

***Appendix E— Section 4(f) Evaluation of
Previously Unidentified Traditional Cultural
Properties for the Honolulu Rail Transit Project***

Section 4(f) Evaluation of Previously Unidentified Traditional Cultural Properties in the Honolulu Rail Transit Project

September 30, 2013

1.0 Introduction

In June 2010, a Final Environmental Impact Statement (EIS) and Section 4(f) Evaluation for the Honolulu Rail Transit Project (the Project), was completed and approved. The Record of Decision (ROD) was signed in January 2011. Since that time, the Honolulu Authority for Rapid Transportation (HART) completed additional studies of traditional cultural properties (TCPs), pursuant to Stipulation II of the project's Section 106 Programmatic Agreement

The project completed its evaluation of TCPs (Figures 1 and 2). On June 6, 2012, the Federal Transit Administration (FTA) and HART submitted technical reports (Kumu Pono 2012, SRI and Kumu Pono 2012) and a determination of eligibility and finding of effect (FTA 2012) to the Hawai'i State Historic Preservation Officer (SHPO) regarding Sections 1-3 of the Project. Technical reports (Kumu Pono 2013, SRI and Kumu Pono 2013) and a determination of eligibility and finding of effect (FTA 2013) for Section 4 were submitted to the SHPO on August 29, 2013.

FTA and HART identified 46 sites, within the Area of Potential Effect (APE) of the Project, in their technical studies, and determined one, Huewaiḡi, to be eligible for nomination to the National Register of Historic Places (NRHP). One additional site, Kūki'iahu, was found to be a non-contributing element to an historic property (*i.e.*, Sumida Watercress Farm) that was already determined eligible for the NRHP. Kūki'iahu is co-located with (falls within the boundaries of) the Sumida Watercress Farm. Both Huewaiḡi and Kūki'iahu are located within the Kamehameha Guideway Section (Section 2) of the Project.

For Sections 1-3, FTA and HART found that the Project would have No Adverse Effect on Huewaiḡi. In addition, FTA and HART found that Kūki'iahu is a non-contributing element of the Sumida Watercress Farm. Thus, the prior determination that the Project would have No Adverse Effect on the Sumida Watercress Farm remains unchanged. SHPO concurred with all of the FTA's determinations of eligibility and findings of effect for Sections 1-3 on July 3, 2012. For Section 4, FTA determined the Project would have No Adverse Effect on any previously unidentified NRHP-eligible TCPs because no such properties were identified through the TCP studies. SHPO concurred with FTA's Section 4 determinations on September 27, 2013.

This Section 4(f) evaluation considers the potential for the Project to use, as defined in 23 CFR 774.17, any previously unidentified TCPs within the APE of the Project that are eligible for the NRHP. Although Kūki'iahu is not a Section 4(f) property, it is also discussed below because it is co-located with (falls within the boundaries of) the Sumida Watercress Farm, a previously evaluated NRHP-eligible property. This Section 4(f) evaluation was conducted pursuant to Section 4(f) of the Department of Transportation Act and in accordance with 23 CFR Part 774. Additional guidance was obtained from the revised FHWA Section 4(f) Policy Paper (2012).

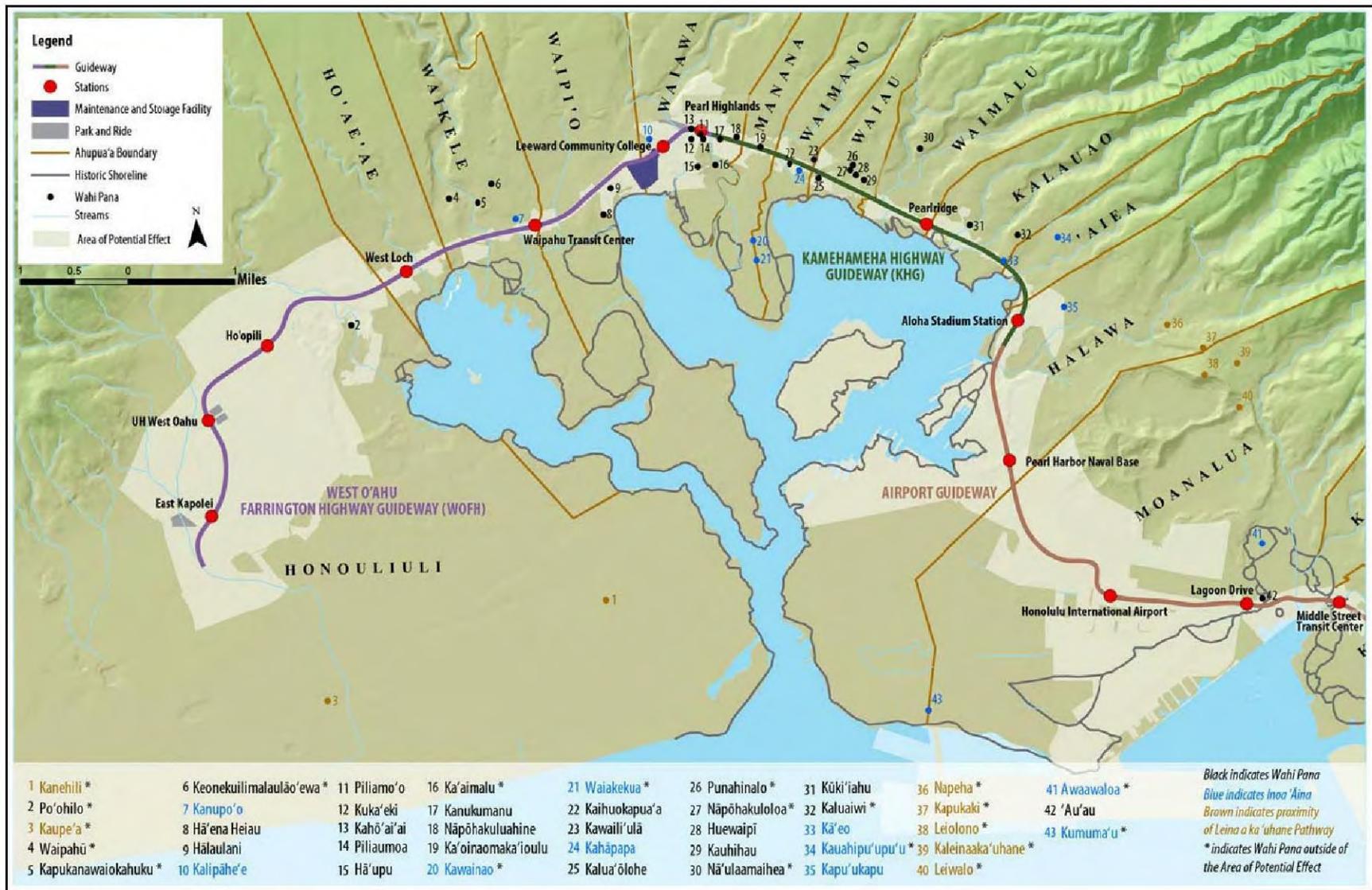


Figure 1. Sites identified in Sections 1-3 of the H RTP

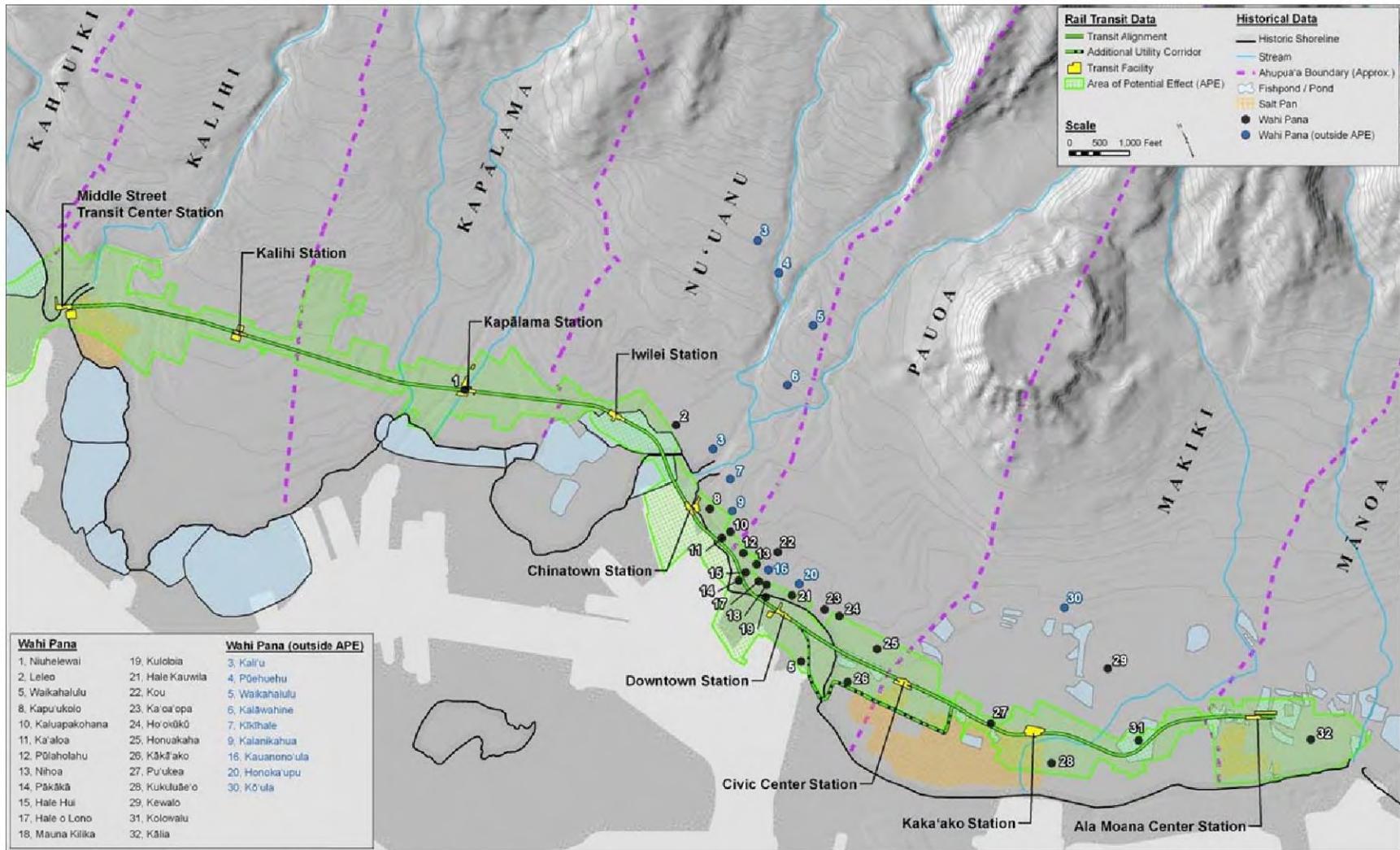


Figure 2. Sites identified in Section 4 of the HRTP

2.0 Regulatory Context

23 CFR 774.17 defines a Section 4(f) property as “publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance.”

FTA may not approve the use of a Section 4(f) property, unless it determines the following:

- There is no feasible and prudent avoidance alternative, as defined in Section 774.17, to the use of land from the property.
- The action includes all possible planning, as defined in Section 774.17, to minimize harm to the property resulting from such use.

A use occurs when:

- When land is permanently incorporated into a transportation facility;
- When there is a temporary occupancy of land that is adverse in terms of the statute’s preservation purpose as determined by the criteria in § 774.13(d); or
- When there is a constructive use of a Section 4(f) property as determined by the criteria in § 774.15.

However, the Administration may approve a use if it determines that the use of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) committed to by the applicant, will have a *de minimis* impact, as defined in § 774.17, on the property.

For historic sites, *de minimis* impact is defined in 23 CFR 774.17 as follows:

For historic sites, *de minimis* impact means that the FTA has determined, in accordance with 36 CFR 800, that no historic property is affected by the project or the project would have “no adverse effect” on the property in question. SHPO and Advisory Council on Historic Preservation (ACHP), if involved, must be notified that the FTA intends to enter a *de minimis* finding for properties where the project results in “no adverse effect.”

3.0 The Proposed Action

The Project is the construction and operation of a 20-mile, elevated fixed guideway transit system from East Kapolei to Ala Moana Center. The details of the route are provided in the Final EIS.

Both Huewaipī and Kūki‘iahu are located along Kamehameha Highway, Section 2 of the Project (Figures 3 and 4). In this vicinity, the Project will be built entirely within Kamehameha Highway, with the top of the rail being approximately 40 feet above grade. The Project within Section 2 will consist of guideway columns supporting the fixed guideway. No stations or ancillary buildings are planned within the vicinity of Huewaipī and Kūki‘iahu. All utility work will stay within Kamehameha Highway.

4.0 Section 106 Consultation

Section 106 consultation has been on-going since the beginning of the Section 106 process. Consultation particular to this effort has solicited input regarding previously unidentified TCPs and the Project's potential effects on those types of TCPs. The consultation effort included six meetings held on:

- February 12, 2011
- June 23, 2011
- April 13, 2012
- May 4, 2012
- May 8, 2013
- May 9, 2013

In addition to these specific meetings, HART and FTA held quarterly meetings on the Section 106 PA in general. All consulting parties were invited to those quarterly meetings. The April 13, 2012 quarterly meeting included a presentation and discussion of the TCP effort. An informal Kako'o meeting was held on September 19, 2013 which provided a status update of the TCP effort in Section 4 and directed people to the website for all of HART's TCP information.

The TCP analysis for Sections 1 through 3 of the Project is documented in: (1) Honolulu Rail Transit Project, Determination of Eligibility and Finding of Effect for Previously Unidentified Traditional Cultural Properties in Sections 1-3, May 25, 2012; (2) Study to Identify the Presence of Previously Unidentified Traditional Cultural Properties in Sections 1-3 for the Honolulu Rail Transit Project, Management Summary, SRI Foundation & Kumu Pono Associates LLC, April 20, 2012; and (3) He Mo 'olelo 'Aina – Traditions and Storied Places in the District 'Ewa and Moanalua (in the District of Kona), Island of O'ahu; A Traditional Cultural Properties Study – Technical Report, Kumu Pono Associates LLC, April 20, 2012. The TCP analysis for Section 4 of the Project is documented in: (1) Determination of Eligibility and Finding of Effect for Previously Unidentified Traditional Cultural Properties in Section 4, Honolulu Rail Transit Project; (2) Study to Identify the Presence of Previously Unidentified Traditional Cultural Properties in Section 4 for the Honolulu Rail Transit Project, Management Summary, The SRI Foundation and Kumu Pono Associates LLC, April 24, 2013; and (3) He Mo 'olelo 'Aina – Traditions and Storied Places in the District of Kona – Honolulu Region (Lands of Kalihi to Waikiki), Island of O'ahu; A Traditional Cultural Properties Study – Technical Report, Kumu Pono Associates LLC Study No. 131, March 28, 2013. All of these reports were made available for review and comment by public, including representatives of the Native Hawaiian community, ACHP and other consulting parties identified in the Programmatic Agreement. Further, as discussed, meetings were held, consistent with 36 CFR 800.4 and 800.5.

For Section 1-3, FTA determined, on June 6, 2012, that there was one TCP within the APE that was eligible for the NRHP (Huewaipi), but that the Project would have no adverse effect on that property. Another potential TCP (Kūki'iahu), co-located with the NRHP-eligible Sumida Watercress Farm, was identified through the TCP analysis, but FTA determined that Kūki'iahu lacked integrity. SHPO concurred with those determinations. For Section 4, FTA determined, on August 28, 2013, that there were no previously unidentified TCPs within the APE that were eligible for the NRHP and, thus, the Project would have no adverse effect on any such TCPs. SHPO concurred with those determinations.

5.0 Section 4(f) Evaluation

The TCP studies discussed above resulted in the identification of one property as eligible for the NRHP. That property, Huewaipī, is a Section 4(f) property. A second site, Kūki‘iahu, is not a Section 4(f) property, but it is discussed here because it is co-located with (within the boundaries of) an existing, previously evaluated Section 4(f) property, the Sumida Watercress Farm.

5.1 Huewaipī

Huewaipī includes the spring that feeds Waiau wetlands in Waimalu, and is currently used for subsistence farming and gardening. Historic maps indicate that the wetland site was also once a lo‘i. The spring, wetland and lo‘i are make up one larger, single site. The SHPO concurred with FTA’s determination that the Project would have No Adverse Effect on Huewaipī.

At Huewaipī the Project would construct piers within the median of Kamehameha Highway to support the guideway. There would be no acquisition of right-of-way and no station or ancillary buildings in or near the site. The site has been marked as a no work zone, and so no temporary staging will occur at the site.

Thus, no land will be permanently incorporated into a transportation facility and no temporary occupancy of land will occur. Further, the Project will not result in a constructive use of Huewaipī. Under 23 CFR 774.15(f)(1), “[t]he Administration has reviewed the following situations and determined that a constructive use does not occur when: (1) Compliance with the requirements of 36 CFR 800.5 for proximity impacts of the proposed action, on a site listed on or eligible for the National Register, results in an agreement of ‘no historic properties affected’ or ‘no adverse effect;’” As discussed, the SHPO concurred with FTA’s determination that the Project would have No Adverse Effect on Huewaipī. Therefore, the Project will not result in the constructive use of Huewaipī; the Project will not create proximity impacts so severe that the activities, features or attributes that qualify Huewaipī for protection under Section 4(f) are substantially impaired. This “no use” determination is also consistent with Question 7D of the FHWA 2012 Section 4(f) Policy Paper.

For these reasons, the Project will not result in a Section 4(f) use of Huewaipī.

5.2 Kūki‘iahu & Sumida Watercress Farm

Kūki‘iahu is the site of a 1794 battle between the warriors of Kā‘eokūlani and Kalanikūpule. Kā‘eokūlani was killed in this battle. The dead were gathered and taken down to the shore at Pa‘aiau. Although the site meets other NRHP criteria, the SHPO concurred that it does not retain integrity. Because it does not retain integrity, Kūki‘iahu is not eligible for the NRHP. Therefore, Section 4(f) does not apply to Kūki‘iahu because it is not a Section 4(f) property. Kūki‘iahu is, however, co-located with (within the boundaries of) the Sumida Watercress Farm, which was previously identified as NRHP-eligible and evaluated under Section 4(f) in the original EIS and prior Section 4(f) evaluation. But, Kūki‘iahu is a non-contributing element of the Sumida Watercress Farm. As a result, the prior determination that the Project would have No Adverse Effect on and would not result in a Section 4(f) use of the Sumida Watercress Farm remains unchanged.



Figure 3. Huewaiḽi (Site 28).

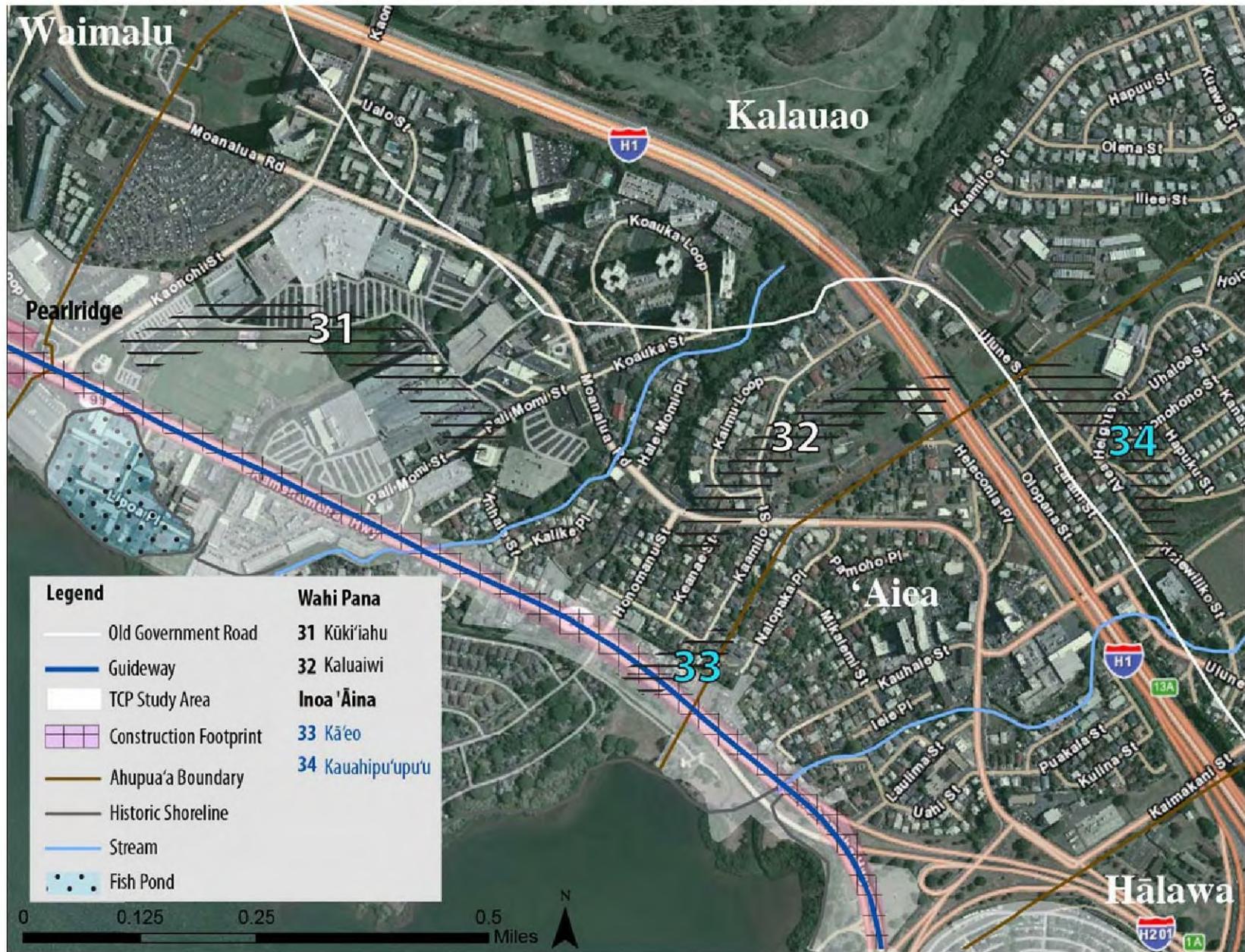


Figure 4. Kūki'iahu (Site 31)

6.0 References

- FTA 2012 Determination of Eligibility and Finding of Effect for Previously Unidentified Traditional Cultural Properties in Sections 1-3, Honolulu Rail Transit Project, May 25, 2012.
- FTA 2013 Determination of Eligibility and Finding of Effect for Previously Unidentified Traditional Cultural Properties in Section 4, Honolulu Rail Transit Project.
- Kumu Pono 2012 Mo‘olelo ‘aina –Traditions and Storied Places in the District of ‘Ewa And Moanalua (In The District of Kona), Island of O‘ahu. A Traditional Cultural Properties Study – Technical Report. Kumo Pono Associates, LLC. April 20, 2012.
- Kumu Pono 2013 He Mo‘olelo ‘Āina – Traditions And Storied Places In The District of Kona — Honolulu Region (Lands Of Kalili To Waikīkī), Island Of O‘ahu.
A Traditional Cultural Properties Study – Technical Report. Kumo Pono Associates, LLC. April 24, 2013
- SRIF and Kumo Pono 2012 Study to Identify the Presence of Previously Unidentified Traditional Cultural Properties in Sections 1-3 for the Honolulu Rail Transit Project. Management Summary. The SRI Foundation, Rio Rancho New Mexico and Kumo Pono Associates, LLC, Kane‘ohe, Hawai‘i. April 20, 2012.
- SRIF and Kumo Pono 2013 Study to Identify the Presence of Previously Unidentified Traditional Cultural Properties in Section 4 for the Honolulu Rail Transit Project. Management Summary. The SRI Foundation, Rio Rancho New Mexico and Kumo Pono Associates, LLC, Kane‘ohe, Hawai‘i. April 24, 2013.

