

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
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County of Hawai'i
PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

February 16, 2021

Kimberly Chiodo, Project Manager
Land Planning Hawai'i, LLC
194 Wiwoole Street
Hilo, Hawai'i 96720

Dear Ms. Chiodo:

SUBJECT: Application: Variance - VAR 20-000581-Revised
Applicant: LAND PLANNING HAWAII, LLC
Owner: GARY & JUDITH MILLER
Request: Variance from Chapter 25, Zoning, Article 5 Division 7
Section 25-5-76 Minimum Yards, Article 4, Division 4, Section
25-4-44(a) Permitted Projections into Yards and Open Space
Requirements (Encroachment into South Side Yard Setback)
Tax Map Key: (3) 1-5-059:038 (Lot 439)

After reviewing your variance application, the Deputy Planning Director certifies the **approval** of VAR-20-000581. The variance application seeks to allow for the "as-built," above-ground swimming pool to remain with a minimum 9.75 foot side (south) yard open space in lieu of the required 10 foot open space. It will also allow for the "as-built," concrete deck to remain with a minimum 4.28 foot side (south) yard open space in lieu of the required 10-foot side yard open space requirement. These exceptions are in lieu of requirements by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-76, Minimum yards and Section 25-4-44 (a), Permitted projections into yards and open space requirements.

This revised variance rescinds previously denied Variance 20-000581 dated August 13, 2020.

BACKGROUND

1. **Location.** The subject property contains approximately 21,780 square feet (0.50 acre) and is in the Hawaiian Paradise Park Subdivision, situated at Kea'au, Puna, Hawai'i. The subject property address is 15-816 Paradise Ala Kai Drive.

2. **Zoning.** Agricultural 1 acre (A-1a).
3. **State Land Use.** Agriculture (A).
4. **Special Management Area (SMA).** Yes
5. **Required Setback.** 25-feet front and rear; 15-feet for sides.
6. **Variance Application.** The applicant submitted the variance application, attachments, and filing fee on March 30, 2020, and other submittals related to the variance request and variance application.

The variance application's survey map, dated December 14, 2018, drawn to scale and prepared by Niels Christensen, LPLS (the Independent Hawai'i Surveyors, LLC) shows the "as-built" above-ground swimming pool encroaches 3 inches (0.25 feet) into the 10-foot south side yard open space and the "as-built" concrete deck encroaches 5.72 feet into the south side yard open space. (See attached site plan – Exhibit A)

The encroachment leaves the "as-built" above-ground swimming pool with a minimum 9.75-foot side (south) yard setback, in lieu of the required 10-foot side yard open space. It also leaves the "as-built" concrete deck with a minimum 4.28 feet side (south) yard open space in lieu of the 10-foot side yard open space requirement.

7. **County Building Records.** Hawai'i County Real Property Tax office records indicate that the following building permits were issued.
 - a. Building Permit 900413 was issued March 6, 1990, for the construction of a single-family dwelling, consisting of 2 bedrooms, 2 baths, living area, kitchen, and open carport. Permit finalized on November 20, 1990.
 - b. Building Permit issued on April 30, 2003, for the construction of a workshop consisting of 1 bath, 1-car carport, and open deck. Permit finalized on August 27, 2004.
 - c. Building Permit B2004-1258H issued on July 16, 2004, for alterations to the workshop, which included partition walls within the workshop to create a finishing/storage rooms and an office on either side of the bathroom, and eyebrow roof off carport. Permit finalized on August 23, 2004.

8. Agency Comments and Requirements.

a. State Department of Health (DOH) memorandum dated May 13, 2020: "The Health Department found no environmental health concerns with regulatory implications in the submittals."

b. No comments were received from the Department of Public Works (DPW)- Building Division.

9. Notice to Surrounding Property Owners. A copy of the first and second notices were sent by the applicant via USPS to surrounding property owners and mailing certificates were submitted to the Planning Department. According to the submittals, the first and second notices were mailed on May 1, 2020, and May 2, 2020, respectively. Notice of this application was published in the Hawai'i Tribune Herald and West Hawai'i Today newspapers on March 12, 2020.

10. Comments from Surrounding Property Owners or Public. No further written agency comments were received. No written comments or objections from surrounding property owners or the general public were received.

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

(a) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of the property.

The variance application meets criteria (a) for the following reasons:

The owner/applicant submitted the variance application to address or resolve the encroachment of the above-ground swimming pool and the concrete deck into the 10-foot side (south) yard open space as required by the Zoning Code.

The owner, who recently purchased the property was unaware of any encroachments and would not have discovered any problems affecting the subject property until a recent survey was completed.

No evidence has been found to allow indifference or premeditation by the owners or builders to deliberately create or intentionally allow the above-ground pool and concrete deck encroachment into side yard open space problems to occur.

(b) There are no other reasonable alternatives that would resolve the difficulty.

The variance application meets criterion *(b)* for the following reasons:

Alternatives available to the current owners to correct and/or address the building encroachments constructed into the affected south side yard setback and southern side yard setback of the subject property include the following actions:

Remove the building encroachments and/or redesign or relocate the above-ground pool and concrete deck constructed upon the subject property to fit within the correct building envelope denoted on the recent survey map as prescribed by the Zoning Code. Any structural or design correction of the above-ground pool and concrete deck to meet setback requirement would leave unattractive reconstruction scars.

Because the encroachment is within the rear yard and side yard setback, to consolidate the subject property which is owned by someone else and to re-subdivide the property to modify property lines and adjust minimum side yard setbacks are not viable options; therefore, there are no reasonable alternatives to resolve the encroachment issue.

(c) The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public's welfare or cause substantial, adverse impact to an area's character or to adjoining properties.

The intent and purpose of requiring building setbacks within a subdivision are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines.

The variance request will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties. The subject property is landscaped along the front and side boundaries which provides a buffer between the subject property and the surrounding properties **(See Photo Exhibit B)**.

As such, it is felt that the issuance of this variance will not depreciate or detract from the character of the surrounding properties.

Hawai'i County Real Property Tax office records indicate Building Permit issued on April 30, 2003, was for the construction of a workshop consisting of 1 bath, 1-car carport, and open deck. Permit was finalized on August 27, 2004. However, the survey map dated December 14, 2018, submitted with the variance application labels the workshop as a

house. On November 4, 2020, a site inspection was conducted by our planning inspectors, Mark Iwamoto and Annalyn Seguban; also in attendance was Joe Turbin, the owner's contractor. Based on the site inspection, photographs, and discussions with our inspectors, we have determined that the single-family dwelling has been converted back to a workshop. **(See attached photo – Exhibit C).**

Based on the foregoing findings and unusual circumstances, the applicant's request for variance would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code and the County General Plan. Furthermore, the variance request will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

This can be substantiated, to some degree, by the fact that no comments or objections were received from the surrounding property owners or general public in response to the Notification of Surrounding Properties Owners.

Based on the above findings, granting of the variance would be consistent with the criteria and intent of approving a variance.

PLANNING DEPARTMENT DECISION AND VARIANCE CONDITIONS

Based on the variance application's survey map, the above ground pool and deck built upon the subject property ("LOT 439") will not meet the minimum side yard requirements pursuant to Hawai'i County Code, Chapter 25, (Zoning Code).

This variance application is approved subject to the following variance conditions:

1. The applicant/owner(s), their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawai'i harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owner(s), their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. Should the above-ground pool and deck built on the subject property be destroyed by fire or other natural causes, the replacement structure shall comply with the Hawai'i County Code, Chapter 25, (Zoning) and be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

Kimberly Chiodo, Project Manager
Land Planning Hawai'i, LLC
February 16, 2021
Page 6

4. No 'Ohana or Additional Farm Dwelling permit shall be approved for the subject property, subject to the provisions of the Hawai'i County Code, Chapter 25, (Zoning) or State law, which may change from time to time.
5. The permitted workshop shall not be converted into a single-family dwelling and shall not be used for human occupancy.
6. Future or new building improvements and permitted uses shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

Should any of the foregoing variance conditions not be complied with, the Planning Department may proceed to declare subject Variance-20-000581-Revised null and void.

Sincerely,



JEFFREY W. DARROW
Deputy Planning Director

LHN:jaa

P:\Admin Permits Division\Variances From CoH02\Zone1\VAR 20-000581-Revised TMK 150590380000 Miller.doc

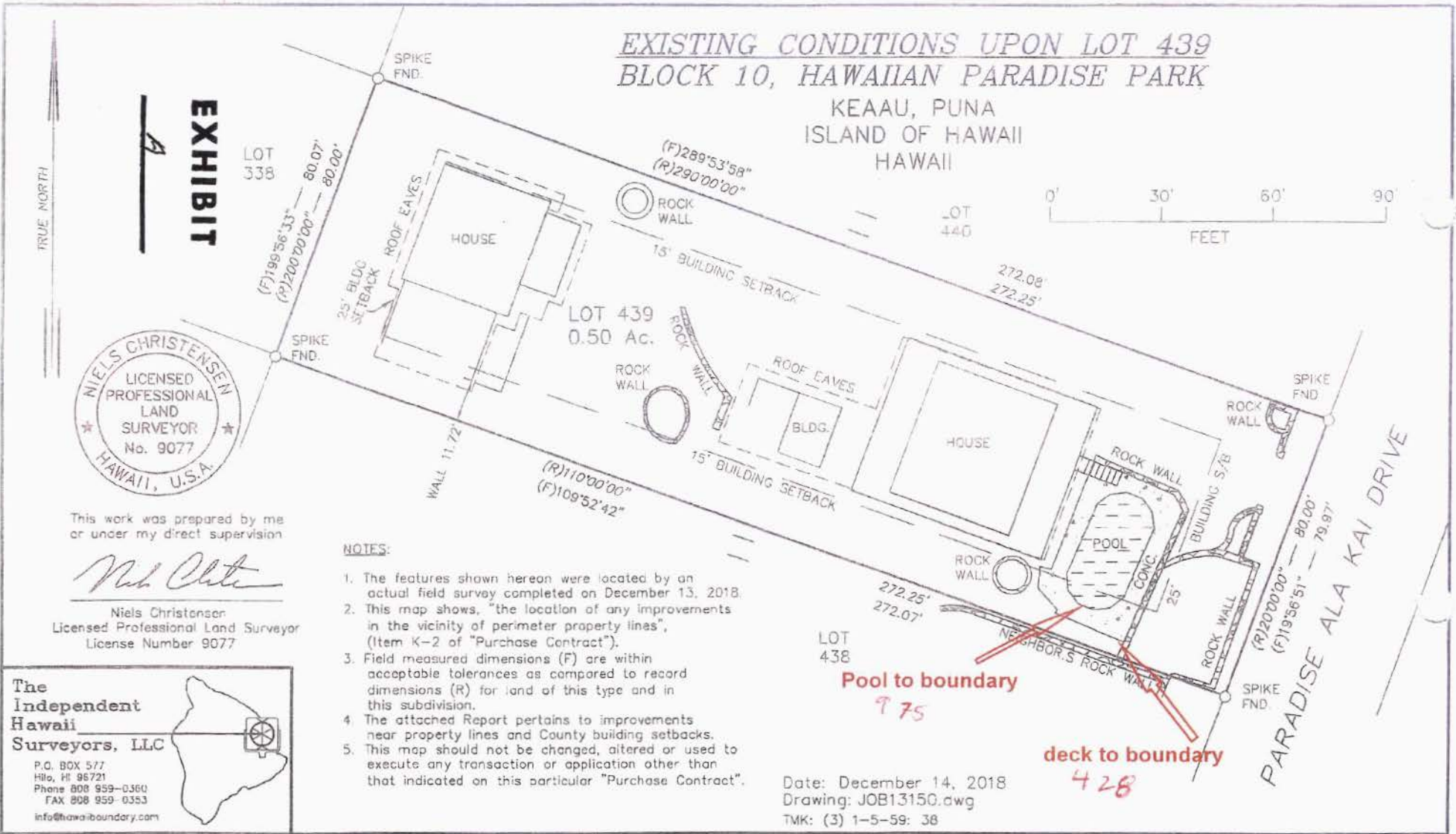
Encl.: Exhibits A to C

Cc: Gilbert Bailado, Planning GIS (via email)
Mark Iwamoto, Zoning Inspector
Tracie Camero, Planner

**Pending authorization from Ren Brown.*

**EXISTING CONDITIONS UPON LOT 439
BLOCK 10, HAWAIIAN PARADISE PARK**

KEAAU, PUNA
ISLAND OF HAWAII
HAWAII



EXHIBIT



This work was prepared by me or under my direct supervision

Niels Christensen

Niels Christensen
Licensed Professional Land Surveyor
License Number 9077

NOTES:

1. The features shown hereon were located by an actual field survey completed on December 13, 2018.
2. This map shows, "the location of any improvements in the vicinity of perimeter property lines", (Item K-2 of "Purchase Contract").
3. Field measured dimensions (F) are within acceptable tolerances as compared to record dimensions (R) for land of this type and in this subdivision.
4. The attached Report pertains to improvements near property lines and County building setbacks.
5. This map should not be changed, altered or used to execute any transaction or application other than that indicated on this particular "Purchase Contract".

Date: December 14, 2018
Drawing: JOB13150.dwg
TMK: (3) 1-5-59: 38

19°36.966'N, 154°56.877'W COUNTY GIS

The Independent
Hawaii
Surveyors, LLC

P.O. BOX 577
Hilo, HI 96721
Phone 808 959-0360
FAX 808 959-0353
info@hawaii-boundary.com



Figure 2

2/11 - Forwarded this to Niels

Pool to boundary
975

deck to boundary
428



Figure 3a. Aerial view of property with Paradise Ala Kai at left.



Figure 3b. View to southwest of Rock Wall surrounding pool and deck.

EXHIBIT

B



EXHIBIT
C

Harry Kim
Mayor

Roy Takemoto
Managing Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
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County of Hawai'i PLANNING DEPARTMENT

Michael Yee
Director

April Surprenant
Acting Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

August 13, 2020

Zendo Kern
Kern & Associates
194 Wiwoole Street
Hilo, Hawai'i 96720

Dear Mr. Kern:

SUBJECT: Application: Variance - VAR 20-000581
Applicant: KERN & ASSOCIATES (ZENDO KERN)
Owner: GARY & JUDITH MILLER
Request: Variance from Chapter 25, Zoning, Article 5 Division 7, Section 25-5-76 Minimum Yards, Article 4, Division 4, Section 25-4-44(a) Permitted Projections into Yards and Open Space Requirements (Encroachment into South Side Yard Setback)
Tax Map Key: (3) 1-5-059:038 (Lot 439)

After reviewing your variance application, the Planning Director certifies the **denial** of VAR-20-000581. The variance application seeks to allow for the "as-built," above-ground swimming pool to remain with a minimum 9.75 feet side (south) yard open space in lieu of the required 10 feet open space. Your denied request also sought to allow the "as-built," concrete deck to remain with a minimum 4.28-foot south side yard setback and open space in lieu of the required minimum 15-foot side yard setback and 10-foot side yard open space requirement. These exceptions are in lieu of requirements by the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-76, Minimum yards and Section 25-4-44 (a), Permitted projections into yards and open space requirements.

The Planning Director has concluded that the variance from the above-referenced zoning standards be **denied** based on the following findings:

BACKGROUND

1. **Location.** The subject property contains approximately 21,780 square feet (0.50 acre) and is in the Hawaiian Paradise Park Subdivision, situated at Kea'au, Puna, Hawai'i. The subject property address is 15-816 Paradise Ala Kai Drive.
2. **Zoning.** Agricultural I acre (A-1a).

3. **State Land Use.** Agriculture (A).
4. **Special Management Area (SMA).** Yes
5. **Required Setback.** 25-feet front and rear; 15-feet for sides.
6. **Variance Application.** The applicant submitted the variance application, attachments, and filing fee on March 30, 2020, and other submittals related to the variance request and variance application.

The variance application's survey map, dated December 14, 2018, drawn to scale and prepared by Niels Christensen, LPLS (the Independent Hawai'i Surveyors, LLC) shows the "as-built" above-ground swimming pool encroaches 3 inches (0.25 feet) into the 10-foot south side yard open space and the "as-built" concrete deck encroaches 10.72 feet into the south side yard setback and 5.72 feet into the south side yard open space. (See attached site plan – Exhibit A)

The encroachment leaves the "as-built" above-ground swimming pool with a minimum 9.75-foot side (south) yard setback, in lieu of the required 10-foot side yard open space. It also leaves the "as-built" concrete deck with a minimum 4.28 feet side (south) yard setback and side (south) yard open space in lieu of the required 15-foot side yard setback and 10-foot side yard open space requirement.

7. **County Building Records.** Hawai'i County Real Property Tax office records indicate that the following building permits were issued.
 - a. Building Permit 900413 was issued March 6, 1990, for the construction of a single-family dwelling, consisting of 2 bedrooms, 2 baths, living area, kitchen, and open carport. Permit finalized on November 20, 1990.
 - b. Building Permit issued on April 30, 2003, for the construction of a workshop consisting of 1 bath, 1-car carport, and open deck. Permit finalized on August 27, 2004.
 - c. Building Permit B2004-1258H issued on July 16, 2004, for alterations to the workshop, which included partition walls within the workshop to create a finishing/storage rooms and an office on either side of the bathroom, and eyebrow roof off carport. Permit finalized on August 23, 2004.
8. **Agency Comments and Requirements.**
 - a. State Department of Health (DOH) memorandum dated May 13, 2020: "The Health Department found no environmental health concerns with regulatory implications in the submittals."

- b. No comments were received from the Department of Public Works (DPW)– Building Division.
9. **Notice to Surrounding Property Owners.** A copy of the first and second notices were sent by the applicant via USPS to surrounding property owners and mailing certificates were submitted to the Planning Department. According to the submittals, the first and second notices were mailed on May 1, 2020, and May 2, 2020, respectively. Notice of this application was published in the Hawai'i Tribune Herald and West Hawai'i Today on March 12, 2020.
8. **Comments from Surrounding Property Owners or Public.** No further written agency comments were received. No written comments or objections from surrounding property owners or the general public were received.
9. **Site Inspection:** A site inspection was conducted on July 22, 2020, by Planning Inspectors, Mark Iwamoto and Annalyn Seguban.

ANALYSIS OF GROUNDS FOR VARIANCE

No variance will be granted unless it is found that:

- (a) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property right that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of the property.*

The variance application does not meet with criteria (a) for the following reasons:

There are no special or unusual circumstances applying to the real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of that property.

The owner/applicant submitted the variance application to address or resolve the encroachment of the “as-built” above-ground swimming pool and concrete deck into the 15-foot side yard setback and 10-foot side yard open as required by the Zoning Code.

In review of the application materials, county records, and associated documentation, the Planning Department finds that there are no special or unusual circumstances justifying the approval of this variance. There is ample room on the subject 21,780 sq. ft. property for placement of the “as-built” above-ground swimming pool and concrete deck and still comply with the setback requirements.

Therefore, there are no physical or dimensional constraints on the property that would preclude the proper siting of the “as-built” above-ground swimming pool and concrete deck in full compliance with applicable zoning code requirements.

In review of the application materials, county records, and associated documentation, the Planning Department finds that there are no special or unusual circumstances justifying the approval of this variance since there is a reasonable alternative for the applicant to resolve the encroachment issues.

(b) There are no other reasonable alternatives that would resolve the difficulty.

Alternatives available to the current owners to correct and/or address the building encroachments constructed into the affected southeast rear yard setback of the subject property include the following actions:

Since the variance application is denied, there are no reasonable alternatives except for the redesign, or relocation of the “as-built” above-ground swimming pool and concrete deck to fit within the correct building envelope denoted on the recent site map as prescribed by the Zoning Code.

As discussed above, the subject property is 21,780 sq. ft. in size and the applicant has not demonstrated as to why there are no other reasonable alternatives to re-site the proposed on the subject property in compliance with applicable zoning requirements.

(c) The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public’s welfare or cause substantial, adverse impact to an area’s character or to adjoining properties.

The variance application does not meet with criteria (c) for the following reasons:

To grant a waiver from the minimum setback requirements of the zoning code, the variance application must show conclusively that it meets with all three criteria required in granting of a variance. The overall impact of granting a variance must also be considered in terms of how this may affect the entire neighborhood.

Hawai‘i County Real Property Tax office records indicate Building Permit issued on April 30, 2003, was for the construction of a workshop consisting of 1 bath, 1-car carport, and open deck. Permit was finalized on August 27, 2004. However, the survey map dated December 14, 2018, submitted with variance application labels the workshop as a house. On July 22, 2020, a site inspection was conducted by our planning inspectors, Mark Iwamoto and Annalyn Seguban, also in attendance was Joe Turbin, the owner’s contractor. Therefore, based on discussions with our inspectors and after review of the photographs

taken. We have determined that the workshop has been converted into single-family dwelling (house). **(See attached photos – Exhibits B to I).**

Division 5, RA, Residential and Agricultural Districts. Section 25-5-52. Permitted Uses. (9) states: Dwelling, single-family, one per building site.

After review of the variance application, county records and other documentations, the Planning Director finds that the encroachment of the “as-built” above-ground swimming pool and concrete deck constructed into the side (south) yard setback and side (south) yard open space was self-imposed and the second dwelling situated on the subject property is not in compliance with the zoning code. Based on the background information and other materials referenced in the variance analysis, the variance to allow for the encroachment would not be consistent with the general purpose of the zoning district and the intents and purpose of the Zoning code, Subdivision code and the County General Plan.

VARIANCE DECISION

The variance application, VAR-20-000581, concerning the applicant’s request, seeks to allow for the “as-built” above-ground swimming pool encroaching 3 inches (0.25 feet) into the 10-foot side south yard open space and the “as-built” concrete deck encroaching 10.72 feet into the south side yard setback and 5.72 feet into the south side yard open space is hereby **DENIED** and subject to the following conditions..

Also, the second single-family dwelling situated on the subject site is not in compliance with **Section 25-5-52. Permitted uses.** (9) of the zoning code.

Conditions:

1. All structures shall conform to be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.
2. The applicant shall either remove or convert the single-family dwelling back to a workshop, which it was originally permitted for, within three (3) months of the date of this decision or by **November 13, 2020.**
2. If the above condition has not been met by the above referenced date, the Department may proceed with enforcement actions against the owner which could include fines or placement of a lien against the property.

In accordance with Ordinance No. 99-112, you may appeal the Director’s decision as follows:

- (a) Any person aggrieved by the decision of the Director in the administration or application of this chapter, may, within thirty days after the date of the Director’s written decision appeal the decision to the Board of Appeals.

- (b) A person is aggrieved by a decision of the Director if:
- (1) The person has an interest in the subject matter of the decision that is so directly and immediately affected, that the person's interest is clearly distinguishable from that of the general public; and
 - (2) The person is or will be adversely affected by the decision.
- (c) An appeal shall be in writing, in the form prescribed by the Board of Appeals and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. A filing fee of \$250 shall accompany any such appeal. The person appealing a decision of the Director shall provide a copy of the appeal to the Director and to the owners of the affected property and shall provide the Board of Appeals with the proof of service.
- (d) The appellant, the owners of the affected property, and the Director shall be parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the Board of Appeals.

The Board of Appeals may affirm the decision of the Director, or it may reverse or modify the decision, or it may remand the decision with appropriate instructions if based upon the preponderance of evidence the Board finds that:

- (1) The Director erred in its decision; or
- (2) The decision violated this chapter or other applicable law; or
- (3) The decision was arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

In view of the above and for your reference, we have enclosed the GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR form.

Sincerely,



MICHAEL YEE
Planning Director

LHN:jaa

P:\Admin Permits Division\Variances From CoH02\Zone1\VAR 20-000581 TMK 150590380000 Miller.doc

Encl.: Exhibits A to I
General Petition for Appeal of Decisions by Planning Director form

Zendo Kern
Kern & Associates
August 13, 2020
Page 7

Cc: Gilbert Bailado, Planning GIS (via email)
Mark Iwamoto, Zoning Inspector
Tracie Camero, Planner

**Pending Authorization from Ron Brown.*

**EXISTING CONDITIONS UPON LOT 439
BLOCK 10, HAWAIIAN PARADISE PARK**

KEAAU, PUNA
ISLAND OF HAWAII
HAWAII

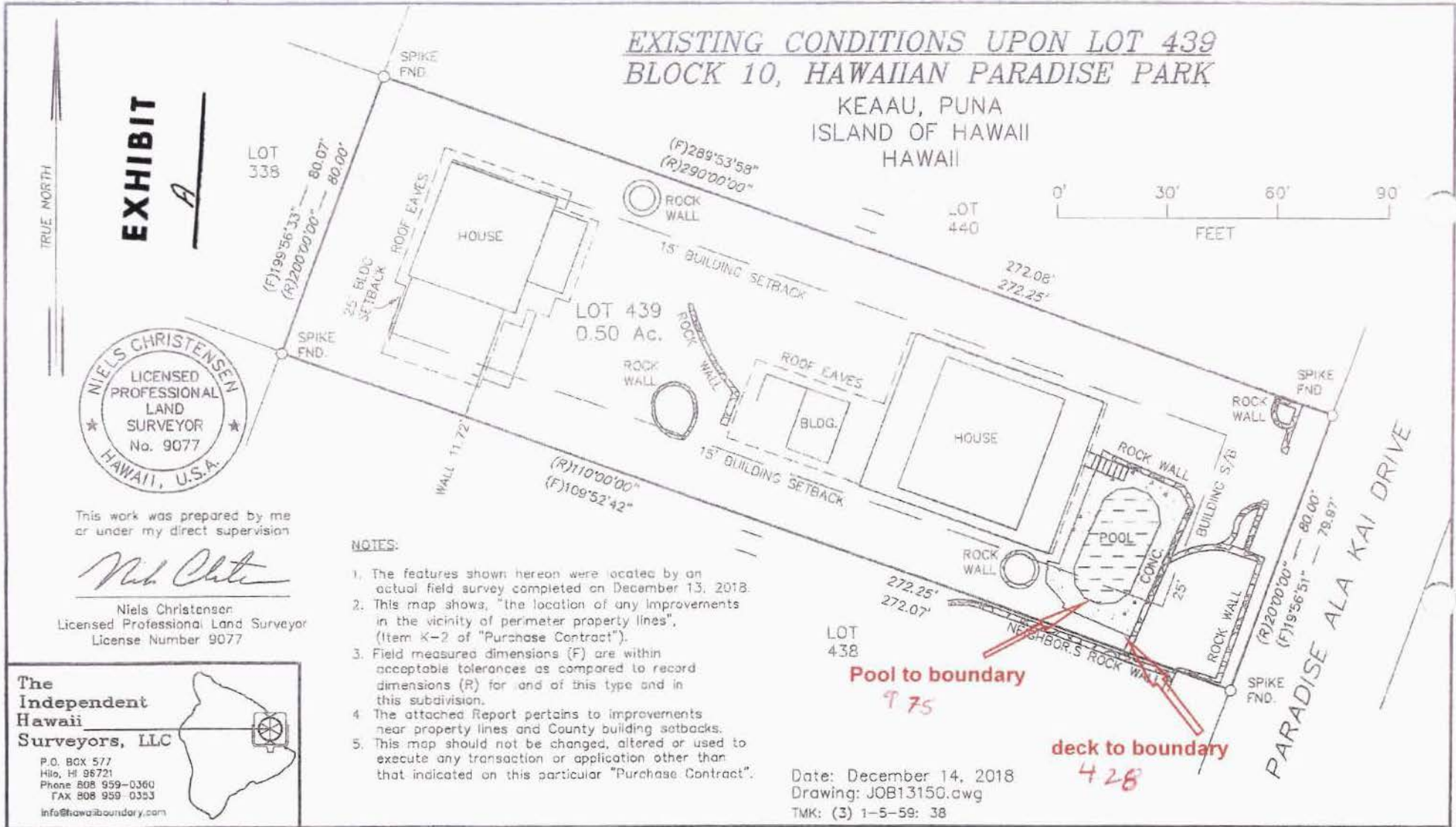


EXHIBIT
A



This work was prepared by me or under my direct supervision

Niels Christensen

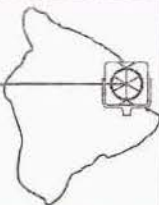
Niels Christensen
Licensed Professional Land Surveyor
License Number 9077

NOTES:

1. The features shown hereon were located by an actual field survey completed on December 13, 2018.
2. This map shows, "the location of any improvements in the vicinity of perimeter property lines", (Item K-2 of "Purchase Contract").
3. Field measured dimensions (F) are within acceptable tolerances as compared to record dimensions (R) for and of this type and in this subdivision.
4. The attached Report pertains to improvements near property lines and County building setbacks.
5. This map should not be changed, altered or used to execute any transaction or application other than that indicated on this particular "Purchase Contract".

**The Independent
Hawaii
Surveyors, LLC**

P.O. BOX 577
Hilo, HI 96721
Phone 808 959-0360
FAX 808 959-0353
info@hawaiiboundary.com



Date: December 14, 2018
Drawing: JOB13150.cwg
TMK: (3) 1-5-59: 38

19°36.966'N, 154°56.877'W COUNTY GIS

Figure 2

2/11 - Forwarded this to Niels

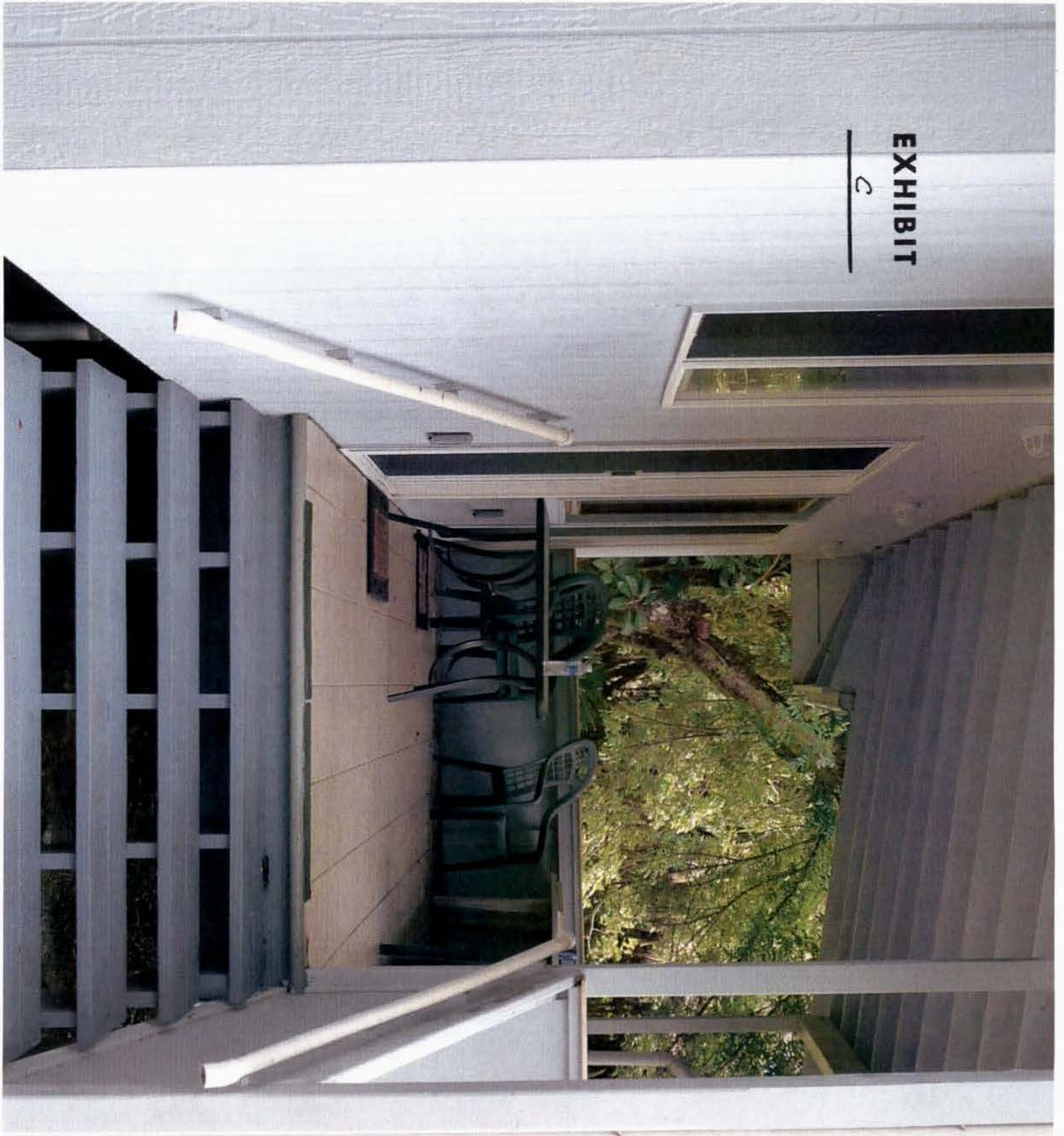
EXHIBIT

B



EXHIBIT

C



EXHIBIT

D



EXHIBIT

E



EXHIBIT

7



4
EXHIBIT



A photograph showing a white door with a silver handle and lock. The door is slightly ajar, revealing a hallway with light-colored walls and a tiled floor. A window is visible at the end of the hallway, and a light fixture is mounted on the wall. The door is closed, and the handle is visible.

EXHIBIT

A



EXHIBIT

五





County of Hawai'i

BOARD OF APPEALS

Aupuni Center • 101 Pauahi, Suite 3 • Hilo, Hawai'i 96720
(808) 961-8288 • Fax (808) 961-8742

GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR OR PUBLIC WORKS DIRECTOR

(Type or legibly print the requested information. See instructions attached.)

TYPE OF PETITION:

- Appeal of Planning Director's Decision
 Appeal of Public Works Director's Decision

APPELLANT: _____

APPELLANT'S SIGNATURE: _____ DATE: _____

ADDRESS: _____

TELEPHONE: _____ (EMAIL): _____

APPELLANT'S INTEREST IN THE PROPERTY: _____

APPELLANT'S NATURE OF APPEAL AND REQUEST: _____

LAND OWNER: _____

TAX MAP KEY:(land in question) _____ AREA OF PROPERTY: _____

STATE LAND USE DESIGNATION: _____ COUNTY ZONING: _____

STREET ADDRESS OF PROPERTY: _____

APPELLANT'S REPRESENTATIVE: _____ TITLE: _____

REPRESENTATIVE'S SIGNATURE: _____ DATE: _____

REPRESENTATIVE'S ADDRESS: _____

TELEPHONE: _____ (EMAIL): _____

See instructions attached.

INSTRUCTIONS

GENERAL PETITION FOR APPEAL OF DECISIONS BY PLANNING DIRECTOR OR PUBLIC WORKS DIRECTOR

Board of Appeals Rules of Practice and Procedure (RPP) can be reviewed in the Planning Department or on the following website: <http://www.cohplanningdept.com/boards-and-committees/>

1. This petition must be accompanied by a filing fee of two hundred fifty dollars (\$250) payable to the County Director of Finance [RPP Section 8-7], and:
2. The original and ten (10) copies of this completed petition with the following:
 - a. A description of the property involved in the appeal in sufficient detail for the public to precisely locate the property.
 - b. A statement explaining the nature of the appeal and the relief requested.
 - c. A statement explaining:
 - (i) How the decision appealed from violates the law; or
 - (ii) How the decision appealed from is clearly erroneous; or
 - (iii) How the decision appealed from was arbitrary or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.
 - d. A clear and concise statement of any other relevant facts.
3. Proof of Service by the Appellant to the Director and all landowners of the affected property, as reflected in County Real Property Tax Division records, if owners are not the Appellants [RPP Section 8-8].
4. A list of the names, address and tax map keys of all owners of property within three hundred feet (300') of the perimeter boundary of the affected property. [RPP Section 8-11(d)]
If the decision being appealed was made under the Hawai'i County Code (HCC) Zoning Chapter 25 and the affected property is within the state land use agricultural district, Appellant must provide a list of names, address and tax map keys for all owners of property within five hundred feet (500') of the perimeter boundary of the affected property. [HCC Section 25-2-4]

Completed petitions should be remitted to the Board of Appeals, 101 Pauahi Street, Suite 3, Hilo, HI 96720. For questions, please call 808-961-8288 or email planning@hawaiicounty.gov.