

MORIHARA LAU & FONG LLP

MICHAEL H. LAU 4551  
LIANNA L. FIGUEROA 9173  
400 Davies Pacific Center  
841 Bishop Street  
Honolulu, Hawai'i 96813  
Telephone: (808) 526-2888  
Facsimile : (808) 566-0800



IMANAKA ASATO LLLC

STEVEN K.S. CHUNG 1751  
Topa Financial Center  
Fort Street Tower  
745 Fort Street Mall, 17<sup>th</sup> Floor  
Honolulu, Hawai'i 96813  
Telephone: (808) 521-9500  
Facsimile: (808) 541-9050

Attorneys for Petitioner  
HASEKO ROYAL KUNIA, LLC

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A92-683
	)	
HALEKUA DEVELOPMENT	)	DECLARATION OF SHARENE S.
CORPORATION, a Hawai'i corporation	)	TAM; EXHIBITS 1 TO 4; AND
	)	CERTIFICATE OF SERVICE
To Amend the Agricultural Land Use	)	
District Boundary into the Urban Land Use	)	
District for Approximately 503.886 Acres at	)	
Waikele and Ho'ae'ae, 'Ewa, O'ahu, City	)	
and County of Honolulu, State of Hawai'i,	)	
Tax Map Key No. 9-4-02: 1, portion 52, 70	)	
and 71	)	



10. After reviewing Ho'ohana Solar's materials and exhibits, we no longer have any issues with the 138 kV high voltage line. With respect to the proximity of the solar array field, we still have some residual concerns which are discussed below.
11. It will be important that an appropriate vegetation barrier be placed on the boundary to minimize any visual impact to the planned residential neighborhood on Parcel 71. Ho'ohana Solar's Exhibit 30 is their proposed landscape planting plan for the boundary area between Parcel 71 and Parcel 52. See **Exhibit 2** for a copy of the proposed landscape planting plan. In reviewing page 2 of the landscape plan, "West Boundary Hedge" is called out, with the Natal Plums listed as the planned vegetation. In my discussion with Ho'ohana Solar, I was told that Natal Plums are supposed to grow up to 7' tall. We would want to ensure that the taller vegetation will be planted and maintained along the common boundary.
12. One of the main unresolved issues that Haseko has with Ho'ohana Solar relates to drainage. This issue was not raised in Haseko's August 25 pleadings since we were unaware Ho'ohana Solar's plan was inconsistent with the RKII approved drainage master plan until after that filing. In 1996, an updated drainage master plan (the "DMP") was prepared covering all of the lands within RKII, including Parcel 52. The DMP was eventually approved by the City Department of Public Works. The DMP calls for the southwestern portion of Parcel 52 to include a retention basin for surface runoff from adjoining properties. See **Exhibit 3** for a copy of the various drainage areas reflected in the DMP, including the retention basin that was supposed to be constructed on Parcel 52. Based on initial discussions with Ho'ohana Solar, it is Haseko's belief that Ho'ohana Solar does not intend to allow a retention basin to be constructed on Parcel 52 as called out in the DMP. Instead, Ho'ohana Solar plans to install solar panels in the retention basin area and expects Haseko to find some other way to handle drainage for its stormwater. This is illustrated on Ho'ohana Solar's Exhibit 28 which provides an overlay which shows the coverage of the 2015 Solar Project compared against the 2020 Solar Project (See **Exhibit 4** attached hereto). I should note that had the 2020 Solar Project not been expanded, the area designated for the retention basin under the DMP would be available for the retention basin.
13. In an earlier meeting, Ho'ohana Solar contends that it does not have to abide by the DMP because it is only a lessee and not the owner of Parcel 52. This argument is disingenuous as the DMP encumbers the entire Petition Area (including Parcel 52) and Ho'ohana Solar cannot avoid its requirements simply because it is a lessee and not the owner of the land. If Ho'ohana Solar is allowed to avoid obligations running with the land merely because it is a lessee and not the owner, this will establish a bad precedent by which landowners will be able to avoid similar obligations running with their land simply by leasing rather than developing their land.
14. In Ho'ohana Solar's Motion, Ho'ohana Solar suggested that conditions IV(A)(1) and IV(B)(1) do not apply to Ho'ohana Solar because the 2015 Solar Project was not permitted to move forward and, therefore, the obligation to satisfy the State Agricultural Park off-site infrastructure is required to be addressed by one of the Petition Area landowners. Additionally, Ho'ohana Solar cites to Memorandum of Understanding ("MOU") that had been entered into between RP2 and the Department of Agriculture ("DOA") addressing the obligation to provide off-site infrastructure to the State

Agricultural Park. Ho'ohana Solar is neither a party to nor a beneficiary of the MOU relating to the irrigation water line that RP2 and DOA entered into. The requirement to contribute to the irrigation water line applies to the Petition Area and does not disappear merely because neighboring property owners are willing to accept responsibility for building it. Like the DMP, Ho'ohana Solar cannot avoid the obligation to participate in the installation of the irrigation line merely because it is a lessee of the Petition Area and not the owner. Again, if Ho'ohana Solar is allowed to avoid this obligation merely because it is a lessee and not the owner of the Parcel 52, that will establish a precedent by which other landowners will be able to avoid their land use obligations by leasing rather than developing their land.

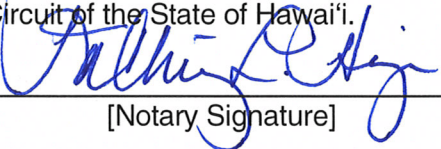
I make this Declaration under Hawai'i Administrative Rules §15-15-39.

Further affiant sayeth naught.

DATED: Honolulu, Hawai'i, October 1, 2020.

  
\_\_\_\_\_  
SHARENE S. TAM

The foregoing document, Declaration of Sharene S. Tam dated this 1st day of October, 2020, which consists of 7 pages (including this page), was executed by Sharene S. Tam who was subscribed and sworn to before me this 1st day of October, 2020 in the First Judicial Circuit of the State of Hawai'i.

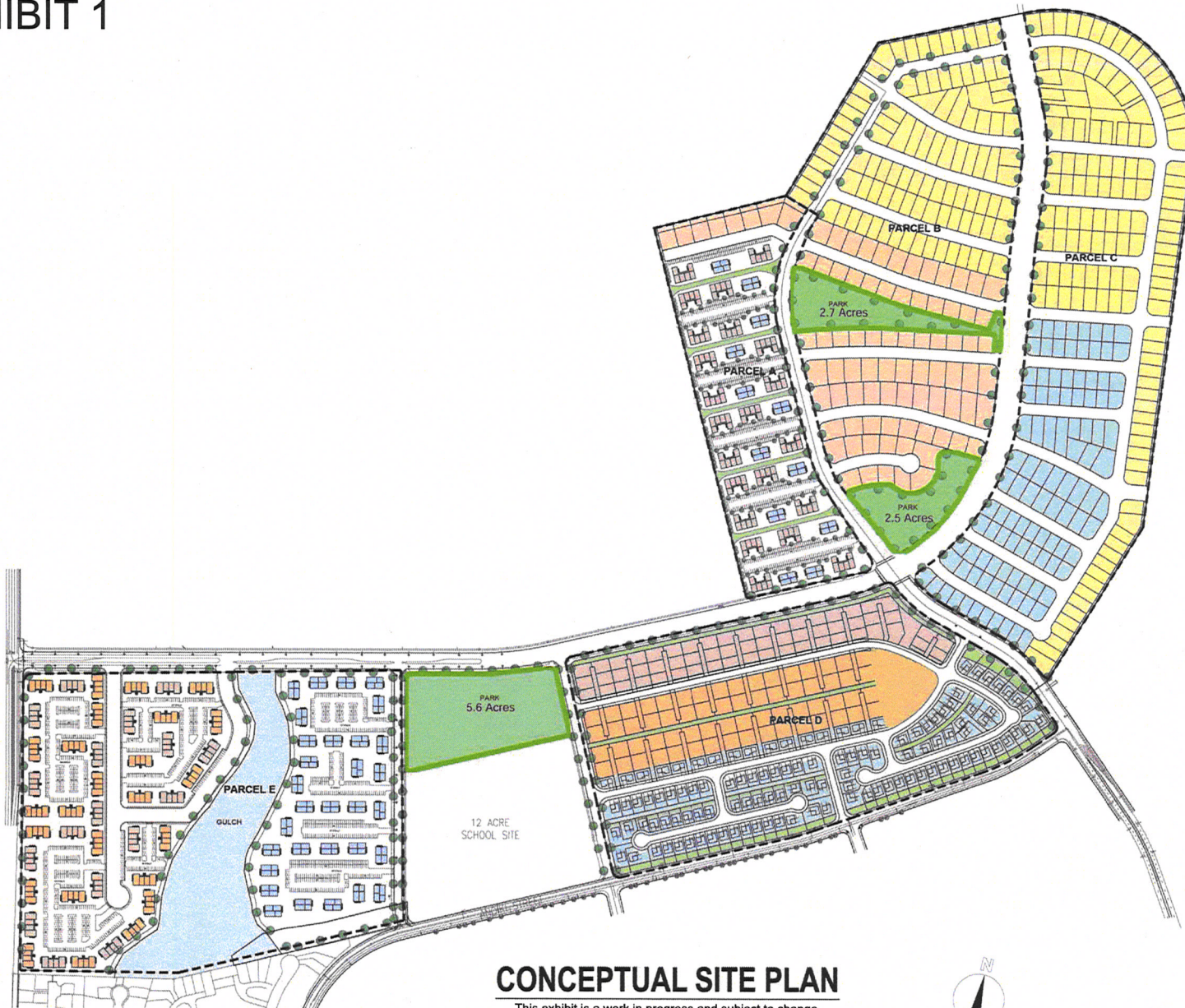
  
\_\_\_\_\_  
[Notary Signature]

Printed Name: KA CHING L. HIGA  
My commission expires: 2-10-2021





# EXHIBIT 1



## CONCEPTUAL SITE PLAN

This exhibit is a work in progress and subject to change  
FOR DISCUSSION PURPOSES ONLY



ROYAL KUNIA PHASE 2  
MAY 26, 2020

 DESIGN PARTNERS  
INCORPORATED

# EXHIBIT 2



CONCEPTUAL  
FOR DISCUSSION  
PURPOSE ONLY

## LANDSCAPE PLANTING OPTIONS

PREPARED BY:  
  
WALTERS  
CONSULTING  
GROUP

HO'OHANA SOLAR PLAN  
SCHEMATIC DESIGN CONCEPTS

# EXHIBIT 30

09.23.2020  
  
0 200' 400'  
SCALE: 1" = 200'-0"



# EXHIBIT 2

## WEST BOUNDARY HEDGE



NATAL PLUM

## HARVEST CROP



OPTION 1 - MAMAKI



OPTION 2 - COFFEE

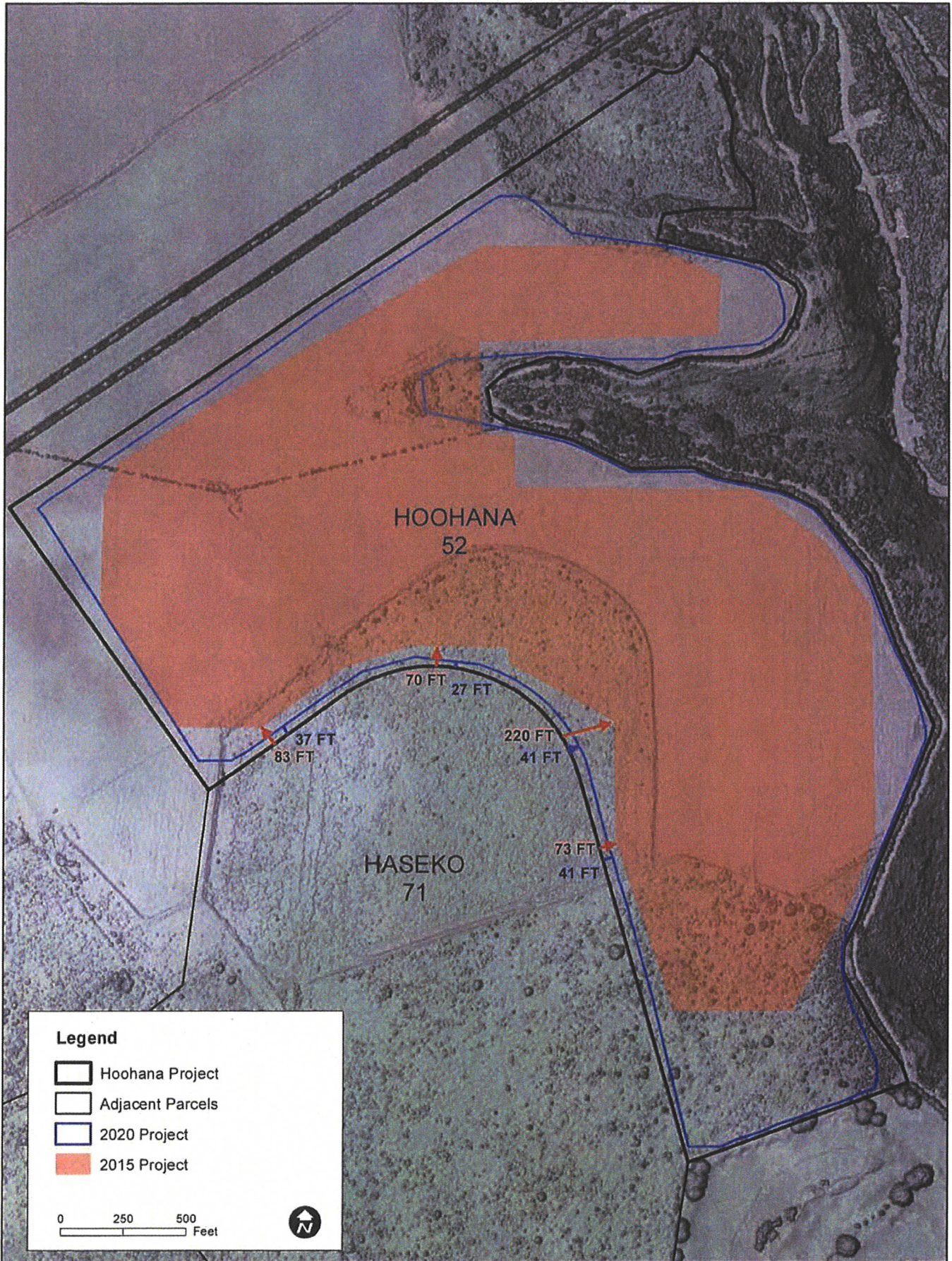
## PLANTING PALETTE







# EXHIBIT 4



# EXHIBIT 28



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A92-683
	)	
HALEKUA DEVELOPMENT	)	
CORPORATION, a Hawai'i corporation	)	
	)	CERTIFICATE OF SERVICE
To Amend the Agricultural Land Use	)	
District Boundary into the Urban Land Use	)	
District for Approximately 503.886 Acres at	)	
Waikele and Ho'ae'ae, 'Ewa, O'ahu, City	)	
and County of Honolulu, State of Hawai'i,	)	
Tax Map Key No. 9-4-02: 1, portion 52, 70	)	
and 71	)	

---

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date a copy of the foregoing document was served upon the following parties via U.S. mail, postage prepaid:

Mary Alice Evans, Director  
State of Hawai'i Office of Planning  
Leiopapa A Kamehameha Building  
235 South Beretania Street, 6<sup>th</sup> Floor  
Honolulu, HI 96813

U.S. MAIL, POSTAGE  
PREPAID

Clare E. Connors, Esq.  
Attorney General  
Dawn T. Apuna, Esq.  
Deputy Attorney General  
Hale Auhau, Third Floor  
425 Queen Street  
Honolulu, HI 96813

U.S. MAIL, POSTAGE  
PREPAID

Attorneys for State of Hawai'i Office of  
Planning

Kathy K. Sokugawa, Acting Director  
Department of Planning and Permitting  
City and County of Honolulu  
Frank F. Fasi Municipal Building  
650 South King Street  
Honolulu, HI 96813

U.S. MAIL, POSTAGE  
PREPAID

Paul S. Aoki, Esq.  
Acting Corporation Counsel  
Duane Pang, Esq.  
Deputy Corporation Counsel  
Department of Corporation Counsel  
530 South King Street, Room 110  
Honolulu, HI 96813

U.S. MAIL, POSTAGE  
PREPAID

Attorneys for Department of Planning and  
Permitting, City and County of Honolulu

Rush Moore LLP  
Attn: Stephen K.C. Mau  
1100 Alakea Street, Suite 600  
Honolulu, HI 96813

U.S. MAIL, POSTAGE  
PREPAID

Attorneys for Robinson Kunia Land LLC

HRT Realty, LLC  
Attn: Giorgio Caldarone  
3660 Waialae Avenue, Suite 400  
Honolulu, HI 96816

U.S. MAIL, POSTAGE  
PREPAID

RKES, LLC  
Patrick K. Kobayashi  
1288 Ala Moana Blvd., Suite 201  
Honolulu, HI 96814

U.S. MAIL, POSTAGE  
PREPAID

Kunia Residential Partners  
Troy T. Fukuhara  
680 Iwilei Road, Suite 510  
Honolulu, HI 96817

U.S. MAIL, POSTAGE  
PREPAID

Hawaiian Electric Company, Inc.  
Susan A. Li  
1001 Bishop Street, Suite 2500  
Honolulu, HI 96813

U.S. MAIL, POSTAGE  
PREPAID

Carlsmith Ball LLP  
Jennifer A. Lim  
Derek B. Simon  
ASB Tower  
1001 Bishop Street, Suite 2100  
Honolulu, HI 96813

U.S. MAIL, POSTAGE  
PREPAID

Attorneys for Successor Petitioner Ho'ohana  
Solar 1, LLC

Jupiter Investors II LLC  
Norm Tatch  
24 Corporate Plaza, Suite 100  
Newport Beach, CA 92660

U.S. MAIL, POSTAGE  
PREPAID

DATED: Honolulu, Hawai'i, October 1, 2020.



---

MICHAEL H. LAU  
LIANNA L. FIGUEROA  
STEVEN K.S. CHUNG

Attorneys for Petitioner  
HASEKO ROYAL KUNIA, LLC