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OFC. OF ENVIRONMENTAL QUALITY CONTROL

2002/ED-4 (ST)

May 6, 2003

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, HRS
Environmental Assessment (EA) Determination
Finding of No Significant Impact (FONSI)

Recorded Owners/ Applicants	:	Roy and Brendan Mesker
Agent	:	Plan Pacific
Location	:	447 Portlock Road - East Honolulu, Oahu
Tax Map Key	:	3-9-16: 3
Request	:	After-the-fact Shoreline Setback Variance (SV)
Proposal	:	Retention of a concrete, below grade, swimming pool, a portion of which (approximately 326 square feet) is located within the 40-foot shoreline setback

Attached and incorporated by reference is the Final EA prepared by the agency 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.

We have also enclosed a completed The Environmental Notice Publication Form and four (4) copies of the above-referenced Final EA, and diskette.

If you have any questions, please contact Steve Tagawa of our staff at 523-4817.

Sincerely yours,

Barbara A Moon

ERIC G. CRISPIN, AIA
for Director of Planning
and Permitting

EGC:cs
Attachments

Posse 214546

2003-05-23-OA-FEA

2002/ED-4

MAY 23 2003

FILE COPY

(MESKER AFTER-THE-FACT SWIMMING)

Final Environmental Assessment and Shoreline Setback Variance Application

for a Residential Swimming Pool located in TMK: 3-9-016:003

Prepared for Roy and Brendan Mesker

Prepared by PlanPacific, Inc.

March 24, 2003

Final Environmental Assessment and Shoreline Setback Variance Application

for a Residential Swimming Pool located in TMK: 3-9-016:003

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March 24, 2003

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DEPT OF PLANNING
and PERMITTING
CITY & COUNTY OF HONOLULU

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A Rationale for Granting a Variance
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C. Certified Shoreline Survey

1. PROJECT SUMMARY

Project Name:	Swimming Pool - Portlock Residence
Applicant/Landowner:	Roy and Brendan Mesker
Site Address:	447 Portlock Road, Maunalua Bay, Oahu
Tax Map Key:	3-9-016:003
Project Area:	17,529 square feet
Existing Use:	Residential; new dwelling under construction
Proposed Use:	Single family dwelling, swimming pool, and landscaping
State Land Use District:	Urban District
East Honolulu Sustainable Communities Plan Designation:	Residential and Low Density Apartment
Zoning District:	R-10 Residential
Special Management Area and Shoreline Setback:	The lot is located within the Special Management Area and is subject to a 40-foot shoreline setback
Action Requested:	After-the-fact shoreline setback variance for replacement of a nonconforming swimming pool and deck with a reconstructed pool which reduces nonconformity
Approving Agency:	Department of Planning and Permitting 650 South King Street, 7th Floor Honolulu, Hawaii 96813
Agencies & Groups Consulted:	Neighborhood Board #1 – Hawaii Kai, City and County Department of Planning and Permitting, Board of Water Supply, State Historic Preservation Division, Department of Land and Natural Resources, Office of Hawaiian Affairs, and Department of the Army
Action Requiring Assessment Under Chapter 343:	Reconstruction of a portion of the nonconforming swimming pool within the shoreline setback
Anticipated Determination:	Finding of No Significant Impact (FONSI)

2. GENERAL DESCRIPTION OF THE ACTION'S CHARACTERISTICS

2.1 TECHNICAL CHARACTERISTICS

Description of the Property and Project Background

The subject property is a private residential parcel of land which is 17,529 square feet in size. It is located on the makai or west side of Portlock Road in East Honolulu (see **Figure 1**). The parcel is bordered by privately-owned single-family residences to the north and south, Portlock Road to the east, and the shoreline to the west (see **Figure 2**). The shoreline is defined by an existing seawall that is connected to seawalls on adjacent properties to the north and south (see **Exhibit A**). Like other Portlock seawalls, the seawall on the subject property is nonconforming under the City's Shoreline Setback regulations, Chapter 23, ROH. The shoreline is established at the seaward face of the seawall.

A 40-foot shoreline setback applies to the lot. The owners have demolished the previous residence and are constructing a new residence mauka of the shoreline setback. A new swimming pool has been partially constructed to replace the previous swimming pool and concrete deck. Built prior to the Shoreline Setback regulations (the pool and deck appear on DPP's 1967 aerial photographs), the previous swimming pool and concrete deck were located partially within the shoreline setback and were considered legally nonconforming. The owners planned to demolish the deck and portions of the existing swimming pool and build a reconfigured pool. The net result would be a reduction in paved area within the shoreline setback.

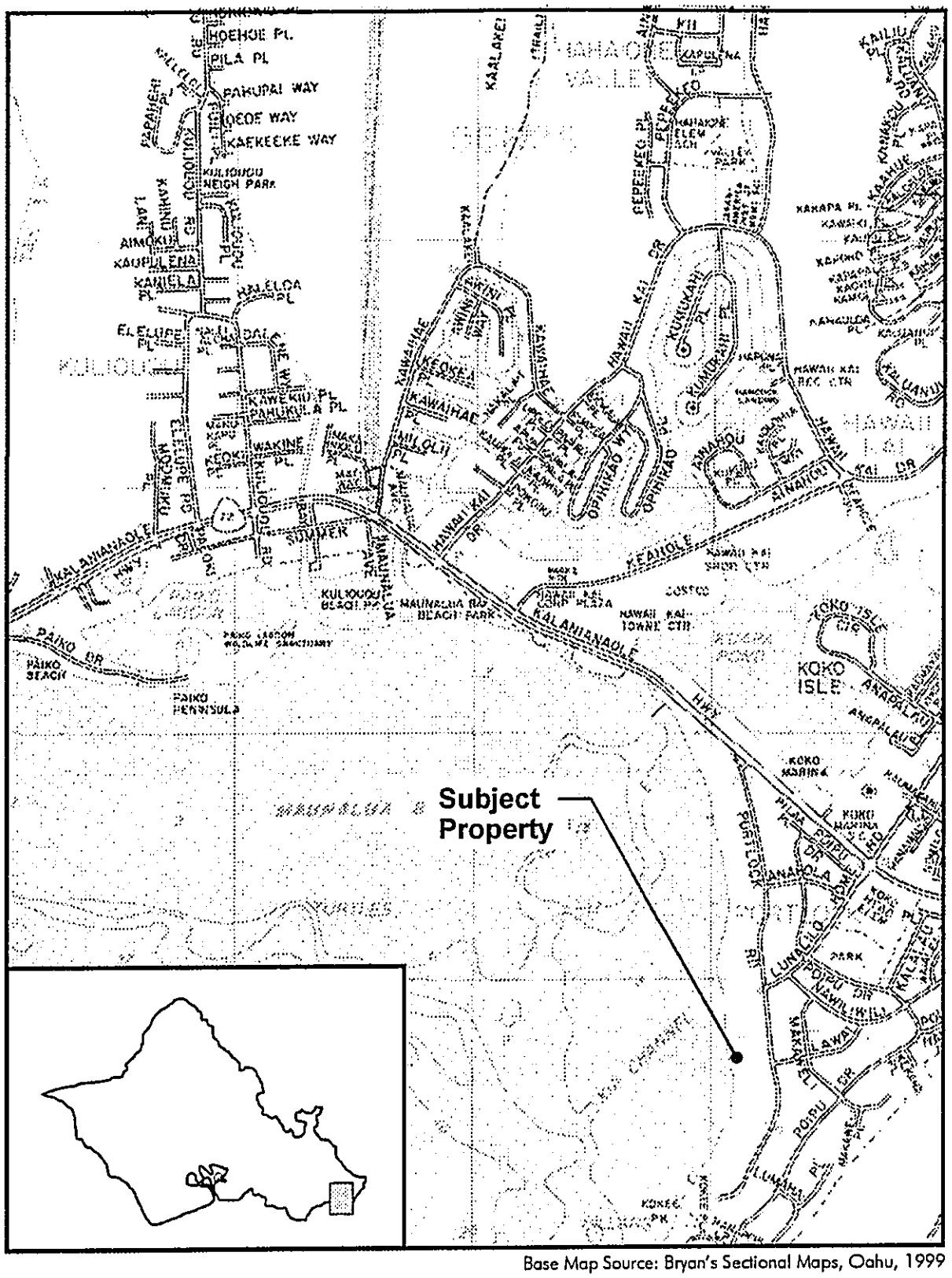
On behalf of the owners, All Pool & Spa applied for a building permit for demolition of the existing pool and deck and rebuilding of the swimming pool. On September 6, 2001, the Department of Planning and Permitting (DPP) issued Building Permit No. 525746 granting approval for this work.

Previously, in July, the owners' architect had sent a letter and plan drawing to DPP requesting approval of the demolition and pool reconfiguration under the shoreline setback regulations. On September 29, a few weeks after Building Permit No. 525746 was issued, the architect received a letter from DPP stating that a shoreline setback variance would be required. However, DPP did not retract Building Permit No. 525746.

In reasonable reliance on Building Permit No. 525746, the owner proceeded in good faith to demolish the existing pool and deck and build a reconfigured pool in November-December 2001. In January 2002, after the pool shell was constructed, the DPP issued a Notice of Violation and ordered work to be halted. DPP stated that Building Permit No. 525746 had been issued in error and that an after-the-fact shoreline setback variance would be required for the reconfigured pool.

The owners began construction of the new residence in May 2002, under a separate building permit. Like the previously existing residence, demolished in May 2001, the new one is located entirely mauka of the shoreline setback. No further work is planned on the pool until action is taken on the shoreline setback variance request. **Appendix A** provides more information on the justification of the request for a shoreline setback variance.

DOCUMENT CAPTURED AS RECEIVED



Base Map Source: Bryan's Sectional Maps, Oahu, 1999

Figure 1: Location Map

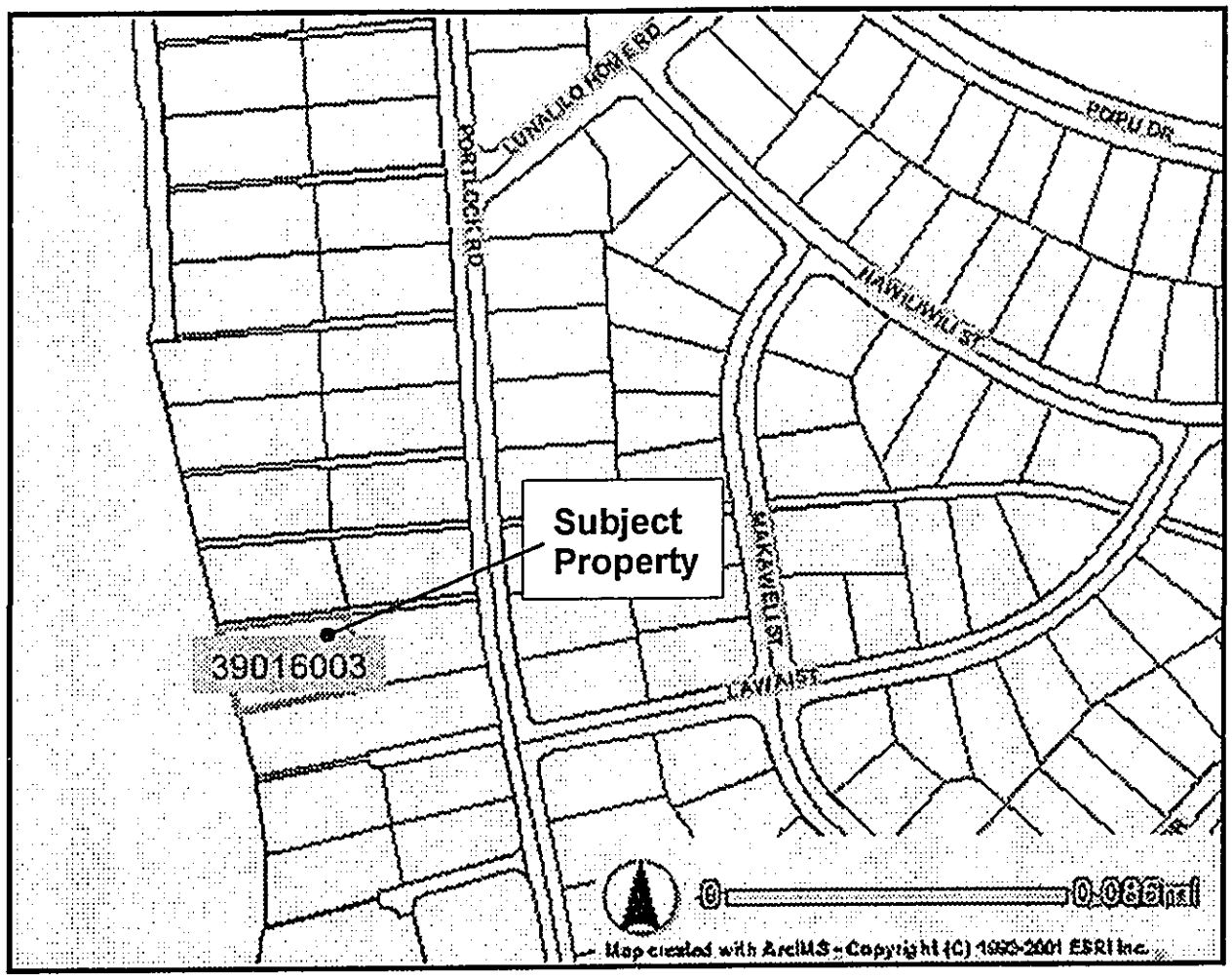


Figure 2: Parcel Map

DOCUMENT CAPTURED AS RECEIVED

Description of the Project

The project described in this document involves reconfiguration of the previously existing pool and removal of a concrete deck and bench-wall. The previously existing pool was rectangular in shape with semi-circular extensions on either end (see **Figure 3**). The pool was surrounded by a concrete deck covered with Futura stone, which extended beyond the pool farther into the shoreline setback. A low concrete wall bordering the makai edge of the deck served as a built-in bench (see **Figure 3**). The previously existing deck and bench-wall extended approximately 17 feet, at the greatest distance, into the 40-foot shoreline setback area. The total area of concrete structure within the shoreline setback was 557 square feet.

The new pool is a simple rectangle that is slightly narrower and longer than the previously existing pool. The pool would be a fresh water pool with filtration and chlorination systems. The new pool also has a pool cover storage compartment recessed in the ground at its north end (see **Figure 4**). It extends approximately 8 feet, at the greatest distance, into the shoreline setback area. Because the concrete deck will not be replaced, the total area of concrete structure within the shoreline setback will be reduced to 326 square feet.

The following table summarizes the total concrete area within the shoreline setback of the previously-existing pool and deck and that of the reconfigured pool. The areas were calculated using AutoCAD drawings (see **Exhibit B**).

Concrete Structures	Area within Shoreline Setback
Previously-existing pool & deck	557 sf
Reconfigured pool	326 sf
Difference [reduction in nonconforming area]	-231 sf

Allowing the reconfigured pool would result in a reduction of 231 square feet of concrete structures within the shoreline setback, thus reducing nonconformity by 41 percent.

2.2 ECONOMIC AND SOCIAL CHARACTERISTICS

The proposed project will not generate any new jobs nor increase the resident population of the area.

2.3 CULTURAL AND HISTORIC CHARACTERISTICS

The subject property does not contain plants or animals of traditional Hawaiian subsistence gathering value and is not currently used for cultural or religious practices. Public access to the shoreline for fishing, gathering, or recreation will not be affected by this project.

2.4 ENVIRONMENTAL CHARACTERISTICS

The subject property does not contain unique or endangered species of plants nor is a significant faunal habitat.

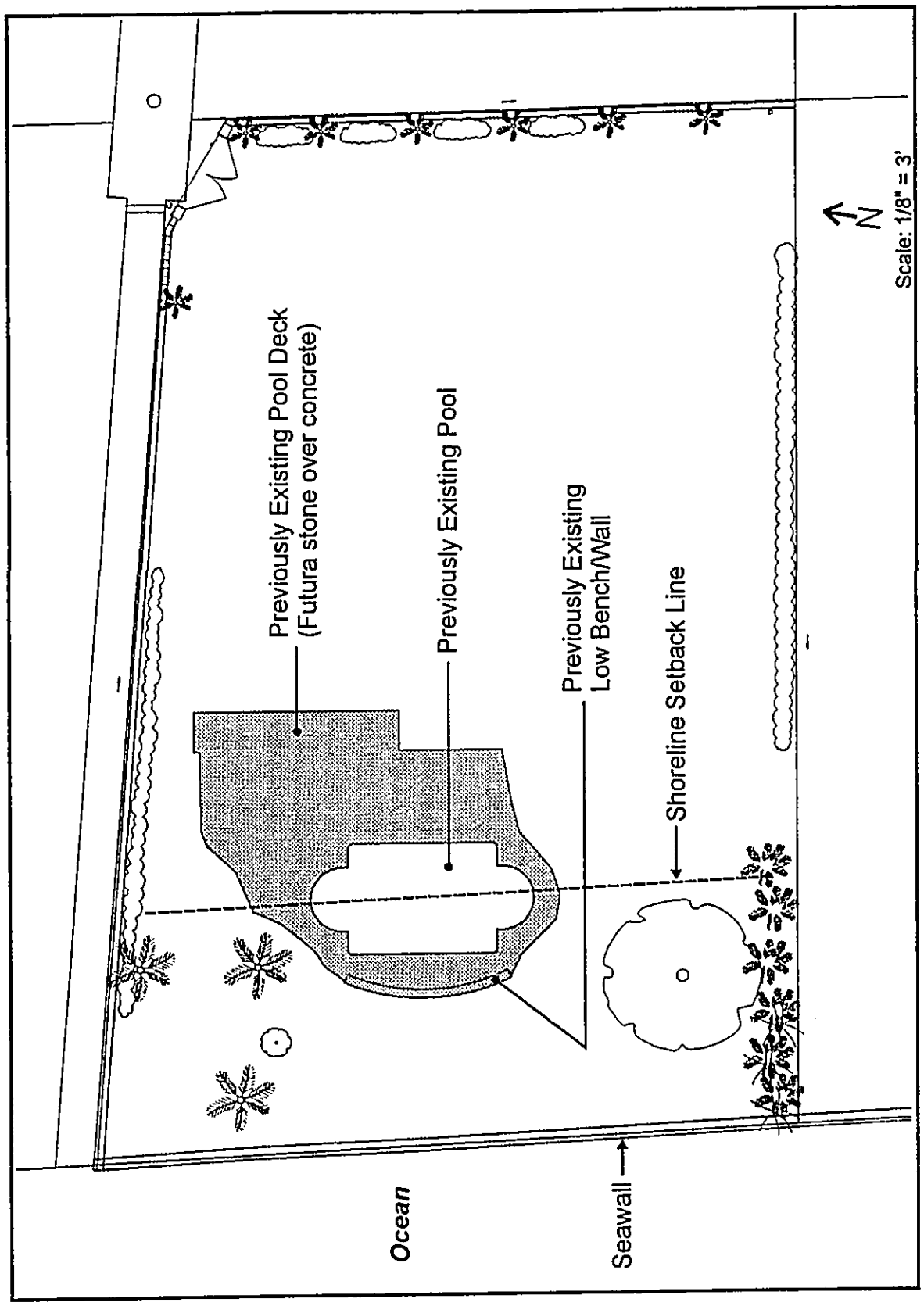


Figure 3: Site Plan Showing Previously Existing Pool and Deck

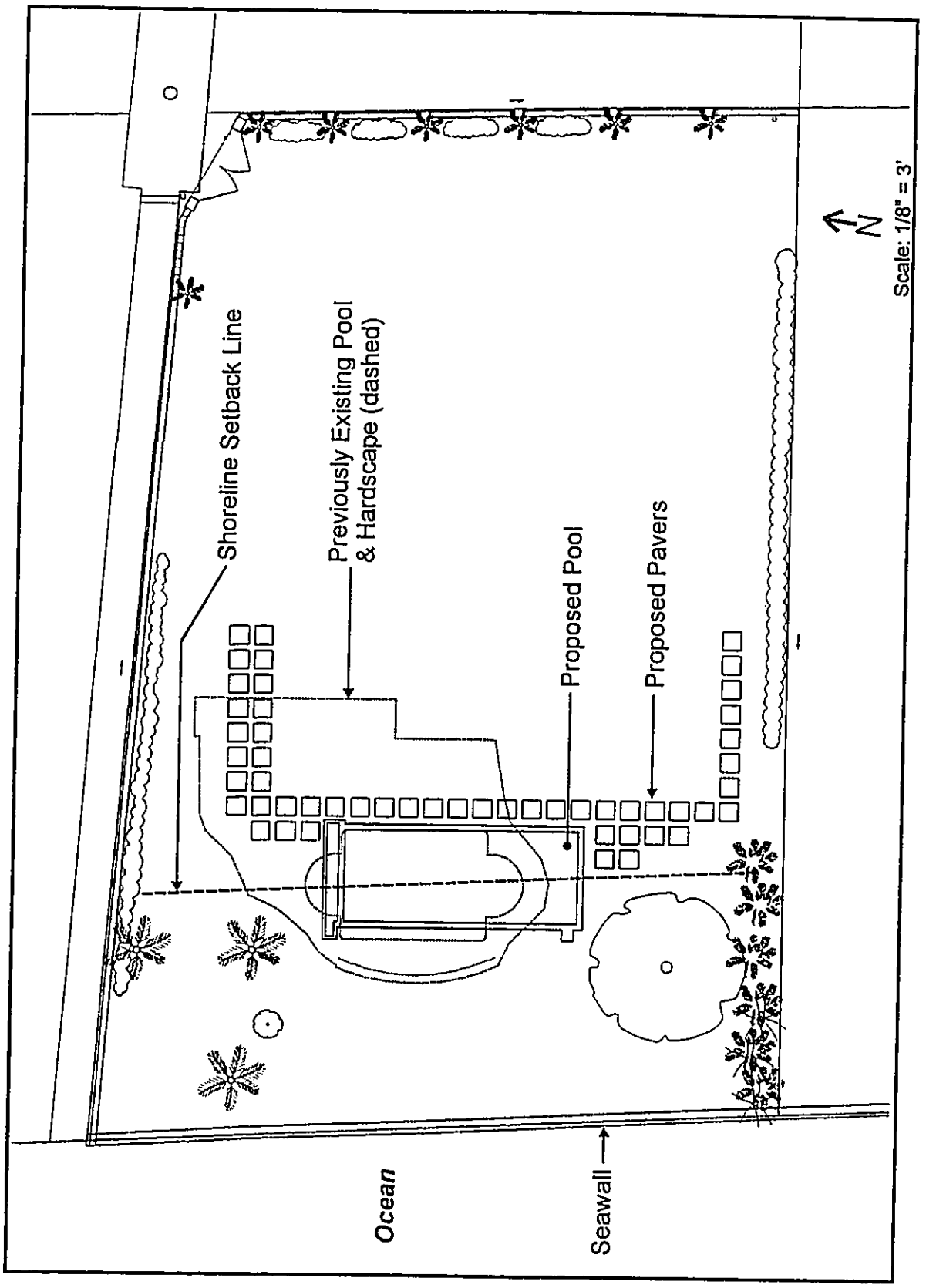


Figure 4: Site Plan Showing Proposed Pool

3. DESCRIPTION OF THE AFFECTED ENVIRONMENT, IMPACTS, AND MITIGATION

3.1 CLIMATE

The area is characterized by warm temperatures and an average annual rainfall of approximately 30 inches per year.

The proposed project will have no effect on climatic conditions and no mitigative measures are necessary.

3.2 TOPOGRAPHY

The subject property is flat with a slight slope, approximately a 2-foot change in grade, from the street down to the seawall. The elevation of the area where the pool is proposed to be located is approximately 8 feet above mean sea level.

Since it was previously built upon, cut and fill earthwork is not necessary. Some minor grading may be required to implement the proposed landscape design.

3.3 SOILS AND GEOLOGY

The subject property is located on the southeastern end of the Koolau Mountain Range on the northwestern flank of Koko Head crater. According to the soils report completed for this parcel, the formation of the Koolau Mountain Range above sea level is believed to have begun in late Tertiary/early Pleistocene time (between 1 and 12 million years ago) by eruptions of lava from a rift zone roughly paralleling the existing mountain crest trends. After cessation of the main volcanic activity, deep valleys such as Palolo and Manoa were carved into the mountain. During high stands of sea level, the valleys were infilled with sediments. Volcanic activity later resumed on the southeastern end of the Koolau Range and consisted of more than 30 separate cinder, spatter, and ash cones. These late-stage eruptions are known as the Honolulu Volcanic Series and consist of well-known landmarks such as Diamond Head, Koko Head, Punchbowl, and Tantalus.

The ground surface of the subject property slopes gently downwards from the front of the property (mauka) to the rear of the property (makai). Surface elevations range from approximately 6.7 to 9 feet. According to the U.S. Department of Agriculture, Natural Resources Conservation Service (fka Soil Conservation Service) publication, *Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii* (August 1972), the soil of the subject property is of the Jaucas Series. In particular, the soil is classified as Jaucas sand, 0 to 15 percent slopes (JaC). Jaucas soils consist of excessively drained, calcareous soils that occur as narrow strips on coastal plains, adjacent to the ocean. Jaucas sand (JaC) permeability is described as rapid, and runoff is very slow to slow. The hazard of water erosion is slight, but wind erosion is a severe hazard where vegetation has been removed. The available water capacity is 0.5 to 1.0 inch per foot of soil. Workability of this soil is slightly difficult because the soil is loose and lacks stability for use of equipment.

In general, soil suitability studies serve mainly to describe the relative productivity of different land types for agricultural production. The subject property is in a well established residential

area and will not be used for agricultural production in the foreseeable future. The soil is generally suited for the proposed construction, and any impact due to construction will be negligible.

3.4 HYDROLOGY AND DRAINAGE

The previous dwelling was located in the middle of the lot with the entrance oriented toward the front of the lot, facing east. The new dwelling is situated on the lot in almost the exact position and orientation as the previous dwelling. Vehicular access to the lot is through the northeast corner and the driveway, made of regularly spaced pavers, passes the front door of the dwelling to the garage located on the southeastern corner of the lot. As previously mentioned, the property slopes gently from mauka (east) to makai (west), going from approximately 9 feet to 6.7 feet. On-site drainage of surface run-off is directed by swales from the front southeast corner of the lot to the narrow side yards, and then to the rear of the property where run-off will be absorbed (see **Exhibit D**). The property is not affected by natural or man-made drainageways.

3.5 NATURAL HAZARDS

The subject property is located along the shoreline and within the Special Management Area. The Flood Insurance Rate Map (FIRM) of the National Flood Insurance Program shows that the seaward portion of the property is located within FIRM Zone A, which is defined at being within the 100-year flood inundation area, no base flood elevations determined. The mauka portion of the property is designated FIRM Zone D, flood hazard undetermined. The property is also situated within the Tsunami Evacuation Zone, as defined by Oahu Civil Defense.

The swimming pool site lies within FIRM Zone A, and its design and construction will comply with Title 44 of the Code of Federal Regulations, § 60.3 (a)(3)(iv). Swimming pools are exempt from City Flood Hazard District regulations contained in the Land Use Ordinance. The proposed pool reconfiguration will not exacerbate any hazard conditions.

3.6 COASTAL PROCESSES

According to the *Oahu Shoreline Study*[1], the Portlock shoreline is protected by vertical seawalls for a distance of 4,000 feet south of the old Henry Kaiser estate (p. 31). This area encompasses most Portlock shoreline residential lots, including the subject property. The Study states, "There is little or no sandy beach remaining, and lateral access is restricted." According to DPP records, the seawall fronting this lot is nonconforming.

Because this section of the Portlock shoreline is entirely protected by seawalls, construction of a swimming pool within the shoreline setback will have no effect on littoral transport or other coastal processes.

---

[1] City and County of Honolulu, Department of Land Utilization, *Oahu Shoreline Study: Part 2, Management Strategies*, November 1989.

3.7 FLORA AND FAUNA

The project site does not contain any threatened or endangered species and thus does not require mitigative measures. Vegetation on the project site consists primarily of coconut trees, bougainvillea, other trees and shrubs of common varieties, and alien weeds and grass.

Existing mature trees will be retained in place. New shrubs, trees, grass, and groundcover will be planted.

3.8 ARCHAEOLOGICAL AND HISTORIC RESOURCES

No archaeological features exist on the subject property and no negative impacts are anticipated. If the need for further archaeological study is indicated, all applicable requirements of the Department of Land and Natural Resources will be executed. Should features or human remains be found during the course of construction, all work will be stopped and both the State Historic Preservation Division and the Oahu Island Burial Council will be notified.

3.9 NOISE

Potential noise impacts will be generated from short-term construction activity. Construction noise may impact nearby existing residential areas, but will be confined to daytime only and should be relatively short-term.

3.10 AIR QUALITY

Air quality impacts attributed to the proposed action may include dust generated by short-term construction-related activities. The action is of a small-scale and the impact to local and regional ambient air quality conditions will be negligible.

3.11 WATER QUALITY

The proposed pool reconfiguration and its operation and maintenance will have no impact on ocean waters or existing water quality. The fresh water pool would have a water circulation and filtration system, as well as a chlorination system, to keep the pool walls and water clean. It is not anticipated that the pool would require regular or frequent draining. At most, the pool may be drained once every 10 years for maintenance. As such, the only built drains are those for water circulation and filtration. Should the pool require draining, for maintenance, storm events or other reasons, the water would be de-chlorinated and a submersible pump would be inserted into the pool. The water would be pumped out and dispersed onto the landscaping. Nearby ocean water quality will not be affected.

3.12 VISUAL RESOURCES

The subject property and shoreline in the immediate area are not visible from Portlock Road or from other public lands. Views from the seawall across the bay to Diamond Head will not be affected, nor will views along the seawall.

From the ocean, one sees primarily the large residential buildings that extend along the coast. The view of the subject property has been improved because the owners have planted a grove

of coconut palms that will partially screen the house and pool from view. Because the swimming pool and pool cover storage are recessed into the ground, and the ground level of the lot is eight feet above sea level, these structures will have no impact on views.

3.13 SOCIAL AND EMPLOYMENT CHARACTERISTICS

No significant socio-economic impacts are associated with the proposed action.

3.14 CHARACTER OF THE COMMUNITY

The proposed action will have no effect on the character of the community. Other beachfront properties in the area also have swimming pools.

3.15 INFRASTRUCTURE

The proposed action will have no effect on existing roadways, traffic, or parking; except for short-term construction-related traffic. The proposed action will also have no effect on water supply, wastewater systems, drainage facilities, solid waste disposal, electric/power service, or communications services. No mitigation measures are required.

3.16 PUBLIC SERVICES

The proposed project will not result in any change in the demand or supply of existing public services (police, fire protection, schools, medical, or recreation).

3.17 OVERALL SHORT-TERM AND LONG-TERM MITIGATION MEASURES

As indicated above, potential adverse impacts to the area are insignificant. Short-term impacts will result in the construction phase that will require movement of vehicles within the project site. These activities will generate localized noise and dust during construction periods. Mitigation measures to minimize adverse air quality would include frequent watering of unpaved construction areas, dust screens, and mulching and planting of ground cover and other vegetation as soon as possible after construction. Construction activities would comply with all applicable regulations of the City and State Department of Health.

Long-term negative from the proposed project are expected to be insignificant. Recommended mitigation measures include the following:

Short term:

- Wind screening as appropriate to limit fugitive dust.
- Restrict use of construction equipment to daylight hours.

Long term:

- Use of appropriate engineering, design and construction measures to ensure adequate drainage and irrigation of the site.

3.18 SUMMARY OF ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

The proposed pool reconfiguration and new landscaping will result in unavoidable, though negligible, construction related impacts as described earlier in this section. Potential effects include noise impacts occurring from site completion and planting activities. In addition, there may be temporary air quality impacts associated with dust generated from construction activities, and exhaust emissions discharged by construction equipment. The proposed project is not anticipated to create any significant, long-term adverse environmental effects.

3.19 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

Major resource commitments include the financial commitment for construction materials, manpower and energy required for the project's completion. No other significant irreversible and irretrievable commitments of resources have been identified in connection with the proposed action.

4. ALTERNATIVES TO THE PROPOSED ACTION

4.1 ALTERNATIVES CONSIDERED

Restore Prior Condition

Under this alternative, the original pool and deck would be restored. This is not a desirable alternative because it would not decrease the paved area within the shoreline setback. In addition, the shape of the previous pool lacked utility and made cleaning and maintenance difficult.

Eliminate the Pool

Based on the owners' objectives for the property, this is undesirable. If the owners had not been granted a building permit for the new pool, they might have opted instead to retain the previously existing pool and deck.

Relocate Pool Entirely Outside of the Shoreline Setback

Other possible alternatives for accommodating the swimming pool outside of the shoreline setback include moving the house farther forward on the lot or placing the pool on the side or at the front of the house. From a water safety standpoint, it is preferable to site the pool at the rear, ocean side of the house. Because the residence is oriented to the ocean, the pool will be highly visible from main living areas and thus subject to continual monitoring for safety. Locating the pool on the side or at the front of the house would reduce supervision of pool use. Note that most residential swimming pools are located in rear yards for reasons of safety and privacy.

Theoretically, it would be possible to site the pool further forward on the lot, outside of the shoreline setback. However, this would significantly constrain the design of the residence, garage and parking. Moreover, moving the pool completely outside of the setback would yield little or no public benefit in relation to the purpose of the shoreline setback. It would not restore

the natural shoreline, improve public access to and along the shoreline, or significantly affect public views and open space. As a practical matter, re-siting the swimming pool now would require significant and costly changes in the construction of the residence.

Given the circumstances, the proposed location of the swimming pool is the practicable alternative that conforms best to the purpose of the shoreline setback regulations. The proposal would result in a net decrease in the area of concrete structures within the shoreline setback, thus reducing the degree of nonconformity.

5. LIST OF ALL APPROVALS AND PERMITS REQUIRED

Only one discretionary approval is required for this project: an after-the-fact shoreline setback variance from the City Department of Planning and Permitting in order to allow continued construction of a reconfigured pool within the shoreline setback area.

A building permit will be required to complete pool construction.

6. SIGNIFICANCE CRITERIA

According to the Department of Health Rules (11-200-12), an applicant or agency must determine whether an action may have a significant impact on the environment, including all phases of the project, its expected consequences both primary and secondary, its cumulative impact with other projects, and its short and long-term effects. In making the determination, the Rules establish "Significance Criteria" to be used as a basis for identifying whether significant environmental impact will result from the development. According to the Rules, an action shall be determined to have a significant impact on the environment if it meets any one of the following criteria:

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

The proposed pool reconfiguration will not affect coastal processes, public access to or along the ocean, or public views of the ocean. The subject property does not contain any known cultural or historic resources. It also does not contain any wetlands or other unique habitats.

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

The subject property and its surroundings are already committed to residential uses. The proposed project will not have any effect on the range of beneficial uses of the privately owned land or resources.

3. **Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS; and any revisions thereof and amendments thereto, court decisions, or executive orders;**

The proposed development is consistent with the Environmental Policies established in Chapter 344, HRS. The pool will not affect the State's natural resources nor lower the total quality of life for Hawaii residents. The project also complies with the guideline of protecting the shorelines of the State from encroachment of manmade improvements, structures, and activities by reducing the amount of built structure in the shoreline setback area. The shoreline and coastal

processes have been altered by the seawall built over 40 years ago; they will not be further affected by the proposed project.

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

The proposed project will have no effect on the socio-economic welfare of the community or state.

5. Substantially affects public health;

The proposed project will not affect public health. Its current state (vacated premises and unfilled pool), could pose a hazard should trespassers wander onto the subject property.

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

The proposed project does not involve substantial secondary impacts.

7. Involves a substantial degradation of environmental quality;

It is not anticipated that the proposed project would in any way degrade environmental quality.

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

The proposed project is too insignificant to have a considerable effect on the environment and does not involve a commitment for larger actions.

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

There are no endangered plant or animal species located on the subject property.

10. Detrimentally affects air or water quality or ambient noise levels;

Construction may produce temporary impacts to air quality and noise levels; however, these impacts will be negligible. Water quality will not be affected (refer to Section 3.11).

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

The proposed swimming pool is located within a flood hazard zone and a tsunami evacuation zone and could potentially suffer damage from a tsunami or similar event. However, outdoor swimming pools are exempt from the City's flood hazard regulations. Construction of a swimming pool is not expected to increase the flood hazard for the subject property or surrounding properties.

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

The proposed project will not affect any public scenic vistas or view planes identified by the county or state.

13. Requires substantial energy consumption.

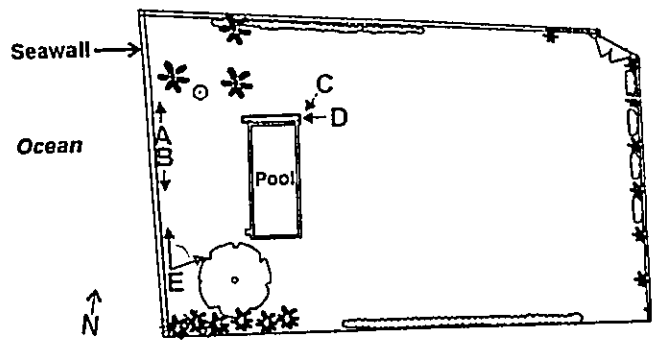
The proposed project and its construction are extremely small-scaled and will not require substantial energy consumption. Operations associated with the pool (lighting, cleaning, etc.) will consume electricity on a level that is considered typical for a single family dwelling.

7. ANTICIPATED DETERMINATION

Based on the findings of this Environmental Assessment, the proposing agency has determined that the proposed project will not have a significant environmental impact and an Environmental Impact Statement (EIS) will not be required. Therefore, a Finding of No Significant Impact (FONSI) is anticipated.

Exhibit A: Site Photos

Photo Key



Photos of Seawall

Photo A: Middle of seawall, facing north

Photo B: Middle of seawall, facing south

Photos of Pool

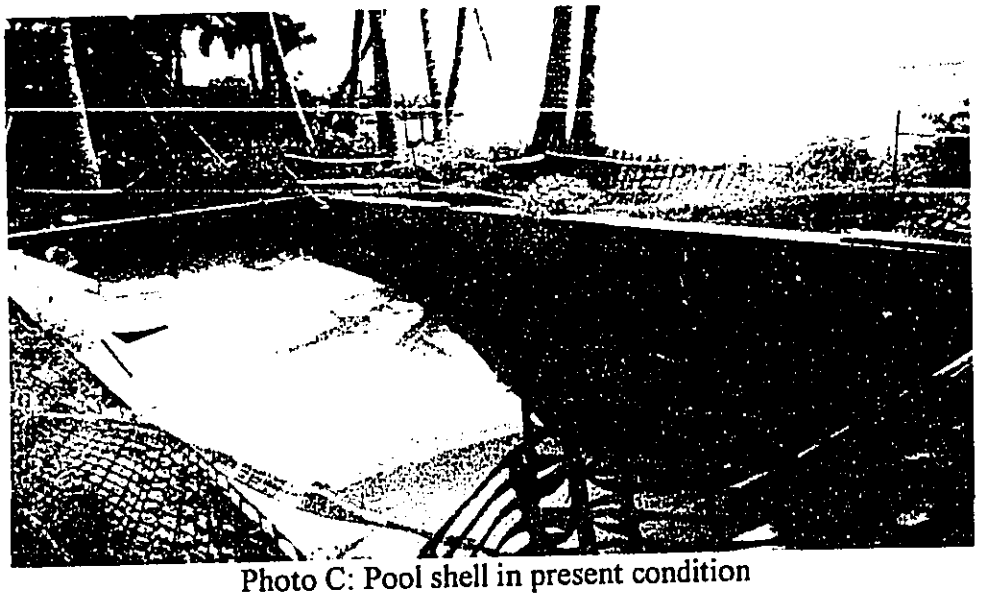


Photo C: Pool shell in present condition

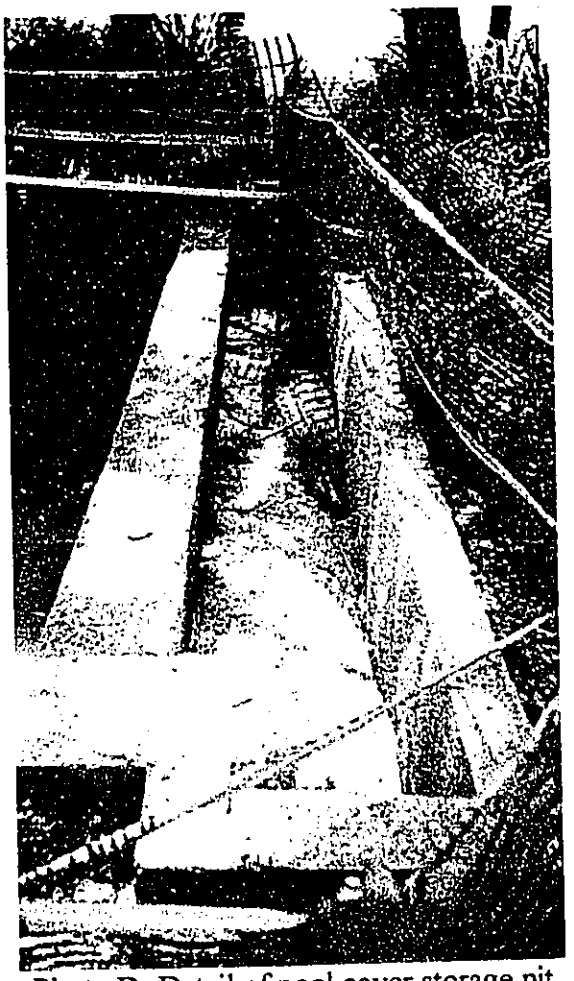


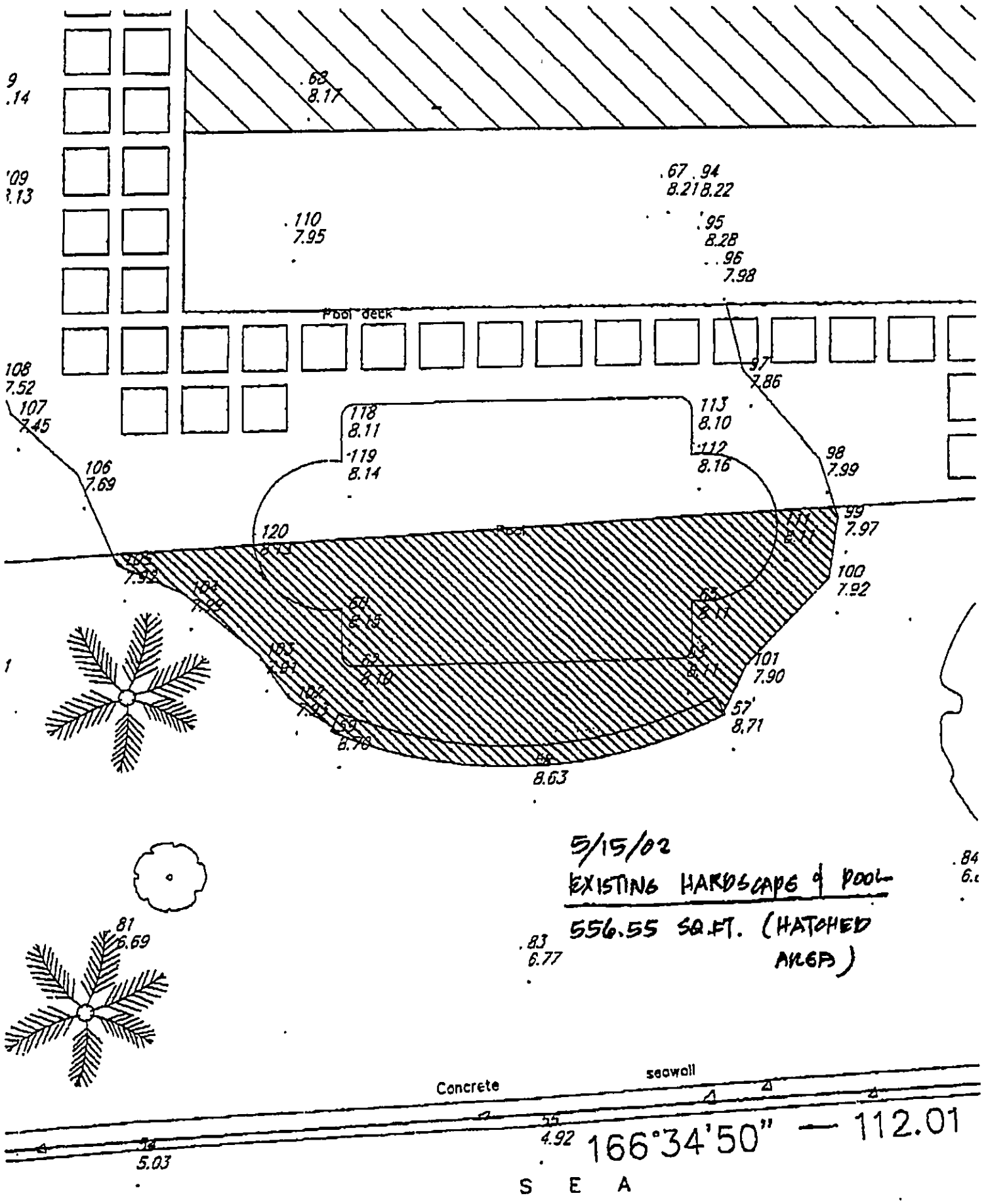
Photo D: Detail of pool cover storage pit

Panoramic Photo of Area From Seawall to Pool

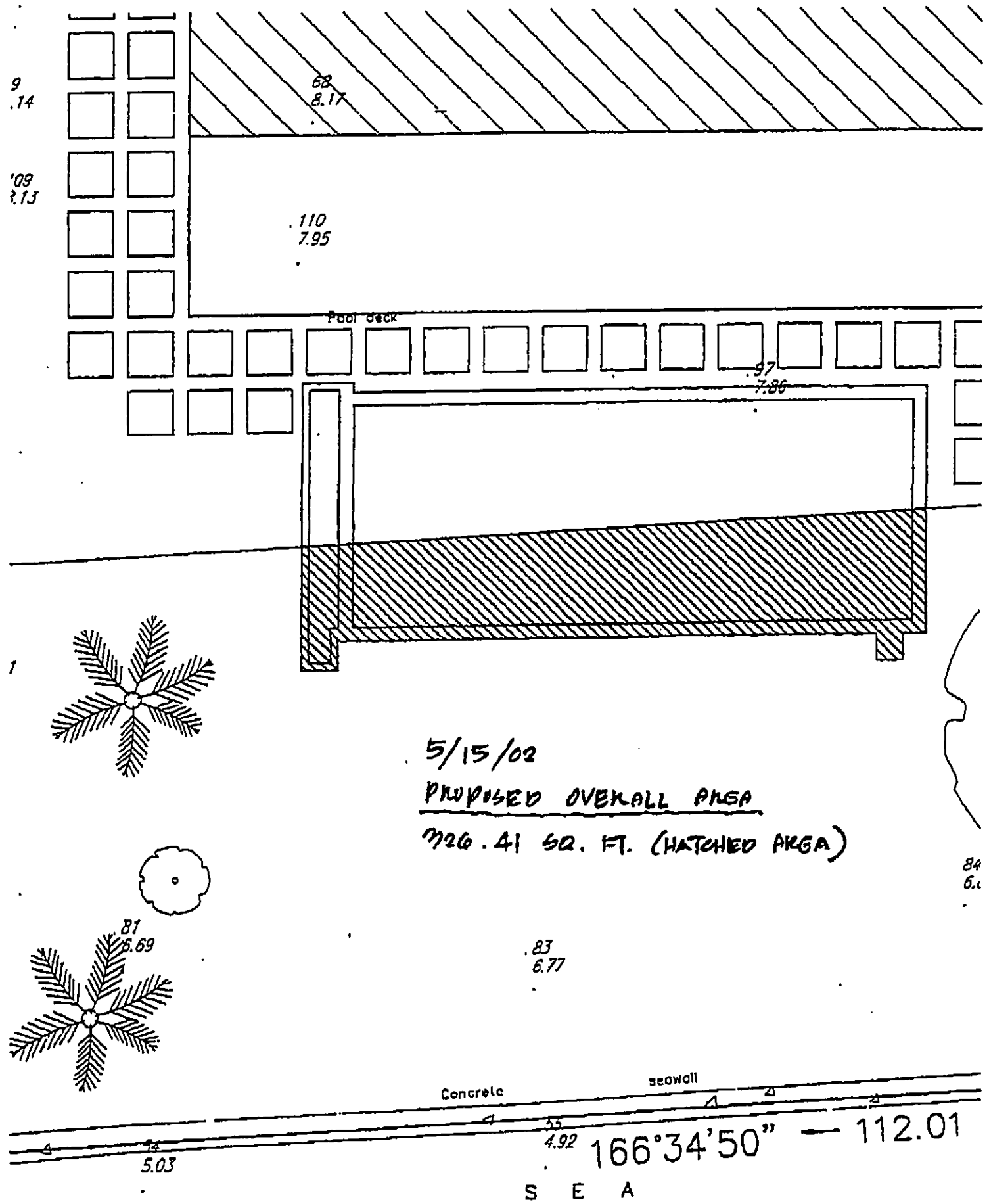
Photo E: Facing north, shoreline on the left and pool within orange fence on the right

Exhibit B: CAD Drawings and Calculations of Previously Existing and New Concrete Covered Area

DOCUMENT CAPTURED AS RECEIVED



DOCUMENT CAPTURED AS RECEIVED

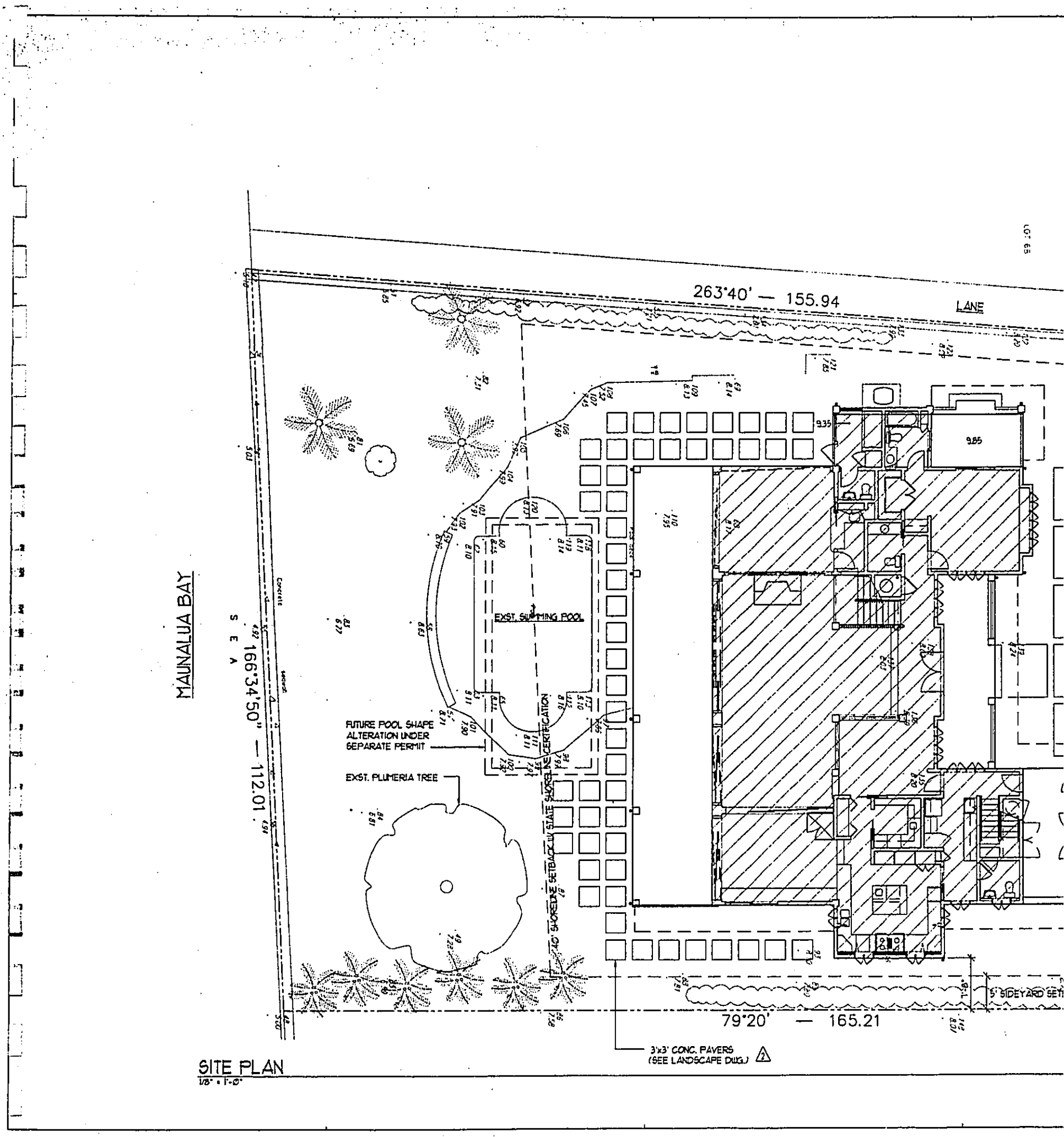


5/15/02

PROPOSED OVERALL AREA

726.41 SQ. FT. (HATCHED AREA)

Exhibit C: Site Plan

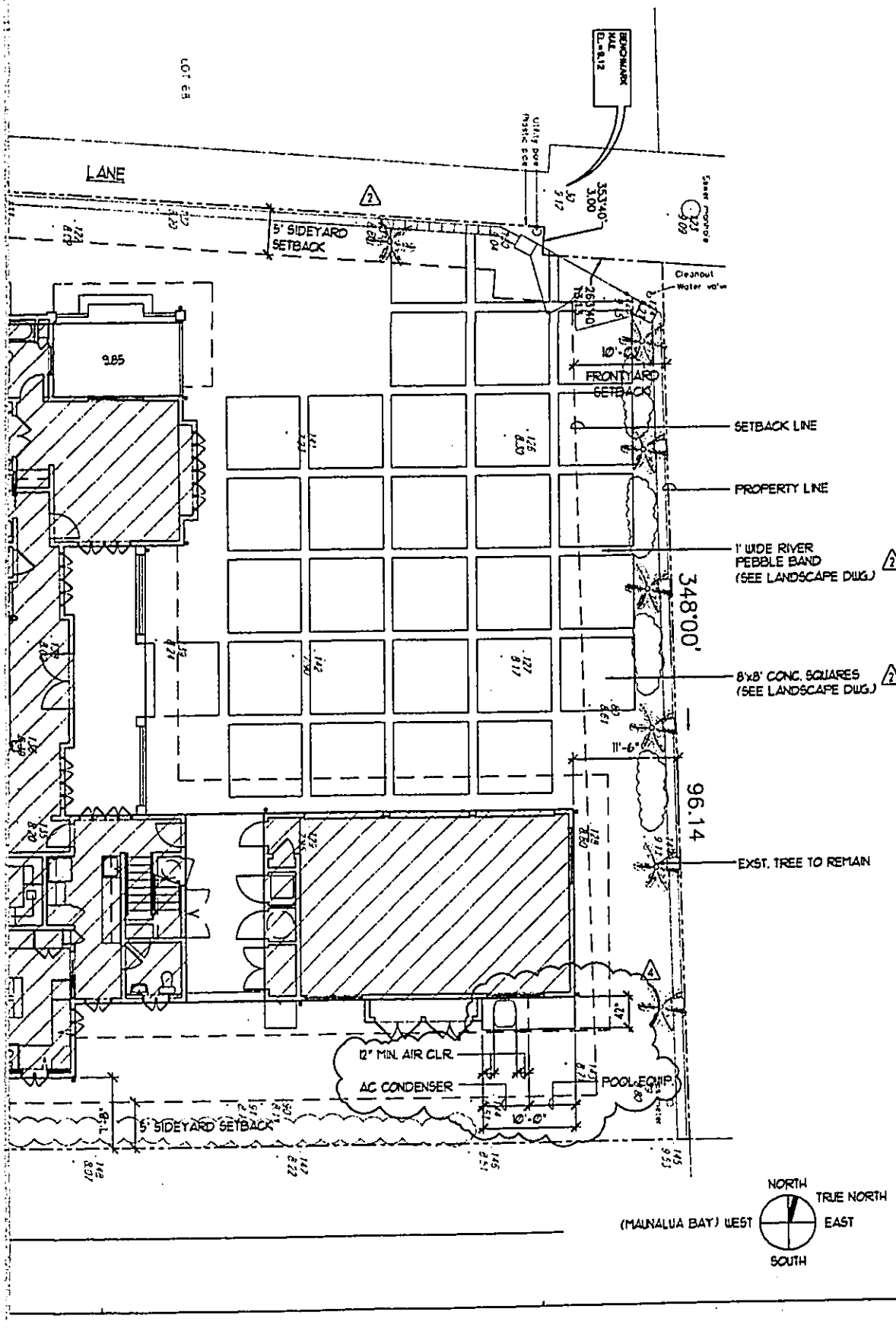


SITE PLAN
1/8" = 1'-0"

REVISIONS:

2 1 AUG. 2001 - ADDENDUM #2, BUILDING DEPT. COMMENTS & ADDED NOTATION.

4 11 DEC. 2001 - EXTEND SLAB TO ACCOMMODATE POOL EQUIPMENT PER OWNER'S REQUEST. RAISED SLAB ELEVATION & STORAGES OF GARAGE.



Date: 15 JULY 2001
Drawn: WL
Checked: SL
Job No:

Project:

PROPOSED DWELLING FOR:
MESKER RESIDENCE

447 PORTLOCK ROAD
TMK: 3-9-16:3

For:

This work was prepared by me or under my supervision, and construction of this project will be under my observation.

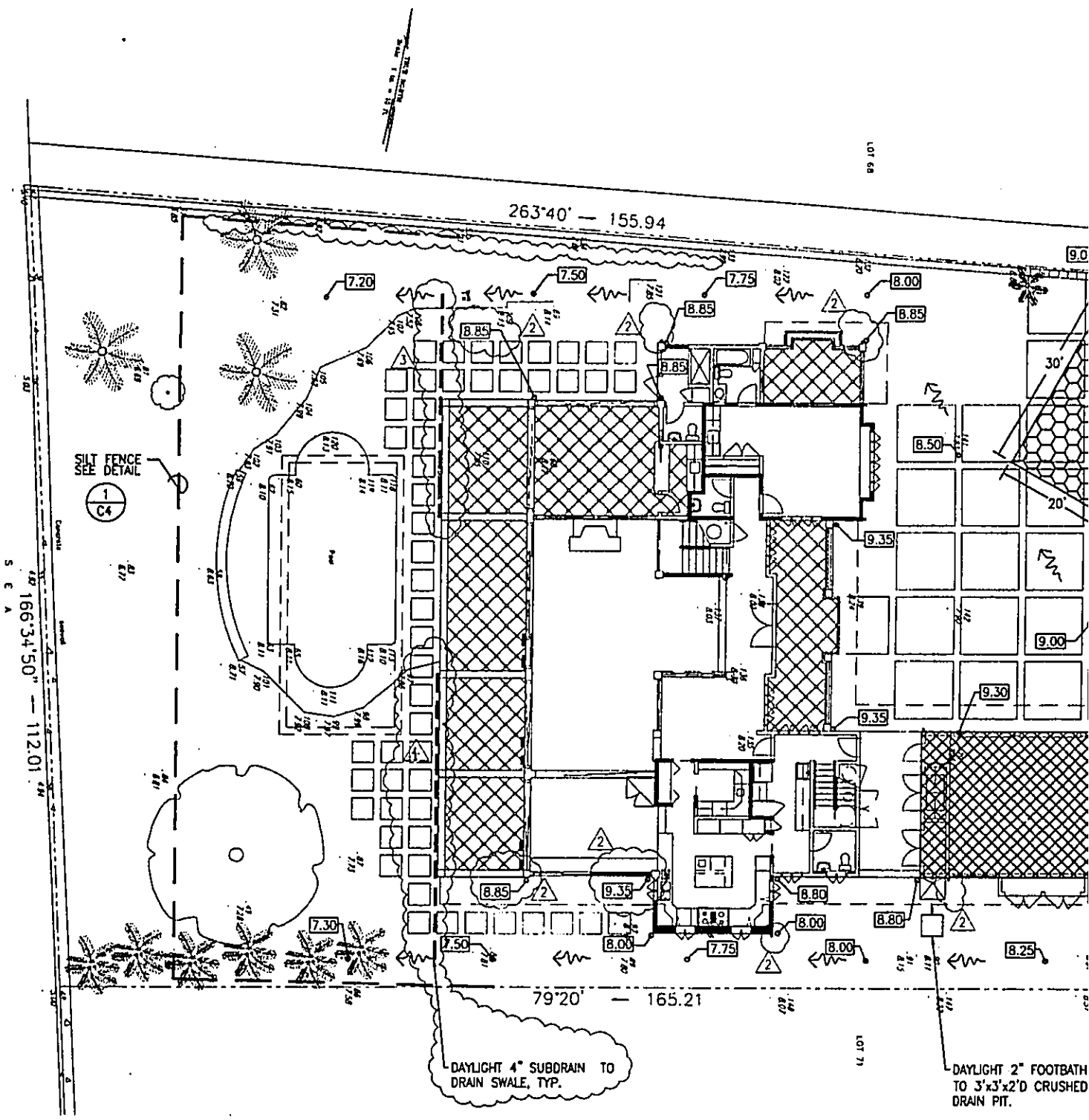
SPENCER ARCHITECTS
1820 University Ave.
Honolulu, Hawaii 96822
Facsimile (808) 944-9115
Telephone (808) 955-9595

Sheet Title:
SITE PLAN

Sheet No:
A1

Sheet 1 of 63

Exhibit D: Site Grading Plan



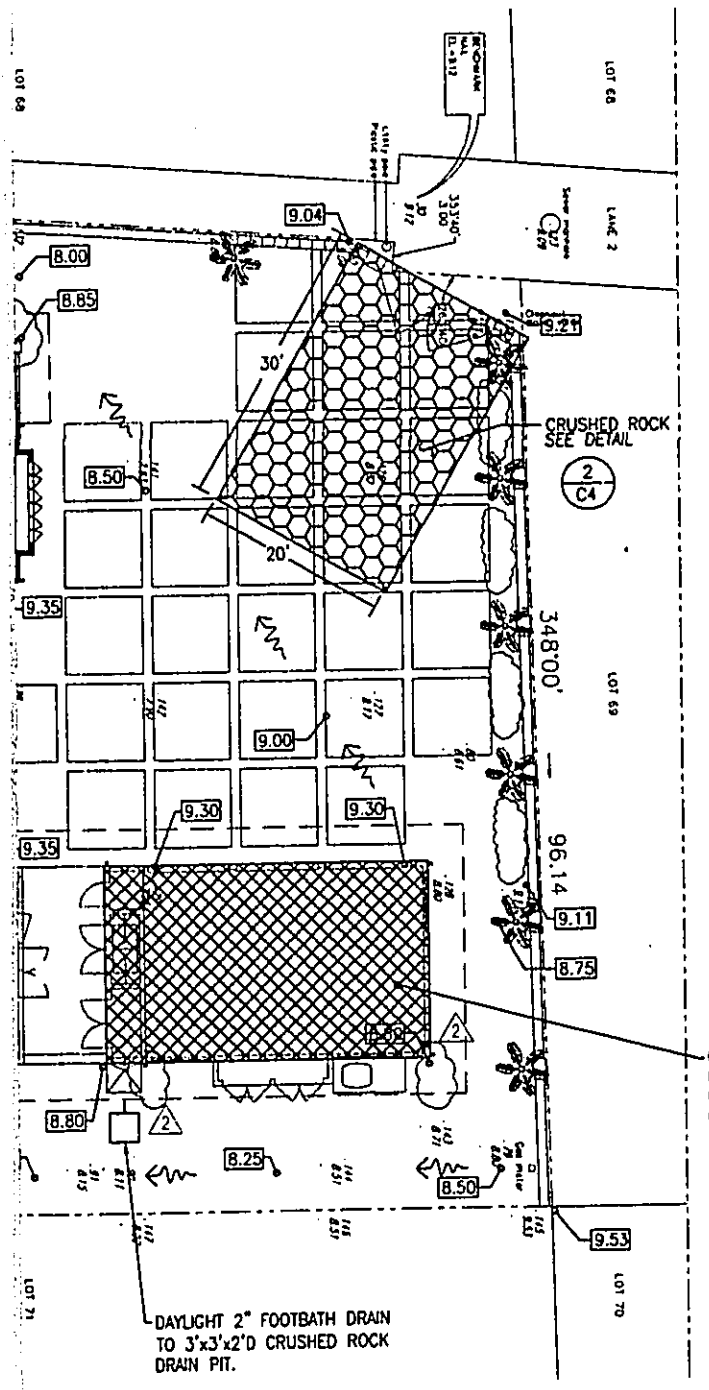
LEGEND	
9.30	Finished Spot Elevation
9.30	Existing Spot Elevation
	Swale
	Area of Clay Removal

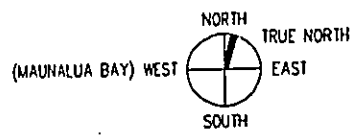
SITE GRADING PLAN
1" = 10'

REVISIONS:

2 1 AUG. 2001 - ADDENDUM #2 - REMOVE ROOF DRAIN LINES, REVISE SPOT ELEVATIONS

4 7 DEC. 2001 - DECK - ADD SUBDRAINS NEAR POOL





Date: 15 JULY 2001
Drawn: JH
Checked: ST
Job No:

Project:

PROPOSED DWELLING FOR:
MESKER RESIDENCE

447 PORTLOCK ROAD
TMK: 3-9-16:3

For:

DENNIS I. HIROTA
LICENSED PROFESSIONAL ENGINEER
No. 3377-C
HAWAII U.S.A.

This work was prepared by me or under my supervision, and construction of this project will be under my observation.

SPENCER ARCHITECTS
1820 University Ave.
Honolulu, Hawaii 96822
Facsimilé (808) 944-9115
Telephoné (808) 955-9595

Sheet Title:
SITE GRADING PLAN

Sheet No:
C2

Sheet 4 of 6

Appendices

Appendix A: Rationale for Granting a Variance

Rationale for Granting a Variance from the Shoreline Setback Ordinance, Chapter 23, Revised Ordinances of Honolulu (ROH)

This statement addresses the criteria for granting a shoreline setback variance under the Shoreline Setback Ordinance of the City & County of Honolulu (Chapter 23, ROH) and the Administrative Rules adopted pursuant thereto.

Introduction

In conjunction with building a new residence, the owners are seeking to replace a previously-existing swimming pool with a new swimming pool. Built prior to adoption of the shoreline setback regulations, the previously-existing pool and concrete deck were located partially within the shoreline setback and were legally nonconforming. The pool and deck show up on the 1967 set of aerial photographs found at the Department of Planning and Permitting; the Shoreline Setback statute was enacted in 1970.

Because the previously-existing pool had an irregular shape not suited to lap swimming, the owners planned to demolish it and the surrounding concrete deck. The net result would be a reduction in total concrete area within the shoreline setback, as shown in the table below. Having secured a building permit for this work, the owners demolished the original pool and deck and reconstructed the pool only. Further background information and description is provided in the Final Environmental Assessment.

Concrete Structures	Area within Shoreline Setback
Previously-existing pool & deck	557 sf
Reconfigured pool	326 sf
Difference [reduction in nonconforming area]	-231 sf

Hardship Criteria (Section 23-1.9, ROH)

The owners will suffer hardship if not allowed to complete the construction of their reconfigured swimming pool partially within the shoreline setback. Following are the specific reasons for hardship corresponding to the criteria set forth in the Shoreline Setback Ordinance.

1. The owners will be deprived of reasonable use. Reasonable use is usually interpreted to mean the basic use for which the property is entitled under zoning – in this case, the ability to have a residence on property zoned R-10 Residential District.

In this case, reasonable use includes the owners' right to maintain the pre-existing nonconforming swimming pool. It was always the owners' intent to maintain a swimming pool on the makai side of the residence in the same location as the original nonconforming swimming pool. To carry out this intent, the owners had two options: (a) to retain the existing pool and deck, performing repairs and modifications allowable within the nonconforming provisions of the shoreline setback regulations; or (b) to obtain the necessary permits to demolish and rebuild the swimming pool, in the same location as the nonconforming pool.

In reasonable reliance on Building Permit No. 525746, the owners proceeded in good faith to demolish the original, nonconforming swimming pool and deck. Thus, the owners' nonconforming use right and one of the two options to retain the pool in the original location were inadvertently eliminated.

The owners' nonconforming use right was extinguished through error of the City in granting the building permit, thereby causing them to lose a portion of the reasonable use of the property. If the DPP does not grant a shoreline setback variance allowing replacement of the nonconforming swimming pool, then the owners would be denied reasonable use.

2. <u>The proposal is due to unique circumstances</u>. The property had a previously-existing, nonconforming pool and deck that together encroached 557 square feet into the shoreline setback. In addition, the property is trapezoidal in shape, so that it is wider at the shoreline (rear) and narrower at the front (mauka) end of the lot. This means that (a) the lot has a larger area within the shoreline setback than would a rectangular lot; and (b) it is more difficult to site a swimming pool on the side or in front of the house, without significantly affecting the size or layout of the residence or the siting of the garage and parking.

3. <u>The proposal is the practicable alternative which conforms best to the purpose of the shoreline setback regulations</u>.

According to Section 23-1.2 ROH, the purpose of the shoreline setback is as follows:

- *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 (secondary policy).*

The property is protected by a nonconforming seawall that is part of a larger, continuous structure defining the seaward edge of properties throughout this section of Portlock. Built many years ago to protect Portlock residences, the

seawall altered natural conditions by permanently fixing the location of the shoreline and interfering with natural cycles of sand erosion and accretion. As on other beaches, the dry beach makai of the shoreline has been lost to coastal erosion, thus interfering with public pedestrian access laterally along the shoreline. Along this entire stretch of Portlock, the seawall stands several feet above sea level and therefore interferes with open space and views along the shoreline. This has been the status of the Portlock coast for 40 years or more.

The pool structure that is the subject of this variance application replaces a previously-existing nonconforming swimming pool and concrete deck. Because of the presence of the seawall, neither the pre-existing pool and deck, nor the proposed pool structure, affect littoral processes or pedestrian access.

With regard specifically to open space and views, the pre-existing pool and deck were not visible from the ocean because they sat flush with the ground and were behind a low bench wall at an elevation around eight feet above mean sea level. The proposed pool will also be flush with the ground and not visible from the ocean.

From the ocean, one sees primarily the large residential buildings that extend along the coast. The view of the subject property has been improved because the owners have planted a grove of coconut palms that will partially screen the house and pool from view.

With regard to natural hazards, replacement of the pre-existing swimming pool with a pool of approximately the same size will not increase the hazard of flooding. By removing the concrete deck, the owners will decrease impervious surface in the rear yard and have a larger area available for seepage of run-off. Note that swimming pools are exempt under the City's Flood Hazard District regulations.

Other possible alternatives for accommodating the swimming pool outside of the shoreline setback include moving the house farther forward on the lot or placing the pool on the side or at the front of the house. From a water safety standpoint, it is preferable to site the pool at the rear, ocean side of the house. Because the residence is oriented to the ocean, the pool will be highly visible from main living areas and thus subject to continual monitoring for safety. Locating the pool on the side or at the front of the house would reduce supervision of pool use. Note that most residential swimming pools are located in rear yards for reasons of safety and privacy.

Theoretically, it would be possible to site the pool further forward on the lot, outside of the shoreline setback. However, this would significantly constrain the design of the residence, garage and parking. Moreover, moving the pool completely outside of the setback would yield little or no public benefit in relation to the purpose of the shoreline setback. As a practical matter, re-siting the

swimming pool now would require significant and costly changes in the construction of the residence.

Given the circumstances, the proposed location of the swimming pool is the practicable alternative that conforms best to the purpose of the shoreline setback regulations. The proposal would result in a net decrease in the area of concrete structures within the shoreline setback, thus reducing the degree of nonconformity.

Appendix B: Comments and Responses

Comments Received on the Draft Environmental Assessment

AGENCY/ORGANIZATION	DATE OF LETTER
City and County of Honolulu	
Board of Water Supply	June 24, 2002
Department of Planning & Permitting	July 18, 2002
State of Hawaii	
Dept. of Land & Natural Resources – Historic Preservation Division	June 25, 2002
Dept. of Land & Natural Resources – Land Division	August 6, 2002
Office of Environmental Quality Control	July 10, 2002
Office of Hawaiian Affairs	June 21, 2002
Federal	
Department of the Army	June 20, 2002

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843

'02 JUN 26 AM 11 59

DEPT OF PLANNING
and PERMITTING
CITY & COUNTY OF HONOLULU

JEREMY HARRIS, Mayor

EDDIE FLORES, JR., Chairman
CHARLES A. STED, Vice-Chairman
JAN M.L.Y. AHI
HERBERT S.K. KAOPUA, SR.

BRIAN K. MINAAI, Ex-Officio
ROSS S. SASAMURA, Ex-Officio

CLIFFORD S. JAMILE
Manager and Chief Engineer

June 24, 2002

TO: RANDALL K. FUJIKI, AIA, DIRECTOR
DEPARTMENT OF PLANNING AND PERMITTING

FROM: for CLIFFORD S. JAMILE, MANAGER AND CHIEF ENGINEER

SUBJECT: YOUR MEMORANDUM OF JUNE 17, 2002 ON THE DRAFT ENVIRONMENTAL ASSESSMENT FOR 447 PORTLOCK ROAD, TMK: 3-9-16: 3

We have no comments on the retention of the swimming pool on Portlock Road.

If you have any questions, please contact Joseph Kaakua at 527-6123.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU
630 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/ELOG-1804(ST)
2002/ED-4

July 18, 2002

Ms. Lisa Imata
PlanPacific, Inc.
345 Queen Street, Suite 802
Honolulu, Hawaii 96813

Dear Ms. Imata:

Draft Environmental Assessment (DEA): After-the-fact Shoreline Setback Variance (SV) Application - Mesker Swimming Pool Reconstruction at 447 Portlock Road, Honolulu, Oahu, Tax Map Key 3-9-16: 3

We have reviewed the DEA for the above-referenced application which was published in the June 23, 2002, edition of The Environmental Notice, and have the following comments:

SECTION 1 PROJECT SUMMARY

This section should be corrected to indicate that the applicant is requesting an after-the-fact approval to retain an existing non-conforming swimming pool that was enlarged without an approved shoreline setback variance.

SECTION 2.1 TECHNICAL CHARACTERISTICS

Project Background - This section should disclose that the applicant had consulted the Department of Planning and Permitting (DPP) regarding land use permits required for the alteration of the original swimming pool before applying for building permits. As indicated in the Department's September 2001 response (attached), the applicant was informed that a shoreline setback variance (SV) would be required for this proposed enlargement of the swimming pool.

Project Description - Appropriate area figures are not used to describe the size of the previous nonconforming and the present swimming pools. The interior water surface area of the pool is not an appropriate measurement of these structures.

Section 23-1.3, ROH, defines "structure" as "*any portion of any building, pavement, road, pipe, flume, utility line, fence, groin, wall, or revetment; or anything constructed or erected with a fixed location at or under the ground . . .*"

Therefore, the Final EA must be revised to consistently use exterior dimensions for any size comparisons, and should include the pool cover/storage compartment (at the north end) of the enlarged pool. It would be helpful to include larger-scaled exhibits in the final document.

This section should also describe whether the pool will be a salt (ocean) or fresh water swimming pool. If it is a salt water swimming pool, the seawater circulation system should be described. If it is a freshwater swimming pool, the water disinfection system should be discussed (i.e., chlorination versus an ultraviolet radiation system).

SECTION 3.2 TOPOGRAPHY & 3.3 SOILS AND GEOLOGY

The existing elevation information for the project site (i.e., above mean sea level (msl)), as well as, soil type and its characteristics (porosity, shrinkage, etc.) as determined by the U.S. Department of Agriculture, Natural Resources Conservation Service (fka Soil Conservation Service), should be provided in the Final EA.

SECTION 3.4 HYDROLOGY AND DRAINAGE

Actual on-site drainage patterns (i.e., sheet flow, culvert locations, etc.) should be described. The location of the previous and current dwelling is relevant to this discussion. Exhibits which illustrate the location of all structures on the site should be included in the Final EA.

SECTION 3.5 NATURAL HAZARDS

The flood hazard information in Section 2.4, ENVIRONMENTAL CHARACTERISTICS, belongs in this section. The Final EA should also disclose that the site is located in the Tsunami inundation zone as determined by Oahu Civil Defense (CD).

SECTION 3.11 WATER QUALITY

This section should be expanded to address the possible impacts of pool operation and maintenance on nearby ocean waters (i.e., overflow containment of chlorinated water, if used, during storm events, how and where water is drained for cleaning, etc.).

SECTION 3.12 VISUAL RESOURCES

The DEA only addresses impacts on views from Portlock Road. Section 23-1.9, ROH, requires that public views to, from, and along the shoreline be considered. The Final EA must be revised to address visual resources and impacts from these vantage points. Exhibits illustrating these visual resource values should be included.

SECTION 5. LIST OF ALL APPROVALS AND PERMITS REQUIRED

This section must be revised to clarify that a shoreline setback variance is required because the previously-nonconforming swimming pool was altered in a manner which increased its nonconformity (Section 23-1.6(b), ROH, and Chapter 16 of Department's "Rules Relating to Shoreline Setbacks and The Special Management Area.")

SECTION 6. SIGNIFICANCE CRITERIA

Although this section states that this project is consistent with the State's long-term environmental policies established in Chapter 344, HRS, it does not address how it complies with the Parks, Recreation and Open space guideline to "Protect the shorelines of the State from encroachment of manmade improvements, structures, and activities;" (Section 344-4(4)(B), HRS).

The Final EA should also address the criteria under which a shoreline setback variance (SV) may be granted. This section must specifically address the three (3) tests of the hardship standard, pursuant to Section 23-1.8(b)(3), ROH. We strongly recommend that a more thorough discussion of alternatives considered be provided in the context of these criteria.

Finally, please note that a valid certified shoreline survey should be included in the Final EA. In addition, the locations of the certified shoreline and the 40-foot shoreline setback should be delineated in all exhibits.

Should you have any questions, please contact Steve Tagawa of our Land Use Approvals Branch at 523-4817.

Sincerely yours,

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

RKF:cs

Attachs.

cc: Office of Environmental Quality Control

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

2001/CLOG-3148(ST)

September 7, 2001

Spencer Leineweber, FAIA
Spencer Architects
1820 University Avenue
Honolulu, Hawaii 96822

Dear Ms. Leineweber:

Proposed Swimming Pool Reconfiguration at 447 Portlock Road
East Honolulu, Oahu, Tax Map Key 3-9-16: 3

This responds to your July 10, 2001 letter, received on July 17, 2001, requesting approval of a proposal to build a new pool in the general vicinity of an existing swimming pool at the above property. We regret to inform you that the proposal must first be reviewed through the shoreline setback variance process.

About one-half of the existing pool lies within the 40-foot shoreline setback, as defined by Chapter 23, Revised Ordinances of Honolulu (ROH), and has been determined to be nonconforming. Section 23-1.6, ROH, allows nonconforming structures to be altered or repaired in a manner which does not add to or increase their nonconformity. A review of Walters Kimura Motoda's June 12, 2001 "Site Landscape Planting Plan" indicates that the new pool would be larger than the existing pool, and extend into new areas within the shoreline setback area. As such, the approval of a shoreline setback variance (SV) must be obtained in order to undertake the proposed improvements.

A set of SV application materials is attached for your use. Should you have any questions, please contact Steve Tagawa of our Land Use Approval Branch at 523-4817.

Sincerely yours,

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

RKF:st
Encl.

2001/CCOG-3448

SPENCER
ARCHITECTS

RECEIVED
JUL 17 2001
DEPT. OF PLANNING AND PERMITTING
650 SOUTH KING ST.
HONOLULU, HI 96813

July 10, 2001

Mr. Randall Fujiki, A.I.A., Director
Department of Planning and Permitting
650 South King Street
Honolulu, Hawaii 96813

Re: Mesker Residence
447 Portlock Road
TMK: 3-9-16:3

Subject: Pool Repairs

Dear Gentlemen:

We are writing on behalf of our client in request for your approval of a reconfiguration of the pool within the 40-foot shoreline setback in the Portlock area. A shoreline certification based on the seawall was obtained in September of 1987 and approved by you in April 2001.

Enclosed please find survey of the existing site plan and a revised landscape plan showing a reduction in the non-conformity of the pool. We are reducing the size of the pool as well as not rebuilding the non-conforming seat wall and slab decks. We have also included a cost from the Pool contractor to show that our new work is less than 50% of the cost of replacement of the pool and walls that are locarted within the 40 setback area.

If you have any questions and/or require additional materials please don't hesitate to call. Thank you.

Sincerely,

Spencer Leineweber FAIA
President

1820 UNIVERSITY AVENUE · HONOLULU, HAWAI'I 96822 · TELEPHONE (808) 955-9595 · FACSIMILE (808) 944-9115

PLANPACIFIC

October 9, 2002

Mr. Randall K. Fujiki, Director
Department of Planning and Permitting
650 South King Street
Honolulu, HI 96813

Dear Mr. Fujiki:

Subject: Draft EA for Swimming Pool in the Shoreline Area Portlock; TMK 3-9-016: 003

Thank you for your comment letter dated July 18, 2002 regarding the subject EA. We offer the following response:

Section 1 Project Summary

The section has been modified for the Final EA to indicate that the applicant is seeking an after-the-fact shoreline setback variance for a partially-constructed swimming pool.

Section 2.1 Technical Characteristics

The "Project Background" has been revised to give additional information for the Final EA.

The "Project Description" has been revised to provide consistent calculations of the area within the shoreline setback covered by concrete structures, both prior to the action and with the action. Details about the type of swimming pool have also been provided. Larger-scaled exhibits of the site plan and the grading/drainage plan have been added to the document.

The pool will be a fresh water pool. This information was added.

Section 3.2 Topography; Section 3.3 Soils and Geology

These sections have been revised.

Section 3.4 Hydrology and Drainage

This section has been revised to provide more information. In summary, the area receives relatively little rainfall, and run-off will be collected by swales and absorbed onsite. A full site plan and grading/drainage plan are included as Exhibit B of the Final EA.

345 Queen Street
Suite 802
Honolulu
Hawaii 96813

Tel (808) 521-9418
Fax (808) 521-9468

Section 3.5 Natural Hazards

The flood hazard information has been moved to this section for the Final EA. A statement has been added that the site is located in a tsunami evacuation zone.

Section 3.11 Water Quality

Additional information is provided. In essence, the fresh water pool would have a water circulation and filtration system, as well as a chlorination system, to keep the pool walls and water clean. It is not anticipated that the pool would require regular or frequent draining. *At most, the pool may be drained once every 10 years for maintenance. Should* the pool require draining, for maintenance, storm events or other reasons, the water would be de-chlorinated and a submersible pump would be inserted into the pool. The water would be pumped out and dispersed onto the landscaping. Nearby ocean water quality will not be affected.

Section 3.12 Visual Resources

The top of the swimming pool sits flush with the ground at approximate elevation +8 feet mean sea level. It cannot be seen from below the seawall or from the ocean. If a person were to walk along the shoreline on top of the seawall, the pool would be visible but not obtrusive. The view from the ocean will be improved because the house and pool will be screened by a grove of coconut palms. In summary, the pool will have no effect on public views. The section was revised to reflect this information.

Section 5 List of All Approvals and Permits Required

The section has been revised.

Section 6 Significance Criteria

The section has been revised to substantiate that the proposed swimming pool project actually reduces the amount of manmade structures within the shoreline area and therefore will have a beneficial impact compared to the prior condition.

Appendix A of the Final EA sets forth the justification for the shoreline setback variance in relation to the particular criteria stated in the Shoreline Setback Ordinance, Chapter 23, Revised Ordinances of Honolulu.

The Final EA will include a recent certified shoreline survey.

Thank you for your comments.

Sincerely,

Lisa Leonillo Imata
Planner

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

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

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

02 JUN 28 PM 3:41

DEPT OF PLANNING and PERMITTING
CITY & COUNTY OF HONOLULU

June 25, 2002

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

LOG NO: 30146
DOC NO: 0206EJ27

Dear Mr. Fujiki:

SUBJECT: Chapter 6E-42 Historic Preservation Review – After-the-Fact Shoreline Setback Variance; Draft Environmental Assessment (DEA) Mesker Property, 447 Portlock Road
Maunalua, Kona, O`ahu
TMK: (1) 3-9-016:003

Thank you for the opportunity to comment on the DEA prepared for a Shoreline Setback Variance for replacement of a nonconforming swimming pool partially located within the shoreline setback at this parcel. According to the DEA the replacement pool has already been constructed. Because no historic sites are known to exist on the property, nor were any discovered in the course of pool construction, we believe that the after-the-fact shoreline setback variance, if granted, will have "no effect" on significant historic sites.

Should you have any questions, please feel free to call Sara Collins at 692-8026 or Elaine Jourdane at 692-8027.

Aloha,

Don Hibbard, Administrator
State Historic Preservation Division

EJ:jk

'02 AUG 8 PM 3 17

CITY & COUNTY OF HONOLULU

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

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

August 6, 2002

LD-NAV
Ref.: 2002-ED4.RCM
L-3358/3772/363

Post-it® Fax Note 7671	Date 8/9/02	# of pages ▶ 5
To Lisa Imada	From Steve T	
Co./Dept.	Co. DPP	
Phone #	Phone # 523 4817	
Fax # 521 9468	Fax # 527 6743	

Honorable Randall K. Fujiki, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street
Honolulu, Hawaii 96813

Dear Mr. Fujiki:

Subject: Review: Draft Environmental Assessment
Request: Shoreline Setback Variance
Applicant: Roy P. and Brendan Mesker
Purpose: Retain Existing Swimming Pool
Address: 447 Portlock Road, Oahu, Hawaii
Authority: C&CoH Department of Planning and Permitting
TMK: 1st/ 3-9-16: 003

Thank you for the opportunity to review and comment on the subject matter. A copy of the document covering the subject matter was distributed to the following Department of Land and Natural Resources' Divisions for their review and comment:

- Division of Aquatic Resources
- Land Division Engineering Branch
- Land Division Planning and Technical Services
- Oahu District Land Office

Attached herewith is a copy of the Land Division Engineering Branch comment.

The Department has no other comment to offer on the subject matter based on the attached responses.

Should you have any questions, please feel free to contact Nicholas A. Vaccaro of the Land Division Support Services Branch at 587-0438.

Very truly yours,

Charlene E. Unoki
for DIERDRE S. MAHIYA
Administrator

C: Oahu District Land Office

'02 AUG 8 PM 3 18

CITY & COUNTY OF HONOLULU

DLNR-LAND DIVISION
ENGINEERING BRANCH

We have reviewed the Draft Environmental Assessment (DEA) for the subject project and offer the following comments.

According to Flood Insurance Rate Map (FIRM) panel 395E (November 20, 2000), the subject parcel is within a flood hazard areas designated as Zone A and Zone D. The National Flood Insurance Program (NFIP) does not have any regulations for development within Zone D, however they do regulate development within Zone A.

It is understood that this project is not a "*new construction*" or "*substantial improvement*" by NFIP definition. However, the proposed swimming pool is considered as a "*new development*" as defined in § 59.1 of Title 44 Code of Federal Regulations and thus subject to NFIP regulations for development within A zones. With respect to the subject project, Title 44 of the Code of Federal Regulations, § 60.3 (a)(3)(iv) by way of § 60.3 (b), states that development within flood hazard zone A shall:

"...be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding."

It should be noted the BFE of 9.2 feet mean sea level, given in the DEA, cannot be confirmed as the FIRM does not indicate this information.

With regards to the statement in § 3.5 of the DEA that, *"swimming pools are exempt from flood hazard elevation requirements"*. The applicant should be aware that the NFIP regulations, for construction within V zones, do have requirements that are applicable to swimming pool construction and their associated appurtenances.

If you have any questions, please call Mr. Eric Yuasa of the Project Planning Section at 587-0229.

Signed: Andrew M. Monden
ANDREW M. MONDEN, CHIEF ENGINEER

Date: 7/16/02

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PLANPACIFIC

September 16, 2002

State of Hawaii
Department of Land and Natural Resources
Land Division – Engineering Branch
P.O. Box 621
Honolulu, HI 96809

Dear Mr. Monden:

Subject: Draft EA for Swimming Pool in the Shoreline Area
Portlock; TMK 3-9-016: 003

Thank you for your comments and corrections to the above mentioned subject. We have corrected the statement in the Natural Hazards section to read "Swimming pools are exempt from City Flood Hazard District regulations contained in the Land Use Ordinance." We have also added that the construction and design of the swimming pool will comply with the National Flood Insurance Program. These changes will appear in the Final EA.

Sincerely,

Lisa Leonillo Imata
Planner

c: Dierdre S. Mamiya, State Land Division
Department of Planning and Permitting

345 Queen Street
Suite 802
Honolulu
Hawaii 96813

Tel (808) 521-9418
Fax (808) 521-9468

BENJAMIN J. CAYETANO
GOVERNOR

STATE OF HAWAII
OFFICE OF ENVIRONMENT QUALITY CONTROL
235 SOUTH BERETANIA STREET
SUITE 702
HONOLULU, HAWAII 96813
TELEPHONE (808) 586-4185
FACSIMILE (808) 586-4186

GENEVIEVE SALMONSON
DIRECTOR

RECEIVED
JUL 11
PLANPACIFIC

July 10, 2002

Mr. Randall K. Fujiki, Director
Department of Planning and Permitting
City and County of Honolulu
650 South King Street
Honolulu, Hawai'i 96813

Dear Mr. Fujiki:

Subject: Draft Environmental Assessment for the Mesker Swimming Pool Replacement, O'ahu

Thank you for the opportunity to review and comment on the subject project. We have the following comments.

1. Please consult with adjacent homeowners. Also, list all the individuals, groups and agencies that you consulted.

2. Please disclose when the seawall was built and explain why the seawall is non-conforming.

3. Pursuant to section 11-200-7 of Hawai'i Administrative Rules, please describe the impacts of the house and swimming pool project.

4. Please describe whether the project is connected to the County wastewater system. Otherwise, explain the proposed wastewater disposal system and its impact on the adjacent coastal waters.

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

Sincerely,

Genevieve Salmonson
Director

c: Plan Pacific

PLANPACIFIC

September 16, 2002

State of Hawaii
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, HI 96813

Dear Ms. Salmonson:

Subject: Draft EA for Swimming Pool in the Shoreline Area
Portlock; TMK 3-9-016: 003

Thank you for reviewing and commenting on the above-mentioned EA. We offer the following response to each of your numbered comments:

1. As advised, a letter will be sent to adjacent neighbors to inform them about the publication of the Final EA and the submittal of the Application for a Shoreline Setback Variance for the swimming pool project. This letter will be sent prior to the Final EA publication in the *Environmental Notice*. Please note that adjacent neighbors are already fully aware of construction and renovation associated with the parcel as a new home and utility lines are being currently constructed.

   Also, letters were sent to Neighborhood Board #1 – Hawaii Kai to inform them that a Draft EA was submitted for publication in the *Environmental Notice*. No response or comments were received.

   The project summary page will be modified to list all agencies and groups consulted.

2. The City Department of Planning and Permitting's collection of aerial photos taken in 1967 documents the existence of the seawall, though the exact date of construction is uncertain. According to Chapter 23 of the *Revised Ordinances of Honolulu*, a nonconforming structure is defined as "a structure or portion of a structure which was previously lawful but which is located within the shoreline setback as a result of subsequent beach erosion, or as a result of changes in the law relating to the

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shoreline setback." In this case, the seawall is nonconforming because it was previously lawful but in the shoreline setback as a result of changes in the law. The seawall was built prior to the creation of the 1970 shoreline setback regulations.

3. The house that is currently being constructed is a single-family dwelling located and oriented in the same way as the previously existing house. Construction of the house is exempt from the environmental review process. Related impacts such as construction noise, dust, and driveway accessibility are minor and temporary. Mitigative measures such as dust screens, limiting construction to daylight hours, and coordination with adjacent neighbors have already been implemented.

4. The proposed reconfigured pool would not be connected to the County wastewater system.

Thank you for your comments.

Sincerely,

Lisa Leonillo Imata
Planner

c: Department of Planning and Permitting

PHONE (808) 594-1888

FAX (808) 594-1865

STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
711 KAPIOLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

2002/ELO6-1905

RECEIVED
8 2002
DEPT. OF PLANNING AND PERMITTING
650 SOUTH KING ST.
HONOLULU, HI 96813

HRD#02-648

June 21, 2002

Mr. Randall K. Fujiki, AIA
Director
Department of Planning and
Permitting
650 South King Street
Honolulu, HI 96813

SUBJECT: DEA SHORELINE SETBACK VARIANCE APPLICATION – SWIMMING POOL TMK: 3-9:016:003

Dear Mr. Fujiki:

Thank you for the opportunity to review the above referenced Draft Environmental Application in anticipation of a shoreline setback variance for a nonconforming swimming pool.

The Office of Hawaiian Affairs (OHA) has the following comment: Please amend the language under *3.8 Archaeological and Historic Resources* to reflect that both the State Historic Preservation Division and the Oahu Island Burial Council will be contacted if historic or culturally related items are discovered.

If you have any questions, please contact Jerry B. Norris at 594-1847 or email him at jerryn@oah.org.

Sincerely,

Jalna S. Keala
Acting Director, Hawaiian Rights Division

cc: OHA Board of Trustees
Clyde W. Namu'o, OHA Administrator

PLANPACIFIC

September 16, 2002

State of Hawaii
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, HI 96813

Dear Ms. Keala:

Subject: Draft EA for Swimming Pool in the Shoreline Area Portlock; TMK 3-9-016: 003

Thank you for reviewing and commenting on the above-mentioned EA. We have corrected the statement in the Archaeological and Historic Resources section to read "Should features or human remains be found during the course of construction, all work will be stopped and both the State Historic Preservation Division and the Oahu Island Burial Council will be notified." This change will appear in the Final EA.

Sincerely,

Lisa Leonillo Imata
Planner

c: Department of Planning and Permitting

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Hawaii 96813

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2002/E06-1744

DEPARTMENT OF THE ARMY
U. S. ARMY ENGINEER DISTRICT, HONOLULU
FT. SHAFTER, HAWAII 96858-5440

REPLY TO ATTENTION OF

Regulatory Branch

June 20, 2002

'02 JUN 24 PM 2 24

CITY & COUNTY OF HONOLULU

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

Dear Mr. Fujiki:

This letter responds to your request dated June 17, 2002, for our review of the draft Environmental Assessment (DEA) for a Swimming Pool Located in TMK: 3-9-016:003. Based on the information provided in the DEA I have determined that there will be no work performed in Waters of the United States; therefore, a Department of the Army (DA) permit will not be required for this project.

If you have any questions concerning this determination, please contact William Lennan of my staff at 438-6986, or FAX 438 4060 and reference File No. 200200385.

Sincerely,

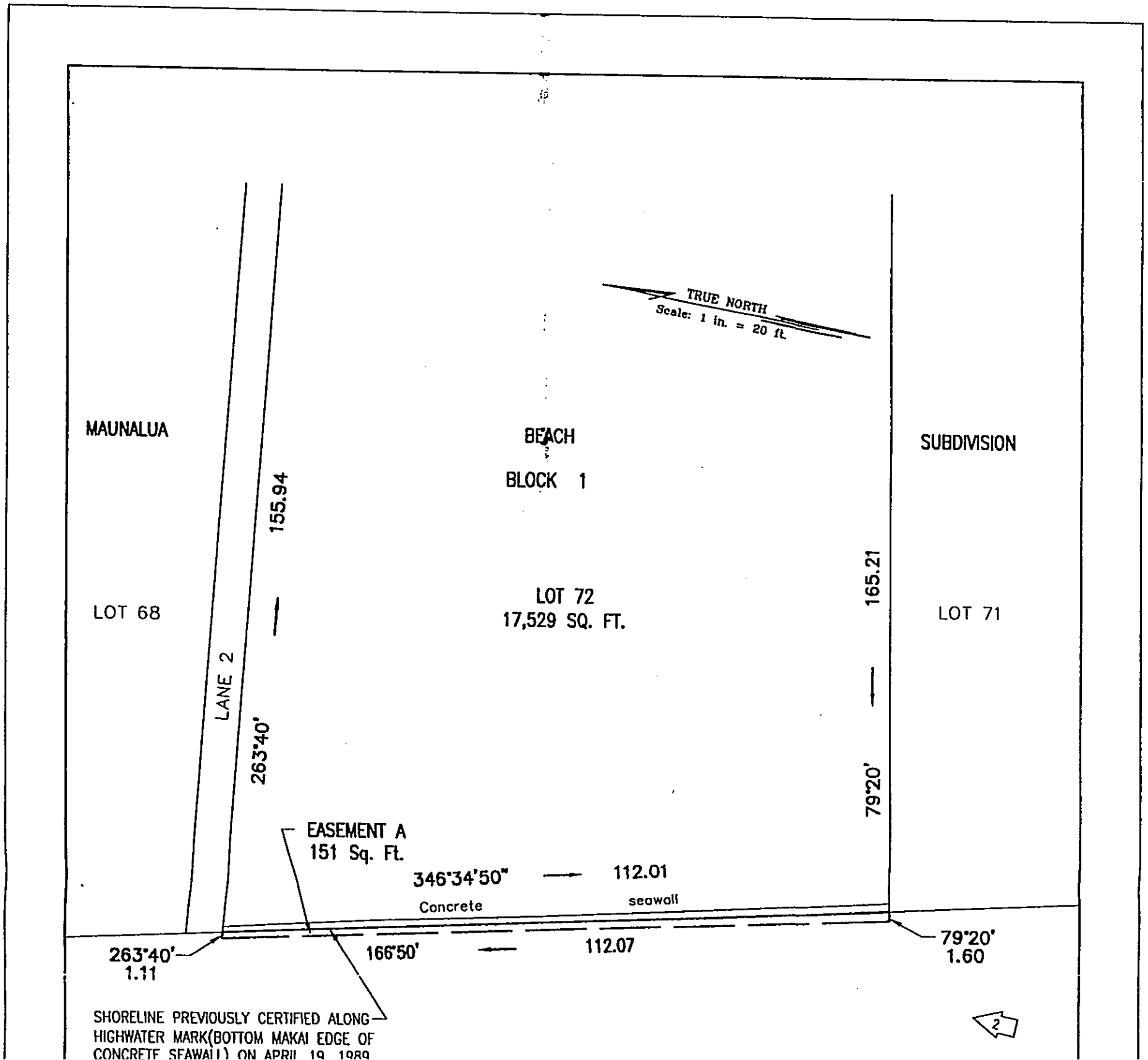
George P. Young, P.E.
Chief, Operations Branch

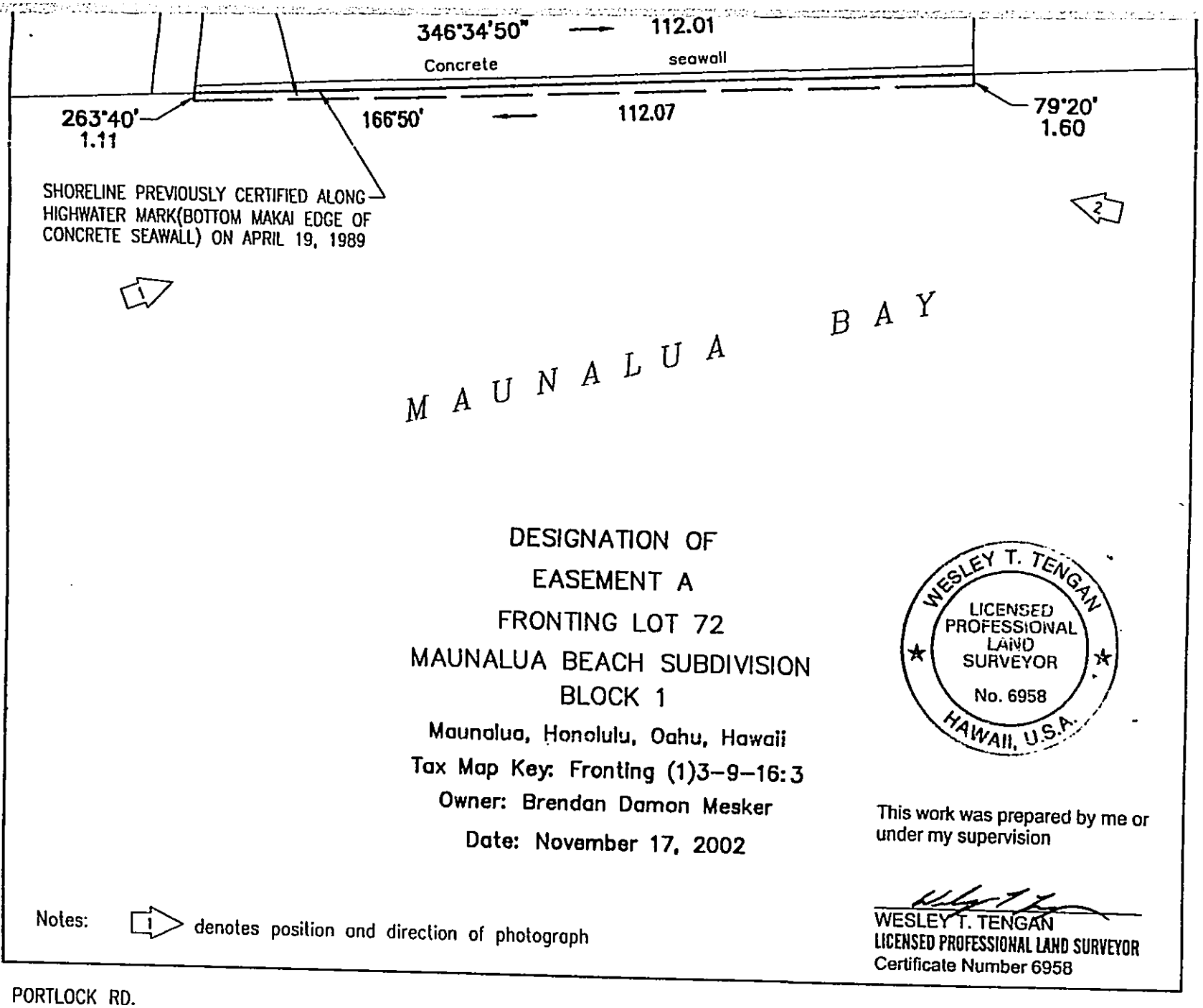
Appendix C: Certified Shoreline Survey

Note: The following survey map shows the shoreline at the seaward face of the seawall, as it was certified on April 19, 1989; it also shows a seaward encroachment of the seawall foundation, denoted as "Easement A." Dated November 17, 2002, the survey map confirms that the seawall and the shoreline are in the same location as they were in 1989.

Chapter 13-222 of the Hawaii Administrative Rules, "Shoreline Certifications," specifies that where there is a permitted or nonconforming seawall, the shoreline is located at the seaward face of the seawall. In this case, the face of the seawall is contiguous with the seaward property line.

Application for re-certification of the shoreline was submitted to the Department of Land and Natural Resources in November 2002. DLNR has delayed re-certification pending the granting of a non-exclusive easement for the small portion of the seawall foundation that encroaches into State land seaward of the property line. Once the easement is granted, DLNR will issue the shoreline certification.


TRUE NORTH
Scale: 1 in. = 20 ft.
MAUNALUA
BEACH
SUBDIVISION
BLOCK 1
155.94
LOT 68
LOT 72
17,529 SQ. FT.
165.21
LOT 71
LANE 2
263°40'
79°20'
EASEMENT A
151 Sq. Ft.
346°34'50"
112.01
Concrete
seawall
263°40'
1.11
166°50'
112.07
79°20'
1.60
SHORELINE PREVIOUSLY CERTIFIED ALONG
HIGHWATER MARK(BOTTOM MAKAI EDGE OF
CONCRETE SEAWALL) ON APRIL 19, 1989
2



DESIGNATION OF
EASEMENT A
FRONTING LOT 72
MAUNALUA BEACH SUBDIVISION
BLOCK 1

Maunalua, Honolulu, Oahu, Hawaii

Tax Map Key: Fronting (1)3-9-16:3

Owner: Brendan Damon Mesker

Date: November 17, 2002

WESLEY T. TENGAN
LICENSED PROFESSIONAL LAND SURVEYOR
No. 6958
HAWAII, U.S.A.

This work was prepared by me or under my supervision

WESLEY T. TENGAN
LICENSED PROFESSIONAL LAND SURVEYOR
Certificate Number 6958

Notes: 1 denotes position and direction of photograph

447 PORTLOCK RD.