



US Army Corps
of Engineers
Honolulu District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Building 230
Fort Shafter, Hawaii 96858-5440

Public Notice Date: January 4, 2011
Expiration Date: February 3, 2011
Permit File Number: POH-2008-00285

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached drawings.

APPLICANT: Betsill Brothers Construction Inc., 635 Kenolio Road, Kihei, Hawai'i 96753-9029

AGENT: None.

LOCATION: Wetlands within four undeveloped, adjoining lots (TMKs 2-3-9-010: 075, 078, 081, and 082) in South Kihei District, Island of Maui, Hawai'i (latitude 20 degrees 44.45 minutes N, longitude 156 degrees 27.30 minutes W).

The four project lots comprise Lot 1 of the Waiohuli Subdivision with an area of 22,918 square feet; Lot 2 of the Waiohuli subdivision with an area of 22,921 square feet; Lot 1 of the Halama Subdivision with an area of 20,369 square feet; and Lot 2 of the Halama Subdivision with an area of 20,369 square feet. The total area of the four lots is 86,577 square feet (1.987 acres).

PROPOSED WORK: Prepare project site and construct four new single-family homes, two fronting Waiohuli Street and two fronting Halama Street. Using tracked equipment (bulldozer), lightly grade the project site in order to increase its existing water retention capacity (from approximately 337 to 589 cubic yards) and to remove non-native vegetation (primarily invasive pickleweed, to be recycled at a composting facility). At the back portions of the four abutting lots, lower the existing ground surface to create a shallow, gently sloped retention basin with a low central island. Move soil excavated from the retention basin to the front portions of the lots where the homes will be built. Trench, install and backfill underground utility lines needed for home development. At the front (street-facing) portion of each lot, construct a single-family, two-story, wood-frame house, incorporating a raised post and pier design intended to minimize the footprint on the wetland. The planned average elevation of the homes would be 1 foot above base flood level and three to five feet above existing ground level.

PURPOSE: Provide new single-family homes on four presently undeveloped lots.

ADDITIONAL INFORMATION: Elevation across the four properties ranges from approximately 3 to 6 feet above mean sea level (MSL). Of the total project area, approximately 88.5 percent (77,526 square feet, or 1.779 acres) are delineated (Corps certified) jurisdictional wetlands (Attachment 3). The applicant estimates that approximately 628 cubic yards of soil would be moved during the planned

grading activities over 27,000 square feet of the project site. Approximately 500 square feet of permanent fill would be needed for creation of the proposed low island within the shallow retention basin. Utility line installation would involve some temporary wetland functional loss due to trenching and backfilling. The proposed house construction would involve some permanent losses and potential gains in wetland area as summarized in the applicants attached plans. The total duration of the proposed construction is expected to be 1 to 2 years.

MITIGATION: The applicant has proposed the following mitigation efforts to reduce impacts to the aquatic environment:

To avoid and minimize impacts of the proposed homes on wetlands, the applicant proposes to use a post and pier design intended to minimize the footprint on the wetland and notes that the areas which would be shaded by the homes are currently primarily barren (approximately 60 percent with no plant material). The applicant proposes to conduct grading activities during dry conditions when ponding is absent or minimal and plans to remove the predominantly non-native, invasive vegetation during grading activities.

As mitigation for discharges of fill into delineated wetlands, the applicant proposes to create and protect with fencing an approximately 0.847 acre conservation easement, with suitable plantings of native species, around the sloped retention basin and island at the back of the property. The applicant's submitted compensatory mitigation plan provides detailed information and is available for review upon request (to request, see contact information at end of this notice).

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the State of Hawaii Department of Health.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Hawaii Coastal Zone Management Program. A permit will not be issued until the Office of State Planning, Department of Business, Economic Development and Tourism has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state clearly and concisely, the reasons and rationale for holding a public hearing.

CULTURAL RESOURCES:

The Corps has determined that the proposed work has no potential to cause effect to any historic property listed, or eligible for listing, in the National Register of Historic Places because the Hawai'i and National Register of Historic Places does not list any historic properties within or in the vicinity of the area of potential effect (APE) for the project.

The Corps also requests consultation with Native Hawaiian organizations and individuals to gather information regarding historic properties as well as the ethnographic and historic uses in the proposed permit area.

ENDANGERED SPECIES: The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS)

pursuant to Section 7 of ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat.

The Corps has assessed potential impacts to Federally-listed and proposed species in the project area. Below are the species that occur or have potential to occur within the project area and the Corps' determination of effect:

Hawaiian Stilt or *ae'o* (*Himantopus mexicanus knudseni*)

Hawaiian Stilts are known to occasionally visit the project site for foraging and/or loafing, but not for nesting (although one nesting attempt has apparently been recorded for the adjacent Kihei Veterinary Clinic mitigation wetland, where *ae'o* are reported by the applicant to be frequent visitors). No other species protected under the ESA is known to utilize the project site.

Noise due to grading and other construction activities may result in avoidance of the project area by *ae'o*, but this effect would be temporary and the applicant plans to perform grading to avoid periods when ponding is present. The reshaping of the project site within the planned conservation area to create a shallow, gently sloped basin containing a single, low-lying island is likely to encourage its future use by this species, and the planned construction of a fence to isolate the conservation area is expected to avoid or minimize potential predation effects.

The Corps has determined that the project "may affect, but is not likely to adversely affect" the Hawaiian Stilt or other species, or any designated critical habitat, protected pursuant to the Endangered Species Act of 1973, as amended.

In accordance with informal consultation procedures under Section 7 of the Endangered Species Act (ESA), the Corps requests concurrence for the project with NMFS/USFWS for their respective species in which we determined that the project may affect, but is not likely to adversely affect listed species.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K.

In accordance with requirements of the MSFCMA, the Corps has determined that the proposal would not affect EFH.

SPECIAL AREA DESIGNATION: None.

AUTHORITY: This permit application will be reviewed under the following authorities:

() Perform work in or affecting navigable waters of the United States – Section 10, Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Discharge dredged or fill material into waters of the United States – Section 404, Clean Water Act (33 U.S.C. 1344). The Corps' public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

() Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). The Corps' public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

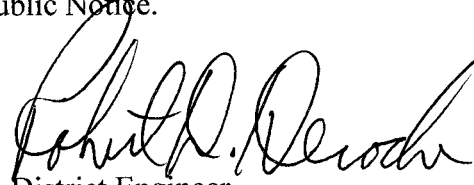
EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author's e-mail account and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to Peter.C.Galloway@usace.army.mil. Conventional mail comments should be sent U.S. Army Corps of Engineers, Regulatory Branch, Building 230, Fort Shafter, HI 96858-5440. Both conventional mail and e-mail comments must include the permit applicant's name and reference number, as shown below, and the commenter's name, address, and phone number. All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number: **Waiohuli-Halama Street Subdivision (Betsill Brothers Construction Inc.), POH-2008-00285.**

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Mr. Peter Galloway at (808) 438-8416 if further information is desired concerning this notice.

Project Drawings (13) are attached to this Public Notice.

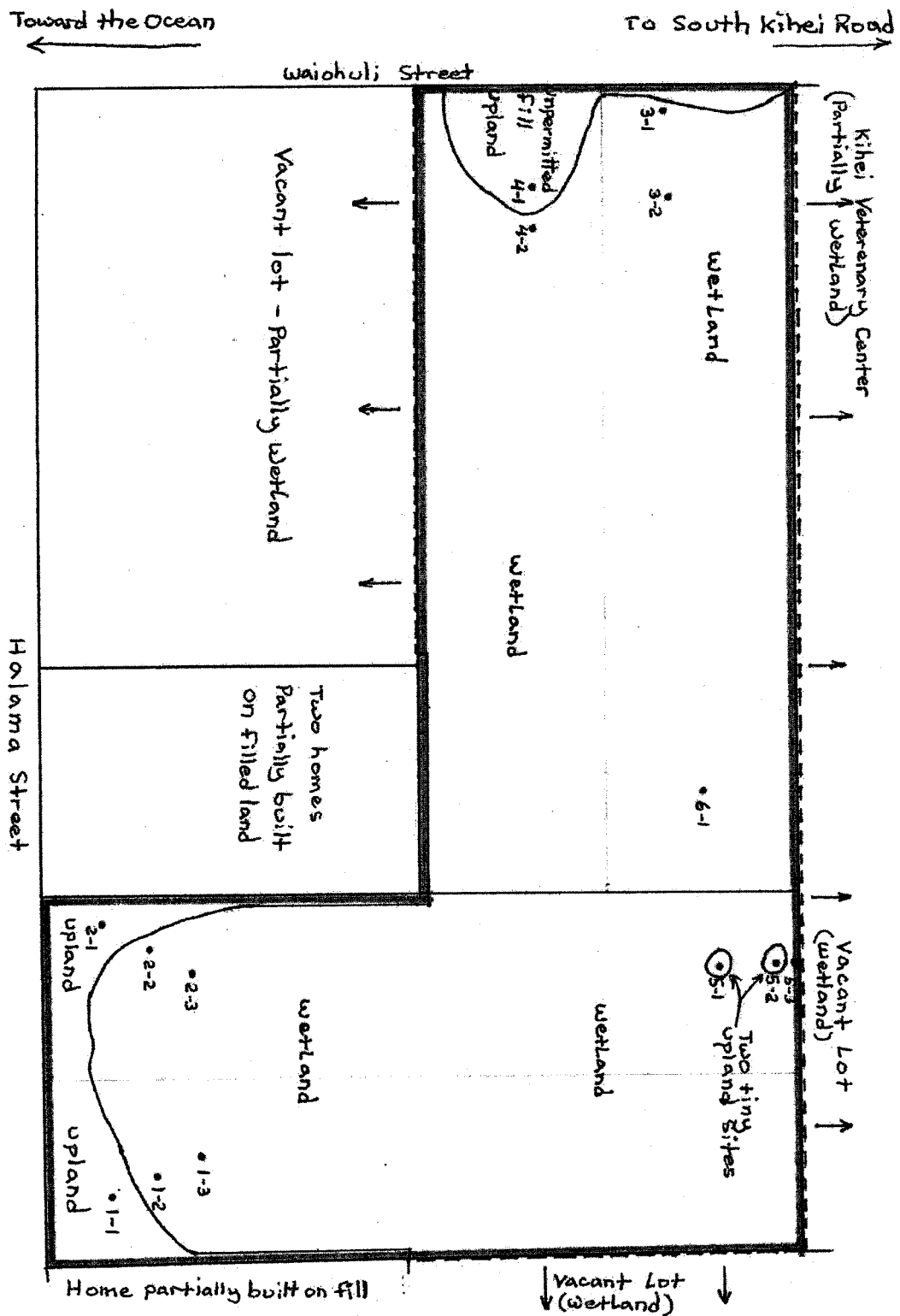

for District Engineer
U.S. Army, Corps of Engineers

Attachments

FMK: (2)3-9-010:078; 3-9-010:075; 3-9-010:81; 3-9-010:82

FMK: (2)3-9-010:078; 3-9-010:075; 3-9-010:81; 3-9-010:82



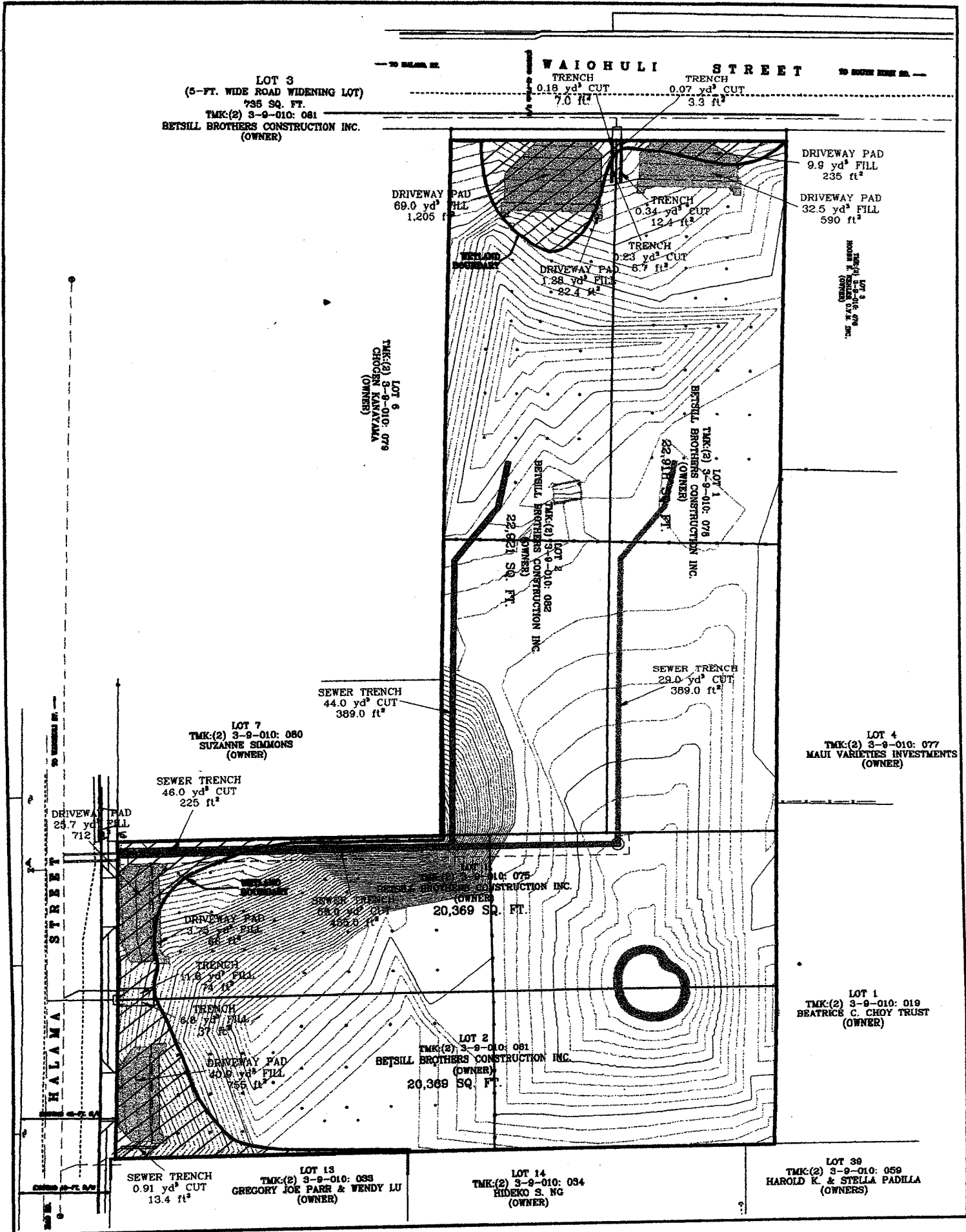


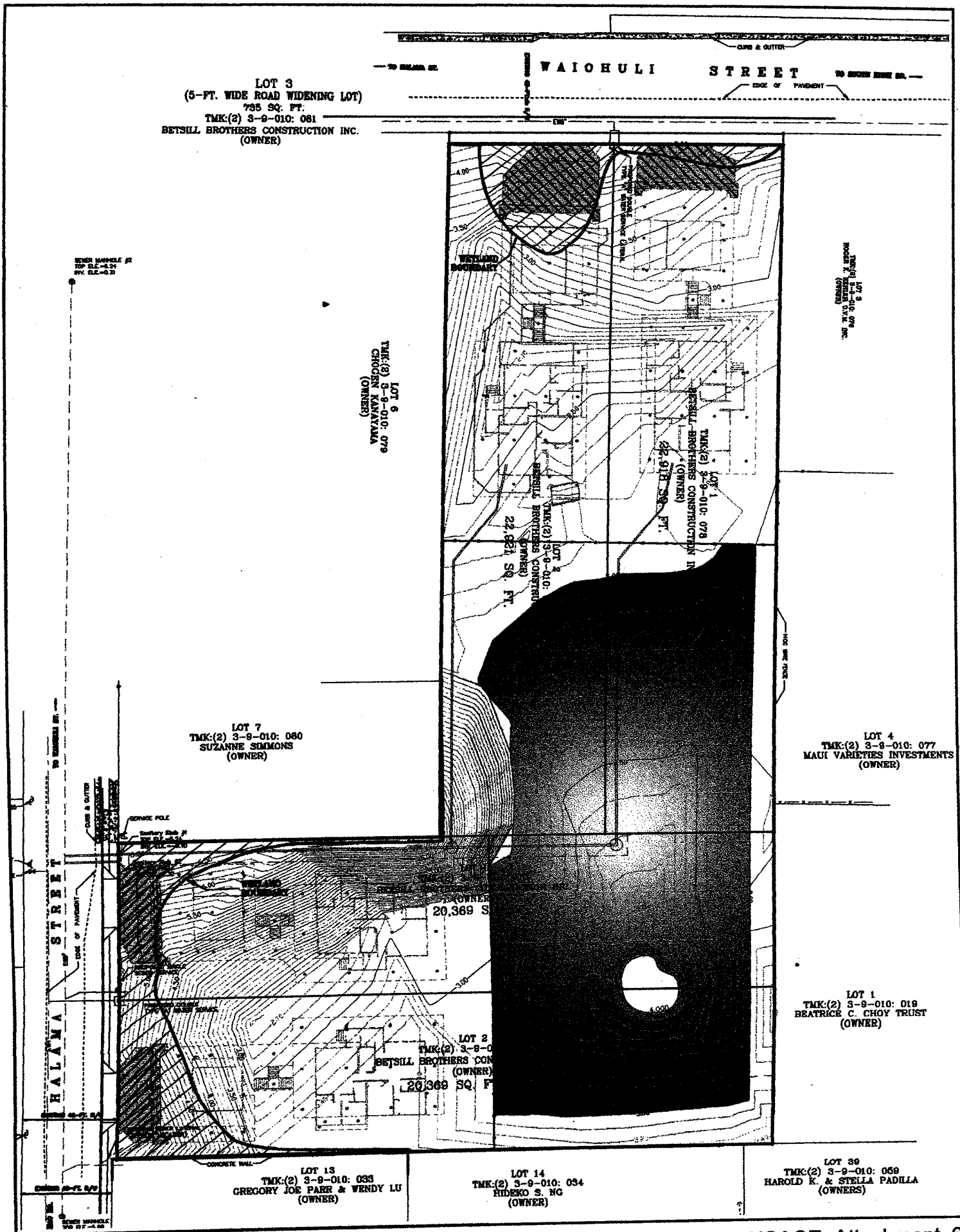
MAP 2 Wetland Delineation Waiohuli – Halama Project Kihei, Maui HI

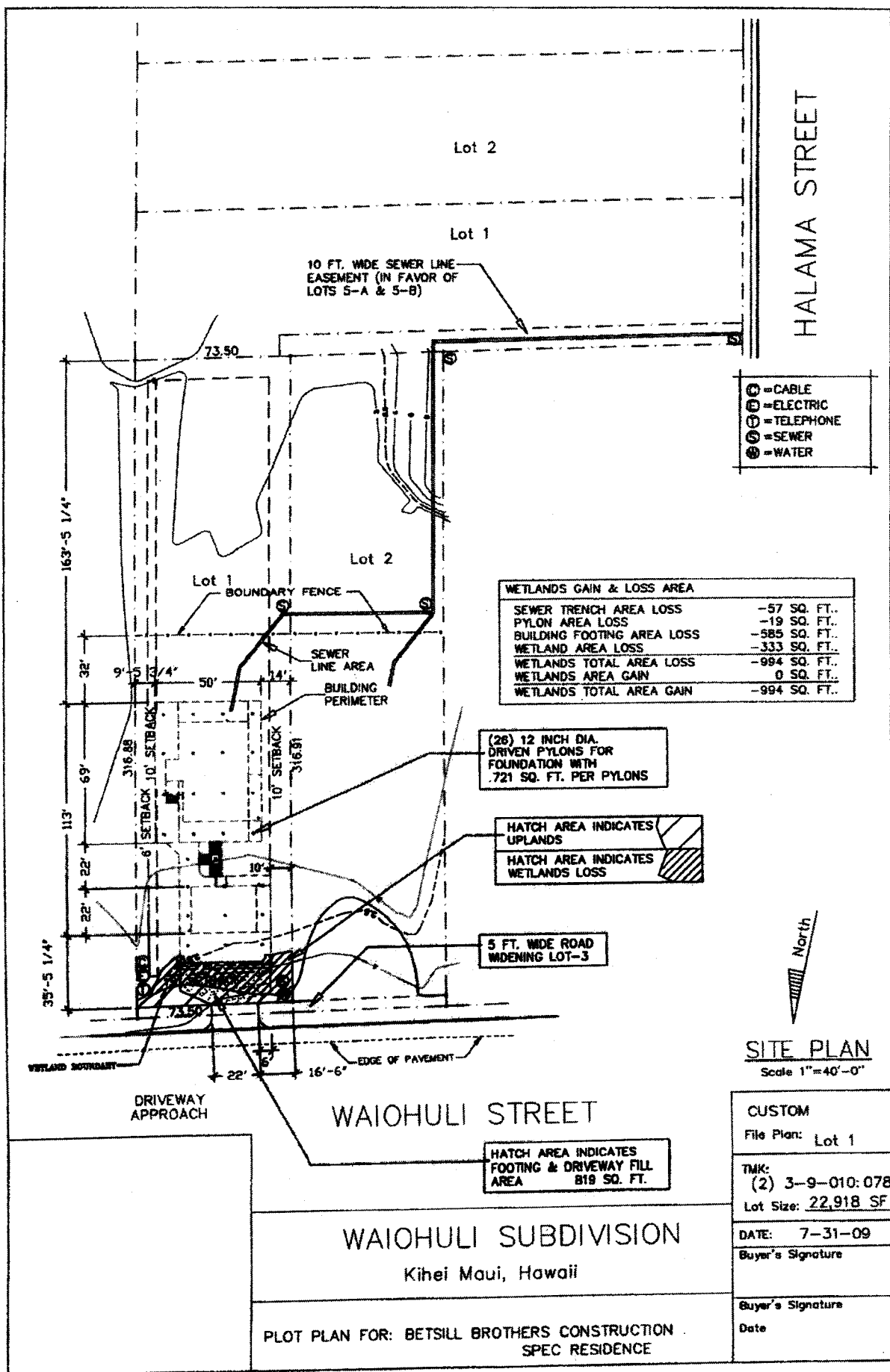
Project Area = orange outline

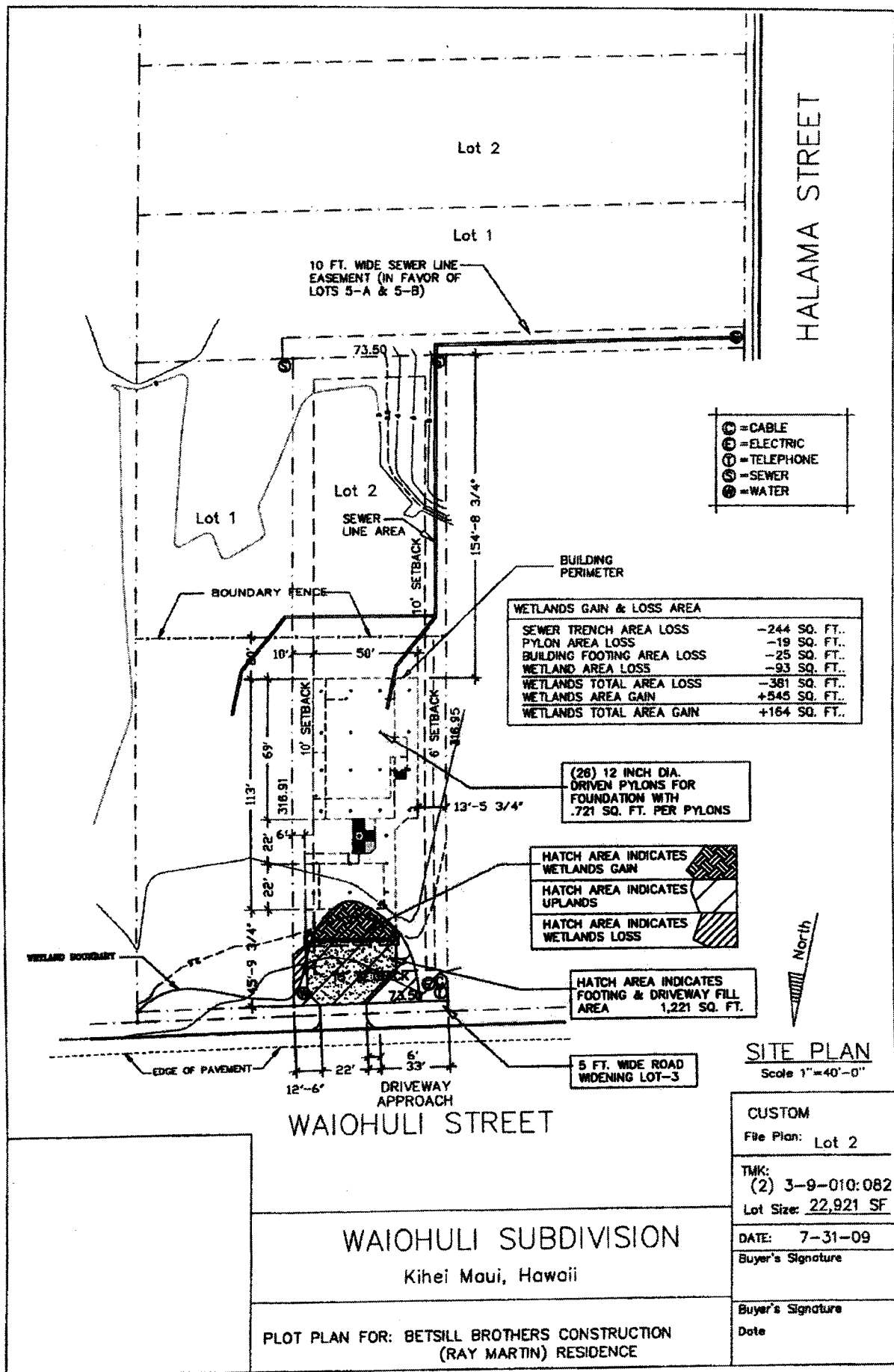
Delineated Wetland on Project Area = solid blue line

Wetland extends beyond property = dotted blue outline

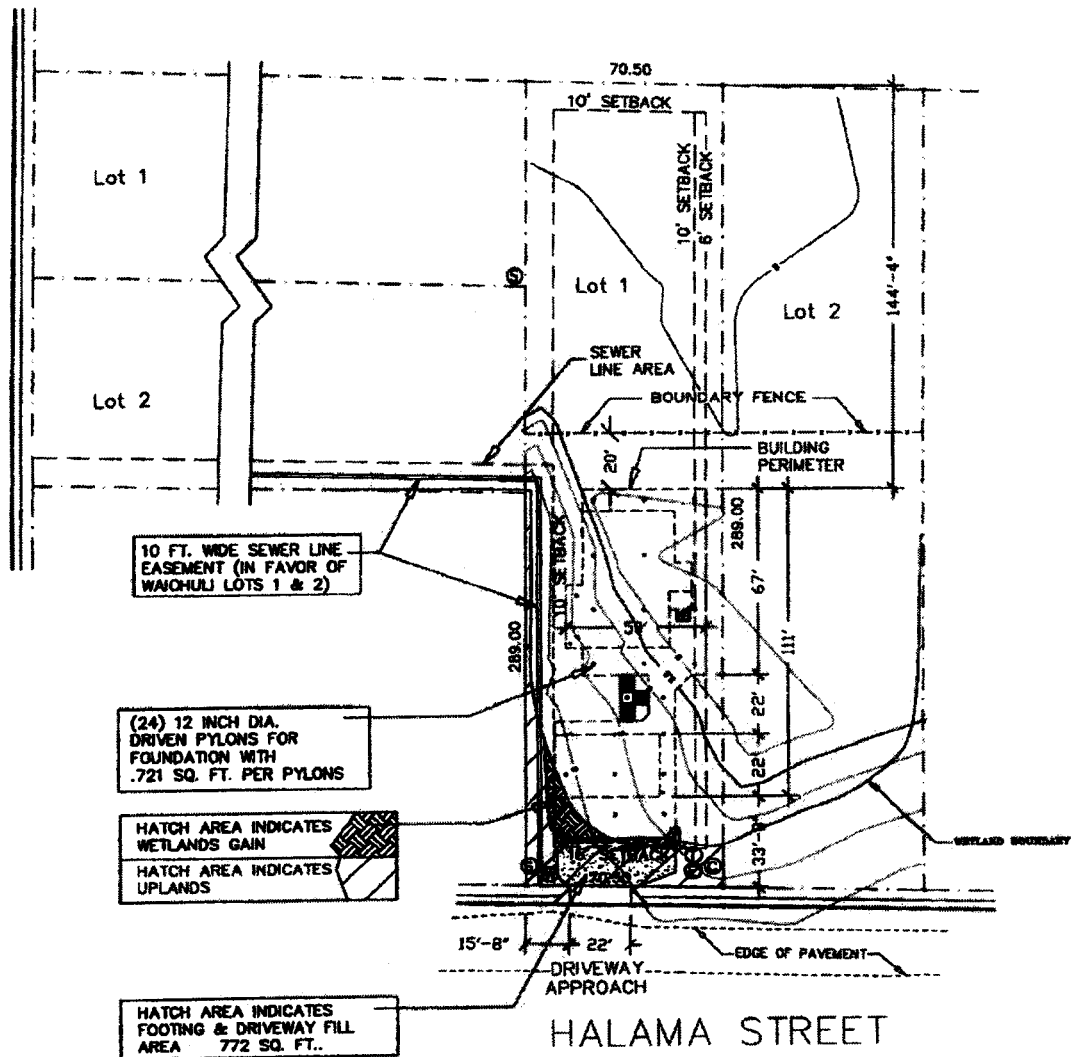








WAIHULI STREET



10 FT. WIDE SEWER LINE EASEMENT (IN FAVOR OF WAIHULI LOTS 1 & 2)

(24) 12 INCH DIA. DRIVEN PYLONS FOR FOUNDATION WITH .721 SQ. FT. PER PYLONS

HATCH AREA INDICATES WETLANDS GAIN
HATCH AREA INDICATES UPLANDS

HATCH AREA INDICATES FOOTING & DRIVEWAY FILL AREA 772 SQ. FT..

HALAMA STREET

WETLANDS GAIN & LOSS AREA	
SEWER TRENCH AREA LOSS	-93 SQ. FT..
PYLON AREA LOSS	-17 SQ. FT..
BUILDING FOOTING AREA LOSS	-64 SQ. FT..
WETLANDS TOTAL AREA LOSS	-174 SQ. FT..
WETLANDS AREA GAIN	+257 SQ. FT..
WETLANDS TOTAL AREA GAIN	+83 SQ. FT..



SITE PLAN
Scale 1" = 40'-0"

- ① = CABLE
- ② = ELECTRIC
- ③ = TELEPHONE
- ④ = SEWER
- ⑤ = WATER

TWO STORY
CUSTOM

File Plan: Lot 1

TMK:
(2) 3-9-010:075
Lot Size: 20,369 SF

DATE: 7-31-09

Buyer's Signature

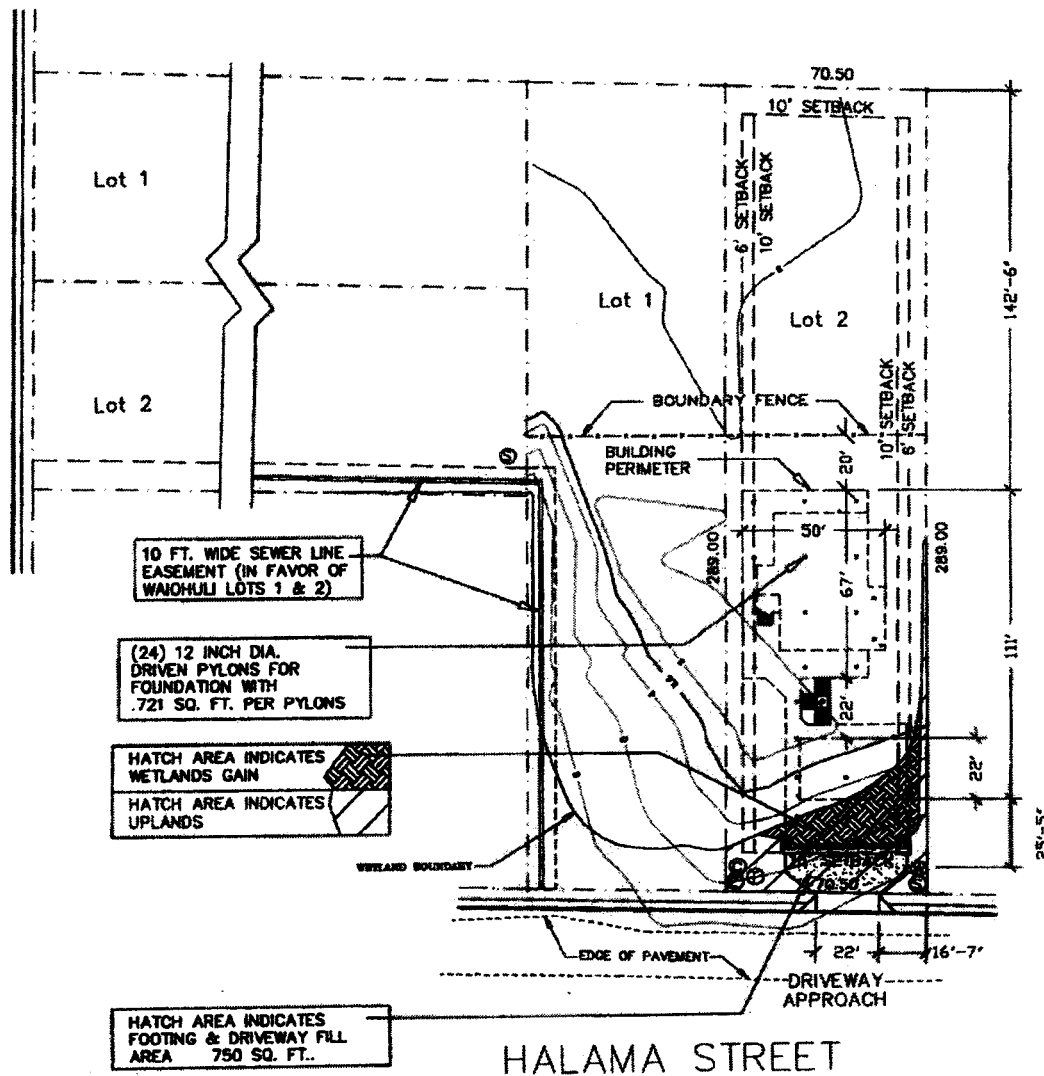
Buyer's Signature

Date

HALAMA SUBDIVISION
Kihei Maui, Hawaii

PLOT PLAN FOR: BETSILL BROTHERS CONSTRUCTION
SPEC RESIDENCE

WAOHULI STREET



HATCH AREA INDICATES FOOTING & DRIVEWAY FILL AREA 750 SQ. FT..

WETLANDS GAIN & LOSS AREA	
SEWER TRENCH AREA LOSS	0 SQ. FT..
PYLON AREA LOSS	-17 SQ. FT..
BUILDING FOOTING AREA LOSS	0 SQ. FT..
WETLANDS TOTAL AREA LOSS	-17 SQ. FT..
WETLANDS AREA GAIN	+977 SQ. FT..
WETLANDS TOTAL AREA GAIN	+960 SQ. FT..



SITE PLAN

Scale 1"= 40'-0"

TWO STORY

CUSTOM

File Plan: Lot 2

TMK:
(2) 3-9-010:081
Lot Size: 20,369 SF

DATE: 7-31-09

Buyer's Signature

Buyer's Signature

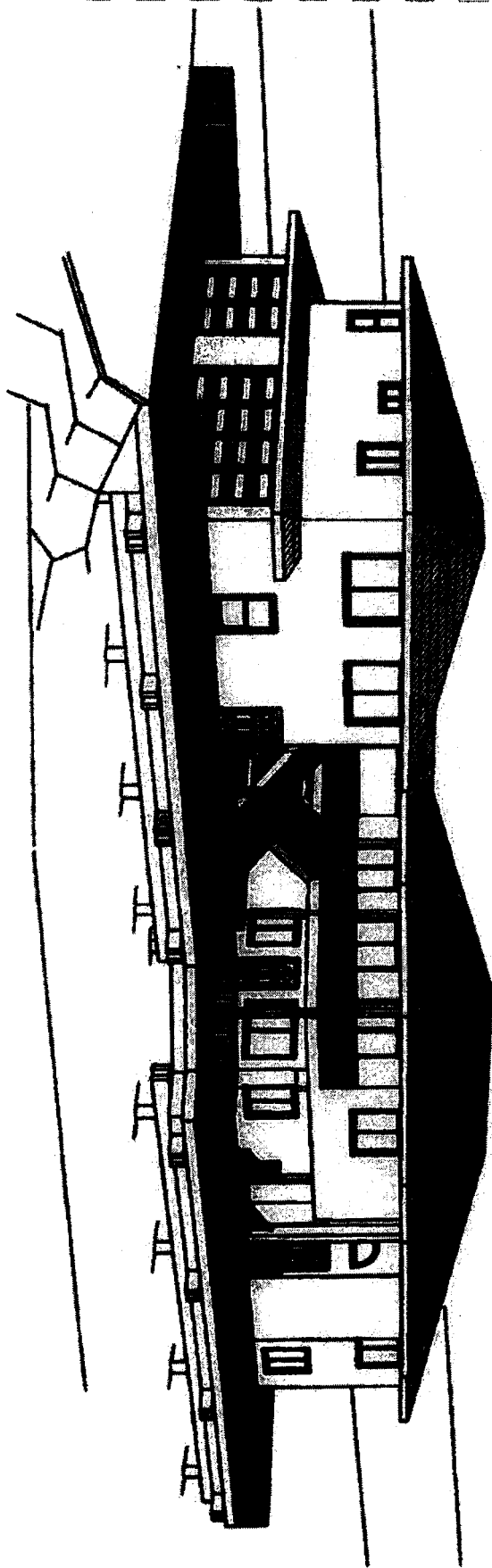
Date

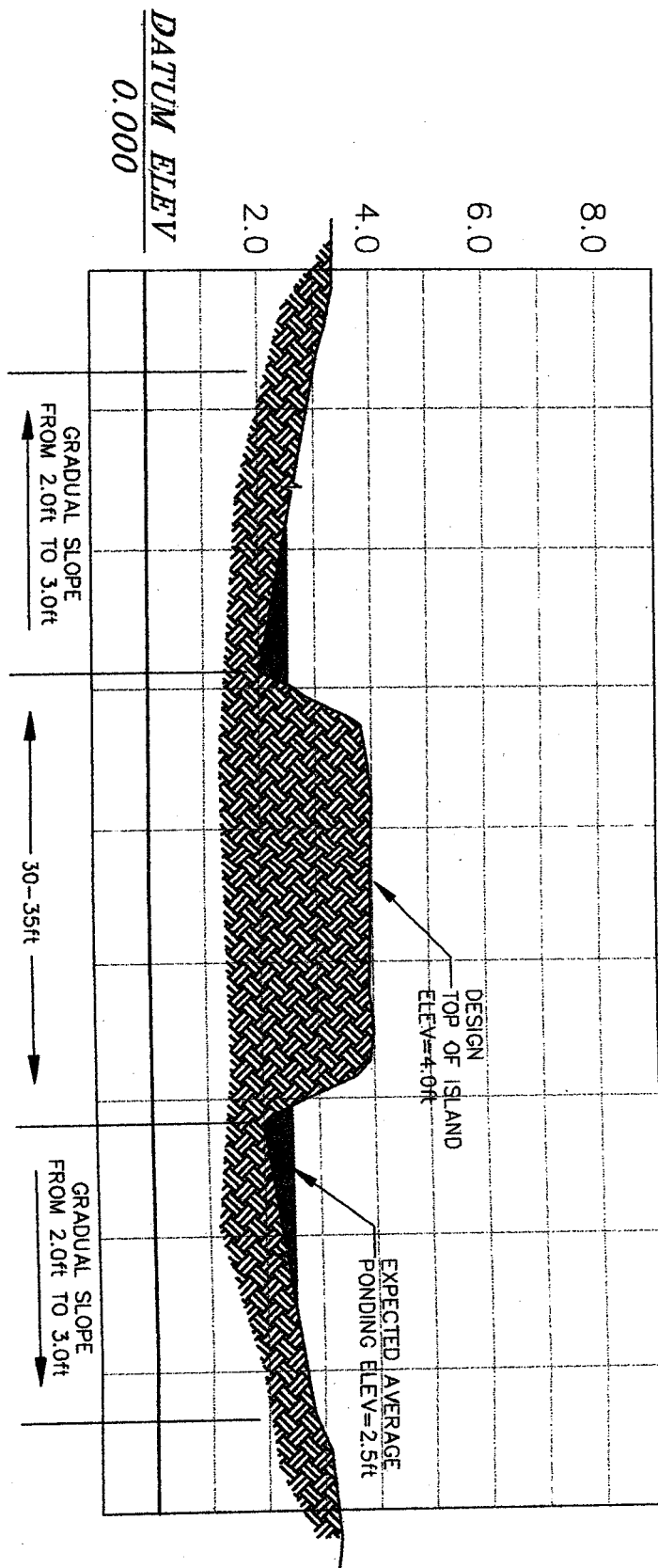
- ①=CABLE
- ②=ELECTRIC
- ③=TELEPHONE
- ④=SEWER
- ⑤=WATER

HALAMA SUBDIVISION

Kihei Maui, Hawaii

PLOT PLAN FOR: BETSILL BROTHERS CONSTRUCTION
SPEC RESIDENCE





**TYPICAL CROSS SECTION
ISLAND IN WETLAND AREA
(NOT TO SCALE)**

