

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
P 364 320 462

April 12, 1996

Mr. Dennis Haserot
P. O. Box 6251
Kamuela, HI 96743

Dear Mr. Haserot:

PLANNED UNIT DEVELOPMENT NO. 55 WH(PUD96-1)
APPLICANT: JAMES W. CHERRY, ET AL
PURPOSE: VARIANCE FROM REQUIREMENTS OF SECTION 23-41,
MINIMUM RIGHT-OF-WAY AND PAVEMENT WIDTHS, AND SECTION
23-48, CUL-DE-SACS
TAX MAP KEY: 7-3-024:006

After reviewing the information submitted with the Planned Unit Development, the Planning Director certifies the approval of the Planned Unit Development (PUD) application to allow the development of a 7 Lot Subdivision Development on a 21.879 acre parcel situated within the Agricultural-3 acres (A-3a) zoned district with variances from the minimum right-of way requirements and pavement widths of the Subdivision Code (Chapter 23), Article 3, Division 4 (Street Design), Section 23-41 (Minimum Right-of-Way and Pavement Widths), and Cul-de-Sacs (Chapter 23), Article 3, Division 4 (Street Design), Section 23-48 (Cul-de-Sacs), pursuant to the requirements of Chapter 25 (Zoning Code), Article 21 (PUD, Planned Unit Development).

The subject property is situated on the mauka side of Hao Street in the Kaloko Mauka Subdivision, Kaloko, North Kona, TMK: 7-3-24:06.

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FINDINGS:

1. In accordance with Section 25-247 of the Zoning Code, the proposed 7 lot subdivision is permitted under the existing zoning of the property.
2. In accordance with requirements of Section 25-251 (Finding by planning department to approve P.U.D.)
The construction on the project shall begin within a reasonable period of time from the date of full approval and shall be completed within a reasonable period of time.

The applicant has received Tentative Subdivision approval on January 4, 1996 and will proceed with preparation of the final subdivision map and engineering drawings upon receipt of the PUD Permit. The construction will begin by mid-summer 1996. The proposed development timetable for the Planned Unit development will be done as soon as all other necessary governmental approvals have been secured.

3. The proposed development substantially conforms to the General Plan.

The following General Plan elements goals, policies and standards of action are in conformance with the proposed Planned Unit Development.

AGRICULTURE

The following goals and policies are intended to address some of the land related problems of agriculture and are to be consistent with and supportive of the overall land use element.

GOAL

- Identify, protect and maintain important agriculture lands on the island of Hawaii.

POLICIES

- Zoning shall protect and maintain important agricultural lands from urban encroachment. New approaches to preserve important agricultural land shall be implemented by the County.

- The County shall assist in the development of basic resources such as water, roads, transportation and distribution facilities for the agricultural industry.
- Rural-style residential-agricultural developments, such as new small-scale rural communities or extensions of existing rural communities, shall be encouraged in appropriate locations.
- The County shall develop subdivision standards which make a distinction between agricultural and urban land uses.
- Designate, protect and maintain important agricultural lands from urban encroachment. New approaches to preserve important agricultural land shall be implemented by the County.

HOUSING ELEMENT

GOALS

- Attain safe, sanitary and livable housing for the residents of the County of Hawaii. Attain a diversity of socio-economic housing mix throughout the different parts of the County. Maintain a housing supply which allows a variety of choice. Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people. Improve and maintain the quality and affordability of the existing housing stock. Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals. Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background, and income. The cornerstone of the County's Housing programs and activities shall continue to be the encouragement and expansion of appropriate home ownership opportunities for our residents.

POLICIES

- The County shall encourage a volume of construction and rehabilitation of housing sufficient to meet growth needs and correct existing deficiencies. The County shall initiate and participate in activities with the private sector including the provision of leadership and expertise to neighborhoods and nonprofit organizations in the development of housing and community development projects.

LAND USE ELEMENT

GOALS

- Designate and allocate land use in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.

POLICIES

- Promote and encourage the rehabilitation and use of urban and rural areas which are serviced by basic community facilities and utilities. The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

The proposed Planned Unit Development will implement the above goals and policies of the applicable element of the General Plan, in particular with the above cited elements.

3. All commercial and residential development shall constitute an environment of sustained desirability and stability, shall be in harmony with the character of the surrounding neighborhood, and shall result in an intensity of land utilization no higher than, and standards of open space at least as high as permitted or as otherwise specified for the district in which this development occurs.

The applicant's design concept for the proposed Planned Unit Development is to provide a 7 lot subdivision. The maximum allowable density under the present zoning is Agricultural-3 acres (A-3a). The access to the subdivision will be from Hao Street. The surrounding neighborhood land uses in the

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general vicinity of the subject property consist of single family residential and agricultural uses and vacant parcels of land zoned Agricultural-20 acres (A-20a) and Agricultural-3 acres (A-3a). Thus, the land utilization will be no higher than the general vicinity and that which has been permitted for the development.

4. **The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of the Zoning and Subdivision Codes, and that the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.**

The proposed PUD fosters the "agricultural" character of the community with the proposed development. Conditions of approval in change of zone Ordinance No. 94-45 requires the applicant to provide for "30 and 60 foot wide forest reserve easements", "100 foot wide structural setbacks along Hao Street", covenants requiring not less than 50 percent of the total land area shall be retained in forest. These additional setback and covenant restrictions required of the proposed development by the conditions of approval of change of zone Ordinance No. 94-45 **make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.** The variance from the requirements of Section 23-41, Minimum right-of-way and pavement widths and Section 23-28, Cul-de-sacs will minimize the physical and visual impact on the existing forest and wildlife, while recognizing existing agricultural development and density trends. Therefore, the variances of the proposed Planned Unit Development is a development of a harmonious, integrated whole which justifies exceptions to the normal requirements of this chapter, as the contemplated arrangements make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations.

In accordance with Section 25-252 (Actions permitted on application), the planning department may conditionally approve an application for a P.U.D.. In accordance with Section 25-253 (Imposition of conditions upon approval) Any conditions imposed by the planning department upon approval of an application for P.U.D. may include but are not limited to the time within which the project shall begin and be

completed, changed boundaries of the project, uses permitted, specification of minimum development standards, specified street dedication and improvement, utilities to be furnished, and a list or limit of variances permitted. In accordance with Section 25-555 (Effect of P.U.D. application approval) Any P.U.D., as approved, shall be subject to all conditions imposed and shall be excepted from other provisions of this chapter only to the extent specified in said approval.

Based on the above, the following list of variances are approved for this Planned Unit Development:

5. **SUBDIVISION CODE:**

- a. A 24 foot wide private roadway easement with 16 foot pavement and 4 foot wide grass shoulders, and
- b. A 35 foot radius for the circular turn around with 30 foot radius paved and 5 foot wide grass shoulder.

Based on the above findings, the Planning Director has approved the Planned Unit Development Application subject to the following conditions:

- A. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall **indemnify** and hold the County of Hawaii 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 applicant, its successors or assigns, officers, - employees, contractors and agents under this permit or relating to or connected with the granting of this permit.
- C. The applicant shall secure final subdivision approval within 5 years from the effective date of the PUD, except as otherwise conditioned.

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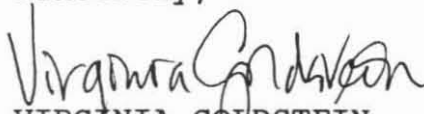
- D. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- E. Access to the property from Hao Street shall include improvements as required by the Department of Public Works and as otherwise conditioned. The interior roadway shall be constructed in compliance with the roadway variances as approved in the Planned Unit Development application. Any deviations from roadway standards for which the Department of Public Works or Fire Department has sole jurisdiction shall be applied for and secured through the proper appeal process whether it be an administrative or an appeal from the Board of Appeals.
- F. The applicant shall comply with the drainage, wastewater and water system improvements required by the Department of Water Supply, Fire Department, Department of Public Works and State Department of Health.
- G. The applicant shall comply with the drainage, roadway, wastewater and water system improvements required by the Department of Water Supply, Fire Department, Department of Public Works and State Department of Health.
- H. All other applicable rules, regulations and requirements shall be compiled with.
- I. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the Planned Unit Development (PUD) permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

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- J. An initial extension of time for the performance of conditions within the Planned Unit Development Permit may be granted by the Planning Director upon the following circumstances:
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 3. Granting of the time extension would not be contrary to the original reasons for the granting of the Planned Unit Development Permit;
 4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within five years may be extended for an additional five years);
 5. If the applicant should require an additional extension of time, the applicant may request for further time extension pursuant to Section 25-256 (Extensions and Amendments).

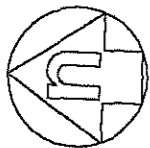
Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate the nullification of the Planned Unit Development Permit.

Sincerely,

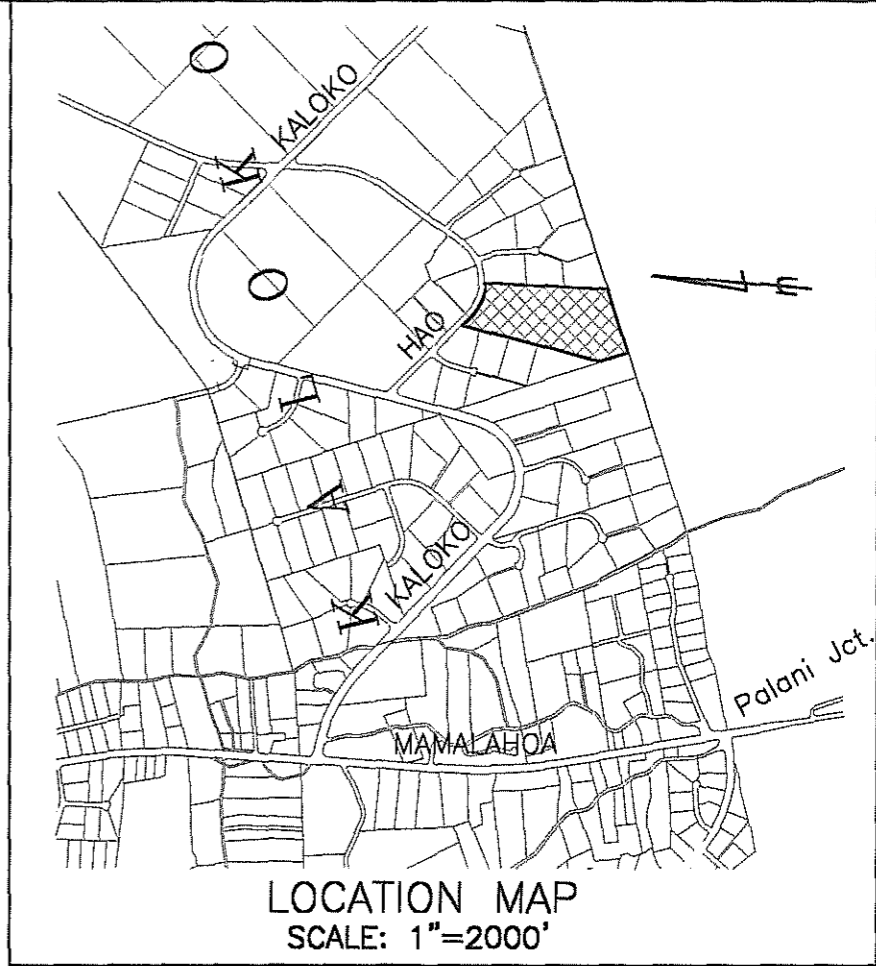
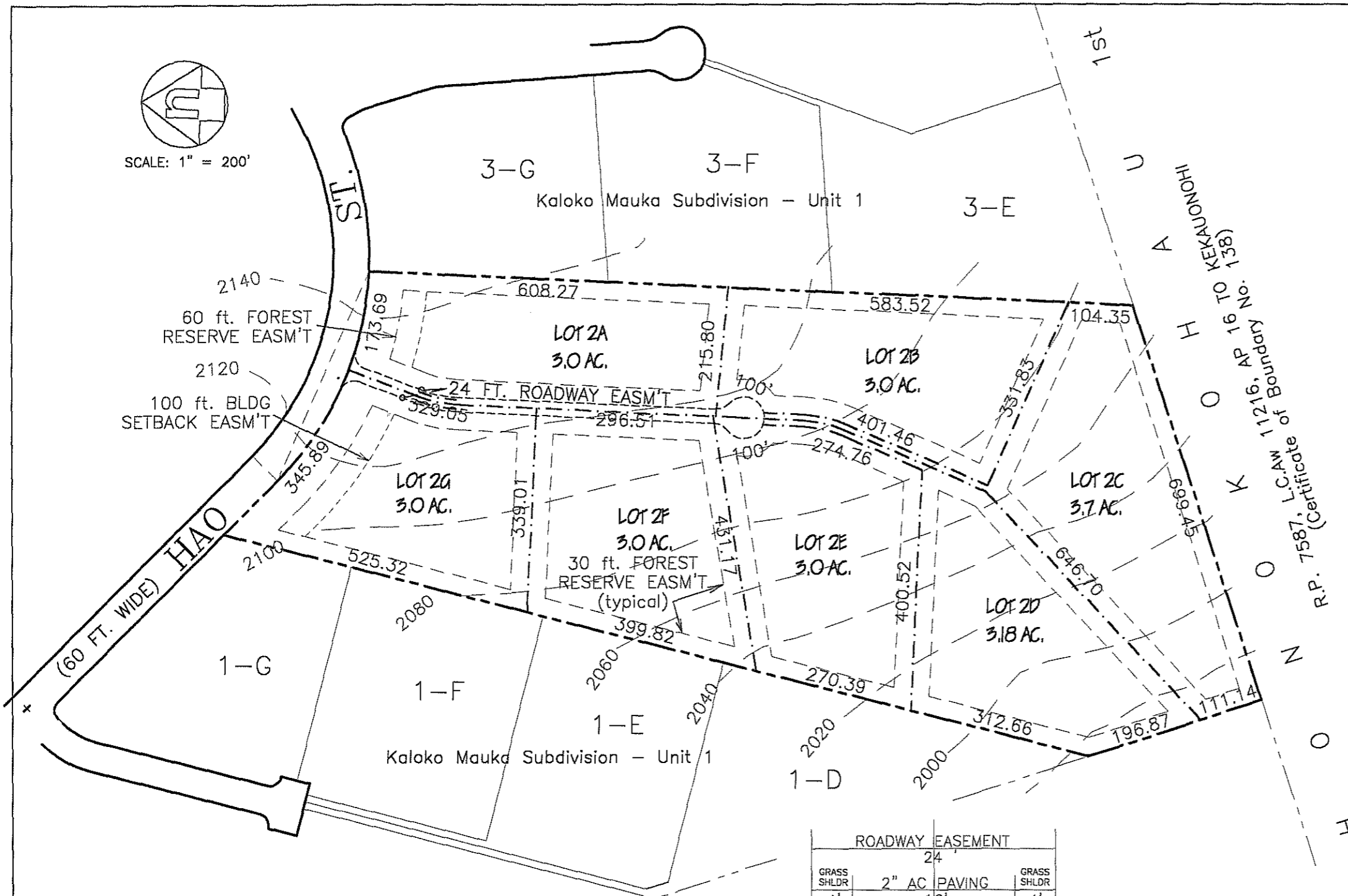

VIRGINIA GOLDSTEIN
Planning Director

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xc: West Hawaii Office
DPW, Engineering, Kona Office
Fire Department, Kona Office
Subdivision Section



SCALE: 1" = 200'

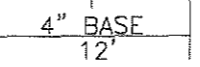
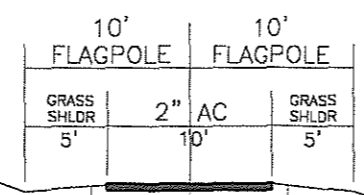
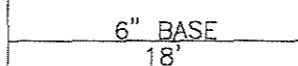
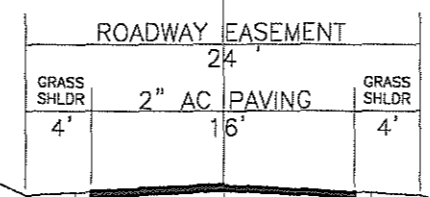


PLANNED DEVELOPMENT PERMIT APPLICATION showing SUBDIVISION OF LOT 2 OF BLOCK 3 OF KALO KO MAUKA SUBDIVISION INCREMENT 1 (FILE PLAN 994)

Being a portion of R.P. 8214 L.C.Aw. 7715, Ap. 11 to Lota Kamehameha INTO LOTS 2A, 2B, 2C, 2D, 2E, 2F, & 2G

PREPARED FOR DR. JAMES CHERRY et. al. 2140 PUUALII PLACE HONOLULU, HI. 96822

PREPARED BY DENNIS W. HASEROT P.O. BOX 6251 KAMUELA, HI. 96743 TEL: 885-2148 JANUARY 27, 1996



21.879 ACRES
TMK: 7-3-24:06