

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

May 24, 2024

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

PSF No.: 24OD-034

Oahu

Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to Poni, LLC for Seawall, Ewa Beach, Ewa, Oahu, Tax Map Key: (1) 9-1-024: seaward of 027.

APPLICANT:

Poni LLC, a domestic limited liability company.

LEGAL REFERENCE:

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

LOCATION:

Portion of State land located in Ewa Beach, Oahu, identified by Tax Map Key: (1) 9-1-024: seaward of 027, as shown on **Exhibits A-1** and **A-2**.

AREA:

165 square feet, approximately, to be reviewed and approved by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District:	Conservation
County Zoning District:	Residential (for 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, maintain, and repair existing CRM and CMU seawall 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 has reduced the term for 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 pursuant to the recommendation of the Office of Conservation and Coastal Lands. Landward migration of the shoreline is currently occurring as a direct result of sea level rise. This will progressively expose immobile shoreline structures to an evolving combination of destructive effects from erosion, chronic flooding, and wave inundation. The intention of the term reduction is two-fold: (1) to reduce the potential for accidents and liabilities resulting from dysfunctional shoreline structures by more frequently reviewing and managing shoreline structures and (2) to facilitate a general process of managed retreat from the shoreline.

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

Monthly rental amount of \$42 for right-of-entry and revocable permit has been calculated by staff and has been reviewed and approved by the Chairperson.
(Exhibit B)

REMOVAL BOND:

Applicant shall be required to post a removal bond in an amount determined by Land Division in consultation with Engineering Division, subject to 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, which applies to "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing." Specifically, the subject request is exempt under Part 1, Item 39, which exempts the "[c]reation or termination of easement, covenants, or other rights in structures or land." The subject request is a de minimis action that is expected to have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards at Applicant's own cost;
2. Pay for an appraisal to determine one-time payment in consideration of the easement; and
3. Obtain the prior concurrence of the Legislature and approval of the Governor through a Concurrent Resolution pursuant to §171-53(c), HRS.

JUSTIFICATION FOR REVOCABLE PERMIT:

The land disposition presented to the Board in this matter is an orderly process that uses a series of permits structured to allow for immediate use and occupancy and proceed on a direct course to a to a long-term lease, subject to conditions that benefit the State. The land disposition requested in the present submittal is a three-stage process encompassing:

1. Issuance of a right-of-entry permit for a period of up to six months. This allows the Applicant to immediately legitimize occupancy of the public land in question, begin repair and maintenance of the shoreline protection structure without undue delay and without cost to the State, and begin preparations for the Applicant's obligations under future land dispositions.¹ The right-of-entry permit includes requirements for payment of monthly rent, provision to the Department of a removal bond or equivalent securitized funds, indemnification of the State, and provision of liability insurance by the Applicant. The purpose of the removal bond is to ensure that there are funds available to remove the encroachment from State land in the event that the Legislature or Governor does not approve the easement authorized by the Board.
2. Issuance of a revocable permit for no longer than one year. This allows Land Division time to complete the administrative processes that underlie the grant of easement including approval of the easement contract by the Department of the Attorney General, completion of the appraisal (at the Applicant's cost) to determine the lump-sum payment for value of the easement, and approval of the Legislature and Governor of the easement while the Applicant maintains the same obligations for rent payments, removal costs, indemnification, and provision of liability insurance.
3. Issuance of an easement. This final step cannot be executed without prior completion of the prerequisites stated above. Therefore, the interim disposition through revocable permit is necessary.

The interim revocable permit step is limited in its duration and essential in its utility. While the revocable permit is in effect, the Applicant assumes the costs of maintaining the subject parcel of State land and the liability for any damages caused on or by the Applicant's use of the land during the often-lengthy process of consummating the easement.

¹ The Applicant's obligations under a right-of-entry and revocable permit include obtaining a survey to confirm the size of the disposition area, obtaining a cost estimate for removing the shoreline protection structure which determines the amount of the removal bond, and procurement through Land Division of an appraisal to determine the lump-sum value of the easement.

REMARKS:

The Applicant is the owner of the private, residential property identified as TMK: (1) 9-1-024:027, located in Ewa Beach, Oahu. The property includes several single-family houses and is fronted by a seawall. In July of 2023, the Applicant submitted an application for shoreline certification to the Department as part of the Applicant's efforts to create a condominium property regime on the property. On September 28, 2023, Staff from Land Division and the Department of Accounting and General Services Land Survey Division conducted a site visit at the subject property. In the course of the site visit, it was discovered that the seawall fronting the private property encroached on State shoreline land abutting the private property.

The Applicant provided a 1966 Building Permit issued by the City & County of Honolulu for a wall that is presumed to be the seawall at issue. **(Exhibit C)** According to the survey map included in the Applicant's shoreline certification application, the seawall appears to have been located within the private property boundary and mauka of the shoreline at the time it was originally constructed.² **(Exhibit D)** There is no prior certified shoreline for the subject property. The earliest certified shoreline map that Staff was able to locate for the immediate area is a 1977 map for the abutting property to the East of the subject property. This 1977 map indicates that the seawall fronting the subject property was in place at that time. **(Exhibit E)**

The Applicant chose to pursue an easement to resolve the encroaching seawall and submitted a Shoreline Encroachment Information Sheet to Land Division. Land Division Staff had questions as to the seawall's non-conforming status and whether its undermined condition renders it suitable for a long-term land disposition. Therefore, Land Division Staff requested assistance from OCCL. In November of 2023, a Hawaii Sea Grant Extension Agent from the Department's Office of Conservation and Coastal Lands (OCCL) conducted an additional site visit and analysis of the encroaching seawall and abutting State shoreline land. **(Exhibit F)**

OCCL could not determine definitively whether the seawall currently present at the site is wholly the same structure constructed under the 1966 permit. However, OCCL concluded that, because the seawall appears to have been constructed fully within the private property boundaries before mauka migration of the shoreline occurred, the current seawall does appear to be a non-conforming land use pursuant to Chapter 183C, Hawaii Revised Statutes, and is therefore eligible for an easement disposition according to controlling statutes. OCCL found that the

² Please note: The proposed shoreline indicated on the Applicant's survey map is not at the location determined by Land Division and DAGS Land Survey Division staff. Land Division and DAGS Land Survey Division staff located the shoreline at the mauka face of the seawall.

properties surrounding the subject property contain single-family homes similar to the subject property and many are also fronted by similar seawalls that may have originally been constructed as landscaping or privacy walls, rather than for the purpose of shoreline protection.

OCCL further found that the beach fronting the subject property is stable to slightly eroded, based on historical analysis measuring the movement of the low water mark (beach toe). Based on recent locations of the vegetation line and ground photos, it appears that the shoreline location is currently influenced by the subject seawall and neighboring seawalls. There is a public access point approximately fifty feet from the subject property and the beach appears to be laterally traversable by the public during most tides and wave conditions based on ground photos showing a strip of dry beach fronting the seawall despite occasional interaction of the high wash of the waves with the wall. According to OCCL, removal of the seawall would not improve public access.

OCCL determined that removal of the encroachment would likely result in some improvement to the beach resources fronting the subject property. However, because of the presence of seawalls at neighboring properties, such improvement would be limited to the beach directly in front of the subject property. OCCL further determined that the presence of the subject seawall does not have a negative effect on neighboring properties but removal of the wall may allow for increased exposure of the mauka sides of the adjacent walls during extreme wave or weather events due to increased runup onto the properties.

OCCL had no additional comments on this submittal beyond what is stated in OCCL's assessment in support of the easement, included as **Exhibit F. (Exhibit G)**

The City & County of Honolulu Department of Planning & Permitting had no objections to this submittal. (**Exhibit H**)

The Division of Aquatic Resources, State Historic Preservation Division, and Office of Hawaiian Affairs did not respond to request for comment on this submittal.

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

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and §§11-200.1-15 and -16, HAR, this project is expected to have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis activity.
2. Assess a fine of \$500 for the unauthorized encroachment pursuant to the criteria adopted by the Board at its meeting of June 28, 2002, under agenda item D-17.
3. Authorize the continued applicability of the subject requests in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 9-1-024:027, provided that 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.
4. Authorize the issuance of a right-of-entry permit to Poni LLC 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:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the right-of-entry permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Commencement of the right-of-entry on the Board date, for a term of one year or until the issuance of the revocable permit described in recommendation 5 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Authorize the issuance to Poni LLC of a revocable permit 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:

- A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the revocable permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance to Poni LLC of a 25-year term, non-exclusive easement 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:
- 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: (1) 9-1-024:027, 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 State, as Grantor, of such transaction in writing, and shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
 - C. Prior concurrence of the Legislature and approval of the Governor through a Concurrent Resolution pursuant to §171-53(c), HRS.;
 - D. Review and approval by the Department of the Attorney General;

- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

Respectfully Submitted,



Rebecca L. Anderson
Shoreline Specialist

APPROVED FOR SUBMITTAL:

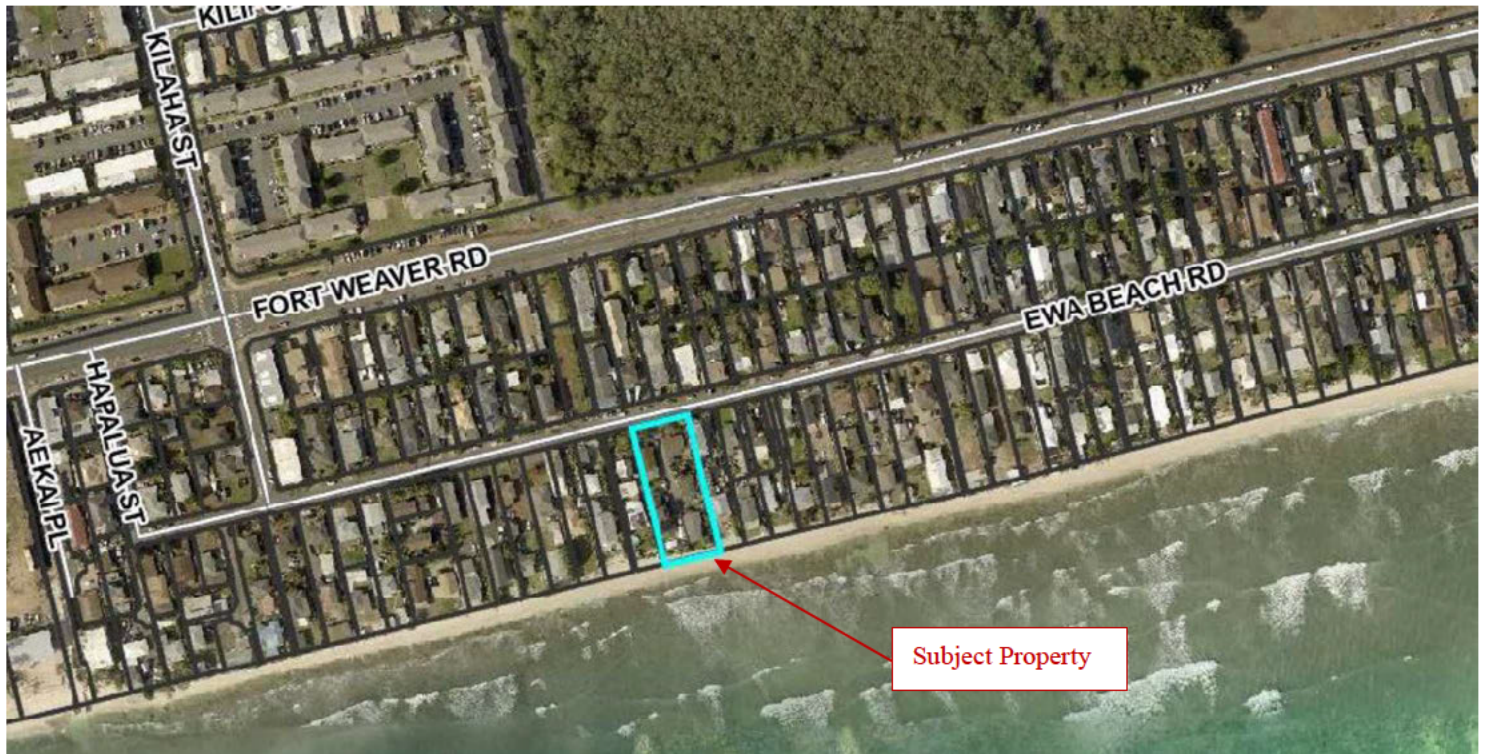
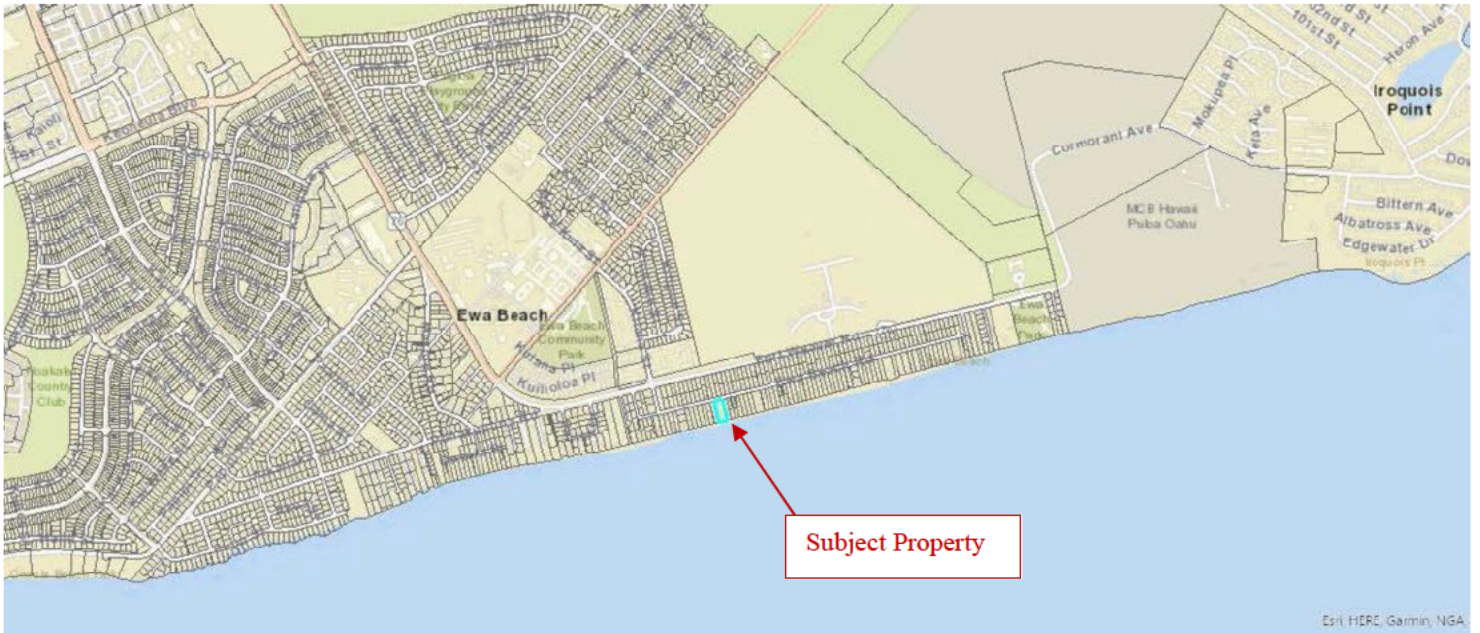


Dawn S. N. Chang, Chairperson

Tax Map Key: (1) 9-1-024: seaward of 027



Tax Map Key: (1) 9-1-024:seaward of 027



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAND. UYENO
DEPUTY DIRECTOR - WATER


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

To: Dawn N. S. Chang, Chairperson
Through: Russell Y. Tsuji, Administrator
From: Land Division, Appraisal Section
Date: April 8, 2024
Subject: Poni, LLC Shoreline Revocable Permit

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

Reference: PSF No. 24OD-034
Applicant: Poni, LLC
TMKs: (1) 9-1-024: seaward of 027
Area: 165 square feet, more or less
Effective Date: Upon Board Approval
Recommended Value: **\$42 per month**

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



RT Dawn N. S. Chang, Chairperson

Apr 8, 2024

Date

TMK	(1) 9-1-024: seaward of 027
Assessed Land Value (\$)	1,890,600
Land Area (sf)	25,000
Unit Rate Land Value (\$/sf)	75.624
50% Off For Submerged Lands	37.812
Encroachment Area (sf)	165
Encroachment Land Value (\$)	6238.98
Annual Rent @ 4 to 8%	0.08
Recommended Annual Value	499.1184
Monthly Value	41.5932

FORM BD-35 REV.

PERMIT NUMBER **22427** DEPARTMENT OF BUILDINGS CITY AND COUNTY OF HONOLULU

APPLICATION FOR BUILDING PERMIT

Fee Received

WRITE IN ALL INFORMATION	EST. VALUE 3000	PERMIT FEE 12	CLASS OF CONSTRUCTION —	NO OF STORES —	ZONE 9	SEC. 1	PLAT 24	PARCEL 27	LOT NO.	DISTRICT PLWA DISTRICT
CHECK BOX OR WRITE IN IF NECESSARY	NEW BLDG. FENCE WALL	EXIST. BLDG. RETAINING WALL	OTHER STRUCTURES		ADD.	ALTER.	REPAIR	OTHER WORK		
APPLICATION IS HEREBY MADE FOR PERMIT TO DO WORK AS FOLLOWS: CLASSIFICATION OF OCCUPANCIES GROUP: S-RES. WALL										
SHOW NUMBER OF UNITS	SINGLE FAMILY DWELLING	DUPLEX	APARTMENT	BUSINESS	INDUSTRIAL	PUBLIC	INSTITUTIONAL	STORAGE	MIXED	
CHECK PROPER BOX	FIRE PROOF TYPE I	SEMI FIRE PROOF TYPE II	HEAVY TIMBER TYPE III	NON COMBUSTIBLE TYPE IV (I)	UNPROTECTED METAL TYPE IV (N)	ORDINARY MASONRY TYPE V (I)	WOOD FRAME TYPE V (N)			
FILL IN REQUIRED INFORMATION	PROPOSED ADDRESS: [REDACTED] SQ. FT. USE DISTRICT									
	OVERALL DIMENSIONS: 0' MAX. X 100' LONG FLOOR AREA SRM OF									
	BASEMENT: RET. WITHIN TO ROOF OF PROPERTY									
	TYPE OF EXTERNAL WALLS									
	TYPE OF INTERNAL PARTITION									
	TYPE OF ROOF									
	CONNECTION TO SEWER									
	CONNECTION TO CESSPOOL									
	NO PART OF THIS BUILDING WILL BE NEARER THAN _____ FT. _____ INCHES TO NEAREST ADJOINING PROPERTY LINE AND NO PART									
	OF THIS BUILDING WILL BE NEARER THAN _____ FT. _____ INCHES FROM 1ST STORY. NOR _____ FT. _____ INCHES									
	FROM STORES ABOVE THE 1ST FLOOR OF ANY BUILDING ON THE SAME LOT. NO EAVE, OVERHANG, OR OTHER PROJECTION WILL PROJECT MORE									
	THAN 50% OF THE SPACE ADJOINING A PROPERTY LINE. UNDERSIDE OF FLOOR SLABS WILL BE AT LEAST 20 INCHES ABOVE HIGHEST PART OF GROUND.									
	CEMENT FLOOR SLABS OF BUILDINGS SHALL HAVE MARGINAL WALLS 24 INCHES BELOW GRADE WHERE REQUIRED.									
ADDRESS OF BUILDING OWNER	Mr & Mrs. Teruto Masuhara ADDRESS									
ADDRESS OF GENERAL CONTRACTOR	James Torunaga #1326 ADDRESS									
ADDRESS OF PLUMBING SUB-CONTRACTOR	NONE									
ADDRESS OF ELECTRICAL SUB-CONTRACTOR	NONE									
DAYS AND SIGN	SIGNATURE OF APPLICANT: Teruto Masuhara DATE: 2/28/66 SIGNATURE OF OWNER OF BUILDING: Teruto Masuhara									
APPLICANTS WILL NOT WRITE IN THIS PART OF FORM	PERMISSION IS HEREBY GIVEN TO DO THE ABOVE WORK ACCORDING TO THE CONDITIONS HEREON AND ACCORDING TO THE ASSUMED PLANS AND SPECIFICATIONS PERTAINING THERETO. SUBJECT TO COMPLIANCE WITH ORDINANCES OF THE CITY AND COUNTY OF HONOLULU, STATE OF HAWAII. CONSTRUCTION TO BE COMPLETED ON OR ABOUT _____									
	DATE: _____ 19 _____ APPROVED _____ ASST. SUND UP HEALTH									
	DATE: 2/28 19 66 APPROVED M. Foster CHIEF ENGINEER, FIRE DEPARTMENT									
	DATE: _____ 19 _____ APPROVED _____ FOR SUPERINTENDENT OF BUILDINGS									
	WARNING: PERMIT PLACARD MUST BE POSTED ON THE SITE OF THE WORK. BE SURE YOU ARE FULLY INFORMED ON BUILDING AND ZONING LAWS BEFORE BEGINNING YOUR WORK. PLANTING HEDGES, TREES OR CONSTRUCTING FENCES BEYOND LIMITS OF YOUR PROPERTY LINE IS FORBIDDEN BY LAW. (PENALTY OF \$100.00 FINE AND/OR 30 DAYS IMPRISONMENT.)									
	PLANNING DEPARTMENT DATE: 28 66									
	ZONE (USE DISTRICT): A SUB-DIVISION PENDING: NO									
	SET BACK: NO ON MASTER PLAN: YES									
	RECOMMENDATION: None									
	OFFICE COPY SIGNATURE: A. Akana									

SEWER DIVISION Approved by: [Signature] Date: 2-28-66

NO GRADING REQUIRED FEB 27 1966

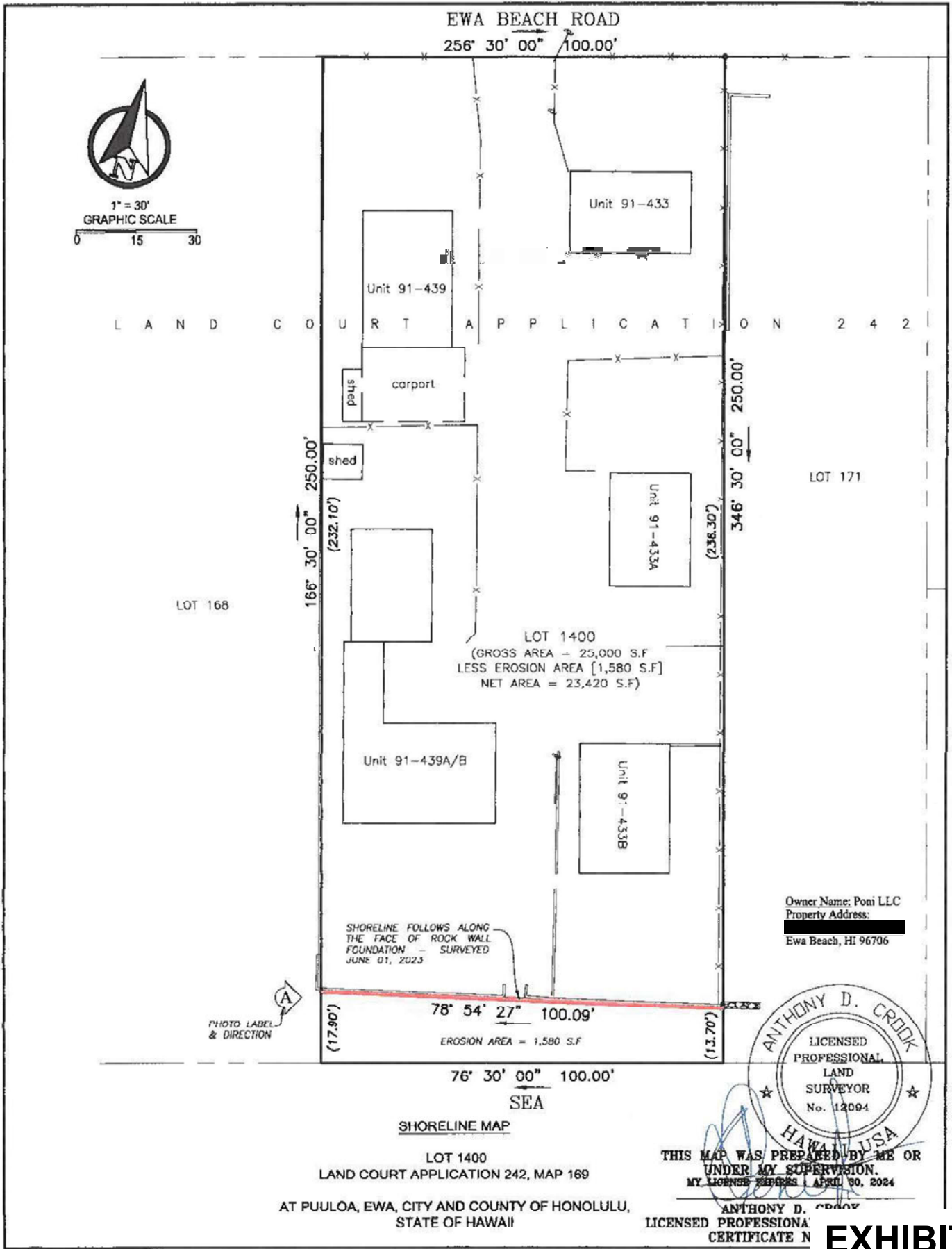
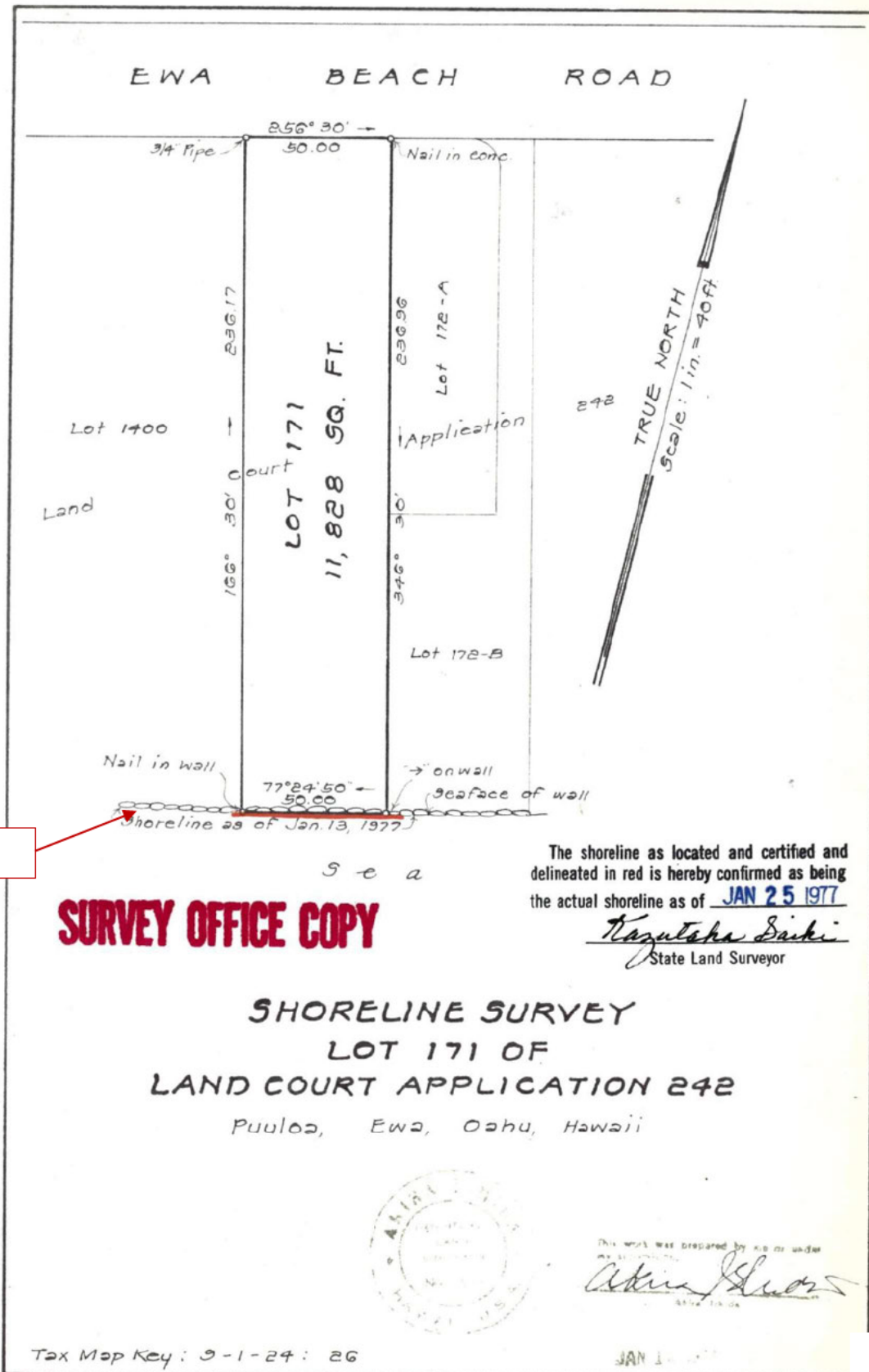


EXHIBIT D



Subject Wall

SURVEY OFFICE COPY

The shoreline as located and certified and delineated in red is hereby confirmed as being the actual shoreline as of JAN 25 1977
Kazutaka Saiki
 State Land Surveyor

SHORELINE SURVEY
LOT 171 OF
LAND COURT APPLICATION 242
 Puuloa, Ewa, Oahu, Hawaii



This work was prepared by me or under my supervision.
Akira Hirose
 State Land Surveyor

Tax Map Key: 9-1-24: 26

771-B
F.B. 23-68 Folder 9-1 (1)

AKIRA & ASSOCIATES, INC.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands
P.O. BOX 621
HONOLULU, HAWAII 96809

Encroachment: OA-24-4

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
LAURA H.E. KAAKUA
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
KAHUALAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: AW
MEMORANDUM

Encroachment: OA-24-4

Dec 5, 2023

TO: Russell Y. Tsuji, Administrator
Land Division Administrator
FROM: Michael Cain, Administrator *S Michael Cain*
Office of Conservation and Coastal Lands (OCCL)
SUBJECT: Grant of a 25-Year Term, Non-Exclusive Easement at [REDACTED]
seaward of Tax Map Key: (1) 9-1-024:027

This memo is in response to your request for review and comment regarding a proposed 25-Year Term, Non-Exclusive Easement for a seawall at [REDACTED] seaward of Tax Map Key: (1) 9-1-024.027. According to the shoreline survey and photographs, there appears to be approximately 112 linear feet of encroachment (seawall) seaward of the subject property boundary onto State lands.

The subject property is located on Ewa Beach Road in an area that is fully developed with similar single-family homes. Documentation provided with your request indicates that the original seawall was permitted and built in 1966. It is unknown if the current seawall is the same structure constructed under that 1966 permit. However, given the available documentation, the seawall appears to be a non-conforming land use pursuant to Hawaii Revised Statutes, Chapter 183C.

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

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

Encroachment: OA-24-4

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

Surrounding Land Uses: *The properties surrounding the subject property are similarly developed with single family homes. Several of the adjacent properties have seawalls fronting the properties. It is unknown at this time if the walls were originally constructed as seawalls or landscaping / privacy walls.*

Beach Resources: *The beach fronting the subject property is stable to slightly eroding based on historical analysis measuring the movement of the low water mark (beach toe). Based on recent locations of the vegetation line and ground photos, it appears the Shoreline location (mauka edge of the beach) is fixed by the subject and neighboring seawalls.*

Public Access: *There is a public access point approximately 50ft from the subject property. The beach appears to be traversable in the along-shore direction by the public during most tides and wave conditions based on ground photos showing a narrow dry beach fronting the wall.*

Effect of Removing the Encroachment on:

Beach Resources:

The encroaching seawall is fronted by a fairly stable narrow carbonate beach with occasional interaction with the high wash of the waves. The removal of the encroachment would likely result in some improvement to the beach resources fronting the property by increasing the beach width. However, the neighboring properties are fronted with similar seawalls, so any improvements would be limited to the beach directly in front of the property.

Public Access:

OCCL staff has determined that no improvement would be gained by removing the encroaching seawall because there are similar seawalls neighboring the property and the waves appear to interact with the existing walls on an occasional basis.

Effect on Adjacent Properties:

Removal of the encroaching seawall may allow for increased exposure to the high wash of waves on the mauka side of the adjacent walls during extreme wave / weather events due to increase runoff into the yard of this property. The existing encroachment is not having a negative impact on the adjacent properties.

Additional information and analysis of the potential impact of the subject encroachment is included in Attachment 1.

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

Encroachment: OA-24-4

Upon review and careful consideration of the information gathered on this case, OCCL has determined that the requirements stated in HRS § 205A, HRS § 183C, and in OCCL's evaluation criteria would support a 25-year disposition request being processed for the subject shoreline encroachment.

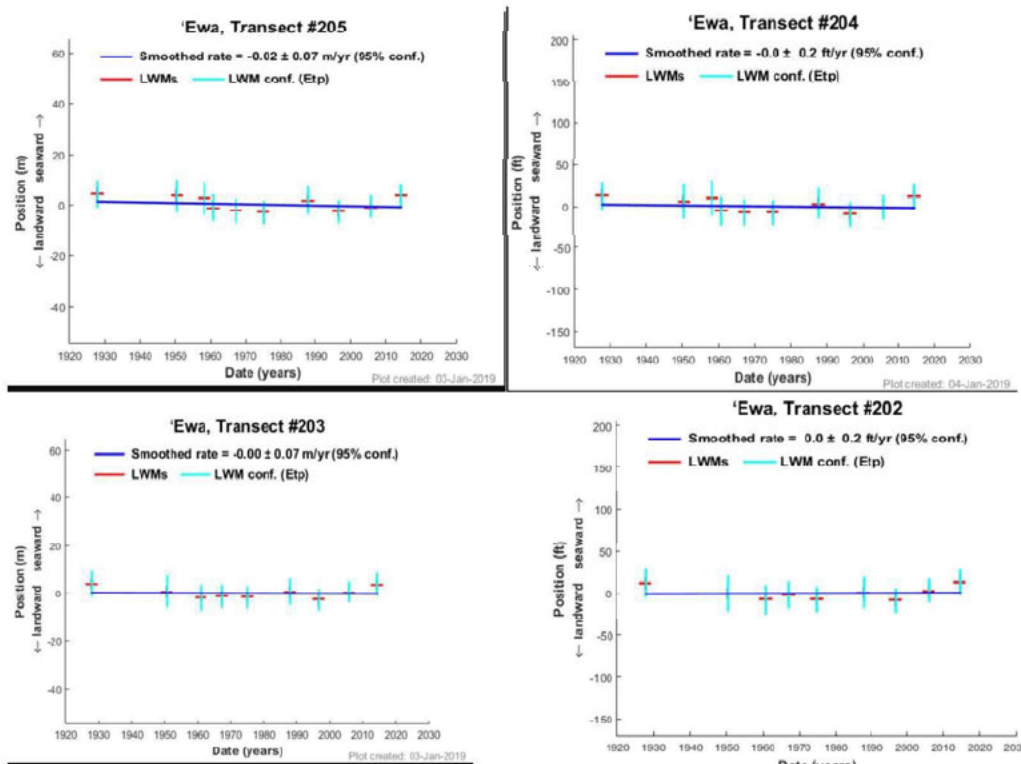
Please feel free to contact Coastal Lands Program Coordinator, Sea Grant Extension Agent Amy Wirts at awirts@hawaii.edu should you have any questions pertaining to this memorandum.

[REDACTED] -- Seawall Analysis TMK (1)9-1-024:027

The beach fronting the subject property is stable to slightly eroding based on historical analysis measuring the movement of the low water mark (beach toe). It appears waves are interacting with the seawall on an occasional basis since there is no vegetation fronting most of the wall and the wall has been undermined in some locations. Future shoreline projections considering sea level rise indicate that the wall will increasingly interact with the high wash of the waves in coming decades, likely leading to narrowing of the beach and potentially loss of the beach fronting the structure(s). The subject Property is landward of transect 205 in the following figure.



Erosion (red) and accretion (blue)



Encroachment: OA-24-4

The subject property is near the turning point from slight erosion to slight accretion. If the high wash continues to reach the wall, and the neighboring walls, then there could be increased beach erosion.



At present the beach appears to be stable and the non-conforming status of the wall supports the issuance/disposition of a short-term (25-year) easement. Based on SLR-XA data and the projected range of 0.7 to 1.5 ft of sea level rise by 2050¹ 25 years appears to be an appropriate timeframe to provide an easement. Within 25 years, the wall will have more frequent interaction with the waves in this area.



SLR-XA for 1.1ft sea level rise

We are not qualified to comment on the structural integrity of the wall or its capacity to remain intact with high wave interaction. A coastal or structural engineer is best positioned to determine the integrity and safety of the wall itself.

¹ Sweet, W.V., B.D. Hamlington, R.E. Kopp, C.P. Weaver, P.L. Barnard, D. Bekaert, W. Brooks, M. Craghan, G. Dusek, T. Frederikse, G. Garner, A.S. Genz, J.P. Krasting, E. Larour, D. Marey, J.J. Marra, J. Obeysekera, M. Osler, M. Pendleton, D. Roman, L. Schmied, W. Veatch, K.D. White, and C. Zuzak, 2022: Global and Regional Sea Level Rise Scenarios for the United States: Updated Mean Projections and Extreme Water Level Probabilities Along U.S. Coastlines. NOAA Technical Report NOS 01. National Oceanic and Atmospheric Administration, National Ocean Service, Silver Spring, MD, 111 pp. <https://oceanservice.noaa.gov/hazards/sealevelrise/noaa-nostechrpt01-global-regional-SLR-scenarios-US.pdf>

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



2024 APR 23 PM 2:04



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809
April 15, 2024

DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2024 APR 15 P 3:08

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Ref. No.: 24OD-034
Author: LD-RLA

MEMORANDUM

TO:

State Agencies:

- DOH
- DHHL
- DLNR-Aquatic Resources
- DLNR-Forestry & Wildlife
- DLNR-Historic Preservation
- DLNR-State Parks
- DLNR-Conservation and Coastal Lands
- DLNR-Water Resource Management
- DOT

City & County Agencies:


- Planning
- Parks & Recreation
- Public Works
- Water Department

Federal Agencies:

- Corps of Engineers
- NRCS

Other Agencies:

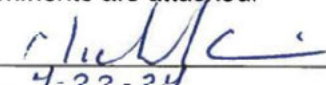
- Office of Hawaiian Affairs

FROM: Rebecca L. Anderson, Shoreline Specialist 
SUBJECT: Request for Comment
LOCATION: Ewa Beach, Oahu TMK: (1) 9-1-024: seaward of 027
APPLICANT: Poni LLC

Transmitted for your review and comment is a copy of the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by May 6, 2024. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 808-587-0424 Thank you.

Attachment

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: 
Date: 4-22-24

No additional comments, DCCL assessment and conclusion that the evaluation supports the easement is detailed in 15-1-1-1

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



2024/ELOG-718

DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

2024 APR 19 PM 2:43

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809
April 15, 2024

Ref. No.: 24OD-034
Author: LD-RLA

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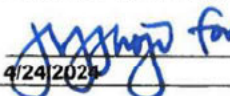
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- We have no objections.
- We have no comments.
- Comments are attached.

Signed:  Dawn Takeuchi Apuna,
Director
Date: 4/24/2024

2024 APR 29 AM 10:50