PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

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: Lorraine D. Newman, Trustee
Mailing Address: 4463 Makaha Road, Kapaa, HI 96746
Phone: c/o Ian Jung: 245-2163
Email: c/o Ian Jung: ikj@kauai-law.com

Applicant's Status: (Check one)
☑ Owner of the Property
☐ Lessee of the Property
☐ Authorized Agent

Transmittal Date: August 3, 2020

Project Information

County Zoning District: RR-20
Tax Map Key(s): (4) 4-5-001:018
Land Area: 7305 sq. ft.

Nature of Development: (Description of proposed structure or subdivision)
Conversion of workshop/storage to a 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.

1. Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): ________ ft.

2. Property is Not Abutting the Shoreline
☑ Proposed project's approximate distance from shoreline (based on aerial map): 240.00 ft.

3. Additional Information:
☑ Shoreline Change (Erosion/Accretion) Rate: 0.9 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:

There are four (4) intervening lots to the shoreline, which is armored with a rock revetment.
PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

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

Approx. 10 ft. mean sea level.

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

Sandy with rocky outcroppings with extended Kapaa shore reef system.

☑ Artificially armored Shoreline
☑ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): Revetments
☑ Is the armoring permitted/authorized? County
☐ 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, tsunami, etc.) in the past?

Not to our knowledge. The County constructed a revetment to protect Moanakai Road.

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.

Romo __________ Date __________
Planning Director or designee

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(c))

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

Planning Director or designee
Date

☐ Additional comments/conditions:
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:

☐ Certified Shoreline
  ☐ Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)
  ☐ Average Lot Depth: __________ ft.
  ☐ Setback (Table 1 or Table 2): __________ ft.

☐ 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

☐ Public Projects less than $125,000 Declaration ((§8-27.8(c)(2))

Planning Director or designee ___________________________ Date _____________

☐ Certified Shoreline Required
☐ 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):
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.
**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.

<table>
<thead>
<tr>
<th>Average Lot Depth</th>
<th>Setback Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 140 feet (&lt;140 feet)</td>
<td>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</td>
</tr>
<tr>
<td>140 feet to 220 feet (140-220 feet)</td>
<td>Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- (Average Lot Depth minus 100 feet) / 2 plus 40</td>
</tr>
<tr>
<td>Greater than 220 feet (&gt;220 feet)</td>
<td>Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- 100 feet from the certified shoreline</td>
</tr>
</tbody>
</table>

View erosion rate maps from the County website at [http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](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.

<table>
<thead>
<tr>
<th>Setback Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Average Lot Depth – 100/2+40) Subject to the Following:</td>
</tr>
</tbody>
</table>

| | For lots with naturally occurring rocky shorelines, the shoreline setback line shall be no less than 40 feet. |
| | For all other lots, the shoreline setback line shall be no less than 60 feet. |

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

<table>
<thead>
<tr>
<th>Permitted Structures within the shoreline setback area</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(1) Existing conforming and nonconforming structures/activities</td>
</tr>
<tr>
<td>(2) Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(6) Repairs to a lawfully existing structure, including nonconforming structures, provided that:</td>
</tr>
<tr>
<td>(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;</td>
</tr>
<tr>
<td>(B) The repairs do not constitute a substantial improvement of the structure; and</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(7) Beach nourishment or dune restoration projects approved by all applicable governmental agencies.</td>
</tr>
<tr>
<td>(8) A structure approved by the Director as a minor structure.</td>
</tr>
<tr>
<td>(9) Qualified demolition of existing structures.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(11) Scientific studies and surveys, including archaeological surveys.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(14) Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai‘i Revised Statutes.</td>
</tr>
</tbody>
</table>
**PLANNING DEPARTMENT**  
**SHORELINE SETBACK INFORMATION**

<table>
<thead>
<tr>
<th>(b)</th>
<th>The following conditions shall apply to any new structure permitted in the shoreline setback area:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>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.</td>
</tr>
<tr>
<td>(2)</td>
<td>The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'ī 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.</td>
</tr>
<tr>
<td>(3)</td>
<td>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.</td>
</tr>
<tr>
<td>(4)</td>
<td>Unless otherwise provided, all new structures and/or landscaping shall not:</td>
</tr>
<tr>
<td></td>
<td>(A) adversely affect beach processes,</td>
</tr>
<tr>
<td></td>
<td>(B) artificially fix the shoreline,</td>
</tr>
<tr>
<td></td>
<td>(C) interfere with public access or public views to and along the shoreline,</td>
</tr>
<tr>
<td></td>
<td>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</td>
</tr>
<tr>
<td></td>
<td>(E) alter the grade of the shoreline setback area.</td>
</tr>
<tr>
<td>(5)</td>
<td>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.</td>
</tr>
<tr>
<td>(6)</td>
<td>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.</td>
</tr>
</tbody>
</table>
EXHIBIT "A"
November 6, 2013

Michael A. Dahilig, Esq., Director
Planning Department
County of Kauai
4444 Rice Street, Suite 473
Lihue, Kauai, Hawaii 96766

RE: Tax Key No.: (4) 4-5-01-018

Dear Mr. Dahilig:

I am the owner of the real property identified as Tax Key No.: (4) 4-5-01-018 in my capacity as Trustee of the Lorraine D. Newman Trust dated May 30, 1995, as amended. Belles Graham Proudfoot Wilson & Chun, LLP and/or Lorna A. Nishimitsu are hereby authorized to act as my agent, to represent me, and to prepare and submit any documentation necessary, including, but not limited to, in connection with permits pertaining to the above-referenced property. Further, Belles Graham Proudfoot Wilson & Chun, LLP and/or Ms. Nishimitsu are also hereby authorized to meet with and represent my interests in connection with the said matters.

Sincerely,

[Signature]

---

EXHIBIT "A"
EXHIBIT "B"
EXHIBIT "D"
Wailua Bay, Kauai, Hawaii

NATURAL SHORELINES
- Feb 2077 (flood)
- Nov 2060
- Aug 2050
- Apr 2040
- Jul 2040
- May 2030
- Dec 2030
- Jan 2020
- Nov 2020
- Aug 2020
- May 2020
- Jan 2020
- Nov 2019
- Aug 2019
- May 2019
- Jan 2019
- Nov 2018
- Aug 2018
- May 2018
- Jan 2018

Irrational shoreline positions are measured every 10 years from 1977 to 2077. The bars are the moving average of these measurements for comparison. Changes in the position of the shoreline change times due to a variety of factors including effects from the beach nourishment project. Beach nourishment change rates are shown on the graph below the graph indicates a change in the position of the shoreline due to the beach nourishment project. The bars show the change in the position of the beach due to beach nourishment. The bars are color-coded to indicate the position of the shoreline change times due to the beach nourishment project.

AREA DESCRIPTION
The area is shown by the enclosed box, the line between the boxes. The area is controlled by a channel that is not shown in the area.

EXHIBIT "D"
### Wailua - Smoothed Rates

<table>
<thead>
<tr>
<th>Transect</th>
<th>Smoothed Rate (ft/yr)</th>
</tr>
</thead>
<tbody>
<tr>
<td>146</td>
<td>-0.7</td>
</tr>
<tr>
<td>147</td>
<td>-0.6</td>
</tr>
<tr>
<td>148</td>
<td>-0.5</td>
</tr>
<tr>
<td>149</td>
<td>-0.4</td>
</tr>
<tr>
<td>150</td>
<td>-0.4</td>
</tr>
<tr>
<td>151</td>
<td>-0.3</td>
</tr>
<tr>
<td>152</td>
<td>-0.2</td>
</tr>
<tr>
<td>153</td>
<td>-0.2</td>
</tr>
<tr>
<td>154</td>
<td>-0.2</td>
</tr>
<tr>
<td>155</td>
<td>-0.3</td>
</tr>
<tr>
<td>156</td>
<td>-0.3</td>
</tr>
<tr>
<td>157</td>
<td>-0.3</td>
</tr>
<tr>
<td>158</td>
<td>-0.3</td>
</tr>
<tr>
<td>159</td>
<td>-0.4</td>
</tr>
<tr>
<td>160</td>
<td>-0.6</td>
</tr>
<tr>
<td>161</td>
<td>-0.8</td>
</tr>
<tr>
<td>162</td>
<td>-0.9</td>
</tr>
<tr>
<td>163</td>
<td>-1.0</td>
</tr>
<tr>
<td>164</td>
<td>-1.0</td>
</tr>
<tr>
<td>165</td>
<td>-1.0</td>
</tr>
<tr>
<td>166</td>
<td>-0.9</td>
</tr>
<tr>
<td>167</td>
<td>-0.9</td>
</tr>
<tr>
<td>168</td>
<td>-0.9</td>
</tr>
<tr>
<td>169</td>
<td>-0.9</td>
</tr>
<tr>
<td>170</td>
<td>-0.9</td>
</tr>
<tr>
<td>171</td>
<td>-0.9</td>
</tr>
<tr>
<td>172</td>
<td>-0.8</td>
</tr>
<tr>
<td>173</td>
<td>-0.8</td>
</tr>
<tr>
<td>174</td>
<td>-0.7</td>
</tr>
<tr>
<td>175</td>
<td>-0.7</td>
</tr>
<tr>
<td>176</td>
<td>-0.8</td>
</tr>
<tr>
<td>177</td>
<td>-0.8</td>
</tr>
<tr>
<td>178</td>
<td>-0.7</td>
</tr>
<tr>
<td>179</td>
<td>-0.6</td>
</tr>
<tr>
<td>180</td>
<td>-0.5</td>
</tr>
<tr>
<td>181</td>
<td>-0.4</td>
</tr>
<tr>
<td>182</td>
<td>-0.5</td>
</tr>
<tr>
<td>183</td>
<td>-0.5</td>
</tr>
<tr>
<td>184</td>
<td>-0.6</td>
</tr>
<tr>
<td>185</td>
<td>-0.6</td>
</tr>
<tr>
<td>186</td>
<td>-0.7</td>
</tr>
<tr>
<td>187</td>
<td>-0.9</td>
</tr>
<tr>
<td>189</td>
<td>-1.0</td>
</tr>
<tr>
<td>190</td>
<td>-1.0</td>
</tr>
<tr>
<td>191</td>
<td>-1.0</td>
</tr>
<tr>
<td>192</td>
<td>-1.0</td>
</tr>
</tbody>
</table>

### Positive Rate = Accretion
### Negative Rate = Erosion

<table>
<thead>
<tr>
<th>Transect</th>
<th>Smoothed Rate (ft/yr)</th>
</tr>
</thead>
<tbody>
<tr>
<td>241</td>
<td>0.2</td>
</tr>
<tr>
<td>242</td>
<td>0.1</td>
</tr>
<tr>
<td>243</td>
<td>0.0</td>
</tr>
<tr>
<td>244</td>
<td>0.0</td>
</tr>
<tr>
<td>245</td>
<td>0.1</td>
</tr>
<tr>
<td>246</td>
<td>0.2</td>
</tr>
<tr>
<td>247</td>
<td>0.2</td>
</tr>
<tr>
<td>248</td>
<td>0.0</td>
</tr>
<tr>
<td>249</td>
<td>-0.3</td>
</tr>
<tr>
<td>250</td>
<td>-0.6</td>
</tr>
<tr>
<td>251</td>
<td>-0.7</td>
</tr>
<tr>
<td>252</td>
<td>-0.8</td>
</tr>
<tr>
<td>253</td>
<td>-0.7</td>
</tr>
<tr>
<td>254</td>
<td>-0.8</td>
</tr>
<tr>
<td>255</td>
<td>-0.9</td>
</tr>
<tr>
<td>256</td>
<td>-1.0</td>
</tr>
<tr>
<td>257</td>
<td>-1.1</td>
</tr>
<tr>
<td>259</td>
<td>-1.1</td>
</tr>
<tr>
<td>260</td>
<td>-1.1</td>
</tr>
<tr>
<td>261</td>
<td>-1.2</td>
</tr>
<tr>
<td>262</td>
<td>-1.2</td>
</tr>
<tr>
<td>263</td>
<td>-1.2</td>
</tr>
<tr>
<td>264</td>
<td>-1.1</td>
</tr>
<tr>
<td>265</td>
<td>-0.9</td>
</tr>
<tr>
<td>266</td>
<td>-0.7</td>
</tr>
<tr>
<td>267</td>
<td>-0.5</td>
</tr>
<tr>
<td>268</td>
<td>-0.2</td>
</tr>
<tr>
<td>269</td>
<td>0.0</td>
</tr>
<tr>
<td>271</td>
<td>0.1</td>
</tr>
<tr>
<td>272</td>
<td>0.1</td>
</tr>
<tr>
<td>273</td>
<td>-0.1</td>
</tr>
<tr>
<td>274</td>
<td>-0.2</td>
</tr>
<tr>
<td>275</td>
<td>-0.3</td>
</tr>
<tr>
<td>276</td>
<td>-0.3</td>
</tr>
<tr>
<td>277</td>
<td>-0.2</td>
</tr>
<tr>
<td>278</td>
<td>-0.2</td>
</tr>
<tr>
<td>279</td>
<td>-0.2</td>
</tr>
<tr>
<td>280</td>
<td>-0.3</td>
</tr>
<tr>
<td>281</td>
<td>-0.4</td>
</tr>
<tr>
<td>282</td>
<td>-0.5</td>
</tr>
<tr>
<td>283</td>
<td>-0.5</td>
</tr>
<tr>
<td>284</td>
<td>-0.6</td>
</tr>
<tr>
<td>285</td>
<td>-0.6</td>
</tr>
<tr>
<td>286</td>
<td>-0.7</td>
</tr>
<tr>
<td>287</td>
<td>-0.7</td>
</tr>
<tr>
<td>288</td>
<td>-0.6</td>
</tr>
</tbody>
</table>

*Imagery indicates beachwidth of zero during period of analysis. Rate calculation reflects data with beach existence.*
PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:

SSD 2021 - 13

Acceptance Date: 9-10-20
Website Posting Date: 9-14-20
Determination Date: 9-10-20
Planning Commission Date: N/A
Expiration Date: 9-10-2021
Planner Assigned: KU

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: Hale King LLC
Mailing Address: 261 Stonewall Rd.
Berkley, CA 94705
Phone: 510-684-4900
Email: Nat@claremontcreek.com

Applicant’s Status: (Check one)
☑ Owner of the Property (Holder of at least 75% of the equitable and legal title)
☐ 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.
☑ Authorized Agent
Attach Letter of Authorization

Transmittal Date: ____________________________

Project Information (attach additional sheets, if necessary)

County Zoning District: R-4 Tax Map Key(s): (4) 5-8-006-046 0001
Land Area: 15,815 sq. ft.

Nature of Development: (Description of proposed structure or subdivision) Interior repair and renovation to a bathroom that was on the ground floor. The proposed repair and renovation to the previous existing bathroom in the dwelling will not constitute a substantial improvement under either CZO Article 27 (Shoreline Setback) or KCC Chapter 15 (Floodplain Control).

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

Part A
Shoreline Setback Determination of Applicability (§8-27.1)
Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Property is Abutting the Shoreline
☑ Proposed project’s approximate distance from shoreline (based on aerial map): 50 ft.

2. Property is Not Abutting the Shoreline
☐ Proposed project’s approximate distance from shoreline (based on aerial map): __________ ft.

3. Additional Information:
☑ Shoreline Change (Erosion/Accretion) Rate: -1.1 to -1.0 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:

- 1 -
Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)

Property is fairly flat and even

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

beach

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): 

Δ 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?

Yes, tsunami

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

MAY 29 2020

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 Date

9-10-20

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)
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)

[Signature]
Planning Director or designee

9.10.20
Date

☑ Additional comments/conditions:
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

<table>
<thead>
<tr>
<th>Select the appropriate option:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Certified Shoreline</td>
</tr>
<tr>
<td>☐ Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)</td>
</tr>
<tr>
<td>☐ Average Lot Depth: ________ ft.</td>
</tr>
<tr>
<td>☐ Setback (Table 1 or Table 2): ________ ft.</td>
</tr>
<tr>
<td>☐ Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d)</td>
</tr>
</tbody>
</table>

Planning Director or its designee Date

### Public Projects less than $125,000

| ☐ Public Projects less than $125,000 Declaration ((§8-27.8(c)(2)) |

Planning Director or designee Date

☐ Certified Shoreline Required
☐ 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):
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.

<table>
<thead>
<tr>
<th>Average Lot Depth</th>
<th>Setback Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 140 feet (&lt;140 feet)</td>
<td>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</td>
</tr>
</tbody>
</table>
| 140 feet to 220 feet (140-220 feet) | Greater of:  
  - 40 feet plus (70 X annual coastal erosion rate) plus 20 feet  
  - (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  
  - 100 feet from the certified shoreline  |

View erosion rate maps from the County website at  
[http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](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.

<table>
<thead>
<tr>
<th>Setback Calculation</th>
</tr>
</thead>
</table>
| (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.
Table 3. This table is presented for Exemption 3 (§8-27.7).

<table>
<thead>
<tr>
<th>Permitted Structures within the shoreline setback area</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(1) Existing conforming and nonconforming structures/activities</td>
</tr>
<tr>
<td>(2) Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(6) Repairs to a lawfully existing structure, including nonconforming structures, provided that:</td>
</tr>
<tr>
<td>(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;</td>
</tr>
<tr>
<td>(B) The repairs do not constitute a substantial improvement of the structure; and</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(7) Beach nourishment or dune restoration projects approved by all applicable governmental agencies.</td>
</tr>
<tr>
<td>(8) A structure approved by the Director as a minor structure.</td>
</tr>
<tr>
<td>(9) Qualified demolition of existing structures.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(11) Scientific studies and surveys, including archaeological surveys.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(14) Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai‘i Revised Statutes.</td>
</tr>
</tbody>
</table>
### PLANNING DEPARTMENT
**SHORELINE SETBACK INFORMATION**

<table>
<thead>
<tr>
<th>(b)</th>
<th>The following conditions shall apply to any new structure permitted in the shoreline setback area:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>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.</td>
</tr>
<tr>
<td>(2)</td>
<td>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.</td>
</tr>
<tr>
<td>(3)</td>
<td>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.</td>
</tr>
</tbody>
</table>
| (4) | Unless otherwise provided, all new structures and/or landscaping shall not:  
(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. |
APPLICANT'S AUTHORIZATION

I. APPLICANT.

Name: HALE KING LLC,
a Hawaii limited liability company

Address: 261 Stonewall Road
Berkeley, California 94705

Telephone: (510) 684-4900
Email: globalnat84@gmail.com

II. AUTHORIZED AGENT.

Name: Jonathan J. Chun, Esq.

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

Telephone: (808) 245-4705
Facsimile: (808) 245-3277
Email: jjc@kauai-law.com

III. PROPERTY.

Lot 9
7292 'Alamo'o Road, Apt. A, Hanalei, Hawaii
Kauai Tax Map Key No. (4) 5-8-008:046 0001

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, any
building permits, substantial improvement determinations, grading permits, use permits,
variance permits, zoning permits, shoreline setback determinations, and/or Special
Management Area permits issued by any department, agency, board or commission of the County of Kauai.

DATED: 4/14/2020

APPLICANT:

HALE KING LLC
a Hawaii limited liability company

By

Nat Goldhaber
Its Managing Director
GENERAL NOTES

1. All work shall be done in accordance with good construction practices, the 2020 International Residential Code (IRC) and applicable state and county regulations and ordinances.

2. The contractor shall verify all dimensions and locations at the site and shall immediately notify architect of any errors, omissions, or conflicts.

3. All metal connectors including but not limited to brackets, hangers, caps, bases, rails, and screws shall be not dipped galvanized, unless noted otherwise.

4. All structural lumber shall be pressure treated Douglas Fir No. 2 or better, unless noted otherwise. All exposed lumber shall be selected for appearance. Free of loose knots and cracks.

5. All dissimilar metals shall be insulated.

6. Noted dimensions shall take precedence over scaled drawings.

7. The contractor shall notify the architect in writing at least (3) days prior to:
   a. Closing in floor, roof, and wall framing.
   b. Contractor shall meet prior to construction with designer to answer any questions related to the drawings.
PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:

SSD 2021 - 14

Acceptance Date: 9-10-20
Website Posting Date: 9-14-20
Determination Date: 9-16-20
Planning Commission Date: N/A
Expiration Date: 9-10-2021
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: KAUAI MARRIOTT OWNERSHIP C/O DEBBIE FREEMAN
Mailing Address: 305 Khepea Street Phone: 808-346-7833
Kapaa, HI 96746 Email: permitservice@gmail.com

Applicant’s Status: (Check one)

☑ Owner of the Property (Holder of at least 75% of the equitable and legal title)
☐ 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.
☐ Authorized Agent Attach Letter of Authorization

Transmittal Date: ___________________________

Project Information (attach additional sheets, if necessary)

County Zoning District: ___________________________
Tax Map Key(s): (4) 3-5-002:002
Land Area: ___________________________

Nature of Development: (Description of proposed structure or subdivision) INTERIOR RENOVATIONS TO EXISTING HOTEL UNITS & CORRIDORS. TOTAL 356 UNITS

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

Part A
Shoreline Setback Determination of Applicability (§8-27.1)
Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Property is Abutting the Shoreline
   √ Proposed project’s approximate distance from shoreline (based on aerial map): 138 ft. (EXHIBIT A)

2. Property is Not Abutting the Shoreline
   □ Proposed project’s approximate distance from shoreline (based on aerial map): __________________________ ft.

3. Additional Information:
   √ Shoreline Change (Erosion/Accretion) Rate: __________ ft./year (EXHIBIT B)
   (Information available here: www.soest.hawaii.edu/coasts/kauicounty/KCounty.html)
   □ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

- 1 -
PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

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

ZONE X WITH SMALL PART AE, ELEVATION 9'

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

SANDY BEACH (EXHIBIT A)

☐ 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)? (EXHIBIT C)
   ☐ 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

Leslie Tyson

5/4/2020

Signature  Date

<table>
<thead>
<tr>
<th>Applicability (to be completed by Planning Department)</th>
</tr>
</thead>
<tbody>
<tr>
<td>☑ Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.</td>
</tr>
<tr>
<td>☐ Setback Determination is NOT necessary. Requirements of Ordinance No. 979 are not applicable.</td>
</tr>
</tbody>
</table>

Planning Director or designee  Date

9.10.20

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

Part B

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

Exemption Determination

☐ Exemption 1
In cases where the proposed structure or subdivision satisfies the following four criteria:
(A) In cases where the proposed structure or subdivision is located outside of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) ‘V’ or ‘VE’ flood zones;
(B) The proposed structure or subdivision is located at an elevation which is thirty (30) feet above sea level or greater;
(C) The applicant can demonstrate to the satisfaction of the Planning Director that the property is clearly adjacent to a rocky shoreline and that it will not affect or be affected by coastal erosion or hazards; and
(D) The shoreline setback shall be sixty (60) feet from the certified shoreline which has been established not more than twelve (12) months from the date of the application for the exception under this section.

☐ Exemption 2
In cases where the applicant can demonstrate to the satisfaction of the Planning Director that the applicant’s proposed structure or subdivision will not affect beach processes, impact public beach access, or be affected by or contribute to coastal erosion or hazards, excluding natural disasters. Factors to be considered shall include, but not be limited to, proximity to the shoreline, topography, properties between shoreline and applicant’s property, elevation, and the history of coastal hazards in the area.

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

(A) The repairs DO NOT enlarge, add to or expand the structure; increase the size or degree of non-conformity; or intensify the use of the structure or its impact on coastal processes;
(B) The repairs DO NOT constitute a substantial improvement of the structure; and
(C) The repairs are permitted by the Comprehensive Zoning Ordinance, Development Plans, building code, floodplain management regulations, special management area requirements under HRS Chapter 205A and any other applicable rule or law.

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

Exemption Determination (to be completed by Planning Department)

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

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

Planning Director or designee

Date

☐ Additional comments/conditions:
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:**

- [ ] Certified Shoreline
  - [ ] Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)
  - [ ] Average Lot Depth: _________ ft.
  - [ ] Setback (Table 1 or Table 2): _________ ft.

- [ ] 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**

- [ ] Public Projects less than $125,000 Declaration ((§8-27.8(c)(2))

Planning Director or designee ___________ Date ___________

- [ ] Certified Shoreline Required
- [ ] 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):


- 4 -
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.
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.

<table>
<thead>
<tr>
<th>Average Lot Depth</th>
<th>Setback Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 140 feet (&lt;140 feet)</td>
<td>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</td>
</tr>
<tr>
<td>140 feet to 220 feet (140-220 feet)</td>
<td>Greater of:</td>
</tr>
<tr>
<td></td>
<td>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</td>
</tr>
<tr>
<td></td>
<td>or</td>
</tr>
<tr>
<td></td>
<td>(Average Lot Depth minus 100 feet) ÷ by 2 plus 40</td>
</tr>
<tr>
<td>Greater than 220 feet (&gt;220 feet)</td>
<td>Greater of:</td>
</tr>
<tr>
<td></td>
<td>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</td>
</tr>
<tr>
<td></td>
<td>or</td>
</tr>
<tr>
<td></td>
<td>100 feet from the certified shoreline</td>
</tr>
</tbody>
</table>

View erosion rate maps from the County website at [http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](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.

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

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

<table>
<thead>
<tr>
<th>Permitted Structures within the shoreline setback area</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(1) Existing conforming and nonconforming structures/activities</td>
</tr>
<tr>
<td>(2) Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(6) Repairs to a lawfully existing structure, including nonconforming structures, provided that:</td>
</tr>
<tr>
<td>(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;</td>
</tr>
<tr>
<td>(B) The repairs do not constitute a substantial improvement of the structure; and</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(7) Beach nourishment or dune restoration projects approved by all applicable governmental agencies.</td>
</tr>
<tr>
<td>(8) A structure approved by the Director as a minor structure.</td>
</tr>
<tr>
<td>(9) Qualified demolition of existing structures.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(11) Scientific studies and surveys, including archaeological surveys.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(14) Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai‘i Revised Statutes.</td>
</tr>
</tbody>
</table>
The following conditions shall apply to any new structure permitted in the shoreline setback area:

(b)  

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>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.</td>
</tr>
<tr>
<td>(2)</td>
<td>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.</td>
</tr>
<tr>
<td>(3)</td>
<td>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.</td>
</tr>
</tbody>
</table>
| (4) | Unless otherwise provided, all new structures and/or landscaping shall not:  
  (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. |
### PLANNING DEPARTMENT
#### SHORELINE SETBACK INFORMATION

<table>
<thead>
<tr>
<th></th>
<th>The following conditions shall apply to any new structure permitted in the shoreline setback area:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>All new structures shall be constructed in accordance with the standards for development in Chapter 15, Article 1, Flood Plain Management, Kaun‘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.</td>
</tr>
<tr>
<td>2</td>
<td>The applicant shall agree in writing that the applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaun‘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.</td>
</tr>
<tr>
<td>3</td>
<td>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.</td>
</tr>
<tr>
<td>4</td>
<td>Unless otherwise provided, all new structures and/or landscaping shall not:</td>
</tr>
<tr>
<td></td>
<td>(A) adversely affect beach processes,</td>
</tr>
<tr>
<td></td>
<td>(B) artificially fix the shoreline,</td>
</tr>
<tr>
<td></td>
<td>(C) interfere with public access or public views to and along the shoreline,</td>
</tr>
<tr>
<td></td>
<td>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</td>
</tr>
<tr>
<td></td>
<td>(E) alter the grade of the shoreline setback area.</td>
</tr>
<tr>
<td>5</td>
<td>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.</td>
</tr>
<tr>
<td>6</td>
<td>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.</td>
</tr>
</tbody>
</table>
The RMR Group
255 Washington Street, Suite 300
Newton, Massachusetts 02458

May 3, 2020

Planning Department
County of Kaua‘i
4444 Rice Street
Lihue, Hawai‘i 96766

SUBJECT: Letter of Authorization to Submit Shoreline Setback Determination Application for Kaua‘i Marriott Resort – Guestrooms & Corridors Renovation Project Located at 3610 Rice Street, Lihue, Hawai‘i 96766 (TMK: (4) 3-5-002: 002)

To Whom It May Concern:

The RMR Group is the owner of the above referenced property. We wish to authorize Debbie Freeman and Leslie Tyson to act and sign on our behalf in submitting the Shoreline Setback Determination Application, and to file and process any and all applications necessary to obtain governmental permits, including but not limited to building permits, grading permits, grubbing permits, or any other permits issued by any department, agency, or board of commission of the County of Kaua‘i, which are necessary for construction or for the development of the property.

Should you have any questions, or require additional information, please do not hesitate to call me at 612-584-2455.

Sincerely,

Mark Piekarz
Senior Director
The RMR Group
Nawiliwili Bay, Kauai, Hawaii

**Area Description**

The Nawiliwili Bay area, shown on the map, is located on the west coast of Kauai. The area is bounded by Poipu Point in the southwest and Hanalei Bay in the southeast. The coastline is characterized by a small point boundary interrupted along several headlands.

Overall, the area is experiencing erosion at an average rate of 0.9 ft/y. There are three distinct areas with different rates: Koloa Beach (1970-1974), Bambuddah Beach (1975-1977), and Nawiliwili Bay (1978-present). Koloa Beach (1970-1974) shows extremely high erosion at an average rate of 0.9 ft/y. Bambuddah Beach (1975-1977) has moderate erosion at an average rate of 0.4 ft/y. Nawiliwili Bay (1978-present) has very high erosion at an average rate of 0.9 ft/y. Previous studies did not analyze the Nawiliwili Bay study area specifically.

**Historical Shorelines**

Historical shoreline positions are measured every 50 ft along the shoreline. These data are crucial for understanding the historical shoreline positions. The historical shoreline positions are derived from various data sources, including aerial photographs, satellite imagery, and field observations. The data are continuously updated to reflect changes in the shoreline.

**Shoreline Change Rates**

Shoreline change rates are shown on the map and in the accompanying graph. The rates are determined by measuring the distance between different shoreline positions over time. The rates are presented in feet per year (ft/y). The map includes a scale bar for reference.

**Historical Data Measurement Locations**

The map shows the locations where historical shoreline data were measured. These locations are indicated by small icons on the map.

**Exhibit B**

Scale: 1:25,000

Kauai
Flood Hazard Assessment Report
www.hawaiinfp.org
KALAPAKI MARRIOTT

Property Information

COUNTY: KAUAI
TMK NO: (4) 3-5-002:002
WATERSHED: NAWILIWI
PARCEL ADDRESS: 3610 RICE ST
LIHUE, HI 96766

Notes:

Flood Hazard Information

FIRM INDEX DATE: NOVEMBER 26, 2010
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL: 15000203278
PANEL EFFECTIVE DATE: NOVEMBER 26, 2010

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

THIS PROPERTY IS WITHIN A DAM EVACUATION ZONE: YES (KA-0145)
FOR MORE INFO, VISIT: http://dlnr.gov/dam/

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 or 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 manager for flood zone determinations to be used for compliance with local floodplain management regulations.

EXHIBIT C
EXHIBIT D
Kauai Marriott Guestrooms Project – Plot Plan
## EXHIBIT E

### Kauai Marriott Guestrooms Renovation

**Construction Cost Estimate**

<table>
<thead>
<tr>
<th>Kauai Marriott</th>
<th>Typical Room Construction costs:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demo</td>
<td>$ 1,200.00</td>
</tr>
<tr>
<td>Floor prep</td>
<td>$ 500.00</td>
</tr>
<tr>
<td>Carpentry</td>
<td>$ 1,500.00</td>
</tr>
<tr>
<td>Doors</td>
<td>$ 1,000.00</td>
</tr>
<tr>
<td>Hardware</td>
<td>$ 500.00</td>
</tr>
<tr>
<td>Drywall</td>
<td>$ 1,000.00</td>
</tr>
<tr>
<td>Tile</td>
<td>finishes</td>
</tr>
<tr>
<td>Flooring</td>
<td>finishes</td>
</tr>
<tr>
<td>Paint</td>
<td>finishes</td>
</tr>
<tr>
<td>Plumbing</td>
<td>$ 2,000.00</td>
</tr>
<tr>
<td>Electric</td>
<td>$ 2,000.00</td>
</tr>
<tr>
<td>Misc.</td>
<td>$ 1,000.00</td>
</tr>
<tr>
<td><strong>Sub-total</strong></td>
<td><strong>$ 10,700.00</strong></td>
</tr>
</tbody>
</table>

**General Conditions**

**Fees**

**KAHILI TOWER:** 103 Rooms – $1,102,100  
**HAUPU TOWER:** 249 Rooms – $2,664,300  
**NOUNOU TOWER:** 4 Rooms – $42,800  
**TOTAL ESTIMATE:** $3,809,200

**Note:** Corridors are finishes only
PLANNING DEPARTMENT
SHORELINE SETBACK APPLICATION

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: County of Kauai, Dept. of Public Works, Wastewater Management Division (WMD)
Mailing Address: Lihue, Kauai, Hawaii 96766
Phone: (808) 241-4083
Email: jkagimoto@kauai.gov

Applicant’s Status: (Check one)
☑ Owner of the Property
☐ Lessee of the Property
☐ Authorized Agent

(Holder of at least 75% of the equitable and legal title)
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.

Attach Letter of Authorization

Transmittal Date: August 24, 2020

Project Information (attach additional sheets, if necessary)

County Zoning District: Open
Tax Map Key(s): (4) 3-9-006: 019
Land Area: 88,557 square feet

Nature of Development: (Description of proposed structure or subdivision)
The Applicant is proposing rehabilitation, demolition and modification of the existing Wailua Sewage Pump Station (SPS) No. 1 within the Wailua Wastewater Treatment Plant to address observed structural deterioration.

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

Part A
Shoreline Setback Determination of Applicability (§8-27.1)
Check all that apply, fill in applicable information. Any box checked must be accompanied by additional information, photos and/or documentation.

1. Property is Abutting the Shoreline
☐ Proposed project’s approximate distance from shoreline (based on aerial map): _____________ ft.

2. Property is Not Abutting the Shoreline
☑ Proposed project’s approximate distance from shoreline (based on aerial map): 400 _____________ ft.

3. Additional Information:
☐ Shoreline Change (Erosion/Accretion) Rate: -0.3 _____________ 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:

:One parcel identified as TMK (4) 3-9-6: 001 (Lygade Park) is between the project site and the shoreline (see Attachment 1). Nalua Road continues through this 32-acre shoreline parcel. Park improvements between the project site and the shoreline include paved parking areas, a maintenance building and a bike/pedestrian path (see Attachment 2).
Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)
The topography at the project site is relatively flat and slopes gently from Nalu Road towards the shoreline.

Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)
Beach at the adjacent parcel (Lydgate Park).

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

Signature
Date: 7/25/20

Applicability (to be completed by Planning Department)

☑ Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.

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

Planning Director or designee: ___________ Date: 9/10/20

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)

Rennie[Signature] 9.10.20
Planning Director or designee Date

☐ Additional comments/conditions:
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.

<table>
<thead>
<tr>
<th>Certified Shoreline</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Certified Shoreline</td>
</tr>
<tr>
<td>□ Survey Map (showing Certified Shoreline, Shoreline Setback, and Structure(s) OR Subdivision)</td>
</tr>
<tr>
<td>□ Average Lot Depth: ___________ ft.</td>
</tr>
<tr>
<td>□ Setback (Table 1 or Table 2): ___________ ft.</td>
</tr>
</tbody>
</table>

| □ Affidavit: Statement of inability to certify shoreline, pursuant to §8-27.3(d) |

Planning Director or its designee Date

<table>
<thead>
<tr>
<th>Public Projects less than $125,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Public Projects less than $125,000 Declaration ((§8-27.8(c)(2))</td>
</tr>
</tbody>
</table>

Planning Director or designee Date

□ Certified Shoreline Required  
□ 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):
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.
### 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

<table>
<thead>
<tr>
<th>Average Lot Depth</th>
<th>Setback Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 140 feet (≤140 feet)</td>
<td>40 feet plus (70 X annual coastal erosion rate) plus 20 feet</td>
</tr>
<tr>
<td>140 feet to 220 feet (140-220 feet)</td>
<td>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</td>
</tr>
<tr>
<td>Greater than 220 feet (&gt;220 feet)</td>
<td>Greater of: 40 feet plus (70 X annual coastal erosion rate) plus 20 feet -or- 100 feet from the certified shoreline</td>
</tr>
</tbody>
</table>

View erosion rate maps from the County website at [http://www.soest.hawaii.edu/coasts/kauaicounty/county.html](http://www.soest.hawaii.edu/coasts/kauaicounty/county.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

<table>
<thead>
<tr>
<th>Setback Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Average Lot Depth – 100/2+40) Subject to the Following:</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Permitted Structures within the shoreline setback area</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(1) Existing conforming and nonconforming structures/activities</td>
</tr>
<tr>
<td>(2) Structure or activity that received a shoreline variance or administrative approval prior to February 26, 2008.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(6) Repairs to a lawfully existing structure, including nonconforming structures, provided that:</td>
</tr>
<tr>
<td>(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;</td>
</tr>
<tr>
<td>(B) The repairs do not constitute a substantial improvement of the structure; and</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(7) Beach nourishment or dune restoration projects approved by all applicable governmental agencies.</td>
</tr>
<tr>
<td>(8) A structure approved by the Director as a minor structure.</td>
</tr>
<tr>
<td>(9) Qualified demolition of existing structures.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(11) Scientific studies and surveys, including archaeological surveys.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(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.</td>
</tr>
<tr>
<td>(14) Structures required for remedial and removal actions undertaken pursuant to Chapter 128D of the Hawai‘i Revised Statutes.</td>
</tr>
</tbody>
</table>
The following conditions shall apply to any new structure permitted in the shoreline setback area:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(b)</td>
<td>The following conditions shall apply to any new structure permitted in the shoreline setback area:</td>
</tr>
<tr>
<td>(1)</td>
<td>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.</td>
</tr>
<tr>
<td>(2)</td>
<td>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.</td>
</tr>
<tr>
<td>(3)</td>
<td>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.</td>
</tr>
<tr>
<td>(4)</td>
<td>Unless otherwise provided, all new structures and/or landscaping shall not:</td>
</tr>
<tr>
<td></td>
<td>(A) adversely affect beach processes,</td>
</tr>
<tr>
<td></td>
<td>(B) artificially fix the shoreline,</td>
</tr>
<tr>
<td></td>
<td>(C) interfere with public access or public views to and along the shoreline,</td>
</tr>
<tr>
<td></td>
<td>(D) impede the natural processes and/or movement of the shoreline and/or sand dunes, or</td>
</tr>
<tr>
<td></td>
<td>(E) alter the grade of the shoreline setback area.</td>
</tr>
<tr>
<td>(5)</td>
<td>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.</td>
</tr>
<tr>
<td>(6)</td>
<td>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.</td>
</tr>
</tbody>
</table>
Flood Hazard Assessment Report

Property Information

COUNTY: KAUAI
TMK NO: (4) 3-9-006-019
WATERSHED: KAWAILOA
PARCEL ADDRESS: 4460 NALU ROAD
            KAPAA, HI 96746

Notes:

Flood Hazard Information

FIRM INDEX DATE: NOVEMBER 26, 2010
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL: 150002021F
PANEL EFFECTIVE DATE: NOVEMBER 26, 2010

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 or 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 manager for flood zone determinations to be used for compliance with local floodplain management regulations.

FLOOD HAZARD ASSESSMENT TOOL LAYER LEGEND
(Note: legend does not correspond with NPHE)

SPECIAL FLOOD HAZARD AREAS (SFHA) 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 X5 (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.