

MILILANI B. TRASK  
ATTORNEY AT LAW  
1720 ALA MOANA BLVD.  
HONOLULU, HAWAII

RECEIVED

JAN 23 10 04 AM '84

(808) 949-1020

DEPT. OF PLANNING  
COUNTY OF MAUI

January 26, 1984

Mr. Toshio Ishikawa  
Planning Director  
County of Maui  
Planning Department  
200 S. High Street  
Wailuku, Maui, Hawaii 96793

Re: SMA Assessment Application Improvements to  
culvert adjacent to Napili Bay Hotel  
TMK 4-3-2:52 - Napili, Maui

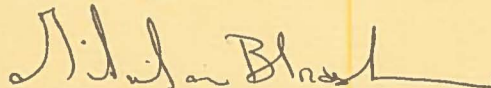
Dear Sir:

Enclosed herewith are the documents requested by  
your office by letters dated June 21, 1983, and August 4, 1983.  
These documents are as follows:

1. Three original copies of the Plat Map showing  
a cross-section of the work performed and the  
location of the projection relation to the  
shoreline.
2. One original copy of the shoreline survey  
certified by the DLNR December 15, 1983, with an  
inset vicinity map depicting the location of  
the project relative to Hoapili Highway.

We anticipate that our application will be processed  
in the regular course of business. Should additional clarifica-  
tion be required, please contact this office.

Sincerely,



Mililani B. Trask

MBT:st

Enclosure

MAUI PLANNING COMMISSION  
Stanley Okamoto, Chairman  
Victoria Chung, Vice Chairman  
Zadoc Brown  
Joseph Felipe  
Joseph J. Franco  
David T. Fukuda  
Lois Z. Haling  
Marlene Kaahui  
Roy Suda  
Raiph Hayashi, Ex-Officio  
William Haines, Ex-Officio



HANNIBAL TAVARES  
Mayor

TOSH ISHIKAWA  
Planning Director

CHRISTOPHER L. HART  
Deputy Planning Director

**COUNTY OF MAUI**  
**PLANNING DEPARTMENT**

200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

August 4, 1983

Ms. Mililani B. Trask  
1720 Ala Moana Blvd.  
Honolulu, HI 96815

Dear Ms. Trask:

Re: Special Management Area (SMA) Assessment Application -  
Improvements to culvert adjacent to the Napili Bay  
Hotel, TMK 4-3-02:52, Napili, Maui.

The Planning Department has received your letter dated July 13, 1983 and the department disagrees with your findings that "a shoreline survey is required if and only if the property abuts the shoreline." The department's request that a certified shoreline survey map be submitted is based on Article III: Shoreline Setback Rules and Regulations of the County of Maui as attached. These regulations state in part that:

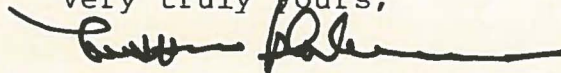
1. "All lots falling within the shoreline setback shall be subject to these regulations, regardless of whether or not they physically border the shoreline." (Section 5. Applicability.)
2. "All public and private construction involving lands within the shoreline setback and all applications for permits, review, fees, approvals, and any other similar governmental procedures shall be subject to these rules and regulations." (Section 9. Activities Subject to These Rules and Regulations.)
3. "All construction, improvements, grading, and such related activities within or immediately inland of the shoreline setback shall be subject to review and approval...under these rules and regulations." (Section 11. Authority of the Agency Along Shorelines.)

Ms. Mililani B. Trask  
August 4, 1983  
Page 2

A duly certified shoreline survey, pursuant to Section 7 (Establishment of the Shoreline), is required for any activity deemed to be subject to said rules and regulations. Should the applicant contend that the activity is outside the shoreline setback area, please note that Section 9 of the Rules and Regulations further provides that "[c]onstruction immediately inland of the shoreline setback shall also be subject to these rules and regulations, until such time that a certified and confirmed survey map...is filed with the Agency." The Agency, in this context, is the Planning Department.

The Planning Department, therefore, will await receipt of the shoreline certification map. Should additional clarification be required, please contact this office.

Very truly yours,



TOSHIO ISHIKAWA  
Planning Director

WM:wc  
Encl.

MILILANI B. TRASK  
ATTORNEY AT LAW  
1720 ALA MOANA BLVD.  
HONOLULU, HAWAII 96815

(808) 949-1020

July 13, 1983

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DEPT. OF PLANNING  
COUNTY OF MAUI

Mr. Toshio Ishikawa  
Planning Director  
County of Maui  
200 So. High Street  
Wailuku, Maui, Hawaii 96793

Re: SMA Application - Improvements to  
culvert adjacent to Napili Bay Hotel,  
TMK: 4-3-02: 52, Napili, Maui, Hawaii

Dear Sir:

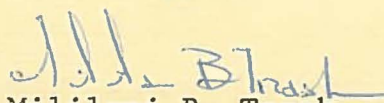
I am in receipt of your letter of June 21, 1983. Although your department agrees that the parcel does not directly abut the shoreline, you request that my clients expend an estimate of \$4,000 for a shoreline survey for three reasons:

1. The shoreline is in close proximity and unstable;
2. The State Beach Reserve which abuts the parcel is narrow; and
3. Your department is unsure whether the area is within the jurisdiction of the County's Shoreline Setback Rules and Regulations.

I have researched the relevant statutes and regulations. Under current law a shoreline survey is required if and only if the property abuts the shoreline. There are no exceptions to the above requirement where abutting state lands are narrow or where the jurisdiction of the County's rules and regulations is questionable. The County, by letter of June 21, 1983, admitted that my client's property does not directly abut the shoreline. The County further informed my client that they would not process the application sent until a shoreline survey was conducted.

Please notify me of the provisions, rules, regulations or statutes which require that my client obtain a shoreline survey.

Sincerely,

  
Mililani B. Trask

MAUI PLANNING COMMISSION  
Stanley Okamoto, Chairman  
Victoria Chung, Vice Chairman  
Zadoc Brown  
Joseph Felipe  
Joseph J. Franco  
David T. Fukuda  
Lois Z. Haling  
Marlene Kaahul  
Roy Suda  
Ralph Hayashi, Ex-Officio  
William Haines, Ex-Officio



HANNIBAL TAVARES  
Mayor

TOSH ISHIKAWA  
Planning Director

CHRISTOPHER L. HART  
Deputy Planning Director

COUNTY OF MAUI  
PLANNING DEPARTMENT

200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

June 21, 1983

Ms. Mililani B. Trask  
1720 Ala Moana Blvd.  
Honolulu, HI 96815

Dear Ms. Trask:

Re: Special Management Area (SMA) Assessment Application -  
Improvements to culvert adjacent to Napili Bay Hotel,  
TMK 4-3-02:52, Napili, Maui.

In response to your letter dated May 31, 1983, this department agrees that said parcel does not directly abut the shoreline; however, the parcel does abut a State Beach Reserve that according to our tax map appears quite narrow. Also, pictures submitted with the project application seem to indicate that the shoreline in the area of the drainage culvert is unstable. Therefore, due to the apparent close proximity of the shoreline and the potential instability of the beach, it is hereby requested that a certified shoreline map be submitted to this department for review within the context of the subject application.

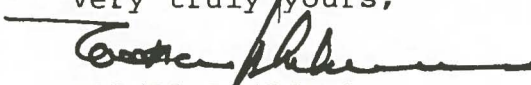
Please be advised that the forty (40) foot shoreline setback is measured from the certified shoreline irrespective of existing property lines and/or property ownerships, and that the certified shoreline map is necessary to adequately delineate the area which may be within the jurisdiction of the County's Shoreline Setback Rules and Regulations.

Also, please be advised that, pursuant to Item #6 of the SMA Assessment form, your application is incomplete and that a vicinity map drawn to scale and clarifying the location of the project relative to Honoapiilani Highway, the ocean and any adjacent properties should be submitted to the Planning Department, together with a typical engineering section of the work to be performed. The subject application will be held in abeyance pending receipt of the foregoing information.

Ms. Mililani Trask  
June 21, 1983  
Page #

Thank you for your cooperation. Should additional clarification be required, please contact this office.

Very truly yours,

  
TOSHIO ISHIKAWA  
Planning Director

WM:wc

cc: G. Archer  
W. Medeiros ✓  
E. Ansai  
J. Dela Cruz

MAUI PLANNING COMMISSION  
Stanley Okamoto, Chairman  
Victoria Chung, Vice Chairman  
Zadoc Brown  
Joseph Felipe  
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HANNIBAL TAVARES  
Mayor

TOSH ISHIKAWA  
Planning Director

CHRISTOPHER L. HART  
Deputy Planning Director

COUNTY OF MAUI  
PLANNING DEPARTMENT

200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793

June 21, 1983

Ms. Mililani B. Trask  
1720 Ala Moana Blvd.  
Honolulu, HI 96815

Dear Ms. Trask:

Re: Special Management Area (SMA) Assessment Application -  
Improvements to culvert adjacent to Napili Bay Hotel,  
TMK 4-3-02:52, Napili, Maui.

In response to your letter dated May 31, 1983, this department agrees that said parcel does not directly abut the shoreline; however, the parcel does abut a State Beach Reserve that according to our tax map appears quite narrow. Also, pictures submitted with the project application seem to indicate that the shoreline in the area of the drainage culvert is unstable. Therefore, due to the apparent close proximity of the shoreline and the potential instability of the beach, it is hereby requested that a certified shoreline map be submitted to this department for review within the context of the subject application.


Please be advised that the forty (40) foot shoreline setback is measured from the certified shoreline irrespective of existing property lines and/or property ownerships, and that the certified shoreline map is necessary to adequately delineate the area which may be within the jurisdiction of the County's Shoreline Setback Rules and Regulations.

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Ms. Mililani Trask  
June 21, 1983  
Page #

Thank you for your cooperation. Should additional clarification be required, please contact this office.

Very truly yours,



TOSHIO ISHIKAWA  
Planning Director

WM:wc

cc: G. Archer  
W. Medeiros  
E. Ansai  
J. Dela Cruz



MILILANI B. TRASK  
ATTORNEY AT LAW  
1720 ALA MOANA BLVD.  
HONOLULU, HAWAII 96815

(808) 949-1020

RECEIVED  
JUN 2 10 13 AM '83  
DEPT. OF PLANNING  
COUNTY OF MAUI

May 31, 1983

Planning Director  
c/o Colleen Tsuyama  
County of Maui  
200 S. High Street  
Wailuku, Maui, Hawaii 96793

Re: Violation issued to Napili Bay Hotel  
TMK: 4-3-2: 52

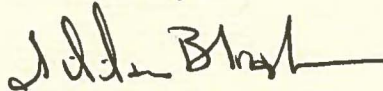
Dear Ms. Tsuyama:

Enclosed find the Assessment Application for curing the above violation. I hereby request that Administrative Approval be given to this request for shoreline setback approval.

Our surveyor at Norman Saito Engineering Consultants, Inc. has advised us to submit the Application without pursuing a shoreline survey because the boundary in question does not abut the shoreline but is perpendicular thereto. If your office disagrees with the above, please notify me in writing immediately.

Please contact me at the above address if additional or supplemental data is required.

Sincerely,



Mililani B. Trask

MBT:mk

(Please Print or Type)

Planning Director  
County of Maui  
200 S. High Street  
Wailuku, Hawaii 96793

Dear Sir:

Re: Filing of Assessment Application

Pursuant to Article II, Part II, Section 2-9, Item 2 (Filing of Assessment Application of the Special Management Area Rules and Regulations of the County of Maui), of the Rules and Regulations of the Planning Commission of the County of Maui; (I,we) hereby request an assessment of a proposed action within the Special Management Area (SMA). The following information is provided for your use in evaluating said action:

1. Identification of the Applicant along with documentation of ownership and authorization by the owners of the land on which the proposed action is to occur. (See attached Supplement & Exhibit "A" & "B").
2. Tax Map Key of the property: 4-3-2-52  
Location: Lahaina, County of Maui Area: Parcels 51/52; 43,089 sq. ft.
3. A plot plan of the land upon which the proposed action is to occur.  
(See Exhibit "C")
4. A certified shoreline survey if the land abuts the shoreline.
5. A written description of the proposed action, including but not limited to the use, length, width, height, depth, and building materials of the proposed action.

See attached supplement

6. A plan of the development designating in dimensions the location of the proposed action on the land. If structures are included in the action, the plan of the development shall also show a dimensioned floor plan, sections, elevations and other features.
7. Verification of the total cost or fair market value of the proposed action as estimated by an architect, engineer, or contractor licensed by the Department of Regulatory Agencies, State of Hawaii, or by the administrator of the Land Use and Codes Administration, County of Maui: \$3,700.60. (See Exhibits "D" and "E")
8. An Environmental Impact Statement if required pursuant to Chapter 343, Hawaii Revised Statutes, or if required by the Director.
9. Any other information and documentation required by the Director.  
(See Exhibit "F")

In addition, if it is deemed appropriate, (I,we) hereby respectfully request issuance of a minor permit pursuant to Section 2-9, item 5 (Director's Determination of Assessment Application) of the Special Management Area Rules and Regulations.

Thank you for your cooperation.

Very truly yours,

Signature: Yuklin Aluli

(Please Print)

Name: Yuklin Aluli

Address: 1720 Ala Moana Blvd., Hon., HI 96815

1720 Ala Moana Blvd., Hon., HI 96815

ASSESSMENT APPLICATION SUPPLEMENT

1. Identification of Applicant and Authorization:

The Applicant is the Association of Apartment Owners of Napili Bay Apartments which pursuant to the Declaration of Horizontal Property Regime Under Chapter 514, Hawaii Revised Statutes and the By-Laws attached thereto, owns, manages and controls the common elements (land) of the Project, known as the Napili Bay Hotel. (See Exhibit "A" attached hereto).

Authorization for this application has been approved by Yuklin Aluli, President of the Association of Apartment Owners. (See Exhibit "B" attached hereto).

2. See Assessment Application.

3. See Exhibit "C" attached hereto.

4. Boundary of parcel does not abut shoreline.

5. Description of the proposed action:

The proposed action required gunniting of an area 60 feet long, 10 feet high, varying in width from 3 to 5 feet as dictated by the contour of the bank, to a depth of 1 foot.

Building materials required for the project included were mesh for form and reinforcement, gunnite concrete, and a sprayer for application of same. (See attached photographs).

6. See Exhibit "C".

7. \$3,700.60. (See Exhibits "D" and "E".

8. N/A.

9. See Exhibit "F" (photographs) attached hereto.

LIBER 12489 PG 587  
77 00 14 All: 58

RECORDATION REQUESTED BY: 77- 33304

AFTER RECORDATION, RETURN TO:  
Yuklin Aun, Esq. 941-0188  
RETURN BY: MAIL ( ) PICKUP ( )

DECLARATION OF HORIZONTAL PROPERTY REGIME  
UNDER CHAPTER 514 HAWAII REVISED STATUTES

WHEREAS, HAWAIIAN TRADEWINDS, INC., a Hawaii corporation, with its principal place of business and post office address at 1720 Ala Moana, Honolulu, Hawaii, hereinafter referred to as "Owner," is the Owner in fee simple of land described in Exhibit A attached hereto and made a part hereof, hereinafter referred to as the "Land"; and

WHEREAS, the Owner has developed the Land as a condominium project as more specifically described herein in accordance with plans incorporated herein by reference, to be recorded in the Bureau of Conveyances, State of Hawaii, as Condominium File Plan. 518

NOW, THEREFORE, the Owner hereby expresses its desire that the property described herein be submitted to a Horizontal Property Regime as established by Chapter 514 Hawaii Revised Statutes as amended and hereby submit its interest therein to a Horizontal Property Regime and in furtherance thereof makes the following declarations as to divisions, limitations, restrictions, covenants and conditions, and hereby declares and agrees that said property is held and shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the declarations, restrictions and conditions set forth herein and in the Bylaws attached hereto as Exhibit B and made a part hereof ("Bylaws") as the same may from time to time be amended;

EXHIBIT "A"

which declarations, restrictions and conditions shall constitute covenants running with the land and shall be binding on and for the benefit of the parties hereto, their heirs, executors, administrators and assigns and all subsequent owners and lessees of all or any part of the condominium project and their respective successors, heirs, executors, administrators and assigns.

1. Name. The Horizontal Property Regime established hereby shall be known as the Napili Bay.

2. Land Description. The land submitted to the Horizontal Property Regime is described in Exhibit A.

3. Description of the Buildings and Apartments. There are two 2-story wood frame buildings and a one story building housing the ice maker, public phones, and laundry facilities. There are 34 apartment units and 43 parking stalls plus two loading stalls.

The development has extensive landscaping, outdoor lighting, and a sewage treatment plant.

Building "A" which is fronting the beach contains 13 studio units on each floor for a total of 26 beachfront units. Building "B" contains 4 units per floor for a total of 8 non beachfront units. The apartments are numbered consecutively from 101 to 118 on the bottom floor and 201 to 218 on the second floor. The numbering begins at 101 with the bottom apartment on the north corner of Building "A" and ends at 218 with the mauka corner apartment on the second floor of Building "B". All apartments bearing apartment numbers with the same last two digits are in a vertical alignment. Apartment 118 in Building "B" is retained as a manager's apartment and becomes a common element of the condominium.

The apartments are all identical in size and construction. They contain a net living area of 366<sup>+</sup> square feet and a covered lanai of 66<sup>+</sup> square feet. The construction is double wall and the interior finish is gypsum board which is painted. The ceilings except for the baths is blown accoustical, the bath ceilings are painted. The kitchenette has a single sink, plastic covered countertop, an undercounter refrigerator and a 21 inch, 4 burner, slide in range and oven. There is a dressing area with vanity plus wardrobe closet adjoining the bath which has a 4 1/2 foot tub with shower cover and cultured marble wainscoating and tub.

There is an office adjoining the manager's apartment, lower level Building "B". The laundry building is a one story building and provides 2 washer hook ups and two gas dryer hook ups, work area and lanai.

The building exteriors have redwood siding, 3 stairways in Building "A", and 2 stairways in Building "B". The roofs are cedar shakes.

4. Limits of Apartments. The respective apartments shall not be deemed to include the undecorated or unfinished walls, the floors and ceilings surrounding each apartment, or any pipes, wires, conduits or other utility lines running through such apartment which are utilized for or serve more than one apartment, the same being deemed common elements as hereinafter provided. Each apartment shall include a covered lanai as shown on said Condominium File Plan. Each apartment shall be deemed to include all the walls and partitions which are not load-bearing within its perimeter walls, the inner decorated or finished surfaces of all walls, floors and ceilings, and the built-in fixtures.

5. Common Elements. The common elements will include the Land and all improvements on the Land, including Buildings "A" and "B: (except for all portions of Buildings "A" and "B" which are apartments other than Apartment No. 118), the Limited Common Elements, as well as all common elements mentioned in Chapter 514, Hawaii Revised Statutes, which are actually constructed on the Land and specifically shall include, but shall not be limited to:

- (a) Said Land in fee simple;
- (b) Apartment No. 118 to be used by the resident manager;
- (c) The one-story building housing the ice maker, public phones, and laundry facilities;
- (d) All foundations, floor slabs, columns and load-bearing walls;
- (e) The roofs;
- (f) All landscaped yards, plantings and retaining walls, and similar items;
- (g) The laundry facilities;
- (h) All roads, driveway areas and exterior ground level walkways;
- (i) All ducts, electrical equipment, wiring and other central and appurtenant installations for services including power, light, cold and hot water, refuse and telephone;
- (j) All other devices or other installations upon the Land existing for or rationally of common use to all the owners of apartments within the project;
- (k) The forty-three parkings stalls plus the two loading stalls.

6. Limited Common Elements. Limited common elements so set aside and reserved are as follows:

(a) The stair cases in and the passageways on the exterior of the second floors of each apartment will be limited common elements reserved for the use of the apartments on the second floor of each building.

(b) All common elements of the project which are rationally related to less than all apartments shall be limited to the use of such apartments.

7. Percentage Interest to be Conveyed to Purchasers.

The percentage of undivided interest in all of the common elements appertaining to each apartment will be 1/33 or 3.03+ percentage.

8. Easements. The apartments and common elements shall also have and be subject to the following easements:

(a) Each apartment shall have appurtenant thereto nonexclusive easements in the common elements designed for such purposes for ingress to , egress from, and support, maintenance and repair of such apartment; in the other common elements for use according to their respective purposes, subject always to the exclusive use of the limited common elements as provided herein; and in all other apartments and limited common elements of the buildings for support;



(b) If any part of the common elements now or hereafter encroaches upon any apartment or limited common element, or if any apartment now or hereafter encroaches upon any other apartment or upon any portion of the common elements, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. In the event the apartment buildings shall be partially or totally destroyed and then rebuilt, minor encroachments of any parts of the common elements upon any apartment or of any apartment upon any other apartment or upon any portion of the common elements due to construction shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist;

(c) The Association shall have the right, to be exercised by its Board or the Managing Agent, to enter each apartment and the limited common elements from time to time during reasonable hours as may be necessary for the operation of the project or for making emergency repairs therein necessary to prevent damage to any apartments or common elements.

(d) Each apartment owner shall have an easement in common with the owners of all other apartments to use all pipes, wires, ducts, cables, conduits, public utility lines and other common elements located in any of the other apartments and serving his apartment. Each apartment shall be subject to an easement in favor of the owners of all other apartments for access to any common elements located in such apartment..

(e) Alteration and Transfer of Interests. The common interest and easements appurtenant to each apartment shall have a permanent character and shall not be altered without the consent of all of the apartment owners affected, expressed in an amendment to this Declaration duly recorded. The common interest

and easements shall not be separated from the apartment to which they appertain, and shall be deemed to be conveyed, leased or encumbered with such apartment even though such interest or easements are not expressly mentioned or described in the conveyance or other instrument.

9. Purposes.

(a) The apartments hereinabove described shall at all times be used only for a private dwelling for the owner, his family, tenants and social guests. An owner may arrange to have his apartment rented to transients.

(b) The owner of an apartment shall not use or permit to be used the same for any purpose which will injure the reputation of the project. Such owner shall not suffer anything to be done or kept in said apartment or elsewhere which will interfere with or unreasonably disturb the rights of other owners, or which will increase the rate of fire insurance on the buildings or the contents thereof, or which will reduce the value of the apartment buildings.

(c) The owner of an apartment shall not, without the prior written consent of the Board, make any structural alterations in or additions to the apartment, or make any alterations in or additions to the exterior of the apartment (including awnings, jalousies or screens) or to any other portion or portions of the common elements unless otherwise provided by the By-laws.

10. Service of Process. Max Eckart, agent for HAWAIIAN TRADEWINDS, INC., with its address at 1720 Ala Moana, Honolulu, Hawaii, is hereby designated as the person to receive service of process until such time as the Board of the Association is elected, at which time and thereafter process may be served upon any member of said Board.

11. Percentage of Votes Required for Rebuilding.

In the event of damage or destruction of all or part of any Building or of any Limited Common Element appurtenant to an Apartment therein, the percentage of votes by the Apartment Owners which shall be determinative of whether to rebuild, repair or restore a Building shall be a vote of the Owners of Apartments in the Building so damaged or destroyed, owning at least eighty percent (80%) of the common interests appurtenant to the Apartments in such Building; that is, the Building or the Limited Common Elements shall be rebuilt, repaired or restored unless Owners in such Building owning at least eighty percent (80%) of such common interests shall vote against rebuilding, repairing or restoring. If more than one Building is damaged or destroyed, the votes of Apartment Owners in each Building shall be separately counted. In the event of substantial damage or destruction of all or part of any other Common Elements, the same shall be rebuilt, repaired or restored unless the Apartment Owners to whose Apartments are appurtenant eighty percent (80%) of the interests in the Common Elements shall vote against such rebuilding, repairing or restoring.

12. Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such provision had never been included herein.

13. By-Laws. In furtherance of the provisions of this Declaration, the Owners hereby approve and adopt the By-Laws annexed hereto as Exhibit B and made an integral part hereof. The

Owners hereby affirm that the property described in this Declaration shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved in accordance with the Bylaws. In the event of any discrepancy between a provision of this Declaration and a provision of the Bylaws, the provisions of this Declaration shall prevail.

14. Amendment. This Declaration of Horizontal Property Regime may be amended, consistent with the provisions of Chapter 514, Hawaii Revised Statutes, as amended, by the vote of the owners of at least seventy-five percent (75%) of the common interests in the common elements, evidenced by an instrument in writing, signed and acknowledged by any two officers of the Association of Apartment Owners, which amendment shall be effective upon filing in the Bureau of Conveyances of the State of Hawaii; provided, however, that the Owners reserve the right to amend this Declaration without the consent or joinder of any apartment owner in order to file an amendment pursuant to the provisions of Section 514-13, Hawaii Revised Statutes, after completion of the buildings described herein, and attaching to such amendment a verified statement of a registered architect certifying that the Final Plans theretofore filed fully and actually depict the layout, location, apartment numbers, and dimensions of the apartments as built.

15. Responsibility of the Association; Responsibility of the Apartment Owners.

(a) Administration of the Project. The administration of the project shall be vested in its Association of Apartment Owners consisting of all Apartment Owners of the project, which shall be constituted and act in accordance with the Act, this Declaration and the Bylaws. Operation of the project and maintenance, repair, replacement and restoration of the common elements, and any additions and alterations thereto, shall be in

accordance with the provisions of the Act, this Declaration and the Bylaws.

(b) Maintenance of the Apartments. The Owner or Owners of an Apartment shall be jointly and severally responsible for the repair, upkeep and maintenance of the apartment as well as responsible for the use of the apartment and the conduct of all persons using such apartment, all in accordance with the provisions of the Act, this Declaration and the Bylaws, and any additions to or amendments thereof.

IN WITNESS WHEREOF the Owner has executed this instrument this 3rd day of October, 1977.

HAWAIIAN TRADEWINDS, INC.

Keoikai C. Aluli  
By its President, KEPOIKAI C. ALULI

Yoshiho Ogami  
By its Secretary, YOSHIHO OGAMI

STATE OF HAWAII )  
CITY AND COUNTY OF HONOLULU ) SS.

<sup>CB</sup> On this 3rd day of October, 1977, before me appeared KEPOIKAI C. ALULI and YOSHIHO OGAMI, to me personally known, who, ~~did say that they are the President and~~ <sup>he is</sup> ~~the President and~~ <sup>CB</sup>

CORPORATE ACKNOWLEDGEMENT

<sup>City and</sup> STATE OF HAWAII )  
County of Honolulu ) ss.

On this 4th day of October, 1977, before me appeared KEPOIKAI C. ALULI to me personally known, who, being by me duly swom, did say that he is the President

of HAWAIIAN TRADEWINDS, INC. and that the seal affixed to said instrument is the corporate seal of said corporation, and that the instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said KEPOIKAI C. ALULI acknowledged the instrument to be the free act and deed of said corporation (~~and that said corporation has no corporate seal~~).

Constance P. [Signature]  
Notary Public, First Judicial Circuit, State of Hawaii  
My commission expires Nov. 29, 1978.

EXHIBIT "A"

All of that certain parcel of land being all of Lots 7 and 8 of the Napili Beach Lots and Grant 13625 to Yoshiho Ogami and Toshio Ogami and Grant 13624 to Keпоikai Aluli, situate Napili, Lahaina, Maui, Hawaii.

Beginning at a pipe on the southeasterly corner of this parcel of land, being also the northeasterly corner of Lot 6, on the westerly side of Hui Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Malo" being:

23,685.99 feet North

5,822.06 feet West

and running by azimuths measured clockwise from true south:

- |    |              |        |   |
|----|--------------|--------|---|
| 1. | 50° 45'      | 109.48 | feet along Lot 6 and Grant S-13,675 to Ray David Fleming to a pipe;   |
| 2. | 113° 30'     | 138.00 | feet along State of Hawaii Land to a pipe;  |
| 3. | 141° 50'     | 161.00 | feet along same to a pipe;  |
| 4. | 225° 25'     | 129.00 | feet along Government Beach Reserve to a pipe;  |
| 5. | 308° 19' 30" | 147.23 | feet along Lot 9 and Grant 13,580 to Arthur Wyndham Lewis to a pipe;  |
| 6. | 275° 13' 30" | 45.43  | feet along same to a pipe;  |
|    |              |        | thence along Hui Drive and along an arc of a curve to the left with a radius of 80.00 feet, the chord azimuth and distance being: |
| 7. | 342° 59' 15" | 60.55  | feet to a pipe;   |
| 8. | 320° 45'     | 64.00  | feet along Hui Road to the point of beginning and containing an acre of 43,089 Square Feet.                                       |

RECORDATION REQUESTED BY:

AFTER RECORDATION, RETURN TO:

RETURN BY: MAIL ( ) PICKUP ( )

---

BYLAWS OF ASSOCIATION OF APARTMENT OWNERS OF  
NAPILI BAY APARTMENTS

WHEREAS HAWAIIAN TRADEWINDS, INC., hereinafter called "Declarant", is the owner in fee of the Land described in the Declaration of Horizontal Property Regime ("Declaration") to which these Bylaws are annexed; and

WHEREAS the Declarant is desirous of adopting these Bylaws which shall be annexed to the Declaration;

NOW, THEREFORE, Declarant hereby declares that the Project is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following Bylaws, all of which are declared and agreed to be in furtherance of the plan set forth in the Declaration to which these Bylaws are annexed, to constitute the Project a Horizontal Property Regime or Condominium under the Act and are established and agreed upon for said purposes and for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Project. These Bylaws shall run with the Land and Apartments and shall be binding upon all parties having or acquiring any right, title or interest therein. The Declarant, acting as the present Association of the Project hereby approves and adopts these Bylaws pursuant to the Act.

ARTICLE I

INTRODUCTORY PROVISIONS

SECTION 1. Definitions. The terms used herein shall have the meanings given to them in said Chapter 514, except as expressly otherwise provided herein. The term "common elements" means those elements designated in the aforesaid Declaration as common elements and limited common elements, if any. The terms

SECTION 12. Conduct of Meetings. All Association Meetings shall be conducted in accordance with Robert's Rules of Order or other accepted rules for the conduct of meetings.

SECTION 13. Audit of the Association Books. The Association members may require, by vote at the annual meeting, a yearly audit of the Association books by a certified public accountant.

SECTION 14. Minutes of Meetings. The minutes of meetings of the Association shall be available for examination by apartment owners at convenient hours at a place designated by the Board of Directors.

### ARTICLE III

#### BOARD OF DIRECTORS

SECTION 1. Number and Qualifications. The affairs of the Condominium shall be governed by a Board of Directors. The Board of Directors shall be composed of five (5) persons, all of whom shall be Owners, Co-owners or Vendees under an agreement of sale, or in the case of corporate Owners, shall be an officer of such corporations, or in the case of partnership Owners, any general partner of such partnership. A resident manager of the condominium project may not serve on the Board of Directors. The President of the Association of Owners shall serve as a member of the Board of Directors.

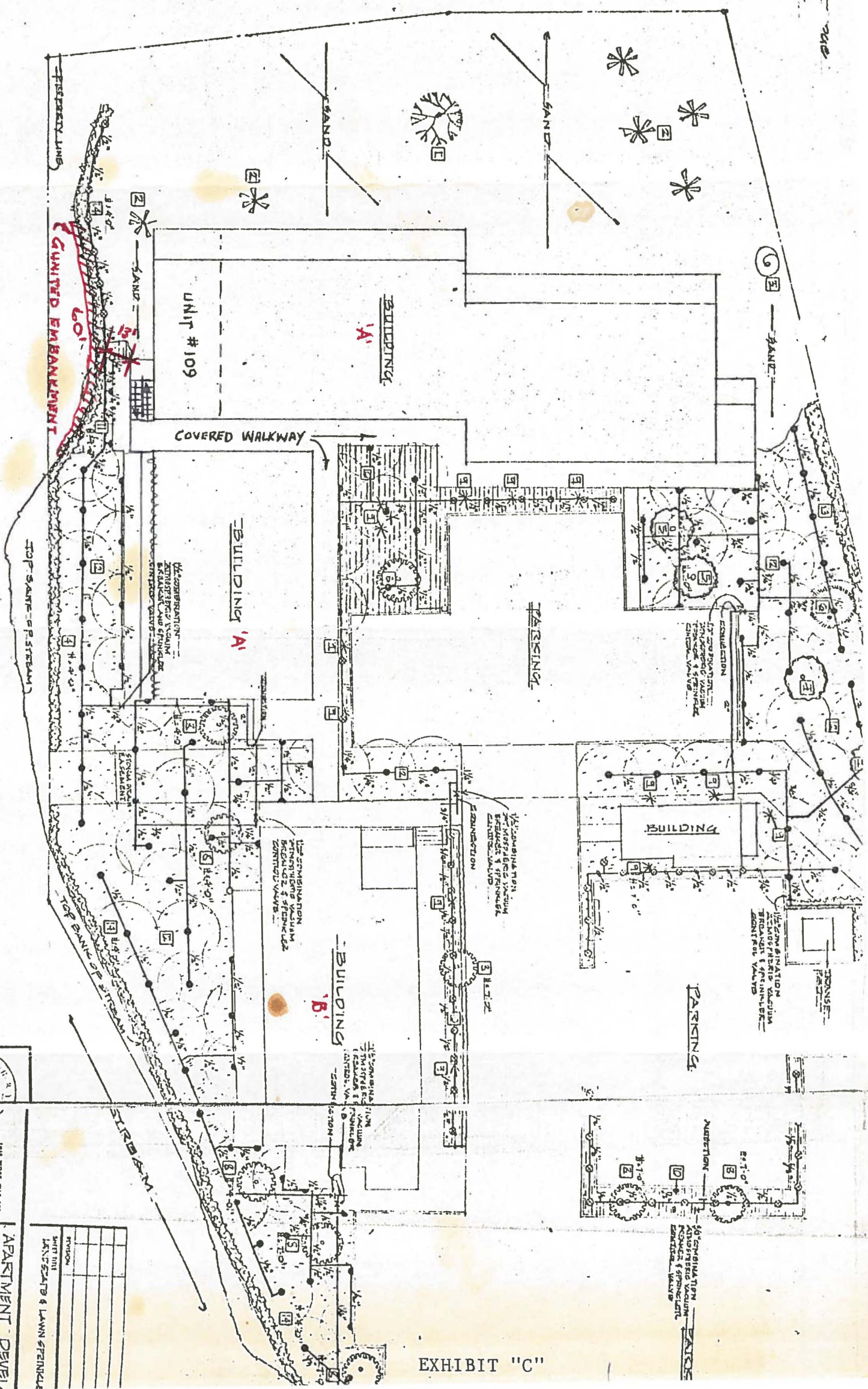
SECTION 2. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things except as by law or by the Declaration or by these Bylaws may not be delegated to the Board of Directors by the Apartment Owners. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the common elements;
- (b) Determination of the common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the property;
- (c) Collection of the common expenses from the Apartment Owners;
- (d) Employment and dismissal of the personnel necessary for the maintenance, operation, repair and replacement of the common elements;
- (e) Adoption and amendment of Rules and Regulations covering the details of the operation and use of the property;
- (f) Opening of bank accounts on behalf of the Association of Apartment Owners and designating the signatories required therefor;
- (g) Obtaining of insurance for the property, including the Apartments, pursuant to the provisions of ARTICLE VII hereof;





- 12 EXISTING AREAS
- 13 EXISTING HILLSIDES
- 14 SITES HEREON
- 15 EXISTING FEATURES



LANDSCAPE AND LAWN SPRINKLER PLAN  
SCALE: 1" = 10'-0"

THIS WORK SHALL BE MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE APPLICABLE CODES AND REGULATIONS AND SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE APPLICABLE AGENCIES.

APARTMENT DEVELOPER  
NAPILI BEACH LOTS 51  
NAPILI, HAWAII, MAUI

BAUER-MORRIS ARCHITECTS  
DENVER, COLORADO

DATE: 1/1/00

PROJECT: NAPILI BEACH LOTS 51

SCALE: 1" = 10'-0"

EXHIBIT "C"

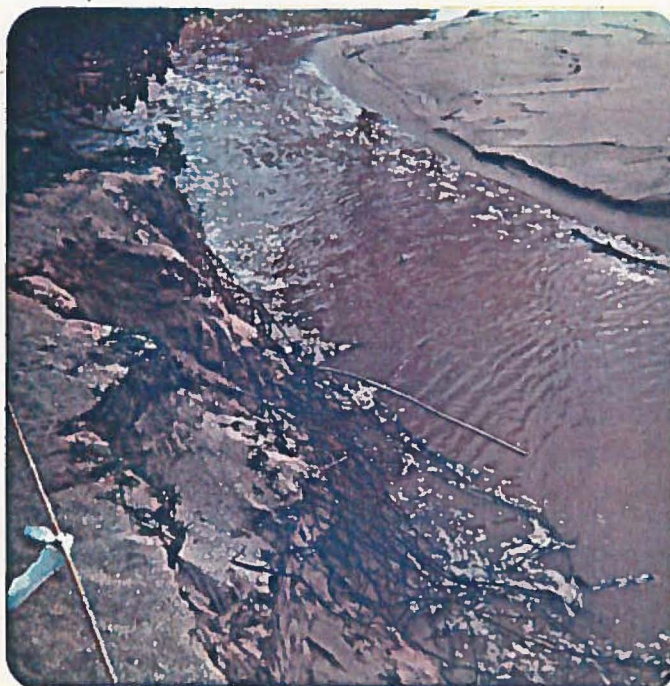
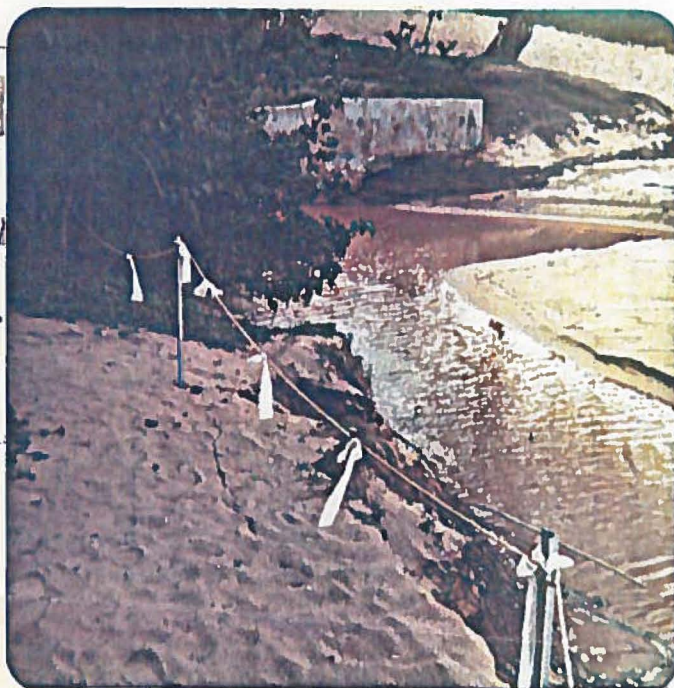
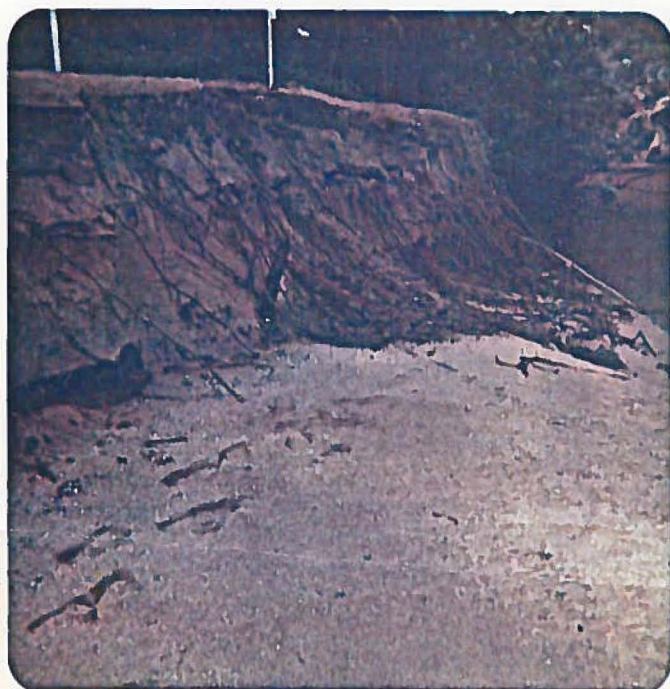
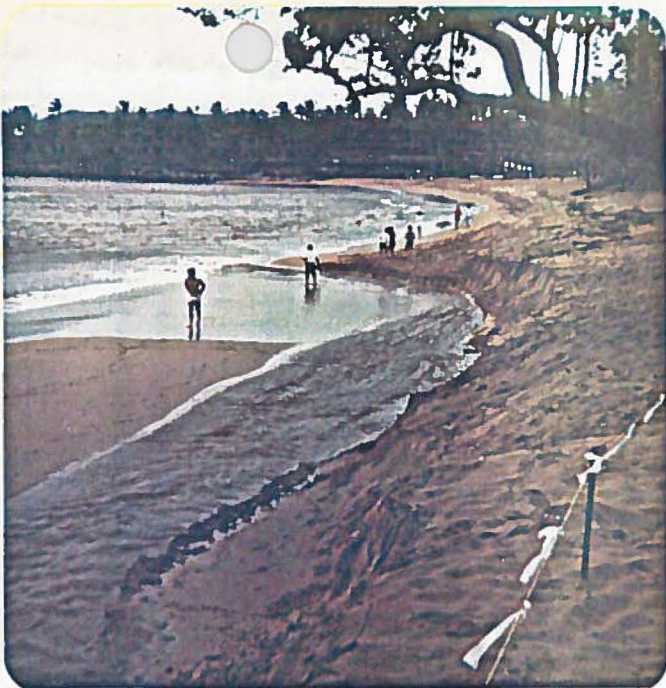
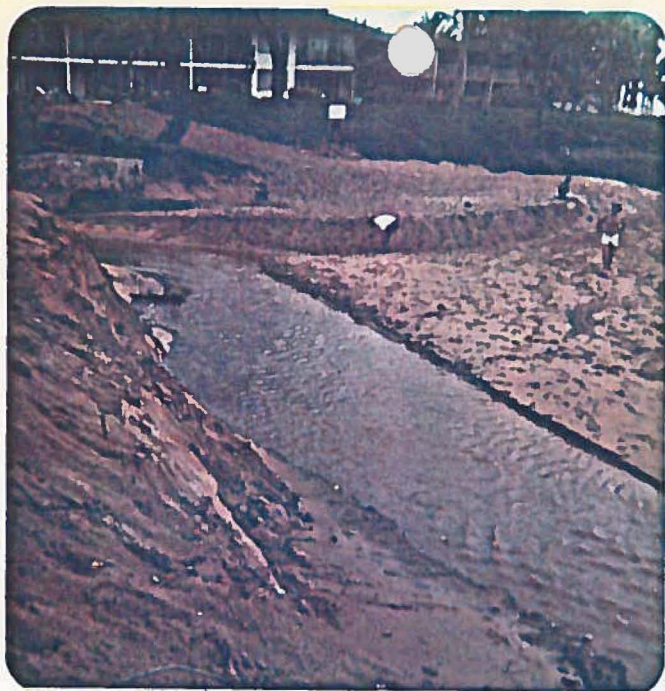
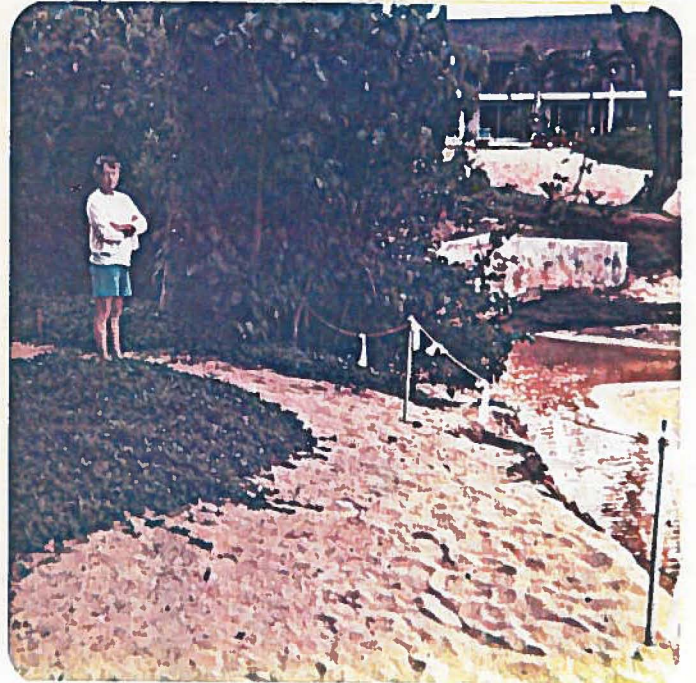
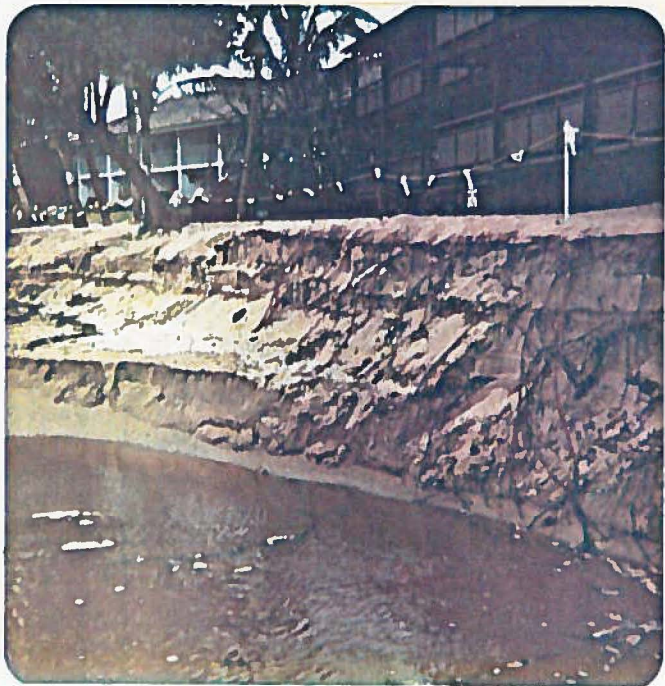
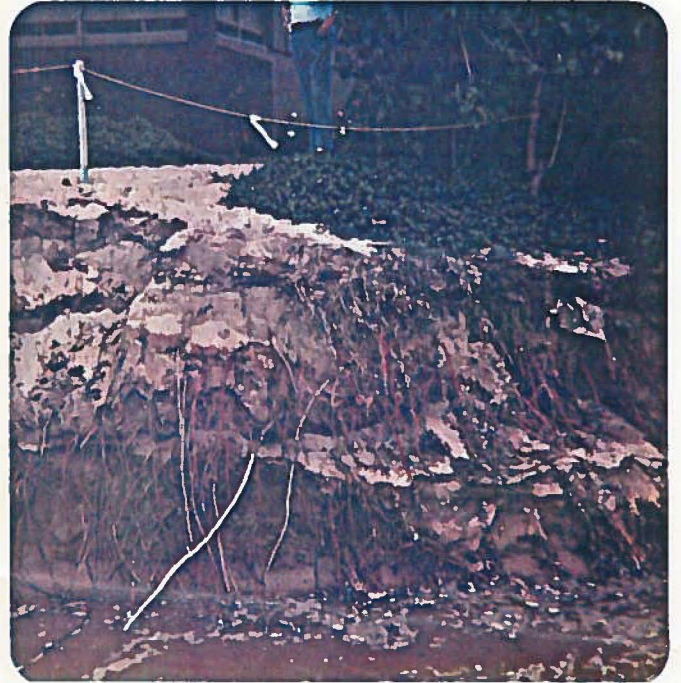
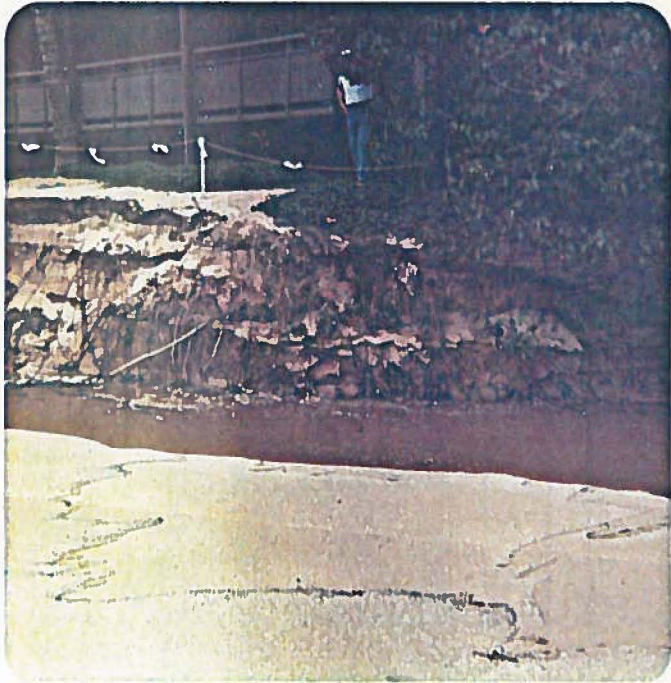
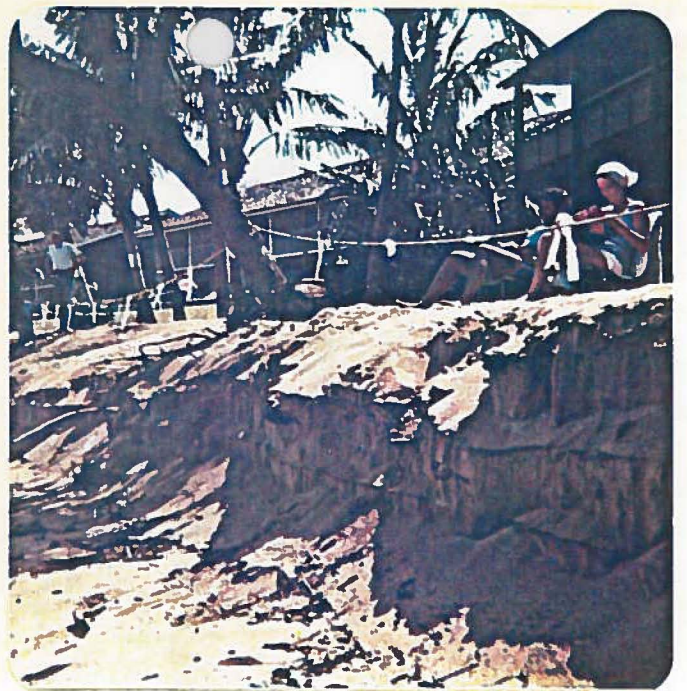
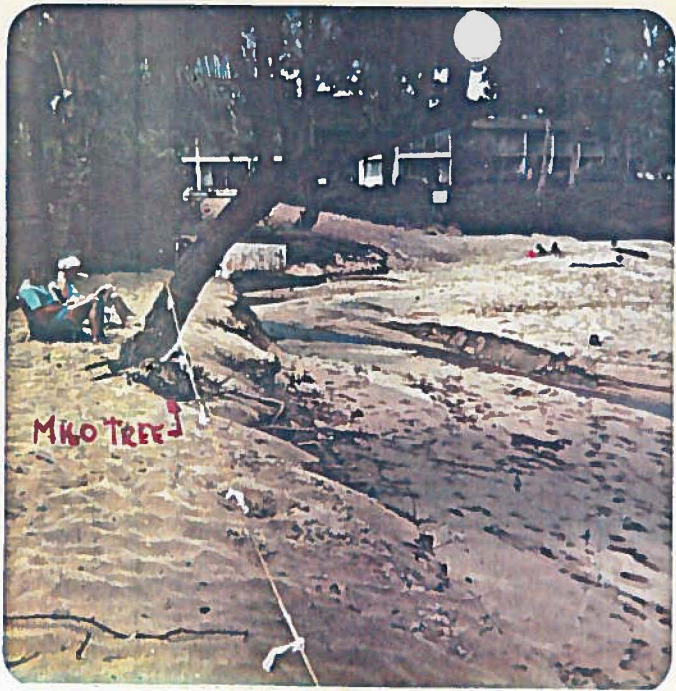


EXHIBIT "F"





OUR BEACH - DEC. 1979

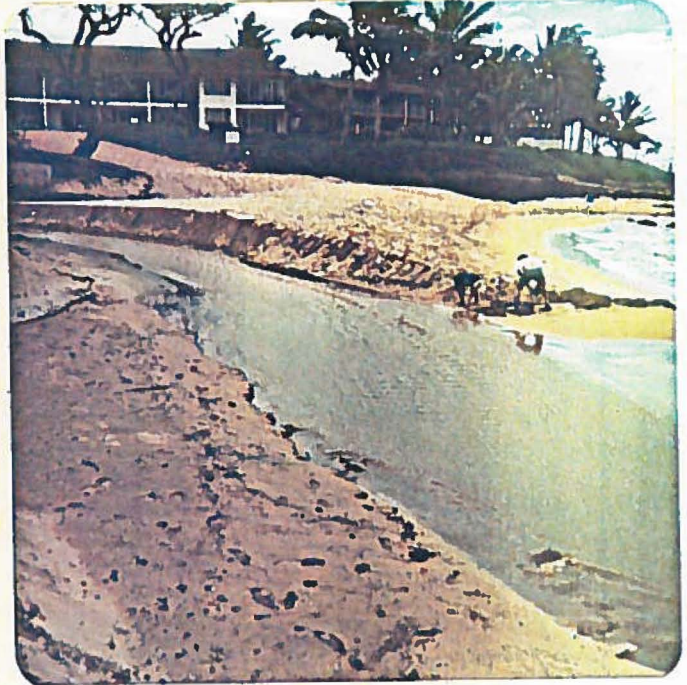
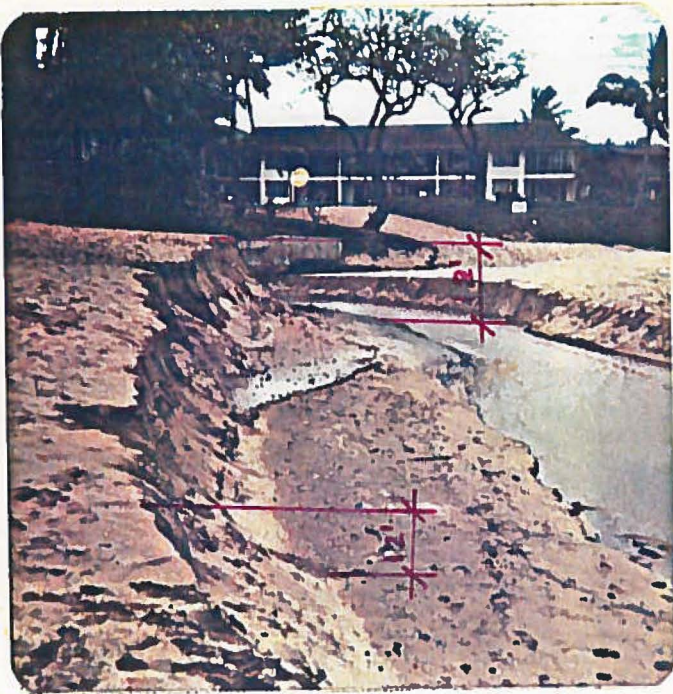


*Oxford Pendaflex*  
CORPORATION

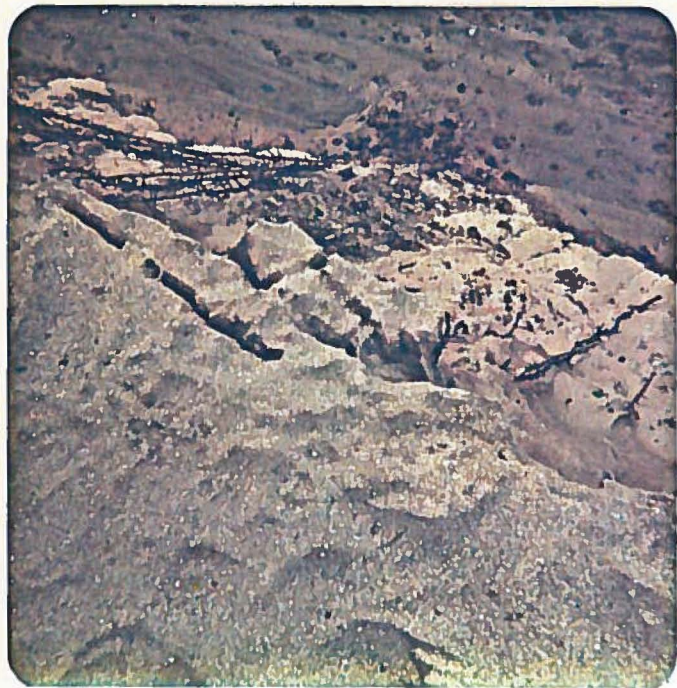
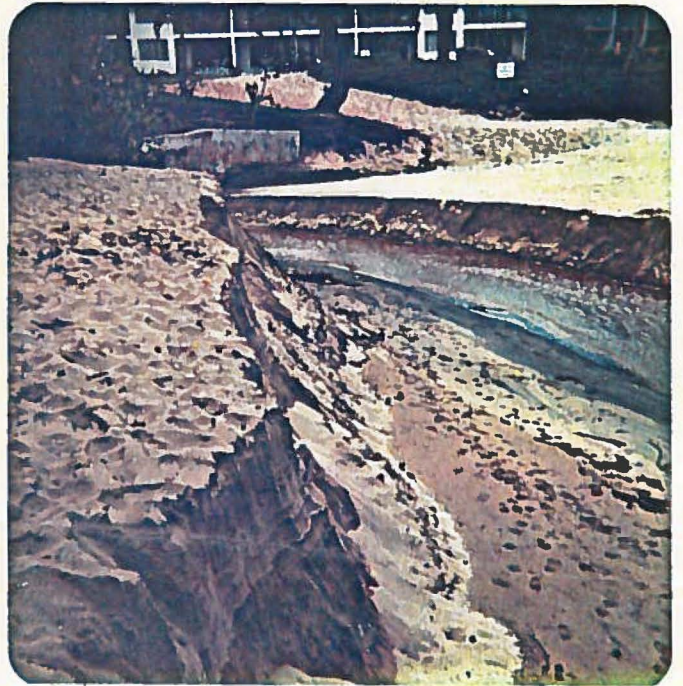
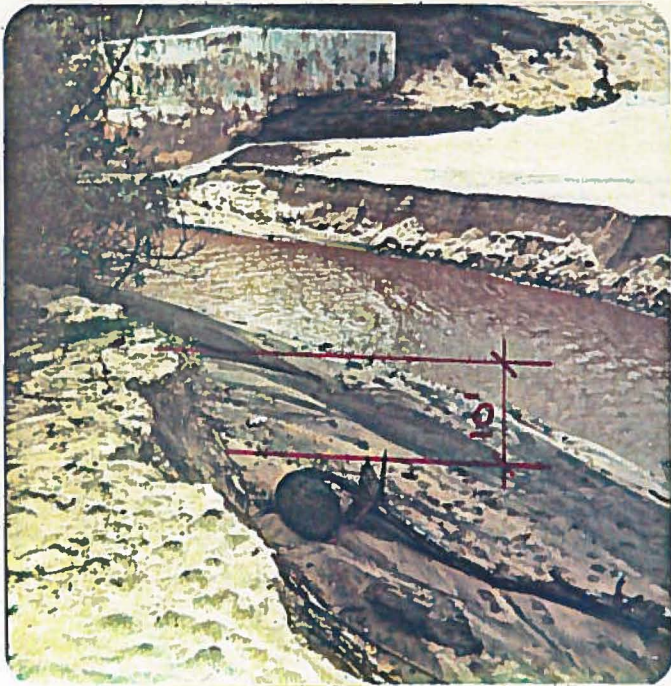
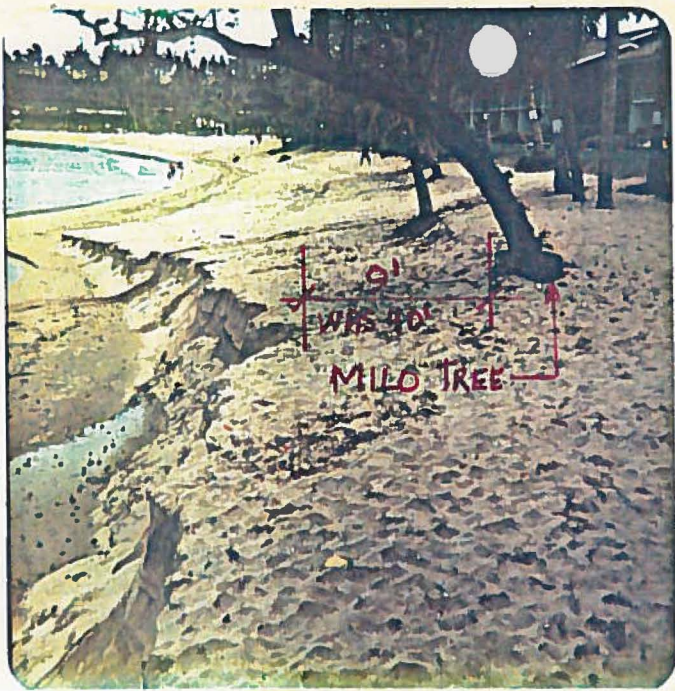
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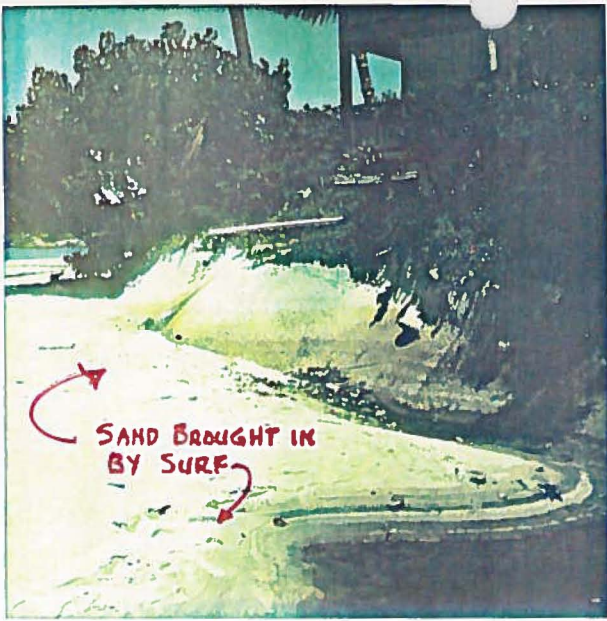
• • •

MADE IN U.S.A.



DRAINAGE CANAL GOING OUT - MARCH 18, 1980

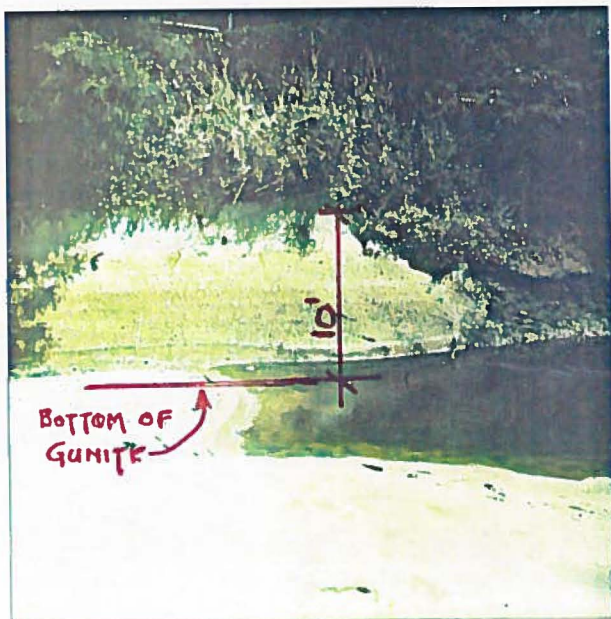




#1 - 10/5/82



#3



#2 - 10/5/82



WATER APPROX. 3' DEEP  
(SEE OTHER SIDE)



VITEX SHRUBS IN STREAM



#6

4/2/82



#4

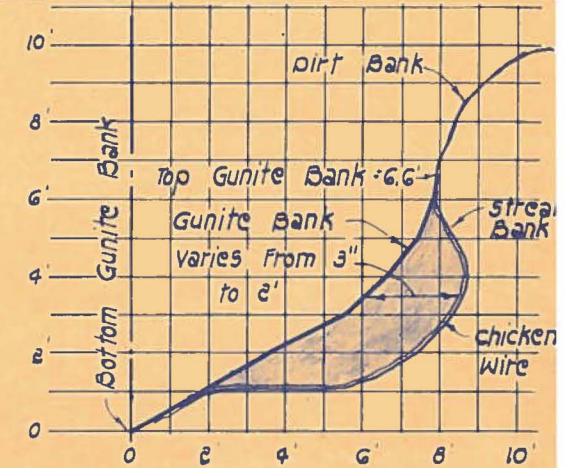
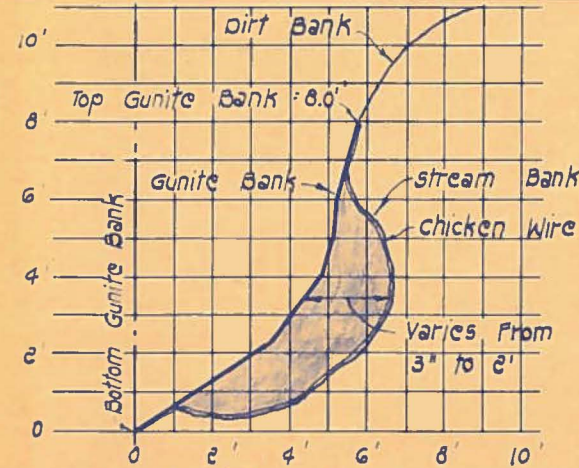
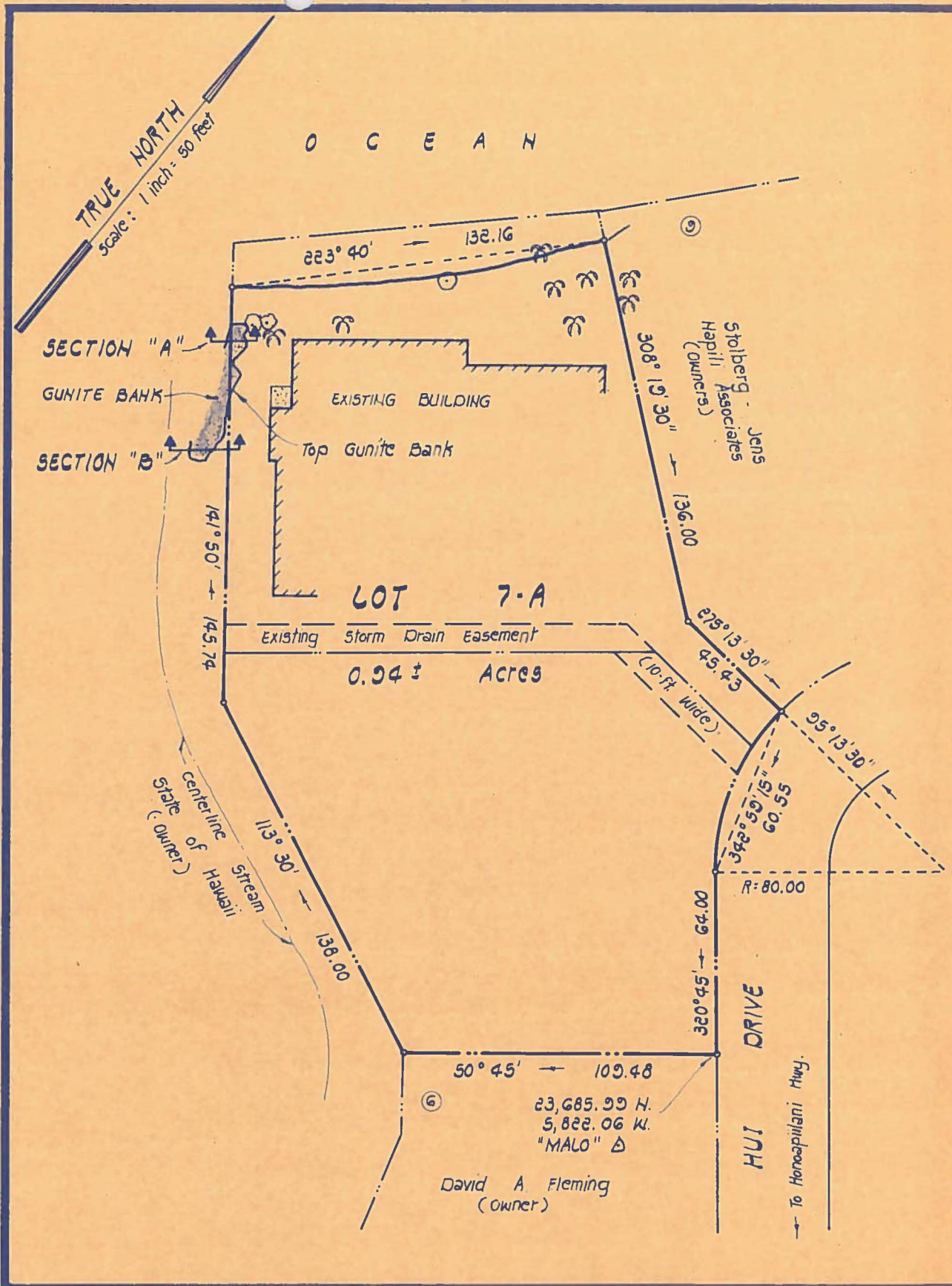
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SEE OTHER SIDE.







**PLAT SHOWING**  
**EXISTING GUNITe BANK ALONG A PORTION OF**  
**LOT 7-A OF THE NAPILI BEACH LOTS SUBDIVISION**  
**NAPILI, LAHAINA, MAUI, HAWAII**

Prepared at the request of:  
 Mililani B. Trask  
 Attorney At Law  
 1720 Ala Moana Blvd.  
 Honolulu, HI. 96815

Prepared by:  
 NORMAN SAITO  
 ENGINEERING CONSULTANTS, INC.  
 Kahului Building, Suite 350  
 Kahului, HI. 96732

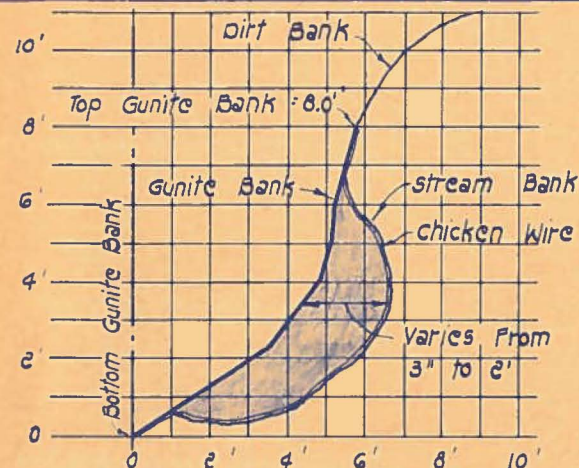
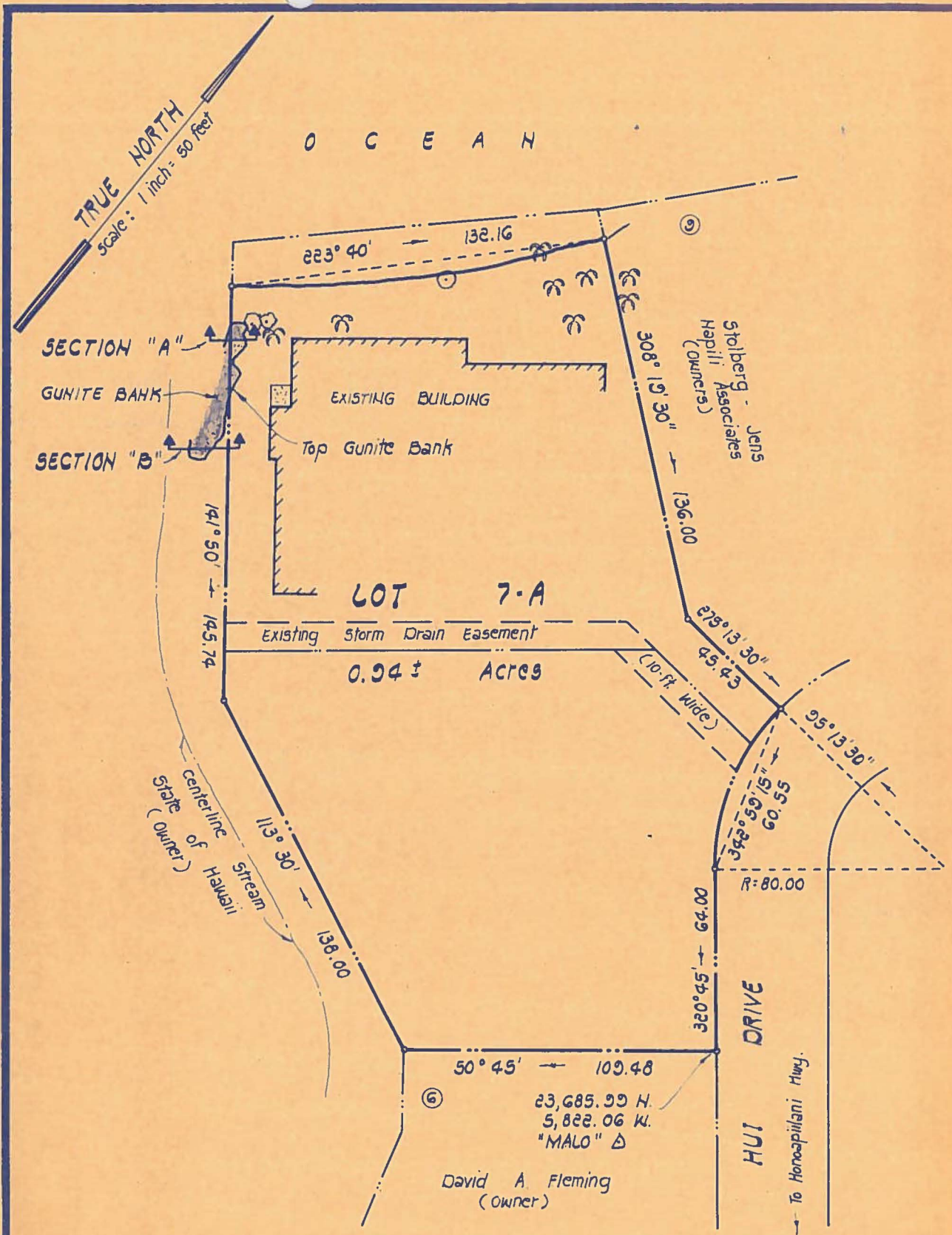
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Date: December 12, 1983

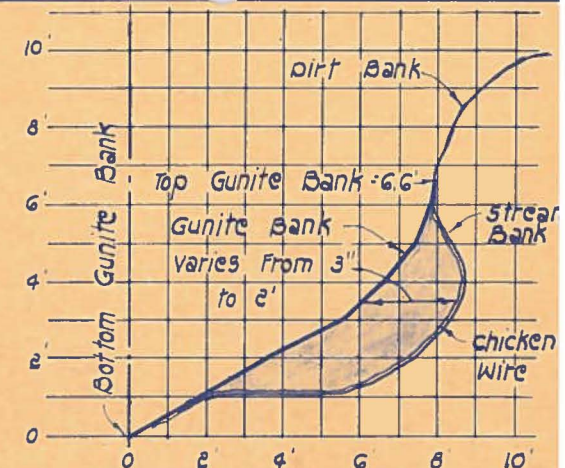


I hereby certify that the survey shown hereon was done by me or under my direct supervision on December 5 and 12, 1983.

*George F. Newcomer*  
 George F. Newcomer  
 Registered Professional  
 Land Surveyor No. 2715-S



SECTION "A" THROUGH GUNITE BANK



SECTION "B" THROUGH GUNITE BANK

**PLAT SHOWING  
EXISTING GUNITE BANK ALONG A PORTION OF  
LOT 7-A OF THE NAPILI BEACH LOTS SUBDIVISION  
NAPILI, LAHAINA, MAUI, HAWAII**

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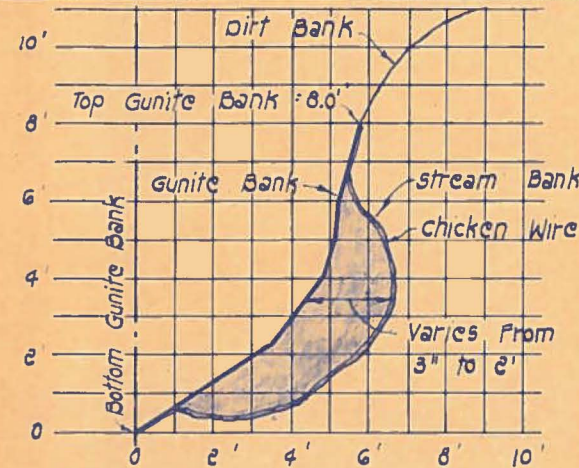
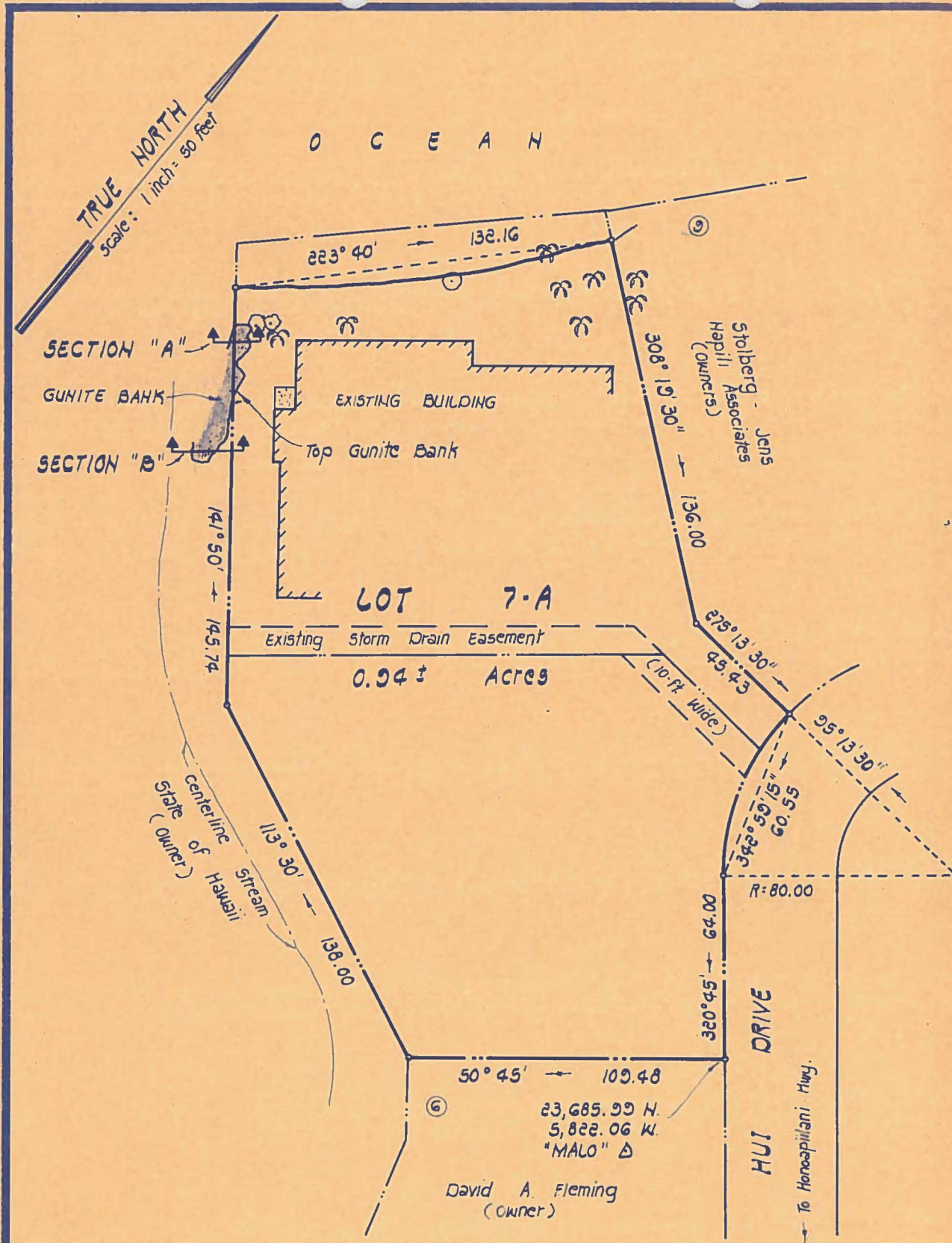
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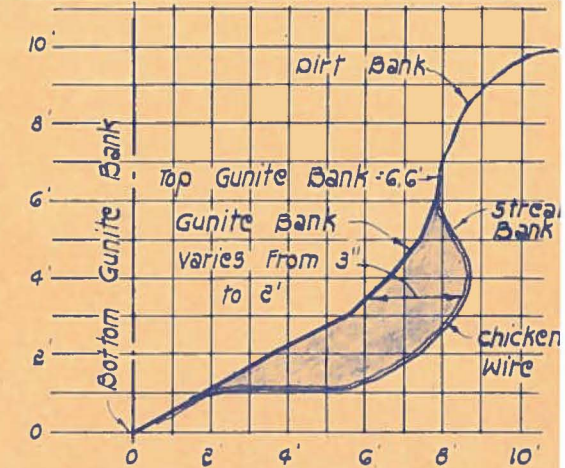


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George F. Newcomer  
Registered Professional  
Land Surveyor No. 2715-S



SECTION "A" THROUGH GUNITE BANK



SECTION "B" THROUGH GUNITE BANK

PLAT SHOWING  
EXISTING GUNITE BANK ALONG A PORTION OF  
LOT 7-A OF THE NAPILI BEACH LOTS SUBDIVISION  
NAPILI, LAHAINA, MAUI, HAWAII

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*George F. Newcomer*  
George F. Newcomer  
Registered Professional  
Land Surveyor No. 2715-5

