'24FEB29 AM 11:20 CITY CLERK

DEPARTMENT OF PLANNING AND PERMITTING
KA ʻOIHANA HOʻOLĀLĀ A ME NĀ PALAPALA ʻAE
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAI'I 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041 • WEBSITE: honolulu.gov/dpp

RICK BLANGIARDI
MAYOR
MEIA

DAWN TAKEUCHI APUNA
DIRECTOR
PO'O

JIRO A. SUMADA
DEPUTY DIRECTOR
HOPE PO'O

February 27, 2024

2023/SMA-99(CK)

The Honorable Tommy Waters
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Chair Waters and Councilmembers:

SUBJECT: Special Management Area (SMA) Major Permit
New Single-Family Dwellings
126 South Kalāheo Avenue – Kailua
Tax Map Key 4-3-012: 030

Enclosed for your consideration are the Department of Planning and Permitting's (DPP) Report and Recommendation, Draft Resolution, and Exhibits for the SMA Major Permit application for two new single-family detached dwellings, two accessory pavilion structures, a garage, and a swimming pool in Kailua.

The DPP recommends that the Project be approved, as proposed, subject to compliance with recommended conditions, which primarily consist of standard conditions relating to protected species, coastal hazards, coastal dune protection, archaeological resources, and the prohibition of short-term rentals.

Pursuant to the Revised Ordinances of Honolulu Chapter 25, the City Council must act within 60 calendar days after receipt of our Findings and Recommendation; however, the City Council may extend this period of time upon receipt of a request from the Applicant for an extension.

DEPT. COM. 126

Should you have any questions, please contact me at (808) 768-8000.

Very truly yours,

Dawn Takeuchi Apuna
Director

Enclosures: DPP Report and Recommendation
Draft Resolution
Exhibits A, B, C-1 through C-7, D, E-1 through E-2, and F through M

APPROVED BY:

Michael D. Formby
Managing Director

DEPARTMENT OF PLANNING AND PERMITTING
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAI'I

IN THE MATTER OF THE APPLICATION

BY

OHANA MAKAI, LLC

FOR A

SPECIAL MANAGEMENT AREA
(SMA) MAJOR PERMIT

File No. 2023/SMA-99(CK)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

I. APPLICATION

A. Basic Information:

PROJECT NAME:	Ohana Makai Single-Family Dwellings
LANDOWNER/ APPLICANT:	Ohana Makai, LLC
AGENT:	Peter Vincent Architects (Mireille Turin)
LOCATION:	126 South Kalāheo Avenue – Kailua (Exhibit A)
TAX MAP KEY:	4-3-012: 030 (Parcel 30)
ZONING:	R-10 Residential District (Exhibit B)
STATE LAND USE:	Urban District
DEVELOPMENT PLAN:	Ko'olau Poko Sustainable Communities Plan (KPSCP)

B. Proposal: The Applicant requests approval of an SMA Major Permit to allow the construction of two new single-family detached dwellings, two accessory pavilions, a detached garage with motor court, and a swimming pool on a shoreline lot located in the R-10 Residential District and SMA in Kailua (see Exhibits A, B, and C-1 through C-7). The total floor area for the dwellings,

pavilions, accessory pool structure, and garage, is 13,084 square (sq.) feet (ft.) The Project consists of the following components:

- A new two-story, 7,817-sq.-ft. single-family detached dwelling with a pavilion structure (Dwelling 1, Pavilion 1);
- A new two-story, 3,666-sq.-ft. single-family detached dwelling with a pavilion structure (Dwelling 2, Pavilion 2);
- A 1,369-sq.-ft. single-story, four-car garage and storage structure with a rooftop solar array;
- A motor court with eight parking spaces; and
- An in-ground swimming pool and spa with an adjacent 232-sq.-ft. accessory equipment structure.

According to the Applicant's submittal, the property will be graded to support the new buildings with entry pavements, walkways, and landscape areas, with the building floor elevations of Dwelling 1 and Dwelling 2 being placed at 10 ft. and 8.5 ft. above mean sea level, respectively. Site elevations will remain relatively flat at approximately one-to-two feet above the existing lot elevations.

Post and pier foundations are proposed for most of the development in order to minimize the importation of fill and allow the use of in situ fill material to level out the topography. Concrete slab-on-grade foundations will only be used for Pavilion 2, the pool equipment pad, the mauka (landward; toward the mountain) and makai (seaward) lānais of Pavilion 1, and covered walkways. Earthwork volumes will include approximately three cubic yards of excavation and approximately 561 cubic yards of embankment. The dwellings will have a crawlspace beneath the ground floor, which will generate 475 cubic yards of excavated soil materials which will be spread around the property within the yard areas and to the subgrade under the new base course and pavement/slab materials. The Applicant's submittal indicates that 100 cubic yards or less of imported soil will be required, and if required, it will undergo standard screening procedures.

All construction staging activities will occur on-site. Temporary and permanent Best Management Practices (BMPs) will be implemented before, during, and after construction to address fugitive dust, on-site stormwater management, construction noise and vibrations, erosion and sediment control, and other issues in compliance with the Department of Planning and Permitting (DPP) *Rules Relating to Water Quality*, *Rules Relating to Storm Drainage Standards*, and other applicable regulations.

The Project is anticipated to cost approximately $7,891,500 and take approximately 18 to 24 months from receipt of all required permits to complete.

Background: The Project site is currently vacant with the exception of remnant foundations from a previous residential development. The previous owner of Parcel 30 had a Final Environmental Assessment prepared, for which a Finding of No Significant Impact was issued on July 13, 2022, based on a similar development of a two-story, single-family detached dwelling unit with a garage and accessory structures.

II. FINDINGS OF FACT

On the basis of the evidence presented, the Director of the DPP has found:

Lot Area	37,180 sq. ft.
Lot Shape	Rectangular
Topography	Relatively flat with an elevated sand berm along the makai edge of the property.
Current Development	The site is currently occupied by remnant foundations from a previous residential development.
Surrounding Uses	To the north – Pacific Ocean / Kailua Bay To the east, west, and south – Low-density residential (see Exhibits A and B)
Flood Zone	*Flood Zone X* – Areas of minimal flood hazard that are determined to be outside the Special Flood Hazards Area and higher than the 0.2 percent annual chance floodplain. (Federal Emergency Management Agency Flood Insurance Rate Map Panel No. 15003C00290H, revised November 5, 2014, see Exhibit D).
Shoreline Survey	The most recent Certified Shoreline Survey (CSS), dated April 18, 2022, is being utilized for the purpose of this SMA Major Permit. The CSS shows that the shoreline follows along the top of the bank (see Exhibits E-1 and E-2).
Nearest Body of Water	*Pacific Ocean* - Estuarine and Marine Wetland (see Exhibit F).

Soil Classifications (*mauka to makai*)	*Jaucas Sands* - Zero to 15 percent slopes, excessively drained, calcareous soils that occur as narrow strips on coastal plains, adjacent to the ocean. Permeability is rapid. Runoff is very slow to slow, and the hazard of water erosion is slight, but wind erosion is a severe hazard where vegetation has been removed *Beaches* - Deep, well drained to excessively drained sands or gravelly sands, with a high infiltration rate (low runoff potential) when thoroughly wet (see Exhibit G; United States Department of Agriculture - Natural Resources Conservation Service). The subject property is also mapped as coastal dunes on the Hawai'i Sea Level Rise (SLR) Viewer (see Exhibit H).
Vegetation	Guinea grass, haole koa, various other grasses and ground coverings throughout the mauka portion of the site; naupaka, coconut trees, a hala tree, and an ironwood tree in the makai portion of the site.
SLR – Exposure Area (XA)	The Project site is outside of the area projected to be impacted by 3.2 ft. of SLR by 2100, and is not projected to be impacted by coastal erosion (see Exhibit I; Hawai'i SLR Viewer).
Shoreline Erosion Rate	Kailua Transect 159 traverses the subject property, with an annual accretion rate of 1.2 ft. (see Exhibit J; O'ahu Shoreline Change Viewer).
Hurricane Storm Surge	The Project site is projected to be subject to approximately three ft. of flooding during hurricane events up to Category 4 (see Exhibit K; National Hurricane Center, *Storm Surge Risk Maps*).
Tsunami	The entirety of the subject property and surrounding neighborhood is located within the tsunami evacuation zone (see Exhibit L).
Environmental Compliance	The proposed Project does not meet any of the triggers under Hawai'i Revised Statutes (HRS) Chapter 343. Therefore, no environmental review under HRS Chapter 343 is required.
Other City Permits and Approvals	Construction and building permits; Erosion and Sediment Control Plan

Agency Comments	During the SMA review processes, the DPP routed the proposal to various Federal, State, and City agencies. All letters and comments received have been included in the Project file and incorporated into the Analysis Section, as appropriate.
Neighborhood Board/ Community Association Presentation	The Project was presented before the Kailua Neighborhood Board (KNB) No. 31 on August 3, 2021, and again before the KNB's Planning, Zoning, and Environment Committee on August 15, 2023. No objections to the Project were received.
Public Hearing	The DPP conducted a Public Hearing at 10:30 a.m. on January 16, 2024, at the Fasi Municipal Building, 6th Floor Conference Room. A representative for the Applicant, the DPP staff members, and two members of the public attended the public hearing. The public hearing is discussed in Section G, below.

III. ANALYSIS

The proposed Project was analyzed in accordance with the objectives, policies, and guidelines established in Revised Ordinances of Honolulu (ROH) § 25-3.1, as well as HRS §§ 205A-2 and 205A-26(1).

A. Recreational Resources

Development within the SMA should provide coastal recreational opportunities to the public. Adequate access, by dedication or other means, to beaches, coastal dunes, recreation areas, and natural reserves must be provided to the extent consistent with sound conservation principles. Adequate and properly located public recreation areas and wildlife preserves must be preserved.

The closest recreational facility to Parcel 30 is Kailua Beach, including the publicly-owned and used Kailua Beach Park. Other notable recreational facilities in Kailua include Kailua District Park, Kawainui Regional Park, and Ka'iwa Ridge (Lanikai Pillbox). The Project implementation will not result in adverse impacts to coastal recreational opportunities for the public, because no change to existing beach access, open spaces, recreational resources, or opportunities for hiking, fishing, and cultural practices will occur. Implementation of the Project will also not result in any change to lateral public access along the shoreline makai of the property. Under both current and proposed conditions, there is no direct public access to the beach through the subject property. The nearest public beach access is located approximately 220 ft. east of Parcel 30. Therefore, no

conditions of approval are recommended regarding coastal recreational opportunities or resources.

B. Historic and Cultural Resources

Development within the SMA should protect, preserve, and restore natural or human-made historical and cultural resources.

An Archaeological Inventory Survey (AIS) prepared for the Project by ASM Affiliates, Inc. identified no surface cultural deposits or archaeology features during a reconnaissance survey of the mauka portion of Parcel 30. However, the reconnaissance survey found that sands on the site are consistent with similar sands elsewhere in the vicinity where human burials have been encountered (Jaucas sands). Further, numerous archaeological sites, including several with human burials, are documented in the general vicinity of Parcel 30, in the area known as the Kailua accretion berm (Kailua Berm). A 2014 document identified at least 100 individual burials within the Kailua Berm, at least 89 of which were encountered within 500 meters of the shore. As such, the entire Kailua Berm is considered an area of high probability of encountering skeletal remains. Therefore, the AIS recommends that an Archeological Monitoring Plan (AMP) be prepared and submitted to the State Historic Preservation Division (SHPD) Hawai'i Cultural Resource Information System (HICRIS) for concurrence. Archaeological monitoring consistent with the AMP should then be required during subsurface ground-disturbing construction activities. These are recommended as conditions of approval.

In addition, should any cultural or archaeological resources be discovered, the Project should be subject to the standard stop work condition of approval. This will ensure that if, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls) are encountered, the Applicant must stop work and contact the SHPD. Work in the immediate area will have to be stopped until the SHPD is able to assess the impact and make further recommendations for mitigative activity. This is also recommended as a condition of approval. Provided the Applicant complies with the SHPD's requirements regarding on-site resources, no adverse impacts to historic or archaeological resources are anticipated.

The Project does not propose any change to existing established public access for Hawaiian cultural activities, nor would Project implementation preclude the practice of Hawaiian cultural activities. Therefore, no conditions are recommended in regard to preserving access or opportunities for Hawaiian cultural activities.

C. **Scenic and Open Space Resources**

Development within the SMA should protect, preserve, and whenever desirable, restore or improve the quality of coastal scenic and open space resources. Alterations to existing land forms and vegetation, other than for the cultivation of coastal dependent crops, must be limited so they result in minimum adverse impacts on water resources, beaches, coastal dunes, and scenic or recreational amenities. Development that is not dependent on the coast is encouraged to locate mauka of the SMA.

The Project will not impact scenic and open space resources because the Project proposes the development of single-family dwellings in an area zoned for residential use. The Project will be consistent with the ROH Chapter 21 development standards for the R-10 Residential District, which will be confirmed during the building permit review process. The KPSCP Open Space Map identifies continuous east-west views across Kailua Bay, and significant stationary views from the west end of Kailua Beach Park in the general Project vicinity. However, the Project site is not located within the sightlines of either of these viewpoints. The City's Coastal View Study identifies Kalāheo Avenue as a coastal roadway, but does not identify any associated viewsheds in the Project vicinity. Given all of this, no adverse impacts to scenic and open space resources are anticipated, and therefore, no related conditions of approval are recommended.

D. **Coastal Ecosystems**

Development within the SMA should protect valuable coastal ecosystems, including reefs, beaches, and coastal dunes from disruption, and minimize adverse impacts on all coastal ecosystems. Solid and liquid waste treatment and disposition must be managed to minimize adverse impacts on SMA resources.

Upon compliance with the recommended conditions of approval, no significant impacts to coastal ecosystems are expected as a result of Project implementation, because the Project proposes residential uses on a residentially-zoned lot, and will be designed to avoid impacts to coastal ecosystems.

1. Sensitive Coastal Habitats and Species: The Project site does not contain any areas designated as wetlands or streams. As noted during review of the U.S. Fish and Wildlife Service (USFWS) *Information for Planning and Consultation* (IPaC) database, protected fauna that may be present within the Project vicinity may be impacted, particularly during construction activities. Therefore, conditions of approval related to sensitive fauna species should be imposed in order to protect valuable coastal ecosystems, as described below.

a. Flora: Existing vegetation at the site consists of guinea grass, haole koa, various other grasses, and ground coverings throughout the mauka portion of the site; and naupaka, coconut trees, a hala tree, and an ironwood tree. No rare, threatened, or endangered flora species are known to be present on the site, and no critical habitat for flora species overlaps the Project site. Therefore, no impacts to threatened or endangered flora species are anticipated, and no related conditions of approval are recommended.

b. Fauna: A review of the USFWS IPaC database revealed there are a number of threatened and endangered fauna species that may visit the site for foraging or breeding purposes. Sensitive terrestrial mammal species which may occur include the Hawaiian Hoary Bat. The IPaC database also identifies the Green Sea Turtle and the Hawksbill Sea Turtle as protected reptile species that may occur in the Project area. The IPaC database further indicates that the Project site overlaps proposed critical habitat for the Green Sea Turtle. Further, according to National Oceanic and Atmospheric Administration Fisheries, critical habitat for Hawaiian monk seals includes the marine waters near the Project site.

Sensitive avian species which may occur include the Hawaiian seabirds and water birds (Band-rumped Storm-petrel, Hawaiian Common Gallinule, Hawaiian Coot, Hawaiian Duck, Hawaiian Petrel, Hawaiian Stilt, Newell's Shearwater, and Short-tailed Albatross), and the State-threatened White Tern. These species may be impacted by Project implementation, particularly during construction activities. In fact, during the subsurface investigations conducted in support of the AIS, Wedge-tailed Shearwaters and their nests were identified throughout the makai portions of the Project site. Wedge-tailed Shearwaters are not formally listed as threatened or endangered, but they are State-recognized indigenous Hawaiian seabirds, and are also protected under the Migratory Bird Treaty Act of 1918. Therefore, in order to avoid direct or indirect impacts to protected Wedge-tailed Shearwaters and other protected Hawaiian seabirds, the Applicant should be required to hire a qualified biologist to conduct pre-construction surveys for the presence of the species and nests, and establish procedures to avoid disruption of any nests that may be encountered. This is recommended as a condition of approval.

Artificial lighting can be disruptive to many avifauna and marine life species in their navigation, nesting, and reproductive cycles. Therefore, all outdoor lighting should be fully shielded, and nighttime work (from sunset to sunrise) must be avoided during the seabird fledgling season from September 15 through December 15.

To further mitigate potential lighting impacts, the Applicant should use full cutoff light fixtures for exterior lighting. The International Dark Sky Association has established lighting standards to mitigate ecological impacts. Their Fixture Seal of Approval program requires that lighting have a correlated color temperature of 3,000 degrees kelvin or lower. These measures should be conditions of approval.

Hawaiian hoary bats may roost in trees or tall vegetation in the Project area. Therefore, to avoid impacting these species, woody plants greater than 15 ft. in height should not be disturbed, removed, or trimmed during the bat birthing and pup rearing season (June 1 through September 15). Further, barbless fencing should be used for all fence construction to avoid entanglement of Hawaiian hoary bats. These measures should be conditions of approval.

Nesting sea turtles and monk seal mother-pup pairs are particularly vulnerable to human disturbance, such as construction noise, which may cause them to avoid or leave the area, thereby negatively affecting their reproductive success. Monk seals and sea turtles could also be harmed if any construction debris poses a threat of entanglement. To prevent impacts to monk seals and sea turtles, the Applicant should be required to comply with standard stop work requirements and BMPs if these species are present in or adjacent to the Project site. This should be a condition of approval.

2. Reefs, Beaches, and Coastal Dunes: The Project's potential impacts to reefs, beaches, and coastal dunes are discussed in Section H, below.

3. Solid and Liquid Waste Treatment and Disposition: The Project will be required to comply with existing regulations and implement BMPs to minimize potential air and water quality impacts associated with soil disturbance and stormwater or irrigation runoff. Water supply and fire suppression water for the Project will come from the existing municipal water system which already serves the Project site. Wastewater will be collected through the existing municipal sewer system. Compliance will be confirmed during the building permit review process. Therefore, no conditions of approval specific to solid and liquid waste are required.

Upon implementation of the recommended conditions, along with standard water quality and erosion BMPs, no negative impacts to coastal ecosystems are anticipated.

E. Economic Uses

Development within the SMA should consist of facilities and improvements important to the State's economy, and ensure that coastal-dependent development and coastal-related development are located, designed, and constructed to minimize exposure to coastal hazards and adverse social, visual, and environmental impacts within the SMA.

Implementation of the Project will result in a temporary increase in jobs and economic activity during construction through the rental and purchase of equipment, materials, and supplies. Otherwise, the proposed new single-family dwellings are anticipated to result in minimal changes to the State's economy. Therefore, the Project is not anticipated to result in an adverse impact to the State's economy, and no related conditions of approval are recommended.

F. Coastal Hazards

Development within the SMA should reduce impacts of coastal hazards on life and property, and must be designed to minimize impacts from landslides, erosion, sea level rise, siltation, or failure in the event of earthquake.

1. Flooding: The Project site is located entirely within Flood Zone X, which is outside of the flood hazard area (see Exhibit D). Development within Flood Zone X is not subject to compliance with ROH Chapter 21A, the Special Flood Hazard Areas Ordinance. Therefore, no conditions of approval specific to flood zone compliance are recommended.

2. SLR: Based on a review of the University of Hawai'i Pacific Island Ocean Observing System Hawai'i SLR Viewer, the Project site is not located within the 3.2-foot SLR-XA (see Exhibit I). Therefore, no conditions of approval specific to projected SLR hazards are recommended.

   Nonetheless, as a shoreline lot, the Applicant and successor owners must be aware of the potential for coastal hazards at the subject property, and aware that future shoreline variances for shoreline hardening structures cannot not be allowed, as discussed under Section H, below. Further, the Applicant and successor owners must be aware that as sea level rises or as land area is lost to coastal erosion or other occurrences, land makai of the shoreline becomes part of the State's Land Use Conservation District. These are included as conditions of approval.

3. Storm Surge: The National Storm Surge Hazards Maps indicate that the makai-most portion of the Project site may be inundated by approximately three ft. of storm surge during Category 3 and larger hurricane events (see Exhibit K). However, the closest development activity is proposed to be located approximately 60 ft. mauka of the shoreline, and mauka of a

natural elevated coastal dune that separates the proposed development from Kailua Beach and the ocean. As such, implementation of the Project is not anticipated to increase the potential for adverse impacts related to hurricane storm surge over the existing condition. Therefore, no conditions of approval specific to storm surge are recommended.

4. Tsunami: The entirety of the Project site is located within the tsunami evacuation zone (see Exhibit L). During a tsunami warning, evacuation requirements will be enforced based on guidelines issued by the Department of Emergency Management. As such, no conditions specific to tsunami events are recommended.

G. Managed Development and Public Participation

The development review process should stimulate public awareness, education, and participation in coastal management.

The public was made aware of the Project and was given the opportunity to review the proposed Project prior to and during processing of the SMA Major Permit application. The application materials were also posted on the DPP website upon acceptance of the application for processing.

During the SMA review processes, the DPP routed the proposal to various Federal, State, and City agencies. All letters and comments received have been included in the Project File and incorporated into the Analysis Section, as appropriate. Prior to submittal of the SMA application to the DPP, the Applicant presented the Project before the KNB No. 31 on August 3, 2021, and again before the KNB Planning, Zoning, and Environment Committee on August 15, 2023. No objections to the Project were received.

The DPP conducted a Public Hearing on the SMA Major Permit application at 10:30 a.m. on Tuesday, January 16, 2024, at the Fasi Municipal Building, 6th Floor Conference Room. Notices of the application and public hearing were published in the December 26, 2023, Honolulu Star-Advertiser and sent to neighbors within 300 ft. of the subject property, various public agencies, elected officials for the area, and other interested parties. Two members of the public attended the public in person, one of which provided oral testimony in regard to the potential for air conditioning noise and height of the proposed dwelling in regard to neighboring dwelling units. These concerns were considered in the DPP's review of the application, and are analyzed in Section K, below.

A recording of the public hearing is available upon request. Additional opportunities for public input will be available during the City Council meetings. No related conditions of approval are recommended.

H. Beach and Coastal Dune Protection

Development within the SMA should facilitate beach management and protection by safeguarding beaches and coastal dunes for public use and recreation, the benefit of ecosystems, and use as natural buffers against coastal hazards. New structures should be located mauka of the shoreline setback line to conserve open space, minimize interference with natural shoreline processes, and minimize the loss of improvements due to erosion.

The Project site is primarily underlain by soils identified as Jaucas sands, and mapped as Dunes and Marine Sands, on the Hawai'i SLR Viewer (see Exhibits G and H). Jaucas sands are permeable, well-drained soils with slow runoff rates. There is currently no shoreline hardening structure present at the subject property to disrupt natural shoreline processes. In order to protect the underlying dune sands and minimize the disruption of future shoreline processes, landscaping must not artificially fix the shoreline or be maintained in such a way that it effectively hardens the shoreline. This is recommended as a condition of approval, as required under ROH Chapter 25.

Further, the Applicant and successor owners should be aware that pursuant to ROH § 26-1.8(b)(3)(E), a determination of hardship as a result of any discretionary land use permit granted after June 16, 1989 is not a basis for requesting a Shoreline Setback Variance (SSV). This means that where a discretionary land use permit is used to authorize development, the Applicant cannot later claim hardship as the basis for an SSV in order to protect that development. This SMA Major Permit is a discretionary land use permit. Therefore, the Applicant is precluded from obtaining an SSV to protect the subject property from erosion or other coastal hazards with new shoreline hardening structures. This is recommended as a condition of approval to ensure that the Applicant and successor owners or interests are fully aware of this regulatory standard.

I. Marine and Coastal Resources

Development within the SMA should promote the protection, use, and development of marine and coastal resources to ensure that these resources are ecologically and environmentally sound and economically beneficial. Impacts on water resources, beaches, coastal dunes, and scenic or recreational amenities resulting from the construction of structures must be minimized. Development within wetland areas should be limited to activities that are dependent on or enhance wetlands, or are otherwise approved by appropriate State and federal agencies.

The Project is located on a shoreline lot, but does not involve the use or management of marine resources. The closest surface and marine waters to the subject property consist of Kailua Bay, located directly north of the site. Kailua

Bay is identified as Estuarine and Marine Wetland and Estuarine and Marine Deepwater (see Exhibit F). The Project is not anticipated to result in adverse impacts to these marine waters or wetlands, as the closest development activities will occur approximately 60 ft. mauka of the shoreline, and the Project will comply with the City's *Rules Relating to Water Quality, Rules Relating to Storm Drainage Standards*, and other applicable regulations. Compliance will be confirmed during the building permit review process. Nonetheless, the Project does require the importation of a small amount of structural fill, which could introduce components to the site that would adversely affect coastal resources. Therefore, prior to importation to the site, the fill materials should be subject to a materials analysis by the Department of Land and Natural Resources (DLNR) Division of Forestry and Wildlife (DOFAW). This is recommended as a condition of approval.

According to the Applicant's submittal, the Project will result in impervious surface area coverage of 61.3 percent, which is below the maximum allowable impervious surface coverage of 75 percent. Further, the Project site consists of well-drained Jaucas and Beach sands, and is located in Flood Zone X. Therefore, no conditions of approval regarding impervious surface area are recommended.

J. Cumulative Impact or Significant Effect and Compelling Public Interest

Development within the SMA should not have any cumulative impact or significant effect, unless minimized to the extent practicable and clearly outweighed by public health, safety, or other compelling public interest.

Substantial or cumulative negative environmental impacts associated with the implementation of the Project along with other past, present, and reasonably foreseeable projects in the Project vicinity are not anticipated. The Project site and other lots within 500 ft. of the Project site perimeter are zoned for residential use, and are therefore limited to residential uses in compliance with Residential District development standards. The subject property along with those to the east and west are also located within the SMA, which requires all development to undergo review for impacts to the sensitive coastal resources previously described in this report. The Project site is within a previously-established subdivision area to which existing electricity, water, wastewater, and municipal fire suppression water are already available. Two known past, present, or reasonably foreseeable development projects were identified within five years or within the 500-ft. cumulative project radius (see Exhibit M). SMA Minor Permit No. 2021/SMA-34 authorized the construction of a new swimming pool and fence, and SMA Minor Permit No. 2023/SMA-64 authorized repairs and alterations to an existing single-family dwelling. The potential for impacts to SMA resources associated with these Projects was evaluated during review of their applications for an SMA Minor Permit, and where necessary, conditions of

approval were incorporated. The potential for site-specific or cumulatively considerable impacts associated with the Project have been evaluated herein, and where necessary, conditions of approval are recommended. Therefore, upon implementation of the recommended conditions of approval and compliance with applicable regulatory requirements, it is not anticipated that the Project will contribute to a significant cumulative impact to SMA resources.

In regard to the Project combined with other reasonably foreseeable projects in the vicinity, potential cumulative impacts to SMA resources could occur if the projects collectively resulted in damage to the quality of water in the nearby Kailua Bay, or the loss of protected nesting or foraging mammal or avian species. However, because these projects are all required to undergo individual SMA review addressing these issues, and because they must also comply with regulatory requirements and site-specific conditions of approval, their potential contribution to cumulatively significant impacts is considered low. Given this, no conditions of approval specific to cumulative impacts are recommended.

K. Consistency with Plans and Regulations

Development within the SMA must be consistent with the general plan, development plans, sustainable communities plans, and zoning ordinances; provided that a finding of inconsistency does not preclude concurrent processing of amendments to applicable plans or a zone change.

The proposal is generally consistent with the applicable plans and regulations, as detailed below.

1. ROH Chapter 21, Land Use Ordinance (LUO): According to the Applicant's submittal, the Project has been designed to comply with the development standards of the LUO. The 37,180-sq.-ft site is located within the R-10 Residential District, which allows a maximum of three single-family dwellings, and the Project proposes two. The Project plans show that the structures, including the air-conditioning equipment, comply with all required yard and height setbacks, as well as height, density, and lot coverage requirements to meet the development standards for the R-10 Residential District (see Exhibits C-1 through C-7). However, a preliminary review of the Project as currently proposed reveals inconsistencies with a number of LUO regulations as follows:

    - The structure identified as "Dwelling 2" is not a "dwelling unit" as it does not contain a kitchen. As currently shown on the Project plans, the structure is a multi-family dwelling with three "lodging units." Each lodging unit is individually and directly accessible from the common foyer on the ground floor and provides an independent

living unit. Multi-family dwellings and lodging units are not permitted within any Residential District.

- The number of proposed bathrooms exceed the maximum permitted number of bathrooms per zoning lot and per dwelling unit. Pursuant to LUO Section 21-3.70-1(c)(3)(D), the maximum number of bathrooms on one zoning lot must not exceed eight bathrooms. Further, the maximum number of bathrooms per dwelling for zoning lots with two or more dwelling units is four bathrooms. As currently shown on the Project plans, there are a total of nine bathrooms proposed on the site; five bathrooms in "Dwelling 1," three bathrooms in "Dwelling 2," and one bathroom in the pool equipment storage structure.

- The proposed parking area plan does not meet the arrangement requirements as outlined in LUO Sections 21.6.50(b). Where five or more parking spaces are provided, the parking spaces or area must be designed in a manner that allows all vehicles to enter and exit the street in a forward manner.

Plans submitted for land use permits, such as an SMA permit, are generally conceptual in nature. Slight design changes to site plans, interior floor plans, or parking plans are not uncommon prior to the submittal of final building permit plans. A thorough review of the plans for compliance with the Residential District development standards and other LUO regulations will be conducted during the building permit review process.

However, there is also potential for the use of the dwellings as short-term rentals. Pursuant to LUO Table 21-3, short-term rentals, including both bed and breakfast establishments and transient vacation units, are not allowed in the R-10 Residential District. In order to ensure the Applicant and successor owners are aware of this limitation, a statement to this effect is recommended as a condition of approval.

Upon incorporation of the recommended condition stating short-term rentals are not allowed, and upon incorporation of all revisions required during the building permit review process, the Project will be consistent with the LUO, and no additional conditions of approval will be required.

2. KPSCP: The KPSCP Land Use Map identifies the Project area as "Low Density Residential," within the community growth boundary. The Project proposes the construction of two new dwellings on a residential lot within the Community Growth Boundary. Parcel 30 is not within any identified scenic viewshed, open-space, recreational area, wetland, or historic site on KPSCP resource maps, as also discussed above. Given this, the

proposed construction of two new single-family dwellings is generally consistent with the KPSCP.

3. O'ahu General Plan (GP): The Project is generally consistent with the O'ahu GP. The GP identifies the Project area as an urban fringe. Natural Environment and Resource Stewardship Objective A, Policy No. 1, requires the protection of O'ahu's natural environment, especially the shoreline, valleys, ridges, watershed areas, and wetlands from incompatible development. Policy 4 requires development projects to give due consideration to natural features and hazards such as slope, inland and coastal erosion, flood hazards, water-recharge areas, and existing vegetation, as well as to plan for coastal hazards that threaten life and property. Policy 5 requires sufficient setbacks from O'ahu's shorelines to protect life and property, preserve natural shoreline areas and sandy beaches, and minimize the future need for protective structures or relocation of structures. The Project proposes a 60-ft. setback from the certified shoreline, and the site is not within the flood hazard zone or projected to be impacted by SLR.

   Housing and Communities Objective B, Policy No. 2 discourages speculation in lands outside of areas planned for urban use, and encourages the reduction of vacant dwelling units and reduction of the use of residential dwelling units for short-term vacation rentals. The Project proposes the construction of two single-family dwellings on a parcel in the R-10 Residential District. According to the Applicant's submittal, each dwelling is intended for use by a single family, and will not be utilized for short-term vacation rentals. Upon incorporation of the recommended condition stating short-term rentals are not allowed, the Project will be generally consistent with the policies of the GP, and no related conditions of approval are required.

4. Shoreline Setback Ordinance, ROH Chapter 26: The Project site is subject to a minimum 40-ft shoreline setback. The Project does not propose any development activity within 60 ft. of the shoreline (see Exhibits C-1, E-1, and E-2). Therefore, the Project is not anticipated to conflict with ROH Chapter 26.

IV. CONCLUSIONS OF LAW

The proposed development was reviewed under the provisions of ROH §§ 25-3.1 and 25-4.1, and HRS §§ 205A-2 and 205A-26(1), and found to be consistent with established SMA objectives, policies, and guidelines, subject to the conditions below. Based on the analysis, the proposed Project will not adversely impact SMA resources, provided that appropriate mitigative conditions are implemented as recommended.

V. RECOMMENDATION

Based on the preceding Analysis and Conclusions of Law, it is recommended that this application for a SMA Major Permit be **APPROVED**, subject to the following conditions:

A. Development must be in general conformity with the Project as described in the DPP's findings and recommendation, referenced above, and as depicted in Exhibits A, B, C-1 through C-7, D, E-1 through E-2, and F through M, attached hereto and incorporated by reference herein. Any change in the size or nature of the Project that may have a significant effect on coastal resources addressed in ROH Chapter 25, HRS Chapter 205A, or both, will require a new application and SMA Major Permit. Any change that does not have a significant effect on coastal resources will be considered a minor modification and may be permitted under the adopted resolution, upon review and approval by the Director of the DPP.

B. To account for the potential shift of land from the State Land Use Urban District to the State Land Use Conservation District in response to anticipated coastal erosion, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

> *"In choosing to implement construction activities at Tax Map Key 4-3-012: 030, the Landowner hereby acknowledges that land makai of the regulatory shoreline is State public land, falls within the State Land Use Conservation District, and must remain available for public use and recreational activities. The landowner further acknowledges that should any portion of a structure encroach into State public land, the State Board of Land and Natural Resources may require the removal of the structure or a lease for encroachments extending into the State public land. As a result of this acknowledgement, successor owners and interested parties are hereby notified of this same information and the land owner shall hold harmless and indemnify the City of any responsibility that may result from adverse impacts associated with sea level rise and coastal erosion."*

This statement must be clearly stated under "Landowner Acknowledgements" on all Project building permit plans.

C. Following approval of this SMA Major Permit, neither the current landowner, nor any successor owner or interested party may claim hardship due to erosion, sea level rise, or any other coastal hazard, in order to obtain approval for a SSV for a new shoreline protection structure. All Project building permit plans must include the following statement under "Landowner Acknowledgements":

> *"In choosing to undertake the development at Tax Map Key*

4-3-012: 030, the landowner hereby acknowledges that no claim of hardship due to erosion, sea level rise, or any other coastal hazard may be asserted in order to obtain approval for a Shoreline Setback Variance for a new shoreline protection structure."

D. To minimize the potential for adverse impacts related to coastal hazards, including but not limited to sea level rise, coastal erosion, flooding, wave action, and storm surge, prior to the issuance of any construction permit or building permit for the Project, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

"The landowner hereby acknowledges that Tax Map Key 4-3-012: 030 is susceptible to coastal hazards, which may result in harm to or loss of life and property."

This statement must be clearly stated under "Landowner Acknowledgements" on all Project building permit plans.

E. In order to ensure the Applicant is aware that short-term rentals are not allowed on Parcel 30, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

"The landowner hereby acknowledges that short-term rentals, as defined in ROH Chapter 21, the Land Use Ordinance, are not allowed on Tax Map Key 4-3-012: 030."

This statement must be clearly stated under "Landowner Acknowledgements" on all Project building permit plans.

F. In order to preserve underlying beach sands and coastal dunes, all landscaped areas, landscaping, and irrigation must be contained and maintained within the property boundaries of the shoreline lot of origin:

1. Landscaping may not be planted, watered, or maintained so that it acts as a shoreline barrier, such as by planting naupaka, particularly if the landscaping alters or interferes with the natural beach processes;

2. Landscaping may not extend seaward of the shoreline as depicted in the current certified shoreline survey for the shoreline lot, or in the event there is no current certified shoreline survey for the lot, seaward of the shoreline as defined in HRS Chapter 205A;

3. Landscaping may not extend into any adjoining beach access right-of-way, public or private;

4. Landscaping between the makai dwelling and the shoreline must be limited to vegetation that is naturally hardy or endemic in the dune or shoreline area; and

5. Any irrigation systems must be designed so that water does not traverse makai of the shoreline into the State Land Use Conservation District, or otherwise facilitate the growth of vegetation makai of the shoreline as defined in HRS Chapter 205A.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

G. In order to minimize impacts to known and unknown archaeological, historic, and cultural resources that may be present at the Project site, the Applicant shall comply with the following measures:

1. The Applicant, in consultation with the SHPD, shall prepare an AMP that meets the standards of Hawai'i Administrative Rules Chapter 13-279, and shall implement the archaeological monitoring plan during ground-disturbing activity and Project construction to ensure that archaeological and cultural resources are properly identified and treated;

2. The Applicant shall consult with the SHPD regarding mitigation protocols, and shall implement all mitigation protocols required by the SHPD. All mitigation protocols must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans. Prior to the commencement of ground-disturbing activity and Project construction, a coordination meeting must be conducted among the Project's archaeological consultants, the construction contractor, and applicable subcontractors to ensure that the construction contractor and applicable subcontractors have been informed of the required mitigation protocols; and

3. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls) are encountered, the Applicant shall stop work, protect the find from further disturbance, and contact the SHPD immediately. Work in the immediate area must be stopped until SHPD is able to assess the impact and make further recommendations for mitigative activity.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

H. In order to minimize impacts to endangered, protected, or threatened avian, marine, and terrestrial fauna that may frequent or traverse the vicinity of the Project site, the Applicant is responsible for the following:

1. All new and replacement outdoor light fixtures must not exceed a color temperature of 3,000 degrees kelvin.

2. Artificial light from exterior lighting fixtures on the zoning lot, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, is prohibited if the light directly illuminates, or is directed across property boundaries toward, the shoreline and ocean waters, except as may otherwise be permitted pursuant to HRS § 205A-71(b).

3. Exterior lighting fixtures on the Project site must be fully shielded using full cutoff fixtures with the light directed downward so that the light bulb is only visible from below the light fixture;

4. All Project site work and construction activities are limited to daylight hours (sunrise to sunset);

5. Barbless fencing must be used for all fence construction to avoid the entanglement of Hawaiian hoary bats;

6. Woody plants greater than 15 ft. in height may not be disturbed, removed, or trimmed during the Hawaiian Hoary Bat birthing and pup rearing season (June 1 through September 15); and

7. All Project-related activities must cease if a Hawaiian Monk Seal, Green Sea Turtle, or Hawksbill Sea Turtle is within 150 ft. of the work area, or as recommended by State or Federal regulations. Project activities may only recommence after the animal voluntarily leaves the area. If a monk seal pup is present, a 300-ft. buffer must be observed. Any Project-related debris that may pose an entanglement threat to monk seals or turtles must be removed from the work area at the end of each day and at the conclusion of Project-related activities.

8. If construction activities are scheduled to begin during the breeding and nesting period of March through December, a qualified biologist that is familiar with the biology of Wedge-tailed Shearwaters and Hawaiian seabirds must be contracted to conduct pre-construction nesting surveys prior to and during Project construction as follows:

    a. A minimum of three days prior to the initiation of any clearing, grubbing, grading, excavation, or trenching activities, the qualified

biologist must conduct pre-construction surveys for the presence of Hawaiian seabird and migratory bird nests;

b. If no nests are discovered, work may proceed;

c. If a nest(s) is discovered, work may not proceed, and the USFWS and DLNR DOFAW must be contacted immediately. Work may only resume upon implementation of any avoidance and mitigation measures recommended by the USFWS and/or DLNR DOFAW; and

d. If there is a delay of three or more workdays during the active construction period, the qualified biologist must re-conduct pre-construction nest surveys for any new nests that Hawaiian seabirds or protected migratory birds may have attempted to establish.

If construction activities are scheduled to begin outside of the breeding and nesting period of January and February, contracting a qualified biologist and conducting preconstruction nesting surveys is not required.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

l. To minimize the spread of invasive pathogens, pests, or plants that may harm native species and ecosystems, the importation of soil material must be minimized to the extent possible. If the importation of soil material is necessary, prior to the importation of any soil material, the Applicant shall submit a materials analysis to the State DLNR DOFAW, for review and approval. The materials analysis must show that:

1. All fill materials have similar characteristics and are of similar quality as the existing soil materials on site, and will not adversely impact SMA resources; and

2. All fill materials are clean and do not contain invasive fungal pathogens, vertebrate and invertebrate pests, or invasive plant parts that may harm native species and ecosystems.

Approximately one year after the issuance of a certificate of occupancy for the Project, the Applicant shall submit to DOFAW for its review and approval, a post-construction survey to detect whether the Project site contains any invasive species that have spread from the fill materials, and recommended mitigative measures to address any spread. The Applicant shall implement the recommendations of the post-construction survey.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

J. **The Applicant shall obtain a construction permit or building permit for the Project within three years after the effective date of this SMA Major Permit.** Failure to obtain a construction permit or building permit within this period will render this SMA Major Permit null and void, provided that this period may be extended as follows:

1. The DPP Director may extend this period if the Applicant demonstrates good cause, but the period cannot be extended by the DPP Director beyond one year from the initial deadline set by the Council.

2. If the Applicant demonstrates good cause for an extension exceeding one year, the DPP Director shall prepare and submit to the Council a report on the proposed extension, which must include the DPP Director's findings and recommendations thereon. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution.

3. If the Council fails to take final action on the proposed extension within the first to occur of:

    a. 60 days after receipt of the DPP Director's report; or

    b. The Applicant's then-existing deadline for obtaining a development permit,

    the extension will be deemed to be denied.

K. Approval of this SMA Major Permit does not constitute compliance with other City ordinances, including but not limited to the LUO and building and construction codes, or other governmental requirements, including but not limited to LUO-related approvals, and building, grading, and grubbing permit approvals, which are subject to separate review and approval. The Applicant is responsible for ensuring that the final plans for the Project approved under this SMA Major Permit comply with all applicable City ordinances and other governmental provisions and requirements.

Dated at Honolulu, Hawai'i, this 27th day of February, 2024.

Department of Planning and Permitting
City and County of Honolulu
State of Hawai'i

By _____
Dawn Takeuchi Apuna
Director

Enclosures: Draft Resolution
Exhibits A, B, C-1 through C-7, D, E-1 and E-2, and F through M

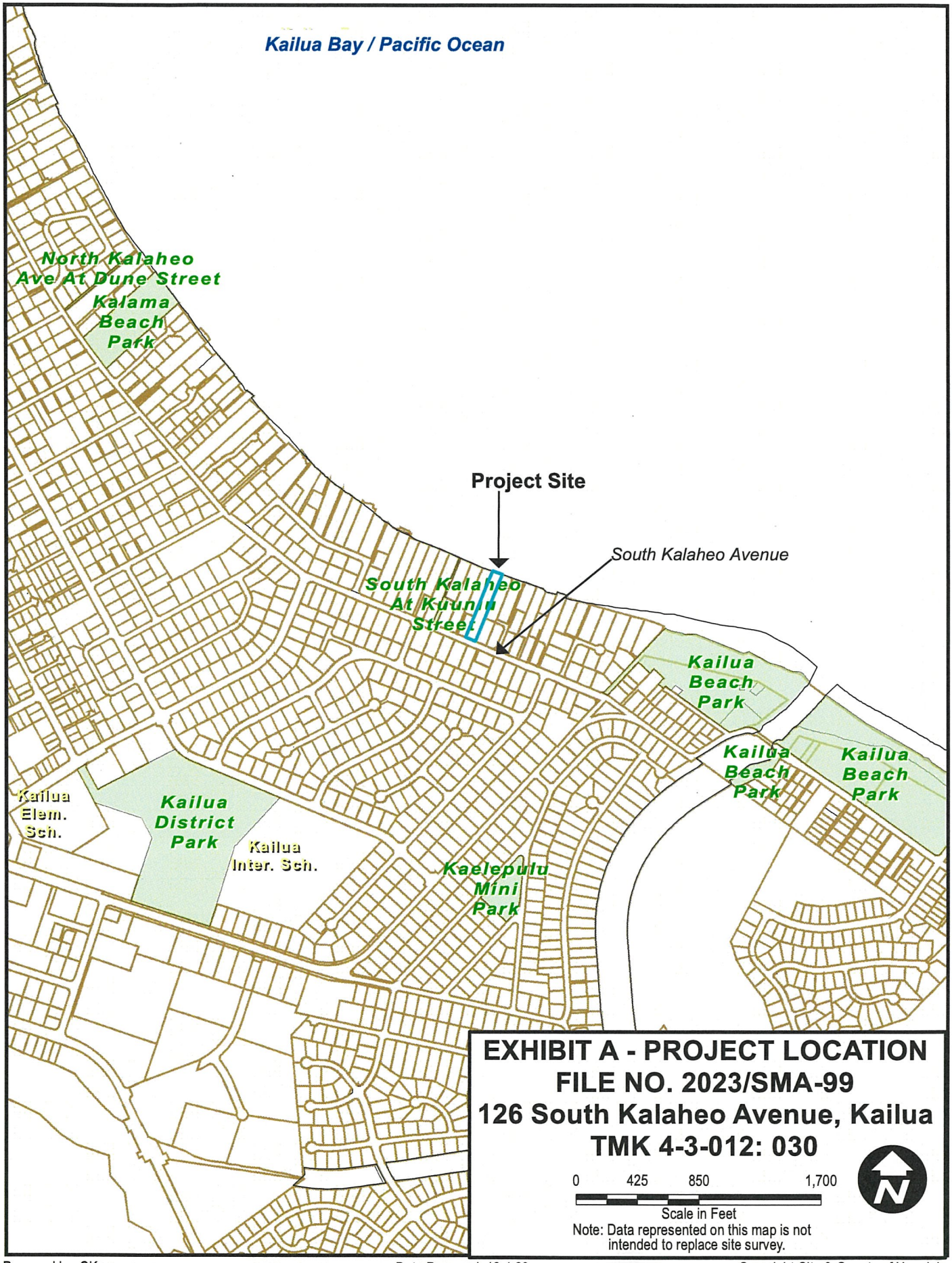


EXHIBIT A - PROJECT LOCATION
FILE NO. 2023/SMA-99
126 South Kalaheo Avenue, Kailua
TMK 4-3-012: 030

0 425 850 1,700

Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

Prepared by: CK

Date Prepared: 12.4.23

Copyright City & County of Honolulu
All Rights Reserved 2008

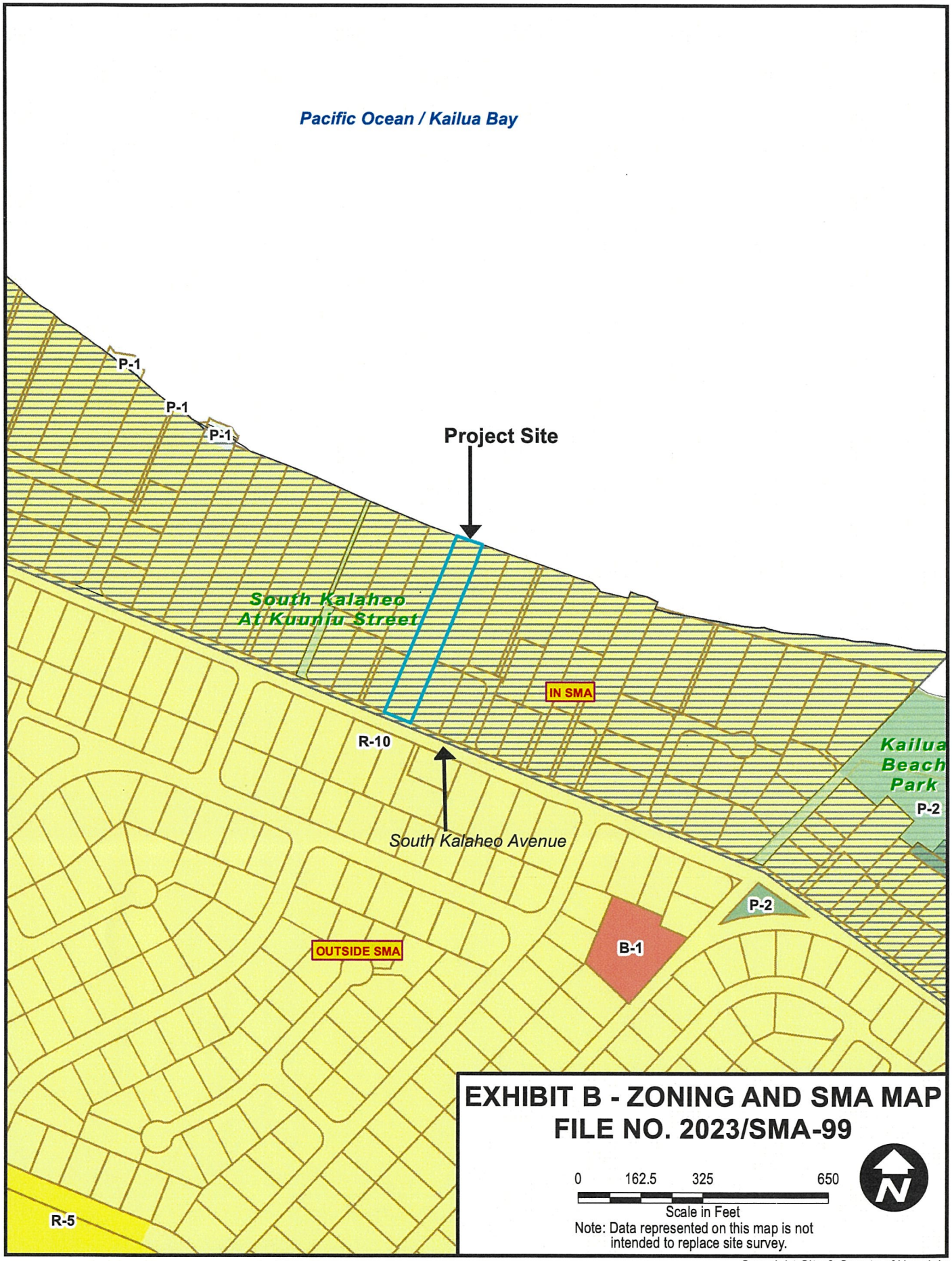


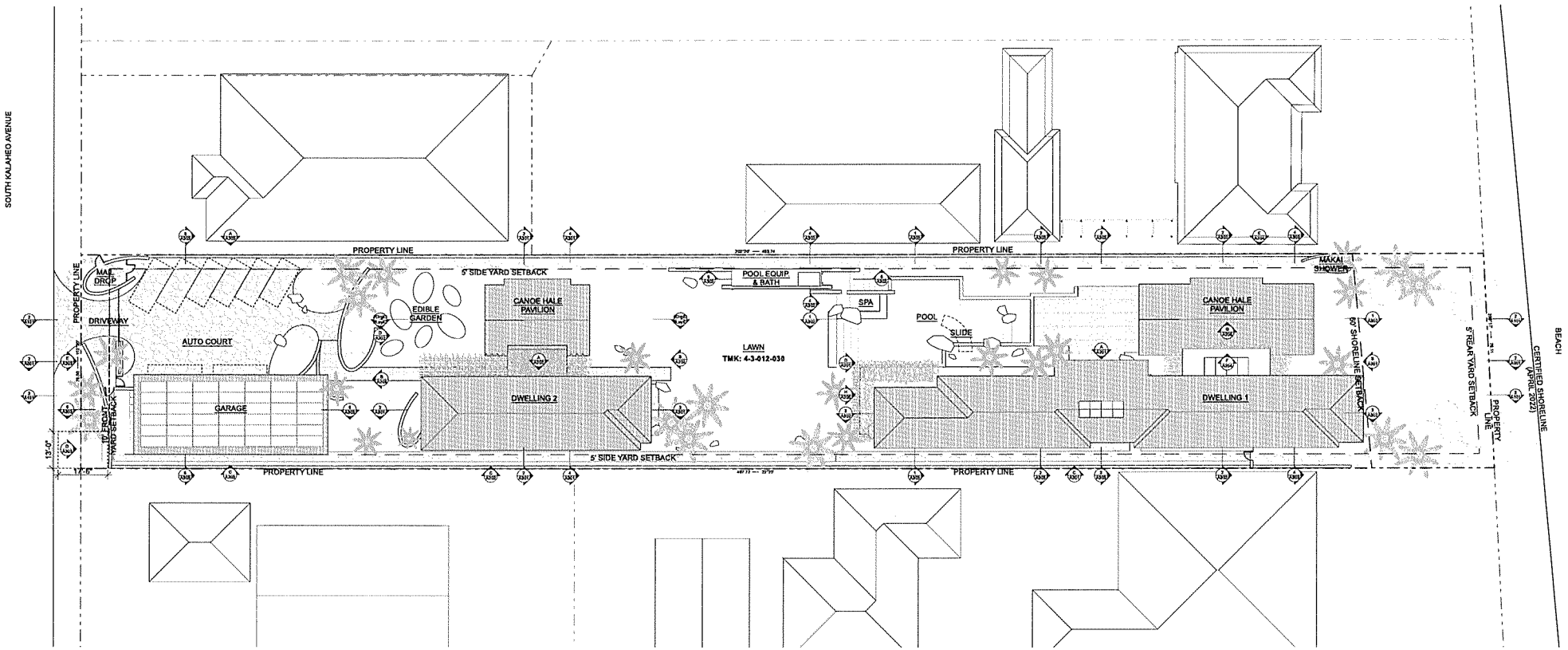
EXHIBIT B - ZONING AND SMA MAP
FILE NO. 2023/SMA-99

0 162.5 325 650

Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

Copyright City & County of Honolulu
All Rights Reserved 2008



1 Site Plan

EXHIBIT C-1 - SITE PLAN

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

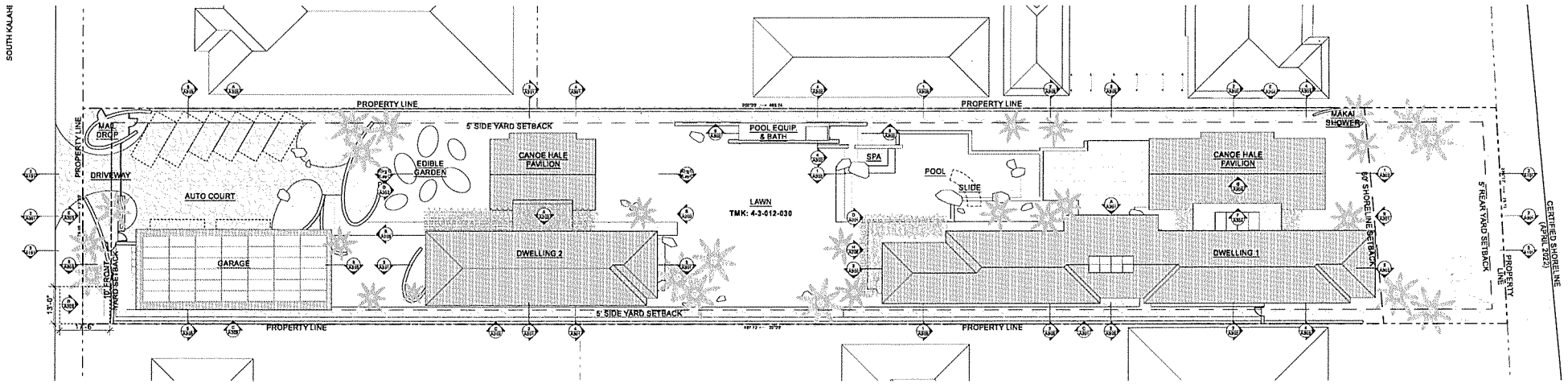
October 31, 2023

A100

Site Plan

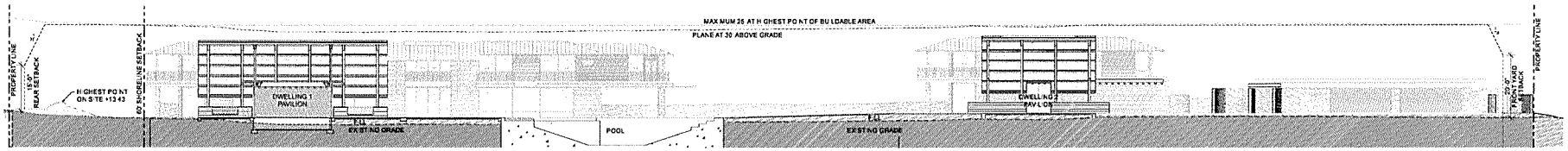
Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

petervincentarchitects



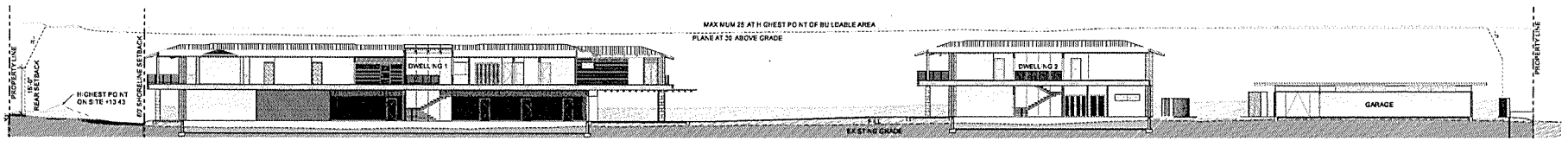
1 Site Plan

SCALE: 1/16" = 1'-0"



2 Site Section Through Pavilions

SCALE: 1/16" = 1'-0"



3 Site Section Through Dwellings

SCALE: 1/16" = 1'-0"

EXHIBIT C-2 - SECTION DRAWINGS

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

October 31, 2023

A101

Site Plan + Sections

Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

PVA
petervincentarchitects

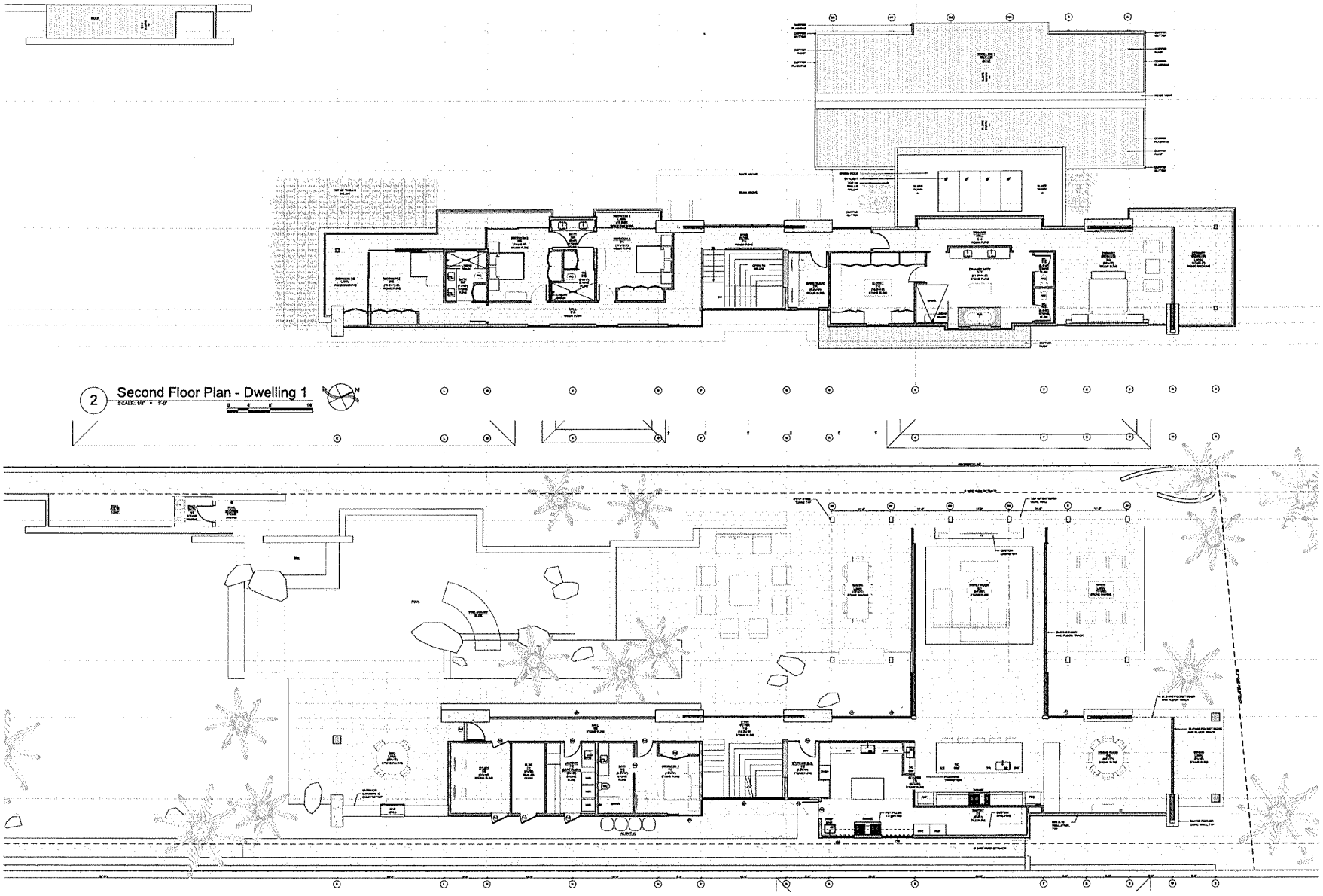


EXHIBIT C-3 - FLOOR PLANS - DWELLING 1

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

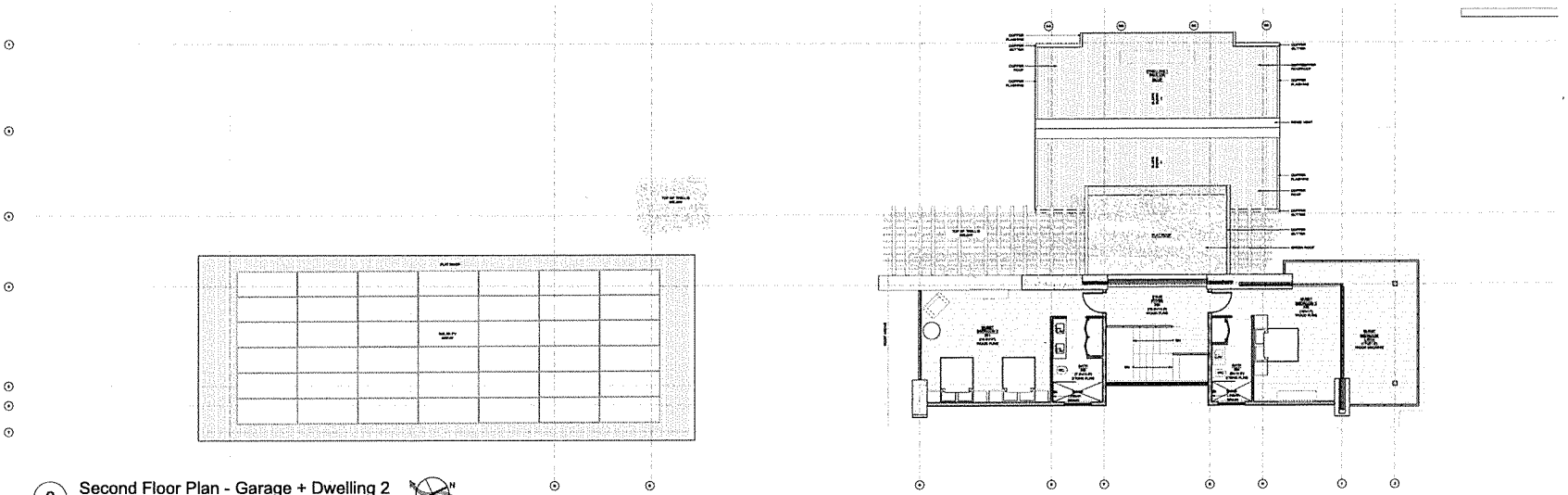
October 31, 2023

A102

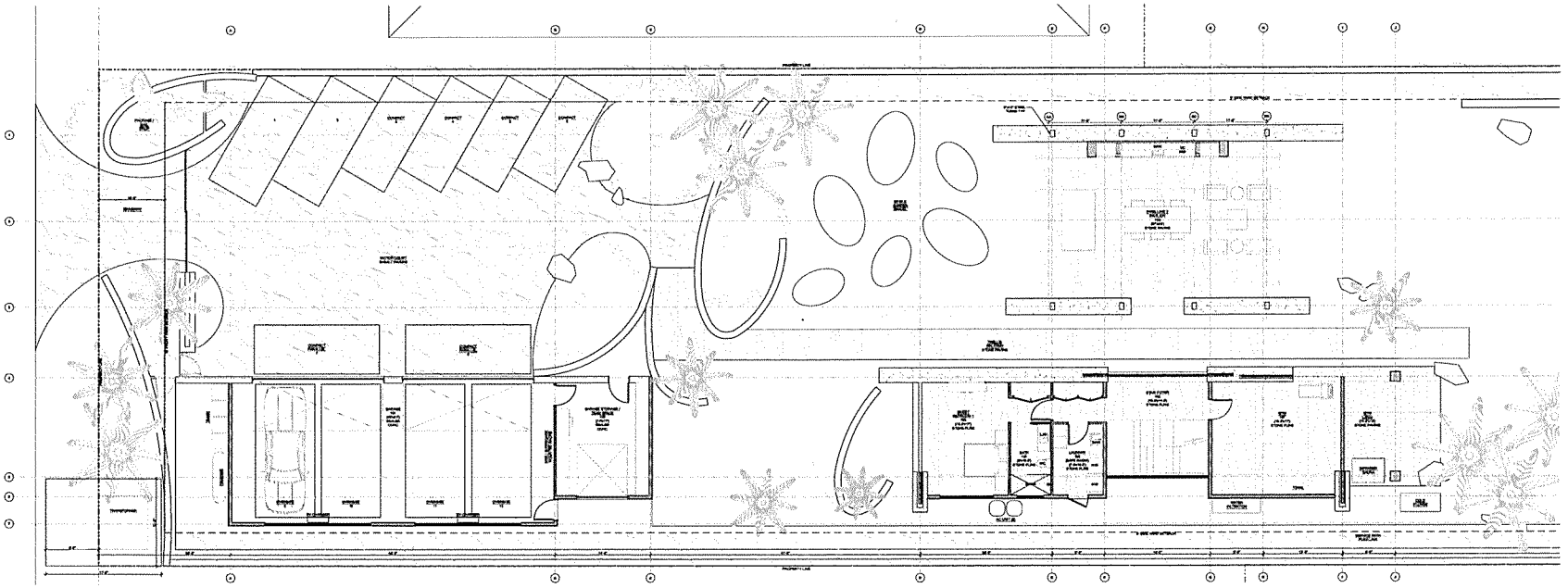
Dwelling 1 Floor Plans

Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

petervincentarchitects



2 Second Floor Plan - Garage + Dwelling 2

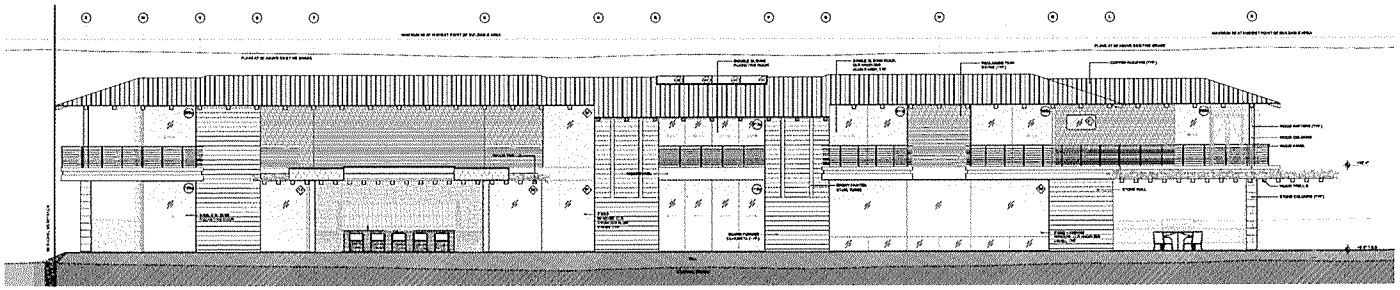


1 Ground Floor Plan - Garage + Dwelling 2

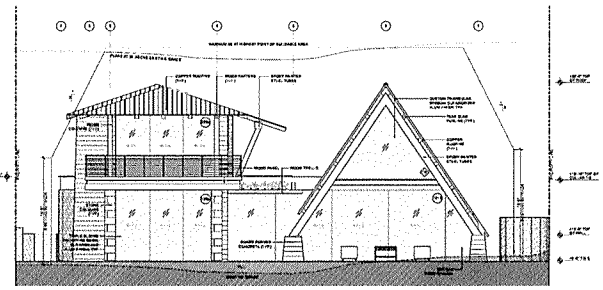
EXHIBIT C-4 - FLOOR PLANS - DWELLING 2

Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

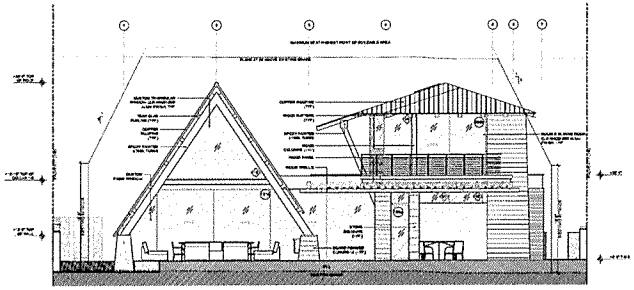
PVA
petervincentarchitects



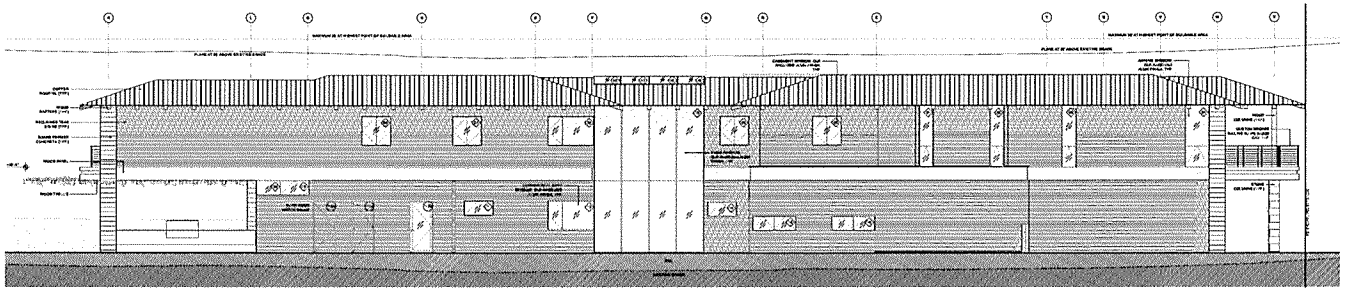
A Dwelling 1 Kaneohe Elevation
SCALE: 1/8" = 1'-0"



B Dwelling 1 Makai Elevation
SCALE: 1/8" = 1'-0"

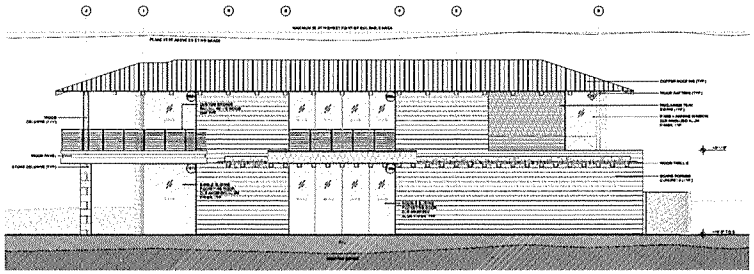


D Dwelling 1 Mauka Elevation
SCALE: 1/8" = 1'-0"

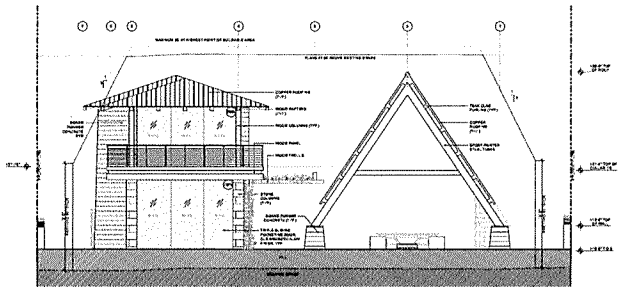


C Dwelling 1 Waimanalo Elevation
SCALE: 1/8" = 1'-0"

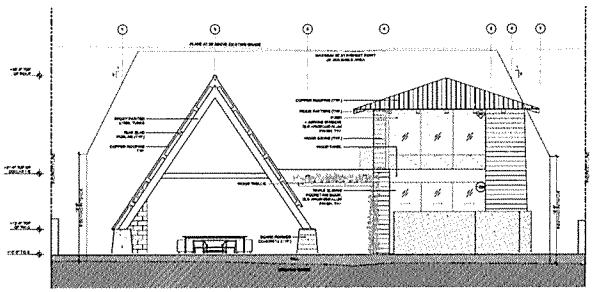
EXHIBIT C-5 - DWELLING 1 ELEVATIONS



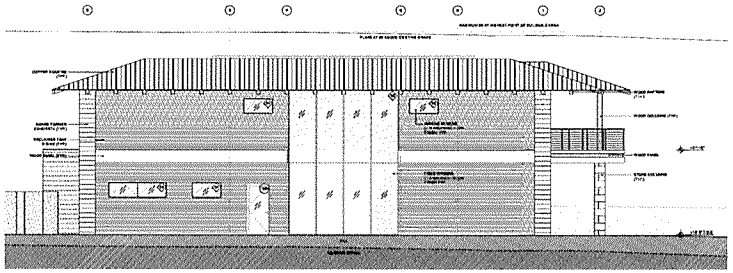
A Dwelling 2 Kaneohe Elevation
SCALE: 1/8" = 1'-0"



B Dwelling 2 Makai Elevation
SCALE: 1/8" = 1'-0"

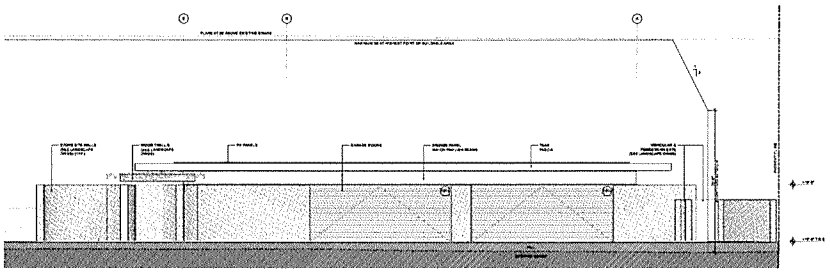


D Dwelling 2 Mauka Elevation
SCALE: 1/8" = 1'-0"

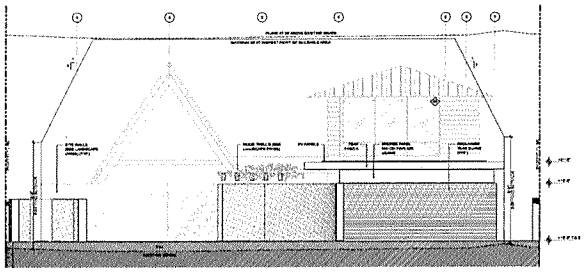


C Dwelling 2 Waimanalo Elevation
SCALE: 1/8" = 1'-0"

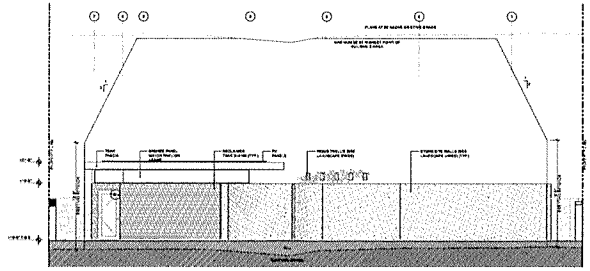
EXHIBIT C-6 - DWELLING 2 ELEVATIONS



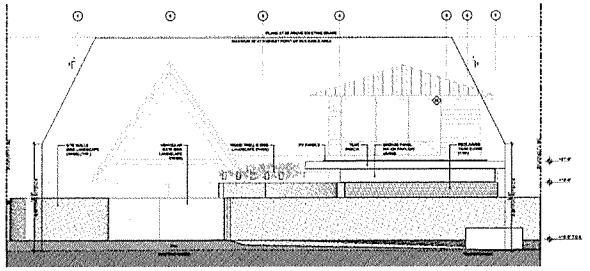
A Garage Kaneohe Elevation



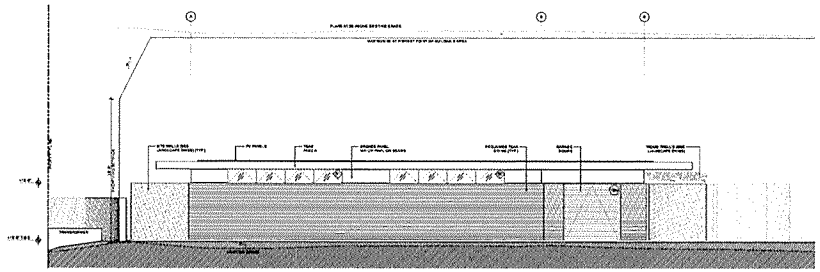
D Garage Mauka Elevation



B Garage Makai Elevation



E Garage Kalaheo St. Elevation



C Garage Waimanalo Elevation

EXHIBIT C-7 - GARAGE ELEVATIONS

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

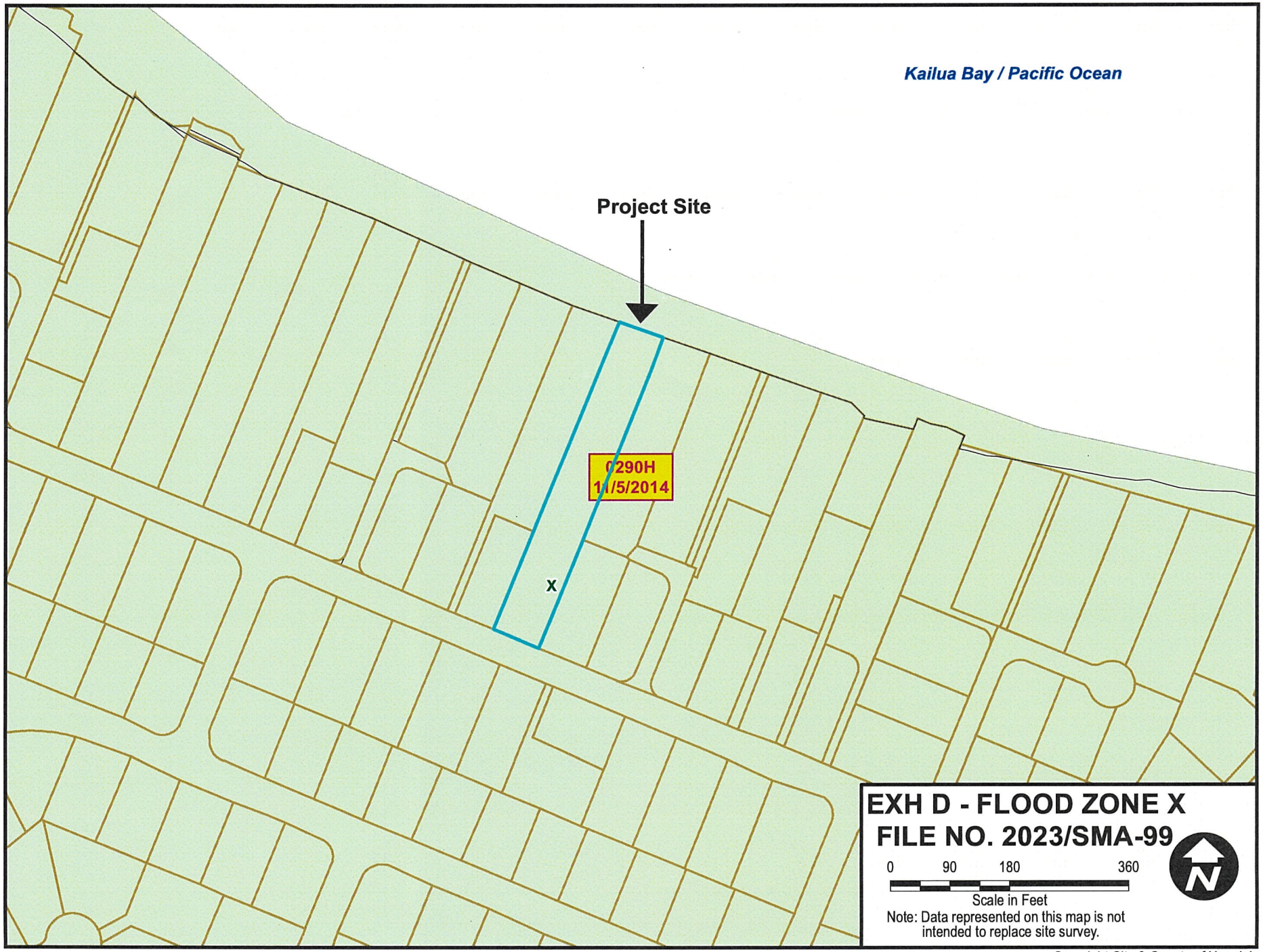
October 31, 2023

A203

Garage Elevations

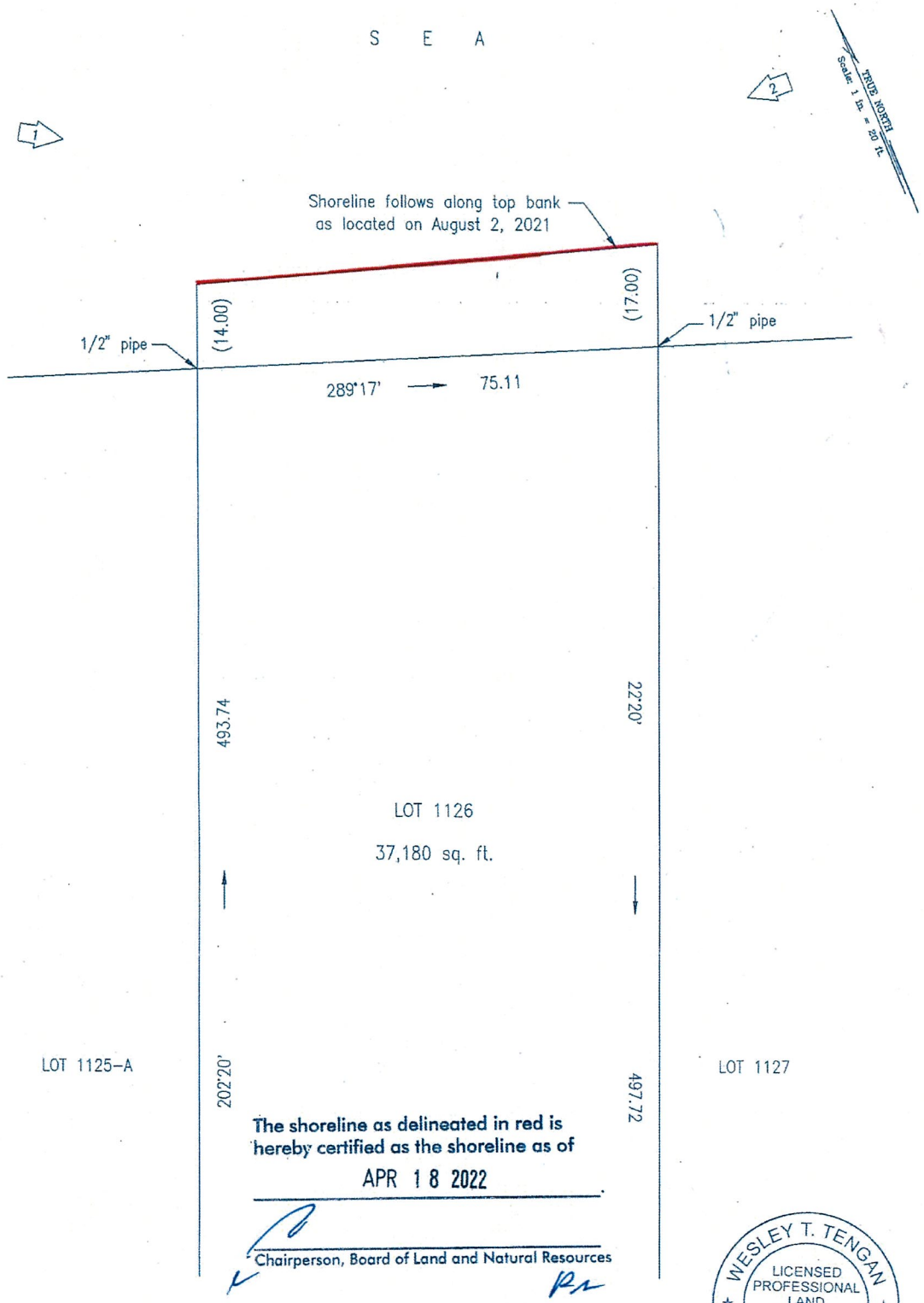
Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

PVA
petervincentarchitects



Copyright City & County of Honolulu
All Rights Reserved 2008

SURVEY OFFICE COPY



The shoreline as delineated in red is hereby certified as the shoreline as of

APR 18 2022

Chairperson, Board of Land and Natural Resources

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

SHORELINE MAP
LOT 1126
LAND COURT APPLICATION 677
AS SHOWN ON MAP 255
Kailua, Koolaupoko, Oahu, Hawaii
Date: August 2, 2021
Tax Map Key: (1)4-3-12:30
Owner: Wey Investments F Series

This work was prepared by me or under my supervision

EXP. 4/22
WESLEY T. TENGAN
LICENSED PROFESSIONAL LAND SURVEYOR
Certificate Number 6958

Note: 1 denotes position and direction of photograph

126 S. Kalaheo Ave.

EXHIBIT E-1 - 2022 CERTIFIED SHORELINE SURVEY

SHORELINE PHOTOGRAPHS



PHOTO: 1



PHOTO: 2

126 S. KALAHEO AVENUE

4-3-12:30

8/2/2021

1:00 P.M.

PARTY CHIEF: GRANT FUJISHIGE

EXHIBIT E-2 - 2022 SHORELINE SURVEY PHOTOS

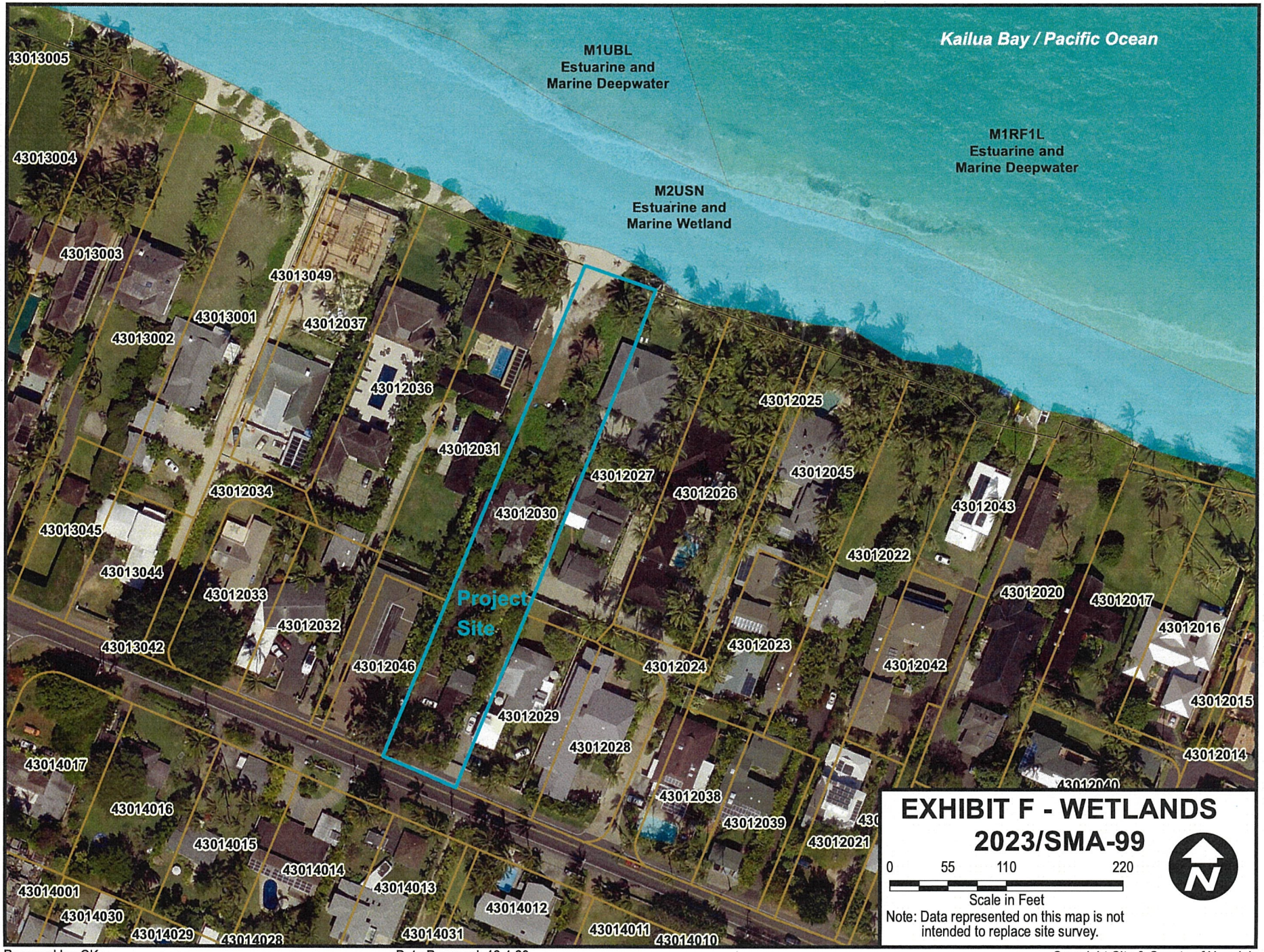


EXHIBIT F - WETLANDS
2023/SMA-99

0 55 110 220

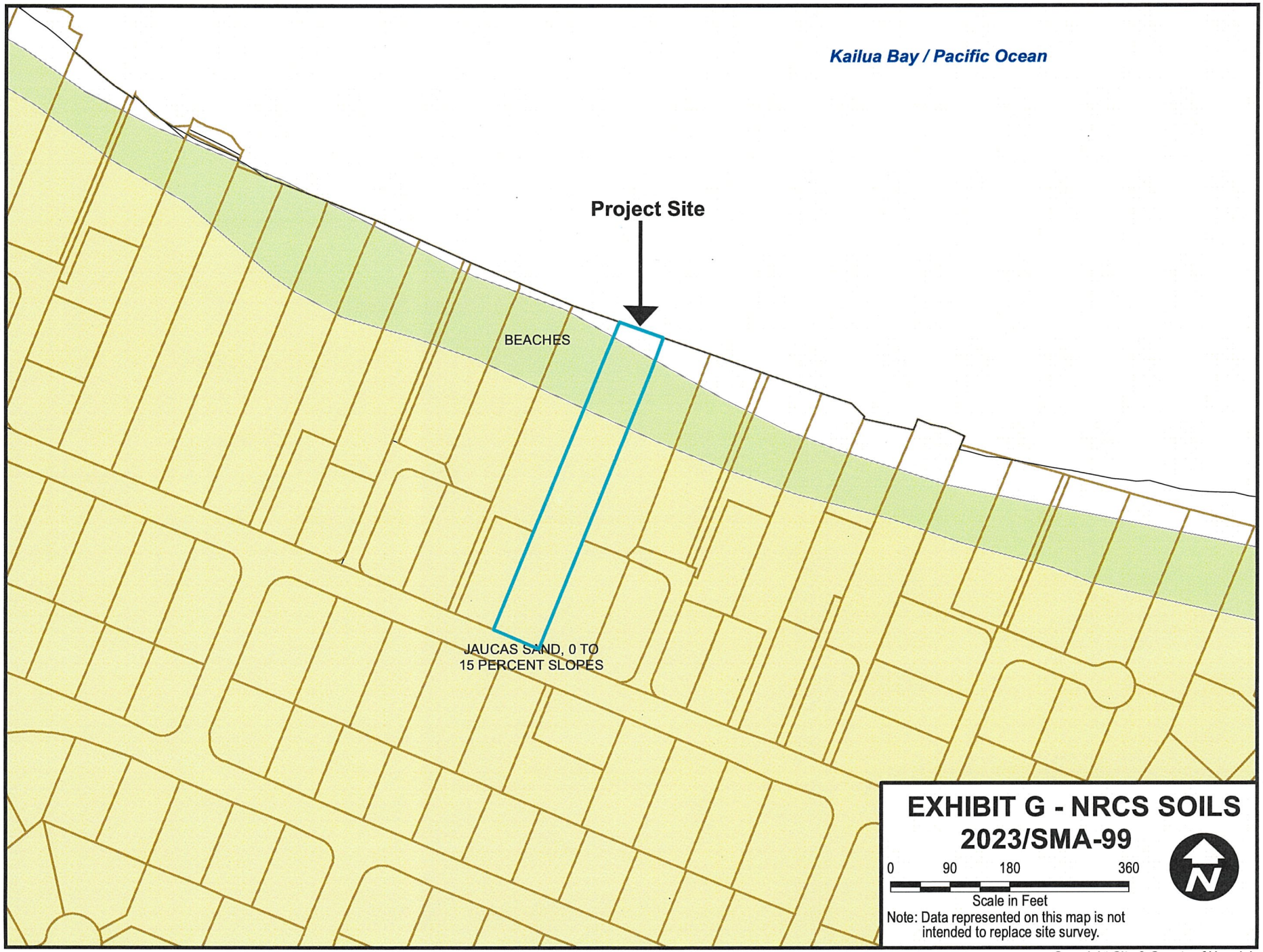
Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

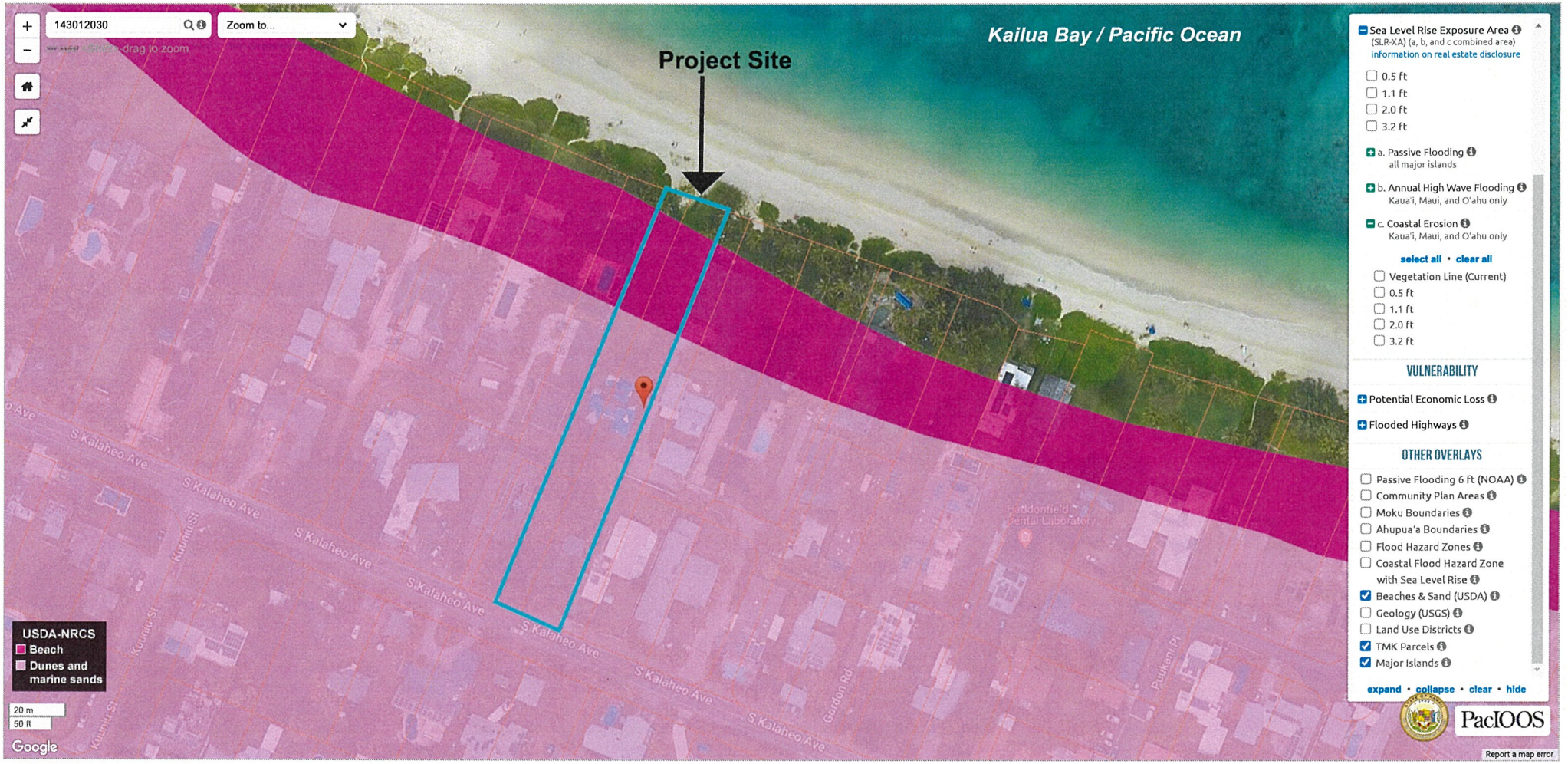
Prepared by: CK

Date Prepared: 12.4.23

Copyright City & County of Honolulu
All Rights Reserved 2008

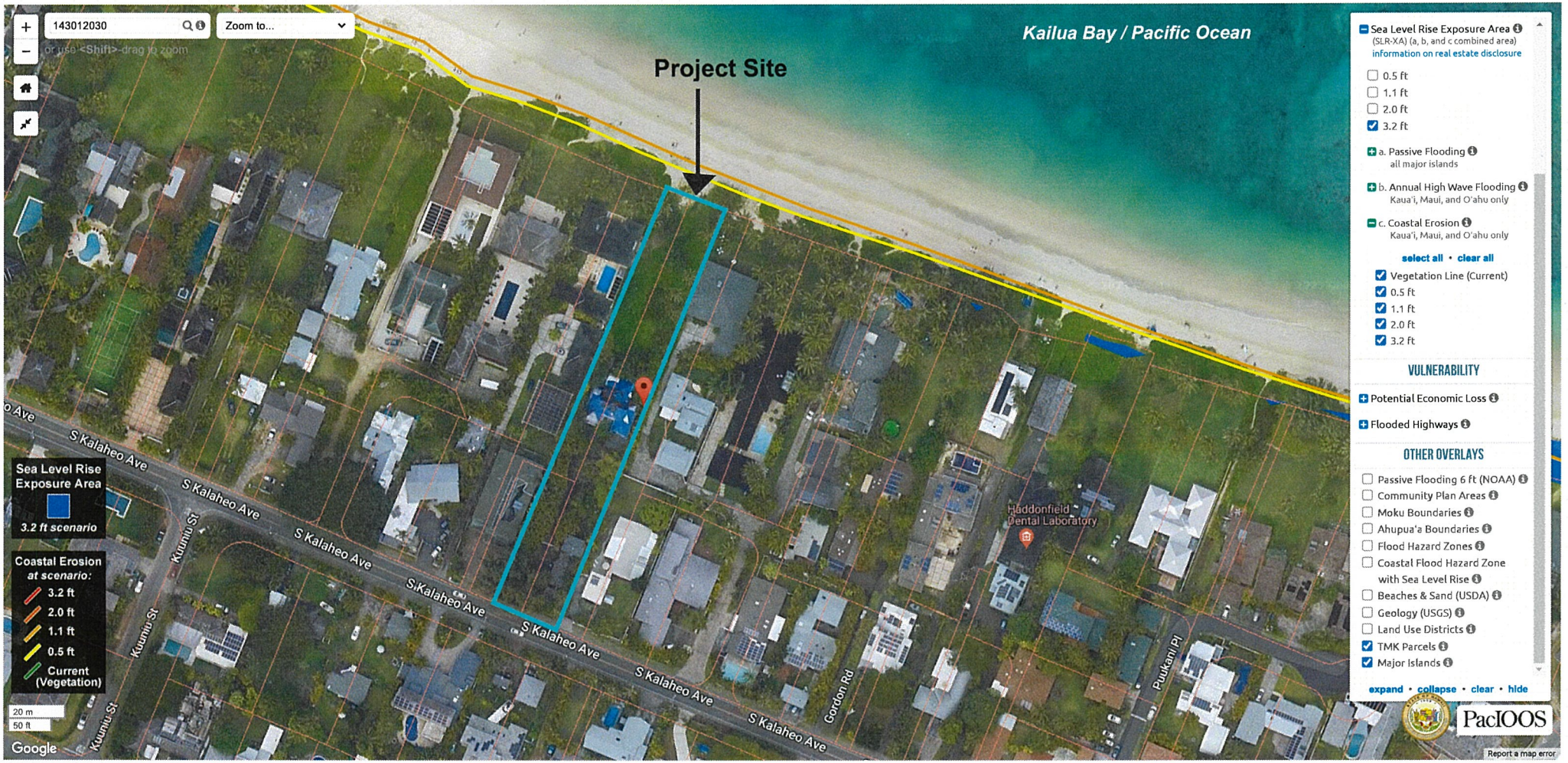


Copyright City & County of Honolulu
All Rights Reserved 2008



PacIOOS PACIFIC ISLANDS OCEAN OBSERVING SYSTEM *Hawai'i Sea Level Rise Viewer*

EXHIBIT H - BEACHES / DUNES AND MARINE SANDS



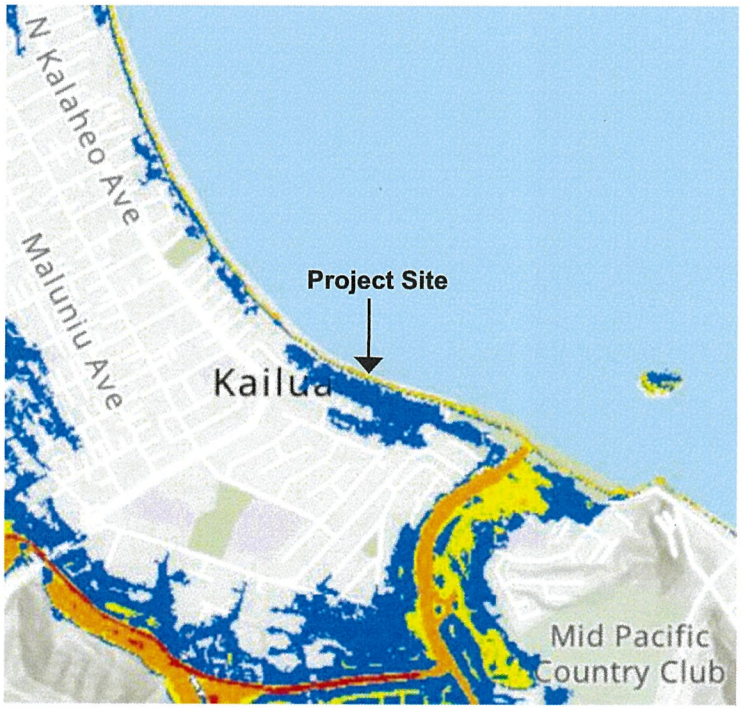
PacIOOS PACIFIC ISLANDS OCEAN OBSERVING SYSTEM *Hawai'i Sea Level Rise Viewer*

EXHIBIT I - 3.2-FOOT SEA LEVEL RISE EXPOSURE AREA

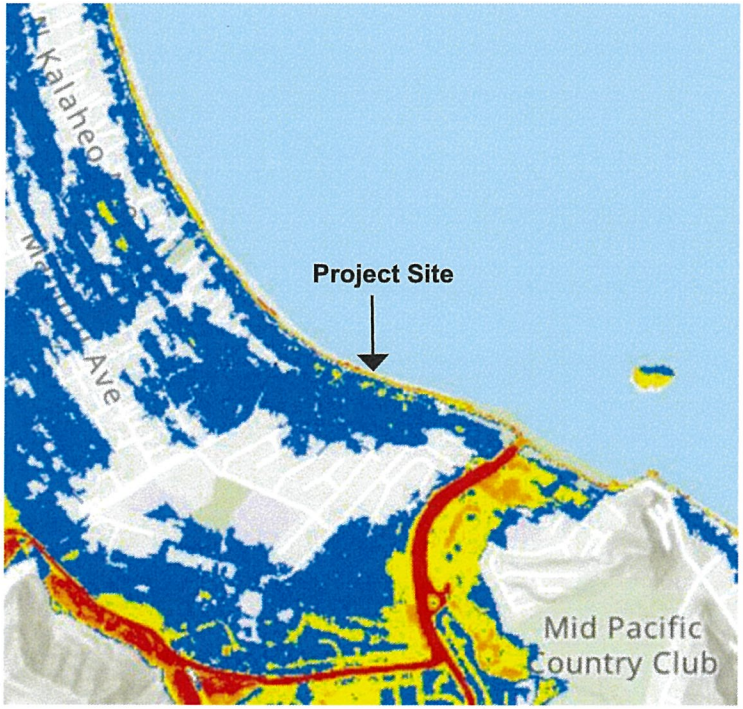


O'ahu Shoreline Change Mapper 1.8.24

EXHIBIT J - HISTORIC SHORELINE CHANGE RATES
Kailua Transect 159



Category 3 Hurricane



Category 4 Hurricane

Less than 3 feet above ground
Greater than 3 feet above ground
Greater than 6 feet above ground
Greater than 9 feet above ground

EXHIBIT K - NATIONAL HURRICANE CENTER STORM SURGE RISK MAPS

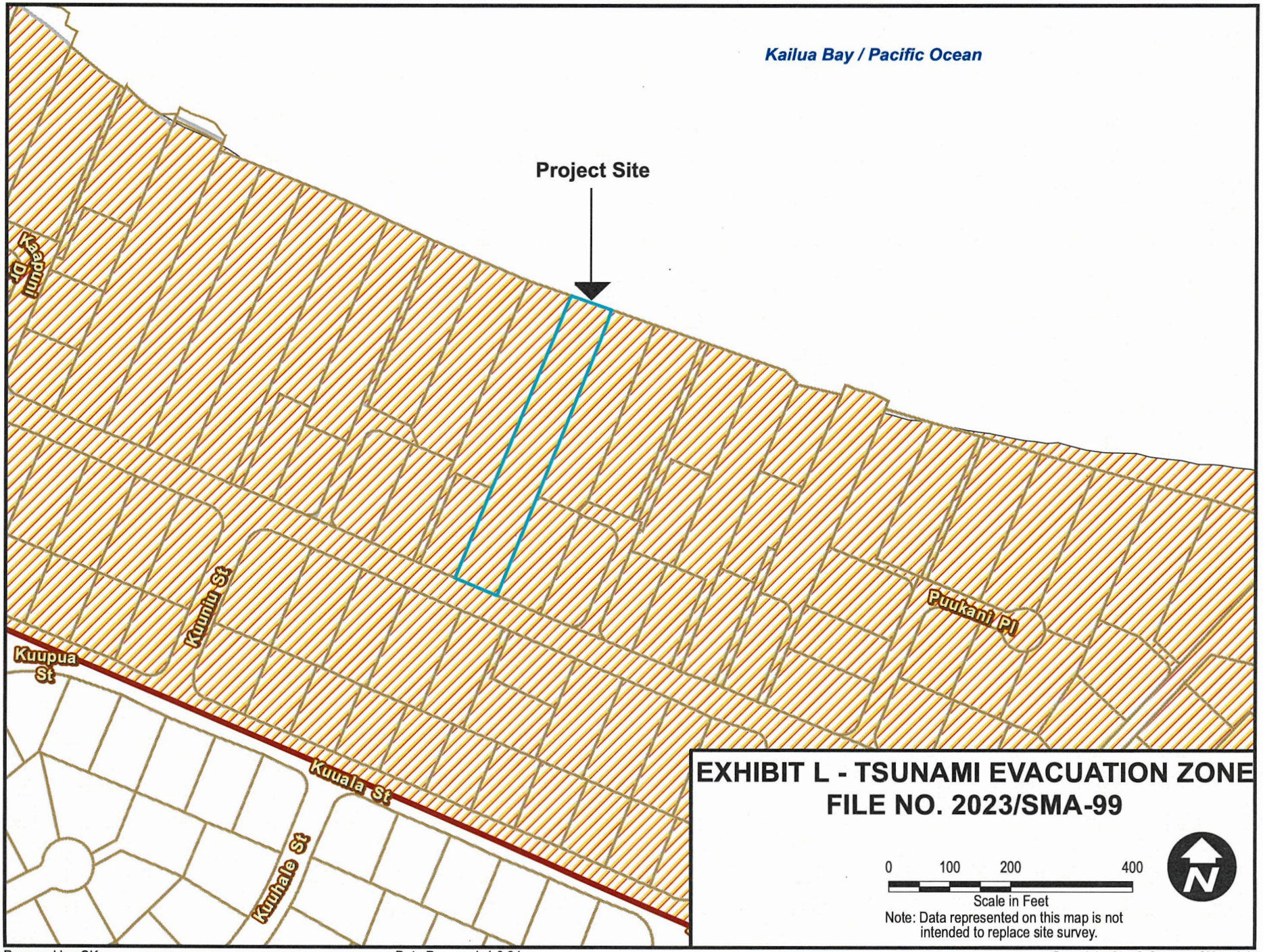


EXHIBIT L - TSUNAMI EVACUATION ZONE
FILE NO. 2023/SMA-99

0 100 200 400

Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

Prepared by: CK

Date Prepared: 1.8.24

Copyright City & County of Honolulu
All Rights Reserved 2008

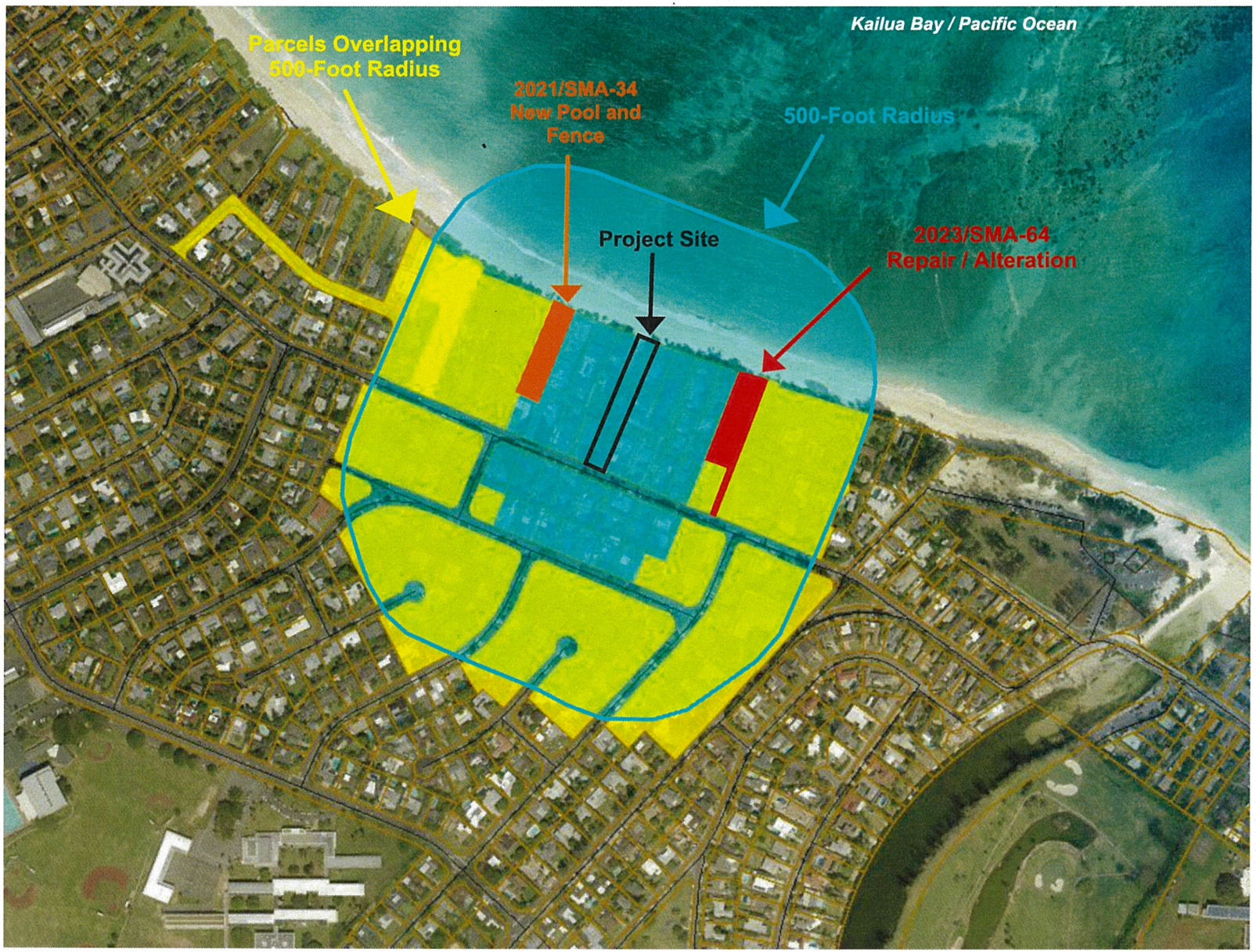


EXHIBIT M - 500-FOOT CUMULATIVE PROJECT RADIUS MAP

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No._____

RESOLUTION

GRANTING A SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW THE CONSTRUCTION OF TWO NEW SINGLE-FAMILY DWELLINGS WITH ACCESSORY PAVILIONS, A SWIMMING POOL, AND A GARAGE IN KAILUA, O'AHU.

WHEREAS, on November 27, 2023, the Department of Planning and Permitting ("DPP") accepted the application (File No. 2023/SMA-99) of Ohana Makai, LLC (the "Applicant") for a Special Management Area ("SMA") Major Permit to allow for the construction of two new single-family, detached dwellings, two accessory pavilions, a swimming pool, and a detached garage on approximately 37,180 square feet of land zoned R-10 Residential District, located at 126 South Kalāheo Avenue in Kailua, and identified as Tax Map Key 4-3-012: 030 (the "Project"); and

WHEREAS, on January 16, 2024, the DPP held a public hearing at the Fasi Municipal Building 6th Floor Conference Room, which was attended by the Applicant's Agent, DPP staff, and two members of the public, and at which one individual testified with concerns; and

WHEREAS, on February ____, 2024, within __ calendar days after the close of the public hearing, the DPP, having duly considered all evidence and the objectives, policies, and guidelines, as established in the Revised Ordinances of Honolulu ("ROH") 2021 §§ 25-3.1 and 25-4.1, and Hawai'i Revised Statutes ("HRS") §§ 205A-2 and 205A-26, completed its report and transmitted its findings and recommendation of approval to the City Council ("Council"); and

WHEREAS, the Council, having received the findings and recommendation of the DPP on _____, by Departmental Communication _____ (2024), and having duly considered all of the findings and reports on the matter, desires to approve the subject application for an SMA Major Permit, subject to the conditions enumerated below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that an SMA Major Permit be issued to the Applicant for the Project, subject to the following conditions:

A. Development must be in general conformity with the Project as described in the DPP's findings and recommendation, referenced above, and as depicted in Exhibits A, B, C-1 through C-7, D, E-1 through E-2, and F through M, attached hereto and incorporated by reference herein. Any change in the size or nature of the Project that may have a significant effect on coastal resources addressed in ROH Chapter 25, HRS Chapter 205A, or both, will require a new application and

SMA Major Permit. Any change that does not have a significant effect on coastal resources will be considered a minor modification and may be permitted under this resolution, upon review and approval by the DPP Director.

B. To account for the potential shift of land from the State Land Use Urban District to the State Land Use Conservation District in response to anticipated coastal erosion, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

> *"In choosing to implement construction activities at Tax Map Key 4-3-012: 030, the Landowner hereby acknowledges that land makai of the regulatory shoreline is State public land, falls within the State Land Use Conservation District, and must remain available for public use and recreational activities. The landowner further acknowledges that should any portion of a structure encroach into State public land, the State Board of Land and Natural Resources may require the removal of the structure or a lease for encroachments extending into the State public land. As a result of this acknowledgement, successor owners and interested parties are hereby notified of this same information and the land owner shall hold harmless and indemnify the City of any responsibility that may result from adverse impacts associated with sea level rise and coastal erosion."*

This statement must be clearly stated under "Landowner Acknowledgements" on all Project building permit plans.

C. Following approval of this SMA Major Permit, neither the current landowner, nor any successor owner or interested party may claim hardship due to erosion, sea level rise, or any other coastal hazard, in order to obtain approval for a Shoreline Setback Variance ("SSV") for a new shoreline protection structure. All Project building permit plans must include the following statement under "Landowner Acknowledgements":

> *"In choosing to undertake the development at Tax Map Key 4-3-012: 030, the landowner hereby acknowledges that no claim of hardship due to erosion, sea level rise, or any other coastal hazard may be asserted in order to obtain approval for a Shoreline Setback Variance for a new shoreline protection structure."*

D. To minimize the potential for adverse impacts related to coastal hazards, including but not limited to sea level rise, coastal erosion, flooding, wave action, and storm surge, prior to the issuance of any construction permit or building permit for the Project, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

> *"The landowner hereby acknowledges that Tax Map Key 4-3-012: 030 is susceptible to coastal hazards, which may result in harm to or loss of life and property."*

This statement must be clearly stated under "Landowner Acknowledgements" on all Project building permit plans.

E. In order to ensure the Applicant is aware that short-term rentals are not allowed on the Project site, the landowner hereby acknowledges (and any successor owner or interested party is hereby notified of) the following:

> *"The landowner hereby acknowledges that short-term rentals, as defined in ROH Chapter 21, the Land Use Ordinance, are not allowed on Tax Map Key 4-3-012: 030."*

This statement must be clearly stated under "Landowner Acknowledgements" on all Project building permit plans.

F. In order to preserve underlying beach sands and coastal dunes, all landscaped areas, landscaping, and irrigation must be contained and maintained within the property boundaries of the shoreline lot of origin:

1. Landscaping may not be planted, watered, or maintained so that it acts as a shoreline barrier, such as by planting naupaka, particularly if the landscaping alters or interferes with the natural beach processes;

2. Landscaping may not extend seaward of the shoreline as depicted in the current certified shoreline survey for the shoreline lot, or in the event there is no current certified shoreline survey for the lot, seaward of the shoreline as defined in HRS Chapter 205A;

3. Landscaping may not extend into any adjoining beach access right-of-way, public or private;

4. Landscaping between the makai dwelling and the shoreline must be limited to vegetation that is naturally hardy or endemic in the dune or shoreline area; and

5. Any irrigation systems must be designed so that water does not traverse makai of the shoreline into the State Land Use Conservation District, or otherwise facilitate the growth of vegetation makai of the shoreline as defined in HRS Chapter 205A.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

G. In order to minimize impacts to known and unknown archaeological, historic, and cultural resources that may be present at the Project site, the Applicant shall comply with the following measures:

1. The Applicant, in consultation with the State Historic Preservation Division ("SHPD"), shall prepare an archaeological monitoring plan that meets the standards of Hawai'i Administrative Rules Chapter 13-279, and shall implement the archaeological monitoring plan during ground-disturbing activity and Project construction to ensure that archaeological and cultural resources are properly identified and treated;

2. The Applicant shall consult with the SHPD regarding mitigation protocols, and shall implement all mitigation protocols required by the SHPD. All mitigation protocols must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans. Prior to the commencement of ground-disturbing activity and Project construction, a coordination meeting must be conducted among the Project's archaeological consultants, the construction contractor, and applicable subcontractors to ensure that the construction contractor and applicable subcontractors have been informed of the required mitigation protocols; and

3. If, during construction, any previously unidentified archaeological sites or remains (such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls) are encountered, the Applicant shall stop work, protect the find from further disturbance, and contact the SHPD immediately. Work in the immediate area must be

stopped until SHPD is able to assess the impact and make further recommendations for mitigative activity.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

H. In order to minimize impacts to endangered, protected, or threatened avian, marine, and terrestrial fauna that may frequent or traverse the vicinity of the Project site, the Applicant is responsible for the following:

1. All new and replacement outdoor light fixtures must not exceed a color temperature of 3,000 degrees kelvin.

2. Artificial light from exterior lighting fixtures on the zoning lot, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, is prohibited if the light directly illuminates, or is directed across property boundaries toward, the shoreline and ocean waters, except as may otherwise be permitted pursuant to HRS § 205A-71(b).

3. Exterior lighting fixtures on the Project site must be fully shielded using full cutoff fixtures with the light directed downward so that the light bulb is only visible from below the light fixture;

4. All Project site work and construction activities are limited to daylight hours (sunrise to sunset);

5. Barbless fencing must be used for all fence construction to avoid the entanglement of Hawaiian hoary bats;

6. Woody plants greater than 15 feet in height may not be disturbed, removed, or trimmed during the Hawaiian Hoary Bat birthing and pup rearing season (June 1 through September 15); and

7. All Project-related activities must cease if a Hawaiian Monk Seal, Green Sea Turtle, or Hawksbill Sea Turtle is within 150 feet of the work area, or as recommended by State or Federal regulations. Project activities may only recommence after the animal voluntarily leaves the area. If a monk seal pup is present, a 300-foot buffer must be observed. Any Project-

related debris that may pose an entanglement threat to monk seals or turtles must be removed from the work area at the end of each day and at the conclusion of Project-related activities.

8. If construction activities are scheduled to begin during the breeding and nesting period of March through December, a qualified biologist that is familiar with the biology of Wedge-tailed Shearwaters and Hawaiian seabirds must be contracted to conduct pre-construction nesting surveys prior to and during Project construction as follows:

   a. A minimum of three days prior to the initiation of any clearing, grubbing, grading, excavation, or trenching activities, the qualified biologist must conduct pre-construction surveys for the presence of Hawaiian seabird and migratory bird nests;

   b. If no nests are discovered, work may proceed;

   c. If a nest(s) is discovered, work may not proceed, and the U.S. Fish and Wildlife Service ("USFWS") and the Department of Land and Natural Resources ("DLNR") Department of Fish and Wildlife ("DOFAW") must be contacted immediately. Work may only resume upon implementation of any avoidance and mitigation measures recommended by the USFWS and/or DLNR DOFAW; and

   d. If there is a delay of three or more workdays during the active construction period, the qualified biologist must re-conduct pre-construction nest surveys for any new nests that Hawaiian seabirds or protected migratory birds may have attempted to establish.

   If construction activities are scheduled to begin outside of the breeding and nesting period of January and February, contracting a qualified biologist and conducting preconstruction nesting surveys is not required.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit and building permit plans.

I. To minimize the spread of invasive pathogens, pests, or plants that may harm native species and ecosystems, the importation of soil material must be

minimized to the extent possible. If the importation of soil material is necessary, prior to the importation of any soil material, the Applicant shall submit a materials analysis to the DLNR DOFAW, for review and approval. The materials analysis must show that:

1. All fill materials have similar characteristics and are of similar quality as the existing soil materials on site, and will not adversely impact SMA resources; and

2. All fill materials are clean and do not contain invasive fungal pathogens, vertebrate and invertebrate pests, or invasive plant parts that may harm native species and ecosystems.

Approximately one year after the issuance of a certificate of occupancy for the Project, the Applicant shall submit to DOFAW for its review and approval, a post-construction survey to detect whether the Project site contains any invasive species that have spread from the fill materials, and recommended mitigative measures to address any spread. The Applicant shall implement the recommendations of the post-construction survey.

The requirements enumerated in this condition must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

J. **The Applicant shall obtain a construction permit or building permit for the Project within three years after the effective date of this SMA Major Permit.** Failure to obtain a construction permit or building permit within this period will render this SMA Major Permit null and void, provided that this period may be extended as follows:

1. The DPP Director may extend this period if the Applicant demonstrates good cause, provided that the DPP Director may not extend the period beyond one year from the initial deadline set by the Council.

2. If the Applicant demonstrates good cause for an extension exceeding one year, the DPP Director shall prepare and submit to the Council a report on the proposed extension, which must include the DPP Director's findings and recommendations thereon. The Council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by adoption of a committee report or resolution.

3. If the Council fails to take final action on the proposed extension within the first to occur of:

   a. 60 days after receipt of the DPP Director's report; or

   b. The Applicant's then-existing deadline for obtaining a development permit,

   the extension will be deemed to be denied.

K. Approval of this SMA Major Permit does not constitute compliance with other City ordinances, including but not limited to the Land Use Ordinances ("LUO") and building and construction codes, or other governmental requirements, including but not limited to LUO-related approvals, and building, grading, and grubbing permit approvals, which are subject to separate review and approval. The Applicant is responsible for ensuring that the final plans for the Project approved under this SMA Major Permit comply with all applicable City ordinances and other governmental provisions and requirements; and

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No._____

RESOLUTION

BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that copies of this Resolution be transmitted to Ohana Makai, LLC, c/o David Banks, Esq., 1000 Bishop Street, Suite 1500, Honolulu, Hawai'i, 96813; Mireille Turin, Peter Vincent Architects, 55 Merchant Street, Suite 1430, Honolulu, Hawai'i 96813; Dawn Takeuchi Apuna, Director of the Department of Planning and Permitting, 650 South King Street, 7th Floor, Honolulu, Hawai'i 96813; and Mary Alice Evans, Director of the Office of Planning and Sustainable Development, Attention: Coastal Zone Management Branch, P.O. Box 2359, Honolulu, Hawai'i 96804-2359.

INTRODUCED BY:

_____

_____

_____

_____

_____

_____

DATE OF INTRODUCTION: _____

_____

_____

_____ _____

Honolulu, Hawai'i Councilmembers

DPP23SMA99

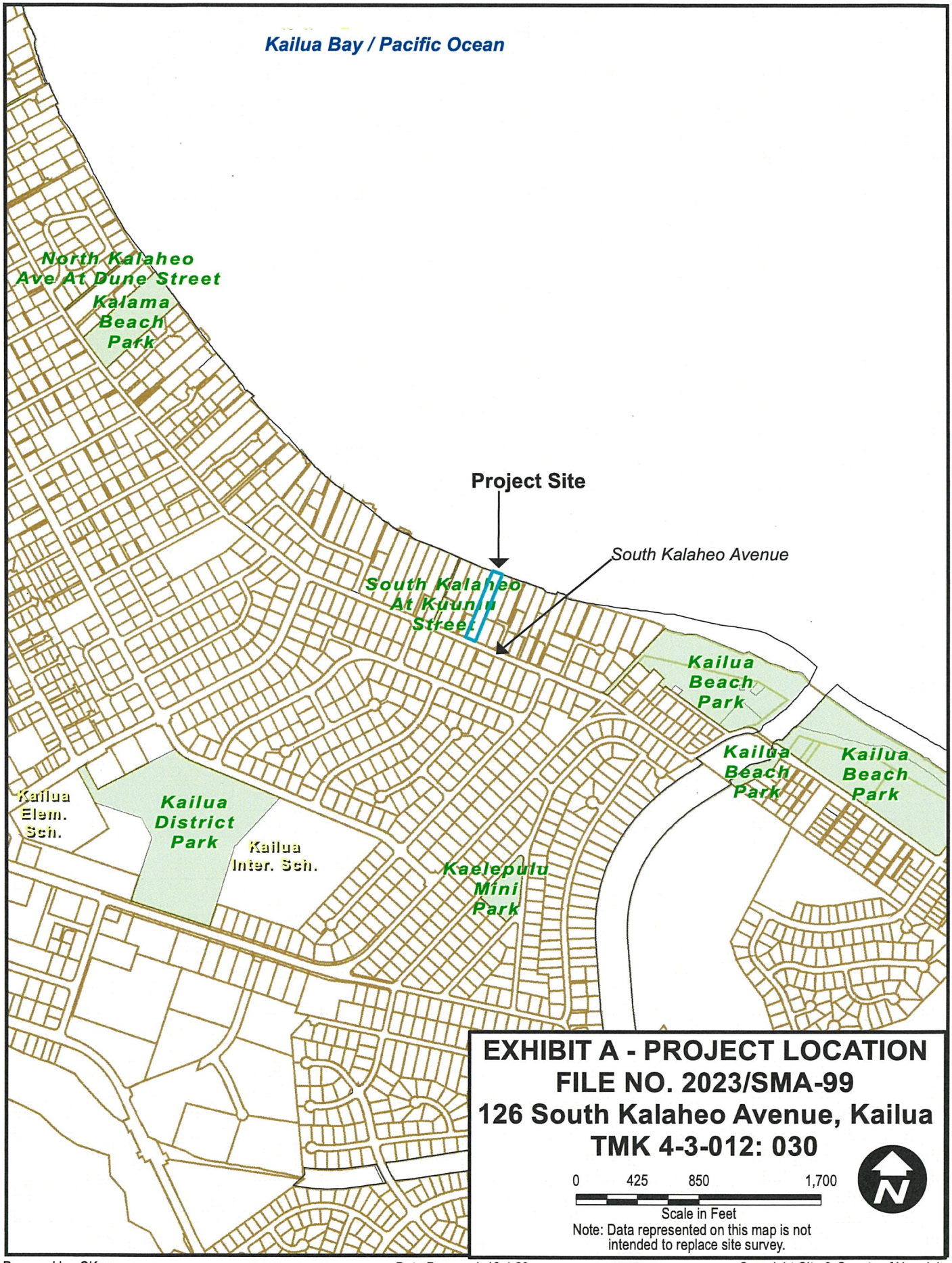


EXHIBIT A - PROJECT LOCATION
FILE NO. 2023/SMA-99
126 South Kalaheo Avenue, Kailua
TMK 4-3-012: 030

0 425 850 1,700

Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

Prepared by: CK

Date Prepared: 12.4.23

Copyright City & County of Honolulu
All Rights Reserved 2008

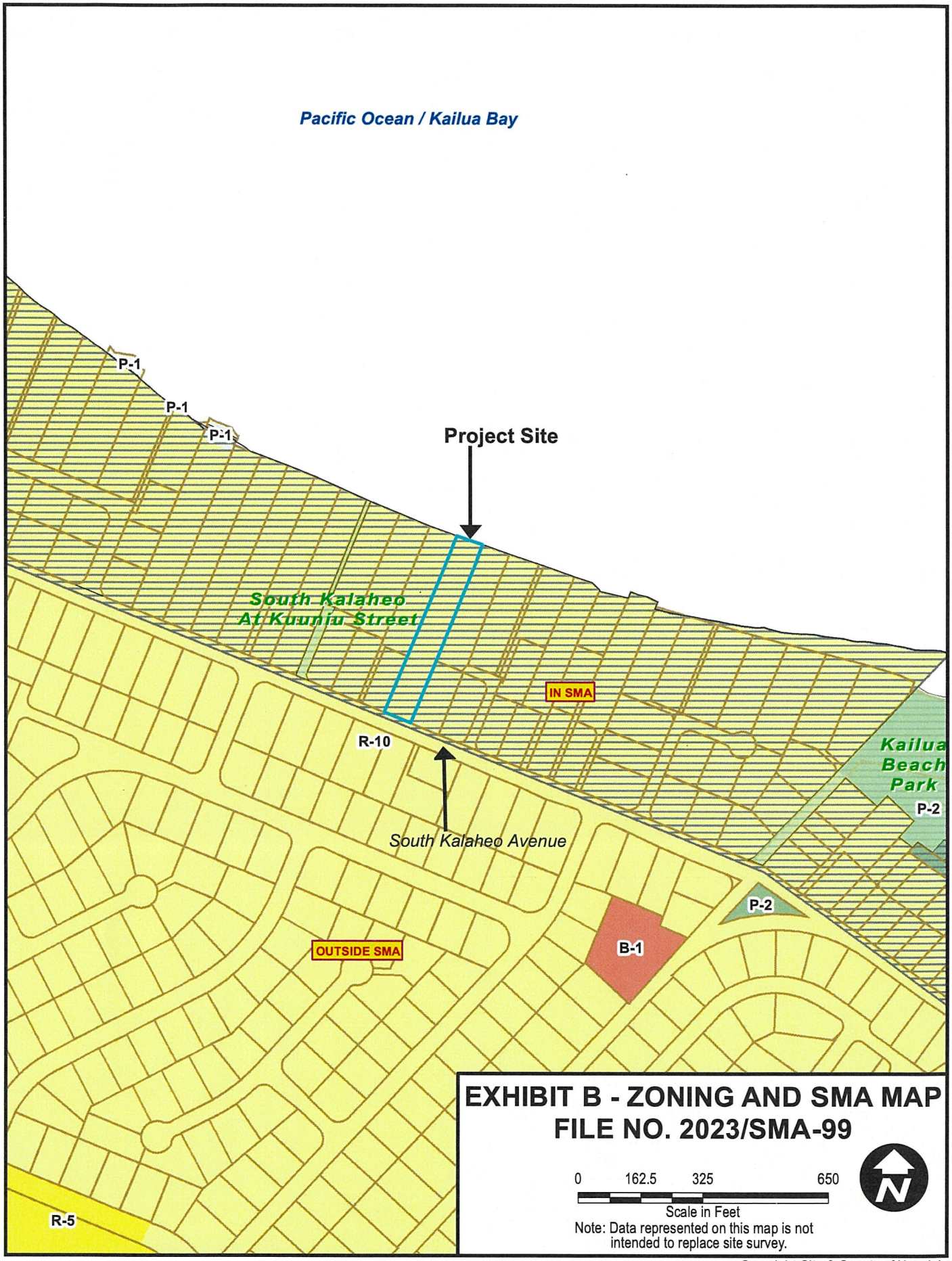


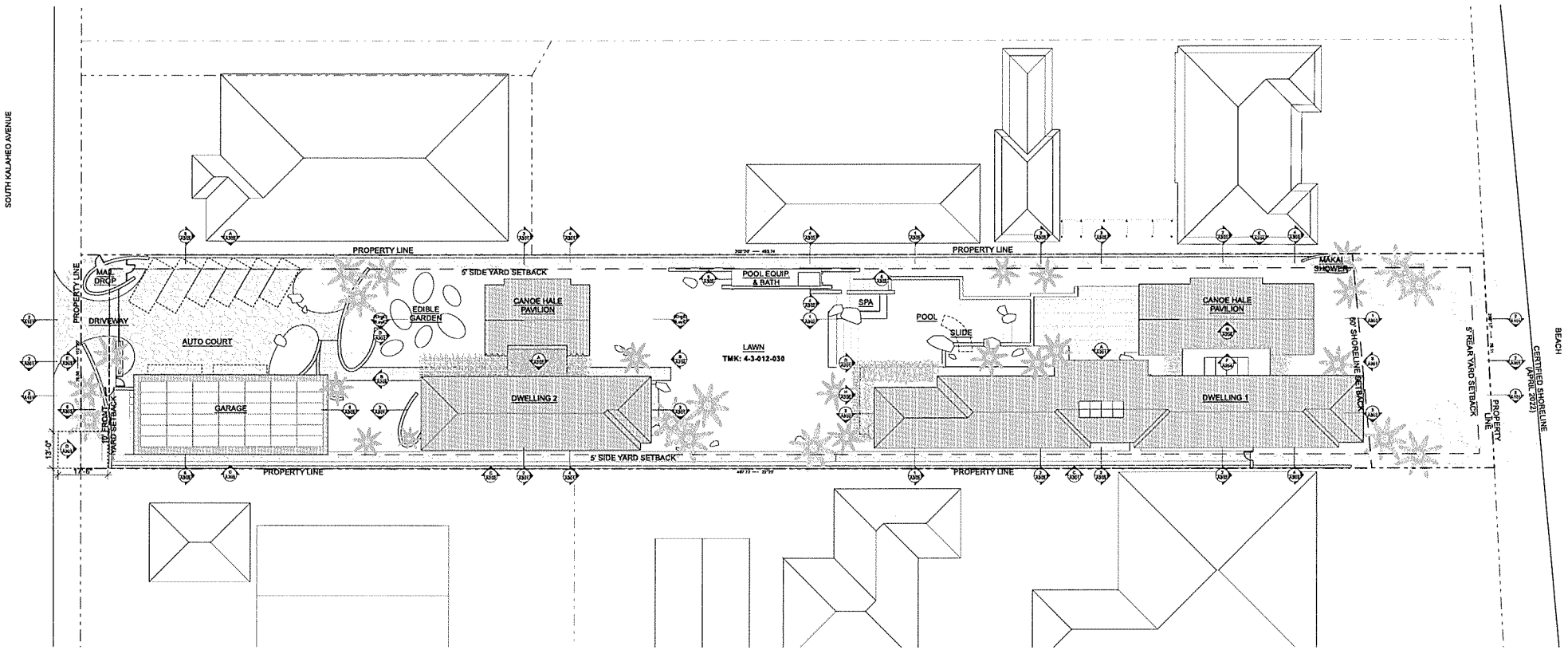
EXHIBIT B - ZONING AND SMA MAP
FILE NO. 2023/SMA-99

0 162.5 325 650

Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

Copyright City & County of Honolulu
All Rights Reserved 2008



1 Site Plan

EXHIBIT C-1 - SITE PLAN

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

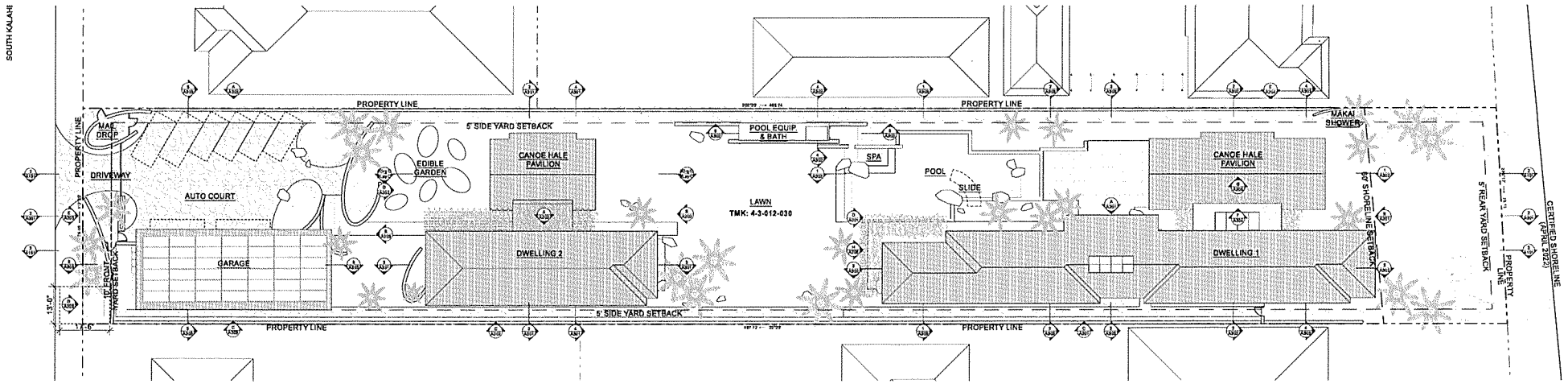
October 31, 2023

A100

Site Plan

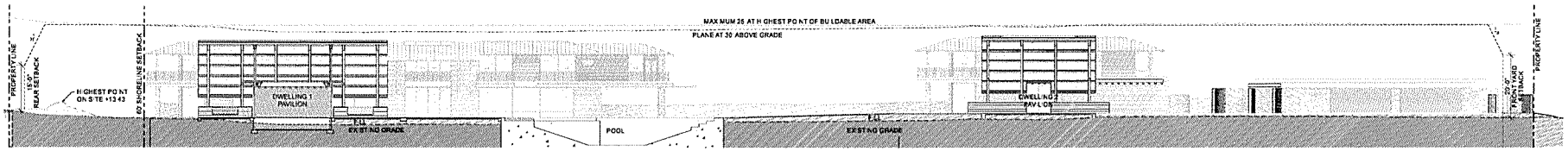
Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

petervincentarchitects



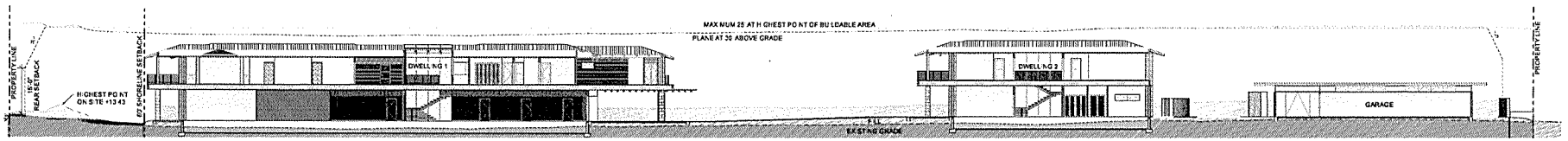
1 Site Plan

SCALE: 1/16" = 1'-0"



2 Site Section Through Pavilions

SCALE: 1/16" = 1'-0"



3 Site Section Through Dwellings

SCALE: 1/16" = 1'-0"

EXHIBIT C-2 - SECTION DRAWINGS

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

October 31, 2023

A101

Site Plan + Sections

Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

PVA
petervincentarchitects

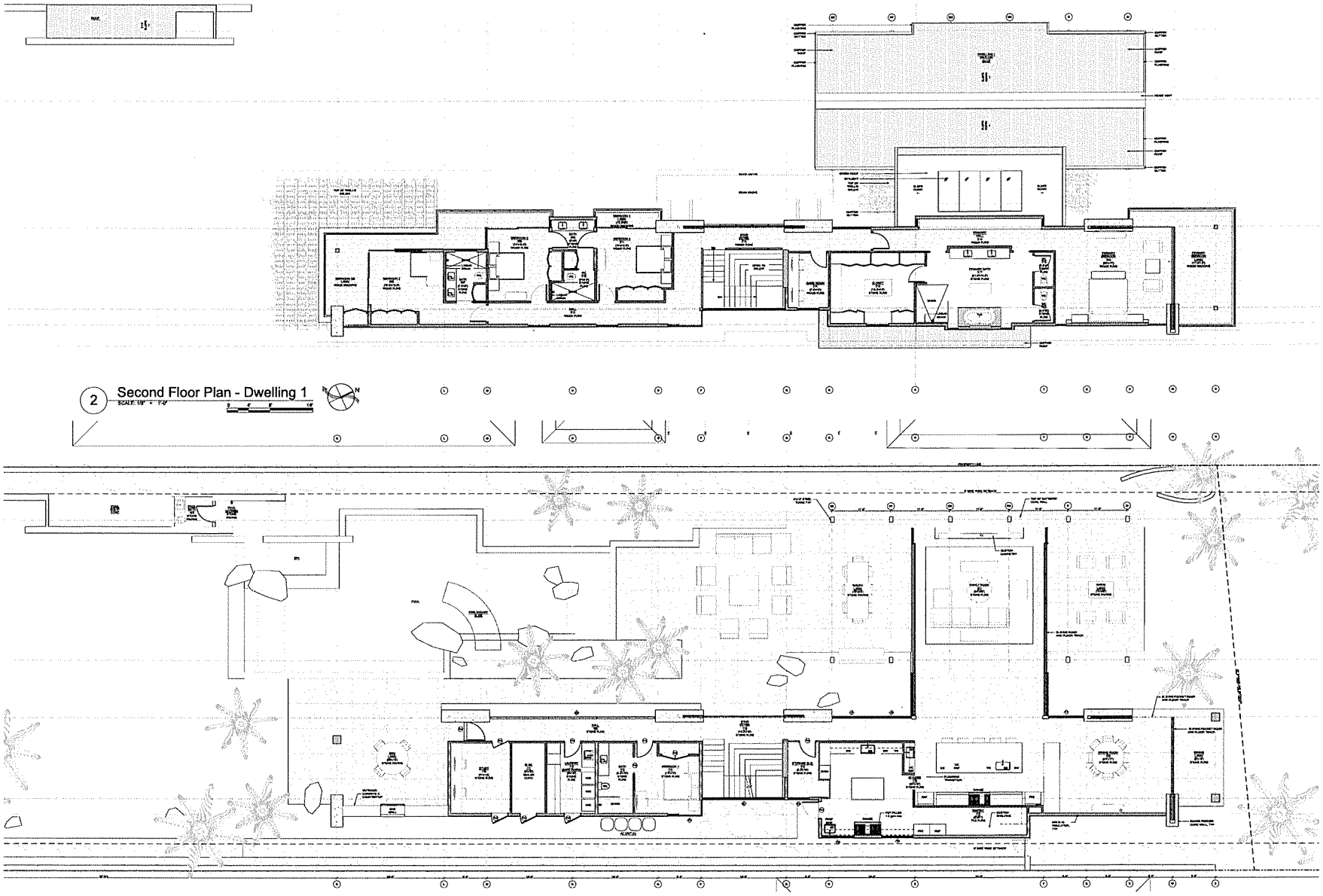


EXHIBIT C-3 - FLOOR PLANS - DWELLING 1

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

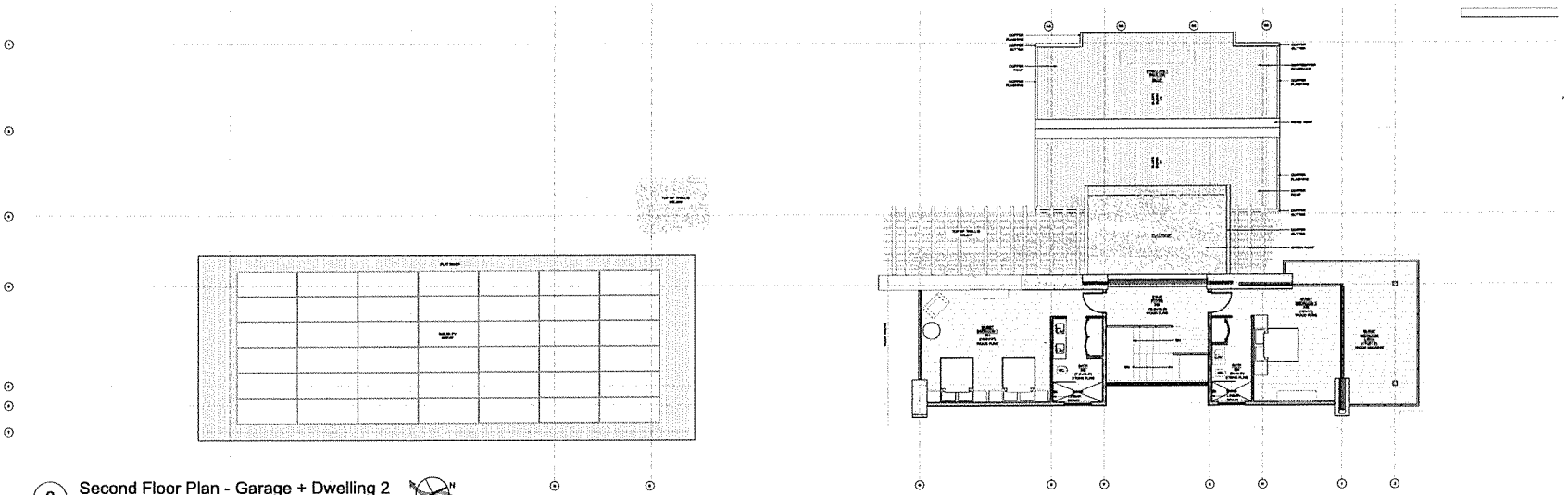
October 31, 2023

A102

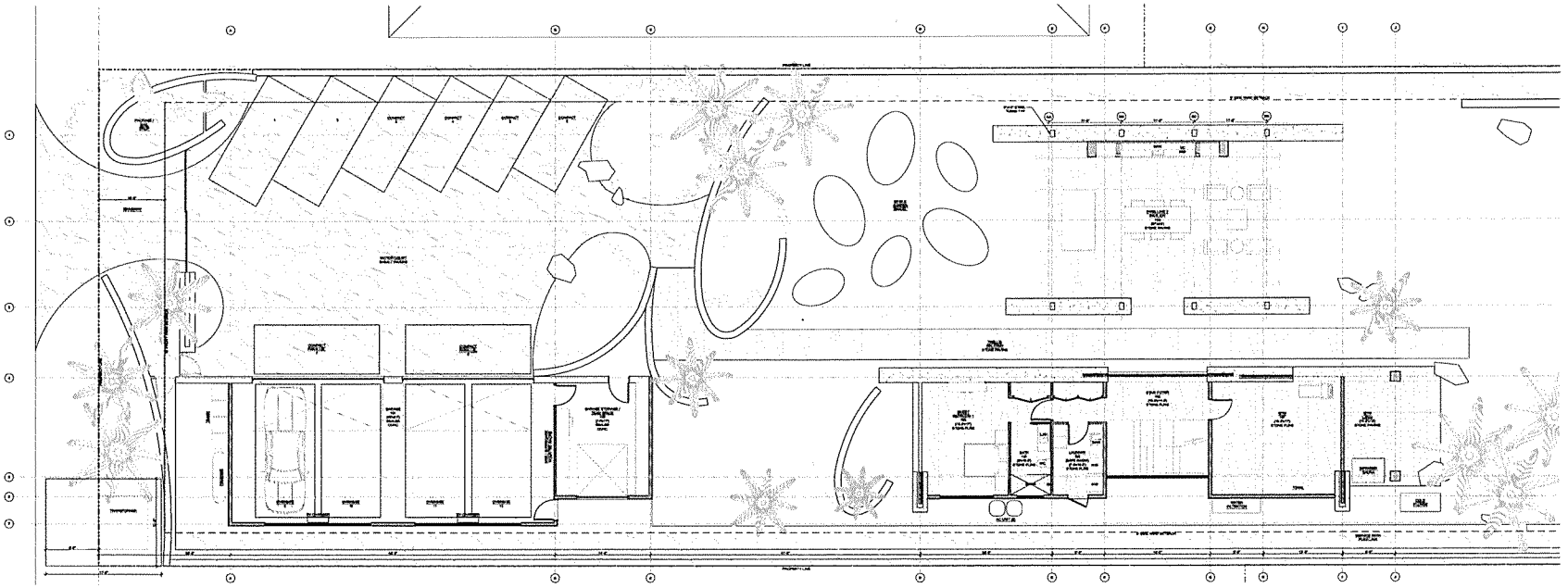
Dwelling 1 Floor Plans

Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

petervincentarchitects



2 Second Floor Plan - Garage + Dwelling 2

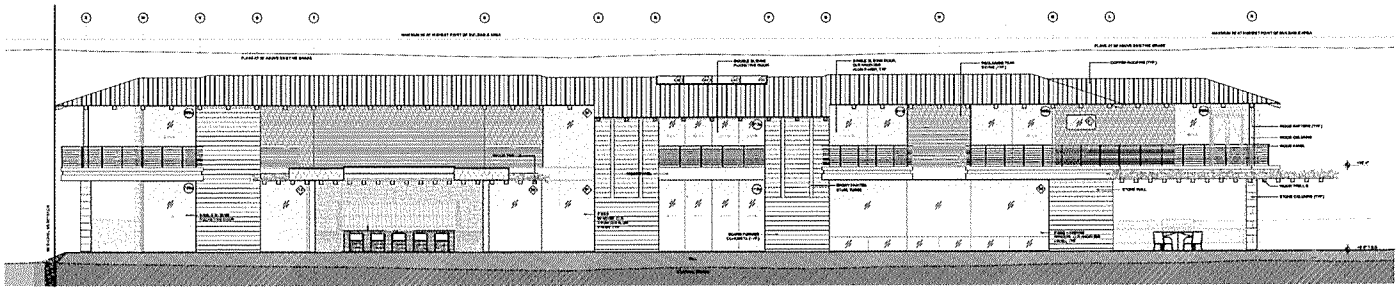


1 Ground Floor Plan - Garage + Dwelling 2

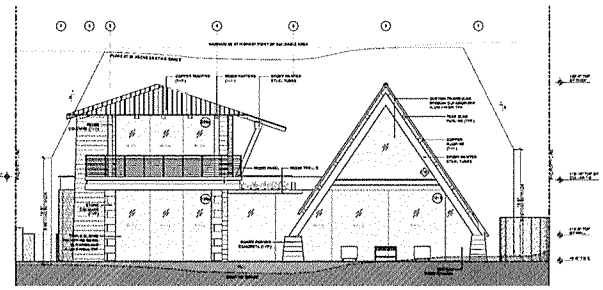
EXHIBIT C-4 - FLOOR PLANS - DWELLING 2

Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

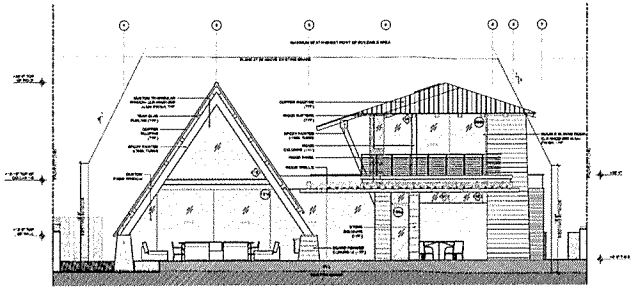
PVA
petervincentarchitects



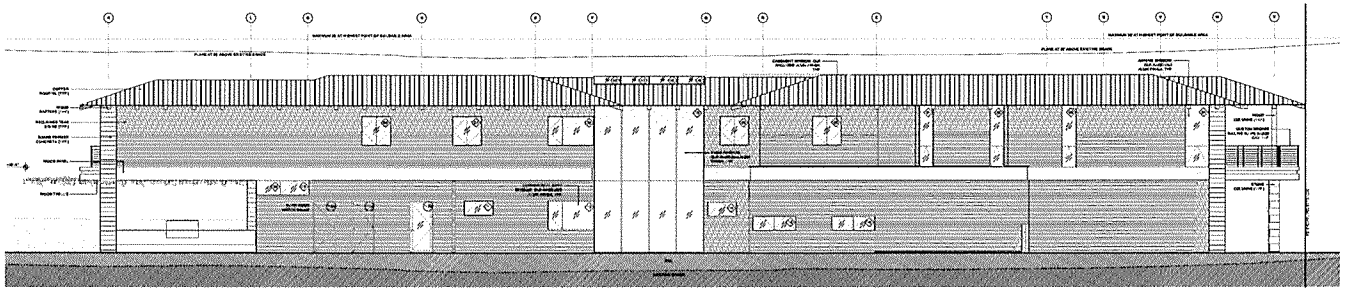
A Dwelling 1 Kaneohe Elevation
SCALE: 1/8" = 1'-0"



B Dwelling 1 Makai Elevation
SCALE: 1/8" = 1'-0"

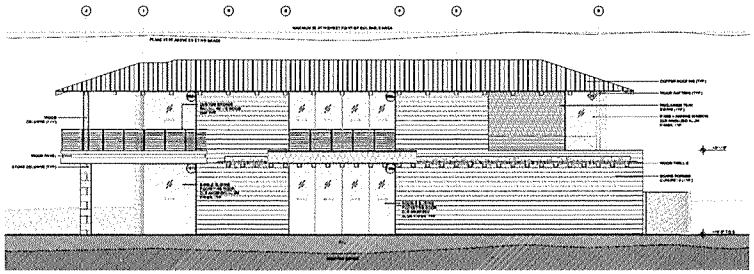


D Dwelling 1 Mauka Elevation
SCALE: 1/8" = 1'-0"

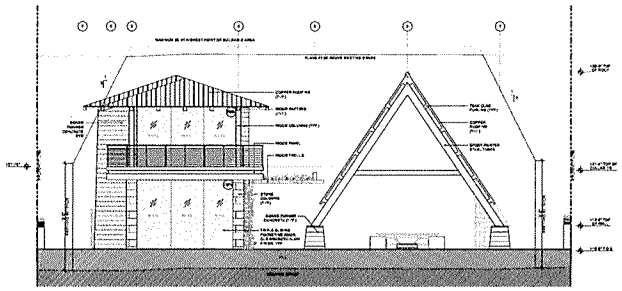


C Dwelling 1 Waimanalo Elevation
SCALE: 1/8" = 1'-0"

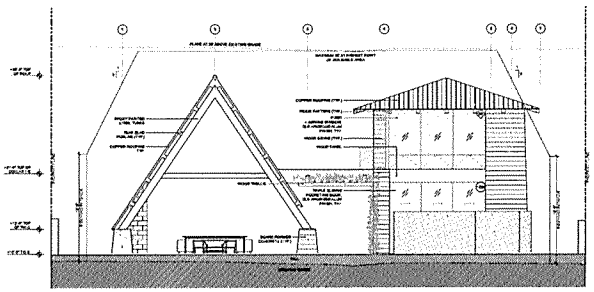
EXHIBIT C-5 - DWELLING 1 ELEVATIONS



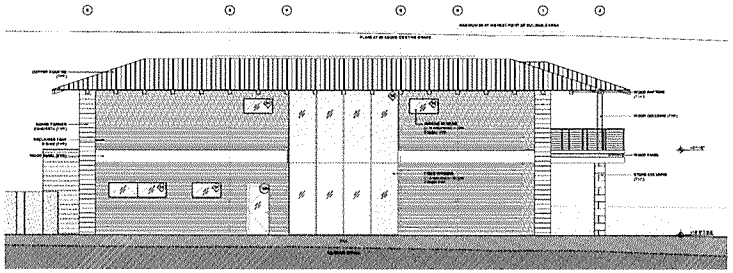
A Dwelling 2 Kaneohe Elevation
SCALE: 1/8" = 1'-0"



B Dwelling 2 Makai Elevation
SCALE: 1/8" = 1'-0"

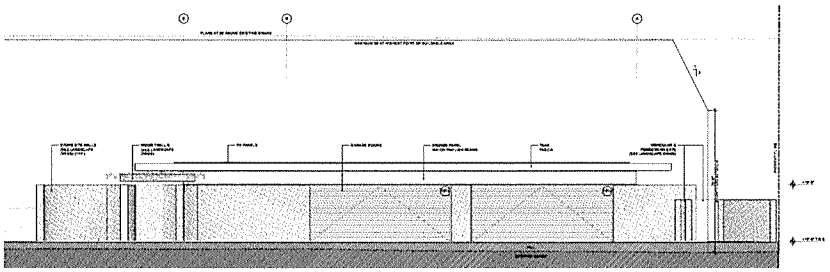


D Dwelling 2 Mauka Elevation
SCALE: 1/8" = 1'-0"

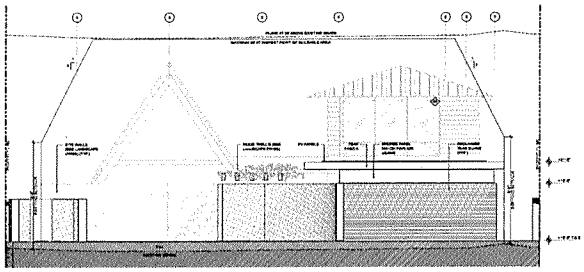


C Dwelling 2 Waimanalo Elevation
SCALE: 1/8" = 1'-0"

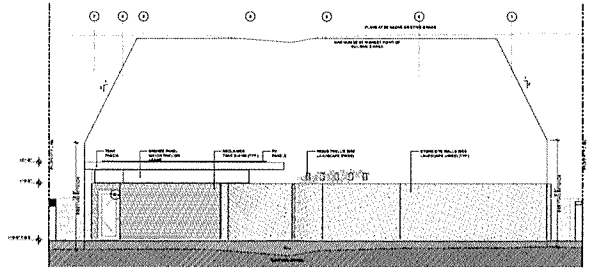
EXHIBIT C-6 - DWELLING 2 ELEVATIONS



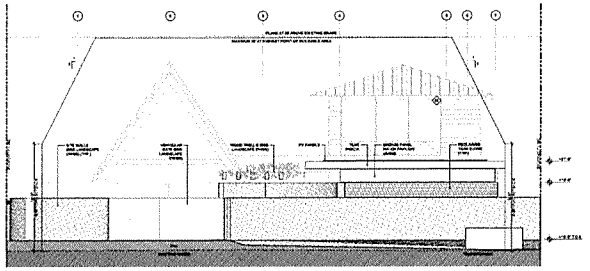
A Garage Kaneohe Elevation



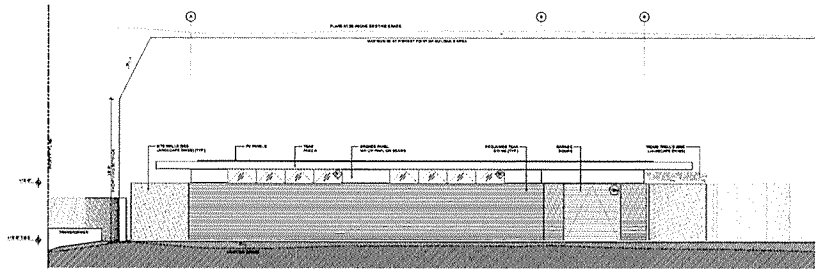
D Garage Mauka Elevation



B Garage Makai Elevation



E Garage Kalaheo St. Elevation



C Garage Waimanalo Elevation

EXHIBIT C-7 - GARAGE ELEVATIONS

OHANA MAKAI LLC
126 S. KALAHEO AVENUE, KAILUA, HAWAI'I 96734

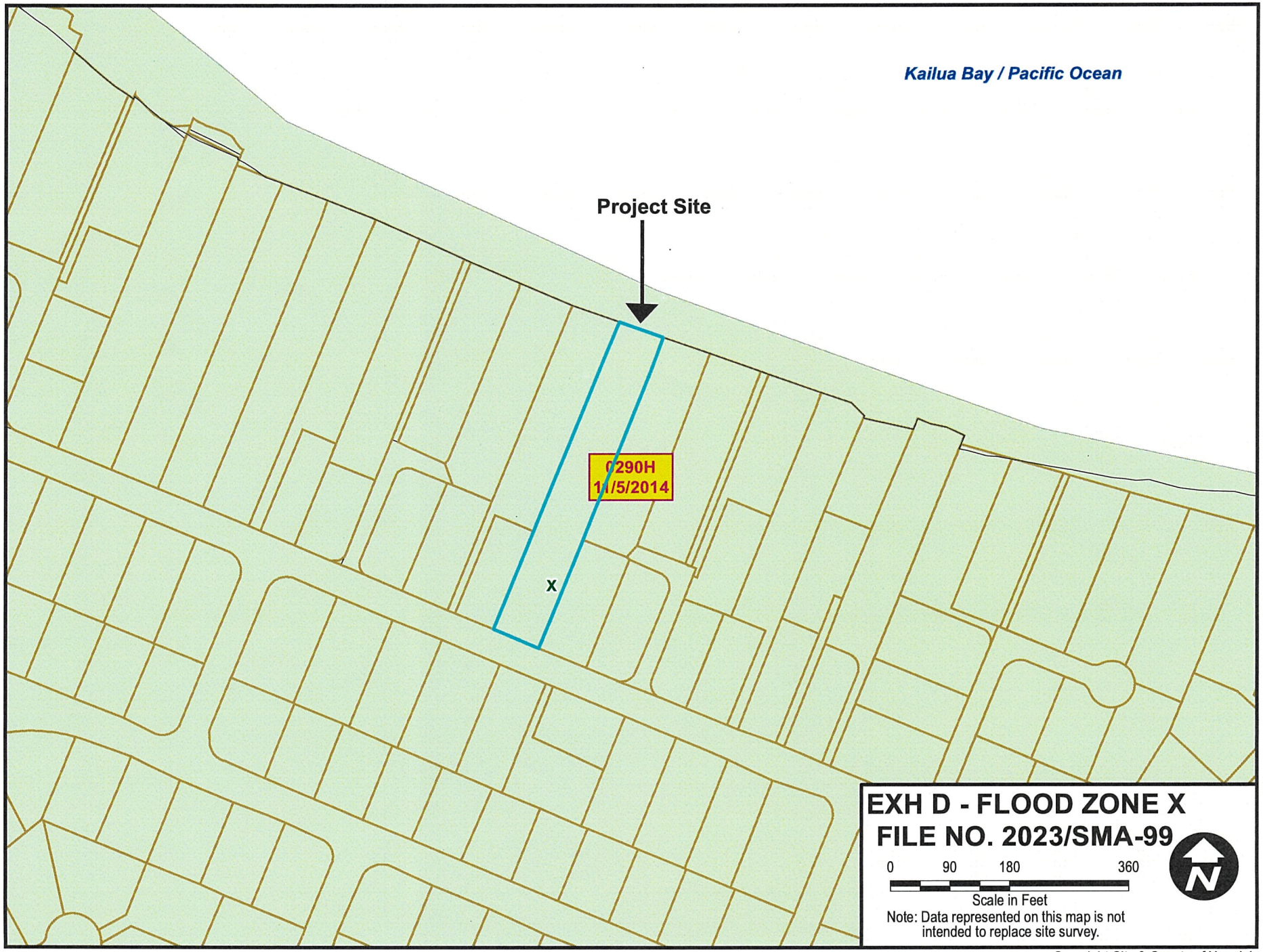
October 31, 2023

A203

Garage Elevations

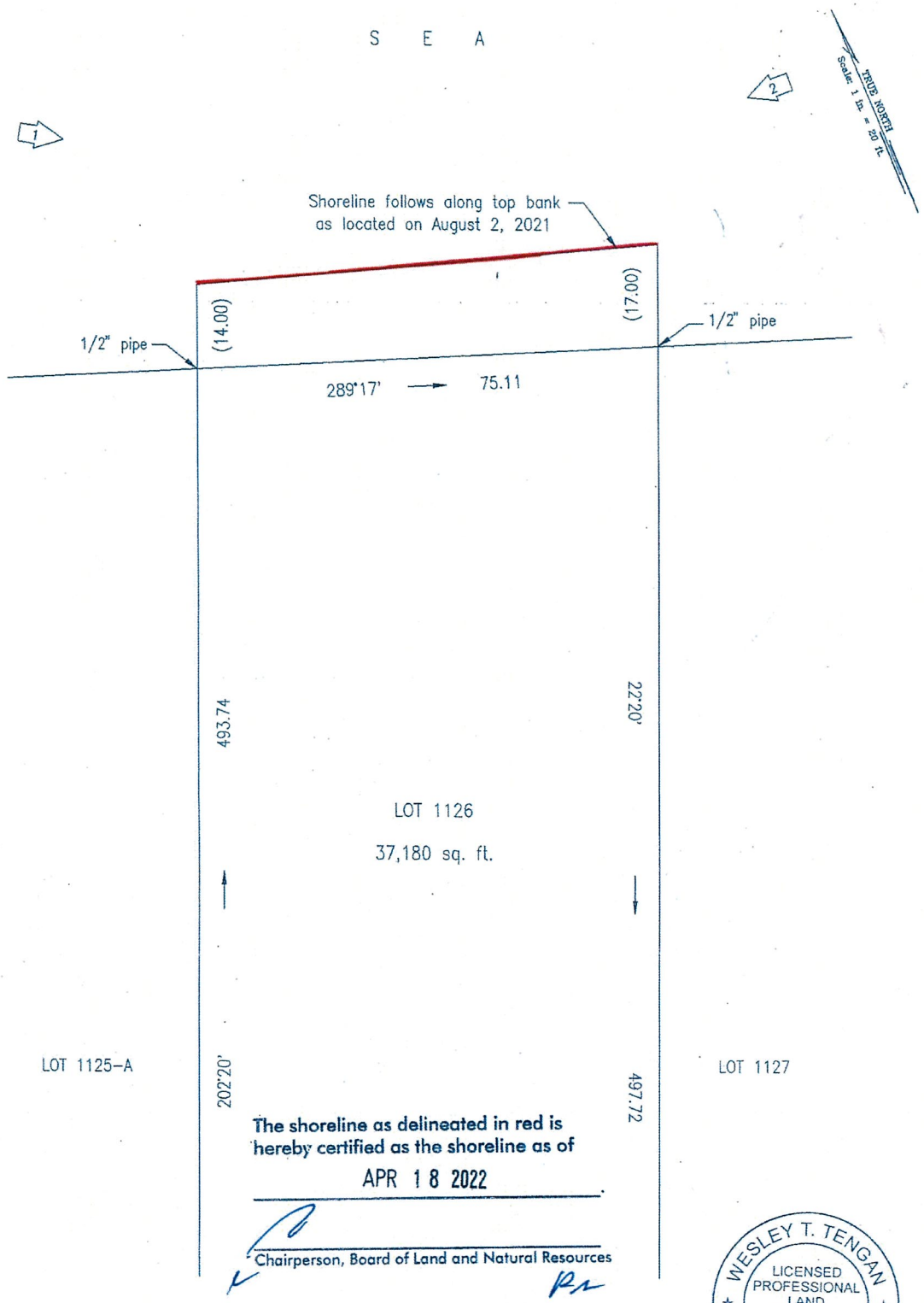
Harbor Court
55 Merchant Street Suite 1430 Honolulu Hawai'i 96813
808.524.8255 | info@pva.com

PVA
petervincentarchitects



Copyright City & County of Honolulu
All Rights Reserved 2008

SURVEY OFFICE COPY



The shoreline as delineated in red is hereby certified as the shoreline as of

APR 18 2022

Chairperson, Board of Land and Natural Resources

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

SHORELINE MAP
LOT 1126
LAND COURT APPLICATION 677
AS SHOWN ON MAP 255
Kailua, Koolaupoko, Oahu, Hawaii
Date: August 2, 2021
Tax Map Key: (1)4-3-12:30
Owner: Wey Investments F Series

This work was prepared by me or under my supervision

EXP. 4/22
WESLEY T. TENGAN
LICENSED PROFESSIONAL LAND SURVEYOR
Certificate Number 6958

Note: 1 denotes position and direction of photograph

126 S. Kalaheo Ave.

EXHIBIT E-1 - 2022 CERTIFIED SHORELINE SURVEY

SHORELINE PHOTOGRAPHS



PHOTO: 1



PHOTO: 2

126 S. KALAHEO AVENUE

4-3-12:30

8/2/2021

1:00 P.M.

PARTY CHIEF: GRANT FUJISHIGE

EXHIBIT E-2 - 2022 SHORELINE SURVEY PHOTOS

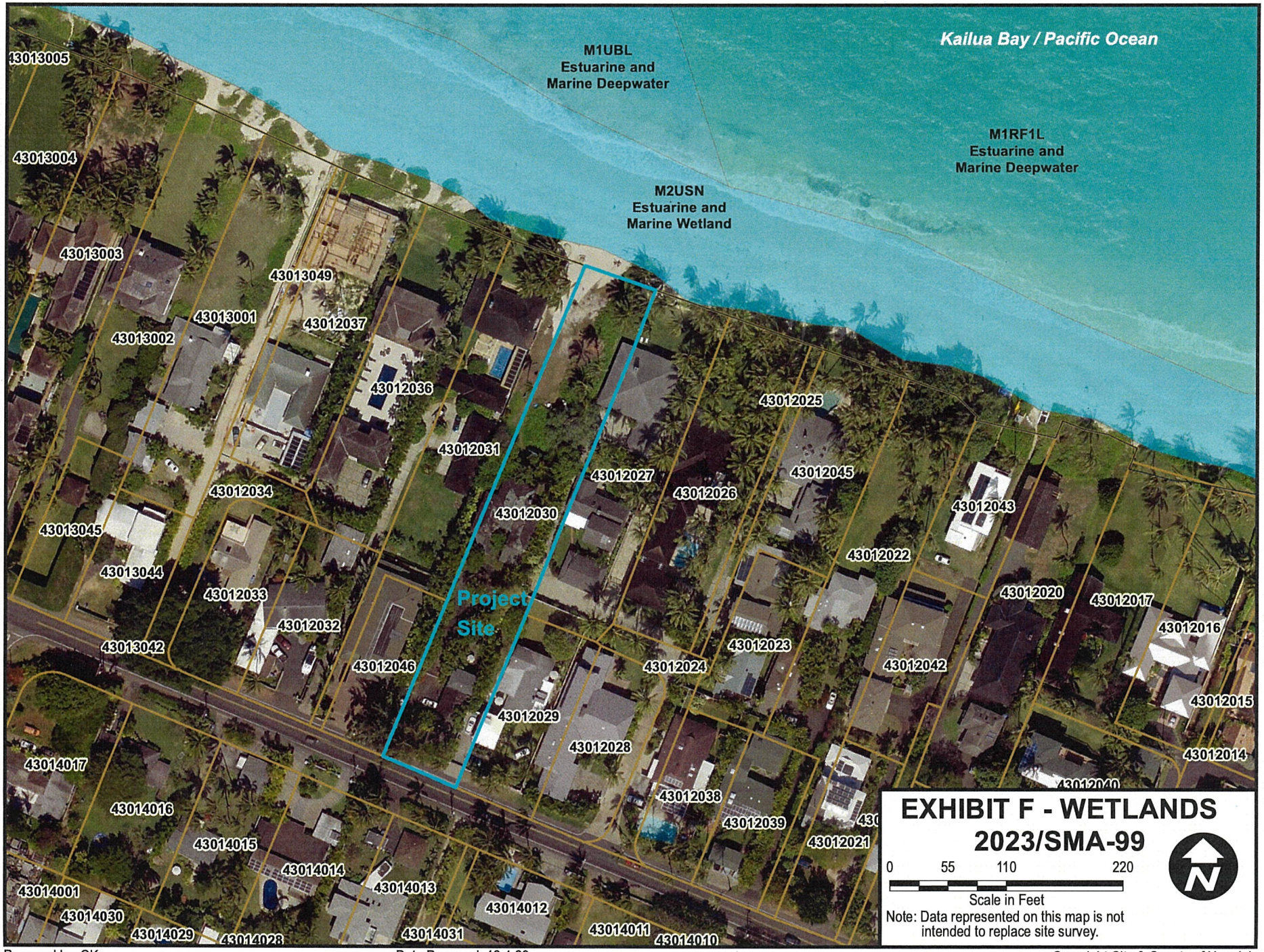


EXHIBIT F - WETLANDS
2023/SMA-99

0 55 110 220

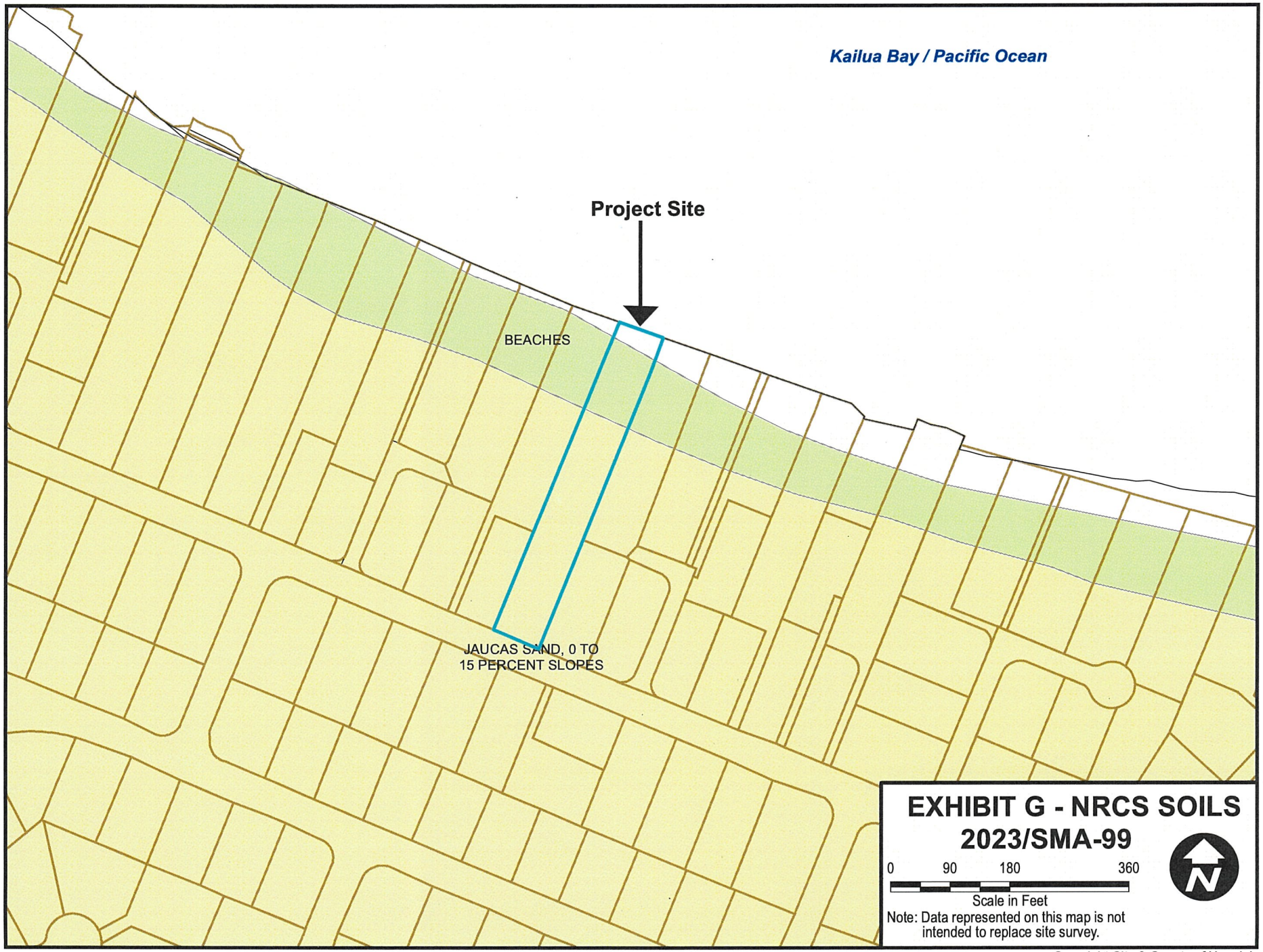
Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

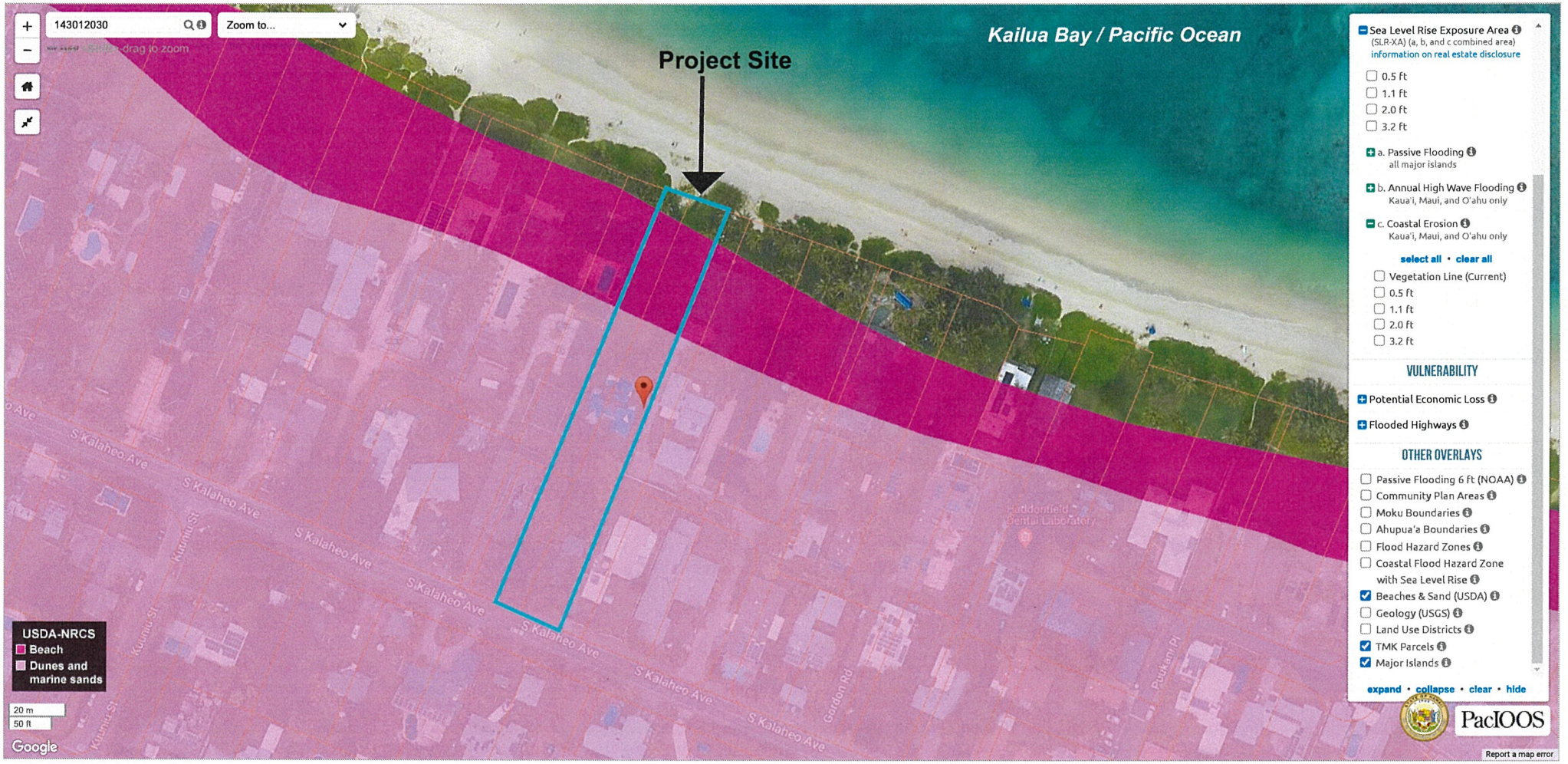
Prepared by: CK

Date Prepared: 12.4.23

Copyright City & County of Honolulu
All Rights Reserved 2008

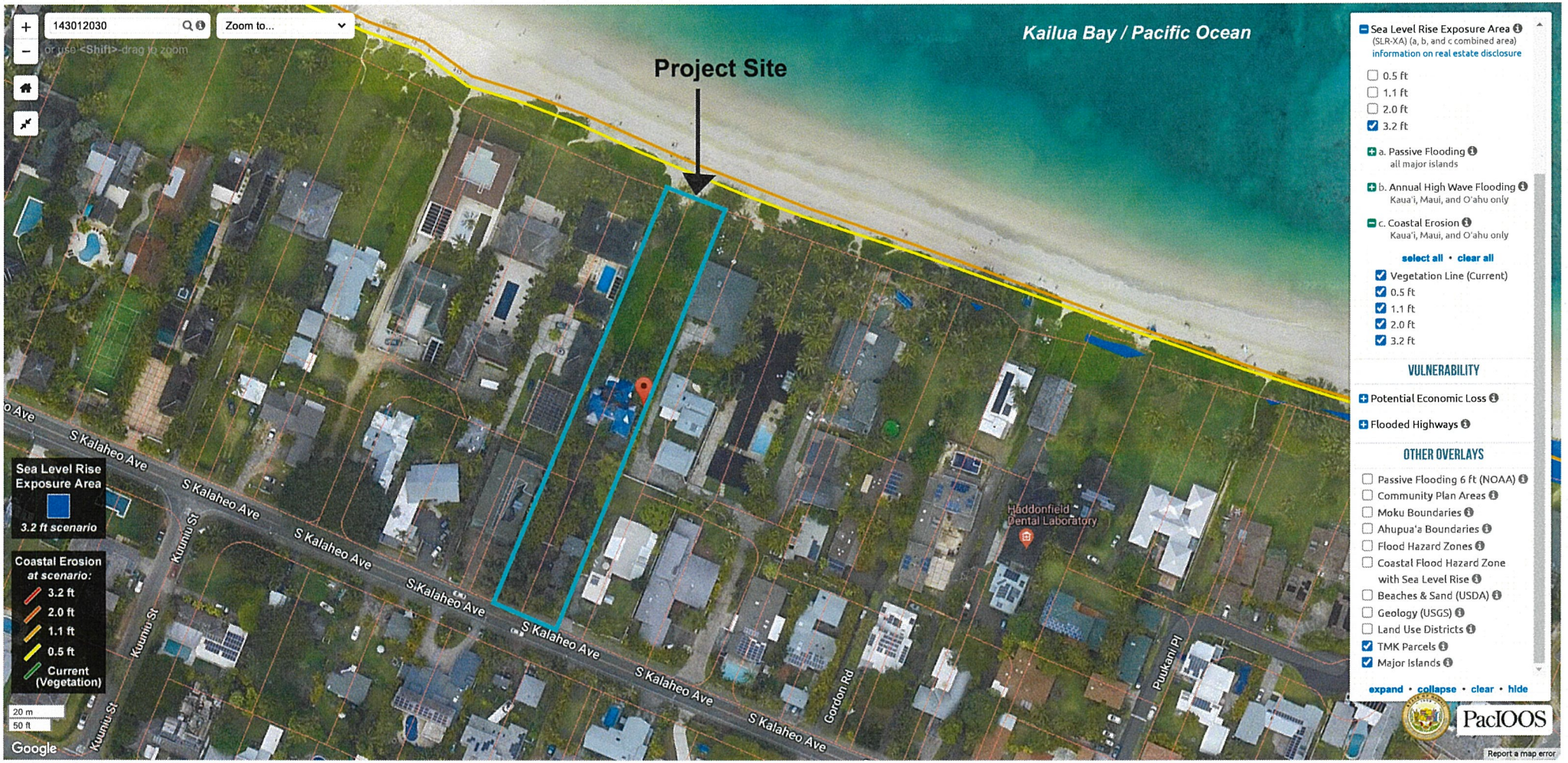


Copyright City & County of Honolulu
All Rights Reserved 2008



PacIOOS PACIFIC ISLANDS OCEAN OBSERVING SYSTEM *Hawai'i Sea Level Rise Viewer*

EXHIBIT H - BEACHES / DUNES AND MARINE SANDS



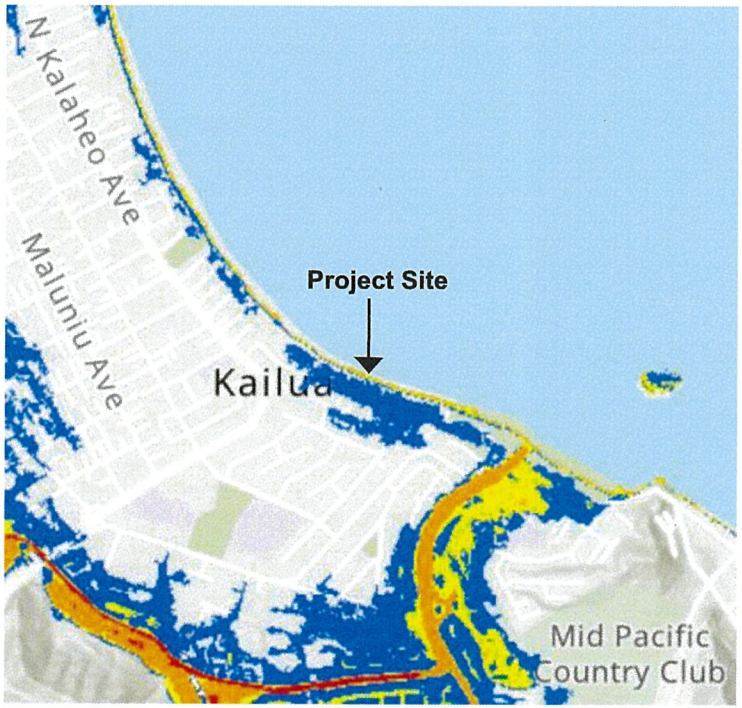
PacIOOS PACIFIC ISLANDS OCEAN OBSERVING SYSTEM *Hawai'i Sea Level Rise Viewer*

EXHIBIT I - 3.2-FOOT SEA LEVEL RISE EXPOSURE AREA

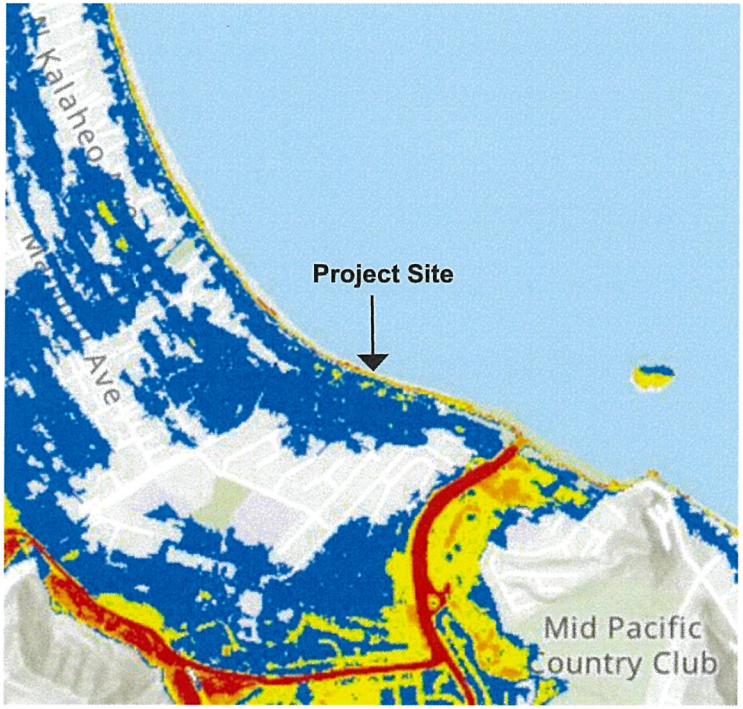


O'ahu Shoreline Change Mapper 1.8.24

EXHIBIT J - HISTORIC SHORELINE CHANGE RATES
Kailua Transect 159



Category 3 Hurricane



Category 4 Hurricane

Less than 3 feet above ground
Greater than 3 feet above ground
Greater than 6 feet above ground
Greater than 9 feet above ground

EXHIBIT K - NATIONAL HURRICANE CENTER STORM SURGE RISK MAPS

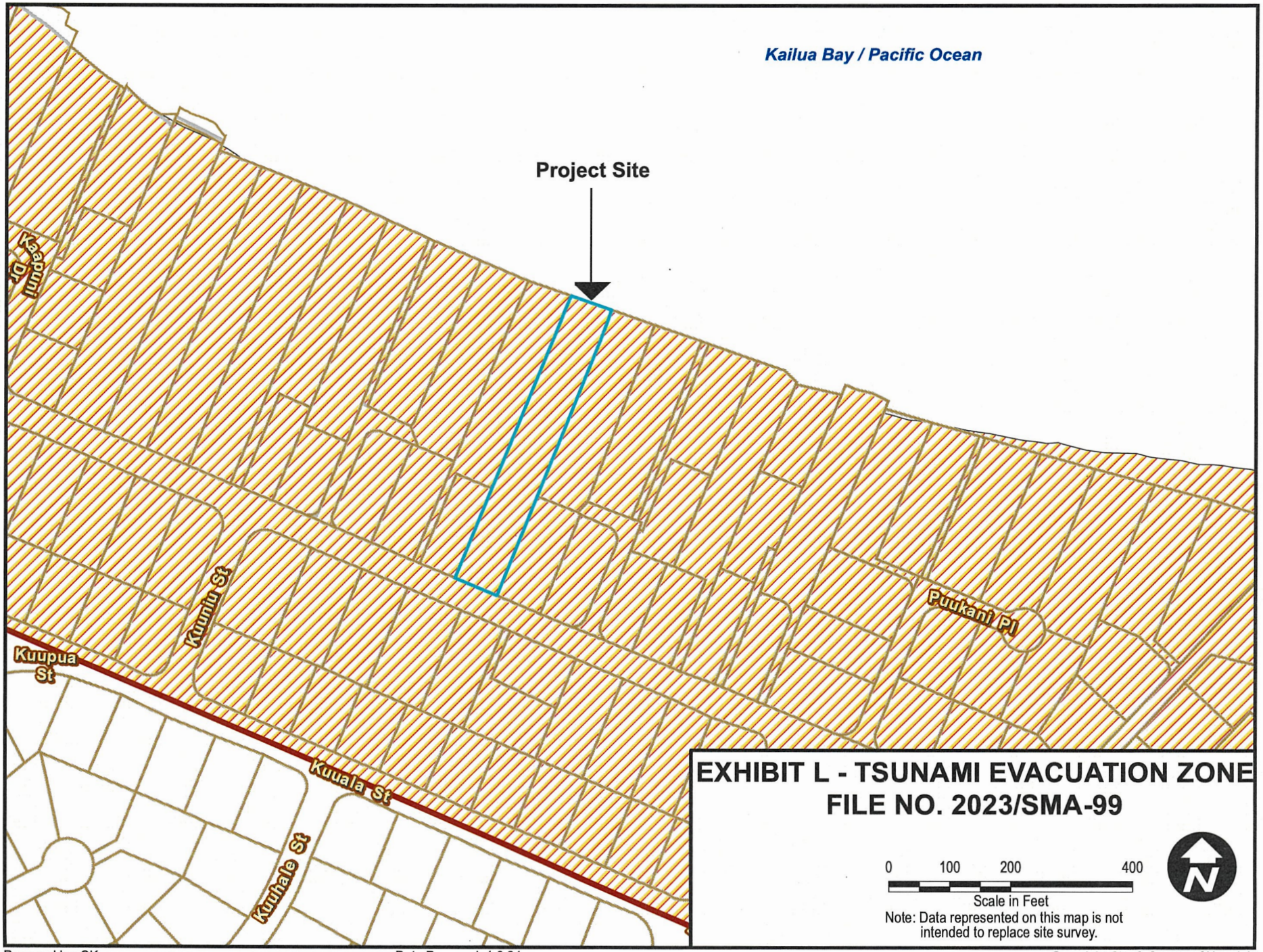


EXHIBIT L - TSUNAMI EVACUATION ZONE
FILE NO. 2023/SMA-99

0 100 200 400

Scale in Feet

Note: Data represented on this map is not intended to replace site survey.

Prepared by: CK

Date Prepared: 1.8.24

Copyright City & County of Honolulu
All Rights Reserved 2008

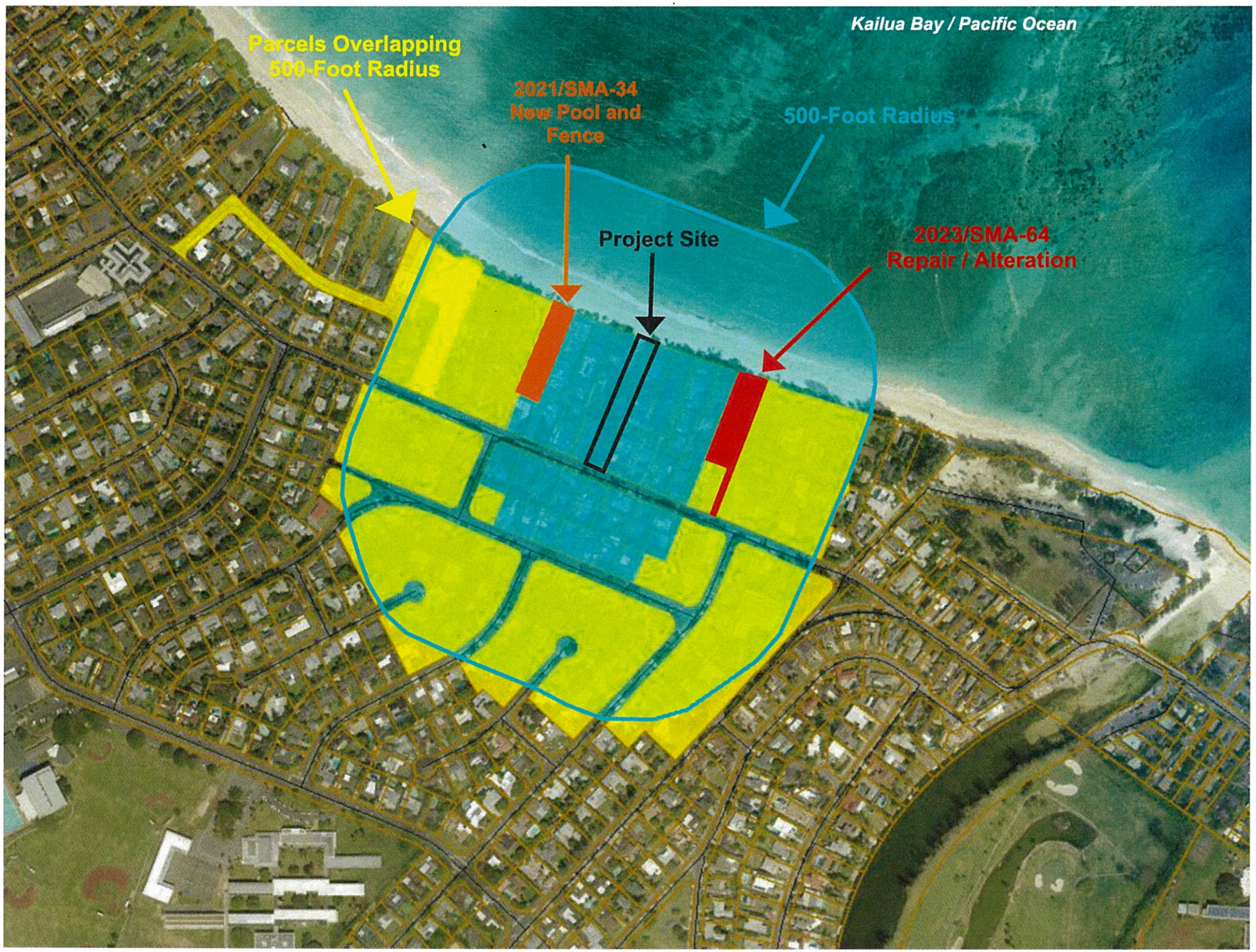


EXHIBIT M - 500-FOOT CUMULATIVE PROJECT RADIUS MAP