

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

October 14, 2022

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

PSF No.: 22MD-058

Maui

Rescind Prior Board Action of June 27, 2014, Item D-10, as Amended, *Grant of 55-Year Term, Non-Exclusive Easement to Matthew H. and Shawneen M. Schweitzer for Seawall and Stairway Encroachment Purposes; After-the-Fact Authorization to Issue Immediate Right-of-Entry Permit for Emergency Seawall Work; Authorize Issuance of Right-of-Entry Permit to Repair Seawall, Alaeloa, Lahaina, Maui, Tax Map Key: (2) 4-3-015: Seaward of 001.*

Issuance of Right-of-Entry to Todd Boyd to Remove a Seawall and Steps and Repair the Return Walls Protecting the Two Neighboring Properties, Lahaina, Maui, Tax Map Key: (2) 4-3-015: seaward of 001.

APPLICANT:

Todd Boyd, an individual

LEGAL REFERENCE:

Section 171 -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of the State of Hawaii situated at Lahaina, Maui, identified by Tax Map Key: (2) 4-3-015: seaward of 001, as shown on the attached map labeled Exhibit A.

AREA:

700 square feet, more or less.

ZONING:

State Land Use District: Conservation

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.

CHARACTER OF USE:

For purposes of entering submerged lands to remove a damaged seawall and steps and to repair the return walls protecting the two neighboring parcels.

COMMENCEMENT DATE:

Commencement date to be determined by the Chairperson.

MONTHLY RENTAL:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) Section 11-200.1-16 (a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred 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, which applies to "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing, Part 1, Item No. 12 that states, "Repair and maintenance of existing bollards, walls, gates, fences, lighting, and other similar items necessary for the security or continued operation of a facility or structure;" and General Exemption Type 6, "Demolition of structures, except those structures that are listed on the National Register or Hawaii Register of Historic Places", Part 1, Item No. 2 that states, "Demolition and removal of existing structures, facilities, utilities, and other improvements, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C. §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E." The exemption notification is attached as Exhibit B.

DCCA VERIFICATION:

Not applicable. Applicant is a private party.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Adhere to the Terms and Conditions set forth in the DLNR Office of Conservation and Coastal Lands (OCCL) Emergency Conservation District Use Permit (CDUP) number E-CDUP MA 23-01 dated August 10, 2022, copy attached as Exhibit C.
- 2) Obtain any and all required County permits applicable to proposed work prior to commencing work.
- 3) Obtain the written approval of the owners of the adjacent properties designated as Parcels 15 and 52 prior to commencing any work on any portion of the return walls located on those properties.
- 4) Upon the completion of the work, submit to the Department an updated shoreline survey of Parcel 1 and the repaired and restored return walls.

REMARKS:

At its meeting of June 27, 2014, Item D-10, the Board of Land and Natural Resources (Board) approved, as amended, a request by the then owners of Tax Map Key: (2) 4-3-015: 001 (Parcel 1), Matthew H. and Shawneen M. Schweitzer (Schweitzers), for a 55-year term, non-exclusive easement for seawall and stairway encroachment purposes and for related rights-of-entry to perform work on the seawall. A copy of the June 27, 2014 Board action is attached as Exhibit D. The Schweitzers did not follow through on the approval and no easement was issued for the seawall or stairway. The Schweitzers sold Parcel 1 to new owners, including Applicant Todd Boyd (Applicant), in 2020.

Due to further coastal erosion and undermining of and damage to the seawall and steps that have occurred since 2014, repair is no longer an option. Applicant is therefore hiring a contractor to remove the failed seawall and steps fronting Parcel 1 and repair the return walls of the properties to the immediate north and south of Parcel 1. The work will entail the operation of equipment mauka of the seawall but within the conservation district and shoreline area due to the location of the shoreline. See excerpt from the shoreline certification map dated October 20, 2020 for Parcel 1 attached as Exhibit E. Minor grubbing and grading mauka of the seawall to stabilize the prevailing slope and prevent siltation of nearshore waters will also be performed. A scope of work statement from the Applicant's consultant, which provides a detailed description of the work, is attached as Exhibit F.

With respect to the work on the return walls, no recent shoreline certifications have been made for either neighboring property. The property to the north is the site of the Kahana Sunset Condominium located on Tax Map Key: (2) 4-2-003:015 (Parcel 15), and the property to the south is a residential parcel owned by the Warner C. Lusardi Family Trust (Lusardi Trust) and designated as Tax Map Key: (2) 4-3-015:052 (Parcel 52). Based on Exhibit E, it appears a portion of the return wall on the Lusardi Trust side of the project was once within the record boundary of Parcel 1, but may now be located on submerged lands. Normally, staff would require a shoreline certification for Parcel 15 and an updated certification for Parcel 1 to be completed before recommending repair work on these walls to determine whether the walls or any portions thereof are located on State submerged lands. Because the seawall/steps removal on Parcel 1 is an emergency situation at this point, staff is recommending that the Board authorize the repair work on the return walls without current shoreline certifications for Parcels 1 or 15, but instead, upon the completion of the work, staff recommends the Applicant be required to submit to the Department an updated shoreline survey of Parcel 1 that includes the repaired and restored return walls, and the Board reserve all rights it may have to require the landowners whose properties benefit from the repaired return walls, respectively to apply for appropriate land disposition, pay rent at fair market rent therefor, pay fines and administrative costs, and post an appropriate removal bond should any portion of the return walls be determined in the future to be within the shoreline and situated on submerged lands.¹ See photographs of the shoreline and work area of the subject Parcel 1 and neighboring properties on pp. 18 et seq., of the CDUP (Exhibit C).

OCCL issued an emergency permit for this work because there is a risk of the failed seawall falling onto the beach and potentially injuring someone. The OCCL permit is attached as Exhibit C.

Staff sent a copy of this submittal to DLNR Division of Aquatics Resources (DAR), OCCL, the State Department of Health, Clean Water Branch, Office of Hawaiian Affairs (OHA), and the Maui County Planning Department for their review and comment and they responded as follows:

Agency	Comment
DLNR--DAR	No response received by suspense date.
DLNR--OCCL	Responded with no objections.
DOH—Clean Water Branch	No response received by suspense date.
OHA	No response received by suspense date.

¹ The Lusardi Trust holds Grant of Non-Exclusive Easement S-5835 issued December 27, 2006 for an encroachment of a portion of its seawall and concrete stairs onto State submerged lands. However, that easement does not cover the area where work will need to be done on the return wall abutting the Lusardi Trust property. If the project involves any work on improvements on Lusardi Trust land (Parcel 52), a shoreline certification may also be required for Parcel 52.

Maui County Planning Dept.	No response received by suspense date.
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Because the seawall and steps will be removed instead of permitted through an easement as contemplated in the Board action of June 27, 2014, Item D-10, as amended, staff is including a recommendation below that the prior Board action be rescinded.

RECOMMENDATION: That the Board:

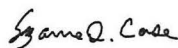
1. Rescind its prior action of June 27, 2014, Item D-10, as amended.
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
3. Authorize the issuance of a right-of-entry permit to Applicant, 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.
3. Upon the completion of the work, Applicant shall submit to the Department an updated shoreline survey of Parcel 1 that includes the repaired and restored return walls.


Respectfully Submitted,



Seiko Machida
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson 

DAVID Y. IGE
GOVERNOR OF HAWAII



**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 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

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS) and Section 11-200.1-16 (a)(1) of the Hawaii Administrative Rules (HAR)

Rescind Prior Board Action of June 27, 2014, Item D-10, as Amended, Grant of 55-Year Term, Non-Exclusive Easement to Matthew H. and Shawneen M. Schweitzer for Seawall and Stairway Encroachment Purposes; After-the-Fact Authorization to Issue Immediate Right-of-Entry Permit for Emergency Seawall Work; Authorize Issuance of Right-of-Entry Permit to Repair Seawall, Alaeloa, Lahaina, Maui, Tax Map Key: (2) 4-3-015: Seaward of 001.

Issuance of Right-of-Entry to Todd Boyd to Remove a Seawall and Steps and Repair the Return Walls Protecting the Two Neighboring Properties, Lahaina, Maui, Tax Map Key: (2) 4-3-015: seaward of 001.

Project / Reference No.: PSF 22MD-058

Project Location: Lahaina, Maui, Tax Map Key: (2) 4-3-015: Seaward of 001.

Project Description: Todd Boyd ("Applicant") is to remove a damaged seawall and steps fronting the subject parcel, and to repair the return walls protecting the two neighboring parcels.

Applicant will remove a failed seawall and steps and repair the return walls protecting the properties to the immediate north and south. Applicant will operate equipment in the shoreline mauka of the seawall, and will perform minor grubbing and grading mauka of the seawall to stabilize the slope and prevent siltation of nearshore waters. Applicant estimates the work will take about four months to complete.

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

Exemption Class No.: In accordance with Hawaii Administrative Rules (HAR) Section 11-200.1-16 (a)(1) and the Exemption List for the Department of

EXHIBIT B

Land and Natural Resources reviewed and concurred 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, which applies to "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing, Part 1, Item No. 12 that states, "Repair and maintenance of existing bollards, walls, gates, fences, lighting, and other similar items necessary for the security or continued operation of a facility or structure;" and General Exemption Type 6, "Demolition of structures, except those structures that are listed on the National Register or Hawaii Register of Historic Places", Part 1, Item No. 2 that states, "Demolition and removal of existing structures, facilities, utilities, and other improvements, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C. §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E."

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant?:

No, the request is for a one-time activity to remove an encroaching and hazardous seawall and steps, and to repair the return walls protecting the two neighboring properties.

Action May Have
Significant Impact on
Particularly Sensitive
Environment?:

No, staff believes there would be no significant impact to sensitive environmental or ecological receptors due to most of the activity occurring mauka of the shoreline.

Consulted Parties

Consulted with DLNR Division of Aquatic Resources, Office of Conservation and Coastal Lands (OCCL), Department of Health Clean Water Branch, Office of Hawaiian Affairs, and the County of Maui Planning Department. OCCL responded with no objections. The other parties did not respond by the suspense date.

Recommendation: That the Board find 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.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

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

REF:OCCL:TM

E-CDUP: MA 23-01

Todd W. Boyd
Sarah K. Schmidt
Aldon J. Venier
Jennifer E. Venier
Marlene L. Venier
Ryan P. Venier
c/o Todd Boyd
Boyd Construction
2020 Ohaoha Place
Makawao, HI 96768

August 10, 2022

SUBJECT: Emergency Conservation District Use Permit (E-CDUP) MA 23-01 for Seawall and Stair Removal and Associated Work at Keonenui Beach Located Makai of [REDACTED] Lower Honoapi'ilani Road, 'Akaeloa, Maui, Makai of TMK: (2) 4-3-015:001

Dear Landowners:

The Office of Conservation and Coastal Lands (OCCL) on behalf of the Department has reviewed your request regarding the subject matter. According to the submitted information, to protect public safety, the landowners are requesting authorization to remove the permitted wall and restore the shoreline fronting the property to a more natural state. The Emergency Conservation District Use Application states that in November 2020, the wall detached from the property and fell downward 3-ft and makai about 1.5-ft. Straps and pipes were secured to the wall and anchored to the yard for support in December 2020 to prevent the wall from tipping over. Currently the temporary restraints are showing signs of strain and the wall and stairs have steadily been degraded by wave action. [Exhibit A]

The failing structure poses a risk to the public as there are cavities in the wall, there is a potential for falling debris or someone being trapped by wave action. The wall itself is threatening to fall onto the beach. Further the failing stairway and wall are adjacent to the only public beach access along this Bay.

Actions to be taken are: 1) Remove a seawall and stairway; 2) Repair the return walls that service the properties to the north and south [Kahana Sunset and the Lusardi's]; and 3) Conduct minor grubbing and grading mauka of the failing wall.

Components of the project include:

- Mobilization
- Grade the shoreline/yard area to create access to the work area
- Install BMPs that would include geotextile and small sandbags on the mauka face of the failing seawall and the work area
- Remove the stairs
- Place supersacks [1-yd³ volume] in the area formerly occupied by the stairs for mitigation
- Repair the return walls to the north and south [Kahana Sunset and the Lusardi's]
- Remove the seawall
- Demobilization

Proposed Deconstruction [Construction Plans]

Mobilization: A crane will operate over the public access to the shoreline maintained by the Kahana Sunset for mobilization and demobilization. The beach access to the north along the Kahana Sunset Condos is the only public access to Keonenui Bay and beach. Spotters will be stationed at the top by the road and bottom at the beach of the beach access. Should someone wish to utilize the accessway, then the crane will complete its deliver and stand down while the public uses the access way. A mini excavator [mini-x] and skid steer will be craned to the rear yard.

Access to the work area will be through your private property. A mini excavator, skid steer and wheelbarrows will traverse the rear yard by earthen ramps constructed for the project. Upon completion, the earthen ramps will be deconstructed. No machinery is proposed to work makai of the seawall in the ocean. However, machines will be operating in the Conservation District mauka of the wall to break up and remove the failing features.

Work will begin in the County setback area with the grubbing of the lawn and landscape. Terracing down to the Conservation District will be initiated. Three flat terraces about 10-ft wide with an elevation gain of 4-ft from one terrace to the next will be created. Soil mauka of the failing wall will be removed down to rock. When the wall was completed, fill material was added to the yard behind the seawall. The fill will be removed up to the 2020 certified shoreline to eliminate the existing undercut drop off on the makai side of the lawn. Approximately 342-yds³ of soil will be moved in the Conservation District.

Stair and Wall Removal

Utilizing hand-held rock cutting saws, the stairs will be cut to detach fully from both the seawall and the neighboring Kahana Sunset return wall. The mini excavator will travel down the earthen ramps to retrieve the pieces and place them in the setback area.

Wall removal. Wall demolition will begin with removal of the 6" wide masonry veneer on the front of the wall. The veneer will be removed using a chipping gun. Once the veneer has been removed, the concrete masonry units (CMU tiles) will be removed one at a time, one row at a time. The tiles will be removed using a gas saw to cut the grout joints. The temporary supports will be removed. Removed fragments will be reduced to be small enough to put in a wheelbarrow to transport upland for eventual disposal.

Upon completion of the removal of the CMU wall, using a combination of a gas saw, a mini-x hydraulic hammer and handheld gas hammers, the concrete base will be broken into pieces. Smaller pieces will be transported upland by hand and larger pieces will be transported to the setback area by the mini-x for processing.

BMPs [Exhibits B-D]

Upon completion of the stair's removal, 5-6 super sacks (large sandbags) will be installed to fill the gap between the north end of the wall and the Kahana Sunset return wall with the mini excavator. The super sacks will be partially filled off site and transported by crane to the staging area in the rear yard. The partially filled super sacks will be transported to the area for placement. Once placed on the shore, the bag will be fully filled by hand with stored sand [from Lahaina Small Boat Harbor dredge]. This will create a temporary contiguous barrier between the ocean and the work area.

As a BMP, the seawall will be kept in place while grubbing and grading of the rear yard takes place. Any gaps in the wall to the nearshore environment will be temporarily blocked by the installation of geotextile fabric [Mirafi MPV 500] and the stacking of small sand-filled bags in the gaps. This will hopefully keep wave action out of the rear yard area and reduce the risk of siltation. A siltation retention boom will be placed makai of the seawall and may be removed during non-work hours and reinstalled at the beginning of the workday.

During the removal of the wall, a 24-inch-tall siltation fence will be secured to the bottom makai side of the wall. The fence will be installed at a 45° angle so any fragments falling off the wall will be captured and disposed of.

A geotextile fabric will also be draped over the entire length of the yard. The fabric will be secured with stones or wooden spikes temporarily pounded in the ground. When the wall is removed, the fabric will act as a temporary barrier between the ocean and the yard. The sand-filled bags and fabric filled gaps in the wall will be removed as deemed prudent when the wall removal is under way.

The project site is self-contained. The failing seawall acts a barrier along with the placed supersacks to keep the public out of the work area. A spill kit consisting of absorbent fabric and a plastic containment pool will be available to respond to any uncontrolled leakage of fuel or hydraulic fluid.

Return Wall Repairs [Figures 1-4]

The removal of the seawall has the potential to affect the return walls that service the properties on either side. Concrete footings will be poured in place under each existing return wall to assure contact with the prevailing rock substrate. The mini-x will dig down to solid rock and a temporary frame will be constructed to contain the poured concrete (shotcrete). Concrete will be filled from the property's driveway where trucks will deliver product to a pump. A hose system will deliver concrete to the framed location. The wood framing will be removed when the concrete has set.

Project Duration

Upon receiving all approvals for the project, removal is expected to take about 3-4 months, weather and surf permitting. Upon completion of the project, the larger sandbags will be partially emptied and removed along with the smaller sandbags. The sand will be removed and stored off site for other purposes. Machines, tools, and seawall pieces will be transferred upland out of the Conservation District and the area will naturalize on its own. No landscaping shall take place in the Conservation District.

ANALYSIS

Portions of the project area (makai of the certified shoreline) lie within the State Land Use Conservation District, Resource subzone upon State submerged land. On February 14, 2014, the Board of Land and Natural Resources approved After the Fact Conservation District Use Permit MA-3689 for the seawall and stairs.

In conformance with Hawaii Revised Statutes, Chapter 343, as amended, and the Hawai'i Administrative Rules (HAR) Chapter 11-200.1-16(a)(1), the proposed demolition and removal of the permitted seawall and stairs falls under **General Exemption Type 6**, which applies to 'Demolition of structures, except those structures that are listed on the National Register or Hawaii Register of Historic Places,' and pursuant to the Exemption List for the Department of Land and Natural Resources dated 11/10/2020, specifically: **Part 1, Item # 2**. 'Demolition and removal of existing structures, facilities, utilities, and other improvements, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E; and

The proposed repair of the existing return walls falls under **General Exemption Type 1**, which applies to 'Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing. DLNR Exemption **Part 1, Item # 12** 'Repair and maintenance of existing bollards, walls, gates, fences lighting, and other similar items necessary for security or continued operation of a facility or structure', the proposed use is exempt from the preparation of an environmental assessment. The Land Division concurred with the proposed HAR Chapter 11-200.1 exemption.

Emergency Authorization

Pursuant to HAR §13-5-35 Emergency permits. (a) Notwithstanding any provision of this chapter, 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). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department.

The Department authorizes Emergency Conservation District Use Permit (E-CDUP) MA 23-01 for the removal of the seawall and stairs and the associated work as described above at Keonenui Beach located makai of [REDACTED] Lower Honoapiʻilani Road, ʻAkaeoa, Maui, makai of TMK: (2) 4-3-015:001 subject but not limited to the following conditions:

1. The permittee shall obtain a land disposition for the use/occupancy of State land;
2. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments for projects approved under this authorization and applicable parts of HAR Chapter 13-5;
3. 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;
4. The permittee shall comply with all applicable Department of Health administrative rules;
5. Unless otherwise authorized, any work or construction to be done on the land shall be completed **within one year of the approval** of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
6. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
7. Appropriate safety and notification procedures shall be carried out. This shall include barriers and or spotters to keep people away from the active construction site and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access laterally along the beach and shoreline access way;
8. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel; fluid or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
9. All temporarily placed material shall be free of contaminants of any kind including excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam

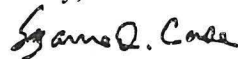
or any other pollutant that would produce an undesirable condition to the beach or water quality;

10. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
11. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
12. In issuing the permit, the Department and the Chairperson 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;
13. 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;
14. The activity shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
15. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
16. When the Chairperson is notified by the permittee or the public that an individual activity deviates from the scope of an application approved by this letter, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the permittee to undertake corrective measures to address the condition affecting these resources. The permittee must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
17. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the State DLNR that an individual activity or activities authorized by this letter is adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the permittee to undertake corrective measures to address the condition affecting these resources. The permittee must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
18. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities under this authorization;
19. No motorized construction equipment is to be operated in the water at any time;

20. 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;
21. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the 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;
22. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;
23. The Department reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
24. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies; retain the original and return the copy to our Office within 30-days. Should you have any questions on any of these conditions or pertaining to this authorization, contact Tiger Mills of the Office of Conservation and Coastal Lands at (808) 587-0382 or at kimberly.mills@hawaii.gov.

Sincerely,



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

I concur with the conditions of this temporary emergency authorization:

Landowner/Contractor

Date _____

C: MDLO/ DOCARE-Maui
County of Maui
-Planning
Kahana Sunset AOA
4909 Lower Honoapiʻilani Rd
Lahaina, HI 96761

Image 1: Failed seawall, temporary stabilization, & beach access



Image 2: Failed seawall and temporary stabilization.

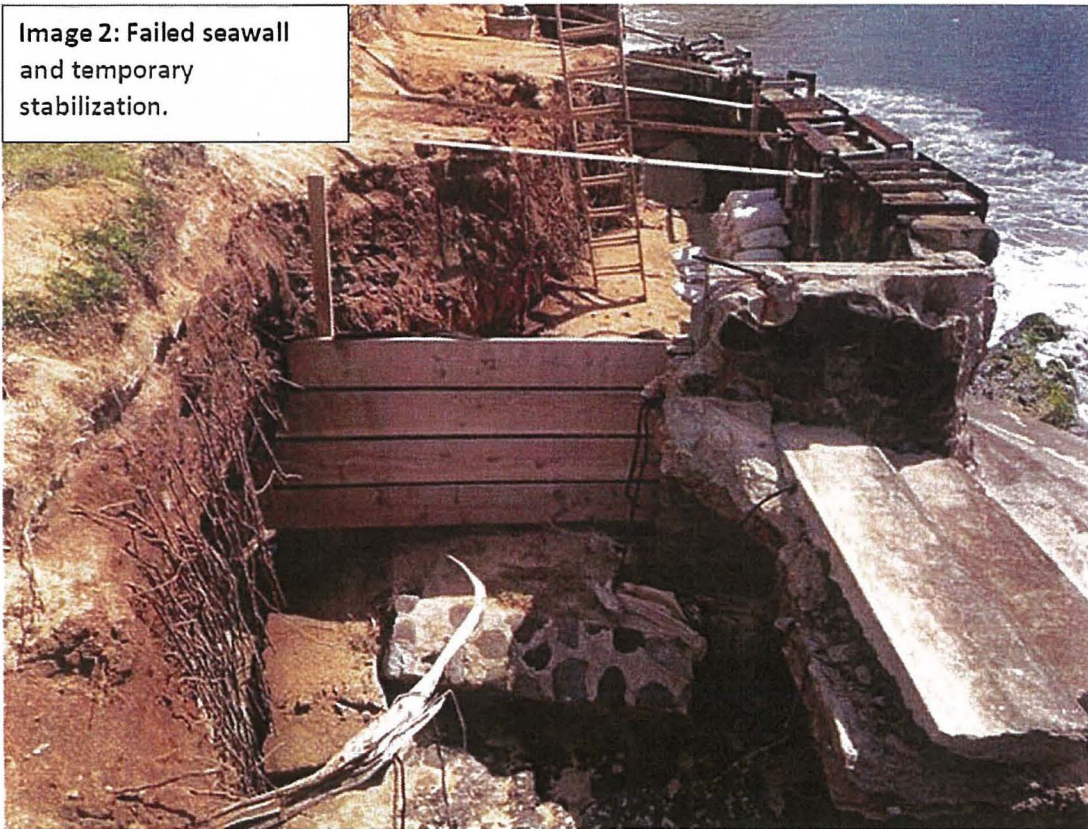
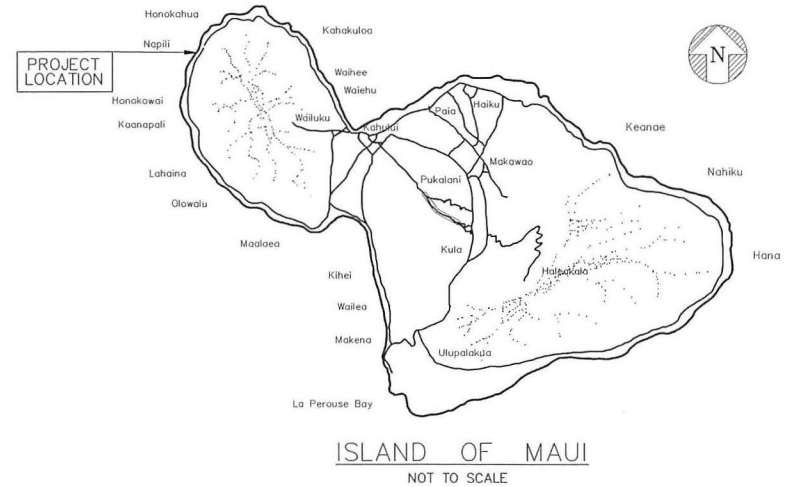


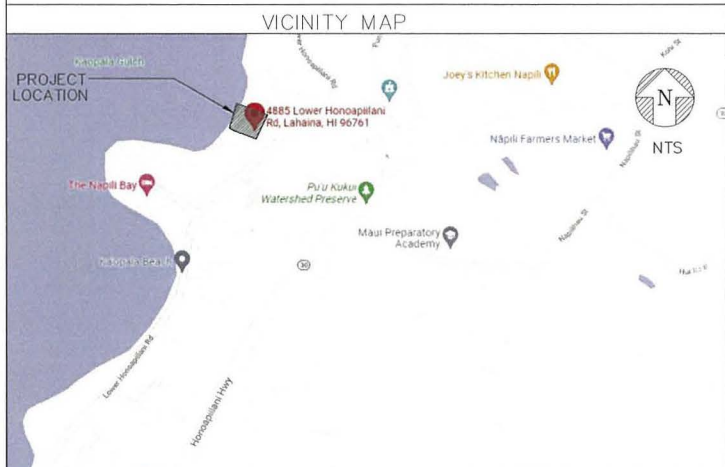
EXHIBIT A

CONSTRUCTION PLANS FOR LOWER HONOAPIILANI ROAD SMA LOWER HONOAPIILANI ROAD LAHAINA, MAUI, HAWAII TMK: (2) 4-3-015:001

PREPARED FOR: TODD BOYD
 LOWER HONOAPIILANI ROAD
 LAHAINA, HI 96761

PREPARED BY: CDF ENGINEERING, LLC
 P.O. BOX 2985
 WAILUKU, HI 96793



VICINITY MAP		INDEX OF DRAWING	
			
SHEET	DESCRIPTION		
T-1	TITLE SHEET		
C-1	CONSTRUCTION NOTES		
C-2	SITE/STAGING PLAN		
C-3	BMP PLAN		
C-4	TIMBER WALL INSTALLATION		
C-5	FLANKING WALL REPAIR		
C-6	EXISTING WALL REMOVAL		
C-7	DEMOBILIZATION AND BMP REMOVAL		
C-8	CONSTRUCTION DETAILS		
	PHASE I		
	PHASE II		
	PHASE III		
	PHASE IV		
	PHASE V		
	PHASE VI		

GENERAL NOTES

DRAWINGS REPRESENT FINISHED STRUCTURE. CONTRACTOR SHALL BE RESPONSIBLE FOR MEANS AND METHODS OF CONSTRUCTION INCLUDING BUT NOT LIMITED TO SHORING AND TEMPORARY BRACING WHEN AND WHERE REQUIRED. CONTRACTOR SHALL TAKE ALL NECESSARY MEASURES TO ENSURE SAFETY OF ALL PERSONS AND STRUCTURES AT THE PROJECT SITE AND ADJACENT TO THE SITE. OBSERVATION VISITS TO THE SITE DOES NOT RELIEVE THE CONTRACTOR OF SUCH RESPONSIBILITY.

IF CERTAIN FEATURES ARE NOT FULLY SHOWN OR CALLED FOR ON THE DRAWINGS OR NOTES, THEIR CONSTRUCTION SHALL BE OF THE SAME CHARACTER AS FOR SIMILAR CONDITIONS THAT ARE CALLED FOR OR SHOWN.

THE CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOBSITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS AND THAT THE CONTRACTOR SHALL DEFEND AND HOLD THE OWNER AND THE ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.

CONTRACTOR SHALL OBSERVE ALL SAFETY REQUIREMENTS AND FEDERAL, STATE, MAUI COUNTY, AND OSHA REGULATIONS THAT ARE APPLICABLE TO ALL PHASES OF THE PROJECT.

CONTRACTOR SHALL OBSERVE ALL APPLICABLE FEDERAL, STATE, AND LOCAL ENVIRONMENTAL PROTECTION STANDARDS, LAWS AND REGULATIONS, INCLUDING THE BEST MANAGEMENT PRACTICES PLANS, AND HAWAII ADMINISTRATIVE RULES, TITLE II, DEPARTMENT OF HEALTH, CHAPTER 55, WATER POLLUTION CONTROL.

THE CONSTRUCTION WORK AREA SHALL BE CLOSED TO NON-WORKERS AT ALL TIMES. CONTRACTOR SHALL COORDINATE WITH THE OWNER AND PLACE NECESSARY WARNING SIGNS TO ALERT THE PUBLIC OF POSSIBLE DANGER.

CONTRACTOR SHALL VERIFY THE LOCATION OF EXISTING UTILITIES BEFORE BEGINNING WORK. SPECIAL CARE SHALL BE TAKEN TO MAINTAIN AND PROTECT UTILITIES THAT ARE TO REMAIN IN SERVICE DURING CONSTRUCTION.

CONTRACTOR SHALL COORDINATE WITH THE OWNER TO ENSURE ALL PROJECT ACTIVITIES ARE DULY PERMITTED.

NOTHING SHALL BE DISCHARGED IN THE OCEAN. NO WORK IS ALLOWED ON THE SHORELINE WITHOUT OBTAINING THE RIGHT OF ENTRY PERMIT.

CONTRACTOR SHALL BE RESPONSIBLE TO FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS AND USE THE ACTUAL DIMENSIONS FOR CONSTRUCTION PURPOSES. SCALING DRAWINGS IS NOT ALLOWED.

CONTRACT INCLUDES REMOVING AND RELOCATING ALL LOOSE OR REMOVED/EXCAVATED SOIL TO AUTHORIZED DUMPING LOCATIONS. ADDITIONALLY, CONTRACTOR SHALL REMOVE ALL CONSTRUCTION RELATED DEBRIS/MATERIALS FROM AND CLEAN THE WORK AREA UPON COMPLETION OF CONSTRUCTION ACTIVITIES.

ONLY THE ENGINEER OF RECORD IS AUTHORIZED TO INTERPRET THE INTENT OF DRAWINGS. CONTRACTOR SHALL REVIEW THE DRAWINGS AND SUBMIT ALL QUESTIONS OR REQUESTS FOR CLARIFICATION TO ENGINEER. IT IS EXPRESSLY NOTED IF MORE THAN ONE INTERPRETATION MAY BE MADE FROM DRAWINGS REQUIREMENTS, THE MOST STRINGENT INTERPRETATION MAY BE REQUIRED BY THE ENGINEER AT NO ADDITIONAL COST.

THE BID SHALL BE ALL-INCLUSIVE WITH A LUMP SUM TOTAL PRICE WHICH INCLUDES APPLICABLE TAXES. THE TOTAL BID PRICE SHALL BE FOR THE COMPLETE WORK AS SHOWN ON THE DRAWINGS.

DUE TO THE NATURE OF THE PROJECT, CONTRACTOR SHALL BE PREPARED TO ADJUST HIS METHODS IN FIELD AND AS DIRECTED BY THE ENGINEER TO ADDRESS SPECIFIC SITE CONDITIONS.

CONTRACTOR SHALL BE RESPONSIBLE FOR SELECTING HIS MEANS AND METHOD SUCH AS EXCAVATION & SHORING TO ACCOMPLISH THE WORKS INCLUDED IN THE CONTRACT. CONTRACTOR SHALL PAY SPECIAL ATTENTION TO AND DEVISE AN EFFECTIVE Dewatering Plan for the PROJECT. DEWATERING INTO THE OCEAN IS STRICTLY PROHIBITED.

THE SPECIFIED DEPTH OF EXCAVATION SHALL BE REACHED UNLESS BEDROCK IS ENCOUNTERED AT A SHALLOWER DEPTH AS CONFIRMED BY THE ENGINEER.

THE EXTENT (DEPTH & WIDTH) OF EXCAVATION SHALL BE AS SHOWN ON DRAWINGS. ALL POCKETS OF EXISTING CONCRETE FROM PREVIOUS REPAIRS MUST BE REMOVED BEFORE NEW FOOTING SHALL BE CAST PER THE DRAWINGS.

UNLESS NOTED OTHERWISE, MINIMUM CLEAR CONCRETE PROTECTION FOR REINFORCEMENT SHALL BE 3".

UNLESS NOTED OTHERWISE, ALL SPLICES SHALL BE LAPPED 48 BAR DIAMETERS.

CONCRETE REINFORCEMENT DETAILING AND PLACEMENT SHALL CONFORM TO ACI 315 AND ACI 318-05 UNLESS OTHERWISE INDICATED.

DRAWINGS SHALL NOT BE SCALED TO FIND DIMENSIONS, SLOPES, OR OTHER INFORMATION.

MATERIAL PROPERTIES

STEEL REINFORCEMENT: ASTM A 615, GRADE 60, DEFORMED, EPOXY COATED PER ASTM A775
PORTLAND CEMENT: ASTM C 150, TYPE II
FLY ASH ADMIXTURE: ASTM C 618, CLASS C OR F
NORMAL WEIGHT AGGREGATE: ASTM C 33, UNIFORMLY GRADED
WATER: POTABLE, COMPLYING WITH ASTM C 94 REQUIREMENTS
ADMIXTURES: CERTIFIED BY MANUFACTURER TO CONTAIN NOT MORE THAN 0.1 PERCENT WATER SOLUBLE CHLORIDE IONS BY MASS OF CEMENTITIOUS MATERIAL AND TO BE COMPATIBLE WITH OTHER ADMIXTURES AND CEMENTITIOUS MATERIALS
DO NOT USE ADMIXTURES CONTAINING CALCIUM CHLORIDE
WATER-REDUCING ADMIXTURE: ASTM C 494, TYPE A
HIGH-RANGE, WATER-REDUCING ADMIXTURE: ASTM C 494, TYPE G
CONCRETE MIX SHALL HAVE COLOR PIGMENT TO MATCH THE COLOR OF EXISTING SEAWALL FRONTING BUILDING F.
HANDRAILS AND RAILINGS FOR RAMPS AND STAIRWAYS SHALL BE ASTM A167, TYPE 316 STAINLESS STEEL, SCHEDULE 40. ALL SURFACE FINISHES SHALL SMOOTH POLISHED SURFACE. ALL PLATES AND HARDWARE SHALL BE STAINLESS STEEL TO MATCH RAILING MATERIAL.
CONSTRUCTION MATERIALS SHALL BE CLEAN, UNCONTAMINATED AND FREE OF DELETERIOUS COMPONENTS.

TECHNICAL NOTES

CONCRETE COMPRESSIVE STRENGTH (28 DAYS): 5,000 PSI

SHOTCRETE COMPRESSIVE STRENGTH (28 DAYS): 5,000 PSI

LIMIT WATER SOLUBLE, CHLORIDE-ION CONTENT IN HARDENED CONCRETE TO 0.15 PERCENT BY WEIGHT OF CEMENT. MEASURE, BATCH, MIX, AND DELIVER CONCRETE ACCORDING TO ASTM C 94 AND FURNISH BATCH TICKET INFORMATION. DO NOT ADD WATER TO CONCRETE MIX AFTER MIXING UNLESS APPROVED BY THE ENGINEER. MAINTAIN CONCRETE TEMPERATURE LESS THAN 90 DEGREES FAHRENHEIT.

TYPICALLY PROVIDE A MINIMUM OF 3-INCH CONCRETE COVER FOR REINFORCING STEEL.

INSPECTION REQUIREMENT

ALL KEY CONSTRUCTION ACTIVITIES SHALL TAKE PLACE IN A CONTROLLED MANNER IN COORDINATION WITH THE ENGINEER TO ALLOW NECESSARY ADJUSTMENT BASED ON FIELD CONDITIONS.

CONTRACTOR SHALL GIVE THE ENGINEER A 48-HOUR ADVANCE NOTICE REGARDING THE START DATE OF EACH PHASE OF THE PROJECT.

INCIDENTAL SITE WORK

CONTRACTOR SHALL INCLUDE COSTS OF INCIDENTAL WORKS SUCH AS BUT NOT LIMITED TO GRUBBING & CLEARING THE SITE AND ALL OTHER WORK ITEMS IN THE BACK YARD THAT MIGHT BE REQUIRED TO COMPLETE THE WORK AS SHOWN ON DRAWINGS IN THE TOTAL PRICE OF THE CONTRACT.

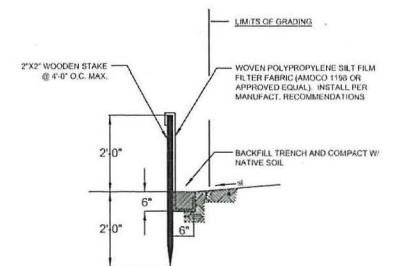
CONTRACTOR SHALL BE RESPONSIBLE FOR DAMAGES TO EXISTING STRUCTURES, SITE FEATURES, AND BURIED PIPES DURING THE CONSTRUCTION. ALL SUCH DAMAGES SHALL BE FIXED BY THE CONTRACTOR AT NO ADDITIONAL EXPENSE TO THE OWNER.

AFTER COMPLETION OF THE PROJECT, CONTRACTOR SHALL RESTORE THE SITE TO A CONDITION SIMILAR TO THE CONDITION PRIOR TO CONSTRUCTION ACTIVITIES. CONTRACTOR SHALL COORDINATE THE SITE WORK WITH THE OWNER TO ALLOW REMOVAL AND REPLANTING OF THE EXISTING TREES.

BEST MANAGEMENT PRACTICES



- CONTRACTOR SHALL IMPLEMENT THE FOLLOWING BEST MANAGEMENT PRACTICES TO ENSURE WATER QUALITY AND MARINE RESOURCES ARE PROTECTED:
- NO MATERIALS SHALL BE STOCKPILED IN THE AQUATIC ENVIRONMENT OR ADJUTING MARTINE WATERS WITHOUT APPROPRIATE CONTAINEMENT.
- ALL CONSTRUCTION RELATED MATERIALS SHALL BE FREE FROM POLLUTANTS AND PLACED AND STORED IN A MANNER THAT PREVENTS OR MINIMIZES DISTURBANCE.
- NO DEBRIS, PETROLEUM PRODUCTS OR DELETERIOUS MATERIALS OR WASTES SHALL BE ALLOWED TO FALL, FLOW, LEACH, OR OTHERWISE ENTER SHORE WATERS.
- ANY TURBIDITY AND SILTATION GENERATED FROM CONSTRUCTION ACTIVITIES SHALL BE MINIMIZED AND CONTAINED IN THE IMMEDIATE VICINITY OF CONSTRUCTION THROUGH THE EFFECTIVE USE OF SILT CONTAINMENT DEVICES.
- CONSTRUCTION DURING INCLEMENT WEATHER CONDITIONS SHALL BE CURTAILED TO MINIMIZE THE POTENTIAL FOR ADVERSE WATER QUALITY IMPACTS.
- CONTRACTOR SHALL MAINTAIN SAFE LATERAL ACCESS TO AND ALONG THE SHORELINE FOR PUBLIC USE.
- CONTRACTOR SHALL TAKE ALL PRACTICABLE MEASURES TO MINIMIZE RISK OF ADVERSE IMPACTS ON BEACH PROCESSES.
- CONTRACTOR SHALL TAKE NECESSARY MEASURES TO PREVENT SEDIMENT RUNOFF FROM AREAS DISTURBED BY CONSTRUCTION ACTIVITIES TO ENTER STATE WATERS.
- CONTRACTOR SHALL INSTALL TEMPORARY SEDIMENT CONTROL FILTER AT ALL AFFECTED DRAIN INLETS BEFORE WORK BEGINS. SEDIMENT CONTROL FILTERS SHALL REMAIN UNTIL AFTER COMPLETION OF CONSTRUCTION ACTIVITIES.
- CONTRACTOR IS RESPONSIBLE FOR ENSURING THAT TIRES OF ALL CONSTRUCTION VEHICLES ARE CLEANED OFF BEFORE LEAVING THE PROJECT SITE.
- CONTRACTOR SHALL TAKE NECESSARY PROTECTIVE MEASURES TO CAPTURE ALL DEBRIS FROM PROJECT OPERATIONS AND ENSURE THAT NO DELETERIOUS MATERIALS ENTERS THE OCEAN WATERS.
- THE PROJECT SITE SHALL BE CLEANED UP AT THE COMPLETION OF DAILY ACTIVITIES.
- CONTRACTOR SHALL TAKE ALL MEASURES TO AVOID ADVERSE ENVIRONMENTAL IMPACTS TO THE MAXIMUM EXTENT POSSIBLE. ALL MISHAPS SHALL BE DOCUMENTED IN WRITING AND WITH PHOTOGRAPHS.
- ALL WORK ACTIVITIES AND HOURS OF ACTIVITIES DURING WEEKENDS AND HOLIDAYS SHALL BE STRICTLY COORDINATED WITH THE PROPERTY MANAGEMENT OFFICE.
- CONSTRUCTION MATERIALS SHALL BE STORED IN A SUCH A WAY TO PRECLUDE DISCHARGE OF POLLUTANTS INTO THE OCEAN. ALL GENERATED WASTES SHALL BE DISPOSED OF PROPERLY.
- CONTRACTOR SHALL TAKE ALL MEASURES SHALL TO PREVENT HAZARDOUS SUBSTANCES FROM ENTERING THE GROUND, DRAINAGE AREA, OR BODIES OF WATER. FUELING AND LUBRICATING OF EQUIPMENT AND MOTOR VEHICLES SHALL BE CONDUCTED IN PARKING AREA ON IMPERVIOUS SURFACE NOT WITHIN THE SETBACK AREA OR NEAR STORM DRAIN INLETS.
- CONTRACTOR SHALL TAKE ALL MEASURES TO PREVENT AIR-BORNE DUST IN CONFORMANCE WITH STATE DEPARTMENT OF HEALTH ADMINISTRATIVE RULES, TITLE 11, CHAPTER 60-AIR POLLUTION.
- CONTRACTOR SHALL TAKE ALL PRACTICABLE MEASURES FOR SOUND ATTENUATION DURING CONSTRUCTION ACTIVITIES TO LESSEN THE IMPACT ON THE LAND AND MARINE ENVIRONMENT.
- CONTRACTOR SHALL TAKE ALL PRACTICABLE MEASURES TO MAINTAIN CONSTRUCTION MATERIALS AND MECHANIZED EQUIPMENT UNCONTAMINATED FROM ALL DELETERIOUS SUBSTANCES. ALL EQUIPMENT SHALL BE INSPECTED DAILY FOR LEAKS AND ALL LEAKS SHALL BE FIXED BEFORE USING THE EQUIPMENT.
- CONTRACTOR SHALL HAVE A DETAILED PLAN FOR AN ACCIDENTAL OIL SPILL SCENARIO TO ENSURE TIMELY AND EFFICIENT RESPONSE IN ORDER TO AVOID MARINE ENVIRONMENTAL CONTAMINATION. NO PETROLEUM PRODUCTS SHALL BE ALLOWED IN THE SHORELINE AND THE CONSTRUCTION ACTIVITIES AREA.
- ALTHOUGH THE PROJECT DOES NOT INVOLVE ANY WORK IN THE WATER, CONTRACTOR SHALL ADVISE HIS PERSONNEL AND SUB-CONTRACTORS OF THE PROVISIONS OF THE ENDANGERED SPECIES ACT (ESA) THAT MUST BE OBSERVED IN ORDER TO AVOID CONTACT OR HARASSMENT OF THE ESA-LISTED SPECIES THAT MIGHT APPEAR NEAR THE PROJECT SITE.

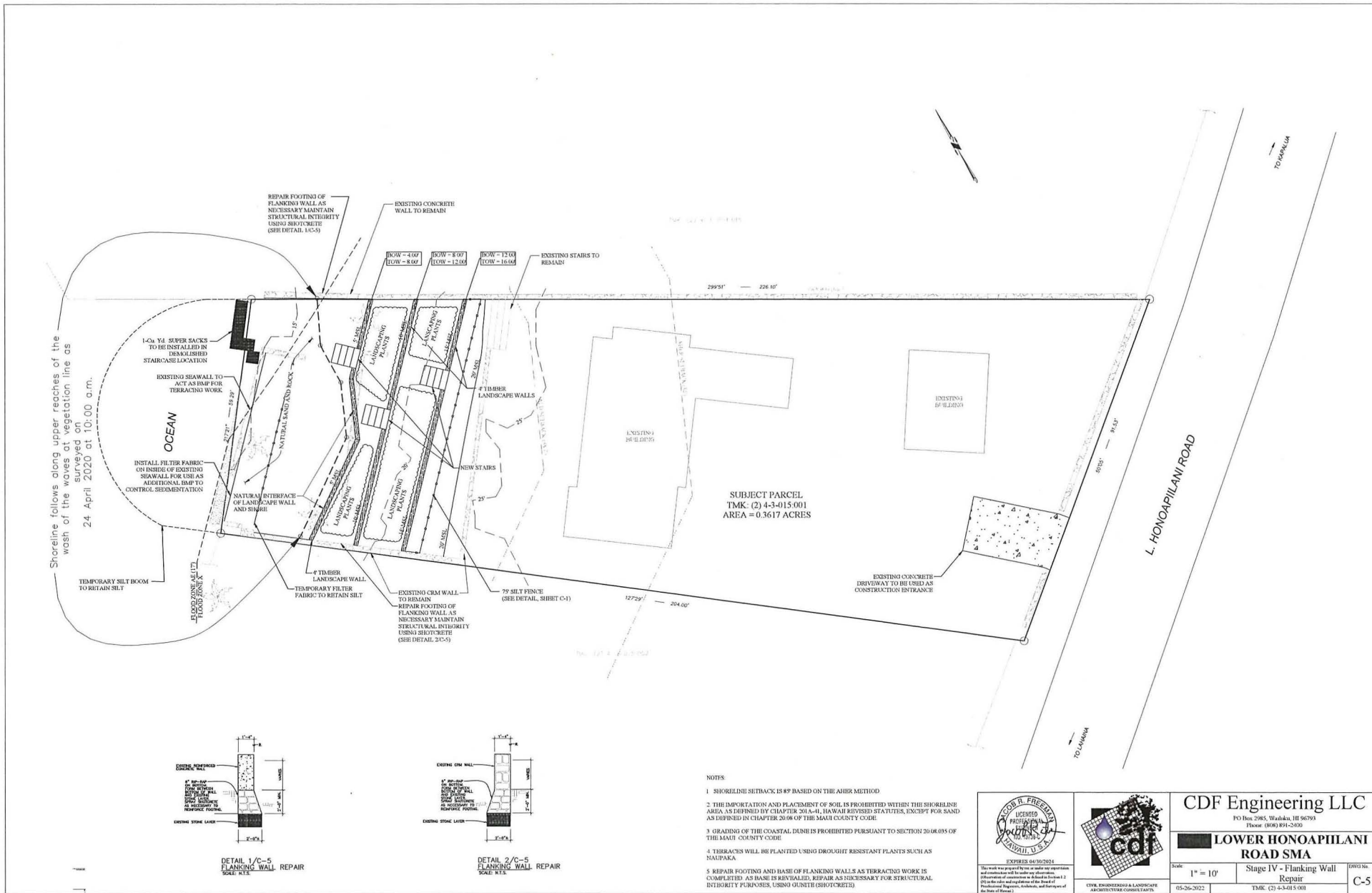
- ALTHOUGH THE PROJECT ACTIVITIES ARE LIMITED TO THE AREA PREVIOUSLY DISTURBED BY BUILDING EXISTING SEAWALL AND INSTALLED STORM DRAINS, IN THE EVENT THAT HISTORIC RESOURCES, INCLUDING HUMAN SKELETAL REMAINS ARE FOUND DURING CONSTRUCTION ACTIVITIES, CONTRACTOR SHALL HALT WORK, SECURE THE SITE, AND CONTACT SHPD MAUI OFFICE BY CALLING 808-243-1265.
- THE IMPORTATION AND PLACEMENT OF SOIL IS PROHIBITED WITHIN THE SHORELINE AREAS AS DEFINED BY CHAPTER 201A-41, HAWAII REVISED STATUTES, EXCEPT FOR SAND AS DEFINED IN CHAPTER 20.08 (SOIL EROSION AND SEDIMENTATION CONTROL) OF THE MAUI COUNTY CODE.
- ALL FILL MATERIAL SHALL SATISFY THE REQUIREMENTS OF THE COUNTY OF MAUI CODE, SECTION 20.08.035.
- THE GRADING OF THE COASTAL DUNE IS PROHIBITED PURSUANT TO SECTION 20.08.035.



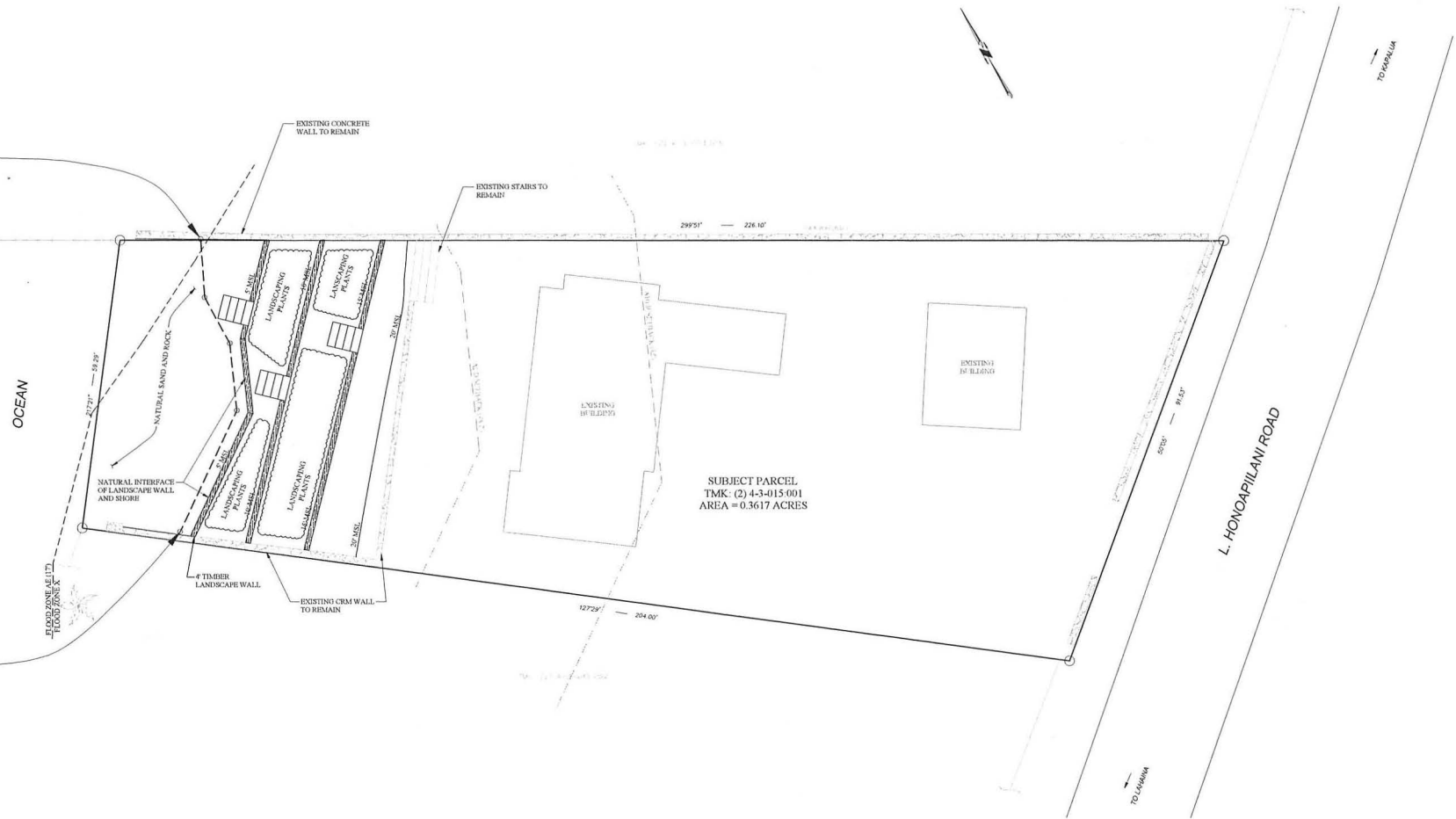
SILT FENCE DETAILS

NOT TO SCALE

		CDF Engineering LLC PO Box 2085, Wailuku, HI 96793 Phone: (808) 891-2100	
		LOWER HONOAPIILANI ROAD SMA	
DATE: N.T.S.		CONSTRUCTION NOTES	DRAWING NO.: C-1
05-26-2022		TMRK: (2) 4-3-01 S 001	

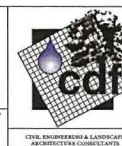


Shoreline follows along upper reaches of the wash of the waves at vegetation line as surveyed on 24 April 2020 at 10:00 a.m.

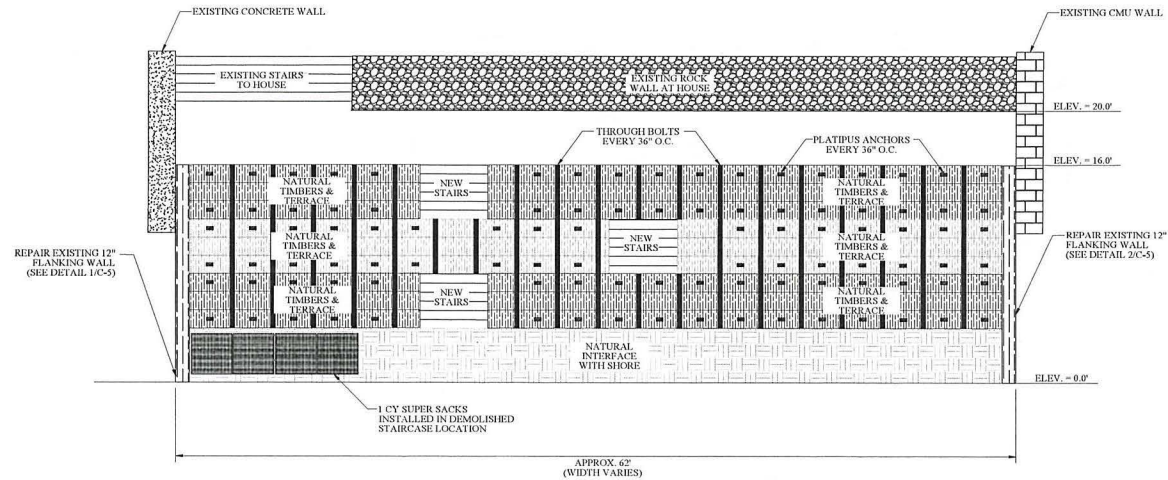


NOTES

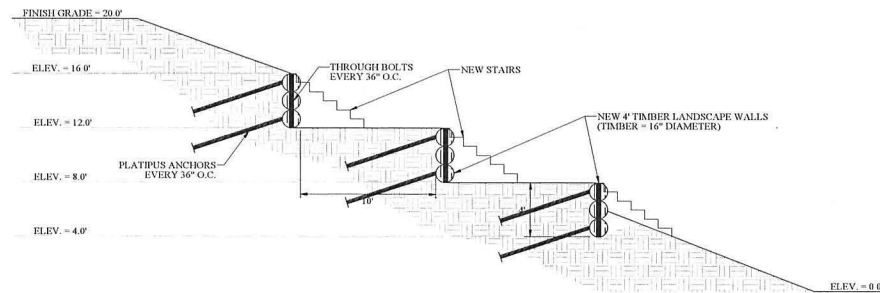
1. SHORELINE SETBACK IS BY BASED ON THE AHER METHOD.
2. THE IMPORTATION AND PLACEMENT OF SOIL IS PROHIBITED WITHIN THE SHORELINE AREA AS DEFINED BY CHAPTER 201A-II, HAWAII REVISED STATUTES, EXCEPT FOR SAND AS DEFINED IN CHAPTER 20-06 OF THE MAUI COUNTY CODE.
3. GRADEING OF THE COASTAL DUNE IS PROHIBITED PURSUANT TO SECTION 20.06.035 OF THE MAUI COUNTY CODE.
4. REMOVE SUEY SACKS AND RELATED MATERIAL FROM THE NEARSHORE ENVIRONMENT. REMOVE SILT FENCE AFTER CONSTRUCTION EQUIPMENT IS REMOVED AND VEGETATION HAS BEEN ESTABLISHED.
5. UPON COMPLETION OF THE DEMOLITION AND REMOVAL OF ALL DEBRIS, REMOVE SILT CURTAIN.



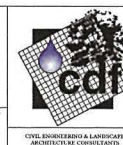
CDF Engineering LLC PO Box 2985, Wailuku, HI 96791 Phone: (808) 893-2800	
LOWER HONOAPIILANI ROAD SMA	
Scale: 1" = 10'	Stage VI - Demobilization of Equipment and BMPs
05-18-2022	TMK: (2) 4-3-015 001
C-7	



TIMBER LANDSCAPE WALLS - FRONT PROFILE
SCALE: 1" = 4'



TIMBER LANDSCAPE WALLS - SIDE PROFILE
SCALE: 1" = 4'



CDF Engineering LLC PO Box 2985, Waikeke, HI 96799 Phone: (808) 891-2100	
LOWER HONOAPILANI ROAD SMA	
Scale: 1" = 4'	Sheet No: C-8
Date: 05-16-2022	Title: Construction Details

Image 10: Seawall and
Stairs to be removed

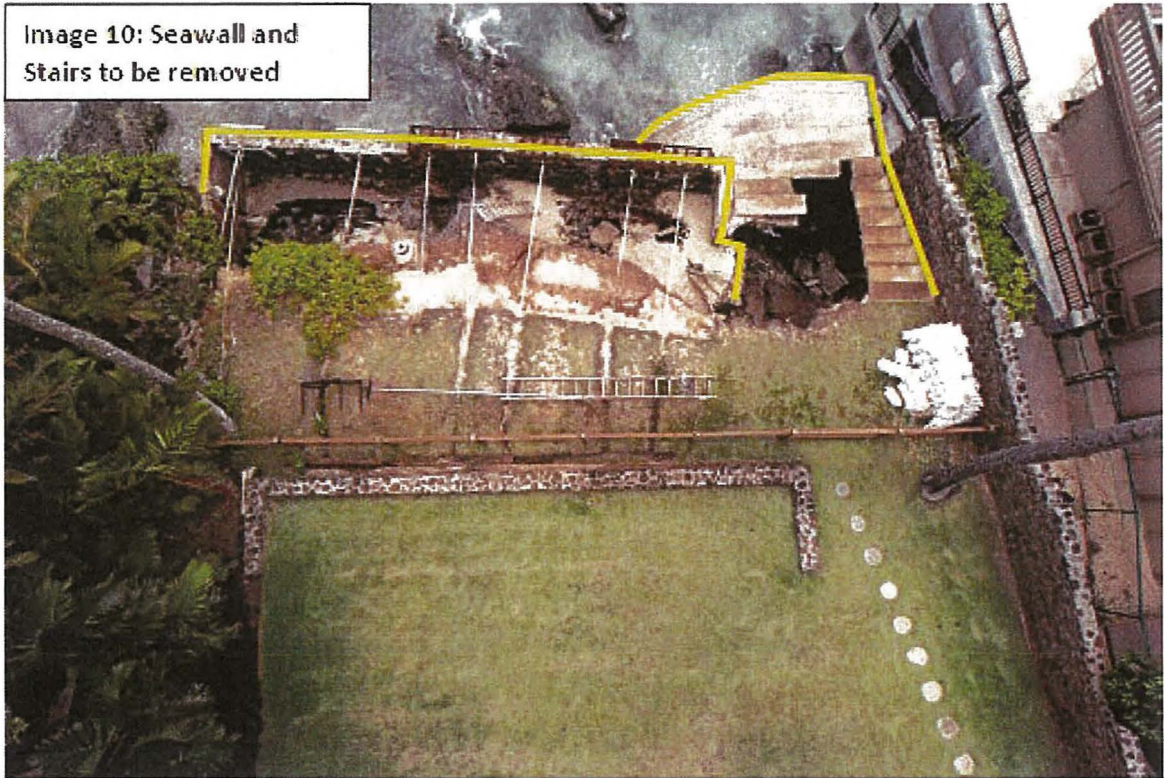


Image 11: BMP's

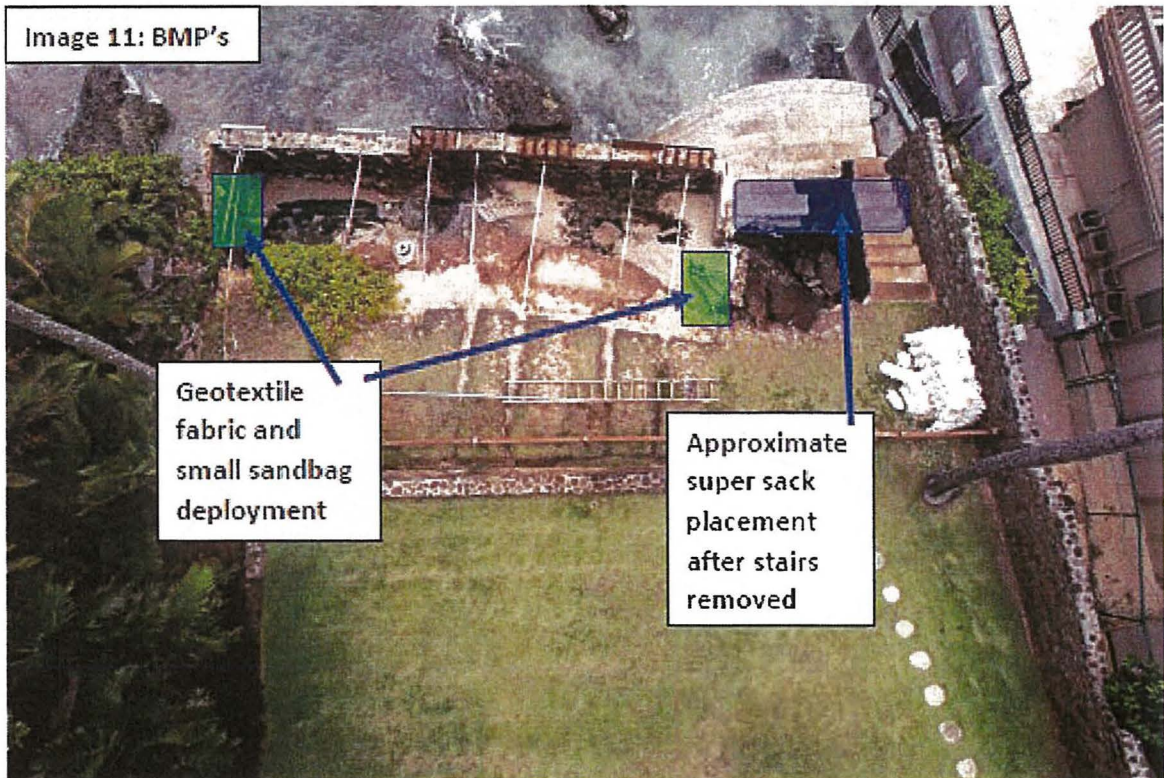


EXHIBIT B

EXHIBIT C -- pg 18

Image 15: Machine,
wheelbarrow, & worker access.

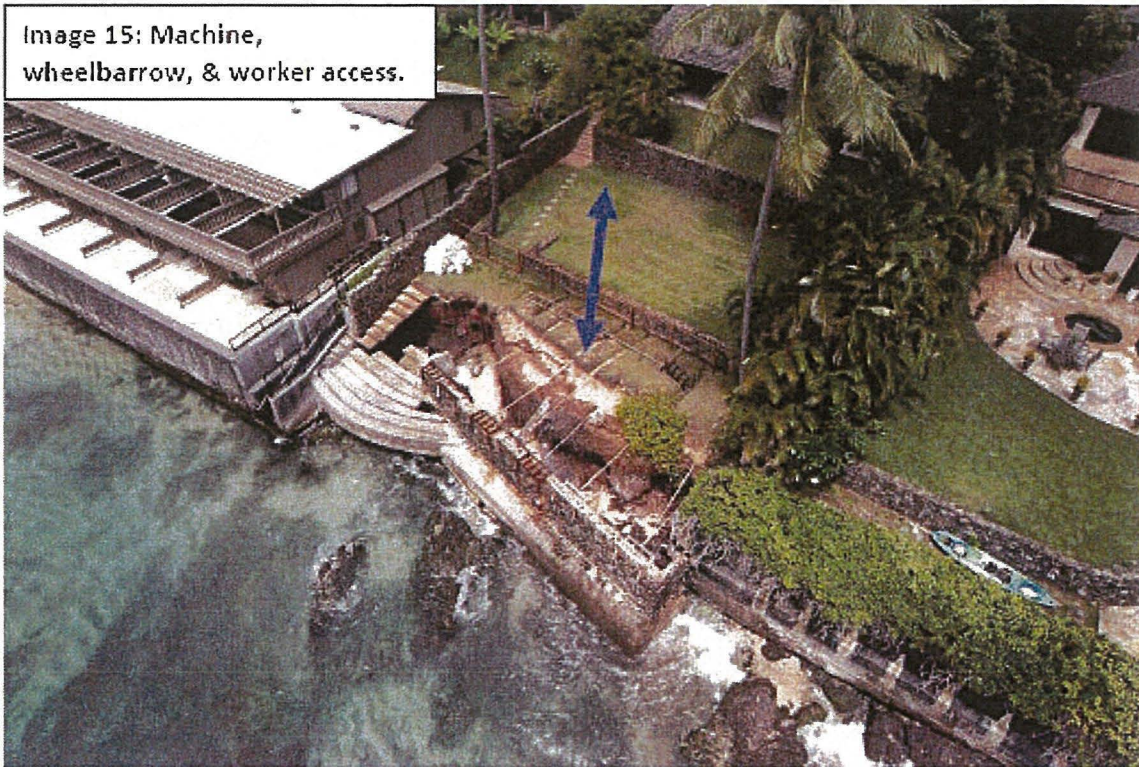
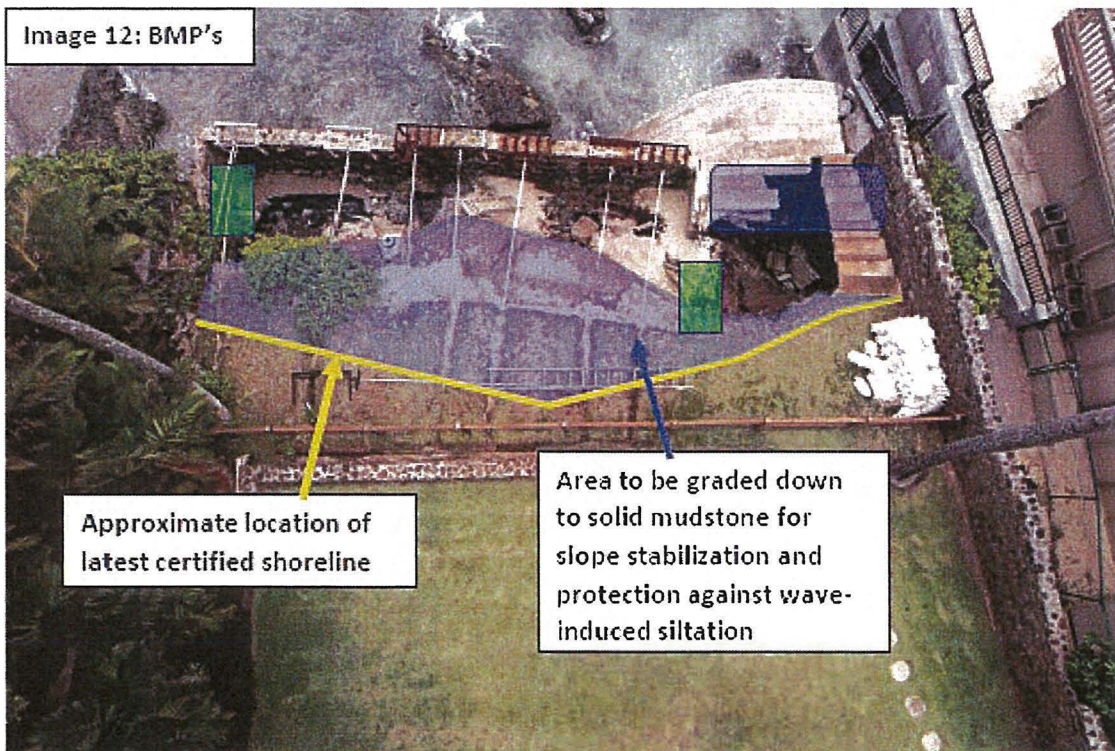


Image 12: BMP's



Approximate location of
latest certified shoreline

Area to be graded down
to solid mudstone for
slope stabilization and
protection against wave-
induced siltation

EXHIBIT C

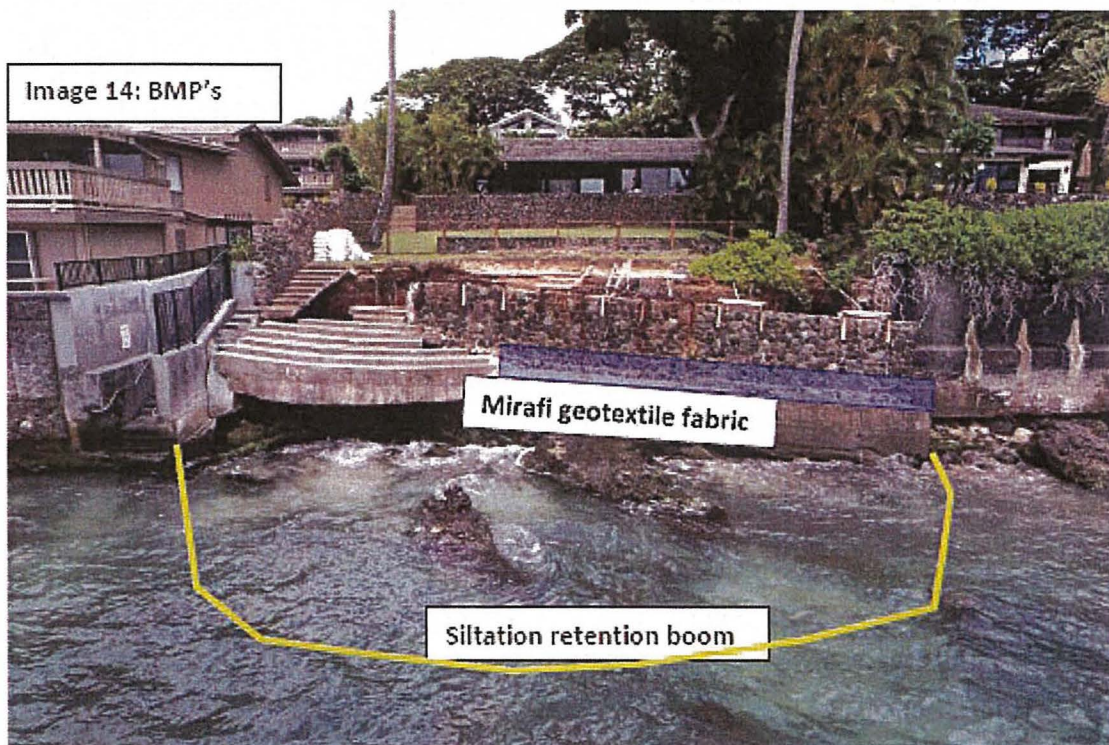
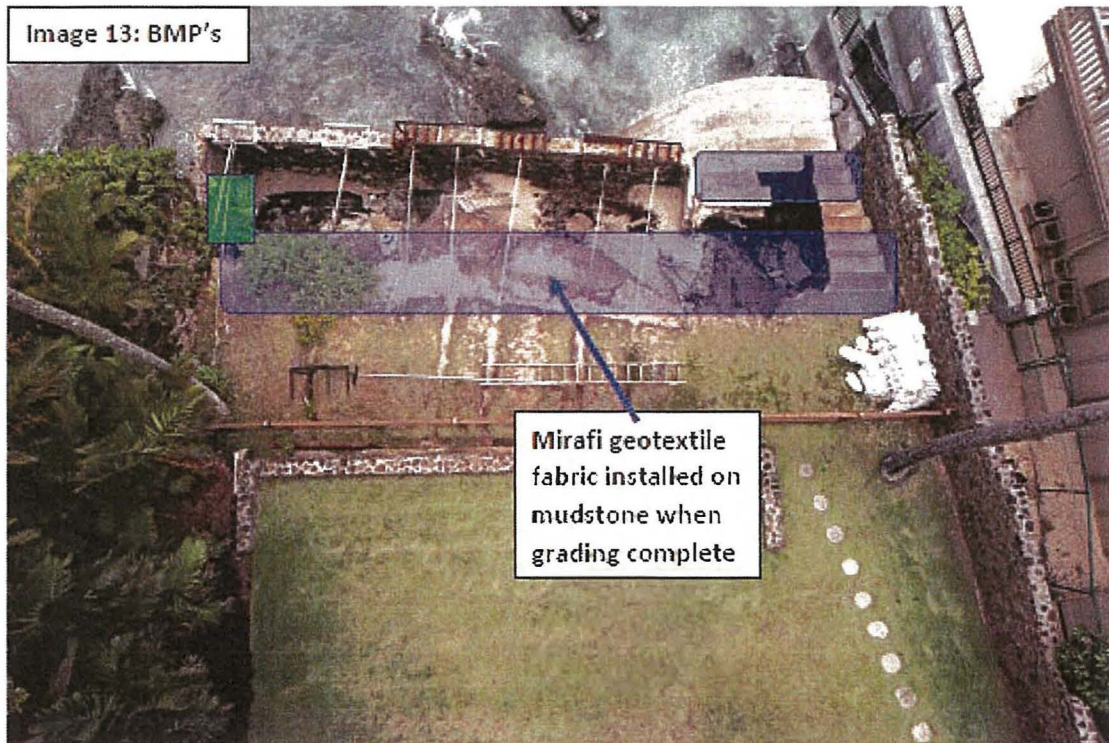
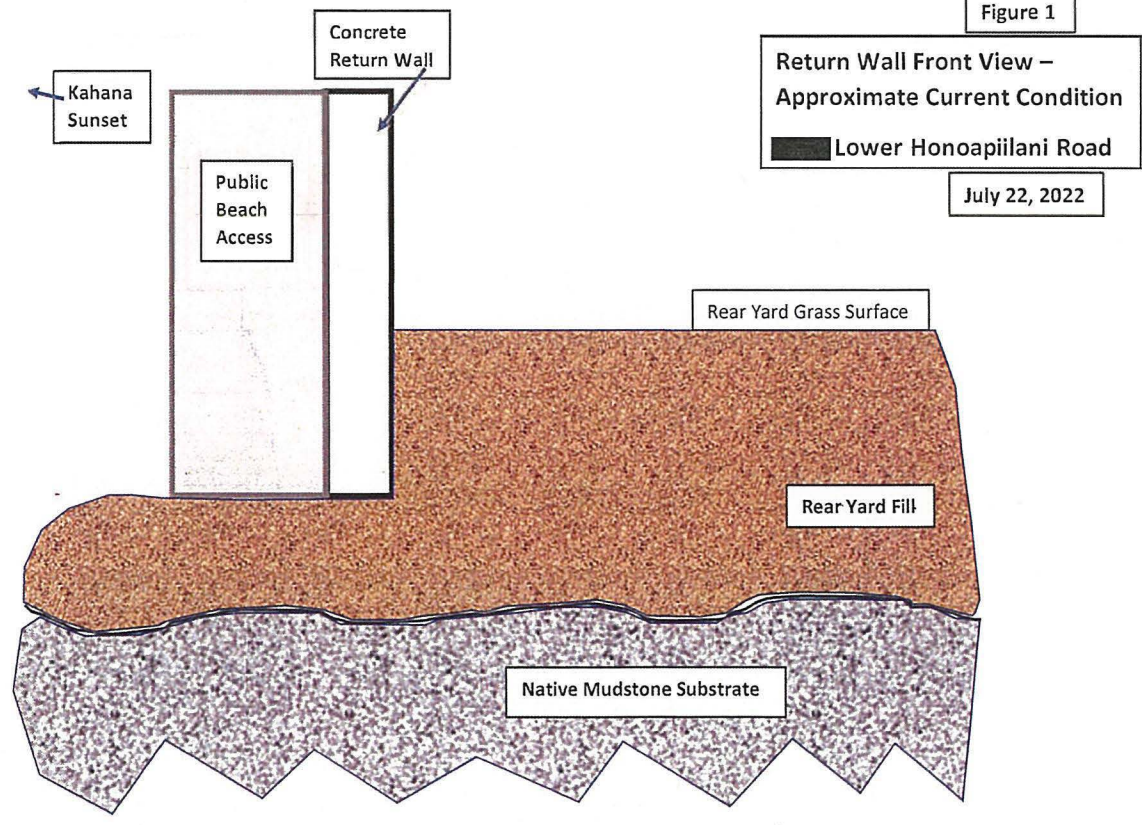
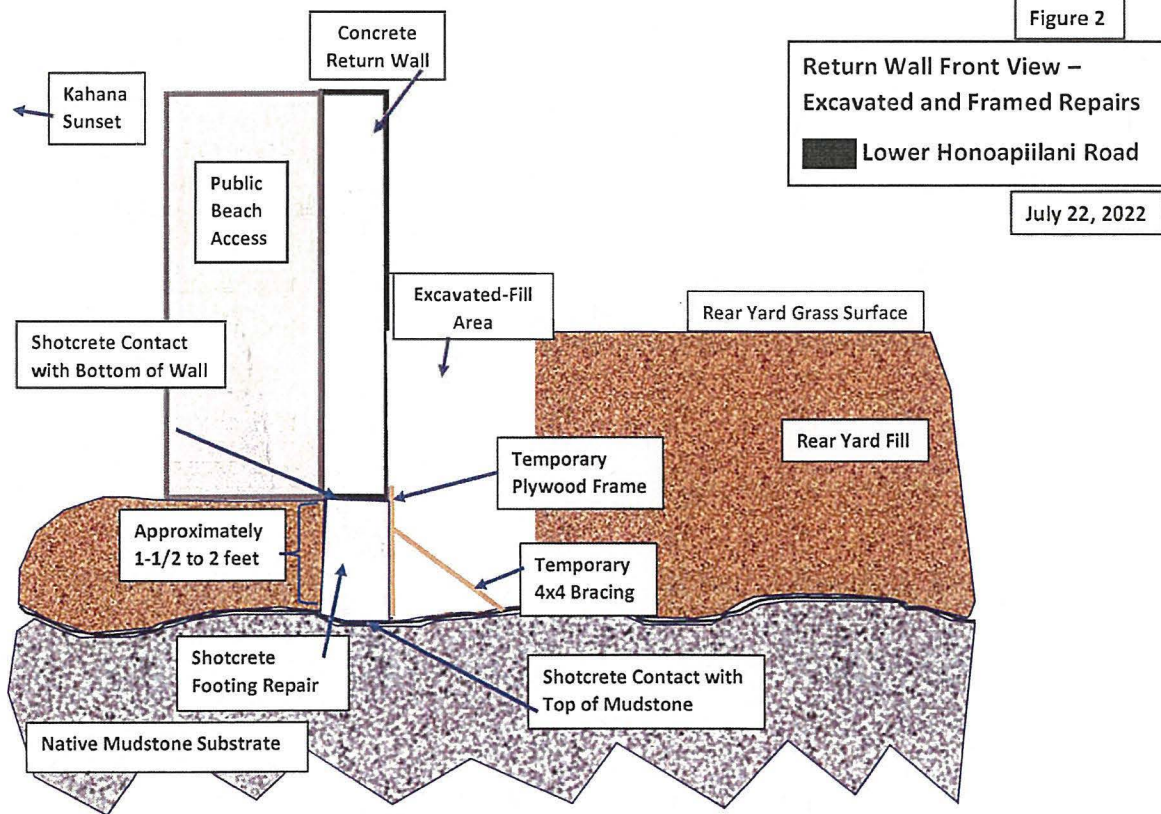


EXHIBIT D

Not to scale



Not to scale



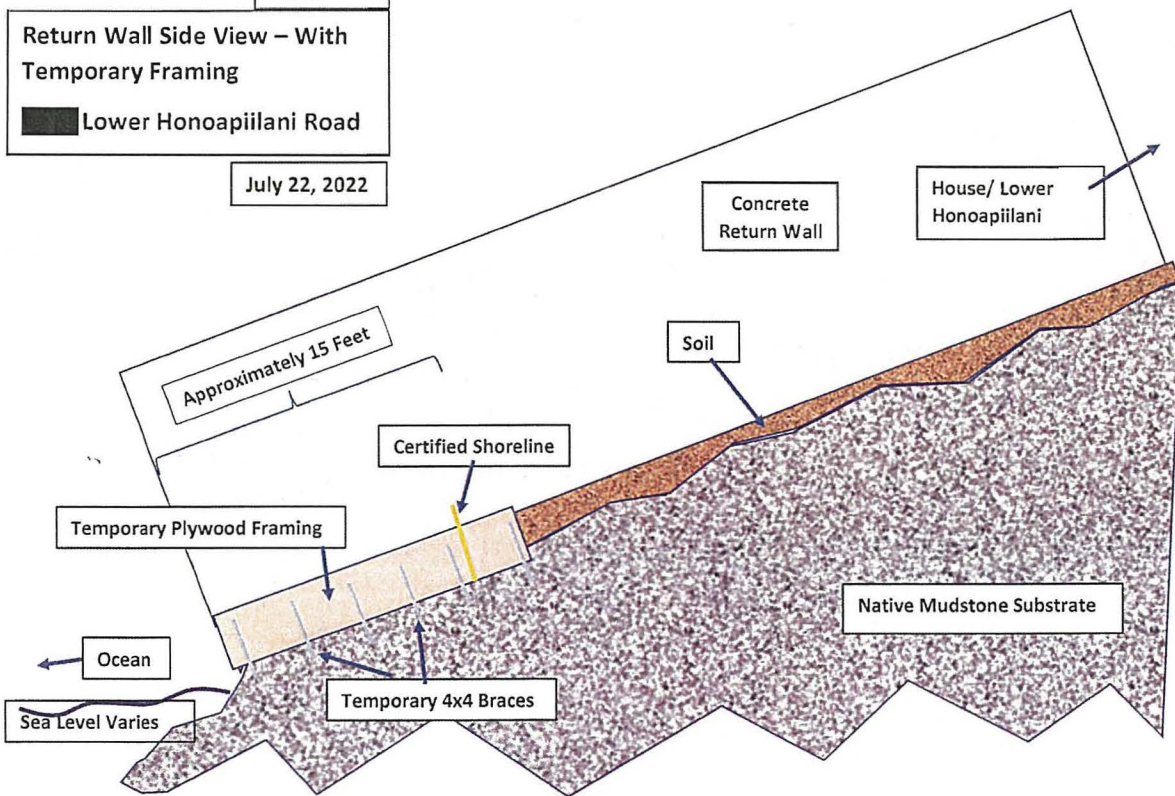
Not to scale

Figure 3

Return Wall Side View – With
Temporary Framing

Lower Honoapiilani Road

July 22, 2022



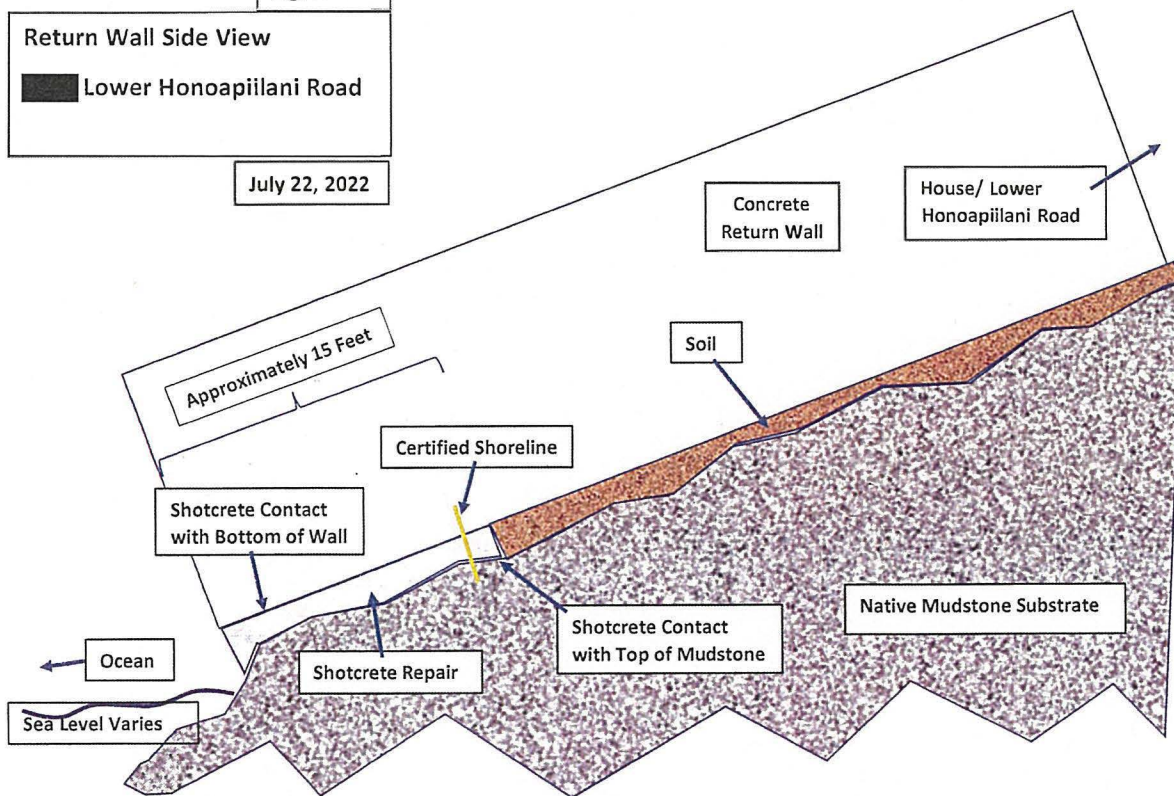
Not to scale

Figure 4

Return Wall Side View

Lower Honoapiilani Road

July 22, 2022



AMENDED

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

June 27, 2014

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

PSF No.:14MD-083

Maui

Grant of 55-Year Term, Non-Exclusive Easement to Matthew H. and Shawneen M. Schweitzer for Seawall and Stairway Encroachment Purposes; After-the-Fact Authorization to Issue Immediate Right-of-Entry Permit for Emergency Seawall Work; Authorize Issuance of Right-of-Entry Permit to Repair Seawall, Alaeloa, Lahaina, Maui, Tax Map Key: (2) 4-3-015: Seaward of 001.

APPLICANT:

Matthew H. and Shawneen M. Schweitzer, Husband and Wife, Tenants by Entirety.

LEGAL REFERENCE:

Section 171-13, 53(c), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Alaeloa, Lahaina, Maui, identified by Tax Map Key: (2) 4-3-015: Seaward of 001, as shown on the attached map labeled Exhibit A.

AREA:

546 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

as amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

June 27, 2014 UO.

D-10

EXHIBIT D -- pg 1

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

CURRENT USE STATUS:

Unencumbered with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing seawall and stairs 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 rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years

EXHIBITS:

- Exhibit #1 – Tax Map Key of the subject property.
- Exhibit #2 – February 4, 1980, Topographic and Shoreline Survey Map.
- Exhibit #3 – 1980 photos of the shoreline fronting the subject property.
- Exhibit #4 – July 14, 2009 photos of the improvements fronting the subject property.
- Exhibit #5 – Conservation District Use Permit No. MA-3689, dated February 18, 2014.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on October 8, 2013 with a finding of no significant impact (FONSI).

CONSERVATION DISTRICT USE PERMIT:

Conservation District Use Permit No. MA-3689 was issued for the Schweitzer shoreline erosion project on February 18, 2014, by the Office of Conservation and Coastal Lands.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment; and
- 2) Provide survey maps and descriptions of encroachment area defined as filled areas seaward of the 1980 shoreline survey according to State DAGS standards and at Applicant's own cost.

REMARKS:

On March 2, 2009, an inspection was conducted of Keonenui Beach in response to a complaint of possible shoreline encroachments fronting the adjacent property to the north (Kahana Sunset). During staff's inspection of the entire shoreline, it was noted that the subject property also had improvements which included a large concrete stairway, and a rock and concrete seawall that were possibly encroaching onto the shoreline. Checks were conducted with the County of Maui's Real Property Tax Division in an attempt to identify the property's owner(s). Staff confirmed the property is currently owned by Matthew H. and Shawneen M. Schweitzer (Applicant).

An inspection report which included photos of the possible encroachments was forwarded to the Office of Conservation and Coastal Lands (OCCL) for their review and follow up actions. The County of Maui Planning Department was also contacted and informed of staff's findings in an attempt to determine if these improvements were approved and properly permitted.

A review of certified shoreline maps of 1979 and 1980 revealed that there was no seawall present. Through further investigation by the OCCL, it was determined that the subject seawall and portions of the stairway were constructed along the shoreline (Conservation District) without a permit.

On February 14, 2014, under agenda Item K-1, the Board of Land and Natural Resources approved the OCCL's recommendation to assess the landowner a \$10,000.00 fine for the Conservation District violation, pursuant to Chapter 183C, HRS, and an additional \$1,000.00 for administrative costs associated with the subject violation.

OCCL further determined that because the structure was built prior to the Board of Land and Natural Resources' "No Tolerance" policy of 1999, regarding shoreline structures, the

landowner was afforded the opportunity to apply for an after-the-fact Conservation District Use Permit (CDUP) or alternatively, remove the structure. Subsequently, on February 18, 2014, CDUP number MA-3689 was granted for the Schweitzers' seawall and stairs. The OCCL has opined that "The proposed land use will not cause substantial adverse impact to the existing natural resources within the surrounding area, community or region". The OCCL also indicates that the structure does not significantly interfere with existing recreational and waterline activities.

This request requires approval of the Governor and the prior authorization of the Legislature by concurrent resolution.

AGENCY COMMENTS:

Requests for comments were submitted to the following agencies:

Agency	Comments
County of Maui – Current Planning	No comments received
County of Maui – ZAED	No comments received
Office of Conservation and Coastal Lands	No objections
Office of Hawaiian Affairs	No comments received

The Applicant has 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.

To date, the County of Maui has informed staff that they have no record of any permits being applied for or approved with regards to improvements on the Schweitzer property within the Shoreline Setback Area.

On May 30, 2014, an engineering consultant advised Applicant that urgent action was required to address the erosion undermining the seawall. Applicant requested an immediate right-of-entry to shore up the wall. Under the circumstances, staff recommended that the Chairperson issue an immediate right-of-entry under the authority delegated to him by the Board's action of June 14, 2013, item D-11. The right-of-entry was limited to placing jacks under the seawall to provide support. Staff now seeks the Board's after-the-fact approval of the right-of-entry.

Finally, staff is including a recommendation below for the issuance of a construction right-of-entry to allow the Applicant to repair the seawall in accordance with the conditions of

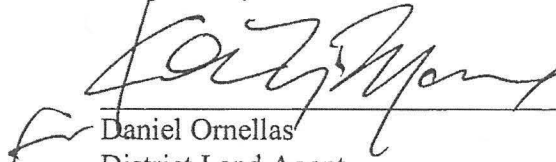
Conservation District Use Permit No. MA-3689, dated February 18, 2014.

RECOMMENDATION: That the Board:

1. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 4-3-015:001, 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.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance an immediate right-of-entry permit for seawall repairs, and issuance of a 55-year term, non-exclusive easement to Matthew H. and Shawneen M. Schweitzer covering the subject area for Seawall and Stairway Encroachment purposes 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 term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 4-3-015:001, 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;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 - E. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement
3. Authorize, after-the-fact, the issuance of an immediate right-of-entry onto to subject lands for purposes of conducting emergency work to shore up the seawall using jacks, 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.
4. Authorize the issuance of an immediate construction right-of-entry covering the subject area for purposes of repairing the seawall 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.

Respectfully Submitted,


Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

N

Land Board Meeting: June 27, 2014; D-10: Approved as amended.

Approved as amended. The Board amended the recommendation section to require the applicant submit plans for the repair of the seawall to the Office of Conservation and Coastal Lands, and have its engineer and contractor consult with OCCL on the repair prior to commencement of construction.

TAX MAP KEY (2) 4-3-015:001



EXHIBIT " 1 "

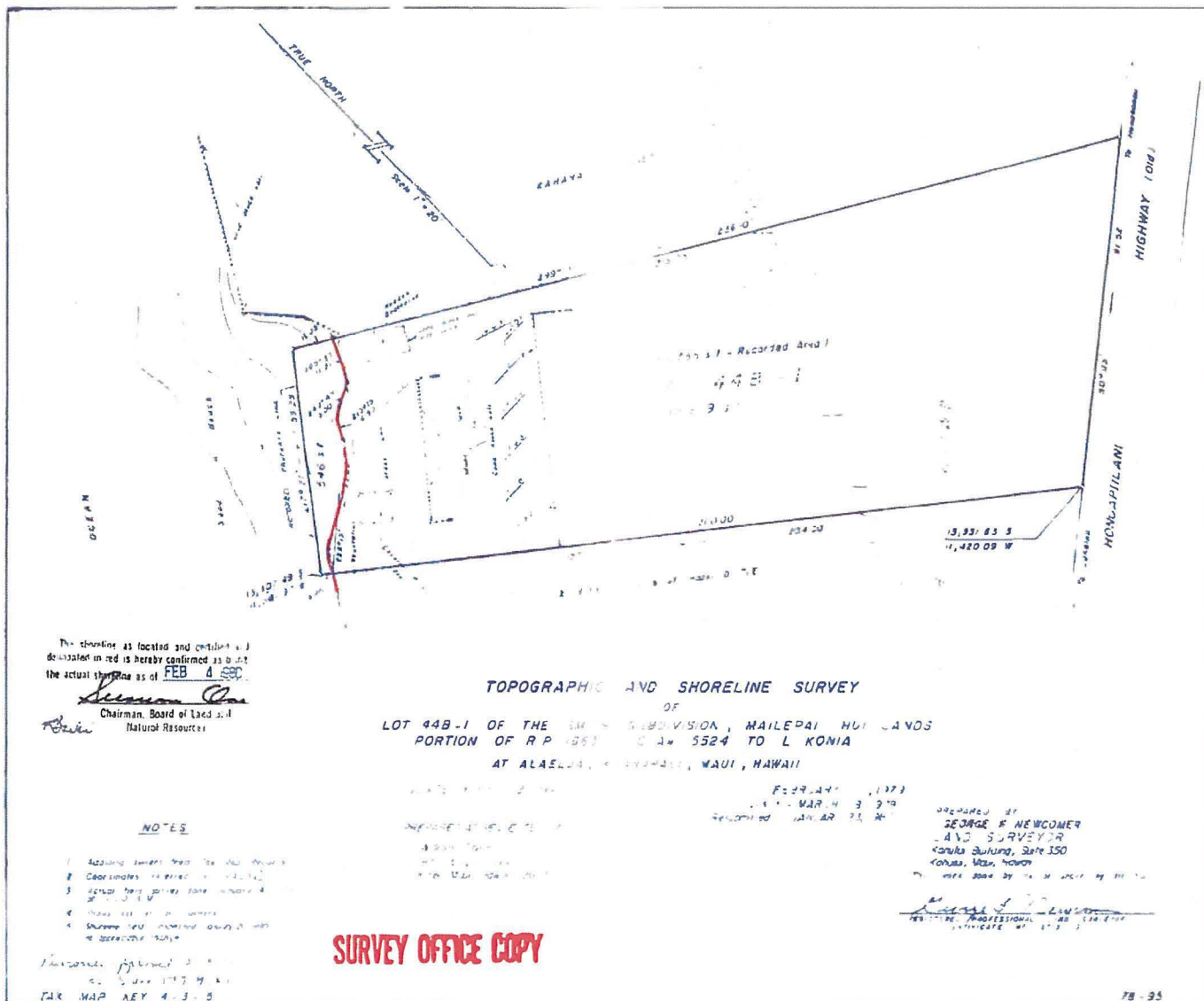


EXHIBIT " 2 "



1. View of the area from the north side of the road.



2. View of the area from the north side of the road.



3. View of the area from the north side of the road.



4. View of the area from the north side of the road.

EXHIBIT " 3 "

Photos taken: 7/14/09



Henry Schweitzer, TMK: (2) 4-3-015:001



Photos of improvements made along the shoreline and within the SMA area at the Schweitzer property



Concrete stairway leading to the shoreline line of Kahana Bay.



Terraced area filled with sand with a wood gazebo.

EXHIBIT "4"

Photos taken: 7/14/09

Henry Schweitzer, TMK: (2) 4-3-015:001



Improvements at the makai side of the Schweitzer property. Property overlooks Kahana Bay.



EXHIBIT "4"

NEIL ABELCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

ESTHER KLA'AIMA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONSERVATION
COMMISSION ON WATER RESOURCES MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES DEVELOPMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

CDUP: MA-3689

FEB 18 2014

Paul R. Mancini
Mancini, Welch & Geiger LLP
RSK Building 305 E. Wakea Avenue, Suite 200
Kahului, HI 96732

Dear Mr. Mancini,

This letter is to inform you that on February 14, 2014, the Board of Land and Natural Resources (BLNR) approved after-the-fact Conservation District Use Application (CDUA) MA-3689 for the Schweitzer shoreline erosion project, located at Alaeloa, Lahaina, Island of Maui – TMK: (2) 4-3-015:001, subject to the following conditions:

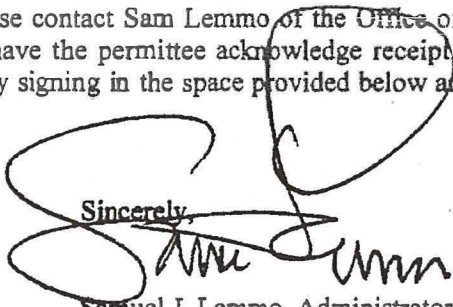
1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any 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 obtain appropriate authorization from the department for the occupancy of state lands;
4. The permittee shall comply with all applicable department of health administrative rules;
5. Before proceeding with any work authorized by the department or the board, the permittee shall submit two copies of the "as built" plans to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. One copy will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
6. All representations relative to mitigation set forth in the accepted Conservation District Use Application (CDUA) and Environmental Assessment (EA) for the proposed use are incorporated as conditions of the permit;

EXHIBIT "5"

EXHIBIT D -- pg 12^{pg 1 of 2}

Should you have any questions, please contact Sam Lemmo of the Office of Conservation and Coastal Lands at 587-0377. Please have the permittee acknowledge receipt of this permit and acceptance of the above conditions by signing in the space provided below and returning a copy to the OCCL within thirty (30) days.

Sincerely,

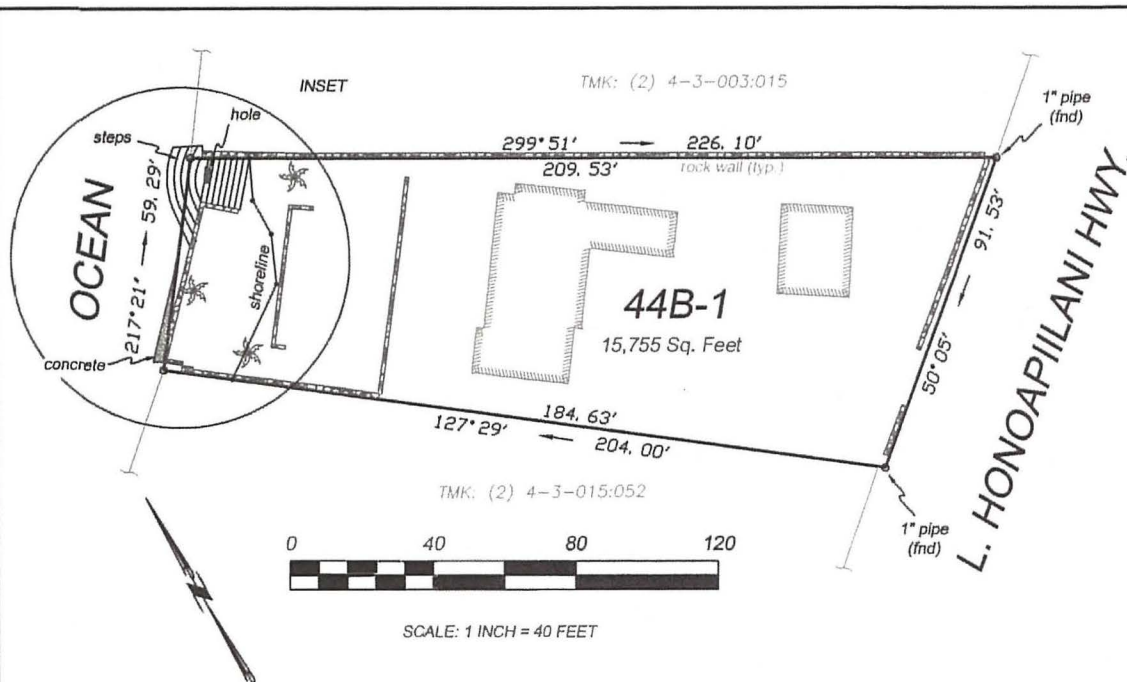


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

Date:

c: Chairperson
MDLO
County of Maui Planning Department



Prepared For
Todd Boyd
4885 Lower Honoapiilani Hwy.
Lahaina, HI 96767

This map was prepared by me
or under my direct supervision.



Leslie K.T. Lau
Licensed Professional Land Surveyor
State of Hawaii Certificate Number LS12978
License Expiration Date: April 30, 2022

SHORELINE SURVEY LOT 44B-1 "Smith Subdivision" Portion of Royal Patent 1663 Land Commission Award 5524 to L. Konia Alaeloa, Kaanapali, Maui, Hawaii

NOTES:

1. This map is based on an actual field survey performed on 24 April 2020.
2. { indicates photograph number.

JOB NO: J20-5

DATE: 10 July 2020

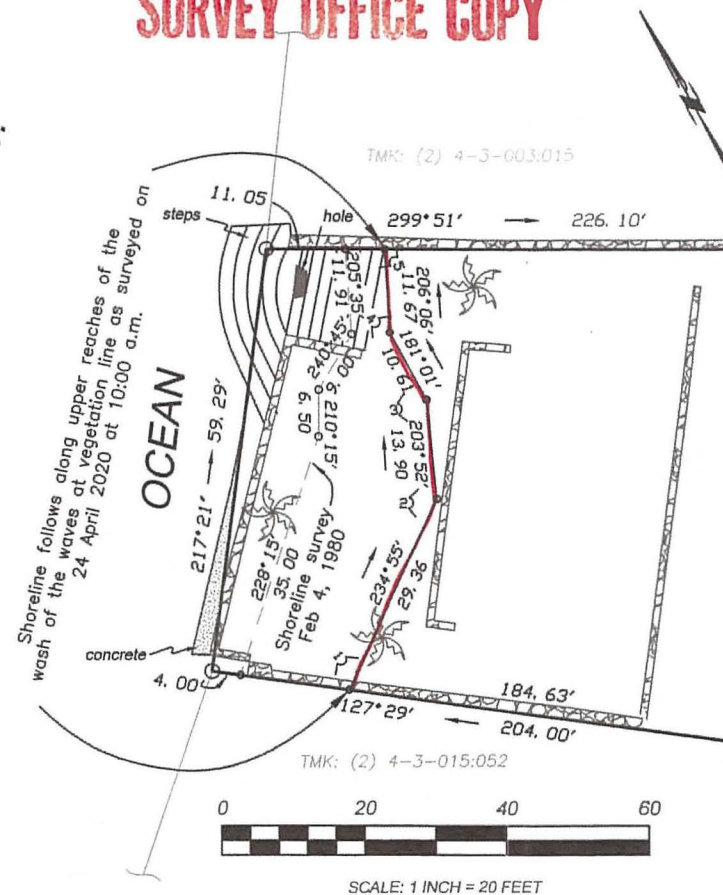
TMK: (2) 4-3-015:001

149 IPUKULA WAY
LAHAINA, HI 96761

LAHAINA SURVEYING COMPANY, LLC

TEL: (808) 276-0837
E-MAIL: lesliekt@gmail.com

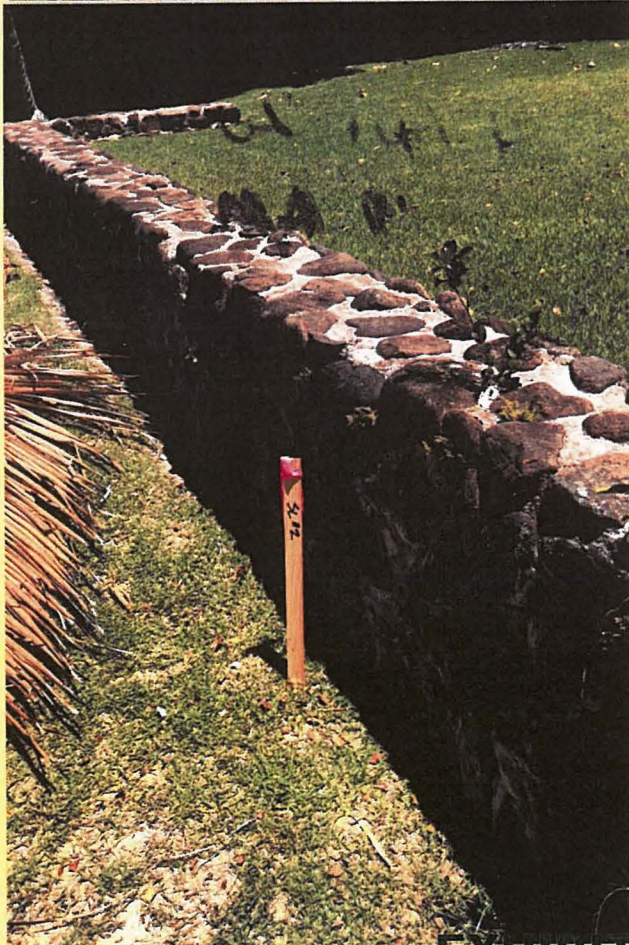
SURVEY OFFICE COPY

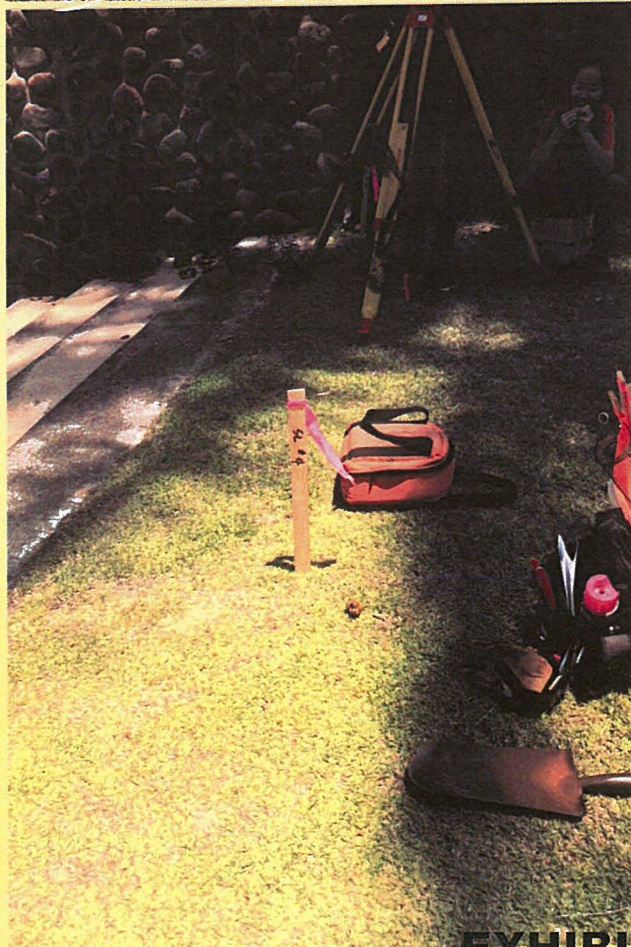


The shoreline as delineated in red is
hereby certified as the shoreline as of
OCT 20 2020

[Signature]
Chairperson, Board of Land and Natural Resources

EXHIBIT E -- pg 1





T.M.K. 4-3-15:01

EXHIBIT E -- pg 3



Seawall Removal Scope of Work and Best Management Practices

TMK: (2) 4 3 015 001

This application seeks to address an increasing danger to members of the public who want to access and enjoy the beach here. The seawall has failed and temporary measures to keep it from further degrading are no longer providing the support to the wall and stairs that they once had. Despite attempts to keep waves from flowing around the ends of the seawall, there has been significant scouring of the soil behind the wall. There has also been undermining (flanking) of the neighboring return walls, which if left unaddressed will cause those walls to fail as well, while posing additional significant risk to the public.

To address the threat to the public, this application seeks to permit access to conduct activities in the State of Hawaii Conservation District. Those actions include 1) Removal of a seawall; 2) Repair of the return walls of the properties to the immediate north and south (Kahana Sunset & Lusardi); 3) Operation of machines in the state shore (entirely mauka of the seawall); and 4) Minor grubbing and grading mauka of the seawall to stabilize the prevailing slope and prevent siltation of nearshore waters.

Implementation of the project will follow this phasing:

- Mobilization
- Installation of BMP's including geotextile and small sandbags mauka of the seawall.
- Removal of seawall stairs
- Placement of super sacks
- Grading and grubbing of state shoreline and county setback
 - Installation of geotextile fabric along the rock face of the shoreline
- Repair of return walls
- Removal of seawall
- Demobilization

When the seawall was built, non-native fill was added to fill in a contiguous yard up to the seawall. That fill will be removed up to the most recent shoreline as established by the April 2020 survey by Lahaina Surveyors LLC. This will eliminate the existing undercut drop off on the makai side of the lawn. This also removes a potential danger to the public. Additionally, this grading will keep non-native soils from washing into the bay once the seawall is removed. Significantly reducing the sedimentation of the bay as this part of the shoreline is returned to natural processes.

Repairing the return wall footings of the neighboring properties will have a profound impact on the safety and access of the public to the bay and beach. The beach access adjacent to the

northern boundary of the subject property is the only public access to this bay and beach. Removal of the seawall on 4885 Lower Honoapiilani Road is likely to significantly affect the integrity of the beach access. Because the certified shoreline dips significantly back into the property, removal of the seawall is expected to cause undermining of the beach access. Likewise, on the other property boundary ('the Lusardi property') undermining of the return wall, which is located on the 4885 property, is expected to occur once the seawall is removed. This undermining, or flanking, will cause issues with the integrity of the neighboring seawall which will be a significant threat to the public.

Authorization to repair the flanking wall on the Kahana Sunset property is included with this application. Authorization to repair the Lusardi return wall is not necessary as it is located on the 4885 property.

BMP Installation – County and State Jurisdictions

A stockpile area will be established in the rear yard on the north side of the property, see Appendix 1. When not in use, construction machinery and tools will be stored in this area. Temporary storage of grubbed or graded material from the yard may also be stored here for later use. Eventually, the seawall fragments that will result from the dismantling of the seawall may be stored here for later disposal. Any time vegetation, soil, or seawall fragments are stored, a two-foot-high silt fence will encircle the area. Any material prone to transportation by wind will be regularly wetted with a garden hose and covered with a tarpaulin at night.

The Kahana Sunset has established a beach access corridor on its southern property boundary. This infrequently used access is maintained by the Kahana Sunset who lock a gate along Lower Honoapiilani Road at night. The crane will operate over this access. To assure public safety, spotters will be stationed at the beach and Lower Honoapiilani Road accesses (top and bottom of the access). If a member of the public wishes to utilize the access lane the crane will complete its delivery and then stand down while the people walk along the access. Members of the public are not expected to experience delays that are longer than 15 minutes.

As a BMP, the seawall will be kept in place while grubbing and grading of the rear yard is taking place. Any gaps in the wall to the nearshore environment will be temporarily blocked by the installation of geotextile fabric and the stacking of small sand-filled bags in the gap. This will help to hold wave action out of the rear yard area and reduce the risk of nearshore siltation. Additionally, once the stairs on the north side of the wall have been removed, five to six (5-6) one-yard supersacks will be filled with beach quality sand and placed to fill the gap between the north end of the wall and the neighboring Kahana Sunset return wall. This will create a temporary contiguous barrier between the ocean and the shore while work is conducted. The supersacks will be removed upon completion of the project. The sand, which is sourced from the Lahaina harbor dredging and is currently stockpiled on land, has been previously approved

by the County of Maui for filling of temporary protection measures on the shore. The sand will be returned to the stockpiling location at the conclusion of the project.

A geotextile fabric will be draped over the entire length of the yard within the Certified Shoreline. The fabric will be secured using native stones and metal or wooden spikes temporarily pounded into the ground. When the wall is removed, this fabric will act as a temporary barrier between the ocean and the yard. The sand-filled bags and fabric filled gaps in the wall will be removed as deemed prudent when the wall removal is under way.

A siltation boom will also be installed in the nearshore water to contain any inadvertent siltation. The boom will be secured to the shore and will form an arch encompassing the entire width of the property. To assure the boom does not break free from its anchor points during high wave events, it may be removed during non-work hours and reinstalled at the beginning of the workday.

During the removal of the wall, a 24-inch-tall siltation fence will be secured to the bottom ocean side of the concrete footing (bottom of the wall). This fence will be installed at a 45-degree angle so any fragments falling off of the wall during demolition will be caught and disposed of properly. This will keep even the smallest pieces of wall out of the nearshore environment.

Diesel machines will run on food grade biodiesel as an additional environmental BMP. A spill kit consisting of absorbent fabric and a plastic containment pool will be on-hand to respond to any uncontrolled leakage of fuel or hydraulic fluid.

Upon completion of the project weekly inspections of the shoreline and the landscaping timbers will be conducted to assure the integrity of the timbers over time and that the nearshore waters are not negatively impacted by this project.