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A Law Corporation

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Attorney for Petitioner

LAND USE COMMISSION
STATE OF HAWAII
APR 17 10 52 AM '91

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition	)	DOCKET NO. A-90-661
)	
of	)	STIPULATION FOR
	)	WITHDRAWAL OF
C. BREWER PROPERTIES, INC.	)	OFFICE OF STATE
	)	PLANNING'S AND COUNTY
to reclassify approximately 16.489	)	OF KAUAI'S OPPOSITION
acres of land currently in the	)	TO PETITION AND
Conservation District into the	)	IMPOSITION OF CONSER-
Agricultural District, and	)	VATION EASEMENT
approximately 0.167 acre of land	)	AREA; CERTIFICATE OF
currently in the Agricultural	)	SERVICE
District into the Conservation)	
District at Kalihiwai, Kilauea,)	
Kauai, Hawaii, TMK: 5-2-02,)	
por. 10)	
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STIPULATION FOR WITHDRAWAL OF OFFICE OF
STATE PLANNING'S AND COUNTY OF KAUAI'S
OPPOSITION TO PETITION AND IMPOSITION
OF CONSERVATION EASEMENT AREA

Come now Petitioner C. BREWER PROPERTIES, INC., by its attorney Walton D. Y. Hong, the OFFICE OF STATE PLANNING, by its Deputy Attorney General Rick Eichor, and the COUNTY OF KAUAI, by its Deputy County Attorney Peter M. Morimoto, and hereby stipulate as follows:

1. That the Office of State Planning and the County of Kauai will withdraw their opposition to and support the Petitioner's request to reclassify 16.489 acres from the current Conservation District to the Agricultural District, and to reclassify 0.167 acre from the current Agricultural District to the Conservation District, subject of this docket;

2. That the Petitioner will agree to grant to the State of Hawaii, pursuant to Chapter 198, Hawaii Revised Statutes, a conservation easement area of one hundred (100) feet back from the amended Conservation/Agricultural district boundary line along the edge of the bluffline overlooking the Kalihiwai River Valley, as shown on the map attached hereto as Exhibit "A" and made a part hereof;

3. That the conservation easement shall also state that no uses or structures shall be permitted within the conservation ^{easement} ~~use setback~~ area, except the following:

(a) A driveway or roadway on Lot 16 of the Kalihiwai Ridge, Phase II subdivision as may be reasonably necessary to gain access to and from the rear (southern) portion of said Lot 16 over the existing jeep road as shown on Exhibit "A" hereto;

(b) Landscaping and the maintenance thereof. Structures such as but not limited to gazebos, viewing

platforms, swimming pools, and decks shall not be considered as landscaping;

(c) The placing, repair and replacement of appliances and facilities necessary to maintain the landscaping, such as sprinkler and irrigation systems, provided that such appliances and facilities shall not extend more than six inches above grade;

(d) The maintenance of the conservation easement area in its natural state, including reasonable trimming and mowing; and

(e) Such other use or structure as may be approved by the State of Hawaii, through its agency designated to enforce the conservation easement area, upon the satisfaction by such agency that such use or structure will not result in any significant adverse environmental, ecological or visual impact to the Kalihiwai River Valley and the surrounding lands;

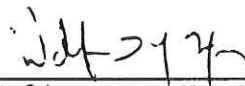
4. That the conservation easement shall be enforceable by the State of Hawaii, through its Department of Land and Natural Resources or its successor designated State agency;

5. That the conservation easement shall not be amended or removed except with the written approval of the agency of the State of Hawaii designated at that time to enforce the same;


6. That the conservation easement shall be identified and designated as such on the final subdivision map for the Kalihiwai Ridge, Phase II subdivision (#S-89-79), be submitted to the County of Kauai Planning Commission for final subdivision approval, and be recorded in the Bureau of Conveyances or the Land Court of the State of Hawaii when final; and

7. That the said conservation easement shall be implemented and run with the land only in the event that the Land Use Commission reclassifies the subject area as requested in the Amended Petition for Boundary Amendment herein dated December 12, 1990 and the Petitioner obtains final subdivision approval from the County of Kauai for the Kalihiwai Ridge, Phase II, subdivision (#S-89-79) substantially in accordance with Exhibit "A" hereto..

DATED: this 6th day of April, 1991.



Walton D. Y. Hong
Attorney for Petitioner
C. Brewer Properties, Inc.



Rick Eichor
Deputy Attorney General
Attorney for Office of State
Planning

Stipulation for Withdrawal of Office of State Planning's and
County of Kauai's Opposition to Petition and Imposition of
Conservation Easement Area (continued)

Peter M. Morimoto

Peter M. Morimoto
Deputy County Attorney
Attorney for County of Kauai

KALIHUAI RIDGE - PHASE II

KILAUEA, KAUAI

C BREWER PROPERTIES, INC

1/2 Ac	
2 Ac	1 Ac
	1 Ac

AREA SCALE

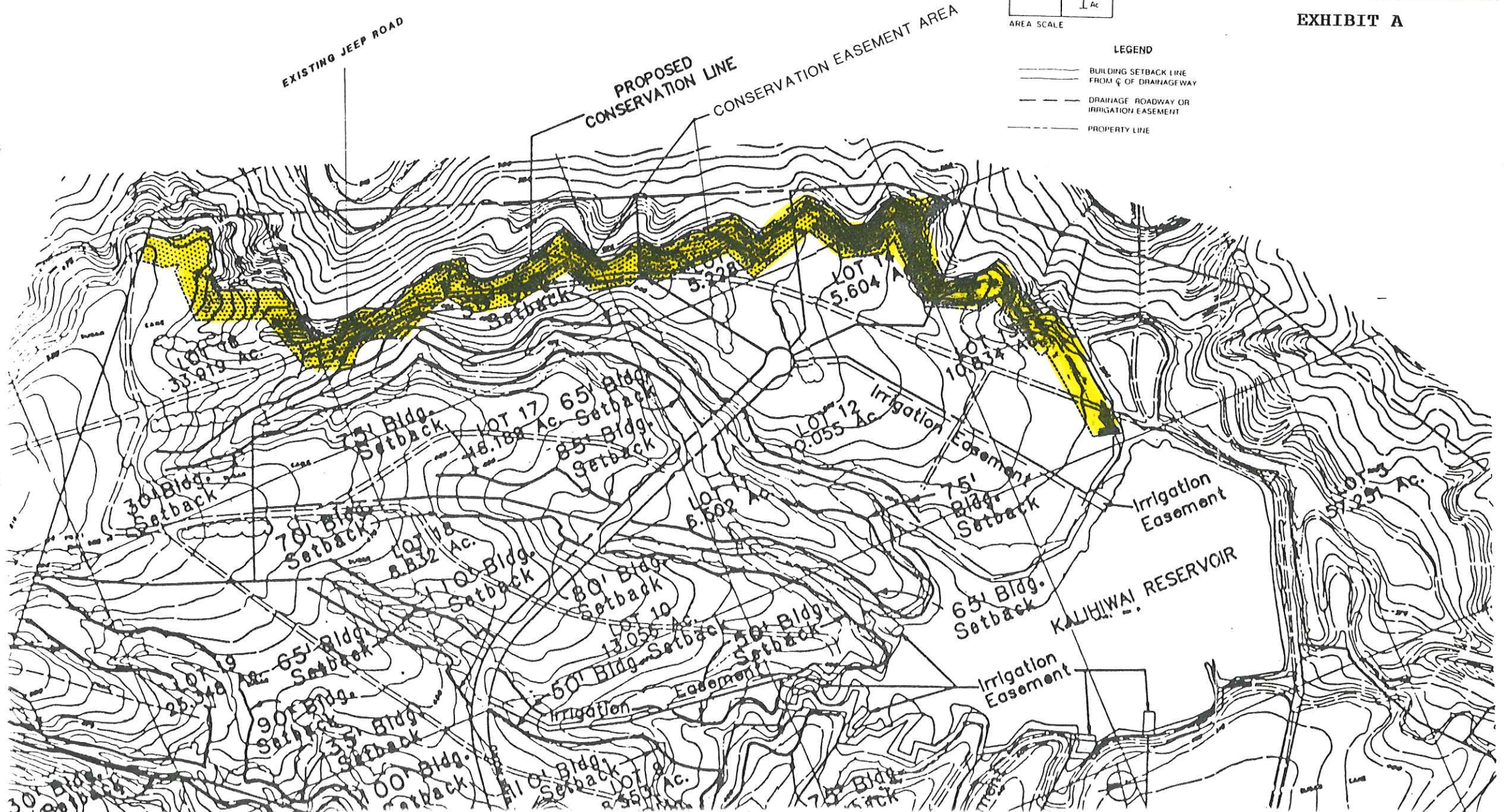
GRAPHIC SCALE
400 0 400 600 1600



EXHIBIT A

LEGEND

- BUILDING SETBACK LINE FROM C OF DRAINAGEWAY
- DRAINAGE ROADWAY OR IRRIGATION EASEMENT
- PROPERTY LINE



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A90-661
)	
C. BREWER PROPERTIES, INC.	)	C. BREWER PROPERTIES,
	)	INC.
To Amend the Conservation Land Use)	
District Boundary to Reclassify)	
Approximately 16.489 acres into the)	
Agricultural Land Use District, and)	
to amend the Agricultural Land Use)	
District Boundary to Reclassify)	
Approximately 0.167 acre into the)	
Conservation Land Use District,)	
TMK: 5-2-02: 10 (por.), at)	
Kalihiwai, Kilauea, Kauai, Hawaii)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Adopting Hearing Officers Proposed Findings of Fact, Conclusions of Law, and Decision and Order With Modifications to Conditions was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

CERT. PETER A. NAKAMURA, Planning Director
Planning Department, County of Kauai
4280 Rice Street
Lihue, Hawaii 96766

CERT. KATHLEEN N.A. WATANABE, ESQ.
County Attorney
Office of the County Attorney
County of Kauai
4396 Rice Street, #202
Lihue, Hawaii 96766

CERT. WALTON D.Y. HONG, ESQ., Attorney for Petitioner
P. O. Box 1727
Lihue, Hawaii 96766

DATED: Honolulu, Hawaii, this 28th day of May 1991.



ESTHER UEDA
Executive Officer