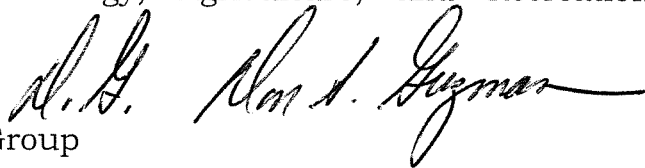


November 29, 2016

MEMO TO: Economic Development, Energy, Agriculture, and Recreation
Committee

F R O M: Don S. Guzman, Chair
Temporary Investigative Group



SUBJECT: **USE OF COUNTY PROPERTIES IN THE HAIKU SUGAR EAST
SUBDIVISION AT HAMAKUALOA** (EAR-067)

The Temporary Investigative Group of the Economic Development, Energy, Agriculture, and Recreation Committee, having met on October 19, 2016, October 20, 2016, October 26, 2016 (site visit), November 2, 2016, and November 23, 2016, makes its report as follows:

Purpose and Scope

At its meeting of October 18, 2016, the Economic Development, Energy, Agriculture, and Recreation Committee established a three-member TIG, pursuant to Section 92-2.5(b)(1), Hawaii Revised Statutes, for a term ending upon submission of its report to the Committee, no later than November 29, 2016.

The purpose of the TIG is to make findings and recommendations relating to a 267.74-acre tract of land recently purchased by the County from Alexander & Baldwin, LLC near the world-famous "Jaws" surf break in East Maui.

Specifically, the TIG was charged with making findings and recommendations on:

1. A process for developing a Master Plan for the properties;
2. Identifying and resolving issues needing immediate attention of the County, including signage, access, gates, and security; and
3. Identifying potential appropriate uses of the property.

The scope of the investigation included:

1. Conducting interviews and discussions with County personnel relating to the development of a Master Plan for the properties;
2. Obtaining relevant materials from County agencies;

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3. Consulting with experts in areas relevant to the scope of the investigation; and
4. Pursuing all other reasonable means to accomplish the TIG purposes.

Membership

Chair: Committee Chair Don S. Guzman
Co-Chair: Councilmember Elle Cochran
Member: Council Chair Mike White

Background

By Resolution 16-109, adopted on September 2, 2016, the Council approved the acquisition of land at Hamakualoa, near Kuiaha Bay, Maui. The property consists of four lots in the Haiku Sugar East Subdivision: Lot 1, 100.82 acres; Lot 3, 33.84 acres; Lot 4, 37.95 acres; and Lot 5, 12.51 acres. The lots are shown on Map 1, attached as Exhibit "1."

The Council referred the matter relating to the use of the properties to the Economic Development, Energy, Agriculture, and Recreation Committee on September 2, 2016.

The County closed on the purchase on September 29, 2016, for \$9.5 million. The property was acquired through an appropriation from the Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund. Expenditures from the Open Space Fund are subject to use restrictions under Charter Section 9-19 and Maui County Code Chapter 3.88, which restrict the uses of land purchased with money from the fund.

Description of Property

The property is zoned for agricultural use and was used for farming pineapple by lessee Maui Land & Pineapple Company until 2009. Today, it is fallow and overgrown by dense cane grass.

Lot 1 is located on the east side of the subdivision and is accessed from Hahana Road, off Hana Highway.

Three contiguous lots, Lots 3, 4, and 5, are located on the west side of the subdivision, and accessed from Nahele Road, off Hana Highway to the west of Hahana Road. Lot 1 does not border Lots 3, 4, or 5.

Lot 2, owned by a private landowner, is surrounded on three sides by County land. Lot 2's access is by way of an easement over Lot 6, another privately-owned parcel, along a dirt road that extends from Hana Highway, between Hahana Road and Nahele Road, at Milemarker 12.5. This entrance is gated and does not provide access to the County lots.

The property contains some hiking trails and culturally sensitive areas. All parcels border the ocean and have ocean views from high rocky cliffs above. The Jaws lookout is located on property owned by A&B to the east of Lot 1. An easement for public access to the lookout encumbers A&B's property in favor of Lot 1.

TIG Investigation

On October 18, 2016, the Committee met to discuss the use of the property and formed the TIG to investigate some specific, initial questions. Of particular importance to Committee members were immediate issues relating to safety, security, and maintenance of the property. The TIG began its work the following day.

To determine the condition of the property, the TIG met with local inhabitants and others familiar with the property, including Simon Russell of Hawaii Farmers Union United, surf contest promoter Rodney Kilborn, and Charla Konohia and Lezley Jacintho, Hawaiian lineal descendants of Hamakualoa.

The TIG investigated options to secure the property with several members of the Administration, including representatives of the Mayor's office, Office of Economic Development, Department of Public Works, Department of Planning, Department of the Corporation Counsel, and the Police Department.

The TIG performed a site visit on October 26, 2016, accompanied by Randall H. Endo, A&B Vice President; Courtlandt Gates, the Lot 2 landowner; and Administration members: Rob Parsons, Environmental Coordinator, Mayor's Office of Economic Development; Russell Higa, Land

Management/Surveying Section Supervisor, Department of Public Works; and Billy Amarol, District Supervisor of the Department of Parks and Recreation; Jerrie Sheppard, Deputy Corporation Counsel; and J.D. Kim, Prosecuting Attorney.

TIG Findings

The TIG finds the properties have been used, both with and without permission, by various groups and individuals for a long period of time. While some of the users have engaged in legitimate pursuits, the properties have been used for illegal activities, including drug-related crimes and stripping of stolen and abandoned vehicles. Dumping of vehicles is especially evident along the eastern border of Lot 1 and Hahana Road. The access road winds in and out of an adjacent large tract owned by A&B and provides entrance to Kaupakulua Gulch, which is the center for much of the criminal activity. Hahana Road also provides access to kuleana parcels and residents in the area.

Immediately prior to the County's purchase, A&B cleared the property of all abandoned vehicles, but since that time, illegal dumping has resumed. County personnel recently discovered 12 stripped vehicles in the gulch. The Police Department informed the TIG members the disposition of abandoned vehicles is often complicated by required procedures entailing towing and storage, at the County's cost. Additionally, the police said towing companies are reluctant to go into remote areas.

The TIG finds it is important to diffuse criminal activity by setting a precedent from the beginning of no tolerance for criminal activity on the County's property. The TIG also finds abandoned vehicles will continue to be a problem so long as access to the property is left uncontrolled.

Mr. Parsons advised he was working with the Abandoned Vehicles/Metals program to identify the sites where most of the derelict vehicles are found. They plan to conduct a site visit with the Police Department and two vendors who are capable of extracting vehicles from that terrain on December 6, 2016. Mr. Parsons suggests coordinating with the Department of Public Works to install gates or berms as soon as the last vehicles are removed in order to deter access and prevent illegal activities from continuing.

The TIG ruled out fencing the property at this point as cost-prohibitive, opting instead for barriers, gates, and warning signs.

The TIG determined additional funds may be required through amendments to the Fiscal Year 2017 budget in order to finance security measures. Open Space Fund appropriations may not be used for maintenance and security of the property. Both the Charter and the Code restrict the use of the Open Space Fund to the purpose of “purchasing or otherwise acquiring lands or property entitlements for land conservation purposes in the County of Maui.”

TIG Recommendations

The TIG has recommendations in four areas.

I. Process for Developing a Master Plan

The TIG recommends that the County develop a Master Plan for the property through the use of a private consultant chosen through a Request for Proposal process rather than attempting to do the work in-house. The TIG believes this process would be most likely to allow the County to obtain high-level, specific expertise and ensure the project would be completed efficiently without overburdening County personnel.

The scope of work to be accomplished by the consultant should include the following:

- Meeting with stakeholders, conducting a survey of the property, and reporting their priorities.
- Evaluating potential uses of the property, giving preference to passive, open uses and including in the evaluations any related maintenance.
- Investigating the option of leasing a portion of the property for agricultural use.
- Formulating a plan to protect cultural and historic sites.
- Verifying that an archaeological study is finalized and monitoring plan is in place.

The work must be restricted to limited improvements, such as dirt and gravel roads, portable or composting restrooms, and water catchment or ditch water. Care should be taken to avoid triggering a land use approval process, if possible; and the consultant should consider activities that would not trigger the need for a Special Management Area use permit.

II. Immediate Issues

The TIG believes security of the property is the first priority in order to address immediate issues of vandalism, dumping, safety, and damage. The TIG considered various options for security, and discussed recommendations based on feasibility and effectiveness with the Police Chief, Deputy Director of Public Works, and Director of Parks and Recreation.

The TIG recommends gates and barriers be placed at access points to secure the roads, as shown on Map 2, attached as Exhibit “2”:

West Side

- On Naele Road, leave concrete Jersey barrier, located within the easement area, in place for now. Place signage near barrier.
- At the “Surfer Trail” on A&B’s parcel, tax map key (2) 2-7-004:001, there is an existing Jersey barrier that should remain in place. Place signage on the western boundary of Lot 5 indicating the property is owned by the County and trespassing is prohibited.

East Side

- At the “cut gate,” install a Jersey barrier, place boulders, and install signs. Remove abandoned vehicles from the property.
- On Hahana Road, install a new gate. Include the ability for residents (kuleana owners) to operate the gate for access to their properties. Install signs. Consider installation of cameras.
- On “Jaws Road,” install a second, new gate located below the last residence, but above the portions of the road that meander into Lot 1. Provide access to A&B through the gate. Install signs.

The Deputy Director of Public Works informed the TIG the Jersey barriers, gates, and signs could be obtained and installed initially through the Department of Public Works, subject to funding.

Signage should be posted to provide notice to deter trespassing, dumping, and other criminal behavior. The Department of Parks and Recreation has templates for language, including code sections.

The TIG encourages the County to take steps to maintain a presence on the property to deter criminal activity. The TIG also recommends pursuing the following law enforcement measures with the assistance of the Police Department:

- Performing regular sweeps using all-terrain and other appropriate vehicles where the terrain is difficult. The Police Department has six quads and will put the property in a rotation for monthly sweeps of 9-10 officers.
- Patrolling and doing stakeouts to prevent crimes.
- Establishing neighborhood watches for area residents and for local farmers, with monthly meetings involving police personnel.
- Using neighborhood watch signs, funded by federal grants, in tandem with County signs, where there are appropriate lines of sight.
- Using drone surveillance. The Police Department has been awarded a grant to purchase drones with cameras, and the Department is in the process of certifying officers as drone operators.
- Engaging Haiku police officers to visit and warn known offenders.
- Enlisting the aid of local community associations to help increase community awareness.

The Director of Parks and Recreation stated, once the area is open to the public, the Department can help secure access to the property by setting hours and closing gates at appropriate times, as it has done with Baldwin and Kanaha beach parks.

The TIG recognizes these as temporary steps for immediate security. For longer term security, the TIG foresees the possibility of reestablishing a former road along the east side of Lot 1, entirely on County property, to separate access to County property from access of residents of the contiguous A&B property. This would alleviate much of the illicit activity by persons coming and going from Kaupakulua Gulch.

III. Potential Appropriate Uses

Section 9-19, Revised Charter of the County of Maui (1983), as amended, restricts use of property purchased with appropriations from the Open Space Fund to the following purposes: public outdoor recreation and education; preservation of historical or culturally important land areas; protection of significant habitat or ecosystems, including buffer zones; preserving forests, beaches, coastal areas and agricultural lands; protecting watershed lands to preserve water quality; conserving land for the purpose of reducing erosion, floods, landslides, and runoff; and improving disabled and public access to, and enjoyment of, public land, open space, and recreational facilities. Chapter 3.88, Maui County Code, states the Open Space Fund shall be used to acquire land for the same purposes set forth in the Charter and prohibits the use of fund revenues for the maintenance of acquired lands.

The TIG finds that the following uses are appropriate for the property:

- Agricultural uses.
- Open land recreational uses.
- Traditional customary practices.
- Fishing.
- Seasonal event use.
- Conservation uses, including reforestation, native plants, and protection of native flora and fauna.

Please see Map 3, attached as Exhibit “3,” showing potential areas of use for each lot. These uses should be included in the request for proposal for the development of a Master Plan.

IV. Future Property Plans

The TIG recommends the appropriate standing committee of the Council establish a new TIG for the next term to continue to monitor, plan for, and oversee the use of the Hamakualoa property.

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Attachments

Lot 5 - 12.51 acres

Lot 4 - 37.95 acres

Lot 3 - 33.84 acres

Lot 2 - private

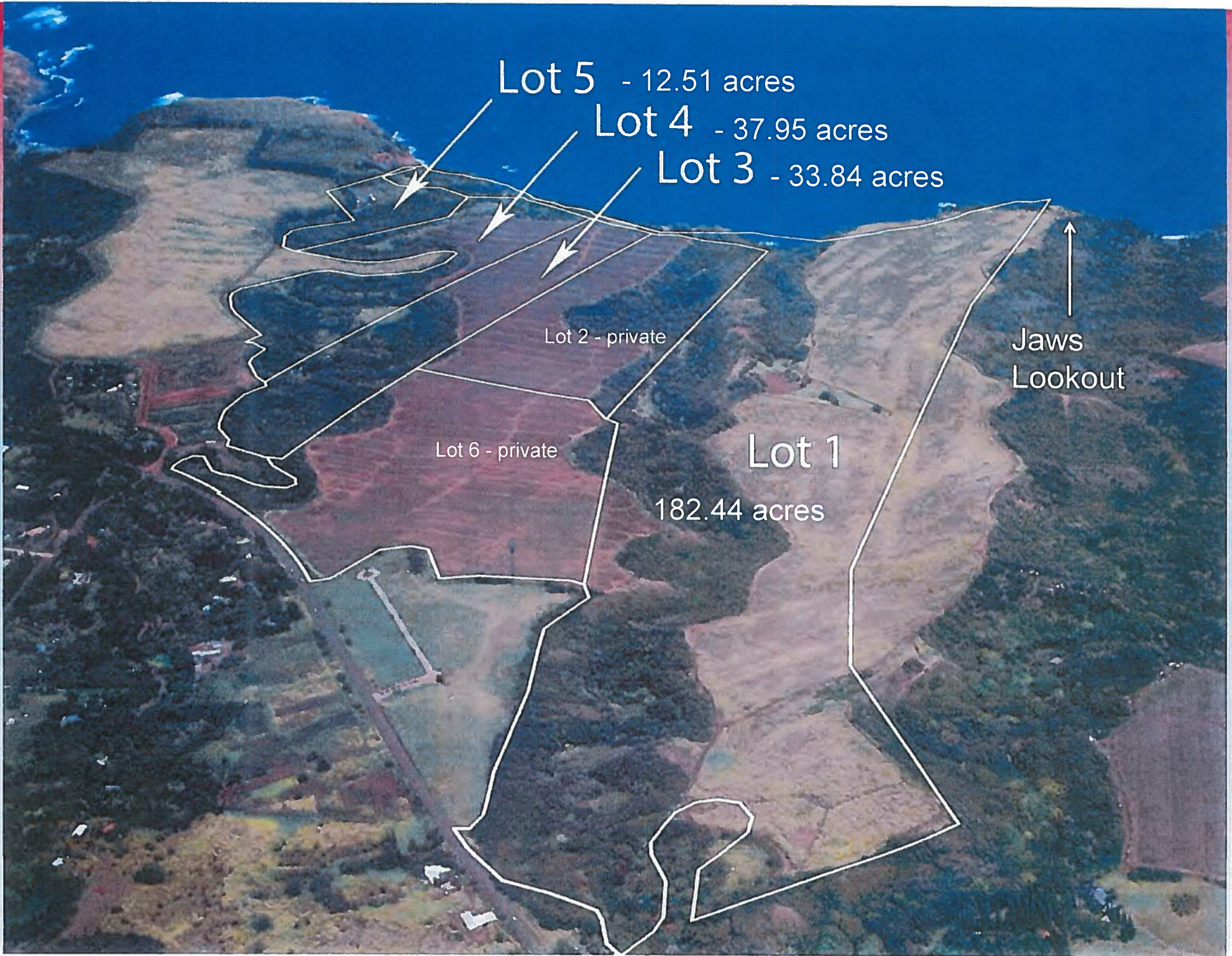
Lot 6 - private

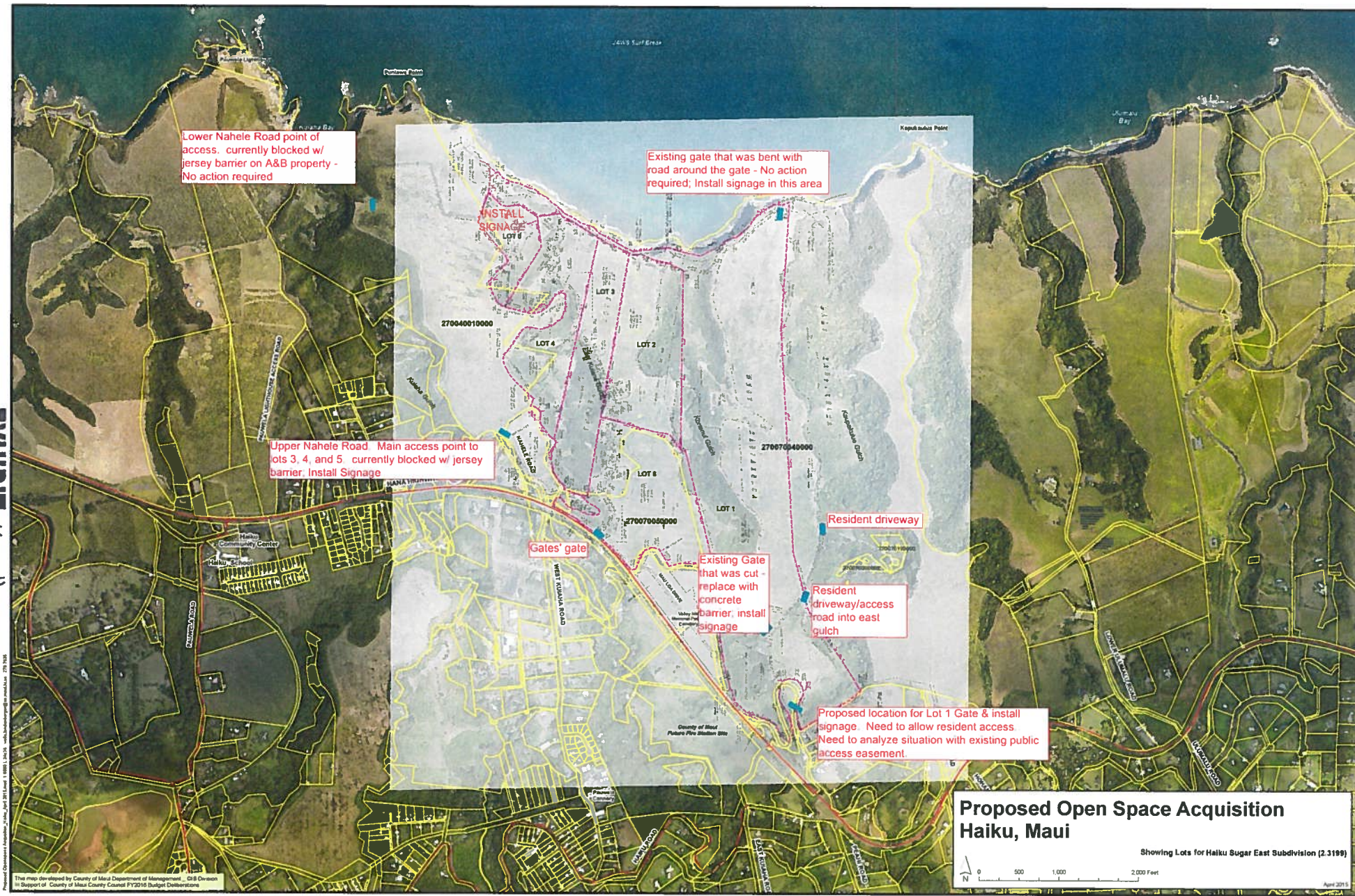
Lot 1

182.44 acres

Jaws
Lookout

EXHIBIT "1"





Lot 5

Lot 4

Lot 3

*Re-establish an under-lay of traditional
& plantation dirt roads & trails throughout
County parcels for walking & jogging, and
equestrian & non-motorized bike use
as determined appropriate within the complex

Cultural
Preservation
In Gulch

* * Areas of
Lots 3, 4 & 5

Scenic Viewing Areas
Along Coastline

Jaws
Lookout

Lot 1

Cultural
Preservation
In Gulch Areas

Natural/Organic
Ag Park

Natural/Organic
Ag Park

Cultural
Preservation
In Gulch Areas

Natural/Organic
Ag Park