

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
1151 Punchbowl St. Rm 325, Honolulu HI 96813

March 23, 2012

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

OAHU

Mutual Cancellation of Perpetual, Non-Exclusive Access Easement; Issuance of Perpetual, Non-Exclusive Easement for Access Purposes; Issuance of Management Right-of-Entry; St. John Lutheran Church, Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-016:portion of 015.

APPLICANT:

St. John Lutheran Church, a domestic nonprofit corporation

LEGAL REFERENCE:

Section 171-13, 43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kailua, Koolaupoko, Oahu, identified by Tax Map Key: (1) 4-2-016: portion of 015, as shown on the attached map labeled **Exhibit A**.

AREA:

512 square feet, more or less.

ZONING:

State Land Use District: Conservation  
City & County of Honolulu LUO: P1/P2

TRUST AND LAND STATUS:

Acquired after Statehood, i.e. non-ceded.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRNT USE STATUS:

**ITEM C-1**

Encumbered by Governor's Executive Order No. 4258 setting aside to the Division of Forestry and Wildlife for Habitat Restoration and Marsh Wildlife Sanctuary purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under across State-owned land for access purposes.

CONSIDERATION:

Gratis. See Remarks Section.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" (See **Exhibit B**)

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>  x  </u>	NO <u>  </u>
Registered business name confirmed:	YES <u>  x  </u>	NO <u>  </u>
Good standing confirmed:	YES <u>  x  </u>	NO <u>  </u>

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
2. Process and obtain subdivision at Applicant's own cost.

REMARKS:

St. John's Evangelical Lutheran Church of Kailua bought the existing property, identified as tax map key (1) 4-2-103:028 (Parcel 28) from Harold Castle in 1957. The conveyance was recorded at the Bureau of Conveyances as Liber 3293, page 377. Under the deed, the church is entitled to an access easement measuring 20' by 20' over the adjoining parcel (1) 4-2-016:015 (Parcel 15), also owned by the Castle family. For Board's information, the name of the church changed to St. John Lutheran Church around 1987.

Parcel 15 was subsequently acquired by the State from the City and county of Honolulu in 2008, together with the easement mentioned above and enjoyed by the church. Such

land has been set aside to the Division of Forestry and Wildlife for wildlife sanctuary purposes, pursuant to Governor's Executive Order No. 4258 dated January 6, 2009.

The church is undergoing an improvement project titled "New Fellowship Hall and Site Improvements". Currently, the easement area identified in the document is not sufficient for traffic patterns and parking lot location. The area of the easement is bigger than that provided in the deed. The church wishes to cancel current easement in favor of a modified version for access into parking lot. The proposed easement is to mitigate a pre-existing encroachment which has been used by the church for many years.

Upon review of the request, staff believes a mutual cancellation of the easement mentioned in the 1957 deed and replacing such easement with a current version of the document is appropriate. The new easement document includes the current conditions, including, insurance and indemnification clause.

In view of the relative minor change in the easement area (from 400 to 512 square feet) and the church is a nonprofit corporation, staff does not recommend any consideration for the requested new easement.

The church requests for the issuance of a management right-of-entry prior to the issuance of the easement document. The right-of-entry will facilitate the church obtaining any necessary permits/authorizations from the City for the above mentioned improvement project.

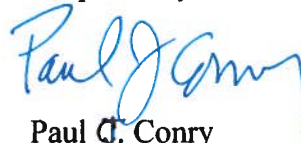
Staff did not solicit comments from other agencies as the subject request is for housekeeping purposes only. Staff does not have any objection to the requests.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, the disposition will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the cancellation of the perpetual, non-exclusive access easement in favor of the St. John Lutheran Church, as recorded on the deed as Liber 3293, page 377.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual, non-exclusive easement to St. John Lutheran Church, covering the subject area for access purposes 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 perpetual easement document from, as may be amended from time to time;

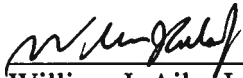
- B. The easement shall run with the land and shall insure to the benefit of the real property described as TMK: 4-2-103:028, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify The Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document.
  - C. The applicant shall not construct or modify the existing features within the easement area without prior written approval from the Department of Land and Natural Resources;
  - D. Review and approval by the Department of the Attorney General; and
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance of a management right-of-entry to St. John Lutheran Church, covering the subject area for access purposes 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 right-of-entry document from, as may be amended from time to time;
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

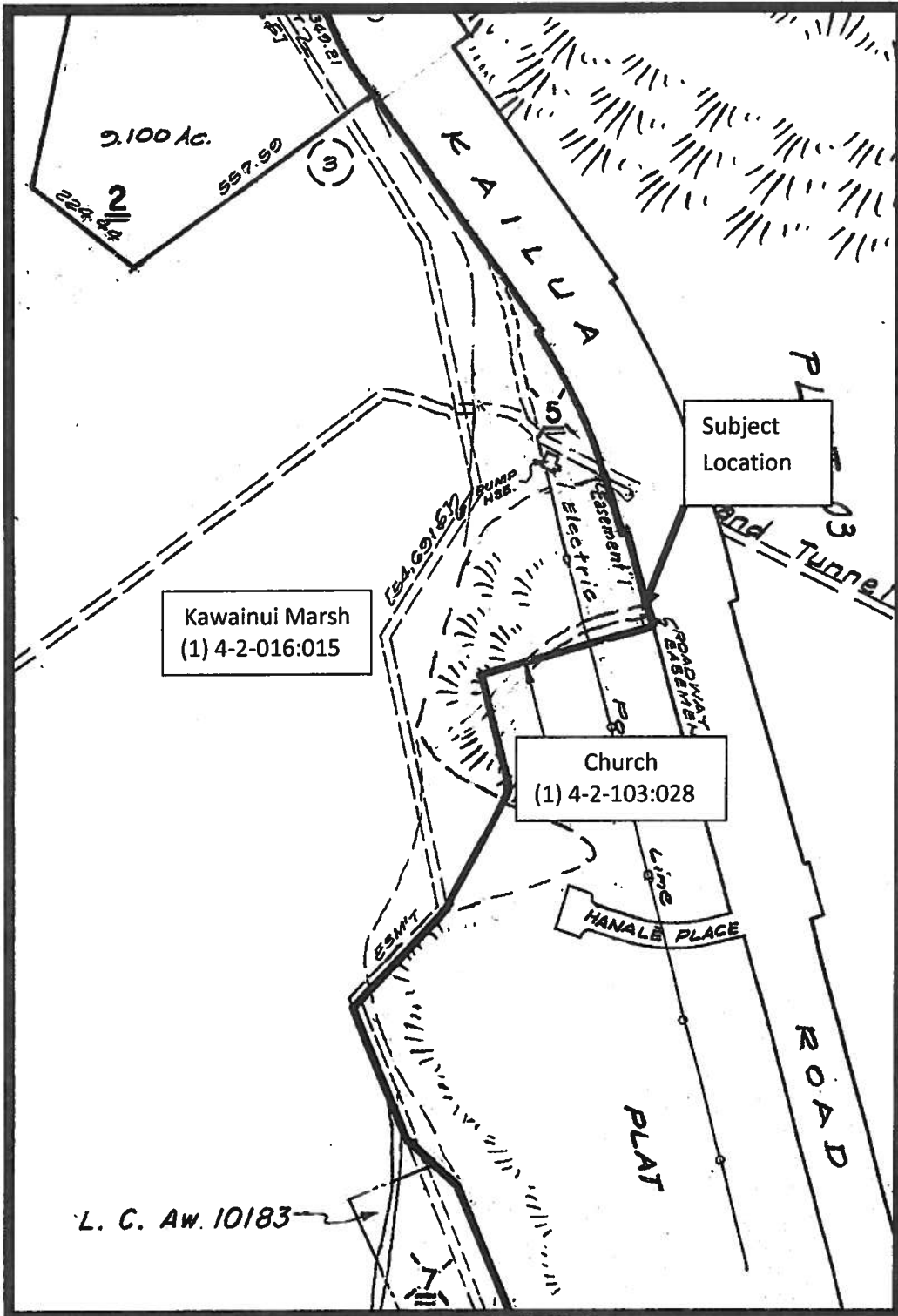


Paul G. Conry  
Administrator

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



TMK (1) 4-2-016:015

**EXHIBIT A**

**EXEMPTION NOTIFICATION**

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: St John Lutheran Church Access Easement

Project / Reference No.: Not applicable

Project Location: Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-016:015 portion

Project Description: Issuance of Perpetual Non-Exclusive Access Easement

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991 the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

Staff understands the subject area has been used as part of the roadway. The abutting private owner is not planning to change the use of the subject area. Therefore it is recommended that the subject request be exempted from an environment assessment.

Consulted Parties Not applicable

Exemption Item Description from Agency Exemption List: Not applicable

Recommendation: It is recommended that the Board declare that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

\_\_\_\_\_  
William J. Aila, Jr., Chairperson

\_\_\_\_\_  
Date

**EXHIBIT B**

**GENESYS  
DESIGN  
GROUP**  
INCORPORATED

ARCHITECTURE  
PLANNING  
INTERIOR DESIGN

Alan Y. Tarumoto

P.O. Box 61328  
Honolulu, Hawaii 96839  
Email [alangesys@aol.com](mailto:alangesys@aol.com)  
Phone (808) 258-3459  
Fax (808) 734-3506

14 June 2011

State of Hawaii  
Department of Land & Natural Resources  
Forestry & Wildlife Division  
1151 Punchbowl Street  
Kalanimoku Building  
Honolulu, Hawaii 96813

Attention: David G. Smith

Project: **St. John Lutheran Church  
New Fellowship Hall & Site Improvements  
1004 Kailua Road  
Kailua, Hawaii 96734  
Tax Map Key: 4-2-103: 028**

Subject: **Cancellation / Designation of Driveway Easements**

Dear Mr. Smith,

Pursuant to your discussions with Mr. George Lingle this day, we as the agent and architect for St. John Lutheran Church respectfully request your review and approval of the following:

1. Cancellation of a 400.00 SF non-exclusive easement for road purposes affecting Lot 3 and;
2. Designation of a 512.00 SF non-exclusive easement for access purposes in favor of St. John Lutheran Church affecting Lot 3.

Please note that the subdivision approval is for a pre-existing encroachment that has been used by the Church for many years.

Attachment 1 depicts the affected Church site in relation to Kawainui Swamp (Lot 3). Attachment 2 depicts an enlarged view of the Church site. Attachment 3 depicts the existing non-exclusive easement with the proposed non-exclusive easement (existing encroachment) for access purposes.

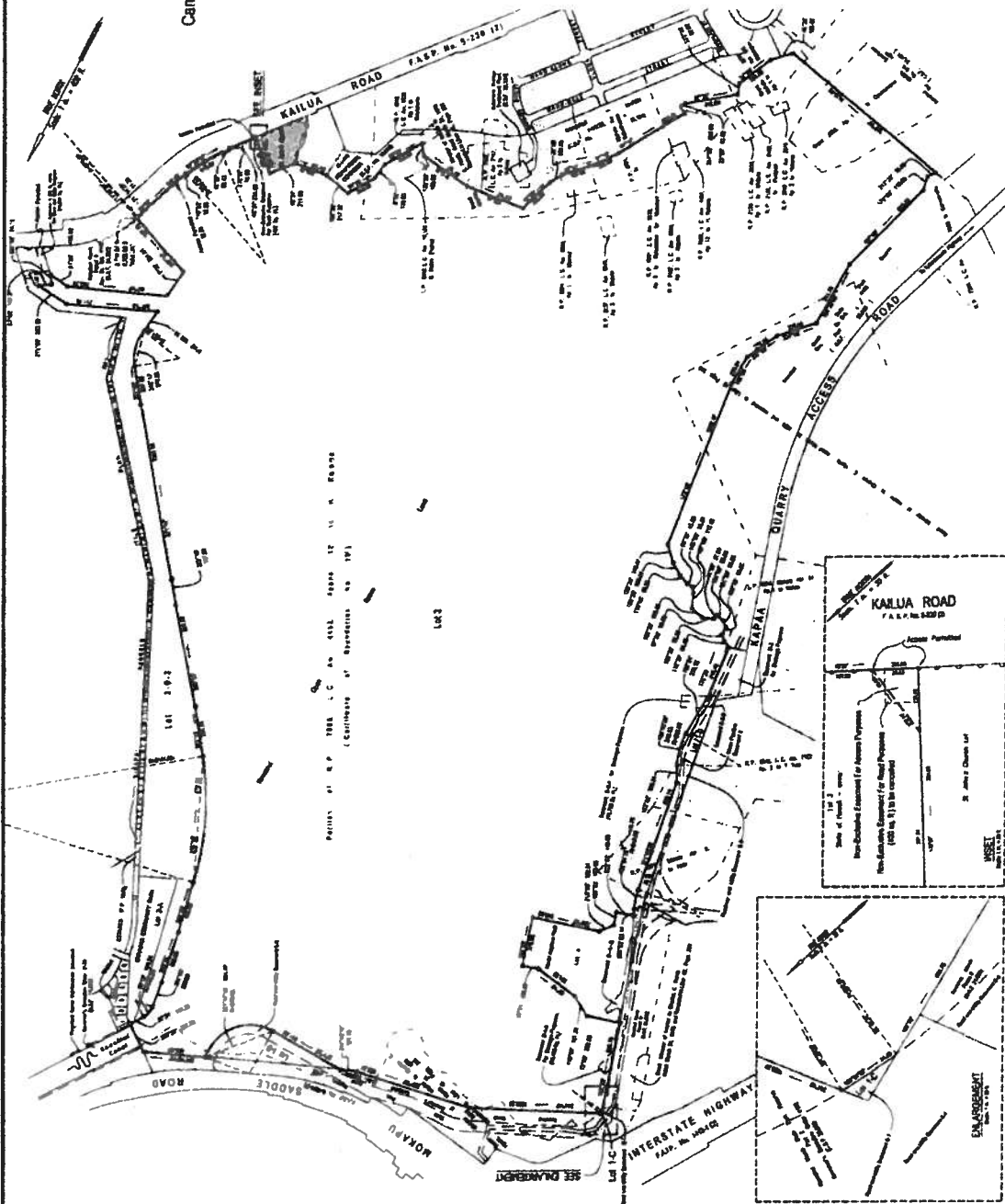
We appreciate your understanding and we hope to gain favor with your agency in this matter. If you have questions or concerns, please call me at 258-3459 or email me at [alangesys@aol.com](mailto:alangesys@aol.com)

Sincerely,



Alan Y. Tarumoto

cc: Gerard Simoes <[gks930@hawaii.rr.com](mailto:gks930@hawaii.rr.com)>  
St. John Lutheran Church. - Pastor R. Kevin Kline <[revkev314@hawaii.rr.com](mailto:revkev314@hawaii.rr.com)>  
Kim & Shiroma Engineers - Conrad Shiroma <[cshiroma@cka.com](mailto:cshiroma@cka.com)>  
Leaps & Boundaries, Inc. - Arden Torcuato <[arden@leapsandboundaries.com](mailto:arden@leapsandboundaries.com)>



**Cancellation of Non-Exclusive Easement for Road Purposes**  
**Affecting LOT 3**  
 Being a Portion of R. P. 7983, L. C. Aw. 4452,  
 Ap. 12 to H. Kailama  
 (Certificate of Boundaries No. 101)  
**Designation of Easement for Access Purposes**  
**In Favor of St. John's Church Lot**  
 Affecting LOT 3  
 Being a Portion of R. P. 7983, L. C. Aw. 4452,  
 Ap. 12 to H. Kailama  
 (Certificate of Boundaries No. 101)  
 At Keweenaw, Kailua, Oahu, Hawaii



LEONARD S. BOURGONIER, INC.  
 1000 KALANIANA'OHU BLVD., SUITE 1000  
 HONOLULU, HAWAII 96813  
 LICENSE NO. 10000  
 EXPIRES 12/31/2018

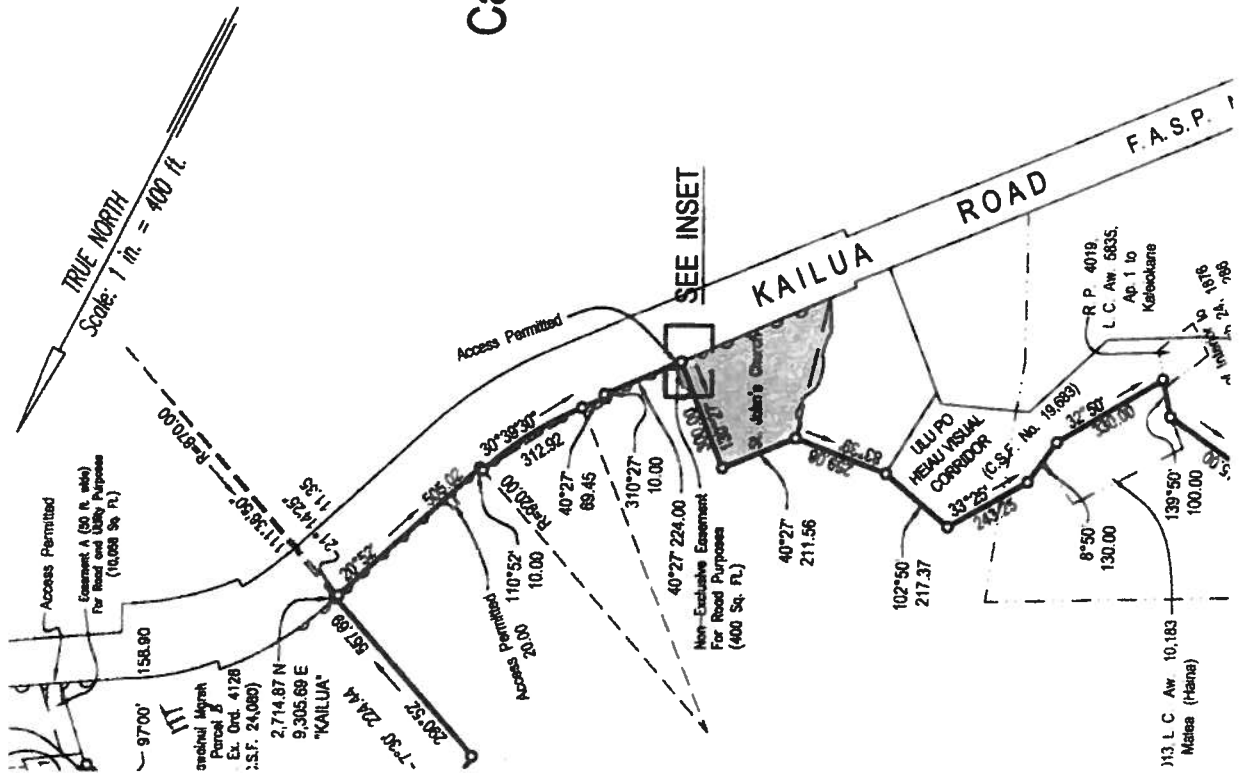
CHECK DATE OF MAP

This map was prepared by the  
 Surveyor General of Hawaii  
 for the purpose of recording  
 the same in the public records

Date of Preparation = 1/17/18

3" x 3"





**Cancellation of Non-Exclusive Easement for Road Purposes  
Affecting LOT 3**

**Being a Portion of R. P. 7983, L. C. Aw. 4452,**

**Ap. 12 to H. Kalama**

**(Certificate of Boundaries No. 101)**

**Designation of Easement for Access Purposes**

**In Favor of St. John's Church Lot**

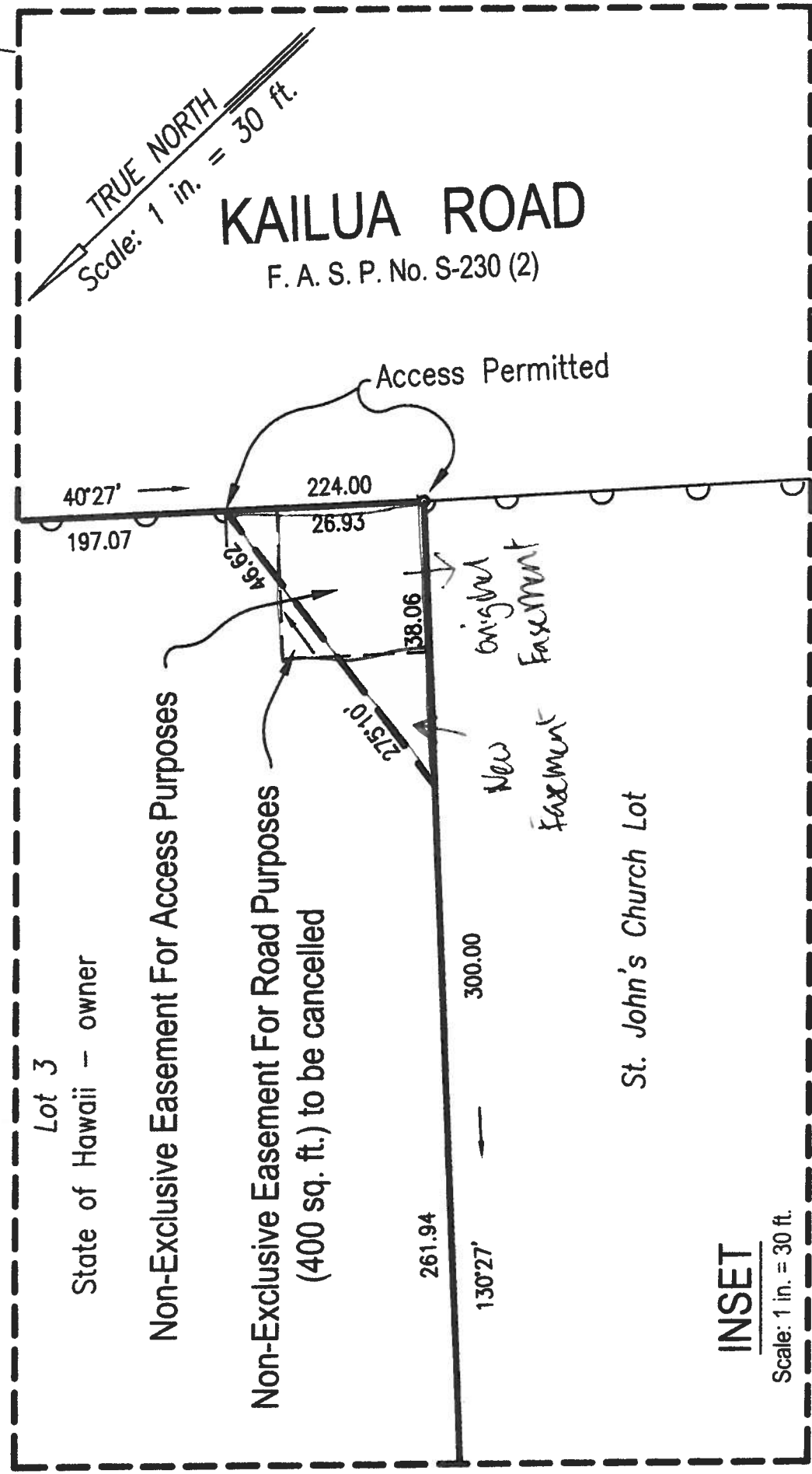
**Affecting LOT 3**

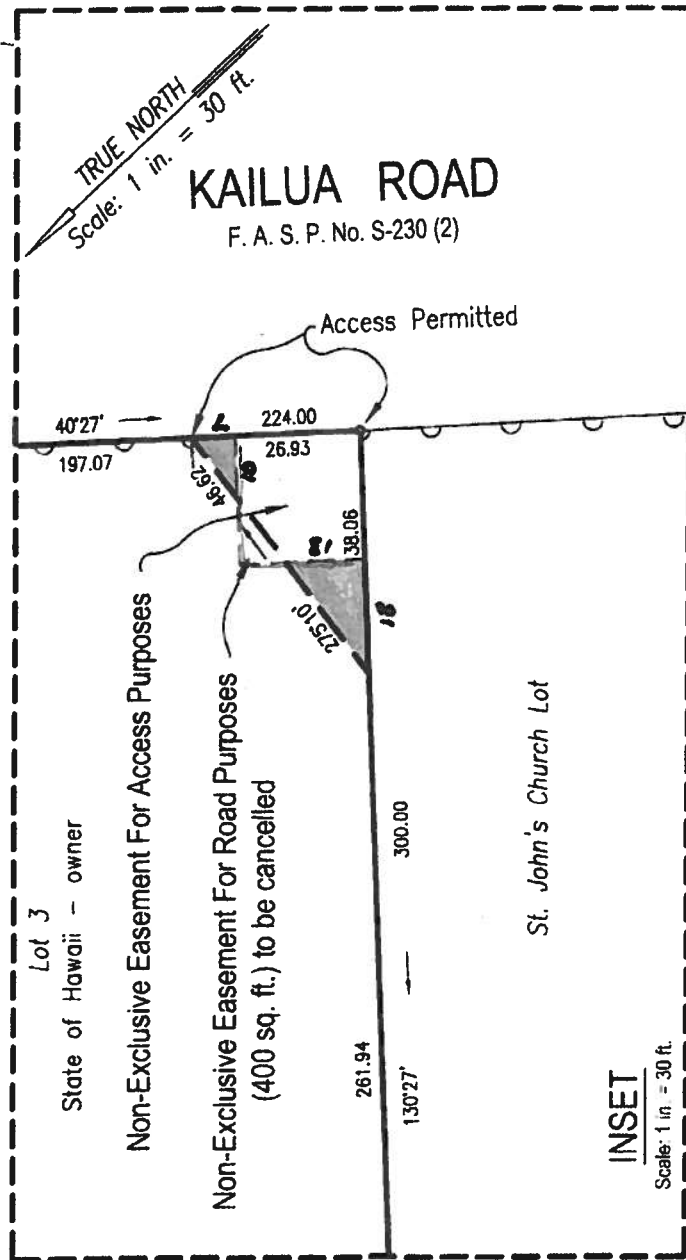
**Being a Portion of R. P. 7983, L. C. Aw. 4452,**

**Ap. 12 to H. Kalama**

**(Certificate of Boundaries No. 101)**

At Kawaiinui, Kailua, Oahu, Hawaii





Attachment 3

*Easement*



