA HA-3705



Fence line that extends between the coast and the wall at the old Government Road near the northwestern boundary of the study parcel, view to the southwest.

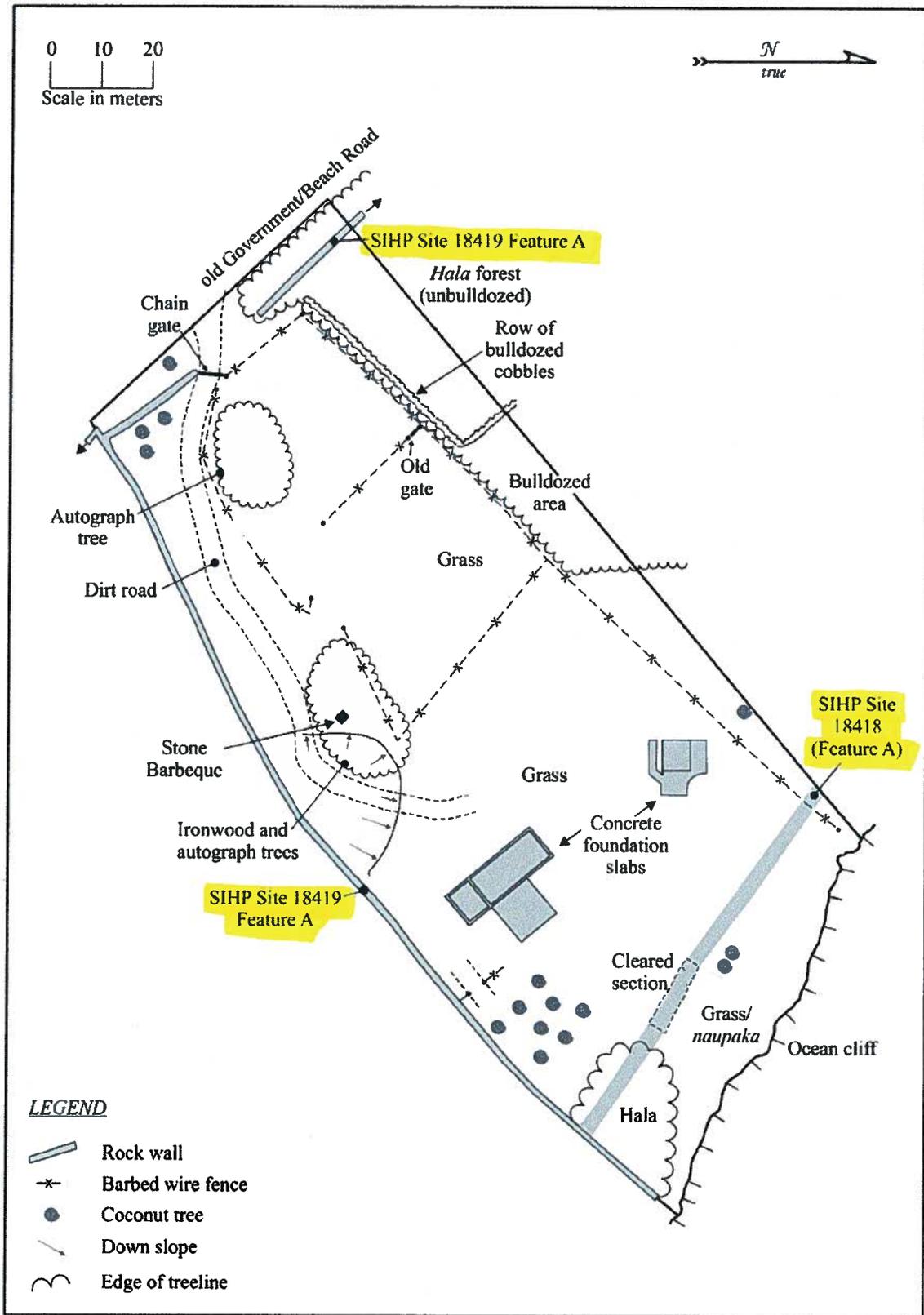
EXHIBIT 7B CDWA HA-3705



Fence line crossing the central portion of the study parcel, view to the northwest.

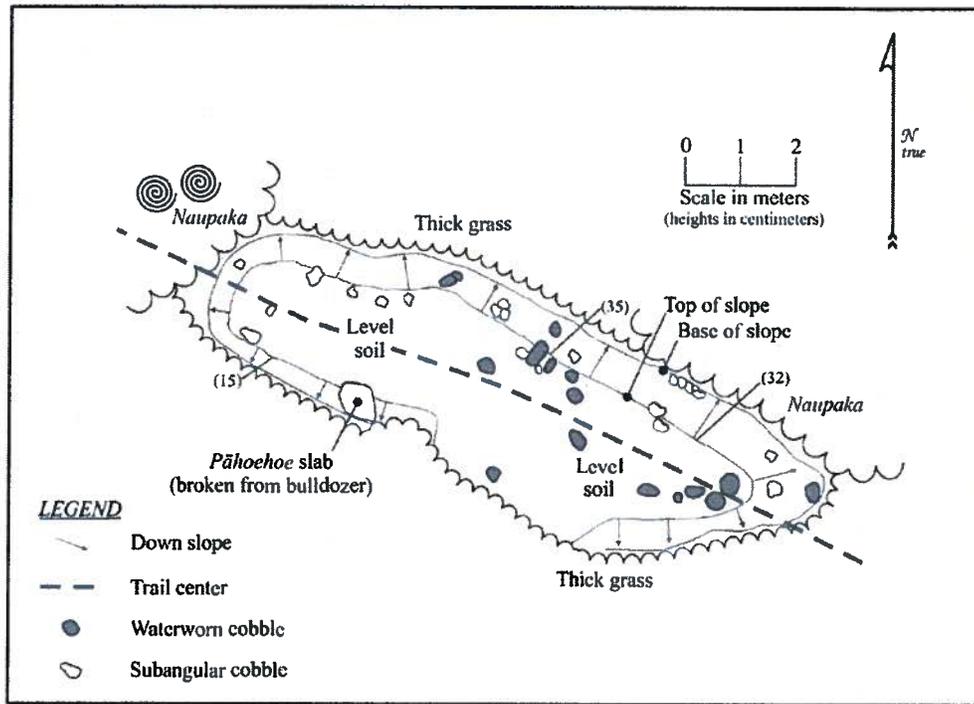
EXHIBIT 8

CDUA HA-3705



Project area plan view.

EXHIBIT 9 CDUA HA-3705



SIHP Site 18418 Feature A plan view.



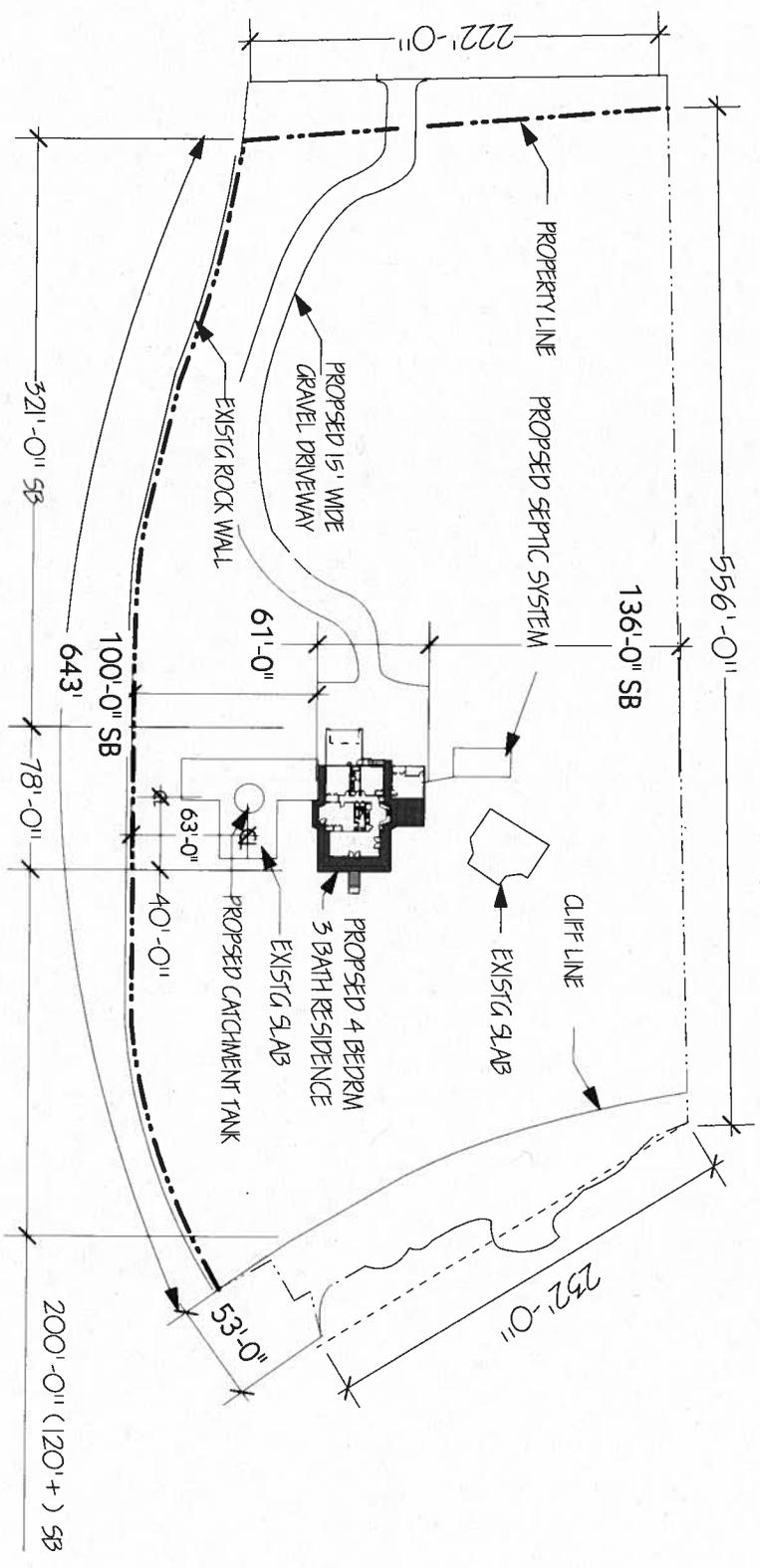
SIHP Site 18418 Feature A water-worn boulders and cobbles along edge of trail, view to the northwest.

CARLSON, DARRIN NEAL & CARLSON, DEBRA LOUISE
 15-29295 GOVERNMENT BEACH RD
 ISLAND AND COUNTY OF HAWAII
 STATE OF HAWAII
 TMK: (3)1-5-010-028
 3.5 ACRES



EXHIBIT 10

CDMA HA-3705

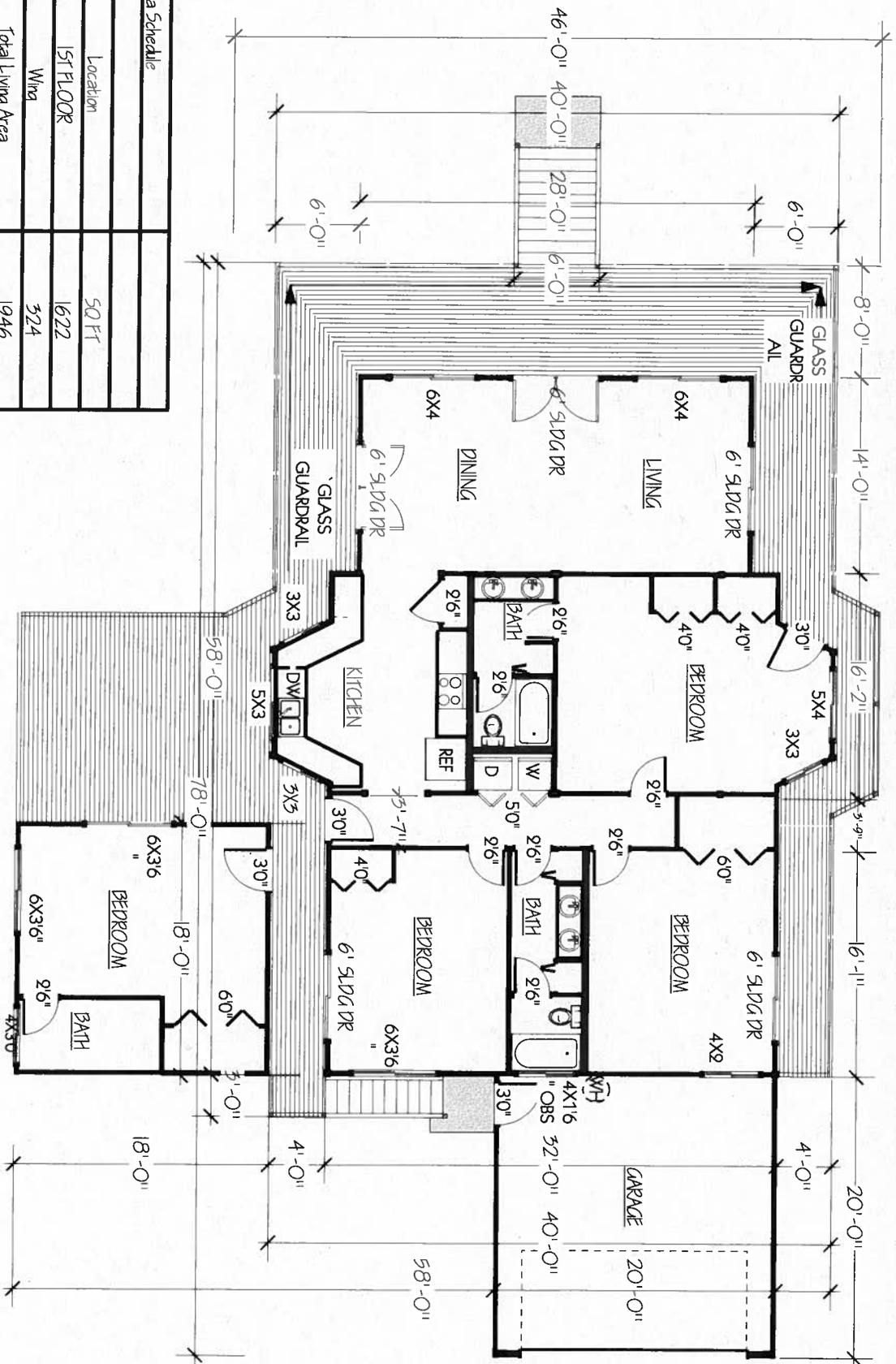


PLOT PLAN

Scale: 1" = 100 Ft

1/25/2014 5:07:34 PM

PLOT PLAN



Floor Area Schedule	
Location	50 FT
1ST FLOOR	1622
Wing	324
Total Living Area	1946
FRONT DECK	524
SIDE DECK 1	95
SIDE DECK 2	87
WING DECK	276
SIDE DECK 3	45
GARAGE	400
Total Accessory Area	1425

FLOOR PLAN

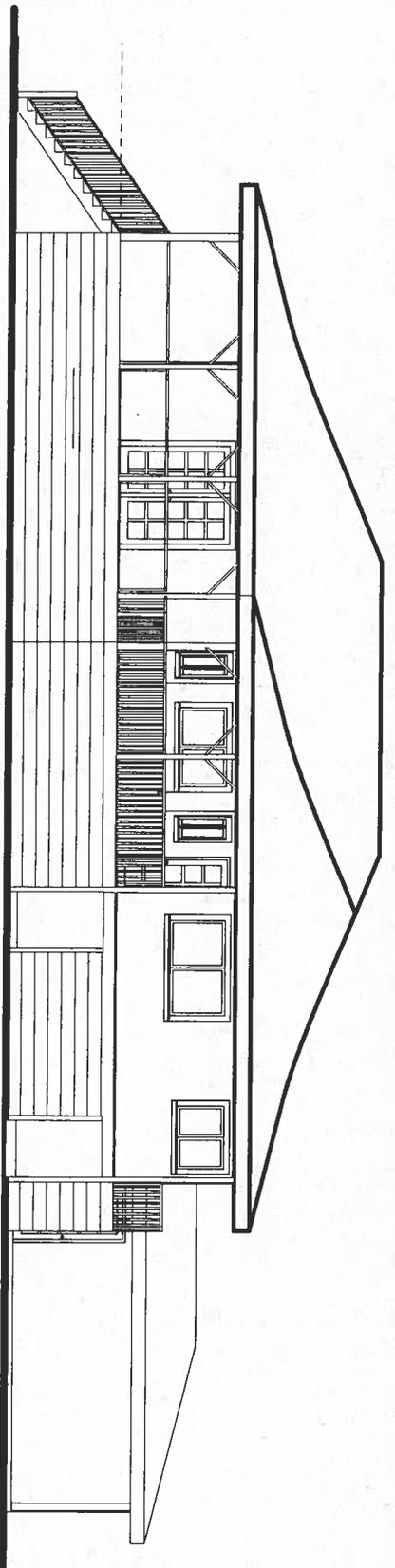
SCALE: 3/32" = 1'

EXHIBIT II

CDMA HA-3705

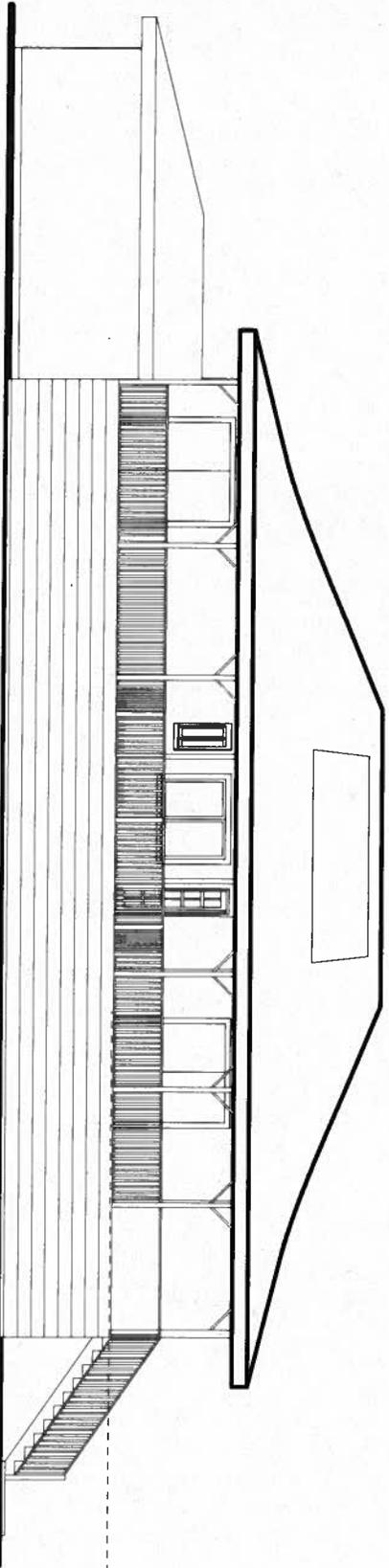
PROPOSED RESIDENCE FOR:
CARL SON, DARIN NEAL &
CARL SON, DEBRA LOUISE

FLOOR PLAN



RIGHT ELEVATION

SCALE: 3/32" = 1'



LEFT ELEVATION

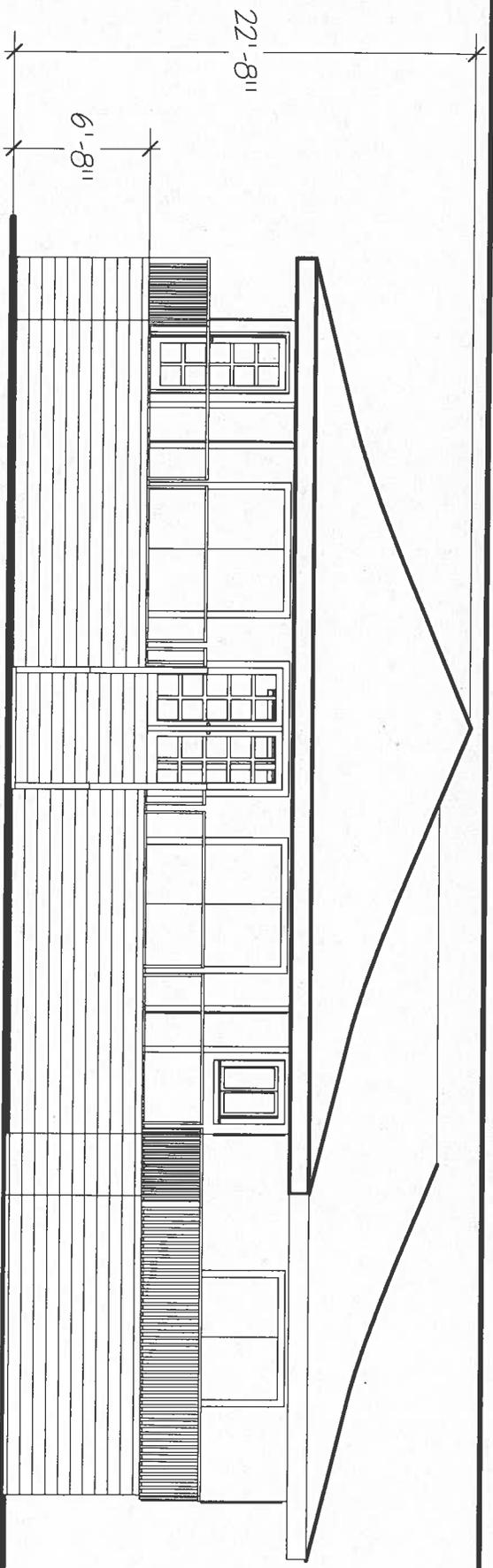
SCALE: 3/32" = 1'

EXHIBIT 11A

CDMA HA-3705

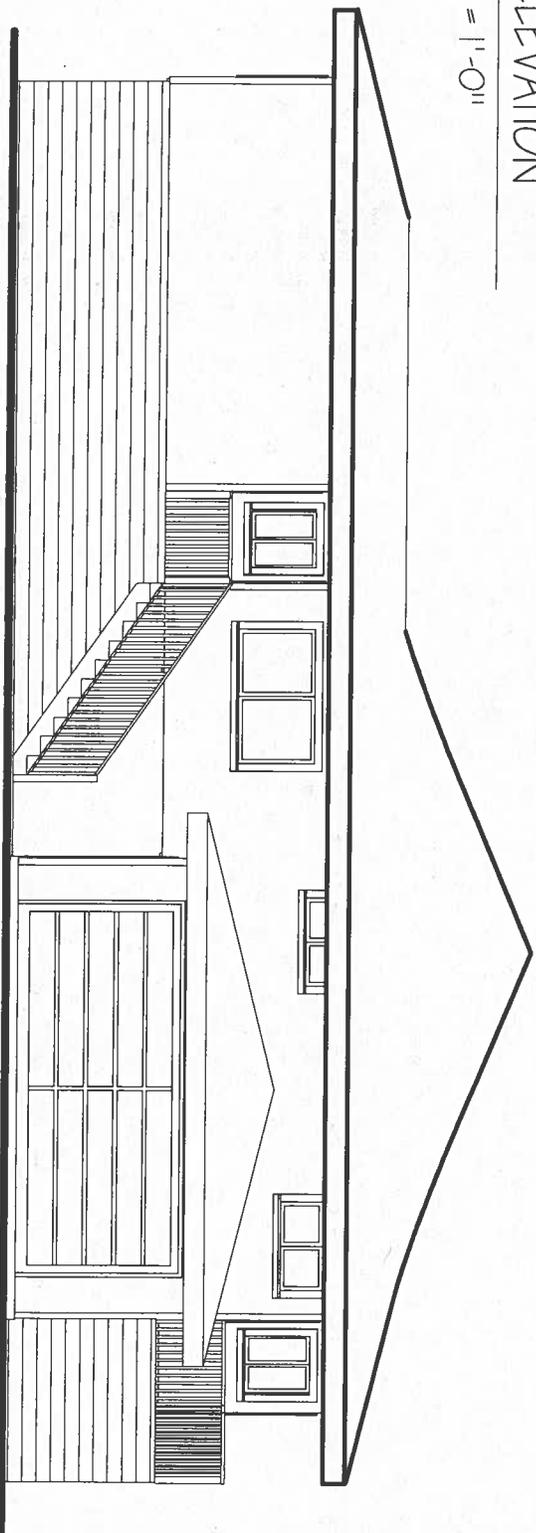
PROPOSED RESIDENCE FOR:
CARL SON, DARRIN NEAL &
CARL SON, DEBRA LOUISE

RIGHT & LEFT
ELEVATIONS



FRONT ELEVATION

Scale: 1/8" = 1'-0"



BACK ELEVATION

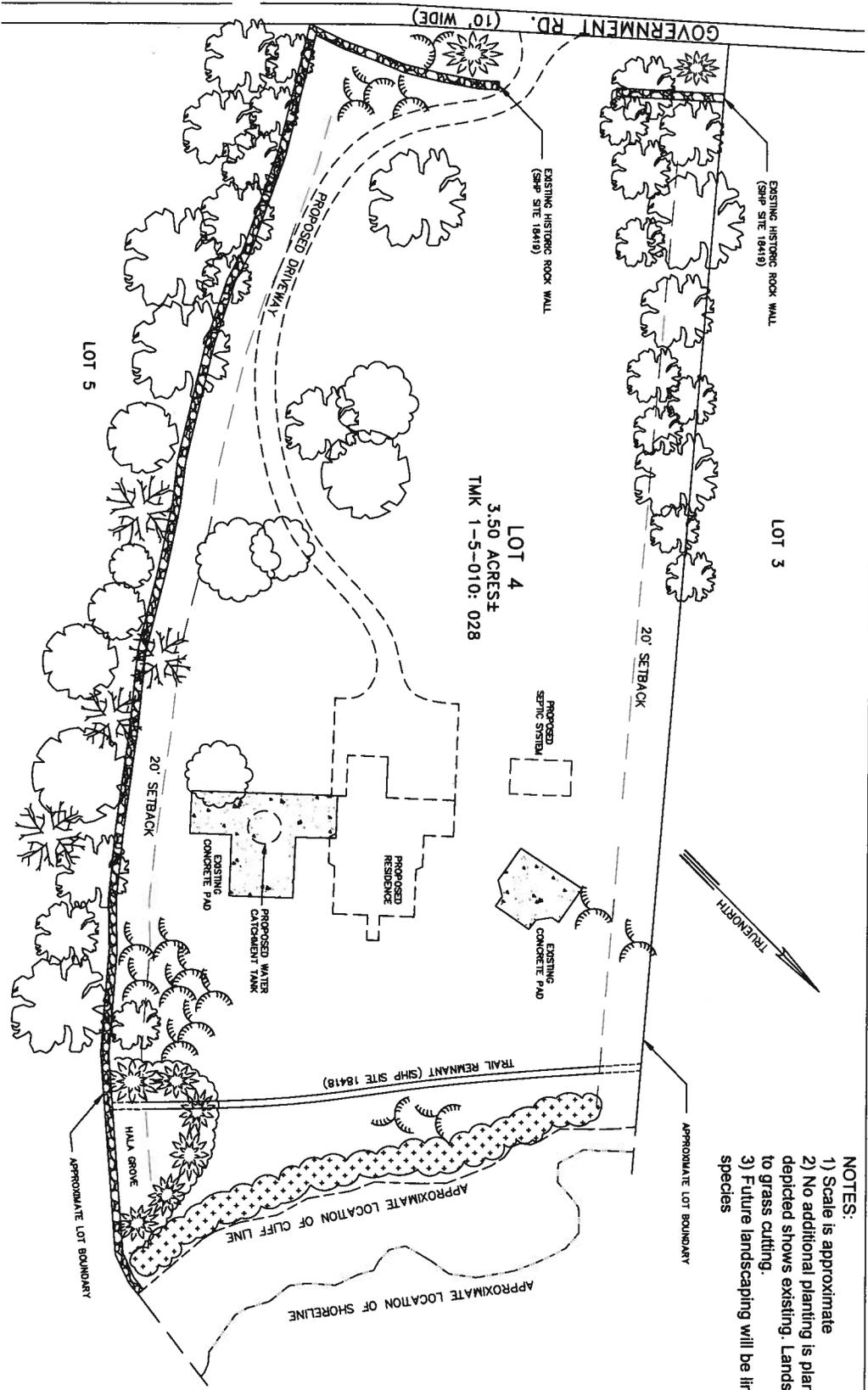
Scale: 1/8" = 1'-0"

PROPOSED RESIDENCE FOR:
 CARLSON, DARRIN NEAL &
 CARLSON, DEBRA LOUISE

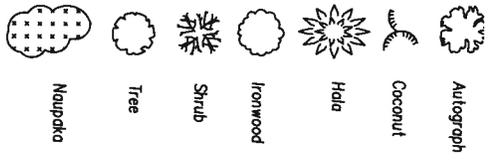
EXHIBIT 11B

CDNA HA-3705

**FRONT & BACK
 ELEVATIONS**



- NOTES:
- 1) Scale is approximate
 - 2) No additional planting is planned. Vegetation depicted shows existing. Landscape changes limited to grass cutting.
 - 3) Future landscaping will be limited to native species



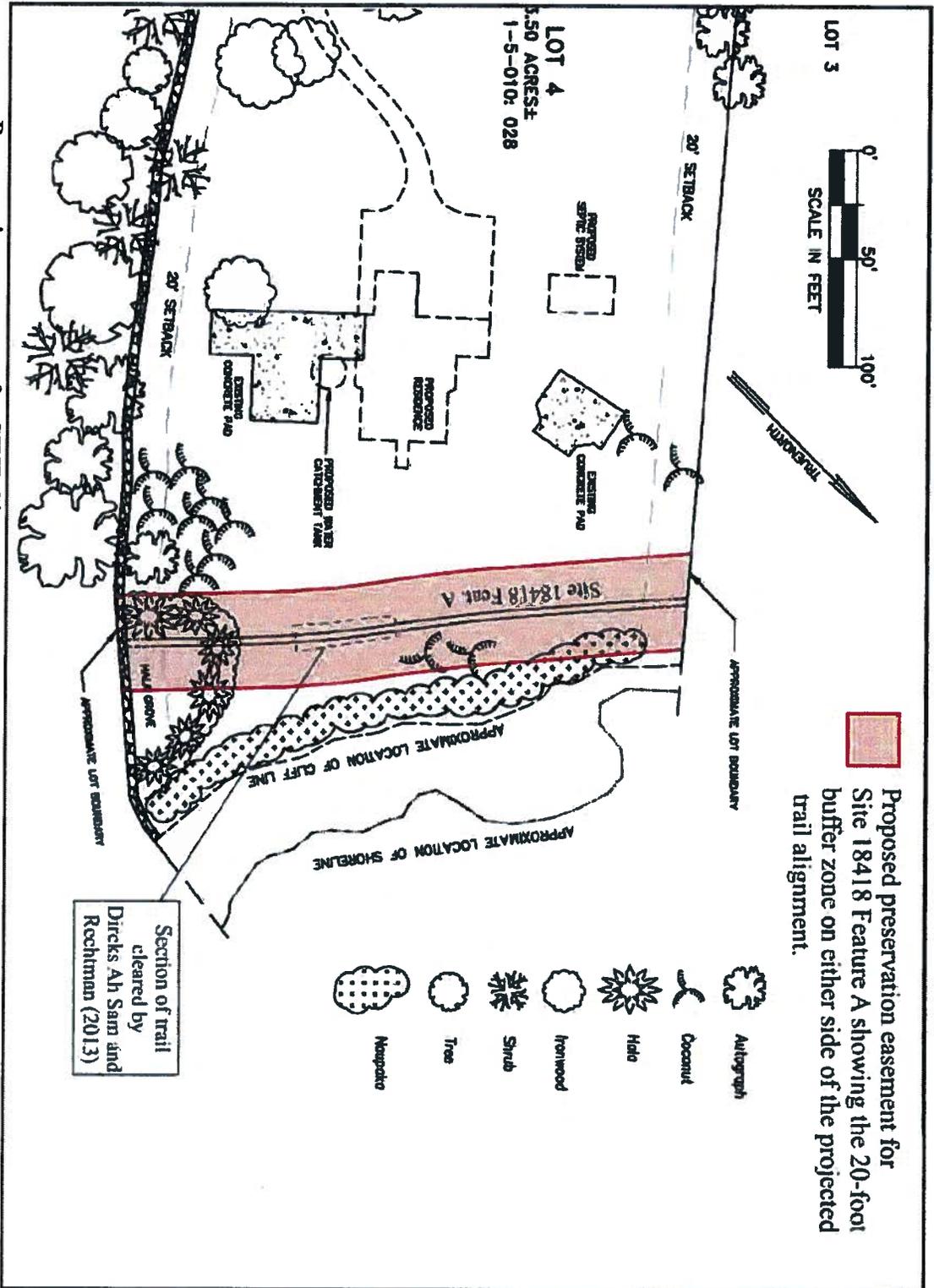
LANDSCAPE PLAN

of Lot 4, of the Subdivision of a Portion of Grant 1537 to Kapohano, at Halona and Popoki, Puna, Island and County of Hawaii, Hawaii

TMK(3)-5-010: 028

EXHIBIT 12

CDMA HA-3705



Preservation easement for SIHP Site 18418 Feature A.

EXHIBIT 13

CDNA HA-3705

EXHIBIT 14

CPUA HA-3705

1 OF 2



NA ALA HELE
Hawai'i Trail & Access System

July 24, 2014

Ref: H14:01 Popoki, Puna

TO: Alex Roy, Planner OCCL

FROM: D. Moana Rowland, Abstractor *DMR*

SUBJECT: Trail Segment identified as SIHP Site 18418 Feature A located within Tax Map Key: H)1-5-10-28 referred to in Conservation District Use Application for the Carlson Single Family Residence, situate at Popoki, Puna, Hawaii

RECEIVED
CONSERVATION
DISTRICT LANDS
2014 JUL 25 P 12: 58
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Thank you for the opportunity to comment on the subject trail segment that has been recommended for preservation in place by the State Historic Preservation Division.

Based on an archaeological inventory survey prepared by Dircks and Rechtman (2013) and accepted by SHPD (Log 2014.00023, Doc 1402SN03), it has been determined the subject trail segment was used during Precontact times up until early Historic times for access to shoreline resources and for travel along the Puna Coast.

Pursuant to the Kuleana Act of 1850, the Hawaiian Kingdom made government lands available for sale to qualified applicants. The said act also provided that the roads would be free to all who needed them to access their lots. It is during this Post contact period that the kingdom initiated public work projects that built miles of road throughout the Puna District. One such road, the 10 foot wide Old Government Beach Road, is still open and used for vehicular and pedestrian access today.

While records exist documenting the funding and construction by the government of roads such as the aforesaid Old Government Road, the same may not always exist for Precontact trail projects. The best evidence is usually found on the ground by trained archaeologists who are able to identify these historic features.

In the subject land area it is most likely that once the Old Government Beach Road was opened to public use the Precontact trail may not have been travelled as frequently. It is quite possible that material may have been taken from the Precontact trail and incorporated into the Old Government Beach Road to expedite construction and make use of available resources. Land use such as grazing, farming and other activities appear to cause vegetation to overgrow the original alignment along the coastline.

EXHIBIT 14

CDUA HA-3705 2 OF 2

Precontact and Post contact transportation routes such as trails may be claimed in fee simple by the State of Hawaii through its Board of Land and Natural Resources if research fails to disclose the government relinquishing its interest in the same. No evidence of transfer of ownership of the subject trail was found in a review of available records.

Based on the recommendation by the State Historic Preservation Division, and the availability of public access along the Old Government Beach Road located along the *mauka* (western) boundary of the subject parcel, no further action is recommended by the Na Ala Hele Program, other than to identify this segment in its inventory pursuant to §198D-3.

Should you have any questions or concerns please contact me at 587-0057.

c: SHPD