

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 9, 2021

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 20MD-092

Maui

Issuance of Right-of-Entry Permit to Kapalua Resort Association to Remove a Rock Seawall and Concrete Steps, Honolua, Lahaina, Maui, Tax Map Key: (2) 4-2-004: Seaward of 025 and 059.

APPLICANT:

Kapalua Resort Association, a Hawaii nonprofit corporation

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes (HRS), as amended; and 13-5-22, P-8 (B-1), Hawaii Administrative Rules (HAR).

LOCATION:

Portion of Government lands of the State of Hawaii situated at Honolua, Lahaina, Maui, identified by Tax Map Key: (2) 4-2-004: Seaward of 025 and 059, as shown on the attached map labeled Exhibit A.

AREA:

2,000 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Unencumbered.

CHARACTER OF USE:

Beach purposes.

TERM OF RIGHT-OF-ENTRY:

Duration of four months to begin upon execution of Right-of-Entry (ROE) permit.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with HAR § 11-200.1-16 (a)(2) and the Exemption List for the Department of Land and Natural Resources (DLNR) reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to: General Exemption Type 4, "Minor alterations in the conditions of land, water, or vegetation", Part 1, Item No. 5 that states, "Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, native wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however that this exemption shall not apply to vegetation that is likely to be invasive or for tree plantings for which harvesting is planned or is reasonably foreseeable;" and General Exemption Type 6, "Demolition of structures, except those structures that are listed on the National Register or Hawaii Register of Historic Places", Part 1, Item No. 2 that states, "demolitions and removal of existing structures, facilities, utilities, and other improvements, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic preservation Act of 1966, 16 U.S.C. §§470 et. Seq., as amended, or HRS Chapter 6E." The exemption notification is attached as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

1. Comply with all conditions of State DLNR Office of Conservation and Coastal Lands Site Plan Approval, MA 21-17 (Exhibit E);
2. Comply with all conditions of County of Maui Department of Planning Special Management Area Permit, SM 3 2020/0010 (Exhibit D); and
3. In consideration of concerns raised by the DLNR Division of Aquatic Resources related to soil erosion control:
 - a. Ensure implementation of industry standard Best Management Practices at all times during the project;
 - b. Work shall be conducted at low tide to the extent practicable and no work shall occur during high surf or ocean conditions that create unsafe conditions; and
 - c. No heavy equipment shall operate in, or enter, the ocean.

REMARKS:

Kapalua Bay has a crescent shaped beach bounded by two rocky headlands. The southern corner of the bay has a seawall that follows the shoreline, and it is failing and hazardous to the public. Nearby there is a concrete slab stairway that goes from the headland to the beach. The stairs are sloped and a slipping hazard to the public. In addition, a large sinkhole has formed underneath the lawn behind the seawall creating a hazard to the public. The seawall and concrete steps to the beach need to be removed because they are failing and hazardous. Photos of the site are attached as Exhibit C.

Applicant is requesting a right-of entry to allow a contractor to remove the rock seawall and the sloping concrete stairs that extend a few feet seaward onto the beach, followed by native vegetation restoration work mauka of the shoreline. The overall purpose of the project is to remove hazards and restore the beach adjoining the seawall to its natural condition.

The seawall is approximately 78 feet long, and the concrete steps cover about 100 square feet of total area. Applicant has stated that neither the seawall nor the staircase is listed on any historic registry or of any historical significance.

The only work being proposed in the Conservation District is the removal of the seawall and the adjacent concrete steps leading down into the sandy beach area; the native vegetation restoration work and removal of the other hardscape will be mauka of the seawall and on private property outside of the Conservation District.

The project will begin mauka of the shoreline, where hardscape and fill behind the seawall will be removed in layers. As a best management practice, the seawall will be removed last after serving as a barrier and preventing the release of sediment into

nearshore waters while the upland work is being performed. In addition, applicant intends to hire an archeological monitor to be onsite during excavation to remove the wall and the fill behind it.

Tracked equipment will be used on the shoreline to remove the seawall and hardscape, but its staging is limited by the sinkhole. All equipment will operate above and inland of the mean high tide line within the shoreline and no equipment will enter the ocean. After removal of the seawall, steps and various hardscape mauka of the shoreline, the area mauka of the former seawall will be smoothed out so that native, drought tolerant, climate adapted plants can be established on the embankment. Small signs will direct pedestrians away from the former steps area to a more environmentally appropriate beach access pathway in the middle of the bay. Photos and site drawings are attached as Exhibit C.

Applicant estimates that the work will take about two weeks. Staff is requesting a four month right-of-entry to cover any contingencies that may arise.

On September 15, 2020, the County of Maui Planning Department issued Emergency SMA Emergency Permit Approval SM3 2020/0010, Shoreline Setback Approval 2020/0012, and Environmental Assessment Exemption 2020/0053. A copy of the County permits is attached as Exhibit D.

On October 16, 2020 the DLNR Office of Conservation and Coastal Lands (OCCL) issued a Site Plan Approval, number MA 21-17, which is attached as Exhibit E. The permit emphasizes that for any and all vegetated areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in HRS sections 205A-1 and 115.

Applicant states that the restoration project is supported by the Chair of the West Maui Preservation Association. The letter of support is attached as Exhibit F.

Staff sent a copy of this submittal to the DLNR Division of Aquatics Resources (DAR), OCCL, State Historic Preservation Division (SHPD), Maui County Planning Department, and the Office of Hawaiian Affairs (OHA) for their review and comment, and they responded as follows:

Agency	Comment
DLNR--DAR	Comments attached as <u>Exhibit G</u> .
DLNR--OCCL	No response.
DLNR--SHPD	Responses attached as <u>Exhibit H</u> .
County of Maui Planning Dept.	No objections.
OHA	No response.

DAR's comments included a request that all construction on this project be delayed until after the winter rainy season to reduce the possibility of a high rainfall event that could

result in the release of sedimentation into the bay, potentially damaging a living coral reef. SHPD requested that Applicant prepare an archaeological monitoring plan for SHPD review. After receiving and reviewing the archaeological monitoring plan, SHPD accepted Applicant's plan and agreed that the ROE permit process might continue. Both letters from SHPD are attached as Exhibit H.

Staff recommends gratis for this ROE because this is a demolition and beach restoration activity that is likely to benefit the public beach resource.

RECOMMENDATION: That the Board

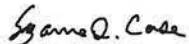
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-16(a)(2), HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Kapalua Resort Association covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Seiko Machida
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



EXHIBIT A



EXHIBIT B

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

KALEO L. MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS) and Section 11-200.1-16 (a)(2) of the Hawaii Administrative Rules (HAR)

Project Title: Issuance of Right-of-Entry Permit to Kapalua Resort Association to Remove a Rock Seawall, Honolua, Lahaina, Maui, Tax Map Key: (2) 4-2-004: Seaward of 025 and 059

Project / Reference No.: PSF 20MD-092 and ROE 4478

Project Location: Honolua, Lahaina, Maui, Tax Map Key: (2) 4-2-004: Seaward of 025 and 059

Project Description: The Kapalua Resort Association ("Applicant") is hiring a contractor to remove a failing seawall, stairs to the beach and various hardscape mauka of the shoreline. There are no plans to replace the seawall or hardscape. Applicant needs a right-of-entry (ROE) permit at the subject location because the seawall and stairs are located on the shoreline. The total area that will be used for the removal activity is estimated at 2,000 square feet. All equipment will operate above and inland of the mean high tide line within the shoreline and no equipment will enter the ocean.

After removal of the seawall, concrete steps, and other hardscape mauka of the shoreline, the land area mauka of the shoreline will be smoothed out so that native, drought tolerant, climate adapted plants can be planted and established on the embankment. Small signs will direct pedestrians away from the area to a more environmentally appropriate beach access pathway in the middle of the bay.

Chap. 343 Trigger(s): Use of State Land

EXHIBIT "B"

Exemption Class No.: In accordance with Hawaii Administrative Rules (HAR) Section 11-200.1-16 (a)(2) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on March 3, 2020 and non-substantively revised on November 10 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to: General Exemption Type 4, "Minor alterations in the conditions of land, water, or vegetation", Part 1, Item No. 5 that states, "Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, native wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however that this exemption shall not apply to vegetation that is likely to be invasive or for tree plantings for which harvesting is planned or is reasonably foreseeable;" and General Exemption Type 6, "Demolition of structures, except those structures that are listed on the National Register or Hawaii Register of Historic Places", Part 1, Item No. 2 that states, "demolitions and removal of existing structures, facilities, utilities, and other improvements, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic preservation Act of 1966, 16 U.S.C. §§470 et. Seq., as amended, or HRS Chapter 6E."

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant?:

No, the request is a one-time ROE to demolish and remove an existing rock seawall and a concrete staircase that leads down to a sandy beach.

The impact of this project will be to permanently remove a damaged seawall and prevent it from creating hazardous conditions and debris on the beach, and to permanently remove hazardous and unnecessary concrete steps in the shoreline.

Action May Have
Significant Impact on
Particularly Sensitive
Environment?:

No, staff believes there would be no significant impact to sensitive environmental or ecological receptors. The project entails

removing a seawall and concrete steps from the shoreline and other hardscape mauka of the shoreline, then revegetating the upland slope with native plants. The location of the concrete steps will be restored to its natural condition after removal of the steps, and beach users will be directed by small signs to another beach access point. MDLO staff cites exemption class 4, part 2, item 1: minor alteration in the conditions of land, water, or vegetation; and upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent further damage from occurring and to restore the topographical features and biological resources.

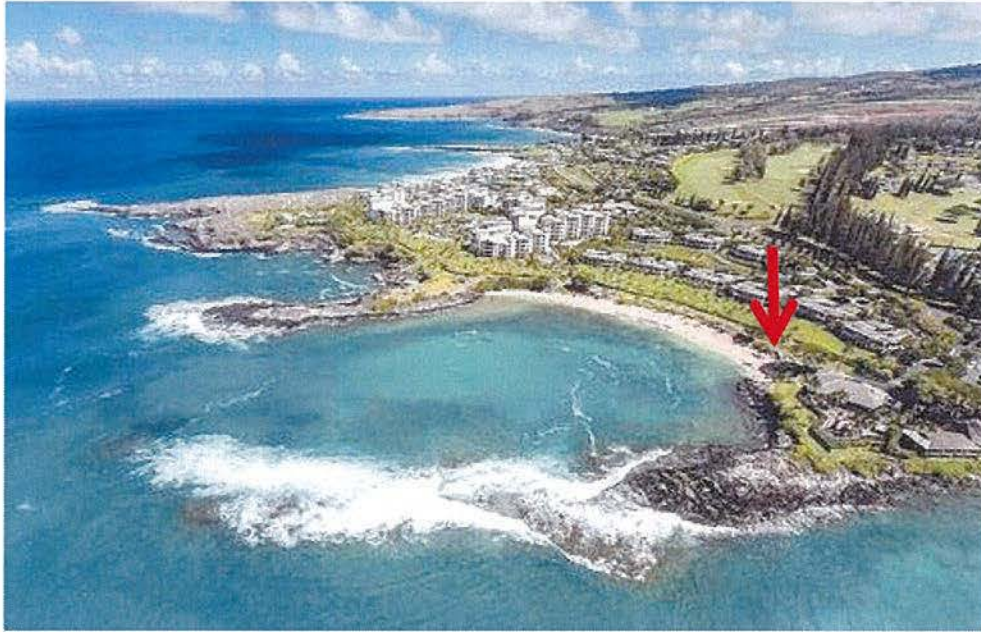
Consulted Parties

Consulted with the Department of Land and Natural Resources (DLNR) Division of Aquatics Resources (DAR), Office of Conservation and Coastal Lands (OCCL), and State Historic Preservation Division (SHPD); County of Maui Department of Planning, and the Office of Hawaiian Affairs (OHA). DAR requested that all construction be delayed until after the winter rainy season to reduce the possibility of a high rainfall event that could result in the release of sedimentation into the bay, potentially damaging a living coral reef. SHPD accepted an archaeological monitoring plan from applicant and agreed that the ROE permit process might continue. County of Maui Planning had no objections. OCCL and OHA did not respond.

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT C



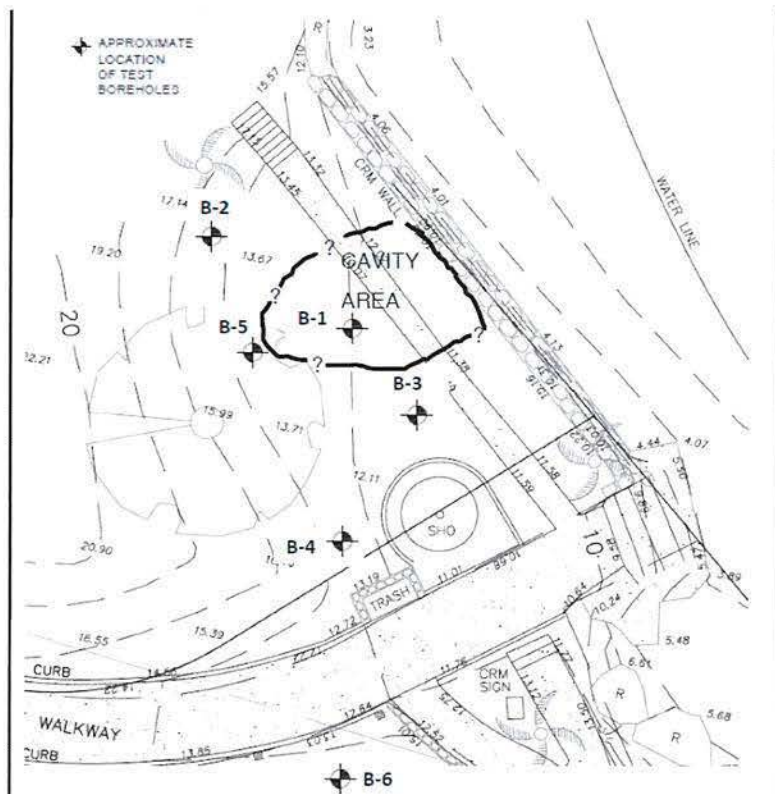
Southern portion of Kapalua Bay to be restored



A man is standing directly atop the sinkhole.



Fissure cracks and a sinking walkway are indicative of the sink hole and its risk of collapse.



Underground sink hole behind the seawall



Breach in the wall (top) stabilized in 2016 with wood slats (bottom) and geotextile fabric.
(Photos: December 2015, March 2016).



Photo of wall October 2020



Concrete steps to be demolished and removed.

EXHIBIT D

MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

September 15, 2020

Mr. Frank Violi, Jr.
Director, Kapalua Resort Association (KRA)
Post Office Box 105
Lahaina, Hawaii 96761

Mr. Paul Subrata
Maui Land & Pineapple Co., Inc.
200 Village Road
Lahaina, Hawaii 96761

Dear Mr. Violi, Jr. and Mr. Subrata:

**SUBJECT: APPROVAL OF A SPECIAL MANAGEMENT AREA (SMA)
EMERGENCY PERMIT FOR SINKHOLE REMEDIATION AND
NATIVE PLANT RESTORATION AT KAPALUA BAY,
LAHAINA, ISLAND OF MAUI, HAWAII;
TMK(S): (2) 4-2-004:025 AND (2) 4-2:004:059 (SM3 2020/0010)
(SMX 2020/0090) (SSA 2020/0012) (EAE 2020/0053)**

The Department of Planning (Department) is in receipt of your SMA application dated March 5, 2020, and subsequent request for an SMA Emergency Permit dated September 4, 2020. The Department understands you are the authorized representative for the property owners; the Kapalua Resort Association (KRA) and Maui Land and Pineapple Co., Inc. (MLP).

A meeting was held onsite on August 18, 2020, to develop consensus on appropriate remedial actions and to assess the existing conditions to determine potential near-term consequences that may result during the upcoming winter high-swell season. The attendees included Kai Nishiki, Chair of the West Maui Community Plan Advisory Committee; Lisa and Ed of Vares Contracting; Coastal Planners LLC; K2N Engineering staff; Frank Violi, Jr. who is the Director of the KRA; and Maui County Staff Planner Kurt Wollenhaupt. Tara Owens of the University of Hawaii Sea Grant Program was also consulted and is familiar with the site and situation and has been subsequently involved in Planning Department meetings.

The seawall at the southern corner of Kapalua Bay has a large ocean-facing breach near the wall's center and a five-foot deep sinkhole has formed covering about 220 square feet of shaded lawn area mauka of the seawall based on soil testing. This initial wall breach formed in 2015 and was temporarily stabilized; however, a second gap has formed where the stones in the wall next to the stairs have dislodged. The lawn area in risk of collapse is actively used by the public who are in imminent danger if the sinkhole collapses or if the seawall fails. This risk increases during the winter from storm surges and/or high waves. In its current state, a collapse onto the public beach would endanger public safety,

jeopardize marine life and water quality, damage nearby coral reefs, and risk injury to users of Kapalua Bay. The situation therefore conforms to the requirements for a SMA Emergency Permit.

According to the SMA Rules for the Maui Planning Commission (Commission), Section 12-202-16, SMA Emergency Permit Procedures, Coastal Planners LLC, representing KRA and MLP, submitted a written request for a SMA Emergency Permit to respond and remedy the situation, as described below:

1. **Date of permit request:** September 4, 2020.
2. **Date Verbal SMA Emergency Permit was issued:** No verbal approval was requested nor granted.
3. **Applicant and Project name, address, and telephone number:**

Frank Violi, Jr., Director
Kapalua Resort Association
P.O. Box 105
Lahaina, Hawaii 96761

Tel: [REDACTED]

Email: [REDACTED]

Mr. Paul Subrata
Maui Land & Pineapple Co., Inc.
200 Village Road
Lahaina, Hawaii 96761

Tel: [REDACTED]

Email: [REDACTED]

4. **Tax Map Key (TMKs) No.:** (2) 4-2-004:025 and 059
5. **Statement of imminent danger posed and substantial harm that would occur to the structure if the permit is not issued:**

Currently, a sinkhole has formed underneath the lawn area adjacent to the shower and mauka of the existing rock seawall. The sinkhole occupies approximately 220 square feet of a flat, shaded area that is commonly used by the public for picnicking, resting and lounging. Groups often occupy the shaded lawn area that is underlain by a five-foot deep sinkhole. Fissure cracks have formed in the lawn indicating its collapse may be forthcoming (i.e., imminent).

The seawall at the site is also in a state of failure. The seawall built in the early 1970s has no structural reinforcement and consists of dry stacked rocks with mortar on the ocean face of the wall and between some of the rocks. There is no apparent foundation for the wall. The seawall has been breached in two locations; seaward of the sinkhole, and where it meets the sloping stairs to the beach. The breach in the center of the seawall extends vertically from near its base to its crown. The breach is covered with slats to prevent rocks from tumbling onto the beach or injuring beach users, but this is an unacceptable long-term remedy.

A second breach has formed where the wall meets the concrete stairs that lead to the beach. The stairs are sloping and are a serious slipping hazard. Site observations during the August visit by the Planning Department noted that beach visitors were having an extremely difficult time navigating the stairs. Given their angle and the water that runs down them from the shower pad and its overflow, the stairs present a hazard to the public. Slipping on the sloping stairs when they are covered with sand grains and shower drain water would be dangerous, particularly for children and the elderly.

The seawall's failure or the sinkhole's collapse during the winter would be catastrophic as there would be no way to stage equipment for a response. The likelihood of large wave events or storm surge increases significantly during the winter months given the site's northwestern exposure. The seawall's failure, rocks tumbling onto beach users, or pedestrians or users of the shaded area falling into the sinkhole upon its collapse is an *unacceptable risk* and would likely result in injury.

Environmentally, the seawall's failure and/or sinkhole's collapse could release sediment and debris resulting in water pollution, harm to turtles and other marine life, and significant damage to the coral reefs that fringe the bay and rocky headland.

6. **Permitted remedial measures:**

The proposed plan is to implement the following remedial actions that are intended to be permanent, regularly maintained improvements, as listed below:

Remove hardscape including the existing seawall, stairs, shower pad and man-made hazards; redirect foot traffic with appropriate signage and/or roping to more environmentally benign beach access points in the middle of Kapalua Bay; recontour the area immediately behind the existing seawall to continue the natural grade; and restore the southern corner of Kapalua Bay by planting native plants and dune-building vegetation to preserve beach resources.

Specific actions include:

- 1) Hardscape to be removed: (See **Exhibit 1** for hardscape removal areas.)
 - o Rock & mortar seawall: ~ 78+/- linear feet;
 - o Stairs to beach: ~ ten feet wide x ~ ten feet long;
 - o Stairs to restaurant: ~ four feet wide x ~ six feet long;
 - o Shower pad: ~ six-foot diameter; and,
 - o Walkways: ~ 3 to ~ 4 feet wide and of various lengths.
- 2) Area mauka of the wall to be recontoured;
 - o Posts, rope, and signs installed to direct foot traffic away from hazards to two beach access points in the center of Kapalua Bay that are of gentler grade, and
- 3) Plant native vegetation with temporary drip irrigation, such as:
 - o Pohinahina, Akulikuli, Aki'aki' grass and Pohuehue beach morning glory.

Best management practices (BMPs) would be fully implemented during all phases of the restoration work. This includes diverting storm runoff away from the work site, placing silt and debris fences along the seaward face of the wall and on the beach, not using heavy equipment in

the water, stock piling and covering any excavated materials such as rocks, sod or soil to prevent unintended dispersal, placing these materials inland and away from the shoreline, and recontouring the backshore to a natural grade that minimizes the potential release of sediment into marine waters.

A qualified archaeologist would be retained to monitor the site. Should cultural resources be encountered, work would cease and the Department of Land and Natural Resources-State Historic Preservation Division would be contacted immediately.

For public safety purposes, access along the access path, shoreline, and beach fronting the wall would be blocked during the restoration work. Pedestrian access to Kapalua Bay would be redirected using small signs, wood posts, and rope to two more environmentally friendly locations near the center of the bay. Signs would also indicate the location of the two existing and working outdoor showers for public use at the north end of the beach area and at the south end parking area.

Restoration would involve removing the hardscape first and the seawall last so it can serve as a buffer and BMP. The remaining embankment behind the wall would be dressed and recontoured to a more natural grade.

Rows of native vegetation would be planted with drip irrigation used to help establish the plants' root system to hold the sandy soils in place and form a buffer to wave action and coastal erosion. The plants require time for their roots to grow and spread into the sandy substrate that stabilizes the embankment and backshore. The restoration plans were developed in collaboration with stakeholders, the UH Sea Grant Coastal Geologist, Planning Department staff, planning consultant, geotechnical and structural engineers, Ms. Nishiki, and the landowner. Reasons for part of this emergency action are that plantings need to be quickly completed to allow the roots to take hold prior to winter storms.

Pursuant to the aforementioned determination, you are hereby granted a SMA Emergency Permit Approval (SM3 2020/0010) with the following conditions:

1. That the work shall be conducted in substantial compliance with the signed, stamped plans developed by K2N Crest Engineers dated September 3, 2020, and as shown in **Exhibit 2**.
2. That the 27 general BMPs and eight project-specific BMPs listed on page S010 of the site plans be fully implemented. Page S010 is also part of **Exhibit 2**.
3. That the work be conducted at low tide to the extent practicable, and that no work shall occur during high surf or ocean conditions that create unsafe work conditions.
4. That no heavy equipment shall operate in, or enter, the ocean.
5. That a qualified professional be retained for archaeological monitoring activities.
6. That public access to the beach shall be relocated to the center of Kapalua Bay and remain open and available to the public to the extent that it is safe and feasible to do so during the project

activities, and that two signs shall be installed to indicate where public showers are located during the work.

7. That signage be displayed at the beginning of and during the work to include information listing the permits authorized by the County of Maui. A copy of the permits, plans and permit conditions shall be in the possession of the contractor at all times for disclosure to the concerned public and/or other interested parties. All contractors on site shall be briefed on the permit condition prior to the initiation of work.
8. That a final compliance report shall be submitted to the Department within 180 days of the completion of the remedial actions.
9. That a separate permit shall be obtained for any other structural measures contemplated for this shoreline.

Furthermore, in accordance with the Maui Commission's Shoreline Rules, Sections 12-203-3, 12-203-6, 12-203-10, 12-203-11, and 12-203-12, a determination has been made relative to the above-referenced project that:

1. The site is a shoreline property and is subject to the Commission's Shoreline Rules;
2. The Board of Land and Natural Resources has certified the shoreline twice in the past based on surveys conducted on August 2, 1976, and April 19, 1999;
3. The work will take place inside the shoreline setback area; and,
4. The proposed work is a permissible activity within the shoreline setback area pursuant to Section 12-203-12(a)(7) which allows "*Qualified Demolition*" and Section 12-203-12(a)(8) "*Beach Restoration*".

Accordingly, you are hereby granted a Shoreline Setback Approval (SSA 2020/0012), subject to the following conditions:

1. That work is in accordance with the permitted remedial measures as enumerated above.
2. That Best Management Practices (BMPs) shall be implemented to ensure water quality and marine resources are protected. No construction materials shall be stockpiled in the aquatic environment. All construction-related materials shall be free of pollutants and placed or stored in ways to avoid or minimize disturbance. No debris, petroleum products, or deleterious materials or wastes shall be allowed to fall, flow, leach, or otherwise enter near-shore waters. Any turbidity and siltation generated from activities proposed at the site shall be minimized and contained in the immediate vicinity of construction through the use of effective silt containment devices. Construction during adverse weather conditions shall be curtailed to minimize the potential for adverse water quality impacts. Appropriate measures to minimize dirt and water runoff, noise, and dust must be used.

3. That all work shall immediately cease should any historical or archeological artifacts be discovered during ground-altering activities and the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) office on Maui be contacted at (808) 243-5169.
4. That the permitted measures will be maintained and kept in good condition during the life of the project.
5. That full compliance with all other applicable governmental requirements shall be rendered.

In addition, the Department finds that the proposed action triggers compliance with HRS Chapter 343 pertaining to environmental review because it may include the use of the shoreline area and/or conservation district. However, the proposed action qualifies as an exempt class of action pursuant to Hawaii Administrative Rules HAR 11-200.1-15 (c):

- (4) *Minor alterations in the conditions of land, water, or vegetation, and/or*
- (6) *Demolition of structures, except those structures that are listed on the national register or Hawaii Register of Historic Places, given that neither the site nor structure are registered.*

In light of the above determination, you are granted an Environmental Assessment Exemption (EAE 2020/0053).

In summary, the Department grants a SMA Emergency Permit (SM3 2020/0010), a Shoreline Setback Approval (SSA 2020/0012), and an Environmental Assessment Exemption (EAE 2020/0053), for the work described in the SMA Emergency Permit request.

Thank you for your cooperation. If additional clarification is required, please contact Staff Planner Kurt Wollenhaupt by email at Kurt.Wollenhaupt@mauicounty.gov or by phone at (808) 270-8205.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

Exhibits:

- Exhibit 1: Photograph of hardscape to be removed.
Exhibit 2: Engineered 4-page site plans with best management practices.

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
Kurt Wollenhaupt, Staff Planner (PDF)
Tara Owens, U.H. Sea Grant Agent, Coastal Hazards Specialist (PDF)
Development Services Administration (PDF)
Daniel L. Ornellas, Department of Land and Natural Resources, Land Division (Maui) (PDF)

Sam Lemmo, Department of Land and Natural Resources, Office of Conservation and Coastal Land (PDF)
Shellie Habel, DLNR OCCL (PDF)
Thorne Abbott, Consultant (PDF)
Frank Violi, Jr., Kapalua Resort Association (PDF)
Paul Subrata, Maui Land & Pineapple Co. Inc. (PDF)
Project File
MCM:KFW:rma
K:\WP_DOCS\Planning\SM3\2020\0010_KapaluaBayShore\SM3 Approval.doc



Exhibit 1 - Hardscape to be removed at Kapalua Bay and replanted with native beach / dune friendly vegetation. Two new public beach access paths would be located in the middle of the bay at environmentally appropriate gentler grades with signs.



Exhibit 1 - Hardscape to be removed at Kapalua Bay and replanted with native beach / dune friendly vegetation. Two new public beach access paths would be located in the middle of the bay at environmentally appropriate gentler grades with signs.

KAPALUA BAY

KAPALUA SINKHOLE REMEDIATION AND NATIVE PLAN RESTORATION

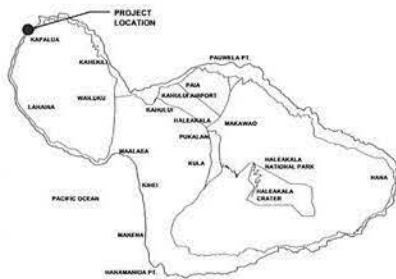
KAPALUA BAY

1 BAY CLUB PLACE
LAHAINA, HI 96761

FOR PERMIT
SEPTEMBER 3, 2020

K2N NO. 20088

TMK: (2) 4-2-004:059, (2) 4-2-004:025



DUNE DETERMINATION:

I CERTIFY THAT NO COASTAL OR FRONTAL DUNE WOULD BE ADVERSELY IMPACTED BY THE WORK PROPOSED.

SIGNATURE: _____ DATE: 9-3-2020 SEAL: _____

PARCEL INFORMATION:
SPECIAL MANAGEMENT AREA: YES
SHORELINE PROPERTY: YES
FLOOD ZONE: X, AE (BASE FLOOD ELEVATION 18 FT)
STATE LAND USE: URBAN
COMMUNITY PLAN: BUSINESS/COMMERCIAL, PUBLIC/QUASI-PUBLIC
ZONING: BUSINESS RESORT (B-R), APARTMENT (A-1), BEACH RIGHT OF WAY (ROW)

PAST PERMITS: SSA20120055, EAE20120090, SMA20120025, SMA20120418, SMA20140258, SMA20140496, SMA20170329
PAST PERMITS (CONT.): SMA20160003
CURRENT PERMITS: SMA20200090, SSA20200012



DRAWING INDEX

- 1000 COVER
- 5010 BEST MANAGEMENT PRACTICES
- 5050 PROPOSED SITE PLAN
- 5100 PROPOSED GRADING PLAN

DRAWINGS AND SPECIFICATION ARE ONLY TO BE USED WHILE K2N CREST IS
RETAINED AS THE ACTING ARCHITECT/ENGINEER

COUNTY OF MAUI MAUI COUNTY CODE, CHAPTER 16.16B ENERGY CODE COMMERCIAL PROVISIONS

COMPLIANCE METHOD CHECK APPLICABLE METHOD	
<input type="checkbox"/>	C401.2(1) ANSI/ASHRAE/IESNA 90.1
<input type="checkbox"/>	C401.2(2) SECTIONS C402 THROUGH C408
<input type="checkbox"/>	C401.2(3) SECTIONS C402.5, C402.7, C404, C405.2, C406.3, C406.4, C406.6, & C407
<input type="checkbox"/>	C102.1 ALTERNATIVE

SIGNATURE: _____ NOT APPLICABLE TO THIS PROJECT

NAME: _____

TITLE: _____

LICENSE NO.: _____

DATE: _____

SEAL

OWNER'S REPRESENTATIVE:
MR. THORNE ABBOTT
COASTAL PLANNERS LLC

Walter H. Abbott
911 W. 10th St.
Honolulu, HI 96813
Phone: (808) 521-1111
Email: thorne@coastalplanners.com

STRUCTURAL ENGINEER:
K2N CREST HAWAII

Walter H. Abbott
911 W. 10th St.
Honolulu, HI 96813
Phone: (808) 521-1111
Email: thorne@coastalplanners.com

STRUCTURAL ENGINEER'S AUTHENTICATION:

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION
OF THIS PROJECT WILL BE UNDER MY OBSERVATION.

SIGNATURE: _____ DATE: 9-3-2020 SEAL: _____

EXHIBIT D -- pg 9

The contractor would implement the following best management practices (BMP's) to ensure water quality and marine resources are protected:

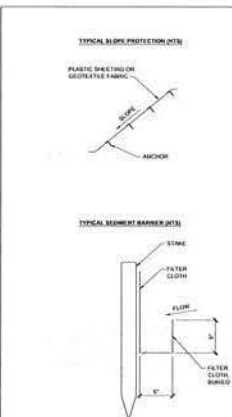
The contractor would implement the following best management practices (BMP's) to ensure water quality and marine resources are protected:

- [illegible]

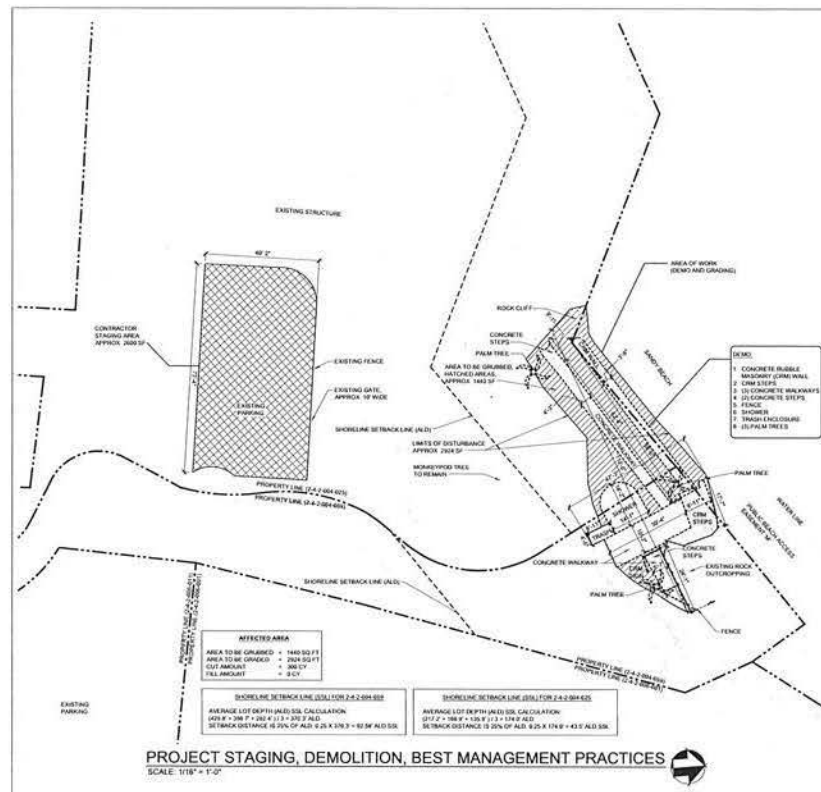
SPECIAL MANAGEMENT AREA CONSTRUCTION RELATED PERMIT
CONDITIONS

† That deviations from the submitted plans are allowed only with written or verbal approval from the Director, South Carolina.

2. That there will be no effort to ensure that water quality and natural resources are protected. No non-sustainable practices will be adopted in the shoreline setback area. No filling, petroleum products or dangerous materials of volatile or flammable nature will be stored, used or disposed of in the setback area. Construction during winter conditions shall be so conducted as to minimize soil and water runoff, erosion and dust control use. All petroleum products shall be stored in approved containers and in a manner consistent with the State Department of Environmental Protection's, Chapter 115.02, F.A.C.
3. That, at any time during construction, installation, maintenance or during use of the facility water will leave the site.
4. That the project shall be initiated within one year, and shall be completed within 18 months.
5. That, in the event the facility, including human structural elements, structural reinforcement, structures, or any facility, are demolished during the term of the permit, the applicant shall be responsible for the removal of the final shed, constructed from automobile materials, and the OSMAR 240's to be removed from the site. The applicant shall be responsible for the removal of the shed and the OSMAR 240's. Block shed not to be constructed under OSMAR 240's.
6. That signage, facing all areas, shall be displayed in the area of the property for the public viewing during the construction phase of the project.
7. That a copy of the permits and permit conditions shall be in the possession of the permittee and shall be made available to the public and to the public and other interested parties. All activities on site shall be in accordance with the permit conditions.
8. That no heavy equipment will enter the site.



SLOPE AND SEDIMENT BMPS
SCALE: NTS



STRUCTURAL ENGINEER

K2NCREST
229 Lalo Street, Suite 4
Kahului, HI 96732
P: 808.866.8381
F: 808.900.9598

[illegible]

KAPALUA BAY
1 BAY CLUB PLACE
KAPALUA SINKHOLE REMEDIATION
AND NATIVE PLANT RESTORATION
TMK: (2) 4-2-004:059, (2) 4-2-004:025
HAWAII

Drainage and Irrigation are not to be used within 12h after a treatment of the using Automatic Sprayer	Chemical for SAM	8/15/2005
State AS SHOWN		



Job No.
20088

Sheet No.
S010

BEST MANAGEMENT PRACTICES

STRUCTURAL ENGINEER:
K2NCREST
220 Lalo Street, Suite 4
Kahului, HI 96732
P: 808.866.8381
F: 830.990.9598



AREA OF WORK IN FLOOD ZONE AE AND X-BASED
ON REFERENCE OF FEDERAL EMERGENCY
MANAGEMENT AGENCY FLOOD INSURANCE RATE
MAP LISTED BELOW
FLOOD INSURANCE RATE MAP #15008306JF DATED
SEPTEMBER 18, 2012
PANEL # 202 OF 825
CONTRACT: MASA COUNTY
FLOOD ZONE: X, AE (BASE FLOOD ELEVATION 18 FT)

ASSOCIATED BUILDING AND CONDITIONAL PERMIT
 REFERENCED TO PROPERTY AT 1MX, Q1 & 2-204
 COMPLETED
 SGA20120055
 SAE20120040
 SAG20072020
 SAG20120418
 SAG20140356
 SAG20140496
 SAG20170328

6 T29181182
 WTP 20180003
 G T29180123
 SMKJ030096
 SBAJ000012

ASSOCIATED BUILDINGS AND CONDITIONAL PERMIT
 RELIANCE TO PROPERTY AT 18K 121 4 2 804

COMPLETE)

OSP 2010004
SMX 2010003
ISA 2010017

OPEN

ISA 2010005
SMX 2010078
BVAV 2010002
PQW 2010003
SMX 2020000
ISA 2020012

NOTES:
1. EXISTING PLAN AND GRADE MEASUREMENT
FROM OCT. 6, 2016 TOPOGRAPHIC SURVEY
BY VALENCIA LAND SURVEYING.

1	R/D	9-3-20	FOR PERMIT
2			
3			
4			
5			
6			
7			
8			
9			
10			

KAPALUA BAY
1 BAY CLUB PLACE
KAPALUA SINKHOLE REMEDIATION
AND NATIVE PLANT RESTORATION
TMK: (2) 4-2-004:059, (2) 4-2-004:025
KAHOLA

SITE PLAN

Checked By: SAM	Date: 8/20/22
-----------------	---------------



Job No.
20088

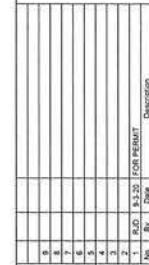
Sheet No.
S050

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PROPOSED SITE PLAN
SCALE: 1/4" = 1'-0"

EXHIBIT D -- pg 11

STRUCTURAL ENGINEER
K2NCREST
220 Lalo Street, Suite 4
Kahului, HI 96732
P: 808.866.8381
F: 830.990.9598



KAPALUA BAY
1ST BAY CLUB PLACE
KAPALUA SINKHOLE REMEDIATION
AND NATIVE PLANT RESTORATION
TMK: (2) 4-2-004-059, (2) 4-2-004-025
HAWAII

GRADING PLAN

Drawings and Specifications per set to be used with R2N Case is required for the testing. Additional Information:	Drawn By: SAM Date: 8/20/20
--	--------------------------------



Job No.
20088

Sheet No.
S100

NOTES:

1. PRIOR TO WORK, VERIFY EXISTING GRADE MEASUREMENTS WITH OCT 6, 2016 TOPOGRAPHIC SURVEY BY VALENCIA LAND SURVEYING, AND NOTIFY ENGINEER IF DISCREPANCY.
2. STABILIZE SOIL WITH PLANTING OR BY OTHER MEANS WHEREVER SLOPE EXCEEDS 2 FEET OF RISE OVER 1 FOOT OF RUN.
3. EXISTING TOPOGRAPHICAL LINES AND GRADE MEASUREMENTS NOT FENCED FROM OCT 6, 2016 TOPOGRAPHIC SURVEY BY VALENCIA LAND SURVEYING.

© 2020 KJNA CRENS

EXHIBIT E

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:SS

Site Plan Approval: MA 21-17

Kapalua Resort Association
c/o Frank Violi, Jr., Director
5095 Napilihaui Street
Suite 109B, PO Box 105
Lāhainā, HI 96761

OCT 16 2020

SUBJECT: Site Plan Approval (SPA) for the Kapalua Bay Sinkhole Remediation and Restoration Project at Kapalua Bay, 1 Bay Club Place, Lāhainā, HI 96761
Tax Map Keys: (2) 4-2-004: 025 and 059, and seaward

Dear Mr. Violi:

The Office of Conservation and Coastal Lands (OCCL) has received your submitted Site Plan Approval (SPA) application for the proposed project at the above listed subject property. The area of the proposed work is a seawall in the southern corner of Kapalua Bay in Lāhainā, Maui, as well as areas just mauka of the seawall and shoreline that were recently found to contain a sinkhole. The information provided to our office states that the proposed work is the demolition and removal of an existing rock seawall and a small staircase leading down to the sandy beach, as well as other hardscape and fill that sits mauka of the shoreline, and the subsequent recontouring and restoration of the area with native plants and vegetation. It is important to note that the only work done in the Conservation District would be the removal of the seawall and the steps leading down to the sandy beach area; the vegetative restoration work and removal of the other hardscape lies mauka of the seawall and outside of the Conservation District.

The information provided to our office states that the existing seawall intended to be removed is approximately 78 linear feet, and the stairs that extend into the beach area that are intended to be removed cover roughly 100 square feet of total area. It is noted in the information that neither the seawall nor the staircase are listed on any historic registry and are not of any historical significance. The packet provided within the application stated that a breach formed in this seawall in 2015 that was temporarily stabilized. However, a second breach has formed in the seawall in the vicinity of the staircase that leads down to the public beach. This hazard has likely been exacerbated by the recently discovered sinkhole underneath the lawn mauka of the seawall, which totals roughly 1,100 cubic feet.

The proposed work is intended to naturalize and restore the southern corner of Kapalua Bay as well as mitigate the public safety hazards in the area comprising of the damaged seawall, damaged staircase to the beach, and recently discovered sinkhole. This project intends to

EXHIBIT E

accomplish this by removing the seawall, stairs, and hardscape, redirect foot traffic in the area, and naturalize and restore the roughly 1,440 square foot lawn area mauka of the seawall to a natural slope similar to its 1949 profile that contains native plants and vegetation. The application states that the work would be expected to take roughly two weeks.

According to the information provided, the proposed work will consist of removal of manmade objects from the shoreline area in the form of both the existing seawall and staircase, as well as other artificial hardscape mauka of the shoreline. The plans provided to us state that the work would be done by rubber-tracked heavy machinery and performed in a mauka-to-makai direction, removing the inland hardscape first and working makai towards the shoreline with the seawall removal being the final phase of the project. This is intended to keep the seawall in place as a type of Best Management Practice (BMP) until the final phase of work, as the seawall would act as a barrier to keep any dirt, sediment, or fill from escaping into the shoreline area during the removal of the upland hardscapes. These areas mauka of the seawall lie within the County's jurisdiction and domain, and this work would be done in layers while gradually moving seaward towards the Conservation District.

The application states that upon the clearing of the hardscapes mauka of the shoreline, the rubber-tracked heavy equipment would begin to remove the seawall and stairs that extend into the sandy beach area. The information notes that, while staging for the heavy machinery is somewhat limited by the sinkhole, all work would be conducted inland and upland of the mean high tide line. While equipment may need to enter portions of the shoreline area during the removal of the seawall and staircase, the application also noted that a Right-of-Entry request had been submitted to the Maui Land Division concurrently with this SPA.

Regarding public beach access, the project would install a small wooden and rope fence in the restored area with informational signs for the public as well as directional signs to navigate pedestrian traffic to beach access points more towards the center of the bay. The information is clear that the restoration work that would take place mauka of the existing seawall would consist of only native, beach friendly plants, such as Pohuehue, Aki'aki, Nai'o, and Pohinahina, along with temporary drip irrigation and coir mat as needed to help the plants establish their roots.

Details regarding best management practices (BMPs) for the project were provided within the application. The BMPs for the project include placing silt fences along the seaward face of the wall and along the beach, diverting storm runoff away from the work site, recontouring the backshore mauka of the seawall to a grade that minimizes the potential release of sediments into the marine environment, and stock piling and covering any equipment (including excavated materials such as rocks, sod, or soil,) inland and away from the shoreline. Additionally, the seawall is being left in place until the final phase of the project in order to act as a supplemental barrier and BMP to prevent any backshore silt or dirt from escaping into the marine environment.

The information provided states that there is no proposed excavation of undisturbed soils, but nonetheless an archaeological monitor will be provided for the project. Additionally, the existing access path and beach areas in the immediate vicinity of the project will be blocked for public safety purposes during work, with pedestrian access redirected.

Included in the application package submitted to our office was an approval letter from the Maui County Planning Department dated September 15, 2020 for both a Special Management Area Emergency Use Permit and a Shoreline Setback Approval for the proposed project.

ANALYSIS:

The subject area appears to be partially located in the State Land Use Conservation District, Resource subzone. The proposed demolition and removal of an existing seawall and an existing staircase leading down to the public beach is an identified land use pursuant to the Hawai'i Administrative Rules (HAR) §13-5-22, P-8, STRUCTURES AND LAND USES, EXISTING (B-1): Demolition, removal, or minor alteration of existing structures, facilities, land, and equipment. Any historic property shall be evaluated by the department for historical significance.

The proposed work within the Conservation District appears to consist of the removal of manmade objects from the shoreline area in order to mitigate the hazards presented by the damaged seawall and staircase and to restore the area to a more natural state. This proposed work may be considered an exempt action under HAR, §11-200.1-15c (6), Demolition of structures, except those structures that are listed on the national register or Hawai'i Register of Historic Places. Specifically, the Exemption List for the Department under Exemption Class 8, No. 2 allows for demolition and removal of existing structures, facilities, utilities, and other improvements on state lands, except those structures located on any historic site as designated in the National Register or Hawai'i Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E.

In conformance with the above-referenced Hawai'i Revised Statutes (HRS) Chapter 343, as amended, and HAR, Chapter 11-200.1-15, the proposed project is exempt from the preparation of an Environmental Assessment. Staff consulted with the DLNR, Land Division, who concurred with this exemption.

Staff notes that the proposed work consists of removing manmade structures from the shoreline area to both mitigate the hazards presented by the damaged seawall and staircase and to assist in restoring the area to a more natural state. After careful review, authorization is hereby **granted** to perform the proposed work as described and illustrated in this document in the subject area located makai of 1 Bay Club Place, Lāhainā, Maui, makai of TMKs: (2) 4-2-004: 025 and 059, subject to the following terms and conditions:

Terms and Conditions

1. The permittee shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments, and applicable parts of Chapter 13-5, HAR;
2. The permittee shall comply with all applicable Department of Health administrative rules;
3. The permittee shall implement Best Management Practices (BMPs) throughout the duration of the project, including to contain and clean up fuel, fluid, or oil spills immediately for this project. Any spill(s) or other contamination(s) that

occur at the project site will be reported immediately to the Department of Health and other appropriate agencies;

4. Unless otherwise authorized, any work done or construction to be done on the land shall be initiated within a year in accordance with this Site Plan Approval and unless otherwise authorized, shall be completed within three years of the approval. The permittee shall notify the Department in writing when construction activity is initiated and when it is completed;
5. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
6. The permittee understands and agrees that this permit does not convey any vested rights or exclusive privilege;
7. In issuing this permit, the Department has relied on the information and data that the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
8. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
9. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
10. Where any interference, nuisance, or harm may be caused, or hazard established by the use the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
11. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawai'i, and by Hawai'i statutory and case law;
12. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (692-8015), which will assess the

significance of the find and recommend an appropriate mitigation measure, if necessary;

13. Unless otherwise authorized, any work done or construction to be done on the land shall be initiated within a year in accordance with this Site Plan Approval and unless otherwise authorized, shall be completed within three years of the approval. The permittee shall notify the Department in writing when construction activity is initiated and when it is completed;
14. At the termination of the use, all associated materials and components of the project shall be removed, and the project area shall be restored;
15. The permittee shall obtain appropriate authorization from the Department for the occupancy of state lands, such as a Right-of-Entry Permit;
16. **For any and all vegetated areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in Hawai'i Revised Statutes (HRS) §205A-1 and HRS §115;**
17. Other terms and conditions as may be prescribed by the Chairperson and/or OCCL; and
18. Failure to comply with any of these conditions shall render this approval null and void as determined by the Department.

Please acknowledge receipt of this approval, with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other to our Office within thirty (30) days. Should you have any questions regarding this Site Plan Approval, contact Salvatore Saluga of our Office at 798-6147.

Sincerely,

Sam Lemmo

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

Signature

Date

Type Name

CC: County of Maui
- Dept. of Planning
MDLO
Chairperson
Coastal Planners, LLC c/o Thorne Abbott

EXHIBIT F



Kapalua Bay Sinkhole Remediation and Native Plant Restoration

Kai Nishiki <>

Sun, Sep 27, 2020 at 3:16 PM

To: Sam Lemmo <>, Daniel Ornellas <> Cc: Thorne Abbott <>

Hi Sam and Daniel,

Nice to see you on Thursday, Sam! I really appreciate the way you run public meetings, our community feels like you are really listening and will earnestly address our concerns.

I understand the County of Maui has issued relevant permits and want to let you know that this project has been in the works for quite a few years now but with the discovery of the sinkhole and winter swells on the way there is renewed urgency.

Please approve as soon as possible.

The West Maui community appreciates the early consultation and outreach done on this proposal.

Historically, property owners with aging seawalls ask for permits to fix them and want to implement additional shoreline hardening. We commend this landowner for taking a different approach and requesting to, instead, remove the seawall. For the safety of our community, we see the urgent need for emergency work to be done.

We support the restoration of a more natural coastline, while expanding the beach area. Thorne Abbott has a comprehensive list of items we discussed to improve the area and support coastal restoration.

The completed project sets precedent and demonstrates viable options that prioritize the health of our public trust resources and shoreline users in addressing erosion and SLR.

~Kai Nishiki

Lemmo, Sam J <>

Sun, Sep 27, 2020 at 5:20 PM

To: Kai Nishiki <>, "Ornellas, Daniel L" <> Cc: Thorne Abbott <>

Yup, we are on it. Shouldn't be long.

[Get Outlook for iOS](#)

EXHIBIT F

EXHIBIT G

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
HONOLULU, HAWAII 96813

Date: 12/23/2020

DAR # AR0045

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

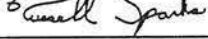
ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHIOOLAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

TO: Brian J. Neilson
DAR Administrator

FROM: Russell Sparks , Aquatic Biologist

SUBJECT: Issuance of Right-of-Entry Permit to Kapalua Resort Association to Remove
a Rock Seawall

Request Submitted by: Seiko Machida, Land Agent, Maui District
Kapalua Bay, Lahaina, Maui; TMK (2) 4-2-004: Seaward 025 & 059

Location of Project: _____

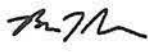
Brief Description of Project:

A request to access government coastal lands to remove a failing rock seawall and stairway along the southern corner of Kapalua Bay, Maui. The seawall and concrete steps need to be removed and a forming sink hole repaired, in order to protect the public from an ongoing hazard. Approximately 100 square feet of total area worked on. The project will also include work on the private property mauka of the seawall. This work will include removal of hardscape and restoration to the native vegetation in this area. Plans call for the mauka work to be conducted first, with the seawall staying in place to help serve as a barrier to sediment release. All equipment is to stay above the shoreline and the final outcome will result in a smoothed out native drought tolerant bank.

Comments:

☐ No Comments ☒ Comments Attached

Thank you for providing DAR the opportunity to review and comment on the proposed project. Should there be any changes to the project plan, DAR requests the opportunity to review and comment on those changes.

Comments Approved:  Date: Dec 23, 2020
Brian J. Neilson
DAR Administrator

DAR# AR0045

Comments

The Maui Office of the Division of Aquatic Resources appreciates the intent of this project, which if successful, should help return Kapalua Bay back to a more natural coastal dune. We further appreciate the plans to replace the hardscape landscaping with drought tolerant native dune plants. The construction plans appear well thought out in an effort to mitigate concerns with any sediment releases into the coastal waters. We would, however, ask that all construction on this project be delayed until after the winter wet season. A delay on construction activity for a few months, would further reduce the possibility of a high rainfall event that could result in the exposed construction site releasing significant sedimentation into the bay. Kapalua Bay contains one of the last remaining remnants of living coral reef along this entire West Maui coastline. Extra caution should therefore be taken to make sure no negative impacts occur from this project.

EXHIBIT H

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD., STE 555
KAPOLEI, HI 96707

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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AQUATIC RESOURCES
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ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

January 16, 2021

Russell Tsuji, Administrator
State of Hawaii
Department of Land and Natural Resources (DLNR)
Land Division
130 Mahalani Street
Wailuku, Hawaii 96793
c/o seiko.j.machida@hawaii.gov

IN REPLY REFER TO:
Project No.: 2020PR35117
Submittal No.: 2020PR35117.001
Doc. No.: 2101AM09
Archaeology

Dear Russell Tsuji:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
Right-of-Entry Permit Application
Kapalua Sinkhole Remediation and Native Plant Restoration Project
Waiohuli Ahupua'a, Kula District, Island of Maui
TMK: (2) 4-2-004: Seaward of 025 and 059**

This letter provides the State Historic Preservation Division's (SHPD's) review of the DLNR Land Division Right-of-Entry (ROE) Permit Application for the Kapalua Sinkhole Remediation and Native Plant Restoration Project. SHPD received the submittal on December 30, 2020, including a TMK map of the project area, photographs of the project area, an environmental assessment exemption notification letter from the DLNR, and an approval letter for special management area permits (SM3 2020/0010, SMX 2020/0090, SSA 2020/0012, and EAE 2020/0053), a site plan approval letter from DLNR Office of Conservation and Coastal Lands (OCCL), a permit set, and a request for comments memorandum from DLNR Land Division.

The Kapalua Resort Association proposes the removal of a failing seawall, stone stair segments and various hardscape features along the shoreline within a 2,000-sq.-ft. portion of the subject property. There are no plans to replace the seawall or hardscape. Applicant needs a ROE permit at the subject location because the seawall and stairs are located on the shoreline. All equipment will operate above and inland of the mean high tide line within the shoreline and no equipment will enter the ocean. After removal of the seawall, concrete steps, and other hardscape inland of the shoreline, the land will be smoothed out so vegetation can be planted on the embankment. The proposed demolition work includes removal of the following:

1. Mortared rock seawall (78 linear ft.)
2. Stairs segment leading to the beach (10 ft. by 10 ft.)
3. Stairs segment leading to a restaurant area (4 ft. by 6 ft.)
4. Shower pad (6-ft.-diameter area)
5. Walkways (3 to 4-ft.-wide segments of various lengths)

As search of our records indicates an archaeological inventory survey (AIS) has not been conducted within the current project area. However, a number of studies have been conducted for the surrounding areas and have recorded several sites: Walker and Rosendahl (1985) re-documented Bishop Museum Sites 50-MA-D10-4, 50-MA-D10-5, and 50-MA-D10-6 (no State site numbers provided) inland of the current project area and represent traditional agricultural fields reused after Contact for sugarcane or pineapple plantation agriculture; see earlier documentation by Komori (1983), Archaeological Investigations at Kahana Gulch. Kennedy and Denham (1992) recorded a burial

platform (SIHP # 50-50-03-02878) and a petroglyph boulder (SIHP # 50-50-03-02879) southeast of the current project area, and Fredericksen and Fredericksen (2000) documented a pre-Contact habitation site (SIHP # 50-50-03-04797) radiocarbon-dated to circa A.D. 1420-1660, and two retaining walls (SIHP #s 50-50-03-04798 and 50-50-03-04799) on Lower Honoapi'ilani Road. Also, McGerty and Spear (1996) documented seven sites including several stone alignments and slow stacked features and a cemetery (SIHP #s 50-50-03-4218 and 50-50-03-04219). The USDA (Foote et al. 1972) identifies soils within the project area as Beaches (BS) and Dune land (DL).

Thone Abbott (Coastal Planners, LLC) indicates the soil within the project area is expected to be mostly fill material based on a geotechnical report of the project area and the project proponent proposes archaeological monitoring for identification purposes. Based on the information provided, **SHPD agrees, and requests archaeological monitoring be conducted for identification purposes for the proposed project.** Archaeological monitoring shall be conducted for the proposed project to adequately identify archaeological historic properties and, if present, to document and assess their site significance, to determine any potential impacts to them, and if needed, to ensure that appropriate mitigation is implemented.

SHPD also requests an archaeological monitoring plan meeting the requirements of HAR §13-279-4 be submitted for SHPD review and acceptance prior to issuance of the permit and that the AMP, along with a copy of this letter, be submitted to HICRIS Project 2020PR35117 using the Project Supplement option.

SHPD will notify DLNR Land Division when the plan has been accepted and permitting may proceed.

Please contact Andrew McCallister, Maui Archaeologist IV at andrew.mccallister@hawaii.gov for matters regarding archaeological resources or this letter.

Aloha,

Alan Downer

Alan S. Downer, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Thorne Abbott, [REDACTED]
Frank Violi, Jr., Kapalua Resort Association, [REDACTED]
Paul Subrata, Maui Land and Pineapple Co., Inc. [REDACTED]
Daniel L. Ornella, DLNR, daniel.l.ornellas@hawaii.gov

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

February 19, 2021

Russell Tsuji, Administrator
State of Hawaii
Department of Land and Natural Resources (DLNR)
Land Division
130 Mahalani Steet
Wailuku, Hawaii 96793
c/o seiko.j.machida@hawaii.gov

IN REPLY REFER TO:
Project No.: 2020PR35117
Submittal No.: 2020PR35117.003
Doc. No.: 2102AM22
Archaeology

Dear Russell Tsuji:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
Right-of-Entry Permit Application for the
Kapalua Sinkhole Remediation and Native Plant Restoration Project
Archaeological Monitoring Plan
Nāpili 2-3 Ahupua‘a, Kā‘anapali District, Island of Maui
TMK: (2) 4-2-004: Seaward of 025 and 059**

This letter provides the State Historic Preservation Division's (SHPD's) review of the draft archaeological monitoring plan (AMP) titled *An Archaeological Monitoring Plan for the Kapalua Sinkhole Remediation and Native Plant restoration Project, Nāpili 2-3 Ahupua‘a, Lāhainā District, Island of Maui, Hawai‘i [TMK: (2) 4-2-004:025 and (2) 4-2-004:059]* (Jin and Dega, January 2021) for the Kapalua Sinkhole Remediation and Native Plant Restoration Project. SHPD previously reviewed the project and requested an AMP in a letter dated January 16, 2021 (Submittal No. 2020PR35117.001, Doc. No. 2101AM09). Subsequently, SHPD received the AMP on February 19, 2021.

The Kapalua Resort Association proposes the removal of a failing seawall, stone stair segments and various hardscape features along the shoreline within a 2,000-sq.-ft. portion of the subject property. There are no plans to replace the seawall or hardscape. The applicant needs a right-of-entry (ROE) permit at the subject location because the seawall and stairs are located on the shoreline. All equipment will operate above and inland of the mean high tide line within the shoreline and no equipment will enter the ocean. After removal of the seawall, concrete steps, and other hardscape inland of the shoreline, the land will be smoothed out so vegetation can be planted on the embankment. The proposed demolition work includes removal of the following:

1. Rock and mortar seawall (78 linear ft.)
2. Stairs segment leading to the beach (10 ft. by 10 ft.)
3. Stairs segment leading to a restaurant area (4 ft. by 6 ft.)
4. Shower pad (6-ft. diameter)
5. Walkways (3-ft. to 4-ft.-wide segments of various lengths)

The draft AMP provides a scope of work, a summary of the archaeological investigations in the area, a summary of historic land use within Nāpili 2-3 Ahupua‘a, and stipulates the following:

- A coordination meeting will be conducted between the construction team and monitoring archaeologist prior to construction activities so the construction team is aware of the need for archaeological monitoring and of the provisions of the plan;

- On-site monitoring will be conducted for all ground disturbing activities. One monitor is required for each piece of ground altering machinery during this project;
- The archaeological monitor has the authority to temporarily halt all activity in the area in the event of a potential historic property being identified, or to record archaeological information for cultural deposits or features;
- If non-burial historic properties are identified, documentation shall include, as appropriate, recording stratigraphy using USDA soil descriptions, GPS point collection, recordation of feature contents through excavation or sampling of features, screening of features, representative scaled profile drawings, photo documentation using a scale and north arrow, and appropriate laboratory analysis of collected samples and artifacts. Additionally, photographs and profiles of excavations will be collected from across the project area even if no significant historic properties are encountered. The profiles will measure a minimum of 2 m across. Both vertical and horizontal scales will be recorded.
- If human remains are identified, work will cease in the vicinity and the find shall be secured, and provisions outlined within the Hawaii Revised Statutes (HRS) §6E-43 and HAR §13-300-40, and any SHPD directives, shall be followed;
- Collected materials not associated with burials will be temporarily stored at the archaeological firm's office/laboratory until an appropriate curation facility is selected, in consultation with the landowner and the SHPD; and
- Any changes in these provisions shall occur only with written approval from the SHPD.

The plan meets the minimum requirements of HAR §13-279-4. **It is accepted.** Please submit two hard copies of the AMP, clearly labeled FINAL, along with a text-searchable PDF copy of the plan and a copy of this acceptance letter to the SHPD Kapolei office, Attn. Library. Also submit a text-searchable PDF copy of the AMP to HICRIS Project 2020PR35117 using the Project Supplement option and a PDF copy to lehua.k.soares@hawaii.gov.

SHPD hereby notifies DLNR Land Division that the permit issuance process may continue.

SHPD requests written notification at the start of archaeological monitoring. Within 30 days of completion of archaeological monitoring fieldwork, SHPD looks forward to receiving for review and acceptance a brief archaeological monitoring letter report of findings as specified in HAR §13-282-3(f)(1). Subsequently, SHPD looks forward to receipt of an archaeological monitoring report meeting the requirements of HAR §13-279-5 for review and acceptance.

When completed, please submit the draft archaeological monitoring report to our office via HICRIS to Project 2020PR35117 using the Project Supplement option.

Please contact Andrew McCallister, Maui Archaeologist IV at andrew.mccallister@hawaii.gov for matters regarding archaeological resources or this letter.

Aloha,
Alan Downer

Alan S. Downer, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Thorne Abbott, [REDACTED]
Frank Violi, Jr., Kapalua Resort Association, [REDACTED]
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