

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

August 19, 2013

CERTIFIED MAIL - #7010 3090 0000 4921 2266

Mr. Jordan Hart, President
Chris Hart & Partners, Inc.
115 North Market Street
Wailuku, Hawaii 96793

Dear Mr. Hart:

SUBJECT: APPROVAL OF THE SPECIAL MANAGEMENT AREA (SMA) USE PERMIT AND SHORELINE SETBACK VARIANCE (SSV) FOR CONSTRUCTION OF A RETAINING WALL AT THE SHORELINE ON APPROXIMATELY 0.44 ACRES (19,214 SQUARE FEET) OF LAND AT 4855 LOWER HONOAPIILANI ROAD, NAPILI, LAHAINA, ISLAND OF MAUI, HAWAII; TMK: (2) 4-3-015:003 (SM1 2009/0017) (SSV 2009/0004)

At its regular meeting on July 23, 2013, the Maui Planning Commission (Commission) reviewed the above request and after due deliberation and receipt of testimony and exhibits, hereby orders approval of the Shoreline Setback Variance (**SSV 2009/0004**), subject to the following conditions:

1. That the Applicant maintain and require safe lateral access to and along the shoreline for public use.
2. That the Applicant minimize risk of adverse impacts on beach processes.
3. That the Applicant minimize risk of structures failing and becoming loose rocks or rubble on public property.
4. That the Applicant minimize adverse impacts on public views to, from, and along the shoreline. For purposes of this section only, "adversely impacts public views" means the adverse impact on public views and open space resources caused by new building structures exceeding a one (1) story or thirty-foot (30') height limitation.
5. That the project shall comply with chapters 19.62 and 20.08, Maui County Code, relating to flood hazard districts and erosion and sedimentation control respectively.

Furthermore, the Commission voted to grant approval of the SMA Use Permit (**SM1 2009/0017**), subject to the following standard conditions and project specific conditions, to include striking Standard Condition No. 6, and as indicated below:

1. That, to the satisfaction of the Department of Planning (Department), construction of the proposed project shall be initiated by August 31, 2016. Initiation of construction shall be determined as construction of onsite and/or offsite improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a building permit and initiation of building construction, whichever occurs first. Evidence of the initiation of construction shall be submitted to the Department prior to the date listed immediately above. Failure to comply by that date will automatically terminate this SMA Use Permit unless a time extension is requested no later than ninety (90) days prior to said date. A time extension shall be processed in accordance with the provisions of Section 12-202-17 of the Special Management Area Rules for the Maui Planning Commission (SMA Rules).
2. That, to the satisfaction of the Department, the construction of the project shall be completed within three (3) years after the date of its initiation. Evidence of the date of the completion of construction shall be submitted to the Department. Any request for a time extension shall be submitted no later than ninety (90) days prior to the completion deadline. A time extension shall be processed in accordance with the provisions of Section 12-202-17 of the SMA Rules. Failure to complete construction of this project within this time period will require unfinished portions of the project to obtain a new SMA Use Permit.
3. That the Applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by the subject permit and shall obtain, pay for, and keep in force throughout the term of the permit, comprehensive liability insurance issued (1) by an insurance company authorized to do business in the State of Hawaii ("admitted carrier"), or (2) through a general insurance agent or broker licensed in the State of Hawaii, if the company is not authorized to do business in the State of Hawaii ("non-admitted carrier"). The insurance carrier shall be rated no less than "A-" as established by "AM Best" or "Standard & Poor" ratings. The insurance policy, as evidenced by issuance of a policy endorsement, shall name the County, its officers, employees, and agents, as an additional insured. The insurance policy shall contain the following minimum requirements:
 - a. No less than a combined single limit ("CSL") of liability coverage of \$1,000,000;
 - b. No erosion of limit by payment of defense costs;

- c. Annual aggregate limit of not less than \$1,000,000;
- d. A duty to defend, indemnify and hold harmless the County, its officers, employees, and agents, against any loss, liability, claims, and demands for injury or damage, including, but not limited to, claims for property damage, personal injury, or wrongful death, arising out of, or in connection with, in whole or in part, the permitted uses, the County's permit review and approval process, or any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights;
- e. Name the County, its officers, employees, and agents, as additional insureds; and
- f. Written or endorsed to state that the coverage to the additional insureds is primary and non-contributing with respect to any other insurance available to the County.

The Applicant shall furnish the Department with a copy of the insurance policy certificate and the required endorsements verifying such insurance coverage within ninety (90) days of the issuance of the subject permit. Thereafter, the Applicant shall instruct the insurance company to directly provide the Department with a copy of the insurance policy certificate and required endorsements as it is renewed on an annual basis. The proof of insurance and all subsequent certifications of insurance coverage shall include the applicable Tax Map Key and permit numbers. If the scheduled expiration date of a current insurance policy is earlier than the expiration of the subject permit, the Applicant shall, upon renewal of the insurance policy, provide the Department with a copy of the renewed insurance policy certificate and required endorsements. The insurance policy shall expressly state that the coverage provided under such policy shall not be canceled or terminated, unless the carrier has first given the Department at least thirty (30) calendar days prior written notice of the intended cancellation or termination.

The insurance policy shall remain in full force and effect until the permitted work has been completed and accepted by the County.

- 4. That, to the satisfaction of the Commission or the Department, the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Use Permit. Failure to so develop the property may result in the revocation of the permit and/or other enforcement.

5. That the Applicant shall submit to the Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject SMA Use Permit. A preliminary compliance report shall be reviewed and approved by the Department prior to issuance of the Grading and Grubbing Permit. Plans regarding the location of any construction related structures such as, but not limited to trailers, sheds, equipment and storage areas and fencing to be used during the construction phase shall be submitted to the Department for review and approval prior to or along with the preliminary compliance report. The preliminary compliance report shall also include evidence that final construction plans are in substantial compliance with preliminary architectural plans dated November 10, 2012, preliminary grading plans dated November 10, 2012 and preliminary landscaping/irrigation plans dated December 12, 2012.
- ~~6. That, to the satisfaction of the Department, appropriate filtration measures to separate petroleum products and other potential contaminants shall be incorporated into the project's final drainage plan and shall be regularly maintained per manufacturer's specifications or other Best Management Practices, with the contaminant residuals from stormwater treatment to be disposed of properly. Records of the inspection, maintenance and disposal shall be kept by the Applicant and made available for inspection by county and state agencies upon request. Plans for the filtration measures and a program and record keeping for inspection, maintenance and disposal of contaminated residuals shall be submitted to the Department prior to or along with the preliminary compliance report.~~
7. That in the event that historic resources, including human skeletal remains, are identified during routine construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the Department of Natural Land Resources-State Historic Preservation Division, Maui Section, shall be contacted immediately at (808) 243-5169.
8. That the project shall conform to Maui County Code, Chapter 19.62, pertaining to flood hazard districts.
9. That no artificial light from floodlights, uplights, or spotlights be used for decorative or aesthetic purposes for illuminating the shoreline and ocean waters, or is directed to travel across property boundaries toward the shoreline and ocean waters.
10. That Best Management Practices shall be implemented to insure water quality and marine resources are protected. No construction materials should be stockpiled in the aquatic environment. All construction-related materials should be free of pollutants and placed or stored in ways to avoid or minimize disturbance. No debris, petroleum products or deleterious materials or wastes

Mr. Jordan Hart
August 19, 2013
Page 5

should be allowed to fall, flow, leach, or otherwise enter near shore waters. Any turbidity and siltation generated from activities proposed at the site should be minimized and contained in the immediate vicinity of construction through the use of effective silt containment devices. Construction during adverse weather conditions should be curtailed to minimize the potential for adverse water quality impacts

11. That appropriate approvals shall be obtained from the Department of Public Works prior to commencement of work.
12. That the proposed development will utilize drought tolerant plants and native trees in its landscaping scheme, where possible.

The conditions of this SMA Use Permit shall be enforced pursuant to §12-202 et. seq. of the *SMA Rules for the Commission*.

Further, the Commission adopted the Report and Recommendation prepared by the Maui Planning Department for the **July 23, 2013** meeting as its Findings of Fact, Conclusions of Law, and Decision and Order. Parties to proceedings before the Commission may obtain judicial review of decision and orders issued by the Commission in the manner set forth in Chapter 91-14, Hawaii Revised Statutes.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner James Buika at james.buika@mauicounty.gov or at (808) 270-6271.

Sincerely,



for WILLIAM SPENCE
Planning Director

Mr. Jordan Hart
August 19, 2013
Page 6

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
John F. Summers, Planning Program Administrator (PDF)
James A. Buika, Staff Planner (PDF)
Walter Hester III
James Giroux, Deputy Corporation Counsel (PDF)
Department of Public Works
Department of Environmental Management
Department of Health, Clean Water Branch
Department of Health, Maui District Health Office
Department of Land and Natural Resources-Office of Conservation and Coastal Land
Department of Land and Natural Resources-State Historic Preservation Division
Tara Miller, Sea Grant Extension Agent-Maui (PDF)
CZM File (SM1)
Project File
General File

WRS:JAB:aj

K:\WP_DOCS\PLANNING\SM1\2009\0017_Hesterresidence\Approvalhestermpc, 08.23.13\Approvalpchester.Doc

Draft Environmental Assessment,
Application for Special Management Area
Use Permit, and Application for Shoreline
Setback Variance

Proposed Construction of a Single-Family Residence
And Seawall

Walter Hester Residence

TMK (2) 4-3-015:003
Napili, Maui, Hawaii

October, 2009

Prepared for:
Mr. Walter Hester
PO Box 7900
Incline Village, NV 89452

Prepared by:
Chris Hart & Partners, Inc.
115 N. Market Street
Wailuku, Maui, Hawaii 96793
808/242-1955



DRAFT ENVIRONMENTAL ASSESSMENT,
APPLICATION FOR SPECIAL MANAGEMENT AREA USE
PERMIT, AND APPLICATION FOR SHORELINE
SETBACK VARIANCE

Walter Hester Residence

**TMK (2) 4-3-015:003
Napili, Maui, Hawaii**

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AND APPLICATION FOR SHORELINE SETBACK VARIANCE
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PROJECT



1. APPLICATION FORMS

EA 09/07
sm1 09/17
SSV 09/04



COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

NOV 16 PM 3 43

DEPARTMENT OF PLANNING
COUNTY OF MAUI
RECEIVED

APPLICATION TYPE: MAUI PLANNING COMMISSION
SPECIAL MANAGEMENT AREA PERMIT APPLICATION

DATE: November 16, 2009

PROJECT NAME: Walter Hester Residence and Seawall

PROPOSED DEVELOPMENT: Demolition of an existing residence and construction of one (1) new single family residence, along with the construction of a sea wall along a bluff fronting the shoreline.

TAX MAP KEY NO.: (2) 4-3-015:003 CPR/HPR NO.: _____ LOT SIZE: 0.44 acre (19,214 square feet)

PROPERTY ADDRESS: 4855 Lower Honoapiilani Rd., Lahaina, Maui, HI 96761

OWNER: Mr. Walter F Hester, III PHONE: (B) _____ (H) _____

ADDRESS: PO Box 7900

CITY: Incline Village STATE: NV ZIP CODE: 89452

OWNER SIGNATURE: Please see Letter of Authorization

APPLICANT (PRINT): Mr. Walter F. Hester, III

ADDRESS: PO Box 7900

CITY: Incline Village STATE: NV ZIP CODE: 89452

PHONE (B): _____ (H): _____ FAX: _____

APPLICANT SIGNATURE: Please see Letter of Authorization

CONTACT NAME: (PRINT) Chris Hart & Partners, Inc.

ADDRESS: 115 N. Market Street

CITY: Wailuku STATE: HI ZIP CODE: 96793

PHONE (B): 808-242-1955 (H): _____ FAX: 808-242-1956

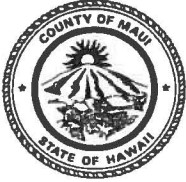
EXISTING USE OF PROPERTY: Single family residence

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Urban

COMMUNITY PLAN DESIGNATION: Single Family ZONING DESIGNATION: R-3 Residential

OTHER SPECIAL DESIGNATIONS: Special Management Area (SMA)

BUILDING APPLICATION NO. _____ PROJECT VALUATION \$ \$3,500,000.00



COUNTY OF MAUI
DEPARTMENT OF PLANNING
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7735 FAX: (808) 270-7634

APPLICATION TYPE: SHORELINE SETBACK VARIANCE (Rev. 7/10/03)

DATE: November 16, 2009

PROJECT NAME: Walter Hester Residence and Seawall

PROPOSED DEVELOPMENT: Demolition of an existing residence within the Shoreline Setback Area, and construction of a new single-family residence mauka of the Shoreline Setback Line, along with the construction of a seawall along a bluff fronting the shoreline

TAX MAP KEY NO.: (2) 4-3-015:003 CPR/HPR NO.: _____ LOT SIZE: 0.44 acre (19,214 square feet)

PROPERTY ADDRESS: 4855 Lower Honoapiilani Rd., Lahaina, Maui, HI 96761

OWNER: Mr. Walter F. Hester, III PHONE: (B) _____ (H) _____

ADDRESS: P.O. Box 7900

CITY: Incline Village STATE: NV ZIP CODE: 89452

OWNER SIGNATURE : Please see letter of authorization

APPLICANT: Mr. Walter F. Hester, III

ADDRESS: P.O. Box 7900

CITY: Incline Village STATE: NV ZIP CODE: 89452

PHONE (B): _____ (H): _____ FAX: _____

APPLICANT SIGNATURE : Please see letter of authorization

AGENT NAME : Chris Hart & Partners, Inc.

ADDRESS: 115 N. Market Street

CITY: Wailuku STATE: HI ZIP CODE: 96793

PHONE (B): 808-242-1955 (H): _____ FAX: 808-242-1956

EXISTING USE OF PROPERTY: Single Family Residence

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: Urban
Single

COMMUNITY PLAN DESIGNATION: Family ZONING DESIGNATION: R-3 Residential

OTHER SPECIAL DESIGNATIONS: Special Management Area (SMA)

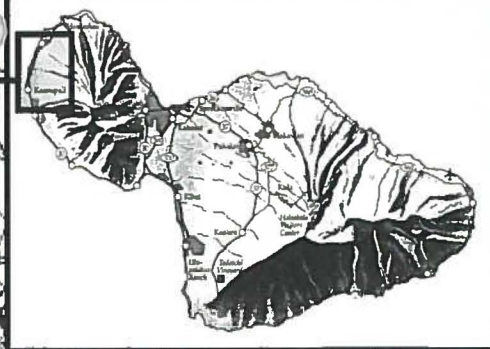
VALUATION: \$ 3,500,000.00



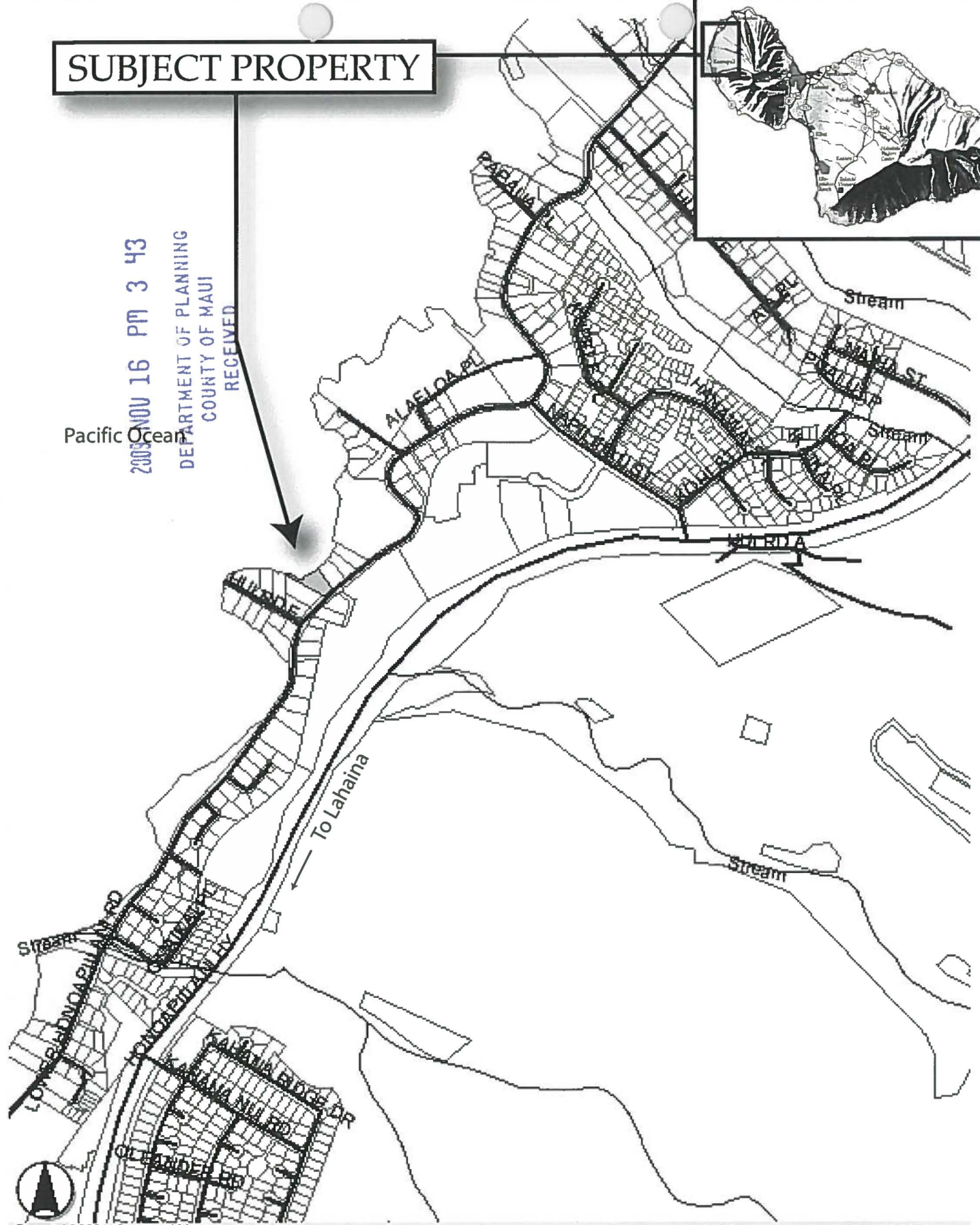
2. OWNERSHIP DOCUMENTS



SUBJECT PROPERTY



2003 NOV 16 PM 3 43
DEPARTMENT OF PLANNING
COUNTY OF MAUI
RECEIVED
Pacific Ocean



Copyright 2004, County of Maui

0 474.72m 0 0.09mi

Hester Residence
Regional Location Map



3. LETTER OF AUTHORIZATION

NOTICE OF APPLICATION
SPECIAL MANAGEMENT AREA USE PERMIT

Please be advised that the undersigned has filed an application for a Special Management Area Use Permit with the County of Maui Planning Department for the following parcel(s):

1. Tax Map Key: (2) 4-3-015:003
(See attached location map)

2. Location (street address): 4855 Lower Honoapiilani Rd. Lahaina, Maui, Hawaii 96761

3. Existing Land Use Designations:

a. State Land Use District: Urban

b. Community Plan Designation: Single Family

c. County Zoning: R-3 Residential

4. Description of the Existing Uses on Property:

Single family residence

2009 NOV 16 PM 3 43
DEPARTMENT OF PLANNING
COUNTY OF MAUI
RECEIVED

5. Description of the Proposed Development on Property:

Demolition of an existing residence and construction of one (1) new single family residence, along with the construction of a sea wall along a bluff fronting the shoreline at the makai limit of the subject property

BY: Walter F. Hester, III
(Owner/Applicant)

Please see Letter of Authorization
(Signature)

PO Box 7900
Incline Village, NV 89452
(Address)

(Telephone)

Chris Hart & Partners, Inc.
Christopher L. Hart, ASLA, President
(Agent)

Christopher L. Hart...
(Signature)

115 N. Market Street
Wailuku, Maui, HI 96793
(Address)

Voice: 808-242-1955
Fax: 808-242-1956
(Telephone)

(Maui Planning Department Certification of Completion: _____)
The Applicant is responsible for ensuring accuracy of the information.

Published by _____ (In Newspaper printed and issued at least twice weekly in the County and which is generally circulated through the County with legible location map)



Handwritten text, possibly a signature or date, located in the upper left quadrant of the page. The text is faint and difficult to decipher.

A small, vertical handwritten mark or character on the left edge of the page.



R-1543 STATE OF HAWAII
 BUREAU OF CONVEYANCES
 RECORDED
 OCT 14, 2003 08:02 AM
 Doc No(s) 2003-224201



/s/ CARL T. WATANABE
 REGISTRAR OF CONVEYANCES

20 1/2 Z1

CONVEYANCE TAX: \$2550.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail Pickup () To:

WALTER F HESTER III
 C/O MAUI JIM SUNGLASSES
 721 WAINEE STREET
 LAHAINA, HI 96761

TG: 200320420 -- S
 TGE: A3-202-0265
 Kris Klask

Tax Key: (2) 4-3-015-003

Total No. of Pages: 9

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That CARL R. EDMUNDSON and JANET L. EDMUNDSON, husband and wife, whose address is 4855 L. Honoapiilani Rd., Lahaina, Maui, Hawaii 96761, hereinafter called the "Grantor," in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor paid by WALTER F. HESTER III, married, whose address is c/o Maui Jim Sunglasses, 721 Wainee Street, Lahaina, Maui, Hawaii 96761, hereinafter called the "Grantee," the receipt whereof is hereby acknowledged, does

hereby grant and convey unto the Grantee, as a tenant in severalty, the real property described in Exhibit "A" attached hereto and by this reference incorporated herein; subject, however, to all encumbrances noted on said Exhibit "A".

TO HAVE AND TO HOLD the same, together with any improvements thereon and the rights, easements, privileges, and appurtenances thereunto belonging or appertaining unto the Grantee, the heirs, representatives, administrators, successors and assigns of the Grantee, forever.

AND the Grantor covenants with the Grantee that the former is now seised in fee simple of the property granted; that the latter shall enjoy the same without any lawful disturbance; that the same is free from all encumbrances, except the liens and encumbrances hereinbefore mentioned, and except also the liens and encumbrances created or permitted by the Grantee after the date hereof; and that the Grantor will WARRANT and DEFEND the Grantee against the lawful claims and demands of all persons claiming the whole or any part of the above bargained and granted lands and premises.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, or neuter, the singular or plural number, individuals or corporations, and their and each

of their respective successors, heirs, personal representatives,
and permitted assigns, according to the context hereof. If
these presents shall be signed by two or more Grantors or by two
or more Grantees, all covenants of such parties shall for all
purposes be joint and several.

IN WITNESS WHEREOF, the Grantor has executed these
presents on this 18 day of September 2003.

APPROVED AS TO FORM:
MANCINI, WELCH & GEIGER

By Paul R. Mancini



CARL R. EDMUNDSON



JANET L. EDMUNDSON

Grantor

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Plumas } ss.

On 9/18/03, before me, LEANNE M. KIBODEAUX
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared CARL R. EDMUNDSON & JANET L. EDMUNDSON
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Leanne M. Kibodeaux
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: WARRANTY DEED

Document Date: 9-18-03 Number of Pages: 8

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: N/A



STATE OF ~~HAWAII~~ ^{CALIF})
COUNTY OF ~~MAUI~~ ^{PLUMAS}) SS.

On this 18th day of SEPTEMBER, 2003, before me personally appeared CARL R. EDMUNDSON and JANET L. EDMUNDSON, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Leanne M. Kibodeaux
Print Name: LEANNE M. KIBODEAUX
Notary Public, State of ~~HAWAII~~ CALIF
My commission expires: 8/05/06

EXHIBIT "A"

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant 1663, Land Commission Award 5524 to L. Konia) situate, lying and being northwesterly of the Old Honoapiilani Highway approximately 250 feet northerly of its junction with Hui Road "E", at Alaeloa, Kaanapali, Island and County of Maui, State of Hawaii, being LOT 44-B and thus bounded and described:

Beginning at a 1 inch pipe (found) at the most easterly corner of this parcel of land, the most southerly corner of Lot 44-B-2 of the Mailepai Hui Lands and being also on the northwesterly side of the Old Honoapiilani Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MALO" being 14,064.03 feet south and 11,578.35 feet west and running by azimuths measured clockwise from true South:

1. 54° 43' 66.19 feet along the northwesterly side of the old Honoapiilani Highway to a 1/2 inch pipe (set); thence;
2. 119° 51' 267.00 feet along Lot 48 of the Mailepai Hui Lands to a 1/2 inch pipe (set); thence,
3. 177° 30' 12.73 feet along the same to a "P.K." nail (set); thence;
4. Following along the shoreline as marked at the upper reach of the waves by the vegetation line on June 6, 1984, the direct azimuth and distance being:

286° 26' 50.16 feet; thence;
5. Following along the same, the direct azimuth and distance being:

311° 23' 33.20 feet; thence;
6. Following along the same, the direct azimuth and distance being;

- 288° 47' 23.21 feet; thence;
7. Following along the same, the direct azimuth and distance being;
- 203° 36' 20.52 feet; thence;
8. Following along the same, the direct azimuth and distance being
- 239° 31' 69.98 feet; thence;
9. Following along the same, the direct azimuth and distance being;
- 235° 44' 27.18 feet; thence;
10. Following along the same, the direct azimuth and distance being;
- 257° 01' 3.41 feet to a 1/2 inch pipe (set); thence;
11. 324° 10' 165.46 feet along Lot 44-B-2 of the Mailepai Hui Lands to the point of beginning and containing an area of 19,215 square feet, more or less.

Together with a 23-foot wide easement for foot path purposes, as set forth in that certain Instrument Confirming and Clarifying Easement dated February 11, 1985, recorded in Liber 18460 at Page 456, and being more particularly described as follows:

EASEMENT 1, Smith Subdivision, an easement (23.00 feet wide) for foot path purposes affecting Lot 44B-2, Smith Subdivision in favor of the remainder of Allotment 44B (Tax Map Key 4-3-15:3), situated at Alaeloa, Kaanapali, Lahaina, Maui, Hawaii, being a portion of Royal Patent 1163, Land Commission Award 5524 to L. Konia, being also a portion of Allotment 44B, Mailepai Hui Lands, and being more particularly described as follows:

Beginning at a 1/2" pipe at the westerly corner of this Easement, being also the westerly corner of Lot 44B-2, Smith Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MALO" being 13,921.74 feet south and 11,681.10 feet west and running by azimuths measured clockwise from true South:

1. 228° 05' 94.41 feet along the high water mark course described by Robert P. Bruce, Registered Land Surveyor, dated March 6, 1963 and shown on the subdivision map approved by Maui County (County Reference No. 4.82);
2. 209° 26' 58.76 feet along the same;
3. 307° 29' 23.23 feet along Lot 44B-1, Smith Subdivision;
4. 29° 26' 59.28 feet along the remainder of Lot 44B-2;
5. 48° 05' 100.64 feet along the same;
6. 144° 10' 23.13 feet along the remainder of Allotment 44-B to the point of beginning and containing an area of 3,601 square feet, more or less.

Being the premises acquired by Warranty Deed from Michael W. Palazzolo, unmarried, as Grantor, to the Grantor herein, as Grantee, dated January 21, 1987, and recorded in the Bureau of Conveyances of the State of Hawaii in Liber 20311 on Page 251.

SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in the Deed dated April 11, 1949, and recorded in the said Bureau of Conveyances in Liber 2222 on Page 397.

3. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.

4. -AS TO THE 23-FOOT WIDE EASEMENT ONLY:-

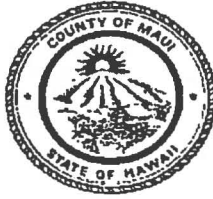
The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in that certain Instrument Confirming and Clarifying Easement dated February 11, 1985, recorded in Liber 18460 on Page 456.

END OF EXHIBIT "A"

Tax Key: (2) 4-3-015-003

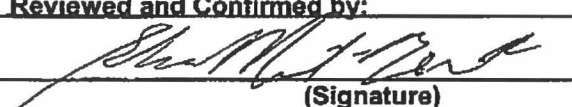
4. ZONING AND FLOOD
CONFIRMATION FORM

COUNTY OF MAUI
DEPARTMENT OF PLANNING
Kalana Paku'i Building
250 South High Street
Wailuku, Hawaii 96793



Zoning Administration
and Enforcement Division
Telephone: (808) 270-7253
Facsimile: (808) 270 7634
E-mail: planning@mauicounty.gov

ZONING AND FLOOD CONFIRMATION

APPLICANT INFORMATION <i>(To be completed by Applicant)</i>									
APPLICANT'S NAME			Chris Hart & Partners, Inc. for Mr. Walter F. Hester III						
TELEPHONE		242-1955				E-MAIL			
PROJECT NAME		Walter Hester Residence and Seawall							
ADDRESS/LOCATION		4855 LOWER HONOAPIILANI RD LAHAINA							
TAX MAP KEY NO		(2) 4-3-015:003							
ZONING INFORMATION <i>(To be completed by ZAED)</i>									
COMMUNITY PLAN		SF-SINGLE FAMILY RESIDENTIAL							
ZONING		SMA-SPECIAL MANAGEMENT AREA R-3-COUNTY'S R-3 RESIDENTIAL DISTRICT STATE URB-STATE URBAN DISTRICT							
FLOOD INFORMATION <i>(To be completed by ZAED)</i>									
FLOOD HAZARD AREA ZONE(S):				V24/A4/C					
BASE FLOOD ELEVATION:			ELEV 17		mean sea level, 1929 National Geodetic Vertical Datum.				
FOR FLOOD ZONE AO, DEPTH:			N/A						
FLOODWAY		Yes	or	<input checked="" type="checkbox"/> X	No				
FLOOD DEVELOPMENT PERMIT IS REQUIRED:					<input checked="" type="checkbox"/> X	Yes	or	<input type="checkbox"/> No	
<p>* For flood hazard area zones B or C; a flood development permit would be required if any work is done in any drainage facility or stream area that would reduce the capacity of the drainage facility, river, or stream, or adversely affect downstream property.</p> <p>Be advised that with the September 2009 adoption of FEMA's (Federal Emergency Management Agency) Digital Flood Insurance Rate Maps (DFIRMs) the property's flood zone designation will be changed to <u>N/A</u> with a base flood elevation of _____ feet mean sea level, 1929 NGVD. FEMA's new DFIRM will impact the property's flood risk designation and, consequently, require federally-mandated flood insurance for federally-backed mortgages. Properties affected by the change in the FEMA flood zone maps will face increases to their flood insurance when the maps go into effect on September 25, 2009. Some properties will see a significant increase in insurance rates. Properties that are currently in Zone C may secure flood insurance at a discounted rate if obtained prior to 9/25/2009. You may learn more on insurance costs at www.floodsmart.gov/floodsmart/.</p>									
For Flood Zone AO, FLOOD DEPTH						Effective 9/25/2009			
FLOODWAY		<input type="checkbox"/> Yes	<input type="checkbox"/> No			Effective 9/25/2009			
FLOOD DEVELOPMENT PERMIT REQUIRED				<input type="checkbox"/> Yes <input type="checkbox"/> No		Effective 9/25/2009			
FOR COUNTY USE ONLY									
REMARKS/COMMENTS:									
<input type="checkbox"/> Additional information required					<input type="checkbox"/> Information submitted is correct				
<input type="checkbox"/> Required for Agricultural Subdivisions					<input type="checkbox"/> Correction has been made and initialed				
Agricultural Assessment RFS No. _____									
Reviewed and Confirmed by:									
						6/30/09			
(Signature)						(Date)			
For AARON SHINMOTO, Planning Program Administrator Zoning Administration and Enforcement Division									



5. LIST OF REQUIRED SUBMITTALS

SMA - LIST OF REQUIRED SUBMITTALS

1. *Evidence that the applicant is the owner or lessee of record of the real property.*
See: Section 2 at the beginning of this document.
2. *A notarized letter of authorization from the legal owner if the applicant is not the owner and evidence that the authorization is from the legal owner.*
See: Section 3 at the beginning of this document.
3. *Provide documentation that full compliance with Chapter 343, Hawaii Revised Statutes (HRS), and the Environmental Impact Statement (EIS) Rules of the State Department of Health have been met. If required pursuant to Chapter 343, HRS or by the Planning Director, an original set plus one copy will be submitted.*
See: Section VI of this report, "Environmental Assessment Significance Criteria."
4. *Notice of Application and legible map (see attached form).*
Notice of Application with a map is submitted with this application.
5. *A written description of the proposed action, including, but not limited to the use, length, width, height, depth, building material and statement of objectives of the proposed action.*
See: Section II.F of this report.
6. *An Assessment Report identifying the anticipated impacts of the proposed action on the special management area that addresses or describes:*
 - a) *The environmental setting of the property that is the subject of the proposed action;*
 - b) *The relationship of the proposed action to land use plans, policies, and control of the affected area;*
 - c) *The probable impact, including cumulative impacts, of the proposed action on the environment;*
 - d) *Any probable adverse environmental effects that can be avoided;*
 - e) *Alternatives to the proposed action;*
 - f) *Mitigating measures proposed to minimize impact; and*
 - g) *Any irreversible and irretrievable commitment of resources.*

Said Assessment Report should also address the objectives, policies and guidelines set forth in Sections 12-202-10 and 12-202-11 of the Special Management Area Rules of the Maui Planning Commission.

See: Section III of this report and Section V, "Special Management Area Objectives and Policies."

7. *Three (3) sets of a certified shoreline survey (one original). Survey shall be the actual field location of the shoreline as prepared by a land surveyor registered in the State of Hawaii. The survey maps developed by the registered land surveyor shall bear the surveyor's signature and date of field survey and the certifying signature and date of the chairman of the Board of Land and Natural Resources (for properties abutting the shoreline).*

See: Appendix "B".

8. *List of owners and lessees of real property within a 500-foot radius of the subject parcel boundaries obtained from the most current available list at the Maui County Department of Finance, Real Property Division. This list shall be listed by Tax Map Key numbers with names and mailing addresses of all owners and lessees to be notified, and shall include a map drawn to scale, clearly defining the 500-foot notification boundary and the parcels affected.*

See: Section 9 at the end of this document

9. *A preliminary drainage plan.*

See: Appendix "C".

10. *A set of a plot plan of the land on which the proposed action is to occur. The plot plan shall be prepared to scale and be based upon an accurate instrument survey, and shall define and show the design of the proposed action and the existing physical conditions of the land, including, but not limited to property boundaries, topography, natural and man-made features, trees and structures.*

See: Figures No . 10.1 - 10.5

11. *A preliminary 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 will also show a dimensioned floor plan, sections, elevations, and other physical features Said plans must be dated.*

See: Figures No . 10.1 - 10.5

12. *A preliminary landscape planting and irrigation plan defining tree and shrub locations, type of plant materials, sizes, irrigation lines as well as landscape lighting and graphics. Said plans must be dated.*

See: Figure No. 12.

13. *Photographic Analysis (consisting of photographs or slides) or VHS format video tape identifying the area where the proposed action is to occur. The visual analysis should include the site, surrounding properties, and relationship of the site to the nearest public roadway.*

See: Figures No. 8.1 - 8.3

14. *Colored rendering.*

See: Figures No. 10.1 - 10.5

15. *Non-refundable filing fee (see Fee Schedule, Table A) payable to County of Maui, Director of Finance.*

A check for the filing fee is submitted with this application.

16. *Any other information and documentation required by the Director, (i.e., traffic-impact analysis, archaeological reconnaissance, etc.)*

See: Appendices.

6. DRAFT ENVIRONMENTAL ASSESSMENT,
SMA APPLICATION
AND SHORELINE SETBACK VARIANCE



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Figure No. 3	State Land Use Map
Figure No. 4	West Maui Community Plan Map
Figure No. 5	Maui County Zoning Map
Figure No. 6	Flood Insurance Rate Map
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APPENDICES

Appendix A	Summary of Public and Agency Consultation
Appendix B	Certified Shoreline Survey Map
Appendix C	Shoreline Setback Determination
Appendix D	Conceptual Seawall Design
Appendix E	Preliminary Engineering and Drainage Report
Appendix F	Coastal Engineering Assessment
Appendix G	Archaeological Site Assessment
Appendix H	Cultural Impact Assessment
Appendix I	Soils Report



I. PROJECT INFORMATION

A. PURPOSE OF THE REQUEST

The purpose of this Environmental Assessment (EA) is to analyze the potential impacts related to the proposed construction of one (1) single-family residence with garage, along with the construction of a sea wall along a bluff fronting the shoreline at the *makai* boundary of the subject property. This EA is submitted in support of the following application requests: 1). Special Management Area (SMA) Use Permit; and 2). Shoreline Setback Variance. Preparation of an EA is required in compliance with the provisions of HRS Chapter 343, since the proposed development involves an action within the Shoreline Setback Area. In addition, the site is located within the Special Management Area (SMA), the area of jurisdiction of the Hawaii Coastal Zone Management (CZM) program.

B. PROJECT PROFILE

Proposed Project:	Single family residence; Seawall
Project Address:	4855 Lower Honoapiilani Rd. Lahaina, Maui, Hawaii
Project TMK:	(2) 4-3-015:003
Parcel Size:	0.44 acres (19,214 square feet)
Existing Land Use:	Single family residence
Access:	Lower Honoapiilani Road

C. IDENTIFICATION OF THE APPLICANT/OWNER

Land Owner:	Mr. Walter F Hester, III
Address:	PO Box 7900 Incline Village, NV 89452
Contact:	Mr. Paul Mancini, Esq., Mancini, Welch & Geiger, LLP 33 Lono Avenue, Suite 470 Kahului, HI 96732
Phone:	Voice: (808) 871-8351 Facsimile: (808) 871-0732



D. CONSULTANTS

Land Use Planner & Landscape Architect: Chris Hart & Partners, Inc.
115 N. Market Street
Wailuku, Maui, Hawaii 96793
Phone: Voice: (808) 242-1955
Facsimile: (808) 242-1956
Contact: Mr. Christopher L. Hart, ASLA, President

Architect: David Haase & Associates.
4617 N Prospect Rd Ste 6,
Peoria, IL 61616-6474
Phone: Voice: (309) 688-4486
Facsimile: (309) 688-4490
Contact: Mr. David Haase

Civil Engineer: R.T. Tanaka Engineers, Inc.
871 Kolu St.
Wailuku, Hawaii 96793
Phone: Voice: (808) 242-6861
Facsimile: (808) 244-7287
Contact: Mr. Kirk Tanaka, P.E.

Structural Engineer: Arnold T. Okubo and Associates, Inc.
94-529 Ukee Street
Waipahu, HI 96797
Phone: 808-671-5184
Contact: Mr. Arnold T. Okubo, P.E.

E. ACCEPTING AGENCY

Agency: Maui Planning Commission
c/o Department of Planning, County of Maui
250 South High Street
Wailuku, Maui, Hawaii 96793
Phone: Voice: (808) 270-7735
Facsimile: (808) 270-7634
Contact: Mr. Jeffrey S. Hunt



F. MAJOR LAND USE, DEVELOPMENT AND CONSTRUCTION APPROVALS

1. Grading and Grubbing Permit approval from the Department of Public Works (DPW).
2. Building, Electrical, and Plumbing Permits for future structures from the DPW.
3. Demolition Permit from DPW.
4. Special Management Area Use Permit by the Maui Planning Commission, via the Department of Planning.
5. Shoreline Setback Variance approval by the Maui Planning Commission, via the Department of Planning.

G. PRE-CONSULTED AGENCIES & PRIVATE INTERESTS

COUNTY OF MAUI

1. Department of Planning
2. Department of Public Works
3. Department of Water Supply
4. Department of Parks and Recreation
5. Department of Fire Control & Public Safety
6. Department of Housing & Human Concerns
7. Department of Environmental Management
8. Police Dept

STATE OF HAWAII

1. Department of Land & Natural Resources, Historic Preservation Division
2. Department of Land & Natural Resources, Land Division
3. Department of Land & Natural Resources, Office of Coastal Conservation Lands
4. University of Hawaii Sea Grant Extension Service
5. Department of Transportation
6. Department of Health
7. Department of Education
8. Dept of Business, Economic Development & Tourism
9. Department of Hawaiian Homelands
10. University of Hawaii Environmental Center
11. Office of Hawaiian Affairs



FEDERAL

1. USDA, Natural Resources Conservation Service
2. U.S. Fish & Wildlife Service
3. U.S. Army Corps of Engineers

OTHER

1. Maui Electric Company
2. Hawaiian Telcom
3. Neighboring Property Owners and Registered Lessees within 500 feet



II. DESCRIPTION OF THE PROPERTY AND PROPOSED ACTION

A. PROPERTY LOCATION AND DESCRIPTION

The subject property is located at 4855 Lower Honoapiilani Road, Napili, Lahaina District, Island of Maui, Hawaii, Tax Map Key (2) 4-3-015:003 (See: Figures No. 1.1 and 1.2, "Regional and Aerial Location Maps," and No. 2, "TMK Map"). Napili is located on the northwest coast of West Maui, approximately 7 miles north of central Lahaina Town and approximately 1.5 miles south of the resort community of Kapalua. The project site is situated along Keonenui Bay, between Haukoe and Alaeloa Points, in an area collectively referred to as Alaeloa. Access to the residence is via Lower Honoapiilani Road.

The 0.44 acre (19,214 square feet) parcel is located at the extreme southwest end of Keonenui Bay and is trapezoidal in shape, with a narrow sliver of land approximately 108 feet long and 5 to 15 feet wide extending onto Haukoe Point (See: Figures No. 1.1 and 1.2, "Regional and Aerial Location Maps," and No. 2, "TMK Map"). The property is situated on a high bluff overlooking Keonenui Bay and ranges in elevation from approximately 25 feet above mean sea level (AMSL) at the top of the bluff to approximately 38 feet at the *mauka* boundary with Lower Honoapiilani Road. The bluff at the property's *makai* boundary is composed of red volcanic clay soil, and has been progressively eroding.

B. EXISTING LAND USE

Existing structures on the parcel include a single-family residence and detached garage. A shoreline bluff approximately 196 feet in length and 25 feet in height fronts the property. Land uses on neighboring parcels are characterized largely by single-family residential development and some multi-family development such as the Kahana Sunset Condominiums. With the exception of the subject property, the properties fronting the entirety of the shoreline between Haukoe and Alaeloa Points are armored by individual seawalls that together form a nearly contiguous structure along the shoreline.

C. LAND USE DESIGNATIONS

The project site lies in the State *Urban* District, is proposed for *Single-Family* use by the West Maui Community Plan and is zoned *R-3 Residential District* by Maui County. The



site is located within the *Special Management Area (SMA)*, the area of jurisdiction of the Hawaii Coastal Zone Management (CZM) program.

State Land Use Classification:	Urban (<u>See</u> : Figure No. 3, "State Land Use Map")
West Maui Community Plan:	SF Single Family (<u>See</u> : Figure No. 4, "Community Plan Map")
County Zoning:	R-3 Residential (<u>See</u> : Figure No. 5, "County Zoning Map")
Flood Zone Designation:	C, Minimal Flooding (<u>See</u> : Figure No. 6, "Flood Insurance Rate Map")
Special Designations:	Special Management Area (SMA) (<u>See</u> : Figure No. 7, "SMA Map")

D. PROJECT BACKGROUND AND NEED

The existing single-family residence was constructed in 1976. However, due to the coastal erosion of the clay substrate and the creation of undermining caves, the residence is now situated roughly 18 feet from the edge of the shoreline cliff at its nearest point. Field books from the Maui County Property Tax office containing information about the subject property show that in 1972, the lot area totaled 21,620 square feet. In 1987, the book notes a "change in area and boundary due to erosion," and the current 19,214-square foot lot size demonstrates that erosion is continuing. Therefore, a sea retaining wall is proposed in order to stabilize the exposed, 20-foot high bank of the sea cliff upon which this property is situated (See: Figures No. 8, "Site Photographs, and No. 9, "Seawall Location").

The adjacent parcels forming the natural shoreline cliff of Keonenui Bay have already been armored with vertical stone seawalls along the remainder of the shoreline. The effect of wave action on the area below the subject parcel is therefore magnified. Waves continue to pound the cliff and erode the clay substrate at its base, which threatens public safety and adds silt to the adjacent coastal waters.

The purpose of this project is to enhance public safety and create a long-term solution that will stabilize the bank at the shoreline in order to:

- Prevent future erosion of the property and potential undermining of neighboring shoreline protection structures;



- Prevent earthen soils from eroding and causing siltation of the coastal waters; and
- Remove the public hazard associated with the formation of sea caves which result in an unstable bluff.

In addition, the existing residence will be demolished and removed from within the Shoreline Setback Area. Construction of a proposed new residence will take place in compliance with the Shoreline Setback Rules, at a distance of approximately 48 feet from the shoreline. This will serve to further mitigate risks associated with coastal hazards.

E. ALTERNATIVES

The following alternatives were considered in determining the proposed action:

1. **No Action:** This alternative would forego any improvements associated with the proposed project.

Positive Impacts: By leaving the property in its existing state, the short term impacts associated with demolition and construction would be avoided.

Negative Impacts: The County would not realize higher tax revenues associated with redevelopment of the property. The existing residential structure, which currently lies approximately 15 feet from the edge of the bluff at its closest point, may become threatened either by gradual erosion of the bluff over time or catastrophic collapse due to a heavy storm event. The existing public safety hazard would not be addressed. Water quality in the adjacent coastal waters will continue be compromised by erosion-borne sediment from the eroding bluff. This alternative was deemed infeasible and dropped from consideration.

2. **No Seawall:** This alternative would result in the construction of a new residence set back further from the shoreline, and would leave the bluff face in its existing condition.

Positive Impacts: The building setback distance from the shoreline would be increased. There would be no immediate construction-related impacts associated with the construction of the seawall.

Negative Impacts: Nearshore water quality and public safety would remain threatened by gradual erosion of the bluff over time or catastrophic collapse due to a heavy storm event. This alternative was deemed infeasible and dropped from consideration.