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PLANNING DEPARTMENT  
COUNTY OF HAWAII

July 18, 2017

Ms. Susan Gagorik  
Subdivision Section  
Department of Planning  
County of Hawaii  
101 Pauahi Street, Suite 3  
Hilo, HI 96720

RE: SUBDIVISION NO. 06-000435  
ALAE, SOUTH KONA, ISLAND OF HAWAII  
TAX MAP PLAT (3) 8-7-05: \_\_\_\_\_

Dear Ms. Gagorik:

This letter relates to our meeting of May 24, 2017 in regard to the absence of what is called the "South Easement" on the preliminary and final plats for this subdivision, which was a consolidation and resubdivision of several pre-existing lots of record at Alae, South Kona lying makai (west) of Mamalahoa Highway. I have included my summary of events in the enclosed memorandum for your record.

On behalf of my client, Maunaoni Properties, LLC, I am requesting your office to do the following:

- a. Make administrative corrections to the final plat for SUB 06-000435 by locating the "South Easement" thereon;
- b. Entertaining a declaratory order proceeding with all affected property owners;
- c. Initiating and participating in the mediation process referred to in the Declaration of Easement.



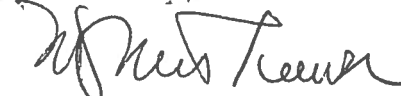
MICHAEL J. MATSUKAWA  
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Ms. Susan Gagorik  
July 18, 2017  
Page 2

I believe these actions will provide all affected land-owners an opportunity to "come to the table" to discuss the issues raised by the Declaration of Easements. I am sending a copy of this letter and enclosed memorandum to some of the affected land-owners. Some owners may have elected to take direct access off Mamalahoa Highway and their respective properties lying to the south of Alae.

Please call me when you establish a plan of action to resolve the issues raised herein. Thank you very much.

Yours truly,

  
Michael J. Matsukawa

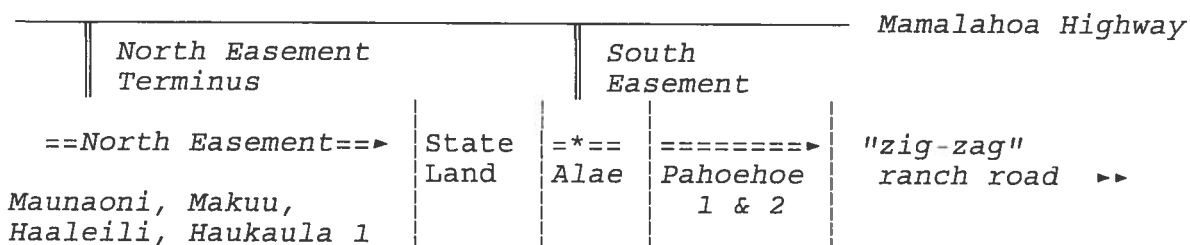
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Encs.: Summary  
Declaration of Easements  
Tax Map Plat

cc: Selected Landowners

DECLARATION OF EASEMENTS FOR FORMER  
MAGOON ESTATE, LIMITED'S PROPERTIES IN SOUTH KONA  
July 18, 2017  
By Michael J. Matsukawa

In 2002, Magoon Estate, Limited sold its lands lying makai (west) of Mamalahoa Highway to Kaholo Properties LLC (John Tolmie) who, in advance of reselling these lands, recorded a Declaration of Easements on June 21, 2002, Document No. 2002-108388, to create easements over some of the old Magoon Estate ranch roads. The ranch roads have two entry points at Mamalahoa Highway -- (1) at the terminus of what is called the "North Easement" and (2) at the terminus of what is called the "South Easement." Both road segments tie into what is best described as the "zig-zag" ranch road that travels from Alae in a southerly direction to the coastline.



Scope and Nature of the Easements

The "South Easement" runs through Alae in a mauka-makai (east-west) direction to its intersection with the remainder of the "zig-zag" ranch road going south to the coastline. The declarant in the Declaration of Easements (John Tolmie) recognized that the

true "legal access" for all of the benefitted properties is "through the South Easement" that runs through Alae in a mauka-makai (east-west) direction to and from Mamalahoa Highway to its intersection with the "zig-zag" ranch road in Alae.

To get to the "zig-zag" ranch road where it is located in Alae and points south, most of the benefitted owners currently use the "North Easement" that starts at the easement's northerly terminus at Mamalahoa Highway, TMK 8-7-03: 4, and that runs over Maunaoni Properties LLC's lands at Maunaoni, Makuu, Haleili and Haukalua 1, but which stops at the state-owned parcel at Haukalua 2. John Tolmie (Kaholo Properties LLC, Laupahoehoe Properties LLC and Hakalau Properties LLC) could not obtain easement rights to travel over the state-owned parcel at Haukalua 2.<sup>1</sup>

#### Benefitted Landowners

Owners of the former Magoon Estate lands are benefitted by the Declaration of Easements ("North Easement" and "South Easement"). A short list of these benefitted owners is noted below:

<i>Owner</i>	<i>Land</i>
Maunaoni Properties LLC	Maunaoni, Makuu, etc.
Foti/McKinley	Alae
Peter Dungeate	Pahoehoe 1

---

<sup>1</sup> In 2002, John Tolmie was trying to obtain a permanent easement over the state-owned parcel lying to the north of Alae (in Haukaula 2). Despite his efforts, he could not obtain an easement from the State of Hawaii for this purpose.

<i>Owner</i>	<i>Land</i>
Peter Locatelli	Pahoehoe 2
Rhinoceros Capital, Inc.	Pahoehoe 3
Kona Pacific Properties LLC	Pahoehoe 3
William Trask Gibson	Kaohē

The "South Easement"  
as the Legal Easement of Right

As the benefitted landowners begin to develop their respective parcels, they must look to the "South Easement" for legal egress and ingress to and from their respective properties and the coastline. The state-owned parcel at Haukalua 2 blocks the "North Easement" going south and jeopardizes the benefitted parties' respective titles and will cloud future conveyances of their lands. In 2002, John Tolmie anticipated this situation and, therefore, inserted Paragraph 4 into the Declaration of Easements:

"... Although physical access to the lands south of the State Parcel ... is over the State Parcel, legal access is through the South Easement." (emphasis added)

Of course, some of the benefitted owners may choose not to use the "South Easement," but others may choose to do so.

Subdivision SUB 06-000435

The 2008 tentative approval letter for Alae, Condition 4, Page 3, requires the subdivider to provide the following information on its subdivision plat:

"4) All easement [sic] affecting proposed lots shall be identified for its purpose and to which proposed lot(s) and/or grantee(s) the easement is in favor of. This shall be shown on the final plat map."

Condition 4 is consistent with Section 23-64(1) of the Subdivision Code that the "locations, width and names of all existing or platted streets within or adjacent to the tract, together with easements, other rights-of-way" be shown on the plat and with Section 23-69(7) of the Subdivision Code that "[a]ll easements ...; [and] if any easement is not definitely located on record, a statement of such easement" be shown on the plat.

The final plat for the Alae subdivision (approved May 9, 2012) makes no reference to the "South Easement," even though the easement was recorded back in 2002 and appears on the conveyances of Alae made by Hakalau Properties LLC (one of John Tolmie's entities). While the exact location of the "South Easement" is not set forth in specific metes and bounds in the Declaration of Easements, its location is illustrated by the map attached to the Declaration of Easements.

Since the benefitted owners who are entitled to use the "South Easement" were not given notice of the preliminary or final plat or the planning director's action thereon, they did not have the opportunity to comment on the proposed plats. See *Kellberg v. Yuen*, 131 Haw. 513, 533 (2014) (rights of notice of subdivision application).

### Recommended Actions

#### A. *Administrative Correction to Alae Plat*

Section 23-74(c) of the Subdivision Code states that "errors or discrepancies shall be revised or corrected, upon request, to the satisfaction of the director." Therefore, the planning director should request the subdivider to set forth the location, purpose and names of the benefitted parties of the "South Easement" on a revised plat. No doubt, this action may require the subdivider to consider reconfiguring its subdivided lots to accommodate the "South Easement."

#### B. *Declaratory Ruling*

The Planning Department may also entertain a declaratory ruling petition and invite all affected landowners to discuss the layout and design of the "South Easement." The Declaration of Easements, Paragraph 2, states that the owner of Alae "may relocate" the "South Easement" on Alae as long as "the new easement connects to the remainder of the Easements ... and is improved to equal or better quality and safety than the original easement." Such a proceeding will give the affected landowners an opportunity to discuss how the "South Easement" should be laid out and improved.

#### C. *Informal Dispute Resolution*

Paragraph 6 of the Declaration of Easements also provides for "mediation" of disputes and this might be an opportune moment to do so. If the planning director is willing to initiate and

participate in the mediation process, that would be very helpful because all of the affected landowners will thereby gain certainty as to their rights and expectations.

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STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
JUN 21, 2002 08:02 AM

Doc No(s) 2002-108388



Isi CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

31 6/14 Z3

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ( X ) Pickup ( ) To:

Peter K. Kubota  
505 Kilauea Avenue  
Hilo, Hawaii 96720

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FAM

548429, 544202, 541826, 541517 + 541323

This document contains 3/ pages

TITLE OF DOCUMENT:

## DECLARATION OF EASEMENTS

PARTIES TO DOCUMENT:

Declarant: KAHOLO PROPERTIES, LLC, a Hawaii limited liability company, with its mailing address at 688 Kinoole Street, Suite 120, Hilo, Hawaii 96720

Affects Tax Map Key Nos. (3) 8-7-003-001, 8-7-005-002 and 004, 8-7-007-001 and 004, 8-7-009-005 and 011

## DECLARATION OF EASEMENTS

This Declaration of Easements ("Declaration"), made and executed on June 13, 2002, by KAHOLO PROPERTIES, LLC, a Hawaii limited liability company, whose mailing address is at 688 Kinoole Street Suite 120, Hilo, Hawaii 96720 (the "Declarant");

### RECITALS

A. Declarant is the owner of Tax Map Key Nos. (3) 8-7-003-001, 8-7-005-002 and 004, 8-7-007-001 and 004, 8-7-009-005 and 011, as described in Exhibit "A" attached hereto and incorporated herein by reference (the "Properties");

B. The Properties are subject to existing roadways which provide access for the various Properties from the Mamalahoa Highway to the Properties and to the Beach Area situate on Tax Map Key No. (3) 8-7-007-001 (Grant 2024 portion) as shown on the maps attached as Exhibits "B" and "C", incorporated herein by reference. The North Easement and South Easement shown on Exhibit "B" shall collectively be referred to herein as the Road and Utility Easements.

C. Declarant hereby wishes to establish Road and Utility Easements and a Beach Use Easement for the benefit of owners of the Properties and owners of lots created by subdivision or recognition of pre-existing grants or Land Commission Awards (the "Lot Owners"), subject to the terms and conditions of this Declaration.

D. In order to create the easements appurtenant to existing and future lots within the Properties, and to establish and set forth the duties and responsibilities of the Lot Owners regarding the use and maintenance of the Easements, Declarant makes this Declaration of Easements.

WHEREFORE, in consideration of the mutual covenants to be performed by the owners of the respective lots described herein, and other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged, it is agreed as follows:

1. Declarant hereby declares that the Road and Utility Easements shown on Exhibit "B", and the Beach Area Easement shown on Exhibit "C" shall be for the benefit and use of Lot Owners of certain Properties, to be conveyed by the Declarant upon the sale of each Property. Each of the Lot Owners of the Properties shall be granted a perpetual non-exclusive easement for road and utility purposes over, across and under a portion of the roadways shown on Exhibit "B", and a perpetual non-exclusive easement over the Beach Area Easement shown on Exhibit "C", subject to the right of others to use the same. The Beach Area Easement shall not exceed three (3) acres in size. The Declarant reserves the right to make additional grants of appurtenant easements for the benefit of owners of the Properties, as the same may be subdivided, or recognized as pre-existing lots of record, and to the County or State of Hawaii as may be required for subdivision approval, acquisition of legal access over other State of Hawaii lands, or further development of the Properties. Said grants of easement may be given over the Road and Utility Easement and Beach Area Easement after conveyance of the Properties. All Easements established and reserved herein shall be subject to the following:

2. The Road and Utility Easements shall be fifty (50) feet wide. It is recommended that travel over roadways be in a 4-wheel drive vehicle in order to reduce wear and tear on the roadways. The determination of the type and specification of improvements and repairs of the roadways shall be decided by a majority of the Lot Owners. The Lot Owners shall share in the costs of maintenance and repair of the respective Easements which service their property in an equitable manner as decided by a majority of the Lot Owners. Provided, however, that any of the Lot Owners may improve the Road and Utility Easements at their sole expense. Any of the Lot Owners may use the

Road and Utility Easement between his or her lot and the Mamalahoa Highway for subdivision purposes and may improve and utilize the roadway easements as required by the County of Hawaii for final subdivision approval.

The respective Lot Owners may relocate the Road and Utility Easement across their property to another location thereon, provided that the new easement connects to the remainder of the Easements, and provided that the new easement is improved to equal or better quality and safety than the original easement.

If one or more Owners shall fail to pay their pro-rata share of maintenance and repair costs, the remaining Owners may advance said costs, and obtain reimbursement from the defaulting Owner, together with interest at one percent (1%) per month, and costs of collection, including reasonable attorney's fees, whether or not an action or arbitration is undertaken. This Agreement shall be binding upon said Owners, and their respective successors in interest and assigns, and shall run with the land.

3. Use of Beach Area. See Beach Area Easement as shown on Exhibit "C". The Lot Owners shall park vehicles in a reasonable manner, and shall not leave trash or other debris in the Beach Area. Open fires shall be contained within a hibachi or appropriate grill, and shall not be placed directly on the ground.

4. The North Easement crosses Tax Map Key No. (3) 8-7-005-005, owned by the State of Hawaii (the "State Parcel") over which there is no recorded grant of easement. Although physical access to the lands south of the State Parcel and to the Beach Area is over the State Parcel, legal access is through the South Easement. All Properties herein will be granted both the North Easement and South Easement to the Beach Area. Declarant shall make reasonable efforts to obtain legal

access over the State Parcel for the benefit of all Properties, but makes no representations or warranties on its ability to obtain such easement.

5. The Owners, on behalf of themselves, and their respective agents, employees, invitees, licensees, and assigns, hereby agree to indemnify and hold each other harmless from all liability for loss, property damage, injury to, or death of persons arising from the use of the Roadway unless said loss, damage, injury or death arises from or proximately results from the negligence or intentional act of the person seeking indemnity hereunder.

6. In the event that enforcement of this Agreement is necessary, the prevailing party in any action or arbitration shall be entitled to an award of reasonable attorney's fees to be paid by the defaulting party. The parties agree that any dispute under this Agreement shall first be attempted to be resolved by mediation, and if not successful, by arbitration in accordance with the rules of the American Arbitration Association.

IN WITNESS WHEREOF, the undersigned Owners have executed this instrument on the day and year first above written.

**KAHOLO PROPERTIES, LLC**

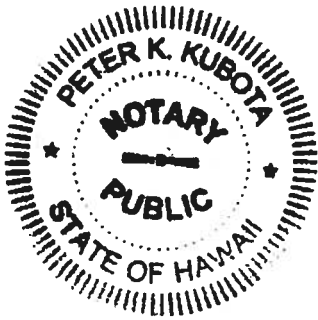
**By Its Managing Member  
LAUPAHOEHOE FARMS, LTD.**

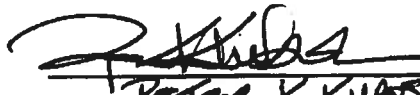
By \_\_\_\_\_

  
**JOHN S. TOLMIE, JR.**  
Its President

STATE OF HAWAII                    )  
  ) SS.  
COUNTY OF HAWAII                )

On June 13, 2002, before me personally appeared JOHN S. TOLMIE, JR., who did say that he is the President of LAUPAHOEHOE FARMS, LTD., a Hawaii corporation, the Manager of KAHOLO PROPERTIES, LLC, a Hawaii limited liability company, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such corporation by authority of its Board of Directors, as the free act and deed of said limited liability company.



  
\_\_\_\_\_  
PETER K. KUBOTA  
Notary Public, State of Hawaii  
My commission expires: 4/17/2005

# EXHIBIT A

## ITEM ONE

TMK: (3) 8-7-009:011

All of that certain parcel of land (portion of the land described in and covered by Grant 1973 to K. Pahua), situate on the westerly side of Hawaii Belt Road, F.A.P. No. 8-A, at Kaohē 1 – 3, South Kona, Island and County of Hawaii, State of Hawaii, and thus bounded and described as follows:

Beginning at a point at the northeast corner of this parcel of land, the coordinates of which referred to Government Survey Triangulation Station "KALAPA", being 36,540.75 feet South and 1,309.58 feet East and running by azimuths measured clockwise from true south:

Along the Westerly side of Hawaii Belt Road, F.A.P., 8-A on a curve to the left with a radius of 1,472.89 feet, the azimuth and distance of the chord being:

- |    |      |     |       |        |  |
|----|------|-----|-------|--------|--|
| 1. | 16°  | 02' | 21.8" | 76.14  | feet;  |
| 2. | 14°  | 33' | 30"   | 122.74 | feet along the westerly side of Hawaii Belt Road, F.A.P. 8-A;  |
| 3. | 93°  | 57' | 15"   | 215.86 | feet along remainder of Grant 1973 to K. Pahua, to a pipe in concrete (found) and passing over a pipe in concrete (found) at 0.50 feet;  |
| 4. | 196° | 07' | 10"   | 198.42 | feet along remainder of Grant 1973 to K. Pahua to a pipe in concrete (found);  |
| 5. | 273° | 39' |       | 212.58 | feet along remainder of Grant 1973 to K. Pahua to the point of beginning and passing over a pipe in concrete (found) at 211.92 feet and containing an area of 0.953 acre, more or less, as per survey of John D. Weeks, Registered Surveyor-Engineer #502ES, State of Hawaii, dated August 25, 1977. |

# ITEM TWO

TMK: (3) 8-7-009:005

All of that certain parcel of land (being portions of Lot 1-A, Grant 1973 to K. Pahua, and Mahele Award No. 25, Royal Patent 7739 to Nahua), situated on the Westerly side of Hawaii Belt Road at Kaohe 1<sup>st</sup> to 4<sup>th</sup>, South Kona, Island and County of Hawaii, State of Hawaii, being LOT 1-A-1, described as follows:

Beginning at a spike (found) at the Southwesterly corner of this parcel of land, being also the Northwesterly corner of Lot A of the Kona Paradise Subdivision and on the seaward boundary of the subject parcel, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4" being 1,999.04 feet North and 4,688.37 feet West and running by azimuths measured clockwise from true South:

Thence, following along the meandering shoreline of this parcel of land to a point mauka of the actual shoreline, the direct azimuth and distance being:

- |    |      |     |     |          |  |
|----|------|-----|-----|----------|--|
| 1. | 168° | 55' | 57" | 679.74   | feet to a pipe;  |
| 2. | 258° | 40' |     | 4,270.29 | feet along the remainders of Lot 1 and Grant 1973 to K. Pahua to a point;  |
| 3. | 272° | 48' | 45" | 1,091.91 | feet along the remainders of Lot 1 and Grant 1973 to K. Pahua to a point;  |
| 4. | 16°  | 07' | 10" | 198.42   | feet along Parcel 11 of Tax Map Key: 8-7-09, and along the remainder of Grant 1973 to K. Pahua to a pipe;  |
| 5. | 273° | 57' | 15" | 215.86   | feet along Parcel 11 of Tax Map Key: 8-7-09, and along the remainder of Grant 1973 to K. Pahua to a pipe and passing over a pipe at 215.36 feet; |
| 6. | 14°  | 36' | 56" | 377.02   | feet along stonewall and along the Westerly side of the Hawaii Belt Road to a 1/2 inch pipe (set);   |

Thence, for the next four (4) courses following along the remainder of Grant 1973 to K. Pahua;



7.	96°	58'	30"	97.64	feet to a 1/2 inch pipe (set);
8.	182°	44'	34"	91.54	feet to a 3/4 inch pipe (found);
9.	96°	35'	40"	220.40	feet to a 1/2 inch pipe (set);
10.	11°	47'		175.77	feet to a 1/2 inch pipe (set);
11.	105°	31'	41"	23.30	feet along TMK: 8-7-09-7, and along Mahele Award 25, Royal Patent 7739 to Nahua to a 1/2 inch pipe (set);
12.	105°	35'	13"	236.70	feet along Lot 21 of Kona Paradise Subdivision to a pipe;
13.	87°	58'	45"	734.45	feet along Roadway and Lots 22, 23, 51, 52 and 79 of Kona Paradise Subdivision to a point;
14.	81°	40'	14"	10.97	feet along Lot 79 of Kona Paradise Subdivision to a pipe;
15.	180°	00'		4.52	feet along Lot 80-A of Kona Paradise Subdivision and along the remainder of Grant 1973 to K. Pahua to a pipe;
16.	90°	00'		125.00	feet along the remainder of Grant 1973 to K. Pahua to a pipe;
17.	0°	00'		68.46	feet along Lot 80-A of Kona Paradise Subdivision and along the remainders of Grant 1973 to K. Pahua and Mahele Award No. 25, Royal Patent 7739 to Nahua to a pipe;
18.	90°	00'		40.00	feet along the Northerly end of an existing 40-foot wide roadway and along the remainder of Mahele Award No. 25, Royal Patent 7739 to Nahua to a pipe;

19.180°	00'		96.78	feet along Lot 109-A of Kona Paradise Subdivision and along the remainders of Mahele Award No. 26, Royal Patent 7739 to Nahua and Grant 1973 to K. Pahua to a pipe;
20.81°	40'	14"	126.33	feet along Lot 109-A of Kona Paradise Subdivision and along the remainder of Grant 1973 to K. Pahua to a pipe;
21.0°	00'		57.00	feet along Lot 109-A of Kona Paradise Subdivision and along the remainder of Grant 1973 to K. Pahua to a pipe;
22.81°	40'	14"	1,268.33	feet along Lots 110, 136, 137, 187, 188, 189, 190, Roadway and Park Site of the Kona Paradise Subdivision to a nail in rock;
23.72°	02'	28"	2,002.61	feet along Park Site, Roadway, Lots 212, 213, 214, 215, 236, 238, 259, 281, 282, 301, 306, 307 and A of the Kona Paradise Subdivision to a "+" on rock;
24.80°	39'		50.37	feet along Lot A of the Kona Paradise Subdivision to a point;  Thence, for the next five (5) courses following along Royal Patent 6002, Land Commission Award 9194 (9194-B) to Kahele:
25.168°	37'		75.28	feet along partial stonewall to a pipe;
26.136°	28'	30"	8.25	feet along stonewall to a pipe;
27.170°	02'	30"	93.29	feet along stonewall to a pipe;
28.78°	06'	30"	141.02	feet along stonewall to a pipe;

29.349°	08'	15"	160.13	feet to a pipe;
30.86°	15'		225.89	feet along Lot A of the Kona Paradise Subdivision and along Mahele Award 25, Royal Patent 7739 to Nahua to the point of beginning and containing an area of 71.908 acres.

**Excepting any portion of the land below the line of shoreline vegetation where it was located prior to any artificial or avulsive changes.**

# ITEM THREE

TMK: (3) 8-7-007:004

All of that certain parcel of land (being a portion of Grant 1973 to K. Pahua), situated on the Westerly side of Hawaii Belt Road (Project No. ER-2 (1) Section 2) at Kaohe 1st to 3rd, South Kona, Island and County of Hawaii, State of Hawaii, described as follows:

Beginning at a pipe at the Northeasterly corner of this parcel of land, being also a point on the Southerly boundary of Grant 2024 to Kuaimoku and being a portion on the Westerly side of Hawaii Belt Road (Project No. ER-2 (1) Section 2), the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4" being 3,851.46 feet North and 809.42 feet East and running by azimuths measured clockwise from true South:

- |    |      |     |       |          |   |
|----|------|-----|-------|----------|---|
| 1. | 20°  | 49' | 30"   | 350.59   | feet along stonewall and along the Westerly side of Hawaii Belt Road (Project No. ER-2 (1) Section 2) to a pipe;  |
| 2. | 290° | 49' | 30"   | 15.00    | feet along stonewall and along the Westerly side of Hawaii Belt Road (Project No. ER-2 (1) Section 2) to a pipe;  |
|    |      |     |       |          | Thence, following along stonewall and along the Westerly side of Hawaii Belt Road (F.A.P. No. 8-A) on a curve to the left with a radius of 1,472.89 feet, the chord azimuth and distance being: |
| 3. | 19°  | 10' | 21.8" | 84.94    | feet to a pipe;   |
|    |      |     |       |          | Thence, for the next three (3) courses following along the remainder of Grant 1973 to K. Pahua;   |
| 4. | 93°  | 39' |       | 212.58   | feet to a point;  |
| 5. | 92°  | 48' | 45"   | 1,091.91 | feet along Lot 1-A-1 to a point;  |
| 6. | 78°  | 40' |       | 4,270.29 | feet along Lot 1-A-1 to a point Easterly of the actual shoreline;   |

Thence, following along the shoreline, in all of its meanderings, the direct azimuth and distance being:

7. 168° 55' 57" 339.86 feet to a pipe;

Thence, for the next six (6) courses following along Grant 2024 to Kuaimoku;

8. 282° 28' 50.00 feet to a pipe;

9. 282° 28' 88.70 feet along stonewall to a pipe;

10. 289° 15' 71.44 feet along stonewall to a pipe;

11. 260° 56' 82.49 feet along stonewall to a pipe;

12. 268° 54' 47.69 feet along stonewall to a pipe;

13. 258° 25' 15" 2,358.17 feet to a pipe;

Thence, for the next fifteen (15) courses following along stonewall and along Grant 2024 to Kuaimoku;

14. 254° 02' 369.12 feet to a pipe;

15. 254° 55' 152.08 feet to a pipe;

16. 253° 31' 166.69 feet to a pipe;

17. 254° 05' 535.52 feet to a pipe;

18. 257° 38' 194.14 feet to a pipe;

19. 263° 52' 154.30 feet to a pipe;

20. 277° 55' 148.30 feet to a pipe;

21. 275° 05' 215.80 feet to a pipe;

22. 273° 46' 165.04 feet to a pipe;

23.273°	15'	30"	126.61	feet to a pipe;
24.267°	54'		185.10	feet to a pipe;
25.258°	12'		132.02	feet to a pipe;
26.259°	21'		115.39	feet to a pipe;
27.264°	59'		198.63	feet to a pipe;
28.267°	47'		253.51	feet to the point of beginning and containing an area of 37.10 Acres.

Excepting any portion of the land below the line of shoreline vegetation where it was located prior to any artificial or avulsive changes.

**ITEM FOUR**  
**TMK: (3) 8-7-007:001**

**ALL of that certain parcel of land (being a portion of Royal Patent 8127, Land Commission Award 8519-B, Part 3 to Fannie Young, portion of Royal Patent No. 2025 to Pumealani, and portion of Royal Patent No. 2024 to Kuaimoku), situate at Pahoehoe 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>, District of South Kona, Island and County of Hawaii, State of Hawaii, area 347.116 acres, more or less, and more particularly designated by Tax Map Key: 3/8-7-7-1.**

**Excepting any portion of the land below the line of shoreline vegetation where it was located prior to any artificial or avulsive changes.**

## **ITEM FIVE**

**TMK: (3) 8-7-005:004**

**ALL of that certain parcel of land (being a portion of Royal Patent (Grant) No. 1970 to G. B. Kalaaokane), situate at Haleili and Haukalua 1<sup>st</sup>, District of South Kona, Island and County of Hawaii, State of Hawaii, containing an area of 160.0 acres, more or less, and more particularly designated by Tax Map Key: 3/8-7-5-4.**

**Excepting any portion of the land below the line of shoreline vegetation where it was located prior to any artificial or avulsive changes.**



**ITEM SIX**  
TMK: (3) 8-7-005:002

**PARCEL FIRST:**

All of that certain parcel of land (being the whole of Royal Patent 8005, Land Commission Award 8776, Apana 2 to Keaweamahi, and being a portion of Grant 2036 to Beniamina), situated on the Westerly side of South Kona Belt Road at Alae 1<sup>st</sup> and 2<sup>nd</sup>, South Kona, Island and County of Hawaii, State of Hawaii, being LOT 1, described as follows:

Beginning at a spike in ahu (as called for on HTS Plat 203) at the Northwesterly corner of this parcel of land, being also the Southwesterly corner of Lot 1 of the Maukalua Homesteads (HTS Plat 203) and at the shoreline, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAHOEHOE", being 3,239.5 feet South and 1,875.3 feet West and running by azimuths measured clockwise from true south:

Thence, for the next six (6) courses following along Government Land known as the Haukalua Homesteads (HTS Plat 203);

- |    |          |          |   |
|----|----------|----------|---|
| 1. | 280° 57' | 1,040.00 | feet along Lot 1 to an iron pin in ahu;   |
| 2. | 271° 20' | 145.50   | feet along Lot 2 and 30-ft. Road Reserve to an iron pin in ahu;   |
| 3. | 264° 34' | 225.00   | feet along Lot 2 and 30-ft. Road Reserve to an iron pin in ahu;   |
| 4. | 270° 00' | 597.30   | feet along Lots 2 and 3 and 30-ft. Road Reserve to an iron pin in ahu and passing over a pipe in ahu at 283.5 feet;   |
| 5. | 269° 20' | 770.50   | feet along Lots 3 and 4 and 30-ft. Road Reserve to an iron pin in ahu and passing over a pipe in ahu at 267.9 feet,   |
| 6. | 261° 40' | 1,512.60 | feet along Lots 4, 5 and 6 (Alae School Lot-Executive Order Number 266) and 30-ft. Road Reserve to a pipe, passing over a spike in rock and ahu at 116.2 feet and an iron pin in ahu at 697.3 feet; |

Thence, for the next five (5) courses following along the Westerly side of the South Kona Belt Road;

7.	347°	30'	50"	347.44	feet to a point;
8.	358°	06'	35"	310.36	feet to a point;
9.	355°	58'	35"	267.99	feet to a point;
10.	86°	04'	20"	15.00	feet to a point;
11.	356°	04'	20"	42.29	feet to a point in concrete;
12.	84°	22'	20"	2,723.26	feet along Grant 2025 to Pumealani to a point;
13.	82°	52'	20"	2,576.51	feet along Grant 2025 to Pumealani to a point;
14.	113°	12'	20"	416.64	feet along Grant 2025 to Pumealani to a nail at the shoreline;

Thence, following along the meanderings of the seaward boundary, the direct azimuth and distance being:

15.	224°	19'	10"	1,864.54	feet to the point of beginning and containing an area of 122.959 Acres, more or less.
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**SAVING AND EXCEPTING** therefrom the following Kuleana and Land Patent (Grant), to-wit:

Royal Patent 8014, L. C. Aw. 9699-D to Kahiamoe, area 5,255 square feet, or 0.121 Acre, hereinafter more particularly described as Parcel Second.

Royal Patent 5939, L. C. Aw. 8158, Apana 2 to Holau, area 4,261 square feet, or 0.098 Acre, hereinafter more particularly described as Parcel Third.

Royal Patent 8015, L. C. Aw. 10302, Apana 2 to Makaele, area 4,110 square feet, or 0.094 Acre, hereinafter more particularly described as Parcel Fourth.

Land Commission Award 8673, Apana 2 to Kao, area 6,181 square feet or 0.142 acre, hereinafter more particularly described as Parcel Fifth.

Royal Patent 8016, L. C. Aw. 10818, Apana 2 to Beniamina, area 8,712 square feet, or 0.200 acre, hereinafter more particularly described as Parcel Sixth.

Land Patent (Grant) No. S-15,664 to Magoon Estate, Limited, covering Parcel 1, area 1,498 square feet and Parcel 2, area 240 square feet, hereinafter more particularly described as Parcel Seventh.

**PARCEL SECOND:**

All of that certain parcel of land situated at Alae 1 and 2, South Kona, Island and County of Hawaii, State of Hawaii, being R.P. 8014, L. C. Aw. 9699-D to Kahiamoe, described as follows:

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4", being 5848.30 feet North and 4717.26 feet West and running by azimuths measured clockwise from true south:

1.	4°	06'	64.27	feet along Grant 2036 to Beniamina;
2.	105°	45' 30"	99.29	feet along Grant 2036 to Beniamina;
3.	185°	14' 30"	44.22	feet along Grant 2036 to Beniamina;
4.	274°	06'	96.36	feet along Grant 2036 to Beniamina to the point of beginning and containing an area of 5,255 Square Feet, or 0.121 Acre.

**PARCEL THIRD:**

All of that certain parcel of land (being R. P. 5939, L. C. Aw. 8158, Apana 2 to Holau), situated at Alae 1 and 2, South Kona, Island and County of Hawaii, State of Hawaii, described as follows:

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4", being 5914.84 feet North and 4470.68 feet West and running by azimuths measured clockwise from true south:

1.	13°	00'	88.63	feet along Grant 2036 to Beniamina;
2.	125°	00'	75.58	feet along Grant 2036 to Beniamina;
3.	212°	00'	49.57	feet along Grant 2036 to Beniamina;
4.	269°	00'	55.59	feet along Grant 2036 to Beniamina to the point of beginning and containing an area of 4,261 Square Feet, or 0.098 Acre.

**PARCEL FOURTH:**

All of that certain parcel of land situated at Alae 1 and 2, South Kona, Island and County of Hawaii, State of Hawaii, being R.P. 8015, L. C. Aw. 10302, Apana 2 to Makaele, described as follows:

Beginning at the Northeast corner of this parcel of land, the northwest corner of L. C. Aw. 8673, Apana 2 to Kao, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4", being 6012.94 feet North and 4505.10 feet West and running by azimuths measured clockwise from true south:

1.	16°	24'	92.34	feet along L. C. Aw. 8673, Apana 2 to Kao;
2.	95°	52'	48.18	feet along Grant 2036 to Beniamina;
3.	196°	24'	81.18	feet along Grant 2036 to Beniamina;
4.	263°	43' 30"	51.40	feet along Grant 2036 to Beniamina to the point of beginning and containing an area of 4,110 Square Feet or 0.094 Acre.

**PARCEL FIFTH:**

All of that certain parcel of land (being L.C. Aw. 8673, Apana 2 to Kaoo) situated at Alae 1 and 2, South Kona, Island and County of Hawaii, State of Hawaii, described as follows:

Beginning at the Northwest corner of this parcel of land, the northeast corner of R.P. 8015, L. C. Aw. 10302, Apana 2 to Makaele, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4", being 6012.94 feet North and 4505.10 feet West and running by azimuths measured clockwise from true south:

- |    |      |     |     |       |   |
|----|------|-----|-----|-------|---|
| 1. | 266° | 59' | 30" | 57.37 | feet along Grant 2036 to Beniamina to the west side of R. P. 8016, L. C. Aw. 10818, Apana 2 to Beniamina;                                       |
| 2. | 3°   | 29' | 30" | 94.88 | feet along R. P. 8016, L. C. Aw. 10818, Apana 2 to Beniamina and along Grant 2036 to Beniamina;   |
| 3. | 92°  | 17' | 30" | 77.65 | feet along Grant 2036 to Beniamina;   |
| 4. | 196° | 24' |     | 92.34 | feet along R. P. 8015, L. C. Aw. 10302, Apana 2 to Makaele to the point of beginning and containing an area of 6,181 Square Feet or 0.142 Acre. |

**PARCEL SIXTH:**

All of that certain parcel of land (being R. P. 8016, LL. C. Aw. 10818; Apana 2 to Beniamina) situated at Alae 1 and 2, South Kona, Island and County of Hawaii, State of Hawaii, described as follows:

Beginning at the Northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4", being 6052.32 feet North and 4445.59 feet West and running by azimuths measured clockwise from true south:

- |    |      |     |     |        |                                     |
|----|------|-----|-----|--------|-------------------------------------|
| 1. | 279° | 12' |     | 109.51 | feet along Grant 2036 to Beniamina; |
| 2. | 356° | 14' | 30" | 71.81  | feet along Grant 2036 to Beniamina; |

3.	93°	13'		118.03	feet along Grant 2036 to Beniamina;
4.	183°	29'	30"	82.70	feet along L. C. Aw. 8673, Apana 2 to Kaoo and along Grant 2036 to Beniamina to the point of beginning and containing an area of 8,712 Square Feet or 0.200 Acre.

**PARCEL SEVENTH:**

All of that certain parcel of land (being the same land described in and covered by Land Patent (Grant) No. S-15,664) situate at Alae 1 and 2, South Kona, Island and County of Hawaii, State of Hawaii, being portions of Old Government Road and being abandoned Road Remnants, more fully described as follows:

**ABANDONED ROAD REMNANT  
PARCEL 1**

**Alae 1 and 2, South Kona, Island and County of Hawaii  
State of Hawaii**

**Being a portion of Old Government Road.**

**Beginning at the north corner of this parcel of land and on the west side of South Kona Belt Road (Mamalahoa Highway), the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4" being 7131.06 feet North and 701.19 feet East; thence running by azimuths measured clockwise from True South:**

1.	347°	31'		193.93	feet along the west side of south Kona Belt Road (Mamalahoa Highway);
2.	158°	17'		42.78	feet along east side of stonewall, along Grant 2036 to Beniamina;
3.	159°	11'		29.27	feet along east side of stonewall, along Grant 2036 to Beniamina;
4.	162°	25'		19.30	feet along east side of stonewall, along Grant 2036 to Beniamina;

5.	167°	38'		23.80	feet along east side of stonewall, along Grant 2036 to Beniamina;
6.	174°	41'		36.00	feet along east side of stonewall, along Grant 2036 to Beniamina;
7.	178°	10'	40"	44.77	feet along east side of stonewall, along Grant 2036 to Beniamina to the point of beginning and containing an area of 1,498 square feet.

**ABANDONED ROAD REMNANT  
PARCEL 2**

Alae 1 and 2, South Kona, Island and County of Hawaii  
State of Hawaii  
Being a portion of Old Government Road.

Beginning at the south corner of this parcel of land and on the west side of South Kona Belt Road (Mamalahoa Highway), the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIKAKUU 4" being 6791.83 feet North and 776.29 feet East, thence running by azimuths measured clockwise from True South:

1.	156°	36'		12.64	feet along Grant 2036 to Beniamina;
2.	167°	33'	30"	76.22	feet along east side of stonewall, along Grant 2036 to Beniamina;
3.	170°	05'		15.72	feet along east side of stonewall, along Grant 2036 to Beniamina;
4.	172°	56'		17.32	feet along east side of stonewall, along Grant 2036 to Beniamina;
5.	347°	31'		121.57	feet along the west side of South Kona Belt Road (Mamalahoa Highway) to the point of beginning and containing an area of 240 Square Feet.

**AS TO PARCELS FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH AND SEVENTH:**

**Excepting any portion of the land below the line of shoreline vegetation where it was located prior to any artificial or avulsive changes.**



# ITEM SEVEN

TMK: (3) 8-7-003:001

ALL of that certain parcel of land being Remainder Lot 2, of the consolidation and resubdivision of:

1. That certain parcel of land (being a portion of Royal Patent (Grant) No. 1971 to Keiliahue) situate at Maunaoni 1<sup>st</sup> to 6<sup>th</sup> and Makuu 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>, District of South Kona, Island and County of Hawaii, State of Hawaii, containing an area of 138.0 acres, more or less, and more particularly designated by Tax Map Key:3/8-7-3-1.

Excepting any portion of the land below the line of shoreline vegetation where it was located prior to any artificial or avulsive changes.

2. That certain parcel of land (being a portion of Grant 1974 to Lumilumi) situated at Pahoehoe 1<sup>st</sup> to 4<sup>th</sup>, District of South Kona, Island and County of Hawaii, State of Hawaii, containing an area of 33.363 acres, more or less, and more particularly designated by Tax Map Key: 3/8-7-3-2;

3. That certain parcel of land (being a portion of Grant 1974 to Lumilumi) situate at Pahoehoe 1<sup>st</sup> to 4<sup>th</sup>, District of South Kona, Island and County of Hawaii, State of Hawaii, containing an area of 158.4 acres, more or less, and more particularly designated by Tax Map Key: 3/8-7-3-12; and

4. That certain parcel of land (being portion Grant 1974 to Lumilumi) situate at Pahoehoe 1<sup>st</sup> to 4<sup>th</sup>, District of South Kona, Island and County of Hawaii, State of Hawaii, containing an area of 0.6 acre, more or less, covered by Tax Map Key: 3/8-7-03-13.

SAVE AND EXCEPT the following:

All of that certain parcel of land (being a portion of Grant 1974 to Lumilumi) situated at Pahoehoe 1<sup>st</sup> to 4<sup>th</sup>, South Kona, Island and County of Hawaii, State of Hawaii, being Lot 1, described as follows:

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PALIANIHI" being 13483.70 feet South and 8060.17 feet East and running by azimuths measured clockwise from true South:

Along the south side of Hawaii Belt Road, FAP No. 8-B for the next (6) courses, the direct azimuths and distances between points being:

- |    |      |     |     |        |       |
|----|------|-----|-----|--------|-------|
| 1. | 323° | 21' | 30" | 76.93  | feet; |
| 2. | 53°  | 21' | 30" | 20.00  | feet; |
| 3. | 323° | 21' | 30" | 203.08 | feet; |

4. Thence along a curve to the right having a radius of 1213.47 feet, the chord azimuth and distance being: 325° 32' 19" 92.33 feet;

5. 237° 43' 08" 20.00 feet;

6. Thence along a curve to the right having a radius of 1233.47 feet, the chord azimuth and distance being:

328° 07' 43" 17.64 feet;

Thence along the portion of the remainder of Grant 1974 to Lumilumi for the next twelve (12) courses, the direct azimuths and distances between points being:

7. 27° 54' 30" 66.31 feet;

8. 100° 30' 87.09 feet;

9. 10° 58' 108.56 feet;

10. 81° 44' 45" 659.44 feet;

11. 351° 44' 45" 269.58 feet;

12. 81° 44' 45" 235.28 feet;

13. 352° 47' 50" 200.75 feet;

14. 262° 12' 159.76 feet;

15. 356° 05' 323.04 feet;

16. 86° 05' 847.35 feet;

17. 176° 05' 952.94 feet;

18. 86° 05' 2,590.34 feet;

Thence for the next two (2) courses following the highwater mark (upper reaches of the wash of the waves) and in all its windings, the direct azimuths and distances being:

19. 187° 28' 59" 723.69 feet;

20. 177° 16' 28" 509.12 feet

Thence along R. P. 6857, L. C. Aw. 7713, Apana 9 to V. Kamamalu for the next nine (9) courses, the direct azimuths and distances between points being:

21. 286° 57' 10" 1,015.00 feet;

22. 271° 31' 30" 459.59 feet;

23. Thence along the centerline of the wall and in all its windings, the direct azimuth and distance being: 276° 52' 30" 832.01 feet;

24. 279° 09' 20" 412.93 feet;

25. Thence along the centerline of the wall and in all its windings, the direct azimuth and distance being: 286° 57' 75.72 feet;

26. 291° 47' 10" 62.66 feet;

27. Thence along the centerline of the wall and in all its windings, the direct azimuth and distance being: 279° 59' 30" 409.69 feet;

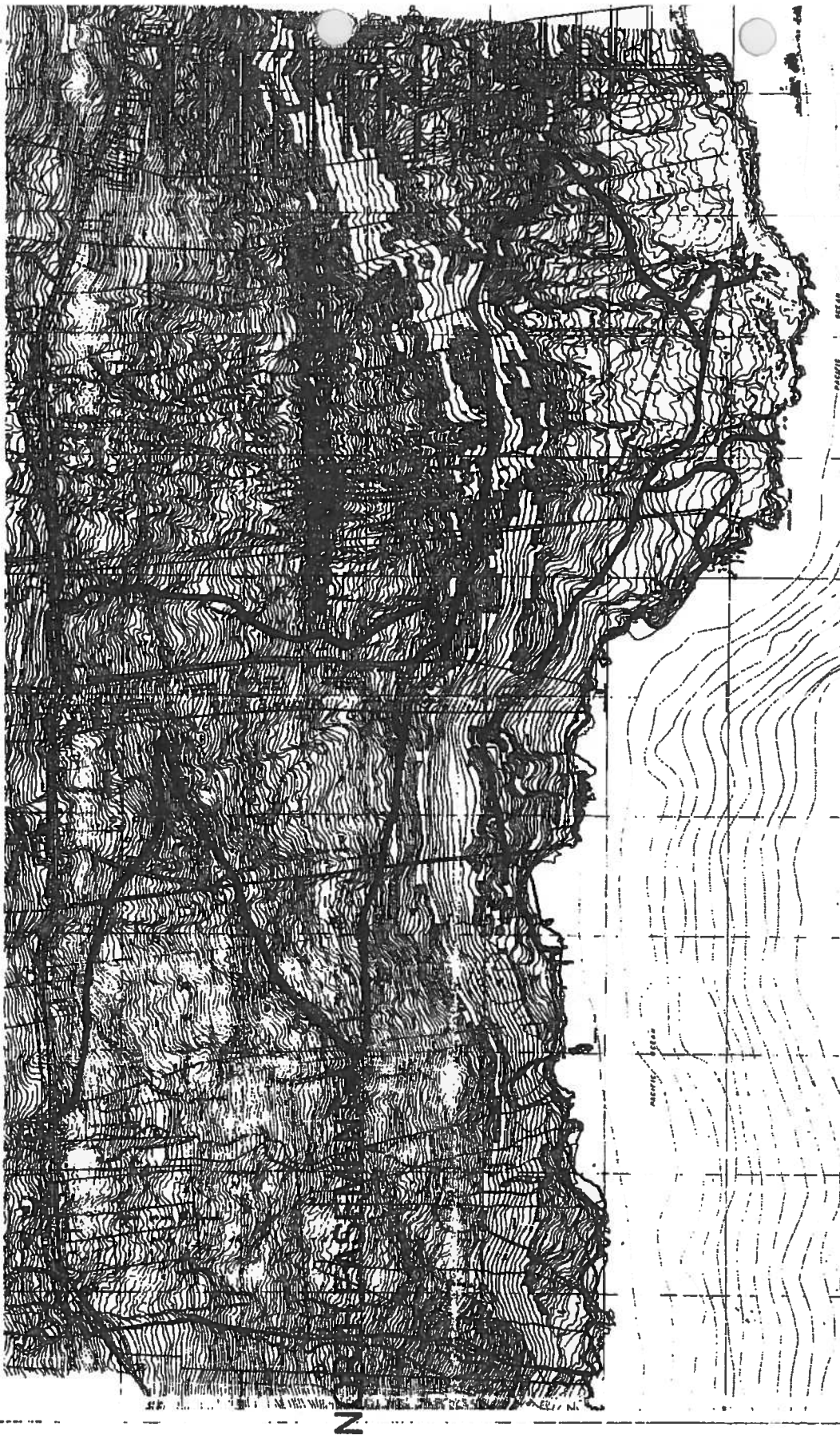
28. 274° 11' 243.95 feet;



- |    |     |     |       |   |
|----|-----|-----|-------|---|
| 4. | 84° | 17' | 26.14 | feet along a portion of Grant 1971 to Keiliahue;  |
| 5. |     |     |       | Thence along a curve to the right having a radius of 245.00 feet, the chord azimuth and distance being 221° 04' 31.5" 74.18 feet;   |
| 6. |     |     |       | Thence along a curve to the left having a radius of 130.00 feet, the chord azimuth and distance being 249° 09' 86.22 feet to the point of beginning and containing an area of 2,891 square feet, as per survey of Robert T. Shirai, Licensed Professional Land Surveyor No. 5985, with Island Survey, Inc., dated May 16, 2001. |

Excepting any portion of the land below the line of shoreline vegetation where it was located prior to any artificial or avulsive changes.

**END OF EXHIBIT A**

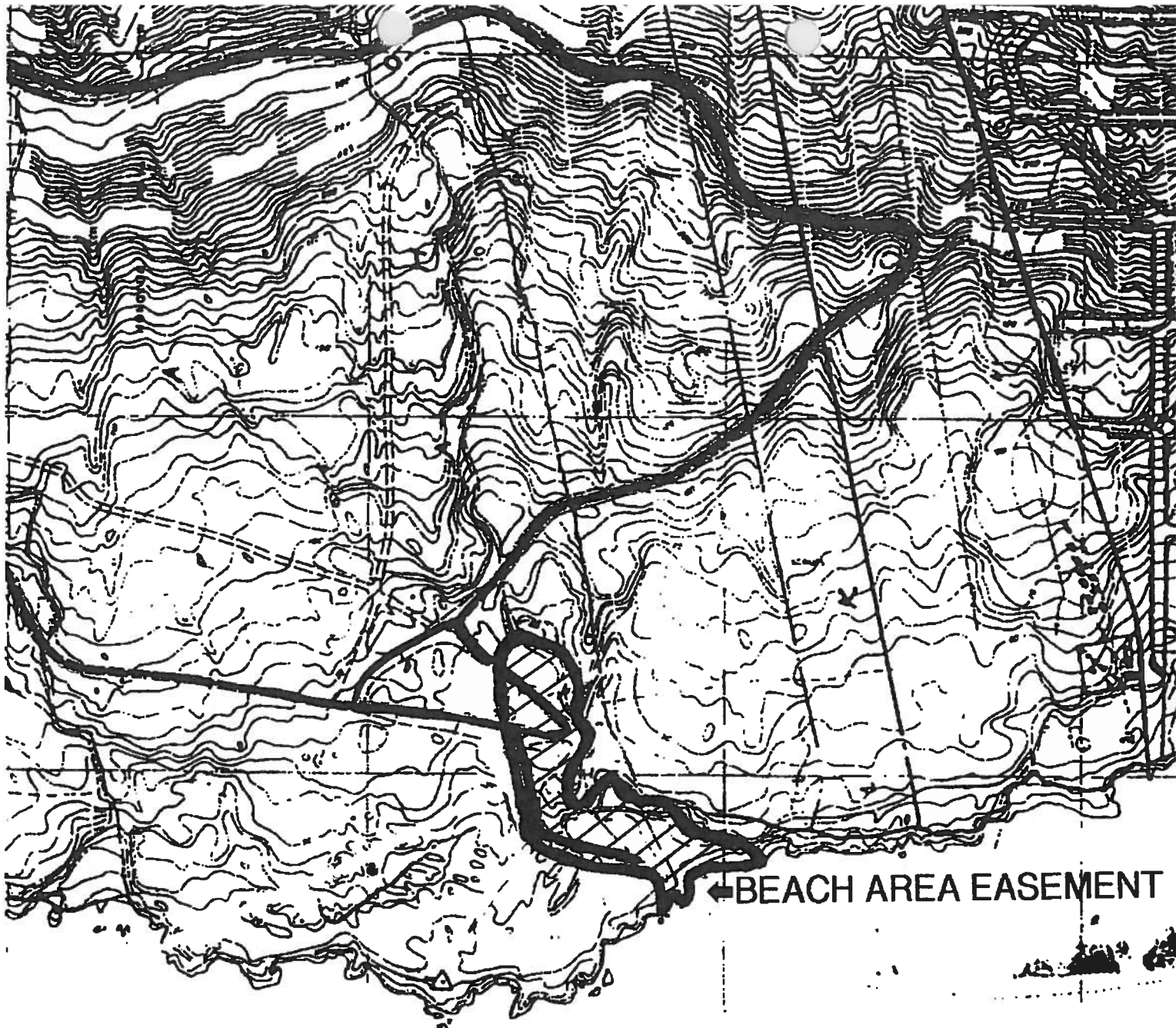


NOTE:  
 1. TOPOGRAPHY OBTAINED FROM SCAN OF R.M. TOWHILL TOPO MAP JOB NO. 1-12725-0-P.  
 PHOTOGRAPHY JAN 13, 1973.  
 2. PROPERTY LINES OBTAINED FROM SCAN OF TAX MAPS 8-7-03, 8-7-05, 8-7-07 & 8-7-08.

SAM O. HIROTA, INC.  
 ENGINEERS AND SURVEYORS  
 1001 SOUTH WEST 17TH AVENUE, SUITE 200  
 MIAMI, FLORIDA 33134

MAGOON KONA PROJECT

EXHIBIT B



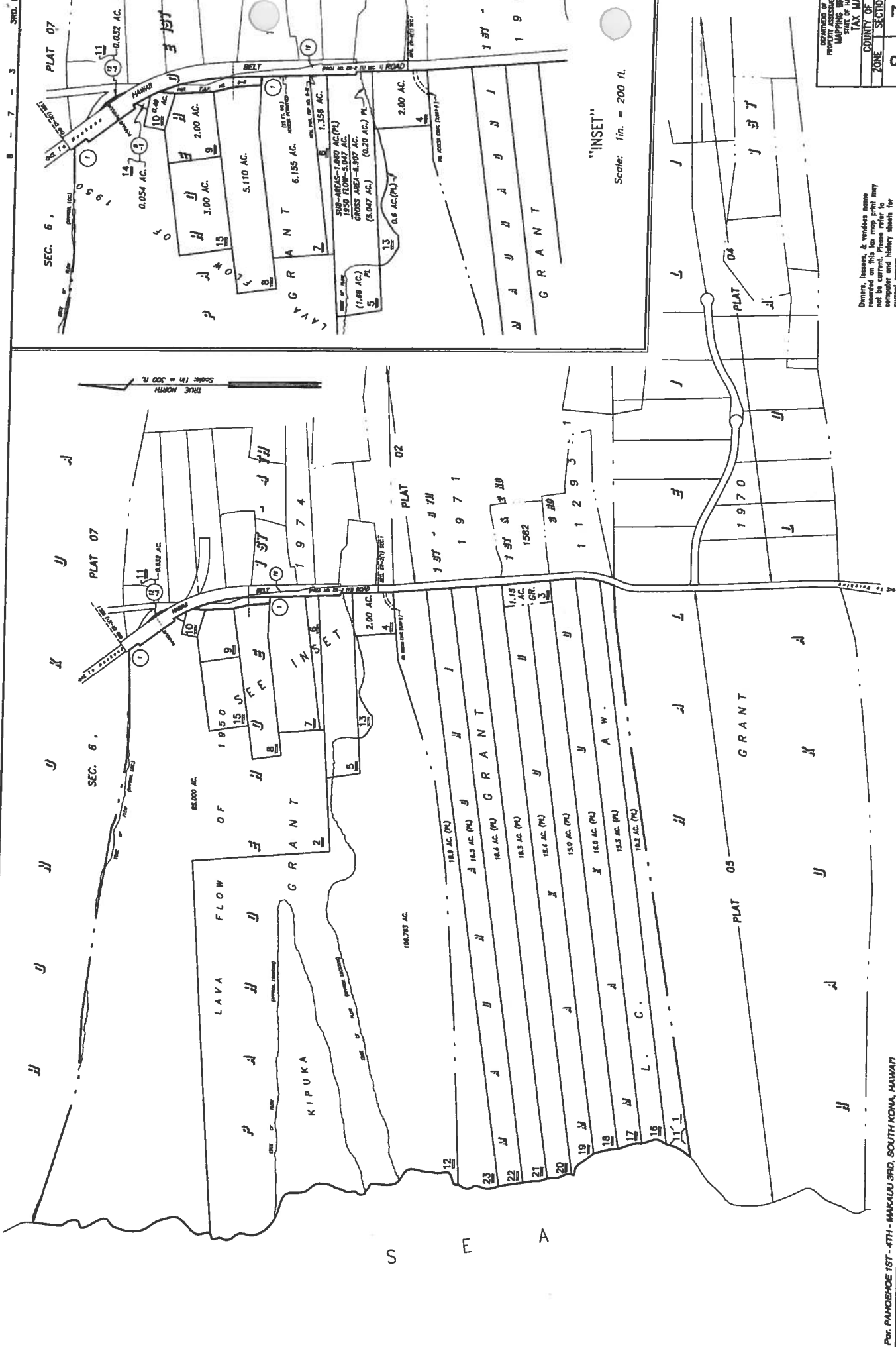
← BEACH AREA EASEMENT

PACIFIC GLEN

EXHIBIT C

300





"INSET"  
Scale: 1 in. = 200 ft.

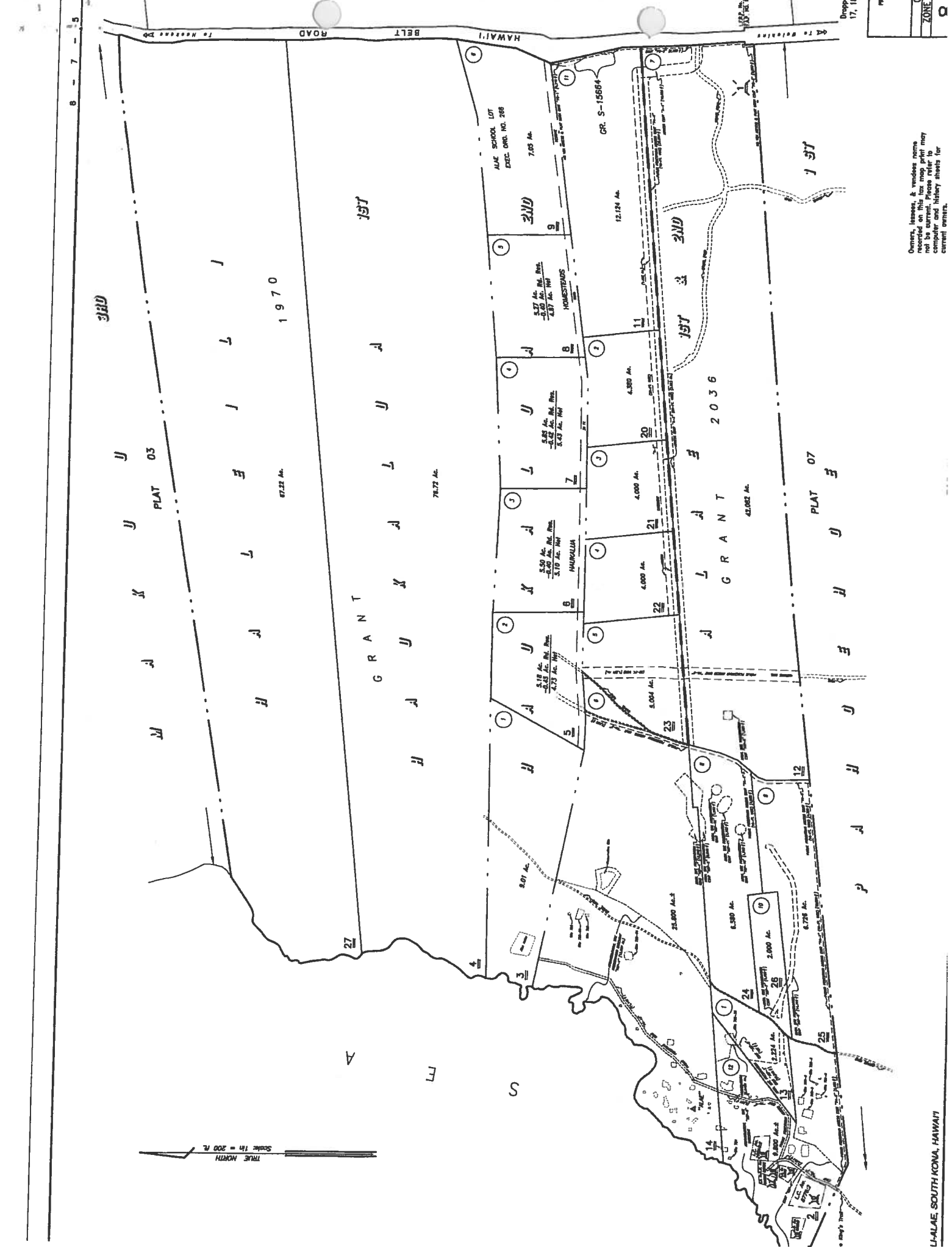
Owner, lessee, & vendee name  
referred on this map prior they  
refer to computer and history sheets for  
current owners.

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

DEPARTMENT OF PROPERTY ASSESSMENT HAWAII	
TAX MAP	NO. 11
COUNTY OF	KAUAI
ZONE	8
SECTION	7
SCALE: 1 IN. = 300 FT.	

PRINTED:





Owners, lessees, & vendors please record on this tax map as they may not be current. Please refer to computer and history sheets for current owners.



DE 1ST to KA'UHE 3RD, SOUTH KONA, HAWAII

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

Owners, lessees, & vendees names recorded on this tax map print may not be current. Please refer to current history sheets for current owners.

DR	PHOT	CO	ZONE
			8