

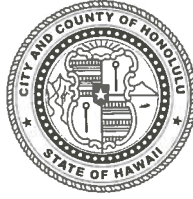
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DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: www.honoluluapp.org • CITY WEB SITE: www.honolulu.gov



PETER B. CARLISLE  
MAYOR

DAVID K. TANOUE  
DIRECTOR  
JIRO A. SUMADA  
DEPUTY DIRECTOR

2010/ED-7(AA)

September 21, 2011

The Honorable Gary Hooser, Director  
Office of Environmental Quality Control  
State of Hawaii  
State Office Tower, Room 702  
235 South Beretania Street  
Honolulu, Hawaii 96813

Dear Mr. Hooser:

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

OFFICE OF ENVIRONMENTAL  
QUALITY CONTROL

11 SEP 27 12:57

RECEIVED

Applicant/ Landowner:	John Borsa, Jr.
Agent:	Structural Hawaii, Inc.
Location:	67-011 Kaimanu Place - Waialua
Tax Map Key:	6-7-14: 28
Request:	Shoreline Setback Variance and Minor Shoreline Structure Permit
Proposal:	To construct a swimming pool and jacuzzi with protective fence, and a cabana in the shoreline setback area
Determination:	Issued: A Finding of No Significant Impact

Attached and incorporated by reference is the Final EA prepared by the applicant for the project. Based on the significance criteria outlined in Title 11, Chapter 200, Hawaii Administrative Rules, we have determined that preparation of an Environmental Impact Statement is not required.

We have enclosed a completed OEQC Bulletin Publication Form and the Final EA (document and a compact disk (PDF format)). If you have any questions, please contact Ann Asaumi of our staff at 768-8020.

Very truly yours,

David K. Tanoue, Director  
Department of Planning and Permitting

DKT:nw  
Encls.

## OEQC Publication Form The Environmental Notice

### Instructions to Applicant or Agency:

1. Fill out this Publication Form and email to: [oeqc@doh.hawaii.gov](mailto:oeqc@doh.hawaii.gov)
2. Send a pdf copy of the EA / EIS and 2 hard copies to OEQC. Mahalo.

**Name of Project:** Borsa Shoreline Setback Variance  
**Applicable Law:** Chapter 343, Hawaii Revised Statutes  
**Type of Document:** Final Environmental Assessment  
**Island:** Oahu  
**District:** Waialua  
**TMK:** 6-7-14: 28  
**Permits Required:** Shoreline Setback Variance, Minor Shoreline Structure Permit, and Building Permit.

### Name of Applicant or

**Proposing Agency:** John Borsa, Jr.  
Address 67-011 Kaimanu Place  
City, State, Zip Waialua, Hawaii 96791  
Contact and Phone John Borsa, Jr. / (808) 225-5101  
**Approving Agency:** City and County of Honolulu, Department of Planning and Permitting  
Address 650 South King Street, 7<sup>th</sup> Floor  
City, State, Zip Honolulu, Hawaii 96813  
Contact and Phone Ann Asaumi / (808) 768-8020  
**Consultant:** Structural Hawaii, Inc.  
Address 1255 Kuala Street, 2nd Floor  
City, State, Zip Pearl City, Hawaii 96782  
Contact and Phone Riza Gatdula / (808) 488-5000

**Project Summary:** Summary of the direct, indirect, secondary, and cumulative impacts of the proposed action (less than 200 words).

The Applicant seeks approval of a Shoreline Setback Variance and Minor Shoreline Structure Permit to construct a roughly 25 x 55-foot (free-form) swimming pool and jacuzzi with protective fence, and a cabana, which encroach entirely into the 40-foot shoreline setback area. The proposal also requires a building permit.

The pool water will be treated with saline, a natural sanitization alternative to chemical treatment (e.g., chlorine). The pool will be equipped with a pump and filter to maintain salt content and sanitation. The cabana (eight feet in diameter) will be of concrete construction, including a concrete slab subfloor and posts (up to the regulatory floor level), and light wood framing above that. The latticework around the cabana will be of break-away construction (in the event of high surf).

The project site is zoned R-5 Residential District, and contains a single-family dwelling. The recorded lot area to which the landowner holds title is 9,263 square feet; however, 2,162 square feet of the lot area has been lost to erosion. The property is bordered by residential dwellings to the west, east, and south.

# Final Environmental Assessment and Coastal Engineering Evaluation for Shoreline Setback Variance Application

**Prepared For:**

John Borsa

67-011 Kaimanu Place Waialua, Hawaii 96791

Tax Map Key: 6-7-014:028

Lot area: 9,263 sq. ft.

July 25, 2011

**Prepared By:**



**Structural Hawaii, Inc.**

1255 Kuala Street, 2<sup>nd</sup> Floor, Pearl City, Hawaii 96782

Phone: (808) 488-5000, Fax: (808) 454-8899

Email: [info@structuralhawaii.com](mailto:info@structuralhawaii.com)

Website: [www.structuralhawaii.com](http://www.structuralhawaii.com)

## GENERAL INFORMATION

- A. Applicant Name:  
John Borsa, Jr.  
67-011 Kaimanu Place  
Waialua, HI 96791  
(808) 255-5101
  
- B. Recorded Fee Owner:  
John Borsa, Jr.  
67-011 Kaimanu Place  
Waialua, HI 96791
  
- C. Agent:  
Structural Hawaii, Inc  
1255 Kuala Street, 2<sup>nd</sup> Floor,  
Pearl City, HI 96782  
(808) 488-5000
  
- D. Tax Map Key:  
TMK: 6-7-014:028
  
- E. Lot Area:  
9,263 Sq. Ft.
  
- F. Agencies consulted in Making Assessment:  
Department of Planning and Permitting

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## EXHIBITS

- Exhibit 1 – Certified Shoreline Survey
- Exhibit 2 – Pole Fence Permit
- Exhibit 3 – Old Shoreline Survey
- Exhibit 4 – List of Permits and Applications
- Exhibit 5 – Plot Plan
- Exhibit 6 – Cesspool Survey
- Exhibit 7 – Historic Preservation Review
- Exhibit 8 – Salinization Installation

## APPENDICES

- Appendix A – Agency Comments and Response Letter
- Appendix B – Site Photos

## SUMMARY OF PROPOSED ACTION

Project	Swimming Pool, Jacuzzi, Fence, and Cabana
Landowner/Applicant	John Borsa
Accepting Agency	City and County of Honolulu, Department of Planning and Permitting, Pursuant to State EIS Regulations, Title 11, Chapter 200, Hawaii Administrative Rules, and Chapter 343, Hawaii Revised Statutes
Agent	Structural Hawaii, Inc.
Location	Waialua, City and County of Honolulu, Oahu, Hawaii
Tax Map Key	6-7-014:028
Proposed Action	Construct Swimming Pool, Jacuzzi, Cabana, and Open Work Fence at Borsa Residence, Existing Structures to Remain
Land Area	7101 square feet (Property area: 9263 square feet)
Present Use	Residential
State Land Use District	Urban District
Development Plan Land Use Designation	Residential; Located in the area managed by the North Shore Sustainable Communities Plan
Present Zoning	R-5 Residential District
Flood Zone	Firm Zone VE
Special Management Area	Shoreline Setback Located within SMA
Anticipated Determination	Finding of No Significant Impact (FONSI)
Required Permits	Shoreline Setback Variance Building Permit Minor Shoreline Structure (MSS) Permit





**Structural Hawaii, Inc.**  
1255 Kuala Street, 2<sup>nd</sup> Floor, Pearl City, HI 96782  
Phone: (808) 488-5000; Fax: (808) 454-8899  
Email: [info@structuralhawaii.com](mailto:info@structuralhawaii.com)  
Website: [www.structuralhawaii.com](http://www.structuralhawaii.com)

September 13, 2011

City & County of Honolulu  
Department of Planning & Permitting  
Attn: Ann Asaumi  
650 S. King Street  
Honolulu, Hawaii 96813  
Fax: 523-4400 (Honolulu)

SUBJECT: Addendum to Final EA Application  
67-011 Kaimanu Pl Waiialua; TMK: 6-7-014:028

Dear Ms. Asaumi,

This letter is to restate the intention of this Final EA and to clarify the pole fence shown on the Certified Shoreline Survey dated June 15, 2011.

This shoreline setback variance request is to acquire approval for the open work fence, swimming pool, Jacuzzi, wall, and cabana within the shoreline setback area, as located on the certified shoreline map. The pole fence that is showing on the certified shoreline survey has been taken down due to its nonconformity and will not be a part of this shoreline setback variance request.

We sincerely apologize for any misunderstanding this may have caused.

Should you have any questions, please call me at (808) 488-5000.

Respectfully,

Riza Marie Gatdula  
Project Engineer

**Structural Hawaii, Inc.**  
1255 Kuala Street, 2<sup>nd</sup> Floor  
Pearl City, HI 96782  
Phone: (808) 488-5000  
Fax: (808) 454-8899  
E-mail: [info@structuralhawaii.com](mailto:info@structuralhawaii.com)  
Website: [www.structuralhawaii.com](http://www.structuralhawaii.com)

## **1.0 INTRODUCTION**

### **1.1 PROJECT OVERVIEW**

The applicant, John Borsa, is requesting a shoreline setback variance to acquire an approval to construct an open work fence, swimming pool, Jacuzzi, and cabana within the shoreline setback area, as located on the certified shoreline map. See Exhibit 1

The area of the entire lot is 9,263 sq. ft., of which 2,162 sq. ft. is in the erosion area, according to the shoreline survey certified on June 15, 2011.

### **1.2 PURPOSE OF THE ENVIRONMENTAL ASSESSMENT**

This Environmental Assessment has been prepared pursuant to Hawaii Revised Statutes (HRS) section 343-5(3), which states an environmental assessment shall be required for actions which propose any use within the shoreline area as defined in section 205A-41 and Hawaii Administrative Rules (HAR), Title 11, Chapter 200, Section 11-200-6(b)(1)(c).

### **1.3 PREVIOUS LAND USE APPROVALS**

The dwelling was constructed in 1986 (BP# 229685). On November 29, 1990, a permit for a rock wall along the sides of the property and a pole fence at the rear was issued (BP# 194986), as shown in Exhibit 2. Permits involving an addition, electric work, and other work were issued in 1990, 1997, and 2002. On September 26, 2003, Mr. Borsa was issued a Notice of Violation for constructing another pole fence seaward, along the shoreline that was certified on September 10, 2002 (see Exhibit 3). Mr. Borsa had applied for a permit for this fence in October 2003, but has been cancelled, and the pole fence was removed in order to address the violation, leaving the original pole fence. In October 2003, an application was submitted for the removal of storage areas on the lower floor and in December of 2003 the addition of a sundeck was applied for. Both applications are still open. In 2006, permits were issued for electrical work (BP# 601305) and an open walkway and spiral staircase (BP# 607543). (See Exhibit 4 for all applications and permits discussed).

### **1.4 PURPOSE AND NEED FOR THE PROJECT**

The pool is needed to provide a safe swimming and recreation environment for the Borsa family, which includes minor children. Frequent discharge of sewage and crop chemical contaminated water from episodes of high runoff from Lake Wilson and the agricultural areas of central Oahu significantly lower near shore water quality. The problem is persistent and has deprived the Borsa family of recreational use of the near shore marine environment.

Furthermore, the Borsa's have been deprived of use of their property as a result of erosion and the 40 foot shoreline setback, and according to Mr. Borsa, no compensation has been given to him or his family to account for the area of his property that was lost due to erosion. Thus, constituting a hardship under ROH Chapter 23, Shoreline Setbacks, Article 1, Section 23-1.8 Criteria for Granting a Variance. Although it is not a privilege for any homeowner to swim in their backyard, Mr. Borsa strongly feels that he and his family are entitled to recreate within their property while staying within design standards set by the State, City, and Federal Agencies for construction near the shoreline.

### **1.5 ALTERNATIVES CONSIDERED**

- a. Construct the swimming pool, Jacuzzi, and cabana within the 40' shoreline setback area in the backyard of the Borsa residence. Since the 40' shoreline setback will run along the existing house, the construction of the pool separate from the house is not possible.
- b. Place the pool under the roof line of the house and outside (or inland from) the 40 foot shoreline setback. This is not a desirable alternative because the pool is out of the sun. In addition, it would necessitate major structural renovations to the house including reconstruction of the foundations of the home.
- c. Constructing the pool on the floor level of the existing dwelling. Since the Borsa family makes use of the storage areas and garage on the first floor, building a pool there is not viable.

## **2.0 DESCRIPTION OF THE PROPOSED ACTION**

### **2.1 TECHNICAL CHARACTERISTICS**

- A. Use Characteristics: The open work fence will provide a barrier to protect the Borsa's from burglary and the public from wandering towards the pool and drowning. The pool and Jacuzzi will be used by the Borsa family for recreational swimming as an alternative to swimming in the nearby ocean waters. Use of the cabana is intended for changing attire, drying off, and relaxing.
- B. Physical Characteristics: The total area of the applicant's lot is 9263 square feet. According to the June 2011 certified shoreline survey, the area attributed to erosion is 2162 square feet. A city reference datum is located on the street in front of the southwest corner of the property and is at an elevation of +8.10 mean sea level (MSL). The ground surrounding the

existing dwelling is relatively flat, ranging between +7.8 MSL and +8.4 MSL. The ground elevation between the existing dwelling and shoreline slopes down towards the shoreline, dropping to approximately +5.0 MSL. A plot plan is shown on Exhibit 5.

- C. Construction Characteristics: The open work fence will be constructed with chain links and its support posts will be anchored into the soil with concrete footings. The fence will be at a maximum height of 6'-0" above grade and will be placed 5'-0" away from the certified shoreline dated December 20, 2010. See Exhibit 5.

The swimming pool and Jacuzzi will be mostly in ground and below grade, with the Jacuzzi and pool extending to a maximum height of 3'-8" above adjacent grades. Combined, the pool and Jacuzzi will measure approximately 25 feet wide and 55 feet long. The cabana will be 8' in diameter and 10' in height and will be constructed with a concrete slab subfloor and columns up to the height of the regulatory flood. The columns will be anchored to resist movement and floatation from flood waters. The portions of the structure above the regulatory flood elevation will be constructed with light timber framing. Surrounding the cabana will be latticework that will break away in the event of a flood.

The pool's water will be treated with saline, a natural sanitization alternative to chemicals such as chlorine. Water will be acquired from the house's existing water supply. Exhibit 8 shows a typical installation of the saline system. The salinization system is designed to dissolve sodium chloride into the circulated pool water and the sodium chloride is broken down into pure sodium and chloride gas. The entire salinization process occurs within the chambers of the system, and on a daily basis, so no drainage of the pool water is necessary. However, in the event that the pool water must be drained, the water will contain only natural salt and no unnatural chemicals.

### **3.0 AFFECTED ENVIRONMENT - IMPACTS AND MITIGATION MEASURES**

- A. Brief Description of subject site: This oceanfront property is bounded by residential homes to the west, east, and south respectively. Zoning is designated as State Land Use Urban District and Zone R-5. It is located in the Waialua district where planning is guided by The North Shore Sustainable Communities Plan which is intended to help guide public policy, investment, and decision making through the 2020 planning horizon. The region's character is typified by pockets of low-rise, small scale rural centers and residential communities. The population of Waialua is 3,761 according to the 2000 Census. The nearest public right of way for beach access is approximately 280 feet to the east of the

applicant's property, between the properties at 67-1 and 67-3 Kaimanu Place. Approximately 1 mile northeast of the applicant's property is Kaiaka Bay Beach Park, situated between Kaiaka Bay and Waialua Bay.

- B. Federal FIRM Zone, LUO Flood High Hazard District, VE 16: The proposed project will not adversely impact flow of flood waters. All improvement below the regulatory flood elevation will be either flood-proofed or built to break away.
- C. Coastal Views: The proposed project will not adversely impact any coastal views. The proposed fence will have openings on at least 50% of its surface area. The swimming pool is mainly below grade.
- D. Project Site: The proposed project is not expected to affect any publicly owned or used beach access points, beach parks or recreation areas because it is confined to the owner's backyard.
- E. Site Maps: Site maps, location maps, and ground level photographs are included at the end of the text.

Major impacts of the proposed action on the affected environment: The swimming pool will not dredge, fill or otherwise alter any bay estuary, salt marsh river mouth, slough or lagoon.

### **3.1 TOPOGRAPHY**

The existing lot topography rises 1 to 1.5 feet from the street to the house location and then drops toward the ocean approximately three feet at the shoreline and continues with a gentle slope for an additional 20 to 30 feet. The beach then drops at an approximate 15 percent grade to the water's edge. The general topography of the site is expressed in spot elevations in Exhibit 2.

#### **3.1.1 Impacts and Mitigation Measures**

Excavation of soil will be required for the proposed project, but will not affect or alter the natural topography on the property.

### **3.2 GEOLOGY and SOILS**

The entire project site is composed of carbonate sand with a moderate amount of terrigenous debris that has been deposited offshore during high runoff episodes, re-suspended and deposited on shore during high wave and wind episodes. The US Department of Agriculture Soil Conservation Service classifies these deposits as Jaucas Sand (JaC) 0-15% slope. No test borings or other soil testing has been carried out on the property.

### **3.2.1 Impacts and Mitigation Measures**

The beach sand surrounding the project area will not be impacted by this project.

## **3.3 HYDROLOGY AND DRAINAGE**

Most runoff that occurs during high rain conditions is channeled through local streams and the Anahulu River and is dispersed in the near shore waters and dissipates at sea. There is no runoff from the street or any other property onto the subject property. There is virtually no runoff even during the most severe storms due to the high permeability of the soil. The proposed project will not change the drainage conditions at the site.

### **3.3.1 Impacts and Mitigation Measures**

Since there is no impact on the hydrology or drainage no mitigation measures will be required.

## **3.4 CLIMATE**

The area is exposed to a long shore trade wind regime from about March to October and light trade winds to light and variable winds during the remainder of the year. The area receives between 40 to 50 inches rainfall annually predominantly in the winter and average air temperatures range between 65 and 85. Occasional tropical storm systems have impacted all parts of the Hawaiian Islands. These occur rarely with less than one in 10 years historically. All cyclones that have been recorded in Hawaii are generated in the inter-tropical convergence zone and migrate northward where they may cross the Hawaiian Islands. Though wind may be damaging to structures and vegetation in the project area, surf from these uncommon storms is rarely at advisory levels on north facing shores and shorelines are therefore minimally impacted.

### **3.4.1 Impacts and Mitigation Measures**

No impact will occur due to the proposed project.

## **3.5 AIR QUALITY**

The project area is exposed to prevailing long shore trade winds for most of the year with little or no point or area source emissions up wind. During Kona or winter weather systems, the air movement is oriented from onshore to offshore and this orientation also has no potential for entrapping pollutants as pollution sources are non-existent upwind of the subject property.

### **3.5.1 Impacts and Mitigation Measures**

As neither point nor area pollution sources exist in the area of the subject property and activities associated with the proposed project do not generate air pollutants or contaminate the air in any way, impacts to air quality are not expected.

### **3.6 BEACH PROCESSES**

The near shore consists of a fringing carbonate coral reef that extends approximately a half-mile offshore. The area adjacent to the beach is a flat carbonate platform, devoid of live coral and colonized primarily by algal turf and sparse macro algal stubble. The platform forms a narrow headland near shore that is emergent at low tide on which small waves break. A narrow moat exists at the shoreline which transitions to a continuous sandy beach. The prevailing current regime is from east to west and can be brisk during high surf conditions.

During the winter months the coastal area is exposed to high surf episodes from open ocean swell generated from North Pacific Storms. Most of the long period wave energy dissipates on the fringing reef along the coastline but in exceptionally large surf reaching 20-35 feet, considerable beach erosion occurs. The sand re-deposits during low surf conditions in the non-winter months.

Lateral sand transport is driven by the east to west littoral current. During high surf episodes this transport is vigorous resulting in significant beach erosion. Formal surveys that establish the location of the certified shoreline were conducted in 1990, 2002, and 2008. These surveys show the vegetation line existing at the time of the survey.

#### **3.6.1 Impacts and Mitigation Measures**

The project is not expected to have any impact on the near shore marine environment. Also, the historic erosion and debris line established in the shoreline survey is located seaward of the subject pool, interruption of lateral transport of sand is not anticipated.

### **3.7 FLORA AND FAUNA**

All parcels along the shoreline fronting the applicant's property have been fully developed as single family dwellings. These include housing, parking garages, swimming pools, fences, sidewalks, and other improvements including landscaping. The vegetation line along the shore is now composed primarily of Sea Grapes, Beach Naupaka, Coconut trees, Plumeria and other ornamental landscaping. Weed species such as sand bur also exist. As the entire area is landscaped, endangered plant species do not exist. The soil around the location of the proposed open work fence is entirely of sand above the wash zone and thus fauna are essentially non-existent.

#### **3.7.1 Impacts and Mitigation Measures**

Based on the prior disturbance of construction and landscaping on the subject and surrounding properties, it is highly unlikely that any listed candidate or proposed endangered species are present in the project area. Therefore, it is anticipated that no adverse impacts will occur as a result of the construction of the pool.

### **3.8 NOISE**

Noise levels in the area of the subject property are typical of low density. Primary noise sources are from low intensity traffic on Kaimanu Place and from the more distant Waialua Beach Road. During high surf episodes, considerable noise is generated from breaking waves.

#### **3.8.1 Impacts and Mitigation Measures**

Construction of the pool will occur during the normal working hours between 8AM and 5PM. Any work before or after those times will be considered prohibited. No major impact from noise is expected.

### **3.9 HISTORICAL, ARCHEOLOGICAL, AND CULTURAL RESOURCES**

Historic and archaeological resources are not likely to be present since the present structure was built in 1985, and surrounding areas are totally developed as single family residences. However, upon discovery of cultural or historical resources, Mr. Borsa will cease all work and notify all necessary Stated agencies in order to ensure all proper mitigation measures are met.

#### **3.9.1 Impacts and Mitigation Measures**

No impacts on historic and/or archaeological resources are expected. A review from DLNR's historical preservation review (Exhibit 7) states that no historic properties will be affected. The open work fence will extend no further towards the ocean than the existing CMU walls on the sides of the property and the trees and shrubs on neighboring properties. Both the pool fence and cabana will not significantly affect the ocean view seen by the public from the street. The pool will be mostly below ground and pool wall will be around 36" high above the surrounding grade.

### **3.10 SCENIC AND OPEN SPACE RESOURCES**

Scenic resources include the Waianae and the Koolau Mountain Ranges, coastal pali, the coastline, and the Pacific Ocean. A beach fronting the property provides public recreation.

#### **3.10.1 Impacts and Mitigation Measures**

The proposed project will not adversely impact views of these resources from public places and follows guidelines set forth in the North Shore Sustainable Communities Plan. The proposed fence around the swimming pool area will be of metal chain links. The swimming pool will be mostly below grade, with portions of it extending above grade no more than 3 feet. Views of the oceans from the street fronting the Borsa residence are already obstructed by the existing two story dwelling. Lateral access along the beach will not be affected by the project since all work will be built inside the vegetation line. The vegetation line is natural and continues from the adjacent, neighboring properties. Thus, the proposed project will not result in beach loss and the beach will be preserved, as it currently is.



## **4.0 SOCIO-ECONOMIC CONDITIONS - IMPACTS AND MITIGATION MEASURES**

### **4.1 DEMOGRAPHICS, POPULATION AND ECONOMIC CHARACTERISTICS**

Waialua is a small rural plantation town for the most part developed into residential areas but with some open agricultural spaces. Population is 2,478 according to the 2000 Census.

#### **4.1.1 Impacts and Mitigation Measures**

The proposed work will have no effect on the socio-economic status or population of the community.

### **4.2 ADJACENT LAND USE**

The adjacent properties are developed with single-family residences in close proximity to each other. Photos of the project area and adjacent properties are included in Appendix A.

## **5.0 PUBLIC SERVICES**

### **5.1 TRAFFIC AND ROADWAYS**

Access is off Waialua Beach Road into Kaimanu Place. See Location Plan

#### **5.1.1 Impacts and Mitigation Measures**

Traffic and roadways will not be affected by this project, except for minor construction related traffic directly in front of the property.

### **5.2 WASTEWATER**

The Waialua area is not served by the municipal sewer system. Wastewater is disposed of via an existing cesspool. See Exhibit 6.

#### **5.2.1 Impacts and Mitigation Measures**

The project will not have any impact on the existing sewage system. The pool will not be connected to the sewer system and therefore will not affect it.

### **5.3 POTABLE WATER**

Water is supplied by the City and County of Honolulu's Board of Water Supply. The proposed swimming pool will be filled via hose, thus, no connections to the water supply is needed.

#### **5.3.1 Impacts and Mitigation Measures**

No impact is anticipated by the proposed project.

## **5.4 SOLID WASTE**

Solid waste is collected by the City and County of Honolulu.

### **5.4.1 Impacts and Mitigation Measures**

The proposed project will have no effect on the amount of solid waste produced by the Borsa family. Construction related waste will be properly disposed of by the contractor.

## **5.5 POLICE AND EMERGENCY SERVICES**

The Waialua area is served by the Honolulu Police Department and Emergency Services Department.

### **5.5.1 Impacts and Mitigation Measures**

There will be no impact on police or emergency services as a result of the proposed project, thus, no mitigation measures are needed.

## **5.6 FIRE PROTECTION SERVICES**

The property is under the jurisdiction of the Honolulu Fire Department.

### **5.6.1 Impacts and Mitigation Measures**

There will be no impacts on fire protection services as a result of the proposed project, thus, no mitigation measures are needed.

## **5.7 ELECTRICITY, TELEPHONE AND CABLE TV**

Electrical power for the Waialua area is provided by Hawaiian Electric Company; Telephone service by Verizon Hawaii; and cable service by Oceanic Cable. Existing electrical, telephone, and cable connections are located in the street at the front of the property.

### **5.7.1 Impacts and Mitigation Measures**

No changes will be made to telephone or cable TV lines in conjunction with the proposed project. A pool pump will be connected to the existing electrical service used by the Borsa's.

## **6.0 DETERMINATION OF SIGNIFICANCE**

Based on significance criteria set forth in Hawaii Administrative Rules, Title 11, Department of Health, Chapter 200, Environmental Impact Statement Rules, the proposed project is not expected to have a significant impact on the environment. As such the recommended preliminary determination for the proposed project is a Finding of No Significant Impact (FONSI). The findings and reasons supporting this determination are discussed below.

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

The proposed project will not result in a loss of natural or cultural resources. The proposed action creates no disturbance to the present vegetation in the area except for the landscape grass in the Borsa backyard. There are no threatened or endangered species of plants or wildlife that inhabit the project site. There are no known archaeological sites on the subject property and considering the previous development of the property, historic sites are not known to be present (see Exhibit 7).

2. *Curtails the range of beneficial uses of the environment*

This project is confined to the Borsa property and will not curtail use of the environment.

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

The type of construction will not affect beach action and height will not block visual sight lines. The pool is designed to be below ground and will be at least 3' from the shoreline. The cabana will be designed to breakaway during high floods and will not restrict or increase flood levels. The pool will have its foundation well below grade and will be designed to withstand flooding and resist floatation. The proposed work will have only minor impact on environmental policies.

4. *Substantially affects the economic and social welfare of the community or state.*

The proposed project is minor in scope and will not impact the economy or social welfare of the community or state. Like many properties on O'ahu, the Borsa's would like to have a personal swimming pool.

5. *Substantially affects public health*

Factors affecting public health including air quality, water quality, and noise levels are not expected to be affected by the project. No pool water will be discharged into the ocean or the soil surrounding the property.

6. *Involves substantial secondary impact, such as population changes or effects of public facilities*

Due to the nature of the proposed project, there are no substantial secondary or indirect impacts such as population changes or effects on public facilities.

7. *Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for large actions*

The proposed project is relatively minor in scope and adverse cumulative impacts on the environment are not anticipated, nor does the proposed project involve a commitment for larger actions on the subject property.

8. *Substantially affects a rare, threatened or endangered species*

There are no threatened or endangered plants or animal species on the subject property.

9. *Detrimentially affects air or water quality or ambient noise levels*

On the short-term basis, noise conditions will be affected by construction activities related to the proposed project, but once the project is completed, noise conditions will return to their present levels. Any equipment serving the pool will run at a very low noise level, so as not to be heard by the neighbors.

10. *Affects or is likely to suffer damage by being located in an environmentally sensitive area such as flood zone, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters*

The location of the proposed pool and cabana is in a High Hazard Flood zone. The cabana will be designed as breakaway structure and therefore will not alter the flood levels. The pool is mainly below ground pool with footings more than two feet below the scour depth and is not expected to be affected by a flood.

11. *Substantially affects scenic vistas and view planes identified in country or state plans or studies*

The pool is designed to be below grade and the cabana will be constructed near the side yard, where the public currently has no view of the ocean from the street, and vice versa. Therefore, no scenic vistas will be diminished.

12. *Requires substantial energy consumption*

The swimming pool and fence will not require substantial electrical energy, since energy will be used for filtration purposes only.

## **Findings**

In accordance with the provisions set forth in chapter 343, Hawaii Revised Statutes, and the significance criteria in section 11-200-12 of Title 11, Chapter 200, it is anticipated that the project will have no significant adverse impact on the environment. It is expected that a Finding of No Significant Impact (FONSI) will be issued for this project.

# EXHIBITS

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EXHIBIT 1 – CERTIFIED SHORELINE SURVEY

EXHIBIT 2 – POLE FENCE PERMIT

EXHIBIT 3 – OLD SHORELINE SURVEY

EXHIBIT 4 – LIST OF PERMITS AND APPLICATIONS

EXHIBIT 5 – PLOT PLAN

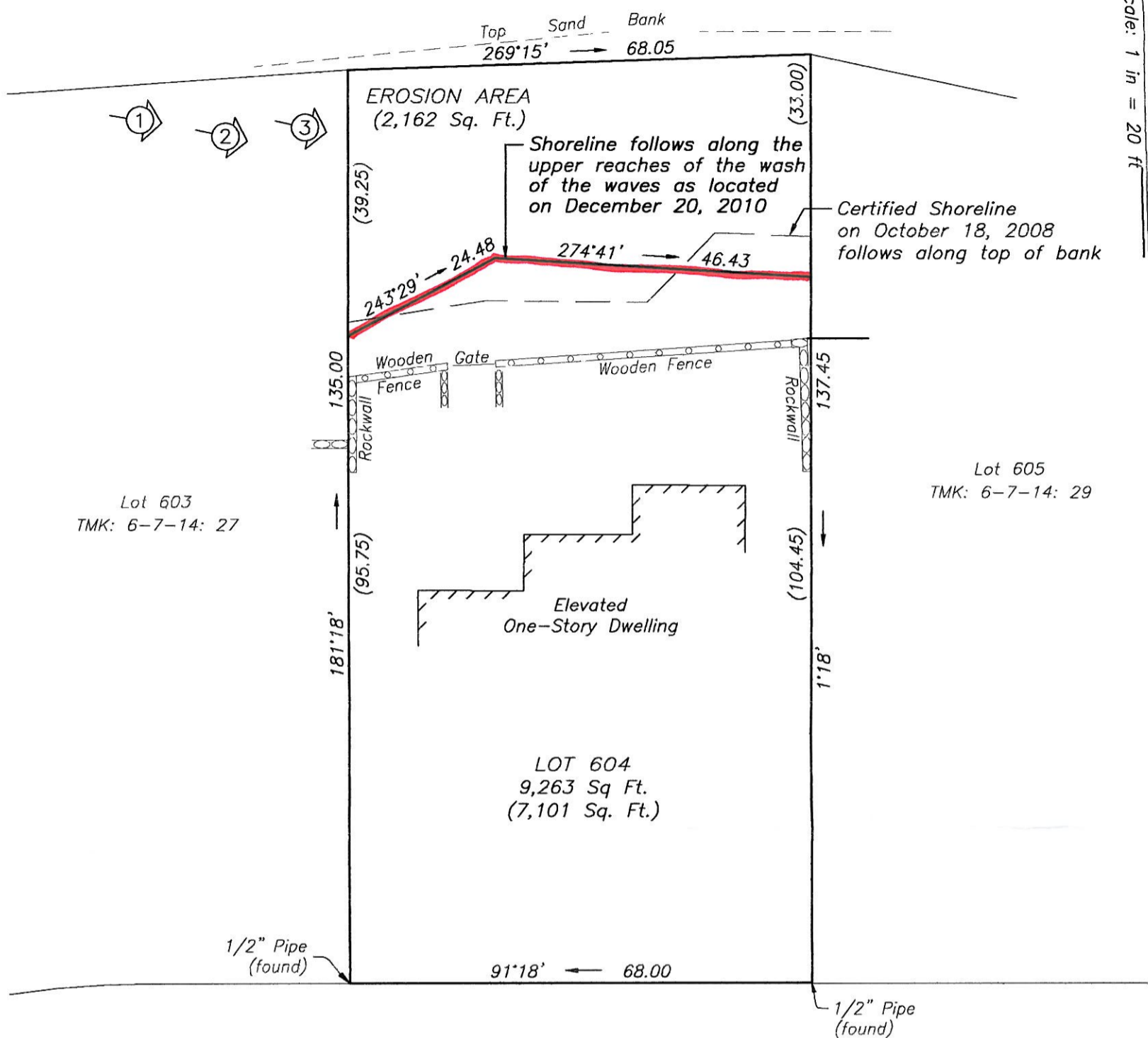
EXHIBIT 6 – CESSPOOL SURVEY

EXHIBIT 7 – HISTORIC PRESERVATION REVIEW

EXHIBIT 8 – SALINIZATION INSTALLATION

S E A

Scale: 1 in = 20 ft  
TRUE NORTH



K A I M A N U P L A C E

NOTE:  
② Direction of photograph taken on December 20, 2010 at 4:00 PM.

The shoreline as delineated in red is hereby certified as the shoreline as of JUN 15 2011.  
*[Signature]*  
Chairperson, Board of Land and Natural Resources

This work was prepared by me or under my supervision  
*[Signature]*  
GIL P. BUMANGLAG  
Licensed Professional Land Surveyor  
Certificate Number 8948  
Exp. Date: April 30, 2012



**SHORELINE SURVEY MAP**  
**LOT 604 AS SHOWN ON MAP 64**  
**LAND COURT APPLICATION 1089**  
Tax Map Key: (1) 6-7-14: 28  
At KAMANANUI, WAIALUA, OAHU, HAWAII  
Owner: John A. Borsa, Jr. Trust

Rev. Date: May 9, 2011  
Date: December 20, 2010  
FB No. G-303: 58  
c:\sdsk\proj\shore\kaimanu50911

Site Address: 67-011 Kaimanu Place, Waialua, HI

EXHIBIT 1

16' 2'

FLOOD HAZARD  
CHICK HIGH

# JOB SITE COPY

*General Flood Hazard*  
*5000 Jellora* BUILDING DEPARTMENT *9,263*  
 CITY & COUNTY OF HONOLULU

BUILDING PRELIM. EXAM BY: \_\_\_\_\_ DATE: *9/23/90*

ZONING DISTRICT: *R-5*

ELECTRICAL APPROVED BY: \_\_\_\_\_

MECHANICAL APPROVED BY: \_\_\_\_\_

C.C.D. APPROVED BY: \_\_\_\_\_

BUILDING APPROVED BY: \_\_\_\_\_

APPROVED FOR ISSUANCE BY: *B. A. ...*  
for DIRECTOR & BUILDING SUPERINTENDENT

NAME OF PROJECT: *JOHN BORSA*

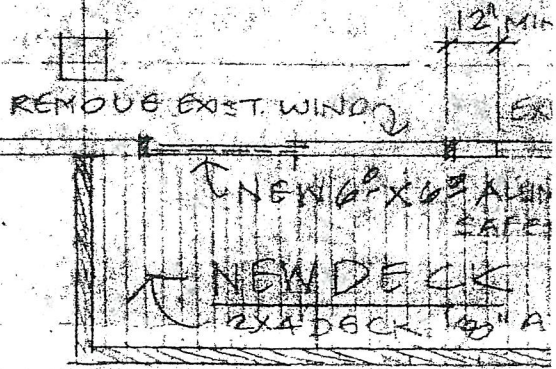
T.M.K. *6-7-14-28* BLDG. PERMIT NO. *294986* EXIST LOFT



## APPROVED

This set of plans and specifications MUST be at job site during construction. It is unlawful to alter or change same, or to deviate therefrom, without approval from the Building Department. The signing of this plan and specifications SHALL NOT be held to permit or be an approval of the violation of any provision of any City Ordinance or State Law.

BUILDING SAFETY DIVISION  
 Building Department City and County of Honolulu



# LOFT PLAN

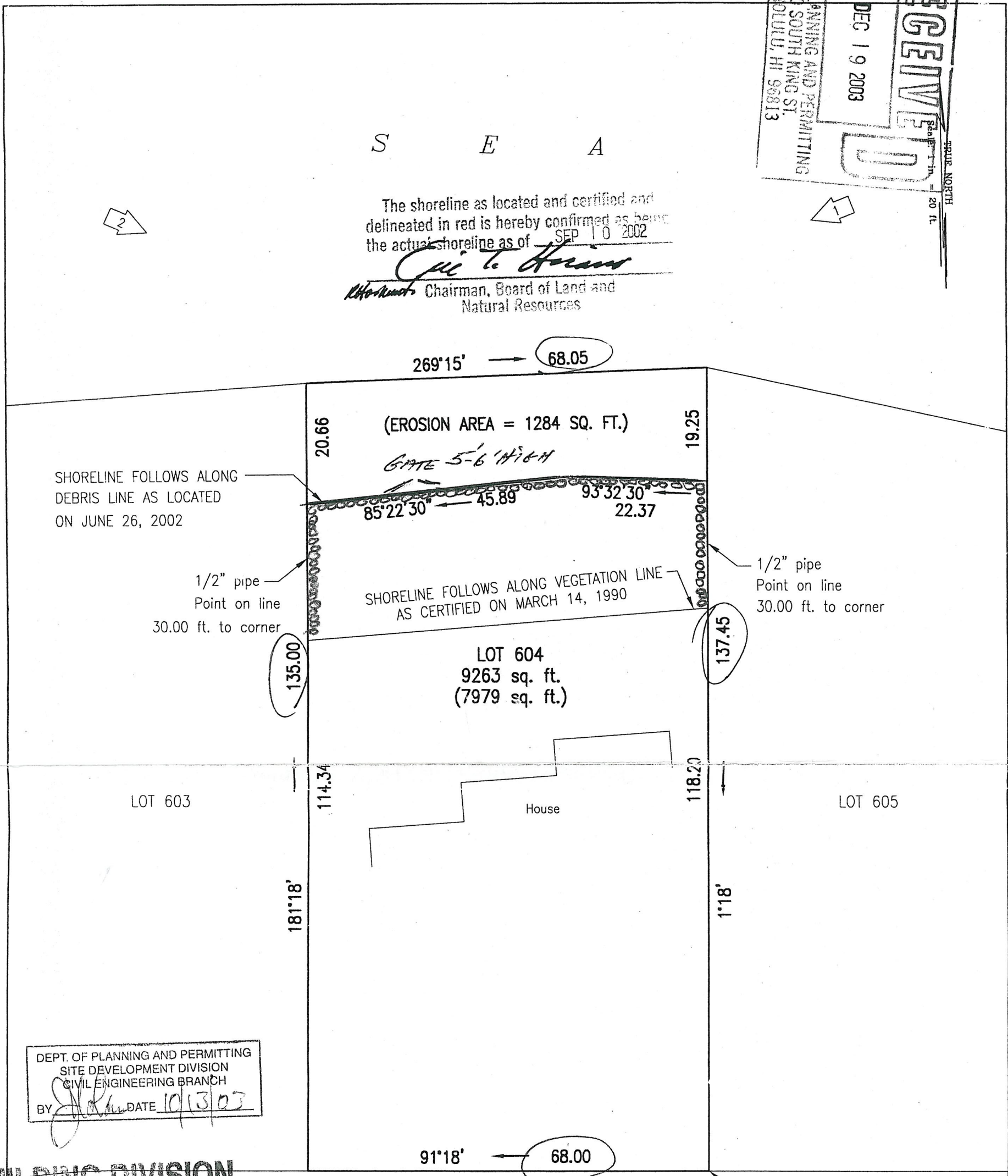


DEPT. OF PLANNING AND PERMITTING  
 650 SOUTH KING ST.  
 HONOLULU, HI 96813  
**RECEIVED**  
 DEC 19 2003  
 SCALE 1" = 20 FT.  
 TRUE NORTH

S E A

The shoreline as located and certified and delineated in red is hereby confirmed as being the actual shoreline as of SEP 10 2002

*Chie To Hana*  
 Chairman, Board of Land and Natural Resources



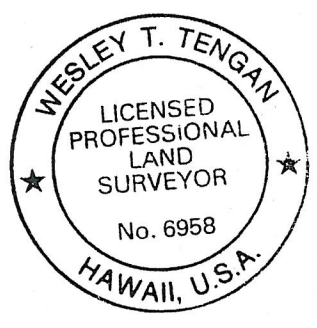
DEPT. OF PLANNING AND PERMITTING  
 SITE DEVELOPMENT DIVISION  
 CIVIL ENGINEERING BRANCH  
 BY *[Signature]* DATE 10/13/03

**BUILDING DIVISION**  
**FILE COPY**

*Shoreline / SMA* KAIMANU PLACE

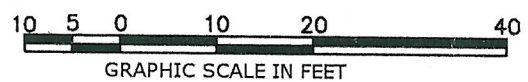
DEPARTMENT OF PLANNING AND PERMITTING BUILDING DIVISION CITY AND COUNTY OF HONOLULU	
ACCEPTANCE: <i>P. Lauer</i>	DATE <u>10/13/03</u>
ZONING: <u>R5</u>	
ZONING CODE:	
ELECTRICAL:	
PLUMBING:	
BUILDING:	
PROJECT <u>Borsa</u>	
TMK <u>6-7-014:28</u>	PERMIT

SHORELINE MAP  
 LOT 604  
 LAND COURT APPLICATION 1089  
 AS SHOWN ON MAP 40  
 Kaunanui, Waialua, Oahu, Hawaii  
 Date: June 26, 2002  
 Tax Map Key: 6-7-14:28  
 Owner: John Borsa, Jr.



This work was prepared by me or under my supervision

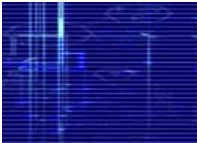
*Wesley T. Tengan*  
 WESLEY T. TENGAN  
 LICENSED PROFESSIONAL LAND SURVEYOR  
 Certificate Number 6958



Note: denotes position and direction of photograph

*Coastal high*

EXHIBIT 3














# City & County of Honolulu Department of Planning and Permitting (DPP)

Building Permit Search

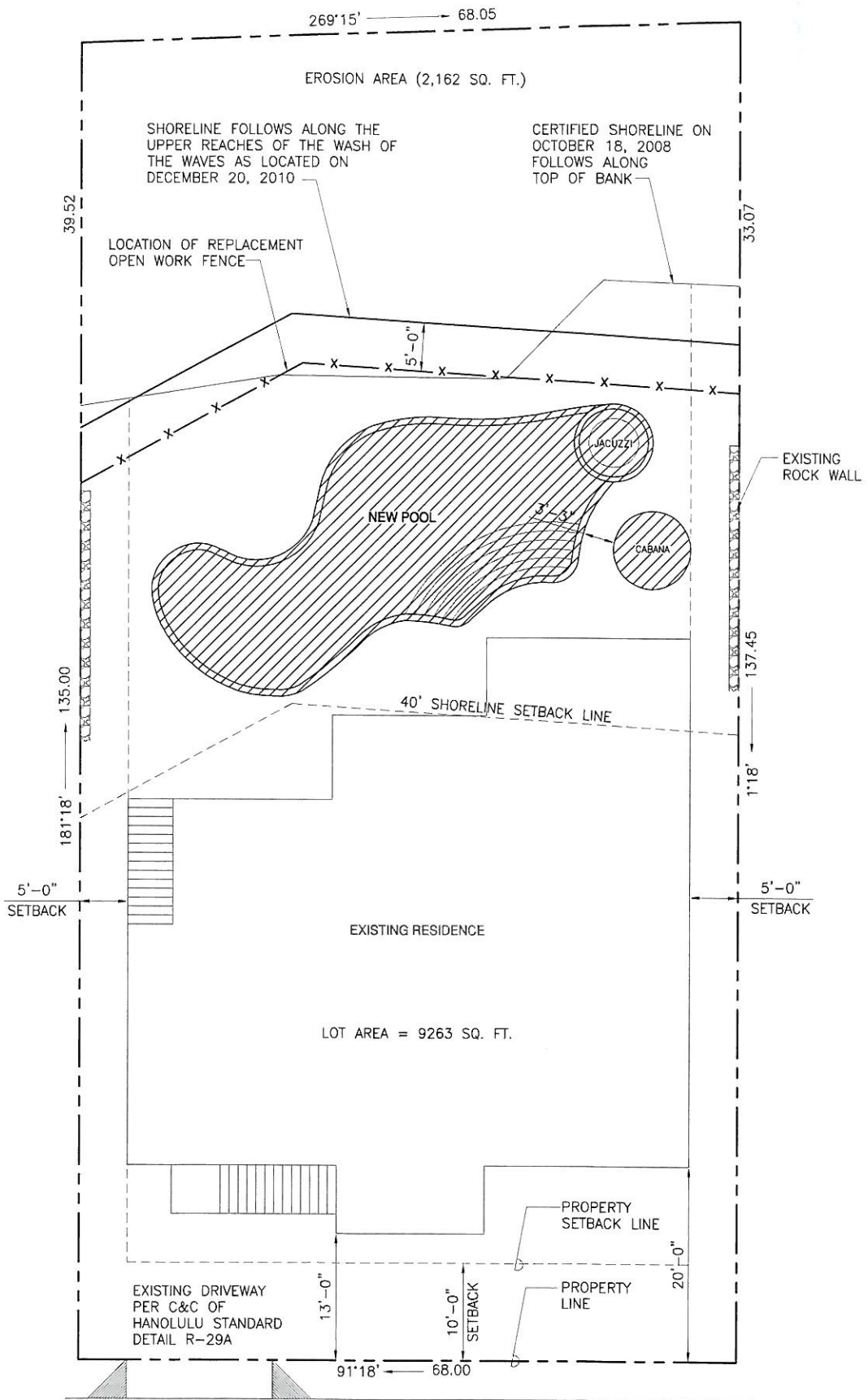
- DEPARTMENT**
- DPP Home
- Honolulu Home
- ACCOUNT**
- Sign In
- PERMITTING**
- Building Permits
- Properties
- New Online Permit
- Building Permit Application
- Subdivisions
- Trenching Permits
- Calculate BP Fees

| Search |

Application Number	Building Permit No.	Issue Date	TMK	Status	Description
	229685	Oct 10, 1986	67014028-	Completed	BORSA - NB,EL,PL,DR
	294986	Nov 29, 1990	67014028-	Completed	BORSA - AD,FC,DR
	296154	Dec 21, 1990	67014028-	Completed	BORSA - AD,AL,EL
	400099	Mar 7, 1997	67014028-	Completed	BORSA - OT
 A2002-11-0199	541746	Nov 6, 2002	67014028	Permit application closed	(BP #541746) [TMK: 67014028] JACK BORSA - UPGRADE METER TO 200 AMPS IN SAME LOCATION
 A2003-10-0541		mmm dd, yyyy	67014028	Job Cancelled	[TMK: 67014028] JOHN BORSA - Install 30" to 6' max hgt telephone pole fence @ the portion right / left and rear of the lot.
 A2003-10-0575		mmm dd, yyyy	67014028	Plans review in progress	[TMK: 67014028] JACK BORSA - REMOVE STORAGE AREAS FROM LOWER FLOOR TO MAKE NEW POOL.
 A2003-12-1328		mmm dd, yyyy	67014028	Plans review in progress	[TMK: 67014028] JOHN BORSA - ADDITION, ALTERATION - CONSTRUCT NEW SUNDECK ABOVE EXISTING ROOF
 A2006-07-1023	601305	Aug 29, 2006	67014028	Permit application closed	(BP #601305) [TMK: 67014028] JOHN BORSA -- ELECTRICAL METER UPGRADE FROM 100 AMP TO 200 AMP. **Apr 3, 2007 - Change Electrical Contractor to Shore Electrical Service (remove William D. Pringle).
 A2006-08-0922	607543	Jan 17, 2007	67014028	Permit application closed	(BP #607543) [TMK: 67014028] JOHN BORSA - NEW OPEN WALKWAY BETWEEN EX DECKS, NEW SKYLIGHT, & NEW SPIRAL STAIRS ON EX ROOF
 A2008-08-0424		mmm dd, yyyy	67014028	Plans review in progress	[TMK: 67014028] BORSA RESIDENCE - NEW IN-GROUND POOL & CABANA (2008/IBP7430)

City and County of Honolulu  
Department of Permitting & Planning  
650 So. King St, Honolulu, HI 96813  
Fax: (808) 527-6743  
E-mail: [info@honolulu.gov](mailto:info@honolulu.gov)

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8.10 (CITY DATUM)

KAIMANU PLACE

**A** PLOT PLAN  
A-1 SCALE: 1/8" = 1'-0"

EXHIBIT 5



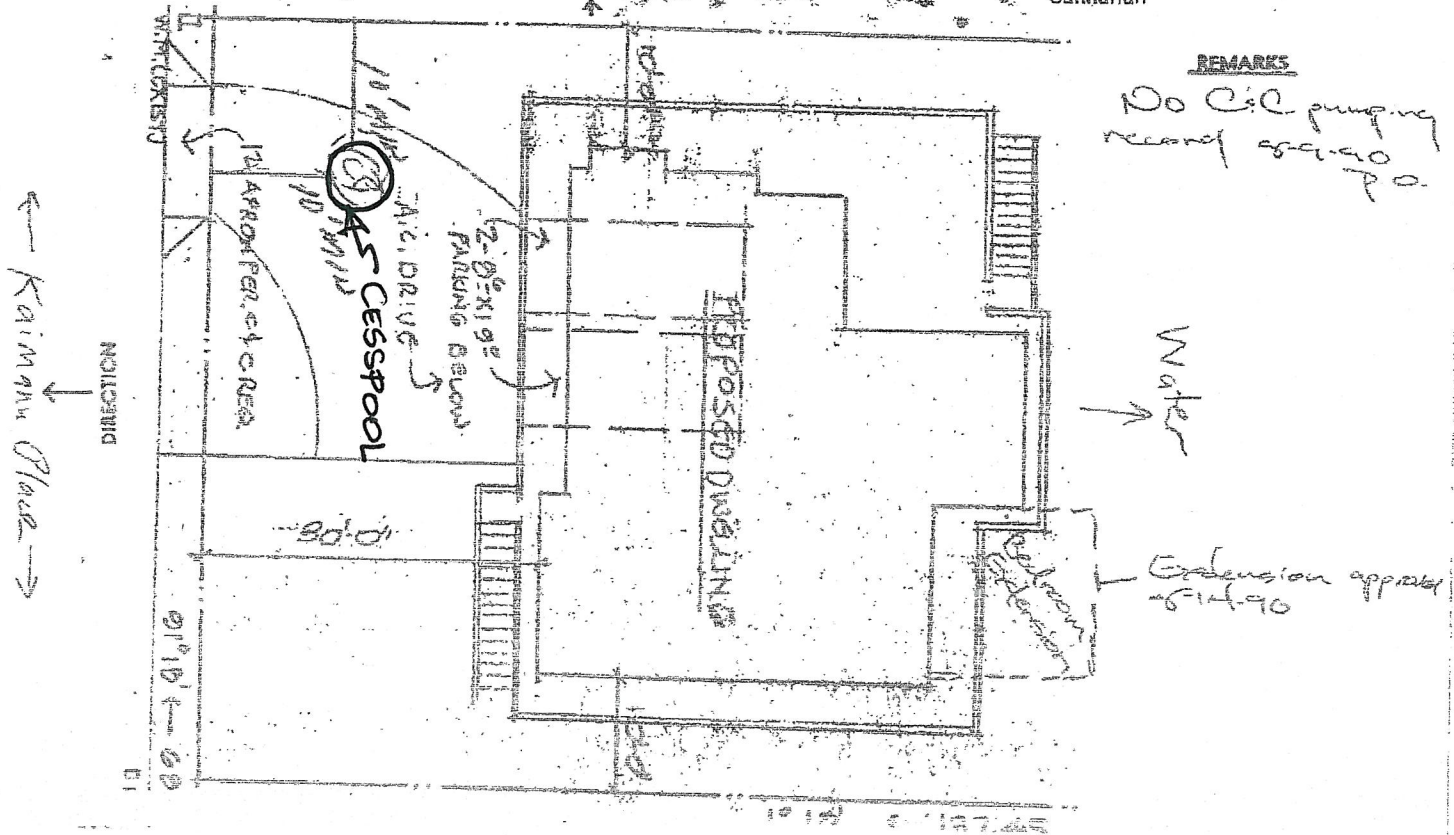
A cesspool survey card has been found in our files and a copy is attached below. The Department of Health (DOH) cannot guarantee the accuracy of the information nor the dimensions shown on the site plan on the survey card. In general, the DOH has accepted the information on the survey card as a verification that a cesspool was constructed and authorized to be used for wastewater disposal from a building.

BWS  
STATE OF HAWAII  
DEPARTMENT OF HEALTH  
6-7-14:28  
SANITATION BRANCH  
ENVIRONMENTAL PROTECTION AND HEALTH SERVICES DIVISION

CESSPOOL SURVEY

Property Owner John Baroa Address 67-111 Kaimanu Place  
Tax Map Key 6-7-14-28 Lot No.  
Island Oahu City Honolulu District Waialae  
Builder or Contractor Ray Spickler Intended For Single Family dwelling  
Primary Secondary Other  
Distance From Building 12' Boundary 10' Stream, Well, Body of Water, Etc. Disturb  
Diameter (Clear) Ft. 5' Depth-Ft. 10' Capacity (Gal.) 215.10  
No. Ft. Down to Water Table 8' Ground Slope level  
Soil Profile (Starting from Surface) 2' clay loam, 8' sandy loam

Type of Wall or Curb Hollow tile Reinforced Concrete Cover Yes  
Distance from Finished Ground to Top of Cover (Ft.) 1'  
Date Certificate Issued  
Date Approved May 28 1987 LANCE WONG Sanitarian





**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING, ROOM 555  
601 KAMOKILA BOULEVARD  
KAPOLEI, HAWAII 96707  
HAWAII HISTORIC PRESERVATION  
DIVISION REVIEW

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

Log No: 2004.2965  
Doc No: 0409SC17

OCT - 4 2004

Applicant/Agency: Eric Crispin, Director, Dept of Planning & Permitting

Address: City and County of Honolulu  
650 South King Street  
Honolulu, Hawai'i 96813

**SUBJECT: Chapter 6E-42 Historic Preservation Review of a Draft Environmental Assessment for a Shoreline Setback Application at 67-011 Kaimanu Place**

Ahupua`a: Waialua  
District, Island: Waialua, Hawai'i  
TMK: (1) 6-7-014:-28

1. We believe there are no historic properties present, because:

- a) intensive cultivation has altered the land
- b) residential development/urbanization has altered the land
- c) previous grubbing/grading has altered the land
- d) an acceptable archaeological assessment or inventory survey found no historic properties
- e) other: The existing residence and yard were constructed in 1985.

2. This project has already gone through the historic preservation review process, and mitigation has been completed

Thus, we believe that "no historic properties will be affected" by this undertaking

Should historic remains such as artifacts, burials, concentrations of shell or charcoal be encountered during construction activities, work shall cease immediately in the immediate vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary.

Staff: *Jill J. Collins*  
Title: Branch Chief - Archaeology (808-692-8026)

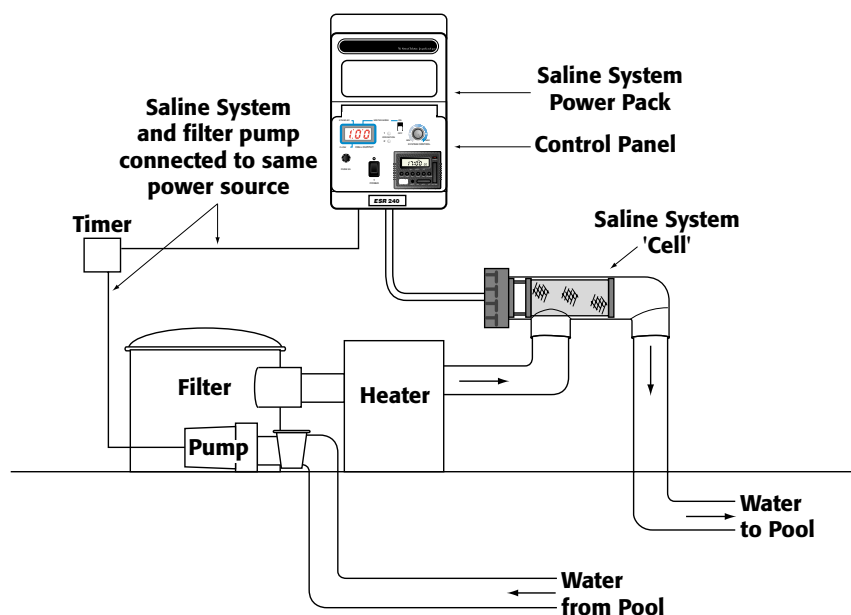
Date: September 30, 2004

SC: slc

## INSTALLATION SUMMARY

This is a quick guide as to how a typical Saline System would be installed on a pool. The configuration remains the same on smaller and larger systems.

- Install the 'Cell' into the return line, downstream from all other equipment as shown.
- Mount the 'Power Pack' or control unit onto a wall, fence or post, etc., within reach of the 'Cell' cord. Connect to power so that 'Power Pack' receives power only when the filter pump is operating (both components should switch on and off coincidentally).
- Connect 'Cell' to 'Power Pack'.
- Add salt to the pool water. Quantity of salt required as per manufacturer's instructions - or call Saline Pool Systems for assistance.



## THE COMPONENTS OF YOUR SALINE SYSTEM

### The 'Power Pack' (Control Unit)

The 'Power Pack' (or Power Control) contains the electrical components which transform the mains power supply to the low voltage DC current required to operate the 'Cell', as well as the other various operating and control functions of the Saline System.

### The 'Cell'

The 'Cell' is the component which comes into contact with the pool/spa water and which, through a process of electrolysis, produces (from the 'natural' salt dissolved in the water) the sanitizer/oxidizer necessary to maintain the water in a healthy condition. The 'Cell' is comprised of sophisticated materials specifically designed and engineered for this particular purpose.

### The Salt

A basic ingredient of any Saline System process is SALT (nature's own salt, pure evaporated ocean salt, or table salt – sodium chloride). The salt is added directly into the pool or spa water to produce the water salinity required to enable your Saline System to function properly.

Salt is available at most home improvement centers, hardware stores, etc, usually in 50lb, 40lb or 25lb bags – and is the same salt sold for use in most domestic water softeners, mostly referred to as 'rock' salt. Be sure to use 'sodium chloride' and not 'potassium chloride'.

## BEFORE INSTALLING YOUR SALINE SYSTEM

### How good is the water in your pool/spa ?

In most instances, pools can be simply converted to the Saline System without the need to change the pool water. However, if the water is 'old' (older than say 3 years), or if the water has been subjected to high degrees of chemical dosing, or has been kept in generally poor condition, you may want to consider dumping that water and refilling the pool.

Pool water has a tendency to become 'harder' over time. Evaporation leaves the 'hardness' in the water and when top-up water is added to the pool, additional hardness is added. This additional hardness, together with residuals from previous chemical treatments etc can make the pool generally more difficult to maintain (regardless of the purification method being used).

# APPENDIX

---

APPENDIX A – AGENCY COMMENTS & RESPONSE LETTER

APPENDIX B – SITE PHOTOS

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**  
665 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-8041  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)



KIRK W. CALDWELL  
Acting Mayor

DAVID K. TANOUÉ  
DIRECTOR  
ROBERT M. SUMITOMO  
DEPUTY DIRECTOR

October 5, 2010

2010/ED-7(AA)  
2010/ELOG-1687

Mr. Patrick Vea  
Structural Hawaii, Inc.  
98-1277 Kaahumanu Street, #111  
Aiea, Hawaii 96701

Dear Mr. Vea:

Subject: Environmental Document No. 2010/ED-7  
Chapter 343, Hawaii Revised Statutes (HRS)  
Jack Borsa, Jr.  
67-011 Kaimanu Place - Waiialua  
Tax Map Key 6-7-14; 28

Thank you for your response, dated August 9, 2010, regarding the subject environmental document. In addition to the information provided, please clarify and/or provide the following information:

1. Please indicate the height of the proposed cabana in the Final Environmental Assessment (EA). Appropriately scaled and fully dimensioned drawings of the proposed cabana will be required as part of the Shoreline Setback Variance (SSV) application, and should be included in the Final EA.
2. Will a deck surround the swimming pool? Appropriately scaled and fully dimensioned drawings (i.e., sections) of the proposed swimming pool will be required as part of the SSV application, and should be included in the Final EA.
3. We reiterate that appropriately scaled and fully dimensioned drawings (i.e., elevations) of the proposed open-work fence will be required as part of the SSV application, and should be included in the Final EA.
4. We note that the drawing referenced as "Exhibit 5" indicates that there is an "existing pole fence and rock wall"; yet, in previous discussions, you indicated that there is no existing pole fence or rock wall. Please clarify if these structures exist. If not, then they should be removed from all drawings.

You may submit the Final EA upon incorporation of the above referenced documentation. Please note that the Final EA must also include all comment letters received and responses to

Mr. Patrick Vea  
October 4, 2010  
Page 2

those letters, as well as appropriately revised text. A total of three copies of the Final EA (two for the Office of Environmental Quality Control, and one for our files) must be submitted to our office.

Should you have any questions, please do not hesitate to contact Ann Asaumi of our staff at 766-8020.

Very truly yours,

David K. Tanoué, Director  
Department of Planning and Permitting

DKT:cs



DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

660 SOUTH KING STREET, 7TH FLOOR - HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8000 - FAX: (808) 768-8044  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) - CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)



MUIF HANDELMANN  
MAYOR

DAVID K. TANOUÉ  
DIRECTOR  
ROBERT M. SUMITOMO  
CITY DIRECTOR

July 12, 2010

2010/ED-7(AA)

Mr. Patrick Veia  
Structural Hawaii, Inc.  
98-1277 Kaahumanu Street, #111  
Aiea, Hawaii 96701

Dear Mr. Veia:

Subject: Environmental Document No. 2010/ED-7  
Chapter 343, Hawaii Revised Statutes (HRS)  
Jack Borsa, Jr.  
67-011 Kaimanu Place - Waialua  
Tax Map Key 6-7-14: 28

We are transmitting, for your information and use, a letter from the State Office of Hawaiian Affairs, dated July 6, 2010, commenting on the above-referenced Draft Environmental Assessment (EA). We note that its comments were received after the 30-day public comment period that ended on July 8, 2010. Nevertheless, we recommend that you respond to its comments, and incorporate its letter and your response into the Final EA.

Should you have any questions, please do not hesitate to contact Ann Asaumi of our staff at 768-8020.

Very truly yours,

David K. Tanoué, Director  
Department of Planning and Permitting

DKT:cs  
Encls.

City and County of Honolulu, Department of Planning and Permitting  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, HI 96813

August 9, 2010

Attn: Mr. David K. Tanoue

Borsa  
67-11 Kaimanu Place Waialua, HI 96791  
TMK: 6-7-14:28

Subject: Response to comments dated July 8, 2010

Dear Mr. Tanoue:

Thank you for taking the opportunity to review and comment on the DEA that we submitted. The comments that you have provided to us have been reviewed and revisions to the DEA have been made accordingly. The following are a summary of our responses to each of your comments (numbered according to the numbered comments):

1. The proposed cabana will be used mainly for drying off and changing of attire in conjunction with the use of the swimming pool. The cabana will be 8' in diameter and constructed mainly of wood framing members. Below the elevation of the regulatory flood, construction will be of materials that resist floatation and resist the hydrostatic force waters during a flood. Cladding below the regulatory flood elevation will be constructed to breakaway during such an event.
2. In the revised DEA, under section 3.10 Scenic and Open Space Resources, we discuss how the construction will be consistent with the guidelines of the North Shore Sustainable Communities Plan. Planning of the proposed project stayed within the vegetation line in his backyard. Seaward of the this line of vegetation is where the public currently has lateral beach access. Because the project will not encroach onto the current beach, the beach is preserved.
3. The Summary of Proposed Action has been revised to stated that a Minor Shoreline Structure Permit is required, rather than a Special Management Area Minor Permit for the open-work fencing. Mention of the open-work fence was included into the DEA.
4. We are aware that the certified shoreline survey provided has been expired since October of 2009, and since this DEA falls under a new application, the requirement for a new survey cannot be waived by DPP. Following acceptance of the environmental assessment and prior to commencing of the variance process, a new certified shoreline survey will be provided.
5. Section 3.9 was revised per the comments provided by SPHD and dated June 4, 2010.
6. Mr. Borsa reports that the waters become filthy and discolored not only after rain events but at many times during the year. Although that was the basis of Mr. Borsa wanting to construct a pool in his backyard, he further states that he has hardship in the fact that he has received no compensation for the erosion of that rear section of his property.
7. Appendix A has been removed from the DEA.



**Structural Hawaii, Inc.**  
98-1277 Kaahumanu Street #111, Aiea, Hawaii 96701  
Phone: (808) 488-5000, Fax: (808) 488-5099  
Email: [info@structuralhawaii.com](mailto:info@structuralhawaii.com)  
Website: [www.structuralhawaii.com](http://www.structuralhawaii.com)

Page 2

August 9, 2010

The DEA has been revised to include the information provided in my responses on the previous page. Should you have any questions about the responses above, please feel free to contact me.

Respectfully,

Patrick Vea  
Project Engineer

**Structural Hawaii, Inc.**  
Waimalu Plaza  
98-1277 Kaahumanu Street #111  
Aiea, HI 96701

Tel: (808) 488-5000  
Fax: (808) 488-5099  
Email: [info@structuralhawaii.com](mailto:info@structuralhawaii.com)  
Website: [www.structuralhawaii.com](http://www.structuralhawaii.com)  
*"Bringing Structure to Your Project"*

Attachment: DEA (revised)



Bringing Structure to your Project

Structural Hawaii, Inc.  
98-1277 Kaahumanu Street #111, Aiea, Hawaii, 96701  
Phone: (808) 488-5000; Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com

City and County of Honolulu, Department of Planning and Permitting  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, HI 96813

August 26, 2010

Attn: Mr. David K. Tanoue

Borsa  
67-11 Kaimanu Place Waiailua, HI 96751  
TMK: 6-7-14:28

Subject: Response to comments dated July 8, 2010

Dear Mr. Tanoue:

As previously stated, Mr. Borsa reported that the waters on the rear portion of his property, where the shoreline has eroded, is often times dirty as a result of runoff from Lake Wilson. The attached article recently published on July 15, 2010 in the Honolulu Star-Advertiser confirms the fact that Lake Wilson is, indeed, exposed to sewage on a daily basis, by saying, "1.6 million gallons of treated sewage discharged daily in the lake from the Waihana Wastewater Treatment Plant."

On the basis of the previously mentioned article, we believe that this sewage that is discharged into Lake Wilson has caused the water on the rear portion of Mr. Borsa's property to be dirty and unsafe to swim in. We'd like to also reinforce the fact that it is this rear portion of his property that has suffered from erosion and taken from the Borsa's without compensation.

Should you have any questions about the responses above, please feel free to contact me.

Respectfully,

Patrick Vee  
Project Engineer  
Structural Hawaii, Inc.  
Waimalu Plaza  
68-1277 Kaahumanu Street #111  
Aiea, HI 96701

Tei: (808) 488-5000  
Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com  
"Bringing Structure to Your Project"

Attachment: Article

get up. get going.

74-87  
Isolated shower -> here on A14

[ WHATEVER HAPPENED TO ... ]

# Lake Wilson clear of salvinia after cleanup

QUESTIONS: What ever hap-  
pened to Lake Wilson after  
salvinia was cleared?  
ANSWERS: Seven years ago,  
and by hand, and controlling  
it with aquatic herbicides.  
Workers used excavators,  
dump trucks, boats and  
rippers to remove 50,000  
cubic yards of the weed,  
which was taken to a dis-  
posal site.  
The weed posed a threat  
to the lake and its ecosys-  
tem because it would cut off  
sunlight and oxygen to the  
water below. Dense mats of  
the lake from the vegetation  
were regularly for other ac-  
tion purposes, swimming or  
water skiing in the lake is  
not allowed.  
Word said there is only  
one other location on Oahu  
that the DLNR knows of  
where salvinia grows is  
along Kapaunui Road  
near the Kapaunui Quarry  
where salvinia grows in  
a drainage ditch.  
When salvinia grows in  
a ditch, it could take action  
quickly, DLNR spokes-  
woman Deborah Ward said.  
Lake Wilson, also known  
as Waihana Reservoir, is the  
largest freshwater sport  
lake in Waihana. She said  
the area is man-  
aged by the city Depart-  
ment of Parks and  
Recreation, which sprays  
the weed with chemicals  
from time to time.  
The update was written by  
Katheryn Yuen. Write to us  
at HonoluluStarAdvertiser.com  
500 Ala Moana Blvd.,  
Suite 1210, Honolulu 96813;  
call 529-1177, or email  
cityeditor@honolulustaradvertiser.com.

[ PEOPLE ]  
Whol Roy Rogers  
DORIS M...

[ LETTERS ]

P.1

**CITY AND COUNTY OF HONOLULU**

DEPARTMENT OF PLANNING AND PERMITTING  
650 SOUTH KING STREET, 7TH FLOOR - HONOLULU, HAWAII 96813  
TELEPHONE: (808) 784-3000 - FAX: (808) 784-6464  
DEPT. WEB SITE: www.honolulu.gov - CITY WEB SITE: www.honolulu.gov



MUJI HANNEKAWA  
MAYOR

DAVID K. TANOUÉ  
DIRECTOR  
ROBERT M. SUMITOMO  
DEPUTY DIRECTOR

July 8, 2010

2010/ED-7(AA)

Mr. Patrick Vea  
Structural Hawaii, Inc.  
98-1277 Kaahumanu Street, #111  
Aiea, Hawaii 96701

Dear Mr. Vea:

Subject: Environmental Document No. 2010/ED-7  
Chapter 343, Hawaii Revised Statutes (HRS)  
Jack Borsia, Jr.  
67-011 Kaimanu Place - Waiaitua  
Tax Map Key 6-7-14: 28

On June 8, 2010, notice of the availability of a Draft Environmental Assessment (EA) for the project was published by the Office of Environmental Quality Control in The Environmental Notice. In accordance with the procedural requirements of Chapter 343, HRS, all comment letters received during the 30-day public comment period, which began with the initial publication, require a response addressed directly to the commentator. The Final EA must also include all comment letters received and responses to those letters, as well as appropriately revised text. Enclosed for your information and appropriate action are comments regarding the Draft EA which we received from the State Department of Health, Clean Water Branch, and the State Department of Land and Natural Resources, State Historic Preservation Division (SHPD) and Office of Conservation and Coastal Lands.

In addition to the above, the Department of Planning and Permitting (DPP) offers the following comments on the Draft EA:

1. In general, the Draft EA fails to describe the dimensions and construction materials for the proposed cabana, and its proposed use.
2. The Draft EA fails to describe how the proposed swimming pool and cabana are consistent with the guidelines of the North Shore Sustainable Communities Plan, particularly with respect to shoreline areas. In particular, the Final EA should describe how the project results in beach preservation or enhancement, or whether the project would result in beach loss.
3. Summary of Proposed Action: A Minor Shoreline Structure (MSS) permit, rather than a Special Management Area Minor Permit is required for the open-work fencing; provided the proposal qualifies as an MSS, as provided in Section 15-1(b)(1) of the DPP Part 2

Mr. Patrick Vea  
July 8, 2010  
Page 2

Rules, Relating to Shoreline Setbacks and the Special Management Area. In any case, the proposal for the open-work fence within the shoreline setback may be processed as part of, or concurrently with the Shoreline Structure Variance (SSV) application for the swimming pool and the cabana. Appropriately scaled and fully dimensioned drawings (i.e. elevations) of the proposed open-work fence will be required as part of the application and should be included in the Final EA.

3. Draft EA Section 1.1, Project Overview: Please note that the shoreline survey certified on October 18, 2008, and attached as Exhibit 1, is no longer valid for purposes of processing the SSV and MSS permit. A current certified shoreline survey will be required as part of the SSV/MSS application.
4. Draft EA Section 3.9, Historical, Archaeological, and Cultural Resources: This section should be updated in the Final EA to reflect the SHPD comments, dated June 4, 2010.
5. Hardship and Justification: In a typical year, how often would you estimate that runoff from Kaukonahua Stream affects nearby coastal waters? It is widely recognized that where there is a stream or a drainage outlet to the ocean, the bacteria levels are closely associated with rain events such that if there is no rain event, then the water quality tends to be good (i.e., low bacteria levels). This is the case state-wide; therefore, how is the applicant's circumstance unique?  
Further, it would be difficult to find that a lack of recreational resources constitutes a form of hardship. It may be an inconvenience to the applicant not to be able to swim in the ocean near his backyard, but it doesn't constitute hardship wherein he would be deprived the reasonable use of his land.
6. Appendix A of the Draft EA suggests that there is a pole fence along the shoreline. If this structure has already been removed from the property, as confirmed by a recent site visit by DPP staff, then these photos should be omitted from the Final EA. Likewise, the section and plan drawings of the pole fence should also be omitted from the Final EA.

Should you have any questions, please do not hesitate to contact Ann Asaumi of our staff at 768-8020.

Very truly yours,

David K. Tanoué, Director  
Department of Planning and Permitting

DKT:cs  
Encls.



**Structural Hawaii, Inc.**  
98-1277 Kaahumanu Street, #111, Aiea, Hawaii 96701  
Phone: (808) 488-5000; Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com

State of Hawai'i, Office of Hawaiian Affairs  
711 Kapi'olani Boulevard, Suite 500  
Honolulu, HI 96813

August 9, 2010

Attn: Mr. Clyde W. Namu'o

Borsa  
67-11 Kaimanu Place Waialua, HI 96791  
TMK: 6-7-14:28

Subject: Response to comments dated July 6, 2010

Dear Mr. Namu'o:

Thank you for your review and comments on the DEA for our client's shoreline setback variance application. We confirm that the DEA filed by Mr. Borsa on August 4, 2004 and the current one are, indeed, nearly identical in the sense that the Borsa's still seek approval to construct a swimming pool. Additional to the current DEA are the proposed cabana, open work fence, and information regarding an alternative sanitization system. Per you comments, additional information was included for the saline sanitization system, and the client does intend on implementing its use. The use of chlorine or other chemicals was not encouraged by the State because of concerns of contamination, and this issue was discussed with Mr. Borsa. Mr. Borsa has since understood the concern and decided to consider use of the saline system.

The DEA has been revised to include the changes mentioned above and we request that you reconsider your objection of the proposed project. Mr. Borsa strongly feels that he should be able to use whatever space he has remaining in his backyard, while at the same time working with City, State, and Federal agencies, and ensuring that the public's needs for safety and recreation are preserved.

Respectfully,

Patrick Vea  
Project Engineer

**Structural Hawaii, Inc.**  
Waimalu Plaza  
98-1277 Kaahumanu Street #111  
Aiea, HI 96701

Tel: (808) 488-5000  
Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com  
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Attachment: DEA

PHONE (808) 594-1888

FAX (808) 594-1865



RECEIVED

STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS  
110 JUL 14 2010  
1455 KOLEANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

DEPT OF PLANNING  
AND PERMITTING  
CITY & COUNTY OF HONOLU

HRD10/1502B

July 6, 2010

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

Re: Draft Environmental Assessment for Shoreline Setback Variance Application,  
Waialua, O'ahu, TMK No. (1) 6-7-014-028

Aloha e David Tanoue:

The Office of Hawaiian Affairs (OHA) is in receipt of your May 13, 2010 request for comments on the above-referenced project. We thank you for the opportunity to provide input into the decision-making process.

OHA understands that the applicant/landowner, Jack Borsa, Jr. (Applicant), seeks a shoreline setback variance from the City and County of Honolulu, Department of Planning and Permitting. The variance would allow the Applicant to construct a below-grade swimming pool within the shoreline setback area in Waialua, O'ahu. Based on the documentation provided, OHA offers the following comments.

First, we note that the Draft Environmental Assessment (DEA) for the proposed project is nearly identical to the DEA filed by the Applicant on August 4, 2004. Both applications requested a shoreline setback variance to construct a below-grade swimming pool between the 40 foot and 20 foot shoreline setback line in the backyard of the Applicant's residence. The present application differs from the August 4, 2010 application in that the present application seeks to construct a cabana (instead of retaining a wood pole fence) and proposes the use of saline to sanitize the pool (instead of chlorine).

Department of Planning and Permitting  
Attention: David Tanoue  
July 6, 2010  
Page 2 of 2

As in our September 26, 2004 comment letter, OHA maintains our objection to the proposed project. We cannot condone the continued use of variances for property owners' regular flouting of coastal conservation laws which were at least partly put in place to protect the safety of property owners themselves. The shoreline setback protects property owners' structures from ocean damage and protects public shoreline access and use from private encroachment.

In addition, we have concerns about the Applicant's method for sanitizing the proposed below-grade pool. Although the DEA now indicates that saline will be used to sanitize the pool, the DEA contains no new information to address this change of plans. Therefore, we are concerned about the implementation of the saline sanitation system and the potential for the Applicant to revert to a chlorine sanitation system, which OHA previously objected to in our 2004 letter.

Should the project receive the necessary approvals, however, we would remind the Applicant of the need to comply with the requirements under Hawaii Revised Statutes, Chapter 6E. Accordingly, we would seek assurances by the Applicant that work shall cease and the appropriate agencies shall be notified upon the discovery of cultural or historical resources.

Thank you once again for the opportunity to comment. Should you have any questions, please contact Everett Ohta at 594-0231 or by email at everette@oha.org.

'O wau iho nō mc ka 'oia 'i'o,

Clyde W. Niamu'o  
Chief Executive Officer



**Structural Hawaii, Inc.**  
98-1277 Kaahumanu Street, #111, Aiea, Hawaii 96701  
Phone: (808) 488-5000; Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com

State of Hawai'i, Department of Health  
P.O. Box 3378  
Honolulu, HI 96801

August 9, 2010

Attn: Mr. Alec Wong

Borsa  
67-11 Kaimanu Place Waiialua, HI 96791  
TMK: 6-7-14:28

Subject: Response to comments dated June 16, 2010

Dear Mr. Wong:

Thank you for taking the opportunity to review and comment on our DEA. Mr. Borsa does not expect to do any hydrotesting of water, dewatering of soil, or construction including the disturbance of more than one (1) acre of land area. However, should any of those practices occur, resulting in discharging into Class A or Class 2 waters, Mr. Borsa will apply for the necessary NPDES permit. Also, no discharge is expected into Class 1 or Class AA waters since Mr. Borsa's property is not located near such bodies of water. Mr. Borsa will be informed that any construction whether or not covered by an NPDES permit, shall comply with the State's Water Quality Standards, as stated in HAR. A similar statement will be included into the construction documents for the proposed project.

Should you have any questions or concerns, please feel free to contact me.

Respectfully,

Patrick Vea  
Project Engineer

**Structural Hawaii, Inc.**  
Waimalu Shopping Plaza  
98-1277 Kaahumanu Street #111  
Aiea, HI 96701

Tel: (808) 488-5000  
Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com  
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Attachment: DEA





STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 3378  
HONOLULU, HAWAII 96804-3378

June 16, 2010

Mr. David K. Tanoue

Director  
Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Dear Mr. Tanoue:

**SUBJECT: Draft Environmental Assessment and Coastal Engineering Evaluation for  
Shoreline Setback Variance Application  
Waialua, Island of Oahu, Hawaii  
TMK: (1) 6-7-014:028**

The Department of Health, Clean Water Branch (CWB), has reviewed the subject document and offers these comments on your project.

Please note that our review is based solely on the information provided in the subject document and its compliance with the Hawaii Administrative Rules (HAR), Chapters 11-54 and 11-55. You 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/envy-planning/landuse/CWB-standardcomment.pdf>.

1. Any project and its potential impacts to State waters must meet the following criteria:
  - a. Antidegradation policy (HAR, Section 11-54-1.1), which requires that the existing uses and the level of water quality necessary to protect the existing uses of the receiving State water be maintained and protected.
  - b. Designated uses (HAR, Section 11-54-3), as determined by the classification of the receiving State waters.
  - c. Water quality criteria (HAR, Sections 11-54-4 through 11-54-8).

In reply, please refer to  
EMO7 CWB

06048PJF.10

RECEIVED

10 JUN 17 AM 1:17

DEPT OF PLANNING  
AND PERMITTING  
CITY & COUNTY OF HONOLULU

Mr. David K. Tanoue  
June 16, 2010  
Page 2

06048PJF.10

2. You may be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for discharges of wastewater, including storm water runoff, into State surface waters (HAR, Chapter 11-55). For the following types of discharges into Class A or Class 2 State waters, you may apply for an NPDES general permit coverage by submitting a Notice of Intent (NOI) form:
  - a. Storm water associated with construction activities, including clearing, grading, and excavation, that result in the disturbance of equal to or greater than one (1) acre of total land area. The total land area includes a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under a larger common plan of development or sale. An NPDES permit is required before the start of the construction activities.
  - b. Hydrotesting water.
  - c. Construction dewatering effluent.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>.
3. For types of wastewater not listed in Item No. 2 above or wastewater discharging into Class 1 or Class AA waters, you may need an NPDES individual permit. An application for an NPDES individual permit must be submitted at least 180 calendar days before the commencement of the discharge. The NPDES application forms may be picked up at our office or downloaded from our website at:  
<http://www.hawaii.gov/health/environmental/water/cleanwater/forms/ndiv-index.html>.
4. Please note that all discharges related to the project construction or operation activities, whether or not NPDES permit coverage is required, must comply with the State's Water Quality Standards. Noncompliance with water quality requirements contained in HAR, Chapter 11-54, and/or permitting requirements, specified in HAR, Chapter 11-55, may be subject to penalties of \$25,000 per day per violation.

Mr. David K. Tanoue  
June 16, 2010  
Page 3

06048PJF.10

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 586-4309.

Sincerely,

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

JF:ml



**Structural Hawaii, Inc.**  
98-1277 Kaahumanu Street, #111, Aiea, Hawaii 96701  
Phone: (808) 488-5000; Fax: (808) 488-5099  
Email: [info@structuralhawaii.com](mailto:info@structuralhawaii.com)  
Website: [www.structuralhawaii.com](http://www.structuralhawaii.com)

State of Hawai'i, Department of Land and Natural Resources  
State Historic Preservation Division  
601 Kamokila Boulevard, Room 555  
Kapolei, HI 96707

August 9, 2010

Attn: Ms. Nancy McMahon

Borsa  
67-11 Kaimanu Place Waialua, HI 96791  
TMK: 6-7-14:28

Subject: Response to comments dated June 4, 2010

Dear Ms. McMahon:

Thank you for taking the opportunity to review our DEA and provide your comments. A State DLNR's Hawaii Historic Preservation Division Review of the applicant's property in October of 2004 made the determination that they "believe that there are no historic properties present" because the land has been altered by development and construction of the residence was done in 1985 (review attached). From that statement, it was clear to us and Mr. Borsa that there would be no historic properties present. Because that statement was made, Mr. Borsa has no intent to perform an archaeological inventory survey or any other mitigation measures in that aspect. Although there have been findings of historic properties in a nearby property, Mr. Borsa and our company feels the determination reached in the review performed in 2004 should still stand. Since the letter by State Parks Administrator Ralston Nagata was made in 1989, why hasn't it been brought to the attention of Mr. Borsa during the review in 2004? We request that you strongly reconsider your requirement of an investigation, which may cost the Borsa's valuable resources. Should you reconsider and approvals are given to proceed with construction, Mr. Borsa will be strongly encouraged to use strong caution not to damage any archaeological remains or resources upon discovery of any and to contact us and your SHPD.

Should you have any questions or concerns, please feel free to contact me.

Respectfully,

Patrick Vea  
Project Engineer

**Structural Hawaii, Inc.**  
Waimalu Shopping Plaza  
98-1277 Kaahumanu Street #111  
Aiea, HI 96701

Tel: (808) 488-5000  
Fax: (808) 488-5099  
Email: [info@structuralhawaii.com](mailto:info@structuralhawaii.com)  
Website: [www.structuralhawaii.com](http://www.structuralhawaii.com)  
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Attachment

LEIUA SINGLE  
GOVERNOR OF HAWAII



RECEIVED  
JUN 10 AM 10:34  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF PERMITTING & PLANNING  
CITY OF HONOLULU



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF PERMITTING & PLANNING  
601 KAMOKILA BOULEVARD, ROOM 555  
KAPOLEI, HAWAII 96707

LARISA R. TRILLEN  
MANAGER OF COMMUNITY AFFAIRS  
COMMISSIONER OF WATER RESOURCES MANAGEMENT  
RUSSELL Y. TSOH  
DEPUTY MANAGER  
AGRICULTURE, FORESTRY, AND  
RANGELANDS DIVISION  
WATER RESOURCES MANAGEMENT  
COMMISSIONER OF WATER RESOURCES MANAGEMENT  
CONSTRUCTION AND RESOURCE DEVELOPMENT  
FRANKLIN J. TAYLOR  
DEPUTY MANAGER  
SUBSURFACE RESEARCH AND RECOVERY COMMISSION  
1147T-PAIS

June 4, 2010,

David Tanoue  
City and County of Honolulu  
Department of Permitting & Planning  
650 So. King St.  
Honolulu, HI 96813

LOG NO: 2010.2081  
DOC NO: 1006MV12  
Archaeology

Dear Mr. Tanoue

**SUBJECT: Chapter 6E-42 Historic Preservation Review –  
Draft Environmental Assessment and Coastal Engineering Evaluation for Shoreline  
Setback Variance Application. Residence of Jack Borsa 67-011 Kaimanu Pl,  
Waialua, Oahu  
TMK: (1)-6-7-014:028**

Thank you for the opportunity to review this draft of an environmental assessment (EA) that was received by our office on May 21 2010. According to the EA, the Borsa family would like to construct a below grade pool with a protective fence and a "cabana" within in the shoreline setback area of their property on Waialua Beach. The EA also states that the project area is entirely underlain with Jaeps Sand (JAC). Jaeps Sand has been shown to be geological substrate with the highest likelihood for containing Native Hawaiian Burials. In addition, a 1989 letter from State Parks Administrator Ralston Nagata regarding the nearby property with TMK (1)-6-7-014:030 states that State Parks staff have "removed several eroding burials from this general area. Therefore, we have determined that the subsurface excavation associated with a below grade swimming pool may have a significant effect on historic resources, including human skeletal remains in this project area.

Therefore, in order to determine the full effect of the proposed undertaking on historic sites, we recommend that no action be taken on the subject permit application until an archaeological inventory survey plan has been submitted to SHPD for review and the inventory survey has been conducted of the proposed project area to determine whether significant historic sites, including human skeletal remains, are present. An acceptable report documenting the findings of the survey will need to be submitted to this office for review. If significant historic sites are identified, a mitigation plan may need to be developed in consultation with this office and executed.

The AIS shall be conducted by a qualified archaeologist. A report documenting the archaeological work shall be submitted to the SHPD for review and approval. The report shall follow HAR Chapter 13-276, and at a minimum should include: (1) Detailed site/resource descriptions; (2) GIS maps: 1:24,000 scale project overview with site locations and zoomed-in version(s) showing site/resource locations, features, and site boundaries; (3) accurate UTM site/resource coordinates; (4) Stratigraphic profile scale drawings; (5) photographs (with scale) of features, diagnostic artifacts, etc. and site overviews (with cardinal direction); (6) functional analysis; (7) valid interpretations; (8) appropriate significance evaluation criteria, and, when possible (9) <sup>14</sup>C dates, float analysis, libic analysis, etc.

Exploratory subsurface investigation may be required for this project area. However, given the moderate to high probability of encountering burials and/or human remains in the proposed project area, we do not

support the use of a backhoe to indiscriminately excavate trenches. Backhoes have legitimate archaeological applications (e.g., to remove introduced fill sediments or sterile over-burden); however, backhoes are not appropriate for "locating" (inadvertently destroying) human burials or other subsurface resources. Instead we suggest employing incremental testing methodologies and/or the utilization of currently available non-intrusive technologies. Use of a backhoe for archaeological excavation, without clearly stated methodology and evidence-based justification, is not a scientific or culturally sensitive approach.

In addition, we recommend that a Cultural Impact Assessment is conducted in order to include the disclosure of the effects of this proposed action on the cultural practices of the community.

Please call Mike Vitousek at (808) 692-8029 if you have any questions or concerns regarding this letter.

Aloha,

*Nancy A. McMahon*

Nancy McMahon, Deputy SHPO/State Archaeologist  
and Historic Preservation Manager



**Structural Hawaii, Inc.**  
98-1277 Kaahumanu Street, #111, Aiea, Hawaii 96701  
Phone: (808) 488-5000; Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com

State of Hawai'i Department of Land and Natural Resources  
Office of Conservation and Coastal Lands  
P.O. Box 621  
Honolulu, HI 96809

August 9, 2010

Attn: Mr. Samuel J. Lemmo

Borsa  
67-11 Kaimanu Place Waialua, HI 96791  
TMK: 6-7-14:28

Subject: Response to comments dated July 6, 2010

Dear Mr. Lemmo:

Thank you for taking the opportunity to review our DEA and provide your comments. We have responded to your comments by revising content in the DEA and the supplemental drawings. We have expanded on the characteristics of the fence that will be constructed near the pool. The open work fence that we proposed in the DEA will be the primary protective fence preventing entry near the pool area. However, the previously mentioned pool fence with glass panels has been replaced with one that has wood panels, and will be mainly used for privacy. We have decided to use wood instead of using glass, since the glass panels may shatter into many pieces when they break away, posing unseen safety hazards.

The proposed project was planned to preserve beach size and access by staying within the line of vegetation on the mauka side of the beach as it is currently. The pool, fences, and cabanas will be designed either to breakaway or to withstand hydrostatic forces from flood water, below the regulatory flood elevation. Should you have any questions or concerns, please feel free to contact me.

Respectfully,

Patrick Vea  
Project Engineer

**Structural Hawaii, Inc.**  
Waimalu Shopping Plaza  
98-1277 Kaahumanu Street #111  
Aiea, HI 96701

Tel: (808) 488-5000  
Fax: (808) 488-5099  
Email: info@structuralhawaii.com  
Website: www.structuralhawaii.com  
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Attachment: DEA (revised)

LINDA LINGLE  
OFFICE OF NATURAL



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70 JUL -7 411 36

DEPT OF LAND AND NATURAL RESOURCES  
CITY & COUNTY OF HONOLULU



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

Laura R. Thiele  
Board of Land and Natural Resources  
Commissioner of Water Resource Management  
Russell T. Tsui  
Assistant Commissioner  
Planning and Ocean Management  
Commissioner of Water Resource Management  
Conservation and Resources Department  
Honolulu, Hawaii 96809  
Kaula Wai and Waialeale  
Honolulu, Hawaii 96809  
State Parks

REF:OCCLAB

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

Correspondence: OA-10-244  
JUL - 6 2010

**SUBJECT: Draft Environmental Assessment (DEA) Review for Shoreline Setback Variance at 67-011 Kaimanu Place, Waialua, O'ahu, TMK: (1) 6-7-014:028**

Dear Mr. Tanoue:

The Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) has reviewed the Draft Environmental Assessment (DEA) for a Shoreline Setback Variance at 67-011 Kaimanu Place, Waialua, O'ahu, TMK: (1) 6-7-014:028.

According to the DEA, the applicant is requesting a shoreline setback variance to acquire an approval to construct a swimming pool, protective pool fence, and cabana within the shoreline setback area.

The OCCL has the following comments on the DEA:

It is unclear in Exhibit 5 (Pilot Plan) what the distance is from the subject improvements to the shoreline (as certified on October 18, 2008).

The subject property is located in a known moderate to high hazard area, with an overall hazard assessment rating of 5 out of 7 (7 being the highest).<sup>1</sup> This area is prone to tsunami, stream flooding, high waves, storms, sea level rise, and seasonal erosion (see Attachment). In Section 6.0 of the DEA, it states: "The required pool fence and cabana will be designed to breakaway during high floods and will not restrict or increase flood levels." Please clarify this statement. The applicant plans to construct a glass pool fence. In the event of a flood or other hazard event, will the glass "breakaway," leaving glass debris on the property, beach, or in the ocean?

While the proposed improvements do not present an immediate impact to shoreline processes, the OCCL would not support any coastal armoring to protect the improvements in the event it is affected by erosion.

<sup>1</sup> Fletcher, Charles H., et al. *Atlas of Natural Hazards in the Hawaiian Coastal Zone*. United States Government Printing Office: 2002. Pg. 60.

David Tanoue  
Page 2 of 2

Correspondence: OA-10-244

Thank you for providing us the opportunity to review the DEA. Should you have any questions regarding this correspondence, please contact Audrey Barker of our office at (808) 587-0377 or [audrey.l.barker@hawaii.gov](mailto:audrey.l.barker@hawaii.gov).

Sincerely,

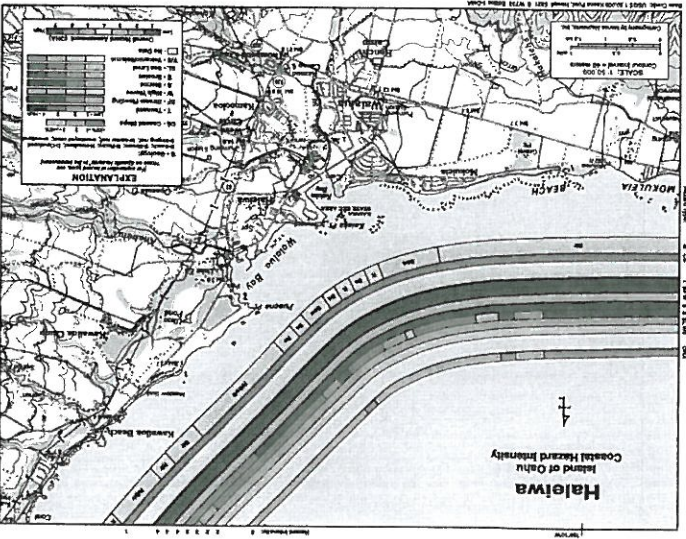
Samuel J. Lemme, Administrator  
Office of Conservation and Coastal Lands

Attachment

c: Chairperson  
ODLO

# Haleiwa

The Haleiwa coastline is dominated by the embryonic association with the combination of the Kilauea and Pihalea streams and the Mahalo River. A large and narrow beach, bordered in many places by the rocky outcrops of limestone corals, extends from Mahalo to Kilauea Bay. Rocky outcrops of limestone corals, both Kilauea and Pihalea Bay, extend seaward from the coast toward Kilauea Beach, which contains many of the scattered, low-lying rocky outcrops of Mahalo Beach, but spread toward Kilauea and Pihalea Bay. The rocky outcrops of limestone corals, both Kilauea and Pihalea Bay, extend seaward from the coast toward Kilauea Beach, which contains many of the scattered, low-lying rocky outcrops of Mahalo Beach, but spread toward Kilauea and Pihalea Bay. The rocky outcrops of limestone corals, both Kilauea and Pihalea Bay, extend seaward from the coast toward Kilauea Beach, which contains many of the scattered, low-lying rocky outcrops of Mahalo Beach, but spread toward Kilauea and Pihalea Bay.



Mokulia and the Mahalo and Haleiwa coastlines



DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

500 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE (808) 521-4141 • FAX (808) 527-8743 • INTERNET WWW.DA.CITYANDCOUNTY.HI



JERRY MARIS  
MAYOR

ERIC S. CRAPANZANO, AIA  
DIRECTOR  
BARBARA KIM STRATTON  
SUPPORT DIRECTOR

September 20, 2004

2004/ED-16(AM)

James Matichuk, AIA  
Hawaii Architects, Inc.  
1025 Loho Street  
Kaliua, Hawaii 96734

Dear Mr. Matichuk:

CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)

Project Name : Borsia Shoreline Setback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaimannu Place - Waialua.  
Tax Map Key : 6-7-14: 28

In accordance with the procedural provisions of Chapter 343, Hawaii Revised Statutes (HRS), all comment letters received during the 30-day comment period, which began with the initial publication of a notice of availability of the DEA in The Environmental Notice on August 23, 2004, require a response addressed directly to the commenter. The final EA must include all comment letters and responses to the letters, as well as appropriately revised text. Attached, for your information and appropriate action, are comments from several State and Federal agencies regarding the subject draft environmental assessment.

These agencies are:

**Federal:** Department of the Army.

**State:** State Department of Health, and State Department of Land and Natural Resources Office of Conservation and Coastal Lands.

**Other:** John A. and Kathleen A. Dracup.

In addition, enclosed herein are the Department of Planning and Permitting's comments on the DEA.

Post-Net Fax Note	7871	Date	9-20-04
To	MV. ED-16	From	AM
Co./Dept.	OPD	Co.	OPD
Phone #	523-9077	Phone #	523-9077
Fax #	627-1691	Fax #	

James Matichuk, AIA  
Page 2  
September 20, 2004

Department of Planning and Permitting:

1. Summary of Proposed Action, page 4: The Department of Planning and Permitting, City and County of Honolulu, should be identified as the accepting authority pursuant to the State EIS Regulations, Title 11, Chapter 200, Hawaii Administrative Rules (HAR), and Chapter 343, Hawaii Revised Statutes (HRS).
2. Section 1.1, Project Overview, page 5: Please clarify this section to indicate that the applicant is requesting an after-the-fact approval to retain an existing, relocated wood pole fence.
3. Section 1.2, Purpose of the Environmental Assessment, page 5: Please indicate that the Environmental Assessment is being prepared pursuant to Hawaii Administrative Rules, Title 11, Chapter 200, Section 11-200-6(b)(1)(C).
4. Section 1.3, Previous Land Use Approvals, page 5: Please note that the correct date of approval for Building Permit 294986 is November 29, 1990. Expand this section to disclose that the applicant was issued a Notice of Violation on September 26, 2003 for the unauthorized relocation of the wood pole fence within the shoreline setback area, and include a summary of all building permit-related actions and dates (e.g., date dwelling unit was constructed; date pole fence was relocated and so on).
5. Section 1.4, Purpose and Need for the Project, page 5: This section states that the "fence does not function as a sea wall." What evidence is there to support this statement? Please note that according to Chapter 23, Revised Ordinances of Honolulu, a shore protection structure is defined as a "structure which may artificially fix the location of the shoreline, including but not limited to a groin, seawall, or revetment." In addition, clarify what is meant by the fence is "no higher than the vegetation on neighboring properties." Also, note that deprivation of recreational use of near shore marine environment does not constitute hardship as defined in Section 23-1.8(b)(3)(A)(i)(ii), Revised Ordinances of Honolulu. We recommend that an additional section be added in the Final EA, which specifically addresses the "Criteria for granting a variance," pursuant to Section 23-1.8, Revised Ordinances of Honolulu (ROH). This section should discuss how the three standards of hardship are met by the proposal and should be attached as an appendix to the Final Environmental Assessment.
6. Section 1.5, Alternatives Considered, page 6: What is the viability of constructing the pool on a smaller scale or in a different location (e.g., indoor swimming pool) so that a Shoreline Setback Variance is not warranted? Has the applicant considered open-work metal or wood fences (meeting the definition of a minor structure stipulated in Part 2



James Matichuk, AIA  
Page 3  
September 20, 2004

Rules Relating to Shoreline Setbacks and the Special Management Area) as an alternative for the protection of this property and for the required swimming pool fence?

7. Section 2.1 Technical Characteristics, C. Construction Characteristics, page 7: Expand your description of the wood poles to include their origin and composition (e.g., whether wood is chemically treated), and expand your discussion of the pool by indicating its size as well as whether it will be a freshwater pool. If it is a freshwater swimming pool, the water disinfection system should be discussed (e.g., chlorination).  
A section on water quality should be provided in the Final Environmental Assessment that addresses the possible impacts of the wooden pole fence and pool operation and maintenance will have on nearby ocean waters (i.e., individual poles unraveling during high surf or a tsunami, overflow containment of chlorinated water, if used, during storm events, how and where water is drained for cleaning, etc.).
8. Section III. Affected Environment - Impacts and Mitigation Measures, A. Brief Description of subject site: Please expand this section to include information relating to the nearest public beach, right-of-way, beach park and so on.
9. Section III. Affected Environment - Impacts and Mitigation Measures, B. Federal FIRM Zone, page 7: This item should be revised to discuss how the project will comply with flood hazard regulations, Section 21-9.10 of the Land Use Ordinance.
10. Section III. Affected Environment - Impacts and Mitigation Measures, C. Coastal Views, page 7: Please expand on this item and discuss the project's impacts on scenic vistas as noted in the City and County's Coastal View Study.
11. Section 3.10, Scenic and Open Space Resources, page 11: Inasmuch as preservation of open space along the shoreline is a primary objective of the shoreline setback ordinance (Section 23-1.2(b)), discuss the impacts of the wood pole fence on open space, visual impacts (lateral views of coastline as well as views of the coastline from Kaimanu Place), shoreline access as well as lateral beach access impacts.
12. We note that your application for certification of the shoreline (survey prepared by Wesley T. Tengan dated your survey dated April 14, 2004) was rejected by the Department of Land and Natural Resources on July 26, 2004. This information should be disclosed in the Final Environmental Assessment. Please be informed that in accordance with the DPP Part 2 Rules Relating to Shoreline Setbacks and the Special Management Area, the Director of Planning and Permitting may waive the requirement of a certified shoreline survey in cases where the shoreline area is affected by an illegal shore protection structure or other structure seaward of the waiver line, provided that the

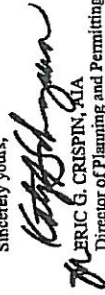
James Matichuk, AIA  
Page 4  
September 20, 2004

applicant submits a shoreline survey, and that the director may determine the location of the shoreline and the shoreline setback line solely for the purpose of processing an after-the-fact variance application for the shore protection structure. In that case, all structures within the determined shoreline setback area will warrant a Shoreline Setback Variance.

13. A site visit on August 31, 2004 by DPP staff revealed that the vegetation lines on either side of the subject property are landward of the wood pole fence, and it appears that the shoreline on the applicant's property has been artificially fixed by the wood pole fence. Can you explain how this situation came about?  
Furthermore, it appears that a jacuzzi/hot tub between the dwelling unit and the subject wood pole fence is located within the 40-foot shoreline setback. Please disclose all "structures" within the shoreline setback area on the Site Plan. A "structure" is defined in Chapter 23, Revised Ordinances of Honolulu, as "any portion of any building, pavement, road, pipe, flume, utility line, fence, groin, wall, or revetment; or anything constructed or erected with a fixed location at or under the ground, or requiring a fixed location on or under the ground, or attached to something having or requiring a fixed location on or below the ground." If the structure is within the shoreline setback area and was erected subsequent to the County's shoreline law enacted on June 22, 1970, then the structure is considered illegal and is required to be removed, or a Shoreline Setback Variance applied for its retention.

If you have any questions, please contact Ann Matsumura of our staff at 523-4077.

Sincerely yours,

  
ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:m

Enclosures

cc: Office of Environmental Quality Control

dec112150

U.S. ARMY ENGINEERS DISTRICT HONOLULU  
FT. SHAWNEE, HAWAII 96860-4640

July 19, 2004



PLEASE TO  
ATTENTION OF

Regulatory Branch

Mr. John Borra  
67-011 Kaimanu Place  
Mailua, Hawaii 96791

OPTIONAL FORM NO. 10  
MAY 1962 EDITION  
GSA FPMR (41 CFR) 101-11.6

**FAX TRANSMITTAL**

To: *John Borra*  
From: *Lolly Silva*  
Subject: *Permit 438-7023*  
Date: *7/19/04*

Dear Mr. Borra:

We have received a copy of a letter from the State Department of Land and Natural Resources concerning the unauthorized placement of rocks and boulders along the shoreline of a parcel identified as TMK: (1)6-7-14-28 located in Mailua, Hawaii. According to the letter, the State has given you until July 30, 2004 to remove the rocks and boulders or be subject to fines from the State.

Our files do not contain any authorization for the structure and consider this work unauthorized under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. For your information the Corps has regulatory responsibilities under Section 404 to regulate the discharge of dredged or fill material into all waters of the U.S. Discharges of fill material generally include, without limitation placement of fill that is necessary for the construction of any structure, or improvement requiring rock, sand, dirt, or other material for in construction; road fills; property protection such as riprap, groins or seawalls; dams or dikes and other work. Furthermore, Section 10 regulates all work in waters which are subject to the ebb and flow of tide. A Corps permit is required whether the work is permanent or temporary. Based on the information in the letter, it appears the structure was constructed below the high tide line and a Department of the Army (DA) permit was required.

Since you did agree to remove the rocks, we will not pursue any enforcement action against you. Until this matter is resolved, no further work is to be performed in areas subject to the jurisdiction of the U.S. Army Corps of Engineers. Penalties are available for conducting work in waters of the U.S. without the necessary DA authorizations. Violations of the Clean Water Act can result in fines of up to \$25,000 per day. For unauthorized work conducted under Section 10 of the Rivers and Harbors Act, criminal penalties may be imposed up to \$100,000 in fines and up to one year imprisonment or both. Injunctive relief, including restoration, may also be required. Further knowing violations of Section 404 of the Clean Water Act may be

referred to the U.S. Environmental Protection Agency for enforcement action.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, State or local statutes, ordinances, or other regulations that may have affected this work.

We appreciate your cooperation with the Corps of Engineers Regulatory Program. Please refer to file number 200400625 in future correspondence with this office. If you have any questions, you may contact Ms. Lolly Silva at (808)438-7023 or by fax at (808)438-6060.

Sincerely,

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

Copy Furnished:

- Department of Health, Clean Water Branch, P.O. Box 3378, Honolulu, HI 96801
- Office of Planning, Department of Business, Economic Development & Tourism, CDM Program Office, P.O. Box 2359, Honolulu, HI 96804
- U.S. Fish & Wildlife Service, Environmental Services, Rm. 3108, P.O. Box 50088, Honolulu, Hawaii 96850
- Department of Land & Natural Resources, Office of Conservation and Coastal Lands, P.O. Box 621, Honolulu, Hawaii 96813
- Environmental Protection Agency, Honolulu Branch, P.O. Box 50003, Honolulu, Hawaii 96850



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3278  
HONOLULU, HAWAII 96813-3278

CHARLES L. ALDRICH, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3278  
HONOLULU, HAWAII 96813-3278

September 7, 2004

The Honorable Eric G. Crispin, Director  
Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street  
Honolulu, Hawaii 96813

Dear Mr. Crispin:

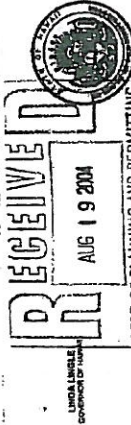
**SUBJECT:** Shoreline Setback Variance  
67-011 Kaimanu Place, Waialua  
TMK: 6-7-14:28

Thank you for the opportunity to offer comments on the above document. Your request has been reviewed by the Solid Waste, Underground Storage Tank, and Hazardous Waste programs within the Solid and Hazardous Waste Branch.

We have no comments to offer at this time.

Sincerely,

  
STEVEN Y.K. CHANG, P.E. CHIEF  
Solid and Hazardous Waste Branch



DEPT. OF PLANNING AND PERMITTING  
650 SOUTH KING ST.  
HONOLULU, HI 96813  
STATE OF HAWAII  
OFFICE OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809



PETER Y. YOUNG  
COMMISSIONER  
OFFICE OF LAND AND NATURAL RESOURCES  
CONSERVATION AND COASTAL LANDS  
DEPUTY DIRECTOR: LAY  
YOUNG, Y. (L)  
DEPUTY DIRECTOR: JACQUELINE  
COMMISSIONER: JACQUELINE  
ADVISORY SERVICES  
PLANNING AND COASTAL REGULATION  
CONSERVATION AND RESOURCES DEPARTMENT  
HONOLULU, HAWAII 96813  
HONOLULU RESOURCE COMMISSION  
LAND  
WATER RESOURCE MANAGEMENT

Ref: OCCL: DE

Correspondence: OA-05-45

August 17, 2004

Mr. Eric Crispin, Director  
City and County of Honolulu  
Department of Planning and Permitting  
650 South King St.  
Honolulu, HI 96813

**Subject:** Review and comments on Draft EA for Shoreline setback variance application for TMK (1)-6-7-014:028 (Borsa), Waialua, Hawaii.

Dear Mr. Crispin:

The State of Hawaii Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands (OCCL) has reviewed the July 2004 Draft Environmental Assessment (DEA) for Shoreline setback variance application for 67-011 Kaimanu Pl. Waialua, Hawaii. The owner is seeking approval of a shoreline setback variance for the existing telephone pole seawall constructed illegally in 2003. The Department has reviewed the project information provided and has the following comments:

**GENERAL COMMENTS:**

The OCCL has serious concerns regarding the draft EA. The OCCL believes granting a variance for the subject project would be contrary to Chapter 23 Shoreline Setbacks of the Revised Ordinances of Honolulu. ROH, Chapter 23 states in part:

August 17, 2004

"Sec.23-1.2 Purpose. (a) It is a primary policy of the city to protect and preserve the natural shoreline, especially sandy beaches; to protect and preserve public pedestrian access laterally along the shoreline and to the sea; and to protect and preserve open space along the shoreline. It is also a secondary policy of the city to reduce hazards to property from coastal floods.

(b) To carry out these policies and to comply with the mandate stated in HRS Chapter 205A, it is the specific purpose of this chapter to establish standards and to authorize the department of land utilization to adopt rules pursuant to HRS Chapter 91, which generally prohibit within the shoreline area any construction or activity which may adversely affect beach processes, public access along the shoreline, or shoreline open space."

Some facts regarding this property:

1. A certified shoreline was issued by the State DLNR on Sept 10, 2002. There appears to have been a mistake in certifying the shoreline at this location as the vegetation was induced seaward resulting in the certification of the shoreline roughly 28 feet more makai than the rest of the beach.

1b. It is the Office of Conservation and Coastal Lands position that the shoreline is more accurately located at what the owner identifies as the 20' setback line.

1c. A letter from the state survey office dated July 26, 2004 confirms the surrounding shorelines are 22-25 feet more mauka of the wooden fence.

1d. Subsequently the owner has applied for and been rejected for a new shoreline certification because he has an illegal shoreline structure.

2. In September, 2003 the owner placed a telephone pole seawall within the newly defined shoreline area. This is the wall in question now and unfortunately is outside the jurisdiction of the state. This wall was built with no county or state authorization.

3. The owner has now requested an after the fact variance with the county to allow the structure to remain and to build a swimming pool within the 40' setback area.

4. The local residents are upset that such a flagrant and illegal structure is even being considered for a permit and are threatening lawsuits.

5. The structure does not serve to protect the residences from erosion (the house is over 40 feet from the high tide line) but is an attempt to capture beach area for the purpose of building a pool.

6. The structure has a significant impact on the littoral processes of the area and completely restricts access along shore during the winter months of high surf. The OCCL believes that the position of the subject structure will inhibit the natural flow of sand laterally alongshore and may accelerate erosion down flow during periods of high longshore transport. This could present a potentially serious liability to any authorizing agency.

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7. The subject seawall and pool are inappropriately sited in a high hazard area and do not serve to protect and existing dwelling from an erosion threat. As such, the applicant does not adequately justify the variance based on hardship.

8. The structure poses a significant safety hazard to the surrounding community and recreational users. Since the telephone pole structure is not engineered as a seawall (as stated by the applicant) it is not designed to withstand wave impact. Permitting such a structure could present a potentially serious liability to any authorizing agency. In the first year of the wall being in place, it is showing signs of failure and may not last another winter surf season. The pole footings are buried 5 feet deep in the sand and not anchored. Therefore, it is only a matter of time until the base of the wall fails and the poles will then be loose to roll along the shoreline. This is likely to occur during a high surf event, in which case it will be far too dangerous to attempt to contain these poles.

SPECIFIC COMMENTS:

Summary- Page 4

The accepting agency is the City and County of Honolulu, Department of Land and Planning and Permitting, not the State of Hawaii, Department of Land and Natural Resources.

Section 1.1. Project Overview- Page 5

The applicant states that the setback variance is for a non-seawall fence. This statement is very misleading and incorrect. The subject structure is composed of 18" diameter telephone poles that are exposed to direct wave action in the winter months. While not designed to serve as an engineered seawall, the pole structure clearly functions as a protective seawall in the winter months, when the beach is in an eroded state.

The applicant also mentions that a certified shoreline was completed on April 14, 2004 and submitted for certification. This application has been rejected because of the presence of an unauthorized structure.

Section 1.4. Purpose and Need for Project- Page 6

The applicant states the need for the project is to increase security of his property. This is not an identified hardship under Chapter 23- Shoreline setback Variances. There is an additional statement indicating the structure does not function as a seawall. This is simply false. The applicant suggests there is a hardship based on ROH Chapter 23-1.8. The OCCL fails to find the applicant meets any of the hardship criteria identified in Chapter 23. In fact, the proposed activity seems to contradict Chapter 23-1.8.3 (C):

DEA Comments- Borsari, Shoreline Variance- Waialua Seawall

Page 4

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

#### Section 1.5. Alternatives Considered- Page 6

The applicant has failed to consider removal of the fence, relocating the pool outside the setback area and a No Action alternative.

#### Section 2.1.C Technical Characteristics- Page 7

There is a statement indicating the structure does not function as a seawall. Since the structure is impacted by waves in the winter months the OCCL disagrees with this statement. Just because the structure wasn't engineered as a seawall, does not mean it may not function as such.

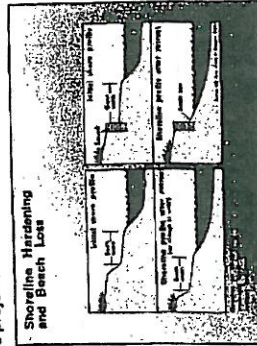
#### Section 3.C&D Affected Environment- Page 7

III.C The applicant states coastal views and public access will not be affected by the structure since it is not higher than 3 feet and is on private land. The OCCL disagrees with both of these statements and has photographic evidence that the subject structure reaches 6 to 8 feet above ground level and extends into the water line in the winter months, thus having a negative affect on coastal processes, access and views (Figure 1).

#### Section 3.1.1 and 3.2.1 Impacts and Mitigation Measures- Page 8

The OCCL strongly disagrees with the statements suggesting the structure will have no effect on the natural wave action....and beach sand surrounding the project area will not be impacted by this project."

It has been well documented that seawalls on eroding shorelines can lead to beach loss or narrowing by restricting the natural movement of the shoreline landward". With a hard structure in place the beach may not maintain the original width as it retreats landward and instead narrows. The Department attempts to mitigate negative impacts to the coastal system from shore.



<sup>1</sup> Beach Loss Along Armored Shorelines on Oahu, Hawaiian Islands. 1997. Fletcher, H. Charles, et. al. Journal of Coastal Research. Vol. 13, No. 1, pp. 209-215.

DEA Comments- Borsari, Shoreline Variance- Waialua Seawall

Page 5

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protection structures by encouraging alternative erosion control measures in place of constructing seawalls and revetments. The Department feels the DEA fails in accurately describing the negative impacts of the wall as well as the reason why other alternatives have been dismissed.

There is a well-documented history of beach accretion in this vicinity. Historical shoreline position data indicates that East Mokuieia has been stable and even accreting for an extended time<sup>2,3</sup>. During the period 1949 to 1988, the vegetation line at transect 22 near the subject parcel, accreted significantly (up to 87 feet). Net change in the vegetation line in this region varies from +87 feet to -3 feet from 1949 to 1988. While the area is subject to large seasonal fluctuations and large wave run up, the inherent long-term stability of the shoreline suggests that shoreline armoring is unwarranted.

#### Section 3.6 beach Processes- Page 8

There is mention of the seasonal high surf and the lateral transport of sand alongshore seasonally. In Section 3.6.1 Impacts and Mitigation measures. In particular, the DEA fails to acknowledge what impact the structure may have on these two processes. The OCCL believes that the position of the subject structure will inhibit the natural flow of sand laterally alongshore and may accelerate erosion down flow during periods of increased longshore transport. This could present a potentially serious liability to any authorizing agency. The OCCL disagrees with DEA statement "...interruption of lateral transport of sand is not anticipated" and questions what these findings are based on.

In addition, the OCCL maintains that the September, 2002 certified shoreline is erroneous (in part because of unauthorized shoreline landscaping on the part of the owner) and is not a justification or rationalization for the placement of the subject improvements as implied in Section 3.6.1.

#### Summary of Impacts and Mitigative Measures

The Department recognizes the complexities in dealing with shoreline structures and the potential impact to the shoreline. A position on shoreline structures and variances is clearly identified in the County ordinances, Chapter 23.1.5.b.1 of the Revised Ordinances of Honolulu (ROH) states, "Structures and activities are prohibited within the shoreline area, with the following exceptions:

<sup>2</sup> Beach Changes On Oahu as Revealed by Aerial Photographs. 1981. Hwang, Dennis. Technical Supplement Number 22. Coastal Zone Management Project. Prepared for State of Hawaii Department of Planning and Economic Development.  
<sup>3</sup> Oahu Shoreline Study (Part I). 1988. See Engineering, Inc. Prepared for The City and County of Honolulu, Department of Land Utilization.

DEA Comments- Borsia, Shoreline Variance- Waiakua Seawall

Page 6

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(f) "Minor structures and activities permitted under rules adopted by the department which do not affect beach processes or artificially fix the shoreline and do not interfere with public access, public views or open space along the shoreline. If, due to beach erosion or other cause, the director determines that a minor structure permitted under this section may affect beach processes or public access or has become located seaward of the shoreline, the director or other governmental agency having jurisdiction may order its removal."

Section. 23-1.9 Conditions on Variances states;

"No variance shall be granted unless appropriate conditions are imposed:

- (a) To maintain safe access to and along the shoreline or adequately compensate for its loss;
- (b) To minimize risk of adverse impacts on beach processes;
- (c) To minimize risk of existing legal or proposed structures falling and becoming loose rocks or rubble on public property; and
- (d) To minimize adverse impacts on public views to, from and along the shoreline. (Added by Ord. 92-34)"

The Department questions the DEA finding that the seawall will have minimal long-term effect on the shoreline processes at the project site. The purpose and function of the structure is to prohibit the landward erosion of the shoreline, thus impacting the shoreline processes. If the structure did not impact the shoreline there would be no need to build one in the first place. The applicant states the reason for the structure is to improve security of the property. This is not an identified hardship for justifying a variance.

#### Section 6. Determination of Significance and Findings

The Department questions some of the findings supporting the anticipated determination. The DEA makes arguable assumptions that the presence of the seawall has little or no impact to the coastal resources. The findings are stated without mention of the (observed and potential) negative impacts that result from the presence of the structure. This DEA is deficient in addressing the justification and need for the subject structure as well as identifying and addressing the basic possible impacts the structure may pose to the natural resource.

For the purposes of this Environmental Assessment review, the Department questions and disagrees with the findings of significance criteria for section 6.1, 6.1.2, 6.3, 6.4, 6.10. This is based on the above mentioned concerns.

In particular Section VI.3 causes some concern. In this section, the applicant states the construction will not affect "beach action." While it is not clear what the author means by this term, it does suggest a lack of familiarity with the standard

DEA Comments- Borsia, Shoreline Variance- Waiakua Seawall

Page 7

August 17, 2004

coastal processes and terminology. In addition, there is mention that the pole "fence" and required pool fence WILL BE designed to breakaway during high floods. This statement implies there is additional work proposed to make the pole fence meet a breakaway specification. What measures will be taken to make the existing pole structure "breakaway"?

The applicant concludes section VI.3 with the statement "The proposed work will have only minor impact on environmental policies." This is the first and only statement suggesting the proposed project will have ANY impacts but there is no assessment of what these impacts are or how they might be mitigated. In addition it is not clear how a project can "impact an environmental policy", and illustrates the author's unfamiliarity with the Environmental Assessment review process.

#### Summary:

It is incumbent upon all government agencies to consider the effect of their actions on our beaches and to consider long-term measures to protect coastal development and beaches simultaneously. The cost of remedial shore protection is a significant problem for shore owners and government in of itself, but the loss of beaches is an even greater concern.

When evaluating erosion control alternatives, it is important to identify the priorities and purpose of the structures. From a coastal management standpoint, it seems logical and appropriate to protect and preserve the beach system by moving and/or minimizing the impact of structures sometimes compromising a portion of the private property. It should be realized that for many homeowners, the loss of the sandy beach puts the property owner at increased risk to coastal hazards. Beach loss also causes a significant devaluation of property values (not just oceanfront) as well as a material loss of the primary attraction and original intent of living on the coast.

Based on the lack of adequate justification and the significant negative impact the structure has on coastal processes, beach access, and public safety, the OCCCL believes the anticipated FONSI for the EA should be rejected. It is the OCCCL position that the owner should immediately be ordered to remove the subject improvements within the shoreline setback area.

DEA Comments- Bors, Shortline Variance- Waiulua Seawall Page 8

August 17, 2004

Thank you for the opportunity to comment on this DEA. If you should have any questions, please contact Dolan Eversole, Sea Grant Extension Agent at the Office of Conservation and Coastal Lands at 587-0439.

Thank You,



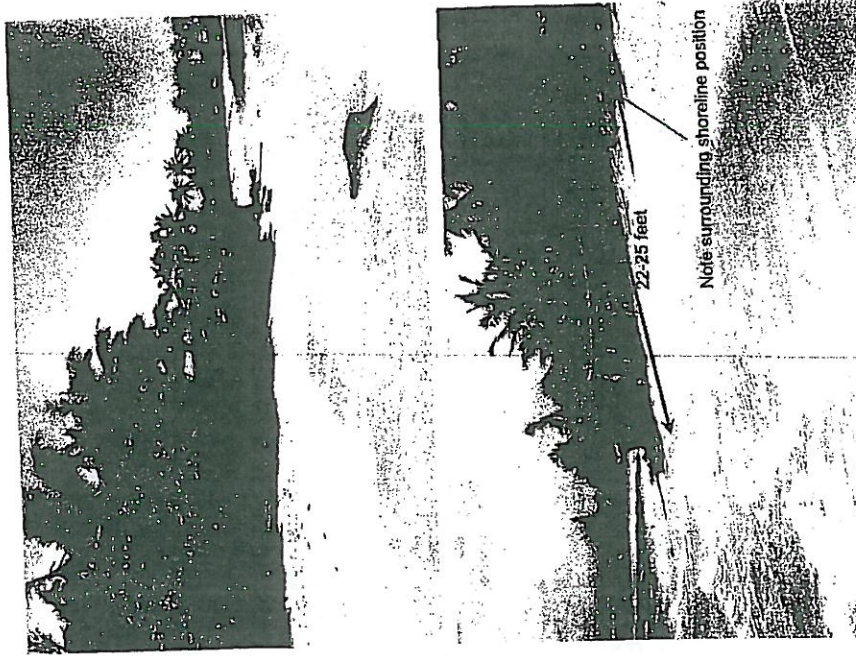
Sam Lemmo, Administrator  
Office of Conservation and Coastal Lands

Cc: Oahu Board Member  
Land Division  
Chairperson's Office  
Jack Bors 87-011 Kaimanu Pt Waiulua, HI 96791  
Hawaii Architects 1025 Loho St Kailua HI 96734

DEA Comments- Bors, Shoreline Variance- Waiulua Seawall Page 9

August 17, 2004

Figure 1.  
Subject Wall- Winter 2003-04



**WESLEY T. TENGAN**  
 LICENSED PROFESSIONAL LAND SURVEYOR  
 P.O. Box 240963  
 Honolulu, Hawaii 96824  
 (808)735-4207 Office (808)735-6037 Fax (808)539-8158 Pager

**COVER LETTER**

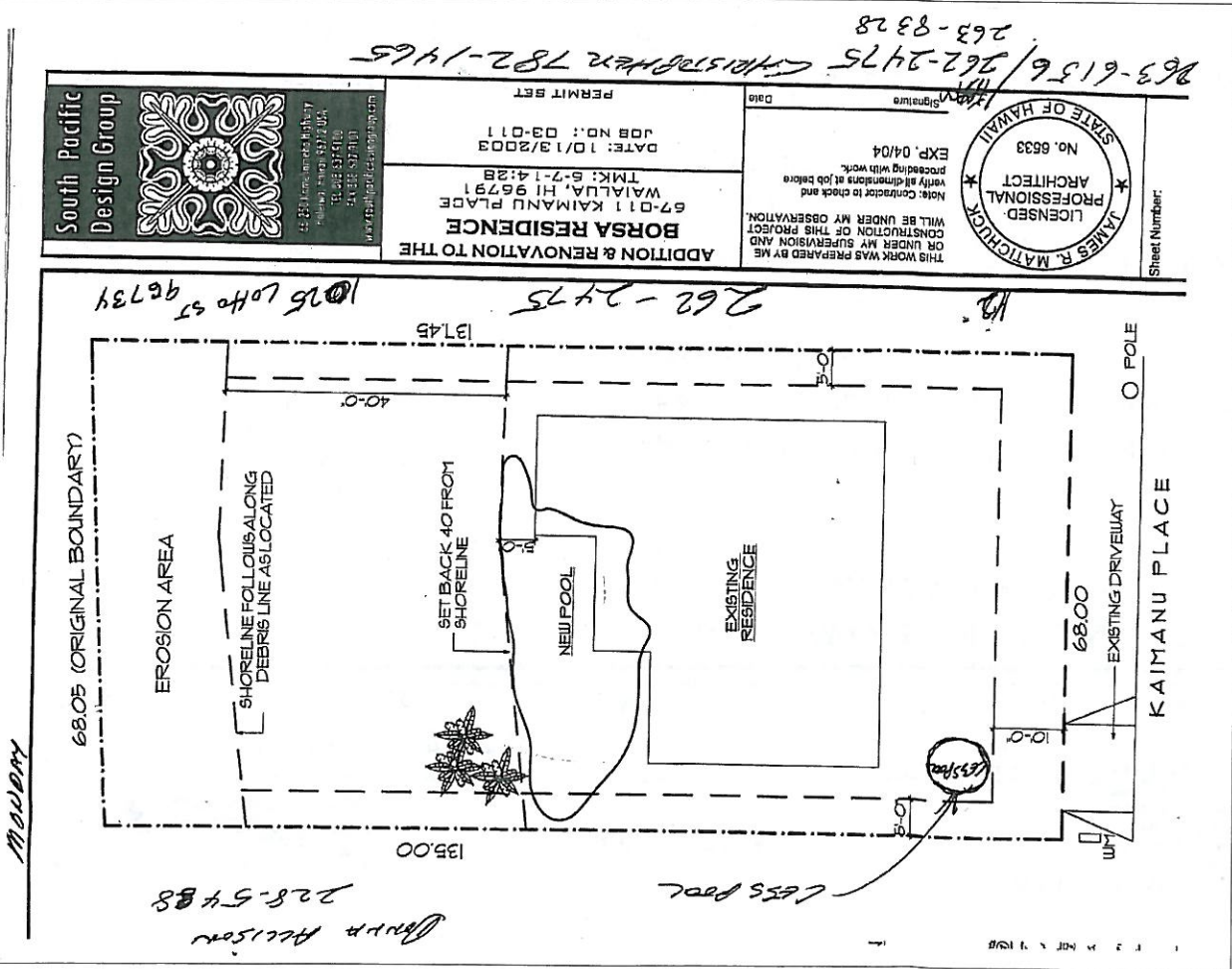
**TO:** Jack Borsa  
**ATTN:** Jack Borsa  
**FAX:** 808-637-7891  
**PROPERTY ADDRESS:** 6690 Waialua Beach  
**TAX MAP KEY:** 6-6-33:136  
**COMMENTS:** Map

**TOTAL PAGES:** 13 (Including Cover Sheet)

Thank you!

*WESLEY,*  
 THE LINE WOULD LOOK SOMEWHAT  
 LIKE THIS, GIVE OR TAKE FOR POOR \$\$.  
 MORE IMPORTANTLY THE POOL FOR JUNE  
 ACROSS THE STREET. THANK! 6-6-18-4 17:00  
 THE EA, THIS WEEK.  
 66-125 WAIALUA BEACH RD.  
 JIM MATICHUK WILL BE DONE BY

THANKS  
*Jim*





DEPARTMENT OF PLANNING AND PERMITTING  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 533-4414 • FAX: (808) 527-6743 • INTERNET: WWW.CC.HONOLULU.HI



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR  
BARBARA WILKINSON  
DEPUTY DIRECTOR  
2004/ED-16(AM)

October 1, 2004

James Matichuk, AIA  
Hawaii Architects, Inc.  
1025 Loho Street  
Kaliua, Hawaii 96734

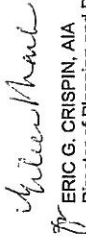
Dear Mr. Matichuk:

SUBJECT: CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)  
Project Name : Borea Shoreline Setback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaimanu Place - Waiialua  
Tax Map Key : 6-7-14: 28

We are transmitting for your information and use, a comment letter from the State Office of Hawaiian Affairs dated September 26, 2004, regarding the above-referenced Draft EA. We note that their comments were received after the statutory 30-day public comment period that ended on September 22, 2004. Nevertheless, we recommend that you respond to their comments and incorporate the comments as well as the applicant's response into the Final Environmental Assessment.

If you have any questions, please contact Ann Matsumura of our staff at 523-4077.

Sincerely yours,

  
ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:nt

Enclosure

cc: John Borsa

dec328101

PHONE (808) 594-1888

als

X (808) 594-1885



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

2004/ED-16(AM)  
SEP 26 2004  
HONOLULU

September 26, 2004

HRD04/1502

Eric G. Crispin, AIA  
Director, Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street  
Honolulu, HI 96813

RE: Request for Comments on an Draft Environmental Assessment for a Shoreline Setback Variance to retain and allow a relocated wood pole fence, and construction of a below-grade swimming pool within the shoreline setback area, 67-011 Kaimanu Place, Waiialua, O'ahu, TMK: 6-7-014:028

Dear Eric G. Crispin,

The Office of Hawaiian Affairs (OHA) is in receipt of your August 4, 2004, request for comments on the above project, which would allow for construction of a below-grade swimming pool and the retention of a relocated wood pole fence within the shoreline setback area of the above-mentioned address. OHA apologizes for the delayed response, and offers the following comments.

Because the fence is wood, and allows some flexibility of coastal movement, OHA does not contest it's staying in place. However, we cannot condone the continued use of variances for property owners' regular floating of coastal conservation laws, which were at least partly put in place to protect the safety of property owners themselves.

The proposed construction of a swimming pool within the setback area should not be allowed and to protect public shoreline access and use from encroachment by property owners. The applicant argues a "hardship" in living on the coastline and not feeling that the ocean in Waiialua is safe for swimming and recreation for the applicant's family. This contention is ludicrous, and to use the argument that chemical contamination due to runoff from O'ahu's agricultural district

PHONE (808) 564-1888

FAX (808) 594-1865



STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS  
711 KAPITOLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

HRD04/1502

September 26, 2004

Eric G. Crispin, AIA  
Director, Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street  
Honolulu, HI 96813

RE: Request for Comments on an Draft Environmental Assessment for a Shoreline Setback Variance to retain and allow a relocated wood pole fence, and construction of a below-grade swimming pool within the shoreline setback area, 67-0111 Kaitmanu Place, Waiialua, O'ahu, TMK: 6-7-014-028

Dear Eric G. Crispin,

The Office of Hawaiian Affairs (OHA) is in receipt of your August 4, 2004, request for comments on the above project, which would allow for construction of a below-grade swimming pool and the retention of a relocated wood pole fences within the shoreline setback area of the above-mentioned address. OHA apologizes for the delayed response, and offers the following comments.

Because the fence is wood, and allows some flexibility of coastal movement, OHA does not contest it's staying in place. However, we cannot condone the continued use of variances for property owners' regular flouting of coastal conservation laws, which were at least partly put in place to protect the safety of property owners themselves.

The proposed construction of a swimming pool within the setback area should not be allowed. The shoreline setback is there to protect coastal property owners' structures from ocean damage, and to protect public shoreline access and use from encroachment by property owners. The applicant argues a "hardship" in living on the coastline and not feeling that the ocean in Waiialua is safe for swimming and recreation for the applicant's family. This contention is ludicrous, and to use the argument that chemical contamination due to runoff from O'ahu's agricultural district

DEPARTMENT OF PLANNING AND PERMITTING  
CITY AND COUNTY OF HONOLULU  
650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE (808) 527-4414 • FAX (808) 527-8743 • INTERNET WWW.CITYANDCOUNTY.HI.GOV

637-7891



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR  
BARBARA WAU STANTON  
SUPPORT DIRECTOR

September 20, 2004

2004/ED-16(AM)

James Malichuk, AIA  
Hawaii Architects, Inc.  
1025 Loto Street  
Kaliua, Hawaii 96734

Dear Mr. Malichuk:

CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)

Project Name : Borsia Shoreline Setback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaitmanu Place - Waiialua  
Tax Map Key : 6-7-14: 28

In accordance with the procedural provisions of Chapter 343, Hawaii Revised Statutes (HRS), all comment letters received during the 30-day comment period, which began with the initial publication of a notice of availability of the DEA in The Environmental Notice on August 23, 2004, require a response addressed directly to the commenter. The final EA must include all comment letters and responses to the letters, as well as appropriately revised text. Attached, for your information and appropriate action, are comments from several State and Federal agencies regarding the subject draft environmental assessment.

These agencies are:

Federal: Department of the Army.

State: State Department of Health, and State Department of Land and Natural Resources' Office of Conservation and Coastal Lands.

Other: John A. and Kathleen A. Dracup.

In addition, enclosed herein are the Department of Planning and Permitting's comments on the DEA.

### Shoreline Setback Variance

September 2004						
S	M	Tu	W	Th	F	Sa
		1	2	3	4	
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Start Date: September 10  
 Start Time: 10:30:00 AM  
 End Date: September 10  
 End Time: 11:30:00 AM  
 Location: Honolulu Municipal Building, 7th Floor, 650 South King Street, Honolulu, Hawaii  
 Description: Shoreline Setback Variance public hearing

Categories:  
Public Hearings  
Regions:  
North Shore

Detail:

DEPARTMENT OF PLANNING AND PERMITTING

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN of a public hearing to be held by the Department of Planning and Permitting of the City and County of Honolulu under Chapter 23, Re Ordinances of Honolulu, as amended, for the following application at the date and time specified or soon thereafter:

DATE: Friday, September 10, 2004  
 TIME: 10:30 a.m.  
 PLACE: Honolulu Municipal Building, 7th Floor, 650 South King Street, Honolulu, Hawaii

APPLICATION: SHORELINE SETBACK VARIANCE (SV)  
 FILE NO. 2004/SV-14(AM)

OWNER: Bruce E. Clements  
 APPLICANT: Bruce E. Clements  
 AGENT: Analytical Planning Consultants, Inc.  
 TAX MAP KEY: 6-8-9: 11  
 LOCATION: 68-003 Laau Peina Place - Waialua  
 REQUEST: Shoreline Setback Variance  
 PROPOSAL: After-the-fact approval to retain a Concrete Rubble Masonry (CRM) seawall

Maps showing the general location and boundaries of the area under consideration on file at the Department of Planning and Permitting. Permit and Zoning Records Access, First Floor, Honolulu Municipal Building, 650 South King Street, and are available to the public for inspection during office hours, 7:45 a.m. to 4:30 p.m., Monday through Friday. For assistance, please call the department's Urban Design Branch at 523-4077.

Any disabled persons requiring special assistance should contact the Department of Planning and Permitting at 527-5046.

All interested persons are invited to attend. Those persons desiring to testify may register prior to the public hearing at the public hearing site and are encouraged to

submit one copy of their testimony in writing.

Attendance at the public hearing is not necessary to submit testimony. Written testimony which is received by the Department of Planning and Permitting at the address prior to the public hearing will be considered in the evaluation of the request.

ERIC G. CRISPIN, AIA  
 Director of Planning and Permitting

(Honolulu Star Bulletin: Friday, August 20, 2004)  
 City and County of Honolulu  
 650 So. King St. Honolulu, HI 96816  
 Fax: (808) 527-6743  
 E-mail: [info@honolulu.gov](mailto:info@honolulu.gov)

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DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, HONOLULU  
FT. SHAFTER, HAWAII 96859-5440

July 19, 2004

REPLY TO  
ATTENTION OF

Regulatory Branch

Mr. John Borsia  
67-011 Kaimanu Place  
Wailua, Hawaii 96791

Dear Mr. Borsia:

We have received a copy of a letter from the State Department of Land and Natural Resources concerning the unauthorized placement of rocks and boulders along the shoreline of a parcel identified as TMK: (1)6-7-14:28 located in Wailua, Hawaii. According to the letter, the State has given you until July 30, 2004 to remove the rocks and boulders or be subject to fines from the State.

Our files do not contain any authorization for the structures and consider this work unauthorized under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. For your information the Corps has regulatory responsibilities under Section 404 to regulate the discharge of dredged or fill material into all waters of the U.S. Discharges of fill material generally include, without limitation placement of structures necessary for the construction of any structure, or impoundment requiring rock, sand, dirt, or other material for its construction; road fills; property protection such as riprap, groins or seawalls; dams or dikes and other work. Furthermore, Section 10 regulates all work in waters which are subject to the ebb and flow of tide. A Corps permit is required whether the work is permanent or temporary. Based on the information in the letter, it appears the structure was constructed below the high tide line and a Department of the Army (DA) permit was required.

Since you did agree to remove the rocks, we will not pursue any enforcement action against you. Until this matter is resolved, no further work is to be performed in areas subject to Corps of Engineers jurisdiction. You are advised that substantial penalties are available for conducting work in waters of the U.S. without the necessary DA authorizations. Violations of the Clean Water Act can result in fines of up to \$25,000 per day. For unauthorized work conducted under Section 10 of the Rivers and Harbors Act, criminal penalties may be imposed up to \$100,000 in fines and up to one year imprisonment or both. Injunctive relief, including restoration, may also be required. Further knowing violations of Section 404 of the Clean Water Act may be

OPTIONAL FORM NO. 10  
FAX TRANSMITTAL

To: *John Borsia*  
From: *Lolly Silva*  
Phone: *438-7083*  
Fax: *438-4060*  
NR 750-01-377-208 5004-101  
GENERAL SERVICES ADMINISTRATION



LINDA LINGLE  
GOVERNOR OF HAWAII

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96804-3378

September 7, 2004

The Honorable Eric G. Crispin, Director  
Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street  
Honolulu, Hawaii 96813

Dear Mr. Crispin:

SUBJECT: Shoreline Setback Variance  
67-011 Kaimanu Place, Waiialua  
TMK: 6-7-14:28

Thank you for the opportunity to offer comments on the above document. Your request has been reviewed by the Solid Waste, Underground Storage Tank, and Hazardous Waste programs within the Solid and Hazardous Waste Branch.

We have no comments to offer at this time.

Sincerely,

*Steven Y.K. Chang*  
STEVEN Y.K. CHANG, P.E., CHIEF  
Solid and Hazardous Waste Branch

CHRISTINE L. BERNARD, M.D.  
DIRECTOR OF HEALTH

In reply, please refer to:  
BSP-0496

SEP 10 10 48 AM '04

67-011 KAIMANU PLACE

RECEIVED

referred to the U.S. Environmental Protection Agency for enforcement action.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, State or local statutes, ordinances, or other regulations that may have affected this work.

We appreciate your cooperation with the Corps of Engineers Regulatory Program. Please refer to file number 200400425 in future correspondence with this office. If you have any questions, you may contact Ms. Lolly Silva at (808)438-7023 or by fax at (808)438-4060.

Sincerely,



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

Copy Furnished:

Department of Health, Clean Water Branch, P.O. Box 3378,  
Honolulu, HI 96801  
Office of Planning, Department of Business, Economic Development  
& Tourism, CZM Program Office, P.O. Box 2359, Honolulu, HI 96804  
U.S. Fish & Wildlife Service, Environmental Services, Rm. 3108,  
P.O. Box 50088, Honolulu, Hawaii 96850  
Department of Land & Natural Resources, Office of Conservation  
and Coastal Lands, P.O. Box 621, Honolulu, Hawaii 96813  
Environmental Protection Agency, Honolulu Branch, P.O. Box  
50003, Honolulu, Hawaii 96850

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**  
650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 525-4114 • FAX: (808) 527-6733 • INTERNET: WWW.CO.HONOLULU.HI

637-7891



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR  
BARBARA MONAGHAN  
DEPUTY DIRECTOR

September 20, 2004

2004/ED-16(AM)

James Matichuk, AIA  
Hawaii Architects, Inc.  
1025 Loho Street  
Kailua, Hawaii 96734

Dear Mr. Matichuk:

CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)

Project Name : Borsa Shoreline Seaback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaimanu Place - Waialua  
Tax Map Key : 6-7-14: 28

In accordance with the procedural provisions of Chapter 343, Hawaii Revised Statutes (HRS), all comment letters received during the 30-day comment period, which began with the initial publication of a notice of availability of the DEA in The Environmental Notice on August 23, 2004, require a response addressed directly to the commenter. The final EA must include all comment letters and responses to the letters, as well as appropriately revised text. Attached, for your information and appropriate action, are comments from several State and Federal agencies regarding the subject draft environmental assessment.

These agencies are:

**Federal:** Department of the Army.

**State:** State Department of Health, and State Department of Land and Natural Resources' Office of Conservation and Coastal Lands.

**Other:** John A. and Kathleen A. Dracup.

In addition, enclosed herein are the Department of Planning and Permitting's comments on the DEA.

Department of Planning and Permitting:

1. Summary of Proposed Action, page 4: The Department of Planning and Permitting, City and County of Honolulu, should be identified as the accepting authority pursuant to the State EIS Regulations, Title 11, Chapter 200, Hawaii Administrative Rules (HAR), and Chapter 343, Hawaii Revised Statutes (HRS).
2. Section 1.1 Project Overview, page 5: Please clarify this section to indicate that the applicant is requesting an after-the-fact approval to retain an existing, relocated wood pole fence.
3. Section 1.2, Purpose of the Environmental Assessment, page 5: Please indicate that the Environmental Assessment is being prepared pursuant to Hawaii Administrative Rules, Title 11, Chapter 200, Section 11-200-6(b)(1)(C).
4. Section 1.3, Previous Land Use Approvals, page 5: Please note that the correct date of approval for Building Permit 294986 is November 29, 1990. Expand this section to disclose that the applicant was issued a Notice of Violation on September 26, 2003 for the unauthorized relocation of the wood pole fence within the shoreline setback area, and include a summary of all building permit-related actions and dates (e.g., date dwelling unit was constructed; date pole fence was relocated and so on).
5. Section 1.4, Purpose and Need for the Project, page 5: This section states that the "fence does not function as a sea wall." What evidence is there to support this statement? Please note that according to Chapter 23, Revised Ordinances of Honolulu, a shore protection structure is defined as a "structure which may artificially fix the location of the shoreline, including but not limited to a groin, seawall, or revetment." In addition, clarify what is meant by the fence is "no higher than the vegetation on neighboring properties."  
  
Also, note that deprivation of recreational use of near shore marine environment does not constitute hardship as defined in Section 23-1.8(b)(3)(A)(i)(ii)(iii), Revised Ordinances of Honolulu. We recommend that an additional section be added in the Final EA, which specifically addresses the "Criteria for granting a variance," pursuant to Section 23-1.8, Revised Ordinances of Honolulu (ROH). This section should discuss how the three standards of hardship are met by the proposal and should be attached as an appendix to the Final Environmental Assessment.
6. Section 1.5, Alternatives Considered, page 6: What is the viability of constructing the pool on a smaller scale or in a different location (e.g., indoor swimming pool) so that a Shoreline Setback Variance is not warranted? Has the applicant considered open-work metal or wood fences (meeting the definition of a minor structure stipulated in Part 2

Rules Relating to Shoreline Setbacks and the Special Management Area) as an alternative for the protection of his property and for the required swimming pool fence?

7. Section 2.1 Technical Characteristics, C. Construction Characteristics, page 7: Expand your description of the wood poles to include their origin and composition (e.g., whether wood is chemically treated), and expand your discussion of the pool by indicating its size as well as whether it will be a freshwater pool. If it is a freshwater swimming pool, the water disinfection system should be discussed (e.g., chlorination).  
  
A section on water quality should be provided in the Final Environmental Assessment that addresses the possible impacts of the wooden pole fence and pool operation and maintenance will have on nearby ocean waters (i.e., individual poles unraveling during high surf or a tsunami, overflow containment of chlorinated water, if used, during storm events, how and where water is drained for cleaning, etc.).
8. Section III. Affected Environment - Impacts and Mitigation Measures, A. Brief Description of subject site: Please expand this section to include information relating to the nearest public beach right-of-way, beach park and so on.
9. Section III. Affected Environment - Impacts and Mitigation Measures, B. Federal FRM Zone, page 7: This item should be revised to discuss how the project will comply with flood hazard regulations, Section 21-9.10 of the Land Use Ordinance.
10. Section III. Affected Environment - Impacts and Mitigation Measures, C. Coastal Views, page 7: Please expand on this item and discuss the project's impacts on scenic vistas as noted in the City and County's Coastal View Study.
11. Section 3.10, Scenic and Open Space Resources, page 11: Inasmuch as preservation of open space along the shoreline is a primary objective of the shoreline setback ordinance (Section 23-1.2(a)), discuss the impacts of the wood pole fence on open space, visual impacts (lateral views of coastline as well as views of the coastline from Kaimanu Place), shoreline access as well as lateral beach access impacts.
12. We note that your application for certification of the shoreline (survey prepared by Wesley T. Tengan dated your survey dated April 14, 2004) was rejected by the Department of Land and Natural Resources on July 26, 2004. This information should be disclosed in the Final Environmental Assessment. Please be informed that in accordance with the DPP Part 2 Rules Relating to Shoreline Setbacks and the Special Management Area, the Director of Planning and Permitting may waive the requirement of a certified shoreline survey in cases where the shoreline area is affected by an illegal shore protection structure or other structure seaward of the waiver line, provided that the

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**  
650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 523-4414 • FAX: (808) 527-6743 • INTERNET: [www.co.honolulu.hi.us](http://www.co.honolulu.hi.us)



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR  
BARBARA KIM STANTON  
DEPUTY DIRECTOR

2004/ED-16(AM)

September 28, 2004

James Matichuk, AIA  
Hawaii Architects, Inc.  
1025 Loho Street  
Kailua, Hawaii 96734

Dear Mr. Matichuk:

**SUBJECT:** CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)  
Project Name : Borsia Shoreline Setback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaimanu Place - Waialua  
Tax Map Key : 6-7-14: 28

We are transmitting for your information and appropriate action, comment letters from the State Office of Environmental Quality Control and Sierra Club, both dated September 22, 2004 and received by our department on September 24, 2004, regarding the above-referenced Draft EA.

In accordance with the procedural provisions of Chapter 343, Hawaii Revised Statutes (HRS), all comment letters received during the 30-day comment period, which began with the initial publication of a notice of availability of the DEA in The Environmental Notice on August 23, 2004, require a response addressed directly to the commenter. The final EA must include all comment letters and responses to the letters, as well as appropriately revised text.

If you have any questions, please contact Ann Matsumura of our staff at 523-4077.

Sincerely yours,

ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:nt

Enclosure

John Borsia

James Matichuk, AIA  
Page 4  
September 20, 2004

applicant submits a shoreline survey, and that the director may determine the location of the shoreline and the shoreline setback line solely for the purpose of processing an after-the-fact variance application for the shore protection structure. In that case, all structures within the determined shoreline setback area will warrant a Shoreline Setback Variance.

13. A site visit on August 31, 2004 by DPP staff revealed that the vegetation lines on either side of the subject property are landward of the wood pole fence, and it appears that the shoreline on the applicant's property has been artificially fixed by the wood pole fence. Can you explain how this situation came about?

Furthermore, it appears that a jacuzzi/hot tub between the dwelling unit and the subject wood pole fence is located within the 40-foot shoreline setback. Please disclose all "structures" within the shoreline setback area on the Site Plan. A "structure" is defined in Chapter 23, Revised Ordinances of Honolulu, as "any portion of any building, pavement, road, pipe, flume, utility line, fence, groin, wall, or revetment, or anything constructed or erected with a fixed location at or under the ground, or requiring a fixed location on or under the ground, or attached to something having or requiring a fixed location on or below the ground." If the structure is within the shoreline setback area and was erected subsequent to the County's shoreline law enacted on June 22, 1970, then the structure is considered illegal and is required to be removed, or a Shoreline Setback Variance applied for its retention.

If you have any questions, please contact Ann Matsumura of our staff at 523-4077.

Sincerely yours,

ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:nt

Enclosures

cc: Office of Environmental Quality Control

dec318280

LINDA LUKOLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

225 SOUTH KING STREET  
SUITE 202  
HONOLULU, HAWAII 96813  
TELEPHONE (808) 586-4185  
FACSIMILE (808) 586-4185  
E-MAIL: oeq@health.state.hi.us

GENEVIEVE SALMONSON  
DIRECTOR

2004 SEP 24 PM 3 48

September 22, 2004

Mr. John A. Borsia  
67-011 Kaimanu Place  
Waihalua, Hawaii 96791

Ms. Ann Matsumura  
Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Mr. James Matichuk  
Hawaii Architects Inc.  
1025 Loho Street  
Kailua, Hawaii 96734

Dear Messrs. Borsia and Matichuk, and Ms. Matsumura:

The Office of Environmental Quality Control has reviewed your draft environmental assessment for the 67-011 Kaimanu Place After-the-Fact Shoreline Setback Variance for Renovations, TMK 6-7-14-28, in the judicial district of Waihalua, and offers the following comments for your consideration and response.

1. **Certified Shoreline Regime for the Locale and Comparison of Vegetation Lines from adjacent parcels.** While the DEA provides a map of the certified shoreline (at the wooden poles) for the subject project, please include also include a map providing an overview of the certified shoreline for parcels adjacent to 67-011 Kaimanu Place. Based on this general map, please analyze the vegetation lines and account for any anomalies (deviations from the natural vegetation lines from the adjacent parcels).
2. **Cultural Impact Assessment and Sustainable Building Guidelines:** The proximity of the proposed project to the shoreline increases the likelihood that the proposed action may have impacts on cultural activities such as gathering or fishing. The wooden poles should be analyzed as to their effects on cultural resources and practices. Please refer to the guidance contained in our Guidebook on the Internet (infra). Also, please refer to the guidance on sustainable building contained in our Guidebook on the Internet at <http://www.state.hi.us/health/oesq/index.html>.

Thank you for the opportunity to comment. If there are any questions, please call Mr. Leslie Segundo, Environmental Health Specialist, at (808) 586-4185.

Sincerely,

*Genevieve Salmonson*  
GENEVIEVE SALMONSON  
Director



SIERRA CLUB  
HAWAII CHAPTER  
P.O. Box 2577, Honolulu, HI 96803  
tel: 808.538.6616 fax: 808.537.9019

22 September 2004

Hawaii Architects, Inc.  
Attn: James Matichuk  
1025 Loho Street  
Kailua, HI 96734

RE: Draft Environmental Assessment for Borsia Shoreline Setback Variance

The Sierra Club, O'ahu Group, is concerned with the proposed construction of a log fence and part of a swimming pool within the shoreline setback at Waihalua, O'ahu. We believe that such a development in the setback will reduce public recreation opportunities on the beach in the area and possibly exacerbate erosion.

It has been well-established that coastal armoring exacerbates beach erosion. Although the proposed project on the Borsia property isn't a seawall *per se*, it appears to be a structure that would behave as coastal armoring. We know that 25%—about 10 miles—of Oahu's beaches have eroded thanks to coastal armoring. Studies done by the Army Corps of Engineers, the University of Hawaii and the Coastal Zone Management Program demonstrate that if a shoreline is undergoing long-term retreat, beach narrowing and loss can be expected if the beach is armored. See, e.g., Hwang and Fletcher, *Beach Management Plan with Beach Management District* (June 1992).

Shoreline Setback Variances must be consistent with the objectives and policies of HRS 205A-2, 205A-4(b). These objectives and policies include:

- providing recreational opportunities accessible to the public;
- protecting the quality of coastal scenic and open space resources;
- protecting beaches for public use and recreation;
- providing and managing adequate public access to and along shorelines with recreational values; and
- prohibiting 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.

We ask that the following issues be better discussed in the final EA:

No variance may be granted unless safe lateral access to and along the shoreline is provided. 205A-46(c)(7). Will safe lateral access be provided if the proposed seawall is built? What alternatives would provide such access?



Sierra Club

Borsa Shoreline Setback Borsa DEA

Page 2

No variance may be granted unless conditions are imposed to minimize adverse impacts to beach processes. 205A-46(c)(2). How will the log wall affect the movement of sand to and from the beach dune structure?

No variance may be granted unless conditions are imposed to minimize adverse impacts on public views. 205A-46(c)(4). The log fence detracts from the scenic beauty of the shoreline. This proposal reduces the scenic value of an open, natural shoreline—and therefore is inconsistent with the objectives and policies of HRS Chapter 205A.

The applicant has not proven hardship. In general, a variance should be viewed as an extraordinary exception which should be granted sparingly. The reasons to justify approval must be substantial, serious and compelling. R.R. Powell on Real Property 79c.16[1] (1995). The applicant has the burden of proof. Hawaii property law does not give private property owners the right to damage public property (i.e., cause beach erosion). The beach is a public trust resource (Application of Sanborn, 57 Haw. 585) and the government, as a trustee, can restrain those activities that damage the resource (Orion Corp. v. State 747 P.2d 1062). Coastal property is encumbered with the risk that erosion will take away property. Because this principle is inherent in the property law (County of Hawaii v. Sotomura 55 Haw. 176; SA Powell on Real Property 66.01), there is no "hardship" caused by erosion. It is a natural phenomenon.

The Sierra Club, O'ahu Group, believes that the proposed log wall is an inappropriate structure in the shoreline setback.

We appreciate the opportunity to offer these comments and look forward to your response.

Sincerely,



Jeffrey Mokuina  
Director, Sierra Club, Hawai'i Chapter

cc: City and County of Honolulu, DPP  
Office of Environmental Quality Control  
John A. Borsa

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 523-4414 • FAX: (808) 527-6743 • INTERNET: [www.cc.honolulu.hi.us](http://www.cc.honolulu.hi.us)



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA WILSON-STANTON  
SENIOR DIRECTOR

2004/ED-16(AM)

September 24, 2004

James Matichuk, AIA  
Hawaii Architects, Inc.  
1025 Loho Street  
Kailua, Hawaii 96734

Dear Mr. Matichuk:

**SUBJECT: CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)**

Project Name : Borsa Shoreline Setback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaimanu Place - Waiialua  
Tax Map Key : 6-7-14: 28

We are transmitting for your information and appropriate action, a comment letter from the applicant's neighbors, received by our department on September 22, 2004, regarding the above-referenced Draft EA.

In accordance with the procedural provisions of Chapter 343, Hawaii Revised Statutes (HRS), all comment letters received during the 30-day comment period, which began with the initial publication of a notice of availability of the DEA in The Environmental Notice on August 23, 2004, require a response addressed directly to the commenter. The final EA must include all comment letters and responses to the letters, as well as appropriately revised text.

If you have any questions, please contact Ann Matsumura of our staff at 523-4077.

Sincerely yours,

*Eric G. Crispin*  
ERIC G. CRISPIN, AIA  
Director of Planning  
and Permitting

EGC:pl  
Enclosure

cc: John Borsa

doc. 326868r1



STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS  
711 KAPICLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

HRD04/1502

September 26, 2004

Eric G. Crispin, AIA  
Director, Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street  
Honolulu, HI 96813

RE: Request for Comments on an Draft Environmental Assessment for a Shoreline  
Setback Variance to retain and allow a relocated wood pole fence, and construction of a  
below-grade swimming pool within the shoreline setback area, 67-011 Kaitmannu Place,  
Waialua, O'ahu, TMK: 6-7-014-028

Dear Eric G. Crispin,

The Office of Hawaiian Affairs (OHA) is in receipt of your August 4, 2004, request for  
comments on the above project, which would allow for construction of a below-grade swimming  
pool and the retention of a relocated wood pole fence within the shoreline setback area of the  
above-mentioned address. OHA apologizes for the delayed response, and offers the following  
comments.

Because the fence is wood, and allows some flexibility of coastal movement, OHA does not  
contest it's staying in place. However, we cannot condone the continued use of variances for  
property owners' regular flouting of coastal conservation laws, which were at least partly put in  
place to protect the safety of property owners themselves.

The proposed construction of a swimming pool within the setback area should not be allowed.  
The shoreline setback is there to protect coastal property owners' structures from ocean damage,  
and to protect public shoreline access and use from encroachment by property owners. The  
applicant argues a "hardship" in living on the coastline and not feeling that the ocean in Waialua  
is safe for swimming and recreation for the applicant's family. This contention is ludicrous, and  
to use the argument that chemical contamination due to runoff from O'ahu's agricultural district

makes the ocean water unsafe for swimming, and then propose putting a pond of chemicals  
within the shoreline setback as the solution is ridiculous. This proposal should not be allowed as  
it stands.

One of the alternatives offered was to place the pool inside the 40-foot setback. This is the only  
appropriate alternative offered, and the only way that a finding of no significant impact could be  
given.

Thank you for the opportunity to comment. If you have further questions, please contact Heidi  
Guth at 594-1962 or e-mail her at [heidig@oha.org](mailto:heidig@oha.org).

Sincerely,

Clyde W. Nāmu'o  
Administrator

CC: State Office of Environmental Quality Control  
235 S. Beretania Street  
Suite 702  
Honolulu, HI 96813  
✓ Hawaii Architects, Inc.  
1025 Loho St.  
Kailua, HI 96734

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU HAWAII 96813  
 TELEPHONE: (808) 523-4414 • FAX: (808) 527-0743 • INTERNET: www.cc.honolulu.hi.us



ERIC G. CRISPIN, AIA  
 DIRECTOR  
 BARBARA KIM STANTON  
 DEPUTY DIRECTOR  
 2004/ED-16(AM)

October 1, 2004

James Matichuk, AIA  
 Hawaii Architects, Inc.  
 1025 Loho Street  
 Kailua, Hawaii 96734

Dear Mr. Matichuk:

**SUBJECT: CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
 DRAFT ENVIRONMENTAL ASSESSMENT (DEA)**  
 Project Name : Borsa Shoreline Seaback Variance  
 File No. : 2004/ED-16  
 Location : 67-011 Kaimanu Place - Waialua  
 Tax Map Key : 6-7-14: 28

We are transmitting for your information and use, a comment letter from the State Office of Hawaiian Affairs dated September 26, 2004, regarding the above-referenced Draft EA. We note that their comments were received after the statutory 30-day public comment period that ended on September 22, 2004. Nevertheless, we recommend that you respond to their comments and incorporate the comments as well as the applicant's response into the Final Environmental Assessment.

If you have any questions, please contact Ann Maisumura of our staff at 523-4077.

Sincerely yours,

*Eric G. Crispin*  
 ERIC G. CRISPIN, AIA  
 Director of Planning and Permitting

ECC:nt

Enclosure

cc: John Borsa

dec328101

PETER T. YOUNG  
 BOARD OF LAND AND NATURAL RESOURCES  
 COMMISSIONER OF WATER RESOURCES MANAGEMENT  
 DAN DAVIDSON  
 DEPUTY DIRECTOR - LAND  
 WYNNIE Y. FU  
 DEPUTY DIRECTOR - WATERS

AGRICULTURE  
 DEPARTMENT OF LAND AND NATURAL RESOURCES  
 BUREAU OF CONSERVATION  
 COMMISSION ON WATER RESOURCES MANAGEMENT  
 DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT  
 FORESTRY AND WILDLIFE  
 WETLAND PRESERVATION  
 MARSHLAND PRESERVATION  
 LAND USE AND PLANNING DIVISION  
 STATE PLANS



STATE OF HAWAII  
 DEPARTMENT OF LAND AND NATURAL RESOURCES  
 HISTORIC PRESERVATION DIVISION  
 KAKUHIHEWA BUILDING, ROOM 555  
 801 KAMOKILA BOULEVARD  
 KAPOLEI, HAWAII 96707  
 HAWAII HISTORIC PRESERVATION  
 DIVISION REVIEW

Log No: 2004.2965  
 Doc No: 04095C17

OCT - 4 2004

Applicant/Agency: Eric Crispin, Director, Dept. of Planning & Permitting

Address: City and County of Honolulu  
 650 South King Street  
 Honolulu, Hawaii 96813

**SUBJECT: Chapter 6E-42 Historic Preservation Review of a Draft Environmental Assessment for a  
 Shoreline Seaback Application at 67-011 Kaimanu Place**

Ahupua'a: Waialua  
 District, Island: Waialua, Hawai'i  
 TMK: (1) 6-7-014-28

1. We believe there are no historic properties present, because:
- a) intensive cultivation has altered the land
  - b) residential development/urbanization has altered the land
  - c) previous grubbing/grading has altered the land
  - d) an acceptable archaeological assessment or inventory survey found no historic properties
  - e) other: The existing residence and yard were constructed in 1985.

2. This project has already gone through the historic preservation review process, and mitigation has been completed

Thus, we believe that "no historic properties will be affected" by this undertaking

Should historic remains such as artifacts, burials, concentrations of shell or charcoal be encountered during construction activities, work shall cease immediately in the immediate vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary.

Staff: *John J. Collins* Date: September 30, 2004

Title: Branch Chief - Archaeology (808-692-8026)

SC: sic

LINDA LINDLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

235 SOUTH BERETANIA STREET  
HONOLULU, HAWAII 96813  
TELEPHONE (808) 586-4185  
FACSIMILE (808) 586-4186  
E-MAIL: oeq@health.state.hi.us

September 22, 2004

Mr. John A. Borsa  
67-011 Kaimanu Place  
Waialua, Hawaii 96791

Ms. Ann Matsumura  
Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street, 7<sup>th</sup> Floor  
Honolulu, Hawaii 96813

Mr. James Maichuk  
Hawaii Architects Inc.  
1025 Loho Street  
Kailua, Hawaii 96734

Dear Messrs. Borsa and Maichuk, and Ms. Matsumura:

The Office of Environmental Quality Control has reviewed your draft environmental assessment for the 67-011 Kaimanu Place After-the-Fact Shoreline Setback Variance for Renovations, TMK 6-7-14-28, in the judicial district of Waialua, and offers the following comments for your consideration and response.

1. **Certified Shoreline Regime for the Locale and Comparison of Vegetation Lines from adjacent parcels:** While the DEA provides a map of the certified shoreline (at the wooden poles) for the subject project, please include also a map providing an overview of the certified shoreline for parcels adjacent to 67-011 Kaimanu Place. Based on this general map, please analyze the vegetation lines and account for any anomalies (deviations from the natural vegetation lines from the adjacent parcels).
2. **Cultural Impact Assessment and Sustainable Building Guidelines:** The proximity of the proposed project to the shoreline increases the likelihood that the proposed action may have impacts on cultural activities such as gathering or fishing. The wooden poles should be analyzed as to their effects on cultural resources and practices. Please refer to the guidance contained in our Guidebook on the Internet (infra). Also, please refer to the guidance on sustainable building contained in our Guidebook on the Internet at <http://www.state.hi.us/health/oeqc/index.html>.

Thank you for the opportunity to comment. If there are any questions, please call Mr. Leslie Segundo, Environmental Health Specialist, at (808) 586-4185.

Sincerely,

*Genevieve Salmonson*  
GENEVIEVE SALMONSON  
Director



SIERRA CLUB  
HAWAII CHAPTER  
P.O. Box 2577, Honolulu, HI 96803  
tel: 808.538.6616 fax: 808.537.9019

22 September 2004

Hawai'i Architects, Inc.  
Attn: James Maichuk  
1025 Loho Street  
Kailua, HI 96734

RE: Draft Environmental Assessment for Borsa Shoreline Setback Variance

The Sierra Club, O'ahu Group, is concerned with the proposed construction of a log fence and part of a swimming pool within the shoreline setback at Waialua, O'ahu. We believe that such a development in the setback will reduce public recreation opportunities on the beach in the area and possibly exacerbate erosion.

It has been well-established that coastal armoring exacerbates beach erosion. Although the proposed project on the Borsa property isn't a seawall *per se*, it appears to be a structure that would behave as coastal armoring. We know that 25%—about 10 miles—of Oahu's beaches have eroded thanks to coastal armoring. Studies done by the Army Corps of Engineers, the University of Hawai'i and the Coastal Zone Management Program demonstrate that if a shoreline is undergoing long-term retreat, beach narrowing and loss can be expected if the beach is armored. See, e.g., Hwang and Fletcher, *Beach Management Plan with Beach Management Districts* (June 1992).

Shoreline Setback Variances must be consistent with the objectives and policies of HRS 205A-2, 205A-4(b). These objectives and policies include:

- providing recreational opportunities accessible to the public;
- protecting the quality of coastal scenic and open space resources;
- protecting beaches for public use and recreation;
- providing and managing adequate public access to and along shorelines with recreational values; and
- prohibiting 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.

We ask that the following issues be better discussed in the final EA:

No variances may be granted unless safe lateral access to and along the shoreline is provided. 205A-46(c)(1). Will safe lateral access be provided if the proposed seawall is built? What alternatives would provide such access?

Sierra Club

Borsa Shoreline Setback Borsa DEA

Page 2

No variance may be granted unless conditions are imposed to minimize adverse impacts to beach processes. 205A-46(c)(2). How will the log wall affect the movement of sand to and from the beach dune structure?

No variance may be granted unless conditions are imposed to minimize adverse impacts on public views. 205A-46(c)(4). The log fence detracts from the scenic beauty of the shoreline. This proposal reduces the scenic value of an open, natural shoreline—and therefore is inconsistent with the objectives and policies of HRS Chapter 205A.

The applicant has not proven hardship. In general, a variance should be viewed as an extraordinary exception which should be granted sparingly. The reasons to justify approval must be substantial, serious and compelling. R.R. Powell on Real Property 79c.16[1] (1995). The applicant has the burden of proof. Hawaii property law does not give private property owners the right to damage public property (i.e., cause beach erosion). The beach is a public trust resource (Application of Sanborn, 57 Haw. 585) and the government, as a trustee, can restrain those activities that damage the resource (Orion Corp. v. State 747 P.2d 1062). Coastal property is encumbered with the risk that erosion will take away property. Because this principle is inherent in the property law (County of Hawaii v. Sotomura 55 Haw. 176; 5A Powell on Real Property 66.01), there is no "hardship" caused by erosion. It is a natural phenomenon.

The Sierra Club, O'ahu Group, believes that the proposed log wall is an inappropriate structure in the shoreline setback.

We appreciate the opportunity to offer these comments and look forward to your response.

Sincerely,



Jeffrey Mikultha  
Director, Sierra Club, Hawai'i Chapter

cc: City and County of Honolulu, DPP  
Office of Environmental Quality Control  
John A. Borsa

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 533-4414 • FAX: (808) 527-6743 • INTERNET: www.co.honolulu.hi.us



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA IMAI STANTON  
DEPUTY DIRECTOR

2004/ED-16(AM)

October 7, 2004

James Matichuk, AIA  
Hawaii Architects, Inc.  
1025 Loho Street  
Kailua, Hawaii 96734

Dear Mr. Matichuk:

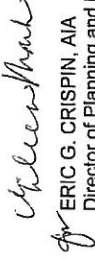
**SUBJECT: CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)**

Project Name : Borsa Shoreline Setback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaimanu Place - Waialua  
Tax Map Key : 6-7-14; 28

We are transmitting for your information and use, a comment letter from the State Department of Land and Natural Resources' Historic Preservation Division dated October 4, 2004, regarding the above-referenced Draft EA. We note that their comments were received after the statutory 30-day public comment period that ended on September 22, 2004. Nevertheless, we recommend that you respond to their comments and incorporate the comments as well as the applicant's response into the Final Environmental Assessment.

If you have any questions, please contact Ann Matsumura of our staff at 523-4077.

Sincerely yours,



ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:cs

Enclosure

cc: John Borsa

dec29415f1



**SIERRA CLUB  
HAWAII CHAPTER**

P.O. Box 3777, Honolulu, HI 96803  
tel: 808.538.6616 fax: 808.537.9019

22 September 2004

Hawaii Architects, Inc.  
Attn: James Matichuk  
1025 Loho Street  
Kauha, HI 96734

**RE: Draft Environmental Assessment for Borsa Shoreline Setback Variance**

The Sierra Club, O'ahu Group, is concerned with the proposed construction of a log fence and part of a swimming pool within the shoreline setback at Waiāluu, O'ahu. We believe that such a development in the setback will reduce public recreation opportunities on the beach in the area and possibly exacerbate erosion.

It has been well-established that coastal armoring exacerbates beach erosion. Although the proposed project on the Borsa property isn't a seawall *per se*, it appears to be a structure that would behave as coastal armoring. We know that 25%—about 10 miles—of Oahu's beaches have eroded thanks to coastal armoring. Studies done by the Army Corps of Engineers, the University of Hawaii and the Coastal Zone Management Program demonstrate that if a shoreline is undergoing long-term retreat, beach narrowing and loss can be expected if the beach is armored. See, e.g., Hwang and Fletcher, *Beach Management Districts* (June 1992).

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- protecting the quality of coastal scenic and open space resources;
- protecting beaches for public use and recreation;
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Sierra Club

Borsa Shoreline Setback Borsa DEA

Page 2

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The Sierra Club, O'ahu Group, believes that the proposed log wall is an inappropriate structure in the shoreline setback.

We appreciate the opportunity to offer these comments and look forward to your response.

Sincerely,

Director, Sierra Club, Hawai'i Chapter

cc: City and County of Honolulu, DPP  
Office of Environmental Quality Control  
John A. Borsa

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET - HONOLULU, HAWAII 96813  
TELEPHONE: (808) 523-4614 • FAX: (808) 527-9743 • INTERNET: www.cc.honolulu.hi



JEREMY HARRIS  
MAYOR

ERIC G. CRISPIN, AIA  
DIRECTOR

BARBARA KIM STANTON  
DEPUTY DIRECTOR

2004/ED-16(AM)

October 7, 2004

James Matchuk, AIA  
Hawaii Architects, Inc.  
1025 Loho Street  
Kailua, Hawaii 96734

Dear Mr. Matchuk:

**SUBJECT:** CHAPTER 343, HAWAII REVISED STATUTES (HRS)  
DRAFT ENVIRONMENTAL ASSESSMENT (DEA)  
Project Name : Borsa Shoreline Setback Variance  
File No. : 2004/ED-16  
Location : 67-011 Kaimanu Place - Waiatua  
Tax Map Key : 6-7-14; 28

We are transmitting for your information and use, a comment letter from the State Department of Land and Natural Resources' Historic Preservation Division dated October 4, 2004, regarding the above-referenced Draft EA. We note that their comments were received after the statutory 30-day public comment period that ended on September 22, 2004. Nevertheless, we recommend that you respond to their comments and incorporate the comments as well as the applicant's response into the Final Environmental Assessment.

If you have any questions, please contact Ann Matsumura of our staff at 523-4077.

Sincerely yours,

*Eric G. Crispin*  
ERIC G. CRISPIN, AIA  
Director of Planning and Permitting

EGC:cs

Enclosure

cc: John Borsa

doc2841511

11/11/04 11:13 AM

LINDA LINGLE  
GOVERNOR



CITY & COUNTY OF HONOLULU

PETER T. YOUNG  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSIONER

DAN DAVIDSON  
DEPUTY COMMISSIONER

WYNNE Y. JUD  
DEPUTY DIRECTOR

AGRICULTURE  
HAWAIIAN CULTURE  
COMMISSION ON WATER RESOURCES MANAGEMENT  
CONSERVATION AND RESOURCES DEVELOPMENT  
FORESTRY AND WILDLIFE  
LAND AND NATURAL RESOURCES  
STATE PLANNING

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION  
KANUHIHEVA BUILDING, ROOM 405  
801 KAMOLELA BOULEVARD  
KAPOLEI, HAWAII 96707

HAWAII HISTORIC PRESERVATION  
DIVISION REVIEW

Log No: 2004.2965  
Doc No: 0409SC17

OCT - 4 2004

Applicant/Agency: Eric Crispin, Director, Dept of Planning & Permitting

Address: City and County of Honolulu  
630 South King Street  
Honolulu, Hawaii 96813

**SUBJECT:** Chapter 6E-42 Historic Preservation Review of a Draft Environmental Assessment for a Shoreline Setback Application at 67-011 Kaimanu Place

Ahupua'a: Waiatua  
District, Island: Waiatua, Hawaii  
TMK: (1) 6-7-014; 28

1. We believe there are no historic properties present, because:

- a) intensive cultivation has altered the land
- b) residential development/urbanization has altered the land
- c) previous grubbing/grading has altered the land
- d) an acceptable archaeological assessment or inventory survey found no historic properties
- e) other: The existing residence and yard were constructed in 1985.

2. This project has already gone through the historic preservation review process, and mitigation has been completed

Thus, we believe that "no historic properties will be affected" by this undertaking

Should historic remains such as artifacts, burials, concentrations of shell or charcoal be encountered during construction activities, work shall cease immediately in the immediate vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary.

Staff: *John J. Collins* Date: September 30, 2004

Title: Branch Chief - Archaeology (808-692-8026)

SC: slc

lm000053 (2048x1536x24b jpeg)



City and County of Honolulu  
Department of Planning and Permitting

**SHORELINE SETBACK VARIANCE APPLICATION**

Jack Borsa  
67-011 Kaimanu Place  
Waiialua, Hawaii 96791  
(808) 637-7891  
(808) 255-5101 (cell)

Tax Map Key: 6-7-01-4-028  
Lot area: 9,263 sq. ft.



- b. The pole fence is needed to address safety issues arising because of unleashed dogs on the beach. The family would feel unsafe to use the backyard without a fence. If the fence is moved back, it leaves a very small area to use for recreational purposes.
  - c. Recurring theft in the area is an additional reason the pole fence is needed in that it deters easy access to the Borsa backyard from the beach. Again, the issue is safety for the Borsa family and a reasonably sized area to utilize the property for recreation.
2. The applicant's proposal is due to unique circumstances and does not draw into question the reasonableness of this chapter and the shoreline setback rules.
- a. Pollution in the near marine environment is a unique circumstance that the installation of a swimming pool would solve.
  - b. The safety issues of loose dogs and theft have arisen since the Borsas have owned the property.
3. The proposal is the practicable alternative which best conforms to the purpose of this chapter and the shoreline setback rules.
- a. A swimming will provide safe recreation for the Borsa family.
  - b. Leaving the pole fence where it is would not affect views since it is no higher than the vegetation on adjoining properties. The proposed pool fence will not have a major impact on views since it will be made from glass.
  - c. The proposed fences and pool would not change the character of the neighborhood in any way. Many other properties in the neighborhood have swimming pools, sheds, or playground equipment in their backyards.
  - d. The proposed fences are designed to be "break away" and will not affect the regulatory flood nor aggravate existing flood-related erosion hazards.

## INTRODUCTION

The applicant, Jack Borsa, is requesting a shoreline setback variance for a non-seawall fence that was moved to within a foot of the shoreline (as located on June 26, 2002)\*, on the entire seaward boundary of his 68-foot-wide property. (Exhibit 1). The fence adjoins the property boundary on both sides for the distance of the shoreline setback (TMK 6-7-014:027 and 6-7-014:029). The original pole fence and placement was previously approved by permit #294986 on 12/29/90. (Exhibit 1a).

Mr. Borsa has owned and lived on the property for 19 years. During this time, public use of the beach has increased significantly and concern for his family's security has increased as off-leash dogs are now common. Theft from his beachfront yard has occurred on several occasions. The existing alignment of the fence provides considerably increased security from both loose dogs as well as serves as a deterrent to theft from his property. The fence does not function as a sea wall and is no higher than the vegetation on neighboring properties.

## DESCRIPTION OF PROJECT

In addition to the pole fence, Mr. Borsa also proposes to construct a swimming pool partially in the shoreline setback area, as located on the yet to be certified shoreline map, completed by Wesley Tengan, Licensed Professional Land Surveyor on April 14, 2004. (Exhibit 2). Another 4 foot 6 inch protective fence around the pool will be added as required and be constructed of 6 foot 8 inch wide glass panels mounted in 2 x 4 foot wood frames. (Exhibit 3).

\* A new shoreline survey was completed on April 14, 2004 and has been submitted for state certification.

## REASON FOR GRANTING A VARIANCE

1. The applicant would be deprived of reasonable use of the land if required to comply fully with the shoreline setback ordinance and the shoreline setback rules
  - a. The pool is needed to provide a safe swimming and recreation environment for the Borsa family, which includes minor children. Frequent discharge of sewage and crop chemical contaminated water from episodes of high runoff from Lake Wilson and the agricultural areas of central Oahu significantly lowers near shore water quality. The problem is persistent and has deprived the Borsa family of recreational use of the near shore marine environment.

CITY AND COUNTY OF HONOLULU  
DEPARTMENT OF PLANNING & PERMITTING  
630 South King Street  
Honolulu, Hawaii 96813

LAND USE PERMITS DIVISION MASTER APPLICATION FORM

Additional data, drawings/plans, and fee requirements are listed on a separate sheet titled "Instructions for Filing". PLEASE ASK FOR THESE INSTRUCTIONS.

All specified materials described in the "Instructions for Filing" and required fees must accompany this form; incomplete applications will delay processing. You are encouraged to consult with Zoning Division staff in completing the application. Please call the appropriate phone number given in the "Instructions for Filing".

Please print legibly or type the required information.

SUBMITTED FEE: \$1200.00

PERMIT/APPROVAL REQUESTED (Check one or more as appropriate):

<input type="checkbox"/> Agricultural	<input type="checkbox"/> Plan Review Use	<input type="checkbox"/> Special Management Area Use Permit
<input type="checkbox"/> County	<input type="checkbox"/> Planned Development	<input type="checkbox"/> Minor <input type="checkbox"/> Major
<input type="checkbox"/> Housing	<input type="checkbox"/> Housing	<input type="checkbox"/> Variance from LUO Sec.(s):
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Commercial (WSD Only)	<input type="checkbox"/> Waiver from LUO Sec.(s):
<input type="checkbox"/> Minor <input type="checkbox"/> Major	<input type="checkbox"/> Resort (WSD Only)	<input type="checkbox"/> Zoning Adjustment, LUO Sec.(s):
<input type="checkbox"/> Existing Use:	<input checked="" type="checkbox"/> Shoreline Setback Variance	<input type="checkbox"/> 201G Project
(Indicate Type of Use)	<input type="checkbox"/> Special District Permit	
<input type="checkbox"/> Minor Shoreline Structures Permit	<input type="checkbox"/> Minor <input type="checkbox"/> Major	
<input type="checkbox"/> Modify Approved Permit	(Indicate District)	
(Indicate Reference File No.)	<input type="checkbox"/> Downtown Height >350 Feet	

TAX MAP KEY(S): 67-011-4-028

LOT AREA: 0.263

ZONING DISTRICT(S): P-5

STREET ADDRESS/LOCATION OF PROPERTY: 67-011 Kaimanu Place

Waialua, HI 96791

STATE LAND USE DISTRICT: Urban

RECORDED FEE OWNER:

Name (if the firm): John Borsa

Mailing Address: 67-011 Kaimanu Place

Phone Number: 255-5101

Signature: *John Borsa*

PRESENT USE(S) OF PROPERTY: Residential

PROJECT NAME (if any):

APPLICANT:

Name: Jack Borsa

Mailing Address: 67-011 Kaimanu Place

Waialua, HI 96791

Phone Number: 255-5101

Signature: *Jack Borsa*

AUTHORIZED AGENT/CONTACT PERSON:

Name: Hawaii Architects

Mailing Address: 1025 Loho St.

Kailua, HI 96734

Phone Number: 962-2475

Signed by: *James A. Borsa*

REQUEST/PROPOSAL (Briefly describe the nature of the request, proposed activity or project.)

1) Relocation of permitted pole fence to approximately 1 foot back from shoreline

2) Construction of a new swimming pool between 20 feet and 40 feet from shoreline

3) Construction of a required pool fence inland from pole fence

POSSE JOB NO.

DPF - CITY AND COUNTY OF HONOLULU, 1999 (REV. November 25, 2010)

Jack Borsa  
67-011 Kaimanu Place  
Waialua, HI 96791

July 7, 2004

James Maichuk  
Hawaii Architects  
1025 Loho Street  
Kailua, HI 96734

Re: Parcel 28 of Tax Map Key (1) 6-7-014  
67-011 Kaimanu Place

Dear Mr. Maichuk,

As recorded for owner of the above property, I authorize you to act as my agent in preparing and submitting an application for a Shoreline Variance and an Environmental Assessment report on my behalf. This application is for a relocated pole fence and a planned swimming pool on my property.

Sincerely,

*John A. Borsa*

John A. Borsa



**HAWAI'I ARCHITECTS, INC.**  
1025 Loho Street, Kailua, Hawaii 96734  
E-mail: [hiarch@hawaii.rr.com](mailto:hiarch@hawaii.rr.com)  
Fax: 808-263-8328 Tel: 808-262-2475

City and County of Honolulu  
Department of Planning and Permitting  
650 South King Street  
Honolulu, HI 96813

Re: Environmental Assessment for a Shoreline Variance Application  
for Jack Borsa

Enclosed please find a Shoreline Variance Application for Jack Borsa of 67-011 Kaimanu Place,  
Waialua, HI 96791. Included are the associated materials and plans required.

- Letter of authorization
- Master application
- Fee for non-seawall fence relocation; \$1,200 check attached
- Environmental Assessment
- Location plan
- Site plan

Thank you for your consideration in this matter.

Sincerely,

  
James Manichuk, AIA, PE  
Hawai'i Architects

City and County of Honolulu  
Department of Planning and Permitting

SHORELINE SETBACK VARIANCE APPLICATION

Jack Borsa  
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Waialua, Hawaii 96791  
(808) 637-7891  
(808) 265-5101 (cell)

Tax Map Key: 6-7-014:028  
Lot area: 9,263 sq. ft.

## INTRODUCTION

The applicant, Jack Borsa, is requesting a shoreline setback variance for a non-seawall fence that was moved to within a foot of the shoreline (as located on June 26, 2002)\*, on the entire seaward boundary of his 66-foot-wide property. (Exhibit 1). The fence adjoins the property boundary on both sides for the distance of the shoreline setback (TMK 6-7-014:027 and 6-7-014:029). The original pole fence and placement was previously approved by permit #294986 on 12/29/90. (Exhibit 1a).

Mr. Borsa has owned and lived on the property for 19 years. During this time, public use of the beach has increased significantly and concern for his family's security has increased as off-leash dogs are now common. Theft from his beachfront yard has occurred on several occasions. The existing alignment of the fence provides considerably increased security from both loose dogs as well as serves as a deterrent to theft from his property. The fence does not function as a sea wall and is no higher than the vegetation on neighboring properties.

## DESCRIPTION OF PROJECT

In addition to the pole fence, Mr. Borsa also proposes to construct a swimming pool partially in the shoreline setback area, as located on the yet to be certified shoreline map, completed by Wesley Tengan, Licensed Professional Land Surveyor on April 14, 2004. (Exhibit 2). Another 4 foot 6 inch protective fence around the pool will be added as required and be constructed of 6 foot 8 inch wide glass panels mounted in 2 x 4 foot wood frames. (Exhibit 3).

\* A new shoreline survey was completed on April 14, 2004 and has been submitted for state certification.

## REASON FOR GRANTING A VARIANCE

1. The applicant would be deprived of reasonable use of the land if required to comply fully with the shoreline setback ordinance and the shoreline setback rules

- a. The pool is needed to provide a safe swimming and recreation environment for the Borsa family, which includes minor children. Frequent discharge of sewage and crop chemical contaminated water from episodes of high runoff from Lake Wilson and the agricultural areas of central Oahu significantly lowers near shore water quality. The problem is persistent and has deprived the Borsa family of recreational use of the near shore marine environment.

- b. The pole fence is needed to address safety issues arising because of unleashed dogs on the beach. The family would feel unsafe to use the backyard without a fence. If the fence is moved back, it leaves a very small area to use for recreational purposes.

- c. Recurring theft in the area is an additional reason the pole fence is needed in that it deters easy access to the Borsa backyard from the beach. Again, the issue is safety for the Borsa family and a reasonably sized area to utilize the property for recreation.

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

- a. Pollution in the near marine environment is a unique circumstance that the installation of a swimming pool would solve.

- b. The safety issues of loose dogs and theft have arisen since the Borsas have owned the property.

3. The proposal is the practicable alternative which best conforms to the purpose of this chapter and the shoreline setback rules.

- a. A swimming pool will provide safe recreation for the Borsa family.

- b. Leaving the pole fence where it is would not affect views since it is no higher than the vegetation on adjoining properties. The proposed pool fence will not have a major impact on views since it will be made from glass.

- c. The proposed fences and pool would not change the character of the neighborhood in any way. Many other properties in the neighborhood have swimming pools, sheds, or playground equipment in their backyards.

- d. The proposed fences are designed to be "break away" and will not affect the regulatory flood nor aggravate existing flood-related erosion hazards.

ENVIRONMENTAL ASSESSMENT

GENERAL INFORMATION

- A. Applicant Name: Jack Borsa, Jr.  
67-011 Kaimanu Place  
Waiiua, HI 96791  
(808) 255-5101
- B. Recorded Fee Owner: Jack Borsa, Jr.  
67-011 Kaimanu Place  
Waiiua, HI 96791  
(808) 637-7891  
(808) 255-5101 (cell)
- C. Agent: Hawaii Architects, Inc.  
1025 Loho St.  
Kailua, HI 96734  
(808) 262-2475
- D. Tax Map Key: 6-7-14-28
- E. Lot Area: 9,263 Sq. Ft.
- F. Agencies consulted in Making Assessment:  
Department of Planning and Permitting

July 2004

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**SUMMARY OF PROPOSED ACTION**

Project	Pole Fence, Swimming Pool and Pool Fence
Landowner/Applicant	John Borsa
Accepting Agency	State of Hawaii, Department of Land and Natural Resources
Agent	Hawaii Architects
Location	Wai'alua, City and County of Honolulu, Oahu, Hawaii
Tax Map Key	6-7-014;028
Proposed Action	Relocate Pole Fence, Construct Swimming Pool with Protective Fence at Borsa Residence
Land Area	9,263 square feet
Present Use	Residential
State Land Use District	Urban District
Development Plan Land Use Designation	Residential; Located in the area managed by the North Shore Sustainable Communities Plan
Present Zoning	R-5 Residential District
Flood Zone	Firm Zone VE
Special Management Area	Shoreline Setback
Anticipated Determination	Finding of No Significant Impact (FONSI)

## I. INTRODUCTION

### 1.1 PROJECT OVERVIEW

The applicant, Jack Borsa, is requesting a shoreline setback variance for a non-seawall fence that was moved to within a foot of the shoreline (as located on June 26, 2002)\*, on the entire seaward boundary of his 68-foot-wide property. (Exhibit 1). The fence adjoins the property boundary on both sides for the distance of the shoreline setback (TMK 6-7-014-027 and 6-7-014-029).

Mr. Borsa also proposes to construct a swimming pool partially in the shoreline setback area, as located on the certified shoreline map,\* completed by Wesley Tengan, Licensed Professional Land Surveyor on April 14, 2004 and a protective fence around the pool.

The area of the entire lot is 9,263 sq. ft., of which 1,326 sq. ft. is erosion area and 2,715 sq. ft. constitutes the shoreline setback area (according to the survey submitted for certification on April 14, 2004). Only 3,217 sq. ft. is therefore non-restricted building area or 56.3 percent of the entire property. (Exhibit 2)

\* *This shoreline survey was completed on April 14, 2004 and has been submitted for state certification.*

### 1.2 PURPOSE OF THE ENVIRONMENTAL ASSESSMENT

This Environmental Assessment has been prepared pursuant to Hawaii Revised Statutes, Section 343-5(3), which states an environmental assessment shall be required for actions which propose any use within the shoreline area as defined in section 205-A-41.

### 1.3 PREVIOUS LAND USE APPROVALS

The original pole fence was approved on December 29, 1990 permit #294986. A new permit to relocate the fence was applied for on October 13, 2003. A shoreline variance and environmental assessment are required for approval. In accordance with Chapter 23 of the Revised Ordinances of Honolulu (ROH) the City and County of Honolulu Department of Planning and Permitting (DPP) is the authorized authority of the Environmental Assessment.

### 1.4 PURPOSE AND NEED FOR THE PROJECT

Mr. Borsa has owned and lived on the property for 19 years. During this time, public use of the beach has increased significantly and concern for his family's security has increased as off-leash dogs are now common. Theft from his beachfront yard has occurred on several occasions. The existing

alignment of the fence provides considerably increased security from both loose dogs as well as serves as a deterrent to theft from his property. The fence does not function as a sea wall and is no higher than the vegetation on neighboring properties.

The pool is needed to provide a safe swimming and recreation environment for the Borsa family, which includes minor children. Frequent discharge of sewage and crop chemical contaminated water from episodes of high runoff from Lake Wilson and the agricultural areas of central Oahu significantly lowers near shore water quality. The problem is persistent and has deprived the Borsa family of recreational use of the near shore marine environment constituting a hardship under Chapter 23, Shoreline Setbacks, Article 1, Section 23-1.8 Criteria for Granting a Variance.

### 1.5 ALTERNATIVES CONSIDERED:

a. Leave the pole fence in its current location and construct a swimming pool between the 40 foot and the 20 foot shoreline setback lines in the backyard of the Borsa residence with a new protective glass panel fence three feet back from the shoreline as shown on the April 2004 shoreline survey.

b. Leave the pole fence in its current location and construct the pool as above, but place the pool fence at 20 feet from the shoreline as located on April 14, 2004.

c. Leave the pole fence in its current location, construct the new pool fence 20 feet back from the shoreline and place the pool under the roof line of the house and outside (or inland from) the 40 foot shoreline setback. This is not a desirable alternative because the pool is out of the sun. In addition, it would necessitate major structural renovations to the house including reconstruction of the foundations of the home.

## II. DESCRIPTION OF THE PROPOSED ACTION

### 2.1 TECHNICAL CHARACTERISTICS:

- A. Use Characteristics: Private residential use
- B. Physical Characteristics: See Site Plan
- C. Construction Characteristics: The existing fence is constructed of 12 to 14 inch in diameter poles placed along the shoreline (Exhibit 2). The poles are buried 5 feet in the sand and vary from approximately 18 inches to three feet above ground. They are fastened together with two 1/4-inch stainless steel cables that run the entire length of the fence. A single five-foot-wide gate provides access from the fenced area to the sandy beach surrounding it. The fence is constructed of individual poles and is not intended to protect the property from high surf, storms or tsunami events. Thus the fence is considered a non-seawall structure. (Exhibit 4)
- The swimming pool will be in ground and below grade. A 4 foot 6 inch fence, as required will be constructed inside the existing fence. It will consist of 6 foot 8 inch wide glass panels mounted in 2 x 4 foot wood frames. (Exhibit 3).

## III. AFFECTED ENVIRONMENT – IMPACTS AND MITIGATION MEASURES

- A. Brief Description of subject site: This oceanfront property is bounded by residential homes west, to the east and south, respectively. Zoning is designated as State Land Use Urban District and Zone R-5. It is located in the Waiānae district where planning is guided by The North Shore Sustainable Communities Plan which is intended to help guide public policy, investment, and decisionmaking through the 2020 planning horizon. The region's character is typified by pockets of low-rise, small-scale rural centers and residential communities. The population of Waiānae is 2,478 according to the 2000 Census.
- B. Federal FIRM Zone, LUO Flood High Hazard District, VE 16: The proposed project will not adversely impact any public recreation area on Shoreline.
- C. Coastal Views: The proposed project will not adversely impact any coastal views. The current fence (except for the gate) is not higher than three feet; the proposed fence around the swimming pool will be of glass and conform to height regulations of 4 - 6. The swimming pool is below grade.
- D. Project Site: The proposed project is not expected to affect any publicly owned or used beach access points, beach parks or recreation areas because it is confined to the owner's backyard.
- E. Site Maps: Site maps, location maps, and ground level photographs are included in the application.

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Major impacts of the proposed action on the affected environment: The swimming pool will not dredge, fill or otherwise alter any bay estuary, salt marsh, river mouth, slough or lagoon.

### 3.1 TOPOGRAPHY

The existing lot topography rises 1 to 1.5 feet from the street to the house location and then drops toward the ocean approximately three feet at the 2004 shoreline and continues with a gentle slope for an additional 20 to 30 feet. The beach then drops at an approximate 15 percent grade to the water's edge. A topography plan of the site is included. (Exhibit 6)

### 3.1.1 Impacts and Mitigation Measures

The pole fence is a non-seawall fence and will have no effect on the natural wave action. No grading or altering of the natural topography is planned.

### 3.2 GEOLOGY and SOILS

The entire project site is composed of carbonate sand with a moderate amount of terrigenous debris that has been deposited offshore during high runoff episodes, re-suspended and deposited on shore during high wave and wind episodes. The US Department of Agriculture Soil Conservation Service classifies these deposits as Jaucha Sand (JaC) (0-15% slope. No test borings or other soil testing have been carried out on the property.

### 3.2.1 Impacts and Mitigation Measures

The beach sand surrounding the project area will not be impacted by this project.

### 3.3 HYDROLOGY AND DRAINAGE

Most runoff that occurs during high rain conditions is channeled through local streams and the Anahulu River and is dispersed in the near shore waters and dissipates at sea. There is no runoff from the street or any other property onto the subject property. There is virtually no runoff even during the most severe storms due to the high permeability of the soil. The pole fence/new pool fence and pool will not change the drainage conditions at the site.

### 3.3.1 Impacts and Mitigation Measures

Since there is no impact on the hydrology or drainage no mitigation measures will be required.

### 3.4 CLIMATE

The area is exposed to a long shore trade wind regime from about March to October and light trade winds to light and variable winds during the remainder of the year. The area receives between 40 to 50 inches rainfall annually predominantly in the winter and average air temperatures range between 65 and 85.

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Occasional tropical storm systems have impacted all parts of the Hawaiian Islands. These occur rarely with less than one in 10 years historically. All cyclones that have been recorded in Hawaii are generated in the Inter tropical convergence zone and migrate northward where they may cross the Hawaiian Islands. Though wind may be damaging to structures and vegetation in the project area, surf from these uncommon storms is rarely at advisory levels on north facing shores and shorelines are therefore minimally impacted.

#### **3.4.1 Impacts and Mitigation Measures**

No impact will occur due to the subject fence.

#### **3.5 AIR QUALITY**

The project area is exposed to prevailing long shore trade winds for most of the year with little or no point or area source emissions up wind. During Kona or winter weather systems, the air movement is oriented from onshore to offshore and this orientation also has no potential for entrapping pollutants as pollution sources are non-existent upwind of the subject property.

#### **3.5.1 Impacts and Mitigation Measures**

As neither point or area pollution sources exist in the area of the subject property and activities associated with the relocated fence do not generate air pollutants or contaminate the air in any way, impacts to air quality are not expected.

#### **3.6 BEACH PROCESSES**

The near shore consists of a fringing carbonate coral reef that extends approximately a half-mile offshore. The area adjacent to the beach is a flat carbonate platform, devoid of live coral and colonized primarily by algal turf and sparse macro algal snubble. The platform forms a narrow headland near shore that is emergent at low tide on which small waves break. A narrow moat exists at the shoreline which transitions to a continuous sandy beach. The prevailing current regime is from east to west and can be brisk during high surf conditions.

During the winter months the coastal area is exposed to high surf episodes from open ocean swell generated from North Pacific Storms. Most of the long period wave energy dissipates on the fringing reef along the coastline but in exceptionally large surf reaching 20-35 feet, considerable beach erosion occurs. The sand re-deposits during low surf conditions in the non-winter months.

Lateral sand transport is driven by the east to west littoral current. During high surf episodes this transport is vigorous resulting in significant beach erosion. Formal surveys that establish the location of the certified shoreline were conducted in 1990 and again in 2002. Both of these surveys show the vegetation line existing at the time of the survey.

#### **3.6.1 Impacts and Mitigation Measures**

The project is not expected to have any impact on the near shore marine environment. Also, the historic erosion and debris line established in two shoreline surveys is located seaward of the subject fence. Interruption of lateral transport of sand is not anticipated.

#### **3.7 FLORA AND FAUNA**

All parcels along the shoreline of the relocated fence have been fully developed as single family dwellings. These include housing, parking garages, swimming pools, fences, sidewalks, and other improvements including landscaping.

The vegetation line along the shore is now composed primarily of Sea Grapes, Beach Naupaka, Coconut trees, Plumeria and other ornamental landscaping. Weed species such as sand bur also exist. As the entire area is landscaped, endangered plant species do not exist.

The soil around the relocated fence is entirely of sand above the wash zone and thus fauna are essentially non-existent.

#### **3.7.1 Impacts and Mitigation Measures**

Based on the prior disturbance of construction and landscaping on the subject and surrounding properties, it is highly unlikely that any listed, candidate or proposed endangered species are present in the project area. Therefore, it is anticipated that no adverse impacts will occur as a result of the realignment of this fence.

#### **3.8 NOISE**

Noise levels in the area of the subject property are typical of low density. Primary noise sources are from low intensity traffic on Kaimanu Place and from the more distant Waialua Beach Road. During high surf episodes, considerable noise is generated from breaking waves.

#### **3.8.1 Impacts and Mitigation Measures**

Increased traffic will not result from any of the proposed work and residential activity will remain unchanged. No impact from noise is expected.

#### **3.9 HISTORICAL, ARCHEOLOGICAL, AND CULTURAL RESOURCES**

Historic and archeological resources are not likely to be present since the present structure was built in 1985, and surrounding areas are totally developed as single family residences.

#### **3.9.1 Impacts and Mitigation Measures**

No impact on historic and or archeological resources are expected.

### 3.10 SCENIC AND OPEN SPACE RESOURCES

Scenic resources include the Waianae and the Koolau Mountain Ranges, coastal pali, the coastline, and the Pacific Ocean. There are no open space resources contained on the project site.

#### 3.10.1 Impacts and Mitigation Measures

The proposed project will not adversely impact views of these resources from public places. The current fence is not higher than three feet; the proposed fence around the swimming pool will be of glass and be the required 4' 6" high. The swimming pool is below grade.

## IV. SOCIO-ECONOMIC CONDITIONS – IMPACTS AND MITIGATION MEASURES

### 4.1 DEMOGRAPHICS, POPULATION AND ECONOMIC CHARACTERISTICS

Waialua is a small rural plantation town for the most part developed into residential areas but with some open agricultural spaces. Population is 2,478 according to the 2000 Census.

#### 4.1.1 Impacts and Mitigation Measures

The proposed work will not impact the socio-economic status or population of the community. Therefore no mitigation measures are needed.

### 4.2 ADJACENT LAND USE:

The adjacent properties are developed with single-family residences in close proximity to each other. Photos of the project area and adjacent properties are included in Appendix A.

## V. PUBLIC SERVICES

### 5.1 TRAFFIC AND ROADWAYS

Access is off Waialua Beach Road into Kaimani Place. See Location Plan

#### 5.1.1 Impacts and Mitigation Measures

Traffic and roadways will not be affected by this project

### 5.2 WASTEWATER

The Waialua area is not served by the municipal sewer system. Wastewater is disposed of via an existing cesspool. See Exhibit 6.

### 5.2.1 Impacts and Mitigation Measures

Neither the pole fence or the required pool fence will have any impact on the existing sewage system. The pool will not be connected to the sewer system and therefore will not affect it.

### 5.3 POTABLE WATER

Water is supplied by the City and County of Honolulu. The proposed swimming pool will not be connected directly to the water system in that it will be filled via hose.

#### 5.3.1 Impacts and Mitigation Measures

No impact is anticipated by the proposed swimming pool or required pool fence. The existing pole fence will not affect the water system.

### 5.4 SOLID WASTE

Solid waste is collected by the City and County of Honolulu.

### 5.5 POLICE AND EMERGENCY SERVICES

The Waialua area is served by the Honolulu Police Department and Emergency Services Department.

#### 5.5.1 Impacts and Mitigation Measures

There will be no impact on police or emergency services as a result of the proposed swimming pool and fence so no mitigation measures are needed.

### 5.6 FIRE PROTECTION SERVICES

The property is under the jurisdiction of the Honolulu Fire Department.

### 5.7 ELECTRICITY, TELEPHONE AND CABLE TV

Electrical power for the Waialua area is provided by Hawaiian Electric Company; Telephone service by Verizon Hawaii; and cable service by Oceanic Cable. Existing electrical, telephonic, and cable connections are located in the street at the front of the property.

#### 5.7.1 Impacts and Mitigation Measures

No changes will be made to electricity, telephone or cable TV lines in conjunction with the swimming pool or fences.

## VI. DETERMINATION OF SIGNIFICANCE

Based on significance criteria set forth in Hawaii Administrative Rules, Title 11, Department of Health, Chapter 200, Environmental Impact Statement Rules, the proposed project is not expected to have a significant impact on the environment. As such, the recommended preliminary determination for the proposed project is a Finding of No Significant Impact (FONSI). The findings and reasons supporting this determination are discussed below.

1. *Involves an irrevocable commitment to loss or destruction of any natural or cultural resource*

The proposed project will not result in a loss of natural or cultural resources. The proposed action creates no disturbance to the present vegetation in the area except for the landscape grass in the Borsia backyard. There are no threatened or endangered species of plants or wildlife that inhabit the project site.

There are no known archaeological sites on the subject property and considering the previous development of the property, historic sites are not known to be present.

2. *Curtails the range of beneficial uses of the environment*

This project is confined to the Borsia property and will not curtail use of the environment.

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

The pole fence just inland from the vegetation line is not on a permanent foundation and is low (18 to 36 high) at approximately the height of the vegetation on either side of the property. The type of construction will not affect beach action and height will not block visual sight lines any more than the existing vegetation. The required pool fence must be a minimum of 4 5 high for pool safety; therefore, a glass fence is proposed to ensure views are not restricted. The pool is designed to be below ground and is well back (20 ) from the shoreline. Both the pole fence and the required pool fence will be designed to breakaway during high floods and will not restrict or increase flood levels. The pool will have its foundation well below grade and will be designed to withstand flooding. Because it is below grade it will not restrict or increase flood levels or visual sight lines. The proposed work will have only minor impact on environmental policies.

4. *Substantially affects the economic and social welfare of the community or state*

The proposed project is minor in scope and will not impact the economy or social welfare of the community or state.

4. *Substantially affects public health*

Factors affecting public health including air quality, water quality, and noise levels are not expected to be affected by the construction of the swimming pool and fence.

5. *Involves substantial secondary impact, such as population changes or effects of public facilities*

Due to the nature of the proposed swimming pool and fence, there are no substantial secondary or indirect impacts such as population changes or effects on public facilities.

6. *Involves a substantial degradation of environmental quality*

No impacts on air and water quality, noise levels, natural resources, or land use associated with the construction of the Borsia swimming pool are anticipated.

7. *Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for large actions*

The proposed swimming pool and fence are relatively minor in scope and adverse cumulative impacts on the environment are not anticipated, nor does the proposed project involve a commitment for larger actions on the subject property.

8. *Substantially affects a rare, threatened or endangered species*

There are no threatened or endangered plant or animal species on the subject property.

9. *Detrimentally affects air or water quality or ambient noise levels*

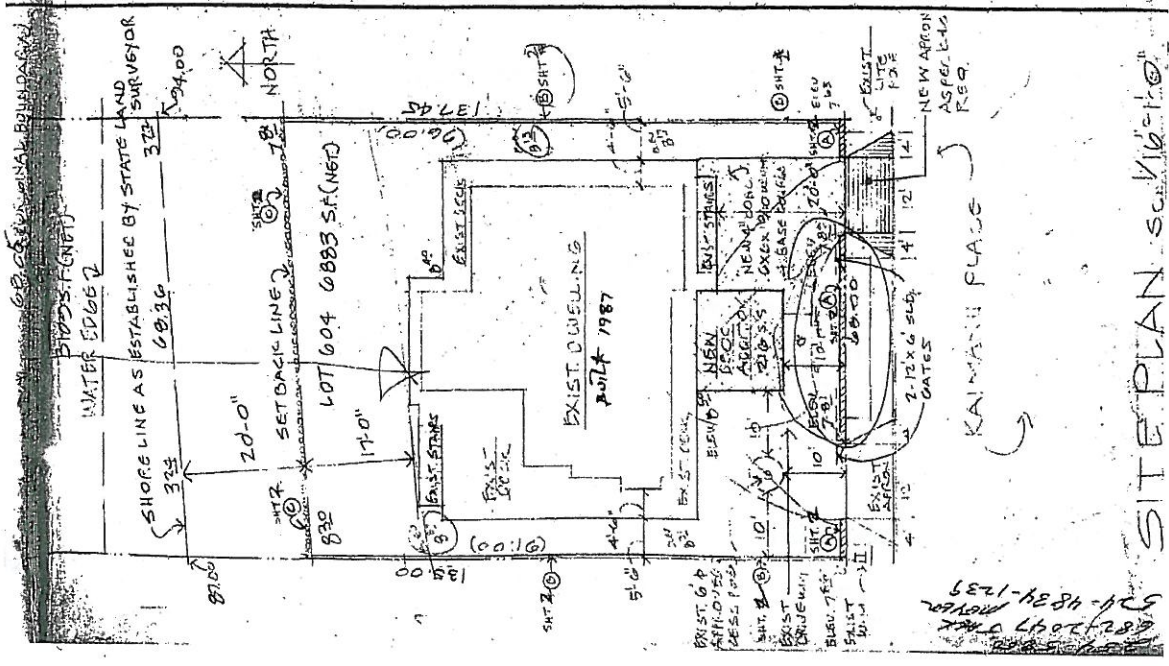
On a short-term basis, noise conditions will be affected by construction activities related to the proposed swimming pool and fence, but once the project is completed, noise conditions will return to their present levels.

10. *Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood zone, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters*

The pole fence and new pool are located in a High Hazard Flood zone. Both the pole fence and required pool fence will be designed as breakaway structures and therefore will not alter the flood levels. The existing pole fence is inland from the (2004) shoreline and at the vegetation line and like vegetation, will not affect high flood levels. The new required pool fence is inland from the pole

JACK BORSA-RENOVATIONS  
67-011 KAIMANU PLACE  
WAITED TIA 6-14-28  
PHASE II

Date	6-2-90
Scale	
Drawn	FK
Job	
Sheet	1



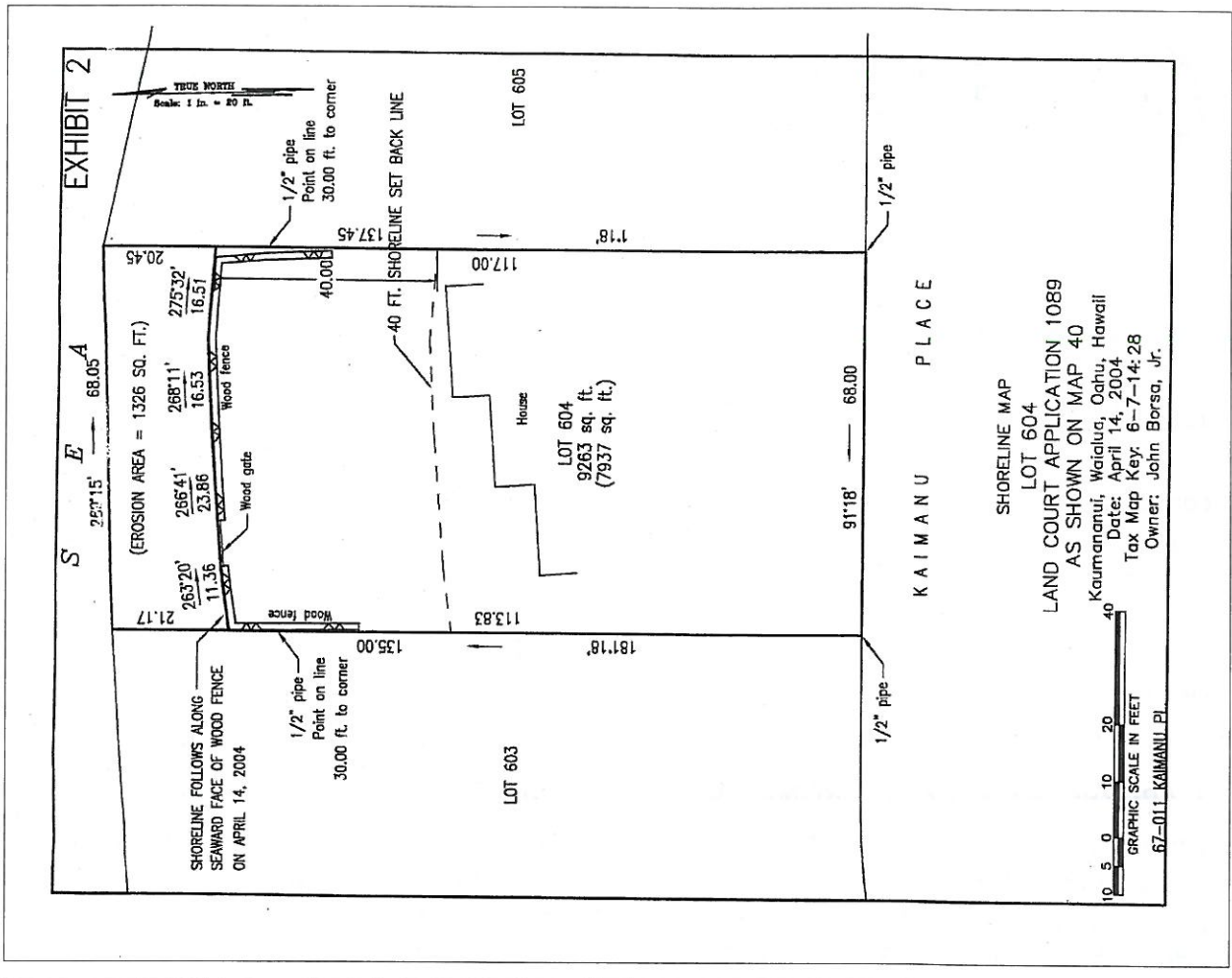
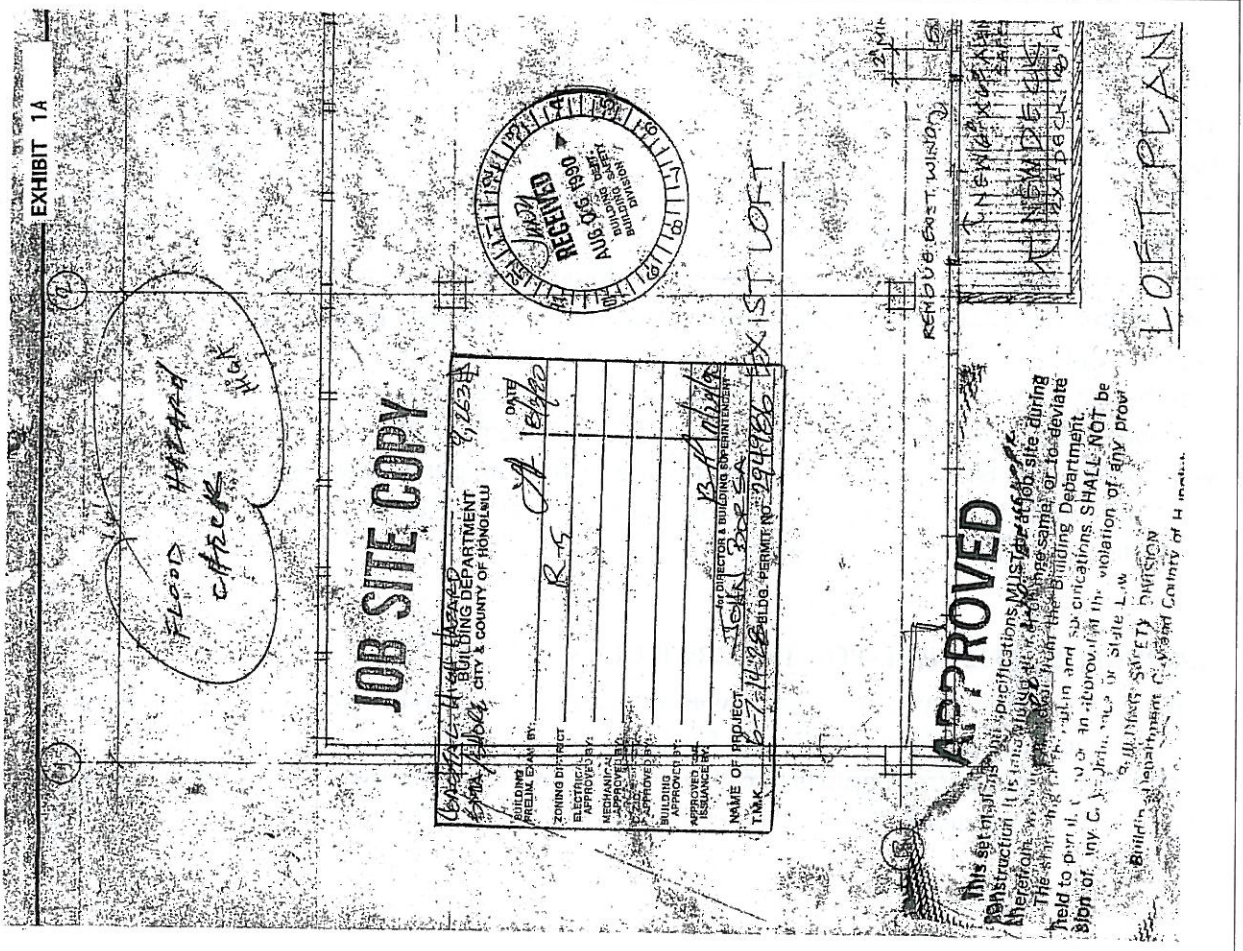
SITE PLAN SCALE 1/8" = 1'-0"

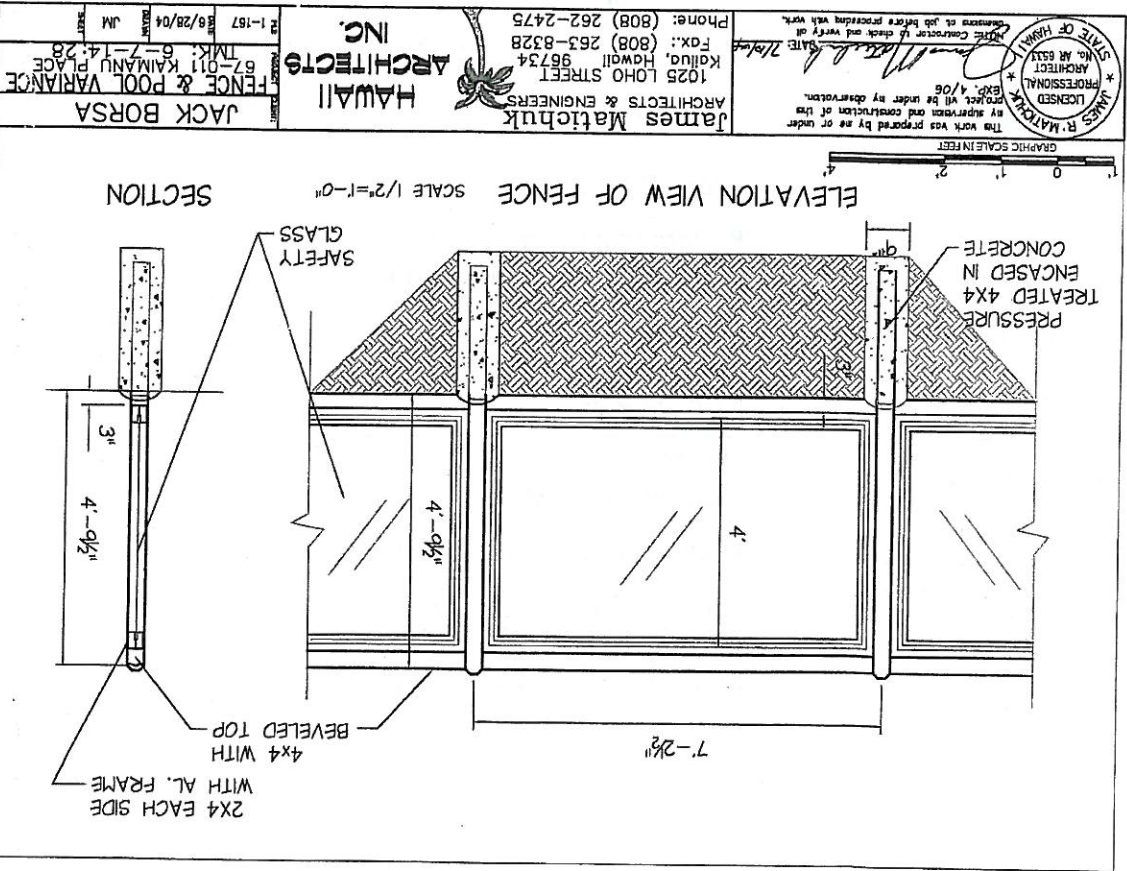
fence and similarly will not affect flood levels. The pool is a below-ground pool with footings more than two feet below the scour depth and is not expected to be affected by a flood.

11. *Substantially affects scenic vistas and viewplanes identified in county or state plans or studies*  
The current fence is only 3 feet high (except at the gate) and no higher than the vegetation on adjacent lots. The new fence will be made of glass and conform to current building codes of 4' 6" height requirements. The pool is designed to be below grade. Therefore, no scenic vistas will be diminished.

12. *Requires substantial energy consumption*  
The swimming pool and fence will not require any electrical energy.

**Findings**  
In accordance with the provisions set forth in chapter 343, Hawaii Revised Statutes, and the significance criteria in section 11-200-12 of Title 11, Chapter 200, it is anticipated that the project will have no significant adverse impact on the environment. It is expected that a Finding of No Significant Impact (FONSI) will be issued for this project.





**JACK BORSA**  
FENCE & POOL VARIANCE  
67-011 KAIMANU PLACE  
KAILUA, HAWAII 96734  
PHONE: (808) 262-2475  
FAX: (808) 262-2475

**JAMES MATCHUK**  
ARCHITECTS & ENGINEERS  
1025 LOHO STREET  
KAILUA, HAWAII 96734  
PHONE: (808) 262-2475  
FAX: (808) 262-2475

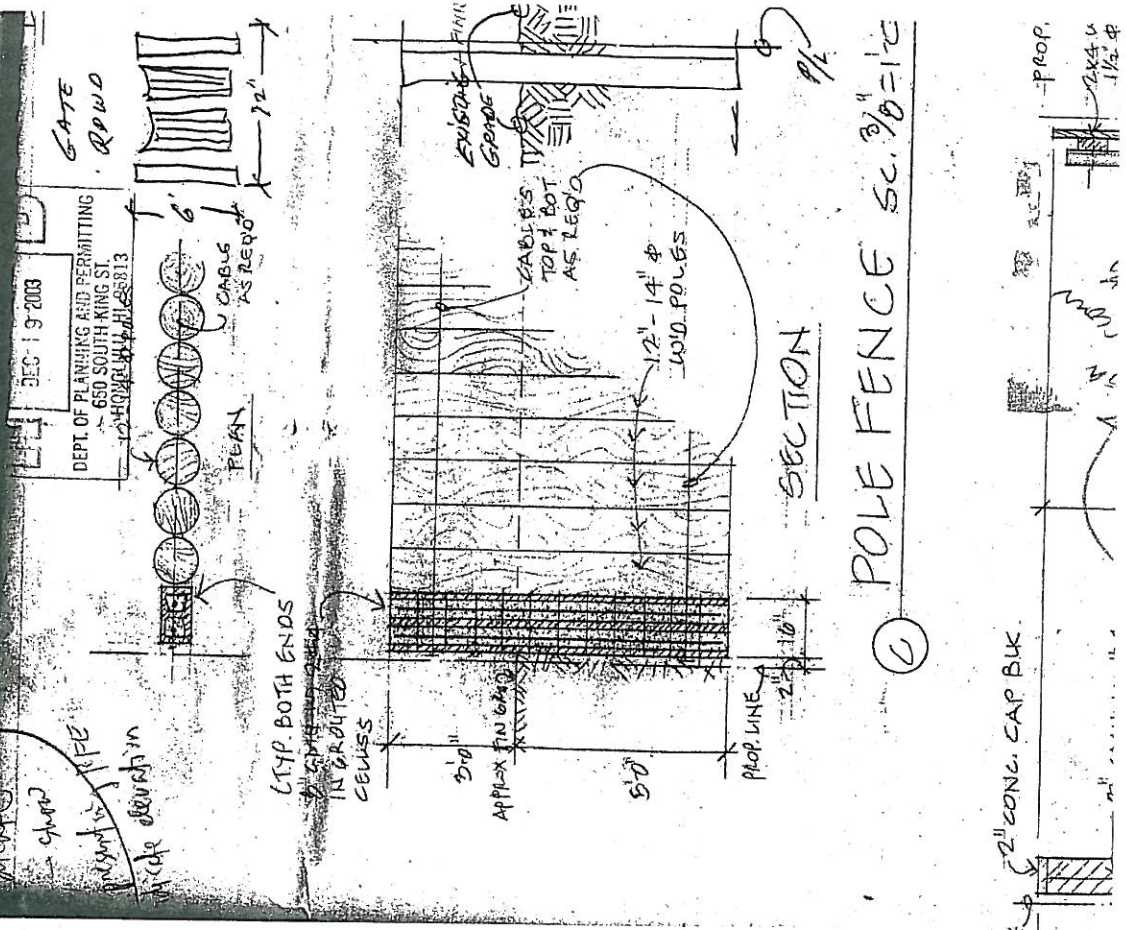
**HAWAII ARCHITECTS INC.**

Professional Seal: JAMES R. MATCHUK, LICENSED ARCHITECT, STATE OF HAWAII, No. 48334, Exp. 4/06

This work was prepared by me or under my supervision and construction of this project will be under my observation.

Professional Engineer Seal: License No. 11244, State of Hawaii, Exp. 12/31/06

Professional Engineer Seal: License No. 11244, State of Hawaii, Exp. 12/31/06

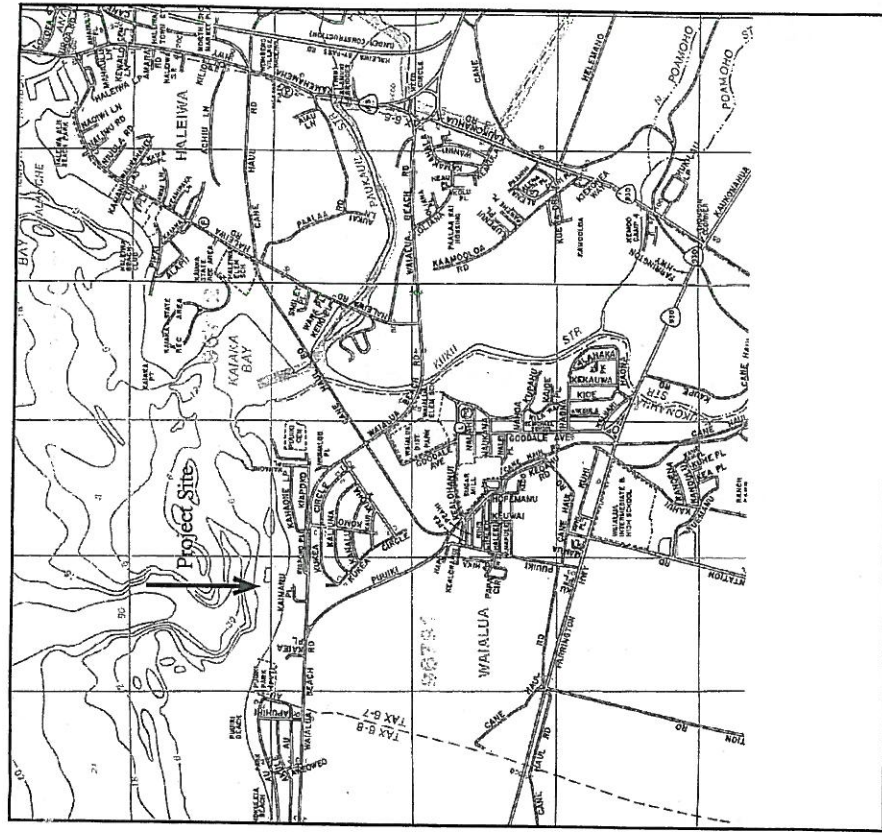
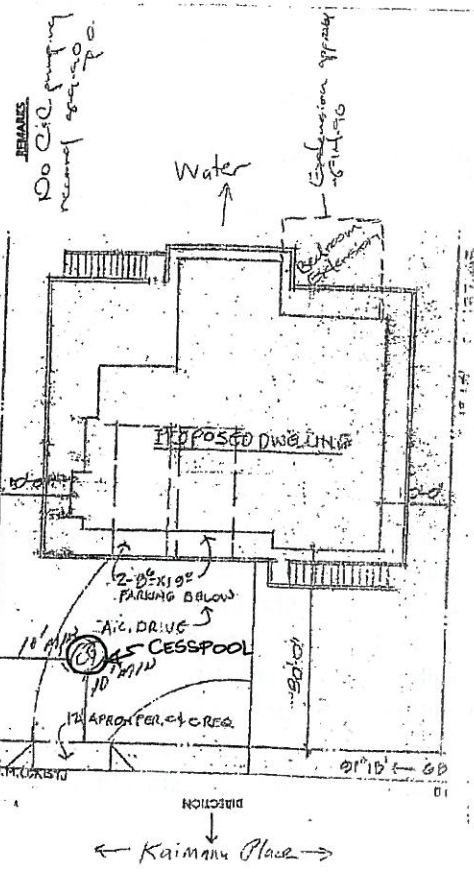


A cesspool survey card has been found in our files and a copy is attached below. The Department of Health (DOH) cannot guarantee the accuracy of the information nor the dimensions shown on the site plan on the survey card. In order for the DOH to accept information on the survey card as a verification that a cesspool was constructed and authorized to be used for wastewater disposal from a building.

STATE OF HAWAII  
 DEPARTMENT OF HEALTH  
 SANITATION BRANCH  
 ENVIRONMENTAL PROTECTION AND HEALTH SERVICES DIVISION  
 CESSPOOL SURVEY

Property Owner John Babin Address 67-011 Kaimanu Place  
 Tax Map Key 6-7-14-28 Lot No. \_\_\_\_\_  
 Island Oahu City Honolulu District Maunaloa  
 Builder or Contractor Ray Ziegler Intended For Single Family dwelling  
 Primary \_\_\_\_\_ Secondary \_\_\_\_\_ Other \_\_\_\_\_  
 Distance From Building \_\_\_\_\_ Stream, Well, Body of Water, Etc. Dist  
 Diameter (Clean Ft.) 5' Depth-Ft. 10' Capacity (Gals.) 215.10  
 No. Ft. Down to Water Table \_\_\_\_\_ Ground Slope level  
 Soil Profile (Starting from Surface) 2' clay loam, 8' sandy loam

Type of Well or Curb Reinforced tile Reinforced Concrete Cover. Yes  
 Distance from Finished Ground to Top of Cover (Ft.) 1'  
 Date Certificate Issued May 28  
 Date Approved May 28 19 87 LANCE LEUNG Sanitarian



GRAPHIC SCALE IN FEET  
 10 5 0 10 20 40  
 LOCATION MAP  
 SITE

JACK BORSA  
 FENCE & POOL VARIANCE  
 67-011 KAIMANU PLACE  
 TNR# 6-7-14-28

James Matichuk  
 ARCHITECTS & ENGINEERS  
 1025 LOHO STREET  
 Kailua, Hawaii 96734  
 Fax: (808) 953-8328  
 Phone: (808) 262-2475

HAWAII ARCHITECTS INC.

Photo 1: The pole fence on the Borsa property

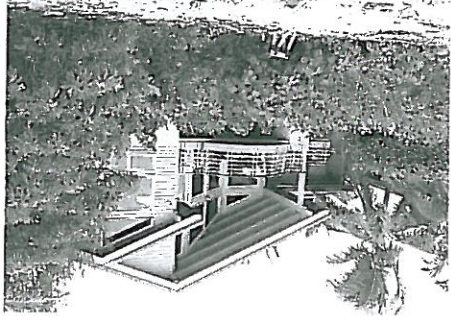


Photo 2: The gate provides access and security

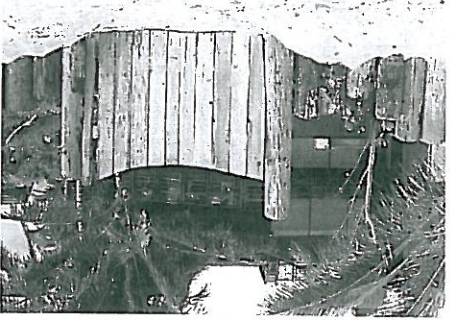


Photo 3: Neighbor residences on the east side of the Borsa residence

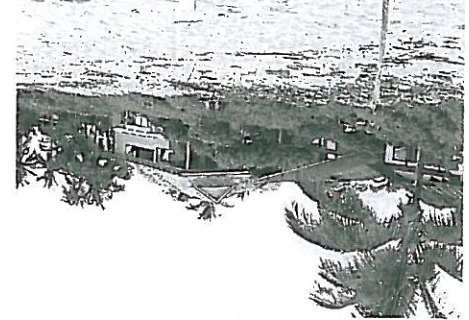
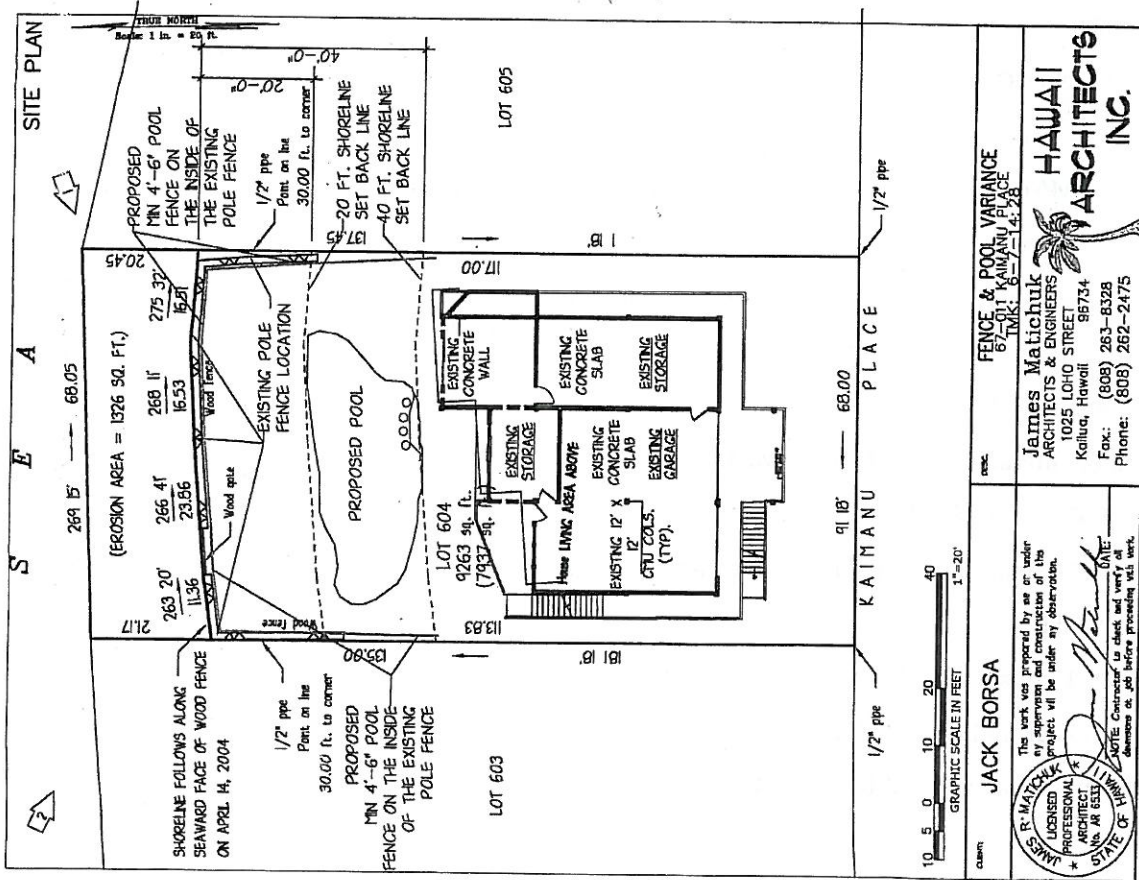


Photo 4: Neighbor residence on the west side of the Borsa residence



APPENDIX A Jack Borsa Shoreline Variance





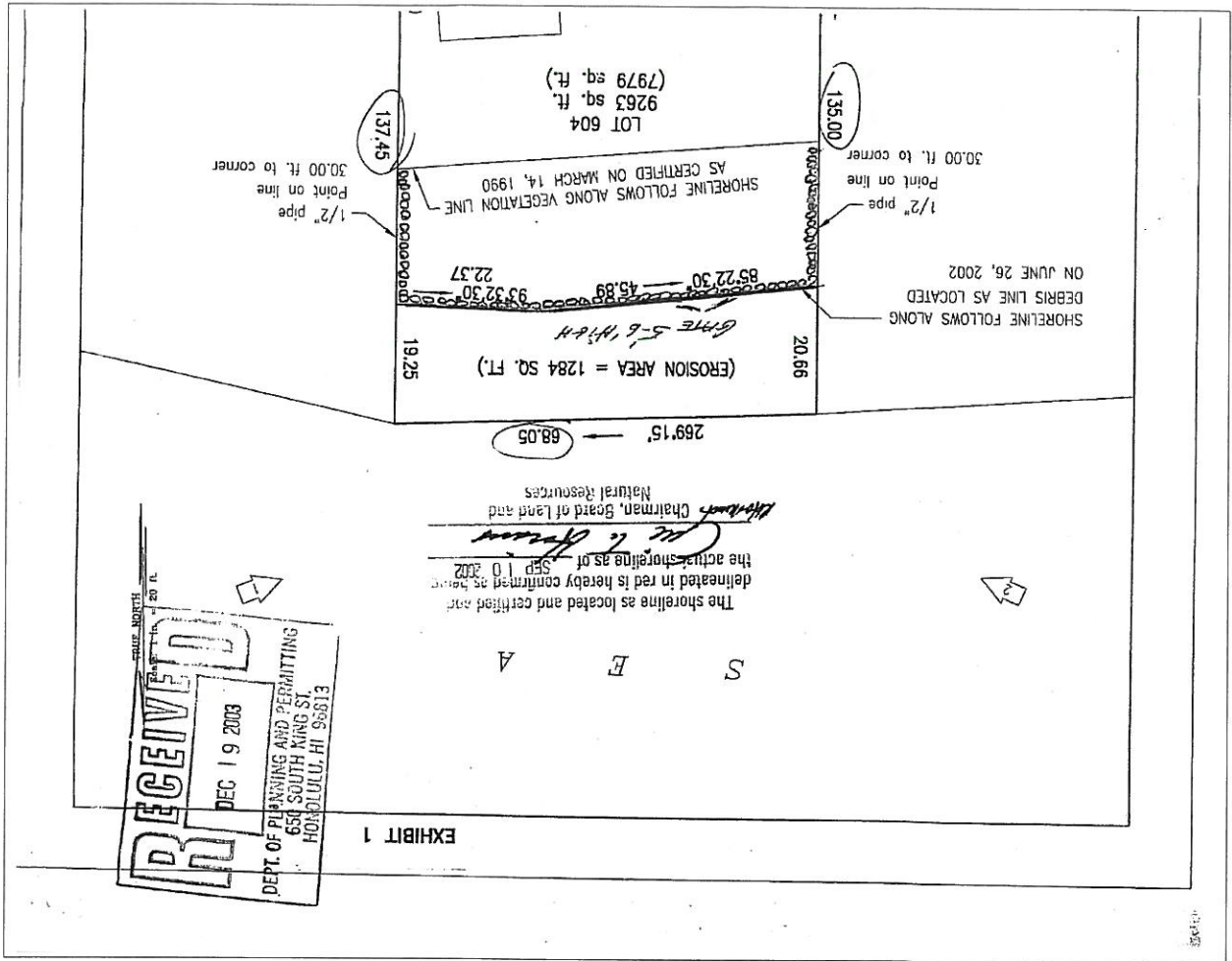


Photo 5: Backyard of Borsa residence and location of proposed swimming pool

APPENDIX A Jack Borsa Shoreline Variance

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 525-4432 • FAX: (808) 527-5743  
CITY INTERNET: www.honolulu.gov • COUNTY INTERNET: www.hawaii.gov



MUFI HANNEMANN  
MAYOR

HENRY ENG, FAICP  
DIRECTOR

DAVID K. THORPE  
DEPUTY DIRECTOR

2006/ELOG-646 (JP)

April 27, 2006

TO STATE ?

Mr. John Borsa  
67-011 Kaimanu Place  
Waialua, Hawaii 96791

Dear Mr. Borsa:

Re: "Ola's" Restaurant at the Turtle Bay Resort  
57-91 Kamehameha Highway - Kahuku  
Tax Map Key 5-7-1: 13

This responds to your inquiry, received March 20, 2006, concerning the location of a seaside restaurant ("Ola's") on the above site. Specifically, you want to know "how the restaurant obtained [a] permit to build on state owned land on the wrong side of the [shoreline] setback."

Your premise that the restaurant is located both on state-owned land and seaward of the shoreline setback is incorrect. The land associated with the Turtle Bay Resort is privately owned (by the *Kuilima Resort Company*), and only that land which is located seaward of the certified shoreline is under the jurisdiction of the state. The shoreline setback for the existing hotel property is only 40 feet; whereas, our records indicate that the beachfront restaurant is located over 50 feet away from the certified shoreline.

The beachfront restaurant has been part of the Turtle Bay Resort development for some time. However, a new dining area for the restaurant, consisting of a wooden trellis and windcreens, was included as part of the entitlements granted by the City Council in its approval (Resolution No. 03-116, CD1) of the most recent special management area permit (No. 2003/SMA-7) and shoreline variance (No. 2003/SV-1) for the resort property.

I hope this clarifies the matter. Please contact Jamie Peirson of our staff at 527-5754 if you have any questions.

Very truly yours,

*Henry Eng*

for Henry Eng, FAICP, Director  
Department of Planning and Permitting

HE:CS  
G:\LandUse\PassiveWorking\Director\Peirson\2006\ELOG-646 Response.doc

**John Borsa Builders**  
67-011 Kaimanu Place  
Waialua, HI 96791  
Ph: 255-5101 Fax: 637-7891

To: Henry Eng,  
Director of Planning and Permitting  
650 South King Street  
Honolulu, HI 96813

Date: 29APR06

RE: Restaurant on State Beach at Turtle Bay

Dear Mr. Eng,

This is in regard to your letter dated April 27, 2006 responding to my letter of March 20, 2006 with regard to Ola Restaurant at Turtle Bay Resort.

I would like to meet Jamie Peirson on the property along with the Ola Certified Shoreline map. I will bring a 50' tape measure. I would like to meet this week before their freshly planted vegetation grows any more than it already has. Please call me at 255-2101 to make an appointment.

Sincerely,

John Borsa

**John Borsa Builders**  
**67-011 Kaimanu Place**  
**Waialua, HI 96791**  
**Ph: 255-5101 Fax: 637-7891**

To: Henry Ing  
Director of Planning and Permitting  
650 South King Street  
Honolulu, HI 96813

Date: 20MAR06

RE: Restaurant on State Beach at Turtle Bay

Dear Mr. Ing,

This letter is regarding Ola Restaurant and Turtle Bay Resort which sits on the sand on the opposite side of the 40 or 60 foot setback. Gary, the building inspector for Kahuku said it was under the existing footprint of the building that was there which was only a snack bar and bathrooms for the last 20 years. Gary also told me call John Kurio regarding this matter but John did not return my call. After leaving four message for Mr. Kurio, I spoke with a gentleman named Kim and he suggested I write you this letter.

I have been a licensed building contractor on the North Shore for over 25 years. I am very familiar, however not as familiar as you, with the permit laws in relationship to the shoreline and have in fact pulled many permits for clients as well as my own properties.

I would like to know how the restaurant obtained the permit to build on state owned land on the wrong side of the setback. An answer at your earliest convenience will be very much appreciated.

Sincerely,

John Borsa

**Jack Bors**

From: <Chris.L.Conger@hawaii.gov>  
To: "Jack Bors" <borsa@hawaii.rr.com>  
Sent: Monday, December 10, 2007 4:06 PM  
Subject: Re: Fw: Debris Line

Good afternoon Jack,

We have you on our list for stops during high surf events.

Please have your surveyor, Wes, request an extension for your shoreline application as it is approaching the first 90 day time limit.

Dolan Eversole (587-0377) will be handling the site visits for the next several weeks.

Sincerely,

Chris Conger

Christopher L. Conger  
Shoreline Specialist  
University of Hawaii Sea Grant College Program  
Department of Land and Natural Resources  
1151 Punchbowl St. Rm 131  
Honolulu Hawaii 96813  
(808) 587-0049 work  
(808) 520-4882 work cell  
(808) 587-0322 fax  
Chris.L.Conger@hawaii.gov

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"Jack Bors" <borsa@hawaii.rr.com>  
12/09/2007 09:20 PM

To: "Chris Conger" <Chris.L.Conger@hawaii.gov>  
cc  
Subject: Fw: Debris Line

Dear Chris,

I have sent you the original thread of conversation regarding my certified shoreline. My surveyor, Wes Tengan, told me to contact you directly to invite you to my property to see the results of the high waves we've been experiencing the last

4 - 6 weeks. I'm currently doing a job in Waialua and can meet you just about any time with a 30 minute notice. My number is 255-5101. The last half of the month I'll be doing a job at HPU Windward campus making it difficult for me to meet with you but if that's better timing, you can use the right away at the end of Kaimanu Place to view my property from the beach side.

In advance, thank you for your time.

Jack Bors

----- Original Message -----

From: Dolan Eversole <dolan@hawaii.gov>  
To: Jack Bors  
Cc: Chris L. Conger <chris.l.conger@hawaii.gov>; Reid K. Siard <reid.k.siard@hawaii.gov>  
Sent: Tuesday, January 02, 2007 10:52 AM  
Subject: Re: Fw: Debris Line

Hi Jack, we generally only do site visits under 2 conditions. One when we have received an application for certified shoreline or two if a surveyor has a job pending we sometimes will do a pre-visit to advise the surveyor on a recommended shoreline location. If you have a surveyor retained for a survey we will be glad to work with them of a conducting a pre-visit similar to what we did with you and your surveyor before. Please have your surveyor contact us for a site visit, we prefer the surveyor be onsite to review the recommendations with us. They should contact Reid Siard (State Surveyor) at (808) 566-0380. I am also forwarding this email to him for his review.

You are correct that this is the time of year we can expect the seasonal high surf. Generally we have a minimum wave size of consistent 18' Hawaiian Scale ( or roughly 36' faces) that we use for representative seasonal high surf. Wave statistics indicates that this is the minimum wave size that we can expect on an annually recurring basis. The current west-nw swell is forecast to not reach these minimum wave heights so we will still larger surf to gauge the seasonal shoreline position, see NWS forecast below.

http://www.prh.noaa.gov/hnl/pages/SRF.php  
SURE ZONE FORECAST  
NATIONAL WEATHER SERVICE HONOLULU HI  
9:00 AM HST TUE JAN 2 2007

OAHU:  
9:00 AM HST TUE JAN 2 2007

HIGH SURF WARNING IN EFFECT FOR NORTH AND WEST FACING SHORES

Surf along north facing shores will be building from 15 to 20 feet this morning to 25 to 30 feet this afternoon. Surf will be lower at 10 to 22 feet Wednesday and dropping.

Surf along west facing shores will be rising from 10 to 15 feet this morning to 15 to 20 feet this afternoon. Surf will be lower at 12 to 18 feet Wednesday and dropping.

Surf along east facing shores will be 3 to 6 feet through Wednesday.

Surf along south facing shores will be 2 feet or less through Wednesday.

Outlook through Monday Jan 8. The current northwest swell will peak out this afternoon or early this evening then subside to advisory levels by dusk on Wednesday. This swell will continue to subside through Thursday with no new significant contribution to the rest of the forecast period.

The trades winds are expected to stiffen significantly Wednesday that will likely warrant a high surf advisory for the east facing shores by Thursday. A good size northeast swell will reinforce this swell Friday through the weekend.

Surf heights are forecast heights of the face or front of waves. The surf forecast is based on the significant wave height in the zone of maximum refraction. Some waves may be more than twice as high as the significant wave height. Expect to encounter rip currents in or near any surf zone.

Dolan Eversole  
Coastal Geologist  
University of Hawaii Sea Grant College Program  
1151 Punchbowl St. Rm 131  
Honolulu Hawaii 96813  
587-0321  
587-0322 fax

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"Jack Bona" <bona@hawaii.tr.com>

12/30/2006 05:59 PM

To: "Dolan Eversole" <Dolan.Eversole@hawaii.gov>

cc

Subject: Fw: Debris Line

Dear Mr. Eversole,

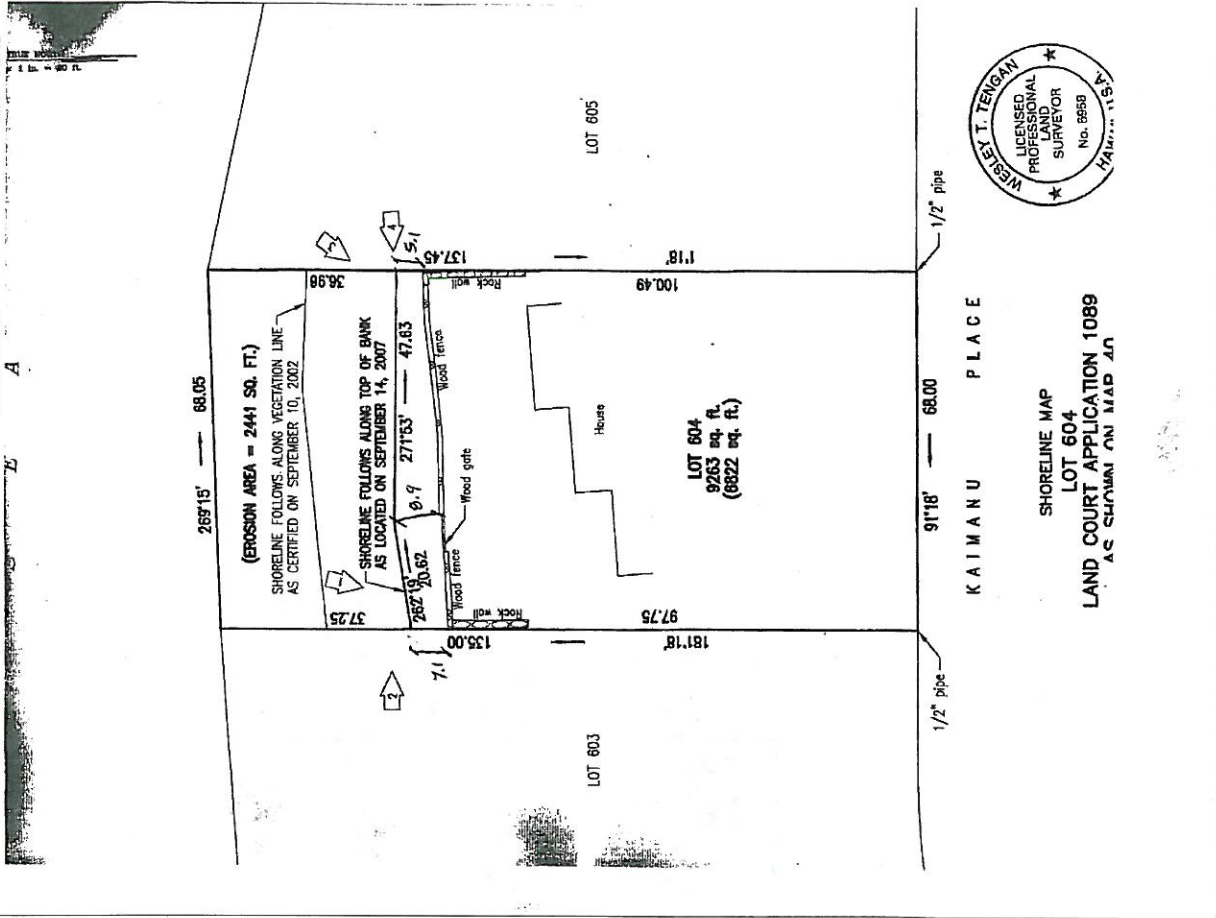
Last 04AUG2006, you, Keith and a gentleman by the name of Chris Conger (not certain of last name) came to my property at 67-011 Kaimanu Place to observe the shoreline; you wanted to see a winter swell of about 15' at high tide to see where the high wash of the wave falls.

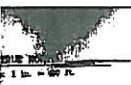
I am asking that you revisit this project site at 67-011 Kaimanu Place, Waiatua so you can view it again in the winter after multiple high swells in excess of 15'.

I am working on the windward side of Oahu at HPU. Please call my cell phone at 255-5101 to make an appointment to meet with me here so you can review the project site.

In advance, thank you for your kind consideration.

12/12/2007





269'15" — 88.05

(EROSION AREA = 2441 SQ. FT.)  
SHORELINE FOLLOWS ALONG VEGETATION LINE  
AS CERTIFIED ON SEPTEMBER 10, 2002

SHORELINE FOLLOWS ALONG TOP OF BANK  
AS LOCATED ON SEPTEMBER 14, 2007

38.98

37.25

262' 20.62' 271'33" 47.83  
Wood fence Wood gate  
Rock wall

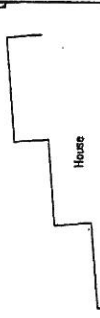
135.00

137.45

LOT 603

LOT 605

LOT 604  
9283 sq. ft.  
(8822 sq. ft.)



1/2" pipe

91'18" — 86.00

KAIMANU PLACE

SHORELINE MAP  
LOT 604  
LAND COURT APPLICATION 1089  
AS SUBMITTED BY MAB AU



1/2" pipe

100.49

97.75

118'

181'18"

# APPENDIX B - SITE PHOTOS

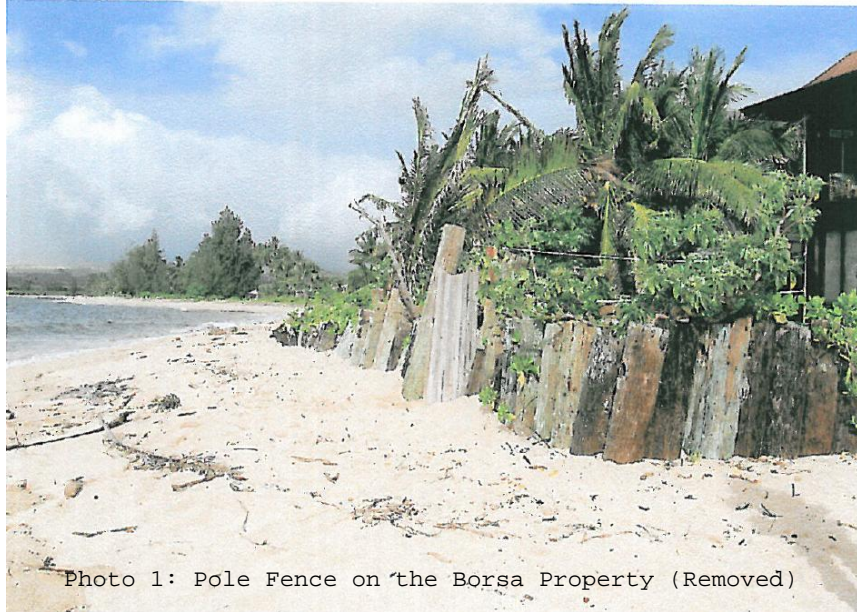


Photo 1: Pole Fence on the Borsa Property (Removed)

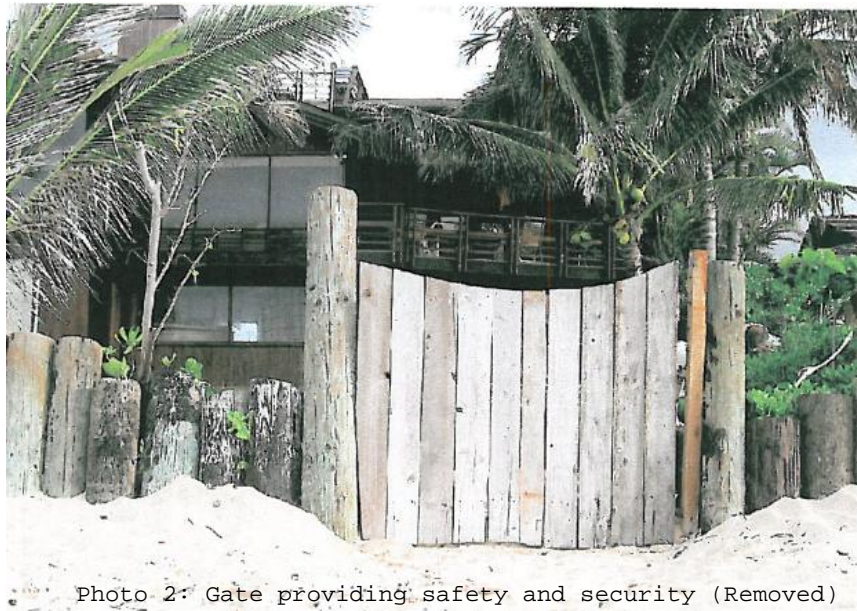


Photo 2: Gate providing safety and security (Removed)

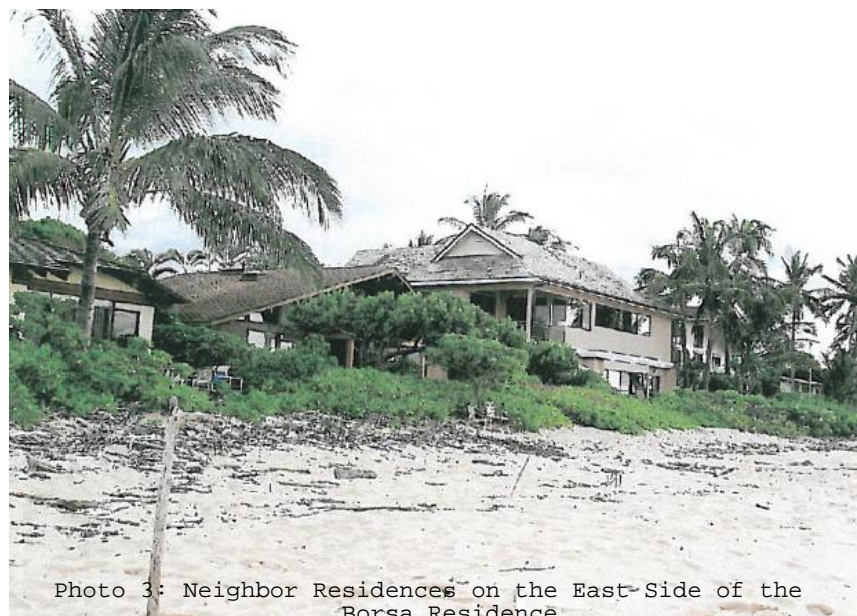


Photo 3: Neighbor Residences on the East Side of the Borsa Residence



Photo 4: Neighbor Residences on the West Side of the Borsa Residence



Photo 5: Borsa Residence backyard and Proposed Location of Swimming Pool