

# PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION



FOR OFFICIAL USE ONLY	
SSD 2019-46	Planner Assigned:
Acceptance Date: 6.7.19	Expiration Date: 6.25.19
Website Posting Date: 6.12.19	Planning Commission Date: 6.25.19
	Determination Date: 6.7.19
	Planner Assigned: 5/20/19

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: <b>ROOSTOP LLC % PAUL KYN</b>	Address: <b>4480 AHUKINI ROAD, MAUI, HI 96766</b>
Phone: <b>808 661-3287</b>	Email: <b>paul@roostopmaui.com</b>
Applicant's Status: (Check one)	
<input checked="" type="checkbox"/> Owner of the Property	<input type="checkbox"/> Lessee of the Property
<input type="checkbox"/> Authorized Agent	<input type="checkbox"/> Attach Letter of Authorization
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.	
(Holder of at least 75% of the equitable and legal title)	
Transmittal Date: <b>5/20/19</b>	

Project Information (attach additional sheets, if necessary)	
County Zoning District: <b>SP-600 PLANNING A</b>	Tax Map Key(s): <b>(4) 4-5-011:036</b>
Land Area: <b>2,852 sq. ft.</b>	
Nature of Development: <b>CONTRACT NEW 2-story RESTAURANT/Bar</b>	Structure of subdivision: <b>BUILDING</b>

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

## Part A

Shoreline Setback Determination of Applicability (§8-27.1)

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

- ☐ Properties Abutting the Shoreline
- ☐ Project's approximate distance from shoreline: \_\_\_\_\_
- ☒ Properties Not Abutting the Shoreline
- ☒ Project's approximate distance from shoreline: **~430 ft.**
- ☒ Additional Information: \_\_\_\_\_
- ☒ Closest distance of improvement(s) from Shoreline is approximately **~430 ft.**
- ☒ Number of parcels and type of improvements (roads, buildings, structures) between Shoreline and this parcel: \_\_\_\_\_

County Shoreline Parcel 4-5-11:00 (Makani #114), Parcel 4-5-11:07 (Vikani), INIA Street (Lot Row), Parcel 4-5-11:013 (Commercial Row), KUHIO HIGHWAY (Lot Row), Total of 3 parcels & 2 Roads, between shoreline & subject property (see attached Aerial Map - Exhibit A)



## 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

Date

10-7-19



# PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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

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

TOPOGRAPHY IS RELATIVELY FLAT @ APPROX. 5-6 FT ABOVE MGL.

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

THE NEAREST PERPENDICULAR SHORELINE IS A SANDY BEACH FRONTING THE COUNTY OF KAUAI BEACH PARK CONTAINING A BIKE/PEDESTALIAN PATH - TMK: (4) 4-5-011:001.

- ☐ 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

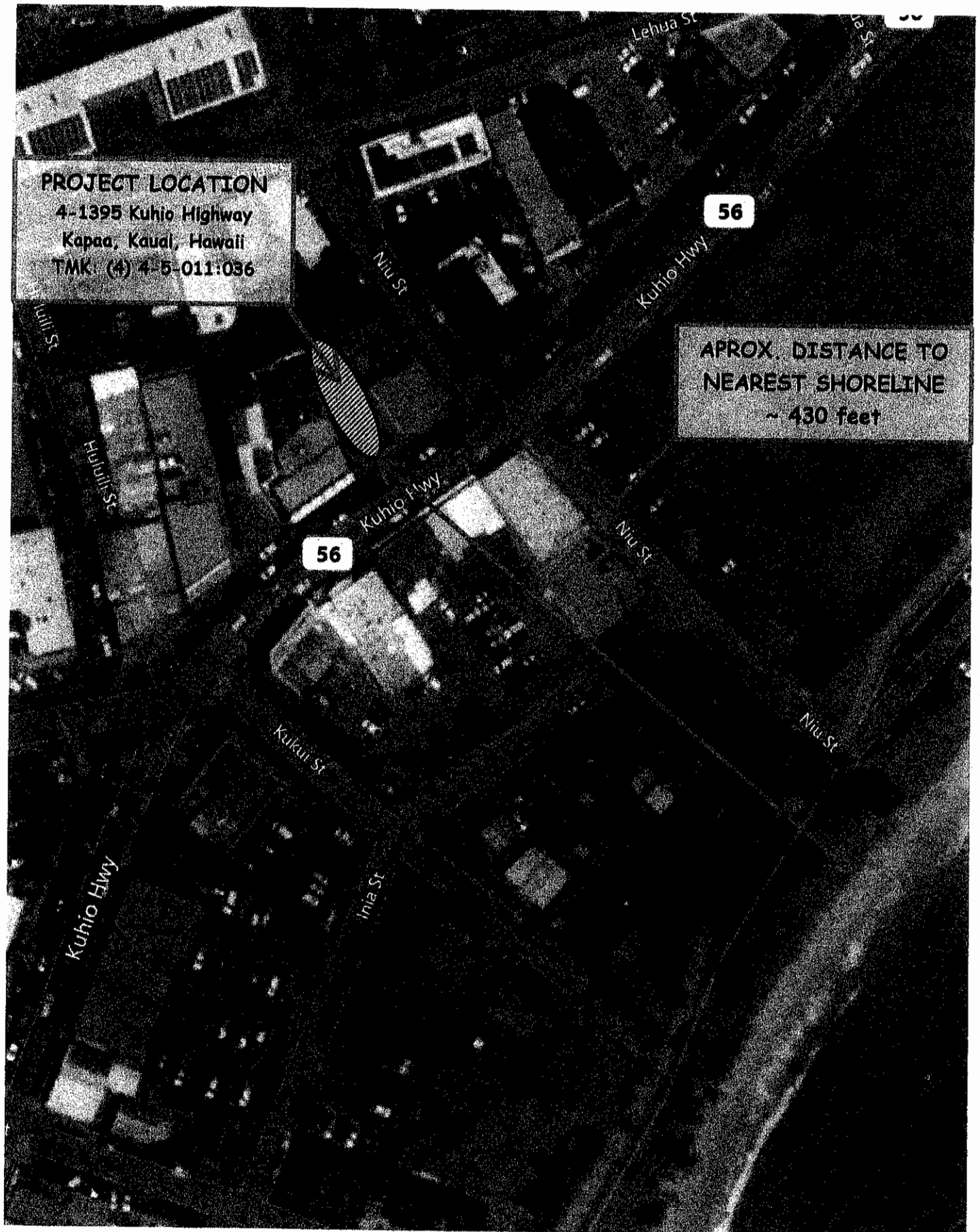
If the proposed structure or subdivision is within the shoreline setback area then, please be aware that if the determination of a structure is approved, the Applicant shall agree in writing that the Applicant, its successors, and permitted assigns shall defend, indemnify, and hold the County of Kaua'i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

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

## Applicant's Signature

Signature PAUL KINO Stefan Mandel Date 5/20/19  
5/20/19

Applicability (to be completed by Planning Department)	
<input checked="" type="checkbox"/>	Setback Determination necessary. Requirements of Ordinance No. 979 apply, submit full application.
<u>[Signature]</u>	<u>6.7.19</u>
Planning Director or designee	Date



**PROJECT LOCATION**

4-1395 Kuhio Highway  
Kapaa, Kauai, Hawaii  
TMK: (4) 4-5-011:036

56

APPROX. DISTANCE TO  
NEAREST SHORELINE  
~ 430 feet

56

**AERIAL MAP - SHORELINE SETBACK DETERMINATION**

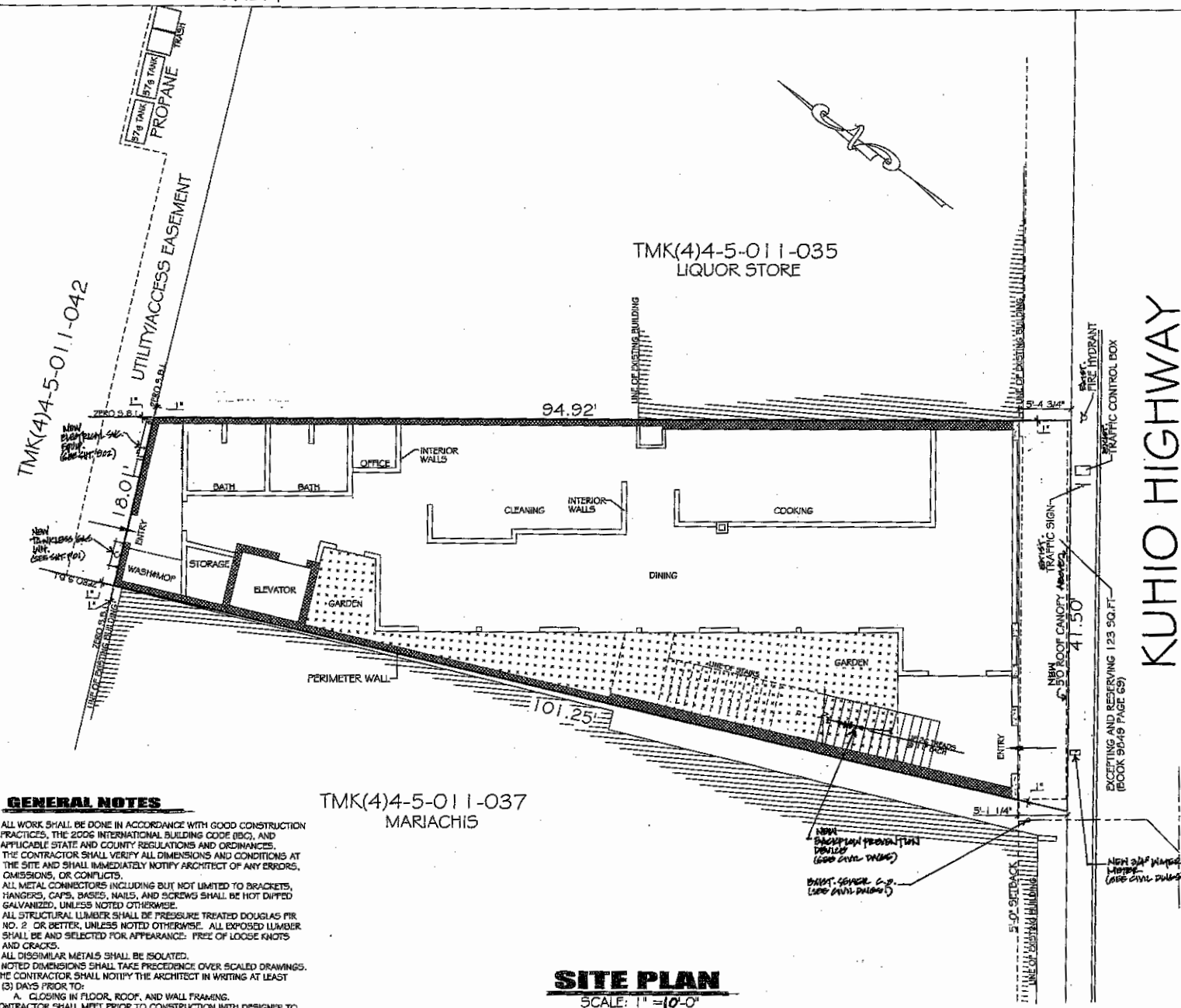
SHEET INDEX	
SP1	SITE PLAN AND NOTES
CO1-C08	CIVIL SHEETS
AO1-A09	ARCHITECTURAL SHEETS
SO1-S03	STRUCTURAL SHEETS
KO1-K02	KITCHEN APPLIANCES
MO1-M06	MECHANICAL SHEETS
PO1-P03	PLUMBING SHEETS
EO1-E08	ELECTRICAL SHEETS

TMK(4)4-5-011-035  
LIQUOR STORE

KUHIO HIGHWAY



VICINITY MAP  
NOT TO SCALE



**GENERAL NOTES**

1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH GOOD CONSTRUCTION PRACTICES, THE 2006 INTERNATIONAL BUILDING CODE (IBC), AND APPLICABLE STATE AND COUNTY REGULATIONS AND ORDINANCES.
2. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS 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, NAILS, AND SCREWS SHALL BE HOT DIP GALVANIZED, UNLESS NOTED OTHERWISE.
4. ALL STRUCTURAL LUMBER SHALL BE PRESURE TREATED DOUGLAS FIR NO. 2 OR BETTER, UNLESS NOTED OTHERWISE. ALL EXPOSED LUMBER SHALL BE AND SELECTED FOR APPEARANCE: FREE OF LOOSE KNOTS AND CRACKS.
5. ALL DISSIMILAR METALS SHALL BE ISOLATED.
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.
8. CONTRACTOR SHALL MEET PRIOR TO CONSTRUCTION WITH DESIGNER TO ANSWER ANY QUESTIONS RELATED TO THE DRAWINGS.

TMK(4)4-5-011-037  
MARIACHIS

**SITE PLAN**  
SCALE: 1" = 10'-0"

SQ. FTS. CALCS	
FIRST LEVEL INTERIOR	1261.56 SF
SECOND LEVEL INTERIOR	1261.56 SF
ROOF AREA	2143.56 SF
FIRST LEVEL EXTERIOR	2143.56 SF
SECOND LEVEL EXTERIOR	2143.56 SF
TOTAL UNDER DECK	2820.00 SF
DECK & PATIO AREA	2820.00 SF
SCREENED PATIO DECK	1261.56 SF
FOUNDATION WALL	1261.56 SF
<div> <div>CMU WALL</div> <div>2x STEEL WALL</div> <div>LOW WALL</div> </div> <div> <div>WALL LEGEND</div> <div>INTERIORS</div> </div>	

DESIGN ASSOCIATES

PLAN REVISIONS

SHEET

## **OPERATING AGREEMENT**

**OF**

### **ROOFTOP, LLC**

THIS OPERATING AGREEMENT, dated and effective as of August 1, 2017, is by and among the persons whose signatures appear on the signature page hereof (the "**Initial Members**"), and those persons, if any, who are admitted to the Company (as defined below) as additional members pursuant to this Operating Agreement (collectively, the "**Members**").

#### **WITNESSETH:**

WHEREAS, the Initial Members desire to form Rooftop, LLC (the "**Company**") as a limited liability company under the laws of the State of Hawaii in order to construct a building for restaurant and retail use at 4-1395 Kuhio Highway, Kapaa, Hawaii 96746.

WHEREAS, the Members desire to enter into this Operating Agreement in order to establish the manner in which the business and affairs of the Company shall be managed and to determine their respective rights, duties and obligations with respect to the Company and its assets and properties;

NOW THEREFORE, the parties hereto agree that the Operating Agreement of the Company shall be as follows:

#### **ARTICLE I**

##### **Defined Terms**

Terms used with initial capital letters have the meanings specified below or in other Sections of this Agreement:

"**Act of the Members**" has the meaning stated in Section 6.1.

"**Agreement**" means this Operating Agreement as it may be amended from time to time.

"**Capital Contribution**" means the total amount of cash or the agreed fair market value of any property contributed or agreed to be contributed to the Company by each Member (net of any liabilities assumed by the Company and any liabilities to which such property is subject) in accordance with this Agreement. Any reference in this Agreement to the Capital Contribution of a then Member shall include a Capital Contribution previously made to the Company by any prior member with respect to the Membership Units of such then Member.

**"Cash Shortfall"** means at any time, the amount of cash and other working capital needs of the Company in excess of the Capital Contributions of the Members, operating income, reserves, and other immediate sources of cash available to the Company.

**"Cash Shortfall Loans"** means the loans made by any one or more of the Members (or an affiliate thereof), if any, pursuant to Section 3.2, to fund any Cash Shortfalls experienced by the Company.

**"Code"** means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute.

**"Electronic Transmission"** means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

**"Event of Dissociation"** means any event described in Section 8.1.A hereof which, pursuant to the LLC Act, results in a Person ceasing to be a Member of the Company.

**"LLC Act"** means Chapter 428 of the Hawaii Revised Statutes, the Hawaii Uniform Limited Liability Company Act, as amended from time to time, or any successor statute.

**"Majority of the Members"** means a group of Members who collectively hold more than fifty percent (50%) of the Membership Units held by all Members.

**"Manager"** means the Person or Persons described in Section 5.1.

**"Members"** means the Persons identified on Schedule 1 and other Persons who may be admitted to the Company as Members from time to time pursuant to the provisions of this Agreement.

**"Membership Unit"** means a Membership Unit evidencing the ownership interest of a Member in the Company at any particular time, including the Member's share of the profits and losses of the Company, the right to receive distributions from the Company and the right to any and all other benefits to which such Member may be entitled as provided in this Agreement and in the LLC Act, together with the obligations of such Member to comply with all the terms and provisions of this Agreement and of the LLC Act. There shall be one hundred (100) Membership Units.

**"Net Cash Flow"** means with respect to any fiscal period, (i) all cash receipts of the Company, including, but not limited to, amounts previously set aside as reserves which the Manager determines no longer to be necessary for such purpose, less (ii) cash payments disbursed for operating expenses, capital expenditures (except to the extent of amounts borrowed or withdrawn from a reserve fund for such purpose), loan repayments (to the extent of interest

# **SCHEDULE 1**

## **LIST OF MEMBERS**

<b>Name and Address of Member</b>	<b>Initial Capital Contribution of Member</b>	<b>Membership Units</b>
Paul Kyno 4480 Ahukini Road Lihue, Hawaii 96766		50
Stefan Mandel 5198 Sokei Road Kapaa, Hawaii 96746		50

Total: 100



the State of Hawaii on each Member who is not a resident of the State of Hawaii (or as levied by any other State having authority to require the Company to so act) with respect to such Member's distributive share of the Net Income of the Company. Any amount so withheld shall be treated as a distribution under this Article IV or under Schedule 2 of this Agreement, as the case may be, and shall reduce the amount otherwise distributable to such Member hereunder.

**Section 4.3 Liquidation or Dissolution.** The assets remaining after satisfaction (whether by payment or by establishment of reserves therefor) of creditors, including Members who are creditors, shall be distributed to the Members in accordance with the positive balance in their respective Capital Accounts, determined after all allocations pursuant to Section 4.2 and Section 1.2 of Schedule 2, but before any distributions pursuant to this Section 4.3. If assets are to be distributed in kind, the Members' Capital Accounts shall be appropriately adjusted, in accordance with Section 4.4, before any such distribution to reflect any Net Income or Net Loss which would have been allocated if the property distributed in kind had been sold for its fair market value (net of liabilities) by the Company prior to dissolution.

**Section 4.4 Distributions In Kind.** If any assets of the Company are distributed to the Members in kind, such assets shall be valued on the basis of their fair market value and the Net Income or Net Loss which would have resulted if such assets were sold at such fair market value shall be allocated as provided in Section 4.2 and Section 1.2 of Schedule 2. Upon distribution of such assets, the Capital Accounts of the Members receiving an interest in such distributed assets shall be charged with the fair market value (instead of the adjusted basis) of such assets. Any Member entitled to any interest in such assets shall receive such interest as a tenant-in-common with all other Members so entitled.

**Section 4.5 Distributions of Net Cash Flow.** Net Cash Flow of the Company for each calendar year (or portion thereof) shall be distributed to the Members in proportion to their respective Membership Units at the time of such distribution. Notwithstanding the generality of the foregoing, a distribution may not be made if: (i) the Company would not be able to pay its debts as they become due in the ordinary course of business; or (ii) the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the Company were to be dissolved, wound up and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those receiving the distribution.

## **ARTICLE V**

### **Management; Meetings; Liability of Members**

**Section 5.1. Management by Manager.** The Company shall be managed by two (2) Managers, who shall be responsible for the management of the Company's business and affairs. Paul Kyno shall be the Managing Manager and Stefan Mandel shall be the Operating Manager, individually referred to herein as "Manager" and collectively referred to herein as the "Managers". The specific duties and authority of the Managing Manager and the Operating Manager are described in Schedule 3 attached hereto and incorporated herein by this reference.

**Section 5.2. Election and Term of Manager.** Each Manager shall serve unless and until he is removed by the vote of a Majority of the Members, dies or resigns.

**Section 5.3. Vacancies.** A Manager vacancy shall be deemed to exist if the Manager dies, resigns, or is removed by the Members. Vacancies are to be filled by election at a special meeting of the Members in accordance with Article VI of this Agreement.

**Section 5.4. Resignation or Removal of Manager.** Any Manager may resign effective upon the delivery of written notice to all Members, unless the notice specifies a later effective date. Any Manager may be terminated upon approval by a Majority of the Members.

**Section 5.5. Powers.**

A. The Managers shall have, subject to the control of the Members, general supervision, direction, and control of the business of the Company. In addition, subject to the provisions of the LLC Act, and to the limitations set forth in Section 5.5.B and Section 5.5.C relating to actions requiring approval by the Members, the Managers may make all decisions and take all actions on behalf of the Company not otherwise provided for in this Agreement, including but not limited to the following:

(i) select and remove all agents and employees of the Company, prescribe any powers and duties for the agents and employees that are consistent with the law, with the Articles of Organization and with this Agreement, fix the compensation of such agents and employees;

(ii) call meetings, annual or special, of the Members at any time as needed;

(iii) enter into, make and perform contracts and agreements which bind the Company that are necessary and appropriate in the ordinary course of business of the Company;

(iv) open and maintain bank and investment accounts and designate authorized persons to sign checks or drafts or give instruction concerning those accounts;

(v) maintain, protect and preserve the assets of the Company;

(vi) collect sums due and owing to the Company;

(vii) pay the debts and obligations of the Company;

(viii) make interim distributions to the Members authorized pursuant to Section 4.5; and

(ix) acquire, use and dispose of assets in the ordinary course of business.

B. Notwithstanding the provisions of Section 5.5.A, no act shall be taken, sum expended, decision made or obligation incurred by the Company or the Managers with respect to any matter within the scope of any of the following matters, unless such item has been approved by the Unanimous Vote of the Members except for actions listed under xvi, xvii and xviii below which shall require approval of a Super Majority of the Members:

(i) enter into any agreement, contract or commitment on behalf of the Company which would obligate any Member to fund additional capital, to guarantee a loan or to increase a Member's personal liability either to the Company or to a third party;

(ii) materially alter the business of the Company, deviate from any approved business plan of the Company as set forth in this Agreement, or perform any action which would make it impossible to carry on the business of the Company;

(iii) perform any action that is contrary to this Agreement;

(iv) place title to any Company asset or property in the name of a nominee or sell, lease, pledge, hypothecate or grant a security interest in any Company asset or property, except in the ordinary course of business;

(v) commingle Company funds with the funds of any other person or entity;

(vi) confess a judgment against the Company;

(vii) authorize or ratify acts or transactions which would otherwise violate the duty of loyalty;

(viii) compromise an obligation to make a contribution or compromise, among Members, an obligation of a Member to make a contribution or return money or other property paid or distributed in violation of the LLC Act;

(ix) make interim distributions other than those authorized herein pursuant to Section 4.5;

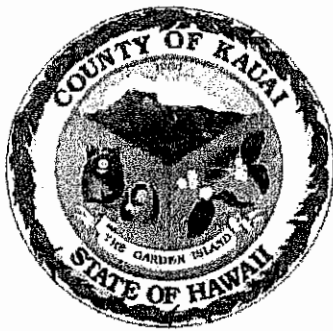
(x) use the Company's Property or other property and assets of the Company to redeem an interest subject to a charging order;

(xi) waive the right to have the Company's business wound up and the Company terminated;

- (xii) merge the Company with another entity;
- (xiii) approve the terms of any loan to be made to the Company by any Member, affiliate of a Member, or by any third party lender;
- (xiv) admit any person as a Member, except as otherwise provided in this Agreement;
- (xv) amend this Agreement and the Articles of Organization of the Company;
- (xvi) sell, lease, exchange, mortgage or otherwise transfer of the Property or of all or substantially all of the other property and assets of the Company, with or without goodwill;
- (xvii) dissolve the Company;
- (xviii) sell or lease any assets of the Company at less than fair market value;  
or
- (xix) take any action or engage in any activity contrary to the advice of the Company's counsel.

C. Notwithstanding the provisions of Section 5.5.A, no act shall be taken, sum expended, decision made or obligation incurred by the Company or the Managers with respect to any matter within the scope of any of the following matters, unless such item has been approved by a Majority of the Members:

- (i) Except where the expenditure must be made due to a bona fide emergency involving damage or the threat of damage to the Company's business or property or involving the health or safety of employees, agents or customers of the company, expend or incur any obligation by or on behalf of the Company involving a sum in excess of \$5,000 or any expenditure which, together with previous expenditures incurred during such fiscal year, exceeds \$10,000 in the aggregate;
- (ii) select, terminate and/or replace a Manager and the terms of compensation of such Manager; or
- (iii) select or replace a Tax Matters Partner (as defined below).



# **PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION**

FOR OFFICIAL USE ONLY:	
SSO	201 <u>9-47</u>
SSD	-
Acceptance Date:	<u>10.7.19</u>
Website Posting Date:	<u>10.12.19</u>
Determination Date:	<u>10.7.19</u>
Planning Commission Date:	<u>NA</u>
Expiration Date:	<u>10.7.20</u>
Planner Assigned:	<u>Steph</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:	COK Parks & Recreation Department
Mailing Address:	4444 Rice Street, Suite 105 Lihue, HI 96766
Phone:	808-241-4459
Email:	nmcMahon@kauai.gov
Applicant's Status: (Check one)	
<input checked="" type="checkbox"/> Owner of the Property	(Holder of at least 75% of the equitable and legal title)
<input type="checkbox"/> Lessee of the Property	Lessee must have an <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date:	<u>5-8-2019</u>

Project Information (attach additional sheets, if necessary)	
County Zoning District:	Park
Tax Map Key(s):	(4) 5-5-001: 004
Land Area:	2.47 acres
Nature of Development: (Description of proposed structure or subdivision)	Repair/replace the CMU columns on the two small pavilions at Black Pot. Exposed rebar and cracked columns need to be replaced in order to make the structures safe. Estimated cost to replace CMU is \$5000-\$10000 per pavilion.

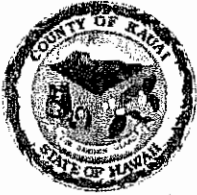
**NO PERMITS WILL BE ISSUED WITHOUT PLANNING COMMISSION ACCEPTANCE,  
EXCEPT AS PROVIDED IN §8-27.8(c)(8)**

## **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): 18-30 ft.
- Property is Not Abutting the Shoreline
  - ☐ Proposed project's approximate distance from shoreline (based on aerial map): \_\_\_\_\_ ft.
- Additional Information:
  - ☒ Shoreline Change (Erosion/Accretion) Rate: -3.01+1.59 ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html))



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

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

Flat beach front. 4-5 ft amsl.

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

Beach and grass

- ☐ 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)? VE

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

Flooding, tsunami, erosion, hurricanes. Recently flooding of April 2018.

### 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**

*Pat M*

*5/13/19*

Signature

Date

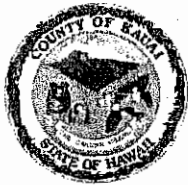
### **Applicability (to be completed by Planning Department)**

- ☒ Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.

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

*[Signature]*  
Planning Director or designee

*6-7-19*  
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**

- ☒ 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**  
Those structures and uses found exempt in Table 3 (§8-27.7) including repairs and renovations that **DO NOT** enlarge or expand a nonconforming structure. (see pg. 7)
  - ☒ 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) *Coming Shortly*

### **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)

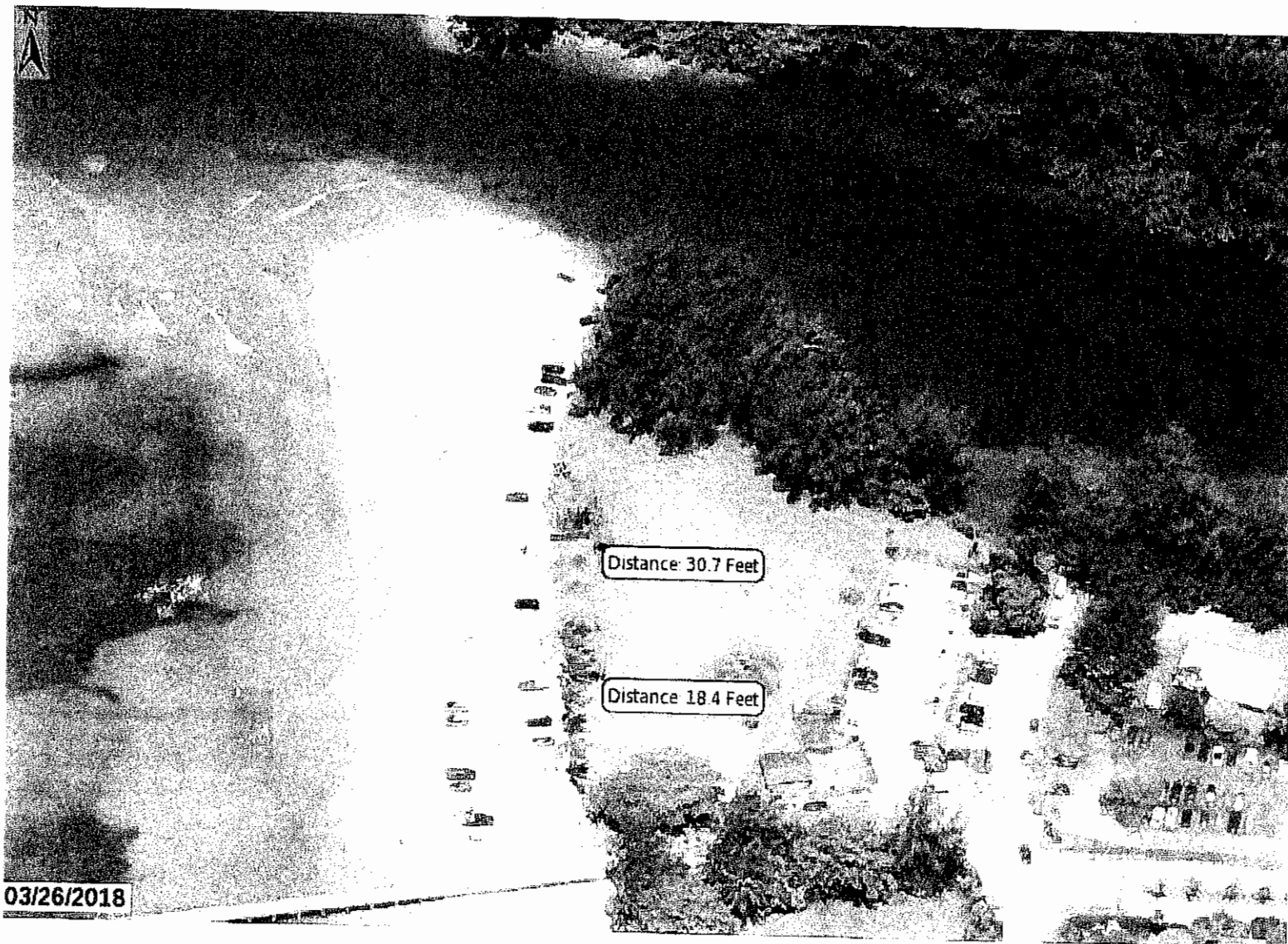
*[Signature]*  
Planning Director or designee

*6.7.19*  
Date

- ☒ **Additional comments/conditions:**

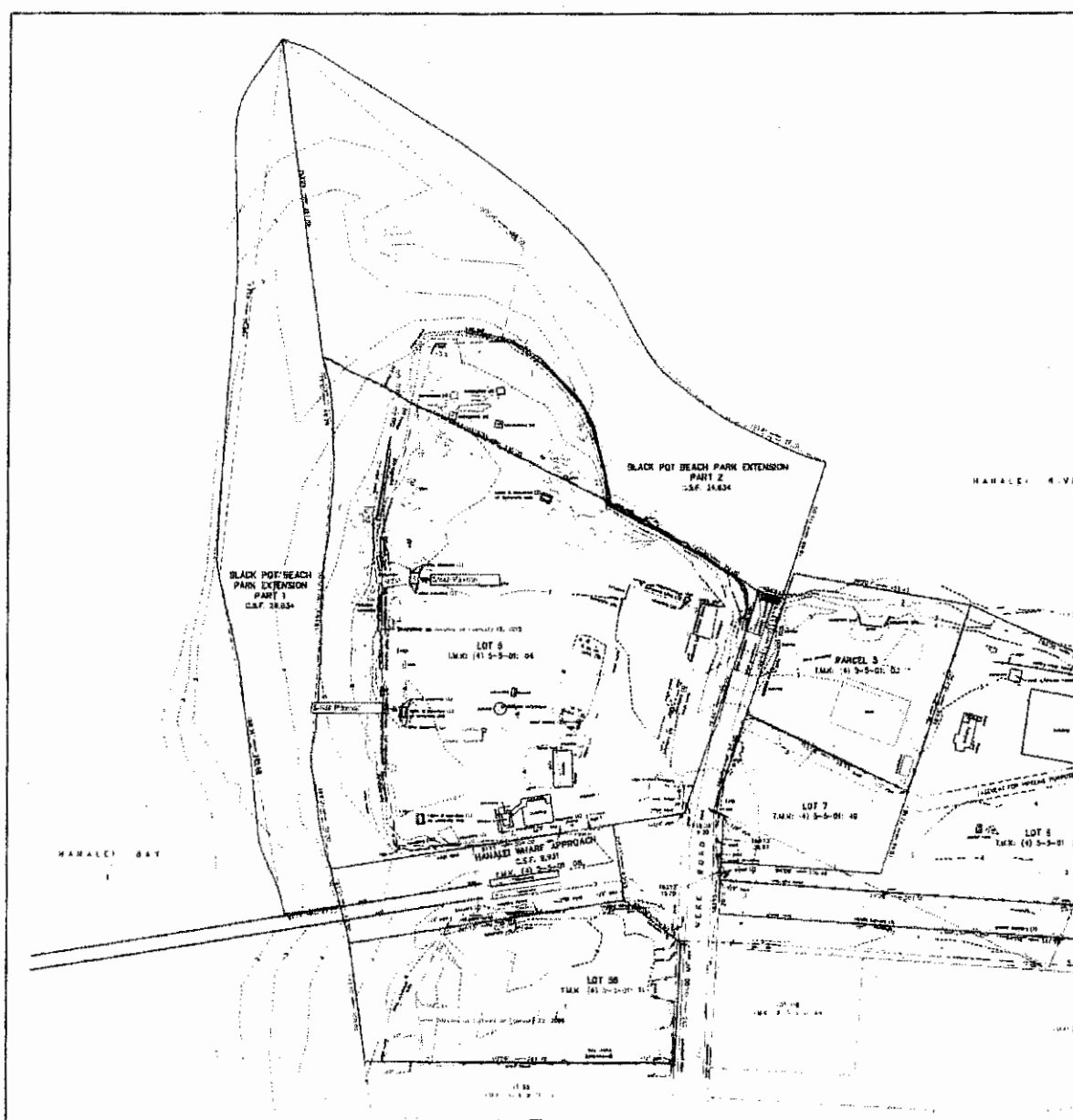
*Structures to be relocated in inundated by erosion.*



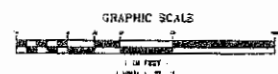


03/26/2018





NOTES:  
 Contours represent mean H.M.S. data for an  
 average neap tide, with low tide contours only  
 at points on the highway (stations 1-12)



LEGEND

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|--|--|
| <ul style="list-style-type: none"> <li>1. Proposed Road</li> <li>2. Proposed Road</li> <li>3. Proposed Road</li> <li>4. Proposed Road</li> <li>5. Proposed Road</li> <li>6. Proposed Road</li> <li>7. Proposed Road</li> <li>8. Proposed Road</li> <li>9. Proposed Road</li> <li>10. Proposed Road</li> <li>11. Proposed Road</li> <li>12. Proposed Road</li> <li>13. Proposed Road</li> <li>14. Proposed Road</li> <li>15. Proposed Road</li> <li>16. Proposed Road</li> <li>17. Proposed Road</li> <li>18. Proposed Road</li> <li>19. Proposed Road</li> <li>20. Proposed Road</li> <li>21. Proposed Road</li> <li>22. Proposed Road</li> <li>23. Proposed Road</li> <li>24. Proposed Road</li> <li>25. Proposed Road</li> <li>26. Proposed Road</li> <li>27. Proposed Road</li> <li>28. Proposed Road</li> <li>29. Proposed Road</li> <li>30. Proposed Road</li> <li>31. Proposed Road</li> <li>32. Proposed Road</li> <li>33. Proposed Road</li> <li>34. Proposed Road</li> <li>35. Proposed Road</li> <li>36. 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THE STATE OF HAWAII  
 DEPARTMENT OF LAND AND NATURAL RESOURCES  
 DIVISION OF LAND MANAGEMENT  
 1001 KALANIANA'OLA BLVD., SUITE 1000  
 HONOLULU, HAWAII 96813

DAVID L. SMITH & ASSOCIATES, INC.  
 ENGINEERS AND ARCHITECTS



DEPARTMENT OF PARKS & RECREATION  
THE COUNTY OF KAUAI

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

PATRICK T. PORTER  
DIRECTOR

WALLACE G. REZENTES JR.  
DEPUTY DIRECTOR

May 7, 2019

Planning Department  
County of Kauai  
4444 Rice Street, Suite A-473  
Lihue, Hawaii 96766  
Attention: Kaaina Hull, Planning Director

**Subject:** Declaration of EA Exemption for Repairs to Two Small Pavilions a Black Pot Beach  
TMK: (4) 5-5-001: 004

We are planning on repairing the two small pavilions at Black Pot Beach Park. The CMU columns need to be replaced as the rebar and CMU are cracking. The Department of Parks and Recreation provides the following declaration of exemption for the above mentioned project. The Exemption Declaration is based on the Comprehensive Exemption List for the County of Kauai Department of Public Works and Department of Parks and Recreation dated November 15, 2012. The following is specific to the subject:

**EXEMPTION CLASS #1:** Operation, repairs, or maintenance of existing structures, facilities, equipment or topographic features involving negligible or no expansion or change of use beyond that previously existing:

Item # 2. Operation, maintenance, overhauling, repairing, repainting, reroofing, cleaning, polishing, greasing, oiling, and servicing of the following facilities, structures, and equipment:

1. Existing recreational facilities, structures, and equipment, including, but not limited to:

xvi. Pavilions

I have considered the potential impacts of the action described above have been considered pursuant to Chapter 343, Hawaii Revised Statutes and Chapter 11-200, Hawaii Administrative Rules. I declare that the action described above will have minimal or no significant effect on the environment, and is, therefore, exempt from the preparation of an environmental assessment.

Should you have any questions, please contact Nancy McMahon, (808) 241-4459,  
[nmcmahon@kauai.gov](mailto:nmcmahon@kauai.gov).

Very truly yours,

PATRICK T. PORTER  
Director of Parks & Recreation

cc: Nancy McMahon, Park Planner  
William Trugillo, Planning Chief





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## MEMORANDUM

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TO: Patrick Porter, Director of Parks and Recreation

VIA: Lyle Tabata, Deputy County Engineer 

FROM:  Michael Moule, P.E., Chief of Engineering Division

DATE: May 17, 2019

SUBJECT: **SUBSTANTIAL IMPROVEMENT DETERMINATION  
REPAIR TWO SMALL PAVILLIONS  
BLACK POT BEACH PARK, HANAIE  
TMK 2-8-017: 001**

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

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

To determine if the improvement is considered "substantial," we compare the total cost of all improvements within the past 10 years to the market value of the building before the start of construction of the first improvement. If the resulting ratio is less than 50%, then the improvement is not considered to be substantial.

### ***Market Value***

There were no building permits within the last 10 years for the two small pavilions. The market value was estimated to be \$15,000 for each pavilion. The market value was based on the cost to construct similar pavilions at Lydgate Park in 2013.

### ***Cost of Improvements***

The total cost of improvements was estimated to be \$5,000 per pavilion as provided by the Department of Parks and Recreation.

## **SUMMARY**

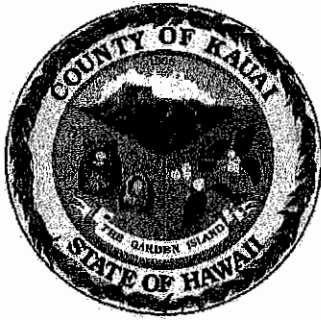
The cost of improvements compared to the market value is:

$$\frac{\text{Cost of Improvements (past 10 years): } \$5000}{\text{Market Value (Real Property): } \$15,000} = 0.33 \text{ or } 33\%$$

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](mailto:siwamoto@kauai.gov)

Copy: Design and Permitting  
Planning (Galinato)



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD	201 <u>9</u> - <u>48</u>
Acceptance Date:	<u>6.7.19</u>
Website Posting Date:	<u>6.12.19</u>
Determination Date:	<u>6.17.19</u>
Planning Commission Date:	<u>NA</u>
Expiration Date:	<u>6.7.20</u>
Planner Assigned:	<u>SL/R</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>Shane Pettit</u> / <u>Mark Kauai, Driver</u>
Mailing Address:	<u>P.O. Box 95</u> Phone: <u>808-634-6550</u>
	<u>Kapaa, HI 96746</u> Email: <u>sptacos@gmail.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 checked="" type="checkbox"/> Lessee of the Property	Lessee must have an <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	<u>R-4</u> Tax Map Key(s): <u>4-1-3-5-42</u>
	Land Area: <u>28,954 sq. ft.</u>
Nature of Development: (Description of proposed structure or subdivision)	<u>Rem up grade external / Interior</u> <u>Appearance. Remodel - No Additions.</u>

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

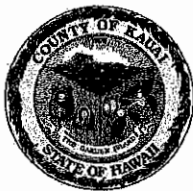
### Part A

#### 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): 482 ft.
- Additional Information:  
☐ Shoreline Change (Erosion/Accretion) Rate: \_\_\_\_\_ ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html))  
☐ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

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## 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, 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

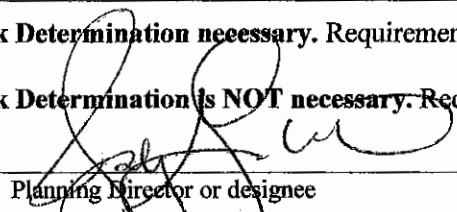
4/26/19

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.

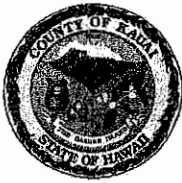
  
Planning Director or designee

6.7.19  
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 (\$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:

Exemption #2 OK per Kaiana Hull.



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

May 15, 2019

Shane Petitt  
P.O. Box 95  
Kapa'a, HI 96746  
Attention: Mr. Shane Petitt

Subject: SHORELINE SETBACK APPLICATION,  
SUBSTANTIAL IMPROVEMENT DETERMINATION  
CONGREGATION OF JEHOVAH'S WITNESSES  
TMK: (4) 1-3-005:042

PW 04.19.102

Dear Mr. Petitt,

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

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

To determine if the improvement is considered "substantial," we compare the total cost of all improvements within the past 10 years to the market value of the building before the start of construction of the first improvement. If the resulting ratio is less than 50%, then the improvement is not considered to substantial.

**Market Value**

There were no building permits within the last 10 years for this building.

The market value is taken to be the 2019 assessed building value as determined by the County's Real Property Assessment Division. According to Real Property, the market value of the building is \$383,800.

*[Handwritten signature]*



### **Cost of Improvements**

The total cost of improvements was estimated to be \$420,000. This value was provided by contractor Shane Petitt and is included in the Building Permit application 18-2743.

### **Summary**

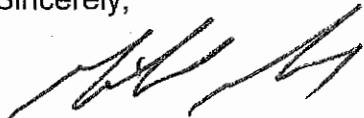
The cost of improvements compared to the market value is:

$$\frac{\text{Cost of Improvements (past 10 years): } \$420,000}{\text{Market Value (Real Property): } \$383,800} = 1.0943 \text{ or } 109\%$$

Since the total cost does exceed 50% of the market value, the improvement is considered to be substantial. Based on our records there were no other permits for the structure within the past ten years. However, if any unpermitted work has been done, or if there are modifications to this application, our determination shall be considered void and the structure must be re-evaluated.

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

Sincerely,



Michael Moule, P.E.  
Chief, Engineering Division

Concur,



Lyle Tabata  
Deputy County Engineer

MM/SI/AC

Copy: Design and Permitting  
Planning Department (Jody Galinato)

May 24,2019

Re: Kekaha Kingdom Hall of Jehovah's Witnesses shoreline setback


To whom it may concern: Re: Kekaha Kingdom Hall of Jehovah's Witnesses shoreline setback

The Kingdom Hall of Jehovah's Witnesses is applying for a building permit to upgrade the building from many years of use. The design team with the organization of Jehovah's Witnesses has designed a beautiful building with no changes to the structure other than a face lift and reorganizing of interior walls and bathrooms.

In our submission of shoreline setback application, we have marked the box - exemption 2 . We feel we apply to this box because we will not have any effect on the beach processes for the building will not be changing in size. Nor will we have any effect on the beach access or any beach erosion/ hazards because the position of the building will not change or the location.

The Kingdom Hall of Jehovah's Witnesses has the highway and a private residence between it and the ocean. The distance is noted on the google map with the distance shown of some 470 ft.

Thank you.

Shane Pettit  


Start new

Distance ②

469 ft ▾

Kingdom Hall of  
Jehovah's Witnesses

3D

Date: 12/23/2019

Kekaha Kingdom Hall of Jehovah's Witnesses  
8833 Kaumualii Hwy.  
Kekaha, HI 96752

To whom it may concern:

In view of the Kekaha Kingdom Hall of Jehovah's Witnesses trying to obtain a building permit to make up grades to our facility we understand that we need to apply for the shoreline setback in order to continue the process.

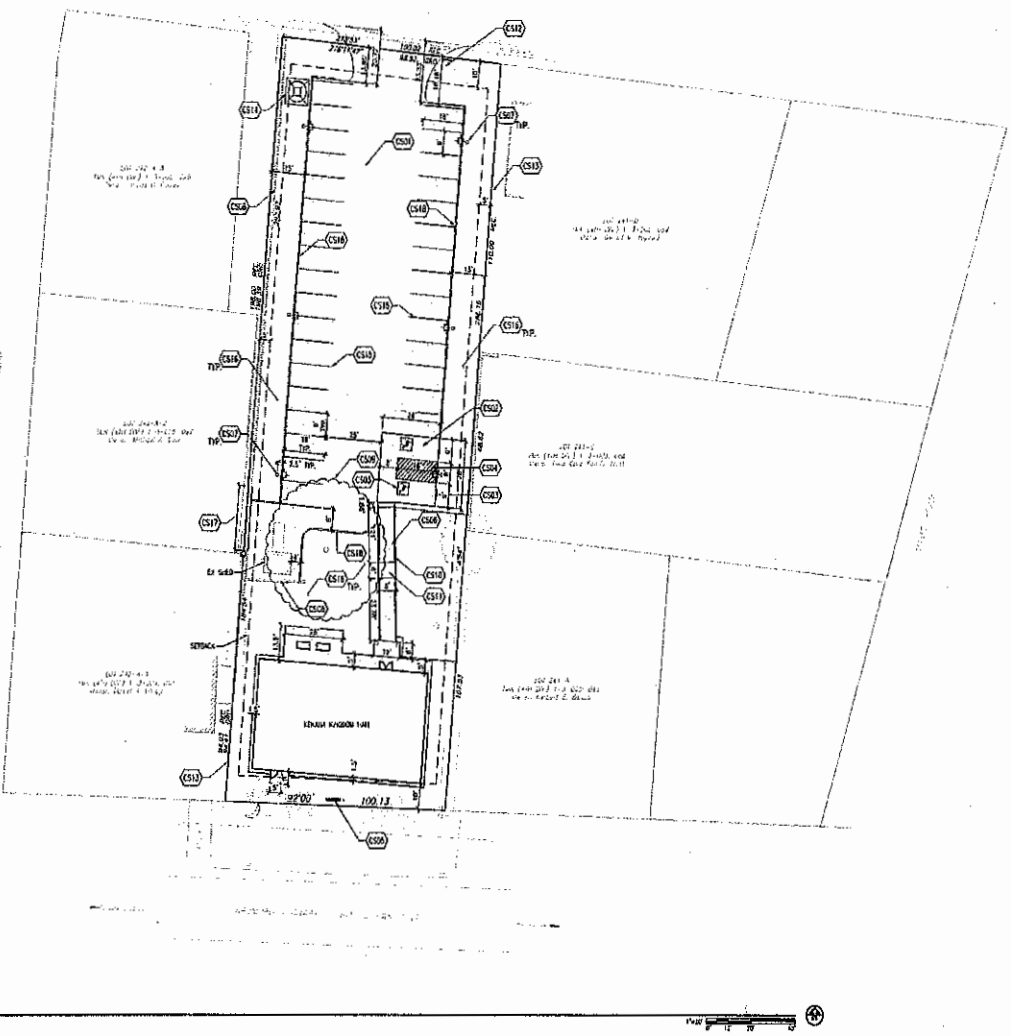
We as the trustees: Mark K. Driver, Francisco M. Cano, Isaac L. Hookano to the property give authorization to Shane Petitt to step in and follow through with pursuing any documentation for the building permit / shoreline setback applications.

Any questions or concerns please contact Shane Petitt  
- [sptacos@gmail.com](mailto:sptacos@gmail.com) or [808-634-6550](tel:808-634-6550).

Sincerely,

Three handwritten signatures in black ink, arranged horizontally. The first signature is on the left, the second in the middle, and the third on the right. They appear to be the signatures of Mark K. Driver, Francisco M. Cano, and Isaac L. Hookano respectively.

Mark K. Driver / Francisco M. Cano / Isaac L. Hookano



**PAVEMENT LEGEND**

- COMPACTED GRAVEL SURFACE
- CONCRETE PAVEMENT

**SYMBOLS LEGEND**

- |                       | EXISTING | PROPOSED |
|-----------------------|----------|----------|
| PROPERTY BOUNDARY     | ---      | ---      |
| BOUNDARY SETBACK LINE | ---      | ---      |
| BOUNDARY              | ---      | ---      |
| EDGE OF PAVEMENT      | ---      | ---      |
| CLUB                  | ---      | ---      |
| STREET                | ---      | ---      |
| STOP                  | ---      | ---      |
| WHEEL STOP            | ---      | ---      |
| ISLAND                | ---      | ---      |
| ACCESSIBLE PARKING    | ---      | ---      |
| LOW WALL (1-4' HIGH)  | ---      | ---      |
| WALL MOUNTED SIGN     | ---      | ---      |
| ROADWAY               | ---      | ---      |
| STREET POLE           | ---      | ---      |
| TRUCK                 | ---      | ---      |
| TRUCK PARKING AREA    | ---      | ---      |

**SHEET KEYNOTES**

- CS11 NEW CONCRETE DRIVE (SEE DETAIL 1-1)
- CS12 NEW CONCRETE SIDEWALK (SEE DETAIL 1-2)
- CS13 ACCESSIBLE PARKING (SEE DETAIL 1-3)
- CS14 NEW CONCRETE DRIVE (SEE DETAIL 1-4)
- CS15 NEW CONCRETE DRIVE (SEE DETAIL 1-5)
- CS16 NEW CONCRETE DRIVE (SEE DETAIL 1-6)
- CS17 NEW CONCRETE DRIVE (SEE DETAIL 1-7)
- CS18 NEW CONCRETE DRIVE (SEE DETAIL 1-8)
- CS19 NEW CONCRETE DRIVE (SEE DETAIL 1-9)
- CS20 NEW CONCRETE DRIVE (SEE DETAIL 1-10)
- CS21 NEW CONCRETE DRIVE (SEE DETAIL 1-11)
- CS22 NEW CONCRETE DRIVE (SEE DETAIL 1-12)
- CS23 NEW CONCRETE DRIVE (SEE DETAIL 1-13)
- CS24 NEW CONCRETE DRIVE (SEE DETAIL 1-14)
- CS25 NEW CONCRETE DRIVE (SEE DETAIL 1-15)
- CS26 NEW CONCRETE DRIVE (SEE DETAIL 1-16)
- CS27 NEW CONCRETE DRIVE (SEE DETAIL 1-17)
- CS28 NEW CONCRETE DRIVE (SEE DETAIL 1-18)
- CS29 NEW CONCRETE DRIVE (SEE DETAIL 1-19)
- CS30 NEW CONCRETE DRIVE (SEE DETAIL 1-20)

**GENERAL SHEET NOTES**

1. CONSTRUCTION SHALL PROVIDE AND MAINTAIN TRAFFIC CONTROL DEVICES IN ACCORDANCE WITH MAINE STATE TRAFFIC CONTROL DEVICES (MSTCD) AND AS REQUIRED BY THE MAINE STATE TRAFFIC CONTROL DEVICES (MSTCD) AND AS REQUIRED BY THE MAINE STATE TRAFFIC CONTROL DEVICES (MSTCD).
2. THE MAINE STATE TRAFFIC CONTROL DEVICES (MSTCD) SHALL BE RESPONSIBLE FOR TRAFFIC CONTROL IN THE PROJECT AREA.
3. THE MAINE STATE TRAFFIC CONTROL DEVICES (MSTCD) SHALL BE RESPONSIBLE FOR TRAFFIC CONTROL IN THE PROJECT AREA.

**SITE SIGN TABLE**

NO.	DESC.	MULTIPLY NO./SIZE	QTY	COLOR
1	STOP	8'-1' 10" x 3' 6"	1	LEGEND AND ALTERNATIVE BACKGROUND WHITE-REDUCED
2	YIELD	8'-1' 10" x 3' 6"	1	LEGEND AND ALTERNATIVE BACKGROUND WHITE-REDUCED
3	WALK	8'-1' 10" x 3' 6"	1	LEGEND AND ALTERNATIVE BACKGROUND WHITE-REDUCED

**TERMINAL GLOBE**  
PO BOX 978  
FERRISBURG, NH 05753  
(603) 756-7725  
TERMINAL@GLOBE.COM

**PROFESSIONAL ENGINEER**  
No. 10000-1

**CS101**

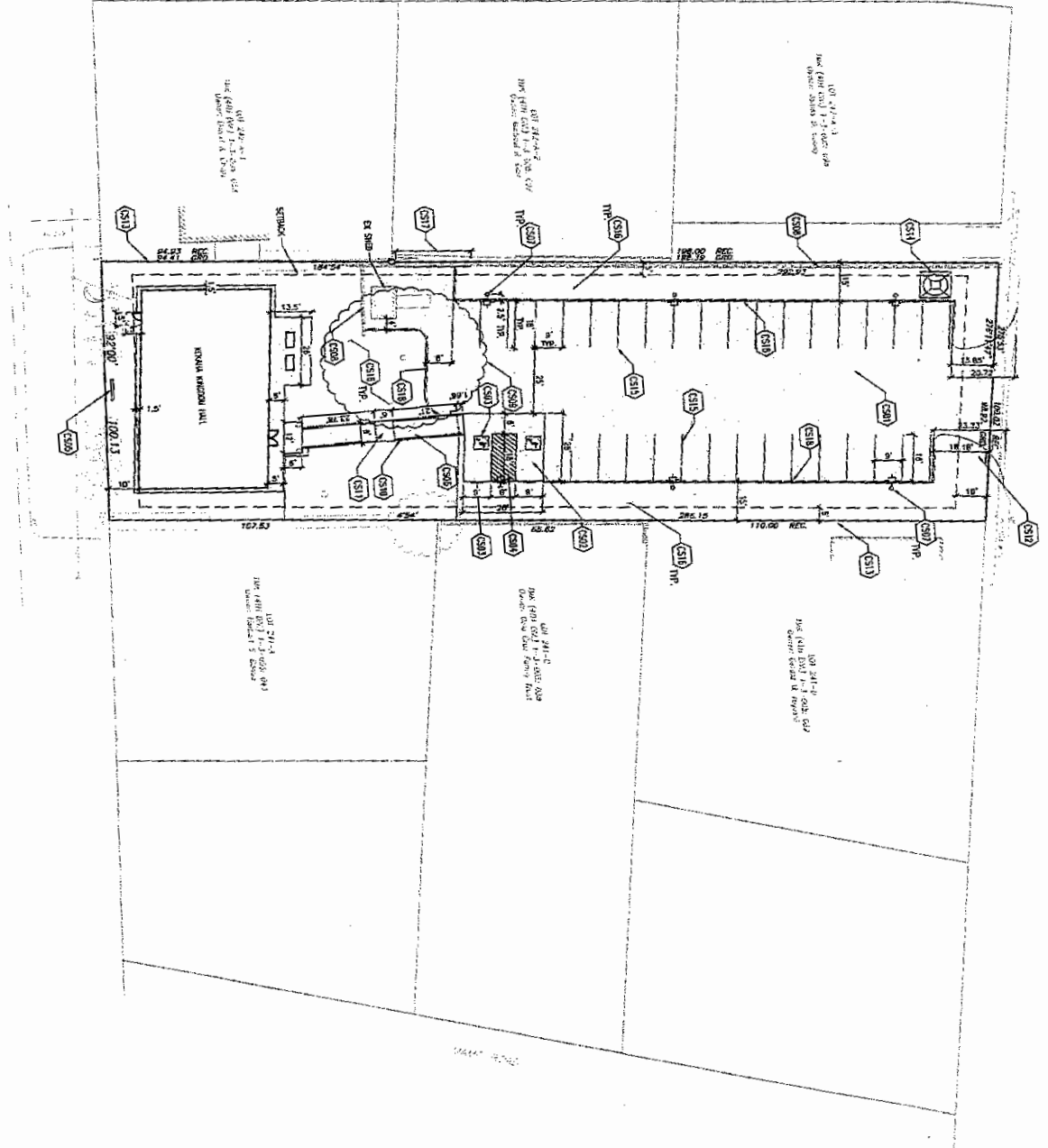
**SITE PLAN**

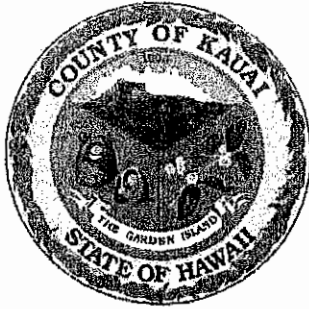
**11668**

**CS101**

PLOT DATE: 13 Feb 10 PLOTTED BY: Kite  
 DMSGAL: 20.00  
 FILE PATH: X:\03 Design\02 Permit\10-EDU\2 Building\2.2.1 CAD\01 Civil\11868\_CS101\_Site\_Plan.dwg

**1 SITE PLAN**





## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD 201	9-49
Acceptance Date:	10.7.19
Website Posting Date:	10.12.19
Determination Date:	10.7.19
Planning Commission Date:	NA
Expiration Date:	10.7.20
Planner Assigned:	Jlo/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:	Donivan Konno for Barbara Siverts
Mailing Address:	4235B Hehi Road Lihue HI 96766
Phone:	808 651-1088
Email:	kimanikoa@hawaii.rr.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 <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District:	Tax Map Key(s): (4)2-8-017-009-0000
	Land Area: _____
Nature of Development: (Description of proposed structure or subdivision)	Bathroom remodel in EXISTING UNIT #110

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

--



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

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

- ☒ 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 (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

6/3/19

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

6.7.19  
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 (\$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).

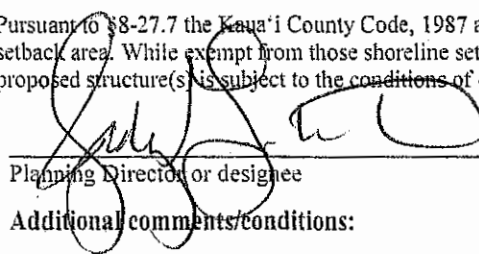
### Exemption Determination (to be completed by Planning Department)



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

10.7.19  
Date



Additional comments/conditions:

Kiahuna Plantation Resort - Beach House #52 - Google Maps



SHOW NEARBY HOTELS

Unit 430 Kiahuna  
Plantation Resort

Kihouua

Kiahuna Pond

Darin Rudick

Popu Beach Rd

Luau Luau

Hawaiian Style Surfing

Public Restrooms

Kiahuna Plantation  
Unit 181

Kiahuna Plantation  
Resort - Front Desk

Kiahuna  
The Beach

Kiahuna Beach

Nu Kumoi  
Point

Measure distance

Click on the map to add to your path

Total distance: 520.02 ft (158.50 m)

Ko'a Kes Hotel &  
Resort at Popu Beach

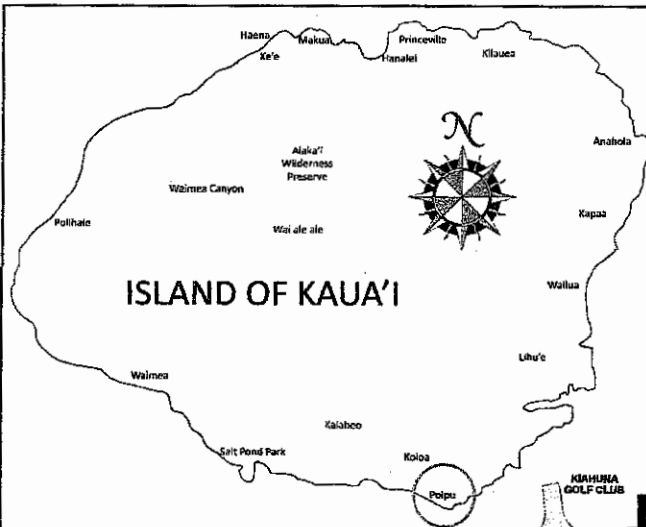
Map data ©2019 Google

United States

Terms

Send feedback

100 ft



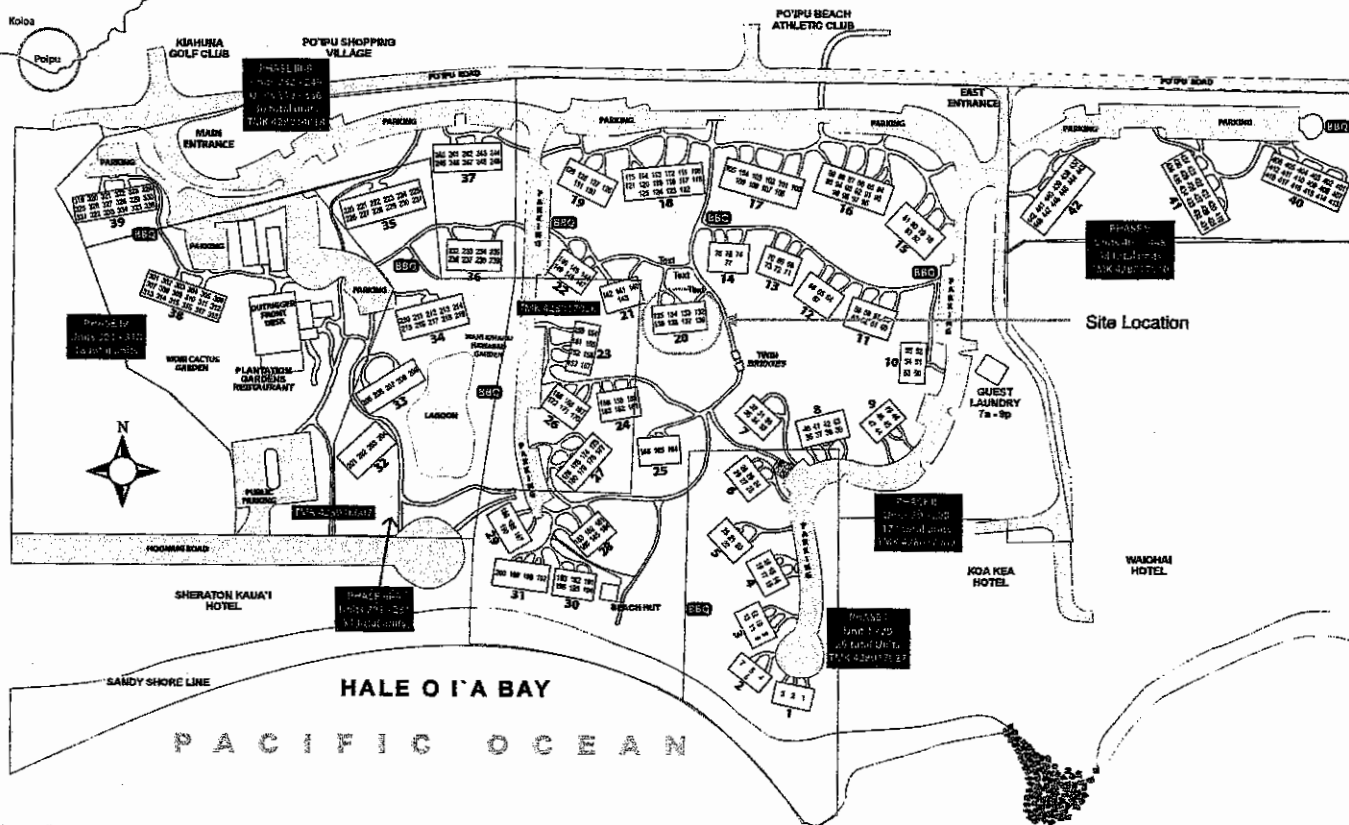
## ISLAND OF KAUAI

### ADDITIONAL PROJECT NOTES:

1. Remove existing tub/ replace with shower; relocate drain toward center of stall; enlarge drain from 1 1/2" to 2"
2. Rotate toilet, relocate drain and flange move a few inches when toilet is rotated
3. Remove partition wall
4. Replace existing sink and faucets/ countertop
5. Replace existing kitchen countertops/ sink and faucet

### PROPERTY SUMMARY

- Located on south side of Island of Kauai
- Located in Poipu Beach resort area
- 35 total acres (all phases)
- 333 total units (all phases)
- One and two bedroom condominium units
- One, two, and three story buildings
- Wood frame buildings
- Typical 1B/1b: 880 sf
- Typical 2B/2b: 1584 sf (2-story)



Association of Beachhouse  
Owners of Kiahuna Plantation  
2253 Po'ipu Road  
Koloa, Hawaii 96756

Property Contact:  
Chris A. Gampon,  
General Manager  
E: chris.gampon@owtrigger.com  
P: 808.742.3522  
F: 808.742.9015

### TAX MAP KEY LIST

#### Phase II

- ☐ 428017009  
☒ 428017026

#### Phase III-A and Phase IV

- ☐ 428016007

#### Phase III-B

- ☐ 428014018

#### Phase V

- ☐ 428017010

Project includes all of the checked TMK's

### PROJECT NOTES

Bathroom renovation and  
countertop replacement in  
unit #139, Building 20.

DATE 5/31/2019



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

May 15, 2019

Barbara Siverts  
2253 Po'ipū Road  
Kōloa, HI 96756

Subject: BUILDING PERMIT APPLICATION NO. 19-753 FOR BARBARA SIVERTS  
KIAHUNA PLANTATION RESORT BUILDING 20; UNIT 110  
TMK: (4) 2-8-017:026 UNIT 110, KŌLOA, Island of Kaua'i

Dear Mrs. Siverts,

We reviewed and approved the above referenced building permit application for the proposed interior renovations to CPR Unit 110 of Kiahuna Plantation Resort. Unit 110 is also identified as Room Number 139 located in Building No. 20. There are a total of 8 units in the building.

Based on panel number 1500020314F of the Flood Insurance Rate Maps (FIRM) dated November 26, 2010, Building No. 20 is located in a "Special Flood Hazard Area" (SFHA). The structure is located in Zone AE and is subject to coastal type flooding from the Pacific Ocean. The corresponding base flood elevation is 8 feet above mean sea level (MSL).

New construction located within the SFHA must comply with the County of Kaua'i's Floodplain Management Ordinance No. 831. However, structures built prior to November 4, 1981 are considered "Pre-FIRM" or "grandfathered" and a building permit application for the structure can be approved if the improvement is considered an "unsubstantial" improvement. According to the County's Real Property Tax Assessment website (<http://www.qpublic.net/hi/kauai/>), this building was constructed in 1974; therefore, it is considered a "Pre-FIRM" structure.

To determine if the improvement is considered "substantial," we compare the total cost of all improvements in a building within the past 10 years to the market value of the building before the start of construction of the first improvement. If the resulting ratio is less than 50%, then the building permit can be approved. If the ratio is greater than or equal to 50%, then the building must be brought into compliance with the floodplain management regulations.

Unless a professional appraisal is provided, the market value shall be determined by the County's Real Property Assessment Division. The cost of improvements is determined by the County's Building Valuation Policy. However, if the cost of improvements is greater than or equal to 40% of the market value, then a detailed cost estimate must be submitted.

[www.kauai.gov](http://www.kauai.gov)

4444 Rice Street Suite 175 • Lihue, Hawai'i 96766 • (808) 241-4883 (b) • (808) 241-6609 (f)

An Equal Opportunity Employer

### **Market Value**

Since there were no permits within the past ten years, the market value is the Replacement Cost New Less Depreciation (RCNLD) value for 2019 as determined by the County's Real Property Assessment Division. The market value of the building is \$1,068,800. Fifty percent (50%) of this is \$534,400 (or \$1,068,800 divided by 2).

### **Cost of Improvements**

The total cost of improvements for interior renovations to CPR Unit 110 is taken to be the building permit cost estimate of \$12,000.

### **Summary**

The cost of improvements compared to the market value is summarized as follows:

$$\frac{\text{Cost of Improvements(past 10 years): \$12,000}}{\text{Market Value (Real Property): \$1,068,800}} = 0.0112 \text{ or } 1.1\%$$

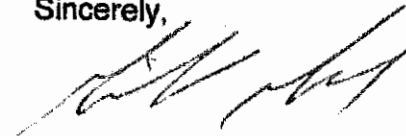
$$\text{Remaining Balance (50\% of MV-Cost):} = \$534,400 - \$12,000 = \$522,400$$

Since the total cost does not exceed 50% of the market value, the improvement is considered unsubstantial and the building permit can be approved for flood review. The remaining balance of unsubstantial improvements is \$522,400 for the 10 year term that ends in May 2029.

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 for substantial improvements. Such re-evaluation may require revision of the permit and may subject the property to additional flood requirements.

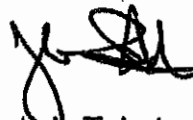
If you have any questions or need additional information, contact Stanford Iwamoto at (808) 241-4896.

Sincerely,



Michael Moule, P.E.  
Chief, Engineering Division

Concur,



Lyle Tabata  
Deputy County Engineer

GO/SI

cc: Design and Permitting

***Siverts Family Trust  
c/o Barbara Siverts***

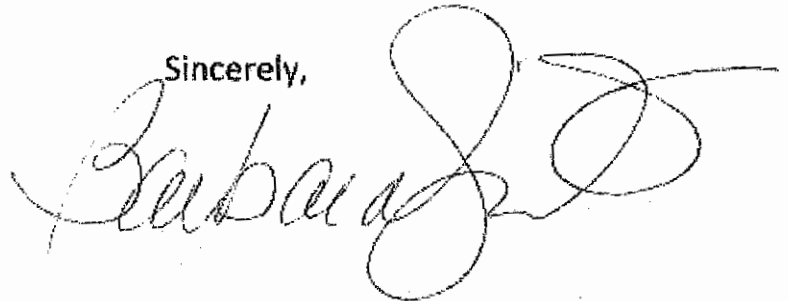
1096 Wheat Court  
San Jose CA 95127  
May 29, 2019

Re: Authorized Agent – application #19-753

To Whom It May Concern,

I, Barbara Siverts, owner of Kiahuna Plantation Unit 139 of 2253 Poipu road  
TMK 280170260110, do hereby authorize **Donivan Konno**, as my agent to obtain  
building permits for a Bathroom remodel.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barbara Siverts", with a large, stylized flourish at the end.

County of Kaua'i  
Department of Public Works  
Planning Department  
Attention: Mr. Wesley Masamura  
4444 Rice Street #473  
Līhu'e, HI 96766

May 31, 2019

---

**SUBJECT:**

Permit application #19-753  
TMK: (4)280170260110

Kiahuna Plantation unit #139  
2253 Po'ipū Road  
Kōloa, HI 96756

Owners: Ted and Barbara Siverts

---

Aloha Mr. Masamura,

This letter is to authorize, on behalf of the Association of Beachhouse Owners of Kiahuna Plantation ("AOBOKP"), the plans submitted for COK application # 19-753, Kiahuna Plantation unit #139 for the scope of work described below.

- Remove existing tub/ replace with shower; relocate drain toward center of stall; enlarge drain from 1 1/2" to 2"
- Rotate toilet, relocate drain and flange move a few inches when toilet is rotated
- Remove partition wall
- Replace existing sink and faucets/ countertop
- Replace existing kitchen countertops/ sink and faucet

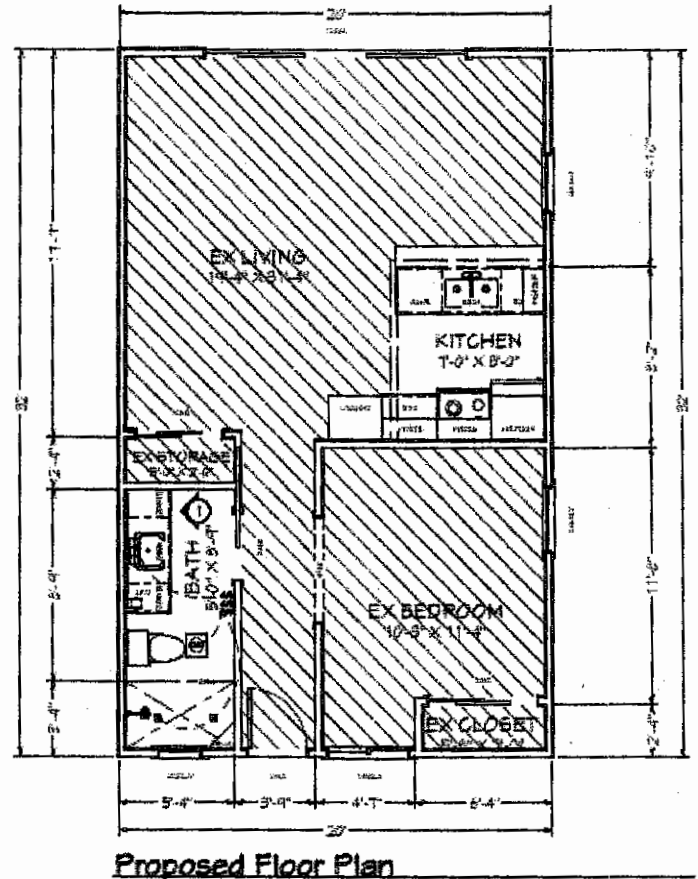
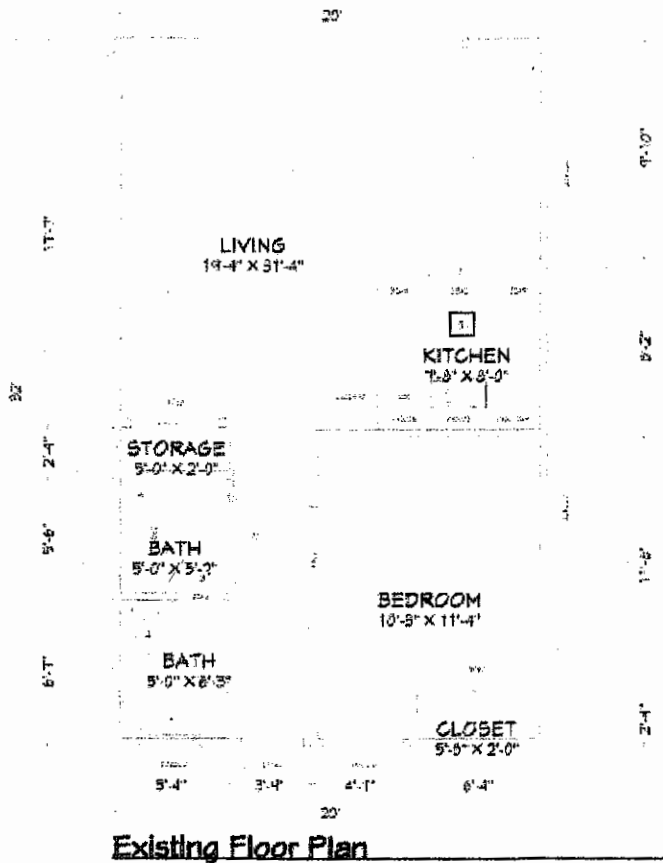
Plan drawing stamped by licensed professional architect no. 15063, Zachary Todd Clanahan. Design certification dated 04/08/2019. A copy (not to scale) of the plan is shown below.

The owners of Kiahuna Plantation Unit #139 have authorized Donovan Konno of KimaniKoa Drafting and Design to act as their agent to manage the permit process for this project.

Any alteration that will add to the scope of work as described in scope and drawing herein, will require additional consideration by the AOBOKP.

THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY  
(Continued on following page)

**SAMPLE OF PLAN: by Zachary Todd Clanahan**



If you have any questions, please contact me.

Me ka 'oia 'i'o,

Chris A. Gampon  
Association of Beachhouse Owners  
General Manager

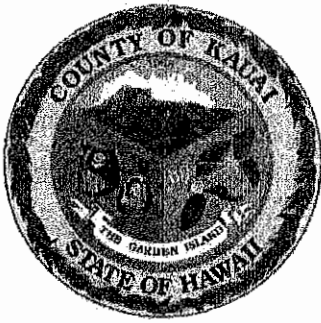
**NOTE:**

As General Manager, of the AOBOKP, I am empowered to authorize this work. My authorization does not imply compliance with county, state, or federal building codes.



KIAHUNA PLANTATION RESORT KAUA'I  
By Outrigger  
2253 Po'ipū Road  
Kōloa, Hawai'i 96756  
EMAIL [Chris.Gampon@Outrigger.com](mailto:Chris.Gampon@Outrigger.com)  
TEL +1 808 742-3522  
FAX +1 808 742-9015





# PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD	201 <u>9</u> - <u>50</u>
Acceptance Date:	<u>6-7-19</u>
Website Posting Date:	<u>6-12-19</u>
Determination Date:	<u>6-7-19</u>
Planning Commission Date:	<u>NA</u>
Expiration Date:	<u>6-7-20</u>
Planner Assigned:	<u>Sto/RH</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.

Shearwater <sup>ADAD</sup> Applicant Information	
Applicant: <u>PALMS HAWAII ARCHITECTURE</u>	
Mailing Address: <u>2970 KEELE ST STE 115</u> <u>LILUUE HI 96766</u>	Phone: <u>808-246-4796</u> Email: <u>OWN@PALMSHAWAII.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 <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date: _____	

Project Information (attach additional sheets, if necessary)	
County Zoning District: <u>RE</u>	Tax Map Key(s): <u>(4) 5-4-005-032</u>
	Land Area: <u>156,772</u>
Nature of Development: (Description of proposed structure or subdivision)	<u>ADA Remodel - MINOR RENOVATION OF 2 UNITS (101 + 102) TO BE ACCESSABLE WITH ADAAG 2010. ALL EXISTING. NO NEW CONSTRUCTION.</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): 257 ft.
- Property is Not Abutting the Shoreline  
☐ Proposed project's approximate distance from shoreline (based on aerial map): \_\_\_\_\_ ft.
- Additional Information:  
☒ Shoreline Change (Erosion/Accretion) Rate: -0.3 ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html))  
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

<u>Ø</u>
----------



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

- ☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)  
THE PARCEL IS RELATIVELY FLAT THE PROPS 180' +/- DOWN TO OCEAN
- ☒ Shoreline type (e.g. beach, dune, rocky, sandy with rocky outcropping, etc.)  
ROCKY
- ☐ 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)? NO ZONE X  
☒ Has this property been subject to coastal hazards (i.e. flooding, erosion, tsunami, etc.) in the past?  
NO

### 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] 5/30/2019  
Signature Date

Applicability (to be completed by Planning Department)	
<input checked="" type="checkbox"/>	Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.
<input type="checkbox"/>	Setback Determination is NOT necessary. Requirements of Ordinance No. 979 are not applicable.
<u>[Signature]</u> 6-7-19 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(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

6-7-19  
\_\_\_\_\_  
Date

☐ **Additional comments/conditions:**

## Shearwater ADA Improvements

3730 KAMEHAMEHA RD.  
Princeville, HI 96722  
TMK #: (4) 5-004-005:032

### Shoreline Setback Determination



The Project is located approximately 257' from the ocean on a cliff elevated 180' above the ocean

#### Project Description:

ADA 2010 guidelines Interior remodel to create accessible units to two (2) of the existing thirty three (33) units located at *The Shearwater* 3730 Kamehameha Road in Princeville.

TMK (4) 5-4-005-032-0001 (Unit 101) Building Permit 19-0573

TMK (4) 5-4-005-032-0001 (Unit 102) Building Permit 19-0577

#### Project Cost: \$40,000

The proposed interior renovation improvements are estimated to cost between \$14,000 to \$20,000 (per unit).



PALMS HAWAII  
ARCHITECTURE

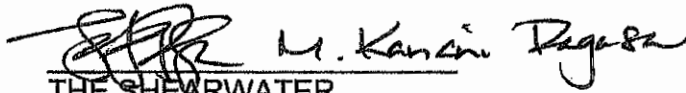
2970 Kele Street #115 Lihue HI 96766  
(808) 246-4796 [www.palms-hawaii.com](http://www.palms-hawaii.com)

March 26, 2019

County of Kauai  
Planning Department  
4444 Rice Street  
Lihue, HI 96766  
(808) 241-4050

With this note, I request your recognition of agency vested in Palms Hawaii Architecture LLC to represent our interest in the process of Building and Zoning Permit applications for our property Wyndham Shearwater located at 3730 KAMEHAMEHA RD Princeville, HI and further identified by TMK #: (4) 5-4-005-032 (Units 101 and 102). As owner of more than 75% interest in this property I respectfully request your consideration of Palms Hawaii Architecture as our agent.

Sincerely,

 M. Kancin Dagesa

THE SHEARWATER  
3970 WYLLIE RD  
PRINCEVILLE, HI 9672



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

May 14, 2019

Palms Hawai'i Architecture  
2970 Kele Street, Suite 115  
Lihue, HI 96766  
Attention: Mr. Jon Lucas

Subject: SHORELINE SETBACK APPLICATION, SUBSTANTIAL IMPROVEMENT  
DETERMINATION for Wyndham Shearwater  
TMK: (4) 5-4-005:032-0001 and 0002

**PW 04.19.017**

Dear Mr. Lucas,

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

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

Improvements are being proposed for Units 101 and 102 at the Wyndham Shearwater. These units are in separate buildings and are identified as:

Building 1	(Unit 101)	TMK 5-4-005: 032-0001	Building Permit 19-0573
Building 1	Unit 102	TMK 5-4-005: 032-0002	Building Permit 19-0577

To determine if the improvements are considered "substantial," we compare the total cost of all improvements within the past 10 years to the market value of the building before the start of construction of the first improvement. If the resulting ratio is less than 50%, then the improvement can be approved. If the ratio is greater than or equal to 50%, then the building **must** be brought into compliance with the Shoreline Setback regulations.

Because Units 101 and 102 are in different buildings, separate substantial improvement determinations were performed for each unit. The Department of Public Works – Engineering Division (DPW) determined that the proposed improvements for Units 101

and 102 do not constitute substantial improvements. A summary of the calculations is provided below.

### **UNIT 101**

#### **Market Value**

There were no building permits within the last 10 years for this Building 1. Therefore, the market value is taken to be the 2019 assessed building value as determined by the County's Real Property Assessment Division. According to Real Property, the market value of Building 1 is \$448,542.

#### **Cost of Improvements**

The total cost of improvements was estimated to be \$55,834 for Building 1. A cost estimate was provided via email by contractor Elements Hospitality on and was submitted April 29, 2019.

#### **Summary**

The cost of improvements compared to the market value for Building 1:

$$\frac{\text{Cost of Improvements (past 10 years): } \$55,834}{\text{Market Value (Real Property): } \$448,542} = 0.1244 \text{ or } 12.4\%$$

### **UNIT 102**

#### **Market Value**

There were no building permits within the last 10 years for Building 2. Therefore the market value is taken to be the 2019 assessed building value as determined by the County's Real Property Assessment Division. According to Real Property, the market value of Building 2 is \$673,411.

#### **Cost of Improvements**

The total cost of improvements was estimated to be \$55,834 for Building 2. A cost estimate was provided via email by contractor Elements Hospitality on April 29, 2019.

#### **Summary**

The cost of improvements compared to the market value is:

$$\frac{\text{Cost of Improvements (past 10 years): } \$55,834}{\text{Market Value (Real Property): } \$673,411} = 0.0829 \text{ or } 8.3\%$$

Since the total cost **does not** exceed 50% of the market value, the improvements to both Building 1 and Building 2 are not considered to be substantial. Based on our records there were no other permits for the structures 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 structures must be re-evaluated.

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

Sincerely,



Michael Moule, P.E.  
Chief, Engineering Division

Concur,



Lyle Tabata  
Deputy County Engineer

MM/SI/AC

Copy: Design and Permitting  
Planning Department (Jody Galinato)




TMK#: (4)



## RENOVATION PHASE I

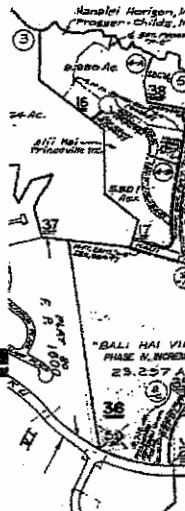
**RENOVATION  
PHASE 2**

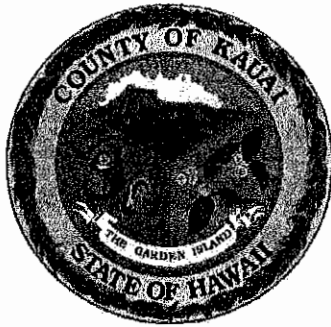
## Phase 2

**RENOVATION**  
**PHASE 3** 

**CLUB  
HOUSE**

PRINCEVILLE GOLF CLUB  
MAKAI COURSE





## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

FOR OFFICIAL USE ONLY:	
SSD	201 <u>9-31</u>
Acceptance Date:	<u>6-7-19</u>
Website Posting Date:	<u>6-12-19</u>
Determination Date:	<u>6-7-19</u>
Planning Commission Date:	<u>NA</u>
Expiration Date:	<u>6-7-20</u>
Planner Assigned:	<u>JG/PJ</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:	William Eddy, Kodani & Associates Engineers, LLC
Mailing Address:	3126 Akahi Street Lihue, HI 96766
Phone:	245-9591
Email:	bill@kodani.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 <b>unexpired and recorded</b> lease of five (5) years or more from the date of filing of this application. If not, Owner(s) must provide a Letter of Authorization.
<input checked="" type="checkbox"/> Authorized Agent	Attach Letter of Authorization
Transmittal Date:	<u>4/25/2019</u>

Project Information (attach additional sheets, if necessary)	
County Zoning District:	<u>Resort</u>
Tax Map Key(s):	<u>(4) 2-8-019:022</u>
Land Area:	<u>5.975 acres</u>
Nature of Development: (Description of proposed structure or subdivision)	Window Replacement Nihi Kai Unit #525

**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): 55 +/- ft.
- Additional Information:  
☐ Shoreline Change (Erosion/Accretion) Rate: N/A rocky shoreline ft./year  
(Information available here: [www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html](http://www.soest.hawaii.edu/coasts/kauaicounty/KCounty.html))  
☒ Number and description of parcels (including roads, buildings, structures) between Shoreline and this parcel:

The Nihi Kai property fronts Hoone Road and Hoone Road is adjacent to the shoreline.



## PLANNING DEPARTMENT SHORELINE SETBACK APPLICATION

☒ Topography (undulating, flat, slope, etc.) and ground elevation of subject parcel (Lowest and Highest elevations)  
The topography of the Nihl Kai property can be described as gently sloping. The lowest elevation is approximately 16-ft msl on the makai side & the highest elevation approximately 64-ft on the mauka side (according to Google Earth).

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

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

☒ Is property in coastal floodplain (if checked, what zone)? XS and X  
☐ 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

W. G. G. G. 6/6/2019  
Signature Date

Applicability (to be completed by Planning Department)	
<input checked="" type="checkbox"/>	Setback Determination necessary. Requirements of Ordinance No. 979 are applicable.
<input type="checkbox"/>	Setback Determination is NOT necessary. Requirements of Ordinance No. 979 are not applicable.
<u>[Signature]</u>	<u>6.7.19</u>
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(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) **BP19-804**



## 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

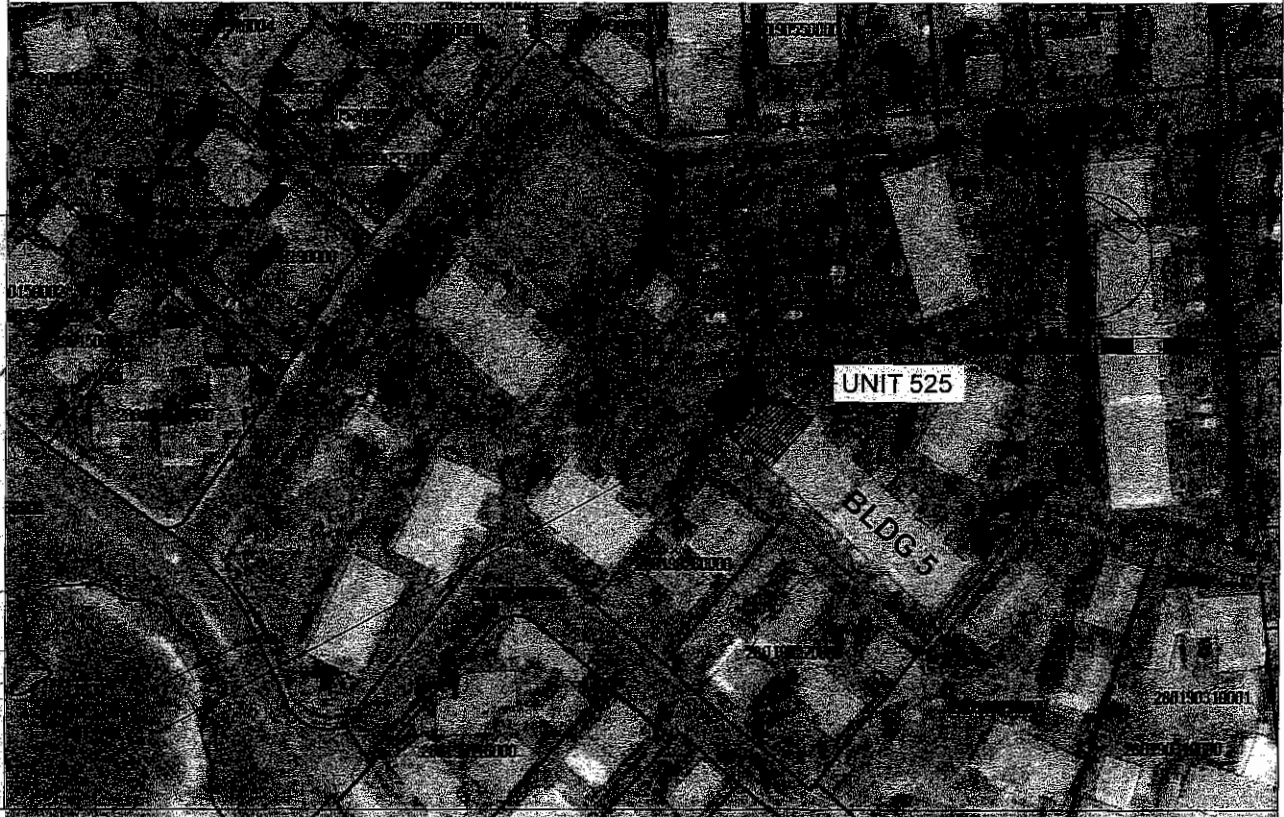
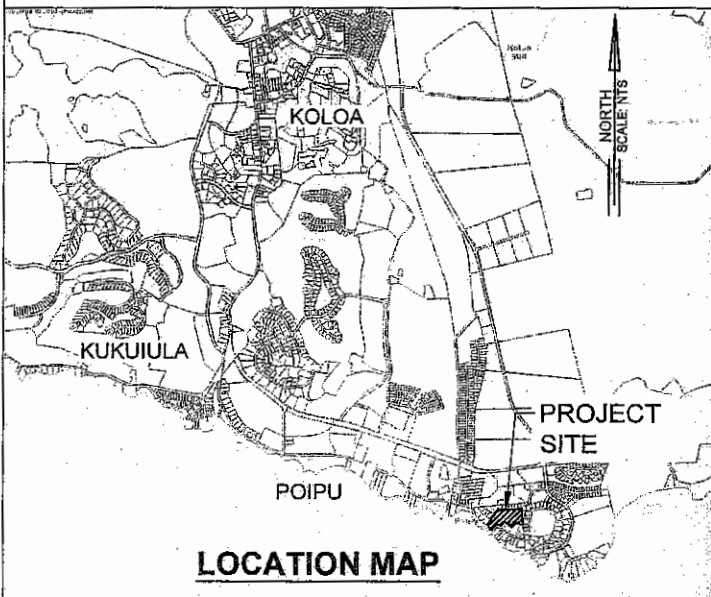
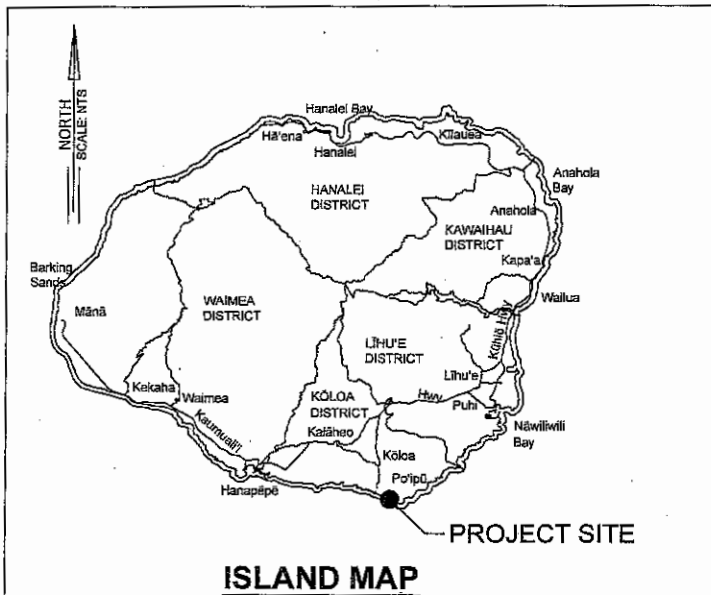
☐

Additional comments/conditions:

# WINDOW REPLACEMENT NIHI KAI CONDOMINIUM UNIT 525

BP19-804

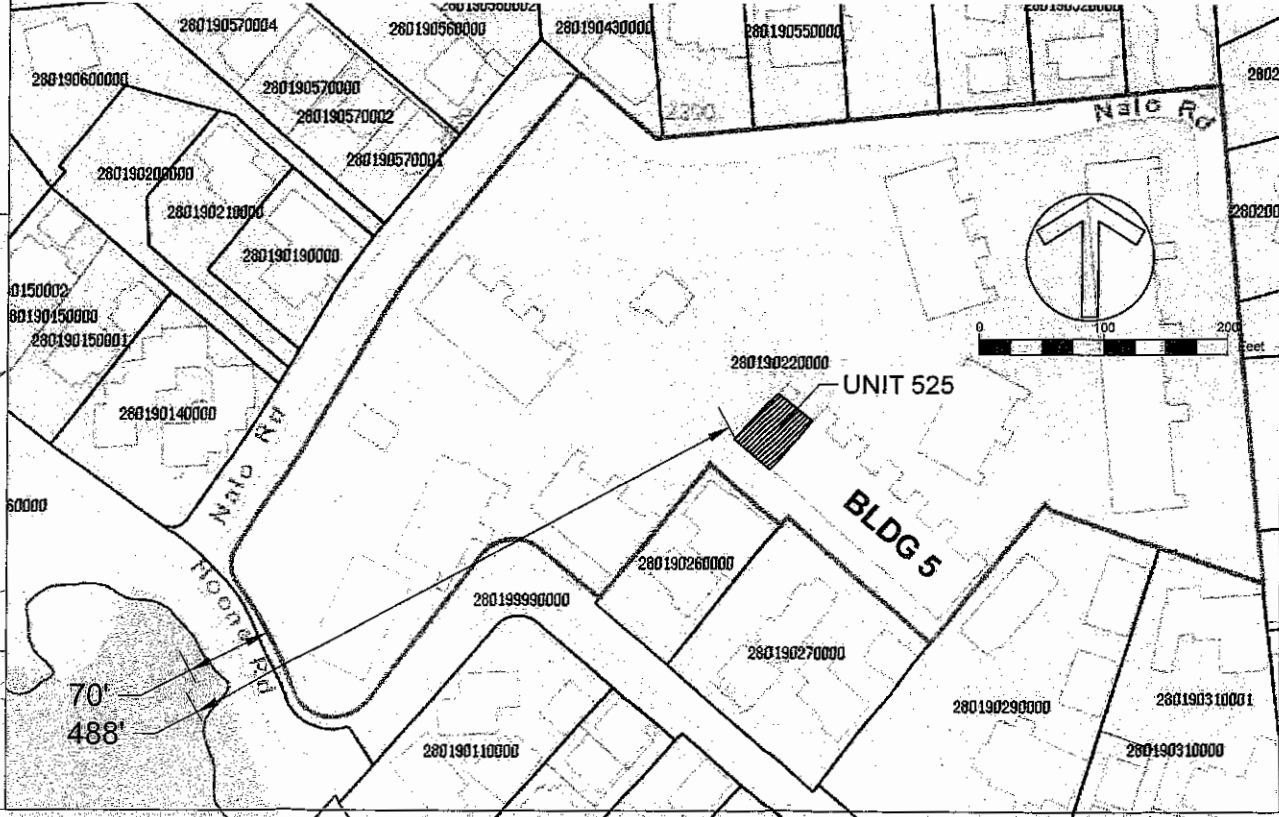
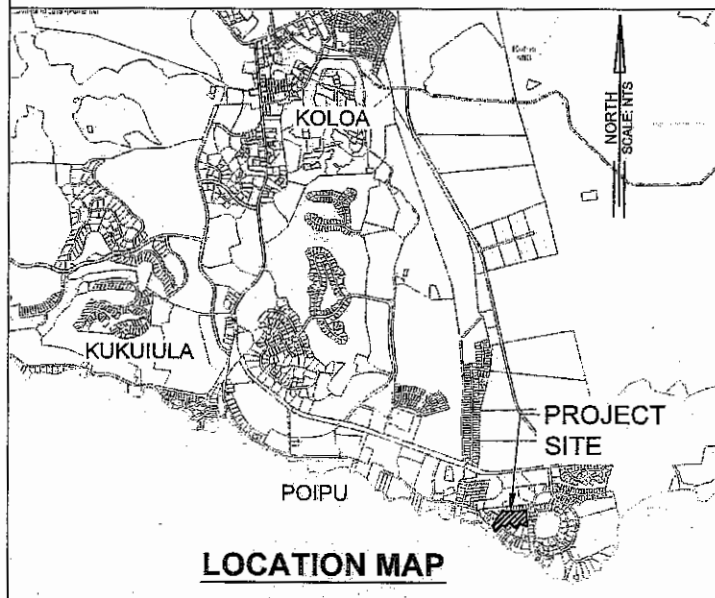
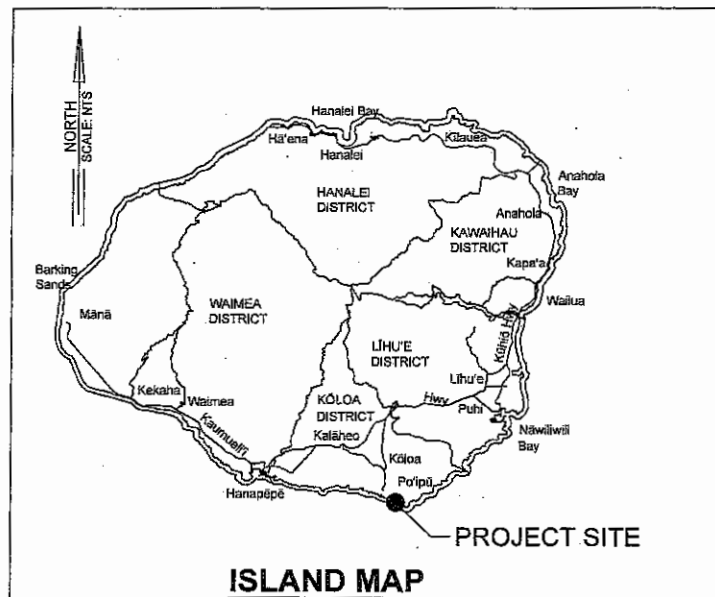
1870 HOONE ROAD  
KOLOA, KAUAI, HAWAII  
TMK (4) 2-8-019-022-0037



# WINDOW REPLACEMENT NIHI KAI CONDOMINIUM UNIT 525

BP19-804

1870 HOONE ROAD  
KOLOA, KAUAI, HAWAII  
TMK (4) 2-8-019-022-0037





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

RECEIVED

JUN 06 2019

May 27, 2019

Kodani & Associates Engineers, LLC  
3126 Akahi Street  
Lihue, HI 96766  
Attention: Mr. William Eddy

Subject: **SHORELINE SETBACK APPLICATION, SUBSTANTIAL IMPROVEMENT  
DETERMINATION NIHI KAI CONDOMINIUM, UNIT 525 IMPROVEMENTS**  
TMK: (4) 2-8-019:022-0037 PW 04.19.086

Dear Mr. Eddy,

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

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

Improvements are being proposed for Unit 525 at the Nihi Kai Condominiums. Unit 525 is one of 17 units located in Building No. 5. To determine if the improvements are considered "substantial," we compare the total cost of all improvements within the past 10 years to the market value of the building before the start of construction of the first improvement. If the resulting ratio is less than 50%, then the improvements are determined to be "unsubstantial".

**Market Value**

There were no building permits within the last 10 years for Building No. 5.

The market value is taken to be the 2019 assessed building value as determined by the County's Real Property Assessment Division. According to Real Property, the RCNLD of the building is \$4,863,700. Fifty percent (50%) of this is \$2,431,850 (or \$4,863,700 divided by 2).

[www.kauai.gov](http://www.kauai.gov)

4444 Rice Street Suite 175 • Lihue, Hawaii 96766 • (808) 241-4883 (b) • (808) 241-6609 (f)

An Equal Opportunity Employer



**Cost of Improvements**

The total cost of improvements was estimated to be \$150,000. A cost estimate dated April 30, 2019 was prepared by contractor Ted L. Burkart of BCO Construction and submitted to the Engineering Division of the Department of Public Works.

**Summary**

The cost of improvements compared to the market value is:

$$\frac{\text{Cost of Improvements (past 10 years): \$150,000}}{\text{Market Value (Real Property): \$4,863,700}} = .0308 \text{ or } 3.1\%$$

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

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

Sincerely,



Michael Moule, P.E.  
Chief, Engineering Division

Concur,

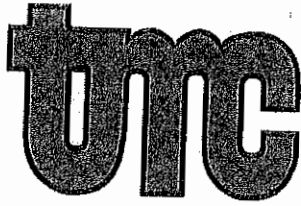
Lyle Tabata Digitally signed by Lyle Tabata  
Date: 2019.05.30 14:28:09 -10'00'

Lyle Tabata  
Deputy County Engineer

MM/SI/AC

Copy: Design and Permitting  
Planning Department (Jody Galinato)





the mj mueller co., inc.

10 APRIL 2019

BILL EDDY OF KODANI  
ENGINEERING IS AUTHORIZED  
TO ACT ON MY BEHALF TO  
SECURE BUILDING PERMITS  
FOR THE RENOVATION OF NHH/  
KAI VILLAS UNIT 525

A handwritten signature in black ink, appearing to read "Mark J. Mueller". The signature is fluid and cursive, with a long, sweeping horizontal stroke at the end.

MARK J. MUELLER  
POPOKIENA LLC