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January 9, 2006

LAND USE COMMISSION
STATE OF HAWAII

- Planning • Variance • Zoning
- Subdivision • Land Use Permits
- Environmental Reports

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2006 JAN 18 A 7:57

Mr. Christopher Yuen, Director
Planning Department
COUNTY OF HAWAII
101 Pauahi Street
Hilo, HI 96720

Dear Mr. Yuen:

Subject: Annual Report – State Land Use (A83-549), Ord. No. 02-131 and SMA Permit No. 430, Kona Vistas, LLC (Formerly Gamrex, Inc.), TMK: 7-6-21: 4, 9-13, 15, 17

On behalf of the landowner/developer of the subject properties, I respectfully request your acceptance of this letter report to be in compliance with the annual report requirement for the year 2005. This report is intended to fulfill the requirement of Condition C of State Land Use Commission (“LUC”) Docket A83-549, Condition 4 of an amendment to Docket A83-549, and Condition 7 of SMA Permit No. 430. The initial LUC decision became effective on December 13, 1983. Its amendment occurred on May 10, 1993, while the SMA permit became effective on May 5, 2003. Because of the varying dates covering essentially the same matter, we trust that using the December date to satisfy all three conditions would be satisfactory. If not, please let me know.

Please also note that much of the substance, with the exception of the subdivision of the single-family residential area and ownership change, contained in the last annual report, dated December 16, 2004, filed by Gamrex, Inc. has not changed. Accordingly, to aid you in the review of the project’s compliance with the conditions, this report was re-formatted around the various conditions of approval.

Furthermore, the accompanying County rezoning ordinance (Ord. No. 02-131) does not have any annual report requirement. However, to better address and/or understand the reporting requirements of the other entitlements, a discussion of the project’s compliance with the County’s rezoning conditions will also be included.

GENERAL BACKGROUND

On December 13, 1983, Increment I consisting of approximately 124 acres of land was reclassified into the Urban District by the LUC. The second increment, consisting of approximately 49 acres, was approved on May 10, 1993. Although the property was incrementally reclassified, County rezoning ordinance No. 84-23 covered the entire area, subject to the incremental provisions. Ordinance No. 84-23 was amended a number of times, the most recent occurring on November 27, 2002. The latest ordinance is referred to as Ordinance No. 02-131 and will hence be the reference of this annual report.

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The rezoning ordinance allowed the development of a single-family residential subdivision on 103+ acres of land and multiple family residential projects on approximately 68 acres of lands in Kailua-Kona. The subject area is located generally on the north and south side of Lako Street, *mauka* side of the Kuakini Highway.

A Special Management Area Use Permit (SMA No. 430) was issued on May 5, 2003 for to implement a drainage plan within the project site as well as to make a site conveyable to the County as part of the developer's affordable housing commitment. Parts of the planned drainage improvements are situated within the SMA boundary.

In January or February of this year, Kona Vistas, LLC, a Delaware limited liability corporation, became the new owner of this project. The LLC consists of three entities – Gamrex, Inc., Chase Berkeley, and BIMAC. The LLC has engaged one of Chase Berkeley's sister and affiliate company, Faulkner USA Hawaii, to manage the project.

OVERALL SUMMARY

To date, Final Subdivision approval for Units 1 and 2, consisting of a total of 156 residential lots, have been approved by the County. Subdivision applications for the remaining two units, consisting of 20 and 26 lots respectively, were filed with the County on November 21, 2005. Final approval of these units is anticipated by summer of 2006.

In conjunction with the infrastructure improvements for Unit 2, the remaining "leg" of the Lako Street connection will be completed. This connection is anticipated to be completed in the spring of 2006. When completed, there will be a new *mauka-makai* connection between Kuakini Highway and Hualalai Road. This road should facilitate *mauka/makai* movements in this area.

As the single-family residential component of this project is nearing completion, the focus now is on developing the planned multiple-family area. This will entail completing the necessary drainage improvements, which would then enable the developer to convey 12+ acres of land to the County for affordable housing.

LUC A83-549

Relative to this entitlement and the initial approval, we note the following conditions (some of which have been summarized) and responses (in italics) thereto:

- A. Petitioner shall provide housing opportunities for low and moderate income Hawaii residents prior to assigning or transferring (except by way of mortgage or assignment as security) its interest in the subject property, by offering for sale, on

a preferential basis, on its own or in cooperation with either or both the Hawaii Housing Authority or the County of Hawaii, ten percent (10%) of the lots or house and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Hawaii Housing Authority or County of Hawaii from time to time.

In compliance with this requirement, the former developer (which will be honored by Kona Vistas LLC) entered into an affordable housing agreement with the County of Hawaii. This agreement called for the dedication of 12 acres of land to the County for affordable housing within a stipulated time. Its conveyance, however, was subject to the completion of a flood control system that bisects the planned multiple-family project area, as well as the site to be dedicated to the County. To date, the flood control project has not been completed. As a result, an extension of this conveyance to December 31, 2006 was approved by the County on June 27, 2005.

- B. In making the ultimate decision as to whether a historical or archaeological site is significant enough to warrant preservation, the Petitioner shall consult with and accept the decision of the Historic Preservation Officer of the Department of Land and Natural Resources.

This is being routinely done prior to and during the construction phases of this project. For example, on February 17, 2005, prior to the approval of a grading permit covering the single-family residential area, a request for SHPD determination of "No Historic Properties Affected" was filed. It was subsequently accepted and the grading permit was issued (see attached copy of report and approval of grading permit). The petitioner intends to take similar measures, if necessary, for the remaining undeveloped portions of this project.

- C. Petitioner shall submit annual progress reports....

This report is intended to satisfy this requirement.

- D. These conditions may be fully or partially released by the Commission...

No request has been made to date, as the project is still being developed.

LUC A83-549 (Increment II)

In response to the conditions imposed by the LUC relative to Increment II, we note the following:

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January 9, 2006
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1. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission....

The petitioner is developing the project as originally proposed. To date, there have been no significant substantive deviations to the project concept.

2. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, or place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

It is not certain whether Gamrex, Inc. had formally notified the Commission of the formation of Kona Vistas, LLC. If it has not, then, on behalf of the current owner/developer, we would appreciate your considering this as the notice, albeit somewhat delayed. The details of this LLC were described in page 2 under General Background of this letter report.

3. Petitioner shall provide annual reports.

Although the incremental approval occurred on May 10, 1993, we trust that using the date of the initial approval (December 1983) and submitting a consolidated report would be acceptable. If not, please let us know.

4. The Land Use Commission may fully or partially release these conditions.

This condition is not applicable at this time.

- 5/6. Recordation of conditions of approval.

We trust that this was done by the former owner, Gamrex, Inc. If not, the current owner/developer will assume this responsibility.

ORDINANCE NO. 02 131

The original rezoning ordinance was 84-23. There have been subsequent amendments to this ordinance, with the last one occurring on November 27, 2002. Accordingly, for the purpose of this report, the most recent amendment (Ordinance No. 02 131) is used. Again, some of the conditions have been summarized, while the responses have been italicized.

- (A/B) The zoning of the property would not be effective until water is available and no development until water is available.

This condition has been satisfied. Accordingly, the project was allowed to proceed, with final subdivision approval for over 100 single-family residential lots being granted. Water for the multiple-family area is also available.

- (C) The Director shall be mandated to repeal the ordinance if Conditions A/B have not been complied with.

This has not been done, as water for this project was made available.

- (D) The petitioner, its successors or assigns shall be responsible for complying with all stated conditions of approval.

As noted earlier, interests in the subject project were transferred to Kona Vistas, LLC, which includes the former developer, Gamrex, Inc. The current developer will be responsible for complying with all pertinent conditions of approval

- (E) The zoning of the second increment (49+ acres) shall not be effective until the LUC certifies this area.

The LUC certification occurred on May 10, 1993, thus triggering the zoning of this area.

- (F/G) The RS zoned area shall be developed in two increments, with a submittal deadline for increment 1.

This area was and continues to be developed in two increments. The second increment covered a portion of Unit 2 (which was recently granted final subdivision approval) and all of Units 3 and 4 (which are now pending). Final subdivision approval for all of the remaining area is anticipated to occur before summer of 2006.

- (H/I) The RM zoned area shall be developed in two increments, with 42 acres being the first increment. Furthermore, Plan Approval must be secured within 5 years from effective date of the current ordinance.

To date, no development has occurred in this area. With the imminent completion of the single-family residential area, the development focus will be in this area. As such, plans are now being prepared and will be submitted to the County next year. The developer is aware that Final Plan Approval must be secured before November 27, 2007 and is confident that this condition will be met.

- (J) Should the Council adopt a Unified Impact Fees ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance.

The Council has not adopted such an ordinance; as such, the applicant is not in a position to evaluate the alternatives and if feasible, avail itself to this option.

- (K) Housing opportunities for Hawaii residents shall be provided in accordance with the condition imposed by the State Land Use Commission. The number of units and manner in which they are to be provided shall meet with the approval of the County Housing Agency.

Please refer to the response to Condition A of the LUC's decision and order above. Briefly, a 12+ acre site was agreed to be dedicated to the County OHCD in compliance with this requirement.

- (L) Improvements to Kuakini Highway intersection.

This was done in conjunction with the development of increment I of the single-family residential subdivision.

- (M) No direct access to the mauka/makai (Lako Street) road will be allowed for the lots.

This was addressed and reflected in all of the approved and pending subdivision maps covering this area.

- (N) Roadways within the RM zoned areas shall be constructed to dedicable standards with curb, gutters, and sidewalks.

This area has not been developed as of yet. The developer is mindful of and will comply with this requirement.

- (O) Roadways within the RS zoned areas shall have, at a minimum, paved shoulders and swales.

All County approved infrastructure plans for the subdivision of this area reflects this requirement.

- (P) Wastewater system shall meet with the approval of the appropriate agencies.

The respective homeowners are complying with this requirement. The State Department of Health approved method of wastewater disposal system for this area is septic system.

- (Q) A drainage master plan shall be prepared and the required drainage system shall installed in accordance with the requirements of the Department of Public Works.

Drainage plans were prepared and submitted in conjunction with the subdivision approval process. All required system was and/or is being installed for the residential subdivision. Similar plans will be prepared for the multiple-family residential area.

- (R) An intensive archaeological survey shall be conducted for the entire property prior to issuance of any subdivision or plan approval.

As noted earlier (see response to LUC condition B on page 3 of this letter report), this is being done prior to the issuance of any land disturbance permit.

- (S) Should any unanticipated archaeological sites be found during the land preparation activities, work shall stop.

This was observed by the former developer and its contractors; and it has and will continue to be observed by the current developer and its contractors. To date, there have been no inadvertent finds.

- (T) Prior to Final Approval of the second increment, the applicant shall pay for any additional real property taxes owed for the new residential assessed value of the subject property, which was previously taxed at the agricultural rate.

The applicant has satisfied this requirement and is current in its real property taxes.

- (U) Time extension provision.

The applicant has not requested a time extension since adoption of the latest rezoning ordinance. The applicant believes that it can develop the project without having to go through another time extension.

SMA Use Permit No. 430

This permit was for the construction of a portion of the Horse Shoe Bend and Holualoa Streams Flood Control Project located within the SMA. The balance of these

planned improvements occur on the applicant's properties located *mauka* of the Kuakini Highway.

1. The petitioner, its successors or assigns shall be responsible for complying with all stated conditions of approval.

This will be done by the applicant, as noted above.

2. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this permit.

The applicant is finalizing its plans and the required permits for this project. The deadline for completion is May 5, 2008. The applicant believes it will be in a position to complete this improvement within this period.

- 3/4. The Kuakini Makai Association, Inc. shall be notified prior to commencement of construction. Construction will occur from Monday through Fridays between 7:30 a.m. and 4:30 p.m. only, exclusive of Holidays.

This will be complied with by the applicant and/or its contractors at the appropriate time.

5. No construction access will be permitted via Mikilana Street.

The applicant is mindful of this condition and will work its contractors to assure that this condition is complied with.

6. Should any remains of historic sites be encountered, work in the immediate area shall cease until appropriate clearances have been secured.

This will be complied with by the applicant and/or its contractors at the appropriate time.

7. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of this permit.

This report is being submitted in compliance with this requirement.

8. Comply with all applicable laws, rules, regulations and requirements of other affected agencies.

This will be done by the applicant, as ~~noted above.~~

Mr. Christopher Yuen, Director

January 9, 2006

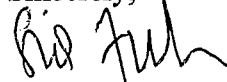
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9. An initial extension of time performance of conditions within this permit may be granted by the Planning Director.

To date, no extension request has been made on this permit. The applicant believes it would be able to fulfill the time requirement of this permit without necessitating an extension.

We trust that the foregoing adequately satisfy the annual report requirement of the LUC decision order, and its amendment, as well as the SMA Use Permit. If not or if there are further questions on this matter, please feel free to contact me. Thank you very much.

Sincerely,



SIDNEY M. FUKÉ
Planning Consultant

Enclosure

Copy – Mr. Anthony Ching, State Land Use Commission w/ enclosure
Office of State Plan w/ enclosure
Kona Vista, LLC w/ enclosure

County of Hawaii

DEPARTMENT OF PUBLIC WORKS

GRADING PERMIT NO. _____

Fee: \$ _____

Owner: Gamrex, Inc.

Address: 1188 Bishop St. #903
Honolulu, HI 96813

Phone: 531-6861

Civil Eng. / Surveyor: Imata & Ass.

Address: 171 Kapiolani St.
Hilo, HI 96720

Phone: 935-6827

License No.: _____

Contractor: _____

Address: _____

Phone: _____

License No.: _____

Location: Kailua-Kona
Kona Vista Sub. Unit 2B

Tax Map Key: (3) 7-6-21:15

Cut (CY): 36,573 cy

Area Graded (acre): 6.0 acres

Disposal Site: _____

Estimated Starting Date: May 2005
(minimum 2 working days after issuance date)

Estimated Completion Date: Jan 06

Fill (CY): 20,549 cy

Borrow Site: _____

Remarks: _____

Phone: 327-3690

Fax: 327-3693

1. STATE DLNR - HISTORIC PRESERVATION DIVISION

Received By: M. Maignet Date: 2/15/05

Listed on the Hawaii or National Register of Historic Places

Approved:

Maja B Maignet Date: 2/15/05

Yes No

2. PLANNING DEPARTMENT

Received By: _____ Date: _____

Approved:

_____ Date: _____

3. DEPARTMENT OF PUBLIC WORKS

Received By: _____ Date: _____

Approved for Permit Issuance:

_____ Date: _____

I hereby certify that all work as requested above will conform to Chapter 10 of the Hawaii County Code.

Owner: _____ Date: _____

Return to the Department of Public Works, Engineering Division, upon completion of work.

Certification Accepted by: _____ Date: _____

(DPW Inspector / engineer)

CULTURAL SURVEYS HAWAI'I, INC.
Archaeological and Cultural Impact Studies
www.culturalsurveys.com
Hallett H. Hammatt, Ph.D.
P. O. Box 1114
Kailua, Hawai'i 96734
FAX: (808) 262-4950, Bus: 262-9972
e-mail dshideler@culturalsurveys.com

February 17, 2005

Ms. Mary Anne B. Maigret
State Historic Preservation Division
74-383 Kealakehe Park Way
Kailua-Kona, Hawai'i Island, Hawai'i 96740

SUBJECT: Request for SHPD determination of "No Historic Properties Affected" for a grading permit for a portion of the Unit 2 Subdivision of the Kona Vistas Development in Holualoa, North Kona Hawai'i Island

Aloha Mary Anne Maigret:

At the request of Mr. Sidney Fuke and on behalf of FAULKNER USA Cultural Surveys Hawai'i has undertaken a literature review and field check of a parcel at Holualoa as part of a grading permit application. We understand that Mr. Fuke has spoken with you in this regard and that such a study is appropriate.

Project Area

This letter report documents the results of background research and a field check of certain lands constituting the southern portion of Unit 2 of the Kona Vistas Subdivision in Holualoa, North Kona Hawai'i Island (Figures 1 & 2). In general terms the lands studied lie inland (northeast) of the existing Leilani Street, seaward (west) of an old railroad grade, south of Lako Street (and a proposed eastern extension of Lako Street) and north of Wikolia and Nightingale Streets. These lands lie between 500 feet and 700 feet elevation and approximately one mile from the coast on the lower slopes of Hualalai Volcano. The terrain is generally densely vegetated, rocky pahoehoe land.

Background

Cultural Surveys Hawai'i carried out two phases of archaeological research in the subject lands (Figure 3) resulting in the production of two reports with the same title - *Archaeological Survey, Testing and Excavation of a 174-Acre Parcel, Holualoa, North Kona Hawai'i* (Hammatt, Folk and Shideler 1984 and 1992).

SHPD review of the earlier report began in 1989 and resulted in a review letter (letter of August 1 1989 to Mr. Gerald Park) but it appears that the project died and review was halted. The later report was submitted to the SHPD on January 4, 1992 and was reviewed in a letter of August 25, 1992 from Dr. Don Hibbard (SHPD administrator) addressed to Ms. Karen

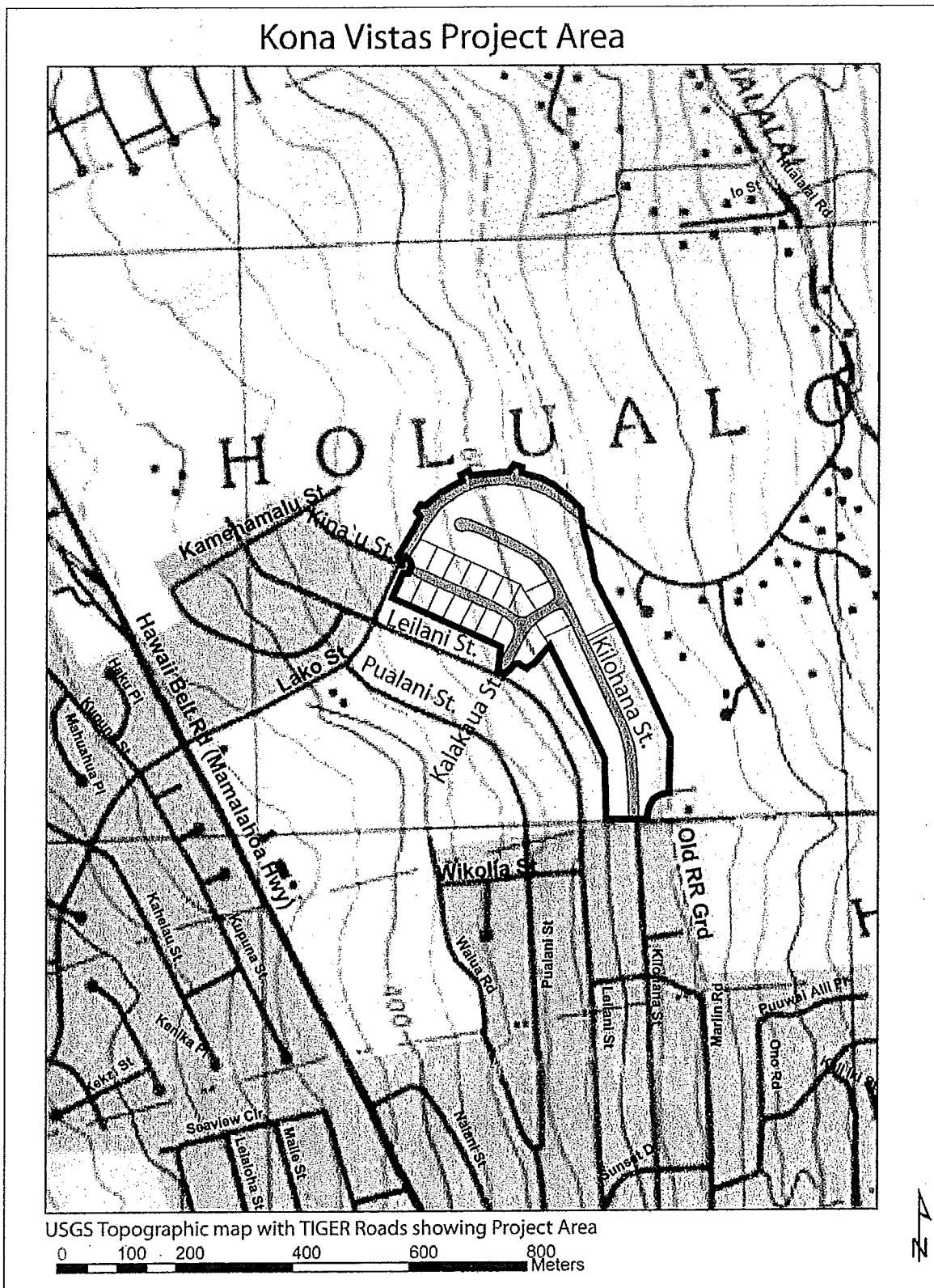


Figure 1. U.S. Geological Survey Kailua-Kona Quad Map showing study area (within black line)

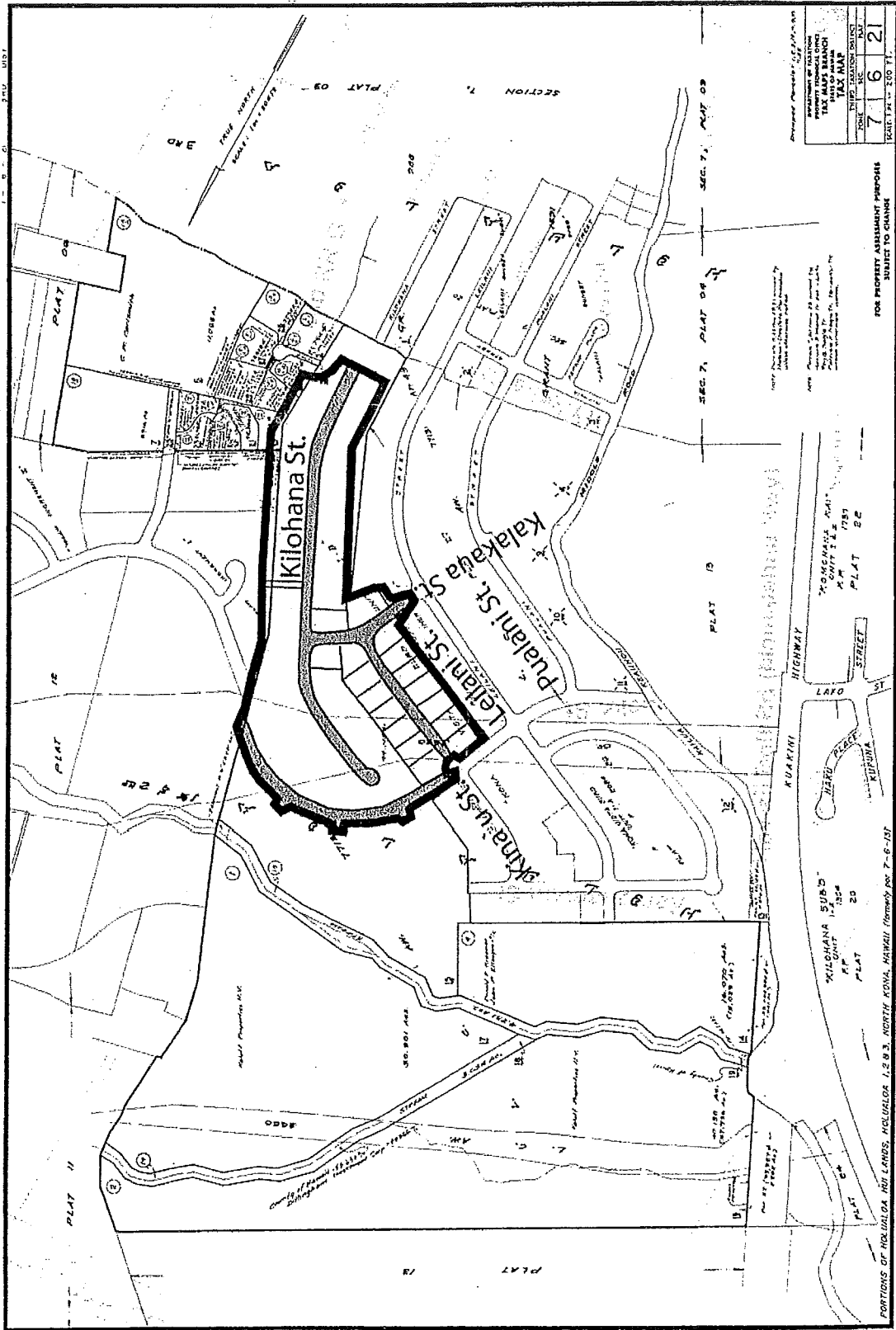


Figure 2. Tax Map Key 7-6-21 showing project area (within black line)

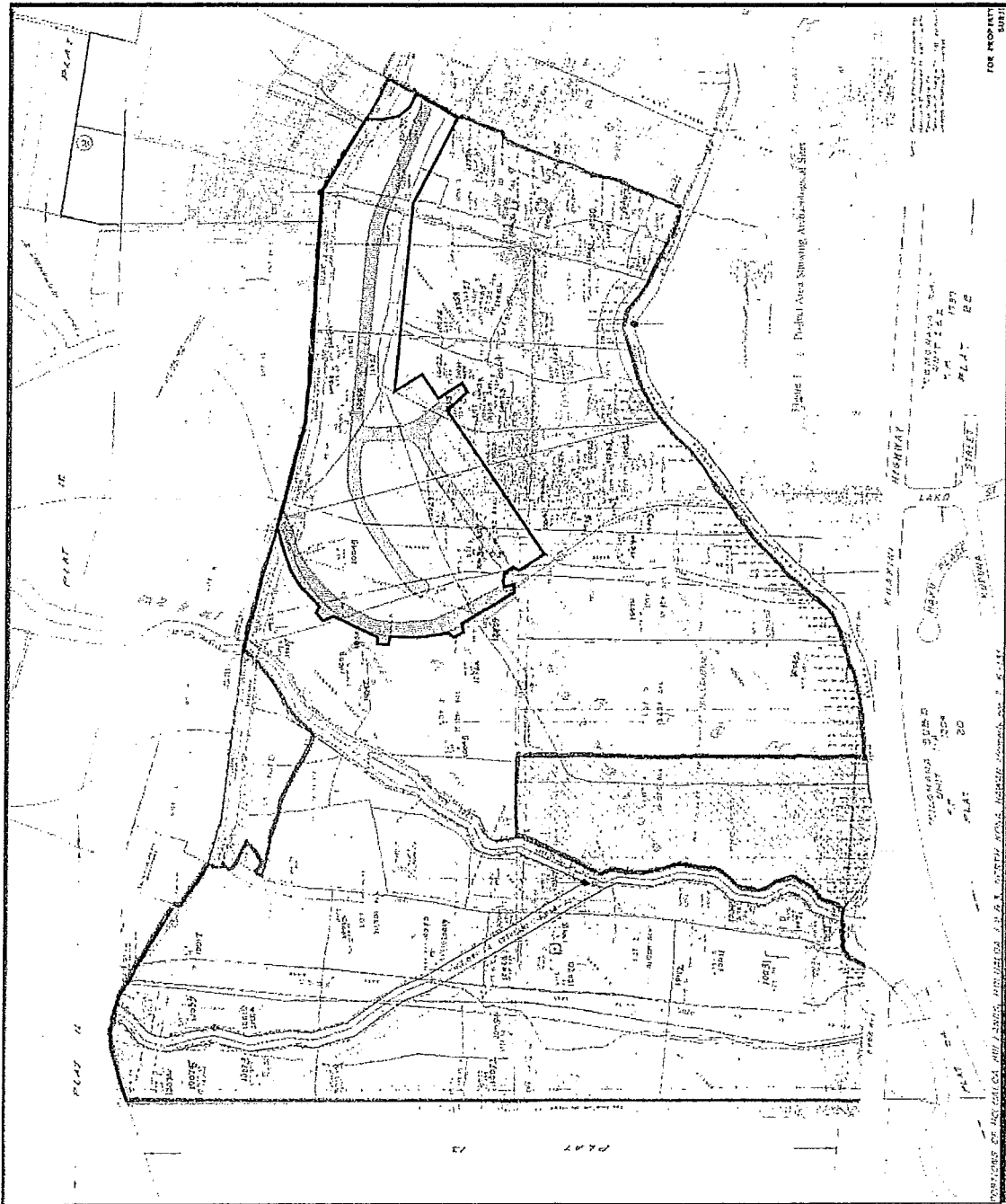


Figure 3. Map of the Hammatt et al. (1992:8) study area showing general relation to the present study area

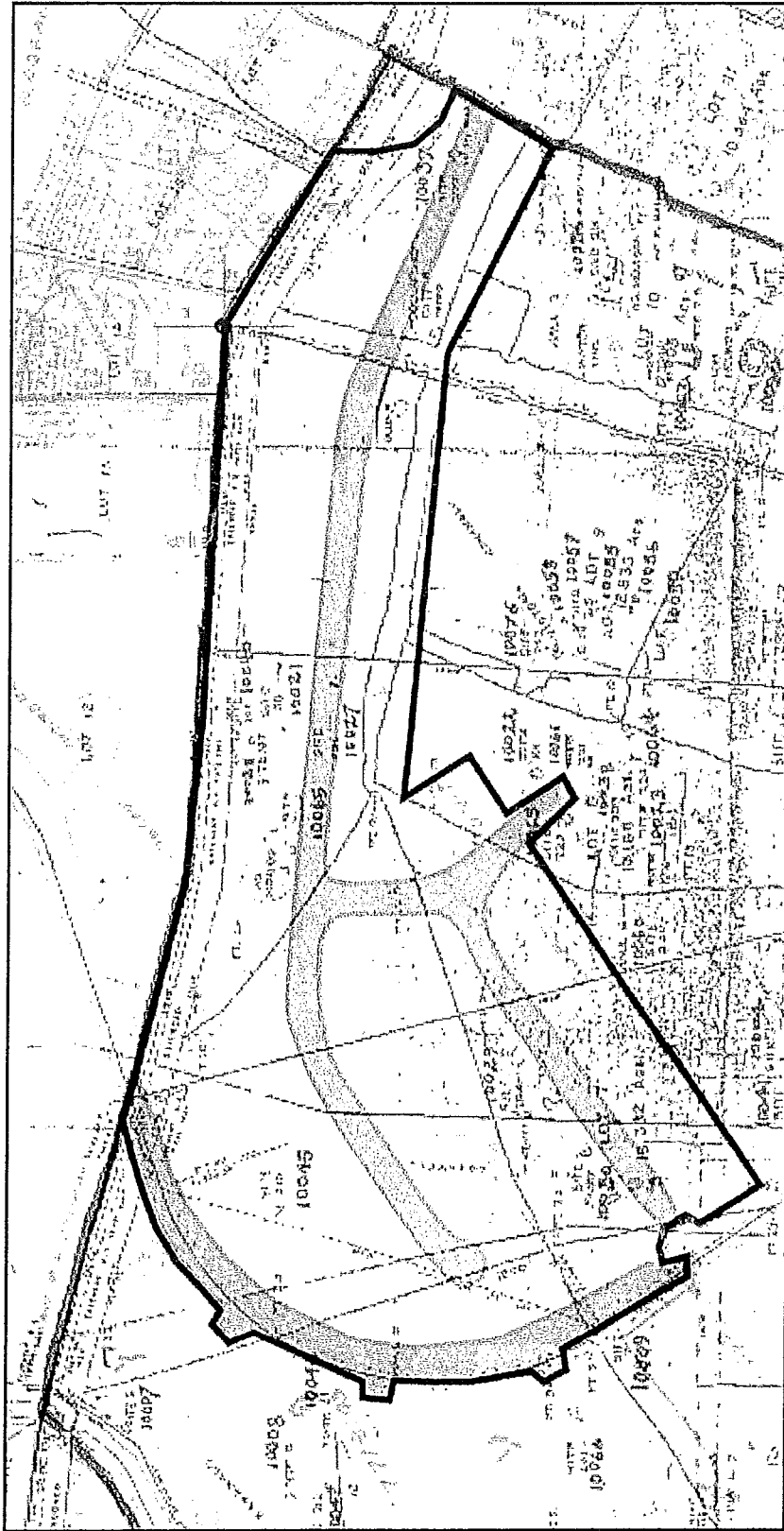


Figure 4. Detail overlay of the present study area over the site location map (Hammatt et al. 1992:8)

Yamamoto (Land Use Division, Office of State Planning) that requested certain revisions. A letter from Dr. Hibbard to Ms. Yamamoto dated January 26, 1993 notes receipt of a “revised, draft final archaeological survey report” on January 4, 1993 and asserts: “At this point, the draft report will be finalized, incorporating a few minor comments. The finalized report will be in our files within a month or so. With this understanding, we believe that it can be considered that the condition for this petition has been fulfilled.” This report concluded:

It is our opinion that the significant material from the study area has been recovered and that further investigation would be of minimum productivity. Therefore, our recommendation is that no further archaeological study be required. (Hammatt et al. December 1992:60)

It is our understanding that the development of the Kona Vistas Subdivision was allowed to proceed on the basis of the January 26, 1993 SHPD letter. Much of the subject lands were long ago developed into lots of the Kona Vistas Subdivision (which includes developed lots on the *mauka* side of Leilani Street; see Figures 1 & 2).

Within the present study area a number of sites were identified (located in Figure 4 and summarized in Table 1).

Table 1. Sites previously identified within the project area

SIHP #	Site Form	Site Function	Status	Source*
10,021	Enclosure	Habitation	Not Tested	pg 18
10,027	Modified outcrop	Habitation (T)	Not Tested	pg 18
10,028	Lava blister	Habitation (T)	Not Tested	pg 18
10,029	Platform, blister	Agricultural	Not Tested	pg 18
10,030	Modified outcrop	Agricultural	Not Tested	pg 18
10,037	Enclosure	Agricultural	Not Tested	pg 19
10,040	Terrace	Agricultural	Not Tested	pg 19
10,045	Linear mound	Agricultural	Not Tested	pg. 20
10,065	Platform	Agricultural	Tested	pg 48

*Hammatt et al. 1992

Field check

On February 9 2005 a field check was made of the study area. It was assumed (quite accurately) that prior grubbing activity on these lands in combination with the heavy rains of the last year has resulted in lush and rank plant growth that would create exceedingly difficult ground conditions. Indeed, in much of the project area it was not possible to see one’s feet. It was often the case that the only way to move forward was by pressing down a mat of grass and proceeding to fall forward upon this crushed mat elevated several centimeters above the ground. Rock piles (which in every case appeared to be bulldozer push) were most frequently encountered in the process of falling off them.

Anticipating similar conditions, the methodology employed was to attempt to "spot check" for the presence of sites in certain select areas (particularly by targeting areas of site concentrations) and then to transect the project area to get a general overview. Areas specifically investigated were the vicinity of previously identified site 10037 in the southeast corner of the project area, the vicinity of previously identified sites 10021, 10028, 10040 and 10065 in the central east side of the project area and the vicinity of previously identified site 10030 in the central north edge of the project area. This selection of target study areas hoped that certain references within the archaeological report to land forms (ex. small bluff) and/or vegetation (ex. tamarind tree, monkeypod tree) would facilitate site vicinity re-location. Transects of the project area were taken from WSW to ENE (*makai/mauka*) and most of the distance NW to SE.

No sites were re-located during the field check. Clearly the grubbing activity in the past on these lands was very extensive. In the occasional areas of thin soil, exposures of the pahoehoe surface almost invariably showed bulldozer scars. Bulldozer push piles were frequently encountered. The lush scrub, particularly notable for tall grasses and castor bean plants, observed throughout the investigations and transects was completely consistent with a history of very extensive grubbing within the lands of immediate concern.

Request for SHPD Action

We feel that a good faith attempt was made to search for sites or site remnants as may have survived previous grubbing activities. The prevailing lush vegetation regime, with its poor ground visibility and difficulties for pedestrian progress, makes it difficult to be certain of the presence or absence of any given site (or site remnant). We feel, however, that the methodology employed of targeting areas of known sites and site concentrations allows us to say with confidence that most or all sites previously identified have been destroyed. Furthermore given the recommendations in the archaeological survey "that further investigation would be of minimum productivity," that was reviewed by the SHPD and at least tacitly agreed to by the SHPD in 1993 we recommend no further fieldwork. We request that development of these lands be allowed to proceed. (specifically a grading permit for the subject subdivision) and that a letter be sent by the SHPD to appropriate Hawai'i County agencies to the effect of "No Historic Properties Affected". Please feel free to contact David W. Shideler or Hallett H. Hammatt (tel. 808-262-9972, fax 808 262-4950) if you have any questions.

Mahalo for your *kōkua*.



Hallett H. Hammatt, Ph.D.
Cultural Surveys Hawai'i, Inc.