

## DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
REIKO MATSUYAMA, MANAGING DIRECTOR

October 9, 2023

Public testimony and/or agency comments received by the Planning as of October 9, 2023, 9:00 am for the October 10, 2023, Planning Commission meeting regarding the following item:

- F.2.a. AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-83-4) CLASS IV ZONING PERMIT Z-IV-83-27, and USE PERMIT U-83-17 to allow a modification to Condition No. 24 that would allow permanent use of the outdoor dining expansion area on a parcel situated on the makai side of Lawa'i Road, commonly known as The Beach House Restaurant, further identified as 5022 Lawa'i Road, Tax Map Key: 2-6-005:011, containing a total area of 34,900 square feet = **IP2 (DBA. THE BEACH HOUSE RESTAURANT).**

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**From:** Jolene Kealoha Flowers <kealohaflowerskauai@gmail.com>  
**Sent:** Tuesday, September 12, 2023 7:41 AM  
**To:** Planning Department  
**Cc:** Tiffany Lee  
**Subject:** Beach House Restaurant SMA Use Permit Amendment

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha, County of Kauai Planning Commission,

I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.

I am a 20+ yr resident of Kauai and a small business owner. I am a florist and I provide floral arrangement services for events across the island.

I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business, my family, and my employees' families depend on the income generated from The Beach House weddings and events.

Events at the Beach House do not interfere with use or enjoyment of the coastal area. There is often surfers and fishermen enjoying the beach. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.

I sincerely hope that the Commission will approve this application, for the benefit of everyone.

Thank you,  
Jolene  
Kealoha Flowers ,Owner

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**From:** randomgeneration@hawaiiantel.net  
**Sent:** Tuesday, September 12, 2023 10:17 AM  
**To:** Planning Department  
**Cc:** paul.togioka@hawaiiantel.net  
**Subject:** Beach House Restaurant SMA Use Permit Amendment

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

*To: County of Kauai Planning Commission,*

*I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.*

*I am a resident of Kauai and a small business owner. I provide instrumental guitar services for events across the island, state, and overseas. I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business and family depend on the income generated from The Beach House weddings and events.*

*Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.*

*I sincerely hope that the Commission will approve this application.*

*Thank you,*

*Paul Togioka  
Random Generation, Owner*

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**From:** Doug Beane <poipushuttle@gmail.com>  
**Sent:** Friday, September 15, 2023 12:50 PM  
**To:** Planning Department  
**Cc:** Tiffany Lee  
**Subject:** Beach House SMA permit

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

*To: County of Kauai Planning Commission*

*I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.*

*I am a resident of Kauai and a small business owner. I provide transportation services for events across in Po'ipu. I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business, my family, and my employees' families depend on the income generated from The Beach House weddings and events.*

*Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.*

*I sincerely hope that the Commission will approve this application.*

*Thank you,*

Doug Beane, owner  
Aloha Spirit Kauai Shuttle  
808.651.9945

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**From:** Polly Burke <pollyporter123@gmail.com>  
**Sent:** Sunday, September 24, 2023 12:26 PM  
**To:** jim porter; Planning Department  
**Subject:** Beach house expansion

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear planning committee,

This letter is to request that Beach house restaurant is not permitted to make the tent area a permanent addition to their restaurant.

We reside in the area and we believe that the noise, traffic, and negative environmental impact has a detrimental effect on our quality of life.

Regards,

Jim & Polly Porter  
5050 Lawai Rd

9/25/2023

To whom it may concern:

County of Kauai Planning Department

In regards to a registered letter sent by McCorriston Miller Mukai MacKinnon LLP

From: Allison A Paddock TTEE 2011

Regarding: The Beach House Restaurant Zoning Proposal

I am the full time owner of an apartment at Prince Kuhio 5061 Lawai Road, Koloa, Hi 96756.  
(Also, 2 weeks, annually, At Lawai Beach Resort)

I am NOT in favor of granting the permanent outdoor dining expansion of the Beach House restaurant.

After witnessing various functions held there, I cannot be supportive. I am concerned about the environment along the peaceful skirting walkway (above & below the water), noise pollution and traffic congestion (parking is a major problem, as well) . The events here put too much demand on our small neighborhood and often ruin the quiet beauty of sunset.

I would suggest that the larger hotels & sprawling rental complexes to the South may have been designed with these kinds of functions in mind and may be more appropriate.

With respect & concern,



Allison A. Paddock

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**From:** Mark McCartin <mmccartin@yahoo.com>  
**Sent:** Tuesday, September 26, 2023 1:04 PM  
**To:** Planning Department  
**Subject:** Beach House Expansion

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County of Kauai Planning Commission

4444 Rice Street, Suite A473

Lihue, HI 96766

Dear Commissioners:

I would like to provide written testimony regarding the Amendment to Special Management Area Use Permit for the Beach House Restaurant. I am an owner of two units in the adjacent condominium complex, Kuhio Shores. We have been severely adversely impacted by the special use permit and would like to see the permit revoked entirely. We at Kuhio Shores are impacted daily by noise from the outdoor dining expansion. Music, loud voices and serving clatter are much more prominent coming from the outdoor expansion area than it ever was from the restaurant itself. Light pollution is also another factor.

Our property line is approximately 20 feet from the expansion area and their guests frequently trespass onto our property. There have been several times owners have caught restaurant guests urinating in the bushes to shortcut having to go inside the restaurant. This never happened prior to the expansion area. People also trespass through our parking lot to get to the expansion area as a shortcut.

More tables means more guests which means more cars. Parking is limited at Kuhio Shores with about one parking spot per unit. Two bedroom units sometimes have two cars which means that sometimes our guests need to park on the street. Especially when one of the restaurant guests decide to save on valet parking and park in our parking lot. This sometimes necessitates long walks when the street parking is taken up by restaurant guests. This was never the case prior to the expansion area being set up. I was also almost struck by one of the parking valets trying quickly to park more cars.

Several of the units in our complex have had their views degraded by the tent. Particularly those at the end of the building closest to the Beach House. This certainly affects guest satisfaction and the desire to return to these specific units. This in turn may reflect in decreased property values. It would definitely affect resale when a prospective buyer assesses the view and who would certainly question the noise coming from the outside dining area.

During our last HOA board meeting, it was mentioned that the Planning Commission will not allow us to build an electrical room because it will be considered an addition and thus it's illegal because we are so close to the shore. I wonder why this wouldn't apply to the Beach House tent as well?

I'm an individual owner who has owned property at Kuhio Shores since 1978. I remember well the pre-Iwa Beach House. In my opinion this outdoor expansion area is very detrimental to the use and enjoyment of my property.

Mark McCartin, owner

Kuhio Shores 109, 309



September 28, 2023

Tanner Cook

Prince Kuhio, Condo Owner

Re: Amendment to SMA(U)-83-4, Class IV Zoning Permit Z-IV-83-27

**Letter in Support of Beach House Restaurant**

Dear Planning Department,

I am writing as a full-time Kauai resident and an owner of a unit in Prince Kuhio Condominium. I am self-employed and have lived in the state of Hawaii my entire life.

The Beach House is an iconic restaurant that has employed hundreds, if not thousands, of Kauai residents. Their business has generated income for local families for decades and heavily supported the Kauai economy and community.

I am very familiar with the business practices and values that the Beach House upholds in all aspects of their restaurant operations. From what I understand, one of their brand values is Leave the World a Better Place. I also know the Beach House sources fish directly from local fisherman, many of whom are my close friends. Their Chef works closely with Kauai farmers and purchases produce almost exclusively from local growers.

Their event business is run by a team of individuals and vendors who practice aloha at all times. I have only experienced positive interactions with their staff and management team. The Beach House provides a unique opportunity for visitors to get married and celebrate life with an exceptional experience right on the lawn with waves splashing in the background. To restrict or prevent this business from continuing to provide services to visitors would have tremendous negative impacts on our local community.

I understand many condo owners in the surrounding area do not reside in Kauai County, and thus, many do not have a full, comprehensive understanding of how our local economy sustains itself. Preventing weddings and special events from taking place on the Beach House property severely reduces tourism and all dollars that flow from visitors to local families and individuals! Many condo owners may be in opposition because they feel a special event on the lawn detracts from the value of their property somehow. Many vacation rental owners who do not reside on island are blindsided by personal gain and lack the ability to see how the Beach House event sales puts food directly on the tables of local families.

I urge the commission to approve the request for permanent use of outdoor dining at the Beach House Restaurant. To deny this request will put many of employees and vendors out of work and have negative impact on our local economy.

Mahalo,

Tanner Cook

A handwritten signature in black ink, appearing to read 'Tanner Cook', with a checkmark-like flourish at the beginning.

County of Kauai Planning Commission  
Lihue, Kauai, Hawaii

RE: Amendment to Special Management Area Use Permit (SMA(U)-83-4)  
Class IV Zoning Permit Z-IV-83-27, and Use Permit U-83-17  
to allow a permanent use of the outdoor dining expansion area

My Name: Susan M Rowley, trustee, Susan M Rowley Pourover Trust

I am owner of Prince Kuhio #214 on 5061 Lawaii Road, Koloa, HI 96756

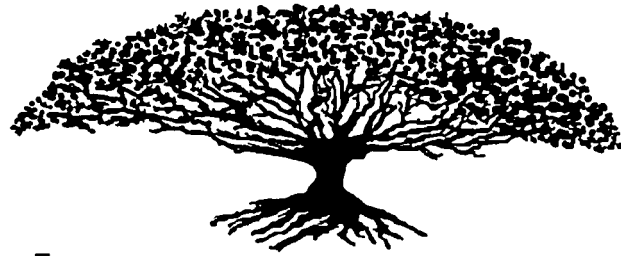
I am writing to you to **oppose** giving a modification to Condition No. 24 to allow permanent use of the outdoor dining expansion area at the Beach House Restaurant.

The reason I oppose it is that there is already a significant, recurring parking problem in the area whenever the restaurant has a lot of business. Often, diners will illegally use PK parking in the outside lot or in the parking garage and also, our own visitors cannot find parking near our residence when the restaurant is in session.

Making the outdoor expansion permanent, now that Covid is not as significant a problem, will assuredly mean that there will be more diners, more cars, and even more parking shortage.

Thank you, Susan M. Rowley, trustee

October 3, 2023



## KŌLOA COMMUNITY ASSOCIATION

PO Box 1313, Koloa, Hawaii 96756  
koloacommunityassociation@gmail.com

Kaua`i County Planning Department  
Subdivision Committee  
4444 Rice Street, Suite A473  
Lihue, HI 96766

In OPPOSITION to Beach House amendment to SPECIAL MANAGEMENT AREA USE PERMIT (SMA(u)-83-), CLASS IV ZONING PERMIT and USE PERMIT to allow a modification to Condition No. 24

October 4, 2023

Aloha Planning Commissioners and Planning Department Director,

The Koloa Community Association has several concerns regarding the negative impacts for Condo residents of the Prince Kuhio Shores. The positioning of the event tent has impacted the beautiful views and sunsets. To impact residents in such a way is truly a taking and will affect not only the value of their units but also has deep negative impact on the enjoyment of the properties.

The Beach House Restaurant should not be allowed expansion for an outdoor restaurant use and associated improvements. We hope to dissuade the commission from the Beach House request because of setback limitations and hard surfaces (concrete, etc) on Open Spaces.

We can understand temporary allowance during the Pandemic to keep businesses solvent but this was never meant to be permanent.

Also, Beach House should be reminded of the parking conditions—all Employee and VALET Parking will park in Lawai Beach Resort storied parking lots, and roadside and restroom stalls are for the public and for surfers, NOT for restaurant use. This is a condition from restaurant permit, and it is important that conditions be followed. They are inserted by the Planning Commission for good reason. These conditions, as you know, are inserted for good reason, they cannot be flagrantly dismissed or changed.

Exemplified in SMA requirements,

[https://www.kauai.gov/Portals/O/Planning/Special\\_Management\\_Area\\_SMAPermit.pdf?ver=2015-04-22-151449-267](https://www.kauai.gov/Portals/O/Planning/Special_Management_Area_SMAPermit.pdf?ver=2015-04-22-151449-267)

We oppose such plans for permanent commercial operations. Please uphold fairness for all, enjoyment and peace of homes, to achieve the least disruptive result for the health, safety, and quality of life for the community.

Please consider the needs of local residents in your approach to further south shore development.

Mahalo nui,

Jeri Di Pietro, President

Koloa Community Association

(808) 651-1332

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**From:** Serena Brier <serenabrier@gmail.com>  
**Sent:** Thursday, October 5, 2023 6:37 PM  
**To:** Planning Department  
**Subject:** Beach House Restaurant SMA Use Permit Amendment

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

*To: County of Kauai Planning Commission*

*I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.*

*I am a resident of Kauai and work for a small business owner. I provide fabric and light services for events across the island. I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business, my family, and my employers' families depend on the income generated from The Beach House weddings and events.*

*Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.*

*I sincerely hope that the Commission will approve this application.*

*Thank you,*

*Serena Brier*

*E.T Services, Wedding Designer/Event Assistant*

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**From:** Serena Brier <serenabrier@gmail.com>  
**Sent:** Friday, October 6, 2023 2:34 PM  
**To:** Planning Department  
**Subject:** Beach House Restaurant SMA Use Permit Amendment

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

*To: County of Kauai Planning Commission*

*I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.*

*I am a resident of Kauai and work for a small business owner. I provide fabric and light services for events across the island. I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business, my family, and my employers' families depend on the income generated from The Beach House weddings and events.*

*Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.*

*I sincerely hope that the Commission will approve this application.*

*Thank you,*

*Serena Brier*

*E.T Services, Wedding Designer/Event Assistant*

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**From:** LAYNE BECK <lbeckapple@gmail.com>  
**Sent:** Friday, October 6, 2023 12:24 PM  
**To:** Planning Department  
**Subject:** Beach House Restaurant SMA Use Permit Amendment

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To: County of Kauai Planning Commission

I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings. The Beach House location provides a safer, outdoor space for gatherings. There are few venues available that can provide this for visitors.

I am a resident of Kauai and a small business owner.  
I provide event decorations and special lighting services for events across the island.  
I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and  
generating more benefits to our economy than standard tourism.

My business, my family, and my associates' families depend on the income generated from The Beach House weddings and  
events. We have had several students work with us to help fund their college education. They have gained valuable skills while working on events at The Beach House.

Events at the Beach House do not interfere with the use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.  
I sincerely hope that the Commission will approve this application.

Thank you,  
Layne Torgerson  
ET Events Kauai  
Owner

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**From:** Tommy Tokioka <tommy@royal-t.net>  
**Sent:** Friday, October 6, 2023 7:44 AM  
**To:** Planning Department  
**Subject:** Letter of Support for the Beach House  
**Attachments:** Beach House- 2023.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha!

My name is Tommy Tokioka and I am writing to you in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant.

I humbly ask the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings. I am a lifetime resident of Kauai and a small business owner. I provide wedding services such as a wedding officiant, and musical performances for events across the island. I strongly believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business, my family, and my employees' families depend on the income generated from The Beach House weddings and events. Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing. I sincerely hope that the Commission will approve this application.

Please feel free to contact me with any questions or concerns that you have.

Much mahalo,

Tommy Tokioka  
Royal-T Weddings & Entertainment  
T-mail: [tommy@royal-t.net](mailto:tommy@royal-t.net)  
808.652.1500 mobile  
IG: @tommytokioka  
FB: tommy tokioka



**Email:** [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov)

**Subject Line:** Beach House Restaurant SMA Use Permit Amendment

**To:** County of Kauai Planning Commission

Aloha! My name is Tommy Tokioka and I am writing to you in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I humbly ask the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.

I am a lifetime resident of Kauai and a small business owner. I provide wedding services such as a wedding officiant, and musical performances for events across the island. I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business, my family, and my employees' families depend on the income generated from The Beach House weddings and events.

Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.

I sincerely hope that the Commission will approve this application.

Please feel free to contact me with any questions or concerns that you have.

Much mahalo,

Tommy Tokioka

Royal-T Weddings & Entertainment

T-mail: [tommy@royal-t.net](mailto:tommy@royal-t.net)

808.652.1500 mobile

IG: @tommytokioka

FB:tommy tokioka

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**From:** KUSTOM SOUNDS KAUAI <info@kskauai.com>  
**Sent:** Friday, October 6, 2023 5:19 PM  
**To:** Planning Department  
**Subject:** Beach House SMA Use Permit

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

My name is Michael Dandurand. I am the owner of Kustom Sounds Kauai, Inc. which provides ceremony sound, dance floor rental and Dj/emcee services for the Beach House Restaurant weddings and events. I am also president of the Kauai Wedding Professionals Association whose 37 members are local small business owners that work in the wedding industry here on Kauai. I have lived and worked on Kauai for 38 years. My step-son works with me in my business as well as 3 other Djs, my tech/set up person and my wife. My business supports these employees with the events coming from the Beach House and other locations.

First and foremost is the fact that the Beach House uses local workers, local suppliers and local vendors to execute these weddings. The Beach House uses over 20 different local vendors - florists, ministers, musicians, photographers, djs, decorators, photo booths, shave ice stands, not to mention the Beach House employees who bartend, serve, set up and break down. We all have a hand in making these exceptional events happen. And these events help pay our bills and allow us to live here. Let me repeat that. "WE LIVE HERE ON KAUAI". We spend our money HERE ON KAUAI. Many of us grew up here. Most will remain here for the rest of our lives.

Secondly, the Beach House is conscious about being a good neighbor and operating Pono. Weddings and events end way before the 10pm mandatory curfew. We always end our music at 9:30pm. The Beach House monitors our decibels as we perform. 65-68 decibels is our target. For comparison, 60 decibels is average conversation, 65 decibels is laughter, 78 decibels is a 2' wave crashing.

Thirdly, oceanfront wedding ceremony and reception locations are severely limited on the south shore. The Beach House is one of the only oceanfront locations where locals can have a wedding reception at a local restaurant. Corporate owned hotels are the only other option. Add to this the fact that many of us surf at PKs, Centers and Acid Drops. These are our surf spots. Having the opportunity to be married in front of our favorite surf spot cannot be dismissed.

The Beach House is an Iconic location for weddings on Kauai. It has stood the test of time and belongs to the people of Kauai and not the whim of non-resident landlords.

Personally, as a small business owner and on behalf of the 37 members of the Kauai Wedding Professionals Association, we hope that the Commission will approve the Beach House application.

Mahalo,

Michael Dandurand, Owner  
Kustom Sounds Kauai  
PO Box 3738  
Lihue, HI 96766  
(808) 245-7860 / cell (808) 639-0350  
KSKAUAI.COM

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**From:** Eric Torgerson <emtorg@gmail.com>  
**Sent:** Friday, October 6, 2023 1:37 PM  
**To:** Planning Department  
**Subject:** The Beach House Restaurant Events

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To: County of Kauai Planning Commission

This letter is in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. The Planning Commission should approve the amendment which allows The Beach House to continue utilizing its own waterfront lawn area for weddings & other tented events. My company, E.T.Services LLC, has provided event support services all across Kauai since 1983 for visitors & locals alike. These events generate positive experiences and coordinate with other local businesses to benefit the island economy significantly more than standard tourist fare. My business, my family and our associate's families depend on the income generated from The Beach House weddings and events. Events at the Beach House do not interfere in any significant way with the enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, snorkeling, etc. I sincerely hope that the commission will approve this application for the continuation of tented events on The Beach House lawn.. Thank you for your consideration of this matter.  
Eric Torgerson (owner/founder)  
ET Services, LLC

## Romio Idica

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**From:** Planning Department  
**Sent:** Sunday, October 08, 2023 5:54 PM  
**To:** Romio Idica  
**Cc:** Shanlee Jimenez  
**Subject:** FW: Beach House Restaurant SMA Use Permit Amendment

**From:** Serena Brier <serenabrier@gmail.com>  
**Sent:** Friday, October 6, 2023 2:34 PM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Subject:** Beach House Restaurant SMA Use Permit Amendment

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*To: County of Kauai Planning Commission*

*I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.*

*I am a resident of Kauai and work for a small business owner. I provide fabric and light services for events across the island. I believe these events generate positive tourist engagement with our community by supporting many local businesses and services and generating more benefit to our economy than standard tourism. My business, my family, and my employers' families depend on the income generated from The Beach House weddings and events.*

*Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.*

*I sincerely hope that the Commission will approve this application.*

*Thank you,*

*Serena Brier*

*E.T Services, Wedding Designer/Event Assistant*

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**From:** Xochitl Weigel <xochiweigel@gmail.com>  
**Sent:** Friday, October 6, 2023 2:56 PM  
**To:** Planning Department  
**Subject:** Beach House Restaurant SMA Use Permit Amendment  
**Attachments:** Beach House \_ Letters in Support.docx

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

*To: County of Kauai Planning Commission*

*I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.*

*I am a resident of Kauai and work with small businesses. I provide videography and photography services for events across the island.*

*I believe these events generate positive tourist engagement with our community by supporting many local businesses and services. I personally rely on these events to support my education as a 25 year old Kauai resident who works multiple jobs. The Beach House provides a reliable source of income for many young entrepreneurs and students.*

*Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.*

*I sincerely hope that the Commission will approve this application.*

*Thank you,*

*Xochitl Weigel*

*ET Events, Photographer/Media Manager*

**Email:** [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov)

**Subject Line:** Beach House Restaurant SMA Use Permit Amendment

**To:** County of Kauai Planning Commission

*I'm writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings. I am a resident of Kauai and work with small businesses. I provide videography and photography services for events across the island.*

*I believe these events generate positive tourist engagement with our community by supporting many local businesses and services. I personally rely on these events to support my education as a 25 year old Kauai resident who works multiple jobs. The Beach House provides a reliable source of income for many young entrepreneurs and students.*

*Events at the Beach House do not interfere with use or enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, and sunbathing.*

*I sincerely hope that the Commission will approve this application.*

*Thank you,*

*Xochitl Weigel*

*ET Events, Photographer/Media Manager*

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**From:** John Sittner - Hawaii <jsittner@ethoshawaii.com>  
**Sent:** Friday, October 6, 2023 3:11 PM  
**To:** Planning Department  
**Cc:** Romio Idica  
**Subject:** Fw: Beach House Agenda item communication  
**Attachments:** Kauai Planning Commission-Beach House.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

I have attached a letter for inclusion in the Planning Commissioner's packet. Will you please confirm receipt and acknowledgement that it will be in their packet?

Mahalo,

John Sittner  
President  
Ethos Hawaii Inc.  
(808) 742-6000

Business Office:  
PO Box 636  
Salt Lake City UT 84110

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**From:** Romio Idica <ridica@kauai.gov>  
**Sent:** Friday, October 6, 2023 7:07 PM  
**To:** John Sittner - Hawaii <jsittner@ethoshawaii.com>  
**Subject:** RE: Beach House Agenda item communication

Aloha John,

Please forward a copy to [planningdepartment@kauai.gov](mailto:planningdepartment@kauai.gov) for proper intake.

Thank you,

Romio

---

**From:** John Sittner - Hawaii <jsittner@ethoshawaii.com>  
**Sent:** Friday, October 06, 2023 3:00 PM  
**To:** Romio Idica <ridica@kauai.gov>  
**Subject:** Beach House Agenda item communication

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha Romio,

I have attached a letter for inclusion in the Planning Commissioner's packet. Will you please confirm receipt and acknowledgement that it will be in their packet?

Mahalo,

John Sittner  
President  
Ethos Hawaii Inc.  
(808) 742-6000

Business Office:  
PO Box 636  
Salt Lake City UT 84110



The Beach House, 5022 Lawa'i Rd.

6 Oct 2023

Planning Commission  
County of Kaua'i Planning Department,  
4444 Rice Street, Suite 473  
Lihu'e, Hawai'i 96766

Re: The Beach House AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-83-4), CLASS IV ZONING PERMIT Z-IV-83-27, and USE PERMIT U-83-17

Aloha,

My wife, Kathi, and I are owners at Kuhio Shores 5050 Lawai Rd.

I respectfully request that the above referenced application for conversion of a temporary use to a permanent use be denied for the following reasons:

1. The use is incompatible with the intent and requirements of the Special Management Area.
  - a. The proposed vinyl covered, aluminum frame building is a structure. It may not have footings and a floor, but it is firmly attached to the ground, is designed to remain in place for extended periods of time, and to withstand bad weather including high winds.
  - b. It is within the 100-foot setback.
  - c. It creates a visual barrier to the ocean from public areas.
2. The expansion structure will increase the dining and hospitality area by more than 30%.
3. While they encourage people to use the Koloa trolley, this does not appear to be heavily used. Instead, their customers frequently park in our next-door resident parking lot or along the street. A 30% increase in such traffic will make an already-difficult situation even worse.
4. The structure creates a visual barrier of the ocean, sunset, and beach for multiple condos at Kuhio Shores, thus reducing their appeal and value.
5. The Beach House staff is often not successful in keeping their patrons from imbibing, urinating, and parking on Kuhio Shores property.

Following the pandemic, many of the owners and I were in support of the Beach House having a temporary opportunity to expand their serving area and to make a faster come-back from the devastation that Covid-19 brought to all restaurants on Kauai. The Beach House is a value to

*John C. Sittner 5050 Lawa'i Rd Koloa, HI 96756*  
*(808) 742-6000*

The Beach House, 5022 Lawa'i Rd.

Kuhio Shores and to everyone on Kauai. However, the need for temporary recovery measures is now past.

I am particularly concerned that, in spite of the Beach House management's assurances of their desire to be good neighbors, they are not acting in good faith to deal with the issues or to be honest in their presentations. In a forum with owners on Oct. 2, we were told that the primary reason for needing the permanent status for the tent is because they have been having to apply for a special liquor license for each event they hold. This is not true. In April 2022, the Beach House requested, and received, an extension of their liquor license to the grass areas around the restaurant. Although their Manager indicated they have experienced a drop in event booking, the Structure has remained up, nearly full time. They said that they would be certain that the noise was not onerous, yet on this past Wednesday, the event guests' shouting was so loud that it woke up people sleeping on the East side of Kuhio Shores.

The Beach House has a long history of using smaller tent structures for outdoor events which can easily be put up and taken down by one or two people. The current structure requires six or more staff to construct and dismantle. The smaller tent is a much more appropriate size for "occasional" use by small groups.

In closing, I respectfully request that the permanent status of the use permit and zoning change be denied. Please do not allow the Beach House to increase their occupancy by 30% or more at the expense of the financial and quiet enjoyment of the Kuhio Shores owners.

Out of respect for commitments already made, I think that it would be appropriate to extend the current permit for three months and that they only be allowed to provide the outdoor space for the 15 or 20 events that are already booked in 2024. It is my further request that they be required to install the building and take it down no more than 2 days before and 2 days after an event.

Sincerely,

*John Sittner*

*John C. Sittner 5050 Lawa'i Rd Koloa, HI 96756  
(808) 742-6000*

The Beach House, 5022 Lawa'i Rd.

6 Oct 2023

Planning Commission  
County of Kaua'i Planning Department,  
4444 Rice Street, Suite 473  
Lihu'e, Hawai'i 96766

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*John C. Sittner 5050 Lawa'i Rd Koloa, HI 96756  
(808) 742-6000*

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**From:** Haythem Abid <abidhaythem@gmail.com>  
**Sent:** Saturday, October 7, 2023 11:33 PM  
**To:** Planning Department  
**Subject:** Testimony Submission: The Beach House AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT  
**Attachments:** Haythem Abid Testimony- The Beach House AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

Please see attached testimony and confirm receipt. Thank you for your time.

Re: The Beach House AMENDMENT TO SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-83-4), CLASS IV ZONING PERMIT Z-IV-83-27, and USE PERMIT U-83-17

Dear Committee,

My wife and I are owners at Kuhio Shores, 5050 Lawai Road.

As an owner, I spoke to Erica and we are trying to come up with some sort of agreement and improvement to the conditions that were previously implemented by the committee.

The Beach House Restaurant wants to be a good neighbor and we want the same thing. That said, this must be done by action and not just talk. Our testimony is provided not to deny the Beach House its application but to improve the conditions based on the facts provided by the restaurant and the testimony of the owners. The Beach House did break many of their conditions on multiple occasions, contrary to what their attorney has stated. Owners will testify that we have a significant parking issue from the guests attending the wedding. I personally witnessed the valet staff rushing to get parking on the street and I almost was hit by the car driven by the valet person. We also have had Beach House wedding guests trespassing and urinating at our property. The weddings went past 9:30 on multiple occasions as well. These testimonies should not be taken lightly since they should automatically result in denial of the application. However, we want to be good neighbors and support this application if we can come to agreement on the matters below. Please note that we discussed conditions with Erica but we did not agree on the number events per month and on the security guard. These are the only two conditions we request the committee to consider and help us implement:

- Beach House agrees to limit special events on the lawn to 4 per month or 48 per year. Whichever is easier since we do understand that some months are busier than others.

⇒ The beach house submitted their event calendar for 2024 and they keep claiming that they will not have as many events as they had last year and they are currently at 15 calendar events for 2024. The current condition of 20 events /month is equivalent to 240 per year. This is very concerning, unreasonable and will be very disturbing if it ever happens. Asking for such a high number is inconsistent with their future calendar and does not show the willingness to be a good neighbor.

- Beach House agrees to end music on the lawn at 9:00 pm and hire a security guard for all their events.

⇒ If the beach house wants to be a good neighbor, they should have a security guard so they can prevent parking and trespassing issues. This is necessary and should be part of the wedding cost.

We urge the committee to consider the negative impact on Kuhio Shores on allowing the beach house virtually an unlimited number of events and allowing them to go until 9:30 on an Island that is known for being quiet and peaceful. We are a business as well. We do contribute immensely to the local economy and pay our fair share of taxes. Most of our guests expect a peaceful vacation while on island.

**We have already agreed with the Beach House as to the following:**

- Beach House guarantees that any expansion of permanent structure, none of which is planned, would have to be approved by the Planning Department. The Planning Department is not allowing any additional buildings or changes to buildings which exist on the shoreline.
- Beach House agrees to have our on-site event manager manage the volume of events so noise levels remain at or under requirements set forth by the county of Kauai.
- Beach House agrees to continue tracking decibel levels for all events and submitting semi-annual decibel reports to the Planning Department as per the terms of the temporary permit.
- Beach House agrees to provide advance notice of special events on the lawn to the Kuhio Shores liaison, subject to reasonable change.
- Beach House agrees to use trolley, shuttle, or bus service for all events, unless guests' accommodations are within walking distance of Beach House, the number of guests for the special event is less than ten people, or transportation services are unavailable on the date of the event.
- Beach House agrees to have our on-site manager communicate with event guests that the Kuhio Shores lawn is private property. All Beach House staff will be trained on this as well.
- Beach House agrees to strike the tent within two days before or after an event upon reasonable availability of staff and safe weather conditions. Beach House agrees to continue having the tent down the maximum number of days per year.
- Beach House agrees to notify OpenTable reservations that restaurant parking is exclusively valet or public parking.
- Kuhio Shores owners agree to communicate any issues related to a Beach House special event to the General Manager within 24 hours of said event so as to address and resolve any problems immediately.

If we cannot agree on these conditions, this application should be simply denied because The Beach House failed to meet the conditions imposed for the temporary permit as explained above.

Thank you for your time and consideration.

Mahalo!

Haythem Abid & Ashley Tate

Kuhio Shores 319

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- ⇒ The beach house submitted their event calendar for 2024 and they keep claiming that they will not have as many events as they had last year and they are currently at 15 calendar events for 2024. The current condition of 20 events /month is equivalent to 240 per year. This is very concerning, unreasonable and will be very disturbing if it ever happens. Asking for such a high number is inconsistent with their future calendar and does not show the willingness to be a good neighbor.
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We urge the committee to consider the negative impact on Kuhio Shores on allowing the beach house virtually an unlimited number of events and allowing them to go until 9:30 on an Island that is known for being quiet and peaceful. We are a business as well. We do contribute immensely to the local economy and pay our fair share of taxes. Most of our guests expect a peaceful vacation while on island.

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If we cannot agree on these conditions, this application should be simply denied because The Beach House failed to meet the conditions imposed for the temporary permit as explained above.

Thank you for your time and consideration.

Mahalo!

Haythem Abid & Ashley Tate

Kuhio Shores 319

## Romio Idica

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**From:** Planning Department  
**Sent:** Sunday, October 08, 2023 5:51 PM  
**To:** Romio Idica  
**Cc:** Shanlee Jimenez  
**Subject:** FW: Beach House SMA Use Permit

**From:** KUSTOM SOUNDS KAUAI <info@kskauai.com>  
**Sent:** Friday, October 6, 2023 5:19 PM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Subject:** Beach House SMA Use Permit

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

My name is Michael Dandurand. I am the owner of Kustom Sounds Kauai, Inc. which provides ceremony sound, dance floor rental and Dj/emcee services for the Beach House Restaurant weddings and events. I am also president of the Kauai Wedding Professionals Association whose 37 members are local small business owners that work in the wedding industry here on Kauai. I have lived and worked on Kauai for 38 years. My step-son works with me in my business as well as 3 other Djs, my tech/set up person and my wife. My business supports these employees with the events coming from the Beach House and other locations.

First and foremost is the fact that the Beach House uses local workers, local suppliers and local vendors to execute these weddings. The Beach House uses over 20 different local vendors - florists, ministers, musicians, photographers, djs, decorators, photo booths, shave ice stands, not to mention the Beach House employees who bartend, serve, set up and break down. We all have a hand in making these exceptional events happen. And these events help pay our bills and allow us to live here. Let me repeat that. "WE LIVE HERE ON KAUAI". We spend our money HERE ON KAUAI. Many of us grew up here. Most will remain here for the rest of our lives.

Secondly, the Beach House is conscious about being a good neighbor and operating Pono. Weddings and events end way before the 10pm mandatory curfew. We always end our music at 9:30pm. The Beach House monitors our decibels as we perform. 65-68 decibels is our target. For comparison, 60 decibels is average conversation, 65 decibels is laughter, 78 decibels is a 2' wave crashing.

Thirdly, oceanfront wedding ceremony and reception locations are severely limited on the south shore. The Beach House is one of the only oceanfront locations where locals can have a wedding reception at a local restaurant. Corporate owned hotels are the only other option. Add to this the fact that many of us surf at PKs, Centers and Acid Drops. These are our surf spots. Having the opportunity to be married in front of our favorite surf spot cannot be dismissed.

The Beach House is an Iconic location for weddings on Kauai. It has stood the test of time and belongs to the people of Kauai and not the whim of non-resident landlords.

Personally, as a small business owner and on behalf of the 37 members of the Kauai Wedding Professionals Association, we hope that the Commission will approve the Beach House application.



Mahalo,

Michael Dandurand, Owner

Kustom Sounds Kauai

PO Box 3738

Lihue, HI 96766

(808) 245-7860 / cell (808) 639-0350

[KSKAUAI.COM](http://KSKAUAI.COM)

## Romio Idica

---

**From:** Planning Department  
**Sent:** Sunday, October 08, 2023 5:55 PM  
**To:** Romio Idica  
**Cc:** Shanlee Jimenez  
**Subject:** FW: The Beach House Restaurant Events

**From:** Eric Torgerson <emtorg@gmail.com>  
**Sent:** Friday, October 6, 2023 1:37 PM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Subject:** The Beach House Restaurant Events

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To: County of Kauai Planning Commission

This letter is in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. The Planning Commission should approve the amendment which allows The Beach House to continue utilizing its own waterfront lawn area for weddings & other tented events. My company, E.T.Services LLC, has provided event support services all across Kauai since 1983 for visitors & locals alike. These events generate positive experiences and coordinate with other local businesses to benefit the island economy significantly more than standard tourist fare. My business, my family and our associate's families depend on the income generated from The Beach House weddings and events. Events at the Beach House do not interfere in any significant way with the enjoyment of the coastal area. The Beach House lawn continues to be used by locals on a daily basis for surfing, fishing, snorkeling, etc. I sincerely hope that the commission will approve this application for the continuation of tented events on The Beach House lawn..

Thank you for your consideration of this matter.  
Eric Torgerson (owner/founder)  
ET Services, LLC

---

**From:** Tiffany Lee <tiffany@thebeachhousekauai.com>  
**Sent:** Monday, October 9, 2023 8:24 AM  
**To:** Planning Department  
**Subject:** Beach House Restaurant SMA Use Permit Amendment

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

To: County of Kauai Planning Commission

Aloha, my name is Tiffany Lee, I am a graduate of Kamahameha Schools & I have been the Event Director at The Beach House since 2016. I was born & raised in Hawaii & have worked in the travel industry since the 90s. It is with extreme pride that I'm able to serve not only the Hawaiian people, the local community of Kauai, but also share our culture, our aloha, our mele, our food & most importantly our Beach House Ohana to so many from both near & far.

Culture is at the heartbeat of what we do. All Beach House events are executed entirely by Kauai residents. A respected Kahu officiates our weddings, a well known Kauai Grammy nominated slack key guitarist provides the ambiance and our network of Kauai fisherman & Hawaiian farms provide our local chefs with the necessary ingredients to feed our guests. Local florists source flowers from Kauai growers and rentals from local Kauai vendors provide the best accessories to highlight our beloved south shore venue. All of our celebrations are photographed by local Kauai photographers & videographers & our cakes are baked with aloha by a local bakery in Puhii. It is our people & our ohana that make our events at The Beach House so special.

While we pride ourselves on how well we treat our guests -- we believe that aloha works both ways. We share our authentic aloha effortlessly and we require it in return from our guests. This aloha extends to our neighbors. We take great measures to ensure our noise ordinance is honored, our property & surrounding areas are well maintained & our local community respected. Not only is it our kuleana but also our guests.

I am writing in support of the Amendment to the Special Management Area Use Permit for The Beach House Restaurant. I urge the Planning Commission to approve this Amendment to allow The Beach House Restaurant to continue utilizing its lawn area for special events and weddings.

With aloha,  
Tiff

**Tiffany Lee**  
Director of Sales  
808-380-7746  
[HELP FEED MAUI](#)  
[Website](#) | [Instagram](#) | [Pinterest](#) | [Schedule A Call](#)

*the knot*  
BEST OF  
WEDDINGS  
2023



## DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
REIKO MATSUYAMA, MANAGING DIRECTOR

October 9, 2023

Public testimony and/or agency comments received by the Planning as of October 9, 2023, 9:00 am for the October 10, 2023, Planning Commission meeting regarding the following item:

- F.2.c. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-2) to allow reconstruction of a new single-family dwelling unit and associated improvements on a parcel situated at the along the makai side of Weke Road in Hanalei Town, situated approximately 350 feet east of its intersection with Malolo Road, and further identified as 5252 Weke Road, Tax Map Key: (4) 5 5-002:007, containing an area of approximately 54,667 square feet = **HALE KAUAI TRUST.**

---

**From:** Caren Diamond <caren@malamakuaaina.org>  
**Sent:** Sunday, October 8, 2023 6:27 PM  
**To:** Planning Department; Kaaina Hull  
**Subject:** Testimony re SMA (U)-2024-2 PC Agenda F2.c.  
**Attachments:** Malama Kua aina PC comments re SMA (U)2024-2.pdf

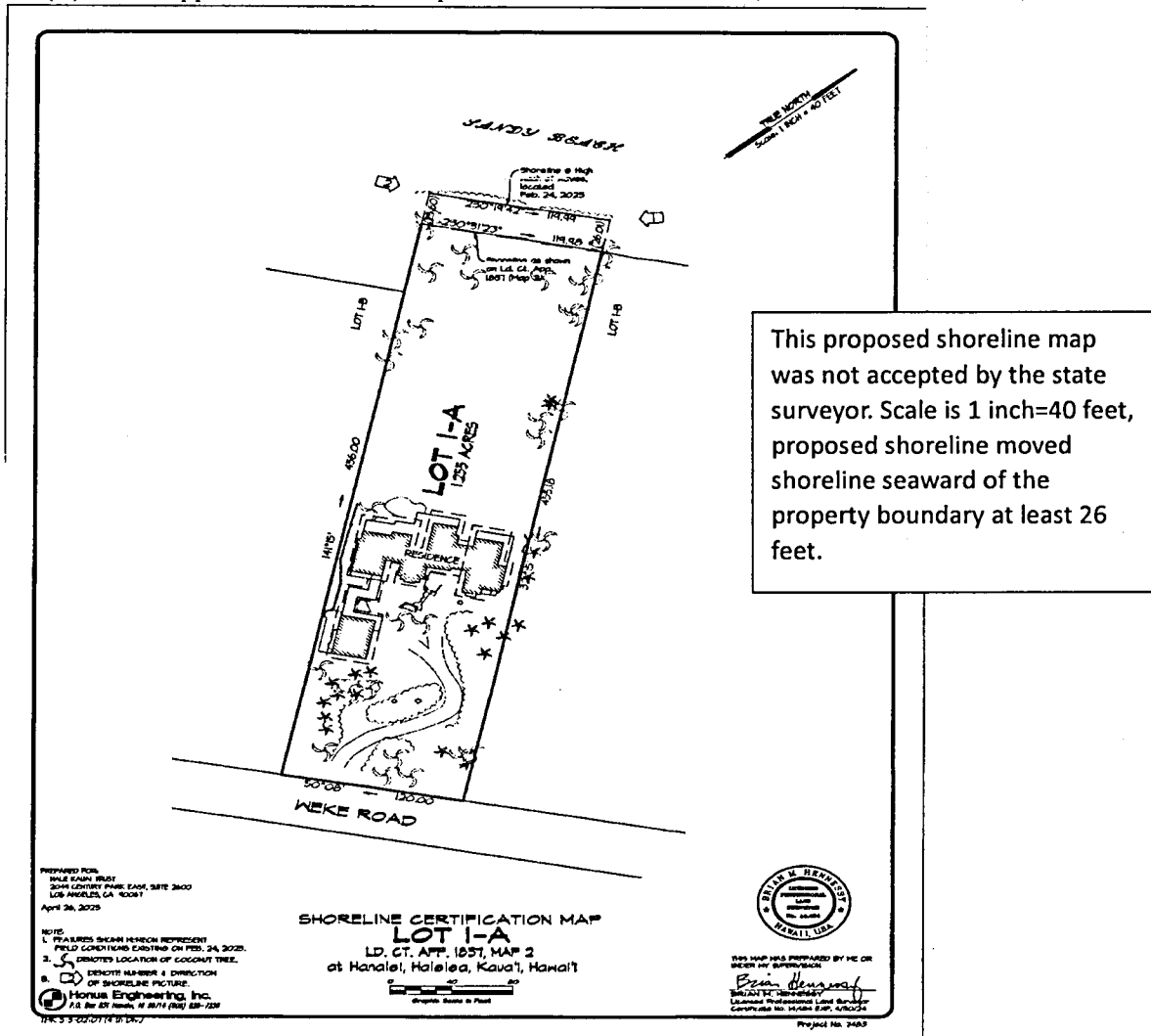
CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha, please distribute the attached testimony regarding SMA (U)-2024-2 , PC Agenda item F2.c. to the Planning Commission.

Mahalo, Caren Diamond

County of Kauai Planning Commission  
4444 Rice Street, Suite A473,  
Lihue, Hawaii, 96766  
planningdepartment@kauai.gov  
SMA (U)-2024-2 PC Agenda F2.c.  
10/10/2023

Planning Commission Chair DeGracia, Vice Chair Apisa and Commissioners, it is premature for the Planning Commission to evaluate SMA(U)- 2024-2 as the certified shoreline location is presently undetermined. The proposed shoreline location was not accepted by the state resulting in serious inaccuracies in the SMA(U)2024-2 application information provided . See Attachment A, letter from Reid Siarot, State Surveyor.



In fact, the proposed shoreline artificially extended the oceanfront property boundary seaward by more than 26 feet from the Land Court boundary determined in 1837. The maps and information provided in the SMA application omit a certified shoreline location, instead showing the same proposed shoreline location which was not accepted by the state. The proposed shoreline utilized encroaching vegetation to try to move the shoreline location seaward, at least 26 feet seaward of the makai property boundary. This vegetation

encroachment is required by the state to be removed and the shoreline to be reevaluated after the removal of the encroachments making all proposed setback distances in this application erroneous. Use of the maps used in the SMA(U)-2024-2 application would result in a landowner setting his preferred shoreline, privatizing the public beach seaward of the property boundary, impacting public trust resources and uses. The vegetation encroachments have resulted in loss of invaluable public trust resources at this iconic Hanalei Bay location . The applicant's failure to include a certified shoreline map results in a meaningless setback location for the commission to evaluate this SMA and the negative impacts to public trust resources, i.e., the shoreline and extensive beach loss. The application and maps provided should be required to be amended with a certified shoreline location used or the application withdrawn or rejected based on inaccurate and incomplete and misleading information. The application includes multiple maps, but none are a certified shoreline map and all extend the seaward property boundary seaward giving the landowner the public beach.

Any approvals of this SMA application would conflict with the purpose of the county SMA regulations which state:

**It is the State policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawai'i. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to publicly-owned or used beaches, recreation areas, and natural reserves, by dedication or other means.**

Without an accurate location of the shoreline, this is impossible. It also is not possible to establish an accurate setback distance with the shoreline location unknown. In this application it is especially grievous as the **proposed shoreline location submitted is at least 26 feet seaward of the property boundary. Repeating, yes, the proposed shoreline map and the maps submitted in this application take what has always been public beach moving the shoreline at least 26 feet seaward from the property boundary located in the 1837 Land Court boundary.**

The state did not accept proposed shoreline application KA-475 and most certainly the planning commission and department do not have the authority to determine shoreline locations or substitute a landowner's designation over the state surveyor . There are copious vegetative encroachments on the public beach here that must be rectified. The proposed shoreline was published in the OEQC Bulletin May 23, 2023. The State Surveyor and his team conducted a shoreline site visit June 13, 2023 and by letter dated July 19, 2023 responded with the following:

*This shoreline was inspected on the ground on June 13, 2023 and as a result, the shoreline could not be determined because of the heavy vegetation along the shoreline area. Before we can proceed, DLNR's Hawai'i Administrative Rules §13-222-19 require all of the vegetation seaward of the makai property boundary be removed. Please contact the Kauai District Land Office (KDLO) of the Department of Land and Natural Resources at 274-3491 for any questions on resolving the shoreline encroachment. After the vegetation encroachment is removed, we will conduct another site inspection to verify the removal of the shoreline encroachment and to reevaluate the shoreline.*

The following 3 maps in the application show the privatization of public trust resources that the applicants proposal includes. The maps move the property boundary at least 26 feet seaward(despite non-approval from the state); approval of SMA(U)2024-2 would result in invaluable public beach loss.



Luca AO.1

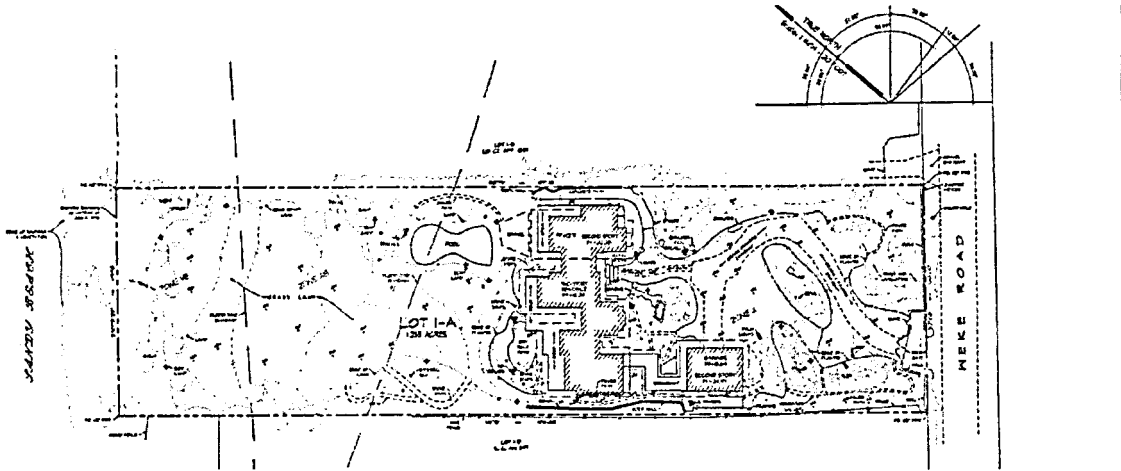
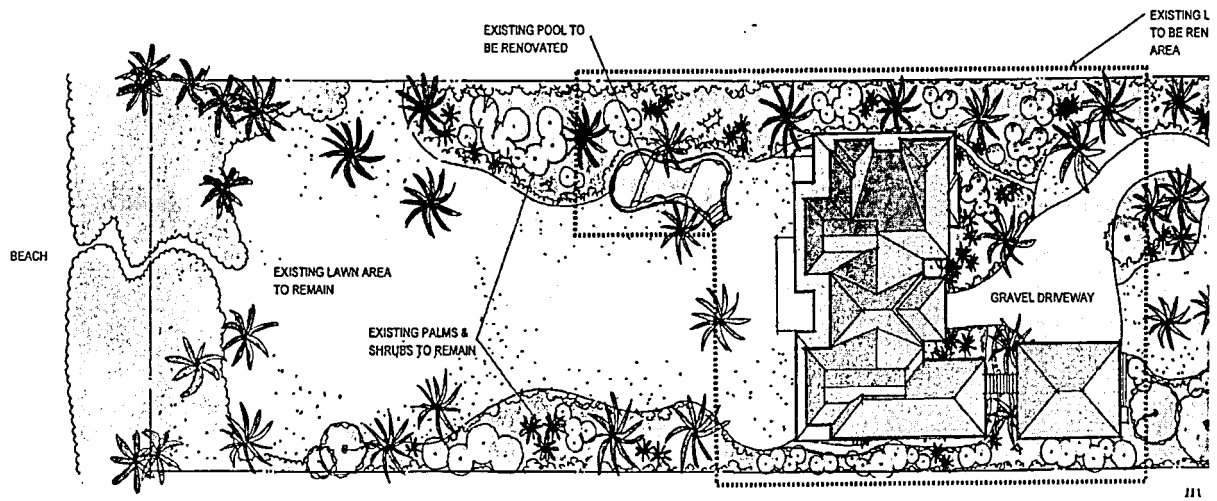
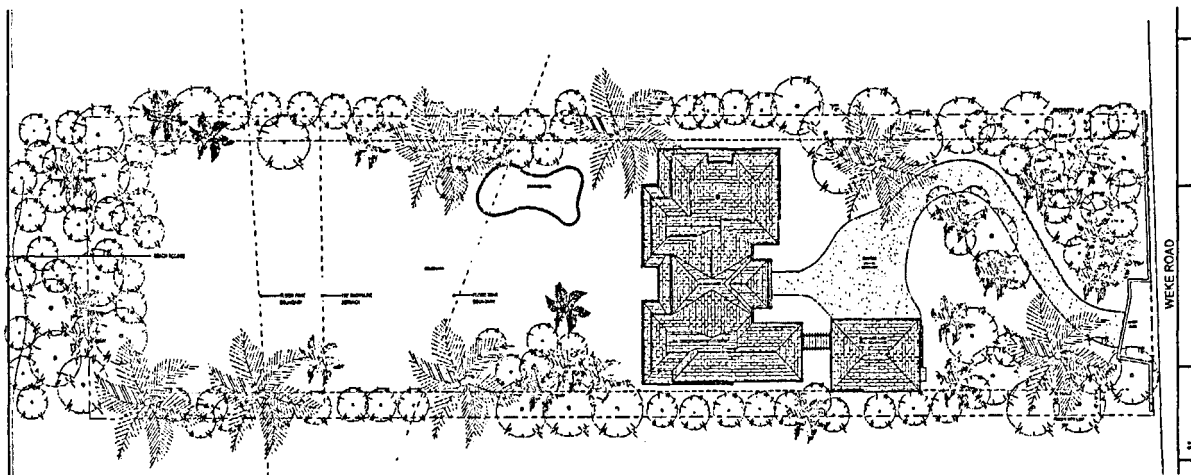


Exhibit E-2 L-1



Luca A1-1



## SECTION 5. PERMITS REQUESTED AND REQUIRED.

*5.1 SMA Permit. The reconstruction of the residence on the Subject Property (the "Development") will take place within the SMA given the Subject Property is adjacent to the shoreline as provided for in recent amendments to Hawaii Revised Statutes Chapter 205A.*

Comment: this development as proposed includes lands below the shoreline and must be redesigned to exclude the public beach seaward of the 1837 Land Court boundary

*8.4 Policies. The Project will comply with the Policies contained in Section 1.4 of the Kaua'i General Plan as follows:*

*p. Protect Access to Kaua'i's Treasured Places. The Project will have no impact on the public's access to streams, the shoreline, trails, recreational areas, or places associated with Hawaiian religious, cultural, or traditional practices.*

Comment: This project does not comply with the policies contained in section 1.4 of the Kauai General Plan as the project as designed will have substantial negative impacts on the public's access to the shoreline, 26 feet across the entire seaward width of this project is a major amount of beach loss.

### *Heritage Resources.*

*8.5 Objectives & Actions by Sectors. The ten (10) Sectors contained in Section 3.0 of the Kaua'i General Plan (which represent the areas that must be considered in policy implementation), and the Project compliance therewith, are as follows' The Project will have no substantial visual impacts on surrounding lands, and no substantial impacts on the Historic Sites, on Hawaiian cultural or traditional practices, or on access to streams, shorelines, areas associated with Hawaiian cultural or traditional practices, recreational areas or other special places. The Project will not negatively impact any special features or resources that are shown on the Heritage Resource Map.*

Comment: This project would have substantial negative impacts on Hawaiian cultural and traditional practices, the shoreline and loved recreational beach area.

## SECTION 10. SMA CONSIDERATIONS.

*10.1 Recreational Resources. There are no public recreational opportunities taking place on the Subject Property. Therefore, the proposed Development will not have any negative impact on any public recreational opportunities located on the Subject Property. The reconstruction of the residence will not overburden the use of, nor restrict access to, the shoreline in the vicinity of the Subject Property. The Subject Property is near to public beach access to Hanalei Bay via Waioli Beach Park. Therefore, the Development will have no direct impact on the existing public beach access.*

Comment: This project would have substantial negative impacts to recreational resources because it takes what has always been part of Hanalei Bay's public beach and moves the property boundary seaward.

*10.2 Historic Resources. The proposed Development will not have any significant impact on historic, cultural or archaeological resources (if any) located on or near the Subject Property.*

Comment: This project would have substantial negative impacts on historic, and cultural resources, the beach.

*10.4 Coastal Ecosystems. The Subject Property, being located near the shoreline, is part of the coastal ecosystem of that area. However, the proposed Development will have no significant impact on this ecosystem. The Development will be constructed and maintained so that any erosion or*

*increased runoff will be maintained on site and will not be allowed to enter into the nearshore area given the shoreline setback requirements. No aspect of the Development will endanger the coastal ecosystem or have any negative impacts on it. Although the Kauai Coastal Erosion Study notes accretion fronting the Subject Property; the Development will still be located well beyond the one hundred (100) feet from a State Certified Shoreline...*

Comment: This project **in fact is not located from the certified shoreline**, making the setback distance unknown. The proposed location is too far seaward negatively impacting the beach ecosystem.

*10.8 Beach Protection/Marine Resources. The Subject Property is located along the shoreline. The Development will have no impact on any shoreline or beach areas, or on any open space areas along the shoreline given the setback requirement of one hundred (100) feet. The Development will not involve any development within the beach or coastal area which would have any negative impact on marine or coastal resources. The Applicant is not aware of any existing fishponds, seawalls or revetments in the vicinity of the Subject Property.*

Comment: This project would have substantial shoreline and beach impacts as it allocates the public beach to the landowner by moving the seaward boundary (established in 1837 )at least 26 feet seaward, privatizing invaluable public beach resources. Despite the state requiring removal of the encroaching vegetation and requiring another site visit to establish an accurate shoreline location, this application uses the rejected location. The vegetation here acts as a seawall with all the same negative impacts.

#### **SECTION 12. NATIVE HAWAIIAN ISSUES.**

*The proposed Development will not detrimentally affect access to any streams, the shoreline or other adjacent areas, or gathering along any streams, the shoreline or in the ocean. There are no known religious practices taking place within the Subject Property. The proposed Development will have no negative impact on any cultural or historic sites or resources located within the Subject Property. c; The Development will" not detrimentally affect: access to streams; access to the shoreline or shoreline areas;*

Comment: This project would have substantial negative impacts to the shoreline and shoreline areas as the application currently privatizes public beach.

Hanalei Bay is an amazing invaluable natural resource. Please require the applicant to obtain a valid certified shoreline in which to base the setback distance and SMA application information and approval on and to comply with the requirements of the state DLNR's Hawai'i Administrative Rules §13-222-19 requiring all of the vegetation seaward of the makai property boundary be removed before moving forward on SMA (U)-2024-2 with a valid certified shoreline location.

Thank you, Caren Diamond



Mālama Kuaʻāina  
Post Office Box 536  
Hanalei, Hawai'i 96714  
(808) 652-0780  
[www.malamakuaaina.org](http://www.malamakuaaina.org)

Attachment A  
Comments from the State Surveyor regarding the proposed  
shoreline location

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



KEITH A. REGAN  
COMPTROLLER  
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN  
DEPUTY COMPTROLLER  
KA HOPE LUNA HO'OMALU HANA LAULĀ

**STATE OF HAWAII | KA MOKU'ĀINA O HAWAII'**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELawe LAULĀ**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

Response refer to:  
K-086(23)  
KA-475

July 19, 2023

Mr. Brian Hennessy  
Honua Engineering, Inc.  
P.O. Box 851  
Hanalei, Hawai'i 96714-0851

Dear Mr. Hennessy:

Subject: Shoreline Certification Application  
TMK 5-5-02: 07  
Owner: Hale Kauai Trust/Laura A. Zwicker  
Hanalei, Halele'a, Kaua'i, Hawai'i

This shoreline was inspected on the ground on June 13, 2023 and as a result, the shoreline could not be determined because of the heavy vegetation along the shoreline area. Before we can proceed, DLNR's Hawai'i Administrative Rules §13-222-19 require all of the vegetation seaward of the makai property boundary be removed. Please contact the Kauai District Land Office (KDLO) of the Department of Land and Natural Resources at 274-3491 for any questions on resolving the shoreline encroachment.

After the vegetation encroachment is removed, we will conduct another site inspection to verify the removal of the shoreline encroachment and to reevaluate the shoreline.

Should you have any questions on this application, please call me at 586-0390.

Very truly yours,

A handwritten signature in black ink, appearing to read "Reid K. Siarot".

REID K. SIAROT  
State Land Surveyor

cc: Rebecca Anderson  
Ian Hirokawa  
KDLO

Attachment B

Comments regarding KA-475 proposed shoreline location

Reid Siarot, State Land Surveyor  
1151 Punchbowl Street  
Room 210  
Honolulu, HI 96813

June 9 , 2023

KA-475 MAP PHOTOS	5-23-23	5252 Weke Road Purpose:	Hale Kauai Trust/ Laura A. Zwicker	5-5-02:07
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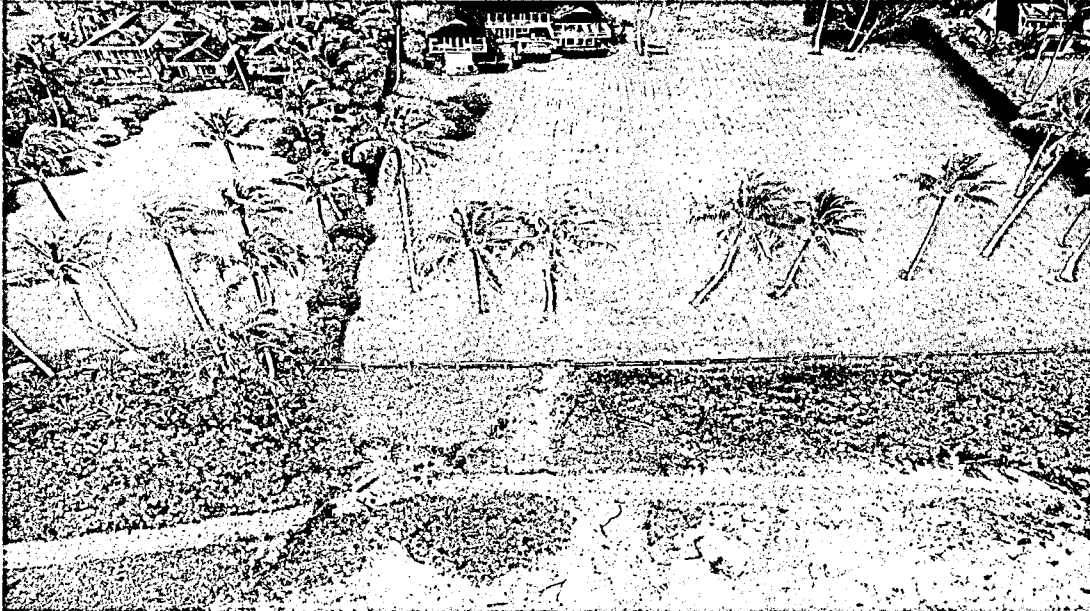
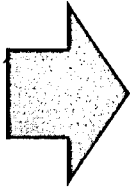
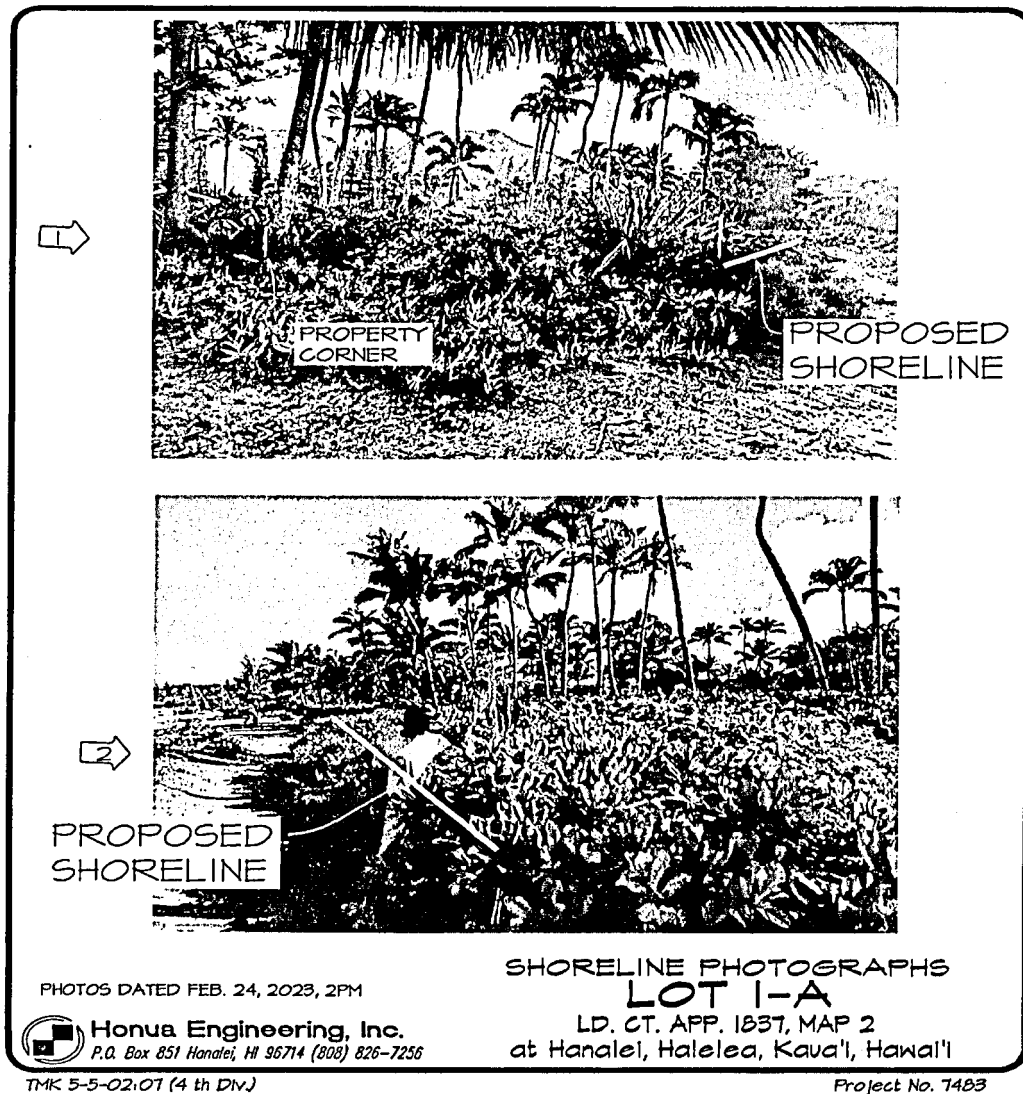


Photo 1 taken January 19, 2021 shows the planted vegetative barrier (on the left )and debris lines from the wash of the waves on the adjoining lot (to the west) where not artificially planted with a vegetative barrier



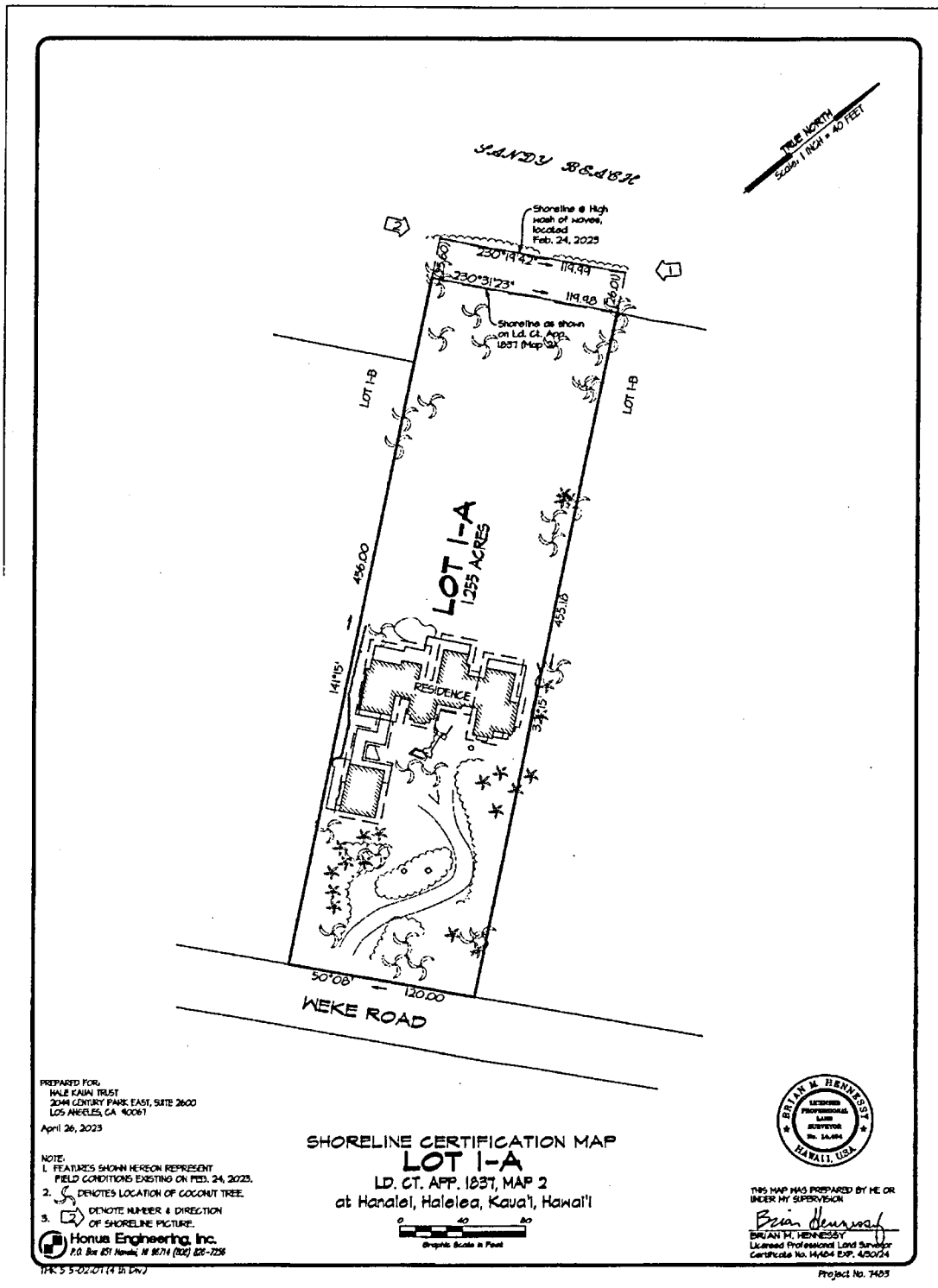
Photo 2 taken January 19, 2021 clear debris lines show the high wash of the waves on the adjoining lot (to the east) where not artificially blocked by the vegetative barrier. In the middle of these lots is a prolific vegetative wall.

February 24, 2023 Honua Photographs submitted proposed shoreline is at the edge of thick, verdant, salt tolerant vegetation (as shown in photo #2) encroaching on the sandy beach. The edge of vegetation was located rather than the upper reaches of the wash of the waves. The survey places the proposed shoreline seaward of the property corner (as shown in survey photo



The proposed shoreline as marked is arbitrary and does not represent the upper reaches of the wash of the waves. The use of these artificially induced plants as an indication of the shoreline is incorrect as the use of this false vegetation line in making a shoreline determination would allow landowners to benefit from effectively erecting an artificial barrier extending their land further makai. Contrary to the objectives behind HRS Chapter 205A, judicial precedent and the legislative purpose behind Haw. Rev. Stat. ch. 205A, this proposed shoreline locates the shoreline where salt-tolerant plants had been planted and grown and prevent a debris line from forming indicative of the true highest wash of the waves. The current proposed shoreline appears to incorrectly allow for the manipulation of the shoreline based upon artificially induced and enhanced vegetation.





Map for KA-475 submitted proposes to move the shoreline seaward. Are they claiming accretion? This is vegetative encroachment not accretion.

The vegetation has encroached exponentially, creating a thick vegetative barrier that blocks the beach transit corridor hindering safe lateral access along the beach during high waves. This salt tolerant vegetation created artificial barriers obscuring the true upper reaches of the wash of the waves. The encroaching vegetation hinders the public right of access, especially during times of high surf.

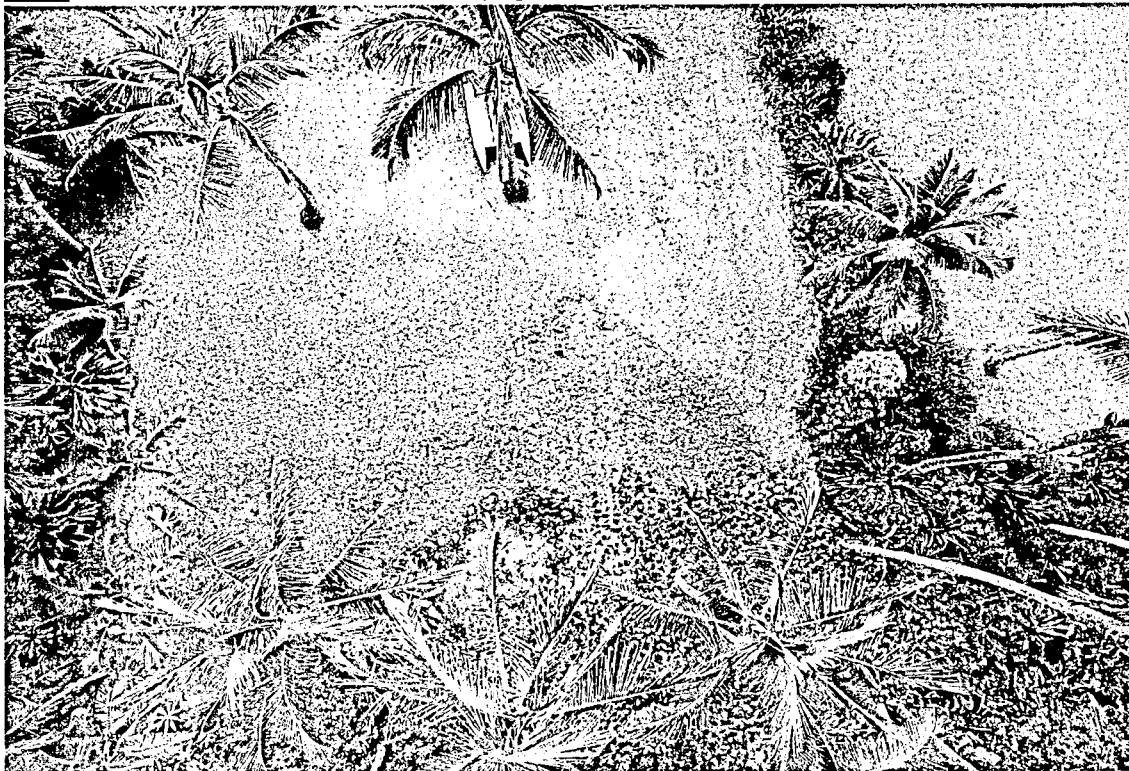
*§501-33 Accretion to land. [(a)] An applicant for registration of land by accretion shall prove by a preponderance of the evidence that the accretion is natural and permanent and that the land accreted before or on May 20, 2003; provided that:*

- (1) The State may register land accreted along the ocean after May 20, 2003; and*
- (2) A private property owner whose eroded land has been restored by accretion after May 20, 2003, may file an accretion claim to regain title to the restored portion.*

*[(b)] The applicant shall supply the office of planning and sustainable development with notice of the application, for publication in the office's periodic bulletin in compliance with section 343-3(c)(4). The application shall not be approved unless the office of planning and sustainable development has published notice in the office's periodic bulletin.*

*[(c)] As used in this section, "permanent" means that the accretion has been in existence for at least twenty years. The accreted portion of the land shall be considered within the conservation district. Land accreted after May 20, 2003, shall be public land except as otherwise provided in this section. Prohibited uses are governed by section 183-45. [L 1985, c 221, §2; am L 2003, c 73, §4; am L 2012, c 56, §2; am L 2021, c 152, §16 and c 153, §9]*

Photo 3 shows the clear debris lines where not blocked by vegetative encroachments



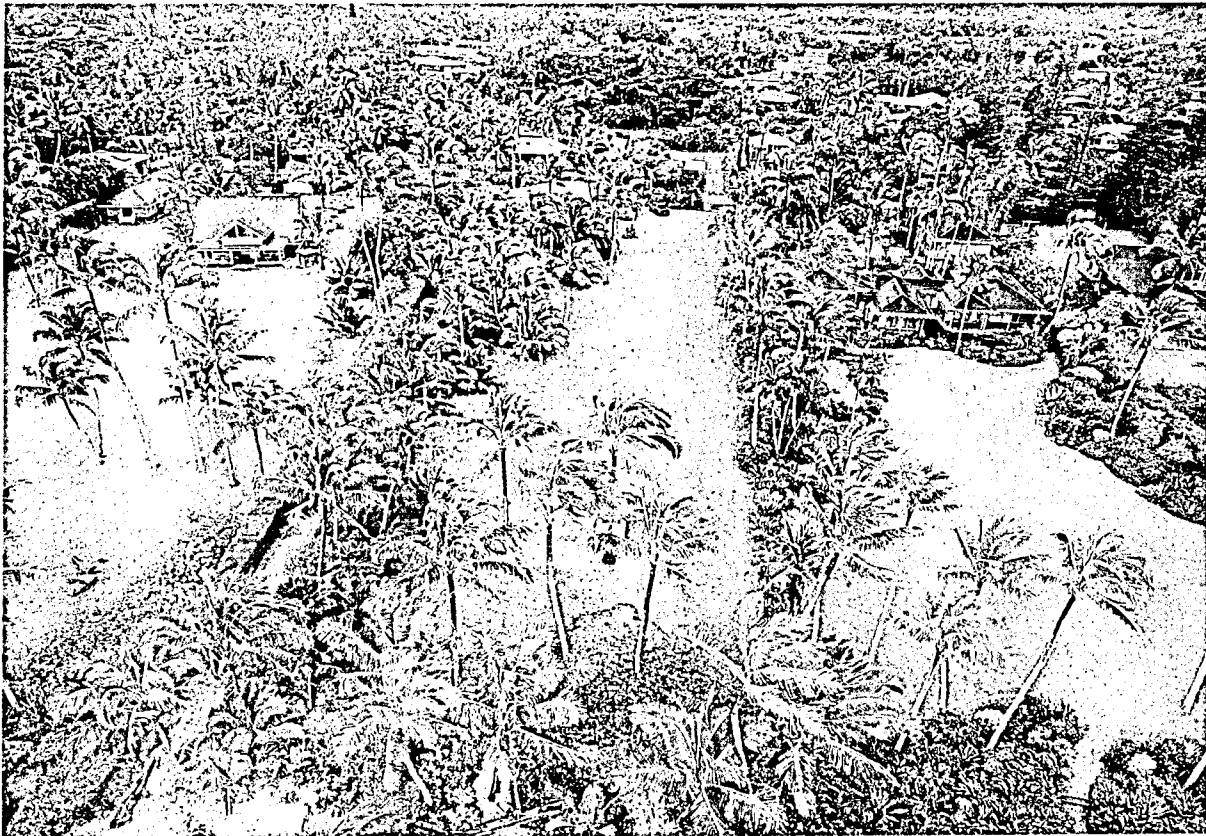


Photo 4 waves wash far down the pathway and adjoining lot (previously both were one lot) leaving winter wave debris

The proposed shoreline does not correctly reflect the "upper reaches of the wash of the waves at high tide during the season of the year in which the highest wash of the waves occurs," as provided in HRS § 205A-1. The current proposed shoreline appears to incorrectly allow for the manipulation of the shoreline based upon artificially induced and enhanced vegetation and is therefore not in accordance with HRS § 205A and should be revised or rejected. Moreover, pursuant to Revised Hawai'i Statutes 13-222-19, the property owner should be required to resolve the vegetative encroachments that interfere with the natural shoreline processes before the shoreline is certified.

Respectfully,

*Caren Diamond*

Caren Diamond  
Executive Director  
Mālama Kua'āina  
Post Office Box 536  
Hanalei, Hawai'i 96714  
(808) 652-0780  
[www.malamakuaaina.org](http://www.malamakuaaina.org)

## DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



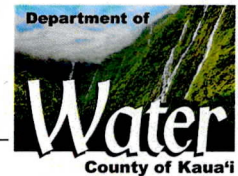
DEREK S.K. KAWAKAMI, MAYOR  
REIKO MATSUYAMA, MANAGING DIRECTOR

October 9, 2023

Public testimony and/or agency comments received by the Planning as of October 9, 2023, 9:00 am for the October 10, 2023, Planning Commission meeting regarding the following item:

- F.2.d. SPECIAL MANAGEMENT AREA USE PERMIT (SMA(U)-2024-3) to allow construction of a new comfort station and associated site improvements within the Ha'ena State Park in Ha'ena, along the makai side of Kuhio Highway, further identified as Tax Map Key: (4) 5-9-008:001 and containing a total area of 50.38 acres = **STATE OF HAWAII, DEPARTMENT OF LAND & NATURAL RESOURCES.**

**ENGINEERING DIVISION**  
DEPARTMENT OF WATER, COUNTY OF KAUAI  
MICHAEL K. HINAZUMI, P.E.



JOSEPH E. TAIT,  
MANAGER AND CHIEF ENGINEER

DATE: October 9, 2023

TO: Planning Department  
Kaaina Hull, Director ( Dale )

SUBJECT: Zoning Class IV Z-IV-2020-7 Use Permit U-2020-6, Amendment to Current  
Farm-Worker Housing, Tax Map Key: (4) 4-9-009:012 Unit 27, Joseph  
Schwartz, Applicant

**DOW COMMENTS:**

The Department of Water (DOW) has no objections to the proposed Class IV Zoning Permit Z-IV-2020-7 and Use Permit U-2020-6 applications.

There is no existing County water service to the parcel. Water service for the proposed development is not available from the DOW. Requests for water meters will be dependent on the adequacy of the source, storage and transmission facilities at that time.

*Regina Flores*

Regina Reyes-Flores, P.E.  
Water Resources and Planning Section

Oct 9, 2023

Date

Z-IV-2020-7, 4-9-009-012 Unit 27, 20231009, Joseph Schwartz/RF:dlv

# DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
REIKO MATSUYAMA, MANAGING DIRECTOR

October 9, 2023

Public testimony and/or agency comments received by the Planning as of October 9, 2023, 9:00 am for the October 10, 2023, Planning Commission meeting regarding the following item:

J      Communications



## Kaaina Hull

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**From:** Planning Department  
**Sent:** Wednesday, September 20, 2023 2:40 PM  
**To:** Kaaina Hull  
**Subject:** FW: Dear Planning Commission Regarding Kauai's burst to build so called "affordable"

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**From:** Daiva Friedrich <daivapacific@gmail.com>  
**Sent:** Wednesday, September 20, 2023 11:02 AM  
**To:** Planning Department <planningdepartment@kauai.gov>  
**Cc:** Mayor <Mayor@kauai.gov>; feliciacowden@gmail.com  
**Subject:** Dear Planning Commission Regarding Kauai's burst to build so called "affordable"

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Dear Planning Commission,

As the head of your department are you paid a regular salary or is this a volunteer position?

Is it true that the recent sudden build happening in halted developments due to environmental notices are now moving forward on old permits without consideration since Governor Green emergency for affordable housing?

I.E. condo's above Port Allen, homes being built in Eleele and Hanapepe Heights, Waimea? Coco Palms and parts of Poipu?

Technically the islands need low income housing since median price is too high, \$800- \$million is where the range for affordable currently reaches. Affordable is simply catering to the developers again!!

Importantly **low income housing** is what type of homes that are needed to be built on Kauai! We do not need more neglect of the LAND & IT'S PEOPLE!! PLEASE do not treat homes like art just because one can get a great price it becomes its value. Maintain an inventory of homes for the working class please, LOW INCOME!

Daiva Friedrich  
Retired Kauai Real Estate Agent of 17 years  
[daivapacific@gmail.com](mailto:daivapacific@gmail.com)

The mission of the Office of the Mayor is to carry out the vision for Kaua'i by directing the management of all executive departments, offices and agencies. The Office of the Mayor also serves as a liaison between the County Council and administration and facilitates the County's State and Federal legislative agendas.

We support all boards and commissions, respond to citizen concerns, and coordinate internal communications among departments and external communications with the general public and partnering government agencies. In addition, the Office of the **Mayor manages the county's capital improvement program.**