

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

February 24, 2012

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

HAWAII

Mutual Cancellation of General Lease No. S-5988, Kawaihae Restaurant, LLC for
Commercial Purposes, South Kohala, Hawaii, Tax Map Key: 3rd/6-1-03:15.

APPLICANT:

Kawaihae Restaurant, LLC, a Hawaii Limited Liability Corporation.

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands at Kawaihae Harbor Front, Parcel 16 situate at Kawaihae
1st, South Kohala, Hawaii, identified by Tax Map Key: 3rd/6-1-03:15, as shown on the
attached map labeled Exhibit A.

AREA:

1.32 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: MCX-1a: Industrial-commercial mixed use

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by General Lease No. S-5988, Kawaihae Restaurant, LLC for commercial purposes. Lease to expire on May 31, 2075.

Original term of 65 years, commencing on June 1, 2010 and expiring on May 31, 2075. There are no rental reopenings scheduled.

ANNUAL RENT:

\$69,000.00 per annum

REMARKS:

On March 27, 2008, on the Hamakua lanai of the State building in Hilo Hawaii, a lease of 1.32 acres of commercial State land was awarded at public auction to Kawaihae Restaurant, LLC (KRLLC), for the upset price of \$69,000.00. This lease became effective on June 1, 2010 after KRLLC completed the necessary zoning requirements imposed by the County of Hawaii Planning Department.

When KRLLC acquired the lease, the flood zone designation for the site was zone X, which means that the site is not within the 100-year flood zone. Development plans were based on this designation, including the proposed location of the building and a sand dining area adjacent to the sand beach. KRLLC has up to this point invested over \$400,000 in planning and design efforts including grading improvements for the restaurant, driveway access to the Akone Pule Highway, preliminary design for the restaurant building and related improvements.

Due to the recent proposed amendments to the National Flood Insurance Program (NFIP) and the Flood Insurance Rate Maps (FIRM) for the shoreline along the Kawaihae coast announced in the summer of 2011, the flood zones were realigned causing approximately 20% of the State lease land to fall within the proposed flood zone. KRLLC requested a formal determination from the County of Hawaii Department of Public Works (DPW) as to the impacts of the proposed revisions on the restaurant project. The DPW responded informing it that under Hawaii County Code Chapter 27 requirements, the Department is required to utilize the more protective preliminary FIRM.

In addition, the First National Bank of Alaska, which has provided financing for restaurant projects undertaken by the principals of KRLLC, has determined that it is not willing to finance the restaurant project based on the new information regarding the revised flood boundaries.

In a letter dated November 28, 2011 (Exhibit B), the Lessee explained that as a result of the realignment of the flood zone and the subsequent reduced useable area, it is no longer able to proceed with its business venture.

Staff has reviewed the lease account. The Lessee is current with liability insurance. The Lessee currently owes rent for the time period 12/01/11 through 5/31/12. A time stand-by letter of credit with the First National Bank of Alaska is securing a bond equal to twice the annual rent. There are no outstanding rental reopening issues.

Additionally, staff from Land Division and the Engineering Division met with KRLLC several times in the past few months to assess whether there were any viable alternatives to cancelling the lease. Staff's determination is that the change in the flood zone designation substantially frustrates the purpose of the lease.

As a result of the Lessee having not made any improvements to the land, staff is recommending the Board waive the Phase I Environmental Site Assessment requirement as described in paragraph 49 of the lease agreement.

KRLLC has agreed to provide staff with copies of the permits, studies and reports for its project, including a 1-foot contour topographical map, a traffic study for a driveway connection to Akoni Pule Highway, and a geotechnical report, which will be valuable to the State in making future decisions regarding the disposition of the land. See Exhibit C attached. Staff is recommending the Board authorize the mutual cancellation of General Lease No. S-5988, Kawaihae Restaurant, LLC, Lessee.

RECOMMENDATION: That the Board:

1. Authorize the mutual cancellation of General Lease No. S-5988, Kawaihae Restaurant, LLC, Lessee, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current mutual cancellation lease document form, as may be amended from time to time;
 - B. The effective date of cancellation shall be December 1, 2011;
 - C. The Phase I Environmental Site Assessment requirement (par.49) of the lease shall be waived;
 - D. KRLLC shall provide copies of the documents identified in Exhibit C to Land Division within 30 days of February 24, 2012;
 - E. Review and approval by the Department of the Attorney General; and

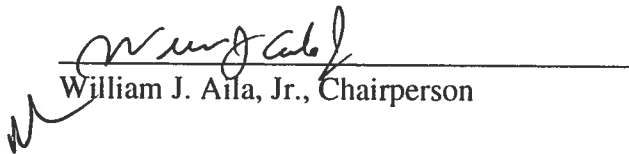
- F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

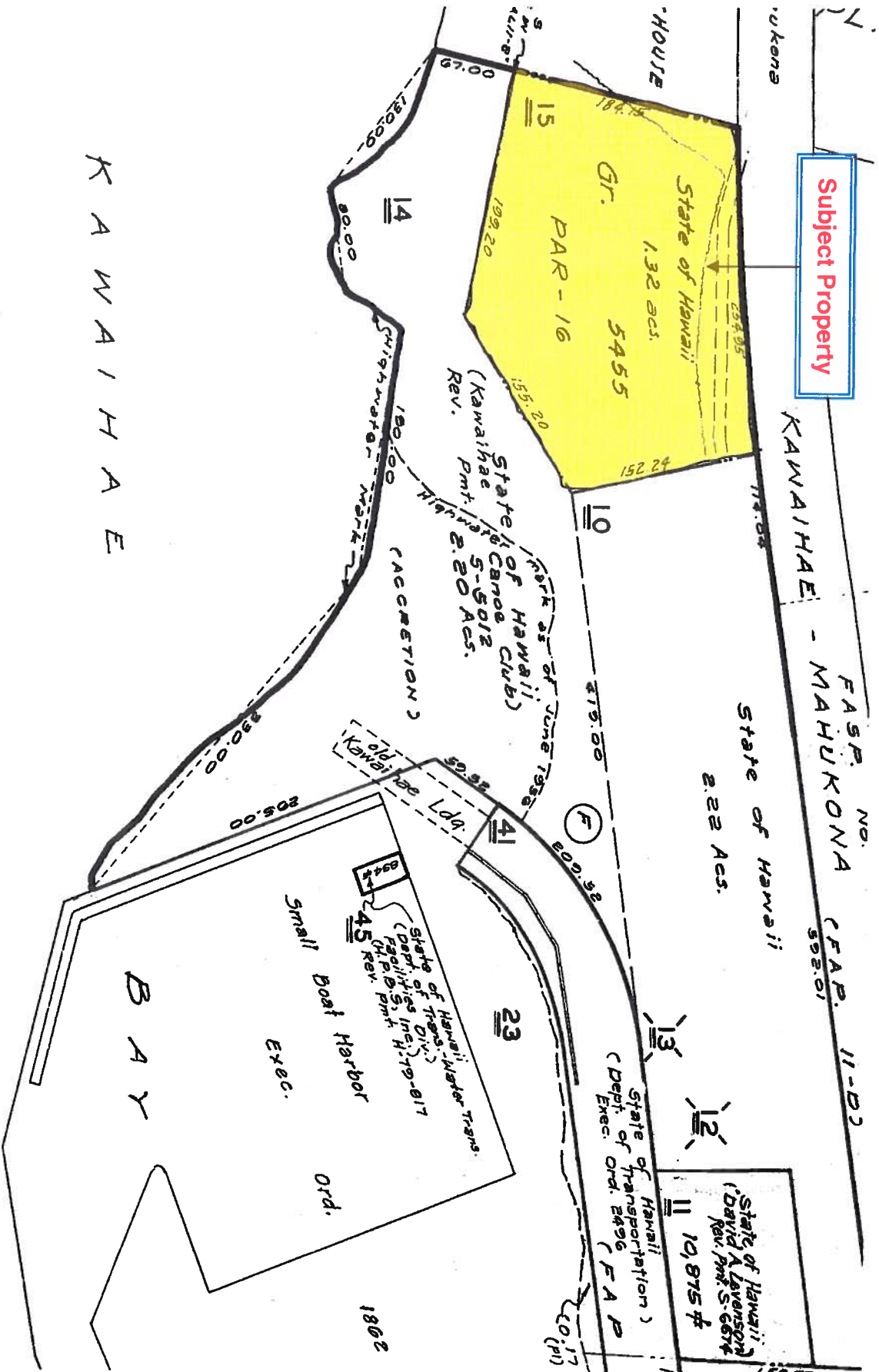


Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



KAWAIHAE



Kawaihae Small Boat Harbor

Kawaihae Restaurant, LLC
(3) 6-1-03:15

Akoni Pule Hwy



KAWAIHAE RESTAURANT, LLC

59-916 Kohala Ranch Road
Kamuela, Hawaii 96743
Telephone: (808) 987-7336

November 28, 2011

William J. Aila, Jr., Chairperson
State of Hawaii
Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl St.
Honolulu, HI 96813

Dear Mr. Aila:

**Subject: Kawaihae Restaurant, LLC
General Lease No. S-5988
Tax Map Key: (3) 6-1-03: 15
Kawaihae, South Kohala, Island of Hawaii**

Kawaihae Restaurant, LLC (KRLLC) entered into General Lease S-5988 effective June 1, 2010 with the intent of developing a restaurant on the subject property (Attachment 1), in accordance with its bid application. Since that time, KRLLC has been undertaking good faith efforts to develop the property as a restaurant.

When KRLLC acquired the lease, the Flood Zone designation for the site was Zone X, which means that the site is not within the 100 year flood zone. While adjacent to the Zone VE boundary, the property was situated mauka of the flood zone, which has a 9-foot base flood elevation (Attachment No. 2).

We have been pursuing development plans based on this designation, including proposing to locate the building and a sand dining area adjacent to the sand beach that is used by Kawaihae Canoe Club. We have spent over \$375,000 in planning and design efforts to date including the completed design of the grading improvements for the restaurant site, driveway access to Akoni-Pule Highway and preliminary design of the restaurant building and related improvements. We have secured a Special Management Area Use Permit as well as approval of the Drainage Plan and National Pollution Discharge Elimination System Permit for the project site. We have attached the latest site plan, as well as the floor plan, elevations, building cross section and landscaping plan (Attachment 3a-e).

KRLLC recently became aware of the proposed amendments to the National Flood Insurance Programs (NFIP) Flood Insurance Rate Maps (FIRM) for this area. The proposed amended FIRM not only realigned the Zone VE flood boundary to fall within the property, it also raised the base flood elevation in this area from 9 feet to 15 feet above sea level (Attachment No. 4). While the revision process has been on-going for a while, we only found out about the proposed map changes to the restaurant site while attending a workshop conducted by the Hawaii County Department of Public Works (DPW) and FEMA on August 9, 2011.

Since that time, KRLLC has been working with its design team, attorney, and financial institution, as well as DPW, to fully understand the impacts of the proposed revision on the property and to the financial feasibility of the restaurant project.

In this regard, on October 7, 2011 KRLLC provided written notice to your office of the issue, including attachments showing the existing and proposed flood boundaries and the impact of such boundaries on the proposed restaurant development (Attachment No. 5).

We also requested a formal determination from the County Department of Public Works (DPW) as to the impacts of the proposed revisions on the restaurant project (Attachment No. 6). On November 12, 2011, we received an email response from DPW informing us that under the Hawaii County Code Chapter 27 requirements, the Department is required to utilize the more protective Preliminary DFIRM; 15-foot base flood elevation for review of any proposed development activity on the property (Attachment No. 7).

Not only does the revised flood boundary affect approximately 12,000 square feet of the parcel, or over 20% of the total 57,500 square foot property, it raises the base flood elevation from 9- to 15-feet above mean sea level. Compliance with the revised flood boundary will require a complete redesign of the project, including relocating the building, eliminating the sand dining area and significantly reducing the parking area which was below the optimal project needs to begin with. Furthermore, the orientation of the restaurant to the beach was a key factor in projected feasibility by linking the proposed restaurant with the activities on the beach and Kawaihae Harbor as well as providing a strong visual link to the existing Kawaihae commercial area. (See Attachment No. 8 showing the 15-base flood elevation in relationship to the proposed restaurant improvements.)

The usable area of the property is reduced to a degree that there is no way to design around the revised flood zone and fit a functionally sized restaurant and necessary parking on the parcel. This reduction in usable building area has therefore rendered the project unfeasible.

First National Bank Alaska, which has provided financing for restaurant projects undertaken by the principals of Kawaihae Restaurant, LLC, has determined that they will not be willing to finance the restaurant project as designed based on the new information regarding the revised flood boundaries.

Based on the above, KRLLC is no longer able to continue development of the restaurant on the subject property and has terminated all activity on the project. We believe that the original purpose of the lease has been frustrated by the proposed revisions to the Flood Boundary and therefore respectfully request the mutual cancellation of the lease.

Department of Land and Natural Resources
November 28, 2011
Page 3

We appreciate your understanding and cooperation on this matter.

Sincerely,



Bob Acree, President
Kawaihae Restaurant, LLC

Attachments

cc: Kevin Moore, Hawaii District Land Manager
William L. Moore, Vice President, Kawaihae Restaurant, LLC

COMMERCIAL-INDUSTRIAL PROPERTY FOR LEASE
KAWAIIAE, ISLAND OF HAWAII

STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES



PROPERTY INFORMATION

- Located on Akoni Pule Highway (formerly Kawaihae-Mahukona Road), Kawaihae, South Kohala, Island of Hawaii
- Overlooking Kawaihae Bay
- Tax Map Key No: (3) 6-1-3:15
- 1.32 Acres (approx)
- Vacant Land
- State Land Use: Urban District
- County Zoning: MCX-1a (industrial-commercial mixed use)
- Subject to terms and conditions of County of Hawaii Ordinance No. 05-53 (copy attached).
- Within Special Management Area (Special Management Area Permit required)

LEASE TERMS

- Lease to be offered via Public Auction process
- Lease Term: 65 years
- Known Rent Period: 20 years, subject to fixed increases at end of 10th and 15th yrs
- Rent Reopenings: End of 20th, 30th, 40th and 50th yrs
- Character of Use: Commercial or industrial purposes allowed under County of Hawaii Ordinance No. 05-53 (copy attached)
- Minimum Required Improvements: \$3,000,000
- First year lease rent waived
- Other Lease Terms & Conditions to be Determined

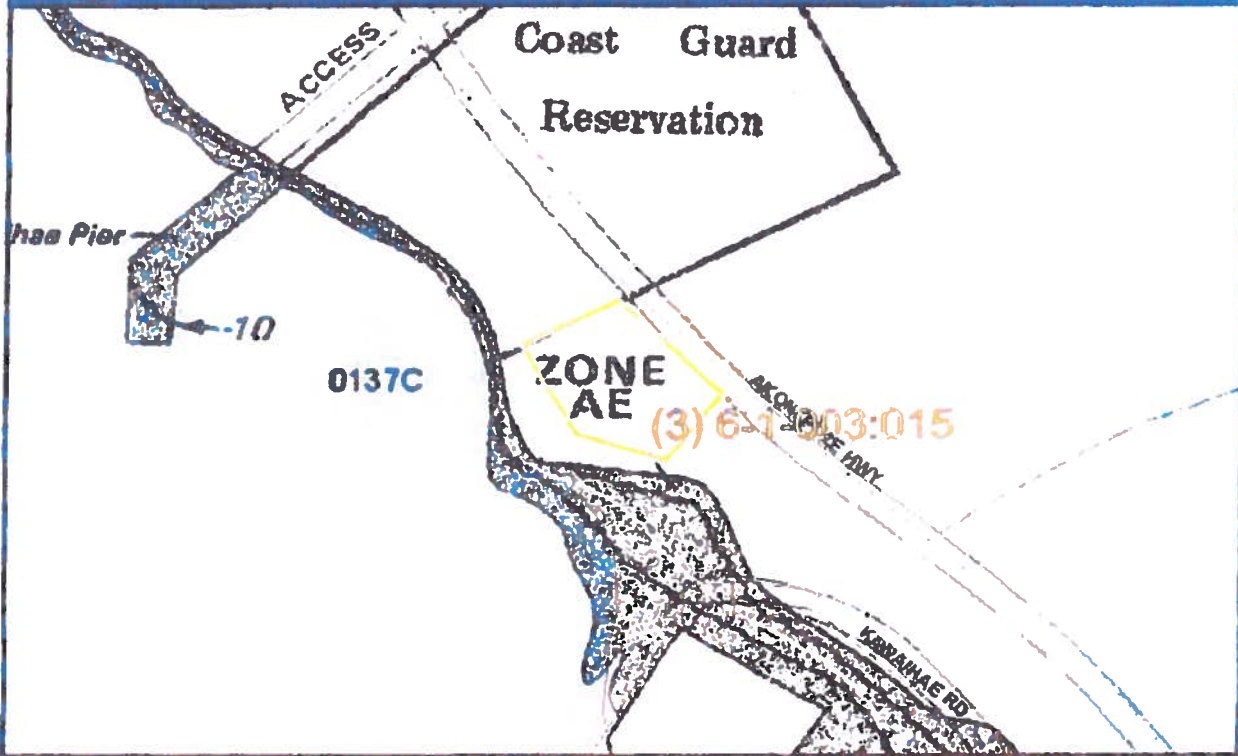
INQUIRIES

- For additional information, please call DLNR, Hawaii District Land Office at (808) 974-6203

Attachment No. 1



FLOOD HAZARD ASSESSMENT REPORT



NATIONAL FLOOD INSURANCE PROGRAM

FLOOD ZONE DEFINITIONS

SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD – The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water-surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones.

- **Zone A** No BFE determined
- **Zone AE** BFE determined
- **Zone AH** Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
- **Zone AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined
- **Zone V** Coastal flood zone with velocity hazard (wave action); no BFE determined
- **Zone VE** Coastal flood zone with velocity hazard (wave action); BFE determined
- **Zone AEF** Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA – An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

- **Zone XS (X shaded)** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- Zone X** Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

- **Zone D** Inundated areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

PROPERTY INFORMATION

COUNTY: HAWAII
TMK NO.: (3) 6-1-003-015
PARCEL ADDRESS:
FIRM INDEX DATE: APRIL 02, 2004
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL(S): 1551660137C
PANEL EFFECTIVE DATE: SEPTEMBER 16, 1988

PARCEL DATA FROM: JULY 2011
IMAGERY DATA FROM: MAY 2005

IMPORTANT PHONE NUMBERS

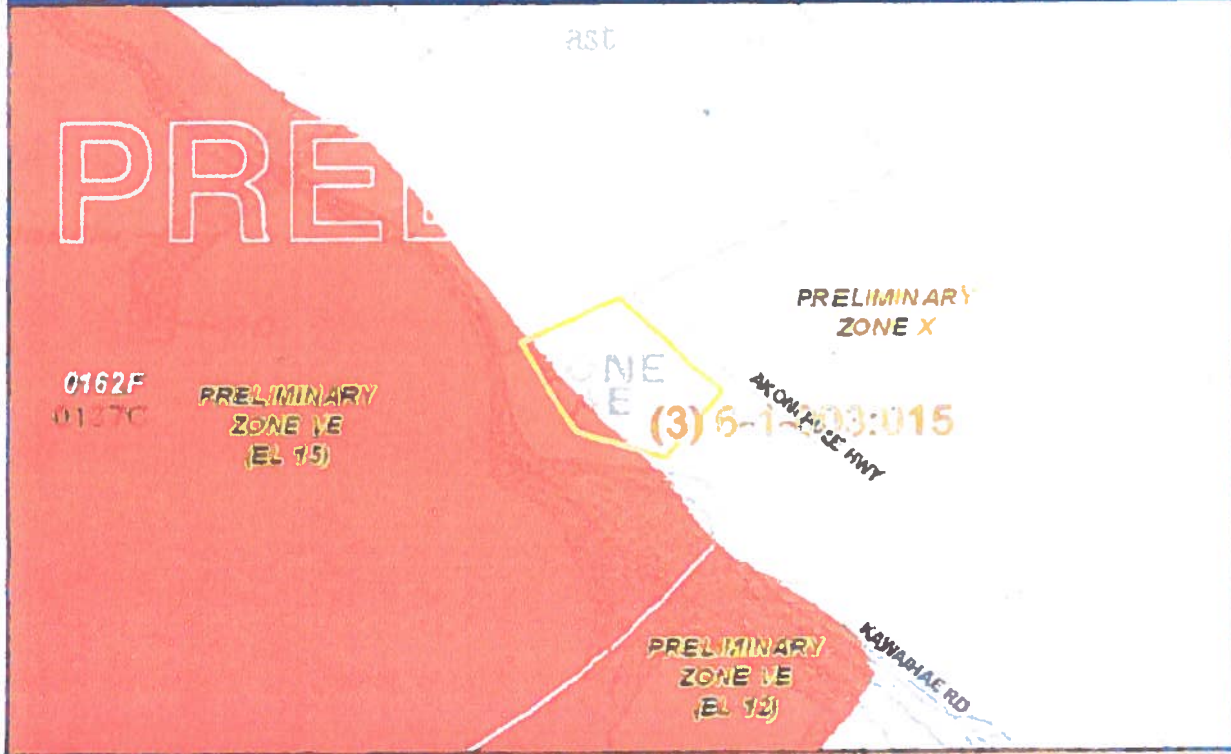
County NFIP Coordinator
 County of Hawaii
 Carter Romero, CFM (808) 961-8943
State NFIP Coordinator
 Carol Tyau-Beam, P.E., CFM (808) 587-0267

Disclaimer: The Department of Land and Natural Resources assumes no responsibility arising from the use of the information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the Department of Land and Natural Resources from any liability, which may arise from its use.

Preliminary DFIRM Disclaimer: If this map has been identified as "PRELIMINARY", please note that it is being provided for informational purposes only and is not to be used for official/legal decisions or regulatory compliance.



State of Hawaii FLOOD HAZARD ASSESSMENT REPORT



NATIONAL FLOOD INSURANCE PROGRAM

FLOOD ZONE DEFINITIONS

SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD – The 1% annual chance flood (100-year flood) also known as the base flood is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zone A, AE, AH, AO, V and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones.

- **Zone A:** No BFE determined
- **Zone AE:** BFE determined
- **Zone AH:** Flood depths of 1 to 3 feet (usually areas of ponding), BFE determined
- **Zone AO:** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain), average depths determined
- **Zone V:** Coastal flood zone with velocity hazard (wave action), no BFE determined
- **Zone VE:** Coastal flood zone with velocity hazard (wave action), BFE determined
- **Zone AEF:** Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON SPECIAL FLOOD HAZARD AREA – An area in a low to moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

- **Zone XS (X shaded):** Areas of 0.2% annual chance flood, areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 1% annual chance flood
- Zone X:** Areas determined to be outside the 0.2% annual chance floodplain

OTHER FLOOD AREAS

- **Zone D:** Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

PROPERTY INFORMATION

COUNTY: HAWAII
TMK NO: (3) 6-1-003-015
PARCEL ADDRESS:
FIRM INDEX DATE: APRIL 02 2004
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL(S): 1551660137C
PANEL EFFECTIVE DATE: SEPTEMBER 16, 1988

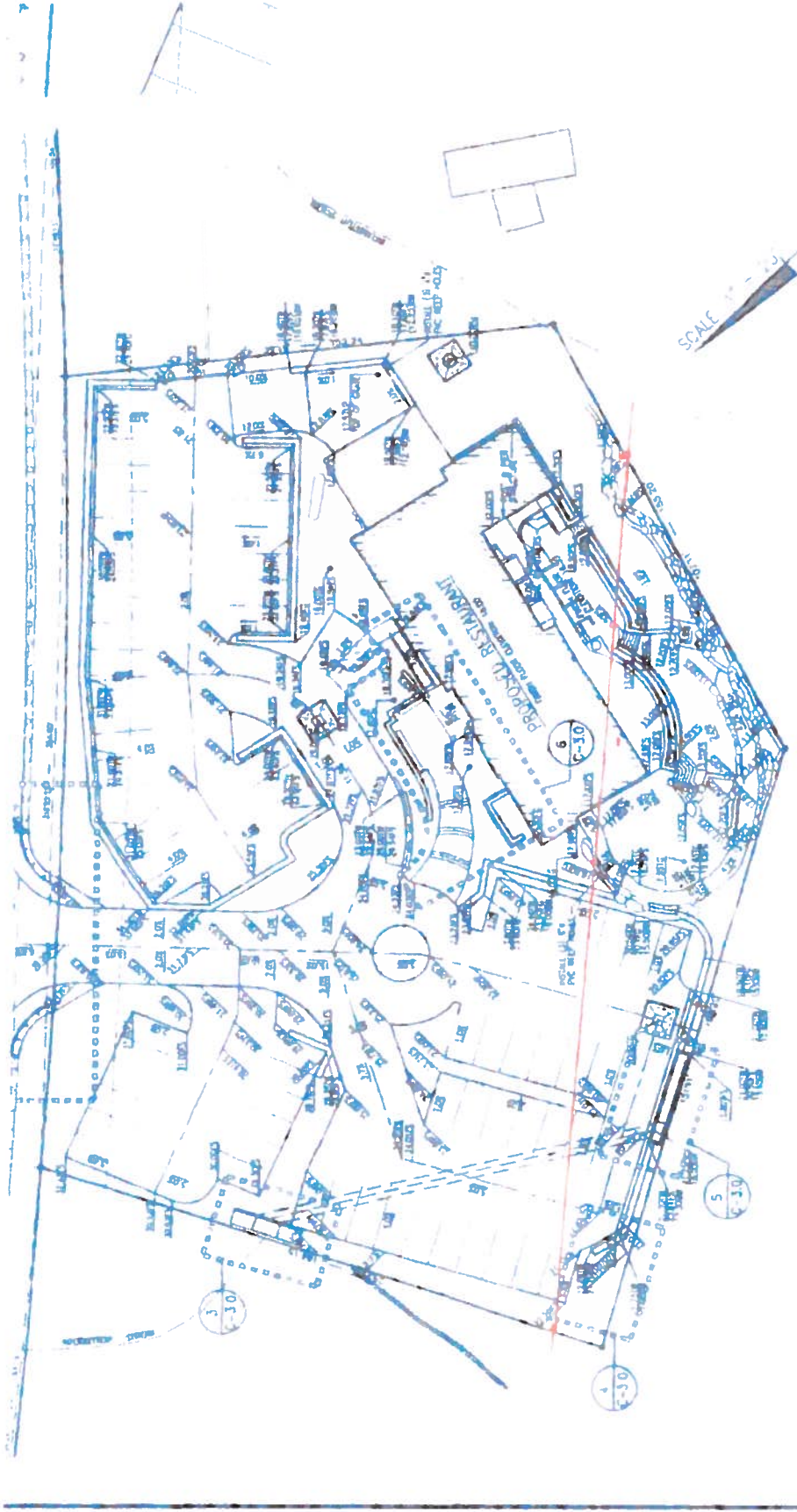
PARCEL DATA FROM: JULY 2011
IMAGERY DATA FROM: MAY 2005

IMPORTANT PHONE NUMBERS

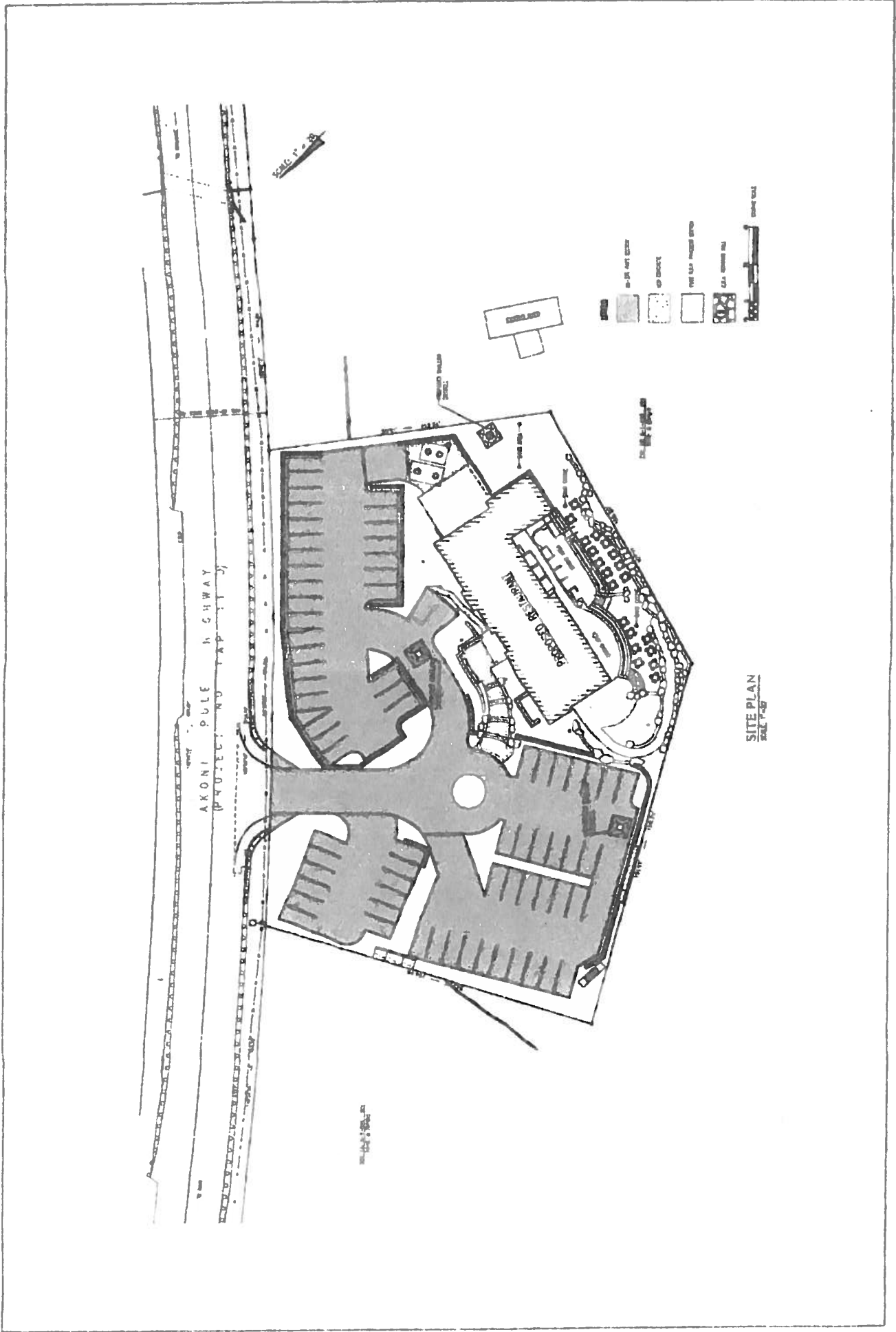
County NFIP Coordinator
 County of Hawaii
 Carter Romero, CFM (808) 961-8943
State NFIP Coordinator
 Carol Tyau-Beam, P.E., CFM (808) 587-0267

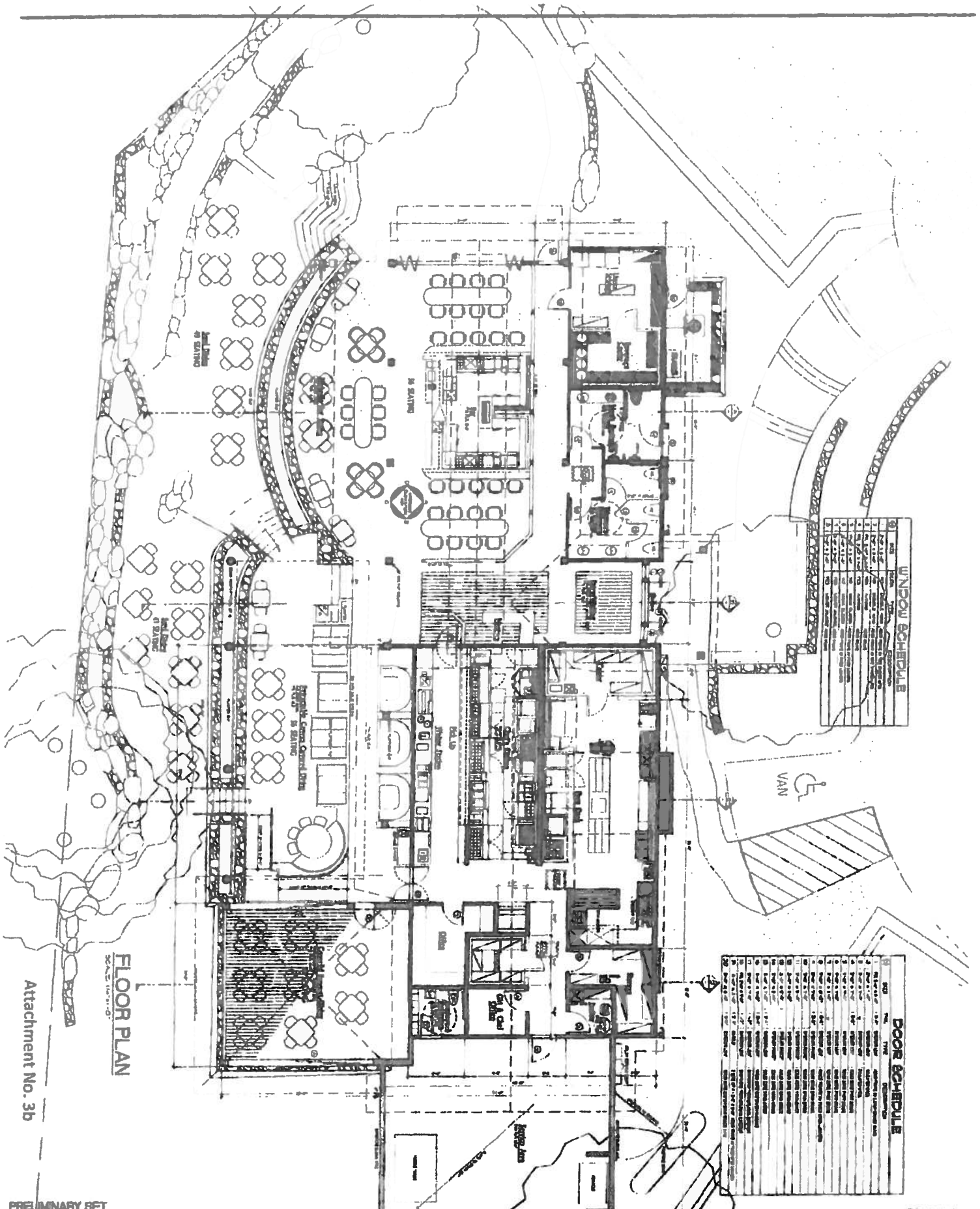
Disclaimer: The Department of Land and Natural Resources assumes no responsibility arising from the use of the information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the Department of Land and Natural Resources from any liability which may arise from its use.

Preliminary DFIRM Disclaimer: If this map has been identified as "PRELIMINARY", please note that it is being provided for commenting purposes only and is not to be used for official/legal decisions or regulatory compliance.



Preliminary DFIRM VE Boundary





WINDOW SCHEDULE

NO.	TYPE	DESCRIPTION
1	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
2	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
3	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
4	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
5	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
6	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
7	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
8	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
9	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
10	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
11	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
12	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
13	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
14	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
15	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
16	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
17	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
18	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
19	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
20	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
21	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
22	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
23	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
24	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
25	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
26	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
27	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
28	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
29	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
30	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED

DOOR SCHEDULE

NO.	TYPE	DESCRIPTION
1	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
2	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
3	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
4	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
5	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
6	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
7	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
8	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
9	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
10	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
11	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
12	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
13	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
14	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
15	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
16	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
17	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
18	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
19	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
20	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
21	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
22	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
23	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
24	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
25	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
26	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
27	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
28	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
29	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED
30	6'-0" x 6'-0"	ALUMINUM CASING, DOUBLE GLAZED, TINTED

FLOOR PLAN
SCALE: 1/8" = 1'-0"

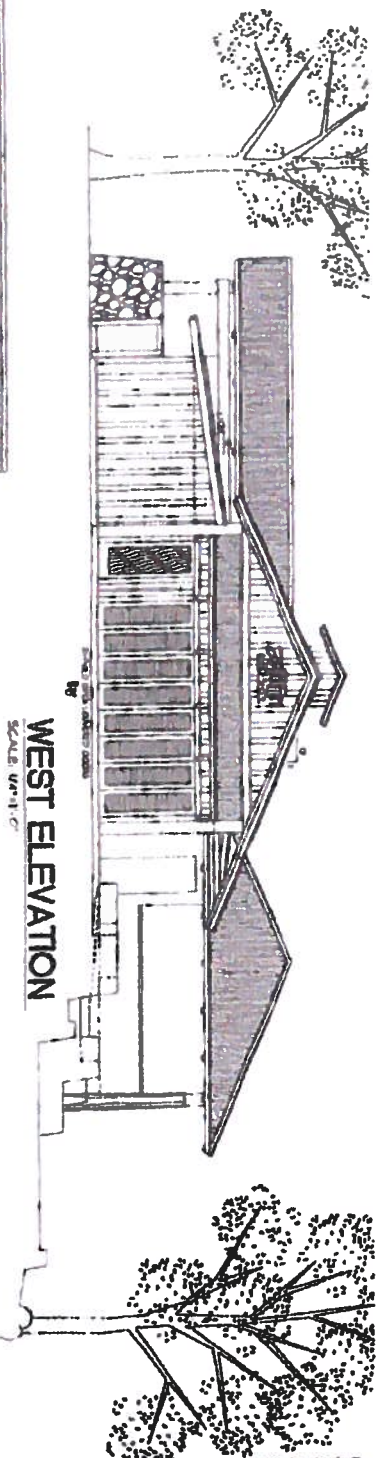
Attachment No. 3b

WILDFIN RESTAURANT
KAWAHAHA, BIG ISLAND, HAWAII
TAX MAP KEY: 6-1-003, 018

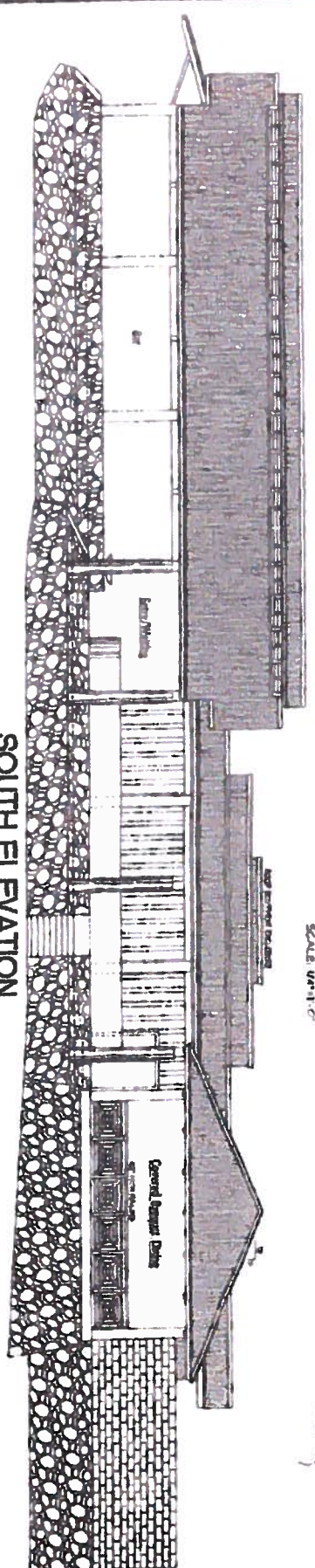
PRELIMINARY SET

A2

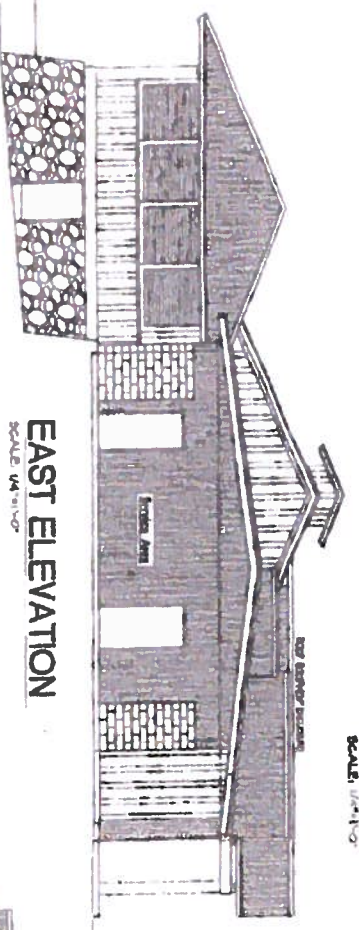
WILDFIN RESTAURANT
KAWAHAHA, BIG ISLAND, HAWAII
TAX MAP KEY: 6-1-003, 018



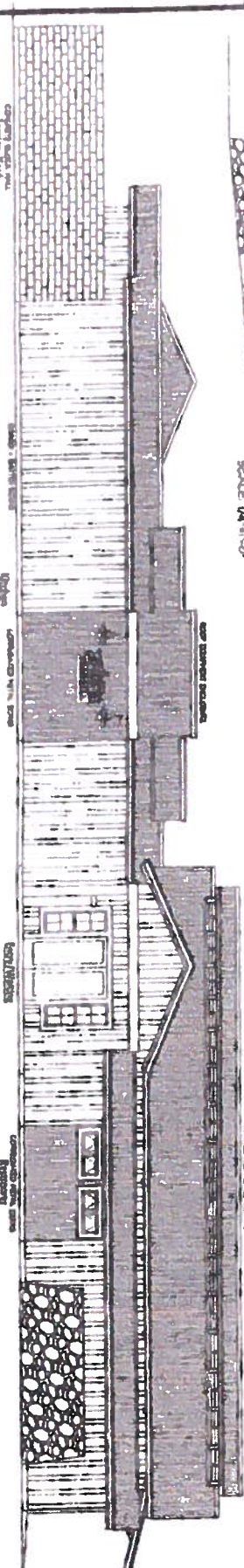
WEST ELEVATION
SCALE: 1/4" = 1'-0"



SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



EAST ELEVATION
SCALE: 1/4" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"

WILDFIRE RESTAURANT
KANAIHAE, BIG ISLAND HAWAII
TAX MAP KEY: 6-1-003 05

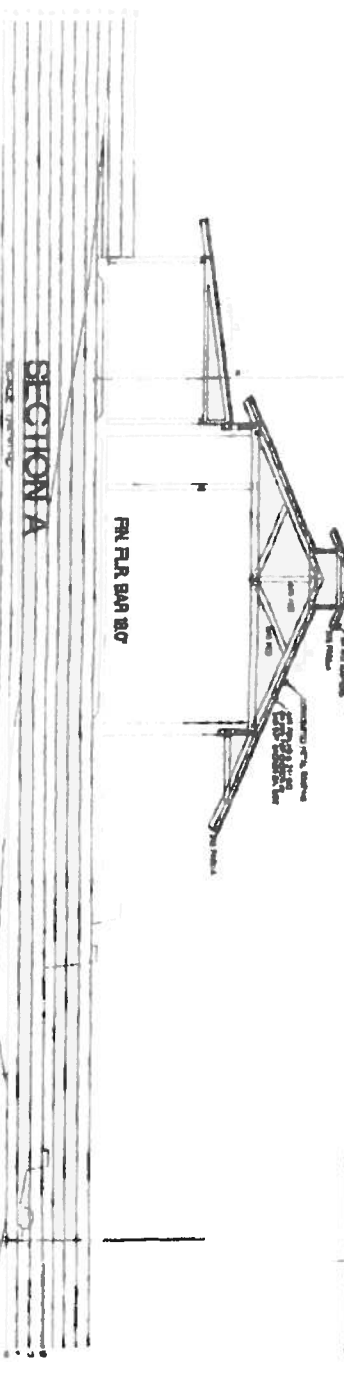
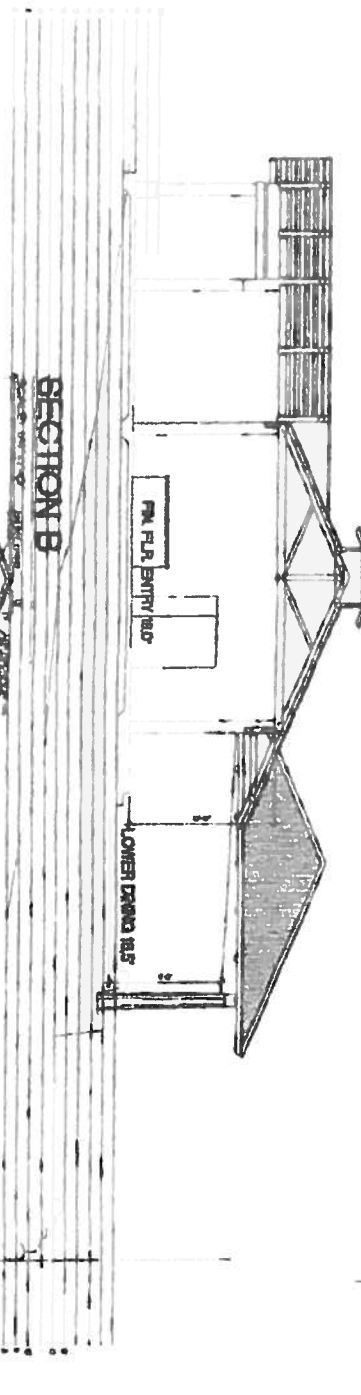
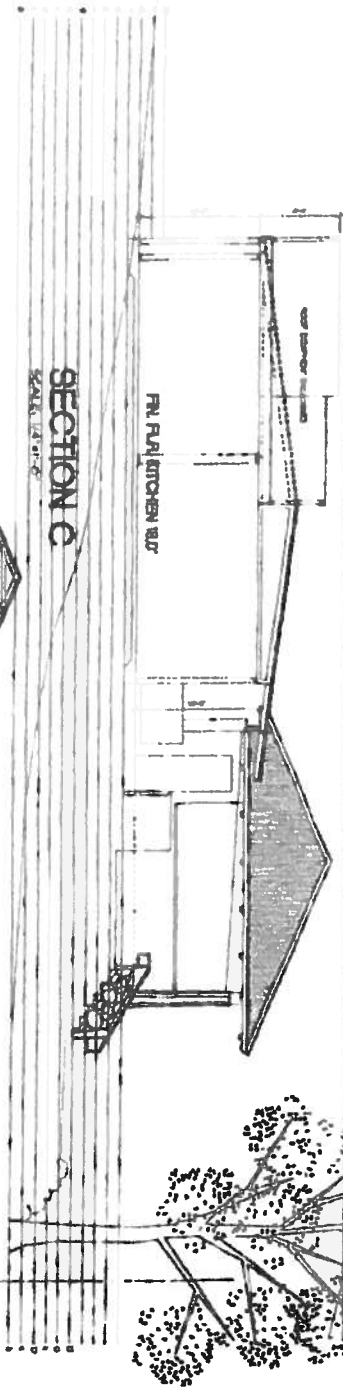
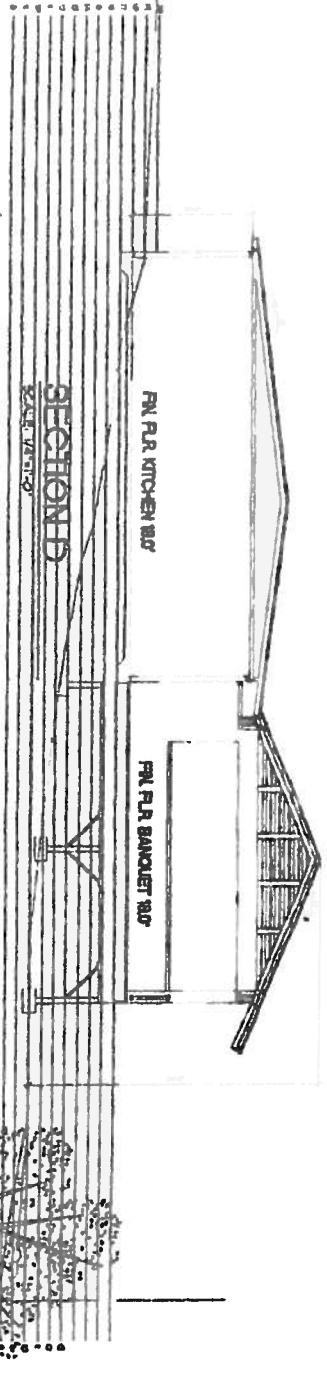


WILGANG
ARCHITECTS
2001 WILKINSON BLVD
SUITE 200
LAKE WAHIA, HI 96751
TEL: 808/935-1111
FAX: 808/935-1112
WWW.WILGANGARCHITECTS.COM

PRELIMINARY SET

A3

Attachment No. 3c



WILDFIN RESTAURANT
 KAWAIIHAE, BIG ISLAND, HAWAII
 TAX MAP KEY: 6-1-003, 015

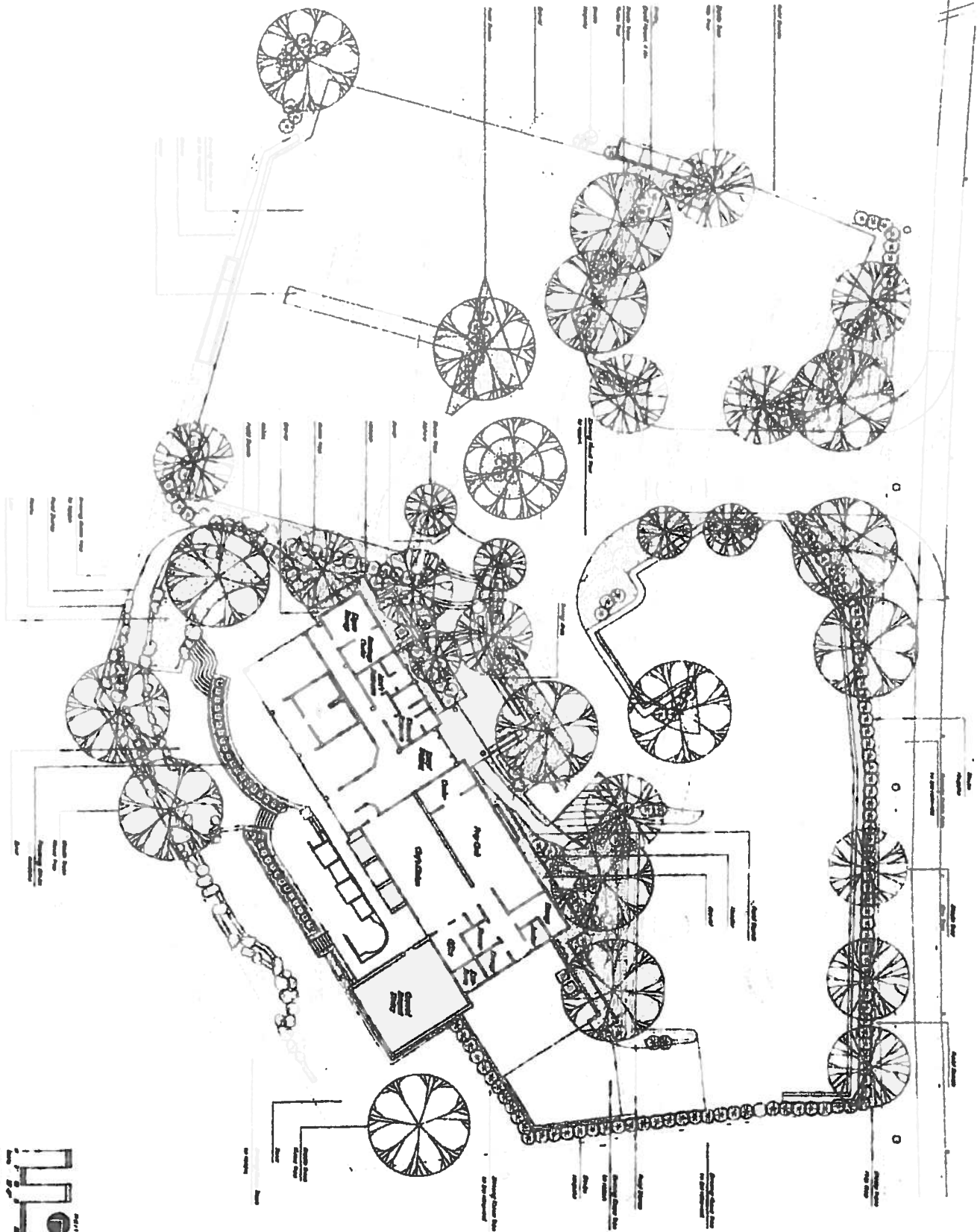


PRELIMINARY SET

WEI GANG
MARVIN
& ASSOCIATES
 DESIGN PLANNING
 5-271 BAKAHI ROAD
 HONOLULU, HAWAII 96813
 PHONE: 832-1111
 FAX: 832-1111

SI

Attachment No. 3e



PRELIMINARY SET

WILDFIN RESTAURANT
MARVICK & ASSOCIATES
 ARCHITECTS
 2015 KALANANAKU BLVD, SUITE 200
 HONOLULU, HAWAII 96815
 PHONE: (808) 551-1234
 FAX: (808) 551-1235
 WWW.MARVICKARCHITECTS.COM

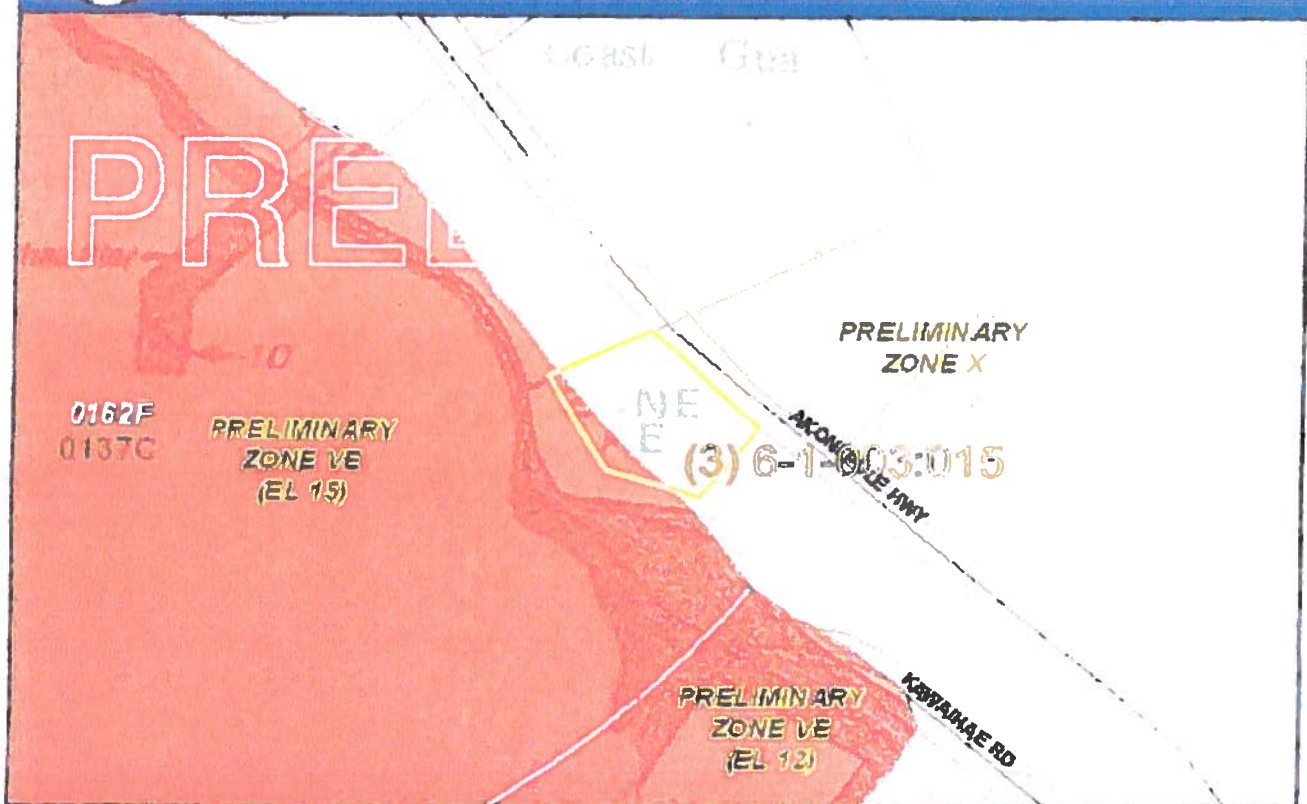


WILDFIN RESTAURANT
 KAWAHAE HARBOR, BIG ISLAND, HAWAII
 TAX MAP KEY: 6-1-003 015





FLOOD HAZARD ASSESSMENT REPORT



NATIONAL FLOOD INSURANCE PROGRAM

FLOOD ZONE DEFINITIONS

SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD – The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

- Zone A: No BFE determined.
- Zone AE: BFE determined.
- Zone AH: Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
- Zone AO: Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
- Zone V: Coastal flood zone with velocity hazard (wave action); no BFE determined.
- Zone VE: Coastal flood zone with velocity hazard (wave action); BFE determined.
- Zone AEF: Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA – An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities:

- Zone XS (X shaded): Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
- Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

- Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

PROPERTY INFORMATION

COUNTY: HAWAII
 TMK NO: (3) 6-1-003-015
 PARCEL ADDRESS:
 FIRM INDEX DATE: APRIL 02, 2004
 LETTER OF MAP CHANGE(S): NONE
 FEMA FIRM PANEL(S): 1551660137C
 PANEL EFFECTIVE DATE: SEPTEMBER 16, 1988

PARCEL DATA FROM: JULY 2011
 IMAGERY DATA FROM: MAY 2005

IMPORTANT PHONE NUMBERS

County NFIP Coordinator
 County of Hawaii
 Carter Romero, CFM (808) 961-8943
 State NFIP Coordinator
 Carol Tyau-Beam, P.E., CFM (808) 587-0267

Disclaimer: The Department of Land and Natural Resources assumes no responsibility arising from the use of the information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the Department of Land and Natural Resources from any liability which may arise from its use.

Preliminary DFIRM Disclaimer: If this map has been identified as "PRELIMINARY", please note that it is being provided for commenting purposes only and is not to be used for official/legal decisions or regulatory compliance.

KAWAIHAE RESTAURANT, LLC

59-916 Kohala Ranch Road
Kamuela, Hawaii 96743
Telephone: (808) 987-7336

October 7, 2011

Kevin Moore, Hawaii District Land Manager
State of Hawaii
Department of Land and Natural Resources
75 Aupuni Street, Room 204
Hilo, Hawaii 96720

Dear Mr. Moore:

Subject: Annual Status Report - GL S-5988
Tax Map Key: (3) 6-1-03: 15
Kawaihae, South Kohala, Island of Hawaii

In accordance with the requirements of GL S-5988, please find attached the Project Status Report and summary of compliance with the conditions of approval of Change of Zone Ordinance No. 05-153.

For your information, we recently became aware of the proposed amendments to the National Flood Insurance Programs (NFIP) Flood Insurance Rate Maps (FIRM) for this area.

When we acquired the lease, the Flood Zone designation for the site was Zone X. While adjacent to the Zone VE boundary, the property was situated mauka of the flood zone, which has a 9-foot base flood elevation (Attachment No. 1).

The proposed amended FIRM not only realigned the Zone VE flood boundary to fall within the property, it also raised the base flood elevation in this area from 9 feet to 15 feet above sea level (Attachment No. 2)

The County Department of Public Works (DPW) administers the NFIP on behalf of the U.S. Federal Emergency Management Agency (FEMA). We are currently in coordination with them to determine the potential impacts of the revised Flood VE boundary on its review/approval process for the proposed restaurant. We will keep you informed of their determinations.

Please call me if you have any questions or require any additional information regarding this request.

Sincerely,



Bill Moore, Vice President
Kawaihae Restaurant, LLC

cc: Gordon Heit

KAWAIHAE RESTAURANT, LLC

59-916 Kohala Ranch Road
Kamuela, Hawaii 96743
Telephone: (808) 987-7336

October 6, 2011

Warren Lee, Director
County of Hawaii
Department of Public Works
101 Pauahi Street, Suite 7
Hilo, HI 96720-4224

Dear Mr. Lee:

Subject: Kawaihae Restaurant, LLC
Revised DFIRM Maps
Tax Map Key (3) 6-1-003:015;

Kawaihae Restaurant, LLC (KRLLC) is the lessee of a certain parcel of land owned by the State of Hawaii at Kawaihae, South Kohala, Hawaii Island, TMK: (3) 6-1-003: 015. KRLLC acquired the lease as of June 1, 2010 through a public auction.

Since that time, KRLLC has been diligently pursuing the development of a restaurant on this site, including securing a Special Management Area (SMA) Use Permit as well as approval of its National Pollutant Discharge Elimination System plan. We have been working with our design team to finalize the grading permit and building plans for the site.

When we acquired the lease, the Flood Zone designation for the site was Zone X. While adjacent to the Zone VE boundary, the property was situated mauka of the flood zone, which has a 9-foot base flood elevation (Attachment No. 1).

We have been pursuing our development plans based on this designation, including proposing to locate the building and sand dining area adjacent to an existing sand beach that is used by Kawaihae Canoe Club. In fact, the grading plans have been submitted to your Department for review, but we have not secured approval as of this date.

We recently became aware of the proposed amendments to the National Flood Insurance Programs (NFIP) Flood Insurance Rate Maps (FIRM) for this area. The proposed amended FIRM not only realigned the Zone VE flood boundary to fall within the property, it also raised the base flood elevation in this area from 9 feet to 15 feet above sea level (Attachment No. 2)

The proposed revisions would result in portions of the proposed parking area, building area, and sand dining area being within the Zone VE flood zone. Attachment No. 3 shows the estimated revised FIRM Zone VE boundary in relationship to the proposed restaurant project. Based on the proposed finish grades, we estimate that there will be 6 to 10 feet of fill within the proposed flood zone under the proposed structure and between 2 and 5 feet of fill within the sand dining area between the proposed building improvements and the southern property boundary.

Warren Lee
October 6, 2011
Page No. 2

Our preliminary discussions with your staff indicate that the guidance from the U.S. Federal Emergency Management Agency (FEMA) that oversees the NFIP is that the best available information should be used by your Department in reviewing and approving any permits in this area. If this is the case, it would significantly impact our current plans and building layout in that filling would not be allowed within the proposed Flood VE designated areas.

Accordingly, before we undertake any further work on this project, we are seeking to understand the impacts of the proposed revisions to the FIRM for this area on the review/approval process for the proposed restaurant plans.

Please call me if you have any questions on this matter or require any further information.

Sincerely,



Bill Moore, Vice President
Kawaihae Restaurant, LLC

Bill Moore

From: Frank DeMarco
Sent: Monday, November 21, 2011 1:50 PM
To: 'Bill Moore'
Cc: Gonzalez, Brandon; Ishii, Ben; Gomes, Kelly; Emler, Kiran
Subject: RE: Kawaihae Restaurant, TMK (3) 6-1-003:015

Bill,

As we discussed, the following responds to your October 6, 2011, letter that summarizes the application of FEMA's current effective Flood Insurance Rate Map or FIRM (Panel No. 155166 137C) and Preliminary Digital Flood Insurance Rate Map or DFIRM (Proposed Panel No. 155166 162F) to Kawaihae Restaurant, LLC's (KRLLC) subject leased parcel which is owned by the State of Hawaii at Kawaihae, South Kohala.

Currently, neither the current effective FIRM or Preliminary DFIRM show a Special Flood Hazard Area (SFHA) on the subject parcel. However, as you indicated in your attached letter, under Hawaii County Code (HCC) Chapter 27, §27-15(c), the Director of Public Works is required to make interpretations where needed, as to the exact location of SFHA boundaries (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions).

Attached is a figure showing both the current effect FIRM's 9-ft amsl Base Flood Elevation (BFE) and the Preliminary DFIRM's 15-ft amsl BFE projected onto the subject property. Pursuant to the above cited HCC section, the more protective Zone VE SFHA with a BFE of 15-ft amsl should apply to the subject property. HCC §27-23 addresses construction in Zone VE SFHA, which includes requiring the lowest horizontal support member be elevated to or above the BFE and prohibits structural fill.

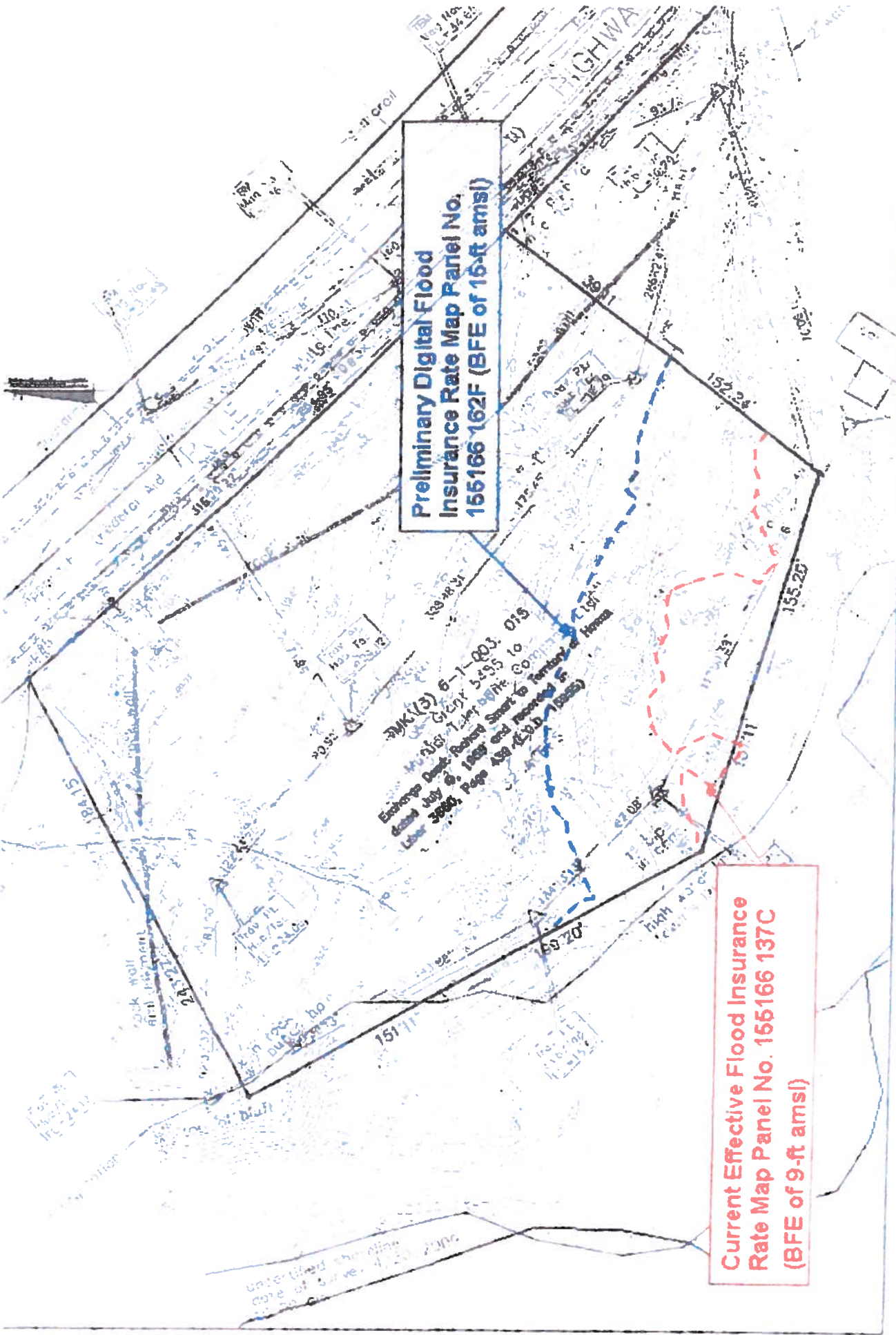
Please note you have the right of appeal as provided under Article 5 of HCC Chapter 27.

If you have any questions regarding this email, please contact me.

Frank

Frank DeMarco, P.E., CFM
County of Hawaii
Department of Public Works
Engineering Division
101 Pauahi St., Ste. 7
Hilo, HI 96720-4224

(808) 961-8042



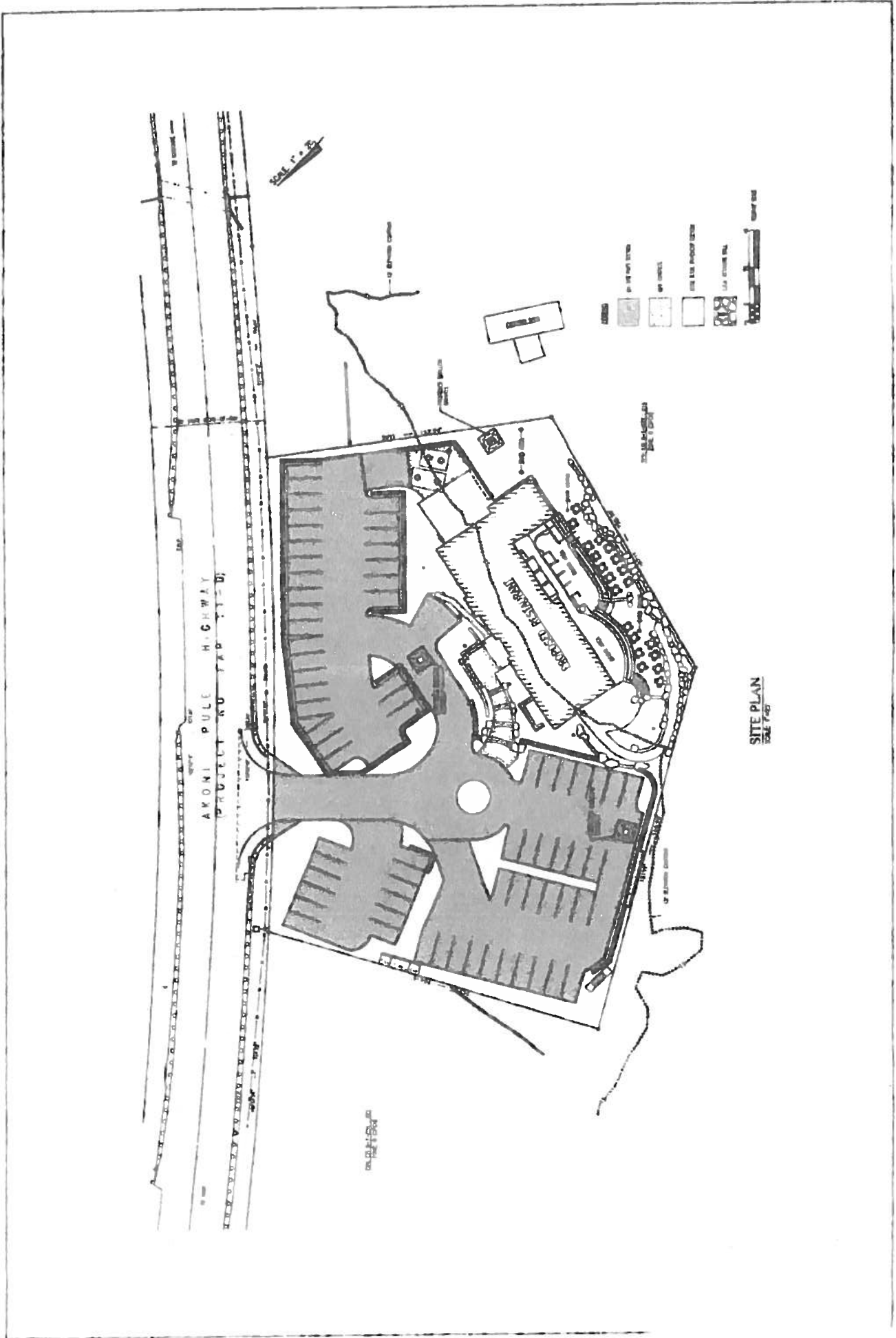
**Preliminary Digital Flood
Insurance Rate Map Panel No.
155166 162F (BFE of 16-ft amsl)**

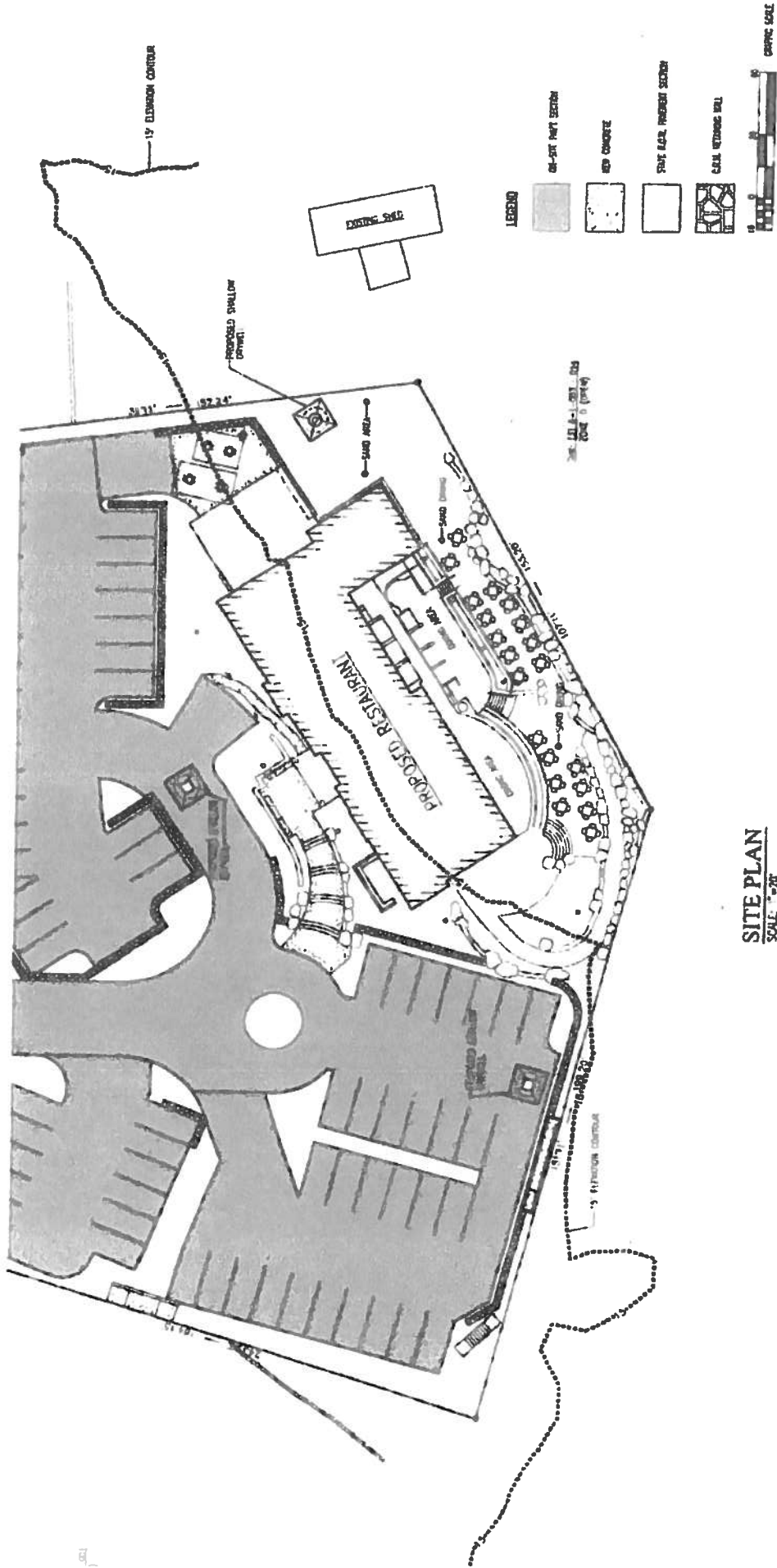
**Current Effective Flood Insurance
Rate Map Panel No. 155166 137C
(BFE of 9-ft amsl)**

TMK(3) 6-1-003: 015
 Entered into the
 Public Trust
 under the
 provisions of
 the
 Public Trust
 Law
 Chapter 215, HRS
 and amended by
 Public Law 100-692, 11/19/88



TMK (3) 6-1-003:015





SITE PLAN
SCALE: 1" = 20'

KAWAIHAE RESTAURANT, LLC

59-916 Kohala Ranch Road
Kamuela, Hawaii 96743
Telephone: (808) 987-7336

February 2, 2012

Russell Tsuji, Administrator
Land Division
Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl St.
Honolulu, HI 96813

Dear Mr. Tsuji:

Subject: Kawaihae Restaurant, LLC
General Lease No. S-5988
Tax Map Key: (3) 6-1-03: 15
Kawaihae, South Kohala, Island of Hawaii

In follow up to our meeting yesterday, we were asked to provide a summary of the key activities/approvals that were completed as part of Kawaihae Restaurant, LLC's (KRLLC) development activities to date.

While we have completed the grading plans as well as the conceptual building design, conceptual landscaping plan, and Final Plan Approval, these products may not be useful because of the revised flood boundaries that have impacted the property.

However, we believed that following documents and/or activities will have value to your Division in the future:

Utilities

1. Received confirmation from the County Department of Water Supply that the three (3) water meters available to the site can support the proposed restaurant activities.
2. Identified potential issues with respect to fire flow and have coordinated with the Fire Department to determine if the existing improvements are sufficient to provide appropriate fire protection.
3. Received confirmation from the State Department of Health that wastewater for the restaurant can be handled with a septic system in lieu of a package treatment plant. This in turn will reduce both the construction costs as well as the long term operation costs for the wastewater disposal system.

Special Management Area Use Permit

4. Secured a Special Management (SMA) Use Permit from the County Planning

EXHIBIT C

Commission to establish a restaurant and commercial/recreational uses, facilities and activities consistent with the zoning.

Surveys

5. Contracted for a shoreline survey to fully understand the location of the Subject Property in relationship to the adjacent ocean front property. (KRLLC did not proceed with the certification process.)
6. Prepared a new topographic survey of the property with 1-foot contours.

Drainage

7. Prepared a Drainage Plan for the property which was approved by the County Department of Public Works.
8. Secured a Final National Pollution Discharge Elimination System (NPDES) permit from the State Department of Health Clean Water Branch.

Traffic/Access

9. Prepared a Traffic Impact Analysis Report (TIAR) which was approved by the State Department of Transportation. Based on the report, DOT concluded that a left turn lane was not warranted for the proposed restaurant/commercial project.
10. Secured approval from DOT for a temporary access to the project site and constructed a concrete driveway. This driveway allows ingress/egress to the site until the permanent access improvements can be constructed.
11. Conducted a sight analysis to identify the location of the permanent access to the project site.
12. Prepared construction plans for the permanent access improvements. DOT has reviewed the construction plans and provided comments.

Geotechnical Analysis

13. Contracted with Geolabs, Inc. for the geotechnical exploration of the property and the preparation of a report summarizing the findings and conclusions.

We will provide you copies of these documents/drawings, including CAD files where appropriate, within thirty (30) days of final action on the request for mutual termination of the lease by the Board of Land and Natural Resources.

Department of Land and Natural Resources
February 2, 2012
Page 3

We appreciate your understanding and cooperation on this matter.

Sincerely,

A handwritten signature in black ink that reads "Bill Moore". The signature is written in a cursive style with a horizontal line underneath it.

William L. Moore, Vice President
Kawaihae Restaurant, LLC

cc: Hawaii District Land Manager
Bob Acree, President, Kawaihae Restaurant, LLC