

## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD	2020 - 43
Acceptance Date:	4/15/2020
Website Posting Date:	4/20/2020
Determination Date:	4/15/2020
Planning Commission Date:	5/12/2020
Expiration Date:	4/15/2021
Planner Assigned:	RI

**Instructions:** File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Applicant Information	
Applicant:	Matt Hunter
Mailing Address:	Po box 1247 Hanalei, HI 96714 Phone: 808-635-8929
	Po box 1247 Hanalei, HI 96714 Email: matthunter@hawaii.rr.com
Applicant's Status: (Check one)	
<input checked="" type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	R4 Tax Map Key(s): 4-5-8-8-13
	Land Area: 19,495 sf
Nature of Development: (Description of proposed structure or subdivision)	Add a stove and enclose a storage area of approximately 241sf within the footprint of an existing guesthouse. Building Permit #19-2458.

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,  
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

### Part A

#### Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Property is Abutting the Shoreline
  - ☐ Proposed project's approximate distance from shoreline (based on aerial map): \_\_\_\_\_ ft.
2. Property is Not Abutting the Shoreline
  - ☒ Proposed project's approximate distance from shoreline (based on aerial map): 547 ft.
3. Additional Information:
  - ☒ Shoreline Change (Erosion/Accretion) Rate: -0.4 ft./year  
(Information available here: \_\_\_\_\_)
  - ☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

Two roads and three houses between this parcel and the shoreline.



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)  
Flat 10.4ft and 10.8ft

☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)  
Sand and rocky shore.

☐ Artificially armored Shoreline  
☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): \_\_\_\_\_  
☐ Is the armoring permitted/authorized? \_\_\_\_\_  
☐ Date of authorization (attach copy of authorization letter): \_\_\_\_\_

☒ Is property in coastal floodplain (if checked, what zone)? VE26  
☒ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?  
Tsunami years ago.

### PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

Applicant's Signature

Signature

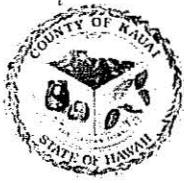
Date

Applicability	
<input checked="" type="checkbox"/>	Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.
<input type="checkbox"/>	Setback Determination is NOT necessary. Requirements of Ordinance No. 979 are not applicable.
<u>Romio Idica</u> Romio Idica (Apr 17, 2020)	4/15/2020
Planning Director or designee	Date

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

### Part B

- ☐ A non-refundable processing fee of **one hundred dollars** shall accompany a request for determination. (§8-27.8(e))
- ☒ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☒ A detailed Plot Plan to scale with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☒ Building Permit Number (If building plans submitted)



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### Exemption Determination

☐ **Exemption 1**

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☐ **Exemption 2**

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

☒ **Exemption 3**

Pursuant to §8-27.7, those structures and uses found exempt in Table 3 (see pg. 7) including repairs and renovations to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☒ Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

### Exemption Determination

☐ Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.

☒ Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

  
Romio Idica (Apr 17, 2020)

Planning Director or designee

4/15/2020

Date

☐ Additional comments/conditions:





## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### **Part C**

#### **Shoreline Setback Determination (§8-27.8)**

*(This document is the request for a shoreline setback structure or subdivision determination form.)*

Please complete this section if you are proposing a structure or subdivision that is *not* exempt (pursuant to Part B) and requires a certified shoreline. Determination of applicability (**Part A**) from the Planning Director shall first be obtained.

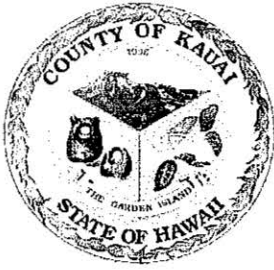
<b>Certified Shoreline</b>	
<input type="checkbox"/> <b>Certified Shoreline</b>	
<input type="checkbox"/> Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)	
<input type="checkbox"/> Average Lot Depth: _____ ft.	
<input type="checkbox"/> Setback (Table 1 or Table 2): _____ ft.	
<input type="checkbox"/> Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d)	
_____ Planning Director or its designee	_____ Date

<b>Public Projects less than \$125,000</b>	
<input type="checkbox"/> <b>Public Projects less than \$125,000 Declaration ((§8-27.8(c)(2))</b>	
_____ Planning Director or designee	_____ Date
<input type="checkbox"/> Certified Shoreline Required	
<input type="checkbox"/> Certified Shoreline Not Required	

Describe proposed structure(s), including but not limited to the landscaping plan (please attach):

Explain how the proposed structure is in compliance with §8-27.8(c)(2) (attach additional information if necessary):





## PLANNING DEPARTMENT SHORELINE SETBACK VARIANCE

### **Part D**

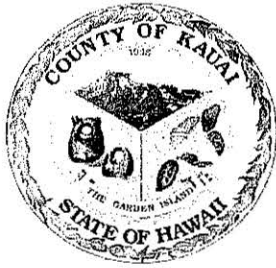
#### **Shoreline Setback Variance (§8-27.9)**

This part is the request for a shoreline setback variance. In addition to the documentation and information requested in Parts A, B, and C, the Applicant applying for a variance is required to submit all required information, per §8-27.9 listed in the checklist below.

- ☐ A non-refundable administrative fee of three hundred dollars
- ☐ Certification from the owner or lessee of the lot which authorizes the application for variance;
- ☐ An environmental assessment and or EIS, if required, prepared in accordance with HRS Chapter 343, and the environmental impact statement rules and applicable guidelines of the State of Hawai'i;
- ☐ The names, addresses, and the tax map key identification of owners of real property situated adjacent to and abutting the boundaries of the land on which the proposed structure or subdivision and/or landscaping is to be located; or operation is to occur (attach information);
- ☐ A site plan of the shoreline setback area, drawn to scale, showing:
  - ☐ Existing natural and man-made features and conditions within;
  - ☐ Existing natural and man-made features and conditions along properties immediately adjacent to the shoreline setback area and proposed improvements;
  - ☐ The certified shoreline and the shoreline setback line (submitted under **Part B**);
  - ☐ Contours at a minimum interval of two (2) feet unless waived by the Director; and
  - ☐ Proposed development and improvements showing new conditions with a typical section (if a structure).
- ☐ A copy of the certified shoreline survey map of the property (submitted under **Part B**);
- ☐ Detailed justification of the proposed project, which addresses the purpose and intent of these rules and the criteria for approval of a variance (attach written statement);
- ☐ Analysis and report of coastal erosion rates and coastal processes; and
- ☐ Any other information required by the Director (listed below).

Any structure approved within the shoreline setback area by variance shall not be eligible for protection by shoreline hardening during the life of the structure, and this limitation and the fact that the structure does not meet setback requirements under §8-27.3 and could be subject to coastal erosion and high wave action shall be written into a unilateral agreement that is recorded by the Bureau of Conveyances of Land Court, as the case may be. A copy of the unilateral agreement shall be submitted to the Planning Department prior to the issuance of the required zoning and/or shoreline setback variance. Failure of the grantor to record these deed restrictions shall constitute a violation and the grantor shall be subject to the penalties set forth in this Article 3.

For any structure approved within the shoreline setback area by variance, the Applicant shall agree in writing that the Applicant, its successors and permitted assigns shall defend, indemnify and hold the County of Kaua'i harmless from and against any and all loss, liability claim, or demand arising out of damages to said structure and this indemnification shall be included in the unilateral agreement required above.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 1. (This table is included for illustrative purposes only.)

Lots Included in the Kaua'i Coastal Erosion Study. The distance in feet of the shoreline setback line as measured from the certified shoreline based on the average lot depth in feet.

### LOTS INCLUDED IN KAUA'I COASTAL EROSION STUDY

Average Lot Depth	Setback Line
Less than 140 feet (<140 feet)	40 feet plus (70 X annual coastal erosion rate) plus 20 feet
140 feet to 220 feet (140-220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- (Average Lot Depth minus 100 feet) ÷ by 2 plus 40
Greater than 220 feet (>220 feet)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- 100 feet from the certified shoreline

View erosion rate maps from the County website at

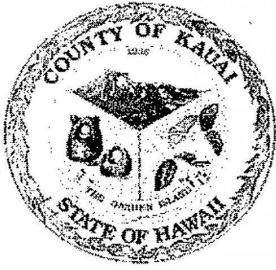
Table 2. (This table is included for illustrative purposes only.)

Lots Not Included in the Kaua'i Coastal Erosion Study.

### LOTS NOT INCLUDED IN KAUA'I COASTAL EROSION STUDY

Setback Calculation	
(Average Lot Depth – 100/2+40) Subject to the Following:	
1	For lots with naturally occurring rocky shorelines, the shoreline setback line shall be <b><u>no less than 40 feet.</u></b>
2	For all other lots, the shoreline setback line shall be <b><u>no less than 60 feet.</u></b>
3	For all lots, the <b><u>maximum</u></b> setback that can be required <b><u>shall be 100 feet.</u></b>

Non-Abutting Lots. If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred fifty (550) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits to increase setbacks where evidence exists that a proposed structure may be affected by coastal hazards or erosion.

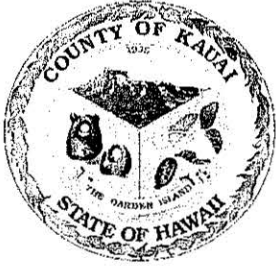


## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

**Table 3.** This table is presented for **Exemption 3** (§8-27.7).

<b>Permitted Structures within the shoreline setback area</b>	
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in the section are prohibited without a variance.
(1)	Existing conforming and nonconforming structures/activities
(2)	Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure or activity that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing on the shoreline setback area on June 16, 1989.
(4)	"Temporary structures" as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, which are publicly owned, and which result in no interference with natural beach processes; provided that permitted structures may be repaired, but shall not be enlarged within the shoreline setback area without a variance.
(6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: <ul style="list-style-type: none"> <li>(A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;</li> <li>(B) The repairs do not constitute a substantial improvement of the structure; and</li> <li>(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.</li> </ul>
(7)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(8)	A structure approved by the Director as a minor structure.
(9)	Qualified demolition of existing structures.
(10)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(11)	Scientific studies and surveys, including archaeological surveys.
(12)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai'i, the Mayor of the County of Kaua'i or any other public official authorized by the law to declare an emergency.
(13)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(14)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai'i Revised Statutes.





## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

(b)	The following conditions shall apply to any new structure permitted in the shoreline setback area:
(1)	All new structures shall be constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaua'i County Code 1987, as amended, relating to coastal high hazard districts and FEMA guidelines regarding construction in areas mapped on Flood Insurance Rate Maps as flood hazard areas.
(2)	The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazard and coastal erosion.
(3)	The applicant shall agree in writing for itself, its successors and assigns that the construction of any erosion-control or shoreline hardening structure and/or landscaping shall not be allowed to protect the permitted structure during its life, with the exception of approved beach or dune nourishment fill activities, and landscape planting and irrigation located more than forty feet (40') from the shoreline.
(4)	Unless otherwise provided, all new structures and/or landscaping shall not: <ul style="list-style-type: none"> <li>(A) adversely affect beach processes,</li> <li>(B) artificially fix the shoreline,</li> <li>(C) interfere with public access or public views to and along the shoreline,</li> <li>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</li> <li>(E) alter the grade of the shoreline setback area.</li> </ul>
(5)	All new structures shall be consistent with the purposes of this article and HRS Chapter 205A, as amended, and shall be designed and located to minimize the alteration of natural landforms and existing public views to and along to the shoreline.
(6)	The requirements of this Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under Section 8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit.



Ruler

Line Path Polygon Circle 3D path 3D polygon

Measure the distance between two points on the ground

Map Length: 547.62 Feet

Ground Length: 547.82

Heading: 199,15 degrees

☒ Mouse Navigation

Save Clear

©2019 Google

Google E  
TWV



ENGINEERING DIVISION  
DEPARTMENT OF PUBLIC WORKS  
THE COUNTY OF KAUAI

DEREK S. K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

LYLE M. TABATA  
DEPUTY COUNTY ENGINEER

February 14, 2020

Matt Hunter  
P.O. Box 1247  
Hanalei, HI 96714

Subject: SHORELINE SETBACK APPLICATION,  
SUBSTANTIAL IMPROVEMENT DETERMINATION  
7251 'Āle'ale'a Road Hā'ena, Hunter  
TMK: (4) 5-8-008:013

PW: 01.20.126

Dear Mr. Hunter,

The Kauai County Shoreline Setback and Coastal Protection Ordinance (Ordinance No. 579) Section 8-27.2 states:

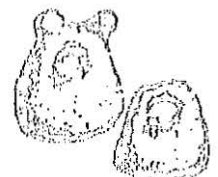
"'Substantial improvement' means any cumulative series of repairs, reconstruction, improvements or additions to a structure over a ten (10) year period, where the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the first improvement during that ten (10) year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure...."

Improvements are being proposed to the Guest House at TMK: (4) 8-8-008:013 in Haena. To determine if the improvements are considered "substantial," we compare the total cost of all improvements within the past 10 years to the market value of the structure before the start of construction of the first improvement. If the resulting ratio is less than 50%, then the improvements are determined to be "unsubstantial."

Unless a professional appraisal is provided, the market value shall be determined by the County's Real Property Assessment Division.

**Market Value**

The market value is the Replacement Cost New Less Depreciation (RCNLD) value for 2020 as determined by the County's Real Property Assessment Division. The market value of the building is \$156,300. Fifty percent (50%) of this is \$78,150 (or \$156,300 divided by 2).





**Cost of Improvements**

There were no permits within the past ten years. The estimated cost of the proposed improvements was \$7,770. This was based on a cost estimate prepared by homeowner Matt Hunter.

**Summary**


The cost of improvements compared to the market value is:

$$\frac{\text{Cost of Improvements (past 10 years): \$7,770}}{\text{Market Value (Real Property): \$156,300}} = 0.049712 \text{ or } 5.0\%$$

Since the total cost **does not** exceed 50% of the market value, the improvement is **not** considered to be substantial. Based on our records there were no other permits for the structure within the past ten years. However, if any unpermitted work has been done, or if there are modifications to this application, our determination shall be considered void and the structure must be re-evaluated.

If you have any questions or need additional information, contact Anthony Chandler at (808) 241-4884 or email at [achandler@kauai.gov](mailto:achandler@kauai.gov).

Sincerely,

  
Michael Moule, P.E.  
Chief, Engineering Division

Concur,

  
Lyle Tabata  
Deputy County Engineer

MM/SI/AC

Copy: Design and Permitting  
Planning Department (Romio Idica)



# Matthew Hunter SSD Application

Final Audit Report

2020-04-17

Created:	2020-04-17
By:	Shelea Blackstad (sblackstad@kauai.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGCtM_0FJYIG4oNX4usLnF_-17uwHit9

## "Matthew Hunter SSD Application" History

-  Document created by Shelea Blackstad (sblackstad@kauai.gov)  
2020-04-17 - 8:47:30 PM GMT- IP address: 72.130.150.171
-  Document emailed to Romio Idica (ridica@kauai.gov) for signature  
2020-04-17 - 8:49:21 PM GMT
-  Email viewed by Romio Idica (ridica@kauai.gov)  
2020-04-17 - 9:01:38 PM GMT- IP address: 72.130.146.181
-  Document e-signed by Romio Idica (ridica@kauai.gov)  
Signature Date: 2020-04-17 - 9:10:09 PM GMT - Time Source: server- IP address: 72.130.146.181
-  Signed document emailed to Shelea Blackstad (sblackstad@kauai.gov) and Romio Idica (ridica@kauai.gov)  
2020-04-17 - 9:10:09 PM GMT



**Instructions:** File all information requested under Part A for processing the Determination of Applicability (§8-27.1), including signature page. Fill out Parts A and B if you know that your parcel will require a Certified Shoreline Survey, due to the proximity to the shoreline. If you are proposing a permitted structure or subdivision within the shoreline setback area fill in Part C. For applications involving a variance, complete Part D.

Project Information (attach additional sheets, if necessary)	
County Zoning District:	<u>Conservation, Agriculture, Open, Special</u> Tax Map Key(s): 437002999, 437002002, 435001085, 435001008, 435001159, 437002001, 437002002, 435001085, 435001008, 435001159, 437002001, 437002002 Land Area: _____
Nature of Development: (Description of proposed structure or subdivision)	The purpose of the proposed project, referred to as "Ahukini to Lydgate Park Bicycle and Pedestrian Path," is to provide a shared-use bicycle and pedestrian path for residents and visitors to Kaua'i. The path will begin at Ahukini Point and will end by connecting with an existing path to the north at Lydgate Park, covering a distance of approximately 6.7 miles. Construction of this path will be a key segment of the Nawiliwili to Anahola Bike and Pedestrian Path proposed in the 1994 State of Hawai'i Master Plan – Bike Plan Hawai'i.

**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,  
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

## Part A

### Shoreline Setback Determination of Applicability (§8-27.1)

Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Property is Abutting the Shoreline  
☒ Proposed project's approximate distance from shoreline (based on aerial map): min. 45 ft.
2. Property is Not Abutting the Shoreline  
☒ Proposed project's approximate distance from shoreline (based on aerial map): >1,000 ft.
3. Additional Information:  
☒ Shoreline Change (Erosion/Accretion) Rate: Nukolihi: -0.9 ft/yr, Lydgate: -0.4 ft/yr ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauai/KCounty.html](http://www.soest.hawaii.edu/coasts/kauai/KCounty.html))  
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

Tax map key parcel numbers and owners labeled on Sea Level Rise - Exposure Area maps.





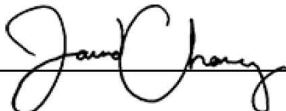
## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)  
Topography of the path varies. See attached SLR-XA maps.
- ☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)  
Carbonate sand beach, exposed beach rock, engineered jetties with fringing reef offshore
- ☐ Artificially armored Shoreline  
☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): \_\_\_\_\_  
☐ Is the armoring permitted/authorized? \_\_\_\_\_  
☐ Date of authorization (attach copy of authorization letter): \_\_\_\_\_
- ☒ Is property in coastal floodplain (if checked, what zone)? AE, VE, A  
☒ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?  
Yes, portions of the lands traversed by the path.

### PLEASE NOTE:

Any misrepresentation of information in this shoreline setback application will result in revocation of this determination and may result in fines and criminal prosecution.

### Applicant's Signature

Signature  Date 4/14/20

### Applicability (to be completed by Planning Department)

- ☒ **Setback Determination necessary.** Requirements of Ordinance No. 979 are applicable.
- ☐ **Setback Determination is NOT necessary.** Requirements of Ordinance No. 979 are not applicable.

  
Romio Idica (Apr 16, 2020)

Planning Director or designee

4/15/2020

Date

If **Part A** has been deemed that a Determination will be necessary, the additional information will be required for submission of this application.

### Part B

- ☒ A non-refundable processing fee of **one hundred dollars (\$100.00)** shall accompany a request for determination. (§8-27.8(e))
- ☒ An aerial map/image (ex. Google Maps or Google Earth) with a line drawn from the shoreline/vegetation line (approximate shoreline) to the proposed project and the calculated distance in feet.
- ☒ A detailed Plot Plan **to scale** with all existing and proposed structures including driveways, visible lot coverage, setbacks and measurement details, fences, gates, and walls, etc.
- ☐ Building Permit Number (If building plans submitted)



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### Exemption Determination

☐

#### Exemption 1

In cases where the proposed structure or subdivision satisfies the following four criteria:

(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 'V' or 'VE' flood zones;

(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;

(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and

(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☐

#### Exemption 2

In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant's proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant's property, elevation, and the history of coastal hazards in the area.

☐

#### Exemption 3

Pursuant to §8-27.7, those structures and uses found exempt in Table 3 (see pg. 7) including repairs and renovations to a lawfully existing structure, including nonconforming structures, provided that:

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;

(B) The repairs DO NOT constitute a substantial improvement of the structure; and

(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☐

Letter from the Department of Public Works stating that the proposed project does **NOT** constitute "Substantial Improvement," pursuant to §8-27.2 (If applicable, will require valuation of project).

### Exemption Determination (to be completed by Planning Department)

☐

Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.

☐

Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b). (See pg. 8)

\_\_\_\_\_  
Planning Director or designee

\_\_\_\_\_  
Date

☒

#### Additional comments/conditions:

Shoreline certified. KA-434 Oct. 15, 2019



## PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

### **Part C**

#### **Shoreline Setback Determination (§8-27.8)**

*(This document is the request for a shoreline setback structure or subdivision determination form.)*

Please complete this section if you are proposing a structure or subdivision that is *not* exempt (pursuant to Part B) and requires a certified shoreline. Determination of applicability (**Part A**) from the Planning Director shall first be obtained.

Certified Shoreline	
<b>Select the appropriate option:</b>	
<input checked="" type="checkbox"/>	Certified Shoreline
<input checked="" type="checkbox"/>	Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)
<input checked="" type="checkbox"/>	Average Lot Depth: <u>126 - 1512</u> ft.
<input checked="" type="checkbox"/>	Setback (Table 1 or Table 2): <u>18 - 123</u> ft.
<input type="checkbox"/>	Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d)
<u>Romio Idica</u> Romio Idica (Apr 16, 2020)	<u>4/15/2020</u>
Planning Director or its designee	Date

Public Projects less than \$125,000	
<input type="checkbox"/>	Public Projects less than \$125,000 Declaration ((§8-27.8(c)(2))
Planning Director or designee	Date
<input type="checkbox"/>	Certified Shoreline Required
<input type="checkbox"/>	Certified Shoreline Not Required

Describe proposed structure(s), including but not limited to the landscaping plan (please attach):

The structures proposed within this project include a 10 - 12 ft wide bicycle and pedestrian shared-use path and two comfort stations. Concrete path sections within the shoreline setback will be cut in intervals not exceeding 3-feet long.
--

Explain how the proposed structure is in compliance with §8-27.8(c)(2) (attach additional information if necessary):

Not applicable, as the total valuation will exceed \$125,000.00.
--





## PLANNING DEPARTMENT SHORELINE SETBACK VARIANCE

### **Part D**

#### **Shoreline Setback Variance (§8-27.9)**

This part is the request for a shoreline setback variance. In addition to the documentation and information requested in Parts A, B, and C, the Applicant applying for a variance is required to submit all required information, per §8-27.9 listed in the checklist below.

- ☐ A non-refundable administrative fee of three hundred dollars **(\$300.00)**.
- ☐ Certification from the owner or lessee of the lot which authorizes the application for variance;
- ☐ An environmental assessment and or EIS, if required, prepared in accordance with HRS Chapter 343, and the environmental impact statement rules and applicable guidelines of the State of Hawai'i;
- ☐ The names, addresses, and the tax map key identification of owners of real property situated adjacent to and abutting the boundaries of the land on which the proposed structure or subdivision and/or landscaping is to be located; or operation is to occur (attach information);
- ☐ A site plan of the shoreline setback area, drawn to scale, showing:
  - ☐ Existing natural and man-made features and conditions within;
  - ☐ Existing natural and man-made features and conditions along properties immediately adjacent to the shoreline setback area and proposed improvements;
  - ☐ The certified shoreline and the shoreline setback line (submitted under **Part B**);
  - ☐ Contours at a minimum interval of two (2) feet unless waived by the Director; and
  - ☐ Proposed development and improvements showing new conditions with a typical section (if a structure).
- ☐ A copy of the certified shoreline survey map of the property (submitted under **Part B**);
- ☐ Detailed justification of the proposed project, which addresses the purpose and intent of these rules and the criteria for approval of a variance (attach written statement);
- ☐ Analysis and report of coastal erosion rates and coastal processes; and
- ☐ Any other information required by the Director (listed below).

Any structure approved within the shoreline setback area by variance shall not be eligible for protection by shoreline hardening during the life of the structure, and this limitation and the fact that the structure does not meet setback requirements under §8-27.3 and could be subject to coastal erosion and high wave action shall be written into a unilateral agreement that is recorded by the Bureau of Conveyances of Land Court, as the case may be. A copy of the unilateral agreement shall be submitted to the Planning Department prior to the issuance of the required zoning and/or shoreline setback variance. Failure of the grantor to record these deed restrictions shall constitute a violation and the grantor shall be subject to the penalties set forth in this Article 3.

For any structure approved within the shoreline setback area by variance, the Applicant shall agree in writing that the Applicant, its successors and permitted assigns shall defend, indemnify and hold the County of Kaua'i harmless from and against any and all loss, liability claim, or demand arising out of damages to said structure and this indemnification shall be included in the unilateral agreement required above.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

Table 1. (This table is included for illustrative purposes only.)

Lots Included in the Kaua'i Coastal Erosion Study. The distance in feet of the shoreline setback line as measured from the certified shoreline based on the average lot depth in feet.

### **LOTS INCLUDED IN KAUA'I COASTAL EROSION STUDY**

Average Lot Depth	Setback Line
Less than 140 feet (<140 feet)	40 feet plus (70 X annual coastal erosion rate) plus 20 feet
140 feet to 220 feet (140-220 feet)	<p style="text-align: center;"><u>Greater of:</u></p> <p>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</p> <p style="text-align: center;"><u>-or-</u></p> <p>(Average Lot Depth minus 100 feet) ÷ by 2 plus 40</p>
Greater than 220 feet (>220 feet)	<p style="text-align: center;"><u>Greater of:</u></p> <p>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</p> <p style="text-align: center;"><u>-or-</u></p> <p>100 feet from the certified shoreline</p>

View erosion rate maps from the County website at

<http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html>

Table 2. (This table is included for illustrative purposes only.)

Lots Not Included in the Kaua'i Coastal Erosion Study.

### **LOTS NOT INCLUDED IN KAUA'I COASTAL EROSION STUDY**

Setback Calculation	
(Average Lot Depth – 100/2+40) Subject to the Following:	
1	For lots with naturally occurring rocky shorelines, the shoreline setback line shall be <b><u>no less than 40 feet.</u></b>
2	For all other lots, the shoreline setback line shall be <b><u>no less than 60 feet.</u></b>
3	For all lots, the <b><u>maximum</u></b> setback that can be required <b><u>shall be 100 feet.</u></b>

Non-Abutting Lots. If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred fifty (550) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits to increase setbacks where evidence exists that a proposed structure may be affected by coastal hazards or erosion.



## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

**Table 3.** This table is presented for **Exemption 3 (§8-27.7)**.

Permitted Structures within the shoreline setback area	
(a)	The following structures are permitted in the shoreline setback area. All structures and/or landscaping not specifically permitted in the section are prohibited without a variance.
(1)	Existing conforming and nonconforming structures/activities
(2)	Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.
(3)	A structure or activity that is necessary for, or ancillary to, continuation of agriculture or aquaculture existing on the shoreline setback area on June 16, 1989.
(4)	“Temporary structures” as defined in Section 8-27.2. To ensure that there will be no irreversible or long-term adverse effects, the Director shall require as a condition of a permit the restoration of the site to its original condition or better, and the Director may require a bond to ensure such restoration.
(5)	A structure that consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or water sports recreational facilities, which are publicly owned, and which result in no interference with natural beach processes; provided that permitted structures may be repaired, but shall not be enlarged within the shoreline setback area without a variance.
(6)	Repairs to a lawfully existing structure, including nonconforming structures, provided that: <ul style="list-style-type: none"> <li>(A) The repairs do not enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;</li> <li>(B) The repairs do not constitute a substantial improvement of the structure; and</li> <li>(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.</li> </ul>
(7)	Beach nourishment or dune restoration projects approved by all applicable governmental agencies.
(8)	A structure approved by the Director as a minor structure.
(9)	Qualified demolition of existing structures.
(10)	Unmanned civil defense facilities installed for the primary purposes of: (i) warning the public of emergencies and disasters; or (ii) measuring and/or monitoring geological, meteorological and other events.
(11)	Scientific studies and surveys, including archaeological surveys.
(12)	Structures built by a governmental agency to address an emergency as declared by the Governor of the State of Hawai‘i, the Mayor of the County of Kaua‘i or any other public official authorized by the law to declare an emergency.
(13)	Structures relating to film productions that have received a County Revocable Film Permit. Structures undertaken for film productions must be removed within thirty (30) days following the completion of the film production.
(14)	Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai‘i Revised Statutes.





## PLANNING DEPARTMENT SHORELINE SETBACK INFORMATION

(b)	The following conditions shall apply to any new structure permitted in the shoreline setback area:
(1)	All new structures shall be constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaua'i County Code 1987, as amended, relating to coastal high hazard districts and FEMA guidelines regarding construction in areas mapped on Flood Insurance Rate Maps as flood hazard areas.
(2)	The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazard and coastal erosion.
(3)	The applicant shall agree in writing for itself, its successors and assigns that the construction of any erosion-control or shoreline hardening structure and/or landscaping shall not be allowed to protect the permitted structure during its life, with the exception of approved beach or dune nourishment fill activities, and landscape planting and irrigation located more than forty feet (40') from the shoreline.
(4)	Unless otherwise provided, all new structures and/or landscaping shall not: <ul style="list-style-type: none"> <li>(A) adversely affect beach processes,</li> <li>(B) artificially fix the shoreline,</li> <li>(C) interfere with public access or public views to and along the shoreline,</li> <li>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</li> <li>(E) alter the grade of the shoreline setback area.</li> </ul>
(5)	All new structures shall be consistent with the purposes of this article and HRS Chapter 205A, as amended, and shall be designed and located to minimize the alteration of natural landforms and existing public views to and along the shoreline.
(6)	The requirements of this Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under Section 8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit.



# 200414 Ahukini-Lydgate Path - SSD application

Final Audit Report

2020-04-16

Created:	2020-04-16
By:	Shelea Blackstad (sblackstad@kauai.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAJZdP86ZvYlIzqluEN7k01MtkuSjzjUzR

## "200414 Ahukini-Lydgate Path - SSD application" History

-  Document created by Shelea Blackstad (sblackstad@kauai.gov)  
2020-04-16 - 6:22:20 PM GMT- IP address: 72.130.150.171
-  Document emailed to Romio Idica (ridica@kauai.gov) for signature  
2020-04-16 - 6:22:53 PM GMT
-  Email viewed by Romio Idica (ridica@kauai.gov)  
2020-04-16 - 6:29:12 PM GMT- IP address: 72.130.146.181
-  Document e-signed by Romio Idica (ridica@kauai.gov)  
Signature Date: 2020-04-16 - 9:51:49 PM GMT - Time Source: server- IP address: 174.239.0.217
-  Signed document emailed to Shelea Blackstad (sblackstad@kauai.gov) and Romio Idica (ridica@kauai.gov)  
2020-04-16 - 9:51:49 PM GMT

**FILE TO LARGE TO SCAN**

**FOR MORE INFORMATION OR A COPY PLEASE  
CONTACT ROMIO IDICA at 241-4056 or email  
[ridica@kauai.gov](mailto:ridica@kauai.gov)**