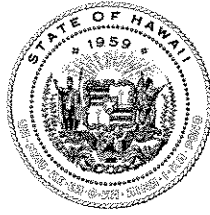
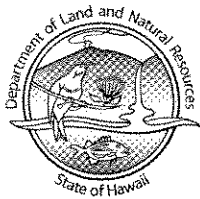


LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

CDUA: MA-3543

Acceptance Date: May 19, 2010
180-Day Exp. Date: November 15, 2010

SEP 10 2010

TO: Katherine Puana Kealoha, Director
Office of Environmental Quality Control

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

SUBJECT: Final Environmental Assessment (FEA) for Hale Kai AOA's After-The-Fact (ATF) CDUA MA-3543, Located Makai of Subject Parcel TMK: (2) 4-4-001:042, Honokowai, Island of Maui

The Department has reviewed the Final Environmental Assessment (FEA) for After-The-Fact (ATF) Conservation District Use Application (CDUA) MA-3543 by Munekiyo and Hiraga regarding the repair and maintenance of a 1,480 square foot seawall located makai of subject parcel TMK: (2) 4-4-001:042, Honokowai, Island of Maui. The Draft Environmental Assessment (DEA) for the project was published in the June 8, 2010 issue of the Environmental Notice.

The FEA is being submitted to OEQC. We have determined that this project will not have significant environmental effects, and have therefore issued a FONSI. Please publish this notice in OEQC's upcoming September 23, 2010 Environmental Notice.

We have enclosed four copies of the FEA and ATF CDUA MA-3543 for the project. The OEQC Bulletin Publication Form is attached. Comments on the draft EA were sought from relevant agencies and the public, and were included in the FEA. Please contact Dawn Hegger, Senior Planner of our Office of Conservation and Coastal Lands staff at 587-0380 if you have any questions on this matter.

Final Environmental Assessment

AFTER-THE-FACT PERMITTING FOR REPAIR AND MAINTENANCE IMPROVEMENTS TO EXISTING SEAWALL/REVTMENT AT TMK (2) 4-4-001:042, HONOKOWAI, MAUI, HAWAII

Prepared for:

Hale Kai Association of Apartment Owners

Approving Agency:

**Department of Land and Natural Resources,
Office of Conservation and Coastal Lands**

September 2010

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by Munekiyo & Hiraga, Inc.**



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Appendix F.	After-the-Fact and Corrective Actions Special Management Area Minor Permit (SMA) and Shoreline Setback Approval (SSA) Letters from the County of Maui, Department of Planning

Executive Summary

Project Name: After-the-Fact Permitting for Repair and Maintenance Improvements to Existing Seawall/Revetment

Type of Document: Final Environmental Assessment

Legal Authority: Chapter 343, Hawaii Revised Statutes

Agency Determination: Finding of No Significant Impact (FONSI)

Applicable Environmental Assessment review “trigger”: Use of State-owned Land
Use Within the State Conservation District

Location: TMK (2)4-4-001:042
Honokowai
Island of Maui

Applicant: The Hale Kai Association of Apartment Owners (AOAO)

Approving Agency: Office of Conservation and Coastal Lands
Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street, Room 131
Honolulu, Hawaii 96813
Contact: Dawn Hegger, Senior Planner
Phone: (808) 587-0377

Consultant: Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793
Contact: Mark Alexander Roy, AICP, Project Manager
Phone: (808) 244-2015

Project Summary: The Hale Kai condominium is located on Lower Honoapiilani Road in Honokowai, Maui. The Hale Kai Association of Apartment Owners (AOAO) is requesting after-the-fact permitting approvals from the State of Hawaii for some unauthorized repair and maintenance work that occurred in 1998 and 2004 to an existing seawall/revetment that fronts the condominium property. The request also involves the acquisition of non-exclusive easement from the State of Hawaii for a portion (approximately 1,480 square feet) of the

existing seawall/revetment structure that has been determined to encroach with State-owned beach lands fronting the property. The seawall/revetment structure was constructed in the early 1960's. The repair and maintenance improvements completed in 1998, entailed the removal of Naupaka vegetation and the widening of a pre-existing erosion channel running behind and mauka of the existing boulder revetment, as well as the placement of various sized rocks and boulders into the trench to stabilize the affected area. The 2004 improvements consisted of the re-application of cement grouting to several boulders that were breaking away from a portion of the existing seawall. These actions were intended to maintain the long-term structural integrity of the existing shoreline protection structure and did not enlarge or intensify the use present within the area.

The 1998/2004 improvements and easement acquisition process involve the use of State-owned Conservation District lands which fall within the shoreline area, both of which represent triggers for the preparation of an Environmental Assessment (EA) pursuant to Chapter 343, Hawaii Revised Statutes (HRS). Accordingly, this EA has been prepared to document and review the technical characteristics and environmental impacts of these completed repair and maintenance actions. The EA will act as the primary technical support document for an after-the-fact Conservation District Use Application (CDUA) which will formally request a Board Permit from the Board of Land and Natural Resources to: (1) allow the 1998 and 2004 improvements to remain in place, and (2) authorize the acquisition of a non-exclusive easement from the State of Hawaii for the encroaching portion of the existing seawall/revetment structure.

I. PROJECT OVERVIEW

I. PROJECT OVERVIEW

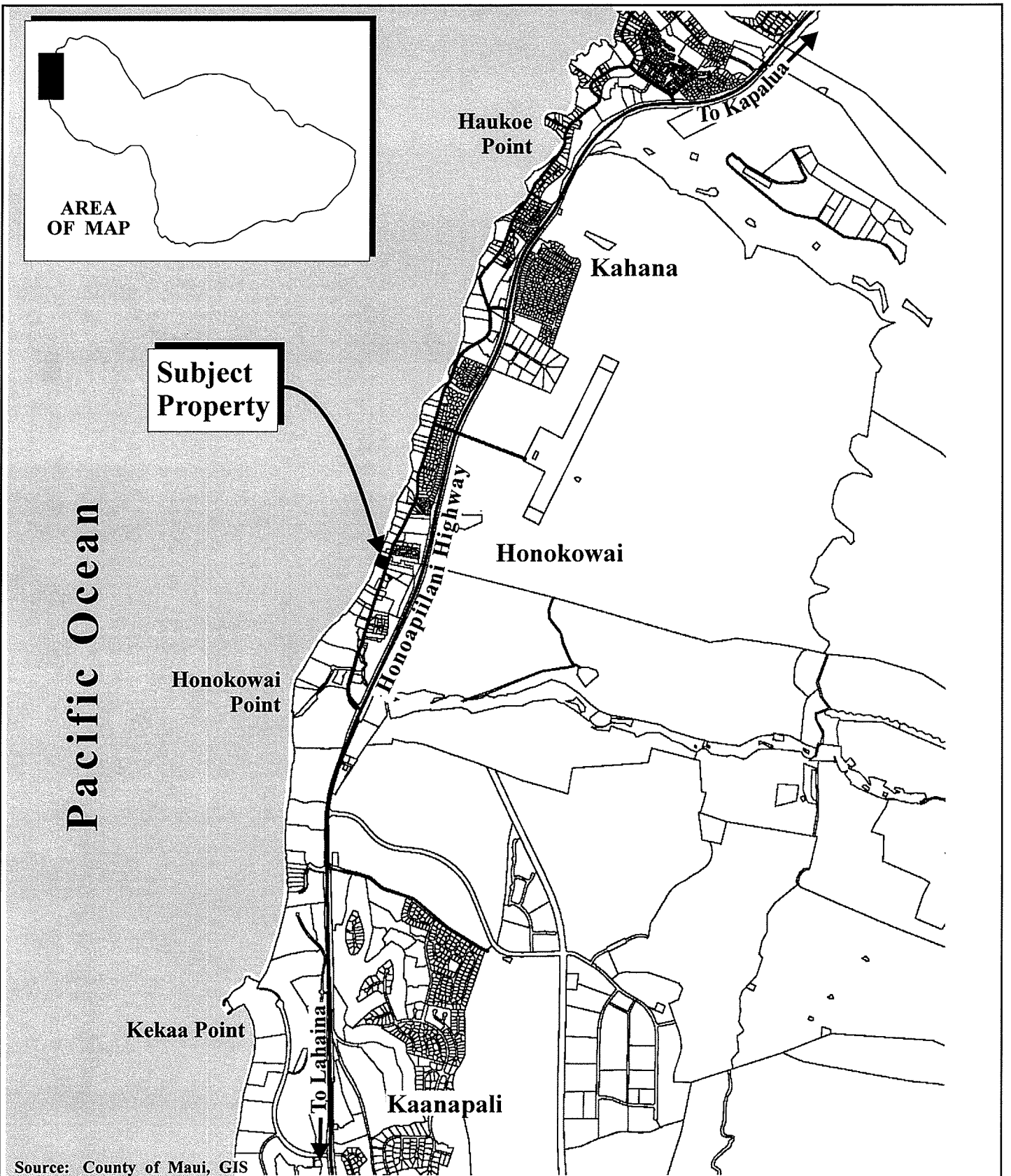
A. PROPERTY LOCATION, EXISTING USE, AND LAND OWNERSHIP

The Hale Kai condominium (hereafter referred to as the subject property) is located on Lower Honoapiilani Highway in Honokowai, Maui, Hawaii and is identified by TMK (2) 4-4-001:042. See **Figure 1**, **Figure 2** and **Figure 3**. The property fronts the shoreline and has an existing residential use which was established in 1965 when the Hale Kai condominium was constructed. See **Figure 4**. The coastline in the vicinity of the subject property consists of a narrow sandy beach, which is separated from the Hale Kai parcel by an existing seawall/revetment structure (hereafter referred to as the subject structure or seawall/revetment structure). The seawall/revetment is an existing non-conforming structure associated with the residential use of the property. See **Appendix "A"**. The area in the vicinity of the subject property consists of similar condominium uses, public/quasi-public uses, and business uses. Kaanapali North Beach lies to the southwest and Kahana lies to the northeast.

The subject property is owned by the Hale Kai AOA. The beach lands fronting the property are owned by the State of Hawaii.

B. BACKGROUND

At the May 23, 2008 meeting of the Board of Land and Natural Resources (BLNR), the BLNR found the Hale Kai Association of Apartment Owners (AOAO) to be in violation of Title 13-5, Hawaii Administrative Rules (HAR), and Chapter 183C, Hawaii Revised Statutes (HRS), regarding the failure to obtain the necessary approvals for some unauthorized improvements (hereafter referred to as the 1998/2004 improvements) to the existing seawall/revetment that fronts the condominium property. Copies of the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands' (OCCL) staff report and the BLNR enforcement order (ENF:MA-08-30) are provided in **Appendix "B"** and **Appendix "B-1"**. The existing seawall/revetment was constructed in the early 1960's along the seaward boundary of the property, prior to the development (in 1965) of the existing Hale Kai condominium. See **Figure 5**. Historic photographs of the Honokowai area have been obtained which show the seawall/revetment structure in place in 1963 and the developed Hale Kai condominium property in 1975. See **Figure 6**. The



Source: County of Maui, GIS

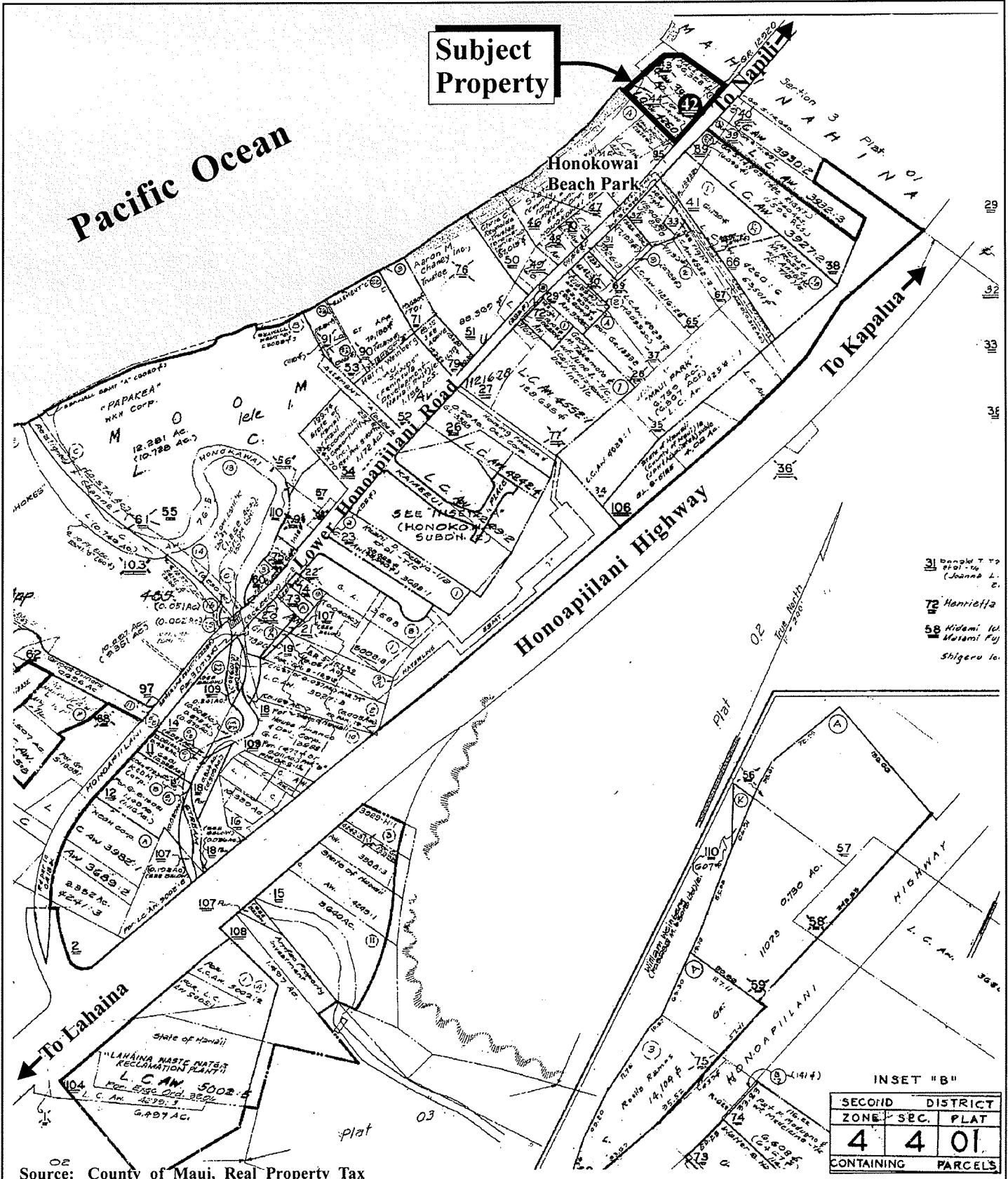
Figure 1

After-the-Fact Permitting for
Improvements to Existing Seawall/
Revetment
Regional Location Map

NOT TO SCALE



Subject Property



- 31 People's Choice (Joanna L. E.)
- 72 Harrietta
- 58 Kūāhā 101 (Mitsumi Fujishigeru 101)

Source: County of Maui, Real Property Tax

Figure 2 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment Site Location Map

NOT TO SCALE






Prepared for: Hale Kai Association of Apartment Owners

MUNEKIYO & HIRAGA, INC.

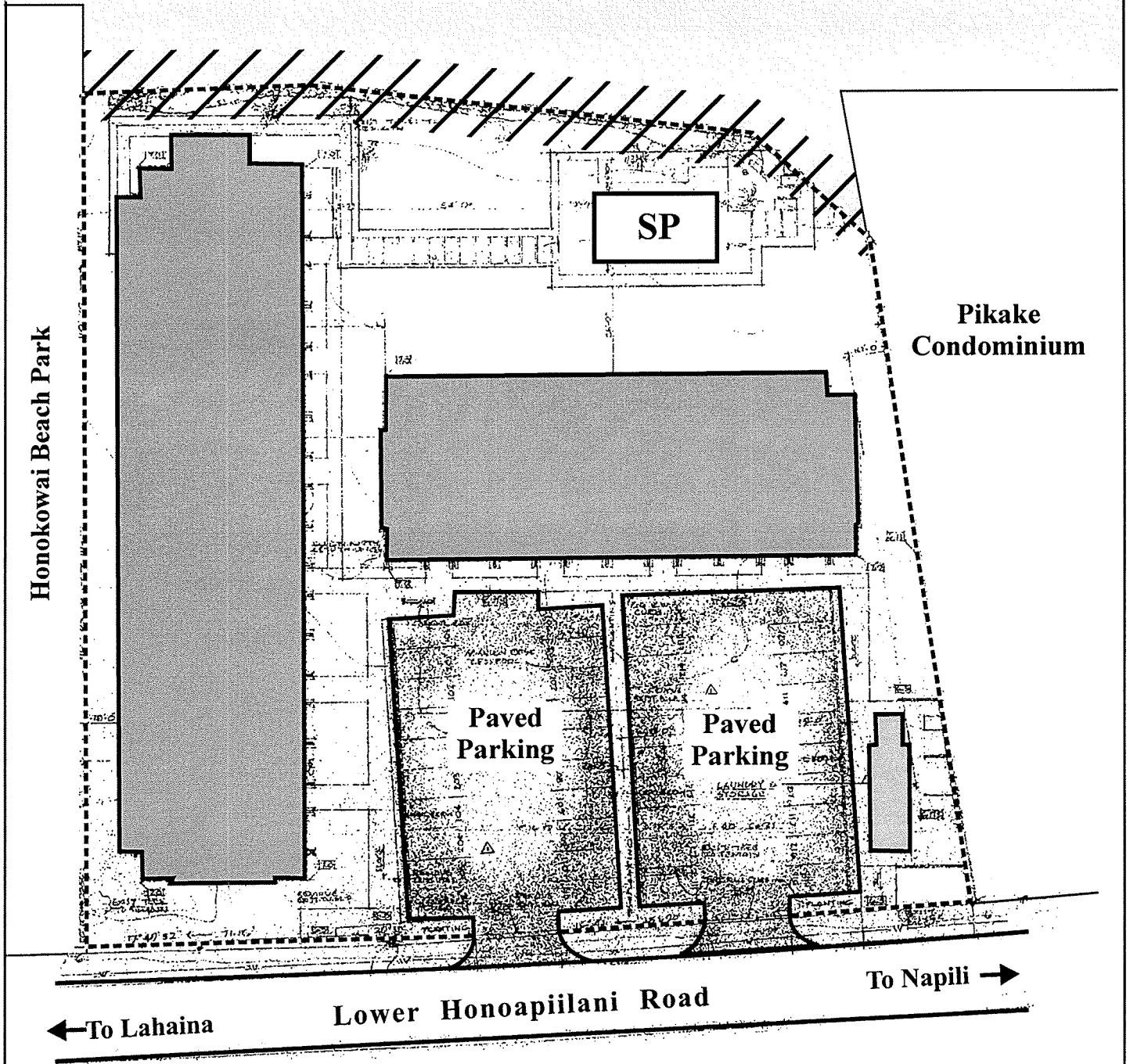
Pacific Ocean

Key

-  Hale Kai Condominium Buildings
-  SP Swimming Pool
-  Approximate Limits of Existing Seawall/Revetment

Honokowai Beach Park

Pikake Condominium



Source: Lemmon, Freeth, Haines & Jones, Ltd (1965)

Figure 3 After-the-Fact Permitting for
 Improvements to Existing Seawall/
 Revetment
 Existing Site Plan

NOT TO SCALE



Prepared for: Hale Kai Association of Apartment Owners


 MUNEKIYO & HIRAGA, INC.

HaleKai/Seawall 1401/DraftEA/existsiteplan



PHOTO NO. 1



PHOTO NO. 2

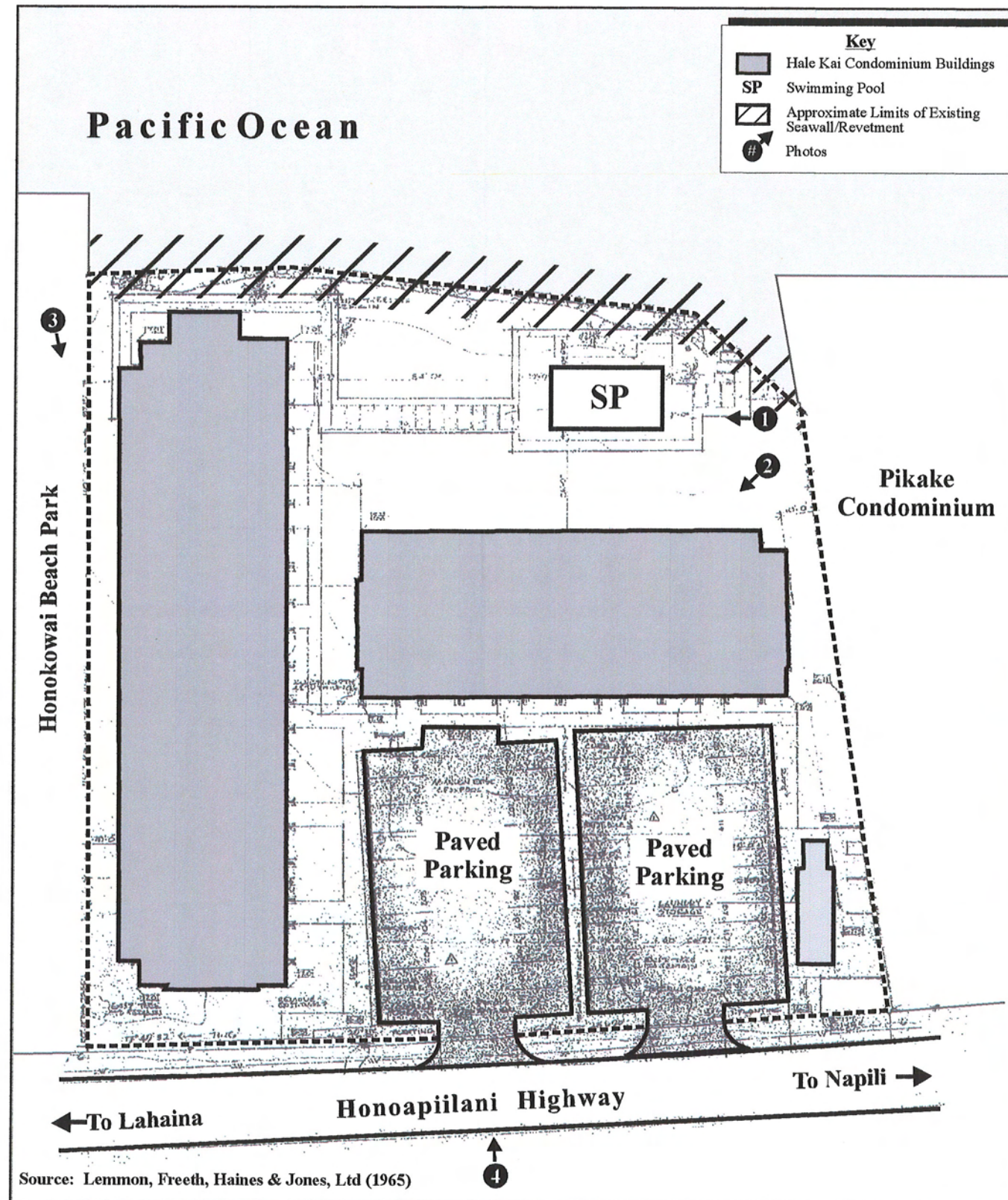


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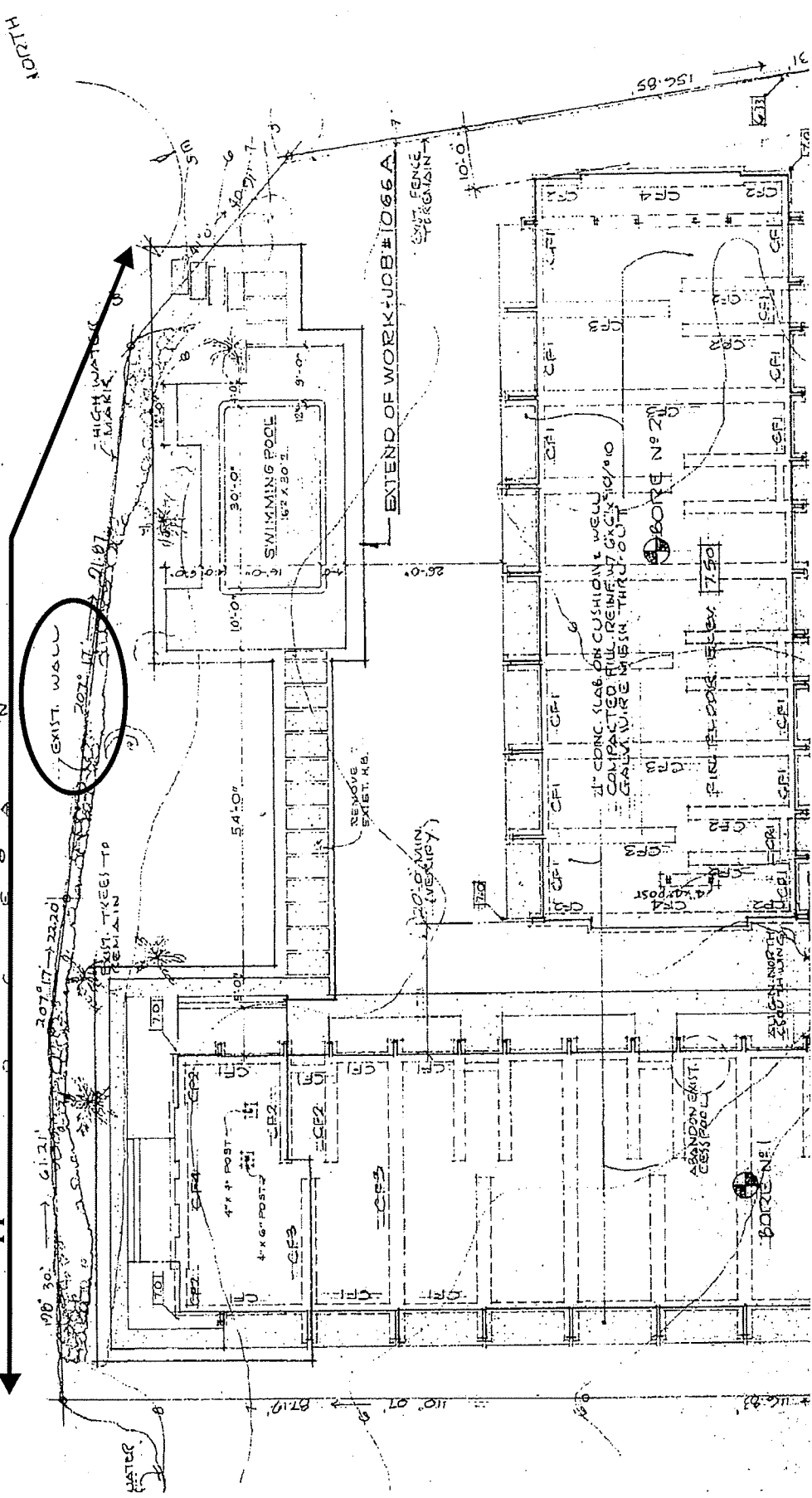
PHOTO NO. 4

Figure 4 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment (TMK (2)4-4-001:042) NOT TO SCALE
Site Plan and Photo Reference Map



1965 Hale Kai Construction Plans

Approximate Limits of Existing Seawall/Revetment

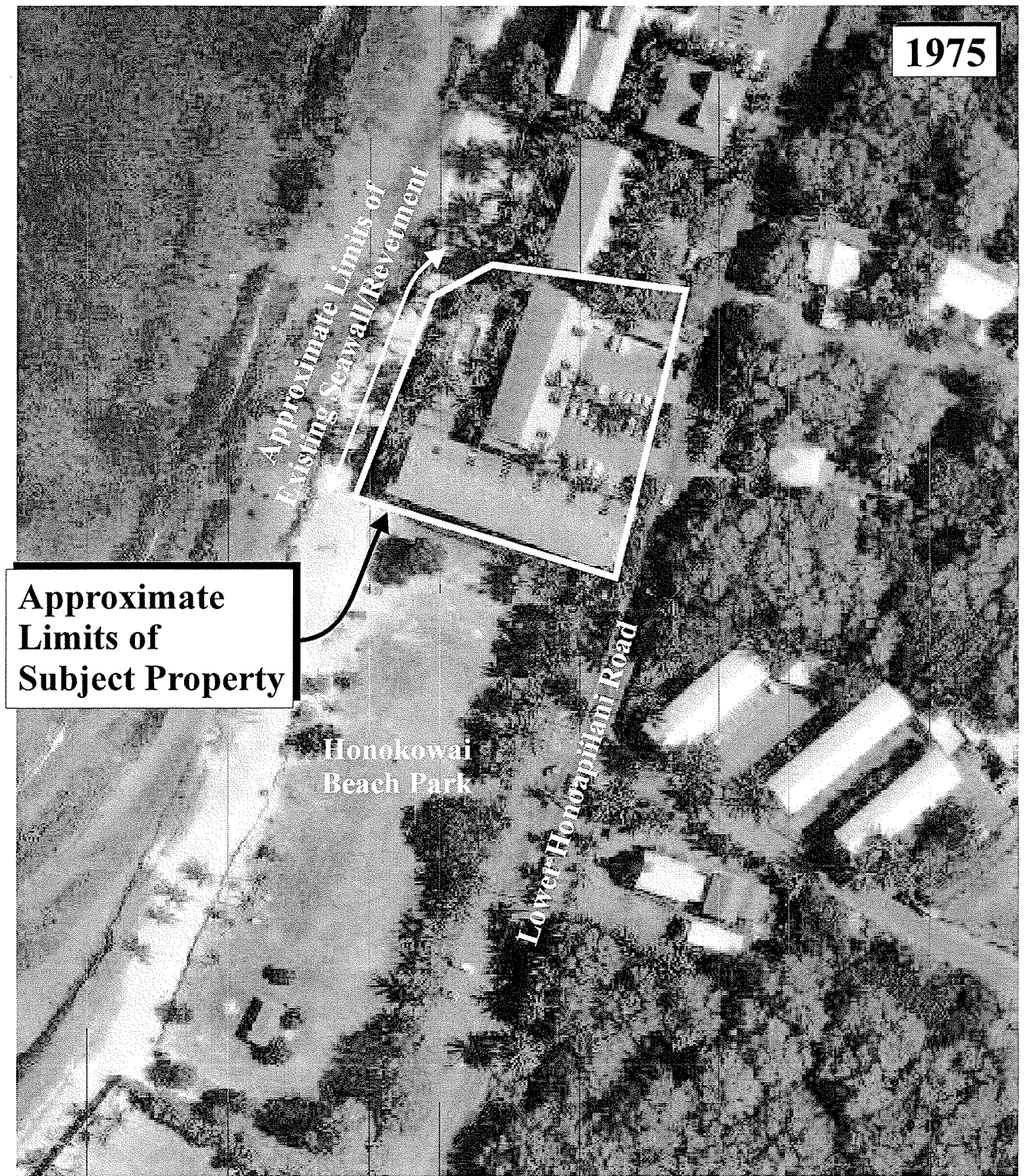
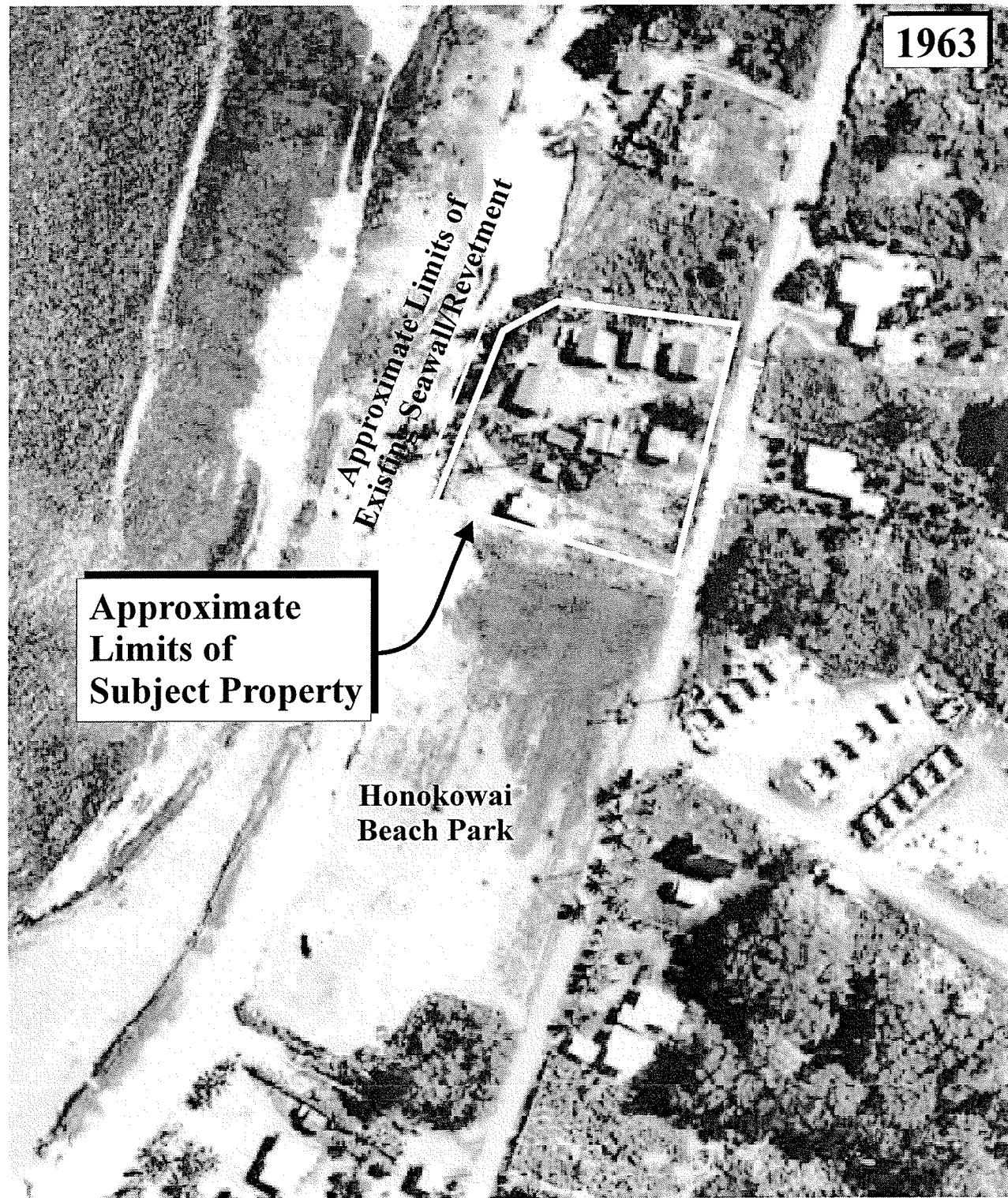


Source: Lemmon, Freeth, Haines & Jones, Ltd. (1965)

Figure 5 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment
 Hale Kai Construction Plans Showing Existing Seawall/Revetment



Prepared for: Hale Kai Association of Apartment Owners



1963 Aerial Photograph Prior to Construction of Hale Kai Condominium

1975 Aerial Photograph of Hale Kai Condominium

Source: Coastal Geology Group, University of Hawaii at Manoa

Figure 6

After-the-Fact Permitting for Improvements to Existing Seawall/Revetment
Aerial Photographs of Hale Kai Condominium

NOT TO SCALE

MUNEKIYO & HIRAGA, INC.

existing shoreline structure consists of a revetment section along the southern portion of the seaward (makai) boundary of the property and a seawall section along the northern portion of the makai boundary of the property. See **Figure 7** and **Figure 8**. A portion of the existing seawall/revetment structure was determined by the BLNR on May 23, 2008 to be beyond the Hale Kai property line and on Conservation District lands under the jurisdiction of the State of Hawaii. The subject improvements in 1998 and 2004 were completed on the portions of the seawall/revetment that fall within the State Conservation District.

The 1998/2004 improvements were completed by the Hale Kai AOA in an effort to maintain the structural integrity of the existing shoreline structure and did not enlarge the footprint of the seawall/revetment or intensify the use present within the area. The annual erosion hazard rate (AEHR) along the shoreline fronting the Hale Kai property is approximately -1.0 feet/year (ft/yr). See **Figure 9**. At high tide, the wash of waves reaches the existing seawall/revetment structure. This has resulted in numerous wave-related water damage and building maintenance issues, as well as damage to the vertical seawall section of the structure. The subject repair and maintenance work was deemed necessary in order to ensure the continued health and safety of residents living at the property. It is noted that the closest building at the property to the shoreline is approximately 10 feet from the seawall/revetment. Refer to **Figure 7** and **Figure 8**.

C. SCOPE OF AFTER-THE-FACT REPAIR AND MAINTENANCE IMPROVEMENTS

The following sections presents a description of the 1998 and 2004 after-the-fact repair and maintenance work as identified during the May 23, 2008 BLNR enforcement proceedings:

- **1998 Boulder Repair and Maintenance Work**

The boulder repair and maintenance repair work was conducted in 1998. It entailed (1) the removal of Naupaka vegetation and the widening of a pre-existing erosion channel running behind (mauka of) the existing boulder revetment and in front of a decorative landscaping wall that exists along the south side of the property, and (2) the placement of various sized rocks/boulders into the trench to stabilize the affected area and prevent further erosion. This work was undertaken by Hale Kai AOA in

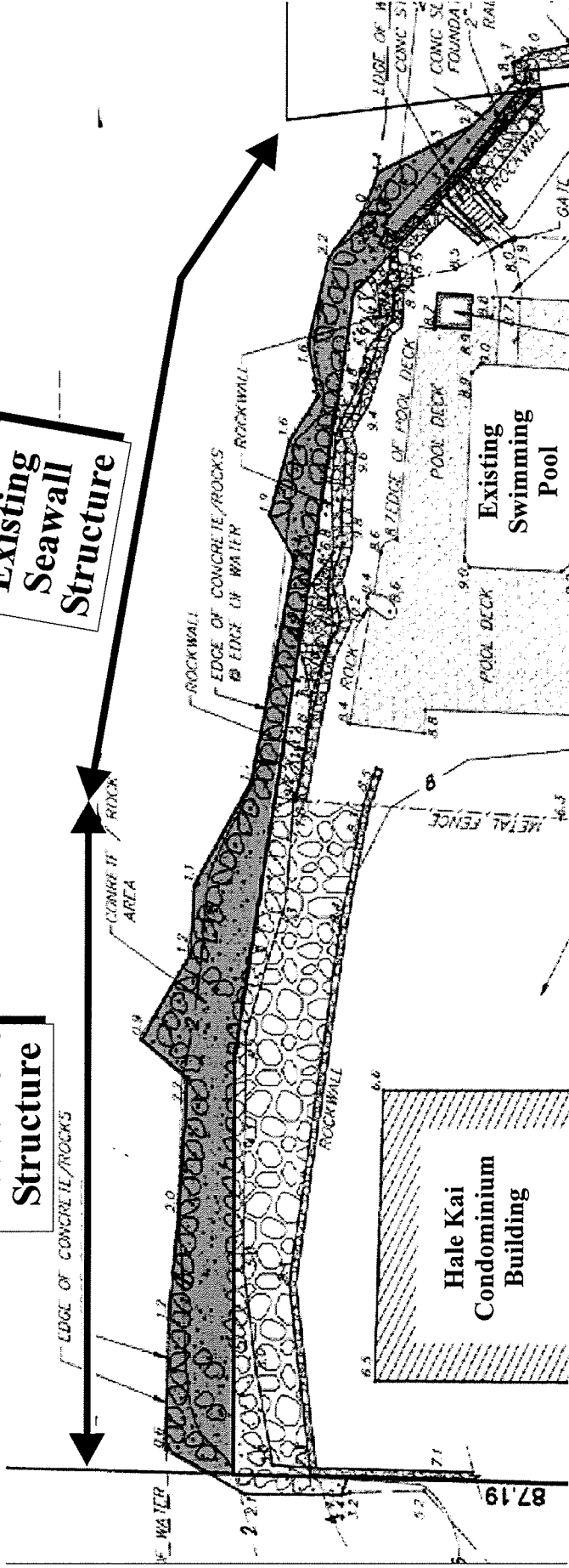
2008 Shoreline Survey

Key

Portion of Seawall Encroaching onto State Beach Land (Approximately 1,480 sq. ft.)

Existing Revetment Structure

Existing Seawall Structure



Source: R.T. Tanaka Engineering, Inc. (2008)

Figure 7 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment Shoreline Protection Structure Layout

NOT TO SCALE

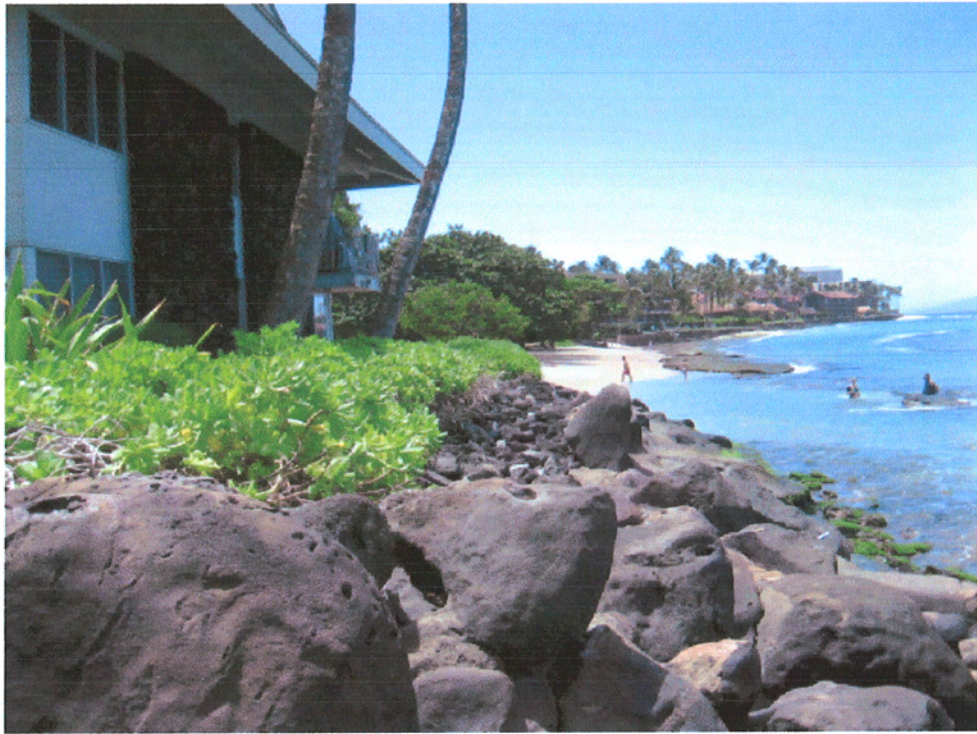


Prepared for: Hale Kai Association of Apartment Owners

MUNEKIYO & HIRAGA, INC.



HaleKai/Seawall 1401/DraftEA/shorelineprotectionlayout



Existing Revetment Structure



Existing Seawall Structure

Source: Munekiyo & Hiraga, Inc.

Figure 8

**After-the-Fact Permitting for
Improvements to Existing Seawall/
Revetment (TMK (2)4-4-001:042)
Photos of Existing Seawall/
Revetment Structure**

NOT TO SCALE

Prepared for: Hale Kai AOA



Source: Coastal Geology Group, University of Hawaii at Manoa

82

Figure 9 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment

Annual Erosion Hazard Rate Map Section for Honokowai

NOT TO SCALE

Prepared for: Hale Kai Association of Apartment Owners

MUNEKIYO & HIRAGA, INC.

an effort to address wave-related water drainage and erosion problems that were occurring along the seawall/revetment structure. See **Figure 10** and **Figure 11**.

- **2004 Cement Grouting Repair and Maintenance Work**

The cement grouting repair and maintenance work was conducted in 2004. The existing revetment that runs along the shoreline of the Hale Kai property consists of a series of large grouted boulders that were installed at the property over 45 years ago, prior to the construction of the condominium. The grouting of these boulders in place occurred prior to the 1980's. The minor cement grouting replacement work was undertaken by the Hale Kai AOA in 2004 to reapply cement grouting to several boulders which were breaking away from the revetment structure. This regrouting work was completed as part of an overall repair and maintenance project that was intended to address damage to the vertical seawall that lies between the revetment and the swimming pool area of the property. It is noted that the 2004 cement replacement work affected only a small area of existing boulders located just below the decorative vertical wall that lies between the swimming pool area and the revetment. See **Figure 12**.

D. REGULATORY CONTEXT AND CHAPTER 343, HAWAII REVISED STATUTES

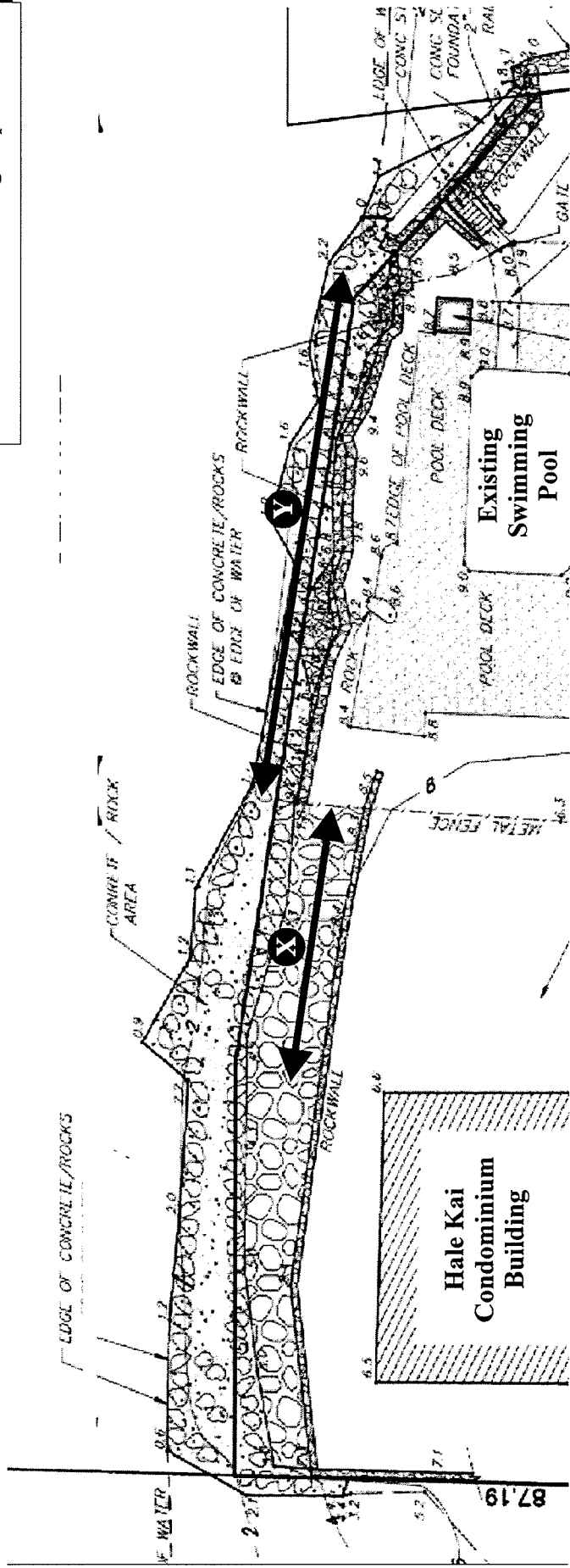
The Hale Kai AOA has been in consultation with the OCCL, regarding Condition No. 2 of the May 23, 2008 BLNR decision and order which states:

That Hale Kai AOA will remove the subject boulders and cement and restore the area back to its original condition as it existed prior to the construction of these improvements, within 365 days from the date of the BLNR's action, unless otherwise permitted by the BLNR. (Emphasis added.)

With respect to the repair and maintenance work encapsulated within Condition No. 2, the OCCL has indicated that a Conservation District Use Application (CDUA) may be submitted for processing to request that said improvements be allowed to remain in place. More specifically, OCCL has also confirmed that a Board Permit will need to be processed by the OCCL for these improvements, pursuant to Section 13-5-23, Hawaii Administrative Rules (HAR), L-5, "seawalls and shoreline protection devices, and shoreline structures". See **Appendix "C"**.

Key

- X** Approximate Location of 1998 Boulder Repair Work
- Y** Approximate Extent of 2004 Cement Grouting Repair Work



Source: R.T. Tanaka Engineering, Inc. (2008)

Figure 10 After-the-Fact Permitting for Improvements NOT TO SCALE



to Existing Seawall/Revetment
Site Plan (1998/2004 Repair and Maintenance Improvements)

Prepared for: Hale Kai Association of Apartment Owners



Photo showing area of 1998 repair work following completion of Naupaka removal work and trench excavation activities



Photo showing area of 1998 repair work following completion of boulder replacement activities

Source: County of Maui, Dept. Of Planning

Figure 11 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment
Photographs of 1998 Boulder Repair and Maintenance Work

NOT TO SCALE

Prepared for: Hale Kai AOA

MUNEKIYO & HIRAGA, INC.

HaleKai/Seawall 1401/Draft EA/1998boulderrepair



Photo showing present condition of vertical seawall and boulder revetment. The yellow circles identify areas of the existing boulder revetment (along the makai side of the vertical wall affected by the completion of the cement grouting work in 2004. It is noted that the existing boulders of the revetment were originally cemented in place during the early 1980's.



Photo showing present condition of the vertical seawall and existing boulder revetment following completion of 2004 cement grouting repair work.

Source: County of Maui, Dept. Of Planning

Figure 12 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment

NOT TO SCALE

Photographs of 2004 Cement Grouting Repair and Maintenance Work

Prepared for: Hale Kai AOA

The Hale Kai AOA is, therefore, proceeding with the processing of a CDUA to request approvals for the following actions (hereafter referred to collectively as the subject actions) from the BLNR:

- (1) After-the-fact approval to retain the 1998/2004 improvements in place so as to ensure the continued long-term structural integrity of the existing seawall/revetment. This includes both the boulder repair and maintenance work and the cement grouting repair and maintenance work as defined in the May 2008 DLNR/OCCL staff report and BLNR enforcement order. Refer to **Appendix “B”** and **Appendix “B-1”**.
- (2) The acquisition of a non-exclusive easement from the State of Hawaii for the encroaching portion of the existing seawall/revetment structure (approximately 1,480 square feet) that has been determined to fall within the State Conservation District. Refer to **Figure 7**.

The BLNR at its meetings on March 27, 2009 and December 11, 2009, issued time extensions for compliance with Condition No. 2, the latter of which requires the CDUA to be filed with OCCL by May 28, 2010. See **Appendix “D”**.

Due to use of State lands, including the Conservation District, the processing of an Environmental Assessment (EA) pursuant to Chapter 343, Hawaii Revised Statutes (HRS) is required. This EA has been prepared pursuant to both HRS, Chapter 343 and Chapter 200 of Title 11, Department of Health Administrative Rules, Environmental Impact Statement Rules. Accordingly, this document (prepared for the approving agency, OCCL) addresses the project’s technical characteristics, environmental impacts and alternatives, and advances findings and conclusions relative to the significance of the subject actions. The EA will be the primary technical support document for the CDUA that is being processed by the OCCL for the subject actions.

Additional coordination with the County of Maui, Department of Planning (Maui Planning Department) has also been undertaken by Hale Kai AOA to address after-the-fact approval requirements for other seawall repair and maintenance improvements that occurred between 2004 and 2007 that were determined during the May 23, 2008 BLNR enforcement action to fall outside of State jurisdiction within the limits of the subject property. On October 13, 2008, the Maui Planning Department issued an after-the-fact Special Management Area (SMA) Minor Permit and a Shoreline Setback Approval (SSA) for these other repair and maintenance actions. As a condition of this approval, the Hale Kai AOA was required to

prepare an engineering assessment of the existing seawall/revetment along the property to assess the current condition of the structure. The engineering assessment was completed in May 2009 and recommended various corrective actions (landscaping and minor revetment crest stone repairs) intended to address some minor maintenance issues that were identified during the course of the assessment. See **Appendix “E”**. A SMA/SSA application was submitted to the Maui Planning Department in July 2009 requesting approval for these proposed corrective actions. The Maui Planning Department issued SMA/SSA approvals for the proposed corrective actions on March 23, 2010. Copies of both the after-the-fact and corrective actions SMA/SSA approval letters are presented in **Appendix “F”**. It is noted that in issuing the SSA, the Planning Department determined that the repair and maintenance work was exempt from the requirements of Chapter 343, HRS.

The applicant is also in the process of addressing applicable after-the-fact Department of Army (DA) permitting requirements with the U.S. Corps of Engineers, Regulatory Branch for the 1998/2004 improvements.

The following chapters present a summary of existing conditions at the subject property, as well as an impact analysis of the subject actions.

II. DESCRIPTION OF EXISTING CONDITIONS, IMPACTS AND MITIGATION MEASURES

II. DESCRIPTION OF EXISTING CONDITIONS, IMPACTS AND MITIGATION MEASURES

A. PHYSICAL SETTING

1. Surrounding Land Uses

a. Existing Conditions

The subject property is located on Lower Honoapiilani Road in Honokowai. The Hale Kai condominium is bordered by the Honokowai Beach Park to the south and the Pikake condominium and other condominium properties to the north. The 7-mile stretch of coast from Hanakao Point to Kapalua, on which the Hale Kai condominium is located, is characterized by multi-family condominiums and other developments for visitors and resort use. Honokowai Beach Park is the only unprotected open coast beachfront in the area and has experienced an average annual erosion rate (0.9 feet/year) similar to that for the entire Honokowai area. Refer to **Figure 9**.

Armored shorelines extend approximately 2,000 feet (ft.) to the north of the Hale Kai, and approximately 1,500 ft. south of the Honokowai Beach Park (Sea Engineering, 2010). The shoreline fronting the subject property is similar to the characteristics of the majority of the surrounding shoreline in the area.

b. Impacts and Mitigation Measures

The 1998/2004 improvements were limited to the repair and maintenance of existing seawall/revetment and did not intensify the use of the shoreline protection structure. The subject actions do not, therefore, significantly impact surrounding land uses.

2. Climate, Topography and Soil Conditions

a. Existing Conditions

Like most areas of Hawaii, Maui's climate is relatively uniform year-round. The region's tropical latitude, its position relative to storm tracts and the surrounding ocean combine to produce a stable climate. Variation in climate on the island is largely left to local terrain.

Average daily temperatures in the Honokowai area typically range between 66 degrees and 88 degrees Fahrenheit. September is historically the warmest month, while February is the coolest (County of Maui, 2007).

Rainfall in West Maui is highly seasonal in nature, with most precipitation occurring between the months of November and April when winter storms hit the area. Situated on the leeward side of the West Maui Mountains, this relatively dry region receives most of its rainfall in late afternoon and early evening, after seabreezes take moisture upslope during the day. Average annual rainfall amounts to just under 15 inches. Precipitation data collected at the Kapalua-West Maui Airport station show that on average, January is the wettest month with 3.15 inches of rain, while June is the driest, with just 0.08 inch (County of Maui, 2007).

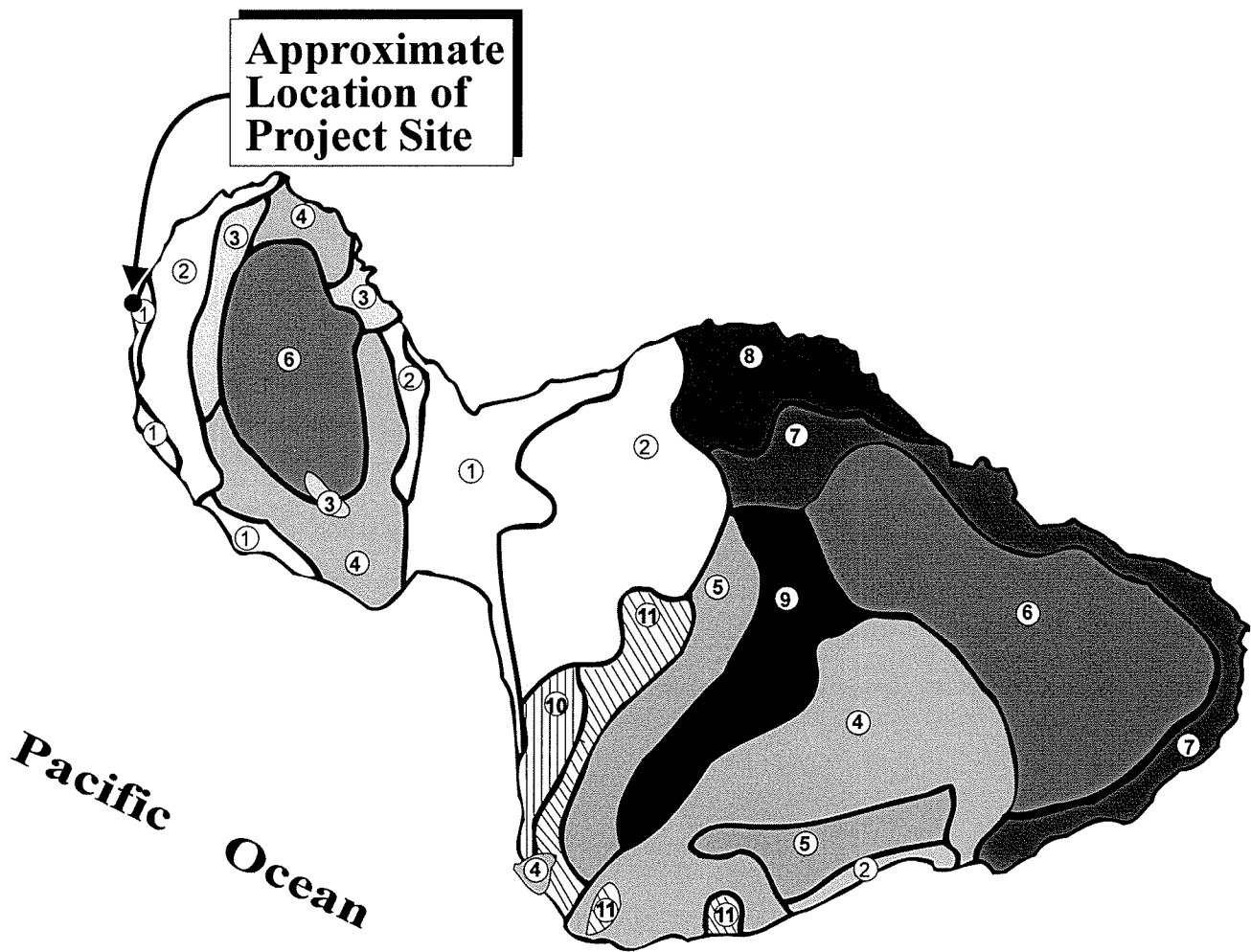
The winds in the Honokowai area are also seasonal, although northeasterly tradewinds are predominant, occurring 90 percent of the time during winter and 50 percent of the time during summer. Wind patterns also vary on a daily basis, with tradewinds generally being stronger in the afternoon. During the day, winds blow onshore toward the warmer land mass. This process reverses in the evening when breezes blow toward the relatively warm ocean.

Lands underlying and in the vicinity of the subject property belong to the Pulehu-Ewa-Jaucas association. See **Figure 13**. This soil association is characteristically deep and well-drained and located in alluvial fans and basins.

The two (2) soil types specific to the subject property are Beaches (BS) and Pulehu clay loam (PsA). See **Figure 14**. Beach soils consist mainly of light-colored sands derived from coral and seashells. Pulehu clay loam is

LEGEND

- | | |
|--|-------------------------------------|
| ① Pulehu-Ewa-Jaucas association | ⑦ Hana-Makaalae-Kailua association |
| ② Waiakoa-Keahua-Molokai association | ⑧ Pauwela-Haiku association |
| ③ Honolua-Olelo association | ⑨ Laumaia-Kaipoi-Olinda association |
| ④ Rock land-Rough mountainous land association | ⑩ Keawakapu-Makena association |
| ⑤ Puu Pa-Kula-Pane association | ⑪ Kamaole-Oanapuka association |
| ⑥ Hydrandepts-Tropaquods association | |

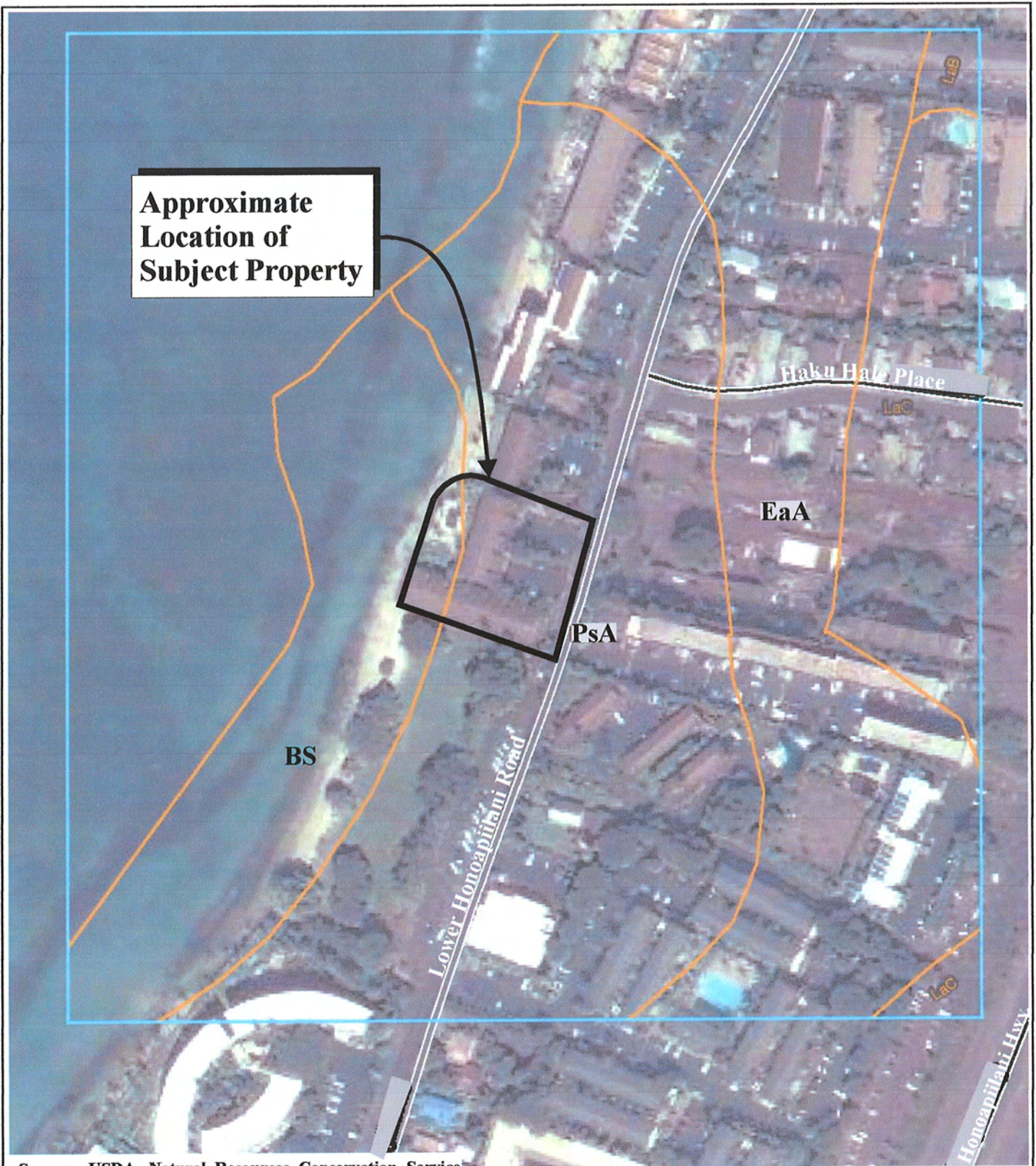


Source: USDA Soil Conservation Service

Figure 13 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment Soil Association Map

NOT TO SCALE





Source: USDA, Natural Resources Conservation Service

Figure 14

**After-the-Fact Permitting for
Improvements to Existing Seawall/
Revetment
Soil Classification Map**

NOT TO SCALE



characterized by moderate permeability, slow runoff, and slight erosion hazard, with 0 to 3 percent slopes (USDA, 1972).

The subject structure is located on BS lands. An exploratory boring of the soils underlying the structure during a previous site inspection showed 18 inches of brown sandy silt underlain by medium dense sand to a depth of 8 feet, underlain by a deeply weathered coral layer to a depth of 17 feet (Harding Lawson Associates, 1985).

The nearshore environment on the seaward (makai) side of the existing seawall/revetment structure is characterized by parallel bands of emergent beach rock, a formation composed of weakly cemented calcium carbonate beach sand grains (Sea Engineering, 2010).

b. Impacts and Mitigation Measures

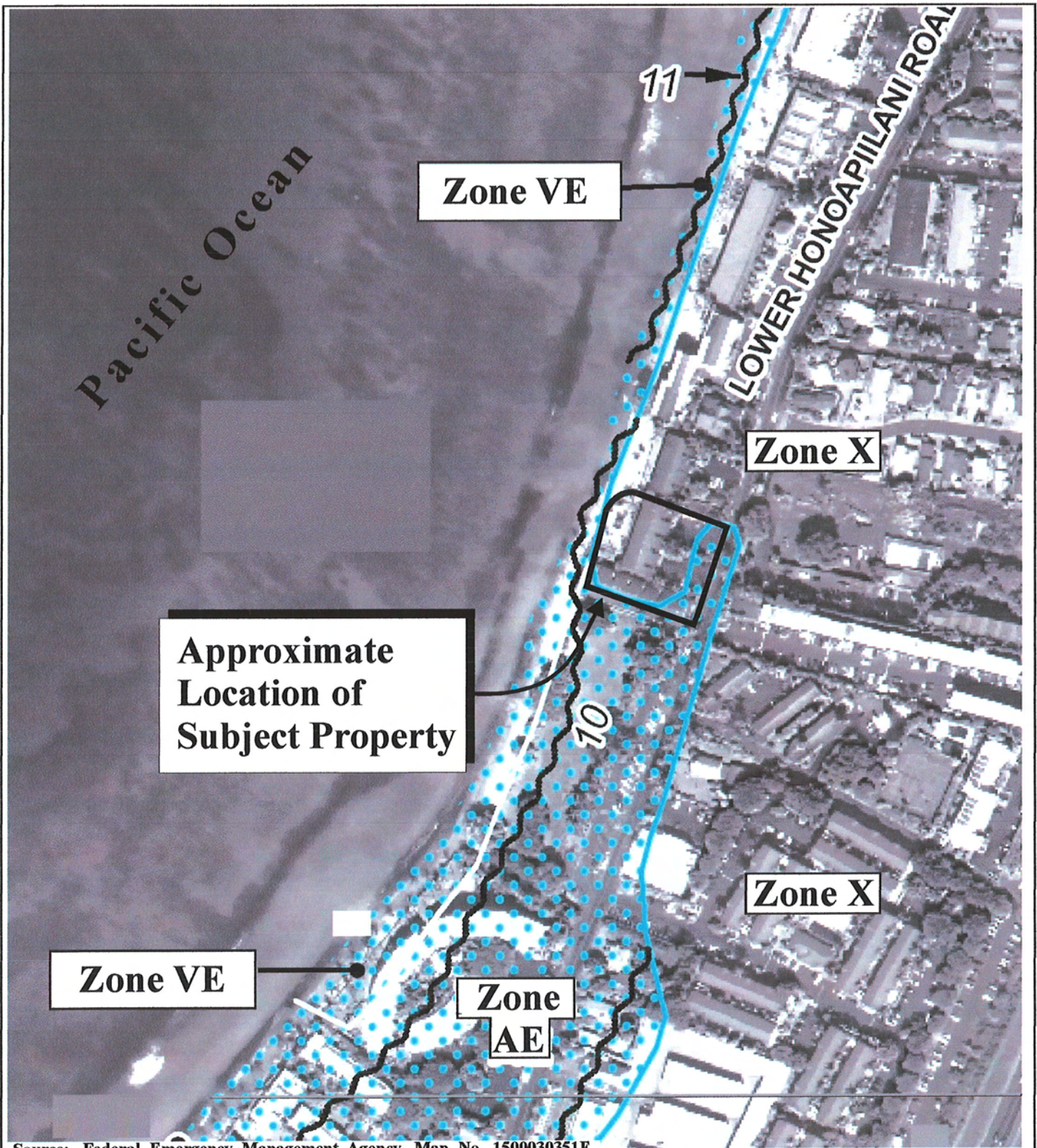
The land beneath the subject structure was previously graded in connection with the original construction of the seawall, which occurred prior to the 1965 construction of the Hale Kai condominium on the subject property. The 1998/2004 improvements consisted of repair and maintenance improvements to the existing structure. As such, the subject actions do not involve any significant impacts to the climate, topography, or soils conditions.

3. Flood and Tsunami Hazards

a. Existing Conditions

According to Flood Insurance Rate Map (FIRM) No. 1500030351E, the majority of the subject property is in Zone X, an area of minimal flooding. A portion of the property along the shoreline and the south and west borders of the parcel is located in Zone AE, with a base flood elevation of 10 ft. This zone corresponds to the 100-year floodplain. The shoreline fronting the subject property is located in Zone VE, a coastal flood zone with velocity hazard from wave action. The area of the subject improvements on the existing seawall/revetment structure falls within Zone VE. See **Figure 15**.

The subject property is also located within a tsunami evacuation zone.



Source: Federal Emergency Management Agency, Map No. 1500030351E

Figure 15

After-the-Fact Permitting for
Improvements to Existing Seawall/
Revetment
Flood Insurance Rate Map

NOT TO SCALE



Prepared for: Hale Kai Association of Apartment Owners

MUNEKIYO & HIRAGA, INC.

HaleKai\Seawall 1401\DraftEA\REV FIRM

b. Impacts and Mitigation Measures

The 1998/2004 improvements were intended to maintain the structural integrity of the existing seawall/revetment structure to protect the buildings and ancillary structures at the Hale Kai condominium from wave-related hazards. Given that the 1998/2004 improvements were limited to repair and maintenance work, the subject actions will not alter existing topographic condition or increase the susceptibility of the property or surrounding areas to flood hazards.

4. Flora and Fauna

a. Existing Conditions

The subject property is developed with landscaped areas surrounding the existing condominium buildings. Plant species on the property are cultivated and include species such as palm trees, naupaka, plumeria, and shrubs. Fauna at the Hale Kai property include common birds and other domestic species.

b. Impacts and Mitigation Measures

There are no rare, threatened or endangered species of plants on the subject property, nor are there any wetlands. Further, there are no known rare or endangered species of fauna or avi-fauna on or in the vicinity of the property. The subject actions do not involve the removal of any species habitat, or otherwise adversely impact any flora or fauna resources in the area.

5. Near Shore Environment

a. Existing Conditions

The coastline in the vicinity of the Hale Kai condominium consists mostly of hardened shoreline. Armored shorelines extend approximately 2,000 feet (ft.) to the north of the Hale Kai, and approximately 1,500 ft. south of the Honokowai Beach Park (Sea Engineering, 2010).

The nearshore environment is characterized by parallel bands of emergent beach rock, a formation composed of weakly cemented calcium carbonate beach sand grains. The bottom slopes gently seaward from the shoreline,

reaching the 18-foot contour approximately 1,000 feet offshore. The bottom is composed of sand pockets and irregular patches of limestone reef rock. The reef rock typically has extensive coral growth, and sea urchins are common. Nearshore waters are classified as open coastal “A”, and water quality and clarity is generally excellent. The high coral cover and good water clarity make for good sport diving and snorkeling offshore. Winter north swell also occasionally presents opportunity for board surfing at various sites along the Honokowai coast (Sea Engineering, Inc., 2010).

The shoreline fronting the Hale Kai is susceptible to wave hazards due to typical wave patterns, storms, and tsunamis. This section of shoreline is exposed to deepwater waves from the southwest, west, and north. The North Pacific swell typically presents deepwater wave heights of 5 to 15 feet, but 20-foot waves occur at least on an annual basis. Lanai and Kahoolawe partially block the project shoreline from southern swell and Kona storm waves. Southern swell waves have typical deepwater wave heights of 1 to 6 feet. Deepwater wave heights during the severe Kona storm of January 1980 were approximately 17 feet (Sea Engineering, 2010).

The hazard from tsunamis in Hawaii has also been documented. About 85 tsunamis have been observed in Hawaii since 1813, 15 of which resulted in serious damage. Tsunami wave runup heights at Kaia Point, north of the subject property, were 24 feet, 9 feet, and 10 feet for the 1946, 1957, and 1960 tsunamis, respectively.

b. Impacts and Mitigation Measures

The subject actions do not present significant adverse impacts on the nearshore environment. The 1998/2004 improvements did not intensify the use of the existing seawall/revetment structure. Further, the improvements occurred within the confines of the existing structure which provided physical separation of the work area from the immediate nearshore environment. Completion of the subject improvements was critical in maintaining the structural integrity of the seawall/revetment in its ability to protect the Hale Kai from threats due to wave action.

6. **Archaeological Resources**

a. **Existing Conditions**

The subject property is developed and contains an existing resort condominium complex that was constructed in 1965. The property also contains paved parking areas as well as utility, drainage, and landscaping improvements. There are no previously identified archaeological or cultural resources located within the confines of the property or along the immediate shoreline area fronting the Hale Kai Condominium. The lands underlying the existing seawall/revetment structure and the Hale Kai condominium were previously graded during the construction of the improvements in the 1960's.

There are no sites on the National and State Register of Historic Places in the vicinity of the subject property.

b. **Impacts and Mitigation Measures**

Subsurface work associated with the 1998 boulder repair and maintenance improvements entailed the widening of a pre-existing erosion channel, a previously disturbed area. The 2004 cement grouting repair and maintenance action did not involve any subsurface work.

Since the 1998/2004 improvements involved areas which were previously disturbed, the subject actions are not considered to present significant impacts on archaeological resources in the area.

7. **Cultural Resources**

a. **Existing Conditions**

From a regional perspective, the Lahaina District was considered to be a favorable place by high chiefs because of its natural resource qualities and proximity to Lanai and Molokai. Initial development of agricultural field systems likely occurred early in the Expansion Period, between AD 1200 and 1400. While onshore and offshore fishponds yielded abundant seafood, fertile alluvial terraces and dry land cultivation produced coconut, breadfruit, banana, taro, sweet potato, sugarcane, and other nutritious crops. Trails running mauka to makai fortified both social and economic linkages between

mountain and coastal villages. In addition, the *alanui* or “King’s trail” built by Kihapiilani stretched along the coast, connecting all major settlements between Lahaina and Makena (McGerty and Spear, 2008).

European explorers and traders began to frequent the Lahaina District in the late 1700s, spurring considerable transformations to the local landscape and economy. The islands of Maui, Molokai, and Lanai encircle the Auau Channel, providing for relatively calm waters and safe anchorage. The ancient Hawaiian name for Lahaina was *Lele*, which means “to leap” or “to disembark” as from a canoe. In pre-contact times, Lahaina’s harbor was referred to as *Keawaiki*, “the small harbor” (Munekiyo & Hiraga, Inc., 2005). During the reign of Kamehameha I, Lahaina thrived as a center for the lucrative and prospering sandalwood trade (McGerty and Spear, 2008). The whaling industry then boomed in the 1800s, and Lahaina grew into a bustling port town, known worldwide as the whaling capital of the Pacific.

As the whaling industry began to decline, a new populace arrived, heralding the establishment of a new agriculturally-based economy. From the mid-1800s, traditional subsistence agriculture succumbed to commercial agricultural operations, namely sugar plantations. Over the years, a number of smaller mills coalesced into the hugely successful Pioneer Mill Company. By the early 1900s, Pioneer Mill cultivated an estimated 15,000 acres of sugar, blanketing the mountain slopes from Ukumehame to Honokowai (Rosendahl, 1989). During this time, pineapple was also established as a profitable crop, and the fruit was cultivated on lands stretching from Honokowai to Honokohau.

Lahaina has played a significant role in the historical and political evolution of Hawaii. As the sandalwood trade flourished, Lahaina became an important commercial shipping port, establishing ties with China and Russia. Upon uniting the Hawaiian islands under his rule, Kamehameha I established Lahaina as his residence and seat of Hawaiian government. Lahaina would remain the capital of the Hawaiian Kingdom until 1843, meanwhile serving as a major hub for the prospering whaling industry.

Lahaina Town was designated a registered National Historic Landmark in 1962, under the provisions of the Historic Sites Act of August 21, 1935. In

1966, Lahaina Town was listed in the National Register of Historic Places.

Cultural perspectives obtained from West Maui residents are valuable in assessing the cultural impacts of a project. The Lower Honoapiilani Road Improvements project was located nearby the Hale Kai condominium, and the interviews conducted for this project provide insight to the cultural history and practices of the region. Summaries of interviews with Mr. Wesley Nohara and Mrs. Edna Pualani Farden Bekeart in 2002 both reflected the importance of the ocean in providing food and recreational opportunities. Food provided by the ocean include seaweed, octopus, nehu, and saltwater opai (Munekiyo & Hiraga, Inc., 2000).

The value of the ocean resources continues to be observed today. Ms. Jeannie Murrell, a long-time resident of Hale Kai states:

“We have lived here at the Hale Kai for 11 years and have enjoyed the shoreline and the beach. It is great place to swim in the ocean and also a safe place for grandchildren since there is a reef in front which eliminates the large waves. The park is a great place for children to play and it is fun just to stroll through it and watch these kids at play. We have snorkeled in front, watched whales, lots of sea turtles, the occasional monk seal that comes for a visit, have seen dolphins in front of our units as well as other sea creatures. It is a great place for fishing, however, we have yet to catch something. All in all the shoreline fronting Hale Kai is a place for people of all ages to have a good time.”

b. Impacts and Mitigation Measures

As the 1998/2004 improvements did not intensify or modify the use of the existing seawall/revetment structure, it is not considered to have had an adverse impact on cultural resources or practices. Public access to the shoreline has been, and continues to be, available at Honokowai Beach Park directly adjacent to the south of Hale Kai. The subject actions, therefore, do not significantly impact recreational value (for fishing, snorkeling, diving, or surfing) of the area.

8. Air Quality and Noise Characteristics

a. Existing Conditions

There are no point sources of airborne emissions in the vicinity of the subject property. Although minimal, airborne pollutants are largely attributable to vehicular exhaust from traffic along Lower Honoapiilani Road and nearby roadways. Windblown dust from fallow fields is another source of indirect emissions in the West Maui region. These sources, however, are intermittent and prevailing winds quickly disperse the particulates generated by these temporary sources. Overall, the air quality in the West Maui region is considered good.

There are no fixed noise generators in the vicinity of the subject property. Existing background noise levels are primarily due to traffic from nearby roadways, recreational users at Honokowai Beach Park and typical wave action upon the shoreline.

b. Impacts and Mitigation Measures

Minor short-term air quality and noise-related impacts would have resulted from the completion of the subject improvements. These impacts were, however, minimal given that the work was limited to the repair and maintenance of an existing seawall/revetment structure. On a long-term basis there are no airborne emissions or noise impacts associated with the subject actions or the existing seawall/revetment structure, which has provided coastal protection for the property since the early 1960s.

9. Water Quality

a. Existing Conditions

Nearshore waters in the vicinity of the subject property are classified as open coastal "A", and water quality and clarity is generally excellent (Sea Engineering, 2010).

b. Impacts and Mitigation Measures

The 1998/2004 improvements constituted repair and maintenance to an

existing seawall/revetment structure and did not enlarge or intensify the use or characteristics of the shoreline protection structure. The subject improvements were completed within the existing confines of the structure and, as such, did not involve any work on the beach lands fronting the seawall/revetment or within the nearshore waters which lie beyond.

Further, the 1998 boulder repair and maintenance work occurred toward the upper reaches of the existing revetment. These improvements consisted of the widening of a pre-existing erosion channel and the placement of various sized rocks and boulders into the trench to stabilize the area and prevent further erosion. The existing revetment provided a physical barrier between the construction activity and the shoreline, protecting water quality and coastal resources from construction impacts. Refer to **Figure 11**. Thus, the subject actions are not considered to present significant drainage-related adverse impacts on the water quality of nearshore waters.

10. Scenic and Open Space Resources

a. Existing Conditions

The subject property is located along Lower Honoapiilani Road in Honokowai, an area characterized by high-density residential and resort condominium uses, along with a small number of convenience stores and eateries. Limited views of the Pacific Ocean and neighboring islands are available along Lower Honoapiilani Road except near Honokowai Beach Park where both an open space resource and scenic views toward the coastline are available. The coastline in the vicinity of the subject property is characterized by shoreline hardening, with the exception of the neighboring County-owned Honokowai Beach Park, which provides public access for shoreline recreational activities.

b. Impacts and Mitigation Measures

The 1998/2004 improvements did not substantially change the visual appearance or the aesthetics of the existing seawall/revetment structure. Completion of the 1998/2004 repair and maintenance work did not block or alter any views across the ocean, up to the West Maui Mountains, or along the Honokowai coastline. Accordingly, the subject actions do not present any

significant adverse impacts upon scenic or open space resources in the Honokowai area.

B. SOCIO-ECONOMIC ENVIRONMENT

1. Regional Land Use and Community Character

a. Existing Conditions

The majority of lands in West Maui are classified “Conservation” or “Agricultural” by the State Land Use Commission. Generally, higher elevations are delineated as “Conservation” lands, while foothills of the middle elevations are designated “Agricultural”. Much of the lower elevations, lands running along the coast, are classified “Urban”.

Lahaina encompasses a diverse mix of land uses, including residential, business, light industrial, recreational, and agricultural uses. Lahaina Town is the commercial center of West Maui. Moreover, as the former whaling capital of the Pacific, Lahaina Town has been designated a National Historic Landmark District. The town contains several shopping centers and business retail areas, serving as a core for the region’s residential communities.

With a consistently warm, dry climate, complemented by lengths of white sand beaches and scenic landscapes, West Maui is a popular visitor destination. A vast number of visitor accommodations are located in Lahaina Town, as well as in the resort communities of Kaanapali, Kapalua, Kahana, and Napili. The Kapalua-West Maui Airport at Mahinahina, located approximately 6.9 miles north of the project site, provides commuter air services which conveniently link West Maui with Oahu and neighbor islands.

Former pineapple fields and diversified agriculture, including corn, banana, melon, and papaya crops, compose the active agricultural cultivation of the West Maui region. Since the closure of its sugar cane operations in September 1999, Pioneer Mill Company has set aside approximately 1,200 acres of former agricultural lands in Kaanapali to grow seed corn and coffee. Meanwhile, Maui Land & Pineapple Company recently announced that it will be ceasing pineapple production on Maui, which includes its fields spanning the mountain lowlands of Kapalua.

b. Impacts and Mitigation Measures

The subject property is located in Honokowai, a coastal area mostly occupied by residential condominiums and small-scale commercial uses. The master planned resort community of Kaanapali is located to the south of Honokowai, and the planned resort community of Kapalua is located to the north. The subject improvements, as repair and maintenance to an existing structure, did not change the nature or appearance of the structure. As such, the subject actions are not considered to present adverse impacts on regional land use and community character.

2. Population

a. Existing Conditions

The subject project is located on Lower Honoapiilani Road, in Honokowai, within the West Maui Community Plan region.

The County of Maui, specifically the Island of Maui and the West Maui region, has exhibited relatively strong growth over the past decade. In 2000, the population of Maui County was 128,241, compared to a 1990 population of about 100,504. The resident population of the Maui County in 2005 was estimated to be 140,050 and is projected to increase to approximately 151,300 in 2010 (County of Maui, Department of Planning, 2006).

Just as the County's population has grown, the resident population of the Island of Maui has also increased. In 2000, the estimated population of the Island of Maui was 117,644. It is projected that in 2010 the population will reach approximately 140,289 (County of Maui, Department of Planning, 2006).

West Maui's growth over the last three (3) decades has kept pace with that of Maui County. Since 1970, West Maui has seen an increase in resident population growing from about 5,500 persons in 1970, to approximately 10,300 persons in 1980, to about 14,600 in 1990. In 2000, the resident population of West Maui was approximately 17,967. Population forecasts for this region reflect a West Maui population of 21,577 persons in 2010. Accounting for visitors and workers, the day-time population increases to

approximately 50,000 people in the West Maui region (County of Maui, Department of Planning, 2006).

b. Impacts and Mitigation Measures

The subject improvements did not act as a population generator, nor did it facilitate any changes in regional population. Completion of the repair and maintenance work is not considered to have had any impacts on the population or demographic trends of the West Maui region.

3. Economy

a. Existing Conditions

In terms of the profile of employed persons, West Maui generally follows the Countywide trends for the labor force characteristics shown in **Table 1**.

Table 1. Labor Force Characteristics

Occupational Category	Maui County	West Maui
Agriculture	3%	2%
Manufacturing	2%	1%
Construction	4%	2%
Transportation, Communication, and Utility	4%	2%
Trade	20%	22%
Banking & Finance	4%	4%
Service	31%	40%
Government	10%	4%
Self-employed	23%	23%

Source: County of Maui, Department of Planning, 2006.

Maui's economy is heavily reliant upon the visitor industry, and this dependency is especially evident in West Maui, a major resort destination area. In terms of employment distribution, more West Maui workers were employed in the service industry (40 percent) than the Countywide profile (31 percent). Because of West Maui's emphasis on service jobs, most other job

sectors exhibited slightly lower distribution rates.

In December 2009, the unemployment rate for Maui County was 8.8 percent and the rate for Maui Island was 8.7 percent (State of Hawaii, 2010). This represents an increase in unemployment from December 2008 when Maui County's and Maui Island's rates were 6.7 percent and 6.6 percent, respectively. Maui's unemployment rate is above the statewide rate of 6.9 percent.

b. Impacts and Mitigation Measures

The subject improvements provided short-term employment opportunities during completion of the 1998/2004 repair and maintenance work. The subject actions do not present adverse impacts on employment opportunities, the characteristics of the labor force, or the general economy of West Maui.

C. PUBLIC SERVICES

1. Police and Fire Protection

a. Existing Conditions

The subject property is within the service area of the Maui Police Department's Lahaina patrol district, which services the West Maui region. Built in the early 1970's, the Lahaina Police Station is located in the Lahaina Civic Center (LCC) complex, approximately 5 miles south of the subject property. The Lahaina patrol district includes management level officers, field police officers, and additional personnel, which consists of public safety aides and administrative support staff (MPD, 2008). In addition, there is also a police sub-station in Napili. This sub-station is used to allow officers assigned in the outskirts of Lahaina to write police reports without having to travel back into Lahaina Town.

Fire prevention, suppression, and protection services for the West Maui region are provided by the County Department of Fire and Public Safety's Lahaina and Napili Fire Stations. The Lahaina Fire Station is located approximately 5 miles south of the subject property at the LCC, while the

Napili Fire Station is located approximately 2.8 miles further north. The Lahaina Fire Station includes an engine and a ladder company, and is staffed by 30 full-time personnel. It also has a boat for ocean rescues. The Napili Fire Station consists of an engine company with 15 full-time firefighting personnel. All firefighting personnel are first-responder trained to provide emergency medical care.

b. Impacts and Mitigation Measures

The subject actions do not impact police and fire protection services or extend or affect existing operational limits of these services.

2. Medical Facilities

a. Existing Conditions

Maui Memorial Medical Center serves as the island's only major medical facility. Located in Wailuku, approximately 29.0 miles southeast of the subject property, the 201-bed facility provides general, acute, and emergency care services for the island's residents and visitors. In addition, the Kaiser Permanente Medical Clinic, West Maui Healthcare Center, Maui Medical Group, Lahaina Physicians, and other private medical and dental offices provide health care services for the region's residents and visitors.

b. Impacts and Mitigation Measures

The subject actions do not adversely affect the availability or quality of medical services on Maui.

3. Solid Waste

a. Existing Conditions

Residential refuse collection is provided by the County's Department of Environmental Management, Solid Waste Division. Private refuse collectors provide solid waste disposal services for commercial and institutional accounts. With the exception of the Hana region, residential and commercial solid waste from throughout the island is transported to the Central Maui Landfill at Puunene, about 28.0 miles to the southeast of the subject property.

A refuse transfer station located at Olowalu, approximately 6.0 miles south of the subject property, accepts household and green wastes, as well as used oil, for transport to the Central Maui Landfill in Puunene. The disposal of commercial and institutional refuse is not permitted at the Olowalu transfer station.

b. Impacts and Mitigation Measures

The 1998/2004 improvements did not produce a significant amount of solid waste, or generate any continuing waste streams. As such, the subject actions will not adversely impact solid waste services and available landfill capacity on Maui.

4. Recreational Facilities

a. Existing Conditions

West Maui has numerous recreational facilities offering diverse opportunities for the region's residents. These facilities include several County and State parks and beach parks in West Maui. Approximately one-third of the County parks are situated along the shoreline and offer excellent swimming, diving, and snorkeling areas. In addition, Kaanapali and Kapalua Resorts operate world-class golf courses available for public use.

Recreational facilities in Lahaina Town include the Lahaina Aquatic Center, the West Maui Youth Center, the Lahaina Recreation Center, and the Lahaina Civic Center (LCC). The Lahaina Aquatic Center contains an Olympic-size swimming pool, a children's wading pool, a paved parking lot and office and storage space, as well as shower, restroom, and changing room facilities. The 15-acre Wainee Park expansion includes new fields, parking, and washroom facilities. The West Maui Youth Center has a building for youth activities, as well as paved parking, an outdoor playground, and a basketball court. The Lahaina Recreation Center includes baseball fields and playfields for soccer and football, as well as restrooms and paved parking facilities. The LCC includes a gymnasium, amphitheater, and tennis courts complex, as well as restrooms and paved parking facilities.

Additionally, the clear ocean waters and well-developed reef system along the Lahaina and Kaanapali coastline offer many recreational opportunities for

residents and visitors. Many tourism-based businesses also rely on the ocean and reef system for their operation. Fishing by shorecasting and netting is practiced in the ocean waters near Lahaina Town, Kaanapali Beach, Hanakaoo Point, and Honokowai Point. Edible seaweed collecting, octopus fishing, and spearfishing occur on the adjacent reef flat fronting Kaanapali. During periods of wave activity, the area is a good location for surfing.

The Honokowai Beach Park is located on the south side of and adjacent to the subject property. Good snorkeling can be found here, and the park is often used for picnics, swimming, and sunbathing. The Honokowai Beach Park has been experiencing moderate erosion, with an average AEHR of -0.9 ft/yr. This reflects the trend for the area, which also has an average AEHR of -0.9 ft/yr (Coastal Geology Group, 2000). Refer to **Figure 7**. The beach park is the only unprotected open coast beachfront in the area; however, there are sections of exposed reef rock in the nearshore waters fronting the park which act as a natural barrier to wave events.

b. Impacts and Mitigation Measures

The 1998/2004 improvements were limited to repair and maintenance work and did not intensify the use of the existing seawall/revetment structure. As such, the subject actions will not present significant adverse impacts on neighboring Honokowai Beach Park or other recreational facilities in the West Maui region.

5. Educational Facilities

a. Existing Conditions

The West Maui region is served by four (4) public schools (Lahainaluna High School, Lahaina Intermediate School, Princess Nahienaena Elementary School, and Kamehameha III Elementary School) operated by the State of Hawaii, Department of Education (DOE) and two (2) smaller private schools (Sacred Hearts School and Maui Preparatory Academy). All four (4) of the public schools are located within Lahaina Town and three (3) of those schools are located along Lahainaluna Road, mauka of Honoapiilani Highway. The enrollments in the four (4) schools have grown in concert with the growth of residential development in the area.

Maui Community College (MCC), which is located in Kahului, is a branch of the University of Hawaii system, and the primary higher education institution serving Maui. An MCC-Lahaina Education Center opened in the West Maui region in the Fall of 2007.

b. Impacts and Mitigation Measures

The 1998/2004 improvements were limited to the repair and maintenance of an existing seawall/revetment structure. As such, the subject actions do not impact existing educational facilities in West Maui.

D. INFRASTRUCTURE

1. Roadways

a. Existing Conditions

Access to Lahaina is provided by the State-owned Honoapiilani Highway from Central and South Maui. Extending from Wailuku to Kapalua, Honoapiilani Highway is the only State highway serving the West Maui region. With the exception of a four-lane segment between Lahainaluna Road and Lower Honoapiilani Road, the typical highway section consists of two (2) lanes bordered by paved shoulders which also function as bike paths.

Access to the Hale Kai condominium is provided by Lower Honoapiilani Road, a two-lane County-owned road which generally runs in the north-south direction.

b. Impacts and Mitigation Measures

The 1998/2004 subject improvements did not generate additional population or traffic in the West Maui region. As such, the subject actions do not create any adverse impacts to regional or local roadways.

2. Water

a. Existing Conditions

The West Maui region (including the subject property) is served by the County's Department of Water Supply domestic water system. The County water system services the coastal areas from Launiupoko to Kaanapali and from Honokowai to Napili. The County's system includes two (2) surface and nine (9) groundwater sources.

The sources of water for Lahaina are five (5) deepwells located above Alaeloa and referred to as Napili Wells 1, 2, and 3, and Honokohau Well A and B; and four (4) wells above Lahaina Town, referred to as Kahana 1 and 2 and Waipuka 1 and 2. These wells are supplemented by water treatment plants above Honokowai and Lahainaluna High School that draw surface water from the Honolua Ditch and Kahana Valley. Several miles of 12- and 16-inch lines located in Lower Honoapiilani Road and two (2) in-line booster stations convey water from these sources to consumers in Lahaina. Storage is provided by a 1.5 million gallon (MG) storage tank above Wahikuli and a 1.0 MG tank on Lahainaluna Road.

b. Impacts and Mitigation Measures

Completion of the 1998/2004 improvements did not result in new water demand. As such, the subject actions will not impact source and transmission components of the County's regional water system.

3. Wastewater

a. Existing Conditions

Wastewater from the subject property is treated at the County's Lahaina Wastewater Reclamation Facility (WWRF). The WWRF's potential total treatment capacity is 9.0 million gallons per day (mgd), with 6.0 mgd for secondary treatment and 3.0 mgd for R-1 treatment. Presently, the facility treats about 5.4 mgd of wastewater. About 1.2 mgd of the R-1 treated effluent is used to irrigate the Royal Kaanapali golf courses, the landscaped

areas along Honoapiilani Highway, and the landscaped median of Kaanapali Parkway. The remaining treated effluent (4.2 mgd) is disposed into four (4) injection wells located within the facility. Under the conditions of its Environmental Protection Agency (EPA) permit, the County is allowed to dispose a maximum flow of 6.7 mgd into the injection wells.

b. Impacts and Mitigation Measures

The 1998/2004 subject improvements did not result in the creation of additional wastewater generation. Accordingly, the subject actions will not impact existing County wastewater collection and treatment facilities.

4. Drainage

a. Existing Conditions

The subject property is currently developed with paved parking and landscaping improvements. Drainage across the subject property flows in a west to east direction and is reduced through a combination of grassed swales and vegetated percolation areas (located within the landscaped portions of the parcel) prior to entering the drainage system along Lower Honoapiilani Road. The Lower Honoapiilani Road drainage system utilizes a series of drainage inlets located along the roadway to collect and convey stormwater runoff to a nearby drainage swale prior to it being discharged into the ocean.

b. Impacts and Mitigation Measures

The 1998/2004 improvements were limited to the repair and maintenance of an existing seawall/revetment. Completion of this work in 1998/2004 did not modify the existing topographical conditions and drainage patterns of the subject property. The subject actions, therefore, do not alter the existing drainage patterns of the subject property or present impacts to downstream or adjacent properties.

5. Electric, Telephone and Cable TV

a. Existing Conditions

Electrical, telephone, and cable television services for the West Maui region are provided by Maui Electric Company, Ltd., Hawaiian Telcom, and Oceanic Time Warner Cable Company, respectively. These distribution systems, consisting of underground and overhead lines, are located along Honoapiilani Highway.

b. Impacts and Proposed Mitigation Measures

Completion of the 1998/2004 improvements did not require capacity-related electrical system improvements, nor did it involve improvements to existing telephone or cable television services at the subject property. The subject actions do not, therefore, involve impacts to existing electrical, telephone, or cable television systems, or extend existing service area limits.

E. CUMULATIVE AND SECONDARY IMPACTS

Cumulative impacts are defined as impacts on the environment which result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions.

The subject actions are not part of a larger undertaking, nor would they occur within the context of such actions. There are no direct community growth impacts resulting from or occurring with the project. There are no public infrastructure projects anticipated within the project context. The scope of the 1998/2004 improvements was limited to the repair and maintenance to an existing non-conforming seawall/revetment structure that has served to protect the Hale Kai condominium residents from wave-related damage for over 45 years.

Secondary impacts are those which have the potential to occur later in time or farther in distance, but are still reasonably foreseeable. They can be viewed as actions of others that are taken because of the presence of the project. Secondary impacts from highway projects, for example, can occur because they can induce development by removing one of the impediments to growth-transportation access. There were no secondary impacts associated with the 1998/2004 repair and maintenance improvements. The work was not a generating

component for population, nor did it place additional burden upon infrastructure or the environment. As such, there are no secondary impacts anticipated to be generated by the subject actions being requested from the BLNR.

III. RELATIONSHIP TO LAND USE PLANS, POLICIES AND CONTROLS

III. RELATIONSHIP TO LAND USE PLANS, POLICIES AND CONTROLS

A. STATE LAND USE DISTRICTS

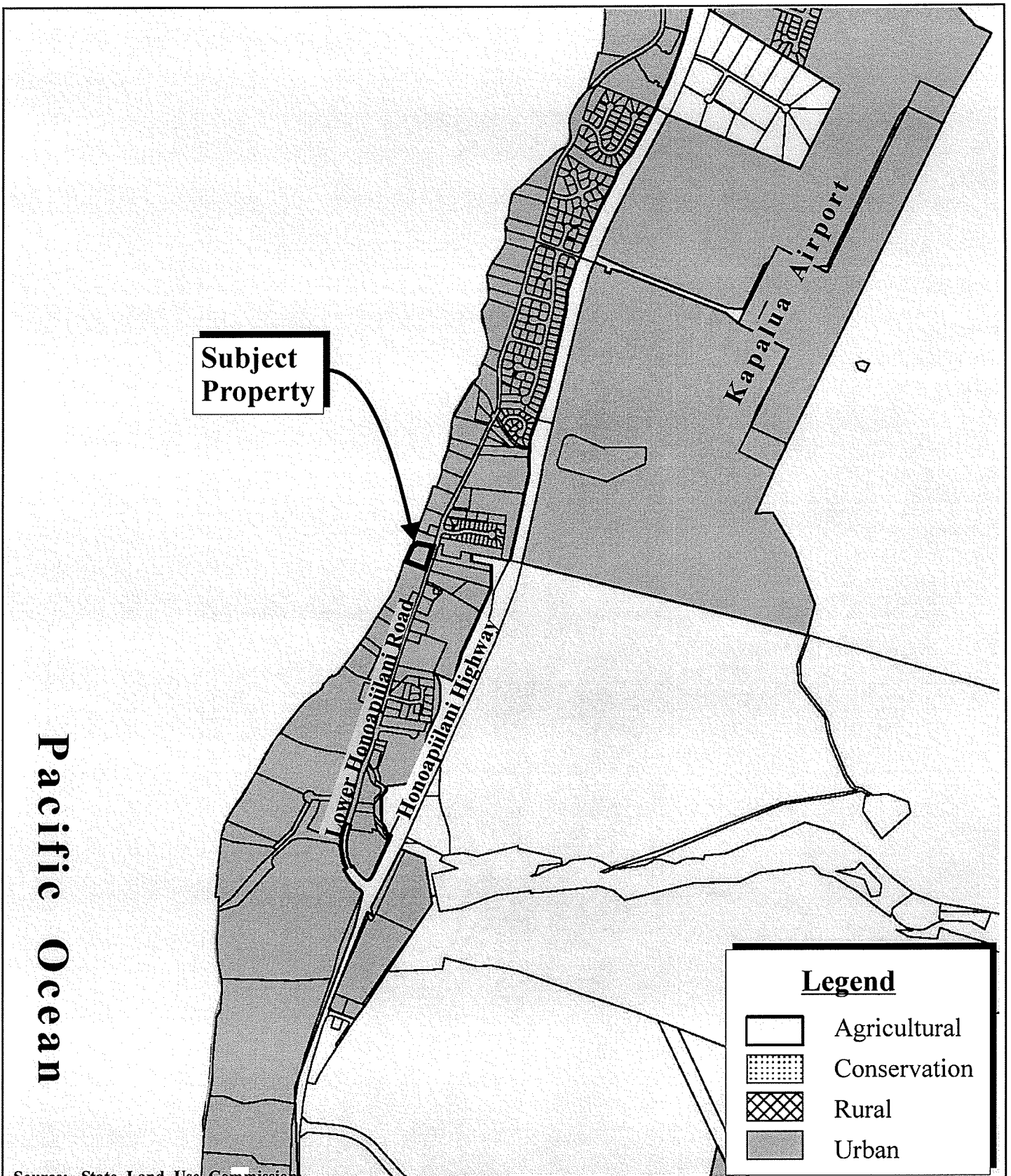
Chapter 205, Hawaii Revised Statutes, relating to the Land Use Commission, establishes four (4) major land use districts in which all lands in the State are classified. These districts are designated as “Urban”, “Rural”, “Agricultural”, and “Conservation”. The subject property is located within the “Urban” district and the existing condominium use on the property is consistent with this designation. See **Figure 16**. The Board of Land and Natural Resources (BLNR) has determined that the portion of the existing seawall/revetment affected by the subject improvements is located on State lands seaward of the property line. These State lands are located in the “Conservation” district and fall within the Resource subzone.

Pursuant to Section 13-5-13 of the Department of Land and Natural Resources (DLNR) Hawaii Administrative Rules (HAR), the Resource subzone includes:

“Lands and state marine waters seaward of the upper reaches of the wash of waves, usually evidenced by the edge of vegetation or by the debris left by the wash of waves on shore to the extent of the state’s jurisdiction, unless placed in a (P) or (L) subzone”.

Uses permitted in the Protective and Limited subzones are also permitted in the Resource subzone. Seawalls, shoreline protection devices, and shoreline structures are identified as permitted uses in the Limited subzone subject to a permit from the Board of Land and Natural Resources. The applicant is seeking an After-the-Fact Conservation District Use Permit from the Board for the subject actions in accordance with HAR, Title 13.

Thus, with regard to the subject action’s consistency with the purposes of the Conservation District, the Conservation District use criteria are addressed below:



Source: State Land Use Commission

Figure 16

After-the-Fact Permitting for
Improvements to Existing Seawall/
Revetment

NOT TO SCALE



State Land Use District Boundary Map

1. **The proposed land use is consistent with the purpose of the conservation district:**

The subject actions are consistent with the purpose of the Conservation District. The subject property is not located near a watershed area and will not, therefore, impact watersheds or water sources. The existing seawall/revetment is a non-conforming structure that was constructed prior to the development of the Hale Kai condominium in 1965. Armored shorelines extend approximately 2,000 feet (ft.) to the north of the Hale Kai, and approximately 1,500 ft. south of the Honokowai Beach Park. The existing non-conforming seawall/revetment structure, therefore, conforms to the overall character of the surrounding area. The 1998/2004 improvements involved repair and maintenance work to the existing seawall/revetment structure which was undertaken by the applicant in an effort to ensure the continued long-term protection of the existing condominium buildings from shoreline erosion hazards. The existing seawall/revetment structure is necessary to maintain the residential use of the property. The subject improvements did not intensify the use of the seawall/revetment, and accordingly did not create additional impacts on the environment. Scenic resources and viewplanes were not impacted by the subject improvements.

There is existing beach access directly adjacent to the Hale Kai condominium through Honokowai Beach Park, which will not be impacted by the subject actions.

2. **The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur:**

The 1998/2004 improvements were limited to repair and maintenance work that was completed on the existing seawall/revetment structure. Seawalls, shoreline protection devices, and shoreline structures are permissible uses within the "Resource" subzone of the Conservation District. Additionally, repair and maintenance of non-conforming uses are allowed under the Conservation District rules. Continued protection of the Hale Kai condominium is essential to preserve the health and safety of the occupants living with the existing buildings on the property.

3. **The proposed land use complies with provisions and guidelines contained in Chapter 205A, HRS, entitled “Coastal Zone Management,” where applicable:**

The subject actions comply with the provisions and guidelines of Chapter 205A, HRS. The 1998/2004 improvements have been determined to be located makai of the shoreline and under the jurisdiction of the State of Hawaii, Department of Land and Natural Resources. The Hale Kai AOA has also been in consultation with the County of Maui, Department of Planning to obtain necessary approvals for the after-the-fact improvements that were identified by the BLNR on May 23, 2008 to fall within the jurisdiction of the County of Maui. A Special Management Area (SMA) approval has been issued for these other related repair and maintenance improvements that were noted in the May 23, 2008 BLNR enforcement proceedings. Refer to **Appendix “F”**. The subject actions have been evaluated with respect to the coastal zone management criteria in Section E of this chapter.

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

The 1998/2004 improvements were limited to the repair and maintenance of an existing non-conforming seawall/revetment and did not intensify the use of the existing structure. Accordingly, the subject actions will not cause substantial adverse impact to existing natural resources within the surrounding area, community, or region.

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

Other adjacent properties in Honokowai are armored with shoreline protection structures. The seawall/revetment is an existing non-conforming structure that was constructed prior to the development of the Hale Kai condominium in 1965. The subject actions are, therefore, consistent with the condition of the surrounding areas, as well as the existing residential use that has been present on the subject property for over 45 years.

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

The seawall/revetment structure was existing at the time of the 1998/2004 improvements, which did not intensify the use of that structure. As such, there are no significant impacts to natural beauty or open space characteristics generated as a result of the subject actions.

7. **Subdivision of land will not be utilized to increase the intensity of land uses in the conservation district:**

The subject actions do not involve the subdivision of land, nor does the applicant intend to subdivide the parcel in the future.

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

The 1998/2004 improvements were intended to maintain the reliability and safety of the seawall/revetment structure. The repair work both improved the structural integrity of the seawall/revetment and provided continued protection to the safety and welfare of residents living within the existing condominium buildings present on the subject property, the closest of which is less than 10 feet from the shoreline. No adverse impacts to public health, safety, or welfare are, therefore, expected to be generated by the subject actions.

B. HAWAII STATE PLAN

Chapter 226, HRS, also known as the Hawaii State Plan, is a long-range comprehensive plan which serves as a guide for the future long-term development of the State by identifying goals, objectives, policies, and priorities, as well as implementation mechanisms. As reflected by Section 226-13, HRS, the plan outlines objectives and policies for the physical environment, specifically land, air, and water quality.

More specifically, the State objectives include the maintenance and pursuit of improved quality in Hawaii's land, air, and water resources.

Completion of the subject improvements is consistent with the following policy of the Hawaii State Plan:

Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters (Hawaii State Plan, Section 226-13(b)(5)).

C. MAUI COUNTY GENERAL PLAN

The Maui County General Plan (1990 Update) sets forth broad objectives and policies to help guide the long-range development of the County. As stated in the Maui County Charter:

The general plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development.

The Maui County General Plan contains five (5) major Themes. Theme No. 3 states “Protect Maui County’s Shoreline and Limit Visitor Industry Growth”. The existing seawall/revetment has protected existing buildings and the swimming pool on the property from the effects of storm wave action since the construction of the Hale Kai condominium in 1965. The existing seawall/revetment structure is a critical component towards ensuring the continuation of the existing residential uses at the property.

The subject actions are in keeping with the following General Plan objectives and policies:

HEALTH AND FAMILY

Objective:

To meet the health needs of all residents and visitors.

PUBLIC SAFETY

Objective:

To create an atmosphere which will convey a sense of security for all residents and visitors and aid in the protection of life and property.

Policies:

Maintain a proper state of preparedness for man-made or natural disasters.

Encourage private industries to provide for themselves protection services to meet their special needs.

D. WEST MAUI COMMUNITY PLAN

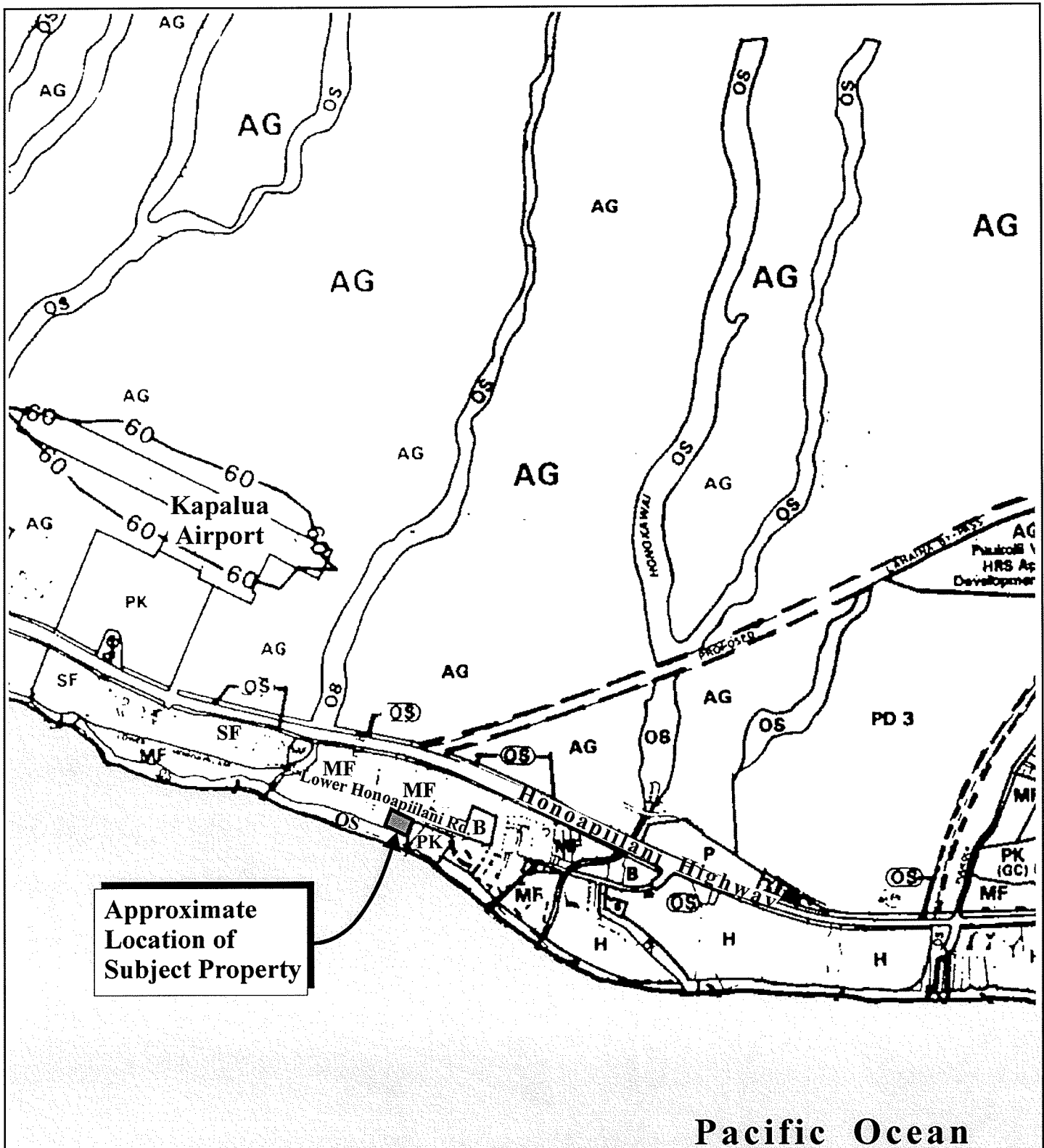
Within Maui County, there are nine (9) Community Plan regions. From a General Plan implementation standpoint, each region is governed by a Community Plan which sets forth desired land use patterns, as well as goals, objectives, policies, and implementing actions for a number of functional areas including infrastructure-related parameters. The subject property is located within the West Maui Community Plan region.

The Hale Kai condominium property is located on lands designated as “Multi-Family Residential” in the West Maui Community Plan. The portion of the seawall/revetment structure which has been determined to be encroaching on State lands is designated as “Open Space” in the community plan. See **Figure 17**.

As previously mentioned, the 1998/2004 improvements are located on a portion of the seawall that has been determined to fall within the State Land Use Conservation District. Lands within the Conservation District fall within the purview of the Department of Land and Natural Resources. As noted previously, the subject actions will require a CDUP approval from the BLNR.

E. COUNTY ZONING

The Hale Kai property is zoned “A-2 Apartment” by the County of Maui. The existing condominium complex located on the subject property is consistent with the provisions set forth by this zoning category. The seawall/revetment is ancillary to the



Source: West Maui Community Plan, 1996

Figure 17 After-the-Fact Permitting for Improvements to Existing Seawall/Revetment
 NOT TO SCALE
 Community Plan Designation Map



Prepared for: Hale Kai Association of Apartment Owners

MUNEKIYO & HIRAGA, INC.

existing multi-family residential use present on the property. The 1998/2004 improvements were limited to the completion of repair and maintenance work to an existing non-conforming seawall/revetment structure that provides protection to the existing Hale Kai condominium. The portion of the existing seawall/revetment, upon which the 1998/2004 improvements were completed, falls within State-owned Conservation District beach lands. As such, there is no County zoning designation for these lands. As previously stated, a CDUA will be processed by OCCL to request that these improvements be retained in place on the existing shoreline protection structure.

F. SPECIAL MANAGEMENT AREA OBJECTIVES AND POLICIES

The Special Management Area (SMA) is defined by Chapter 205A, Hawaii Revised Statutes (HRS) as "land extending inland from the shoreline as delineated on the maps filed with the authority as of June 8, 1977, or as amended pursuant to Section 205A-23".

The Hale Kai property is located within the County of Maui's SMA as it falls inland (mauka) of the shoreline. However, the 1998/2004 improvements have been determined by the BLNR to be located on a portion of the existing seawall/revetment that falls on the makai side of the shoreline outside of the SMA. Refer to **Appendix "B"** and **Appendix "B-1"**. Accordingly, the subject improvements are under the jurisdiction of the DLNR. As such, a SMA approval for the subject actions will not be required as part of this CDUA. A copy of the after-the-fact approval letter for the improvements deemed (at the May 28, 2008 BLNR meeting) to fall within the SMA is provided in **Appendix "F"**.

Given the proximity the subject improvements to the SMA, an evaluation with respect to the SMA objectives, policies, and guidelines has been completed as part of this EA. This section addresses the subject improvements as related to applicable coastal zone management considerations, as set forth in Chapter 205A, HRS and the Rules and Regulations of the Maui Planning Commission.

(1) Recreational Resources

Objective:

Provide coastal recreational opportunities accessible to the public.

Policies:

- (A) Improve coordination and funding of coastal recreational planning and management; and
- (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
 - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
 - (ii) Requiring replacement of coastal resources having significant recreational value including, but not limited to, surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the state for recreation when replacement is not feasible or desirable;
 - (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
 - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
 - (v) Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
 - (vi) Adopting water quality standards and regulating point and non-point sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
 - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
 - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting such dedication against the requirements of Section 46-6, HRS.

Response: The 1998/2004 improvements entailed the repair and maintenance of an

existing non-conforming seawall/revetment structure. These repair and maintenance improvements did not intensify the use of the seawall/revetment. As such, the subject actions will not impact existing recreational resources in the area.

(2) **Historic Resources**

Objective: Protect, preserve and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

Policies:

- (A) Identify and analyze significant archeological resources;
- (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
- (C) Support state goals for protection, restoration, interpretation, and display of historic resources.

Response: The subject property has undergone extensive ground altering work, which was completed during construction of the seawall/revetment and the development (1965) of the Hale Kai condominium buildings and swimming pool, all prior to the completion of the 1998/2004 improvements. The subject improvements were limited to the repair and maintenance of the existing seawall/revetment structure and, as such, did not involve the use of any previously undeveloped lands. There are no historic buildings or sites on or in the vicinity of the property that would be impacted by the subject actions.

(3) **Scenic and Open Space Resources**

Objective: Protect, preserve and, where desirable, restore or improve the quality of coastal scenic and open space resources.

Policies:

- (A) Identify valued scenic resources in the coastal zone management area;
- (B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;

- (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
- (D) Encourage those developments that are not coastal dependent to locate in inland areas.

Response: The project area is not located within a significant coastal view corridor. Although the Hale Kai condominium is located on a shore-fronting property makai of Lower Honoapiilani Road, the 1998/2004 improvements did not raise the height of the existing seawall/revetment structure. As such, the subject actions will not result in adverse impacts to shoreline views or open space resources. The view to the shoreline from areas mauka of Lower Honoapiilani Road is limited by existing residential developments along the shoreline.

(4) **Coastal Ecosystems**

Objective: Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.

Policies:

- (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
- (B) Improve the technical basis for natural resource management;
- (C) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
- (D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
- (E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures.

Response: The 1998/2004 improvements were limited in scope to the repair and maintenance of an existing non-conforming seawall/revetment structure which provides protection to the existing condominium buildings from high surf and waves associated with storm conditions. Additionally, the 1998 improvements were

separated from nearshore waters along the shoreline by the lower reaches of the existing revetment structure, which serves to reduce terrigenous inputs or clay substrate into the local marine environment. The 1998 and 2004 actions did not intensify the use of the existing seawall/revetment. As such, the subject actions will not significantly impact coastal ecosystems.

(5) **Economic Uses**

Objective: Provide public or private facilities and improvements important to the State's economy in suitable locations.

Policies:

- (A) Concentrate coastal dependent development in appropriate areas;
- (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
- (C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
 - (i) Use of presently designated locations is not feasible;
 - (ii) Adverse environmental effects are minimized; and
 - (iii) The development is important to the State's economy.

Response: The 1998/2004 improvements provided short-term employment opportunities during the completion of the repair and maintenance work. There are no significant adverse economic impacts associated with the subject actions. The existing seawall/revetment structure protects the Hale Kai property from high surf and waves associated with passing hurricanes and other severe storms. The continued presence of seawall/revetment is critical toward ensuring the economic viability of the condominium units for residential purposes.

(6) **Coastal Hazards**

Objective: Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.

Policies:

- (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
- (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint pollution hazards;
- (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program; and
- (D) Prevent coastal flooding from inland projects.

Response: According to the Flood Insurance Rate Map for the area, the subject property is located in the VE, AE, and X Flood Zones. The portion of the existing seawall/revetment that was subject to the 1998/2004 repair and maintenance work is located in Flood Zone VE, an area subject to coastal flooding from storm wave action. The existing seawall/revetment reduces the susceptibility of the Hale Kai property to coastal erosion and protects the existing condominium structures from high surf and waves associated with passing hurricanes and other severe storms. The repair work was completed to maintain the structural integrity of the existing seawall/revetment. The subject actions are, therefore, deemed necessary toward ensuring the continued protection of the Hale Kai property from flooding and wave related coastal hazards.

(7) **Managing Development**

Objective: Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

Policies:

- (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;
- (B) Facilitate timely processing of applications for development permits and resolve overlapping of conflicting permit requirements; and

- (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process.

Response: The Hawaii Revised Statutes, Chapter 343, environmental review and process described in Chapter I, Section D of this report provides opportunities for public review and participation. Additional public review and participation will occur during the processing of the Conservation District Use Application (CDUA) for the subject actions.

(8) **Public Participation**

Objective: Stimulate public awareness, education, and participation in coastal management.

Policies:

- (A) Promote public involvement in coastal zone management processes;
- (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities; and
- (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.

Response: As previously noted, public awareness of the project is being promoted through the HRS, Chapter 343 environmental review and the processing of a CDUA for the subject actions. The subject actions are not contrary to the objectives of public awareness, education and participation.

(9) **Beach Protection**

Objective: Protect beaches for public use and recreation.

Policies:

- (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize

loss of improvements due to erosion;

- (B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
- (C) Minimize the construction of public erosion-protection structures seaward of the shoreline.

Response: The 1998/2004 improvements were limited in scope to the completion of repair and maintenance work on an existing non-conforming seawall/revetment structure at the subject property. It did not include the construction of any new structures, nor did it intensify the use of the existing seawall/revetment. As such, the subject actions are not expected to significantly affect the beach processes in the area.

(10) **Marine Resources**

Objective: Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

Policies:

- (A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
- (B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;
- (C) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
- (D) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
- (E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.

Response: The 1998/2004 improvements consisted of the repair and maintenance of an existing non-conforming shoreline protection structure. This work did not

intensify the use of the existing seawall/revetment. As such, the subject actions will not result in significant adverse impacts on marine resources in the area.

In addition to the foregoing objectives and policies, SMA permit review criteria pursuant to Act 224 (2005) provide that:

No special management area use permit or special management area minor permit shall be granted for structures that allow artificial light from floodlights, uplights, or spotlights used for decorative or aesthetic purposes when the light:

- (1) *Directly illuminates the shoreline and ocean waters; or*
- (2) *Is directed to travel across property boundaries toward the shoreline and ocean waters.*

Response: The 1998/2004 improvements did not involve or result in the direct illumination of the shoreline or ocean waters. As such, the subject actions will not result in direct light traveling across property boundaries towards the shoreline.

G. OTHER AFTER-THE-FACT PERMITTING REQUIREMENTS

The Hale Kai condominium property is a shore-fronting parcel. As noted previously, a portion of the existing non-conforming seawall/revetment structure has been determined by the BLNR to be located makai of the shoreline. Refer to **Appendix “B”** and **Appendix “B-1”**. Thus, the seawall/revetment is partially (makai of the shoreline) under the jurisdiction of the State of Hawaii, and partially (mauka of the shoreline) under the jurisdiction of the County of Maui. The subject improvements (completed in 1998 and 2004) have been determined to have occurred on a portion of the seawall/revetment located on the makai side of the shoreline in the Conservation District, an area under the jurisdiction of the DLNR. The Hale Kai AOA is, therefore, proceeding in accordance with the Conservation District rules to request a Conservation District Use Permit from the BLNR for the subject actions to ensure the continued functionality and structural integrity of the existing seawall/revetment.

The applicant has also been in coordination with the County of Maui, Department of Planning to address permitting requirements for the after-the-fact improvements that were identified (at the May 28, 2008 BLNR meeting) to have been completed within the County of Maui’s jurisdiction. Copies of these approval letters are presented in **Appendix “F”**.

Hale Kai AOA is also in the process of addressing applicable after-the-fact Department of the Army (DA) Federal permitting requirements for the 1998/2004 improvements with the DA, Corps of Engineers, Regulatory Branch.

IV. ALTERNATIVES TO THE PROPOSED ACTION

IV. ALTERNATIVES TO THE PROPOSED ACTION

A. RETAIN IN PLACE ALTERNATIVE

The Honokowai area has a history of shoreline erosion, and the existing condominium buildings (constructed in 1965) are located in close proximity to the shoreline. The existing seawall/revetment structure fronting the property provides protection for both the buildings and the swimming pool from erosion hazards and high wave conditions associated with passing hurricanes and other severe storms. Periodic repair and maintenance work to preserve the structural integrity of the seawall/revetment has been necessary, since development of the condominium at the property, to ensure the continued reliable performance of the structure.

The Retain In Place Alternative, which is the preferred alternative, entails leaving the 1998 and 2004 repair and maintenance improvements in place upon the completion of the after-the-fact permitting process. The improvements conducted in 1998 entailed the widening of a pre-existing erosion channel running behind and mauka of the existing boulder revetment, as well as the placement of various sized rocks and boulders into the trench to stabilize the affected area. Refer to **Figure 10** and **Figure 11**. The 2004 improvements consisted of the reapplication of cement grouting to several boulders that were breaking away from a small area of the structure. Refer to **Figure 12**. Both the 1998 and 2004 improvements were intended to maintain the structural integrity of the seawall/revetment so that it could continue to provide protection for the Hale Kai condominium and its residents from high surf associated with hurricanes and other severe storms.

This alternative represents the most practical and least environmentally intrusive alternative given the current status and location of the existing seawall/revetment and the proximity of buildings and the swimming pool to the immediate shoreline area.

B. REMOVAL OF SUBJECT IMPROVEMENTS ALTERNATIVE

The removal of the subject improvements would significantly reduce the structural integrity and performance of the seawall/revetment structure and expose the Hale Kai condominium and its residents to a greater threat from storms and erosion and the potential for the shoreline protection structure to eventually fail. Additionally, the removal of the subject improvements would not create any additional benefit to the environment or remove any harm to the environment. Based on the foregoing, the removal of the subject improvements alternative is not preferred.

C. STRUCTURE REDESIGN ALTERNATIVE

The redesign of the seawall/revetment structure would consist of the replacement of the existing structure and would involve design and construction costs estimated to be in the region of \$1.6 million. This alternative would better provide long-term protection to the condominium; however, it would compromise the closest residential building to the shoreline which is less than 10 feet from the upper reaches of the existing seawall/revetment. This alternative would also result in additional construction-related impacts being imposed on the local environment. While this alternative is being evaluated by the applicant as a long-term solution to the progressive deterioration of the existing seawall/revetment structure, it is not deemed practical as an immediate solution to the after-the-fact permit request at hand.

**V. SUMMARY OF
ADVERSE
ENVIRONMENTAL
EFFECTS WHICH
CANNOT BE AVOIDED**

V. SUMMARY OF ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

Retaining the 1998/2004 improvements in place on the existing seawall/revetment structure involves the least adverse environmental impacts of the possible alternatives and represents the most practical course of action given the location of the existing seawall/revetment in relation to the buildings and swimming pool at the Hale Kai property. As a repair and maintenance action, the 1998/2004 improvements did not intensify the use of the existing shoreline protection structure which was constructed prior to the 1965 development of the Hale Kai condominium. Adverse environmental impacts associated with the subject improvements were limited to short-term noise and air quality impacts. These short-term, construction-related impacts were confined to the immediate area of the improvements of which was separated from nearshore waters by the lower reaches of the existing seawall/revetment structure. The subject actions, therefore, are not considered to create any significant long-term adverse impacts on the environment.

**VI. IRREVERSIBLE AND
IRRETRIEVABLE
COMMITMENTS OF
RESOURCES**

VI. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

The completion of the 1998/2004 improvements resulted in the irreversible and irretrievable commitment of private fiscal resources. The subject improvements did not result in the commitment of any additional land resources as the improvements were confined to the existing seawall/revetment structure fronting the Hale Kai condominium property. It is, however, noted that the portion of the existing seawall/revetment upon which the 1998/2004 improvements were completed has been determined to fall within State-owned beach lands and will require the acquisition of a non-exclusive easement from the State of Hawaii. Other resource commitments included energy, labor, and material resources. The commitment of these resources is considered appropriate when evaluating the benefits of the subject actions versus the consequence of taking no action.

VII. SIGNIFICANCE CRITERIA ASSESSMENT

VII. SIGNIFICANCE CRITERIA ASSESSMENT

The subject actions, consequences (both primary and secondary), and the cumulative as well as the short-term and long-term effects of the action have been evaluated in accordance with the Significance Criteria of Section 11-200-12 of the Hawaii Administrative Rules. Discussion of project conformance to the criteria is noted as follows:

1. **No Irrevocable Commitment to Loss or Destruction of Any Natural or Cultural Resource Would Occur as a Result of the Proposed Project**

The 1998/2004 improvements consisted of repair and maintenance work on an existing seawall/revetment structure fronting the Hale Kai condominium property. It did not intensify the use of the existing shoreline protection structure. Accordingly, the subject actions are not considered to present any significant adverse impacts on known habitats of rare, endangered, or threatened species of flora or fauna. The 1998/2004 repair and maintenance work was performed in a previously disturbed area, within the confines of the existing seawall/revetment. As such, the subject actions are not anticipated to result in adverse impacts on archaeological or cultural resources.

2. **The Proposed Action Would Not Curtail the Range of Beneficial Uses of the Environment**

The 1998/2004 improvements, consisting of repair and maintenance work to an existing non-conforming seawall/revetment structure, are not considered to have curtailed the range of beneficial uses of the environment. As such, the subject actions will not result in the generation of adverse impacts to the environment.

3. **The Proposed Action Does Not Conflict With the State's Long-Term Environmental Policies or Goals or Guidelines as Expressed in Chapter 344, HRS**

The State Environmental Policy and Guidelines are set forth in Chapter 344, HRS. The subject actions are in consonance with those policies and guidelines.

4. **The Economic or Social Welfare of the Community or State Would Not Be Substantially Affected**

The completion of the 1998/2004 improvements provided a short-term benefit to the local economy by providing construction-related employment. In the long term, the subject actions and the continued performance of the seawall/revetment will have a beneficial impact on the welfare of the residents living at the Hale Kai condominium by protecting the existing buildings and ancillary structures from health and safety hazards due to storm wave action.

5. **The Proposed Action Does Not Affect Public Health**

The subject actions are not anticipated to have significant adverse impacts on public health. The completion of the 1998/2004 improvements provided the positive impact of ensuring the continued performance of the existing seawall/revetment structure to protect Hale Kai residents from flooding and other storm and wave-related hazards.

6. **No Substantial Secondary Impacts, Such as Population Changes or Effects on Public Facilities, are Anticipated**

The subject actions are not a source of new population in the region, and do not accommodate any new growth in the vicinity of the subject property. In this regard, the subject actions are not considered to present adverse impacts to public services in the region, such as schools, police, and fire protection.

7. **No Substantial Degradation of Environmental Quality is Anticipated**

There were short-term construction-related impacts (air and noise) generated during the construction phase of the 1998/2004 improvements. From a long-term standpoint, the subject actions will not result in significant adverse impacts on the environmental quality of the area.

8. **The Proposed Action Does Not Involve a Commitment to Larger Actions, Nor Would Cumulative Impacts Result in Considerable Effects On the Environment**

The subject actions do not involve a commitment to larger actions nor do they result in cumulative impacts on the environment. As repair and maintenance to an existing seawall/revetment structure, the 1998/2004 improvements did not intensify the existing use of the shoreline fronting the Hale Kai property.

9. **No Rare, Threatened or Endangered Species or Their Habitats Would be Adversely Affected By The Proposed Action**

There are no known rare, threatened, or endangered species or flora, fauna, nor habitats of such within the project area.

10. **Air Quality, Water Quality or Ambient Noise Levels Would Not Be Detrimentially Affected By the Proposed Project**

Construction activities resulted in short-term air and noise impacts which would have confined to the immediate area of the 1998/2004 repair and maintenance work. Given that the scope of work was limited to repair and maintenance improvements to an existing seawall/revetment structure, the subject actions are not anticipated to present any long-term significant impacts to air quality, water quality, or ambient noise parameters.

11. **The Proposed Project Would Not Affect Environmentally Sensitive Areas, Such As Flood Plains, Tsunami Zones, Erosion-prone Areas, Geologically Hazardous Lands, Estuaries, Fresh Waters or Coastal Waters**

The 1998/2004 improvements were intended to maintain the structural integrity of the existing non-conforming seawall/revetment in order to protect the subject property from the ongoing threat of shoreline erosion and flooding and tsunami hazards. The work was limited to the repair and maintenance to the existing shoreline protection structure and did not expand the existing area of use. The subject actions will, therefore, not increase the threat of any natural hazards or cause any significant adverse impacts to environmentally sensitive areas.

12. **The Proposed Project Will Not Substantially Affect Scenic Vistas and Viewplanes Identified in County or State Plans or Studies**

The 1998/2004 improvements did not increase the height or significantly change the physical appearance of the existing seawall/revetment structure. As such, the subject actions will not change or present any significant impacts to scenic vistas or viewplanes. Views to the shoreline from Lower Honoapiilani Road are currently obstructed by the existing residential development in the area, except along Honokowai Beach Park to the south where views through the park to the Pacific Ocean are available.

13. The Proposed Project Will Not require Substantial Energy Consumption

The 1998/2004 improvements involved a small commitment of energy resources during the construction of the repair and maintenance improvements. The subject actions will not create any additional energy demand.

Based on the foregoing analysis, the subject actions will be filed as a Finding of No Significant Impact (FONSI).

VIII. LIST OF PERMITS AND APPROVALS

VIII. LIST OF PERMITS AND APPROVALS

County of Maui after-the-fact requirements have been fulfilled, as previously stated. See **Appendix “F”** for copies of the approvals from the County of Maui. The following Federal and State permits and approvals are required for the subject actions:

Federal Government

1. After-the-fact Department of Army (DA) Permit (Section 10 only)

State of Hawaii

1. Finding of No Significance Impact (FONSI) (Office of Conservation and Coastal Lands)
2. Conservation District Use Permit (Board of Land and Natural Resources)
3. Non-exclusive Easement for Portion of Seawall Encroaching onto State Beach Lands (Department of Land and Natural Resources)

**IX. PARTIES
CONSULTED DURING THE
PREPARATION OF THE
DRAFT ENVIRONMENTAL
ASSESSMENT, LETTERS
RECEIVED AND
RESPONSES TO
SUBSTANTIVE
COMMENTS**

IX. PARTIES CONSULTED DURING THE PREPARATION OF THE DRAFT ENVIRONMENTAL ASSESSMENT, LETTERS RECEIVED AND RESPONSES TO SUBSTANTIVE COMMENTS

- | | |
|---|--|
| <p>1. George Young
Chief, Regulatory Branch
U.S. Department of the Army
U.S. Army Engineer District, Honolulu
Regulatory Branch
Building 230
Fort Shafter, Hawaii 96858-5440</p> | <p>7. Alec Wong, P.E., Chief
Clean Water Branch
State of Hawaii
Department of Health
919 Ala Moana Blvd., Room 300
Honolulu, Hawaii 96814</p> |
| <p>2. Patrick Leonard
Field Supervisor
U. S. Fish and Wildlife Service
300 Ala Moana Blvd., Rm. 3-122
Box 50088
Honolulu, Hawaii 96813</p> | <p>8. Patti Kitkowski
Acting District Environmental Health
Program Chief
State of Hawaii
Department of Health
54 High Street
Wailuku, Hawaii 96793</p> |
| <p>3. Russ K. Saito, State Comptroller
Department of Accounting and General
Services
1151 Punchbowl Street, #426
Honolulu, Hawaii 96813</p> | <p>9. Laura Thielen, Chairperson
State of Hawaii
Department of Land and Natural
Resources
P. O. Box 621
Honolulu, Hawaii 96809</p> |
| <p>4. Theodore E. Liu, Director
State of Hawaii
Department of Business, Economic
Development & Tourism
P.O. Box 2359
Honolulu, Hawaii 96804</p> | <p>10. Dr. Puaalaokalani Aiu, Administrator
State of Hawaii
Department of Land and Natural
Resources
State Historic Preservation Division
601 Kamokila Blvd., Room 555
Kapolei, Hawaii 96707</p> |
| <p>5. Kaulana Park, Chairman
Department of Hawaiian Home Lands
P. O. Box 1879
Honolulu, Hawaii 96805</p> | <p>11. Major General Robert G.S. Lee, Director
Hawaii State Civil Defense
3949 Diamond Head Road
Honolulu, Hawaii 96816-4495</p> |
| <p>6. Chiyome Fukino, M.D., Director
State of Hawaii
Department of Health
919 Ala Moana Blvd., Room 300
Honolulu, Hawaii 96814</p> | <p>12. Katherine Kealoha, Director
Office Of Environmental Quality Control
235 S. Beretania Street, Suite 702
Honolulu, Hawaii 96813</p> |

13. Clyde Nāmuo, Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, Hawaii 96813
14. Abbey Seth Mayer, Director
State of Hawaii
Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804
15. Gen Iinuma, Administrator
Maui Civil Defense Agency
200 South High Street
Wailuku, Hawaii 96793
16. Jeffrey A. Murray, Fire Chief
County of Maui
**Department of Fire
and Public Safety**
200 Dairy Road
Kahului, Hawaii 96732
17. Tamara Horcajo, Director
County of Maui
Department of Parks and Recreation
700 Halia Nakoā Street, Unit 2
Wailuku, Hawaii 96793
18. Jeffrey Hunt, Director
County of Maui
Department of Planning
250 South High Street
Wailuku, Hawaii 96793
19. Gary Yabuta, Chief
County of Maui
Police Department
55 Mahalani Street
Wailuku, Hawaii 96793
20. Milton Arakawa, Director
County of Maui
Department of Public Works
200 South High Street
Wailuku, Hawaii 96793
21. Cheryl Okuma, Director
County of Maui
Department of Environmental Management
One Main Plaza
2200 Main Street, Suite 100
Wailuku, Hawaii 96793
22. Zeke Kalua, Executive Director
West Maui Taxpayers Association
P.O. Box 10338
Lahaina, Hawaii 96761



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

JAN 29 2010

REPLY TO
ATTENTION OF:

January 27, 2010

Regulatory Branch

File No. POH-2009-00305

Mark Alexander Roy, AICP
Project Manager
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, HI 96793

Dear Mr. Roy:

This responds to your request for written comments for a draft Environmental Assessment (dEA) which will address the impacts of After-the-Fact (ATF) maintenance repairs for a seawall/revetment located at the Hale Kai Condominium property (TMK: 244001042), Honokowai, Maui.

These Corps comments are provided with respect to our permit authorities of Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act of 1899 (Section 10). 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). For regulatory purposes, the area of Corps jurisdiction under Section 404 extends shoreward to the high tide line for the waters contiguous to Hale Kai. The term "high tide" includes spring high tides and other high tides that occur with periodic frequency, but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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.

The completed work is currently subject to evaluation and authorization as an ATF Conservation District Use Application (CDUA) with the Office of Conservation and Coastal Lands (OCCL), Department of Land and Natural Resources. The work performed consisted of the widening of an upland erosion channel landward of the existing seawall revetment to an upland landscaping wall and the placement of fill material consisting of gravels, cobbles, boulders, and concrete from atop the seawall to the upland landscaping wall. This portion of the

work is not subject to regulation by the Corps as it above the high tide line and on uplands. The other work under CDUA review consisted of grouting spaces between the boulders of the existing seawall revetment. Several of the spaces were within the horizontal plane of the high tide line.

Under Section 404 of the Clean Water Act (CWA), activities for the repair of a serviceable seawall or rock revetment which may result in the minimal discharge of fill material into waters of the U.S. qualify as a maintenance exemption not subject to a Department of Army (DA) permit [Section 404(f)(1)(C), codified at 33 USC 1344(f)(1)(C) and 33 CFR Part 323.4(a)(2) of the Corps' administrative regulations]. The Corps therefore determines that the grouting work completed is a minor discharge for the maintenance and repair of the seawall and is not prohibited or otherwise subject to regulation under Section 404, CWA.

However, under Section 10 of the Rivers and Harbors Act of 1899 (RHA) the completed location of grouting repairs to the existing seawall has occurred below the horizontal plane of the mean high water mark and is therefore within navigable waters of the U.S.. The seawall grouting repairs will therefore require an ATF DA permit under the Corps' administrative regulations at 33 CFR Parts 322.5a and 330. When received, the Corps will consider the use of Nationwide Permit #3 (Maintenance)(Section 10 only) to authorize this as an ATF repair of the Hale Kai Condominium seawall revetment.

This application would be processed in accordance with the Corps Nationwide Permit (NWP) authority at 33 CFR Part 330, Appendix A, the March 12, 2007 (72 FR 11092) Notice of Issuance of Nationwide Permits, Paragraph B.3 (NWP#3, Maintenance), Paragraph C (General Conditions), and the Honolulu Engineer District Regional General Conditions for Nationwide Permits (approved May 14, 2007). Additional Special Conditions may also be stipulated as the result of our interagency consultation process.

If you require additional information or have further questions, you may call Mr. Farley Watanabe at (808)438-7701, by fax at (808)438-4060, or Farley.K.Watanabe@usace.army.mil. Please refer to File Number POH-2009-00305 in any future correspondence with us.

Sincerely,



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

Copy furnished:

John Nakagawa, Office of Planning, CZM Program, P.O. Box 2359, Honolulu, HI 96804
Alec Wong, Clean Water Branch, State DOH, P. O. Box 3378, Honolulu, HI 96801
Administrator, Division of Aquatic Resources, DLNR, P.O. Box 621, Honolulu, HI 96809
Administrator, Office of Conservation & Coastal Lands, DLNR, P.O. Box 621, Honolulu, HI 96809
Milton Arakawa, Director, DPW, County of Maui, 200 South High Street, Wailuku, Maui, HI 96793



MICHAEL T. MUNEKIYO
GWEN OHASHI HIRAGA
MITSURU "MICH" HIRANO
KARLYNN FUKUDA

MARK ALEXANDER ROY

March 29, 2010

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

SUBJECT: Preparation of Draft Environmental Assessment and Conservation District Use Application for After-The-Fact Permitting for Improvements to Seawall/Revetment in Vicinity of Hale Kai Condominium, TMK (2)4-4-001:042, Honokowai, Maui, Hawaii (POH-2009-00305)

Dear Mr. Young:

Thank you for your letter, dated January 27 2010, responding to our Chapter 343, Hawaii Revised Statutes (HRS) early consultation request for the subject project. On behalf of the applicant, Hale Kai Association of Apartment Owners (AOAO), we offer the following information in response to the comments noted in your letter:

- 1) We note the determination that the 1998 boulder repair and maintenance work to the existing seawall/revetment is not subject to regulation by the Department of Army (DA) as it occurred above the high tide line.
- 2) We also note the determination that the 2004 cement grouting repair and maintenance work to the existing seawall/revetment qualifies as a maintenance exemption (minor discharge) and is not prohibited or otherwise subject to regulation under Section 404 of the Clean Water Act (CWA).

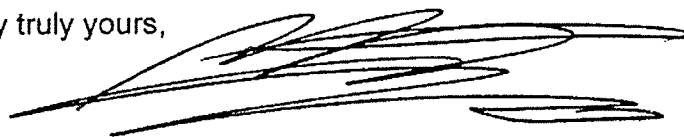
George P. Young, P.E. Chief
March 29, 2010
Page 2

- 3) We further note the determination that the 2004 cement grouting repair and maintenance work occurred below the horizontal plane of the mean high water mark and is, therefore, within navigable waters of the United States. We understand from your letter that an After-The-Fact (ATF) DA permit will need to be processed by your office for the 2004 cement grouting work in accordance with Section 10 of the Rivers and Harbors Act of 1899 (RHA). We further note your comment that the ATF Section 10 DA Permit will be processed as a Nationwide Permit (NWP) #3 (Maintenance) (Section 10 only) in accordance with the Corps Nationwide Permit Authority (33 Code of Federal Regulations, Part 330, Appendix A), the March 12, 2007 Notice of Issuance of Nationwide Permits (NWP #3, Maintenance and General Conditions) and the Honolulu Engineer District Regional General Conditions for Nationwide Permits (approved May 14, 2007).

The necessary ATF Section 10 DA Permit application will be submitted to your office for processing as part of the ongoing Conservation District Use Application process for the subject project.

We appreciate the input provided by your office. Should you have any questions, please do not hesitate to contact me at (808) 244-2015.

Very truly yours,



Mark Alexander Roy, AICP
Project Manager

MAR:tn

Cc: Dawn Hegger, DLNR Office of Conservation and Coastal Lands
Roberta Donnelly, Hale Kai AOA

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LINDA LINGLE
GOVERNOR



OCT 19 2009

RUSS K. SAITO
Comptroller

SANDRA L. YAHIRO
Deputy Comptroller

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

October 13, 2009

Mr. Mark Alexander Roy, AICP, Project Manager
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793


Dear Mr. Roy:

Subject: After-The-Fact Permitting for Improvements to Existing
Seawall/Revetment in Vicinity of Hale Kai Condominium,
TMK (2) 4-4-001:042, Honokowai, Maui, Hawaii (OCCL
ENF: MA-08-30)

This letter responds to your letter dated October 2, 2009 requesting comments for after-the-fact permitting for the seawall/revetment fronting Hale Kai Condominium. In your letter, you indicate that the subject improvements were determined to be located makai of the shoreline and outside of the limits of the subject property and are therefore encroaching onto State of Hawaii property. This encroachment should be resolved with the Department of Land and Natural Resources (DLNR), Land Division in conjunction with the after-the-fact permit.

Our records do not indicate a shoreline ever being certified for the subject property. If a certified shoreline is required as part of the Conservation District Use Application (CDUA), the encroachment and enforcement action must first be resolved in compliance with Hawaii Administrative Rules Section 13-222-19.

Should you have any questions on this matter, please call Reid Siarot, State Land Surveyor at 586-0390.


RUSS K. SAITO
State Comptroller



MICHAEL T. MUNEKIYO
GWEN OHASHI HIRAGA
MITSURU "MICH" HIRANO
KARLYNN FUKUDA

MARK ALEXANDER ROY

March 29, 2010

Russ K. Saito, State Comptroller
Attention: Reid Siarot, State Land Surveyor
Department of Accounting and General Services
State of Hawaii
P.O. Box 119
Honolulu, Hawaii 96810-0119

SUBJECT: Preparation of Draft Environmental Assessment and Conservation District Use Application for After-The-Fact Permitting for Improvements to Seawall/Revetment In Vicinity of Hale Kai Condominium, TMK (2)4-4-001:042, Honokowai, Maui, Hawaii
(OCCL ENF: MA-08-30)

Dear Mr. Saito:

Thank you for your letter, dated October 13, 2009, responding to our Chapter 343, Hawaii Revised Statutes (HRS) early consultation request for the subject project.

On behalf of the Hale Kai Association of Apartment Owners (AOAO), we offer the following information in response to the comments noted in your letter:

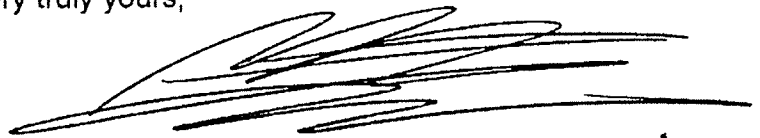
1. The existing seawall/revetment structure along the seaward (makai) side of the subject property was constructed over 45 years ago in the early 1960's prior to the development of the Hale Kai condominium in 1965. The portion of the seawall/revetment structure upon which the subject repair and maintenance improvements are located has been determined by the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) and the Board of Land and Natural Resources (BLNR) to fall within the State-owned Conservation District lands. Coordination will be undertaken with the DLNR Land Division as part of the after-the-fact Conservation District Use Application (CDUA) process to address applicable requirements for any encroachments on State-owned lands.
2. As is the case with many shoreline properties along the coast of Kaanapali, the shoreline directly fronting the property has been hardened with a seawall/revetment structure. This structure, a non-conforming use, has protected the existing condominium buildings on the subject property from erosion for over

Russ K. Saito, State Comptroller
March 29, 2010
Page 2

45 years, since development of the property in 1965. The closest building on the property is approximately 10 feet from the upper extent of the revetment. Given the fixed nature of the shoreline in this area and the continued operation of the existing seawall/revetment structure at this location, coordination with OCCL will be undertaken during the CDUA process to address applicable shoreline certification requirements for the after-the-fact permitting request.

We appreciate the input provided by your office. Should you have any questions, please do not hesitate to contact me at (808) 244-2015.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark Alexander Roy', with several horizontal strokes underneath.

Mark Alexander Roy, AICP
Project Manager

MAR:tn

Cc: Dawn Hegger, DLNR, Office of Conservation and Coastal Lands
Roberta Donnelly, Hale Kai AOO

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OCT 16 2009

LINDA LINGLE
GOVERNOR

MAJOR GENERAL ROBERT G. F. LEE
DIRECTOR OF CIVIL DEFENSE

EDWARD T. TEIXEIRA
VICE DIRECTOR OF CIVIL DEFENSE



PHONE (808) 733-4300
FAX (808) 733-4287

STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE DIRECTOR OF CIVIL DEFENSE
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4495

October 15, 2009

Mr. Mark Alexander Roy, AICP
Project Manager
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Roy:

After-The-Fact Permitting for Improvements to Existing
Seawall/Revetment in Vicinity of Hale Kai Condomium, TMK (2)4-4-
001:042, Honokowai, Maui, Hawaii, (OCCL ENF:MA-08-30)

Thank you for the opportunity to comment on this important project. We will make appropriate comments upon review of the Draft Environmental Assessment.

If you have any questions, please contact Mr. Larry Kanda or Mr. Ed Teixeira at 733-4301.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward T. Teixeira".

EDWARD T. TEIXEIRA
Vice Director of Civil Defense

OCT 13 2009

LINDA LINGLE
GOVERNOR
STATE OF HAWAII



KAULANA H. R. PARK
CHAIRMAN
HAWAIIAN HOMES COMMISSION

ANITA S. WONG
DEPUTY TO THE CHAIRMAN

ROBERT J. HALL
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

October 8, 2009

Mr. Mark Alexander Roy, AICP
Project Manager
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Roy:

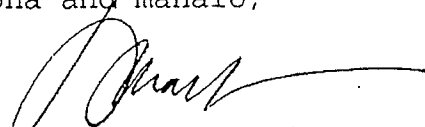
Subject: Hale Kai Seawall Improvements, Tax Map Key
No. (2) 4-4-001:042, Island of Maui

Thank you for the information regarding the Hale Kai's after-the-fact permit request and preparation of an environmental assessment (EA). Apparently several years ago, the Hale Kai AOA completed unauthorized improvements to an existing seawall makai of the shoreline that is fronting their buildings and pool area. The Hale Kai condominium complex is situated across Honoapiilani Highway from Hawaiian home lands.

We have determined that the unpermitted work completed by the AOA as well as the after-the-fact permitting process has no impact on Hawaiian Home Lands and therefore we have no comment.

Should you or the Hale Kai AOA require any information from the Department of Hawaiian Home Lands, please contact Carolyn Darr, Land Agent, Land Management Division, 808-620-9457 or email carolyn.i.darr@hawaii.gov.

Aloha and mahalo,


Linda Chinn, Administrator
Land Management Division

OCT 27 2009

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

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

In reply, please refer to:
DOI/CWII

10056CIC.09

October 22, 2009

Mr. Mark Alexander Roy, AICP
Project Manager
Munekiyō & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Roy:

**SUBJECT: Early Consultation Comments for the Preparation of a Draft Environmental Assessment (DEA) and for an Application for the After-The-Fact (ATF) Conservation District Use Permit (CDUP) for Hale Kai Condominium Seawall/Revetment Repairs on 1998 and 2004 Honokowai, Island of Maui, Hawaii
OCCL File No. ENF: MA-08-30
TMK: (2) 4-4-001:042**

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your letter, dated October 2, 2009, requesting early consultation comments for the subject project in accordance with Hawaii Revised Statutes (HRS), Chapter 343. The DOH, Office of Environmental Quality Control (OEQC) administers HRS, Chapter 343, through the implementation of Hawaii Administrative Rules (HAR), Chapter 11-200 (Environmental Impact Statement Rules). Please contact the DOH, OEQC at the address below:

Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, Hawaii 96813
Ph. 586-4185
Fax. 586-4186
Email: oeqc@doh.hawaii.gov

The DOH-CWB administers HAR, Chapters 11-54 and 11-55. We have read your letter and are offering, based on the limited information, the following general comments on your project. Please note that our review is based solely on the information provided in your letter of October 2, 2009, and HAR, Chapters 11-54 and 11-55. The Applicant, Hale Kai Association of Apartment Owners (AOAO), may be responsible for fulfilling additional requirements related to our program. We recommend that you also read our standard comments on our website at: <http://www.hawaii.gov/health/environmental/env-planning/landuse/CWB-standardcomment.pdf>.

1. Insufficient information was submitted for an in-depth evaluation. Please provide the following information for file records and further evaluation:
 - a. Photograph(s) that demonstrate "[T]he existing revetment that runs along the shoreline of the Hale Kai property consists of a series of large grouted boulders that were installed at the property over 40 years ago prior to the construction of the Hale Kai Condominium."
 - b. Photograph(s) to demonstrate that "[T]he grouting of these boulders in place occurred prior to the early 1980's."
 - c. Photographs to demonstrate that the 1998 post-construction revetment at sections "X" (1998) was grouted.

Photo 2 of Exhibit "C" doesn't seem to show any grouting on the replaced boulders at Section X (1998).

- d. Photographs that demonstrate effective site-specific Best-Management Practices (BMPs) measures were properly implemented to confine and isolate the construction activities and to minimize construction related discharges from adversely impacting the adjacent State waters.

There are no photographs submitted to demonstrate that BMPs measures were properly implemented during the project construction activities, both in 1998 and 2004, to comply with applicable requirements as specified in HAR, Sections 11-54-3, 11-54-4, 11-54-6, and 11-54-8.

- e. A copy of the May 2009 engineering assessment report of the existing seawall/revetment, as required by the Maui County Planning Department through the issuance of ATF SMA and SSA.
2. We agree with Condition No. 2 of the May 23, 2009 Board of Land and Natural Resources (BLNR) decision and order which stated:

"That Hale Kai AOAO will remove the subject boulders and cement and restore the area back to its original condition as it existed prior to the construction of these improvements, within 365 days from the date of the BLNR's action, unless otherwise permitted by the BLNR".

- a. There is no evidence to justify the adequacy of the engineering/structure design or the existing unauthorized seawall/revetment was properly constructed nor is there any evidence supports the decision of retaining the existing unauthorized seawall/revetment will not result in future structure failure or resulting in water pollution.
 - b. We don't condone issuance of an ATF CDUP.
3. 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).
4. You are 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, you may apply for NPDES general permit coverage by submitting a Notice of Intent (NOI) form:
- a. Storm water associated with construction activities (i.e., excavation, grading, clearing, demolition, uprooting of vegetation, equipment staging, storage areas, stockpiles, etc.) that result in the disturbance of one (1) acre or more 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 activity dewatering.

You 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 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>.

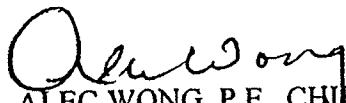
Mr. Mark Alexander Roy, AICP
October 22, 2009
Page 4

10056CEC.09

5. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage and/or Section 401 Water Quality Certification are required, must comply with the 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 visit our website at <http://www.hawaii.gov/health/environmental/water/cleanwater/index.html>, or contact the Engineering Section, CWB, at (808) 586-4309.

Sincerely,


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

EC:np

c: OCCL, DLNR [via fax 587-0322 only]



MICHAEL T. MUNEKIYO
GWEN OHASHI HIRAGA
MITSURU "MICH" HIRANO
KARLYNN FUKUDA

MARK ALEXANDER ROY

March 29, 2010

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

SUBJECT: Preparation of Draft Environmental Assessment and Conservation District Use Application for After-The-Fact Permitting for Improvements to Seawall/Revetment In Vicinity of Hale Kai Condominium, TMK (2)4-4-001:042, Honokowai, Maui, Hawaii
(OCCL ENF: MA-08-30)

Dear Mr. Wong:

Thank you for your letter, dated October 22, 2009, responding to our Chapter 343, Hawaii Revised Statutes (HRS) early consultation request for the subject action. Ongoing coordination with the Office of Environmental Quality Control (OEQC) will be undertaken as work proceeds to ensure that the Environmental Assessment (EA) document complies with applicable requirements of Chapter 343, Hawaii Revised Statutes (HRS) and Chapter 11-200 (Environmental Impact Statement Rules), Hawaii Administrative Rules (HAR).

On behalf of the Hale Kai Association of Apartment Owners (AOAO), we offer the following responses to the comments noted in your letter:

1. The following items address your office's request for information to be included in the Draft EA:
 - a. Photographic documentation confirming that the existing revetment/seawall structure was initially constructed over 40 years ago will be included in the Draft EA.
 - b. Where available, photographic documentation confirming that the boulders of the existing revetment were grouted in place during the early 1980's will be included in the Draft EA.

- c. The boulders that were the subject of the 1998 repair and maintenance work are not grouted and are located on the mauka (mountain) side of the boulders that were grouted in the 1980's. A present day photo confirming that these boulders remain in a non-grouted condition will be included in the Draft EA.
 - d. Photographic documentation defining the limits of the 1998 and 2004 repair and maintenance work to the existing seawall/revetment structure will be included in the Draft EA along with a discussion of the procedures and practices that were utilized to install said improvements.
 - e. A copy of the engineering evaluation of the existing seawall/revetment structure that was completed in 2009 (as required by the County of Maui, Department of Planning After-The-Fact Special Management Area Minor Permit and Shoreline Setback Approval) will be included in the Draft EA.
2. We acknowledge that your office is in agreement with Condition No. 2 of the May 23, 2009 Board of Land and Natural Resources (BLNR) decision and order. In compliance with this condition, the Office of Conservation and Coastal Lands (OCCL) has indicated that an After-The-Fact CDUA can be processed to request a Board Permit from the BLNR for the 1998 and 2004 repair and maintenance improvements to remain in place. A discussion addressing both the current condition of the existing revetment/seawall structure and the need for the subject improvements to remain an integral element of the structure will be included in the Draft EA.
3. We note your comment regarding the criteria set forth in Sections 11-54-1.1 (Antidegradation Policy), 11-54-3 (Designated Uses) and 11-54-4 through 11-54-8 (Water Quality Criteria) of the HAR. The existing seawall/revetment structure was constructed in the early 1960's and represents a non-conforming use. The subject improvements were completed in 1998 and 2004 in an effort to repair and maintain the seawall/revetment structure to ensure continued protection for existing condominium buildings located on the property, the closest of which is approximately 10 feet from the upper extent of the revetment. It is anticipated that retaining the subject improvements in place will not compromise the ability of the nearshore waters to comply with applicable State water quality criteria.
4. As the area affected by the subject improvements is less than one (1) acre, it is anticipated that a National Pollutant Discharge Elimination System (NPDES) permit will not be required as part of the After-The-Fact CDUA process.

Alex Wong, P.E., Chief
March 29, 2010
Page 3

5. We note your comment regarding compliance with applicable State Water Quality Standards requirements as specified in Chapter 11-54, HAR and Chapter 11-55. The continued operation of the existing seawall/revetment is not anticipated to present any adverse impacts on water quality parameters within the nearshore waters fronting the subject property.

We appreciate the input provided by your office. Should you have any questions, please do not hesitate to contact me at (808) 244-2015.

Very truly yours,



Mark Alexander Roy, AICP
Project Manager

MAR:tn

Cc: Dawn Hegger, DLNR, Office of Conservation and Coastal Lands
Roberta Donnelly, Hale Kai AOO

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LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
MAUI DISTRICT HEALTH OFFICE
54 HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2102

OCT 19 2009

CHIYOME L. FUKINO, M. D.
DIRECTOR OF HEALTH

LORRIN W. PANG, M. D., M. P. H.
DISTRICT HEALTH OFFICER

October 16, 2009

Mr. Mark Alexander Roy
Project Manager
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawai'i 96793

Dear Mr. Roy:

Subject: Improvements to Existing Seawall/Revetment in Vicinity of
Hale Kai Condominium
Applicant: Munekiyo & Hiraga, Inc.
TMK: (2) 4-4-001:042
Location: Honokowai
Description: After the Fact Permit

Thank you for giving us the opportunity to review and comment on this project. The following comments are offered:

1. The U.S. Army Corp of Engineers should be consulted. An after-the-fact Section 401 Water Quality Certification (WQC) may be required from the Clean Water Branch. The Clean Water Branch should be contacted at 808 586-4309.
2. The noise created during the construction phase of the project may exceed the maximum allowable levels as set forth in Hawaii Administrative Rules, Chapter 11-46 "Community Noise Control". A noise permit may be required and should be obtained before the commencement of this project.

It is strongly recommended that the Standard Comments found at the Department's website: <http://hawaii.gov/health/environmental/env-planning/landuse/landuse.html> be reviewed, and any comments specifically applicable to this project should be adhered to.

Mr. Mark Alexander Roy
October 16, 2009
Page 2

Should you have any questions, please call me at 808 984-8230 or e-mail me at patricia.kitkowski@doh.hawaii.gov.

Sincerely,

A handwritten signature in black ink that reads "Patti Kitkowski". The signature is written in a cursive, flowing style.

Patti Kitkowski
Acting District Environmental Health Program Chief



MICHAEL T. MUNEKIYO
GWEN OHASHI HIRAGA
MITSURU "MICH" HIRANO
KARLYNN FUKUDA

MARK ALEXANDER ROY

March 29, 2010

Patti Kitkowski, Acting District Environmental Health Program Chief
Maui District Health Office
Department of Health
State of Hawaii
54 High Street
Wailuku, Hawaii 96793-2102

SUBJECT: Preparation of Draft Environmental Assessment and Conservation District Use Application for After-The-Fact Permitting for Improvements to Seawall/Revetment In Vicinity of Hale Kai Condominium, TMK (2)4-4-001:042, Honokowai, Maui, Hawaii (OCCL ENF: MA-08-30)

Dear Ms. Kitkowski:

Thank you for your letter, dated October 16, 2009, responding to our Chapter 343, Hawaii Revised Statutes (HRS) early consultation request for the subject project.

On behalf of the Hale Kai Association of Apartment Owners (AOAO), we offer the following information in response to the comments noted in your letter:

1. The proposed action consists of an after-the-fact permit request for some repair and maintenance work that was completed in 1998 and 2004 on an existing seawall/revetment that is located along the seaward boundary of the subject property. Coordination is currently being undertaken with the Department of Army (DA) to address applicable after-the-fact DA permitting requirements for the 1998/2004 repair and maintenance work.

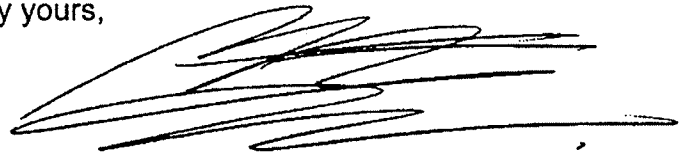
Patti Kitkowski, Acting District Environmental
Health Program Chief
March 29, 2010
Page 2

2. As noted above, the subject improvements were completed in 1998 and 2004. This work consisted of some repair and maintenance work on an existing seawall/revetment that is located along the seaward boundary of the subject property. Any future work intended to repair and maintain the existing seawall/revetment structure will comply with applicable requirements of Hawaii Administrative Rules (HAR) Chapter 11-46, "Community Noise Control" and a noise permit, if required, will be obtained prior to the commencement of the construction work.

As requested in your letter, the standard comments located on the Department of Health's website will also be reviewed and applicable requirements addressed.

We appreciate the input provided by your office. Should you have any questions, please do not hesitate to contact me at 244-2015.

Very truly yours,



Mark Alexander Roy, AICP
Project Manager

MAR:tn

Cc: Dawn Hegger, DLNR, Office of Conservation and Coastal Lands
Roberta Donnelly, Hale Kai AOO

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CHARMAINE TAVARES
Mayor
CHERYL K. OKUMA, Esq.
Director
GREGG KRESGE
Deputy Director



TRACY TAKAMINE, P.E.
Solid Waste Division
DAVID TAYLOR, P.E.
Wastewater Reclamation Division

COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
2200 MAIN STREET, SUITE 810
WAILUKU, MAUI, HAWAII 96793

October 13, 2009

Hale Kai AOA
3695 Lower Honoapiilani Road
Lahaina, Hawaii 96761

Dear Gentlemen,

**SUBJECT: VERIFICATION OF PROPERTY SEWER SERVICE MANHOLE FOR:
HALE KAI CONDOMINIUM
3695 LOWER HONOAPIILANI ROAD
TMK (2) 4-4-001:042, LAHAINA**

It has come to our attention, through a review of the EARLY CONSULTATION FOR THE EXISTING SEAWALL/REVTMENT IMPROVEMENTS IN THE VICINITY OF HALE KAI CONDOMINIUM (AFTER-THE-FACT PERMITTING) project that has been submitted to our office, that we have no record of whether an property sewer service manhole exists at the subject property.

Please provide us with written confirmation and photos of the existing property sewer service manhole, which should be located approximately 2 feet inside of the property line.

If a property sewer service manhole does not exist, one needs to be installed. Consequently, please provide written confirmation informing us of your time line for the installation.

Please provide the required documentation to our office by **Friday, November 13, 2009**. Be advised, the abovementioned requirements shall be satisfied prior to any future approvals by our division for improvements on the subject property. Thank you for your cooperation on this matter.

Should you have any questions or concerns, please feel free to contact me at phone number 270-7417.

Sincerely,

Handwritten signature of Arnold D. Abe in cursive.

Arnold D. Abe, CE-V
Wastewater Reclamation Division



3691 Lower Honoapiilani Road • Lahaina, Maui, Hawaii 96761
(808) 669-6333 • Fax (808) 669-7474 • 1-800-446-7307
www.halekai.com • E-Mail: halekai@halekai.com

March 4, 2010

Arnold Abe
County of Maui
Department of Environmental Management
2200 Main Street, Suite 610
Wailuku, Maui, Hawaii 96793

SUBJECT; Response to letter of October 13, 2009
Hale Kai Condominium--3695 Lower Honoapiilani Road
TMK (2) 4-4-001:042, Lahaina

Dear Mr. Abe,

We were recently made aware that a property sewer service manhole that is located two feet inside the property line, is a requirement for the subject property. In addition, we understand that it will be necessary for us to install one in the future. We would like to request that the property sewer service manhole be installed by March 2020. That will give us time to get the money together for that project as we have other costly projects currently ongoing.

We currently have a sewer cleanout program in place where Island Wide Drain Service cleans out our lines with the use of a large snake and hydro-jet every three months. We have had this service in place for a few years now. I am enclosing a copy of the latest one that we just renewed since they changed ownership.

Also, we have a property sewer service cleanout that is located 12 feet from the property line before it goes into the county sewer system. (Right on the other side of the walkway around the property, see attached pictures.) There is also an additional cleanout at the distribution box where the former manhole for the old onsite treatment system was located about 55 feet away from the property line. We have had the sewer scoped from this distribution box cleanout and found that there is no other connection between this cleanout and the county sewer line.

We also understand that if any further development on the property that increases the sewer discharge from the property or any debris from our sewer is the cause for a sewer problem such as a backup or over-flow, we will be installing the property sewer manhole immediately.

If you have any questions, please call me at 669-1406 or 280-5189 (cell). Our site manager is Mike Guthrie and his phone number is 298-4367.

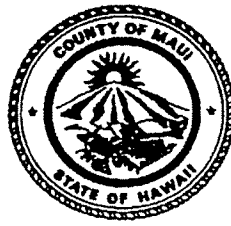
Thank you for your help with this.

Jeannie Murrell, Director
Building and Grounds Chairperson

CHARMAINE TAVARES
Mayor

CHERYL K. OKUMA, Esq.
Director

GREGG KRESGE
Deputy Director



TRACY TAKAMINE, P.E.
Solid Waste Division

DAVID TAYLOR, P.E.
Wastewater Reclamation
Division

**COUNTY OF MAUI
DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**
2200 MAIN STREET, SUITE 100
WAILUKU, MAUI, HAWAII 96793

October 30, 2009

Mr. Mark Alexander Roy
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

**SUBJECT: EXISTING SEAWALL/ REVETMENT IMPROVEMENTS IN VICINITY
OF HALE KAI CONDOMINIUM (AFTER-THE-FACT PERMITTING)
EARLY CONSULTATION
TMK (2) 4-4-001:042, LAHAINA**

We reviewed the subject project as a pre-application consultation and have the following comments:

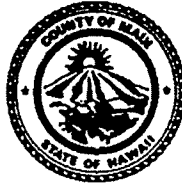
- 1. Solid Waste Division comments:
 - a. None.
- 2. Wastewater Reclamation Division (WWRD) comments:
 - a. None.

If you have any questions regarding this memorandum, please contact Gregg Kresge at 270-8230.

Sincerely,

Cheryl K. Okuma, Director

CHARMAINE TAVARES
Mayor



OCT 20 2009
TAMARA HORCAJO
Director

ZACHARY Z. HELM
Deputy Director

(808) 270-7230
Fax (808) 270-7934

DEPARTMENT OF PARKS & RECREATION

700 Hali'a Nakoa Street, Unit 2, Wailuku, Hawaii 96793

October 12, 2009

Munekiyo & Hiraga, Inc.
Attention: Mark Alexander Roy, AICP
305 High Street, Suite 104
Wailuku, Hawaii 96793

**SUBJECT: After-The-Fact Permitting for Improvements to Existing Seawall/
Revetment in Vicinity of Hale Kai Condominium, TMK (2) 4-4-001:042,
Honokowai, Maui, Hawai'i (OCCL ENF: MA-08-30)**

Dear Mr. Roy:

The Department of Parks and Recreation has reviewed your letter dated October 2, 2009 regarding the existing seawall revetment structure in the vicinity of the Hale Kai Condominium in Honokowai, Maui and offer the following comments.

The subject seawall is adjacent to the Honokowai Beach Park which is a popular picnic and swimming site to locals and visitors. Over the years there has been a noticeable loss of beach frontage at the park. The Department of Parks & Recreation is concerned that appropriate measures are taken to mitigate further erosion of beach frontage.

Thank you for the opportunity to review and comment on this matter. Please feel free to contact me or Mr. Patrick Matsui, Chief of Parks Planning and Development at 270-7387 should you have any other questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tamara Horcajo".

TAMARA HORCAJO
Director

xc: Patrick Matsui, Chief of Parks Planning & Development
TH:PTM:bks



MICHAEL T. MUNEKIYO
GWEN OHASHI HIRAGA
MITSURU "MICH" HIRANO
KARLYNN FUKUDA

MARK ALEXANDER ROY

March 29, 2010

Tamara Horcajo, Director
Attention: Patrick Matsui
Department of Parks and Recreation
700 Halia Nakoia Street, Unit 2
Wailuku, Hawaii 96793

SUBJECT: Preparation of Draft Environmental Assessment (EA) and Conservation District Use Application for After-The-Fact Permitting for Improvements to Seawall/Revetment In Vicinity of Hale Kai Condominium, TMK (2)4-4-001:042, Honokowai, Maui, Hawaii (OCCL ENF: MA-08-30)

Dear Ms. Horcajo:

Thank you for your letter, dated October 12, 2009, responding to our Chapter 343, Hawaii Revised Statutes (HRS) early consultation request for the subject project.

On behalf of the Hale Kai Association of Apartment Owners (AOAO), we offer the following information in response to the comments noted in your letter:

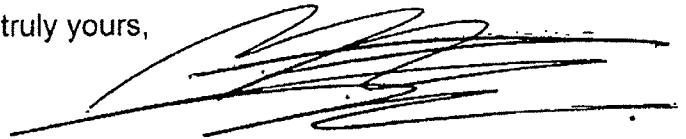
1. The proximity of Honokowai Beach Park to the subject property will be discussed in the Draft EA and will be identified in maps that will be included in the document.
2. The information presented regarding observations of shoreline erosion at the park is also noted. According to the Maui Shoreline Atlas, the shoreline along Honokowai Beach Park has experienced an average erosion rate of (-)0.9 feet/year since 1912. This reflects the average erosion rate for the entire Honokowai coastline over the same time period, which is the same at (-)0.9 feet/year.

3. As is the case with many residential and resort properties developed in close proximity to the coastline in the 1960's and 1970's, the shoreline directly fronting the subject property has been hardened with a seawall/revetment structure. Indeed, much of the Kaanapali/Honokowai/Kahana coastline is characterized by the presence of such structures. The existing seawall/revetment at the subject property was constructed prior to the 1965 development of the Hale Kai condominium and has protected existing condominium buildings from the impacts of coastal erosion for over 45 years. The closest building is located approximately 10 feet from the upper extent of the revetment.

The applicant is currently in the process of addressing after-the-fact permit requirements with the State of Hawaii for some repair and maintenance work that was completed on the existing seawall/revetment in 1998 and 2004 by the Hale Kai AOA. While these repairs were necessary to both strengthen the structural integrity of the seawall/revetment and ensure the continued protection of residents living in the building closest to the shoreline, they did not intensify the use of the existing structure and as such, did not aggravate pre-existing erosion conditions along the coastline in the vicinity of the property.

We appreciate the input provided by your office. Should you have any questions, please do not hesitate to contact me at 244-2015.

Very truly yours,



Mark Alexander Roy, AICP
Project Manager

MAR:tn

Cc: Dawn Hegger, DLNR, Office of Conservation and Coastal Lands
Roberta Donnelly, Hale Kai AOA

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CHARMAINE TAVARES
Mayor

MILTON M. ARAKAWA, A.I.C.P.
Director

MICHAEL M. MIYAMOTO
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



OCT 23 2009

RALPH NAGAMINE, L.S., P.E.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

October 19, 2009

Mr. Mark Alexander Roy, A.I.C.P.
MUNEKIYO & HIRAGA, INC.
305 High Street, Suite 104
Wailuku, Maui, Hawaii 96793

Dear Mr. Roy:

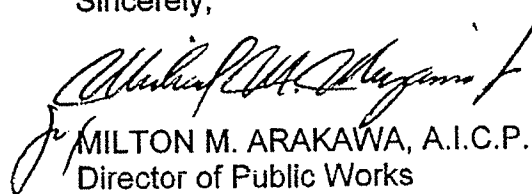
**SUBJECT: AFTER-THE-FACT PERMITTING FOR IMPROVEMENTS
TO EXISTING SEAWALL/REVTMENT IN VICINITY OF
HALE KAI CONDOMINIUM, HONOKOWAI, MAUI, HAWAII
TMK: (2) 4-4-001:042**

We reviewed the subject application and have the following comment:

1. A building permit is not required if the subject structure is located entirely within the Conservation District.

Please call Michael Miyamoto at 270-7845 if you have any questions regarding this letter.

Sincerely,


MILTON M. ARAKAWA, A.I.C.P.
Director of Public Works

MMA:MMM:jc

xc: Highways Division
Engineering Division

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MICHAEL T. MUNEKIYO
GWEN OHASHI HIRAGA
MITSURU "MICH" HIRANO
KARLYNN FUKUDA

MARK ALEXANDER ROY

March 29, 2010

Milton Arakawa, AICP, Director
Attention: Michael Miyamoto
Department of Public Works
County of Maui
200 South High Street, Room No. 434
Wailuku, Hawaii 96793

SUBJECT: Preparation of Draft Environmental Assessment and Conservation District Use Application for After-The-Fact Permitting for Improvements to Seawall/Revetment In Vicinity of Hale Kai Condominium, TMK (2)4-4-001:042, Honokowai, Maui, Hawaii (OCCL ENF: MA-08-30)

Dear Mr. Arakawa:

Thank you for your letter, dated October 19 2009, responding to our Chapter 343, Hawaii Revised Statutes (HRS) early consultation request for the subject project.

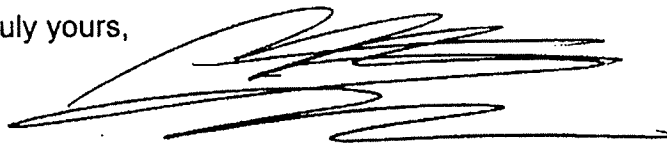
On behalf of the Hale Kai Association of Apartment Owners (AOAO), we offer the following information in response to the comment noted in your letter:

1. The existing seawall/revetment structure along the seaward (makai) side of the subject property was constructed over 45 years ago in the early 1960's prior to the development of the Hale Kai condominium in 1965. The portion of the structure upon which the subject improvements are located has been determined by the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands and the Board of Land and Natural Resources (BLNR) to be located within the State Conservation District. As such, it is anticipated that an after-the-fact building permit will not be required for the repair and maintenance work that was undertaken on the existing structure in 1998 and 2004.

Milton Arakawa, AICP, Director
March 29, 2010
Page 2

We appreciate the input provided by your office. Should you have any questions, please do not hesitate to contact me at 244-2015.

Very truly yours,



Mark Alexander Roy, AICP
Project Manager

MAR:tn

Cc: Dawn Hegger, DLNR, Office of Conservation and Coastal Lands
Roberta Donnelly, Hale Kai AOA

F:\DATA\HaleKaiSeawall 1401\DPWresponse.doc

**X. LETTERS RECEIVED
DURING THE DRAFT
ENVIRONMENTAL
ASSESSMENT REVIEW
PERIOD; AND RESPONSES
TO SUBSTANTIVE
COMMENTS**

X. LETTERS RECEIVED DURING THE DRAFT ENVIRONMENTAL ASSESSMENT REVIEW PERIOD; AND RESPONSES TO SUBSTANTIVE COMMENTS

A Draft Environmental Assessment (EA) for the subject action was filed and published in the Office of Environmental Quality Control's The Environmental Notice on June 8, 2010.

The following agencies and individuals were sent a copy of the Draft EA by the Office of Conservation and Coastal Lands (OCCL) on June 1, 2010. Comments on the Draft EA were received during the 30-day public comment period. Letters received, as well as responses to substantive comments, are included in this chapter.

- | | | | |
|----|---|-----|---|
| 1. | Mr. Jiakai Liu
Land Use Review Coordinator
Department of Health | 9. | State of Hawaii
Department of Land and Natural Resources
DOBOR |
| 2. | Department of Health
Environmental Planning Office | 10. | Katherine Kealoha, Director
Office Of Environmental Quality Control |
| 3. | State of Hawaii
Department of Land and Natural Resources
Maui District Land Office | 11. | Clyde Nāmu`o, Administrator
Office of Hawaiian Affairs |
| 4. | State of Hawaii
Department of Land and Natural Resources
Forestry and Wildlife | 12. | Kathleen Aoki, Director
County of Maui
Department of Planning |
| 5. | State of Hawaii
Department of Land and Natural Resources
State Historic Preservation Division | 13. | Milton Arakawa, Director
County of Maui
Department of Public Works |
| 6. | State of Hawaii
Department of Land and Natural Resources
Conservation and Resource Enforcement | 14. | State of Hawaii
Lahaina Public Library |
| 7. | State of Hawaii
Department of Land and Natural Resources
State Parks Division | | |
| 8. | State of Hawaii
Department of Land and Natural Resources
Engineering Division | | |

LINDA LINGLE
GOVERNOR OF HAWAII



RECEIVED
CONSERVATION
COASTAL LANDS
2010 JUN 22 A 11:38

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

RUSSELL Y. TSUI
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
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:DH

CDUA: MA-3543

Acceptance Date: May 19, 2010
180-Day Exp. Date: November 15, 2010

SUSPENSE DATE:
21 Days from stamped date
JUN - 1 2010

MEMORANDUM

TO:

State Agencies:

- ___ DLNR-Maui District Land Office
- ___ DLNR-Forestry and Wildlife
- ___ DLNR-Historic Preservation Division
- ___ DLNR-Conservation and Resource Enforcement
- ___ DLNR-State Parks Division
- ✓ DLNR-Engineering Division
- ___ DLNR- DOBOR

County Agencies:

- ___ Maui County Planning Dept.
- ___ Maui County Dept. Public Works
- ___ DOH-Environmental Planning Office
- ___ Office of Hawaiian Affairs
- ___ OEOC

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

SUBJECT: REQUEST FOR COMMENTS
Hale Kai AOA's After-The-Fact (ATF) CDUA MA-3543

APPLICANT: Mark Alexander Roy, Munekiyo and Hiraga, Inc. 305 High Street,
Suite 104, Wailuku, Hawaii, 96793

TMK: Located makai of subject parcel TMK: (2) 4-4-001:042

LOCATION: Honokowai, Island of Maui

PUBLIC HEARING: NOT REQUIRED

Attached please find AFT CDUA MA-3543 and our Department's notice to the applicant. We would appreciate your department's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Dawn Hegger at (808) 587-0380 should you have any questions on this matter.

- Comments Attached
- No Comments

Signature

DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION

LD/MorrisAtta
Ref.: PreAssessDEAKamehamehaSchools
Maui.508

COMMENTS

- (X) We confirm that the project site, according to the Flood Insurance Rate Map (FIRM), is located in Zone VE. The National Flood Insurance Program regulates developments within Zone VE 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.

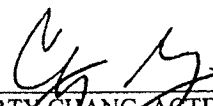

Please be advised that 44CFR indicates the minimum standards set forth by the NFIP. Your Community's local flood ordinance may prove to be more restrictive and thus take precedence over the minimum NFIP standards. If there are questions regarding the local flood ordinances, please contact the applicable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

- () 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.
 - (X) 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 water demands and infrastructure required to meet project needs. Please note that projects within State lands requiring water service from the Honolulu Board of Water Supply system will be required to pay a resource development charge, in addition to Water Facilities Charges for transmission and daily storage.
- () 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: 
CARTY CHANG, ACTING CHIEF ENGINEER
Date: 



MICHAEL T. MUNEKIYO
GWEN OHASHI HIRAGA
MITSURU "MICH" HIRANO
KARLYNN FUKUDA

MARK ALEXANDER ROY

August 26, 2010

Carty Chang, Acting Chief Engineer
Attention: Suzie S. Agraan, Planning Branch
Department of Land and Natural Resources, Engineering Division
State of Hawaii
1151 Punchbowl Street
Honolulu, Hawaii 96813

SUBJECT: After-The-Fact Conservation District Use Application for Repair and Maintenance Improvements to Existing Seawall/Revetment at TMK (2) 4-4-001:042, Honokowai, Maui, Hawaii (CDUA: MA-3543)

Dear Mr. Chang:

I am writing to you today, on behalf of Hale Kai Association of Apartment Owners (AOAO), to thank you for your letter dated June 21, 2010, providing comments on the Draft Environmental Assessment (EA) and Conservation District Use Application (CDUA) for the subject action. We offer the following information in response to your comments:

1. We acknowledge the confirmation provided that the subject improvements are located in Flood Zone VE as depicted on the Flood Insurance Rate Map (FIRM) for the area.
2. We also note that development within a Special Flood Hazard Area is subject to compliance with applicable rules and regulations of the National Flood Insurance Program.

Cary Chang, Acting Chief Engineer
August 26, 2010
Page 2

We appreciate the input provided by your office. A copy of your letter will be included in the Final EA for the project. Should you have any questions, please do not hesitate to contact me at (808) 244-2015.

Very truly yours,



Mark Alexander Roy, AICP
Project Manager

MAR:tn

Cc: Roberta Donnelly, Hale Kai AOA

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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

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

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DIRECTOR - WATER

DEPARTMENT OF LAND & NATURAL RESOURCES
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION RESOURCE ENFORCEMENT
LAND AND STATE PARKS
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION

2010 JUN - 7

RECEIVED
OFFICE OF CONSERVATION
& COASTAL LANDS
STATE OF HAWAII

REF:OCCL:DH

CDUA: MA-3543

Acceptance Date: May 19, 2010
180-Day Exp. Date: November 15, 2010

SUSPENSE DATE:

21 Days from stamped date

JUN - 1 2010

MEMORANDUM

TO:

State Agencies:

- DLNR-Maui District Land Office
- DLNR-Forestry and Wildlife
- DLNR-Historic Preservation Division
- DLNR-Conservation and Resource Enforcement
- DLNR-State Parks Division
- DLNR-Engineering Division
- DLNR- DOBOR

County Agencies:

- Maui County Planning Dept.
- Maui County Dept. Public Works
- DOH-Environmental Planning Office
- Office of Hawaiian Affairs
- OEOC

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

SUBJECT: REQUEST FOR COMMENTS
Hale Kai AOA's After-The-Fact (ATF) CDUA MA-3543

APPLICANT: Mark Alexander Roy, Munekiyo and Hiraga, Inc. 305 High Street,
Suite 104, Wailuku, Hawaii, 96793

TMK: Located makai of subject parcel TMK: (2) 4-4-001:042

LOCATION: Honokowai, Island of Maui

PUBLIC HEARING: NOT REQUIRED

Attached please find AFT CDUA MA-3543 and our Department's notice to the applicant. We would appreciate your department's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Dawn Hegger at (808) 587-0380 should you have any questions on this matter.

- Comments Attached
- No Comments

Signature
PAUL J. CONRY, ADMINISTRATOR
DIVISION OF FORESTRY AND WILDLIFE
JUN - 3 2010

4083

LINDA LINGLE
GOVERNOR OF HAWAII



RECEIVED
STATE PARKS DIV

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

10 JUN -2 2010

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

REF:OCCL:DH

CDUA: MA-3543

Acceptance Date: May 19, 2010
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21 Days from stamped date

MEMORANDUM

TO:

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- ___ DLNR-Forestry and Wildlife
- ___ DLNR-Historic Preservation Division
- ___ DLNR-Conservation and Resource Enforcement
- ✓ DLNR-State Parks Division
- ___ DLNR-Engineering Division
- ___ DLNR- DOBOR

County Agencies:

- ___ Maui County Planning Dept.
- ___ Maui County Dept. Public Works
- ___ DOH-Environmental Planning Office
- ___ Office of Hawaiian Affairs
- ___ OEOC

RECEIVED
OFFICE OF CONSERVATION AND COASTAL LANDS
JUN 10 2010
55

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

SUBJECT: REQUEST FOR COMMENTS
Hale Kai AOA's After-The-Fact (ATF) CDUA MA-3543

APPLICANT: Mark Alexander Roy, Munekiyo and Hiraga, Inc. 305 High Street,
Suite 104, Wailuku, Hawaii, 96793

TMK: Located makai of subject parcel TMK: (2) 4-4-001:042

LOCATION: Honokowai, Island of Maui

PUBLIC HEARING: NOT REQUIRED

Attached please find AFT CDUA MA-3543 and our Department's notice to the applicant. We would appreciate your department's review and comment on this application. If no response is received by the suspense date, we will assume there are no comments. The suspense date starts from the date stamp. Please contact Dawn Hegger at (808) 587-0380 should you have any questions on this matter.

- () Comments Attached
- (✓) No Comments

Signature

JUN 23 2010

CHARMAINE TAVARES
Mayor

MILTON M. ARAKAWA, A.I.C.P.
Director

MICHAEL M. MIYAMOTO
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



RALPH NAGAMINE, L.S., P.E.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

June 18, 2010

Mr. Mark Alexander Roy
MUNEKIYO AND HIRAGA, INC.
305 High Street, Suite 104
Wailuku, Maui, Hawaii 96793

Dear Mr. Roy:

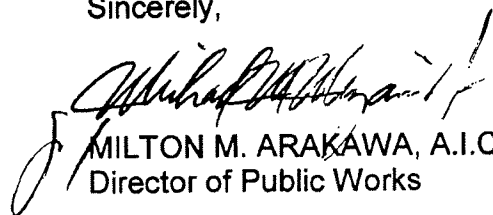
**SUBJECT: AFTER THE FACT CONSERVATION DISTRICT USE
APPLICATION FOR REPAIRS AND MAINTENANCE
IMPROVEMENTS TO AN EXISTING SEAWALL;
TMK: (2) 4-4-001:042
CDUA MA-3543**

We reviewed the subject application and have the following comment:

1. There are two open building permits: B2006/1517 and B2006/1518. Please contact the Building Inspection Section to arrange final inspections. Their telephone number is 270-7375.

Please call Michael Miyamoto at 270-7845 if you have any questions regarding this letter.

Sincerely,



MILTON M. ARAKAWA, A.I.C.P.
Director of Public Works

MMA:MMM:ls

xc: Highways Division
Engineering Division

S:\LUCA\ICZM\hale_kai_apt_atf_seawall_cdua_44001042_ls.wpd

August 26, 2010

Milton Arakawa, AICP, Director of Public Works
Attention: Michael Miyamoto
Department of Public Works
County of Maui
200 South High Street, Room No. 434
Wailuku, Hawaii 96793

**SUBJECT: After-The-Fact Permitting for Improvements to Seawall/Revetment
In Vicinity of Hale Kai Condominium, TMK (2)4-4-001:042,
Honokowai, Maui, Hawaii (CDUA MA-3543)**

Dear Mr. Arakawa:

Thank you for your letter, dated June 18, 2010, providing comments on the Draft Environmental Assessment (EA) and Conservation District Use Application (CDUA) for the subject action.

On behalf of the applicant, the Hale Kai Association of Apartment Owners (AOAO), we offer the following information in response to the comment noted in your letter:

1. The final building inspections have been passed for the permits (B2006/1517 and B2006/1518) noted in your comment letter. Attached for your reference as **Exhibit "A"** are copies of the KIVA permit summaries for these two (2) building permits reflecting the date of the final inspections.

Milton Arakawa, AICP
August 26, 2010
Page 2

We appreciate the input provided by your office. A copy of your letter will be included in the Final EA for the project. Should you have any questions, please do not hesitate to contact me at 244-2015.

Very truly yours,



Mark Alexander Roy, AICP
Project Manager.

MAR:tn

Attachment

cc: Roberta Donnelly, Hale Kai AOA

F:\DATA\HaleKaiSeawall 1401\DPWresponse.ftr.doc



[Help](#) [Home](#) [Look Up](#) [Print](#) [Genealogy](#) [Summary](#) [RFS](#)

Permit Summary

Permit:	B 20061517		
Temporary:	B T20052374		
Description:	BUILDING PERMIT		
Project:	HALE KAI APARTMENTS HALE KAI APARTMENTS		
Status:	DONE	Entered:	12-Aug-2005
Issued:	07-Jul-2006	Completed:	01-Jul-2010
Decision:	A		
Expiration:		Last Renewal:	
Location Desc.:			

Parcel Information		
Address	TMK	
3695 LOWER HONOAPIILANI RD	2440010420000	GIS Parcel

Scope of Work
<p>Project: HALE KAI</p> <p>Now occupied as: APARTMTNETS</p> <p>To be occupied as: APARTMENTS - units 101A, 102B, 111B, 112A, 201</p> <p>Scope: dryroot repair/termite damage</p> <p>Dimensions: 145 x 49 - 101 x 49</p> <p>Walls: single wall Partitions: drywall/2x4 Foundation: slab/sub floor Floors: Roof: shingles Ceiling:sheetrock Basement: na</p> <p>SPECIAL INSPECTION REQUIREMENT by special inspector Joseph Alatalo for #16 framing, drywall & pre-final.</p>

Professionals / Contractors
<p>VALLEY ISLE BUILDERS INC as PRIME 222 PAPALAU A ST #201</p> <p style="text-align: right;">Phone: 661-1664</p>

EXHIBIT "A"

LAHAINA, HI 96761 B - GENERAL BUILDING License: 0022610 Expires: 30-Sep-2010	
NICHOLAS T WAGNER as DESGN 226 SOUTH CHURCH ST WAILUKU, HI 96793 AR - ARCHITECT License: 6539 Expires: 30-Apr-2012	Phone: 242-5720

Structure Classification	
Initial Value: \$100,000.00	Calculated Value: \$100,000.00
Standard Plan:	Public Project: NO
# of Structures:	# of Res. Units:
Total Floor Area: 0	
Model:	

Occupancy Group	Construction Type	Structure Class
HOTELS.APT R-1 HOUSES, CONGREGATE RES > 10 PERS	V-N COMBUSTIBLE - UNPROTECTED	701 REPAIRS TO OTHER BLDGS

Inspections							
Inspection	Result	Completed Date	Completed By	Schedule	CORR		
					O	C	N
B4 - BLDG FINAL	PASS	01-Jul-2010	NNICHOLAS	01-Jul-2010			N
B2 - BLDG FRAMING	PASS	30-Oct-2006	MRAMICK	30-Oct-2006			Y

Activities								
Description	Assigned	Nodes		Dur.	Est. Completion	Target End	Decision	Decision Date
		Beg	End					
<u>INITIAL REVIEW</u>	PS	1	2	2	16-Aug-2005	16-Aug-2005	P	15-Aug-2005
Comment: PLAN REVIEW FEE - RECD 9/15/05								
<u>DSA BLDG PLANS REVIEW</u>	BL	2	4	30	28-Sep-2005	28-Sep-2005	A	30-Sep-2005
<u>DSA ENGINEERING</u>	BRATTE	2	4	30	28-Sep-2005	28-Sep-2005	NA	17-Aug-2005
<u>FIRE DEPARTMENT</u>	SENGLISH	2	3	30	24-Oct-2005	24-Oct-2005	P	06-Sep-2005
Comment: NEED PRF								
<u>PLANNING DEPARTMENT</u>	ACABAIS	2	4	30	28-Sep-2005	28-Sep-2005	A	08-May-2006
Comment: PENDING SMA(THORNE); FDP 20050083 - NONSUBSTANTIAL IMPROVEMENTS sm2 2006/0025								
<u>WATER DEPARTMENT</u>	WD	2	4	30	28-Sep-2005	28-Sep-2005	A	03-May-2006

<u>FIRE</u>	SEGLISH	3	4	10	21-Oct-2005	21-Oct-2005	A	12-Oct-2005
<u>DEPT:RESUBMIT</u>								
<u>FINAL REVIEW</u>	DATAY	4	5	2	10-May-2006	10-May-2006	AN	10-May-2006



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[Look Up](#) [Print](#) [Genealogy](#) [Summary](#) [RFS](#)

Permit Summary

Permit:	B 20061518		
Temporary:	B T20052375		
Description:	BUILDING PERMIT		
Project:	HALE KAI APARTMENTS HALE KAI APARTMENTS		
Status:	DONE	Entered:	12-Aug-2005
Issued:	07-Jul-2006	Completed:	01-Jul-2010
Decision:	A		
Expiration:		Last Renewal:	
Location Desc.:			

Parcel Information		
Address	TMK	GIS Parcel
3695 LOWER HONOAPIILANI RD	2440010420000	

Scope of Work
<p>Project: HALE KAI</p> <p>Now occupied as: APARTMTNETS</p> <p>To be occupied as: APARTMENTS - units 215, 216, 217, 219, 220</p> <p>Scope: dryroot repair/termite damage</p> <p>Dimensions: 145 x 49 - 101 x 49</p> <p>Walls: single wall Partitions: drywall/2x4 Foundation: slab/sub floor Floors: Roof: shingles Ceiling:sheetrock Basement: na</p> <p>SPECIAL INSPECTION REQUIREMENT by special inspector Joseph Alatalo for #16 framing, drywall & pre-final.</p>

Professionals / Contractors
<p>VALLEY ISLE BUILDERS INC as PRIME</p> <p>222 PAPALAU ST #201 Phone: 661-1664</p>

LAHAINA, HI 96761 B - GENERAL BUILDING License: 0022610 Expires: 30-Sep-2010	
NICHOLAS T WAGNER as DESGN 226 SOUTH CHURCH ST WAILUKU, HI 96793 AR - ARCHITECT License: 6539 Expires: 30-Apr-2012	
Phone: 242-5720	

Structure Classification	
Initial Value:	\$100,000.00
Calculated Value:	\$100,000.00
Standard Plan:	Public Project: NO
# of Structures:	# of Res. Units:
Total Floor Area:	0
Model:	

Occupancy Group	Construction Type	Structure Class
HOTELS.APT R-1 HOUSES, CONGREGATE RES > 10 PERS	V-N COMBUSTIBLE - UNPROTECTED	701 REPAIRS TO OTHER BLDGS

Inspections							
Inspection	Result	Completed Date	Completed By	Schedule	CORR		
					O	C	N
B4 - BLDG FINAL	PASS	01-Jul-2010	NNICHOLAS	01-Jul-2010			N
B2 - BLDG FRAMING	PASS	30-Oct-2006	MRAMICK	30-Oct-2006			Y
B2 - BLDG FRAMING	NA	28-Sep-2006	MRAMICK	28-Sep-2006			Y

Activities								
Description	Assigned	Nodes		Dur.	Est. Completion	Target End	Decision	Decision Date
		Beg	End					
INITIAL REVIEW	PS	1	2	2	16-Aug-2005	16-Aug-2005	P	15-Aug-2005
Comment: PLAN REVIEW FEE-RECD; CONT SIG.								
DSA BLDG PLANS REVIEW	BL	2	4	30	28-Sep-2005	28-Sep-2005	A	30-Sep-2005
DSA ENGINEERING	BRATTE	2	4	30	28-Sep-2005	28-Sep-2005	NA	17-Aug-2005
FIRE DEPARTMENT	SENGLISH	2	4	30	28-Sep-2005	28-Sep-2005	A	12-Oct-2005
PLANNING DEPARTMENT	ACABAIS	2	3	30	03-May-2006	03-May-2006	P	28-Dec-2005
Comment: PENDING SMA; FDP 20050083 - NONSUBSTANTIAL IMPROVEMENTS								
WATER DEPARTMENT	WD	2	4	30	28-Sep-2005	28-Sep-2005	A	03-May-2006
PLANNING	GAZBILL	3	4	0	02-May-2006	02-May-	A	08-May-

<u>DEPARTMENT</u>					2006		2006	
Comment: SM2 20060025								
<u>FINAL REVIEW</u>	DATAY	4	5	2	10-May-2006	10-May-2006	AN	10-May-2006

May 10, 2010

Sam Lemmo, Administrator
State of Hawaii
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, Hawaii 96809

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2010 JUL -8 A 9: 59

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

SUBJECT: Corrections to:
Sea Engineering Inc. May 15, 2009 letter
To: Roberta Donnelly From: Jim Barry
Munekiyo & Higraga, Inc. October 2, 2009 letter
To: Laura H. Thielen From: Mark A. Roy
Munekiyo & Higraga, Inc. November 4, 2009 letter
To: Sam Lemmo From: Mark A. Roy

Dear Mr. Lemmo,

I am writing this letter to inform you, your staff and the Board of Land and Natural Resources (BLNR) of some false, misleading and incomplete information provided to you by the Hale Kai AOA through their consultants Mark Roy, Munekiyo & Higraga, Inc. and Jim Barry, Sea Engineering, Inc.

The Hale Kai President, Roberta Donnelly has forbidden their consultant, Mark Roy, to communicate or discuss with me the misinformation in his correspondence. I have to assume they do not want the facts nor the truth as it may adversely influence the decisions made by the readers.

I believe that you and your staff should have the accurate, complete and factual information. When the BLNR makes their decisions on the permit violations, the decisions will be based on the complete and factual information. Without accurate and complete information the corrective actions will not solve the problems created by the violations.

This letter and the ATTACHMENTS are provided to correct the false, misleading and incomplete information. The ATTACHMENTS are provided

to support information I am providing in this letter. Many of the photos in the consultants letters are my photos, used without my permission.

From: Sea Engineering Memorandum May 15, 2009
Page 2.
2. Existing Structures
Figure 1. Project site layout

See: ATTACHMENT 1. CORRECTIONS TO Figure 1.

(1.) 55' X 24" ROCKWALL REPAIRED IN 1993 shows the actual location of the rockwall.

See: ATTACHMENT 1.A The photos, lower left and upper right "During 1993 Repairs" show the wall repair and "Gravel and Geotextile Filter" construction on the building side of the wall as approved in the January 1993 SMA/SS approval, not seaward side of the wall as shown in Figure 1. Photo upper left is before 1993 repair, photo lower right is after 1993 repair.

(2.) 1998 REPAIRS shows the actual location of the 1998 REPAIRS. No 1998 repairs were made in the area indicated by 1998 Repairs in Figure 1. by Sea Engineering.

See ATTACHMENT 1. B. to ATTACHMENT 1. H. for photos before, during and after the 1998 repairs to the sea wall.

From: Sea Engineering Memorandum May 15, 2009
Bottom of Page 2.

2. Existing Structures
1998 - Repairs made to the revetment structure in front of the south building similar to "Geotextile Filter Construction" (see Figure 1. for location)

This is a false and misleading statement. As stated above, there were no repairs made in the designated area, seaward of the rock wall and in front of the south building. All 1998 repairs were made in front of the grass area, north of the walkway and the south building as shown in ATTACHMENT 1.

(2.) 1998 REPAIRS.

From: Munekiyo & Higraga, Inc. October 2, 2009 letter
Page 1. BOULDER REPAIR AND MAINTENANCE WORK
Munekiyo & Higraga, Inc. November 4, 2009 letter

Page 2. (a) 1998 Boulder Repair and Maintenance Work

The following are false and misleading statements: The boulder work undertaken in 1998 and entailed (1) the widening of a pre-existing erosion channel running behind (mauka of) the existing boulder revetment and in front of a decorative landscaping wall that exists along the south side of the property, and (2) the placement of various sized rocks/boulders into the trench to stabilize the affected area and prevent further erosion. The work was undertaken by Hale Kai AOA in an effort to address wave-related water damage and building maintenance issues that were occurring within one of the condominium buildings that lies in close proximity to the ocean at this particular location.

See ATTACHMENT 1. B. BEFORE 1998 REPAIRS. Photos show the naupaka growing along the wall to the pool fence.

See ATTACHMENT 1. C. REMOVED NAUPAKA Photos show the removal and trucking away of the cut naupaka.

See ATTACHMENT 1. D. NAUPAKA VEGATATION REMOVED 1998. Photos show the area, oceanside of the wall, after the naupaka vegetation was removed. There is no pre-existing erosion channel.

See ATTACHMENT 1. E. TRENCH DUG TO REMOVE NAUPAKA ROOTS. Photos show trench dug to remove the naupaka roots.

See ATTACHMENT 1. F. PLACING BOULDERS IN ROOTS REMOVED TRENCH Photos show placing boulders and rocks into naupaka roots removed trench using a small bobcat.

See ATTACHMENT 1. G. MORE BOULDERS TO FILL ROOTS REMOVED TRENCH Photos show more placement of boulders and rocks in the naupaka roots removed trench.

See ATTACHMENT 1. H. COMPLETED PLACEMENT OF BOULDERS AND ROCKS TO TOP OF WALL Photos show the completed 1998 repair on both sides of the wall. All of the 1998 repairs were made in front of the grass area. The south building is to the left of the walk way and 20 feet way from the closest 1998 repaired location. At the time the 1998 repairs were made there were no "wave related damage and building maintenance issues" with the south building. The Hale Kai AOA was more interested in a new wall at the entrance to the property which was included as a free wall for the \$24,400 1998 seawall repair.

From: Sea Engineering Memorandum May 15, 2009
Bottom of Page 2.

2. Existing Structures

2004 - Seawall structure raised approximately 16 inches; grout repair done around selected wall sections and individual stones (see Figure 4)

The "seawall structure raised approximately 16 inches" took five (5) workers three (3) days to complete. (4/26/04 to 4/28/04) The "grout repair done around selected wall sections and individual stones" took one (1) worker less than two (2) hours on 4/29/04. He even had time to grout his name.

See ATTACHMENT 2. PHOTOS OF 2004 WALL CONSTRUCTION AND GROUTING REPAIRS. Two photos of workers constructing the "16 inch seawall" and two photos of "grout repairs around selected sections and individual stones"

ATTACHMENT 2. Also applies to the first paragraphs :

From: Munekiyo & Higraga, Inc. October 2, 2009 letter

Page 2. CEMENT GROUTING REPAIR AND MAINTENANCE WORK

Munekiyo & Higraga, Inc. November 4, 2009 letter

Page 2. (b) 1998 Cement Repair and Maintenance Work

There is no reference in the above, Munekiyo & Higraga, Inc. documents about the "raising of the seawall structure 16 inches". Maybe it will be included in the E.A.

From: Sea Engineering Memorandum May 15, 2009

Bottom of page 2

2. Existing Structures

2007 - "Gravel and Geotextile Filter Construction" repairs made to the revetment structure (see Figure 1. For location); Repairs are further discussed below;

See ATTACHMENT 3. PHOTOS of LOCATION IN Figure 1. 2007 REPAIR. In the photos note the location of the 16" seawall and pool fence in relation to the location of the 2007 Repair in Figure 1.

See ATTACHMENT 1. (3.) 2007 Repair shows the actual location of the 2007 filter fabric trench. The location in Figure 1. is in the base of the

revetment that is composed of "rock grouted into relatively massive units" The actual location of the trench begins at the pool fence, runs south along the rock wall for approximately 20 feet. The west side, of the trench runs north to south from the pool fence and is approximately four (4) feet seaside from the rock wall.

See ATTACHMENT 1. H. COMPLETED PLACEMENT OF BOULDERS AND ROCKS TO TOP OF WALL. In the photos, note the location of the pool fence, naupaka and the shower pole, palm trees, bushes and building located on the mauka side of the wall.

From: Sea Engineering Memorandum May 15, 2009
Page 3.

Figure 5. Seawall condition existing during 2007 site visit.

Figure 5. is misleading. As shown in ATTACHMENT 1. H. the rocks are to the top of the wall. There is some erosion caused by the drainage of the ocean water that collected behind the wall, flowing south beyond the pool fence. The erosion under the pool fence extends north approximately four (4) feet. See ATTACHMENT 4. PHOTOS OF POOLING OCEAN WATER BEHIND SEAWALL AND PHOTOS OF EROSION UNDER POOL FENCE.

From: Sea Engineering Memorandum May 15, 2009
Page 5.

Figure 7. Condition of repaired revetment, January 2009

Figure 7. is misleading and incorrect.

See ATTACHMENT 5. ACTUAL CONDITIONS ON 1-20-09. The filter fabric trench built on 8/4/07, by an unlicensed contractor, was not built to the Sea Engineering Inc. specifications: It was not dug down to weathered coral. See ATTACHMENTS 6. to 10. for photos of the 2007 filter fabric trench construction.

From: Sea Engineering Memorandum May 15, 2009
Page 6. & 7.

Corrective Action

1. *Seawall*

The recommended "less costly solution" of controlling wave overtopping is to plant naupaka.

With the 16" vertical wall, constructed in 2004 and the raised height of 9", the wave overtopping sometimes reaches 20 feet high. See ATTACHMENT 11. OVERTOPPING WAVES. * Note photos 1. & 2. south of pool fence. No 20 ft. overtopping, only run up along the full length of revetment south to the park beach.

The solution is to go back to their roots. Prior to the vertical wall built in 2004 there were never 20 ft. overtopping waves. Remove the vertical wall built in 2004, which will allow the waves to flow back into the ocean as it has been doing for since 1966. (* see Note ATTACHMENT 11.) Then plant naupaka along the oceanfront of the property as shown in ATTACHMENT 12. NAUPAKA OCEANSIDE BEFORE VERTICAL WALL.

From: Sea Engineering Memorandum May 15, 2009

Page 7.

Corrective Action

2. Revetment

The recommended corrective action is to modify the crest to comply with the schematic representation shown in Figure 6. As follows:

- Remove the crest stones
- Excavate gravel 3 feet down below the crest
- Fill the excavation with stones approximately 1.5 ft. to 2 ft. in diameter.

This recommendation corrective action will put this area back to its original condition (see ATTACHMENT 1. H.) except for having a geotextile filter fabric around the stones placed in the 3 ft. deep trench.

The corrective action that should be undertaken for this area is to dig down to weathered coral, install a sand base, line the trench with filter fabric, fill with gravel to existing grade, then fill with stones to wall height as shown in Figure 6.

From: Munekiyo & Higraga, Inc. October 2, 2009 letter

Page 6. Exhibit "B"

Exhibit "B" is incorrect and misleading. See ATTACHMENT 13. REVISED Exhibit "B". The actual location of the 1998 BOULDER REPAIR WORK and 2004 CEMENT WALL REPAIR WORK is shown.

For additional information please review my September 21, 2009 letter to Clayton I. Yoshida, Re. Your letter to Mark Roy Dated October 13, 2008.

Thank you for your review of this information. If it would help your evaluation and the Board's decision process, I would make myself available to meet with staff and/or testify before the Board.

Should you have any questions or require additional information, please contact me at (808)669 6691.

Very truly yours,

Donald B. Newton
3691 L Honoapiilani Rd. #201
Lahaina, HI 96761

LIST OF ATTACHMENTS
ATTACHMENTS

cc: James Buika, County of Maui, Department of Planning
(w/ATTACHMENTS, via mail)
Dawn Hegger, Office of Conservation and Costal Lands
(w/ATTACHMENTS, via email)

TO: SAM LEMMO

MAY 10, 2010

LIST OF ATTACHMENTS:

ATTACHMENT 1. CORRECTIONS TO Figure 1.

(1.) 55' X 24" ROCKWALL REPAIRED IN 1993

(2.) 1998 REPAIRS

(3.) 2007 REPAIRS

ATTACHMENT 1. A. BEFORE, DURING AND AFTER THE 1993 REPAIRS

ATTACHMENT 1. B. BEFORE THE 1998 REPAIRS

ATTACHMENT 1. C. NAUPAKA VEGETATION BEING REMOVED

ATTACHMENT 1. D. NAUPAKA VEGETATION REMOVED

ATTACHMENT 1. E. TRENCH DUG TO REMOVE NAUPAKA ROOTS.

ATTACHMENT 1. F. PLACING BOULDERS IN ROOTS REMOVED TRENCH

ATTACHMENT 1. G. MORE BOULDERS TO FILL ROOTS REMOVED TRENCH

ATTACHMENT 1. H. COMPLETED PLACEMENT OF BOULDERS AND ROCKS TO THE TOP OF WALL

ATTACHMENT 2. PHOTOS OF 2004 WALL CONSTRUCTION AND GROUTING REPAIRS

ATTACHMENT 3. PHOTOS OF LOCATION IN Figure 1. OF 2007 REPAIRS

ATTACHMENT 4. PHOTOS OF POOLING OCEAN WATER BEHIND SEAWALL AND PHOTOS OF EROSION UNDER POOL FENCE.

ATTACHMENT 5. ACTUAL CONDITIONS ON 1-20-09

LIST OF ATTACHMENTS: (continued)

ATTACHMENT 1.

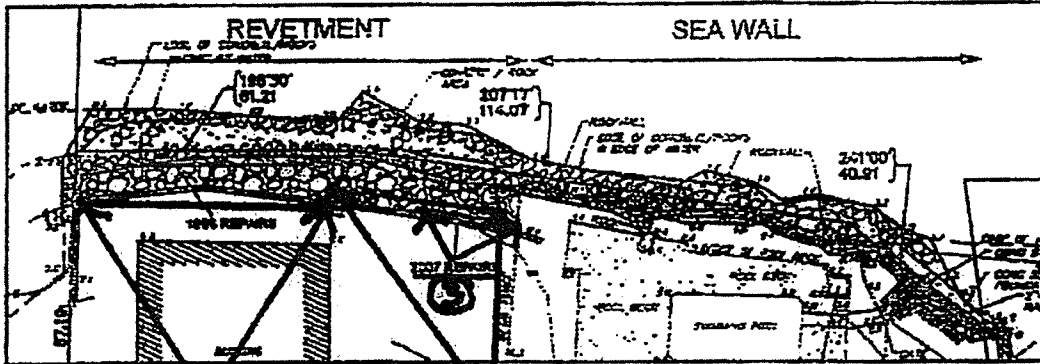
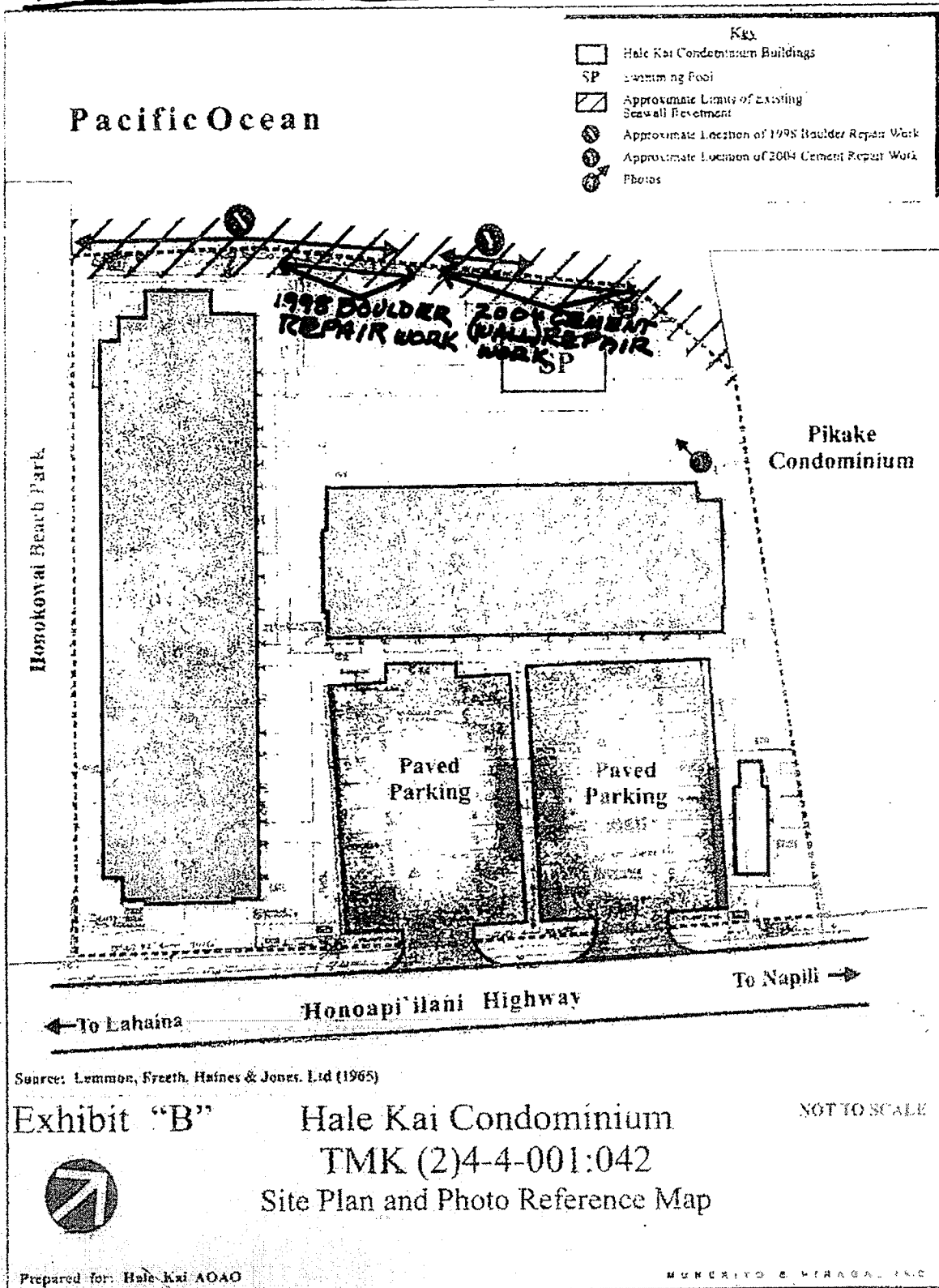


Figure 1. project site layout

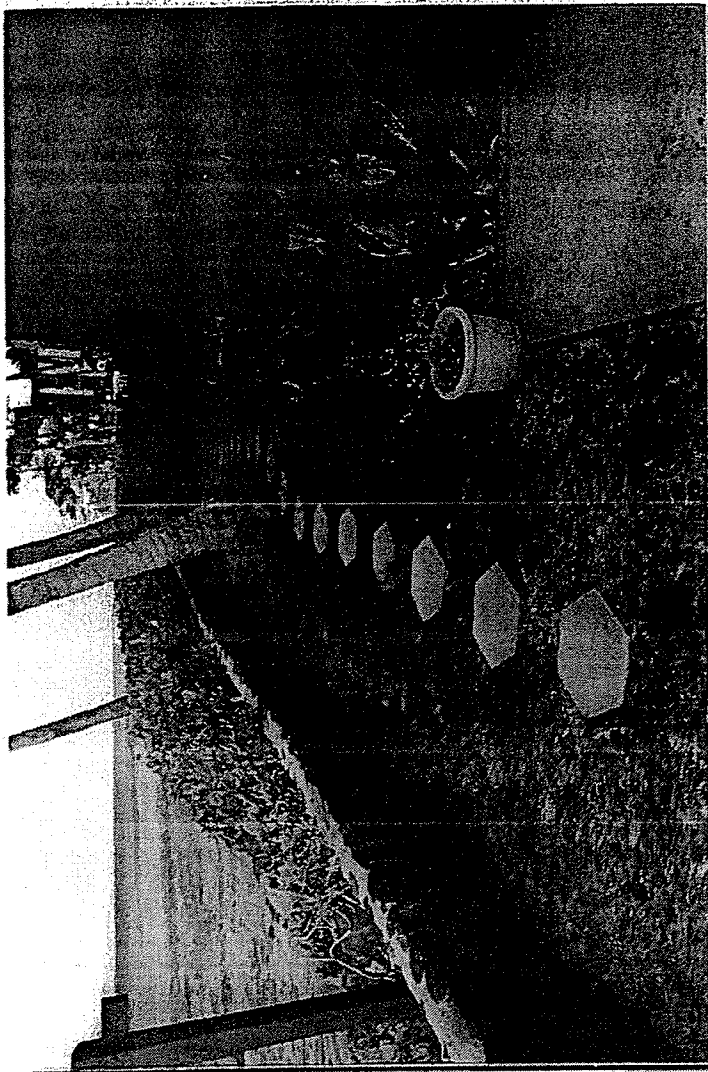
- ① 55' X 24" ROCK WALL ② 1998 REPAIRS
REPAIRED 1993

ATTACHMENT 1.

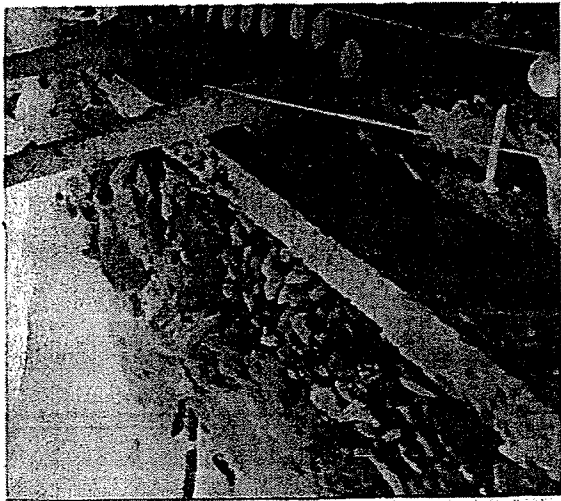
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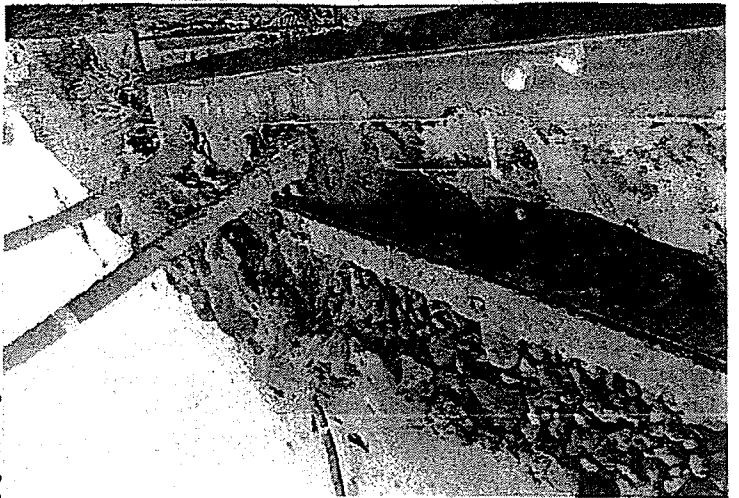
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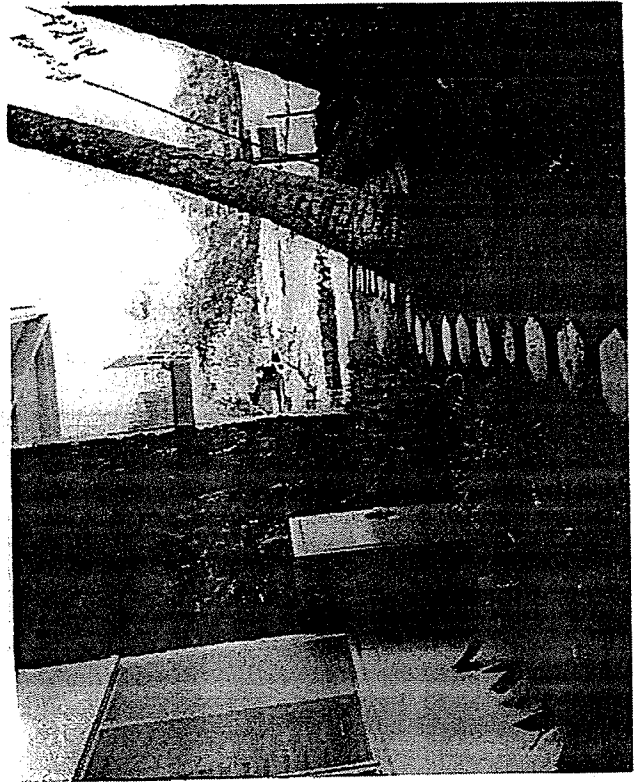
BEFORE ↑ DURING ↓ 1993 REPAIR



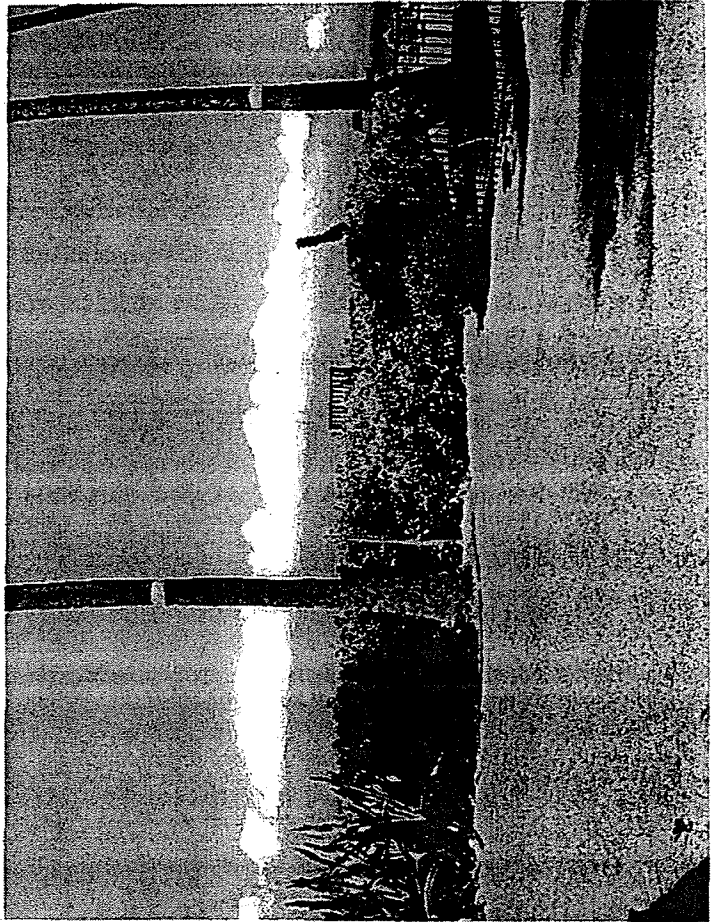
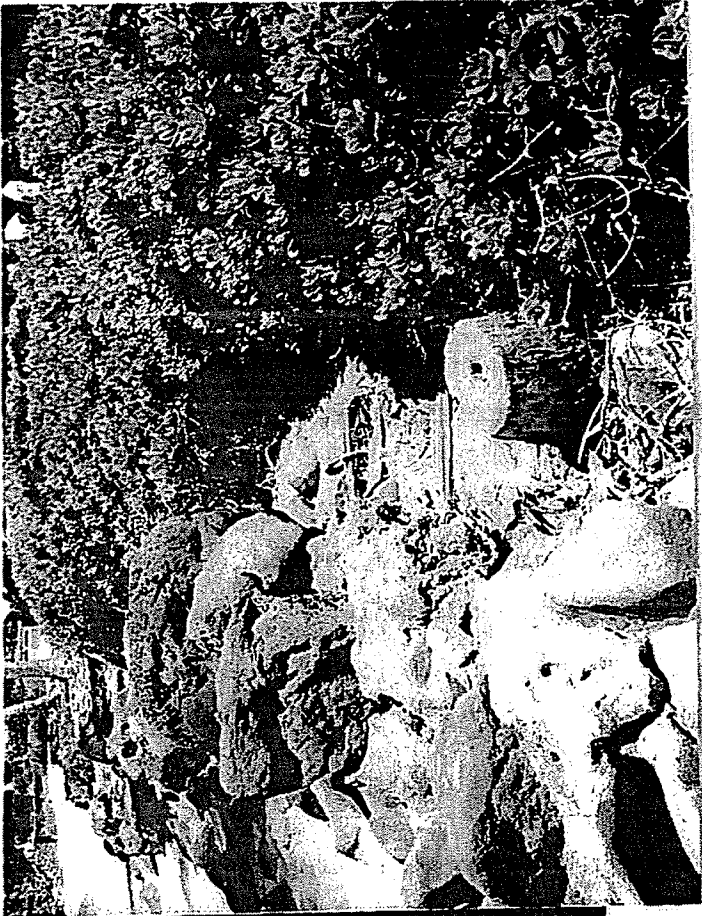
DURING 1993 REPAIR



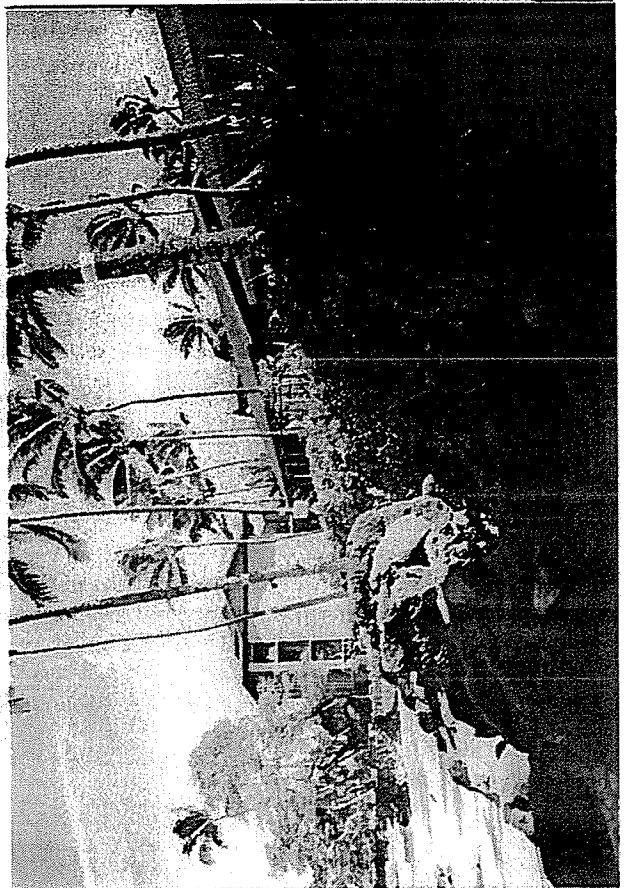
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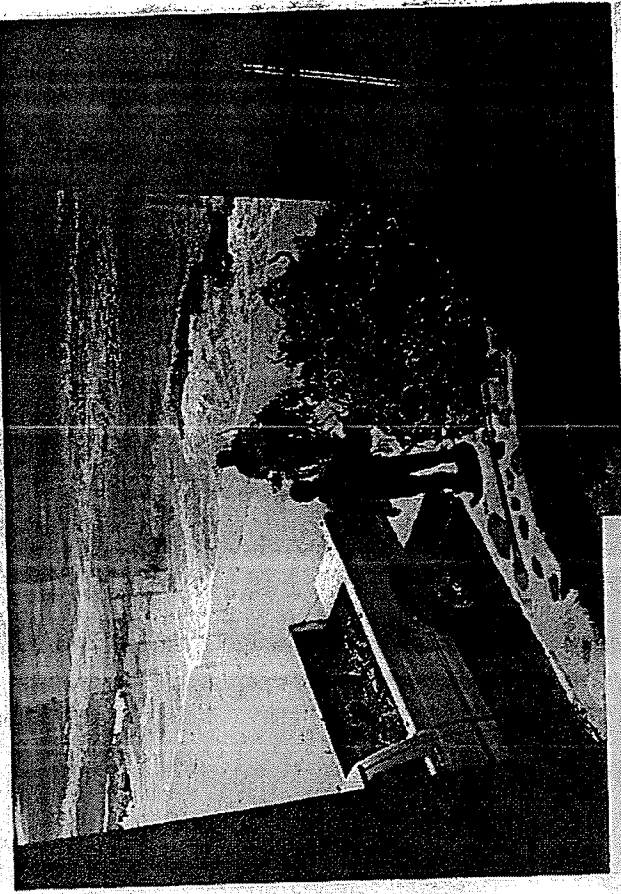
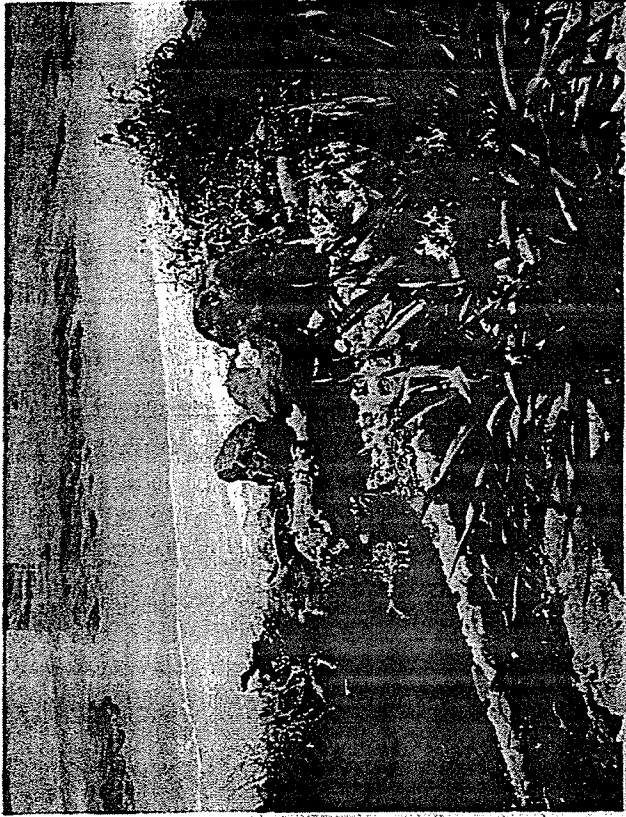


AFTER 1993 REPAIR



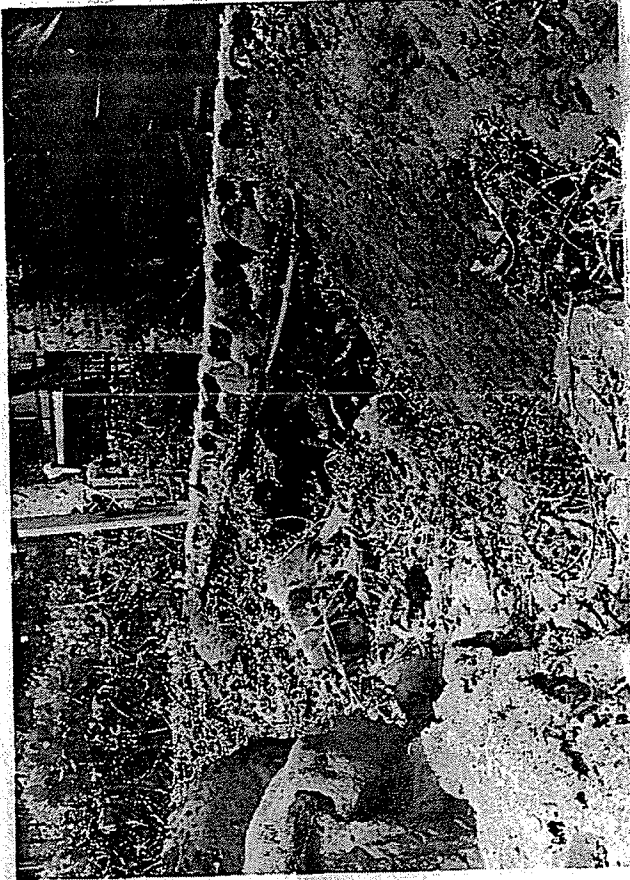
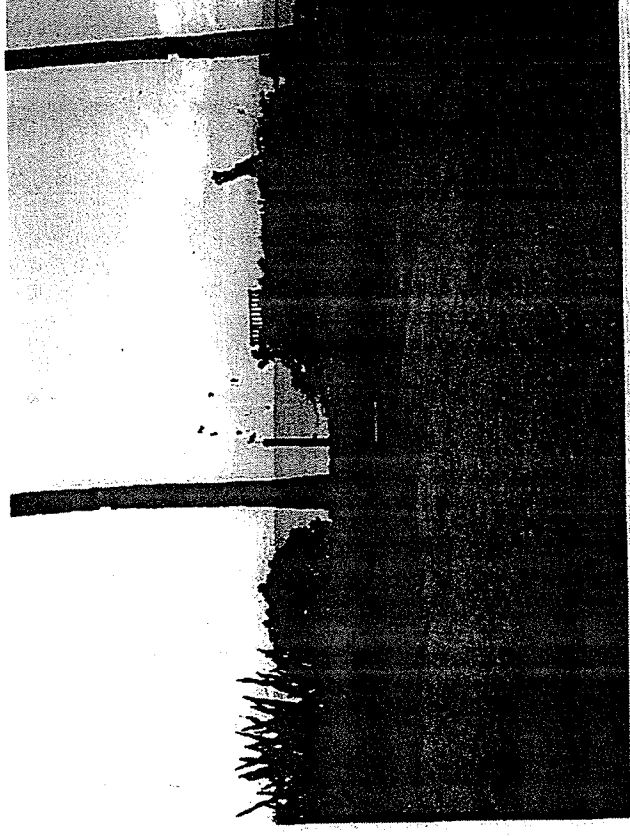
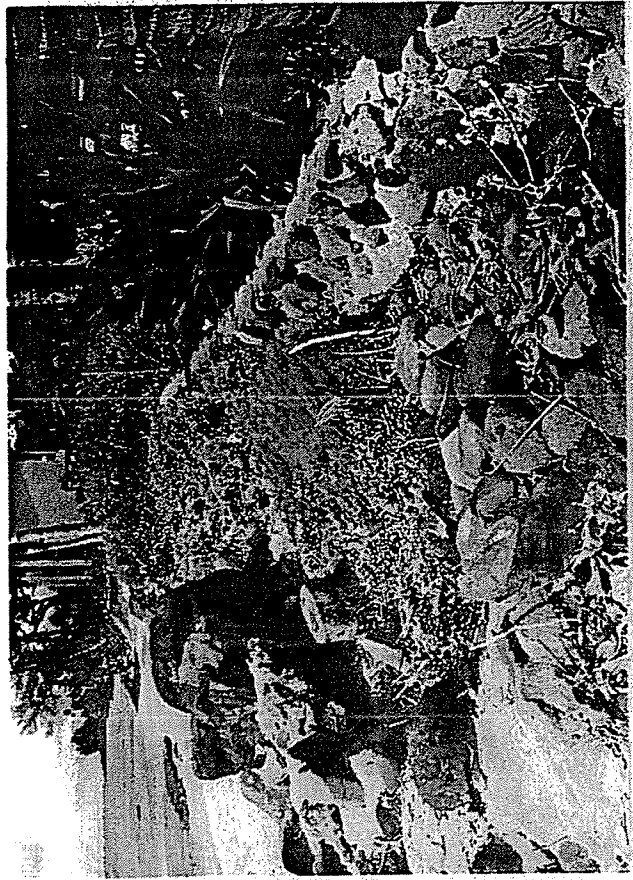
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I. B.





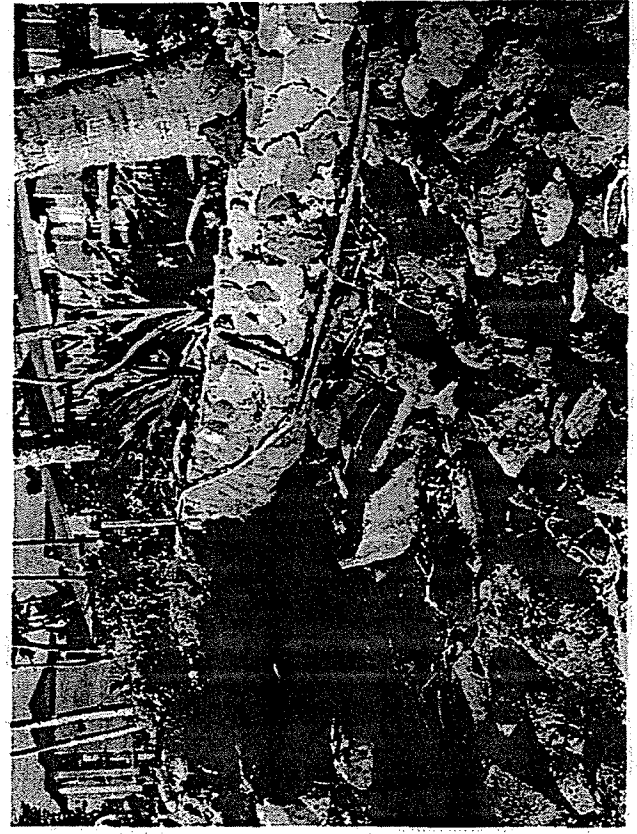
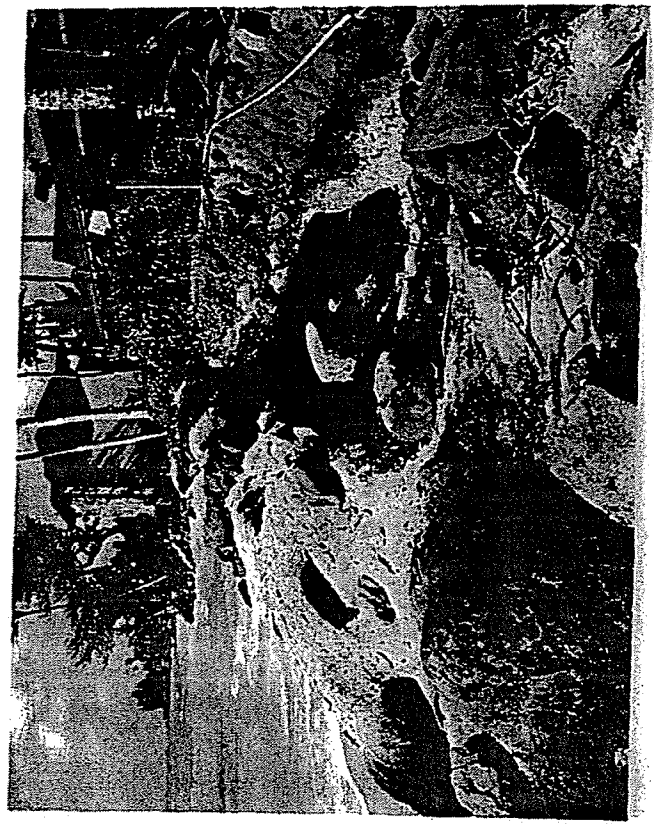
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I. C.

NAUPAKA VEGETATION BEING REMOVED



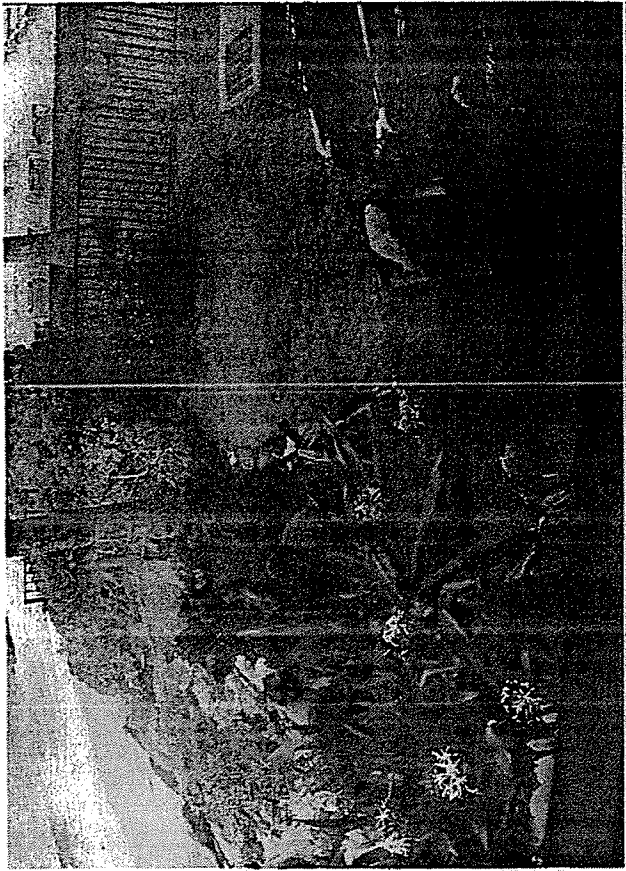
NAUPAKA VEGETATION REMOVED

ATTACHMENT
I. D.



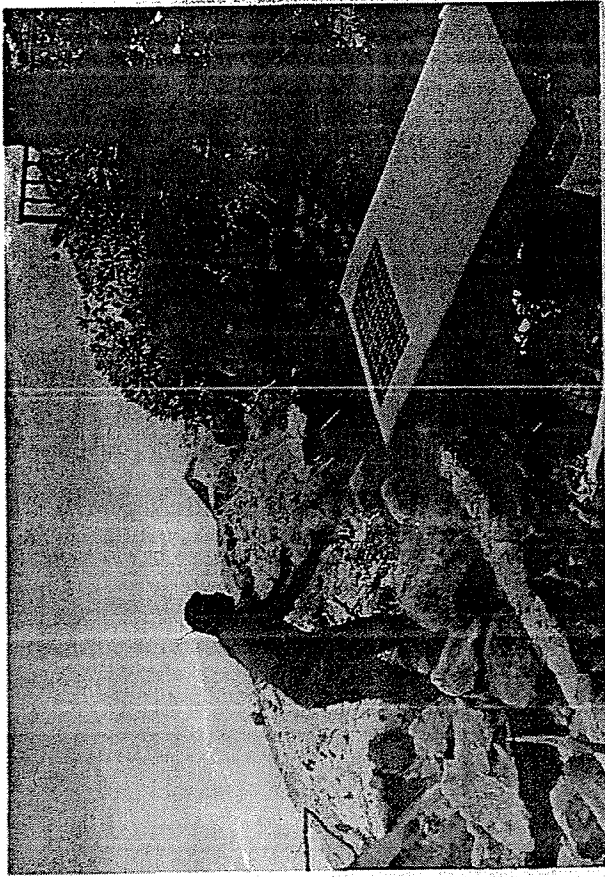
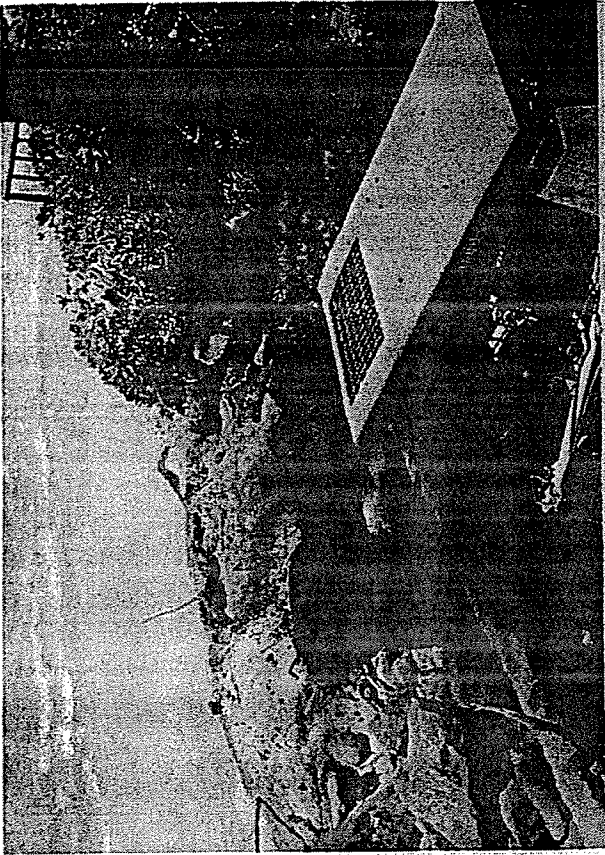
ATTACHMENT
I. E.

TRENCH DUG TO REMOVE NAUPAKA ROOTS



PLACING BOULDERS IN ROOT TREE

ATTACHMENT
I. F.



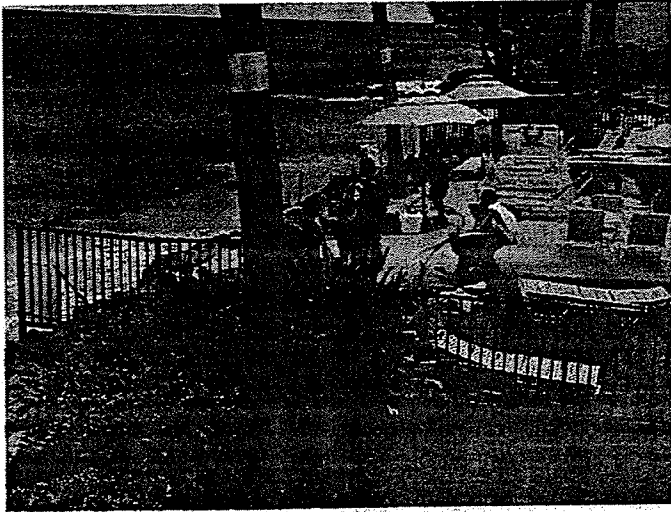
MORE BOULDERS TO FILL ROOT
TRENCH

ATTACHMENT
I. G.



ATTACHMENT
I. H.

COMPLETED PLACEMENT OF BOULDERS
AND ROCKS TO TOP OF WALL



1. 7/26/04.JPG



2. 7/26/04.JPG



3. 7/29/04.JPG



4. 7/29/04.JPG

ATTACHMENT
2.



1.LOOKING NORTH.JPG



2.LOOKING N/E.JPG



3.LOOKING EAST.JPG

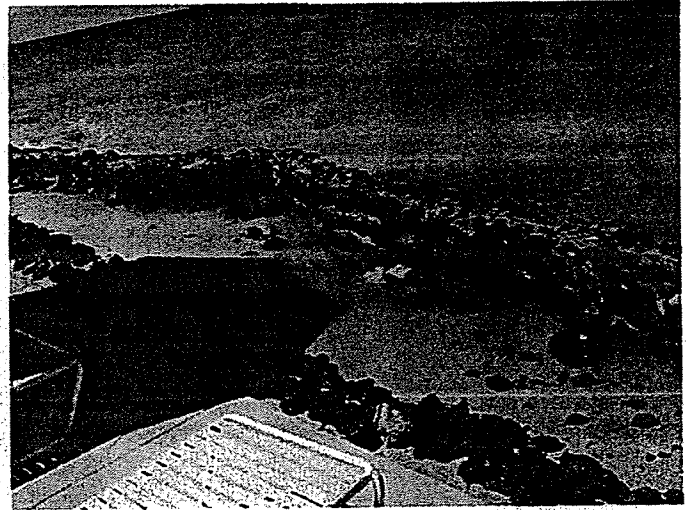


4.LOOKING NORTH.JPG

ATTACHMENT
3,



1. POOLING.JPG



2. POOLING .JPG



3. HOLE 12/30/05.JPG



4. HOLE 12/30/05.JPG

ATTACHMENT
H.

ATTACHMENT 5.

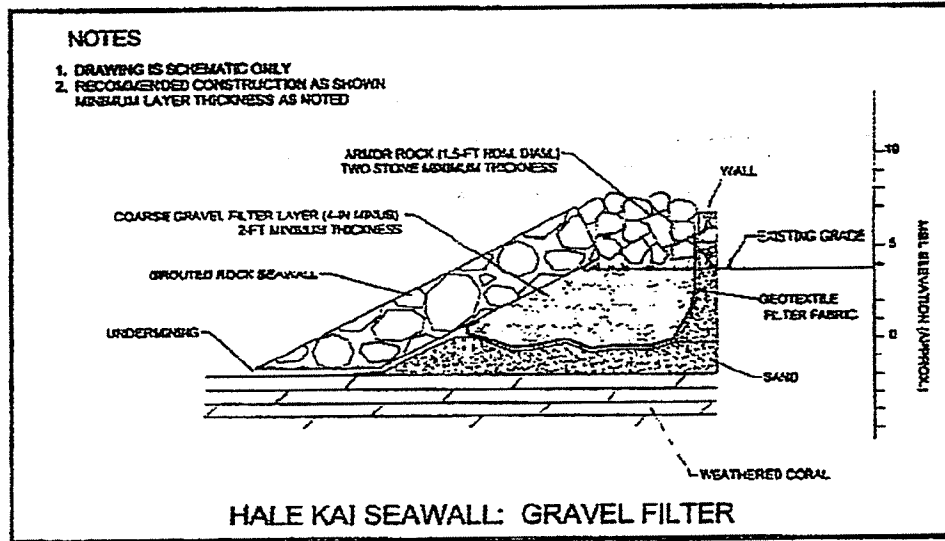


Figure 6. Recommended gravel filter repair

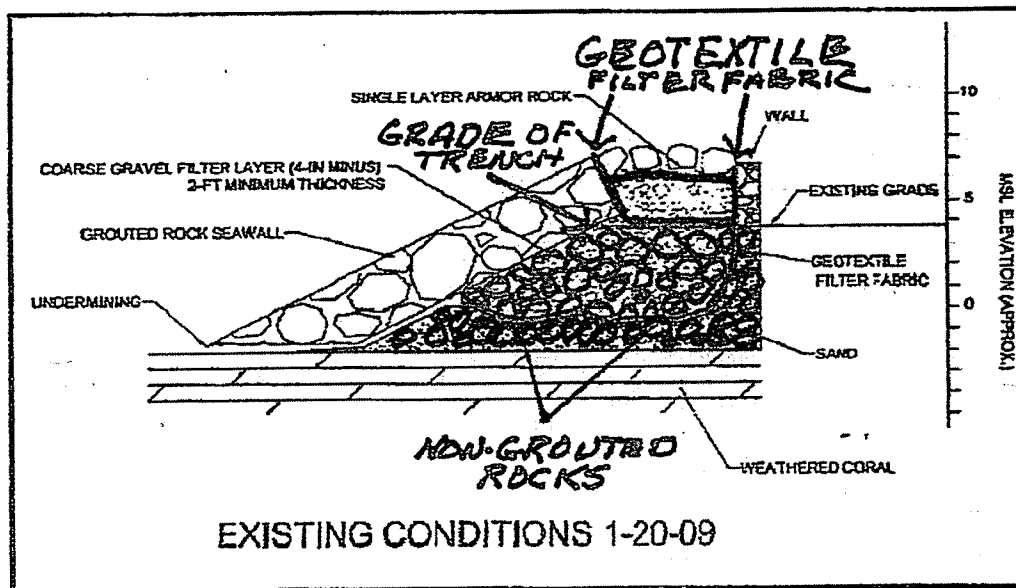


Figure 7. Condition of repaired revetment, January 2009

ATTACHMENT 5.



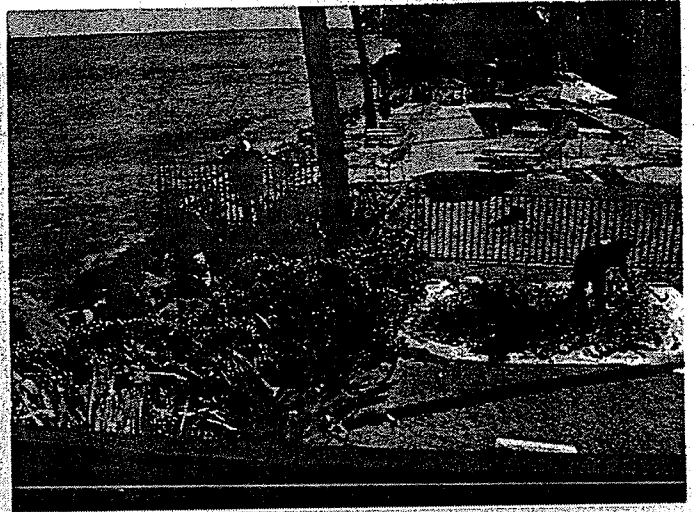
1. BEFORE FF TRENCH.JPG



3.REMOVING NAUPAKA.JPG

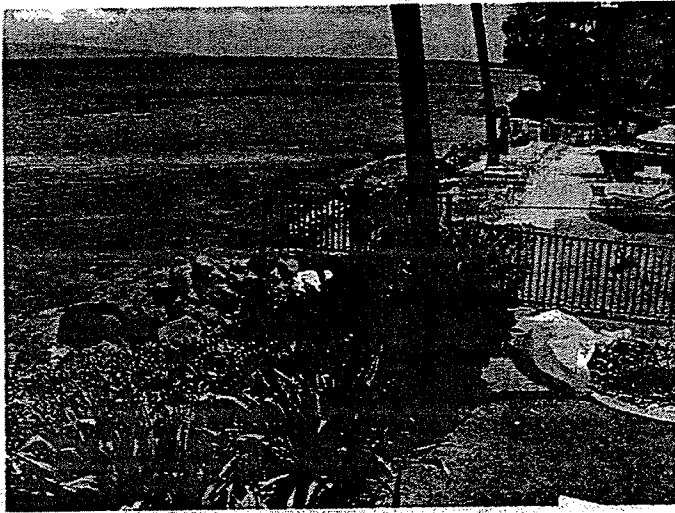


2.REMOVING NAUPAKA.JPG

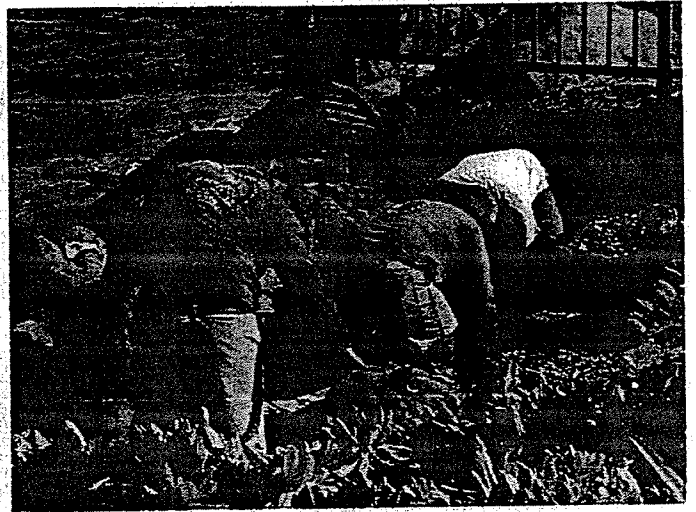


4.REMOVING NAUPAKA.JPG

ATTACHMENT
6.



1.DIGGING TRENCH.JPG



2.DIGGING TRENCH.JPG



3.DIGGING TRENCH.JPG



4.DIGGING TRENCH.JPG

ATTACHMENT
7.



1. TRENCH.JPG



2. TRENCH.JPG



3. TRENCH.JPG



4. TRENCH.JPG

ATTACHMENT
8.



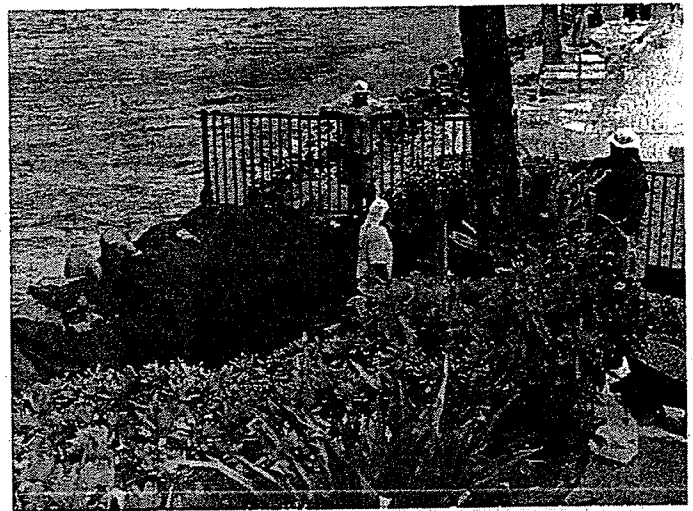
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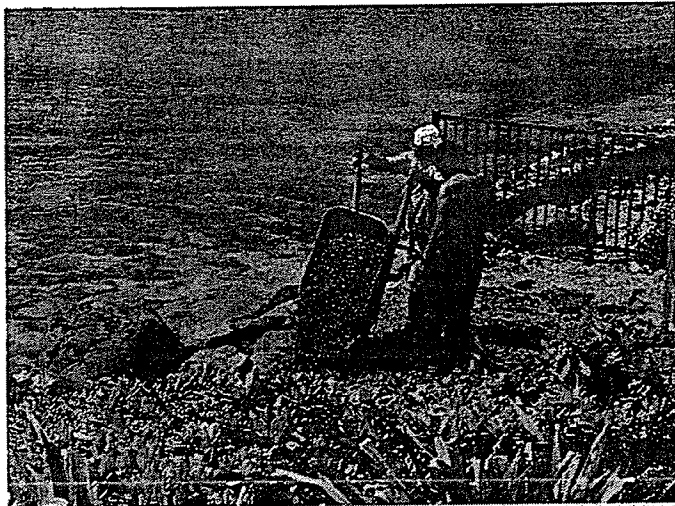
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1. PLACING ROCKS.JPG



2. GRAVEL ON TOP.JPG



3. LAST GRAVEL ON TOP.JPG



4. FINISHED.JPG

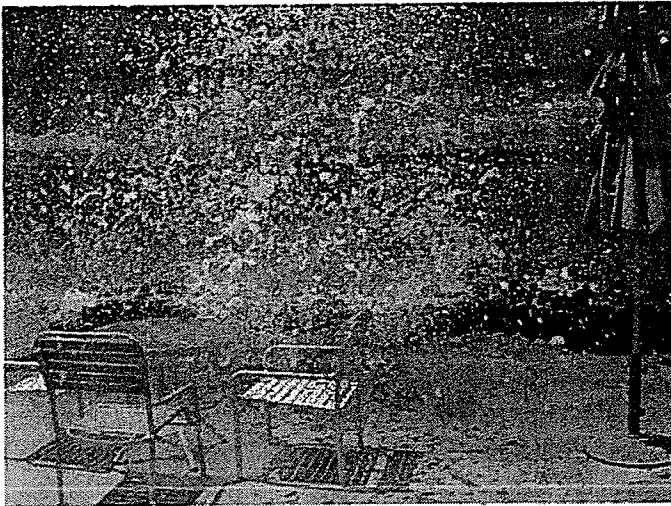
ATTACHMENT
10.



1.OVERTOPPING.JPG



2.OVERTOPPING.JPG



3.OVERTOPPING.JPG



4.OVERTOPPING.JPG

ATTACHMENT
11.

August 25, 2010

Samuel Lemmo, Administrator
State of Hawaii
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, Hawaii 96809

SUBJECT: After-The-Fact Conservation District Use Application for Repair and Maintenance Improvements to Existing Seawall/Revetment at TMK (2) 4-4-001:042, Honokowai, Maui, Hawaii (CDUA: MA-3543)

Dear Mr. Lemmo:

We are in receipt of a letter from Mr. Donald B. Newton, dated May 10, 2010, providing comments relating to the Conservation District Use Application (CDUA) for the subject action. Hale Kai Association of Apartment Owners (AOAO) would like to offer the following information in response to the comments noted in Mr. Newton's letter:

Comment No. 1:

The Hale Kai President, Roberta Donnelly has forbidden their consultant, Mark Roy, to communicate or discuss with me the misinformation in his correspondence. I have to assume they do not want the facts nor the truth as it may adversely influence the decisions made by the readers.

I believe that you and your staff should have the accurate, complete and factual information. When the BLNR makes their decisions on the permit violations, the decisions will be based on the complete and factual information. Without accurate and complete information the corrective actions will not solve the problems created by the violations.

This letter and the attachments are provided to correct the false, misleading and incomplete information. The attachments are provided to support information I am providing in this letter. Many of the photos in the consultant letters are my photos, used without my permission.

Response:

Mr. Newton was asked by the Hale Kai AOA on December 21, 2009 to refrain from communicating directly with our planning consultants, Munekiyo and Hiraga, Inc. The Hale Kai AOA has a fiduciary responsibility to manage the affairs of all condominium owners at the property, which includes effective use of monies for consultant fees. Mr. Newton was asked during this correspondence to direct any questions or concerns he had with regards to the seawall to the Hale Kai AOA. In this instance, the Hale Kai AOA would have reviewed the questions/concerns being raised by Mr. Newton (and any other owners for that matter), coordinated with our consultant (as necessary) and then responded accordingly with the appropriate answer. We are attaching emails regarding correspondence with Mr. Newton on this matter. **See Exhibit "A"**. To date, no questions or concerns have been received from Mr. Newton by the Hale Kai AOA.

Please rest assured that the Hale Kai is committed to addressing every issue raised during the processing of the CDUA. As such, we have reviewed Mr. Newton's letter and are providing the following responses to each of the comments raised.

The photographs used in both letters of correspondence to OCCL and in the CDUA/Draft Environmental Assessment (EA) were submitted by Mr. Newton to the County of Maui, Department of Planning (Maui Planning Department) in 2008. Copies of these photographs were provided by the Maui Planning Department's Zoning, Administration and Enforcement Division (ZAED) during the processing of addressing after-the-fact permit requirements for improvements made to the seawall/revetment between 2004 to 2007.

Comment No. 2:

From: Sea Engineering Memorandum May 15, 2009

Page 2.

2. Existing Structures

Figure 1. Project site layout

See: ATTACHMENT 1. CORRECTIONS TO Figure 1.

- (1.) 55' X 24" ROCKWALL REPAIRED IN 1993 shows the actual location of the rockwall.

See: ATTACHMENT 1.A The photos, lower left and upper right "During 1993 Repairs" show the wall repair and "Gravel and Geotextile Filter" construction on the building side of the wall as approved in the January 1993 SMA/SS approval, not seaward side of the wall as shown in Figure 1. Photo upper left is before 1993 repair, photo lower right is

after 1993 repair.

(2.) 1998 REPAIRS shows the actual location of the 1998 REPAIRS. No 1998 repairs were made in the area indicated by 1998 Repairs in Figure 1. by Sea Engineering.

See ATTACHMENT 1. B. to ATTACHMENT 1. H. for photos before, during and after the 1998 repairs to the sea wall.

From: Sea Engineering Memorandum May 15, 2009

Bottom of Page 2.

2. Existing Structures

1998 – Repairs made to the revetment structure in front of the south building similar to “Geotextile Filter Construction” (see Figure 1. for location)

This is a false and misleading statement. As stated above, there were no repairs made in the designated area, seaward of the rock wall and in front of the south building. All 1998 repairs were made in front of the grass area, north of the walkway and the south building as shown in ATTACHMENT 1. (2.) 1998 REPAIRS.

Response:

We acknowledge the information provided on the repairs that were undertaken in 1993 by the Hale Kai AOA to a garden wall on the property that runs along the mauka side of the top of the existing seawall/revetment. An SMA approval was issued in 1993 by the County of Maui, Department of Planning prior to the completion of this work, which is separate and distinct from the 1998 boulder repair work and 2004 cement grouting repair work that is the subject of the CDUA currently being processed by OCCL.

We acknowledge and appreciate the provision of additional photos by Mr. Newton (identified as Attachments 1B through 1H in the May 10, 2010 letter) demonstrating the extent and scope of the 1998 boulder repair work. Figure 1 of the May 15, 2009 memorandum by Sea Engineering, Inc. (SEI) (provided in Appendix “E” of the Draft EA), will be revised to more accurately depict the location of the 1998 boulder repair work, which occurred in the area of the revetment as depicted in photos included in the attachments to Mr. Newton’s letter. The reference to the 1998 repair work on Page 2 of the SEI memorandum will be revised to further clarify the location of this work, as follows:

1998 - Repairs made to the revetment structure in front of the West garden area, between garden wall and the grouted revetment boulders.

A copy of the revised SEI memorandum will be included in the Final EA.

Comment No. 3:

*From: Munekiyo & Hiraga, Inc. October 2, 2009 letter
Page 1. BOULDER REPAIR AND MAINTENANCE WORK
Munekiyo & Hiraga, Inc. November 4, 2009 letter
Page 2. (a) 1998 Boulder Repair and Maintenance Work*

The following are false and misleading statements: The boulder work undertaken in 1998 and entailed (1) the widening of a pre-existing erosion channel running behind (mauka of) the existing boulder revetment and in front of a decorative landscaping wall that exists along the south side of the property. and (2) the placement of various sized rocks/boulders into the trench to stabilize the affected area and prevent further erosion. The work was undertaken by Hale Kai AOAO in an effort to address wave-related water damage and building maintenance issues that were occurring within one of the condominium buildings that lies in close proximity to the ocean at this particular location.

See ATTACHMENT 1. B. BEFORE 1998 REPAIRS. Photos show the naupaka growing along the wall to the pool fence.

See ATTACHMENT 1. C. REMOVED NAUPAKA Photos show the removal and trucking away of the cut naupaka.

See ATTACHMENT 1. D. NAUPAKA VEGATATION REMOVED 1998. Photos show the area, oceanside of the wall, after the naupaka vegetation was removed. There is no pre-existing erosion channel.

See ATTACHMENT 1. E. TRENCH DUG TO REMOVE NAUPAKA ROOTS. Photos show trench dug to remove the naupaka roots.

See ATTACHMENT 1. F. PLACING BOULDERS IN ROOTS REMOVED TRENCH Photos show placing boulders and rocks into naupaka roots removed trench using a small bobcat.

See ATTACHMENT 1. G. MORE BOULDERS TO FILL ROOTS REMOVED TRENCH Photos show more placement of boulders and rocks in the naupaka roots removed trench.

See ATTACHMENT 1. H. COMPLETED PLACEMENT OF BOULDERS AND ROCKS TO TOP OF WALL Photos show the completed 1998 repair on both sides of the wall. All of the 1998 repairs were made in front of the grass area. The south building is to the left of the walk way and 20 feet way from the closest 1998 repaired location. At the time the 1998 repairs were made there were no "wave related damage and building maintenance issues" with the south building. The Hale Kai AOAO was more interested in a new wall at the entrance to the property which was included as a free wall for the \$24,400 1998 seawall repair.

Response:

We acknowledge the additional information provided by Mr. Newton clarifying that the repair work fronting the building along the shoreline on the south side of the property was completed in 1993 and that the 1998 boulder repair work occurred (further north) on an area of the revetment fronting the grassed area that exists between the South building and the swimming pool. The 1998 work was conducted by the AOA to address wave-related drainage and erosion problems that were being experienced along the affected portion of the revetment.

As noted in our previous response, a revised version of the May 15, 2009 SEI memorandum will be prepared for inclusion in the Final EA to more accurately reflect the location of 1998 boulder repair work. Figure 10 and all applicable narrative references of the Final EA will also be revised accordingly.

In particular, the Final EA will contain the following revised description of the 1998 boulder work:

The boulder work was undertaken in 1998 and entailed (1) the removal of Naupaka vegetation and the widening of a pre-existing erosion channel running behind (mauka of) the existing boulder revetment and in front of a decorative landscaping wall that exists along the south side of the property, and (2) the placement of various sized rocks/boulders into the trench to stabilize the affected area and prevent further erosion. The work was undertaken by Hale Kai AOA in an effort to address wave-related water drainage and erosion problems that were occurring along the revetment/seawall structure.

Comment No. 4:

From: Sea Engineering Memorandum May 15, 2009

Bottom of Page 2.

2. Existing Structures

2004 – Seawall structure raised approximately 16 inches; grout repair done around selected wall sections and individual stones (see Figure 4)

The "seawall structure raised approximately 16 inches" took five (5) workers three (3) days to complete. (4/26/04 to 4/28/04) The "grout repair done around selected wall sections and individual stones" took one (1) worker less than two (2) hours on 4/29/04. He even had time to grout his name.

See ATTACHMENT 2. PHOTOS OF 2004 WALL CONSTRUCTION AND GROUTING REPAIRS. Two photos of workers constructing the "16 inch seawall" and two photos of

"grout repairs around selected sections and individual stones"

Response:

We acknowledge the information provided in Attachment 2 of Mr. Newton's letter and concur that this is an accurate description of the work that occurred in 2004. The limited scope of the 2004 cement grouting work is discussed in the Draft EA, as follows:

The cement grouting repair and maintenance work was conducted in 2004. The existing revetment that runs along the shoreline of the Hale Kai property consists of a series of large grouted boulders that were installed at the property over 45 years ago, prior to the construction of the condominium. The grouting of these boulders in place occurred prior to the 1980's. The minor cement grouting replacement work was undertaken by the Hale Kai AOA in 2004 to reapply cement grouting to several boulders which were breaking away from the revetment structure. This regrouting work was completed as part of an overall repair and maintenance project that was intended to address damage to the vertical seawall that lies between the revetment and the swimming pool area of the property. It is noted that the 2004 cement replacement work affected only a small area of existing boulders located just below the decorative vertical wall that lies between the swimming pool area and the revetment.

Comment No. 5:

*From: Munekiyo & Hiraga, Inc. October 2, 2009 letter
Page 2. CEMENT GROUTING REPAIR AND MAINTENANCE WORK
Munekiyo & Hiraga, Inc. November 4, 2009 letter
Page 2. (b) 1998 Cement Repair and Maintenance Work*

There is no reference in the above, Munekiyo & Hiraga, Inc. documents about the "raising of the seawall structure 16 inches". Maybe it will be included in the E.A.

Response:

The Hale Kai AOA has undertaken coordination with the Maui Planning Department to address after-the-fact approval requirements for various other seawall repair and maintenance improvements that occurred between 2004 and 2007 that were determined (during the May 23, 2008 Board of Land and Natural Resources, BLNR enforcement action) to fall outside of State jurisdiction within the limits of the subject property. The raising of the seawall structure along the swimming pool was one of these actions that was deemed by the BLNR to fall within the jurisdiction of the County of Maui. On October 13, 2008, the Maui Planning Department issued an after-the-fact

Special Management Area (SMA) Minor Permit and a Shoreline Setback Approval (SSA) for these 2004-2007 repair and maintenance actions, of which included the raising of the seawall. A copy of the 2008 after-the-fact SMA Minor Permit and SSA approval letter from the Department of Planning is presented as Appendix "F" of the Draft EA.

Comment No. 6:

From: Sea Engineering Memorandum May 15, 2009

Bottom of page 2

2. Existing Structures

2007 -"Gravel and Geotextile Filter Construction" repairs made to the revetment structure (see Figure 1. For location); Repairs are further discussed below;

See ATTACHMENT 3. PHOTOS of LOCATION IN Figure 1.2007

REPAIR. In the photos note the location of the 16" seawall and pool fence in relation to the location of the 2007 Repair in Figure 1.

See ATTACHMENT 1. (3.) 2007 Repair shows the actual location of the 2007 filter fabric trench. The location in Figure 1. is in the base of the revetment that is composed of "rock grouted into relatively massive units" The actual location of the trench begins at the pool fence, runs south along the rock wall for approximately 20 feet. The west side, of the trench runs north to south from the pool fence and is approximately four (4) feet seaside from the rock wall.

See ATTACHMENT 1. H. COMPLETED PLACEMENT OF BOULDERS AND ROCKS TO TOP OF WALL. In the photos, note the location of the pool fence, naupaka and the shower pole, palm trees, bushes and building located on the mauka side of the wall.

Response:

We acknowledge the information in Mr. Newton's letter providing additional clarification on the location of the 2007 Gravel and Geotextile Filter repair work, as discussed in the May 15, 2009 SEI memorandum. Figure 1 of the SEI memorandum will be revised to move the arrow demarcating the area of the 2007 improvements further mauka to the top of the revetment/seawall structure. As noted previously, the revised SEI memorandum will be included in the Final EA.

Comment No. 7:

From: Sea Engineering Memorandum May 15, 2009

Page 3.

Figure 5. Seawall condition existing during 2007 site visit.

Figure 5. is misleading. As shown in ATTACHMENT 1. H. the rocks are to the top of the wall. There is some erosion caused by the drainage of the ocean water that collected behind the wall, flowing south beyond the pool fence. The erosion under the pool fence extends north approximately four (4) feet. See ATTACHMENT 4. PHOTOS OF POOLING OCEAN WATER BEHIND SEAWALL AND PHOTOS OF EROSION UNDER POOL FENCE.

Response:

The photographs provided in Attachment 1-H illustrate the condition of the revetment (looking south towards Honokowai Beach Park) as it existed in 1998. The site inspection, referenced in the May 15, 2009 SEI memorandum, was conducted in 2007, almost ten (10) years later. Figure 5 of the SEI memorandum represents an accurate depiction of the condition of that particular 20-foot section of the revetment as it existed during the site inspection in 2007. Figure 5 is intended to show the condition of this section of the revetment before the Gravel and Geotextile Filter was installed in 2007, as recommended by SEI. Figure 6 of the SEI memorandum shows the intended design as recommended by SEI in 2007 while Figure 7 is a representation of the same section of the revetment as it appeared following completion of the repair work during a January 2009 inspection by SEI. The May 15, 2009 SEI memorandum details a corrective action to repair this section of revetment so that it is consistent with the design as recommended in Figure 6. A SMA Minor Permit and SSA has been obtained from the Maui Planning Department for the completion of this corrective action repair work. The precise scope of work for this corrective action is described in our response to Comment No. 8 below.

In regards to the comment on drainage, Mr. Newton is correct in the statement he makes that there is occasionally ponding of sea water experienced along the mauka side of the revetment/seawall structure during periodic high wave events, which predominantly occur during the winter months. This is typical of most shoreline properties along the Kaanapali coastline. The various improvements that have been undertaken over the years by the Hale Kai AOA to the existing seawall/revetment structure have been completed with the intention of addressing these wave-related erosion issues and protecting the health and safety of residents at the Hale Kai property.

Comment No. 8:

From: Sea Engineering Memorandum May 15, 2009

Page 5.

Figure 7. Condition of repaired revetment, January 2009

Figure 7. is misleading and incorrect.

See ATTACHMENT 5. ACTUAL CONDITIONS ON 1-20-09. The filter fabric trench built on 8/4/07, by an unlicensed contractor, was not built to the Sea Engineering Inc. specifications: It was not dug down to weathered coral. See ATTACHMENTS 6. to 10. for photos of the 2007 filter fabric trench construction.

Response:

We appreciate the photographs provided by Mr. Newton showing the completion of the 2007 Gravel and Geotextile Filter work. The May 15, 2009 SEI memorandum provides an assessment of the current condition of the seawall/revetment at the Hale Kai property and, as noted previously, provides recommendations for corrective actions that are intended to address maintenance issues related to continued wave-related erosion issues along the structure.

The May 15, 2009 SEI memorandum identifies that a single layer of stones, approximately 1 ft. to 1.5 ft. in nominal diameter, was used to cover the crest of the Gravel and Geotextile Filter during its installation in 2007. These stones are not currently keyed together or otherwise locked in place and would likely be displaced under a significant storm event. The following corrective action was, therefore, recommended in the SEI memorandum to address this issue:

1. Removal of the existing crest stones from the 2007 gravel and geotextile filter area.
2. Excavation of the gravel within the area to 3 ft. below the revetment crest.
3. Placement of appropriately sized stones (approximately 1.5 ft. to 2 ft. in diameter) within the excavated area. All stones should be in close contact with adjacent stones and tightly packed behind the crest of the grouted portion.

As noted previously, a SMA Minor Permit and SSA was recently issued (in March 2010) by the Maui Planning Department for this corrective action repair work. Hale Kai will be proceeding with the crest stone replacement work upon completion of the CDUA process for the 1998 boulder repair work and the 2004 cement grouting repair work.

Comment No. 9:

*From: Sea Engineering Memorandum May 15, 2009
Page 6. & 7.
Corrective Action
1. Seawall*

The recommended "less costly solution" of controlling wave overtopping is to plant

naupaka.

*With the 16" vertical wall, constructed in 2004 and the raised height of 9", the wave overtopping sometimes reaches 20 feet high. See ATTACHMENT 11. OVERTOPPING WAVES. * Note photos 1. & 2. south of pool fence. No 20 ft. overtopping, only run up along the full length of revetment south to the park beach.*

The solution is to go back to their roots. Prior to the vertical wall built in 2004 there were never 20 ft. overtopping waves. Remove the vertical wall built in 2004, which will allow the waves to flow back into the ocean as it has been doing for since 1966. (see Note ATTACHMENT 11.) Then plant naupaka along the oceanfront of the property as shown in ATTACHMENT 12. NAUPAKA OCEANSIDE BEFORE VERTICAL WALL.*

Response:

The May 15, 2010 SEI memorandum evaluated alternative solutions concerning shoreline protection and wave overtopping. The use of naupaka vegetation was presented as an option and has been selected by the Hale Kai AAO as the preferred alternative for implementation along the makai side of the swimming pool.

We have consulted with SEI regarding Mr. Newton's comments regarding the effects of the raising of the seawall as completed in 2004. We have been informed that while the additional vertical height of seawall along the swimming pool may direct wave impact and ocean spray more skyward, it also proves effective at blocking direct wave overtopping. Lowering the wall (as suggested in Mr. Newton's comment letter) will increase, not decrease the potential for wave overtopping to occur along the seawall/revetment structure.

Comment No. 10:

*From: Sea Engineering Memorandum May 15, 2009
Page 7.
Corrective Action
2. Revetment*

The recommended corrective action is to modify the crest to comply with the schematic representation shown in Figure 6. As follows:

- Remove the crest stones*
- Excavate gravel 3 feet down below the crest*
- Fill the excavation with stones approximately 1.5 ft. to 2 ft. in diameter.*

This recommendation corrective action will put this area back to its original condition

(see ATTACHMENT 1. H.) except for having a geotextile filter fabric around the stones placed in the 3 ft. deep trench.

The corrective action that should be undertaken for this area is to dig down to weathered coral, install a sand base, line the trench with filter fabric, fill with gravel to existing grade, then fill with stones to wall height as shown in Figure 6.

Response:

We have also consulted with our coastal engineer (SEI) regarding Mr. Newton's comment on the preferred design for the crest stone replacement work as defined in the May 15, 2009 memorandum. The corrective action as recommended by Mr. Newton is similar to the design recommended by SEI. SEI does not recommend excavating down to the limestone substrate (weathered coral), as information concerning the nature and elevation of the substrate is not extensive. The gravel and geotextile filter is designed to respond to any settlement that may occur below the filter and will act as a plug to minimize hydraulic action. The geotextile layer will also serve to protect the substrate behind the revetment (below the existing garden wall). The resulting structure, as recommended in the May 15, 2009 SEI memorandum, will be an improvement over the previous condition as observed during the 2007 site inspection.

Comment No. 11:

*From: Munekiyō & Hiraga, Inc. October 2, 2009 letter
Page 6. Exhibit "B"*

Exhibit "B" is incorrect and misleading. See ATTACHMENT 13. REVISED Exhibit "B". The actual location of the 1998 BOULDER REPAIR WORK and 2004 CEMENT WALL REPAIR WORK is shown.

Response:

As noted previously, the figures presented the Draft EA have been revised to clarify the location of the 1998 boulder repair work and the 2004 cement repair work.

Comment No. 12:

For additional information please review my September 21, 2009 letter to Clayton I. Yoshida, Re. Your letter to Mark Roy Dated October 13, 2008.

Response:

As discussed in our response to Comment No. 5, coordination with the Maui Planning

Sam Lemmo, Administrator
August 25, 2010
Page 12

Department has been undertaken by Hale Kai AOA since 2008 to address after-the-fact approval requirements for various seawall repair and maintenance improvements that occurred between 2004 and 2007. This 2004-2007 repair work was determined (during the May 23, 2008 BLNR enforcement action) to fall outside of State jurisdiction within the limits of the subject property. On October 13, 2008, the Maui Planning Department issued an after-the-fact SMA Minor Permit and a SSA for these other repair and maintenance actions. As a condition of this approval, the Hale Kai AOA was required to prepare an engineering assessment of the existing seawall/revetment along the property to assess the current condition of the structure. As discussed in our earlier responses, the engineering assessment (as contained in the May 15, 2009 SEI memorandum) recommended various corrective actions (landscaping and minor revetment crest stone repairs) intended to address some minor maintenance issues that were identified during the course of the assessment. A copy of the May 15, 2009 SEI memorandum was presented as Appendix "E" in the Draft EA. A second SMA/SSA application was submitted to the Maui Planning Department in July 2009 requesting approval for these proposed corrective actions as defined in the SEI memorandum. The Maui Planning Department issued a SMA Minor Permit and SSA for the proposed corrective actions on March 23, 2010. Copies of both the after-the-fact and corrective actions SMA/SSA approval letters are presented in Appendix "F" of the Draft EA. It is our understanding that the letter to Clayton Yoshida (Administrator, Current Planning Division) from Mr. Newton (dated September 21, 2009), referred to in the foregoing comment, was evaluated by the Maui Planning Department as part of the processing of the foregoing 2008 and 2009 SMA Assessment applications.

We will be including a copy of Mr. Newton's letter (including the attachments) in the Final EA for the project. Should you have any questions regarding the information contained within this response, please do not hesitate to contact our planning consultant, Mark Alexander Roy of Munekiyo & Hiraga, Inc. at (808) 244-2015.

Very truly yours,



Roberta Donnelly, President
Hale Kai Association of Apartment Owners

Attachment

cc: Dawn Hegger, Office of Conservation and Coastal Lands
Mark Alexander Roy, Munekiyo & Hiraga, Inc.
Dave Merchant, Merchant Horovitz, LLLP

F:\DATA\HaleKai\Seawall 1401\OCCLresponse.tr.doc



Re: Seawall

Monday, 21 December, 2009 1:32 AM

"Roberta Donnelly" <roberta.donnelly@yahoo.com>
 "Donald Newton" <dnewton@maui.net>
 "Bill Devlin" <halekai108@earthlink.net>, "Jeannie Murrell"
 <halekaiaoa@gmail.com>, "Dave & Linda Petersen" <pepcrml@yahoo.com>,
 "Saundra Schenkar" <sfschat@comcast.net>, mark@mhplanning.com, "Dave
 Merchant" <dbm@mhmaui.com>

Don,

You don't seem to get it, do you.

No one is attempting to keep you uninformed. How would it be if 39 owners went to the Seawall Consultant with their individual questions? Your Board is charged with judiciously spending the dues of all the owner, not just yours, and there is no "free time" with consultants.

I am sure you have many questions, and should you wish to avail yourself of my offer to receive your questions, please do so. I can also assure you that your questions will not be ignored, nor any questions any owner has. If there are questions or comments that need to be further directed you can also be assured that that will occur.

The very best to you and Pat for a peaceful Christmas,

Roberta

From: Donald Newton <dnewton@maui.net>
To: Roberta Donnelly <roberta.donnelly@yahoo.com>
Sent: Mon, 21 December, 2009 12:10:24 PM
Subject: Re: Seawall

Aloha Roberta,

I don't understand why it isn't "appropriate" for an owner to ask questions of a Seawall Consultant when my dues are used to pay his fees. Ok, I won't bother Mr. Roy, I will just point out inconsistencies to the County Planning Staff or Planning Commission and the DLNR Staff or BLNR.

Mahalo, Don

On Dec 15, 2009, at 11:38 AM, Roberta Donnelly wrote:

Don,

I have become aware that you have requested a meeting with Mark Roy of Munekiyo & Hiraga, Inc. to put to him questions you have regarding the Seawall issue.

This is not appropriate, and I would ask that any questions you have be put to me, as President of the Hale Kai AOA.

I have advised Mr. Roy that his communication is with the Hale Kai AOA Board and its

20/07/2010

Re: Seawall - 'Yahoo!7 Mail'

authorised representatives only.

Regards,

Roberta Donnelly, President
Hale Kai AOA

Win 1 of 4 Sony home entertainment packs thanks to Yahoo!7. [Enter now.](#)

See what's on at the movies in your area. [Find out now.](#)

XI. REFERENCES

XI. REFERENCES

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APPENDIX A.

**Non-Conforming Shoreline
Structure Guidelines and
December 1984 Confirmation
Letter from County of Maui,
Department of Planning**

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

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

DEAN A. NAKANO
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

Non-Conforming Shoreline Structures

Hawaii Revised Statutes 13-222-19

Encroachment upon state land and unauthorized shoreline improvements.

The chairperson shall not certify the shoreline in cases where an unauthorized improvement encroaches upon state land or where an unauthorized improvement interferes with the natural shoreline processes. The property owner shall first resolve the encroachment or violation problem with the applicable department prior to the chairperson certifying the shoreline. [Eff 12/10/88]

Persons seeking to establish non-conforming status for structures in coastal areas should provide the following supporting evidence to OCCL. Optimally, non-conforming status of a structure should be determined by a letter from the local County Planning department that confirms the status according to the applicable County Shoreline Rules. When such written confirmation is unavailable, as many of the following documentation as possible should be obtained and submitted for use as evidence for that determination. All documents should state or include information that can support the non-conforming status, as applicable and appropriate. A structure may be deemed non-conforming to state rules if it existed in the same form and location, on or prior to October 1964. With the exception of minor repairs and maintenance, the structure must not have been altered or improved in any manner from its pre-October 1964 condition.

Documentation (in order of preference)

- Stamped and signed letter from a licensed structural or civil engineer certifying the structure is in the original form and dimension as prior to October 1964
- Dated and stamped aerial photo showing the existence of the structure before October 1964¹
- Datable ground photo showing the existence of the structure before October 1964
- Legal affidavit from an individual with personal knowledge about the structure who can attest to the information confirming the non-conforming status of the structure
- Other form of datable evidence that can verify the structure's non-conforming status²

This documentation is necessary for the OCCL to make a determination on the structure. Presentation of these documents does not ensure a finding of non-conformity for the structure. If you have any questions, please call OCCL at 587-0377.

¹ R.M. Towill Corporation in Honolulu, Air Survey Hawaii in Honolulu, and the University of Hawaii Coastal Geology Group's web site <http://www.soest.hawaii.edu/coasts/data/index.html> (as an index for some of the available images)

² Army Corps of Engineers, Department of Transportation, original contract data for construction, etc.

MAUI PLANNING COMMISSION
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HANNIBAL TAVARES
Mayor

TOSH ISHIKAWA
Planning Director

CHRISTOPHER L. HART
Deputy Planning Director

COUNTY OF MAUI
PLANNING DEPARTMENT

200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

December 3, 1984

Ms. Jackie Prentice, President
Hale Kai Association of Apartment Owners
3691 Lower Honoapiilani Road
Lahaina, Maui, HI 96761

Dear Ms. Prentice:

Re: Application for Special Management Area Assessment and Shoreline Setback Area Determination for repair and maintenance to an existing seawall at TMK 4-4-1:42, 43, and 44, Honokowai, Maui. (Valuation: \$1,500.00)

We have reviewed the above-mentioned request and hereby assume that the shoreline is along the base of the existing 6 to 8 foot high rip-rap seawall. Therefore, any work landward of the existing footing would be within the Special Management Area and 40 foot shoreline setback area of the County of Maui.

Pursuant to Section 2-5.5(b) (6) of the Special Management Area (SMA Rules and Regulations of the County of Maui, it is hereby determined that the proposed repair and maintenance to the existing sea/retaining wall is not development and therefore, is exempt from said rules and regulations.

Furthermore, pursuant to Section 13 of the Shoreline Setback Rules and Regulations of the County of Maui, it is hereby determined that the sea/retaining wall is an existing non-conforming use established prior to the effective date of the subject shoreline rules and regulations and that the maintenance and repair to the wall is necessary to keep it in sound conditions, therefore, the proposed repairs to the existing seawall is permitted use within the shoreline setback area.

Approval is hereby granted for the "repair and maintenance" of the existing seawall landward of the shoreline, subject to the following conditions:

1. That the construction shall be limited to the repair and maintenance of the existing seawall and shall be in accordance with plans dated November 1, 1984.

Ms. Jackie Prentice

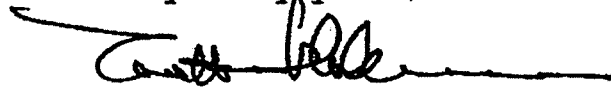
December 3, 1984

Page 2

2. That no construction, operation, operation of equipment, storage of materials, excavation or deposition of soil or other material shall occur seaward of the aforementioned shoreline without a valid permit from the Board of Land and Natural Resources.
3. That all proposals for additional work within the required forty (40) foot shoreline setback area shall be prohibited.
4. That all other State and County requirements shall be met.

Should you have any questions, please contact Mr. Clyde Murashige of this office.

Very truly yours,



TOSH ISHIKAWA
Planning Director

CM:hk

APPENDIX B.

**Staff Report from
Department of Land and
Natural Resources (DLNR),
Office of Conservation and
Coastal Lands (OCCL), May
2008**

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

REF:OCCL:DH

ENF: MA-08-30

May 23, 2008

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

REGARDING: • Enforcement File No. MA-08-30
 • Regarding Unauthorized Seawall Improvements Located Makai of
 • Shoreline in the Vicinity of Subject Parcel (2) 4-4-001:042

BY: Hale Kai AOA Condominiums, 3695 Lower Honoapiilani Road,
 Lahaina, Island of Maui - Owner of Subject Parcel (2) 4-4-001:042

AREA OF USE: Approximately 60 Linear Feet

AREA OF PARCEL: 46,328 Square Feet

LOCATION: Lahaina District, Island of Maui

SUBZONE: Resource

DESCRIPTION OF AREA:

The subject property TMK: (2) 4-4-001:042 is located adjacent to the shores of Honokowai Beach Park, Lahaina, Island of Maui, and located in the State Land Use (SLU) Urban District. Although the condominium development is mainly within the Urban District; areas makai of the shoreline are in the SLU Conservation District. A white sandy beach defines the subject area. According to the Atlas of Natural Hazards in the Hawaiian Coastal Zone, the subject area is in a moderate to high Overall Hazard Assessment area. Access to the subject parcel is from Lower Honoapiilani Road in Lahaina (Exhibits 1, 2, 3 & 4).

ALLEGED UNAUTHORIZED LAND USES:

In October 2007, the Department of Land and Natural Resources' (DLNR), Office of Conservation and Coastal Lands (OCCL) received a complaint regarding the alleged, unauthorized construction and improvement to a seawall, and construction of a filter fabric trench located in the shoreline area of parcel TMK: (2) 4-4-001:042.

On October 17, 2007, the DLNR Maui District Land Office (MDLO) conducted a site inspection of the area in the vicinity of Subject Parcel (2) 4-4-001:042 (**Exhibit 5**).

On November 30, 2007, the OCCL sent a letter to the Hale Kai AOA regarding the unauthorized improvements to the seawall and asked they respond (**Exhibit 6**).

On December 12, 2007, the OCCL received a letter from Nai'a Properties, Inc. regarding the alleged, unauthorized work that occurred (**Exhibit 7**). In that letter, a representative of Hale Kai AOA explained that the work did not affect the shoreline.

On March 6, 2008, OCCL staff met with the complainant and current Hale Kai condominium owner, Don Newton, who gave: 1) photographs; 2) 1993 Maui County Planning Department Special Management Area exemption and shoreline setback letter, 3) Sea Engineering Report "Coastal Engineering Investigation at Hale Kai Condominium" dated April 4, 2007; 4) Hale Kai Association of Apartment Owners Board of Director's Meeting Minutes dated June 17, 2004, June 15, 2007 and November 12, 2007; 5) Nai'a Properties Property Inspection Report 9/6/2007; and 6) July 10, 2007 meeting minutes and seawall bid. The photos show the following (**Exhibit 8**):

- 1970-1984 aerial seawall to left of picture and rocks dumped in front of wall –naupaka in foreground next to pool area;
- 4/28/1998 – 4/29/1998 - dig trench makai of wall – naupaka being removed;
- 5/4/98 - 5/7/98 - bulldozer dumps rocks makai of wall;
- 7/4/04 – rocks cemented in front of seawall;
- 7/26/04 – 7/11/06 construction on seawall to raise it from height above cemented rocks;
- 8/4/07 – trenching activities and placement of filter fabric behind the wall to left;
- 8/8/07 – 8/11/07 - additional construction on seawall to raise height, installation of drain pipes;
- 9/10/07 – 11/8/07 – additional construction on seawall to add stones on top of seawall;
- 11/15/07 – photos show water splashing over side of seawall; and
- 3/6/08 – current photos.

REFERRAL OF ALLEGED VIOLATIONS TO THE LAND BOARD RATHER THAN THE HEARING OFFICER/ADMINISTRATIVE PENALTY SYSTEM (HOAPS):

This alleged violation has been referred to the BLNR rather than HOAPS because of the seriousness of the violation¹. Due to the nature of the case, staff determined that the violation must be referred to the BLNR as a Level I violation.

RESOLUTION OF UNAUTHORIZED LAND USES:

The DLNR and Board of Land and Natural Resources (BLNR) have jurisdiction over land lying

¹ HOAPS distinguishes between Level I and Level II violations, the former being the more serious category which is referred to the Board, and the latter, minor violations, referred to HOAPS.

makai of the shoreline as evidenced by the upper reaches of the wash of the waves other than storm

and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limits of debris left by the wash of the waves, pursuant to Section 205A-1, Hawaii Revised Statutes (HRS), DEFINITIONS.

As evidenced by the wave run up in **Exhibit 8**, Staff believes that OCCL has sufficient cause to bring this matter to the BLNR since it is evident that some of the improvements that were constructed in the shoreline area are located within the Conservation District pursuant to the Hawaii Administrative Rules (HAR), Section 15-15-20 Standards for determining "C" Conservation District boundaries:

"It shall include lands having an elevation below the shoreline as stated by Section 205A-1, HRS, marine waters, fishponds, and tidepools of the State, and accreted portions of lands pursuant to Section 501-33, HRS, unless otherwise designated on the district maps. All offshore and outlying islands of the State are classified conservation unless otherwise designated on the land use district maps."

CONSERVATION DISTRICT

Chapter 13-5, HAR and Chapter 183C, HRS, regulate land uses in the Conservation District by identifying a list of uses that may be allowed by Conservation District Use Permit. The chapters also provide for penalties, collection of administrative costs, costs associated with land and/or habitat restoration, and damages to state land for uses that are not allowed or for which no permit has been obtained. Chapter 13-5, HAR defines "land use" in part as: the placement or erection of any solid material on land or the grading, removing or dredging of any material or natural resource on land.

Hawaii Coastal Erosion Management Plan

In 1999, the BLNR adopted the Hawaii Coastal Erosion Management Plan (COEMAP) and approved specific criteria to guide Staff to resolved cases involving unauthorized shoreline structures.

In assessing cases involving unauthorized shoreline structures, specific criteria are as follows:

1. Protect/preserve/enhance public shoreline access;
2. Protect/preserve/enhance public beach areas;
3. Protect adjacent properties;
4. Protect property and important facilities/structures from erosion damages; and
5. Implement a "no tolerance" policy for recent or new unauthorized shoreline structures.

The DLNR considers each case based on the specific circumstances/history. For instance, the age of the structure, the quality of the surrounding beach resources, the nature of the surrounding development, and the risk to life and limb are all evaluated to help formulate a position with respect to the disposition of the matter. For structures built after the 1999 "no tolerance" policy for

unauthorized shoreline structures, the customary policy is to seek the removal of the structure.

Staff notes that the landowner made improvements to the seawall (trenching, and placement of rocks on the seaward side of the structure, cementing of rocks, trenching and backfilling landward of the main structure, and raising of the seawall elevation). Some of this work occurred prior to the no tolerance policy, and some of the work occurred after the adoption of the no tolerance policy. In addition, it appears that some of the work occurred partially within the jurisdiction of the Maui County.

This report seeks conditions to resolve the one Conservation District violation. Pursuant to Chapter 183C, HRS, the maximum fine for a Conservation District violation is \$2,000 in addition to administrative costs, costs associated with the land and/or habitat restoration, if required, and damages to state land. After written or verbal notification from the Department, willful violation of this section may incur an additional fine of up to \$2,000 per day per violation for each day the violation persists

DISCUSSION

Staff has reviewed the photograph and records that have been collected in this case. While it is clear that waves have been washing beyond the structure (that is why Hale Kai AOA keeps increasing the elevation), the DLNR would like to focus its attention on the major actions, which clearly took place seaward of the shoreline. This would be the unauthorized placement of boulders in the makai area, in May 1998, and the placement of cement on some of the rocks in July 2004. Although there are a number of other serious actions that took place on this structure for which no government agency granted approved, and which are articulated in a chronology on page two (2) of this report, staff feels that some of these matters should be addressed by the Maui County Planning Department since these actions appear to have taken place on the landward portions of the structure².

The County of Maui Planning Department did authorize some improvements in 1993 to repair the seawall at Hale Kai Condominiums (**refer to Exhibit 8**). Staff notes the county authorization provided for repair of an existing structure, which they determined, was exempt from SMA rules and Regulations, Section 2-5.5(b)(6). The 1993 county approval appears to be solely related to the placement of filter material and gravel on the landward portion of the seawall. However, the improvements highlighted in this report appear to be beyond the scope of, or are in addition to the improvements contemplated in the 1993 County of Maui authorization. Staff notes a check was made to see whether any DLNR approvals and/or any past Certified Shorelines were submitted and approved from the DLNR Land Division and Department of Accounting and General Services (DAGS), State Survey Division. No other authorization(s) has been granted subsequent to the 1993 county authorization for seawall repairs

² Staff will make sure the Maui County Planning Department receives a copy of this report.

Boulders

Because the boulders were placed prior to the Board's no tolerance policy the Board may either require the Hale Kai AOA to remove the boulders or fine them and require Hale Kai AOA to file an after-the-fact-Conservation District Use Application for the boulders.

Cement

The cement was poured after the adoption of the Board's no tolerance policy. Therefore, staff must recommend that the cement be removed.

It is clear to OCCL staff that the Hale Koa AOA Condominium will need to address possible and future erosion issues, and will need to consult with the OCCL staff for any proposed remediation improvements.

This submittal and notice of the Board's meeting will be sent to the landowner and counsel by certified mail to the address of record in Hawaii.

FINDINGS

1. That Hale Kai AOA did in fact, authorize, cause or allow the unauthorized seawall improvements located makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042 is considered one separate land use;
2. That the unauthorized improvements are within the State Land Use Conservation District, Resource subzone;

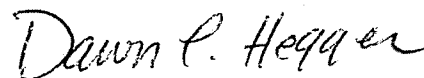
AS SUCH, STAFF RECOMMENDS AS FOLLOWS:

That, pursuant to Chapter 183C, Hawaii Revised Statutes (HRS), the Board finds Hale Kai AOA Condominiums in violation of Chapter 183C and Chapter 13-5, Hawaii Administrative Rules (HAR), and is subject to the following:

1. The Hale Kai AOA violated the provisions of Chapter 183C, Hawaii Revised Statutes (HRS), and Chapter 13-5, Hawaii Administrative Rules (HAR), two instances by placing boulders and cement material makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042 in the Conservation District to occur. The landowner is fined a total of \$4,000.00 for two Conservation District violations;
2. That Hale Kai AOA will remove the subject boulders and cement and restore the area back to its original condition as it existed prior to the construction of these improvements, within 180 days from the date of the Board of Land and Natural Resource's action.

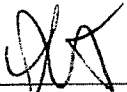
3. That Hale Kai AOA will stake the metes and bounds of their subject parcel as not to infringe upon state-owned beach lands after the removal of the boulders and cement;
4. That Hale Kai AOA is fined an additional **\$1,000.00** for administrative costs associated with the subject violations (\$500.00 OCCL staff/\$250.00 MDLO staff/\$250 DOCARE staff);
5. That Hale Kai AOA shall pay all fines (**total \$5,000.00**) within thirty (30) days of the date of the Board of Land and Natural Resources' action;
6. That OCCL will transmit a copy of this report to the County of Maui to enable Maui County to investigate all other unauthorized improvements made on the seawall structure;
7. That either the OCCL and/or the MDLO staff will conduct a site visit of the area within 180 days from the date of the removal of the boulders and cement;
8. That no further work shall occur in the area within the Conservation District, without the Board of Land and Natural Resources' approval; Chairman's approval and/or OCCL approval. If further work occurs in the Conservation District without approval; the alleged will be fined an additional \$2,000 a day;
9. That in the event of failure of Hale Kai AOA to comply with any order herein, they shall be fined an additional \$2,000 per day until the order is complied with; and
10. That in the event of failure of Hale Kai to comply with any order herein, the matter shall be turned over to the Attorney General for disposition, including all administrative costs.

Respectfully submitted,



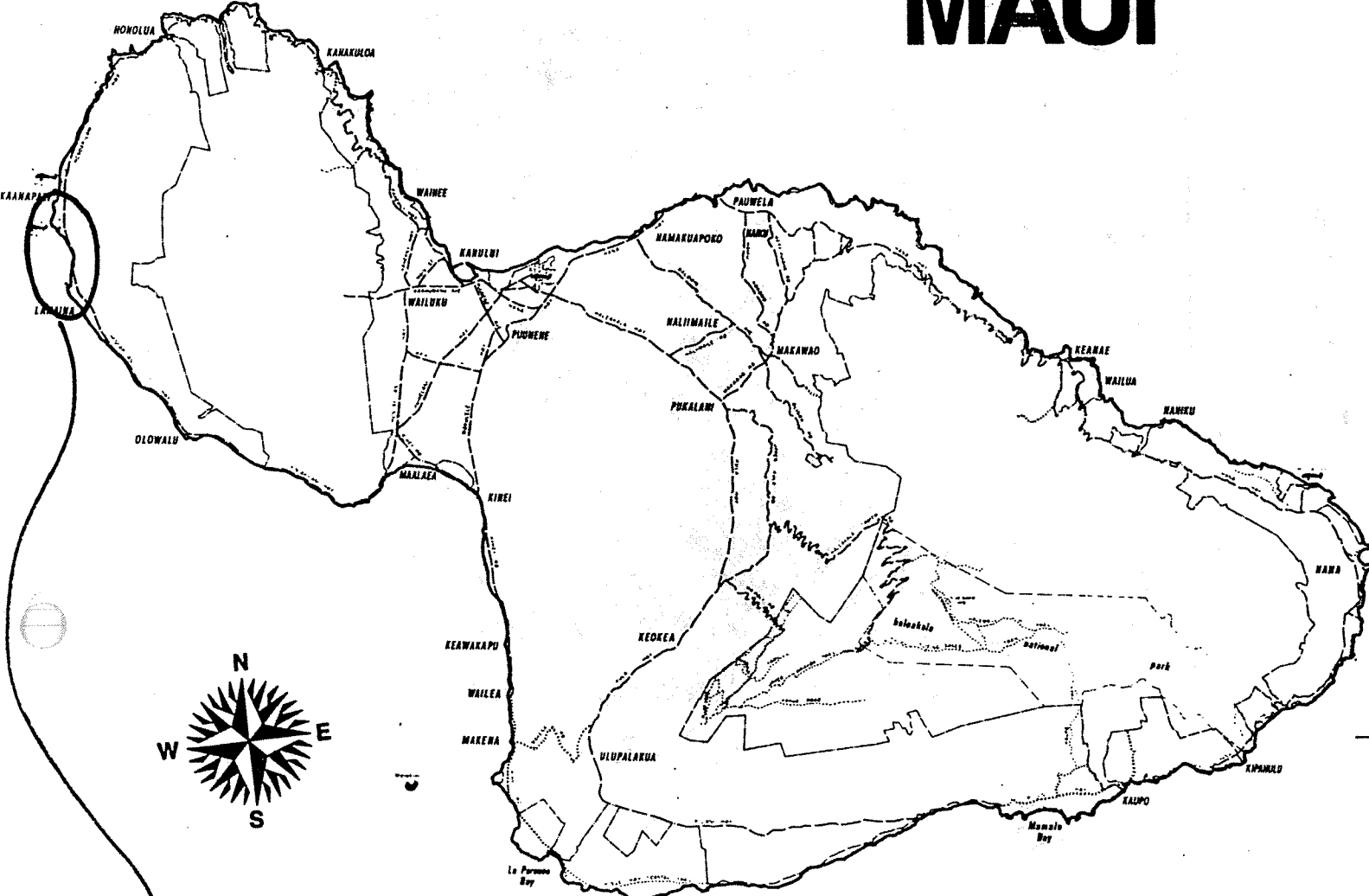
Dawn T. Hegger,
Senior Staff Planner

Approved for submittal:



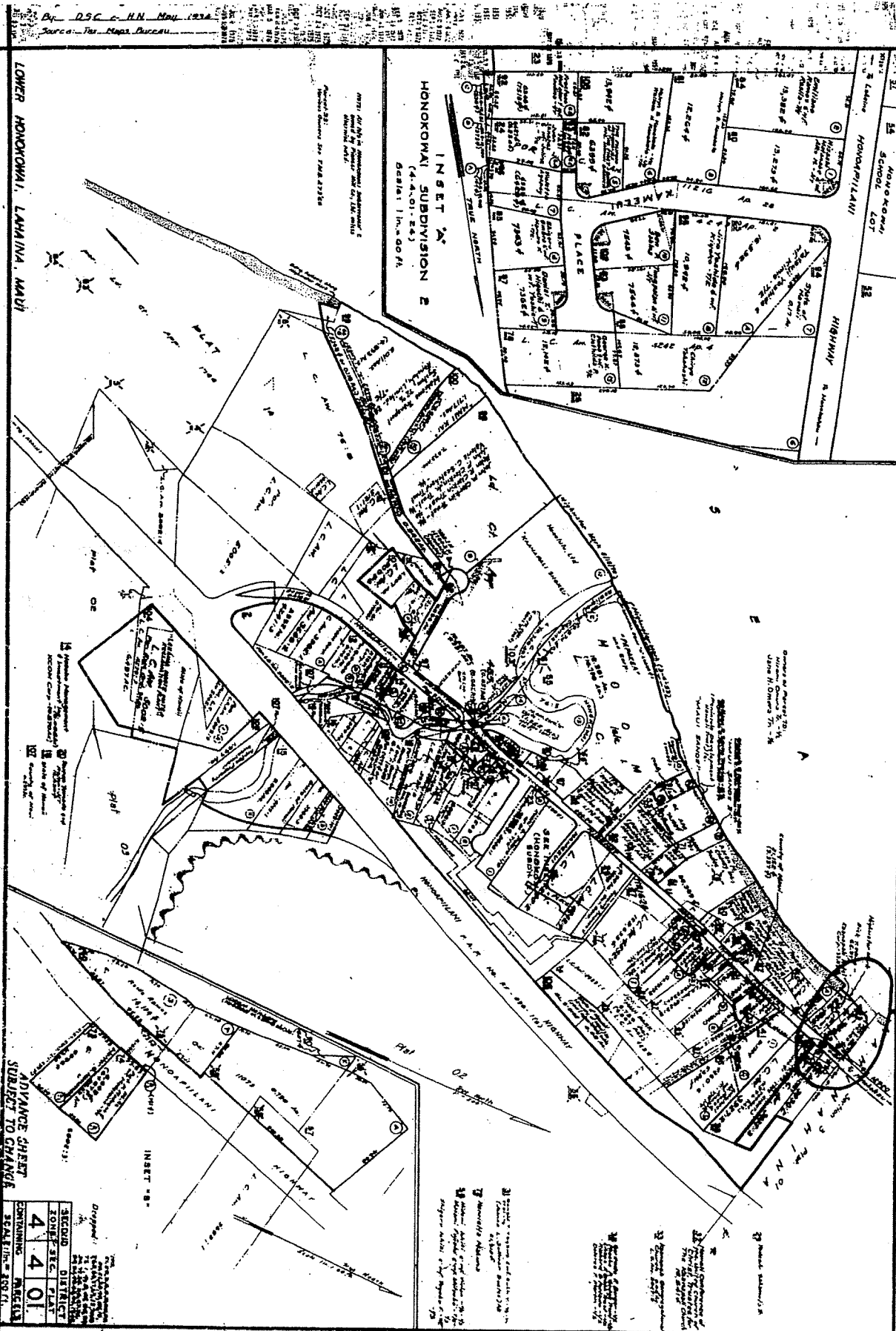
LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

MAUI



→ Approximate Location Enb. MA-08-30
Hale Kai Condominium TMK: (2) 4-4-001:042
Lahaina, Maui

EXHIBIT I



SUBJECT PARCEL TWV: CD 4-4-01-01
 Hale Vai repair

ADVANCE SHEET
 SUBJECT TO CHANGE

4	4	01
SECOND DISTRICT	ZONE-21C	PLAT
CONTAINING AREAS		

EXHIBIT 2

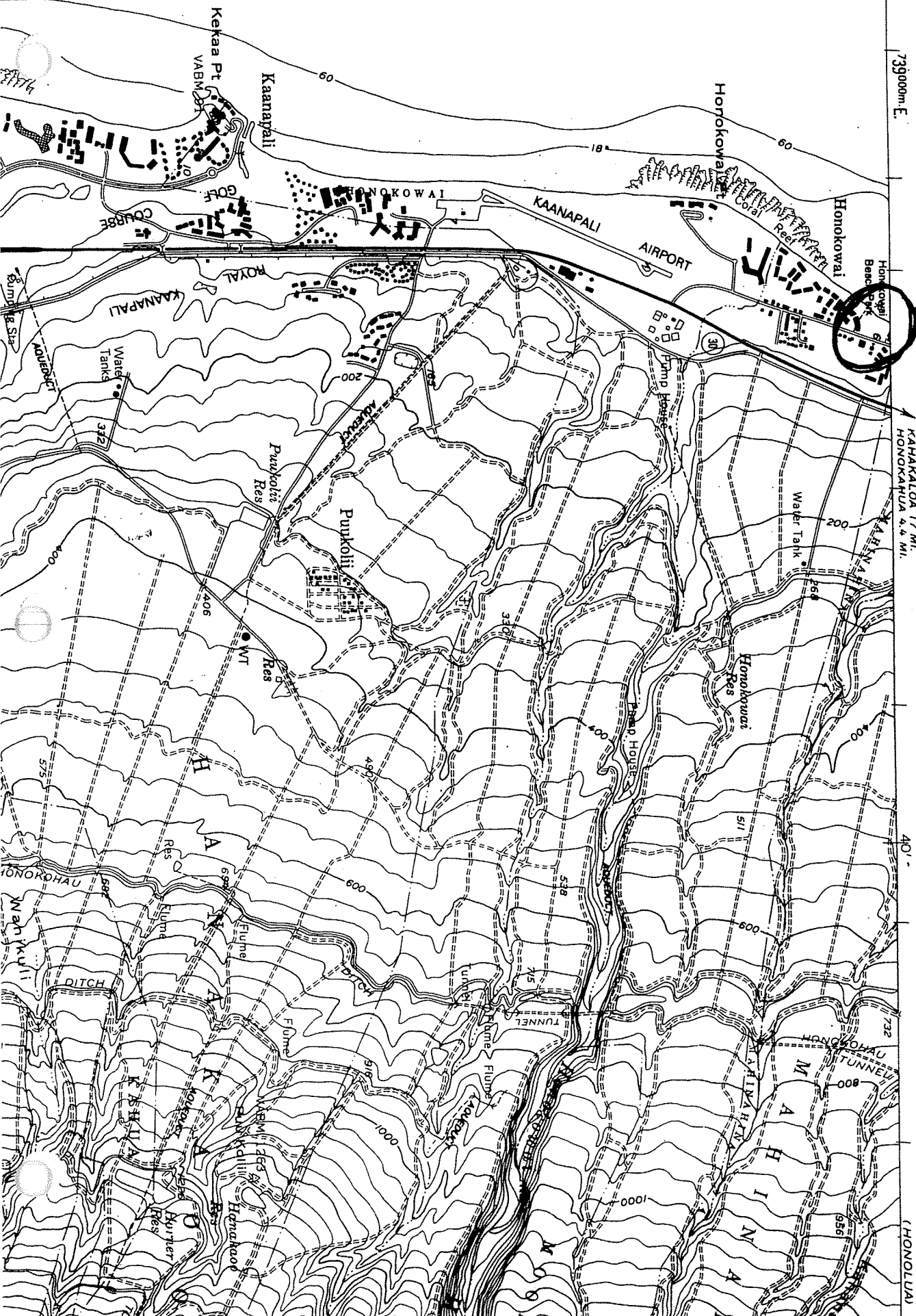
UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

739000m E

KAHAKALOA 17 MI.
HONOKAUA 4.4 MI.

*Subject Parcel Hale Via repair
TWR: CD 44-001: 042*

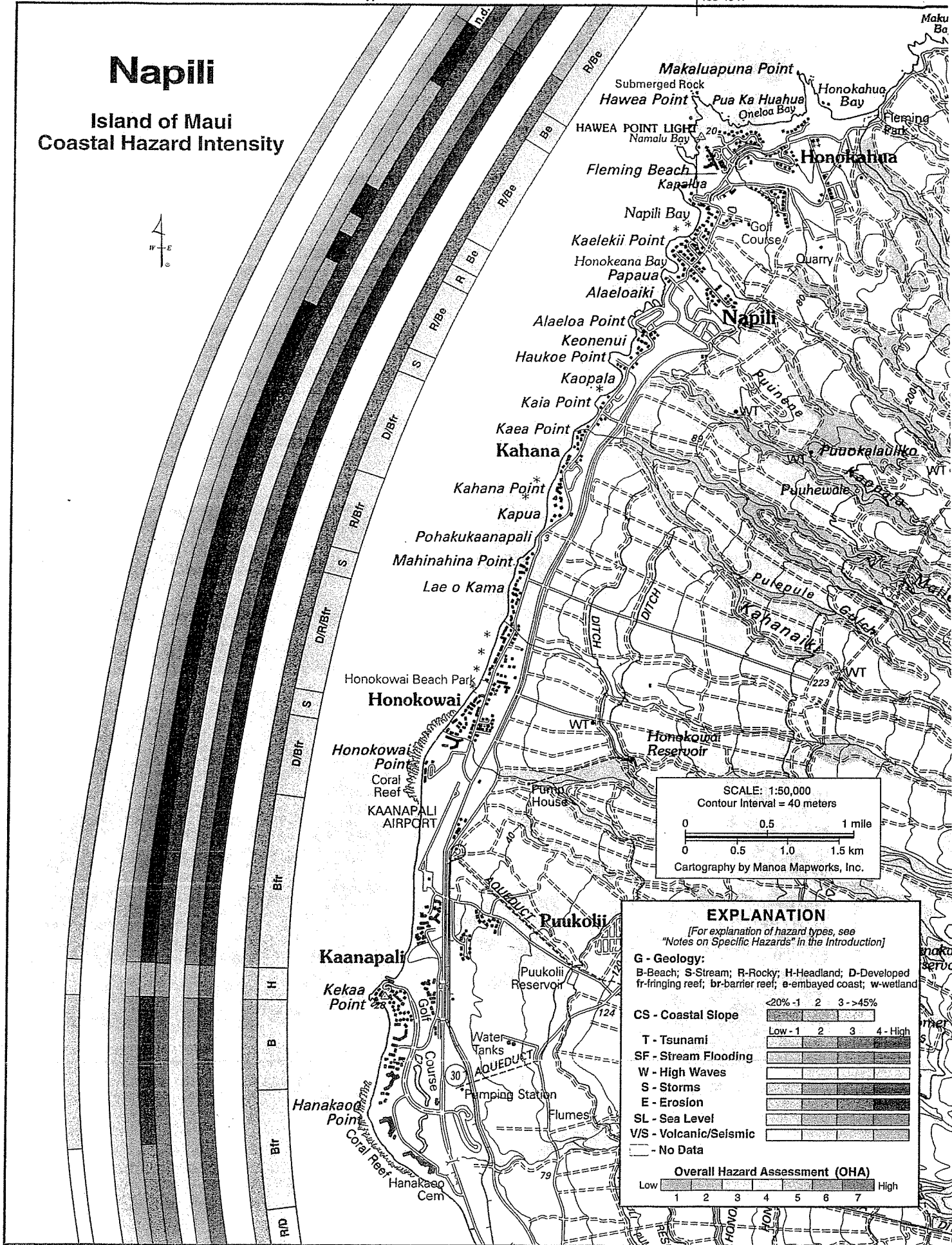
EXHIBIT 3



Napili

Island of Maui

Coastal Hazard Intensity



SCALE: 1:50,000
 Contour Interval = 40 meters

Cartography by Manoa Mapworks, Inc.

EXPLANATION

(For explanation of hazard types, see "Notes on Specific Hazards" in the Introduction)

G - Geology:
 B-Beach; S-Stream; R-Rocky; H-Headland; D-Developed fringing reef; br-barrier reef; e-embayed coast; w-wetland

CS - Coastal Slope

<20%	1	2	3	>45%
------	---	---	---	------

T - Tsunami

Low	1	2	3	4	High
-----	---	---	---	---	------

SF - Stream Flooding

Low	1	2	3	4	High
-----	---	---	---	---	------

W - High Waves

Low	1	2	3	4	High
-----	---	---	---	---	------

S - Storms

Low	1	2	3	4	High
-----	---	---	---	---	------

E - Erosion

Low	1	2	3	4	High
-----	---	---	---	---	------

SL - Sea Level

Low	1	2	3	4	High
-----	---	---	---	---	------

V/S - Volcanic/Seismic

Low	1	2	3	4	High
-----	---	---	---	---	------

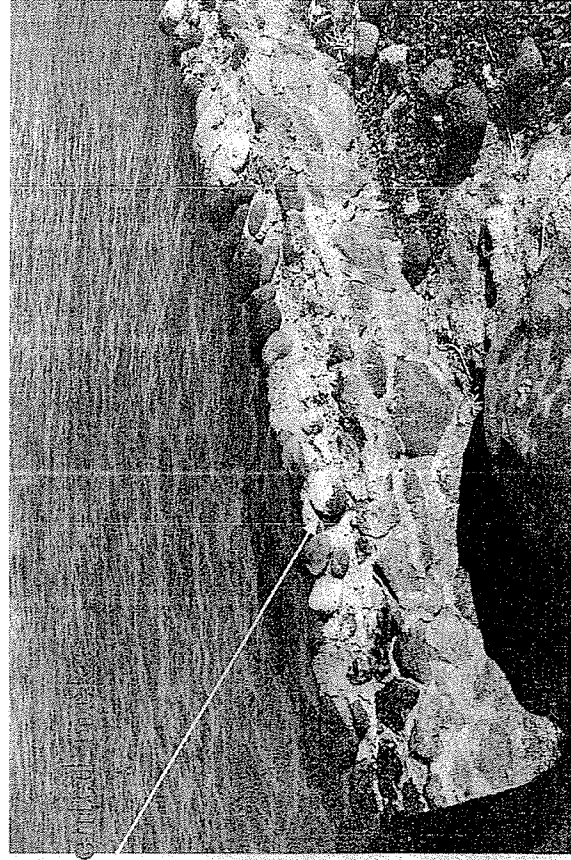
- No Data

Overall Hazard Assessment (OHA)

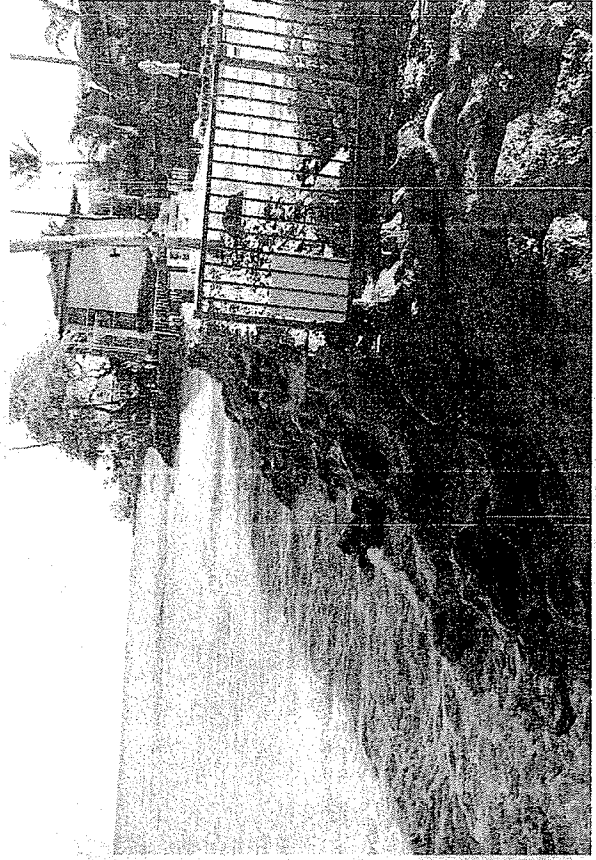
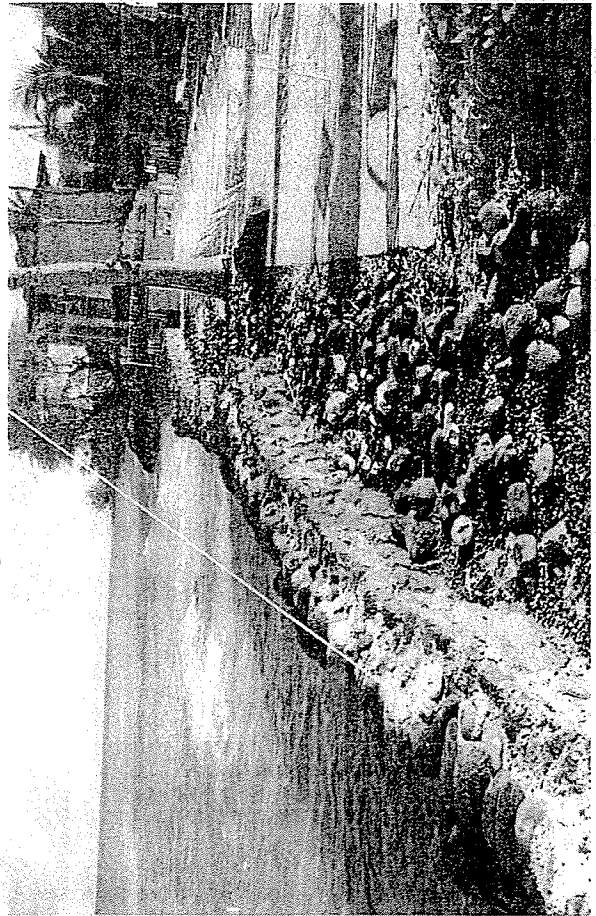
Low	1	2	3	4	5	6	7	High
-----	---	---	---	---	---	---	---	------

Photos taken: 10/18/07

Hale Kai, TMK: (2) 4-4-001:042



Photos depict the seawall fronting the Hale Kai complex. It appears that an additional layer of rocks has been cemented onto the top of the wall in an attempt to elevate the wall's current height.



View of wall from the south facing in the northerly direction.

Complaint
MK-08-16

LAND DIVISION
Maui District Branch

DEPARTMENT OF LANDS
CONSERVATION

COMPLAINT FORM 2007 OCT 24 A 9:10

1. Obtain the following information (minimum) from initial call:

Date/Time Of Call: 10/17/07, 2:00 p.m.
Received By: Larry Pacheco

Name of Caller: Officer John Dejesus (DOCARE) Telephone: 873-3990
Address/Location: Hale Kai Resort, 3691 L. Honoapiilani Hwy. Lahaina, HI. 96761.
Tax Map Key: (2) 4-4-001:042

Additional Information (fully describe the complaint or problem): On 10/17/07 at 2:00 p.m., DOCARE Officer John Dejesus reported the following complaint. Officer J. Dejesus stated that he received a report of possible unauthorized construction or improvements being built on an existing seawall at the aforementioned property. Per his checks of the area, he reported observing newly cemented rocks along the top portion of the existing seawall. Office Dejesus requested that I conduct a check of the work being conducted to determine if it was a potential problem. A DOCARE report will be documented with photographs and forwarded to the Office of Conservation and Coastal Lands for their review.

Will the caller agree to allow us to release his/her name and telephone number, so the parties concerned can follow-up with the complaint? Yes

2. Conduct Internal Review.

- a. Locate area on map(s). Attach tax map.
- b. Determine ownership. Findings and source used to verify (attach documents):

The property was identified via Tax Map Key and a topographical photo via GIS.

3. If area identified is:

Private property

- 1) Notify caller that complaint or problem involves lands privately owned, provide name of owner(s).

Date called: _____ LD Staff name: _____
Spoke to: _____

State lands under DLNR:

- 1) Provide report of what action taken. If site visit conducted, include photographs.

On 10/18/07 at 8:00 a.m., I conducted an inspection of the seawall situated along the seaward boundary of the Hale Kai Resort. At this time, I observed what appeared to be an attempt to elevate the existing wall by cementing rocks along the top of the wall. The work appeared to be poorly done and incomplete. At the time of my checks I was not able to locate any staff or management personnel from the resort. Photos were taken for record purposes of the improvements to the seawall.

- 2) If lands are under jurisdiction of non-Land Division (e.g., DOFAW, State Parks, etc.), notify applicable DLNR agency, give location information and caller information.

Date called: _____ LD Staff name: _____
Spoke to: _____

State lands under EO or owned by another government agency:



- 1) Notify applicable State agency; give location information and caller information

Date called: _____ LD Staff name: _____
Spoke to: _____

5. Obtain approval from Administrator or Assistant Administrator to close file.

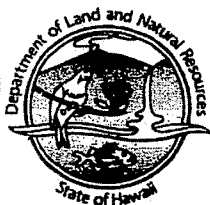
Recommendation: It is recommended that a copy of this complaint be forwarded to the Office of Conservation and Coastal Lands for their review and determination on what actions should be taken to rectify this situation.

Refer to attached photos.

Submitted by: Larry Pacheco  Date: 10/18/07
Approved by:  Date: 10/22/07

6. Maintain this form and all related documents in Oahu District files.

LINDA LINGLE
GOVERNOR OF HAWAII



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

RUSSELL V. 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

OFFICE OF CONSERVATION AND COASTAL LAND
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM
7004 0750 0001 8229 4719

Complaint: MA 08-16

CERTIFIED RETURN RECEIPT

NOV 30 2007

John Male, AOA President
3691 Lower Honoapiilani Hwy
Lahaina, Maui 96761

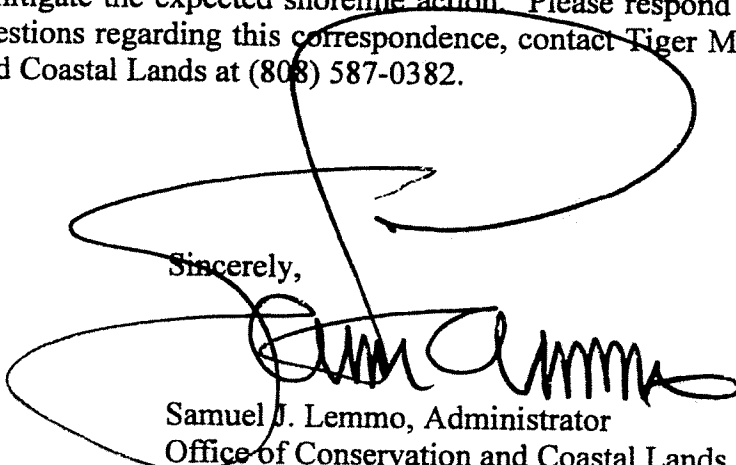
Dear Mr. Male,

SUBJECT: Alleged Unauthorized Land Use Within The Conservation District Located at Honokowai, Island of Maui, TMK: (2) 4-4-001:042

The Office of Conservation and Coastal Lands (OCCL) has become aware that an alleged unauthorized land use exists within the shoreline. It appears that improvements may have taken place within the Conservation District, Resource subzone under the jurisdiction of the State of Hawaii. We have no records of approval for the shoreline improvements (**Exhibit A**). Please provide such documentation to this Office if you have permits or authorization from the county, state or federal agencies for the improvements.

In regards to the erosion of the property, the Hale Kai may wish to consult with a coastal engineer regarding options to mitigate the expected shoreline action. Please respond within 15 days. Should you have any questions regarding this correspondence, contact Tiger Mills of our State Office of Conservation and Coastal Lands at (808) 587-0382.

Sincerely,


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

c: MDLO
County of Maui, DPP

EXHIBIT 6



RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2007 DEC 14 A 8:26

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

December 12, 2007

PROPERTIES, INC.

Samuel J Lemmo, Administrator
Office of Conservation and Coastal Lands
PO Box 621
Honolulu HI 96809

RE: Hale Kai AOA
TMK (2) 4-4-001:042

Aloha Mr Lemmo~

We are responding, on behalf of the Board of Directors, to your letter of November 30, 2007 regarding the alleged unauthorized land use at the property.

It is the Association's contention that all work done on the project was repair work to a pre-existing decorative wall and not the seawall. The work consisted of installation of weep holes for drainage and a trench behind the rip rap boulders lined with a filter cloth and filled with gravel. The work was done based on a recommendation by an Oah'u shoreline engineer that was received by the Association sometime ago that indicated that any work that would affect the shoreline would require a permit. The work done did not affect the shoreline and was necessary to provide adequate drainage to the property. We are endeavoring to locate the documentation.

Please do not hesitate to contact me at 669-2811 if you have any questions.

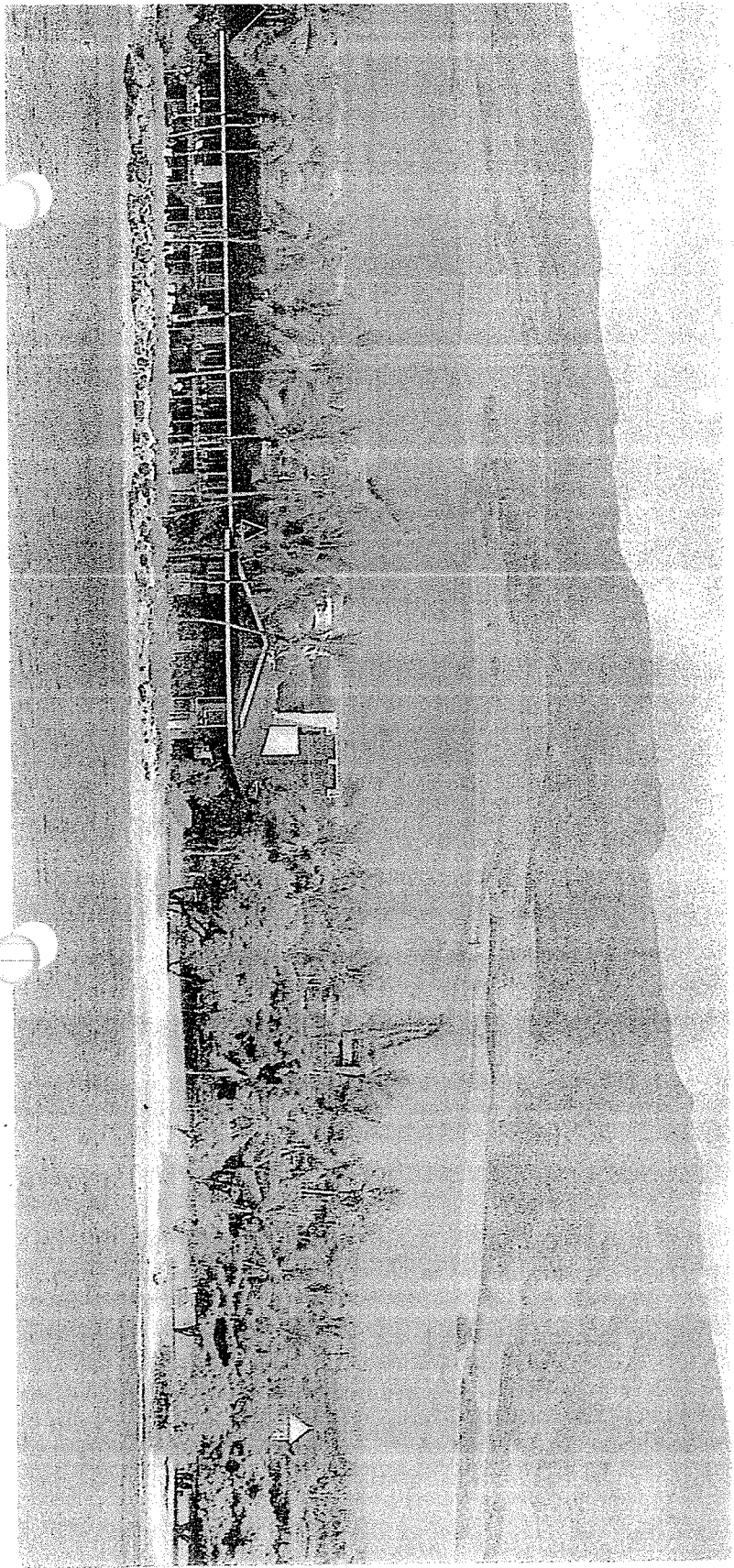
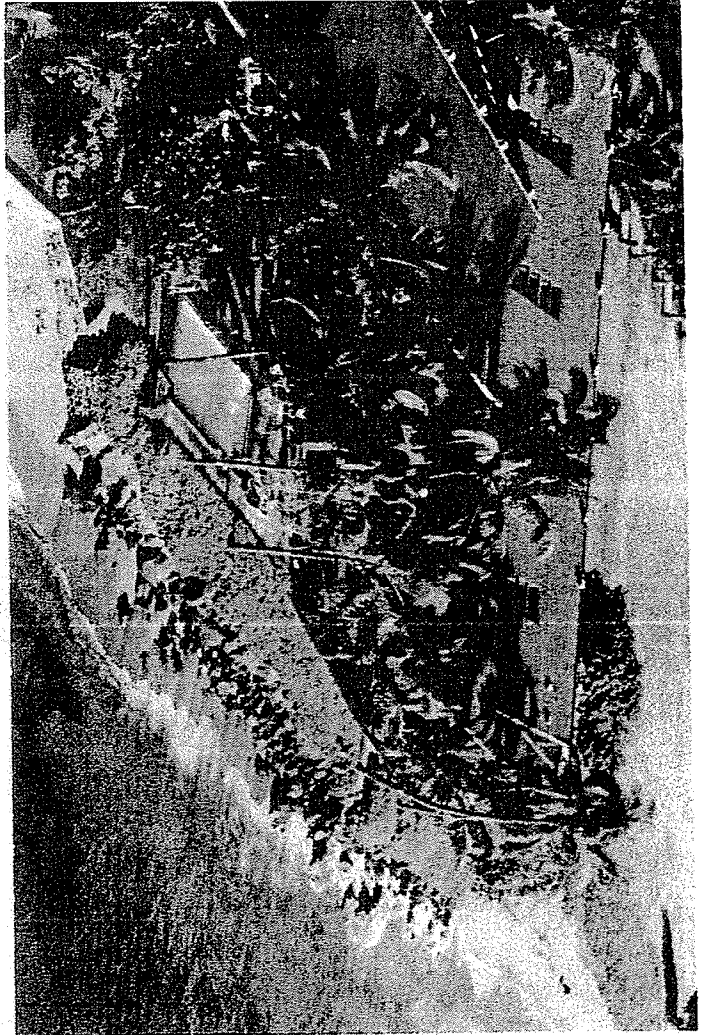
Sincerely,

Penelope D. Munroe CMCA, AMS, R(S)
President
Nai'a Properties, Inc.
Managing Agent for
Hale Kai AOA

CC: Board of Directors
CERTIFIED RETURN RECEIPT

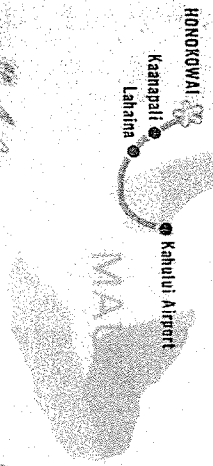
EXHIBIT 1

4260 L. Honoapiilani Rd., Lahaina, HI 96761
Tel: (808) 669-0402 Fax: (808) 669-0518



HALE KAI

apartments



"Maui no ka oi"
(MAUI IS THE BEST)

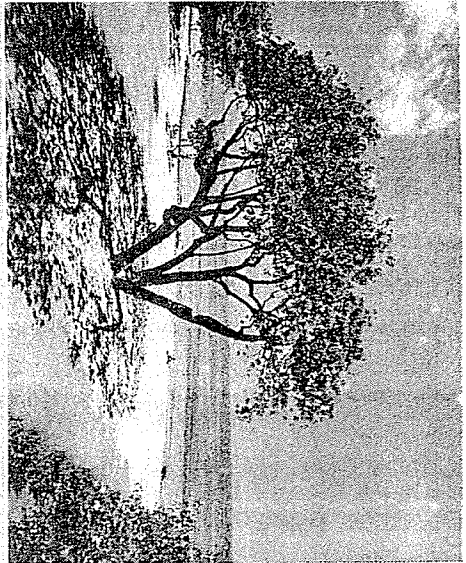
One mile north of Kaanapali Resort Area and Golf Course — and just five miles north of the historic whaling town of Lahaina.

EXHIBIT 8

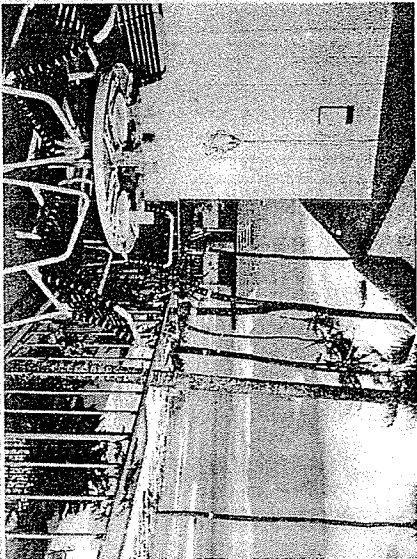
1970-84

" PHOTOGRAPHS "

You are so ready to go...
you can almost feel the tropical
water lapping at your feet, while the
cool tradewinds caress your face.



Every unit has an ocean view!



Please contact us for reservations!

Phone (Toll Free): 1-800-446-7307
Fax: 1-808-669-7474

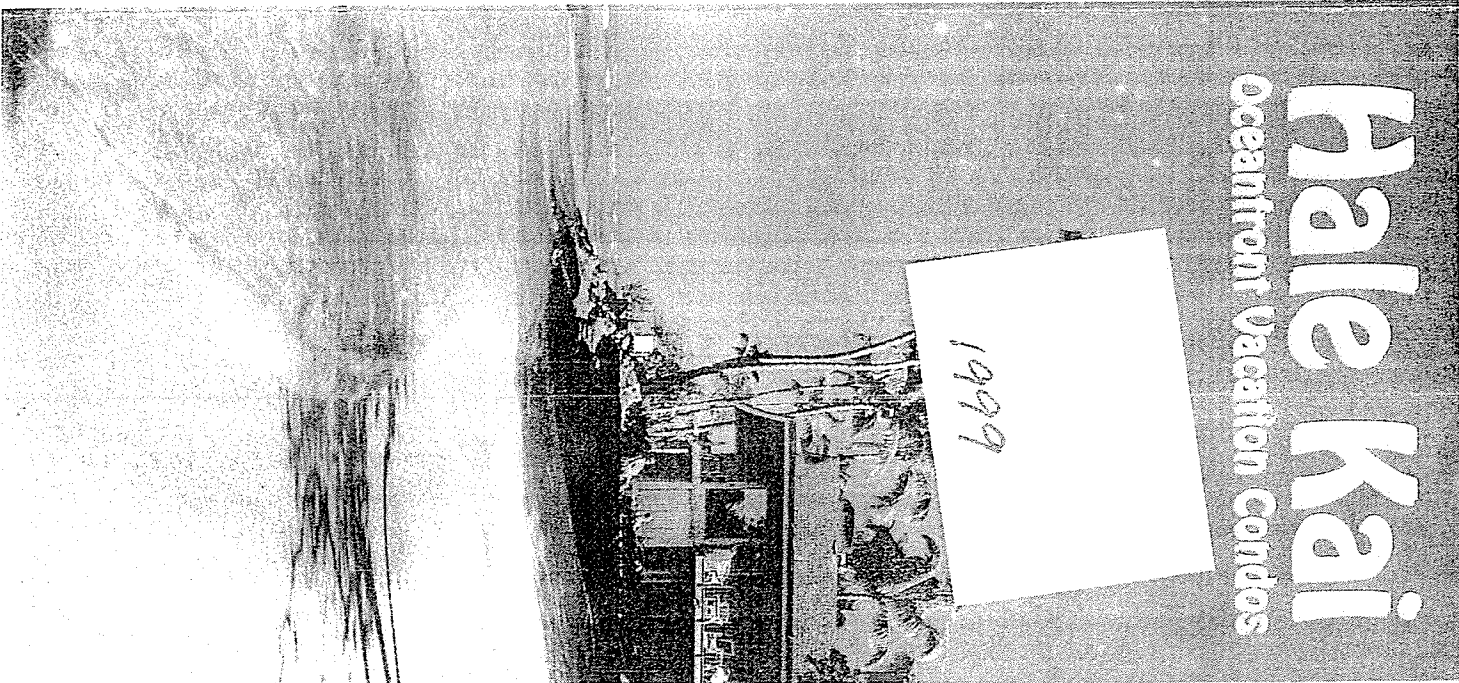
Hale Kai Condominiums
3691 Lower Honoapiilani Road
Lahaina, HI 96761
(808) 669-6333

E-mail: halekai@halekai.com

Hale Kai

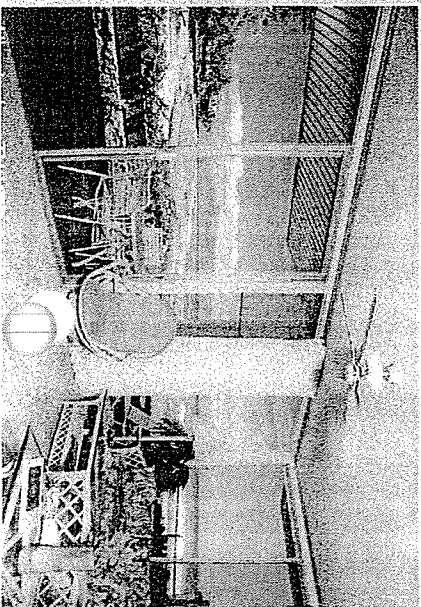
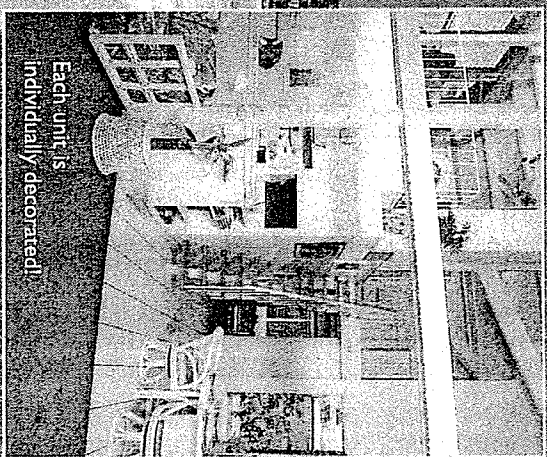
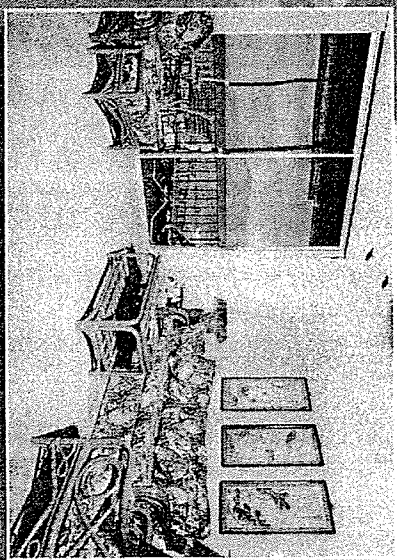
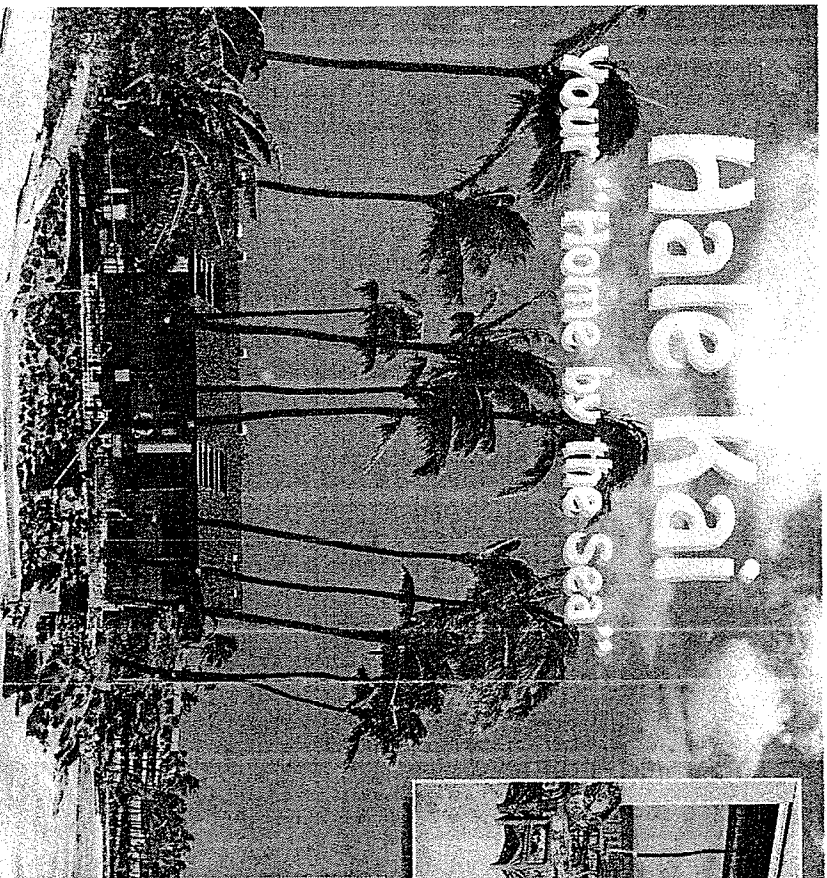
Oceanfront Vacation Condos

1999



Hale Kai

Your Home by the Sea

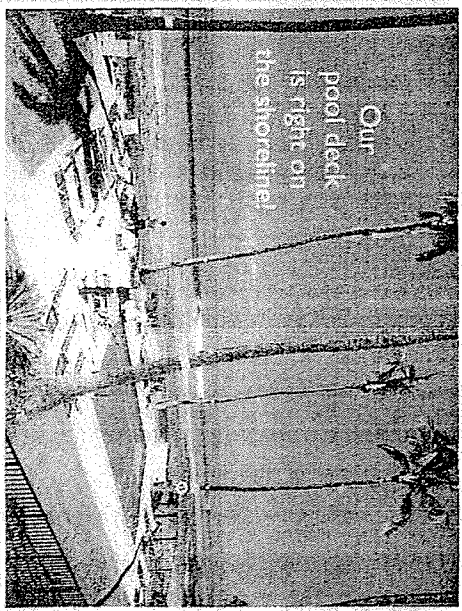


Experience all that Maui has to offer while staying in the peaceful and uncrowded surroundings of the Hale Kai condominiums!

Yes, there's a lot to love about a Maui vacation when you stay at the Hale Kai. We're located between the famous resorts of Kaanapali and Kapalua. You can take your pick from the world's greatest beaches, five world renowned golf courses, Lahaina town, or any of Maui's great restaurants or other famous sightseeing attractions. Or just stay here and relax on the pool deck, amidst the beaches of the Hale Kai.

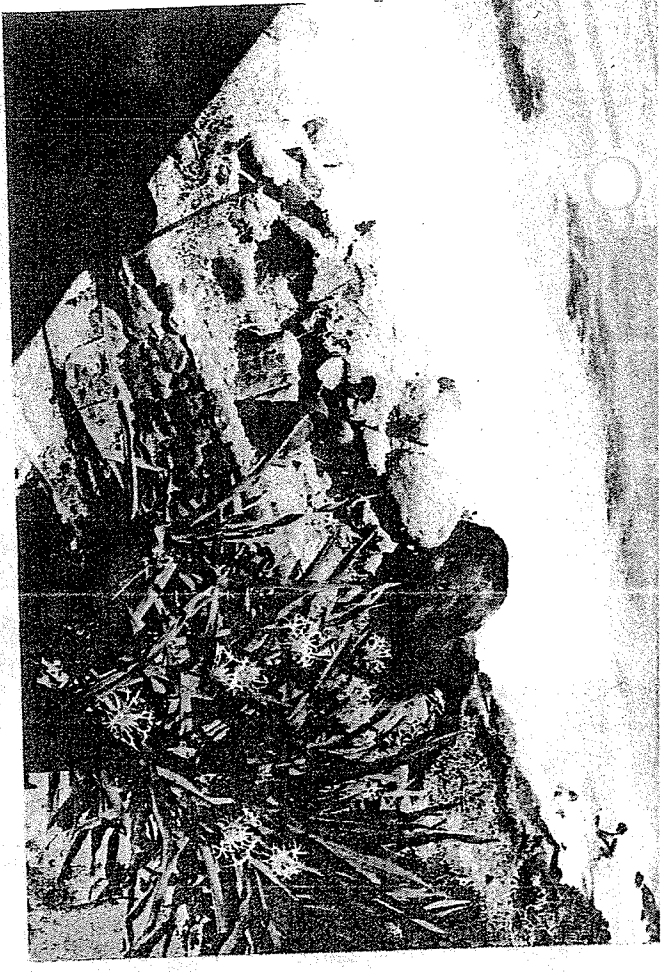
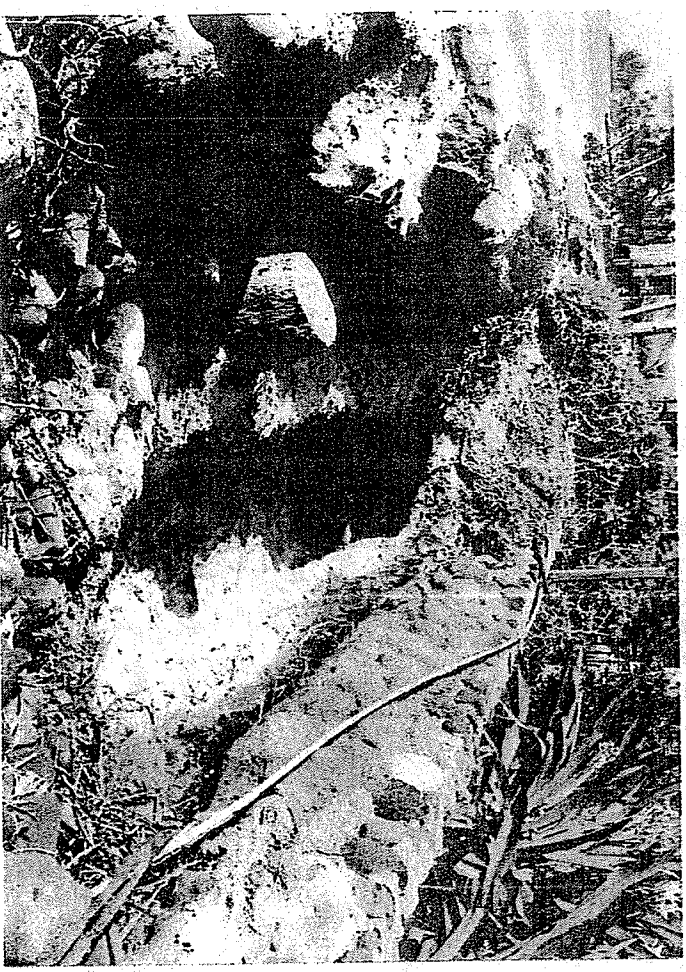
No matter what you choose to do, it's all within your reach at the Hale Kai. In no time at all, we'll have you feeling like you live here.

Our
pool deck
is right on
the shoreline!

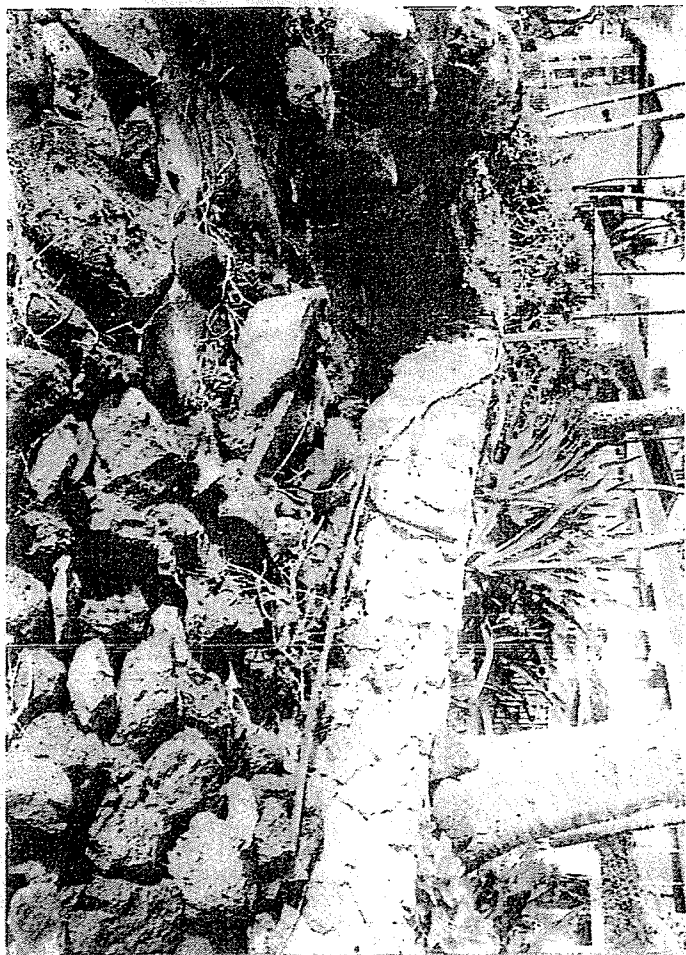
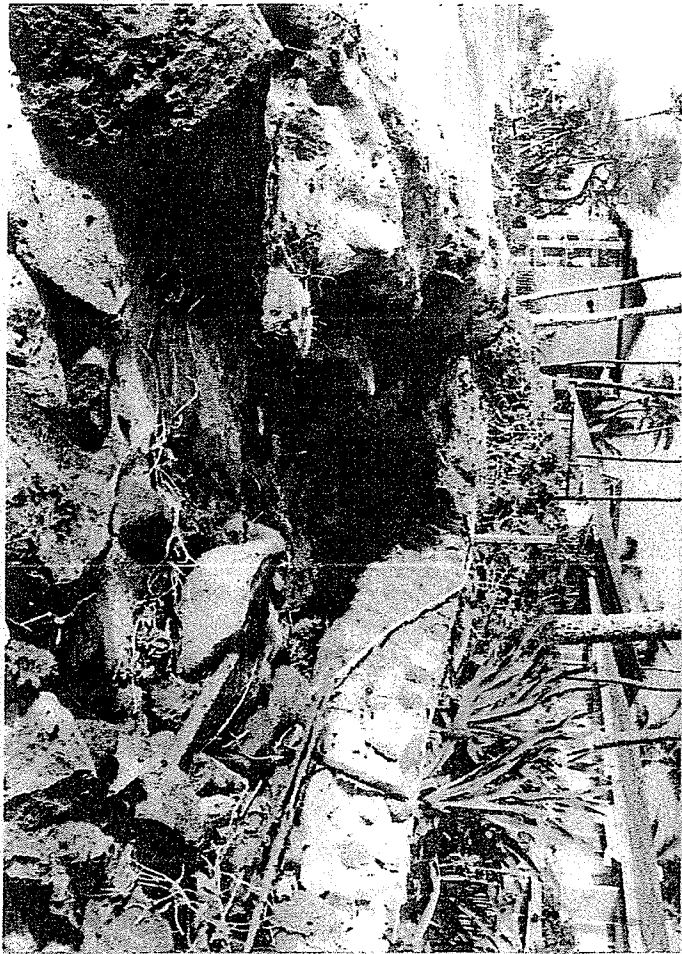


- We've got variety. 1, 2, and 3-bedroom units.
- Swimming, snorkeling, windsurfing and tidepool adventures at our oceanfront beach.
- Family & 'Five Star' dining within minutes.
- All watersports—from parasailing to scuba diving—are here on the West Side.
- Whale watching from your lanai.
- Parking and Pool just steps from your door.

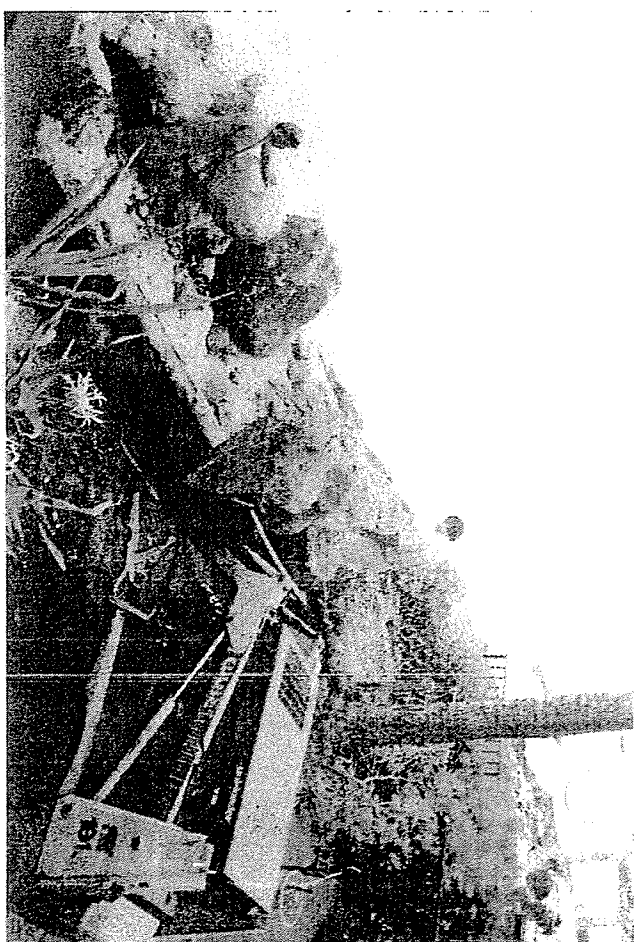
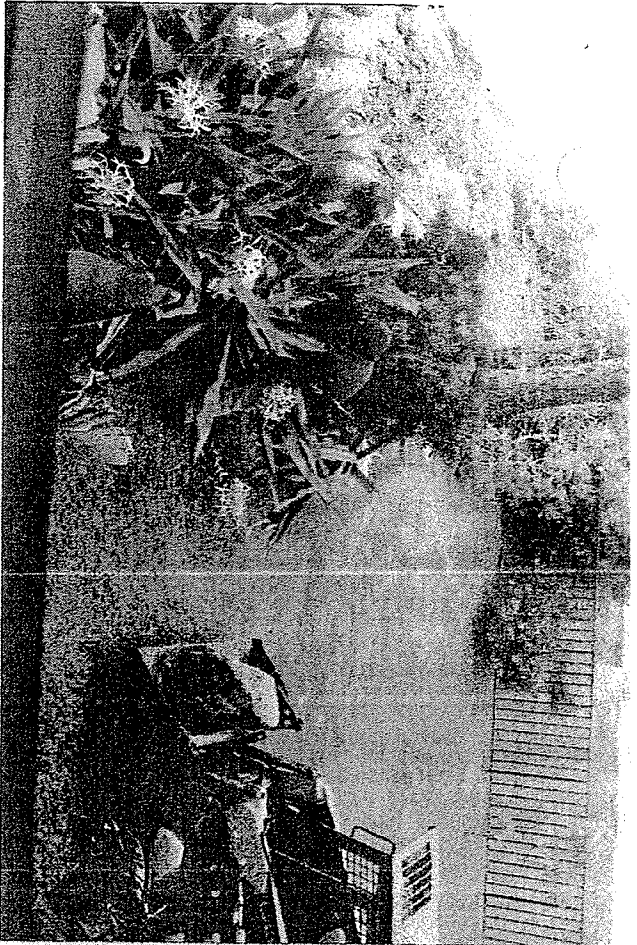
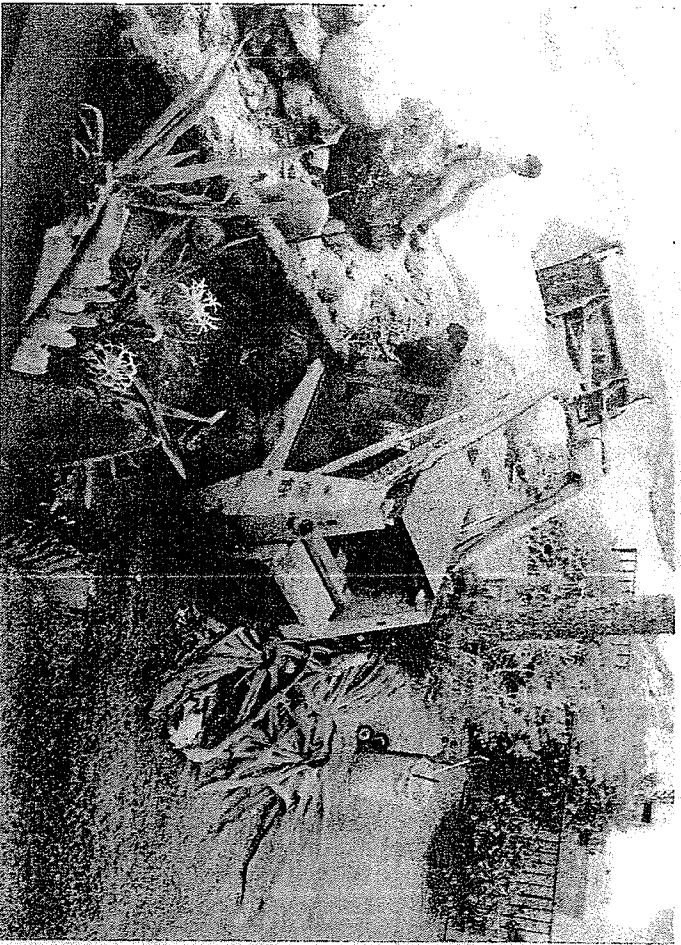
4/28/98 DIGGING OF TRENCH ON THE OCEAN SIDE OF WALL, 3 MEN 4 HRS



4/29/98 CONTINUED DIGGING TRENCH
2 MEN 3 HRS

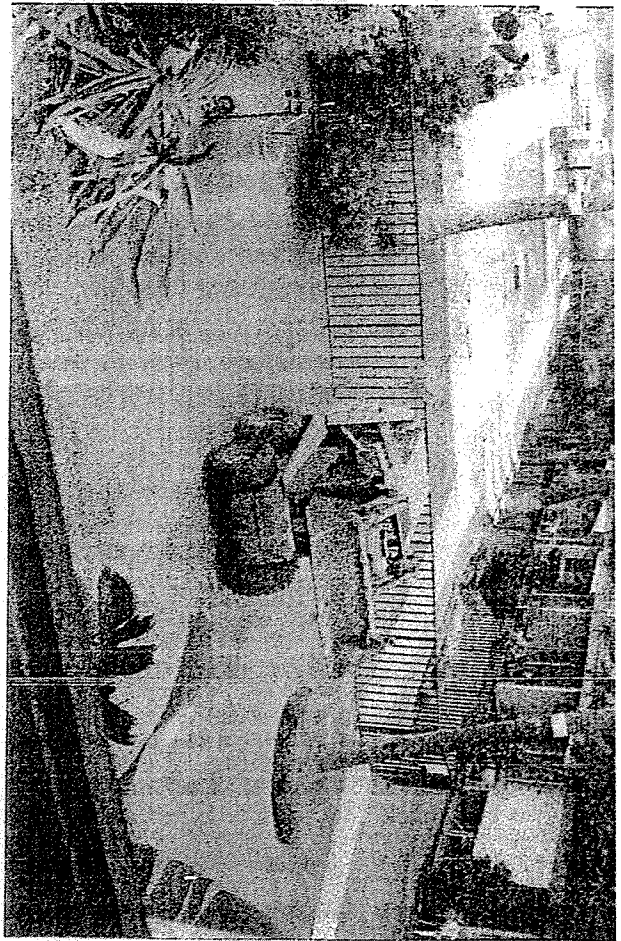
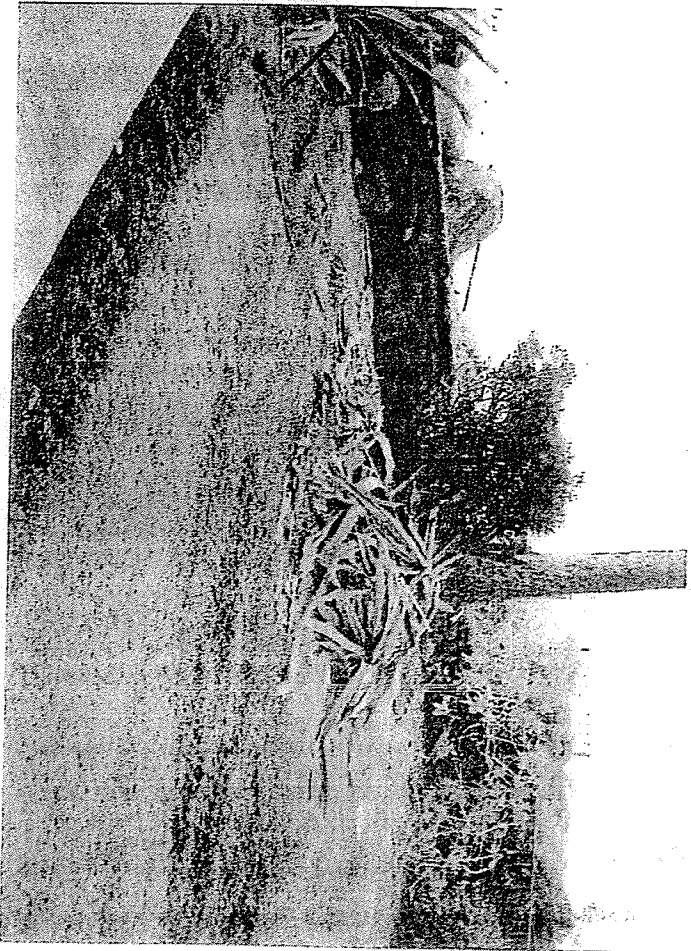
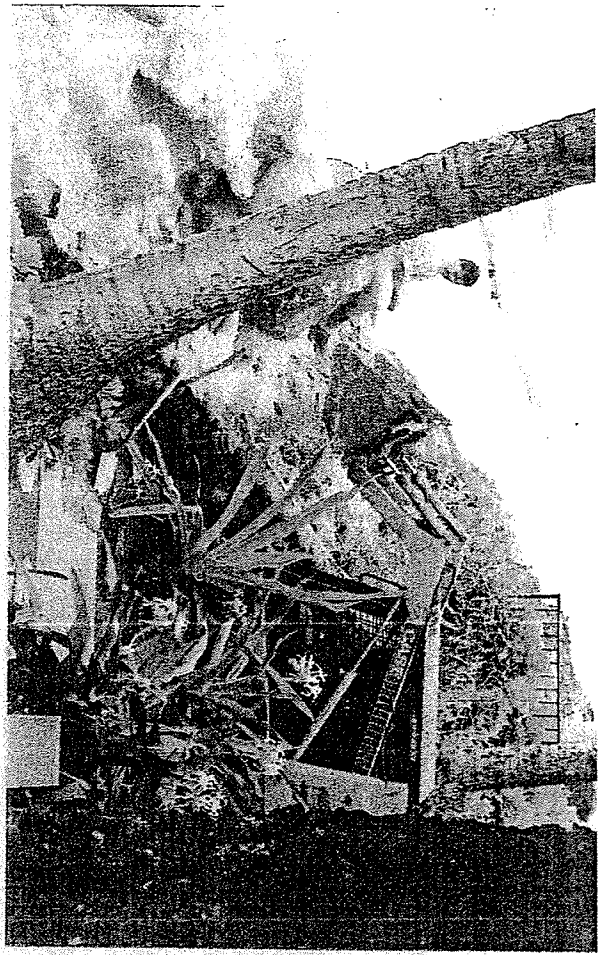
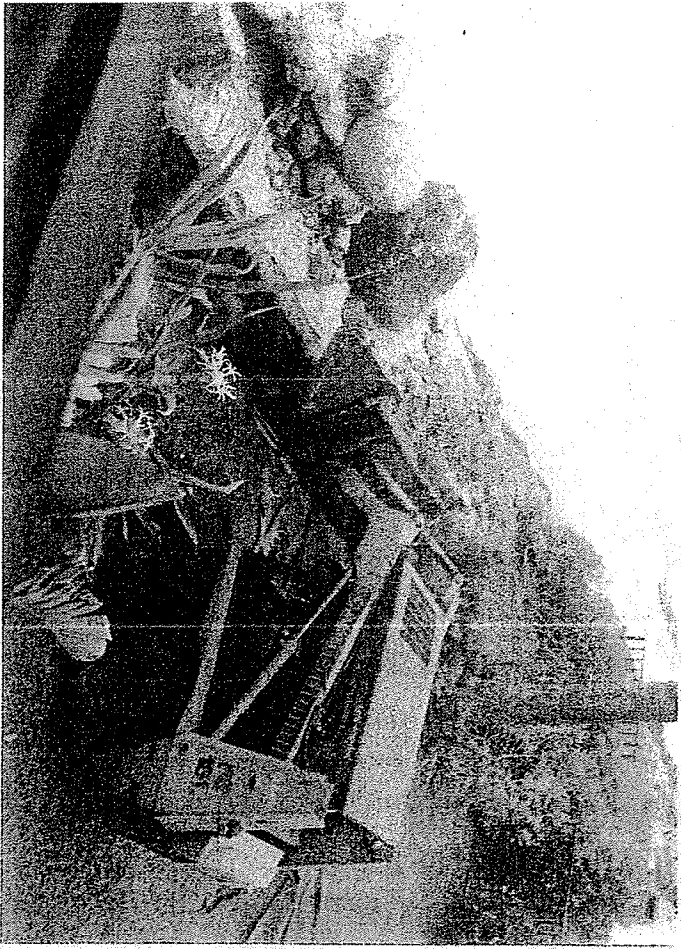


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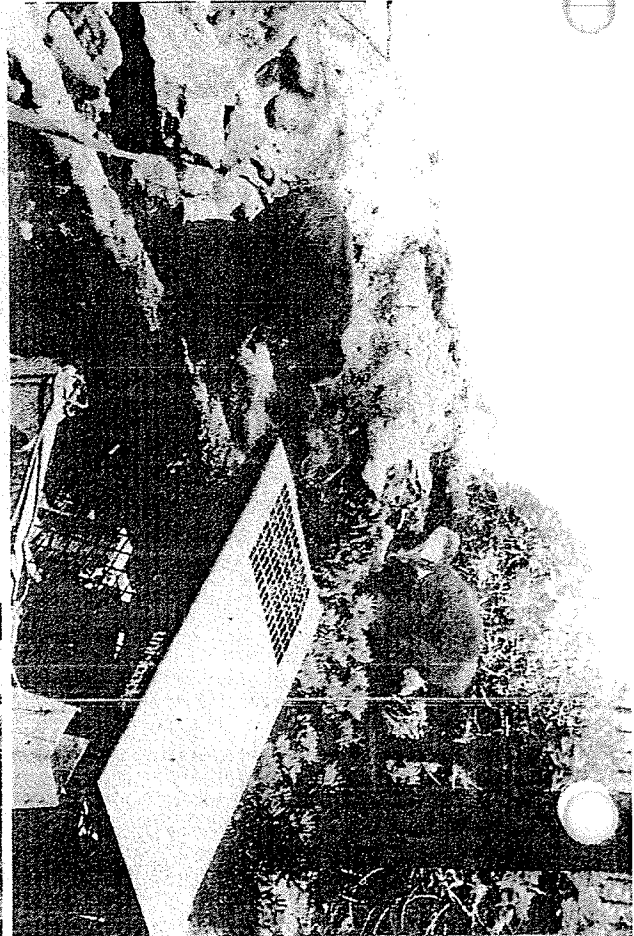
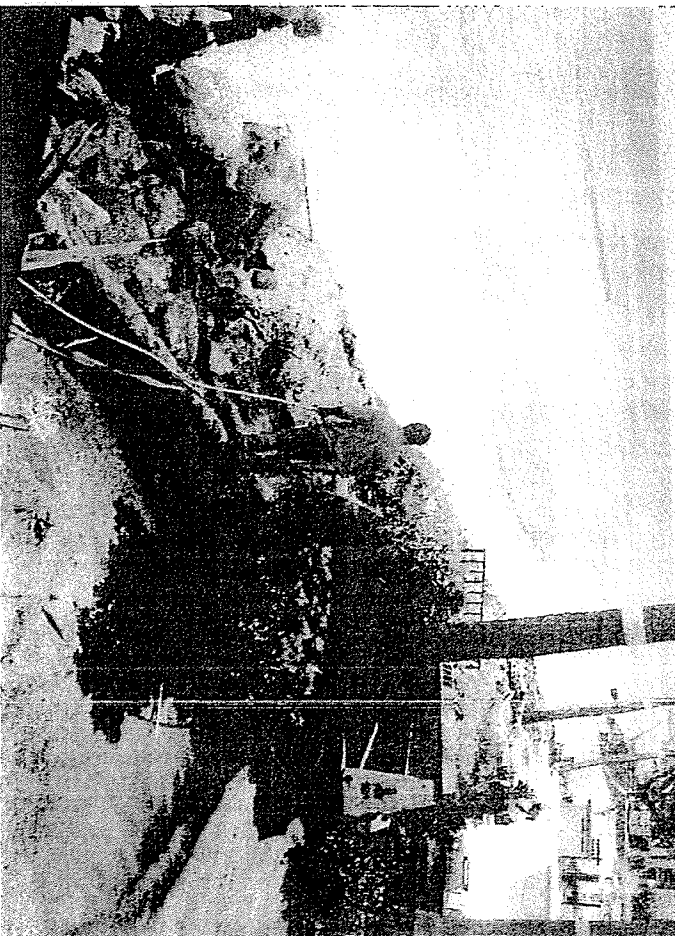
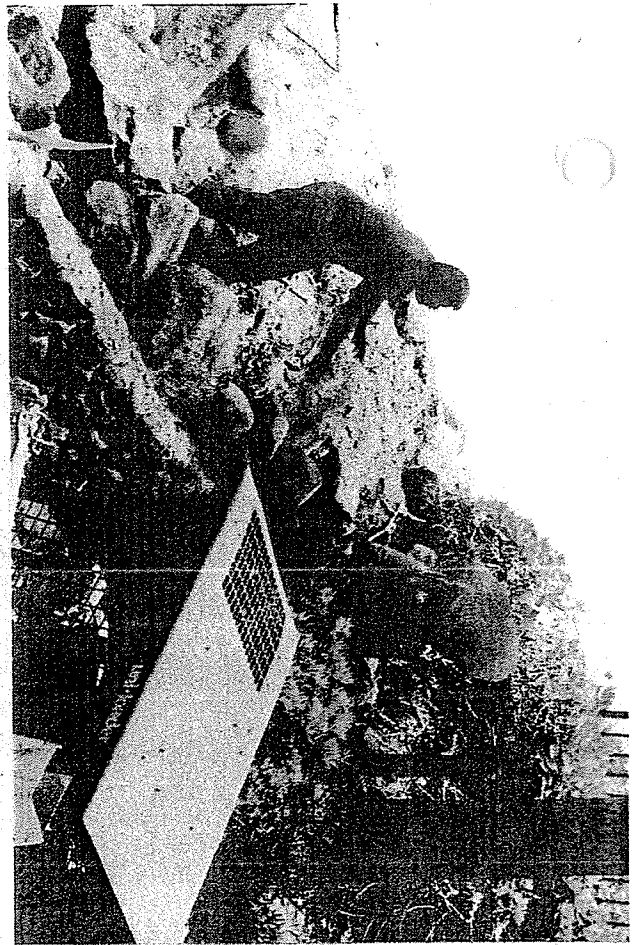
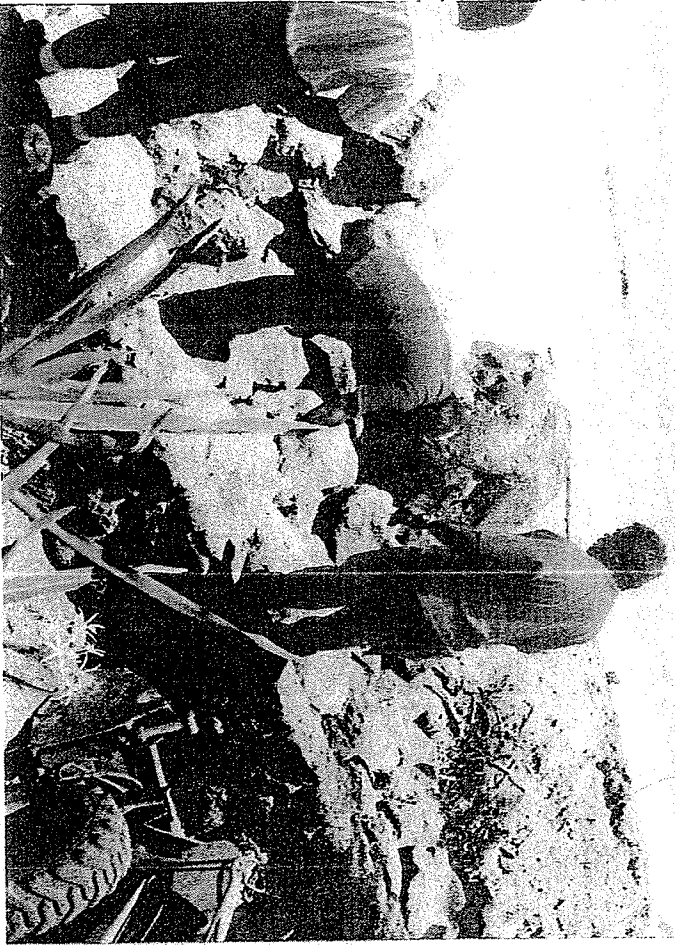


5/4/98 STARTED PUTTING ROCKS ON OCEAN
 SIDE OF WALL 2 MBU + VI 6 HRS (7)

5/4/98

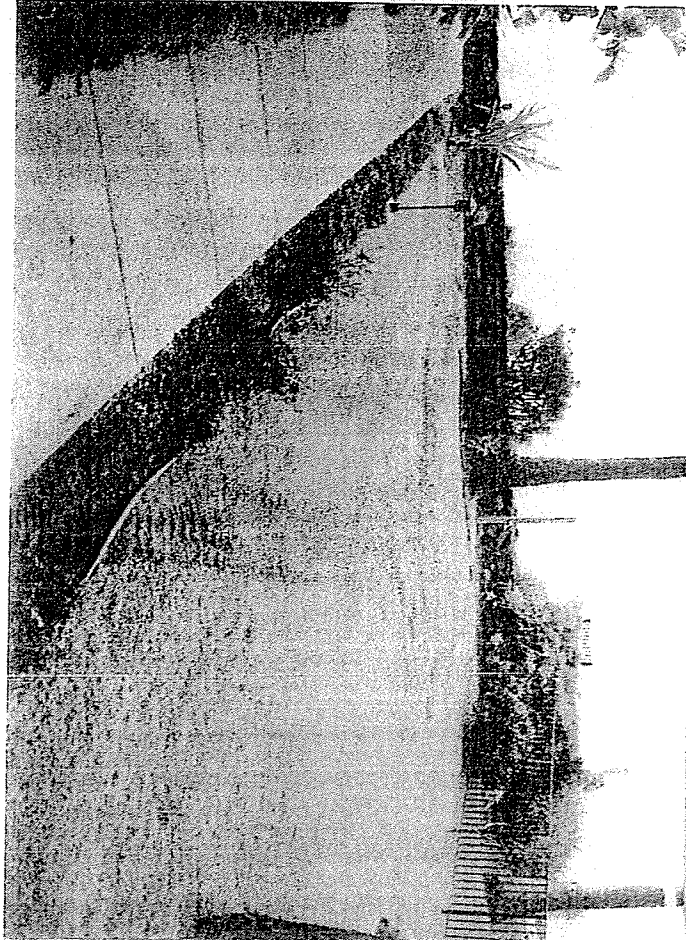
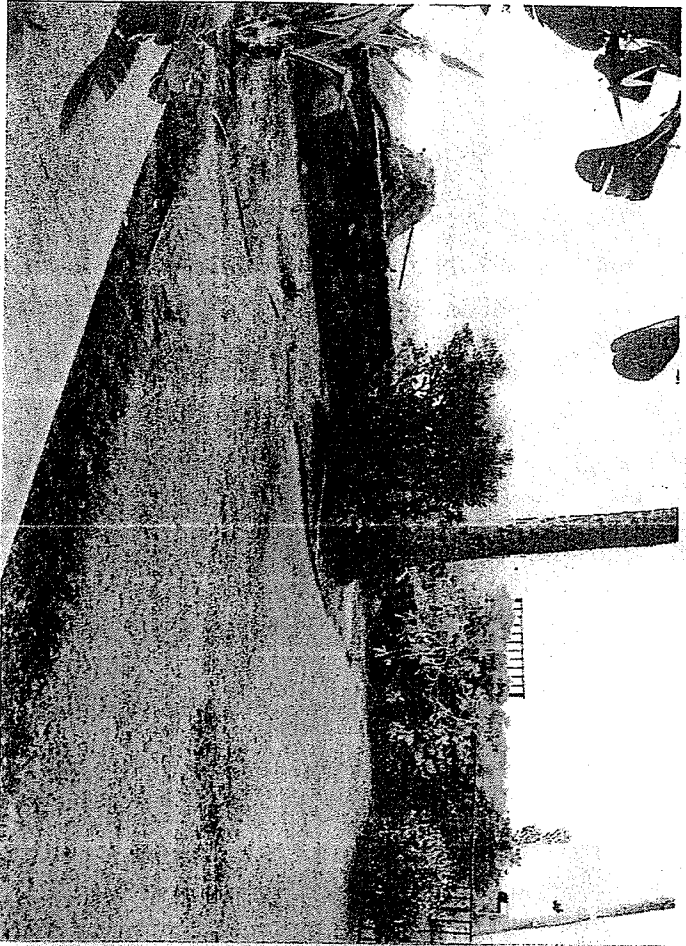
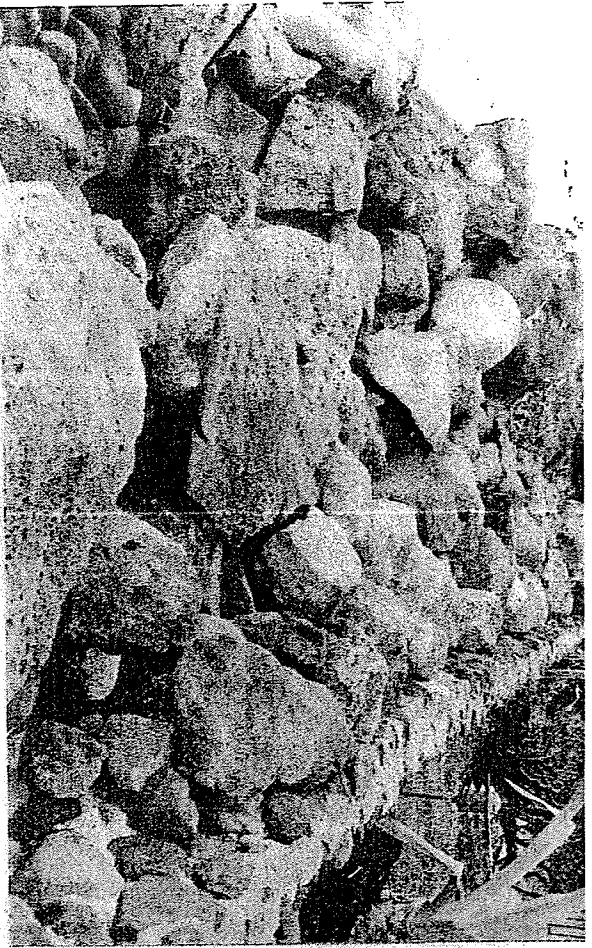


8



S/7/98 PLACED LARGE BOULDERS ON OCEAN
SIDE OF SEA WALL 2 MEN + VI @ HRS

11.

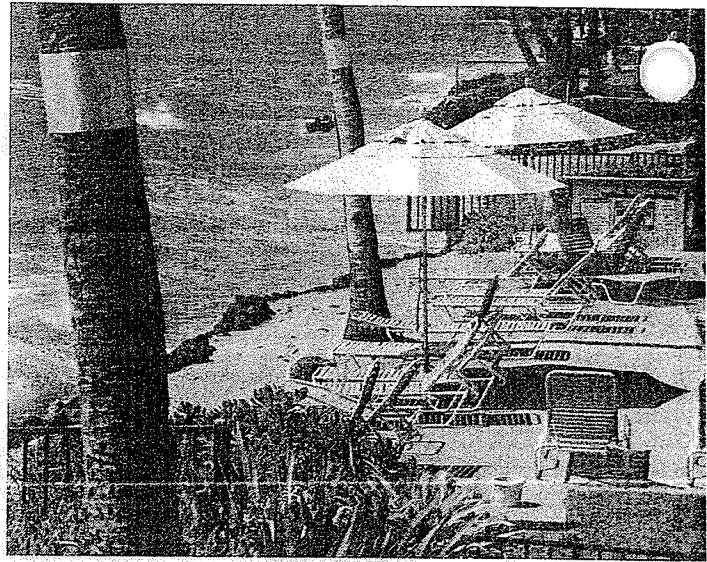


5/7/98 AFTER LARGER ROCKS WERE PLACED
END OF MAJOR WORK ON SEA WALL

(12)



6/30/04.1.JPG



6/30/04.2.JPG

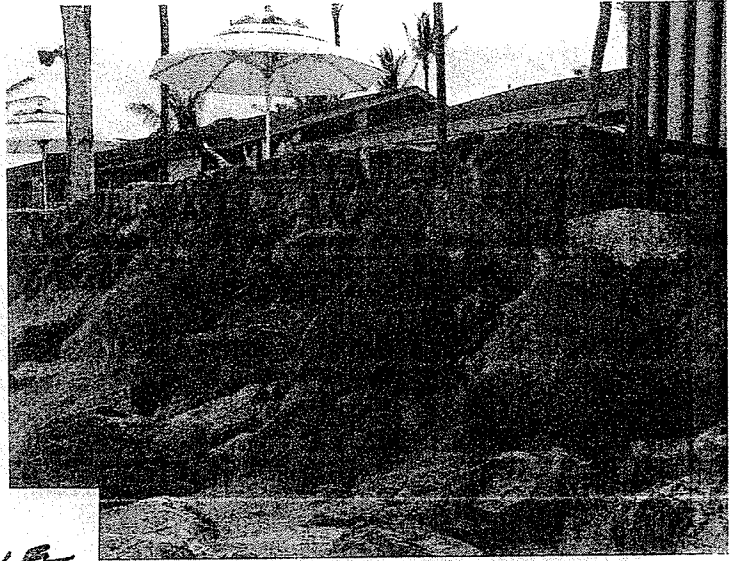
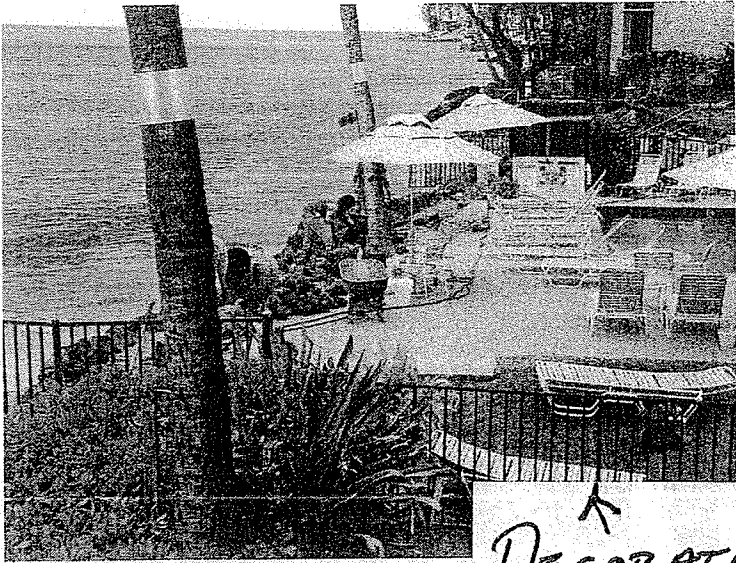


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7/4/04.2.JPG

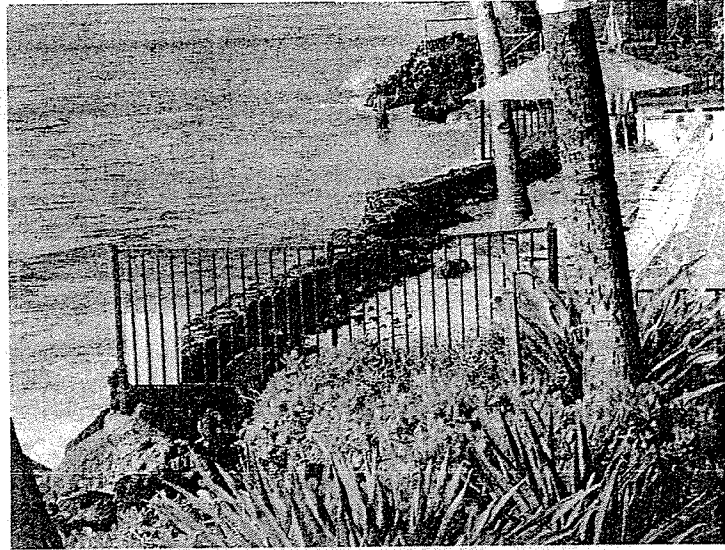
BEFORE
DECORATIVE
WALL



↑
DECORATIVE
WALL
UNDER
CONSTRUCTION

7/26/04.1.JPG

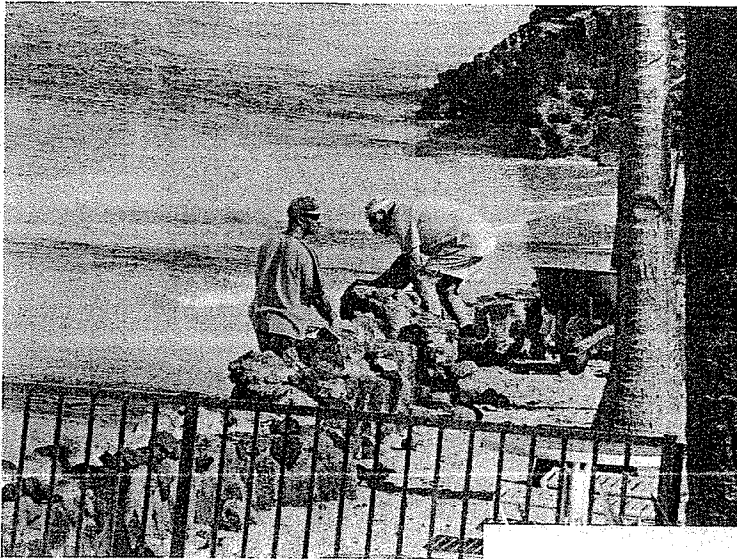
7/29/04.1.JPG



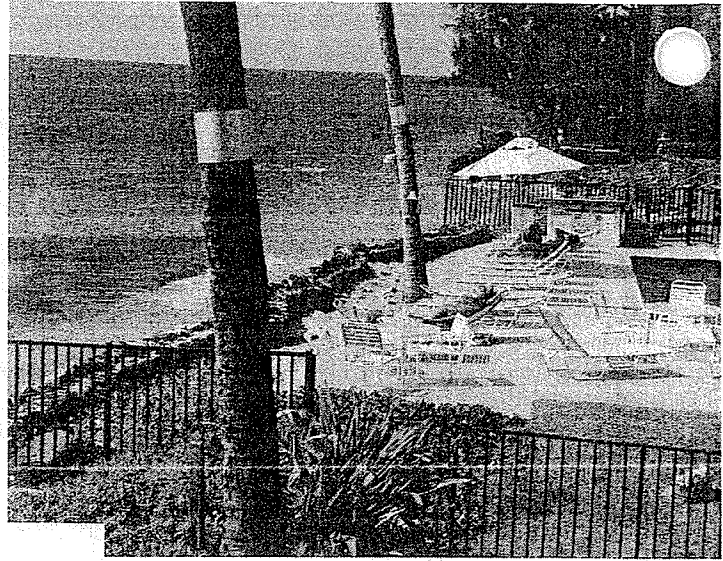
7/29/04.2.JPG

9/19/04.JPG

↑ ↑
DECORATIVE
WALL
FINISHED

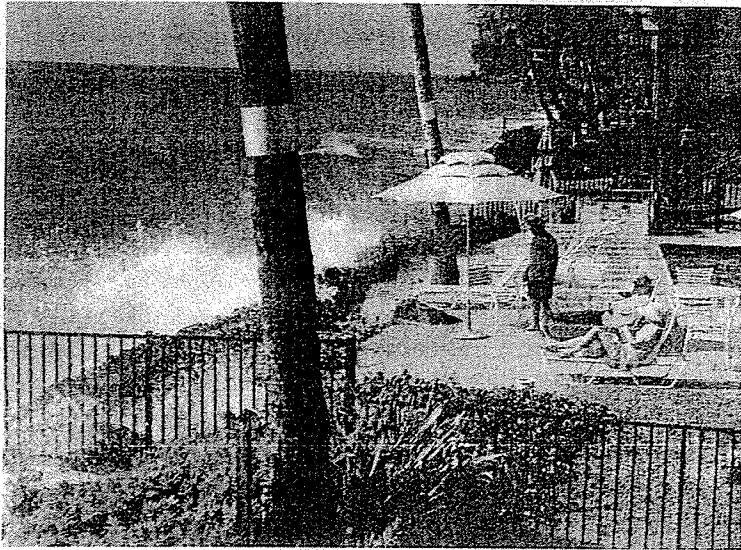


1/21/06.1.JPG



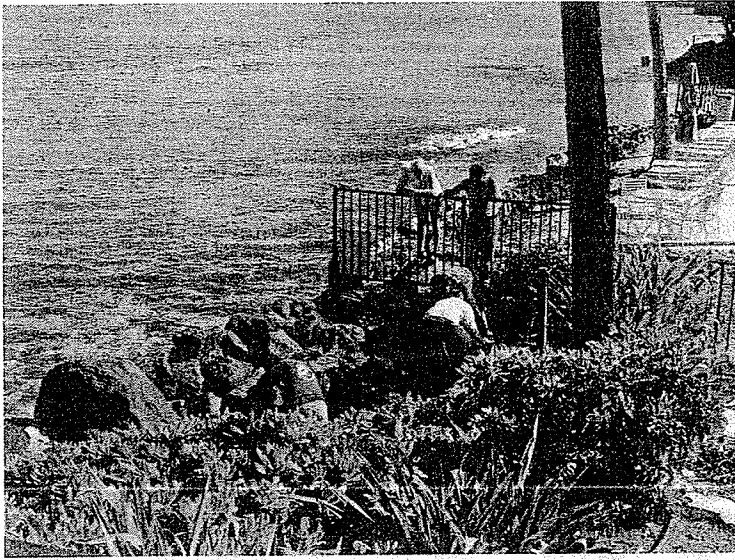
5/29/06.JPG

1ST RAISING
OF DECORATIVE
WALL HEIGHT

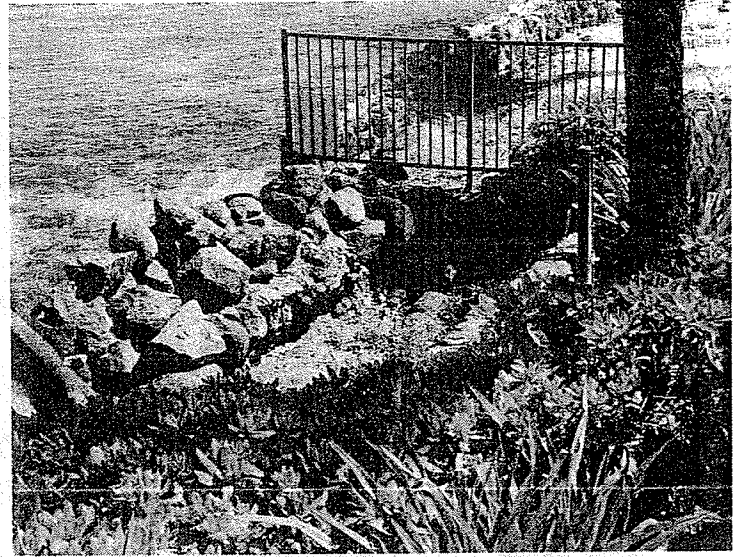


7/11/06.JPG

1ST RAISING OF
HEIGHT
FINISHED
←



8/4/07.1.JPG

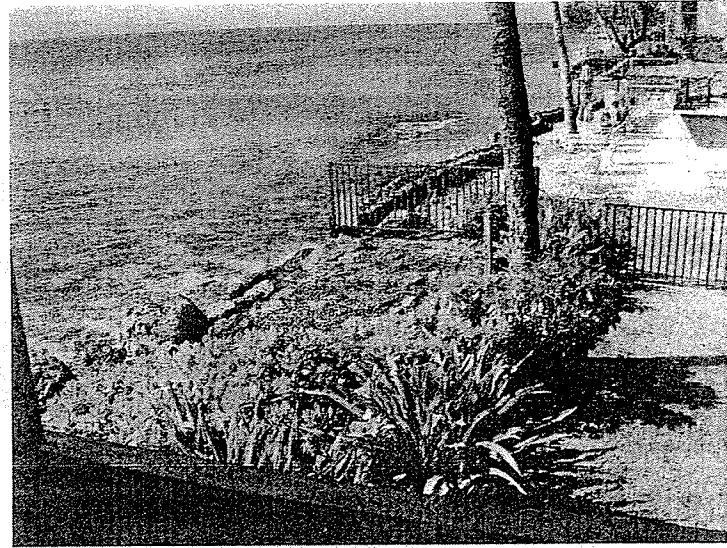


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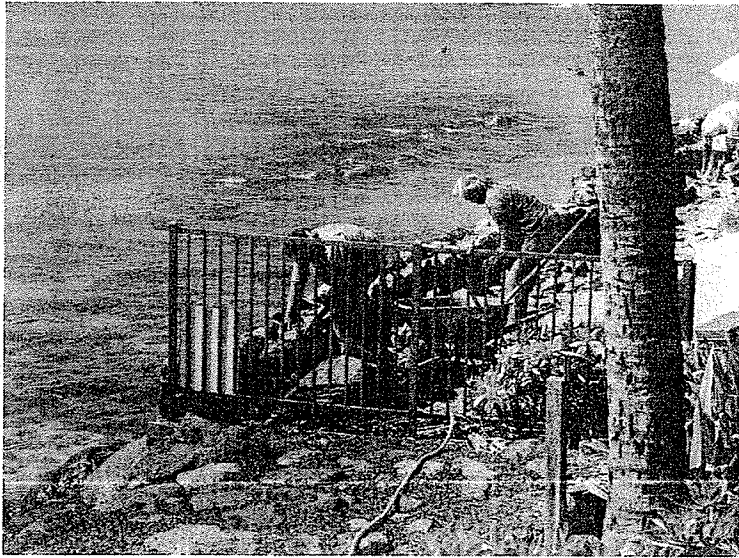
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↑ ↑ ↑
CONSTRUCTION
OF
FILTER FABRIC
TRENCH

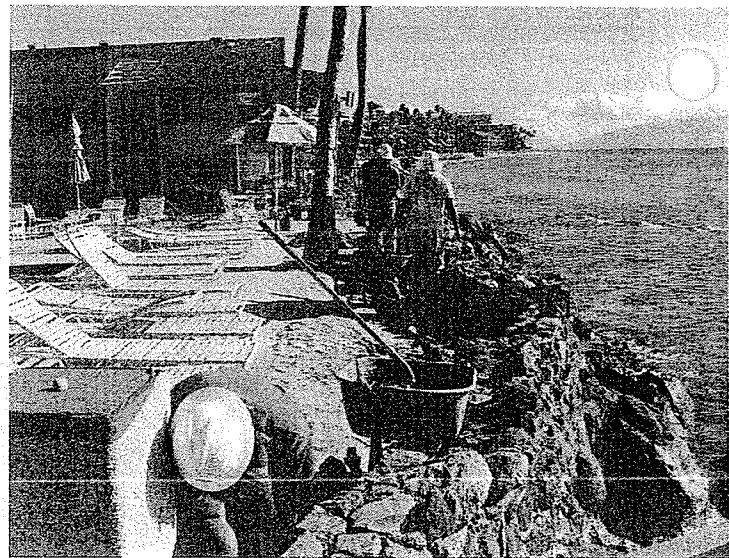


8/4/07.4.JPG

↑
FINISHED
TRENCH



8/8/07.1.JPG



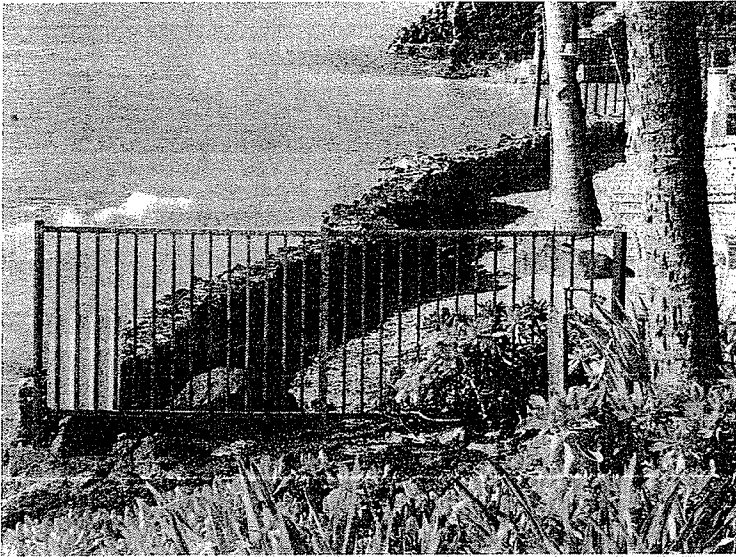
8/8/07.2.JPG

↑
2ND RAISING
↑
OF WALL



8/8/07.3.JPG

↑
INSTALLING
DRAIN PIPES

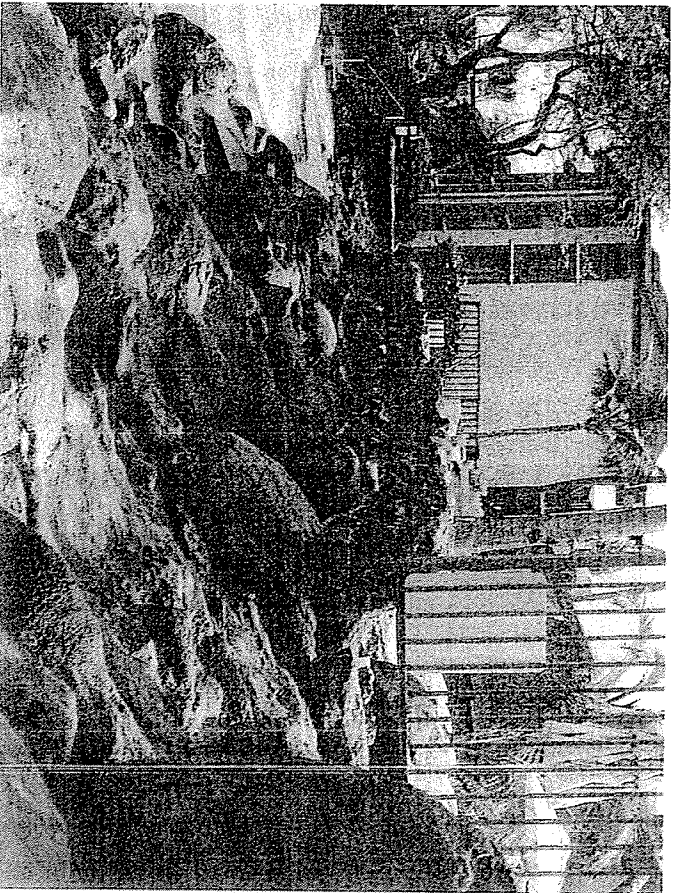
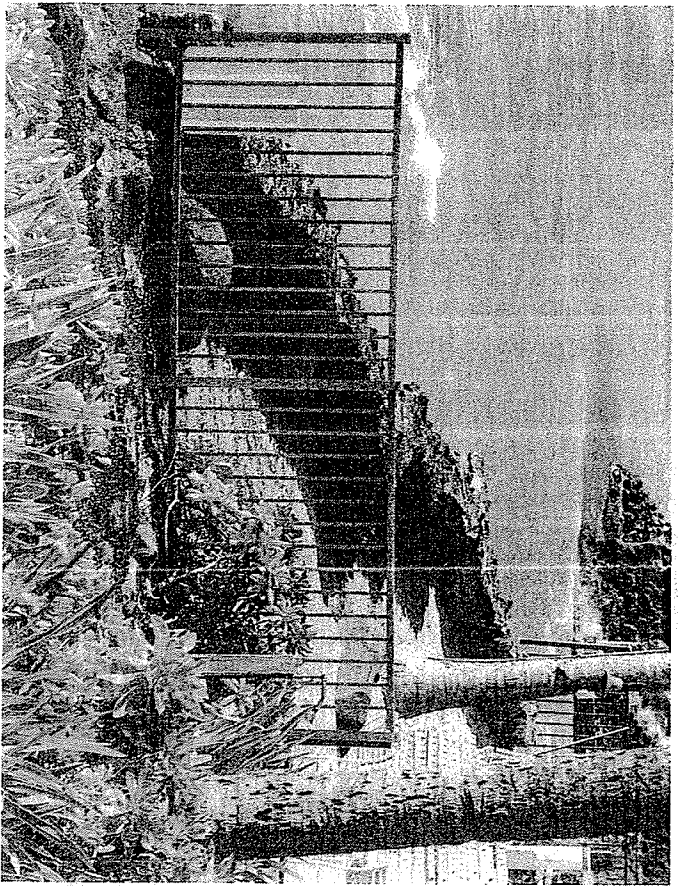


8/10/07.JPG

↑
2ND RAISING
OF HEIGHT
AND INSTALLED
5 DRAIN PIPES



8/11/07.JPG



R ↗

8/10/07.JPG

8/11/07.JPG

2ND RAISING
OF HEIGHT
AND INSTALLED
DRAIN PIPES



9/10/07.1.JPG

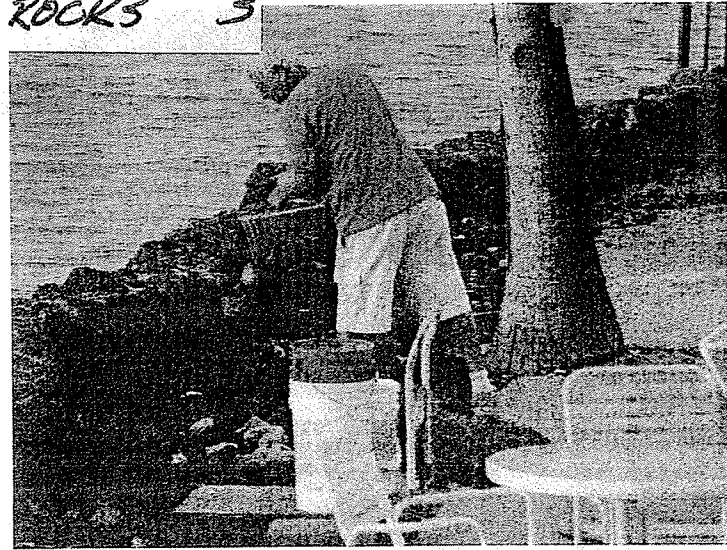


9/10/07.2.JPG

K
JOHN MALE
PRESIDENT
4 5 GAL CONTAINERS
OF ROCKS



9/20/07.JPG

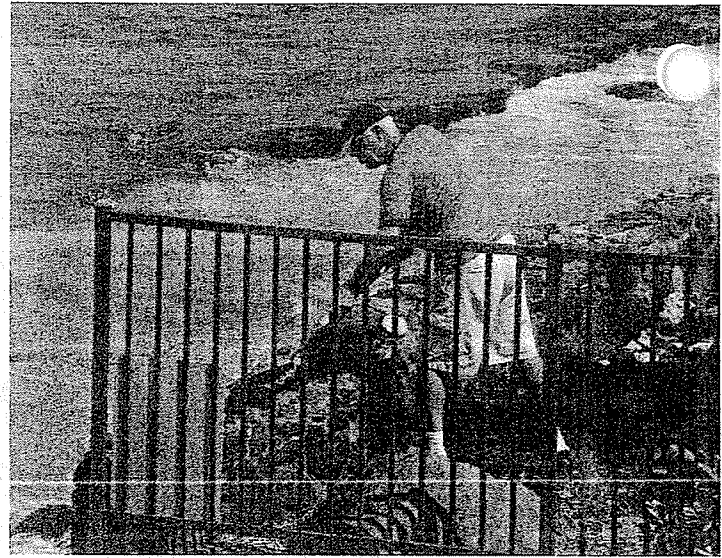


9/25/07.JPG

DUMPING
BEACH ROCKS
BEHIND WALL
JOHN MALE
RESIDENT MANAGER



10/10/07.1.JPG

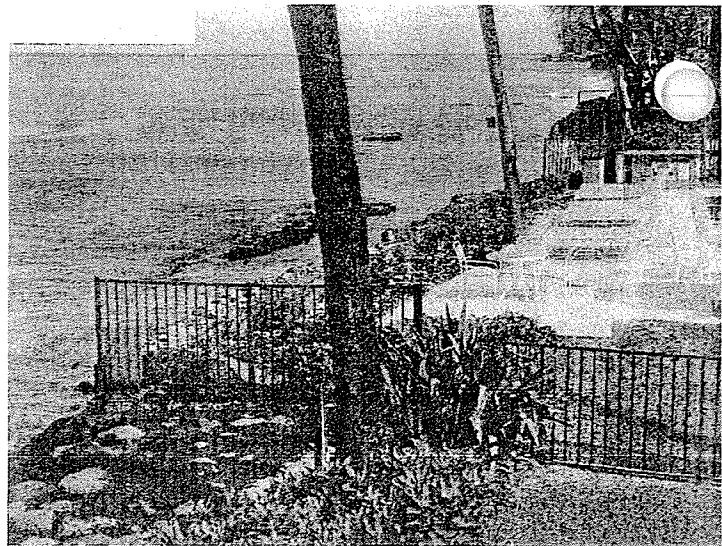


10/10/07.2.JPG

↑ ↑
MARR + RES MGR
RAISING HEIGHT
3RD TIME

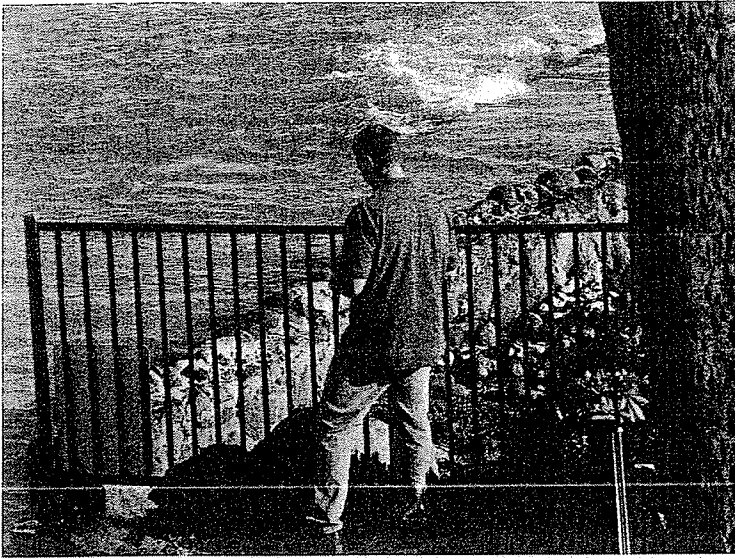


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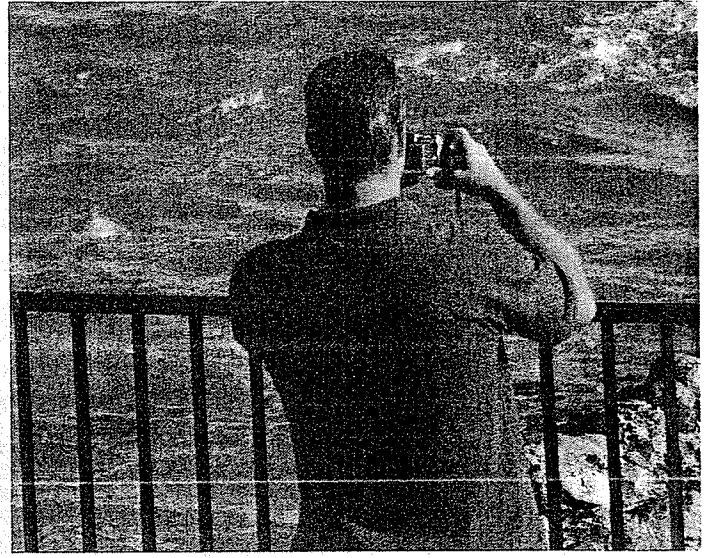


11/8/07.JPG

↑ ↑
FINISHED
WALL w/ BEACH
ROCKS



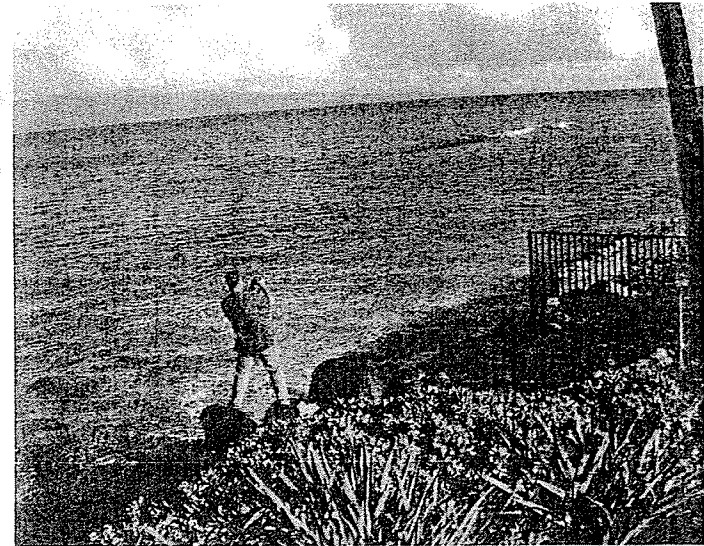
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10/18/07.2.JPG



10/18/07.3.JPG



10/18/07.4.JPG

OFFICER
de JESUS

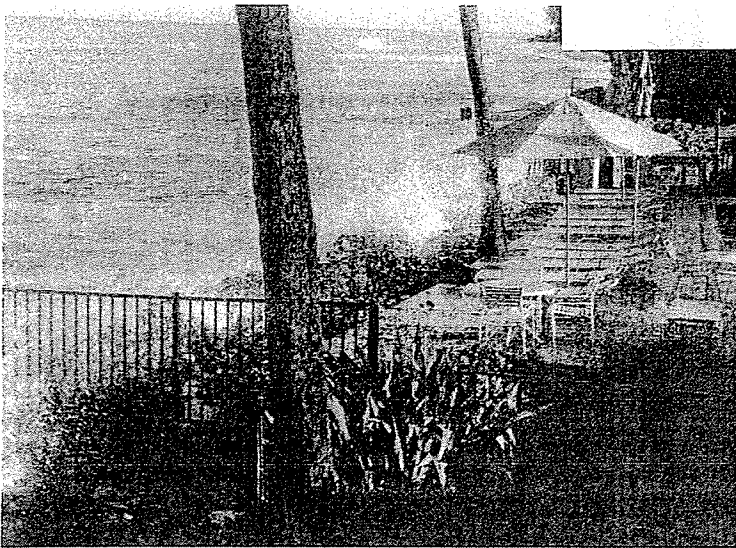
↙ WAVE RUNUP *



11/15/07.1.JPG

↑
SPLASHING
OVER WALL

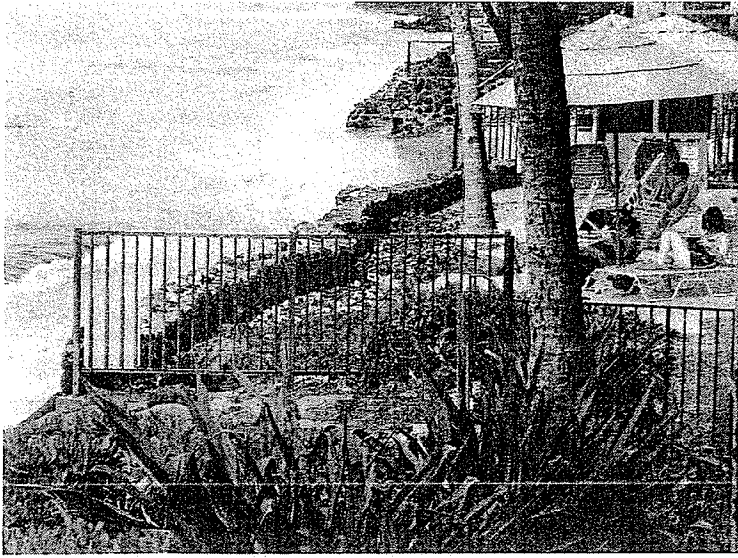
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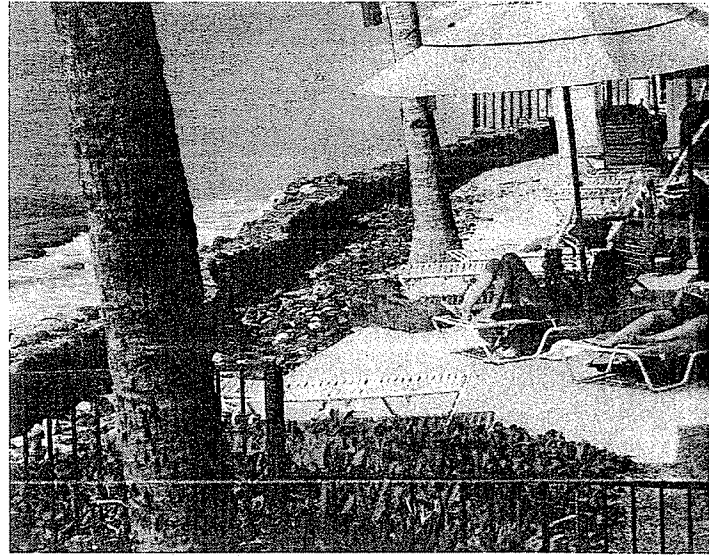
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↑
SPLASHING
OF MAN
OUT TRENCH

11/15/07.4.JPG



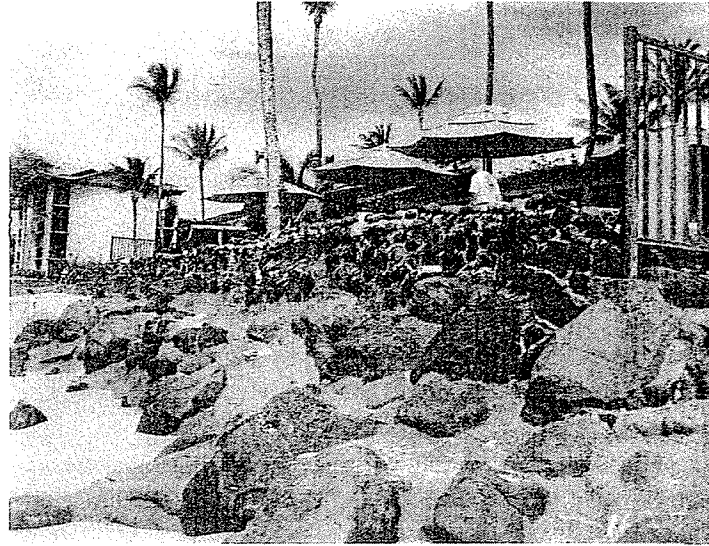
3/6/08.1.JPG



3/6/08.2.JPG



3/6/08.3.JPG



3/6/08.4.JPG

3 1/2 YRS AFTER
DECORATIVE
WALL & HEIGHT
INCREASES



**COUNTY OF MAUI
PLANNING DEPARTMENT**

200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

January 13, 1993

Mr. Steve Johnson
319 W. Cota Street
Santa Barbara, CA 93191

Dear Mr. Johnson:

RE: Special Management Area Assessment and Shoreline Setback approval to repair an existing seawall at the Hale Kai Condominium, TMK: 4-4-1:42, Lahaina, Maui (92/SM5-016) (92/SSA-011).

In response to your application received on November 19, 1992, for a determination in accordance with the Special Management Area Rules and Regulations, Section 2-5.5(b)(6), please be advised that the above mentioned project qualifies as, "repair and maintenance to existing structures." As such, the repair of the existing seawall is exempt from SMA Rules and Regulations. *

In addition, the project involves work within the Shoreline Setback Area. Pursuant to the Rules of the Maui Planning Commission Relating to the Shoreline Area, SS12-5-11 Structures, a structure in the shoreline area shall not need a variance if it is a structure which has been legally permitted and which is the subject of repairs valued at less than fifty percent of the current assessed value of the structure, which does not enlarge the structure nor intensify the use of the structure.

Inasmuch as the proposed improvements are less than fifty percent of the current assessed value, and does not enlarge nor intensify the use of the structure, shoreline setback approval is hereby granted subject to the following conditions:

1. That construction shall be limited to the repair and maintenance of the existing seawall and shall be in accordance with plans submitted November 19, 1992.
2. That a building permit shall be obtained prior to initiation of construction, if required.
3. That construction shall be initiated within a period of six (6) months from the date of the granting of this permit.

EXHIBIT 8 - Maui county planning dept. SMA
exemption & shoreline setback letter

Mr. Steve Johnson
January 13, 1993
Page 2

4. That construction of the project shall be complete within one (1) year after the date of its initiation.
5. That no construction, operation of equipment, storage or materials, excavation or deposition of soil or other material shall occur seaward of the base of the existing wall.
6. That the applicant shall contact the Planning Department immediately following construction repairs of the wall to inspect said condition.
7. That full compliance with all other applicable governmental requirements shall be rendered.

Thank you for your cooperation. If additional clarification is required, please contact this office.

Very truly yours,



BRIAN MISKAE
Planning Director

DS/sc
cc: Buzz Upton
LUCA (3)
D. Suzuki

①

KAUVAKA GROUND MAINTENANCE
P.O. BOX 11914
LAHAINA HI. 96761
LIC.# C-16368
DEC.18,1992
PH# 667-5633

HALE KAI

Re: Sea wall Repairing.

In accordance with your request, We are pleased to submit this proposals with an estimation to repair the sea wall accordance with the drawing by Harding Lawson Associates Engineering on Oct.27,1992. It will cost us \$14000.00 to do the repairing of the sea wall. It will takes us three weeks to finish the job. There will be no working on rainy day. The three weeks means Mon. to Fri. We will supply all materials, equipments, and labor. We will repair any damage caused by our employee.

Payment:

We request 50% before the job begin and the balance at the ending of the job.

Should you have any question, please call us at 667-5633 or my digital pager 872-5227.

Yours Truly

Fale Kouvaka
Owner

Steven A. Johnson
319 W. Cota St.
Santa Barbara, CA 93101

Brian Miskae
Planning Department, County of Maui


Building Department, County of Maui

Dear Sirs:

As a member of the Hale Kai Board of Directors, I have received authorization from the entire Board to seek a permit for repairs to our seawall, as described in a letter and plans from our engineering consultant (Harding-Lawson). Our resident manager, Buzz Upton, will be submitting the necessary application forms and coordinating the work to be done.

Please contact me by phone or letter if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Steven A. Johnson". The signature is written in dark ink and is positioned below the word "Sincerely,".

Home: 805-962-1895
Work: 805-685-4455

1. PAYMENT

HLA shall invoice client periodically for the Services performed under this Agreement. Invoices shall clearly describe the project name, the services rendered, HLA's job number and any Client required data. Invoices must be paid within 30 days of the invoice date and if not paid within such time shall be subject to a late payment charge of the lower of 1 1/2 percent per month or the highest rate permitted by law.

2. INDEPENDENT CONTRACTOR STATUS

In performing Services under this Agreement, HLA shall operate as, and have the status of, an independent contractor and shall not act as or be an employee of Client.

3. PROFESSIONAL RESPONSIBILITY

Subject to any limitations established by the Client as to the degree of care and amount of time and expenses to be incurred and any other limitations contained in this Agreement, HLA shall perform the Services consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances at the time the Services are performed. Client hereby acknowledges that whenever a Project involves hazardous or toxic materials there are certain inherent risk factors involved (such as limitations on laboratory analytical methods, variations in subsurface conditions and the like) which may adversely affect the results of the Project, even though the Services are performed with such skill and care. No other representation, warranty or guarantee, express or implied, is included or intended by this Agreement.

4. LIMITATION OF LIABILITY

Client agrees that the liability of HLA and all officers, employees, agents and subcontractors of HLA (the "HLA Parties") to Client for all claims, suits, arbitrations or other proceedings arising from the performance of the Services under this Agreement, including, but not limited to, HLA's professional negligence, errors and omissions or other professional acts, shall be limited to an aggregate of \$100,000 or the Fee, whichever is greater.

5. INDEMNIFICATION

Client shall indemnify, defend, and save harmless the HLA Parties, from any claim, suit, liability, damage, injury, expense, including attorney's fees, or other loss (collectively called "Loss") arising out of (a) breach of this Agreement by Client, (b) Client's willful misconduct or negligence in connection with the performance of this Agreement, (c) any actual or potential environmental pollution or contamination, including, without limitation, any actual or threatened release of toxic or hazardous materials, failure to detect or properly evaluate the presence of such substances; or (d) any action taken by HLA Parties as Client's agent under the section entitled Reporting and Disposal Requirements.

HLA shall indemnify, defend, and save harmless Client, from any Loss arising out of (a) breach of this Agreement by HLA Parties or (b) willful misconduct or negligence by HLA Parties in connection with the performance of the Services under this Agreement. Allocation of Loss between Client and HLA Parties shall be on a comparative fault basis. In no event shall any party be liable for consequential damages.

6. HAZARDOUS OR UNSAFE CONDITIONS

Client has fully informed HLA of the type, quantity, and location of any hazardous, toxic, or dangerous materials or unsafe or unhealthy conditions which may affect the Project which Client knows to exist. If client hereafter becomes aware of any such information, Client shall immediately inform HLA. The discovery of unanticipated hazardous, toxic or dangerous materials or unsafe or unhealthy conditions constitutes a Changed Condition which may justify a revision to Services. If HLA takes emergency measures to protect the health and safety of HLA Parties and/or the public or to prevent undue harm to the environment, the Fee shall be appropriately adjusted to compensate HLA for the cost of such emergency measures.

7. INSURANCE

HLA shall maintain during the performance of the Services, if reasonably available, (1) statutory Workers' Compensation Employer's Liability coverage; and (2) Comprehensive General/Professional and (3) Automobile liability insurance coverage in policy amounts in the aggregate of not less than \$1,000,000 each.

8. RIGHT OF ENTRY

Client agrees to grant or arrange permission for right of entry from time to time by HLA Parties upon all real property sites where the Services are to be performed (the "Project Site(s)"), whether or not the Project Site(s) is owned by Client. Client recognizes that the use of investigative equipment and practice may unavoidably alter conditions or affect the environment at the existing Project Site(s). HLA will operate with reasonable care to minimize damage to the Project Site(s). The cost of repairing such damage will be borne by Client, and is not included in the Fee unless otherwise stated.

9. UNDERGROUND UTILITIES

Client shall correctly designate on plans to be furnished to HLA, the location of all subsurface structures, such as pipes, tanks, cables and utilities within the property lines of the Project Site(s) and shall be responsible for any damage inadvertently caused by HLA to any such structure or utility not so designated. Client warrants the accuracy of any information supplied by it to HLA, acknowledges that HLA may not verify the accuracy of such information and agrees that HLA is entitled to rely upon any information supplied by Client.

10. REPORTING AND DISPOSAL REQUIREMENTS

Nothing contained in this Agreement shall be construed or interpreted as requiring HLA to assume the status of an owner, operator, generator, person who arranges for disposal, transporter, storer, treatment or disposal facility as those terms appear within any federal or state statute governing the treatment, storage, and disposal of hazardous substances or wastes. Client shall be solely responsible for notifying all appropriate federal, state, municipal or other governmental agencies of the existence of any hazardous, toxic or dangerous materials located on or in the Project Site(s), or discovered during the performance of this Agreement. Client shall be responsible for making and paying for all necessary arrangements to lawfully store, treat, recycle, dispose of or otherwise handle hazardous or toxic substances or wastes, including, but not limited to, samples and cuttings, to be handled in connections with the Project. HLA may, in its sole discretion, agree to make such arrangements on behalf of Client, as Client's agent.

11. SAMPLES AND CUTTINGS

HLA shall not be obligated to preserve such soil, rock, water and other samples obtained from the Project Site(s) as HLA deems necessary for no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples.

12. HEALTH AND SAFETY

HLA shall not be responsible for the health and safety of any persons other than HLA Parties, nor shall it have any responsibility for the operations, procedures or practices of persons or entities other than HLA Parties.

13. SUBCONTRACTORS

HLA may subcontract for the services of others without obtaining Client's consent where HLA deems it necessary or desirable to have others perform certain Services. If HLA deems it necessary or desirable to obtain Client's advance concurrence with any proposed subcontractor, HLA may make a written request to review the qualifications and suggested scope of work to be performed by such proposed subcontractor and Client shall either grant or deny such concurrence within a reasonable time after receipt of such a request.

14. ASSIGNMENT

Except as expressly provided for in this Agreement, neither Client nor HLA may delegate, assign, sublet or transfer duties or interests in this Agreement without the written consent of the other party.

15. TERMINATION

Client may terminate this Agreement at any time upon thirty (30) days written notice. Either Client or HLA may terminate this Agreement in the event of a material breach which remains uncured ten (10) days after receipt of written notice by the other party. In the event of termination, Client shall pay HLA for the Services performed prior to the termination notice date, and for any necessary Services and expenses incurred in connection with the termination of the Project, including but not limited to, the cost of completing analysis, records and reports necessary to document job status at the time of termination and costs associated with termination of subcontractor contracts.

The obligations of the parties to indemnify, and the limitations on liability established, under this Agreement shall survive the expiration or termination of this Agreement.

16. SUSPENSIONS AND DELAYS

Client may, at any time, by ten (10) days written notice, suspend performance of all or any part of the Services by HLA. HLA may terminate this Agreement if Client suspends HLA's work for more than sixty (60) days. In the event HLA field or technical work is suspended by client or interrupted due to delays other than delays caused by HLA, the time for completion of the performance of the Services shall be appropriately adjusted and HLA shall be equitably compensated (in accordance with HLA's current Schedule of Charges) for the additional labor, equipment and other charges associated with maintaining its workforce for Client's benefit during the delay or suspension, or at the option of Client, for such similar charges that are incurred by HLA for demobilization and subsequent remobilization.

Except for the foregoing provision, neither party shall hold the other responsible for damages or delays in performance caused by force majeure, acts of God, or other events beyond the control of the other party or that could not have been reasonably foreseen and prevented. Delays within the scope of this paragraph which cumulatively exceed forty-five(45) days are deemed a Changed Condition under this Agreement.

17. CHANGED CONDITIONS

If, during the course of the performance of the Services under this Agreement, conditions or circumstances develop or are discovered which were not contemplated by HLA at the commencement of this Agreement, and which materially affect HLA's ability to perform the Services or which would materially increase the costs to HLA of performing the Services, then HLA shall notify Client in writing of the newly discovered conditions or circumstances, and Client and HLA shall renegotiate, in good faith, the terms and conditions of this Agreement. If amended terms and conditions cannot be agreed upon within 30 days after notice, HLA may terminate this Agreement and be compensated as set forth under Termination, above.

18. CONFIDENTIALITY

All documents, reports, disclosures, plans and other information of any nature and description which Client supplies to HLA or which HLA discovers or develops in performance of the Services under this Agreement shall be deemed confidential and HLA shall not disclose any of the same without client's written authorization to any third party, except to the extent that information is in the public domain or is required by law or under HLA's professional obligations to be disclosed.

19. OWNERSHIP AND MAINTENANCE OF DOCUMENTS

Unless otherwise specified in Attachment A, all documents and information obtained or prepared by HLA in connection with the performance of the Services, including but not limited to HLA's reports, boring logs, maps, field data, field notes, drawings and specifications, laboratory test data and other similar documents (collectively called "Documents") are the property of HLA and HLA shall, in its sole discretion, have the right to dispose of or retain the Documents. HLA retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from Services. HLA shall have the right to use the Documents for any purpose, unless such use would cause harm to Client or breach the terms under the section entitled Confidentiality. Client shall have the right to reuse the Documents for purposes reasonably connected with this project, including design and licensing requirements of the Project for which the Services are provided.

No party other than Client may rely, and Client shall make no representations to any party that such party may rely, on Documents without HLA's express written authorization.

20. COMPLIANCE WITH LAW

Client and HLA shall comply with applicable laws in effect at the time the Services are performed, which to the best of their knowledge, information and belief, apply to their respective obligations under this Agreement.

21. ATTORNEY'S FEES

If an action or proceeding is commenced to enforce the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys fees, costs and expenses.

22. GOVERNING LAW

This Agreement shall be interpreted and enforced according to the laws of the State of ^{Hawaii GA 2/11/93} ~~California~~, unless agreed otherwise. If any part of this Agreement is found to be invalid by a court of competent jurisdiction, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

23. NOTICES

All notices and communications required by this Agreement to be given in writing between HLA and Client shall be delivered to the persons designated by the parties in Attachment A. All other notices and communications from the Client shall be to HLA's designated Project Manager or to the Principal-in-Charge of the HLA office performing the work. Verbal communications shall be confirmed in writing.

24. ENTIRE AGREEMENT AND MODIFICATIONS

This Agreement, including attachments incorporated herein by reference, represents the entire agreement and understanding between the parties, and any negotiation, proposals or oral agreements are intended to be integrated herein and to be superseded by this Agreement. In any case of any conflict or inconsistency between provisions in the body of this Agreement and provisions in any contract document incorporated herein, the provisions in the body of this Agreement shall control.

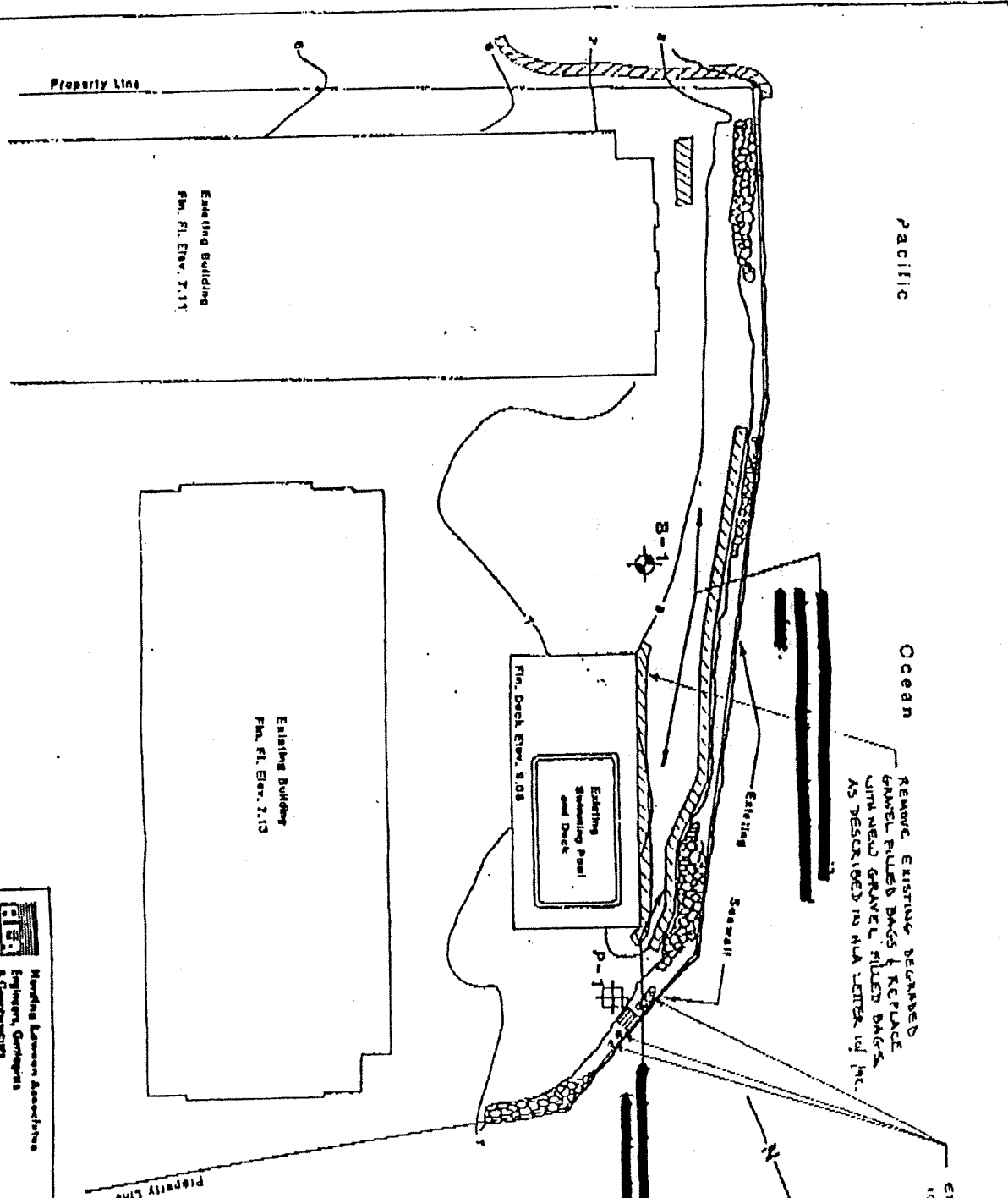
Any modification to this Agreement shall be in writing and signed by authorized representatives of the parties.

HARDING LAWSON ASSOCIATES

CLIENT

By: George T.S. How
George T.S. How
Title: Vice President
Date: February 12, 1993

By: _____
Title: _____
Date: _____



PACIFIC

Ocean

REMOVE EXISTING DEGRADED
GRAVEL FILLED BAGS & REPLACE
WITH NEW GRAVEL FILLED BAGS
AS DESCRIBED IN NLA LETTER OF 10/1/92.

EXCAVATE "PIPES" AS DESCRIBED IN NLA LETTER
10/1/92.

Existing Sewering Pool
and Deck
Fin. Deck Elev. 8.05

Existing Building
Fin. Fl. Elev. 7.11

Existing Building
Fin. Fl. Elev. 7.13

Property Line

Property Line

N

Key

B-1 Boring location

P-1 Probe location

Contour Elevation

CONTOUR ELEVATION
LOCATIONS OF PREVIOUS PERIMETERS

Reference: Plot plan dated
November 1, 1984 provided
by Hale Kai Condominium.



Manning Lee Associates
Engineers, Geologists
& Constructors

Repair Work Plan
Hale Kai Sewall Repair
Lahaina, Maui, Hawaii

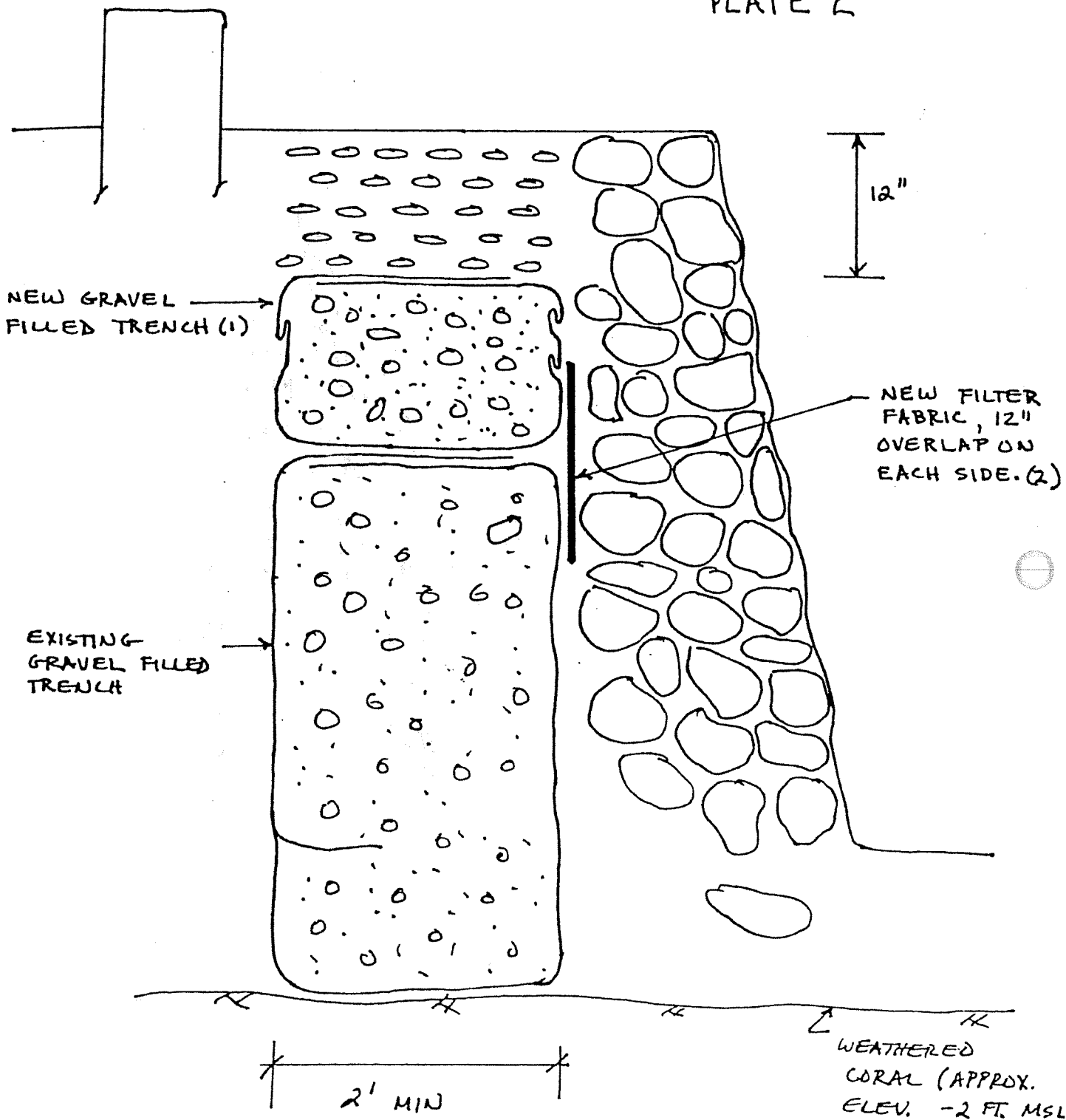
6-8-85

SJK

1-1

PROJECT _____
SUBJECT DRAWING: NOT TO SCALE

PLATE 2



- (1) GRAVEL & COBBLE SHOULD RANGE IN SIZE FROM 1/4 TO 12 INCHES WITH 85 PERCENT OR MORE IN SIZES SMALLER THAN 6-INCHES, AND WITH 3 PERCENT OR LESS PASSING THE NO. 200 SIEVE.
- (2) ALL NEW FILTER FABRIC SHOULD BE NONWOVEN AND HAVE A PERMITTIVITY OF AT LEAST 0.5 PER SECOND, SUCH AS SUPAC "BNP" OR EQUIVALENT.

**COASTAL ENGINEERING INVESTIGATION AT
HALE KAI CONDOMINIUM, LAHAINA, MAUI**

Prepared for:

Hale Kai Condominium Apartments
3691 Lower Honoapililani Road
Lahaina, Maui, HI 96761

Submitted by:

Sea Engineering, Inc.
Makai Research Pier
Waimanalo, Hawaii 96795

#7-18

EXHIBIT 8 - Sea Engineering report

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COASTAL ENGINEERING INVESTIGATION AT HALE KAI CONDOMINIUMS, LAHAINA, MAUI

1. INTRODUCTION

Site investigation were conducted by Sea Engineering, Inc. (SEI), on April 9, 2007 at Hale Kai Condominiums, Lahaina. The purpose of the visit was to assess the condition of seawall repairs over a portion of the condominium shoreline. The Hale Kai shoreline is fronted by a sloping cemented rock seawall for most of the length of the property (Figure 1). The slope of the wall changes, becoming nearly vertical along the northern length fronting the swimming pool (Figure 2). The sloping portion of the seawall may have originally been built as a revetment, likely with uncemented boulders. Repairs have been made over time by grouting the boulders together, and the seawall is now a rigid monolithic structure. Cracking in the seawall, and sinkholes and other signs of erosion behind the wall were first addressed in a February 1985 reconnaissance report by Harding Lawson Associates (HLA). A long stream of communications by consultants to the Hale Kai Condominium has been provided to SEI. These have been summarized in the following table.

Table 1. Summary of Consultant Reports for the Hale Kai Seawall

Document	Date	Notes
Reconnaissance, Hale Kai Seawall by Harding Lawson Associates	2-22-85	Reconnaissance survey of seawall conditions <ul style="list-style-type: none"> ▪ Numerous concrete patches in seawall ▪ North and South sections of seawall set on coral ledges; middle section not set on rock ▪ Signs of undermining below seawall boulders ▪ Soil eroded and piping observed near pool ▪ Cracks observed in seawall grout ▪ Seawall cracking likely caused by undermining ▪ More detailed study recommended, including borings
Geotechnical Investigation, Hale Kai Seawall Repair by Harding Lawson Associates	6-7-85	Results of Geotechnical investigations and recommendations <ul style="list-style-type: none"> ▪ Central portion of seawall founded on fine to medium sand extending to -2 ft elevation; erosion of sand causing problems with seawall ▪ A weathered coral layer 9 ft thick exists at the -2 ft elevation ▪ Gravel trench filter was recommended with base at -2 ft to eliminate erosion of sand behind seawall; ▪ Seawall may settle until founded on weathered coral layer
Letter from Harding Lawson Associates	8-22-88	Report of site visit on 8-12-88 <ul style="list-style-type: none"> ▪ Various problems reported, including cracks in pool deck, undermining of seawall,

Document	Date	Notes
		undermining of pool deck, erosion and piping at south end of wall. <ul style="list-style-type: none"> ▪ Recommended another gravel filter wall installation at center area of seawall ▪ Filling of piping holes with gravel.
Letter from Harding Lawson Associates	7-13-89	Report of site visit on 7-9-89 <ul style="list-style-type: none"> ▪ Beach erosion south of building has continued ▪ Central and northern portions of seawall performing adequately ▪ 4 ft by 6 to 8 ft (deep) trench was excavated and open at south end of building for gravel filter placement
Letter from Harding Lawson Associates	4-5-90	Report of site visit on 3-28-90 <ul style="list-style-type: none"> ▪ Beach erosion south of building has continued – recommend placement of gravel-filled bags at base of seawall at this location ▪ No further erosion on ocean side of seawall ▪ Piping has formed hole at southwest corner of property; recommend filling with geotextile and gravel ▪ Continued maintenance may be necessary at toe of pool deck.

As a result of the consultant's investigation and recommendations, numerous repairs have been effected behind the seawall. Of particular note, and as described in Table 1, HLA recommended the construction of a gravel filter wall behind the seawall. The purpose of the gravel filter was to prevent the fine sand soil from being eroded and washed out. According to the present Board President, the construction behind the seawall occurred in three phases. The first phase was placement of the gravel filter wall in front of the swimming pool at the north end of the property. The second phase was placement at the south end of the property, and the third phase was an approximate 50-ft section that connected the two. The last phase was apparently not constructed according to design, and rock boulders were placed without gravel or filter cloth. Portions of this 50-ft section of settled such that there are now void spaces behind the seawall.

The explanation given by HLA for the erosion behind the wall is undermining of the seawall and consequent hydraulic action on the substrate. Geotechnical investigation conducted in 1985 as part of the site investigations for design of repairs found that the soil conditions consist of fine to medium grained sand resting on a layer of weathered coral at about -2 ft MSL. The design reports are consistent in their assessment that settling of the seawall and the new filter wall may occur down to the -2 ft elevation where the more firm layer of weathered coral exists.

2. SITE INVESTIGATION

A coastal engineer from SEI visited the site on April 9, 2007. The beach fronting the sand was in an accreted state, with sand burying the toe of the seawall around the exposed perimeter of the property (Figure 2). Because the toe was buried in sand undermining of the seawall was not observed except in a few locations where fractures and holes existed in the grouted surface of the wall (Figure 3). Nevertheless, given the nature of the construction, and the holes that were observed, we concur with HLA that undermining and consequent hydraulic sluicing under and behind the seawall has been causing the problems observed in the HLA reports.

Despite the failure areas, the seawall appeared strong and capable of resisting wave attack. The north and south repair sections also appeared to be in good shape, with no apparent sinkhole formation or slumping or settling of boulder fill behind the wall.

The approximate 50-ft section comprising the third phase of construction begins south of and adjacent to the pool deck. There is a noticeable decrease in the volume of basalt rock boulders behind the seawall in this section, and the back and underneath portions of the wall are exposed and un-supported in places (Figures 4 and 5). Undermining continues one to two feet underneath the side of the pool deck (Figure 5). It is also apparent from fresh sand deposits behind the seawall that wave overtopping occurs. This will also tend to have an erosional effect behind the seawall.

Existing conditions are shown schematically in Figure 6.

3. DISCUSSION

A well-engineered coastal revetment is designed to be able to settle and adjust to minor amounts of scour, or a general change in the foundation conditions. The design relies on adequate material and embedment of the revetment toe to prevent failure. Monolithic structures, such as a seawall or in this case a grouted rock revetment, are stiff and subject to cracking or failure when the foundation becomes undermined. Because of the structural rigidity, the wall can span areas of undermining, and the undermining can become larger due to the hydraulic action of water motion through and under the wall.

Revetments are constructed with a layer of smaller material underneath the outer armor rock layer. The underlayer stone acts as bedding for the armor rock, but it also acts as a filter to reduce the hydraulic action of the pounding waves. The underlayer protects underlying filter fabric, which prevents the loss of soil from behind the revetment.

Well designed and constructed seawalls also benefit from a layer of gravel and filter cloth behind the wall to counter any hydraulic action (such as piping) that may occur.

The HLA design of placing a gravel filter wall behind the existing seawall appears to have been a sound solution to the problems found at the site. Their observation that settling of the both the seawall and gravel wall will likely continue until the structures can rest on the more durable weathered coral layer is also a reasonable conclusion.

The area of the third construction phase was constructed without filter cloth or gravel. The basalt boulders placed in that location have a nominal diameter between one and two feet, resulting in significant pore space between the boulders. Any hydraulic action caused by the back and forth action of waves working on undermined portions of the wall will not be dampened by the relatively large spaces between the rock. In fact, the turbulent sluicing action between the rocks will likely increase the erosive action on the underlying soil. As the soil erodes, the rocks will become unstable and settle.

4. COURSE OF ACTION

We see two potential courses of action, 1) do nothing except add more basalt rock to the settled area, or 2) re-construct the third construction phase area using geotextile and a gravel/cobble filter.

Do Nothing

The minimum approach would be to let the section settle and fill in the settled areas with more basalt rock. The reasoning with this approach is that the seawall and basalt rock fill will settle until the firmer substrate is exposed. Filling in with more basalt boulders will help protect areas behind the seawall from the effects of wave overtopping. However, there are many uncertainties, and the results may not necessarily be predictable. Problems include:

- Geotechnical investigations cannot always predict an uneven substrate, and the weathered coral area may be deeper than surmised.
- The weathered coral may also erode due to the large pore space between the rocks and consequent high hydraulic velocities and turbulence.
- Cracking of the seawall will likely increase, adding to the risk of future failure.

Gravel and Geotextile Filter Construction

A more costly but potentially more satisfactory solution to the problem would be to remove the existing basalt boulders, install geotextile filter fabric at the base of the eroded area behind the wall, and fill most of the space with coarse gravel or cobbles. Figure 7 is a schematic representation of this design solution. This is essentially an adaptation of the HLA gravel filter wall to the geometric configuration found in the phase 3 construction area. The stone would ideally be between about 1 and 4 inches in nominal diameter. A good gradation range in stone/gravel size is desired. Quarries typically sell "Surge Stone" in this size range. The gravel layer will likely settle over time, but it will tend to fill in void spaces and block the hydraulic sluicing action to help prevent erosion of the substrate. The existing basalt stone fill can be used as an armor layer on top of the gravel layer for protection from wave overtopping. Suggested construction configuration is as shown on the drawing, however minimum recommended layer thickness of the gravel and armor rock are also indicated.

Some areas of the seawall appear to be substantially unsupported due to erosion behind the wall. This may pose an existing hazard or a hazard during construction of repairs. We recommend consultation with a structural engineer to evaluate these hazards and to recommend a shoring design if necessary.



Figure 1. Hale Kai grouted rock seawall

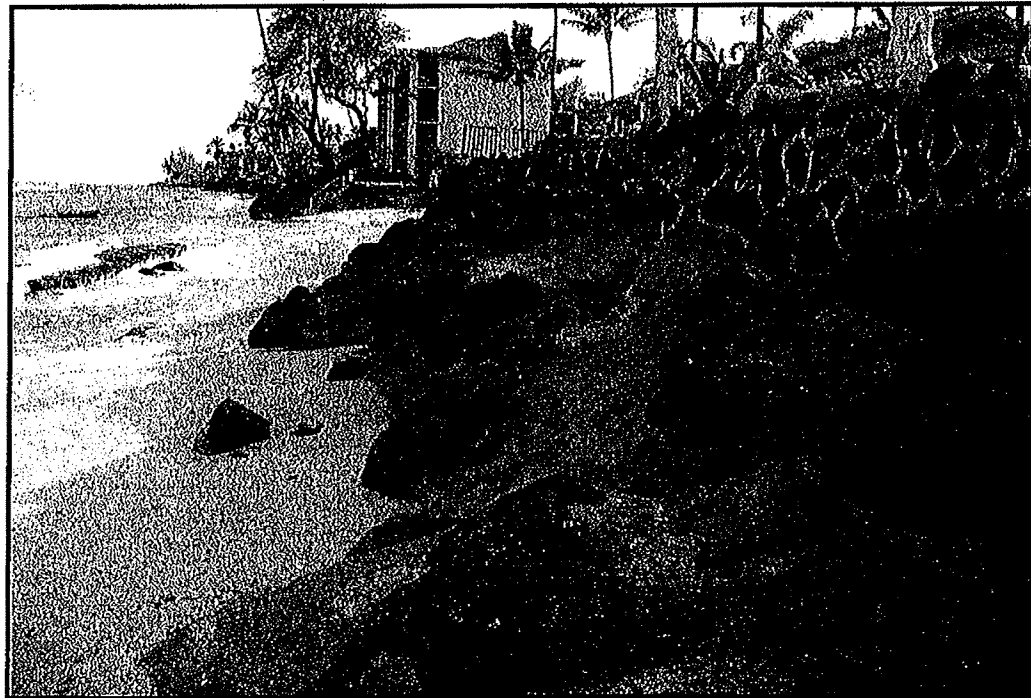


Figure 2. Hale Kai seawall showing transition in structure slope



Figure 3. Cracks, holes, and undermining in the seawall



Figure 4. Third phase construction area – foreground boulders have settled.

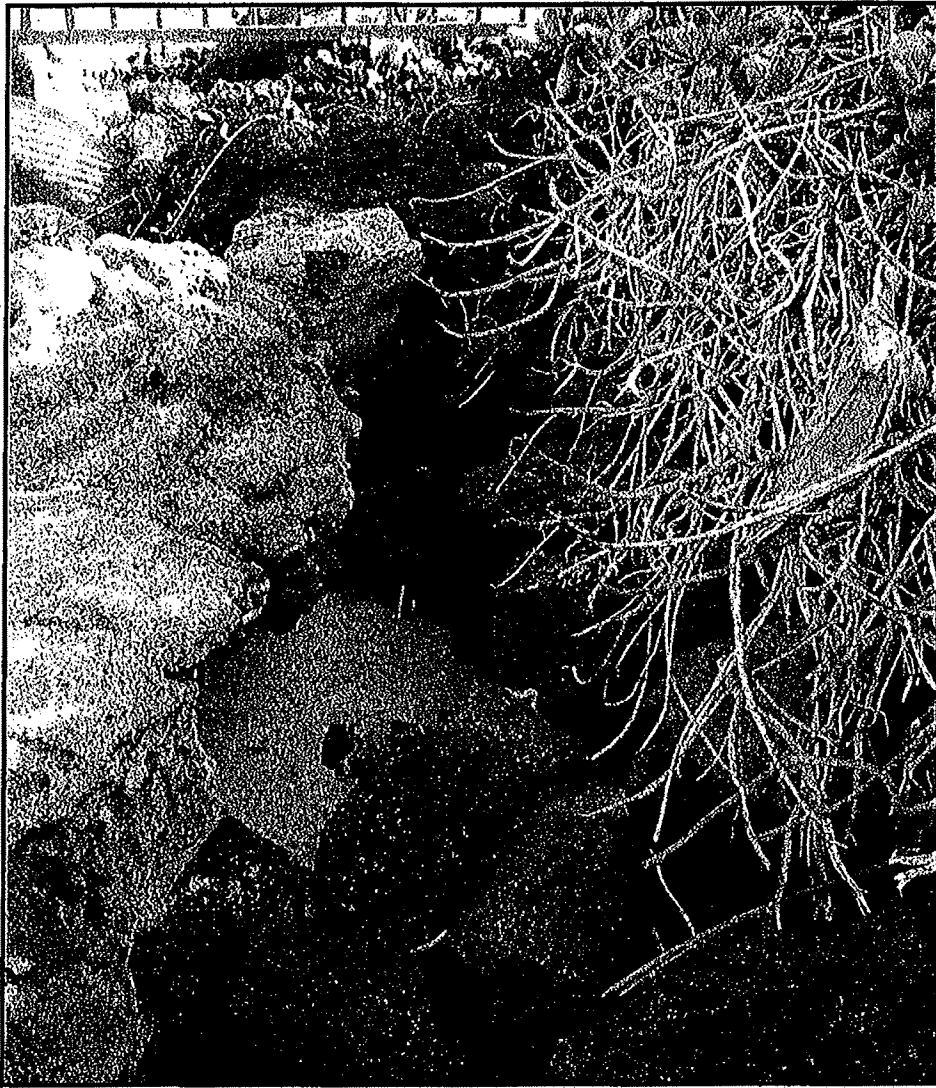
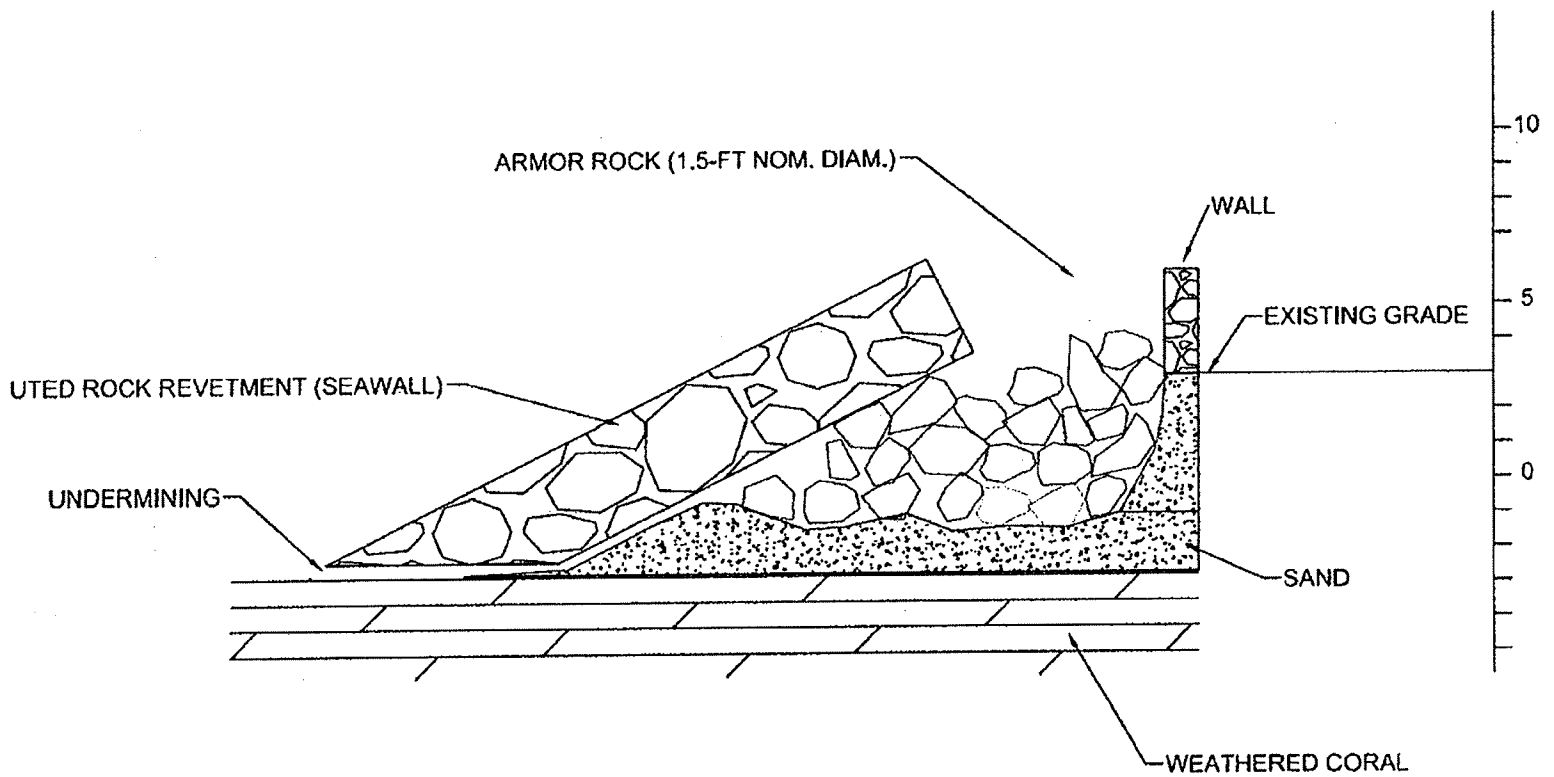


Figure 5. Third phase construction area showing undermining and settling of boulders behind the seawall and undermining of the pool deck slab. Sand deposition is caused by wave overtopping.



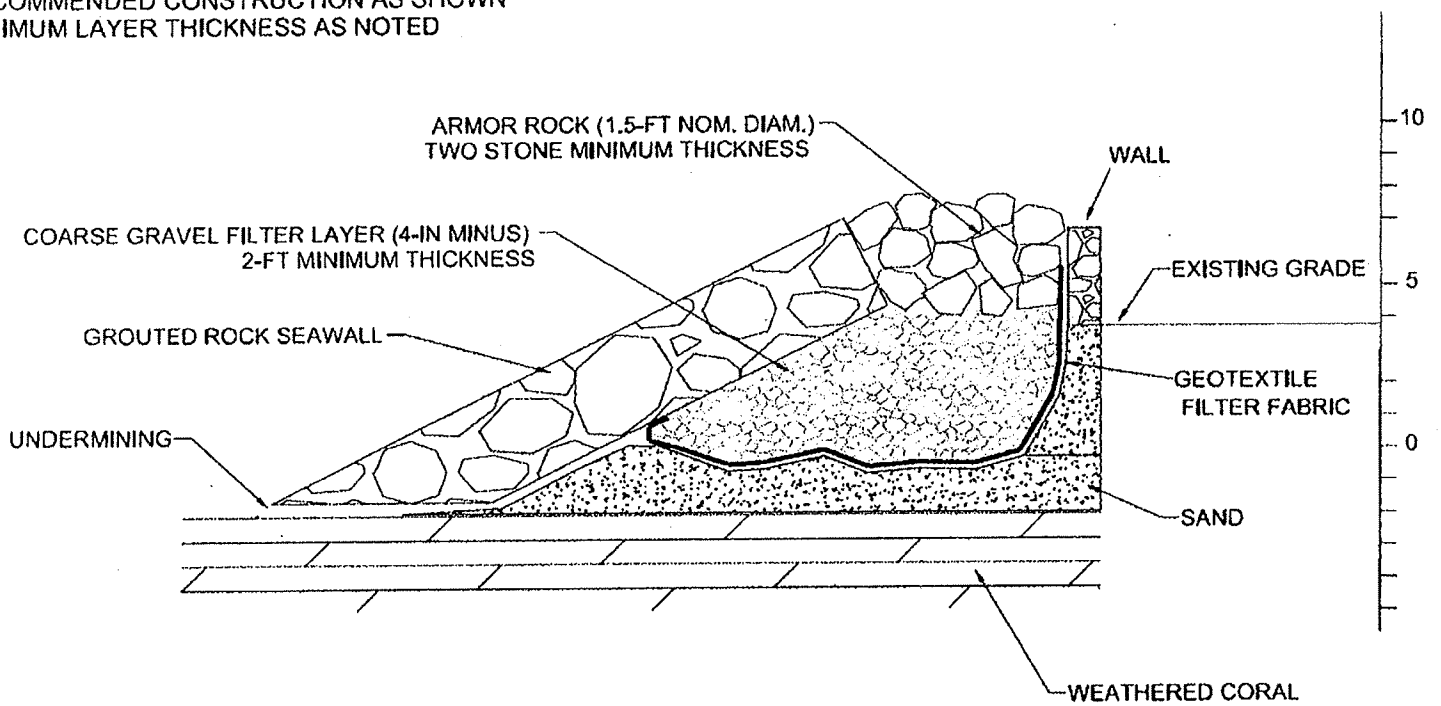
HALE KAI SEAWALL: EXISTING CONDITIONS

DRAWING IS SCHEMATIC ONLY

Figure 6. Existing seawall construction at location of phase 3 repairs

NOTES

1. DRAWING IS SCHEMATIC ONLY
2. RECOMMENDED CONSTRUCTION AS SHOWN
MINIMUM LAYER THICKNESS AS NOTED



HALE KAI SEAWALL: GRAVEL FILTER

Figure 7. Recommended gravel filter at location of phase 3 repairs

MOTION: To accept the Cutting Edge maintenance proposal for the irrigation system work as follows: \$485 for labor, equipment, tools and delivery of supplies; and, materials not to exceed \$250.

Devlin / Haskell Unanimous Approval

Director Male has investigated options to install a handrail for the pool ramp. He explained that it would be ADA approved. The cost for the pre-fabricated handrail is \$350 for material and shipping. Mr. Brott recommended that a licensed contractor install the handrail. There is money in the Reserve Fund available to pay for the work.

MOTION: To proceed to install a pool handrail for safety, with a licensed contractor doing the work. Material costs are \$350, including shipping.

Male / Haskell

The Motion passed by a majority vote. Directors Johnson and Ford-Schenkar abstained.

On July 5, T & S Kafoa, licensed contractors, will be available to do emergency repairs on the seawall. Director Male recommended T & S Kafoa because of their license and good reputation. The contract is for labor and materials. All materials will be wheel-barreled onsite. The terms of the contract and the scope of the work were reviewed at length. The goal is to repair the wall to protect the property and the pool.

MOTION: To accept the proposal from T & S Kafoa in the amount of \$5,800.00 for emergency repairs to the seawall, with the following language added: 1) Materials will be delivered to the wall by wheelbarrow; and, 2) Hale Kai will remove necessary fencing and plants.

Male / Haskell Unanimous Approval

C. HKRRI REPORT

HKRRI Board member Sarah Devlin noted that rental and association management are interfacing well. There has been a continuing effort to distribute the House Rules in all of the units. Requests from guests and owners for high-speed Internet access have been logged. The HKRRI Rental Manager, Marsha Joseph, requested that the office be painted.

IX. RESIDENT MANAGER'S REPORT

The Resident Manager gave a report on accomplishments.

X. FINANCIAL REPORT

Ms. Woods updated the Board on the financial status of the Association. For the month of May, the Association had a net surplus of \$2,122, reducing the current year-to-date loss to \$1,362. There were no variances of consequence.

Board Meeting
July 17, 2004 - Exhibit 8

some modifications including a monthly rental fee of \$400 plus a three-year term lease. The past practice and the current proposed lease call for the AOAO to pay for the utilities. It was noted that the area is zoned as "A2".

Motion: *To approve the HKRRI proposed lease. (Devlin/Sharp)*

Motion **CARRIED.**

In Favor: Sharp, Devlin, Male, Johnson

Opposed: Ashfield, Rodriguez, Murrell

Mr. Ashfield suggested that the rent increase be comparable to the increase in AOAO dues.

Seawall

An engineer from Honolulu has inspected the seawall and has reviewed the Harding Lawson report as prepared in 1986. The engineer's report was electronically distributed to all Board members. In summary, the engineer noted that a portion of the sea wall is settling in a more pronounced fashion than the remaining seawall. Major settling has occurred in the areas where a gravel-filled trench is lacking and at the corner of 101. The engineer has recommended adding more rock to the seawall or completing the gravel-filled trench in the gaps; the latter being the preferred solution.

Mr. Male has identified a licensed contractor who can lift the existing rock using manual labor. He indicated that Hale Kai is less than 20 feet from the high tide line and is allowed to place rocks on and below the wall to prevent damage from the incoming tide.

It was concluded that the Building Committee and the Landscape Committee will obtain separate bids for adding more rock and for installing a gravel-filled trench. Bid specifications shall be based on the engineer's report. A teleconference meeting will be scheduled within 60 days in order for the Board to make a final decision.

Wireless Network

President Johnson has made improvement to the wireless internet access. There are now wires between the two buildings eliminating a weak link in the previous design. HKRRI is not yet actively advertising this service as it continues to be under evaluation. Owners shall direct comments to President Johnson via email or the HKRRI Rental Manager.

NEW BUSINESS:

Door Frame Responsibility

The Owner of Unit #101 requested reimbursement for the expense associated with replacing the front door frame. Mr. Buchanan confirmed that the Declaration states that the owner is responsible for all doors, windows and the frame. In accordance with the Declaration, the Board denied the request.

June 15, 2007 Board Meeting - Exhibit 8

DRAFT R.M.
RECEIVED
1/31/08

DRAFT

ASSOCIATION OF APARTMENT OWNERS
HALE KAI
BOARD OF DIRECTORS MEETING
Monday, November 12, 2007

DIRECTORS PRESENT: John Male, President; Emilio Radocchia, Vice President; Bill Devlin, Treasurer; Kathleen Sharp, Secretary; Jeannie Murrell, Steve Johnson, Directors.

DIRECTORS ABSENT: Becky Rodriguez, Director.

OTHERS PRESENT: Penny Munroe, General Manager; Michael Buchanan, Account Executive; Nai'a Properties; Enza Froio, Transcriptionist.

OWNERS PRESENT: Sarah Devlin, 108; Lynn Kasper, 215; Arlene Platt, 117; Sandra Schenkar, 104; Steven Ashfield, 210; Don Newton, 201; Isaac, 207; Dorn, 103.

CALL TO ORDER:

President John Male called the Board of Directors Meeting of the Association of Apartment Owners of Hale Kai to order on Monday, November 12, 2007 at 10:30 a.m.

CERTIFICATION OF NOTICE:

President Male certified that Notice of Meeting was sent to all Directors, posted on property, and a copy was filed in the office on November 5, 2007.

APPROVAL OF MINUTES:

Motion: *To approve the Board of Directors Meeting minutes dated July 10, 2007, as presented. (Devlin/Johnson)*

CARRIED unanimously.

TREASURER'S REPORT:

Treasurer Devlin deferred his report to the Budget discussion.

HKRRI REPRESENTATIVE REPORT:

Arlene Platt thanked the Board for their efforts. She requested that the Board consider cost-sharing the expense to install a more secure door for the manager's office.

MANAGING AGENT'S REPORT:

Ms. Munroe reported that Nai'a Properties has added a Maintenance Division to its operations. Nelson Ramelb is the new Maintenance person and will be completing projects for HKRRI. Nalani Alavazo has been hired to work alongside Linda for approximately three days per week for HKRRI. Ms. Munroe announced that she is in the process of purchasing Nai'a Properties Inc.

Exhibit 8 - Board minutes 11/12/07

OLD BUSINESS:

Ratify Polynesian Pole Bid

Motion: *To ratify the approval of the expenditure of \$23,000 to Polynesian Pole & Custom Homes LLC with regard to the seawall. (Murrell/Devlin)*

Motion **CARRIED**.
Opposed: Johnson

Seawall Repair Update

President Male reported that he has installed stones behind the seawall in an effort to prevent the splatter of gravel. There was a general consensus of the Board that the seawall repair was completed successfully.

Mr. Johnson indicated that the engineering specification clearly stated the importance of the trench to reach the level of the coral; however, the repair is only two (2) feet below the base of the decorative wall behind the seawall. Further, the Board chose not to proceed with bids of approximately \$10,000 that would require the use of a backhoe. Rather, the Board chose to approve a bid of approximately \$25,000 to complete the project via manual labor. Mr. Johnson expressed that it was critical to follow the engineering specification and suggested that competitive bids should have been sought. He indicated concern that the core problem was not fixed.

Ms. Murrell noted that the engineering specification indicated two repair options, of which one option was to proceed as the Board elected. She noted that it was the contractor's decision to not use a backhoe on the property as it would jeopardize the landscape.

Mr. Devlin noted that the Barrera Reserve Report reflects a seawall with a 15-year projected life before refurbishing. The Board will continue to monitor the seawall.

Ratify Lanai Seating Expenditures

Motion: *To ratify the approval of the expenditure of the additional \$46 per umbrella. (Murrell/Radocchia)*

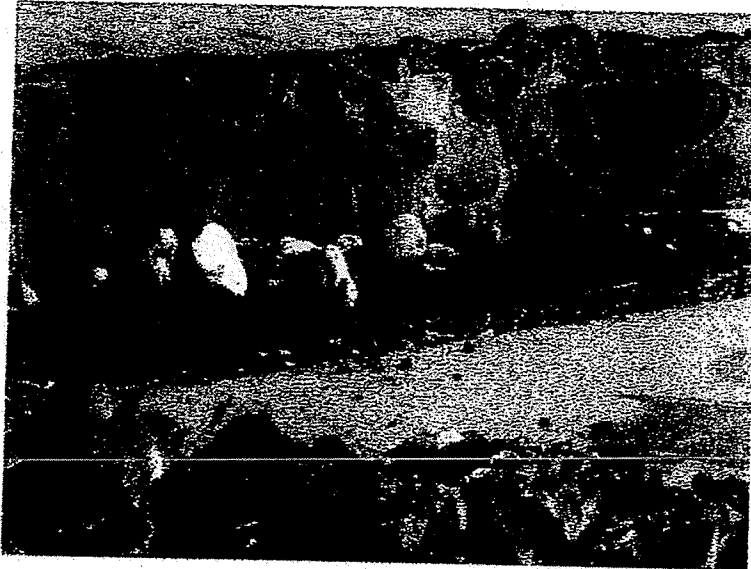
CARRIED unanimously.

NEW BUSINESS:

Insurance Policies

Ms. Munroe reported that Kathleen Sharp indicated concern that the reconstruction per square foot cost is low. Ms. Munroe will further investigate with Mr. Gerlach. She noted

PROPERTY INSPECTION
REPORT FROM
9/6/07 NAI



John Male has been placing beach rock at the sea wall to address erosion of sand into the pool and deck area.

Deck Furniture: Is clean and well placed. **Note:** Some units will be rotated out for refurbishing. **Pending.**

Area Lighting: Most lighting fixtures are functioning properly. **Update:** Charles has been in contact with a lighting specialist concerning walkway light repairs.

Area Signs: All signs are legible and in good condition. **Update:** Post removal pending.

Pool Equipment: Working fine with no problems noted. **Update:** Ultraviolet filter are working very well.

Pool Gate: The gates are functioning well. **Note:** Fencing at Northend will be repaired to allow proper closure of gate. **Pending**

Barbecue Areas: Both are working and the area is clean. **Update:** Thorough cleaning of grills has been started. **Note:** Charles has managed to remove most of the burn build up.

FIRE EQUIPMENT

1. **Current Extinguisher Tags:** All units have been inspected and are current for the remainder of the year.

Exhibit 8 - Property Inspection Report

ASSOCIATION OF APARTMENT OWNERS
HALE KAI
BOARD OF DIRECTORS MEETING
Tuesday, July 10, 2007

RECEIVED ENA
1/29/08

DIRECTORS PRESENT: John Male, President. Via teleconference: Emilio Radocchia, Vice President; Bill Devlin, Treasurer; Becky Rodriguez, Jeannie Murrell, Steve Johnson, Directors.

DIRECTORS ABSENT: Kathleen Sharp, Secretary.

OTHERS PRESENT: Penny Munroe, General Manager; Michael Buchanan, Account Manager; Nai'a Properties.

OWNERS PRESENT: Don Newton, 201; Nancy Haskell, 203.

CALL TO ORDER:

President John Male called the Board of Directors Meeting of the Association of Apartment Owners of Hale Kai to order on Tuesday, July 10, 2007 at 3:05 p.m.

CERTIFICATION OF NOTICE:

President Male certified that Notice of Meeting was sent to all Directors, posted on property, and a copy was filed in the office on July 6, 2007.

APPROVAL OF MINUTES:

Motion: *To approve the Board of Directors Meeting minutes dated June 15, 2007, as presented. (Murrell/Rodriguez)*

CARRIED unanimously.

Motion: *To approve the Organizational Meeting minutes dated June 16, 2007, as presented. (Murrell/Rodriguez)*

CARRIED unanimously.

OLD BUSINESS:

Vinyl Fence

The vinyl fence behind the manager's unit will be installed the week of July 16, 2007.

Ultraviolet Pool Sanitizer

Motion: *To ratify the decision to accept the Ohana Pools bid for the installation of a ultraviolet sanitizer with a back-up chlorinator at a cost not to exceed \$1,750. (Murrell/Devlin)*

CARRIED unanimously.

July 10, 2007 - Minutes & seawall bid

NEW BUSINESS:

Seawall

President Male reported that Mr. Satobi, a licensed seawall expert, has proposed that a conveyor belt system be utilized to transport boulders onto the property and that a crane be rented to install a layered rock boulder wall. Such actions will cease erosion problems and fill the existing holes at the end of #101; between the pool and #101; and by the barbecue pits in an aesthetically pleasing manner. The total approximate cost is \$45,000. The Board agreed that President Male will request a written proposal from Mr. Satobi for review by two engineers. President Male will arrange for Mr. Satobi to speak directly with Mr. Shapiro (engineer). President Male will notify Board members of the outcome of the discussion and the engineers' opinions.

Umbrellas

Motion:

*To authorize the Board President to purchase a maximum of five (5) umbrellas at a cost not to exceed a cost of \$750 each and such umbrellas shall not be used until the 2008 winter season.
(Rodriguez/Johnson)*

Motion FAILED.

In Favor: Rodriguez

Opposed: Radocchia, Murrell, Johnson, Devlin

Motion:

To authorize the Board President to purchase a maximum of five (5) umbrellas at a cost not to exceed a cost of \$750 each and such umbrellas be installed immediately. (Johnson/Murrell)

Motion CARRIED.

In Favor: Murrell, Johnson, Devlin

Opposed: Rodriguez, Radocchia

Nai'a Properties will direct the Site Manager to clean the umbrellas on a daily basis and to close the umbrellas in the evening.

DATE OF NEXT MEETING:

The next Board of Directors Meeting is scheduled for Monday, November 12, 2007.

ADJOURNMENT:

Being no further business to come before this Board, the meeting is adjourned at 3:55 p.m.

Respectfully submitted,

Enza Froio

Aloha Office Services

Transcriptionist

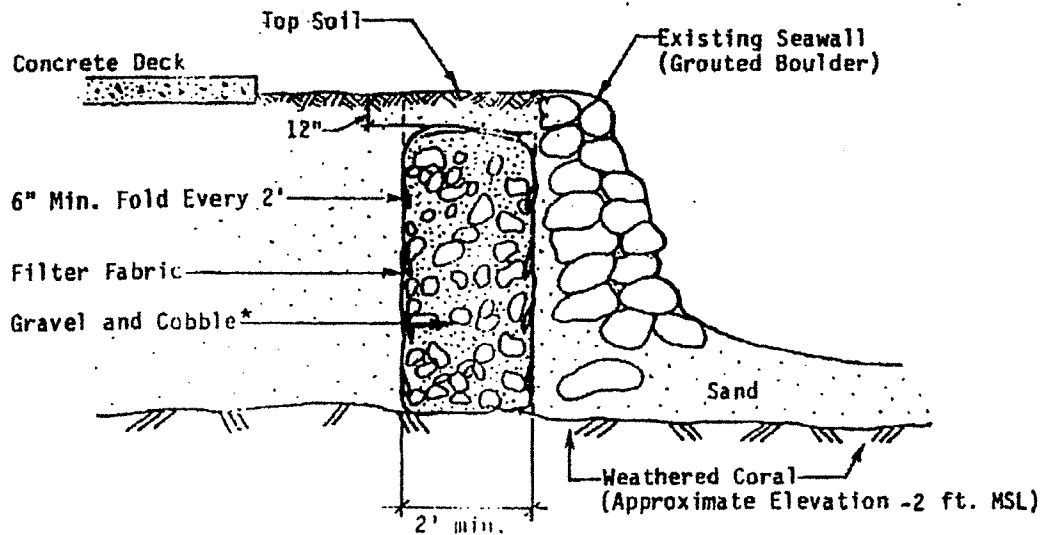
*** The Minutes were transcribed from cassette tape as the Transcriptionist was not in attendance.

Request for Bid Hale Kai Seawall Maintenance

Specification of work:

1. Dig a trench approximately 50' long by 8' deep by 2' wide immediately behind existing rip-rap bolder seawall. Smaller rock and stones behind existing seawall must be removed so that the excavated trench abuts the existing large bolder seawall. Excavated clean sand may be disposed upon the beach; excavated rock and rubble may be re-used as part of the finished gravel-filled trench.
2. Line excavated trench with overlapping filter fabric, as shown in attached sketch.
3. Fill excavated trench with excavated smaller rock and rubble. Supply gravel to fill the remainder of trench.
4. Powered excavation equipment must be capable of gaining access between pool and park building without causing excess damage to existing landscaping.
5. Work to be completed within 3 days of start. Time of start to be in late April or May, with a weather prediction calling for low surf and low tides (?).

Note: Not to scale



* NOTE: The gravel and cobble should range in size from 1/4 to 12 inches with 85 percent or more in sizes smaller than 6 inches, and with 3 percent or less passing the No. 200 sieve.

HLA Harding Lawson Associates
Engineers, Geologists
& Geophysicists

Gravel-Filled Trench
Hale Kai Seawall Repair
Lahaina, Maui, Hawaii

FIGURE
1

DRAWN	DATE	DATE	REVISED	DATE
kar	30447	SUL	5-31-85	7 7/8/85
				1/6/95

APPENDIX B-1.

**Enforcement Order from the
Board of Land and Natural
Resources, May 2008**

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 COUNTY AFFAIRS
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

ENF: MA-08-30

CERTIFIED/RETURN RECEIPT

MAY 27 2008

John Male
3691 Lower Honoapiilani Road, Apartment 105
Lahaina, Hawaii 96761

RECEIVED

MAY 28 2008

David Merchant,
305 High Street # 101,
Wailuku, Hawaii 96793

Dear Mr. Male and Mr. Merchant,

SUBJECT: Enforcement File No. MA-08-30
Regarding Unauthorized Seawall Improvements Located Makai of Shoreline in
the Vicinity of Subject Parcel (2) 4-4-001:042

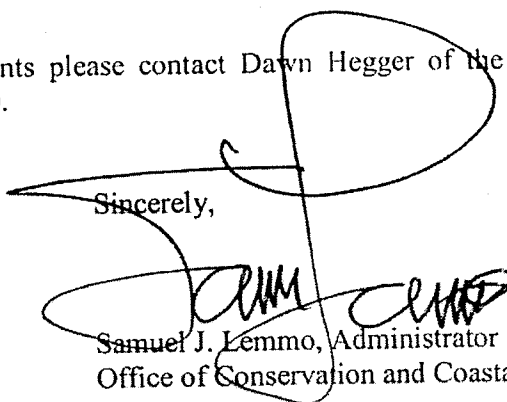
This is to inform you that on Friday May 23, 2008, the Board of Land and Natural Resources (BLNR) found the Hale Kai AOA to be in violation of Title 13-5 Hawaii Administrative Rules, and Chapter 183C, Hawaii Revised Statutes (HRS), regarding the failure to obtain the appropriate approval for the unauthorized seawall improvements located makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042, subject to the following terms and conditions:

1. The Hale Kai AOA violated the provisions of Chapter 183C, Hawaii Revised Statutes (HRS), and Chapter 13-5, Hawaii Administrative Rules (HAR), two instances by placing boulders and cement material makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042 in the Conservation District to occur. The landowner is fined a total of \$4,000.00 for two Conservation District violations;
2. That Hale Kai AOA will remove the subject boulders and cement and restore the area back to its original condition as it existed prior to the construction of these improvements, within 365 days from the date of the BLNR's action, unless otherwise permitted by the BLNR;
3. That Hale Kai AOA will stake the metes and bounds of their subject parcel as not to infringe upon state-owned beach lands after the removal of the boulders and cement;

4. That Hale Kai AOA is fined an additional **\$1,000.00** for administrative costs associated with the subject violations (\$500.00 OCCL staff/\$250.00 MDLO staff/\$250 DOCARE staff);
5. That Hale Kai AOA shall pay all fines (**total \$5,000.00**) within thirty (30) days of the date of the Board of Land and Natural Resources' action;
6. That OCCL will transmit a copy of this report to the County of Maui to enable Maui County to investigate all other unauthorized improvements made on the seawall structure;
7. That either the OCCL and/or the MDLO staff will conduct a site visit of the area within 180 days from the date of the removal of the boulders and cement;
8. That no further work shall occur in the area within the Conservation District, without the Board of Land and Natural Resources' approval; Chairman's approval and/or OCCL approval. If further work occurs in the Conservation District without approval; the alleged will be fined an additional \$2,000 a day;
9. That in the event of failure of Hale Kai AOA to comply with any order herein, they shall be fined an additional \$2,000 per day until the order is complied with; and
10. That in the event of failure of Hale Kai AOA to comply with any order herein, the matter shall be turned over to the Attorney General for disposition, including all administrative costs.

Should you have any questions or comments please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380.

Sincerely,

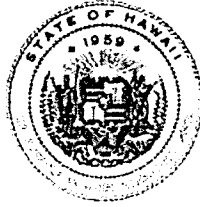

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

c: Chairperson
Maui District Land Agent
Maui County Planning Department – T. Abbot
DOCARE – Maui Branch

APPENDIX C.

**Letters from OCCL
Regarding After-the-Fact
Permitting for 1998/2004
Repair and Maintenance
Work (Including Notice of
Conservation District Use
Application Acceptance)**

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. THELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSIONER OF WATER RESOURCE MANAGEMENT

RUSSELL Y. TSIJI
DEPUTY

KEN C. KAWAHARA
DIRECTOR

OFFICE OF CONSERVATION AND COASTAL LANDS
COMMISSIONER OF WATER RESOURCE MANAGEMENT
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OFFICE OF CONSERVATION AND COASTAL LANDS
COMMISSIONER OF WATER RESOURCE MANAGEMENT

REF:OCCL:DH

ENE: MA-08-30

CERTIFIED/RETURN RECEIPT

RECEIVED

AUG 25 2008

AUG 22 2008

David Merchant,
Barker and Martin
305 High Street # 101,
Wailuku, Hawaii 96793

Dear Mr. Merchant,

SUBJECT: Enforcement File No. MA-08-30
Regarding Unauthorized Seawall Improvements Located Makai of Shoreline in
the Vicinity of Subject Parcel (2) 4-4-001:042

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is in receipt of your letter, dated August 8, 2008, regarding what permit(s) will be required regarding the unauthorized seawall improvements located makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042.

OCCL notes that the Board of Land and Natural Resources (BLNR) at the May 23, 2008 meeting found the Hale Kai AOA to be in violation of Title 13-5 Hawaii Administrative Rules, and Chapter 183C, Hawaii Revised Statutes (HRS), regarding the failure to obtain the appropriate approval for the unauthorized seawall improvements located makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042; subject to the ten terms and conditions.

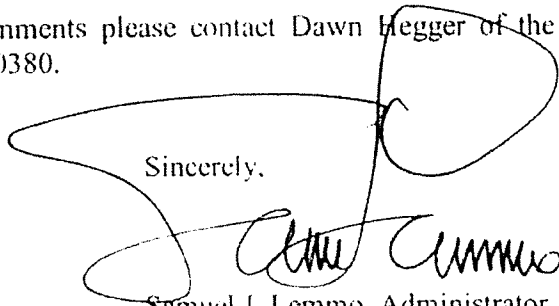
Your application will need to clarify that you are applying for an After-The-Fact (ATF) Conservation District Use Approval (CDUA) for those actions that the BLNR found to be in violation, pursuant to Section 13-5-23, Hawaii Administrative Rules (HAR), L-5, SEAWALLS AND SHORELINE PROTECTION, D-1, "seawalls, shoreline protection devices, and shoreline structures," this requires a Board permit.

The OCCL notes pursuant to Condition # 2, "that Hale Kai AOA will remove the subject boulders and cement and restore the area back to its original condition as it existed prior to the construction of these improvements, within 365 days from the date of the BLNR's action, unless otherwise permitted by the BLNR, and pursuant to Condition # 3, "that Hale Kai AOA will stake the metes and bounds of their subject parcel as not to infringe upon state-owned beach lands after the removal of the boulders and cement."

The OCCL notes should these conditions not be met by the Hale Kai AOA they are subject to an additional fine of \$2,000 per day until the order is complied with.

Should you have any questions or comments please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380.

Sincerely,

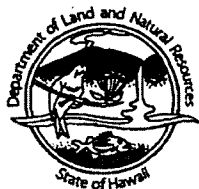
A large, stylized handwritten signature in black ink, appearing to read 'Samuel J. Lemmo'. The signature is written over the word 'Sincerely,' and extends upwards and to the right.

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

c: Maui District Land Agent
Maui County Planning Department - T. Abbot
John Male, 3691 Lower Honoapiilani Road, Apartment 105, Lahaina, Hawaii 96761

DEC 1 0 2008

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:DH

ENF: MA-08-30

CERTIFIED/RETURN RECEIPT

DEC - 9 2008

John Male, Project Coordinator
3691 Lower Honoapiilani Road
Apartment 105
Lahaina, Hawaii 96761

Dear Mr. Male,

SUBJECT: Enforcement File No. MA-08-30
Regarding Unauthorized Seawall Improvements Located Makai of Shoreline in
the Vicinity of Subject Parcel (2) 4-4-001:042

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is in receipt of your letter, dated November 10, 2008, regarding the unauthorized seawall improvements located makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042.

OCCL notes that the Board of Land and Natural Resources (BLNR) at the May 23, 2008 meeting found the Hale Kai AOA to be in violation of Title 13-5 Hawaii Administrative Rules, and Chapter 183C, Hawaii Revised Statutes (HRS), regarding the failure to obtain the appropriate approval for the unauthorized seawall improvements located makai of shoreline in the vicinity of Subject Parcel (2) 4-4-001:042; subject to the ten terms and conditions.

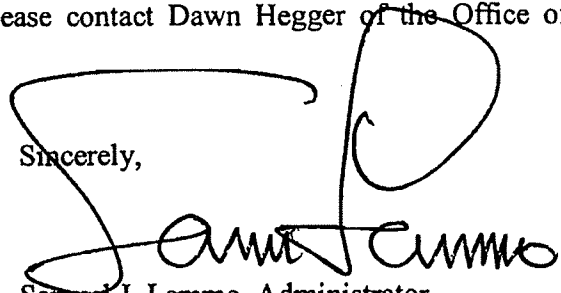
The letter indicates you would like the OCCL to concur with the: 1) location and spatial limits of the 1998 boulder and 2004 cement repair and maintenance work as described; 2) confirmation the OCCL will support the processing of the an After-The-Fact CDUA for the 1998 boulder and 2004 cement repair and maintenance work to remain in place; and 3) approval of a Board permit by the BLNR for the work to remain in place would wholly satisfy Condition # 2 as set forth in the letter from the OCCL.

The OCCL notes we will not be able to verify any pre-information regarding items # 1 and item # 2, until a CDUA is submitted to the department. The OCCL notes Hale Kai AOA can submit for processing the ATF CDUA, pursuant to Section 13-5-23, Hawaii Administrative Rules (HAR), L-5, SEAWALLS AND SHORELINE PROTECTION, D-1, "seawalls, shoreline protection devices, and shoreline structures," this is a Board permit. However, acceptance of the CDUA does not constitute approval of the proposal. The OCCL notes staff will make a

recommendation to the BLNR to either approve and/or reject the CDUA based on the information received by the applicant.

Should you have any questions or comments please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380.

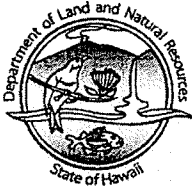
Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo". The signature is written in a cursive style with a large, looping initial "S".

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

c: Maui District Land Agent
Maui County Planning Department – T. Abbot
Mark Alexander Roy, Munekiyo & Hiraga, Inc. 305 High Street, Suite 104, Wailuku, Hawaii 96793

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
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

CDUA: MA-3543

Acceptance Date: May 19, 2010
180-Day Exp. Date: November 15, 2010
JUN - 1 2010

Mark Alexander Roy
Munekiyo and Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii, 96793

Dear Mr. Roy,

NOTICE OF ACCEPTANCE AND ENVIRONMENTAL DETERMINATION
After-The-Fact (ATF) Conservation District Use Application (CDUA) File No. MA-3543
(BOARD Permit)

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is in receipt of your client, Hale Kai AOA's After-The-Fact (ATF) CDUA for seawall improvements located on state-owned lands located makai of Subject Parcel TMK: (2) 4-4-001:042, Honokowai, Island of Maui.

Through Enforcement Case MA-08-30 Hale Kai AOA was instructed to remove the unauthorized improvements (boulders, cement) and restore the area back to its original condition or receive permission to keep the improvements from the Board of Land and Natural Resources (BLNR). Hale Kai is also requesting CDUA approval for the entire 1,480 square foot seawall located on state-owned lands so Hale Kai may apply for a non-exclusive easement for the structure.

The applicant notes that there are no rare, threatened, or endangered species of flora or fauna on or in the vicinity of the property. There are no previously identified archeological or cultural resources located within the confines of the property or along the immediate shoreline.

The OCCL notes the land is located in the State Land Use (SLU) Conservation District, Resource subzone.

After reviewing the application, we find that:

1. The proposed use is an identified land use in the Limited subzone pursuant to Hawaii Administrative Rules (HAR) Section 13-5-23, L-6, SEAWALLS AND SHORELINE PROTECTION, D-1, "Seawalls, shoreline protection devices, and

shoreline structures," please be advised, however, that this finding does not constitute approval of the proposal;

2. Pursuant to Section 13-5-40(a), HAR, a public hearing will not be required; and
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and Chapter 11-200, the Draft Environmental Assessment (DEA) will be published in OEQC's Environmental Notice on June 8, 2010.

Pending action on your application by the Department in the near future, your cooperation and early response to the matters presented herein will be appreciated. Should you have any questions please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380.

Sincerely,



Laura H. Thielen, Chairperson
Board of Land and Natural Resources

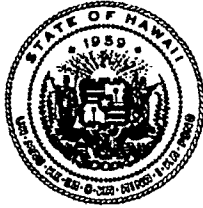
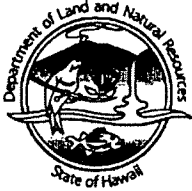
c: DOH/OHA
MDLO/HPD/Engineering Branch/DOBOR/DAR/DOFAW
Maui Boardmember
County of Maui
 Planning Department
 Department of Public Works
OEQC

APPENDIX D.

Time Extension Approval Letters from OCCL

DEC 14 2009

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
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

ENF: MA-08-30

CERTIFIED/RETURN RECEIPT
7007 0710 0003 9995 4856

DEC 11 2009

Mark Alexander Roy
Project Manager
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

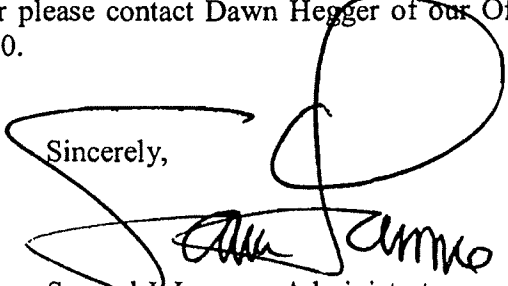
Dear Mr. Roy,

SUBJECT: Enforcement File No. MA-08-30
Regarding Unauthorized Seawall Improvements Located Makai of Shoreline in
the Vicinity of Subject Parcel (2) 4-4-001:042

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is notifying Munekiyo & Hiraga, Inc. that the Board of Land and Natural Resources (BLNR) at its December 11, 2009 land board meeting granted Munekiyo & Hiraga is granted a 180-day extension from November 29, 2009 deadline until May 28, 2010 to submit a Conservation District Use Application to the Department of Land and Natural Resources.

If you have any questions regarding this matter please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Sincerely,


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

C: Maui County Planning Department/MDLO

APR 15 2009

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
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BOARD OF LAND AND NATURAL RESOURCES
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AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKOOLAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:DH

ENF: MA-08-30

CERTIFIED/RETURN RECEIPT

APR 14 2009

Mark Alexander Roy
Project Manager
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Roy,

SUBJECT: Enforcement File No. MA-08-30
Regarding Unauthorized Seawall Improvements Located Makai of Shoreline in
the Vicinity of Subject Parcel (2) 4-4-001:042

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is notifying Munekiyo & Hiraga, Inc. that the Board of Land and Natural Resources (BLNR) at its March 27, 2009 land board meeting extended the deadline 180-days until November 29, 2009 to file a Conservation District Use Application (CDUA) to conduct the County of Maui, Planning Department's requirement for an engineering assessment of the seawall/revetment.

If you have any questions regarding this matter please contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Sincerely,

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

c: Maui District Land Agent
Maui County Department of Planning – T. Abbott

APPENDIX E.

Seawall/Revetment Engineering Assessment Report (Dated May 15, 2009, Revised August 12, 2010)



Sea Engineering, Inc.

Makai Research Pier 41-305 Kalanianaʻole Hwy.

Waimanalo, Hawaii 96795-1820

Ph: (808) 259-7966 Fax: (808) 259-8143

Email: sei@seaengineering.com

Website: www.seaengineering.com

Memorandum

DATE: May 15, 2009 (revised August 12, 2010)

TO: Ms. Roberta Donnelly, President
Hale Kai AOO

FROM: Jim Barry

SUBJECT: Course of Corrective Action for the Hale Kai Seawall (TMK: (2) 4-4-001:042)

Introduction

The firms of Sea Engineering, Inc., and Arnold T. Okubo and Associates, Inc. conducted a site visit at the Hale Kai Condominium on January 20, 2009 to inspect conditions of the shore protection structures fronting the shoreline. The County of Maui, Department of Planning (CM-DP), and the State of Hawaii Department of Land and Natural Resources, Office of Conservation and Coastal Lands (DLNR-OCCL) each corresponded with the Hale Kai in 2008 concerning unauthorized repairs and improvements to the shore protection structures. The unauthorized work was granted an after-the-fact Special Management Area Minor Permit and an after-the fact Shoreline Setback Approval by the County of Maui in a letter dated October 13, 2008. The approval was subject to a number of conditions, among which are:

- 1. That an application for a Special Management Area Use permit and Shoreline Setback Assessment for a course of corrective action shall be submitted to the Department within 180 days of the date of this letter.*
- 2. That the application will provide, at a minimum, a corrective action measure which meets or exceeds the most satisfactory solution described by technical studies for the site (i.e. the "Gravel and Geotextile Filter Construction" including recommendations to explore shoring designs described and identified in the Sea Engineering, Inc, Coastal Engineering Investigation, page 5, 2007). Additional studies may be included in the applicant's new SMA/Shoreline application which proposes other alternatives provided those alternatives exceed the aforementioned "Gravel and Geotextile Filter Construction" recommendation.*
- 3. That any proposed remedy for the seawall obtain validation and comments from a certified engineer licensed in the State of Hawaii. Deference will be given to comments obtained by structural and/or coastal engineers. In addition, the application noted in Condition #1 will include comments obtained from the Sea Grant Extension Agent for Maui County and the State DLNR OCCL.*

The full text of the letter is attached as an appendix at the end of this document.

This memorandum is a discussion of the existing shore protection, including the history of recent repairs, and suggestions for modifications, or corrective measures, within the context of the existing design.

2. Existing Structures

There are two distinct sections to the existing Hale Kai shore protection (Figure 1). The first section, termed the *revetment* section, is a 100-ft reach on the southern portion of the property and is gently sloping at approximately 1 vertical to 3 horizontal. The base of the section is composed of rock grouted into relatively massive units. The crest of the section is composed of loose randomly placed rock boulders on the order of 1.5 to 2 ft in nominal diameter (Figure 2).

The second section, termed the *seawall* section, also has a base composed of grouted rock that transitions at about the +4 ft MSL elevation to a relatively vertical CRM (concrete rubble masonry) wall (Figure 3). It occupies a reach approximately 120 feet in length.

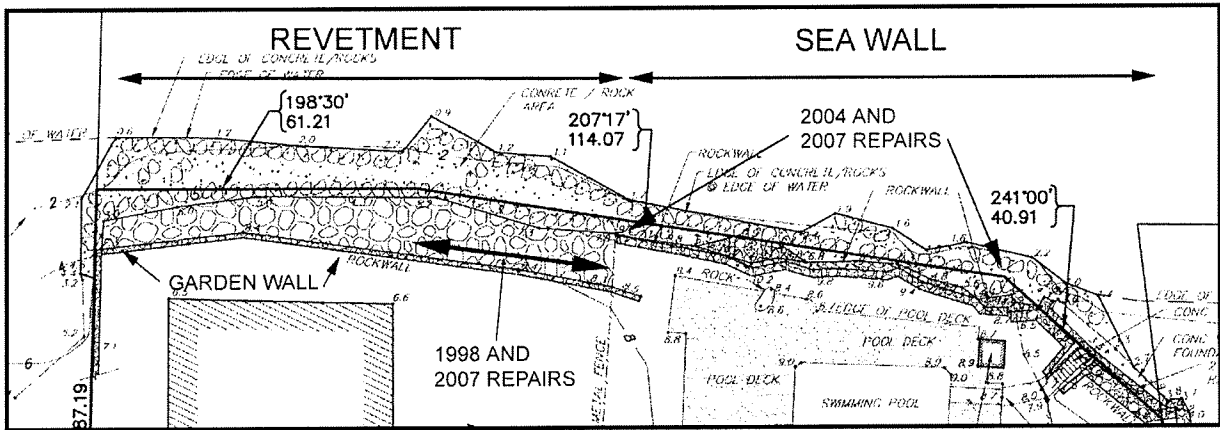


Figure 1. Project site layout

Repairs that the CM-DP letter refers to include:

- 2007 – Seawall structure raised 6 to 8 inches, with attempts to build a wave deflecting edifice at the top of the wall;
 - “Gravel and Geotextile Filter Construction” repairs made to the revetment structure (see Figure 1 for location); Repairs are further discussed below;
- 2004 – Seawall structure raised approximately 16 inches; grout repairs done around selected wall sections and individual stones (see Figure 4);
- 1998 – Repairs made to the revetment structure in front of the West garden area, between the garden wall and grouted revetment boulders (see Figure 1 for location).

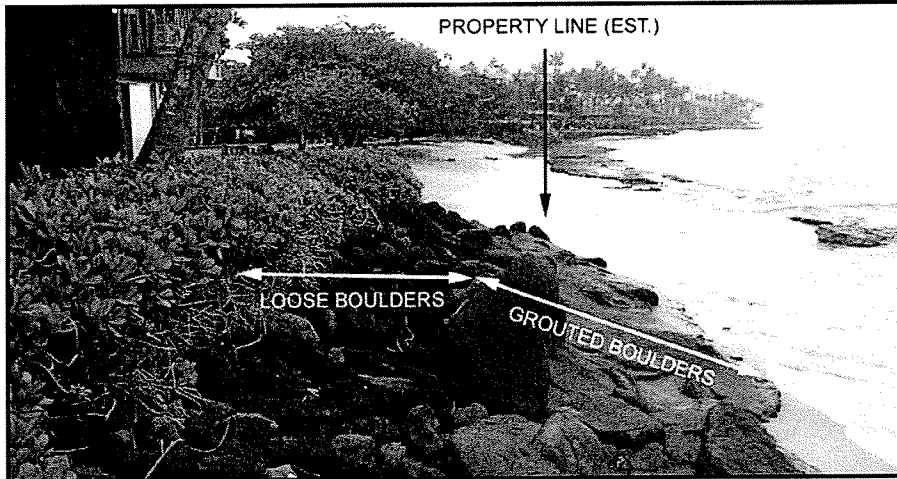


Figure 2. Revetment structure

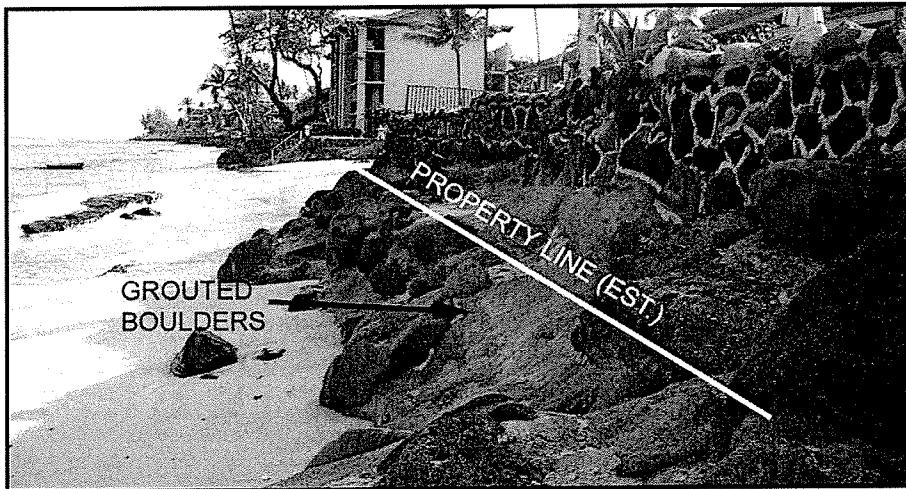


Figure 3. Seawall structure

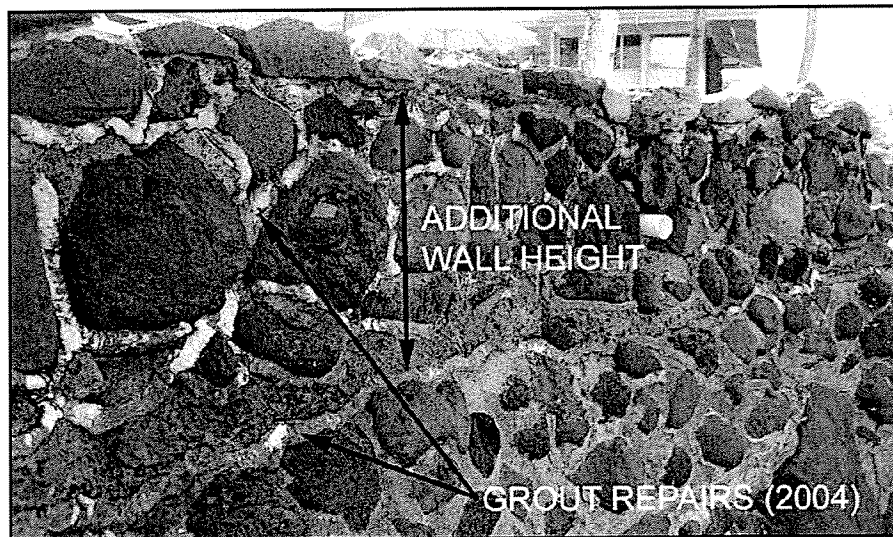


Figure 4. Seawall repairs

The 2007 repair referred to in the CM-DP letter as “Gravel and Geotextile Construction” was an approximately 20-ft section of the revetment adjacent to the seawall that contained void spaces and was undermined to the extent that there was conspicuous water movement underneath the structure. Figure 5 is a schematic of the condition existing at the time and Figure 6 is a schematic of the “Gravel and Geotextile Construction” repair recommended by Sea Engineering after the 2007 site inspection. The repair was recommended as an in-kind solution to problems inherent with the existing structure and to help prevent further deterioration of the structure. The repair was not a design modification to increase the existing structure’s ability to withstand wave forces.

Condition 2 of the CM-DP letter (above) also refers to a “shoring design” described in the 2007 SEI report. In fact, shoring was recommended not as a shore protection design, but as a temporary safety measure to be taken during repair activity to prevent potential collapse of the grouted rock shown schematically in Figure 5.

Figure 7 is a schematic drawing showing the condition of the repair area found during the January 20 site visit. Of particular note, the crest of the revetment was constructed of a single layer of small boulders on the order of 1 ft to 1.5 ft in diameter. A photograph of a representative area of the crest stones is shown in Figure 8.

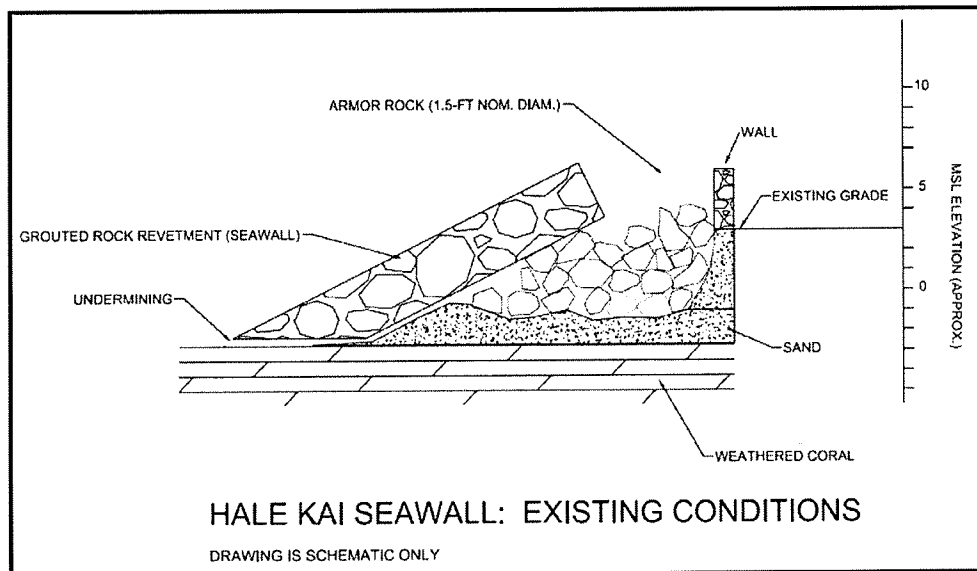


Figure 5. Seawall conditions existing during 2007 site visit

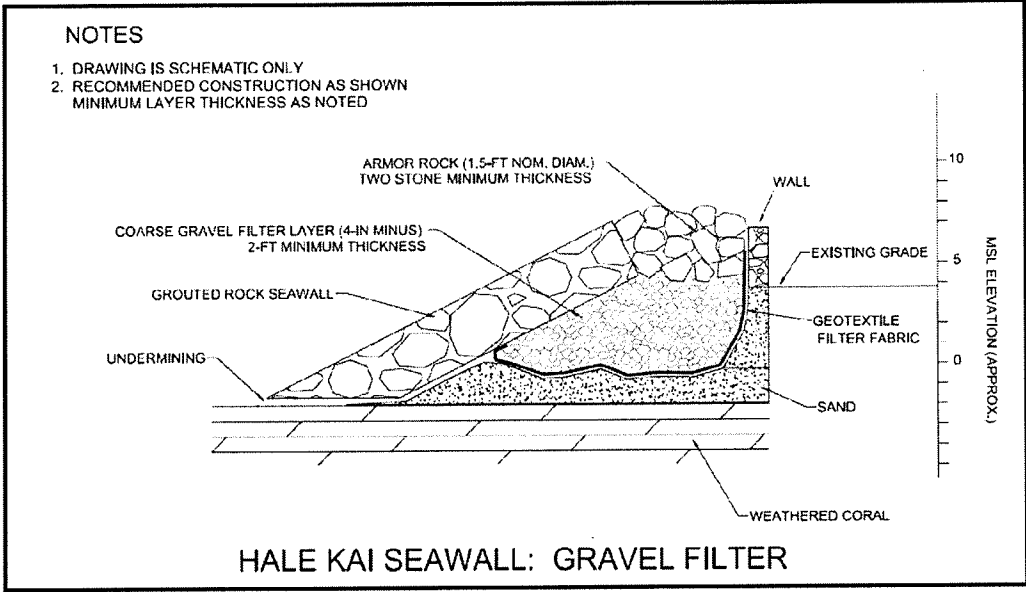


Figure 6. Recommended gravel filter repair

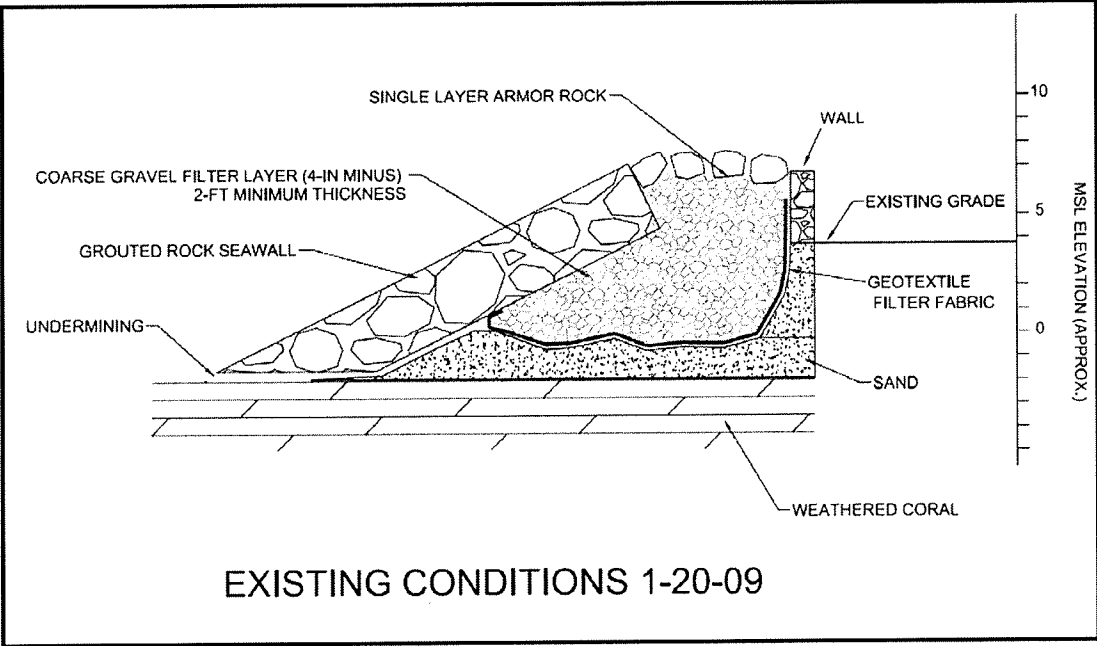


Figure 7. Condition of repaired revetment, January 2009



Figure 8. Crest stones on repair section

Corrective Action

The existing shore protection at Hale Kai Condominiums is a combination of somewhat formidable structures that have remained in place for some time, and have proven capable of withstanding sizeable wave events. They are expected to be able to provide reasonable protection for the condominium complex unless weaknesses in the structures are exceeded by an extreme storm event of uncertain magnitude.

The following actions are offered to correct problems noted with the existing shore protection structures. The actions are not presented as design modifications to increase the capabilities of the structures.

1. Seawall

There are no corrective action recommendations for the seawall portion of the shore protection.

The addition of a wave deflector is an elective action that can be undertaken if desired by the Hale Kai AOA to prevent wave overtopping into the deck and pool area. Figure 9 is a wave deflector design submitted to the Hale Kai AOA by Arnold T. Okubo and Associates. The design is for the modification and addition to the existing seawall. The wave deflector will help to prevent flooding of salt water into the swimming pool, and improve the ambient conditions around the swimming area. Figure 10 shows the location and extent of proposed wave deflector construction

Wave Deflector Cost: \$240,000

Comparative Cost:

Wall Replacement Value (120-ft seawall reach only): \$850,000

For less cost than a structural solution, consideration may also be given to reducing wave overtopping by using landscaping techniques. Promoting the growth of *naupaka* vegetation is a popular method in coastal areas of Hawaii for controlling wave overtopping and spray. However, Hale Kai residents noted that *naupaka* was difficult to grow along the seawall, so another form of vegetation might be considered, or different growing techniques might be tried such as using individual plant containers. Unfortunately, landscaping techniques such as fostering *naupaka* growth have a tendency to interfere with the view plane and take up valuable space on the pool deck.

2. Revetment

As noted with reference to Figure 7 and Figure 8, the crest of the 2007 repair section was finished with a single layer of stones, 1 to 1.5 ft in nominal diameter, laid on the surface of the gravel fill. The stones are not keyed together or otherwise locked in place. If these stones are subjected to high wave conditions they will likely become displaced, and could even become safety hazards in the form of projectiles.

It is recommended that corrective action be taken to modify the revetment crest to comply with the schematic representation shown in Figure 6 as follows:

- Remove the crest stones
- Excavate gravel 3 ft below the revetment crest
- Fill the excavation with stones approximately 1.5 ft to 2 ft in diameter. All stones should be in close contact with adjacent stones and tightly packed behind the crest of the grouted portion, as shown in Figure 6.

The repair area is an approximately 20-ft reach on the crest of the revetment, adjacent to the pool deck (see Figure 10).

Repair costs: less than \$10,000

Comparative Costs:

Replacement of entire shoreline structure with seawall (220-ft reach): \$1,552,000

Replacement of entire shoreline structure with revetment (220-ft reach): \$600,000

Replacement of revetment area only with seawall (100-ft reach): \$705,500

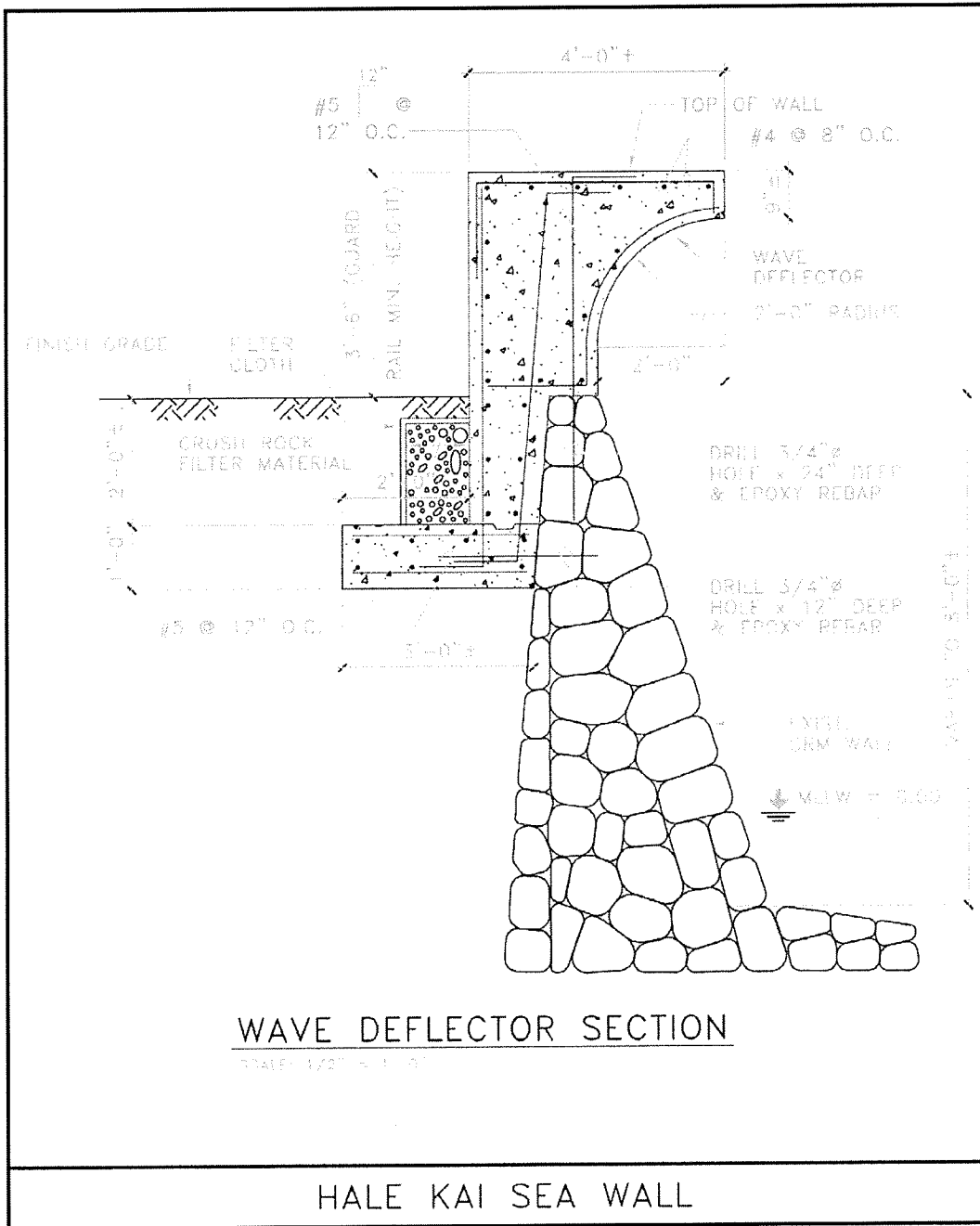


Figure 9. Wave deflector addition to the existing structure (Arnold T. Okubo and Associates)

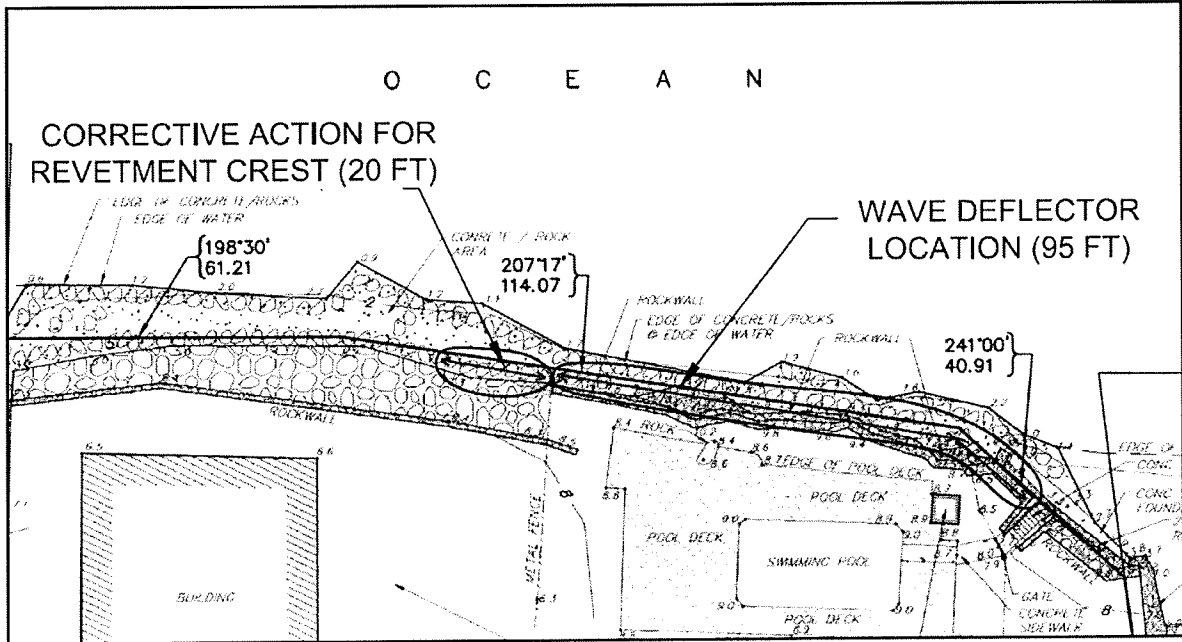


Figure 10. Site plan showing extent of corrective actions.

APPENDIX

Letter from the County of Maui,

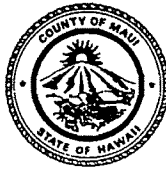
Department of Planning,

(October 13, 2008)

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



OCT 20 2008

COUNTY OF MAUI
DEPARTMENT OF PLANNING

October 13, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
#7006 2760 0000 7127 4692

Mr. Mark Roy
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Roy:

**SUBJECT: AFTER-THE-FACT SPECIAL MANAGEMENT AND SHORELINE
SETBACK AREA ASSESSMENTS FOR THE HALE KAI AOA,
TMK: (2) 4-4-001:042 AT 3695 LOWER HONOAPI'ILANI ROAD,
HONOKOWAI, MAUI, HAWAII (SMX 2008/0313) (SM2 2008/0061)
(SSA 2008/0033) (EAE 2008/0057)**

During the spring of 2008, complaints regarding unauthorized work at the above-referenced site were brought to the attention of the Department of Planning (Department) and Department of Land and Natural Resources, Office of Conservation and Coastal Lands (DLNR-OCCL). On June 30, 2008, the Department issued a "First request for correction for a non-permitted structure within the shoreline area." The letter, sent by certified mail, requests that the unauthorized improvements be removed and/or obtain authorization by July 31, 2008. Subsequently, the Department received an After-The-Fact permit application July 2, 2008, for adding a layer of rock and mortar to the existing seawall located at the site. These improvements were unauthorized; however, the applicant previously received approvals from the Department to repair a seawall located at the site. The first approval was granted on December 3, 1984, to repair an 'existing non-conforming seawall'. The second approval was granted on January 13, 1993, to repair an existing legally permitted (permissible) seawall.

On July 23, 2008, the applicant responded to the Department's verbal request to provide additional information, namely photographs of the site, seawall, and unauthorized improvements. On July 29, 2008, the applicant and their representative, Mark Roy, met with Department staff to review additional documentation regarding work at the site, complaints filed by a resident of the AOA, and other relevant information. The most important of these are two engineering reports: a 1985 geotechnical investigation by Harding Lawson and Associates and a 2007 Coastal Engineering Investigation report conducted by Sea Engineering. According to the latter findings, the applicant did not complete the 1993 authorized repairs in a manner that was consistent with what was originally proposed, leading to the failure of the wall to provide adequate protection at the

site. The Sea Engineering report offers two courses of action: do nothing or install gravel and geotextile filter construction along with and in conjunction with consultation of a structural engineer for a shoring design if necessary.

During the July 23, 2008 meeting the applicant also provided a May 27, 2008 DLNR-OCCL staff report regarding the unauthorized 2008 improvements. The report recommends specific remedies including the removal of several boulders and cement makai of the shoreline (base of the seawall) and payment of fines totaling \$6,000.00 including administrative costs. On August 5, 2008, the applicant provided a notarized letter indication for the various unauthorized improvements between 2004 and 2007 were valued at \$29,000.00. Also, minutes from the applicants November 12, 2007 AOA Board meeting indicate that the Board voted to conduct repairs that were less costly than those recommended by the Sea Engineering report.

Based on the contents of the above referenced documents, the Department concludes that the unauthorized work occurred on a legal structure which may be repaired up to 50 percent without a variance, pursuant to 12-203-12(a)(5) of the Shoreline Rules for the Maui Planning Commission. However, such a repair may not expand or intensify the use of the structure beyond its prior state of use. In this case, the improvements are alleged to be decorative and, based on the Sea Engineering and DLNR-OCCL reports, not improving the seawall's structural integrity. In fact, the seawall is failing to provide adequate protection to the property, the pool area (wave over-topping) and the nearby vicinity. It is also unclear if rainfall at the site is being properly discharged to a dry well outside of the shoreline setback area, a storm drain, to the ocean (prohibited), or into the ground near the vicinity of the seawall thereby contributing to its failure.

Special Management Area Assessment

Regarding your **July 2, 2008 After-The-Fact** application, and in accordance with the Special Management Area Rules for the Maui Planning Commission, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

- A. The project for repairs to an existing structure that is a minor activity and is not part of a larger development;
- B. The project has a valuation not in excess of \$125,000.00 (Valuation certified as \$29,000.00);
- C. A minimum After-The-Fact (ATF) permit processing fee of \$1000.00 and required application fees of \$110.00 and \$55.00 were paid. An additional ATF fee equating to 10% to 50% of the project's valuation applies. In this case, the SMA assessment application lists the project costs as \$15,000. Therefore, the Department has determined that the ATF fee should equate to 10% of the listed project cost, or \$1,500.00.

- D. The project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
- E. The project is consistent with the objectives, policies, and Special Management Area guidelines set forth in the Hawaii Revised Statutes (HRS), Chapter 205-A, and is consistent with the County General Plan and Zoning.

In consideration of the above determinations, you are hereby granted a Special Management Area Minor Permit subject to the following condition:

- 1. That no work shall occur on site without obtaining all necessary government approvals in advance.

Furthermore, in accordance with HRS Chapter 343 the proposed action triggers compliance with environmental review because it is the use of the shoreline area. However, the action qualifies for one or more of the exemption classes, as replacement or reconstruction of existing structures and facilities where the new structure will be located *generally* on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced. Therefore, you are hereby granted an Exemption from Chapter 343.

Lastly, in accordance with the Shoreline Rules for the Maui Planning Commission, Sections 12-203-3, 12-203-6, 12-203-11, and 12-203-12, a determination has been made relative to the above-referenced project that:

- A. Portions of the proposed work are clearly within the shoreline setback area under the County's jurisdiction;
- B. Portions of the project site are located within a flood hazard zone (C and A4, base flood elevation 10 feet);
- C. The shoreline is fixed by a shoreline hardening structure;
- D. The proposed repairs are permissible pursuant to 12-203-12(a)(5) which allow
 "... a legal structure which may be repaired up to 50% without a variance, provided the repair does not expand or intensify the use of the structure beyond its prior state of use. .."

In consideration of the above determinations, you are hereby granted a Shoreline Setback Approval subject to the following conditions:

1. That an application for a Special Management Area Use permit and Shoreline Setback Assessment for a course of corrective action shall be submitted to the Department within 180 days of the date of this letter.
2. That the application will provide, at a *minimum*, a corrective measure which meets or exceeds the most satisfactory solution described by technical studies for the site (i.e. the "Gravel and Geotextile Filter Construction" including recommendations to explore shoring designs described and identified in the Sea Engineering, Inc, Coastal Engineering Investigation, page 5, 2007). Additional studies may be included in the applicants new SMA/Shoreline application which proposes other alternative provided those alternatives exceed the aforementioned "Gravel and Geotextile Filter Construction" recommendation.
3. That any proposed remedy for the seawall obtain validation and comments from a certified engineer licensed in the State of Hawaii. Deference will be given to comments obtained by structural and/or coastal engineers. In addition, the application noted in Condition #1 will include comments obtained from the Sea Grant Extension Agent for Maui County and the State DLNR OCCL.
4. That a preliminary and final compliance report indicating compliance with these conditions will be provided to, reviewed by, and approved by the Department.
5. That full compliance with all other applicable governmental requirements shall be rendered.

Should the applicant and/or landowner(s) fail to comply with the above conditions in the time provided, the Department, at its sole discretion, may issue an immediate Notice of Violation (NOV) without first or second Notices of Warning. The NOV may assess penalties and fines, including daily accruing fines, of up to the maximum permissible by statute and/or rule.

The Director's determination may be appealed pursuant to Section 12-202-26 of the Maui Planning Commission Special Management Area Rules which provides ten (10) business days from the date of receipt of the Director's decision.

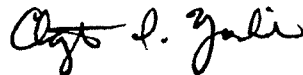
The Department reminds the applicant that the existing seawall was built using technology that is half-a-century old. While some individuals generally say that "they do not build them like the used to", there have been significant advances in the field of structural coastal engineering over the past 50 years that must be considered at your site. Hawaiian-made *boundary walls* laid by hand are designed to collapse inward, thus making them stronger and tighter, which is why many still

Mr. Mark Roy
October 13, 2008
Page 5

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Thank you for your cooperation. Please contact Staff Planner Thorne Abbott by email to thorne.abbott@mauicounty.gov or by telephone at 270-7520 should you have any questions.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

FOR JEFFREY S. HUNT, AICP
Planning Director

xc: Aaron H. Shinmoto, PE, Planning Program Administrator (2)
Thorne E. Abbott, Coastal Resources Planner
DLNR-OCCL, Sam Lemmo
DLNR-Land Division, Maui
Zoe Norcross-Nu'u, Sea Grant Extension Agent
Applicant (by certified mail #7006 2760 0000 7127 4708)
DSA (2)
General File
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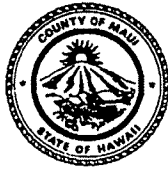
APPENDIX F.

**After-the-Fact and Corrective
Actions Special Management
Area Minor Permit (SMA)
and Shoreline Setback
Approval (SSA) Letters from
the County of Maui,
Department of Planning**

CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



OCT 20 2008

COUNTY OF MAUI
DEPARTMENT OF PLANNING

October 13, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED
#7006 2760 0000 7127 4692

Mr. Mark Roy
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

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SETBACK AREA ASSESSMENTS FOR THE HALE KAI AOA,
TMK: (2) 4-4-001:042 AT 3695 LOWER HONOAPI'ILANI ROAD,
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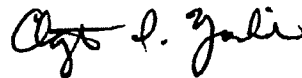
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Mr. Mark Roy
October 13, 2008
Page 5

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Thank you for your cooperation. Please contact Staff Planner Thorne Abbott by email to thorne.abbott@mauicounty.gov or by telephone at 270-7520 should you have any questions.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

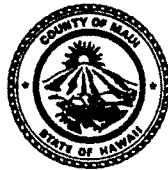
FOR JEFFREY S. HUNT, AICP
Planning Director

xc: Aaron H. Shinmoto, PE, Planning Program Administrator (2)
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General File
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CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 23, 2010

Mr. Mark Roy
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Roy:

SUBJECT: APPROVAL OF SPECIAL MANAGEMENT AREA (SMA) MINOR PERMIT AND SHORELINE SETBACK AREA ASSESSMENT FOR THE HALE KAI AOA, LOCATED AT 3695 LOWER HONOAPIILANI ROAD, HONOKOWAI, ISLAND OF MAUI, HAWAII; TMK: (2) 4-4-001:042 (SMX 2009/0267) (SM2 2010/0024) (EAE 2010/0040) (SSA 2009/0024) (EAC 2009/0038) (RFC 2009/0256) (RFC 2009/0257)

This approval letter is regarding the subject application submitted on November 16, 2009, to the Department of Planning (Department). The Department understands that the Hale Kai Association of Apartment Owners (AOAO) proposes corrective actions to the existing seawall/revetment fronting the Hale Kai Condominium, located in Honokowai on Maui. The project area is within the limits of the Hale Kai property, along the existing seawall/revetment, which is located within the County's SMA and Shoreline Setback Area. The property is identified by TMK: (2) 4-4-001:042 at the subject address.

The proposed corrective actions were defined in coordination with the Department and are the result of an engineering assessment of the existing seawall. The engineering assessment report was prepared in accordance with Condition Nos. 1 to 3 of a SMA Minor Permit and Shoreline Setback Approval (SSA) that was issued by the Department on October 13, 2008. The conditions read as follows:

1. *That an application for a Special Management Area Use permit and Shoreline Setback Assessment for a course of corrective action shall be submitted to the Department within 180 days of the date of this letter.*
2. *That the application will provide, at a minimum, a corrective measure which meets or exceeds the most satisfactory solution described by technical studies for the site (i.e. the "Gravel and Geotextile Filter Construction" including recommendations to explore shoring designs described and identified in the Sea Engineering, Inc., Coastal Engineering Investigation, page 5, 2007). Additional studies may be included in the applicant's new SMA/Shoreline application which proposes other alternatives provided those alternatives exceed the aforementioned "Gravel and Geotextile Filter Construction" recommendation.*

3. *That any proposed remedy for the seawall obtain validation and comments from a certified engineer licensed in the State of Hawaii. Deference will be given to comments obtained by structural and/or coastal engineers. In addition, the application noted in Condition #1 will include comments obtained from the Sea Grant Extension Agent for Maui County and the State DLNR OCCL.*

Copies of the engineering assessment report were submitted to the UH Sea Grant Extension Service and the Department of Land and Natural Resources-Office of Conservation and Coastal Lands (DLNR-OCCL) on June 4, 2009.

The Department understands the proposed corrective actions will include the following scope of work:

Wave-Overtopping Prevention Along Existing Seawall

To reduce the impacts of intermittent wave-overtopping during high wave events, the AOA is proposing to install a landscaped buffer (consisting of *Naupaka* or similar type of vegetation) in the area between the top of the existing seawall and the swimming pool. The approximate location of this landscaped buffer is identified as Item A on **Exhibit "C" of the application**. According to the engineering assessment report, "promoting the growth of *Naupaka* vegetation is a popular method in coastal areas in Hawaii for controlling wave over-topping and spray." *Naupaka* is currently being utilized successfully as a shoreline landscaping feature on the mauka side of the existing revetment which runs along the property to the south of the existing seawall. Refer to Figure 2 of **Exhibit "E" of the application**.

Repair and Maintenance to Existing Revetment

The AOA is also proposing to undertake some repair and maintenance activities to a portion of the revetment. The approximate location of this repair work is labeled as item B on **Exhibit "C" of the application**. This work is intended to further improve a previous repair that was undertaken in 2007 when a gravel and geotextile filter was installed along a 20-foot stretch of the revetment. The engineering assessment report identified that a single layer of stones, approximately one (1) foot to 1.5 feet (1' to 1.5') in nominal diameter, was used to cover the crest of the gravel and geotextile filter in 2007. These stones are not currently keyed together or otherwise locked in place and would likely be displaced under a significant storm event. The following corrective action was, therefore, identified in the assessment report to address this issue:

1. Removal of the existing crest stones from the 2007 gravel and geotextile filter area;
2. Excavation of the gravel within the area to three feet (3') below the revetment crest; and

3. Placement of appropriately sized stones [approximately 1.5 feet to two (2) feet (1.5' to 2') in diameter] within the excavated area. All stones should be in close contact with adjacent stones and tightly packed behind the crest of the grouted portion. Refer to Figure 6 of **Exhibit "E" of the application.**

The cost of the above-noted corrective actions is estimated to be not more than \$20,000.00.

In the October 13, 2008, After-the-Fact SMA/SSA approval letter, the Department determined that the existing seawall/revetment structure fronting the property qualified as:

".....a legal structure which may be repaired up to 50 percent without a variance, provided the repair does not expand or intensify the use of the structure beyond its prior state of use...."

SMA Assessment

The Department has determined that:

1. The Hale Kai Condominium is located at 3695 Lower Honoapiilani Road in Honokowai, Maui. The property is identified by TMK: (2) 4-4-001:042. The property is a shoreline parcel. The project site is located on the makai portion of the property and within the shoreline setback area, at/and behind the existing seawall/revetment structure. Thus, the project is subject to the *Shoreline Rules of the Maui Planning Commission* (Commission);
2. The proposed repair work and landscaping improvements is a permitted use within the shoreline setback area;
3. There are no known significant environmental resources on the subject property. The property is an improved condominium property located in an area of existing development. There are no wetlands on the subject property, nor are there any important habitats or cultural resources. The project site has been substantially altered by its development as a condominium; the proposed action represents minor maintenance and landscaping work within the property;
4. The proposed action involves a portion of an existing condominium property and is limited in size and scope. The work will not impact a scenic view corridor, nor does the project site serve as habitat for rare, threatened, or endangered species of plants and wildlife. The proposed action will not impact environmentally sensitive features, such as wetlands or streams, nor will it create long-term adverse effects upon air and water quality or ambient noise conditions. In this regard, the proposed action does not significantly curtail the beneficial uses of the environment;

5. The proposed action at the subject property does not represent a use that conflicts with the environmental goals and policies of the Hawaii State Plan, the Maui County General Plan, and the West Maui Community Plan. The community plan designates the property for "Multi-Family" use, while Maui County zoning designates the site as "A-2, Apartment". The subject property will continue to be used and operated as a condominium;
6. The proposed action is not expected to have an adverse impact on wildlife or sensitive environmental habitats;
7. The proposed action is not anticipated to result in any significant air or water quality impacts, nor is it expected to adversely impact ambient noise levels;
8. The project site is located primarily within the limits of Flood Zone C, denoting areas of minimal flooding, with a portion of the site located in Flood Zone A4, with a base flood elevation of ten feet (10'). It is noted that the proposed work does not involve improvements to habitable structures, thus, the Applicant will obtain a Special Flood Hazard Area Development Permit for the proposed work, if necessary;
9. The proposed improvements will not alter existing natural land forms. The drainage pattern of the site will remain unchanged. As a result, no adverse impacts to drainage conditions are anticipated. The proposed action is not anticipated to significantly alter existing public views to/and along the shoreline;
10. Recreational, historic, scenic, and marine resources will not be adversely impacted by the proposed action. The proposed action will not adversely impact local economic conditions. In addition, coastal and beach processes will not be affected; and
11. The proposed action is not contrary to the objectives and policies of Chapter 205A, Hawaii Revised Statutes (HRS), relating to Coastal Zone Management, will not result in cumulative impacts to the environment, nor will it involve a commitment to larger actions.

SMA Minor Permit Approval

Based on the above SMA Assessment, and in accordance with the *SMA Rules for the Commission*, Sections 12-202-12 and 12-202-14, a determination has been made relative to the above project that:

1. The proposed action is for repairs to an existing structure that is a minor activity and is not part of a larger development. The proposed action is considered a development;

2. The project has a valuation not in excess of \$125,000.00;
(Valuation: Certified as \$20,000.00)
3. The proposed action is permissible since the proposed action will occur on a legal structure which may be repaired up to 50 percent (50%) without a variance, pursuant to 12-203-12(a)(5) of the Shoreline Rules for the Commission. The replacement value of the existing seawall/revetment is estimated at \$1.55 million;
4. The project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
5. The project is consistent with the objectives, policies, and SMA guidelines set forth in the HRS, Chapter 205-A, and is consistent with the County General Plan and Zoning.

In consideration of the above determinations, you are hereby granted a SMA Minor Permit subject to the following condition:

1. That no work shall occur on-site without obtaining all necessary governmental approvals in advance.

Environmental Assessment Exemption

Furthermore, in accordance with HRS, Chapter 343, the proposed action triggers compliance with environmental review because it is the use of the shoreline area. However, the action qualifies for one (1) or more of the exemption classes, as replacement or reconstruction of existing structures and facilities where the new structure will be located *generally* on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced. **Therefore, the project is hereby granted an Exemption from Chapter 343 review requirements.**

Shoreline Setback Approval

Lastly, in accordance with the *Shoreline Rules for the Commission*, Sections 12-203-3, 12-203-6, 12-203-11, and 12-203-12, a determination has been made relative to the above-referenced project that:

1. Portions of the proposed work are clearly within the shoreline setback area under the County's jurisdiction;
2. Portions of the project site are located within a flood hazard zone (C and A4, base flood elevation ten-feet);
3. The shoreline is fixed by a shoreline hardening structure; and

Mr. Mark Roy
March 23, 2010
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4. The proposed repairs are permissible, pursuant to 12-203-12(a)(5) which allow:

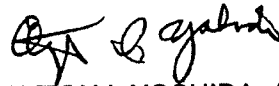
"...a legal structure which may be repaired up to 50% without a variance, provided the repair does not expand or intensify the use of the structure beyond its prior state of use..."

In consideration of the above determinations, you are hereby granted a SSA subject to the following condition:

1. That Best Management Practices shall be implemented to insure water quality and marine resources are protected. No construction materials should be stockpiled in the aquatic environment. All construction-related materials should be free of pollutants and placed or stored in ways to avoid or minimize disturbance. No debris, petroleum products or deleterious materials or wastes should be allowed to fall, flow, leach, or otherwise enter near shore waters. Any turbidity and siltation generated from activities proposed at the site should be minimized and contained in the immediate vicinity of construction through the use of effective silt containment devices. Construction during adverse weather conditions should be curtailed to minimize the potential for adverse water quality impacts.

Thank you for your cooperation. Should you have any questions, please contact Staff Planner James Buika at james.buika@mauicounty.gov or at (808) 270-6271.

Sincerely,



CLAYTON I. YOSHIDA, AICP
Planning Program Administrator

for JEFFREY S. HUNT, AICP
Planning Director

xc: Aaron H. Shinmoto, PE, Planning Program Administrator (2)
James A. Buika, Coastal Resources Planner
Tara O. Miller, Sea Grant Extension Agent
DSA
Sam Lemmo, Administrator, DLNR-OCCL
DLNR-Land Division, Maui
Mark Roy, Munekiyo & Hiraga, Inc. (PDF)
Donald B. Newton
CZM File (SMX/SM2/SSA)
Project File
General File

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