

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
Honolulu, Hawaii**

180-Day Exp. Date: June 18, 2011

March 24, 2011

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

**REGARDING:** Conservation District Use Application (CDUA) HA-3581  
Installation of Water Transmission Line and Access Road

**APPLICANT/  
AGENT:** University of Hawaii-Hilo  
Helber, Hastert & Fee

**LANDOWNER:** State of Hawaii

**LOCATION:** Puako, Lalamilo, South Kohala, island of Hawaii

**TMKs:** (3) 6-6-002:045

**SUBZONE:** General

**BACKGROUND:**

The University of Hawaii at Hilo received approval from the Board of Land and Natural Resources (Board) for a 65-year direct lease of five acres of land adjacent to the existing Puako Boat Ramp on September 14, 1990 for the purpose of establishing a West Hawaii base for the Kalaukua Marine Education Center (KMEC). The proposed Center will facilitate specialization in marine sciences.

On March 11, 2010, the Board of Land and Natural Resources approved the subdivision of land that created parcel 045 for the Marine Center site. At this time, the University of Hilo would like to utilize the property for a summer program. The site of the KMEC lies in the Urban State land use district. However, to gain access and to provide water to the site requires crossing over the Conservation District.

**DESCRIPTION OF AREA/CURRENT USE:**

The project area lies within the General subzone of the Conservation State land use district near the coast of Puako on the southwest side of the island of Hawaii, Lalamilo ahupua'a within the South Kohala District. The Conservation District is located on the mauka side of the parcel. To the north is Wailea Bay subdivision; to the southwest is the

Puako Small Boat Ramp; to the south is Puako Beach Drive and to the west is vacant land (**Exhibit 1**).

According to the applicant, the project site is vacant and undeveloped with non-native vegetation and exposed rock. The area has been previously disturbed and used as a firebreak. There are no utilities and informal access to the site is via Puako Beach Drive. The Ala Kahakai National Historic Trail is located along the shoreline approximately 200-feet makai of the parcel.

No federal or State listed threatened, endangered or candidate flora or fauna species have been observed in the area and it is believed that no unique habitat resources important to native or protected flora or fauna are present.

An archaeological assessment conducted in 2008 was reviewed and accepted by the State Historic Preservation Division. No historic properties or cultural materials were identified within the project site.

## **PROPOSED USE**

UH-Hilo's Kalakaua Marine Education Center will be holding their annual summer program for the Quantitative Underwater Ecological Surveying Techniques (QUEST) program at the site that is located within the Urban State land use district. The QUEST program has collected more than 20 years of data from surveying the Puako reefs. The project site is an ideal location for the field station because of its proximity to established dive sites that would reduce daily commute times and its isolation from the general public would minimize outside distractions for students.

Participants are required to arrive and depart the field station in shuttles provided by UH. Students are prohibited from bringing their own personal vehicles to the site and there are no extracurricular activities outside of the scheduled program. In general, traffic would be limited to daily trips to nearby dive sites and supplemental trips to replenish food supplies and fill/service SUBA tanks in addition to three scheduled service trips to set up the program.

The proposed action is to provide access and water in support of the temporary field station. The proposed access is approximately ( $\approx$ ) 270-feet long by 15-feet wide. The proposed waterline would run alongside the proposed access way and consist of a flexible 1.25"  $\emptyset$  high-density polyethylene aboveground pipe. The proposal would involve less than 0.1-acre of land in the Conservation District (**Exhibit 2**).

The access way and waterline would follow the natural grade of the land and should not involve any grading, trenching or major site work. Work would be limited to removing exposed boulders and existing brush vegetation within the access alignment and smoothing the way to facilitate vehicular access. There are no trees within or adjacent to the proposed alignment.

Upon completion of the QUEST program, the water line will be left in place or may be coiled up and removed. The driveway and access way would also remain in place. Both features may be utilized temporarily until the completion of the Marine Center when permanent access and water lines are constructed.

To secure the site and prevent trespassing, a gate will be installed at the edge of the property abutting the right of way. The gate will consist of two 4"Ø steel post 4-ft above ground set in concrete and a pair of 6-ft steel swing gates with reflectors and a protected lock. Berming and boulders are proposed adjacent to the gateway to prevent driving around the security gate. Applicable arrangements will be made to allow emergency vehicular access.

### SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands referred this application to the following agencies for review and comment: the State-Department of Health; the Office of Hawaiian Affairs; the Office of Environmental Quality Control; the Department of Land and Natural Resources Divisions of: Conservation and Resource Enforcement, Hawaii District Land Office, and Historic Preservation; the County of Hawaii Department's of Planning, Public Works and Water and the Puako Community Association. In addition, the CDUA was also sent to the nearest public libraries, the Kailua-Kona Public Library and the Thelma Parker Public Library to make this information readily available to those who may wish to review it.

Comments were received by the following agencies and summarized by Staff as follows:

#### THE STATE

##### DEPARTMENT OF HEALTH (DoH)

We strongly recommend that you review all of the Standard comments on our website. And comments specifically applicable should be adhered to.

##### *Applicant's response*

As recommended, we have reviewed DoH standard comments for applicability to the project. Project construction and operation will comply with all applicable DoH rules.

Regarding Water Quality Standards: Near-shore waters at Puako have been classified as Class AA. No impacts to coastal ecosystems are expected, since the proposed use will not result in significant modifications to the existing topography or drainage patterns at the site, or construct any impervious surface that could increase surface runoff.

Regarding Control of Fugitive Dust, construction and program activities will comply with the provisions of HAR, §11-60.1-33. Best management practices for dust control shall be implemented.

Regarding the issuance of National Pollutant Discharge Elimination System permit: No grading is planned within the Conservation District. Some grading is required in the Urban District that shall involve less than one acre of ground disturbance. The grading work will comply with relative State and County standards.

Regarding Safe Drinking Water/Public Water Systems, the applicant is coordinating water service with the County of Hawaii DWS. A new connection to an existing 12-inch county waterline running along Puako Beach Drive is planned.

Regarding Solid and Hazardous Waste, construction and program activities will comply with the provisions of HAR, §11-58.

Regarding Wastewater-the subject property is located in the Critical Wastewater Disposal Area and overlies a basal, unconfined flank aquifer currently used for drinking water. The temporary field station will accommodate approximately 50 participants for a period of two weeks, with all structures removed at the end of the program. As such, wastewater collection systems will consist of commercial portable toilets and a shallow open sump to collect gray-water from outdoor showers and designated rinsing areas before infiltrating into the ground.

Regarding noise, construction and program activities will comply with HAR, 11-46 community noise control.

#### OFFICE OF HAWAIIAN AFFAIRS (OHA)

OHA sees the summer program as an important project that may result in participants receiving valuable training as they continue on their paths to serving the community and our natural environment. It is hoped that the program participants will be exposed to the importance of the training will contribute to healthy coral reef ecosystems that will in turn ensure the perpetuation of traditional beliefs, practices and customs important to the Hawaiian people. OHA has no objections to the project.

#### *Applicant's response*

We note that OHA has no objections to the proposed use. We appreciate OHA's acknowledgement that this is an important project with long-term ecological and cultural benefits, including support for the perpetuation of traditional beliefs, practices and customs important to the Native Hawaiian people through the establishment of healthy coral reef ecosystems.

#### DEPARTMENT OF LAND AND NATURAL RESOURCES

#### *Hawaii District Land Office (HDLO)*

No comments

COUNTY OF HAWAII

PLANNING DEPARTMENT

On January 11, 2011, our office issued a Special Management Area Minor Permit (SMM No. 11-000169) for the construction of temporary facilities for the UHH Kalakaua Marine Education Center annual summer field program. These improvements include tents, shelters, five 40-foot metal containers, portable toilets, unpaved parking, installation of water and electrical service, and an access trail.

DEPARTMENT OF PUBLIC WORKS (DPW)

We note that the civil plans are included in the application and they indicate grading and work within the County right-of-way. Separate permits are required. Please have the consultant include our Notes for Work Within the County Right-of-Way.

The property appears to be located within Flood Zone X according to the Flood Insurance Rate Map (FIRM). A Zone X designation does not imply that the referenced property will be free from flooding or flood damage. A property not in a Special Flood Hazard Area may be damaged by a greater flood than that predicted on the FIRM or from a local drainage problem not shown on the map. Should a watercourse affect the property, it shall not be altered without first obtaining approval from DPW and a grading permit.

*Applicant's response*

We understand that any proposed grading activity as well as any work within the County right-of-way will require separate County permits. The applicant has revised the Civil Plans to include Notes for Work Within the County Right-of-Way, and has submitted the revised plans for departmental review and approval.

We further note that a flood study conducted in accordance with Chapter 27 of Hawaii County Code is not anticipated since there is no watercourse known to affect the subject property.

DEPARTMENT OF WATER SUPPLY (DWS)

Water can be made available from an existing 12-inch waterline within Puako Beach Road fronting the subject parcel. Water service will be subject to the following conditions:

- Installation, by the DWS of a 1-inch service lateral to service a 5/8-inch meter, which shall be restricted to a maximum daily usage of 600 gallons;
- Remittance of service charges; and
- Installation of a backflow prevention assembly (reduced pressure type) by a licensed contractor on the private property within 5-feet of the meter. The

installation of the backflow prevention assembly must be inspected and approved by DWS before water service can be activated.

*Applicant's response*

We acknowledge your confirmation that water can be made available from an existing 12-inch waterline within Puako Beach Road fronting the subject parcel. The applicant is aware of the conditions and service charges required for water service and will coordinate the installation of the one-inch service lateral and 5/8-inch meter with DWS. The backflow prevention assembly would be inspected and approved by DWS before water service is activated.

**ANALYSIS**

After reviewing the application, by correspondence dated December 23, 2010, the Department has found that:

1. The proposed use is an identified land use in the General subzone of the Conservation District, pursuant to §13-5-22, Hawaii Administrative Rules (HAR), P-6 PUBLIC PURPOSE USES Land uses undertaken by the State of Hawaii to fulfill a mandated governmental function, activity, or service for public benefit and in accordance with public policy and the purpose of the conservation district. Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to §13-5-40 of the HAR, a Public Hearing is not required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, HAR, the Final Environmental Assessment has been reviewed and accepted by the University of Hawaii at Hilo. Notice was published in the March 23, 2009 issue of the Environmental Notice.

Notice of CDUA HA-3581 was published in the January 8, 2011 issue of the Environmental Notice. Special Management Area Minor Permit No. 11-000169 dated January 11, 2011 was issued by the County of Hawaii for the UHH Kalakaua Marine Education Center Temporary Field Station.

**CONSERVATION CRITERIA**

The following discussion evaluates the merits of the proposed land use by applying the criteria established in §13-5-30, HAR:

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The proposed use supports the establishment of a dedicated site to stage the KMEC annual summer QUEST program and contributes to the long-term stability of the program. Public benefits of the proposed use include: 1) supporting research and educational activities in marine science; 2) strengthening scientific awareness of coastal processes in West Hawaii; and 3) promoting protection of marine and coastal resources.

- 2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the General Subzone is to designate open space where specific conservation uses may not be defined, but where urban uses would be premature. The proposed use is an identified land use that would not significantly alter the existing open space. The proposed use shall be at ground level and should not affect ocean view planes.

- 3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

Staff believes the proposed use is consistent with Chapter 205A, HRS. The County of Hawaii issued a SMA Minor permit, dated January 11, 2011 for the QUEST program on the site.

- 4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

There are no known rare, threatened or endangered species or sensitive natural habitats within the proposed access way. There are no surface streams or surface water bodies on or adjacent to the site and there would be no impacts to the basal aquifer underlying the project site. No impacts to coastal ecosystems are expected. No major earth-movement or grading or removal of any trees would be required as the proposal follows the natural grade and avoids existing trees.

- 5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

The proposed use would not involve large-scale development or extensive construction activities, and would coincide with the operation of the temporary field station. The access way and waterline would follow the natural grade of the land and should not involve any grading, trenching or major site work. No permanent structures or impervious surfaces would be constructed, and the site would return to its vacant state upon closure of the temporary field station.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The existing physical and environmental aspects of the land would not change as a result of the proposed use. No trees shall be removed and no permanent structures will be erected. Given that the site would return to its vacant, unimproved state upon closure of the temporary field station, the property would continue to serve as an open space element along Puako Beach Drive.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

No subdivision of land is proposed.

- 8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff is of the opinion that the proposed access way and water transmission line will not be materially detrimental to the public health, safety and welfare and would facilitate improving the participants health, safety and welfare.

## **DISCUSSION**

The proposed access way and water transmission line will facilitate the QUEST summer program. The property is specifically for the purpose of establishing a West Hawaii base for the Kalaukaua Marine Education Center (KMEC). With the access and water lines, the University of Hilo is able to utilize and make the best use of the established site.

## **RECOMMENDATION**

Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this application for an access way and water transmission lines located at Puako, Lalamilo, South Kohala, island of Hawaii, (3) 6-6-002:045 subject to the following conditions:

- 1) The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The applicant shall obtain appropriate authorization from the department for the occupancy of state lands, if applicable;

- 4) The applicant shall comply with all applicable Department of Health administrative rules. Particular attention should be paid to Hawaii Administrative Rules (HAR) Section 11-60.1-33, "Fugitive Dust" and to Chapter 11-46, "Community Noise Control; if applicable"
- 5) Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
- 6) Any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
- 7) All representations relative to mitigation set forth in the accepted application for the proposed use are incorporated as conditions of the permit;
- 8) The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 9) In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 10) When provided or required, potable water supply and sanitation facilities shall have the approval of the Department of Health and the Board of Water Supply;
- 11) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- 12) Obstruction of public roads shall be minimized. If obstruction is unavoidable, the applicant shall provide roads or pathways acceptable to the department;
- 13) Except in case of public highways, access roads shall be limited to a maximum of two (2) lanes;

- 14) During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
- 15) The approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 16) Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The Historic Preservation Division shall be contacted (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
- 17) Other terms and conditions as may be prescribed by the Chairperson; and
- 18) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,



K. Tiger Mills, Staff Planner  
Office of Conservation and Coastal Lands



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William J. Aila, Jr., Chairperson  
Board of Land and Natural Resources

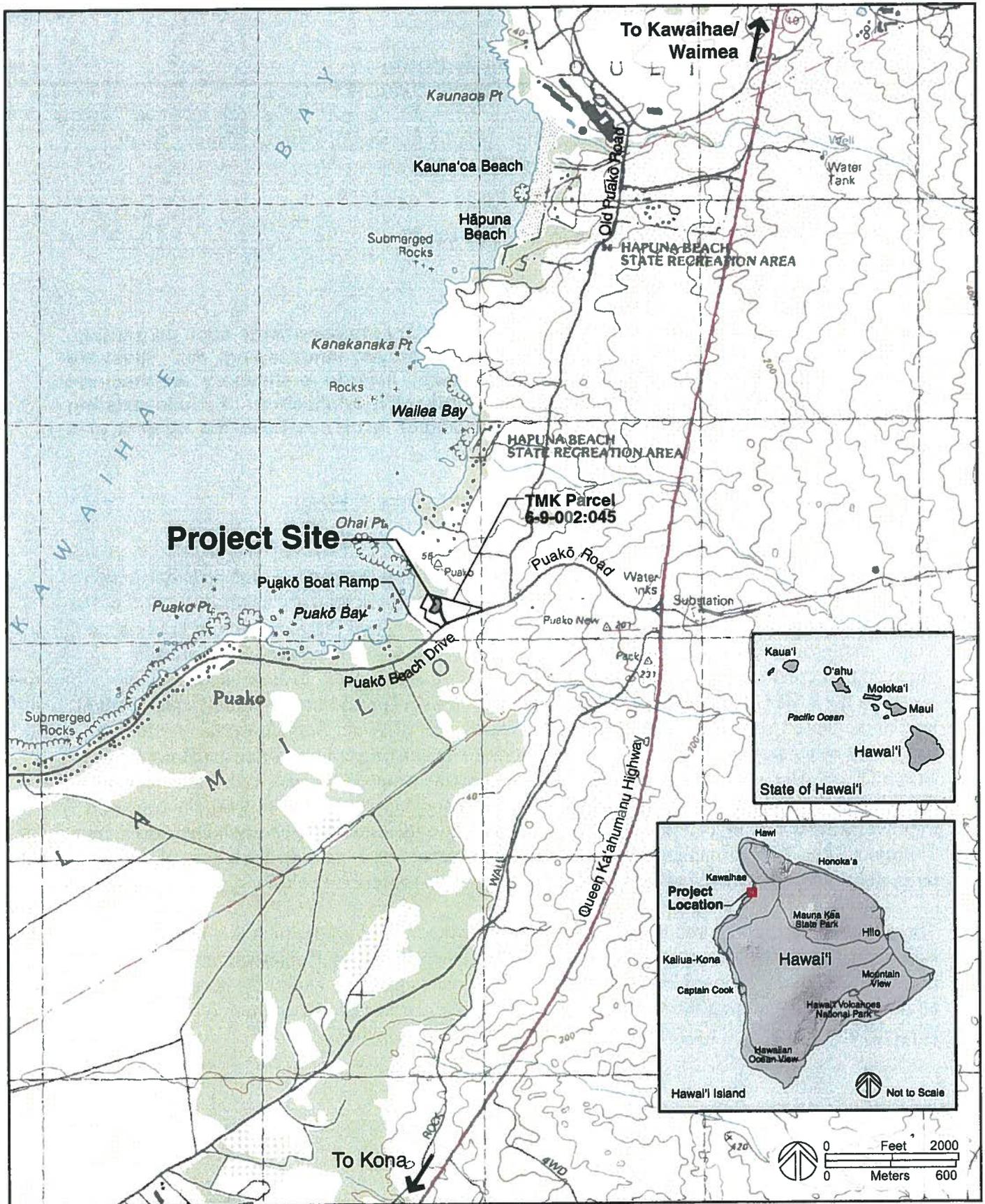


Figure 1: Location Map

