



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:

SSD 202 1 - 6

Acceptance Date:	8/17/2020
Website Posting Date:	8/20/2020
Determination Date:	8/17/2020
Planning Commission Date:	N/A
Expiration Date:	8/17/2021
Planner Assigned:	RJ

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: Jonathan Brandt
Mailing Address: 47-388 Hui Iwa St #16 Kaneohe, HI 96744 Phone: 808-436-8108
Email: permit@jpbengineering.com

Applicant's Status: (Check one)

- | | |
|--|---|
| <input 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 unexpired and recorded 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: RR-20 Tax Map Key(s): 3-7-003:015
Land Area: _____

Nature of Development:
(Description of proposed structure or subdivision) Concrete spall repair to Buildings 1, 2, 3, 4, and pool building.

**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.

- Property is Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map):

Bldg 1	500
Bldg 3	350
Bldg 4	225
pool	350 ft.
- Property is Not Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Additional Information:
☒ Shoreline Change (Erosion/Accretion) Rate: 1.9 ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html)
☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

Relatively flat

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

Carbonate sand, exposed beach rock, engineered jetties, with a fringing reef.

- ☐ 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)? _____

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunamis, etc.) in the past?

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

7-29-2020

Date

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.

Planning Director or designee

8/17/2020

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

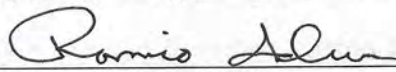
(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☐ 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

8/17/2020
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.

Certified Shoreline	
Select the appropriate option:	
<input type="checkbox"/>	Certified Shoreline
<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

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):

--

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

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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)	Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- (Average Lot Depth minus 100 feet) \div 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
<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 no less than 40 feet .
2	For all other lots, the shoreline setback line shall be no less than 60 feet .
3	For all lots, the maximum setback that can be required shall be 100 feet .

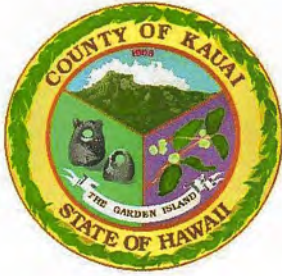
Non-Abutting Lots. If an Applicant is unable to secure permission from the abutting landowner to complete a certified shoreline for a non-abutting lot within approximately five hundred fifty (550) feet of the shoreline, the Planning Director may, pursuant to §8-4.3, impose conditions to zoning permits 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"> (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.
(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"> (A) adversely affect beach processes, (B) artificially fix the shoreline, (C) interfere with public access or public views to and along the shoreline, (D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or (E) alter the grade of the shoreline setback area.
(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.



DEPARTMENT OF PLANNING
THE COUNTY OF KAUA'I

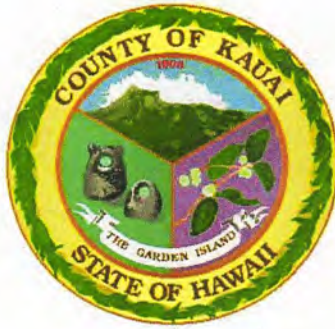
DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHILIG, MANAGING DIRECTOR

KA'ĀINA S. HULL
DIRECTOR

JODI A. HIGUCHI SAYEGUSA
DEPUTY DIRECTOR

Application too large to upload.
If you would like a copy of the
application please feel free to
email Romio Idica at
ridica@kauai.gov
Thank you very much!





PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:

SSD 2021 - 7

Acceptance Date:	8/17/2020
Website Posting Date:	8/20/2020
Determination Date:	8/17/2020
Planning Commission Date:	N/A
Expiration Date:	8/17/2021
Planner Assigned:	R

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:	Aubrey Summers		
Mailing Address:	4225 Kanikele St. Kilauea HI 96754	Phone:	808-938-2817
		Email:	aubreysummers808@gmail.com
Applicant's Status: (Check one)			
<input 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 unexpired and recorded 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 See exhibit A		
Transmittal Date:			

Project Information (attach additional sheets, if necessary)

County Zoning District:	open	Tax Map Key(s):	5-5-005:019
		Land Area:	
Nature of Development: (Description of proposed structure or subdivision)	Construction of a privacy fence along public sides of property. Fence is intended to provide a safety barrier to the property from the road and park.		

**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.

- Property is Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 153 ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Additional Information:
☒ Shoreline Change (Erosion/Accretion) Rate: +1.9 ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html)
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

Waioli beach park is between the residence and the shoreline.



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

The topography is gently sloping towards the beach.

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

Shoreline is sandy.

- ☐ 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)? XS

- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

Not since current owner has owned the property.

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

6/28/20

Signature

Date

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.

Planning Director or designee

8/17/2020

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).

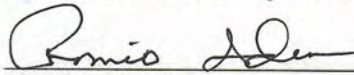
Exemption Determination (to be completed by Planning Department)



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

8/17/2020

Date



Additional comments/conditions:



DEPARTMENT OF PLANNING
THE COUNTY OF KAUA'I

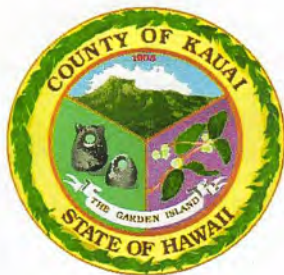
DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHILIG, MANAGING DIRECTOR

KA'ĀINA S. HULL
DIRECTOR

JODI A. HIGUCHI SAYEGUSA
DEPUTY DIRECTOR

Application too large to upload.
If you would like a copy of the
application please feel free to
email Romio Idica at
ridica@kauai.gov
Thank you very much!





PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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Planner Assigned:	RI

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Applicant Information	
Applicant:	Adam Brown for Andi and Robert Ferguson
Address:	5784 Ahakea St. 4421 Anae Rd Phone: 808 652 9440 Hanalei, Hawaii Hanalei, Hawaii Email: bwaybrown@gmail.com
Applicant's Status: (Check one)	
<input 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 unexpired and recorded 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:	August 3, 2020

Project Information (attach additional sheets, if necessary)	
County Zoning District:	R4 Tax Map Key(s): (4) 5-5-04:040 Land Area: 8,588 sf
Nature of Development: (Description of proposed Structure of subdivision)	Add covered lanai, complete remodel, remove and replace existing roof.

**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.

- ☐ Properties Abutting the Shoreline
☐ Project's approximate distance from shoreline: _____
- ☒ Properties Not Abutting the Shoreline
☒ Project's approximate distance from shoreline: 455' to rear wall

- ☒ Additional Information:
☒ Closest distance of improvement(s) from Shoreline is approximately 70' ft.
☒ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel:

Waioli Beach Park and parking lot fronts Hanalei bay and is approximately 70' from shoreline. Mauka is a parcel TMK (4)5-5-04:003 with large existing residence. Mauka of that is Weke road. Across Weke road is subject parcel 4165 Anae road (TMK 5-5-004:040) with existing residence, garage and art studio. approximately 430' from front wall and 455' to shoreline from rear wall of residence.



PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION



COPY

FOR OFFICIAL USE ONLY:

SSD 201__ - __

Acceptance Date:	
Website Posting Date:	
Determination Date:	
Planning Commission Date:	
Expiration Date:	
Planner Assigned:	

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

Flat

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

sand

- ☐ 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)? _____

- ☐ Has this property been subject to coastal hazards in the past? (If checked, please describe)

If the proposed structure or subdivision is within the shoreline setback area then, please be aware that if the determination of a structure is approved, 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 hazards and coastal erosion, pursuant to §8-27.7(b)(2).

The requirements of the 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 §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. §8-27.7(b)(6).

Applicant's Signature

Adam Brown

Signature

JULY 30, 2020

Date

Applicability (to be completed by Planning Department)

- ☒ Setback Determination necessary. Requirements of Ordinance No. 979 apply, submit full application.

Ronnie Adams

Planning Director or designee

8/17/2020

Date



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

 **COPY**

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

Exemption Determination



A non-refundable processing fee of one hundred dollars (\$100.00) shall accompany a request for determination. (§8-27.8(e))



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

Those structures and uses found exempt in Table 3 (§8-27.7) (see pg. 5-6)



Letter from the Department of Public Works stating that the proposed project does not constitute "Substantial Improvement," pursuant to §8-27.2

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 required established under §8-27.8.

Planning Director or designee

8-17-2020

Date



DEPARTMENT OF PLANNING
THE COUNTY OF KAUA'I

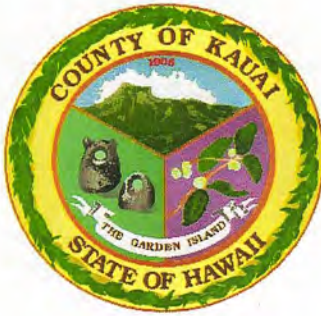
DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHILIG, MANAGING DIRECTOR

KA'ĀINA S. HULL
DIRECTOR

JODI A. HIGUCHI SAYEGUSA
DEPUTY DIRECTOR

Application too large to upload.
If you would like a copy of the
application please feel free to
email Romio Idica at
ridica@kauai.gov
Thank you very much!





PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 202 <u>1</u> - <u>9</u>	
Acceptance Date:	8/17/2020
Website Posting Date:	8/20/2020
Determination Date:	8/17/2020
Planning Commission Date:	9/8/2020
Expiration Date:	8/17/2023
Planner Assigned:	R1

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:	Marc Ventura
Mailing Address:	4202 Rice Street #102 Lihue HI 96766
	4202 Rice Street #102 Lihue HI 96766
Phone:	(808) 246-3936
Email:	marc@marcventura.com
Applicant's Status: (Check one)	
<input 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 unexpired and recorded 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:	6/25/20

Project Information (attach additional sheets, if necessary)	
County Zoning District:	R4
Tax Map Key(s):	(4) 5-5-002:003 - Unit 2
Land Area:	10,340 SF
Nature of Development: (Description of proposed structure or subdivision)	Minor site improvements including fence, platform hot tub and storage shed

**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.

- Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 535' ft.
- Additional Information:
☐ Shoreline Change (Erosion/Accretion) Rate: Just under 1 ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html)
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

Weke Road and Parcel 5-5-002:005 separate subject parcel from shoreline



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☐ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

Generally a flat, improved lot (existing residential dwelling)

- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

sandy

- ☐ 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)? XS

- ☒ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

Not that I am aware of

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

6/22/20

Signature

Date

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.

Planning Director or designee

8/17/2020

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

8/17/2020

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.

Certified Shoreline	
Select the appropriate option:	
<input type="checkbox"/> Certified Shoreline	
<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

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):

--

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

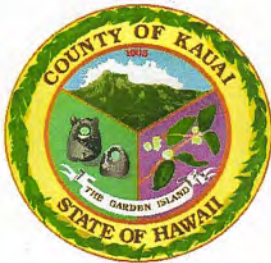
Shoreline Setback Variance (§8-27.9)

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 **(\$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 KAUAI 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) \div 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>

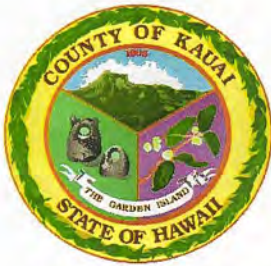
Table 2. (This table is included for illustrative purposes only.)

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

LOTS NOT INCLUDED IN KAUAI 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 <u>no less than 40 feet.</u>
2	For all other lots, the shoreline setback line shall be <u>no less than 60 feet.</u>
3	For all lots, the <u>maximum</u> setback that can be required <u>shall be 100 feet.</u>

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"> (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.
(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"> (A) adversely affect beach processes, (B) artificially fix the shoreline, (C) interfere with public access or public views to and along the shoreline, (D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or (E) alter the grade of the shoreline setback area.
(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.



DEPARTMENT OF PLANNING
THE COUNTY OF KAUA'I

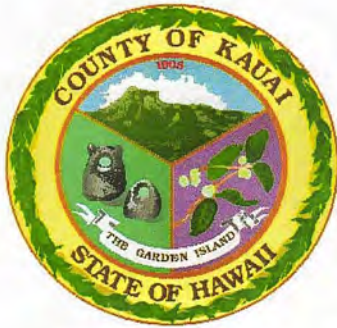
DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHILIG, MANAGING DIRECTOR

KA'ĀINA S. HULL
DIRECTOR

JODI A. HIGUCHI SAYEGUSA
DEPUTY DIRECTOR

Application too large to upload.
If you would like a copy of the
application please feel free to
email Romio Idica at
ridica@kauai.gov
Thank you very much!





PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD	202 <u>1</u> - <u>10</u>
Acceptance Date:	8/17/2020
Website Posting Date:	8/20/2020
Determination Date:	8/17/2020
Planning Commission Date:	9/8/2020
Expiration Date:	8/17/2023
Planner Assigned:	R1

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: <u>STEWART NEIL THUSAND</u>	
Mailing Address: <u>BOX 516, LAWAI, KAUAI,</u> <u>HI, 96765</u>	Phone: <u>808 332 9045</u> Email: <u>NEIL THUSAND@GMAIL.COM</u>
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 unexpired and recorded 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 type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District: <u>R-10 R-10</u>	Tax Map Key(s): <u>1-6-6-11 UNIT 'A'</u>
	Land Area: <u>3.759 sq/ft</u>
Nature of Development: (Description of proposed structure or subdivision)	<u>SMALL RESIDENTIAL HOME. (1200 sq/ft approx)</u>

**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.

- Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 325 ft.
- Additional Information:
☐ Shoreline Change (~~Erosion~~/Accretion) Rate: 5 ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicontry/KCounty.html)
☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

6 LOTS WITH RESIDENTIAL STRUCTURES (HOUSES) ON
OPPOSITE (OCEAN) SIDE OF KAHAKAI RD. WAIWEE 96786



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☐ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)
FLAT 8ft elevation.
- ☐ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)

- ☐ 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)? _____
- ☐ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?

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

Stewart Neil [Signature] 7/28/20.
Signature Date

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.

[Signature]
Planning Director or designee

8/17/2020
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

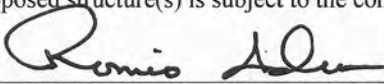
(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☐ 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)

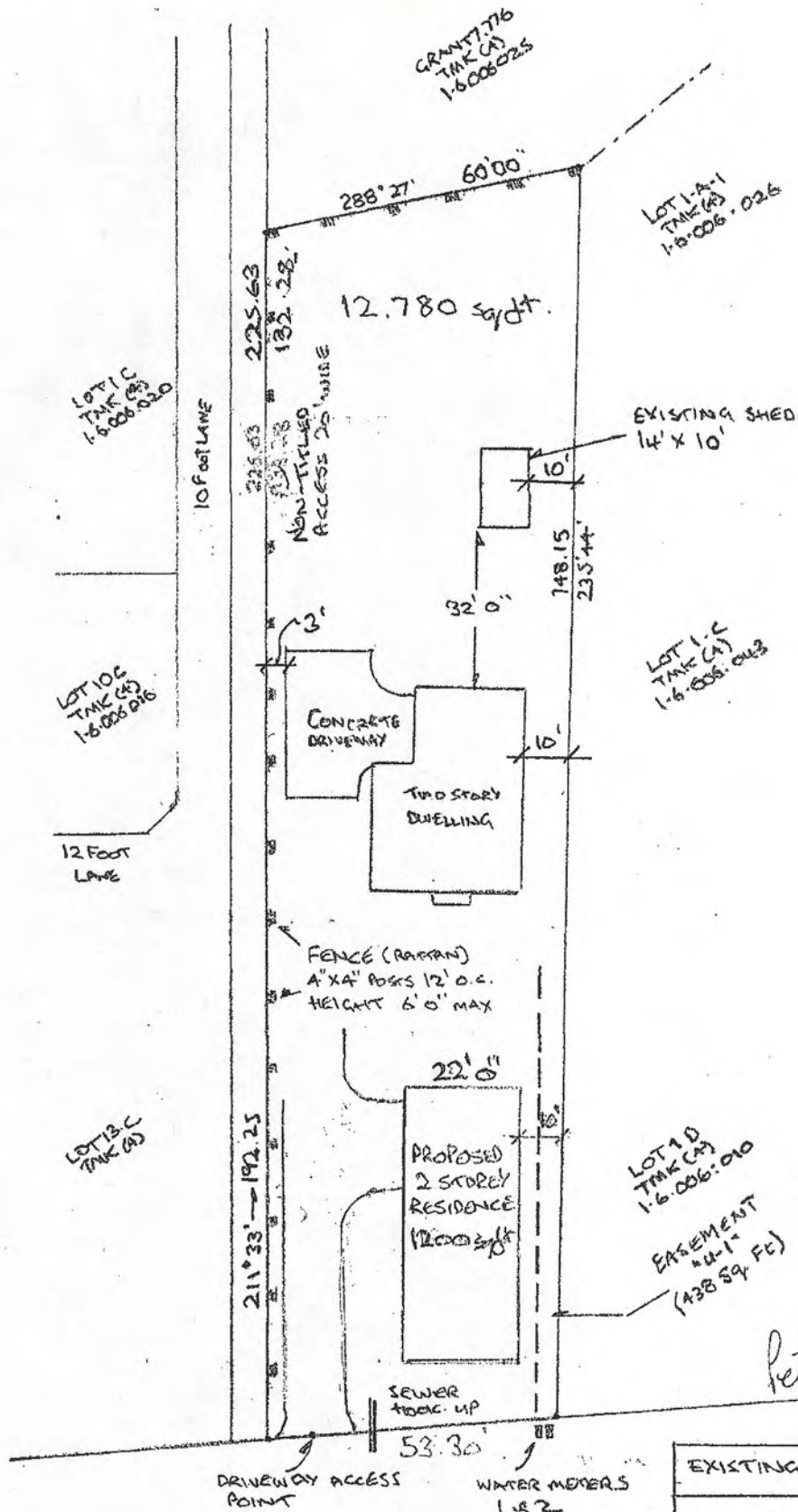
☒ Pursuant to §8-27.3 the Kaua'i County Code, 1987 as amended, the Planning Department hereby certifies the proposed structure(s) or subdivision(s) as exempt from those shoreline setback determination requirements established under §8-27.8.

☐ 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

8/17/2020
Date

☐ **Additional comments/conditions:**

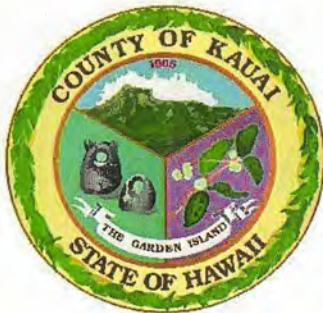


Peter
7-23 2015

EXISTING STORAGE SHED.
TMK: (4)-1-6-6-11
PLANS BY S.N. HUSBAND
SCALE 1" = 30'
PAGE I



Tmk: 1-6-006:011 Unit A



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 202 <u>1</u> - <u>11</u>	
Acceptance Date:	8/17/2020
Website Posting Date:	8/20/2020
Determination Date:	8/17/2020
Planning Commission Date:	N/A
Expiration Date:	8/17/2021
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:	Ka'upu Kea LLC
Mailing Address:	c/o Belles Graham LLP 4334 Rice Street, Suite 202, Lihue, HI 96766
Phone:	c/o Ian Jung (808) 245-2163
Email:	c/o Ian Jung ikj@kauai-law.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 unexpired and recorded 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: July 29, 2020	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	Open
Tax Map Key(s):	(4) 5-1-004:015
Land Area:	31,428 s.f.
Nature of Development: (Description of proposed structure or subdivision)	Demolition of Existing Single Family Dwelling Unit

**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.

- Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 350 ft.
- Additional Information:
☒ Shoreline Change (Erosion/Accretion) Rate: 0.5 ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html)
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

The Subject Property is not abutting to the shoreline with one parcel between the shoreline.



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)
The Subject Property is elevated at approx. 50 feet above mean sea level and is sloped up a valley.
- ☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)
The shoreline is sandy with rocky outcropping.
- ☐ 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)? X _____
☒ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunamis, etc.) in the past?
Not to our knowledge.

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 (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.

Ronnie Adew
Planning Director or designee

8/17/2020
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

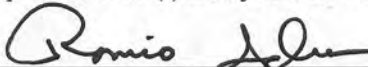
(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

☐ 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

8/17/2020
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.

Certified Shoreline	
Select the appropriate option:	
<input type="checkbox"/>	Certified Shoreline
<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

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):

--

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 **(\$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 KAUAI 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
<http://www.soest.hawaii.edu/coasts/kauaicontry/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 KAUAI 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 no less than 40 feet.
2	For all other lots, the shoreline setback line shall be no less than 60 feet.
3	For all lots, the maximum setback that can be required shall be 100 feet.

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"> (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.
(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"> (A) adversely affect beach processes, (B) artificially fix the shoreline, (C) interfere with public access or public views to and along the shoreline, (D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or (E) alter the grade of the shoreline setback area.
(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.

EXHIBIT "A"

AUTHORIZATION

I. APPLICANT.

Name: KA'UPU KEA LLC, a Hawaii limited liability company
Attention: Rakesh Mehta

Address: P. O. Box 2548
San Francisco, California 94126

II. AUTHORIZED AGENT.

Name: Max W. J. Graham, Jr., Esq.
Ian K. Jung, Esq.
Belles Graham LLP

Address: 4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766

Telephone: (808) 246-6962
(808) 245-2163

Facsimile: (808) 245-3277

Email: mwg@kauai-law.com
iki@kauai-law.com

III. PROPERTY.

Lot 2
Pila'a, Ko'olau, Kilauea, Kauai, Hawaii
Kauai Tax Map Key No. (4) 5-1-004:015

IV. AUTHORIZATION.

The Applicant hereby authorizes the Authorized Agent to act on the Applicant's behalf and to file and process on the Applicant's behalf any and all applications necessary to obtain governmental permits relating to the Subject Property, including, but not limited to, the following:

1. Permits and approvals, including but not limited to, building permits, grading permits, use permits, variance permits, zoning permits, and Special Management Area permits, issued by the County Council, or any department, agency, board or commission, of the County of Kauai.

2. Permits and approvals issued by any legislative body or any department, agency, board, or commission of the State of Hawaii, including but not limited to, the Department of Health.
3. Permits and approvals issued by the Board of Land and Natural Resources of the State of Hawaii and/or the Department of Land and Natural Resources of the State of Hawaii.
4. Permits and approvals issued by any legislative body, department, agency, board or commission of the United States of America, including but not limited to, the Army Corps of Engineers.

DATED: 5/1/2020 | 1:42 PM PDT

APPLICANT:

KA'UPU KEA LLC,
a Hawaii limited liability company

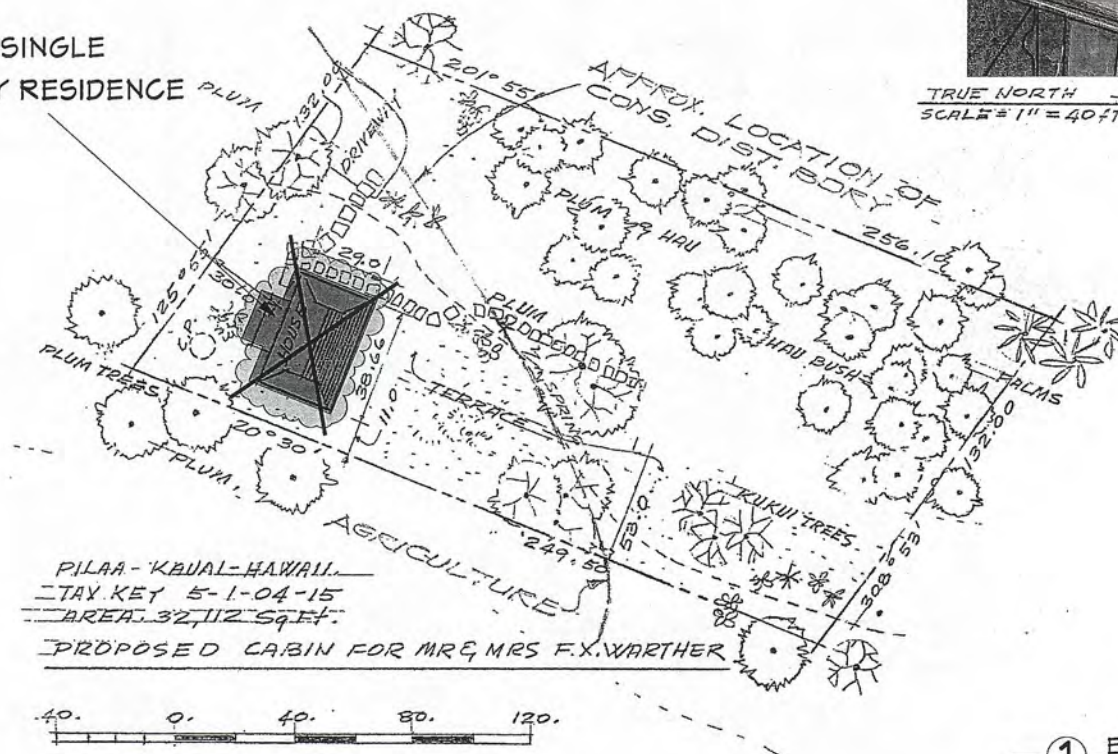
By: SQUARE SEVEN MANAGEMENT, LLC,
a Delaware limited liability company
Its Manager

DocuSigned by:
Rakesh Mehta
By CE92513118CC481
RAKESH MEHTA
Its Authorized Signatory

EXHIBIT "B"

An aerial photograph of a property with several buildings and roads. A north arrow is in the top right. Labels include 'JUNGLE HOUSE & JUNGLE CABIN' pointing to a cluster of buildings in the upper center, 'RANCH ROAD' pointing to a winding road in the center, 'ENTRY GATE' pointing to a road junction in the lower left, and 'KUHIU HIGHWAY' pointing to a road at the bottom.

DEMO SINGLE
FAMILY RESIDENCE



TRUE NORTH
SCALE = 1" = 40' T



TRUE NORTH

1 EXISTING SITE PLAN/ DEMO
SCALE: N/A

TMK 5-1-04-15

JUNGLE HOUSE
& JUNGLE CABIN

DRAWINGS PROVIDED BY:
LANDON WILLIAMS

DATE:

7/1/2020

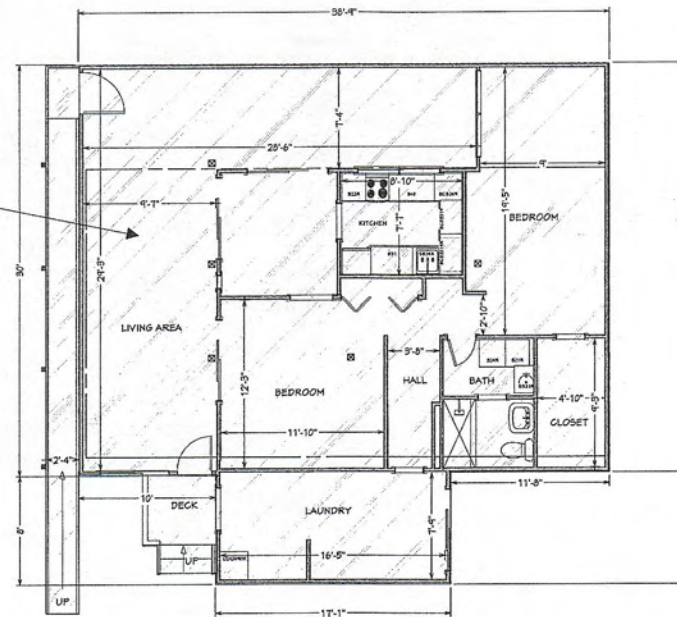
SCALE:

SHEET:

SP1

DEMO

NOTE: EXISTING STRUCTURE
TO BE REMOVED



1,290 SQ FT

LEGEND
DEMO —



TMK: 5-1-04-15

JUNGLE MAIN HOUSE

DESIGNED BY: JAMES S. TRIPLET
DRAWN BY: JAMES S. TRIPLET

DATE:

6/30/20

SCALE:

SHEET:

A01

1 FIRST FLOOR PLAN EXISTING
SCALE: 1/4"=1'-0"

EXHIBIT "C"

Permit Status List

Parcel ID:

5-1-004-015

Address:

NONE

Application Date:

06/30/20

Owner:

KA'UPU KEA LLC

Application #:




20 - 1599

Application Type:
DEMO OF SINGLE
FAMILY RESIDENCE
Application Status:

IN PLAN CHECK

Related Structures and Permits:

Select one of the following to view more information:

Str/Seq/Permit 	Permit Description 	Contractor/Sub 
000 / 000 / BLD3 / 00 (permitinfo.html?OWASP_CSRFTOKEN=6YSI-VX7F-9DL8-EU9A-LIU0-GOB7-J79C-3KLG&permitStatusDetailView=true&StructureIndex=0)	BUILDING	

Showing 1 to 1 of 1 entries

[Project Inspections \(selectinsp.html?OWASP_CSRFTOKEN=6YSI-VX7F-9DL8-EU9A-LIU0-GOB7-J79C-3KLG&projectInspView=true\)](#)
EXHIBIT "C"

EXHIBIT "D"



Overview



Legend

-  Parcels
-  Roads

Parcel ID	510040150000	Situs/Physical Address		Total Market Value	\$1,241,600	Last 2 Sales Date			
Acreage	0.7215	Mailing Address	KA'UPU KEA LLC	Total Assessed Value	\$1,241,600	9/28/2006	\$864000	VALID SALE	
Class	RESIDENTIAL		C/O SQUARE SEVEN MANAGEMENT LLC	Total Exemptions	\$0	n/a	0	n/a	
			PO BOX 2548	Total Net Taxable Value	\$1,241,600				
			SAN FRANCISCO CA 94126						

Brief Tax Description LOT 2 32112 SF DES EXCEPTING AND RESERVING THERE FROM 8779 SF, CONVEYED TO JAMES PARCEL 2ND: 8095 SF DES

(Note: Not to be used on legal documents)

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Developed by  **Schneider**
GEOSPATIAL

EXHIBIT "D"

EXHIBIT "E"

Pilaa, Kauai, Hawaii

EXHIBIT "E"

SHORELINE CHANGE RATES

- Accretion Rate
- Erosion Rate

Historical shoreline positions are measured every 66 ft along the shoreline. These sites are denoted by yellow shore-perpendicular transects. Changes in the position of the shorelines through time are used to calculate shoreline change rates (ft/yr) at each transect location.

Annual shoreline change rates are shown on the shore-parallel graph. Red bars on the graph indicate a trend of beach erosion, while blue bars indicate a trend of accretion. Approximately every fifth transect and bar of the graph is numbered. Where necessary, transects have been purposely deleted to maintain consistent alongshore spacing. As a result transect numbering is not consecutive everywhere. The rates are smoothed alongshore using a 1-3-5-3-1 technique to normalize rate differences on adjacent transects.

HISTORICAL SHORELINES

- 1927 T-sheet
- Feb 1962
- Jul 1971
- May 1975
- Sept 1984
- May 1987
- Sept 1988
- Sept 1999
- Nov 1999
- Jan 2008

Erosion rate measurement locations (shore-normal transects)

Historical beach positions, color coded by year, are determined using orthorectified and georeferenced aerial photographs and National Ocean Survey (NOS) topographic survey charts. The low water mark is used as the historical shoreline, or shoreline change reference feature (SCRFF).

Movement of the SCRFF along shore-normal transects (spaced every 66 ft) is used to calculate erosion rates.

AREA DESCRIPTION

The Pilaa study area (transects 44 - 97) is located on the northeast coastline of Kauai. The shoreline is composed of calcareous sand beach interrupted by basalt headlands with a fringing reef offshore.

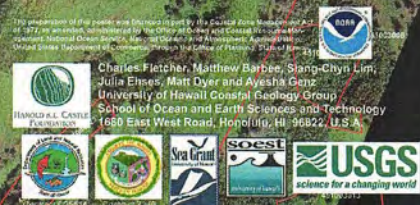
Overall, the area is eroding at an average rate of -0.6 ft/yr. The area lends itself to division into four portions. The Waialeale Nui Beach (transects 44 - 51) is a large pocket sand beach located to the north of Kaku Point. This section of the study area is experiencing erosion at an average rate of -0.8 ft/yr. Waialeale Iki Beach (transects 52 - 69) has experienced erosion at an average rate of -0.7 ft/yr. Pilaa Beach (transects 71 - 97) is separated by a low, rocky point. The western portion (transects 71 - 85) is eroding at an average rate of -0.6 ft/yr. The eastern portion (transects 86 - 97) has experienced erosion at an average rate of -0.3 ft/yr. Previous studies¹ did not analyze the Pilaa study area shoreline.

¹ Makai Ocean Engineering and Sea Engineering, 1991 Aerial Photograph Analysis of Coastal Erosion on the Islands of Kauai, Molokai, Lanai, Maui, and Hawaii, State of Hawaii Office of Coastal Zone Management Program.

Shoreline Change Rate (ft/yr)



Scale 1:2000



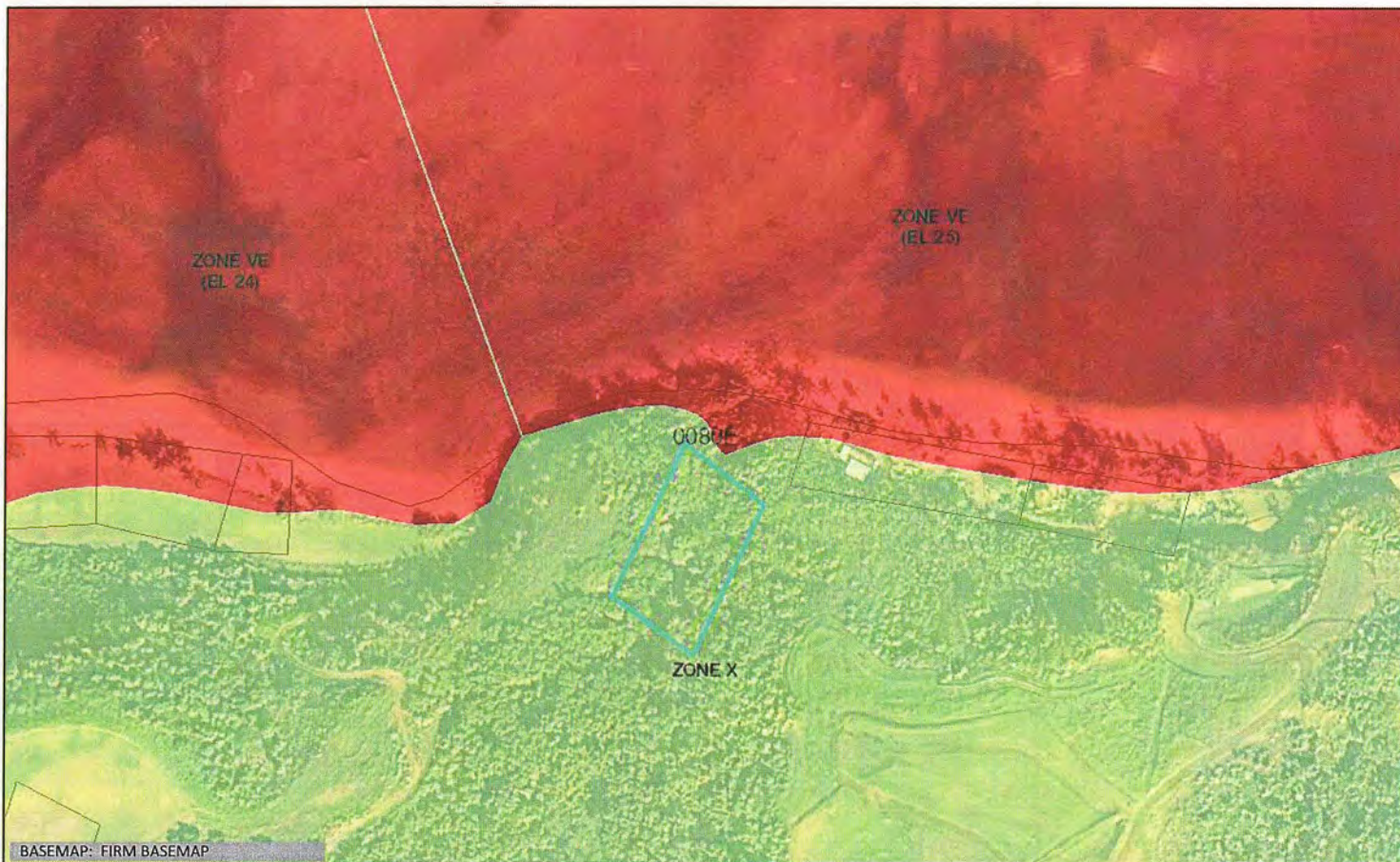
Pilaa - Smoothed Rates

Positive Rate = Accretion
Negative Rate = Erosion

Transect	Smoothed Rate (ft/yr)	Transect	Smoothed Rate (ft/yr)
44*	-1.2	91	-0.3
45	-1.0	92	-0.3
46	-0.9	93	-0.3
47	-0.7	94	-0.3
48	-0.6	95	-0.3
49	-0.6	96	-0.3
50	-0.6	97	-0.3
51	-0.7		
52	-1.1		
53	-1.0		
54	-0.9		
55	-0.8		
56	-0.6		
57	-0.5		
58	-0.4		
59	-0.3		
60	-0.3		
61	-0.3		
62	-0.5		
63	-0.7		
64	-0.9		
65	-1.0		
66	-0.9		
67	-0.9		
68	-0.8		
69	-0.7		
71	-0.6		
72	-0.7		
73	-0.7		
74	-0.6		
75	-0.5		
76	-0.5		
77	-0.7		
78	-0.7		
79	-0.7		
80	-0.7		
81	-0.6		
82	-0.6		
83	-0.6		
84	-0.5		
85	-0.5		
86	-0.5		
87	-0.4		
88	-0.3		
89	-0.3		
90	-0.3		

*Imagery indicates beachwidth of zero during period of analysis. Rate calculation reflects data with beach existence.

EXHIBIT "F"



Flood Hazard Assessment Report

www.hawaiiinfip.org

Property Information

COUNTY: KAUAI
 TMK NO: (4) 5-1-004:015
 WATERSHED: PILAA
 PARCEL ADDRESS: ADDRESS NOT DETERMINED
 KILAUEA, HI 96754

Notes:

Flood Hazard Information

FIRM INDEX DATE: NOVEMBER 26, 2010
 LETTER OF MAP CHANGE(S): NONE
 FEMA FIRM PANEL: 1500020080E
 PANEL EFFECTIVE DATE: SEPTEMBER 16, 2005

THIS PROPERTY IS WITHIN A TSUNAMI EVACUATION ZONE: YES
 FOR MORE INFO, VISIT: <http://www.scd.hawaii.gov/>

THIS PROPERTY IS WITHIN A DAM EVACUATION ZONE: NO
 FOR MORE INFO, VISIT: <http://dlnreng.hawaii.gov/dam/>



0 200 400 ft

Disclaimer: The Hawaii Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use, accuracy, completeness, and timeliness of any information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR, its officers, and employees from any liability which may arise from its use of its data or information.

If this map has been identified as 'PRELIMINARY', please note that it is being provided for informational purposes and is not to be used for flood insurance rating. Contact your county floodplain commissions to be used for compliance with local floodplain management regulations.

FLOOD HAZARD ASSESSMENT TOOL LAYER LEGEND

(Note: legend does not correspond with NFHL)

SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD - The 1% annual chance flood (100-year), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. SFHAs include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

	Zone A: No BFE determined.
	Zone AE: BFE determined.
	Zone AH: Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
	Zone AO: Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
	Zone V: Coastal flood zone with velocity hazard (wave action); no BFE determined.
	Zone VE: Coastal flood zone with velocity hazard (wave action); BFE determined.
	Zone AEF: Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA - An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

	Zone XS (X shaded): Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
	Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

	Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase apply, but coverage is available in participating communities.
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EXHIBIT "F"