

JOHN WAIHEE,
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P. O. BOX 621
HONOLULU, HAWAII 96809

MAR 7 1993

John P. Keppler, II
Acting CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

Dona L. Hanaike

Deputies
AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
ENVIRONMENTAL AFFAIRS
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

Mr. Brian J.J. Choy, Director
Office of Environmental Quality Control
220 S. King Street, 4th Floor
Honolulu, HI 96813

Dear Mr. Choy:

Subject: **Negative Declaration for Direct Grant of Easement Over and Across
Government Lands Situate at Ka'ao, Hamakua, Hawai'i
Tax Map Key:3rd/4-5-03:20(portion) and 3rd/4-5-03:10-Foot Road**

The Division of Land Management, Department of Land and Natural Resources, has received no comments on the following:

MARIA F. CARVALHO and NELLIE J. CARVALHO - Request for direct grant of easement for egress, ingress and utilities over and across government lands at Ka'ao, Hamakua, Hawai'i, further described as Tax Map Key:3rd/4-5-03:20(portion) and 3rd/4-5-03:10-Foot Road.

The draft environmental assessment for this project was initially published in the November 23, 1992, OEQC Bulletin.

The department has determined that this project will not have any significant environmental effect and has issued a negative declaration. Please publish this notice in the next appropriate OEQC Bulletin.

We have enclosed a completed OEQC Bulletin Publication Form and four (4) copies of the Final Environmental Assessment.

Mr. Brian J.J. Choy, Director
Office of Environmental Quality Control
Negative Declaration for Direct Grant of
Easement at Ka'ao, Hamakua, Hawai'i
Tax Map Key:3rd/4-5-03:20(portion)
Tax Map Key:3rd/4-5-03:10-Foot Road
Page 2

Should there be any questions, please contact our Hawai'i District Land Agent at
933-4245.

Very truly yours,



JOHN P. KEPPLER, II

c: Hawai'i Land Board Member
Land Management Administrator
Hawai'i District Land Office

1993-03-23-HI-~~FEA~~-Carvalho's Easement for
Lease Egress, Ingress and Utility Purposes
FINAL ENVIRONMENTAL ASSESSMENT

MAR 23 1993

I. APPLICANTS:

Maria F. Carvalho
Nellie J. Carvalho
P.O. Box 980
Honoka'a, HI 96727

II. APPROVING AGENCY:

Division of Land Management
Department of Land and Natural Resources
P.O. Box 936
Hilo, HI 96721-0936

III. AGENCIES CONSULTED:

Department of Public Works, County of Hawai'i
Office of the Corporation Counsel, County of Hawai'i
Department of Education, State of Hawai'i
Department of Land and Natural Resources, State of Hawai'i

IV. GENERAL DESCRIPTION OF THE PROPOSED ACTION:

Pursuant to applicable statutes and in consideration of the unusual circumstances leading to this action, the staff of the Department of Land and Natural Resources is recommending the direct grant of a perpetual, nonexclusive easement to the applicants for egress, ingress, and utility purposes. The staff further recommends that the consideration for the easement be \$1.

As background information, the following is offered:

The property of Maria F. and Nellie J. Carvalho, (previously Frank and Mary Carvalho, parents), Tax Map Key:3rd/4-5-04:16, is located along the southeast corner of Honoka'a High and Elementary School and shares a 240-foot common boundary with the school.

The original entry to the Carvalho property was through the flag portion of their lot and through a 10-foot wide road right-of-way from the Waipi'o Road, presently known as Mamane Street. The 10-foot wide right-of-way and the Carvalho's narrow driveway is located between the Honoka'a School boundary and the Toshiaki Ito property (Tax Map Key:3rd/4-5-04:17) located next to and north of the Carvalho property.

Sometime prior to the 1960's, a huge rock and concrete retaining wall was built to stabilize the northeast corner of the Honoka'a School property. The work was done

Final Environmental Assessment
Applicants: Maria F. Carvalho
and Nellie J. Carvalho
Tax Map Key:3rd/4-5-03:20 &
Tax Map Key:3rd/4-5-03:10-Foot Road
Page 2

during the period when public school maintenance was under the jurisdiction of the County of Hawai'i.

The huge rock and concrete retaining wall took up and blocked the entry into the entire 10-foot wide road right-of-way as well as encroaching onto the flag portion of the Carvalho property. Consequently, the only entry/exit from the Carvalho property is through the "back" mauka side of the property through the remnants of the 10-foot road right-of-way and a small segment of the southeast corner of the Honoka'a School property.

This entry/exit arrangement has existed without any documentation and until recently, without any problems. A problem arose, however, when the applicants decided to build another home on their property under the "ohana" zoning ordinance. They are unable to obtain a mortgage because the title search disclosed that the Carvalho's do not have an easement to cross the Honoka'a High School property or the 10-foot right-of-way.

As it relates to Executive Order No. 408, the Department of Education after reviewing the available documents on this matter has recommended through its Superintendent that a perpetual, nonexclusive easement for ingress/egress and utilities be granted to the applicants. The superintendent's recommendation is based on the following:

1. The 10-foot wide road right-of-way and the flag portion of the applicants' property is totally blocked as a result of the government construction of a rock/concrete retaining wall which was built to stabilize the northeast corner of the Honoka'a School property. The retaining wall is essential as the embankment at this location is over 25 feet high.
2. That portion of the school property being recommended for the easement will not create a negative effect on the school nor will it impact future developments or improvements at the Honoka'a High and Elementary School.
3. That the granting of portions of Department of Education property for easements to private individuals is established by precedence at several schools in the Hawai'i District and in all existing cases, such easements cover a substantially larger land area.

Final Environmental Assessment
Applicants: Maria F. Carvalho
and Nellie J. Carvalho
Tax Map Key: 3rd/4-5-03:20 &
Tax Map Key: 3rd/4-5-03:10-Foot Road
Page 3

The Department of Public Works and the Office of the Corporation Counsel for the County of Hawai'i together with the DLNR staff have reviewed all of the available data and recommend that an easement be granted to the applicants. The DLNR staff has concluded that an "error" was committed sometime prior to the 1960's which has denied the applicants the full use of their property. The DLNR staff is recommending that a direct grant of easement for the sum of \$1 be approved by the Board of Land and Natural Resources.

V. DESCRIPTION OF THE AFFECTED ENVIRONMENT SITE:

The easement shall include a portion of a 10-foot wide right-of-way running between Royal Patent Grant No. 3422, portion of the Government lands of Ka'ao in Executive Order No. 408 (Honoka'a High School) on the westerly side and Lot 1 of Land Patent Grant No. 7782 on the easterly side. The 10-foot right-of-way is also identified as a portion of the Government land of Ka'ao-Pa'alaea 2 at Honoka'a, Hamakua, Hawai'i.

Further, the easement shall also contain a portion of the southeasterly corner of Executive Order No. 408, being a portion of the Honoka'a High School.

Existing Use: Driveway

Topography: Slightly sloping

Flora and Fauna: The vegetation are grasses, shrubs and trees normally associated with a residential lot.

Historic and Archaeological: The area has been mechanically altered and utilized for residential purposes for many years. There are no historically or culturally significant sites in the area.

Surrounding Land Use: The surrounding land use is predominantly residential with a portion of Honoka'a High School located to the westerly side of the proposed easement.

VI. SUMMARY OF IMPACTS

Short-term: None
Long-term: None

Final Environmental Assessment
Applicants: Maria F. Carvalho
and Nellie J. Carvalho
Tax Map Key:3rd/4-5-03:20 &
Tax Map Key:3rd/4-5-03:10-Foot Road
Page 4

VII. ALTERNATIVES CONSIDERED:

No action. If the Department of Land and Natural Resources took a no action position, Tax Map Key:3rd/4-5-04:16 will be effectively land-locked because of an "error" committed by the government sometime prior to the 1960's.

VIII. MITIGATION MEASURES PROPOSED:

None

IX. RESULTS OF ENVIRONMENTAL REVIEW PROCESS:

No comments were received during the 30-day review period.

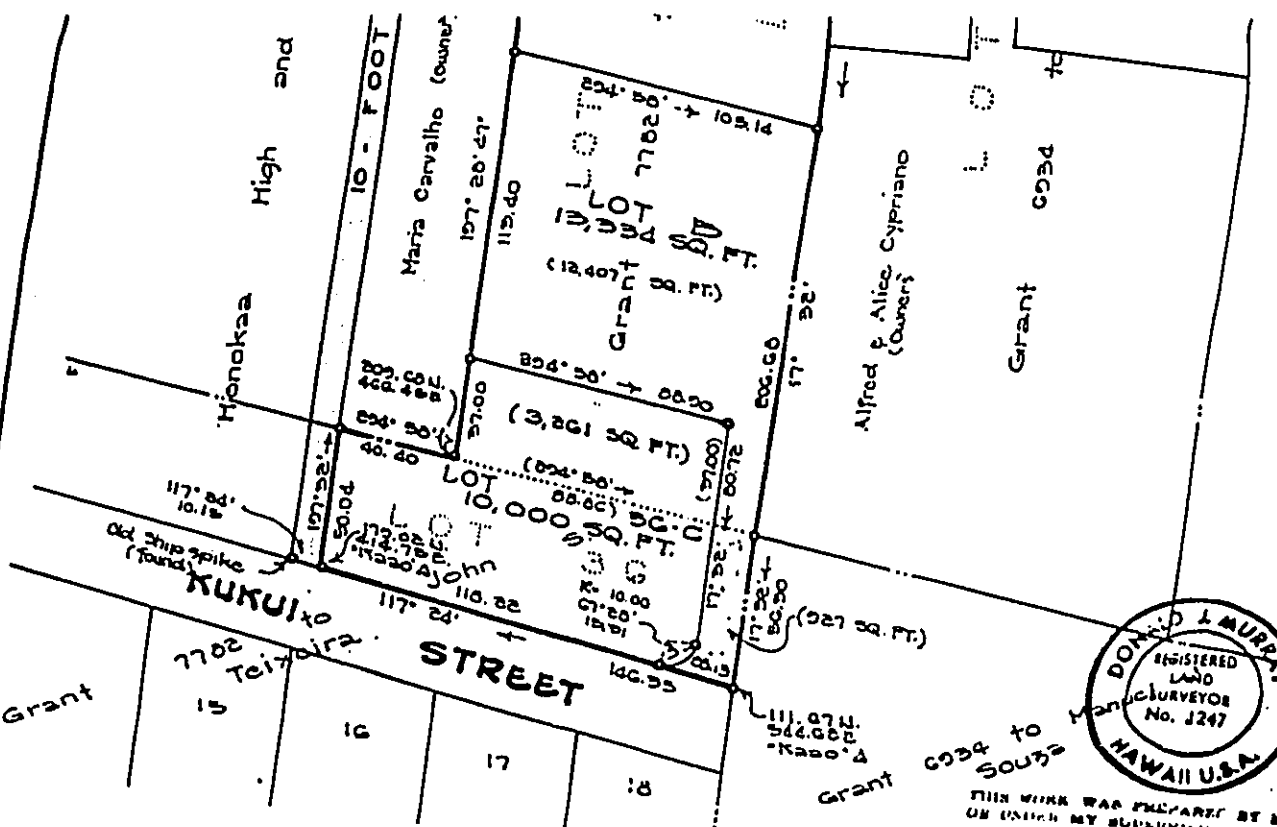
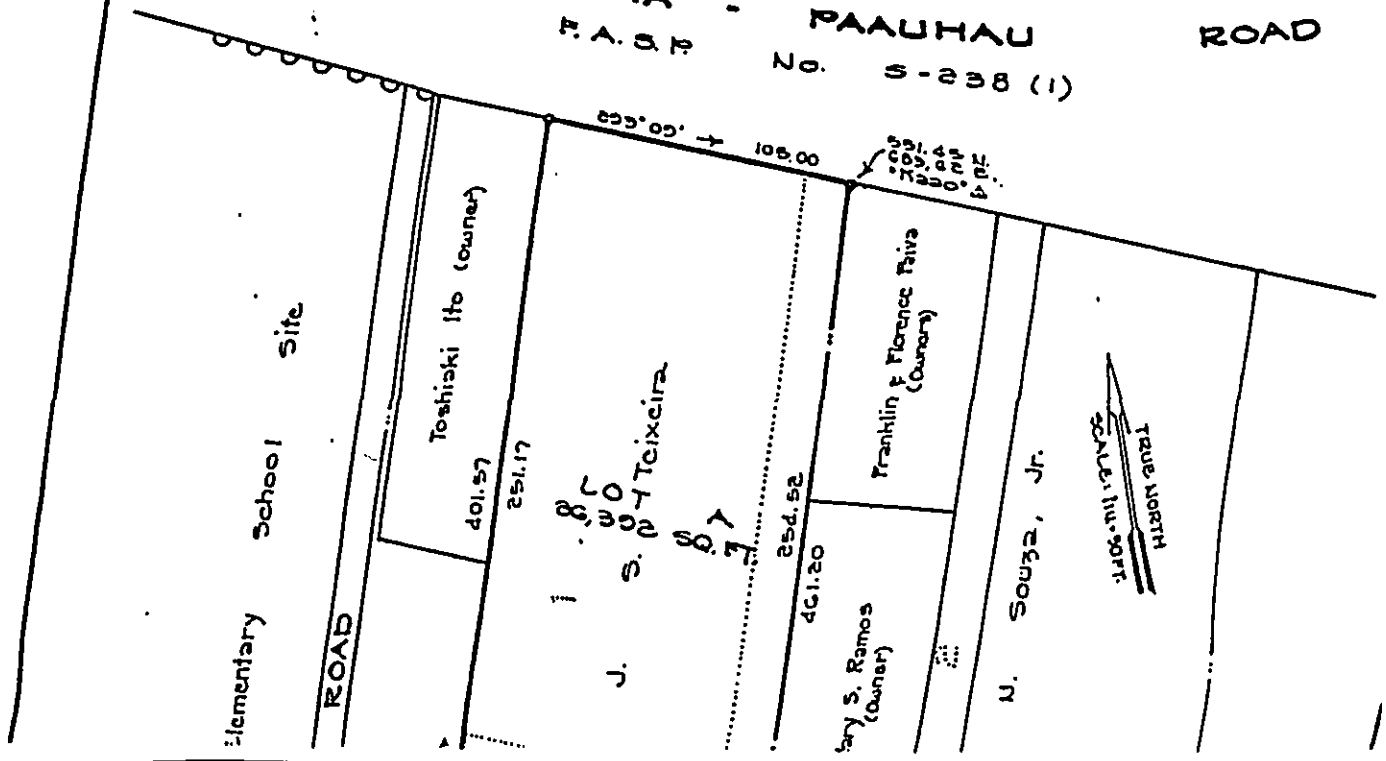
X. CONTACT

Glenn Y. Taguchi
Hawai'i District Land Agent
Division of Land Management
Department of Land & Natural Resources
P.O. Box 936
Hilo, HI 96721-0936
Phone: 933-4245

Survey # 5

HONOKAA - PAAUHAU ROAD

P.A.S.P. No. S-238 (1)



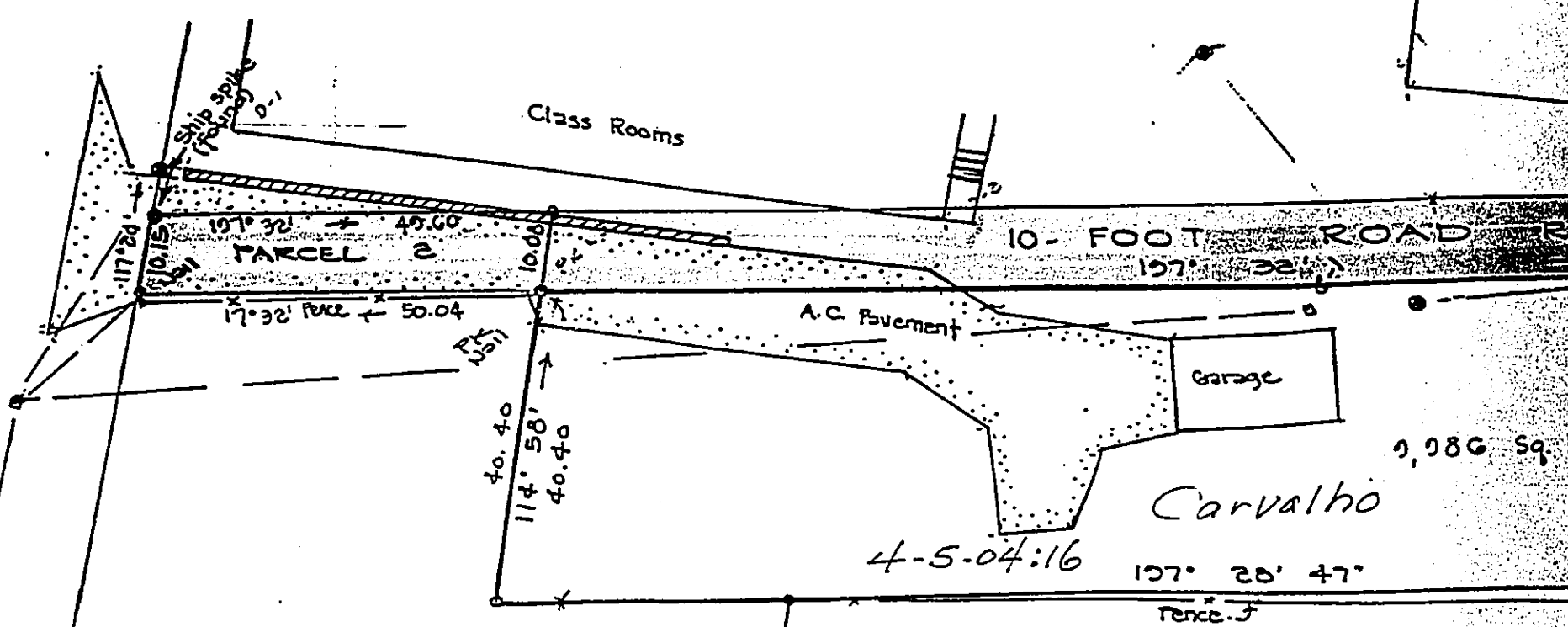
THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.
 Donald James Murray

Consolidation of Parcels in
 Lot 1, Grant 7782 to J. S. Teixeira and
 Lot 26, subdivision of Lot 24, Grant 7782 to John S. Teixeira
 and Resubdivision of said Consolidation into
 Lots A, B and 26-C
 Kaaoo House Lots and Kaaoo Homesteads
 Kaaoo Hamakua, Island of Hawaii, Hawaii
 Survey & Plan by Murray, Smith & Assoc., Ltd.
 P.O. Box 863
 Hilo, Hawaii

OWNER:
 Albert & Vera L. Paiva
 P.O. Box 101
 Honokaa, Hawaii 96727

TMK 4-5-04: 10 & 4-5-12: 40
 March 10, 1990

KUKUI STREET



LOT 36:A

LOT B

Class Rooms

Class Rooms

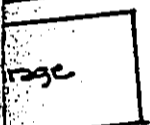
ROAD RIGHT - OF - WAY

Fence

Fence

400.25

197° 32'



9,986 Sq. Ft.

Dwelling

Toshiaki

161.54

20' 47'

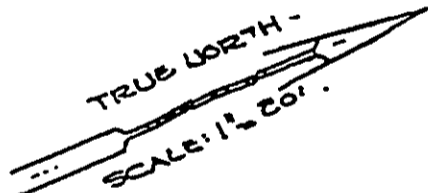
280.03

320.12

401.57

204° 50'

57.67

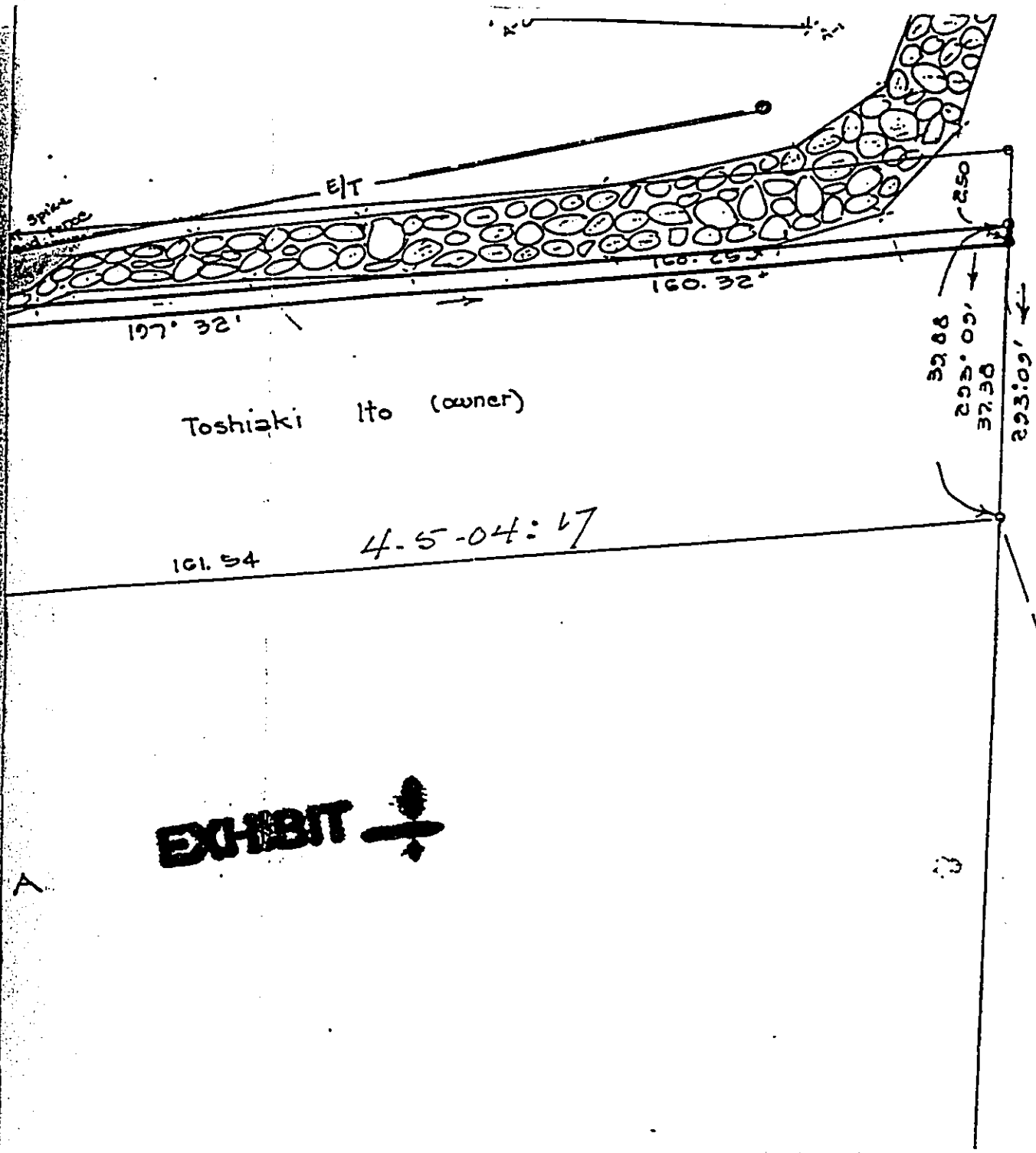


LOT

A

EXHIBIT

B



Toshiaki Ito (owner)

101.54 4.5-04:47

EXHIBIT

A