

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 8, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

04od-080

OAHU

Amend Prior Board Action of July 30, 2004, Item D-10; Request for Construction Right-of-Entry and Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Bus Bay Purposes; Diamond Head, Honolulu, Oahu; TMK (1) 3-1-042:portion of 010

BACKGROUND:

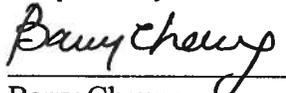
On July 30, 2004, under agenda item D-10, the Board authorized, as amended, the issuance of a perpetual non-exclusive easement to the City and County of Honolulu for bus bay and shelter purpose at the subject location. A copy of the approved submittal is attached as Exhibit A.

Upon review by the Department of the Attorney General, it was noted that portion of the easement area (Easement 1) also falls on the parcel 6. A copy of the survey map is attached as Exhibit B. Staff recommends the Board amend its prior action of July 30, 2004, item D-10 by adding parcel 6 to the approval.

RECOMMENDATION: That the Board:

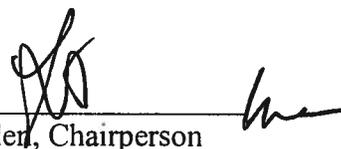
1. Amend its prior Board action of July 30, 2004, Item D-10 by adding tax map key (1) 3-1-042:006 to the approval.
2. All terms and conditions listed in its July 30, 2004 approval to remain the same.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 30, 2004

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:04OD-080

Oahu

Request for Construction Right-of-Entry and Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Bus Bay Purposes, Diamond Head, Honolulu, Oahu, Tax Map Key: (1)6-1-042:Portion 10.

APPLICANT:

City and County of Honolulu, Department of Transportation Services, whose business and mailing address is 650 South King Street, 3rd Floor. Honolulu, Hawaii 96813.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Diamond Head, Honolulu, Oahu, Tax Map Key: (1) 6-1-042:Portion 10, as shown on the attached map labeled Exhibit A.

AREA:

1,429 square feet, more or less.

ZONING:

State Land Use District: Conservation, Urban
County of Honolulu CZO: Preservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 3642 as an Addition

as amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON *July 30, 2004*

ITEM D-10
EXHIBIT "A"

to Diamond Head State Monument.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Comprehensive Exemption List for the City and County of Honolulu Department of Transportation Services", approved by the Environmental Council and dated April 17, 1985, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 2, Item No. 1, that states "Modernization of an existing highway by resurfacing, widening less than a single lane width, adding shoulders, adding auxiliary lanes for localized purposes (weaving, climbing, speed changes, turning lanes or turning pockets) and correcting substandard curves and intersections.

And, Exemption Class No. 3, Item No. 1 states "Construction of bus shelter, bus information booths, telephone booths, sidewalks and covered walkways."

A review of the proposed bus bay by the Office of Conservation and Coastal Lands determined that the work does not require a Conservation District Use Permit because it is relatively minor in nature, and covered by HAR Section 13-5-22(P-10)(A-1). (See Exhibit B).

DCCA VERIFICATION:

Not applicable.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 2) Process and obtain subdivision at Applicant's own cost;

REMARKS:

The subject land is encumbered by Governor's Executive Order No. 3642 as an Addition to the Diamond Head State Monument and under the management and control of the Division of State Parks.

The City and County of Honolulu is requesting an immediate construction right-of-entry and easement to construct a bus bay at the existing bus stop shelter site across the street from Kapiolani Community College (KCC) on Diamond Head Road. The proposed bus bay improvements will extend further into State land than the existing portable shelter, which is set back from the sidewalk within the State's boundary. Staff was unable to locate any files authorizing the encroachment. The applicant states that the portable bus shelter occupies a set back area originally used to accommodate an old water meter box no longer in use. The portable bus shelter can be easily relocated by using a forklift.

The proposed bus bay will serve to alleviate a traffic backup problem caused by our City's buses by allowing them to pull off completely from the single lane roadway and allow other vehicles to pass. The bus bay will provide amenities for students and visitors to KCC, including a widened sidewalk, ADA compliant wheelchair curb ramp, large area for waiting bus riders and a refurbished bus shelter.

The Office of Conservation and Coastal Lands has determined that the applicant does not need to apply for a Conservation District Use Permit because the proposed work is relatively minor in nature. The proposed bus bay is also exempt from an Environmental Assessment in accordance with the "City and County's Comprehensive Exemption List."

Staff solicited comments from the Division of State Parks and received a reply of "no objection". The Department of Defense provides that the proposed work does not involve parcel 6, which was set aside to them by Governor's Executive Order No. 1997, for Diamond Head Reservation purposes.

Staff has no objection to granting a construction right-of-entry and perpetual easement to the City for the proposed bus bay site.

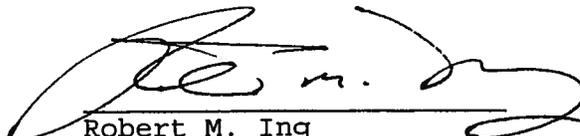
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, Chapter 11-200, HAR, and the Comprehensive Exemption List for the City and County of Honolulu Department of Transportation Services", Exemption Class Nos. 2 and 3, this project will probably have minimal or no significant effect

on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, grant a Perpetual, Non-Exclusive Easement to the City and County of Honolulu, covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize an immediate Construction Right-of-Entry, expiring one (1) year from the date of issuance, and subject to the standard terms and conditions of the most current construction right-of-entry form, as may be amended from time to time.

Respectfully Submitted,


Robert M. Ing
Land Agent

RM

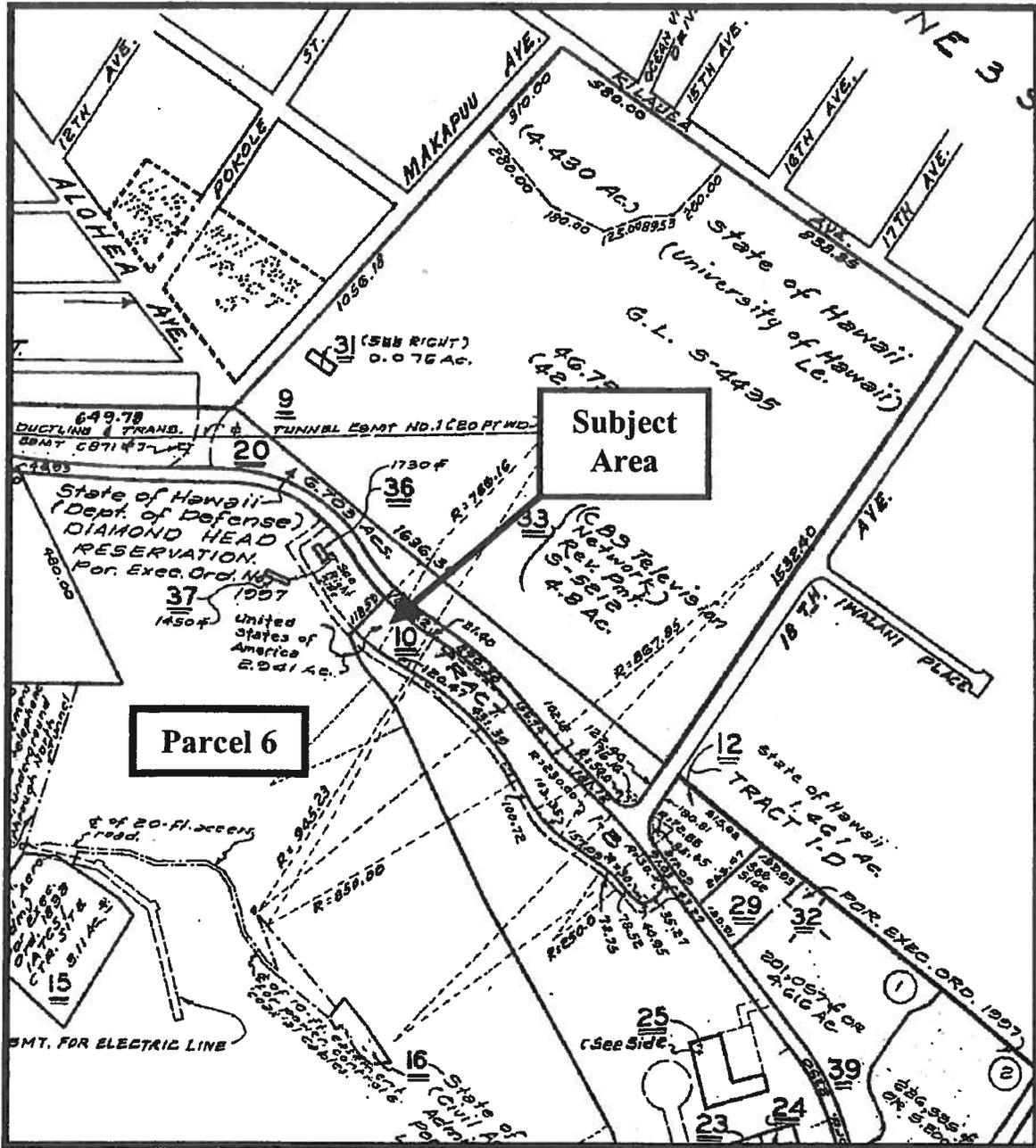
APPROVED FOR SUBMITTAL:

For 
Peter T. Young, Chairperson

Approved as amended. The Board amended:

- 1) The Title of the submittal and the Location Section by changing the Tax Map Key from (1) 6-1-042:portion 10 to (1) 3-1-042:portion 10; and
- 2) The Character of Use Section to read as follows:

"Right, privilege and authority to construct, use, maintain and repair a [~~right-of-entry~~] bus bay and shelter over and across State-owned land."



Proposed Bus Bay Site
 (1) 3-1-042:Portion 10

EXHIBIT A

LINDA LINGLE
GOVERNOR OF HAWAII

RECEIVED
LAND DIVISION



PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON
DEPUTY DIRECTOR - LAND

YVONNE Y. IZU
DEPUTY DIRECTOR - WATER



2004 JUL -6 A 10:33

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

File No.: OA-180

JUL -2 2004

Morris Watanabe
Public Transit Division
Department of Transportation Services
City and County of Honolulu
711 Kapiolani Boulevard, Suite 1200
Honolulu, Hawaii 96813

Dear Mr. Watanabe:

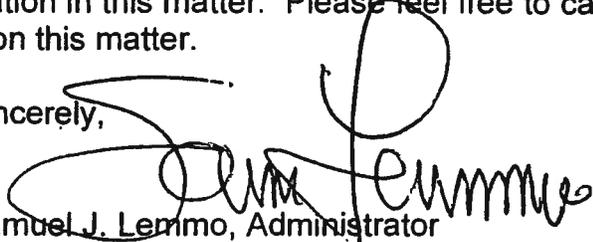
Subject: Construction of Bus Bay Along Diamond Head Road

Thank you for your June 28, 2004 letter regarding your plans to demolish and reconstruct a bus stop along Diamond Head Road on DLNR, State Parks Lands. We have reviewed your materials and have determined that the proposed work does not require a Conservation District Use Permit. The intent of the work is to improve an existing bus stop that will allow the buses to pull off of the roadway. The problem is that currently traffic backs-up behinds a bus when it stops.

The existing bus stop appears to be recessed into conservation lands under the jurisdiction of the Department of Land and Natural Resources. We have determined that the proposed work is minor in nature and may be conducted pursuant to Section 13-5-22(P-10)(A-1). This means that the proposed work does not require a Conservation District Use Permit.

This determination does not relieve you of the need to obtain other state, county or federal approvals for the proposed work, including a land disposition from the DLNR, Land Division. Thank you for your cooperation in this matter. Please feel free to call at 587-0381, should you have any questions on this matter.

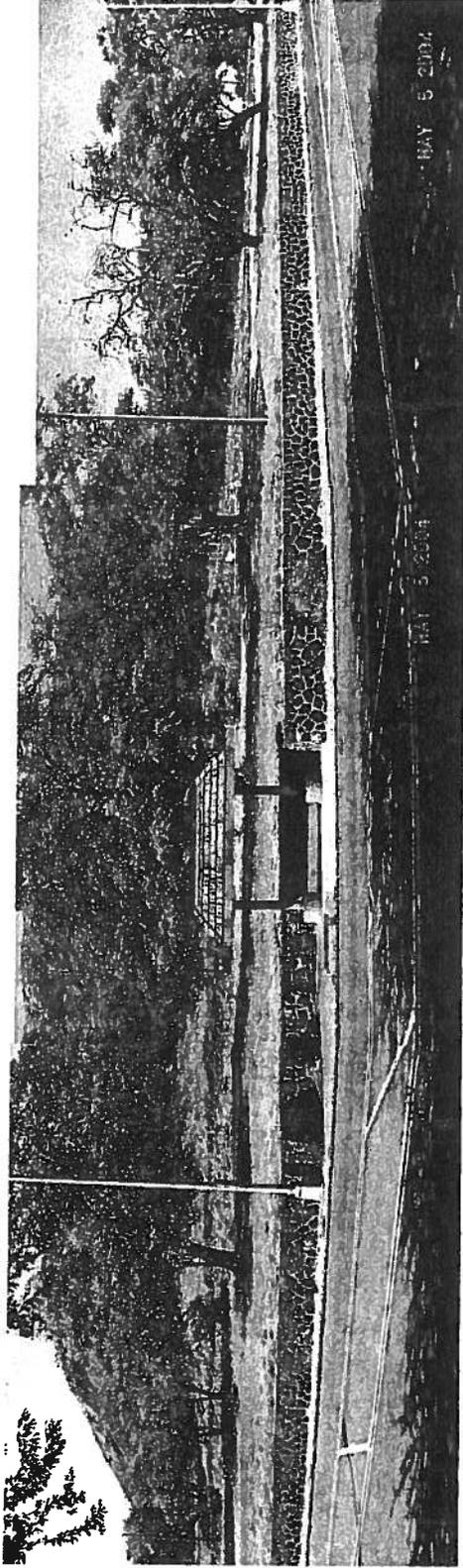
Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Cc: Land Division
State Parks

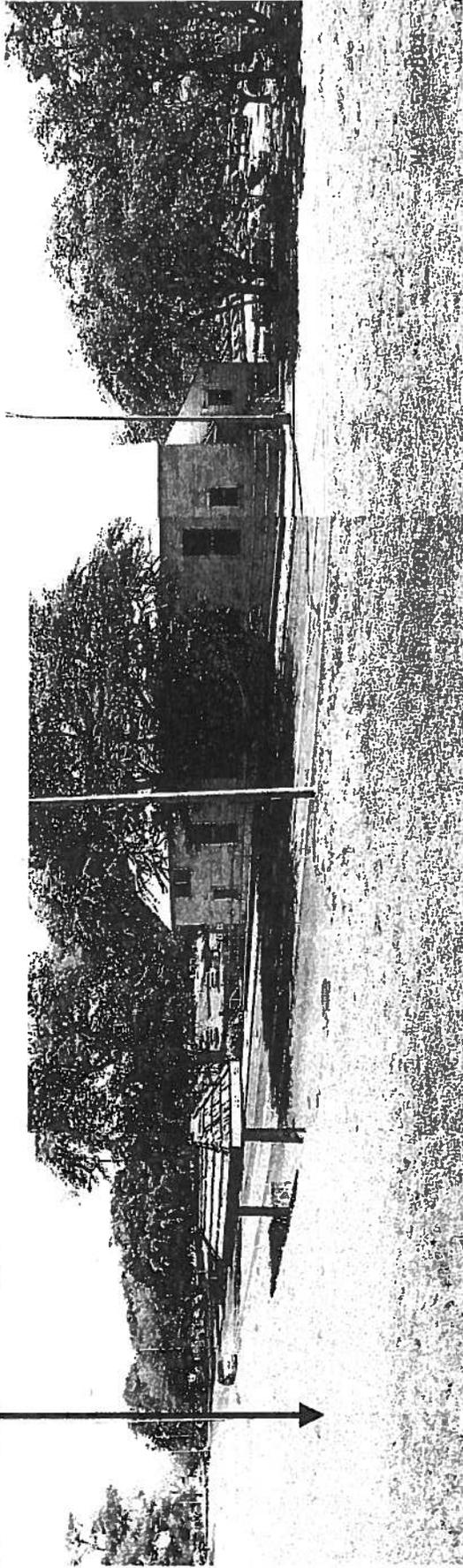
EXHIBIT B

Proposed City Bus Bay Site

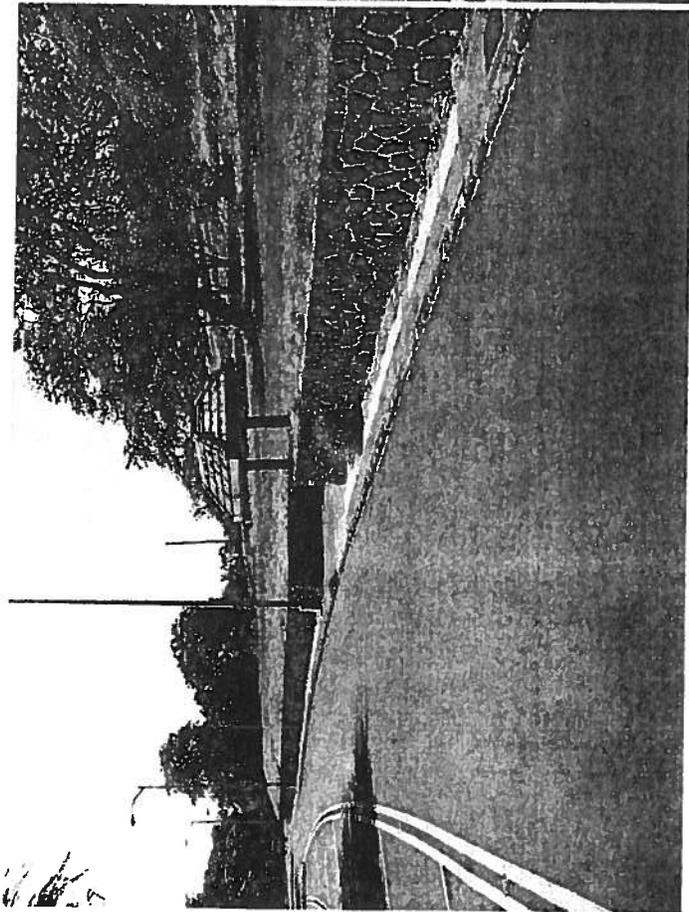


Facing Diamond Head from the Kapiolani Community College side of Diamond Head Road. (The photo is misleading because the center appears to bow towards the camera as a result of taking 3 photos from one spot. In reality, the opposite is true with the road bending away towards Diamond Head as shown in the next photo.)

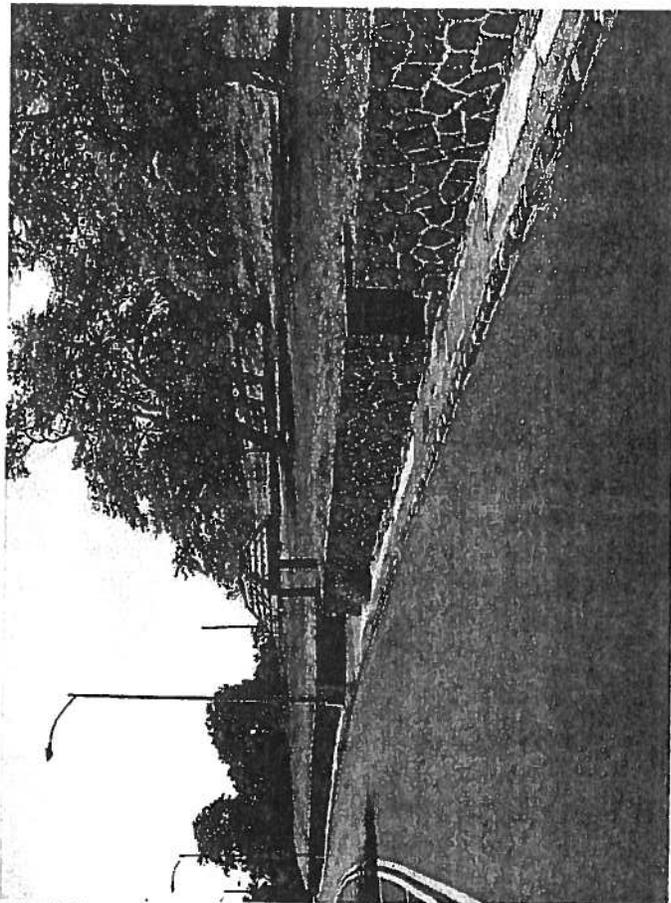
Approximate relocation of
the retaining rock wall
behind the bus shelter.



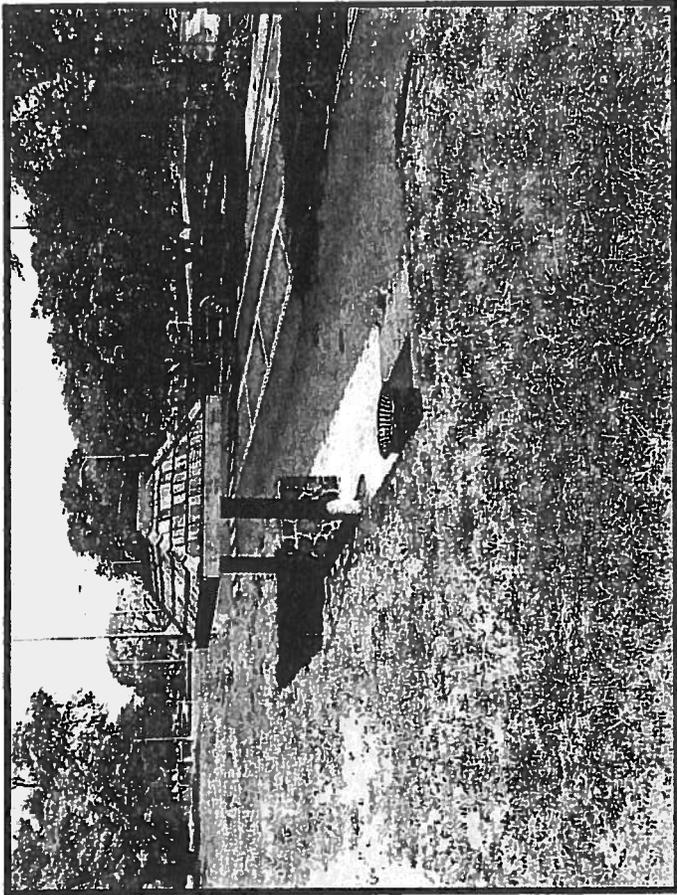
Facing Mauka towards the KCC campus.



Single lane traffic Facing East.



The proposed bus bay is to begin at another staircase perhaps 20 or so feet behind the right edge of this photo.



TRUE NORTH
 Scale: 1 in. = 40ft.

Part B, L.C. Aw. 8559-B, Ap. 32 to William C. Lunaliilo
 and of the Estate of William C. Lunaliilo
 Interior dated June 17, 1884 and recorded in:
 (L.C.D. 136)
 and control of the Territory of Hawaii
 10648, Part 1, Parcel 6 dated

L.P. 8165,
 Deed: Trustees under the
 deceased to the Minister of
 Liber 88, Pages 223 and 224
 Restored to the possession, use
 by Presidential Executive Order
 December 8, 1955

30.65
 40'00"
 147'07" 60.76
 149.24
 107.39
 11.20
 27.20
 128'10" 18.20
 99'26" 42.00
 123'00" 5.79
 33'04'30" 2.14

Part 3
 (C.S.F. 22,130)

DIAMOND HEAD STATE MONUMENT
 Gov. Exec. Ord. 3642

Part 2
 (C.S.F. 22,129)

Deed: United States of America to the State of Hawaii
 dated September 4, 1879 and recorded in Liber 14794,
 Page 640 (L.C.D. S-27115)

DIAMOND HEAD RESERVATION
 Gov. Exec. Ord. 1997
 (C.S.F. 13,614)

(1) 3-1-042:006 por.

ROAD

224'15'20" 1.80
 132'56" 31.49
 37'53'40" 70.55
 63.42
 44'15'20"
EASEMENT 1
 256 SQ. FT.

39'30'40"
 3314.68 N
 3409.80 E
 "LEAHI" Δ
EASEMENT 2
 1179 SQ. FT.

(1) 3-1-042:010 por.

DIAMOND

**PERPETUAL NON-EXCLUSIVE BUS BAY EASEMENT
 EASEMENTS 1 AND 2**

Kapahulu, Waikiki, Honolulu, Oahu, Hawaii

Scale: 1 inch = 40 feet

EXHIBIT "B"

Job O-088(10)
 C. BK.

TAX MAP 3-1-42:Par. 6 and 10

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.S.F. NO. 24,930

GJK April 22, 2010