

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

August 26, 2022

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

PSF No.: 22OD-046

OAHU

Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to Steven Ernest MacBride and Valerie Jean MacBride, Trustees under the certain unrecorded Steven and Valerie MacBride Revocable Trust dated October 30, 2018 for Riprap Revetment, Ramp, and Rock Groin Purposes; Hauula, Koolauloa, Oahu, Tax Map Key: (1) 5-3-008: seaward of 012.

APPLICANTS:

Steven Ernest MacBride and Valerie Jean MacBride, Trustees under the certain unrecorded Steven and Valerie MacBride Revocable Trust dated October 30, 2018. ("Applicants")

LEGAL REFERENCE:

Sections 171-6, 13, 17, 53(c), and 55, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of Government submerged land located in Hauula, Koolauloa, Oahu, Tax Map Key: (1) 5-3-008: seaward of 012, as shown on **Exhibits A-1 and A-2**.

AREA:

1,900 square feet, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District:	Conservation
City & County of Honolulu LUO:	R-5 [for the abutting private property]

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered with encroachments.

TERM, NON-EXCLUSIVE EASEMENT:CHARACTER OF USE:

Right, privilege and authority to use, repair, and maintain existing riprap revetment, ramp, and rock groin over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market value, subject to review and approval by the Chairperson.

TERM:

Twenty-five (25) years.

The Land Division is reducing the term in which shoreline easements are granted from 55 to 25 years in response to sea level rise projections disclosed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report adopted by the State Climate Change Mitigation and Adaptation Commission, and as suggested by the Office of Conservation and Coastal Lands. Landward migration of the shoreline is occurring as a direct result of sea level rise, which will progressively expose immobile shoreline structures to an evolving combination of coastal hazards (i.e., erosion, chronic flooding, and wave inundation). The intention of the term reduction is to: 1) lessen the potential for accidents and liabilities that may result from the presence of dysfunctional shoreline structures by increasing the periodicity in which shoreline encroachments are reviewed and managed, and 2) facilitate a process of managed retreat from the shoreline.

MONTHLY RENTAL FOR RIGHT-OF-ENTRY AND REVOCABLE PERMIT:

Monthly rental amount \$306.00 for right-of-entry and revocable permit has been calculated by staff and has been reviewed and approved by the Chairperson. **EXHIBIT B<sup>1</sup>**

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<sup>1</sup> Exhibit B uses 4% as rate of return, which is typical for residential property.

REMOVAL BOND:

A removal bond is required, in an amount to be determined by Land Division, in consultation with the Engineering Division, and further subject to the approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, Part 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," Item 39, that states the "creation or termination of easement, covenants, or other rights in structure or land". The subject request will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment. (**Exhibit C**)

DCCA VERIFICATION:

Individual owners, not applicable.

APPLICANT REQUIREMENTS: Applicants shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
2. Pay for an appraisal to determine one-time payment; and
3. Obtain approval by the Governor and concurrent resolution from the Legislature pursuant to §171-53 (c), HRS.

REMARKS:

According to the information provided by the Applicants, the revetment and groin were first placed along several adjacent properties, known as the Kaluanui Beach Lots, 75 years ago in 1947. In October 1961 the revetment wall and groins were repaired and improved by a contractor engaged by Bishop Estate, the then-owner of the beach lots.

During the processes for shoreline certification in 1983 and 1984, the maps indicated the subject encroachments. There were some discussions about the resolution of the encroachment between the State and the then-owner. However, there was no record of any follow-up issuance of land disposition or removal of the encroachments.

Applicants purchased the abutting private property in 2017 and decided to resolve the issue by providing an updated map and other relevant documents to the Office of Conservation and Coastal Lands ("OCCL") for review. By its letter dated April 1, 2022 (**Exhibit D**),

OCCL supports a disposition request being processed for the encroachment. Based on Exhibit 1a in OCCL's letter, the current shoreline will be located mauka of the recorded boundary.

The Board of Water Supply had no objections/comments and concurs to the proposed environmental assessment exemption. The Department of Planning and Permitting has no objections the State's granting of the easement and proposed granting of an exemption. Other government agencies solicited, including Department of Parks and Recreation, Department of Facility Maintenance and the Office of Hawaiian Affairs, have not responded to the request for comments as of this writing.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

In anticipation of the time to complete the entire easement process, including survey, appraisal, and Legislative and Governor approvals, staff recommends the Board authorize the issuance of an immediate right-of-entry which will be followed by a revocable permit scheduled to expire upon consummation of the requested easement. In the event the requested easement does not receive approval from the Legislature or the Governor as required by the statutes, the Applicants/Permittees will be required to remove the subject encroachment pursuant to the provisions in the revocable permit and the revocable permit will be terminated upon the completion of the removal of the encroachment to the satisfaction of the Department. In addition, the Department can call on the removal bond for the removal of the subject encroachment if the Applicants/Permittees fail to carry out this obligation. Upon approval of today's request, staff will work with the Department of the Attorney General on drafting conditions to protect the interest of the State in the above-mentioned situation. Before the consummation of the interim revocable permit, a management right-of-entry for the same purpose is recommended due to the length of time needed to process the revocable permit.

Pursuant to the Board's action of June 28, 2002, under agenda item D-17, which established criteria for imposing fines for encroachments, a fine of \$500 is to be imposed if the encroachment is over 100 square feet. Since the encroachment area is 1,900 square feet (more or less), staff recommends that a fine of \$500 be imposed by the Board.

There are no other pertinent issues or concerns and staff has no objection to the request.

RECOMMENDATION: That the Board:

- A. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15 and -16, 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.
- B. Assess a fine of \$500 for unauthorized encroachment pursuant to the above-mentioned approval adopted by the Board at its meeting of June 28, 2002, under



agenda item D-17.

- C. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 5-3-008:012 when such change in ownership occurs prior to the execution of the requested easement, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
- D. Authorize the issuance of a right-of-entry permit to Steven Ernest MacBride and Valerie Jean MacBride, Trustees under the certain unrecorded Steven and Valerie MacBride Revocable Trust dated October 30, 2018, covering the subject area subject to the following:
  - 1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
  - 2. Posting of removal bond during the effective period of the right-of-entry;
  - 3. The right-of-entry shall commence on the Board date and be for a term of one year or until the issuance of the revocable permit described in recommendation 5 below, whichever shall first occur, provided that the Chairperson may extend the right-of-entry for an additional one year periods for good cause shown; and
  - 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- E. Authorize the issuance of a revocable permit to Steven Ernest MacBride and Valerie Jean MacBride, Trustees under the certain unrecorded Steven and Valerie MacBride Revocable Trust dated October 30, 2018, covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - 1. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - 2. Posting of removal bond during the effective period of the revocable permit;
  - 3. Remove the subject encroachment, if required, within the period stipulated by the Chairperson;
  - 4. Review and approval by the Department of the Attorney General; and

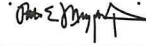
5. Such other terms and conditions as may be prescribed by the Chairperson to the best serve the interests of the State.
- F. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the issuance of a term, non-exclusive easement to Steven Ernest MacBride and Valerie Jean MacBride, Trustees under the certain unrecorded Steven and Valerie MacBride Revocable Trust dated October 30, 2018, covering the subject area for encroachment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
  2. Assess a fine of \$500, under Section 171-6, HRS.
  3. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 5-3-008:012, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
  4. Approval by the Governor<sup>2</sup> and concurrent from the Legislature pursuant to §171-53 (c), HRS;
  5. Review and approval by the Department of the Attorney General;
  6. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and

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<sup>2</sup> Staff will prepare the request seeking Governor's approval upon the adoption of a resolution by the Legislature.

7. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

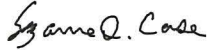
Respectfully Submitted,




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Patti E. Miyashiro  
Land Agent

APPROVED FOR SUBMITTAL:



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Suzanne D. Case, Chairperson 



**TMK (1) 5-3-008: seaward of 012**

**EXHIBIT A-1**





**TMK: (1) 5-3-008: seaward of 012**

**EXHIBIT A-2**



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

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
ROBERT K. MASUDA  
FIRST DEPUTY  
  
M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER  
  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF COAST GUARDS  
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

TO: Suzanne D. Case, Chairperson  
  
Through: Russell Y. Tsuji, Administrator *RT*  
  
From: Land Division, Appraisal Section  
  
Date: August 4, 2022  
  
Subject: MacBride Revocable Permit

A shoreline revocable permit valuation was prepared for the property below and is summarized as follows:

Reference: PSF No. 22OD-046  
Applicant: Steven Ernest MacBride and Valerie Jean MacBride, Trustees under the certain unrecorded Steven and Valerie MacBride Revocable Trust dated October 30, 2018  
TMK: (1) 5-3-008: Seaward of 012  
Area: 1,900 square feet  
Effective Date: Upon Board Approval  
Recommended Value: \$306/month

The undersigned finds that the valuation was completed in accordance with the assignment.

Suzanne D. Case  
Suzanne D. Case, Chairperson *RT*

Aug 4, 2022  
Date

**EXHIBIT B**



**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1-15, HAR

Project Title: Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to Steven Ernest MacBride and Valerie Jean MacBride, Trustees under the certain unrecorded Steven and Valerie MacBride Revocable Trust dated October 30, 2018

Reference No.: PSF 22OD-046

Project Location: Hauula, Koolauloa, Oahu, Tax Map Key: (1) 5-3-008: seaward of 012

Project Description: Issuance of term, non-exclusive easement, immediate right-of-entry and revocable permit for riprap revetment, ramp, and rock groin purposes.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with HAR § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, Part 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," Item 39, that states the "creation or termination of easement, covenants, or other rights in structure or land".

The Applicants are not planning on conducting any major change to the existing topographical condition of the subject location. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Cumulative Impact of Planned Successive Actions in Same Place Significant?

No, this request is for a 25-year term easement for an existing, permanent shoreline structure which were in existence since 1947. No successive actions are planned by the applicants in the same location. As such, staff believes that there would be no significant cumulative impact.

**EXHIBIT C**

Action May Have  
Significant Impact on  
Particularly Sensitive  
Environment?

No, the requested area is a portion of shoreline State land that contains improvements Makai of the abutting private property which, by visual analysis, seem to have been in existence for many years and is not likely to have any significant environmental impact. In addition, based on the analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Consulted Parties:

Agencies as noted in the submittal.

Analysis:

The Board has authorized 25-year term, non-exclusive easements for existing shoreline structures in the past. The proposed request is of a similar type and scope as other shoreline easement request across the State. Staff also believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Recommendation:

That the Board finds 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.





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2022 APR -4 PM 1:30  
DEPT. OF LAND & NATURAL RESOURCES  
STATE 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  
ROBERT K. MASUDA  
FIRST DEPUTY  
M. KALEO MANUEL  
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LAND  
STATE PARKS

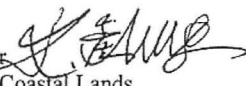
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Shoreline Encroachment: OA 22-03

MEMORANDUM

TO: Russel Tsuji, Administrator  
Land Division

April 1, 2022

FROM: K. Tiger Mills, Staff Planner   
Office of Conservation and Coastal Lands

SUBJECT: Request to Resolve State Land Encroachment Located Makai of   
 Kaluanui, Ko'olaupia, O'ahu, TMK: (1) 5-3-008:012

The Office of Conservation and Coastal Lands (OCCL) is in receipt of the shoreline encroachment information for the subject location submitted on behalf of the property owner, Steven/Valerie Macbride Trust. According to the information submitted, the encroachment consists of a riprap revetment of loose, fitted rocks with sloping CRM walkway passage and a rock groin in an area of approximately (≈) 1,900-ft<sup>2</sup> makai of the subject property upon State land. **Exhibit 1**

According to the submitted records noted as B.P. Bishop Estate Map No. 6303, the loose rock riprap was placed in 1947 makai of Lots 6, 7-A, 7-B, and 8 of the Kaluanui Beach Lots Section "A". **Exhibit 2**

Shoreline Certifications dated April 14, 1983, and December 6, 1985, delineate the shoreline mauka of the revetment. As the information submitted indicates that the revetment was created prior to the advent of the Conservation District (1964), the DLNR will not be asking that an after-the-fact Conservation District Use Permit be obtained to cure this matter. However, an easement must be obtained for the use of public lands.

The Board of Land and Natural Resource (BLNR) established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, the Department established criteria to guide decision-making over specific cases. The criteria are as follows:

1. Protect/preserve/enhance public shoreline access;

# EXHIBIT D

LAND

Shoreline Encroachment: OA 22-03

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

In addition, the Department developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide the Department's decisions on the disposition of shoreline encroachments.

The subject lot contains two structures: a two-story residential post on pier structure; and a detached garage on grade with a residential unit above. Other improvements include CMU walls, vinyl fencing and landscaping.

#### Surrounding Land Uses

The subject property lies makai of Kamehameha Hwy, with the Pacific Ocean beyond and neighboring residences on both the Kahuku and Kane'ohe sides of the property. Surrounding land uses along the coastline are primarily residential.

#### Beach Resources

The submitted information describes the shoreline environment as "Sandy beach, fully exposed at low tide and partly covered (with shore break) at high tide...The tops of the rocks of the groin are fully exposed at low tide; during high tide the terminal ...of groin rocks are submerged or awash with seawater."

"Recreational activities...in front of our lot, families of local people and visitors are continuously investigating the marine life that inhabits the lowest rocks of revetment and the rocks of the groin. The marine organisms include rock crabs, seashells coral, small fish and eels, seaweeds, sea urchins, sea cucumber. Children and adults alike explore the groin, often with goggles, glass boxes, scoop nets."

Fishing takes place from the groin via throw-nets whipping or small bamboo poles. Fishermen wedge pole holders in between the rocks for day and night fishing.

#### Public Access

In the Kahuku direction, public access is available about 0.1-mile away at a roadside park (Kaluauui Beach). On the Kane'ohe side, shoreline access is available about 0.4-mile away at a roadside beach park (Haleaha Beach). According to the information provided, lateral shoreline access is not restricted by the encroachment.

#### Effect of Removing the Encroachment on:

**Beach Resources:** Based upon the current colonization of shoreline critters, the removal would affect these creatures. There may be further erosion landward and landscaping/sediment material may leach into marine waters.

**Public Access:** The beach area would widen, and lateral shoreline access would be improved.

LAND

Shoreline Encroachment: OA 22-03

Adjacent Properties: Removal of the encroaching improvements may have a negative effect on the adjacent parcels due to the potential for end flanking and the removal of the groin may cause increased erosion to the neighboring property where the groin currently 'captures' sand.

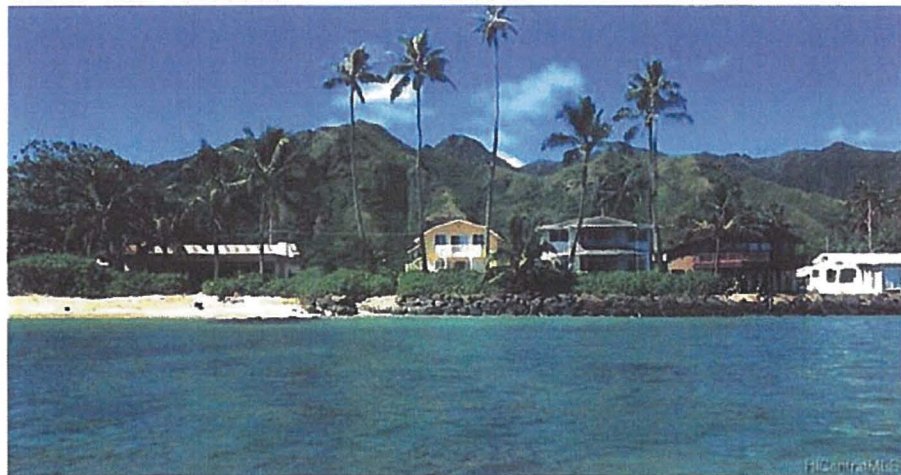
The OCCL notes, as a shoreline parcel, the property is most likely to be affected by sea level rise due to climate change as portions of the property lie within the sea level rise exposure area (SLRXA) as illustrated in **Exhibit 3** for a predicted timeline of 2030 for 0.5-feet.

It has been the general policy and practice of the OCCL to support easement requests that have no discernible effect on beach and recreational resources, and do not act as a detriment to public access. In cases where the encroachment serves as a primary erosion control for potentially threatened structures, impacts to the adjacent and upland developments must also be considered.

Upon review and careful consideration of the information gathered on this case, staff has determined that the requirements stated in HRS §§ 205A & 183C, and in the OCCL's evaluation criteria would support a disposition request being processed for the encroachment area. As the encroaching structure is nonconforming and may mitigate the expected sea level rise, the OCCL has no objections to an easement request being processed.

Should there be any questions regarding this correspondence, contact Tiger Mills of our Office at (808) 587-0382.

C: Steven and Valerie MacBride Trust  
Chairperson  
City and County of Honolulu  
-Planning Department

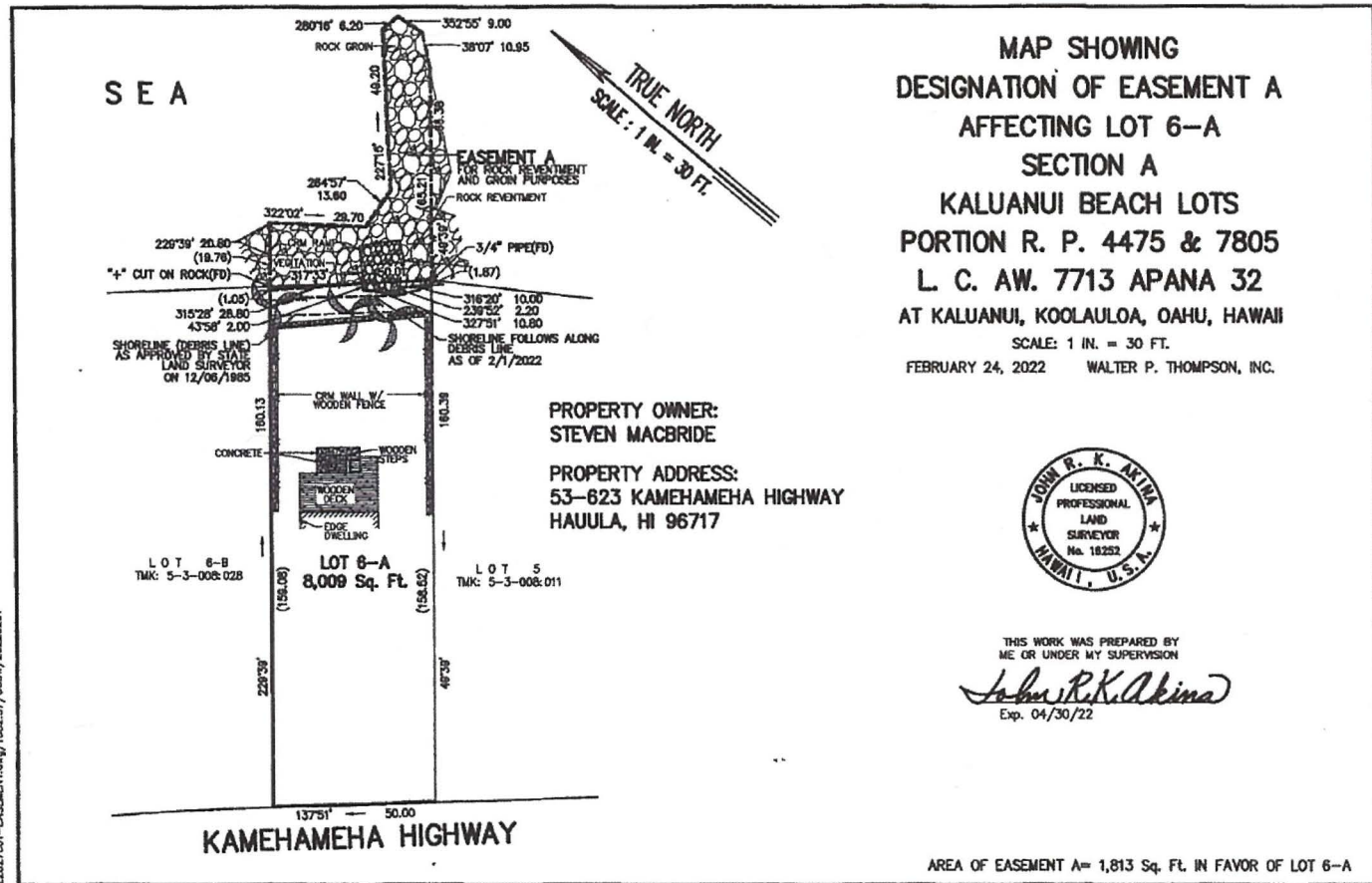


<https://www.redfin.com/HI/Hauula/53-623-Kamehameha-Hwy-96717/home/88555501>

TMK: (1) 5-3-008:012

## Exhibit 1

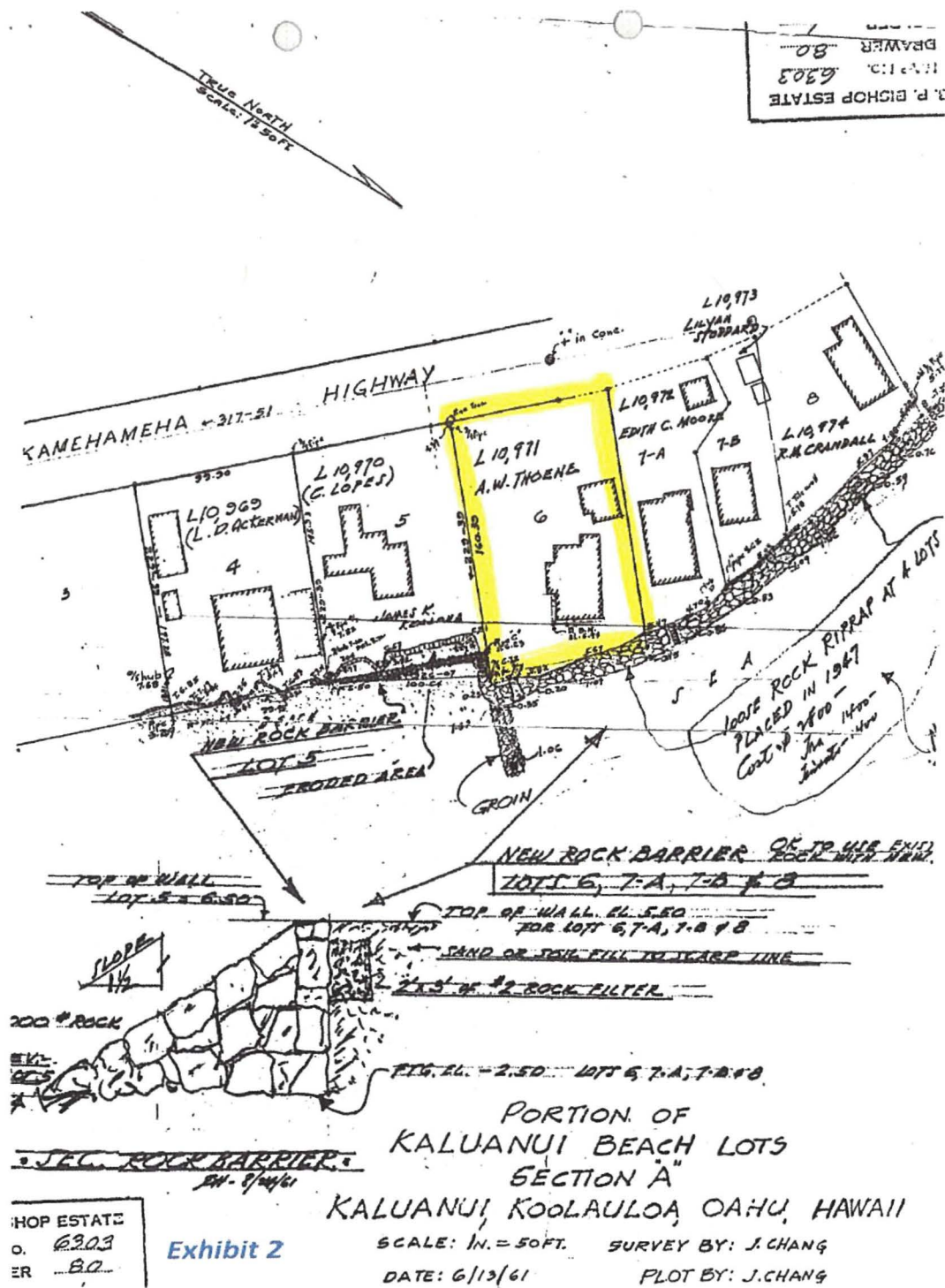




TAX MAP KEY : 5 - 3 - 008 : 012

Exhibit 1a

10"x 15" = 1.04 Sq.Ft.





From: <https://www.pacioos.hawaii.edu/shoreline/slr-hawaii/>

Sea Level Rise Exposure Area of 0.5-ft predicted for year 2030.

Exhibit 3