

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-4414 • FAX: (808) 527-6743 • INTERNET: www.cc.honolulu.hi.us

JEREMY HARRIS
MAYOR



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RANDALL K. FUJIKI, AIA
DIRECTOR

LORETTA K.C. CHEE
DEPUTY DIRECTOR

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2002/SV-1 (DT)
OFFICE OF ENVIRONMENTAL
QUALITY CONTROL

July 3, 2002

Ms. Genevieve Salmonson, Director
Office of Environmental Quality Control
State of Hawaii
State Office Tower, Room 702
235 South Beretania Street
Honolulu, Hawaii 96813

Dear Ms. Salmonson:

CHAPTER 343, HAWAII REVISED STATUTES
FINAL ENVIRONMENTAL ASSESSMENT (EA)

Landowner/
Applicant : Helene B. and Clifford K. Mirikitani
Trust
Agent : Analytical Planning Consultants, Inc.
(Donald Clegg)
Location : 67-239 Kahaone Loop - Waialua
Tax Map Keys : 6-7-15: 49
Request : Shoreline Setback Variance
Proposal : Allow (retain) a portion of a wood deck
within the shoreline setback area.
Determination : A Finding of No Significant Impact is
Issued

Attached and incorporated by reference is the Final EA prepared by the applicant for the project. Based on the significance criteria outlined in Title 11, Chapter 200, Hawaii Administrative Rules, we have determined that preparation of an Environmental Impact Statement is not required.

65

Ms. Genevieve Salmonson
Page 2
July 3, 2002

We have enclosed a completed OEQC Bulletin Publication Form and four copies of the Final EA. If you have any questions, please contact Dana Teramoto of our staff at 523-4648.

Sincerely yours,


For RANDALL K. FUJIKI, AIA
Director of Planning
and Permitting

RKF:pl
Attachments

cc: Donald Clegg

doc. 154161

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JUL 23 2002

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2002-07-23-0A-¹⁰FEA-²⁴Miri Kitani Wood Deck

DEPT. OF PLANNING
& PERMITTING
C & S OF HONOLULU

FINAL ENVIRONMENTAL ASSESSMENT

AFTER-THE-FACT SHORELINE SETBACK VARIANCE

67-239 Kahaone Loop, Waiialua, Hawaii

TMK: 6-7-015:049

Submitted to:
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Prepared by:
Analytical Planning Consultants, Inc.
928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817
(808) 536-5695

June 2002

Office of Environmental Quality Control
The Environmental Notice PUBLICATION FORM (ver. 6-88)
 (For instructions see other side)

1 **Project Name:** Waialua - Access Deck / Shoreline Setback Variance
Island: Oahu
District: Waialua
Tax Map Key Number: (1) 6-7-015:049

2 **Type of Action** agency action applicant action
Type of Document: draft EA final EA draft EIS final EIS Other _____
Legal Authority: State law (HRS 343)
Applicable sections: use of state or county lands or funds
 use of conservation district lands
 use of shoreline area
 use of historic site or district
 use of land in the Waikiki district
 amendment to county general plan
 reclassification of conservation lands
 construction or modification of helicopter facilities
 Federal law (NEPA)
 County law (ROH.CH. 25 or other ordinance)
 Other: _____

Agency determination: Anticipated FONSI FONSI
 EIS Prep Notice Final EIS Acceptance

3 **Proposing Agency or Applicant:** Mrs. Helene Mirikitani
Address: 2336 oahu Avenue
Honolulu, Hawaii 96822
Contact: _____ **Phone:** 949-3768

4 **Approving Agency or Accepting Authority:** Department of Planning and Permitting
Address: City and County of Honolulu
650 So. King Street
Honolulu, Hawaii 96813
Contact: RANDALL K. Fujiki, AIA, Director **Phone:** 523-4432

5 **Consultant:** Analytical Planning Consultants, Inc.
Address: 928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817
Contact: Don Clegg **Phone:** 536-5695

6 **Public Comment Deadline:** 5/23/02
Permits required prior to implementation: Shoreline Setback Variance, Building
Project Summary (name of file on attached disk): summary .doc
Public Library where document will be available: _____
This form prepared by: Analytical Planning **Phone:** 536-5695

Key aspects of the plan include new and improved garden areas, a new Visitor Center, and an orchid conservatory in honor of the Garden's first director, Dr. Harold Lyon. Other elements of the plan involve relocating the main entrance further east on Vineyard Boulevard to the intersection of Maunakea Street, the sizing and siting of visitor and maintenance facilities, garden pathways, interpretive plan and displays, a noise buffer for the freeway along the Garden's mauka edge, expanded visitor parking, and enhanced street frontage along Vineyard Blvd.

The 26 Exceptional Trees located at Foster Botanical Garden, as well as an additional 23 significant trees identified by the Garden's staff have been protected in the plan. In addition, the proposed improvements are situated on previously disturbed areas of the property, minimizing any impact to well-developed and recognized garden areas. A phasing plan with cost estimates has been prepared and are included in the master plan report.

(3) Manoa Stream Tributary Retaining Wall

District: Honolulu
TMK: 2-9-38: 14
Applicant: City and County of Honolulu
Department of Design and Construction
650 South King Street
Honolulu, Hawaii 96813
Contact: Ray Nakahara (523-4041)

Approving Agency/Accepting Authority: Same as above.

Public Comment

Deadline: May 23, 2002
Status: DEA First Notice pending public comment.
Address comments to the applicant with a copy to OEQC.

Permits Required: Sec. 404, Sec. 401, NPDES, SCAP

The City and County of Honolulu, Department of Design and Construction is proposing to construct approximately 32 lineal feet of cement rubble masonry (CRM) retaining wall 12 to 15 feet high with a 4-foot high chain link fence along the kokohead embankment of an unnamed Tributary of Manoa Stream (stream) near 2923A Kaamalio Drive. The project proposes to close the gap between existing CRM walls, stabilize the unimproved section of eroding embankment, restore the width of the access road at the top of

the wall, and prevent possible damage to the existing CRM walls. Potential adverse environmental impacts such as dust, construction equipment noise, water quality, and disturbance to marine life are unavoidable, but these impacts will be temporary, limited to the time of construction and can be mitigated.

The stream is located in Manoa Valley and is surrounded exclusively by residential developments. The stream right-of-way is approximately 30 feet wide and is owned and maintained by the City and County of Honolulu.

Following the necessary approvals of regulatory permits, construction of the project is expected to commence in April 2003 and end in June 2003. The estimated construction cost is estimated at \$140,000.

(4) Mirikitani After-The-Fact Wood Deck

District: Waialua
TMK: 6-7-15: 49
Applicant: Helene B. and Clifford K. Mirikitani Jr.
Trust
2236 Oahu Avenue
Honolulu, Hawaii
Contact: Helene Mirikitani (949-3768)

Approving Agency/Accepting Authority: City and County of Honolulu
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, Hawaii 96813
Contact: Dana Teramoto (523-4648)

Consultant: Analytical Planning Consultants, Inc.
928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817
Contact: Donald Clegg (536-5695)

Public Comment
Deadline: May 23, 2002
Status: DEA First Notice pending public comment.
Address comments to the applicant with copies to the approving agency or accepting authority, the consultant and OEQC.

Permits Required: SSV

The applicant, Helene B. and Clifford K. Mirikitani Jr. Trust, is requesting to retain (allow) a portion of a wood deck within the 40-foot shoreline setback.

FINAL ENVIRONMENTAL ASSESSMENT

AFTER-THE-FACT SHORELINE SETBACK VARIANCE

67-239 Kahaone Loop, Waialua, Hawaii

TMK: 6-7-015:049

Submitted to:
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

Prepared by:
Analytical Planning Consultants, Inc.
928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817
(808) 536-5695

June 2002

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

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EXHIBITS

1. Tax Map
2. Certified Shoreline
3. Building Plans for Deck
4. Flood Hazard Districts Certification of Exemption
5. Original Building Permit, Site Plan and Variance Determination

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

1.0
SUMMARY INFORMATION

Applicant: Helene Mirikitani
2336 Oahu Avenue
Honolulu, Hawaii 96822

Recorded Fee Owner: Helene B. Mirikitani Trust &
Clifford K. Jr. Mirikitani Trust
2336 Oahu Avenue
Honolulu, Hawaii 96822

Agent: Analytical Planning Consultants
928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817
Donald Clegg, President
Tel: 536-5695 Fax: 599-1553

Property Profile:

Location: Waialua, Oahu, Hawaii
Site Address: 67-239 Kahaone Loop
Waialua, Hawaii 96791
TMK: (1)-6-7-015:049
Lot Area: 8,502 SF
State Land Use: Urban
Development Plan: Residential
Zoning (LUO): R-5 Residential
Special District: no
SMA: yes
Flood Zone: Firm Zone VE

Additional Permits Required: Building Permits
Minor Shoreline Structure
(Approved 1/24/02 2002/MSS-3)

Agencies Consulted:

City & County of Honolulu
Department of Planning &
Permitting

State of Hawaii
OEQC
State Department of Aquatic
Resources, Land & Natural
Resources

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AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

2.0.

DESCRIPTION OF THE PROPOSED ACTION

2.1 General Description

(A) Project and Background Information

The applicant is requesting a variance from Chapter 23 ROH Section 23-1.5 (b) which prohibits the building of any structures having a "fixed location on the ground" within the designated 40 foot shoreline setback area without a shoreline setback variance. Specifically, after-the-fact approval is being requested for construction of an access deck for Unit B of the duplex which encroaches within the 40 foot shoreline setback area. The new wooden access deck replaces the existing deck which had become termite ridden and unstable.

The subject property is located on a 8,502 square foot flaglot at 67-239 Kahone Loop near Kaiaka Bay in Waialua (TMK: 6-7-015:049, Lot 1-431). The one-storey residential structure is a duplex built in 1971 by "Hicks Homes" (Building Permit # 100009 4/6/71) as part of a lower-middle income housing sub-division along the north shore of Oahu. Over the years the development has provided housing for the military community as well as local residents. Each 759 square foot duplex unit has three bedrooms, one bathroom, living room, and kitchen with a covered laundry area. On the east and west sides of the duplex are entry porches and steps for each unit. Each unit also has a makai entrance. The house is one of many such duplexes along the beach.

The original owners of the property received a variance in 1970 to build the duplex on the 8,502 sq. ft. lot (70ZBA-183). At that time, under the Comprehensive Zoning Code (CZC), the property was zoned R-6 and the CZC required a minimum lot area of 9,000 sq. ft. for a duplex structure. According to the variance request, the lot was part of a subdivision which was intended for duplex development and the majority of the lots met the area requirement of the law prior to the CZC. The variance request was granted on December 17, 1970. The Findings of Fact mention that the parcel had a 20 foot shoreline setback requirement. The original site plan (Exhibit 5) shows that the duplex and access decks were built mauka of the 20 foot shoreline setback line. Today the structure is considered legally non-conforming as it encroaches into the 40 foot setback area. Over the years the shoreline has eroded and the recent survey map (Exhibit 2), which

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waiāhū, Hawaii**

located the shoreline as of December 11, 2001, shows the property line to be 4.6 feet makai of the certified shoreline on the west side of the property boundary and 7.4 feet makai on the east side.

The applicant purchased the property in 1975 and has received two building permits for fences along the property line (BP# 124808 7/29/79 and BP# 268385 4/21/89). A Minor Shoreline Structure permit was recently obtained (2001/MSS-14 3/25/2002) to place a chain link fence along the certified shoreline.

The duplex is made of redwood and post and pier construction and is approximately two feet above grade. Two sliding glass doors along the makai (north) side, with a three foot wide and twenty foot long wooden access deck with three steps leading down to the beach, provided access to Unit B. A 3' X 3' concrete landing was at the base of the beach side steps. On the west side of the unit there was a door with a wooden porch and three steps leading to a concrete walk way. The deck and porch had three foot high wooden railings and were built to provide access to the units, not as entertainment decks. The duplex is more than 30 years old, and having been exposed to the weather and ocean air, the wood in the makai deck and side porch of Unit B had rotted from termite damage and become unsafe. In September 2001, the owner replaced the damaged makai deck and steps and extended the decking around the unit to join the steps on the west side of the structure. In the process of replacing the deck, the owner expanded the width of the original deck from three feet to four feet, to allow for wheelchair access between the sliding glass doors and side entrance. The new makai deck and steps and the new side deck and steps are within the 40 foot shoreline setback area. The applicant was subsequently cited by the Department of Planning and Permitting Building Division City and County of Honolulu on October 18, 2001 for constructing the deck structure within the shoreline setback area without a permit (Violation No. 2001/NOV-10-087) and is now seeking a variance for the alteration.

(B) Shoreline Setback Area Requirements

As stated in Chapter 23 ROH Section 23-1.2 "it is a primary policy of the city to protect and preserve the natural shoreline, especially sandy beaches; to protect and preserve public pedestrian access laterally along the shoreline and to the sea; and to protect and preserve open space along the shoreline. It is also a secondary policy of the city to reduce hazards to property from coastal floods. To carry out these policies,

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Chapter 23 "prohibits within the shoreline area any construction or activity which may adversely affect beach processes, public access along the shoreline, or shoreline open space."

Chapter 23 also states that the shoreline setback line shall be established 40 feet inland from the certified shoreline and that structures and activities are prohibited within the shoreline area. A certified shoreline map dated 1/24/2002 is enclosed.

The Coastal Zone Management Rules and Regulations, which stipulate a 40 foot shoreline setback area, were adopted on June 22, 1970. The original owners of the property received a variance on December 17, 1970 and a building permit in April 1971 to construct a duplex in a R-6 Residential District. The Decision and Order permits the construction of the duplex in accordance with the submitted site plan (see Exhibit 5). The site plan shows a 20 foot setback area and the decks constructed mauka of the setback line. This is how the original duplex and decks were constructed in 1971. Today, however, the original house and decks are considered to be non-conforming because a portion of the house and decks are within the current 40 foot Shoreline Setback. The policy for nonconforming structures is stated in Chapter 16 ROH Section 16-1:

(a) Any nonconforming structure may be repaired upon compliance with applicable state and county requirements within the shoreline area; provided that no such nonconforming structure shall be substantially enlarged or altered to increase its nonconformity.

(b) If a nonconforming structure is destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with Chapter 23, ROH, and these rules.

An environmental assessment is required under HRS 343 for any project that involves use within the Shoreline Setback Area as defined in Chapter 25 of the Revised Ordinances of Honolulu. This application and environmental assessment provides a description of the action and addresses the potential impacts of the shoreline structure to the coastal environment and requests approval for a variance from the Shoreline Setback Ordinance. The application includes a certified shoreline map dated January 24, 2002. A Finding of No Significant Impact is requested.

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

(C) Special Management Area (SMA) Ordinance

The site is entirely within the SMA. The applicant's proposal is exempt from SMA regulations (Section 25-1.3 (2) (A), Revised Ordinances of Honolulu).

(D) Location Map

Project Location - 67-239 Kahaone Loop, Waialua, Hawaii

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AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

(E) Zoning Map

(F) Land Use Approvals Granted

- (1) Variance to build a duplex on the property 12/17/70 (70/ZBA-183).
- (2) Building Permit obtained for new one-storey duplex dwelling April 6, 1971 (BP# 100009).

Land Use Approvals Required

- (1) Application for a Shoreline Setback Variance from the Department of Planning and Permitting, City and County of Honolulu.
- (2) Minor Shoreline Structure Permit for the wire fence and poles within the Shoreline Setback Area.
- (3) Building Permits from the Department of Planning and Permitting, City and County of Honolulu.

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

2.2. Technical Characteristics

(A) Use Characteristics

The property and all the surrounding lots are used for residential purposes. The housing development, in which the applicant's property is located, consists of single family residences and duplex residential structures intended for multi-family purposes. The use of the property will not be changed by the granting of the variance to allow the encroachment of the deck into the Shoreline Setback Area.

(B) Physical Characteristics

The layout drawing showing property lines, lot size, certified shoreline, shoreline setback line, reference datum, ground elevations, existing structures and additions can be viewed in Exhibits 2 and 3.

(C) Construction Characteristics

"The existing nonconforming, rotted wooden decks and steps were removed prior to construction. The makai deck was 12' X 3' with three steps and a 3' X 3' concrete landing on the west side. The side entry deck was 5' X 3' with three steps. Both decks were completely within the 40 foot shoreline setback area. The total encroachment for the two decks and steps was approximately 66 square feet.

The new wooden access deck is four feet wide and attached on one edge to the house and supported on the other edge by five 4 X 4 inch posts mounted on concrete blocks imbedded one foot into the existing grade. The makai section of the deck runs 22' 2" along Unit B. The deck continues along the west side of the unit for 16.5 feet. The two new makai steps, which replaced the rotted steps, now face the ocean and extend an additional 22" into the Shoreline Setback Area. Each step is 36" wide making the total new encroachment for the steps to be 5.5 feet. The total encroachment for the deck and steps is approximately 160 square feet.

The deck has a three foot high horizontal railing which extends from the east end of the unit to the makai steps and continues along the west side of the unit to the steps. (See Exhibit 3 - Plans) Minimum grading was required for the construction of the replacement

**FINAL ENVIRONMENTAL ASSESSMENT
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deck and the extended portion along the side of the unit.

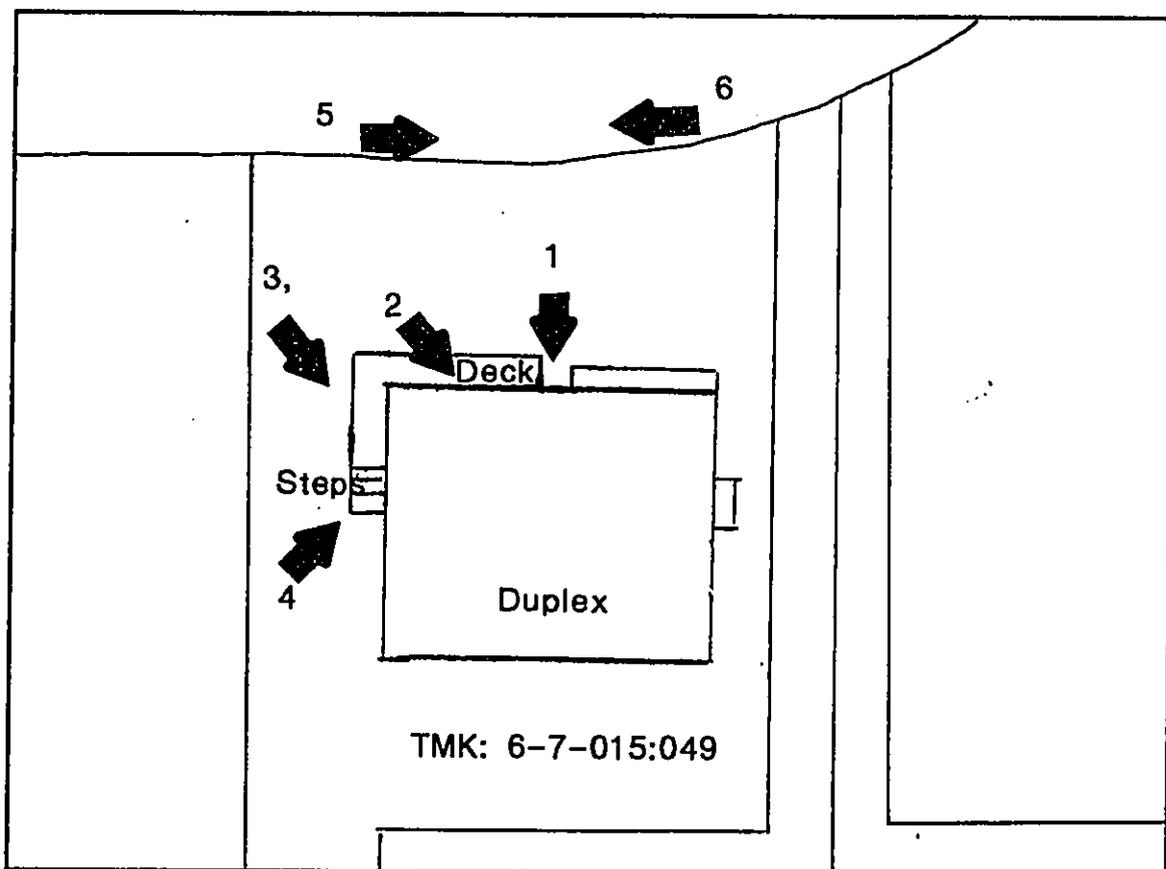
(D) Other Pertinent Information

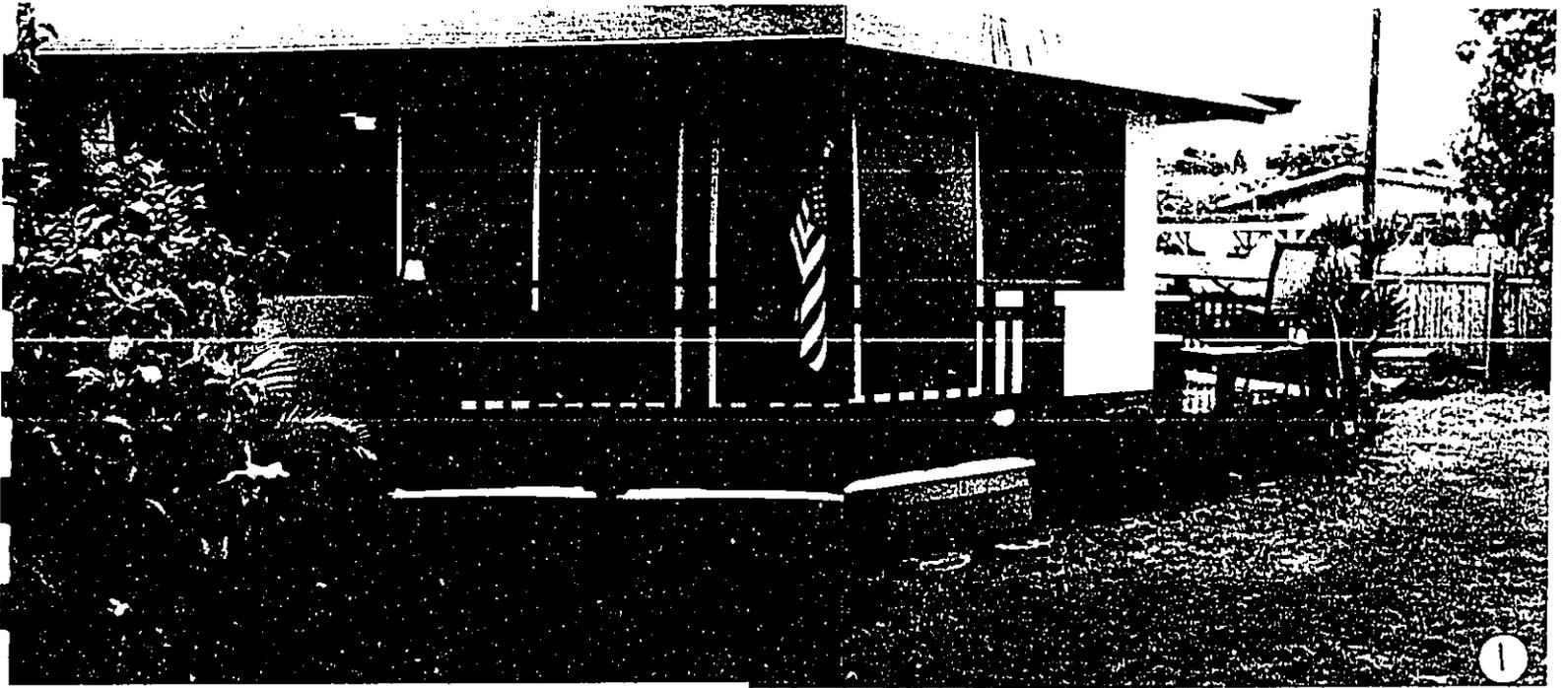
The new makai deck was expanded by one foot and extended around the unit to join the side porch and steps in order to provide wheelchair access for the dwelling. A removable ramp is placed over the stairs for wheelchair use.

2.3 Photographic Display

Photo Key

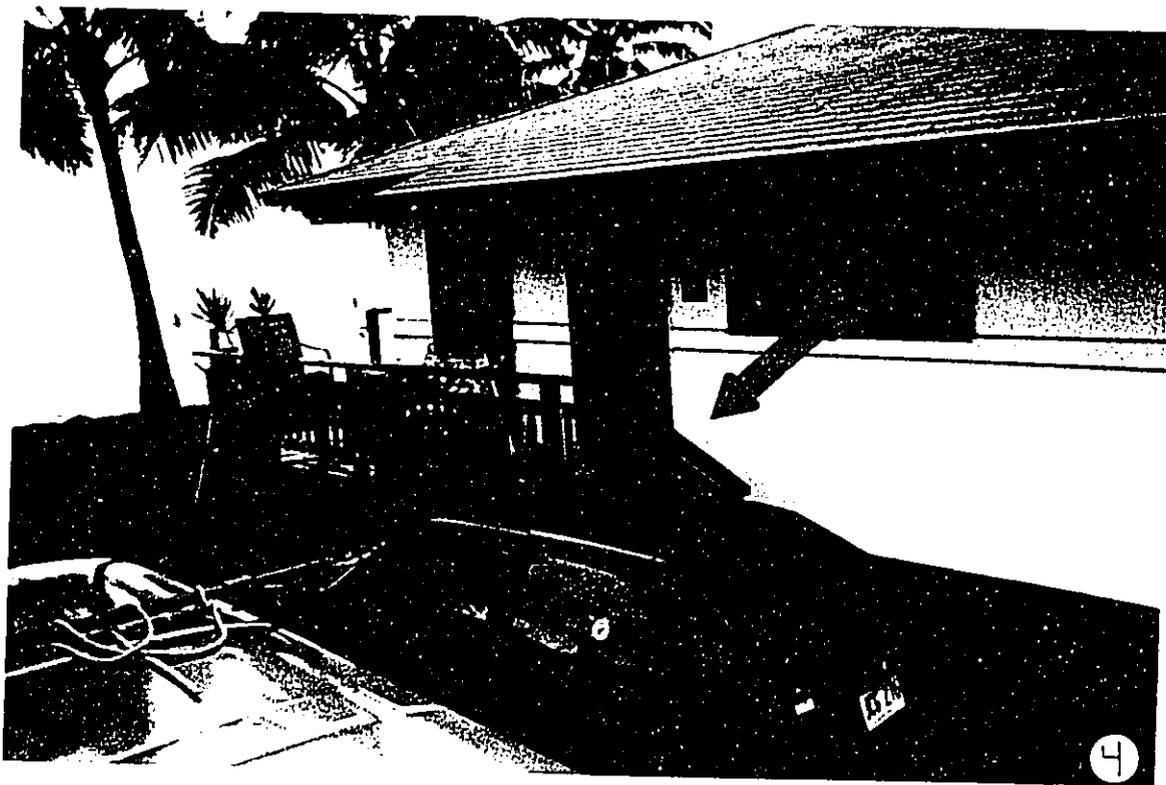
1. Taken from the makai property line showing the newly constructed makai deck and steps. The original deck was 3' wide and the new deck is 4'4". The original steps were angled towards the west side of the unit and in line with the deck area. The new steps, which allow for easier access, encroach an additional 22" into the shoreline setback area.
2. Closeup of the new steps and railing.
- 3,4. Side entrance deck and steps
5. View of the beach and coastline looking towards Haleiwa from the subject property. The high wash of the waves and the erosion to the shoreline plants is clearly visible. (A Minor Shoreline Structure Permit is being requested for the placement of the 3' high wire fence and poles within the shoreline setback area.)
6. View of the beach and coastline looking towards Mokuleia from the property.





Makai Deck

AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop Waialua, Hawaii



Side Deck and Steps

AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop Waiialua, Hawaii



Beach Front

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3.0 AFFECTED ENVIRONMENT

3.1. Site & Surrounding Area (including existing land uses; General Plan and Development Plan, zoning; population; unique features)

The property at 67-239 Kahaone Loop in Waialua is one of a number of private residences situated near the Kaiaka Bay coastline on the north shore of Oahu. The 8,502 square foot parcel is zoned R-5 and is designated Residential on the Development Plan. State Land Use classification of the property is Urban. The neighborhood is lower-middle income with most of the original houses remaining.

Included in the objectives for the preservation of the natural environment, the General Plan states that there shall be "sufficient setbacks of improvements in unstable shoreline areas to avoid the future need for protective structures". There are no protective shoreline structures along this particular section of the beach and several feet of property has been lost due to erosion. The recent survey map which located the shoreline as of December 11, 2001, shows the property line 4.6 feet makai of the certified shoreline on the west side of the property boundary and 7.4 feet makai on the east side. A portion of the house, including the makai decks were built within the 40 foot setback area before the regulations for the Coastal Zone Management area came into effect.

3.2. Flood Hazard District (and other geologically hazardous conditions)

The subject property and residential structure are located in the flood hazard area "VE" where base flood elevations have been determined at 16 feet. Coastal floods with velocity wave action may occur in the "VE" zone. The existing residential structure, which was built in 1971, does not comply with the requirements of the Federal Flood Insurance Program, and is considered nonconforming. Exterior improvements to an existing nonconforming structure, which was previously lawful prior to the 1980 effective date of the Flood Hazard Districts, are exempted from the standards of the flood hazard district provided that the cost of the work done in a period of 12 consecutive months is less than 50 percent of the replacement value of the existing structure. The replacement of the deck and steps qualifies as an exemption as the cost of the improvements was less than 50 percent of the value of the existing residential structure. A certification of exemption is included in Exhibit 4. There are

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

no other geographically hazardous conditions associated with the property.

3.3. Coastal Views

The property is part of a private residential neighborhood near the Kaiaka Bay coastline in Waialua. The project site is a flaglot set back approximately 185 from Kahaone Loop and about a mile from Farrington Highway. The coastline is not visible from the highway. Neither the makai deck nor the extended deck along the west side of the unit interfere with any coastal views of residences living to the east or west of the site. (See photos).

3.4 Project Site in relation to publicly owned or used beach access points, beach parks and recreation areas; rare, threatened, or endangered species and their habitats; wildlife preserves; wetlands, lagoons, tidal lands and submerged lands; fisheries and fishing grounds; other coastal/natural resources.

Shoreline Access

The nearest public beach park is Aweoweo Beach Park, west of the project site. There are access paths to the beach, which are jointly owned by the residences of the subdivision, approximately 275 feet east of the project site and 700 feet west of the site. The site provides no public access points to the shoreline, beach parks or recreation areas, and the subject deck has no impact on pedestrian lateral access.

3.5 Project Site in Relationship to Recreational Resources

The ocean and beach along are used mostly by the local residents for walking, fishing, swimming, and surfing. Recreational catamarans and kayaks are also used by the residents.

3.6 Project Site in Relationship to Natural Resources and Shoreline Environment

The sand beach in front of the applicant's property contains coarse grain limestone and coral debris. There are two off-shore fringing reefs and the inland lagoon is used by local fisherman. According to the NOAA publication on Sensitivity of Coastal

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AFTER-THE-FACT SHORELINE SETBACK VARIANCE
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Environments and Wildlife (7/01) Waialua and Kaiaka Bay contain 'O'pae "oeha'a (prawn), "O'pae kala'ole (shrimp), Hihiwai (snail), Samoan crab, swimming crabs, and Tahitian prawn. The Green Sea Turtle is present in the near shore waters west of Kaiaka Bay. Currently no danger to endangered species, wildlife, fisheries or other natural resources exist. The project has no adverse effect on coastal ecosystems or other coastal/natural resources.

There are no protective shoreline structures along this particular section of the beach and several feet of property has been lost due to erosion. The recent Certified Shoreline Survey map shows the property line 4.6 feet makai of the certified shoreline on the west side of the property boundary and 7.4 feet makai on the east side. Based on historical aerial photographs of the Kaiaka Bay coastline in Waialua taken over the past 40 years, there has been a loss of shoreline at this location due to shoreline erosion and storm wave damage activity since the lots were first subdivided. Vegetation on this site primarily consists of introduced landscaping including grass, coconut trees, naupaka and other small shrub plants. There are no known significant habitat areas for either terrestrial or aquatic flora or fauna directly found at the project site.

3.7 Historic, Archeological and Cultural Resources

The proposed activity is within an established residential neighborhood which has been heavily disturbed during development of the existing subdivision over 40 years ago. If any potential remains existed it is most likely that they would already been discovered and recovered. No historic or archeological items were uncovered during the replacement of the deck and stairs.

The Cultural Impacts Act 50 of Chapter 343, HRS, and the "Guidelines for Assessing Cultural Impacts" require preparers of environmental assessments to analyze the impact of a proposed action on cultural practices and features associated with the project area. Native Hawaiians are constitutionally protected to exercise their traditional and customary rights in any area of the Waialua coastline. There are no current cultural practices which are presently associated with the area and which would be impacted by the proposed action.

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4.0 PROJECT IMPACTS AND ALTERNATIVES CONSIDERED

Allowing the existing deck to remain in its current location, as constructed, will not affect the existing physical, natural, social or economic environmental characteristics of the site. The alternative of removing the deck is not reasonable as the deck provides access to the dwelling. The applicant is proposing the No-Action Alternative.

5.0 MITIGATIVE MEASURES

Because the No-Action Alternative is being proposed, the lack of significant potential adverse environmental impacts negates the need for mitigation measures.

6.0 COMMENTS RECEIVED ON THE DRAFT ENVIRONMENTAL ASSESSMENT

A review of the project was printed in the April 23, 2002 OEQC bulletin. AS part of the public review process, the following comments from the Department of Planning and Permittin9 were received on the Draft Environmental Assessment. The comments were helpful in clarifying particular points of information and have been incorporated into the FEA. The Department of Land and Natural Resources Historic Preservation Division responded that no "historic properties will be affected". No other comments were received.

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING, ROOM 555
801 KAMOKILA BOULEVARD
KAPOLEI, HAWAII 96707

2002/ELOK-1127

GILBERT S. COLOMA-AGARAN, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

DEPUTIES
ERIC T. HIRANO
LINNEL NISHIOKA

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND
STATE PARKS

HAWAII HISTORIC PRESERVATION
DIVISION REVIEW

Log #: 29642
Doc #: 0204EJ13

Applicant/Agency: Randall K. Fujiki, Director
Address: Department of Planning and Permitting
City & County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

SUBJECT: Draft Environmental Assessment After-the-Fact Shoreline Setback Variance:
67-239 Kahaone Loop, Waialua, Hawaii
Ahupua'a: Waialua
District, Island: Waialua, O'ahu
TMK: (1) 6-7-015:049

RECEIVED
CITY & COUNTY OF HONOLULU

02 APR 19 PM 1 16

1. We believe there are no historic properties present, because:

- a) intensive cultivation has altered the land
- b) residential development/urbanization has altered the land
- c) previous grubbing/grading has altered the land
- d) an acceptable archaeological assessment or inventory survey found no historic properties
- e) other: This is an after-the-fact application. No historic or cultural deposits were identified during the replacement deck action.

2. This project has already gone through the historic preservation review process, and mitigation has been completed ____.

Thus, we believe that "no historic properties will be affected" by this undertaking

Staff: Elaine Jourdan Date: 4/11/02

Title: Elaine Jourdan, Assistant Archaeologist O'ahu Phone (808) 692-8027

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-4414 • FAX: (808) 527-6743 • INTERNET: www.co.honolulu.hi.us



JEREMY HARRIS
MAYOR

RANDALL K. FUJIKI, AIA
DIRECTOR

LORETTA K.C. CHEE
DEPUTY DIRECTOR

2002/SV-1 (DT)

May 22, 2002

Mr. Donald Clegg
Analytical Planning Consultants, Inc.
928 Nuuanu Avenue, Suite 502
Honolulu, Hawaii 96817

Dear Mr. Clegg:

Draft Environmental Assessment (EA)
67-239 Kahaone Loop - Waialua
Tax Map Key: 6-7-15: 49

We have reviewed the above EA and have the following comments:

1. The floor plan should clearly indicate the portion of the deck and steps that is nonconforming and the portion which is new.
2. The 40-foot shoreline setback line should be indicated on the plot plan and floor plan.
3. Page 20 of the EA states, "The applicant's residence was constructed in 1971 before the Coastal Zone Management Rules and Regulations and the Shoreline Setback Ordinance were adopted...." This statement is incorrect and should be changed. An existing dwelling within the shoreline setback would be considered a nonconforming structure if it was lawfully constructed prior to June 22, 1970. The dwelling was subject to the shoreline setback rules and regulations in 1971.

Mr. Donald Clegg
Page 2
May 22, 2002

4. Page 8 of the EA under "Construction Characteristics" describes the deck after it was reconstructed. Information on the size of the deck that was nonconforming (before reconstruction) should also be included in this section. Page 8 also mentions that the steps are new, and they now extend an additional 22 inches into the shoreline setback area. This section is not clear as to whether both width and length were added. Please clarify.

The above comments should be addressed and incorporated into the EA. If you have any questions regarding this letter, please call Dana Teramoto of our staff at 523-4648.

Sincerely yours,


RANDALL K. FUJIKI, AIA
for Director of Planning and
Permitting

RKF:cs

posse document no. 155440



ANALYTICAL PLANNING CONSULTANTS, INC.
928 NUUANU AVENUE, SUITE 502 • HONOLULU, HI 96817

PHONE (BUS): (808) 536-5695
FAX: (808) 599-1553

June 17, 2002

Mr. Randall K. Fujiki, AIA
Director of Planning & Permitting
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawaii 96813

SUBJECT: Draft Environmental Assessment (EA)
Shoreline Setback Variance
67-239 Kahaone Loop - Waialua (TMK: 6-7-015:049)

Dear Mr. Fujiki:

Thank you or your letter dated May 22, 2002 commenting on the subject Shoreline Setback Variance and Environmental Assessment. We offer the following responses in respective order of your comments.

- 1) The floor plan has been labeled to clearly indicate the portion of the deck and steps that are nonconforming and the portion which is new.
- 2) The 40-foot shoreline setback line has been clearly labeled on the plot plan and floor plan (A-1).
- 3) Page 20 of the FEA "Hardship Criteria for Shoreline Setback Variance has been revised to read:

"The Coastal Zone Management Rules and Regulations, which stipulate a 40 foot shoreline setback area, were adopted on June 22, 1970. The original owners of the property received a variance on December 17, 1970 and a building permit in April 1971 to construct a duplex in a R-6 Residential District. The Decision and Order permits the construction of the duplex in accordance with the submitted site plan (see Exhibit 5). The site plan shows a 20 foot setback area and the decks constructed mauka of the setback line. This is how the original duplex and decks were constructed in 1971. Today, however, the original house and decks are considered to be non-conforming because a portion of the house and decks are within the current 40 foot Shoreline

Setback."

- 4) A more complete description of the nonconforming deck before it was replaced has been added to the FEA. The new text reads:

"The existing nonconforming, rotted wooden decks and steps were removed prior to construction. The makai deck was 12' X 3' with three steps and a 3' X 3' concrete landing on the west side. The side entry deck was 5' X 3' with three steps. Both decks were completely within the 40 foot shoreline setback area. The total encroachment for the two decks and steps was approximately 66 square feet.

The new wooden access deck is four feet wide and attached on one edge to the house and supported on the other edge by five 4 X 4 inch posts mounted on concrete blocks imbedded one foot into the existing grade. The makai section of the deck runs 22' 2" along Unit B. The deck continues along the west side of the unit for 16.5 feet. The two new makai steps, which replaced the rotted steps, now face the ocean and extend an additional 22" into the Shoreline Setback Area. Each step is 36" wide making the total new encroachment for the steps to be 5.5 feet. The total encroachment for the deck and steps is approximately 160 square feet."

Your letter along with this response will be reproduced in the forthcoming Final Environmental Assessment.

Sincerely,



Donald Clegg, President
Agent for the Applicant

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

7.0 DETERMINATION AND REASONS SUPPORTING THE DETERMINATION

The results of this assessment are that no negative impacts would result from allowing the applicant to retain the newly constructed access deck within the 40 feet setback area for a nonconforming private residential dwelling near Kaiaka Bay in Waialua and no mitigative measures are required. A Finding of No Significant Impact (FONSI) is requested.

A review of the "Significant Criteria" used as a basis for the above determination is presented below. An action is determined to have a significant impact on the environment if it meets any one of the thirteen (13) criteria:

1. **Involves an irrevocable commitment to loss or destruction of any natural or cultural resource;**

There will be no destruction of natural resources due to the proposed action and no archeological or historical sites are known to exist at this site.

2. **Curtails the range of beneficial uses of the environment;**

The project site is a developed residential property. There will be no curtailment of beneficial use of the environment by the proposed action.

3. **Conflicts with the state's long term environmental policies or goals and guidelines as expressed in Chapter 344, HRS;**

The project is located in land which has been designated urban by the State of Hawaii, and will have no significant environmental impacts. As such there will be no conflict with the State's long term environmental policies and guidelines

4. **Substantially affects the economic or social welfare of the community or state;**

The proposed action will have no effect on the economic and social well being of the community or state.

5. **Substantially affects public health;**

There is no public health impact caused by this project. Public access to the shoreline is 275 feet away from the site.

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

6. Involves substantial secondary impacts, such as population changes or effects on public facilities;

The project will have no impact on population changes or public facilities.

7. Involves a substantial degradation of environmental quality;

The project is located in a residential area near the Kaiaka Bay coastline. The applicant is seeking a variance for a newly constructed access deck which replaced existing decks that were constructed within the 40 foot shoreline setback area. The original decks had become termite ridden and unsafe. There will be no degradation of environmental quality from the action.

8. Is individually limited but cumulatively has considerable effect on the environment, or involves a commitment for larger actions;

The project is self contained and independent of other projects in the area hence there will be no cumulative impacts.

9. Substantially affects a rare, threatened or endangered species or its habitats;

There are no endangered or threatened species or their habitats on or near this property.

10. Substantially affects air quality, water quality, or ambient noise levels;

The new deck has already been constructed. There has been no effect on air quality, water quality or ambient noise levels.

11. Affects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuaries, fresh water or coastal waters;

The applicants property is located near Kaiaka Bay in Waialua on the north shore of Oahu. The property is in a tsunami zone and the beach is erosion-prone due to seasonal high surf. There will be no impact on ocean processes.

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

The subject property and residential structure are located in the flood hazard area "VE" where base flood elevations have been determined at 16 feet. Coastal floods with velocity wave action may occur in the "VE" zone. The existing residential structure, which was built in 1971, does not comply with the requirements of the Federal Flood Insurance Program, and is considered nonconforming. Exterior improvements to an existing nonconforming structure, which was previously lawful prior to the 1980 effective date of the Flood Hazard Districts, are exempted from the standards of the flood hazard district provided that the cost of the work done in a period of 12 consecutive months is less than 50 percent of the replacement value of the existing structure. The replacement of the deck and steps qualifies as an exemption as the cost of the improvements was less than 50 percent of the value of the existing residential structure. A Flood Hazard District Certification and exemption signed by the applicant's architect is included with the application. The document certifies that:

The structures and improvements would not affect the regulatory flood nor aggravate existing flood related erosion hazards; and

The structures and improvements would not result in increase of the regulatory flood levels.

There are no other geographically hazardous conditions associated with the property.

12. Substantially affects scenic vistas and view plans identified in county or state plans or studies;

There are no scenic vistas or view plains which will be affected by the proposed project. The project site is approximately 1 mile feet from Farrington Highway and is not visible by the general public or from persons traveling along the highway.

13. Requires substantial energy consumption.

The project has already been constructed. No energy is required.

The findings of this Environmental Assessment indicate that

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

to maintain the deck as it has been constructed will have no environmental impact and appears to be a reasonable request. The wall deck does not cause adverse effects to the shoreline or the adjoining properties. We request that a Finding of No Significant Impact (FONSI) be issued for this action.

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

8.0 HARDSHIP CRITERIA FOR SHORELINE SETBACK VARIANCE

Chapter 23 Section 23.1.4 ROH Variance Hardship Standards state that a structure may be granted a variance upon grounds of hardship if:

- (a) The applicant would be deprived of reasonable use of the land if required to comply fully with the shoreline setback ordinance and the shoreline setback rules.

The Coastal Zone Management Rules and Regulations, which stipulate a 40 foot shoreline setback area, were adopted on June 22, 1970. The original owners of the property received a variance on December 17, 1970 and a building permit in April 1971 to construct a duplex in a R-6 Residential District. The Decision and Order permits the construction of the duplex in accordance with the submitted site plan (see Exhibit 5). The site plan shows a 20 foot setback area and the decks constructed mauka of the setback line. This is how the original duplex and decks were constructed in 1971. Today, however, the original house and decks are considered to be non-conforming because a portion of the house and decks are within the current 40 foot Shoreline Setback.

The duplex is of post and pier construction and is approximately two feet above grade. Two sliding glass doors along the makai (north) side of the duplex, and a three foot wide wooden deck, with steps leading down to the beach, provided access to Unit B. On the east side of the unit there was a door with a wooden porch and steps. All of the decks and porches were built to provide access to the unit, not as recreation or entertainment decks. The applicant would be deprived of reasonable use if the property if the decks are not maintained as they provide access to the dwelling units.

The duplex is more than 30 years old and is exposed to the weather and ocean elements. The deck condition had deteriorated to a point that it became a hazard. Due to wood deterioration caused by termites and water damage, the wood in the decks needed to be replaced. The owner replaced the damaged makai deck and steps and extended the decking around the unit to join the steps on the west side of the structure. The new makai deck and steps and the new side deck and steps are within the 40 foot shoreline setback area.

The policy for the replacement and repair of nonconforming structures as stated in Chapter 16 ROH Section 16-1 is as follows:

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

(a) Any nonconforming structure may be repaired upon compliance with applicable state and county requirements within the shoreline area; provided that no such nonconforming structure shall be substantially enlarged or altered to increase its nonconformity.

(b) If a nonconforming structure is destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with Chapter 23, ROH, and these rules.

The floor of the living unit is 2 feet above grade at the rear of the duplex. Without the deck this would be a dangerous 2 foot drop to the ground when the sliding glass doors are opened. It is not reasonable to expect the residents to keep the door closed at all times. Further, without the deck and stairs, there would be no way for the occupants to safely exit the duplex from the rear or in an emergency. These conditions place an unreasonable hardship on the occupants.

It was the intention of the applicant to replace the damaged decks so as to provide safe access to the dwelling unit and, at the time of construction, the applicant was unaware of the requirements for non-conforming structures. In the process of replacing the deck, the owner expanded the width of the original makai deck by one foot and extended the deck around the unit to join the steps on the west side of the structure. This allows for wheelchair access between the sliding glass doors and side entrance. None of these actions were a substantial alteration to the original structure. For safety it was necessary to completely remove the existing decks because of the extensive termite damage. In replacing the decks, the applicant has not replaced more than 50 percent of the non-conforming portion of the structure. The decks are necessary structural components which provide access to the dwelling units.

(b) The applicant's proposal is due to unique circumstances and does not draw into question the reasonableness of Chapter 23 ROH and the shoreline setback rules.

The applicant's proposal is due to unique circumstances in that the dwelling was legally constructed within 20 feet of the shoreline setback area. As a result, the structure is considered to be non-conforming and must adhere to specific guidelines regarding repair and alteration. The duplex was also post and pier constructed approximately two feet above grade. The makai deck and steps and side porch provide necessary access for the

FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii

dwelling . The existing decking, which was built over 30 years ago, had become unsafe due to weathering and termite damage and it was necessary that they be completely replaced. By expanding the makai deck by one foot, changing the orientation of the steps down to the backyard, and connecting the decking to the side entrance, the applicant intended to make the dwelling accessible to wheelchairs. (The interior of the dwelling has extra wide doors which make it wheelchair accessible.)

The request of the applicant, to allow for a deck and steps which encroach into the 40 foot shoreline setback area and increase the nonconformity of the structure, does not compromise the concerns of Chapter 23 ROH. The action has no impact on the existing shoreline, public access to the beach or scenic views. While this section of the north shore coastline is subject to high surf and has undergone erosion along the shoreline over the years causing loss of property, allowing the deck structure to remain will not increase hazards to property from coastal flooding. A Flood Hazard District Certification and exemption signed by the applicant's architect is included with the application as Exhibit 4.

- (c) The proposal is the practical alternative which best conforms to the purpose of Chapter 23 ROH and the shoreline setback rules.

The granting of a variance to allow the decking to remain as constructed is a practical alternative to the removal of the decking and conforms to the purpose of Chapter 23 ROH, the shoreline setback rules and the variance criteria:

- (1) *No variance shall be granted unless appropriate conditions are imposed to maintain access to and along the shoreline or adequately compensate for its loss.*

The proposed action has no impact on access to and along the shoreline.

- (2) *No variance shall be granted unless appropriate conditions are imposed to minimize risk of adverse impacts on beach processes.*

The proposed action has no impact on beach processes.

- (3) *No variance shall be granted unless appropriate conditions are imposed to minimize risk of existing legal or proposed structures falling and becoming loose rocks*

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

or rubble on public property.

The applicant is requesting to retain a new deck which was constructed within the 40 foot setback area; no shoreline structures or rock walls are involved in the project. There will be no impact on public property as a result of this action.

(4) No variance shall be granted unless appropriate conditions are imposed to minimize adverse impacts on public views to, from and along the shoreline.

No public views are impacted.

8.0 CONCLUSION

The stated purpose of Chapter 23 ROH is to protect and preserve the natural shoreline, especially sandy beaches; to protect and preserve public pedestrian access laterally along the shoreline and to the sea; to protect and preserve open space along the shoreline; and, to reduce hazards to property from coastal floods. The request of the applicant to maintain the decking and steps as necessary structural components which provide safe access to the residence, will have no impact on the concerns of Chapter 23 ROH or the Shoreline Setback Rules and Regulations.

**FINAL ENVIRONMENTAL ASSESSMENT
AFTER-THE-FACT SHORELINE SETBACK VARIANCE
67-239 Kahaone Loop, Waialua, Hawaii**

Exhibits

1. Tax Map
2. Certified Shoreline Survey Map
3. Site and Building Plans
4. Flood Hazards District Certification
5. Original Building Permit/Site Plan/Variance Determination

OWNER/DESIGN TEAM

OWNER: MS. HELENE MIRIKITANI
 OWNER ADDRESS:
 2336 OAHU AVENUE
 HONOLULU, HAWAII 96822

CODE INFORMATION

TAX MAP KEY: 6-7-015:049
 LOT AREA: 8,502 SF
 PROJECT ADDRESS:
 67-239 KAHAONE LOOP
 WAIALUA, HAWAII 96791
 CONSTRUCTION TYPE: V-N
 FLOOD ZONE: FIRM ZONE VE

PROJECT SCOPE: CONSTRUCT NEW DECK AND STAIRS TO REPLACE ROTTED DECK AND STAIRS.

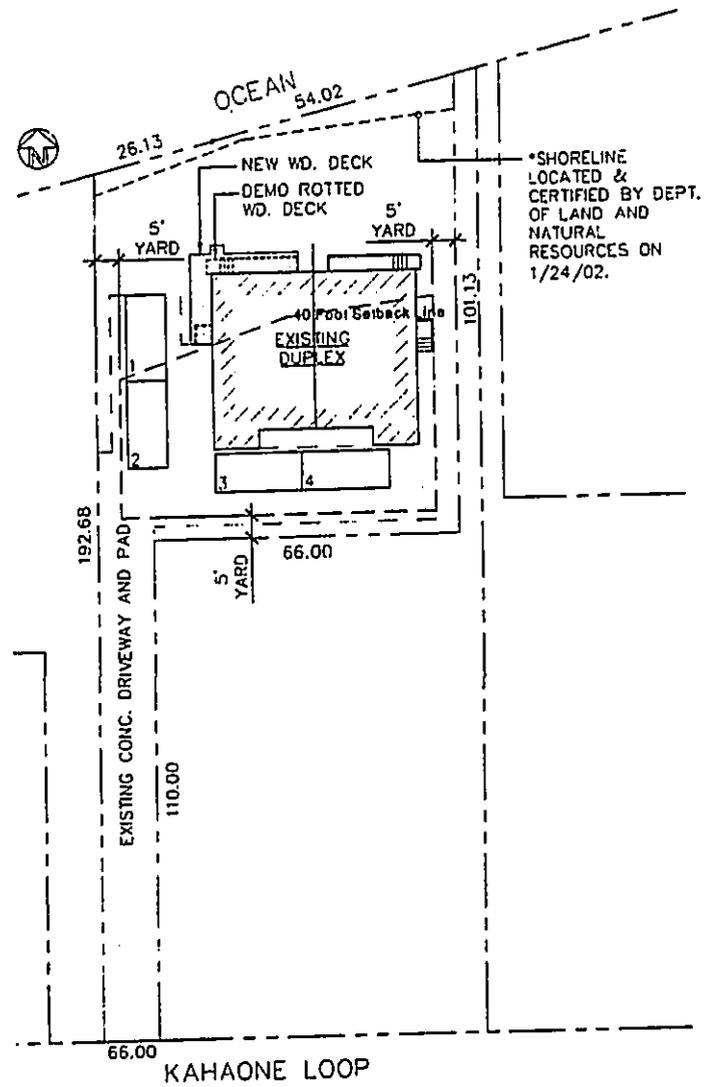
LUO ZONING: R-5

FLOOR AREA: 1598 SF

PARKING DATA

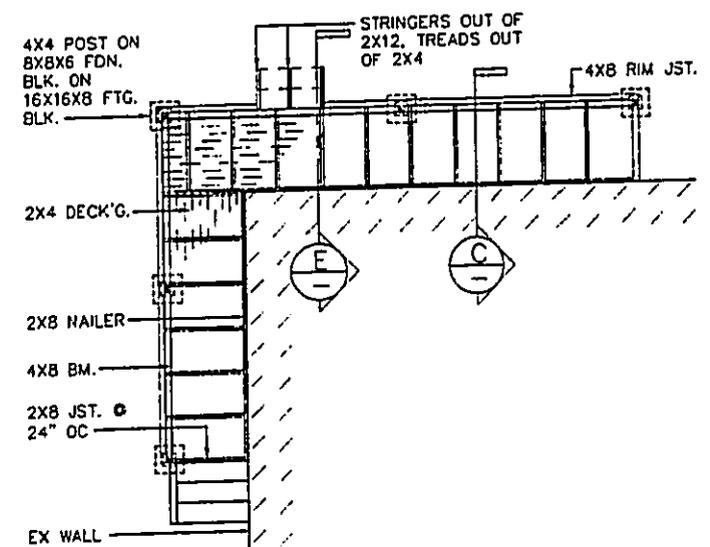
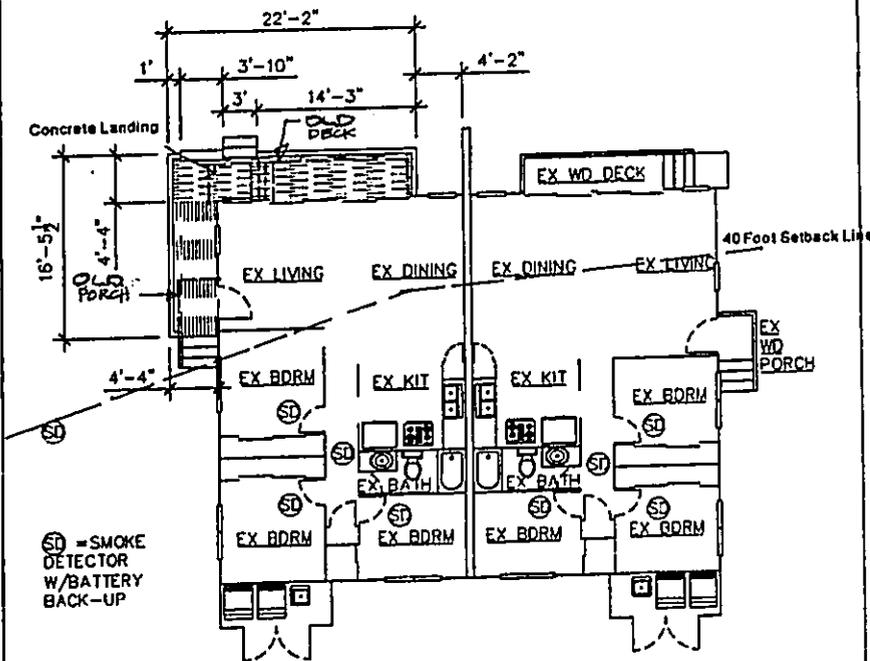
EXISTING PARKING SPACES: 4
 PARKING SPACES REQUIRED BY LUO: 4

*FIRE SAFETY DURING CONSTRUCTION, ALTERATION, AND DEMOLITION SHALL BE IN ACCORDANCE WITH ARTICL 87, U.F.C. 1988 AS AMENDED.



PROJECT DATA

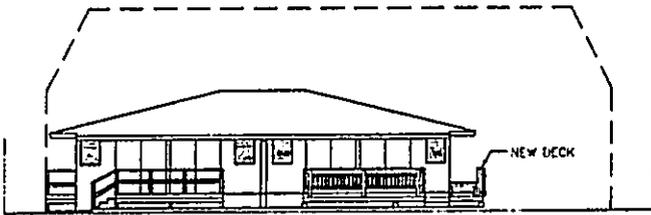
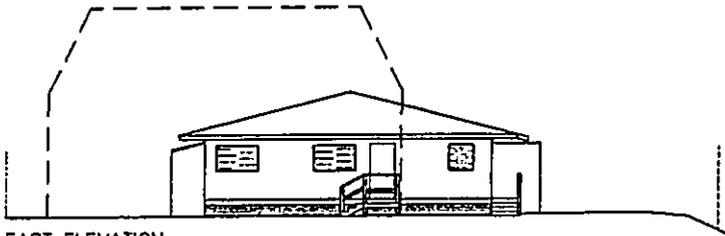
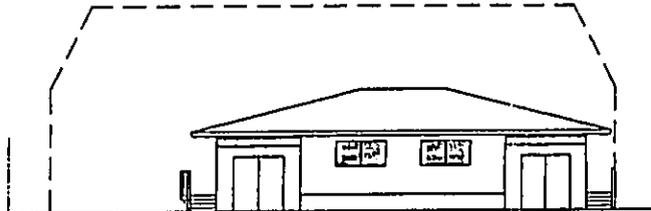
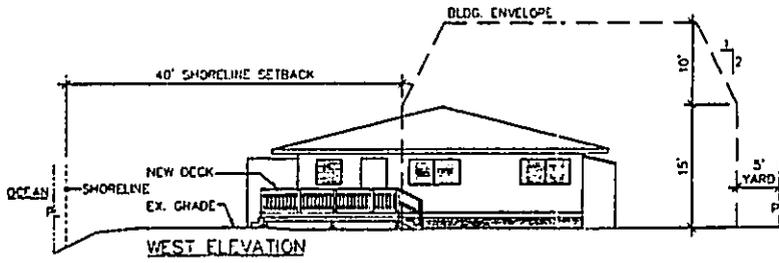
A PLOT PLAN
 SCALE: 1"=20'



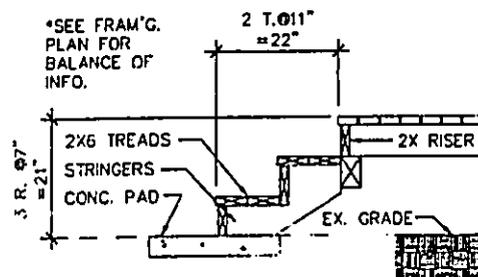
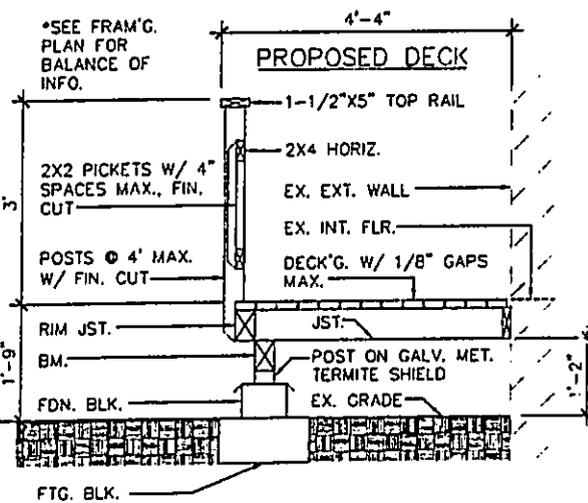
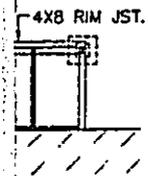
C FLOOR PLAN
 SCALE: 1/8"=1'-0"

D DECK FRAMING PLAN
 SCALE: 1/4"=1'-0"

SHORELINE LOCATED & CERTIFIED BY DEPT. OF LAND AND NATURAL RESOURCES ON 7/24/02.



B EXTERIOR ELEVATION
SCALE: 3/32"=1'-0"

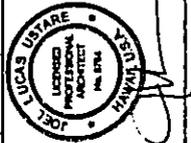


E DECK CROSS-SECTION
SCALE: 3/4"=1'-0"

F STAIR SECTION
SCALE: 3/4"=1'-0"

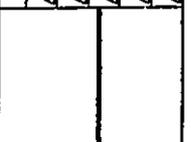
Exhibit 3

USTARE Architecture
Joel L. Ustare, AIA, CSI
1038 Spencer Street, #502
Honolulu, Hawaii 96822
Ph: 808.545.7174



This work was prepared by me or under my direct supervision and I am a duly Licensed Professional Architect in the State of Hawaii.

Revisions:
DATE: 02.11.02
BY: J. USTARE



NEW DECK
67-239 KAWAHOE LOOP, WAILUKU, HAWAII, 96791
T.N.L.: 6-7-015049

PLOT PLAN, FLOOR PLAN, EXTERIOR ELEVATIONS,
BUILDING SECTIONS, MISCELLANEOUS DETAILS

Job No: 01-013

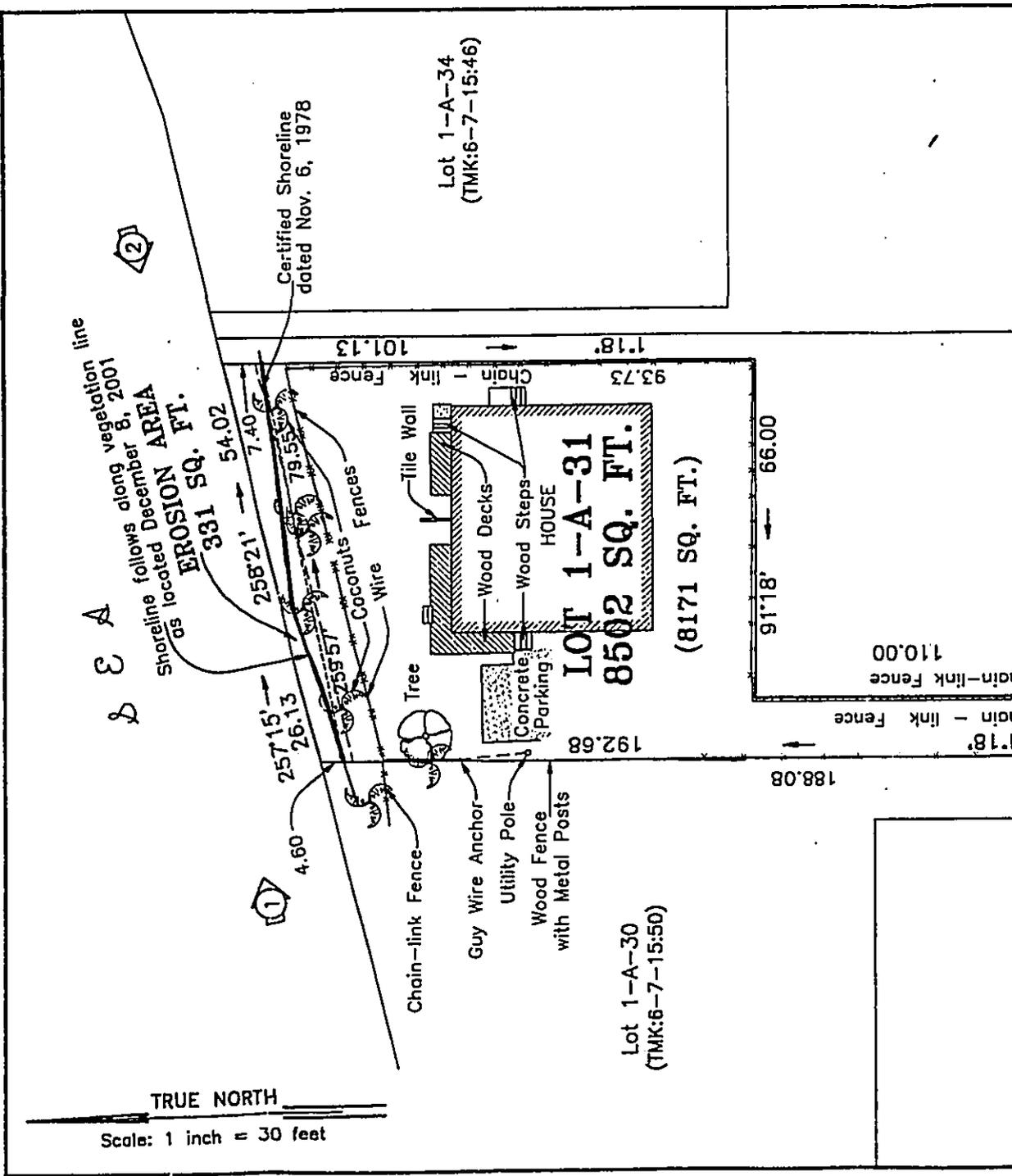
Drawn by: JLU

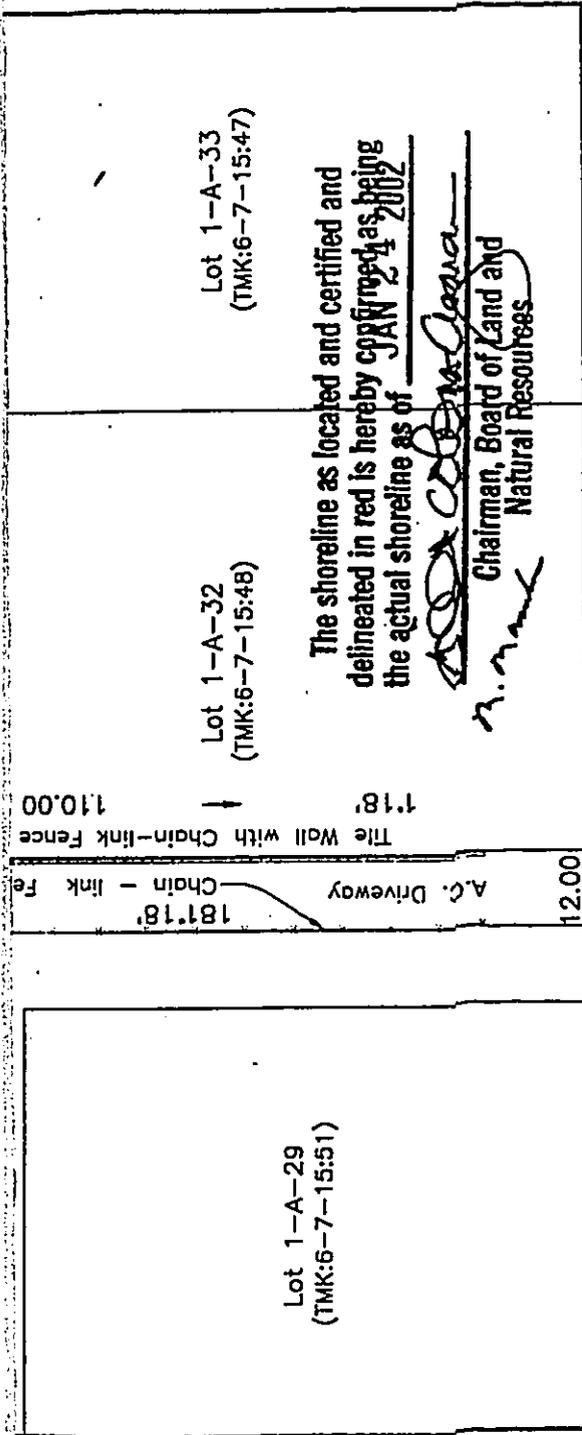
Date: DEC 2001

Drawing No:

A-1

1 of 1 Sheets





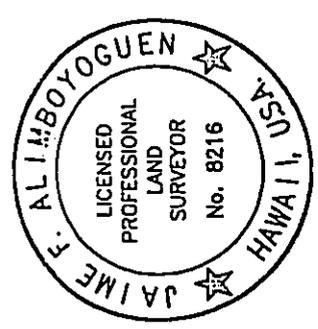
K A H A O N E L O O P

**PERIMETER MAP
LOT 1-A-31**

as shown on Map 40
of Land Court Application 1089
Kamananui, Waialua, Oahu, Hawaii
Tax Map Key: 6-7-15:49
Scale: 1 inch = 30 feet
Date: December 11, 2001

Owner: Helene Mirikitani
Mailing Address: 2336 Oahu Avenue
Honolulu, HI 96822

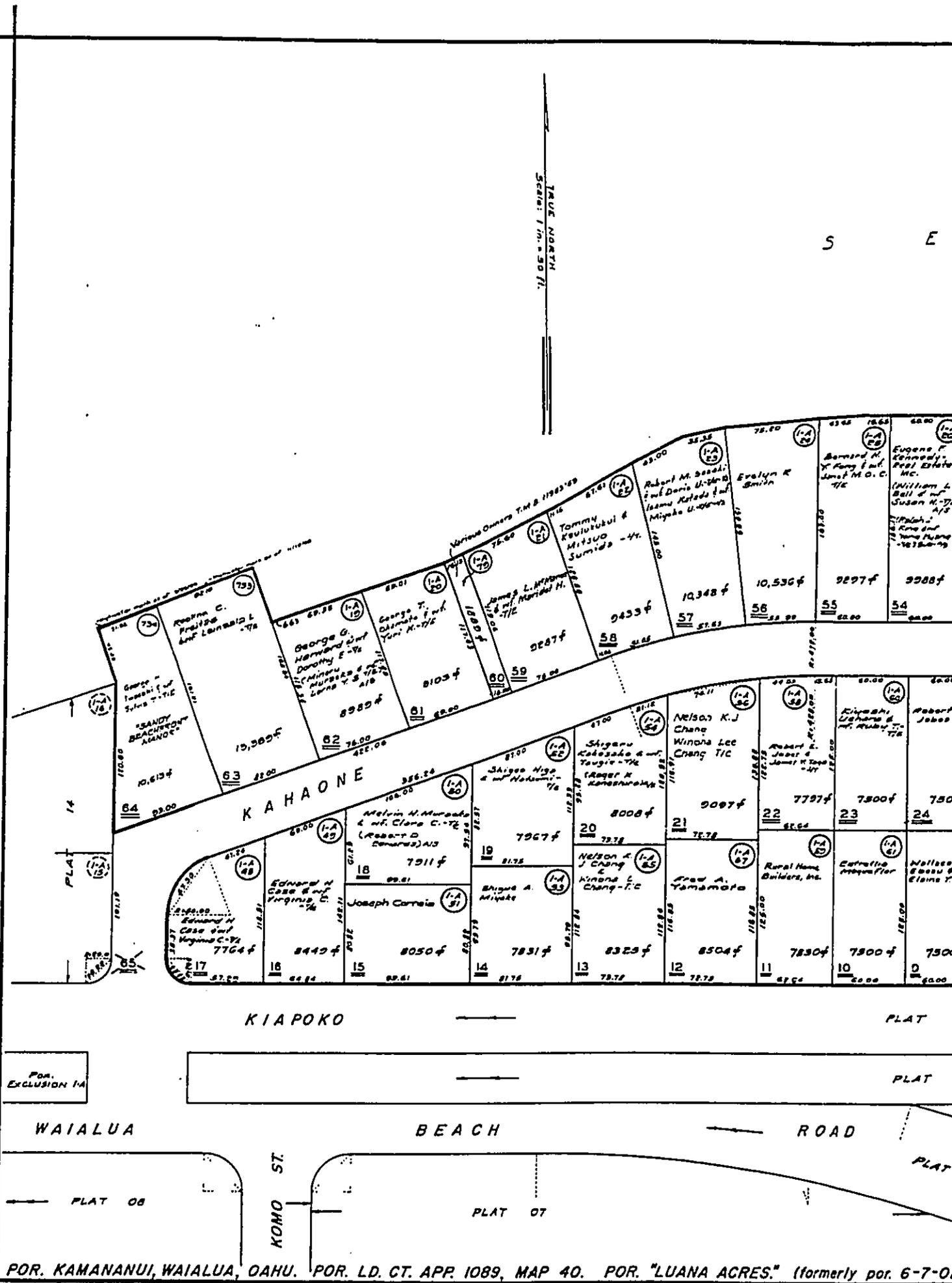
- NOTES:**
1. Only improvements shown were located.
 2. Denotes number and direction of photographs.



Jaime S. Ali-Boyoguen

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

TRUE NORTH
Scale: 1 in. = 50 ft.



DWG. NO. 4546
 SOURCE, TAXATION MAPS, BUREAU OF LANDS
 OCTOBER 21, 1980
 BY JLS

For Exclusion 1A

WAIALUA

BEACH

ROAD

PLAT 08

PLAT 07

FLOOD HAZARD DISTRICTS CERTIFICATION
(Section 21-9.10 of the Land Use Ordinance)

Exempted Projects and Improvements (except Accessory Structures) including repairs, maintenance, reconstruction, additions, and alterations pursuant to Sections 21-9.10-12 and 21-9.10-13 of the Land Use Ordinance.

EXEMPTED PROJECTS IN FLOODWAY OR COASTAL HIGH HAZARD DISTRICTS

Project Description: Construction of a deck within the Shoreline Setback Area

Address: 67-239 Kahaone Loop

City: Waialua

State: Hawaii 96793

Zip

Tax Map Key: (1) 6-7-015:049

Section I - Flood Insurance Rate Map Information

COMMUNITY NO.	PANEL NO.	SUFFIX	DATE OF FIRM	FIRM CODE	REGULATORY FLOOD ELEV (in 30 Year -100- depth)	COMMUNITY ESTIMATED REG. FLOOD ELEVATION ESTABLISHED FOR ZONE A IF AVAILABLE
105 of 395	150030 0105E	E	11/20/00	VE	16	none

Section II - Certification Statement

I certify that based upon development and/or review of design, specifications, and plans for construction, the design and methods of construction are in accordance with accepted standards of practice and:

1. Within the Coastal High Hazard District, the structures and improvements would not affect the regulatory flood nor aggravate existing flood related erosion hazards.
2. Within the Floodway District, the structures and improvements would not result in increase of the regulatory flood levels.

Section III - Certification

This certification is conditioned upon the actual construction of the project being in strict accordance with the plans and specifications as stamped and signed by me.

Certifier's Name JOEL USTARE, AIA, CSI
(print or type)

Title PRESIDENT

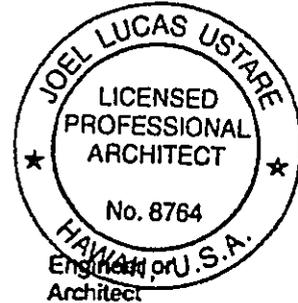
Company Name USTARE ARCHITECTURE

Street Address 1038 SPENCER ST. #502

City HONOLULU State HI Zip 96822

Signature [Signature] Date 1/18/02

Affix Seal Below



ZONING BOARD OF APPEALS OF THE CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

IN THE MATTER OF THE APPLICATION)
OF)
JAMES P. AND KATHLEEN K.O. CONAHAN)
FOR A VARIANCE)

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

I. APPLICATION

The Zoning Board of Appeals at its meetings on December 3 and 17, 1970, considered the application by James P. Conahan and Kathleen K.O. Conahan, for a variance from the provisions of Section 21-553(a)(2) of the Comprehensive Zoning Code relating to lot area for one-family semi-detached and two-family detached dwellings, to permit the construction of a duplex on land situated at 67-239 Kahaone Loop in Waialua and identified as Tax Map Key 6-7-15: 49. A public hearing on this matter was held by the Zoning Board of Appeals on December 17, 1970, in accordance with Section 5-515(3) of the City Charter.

II. FINDINGS OF FACT

On the basis of the evidence presented, the Board has found:

1. Zoning: R-6 Residential District.
2. General Plan Detailed Land Use Map: Residential Use.
3. There is no Development Plan for the area.
4. Existing Land Use: Vacant parcel; area predominately in duplex.

MAILED

Jan 13 1971
[Date]

5. Pertinent Sections of the Comprehensive Zoning Code:

Section 21-553. Minimum lot area....

(a) Lot area.

"(2) For one-family semi-detached and two-family detached dwellings, the minimum lot area shall be:

- a. 9,000 square feet, if the cross slope of the zoning lot is 25 percent or less."

6. Applicant's Justifications:

- a. "The great majority of the other lots in the subdivision are under 9,000 sq. ft. but have duplexes on them. The occupants of owner's proposed duplex would not feel overly confined even though the lot is less than 9,000 sq. ft. since the occupants would have a view of and enjoy access to a state-owned sandy beach.

"The property was purchased by A/S for \$29,000. A single dwelling in this area, costing \$15,000, would bring only \$225/mo. on a \$44,000 investment; after taxes (\$600/yr.) and other estimated costs (depreciation, etc.) were deducted, the net return would be only a 3% to 4% per year.

- b. "The property is part of a subdivision which was intended by the developer for duplex development. All lots in the area met the area requirement of the law prior to the CZC. The great majority of the lots in the subdivision are less than 9,000 sq. ft. and contain duplexes.
- c. "The plat map, attached, indicates that 74% of the lots in the subdivision have duplexes built on them; 85% of these duplexes are on lots less than 9,000 sq. ft. in area. Building another duplex in this subdivision would not alter its essential character; it would continue the area's

general character since the area was originally subdivided to provide for duplexes on each lot. The owner's lot is now completely surrounded by duplexes. See photographs attached.

"One of the reasons the CZC establishes a 9,000 sq. ft. size for duplex lots is so that the occupants will not feel too confined; as explained in 5a., the occupants will not feel too confined since they have a view of and access to a wide beach. Thus, this purpose of the CZC will be carried out even though the lot is small than required under the CZC. Owner further believes an attractive 3-bedroom duplex could be placed on the lot. See attached blueprints & plot plan. Lastly, R-6 zoning is supposed to provide for concentrated urban development."

7. Remarks:

The parcels situated on the tax map of the subject parcel vary in size from 9,800+ square feet to 7,500 square feet. The subject parcel is a beach front lot with a 20-foot shoreline setback requirement. Also, the subject parcel is a flag lot with 1,320+ square feet situated within the easement area.

III. CONCLUSIONS OF LAW

The Board made the following Conclusions of Law:

1. By reason of peculiar and unusual circumstances pertaining to the physical characteristics of the property, practical difficulties and unnecessary hardship would result from a strict enforcement of the existing zoning requirements;
2. The request is due to unique circumstances and not to the general conditions in the neighborhood which may reflect the unreasonableness of the Zoning Ordinance; and

3. The use sought by the variance will neither alter the essential character of the locality nor be contrary to the intent and purpose of the Zoning Ordinance and it will not adversely affect the adjoining properties or the improvements thereon.

IV. DECISION AND ORDER

Pursuant to the foregoing Findings of Fact and Conclusions of Law, it was the decision of the Zoning Board of Appeals at its meeting on December 17, 1970, that the application for a variance from the provisions of Section 21-553(a)(2) of the Comprehensive Zoning Code relating to lot area for one-family semi-detached and two-family detached dwellings, to permit the construction of a duplex on land situated at 67-239 Kahaone Loop in Waiialua and identified as Tax Map Key 6-7-15: 49, be approved in accordance with the submitted site plan on the basis that it found sufficient evidence to meet the three conditions of hardship specified in the City Charter.

Dated at Honolulu, Hawaii, this 17th day of December, 1970.

ZONING BOARD OF APPEALS OF THE
CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

BY 
JACK K. WAKAYAMA, Chairman

**BUILDING DEPARTMENT
CITY AND COUNTY OF HONOLULU
BUILDING PERMIT APPLICATION**

PERMIT NO. 100009

APPLICANT FILL INSIDE HEAVY LINES ONLY	
OWNER	<u>JAMES CONAHAN</u>
ADDRESS	<u>501 KEKIUA ST.</u>
PLAN MAKER	<u>HICKS</u>
ADDRESS	
PROF. REG. NO.	TEL. NO.
CONTRACTOR	<u>HICKS</u>
ADDRESS	<u>2331 S. BERETANIA ST.</u>
STATE LIC. NO.	TEL. NO. <u>946-1491</u> ✓
JOB ADDRESS	<u>67-239 KANAONE LOOP</u>
WORK TO BE DONE	<u>NEW 1-STORY DUPLEX DWG</u>
ESTIMATED VALUE \$	<u>27,000</u>
<input checked="" type="checkbox"/> NEW BLDG <input type="checkbox"/> FOUNDATION ONLY <input type="checkbox"/> SHELL ONLY <input type="checkbox"/> FENCE WALL <input type="checkbox"/> RETAINING WALL <input type="checkbox"/> OTHER <input type="checkbox"/> ADD <input type="checkbox"/> ALTER <input type="checkbox"/> REPAIR <input type="checkbox"/> DEMOLISH <input type="checkbox"/> RECONSTRUCTION <input type="checkbox"/> ELECTRICAL LATER <input type="checkbox"/> PLUMBING LATER <input type="checkbox"/> SEWER CONNECTION <input checked="" type="checkbox"/> CESSPOOL <u>NEW</u> <input type="checkbox"/> AEROBIC UNIT	
METHOD OF SEWAGE DISPOSAL	
PROPOSED USE	
I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all City and County ordinances and State laws regulating building construction.	
SIGNATURE (OWNER OR AGENT)	DATE
<u>James Conahan</u>	<u>12/18/70</u>

ZONE	SEC	PLAT	PARCEL	LOT NO.	LOT AREA
<u>6</u>	<u>7</u>	<u>15</u>	<u>49</u>	<u>1-43</u>	<u>8,502</u> SQ. FT.
ACCEPTED VALUE <u>\$ 27,000</u>					PERMIT FEE <u>7900</u>
TYPE OF CONSTRUCTION			NO. OF STORIES	FIRE ZONE	
MINIMUM			<u>ACTUAL</u>	<u>1</u>	<u>3</u>
OCCUPANCY GROUP <u>DUPLEX</u>					
FLOOR AREA (SQ. FT.)					
EXISTING		NEW		TOTAL	
		<u>1576</u>		<u>1576</u>	
REMARKS					
<u>OK'd by Jack Hillman, City Project Engineer</u>					
APPROVAL OF OTHER AGENCIES (ROUTE AS INDICATED)					
<input checked="" type="checkbox"/>	AGENCY	SIGNATURE	DATE		
<input checked="" type="checkbox"/>	CITY AND COUNTY	<u>[Signature]</u>	<u>12/18/70</u>		
<input checked="" type="checkbox"/>	PLANNING DEPT.				
<input checked="" type="checkbox"/>	ZONE (USE DIST.)	<u>IT</u>			
<input checked="" type="checkbox"/>	SET BACK				
<input checked="" type="checkbox"/>	DIV. OF ENGINEERING				
<input checked="" type="checkbox"/>	DRIVEWAY & LOT GRADING				
<input checked="" type="checkbox"/>	HIGHWAY				
<input checked="" type="checkbox"/>	DRAINAGE				
<input checked="" type="checkbox"/>	DIVISION OF SEWERS	<u>[Signature]</u>	<u>12/18/70</u>		
<input checked="" type="checkbox"/>	FIRE DEPT.				
<input checked="" type="checkbox"/>	HON. REDEV. AGENCY				
<input checked="" type="checkbox"/>	ELEC.	<u>[Signature]</u>	<u>12/18/70</u>		
<input checked="" type="checkbox"/>	STATE OF HAWAII				
<input checked="" type="checkbox"/>	HEALTH DEPT.	<u>[Signature]</u>	<u>12/18/70</u>		
<input checked="" type="checkbox"/>	FIRE MARSHAL				
<input checked="" type="checkbox"/>	LAND & NATURAL RESOURCES	<u>[Signature]</u>	<u>12/18/70</u>		
<input checked="" type="checkbox"/>	HIGHWAYS DIVISION				
<input checked="" type="checkbox"/>	DIV. OF INDUSTRIAL SAFETY				

Permission is hereby given to do above work according to conditions hereon and according to approved plans and specifications pertaining thereto, subject to compliance with ordinances and laws of City and County of Honolulu and State of Hawaii.

[Signature] 4/6/71
FOR BUILDING SUPERINTENDENT DATE

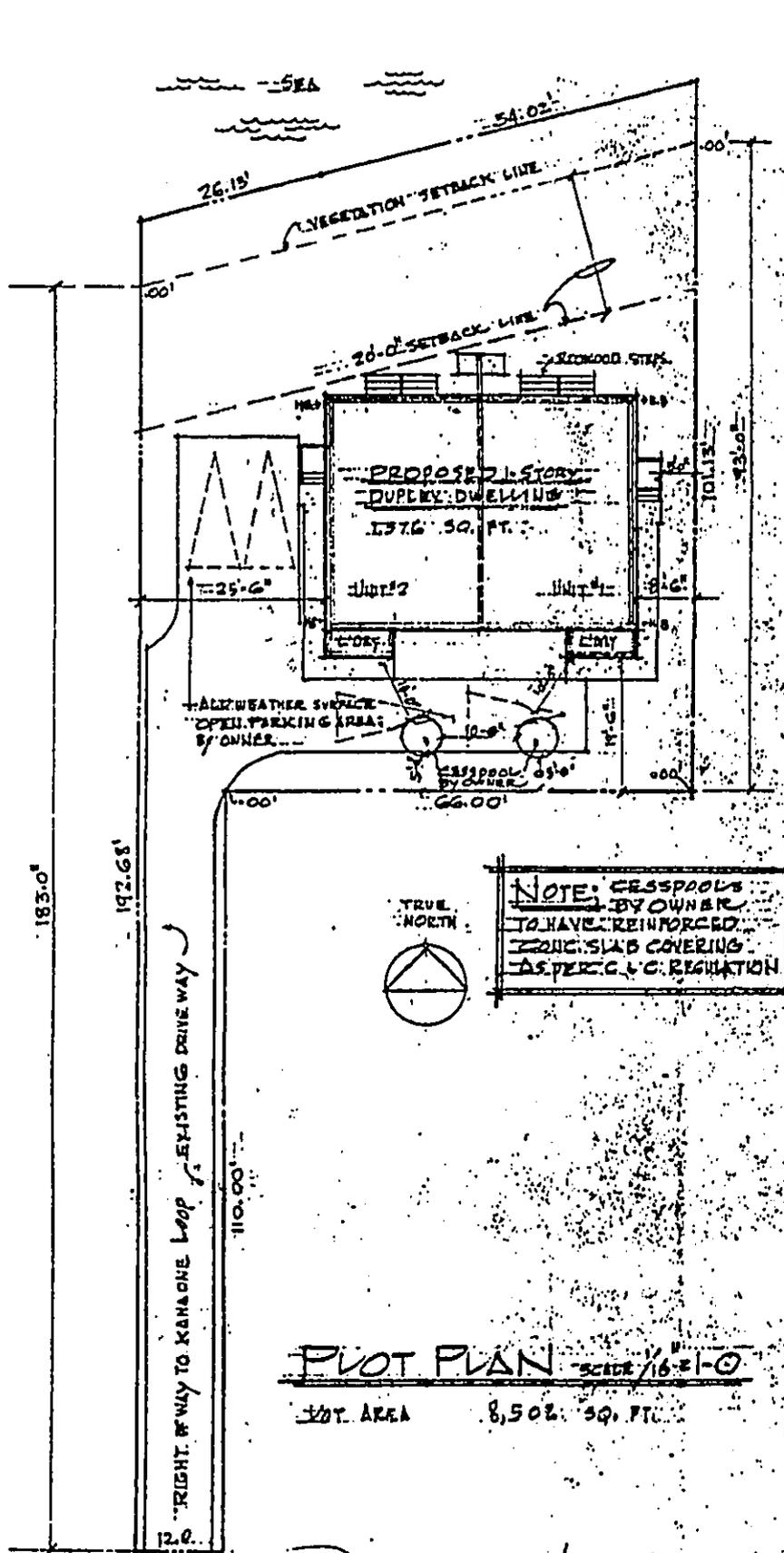
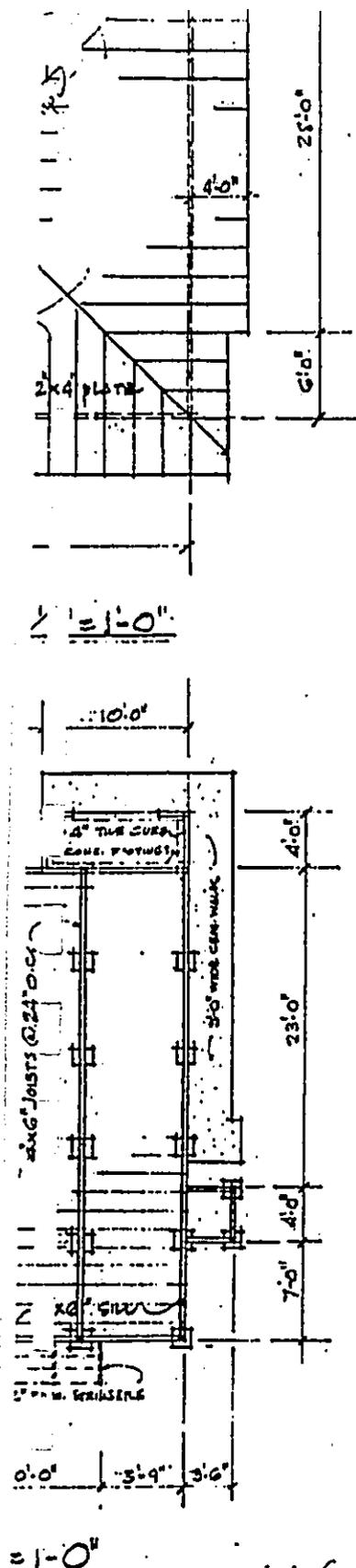
NOTES TO APPLICANT:

Post permit placard on site of work.
This permit expires if work is not started within 90 days of date of issuance or if work is suspended or abandoned for 90 days. Violating any of the provisions of building code is punishable by fine of \$300.00 and/or 90 day imprisonment.

Separate permits must be obtained for signs, electrical, plumbing, and gas.

This building shall not be occupied until a certificate of occupancy has been issued.

Exhibit 5



PLOT PLAN SCALE 1/8" = 1'-0"
 TOT. AREA 8,502 SQ. FT.

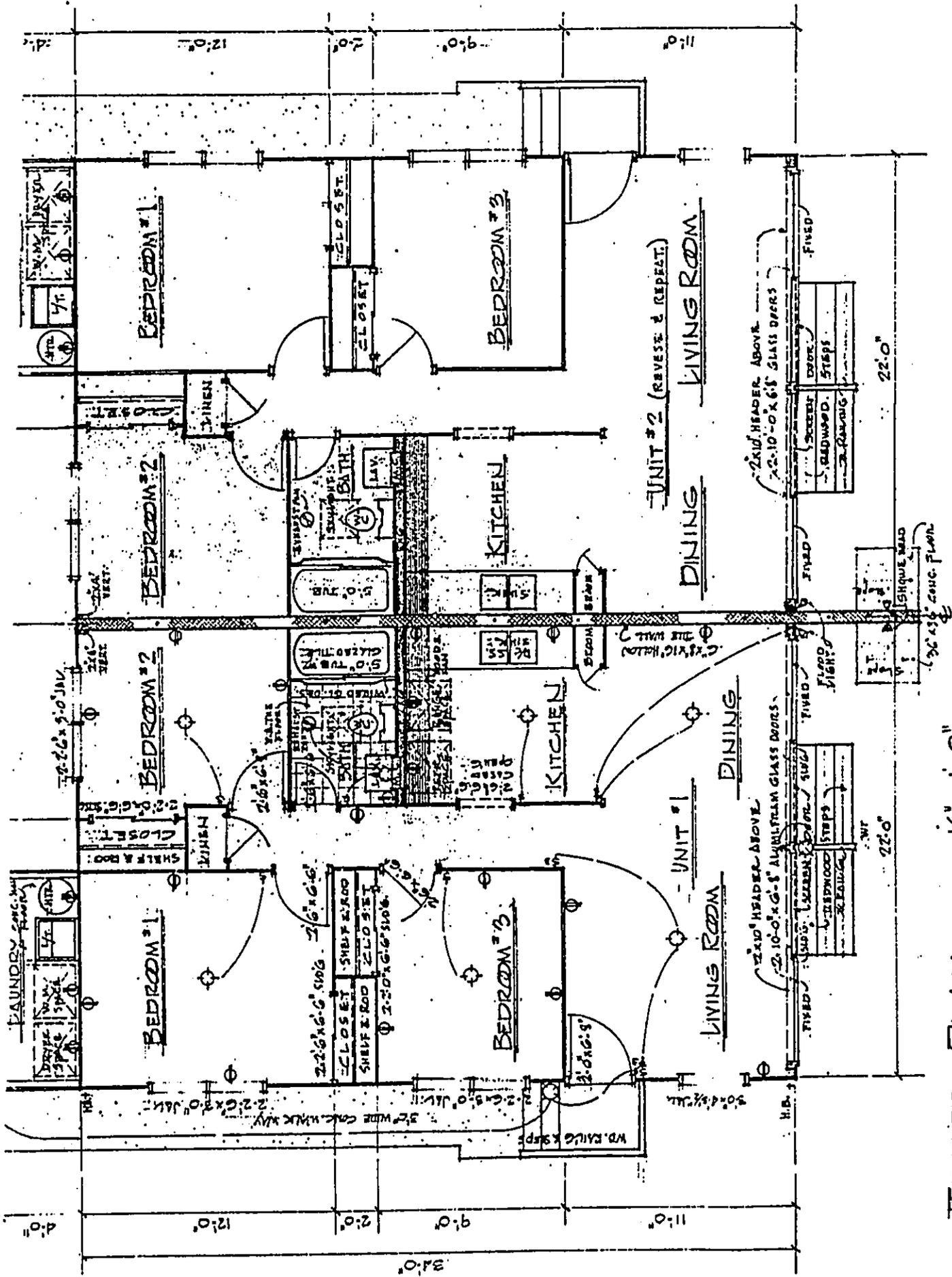
PARKING DEPT.
 City and County of Honolulu
 Checked by: *[Signature]*
 Date: 12/26/70
Zone of wave action - 10' off by Jack Williams 1/13/70

7023A-183

FROM PLAN # 213

11-11-70
 10-27-70

DATE	SALESMAN	PROPOSED 1-STORY DUPLEX DWELLING
		FOR MR. & MRS. JAMES F. CONAHAN
APPROVED BY		ADDRESS 21 KAHONE LOOP, WAILUA, OAHU, HI.



FLOOR PLAN - SCALE 1/4" = 1'-0"

LIVING AREA UNDER ROOF	1,496 SQ. FT.
LAUNDRY	80 SQ. FT.
TOTAL AREA UNDER ROOF	1,576 SQ. FT.

11.77 7MO:
2x6' 4 SIBS