

PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201	9-28
Acceptance Date:	1.8.19
Website Posting Date:	1.9.19
Determination Date:	1.8.19
Planning Commission Date:	NA
Expiration Date:	1.8.20
Planner Assigned:	JL

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, due to proximity of the shoreline, that your parcel will require a Certified Shoreline Survey. 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:	Makauena at Poipu
Address:	1661 Pe'e Road Poipu, Kauai, HI. 96756
Phone:	808-755-5956
Email:	makahuenam@yahoo.com
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	R-20
Tax Map Key(s):	(4) 2-8-20:003
Land Area:	3.867 acres
Nature of Development: (Description of proposed Structure of subdivision)	Immediate repairs to failing cantilever structures @ Units 1301,1304,1305,1308,1309. See permit plans for scope of work.

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

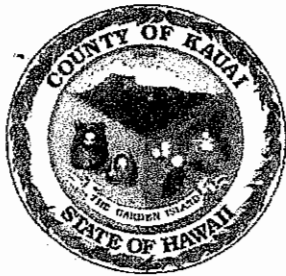
Part A

Shoreline Setback Determination of Applicability (§8-27.1)

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

- ☒ Properties Abutting the Shoreline
 - ☒ Project's approximate distance from shoreline: 135' front of Bldg. 1 See Exhibit 1.
- ☐ Properties Not Abutting the Shoreline
 - ☐ Project's approximate distance from shoreline: _____
- ☒ Additional Information:
 - ☒ Closest distance of improvement(s) from Shoreline is approximately 75' + - ft.
 - ☒ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel:

Existing house "The Makauena" sits in front of Building 1. See 2/A1.0 Site plan for location.



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Planner Assigned:	

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

Terraced, sloping, elevated from sea level.

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

Rock

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☐ Is property in coastal floodplain (if checked, what zone)? _____

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

No. Building 1 sits on X Shaded. See Exhibit 2-FHAT.

If the proposed structure or subdivision is within the shoreline setback area then, please be aware that if the determination of a structure is approved, the Applicant shall agree in writing that the Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kauai harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazards and coastal erosion, pursuant to §8-27.7(b)(2).

The requirements of the Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under §8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit. §8-27.7(b)(6).

Applicant's Signature

Arion P. Poon

11/28/18

Signature

Date

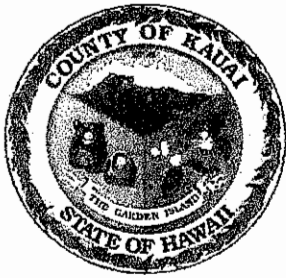
Applicability (to be completed by Planning Department)

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

[Signature]
Planning Director or designee

1.8.19

Date



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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

Part B

Exemption Determination

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

☐ **Exemption 1**

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

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

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

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

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

☐ **Exemption 2**

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

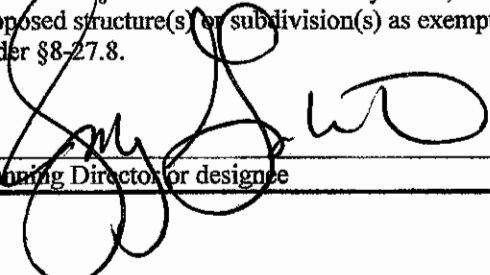
☒ **Exemption 3**

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

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

Exemption Determination (to be completed by Planning Department)

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


Planning Director or designee

1-8-19
Date

TREEFISH LLC

ADAM BROWN ARCHITECT

5784 Ahakea St. Kapaa Hawai'i 96746

Phone: (808) 652-9440 • Email: Bwaybrown@gmail.com

EXHIBIT 1



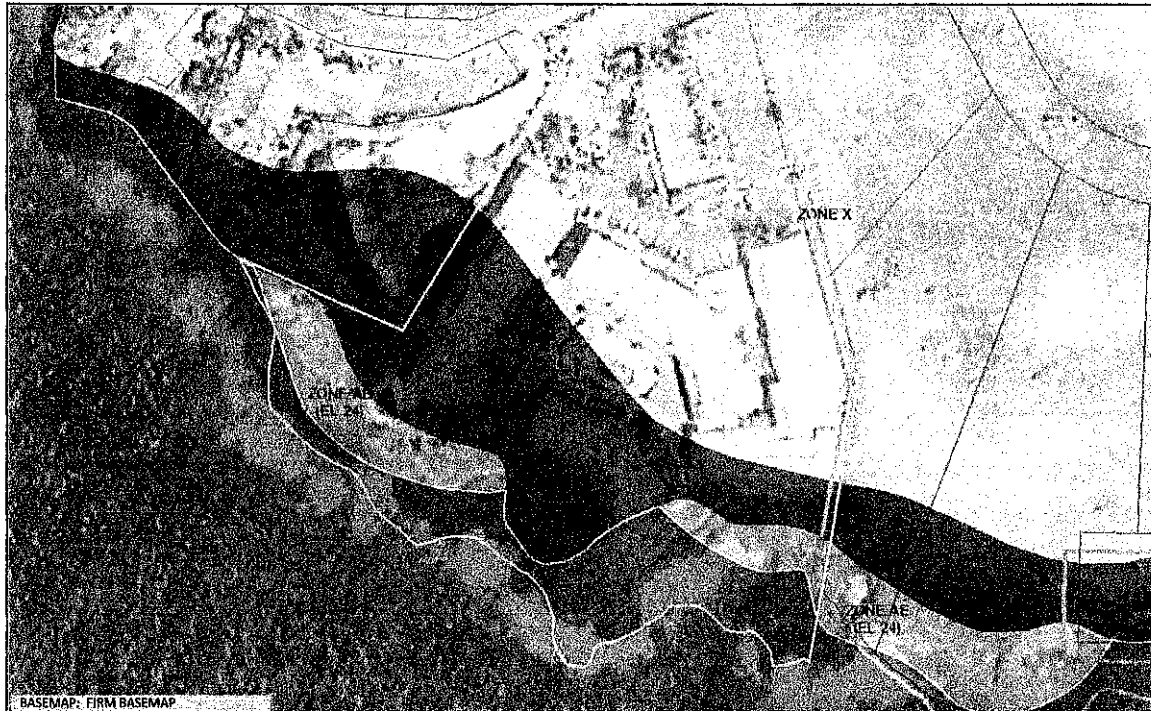
TREEFISH LLC

ADAM BROWN ARCHITECT

5784 Ahakea St. Kapaa Hawai'i 96746

Phone: (808) 652-9440 • Email: Bwaybrown@gmail.com

EXHIBIT 2 X SHADED



Flood Hazard Assessment Report

www.hawaiiinfo.org

Makauena @ Poipu

Property Information

COUNTY: KAUAI
TMK NO: (4) 2-8-020-003
WATERSHED: MAHAULEPU; WAIKOMO
PARCEL ADDRESS: 1661 PE'E RD
KOLOA, HI 96756

Notes:

Flood Hazard Information

FIRM INDEX DATE: NOVEMBER 26, 2010
LETTER OF MAP CHANGE(S): 16-09-0378A, 16-09-0391A
FEMA FIRM PANEL: 1500020352F
PANEL EFFECTIVE DATE: NOVEMBER 26, 2010

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

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



0 100 200 ft

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

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

SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD - The 1% annual chance flood (100-year), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. SFHAs include Zone A, AE, AH, AD, 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 AD: 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 applies, but coverage is available in participating communities.
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ENGINEERING DIVISION
DEPARTMENT OF PUBLIC WORKS
THE COUNTY OF KAUAI

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

LYLE M. TABATA
DEPUTY COUNTY ENGINEER

December 24, 2018

Adam Brown, Architect
5784 Ahakea Street
Kapa'a Hawai'i 96746

SUBJECT: SHORELINE SETBACK APPLICATION
SUBSTANTIAL IMPROVEMENT DETERMINATION
MAKAHUENA EMERGENCY REPAIRS TO BUILDING 1
TMK: (4) 2-8-020:003

PW 11.18.106

Dear Mr. Brown,

The Kauai County Shoreline Setback and Coastal Protection Ordinance (Ordinance No. 979) Section 8-27.2 defines substantial improvement as "any cumulative series of repairs, reconstruction, improvements, or additions to a structure over a ten (10) year period, where the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the first improvement during that ten (10) year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure."

The Department of Public Works - Engineering Division (DPW) has reviewed the proposed emergency work on building 1 and determined that the work does not constitute a substantial improvement. A summary of the calculations is provided below.

Market Value

There was one building permit (BP 17-0034) approved for the structure within the past ten years. The market value used in the calculations is the Replacement Cost New Less Depreciation (RCNLD) value for the structure at the time of BP 17-0034. The 2016 RCNLD as determined by the County's Real Property Assessment Division was \$3,102,700. If the owner chooses to dispute this value, then an appraisal of the structure must be provided at the owner's expense. The appraisal shall be prepared by a professional appraiser licensed in the State of Hawai'i and the market value shall be based on the "Cost Approach" (or Replacement Cost New Less Depreciation).

Cost of Improvements

The total cost of improvements for Building I is the cost of the improvements performed under BP 17-0034 plus the cost of the proposed emergency repairs as estimated by Architect Adam Brown.

BP 17-0034	\$99,840
Proposed Improvements	\$56,749
TOTAL	\$156,589

Summary

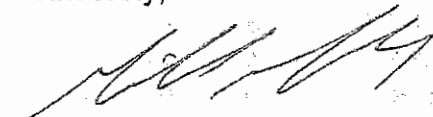
The cost of improvements for Building I compared to the 2016 RCNLD market value is summarized as follows:

$$\frac{\text{Cost of Improvements (past 10 years): \$156,589}}{\text{Market Value (Real Property): \$ 3,102,700}} = 0.05047 \text{ or } 5.0\%$$

Based on our records there were no other permits for this structure within the past ten years. However, if any unpermitted work has been done, or if there are modifications to this application, our determination shall be considered void and the structure must be re-evaluated.

If you have any questions or need additional information, contact Stanford Iwamoto at (808) 241-4896 or siwamoto@kauai.gov.

Sincerely,



Michael Moule, P.E.
Chief, Engineering Division

Concur,



Lyle Tabata
Deputy County Engineer

SI/GO

copy: Makahuena @ Po'ipū, 1661 Pe'e Po'ipū Hawai'i 96756

TREEFISH LLC

ADAM BROWN ARCHITECT

5784 Ahakea St., Kapa'a, Kaua'i, Hawai'i 96746
Phone: (808) 652-9440 • Email: Bwaybrown@gmail.com

Makauena at Poipu
1616 Pe'e rd.
Koloa, Hi. 96756

May 15, 2018,


Department of Planning & Building Division
County of Kauai
4444 Rice Street
Lihue, Hi 96766

SUBJECT: Agent Authorization
Makauena at Poipu
TMK: (4) 5-4-09:022

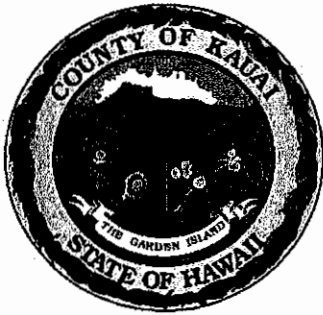
To whom it may concern:

Authorized representative pertaining to the property at the above TMK is:

Adam Brown
Licensed Architect
TreeFish llc
5784 Ahakea St.
Kapaa, HI 96746
voice: 652-9440
email: bwaybrown@gmail.com

 5/17/18

Client Signature Date



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Expiration Date:	1.22.20
Planner Assigned:	JL

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:	S. Kamal Salibi Revocable Trust
Mailing Address:	c/o Ian K. Jung, Esq. 4334 Rice Street, Suite 202, Lihue, Kauai, Hawaii 96766
Phone:	(808) 245-2163
Email:	ikj@kauai-law.com
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date:	January 2, 2019

Project Information (attach additional sheets, if necessary)	
County Zoning District:	OPEN DISTRICT
Tax Map Key(s):	(4) 3-2-003:009
Land Area:	1.82 acres
Nature of Development: (Description of proposed structure or subdivision)	Repairs to existing motel structure, installation of cedar fencing, removal of parking lot and driveway, removal of two (2) cesspools, installation of two (2) septic systems with retaining walls, installation of parking area, installation of two (2) patios, and expansion of deck on existing single-family residence.

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

Part A

Shoreline Setback Determination of Applicability (§8-27.1)

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

- Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 525 ft.
- Additional Information:
☐ Shoreline Change (Erosion/Accretion) Rate: _____ ft./year
(Information available here: www.soest.hawaii.edu/coasts/kauaicontry/KCounty.html)
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

Two (2) parcels intersect the Subject Property (Niumalu Road and County Niumalu Park).



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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

The Subject Property is flat and approximately 7.60 feet above mean sea level.

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

The Subject Property is non-abutting and located approximately 525 feet from the sandy shoreline fronting Huliea River behind the Nawiliwili Marina and Small Boat Harbor.

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☒ Is property in coastal floodplain (if checked, what zone)? AE/AEF

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

N/A

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.

Planning Director or designee

Date

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

Part B

- ☒ A non-refundable processing fee of one hundred dollars (\$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 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:

Revisions to SSD-2016-72

EXHIBIT "A"

APPLICANT'S AUTHORIZATION

I. APPLICANT.

Name: KAMAL S. SALIBI REVOCABLE TRUST
c/o Kamal S. Salibi, Trustee

Address: P.O. Box 1722
Lihue, Hawaii 96766

Attention: Mr. Kamal S. Salibi

(Location Address: 2461 Niumalu Road, Lihue, Hawaii 96766)

Telephone: (808) 246-6333
Email: kamal@truebluekauai.com

II. AUTHORIZED AGENT.

Name: Jonathan J. Chun, Esq.
Ian K. Jung, Esq.

Address: Belles Graham Proudfoot Wilson & Chun, LLP
4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766

Telephone: (808) 245-2163
Facsimile: (808) 245-3277
Email: jjc@kauai-law.com
ikj@kauai-law.com

III. PROPERTY.

Parcel 9, Map 1
Kauai Tax Map Key No. (4) 3-2-003:009

EXHIBIT "A"

IV. AUTHORIZATION.

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

1. Building permits, grading permits, use permits, variance permits, zoning permits, shoreline setback determinations, and Special Management Area permits issued by any department, agency, board or commission of the County of Kauai.
2. Permits issued by the Department of Health of the State of Hawaii.
3. Permits issued by the Board of Land and Natural Resources of the State of Hawaii and/or the Department of Land and Natural Resources of the State of Hawaii, including shoreline certifications.
4. Permits issued by the Land Use Commission of the State of Hawaii.

DATED: 1-9-17

APPLICANT:
KAMAL S. SALIBI REVOCABLE TRUST
c/o Kamal S. Salibi, Trustee


By 
KAMAL S. SALIBI
Its Trustee

EXHIBIT "B"

Bernard P. Carvalho, Jr.
Mayor



Michael A. Dahilig
Director of Planning

Wallace G. Rezentes, Jr.
Managing Director

Ka'aina S. Hull
Deputy Director of Planning

PLANNING DEPARTMENT

County of Kauai, State of Hawaii

4444 Rice Street, Suite A-473, Lihua, Hawaii 96766
TEL (808) 241-4050 FAX (808) 241-6699

AUG 24 2017

RECEIVED
AUG 30 2017

IAN K. JUNG, ESQ.
c/o Belles Graham, et al.
4334 Rice Street, Suite 202
Lihua, HI 96766

BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP

Subject: Special Management Area Minor Permit SMA(M)-2017-6
Tax Map Key: (4) 3-2-003:009
Niumalu, Kauai
S. KAMAL SALIBI REVOCABLE TRUST, Applicant

Based on the information submitted, the department has completed its review and assessment of the proposed development and hereby issues a Special Management Area Minor Permit authorizing the construction of a driveway and parking area, two (2) new patios associated with the existing 6-unit motel, an after-the-fact cedar fence on the east and south boundary lines, construction of a new cedar fence along the west boundary line, removal of two (2) existing cesspools and installation of two (2) above-ground septic systems, and expansion of the deck and roof line of the existing single-family dwelling unit. Approval is subject to the following conditions:

1. The proposed project shall be constructed as represented. Any changes to said facilities shall be reviewed by the Planning Department and the department reserves the right to impose additional conditions.
2. The Applicant shall develop and utilize Best Management Practices (BMPs) during all phases of development in order to minimize erosion, dust, and sedimentation impacts of the project to abutting properties.
3. Prior to the operation of the subject motel facility, the Applicant shall address the following issues, and proper documentation shall be submitted to the Planning Department.

An Equal Opportunity Employer

V:\2017 Master Files\Regulatory\SMA Permits\SMA Minor\SMA(M)-2017-6

EXHIBIT "B"

- a. Per Sec. 8-5.3(c) of the CZO, the Applicant will be required to provide a minimum of six (6) off-street parking stalls associated with the motel – at least one (1) parking stall be provided for each motel room.
 - b. In compliance with the remediation process, the Applicant shall submit a new Shoreline Setback Determination (SSD) application and renovation plans for the interior renovation of the six motel units. Along with the SSD application, the Applicant shall be required to submit to the Planning Department a Substantial Improvement Letter obtained from the Department of Public Works.
 - c. The subject motel units shall not be allowed to have any individual kitchens, kitchenettes, or any cooking appliances.
 - d. In compliance with the remediation process, the Applicant shall submit the NOI (Notice of Intent) grading plans for the unpermitted grading associated with the SMA violation dated February 2, 2017.
 - e. The Applicant is made aware of the Planning Department's concerns regarding the use of the gate that controls ingress and egress onto the property. The Applicant shall be required to keep the gate open during the daytime and during regular operating hours for the motel. If any problems related to traffic congestion, flow, or safety on or near the road right-of-way in front of the gate should arise, the Planning Department reserves the right to impose additional requirements to address traffic mitigation. Furthermore, the Applicant (or current land owner) shall work closely with the Planning Department to resolve this matter.
4. Prior to commencement of the proposed activity, written confirmation of compliance with the requirements from all reviewing agencies shall be provided to the Planning Department. Failure to comply may result in forfeiture of the SMA Permit.
 5. The Department of Water offers the following comment:

We have no objections to the revised SMA(M)-2017-6 Permit Application for the proposed development and renovations related to a nonconforming Motel on TMK: 3-2-03:009.

Requests for water service will be dependent on the adequacy of the source, storage, and transmission facilities existing at that time.
 6. The Department of Public Works – Engineering offers the following comments:

Ian K. Jung, Agent
S. KAMAL SALIBI REVOCABLE TRUST, Applicant
SMA(M)-2017-6
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"We have reviewed the proposed revisions to the project and would like to revise our previous comments to read as follows:

We reviewed the subject application to install a cedar fence, driveway, and septic systems in Niumalu. The proposed improvements are located in a Special Flood Hazard Area (SFHA) Zone. Based on Panel No. 0328F of the Federal Insurance Rate Maps (FIRM) dated November 26, 2010, the flood zone is Zone AEF with a corresponding base flood elevation of about 9 feet mean sea level (MSL). The proposed improvements will need to comply with the County's Flood Plain Management Ordinance No. 831. Encroachments such as the proposed fence, septic system, and retaining walls are prohibited in the floodway unless certified by a registered professional civil engineer, with supporting data, that the encroachment will not cause any increase in the base flood elevations during the occurrence of the base flood discharge.

Please contact Stanford Iwamoto of my staff at 241-4896 or siwamoto@kauai.gov if you have any questions."

7. The State Department of Health (DOH) offers the following comments:
 - a. The existing wastewater system is adequate to serve the proposed project. The mounded septic systems that were recently installed at this property have been given approval to use by the State Department of Health (DOH) and there are no further issues regarding the wastewater system at DOH.
 - b. The noise generated during the site preparation and construction phases of this project shall not exceed the applicable maximum permissible sound levels as stated in Title 11, Hawai'i Administrative Rules (HAR), Chapter 11-46, "Community Noise Control", unless a noise permit is obtained from the State Department of Health (DOH).
 - c. Temporary fugitive dust emissions could be emitted when the project site is prepared for construction and when construction activities occur. In accordance with Title 11, HAR, Chapter 11-60.1, "Air Pollution Control", effective air-pollution control measures shall be provided to prevent or minimize any fugitive dust emissions caused by construction work from affecting the surrounding areas. This includes the off-site roadways used to enter/exit the project. The control measures include but are not limited to the use of water wagons,

sprinkler systems, dust fences, etc.

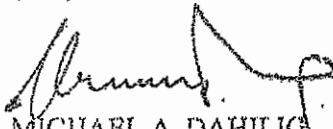
- d. In accordance with Title 11, HAR, Chapter 11-58.1, "Solid Waste Management Control", the project's generated construction waste must be either recycled or disposed of at a solid waste disposal facility that complies with the DOH. The DOH prohibits the open burning of these wastes on or off site.
 - e. Due to the general nature of the application submitted, we reserve the right to implement future environmental health restriction if detailed information is submitted.
8. The University of Hawai'i Sea Grant offers the following comment:
- "My main comment is on new parking lot (yellow on the map) which is approximately 17' from Niumalu Stream. My understanding of the permit is for after-the-fact development so the lot has already been constructed. If it hadn't been after the fact, I would have suggested this lot as far away from the stream as possible. The concrete impervious surface and there are significant water quality impacts from any development located that close to the stream. I would have suggested the use of porous pavement or interlocking pavers to mitigate the impact. Since the lot has already been constructed, quality BMPs should be installed and maintained around the lot to minimize impacts as much as possible. This may involve swales and bioretention. Here are a few resources:
- <https://www.werf.org/livablecommunities/toolbox/porous.pavement/>
- <https://www.epa.gov/green-infrastructure/performance-green-infrastructure/>
- <https://www.epa.gov/npdes/national-menu-best-management-practices-for-stormwater#post>
9. The Applicant shall comply with the requirements of the County of Maui Fire Department, Department of Public Works, Department of Transportation Agency, and State Historic Preservation Division and other applicable government agency(ies).
 10. In order to minimize adverse impacts on federally listed and Newell's Shearwater and other seabirds, all external lighting

Ian K. Jung, Agent
S. KAMAL SALIBI REVOCABLE TRUST, Applicant
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be only of the following type: full cut-off, downward facing shielded lights. Spotlights aimed upward or spotlighting of structures, landscaping or the ocean shall be prohibited.

11. The Applicant is advised that should any archaeological or historical resources be discovered during ground disturbing/construction work, all work in the area of the archaeological/historical findings shall immediately cease and the Applicant shall contact the State Department of Land and Natural Resources – Historic Preservation Division at (808) 692-8015 and the Planning Department at (808) 241-4050.
12. Unless otherwise stated in the permit, once a permit is issued, the Applicant must make substantial progress, as determined by the Director, regarding the development or activity within two (2) years, or the permit shall be deemed to have lapsed and be no longer in effect.

Should there be any questions regarding this matter, please contact the department at (808) 241-4050.


MICHAEL A. DAHILIG
Director of Planning

cc: COK – DPW-Engineering, DPW-Building, Fire, Water, CTA, UH Sea Grant
State – DOT Highways, Dept. of Health

EXHIBIT "C"

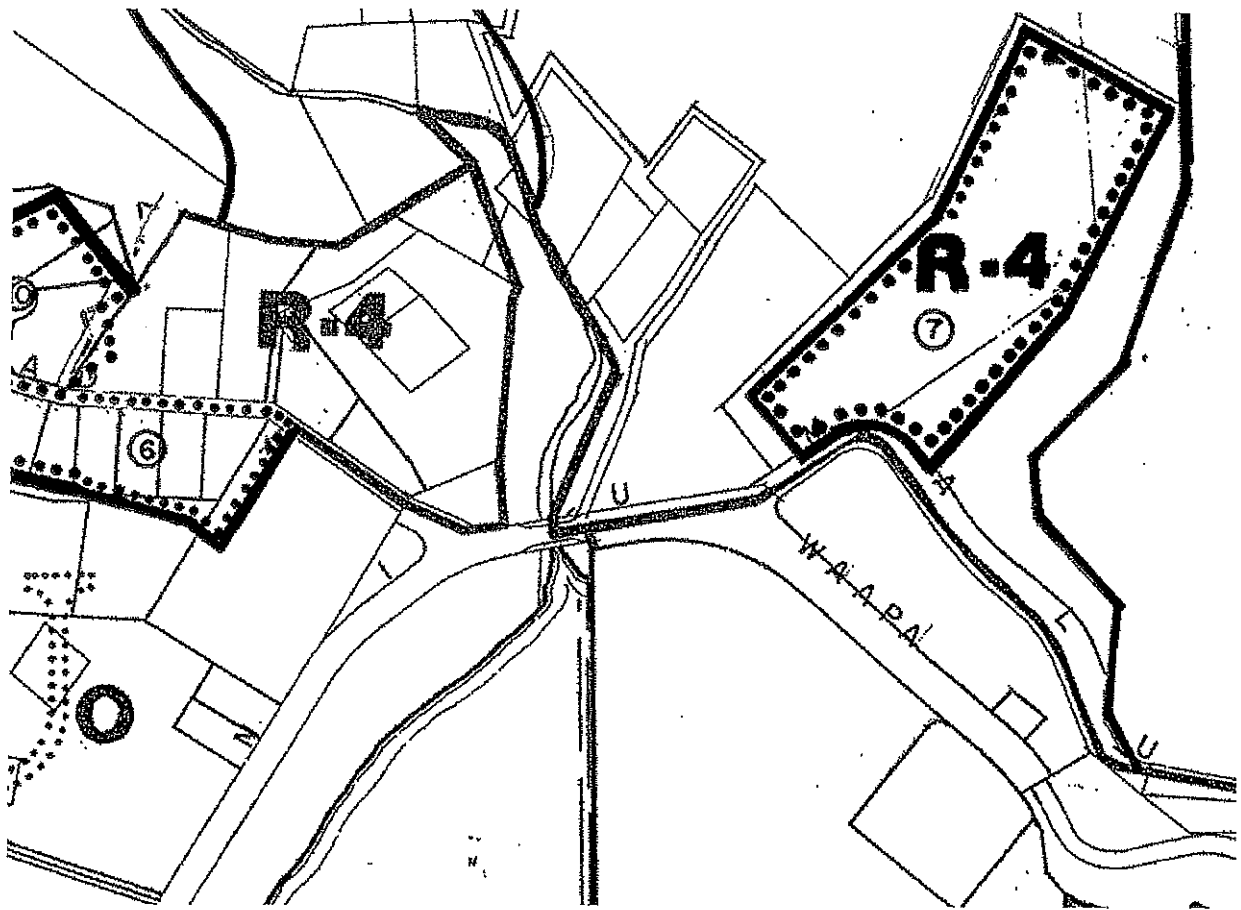


EXHIBIT "D"

4 KAPAA LIHUE KAUAI COUNTY

AWAII STATE LAND USE DISTRICTS
 CONSERVATION DISTRICT **C**
 AGRICULTURE DISTRICT **A**
 RURAL DISTRICT **R**
 URBAN DISTRICT **U**
 SPECIAL MANAGEMENT AREA

ADOPTED BY COUNTY OF KAUAI

Adopted by the Planning Commission

Approved by the Board of Supervisors

AMENDMENTS

1. Chapter 205A, H.R.S., in Accordance With Act 200, Session 1990, as amended, 1991.

2. Chapter 205A, H.R.S., in Accordance With Act 200, Session 1990, as amended, 1991.

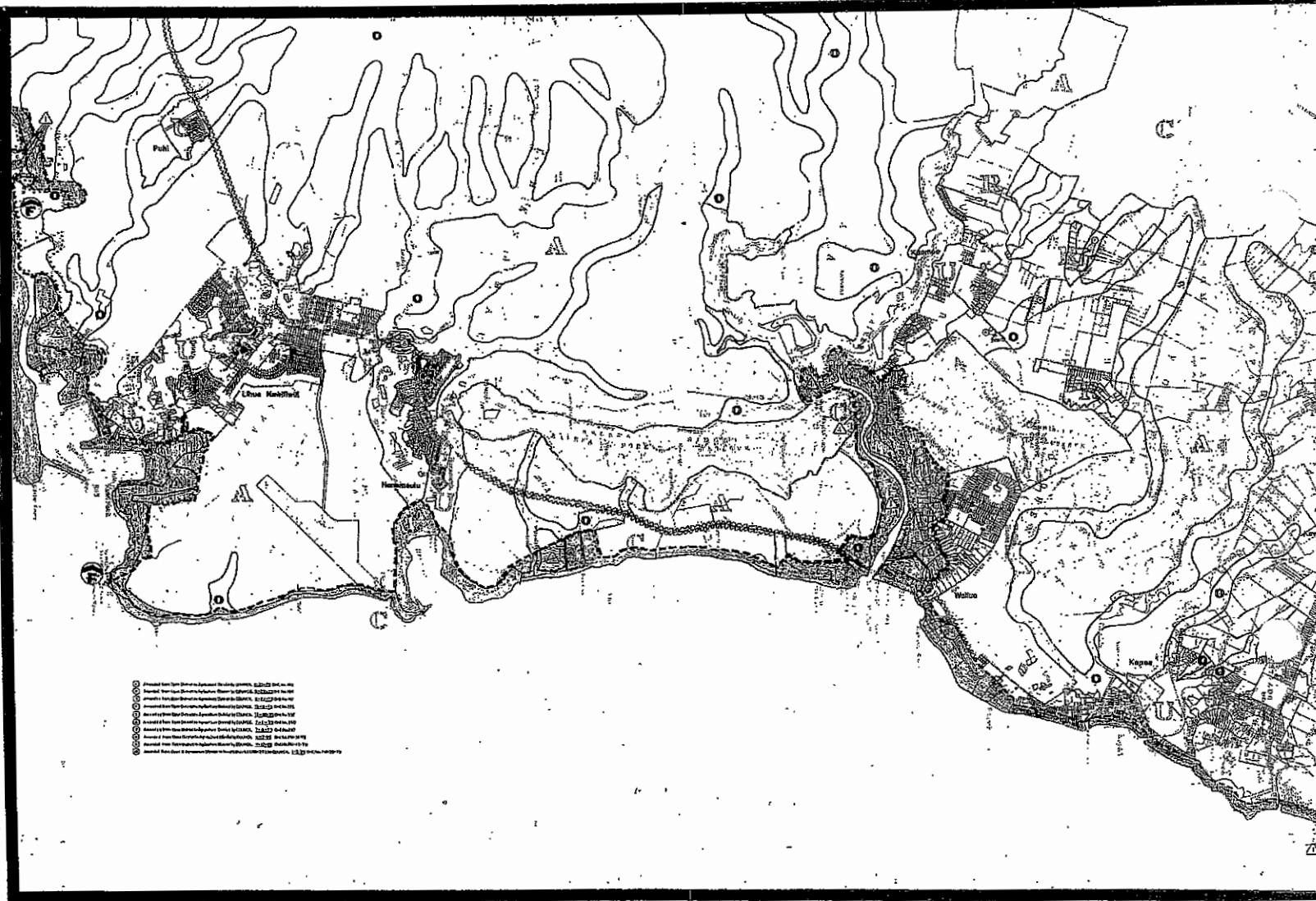
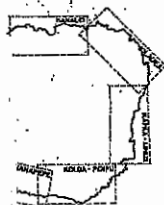
THE PRESENTATION OF THIS MAP WAS SUBMITTED IN PART BY THE COASTAL ZONE MANAGEMENT ACT OF 1972, AS AMENDED, AND AMENDED BY THE OFFICE OF COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNITED STATES DEPARTMENT OF COMMERCE.

LEGEND

--- SMA Boundary is the Seaward Edge of the Line

Area of Amendment

Area of Federal Lands Exclusion



- 1. General Plan for the Kapa'a and Lihue areas, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 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EXHIBIT "E"

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~ Parcel
~ CPR

Lakes/Rivers from US Cens

390

780

1170

1560 ft

Kauai County Assessor

Parcel: 320030090000 Acres:

Name:		Land Value	
Site:		Building Value	
Sale:		Misc Value	
Mail:		Just Value	
		Assessed Value	
		Exempt Value	
		Taxable Value	



The Kauai County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER KAUAI COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS —THIS IS NOT A SURVEY—
Date printed: 12/28/18 : 18:15:58

EXHIBIT "E"

EXHIBIT "F"

Kamal S. Salibi Trust

Legend



-  Outfitters Kauai Kayak Shack
-  The Kauai Inn

EXHIBIT "F"

Google Earth

500 ft

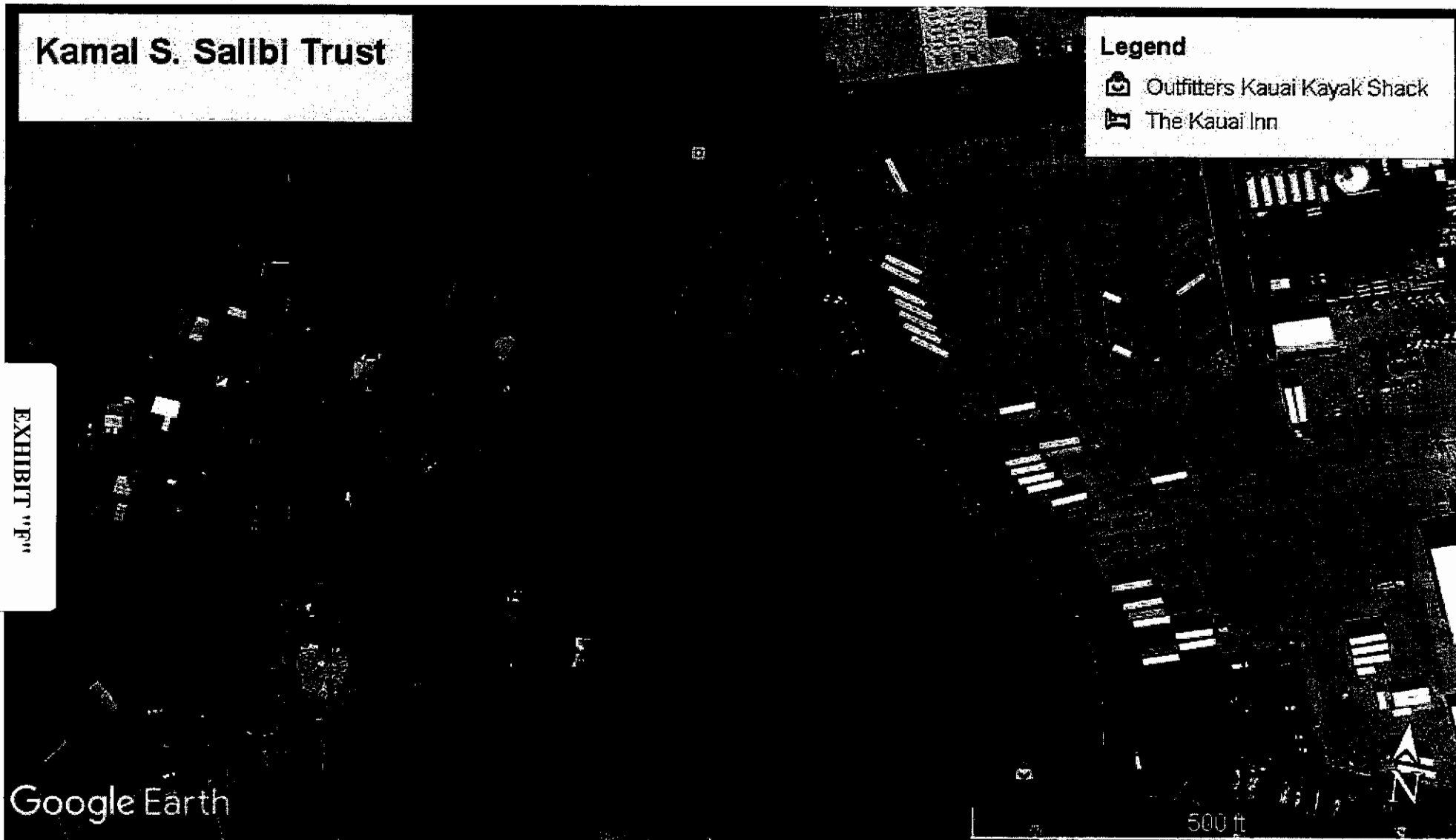


EXHIBIT "G"

Nawiliwili Bay, Kauai, Hawaii

AREA DESCRIPTION

The Nawiliwili Bay study area (transects 0-30) is located on the east coast of Kauai. The area is bounded by Ninii Point to the northeast and Carter Point to the southwest. The shoreline is characterized by small pocket beaches interspersed among basaltic headlands.

Overall, the area is experiencing accretion at an average rate of 0.2 ft/yr. There are three pocket beaches within the study area. Kalepaoli Beach (transects 0-21) is located within Nawiliwili Bay to the north of Kukii Point. This section of the study area is accreting at an average rate of 0.6 ft/yr. Ninii Beach (transects 22-27) has experienced erosion at an average rate of -0.9 ft/yr. The next beach (transects 28-30) has experienced erosion at -0.9 ft/yr. Previous studies¹ did not analyze the Nawiliwili Bay study area shoreline.

¹ Malin Ocean Engineering and Sea Engineering, 1981 Aerial Photograph Analysis of Coastal Erosion on the Islands of Kauai, Molokai, Lanai, Maui, and Hawaii, State of Hawaii Office of Coastal Zone Management Program.

Shoreline Change Rate (ft/yr)

Kukii Point

Shoreline Change Rate (ft/yr)

Shoreline Change Rate (ft/yr)

Ninii Point

HISTORICAL SHORELINES

- 1927 T-sheet
- Jan 1951
- Mar 1960
- Sept 1968
- Apr 10 1975
- Apr 12 1975
- Oct 1981
- Jul 1987
- May 1988
- Sept 1992
- Jan 2000
- Oct 2007

Erosion rate measurement locations (shore-normal transects)

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

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

SHORELINE CHANGE RATES

- Accretion Rate
- Erosion Rate

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

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

Kauai

Harbor

Scale 1:3500

Charles Fletcher, Matthew Barlow, Siang-Chyn Lin, Staff Officer and Ayasha Gonz

University of Hawaii Coastal Geology Group
School of Ocean and Earth Sciences and Technology
1680 East West Road, Honolulu, HI 96822, U.S.A.



Horizontal: UTM coordinates
Vertical: UTM coordinates

EXHIBIT "H"

**BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP**
ATTORNEYS AT LAW

MICHAEL J. BELLES
MAX W.J. GRAHAM, JR.
DONALD H. WILSON
JONATHAN J. CHUN
IAN K. JUNG

WATUMULL PLAZA
4334 RICE STREET, SUITE 202
LIHUE, KAUAI, HAWAII 96766-1388

TELEPHONE NO: (808) 245-4705
FACSIMILE NO: (808) 245-3277
E-MAIL: mail@kauai-law.com

County of Kauai
PLANNING DEPT

19 JAN -2 P3:18
OF COUNSEL
DAVID W. PROUDFOOT

RECEIVED
COUNSEL
JERNA K. NISHIMITSU
Federal I.D. No. 99-0317663

January 2, 2019

Mr. Ka'aina Hull
Director of Planning
Planning Department
4444 Rice Street, Suite A473
Lihue, Kauai, Hawaii 96766

VIA HAND DELIVERY

Re: **Shoreline Setback Determination (Exemption)**
Nawiliwili, Lihue, Kauai, Hawaii
Exclusion 9 (Parcel 9), Land Court Application 957 (Map 1)
Kauai Tax Map Key No. (4) 3-2-003:009
Owner: S. Kamal Salibi Revocable Trust

Dear Mr. Hull:

This office represents S. Kamal Salibi Revocable Trust ("Applicant"). An Applicant's Authorization authorizing our office to file the Application on behalf of the Applicant is attached hereto as *Exhibit "A"*.

On behalf of the Applicant, I am submitting a Shoreline Setback Application (exemption) pursuant to Kauai County Code, Chapter 8 ("CZO"), Section 8-27.3(a)(2), to repair and expansion of a deck connected to an existing residence and the interior remodeling of the existing six-plex motel structure ("Project") on the property located in Nawiliwili, Lihue, Kauai, Hawaii, identified by Kauai Tax Map Key No. (4) 3-2-003:009 ("Property").

This Application is a requirement of the approved Special Management Area Minor Permit (SMA(M)-2017-6 (Condition No. 1.b.), attached hereto as *Exhibit "B"*. The development and construction of the following proposed improvements on the Property (the "Development") will take place as follows:

1. Repairs to the existing six (6) unit motel structure. (Remediation and not considered Development for SMA purposes).

2. Cedar fencing around the east and south boundary lines of the Property. (Remediation and considered Development for SMA purposes).
3. Removal of the parking lot and driveway. (Remediation and considered Development for SMA purposes).
4. Removal of two (2) cesspools and installation of two (2) above-ground septic systems with rock wall retaining walls. (Remediation and considered Development for SMA purposes).
5. Installation of a concrete driveway and parking area. (Proposed and considered Development for SMA purposes).
6. Installation of a new cedar fence along the west boundary line. (Proposed and considered Development for SMA purposes).
7. Installation of two (2) patios to the north and south of the existing six (6) unit motel. (Proposed and considered Development for SMA purposes).
8. Expansion of the deck to the east, north, and west of the existing single-family dwelling unit. (Proposed and considered Development for SMA purposes).

As part of the Shoreline Setback Application, I have enclosed an original and two (2) copies of the Shoreline Setback Application with Exhibits and filing fee check of \$100.00 made payable to the Director of Finance.

The proposed structure associated with the Project will be located in the State Land Use Classification ("SLUC") Urban District and CZO Open District *[Exhibit "C"]*. The Property is also located in the Special Management Area ("SMA") and the proposed Project will be subject to a SMA review *[Exhibit "D"]*.

As shown on the enclosed tax map of the Property *[Exhibit "E"]*, the Property is a non-abutting property to the shoreline with two (2) properties intersecting the Property from the shoreline. Furthermore, as shown on the enclosed site plan, the Project will be located at approximately 525 feet from the shoreline *[Exhibit "F"]*. According to the Kauai Coastal Erosion Study, Nawiliwili Bay, Kauai, Hawaii Map, the Property is not subject to an erosion or accretion rate and therefore qualifies as "a lot not included in the Kauai Coastal Erosion Study" pursuant to CZO Section 8-27.3(d) *[Exhibit "G"]*.

Mr. Ka'aina Hull
January 2, 2019
Page 3

The Applicant is requesting Exemption 2 as provided for in CZO Section 8-27.3(a)(2). The details of the proposed project are identified in the attached Site Plan as *Exhibit "H"*. The proposed Project will not affect beach processes, impact public beach process or be affected by or contribute to coastal erosion or hazards due to the following:

1. The proposed improvements for the Project will be located a minimum distance of at least 525 feet from the approximate shoreline.

2. The proposed improvements are located along Huliea River behind the hardened Nawiliwili Marina and Small Boat Harbor. Furthermore, a County of Kauai park (Niumalu Park) and County of Kauai road (Niumalu Road). As such, the Project will not affect beach processes, impact public beach processes or be affected by or contribute to coastal erosion or hazards. Access to Huliea River and the Nawiliwili Mariana and Small Boat Harbor are provided for via Niumalu Road.

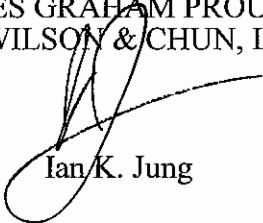
3. The Property is located behind Nawiliwili Mariana and Small Boat Harbor, which is artificially controlled as Kauai's main port of entry for ships. Half of Kalapaki Bay is controlled and fortified by a breakwater to minimize coastal impacts from large surf events. Moreover, the beach area is approximately 525 feet from the Property, is identified as a protective zone of the Nawiliwili breakwater, and is located behind the marina. Therefore, due to the controlled environment, any impact to the Project by coastal events are minimal.

As a result, since the proposed structure associated with the Project will neither adversely affect nor be affected by the coastal beach process, the Applicant requests that the exemption provided in Kauai County Code, 1987, as amended, Chapter 8, Section 8-27.3(a)(2), be granted for this Application.

Thank you very much for your attention to this matter and please let me know if you require anything further in this regard.

Sincerely yours,

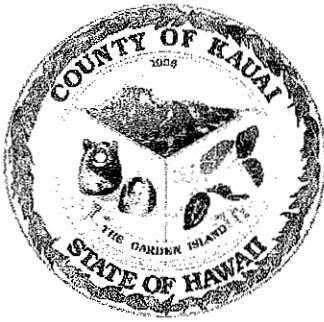
BELLES GRAHAM PROUDFOOT
WILSON & CHUN, LLP



Ian K. Jung

IKJ:jgm
Enclosures

cc: Mr. Kamal Salibi, w/encls. (via email only)



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD	201 <u>9</u> - <u>30</u>
Acceptance Date:	<u>1.8.19</u>
Website Posting Date:	<u>1.9.19</u>
Determination Date:	<u>1.8.19</u>
Planning Commission Date:	<u>1.22.19</u>
Expiration Date:	<u>1.22.22</u>
Planner Assigned:	<u>JL</u>

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

Applicant Information	
Applicant:	<u>TIMOTHY AND PAMELA HOLLAND</u>
Mailing Address:	<u>6050 KAPAHU RD UNIT C</u> <u>KAPAHU HI 96746</u>
Phone:	<u>808-639-1928</u>
Email:	<u>PAMHOLLAND8084@HOT.COM</u>
Applicant's Status: (Check one)	
<input checked="" type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	<u>KEKAHA</u>
Tax Map Key(s):	<u>4/1-3-010:111</u>
Land Area:	<u>1.8587 KAUMUALII HIGHWAY</u>
Nature of Development: (Description of proposed structure or subdivision)	<u>SINGLE FAMILY HOME</u>

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

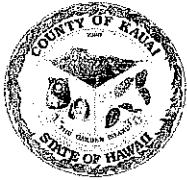
Part A

Shoreline Setback Determination of Applicability (§8-27.1)

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

- Property is Abutting the Shoreline
☐ Proposed project's approximate distance from shoreline (based on aerial map): _____ ft.
- Property is Not Abutting the Shoreline
☒ Proposed project's approximate distance from shoreline (based on aerial map): 220 ft.
- Additional Information:
☐ Shoreline Change (Erosion/Accretion) Rate: _____ ft./year
(Information available here: _____)
☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

--



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~~
ACROSS HIGHWAY FROM BUILDING LOT

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



Exemption 2

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



Exemption 3

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

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



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

Exemption Determination



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



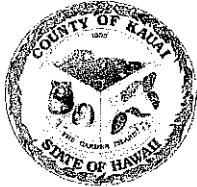
Pursuant to §8-27.7 the Kaua'i County Code, 1987 as amended, the proposed structure(s) is permitted within the shoreline setback area. While exempt from those shoreline setback determination requirements established under §8-27.8, the proposed structure(s) is subject to the conditions of §8-27.7(b).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

Planning Director or designee

Date



Additional comments/conditions:



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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

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

- ☐ Artificially armored Shoreline

☐ If checked, what type of armoring (e.g. seawall, revetment, bulkhead): _____

☐ Is the armoring permitted/authorized? _____

☐ Date of authorization (attach copy of authorization letter): _____

- ☐ Is property in coastal floodplain (if checked, what zone)? _____

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

PLEASE NOTE:

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

Applicant's Signature

Timothy M. Hollan 12-18-18

Signature

Date

Applicability

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

[Signature]

Planning Director or designee

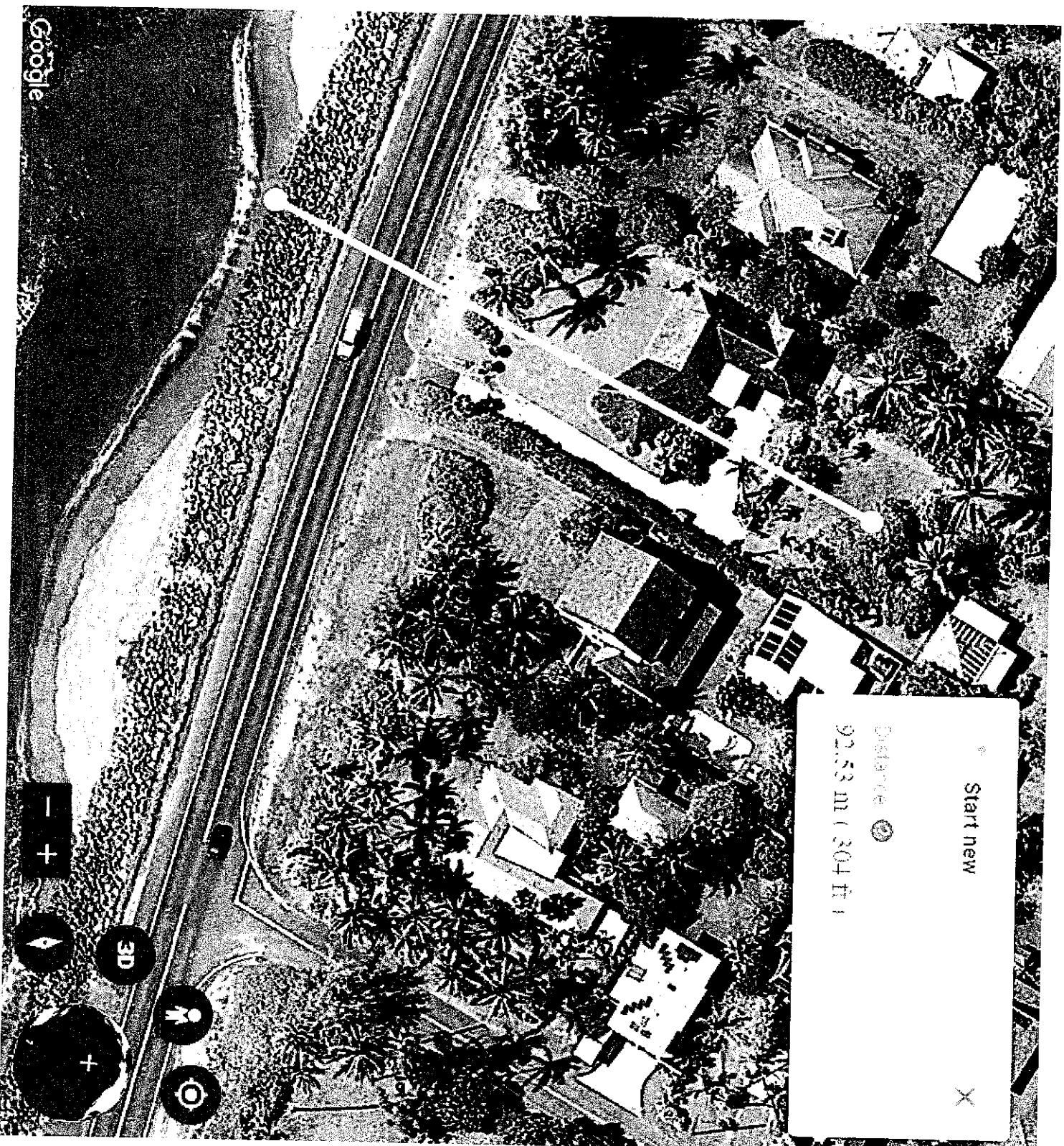
1-8-19

Date

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

Part B

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



Start new

Distance

92.53 m (304 ft)

Sody Galinats



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201 <u>9-31</u>	
Acceptance Date:	<u>1.8.19</u>
Website Posting Date:	<u>1.9.19</u>
Determination Date:	<u>1.8.19</u>
Planning Commission Date:	<u>NA</u>
Expiration Date:	<u>1.8.20</u>
Planner Assigned:	<u>JL</u>

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, due to proximity of the shoreline, that your parcel will require a Certified Shoreline Survey. 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.

Owners
** Jim Roach + Rozann Marsi*

Applicant Information	
Applicant: <u>agent RAYMOND E HOE</u>	
Mailing Address: <u>2925 PUA LOKE ST.</u>	Phone: <u>808 647-0749</u>
<u>LIHUE HI 96766</u>	Email: <u>leahilibuilders@yahoo.com</u>
Applicant's Status: (Check one)	
<input type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an unexpired and recorded lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District: _____	Tax Map Key(s): <u>3-9-06-04-43</u>
	Land Area: <u>3.73 AC.</u>
Nature of Development: (Description of proposed structure or subdivision)	<u>REPAIR/REPLACE KITCHEN, BATHROOM</u> <u>BP 18-2503</u>

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

Part A

Shoreline Setback Determination of Applicability (§8-27.1)

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

- ☒ Properties Abutting the Shoreline
☐ Project's approximate distance from shoreline: 194'
- ☐ Properties Not Abutting the Shoreline
☐ Project's approximate distance from shoreline: _____
- ☐ Additional Information:
☐ Closest distance of improvement(s) from Shoreline is approximately _____ ft.
☐ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel:



PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201 - -	
Acceptance Date:	
Website Posting Date:	
Determination Date:	
Planning Commission Date:	
Expiration Date:	
Planner Assigned:	

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

LEVEL PROPERTY NEXT TO SHORELINE

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

SANDY 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): _____
- ☐ Is property in coastal floodplain (if checked, what zone)? _____
- ☐ Has this property been subject to coastal hazards in the past? (If checked, please describe)

If the proposed structure or subdivision is within the shoreline setback area then, please be aware that if the determination of a structure is approved, the Applicant shall agree in writing that the Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kauai harmless from and against any and all loss, liability, claim or demand arising out of damages to said structures from any coastal natural hazards and coastal erosion, pursuant to §8-27.7(b)(2).

The requirements of the Subsection (b) shall run with the land and shall be set forth in a unilateral agreement recorded by the applicant with the Bureau of Conveyances or the Land Court, whichever is applicable, no later than thirty (30) days after the date of final shoreline approval of the structure under §8-27.8. A copy of the recorded unilateral agreement shall be filed with the Director and the County Engineer no later than forty-five (45) days after the date of the final shoreline determination and approval of the structure and the filing of such with the Director shall be a prerequisite to the issuance of any related building permit. §8-27.7(b)(6).

Applicant's Signature

[Signature] 10/24/18
Signature Date

Applicability (to be completed by Planning Department)	
<input checked="" type="checkbox"/> Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.	
<u>[Signature]</u> Planning Director or designee	1.8.19 Date



PLANNING DEPARTMENT SHORELINE SETBACK DETERMINATION

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

Part B

Exemption Determination

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

☐ **Exemption 1**

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

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

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

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

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

☐ **Exemption 2**

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

☒ **Exemption 3**

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

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

Exemption Determination (to be completed by Planning Department)

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

Planning Director or designee

Date

1.8.19

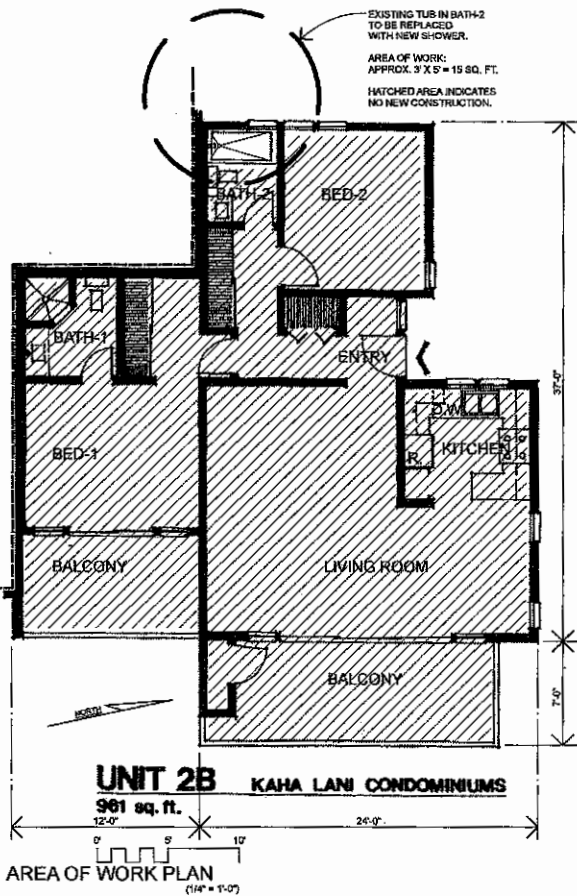
To: Kahili Builders
From: Rozann Marsi
Subject: Authorization Letter

To whom it may concern:

My husband, Jim Roach, and I are the owners of unit 218 at Kaha Lani, 4460 Nehe Rd in Lihue, HI.

This letter is to authorize Kahili builder Raymond E. Hoe as our authorized agent for any permitting process necessary to obtain the Shoreline Setback Application.

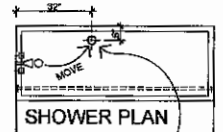

Rozann Marsi
Owner
180918



SCOPE OF WORK:

PLUMBING:
BATH-1:
—REPLACE EXISTING SHOWER DRAIN ASSEMBLY WITH NEW.
—REPLACE EXISTING SHOWER VALVE ASSEMBLY WITH NEW.
BATH-2:
—REPLACE EXISTING TUB WITH NEW SHOWER IN SAME LOCATION.
—REPLACE EXISTING SHOWER DRAIN ASSEMBLY WITH NEW.
—REPLACEMENT DRAIN TO BE MOVED TO CENTER, AS SHOWN IN DIAGRAM.
—REPLACE EXISTING SHOWER VALVE ASSEMBLY WITH NEW.

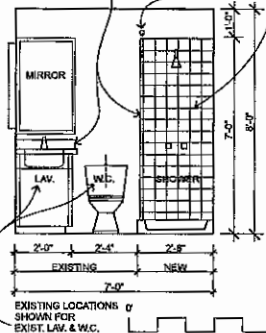
NO NEW PLUMBING LOCATIONS (IN TOTAL):
ONE EXISTING PLUMBING FIXTURE TO BE RELOCATED, WITHIN SAME BATH ROOM:
—EXISTING TUB TO BE REPLACED BY NEW SHOWER IN SAME LOCATION.
—EXISTING DRAIN TO BE MOVED BY SEVERAL INCHES, AS SHOWN IN DIAGRAM.



NEW SHOWER WITH GLASS DOOR, TO REPLACE EXISTING TUB/SHWR.

SHOWER CURTAIN OR GLASS SHOWER DOOR (TEMPERED SAFETY GLASS) AS COORDINATED W/ OWNER.

TILE OR SOLID SURFACES AT WET AREAS.



ELECTRICAL: NO NEW ELECTRICAL LOCATIONS.

STRUCTURAL: NO NEW STRUCTURAL WORK.

OTHER:
NEW INTERIOR RENOVATION (INCLUDING DOORS, CABINET, PAINT, CABINETS, AND FLOORING).
—NEW TILE FLOORING IN KITCHEN, BATH-1, AND BATH-2.
—NEW WOOD COMPOSITE FLOORING IN ALL OTHER INTERIOR SPACES.

SPECIFICATIONS OF ALL INTERIORS WORK TO BE COORDINATED W/ OWNER.

NOTE: PLANS TO BE REVIEWED BY PROPERTY MANAGEMENT BOARD BEFORE SUBMITTING FOR BUILDING PERMITS.

ENERGY CONSERVATION

CITY AND COUNTY OF HONOLULU
REVISED ORDINANCE CHAPTER 32,
HONOLULU COUNTY CODE 1996, AS AMENDED

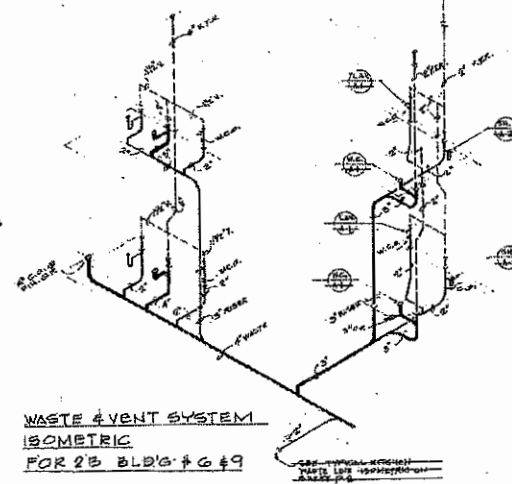
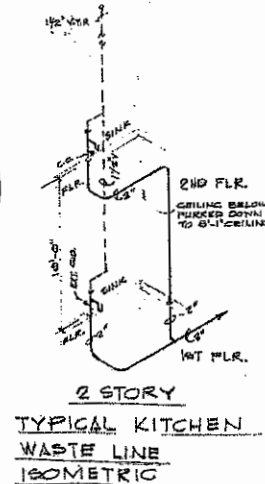
TO THE BEST OF MY KNOWLEDGE, THIS PROJECT'S DESIGN SUBSTANTIALLY CONFORMS TO THE BUILDING ENERGY CONSERVATION CODE FOR:

— BUILDING COMPONENT SYSTEMS
— ELECTRICAL COMPONENT SYSTEMS
— MECHANICAL COMPONENT SYSTEMS

SIGNATURE: *David Hamby*

DATE: OCT. 15, 2018

NAME: DAVID J. HAMBY, AIA
LICENSE NO.: AR-14786 (EXP. APRIL 30, 2020)



(EXISTING TO REMAIN) SANITARY PIPING AND VENTING DIAGRAM
(NOT TO SCALE)

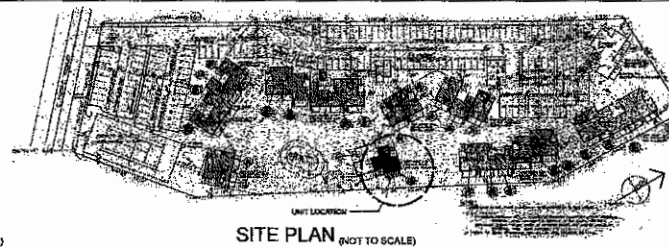
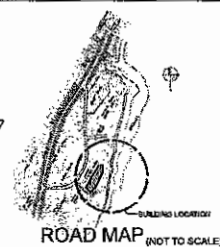
PROJECT DATA:

OWNER: JIM ROACH & ROZANN MARI
KAHA LANI CONDOMINIUMS, UNIT 218,
4450 NEHE RD., LIHUE, HI 96766
(SEE BUILDING PERMIT APPLICATION FOR BEST CONTACT ADDRESS.)

PROJECT ADDRESS: KAHA LANI CONDOMINIUMS, UNIT 218,
4450 NEHE RD., LIHUE, HI 96766

GENERAL SITE & BUILDING DATA

TAX MAP KEY (TMK): (4) 3-9-006004 UNIT # 218 (BUILDING 5)
SITE AREA: 162,479 SF
AREA OF IMPROVEMENT: 15 SF
ZONING: RR 20
CONSTRUCTION TYPE: V
OCCUPANCY TYPE: R-2



DAVID HAMBY DESIGN, LLC
4-031 Kaha Lani Hwy, Ste 438
Kapaa, HI 96746
PH: (808) 377-0201
Mobile: (970) 818-3430
E-mail: david_hamby@hotmail.com

This work was prepared by me or under my supervision. Construction of this project will be under my observation.



Shower Renovation - Kaha Lani #218
JIM ROACH & ROZANN MARI
KAHA LANI CONDOMINIUMS, UNIT 218, (BUILDING 5)
4450 NEHE RD., LIHUE, HI 96766
(4) 3-9-006004 UNIT # 218

OCT. 19, 2018

Ocs1

Bernard P. Carvalho Jr.
Mayor



Lyle Tabata
Acting County Engineer

Wallace G. Rezentes Jr.
Managing Director

DEPARTMENT OF PUBLIC WORKS

County of Kaua'i, State of Hawai'i

4444 Rice Street, Suite 275, Lihue, Hawai'i 96766
TEL (808) 241-4992 FAX (808) 241-6604

November 9, 2018

Raymond E. Hoe, RME
Kahili Builders
2925 Pua Loke Street
Lihue, HI 96766

Subject: SHORELINE SETBACK APPLICATION
SUBSTANTIAL IMPROVEMENT DETERMINATION
KAHA LANI BUILDING NO. 6 UNIT 218 RENOVATIONS
TMK: (4) 3-9-006: 004

PW 10.18.182

Dear Mr. Hoe;

The Kauai County Shoreline Setback and Coastal Protection Ordinance (Ordinance No. 979) Section 8-27.2 defines substantial improvement as "any cumulative series of repairs, reconstruction, improvements, or additions to a structure over a ten (10) year period, where the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the first improvement during that ten (10) year period. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure."

The Department of Public Works (DPW) Engineering Division has reviewed the proposed improvements to renovate the kitchen and bathroom of Unit 218 in Building No. 6 of Kaha Lani. DPW has determined that the proposed renovations do **not** constitute a substantial improvement. A summary of the calculation follows.

Market Value

There were three previous building permits for the structure within the past 10 years. The first permit was obtained in 2013. The market value used in the calculations is the Replacement Cost New Less Depreciation (RCNLD) value for the structure in 2013. The 2013 RCNLD, as determined by the County's Real Property Assessment Division, was \$1,286,500.

If the owner chooses to dispute this value, then an appraisal of the structure must be provided at the owner's expense. The appraisal shall be prepared by a professional appraiser licensed in the State of Hawai'i and the market value shall be based on the "Cost Approach" (RCNLD).

Cost of Improvements

The cost of improvements for previous building permits is taken from the valuations shown in DPW Building Division records. The cost for the proposed renovations was provided in your letter dated October 25, 2018 and estimated to be \$90,500. The cost is summarized as follows for the past 10 years:

BP 13-2397	\$18,400.00
BP 13-2800	\$11,300.00
BP 16-2042	\$ 4,016.00
CURRENT BP	\$90,500.00
TOTAL COST	\$124,216.00

Summary

The cost of improvements compared to the market value is:

$$\frac{\text{Cost of Improvements (past 10 years): } \$124,216}{\text{Market Value (Real Property): } \$1,286,500} = 0.0965 \text{ or } 9.7\%$$

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

If you have any questions or need additional information, contact Stanford Iwamoto at (808) 241-4896 or siwamoto@kauai.gov.

Sincerely,



Michael Moule, P.E.
Chief, Engineering Division

Concur,



Lyle Tabata
Acting County Engineer

MM/SI

Copy: Design and Permitting
Planning

Kaha Lani Apt 218

Google Earth

© 2015 Google

Nehe Rd

- Legend
- 240070200000
 - Feature 1
 - Kaha Lani Resort

400 ft

