

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 11, 2017

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

PSF No.:17MD-096

Maui

Issuance of Right-of-Entry Permit to Association of Apartment Owners of Kahana Sunset, for Emergency Repair of Undermined Seawall; Temporary Installation of Sandbags; Alaeloa, Kaanapali, Maui, Tax Map Key: (2) 4-3-003 seaward of 015.

APPLICANT:

Association of Apartment Owners of Kahana Sunset, a Domestic Non-profit Corporation.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Alaeloa situated at Kaanapali, Maui, identified by Tax Map Key: (2) 4-3-003 seaward of 015, as shown on the attached map labeled Exhibit A.

AREA:

340 sq. ft., more or less.

ZONING:

State Land Use District: Conservation, Resource Subzone

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES _ NO X

CURRENT USE STATUS:

Vacant and unencumbered

CHARACTER OF USE:

Emergency Repair of Undermined Seawall purposes.

TERM OF RIGHT-OF-ENTRY:

August 21, 2017 to August 20, 2018

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and item 51, which states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

DCCA VERIFICATION:

| | | |
|---|--------------|--------------|
| Place of business registration confirmed: | YES <u>X</u> | NO <u> </u> |
| Registered business name confirmed: | YES <u>X</u> | NO <u> </u> |
| Applicant in good standing confirmed: | YES <u>X</u> | NO <u> </u> |

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Comply with all terms and conditions of the State Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands, CDUP - EMG: MA-17-29, dated May 22, 2017;
- 2) Obtain and execute a Right-of-Entry permit from the DLNR Maui District Land Office upon Board approval of the subject recommendation;

- 3) Obtain Commercial General Liability Insurance for the subject project naming the State of Hawaii as additional insured prior to initiation of the subject repairs.

REMARKS:

The Kahana Sunset property is a residential condominium complex built in 1971 on a 4.5-acre parcel located on Keonenui Bay along the coast of Western Maui. Similar to other shorefront properties on the coast of West Maui, Kahana Sunset has suffered from erosion related problems in recent years. Presently, the undermining of the seawall in close proximity to Building A has progressed to a point that the building foundations may be in danger of collapse or major failure. It is for this reason (i.e., hazard to public safety and health) that the applicant is pursuing this emergency repair authorization.

The existing shoreline area is considered by staff to be developed; stairs, walls, and other structural elements have completely walled off the beach and beach resources. The development located on the upland portion of the parcel consists of large residential buildings, landscaping, walkways, and other similar appurtenances. The Kahana Sunset development is located in a small pocket bay flanked by rocky headlands and a small beach fronting the parcel.

In order to address this issue, the applicant (AOAO Kahana Sunset) first contacted the County of Maui Planning Department, and is in the process of obtaining the necessary County of Maui permits for the proposed repair of the undermined seawall. The suggested repairs require the temporary placement of “jumbo” sandbags (1m³) filled with beach sand to be placed seaward (makai) of the failing seawall as a Best Management Practice (BMP) for the repairs.

It was stated in the emergency application that the proposed sandbags are to be used as a BMP measure to minimize any contamination due to construction activities. Construction activities at the site include:

- Construction of a “temporary” sandbag berm,
- Site preparation (including removal of existing concrete) and sand removal,
- Excavation at seawall, and
- Infilling cavity with concrete, remove BMPs once completed.

The proposed sandbags will be installed as a temporary measure; it was stated by the applicant that the sandbags will remain on the shoreline no more than one (1) year although it is anticipated that the work will only take a few months to complete.

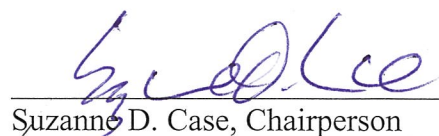
RECOMMENDATION: That the Board

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Association of Apartment Owners of Kahana Sunset covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 - C. Authorize the Chairperson to issue future right-of-entries to the Applicant in relation to its Emergency Repair of Undermined Seawall.

Respectfully Submitted,

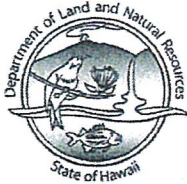

Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



DAVID Y. IGE
GOVERNOR OF
HAWAII



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

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT

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

REF: OCCL: AJR

EMG: MA-17-29

MAY 22 2017

Kiumars Siah
c/o AAA Structural Engineering

Wailuku, HI 96793

SUBJECT: EMERGENCY REPAIR OF UNDERMINED SEAWALL
Kahana Sunset, Lahaina District, Island of Maui
TMK: seaward (makai) of (2) 4-3-003:015

Dear Mr. Siah,

The Office of Conservation and Coastal Lands (OCCL) is in receipt of your correspondence regarding a proposal by the *Kahana Sunset AOA* to conduct emergency repair of an existing undermined seawall located seaward (makai) of the Kahana Sunset Property, on the Island of Maui (**Exhibit 1**). For reference, the project area (unencumbered State lands – or lands located *makai* of the certified shoreline) is located within the State Land Use (SLU) Conservation District – *Resource* Subzone (**Exhibit 2**).

EXISTING:

The Kahana Sunset property is a residential condominium complex built in 1971 on a 4.5-acre parcel located on Keonenui Bay along the coast of Western Maui. Similar to other shorefront properties on the coast of West Maui, Kahana Sunset has suffered from erosion related problems in recent years. Presently, the undermining of the seawall in close proximity to Building A (**Exhibit 3**) has progressed to a point that the building foundations may be in danger of collapse or major failure (**Exhibit 4**). It is for this reason (i.e., hazard to public safety and health) that the applicant is pursuing this emergency repair authorization.

The existing shoreline area is considered by staff to be developed; stairs, walls, and other structural elements has completely walled off the beach and beach resources. The development located on the upland portion of the parcel consists of large residential buildings, landscaping, walkways, and other similar appurtenances. The Kahana Sunset development is located in a small pocket bay flanked by rocky headlands and a small beach fronting the parcel (**Exhibit 5**).

Exhibit B

PROPOSED:

In order to address this issue, the applicant (Kahana Sunset AOA) first contacted the County of Maui Planning Department, and is in the process of obtaining the necessary *County of Maui* permits for the proposed repair of the undermined seawall. The suggested repairs (**Exhibit 6, 6a**) require the temporary placement of “jumbo” sandbags (1m³) filled with beach sand to be placed seaward (makai) of the failing seawall as a Best Management Practice (BMP) for the repairs.

It was stated in the emergency application that the proposed sandbags are to be used as a BMP measure to minimize any contamination due to construction activities. Construction activities at the site include (**Exhibit 7**):

- Construction of a “temporary” sandbag berm,
- Site preparation (including removal of existing concrete) and sand removal,
- Excavation at seawall, and
- Infilling cavity with concrete, remove BMPs once completed.

The proposed sandbags will be installed as a temporary measure; it was stated by the applicant that the sandbags will remain on the shoreline no more than one (1) year although it is anticipated that the work will only take a few months to complete. The applicant is currently pursuing approval from the *State of Hawaii – DLNR, Land Division* for a Right-of-Entry (ROE) permit to conduct this proposed activity.

Additionally, it was stated by the applicant: *the proposed emergency repairs of the undermined seawall require that:*

1. All necessary permits be obtained by the Kahana Sunset AOA or its agents,
2. Construction activities be realized by a Hawaii licensed contractor,
3. No new structure or attachment be constructed makai of the existing exposed face of the undermined seawall,
4. The project be supervised by a Hawaii licensed structural engineer,
5. All BMPs applicable to coastal construction as recommended by the State and/or the County of Maui be closely observed and adhered to,
6. No construction material be dumped or stored on the State land,
7. The scope of necessary project activities on the beach be limited to those that may not be achieved otherwise and the appropriate authorizations, if any, be obtained by the Kahana Sunset AOA or its agent, and

8. The safety of the beach goes be number one priority throughout the construction activities,
9. The contractor be required to observe all applicable safety regulations stipulated by the OSHA and other federal, state, and county agencies.

ANALYSIS:

Additionally, as this project is being proposed to minimize hazards related to an undermined seawall structure located adjacent to a residential condominium, the project will result in only a minor, temporary disturbance to the coastal environment, and the project is a replacement and repair of an existing structure with no expansion, staff believes that the project is exempt from the filing of an Environmental Assessment (EA) pursuant to HAR §11-200-8, **DLNR Exemption Class 1 (1) Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources, and DLNR Exemption Class 1 (2) Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features and biological resources.** Consultation between this office (i.e., OCCL) and the County of Maui – Planning Department regarding the noted exemptions was conducted in order to coordinate the correct exemption for the proposed project.

EMERGENCY PERMITS:

Pursuant to the Conservation District rules and regulations, HAR, §13-5-35 Emergency Permits (a) *The chairperson or deputy director of the department in the absence of the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety and welfare, including natural resources is alleviated (e.g. erosion control, rockfall mitigation).*

TERMS AND CONDITIONS:

The Department has no objections to granting this EMERGENCY PERMIT to the *Kahana Sunset AOA* to conduct repairs to an existing undermined seawall on/seaward of TMK: (2) 4-3-003:015 which is located within the Conservation District *Resource* Subzone in the Lahaina District, Island of Maui, subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;

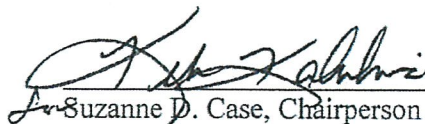
3. The permittee shall comply with all applicable department of health administrative rules;
4. Unless otherwise authorized, **any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use.** The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
5. The temporary sandbags will be placed on State Lands for no more than one (1) year after approval is granted;
6. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
7. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
8. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
9. Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
10. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
11. Obstruction of public roads, trails, **lateral shoreline access**, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
12. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
13. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;
14. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
15. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law; and
16. Other terms and conditions as prescribed by the chairperson.

17. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.

Please acknowledge receipt of this authorization, with the above noted conditions, in the space provided below. **Please sign two copies. Retain one and return the other to: DLNR - Office of Conservation and Coastal Lands, PO Box 621, Honolulu, HI, 96809.**

Should you have any questions, contact Alex J. Roy, M.Sc. of our Office of Conservation and Coastal Lands staff at 808-587-0316.

Sincerely,


Suzanne D. Case, Chairperson
Board of Land and Natural Resources

I concur with the conditions of this authorization:

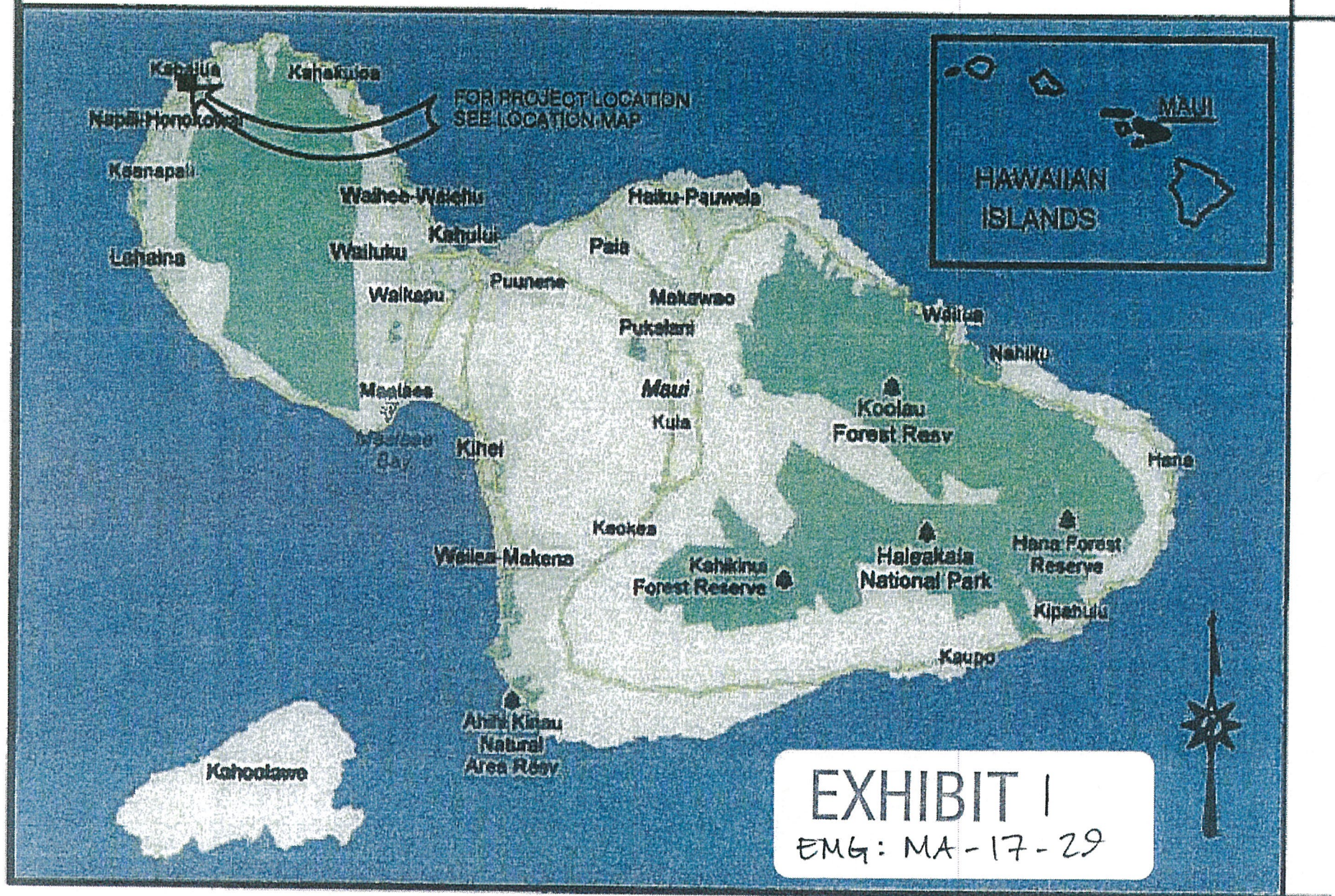
Permittee

Date

CC: MDLO
DAR
Maui County – Planning Department (Attn: Tara M. Owens)

Attachments: Exhibits 1-7 (8 pgs.)

VICINITY MAP (NOT TO SCALE)



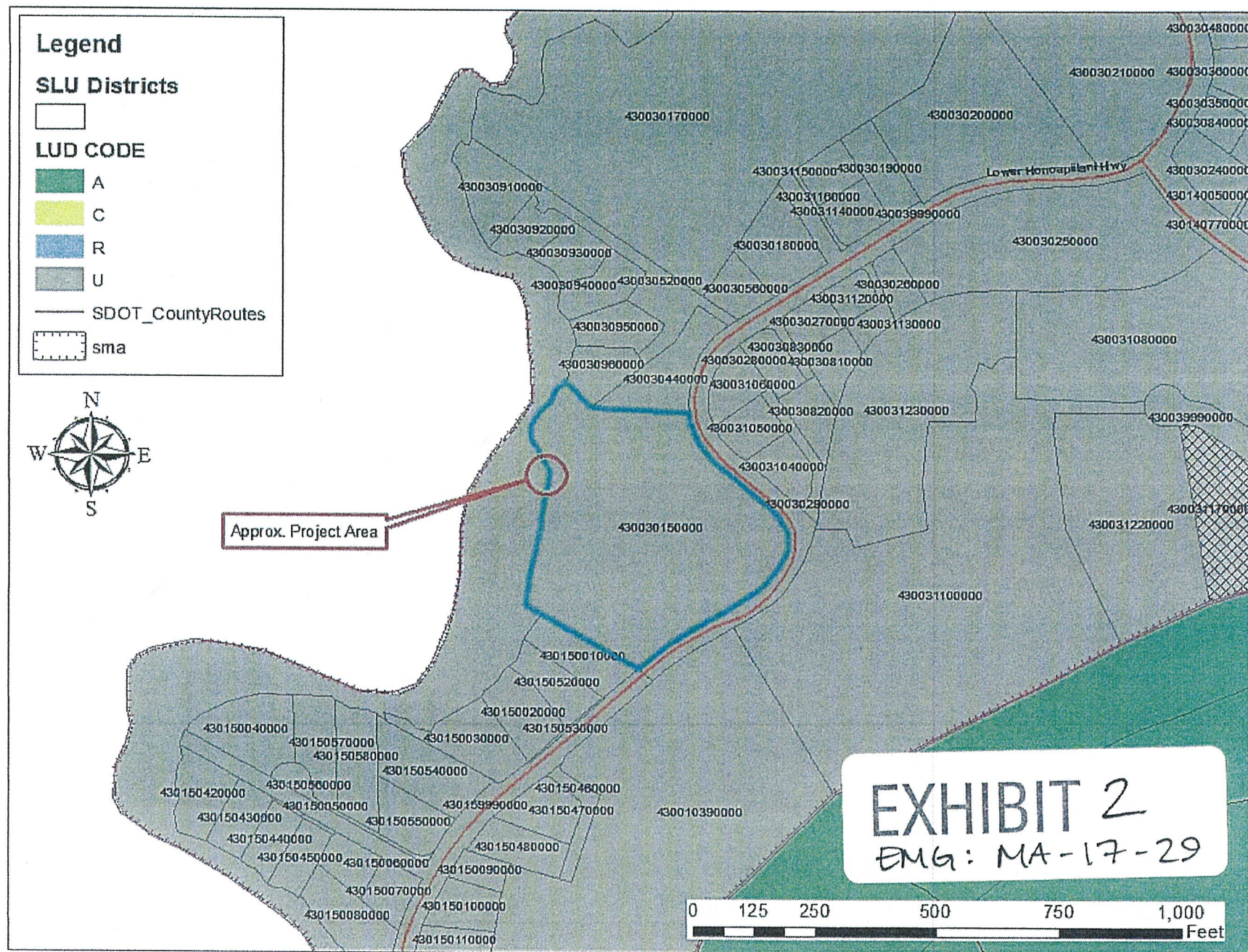


EXHIBIT 3

EMG: MA-17-29

NOTES

1. SCOPE OF WORK FOR THE PROJECT AS SHOWN ON THIS DRAWING IS LIMITED TO FILLING A CHUTE UNDER AN EXISTING SEAWALL, CREATED DUE TO EROSION BY CONCRETE.
2. THIS PLAN IS BASED ON SURVEY UNDERTAKEN BY A LICENSED PROFESSIONAL LANDSURVEYOR.
3. ELEVATION IS BASED ON JN OF FEMA BENCH MARK.
4. SETBACK LINE IS BASED ON THE INFORMATION PROVIDED BY THE DEPARTMENT OF PLANNING.
5. SEE SHEET S-6 FOR ADDITIONAL BMP REQUIREMENTS.

AREA AFFECTED
 AREA TO BE GRUNDED = 340 SQ. FT.
 AREA TO BE GRUNDED = 340 SQ. FT.
 CUT AMOUNT = 18 CY.
 FILL AMOUNT = 87 CY.

CHUTE UNDER S.O.A.
 PROPERTY LINE
 LANE
 AS SHOWN BY STATE PLANNING
 THE FENCED AREA SHOWN IN THIS REGION OFFERS THE LIMITS OF PROPERTY
 UNDESIGNED AREA TO BE FILLER WITH CONCRETE
 UNDESIGNED CONCRETE AREAS TO BE CUT REMOVED
 SETBACK LINE - AS SHOWN BY STATE SURVEYOR
 EXISTING SEAWALL
 TEMP. BOTTOM
 FENCE

○ PROPOSED WORK AREA

Prepared by:

AAA
 ADDRESS
 600 Kalia Road
 Honolulu, HI 96813
 TEL: 551-5146
 FAX: 551-5146
 E-MAIL: kalia@aaa.com



THIS DRAWING WAS PREPARED BY ME OR UNDER MY SUPERVISION. I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF HAWAII. MY LICENSE NUMBER IS 9160-B. DATE: APRIL 24, 2019

Signature

KAHANA SUNSET AOAO
 SEAWALL EMERGENCY REPAIR
 SITE PLAN

| No. | Revision/Issue | Date |
|-----|----------------|------|
| | | |
| | | |

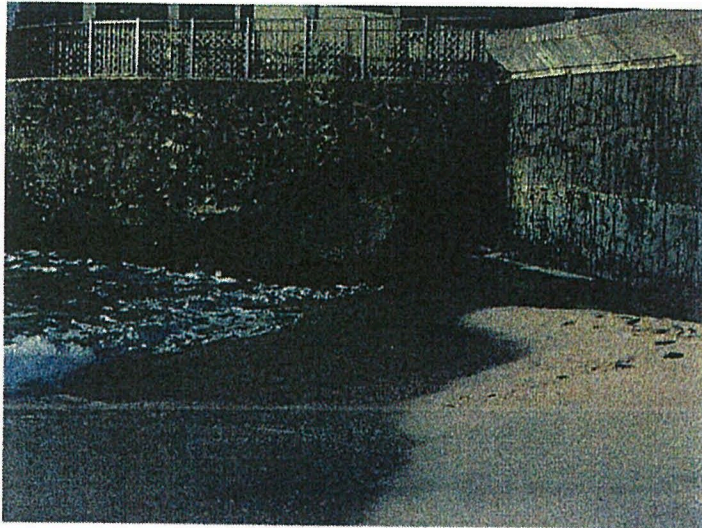
Project: 2017-03-1
 Scale: 1"=20'
 Date: MARCH 2017
 Drawn by: JAS
 Designed by: JAS
 Checked by: JAS
 Drawing No:

S-2

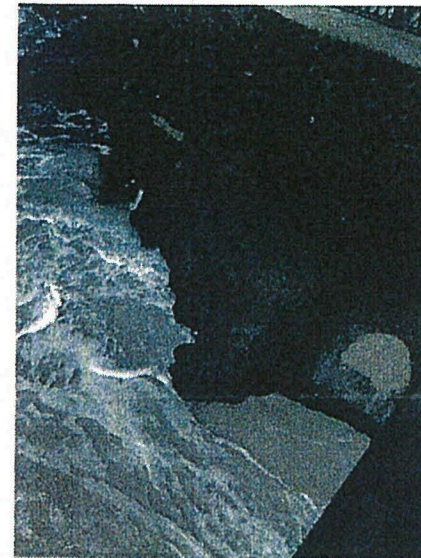
Sheet 2 of 7

EXHIBIT 4

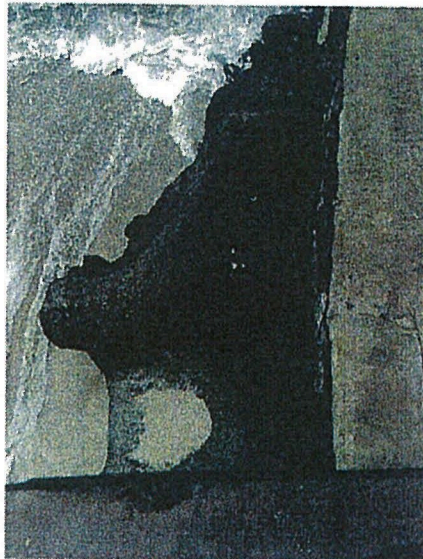
EMG: MA-17-29



LEFT:
UNDERMINED SEAWALL AND
CONCRETE MASS



RIGHT:
UNDERMINED CONCRETE MASS
TO BE CUT AND REMOVED



LEFT:
EXISTING CONCRETE MASS
TO BE CUT AND REMOVED



RIGHT:
RELATIVE LOCATION OF BUILDING,
UNDERMINED LANAI, AND BBQ

Prepared by:

AAA
ARCHITECTURAL

1000 Kalia Road, Suite 100
Honolulu, HI 96813
Phone: (808) 944-1111
Fax: (808) 944-1112
Email: info@aaaarchitectural.com



THIS SEAL WAS PREPARED BY
ME OR UNDER MY SUPERVISION
AND I AM A LICENSED PROFESSIONAL
ENGINEER IN THE STATE OF
HAWAII. MY LICENSE NUMBER IS
10000. EXPIRES ON
APRIL 30, 2014

Signature

KAHANA SUNSET AOAO
SEAWALL EMERGENCY REPAIR
EXISTING SITE CONDITION

| No. | Revision/Notes | Date |
|-----|----------------|------|
| | | |
| | | |

Project: 2017-12-1
Date: 12-1-17
Title: MARCH 2017
Drawn by: JCS
Designed by: RS
Checked by: RS
Drawing No:

S-1

Sheet 2 of 7

EXHIBIT 5

EMG: MA-17-29

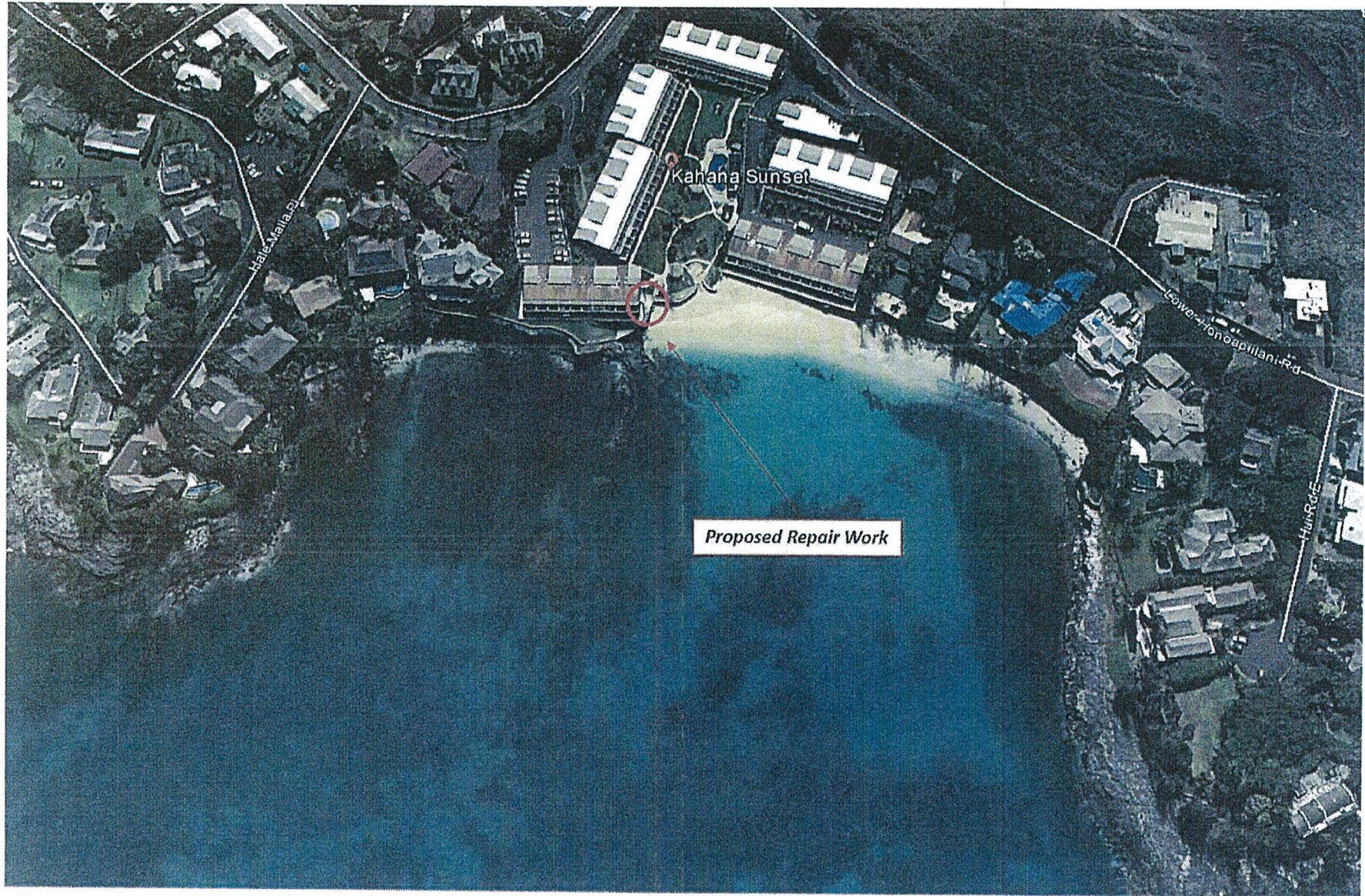


EXHIBIT 6

EMG: MA-17-29

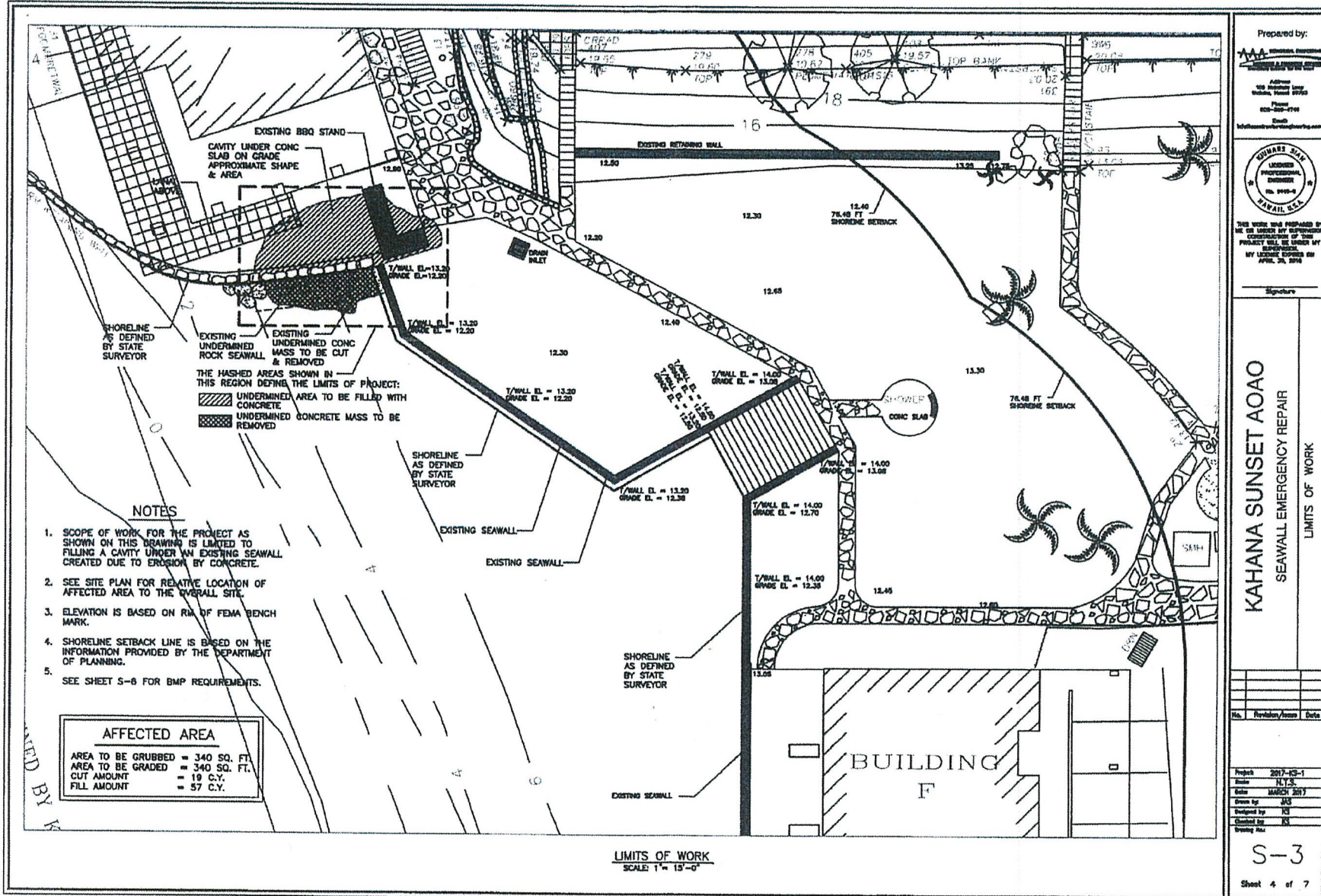


EXHIBIT 6A

EM6: MA-17-29

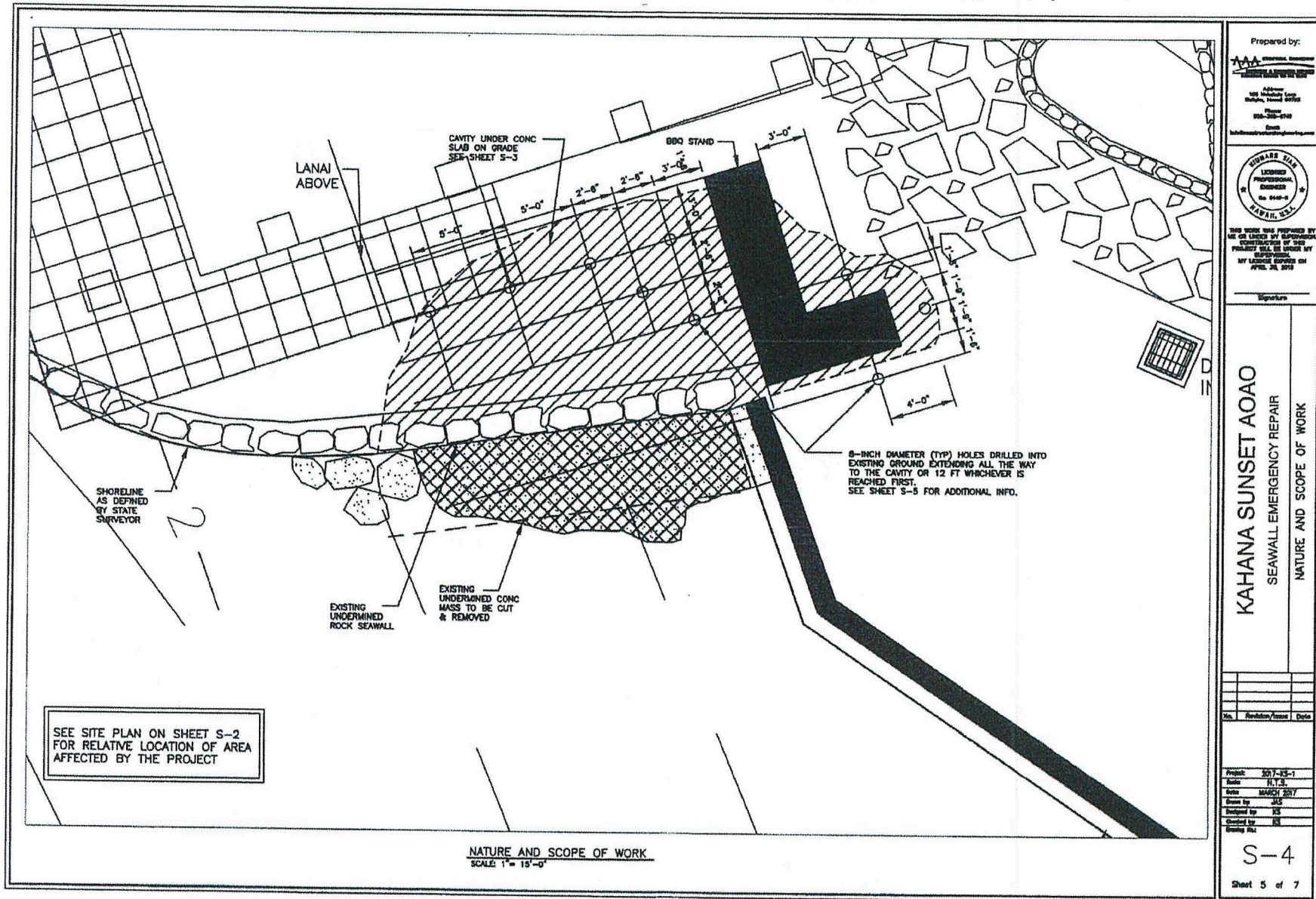
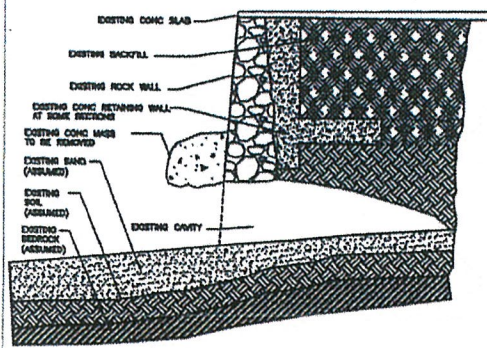
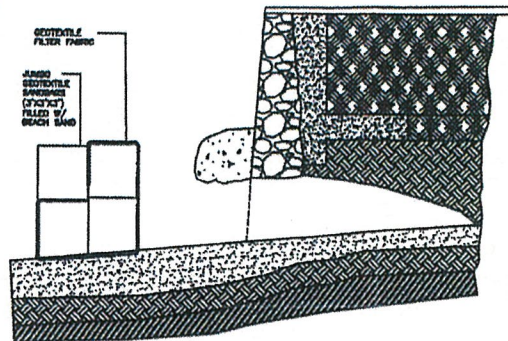


EXHIBIT 7

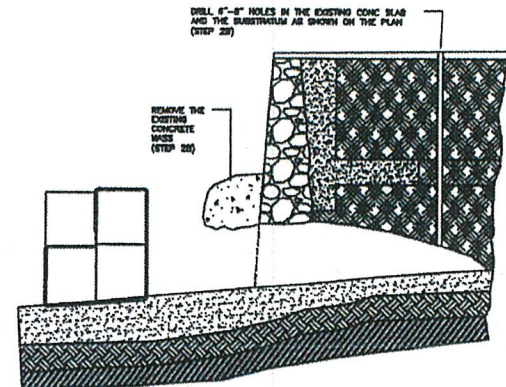
EMG: MA-17-29



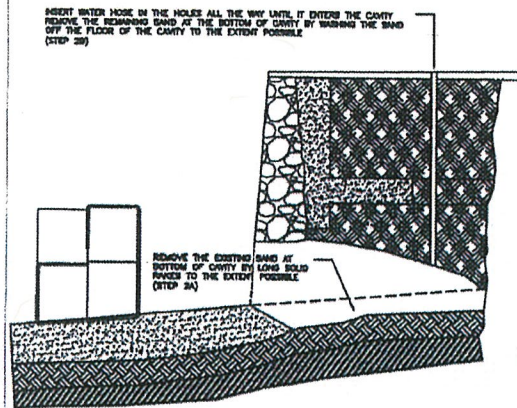
EXISTING CONDITION @ BUILDING "A" SEAWALL
NOT TO SCALE



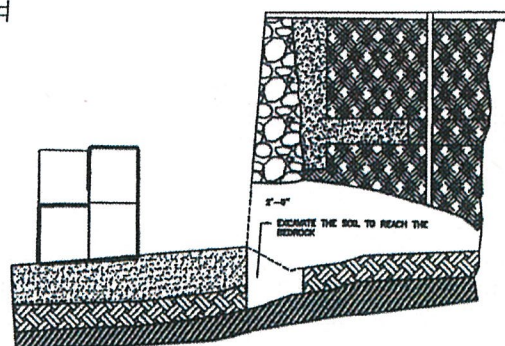
STEP ONE: CONSTRUCTION OF TEMPORARY BERM
NOT TO SCALE



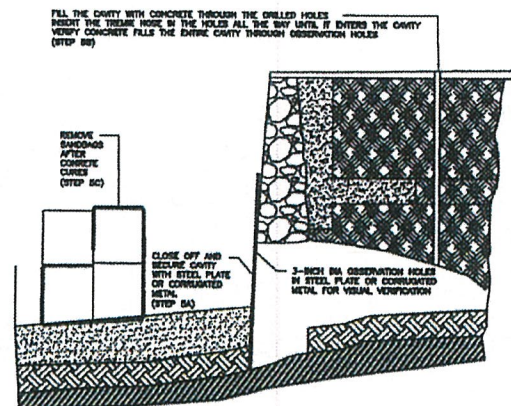
STEP TWO: PREPARATORY WORK
NOT TO SCALE



STEP THREE: REMOVING SAND FROM INSIDE OF CAVITY
NOT TO SCALE



STEP FOUR: EXCAVATION UNDER SEAWALL
NOT TO SCALE



STEP FIVE: FILLING CAVITY W/ CONCRETE
NOT TO SCALE

SCOPE AND SEQUENCE OF WORK
SCALE N.T.S.

Prepared by:



Address:
100 HAWAIIAN
DRIVE, HONOLULU, HAWAII 96813

Phone:
808-595-1212

Email:
info@kahanasunsetaoa.com



THIS WORK WAS PREPARED BY
ME OR UNDER MY SUPERVISION.
CONSTRUCTION OF THIS
PROJECT WILL BE UNDER MY
SUPERVISION.
MY LICENSE NUMBER IS
4468-6, APRIL 30, 2015

Signature

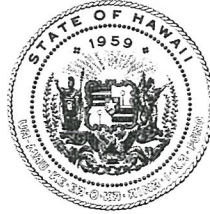
KAHANA SUNSET AOA
SEAWALL EMERGENCY REPAIR
RECOMMENDED SEQUENCE OF WORK

| No. | Revision/Notes | Date |
|-----|----------------|------|
| | | |
| | | |

| | |
|--------------|------------|
| Project: | 2017-05-1 |
| Drawn by: | JLS |
| Date: | MARCH 2017 |
| Checked by: | KJS |
| Issued by: | KJS |
| Issued Date: | |

S-5

Sheet 6 of 7



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 11, 2017

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

| | |
|--------------------------------------|--|
| Project Title: | Issuance of Right-of-Entry Permit to Association of Apartment Owners of Kahana Sunset, for Emergency Repair of Undermined Seawall |
| Project / Reference No.: | PSF 17MD-096 |
| Project Location: | Alaehoa, Kaanapali, Maui; TMK: (2) 4-3-003: seaward of 015 |
| Project Description: | Installation of Sandbags |
| Chap. 343 Trigger(s): | Use of State Land |
| Exemption Class No. and Description: | In accordance with the Exemption List for the Department of Land and Natural Resources, reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and item 51, which states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." |
| Consulted Parties: | State DLNR Office of Conservation and Coastal Lands |
| Recommendation: | It is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment. |

EXHIBIT C