

JOANN A. YUKIMURA
MAYOR



COUNTY OF KAUAI
PLANNING DEPARTMENT
4444 RICE STREET, SUITE 473
LIHUE, HAWAII 96766

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PLANNING DIRECTOR

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December 15, 1993

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

Subject: Notice of Determination, Negative Declaration
General Plan Amendment GPA-93-5
Zoning Amendment ZA-93-9
District Boundary Amendment A-93-5
TMK: 4-6-11: 41-43, 48, Kapaa, Kauai
Albert Bettencourt, et. al., Applicants

Enclosed herewith are four (4) copies of the Final Environmental Assessment relating to the subject matter for publishing in the OEQC Bulletin. Please be advised that other than the normal comments solicited by the department from other government review agencies, there were no comments received from the general public or individuals during the 30-day review period of the draft Environmental Assessment.

The Planning Department has reviewed the Environmental Assessment and the effects of the proposed amendment to the Kauai General Plan. We have determined that the project will not have any significant impacts on the environment. Therefore, it is hereby determined that an Environmental Impact Statement is not required for the proposed amendment and that this determination is a Negative Declaration.

If you have any questions, please contact our staff planner, Susan Daymude, at 241-6677.

A handwritten signature in cursive script, appearing to read "Dee Crowell".

DEE CROWELL
Planning Director

Enclosures

1994-01-08-KA-FEA - Bettencourt
State Land Use Amendment

JAN - 8 1994

PLANNING DEPARTMENT - COUNTY OF KAUAI

NOTICE OF DETERMINATION

APPLICANT: Albert Bettencourt, et. al.
c/o Thomas M. Medeiros, Esq.

TAX MAP KEY: 4-6-11: 41-43, 48

LOCATION: Kapaa Homesteads - along Alapaki Road
approximately 1200 feet south of Kawaihau Road
and Kaapuni road intersection, Kapaa, Kauai

APPROVING AGENCY: PLANNING DEPARTMENT, COUNTY OF KAUAI

AGENCIES CONSULTED:

County: <u>Public Works</u>	State: <u>Department of Health</u>
<u>Department of Water</u>	<u>Historics Division</u>
<u>Fire Department</u>	<u>Land Use Commission</u>
<u>Housing</u>	<u>Office of State Planning</u>
	<u>Department of Agriculture</u>

A. DESCRIPTION OF PROPOSED ACTION & STATEMENT OF OBJECTIVES:

The applicant proposes to amend State Land Use District Boundary from Agricultural to Rural District; County of Kauai General Plan designation from Agriculture to Rural Residential District, and County of Kauai Zoning from Agriculture to Residential District (R-2) for the subject property of 6.0 acres located in Kapaa Homesteads, Kapaa, Kauai.

B. DESCRIPTION OF ACTIONS'S TECHNICAL, ECONOMIC, SOCIAL & ENVIRONMENTAL CHARACTERISTICS:

- 1. Technical:** The project site qualifies for six (6) dwelling units with minimum one (1) to two (2) acre lots under current designation of Agriculture District. The applicants are seeking to provide additional six (6) dwelling units with the amendments. Currently, there are six (6) dwelling units on the site.
- 2. Socio-Economic:** The general area surrounding this property has experienced continued subdivisions for single family lots due to the housing shortage. The amendments are sought in order to develop additional dwelling units for the family members. There are no plans to subdivide the lots nor to sell the lots. Therefore, no adverse impacts are anticipated.
- 3. Environmental:** Although some areas are used for light agricultural activities, the property is largely used for residential purposes. The runoff on these soils are slow and there are very little erosion hazards. A drainage study will be required at the time of subdivision to evaluate the impacts of additional development, and appropriate mitigation measures shall be required.

C. SUMMARY OF DESCRIPTION OF AFFECTED ENVIRONMENT:

The property was primarily utilized for agricultural and residential uses. Due to the agricultural activities, the presence of significant historical sites are unlikely and there are no known endangered flora/fauna and habitats within the property. The residential use of the property is anticipated to continue and as a result, the adverse impacts to the environment will be minimal if not same at a current level.

D. DISCUSSION OF THE ASSESSMENT PROCESS:

1. Identification and Evaluation of Potential Impacts:

- a. Air quality: No significant impact to air quality is expected to be generated by the proposed development.
- b. Water quality: No significant impact to the water quality is anticipated as a result of the proposed development.
- c. Noise: Other than noise associated with the construction of the subdivision, no long-term impacts are anticipated.
- d. Traffic: The traffic generated by this development will be minimal since the new dwelling units will be occupied by the individuals that already reside on the property. Alapaki Road is a private roadway, and although Kaapuni Road does not meet the county standards for a collector road, it will accommodate low volume passenger vehicle traffic. No significant impacts are anticipated.
- e. Archeological: Due to previous development on the site, no significant impacts to historical sites are expected.
- f. Flora/fauna: There are no known endangered flora or fauna on the site. Significant impacts of this nature are not expected.
- g. Visual: The proposed development is not within a visually sensitive area. Significant impacts of this nature are not expected.

E. IDENTIFICATION AND SUMMARY OF MAJOR IMPACTS AND ALTERNATIVES CONSIDERED:

The project site qualifies for six (6) dwelling units with minimum lot size of one (1) to two (2) acres. If the amendments are approved, the density will be increased by six (6) additional dwelling units. The increase in density and impervious surfaces may increase storm water drainage. However, any significant impacts are not anticipated and any adverse impacts shall be mitigated at the time of permitting process.

The alternative to the proposed development will be to take "no-action" and allow it to remain in a current status.

F. PROPOSED MITIGATION MEASURES IF ANY:

Although significant impacts to the drainage is not expected, an increase in impermeable surfaces may increase storm flowage. A drainage study shall be conducted by the applicant at the time of the subdivision to mitigate possible adverse impacts.

G. DETERMINATION:

IT IS HEREBY DETERMINED THAT AN ENVIRONMENTAL IMPACT STATEMENT IS:

NOT REQUIRED: THIS DETERMINATION IS THEREFORE A NEGATIVE DECLARATION;

REQUIRED;

BASED ON THE FOLLOWING FINDINGS AND REASONS:


Authorized Signature

Planning Director
Title

12/15/93
Date

JAN - 8 1994

THOMAS M. MEDEIROS 5091
4504 KUKUI STREET, SUITE 11
KAPAA, HI 96746
PHONE: 823-0299

Attorney for Petitioners

BEFORE THE COUNTY OF KAUAI

STATE OF HAWAII

In the Matter of the Petition)

DOCKET NO. _____

of)

ENVIRONMENTAL ASSESSMENT

ALBERT BETTENCOURT, HELEN)
BETTENCOURT, DARVIN AKUI, KATHLEEN)
AKUI, BERNADETTE BETTENCOURT,)
NELSON LINGATON and NALANI)
LINGATON)

For a State Land Use District)
Boundary Amendment, General Plan)
Amendment, and Zoning Amendment)
of property located at Kapahi,)
Kauai, Hawaii and further)
identified as TMK: (4) 4-6-11-48,)
(4) 4-6-11-41, (4) 4-6-11-42, and)
(4) 4-6-11-43, containing an area)
of 2.0, 1.0, 1.0, and 2.0 acres)
respectively.)

ENVIRONMENTAL ASSESSMENT

NOW comes the Petitioners above-named by and through their attorney THOMAS M. MEDEIROS and submit the following Environmental Assessment pursuant to Chapter 343 of the Hawaii Revised Statutes and Chapter 200, Title 11, Hawaii Administrative Rules.

1. PETITIONER

The Petitioners are the above-named persons.

2. APPROVING AGENCY

The Approving Agency is the Planning Department of the County of Kauai.

3. CONSULTED AGENCIES

The governmental agencies consulted with in regard to the Petitioners' proposed amendments include: the Public Works Department of the County of Kauai; the Department of Water of the County of Kauai; the Department of Health of the State of Hawaii; the Extension Service of the University of Hawaii; the United States Department of Agriculture Soil Conservation Service; and the Fire Department of the County of Kauai.

4. PETITIONERS' INTEREST IN THE SUBJECT PROPERTY AND CONTACT PERSON

The Petitioners are the fee owners of the four (4) parcels of property (hereinafter collectively "subject property") as specifically identified in the Verified Petition attached hereto.

All communication relative to this Environmental Assessment should be directed to the Petitioners' attorney at the following address:

THOMAS M. MEDEIROS, ESQ.
4504 KUKUI STREET, SUITE 11
KAPAA, HI 96746
PH: 823-0299

5. DESCRIPTION OF SUBJECT PROPERTY

A. The subject property consists of generally flat land which is on and along Alapaki Road. It has access to Kapaa town, Kapahi and the Wailua Houselots area by Kaapuni Road, either mauka to Kawaihau Road or makai to Olohena Road. Alapaki Road is an improved road 44 feet wide.

B. The existing use of the subject property is as follows:

1. Lot 2-K: Two (2) rental homes owned by Albert and Helen Bettencourt.

2. Lot 2-C: One (1) home owned and occupied by Darwin and Kathleen (Bettencourt) Akui.
3. Lot 2-D: One (1) rental home owned by Bernadette Bettencourt.
4. Lot 2-E: One (1) home owned and occupied by Nelson and Nalani (Bettencourt) Lingaton and one rental home.

C. Elevation of the subject property is approximately 280 feet as computed from the quad maps for the island of Kauai and verified by Peter Taylor, P.E.

D. The slope of the subject property is predominately in the range of 0-8 degree slope. A portion of Lot 2-E exceeds 8 degrees slope.

E. The soil is well drained upland soil with moderately rapid permeability.

F. The annual rainfall in the area is 60 to 80 inches.

G. The soil classification is Puhi silty clay loam.

6. LAND USE CLASSIFICATIONS

A. State Land Use Commission. The subject property is located within the State Land Use Commission Agricultural District.

B. County General Plan. The subject property is in the Agricultural designation of the Kauai County General Plan.

C. Comprehensive Zoning Ordinance Use District. The subject property is located within the Agriculture zoning district of the Comprehensive Zoning Ordinance of the County of Kauai.

7. REQUESTED LAND USE AMENDMENTS

The Petitioners have filed a Verified Petition for a State Land Use District Boundary Amendment, General Plan Amendment, and

Zoning Amendment with the Planning Commission of the County of Kauai for the following amendments to existing land use classifications:

A. State Land Use Commission. The Petitioners have requested a State Land Use Commission boundary amendment to Rural (from Agricultural).

B. County General Plan. The Petitioners have requested a County General Plan amendment to Rural Residential (from Agricultural).

C. CZO Use District. The Petitioners have requested that the CZO use district be amended to Residential R-2 (from Agriculture).

8. REASONS FOR REQUESTED AMENDMENTS

The Petitioners wish to provide rural housing opportunities sufficient to meet their needs and the needs of their immediate families.

A. The Petitioners seek to amend the State Land Use district boundary of the subject property from Agricultural to Rural.

A reclassification of land from the agricultural district into the rural district is authorized when the Planning Commission pursuant to Sec. 205-3.1, HRS, finds that the proposed amendment is 1.) reasonable, 2.) not violative of Sec. 205-2, HRS, and 3.) consistent with Sec. 205-16, HRS and Sec 205-17, HRS.

1. The proposed amendment is a reasonable use of the subject property. The surrounding area varies widely in its use characteristics from R-4 Districts to Open Districts. The

predominate land use characteristic of the area, however, consists of small farms and rural subdivisions.

Thus, the amendment is reasonable in terms of both current use characteristics and anticipated growth characteristics. It would provide the underlying land classification needed by Chapter 205, HRS, for the Planning Commission to rezone it to R-2 under the terms of the Comprehensive Zoning Ordinance.

2. Sec. 205-2, HRS, prescribes that "Rural" districts shall include uses characterized by low density residential lots of not more than one house per one-half acre where "city-like" concentrations of people, structures, streets, and an urban level of services are absent, and where small farms are intermixed with low density residential lots.

The uses proposed by this amendment comports in all respects with the statutory definition of the "rural" district. The general area is a mixed rural setting which consists of small farms and low density residential lots. The location of the subject property is ideal in that the infrastructure is already in place and the resulting district boundary amendment can follow existing lot lines.

3. No aspect of the proposed amendment conflicts with the Hawaii State Planning Act. The goals of the Act are advanced by the amendment because the amendment would foster a strong, viable, and diverse economic base which acknowledges the housing needs of the future as well as the present.

The amendment would provide rural lifestyles while increasing

density. Such land use would both provide much needed safe and affordable housing for Hawaii's residents and provide the continuing opportunity for agricultural enterprises.

The amendment would also provide a planned, orderly physical environment which fostered traditional family and agrarian values while providing housing opportunities.

Finally, the amendment would foster the social and economic well-being for the individual Petitioners and their families that nourishes our sense of community rather than fractures it.

The amendment would tend to preserve natural systems and habitats by encouraging use and good stewardship of land. It would require no government funds. It would provide for economic development through "homestead" type of small scale agricultural uses. And it would provide housing for the present and future generations of the Petitioners at a place and in a way that is meaningful and affordable.

B. The General Plan by its very terms must be interpreted to recognize social, environmental, and economic changes. Sec. 7-1.3, Revised Code Of Ordinances of the County of Kauai. The General Plan shall be modified when necessary to further the objectives of the General Plan.

Lands should be classified as Rural Residential when used for low density (1 to 2 units per acre) residential development.

The intent of the Rural Residential classification under the terms of Sec. 7-3.3(d)(3) of the General Plan is to give effect to existing and suitable concentrations of less than one-acre parcels

which are outside planned urban areas and to restrict future development within such areas to low density residential use. Agriculture and related uses are encouraged in the Rural Residential classification.

This amendment would accomplish the foregoing. It recognizes the validity of low density, non urban uses in the area and also restricts possible future expansion of more dense uses. It preserves the preferred rural uses and lifestyle of the area.

C. Sec. 8-22.1 of the Comprehensive Zoning Ordinance allows a zoning amendment whenever the public necessity, convenience, and general welfare so requires.

This zoning amendment would change the district (map) boundary from the Agriculture zoning district to the Residential R-2 district. As such, the Petitioners would be allowed the uses hereinbefore described. Such uses are clearly necessary given the high cost of real property on Kauai.

The Petitioners propose to use the subject property only for family use. They intend to create housing in a rural area for the benefit of themselves, their children and their grandchildren. The hard work, dedication, and overall conscientiousness of the Bettencourt family in Kapahi is legendary. The Petitioners do not speculate in land. They have relied on the land to provide them with shelter, food, and income. They have been good stewards of the Garden Island. They seek merely by this amendment to perpetuate the same values but for new generations in different and more adaptive ways.

The Petitioners do not want to have their children and grandchildren driven into a real estate market which they could never afford. They want to perpetuate their life style on their own land in a way that has been carried out by their family for generations.

9. PROPOSED DEVELOPMENT

A. Homesites. The Petitioner proposes to increase the density of the subject property so as to increase the amount of allowable homes thereon. The homes would be used by the Petitioners or their immediate family either as residences or as rentals.

B. Timetable and Cost. The cost is not determined at this time. The cost would consist only of construction and related expenses since the infra structure is presently in place.

A further description of the proposed development is contained in Section VI of the Petition in this matter.

10. SUBJECT PROPERTY ANALYSIS

A. Location. The subject property is located on Alapaki Road which is perpendicular to Kaapuni Road in the Upper Kawaihau/lower Kapahi area of Kapaa. It is shown on the maps attached hereto as Exhibits "A", "B", and "C".

B. Agricultural Use. The proposed amendments will not impact on surrounding agricultural uses. The proposed amendments will allow the subject property to continue to be used for agricultural uses but will increase density. The agricultural uses will be smaller and more intensified. Some of the subject property is

presently used for pasture and some is used for tropical flower production. It is expected that tropical flower, orchid, and vegetable production uses will increase.

C. Elevation. The subject property is approximately 280 feet in elevation as shown on the quad maps for the island of Kauai.

D. Topography, Soil and Slope. The topography of the subject property generally varies between 0 and 8 degrees. All portions are buildable. Some portions of Lot 2-E are over 8 degrees slope. The soil composition is unremarkable according to the Detailed Land Classification, Island of Kauai, Land Study Bureau, University of Hawaii Publication, and consists of Puhi silty clay loam. Such lands are characterized as being well drained with a top layer of soil of 12 inches of brown silty clay loam and subsoil of 48 inches of reddish-brown or dark reddish-brown silty clay loam or silty clay. Its permeability is moderately rapid and run off is very slow. There is no erosion hazard. It is in the Puhi soil series. No portion of the subject property is rated as "important" or "other important agricultural lands" according to the "ALISH" rating system.

E. Drainage. The subject property is not situated in a designated flood way. Drainage is good due to the moderately rapid permeability of the soil. Run off is very slow.

F. Traffic. The subject property will be serviced by Kaapuni Road and Alapaki Road. Both roads are adequate to service the property under the proposed amendments. Olohena Road and Kawaihau Road also feed Kaapuni Road. It can be anticipated that the

effects of increased traffic would be somewhat diffuse due to the several routes available to the property. That is, from Kawaihau Road down to Kaapuni Road or from Olohena Road up to Kaapuni Road.

G. Availability of Public Services and Facilities. The subject property is within the Kapaa school district and also in proximity to St. Catherine's School.

It is approximately 1/4 mile away from Kapahi Park and in the vicinity of Kapaa Ball Park and the Kapaa Beach Park.

It is serviced by the Kapaa Fire Station and Kapaa based ambulance service. There is a fire hydrant centrally located on Alapaki Road (which provides the direct access to the subject property) between Lot 2-C and Lot 2-B. There is also a fire hydrant at the makai edge of Lot 2-C on Kaapuni Road. Fire protection has been deemed adequate by the Fire Department of the County of Kauai. It is within the Lihue Police Station sector of operation.

The subject property will utilize individual waste water systems which practice has been deemed "adequate" by the Department of Health, State of Hawaii, if done in compliance with all applicable Department of Health Rules and Chapter 342, HRS.

It is serviced by a 3 inch water main on Alapaki Road which is a part of the Water Department of the County of Kauai's water transmission system. It is less than 1/2 mile from the Kapahi Water Tank site. The Water Department has indicated that a facilities reserve charge and water meter installation charge will be imposed in order to install additional water meters.

Electricity and telephone service will be drawn from the existing lines of Kauai Electric Co. and GTE Hawaii which run along Alapaki Road.

Refuse collection in the area is provided by the County of Kauai.

11. IMPACTS UPON RESOURCES OF THE AREA

A. Flora and Fauna. The Petitioners are not aware of any endangered species of plants on the subject property, nor of any nearby which would be affected by the proposed amendment. Lots 2-K and 2-D are presently partially planted in Pangola and Kikuyu pasture grass. Approximately one half of Lots 2-C and 2-E are used for heleconia and ginger production.

B. Historical and Archaeological. The subject property has no cultural, archeological, or historical significance according to the Kauai Cultural Data Sensitivity Map.

C. Recreation. The subject property is not used for, nor does it have any value as, a recreational resource.

D. Scenic and Coastal Waters. The subject property is not identified as a scenic location or view plane on any governmental plan. All adjacent lands are in agricultural or residential use. The proposed amendments are compatible with the surrounding scenic characteristics and uses.

There would be no impact upon coastal waters.

12. COMPATIBILITY WITH APPLICABLE LAWS

The Proposed amendments are compatible with the Hawaii State Plan (Chapter 225, HRS), the Hawaii State Functional Plans, the

Kauai General Plan and area development plan, and all other applicable laws, ordinances, or regulations. The proposed amendments and subsequent development will have no substantial negative environmental impact and no significant effect upon the environment under the terms of Chapter 343, HRS.

13. CONCLUSION

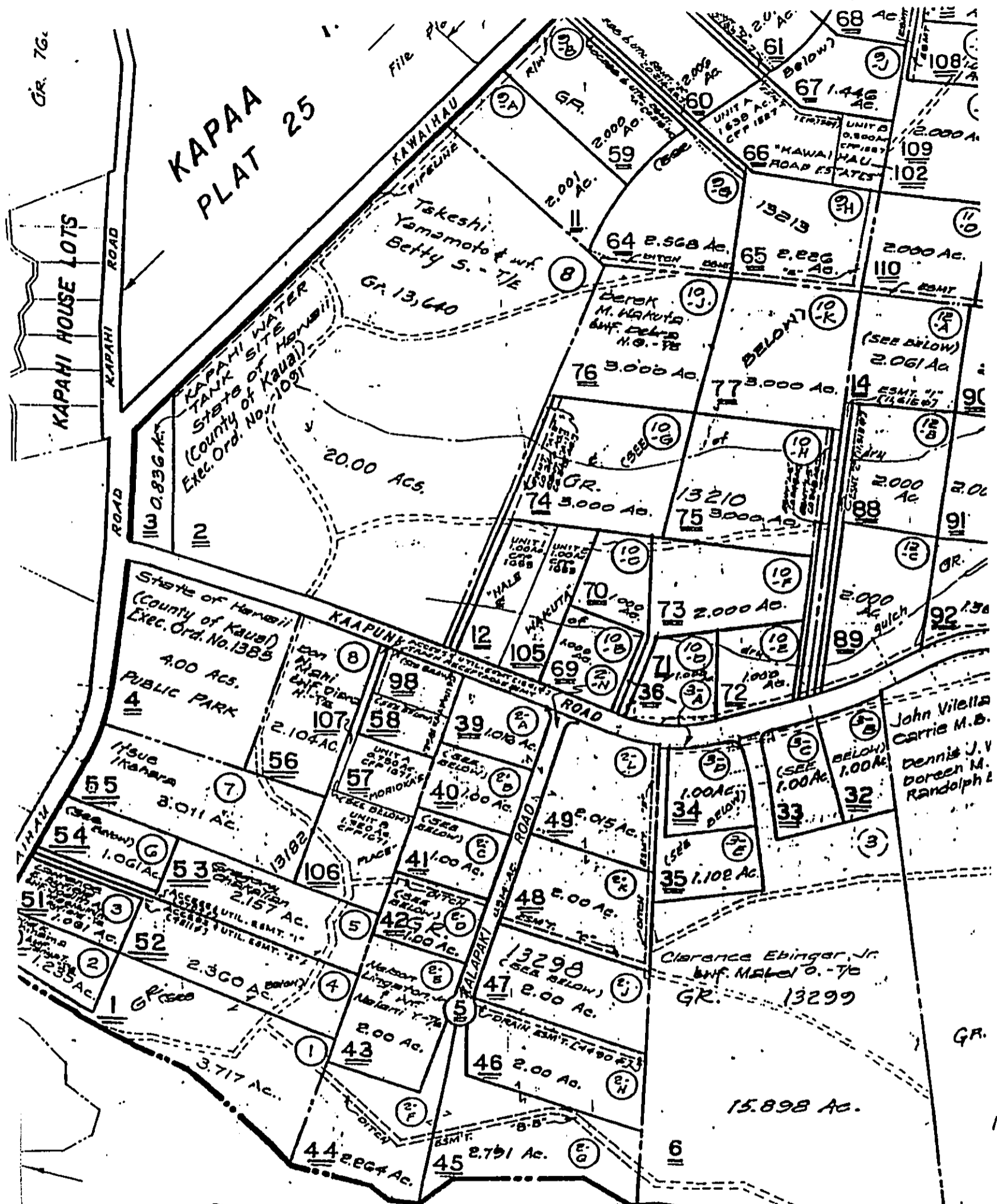
The Petitioners respectfully request that the Planning Department find that the proposed amendments and development will not have a significant effect on the environment and accordingly, the Petitioners need not prepare an Environmental Impact Statement in this matter.

DATED: Kapaa, Kauai, Hawaii

May 9, 1993



THOMAS M. MEDEIROS
Attorney for Petitioners



KAPAHU
PLAT 25

PLAT
07
HOMESTEADS

1ST

SERIES
EXHIBIT "A"

47. Clifford M. Battancourt &
Wife Rosalie N. A. - 7/8

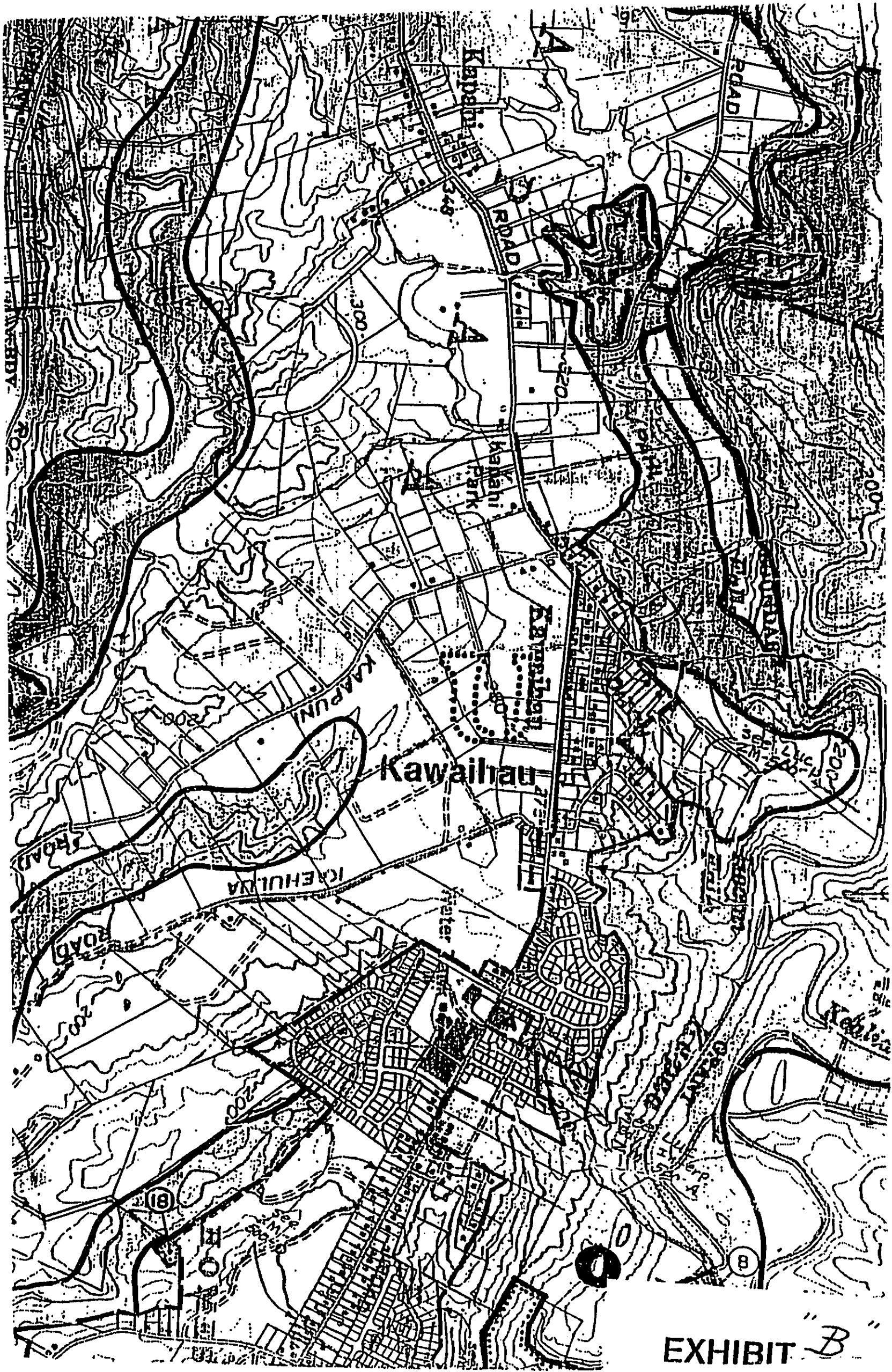


EXHIBIT "B"

SUBDIVISION OF LOT 2 OF KAPAHU FARM LOTS
 LOTS 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 2J, 2K, 2L, 2M AND 2N
 AND DESIGNATION OF DRAINAGE EASEMENT
 OVER AND ACROSS LOT 2-H
 AND RELOCATION OF DITCH EASEMENTS "C", "M" & "F"



This map is authorized by the owners of
 subject property to submit this application
 This map is from our original survey plans
 on the subject and the same are on file

This map was approved by the Planning
 Commission of the County of Kauai, at their
 meeting on FEB 13 1980
 signed by *[Signature]*
 Chairman, Planning Commission
 County of Kauai

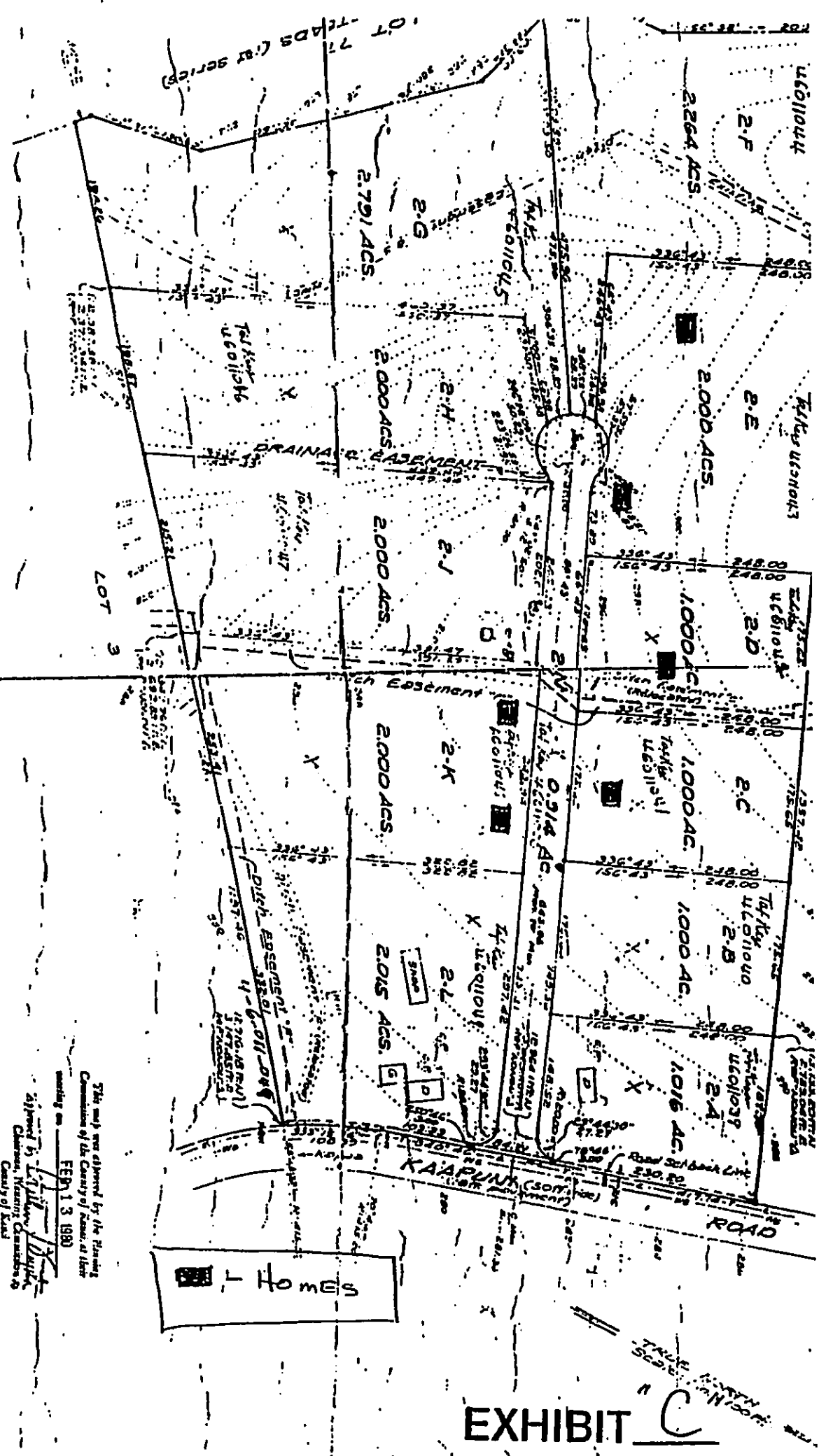


EXHIBIT C