REPORT OF THE COMMITTEE ON ZONING

Voting Members:
Esther Kia'āina, Chair; Tyler Dos Santos-Tam, Vice-Chair;
Radiant Cordero, Val A.Okimoto, Matt Weyer

Committee Meeting Held
April 3, 2025

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, to which was referred Resolution 25-80 entitled:

"RESOLUTION GRANTING AN AFTER-THE-FACT SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY DWELLING WITH AN ATTACHED GARAGE, POOL, AND POOL HOUSE IN LANIKAI, O'AHU,"

transmitted by Departmental Communication 166 (2025), dated February 28, 2025, from the Department of Planning and Permitting ("DPP"), reports as follows:

The purpose of Resolution 25-80 is to grant an after-the-fact Special Management Area ("SMA") Major Permit to Kimberly M. and Timothy D. Smythe (the "Applicant") to allow for the retention of a previously constructed new two-story, single-unit dwelling with an attached two-car garage, in-ground swimming pool, pool cabana, pond with waterfall, parking area to accommodate five off-street parking spaces, and paved driveway; removal of invasive koa haole vegetation and planting native plant species on the hillside slope; and connection to existing water, wastewater, and electrical lines on approximately 39,857 square feet of land zoned R-10 Residential District, located at 275 Kaelepulu Drive in Lanikai, and identified as Tax Map Key 4-3-007:077 (the "Project").

By way of background, the Project site was first developed with a dwelling in the 1970s. In 2018, a building permit was issued for alterations to the dwelling. In 2021, a notice of violation and stop work order were issued because portions of the previous dwelling had been demolished without a demolition permit, and construction of the replacement dwelling did not conform to the 2018 building permit plans. In 2022, a notice of order was issued because the Applicant did not comply with the stop work order,

ADOPTED ON APR 16 2025

COMMITTEE REPORT NO. 129

ongoing construction did not follow the 2018 building permit plans, and some of the work was not covered by the building permit. Accrued civil fines total approximately $215,000. In July 2022, the Applicant submitted a building permit application to reflect the actual development on the Project site.

The building permit application is under review pending approval of the Project's SMA Major Permit, and both are after-the-fact approvals to cure the Project's past violations.

The Applicant is working with the State of Hawai'i Department of Land and Natural Resources to grant to the State an approximately 20-foot wide easement along the southern portion of the slope that the Applicant owns, to allow for the proposed improvements to the Ka'iwa Ridge Trail, which is the subject of another SMA Major Permit under Resolution 25-78.

A literature review and field investigation was conducted for the Project site, and although several historic sites and iwi kupuna have been encountered in the Lanikai area, none were found on the Project site, which is located on a cliff line with little to no soil, and since previous construction disturbed most of the ground surface, it is unlikely that any historic or cultural resources remain on the Project site. The State Historic Preservation Division reviewed the archaeological inventory survey prepared for the adjacent Ka'iwa Ridge Trail improvements project, and issued a letter concurring that no historic properties will be affected by the Project, and no further historic preservation documentation is needed.

Your Committee notes that the DPP, after a public hearing held on January 15, 2025, recommends approval of the SMA Major Permit subject to the conditions set forth in the Resolution.

At your Committee's meeting on April 3, 2025, the Applicant's Agent provided a brief presentation of the proposed Project.

The DPP Director testified that the DPP has no objections to the Resolution.

Your Committee received no verbal or written public testimony on the Resolution.

Your Committee has carefully reviewed the conditions recommended by the DPP for inclusion in this SMA Major Permit. Although your Committee generally finds the DPP's proposed conditions to be appropriate, your Committee recommends that certain conditions be amended or added as discussed below.

Your Committee has prepared a CD1 version of the resolution that makes the following amendments:

A. Amends the resolution title to read as follows:

"GRANTING AN AFTER-THE-FACT SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW FOR THE RETENTION OF A PREVIOUSLY CONSTRUCTED NEW SINGLE-UNIT DWELLING WITH AN ATTACHED GARAGE, POOL, POOL CABANA, POND, DRIVEWAY, AND OTHER IMPROVEMENTS IN LANIKAI, O'AHU."

B. Amends the first WHEREAS clause to clarify the description of the Project.

C. Amends the second WHEREAS clause to delete reference to public testimony offered at the public hearing.

D. Adds a new Condition D.2 to add a standard condition that artificial light from exterior light fixtures on the Project site 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).

E. Makes miscellaneous technical and nonsubstantive amendments.

Your Committee finds, pursuant to § 205A-26, Hawaii Revised Statutes ("HRS"), and § 25-4.1, Revised Ordinances of Honolulu 2021 ("ROH"), and in agreement with the conclusion of the DPP in Departmental Communication 166 (2025), that:

1. The development, as conditioned, will not have any significant adverse environmental or ecological effect, either alone or cumulatively with other projects.

2. The development, as conditioned, is consistent with the objectives and policies set forth in HRS § 205A-2 and ROH § 25-3.1, and the review guidelines contained in HRS § 205A-26 and ROH § 25-4.1.

3. The development, as conditioned, is consistent with the County General Plan, development plans, zoning, and other applicable ordinances.

Your Committee further finds that based on efforts to identify whether there are cultural, historic, or natural resources, or Native Hawaiian traditional and customary rights on the Project site, the Council is not aware of any existing cultural, historic, or natural resources, or Native Hawaiian traditional and customary practices on the Project site.

REPORT OF THE COMMITTEE ON ZONING

Voting Members:
Esther Kia'āina, Chair; Tyler Dos Santos-Tam, Vice-Chair;
Radiant Cordero, Val A. Okimoto, Matt Weyer

Your Committee on Zoning is in accord with the intent and purpose of Resolution 25-80, as amended herein, and recommends its adoption in the form attached hereto as Resolution 25-80, CD1. (Ayes: Cordero, Dos Santos-Tam, Kia'āina, Okimoto, Weyer – 5; Noes: None.)

Respectfully submitted,

Committee Chair

HONOLULU CITY COUNCIL
Ke Kanihela o ke Kalana o Honolulu
CITY AND COUNTY OF HONOLULU

ADOPTED ON APR 16 2025

COMMITTEE REPORT NO. 129

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No. **25-80, CD1**

RESOLUTION

GRANTING AN AFTER-THE-FACT SPECIAL MANAGEMENT AREA MAJOR PERMIT TO ALLOW FOR THE RETENTION OF A PREVIOUSLY CONSTRUCTED NEW SINGLE-UNIT DWELLING WITH AN ATTACHED GARAGE, POOL, POOL CABANA, POND, DRIVEWAY, AND OTHER IMPROVEMENTS IN LANIKAI, O'AHU.

WHEREAS, on November 18, 2024, the Department of Planning and Permitting ("DPP") accepted the application (File No. 2024/SMA-117) of Kimberly M. and Timothy D. Smythe (the "Applicants") for a Special Management Area ("SMA") Major Permit to allow for the after-the-fact retention of a previously constructed new two-story, single-unit dwelling with an attached two-car garage, in-ground swimming pool, pool cabana, pond with waterfall, parking area to accommodate five off-street parking spaces, and paved driveway; removal of invasive koa haole vegetation and planting native plant species on the hillside slope; and connection to existing water, wastewater, and electrical lines on approximately 39,857 square feet of land zoned R-10 Residential District, located at 275 Ka'elepulu Drive in Lanikai and identified as Tax Map Key 4-3-007:077 (the "Project"); and

WHEREAS, on January 15, 2025, the DPP held a public hearing on the application at the Fasi Municipal Building 6th floor conference room, which was attended in person by the Applicant, the Applicant's Agent, and DPP staff, and attended remotely by several members of the public; and

WHEREAS, on February 28, 2025, within 45 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 §§ 25-3.1 and 25-4.1, Revised Ordinances of Honolulu 2021 ("ROH"), and §§ 205A-2 and 205A-26, Hawaii Revised Statutes ("HRS"), 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 March 7, 2025, by Departmental Communication 166 (2025), 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:

RESOLUTION

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-5, and D through J, 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 or 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 may be considered a minor modification and may be permitted under the adopted resolution, upon review and approval by the DPP Director.

B. To ensure the Applicant is aware that bed and breakfast homes and transient vacation units are not allowed on the Project site, by proceeding with the Project, the landowner hereby acknowledges the following declaration, which must be clearly stated on all Project building permit plans.

> *"The landowner (and any successor owner or interested party is hereby notified) hereby acknowledges that bed and breakfast homes and transient vacation units, as those terms are defined in Revised Ordinances of Honolulu Chapter 21, the Land Use Ordinance, are not allowed on Tax Map Key 4-3-007:077."*

C. To minimize impacts to unknown archaeological, historic, and cultural resources that may be present on the Project site, 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 State Historic Preservation Division ("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 requirement in this condition must be clearly stated under "Environmental Notes" on all Project construction permit plans and building permit plans.

D. To minimize impacts to endangered, threatened, or protected 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 and lamps must not exceed a color temperature of 3,000 degrees kelvin;

2. Artificial light from exterior light fixtures on the Project site, 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 light 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; and

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

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

E. The Applicant must obtain a construction permit or building permit for the Project within 36 months 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 that includes the DPP Director's findings and recommendations thereon. The Council may approve the proposed

extension, approve 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. Sixty days after receipt of the DPP Director's report; or

   b. The Applicant's then-existing deadline for obtaining a construction permit or building permit;

   the extension will be deemed to be denied.

F. Approval of this SMA Major Permit does not constitute compliance with other City ordinances, including but not limited to the Land Use Ordinance ("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. **25-80, CD1**

RESOLUTION

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to Kimberly M. and Timothy D. Smythe, c/o Karl Mench, Concept 2 Completion, 328C Keaniani Street, Kailua, Hawai'i 96734; Ryan Ishikawa, Masa Fujioka and Associates, 98-021 Kamehameha Highway, Suite 337, 'Aiea, Hawai'i 96701; Dawn Takeuchi Apuna, Director of Planning and Permitting, 650 South King Street, 7th Floor, Honolulu, Hawai'i 96813; and Mary Alice Evans, Director of the State Office of Planning and Sustainable Development, Attention: Coastal Zone Management Branch, P.O. Box 2359, Honolulu, Hawai'i 96804-2359.

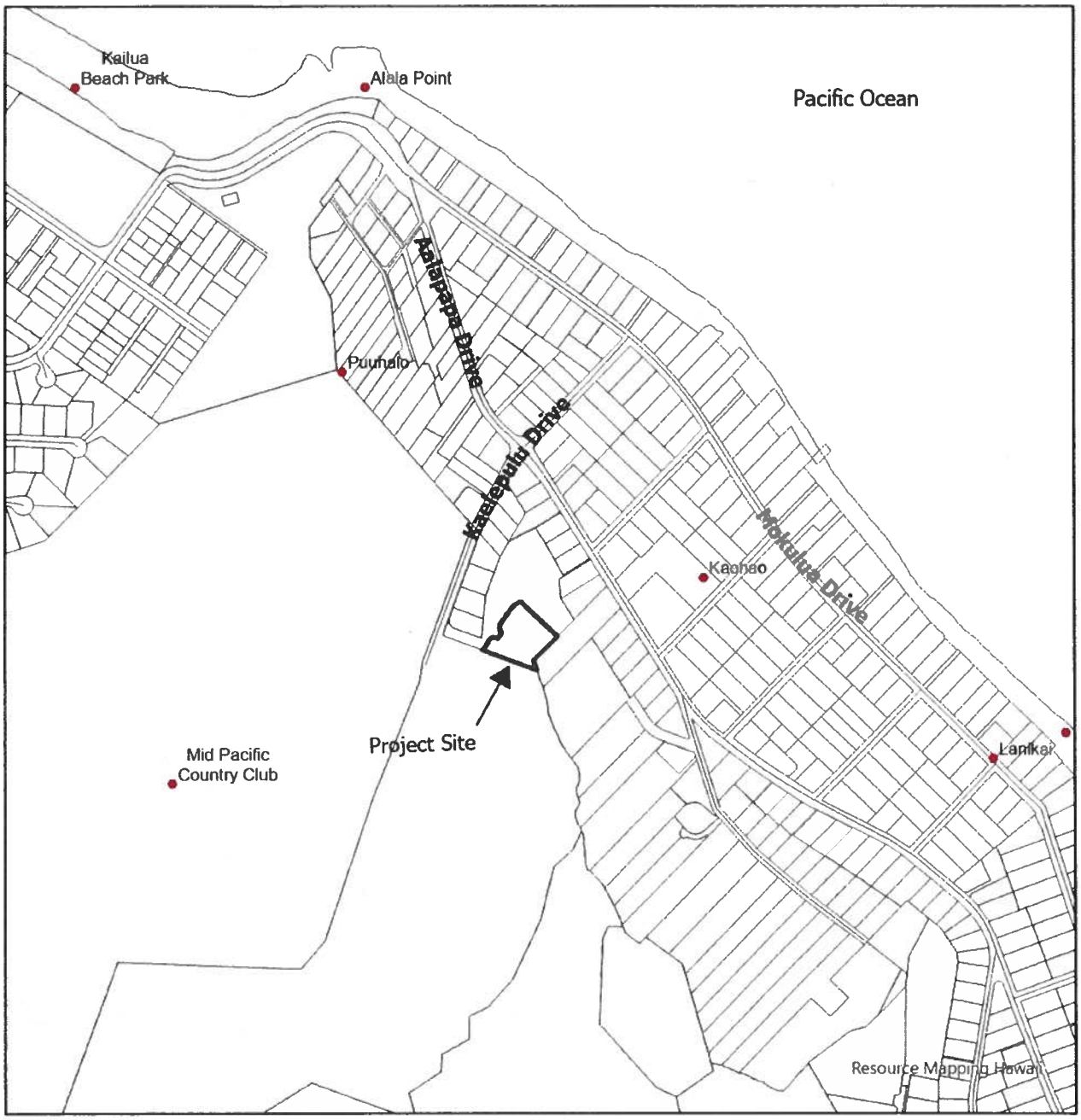
INTRODUCED BY:

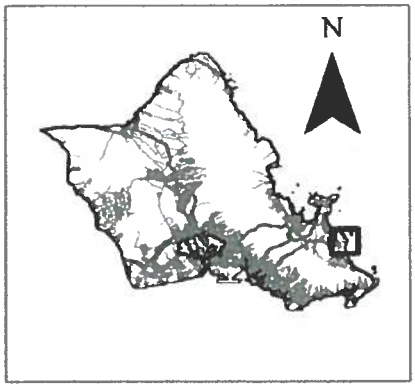
Tommy Waters (br)

DATE OF INTRODUCTION:

March 10, 2025
Honolulu, Hawai'i

Councilmembers





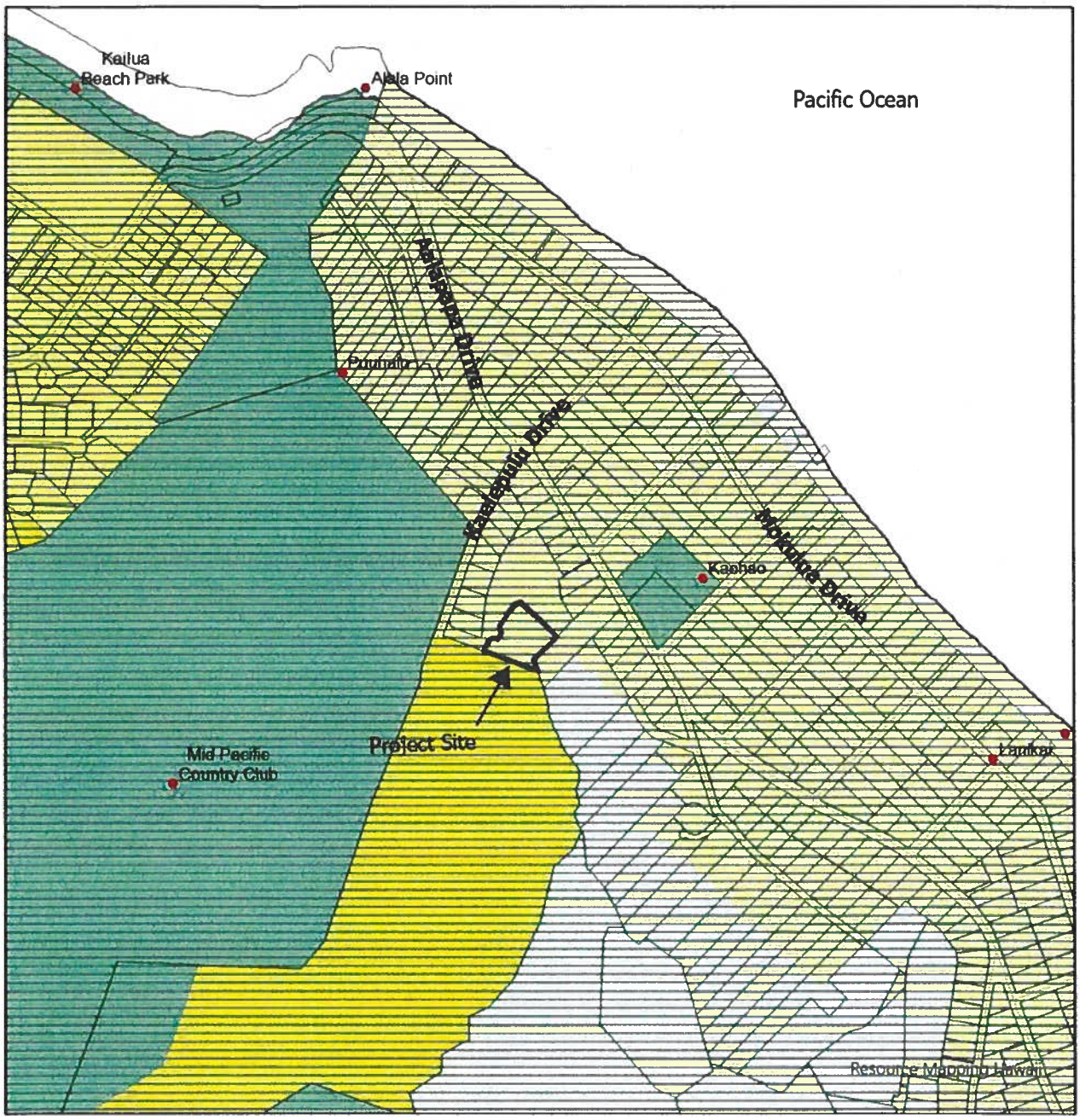
2024/SMA-117

TMK: 4-3-007: 077
EXHIBIT A - PROJECT LOCATION MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024



Legend

- Within SMA
- Outside SMA
- P-1
- P-2
- R-10
- R-5
- R-7.5

2024/SMA-117

TMK: 4-3-007: 077
EXHIBIT B - SMA AND ZONING MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024

SMYTHE RESIDENCE

275 KAELEPULU DRIVE
KAILUA, HAWAII 96734
TMK:4-3-007:077

PLOT MAP



GENERAL NOTES:

1. All construction shall be done in accordance with all the latest codes and ordinances applicable to this construction project.
2. All dimensions taken from/to finish face of stud unless otherwise noted or shown.
3. The contractor shall furnish all labor, materials, equipment, etc. required to complete all work indicated on the drawings or specified herein.
4. The contractor shall examine the site together with the drawings and other contract documents, and shall verify all conditions and dimensions prior to the start of work. Should the contractor or subcontractor find any discrepancies, interferences or omissions from the drawings and/or specifications, he shall notify the engineer for clarification.
5. All information shown on the drawings relative to existing conditions is given at the best present knowledge but without any guarantee of accuracy. Where actual conditions conflict with the drawings, they shall be reported to the engineer so that the proper revisions can be made. Modifications to details of construction shall not be made without written approval of the engineer.
6. The contractor and subcontractor shall guarantee his material and workmanship for a period of one year from final payment date and upon written notice, he shall remedy and repair any defects in materials or workmanship, and shall pay all expenses for such work, including damage to other work resulting therefrom.
7. It will be the contractor's responsibility to maintain the site in a safe condition and to maintain security during construction.
8. All trades, at all times, keep the premises free from accumulation of waste material or rubbish caused by their work. At the completion of the work, remove all rubbish, tools, and surplus material and shall leave the job in a broom clean condition.

PROJECT INFORMATION:

OWNER: TIM SMYTHE

PROJECT ADRESS: 275 KAELEPULU DRIVE, KAILUA, HAWAII 96734

TAX MAP KEY: 4-3-007:077

ZONING: R-10

LOT AREA: 0.915 AC

LOT SETBACKS: 10'-0" FRONT YARD, 5'-0" SIDE & REAR YARD

HEIGHT LIMIT: 25'-0"

PARKING: 6 SPACES (1 FOR EVERY 1000 SF OF FLOOR AREA)

FLOOD ZONE: ZONE "X"

PROPOSED WORK: NEW RESIDENCE

VICINITY MAP



SHEET INDEX	
ID	NAME
001	TITLE SHEET
A001	BASEMENT PLAN
A002	1ST FLOOR PLAN
A003	2ND FLOOR PLAN
A004	ROOF PLAN
A005	ELEVATIONS
A006	INTERIOR ELEVATIONS
A007	DOOR AND WDW SCHED
A008	POOL NOTES AND SITE PLAN
A009	POOL DETAILS
C001	ESCP AND DETAILS
S001	GENERAL NOTES
S002	TYPICAL DETAILS
S003	FOUNDATION PLAN
S004	2ND FLR FRAMING PLAN
S005	ROOF FRAMING PLAN
S006	FOUNDATION DETAILS
S007	FRAMING DETAILS
S008	SECTIONS
S009	SECTIONS
S010	SECTIONS

CHAPTER 32:

CITY AND COUNTY OF HONOLULU
REVISED ORDINANCE CHAPTER 32,
HONOLULU COUNTY CODE 1990, AS AMENDED

To the best of my knowledge, this project's design substantially conforms to the Building Energy Conservation Code for:

__X__ Building Component Systems
_____ Electrical Component Systems
_____ Mechanical Component Systems

Signature: _____
Date: 10-17-2023 Name: BAHMAN KHERADPEY
Title: ENGINEER
License No.: 7384-S

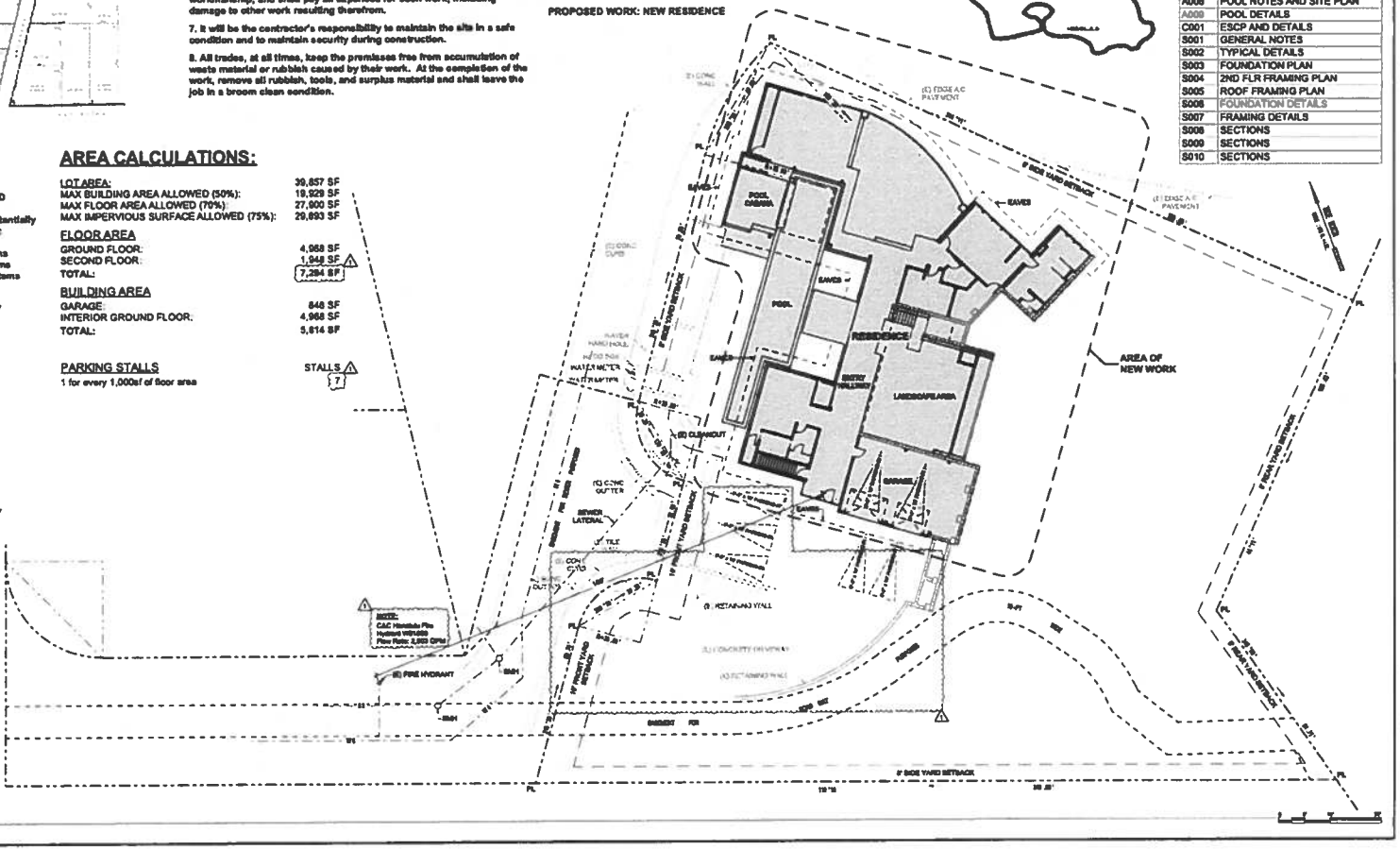
SPECIAL INSPECTIONS

CONTRACTOR TO PROVIDE SPECIAL INSPECTIONS FOR THE FOLLOWING ITEMS:
1- CONCRETE
2-BOLTS INSTALLED IN CONCRETE
3-REINFORCING STEEL
4-STRUCTURAL MASONRY
5-COMPLETE LOAD PATH AND UPLIFT TIES
6-SHEATHING SHEAR WALLS AND DIAPHRAGMS
7-TERMITE PROTECTION

Signature: _____
Date: 10-17-2023 Name: BAHMAN KHERADPEY
Title: ENGINEER
License No.: 7384-S

AREA CALCULATIONS:

LOT AREA:	39,857 SF
MAX BUILDING AREA ALLOWED (50%):	19,929 SF
MAX FLOOR AREA ALLOWED (70%):	27,900 SF
MAX IMPERVIOUS SURFACE ALLOWED (75%):	29,893 SF
FLOOR AREA	
GROUND FLOOR:	4,958 SF
SECOND FLOOR:	1,948 SF
TOTAL:	7,284 SF
BUILDING AREA	
GARAGE:	848 SF
INTERIOR GROUND FLOOR:	4,966 SF
TOTAL:	5,814 SF
PARKING STALLS	STALLS
1 for every 1,000sf of floor area	7



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

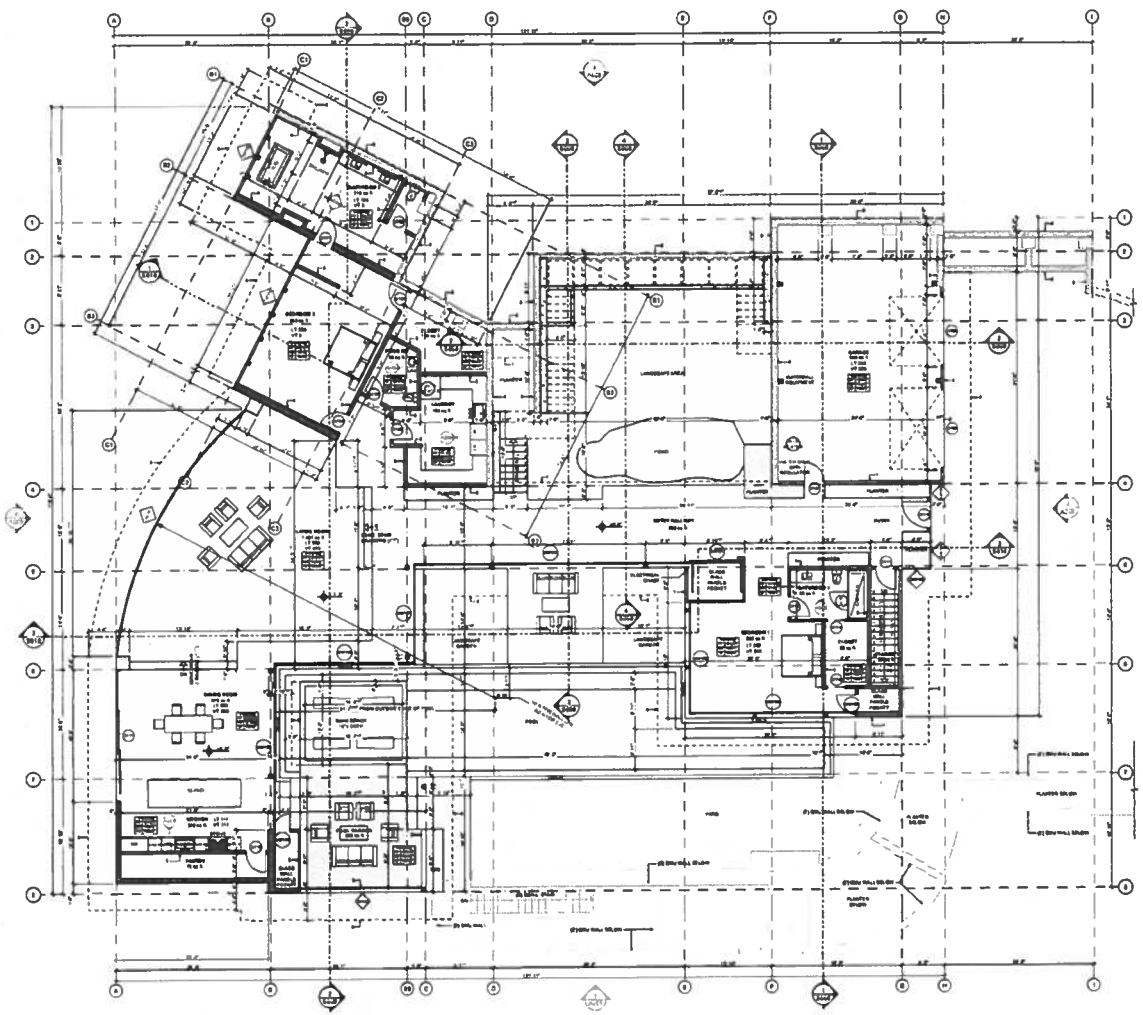
Concept 2 Completion
224-C Kamoi Street
Kailua HI 96734
(808) 782-2868
tim@k2k-builders.com
www.k2k-builders.com

SMYTHE RESIDENCE
275 Kaelepulu Dr. Lanikai HI, 96734
TMK: 4-3-007:077

TITLE SHEET

Date: 16 JAN 2024
Checked by:
Drawn: YY
Job:
Sheet Number: 001

EXHIBIT C-1 - TITLE PAGE AND SITE PLAN
2024/SMA-117



1 FIRST FLOOR PLAN

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

Concept 2 Completion

SMYTHE RESIDENCE

275 Kaelepulu Dr. Lanikai HI, 96734
TMK: 4-3-007:077

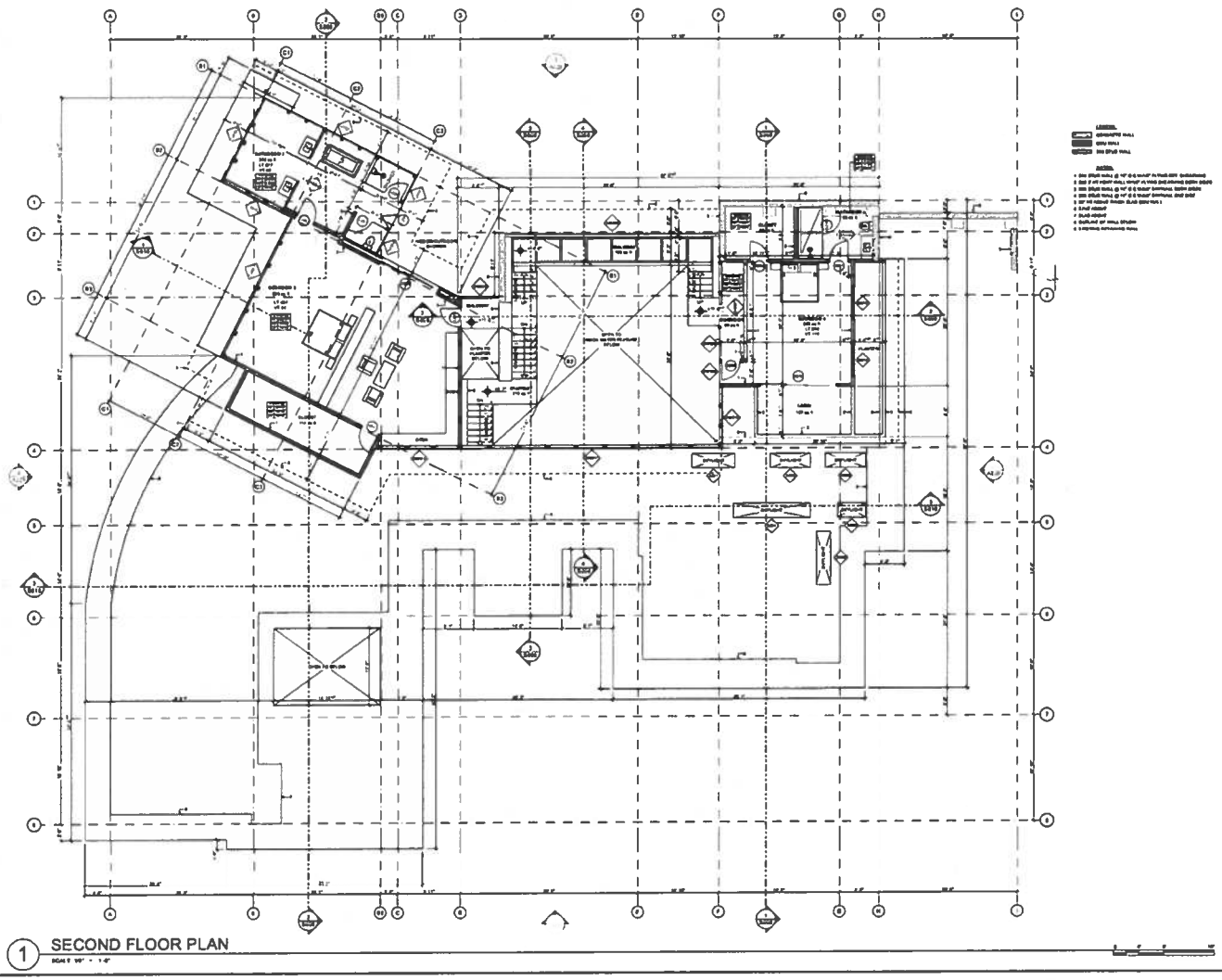
1ST FLOOR PLAN

Date: 16 JAN 2024

Checked by: YY

Sheet Number: A002

EXHIBIT C-2 - FIRST FLOOR PLAN
2024/SMA-117



1 SECOND FLOOR PLAN

Concept 2 Completion

SMYTHE RESIDENCE
275 Kaelepulu Dr. Lanikai HI, 96734
TMK: 4-3-007:077

2ND FLOOR PLAN

Date: 16 JAN 2024
Checked by:
Drawn: YY
Job:
Sheet Number: A003

EXHIBIT C-3 - SECOND FLOOR PLAN
2024/SMA-117

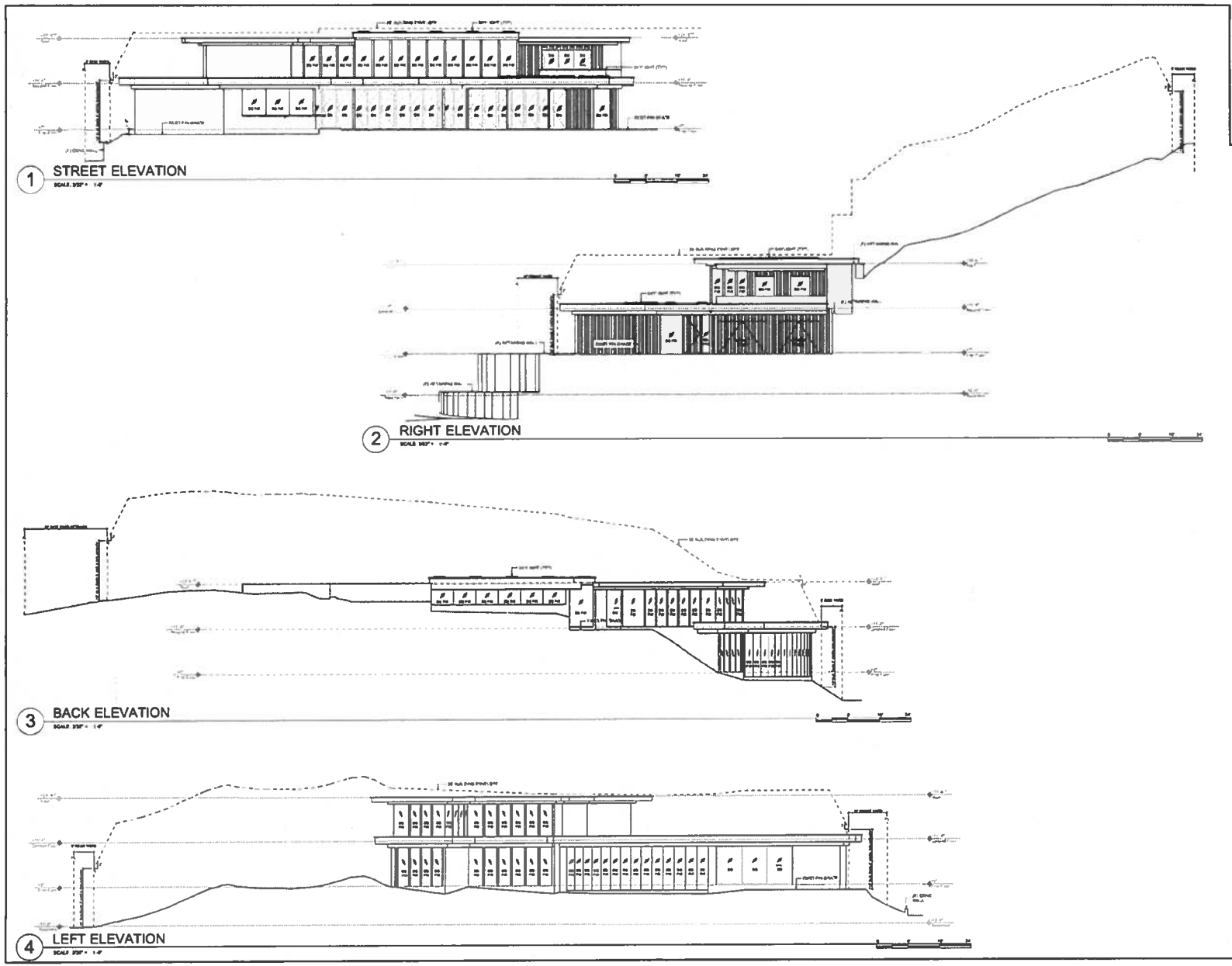
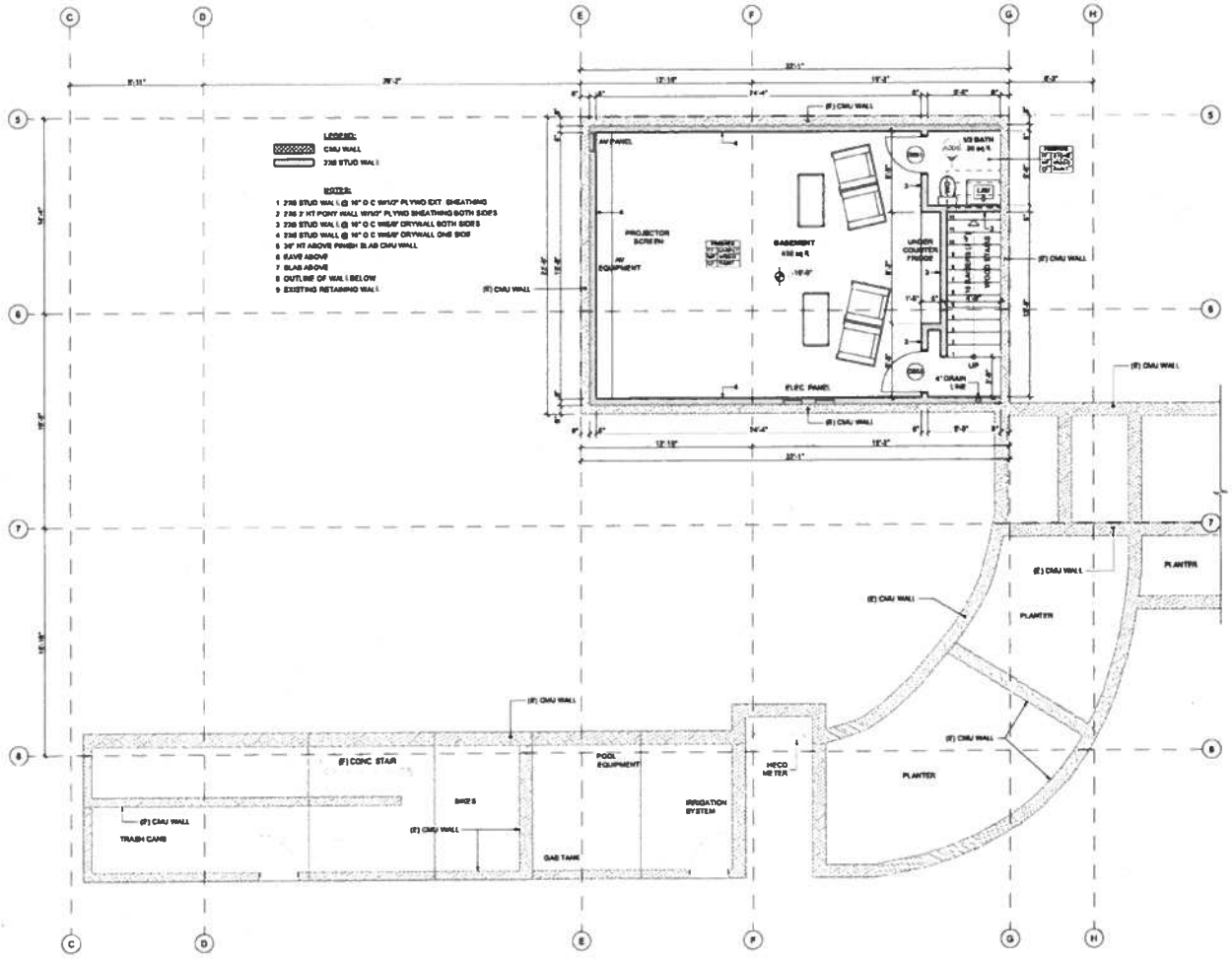


EXHIBIT C-4 - ELEVATION DRAWINGS
2024/SMA-117



1 BASEMENT PLAN

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

Concept 2 Completion
231-C Kaelani Street
Kailua HI 96734
808.782.2848
kurt@c2k-builders.com
www.c2k-builders.com

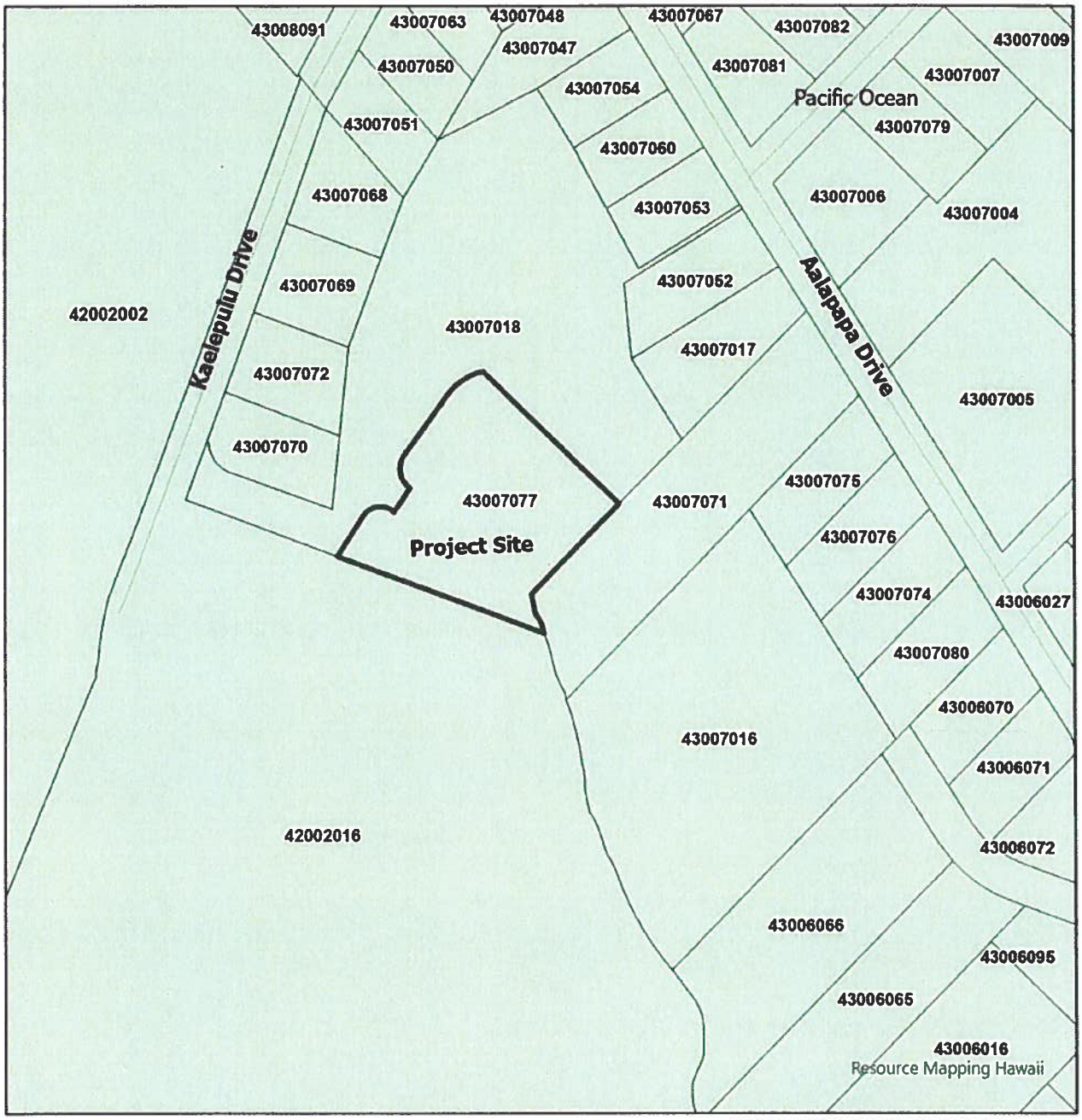
SMYTHE RESIDENCE
275 Kaelepulu Dr. Lanikai HI, 96734
TMK: 4-3-007:077

BASEMENT PLAN

16 JAN 2024

A001

EXHIBIT C-5 - BASEMENT / RECREATION ROOM PLAN
2024/SMA-117



Legend

X

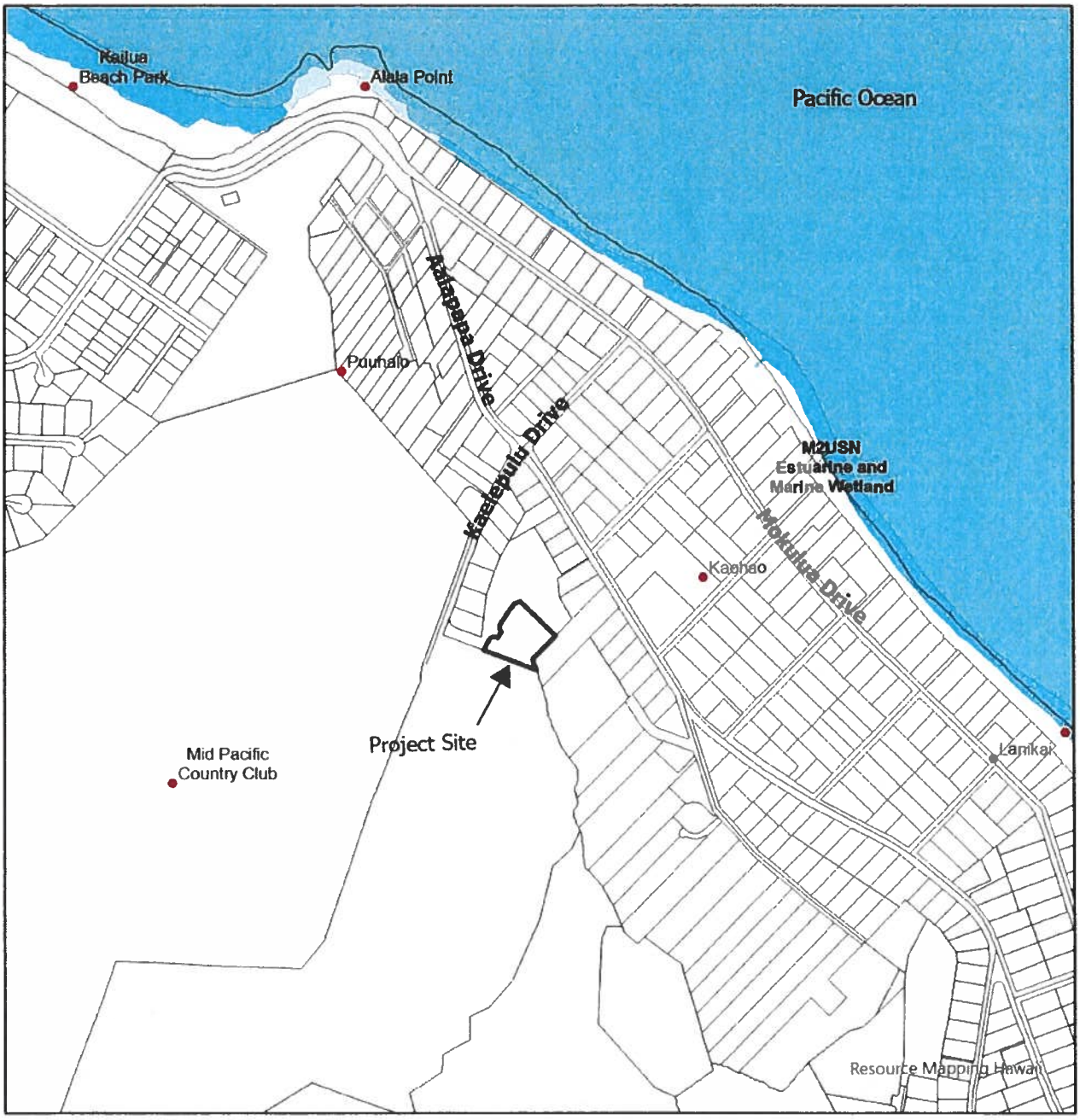
2024/SMA-117

TMK: 4-3-007: 077
EXHIBIT D - FLOOD ZONE MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024



Legend

Wetland 2023

- M1RF1L
- M2RSN
- M2USN

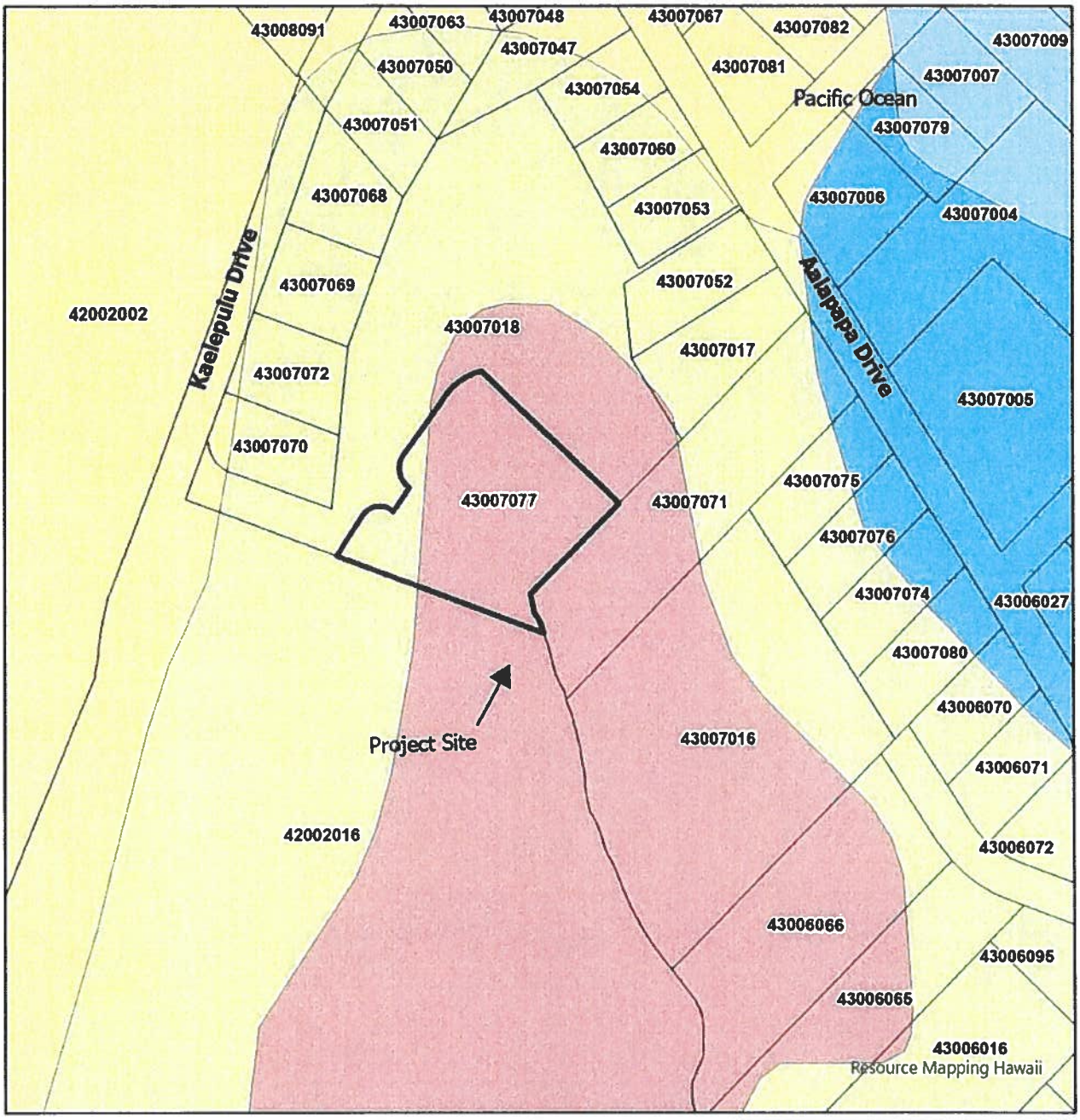
2024/SMA-117

TMK: 4-3-007: 077
EXHIBIT E - WETLANDS MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024



Legend

- JaC
- KTKE
- KtC
- Ms
- rSY

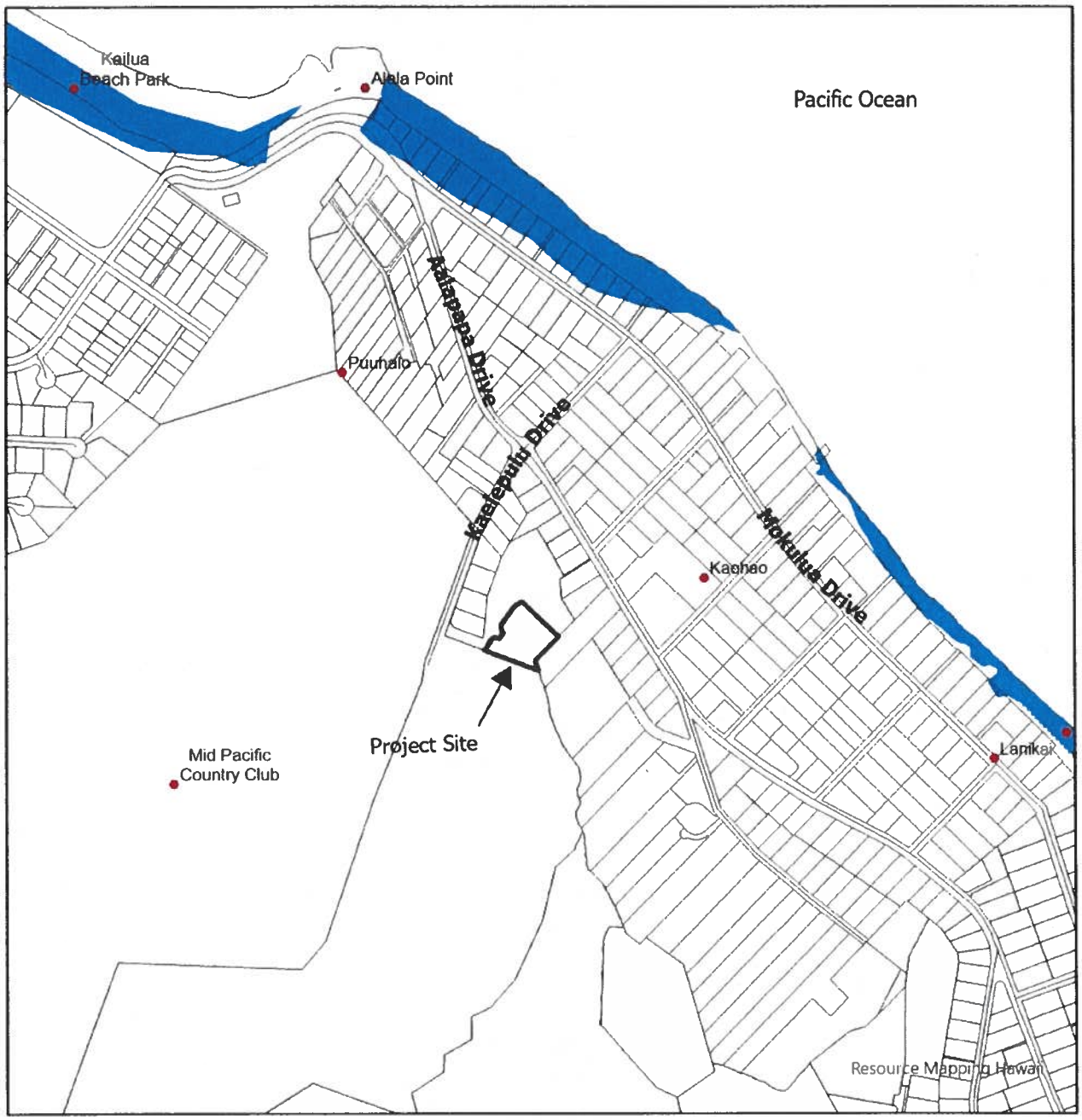
2024/SMA-117

TMK: 4-3-007: 077
EXHIBIT F - NRCS SOILS MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024



Legend

Sea Level Rise Exposure Area 3.2 ft

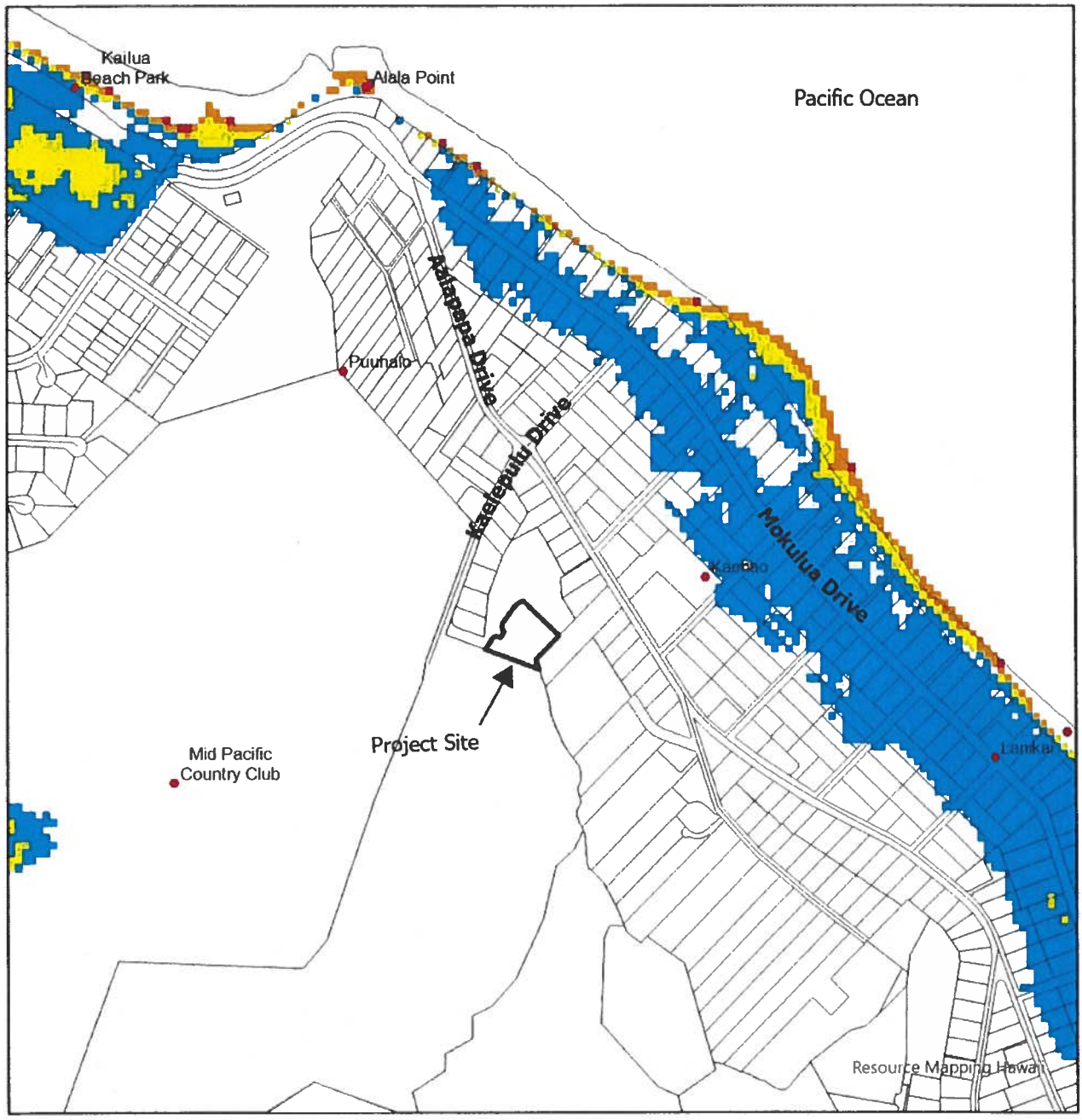
2024/SMA-117

TMK: 4-3-007: 077
EXHIBIT G - 3.2-FOOT SLR-XA MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024



Legend

Value

- Inudation under 3ft.
- 6ft of Inudation
- 9ft of Inudation
- up to 21 ft

2024/SMA-117

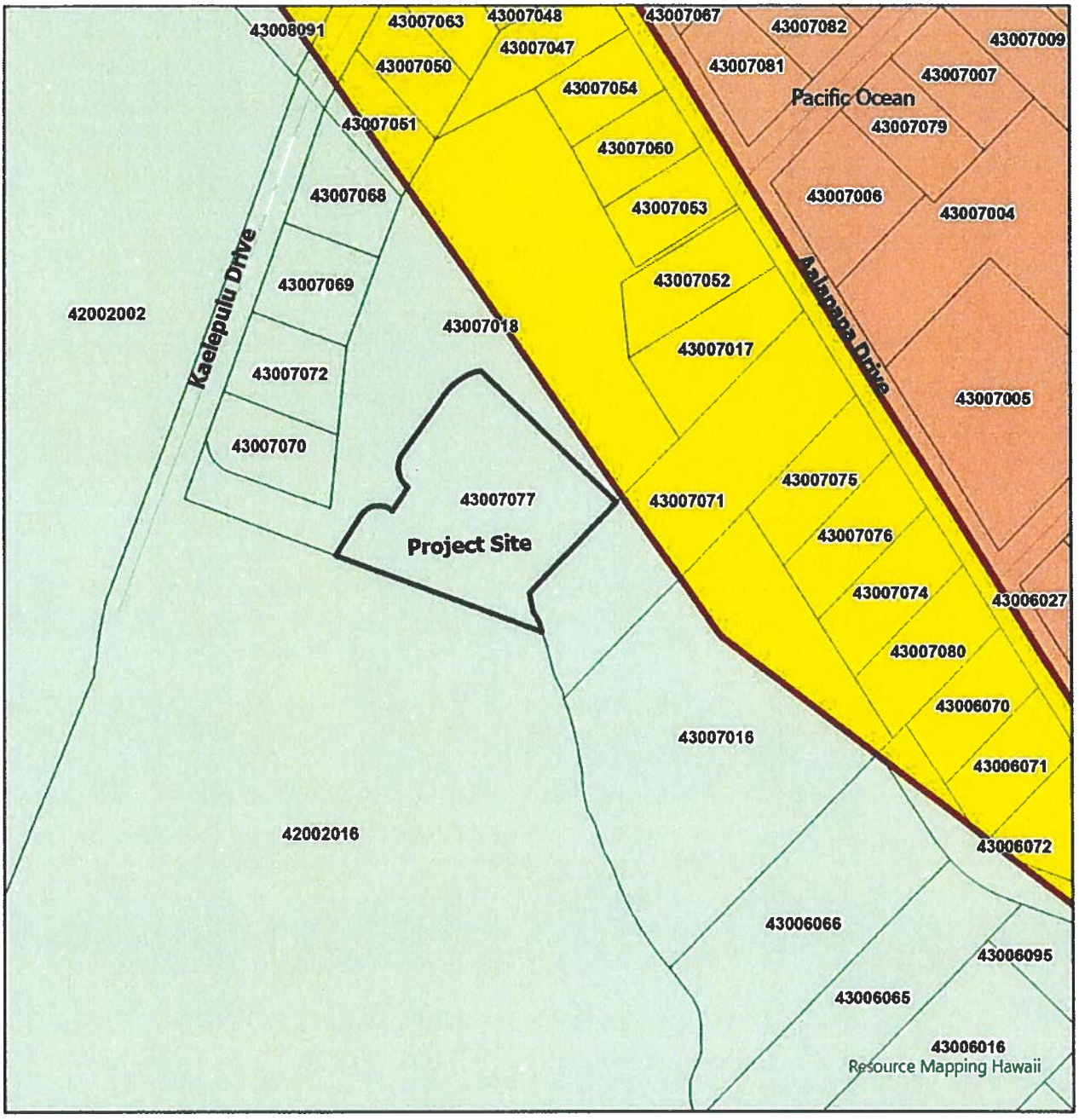
TMK: 4-3-007: 077

EXHIBIT H - HURRICANE STORM SURGE MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024



Legend

- Tsunami Evacuation Boundary Line 2015
- Tsunami Evacuation Zone
- Extreme Tsunami Evacuation Zone
- Safe Zone

2024/SMA-117

TMK: 4-3-007: 077

EXHIBIT I - TSUNAMI EVACUATION MAP

275 Kaelepulu Drive, Lanikai

City and County of Honolulu

November 2024



Source: City and County of Honolulu and PBR Hawai'i

Legend

- Kaiwa Ridge Trail Action Location Boundary
- 500' Cumulative Radius
- Project Site

EXHIBIT J - CUMULATIVE PROJECTS MAP
2024/SMA-117

Report Title:
Special Management Area ("SMA") Major Permit; Land Use Permit; Department of Planning and Permitting ("DPP")

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.