

HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

No. **24-54, CD1**

RESOLUTION

GRANTING A SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW FOR THE CONSTRUCTION OF AN ACCESSORY FARM DWELLING AND AGRICULTURAL STRUCTURES IN MOKULĒ'IA, O'AHU.

WHEREAS, on May 9, 2023, the Department of Planning and Permitting ("DPP") accepted the application (File Number 2023/SMA-36) from Mitch King (the "Applicant") for a Special Management Area ("SMA") Major Permit to allow for the construction of a farm dwelling accessory to agricultural operations and of agricultural structures (a barn and greenhouses), on an approximately 365,904-square-foot shoreline lot zoned AG-2 General Agricultural District, located at 68-407 Farrington Highway in Mokulē'ia, and identified as Tax Map Key 6-8-003:047 (the "Project"); and

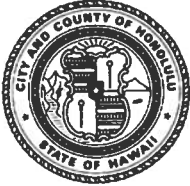
WHEREAS, on July 5, 2023, the DPP held a public hearing at the Frank F. Fasi Municipal Building, which was attended by the Applicant's agent, DPP staff members, and one member of the public; and at which no individuals testified; and

WHEREAS, on February 16, 2024, within 226 calendar days after the close of the public hearing, the DPP, having duly considered all evidence and the objectives, policies, and guidelines, as established in §§ 25-3.1 and 25-4.1, Revised Ordinances of Honolulu 2021 ("ROH"), and §§ 205A-2 and 205A-26, Hawaii Revised Statutes ("HRS"), completed its report and transmitted its findings and recommendation of approval to the City Council ("Council"); and

WHEREAS, the Council, having received the findings and recommendation of the DPP on February 21, 2024, by Departmental Communication 112 (2024), and having duly considered all of the findings and reports on the matter, desires to approve the subject application for an SMA Major Permit, subject to the conditions enumerated below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that an SMA Major Permit be issued to the Applicant for the Project, subject to the following conditions:

- A. Except as modified herein, development must be in general conformity with the Project as described in the DPP's findings and recommendation, referenced above, and as depicted in Exhibits A, B, C-1 through C-6, and D through M attached hereto and incorporated by reference herein. Any change in the size or nature of the Project that may have a significant effect on coastal resources, as addressed in ROH Chapter 25 or HRS Chapter 205A, or both, will require a new



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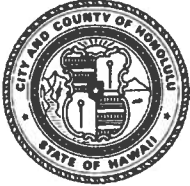
application and SMA Major Permit. Any change that does not have a significant effect on coastal resources may be considered a minor modification and may be permitted under this resolution, upon review and approval by the DPP Director.

- B. To reduce the impacts of coastal hazards on life and property, the farm dwelling must be constructed as depicted in Exhibits C-1 through C-5 on the area of the Project site that is outside of Flood Zone AE and within Flood Zone XS, as shown in Exhibits C-6 and D, and as depicted in the plans included in the Applicant's application for an SMA Major Permit that was accepted by the DPP on May 9, 2023.
- C. To account for the potential shift of land from the State Land Use Agricultural District to the State Land Use Conservation District in response to anticipated coastal erosion, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

"In choosing to implement construction activities at Tax Map Key 6-8-003:047, the landowner hereby acknowledges that land makai of the regulatory shoreline is State public land, falls within the State Land Use Conservation District, and must remain available for public use and recreational activities. The landowner further acknowledges that should any portion of a structure encroach into State public land, the State Board of Land and Natural Resources may require the removal of the structure or a lease for encroachments extending into the State public land. As a result of this acknowledgement, successor owners and interested parties are hereby notified of this same information and the landowner shall hold harmless and indemnify the City for any responsibility that may result from adverse impacts associated with sea level rise and coastal erosion."

This statement must be clearly stated under "Landowner Acknowledgements" on all Project construction permit plans and building permit plans.

- D. Following approval of this SMA Major Permit, neither the current landowner, nor any successor owner or interested party may claim hardship due to erosion, sea level rise, or any other coastal hazard, in order to obtain approval for a Shoreline Setback Variance for a new shoreline protection structure. All Project building permit plans must include the following statement under "Landowner Acknowledgements":



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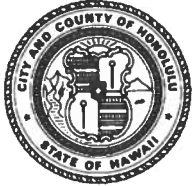
"In choosing to undertake the development at Tax Map Key 6-8-003:047, the landowner hereby acknowledges that no claim of hardship due to erosion, sea level rise, or any other coastal hazard may be asserted in order to obtain approval for a Shoreline Setback Variance for a new shoreline protection structure."

- E. To minimize the potential for adverse impacts related to coastal hazards, including but not limited to sea level rise, coastal erosion, flooding, wave action, and storm surge, prior to the issuance of any construction permit or building permit for the Project, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

"The landowner hereby acknowledges that Tax Map Key 6-8-003:047 is susceptible to coastal hazards, which may result in harm to or loss of life and property."

This statement must be clearly stated under "Landowner Acknowledgements" on all Project construction permit plans and building permit plans.

- F. To preserve underlying beach sands and coastal dunes, all landscaped areas, landscaping, and irrigation must be contained and maintained within the property boundaries of the shoreline lot of origin, and:
1. Landscaping may not be planted, watered, or maintained so that it acts as a shoreline hardening barrier, such as by planting naupaka, particularly if the landscaping alters or interferes with the natural beach processes;
 2. Landscaping may not extend seaward of the shoreline as depicted in the current certified shoreline survey for the shoreline lot, or in the event there is no current certified shoreline survey for the zoning lot, seaward of the shoreline as defined in HRS Chapter 205A;
 3. Landscaping may not extend into any adjoining beach access right-of-way, public or private;
 4. Landscaping between the dwelling and the shoreline must be limited to vegetation that is naturally hardy or endemic to the dune or shoreline area; and



RESOLUTION

5. Any irrigation systems must be designed so that water does not traverse makai of the shoreline into the State Land Use Conservation District, or otherwise facilitate the growth of vegetation makai of the shoreline as defined in HRS Chapter 205A.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

- G. To minimize impacts to endangered, protected, or threatened avian, marine, and terrestrial fauna that may frequent or traverse the vicinity of the Project site, the Applicant is responsible for the following:
1. All new and replacement outdoor light fixtures must not exceed a color temperature of 3,000 degrees kelvin;
 2. Artificial light from exterior light fixtures on the Project site, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, is prohibited if the light directly illuminates, or is directed across property boundaries toward, the shoreline and ocean waters, except as may otherwise be permitted pursuant to HRS § 205A-71(b);
 3. Exterior light fixtures on the Project site must be fully shielded using full cutoff fixtures with the light directed downward so that the light bulb is only visible from below the light fixture;
 4. All Project site work and construction activities are limited to daylight hours (sunrise to sunset);
 5. Barbless fencing should be used for all fence construction to avoid entanglement of Hawaiian hoary bats;
 6. Woody plants greater than 15 feet in height must not be disturbed, removed, or trimmed during the Hawaiian hoary bat birthing and pup rearing season from June 1 through September 15; and
 7. All Project-related activities must cease if a green sea turtle or Hawaiian monk seal is present within 150 feet of the work area, or as recommended by State or federal regulations. Project activities may only recommence



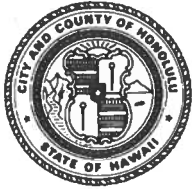
RESOLUTION

after the animal voluntarily leaves the area. If a monk seal pup is present, a 300-foot buffer must be observed. Any Project-related debris that may pose an entanglement threat to turtles or monk seals must be removed from the work area at the end of each day and at the conclusion of Project-related activities.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

- H. In order to minimize impacts to archaeological or cultural resources that may be present at the Project site, the Applicant shall comply with the following:
1. Prior to the issuance of any construction permits or building permits for the Project, the Applicant shall submit to the DPP:
 - a. A copy of an archaeological inventory survey ("AIS") with subsurface testing conducted by a qualified archaeologist and that has been reviewed and approved by the State Historic Preservation Division ("SHPD"). The AIS must identify and document any archaeological, historic, and cultural resources on the Project site, assess their significance, and determine the potential impacts of the Project on the historic and cultural resources. The Applicant shall implement the mitigation protocols identified in the AIS that are approved or otherwise required by SHPD for all historic and cultural resources (including iwi) discovered on the Project site; or
 - b. A written determination from SHPD stating that an AIS is not required for the Project; and
 2. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts; shell, bone, or charcoal deposits; human burials; rock or coral alignments; pavings; or walls) are encountered, the Applicant shall stop work and contact SHPD immediately. Work in the immediate area must be stopped until SHPD has assessed the impact and has made further recommendations for mitigative activity.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

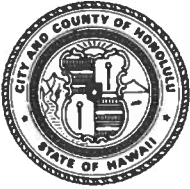


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- I. **The Applicant shall obtain a construction permit or building permit for the Project within 24 months after the effective date of this SMA Major Permit.** Failure to obtain a construction permit or building permit within this period will render this SMA Major Permit null and void; provided that this period may be extended as follows:
1. The DPP Director may extend this period if the Applicant demonstrates good cause; provided that the DPP Director may not extend the period beyond one year from the initial deadline set by the Council.
 2. If the Applicant demonstrates good cause for an extension exceeding one year, the DPP Director shall prepare and submit to the Council a report on the proposed extension that includes the DPP Director's findings and recommendations thereon. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution.
 3. If the Council fails to take final action on the proposed extension within the first to occur of:
 - a. Sixty days after receipt of the DPP Director's report on the proposed extension; or
 - b. The Applicant's then-existing deadline for obtaining a construction permit or building permit;the extension will be deemed to be denied.
- J. Approval of this SMA Major Permit does not constitute compliance with other City ordinances, including but not limited to the Land Use Ordinance ("LUO") and building and construction codes, or other governmental requirements, including but not limited to LUO-related approvals; building, grading, and grubbing permit approvals; and compliance with State Department of Health design standards and regulations for the Project's onsite individual wastewater treatment system, which are subject to separate review and approval. The Applicant is responsible for ensuring that the final plans for the Project approved under this SMA Major Permit comply with all applicable City ordinances and other governmental provisions and requirements; and



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BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that copies of this Resolution be transmitted to Mark Howland, WHALE Environmental Services, LLC, P.O. Box 455 Kahuku, Hawai'i 96731; Dawn Takeuchi Apuna, Director of the DPP, 650 South King Street, 7th Floor, Honolulu, Hawai'i 96813; and Mary Alice Evans, Director of the State Office of Planning and Sustainable Development, Attention: Coastal Zone Management Branch, P.O. Box 2359, Honolulu, Hawai'i 96804.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

February 28, 2024

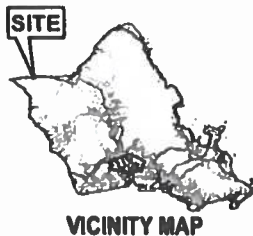
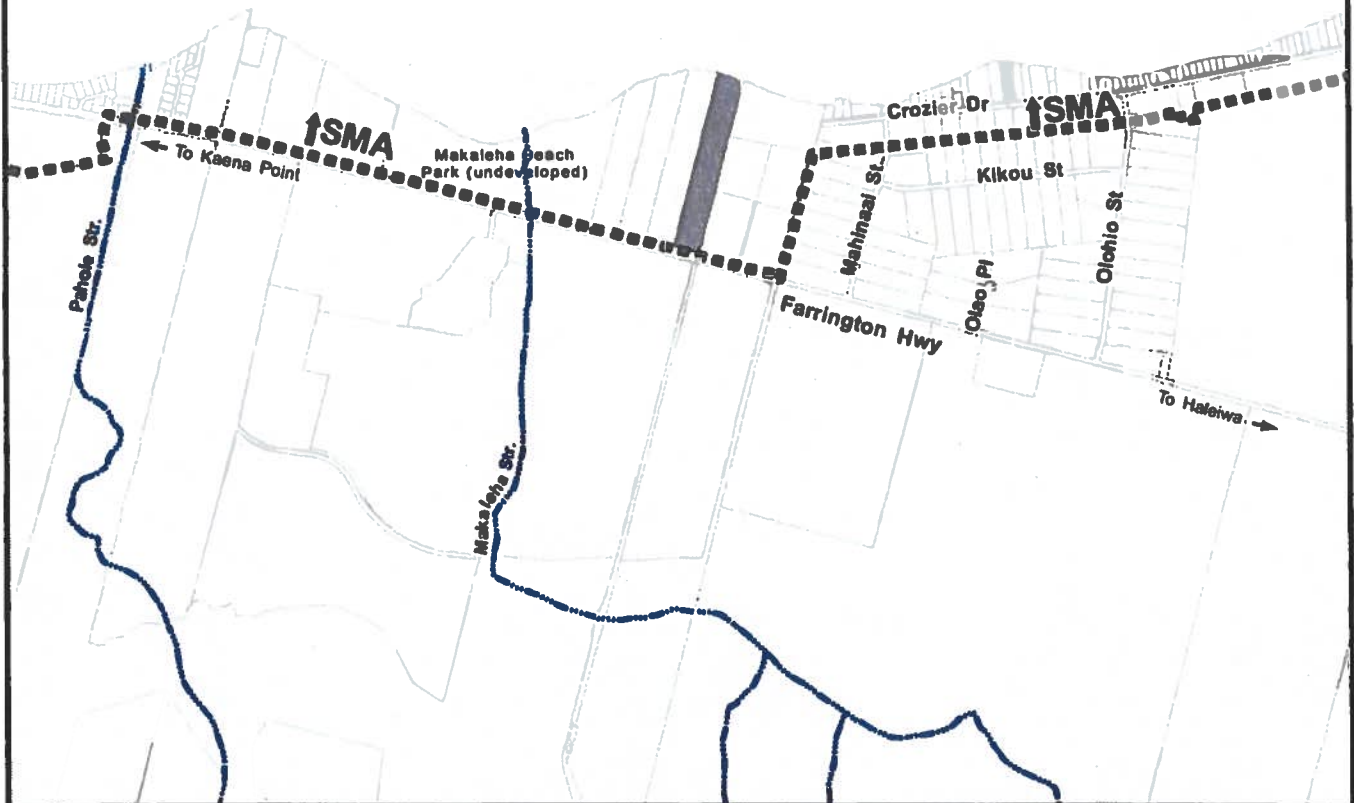
Honolulu, Hawai'i

Councilmembers

LEGEND

-  Site
-  Within the Special Management Area
-  Parcel
-  Stream

Pacific Ocean



VICINITY MAP

0 750 1,500 3,000
Distance in feet



LOCATION MAP WITH SMA WAIALUA

EXHIBIT A

TAX MAP KEY: 6-8-003:047
FOLDER NO.: 2023/SMA-36

LEGEND



Site

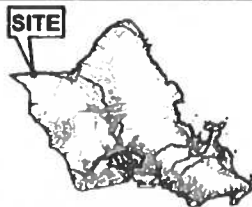
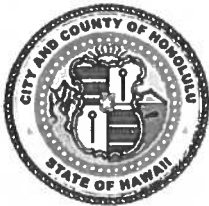
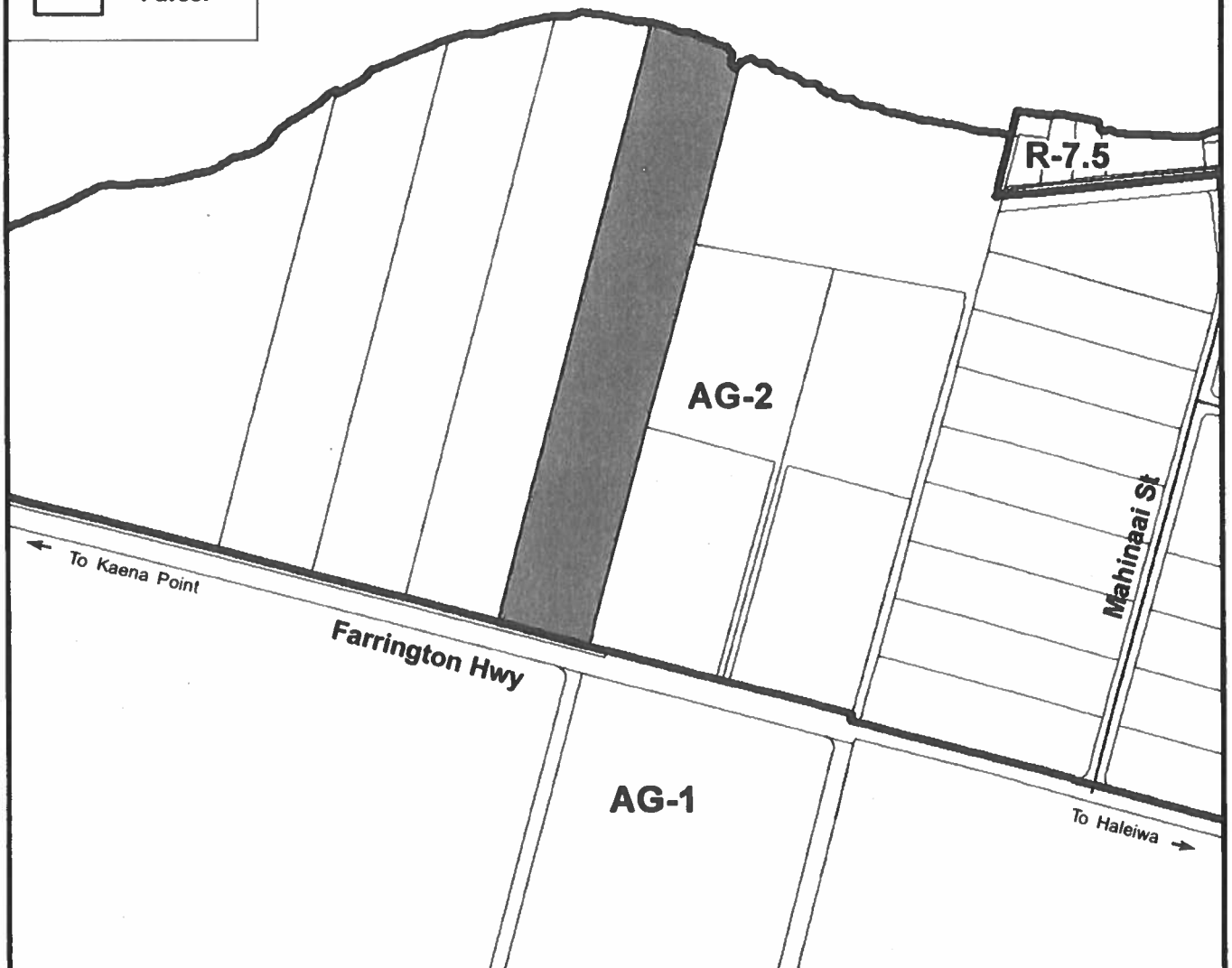


**Zoning
Boundary
Line**



Parcel

Pacific Ocean



VICINITY MAP

0 200 400 800

Scale in feet

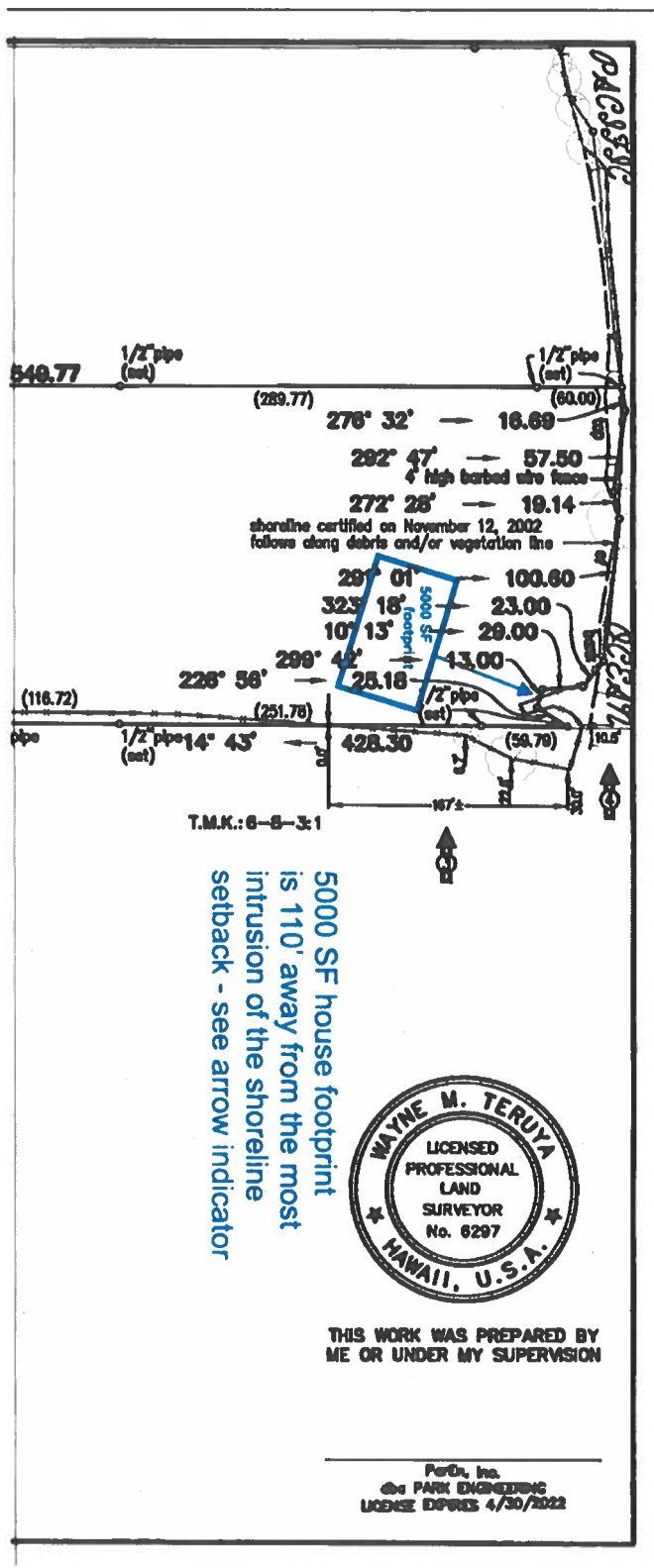


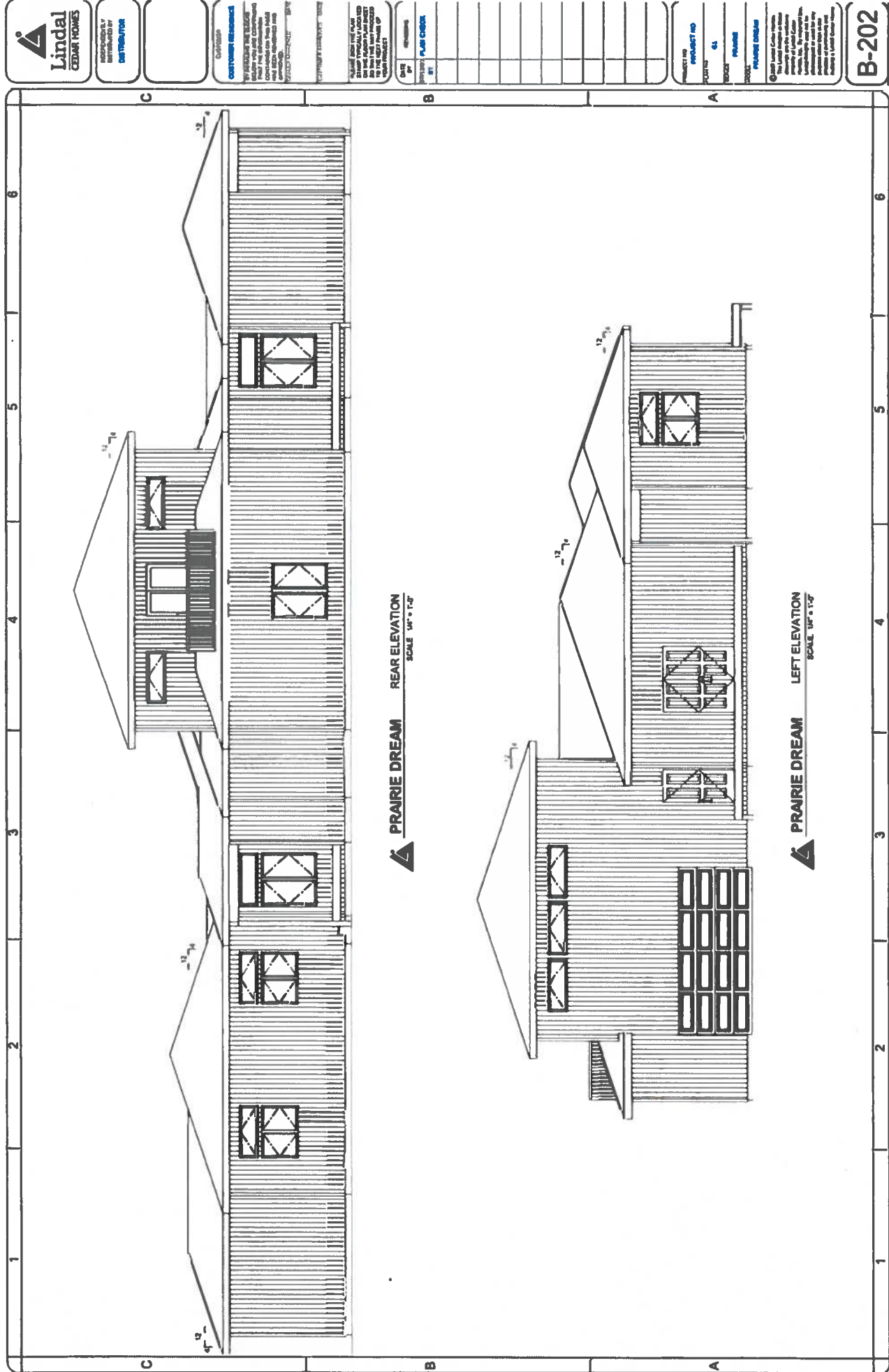
**PORTION OF
EXISTING ZONING MAP
MOKULEIA - WAIALUA - HALEIWA**

EXHIBIT B

TAX MAP KEY: 6-8-003:047

FOLDER NO.: 2023/SMA-36





DESIGNED BY
DISTRIBUTED BY
CONTRACTOR

CONTRACT NO.
PROJECT NO.
DATE

CONTRACTOR'S NAME
ADDRESS
CITY
STATE
ZIP

FOR THE ARCHITECT'S USE ONLY
DATE
BY
PROJECT NO.

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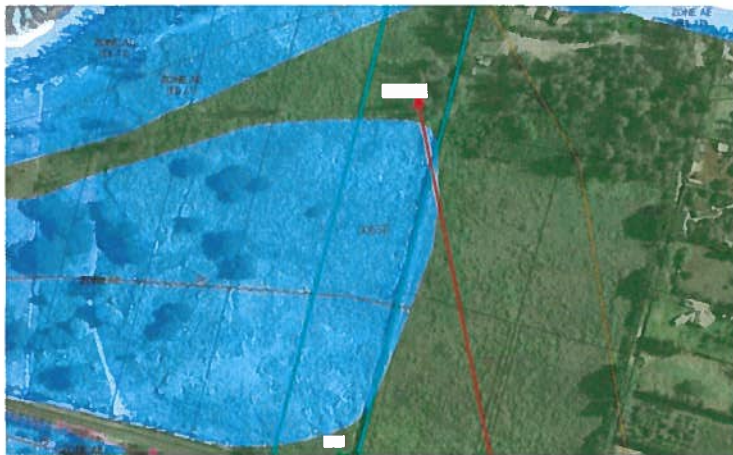
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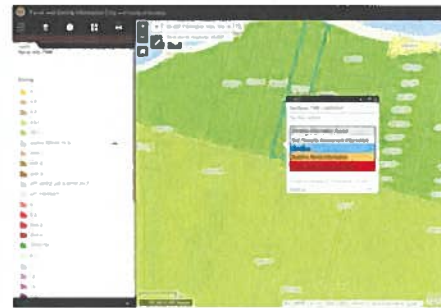
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Flood Zone Map

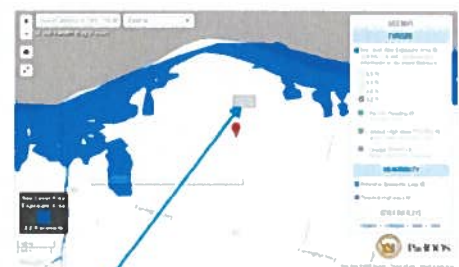
Siting Parameters



Zoning Map



Land Use Suitability Map



Sea Rise Climate Change Map

We take avail of DPP and State of Hawaii GIS Mapping Services to obtain the flood maps, zoning maps, land use suitability map, and potential sea rise map. As all agricultural operations that are successful require 24/7 security and a processing center, the positioning of structures rely on three factors:

1. placement in the least flood prone area
2. reserve most desired land use suitability area for planting
3. comply with zoning and sea rise regulations

As such, for the King Property, the residential farm dwelling will be placed over 100' from the defined shoreline and outside the sea rise zone. The position of the farm dwelling and the operational center will stay outside the Flood AE zones and position them in less potential flooding zones that do not require flood insurance. And then planting zones are positioned in the areas where land use suitability offers the greatest potential for plant growth.

Figure 19 – Land suitability Graphic - Site Location Parameters.

LEGEND

Site



Flood depth (ft.)



Flood Contour (ft.)



Parcel

0085F
9/30/2004

FIRM Panel

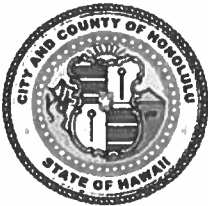
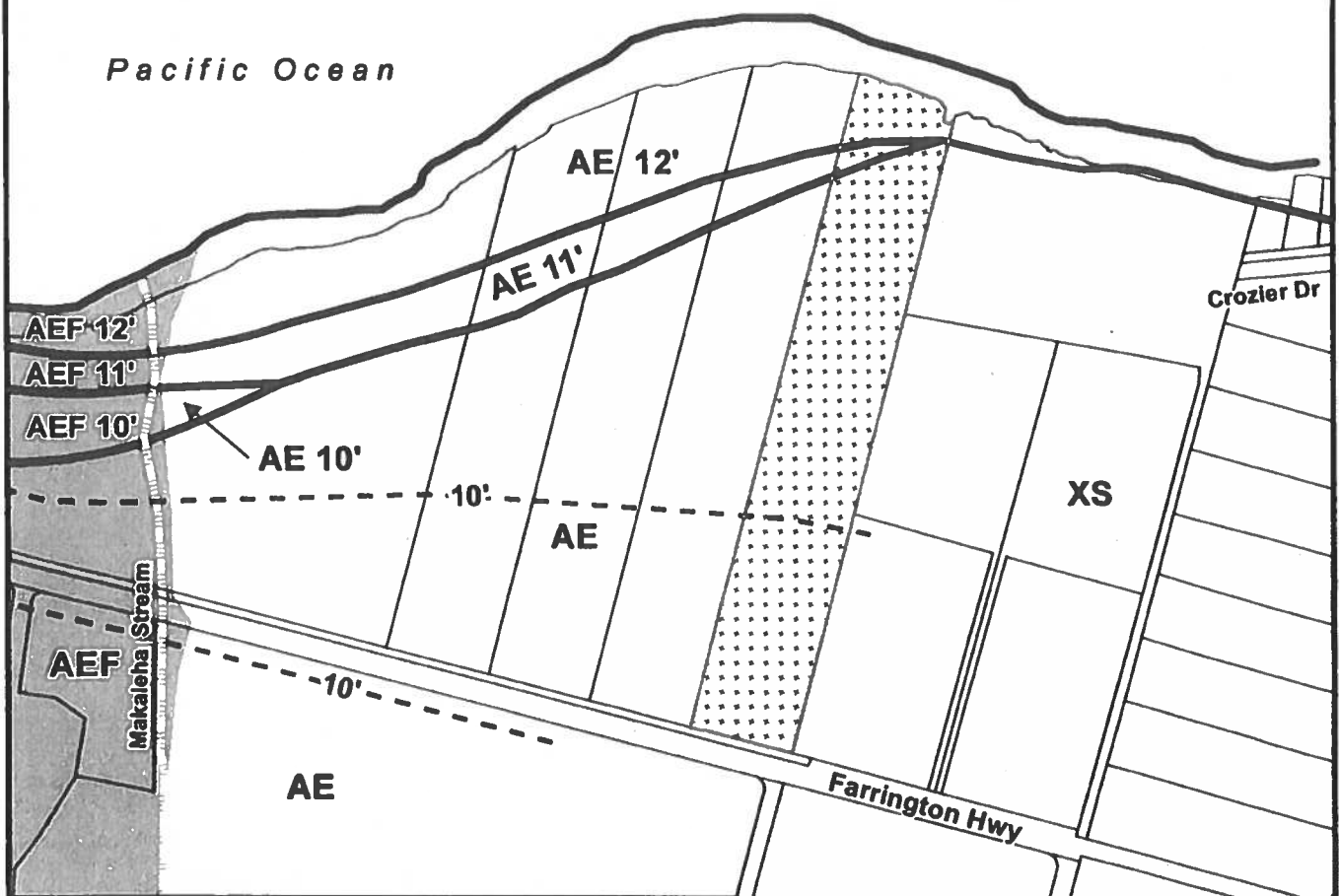
Special Flood Hazard Area, 1% Annual
Chance Flood (100-yr. flood), Mandatory Flood
Insurance Purchase

AE = Base Flood Elevation (BFE) Determined

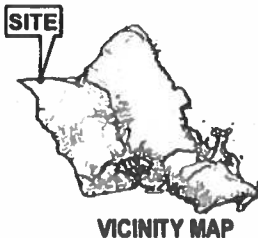
AEF = Floodway areas in zone AE. The floodway is
the channel of stream plus any adjacent floodplain
areas that must be kept free of encroachment so
that the 1% annual chance flood can be carried
without increasing the BFE.

Non-Special Flood Hazard Area, Low-To-Moderate
Risk, No Mandatory Insurance Purchase.

XS = Areas of 0.2% annual chance flood; areas
of 1% annual chance flood with average depths
of less than 1 foot or with drainage areas less
than 1 square mile; and areas protected by
levees from 1% annual chance flood.

0085F
9/30/2004

0 150 300 600
Scale in feet



VICINITY MAP



**PORTION OF
FLOOD HAZARD MAP
WAIALUA**

EXHIBIT D

TAX MAP KEY: 6-8-003:047

FOLDER NO.: 2023/SMA-36

FIRM PANEL: 15003C0085F (9/30/2004)

SURVEY OFFICE COPY

LOT 3

194° 34' 00" 1549.77'

(1540.90')



1" = 40'
GRAPHIC SCALE
0 20 40

C O U R T

LOT 4

Gross Area=8.409 Acres
Less Erosion Area = 1.345 S.F / 0.03088 Acre
Net Area=8.378 Acres

The shoreline as delineated in red is
hereby certified as the shoreline as of

DEC 14 2023

Chairperson, Board of Land and Natural Resources

PR

Property Owner: Mitch King
Property Address:
68-407 Farrington Hwy
Waialua, HI 96791

14° 43' 00" 428.30'
TMK 1-6-8-003-001
Portion of Grants 273 & 340

SHORELINE MAP

LOT 4

LAND COURT CONSOLIDATION 212, MAP 1
AT MOKULEIA, WAIALUA, OAHU, HAWAII

WAILANA SURVEYING & GEOMATICS LLC

MAP DATED: November 1, 2023

TMK(1) 6-8-003-047

Photo letter and direction (typ.)

2 280° 12' 23" (8.87')
20.72'

294° 43' 06" 10.22'
320° 06' 17" 6.42'
275° 54' 02" 17.73'

292° 47' 00" 57.50'

290° 51' 21" 15.55'

277° 33' 51" 20.86'

286° 03' 12" 16.76'

288° 33' 42" 28.78'

Shoreline follows along top of
bank/erosion scarp as
surveyed June 03, 2023

291° 28' 54" 44.24'

284° 23' 19" 17.91'

323° 18' 00" 23.00'

10° 13' 00" 29.00'

Shoreline follows along
debris and / or vegetation
line as certified 11/12/2002

299° 42' 00" 13.00'

226° 56' 00" 25.18' (10.97')

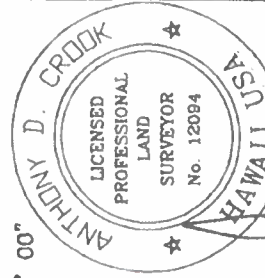
Shoreline follows
along debris and /
or vegetation line as
certified 11/12/2002.

272° 28' 00" 19.14'

Erosion Area=1.345 S.F

OCEAN

EXHIBITE



THIS MAP WAS PREPARED BY ME OR
UNDER MY SUPERVISION.
DATE OF FIELD WORK: APRIL 30, 2024

ANTHONY D. CROOK
LICENSED PROFESSIONAL LAND SURVEYOR
CERTIFICATE No. 12084



EXHIBIT F - WETLAND MAP

Scale in Feet
0 115 230 460

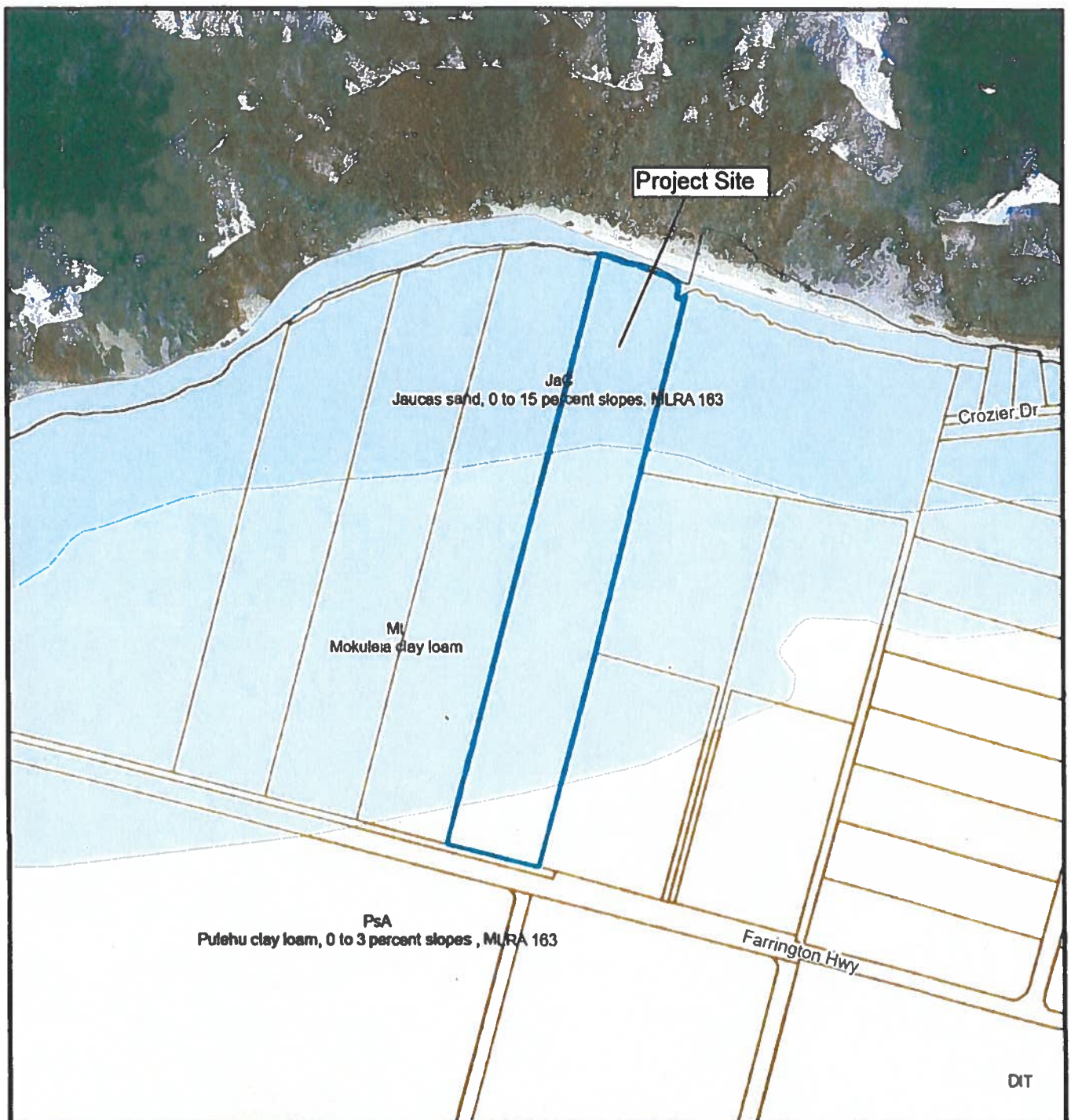


Note: Data represented on this map is not intended to replace site survey.

Prepared by:

Date Prepared

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0 175 350 700
Scale in Feet



EXHIBIT G - NRCS SOILS MAP

TAX MAP KEY(S): 6-8-003: 047
FOLDER NO.: 2023/SMA-36

Prepared by:

Date Prepared:

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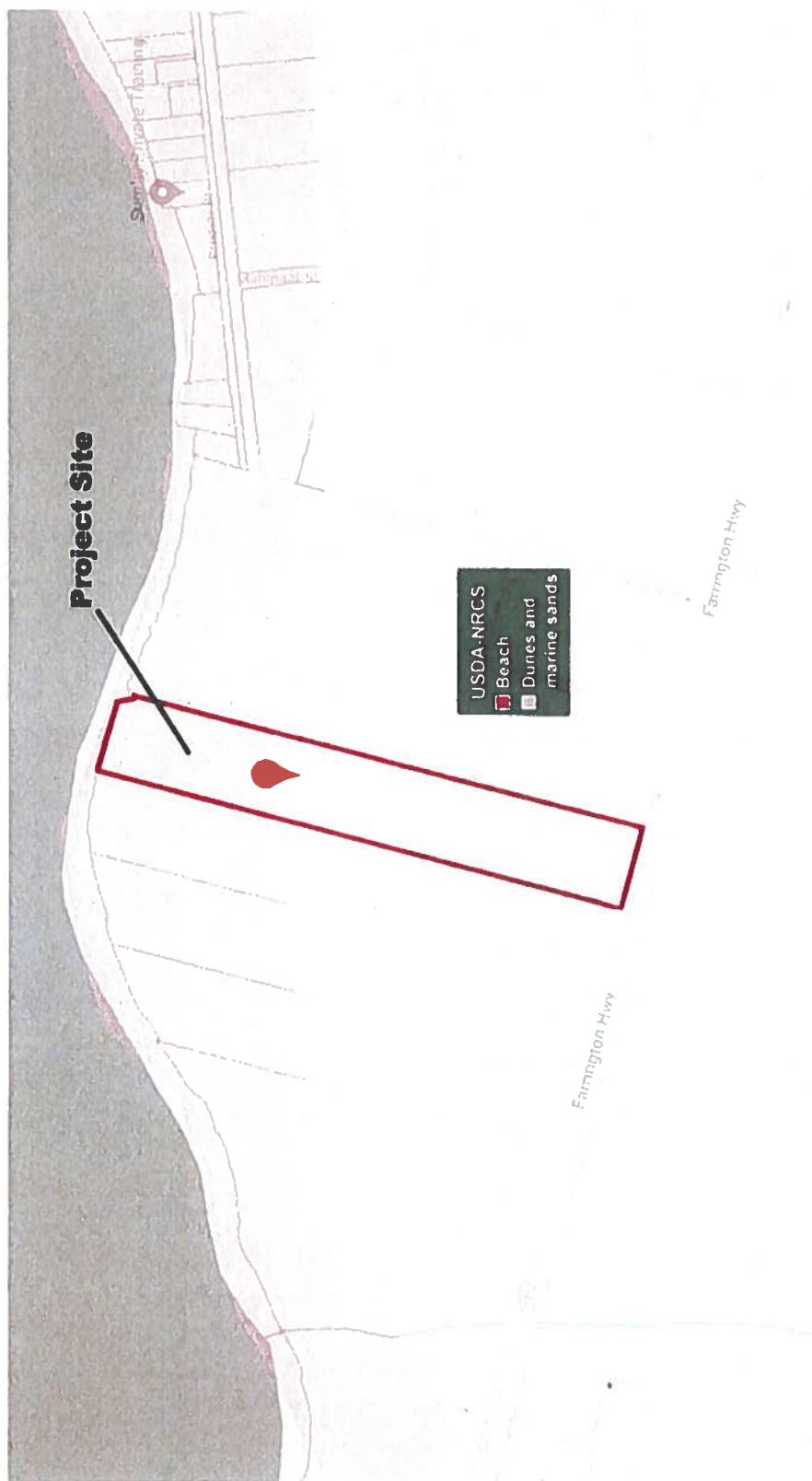


EXHIBIT H - DUNES AND MARINE SANDS

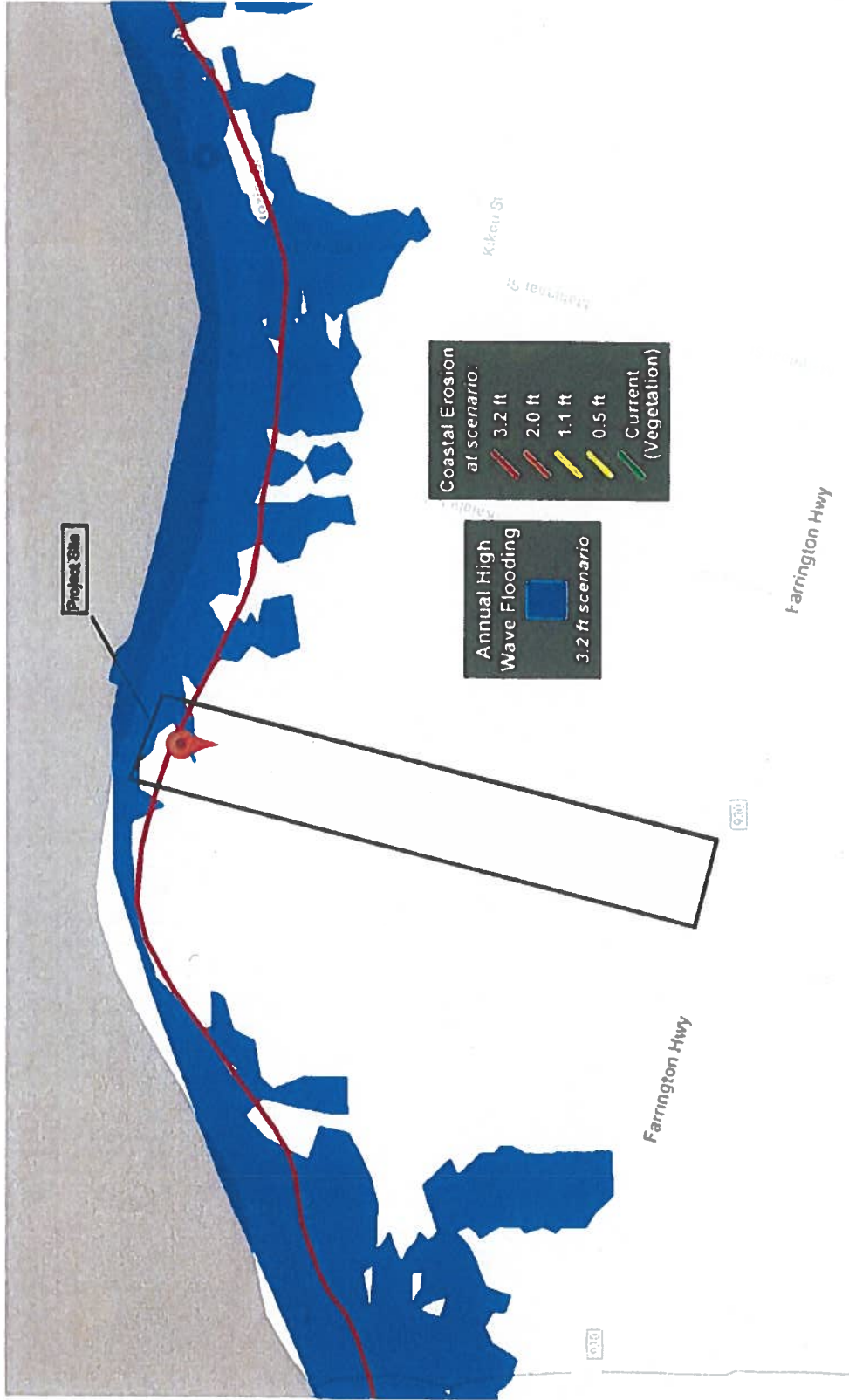
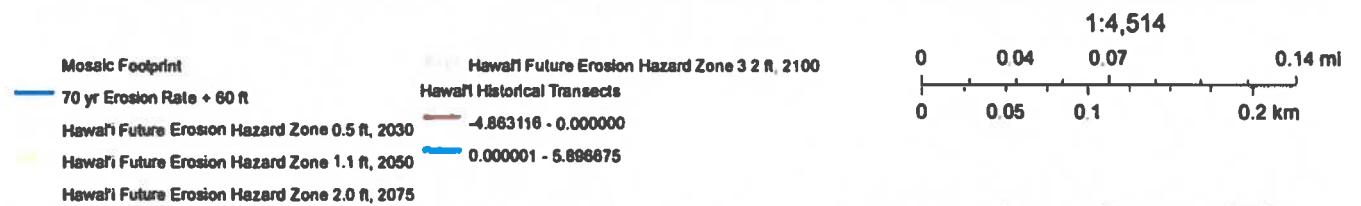
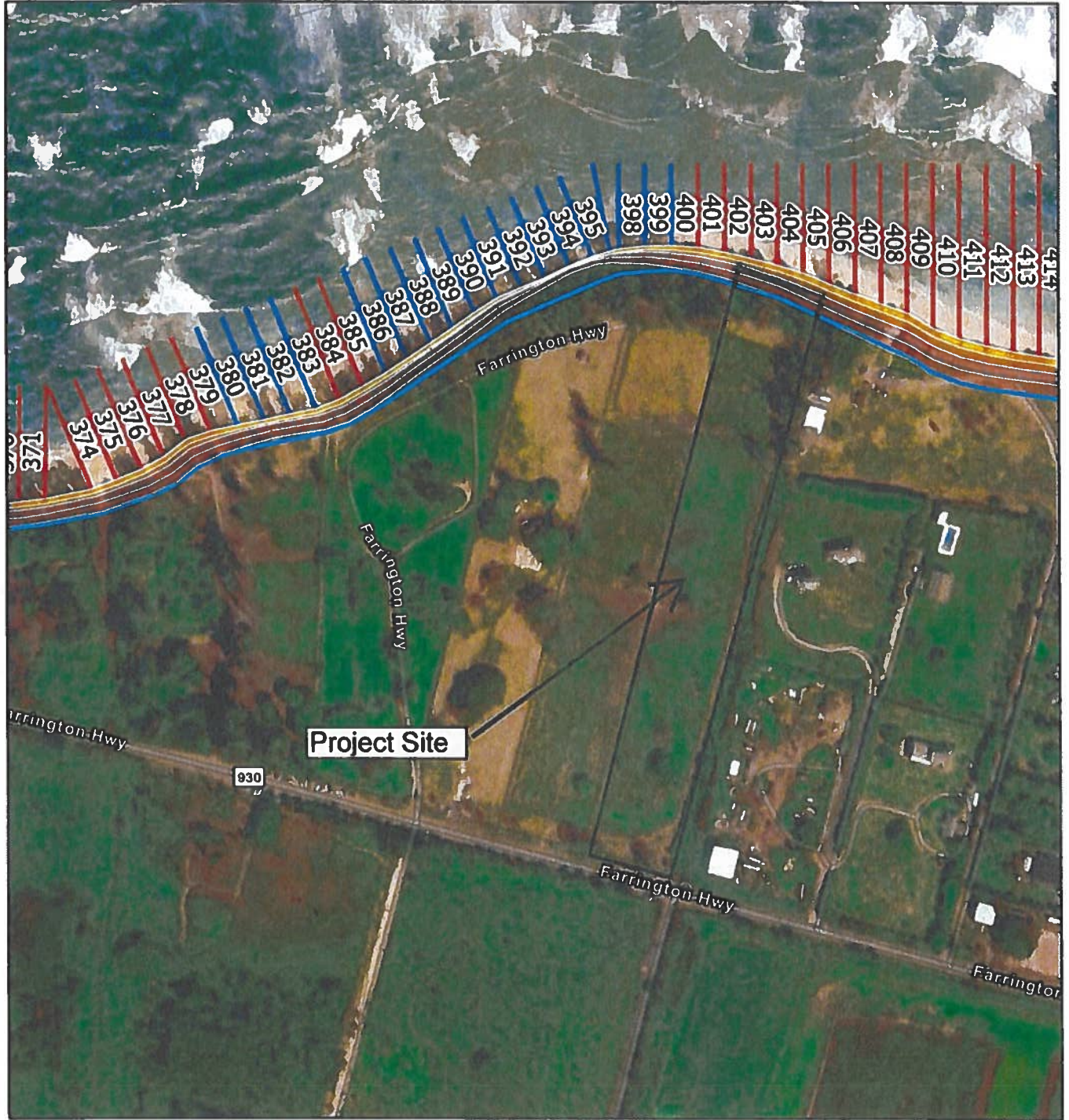


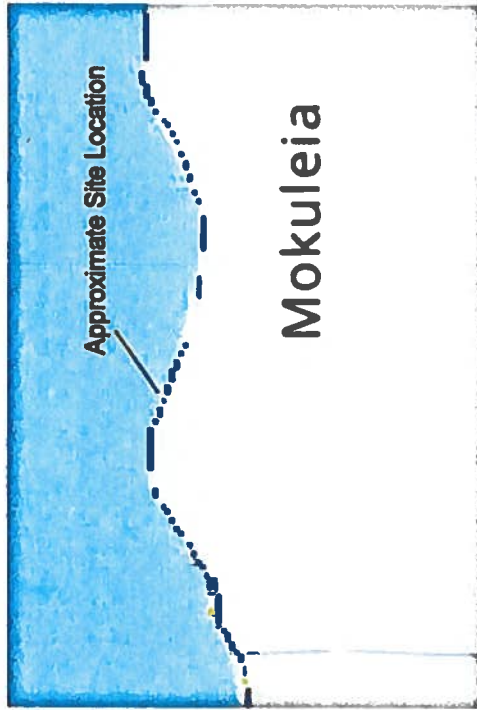
**EXHIBIT I - 3.2-FOOT SEA LEVEL RISE EXPOSURE AREA WITH COASTAL
EROSION PROJECTIONS**

Shoreline Change Rate

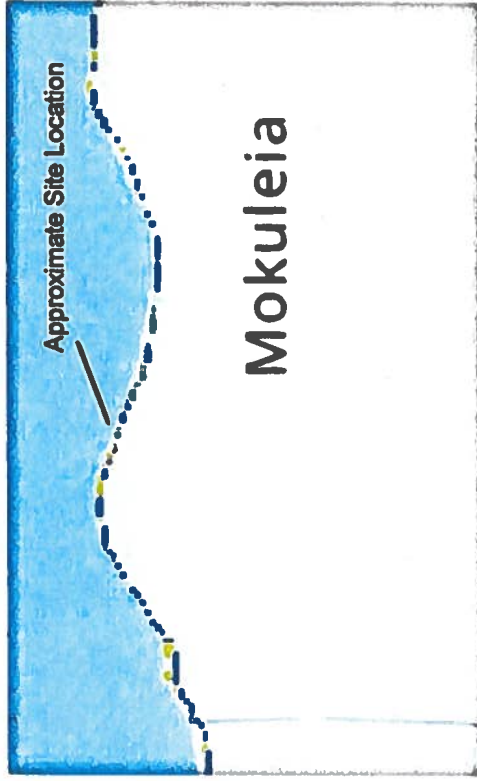


Resource Mapping Hawaii, Maxar, Esri Community Maps Contributors, City and County of Honolulu, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, METINASA, USGS, EPA, US Census Bureau, USDA, USFWS

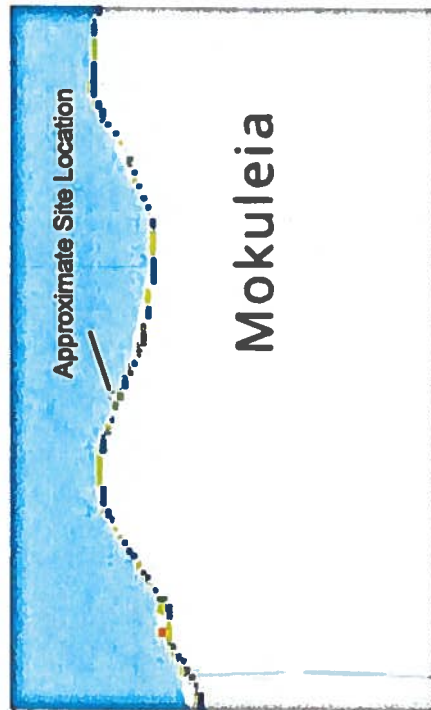
EXHIBIT J



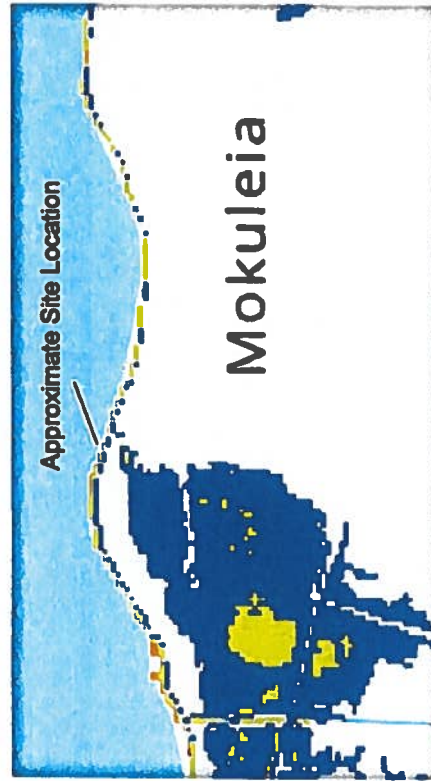
Category 1 Hurricane



Category 2 Hurricane



Category 3 Hurricane



Category 4 Hurricane

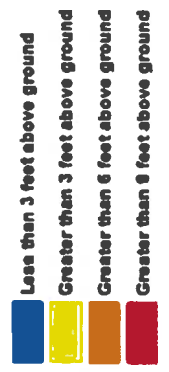
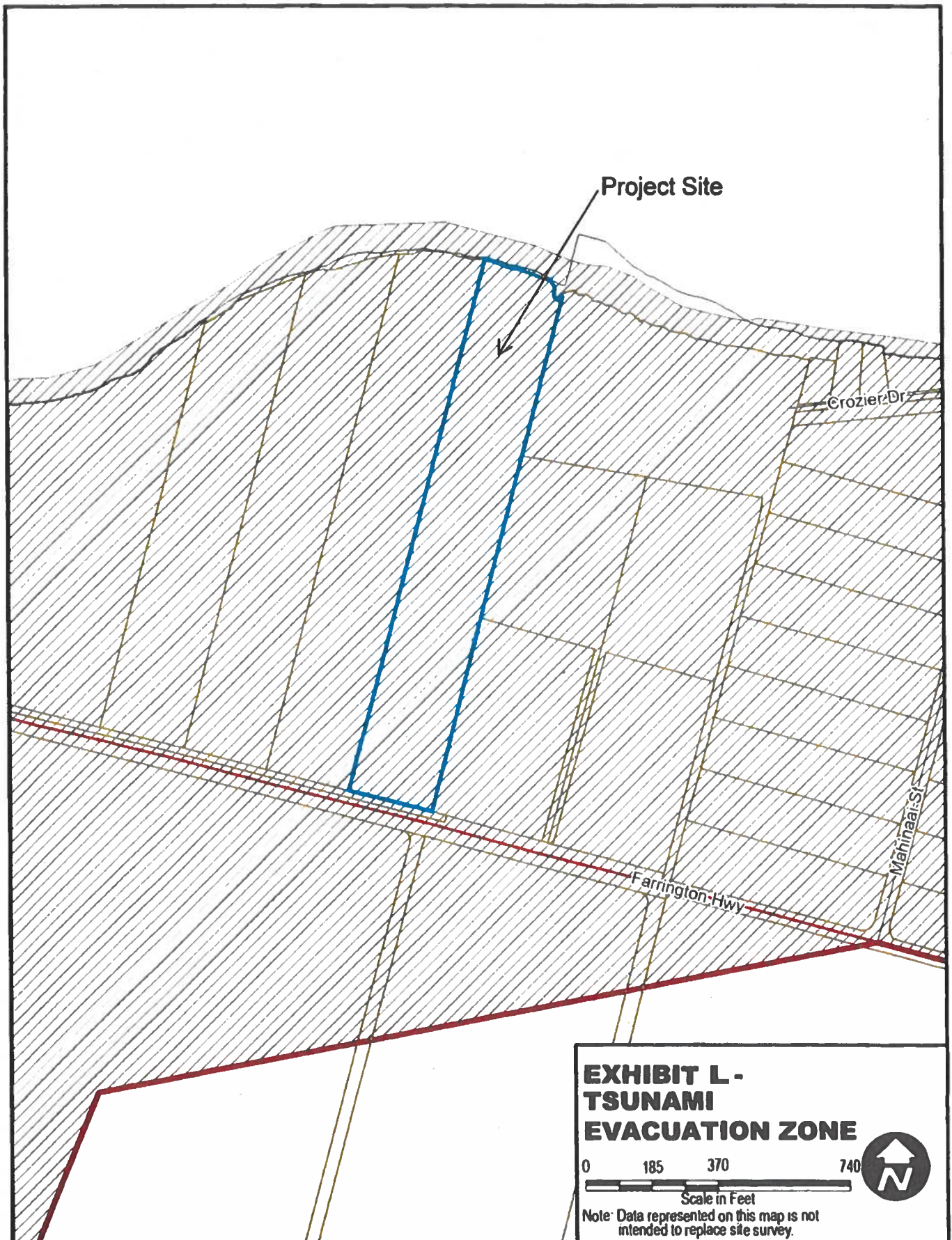


EXHIBIT K - NATIONAL HURRICANE CENTER - STORM SURGE



Prepared by

Date Prepared

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EXHIBIT M - 500-FOOT CUMULATIVE RADIUS MAP

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 24-54, CD1

Introduced: 02/28/24 By: TOMMY WATERS - BY REQUEST Committee: ZONING (ZON)

Title: GRANTING A SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW FOR THE CONSTRUCTION OF AN ACCESSORY FARM DWELLING AND AGRICULTURAL STRUCTURES IN MOKULĒ'IA, O'AHU.

Voting Legend: * = Aye w/Reservations

02/28/24	INTRO	Introduced.
04/03/24	ZON	Reported out for adoption as amended in CD1 form. CR-113
		5 AYES: CORDERO, DOS SANTOS-TAM, KIA'ĀINA, SAY, WEYER
04/17/24	CCL	Committee report and Resolution as amended were adopted. 8 AYES: CORDERO, DOS SANTOS-TAM, KIA'ĀINA, OKIMOTO, SAY, TULBA, WATERS, WEYER 1 ABSENT: TUPOLA

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


GLEN I. TAKAHASHI, CITY CLERK


TOMMY WATERS, CHAIR AND PRESIDING OFFICER