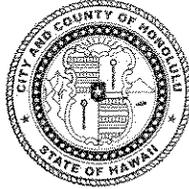


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8000 • FAX: (808) 768-6041
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JUL 23 2010

MUFI HANNEMANN
MAYOR



DAVID K. TANOUÉ
DIRECTOR

ROBERT M. SUMITOMO
DEPUTY DIRECTOR

2009/ED-15(JM)

June 25, 2010

Ms. Katherine Puana Kealoha, Director
Office of Environmental Quality Control
State of Hawaii
State Office Tower, Room 702
235 South Beretania Street
Honolulu, Hawaii 96813-2437

Dear Ms. Kealoha:

Subject: Chapter 343, Hawaii Revised Statutes (HRS)
Final Environmental Assessment (EA) Determination
Finding of No Significant Impact (FONSI)

Recorded Owner: Kahn Family Trust
Applicant: Philippe Kahn
Agent: Wil Chee – Planning & Environmental
Location: 146 Wailupe Circle - Wailupe
Tax Map Key: 3-6-1: 38
Request: After-the-fact Shoreline Setback Variance
Proposal: Repair and increase the height of an existing concrete rubble masonry (CRM) seawall along a residential beachfront lot.

Attached and incorporated by reference is the Final EA prepared by the applicant for the above project pursuant to Chapter 343, HRS. We have determined that the preparation of an Environmental Impact Statement is not required and have issued a FONSI. Enclosed are a 3-1/2" Floppy Disk with a "Summary" of the subject project, Publication Form, a CD, and one hard copy of the Final EA. We request publication of a notice in The Environmental Notice.

If you have any questions, please contact James Morisato of our staff at 768-8026.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Elizabeth", is written over the signature line.

for David K. Tanoue, Director
Department of Planning and Permitting

DKT:nt

Encl.

Doc. No. 775241

**Final
Environmental Assessment**

for a

**Shoreline Setback Variance Application for a Seawall,
Wailupe Circle, Honolulu, Hawaii**

TMK (1) 3-6-001:038

May 2010

Prepared For:
Mr. & Mrs. Philippe Kahn
c/o Mr. Randy Uchytel
Darcey Builders, Inc
501 Sumner Street # 605
Honolulu, Hawaii 96817
Ph (808) 524-2903

Prepared By:
Wil Chee – Planning & Environmental
1018 Palm Drive
Honolulu, Hawaii 96814

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- Appendix B Shoreline Certification
- Appendix C Pre-consultation Letters
- Appendix D DEA Comments and Responses

List of Acronyms

- AAQS Ambient Air Quality Standards
- EA Environmental Assessment
- EIS Environmental Impact Statement
- FEMA Federal Emergency Management Agency
- FIRM Flood Insurance Rate Map
- FONSI Finding of No Significant Impact
- ft feet
- HRS Hawaii Revised Statutes
- HAR Hawaii Administrative Rules
- SSV Shoreline Setback Variance
- TMK tax map key

1.0 Introduction

The Kahn residence is situated on the west-facing, makai side of Wailupe Peninsula. The property contains a single-family detached house, with a seawall and recreational-use pier. The seawall is composed of lava rocks and protects the property from the potentially damaging effects of exposure to ocean waters. Portions of the lava-rock seawall are missing where rocks have fallen from the structure. Repairs to the existing seawall will be necessary to protect the Kahn residence from the ocean waters.

1.1 Background

Wailupe Peninsula is located in Maunalua Bay, which opens to the Pacific Ocean. Before being developed for residential use, Wailupe Peninsula was one of three prehistoric Hawaiian fishponds in Maunalua Bay. In the 1940s, the fishpond was filled in. At this time, the original, prehistoric lava-rock seawall that enclosed the fishpond was strengthened to protect the filled area from ocean waters. Despite the prehistoric use of the surrounding area, there are no known cultural or historic resources located at the site of the proposed action. A cultural study conducted in the area identified no cultural resources (Clark 2003).

Developer Robert Hind, Ltd., began development of Wailupe Peninsula in 1948, and the area has been fully developed as a residential neighborhood for approximately 60 years. There are 120 single-family, detached, residential units on the peninsula at this time. The seawall located at the Kahn residence is part of the original seawall designed in 1948 and which encompasses the entire peninsula, protecting it from ocean hazards. Several seawalls located on other Wailupe Peninsula properties have been repaired and upgraded since 1948.

1.2 Scope and Authority

This Environmental Assessment (EA) has been prepared pursuant to the Hawaii Revised Statutes (HRS), Chapter 343 (the EIS law), and the associated Title 11, Chapter 200, Hawaii Administrative Rules (HAR), Department of Health, State of Hawaii.

The intent of this EA is to ensure that comprehensive and systematic consideration is given to the potential impacts of the proposed action upon the natural and man-made environments. This EA is intended to serve as an environmental disclosure document that identifies the purpose of and need for the proposed action, reasonable implementation alternatives, existing environmental conditions, potential environmental impacts, and mitigation measures to avoid or minimize such impacts. The findings presented in this EA will provide the basis for determining whether an Environmental Impact Statement (EIS) is necessary or that a Finding of No Significant Impact (FONSI) is appropriate.

1.3 Project Information Summary

THE APPLICANT:	Mr. & Mrs. Philippe Kahn c/o Mr. Randy Uchtyl Darcey Builders, Inc. 501 Sumner Street # 605 Honolulu, Hawaii 96817 Ph (808) 524-2903
APPLICANTS' REPRESENTATIVE	Randy Uchtyl Darcey Builders, Inc. 501 Sumner Street # 605 Honolulu, Hawaii 96817 Ph (808) 524-2903
EA PREPARATION	Wil Chee - Planning & Environmental 1018 Palm Drive Honolulu, Hawaii 96814 Ph (808) 596-4688 Fax (808) 597-1851
TMK AND OWNER:	(1) 3-6-001:038 Kahn Family Trust 146 Wailupe Circle Honolulu, Hawaii 96821
LAND AREA:	13,056 square feet
ZONING	R-10 Residential District
STATE LAND USE	Urban District
AGENCIES CONSULTED:	Department of Planning and Permitting City & County of Honolulu 650 South King Street Honolulu, Hawaii 96813
REQUIRED PERMITS AND APPROVALS:	Shoreline Setback Variance Building Permit
ACCEPTING AUTHORITY	Department of Planning and Permitting City & County of Honolulu 650 South King Street Honolulu, Hawaii 96813

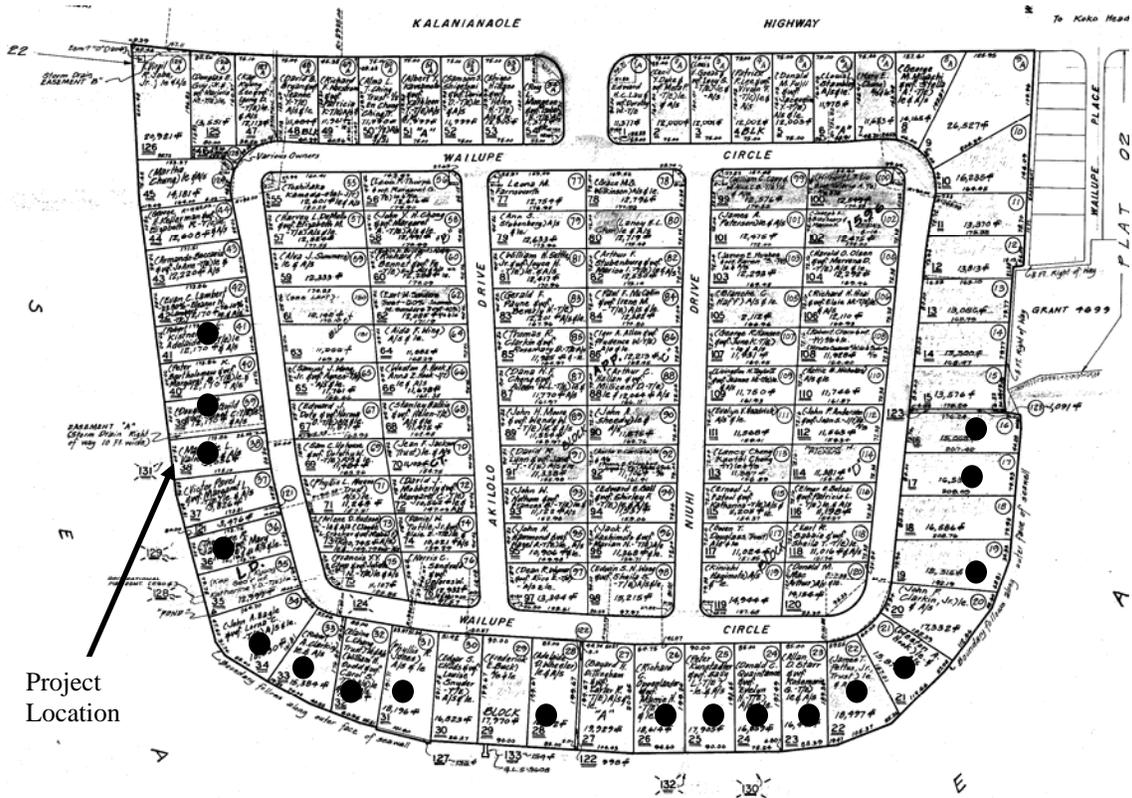
2.0 Description of the Proposed Action

2.1 Project Location

The project site is located on the west-facing, makai side of Wailupe Peninsula, on Wailupe Circle. The peninsula is located off of Kalaniana'ole Highway, slightly northeast of Diamond Head, and extends into Maunalua Bay. (Figures 1–3).



Figure 1. Project Location



● Properties with Certified Shorelines
Figure 2. TMK Map



Project Location

Figure 3. Aerial View

2.2 Existing Site Conditions

The project site contains a single-family, detached dwelling, with a lava-rock seawall and recreational-use pier. The property was developed and the seawall built before implementation of shoreline setback regulations that required a setback of 10 feet in 1966 and a setback of 40 feet in 1970.

Several sections of the seawall have become unstable, and lava rocks have fallen from portions of the seawall and are visible in Maunalua Bay, in front of the Kahn property. Rocks falling from the seawall have reduced the total seawall elevation, and the wall is currently uneven and unstable. Piping that once ran behind the wall is now visible and drooping.

Currently, a wooden picket fence abuts the lava rock seawall, and a hedge of naupaka is growing on top of the seawall. A metal gate in the center of the seawall provides access to the Kahn property's recreational-use pier and Maunalua Bay. Figure 4 shows the current condition of the seawall. The loose and dislodged rocks, as well as the drooping piping that was once behind the seawall, are evident.



A: Kahn residence lava-rock seawall, looking south from recreational-use pier



B: Kahn residence lava rock seawall, looking north from recreational-use pier



C: Rocks dislodged from the seawall exposed, the drooping irrigation piping



D: Rocks that have fallen from the seawall into Maunalua Bay

Figure 4 (A–D). Kahn Property Seawall

In addition to the deteriorating condition of the Kahn property seawall, the top of the seawall is below the grade of the Kahn parcel by as much as 5 feet (ft) in places, and it is not flush with the elevation of the seawalls fronting neighboring parcels. Several properties on Wailupe Peninsula have razed their seawalls and replaced them with new seawalls, and others have extensively repaired their seawalls. Repairs to adjoining seawalls are evident in Figure 5, which also illustrates the current height difference between the Kahn property seawall and adjoining property seawalls. The top of the Kahn property seawall sits considerably lower than the tops of the adjoining property seawalls.



Height of adjoining seawall

Height of Kahn residence seawall

A: Seawall height comparison of Kahn property and adjoining property to the south



Height of adjoining seawall

Height of Kahn residence seawall

B: Seawall height comparison of Kahn property and adjoining property to the north
Figure 5 (A, B). Height Comparison of Kahn Seawall

2.3 Project Features

The purpose of this EA is to obtain a Shoreline Setback Variance (SSV) and Building Permit to restore the existing seawall on the Kahn property. The property has a current Certified Shoreline, which was issued on February 20, 2009 (Figure 6). The design plans for the restored seawall have been developed by a licensed contractor for Darcey Builders, Inc. (See Appendix A).

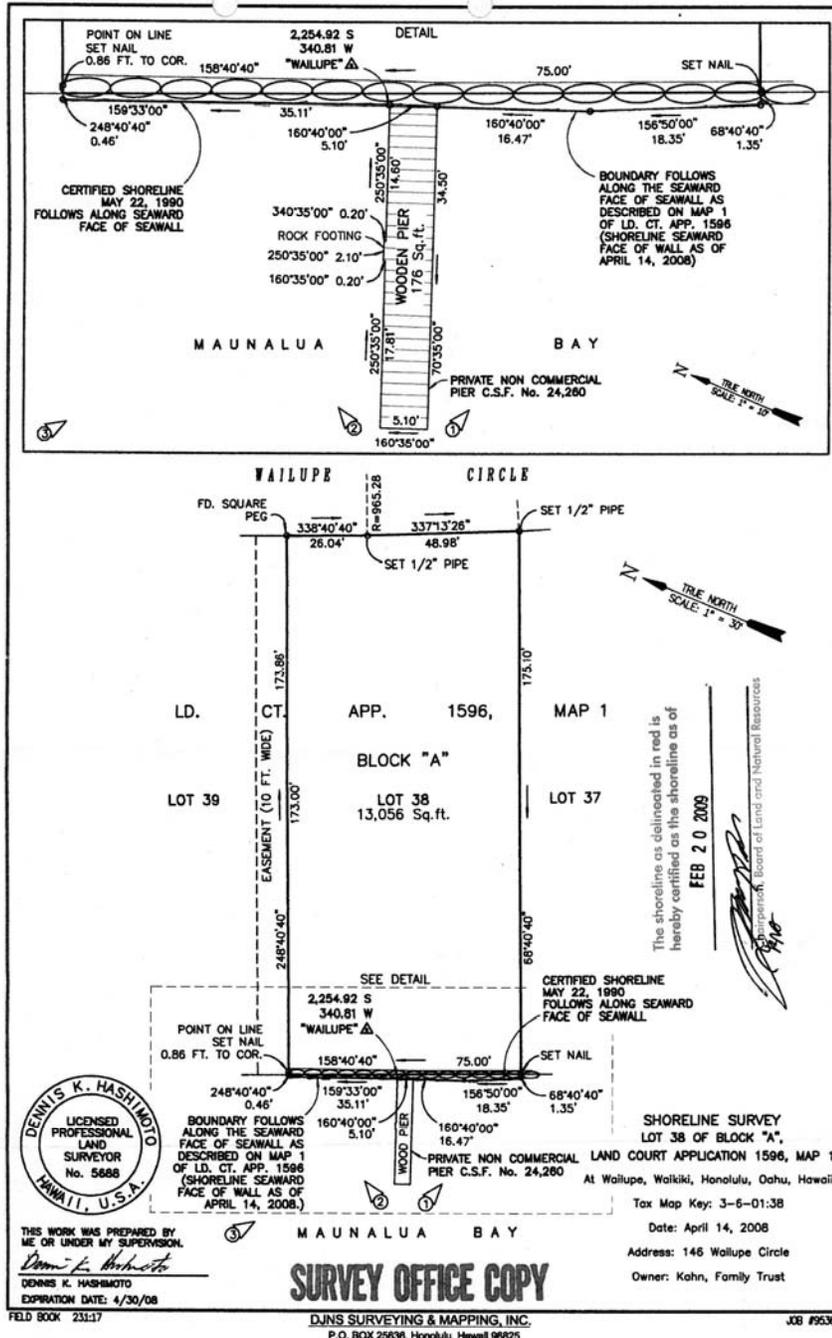


Figure 6. Shoreline Survey, 2008

2.3.1 Technical Characteristics

The plans for repair include replacing lava rocks that have fallen from the seawall and raising the height of the wall to match the existing grade of the Kahn parcel. The top of the seawall is, in places, below the grade of the Kahn parcel by as much as 5 ft. These actions will raise the elevation of the top of the Kahn seawall so that it is level with the tops of the seawalls fronting the neighboring parcels. Currently, a wooden picket fence and naupaka hedge extend along top the seawall. Repair plans include removing the fence and naupaka hedge to enable repair of the seawall and to raise its height.

After these repairs are made, a new, stainless steel cable-rail fence will be installed on top of the seawall, as well as parallel to the existing concrete steps that provide access from the property to Maunalua Bay. The metal gate that currently controls access from the property to Maunalua Bay and the property's recreational-use pier will remain. Appendix A contains development plans, which detail the current conditions of the wall, as well as repair plans.

3.0 Evaluation of Alternatives

3.1 Alternative 1 – No Action

Under a no-action alternative the seawall would not be repaired and would be left in its current state of disrepair.

The only benefits of this alternative would be that no construction would occur and that a shoreline setback variance and building permit would not be required.

This alternative would result in continued deterioration of the existing lava rock wall on the Kahn property. Additional loss of lava rocks will eventually result in total failure of the wall and would expose the Kahn property, and neighboring properties, to erosion and potential flooding. Inevitably, this would reduce the value of the Kahn property and that of the surrounding properties, and it might render the area unsuitable for future residential use.

3.2 Alternative 2 – Repair and Replace Rocks on the Existing Wall

This alternative would consist of making only necessary repairs to the seawall, in order to stabilize the structure. This option would not raise the height of the seawall to the current grade of the Kahn property or to the height of seawalls fronting the adjoining properties. The picket fence and naupaka hedge would be removed to make the necessary repairs to the seawall, and a stainless steel cable-rail fence would be installed on top of the seawall and parallel to the existing stone stairwell that leads from the property to the recreational-use pier. Rocks that have fallen from the seawall into Maunalua Bay would be removed.

This alternative includes stabilizing the seawall structure to prevent further deterioration, and would minimize construction activity in the area. This is not a viable alternative, however, because it will not raise the height of the wall to the elevation of the walls on the adjoining properties. Implementation of this alternative would leave the subject property, as well as neighboring properties, exposed to wave action during high tides and storm surges, and the parcel could be subject to flooding.

Should this alternative be implemented, flooding and ponding behind the walls, due to horizontal overtopping, would be serious risks, with the encroaching water potentially spreading laterally. Horizontal overtopping, which occurs when water spills over the side or front of a seawall, is the primary cause of ponding in coastal situations such as this. This can cause soils behind a seawall to saturate and lead to ponding, loss of fill, and erosion. In extreme cases, severe ponding can result, with water flowing behind an expanse of seawall, potentially for hundreds of feet, moving sediment and eroding fill along a shoreline as the water flows toward an exit (Fulton-Bennett and Griggs 1987). Horizontal overtopping is known to cause catastrophic failure of shoreline protection structures. The U.S. Army Corps of Engineers lists inadequate height as one of the five most common reasons for seawall failure (Fulton-Bennett and Griggs 1987).

3.3 Alternative 3 – Preferred Alternative

The preferred alternative (the proposed action) includes replacing lava rocks that have fallen from the seawall and raising the height of the wall to match the existing grade. These actions will raise the elevation of the Kahn property seawall so that it is level with the seawalls of neighboring parcels. Repair plans include removing the existing wooden picket fence and naupaka hedge, to enable repairs to the seawall and raising the height of its top. After these repairs are made, a new, stainless steel cable-rail fence will be installed on top of the seawall and parallel to the existing concrete steps that provide access from the property to Maunalua Bay. The metal gate that controls access from the property to Maunalua Bay and the property's recreational-use pier will remain. Rocks that have fallen from the seawall into Maunalua Bay will be removed.

The benefits of the preferred alternative include stabilizing the seawall structure to prevent further degradation and raising the height of the Kahn property seawall to match the existing grade of the property and the height of adjoining property seawalls. Raising the height of the Kahn property seawall would substantially reduce the risk of overtopping by wave action and flooding during extreme high tides and storm surges. This action would offer the greatest amount of protection to the subject property, as well as neighboring properties, in the event of large wave action. (See Appendix A for repair plans). The preferred alternative is in character with repair actions that have been conducted on several other properties on Wailupe Peninsula.

4.0 Affected Environment and Environmental Consequences

Almost any project proposed can involve activities that have the potential to affect the environment. This section describes existing conditions, potential impacts and mitigation measures that can be taken.

4.1 Geology and Soils

Wailupe Peninsula is composed of fill land (FL) – mixed variety (USDA Soil Conservation Service 1972). Areas filled with mixed varietal fill occur primarily at shoreline locations such as Pearl Harbor and Wailupe Peninsula. The material typically consists of material dredged from nearby coastal waters, and areas with this soil type are generally developed exclusively for residential use. At Wailupe Peninsula, mixed fill land

is made up almost entirely of compacted fossil coral reef material that was dredged from Maunalua Bay in the 1940s, when the area was filled in and developed for residential use.

4.1.1 Impacts and Mitigation Measures

There would be no impacts to the geology or soils of the area from the proposed action or any of the alternative actions. No mitigation measures are proposed.

4.2 Offshore and Nearshore

Wailupe Peninsula is located in Maunalua Bay, which contains one of the shallowest and widest fringing reef flats in Hawaii (Fletcher et al. 2002). The reef consists of a solid fossil limestone platform and patches of sand. Water depth in the vicinity of the subject property ranges from less than one foot, near the property edge at low tide, to approximately 20 feet in the dredged channel that surrounds the peninsula and extends out to Maunalua Bay (See aerial photograph in Figure 3). The waters off Wailupe Peninsula are categorized as Open Coastal Class A, under (HAR) Title 11, Chapter 54.

The reef is home to a diverse community of fish and coral. The offshore area immediately adjacent to the Kahn property is a large sand patch. Rocks that have fallen from the seawall into Maunalua Bay are present in front of the seawall at this time.

4.2.1 Impacts and Mitigation Measures

The no action alternative will result in the erosion of soil, fill material, and vegetation that will wash in to the Coastal Class A Marine Waters. This will have a profound adverse impact on the near shore marine resources and water quality and the wall will continue to fail.

The alternative that requires just replacing and stabilizing the rocks will function only as a temporary measure. It will not raise the height of the wall and therefore will not prevent overtopping by wave action and flooding during extreme high tides and storm surges. Again, this can result in the erosion of soil, fill material, and vegetation that will end up in the Class A Marine Waters off shore.

The preferred alternative is to repair a seawall that has been at the location for approximately sixty years and raising the height to meet the adjoining walls. Rocks that have fallen from the seawall into Maunalua Bay will be removed from the nearshore waters. There will be no long-term change in offshore or nearshore conditions because repairing and raising the level of the wall will prevent debris from washing off the land into the Class A Marine Waters.

Mitigation during construction activities will be compiled in a site- and project-specific Best Management Practices Construction Plan will be implemented to prevent any construction related runoff and debris from entering the ocean.

4.3 Hydrology

Hydrology is the study of the relationships in the hydrologic cycle. The hydrologic cycle includes the movement of water from the oceans to the atmosphere and back again. Driven by solar energy, the cycle operates by way of evaporation, precipitation, surface runoff, and subsurface flow to the ocean basins. Surface water comprises rivers, streams,

glaciers, lakes and ponds, while groundwater is water that is underground, contained in various types of porous rock. Hydrology can drastically affect the topography and environmental qualities of an area

4.3.1 Groundwater and Surface Water

Groundwater at the project site is anticipated to be brackish due to its immediate proximity to Maunalua Bay. There are no developed groundwater sources (wells) on Wailupe Peninsula.

There are no rivers, streams, lakes or ponds located on the project site itself, or anywhere on Wailupe Peninsula. The fill at the site is extremely porous, and rainfall rapidly percolates into the ground. No water ponds at the surface due to the porosity of the soils. Runoff forms only on impervious surfaces such as the streets, and it is directed into the storm drains along the streets.

4.3.1.1 Impacts and Mitigation Measures

There will be no impacts to groundwater in the vicinity of the project site from the proposed action or from any of the alternative actions. No impacts to surface water are anticipated from the proposed action or from any of the alternative actions. Surface water is not present at or near the project site.

Mitigation will include implementing best management practices such as the use of silt fencing. Sediment control measures will be implemented during construction, to prevent contaminating groundwater runoff and to prevent debris from falling into the ocean.

4.3.2 Flooding, Tsunami, and Wave Action

According to the Flood Insurance Rate Map (FEMA 2004), the project site is located in Zone A: No Base Flood Elevation determined. This means that there is a 1% annual chance of a base flood—also known as the 100-year flood—occurring at the project site.

The project site is also exposed to ocean hazards. The USGS tsunami Overall Hazard Assessment for the project site is high (Fletcher et al. 2002), and the site is located within the Tsunami Evacuation Zone. The coastal slope in the region is very low, and the makai edge of the property is nearly at sea level. The area is surrounded by a shallow, fringing reef. The combination of these conditions contributes to the relatively high risk of tsunami for the project site and surrounding areas. No data about height or the frequency of occurrence of tsunami for the project site is available; however, a 1960 tsunami on the western side of Diamond Head reached 13 ft, and a 1946 tsunami at Makapuu Point reached 37 ft. It is unclear what the potential height of a tsunami could be at the project site, but in the event of a large tsunami, flooding can be anticipated.

The risk of damage from wave action at Wailupe Peninsula occurs from south swells and Kona storm waves. South swells occur most frequently in summer, but they can occur year round and typically reach 4 to 6 ft. Kona storm waves occur most frequently between October and April, when the trade winds are less prevalent and Kona winds tend to occur. The size and periods of Kona storm waves vary according to the strength of storm winds, yet, typically, they are similar in size to south swells, with more frequent periods. Flooding from wave action is a relatively high risk for this area. The rise of deep

ocean waves from storms in the southern hemisphere, combined with the broad and shallow fringing reef surrounding the peninsula, creates the potential for property damage from ocean generated flooding, erosion of nearshore property, and debris overwash.

Risk of flooding from sea level rise is moderately low in this area. Wailupe Peninsula and the greater Diamond Head coastal district of Oahu are experiencing lower rates of sea level rise than other coastal areas of the island (Fletcher et al. 2002).

4.3.2.1 Flooding, Tsunami, and Wave Action Impacts and Mitigation Measures

The proposed action and any of the alternative actions would have no effect on the property's potential exposure to base flood conditions. The proposed action is intended to protect the property from ocean generated water hazards in conditions that vary from typical to moderate wave action and storm surges. It is unlikely that the seawall would have a significant impact on hazards associated with tsunami; however, the repaired seawall may offer more protection than the seawall in its existing condition, depending on the size and intensity of the waves. Neither the proposed action nor the alternative actions will increase the likelihood of exposure to flooding or tsunami, however, no mitigation measures are proposed.

4.4 Climate

The climate of Hawaii is maritime/tropical, distinguished by continuous mild weather and stable temperatures throughout the year. The Hawaiian Islands experience only two distinct seasons, *kau* (May to October) and *ho'oilō* (October to April). *Kau* is characterized by warmer temperatures, the nearly continuous presence of trade winds (east-northeasterly winds), and the sun reaching zenith nearly directly overhead. *Ho'oilō* is characterized by cooler temperatures, interrupted trade wind patterns, higher levels of average rainfall, and the sun passing slightly lower in the sky. Annually, trade winds occur approximately 75 percent of the time, with a winter average of about 45 percent and a summer average of about 90 percent. Average wind speed is about 14 miles per hour. Temperatures average between 70 and 80 degrees Fahrenheit, depending on the season and local topography.

4.4.1 Impacts and Mitigation Measures

The project site is located on the southern shore of the island of Oahu. The proposed action and alternative actions are miniscule in scale compared to processes that are capable of altering climate and weather patterns. There are no anticipated impacts to climate from the proposed action or any of the alternative actions. No climate change mitigation measures are proposed.

4.5 Air Quality

Air quality is a measure of concentrations of specific pollutants in ambient air compared to state and federal Ambient Air Quality Standards (AAQS). Due to the prevailing trade winds, Hawaii has pollutant concentrations that are far less than the national average. However, when the trade winds are weak, gas and aerosol levels in the atmosphere approach the upper limits outlined in the air quality standards. Pockets where carbon

monoxide levels are higher than AAQS standards can then occur in industrial areas and areas of heavy vehicular traffic. Due to onshore and offshore breezes, air quality at the proposed site is relatively good.

4.5.1 Impacts and Mitigation Measures

There will be no changes in air quality from the proposed action or any of the alternative actions. Air quality will be the same after construction as it was before. Equipment use during construction may cause temporary increases in air pollution. Mitigation will include dust control, as needed, and assurance from the contractor that all motorized equipment meets emissions control standards.

4.6 Noise

Ambient sound levels at the project site are relatively low. The largest contributor to noise in the area is Kalanianaʻole Highway. The subject property is not heavily impacted by noise from the highway. Ambient sounds in the area of the proposed action are primarily from natural sources, such as waves and wind.

4.6.1 Impacts and Mitigation Measures

Noise levels may increase during the construction phase of the proposed action.

Mitigation measures to reduce the surrounding area's exposure to increased noise levels during this time include using mufflers to diminish sounds from construction equipment and prohibiting construction activities between 6:00 p.m. and 7:30 a.m., Monday through Friday.

4.7 Flora and Fauna

Flora and fauna on the landward portion of the project site are typical of those commonly found in ocean-front residential communities in Hawaii. Flora in the area consists of typical landscaping plants. Wailupe Peninsula was filled with dredged materials in the 1940s and then developed for residential use. There are no naturally occurring endemic or endangered plants located on the peninsula, although some may have been planted there for landscaping purposes. Fauna at the project site and in the surrounding vicinity consists of those species commonly found in residential communities.

During a preliminary site visit to the Kahn parcel, flora and fauna seaward of the property, in the immediate vicinity of the proposed action, were examined. The portion of Maunalua Bay abutting the property edge and existing seawall has a sandy pocket bottom that may contain algae, but contains no coral. The seawall offers no habitat for fish or other sea creatures.

The naupaka hedge on top of the seawall will be removed during the proposed action so that the necessary repairs to the seawall can be made. The naupaka hedge is not crucial habitat to any fauna.

4.7.1 Impacts and Mitigation Measures

There will be no impact to existing flora or fauna on either the landward or seaward side of the project site. Consultation with U.S. Fish & Wildlife Service has been initiated, and if any rare or endangered species are in the area, mitigation will take place.

4.8 Historic, Archaeological, and Cultural Resources

Wailupe Peninsula, before being developed for residential use, was the location of one of three prehistoric Hawaiian fishponds in Maunalua Bay. In the 1940s, the fishpond that is now Wailupe Peninsula was filled in with dredged material. A lava-rock seawall was augmented to protect the newly created land area from the ocean. Developer Robert Hind, Ltd., developed Wailupe Peninsula for residential use in 1948, and the area has been fully developed as a residential neighborhood for nearly sixty years. The seawall located on the Kahn residence is the seawall that was refurbished in 1948 and which encompasses the entire peninsula and its residential structures to protect the area from ocean hazards.

Currently, the waters of Maunalua Bay are frequented by residents of Wailupe Peninsula, other residents of Oahu, and island visitors for recreational uses such as fishing, boating, kayaking, and surfing. Public access to the ocean and reef surrounding Wailupe Peninsula is from either Wailupe Beach Park, to the west of the proposed project, at TMK 3-5-022:023, or from the public right-of-way located off of Kalanianaʻole Highway, to the east of the proposed project, at TMK 3-7-001:020.

4.8.1 Impacts and Mitigation Measures

Despite the prehistoric use of the area as a fishpond, there are no known or expected cultural or historic resources located at the site of the proposed action. A previous cultural study conducted in the area identified no significant resources (Clark 2003). Further, during development of the project site for residential use, the entire parcel was disturbed and it is highly unlikely that the proposed action, or any of the alternative actions, would impact archaeologically or culturally sensitive materials. However, should contractors encounter such items, construction will cease immediately, and the proper authorities will be contacted.

4.9 Land Use

The area was developed for residential dwellings in the 1940s and has been used for this purpose for the past sixty years. There are 120 homes on Wailupe Peninsula at this time. According to the Land Use Ordinance City and County of Honolulu, land on Wailupe Peninsula is zoned R-10 Residential. The State Land use designation is Urban District. This is consistent with the *East Honolulu Sustainable Communities Plan* (City and County of Honolulu 1999).

4.9.1 Impacts and Mitigation Measures

No change in land use will result from the proposed action. Restoring an existing seawall will help ensure that the area remains in residential use by protecting the project site and surrounding properties from ocean waters. Should a SSV not be granted for restoration of the Kahn residence's seawall, eventual damage to the Kahn property and, potentially, to

neighboring properties, from storms or other shoreline hazards would substantially diminish the value of the home(s). Such factors would greatly reduce local property values and affect the suitability for the peninsula to remain in residential land use.

No changes in land use will result use from the proposed action or any of the alternative actions. Therefore, no mitigation measures are warranted.

4.10 Circulation and Traffic

Wailupe Circle is a small residential neighborhood comprising 120 dwellings. Traffic is very light throughout the neighborhood. Wailupe Circle is accessed from Kalanianaʻole Highway, which can experience moderate to heavy traffic during typical morning and afternoon rush hours and on weekends.

4.10.1 Impacts and Mitigation Measures

There will be no long-term or permanent changes to traffic patterns or traffic circulation from the proposed action or any of the alternative actions. During the construction phase of the project, congestion may temporarily increase on the portion of Wailupe Circle where the project site is located; however, any such increase is anticipated to be very slight and could be easily avoided by taking alternative routes through the neighborhood.

There will be no long-term or permanent effects on traffic patterns or circulation from the proposed action, and no mitigation measures for circulation and traffic are planned.

4.11 Public Services and Facilities

This single-family residential property currently uses electricity, telephone, cable, and city water, sewer, and garbage services.

4.11.1 Impacts and Mitigation Measures

There will be no change in services or facilities use; therefore, no mitigation measures are planned.

4.12 Visual Resources

The project site is located on the west-facing makai-side of Wailupe Circle and has views of Maunalua Bay and the east-facing slopes of Diamond Head. Section 3.1.3.6 of the *East Honolulu Sustainable Communities Plan* states that it is important to retain and, if possible, expand visual access to the shoreline from Kalanianaʻole Highway (City and County of Honolulu 1999). Structures that limit the public viewshed along this coastline are discouraged.

Figure 7 shows the view from Kalanianaʻole Highway of Wailupe Peninsula and Maunalua Bay, adjacent to the project site. The atmosphere of the location is characteristic of a low-density residential and natural setting.

4.12.1 Impacts and Mitigation Measures

The proposed action and the alternative actions will have no effect on private or public views of Maunalua Bay or any other natural features. No mitigation measures are proposed.

4.13 Socio-Economic Resources

The proposed action would have few economic consequences. The most significant economic consequence of repairing the Kahn residence seawall will be the maintenance of the property's long term value in the real estate market and, thus, its contribution to the local property tax base. Should a SSV not be granted, eventual damage to the property from large waves, storm surges, or other shoreline hazards would substantially diminish the value of the property, potentially making it unlivable. The project will also create a few short-term construction jobs.



Figure 7. View from Wailupe Beach Park

The project site and greater Wailupe Peninsula are residential in nature. There are 120 residential units located on Wailupe Peninsula. They are primarily one- to two-story, single-family, detached dwellings. Many of the properties located on the makai side of the peninsula contain recreational-use piers and all are encompassed by a seawall to protect individual properties, as well as the area as a whole, from waves, storm surges, and other shoreline hazards that would otherwise inundate Wailupe Peninsula.

The waters of Maunalua Bay are frequented by Wailupe Peninsula residents, other Oahu residents, and island visitors for swimming, snorkeling, boating, and other ocean recreational activities.

4.13.1 Impacts and Mitigation Measures

No long-term changes to socio-economic resources are anticipated as a result of the proposed action; therefore, no mitigation measures are proposed.

5.0 Cumulative Impacts

Cumulative impacts can result from actions that are individually minor but collectively significant, taking place over a period of time. The impacts from such minor or small-scale actions become significant when added to other past, present, and reasonably foreseeable future actions.

The no action alternative would have profound long term cumulative impacts on the Class A Marine Waters offshore. Erosion of soil, fill material, and vegetation will have a cumulative adverse impact on the near shore marine resources and water quality as the wall continues to fail.

The proposed action, however, is not a new development project. It does not change a land use or alter the natural environment in a new way. The proposed action is repair of an existing seawall on a property that has been developed for ocean-front residential use for approximately 60 years. The proposed action would also raise the height of the existing seawall to the current property grade and align the top with the height of the tops of the adjoining seawalls. This action would not result in any cumulative impact. Rather, it would prevent an adverse impact by protecting the existing shoreline from erosion and damage from wave overtopping.

6.0 Findings and Determinations

This Draft EA demonstrates that the proposed action is not anticipated to impose adverse environmental impacts at the project site or in any other area; therefore, an EIS is not warranted. A Finding of No Significant Impact (FONSI) is anticipated for this project.

6.1 Significance Criteria

This determination is based upon **Significance** Criteria outlined in Chapter 343, HRS, as amended, and Title 11, Chapter 200, HAR 1996.

- (1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resources.**

The project would not change, alter, or destroy any natural or cultural resources. The project would restore an existing feature that is substantially the same as adjacent existing features.

- (2) Curtail the range of beneficial uses of the environment**

No changes to beneficial uses of the environment would result from the proposed action. Public access to Maunalua Bay would not be affected; visual resources would not be impaired; and no changes in environmental processes would result from the proposed action.

(3) Conflicts with the State’s long-term environmental policies or goals and guidelines as expressed in Chapter 343, HRS and any revisions thereof and amendments thereto, court decisions, or executive orders

As proposed, the project conforms with the state’s long-term goals and guidelines as expressed in Chapter 343, HRS. The project is also in compliance with the *East Honolulu Sustainable Communities Plan* (City and County of Honolulu 1999).

(4) Substantially affects the economic or social welfare of the community or state

As proposed, the project does not significantly impact the economic or social welfare of the community or state. The proposed action will have a positive economic impact on the applicant as well as on the other residents of Wailupe Circle by preventing further erosion of property and maintaining safety measures that have a stabilizing effect on properties located on Wailupe Peninsula.

(5) Substantially affects public health

As proposed, there would be no effect on public health from the proposed action.

(6) Involves substantial secondary impacts, such as population changes or effects on public facilities

As proposed, the project would not have secondary effects, such as changes in demographics and infrastructure. No new infrastructure will be required and the demand on existing infrastructure will not change.

(7) Involves a substantial degradation of environmental quality

The project as planned would not result in the significant degradation of environmental quality. It will not degrade water quality or impact marine or terrestrial flora and fauna. The proposed repairs to the existing seawall will make it functionally consistent with the protective structures fronting all of the protected properties along that portion of the shoreline.

(8) Is individually limited but cumulatively has considerable effect on the environment, or involves a commitment for larger actions

As proposed, there would be no cumulative adverse effects on the environment or a commitment for larger actions resulting from the proposed action. Some of the alternative actions have negative cumulative impacts, however. The no-action alternative would reduce property values and would possibly—if large scale wave action or storm surges damaged properties adjacent to the project site—diminish the ability of the area to be used for residential purposes. Alternative 2 – repair and replace rocks that have fallen from the wall – could also result in a long-term adverse impact with a similar outcomes.

(9) Substantially affects a rare, threatened or endangered species or its habitat

As proposed, the project would not impact any rare, threatened, or endangered species or its habitat. Consultation with U.S. Fish & Wildlife has been initiated, and if any rare or endangered species are in the area, mitigation will occur.

(10) Detrimentially affects air or water quality or ambient noise levels

As proposed, the project would not have any adverse impacts on air or water quality or on ambient noise levels. There may be a temporary increase in noise levels during the construction phase of the proposed project; therefore, construction activities will be restricted to the period 7:30 a.m. to 6:00 p.m., Monday through Friday. No material will be placed in the nearshore water. No debris, petroleum products, or other construction related substances or materials will be allowed to flow, fall, leach, or otherwise enter the coastal waters. All construction material will be free of contaminants or pollutants. Best Management Practices will be followed during construction to minimize environmental pollution and damage.

(11) Affects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal waters

The proposed and existing seawall is functionally consistent with adjacent existing seawalls along this coastal reach. The existing seawalls do not alter seasonal erosion-accretion patterns.

The Flood Insurance Rate Map indicates that the parcel is in Zone A (FEMA 2004). Fletcher et al. (2002), in the *Atlas of Natural Hazards in the Hawaiian Coastal Zone*, rank the flooding hazard and exposure to hazards from tsunami in this area high as high. If a tsunami or storm surge should approach Wailupe Peninsula, flooding should be anticipated. The proposed seawall would not protect against such natural hazards. The proposed improvements to the seawall are designed to provide erosion and wave protection for a single family residence. If a tsunami should approach from the south, flooding can be anticipated.

(12) Substantially affects scenic vistas and viewplanes identified in county or state plans or studies

The proposed action would have no effect on scenic vistas or viewplanes. The proposed action is in compliance with the *East Honolulu Sustainable Communities Plan* (City and County of Honolulu 1999) regarding protection of scenic viewplanes in the area.

(13) Requires substantial energy consumption

As planned, the proposed action does not require long-term additional consumption of energy.

7.0 Shoreline Setback Variance Justification

The property owner will suffer hardship if the shoreline setback variance for the proposed seawall is not granted and if the existing seawall has to be removed. This application for such a variance fulfills the three criteria for hardship as set forth in the Revised Ordinances of Honolulu Sect. 23-1.8 (3) (A).

(A) *A structure or activity may be granted a variance upon grounds of Hardship if:*

- (i) *The applicant would be deprived of reasonable use of the land if required to comply with the shoreline setback ordinance and the shoreline setback rules*

The subject property was developed for residential use in the 1940s, before the implementation of shoreline setback regulations that required a setback of 10 feet in 1966

and a setback of 40 feet in 1970. The Wailupe Peninsula was created in an area that was already surrounded by a wall forming a prehistoric fishpond. To develop the area for residential use in the 1940s, the fishpond was filled, and the existing wall was strengthened to prevent erosion of the dredged, mixed variety fill. This is the wall of which the Kahn seawall is a part.

Should a Shoreline Setback Variance not be granted, the existing seawall would not be repaired, and the height of the seawall would not be raised to meet the current grade of the property or that of the adjoining, existing seawalls. This would expose the Kahn property to damage from storm surges or high waves that could erode the property, potentially causing it to become unstable, due to the nature of the soil. Subsequently, this could compromise the integrity of adjoining seawalls on neighboring parcels and place those parcels in jeopardy of erosion, as well.

These adverse impacts would deprive the applicant of reasonable use of the land and, potentially, deprive neighboring land owners of reasonable use of their property, as well.

(ii) The applicant's proposal is due to unique circumstances and does not draw into question the reasonableness of this chapter and the shoreline setback rules

The circumstances of this application for a Shoreline Setback Variance are unique. Before being developed for residential use, Wailupe Peninsula was the site of a prehistoric Hawaiian fishpond. In the 1940s, the area was filled with dredged materials, enclosed with a seawall, and developed for residential use. The development of Wailupe Peninsula was designed in such a way that a seawall is necessary to protect the residential units from wave action occurring at high tide and during storms or other natural hazard events. Since the 1940s, the seawall has experienced damage, and several rocks have become dislodged from the wall, compromising the integrity of the structure and exposing the property to erosion. The height of the existing seawall is currently below the grade of the Kahn property by as much as 5 ft, and it is below the height of the adjoining seawalls on neighboring parcels.

This Shoreline Setback Variance application is necessary to ensure that Wailupe Peninsula remains suitable for residential use by permitting repairs to the only structure that protects the area homes from damage by ocean forces.

(iii) The proposal is the practicable alternative which conforms best to the purpose of the shoreline setback regulations

This Shoreline Setback Variance application and Environmental Assessment examine three alternative actions. The first alternative action is a no-action option. Under the no-action alternative, no repairs would be made to the seawall. This would result in no construction activity and would not require a Shoreline Setback Variance or building permit. Though in compliance with setback regulations, this alternative would result in continued deterioration of the existing lava-rock seawall on the Kahn property. Additional loss of rocks will eventually result in total failure of the seawall and expose the Kahn property, and neighboring properties, to erosion and potential flooding from ocean hazards. Inevitably, this would reduce the value of the Kahn property and that of the surrounding properties, and may render the area unsuitable for future residential use.

The second applicable alternative is to repair and replace rocks on the existing wall. Under this alternative repairs to the existing wall would be made in order to stabilize the structure, and rocks that have fallen from the wall into Maunalua Bay would be removed. This option, however, would not raise the height of the wall to match the existing grade or the heights of adjoining seawalls on neighboring parcels. This alternative would stabilize the structure to prevent further deterioration and would be a minimal construction option. However, this is not a viable, long-term alternative because the height of the seawall would not meet the existing grade. This would expose the Kahn property to erosion from horizontal overtopping and may, in the future, compromise the integrity of the Kahn seawall and the adjoining seawalls, as well. Implementation of this alternative would leave the parcels exposed to wave action during high tides and storm surges and would result in flooding.

The third applicable alternative is the preferred alternative (the proposed action), which would repair and replace rocks on the existing wall, as well as raise the height of the top of the wall to meet the current grade of the property and match the height of adjoining seawalls on neighboring parcels. Rocks that have fallen from the wall into Maunalua Bay would also be removed. Benefits of the preferred alternative include stabilizing the seawall to prevent further degradation and eliminating potential erosion of the Kahn property and neighboring properties by reducing the risk of horizontal overtopping and flooding from high tides and storm surges. This alternative is the best option for long-term protection of public health and safety.

(B) Before granting a hardship variance, the director must determine that the applicant's proposal is a reasonable use of the land. Because of the dynamic nature of the shoreline environment, inappropriate development may easily pose a risk to individuals or to the public health and safety. For this reason, the determination of the reasonableness of the use of land should properly consider factors such as shoreline conditions, erosion, surf and flood conditions and the geography of the lot.

Wailupe Peninsula was developed for residential use in the 1940s. Before being developed for residential use, the portion of the bay now occupied by the peninsula was entirely enclosed by a prehistoric wall forming a fishpond. During development, the existing wall was strengthened to ensure public health and safety by protecting Wailupe Peninsula residents and their property from ocean hazards. The Kahn property abuts the shoreline and is exposed to ocean hazards such as flooding from high tides and storm surges and erosion from wave action against the dredged material used as fill to form the peninsula. In addition, the grade of the property is as much as 5 ft above the top of the seawall. The proposed action is a reasonable use of the land because it will repair an existing, damaged, and deteriorating seawall and raise its height to grade. This will protect the Kahn property and neighboring properties by reducing the risk of horizontal overtopping, flooding, and erosion from high tides and storm surges. Without the proposed repair, the suitability for continued residential use of the Kahn and neighboring properties would be imperiled.

Shoreline Conditions

The shoreline at the project site is dominated by an uninterrupted seawall that encompasses Wailupe Peninsula and protects the residential community from hazardous

ocean conditions. There is no sandy beach on this stretch of the shoreline. The peninsula consists of fill material composed nearly entirely of compressed coral material dredged from Maunalua Bay in the 1940s. All oceanfront properties on Wailupe Peninsula have seawalls, and most of the properties have recreational-use piers. The Kahn property seawall is in disrepair, and rocks are falling off into Maunalua Bay. The height of the Kahn seawall is substantially lower than the grade of the Kahn property and lower than the height of the adjoining seawalls on neighboring parcels. Thus the Kahn property and neighboring properties are exposed to horizontal overtopping during high tides and storm surges that could lead to flooding, ponding, and erosion.

Erosion

The original prehistoric wall forming the fishpond was strengthened in the 1940s to protect the future residential community from ocean hazards and the forces of erosion. This is the wall of which the Kahn seawall is a part. The peninsula itself was created by filling the fishpond with dredged material. It is unclear how quickly the forces of erosion would affect Wailupe Peninsula were the seawall not protecting the shoreline and residential developments. However, it can reasonably be assumed that without the protection of a seawall, the peninsula would face disastrous damage from erosion and would no longer be suitable for residential land use.

Surf and Flood Conditions

The position of the project site puts it at risk of flooding due to high tides, storm surges, and tsunamis. The USGS Tsunami Overall Hazard Assessment for the project site is high (Fletcher et al. 2002), and the site is located within the Tsunami Evacuation Zone. The coastal slope in the region is very low and the makai edge of the property is nearly at sea level. The area is surrounded by a shallow fringing reef. The combination of these conditions makes the risk of tsunami relatively high for the project site and surrounding areas. No data about height or frequency of occurrence of tsunami is available for the project site; however, a 1960 tsunami on the western side of Diamond Head reached 13 ft, and a 1946 tsunami at Makapuu Point reached 37 ft. It is unclear what the potential height of a tsunami could be at the project site; however, in the event of a large tsunami, flooding can be anticipated.

Damage from wave action at Wailupe Peninsula is most likely to occur during periods of south swells and Kona storm waves. South swells occur most frequently in summer, but can occur year round. Wave heights typically reach 4 to 6 ft, and in the vicinity of Wailupe Peninsula have longer periods between crests than in other Hawaii locations. Kona storm waves occur most frequently between October and April, when the trade winds are less prevalent and Kona winds more so. The size and periods of Kona storm waves vary according to the strength of storm winds, yet they are typically similar in size to south swells, but with more frequent periods. Flooding from wave action is a relatively high risk for this area. The rise of deep ocean waves from storms in the southern hemisphere, combined with the broad and shallow fringing reef surrounding the peninsula, creates the potential for property damage from ocean-generated flooding, erosion of nearshore property, and debris overwash.

Flooding from sea level rise is moderately low in this area. Wailupe Peninsula and the greater Diamond Head coastal district of Oahu are experiencing lower rates of sea level rise than other coastal areas of Hawaii (Fletcher et al. 2002).

Geography of the Lot

The subject parcel is approximately 75 ft wide by 175 ft deep. The residential structure located on the property is situated approximately 32 ft from the shoreline. Appendix A contains a map of the parcel showing the layout of development within it, relative to the shoreline.

(C) If the activity or structure may artificially fix the shoreline, a variance may be granted only if hardship is likely to be caused by shoreline erosion; provided that conditions are imposed prohibiting any such structure seaward of the existing shoreline unless it is clearly in the public interest.

The Kahn seawall is a portion of a prehistoric wall that formerly enclosed a fishpond and which was strengthened in the 1940s to protect the property, and all of Wailupe Peninsula, from erosion. Without repairs to the seawall as proposed in the preferred alternative, the subject property, as well as neighboring properties, would be at high risk of erosion that could destroy their land and homes, causing hardship to the property owners. The preferred alternative is the repair of an existing seawall; no structure seaward of the existing shoreline is proposed.

(D) Hardship shall not be determined as a result of a zone change, plan review use approval, subdivision approval, cluster housing approval, planned development housing approval, conditional use permit, or any other discretionary land use permit granted after June 16, 1989.

The subject property was developed for residential use in the 1940s. Hardship is not the result of a zone change, plan review use approval, subdivision approval, or any other change to land use granted after June 16, 1989. The property was developed before the shoreline setback regulations that required a setback of 10 feet in 1966 and a setback of 40 feet in 1970. No changes in land use have occurred since the property was originally developed.

8.0 List of Agencies, Organizations, and Persons Consulted

Federal Agencies

U.S. Fish & Wildlife

U.S. Army Corps of Engineers, Regulatory Branch

State of Hawaii

Office of Environmental Quality Control

Office of Hawaiian Affairs

Department of Land and Natural Resources

Land Division

Division of Aquatic Resources

Engineering Division

Department of Office of Conservation & Coastal Lands

State Historic Preservation Division
Department of Health, Clean Water Branch

City and County of Honolulu

Department of Planning and Permitting

Individuals

Donald.Clegg, Analytical Planning Consultants, Inc.

Randy Uchytel, Darcey Builders, Inc.

9.0 List of Preparers

Wilbert C.F. Chee	Principal-in Charge	Wil Chee - Planning & Environmental
Angelyn Davis	Planner	Wil Chee - Planning & Environmental
Judy J. Mariant	Senior Planner	Wil Chee - Planning & Environmental

10.0 References Cited

City and County of Honolulu. 1999. *East Honolulu Sustainable Communities Plan*. Department of Planning and Permitting. April.

Clark, John. 2003. *Cultural Impact Assessment for New Pier at 292 Wailupe Circle*.

Federal Emergency Management Agency (FEMA). 2004. *Flood Insurance Rate Map 15003C039F, City and County of Honolulu, Hawaii*. Panels 390 and 395. September 30.

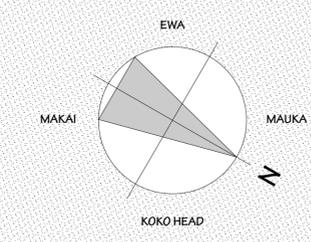
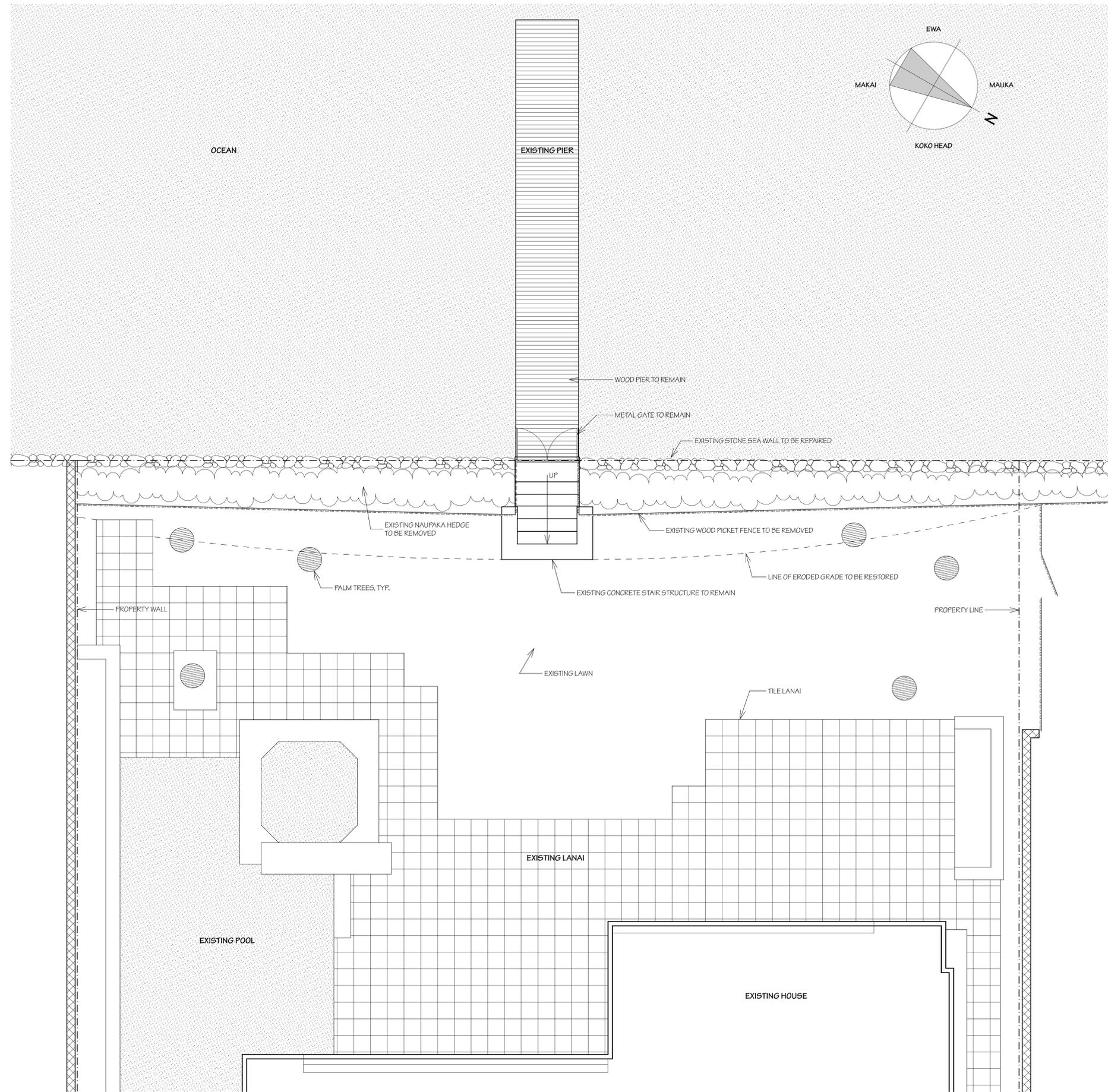
Fletcher, Charles H., Eric E. Grossman, Bruce M. Richmond, and Anne E. Gibbs. 2002. *Atlas of Natural Hazards in the Hawaiian Coastal Zone*. United States Geological Survey. United States Department of the Interior.

Fulton-Bennett, Kim and Gary B. Griggs. 1987. *Coastal Protection Structures and their Effectiveness*. State of California, Department of Boating and Waterways, and the Marine Sciences Institute of the University of California at Santa Cruz.

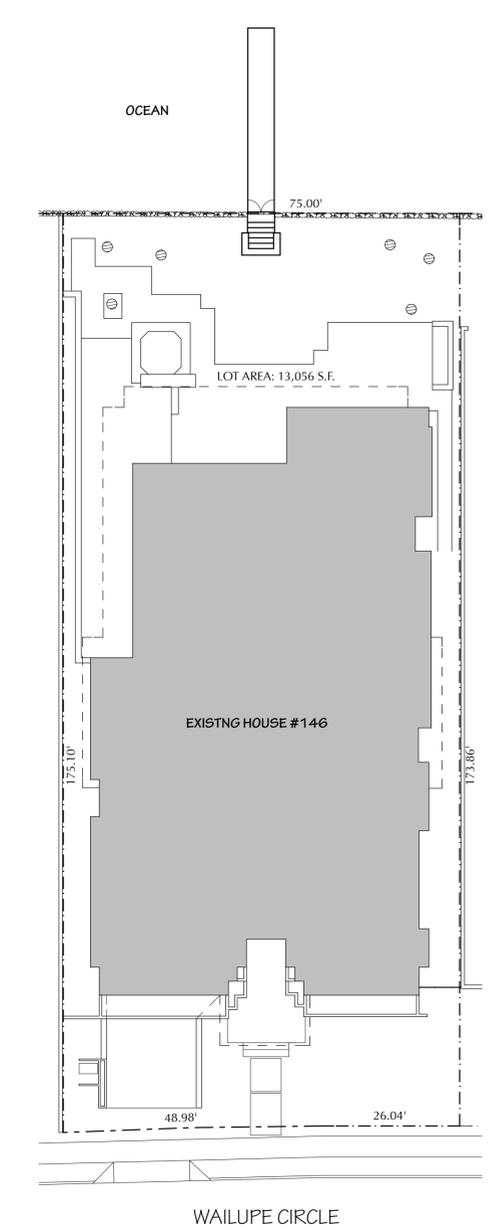
United States Department of Agriculture (USDA) Soil Conservation Service. 1972. *Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii*. U.S. Government Printing Office, Washington D.C.

APPENDIX A

Design Plans

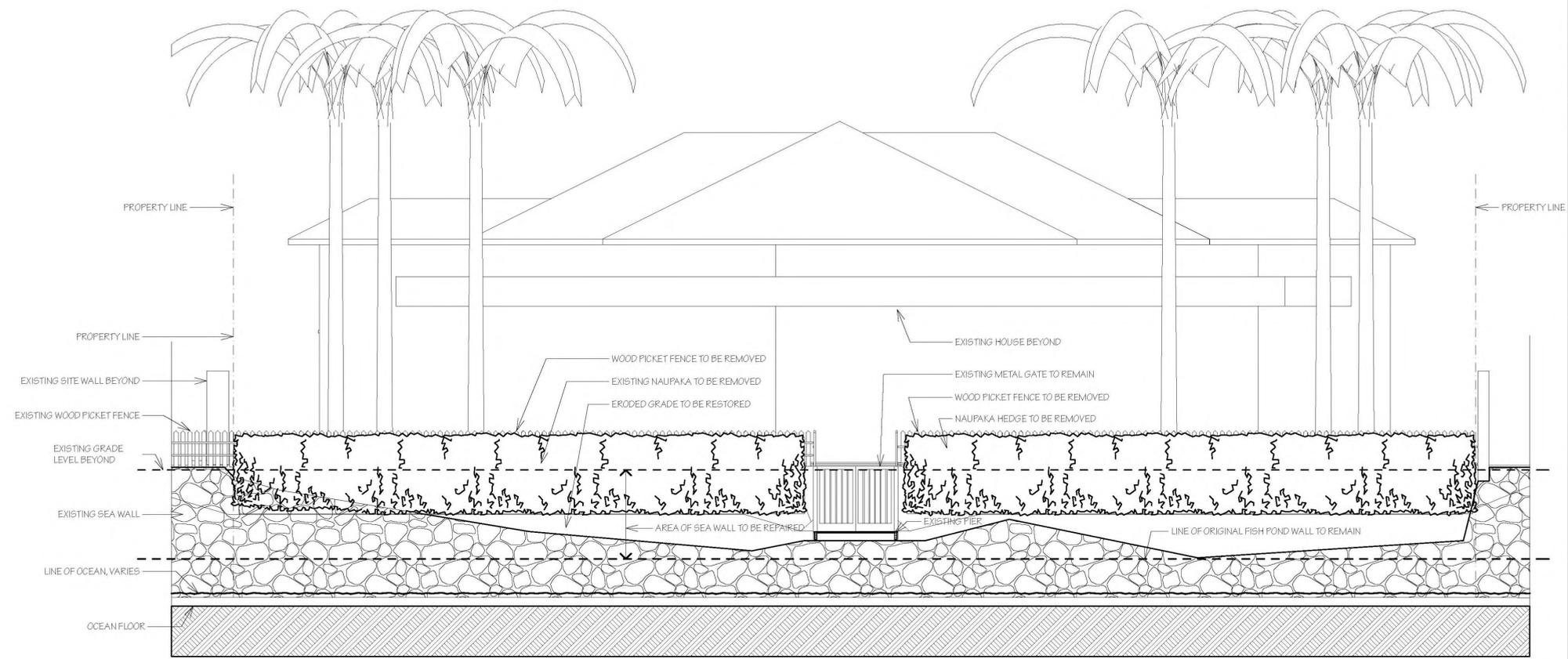


2 Plan Detail @ Sea Wall
 Scale: 1/4" = 1'-0"

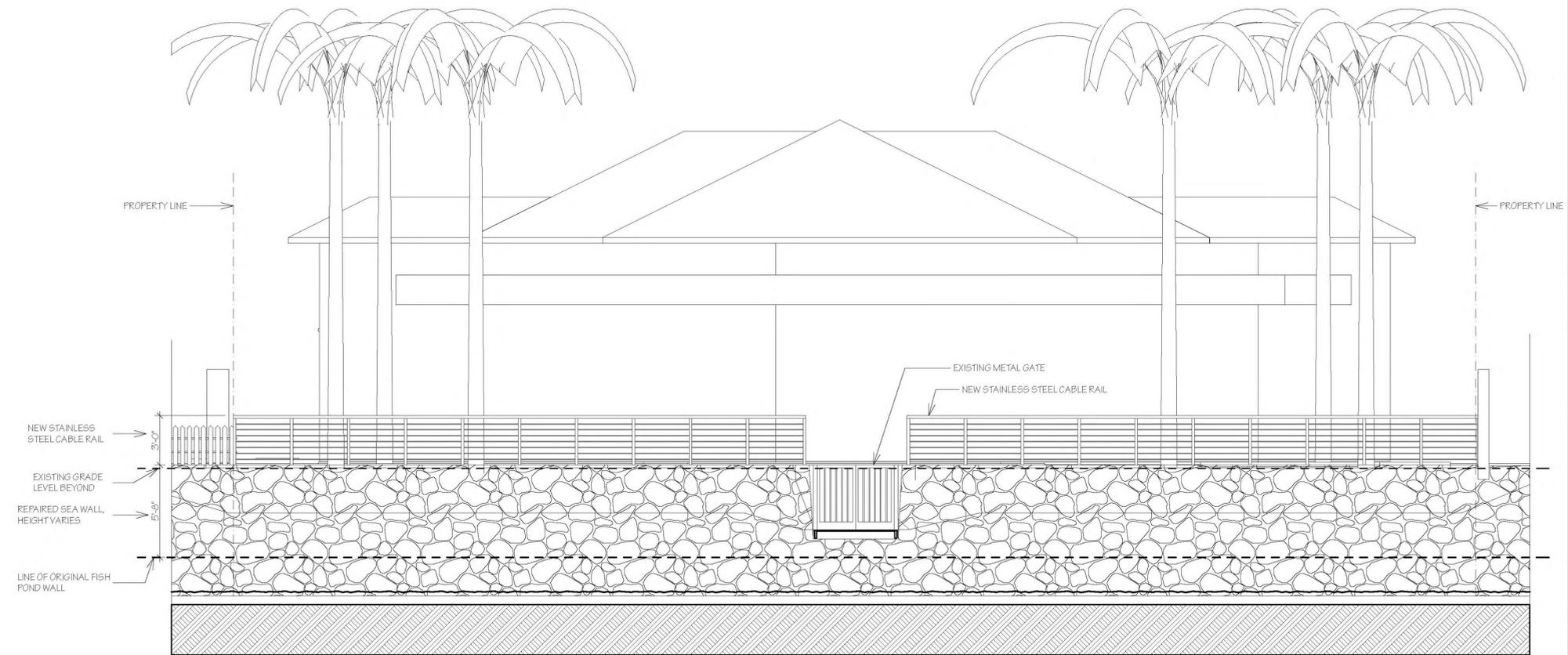


1 Site Plan
 Scale: 1/16" = 1'-0"

Revision	
No.	Date
<small>This work was prepared by me or under my supervision, observation, or direct supervision as defined in Hawaii Administrative Rules Title 16, Chapter 115. License Expiration Date: 04/30/08</small>	
1188 Bishop Street, Suite 1411 Honolulu, Hawaii 96813-3306 Tel: 808.545.4000 Fax: 808.545.4024 www.lapishawaii.com	
LAPIS DESIGN PARTNERS Residential Architecture & Interior Design	
Kahn Residence Sea Wall Repair 146 Wailupe Circle, Honolulu, Hawaii TMK: 3-6-01: 38	
Plan View <small>A-1.1 Plan View - Plotted on 2/18/08</small>	
Issue Date: 18 Feb 08 Job #: 07-KWC Sheet Number:	
A-1.1 Total Sheets: 4	



1 Existing Sea Wall Elevation @ 146 Wailupe Circle
Scale: 1/4" = 1'-0"



2 Repaired Sea Wall Elevation @ 146 Wailupe Circle
Scale: 1/4" = 1'-0"

No.	Date	Revision

This work was prepared by me or under my supervision, observation, or direction of construction as defined in Hawaii Administrative Rules Title 16, Chapter 115. License Expiration Date: 04/30/08

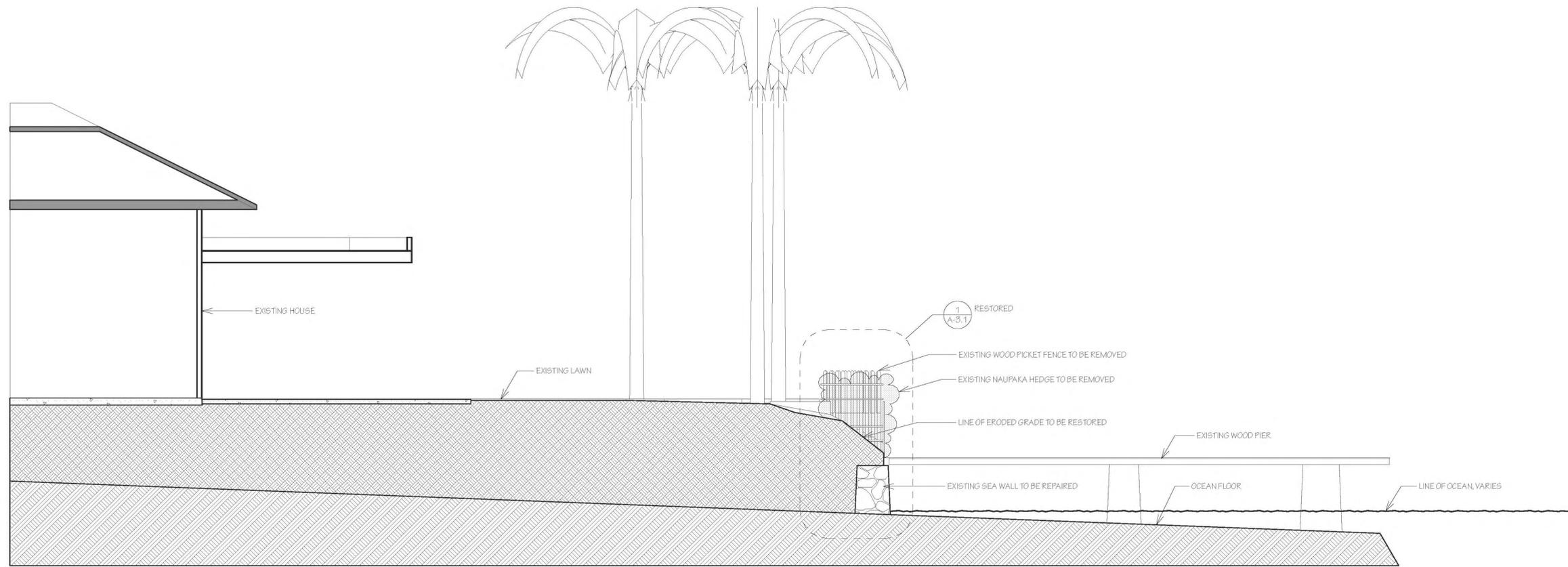
1188 Bishop Street, Suite 1411
Honolulu, Hawaii 96813-3306
Tel: 808.545.4000
Fax: 808.545.4024
www.lapishawaii.com



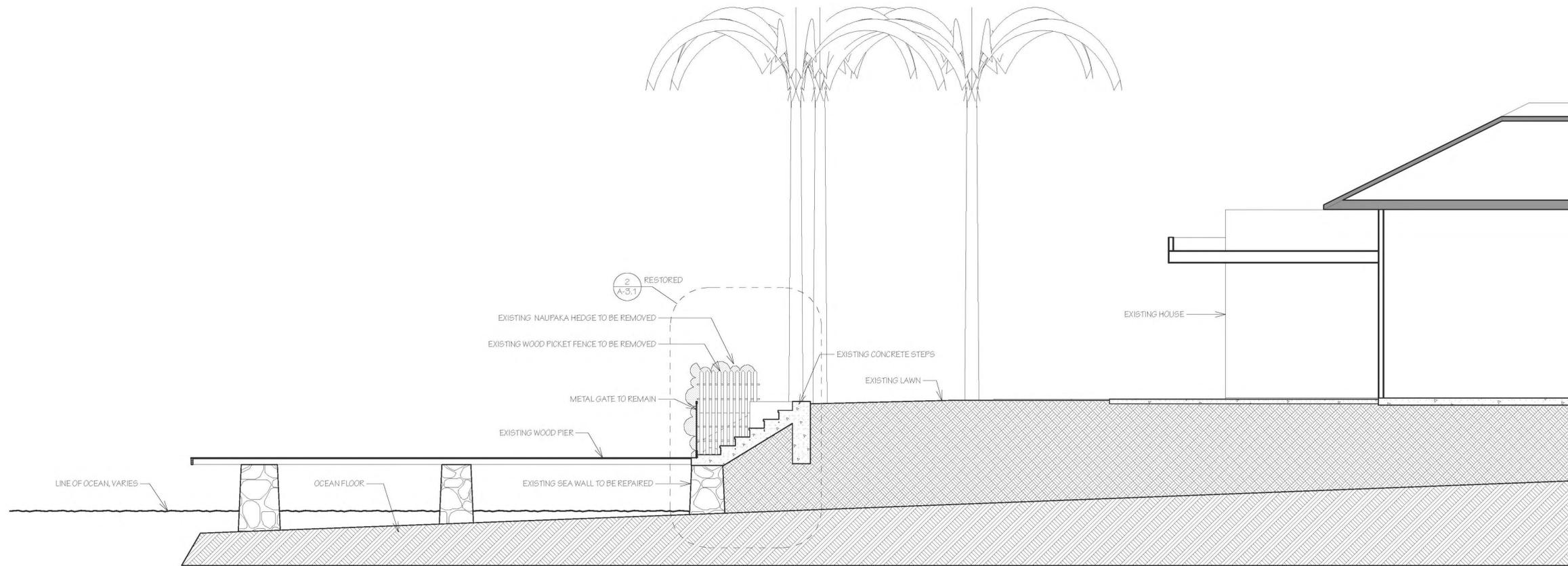
Kahn Residence
Sea Wall Repair
146 Wailupe Circle, Honolulu, Hawaii
TMK: 3-6-01: 38

Sea Wall Elevation
A-2.1 Sea Wall Elevation - Plotted on 2/18/08

Issue Date: 18 Feb 08
Job #: 07-KWC
Sheet Number:
A-2.1
Total Sheets: 4



1 Existing Sea Wall Section Towards Makai
Scale: 1/4" = 1'-0"



2 Existing Sea Wall Section @ Pier
Scale: 1/4" = 1'-0"

No.	Date	Revision

This work was prepared by me or under my supervision, and I am a duly Licensed Professional Engineer in the State of Hawaii. My License No. is 10000. My License Expiration Date is 04/30/08.

1188 Bishop Street, Suite 1411
Honolulu, Hawaii 96813-3306
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Kahn Residence
Sea Wall Repair
146 Waiupe Circle, Honolulu, Hawaii
TMK: 3-6-01: 38

Sea Wall Sections
A-2.2 Sea Wall Sections - Plotted on 2/18/08

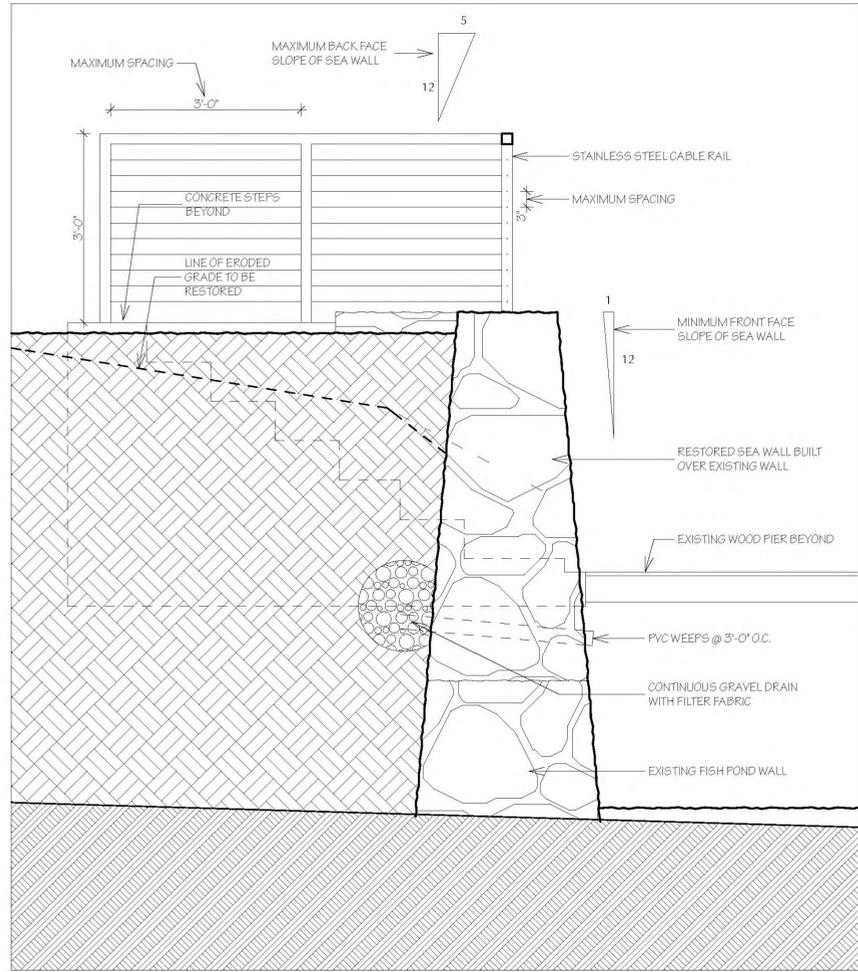
Issue Date: 18 Feb 08

Job #: 07-KWC

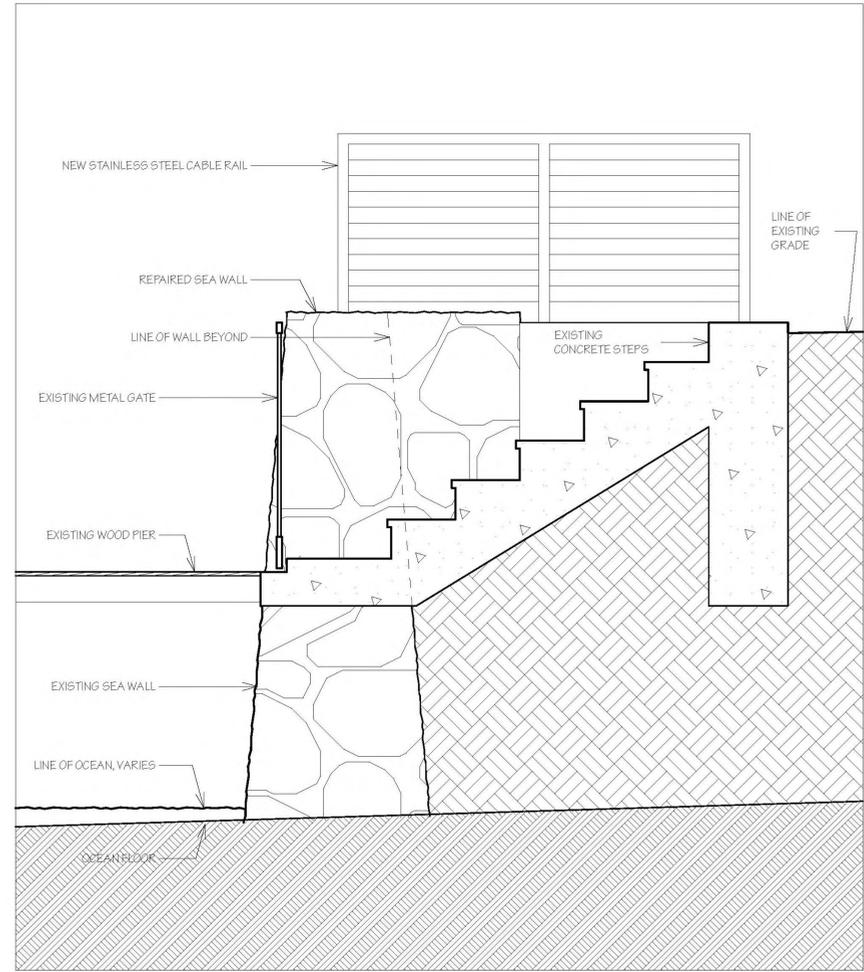
Sheet Number:

A-2.2

Total Sheets: 4



1 New Section @ Repaired Sea Wall
Scale: 3/4" = 1'-0"



2 New Section @ Repaired Sea Wall
Scale: 3/4" = 1'-0"

No.	Date	Revision

This work was prepared by me or under my supervision, observation, or operation of construction as defined in Hawaii Administrative Rules Title 16, Chapter 115. License Expiration Date: 04/30/08

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www.lapishawaii.com



Kahn Residence
Sea Wall Repair
146 Waiupe Circle, Honolulu, Hawaii
TMK: 3-6-01: 38

Proposed Wall Detail
A-3.1 Proposed Wall Detail : Plotted on 2/18/08

Issue Date: 18 Feb 08

Job #: 07-KWC

Sheet Number:

A-3.1

Total Sheets: 4

APPENDIX B

Shoreline Certification

LINDA LINGLE
GOVERNOR OF HAWAII



SURVEY DIVISION
D.A.G.S.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

FEB 24 12 57 PM '09



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 23, 2009

File No.: OA-1229

Dennis K. Hashimoto
P.O. Box 25636
Honolulu, Hawaii 96825

Dear Applicant:

Subject: Transmittal of Signed Shoreline Certification Maps
Owner(s): Kahn Family Trust
Tax Map Key: (1) 3-6-001:038

Enclosed please find three (3) copies of the certified shoreline survey maps for the subject property.

If you have any questions, please feel free to call us at (808) 587-0420. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ian Hirokawa".

Ian Hirokawa
Project Development Specialist

Enclosures

cc: DAGS

LINDA LINGLE
GOVERNOR



RUSS K. SAITO
Comptroller

BARBARA A. ANNIS
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
SURVEY DIVISION
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

Response refer to:
O-189(08)
OA-1229

January 12, 2008⁹

Shoreline Determination
T.M.K. 3-6-01: 38
Wailupe, Waikiki, Honolulu, Oahu, Hawaii

Mr. Morris M. Atta, Administrator
Land Division
Department of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii

Attn.: Mr. Ian Hirokawa, Project Development Specialist

Dear Mr. Atta:

Your request dated May 23, 2008 for shoreline determination has been reviewed.

This shoreline was inspected on the ground on June 12, 2008 by Chris Conger, Ian Hirokawa and Ryan Morales. As a result of the inspection, unauthorized improvements on the wooden pier and concrete debris were found in the near shore area. The applicant's surveyor was instructed to resolve the encroachments and potential violations. A copy of the letter of agreement signed by the owner to amend the General Lease No. 5889 with DLNR Land Division and photos confirming the removal of the concrete debris were received.

The State of Hawaii should have no objections, therefore, to adopting the seaward face of wall as the shoreline as delineated on the map prepared by Mr. Dennis K. Hashimoto, Licensed Professional Land Surveyor.

Six (6) copies of the map are enclosed for your approval. Upon certification, please return the copy marked "SURVEY OFFICE COPY" to the Survey Division.

Very truly yours,

REID K. SIAROT
State Land Surveyor

Enclosures
RM:lk

Received From
S.A.G.S. - SURVEY DIVISION

BY:

DATE: 1/14/09

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 9, 2008

Ref: OA-1229

Dennis K. Hashimoto
P.O. Box 25636
Honolulu, Hawaii 96825

Dear Applicant:

Subject: Extension of Time to Process Shoreline Certification
Owner: Kahn, Family Trust
Tax Map Key: (1) 3-6-001:038

We write to follow-up on the subject shoreline application.

Pursuant to §13-222-7(j), Hawaii Administrative Rules, the Department finds that due to time constraints, it is necessary to extend the time period for processing this application for shoreline certification. The completion date for processing this application for shoreline certification is therefore extended to February 16, 2009.

If you have any questions, please feel free to contact Darlene Nakamura at (808) 587-0417 or DAGS Survey Division at (808) 586-0380. Thank you.

Sincerely,


for Barry Cheung
District Land Agent

cc: DAGS



0-189(08)

SURVEY DIVISION
D.A.C.S.

MAY 23 2 59 PM '08



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 23, 2008

File No.: OA-1229

MEMORANDUM

TO: Reid Siarot, State Land Surveyor
Department of Accounting and General Services, Survey Division

FROM: Barry Cheung, District Land Agent *Barry Cheung*
Department of Land and Natural Resources, Land Division

SUBJECT: Request Review of Shoreline Certification Application
Applicant: Dennis K. Hashimoto
Owner(s): Kahn, Family Trust
Tax Map Key: (1) 3-6-001:038

Transmitted herewith for your review and appropriate action are the following items:

- 1) 6 copies of shoreline survey maps;
- 2) 1 set of photographs dated April 14, 2008;
- 3) Copy of application;
- 4) Copy of right-of-entry from property owner; and
- 5) Copy of shoreline application content checklist.

Please review and recommend the shoreline for certification or rejection. Public notice of this application is scheduled to appear in the May 23, 2008 OEQC Environmental Notice.

The commencement date for processing this application for shoreline certification is May 23, 2008 and the completion date is August 20, 2008.

If you have any questions, please feel free to contact us at (808) 587-0430. Thank you.

Enclosures

STATE OF HAWAII
DEPARTMENT OF LAND & NATURAL RESOURCES

SHORELINE CERTIFICATION
APPLICATION FORM

For DLNR use only:

Case file no.: _____
Date application recvd: _____
Date applic. complete: _____
Completion date (+90): _____
1st OEQC notice: _____
2nd OEQC notice: _____
Date appeals due (+20): _____
Date briefs due: _____
Date of decision (+60): _____

I. APPLICANT/AGENT

Applicant means the person submitting an application for shoreline certification.

Applicant name: Dennis K. Hashimoto
Applicant address: P.O. Box 25636
Honolulu, HI 96825
Phone numbers: (808) 395 5476 (808) 3955477 djns@hawaii.rr.com
Phone. Fax E-mail

II. PROPERTY OWNER

Property owner means the equitable or legal holder of interest in, or the lessee holding under a recorded lease for the property for which a shoreline certification is requested, or the authorized agent.

Owner name: Kahn, Family Tr.
Owner address: 146 Wailupe Circle

Signature: *Sonja Kahn* Date: 4/24/08

III. LOCATION AND ADDRESS

Island: Oahu Kauai Molokai
 Hawaii Maui Lanai

Town, District: Wailupe, Honolulu Tax Map Key: 3-6-01:38

Address: 146 Wailupe Circle

IV. PURPOSE

State the purpose for which the certification is being applied:

Repair seawall

2008 MAY 18 P. 2: 56
DEPARTMENT OF LAND & NATURAL RESOURCES
STATE OF HAWAII
Page 2 of 2

RECEIVED
LAND DIVISION

V. CHECKLIST OF ENCLOSURES

- () At least three (3) sets of color photographs of the shoreline, in accordance with §13-222-8, HAR:
 - () Shoreline, as delineated on the map, is indicated on each photograph.
 - () Permanent markings on the ground or flaggings are indicated on the photographs.
 - () Each photograph is labeled by number or alphabet to coincide with the map showing the direction the photograph was taken.
 - () Photographs provide accurate perspectives of the shoreline in relation to permanent markings or other land features.
 - () Each photograph is marked with the date and time taken.

- () At least seven (7) maps of the shoreline, in accordance with §13-222-9, HAR:
 - () Maps are on whiteprints and are one of the following sizes (in inches): 8.5 x 13, 10 x 15, 13 x 23, 15 x 21, 21 x 32, 22 x 36, 24 x 36, 30 x 36, 36 x 42, 42 x 42-72.
 - () Maps are drawn using an engineer or architect scale, in units of feet. Scale is clearly noted on the map. No reduced or enlarged maps allowed.
 - () Maps are based on an actual field survey conducted within the prior 90 days.
 - () Maps have the licensed surveyor's seal and testament indicating the work was done by the surveyor or under the surveyor's supervision.
 - () Maps indicate true north pointing towards the top.
 - () Map title and reference to location include the original source of title and name of awardee, patentee, or grantee and the ili, ahupuaa, and the TMK and the property owner's name and address.
 - () Maps show all permanent identification marks established on the ground and all pertinent azimuths and distances.
 - () Maps indicate the type of shoreline being determined (i.e., vegetation line, debris line, upper reaches of the wash of waves, face of artificial structure, or combination).
 - () At least two (2) of the maps show the direction the photographs were taken and the point or shoreline depicted in the photographs.

- () Field survey was conducted on Apr. 14, 2008 by Dennis K. Hashimoto.
(date of field survey) (name of person who conducted field survey)

- () The licensed land surveyor who made or supervised the field survey was:

Name	<u>Dennis K. Hashimoto</u>
Address	<u>P.O. Box 25636 Honolulu, HI 96825</u>
Phone no.	<u>(808) 395 5476</u>

- Application fee of \$75 is enclosed.

- () Statement signed by property owner granting the State of Hawaii the right to enter the property.

- () Statement(s) signed by applicable owners granting the State of Hawaii the right to enter land not owned by the property owner necessary for access.

- () Copy of any federal, State or county enforcement or other legal action involving the subject shoreline.
- () If shoreline is being located at the base of a manmade structure, copy of all documents supporting that the structure has been approved by the appropriate government agencies or is exempt from such approval.

VI. CERTIFICATION

I hereby certify that the statements and information contained in this application, including all attachments, are true and accurate to the best of my knowledge and understand that if any statements are shown to be false or misrepresented, this application may be rejected. Further, I understand that the Department may review any shoreline certification during its 12-month validity period and may rescind the certification where there is substantial misrepresentation or material fact in the application, whether intentional or unintentional, as determined by the State Land Surveyor or the Department.

SONIA LEE KAHN
Printed Name

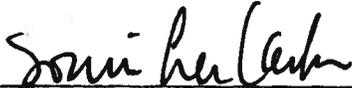
4/24/08
Date

X *Sonia Lee Kahn*
Signature

AUTHORIZATION FOR ENTRY FOR SHORELINE CERTIFICATION INSPECTION

I/We authorize the appropriate representatives of the State of Hawaii to enter our property at reasonable hours to inspect our shoreline for certification purposes only.

4-27-08
Date


Owner, or the owner's legal representative

4-27-08
Date


Owner, or the owner's legal representative

Date

Owner, or the owner's legal representative

Date

Owner, or the owner's legal representative

Date

Owner, or the owner's legal representative

Date

Owner, or the owner's legal representative

Date

Owner, or the owner's legal representative

Date

Owner, or the owner's legal representative

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

SURVEY DIVISION

AUG 13 11 13 AM '08



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 11, 2008

Ref: OA-1229
GL 5889

Dennis K. Hashimoto, LPLS
P.O. Box 25636
Honolulu, Hawaii 96825

Dear Mr. Hashimoto:

Subject: Shoreline Certification, Wailupe, Honolulu, Oahu; TMK (1) 3-6-001:038

This letter is in reference to the above referenced shoreline certification application. During the site inspection by the staff, the following items were observed at the subject location. They are four boat holders, a ladder, and two rock blocks in the nearshore area.

We understand that first two items are not covered in the General Lease No. 5889 for private non-commercial pier issued to your client and are considered encroachments that preclude the processing of your application. Therefore, your client is required to resolve these encroachments either by removing them or entering an amendment to the lease. If you desire an amendment of the lease to resolve this issue, it requires a map and legal description of the additional area, and additional consideration for the area added to the originally leased area. Regarding the rock blocks, they have to be removed.

We will proceed with processing the subject certification application only after we have determined that the encroachment issue has been appropriately resolved. Please inform us of your client's decision by indicating their preference in the space provided below, and having them sign, date and return this letter. If you have any further questions, please feel free to contact Ian Hirokawa at 587-0440. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Morris M. Atta".

Morris M. Atta
Administrator

____ We agree to remove the boat holders, ladder and the rock blocks at the subject location.

____ We agree to enter into an amendment of General Lease No. 5889, and remove the rock blocks at the subject location.

Print & Sign

Date

c DAGS
OCCL



Darcey Builders, Inc.
Interior Contractors

501 Sumner Street, Suite 605
Honolulu, Hawaii 96817
Tel (808) 524-2903 Fax (808) 533-0497

September 22, 2008

MEMORANDUM

To: State of Hawaii; Department of Land and Natural Resources
Attn: Barry Cheung

From: Randy L. Uchytel
Operations Director

Re: Kahn Residence
146 Wailupe Circle

SENT VIA FAX TO: 587-0455

Please find the attached signed letter from our client, Mrs. Philippe Kahn, with agreement to amend their pier lease agreement with the State of Hawaii, to include the pier ladder and boat hooks. After you have reviewed, please forward any of your questions and/or concerns to my attention. Thank you!

Mahalo!

RECEIVED
LAND DIVISION
2008 SEP 22 A 8:31
DEPT OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

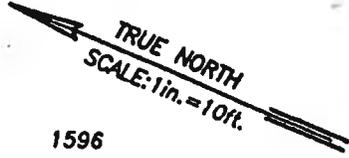
Attachments: Owners Agreement to Amend Pier Lease #5889
Cc: Project File: #09-001

Easement A for Storm Drain Right of Way
Lot 38 (10 ft. wide)

172.88

248'40"40"

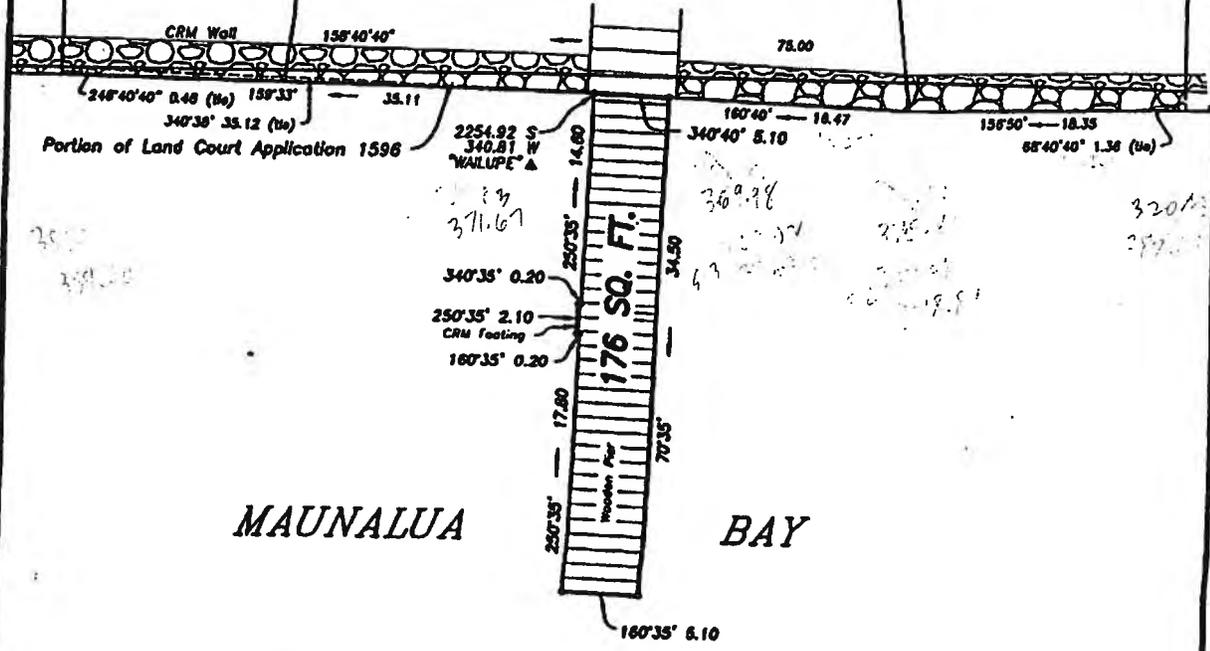
Land Court Application 1596
(Map 1)
Lot 38



175.10

68'40"40"

Boundary follows along the outer face of seawall as shown on Map 1 of Land Court Application 1596



MAUNALUA BAY

PRELIM. APPR'D.
Department of the
Attorney General

PRIVATE NONCOMMERCIAL PIER
Fronting Lot 38 of Land Court Application 1596
Wailupe, Waikiki, Honolulu, Oahu, Hawaii

Scale: 1 inch = 10 feet

JOB 0-172(06)
C. BK.

REDUCED NOT TO SCALE

EXHIBIT "B"

Fronting Parcel 38 of TMK 3-8-01

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.S.F. NO. 24,280

JCL May 21, 2008



PICTURE #1
4-14-08 1:00 pm



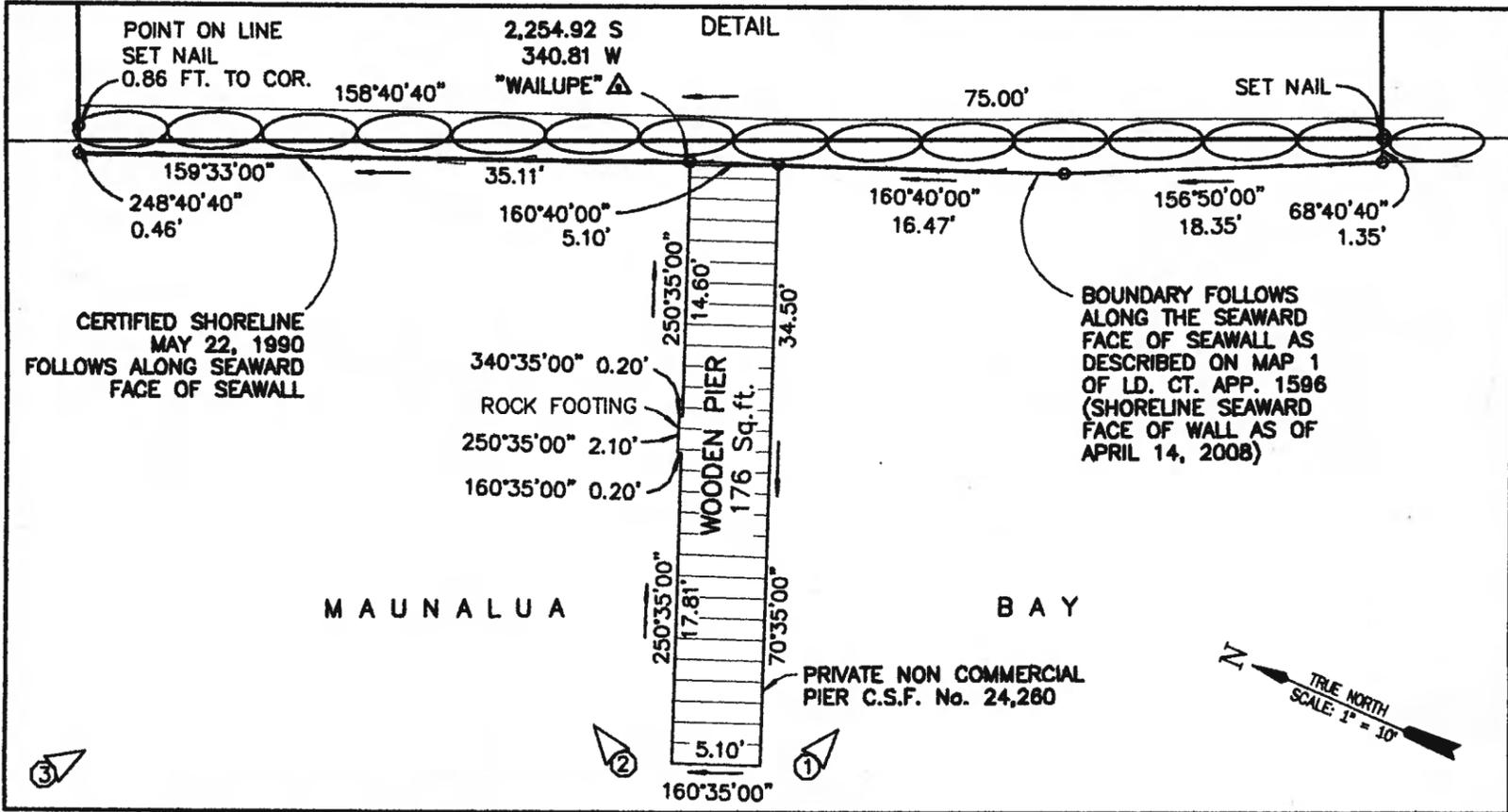
PICTURE #2
4-14-08 1:00 pm



PICTURE #3
4-14-08 1:00 pm



Figure 10. 10/10/10

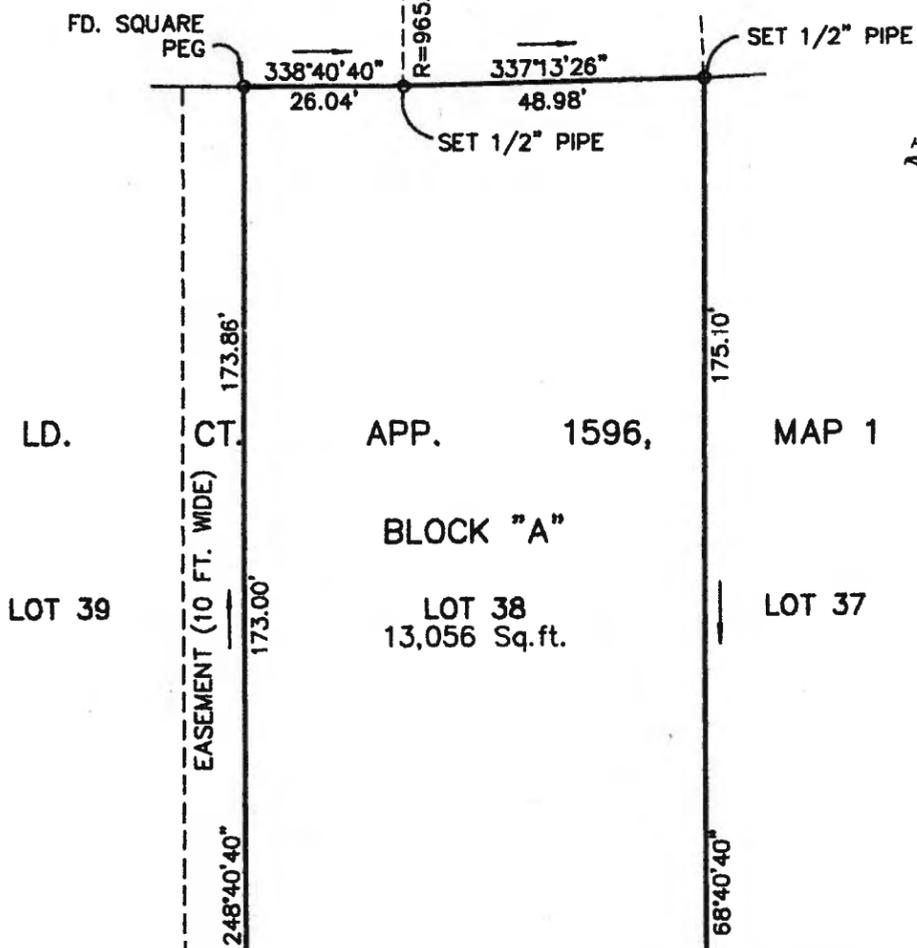


MAUNALUA BAY

PRIVATE NON COMMERCIAL PIER C.S.F. No. 24,260



WAILUPE CIRCLE



BLOCK "A"

LOT 38
13,056 Sq. ft.

The shoreline as delineated in red is hereby certified as the shoreline as of

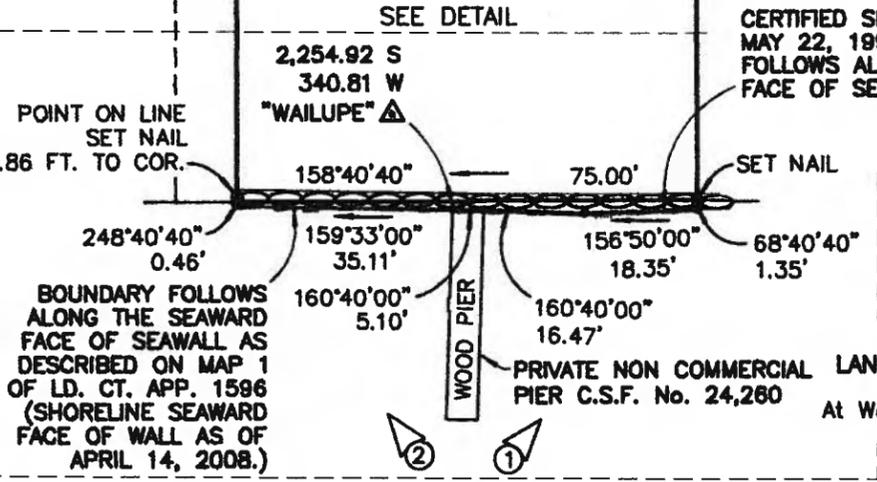
FEB 20 2009

[Signature]
Chairperson, Board of Land and Natural Resources



THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.

[Signature]
DENNIS K. HASHIMOTO
EXPIRATION DATE: 4/30/08



MAUNALUA BAY

CERTIFIED SHORELINE
MAY 22, 1990
FOLLOWS ALONG SEAWARD
FACE OF SEAWALL

SHORELINE SURVEY
LOT 38 OF BLOCK "A",
LAND COURT APPLICATION 1596, MAP 1
At Wailupe, Waikiki, Honolulu, Oahu, Hawaii

Tax Map Key: 3-6-01:3B
Date: April 14, 2008
Address: 146 Wailupe Circle
Owner: Kahn, Family Trust

SURVEY OFFICE COPY

DJNS SURVEYING & MAPPING, INC.
P.O. BOX 25636, Honolulu, Hawaii 96825

JOB #95366

APPENDIX C

Pre-consultation Letters

**Project Information for
Shoreline Setback Variance Application
for a Seawall
TMK: 3-6-001:0038
Honolulu, Hawaii**

General project information

THE APPLICANT	Mr. & Mrs. Philippe Kahn c/o Mr. Randy Uchytel Darcey Builders, Inc 501 Sumner Street # 605 Honolulu, Hawaii 96817 Ph: (808) 524-2903
APPLICANT REPRESENTATIVE	Randy Uchytel Darcey Builders, Inc. 501 Sumner Street # 605 Honolulu, Hawaii 96817 Ph: (808) 524-2903
EA PREPARATION	Wil Chee - Planning & Environmental 1018 Palm Drive Honolulu, Hawaii 96814 Ph: (808) 596-4688 Fax: (808) 597-1851
TMK AND OWNER	(1) 3-6-001:038 Philippe Kahn 146 Wailupe Circle Honolulu, Hawaii 96821
LAND AREA	13,056 square feet
ZONING	R-10 Residential District
STATE LAND USE	Urban District
AGENCIES CONSULTED	Department of Planning and Permitting City & County of Honolulu 650 South King Street, 7 th Floor Honolulu, Hawaii 96813
REQUIRED PERMITS AND APPROVALS	Shoreline Setback Variance Building Permit

Project Information for Shoreline Setback Variance Application for a Seawall

TMK: (1) 3-6-001:038

Honolulu, Hawaii

ACCEPTING AUTHORITY

Department of Planning and Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Project Location

The project site is located on the westward-facing makai side of Wailupe Circle, off Kalanianaʻole Highway, slightly northeast of Diamond Head, in Maunalua Bay.

(Figures 1, 2, 3 & 4)

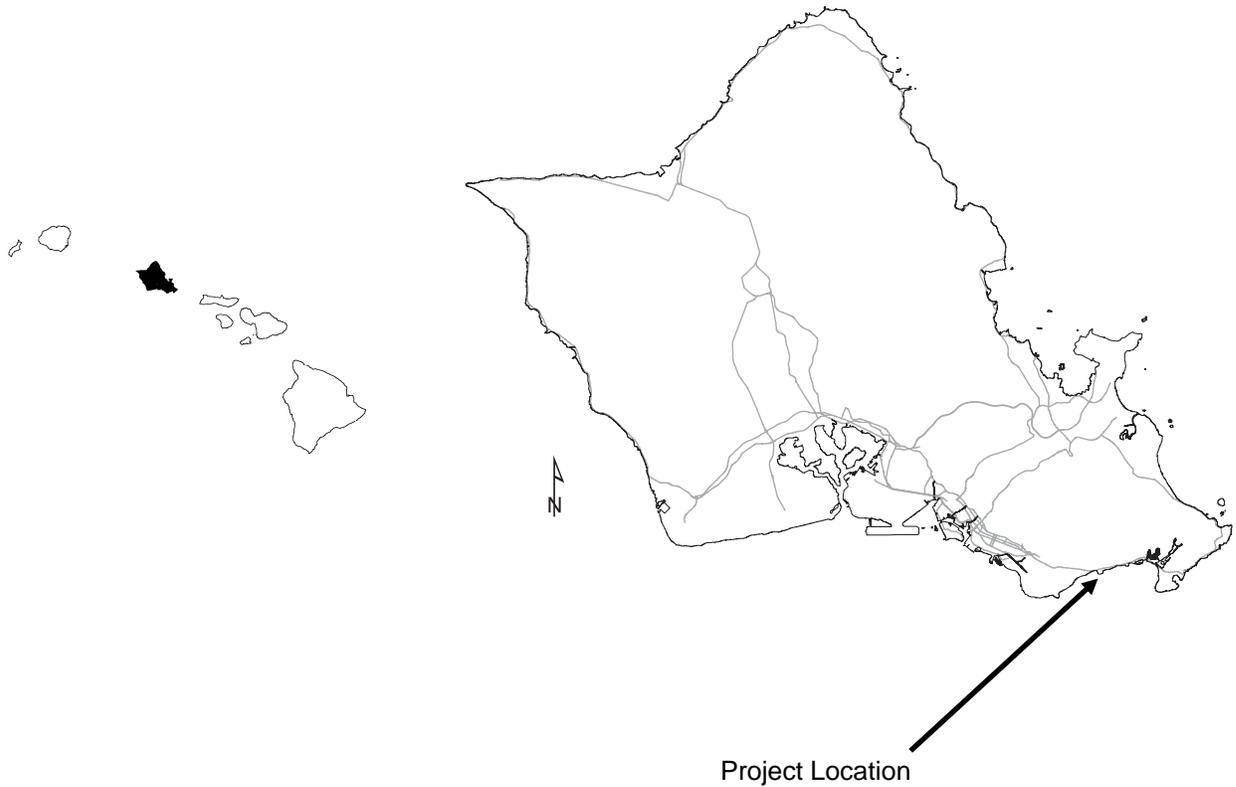
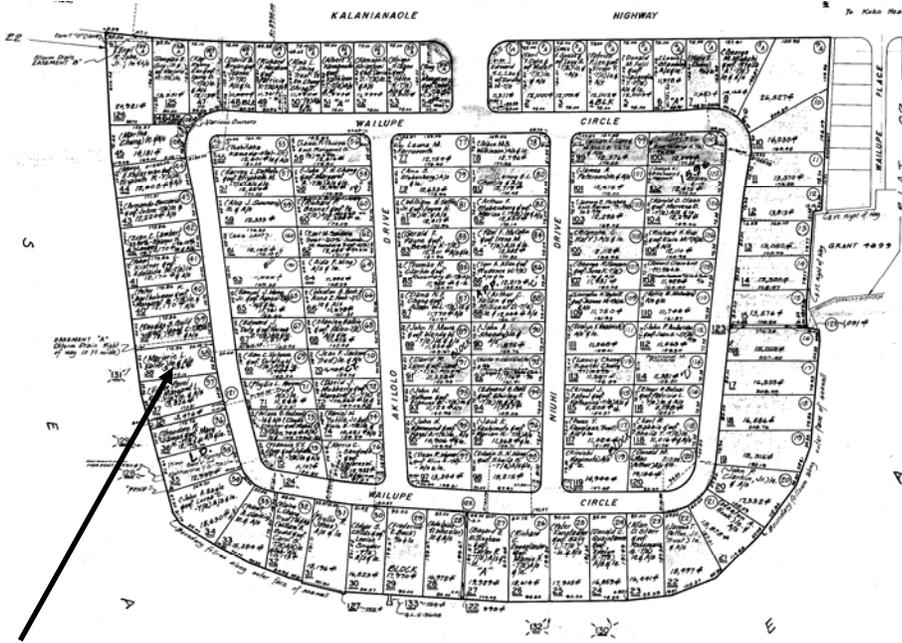


Figure 1. Project Location in Hawaii

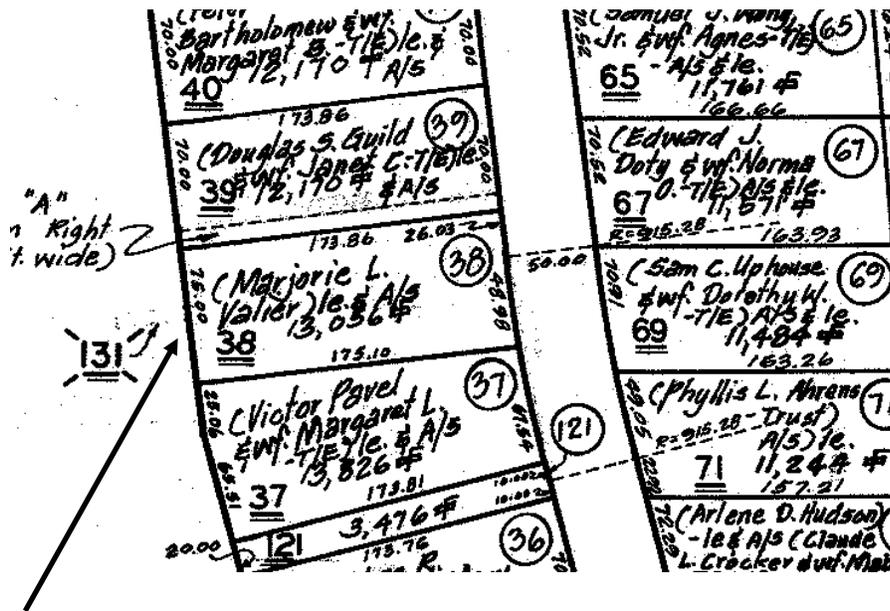
Project Information for Shoreline Setback Variance Application for a Seawall

TMK: (1) 3-6-001:038
Honolulu, Hawaii



Project Location

Figure 2. TMK Map of Area



Project Location

Figure 3. TMK Map, Close Up of Parcel

**Project Information for
Shoreline Setback Variance Application
for a Seawall**
TMK: (1) 3-6-001:038
Honolulu, Hawaii



Figure 4. Aerial Photo of the Vicinity

Proposed Action

The Kahn family home is an oceanfront, single-family, detached residence. Portions of the seawall on the property have become damaged and rocks have fallen out of place. The proposed action is to repair the existing seawall and raise the height to meet the level of the existing grade. The proposed repairs are less than 50% of the costs for total replacement of the wall. The Kahn family has contracted Darcey Builders, Inc., to obtain the required permits for making the repairs.

The property has a current Certified Shoreline, which was sent to the Kahn family on February 23, 2009 (File No. OA-1229). A Shoreline Setback Variance and building permit will be required prior to making the necessary repairs.

Project Information for Shoreline Setback Variance Application

for a Seawall

TMK: (1) 3-6-001:038

Honolulu, Hawaii

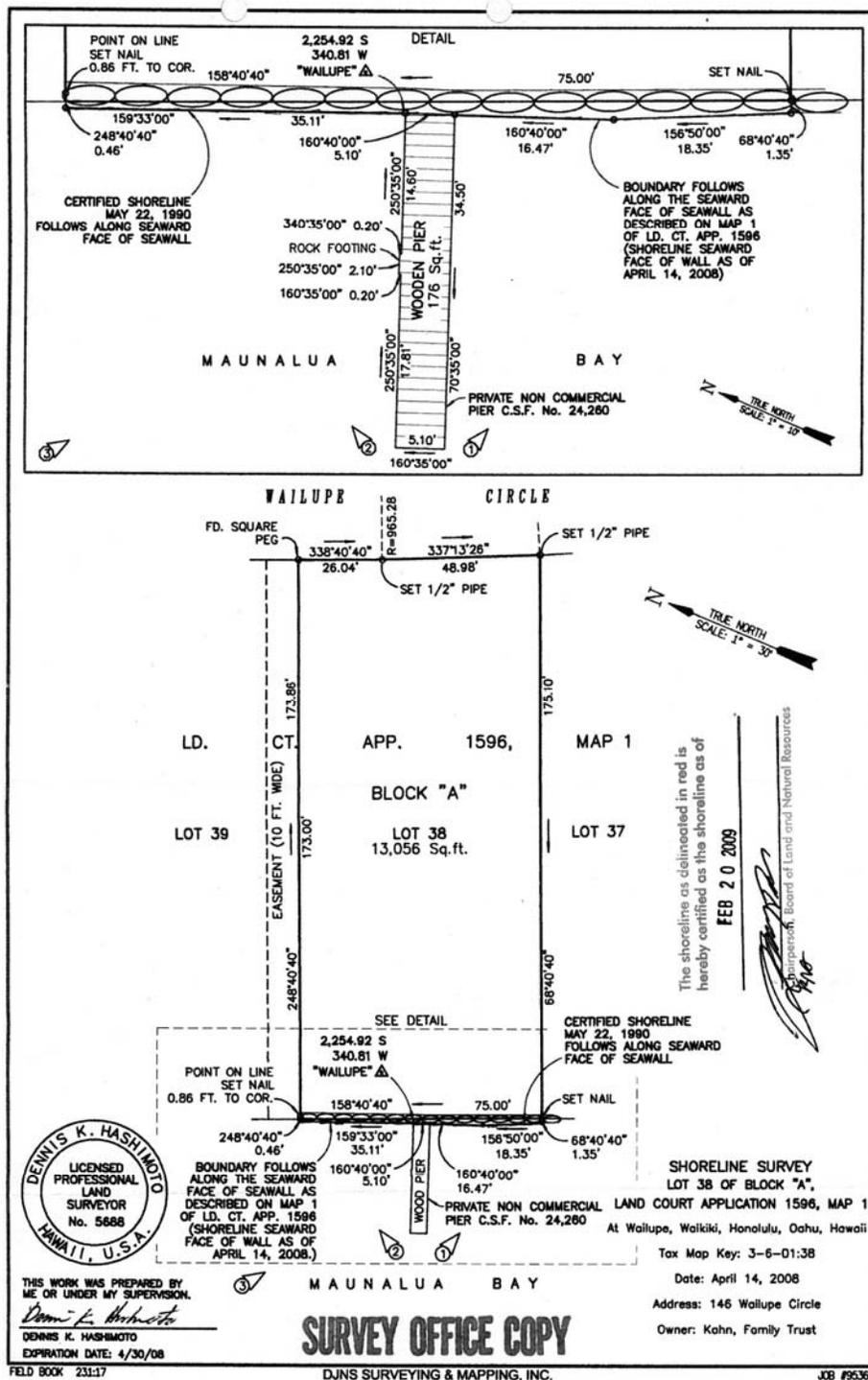


Figure 5. Shoreline Survey 2008

Project Information for Shoreline Setback Variance Application for a Seawall

TMK: (1) 3-6-001:038

Honolulu, Hawaii

Land Area

Parcel 038 is approximately 175 feet long by 75 feet wide, with a total land area of 13,056 square feet.

Surrounding Land Use and Land Use Designations

TMK (1) 3-6-001:038 and surrounding properties are zoned R-10 Residential District. The area is also within the state Urban District.

History of the Proposed Project

The proposed project site is located in a fully developed residential neighborhood comprised of single-family homes. The Wailupe Circle neighborhood lies on Wailupe Peninsula, and several of the properties have views of Maunalua Bay. The Kahn property is a single-family, detached dwelling located on the western shore of the Wailupe Peninsula, and has views of Maunalua Bay and the Pacific Ocean. The at-grade elevation of the peninsula and the property is approximately five feet above mean sea level (Belt Collins Hawaii, 2007).

Wailupe Peninsula was the location of a historic fishpond built onto the shore of Maunalua Bay. The area was developed for residential units in 1948 by Robert Hind, Ltd and has been a fully developed residential neighborhood for the past sixty years. The fishpond was filled in prior to the development of the area in the late 1940s, and a lava stone seawall was built to encompass the perimeter of the entire area. The seawall on the property is the original wall built in 1948. The property was developed and the seawall built prior to implementation of shoreline setback regulations that required a setback of 10 feet in 1966 and the 40 foot setback in 1970.

The site has been used for residential purposes since 1948, and construction activities and landscaping have disturbed the entire parcel. It is unlikely that archaeological, cultural, or historic features are on the site.

Currently, the area is frequented for recreational uses such as boating, kayaking, and surfing. Public access to the ocean and reef surrounding Wailupe Peninsula is from either Wailupe Beach Park to the west of the proposed project, located at TMK (1) 3-5-022:023, or from the public right-of-way located off of Kalaniana'ole Highway to the east of the proposed project, at TMK (1) 3-7-001:020.

Existing Site Description & Proposed Actions

The Kahn family purchased the property in 1999. The property has been used for residential purposes since the late 1940s, at which time a lava stone seawall was constructed that surrounds the entire Wailupe Peninsula residential area.

Repair plans include replacing lava stones which have fallen from the seawall and raising the height of the wall to the existing grade. These actions will raise the elevation of the Kahn property seawall so that it is level with the seawalls of neighboring parcels. Currently a wood picket fence and naupaka hedge abut and run along the top of the seawall (Figure 6). Repair plans include removing the existing wood picket fence and naupaka and raising the elevation of the seawall (Figure 7). Post repairs include a new stainless steel cable rail fence to be installed on top of the seawall, as well as parallel to the existing concrete steps that serve as access from the property to Maunalua Bay. The metal gate that currently controls access from the property to Maunalua Bay and the property's recreational use pier will remain in place. Figures 9a and 9b

Project Information for Shoreline Setback Variance Application for a Seawall

TMK: (1) 3-6-001:038

Honolulu, Hawaii

depict current conditions of the seawall, as well as changes to the seawall based on repair plans. Total repair costs are less than 50% of the total costs to replace the wall.

The Kahn property is a single-family, residential development located on the western shore of Waiupe Peninsula. The property is located approximately five feet above mean sea level.



6a: Shoreline Looking South From the Recreational Use Pier



6b: Shoreline Looking North From the Recreational Use Pier

Figure 6. Shoreline Photographs 2009

**Project Information for
Shoreline Setback Variance Application
for a Seawall**
TMK: (1) 3-6-001:038
Honolulu, Hawaii

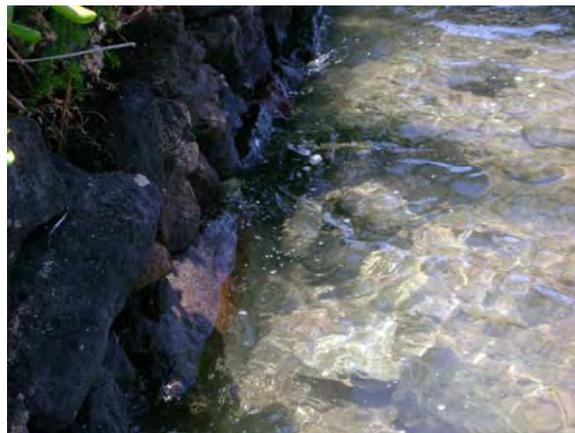


Height of Adjoining
Seawall
Height of Kahn
Residence Seawall

Figure 7. Comparison of Kahn Property Seawall Height to Adjoining Property Seawall Height

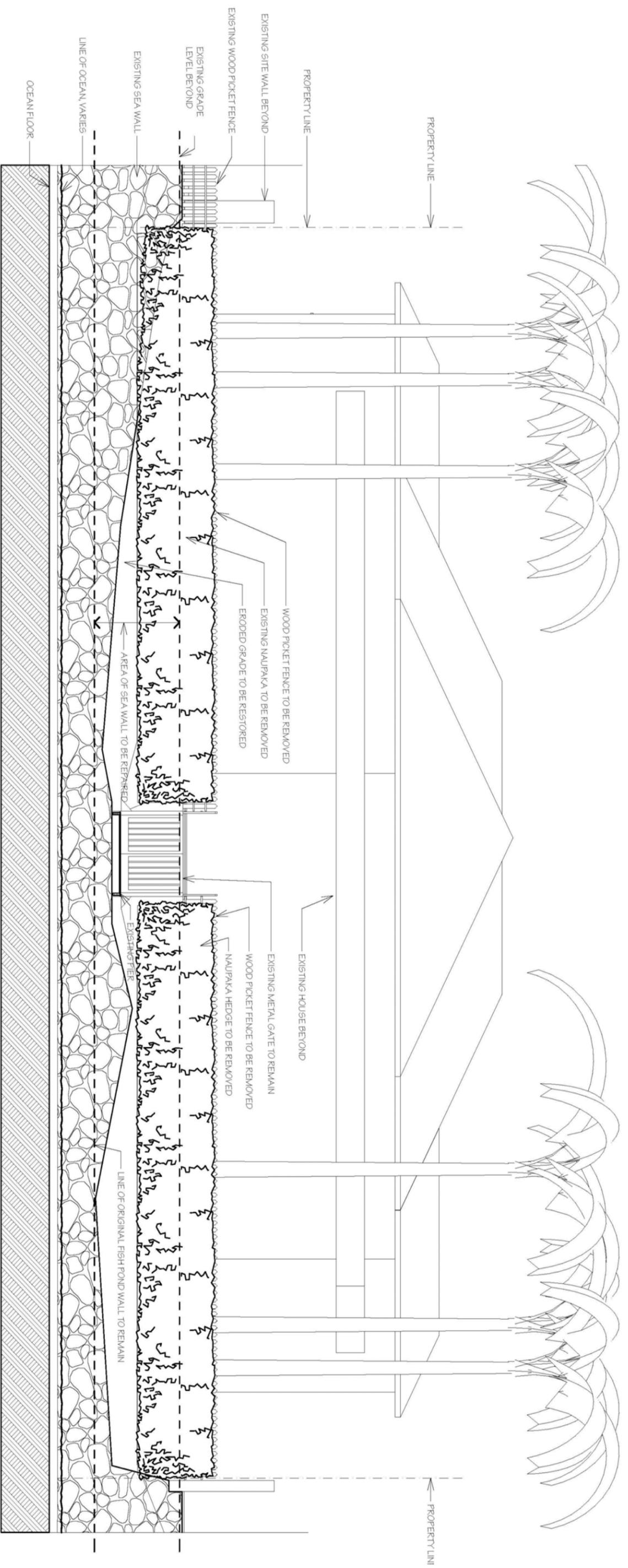


8a: Dislodged rocks from the seawall



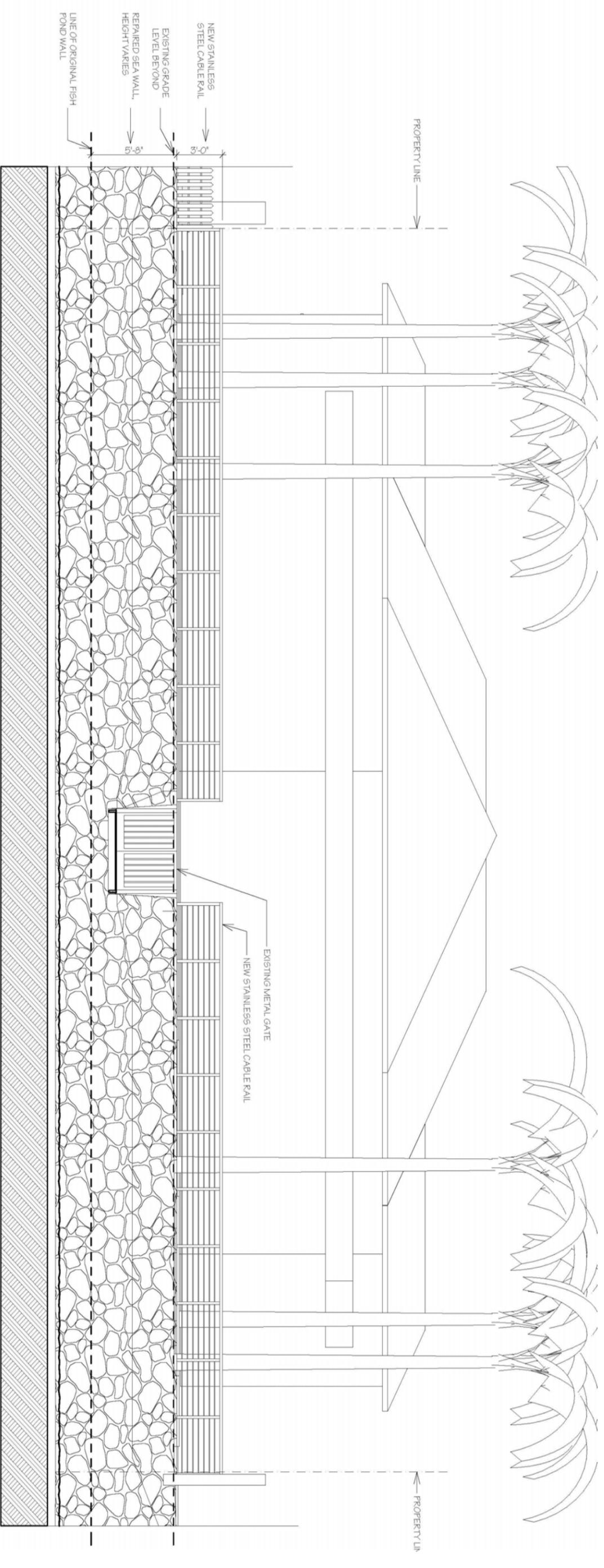
8b: Rocks that have fallen from the seawall

Figure 8. Current Condition of Seawall



1 Existing Sea Wall Elevation @ 146 Wailupe Circle
 Scale: 1/4" = 1'-0"

Figure 9A Existing Conditions of Kahn Residence Seawall
 (Plan courtesy of Darcey Builders, Inc.)



2 Repaired Sea Wall Elevation @ 146 Wailupe Circe
 Scale: 1/4" = 1'-0"

Figure 9B Planned Repairs of Kahn Residence Seawall
 (Plan courtesy of Darcey Builders, Inc.)

Project Information for Shoreline Setback Variance Application for a Seawall

TMK: (1) 3-6-001:038

Honolulu, Hawaii

Public Agency Involvement, Review, and Consultation

The following agencies will be consulted during the preparation of the Draft Environmental Assessment:

- City & County of Honolulu, Department of Planning and Permitting
- State Office of Environmental Quality Control
- State of Hawaii, Department of Land and Natural Resources
- U.S. Fish & Wildlife Service

Permits required for this project are:

- Shoreline Setback Variance pursuant to Chapter 23, Revised Ordinances of Honolulu
- Building Permit from the City and County of Honolulu

References

Belt Collins Hawaii. 2007. Draft Environmental Assessment, New Non-Commercial Pier at 298 Wailupe Circle, Honolulu, Hawaii.



WIL CHEE - PLANNING & ENVIRONMENTAL

August 19, 2009

Katherine Kealoha, Director
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, HI 96813

Subject: Project Information for an Environmental Assessment (EA) and Shoreline Setback Variance (SSV) and for a Seawall located at Wailupe Peninsula, O'ahu, Hawai'i

Dear Katherine Kealoha:

Wil Chee - Planning & Environmental is preparing an Environmental Assessment in conjunction with a Shoreline Setback Variance application for a seawall located on the westward-facing makai side of Wailupe Circle. The project site is located on Wailupe Peninsula, in Maunalua Bay, O'ahu, Hawai'i.

The project will repair an existing seawall, and raise the height of the seawall to meet the level of the existing grade.

In compliance with §11-200-9 Hawaii Administrative Rules, Department of Health, Title 11 Chapter 200, *Environmental Impact Statement Rules*, this letter is intended to initiate early consultation with agencies and groups having jurisdiction or expertise related to the proposed project. We have enclosed a project information sheet with maps and a description of the proposed project. We would appreciate receiving any comments or concerns you may have that might influence the subject EA.

If you have any questions or need more information on this project please call Angelyn Davis or Judy Mariant at (808) 596-4688. Thank you for your time and interest.

Sincerely,

Angelyn Davis, Planner
Wil Chee – Planning & Environmental

Attachments

Providing Services Since 1976

Land Use Planners and Environmental Consultants



WIL CHEE - PLANNING & ENVIRONMENTAL

August 19, 2009

Patrick Leonard, Field Supervisor
U.S. Fish and Wildlife Service
300 Ala Moana Boulevard
Room 3122, Box 50088
Honolulu, HI 96850

Subject: Project Information for an Environmental Assessment (EA) and Shoreline Setback Variance (SSV) and for a Seawall located at Wailupe Peninsula, O'ahu, Hawai'i

Dear Patrick Leonard:

Wil Chee - Planning & Environmental is preparing an Environmental Assessment in conjunction with a Shoreline Setback Variance application for a seawall located on the westward-facing makai side of Wailupe Circle. The project site is located on Wailupe Peninsula, in Maunalua Bay, O'ahu, Hawai'i.

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Sincerely,

Angelyn Davis, Planner
Wil Chee – Planning & Environmental

Attachments

Providing Services Since 1976

Land Use Planners and Environmental Consultants



WIL CHEE - PLANNING & ENVIRONMENTAL

August 19, 2009

Clyde Nāmu‘o, Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, HI 96813

Subject: Project Information for an Environmental Assessment (EA) and Shoreline Setback Variance (SSV) and for a Seawall located at Wailupe Peninsula, O‘ahu, Hawai‘i

Dear Clyde Nāmu‘o:

Wil Chee - Planning & Environmental is preparing an Environmental Assessment in conjunction with a Shoreline Setback Variance application for a seawall located on the westward-facing makai side of Wailupe Circle. The project site is located on Wailupe Peninsula, in Maunalua Bay, O‘ahu, Hawai‘i.

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Sincerely,

Angelyn Davis, Planner
Wil Chee – Planning & Environmental

Attachments

Providing Services Since 1976

Land Use Planners and Environmental Consultants

PHONE (808) 594-1888

FAX (808) 594-1865



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

HRD09/4628

September 8, 2009

Angelyn Davis
Wil Chee- Planning & Environmental
1018 Palm Drive
Honolulu, HI 96814

RE: Request for early consultation on the proposed environmental assessment (EA) and shoreline setback variance application for seawall, Wailupe, O'ahu, TMK: 3-6-001:038.

Aloha e Angelyn Davis,

The Office of Hawaiian Affairs (OHA) is in receipt of the above-mentioned letter dated August 19, 2009. OHA has reviewed the project and offers the following comments.

We look forward to reviewing the EA and the shoreline setback variance permit application. We do ask if the concrete steps that serve as access from the property to Maunalua Bay are encroaching onto public trust and ceded lands.

Thank you for the opportunity to comment. If you have further questions, please contact Grant Arnold by phone at (808) 594-0263 or e-mail him at granta@oha.org.

'O wau iho nō me ka 'oia 'i'o,

Clyde W. Nāmu'o
Administrator



WIL CHEE - PLANNING & ENVIRONMENTAL

August 19, 2009

Laura H. Thielen, Chairperson
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, HI 96813

Subject: Project Information for an Environmental Assessment (EA) and Shoreline Setback Variance (SSV) and for a Seawall located at Wailupe Peninsula, O'ahu, Hawai'i

Dear Laura H. Thielen:

Wil Chee - Planning & Environmental is preparing an Environmental Assessment in conjunction with a Shoreline Setback Variance application for a seawall located on the westward-facing makai side of Wailupe Circle. The project site is located on Wailupe Peninsula, in Maunalua Bay, O'ahu, Hawai'i.

The project will repair an existing seawall, and raise the height of the seawall to meet the level of the existing grade.

In compliance with §11-200-9 Hawaii Administrative Rules, Department of Health, Title 11 Chapter 200, *Environmental Impact Statement Rules*, this letter is intended to initiate early consultation with agencies and groups having jurisdiction or expertise related to the proposed project. We have enclosed a project information sheet with maps and a description of the proposed project. We would appreciate receiving any comments or concerns you may have that might influence the subject EA.

If you have any questions or need more information on this project please call Angelyn Davis or Judy Mariant at (808) 596-4688. Thank you for your time and interest.

Sincerely,

Angelyn Davis, Planner
Wil Chee – Planning & Environmental

Attachments

Providing Services Since 1976

Land Use Planners and Environmental Consultants

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

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

REF:OCCL:AB

Correspondence OA-10-44

AUG 31 2009

Angelyn Davis
Wil Chee – Planning & Environmental
1018 Palm Drive
Honolulu, Hawai'i 96814

SUBJECT: Pre-consultation for an Environmental Assessment and Shoreline Setback Variance for a Seawall Located at Wailupe Peninsula, O'ahu, TMK: (1) 3-6-001:038

Dear Ms. Davis:

The Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) has reviewed the information you provided regarding the forthcoming Environmental Assessment (EA) and Shoreline Setback Variance (SSV) application for a seawall located at Wailupe Peninsula, O'ahu, TMK: (1) 3-6-001:038.

According to the information provided, the proposed action is to repair the existing seawall and raise the height to meet the level of the existing grade. The subject seawall was originally built in 1948. Portions of the seawall have become damaged and rocks have fallen out of place. The proposed repairs are less than 50% of the costs for total replacement of the wall.

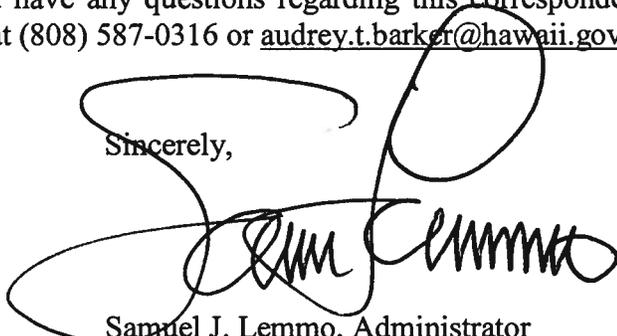
OCCL notes that the subject seawall, which was built prior to the creation of the Conservation District of October 1, 1964, is considered a non-conforming use as defined in Hawai'i Administrative Rules (HAR) §13-5-2 and will not require a Conservation District Use Permit (CDUP) per HAR §13-5-22, P-9 Structures, Existing (A-1).

In the EA, please include a discussion on coastal hazards as they relate to the proposed action. The discussion might include a description of historical events and any special engineering designed to adapt to extreme coastal hazards (e.g., hurricane or tsunami inundation). It may also be useful to discuss the impact of the proposed action on public shoreline access. The EA should also include a project sequence and timeline as to how and when each stage of construction will take place. In addition, OCCL recommends removal of all material seaward of the face of the existing seawall (i.e., the rocks that have fallen out of place).

We also suggest that you contact the Army Corps of Engineers as well regarding their permit and approval requirements since it appears the proposed action may be seaward of the high tide line, which is in their jurisdiction.

Thank you for providing us the opportunity to pre-consult on the proposed application. We look forward to reviewing the EA. Should you have any questions regarding this correspondence, please contact Audrey Barker of our office at (808) 587-0316 or audrey.t.barker@hawaii.gov.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Samuel J. Lemmo', is written over the word 'Sincerely,'.

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

- c: Chairperson
- ODLO
- DOH
- Army Corps of Engineers
- DPP



August 19, 2009

David K. Tanoue, Director
Department of Planning and Permitting
City & County of Honolulu
650 S. King Street, 7th Floor
Honolulu, HI 96813

Subject: Project Information for an Environmental Assessment (EA) and Shoreline Setback Variance (SSV) and for a Seawall located at Wailupe Peninsula, O'ahu, Hawai'i

Dear David Tanoue:

Wil Chee - Planning & Environmental is preparing an Environmental Assessment in conjunction with a Shoreline Setback Variance application for a seawall located on the westward-facing makai side of Wailupe Circle. The project site is located on Wailupe Peninsula, in Maunalua Bay, O'ahu, Hawai'i.

The project will repair an existing seawall, and raise the height of the seawall to meet the level of the existing grade.

In compliance with §11-200-9 Hawaii Administrative Rules, Department of Health, Title 11 Chapter 200, *Environmental Impact Statement Rules*, this letter is intended to initiate early consultation with agencies and groups having jurisdiction or expertise related to the proposed project. We have enclosed a project information sheet with maps and a description of the proposed project. We would appreciate receiving any comments or concerns you may have that might influence the subject EA.

If you have any questions or need more information on this project please call Angelyn Davis or Judy Mariant at (808) 596-4688. Thank you for your time and interest.

Sincerely,

Angelyn Davis, Planner
Wil Chee – Planning & Environmental

Attachments

Providing Services Since 1976

Land Use Planners and Environmental Consultants

APPENDIX D

Draft EA Comments & Response Letters

X-Original-To: wcpjudy@lava.net
Delivered-To: wcpjudy@lava.net
X-Virus-Scanned: amavisd-new at lava.net
X-Spam-Flag: NO
X-Spam-Score: 0.001
X-Spam-Level:
X-Spam-Status: No, score=0.001 tagged_above=-999 required=9999
tests=[HTML_MESSAGE=0.001] autolearn=disabled
X-Greylist: Passed host: 67.210.98.245
Subject: Agency Comments re DEA for Kahn Seawall
Date: Wed, 5 May 2010 15:23:30 -1000
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
Thread-Topic: Agency Comments re DEA for Kahn Seawall
Thread-Index: Acrsury/EvIYtJR0QwKWao7f60i0Vw==
From: "Morisato, James T." <jmorisato@honolulu.gov>
To: <jmariant@wcpahawaii.com>
X-OriginalArrivalTime: 06 May 2010 01:23:31.0293 (UTC) FILETIME=[BD0760D0:01CAECBA]
X-AntiAbuse: This header was added to track abuse, please include it with any abuse report
X-AntiAbuse: Primary Hostname - mantus.lunarmania.com
X-AntiAbuse: Original Domain - wcpahawaii.com
X-AntiAbuse: Originator/Caller UID/GID - [47 12] / [47 12]
X-AntiAbuse: Sender Address Domain - honolulu.gov
X-Source:
X-Source-Args:
X-Source-Dir:
Comments: INPUT 67.210.98.245
Comments: HELO mantus.lunarmania.com
Comments: For More Information, please visit: <<http://lava.net/support/utilities/spammo/guide.html>>

Judy,

As requested, attached are copies of agency comments received pertaining to the Kahn DEA.

<<DOC015.PDF>> <<DOC004.PDF>> <<DOC008.PDF>> <<DOC016.PDF>> <<DOC017.PDF>>

Please note that I also received comments from our (DPP) Development Plans/Zone Changes Branch, suggesting that,

"Discussion of Land Use [page 15] should indicate that the site is within the East Honolulu Sustainable Communities Plan area in a neighborhood planned for residential use..."; and

Regarding reference to Fletcher 2002 [Page 23], the FEA should discuss Fletcher 2009 suggestion of at least a 3-foot sea level rise in the next 90 years.

Per subsequent (internal) discussion, it was determined that the reference to the Sustainable Communities Plan was redundant, since the area was already in residential use and consistent with the zoning; and there was no definitive data to support the 3-foot sea level rise projection, and is not an issue. Thus, no response is required.

James Morisato

Zoning Regulations & Permits Branch

Department of Planning & Permitting

City & County of Honolulu



May 10, 2010

David K. Tanoue, Director
Department of Planning and Permitting
City and county of Honolulu
650 S. King Street 7th floor
Honolulu, Hawaii 96813

Attention: Mr. James Morisato

Dear Mr. Tanoue:

Subject: Comments on the Draft Environmental Assessment (EA) for a Shoreline setback
Variance (SSV) Kahn Seawall, for TMK: (1) 3-6-001:038

Thank you reviewing the draft Environmental Assessment and providing us with your
comments.

1. *Discussion of Land Use [page15] should indicate that site is within the East Honolulu Sustainable Communities Plan area in a neighborhood planned for residential use.*

We will mention that the parcel use is consistent with the East Honolulu Sustainable Communities Plan in the final EA. We used that document as a reference, yet we did not cite it in the text.

2. *Regarding the reference to Fletcher 2002 [page 23], the FEA should discuss Fletcher 2009 suggestion of at least a 3-foot sea level rise in the next 90 years.*

Charles Fletcher has many publications dated 2009. We will look for that publication and incorporate that information into the EA. Please be aware that there are many in the scientific community who are researching sea level rise in attempts to predict future sea levels. These projections often produce different rates of sea level rise and contradictory results.

Sincerely,

Judy J. Mariant, Planner

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

RECEIVED

'10 APR -8 AIO 55

April 6, 2010

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

Department of Planning & Permitting
City & County of Honolulu
650 South King Street 7th Floor
Honolulu, Hawaii 96813

Attention: Mr. James Morisato

Ladies and Gentlemen:

Subject: Draft Environmental Assessment for repair and increase the height of an existing concrete rubble masonry seawall along a residential beachfront lot (2009/ED-15(JM))

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR), Land Division distributed or made available a copy of your report pertaining to the subject matter to DLNR Divisions for their review and comment.

Other than the comments from Division of Aquatic Resources, Engineering Division, Land Division-Oahu District, the Department of Land and Natural Resources has no other comments to offer on the subject matter. Should you have any questions, please feel free to call our office at 587-0433. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Morris M. Atta".

Handwritten initials in blue ink, appearing to be "MA".
Morris M. Atta
Administrator



RECEIVED
LAND DIVISION

2010 MAR 16 P 2:57

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

March 2, 2010

RESOURCES 2925

DIRECTOR	
COMM. FISH.	
AQ RES/ENV	
AQ REC	
PLANNER	
STAFF SVCS	
RCUH/UH	
STATISTICS	
AFRC/FED AID	
EDUCATION	
SECRETARY	
OFFICE SVCS	
TECH ASST	<input checked="" type="checkbox"/>
Return to:	
No. Copies	
Copies to:	
Due Date:	

MEMORANDUM

TO:

DLNR Agencies:

- Div. of Aquatic Resources
- Div. of Boating & Ocean Recreation
- Engineering Division
- Div. of Forestry & Wildlife
- Div. of State Parks
- Commission on Water Resource Management
- Office of Conservation & Coastal Lands
- Land Division - Oahu District



FROM: *Morris M. Atta* *Charlene*
 SUBJECT: Draft Environmental Assessment for repair and increase the height of an existing concrete rubble masonry (CRM) seawall along a residential beachfront lot
 LOCATION: Island of Oahu
 APPLICANT: Philippe Kahn

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by April 5, 2010.

Only 1 copy of the draft environmental assessment available in Room 220.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: *[Signature]*
 Date: 15 March 2010

PM



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 2, 2010

MEMORANDUM

TO: *PR*

DLNR Agencies:

- Div. of Aquatic Resources
- Div. of Boating & Ocean Recreation
- Engineering Division
- Div. of Forestry & Wildlife
- Div. of State Parks
- Commission on Water Resource Management
- Office of Conservation & Coastal Lands
- Land Division - Oahu District / *Tan*

TO: *To:*

FROM: *jo* Morris M. Atta *Chalane*

SUBJECT: Draft Environmental Assessment for repair and increase the height of an existing concrete rubble masonry (CRM) seawall along a residential beachfront lot

LOCATION: Island of Oahu

APPLICANT: Philippe Kahn

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by April 5, 2010.

Only 1 copy of the draft environmental assessment available in Room 220.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: *jo*
Date: 3/3/2010 *PR*



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 2, 2010

MEMORANDUM

TO: **DLNR Agencies:**
 Div. of Aquatic Resources
 Div. of Boating & Ocean Recreation
 Engineering Division
 Div. of Forestry & Wildlife
 Div. of State Parks
 Commission on Water Resource Management
 Office of Conservation & Coastal Lands
 Land Division –Oahu District

FROM: *MM* Morris M. Atta *Chalbone*
SUBJECT: Draft Environmental Assessment for repair and increase the height of an existing concrete rubble masonry (CRM) seawall along a residential beachfront lot
LOCATION: Island of Oahu
APPLICANT: Philippe Kahn

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by April 5, 2010.

Only 1 copy of the draft environmental assessment available in Room 220.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0433. Thank you.

Attachments

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: *[Signature]*
Date: 3/29/10

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

**LD/MorrisAtta
Ref.: DEAShorelineVarianceWialupeSeawall
Oahu.762**

COMMENTS

- (X) **We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Zone A. The National Flood Insurance Program regulates developments within Zone A as indicated in bold letters below.**
- () Please take note that the project site, according to the Flood Insurance Rate Map (FIRM), is also located in Zone ____.
- () Please note that the correct Flood Zone Designation for the project site according to the Flood Insurance Rate Map (FIRM) is ____.
- (X) **Please note that the project must comply with the rules and regulations of the National Flood Insurance Program (NFIP) presented in Title 44 of the Code of Federal Regulations (44CFR), whenever development within a Special Flood Hazard Area is undertaken. If there are any questions, please contact the State NFIP Coordinator, Ms. Carol Tyau-Beam, of the Department of Land and Natural Resources, Engineering Division at (808) 587-0267.**

Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable County NFIP Coordinators below:

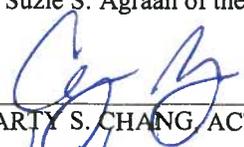
- (X) **Mr. Robert Sumitomo at (808) 768-8097 or Mr. Mario Siu Li at (808) 768-8098 of the City and County of Honolulu, Department of Planning and Permitting.**
- () Mr. Frank DeMarco at (808) 961-8042 of the County of Hawaii, Department of Public Works.
- () Mr. Francis Cerizo at (808) 270-7771 of the County of Maui, Department of Planning.
- () Mr. Mario Antonio at (808) 241-6620 of the County of Kauai, Department of Public Works.

- () The applicant should include project water demands and infrastructure required to meet water demands. Please note that the implementation of any State-sponsored projects requiring water service from the Honolulu Board of Water Supply system must first obtain water allocation credits from the Engineering Division before it can receive a building permit and/or water meter.
- () The applicant should provide the water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update.

- () Additional Comments: _____

- () Other: _____

Should you have any questions, please call Ms. Suzie S. Agraan of the Planning Branch at 587-0258.

Signed: 
CARY S. CHANG ACTING CHIEF ENGINEER

Date: 3/24/10



May 10, 2010

Morris M. Atta, Administrator
Land Division, Department of Land and Natural Resources
State of Hawaii
Post office Box 621
Honolulu, Hawaii 96809

Dear Mr. Atta:

Subject: Comments on the Draft Environmental Assessment (EA) for a Shoreline Setback
Variance (SSV) Kahn Seawall, for TMK: (1) 3-6-001:038

Thank you for reviewing the draft Environmental Assessment and providing us with your
comments. Please find our responses to your comments listed below.

1. *The applicant should include project water demands and infrastructure to meet water demands. Please note that the implementation of any State-sponsored projects requiring water service from the Honolulu Board of Water Supply system must first obtain water allocation credits from the Engineering Division before it can receive a building permit and/or water meter. The applicant should provide the water demands and calculations to the Engineering division so it can be included in the State Water Projects Plan Update.*

The parcel already contains a single family detached residence that has a water meter and service provided by the Honolulu Board of Water Supply. This project is to repair and raise the height of an existing seawall. Completing the repairs on the seawall should require no increases in water demand or infrastructure.

Thank you for taking the time to prepare your comments and for participating in the
environmental review process.

Sincerely,

Judy J. Mariant, Planner

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 535
KAPOLEI, HAWAII 96707

March 9, 2010

Mr. David Tanoue
Department of Planning and Permitting
Honolulu Municipal Building
650 South King Street
Honolulu, Hawai'i 96813

LOG NO: 2010.0556
DOC NO: 1003NM10

Archaeology

Dear Mr. Tanoue:

**SUBJECT: Chapter 6E-42 Historic Preservation Review – Shoreline Setback Variance
AFTER THE FACT- Shoreline Setback Variance Philippe Kahn
146 Wailupe Circle
Honolulu, O'ahu, Hawai'i
TMK: (1) 3-6-001: 038**

This project is has already taken place. We have no comments at this time.

Please contact me at (808) 692-8015 if you have any questions or concerns regarding this letter.

Aloha,

Nancy A. McMahon (Deputy SHPO),
Archaeology and Historic Preservation Manager



WIL CHEE – PLANNING & ENVIRONMENTAL

May 10, 2010

Nancy A. McMahon, Deputy SHPO
State Historic Preservation Division
Department of Land and Natural Resources
State of Hawaii
601 Kamokila Boulevard, Room 555
Kapolei, Hawaii 96707

Dear Ms. McMahon:

Subject: Comments on the Draft Environmental Assessment (EA) for a Shoreline setback
Variance (SSV) Kahn Seawall, for TMK: (1) 3-6-001:038

We understand that you have no comments at this time.

Thank you for reviewing the draft Environmental Assessment and participating in the
environmental review process.

Sincerely,

Judy J. Mariant, Planner

Providing Services Since 1976
Land Use Planners and Environmental Consultants

LUAB



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, HONOLULU DISTRICT
FORT SHAFTER, HAWAII 96858-5440

REPLY TO
ATTENTION OF:

April 7, 2010

RECEIVED

Regulatory Branch

David K. Tanoue
Director
Department of Planning & Permitting
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, HI 96813

10 APR -8 110:55

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

Dear Mr. Tanoue:

This responds to your request for written comments of the draft Environmental Assessment (dEA) for a Shoreline Setback Variance decision which addresses activities and impacts of the proposed repair and height increase of a CRM seawall. The location of the proposed project is at 146 Waiupe Circle, Oahu on the parcel identified as TMK 136001038.

The proposed seawall project was reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 (Section 10) and Section 404 of the Clean Water Act (Section 404). Section 10 requires that a Department of Army (DA) permit be obtained for certain structures or work in or affecting navigable waters of the United States (U.S.), prior to conducting the work (33 U.S.C. 403). Navigable waters of the U.S. are those waters subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or other waters identified as navigable by the Honolulu District. In addition, a Section 10 permit is required for structures or work outside this limit if they affect the course, location, or condition of the waterbody as to its navigable capacity.

Section 404 requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into waters of the U.S., including wetlands, prior to conducting the work (33 U.S.C. 1344). The area of Corps jurisdiction under Section 404 extends to the Mean High Tide Line (MHTL) for navigable waters like the Pacific Ocean, and to the upland boundary of any adjacent wetlands.

Initial information indicates that the existing seawall is in and contiguous to the Pacific Ocean, a navigable water of the U.S. and that the proposal to modify and repair the seawall will be subject to evaluation under Section 10 and Section 404. Two alternatives to accomplish the work have been recommended. The dEA does not provide in sufficient detail the specific methods of construction and associated ground disturbing and in-water activities that will likely take place. It is recommended that the Applicant, Philippe Kahn, consult with our office BEFORE any in-water activities take place to determine if a DA permit may, or may not be required. Upon our receipt of site-specific construction methods and a Best Management Practices Plan, we will provide an Approved geographic Jurisdictional Determination that jurisdictional waters of the U.S. are present and a determination that a DA permit for Section 10 and Section 404 activities may, or may not be, required for activities associated with the proposed repair and height increase of the CRM seawall Project.

Thank you for your consideration of potential impacts to the aquatic environment of the Kona Moku watershed. Please contact Mr. Farley Watanabe of my staff at 438-7701, facsimile 438-4060, or by email at Farley.K.Watanabe@usace.army.mil if you have any questions or need additional information. Please refer to File Number **POH-2010-00052** in any future correspondence with us.

Sincerely,

A handwritten signature in black ink, appearing to read "George P. Young". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

George P. Young, P.E.
Chief, Regulatory Branch



May 10, 2010

George P. Young, P.E., Chief
Regulatory Branch, Department of the Army
U.S. Army Corps of Engineers, Honolulu District
Fort Shafter, Hawaii 96858-5440

Attention: Farley Watanabe

Dear Mr. Young:

Subject: Comments on the Draft Environmental Assessment (EA) for a Shoreline Setback
Variance (SSV) Kahn Seawall, for TMK: (1) 3-6-001:038

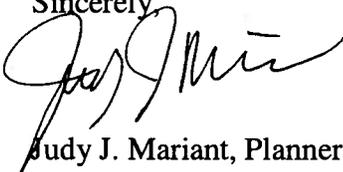
Thank you for reviewing the draft Environmental Assessment and providing us with your comments. Please find our responses to your comments listed below.

1. *Initial information indicates that the existing seawall is in and contiguous to the Pacific Ocean, a navigable water of the U.S. and that the proposal to modify and repair the seawall will be subject to evaluation under section 10 and Section 404. Two alternatives to accomplish the work have been recommended. The dEA does not provide in sufficient detail the specific methods of construction and associated ground disturbing and in-water activities that will likely take place. ...Upon our receipt of site-specific construction methods and a best Management Practices Plan, we will provide an Approved geographic Jurisdictional Determinationthat a DA permit for Section 10 and Section 404 activates may or may not be required for activities associated with the propose repair and height increase of the CRM seawall.*

We will have the contractor provide a detailed description of specific methods of construction and associated ground disturbing and in-water activities that will take place and a site-specific Best Management Practices Plan. They will be sent to the Regulatory Branch for review and determinations.

Thank you for taking the time to prepare your comments and for participating in the environmental review process.

Sincerely



Judy J. Mariant, Planner

PHONE (808) 594-1888



FAX (808) 594-1865

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

RECEIVED

10 MAR 18 10:45

DEPT. OF PLANNING
AND PERMITTING
CITY AND COUNTY OF HONOLULU

HRD10/4628B

March 11, 2010

David K. Tanoe, Director
City and County of Honolulu
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, Hawai'i 96813

**RE: After-the-fact Shoreline Setback Variance draft Environmental Assessment
Kahn Family Trust
Wailupe Peninsula, Island of O'ahu
Tax Map Key: 3-6-1:038**

Aloha e David Tanoe,

The Office of Hawaiian Affairs (OHA) is in receipt of your February 26, 2010 letter requesting comments on a draft Environmental Assessment (EA) which was conducted to support a Shoreline Setback Variance (SSV) application which proposes to stabilize, repair and raise the height of an existing seawall fronting the above mentioned tax map key parcel. OHA has reviewed the draft EA and offers the following comments.

The lands which this project touches and concerns are ceded lands, as are all submerged lands. As such, OHA always requests of applicants that the lands be treated with the respect due to them, as they are part of the 1.8 million acres of land that belong to the Hawaiian Monarchy and were transferred to the state when Hawai'i became a U.S. State.

It is important to note that the Wailupe Peninsula was developed for residential use in the 1940's by filling in a traditional Hawaiian fishpond with dredged material. The outer wall of this fishpond was strengthened to prevent the erosion of fill material. This is the wall of which the Kahn Family Trust seawall is a part. From a certain perspective, the subject seawall is the last physical reminder of the traditional land use of Wailupe, where the development of fishponds contributed to healthy and thriving population.

David K. Tanoe, Director
City and County of Honolulu
Department of Planning and Permitting
March 11, 2010
Page 2 of 2

The draft EA details that the subject property was developed and the seawall built before implementation of shoreline setback regulations that required a setback of 10 feet in 1966 and a setback of 40 feet in 1970. The property has a current Certified Shoreline, which was issued on February 20, 2009. During the development of Wailupe Peninsula in the 1940's, it was recognized that reinforced seawalls would be necessary to prevent the erosion of fill material which, if allowed to continue would eventually render the area unfit for residential use. In other words, modern man failed to recognize what the traditional stewards of Wailupe had recognized through centuries of observation of the natural environment- that this area was perfect for aquaculture, not residential use. The end result is that modern man must now employ all available construction techniques and materials in a desperate battle against the constant forces of nature.

OHA recognizes that the landowner of this parcel is initiating a process which will facilitate what they feel are necessary measures to protect their property from potential erosion and flooding and resulting financial issues. We are disappointed to see that the draft EA seems to stray away from the intended purpose of an environmental review as defined by §11-200-1 Hawaii Administrative Rules, which is to *“ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical consideration”*. While it may be appropriate to discuss the cumulative impacts of the “no action alternative” which would allow the continued deterioration of the existing seawall resulting in erosion causing economic impacts to the landowner, it is equally important to discuss the cumulative impacts the erosion of fill material will have on near shore marine resources and water quality.

Should this SSV be approved and the preferred alternative detailed within the draft EA be selected, we do seek assurance that all best management practices will implemented and employed for the duration of construction activities to protect near shore marine resources and water quality for construction debris, material and run-off. Thank you for the opportunity to provide comments. Should you have any questions, please contact Keola Lindsey, at 594-1904 or keolal@oha.org.

‘O wau iho nō me ka ‘oia‘i‘o,



Clyde W. Nāmu‘o
Chief Executive Officer

resulting in erosion causing economic impacts to the landowner, it is equally important to discuss the cumulative impacts the erosion of fill mater will have on near shore marine resources and water quality.

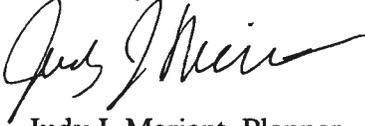
Good point. We will add a discussion of how the crumbling wall and the eroding landscaping soils and fill will impact the surrounding Class A waters of Maunalua Bay.

4. *Should this SSV be approved and the preferred alternative detailed within the draft EA be selected, we do seek assurance that all best management practices will be implemented and employed for the duration of construction activities to protect near shore marine resources and water quality for construction debris, material and run-off.*

Please refer to our response to your first comment. All of the Best Management Practices for construction sites will be applied to ensure that there will be no contamination of the Class A waters that surround Wailupe Peninsula. This is also required for obtaining permits

Thank you for taking the time to prepare your comments and for participating in the environmental review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Judy J. Mariant". The signature is fluid and cursive, with a long horizontal stroke at the end.

Judy J. Mariant, Planner



May 10, 2010

Clyde W. Nāmu`o, Chief Executive Officer
Office of Hawaiian Affairs
State of Hawai`i
711 Kapi`olani Boulevard, Suite 500
Honolulu, Hawai`i 96813

Attention: Keola Lindsey

Dear Mr. Nāmu`o:

Subject: Comments on the Draft Environmental Assessment (EA) for a Shoreline setback Variance (SSV) Kahn Seawall, for TMK: (1) 3-6-001:038

Thank you for reviewing the draft Environmental Assessment and providing us with your comments. Please find our responses to your comments listed below.

1. *The lands which this project touches and concerns are ceded lands, as are all submerged lands. As such, OHA always requests of applicants that that lands be treated with the respect due to them, as they are part of the 1.8 million acres of land that belong to the Hawaiian Monarchy and were transferred to the state when Hawai`i became a U.S. State.*

Please be aware of the fact that during construction activities all of the Best Management Practices for construction sites will be applied to ensure that there will be no contamination of the Class A waters that surround Wailupe Peninsula. This is required for obtaining permits.

2. *It is important to note that the Wailupe Peninsula was developed for residential use in the 1940's by filling in a traditional Hawaiian fishpond with dredged material. The outer wall of this fishpond was strengthened to prevent the erosion of fill material. This is the wall of which the Kahn Family Trust seawall is a part. From a certain perspective, the subject seawall is the last physical reminder of the traditional land use of Wailupe, where the development of fishponds contributed to healthy and thriving population.*

We take note; it is interesting.

3. *While it may be appropriate to discuss the cumulative impacts of the "no action alternative" which would allow the continued deterioration of the existing seawall*

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STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

RECEIVED

In reply, please refer to:
EMD / CWB

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March 24, 2010

DEPT OF PLANNING
AND PERMITTING
CITY & COUNTY OF HONOLULU

Mr. David K. Tanoue
Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Attention: Mr. James Morisato

Dear Mr. Tanoue:

**Subject: Comment on Draft Environmental Assessment (DEA) for
Shoreline Setback Variance (SSV) Application for a Seawall
Wailupe Circle, Honolulu, Island of Oahu, Hawaii
TMK: (1) 3-6-001:038**

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt on March 8, 2010, of your letter, dated February 26, 2010, to Mr. Laurence K. Lau, Deputy Director for Environmental Health, requesting DOH's requirements regarding the subject seawall repair/construction project.

Pursuant to Section 2.3.1 (Page 9) of the DEA:

"The plans for repair include replacing lava rocks that have fallen from the seawall and raising the height of the wall to match the existing grade of the Kahn parcel. The top of the seawall is, in places, below the grade of the Kahn parcel by as much as 5 ft. These actions will raise the elevation of the Kahn seawall so that it is level with the seawalls of the neighboring parcels. Currently, a wooden picket fence and naupaka hedge extend along top of the seawall. Repair plans include removing the fence and naupaka hedge to enable repair of the seawall and to raise its height.

After these repairs are made, a new, stainless steel cable-rail fence will be installed on top of the seawall, as well as parallel to the existing concrete steps that serve as access from the property to Maunalua Bay. The metal gate that currently controls access from the property to Maunalua Bay and the property's recreational use pier will remain. Appendix A contains development plans, which detail the current conditions of the wall, as well as repair plans."

Please note that our review is based solely on the limited information provided in the DEA of September 2009 and its compliance with Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. The Applicant for the DLNR permit may be responsible for fulfilling additional requirements related to our program. We recommend that you also read or require the Applicant to read our standard comments on our website at <http://www.hawaii.gov/health/environmental/env-planning/landuse/CWB-standardcomment.pdf>.

1. Any project and its potential impacts to State waters must meet the following criteria:
 - a. Antidegradation policy (HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
 - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
 - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).
2. Please call or have the Applicant call the Army Corps of Engineers at (808) 438-9258 to see if this project requires a Department of the Army (DA) permit. Permits may be required for work performed in, over, and under navigable waters of the United States. Projects requiring a DA permit also require a Section 401 Water Quality Certification (WQC) from our office.
3. The DEA should discuss in details the potential impact to surface water at the project site and the proposed mitigation or Best Management Practices measures for the proposed construction activity.

Section 4.3.1 (Page 11) incorrectly cited that "[T]here is **no** surface water located on the project site itself, or anywhere on Wailupe Peninsula. Section 4.3.1.1 further stated that "[T]here are no anticipated impacts to surface water or the hydrological cycle from the proposed action or from any of the alternative actions. Surface water is **not present at or near** the project site. **No** mitigation measures are proposed." (Emphasis added)

We note that Section 1.1 (Page 1, Back Ground), first paragraph stated that the Kahn residence is situated on the west-facing, makai side of Wailupe Peninsula. The property contains a single-family detached house, with a seawall and recreational use pier..." The second paragraph further stated that "[W]ailupe Peninsula is located in Maunaloa Bay, which opens to the Pacific Ocean." Both Maunaloa Bay and Pacific Ocean at/near/adjacent to the project site are State waters (surface water). It is anticipated that the proposed construction activity may result in potential discharge of construction related water pollutants into State waters.

Mr. David K. Tanoue
March 24, 2010
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4. The Applicant may be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for discharges of wastewater, including storm water runoff, into State surface waters (HAR, Chapter 11-55). For the following types of discharges into Class A or Class 2 State waters, the Applicant may apply for NPDES general permit coverage by submitting a Notice of Intent (NOI) form:
 - a. Storm water associated with construction activities, including clearing, grading, and excavation, that result in the disturbance of equal to or greater than one (1) acre of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. **An NPDES permit is required before the start of the construction activities.**
 - b. Construction dewatering effluent.

The Applicant must submit a separate NOI form for each type of discharge at least 30 calendar days prior to the start of the discharge activity, except when applying for coverage for discharges of storm water associated with construction activity. For this type of discharge, the NOI must be submitted 30 calendar days before to the start of construction activities. The NOI forms may be picked up at our office or downloaded from our website at: <http://www.hawaii.gov/health/environmental/water/cleanwater/forms/genl-index.html>.

5. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 WQC are required, the Applicant must comply with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

If you have any questions, please ask your staff to visit our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/index.html>, or contact the Engineering Section, CWB, at 586-4309.

Sincerely,



ALEC WONG, P.E., CHIEF
Clean Water Branch

EC:np

c: DOH-EPO #I-3082 [via e-mail only]



May 10, 2010

Alec Wong, P.E., Chief
Clean Water Branch, Department of Health
State of Hawaii
P.O. Box 3378
Honolulu, Hawai'i 96801-3378

Dear Mr. Wong:

Subject: Comments on the Draft Environmental Assessment (EA) for a Shoreline setback Variance (SSV) Kahn Seawall, for TMK: (1) 3-6-001:038

Thank you for reviewing the draft Environmental Assessment and providing us with your comments. Please find our responses to your comments listed below.

1. *We recommend that you also read or require the Applicant to read our standard comments on our website at <http://www.hawaii.gov/healthenvironmental/env-planning/landuse/CWB-standardcomment.pdf>*

Thank you for sending the link to DOH Clean Water Branch website. We will use that link and view the standard comments.

Please be aware of the fact that during construction activities, all of the Best Management Practices for construction sites will be applied to ensure that there will be no contamination of the Class A ocean waters that surround Wailupe Peninsula. This is also required for obtaining permits.

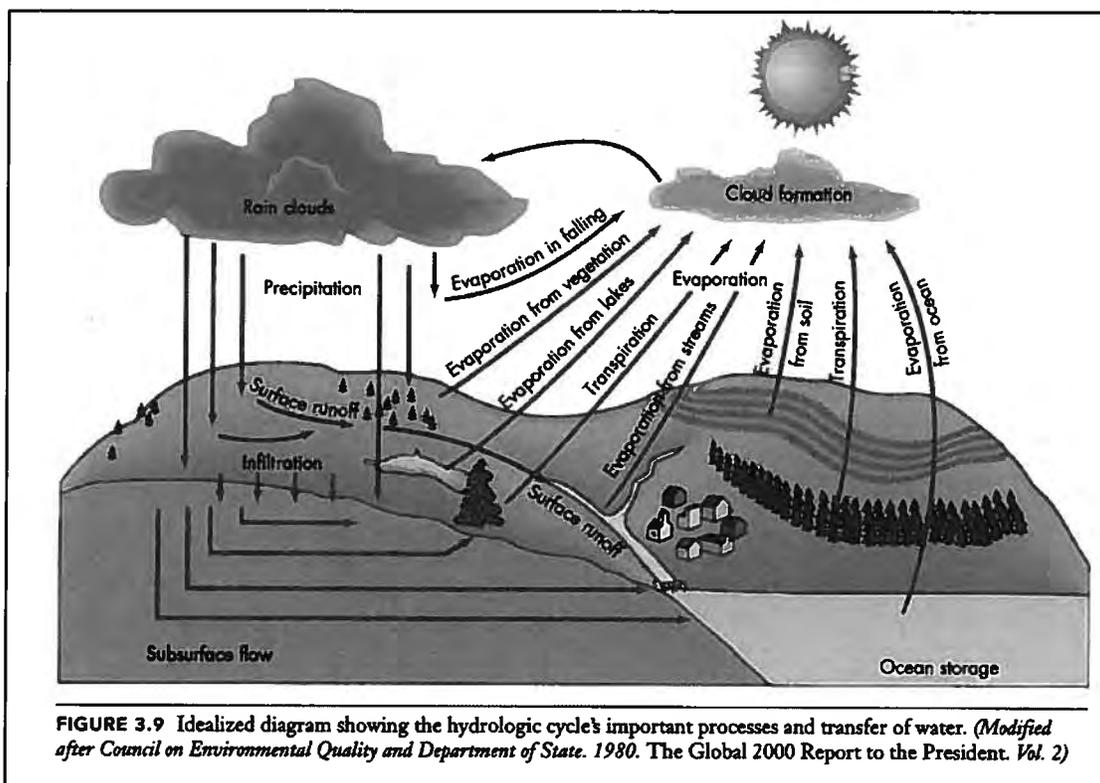
We have also received comments from the Department of the Army, and we will be consulting with them during the permitting process.

2. *Section 4.3.1 (page 11) incorrectly cited that “there is no surface water located on the project site itself, or anywhere on Wailupe Peninsula.”*
3. *Section 4.3.1.1 further stated that there are no anticipated impacts to surface water or the hydrological cycle from the proposed action or from any of the alternative actions. Surface water is not present at or near the project site. No mitigation measures are proposed.*

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In response to comments 2, 3 and part of 4 it appears that we are using different definitions of surface water. Our definition is from descriptions of the hydrologic cycle. By surface water we are referring to streams, ponds, and lakes. There are no streams, ponds, or lakes on Wailupe Peninsula. In hydrology surface water is the water on land surface and ocean, seawater or salt water is the water that is contained in the ocean basins. We will explain that more completely in the final EA to prevent further misunderstandings.

Please recall the hydrological cycle, where water in the atmosphere surrounding planet earth is found as atmospheric gases that form clouds, precipitation (rain, sleet or snow), on the land surface in the solid state as ice, in glaciers; as surface water, in streams or rivers, lakes, and ponds; underground, as groundwater; or in the ocean basin as salt water (seawater or ocean water). The figure below is from *Introduction to Environmental Geology* by Edward A. Keller, 1999, page 53.



- Both Maunalua Bay and Pacific Ocean at/near/adjacent to the project site are State waters (surface water). It is anticipated that the proposed construction activity may result in potential discharge of construction related water pollutants into State waters.

All of the Best Management Practices for construction sites will be applied to ensure that there will be no contamination of the Class A ocean waters that surround Wailupe Peninsula. This is also required for obtaining permits. Construction activities will not result in potential discharge of construction related water pollutants into State ocean waters.

5. *The Applicant may be required to obtain a National Pollutant Discharge Elimination System (NPDES) Permit for discharge of wastewater, including storm water runoff, into State surface waters (HAR, chapter 11-55).*

A NPDES Permit is triggered when the area to be disturbed is 1 acre (43,559.66 square-feet), and this parcel is only 0.2997233 acre (13,056 square-feet). Replacing the rock that has fallen off the wall the wall and raising the height of the center portion of the wall does not trigger a NPDEIS permit. No grading will take place. Construction activities will not require dewatering effluent or any other form of discharge.

Thank you for taking the time to prepare your comments and for participating in the environmental review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Judy J. Mariant", with a long horizontal flourish extending to the right.

Judy J. Mariant, Planner