

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

April 26, 2013

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

PSF No.:13HD-033

Hawai'i

Withdrawal from Governor's Executive Order No. 3814 and Reset Aside to Department of Accounting and General Services for Radio Tower Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key 3<sup>rd</sup>/ 2-4-01:170;

Grant of Perpetual Non-Exclusive Easement to State of Hawaii, Department of Accounting and General Services, for Access Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key 3<sup>rd</sup>/ 2-4-01: Portions of 40 and 122; and

Issuance of Immediate Construction and Management Right-of-Entry to State of Hawaii, Department of Accounting and General Services, Waiakea, South Hilo, Hawaii, Tax Map Key 3<sup>rd</sup>/ 2-4-01:170.

CONTROLLING AGENCY:

University of Hawaii

APPLICANT:

State of Hawaii, Department of Accounting and General Services

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waiakea, south Hilo, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/2-4-01:40 and 170, as shown on the attached map labeled Exhibit A.

AREA:

Parcel TMK: 2-4-01:170; 1.42 acres, (10,047 square feet, for building-tower area)  
Portions of parcel TMK: 2-4-01:40 and 122;  
Access to the site will be from Komohana Street via an existing paved driveway which  
lies within a non-exclusive access and utility easement.

ZONING:

State Land Use District:      Agriculture  
County of Hawaii CZO:        Agriculture A-1a

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:

Governor's Executive Order No. 3814 setting aside 323.420(net) acres to University of  
Hawaii for University of Hawaii and its allied purposes.

PURPOSE:

The purpose of the set aside is for radio tower purposes. The purpose of the grant of  
easement is for access purposes.

CONSIDERATION FOR EASEMENT:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the  
OEQC's Environmental Notice on October 23, 2012 with a finding of no significant  
impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;

- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

At its meeting of April 9, 1998 under agenda item D-36, the Board of Land and Natural Resources approved the issuance of Governor's Executive Order (GEO) setting aside lands to the University of Hawaii for general university and community college purposes. On April 11, 2000, Governor's Executive Order No. 3814 was signed by Governor Benjamin Cayetano.

Further, at its meeting of October 26, 2001, under agenda item D-6, the Board approved the lease of thirty (30) acres within GEO 3814 to the U. S. Department of Agriculture (USDA) for the construction and operation of the Pacific Basin Agricultural Research Center and the Institute of Pacific Islands Forestry. As a result of the Environmental Assessment initiated by the USDA, it was determined that a portion of the lease land contained pre-historic skeletal remains. This portion of the E.O. (newly created parcel 170) comprising 1.42 acres was excluded from the lease.

The Department of Accounting and General Services (DAGS) through its Information and Communication Services Division (ISCD) wishes to develop a portion of the lands set aside to the University of Hawaii for radio transmission tower purposes. The project site will utilize approximately 7,858 square feet of parcel 170<sup>1</sup> for the tower and support structures along with 2,296 square feet of parcel 40 for roadway access purposes. The remaining portion of parcel 170 would be preserved as a historical burial site and will be fenced off from the tower and support structures.

Over the years, public safety, emergency response, and law enforcement agencies have benefited from the significant advances in communication technology. To fulfill their public service missions, these government agencies rely on telecommunications systems to communicate and transmit information and data between offices and facilities as well as personnel in the field.

This project will support the rebuilding and modernization of a microwave communication system to be owned by DAGS and shared with the U. S. Coast Guard (USCG) to support State and Federal agencies. This system, known as Anuenue Radio system, is a successor to the "Hawaii Rainbow Communications System," which was an agreement among three State and three Federal agencies to share infrastructure and microwave transmission systems. The Rainbow resulted in a statewide system of radio

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<sup>1</sup> In their environmental assessment, DAGS identified the location of the skeletal remains on parcel 170 and has obtained approval from the Hawaii Island Burial Council for the location of the tower site as noted on the concurrence letter and plot map from the DLNR Historic Preservation Division (Exhibit B).

tower facilities and microwave radio interconnections that were used by Federal, State, and local agencies in support of their public safety, emergency response, civil defense, and law enforcement missions. The Rainbow agreement dissolved at the end of September 2002.

The Anuenue radio system is a partnership between DAGS and the USCG. In addition to the two Anuenue partner agencies, other public agencies may need to use the facility, including but not limited to, the University of Hawaii and the County of Hawaii agencies. The facility will be administered by the ICSD, thus it will be a public facility to be used only by public agencies for public purposes.

This facility is one of many radio facilities that were funded by the State Legislature to support the modernization of the Anuenue Radio system. The facility will be totally funded by the State of Hawaii and represents a part of the infrastructure provided by the State to the Anuenue Radio system and to the support of other public agency communication projects. DAGS was issued a radio station authorization for a site in Hilo from the Federal Communications Commission.

To access the site, DAGS is requesting an easement through portions of EO 1391 and EO 3814 as outlined on Exhibit B. The easement will be included in the Executive Order and will utilize the existing paved access to the County of Hawaii Department of Water Supply tank site.

Additionally, DAGS is requesting an early right-of-entry onto the property so that their contractors may initiate the construction of the tower facility.

As indicated above, a Final Environmental Assessment (FEA) for the proposed use of the land by DAGS was published on October 28, 2012 with a Finding of No Significant Impact (FONSI). It was during the Environmental Assessment process that various government agencies and the public were able to review and comment on the request from DAGS.

**RECOMMENDATION:**

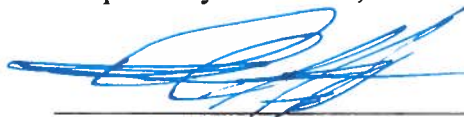
That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Approve of and recommend to the Governor issuance of an executive order withdrawing 1.42 acres from the Governor's Executive Order No. 3814 and subject to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;

- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Accounting and General Services under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
    - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
    - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
    - C. Review and approval by the Department of the Attorney General; and
    - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of a perpetual non-exclusive easement to the State of Hawaii, Department of Accounting and General Services, covering a 1,608 sq. ft./0.037 acre portion of Executive Order 1391 to the County of Hawaii, Department of Water Supply and Executive Order 3814 to the University of Hawaii 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 form, as may be amended from time to time;
    - B. Review and approval by the Department of the Attorney General; and
    - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

4. Grant an immediate construction and management right-of-entry to the Department of Accounting and General Services, its consultants, contractors, and/or persons acting for or on its behalf, onto Parcel 170 under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current construction and management right-of-entry form, as may be amended from time to time;
  - B. This right-of-entry is effective upon Land Board approval and shall continue until the executive order document is issued; and
  - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.


Respectfully Submitted,



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Gordon C. Heit  
District Land Agent

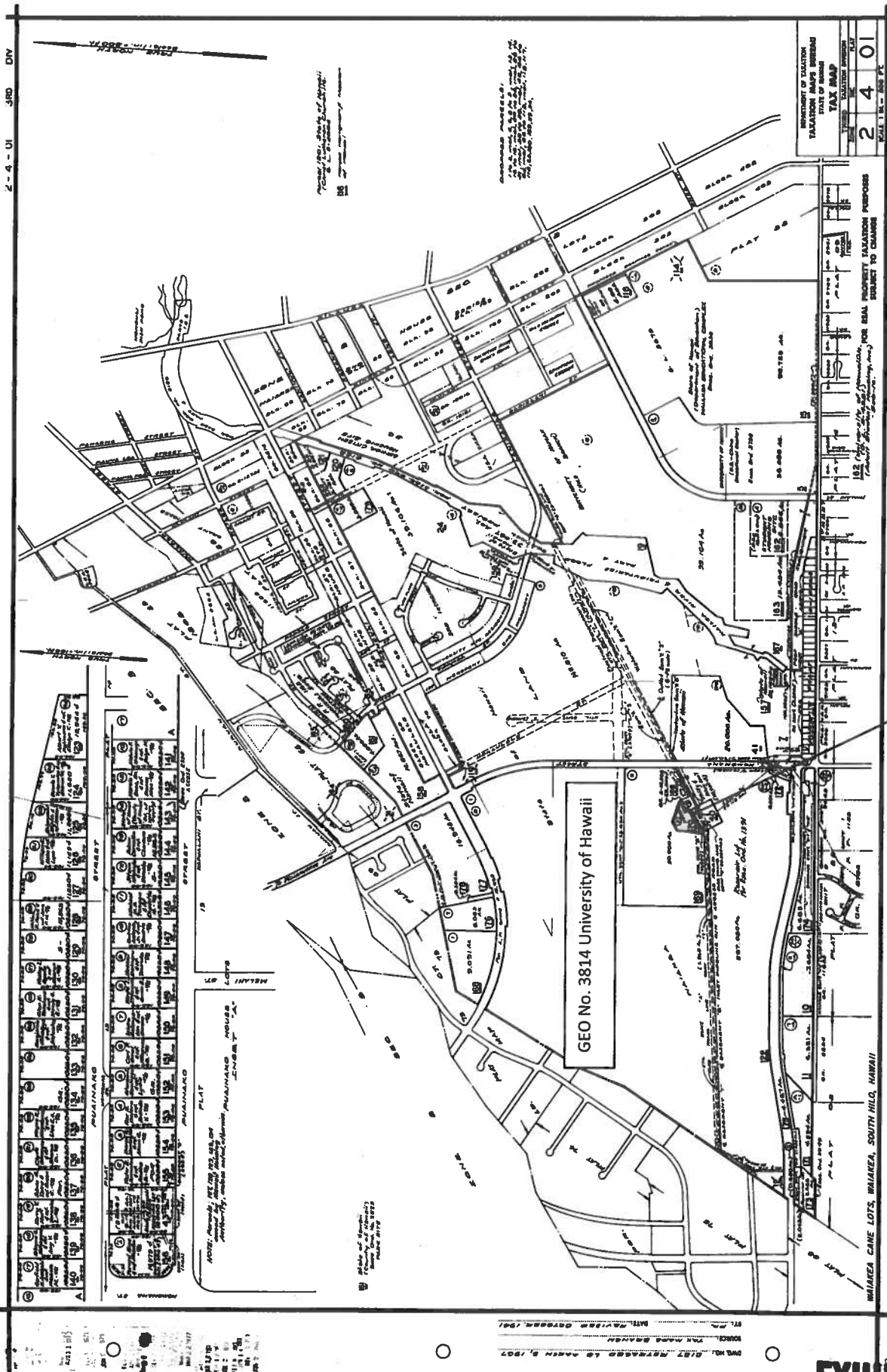
APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson





SUBJECT PROPERTY

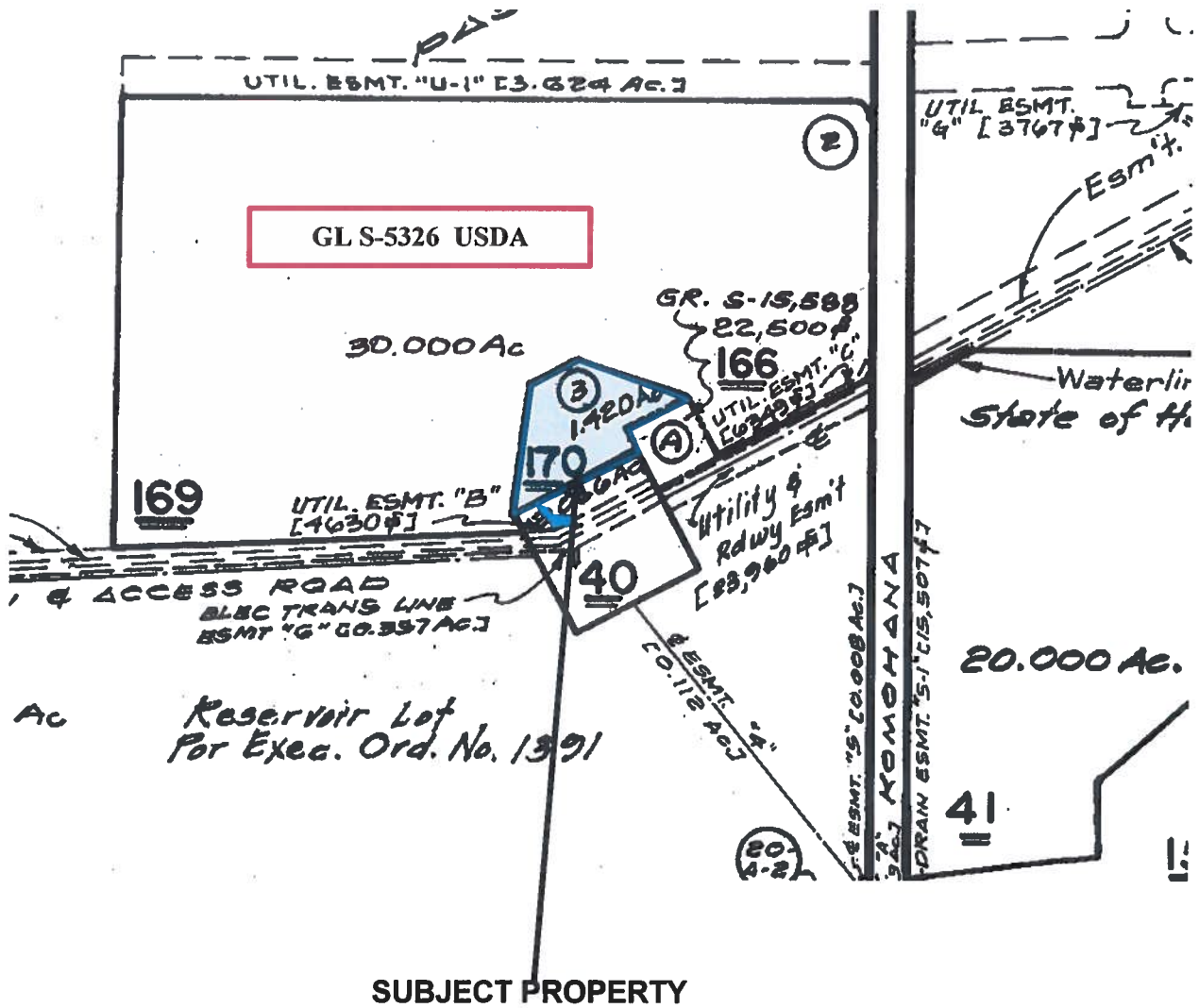
DEPARTMENT OF TAXATION	2
TAXATION MAPS BRANCH	4
STATE OF HAWAII	01
TAX MAP	
FILE NO.	
DATE	

DATE: 12/15/1957  
 SOURCE: TAX MAPS BRANCH  
 BY: MRS. JAMES GUYER 1951

EXHIBIT "A"

# EXHIBIT A

TMK: 3<sup>RD</sup>/2-4-01:170





NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



RECEIVED - DALS  
DIV. OF PUBLIC WORKS  
NOV - 1 - A 8 32



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**HISTORIC PRESERVATION DIVISION  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

601 Kamokila Boulevard, Suite 555  
Kapolei, HI 96806

October 29, 2012

James K. Kurata, Public Works Administrator  
Department of Accounting and General Services  
P.O. Box 119  
Honolulu, HI 96810-0119

LOG NO: 2012.1703  
DOC NO: 1210TD09  
Archaeology

NOV 1 2012

Dear Mr. Kurata:

**SUBJECT: Chapter 6E-8 Historic Preservation Review –  
County of Hawaii Use Permit for the Waiākea Radio Site and Tower (Job No. 11-10-0689)  
Waiākea Ahupua‘a, South Hilo District, Island of Hawai‘i  
TMK: (3) 2-4-001:170 por. and 040 por.**

This is in response to your letter dated June 7, 2012 requesting a “no effect” determination for the Waiākea Radio Facility project. As described in the Draft Environmental Assessment (April 2012), the project will consist of a 120-foot tower with antennas on a concrete foundation, a 931 sq foot equipment building, a 1,000 gallon fuel tank, paved parking, an 8 foot high fence, and paved access routes. Overall area of the project is 0.2 acres of the 1.42-acre Parcel 170, and an access route through the northwest corner of Parcel 040.

The project area in Parcel 170 was included in a larger lot (Parcel 122) that was subject of an archaeological inventory survey for the USDA Agricultural Research Center (Bush et al. 2000). One historic property was identified during the survey, consisting of human remains within a lava blister cave (SIHP 50-10-35-22080). The survey report was approved by our office in October 2000 (*Log 26293, Doc. 0010RC03*), and the USDA project was reconfigured to fully avoid the burial site. Subsequently, USDA subdivided Parcel 170 from their lands and returned control of the parcel to the University of Hawai‘i. Your office initiated consultation with SHPD in 2011 to determine if it would be acceptable to use a portion of Parcel 170 for the proposed project (E. Lau letter to T. Donham January 5, 2011); we recommended that you consult with the Hawai‘i Island Burial Council. A draft burial treatment plan prepared for your office was presented at the September 22, 2012 and October 20, 2012 meetings of the Hawai‘i Island Burial Council (Hammatt & Shideler November 2011); and further consultation was conducted with Mr. Puna Lerma. Following the September consultation, you revised the proposed construction plans to relocate an access road from Parcel 170 to Parcel 040, thereby allowing a c. 100-foot zone around Site 22080 wherein no construction will occur (Shideler letter to Lerma September 25, 2012. The revised burial treatment plan was recently approved by the History and Culture Branch (H. Rodrigues letter to J. Kurata October 24, 2012; *Log 2012.2016, Doc. 1209KH04*).

Based on the aforementioned information, we believe that potential impacts to Site 22080 have been mitigated through the completion of an approved burial treatment plan. No historic properties will be affected, with the understanding that interim construction fencing will be installed at the 50-foot buffer zone prior to commencement of construction; and long term preservation measures as indicated in the approved plan are implemented. We request the opportunity to review the final grading/construction plans as part of the grading permit application.

Please contact Theresa Donham at (808) 933-7653 or Kauanoë Hoomanawanui, Burial Site Specialist at (808) 933-7650 if you have any questions or concerns regarding this letter.

Aloha,

Theresa K. Donham  
Archaeology Branch Chief and  
Deputy State Historic Preservation Officer

cc: Kauanoë Hoomanawanui

**EXHIBIT "B"**

Date: August 16

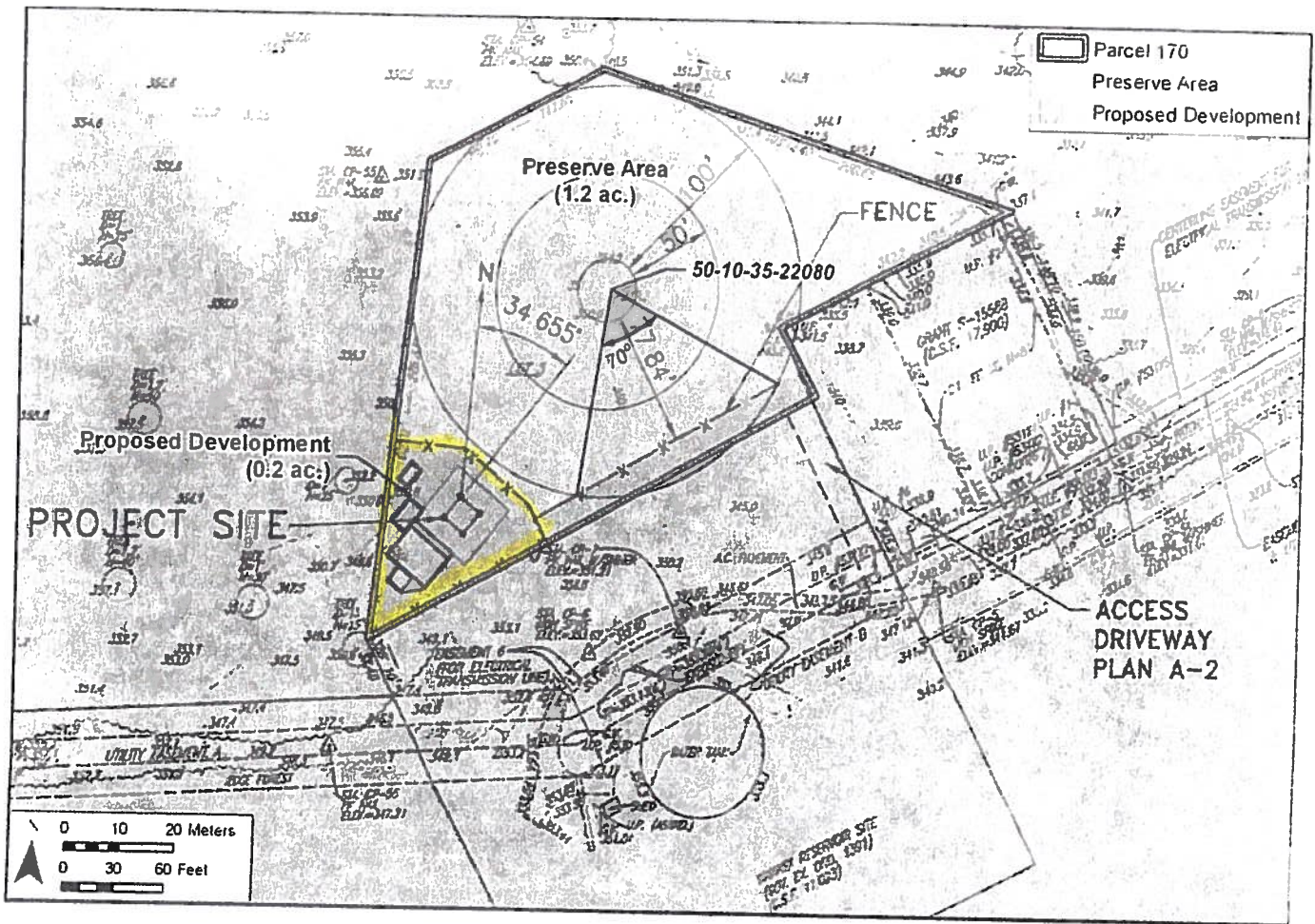


Figure 1. Scheme presented in Burial Treatment Plan reviewed by the Hawai'i Island Burial Council

**EXHIBIT "B"**