

LINDA CROCKETT LINGLE
Mayor



DAVID W. BLANE
Director

Deputy Director

COUNTY OF MAUI
PLANNING DEPARTMENT
250 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

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May 28, 1997

OFFICE OF ENVIRONMENTAL QUALITY CONTROL

Mr. Gary Gill, Director
Office of Environmental Quality Control
State Office Tower, Room 702
235 South Beretania Street
Honolulu, Hawaii 96813-2437

Dear Mr. Gill:

RE: **Final Environmental Assessment Pursuant to Hawaii Revised Statutes (HRS), Chapter 343, Environmental Impact Statements for a Shoreline Setback Variance in Order to Include a Wading Pool, Tile Pavers, Landscape Plantings, 3 ½ Foot High by 5 ½ Foot Long Wall Extension, and an 18-inch "After-the-Fact" Height Extension of an Existing Retaining wall within the 25-Foot Shoreline Setback Area on Tax Map Key: 4-5-03: 24, 1037 Front Street, Lahaina, Island of Maui, Hawaii**

Transmitted for publication in the OEQC Bulletin is a Final Environmental Assessment for the above-referenced project. The Maui Planning Commission at its May 27, 1997, meeting made a Finding of No Significant Impact. Enclosed is the OEQC Publication Form and four (4) copies of the Final Environmental Assessment. The "Summary" of the proposed action or project to be published in the OEQC Bulletin has been discussed with your staff (Kay), and a copy of the revised Bulletin Summary with changes highlighted is enclosed.

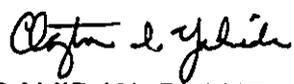
For you information, based upon the comments received from the Draft Environmental Assessment, the Applicant will be submitting an after-the-fact approval for an 18-inch height extension to an existing retaining wall. The wading pool has also been redesigned in order to keep within the "modern" top soil area and not dig into the "historic" soil area. The issue relating to the use and "hardship" will be addressed by the Maui Planning Commission at the time of the shoreline setback variance application public hearing.

67

Mr. Gary Gill, Director
May 28, 1997
Page 2

If you have any questions, please contact Julie Higa, staff planner, of this office.

Very truly yours,


DAVID W. BLANE
Planning Director

DWB:jh

Enclosures

cc: Clayton Yoshida, Acting Deputy Director of Planning
Rory Frampton, Chris Hart and Partners
Mr. and Mrs. David Ihle
Julie Higa, Staff Planner
Project File
General File
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May 28, 1997

For transmittal to OEQC

RE: Summary of the proposed action or project to be published in the OEQC Bulletin, June 8, 1997
Hard copy to follow

OEQC Bulletin Publication

Title of Project: Ihle Single-Family Wading Pool, Tile Pavers, Wall Extensions, and Landscape Plantings to be Located within the 25-foot Shoreline Setback Area
Location: Island Maui District Lahaina Tax Map Key No. 4-5-03:24

Mrs. and Mrs. David Ihle is requesting a Shoreline Setback Variance in order to include a wading pool, tile pavers, an "after-the-fact" 18-inch height extension on an existing 8 ½-foot retaining wall, a 3 ½-foot high by 5 ½-foot long wall extension in the side yard, and landscape plantings within the 25-foot shoreline setback area on their 7,174 square-foot parcel located at 1037 Front Street in Lahaina, Maui, Hawaii, Tax Map Key Number: 4-5-03:24. The wading pool will extend 21 feet into the 25-foot shoreline setback area and portions of the tile pavers will be placed 24 feet into the 25-foot shoreline setback area. The applicant has demolished a two-story single-family dwelling and is replacing it with a two-story single-family dwelling. A 10-foot high retaining wall and stairway to the shoreline is situated along the makai-side of the subject property and physically defines the certified shoreline. There are large rocks and boulder along the base of the wall and no sand beach. The original platted area of the parcel was 8,109 square feet; however, approximately 935 square feet of ocean front land has been lost to erosion and the lot depth reduced approximately 13 feet. No SMA permit was issued for the existing improvements within the 25-foot shoreline setback area. The property is located in Zone V-12, an area susceptible to tsunami inundation, and Zone A-4, an area susceptible to flooding. However, the lot has been extensively filled since the 1940's and 50's, that all habitable areas of the proposed residence will be above the regulatory flood elevation.

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1997-06-08-MA-*FEA*-Ihle Single
Family Residence Improvements

FILE COPY

FINAL ENVIRONMENTAL ASSESSMENT

Proposed Single Family Residential Improvements Within the 25-Foot Shoreline Setback Area

Lahaina, Maui, Hawaii
TMK 4-5-03:24



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Prepared for:

Mr. & Mrs. David Ihle
512 Frances Street
Hudson, Wisconsin 54106

Prepared by:

Chris Hart and Partners
Landscape Architecture and Planning
1955 Main Street, Suite 200
Wailuku, Maui, Hawaii 96793
Phone: 242-1955

MAY 1997

FINAL ENVIRONMENTAL ASSESSMENT

Proposed Single Family Residential Improvements Within the 25-Foot Shoreline Setback Area

Lahaina, Maui, Hawaii
TMK 4-5-03:24



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MAY 1997

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
I. INTRODUCTION.....	1
A. Overview of the Proposed Request.....	1
B. Identification of the Applicant.....	1
C. Approving Agency.....	1
D. Property Location, Existing Improvements and Site Conditions	1
E. Land Use Designations.....	3
F. Proposed Action.....	3
II. DESCRIPTION OF THE SURROUNDING ENVIRONMENT.....	4
A. Physical Environment.....	4
1. Topography.....	4
2. Shoreline Conditions	5
3. Flood Zone.....	5
4. Scenic/Visual	5
5. Archaeological/Historical.....	5
6. Flora and Fauna	6
B. Socio-Economic Environment.....	6
1. Overview of the Neighborhood and Surrounding Land Uses.....	6
2. Existing Public Improvements	7
III. IDENTIFICATION AND SUMMARY OF MAJOR IMPACTS AND ALTERNATIVES CONSIDERED.....	8
A. Identification and Summary of Major Impacts and Mitigation Measures.....	8
1. Short-Term	8
2. Long-Term	8
a. Visual Impacts.....	8
b. Historic and Cultural Resources	9
c. Flora and Wildlife.....	9
d. Socio-Economic.....	9
e. Public Facilities and Services	9
f. Infrastructure.....	10
g. Public Beach Access.....	10
h. Water Quality.....	10
i. Marine Resources	10
j. Flood Hazard.....	10
k. Shoreline Beach Processes.....	11

3. Cumulative Impacts.....	11
4. Alternatives Considered.....	11
IV. SHORELINE SETBACK CONSIDERATIONS.....	11
A. Shoreline Setback Determination.....	11
B. Existing Structures within the Shoreline Setback.....	12
C. Criteria for the Granting of a Shoreline Setback Variance	13
D. Reasons Justifying the Proposed Action Within the Shoreline Setback Area.....	13
V. CONCLUSION AND REQUESTED DETERMINATION	15
VI. AGENCIES CONSULTED DURING PREPARATION OF ENVIRONMENTAL ASSESSMENT	17
VII. AGENCIES RESPONDING TO DRAFT ENVIRONMENTAL ASSESSMENT.....	17
VII. REFERENCES.....	18

ATTACHMENTS

- Exhibit 1 - Regional Location Map
- Exhibit 2 - Project Location Map
- Exhibit 3 - Certified Shoreline Survey
- Exhibit 4 - Existing Site Plan and Site Conditions
- Exhibit 5 - Proposed Site Plan
- Exhibit 6 - Planting Plan
- Exhibit 7 - Wading Pool Cross Section
- Photograph 1 - Existing Residence and Shoreline Setback Area (Southeast)
- Photograph 2 - Existing Residence and Shoreline Setback Area (Northwest)
- Photograph 3 - CRM Seawall and Shoreline Area (Southeast)
- Photograph 4 - CRM Seawall and Shoreline Area (Northwest)

Appendix A - Draft EA Comments and Responses

I. INTRODUCTION

A. Overview of the Proposed Request

The applicant is requesting a Shoreline Setback Variance in order to include a wading pool, stone pavers, an 5'6" long extension of a 3' high property boundary wall, and landscape plantings within the 25-foot shoreline setback area. The proposed improvements are components of the overall project, which involves the demolition of an existing two-story single family dwelling and reconstruction of a new one/two-story residential dwelling. Pursuant to Chapter 343, HRS, actions within the shoreline setback area require an Environmental Assessment. This Environmental Assessment has been prepared in accordance with the Administrative Rules of the State of Hawaii Department of Health, EIS Rules, pursuant to the Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui, Chapter 5.

B. Identification of the Applicant

Applicant: Mr. and Mrs. David Ihle
512 Frances Street
Hudson, Wisconsin 54106

Authorized Agent: Chris Hart & Partners
Landscape Architecture and Planning
1955 Main Street, Suite 200
Wailuku, Hawaii 96793

C. Approving Agency

The Maui Planning Commission is the approving agency for the Shoreline Setback Variance and will provide the determination for the Environmental Assessment. (HRS Section 343-5(a); Administrative Rules of the State of Hawaii Department of Health, EIS Rules, Subchapter 4, Section 11-200-4(b); HRS Section 205A-41; Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui, Chapter 5; and Section 8-8.4, Charter of the County of Maui)

D. Property Location, Existing Improvements and Site Conditions

The subject parcel is located on the makai-side of Front Street between Baker Street and Kenui Street and across from the historic Seaman's Hospital. The property's address is 1037 Front Street and is identified by TMK: 4-5-03:24.

See Exhibit Nos. 1 & 2.

The subject property is level and until recently contained a two-story single family dwelling with attached garage, landscape plantings, wooden fencing, rock walls, a wooden patio walkway, and other incidental structures. With the exception of the stone walls and fencing most of these structures have been recently demolished.

See Exhibit No. 3 and Photograph Nos. 1 & 2.

A 8 1/2-foot high sea retaining wall and stairway to the shoreline constructed during the 1940's is situated along the makai-side of the subject property and physically defines the certified shoreline. The area mauka of the wall was filled to a few feet below the top of the wall, and the rock stairway to the shoreline was built probably in the 1950's, when the house lots were created. There has also been an 18 inch vertical addition to the wall that was apparently built sometime between the late 1960's and early 1980's. There are large rocks and boulders along the base of the wall at the shoreline. There is no sand beach in the area immediately seaward of the existing wall.

See Photograph Nos. 3 & 4

According to the certified shoreline map and tax map, the original platted area of the parcel was 8,109 square feet. However, upon completion of a recent shoreline certification, the property size was reduced by approximately 935 square feet, leaving a remainder of approximately 7,174 square feet of land. The 935 square feet of ocean front land was most likely lost to erosion. While the property's width has remained unchanged at 62.57 feet, the property's average lot depth¹ has been reduced from it's original depth of 123.6 feet to approximately 110.3 feet.

The loss along the seaward edge of the property, approximately 13.3 feet, has resulted in a loss of buildable area of the parcel. After applying a 40-foot shoreline setback and other required front and side yard setbacks, the buildable area of the subject lot is reduced to approximately 2,980 square feet, which is less than 50 percent of the remaining lot area of 7,174 square feet (or 3,587 square feet). Therefore, pursuant to Section 12-5-6 (b)(4) of the Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of

¹ "Average Lot Depth" means the measurement obtained by adding the lengths of the two sides of the lot which are at or near right angles with the shoreline to the length of a line obtained by drawing a line from a point in the center of the makai side of the lot to a point in the center of the mauka side of the lot and dividing the resulting sum by three. Section 12-5-5, Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui.

Kahoolawe, Lanai, and Maui, the applicable setback for the subject property is 25 feet.

See Exhibit No. 4.

E. Land Use Designations

- State Land Use Classification: "Urban District"
- Lahaina Community Plan: "Single-Family Residential"
- County Land Zoning District: "R-2 Residential District"
- Special Management Area: The project site is within the Special Management Area (SMA) but does not require a SMA permit. Improvements in the SMA, if related to or accessory to the construction of single-family residence, are not defined as "development," and are exempt from SMA permit requirements (HRS Section 205A-22 (b)(1)).

F. Proposed Action

The applicant is proposing minor improvements within the 25-foot shoreline setback area. The proposed improvements are components of the overall project which involves the demolition of an existing two-story single family dwelling and reconstruction of a new one/two-story residential dwelling.

The proposed improvements within the 25-foot shoreline setback include: (1) a 4-foot-deep wading pool; (2) surface pavers of cut stone laid in a stabilized sand settling bed; (3) the removal of an existing wooden walkway; (4) a 5'6" long extension of an existing 3' high boundary wall along the northern property boundary; and (5) the planting of Areca Palms, Naupaka, Sago Palms, Sun Roses, and Seashore Paspalum.

See Exhibit Nos. 5 & 6

In response to concerns raised by the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources, the wading pool has been raised by 2 feet, in order to reduce the depth of excavation. A cross section of the revised pool plan is shown in Exhibit 7.

The total area within the 25-foot shoreline setback is approximately 1,813 square feet. The wading pool will extend 21 feet into the 25-foot

shoreline setback (from the mauka edge of the 25-foot shoreline setback), and portions of the cut stone deck surface will extend approximately 24 feet into the 25-foot shoreline setback. The new wading pool and cut stone surface will occupy approximately 972 square feet of the shoreline setback area. The remaining 841 square feet of the shoreline setback area includes the existing CRM seawall, the existing CRM stairs to the shoreline, and the five existing Coconut Palms, which will all be left unchanged. The other remaining areas within the shoreline setback will be maintained with new plantings of Areca Palms, Naupaka, Sago Palms, Sun Roses, and Seashore Paspalum. The lot coverage of the proposed improvements within the 25-foot shoreline setback will be approximately as follows:

28% = Existing and new plantings.

54% = Wading pool and cut stone laid in a stabilized sand settling bed.

18% = The existing CRM seawall and the existing CRM stairway to the shoreline presently.

Currently, approximately 34 percent of the 25-foot shoreline setback area of the lot is covered by the existing wooden walkway.

The new residential dwelling will not be situated within the 25-foot shoreline setback. With the exception of the revised wading pool, the proposed improvements within the 25-foot shoreline setback will be at or below the existing grade. The top of the proposed wading pool will match the existing seawall.

II. DESCRIPTION OF THE SURROUNDING ENVIRONMENT

A. Physical Environment

1. Topography

The subject site is an existing improved house lot. The property's elevation on the makai-side is approximately 3 feet below the top of an existing 10-foot high seawall that defines the shoreline. The elevation of the lowest grade adjacent to the former building is 8.0 feet above mean sea level.

Aside from the excavation for the 4-foot deep wading pool, the proposed action will not involve extensive earthwork or modifications to the existing topography and natural drainage patterns. In response to a concern by the State Historic Preservation Division, this pool was raised by two feet in order to avoid the potential for work to extend beneath the modern fill layer. This modification would have the effect of limiting ground alteration work to approximately three feet below grade. See Exhibit 7.

2. Shoreline Conditions

As noted earlier, a 10-foot high sea retaining wall and stairway to the shoreline constructed during the 1940's is situated along the makai-side of the subject property and physically defines the certified shoreline. There are large rocks and boulders along the base of the wall at the shoreline. There is no sand beach in the area immediately seaward of the existing wall. Also, due to the height of the seawall, there is no direct view of the subject parcel from the shore.

See Photograph Nos. 3 & 4.

Given the rocky conditions of the shoreline, the absence of a sandy beach, and the existing 10-foot-high seawall, public access to and along this section of the shoreline is potentially hazardous.

At the Kaanapali-end of the seawall, approximately 500 feet north of the subject parcel, there is an existing sand beach, known as "Baby Beach," with a public access at Kai Pali Place.

3. Flood Zone

The subject site is within an area with a Flood Insurance Rate Map (FIRM) base flood elevation designated at 7.0 feet above mean sea level, in tsunami zone V-12 and flood zone A-4. Since the elevation of the building will be higher than 8.0 feet above mean sea level, all habitable structures will be above the regulatory flood elevation.

4. Scenic/Visual

Due to the height of the seawall, there is no direct view of the subject parcel from the shore. The proposed structural improvements within the 25-foot shoreline setback will be at or below the existing elevation of the seawall, and therefore will not be visually intrusive. Furthermore, due to the height of the seawall, the property is not visible from the base of the seawall along the shoreline.

See Photograph No. 3.

5. Archaeological/Historical

Since the site has been extensively filled, improved, and modified over the years dating back to the 1940's, the probability of finding archaeological or cultural resources is very low. The observed man-made improvements on the property are not of a unique historic character.

The State Historic Preservation Division has expressed concern regarding the potential for work to extend beneath the modern fill which was brought in during the 1940's and 1950's as part of the single family residential development of this area. There is a potential for encountering historic remains beneath this modern fill layer. As a result of these concerns, the proposed improvement plans have been modified by raising the wading pool elevation by approximately two (2) feet. This modification would have the effect of limiting ground alteration work to approximately three (3) feet below grade. Based on these modifications it is very unlikely that the proposed work would extend beneath the modern fill layer and archaeological monitoring during excavation will not be required. However, in the event that the work extends beneath the modern fill layer and historic sites or remains are found, then work shall cease immediately and SHPD's office would be contacted to develop an appropriate mitigation plan.

6. Flora and Fauna

The existing vegetation on the site consists of Coconut Palms and Naupaka. During a site investigation, no animal life was observed at the site. As typical of residential areas, wildlife on the property are likely to include species common to urbanized areas.

B. Socio-Economic Environment

1. Overview of the Neighborhood and Surrounding Land Uses

Over 50 years ago, Pioneer Mill Company developed this section of Front Street. During the 1940's, a continuous 8 1/2-foot-high seawall was constructed along this section of the town. In the 1950's, Pioneer Mill subdivided the shorefront lands for house lots. Over the ensuing years, the area makai of Front Street has retained its single family residential character, while on the mauka side of Front Street, there is a mixture of low-rise multi-family and office/commercial uses.

Specific Surrounding Land uses are:

- Mauka (Across Front Street): The historic Seaman's Hospital, now restored and occupied by Paradise Television, and a one-story restored plantation house that is the office of Uwe H. H. Schulz: Architect.
- Makai-side: Ocean

- North (Kaanapali-side): Existing one and two story single family dwelling.
- South (Lahaina Harbor-side): Existing one and two story single family dwelling.

2. Existing Public Improvements

a. Access

Access to the site is via an existing paved concrete driveway connecting to Front Street.

b. Water

The property is serviced by the County's domestic water system.

c. Sewer

The property is serviced by a sewage collection line that is part of the County's Lahaina Wastewater Treatment System.

d. Telephone and Electric Power

The property is serviced by overhead utility lines located along Front Street.

e. Drainage

Sections of Front Street have drainage improvements, while others are without drainage improvements. Presently, storm water runoff on the subject property is disposed of by natural percolation and sheet flow.

f. Public Beach Access

The nearest public beach access is situated approximately 500 feet north of the subject parcel at Kai Pali Place. This public beach access leads to a sandy beach, known as "Baby Beach."

III. IDENTIFICATION AND SUMMARY OF MAJOR IMPACTS AND ALTERNATIVES CONSIDERED

A. Identification and Summary of Major Impacts and Mitigation Measures

1. Short-Term

- a. As is typical of all projects, there will be short-term impacts during the construction phase, which will include increased dust, noise, and localized traffic inconveniences. Dust control measures such as regular watering and sprinkling will be implemented as needed to minimize the potential impact from wind-blown emissions. Construction activities are planned for low rainfall months and any bare areas will be covered as soon as construction is completed. The applicant proposes to limit construction activities to normal daylight working hours, notify abutting property owners, and adhere to the State Department of Health's noise and air regulations for construction equipment. All sediment and construction debris will be properly disposed of in accordance with State and County regulations.

The applicant will not be required to submit a detailed drainage and soil erosion control plan at the time of application for building permit since the project site is under four acres. Appropriate soil erosion mitigation measures, which will be guided by Maui County Code, Chapter 20.08 "Soil Erosion and Sedimentation Control", will be implemented during the construction of the project to protect downstream properties and to ensure that there will be no adverse impact to nearshore waters. Accordingly, the proposed project is not anticipated to have a significant adverse effect upon Lahaina Town's existing drainage system or adjacent or downstream properties.

- b. The project will provide some employment opportunities during the construction period.

2. Long-Term

a. Visual Impacts

The new residential dwelling will be a one/two story design. The structure will have substantially the same visual impact as the existing one/two story residential dwelling on the subject parcel. The elevations of the new dwelling will relate to and blend in with the existing one/two story residential dwellings

adjoining the subject property, and with the other one/two story residential properties along Front Street.

The proposed structural improvements in the 25-foot shoreline setback will be at or below the existing seawall elevation and will not be visually intrusive. Furthermore, due to the height of the existing seawall, the proposed improvements within the 25-foot shoreline setback will not be visible from the shoreline as viewed from the base of the 10-foot high seawall.

b. Historic and Cultural Resources

Since the site has been extensively filled and improved for residential use over the previous years dating back to the 1940's, adverse impacts on historic or cultural resources are very unlikely to occur. Revisions have been made to the wading pool plans by raising it two feet in elevation in order to avoid the potential for work to occur beneath the modern fill layer. With this modification is very unlikely that historic remains will be encountered. In the event that the work extends beneath the modern fill layer and historic sites or remains are found, then work shall cease immediately and SHPD's office would be contacted to develop an appropriate mitigation plan.

c. Flora and Wildlife

As an existing improved residential lot, the subject property does not support any known rare, endangered, or threatened species of plant, animal, or bird life, and therefore adverse impacts on these resources will not occur.

The five existing Coconut Palms on the property will remain and be integrated in the project's landscape planting plan.

d. Socio-Economic

The overall project involves the reconstruction of a single-family residential dwelling and does not change the existing use of the property, which has been residential for at least 40 years. As such, the proposed project is a continuation of an existing use and therefore will not have an impact upon socio-economic conditions.

e. Public Facilities and Services

The project involves the replacement of an existing residential unit and will not unreasonably burden public utilities to provide service and facilities.

f. Infrastructure

Since the project does not involve an increase in density nor significantly intensify existing use of the subject property, impacts on available public infrastructure (i.e., roads, sewage disposal, and water) will be negligible.

g. Public Beach Access

The proposed improvements on the subject property will not affect any public beach accesses from the street to the shoreline since there are none on or adjacent to the subject property. The proposed improvements will also not affect lateral public shoreline access, since lateral public shoreline access is makai of the seaward face of the 10-foot high seawall on the subject property, and all of the proposed improvements will be located mauka of this seawall. Thus, the proposed improvements will not alter public beach access to the shoreline or lateral public access along the shoreline.

h. Water Quality

Given that the project site is physically isolated from the ocean environment by the seawall, and given the limited excavation and site work involved with the construction of the proposed single family dwelling and its related improvements, any sediment runoff due to drainage will be negligible and will be contained on the property. There will be no adverse impacts to marine water quality.

i. Marine Resources

The seawall, which is approximately three feet higher than the existing grade at the seaward edge of the property, in conjunction with temporary sandbags around the top edge of the existing stairway in the seawall, will effectively trap any sediment runoff which might occur due to construction activities on the project site, and will prevent it from entering the ocean. Given the nature of the proposed use and the limited scale of earth work required for construction, there will be no significant adverse impacts on marine life.

j. Flood Hazard

The new residential structure will be constructed at approximately the same elevation as the existing structure, at approximately 8.0 feet above mean sea level. Thus, the lowest floor of the proposed residential structure will be higher than the 7.0 foot base flood elevation above mean sea level, specified in the Federal Flood Insurance Rate Maps.

k. Shoreline Beach Processes

The project, including work within the 25-foot shoreline setback, will not affect natural beach processes, since it will occur mauka of an existing sea retaining wall which was constructed in the 1940's. This seawall has functioned to artificially fix the shoreline in this area of Front Street.

3. Cumulative Impacts

The overall project, which involves the construction of a new one/two story single family dwelling, represents a continuation of an existing use and therefore will not change the historic use of the subject parcel, nor will it significantly intensify the use of the property. In addition, the site work involved will be limited and not be of a scope to generate significant adverse environmental impacts. The new residential dwelling will be slightly larger than the existing dwelling, but will be in character with the adjoining one/two and two story structures along Front Street. The overall project will not substantially increase demands on public utilities, services, and facilities.

4. Alternatives Considered

The overall project plans incorporate design refinements to achieve a reasonable solution given the limited buildable area and lot depth of the subject parcel.

IV. SHORELINE SETBACK CONSIDERATIONS

A. Shoreline Setback Determination

As noted earlier, according to the certified shoreline map and tax map, the original platted area of the subject parcel was 8,109 square feet. However, approximately 935 square feet of ocean front land has been lost, primarily due to erosion, leaving a remainder of approximately 7,174 square feet of land. While the property's width has remained unchanged at 62.57 feet, the property's average lot depth has been reduced from its original depth of 123.6 feet to approximately 110.3 feet.

The loss along the seaward edge of the property, approximately 13.3 feet, has resulted in a loss of buildable area of the parcel. After applying a 40-foot shoreline setback and other required front and side yard setbacks, the buildable area of the subject lot is reduced to approximately 2,980 square feet, which is less than 50 percent of the remaining lot area of 7,174 square feet (or 3,587 square feet).

Section 12-5-6 (b)(4) of the Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and

Maui, states that "a lot with a buildable area which is reduced to less than fifty percent of the lot area after applying the requirements of this chapter and all other state and county requirements shall have a shoreline setback of twenty-five feet from the shoreline".

Therefore, the applicable shoreline setback for the subject property is twenty-five (25) feet.

B. Existing Structures within the Shoreline Setback

Under the previous Shoreline Setback Rules of the Maui Planning Commission in effect from January 7, 1980, the parcel was subject to a 20-foot shoreline setback requirement. (Article III, Section 6, Shoreline Setback Rules of the Maui Planning Commission) All existing improvements within the 20-foot shoreline setback area were constructed by previous owners sometime between the late 1960's and the early 1980's and included approximately 215 square feet of the existing wooden walkway as well as an approximately 18 inch high addition to the vertical seawall. The subject property was purchased by the Applicant in March 1996.

Under the current Shoreline Setback Rules effective September 8, 1990, the shoreline setback was changed from 20 feet to 25 feet, with the result that the portion of the wooden walkway within the shoreline setback increased from approximately 215 square feet to approximately 611 square feet. Based on consultation with the Planning Department staff, it is likely that the existing wooden walkway was not authorized by a shoreline setback variance.

An 8 1/2-foot high CRM sea retaining wall was built during the 1940's and the CRM stairway to the shoreline was built in the 1950's, after the house lots were created. At some point between the late 1960's and early 1980's an 18-inch addition to the vertical seawall was constructed. See Photo Nos. 3 & 4. This vertical addition was also made on neighboring properties to the north and south. The 18-inch addition appears to be mostly cosmetic and does not retail any fill on the mauka side.

As indicated earlier, this proposed project will include the complete removal of the existing wooden walkway within the 25-foot shoreline setback, thereby eliminating any possible illegality stemming from possible unauthorized construction of the wooden walkway.

The existing CRM sea retaining wall and CRM stairway to the shoreline, will not be altered, and does not require a variance since these structures were completed prior to June 22, 1970. (Section 12-5-11 (a)).

C. Criteria for the Granting of a Shoreline Setback Variance

Pursuant to Section 12-5-13 of Chapter 5, Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui, "a shoreline area variance may be granted for a structure or activity otherwise prohibited by this chapter, if the authority finds...that the proposed structure or activity is necessary for or ancillary to":

- Landscaping, provided that the proposed structure or activity will not adversely affect beach processes and will not artificially fix the shoreline (Sect. 12-5-13 (a) (3)).

No variance shall be granted unless appropriate conditions are imposed:

- To maintain safe lateral access to and along the shoreline or adequately compensate for its loss;
- To minimize risk of adverse impacts on beach processes;
- To minimize risk of structures falling and becoming loose rocks or rubble on public property; and
- To minimize adverse impacts on public views to, from, and along the shoreline. (Section 12-5-13 (c)).

D. Reasons Justifying the Proposed Action Within the Shoreline Setback Area

The following reasons justify the proposed action within the shoreline setback area:

- All of the proposed features within the 25 ft. setback, fall under the definition of landscape features and amenities. Thus, the Maui Planning Commission may grant a variance for the proposed structures based upon a finding that there is no affect on beach processes or potential for altering the shoreline.
- The 10-foot high CRM seawall physically runs along the makai-side of the subject property and other neighboring properties within this section of Front Street and defines the certified shoreline in this area. The overall project, including the proposed work within the 25-foot shoreline setback, will occur mauka of the sea wall and therefore will not artificially fix the shoreline nor will it affect beach processes.

- The subject house lot was established and developed in the 1950's, prior to the enactment of Act 136, Session Laws of Hawaii, 1970, pertaining to shoreline setbacks.
- The new one/two story dwelling unit will be setback at least 25 feet from the shoreline, in accordance with current shoreline setback rules.
- Hazardous conditions exist for public access to and along this section of the shoreline. Within this area, there is no sand beach makai of the 10-foot high sea retaining wall. Also, there are large rocks and boulders at the base of the sea wall. In addition, the shorefront lots are at a much higher elevation (7 feet plus) in relation to the shoreline.
- There is an existing beach right-of-way approximately 500 feet north of the subject parcel at Kai Pali Place to the sand beach known as "Baby Beach."

The imposition of a condition to maintain public beach access is not warranted in this particular case, given the existing unsafe conditions for lateral public access to and along the shoreline.

Although there is no requirement for a finding of hardship for the approval of landscape improvements, the following points are made.

- After applying all applicable setbacks, (front yard = 15 ft., side yard = 6 ft., shoreline setback = 25 ft.), the applicant's lot is reduced significantly.
- The area within the 25 ft. setback represents approximately 25% of the total lot area or 1,813 square feet.
- The applicant is requesting reasonable use of the area within the 25 ft. setback for open space recreation type uses normally associated with a single family dwelling. The applicant is essentially wishing to utilize this portion of the property for typical backyard type uses. The proposed improvements and uses are of minimal intensity and are consistent with the criteria for safeguarding the shoreline area from impacts associated with development.
- Denial of the applicant's request for landscape improvements would leave the property in an undeveloped haphazard state and would render this area of the property useless to the

applicant. The applicant's lot would essentially have no backyard space for private recreational use. Therefore, hardship would result to the applicant by allowing no use of approximately 25% of the property.

In sum, the applicant wishes to utilize the shoreline setback area of the subject property in a manner consistent with the purpose and intent of the shoreline setback rules and regulations and in a manner which is of minimal intensity. The applicant is entitled to reasonable use of this portion of his property in a manner that is consistent with applicable laws and rules.

V. CONCLUSION AND REQUESTED DETERMINATION

Based on the foregoing presentation of facts and analysis, the following conclusion statements can be made:

1. The proposed project and larger action will not involve an irrevocable commitment to loss or destruction to any natural or cultural resources.
2. The proposed project and larger action will not curtail the range of beneficial uses of the environment.
3. The proposed project and larger action will not conflict with the State's long-term environmental policies.
4. The proposed project and larger action will not substantially affect the economic or social welfare of the community or State.
5. The proposed project and larger action will not involve substantial secondary impacts, such as population changes or effects on public facilities.
6. The proposed project will not contribute to substantial degradation of environmental quality.
7. The proposed project will not substantially affect any rare, threatened or endangered species of flora or fauna or habitat. No endangered species of flora or fauna are known to exist in the project site.

8. The proposed project will not detrimentally affect air or water quality or ambient noise levels.
9. The proposed project will be situated within environmentally sensitive areas, namely Zone V-12, an area susceptible to tsunami inundation, and Zone A-4, an area susceptible to flooding. However, since the existing grade of the proposed residence is elevated higher than the regulatory base flood elevation, all habitable areas of the proposed residence will be above the regulatory flood elevation and will comply with all flood and other related requirements.
10. The proposed project is consistent with the West Maui Community Plan, County zoning, shoreline setback regulations, and other applicable policies.

Therefore, the proposed action involving the reconstruction of a single-family dwelling and the "minor" improvements within the 25-foot shoreline setback area is not expected to result in any significant impacts to the environment and a Finding of No Significant Impact in accordance with Chapter 200, of the Department of Health's Administrative Rules is warranted.

VI. AGENCIES CONSULTED DURING PREPARATION OF ENVIRONMENTAL ASSESSMENT

- Department of Planning, County of Maui
- Department of Public Works, County of Maui
- Department of Land and Natural Resources, Land Division, State of Hawaii

VII. AGENCIES RESPONDING TO DRAFT ENVIRONMENTAL ASSESSMENT

(See Appendix A - for Comment Letters and Responses)

STATE OF HAWAII

- Department of Health, Maui.
- Department of Health, Honolulu.
- Department of Land and Natural Resources, Historic Preservation Division.
- Department of Land and Natural Resources, Maui Office
- Department of Business, Economic Development and Tourism, Office of Planning.
- Office of Environmental Quality Control.

COUNTY OF MAUI

- Department of Public Works.

OTHER

- Sierra Club.

VII. REFERENCES

County of Maui, Planning Department, West Maui Community Plan, February 1996.

Federal Emergency Management Agency; Flood Insurance Rate Map, Community Panel Map Number 150003 0163B.

State of Hawaii, Department of Business and Economic Development; Data Book, 1990.

University of Hawaii, Department of Geography, Atlas of Hawaii, Second Edition, 1983.

Exhibits and Photographs

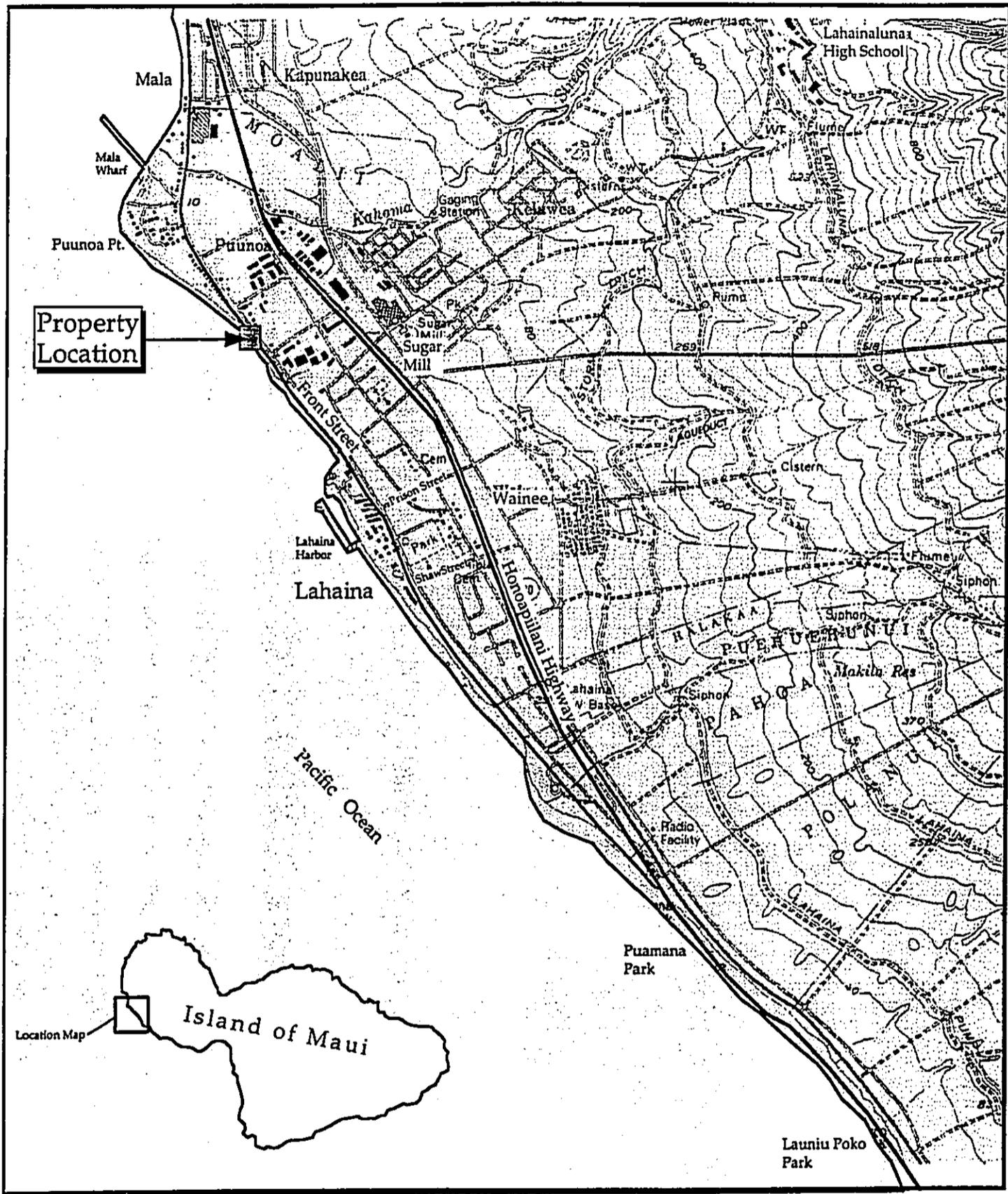


Exhibit 1 - Regional Location Map
 Ihle Residence
 Lahaina, Maui, Hawaii

Scale: 1"=2000'
 Source: U.S.G.S. Map Lahaina Quadrangle

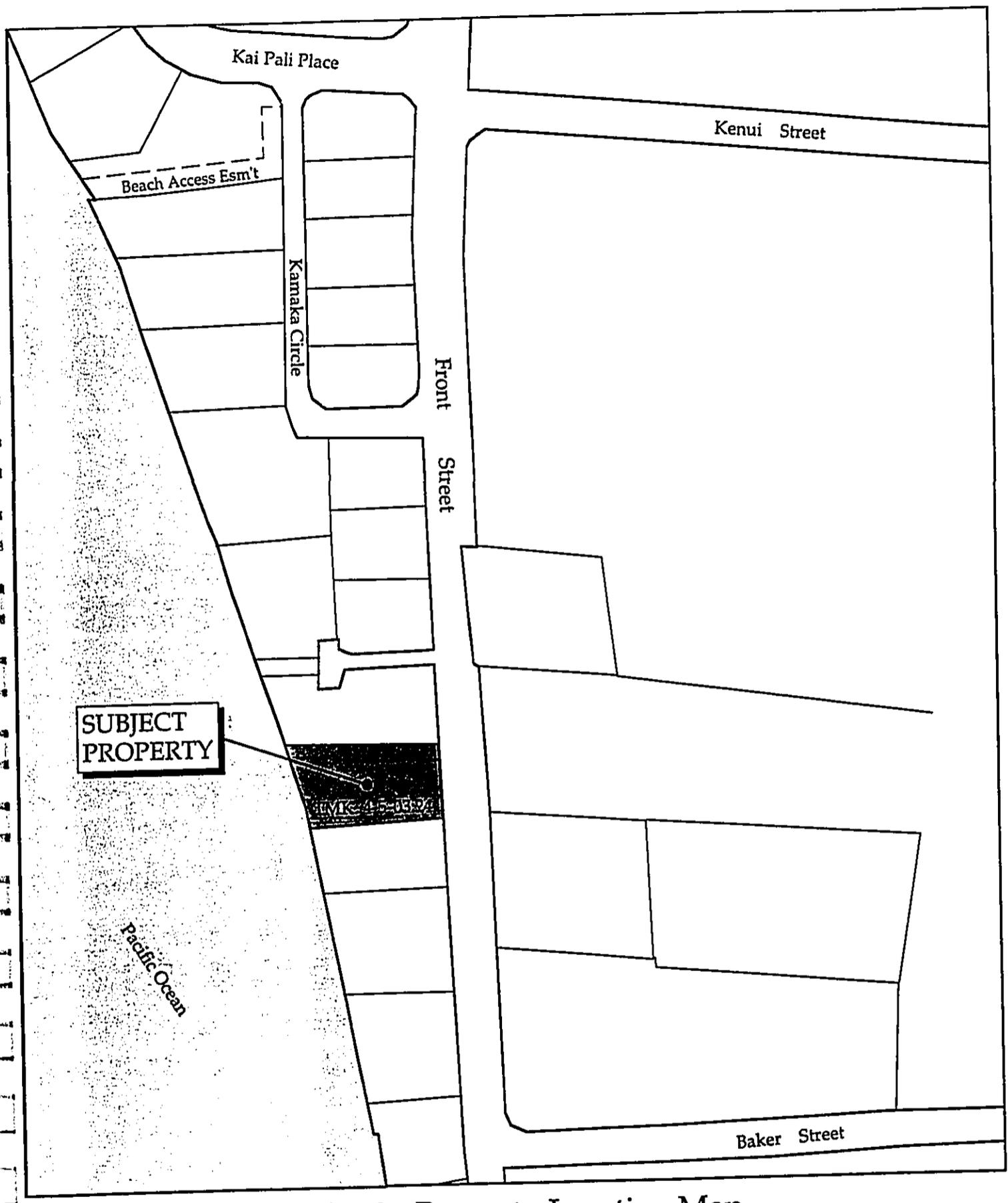


Exhibit 2 - Property Location Map
Ihle Residence
1037 Front Street
Lahaina, Maui, Hawaii



STREET ADDRESS: 1033 FRONT ST.

← To Kaanapali

FRONT STREET

STREET

TRUE NORTH
SCALE: 1" = 20'

324° 40' → 62.57

R. P.

132.71

L. C. A.W.

LOT 7

KIRK A. SHEPARD
(Owner)

to SERANG

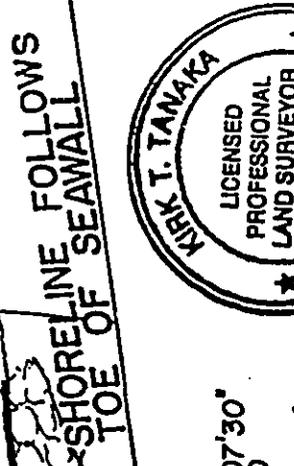
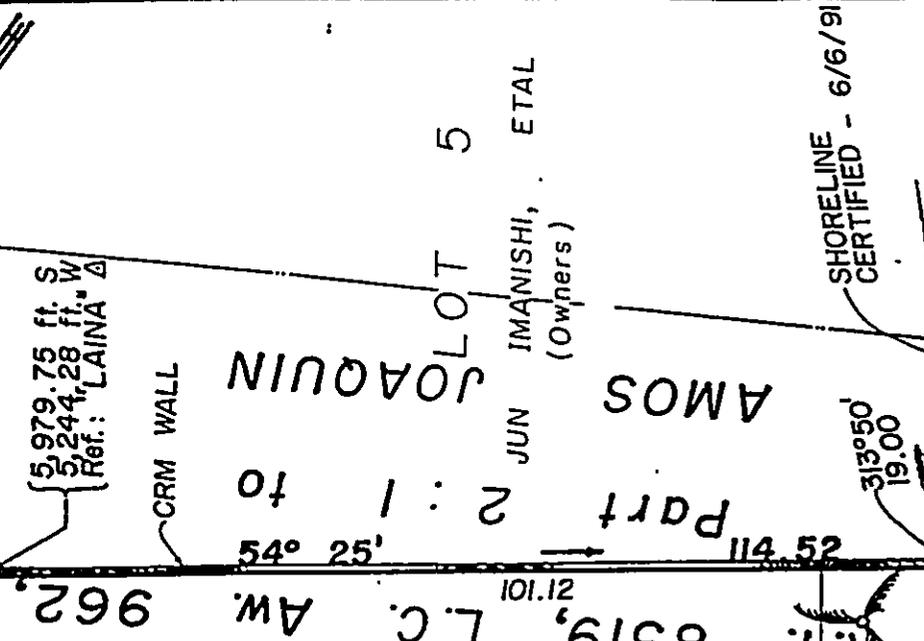
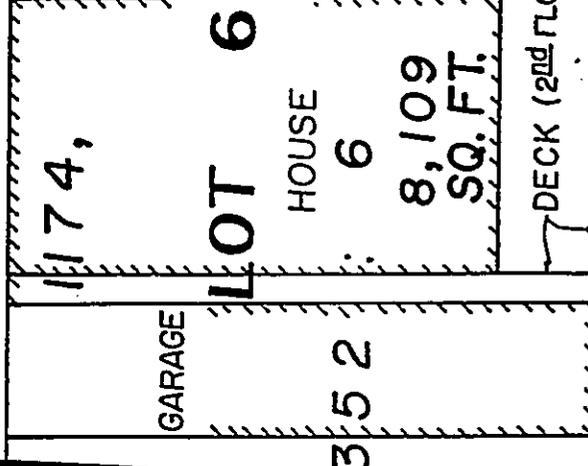
CMU WALL

ROCKY AREA

GRANT 8664

PIONEER MIL

CO., LTD.



136° 07' 30" (17.00 N)

WATERLINE AT ROCKS - 2/21/96

EDGE ROCKS - 2/21/96

128° 28' 28"

3.57

55.53

151.00

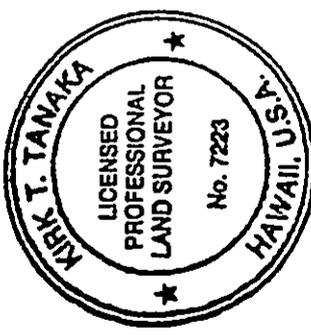
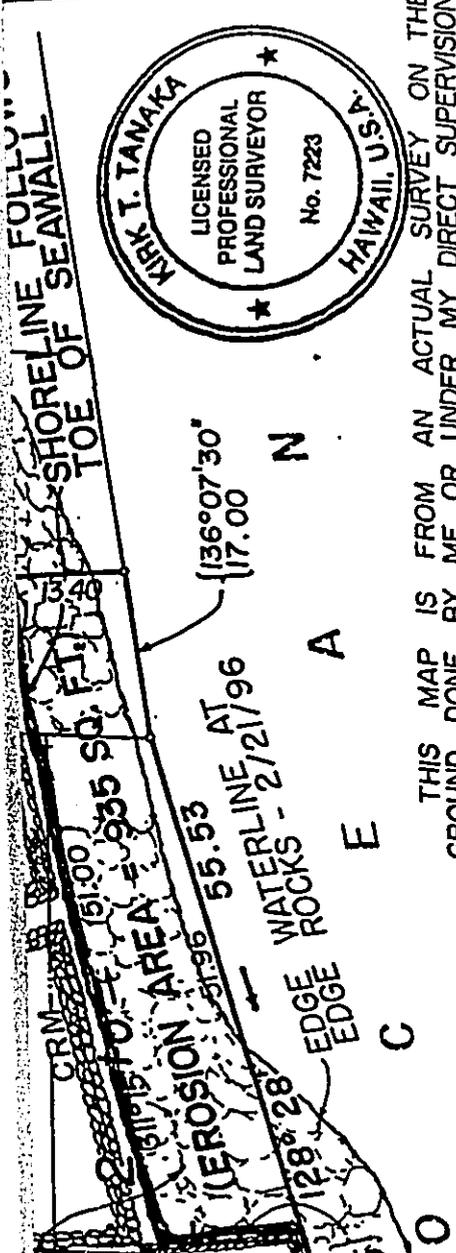
19.00

313° 50'

52

25

GRANT 8664
PIONEER MIL
CO., LTD.



THIS MAP IS FROM AN ACTUAL SURVEY ON THE GROUND DONE BY ME OR UNDER MY DIRECT SUPERVISION.

Owner: JOHNNY I-MON WU
Address: 4F 25 JEN-AI ROAD SEC 4
TAIPEI 106, TAIWAN.

Kirk T. Tanaka
KIRK T. TANAKA
Licensed Professional Land Surveyor
Certificate Number 7223 L.S.
02/28/96
DATE

Shoreline as located and certified and delineated in red is hereby confirmed as being the actual shoreline as of APR 26 1996
Kirk T. Tanaka
Professional Board of Land and Natural Resources

SHORELINE SURVEY
LOT 6,
PUUNOA SUBDIVISION NO. 2

portions of R.P. 8319, L.C. Award 962, Part 2:1 to Amos Joaquin; R.P. 1174, L.C. Award 352:6 to Serang Alias Lani and Grant 8664:2 to Pioneer Mill Company, Limited.

AT LAHAINA, MAUI, HAWAII

Tax Map Key: (2) 4-5-03:24

871 KOLU STREET, SUITE 201
WAILUKU, MAUI, HAWAII - 96793

R. T. TANAKA ENGINEERS, INC.
SURVEYORS - CIVIL & STRUCTURAL ENGINEERS

JOB NO. 96 - 14

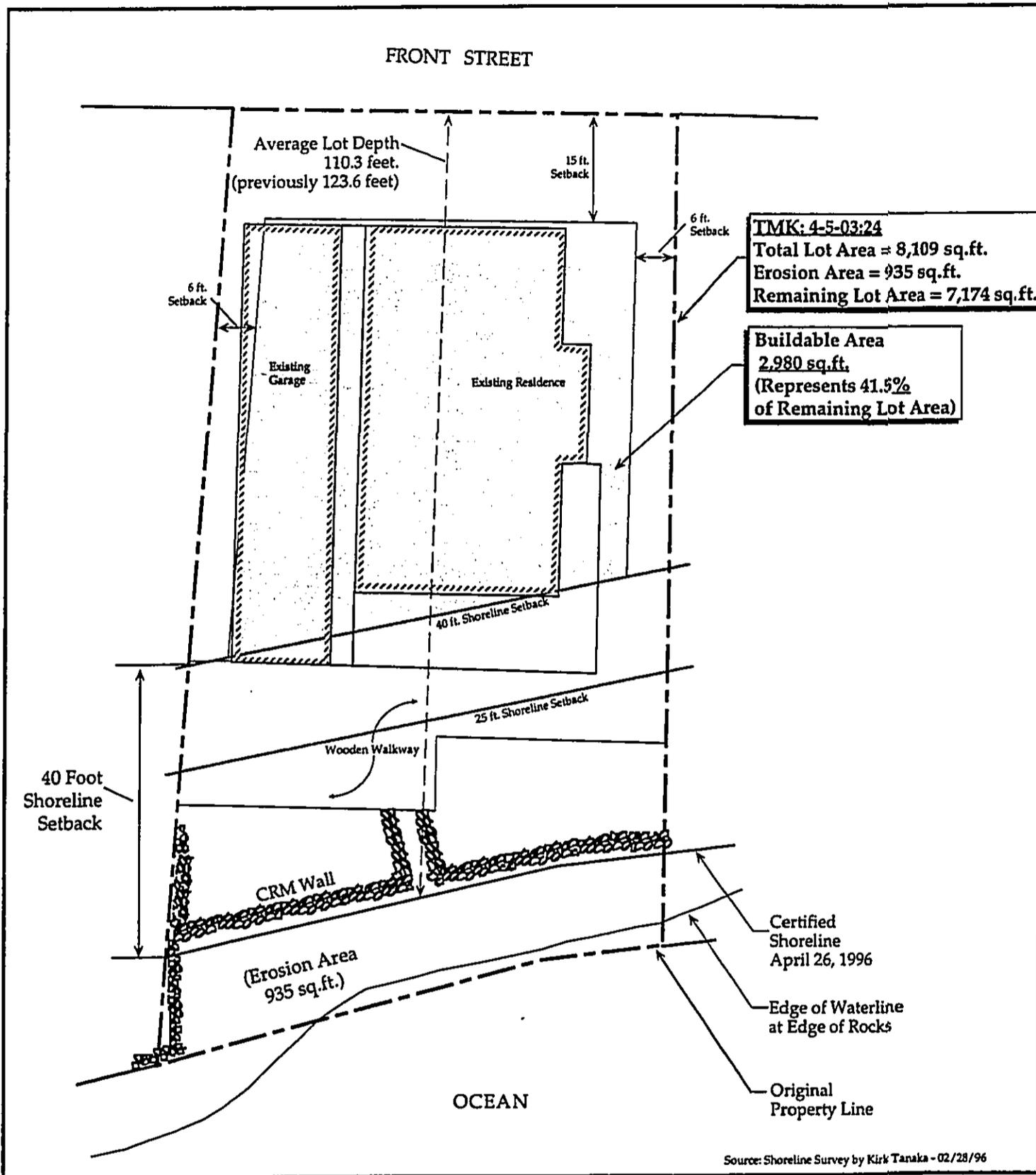
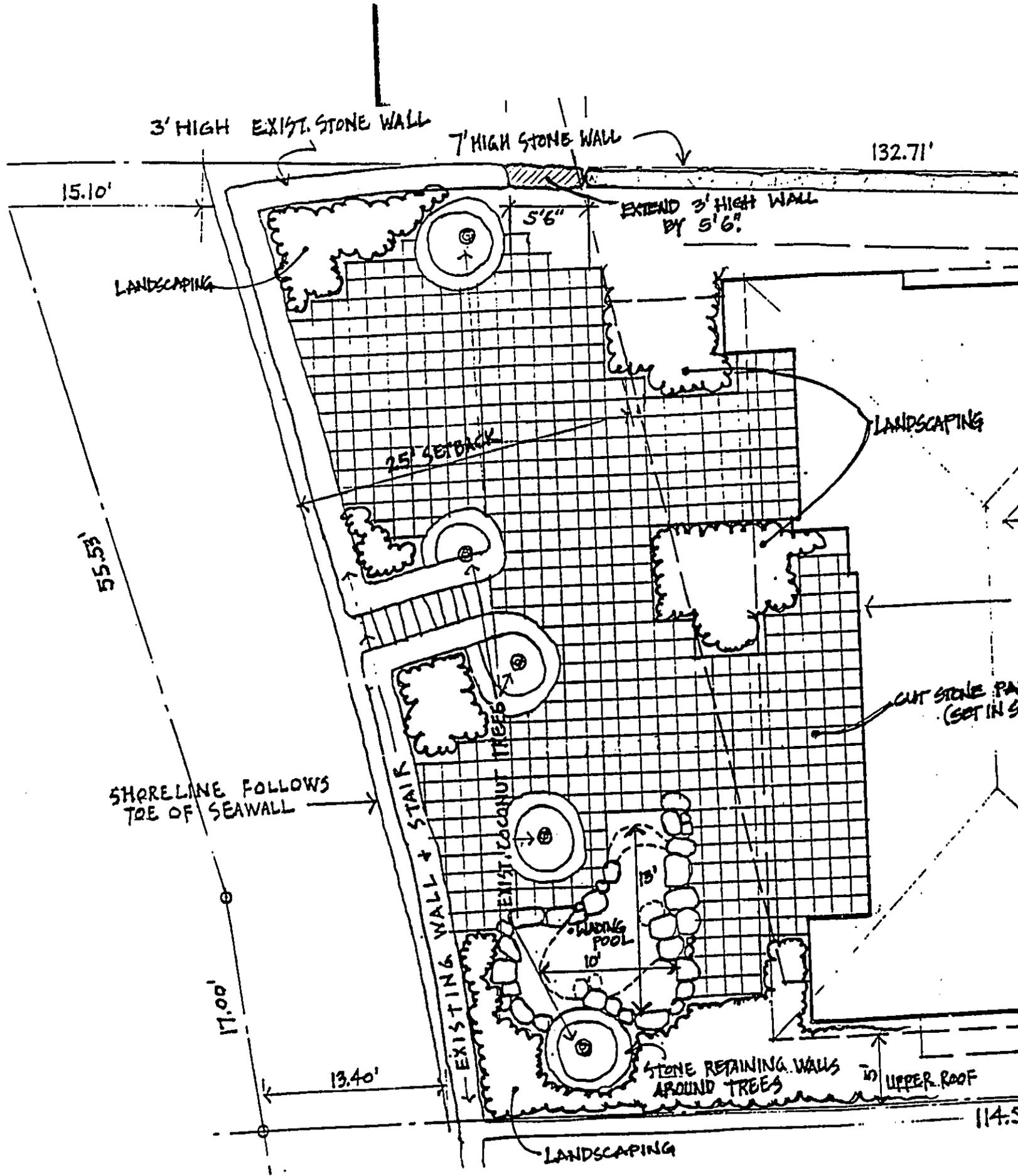


Exhibit 4 - Existing Site Plan & Site Conditions
 Ihle Residence
 Lahaina, Maui, Hawaii

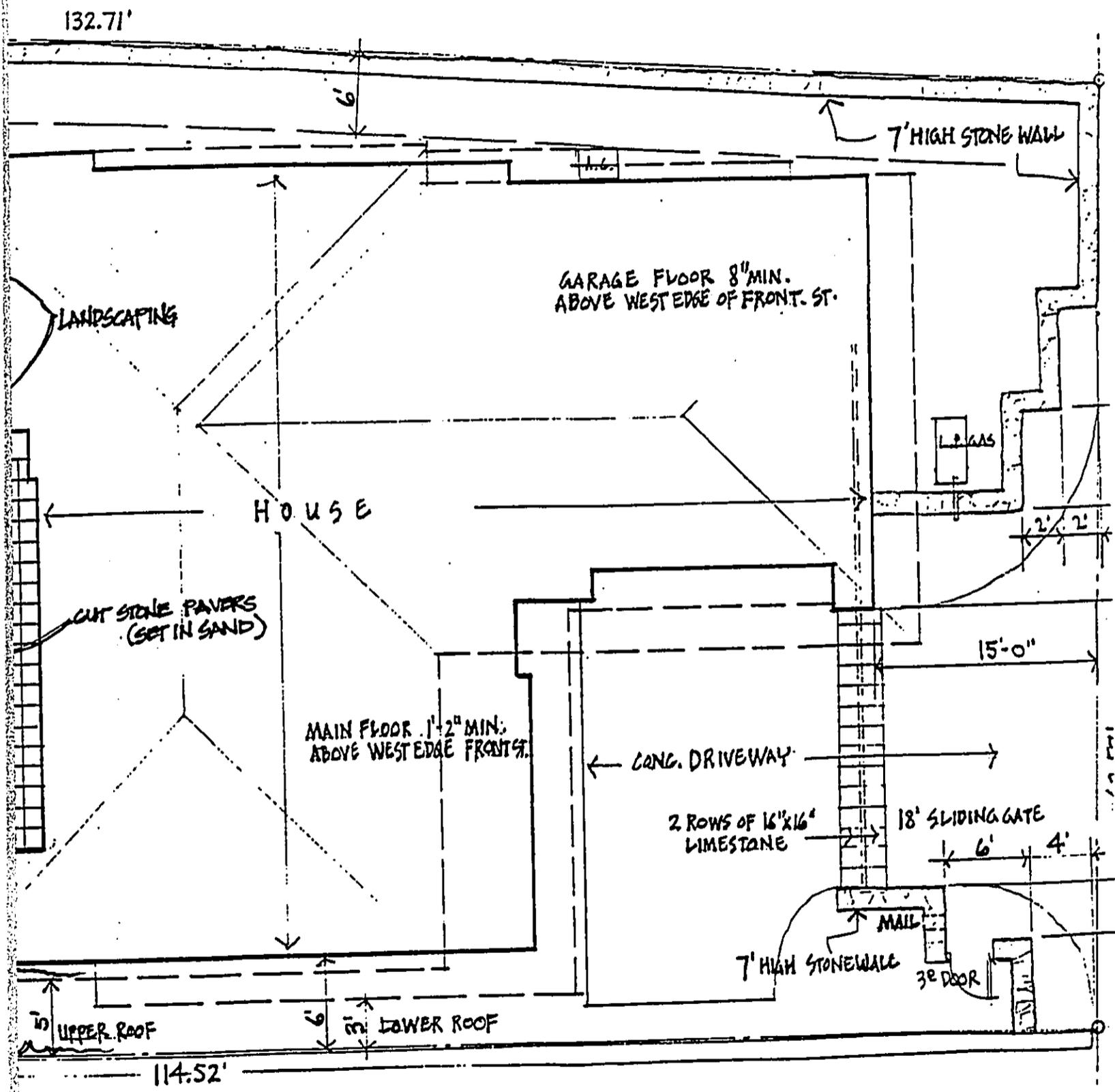
Scale
 1" = approx. 20'



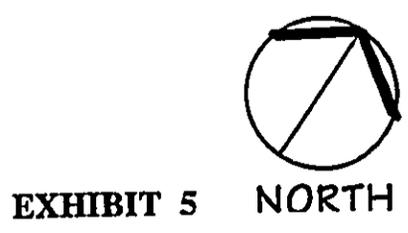


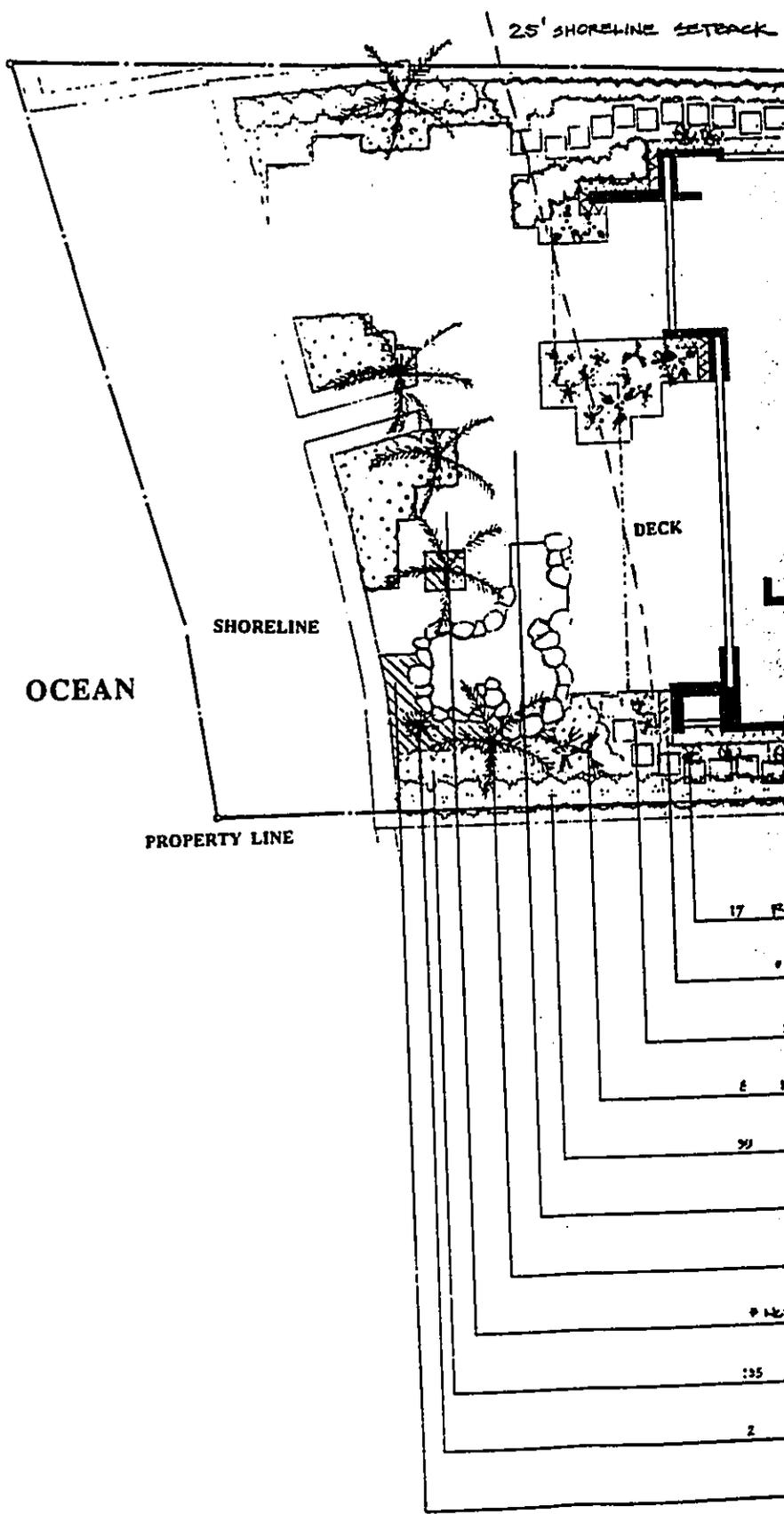
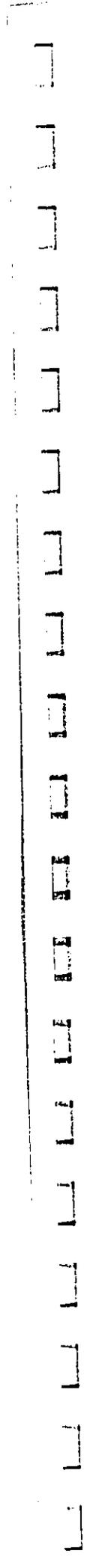
SCALE: 1/8" = 1' - 0"

SITE PLAN - LOT 6 P.U.U.
T.M.K. : 4 - 5 -



LOT 6 PUUNOA SUBDIVISION NO. 2
 K.: 4 - 5 - 03 : 024 LOT 2







LANDSCAPE ARCHITECTS
AND PLANNING

1725 MAIN STREET, SUITE
WAILUKU, MAUI, HAWAII
PHONE: 808-243-1191
FAX: 808-243-1190



Christopher L. Hart
This work was prepared
by me or under my supervision

**IHLE RESIDENCE
LAHAINA, MAUI, HAWAII
TMK (?) 4 - 5 - 03 : 7A**

Date: 8-28-96

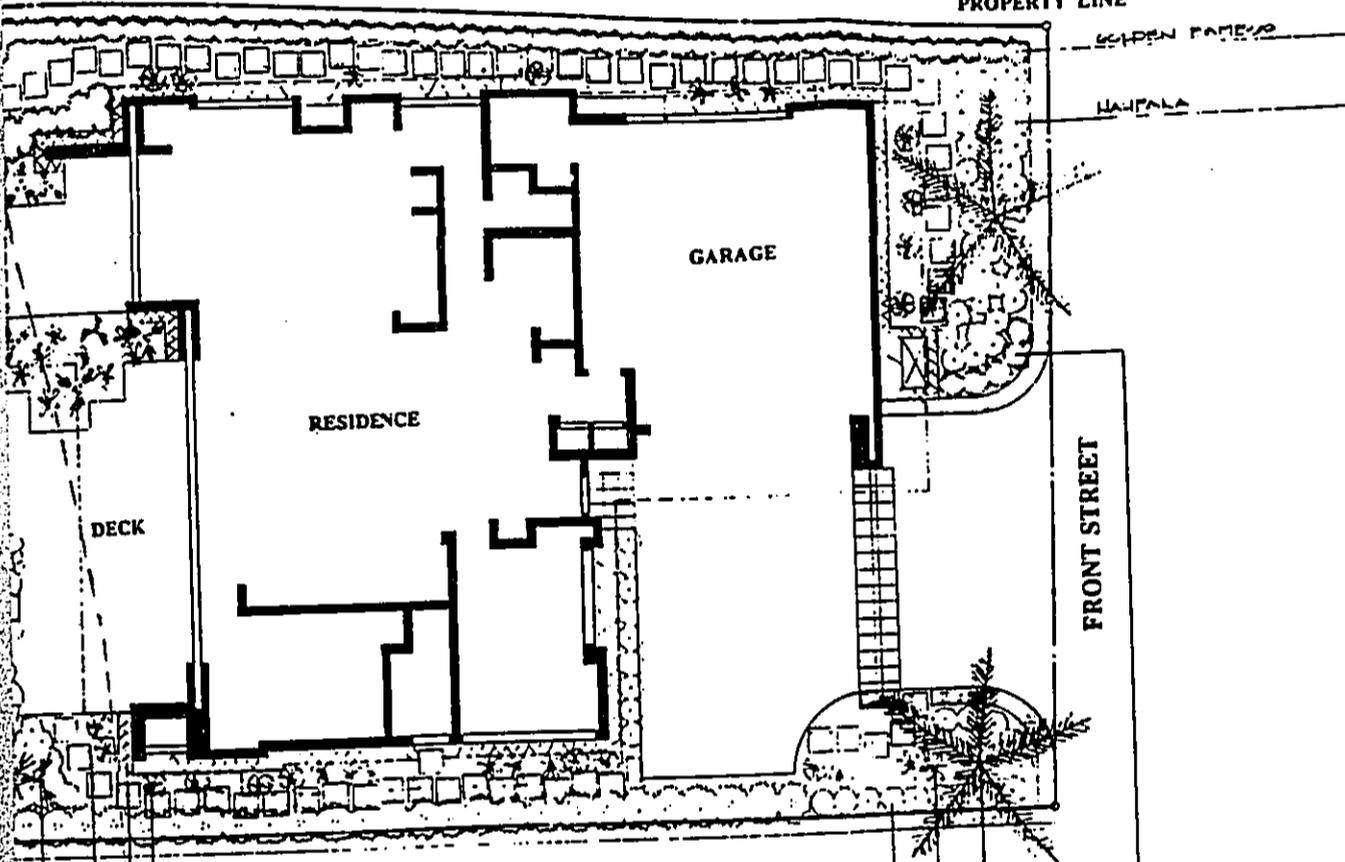
Revisions: _____

Scale: 1/8" = 1' - 0"

Designed By: W.M.

SHORELINE SETBACK

PROPERTY LINE



- 17 RED TI
- 9 12" RIVER ROCK BORDER
- ZOSTERA GRASS
- 6 BAMBOO PALM
- 30 ARECA PALM
- 16" x 16" PIEROLA LIMESTONE
- EXISTING COCONUT PALMS
- * NOTE: PLANTS SET IN SAND
- * OVER WOOD PLT
- 35 NAUPAKA
- 2 SAGO PALM
- SUN ROOF

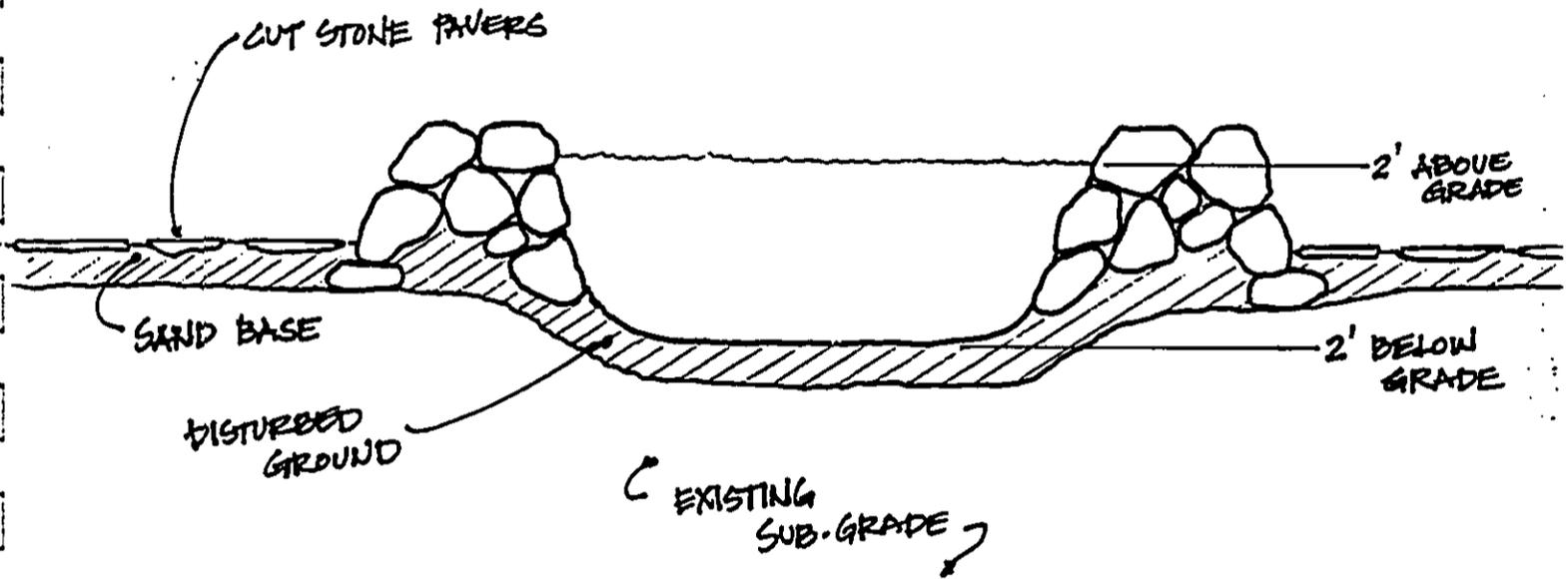
- 23 HEAVENLY BAMBOO
- 21 RED GINGER
- 2 JUNKIES PALM
- 22 GOLDEN BAMBOO



SCALE: 1/8" = 1' - 0"

* REFER TO ARCHITECTURAL PLANS FOR
HANDSCAP. DETAILS FOR POOL AND
DECK AREA.

**Exhibit - 6
Planting Plan**



SECTION THROUGH WADING POOL

SCALE: 1/4" = 1' - 0"



View of Shoreline Setback Area, looking southeast

Photograph - 1

DOCUMENT CAPTURED AS RECEIVED

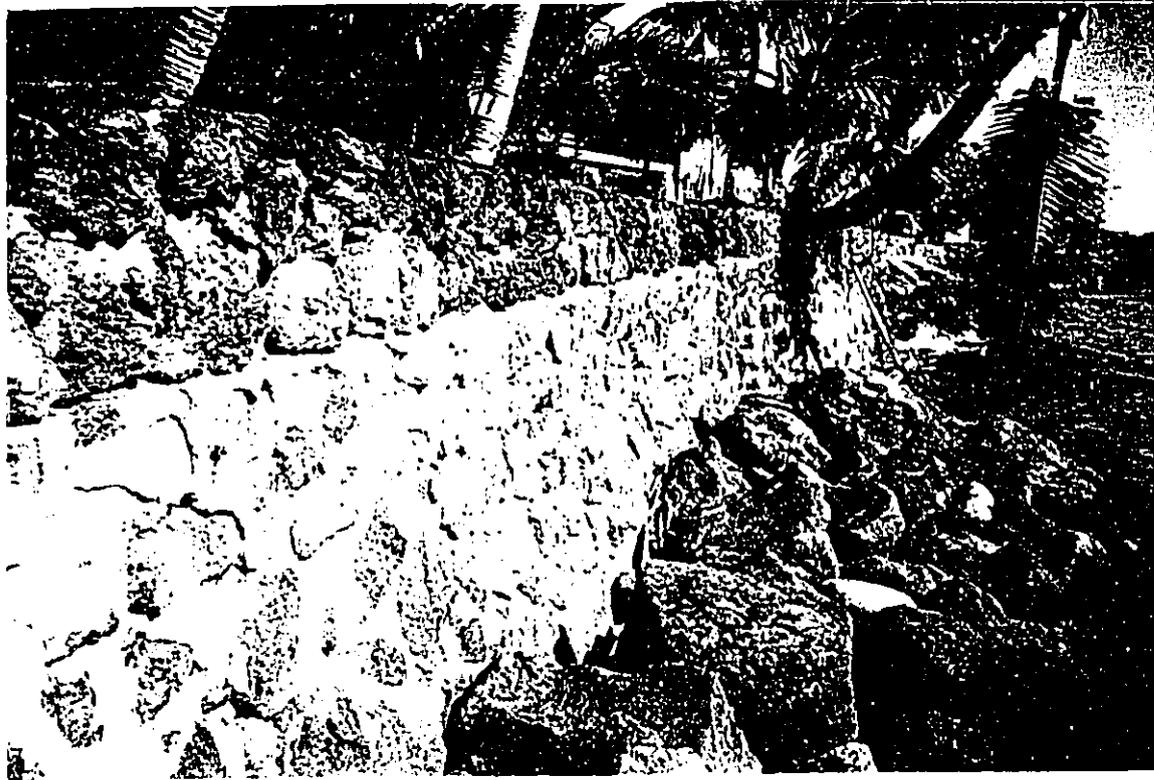


View of Shoreline Setback Area, looking northwest

Photograph - 2

DOCUMENT CAPTURED AS RECEIVED

Photograph - 3



Above, view looking southeast. Below, view looking northwest.



Photograph - 4 View of Shoreline/Seawall

**Appendix A - Draft EA Comment and
Response Letters**



STATE OF HAWAII
DEPARTMENT OF HEALTH
PO BOX 3378
HONOLULU, HAWAII 96801

97 MAR -6 P1:41

February 27, 1997

97-038/epo

Mr. David W. Blane, Planning Director
County of Maui
Planning Department
250 South High Street
Wailuku, Hawaii 96793

Dear Mr. Blane:

Subject: SHORELINE SETBACK VARIANCE APPLICATION AND DRAFT ENVIRONMENTAL ASSESSMENT (DEA)
Project: Ihle Proposed Single Family Residential Improvements Within the 25-foot Shoreline Setback Area
Location: 1037 Front Straat
Lahaina, Maui, Hawaii
THK: 4-5-03: 24

Thank you for allowing us to review and comment on the subject project. We have the following comments to offer:

Polluted Runoff Control

The Department of Health (DOH) is concerned with the implementation of polluted runoff control measures as a means of preventing pollution of the coastal waters. Proper planning, design, and use of erosion control measures and management practices will substantially reduce the total volume of runoff and limit the potential impact to the coastal waters from polluted runoff.

The following practices are suggested to minimize erosion during construction activities:

1. Conduct construction activities during the low rainfall months.

Mr. David W. Blane
February 27, 1997
Page 2

97-038/epo

2. Replant or cover bare areas as soon as construction is completed. New plantings will require soil amendments, fertilizers and temporary irrigation to become established. Use high planting and/or seeding rates to ensure rapid stand establishment.

3. Properly dispose of sediment and debris from construction activities.

Should you have any questions regarding these comments, please contact Mr. Arthur Bauckham of the Environmental Planning Office at 586-4337.

Sincerely,

BRUCE S. ANDERSON, Ph.D.
Deputy Director for Environmental Health



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

OFFICE OF PLANNING

215 South Beretania Street, 6th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

BENJAMIN J. CAVEVA
DIRECTOR
BRADLEY J. MOSSA
DEPUTY DIRECTOR
RICK EGGER
DIRECTOR OFFICE OF PLANNING

97 MAR 11 P 1:36
Tel: (808) 587-28
Fax: (808) 587-28

May 7, 1997

Mr. Bruce S. Anderson, Ph. D.
Deputy Director for Environmental Health
Department of Health
State of Hawaii
P. O. Box 3378
Honolulu, Hawaii 96801

Re: Draft Environmental Assessment for the Ihle Shoreline Setback
Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Anderson:

Thank you for your comment letter dated February 27, 1997 regarding the Draft Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024). We will include your specific recommendations to minimize erosion during construction activities as identified mitigation measures in the Final Environmental Assessment.

Thank you for your time and consideration. If you have any questions or need additional information, please contact myself or Mr. Chris Hart of our office at 244-1955.

Sincerely,

Rory Thompson
Rory Thompson, Planner

cc: Mr. & Mrs. David Ihle
Ms. Julie Higa, Planning
Project File

LANDSCAPE ARCHITECTURE AND PLANNING

1955 MAIN STREET, SUITE 200 - WAILUKU MAUI HAWAII 96793-1700 - PHONE: 808-242-1955 - FAX: 808-242-1154

Ref. No. P-6536

March 5, 1997

Mr. David W. Blane
Planning Director
Planning Department
County of Maui
250 South High Street
Wailuku, Hawaii 96793

Dear Mr. Blane:

Subject: Draft Environmental Assessment (EA) for the Ihle Shoreline Setback Variance,
TMK-4-5-03:34

We have the following comments to offer on the EA.

The discussion on pages 1-4 seems incomplete and, therefore, raises questions. On page 2 of the document, for example, reference is made to a 10-foot high retaining seawall that was constructed in 1940. It appears from Photograph 3 that the wall was raised by a few feet. However, the EA does not discuss this modification. Similarly, while the EA references the loss of 935 square feet from erosion, it does not substantiate erosion as the cause, especially since the seawall was reported to have been constructed in 1940. These concerns and the photographs of the existing wooden walkway suggest violations of the Shoreline Setback law. The County should further investigate the matter and report on its monitoring and enforcement actions.

Section 205A-46, Hawaii Revised Statutes, establishes the basis for granting variances to the prohibition of the Shoreline Setback law. A key legal consideration relative to the proposal is the demonstration of hardship if the improvements in the shoreline setback area are not allowed. In our view, the proposed amenities may not be appropriate uses to substantiate hardship. However, if the County decides to allow some of the amenities in the shoreline setback area, the encroachment within the 25-foot area should not be allowed to the extent shown in the photographs, and that seawalls and other structures to protect the proposed improvements in the shoreline setback area from storms and other hazards will not be allowed.

If there are any questions, please call Christina Meller of our Coastal Zone Management Program at 587-2845.

Sincerely,

Christina Meller
Rick Egger
Director
Office of Planning



Mr. Rick Egged, Director
Office of Planning
Department of Business, Economic Development & Tourism
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

4) Pursuant to Section 12-5-13 of Chapter 5, rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui, "a shoreline variance may be granted for a structure or activity otherwise prohibited by this chapter, if the authority finds ... that the proposed structure or activity is necessary for or ancillary to:

Mr. Rick Egged, Director
Office of Planning
Department of Business, Economic Development & Tourism
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

May 7, 1997

Re: Draft Environmental Assessment for the Ikle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Egged:

In response to your comment letter dated March 5, 1997 regarding the Draft Environmental Assessment (EA) for the Ikle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024), we have the following responses:

- 1) It does appear that the existing seawall was added to at some point in the past. The approximately 18 inch high addition was also made on neighboring properties to the north and south. The improvements on the subject property were made by previous owners who last held title to the property at least ten years ago. The action could have occurred anytime between the late 1960's and early 1980's. This portion of the seawall is not structural and does not retain any fill on the mauka side. A discussion of the 18 inch high addition will be included in the Final Environmental Assessment.
- 2) It will be clarified that the loss of the 935 square feet of the property from the makai section of the parcel was most likely as a result of erosion. It is unlikely that the original parcel deed would have transferred ownership of 935 square feet of entirely submerged lands. It can be assumed that a portion of this area was beach. The fact is that the April 1996 shoreline certification for the property resulted in a reduction of the parcel by 935 square feet.
- 3) The construction and proposed removal of the wooden walkway is discussed in the DEA on page 11.

- (3) Landscaping: provided that, the authority finds that the proposed structure or activity will not adversely affect beach processes and will not artificially fix the shoreline;

All of the proposed features within the 25 ft. setback, fall under the definition of landscape features and amenities. Thus, the Maui Planning Commission may grant a variance for the proposed structures based upon a finding that there is no effect on beach processes or potential for altering the shoreline. As presented in the Environmental Assessment, due to the existing conditions at the property, i.e. the presence of the 10 ft. high seawall, none of the proposed improvements will have any effect on beach processes or the shoreline.

With regards to your specific question regarding hardship we make the following points:

- After applying all applicable setbacks, (front yard = 15 ft., side yard = 6 ft., shoreline setback = 25 ft.), the applicants lot is reduced significantly.
- The area within the 25 ft. setback represents approximately 25% of the total lot area.
- The applicant is requesting reasonable use of the area within the 25 ft. setback for open space recreation type uses normally associated with a single family dwelling. The applicant is essentially wishing to utilize this portion of the property for typical backyard type uses. The proposed improvements and uses are of minimal intensity and are consistent with the criteria for safeguarding the shoreline area from impacts associated with development.
- Denial of the applicant's request for landscape improvements would leave the property in an undeveloped haphazard state and would render this area of the property useless to the applicant. The applicant's lot would essentially have no backyard space for private

recreational use. Therefore, hardship would result to the applicant by allowing no use of approximately 25% of the property.

- 5) The applicant is aware that any future requests for seawalls or other structures in order to protect the proposed improvements would not be allowed. The proposed improvements within the shoreline setback area are of minimal value (approximately \$10,000) and therefore would not provide a strong impetus for such additional protective structures.

Thank you for your time and consideration. If you have any questions or need additional information, please contact myself or Mr. Chris Hart of our office at 244-1955.

Sincerely,

Royce Frampton
Royce Frampton, Planner

cc Mr. & Mrs. David Ihle
Ms. Julie Higa, Planning

REJUANNE J. CARTER
DIRECTOR



STATE OF HAWAII
DEPARTMENT OF HEALTH
MAUI DISTRICT HEALTH OFFICE
54 HOH STREET
WAILUKU, MAUI, HAWAII 96793

March 7, 1997

Mr. David W. Blane
Director
Planning Department
County of Maui
250 South High Street
Wailuku, Hawaii 96793

Dear Mr. Blane:

Subject: Ihle Shoreline Setback Variance
EA-970001 and SSV-970001
THK: (2)4-5-03:24, Lahaina

Thank you for the opportunity to review and comment on the application requesting a Shoreline Setback Variance. We have the following comments to offer:

- 1. Any construction discharge into state waters will require a National Pollutant Discharge Elimination System (NPDES) permit.
- 2. Backwash water from the wading pool should be disposed of properly and in a manner where it would not be discharged into the ocean.
- 3. The applicant should review Hawaii Administrative Rules, Chapter 11-46, "Community Noise Control". Activities during the construction phase of the project will have to comply with these rules.

Should you have any questions, please call me at 984-8230.

Sincerely,

HERBERT S. MATSUBAYASHI

HERBERT S. MATSUBAYASHI
District Environmental Health Program Chief

c: Art Bauckham, EPO

LAWRENCE HARRIS
DIRECTOR OF HEALTH
97 MAR 11 11:41 AM '97
LAWRENCE HARRIS, D.O., M.P.H.
DISTRICT HEALTH OFFICER



Mr. Herbert S. Matsubayashi
District Environmental Health Program Chief
Maui District Health Office, Department of Health
State of Hawaii
5A High St.
Wailuku, Hawaii 96793

May 7, 1997

Re: Draft Environmental Assessment for the Ihle Shoreline Setback
Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Matsubayashi:

In response to your comment letter dated March 7, 1997 regarding the Draft
Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina,
Maui, Hawaii (TMK 4-5-03: 024), we have the following responses:

- 1) There will be no construction discharge into state waters and therefore
a National Pollutant Discharge Elimination System (NPDES) permit
will not be required.
- 2) Backwash water from the wading pool will be minimal since the pond
is not designed for active swimming and diving activities. Any
backwash that does occur will fall on the immediate surrounding area
which consists of either landscape plantings or a mortarless surface of
cut stone pavers. Both of these surfaces are permeable and will not
result in runoff into the ocean. In addition, the existing seawall will
prevent runoff from this pool area from entering the ocean.
- 3) Activities during the construction phase of the project will comply
with Chapter 11-46, "Community Noise Control", Hawaii's
Administrative Rules.

Thank you for your time and consideration. If you have any questions or
need additional information, please contact Mr. Chris Hart or myself at 244-
1955.

Sincerely,

Rory Frampton, Planner

cc Mr. & Mrs. David Ihle
Ms. Julie Higa, Planning

Mr. Herbert S. Matsubayashi
Department of Health
Ihle Environmental Assessment
May 6, 1997
Page 2

MOA of
Mayor

CHARLES JENCKS
Director

DAVID C. GOODE
Deputy Director

AARON SHIMOTO, P.E.
Chief Staff Engineer



MAR 21 10 33 AM '97

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

March 14, 1997

MEMO TO: DAVID W. BLANE, DIRECTOR OF PLANNING

FROM: CHARLES JENCKS, DIRECTOR OF PUBLIC WORKS AND WASTE MANAGEMENT

SUBJECT: SHORELINE SETBACK VARIANCE APPLICATION AND DRAFT ENVIRONMENTAL ASSESSMENT
IHLE, DAVID/MARJORIE
SSV-97/001 AND EA-97/001

We reviewed the subject application and have the following comments.

1. Inform owner that by ordinance the discharge of the wading pool shall not be allowed to connect to the County wastewater system.
2. A flood development permit, no. 97FDP0016, has been issued for the proposed project.
3. In reference to the draft Environmental Assessment, page 7, paragraph II.A.1.a, a drainage and erosion control plan will not be required for the subject residential building permit application since the residential project is less than four acres. The project is exempted from the requirement by Section 20.08.030D of the Maui County Code.

If you have any questions, please call David Goode at 243-7845.

DG:co/mt

xc: Engineering Division
Solid Waste Division
Wastewater Reclamation Division

G:\LUCA\ICZ\MHLE.WPD

MAUI
Land Use and Codes Administration

EASSIE MILLER, P.E.
Wastewater Reclamation Division

LLOYD P.C.W. LEE, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

Solid Waste Division



May 7, 1997

Mr. Charles Jencks, Director
Department of Public Works and Waste Management
County of Maui
200 S. High Street
Wailuku, Hawaii 96793

Re: Draft Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Jencks:

In response to your comment letter dated March 14, 1997 regarding the Draft Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024), we offer the following response to comment No. 1.

The owner is aware that the discharge of the wading pool shall not be allowed to connect to the County wastewater system. Backwash water from the wading pool will be minimal since the pond is not designed for active swimming and diving activities. Any backwash that does occur will fall on the immediate surrounding area which consists of either landscape plantings or a mortarless surface of cut stone pavers. Both of these surfaces are permeable and will not result in runoff into the ocean. In addition, the existing seawall will prevent runoff from this pool area from entering the ocean. In the event that the wading pool water needs to be replaced, the water will be pumped into a disposal truck and properly disposed of.

Thank you for your time and consideration. If you have any questions or need additional information, please contact myself or Mr. Chris Hart of our office at 244-1955.

Sincerely,

Bryn Hampton, Planner

cc: Mr. & Mrs. David Ihle
Ms. Julie Higa, Planning

LANDSCAPE ARCHITECTURE AND PLANNING
1955 MAIN STREET, SUITE 200 - WAILUKU, MAUI, HAWAII 96793-1700 - PHONE: 808.242.1955 - FAX: 808.242.1954



SIERRA CLUB, HAWAII CHAPTER

P.O. Box 2577,
Honolulu, Hawaii 96803
(808) 538-6616

97 MAR 25 P2:36

Dabbi Blane
County of Maui
250 S. High St.
Maluku, HI 96793

Dear Mr. Blane,

RE: Ihle Shoreline Setback Variance

What hardship would justify the construction of a wading pool in the shoreline setback area? If the applicant is already making reasonable use of the property, why would a variance be justified?

Sincerely,

David Kimo Frankel
David Kimo Frankel
Director



May 7, 1997

Mr. David Kimo Frankel, Director
Sierra Club - Honolulu
P. O. Box 2577
Honolulu, Hawaii 96803

Re: Draft Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Frankel:

In response to your comment letter undated and received on March 25, 1997, regarding the Draft Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024), we have the following response.

Pursuant to Section 12-5-13 of Chapter 5, rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui, "a shoreline variance may be granted for a structure or activity otherwise prohibited by this chapter, if the authority finds ... that the proposed structure or activity is necessary for or ancillary to:

- (3) Landscaping; provided that, the authority finds that the proposed structure or activity will not adversely affect beach processes and will not artificially fix the shoreline;

All of the proposed features within the 25 ft. setback, fall under the definition of landscape features and amenities. Thus, the Maui Planning Commission may grant a variance for the proposed structures based upon a finding that there is no effect on beach processes or potential for altering the shoreline. As presented in the Environmental Assessment, due to the existing conditions at the property, i.e. the presence of the 10 ft. high seawall, none of the proposed improvements will have any effect on beach processes or the shoreline.



97 APR -7 P 1:11
STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

226 SOUTH BENTLEY STREET
HONOLULU, HAWAII 96813
TELEPHONE (808) 546-1185
FACSIMILE (808) 546-1184

GARY GILL
DIRECTOR

With regards to your specific question regarding hardship we make the following points:

- After applying all applicable setbacks, (front yard = 15 ft., side yard = 6 ft., shoreline setback = 25 ft.), the applicants lot is reduced significantly.
- The area within the 25 ft. setback represents approximately 25% of the total lot area.
- The applicant is requesting reasonable use of the area within the 25 ft. setback for open space recreation type uses normally associated with a single family dwelling. The applicant is essentially wishing to utilize this portion of the property for typical backyard type uses. The proposed improvements and uses are of minimal intensity and are consistent with the criteria for safeguarding the shoreline area from impacts associated with development.
- Denial of the applicant's request for landscape improvements would leave the property in an undeveloped haphazard state and would render this area of the property useless to the applicant. The applicant's lot would essentially have no backyard space for private recreational use. Therefore, hardship would result to the applicant by allowing no use of approximately 25% of the property.

In sum, the applicant wishes to utilize the shoreline setback area of the subject property in a manner consistent with the purpose and intent of the shoreline setback rules and regulations and in a manner which is of minimal intensity. We feel that the applicant is entitled to reasonable use of this portion of his property in a manner that is consistent with applicable laws and rules.

Thank you for your time and consideration. If you have any questions or need additional information, please contact myself or Mr. Chris Hart of our office at 244-1955.

Sincerely,

Rory Frampton
Planner

cc: Mr. & Mrs. David Ihle
Ms. Julie Higa, Planning

April 3, 1997

Mr. David Blane, Director
Planning Department
County of Maui
250 South High Street
Wailuku, Hawaii 96793

Dear Mr. Blane:

Subject: Comments on the Draft Environmental Assessment for the Ihle Shoreline Setback Variance

Thank you for the opportunity to review the subject document. We have the following comments and questions.

1. On exhibit 5, please show in explicit detail the proposed improvements within the shoreline setback area.
2. According to Chapter 205A, Hawaii Revised Statutes, the applicant is required to show that "hardship" will result if the improvements are not allowed in the shoreline setback area. How does the county shoreline setback ordinance define "hardship"? How does this applicant meet the county's "hardship" standard?

Should you have any questions, please call Jeyan Thiruganam at 586-4185. Mahalo.

Sincerely,

Gary Gill
Director

cc: Mr. and Mrs. David Ihle
Chris Hart and Partners



CHRIS
HART
& PARTNERS

May 7, 1997

Mr. Gary Gill, Director
Office of Environmental Quality Control
State of Hawaii
State Office Tower, Suite 702
Honolulu, Hawaii 96813

Re: Draft Environmental Assessment for the Ihle Shoreline Setback
Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Gill:

In response to your comment letter dated April 3, 1997 regarding the Draft
Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina,
Maui, Hawaii (TMK 4-5-03: 024), we have the following responses:

- 1) Figure 5 has been amended to provide better detail of the proposed
improvements within the shoreline setback area.
- 2) Pursuant to Section 12-5-13(a) of Chapter 5, rules of the Maui Planning
Commission Relating to the Shoreline Area of the Islands of
Kahoolawe, Lanai, and Maui (hereinafter referred to as the "Rules"), "a
shoreline variance may be granted for a structure or activity otherwise
prohibited by this chapter, if the authority finds ... that the proposed
structure or activity is necessary for or ancillary to:
...
(3) Landscaping; provided that, the authority finds that the proposed
structure or activity will not adversely affect beach processes and will
not artificially fix the shoreline;
...
(8) Private facilities or improvements which will neither adversely
affect beach processes nor artificially fix the shoreline; provided that,
the authority also finds that hardship will result to the applicant if the
facilities or improvements are not allowed within the shoreline area;"

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Mr. Gary Gill, Director
Office of Environmental Quality Control
May 7, 1997
Page 2

All of the proposed features within the 25 ft. setback, fall under the
definition of landscape features and amenities. Thus, the Maui
Planning Commission may grant a variance for the proposed
structures based upon a finding that there is no effect on beach
processes or potential for altering the shoreline. As presented in the
Environmental Assessment, due to the existing conditions at the
property, i.e. the presence of the 10 ft. high seawall, none of the
proposed improvements will have any effect on beach processes or the
shoreline.

With regards to your specific question regarding hardship we make the
following points:

- After applying all applicable setbacks, (front yard = 15 ft., side
yard = 6 ft., shoreline setback = 25 ft.), the applicants lot is reduced
significantly.
- The area within the 25 ft. setback represents approximately 25%
of the total lot area or 1,813 square feet.
- The applicant is requesting reasonable use of the area within the
25 ft. setback for open space recreation type uses normally associated
with a single family dwelling. The applicant is essentially wishing to
utilize this portion of the property for typical backyard type uses. The
proposed improvements and uses are of minimal intensity and are
consistent with the criteria for safeguarding the shoreline area from
impacts associated with development.
- Denial of the applicant's request for landscape improvements
would leave the property in an undeveloped haphazard state and
would render this area of the property useless to the applicant. The
applicant's lot would essentially have no backyard space for private
recreational use. Therefore, hardship would result to the applicant by
allowing no use of approximately 25% of the property.

In sum, the applicant wishes to utilize the shoreline setback area of the
subject property in a manner consistent with the purpose and intent of
the shoreline setback rules and regulations and in a manner which is
of minimal intensity. We feel that the applicant is entitled to
reasonable use of this portion of his property in a manner that is
consistent with applicable laws and rules.



97 APR -7 P 1:11

For your information, the Rules do not provide an explicit definition of what constitutes hardship, however, they do provide clarification regarding what hardship does not include:

"For purposes of this section, hardship shall not include an economic hardship to the applicant; county zoning changes, planned development permits, cluster permits, or subdivision approvals after June 16, 1989; any other permits or approval which may have been issued by the authority. If the hardship is a result of actions by the applicant, such result shall not be considered a hardship for the purposes of this section." (§12-5-13(b))

Thank you for your time and consideration. If you have any questions or need additional information, please contact myself or Mr. Chris Hart of our office at 244-1955.

Sincerely,
Kory Brampton
Kory Brampton, Planner

cc Mr. & Mrs. David Ihle
Ms. Julie Higa, Planning

Mr. David W. Blane, Director
Planning Department, County of Maui
250 S. High Street
Wailuku, Maui, Hawaii 96793

April 4, 1997

LOG NO: 19273 ✓
DOC NO: 9703SC07

SUBJECT: (I.D. No. EA-970001 and SSV-97-0001) Chapter 6E-42 Historic Preservation Review of a Draft Environmental Assessment and Shoreline Setback Variance for the Ihle Residence, Lahaina, Lahaina District, Maui TMK: 4-5-003:024

Thank you for the opportunity to comment on the draft Environmental Assessment (EA) and Shoreline Setback Variance (SSV) application made for proposed improvements to the Ihle residence at 1037 Front Street in Lahaina, Maui. According to the draft EA, the applicant proposes to demolish the existing dwelling and build a new residence and associated improvements, including a 4-foot deep wading pool, a pool deck, removal of an existing wooden walkway, and landscaping. According to the draft EA, the property mauka of the existing 10-foot high sea wall (built in the 1940s) was filled to within a few feet of the top of the sea wall when the residential lot was created in the 1950s. Our review is based on historic reports, maps, and aerial photographs maintained at the State Historic Preservation Division; no field inspection was made of the subject parcel.

Although the land has not undergone an archaeological inventory survey, we have no record of historic sites on this parcel. In 1975, archaeological excavations were conducted at the site of the Seaman's Hospital, across Front Street from the subject parcel (Phase I Archaeological Research at the Seaman's Hospital, Site DS-10, Lahaina, Maui, 1975, Cleghorn). A number of historic sites were found, including remnants of a historic wall (shown on an 1819 map of Lahaina), a roadway, former building foundations, and a human burial; the sites ranged in depth from about 30 centimeters (cm) to 73 cm below ground surface. More recently, an archaeological inventory survey conducted nearby, to the north of the subject parcel (at TMK: 4-5-003: 013), located a human burial during subsurface testing of the property (An Archaeological Inventory Survey of a 8.8 Acre Parcel in the Land of Kainohi, District of Lahaina, Punaau Ahupua'a, Island of Maui TMK: 4-5-03:12, 13, 15, 38 - 40), 1994, Burgett & Spear). The burial was found at a depth of about 30 centimeters below the ground surface. No other historic sites were found during this survey. In view of these facts, it seems likely that historic sites and/or subsurface cultural deposits may be present in undisturbed areas of the subject parcel, beneath the modern fill layer, and nearer the Front Street side of the property.



Mr. David W. Blanc
Page 2

If the proposed improvements described in the draft EA are confined to within the modern fill layer, then we believe that the subject SMA permit, if approved, will have "no effect" on significant historic sites. If, however, the proposed improvements necessitate ground-alteration work that goes below the modern fill layer, then the undertaking may adversely affect significant historic sites which may be present. Consequently, in order for the subject SSV permit to have "no adverse effect" on significant historic sites which may be on the property, we recommend that the following condition be attached to the SSV permit, if approved:

Should the proposed improvements require ground-alteration work that extends beneath the modern fill layer said to cover much of the subject parcel, the applicant shall have a qualified archaeologist conduct on-site monitoring of all ground-alteration work. Prior to beginning such work, an acceptable monitoring plan shall be prepared and submitted to the State Historic Preservation Division for review and approval. When the archaeological monitoring is concluded, a report of the activities and findings shall be submitted to the State Historic Preservation Division for review and approval no later than 180 days after the completion of field work.

Should you have any questions, please feel free to call Sara Collins at 587-0013.

Aloha,


DON HIBBARD, Administrator
State Historic Preservation Division

SC:jen

cc: Ms. Elizabeth Anderson, Cultural Resources Commission, Maui Planning Department,
250 S. High Street, Wailuku, HI 96793

May 7, 1997

Mr. Don Hibbard, Administrator
State Historic Preservation Division
Department of Land and Natural Resources
State of Hawaii
33 South King St., 6th Floor
Honolulu, Hawaii 96813

Re: Draft Environmental Assessment for the Ihle Shoreline Setback
Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Hibbard:

In response to your comment letter dated April 4, 1997 regarding the Draft
Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina,
Maui, Hawaii (TMK 4-5-03: 024), we have the following response.

We have discussed SHPD's concern regarding the potential for work to
extend beneath the modern fill layer with Sara Collins of your staff. As a
result of these discussions we have modified the proposed improvement
plans by raising the wading pool elevation by approximately two (2) feet. This
modification would have the effect of limiting ground alteration work to
approximately three (3) feet below grade. Based on these modifications it is
very unlikely that the proposed work would extend beneath the modern fill
layer. Therefore, it is our understanding that Ms. Collins felt that on-site
monitoring would not be required. However, in the event that the work
extends beneath the modern fill layer and historic sites or remains are found,
then work shall cease immediately and your office will be contacted and an
appropriate mitigation plan would be developed.

Mr. Don Hibbard, Administrator
State Historic Preservation Division
Department of Land and Natural Resources
100 Spreading Seaback Variance, Lahaina, Maui, Hawaii
May 7, 1977
Page no. 2

Thank you for your time and consideration. If you have any questions or need additional information, please contact myself or Mr. Chris Hart of our office at 244-1955.

Sincerely,



Reg Frampton, Planner

cc Mr. & Mrs. David Ihe
Ms. Julie Higa, Planning



97 APR 17 8 11:45

STATES OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
84 SOUTH HIGH STREET, ROOM 101
HONOLULU, HAWAII 96813

RECEIVED

April 15, 1997

Mr. David W. Blane, Director
Planning Department
County of Maui
250 South High Street
Waipahu, Maui, Hawaii 96793

Dear Mr. Blane:

Subject: Ihle Shoreline Setback Variance Request, Tax Map Key: 4-5-03: 24, Lahaina,
Maui (RA 970001 and SSV 970001)

The Maui District Land Office has reviewed the subject Ihle Shoreline Setback Variance request and environmental assessment and has the following comment:

That the project shall not exceed beyond the makai area of the certified shoreline.

Thank you for the opportunity to review and comment on the subject project. Should you have any questions regarding this matter, please contact the Maui District Land Office at 984-8100.

cc: Mr. D. Y. Uchida
Mr. W. Kamison

Very truly yours,

Philip Ohta
PHILIP OHTA
Maui District Land Agent

May 7, 1997

Mr. Philip Ohta, Maui District Land Agent
Division of Land Management
Department of Land and Natural Resources
State of Hawaii
54 South High St., Room 101
Honolulu, Hawaii 96813

Re: Draft Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024).

Dear Mr. Ohta:

In response to your comment letter dated April 15, 1997 regarding the Draft Environmental Assessment for the Ihle Shoreline Setback Variance, Lahaina, Maui, Hawaii (TMK 4-5-03: 024), we offer the following response.

The applicant is aware that the project shall not exceed beyond the makai area of the certified shoreline. There are no improvements proposed for this area.

Thank you for your time and consideration. If you have any questions or need additional information, please contact myself or Mr. Chris Hart of our office at 244-1955.

Sincerely,

Rox Frampton
Rox Frampton, Planner

cc: Mr. & Mrs. David Ihle
Ms. Julie Higa, Planning

LANDSCAPE ARCHITECTURE AND PLANNING

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