

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

October 8, 2021

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

PSF No.: 21MD-048

Maui

Issuance of Revocable Permit to Diamond Resorts International Club, Inc., to Repair Existing Erosion Protection Skirt and Sand Mattress Revetment Fronting the Kaanapali Beach Club, Honokowai, Lahaina, Maui, Tax Map Key: (2) 4-4-001: Seaward of 098.

APPLICANT:

Diamond Resorts International Club, Inc.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of the State of Hawaii situated at Honokowai, Lahaina, Maui, identified by Tax Map Key: (2) 4-4-001: Seaward of 098, as shown on the attached map labeled Exhibit A.

AREA:

9,800 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:

For purposes of entering submerged lands to repair an existing temporary erosion control structure.

COMMENCEMENT DATE:

Commencement date to be determined by the Chairperson.

MONTHLY RENTAL:

Monthly rental amount of \$1,906 has been calculated by staff, and has been reviewed and approved by the Chairperson. See Exhibit B.

REMOVAL BOND

A removal bond is required, in an amount to be determined by DLNR's Land and Engineering Divisions and approved by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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 November 10 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to: General Exemption Type 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing", Part 1, Item No. 44 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." The exemption notification is attached as Exhibit C.

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:

Applicant shall be required to:

- 1) Adhere to the Terms and Conditions set forth in the DLNR Office of Conservation and Coastal Lands (OCCL) Conservation District Use Permit (CDUP) number CDUP MA 21-06 dated February 3, 2021, copy attached as Exhibit D.
- 2) Post a removal bond in an amount to be approved by the Chairperson after consultation with Land Division and Engineering Division, to cover the cost of removing the sandbag revetment structure in the event that applicant fails to remove the structure prior to expiration of OCCL Emergency CDUP MA 21-06 on February 3, 2024.
- 3) Pay an appropriate monthly rental amount, to be determined by the Chair, for the duration of the Revocable Permit.
- 4) Obtain required County shoreline and building permits prior to commencing work.

REMARKS

Applicant is seeking permission to enter the shoreline and repair a damaged temporary erosion control structure fronting the Kaanapali Beach Club. Applicant initially applied for a right-of-entry permit but was advised by staff that Land Division is now asking applicants to apply for revocable permits for shoreline work that involves temporary structures such as sandbags and erosion protection skirts. A revocable permit provides a mechanism for Land Division to keep track of erosion control structures, and greater accountability for the applicant.

The purpose of the erosion control structure, which consists of sand filled mattresses and a geotextile erosion protection skirt, is to mitigate shoreline erosion and property damage until a longer-term solution can be designed, approved, and implemented. Maintaining the erosion protection structure is essential for continuing protection of the upland property, preventing further erosion of the backshore, and mitigating risks to public health, safety, and welfare until a long-term solution can be implemented. The applicant's consulting firm, Sea Engineering, Inc., has been working on a long-term plan for beach restoration and intend to publish a draft environmental assessment in the next few months. The erosion control structure is characterized as a short-term measure.

BACKGROUND

From January to June 2016, a combination of persistent North Pacific swell and elevated water levels produced high waves, strong currents, and abnormally high tides that caused significant erosion along the shorelines of West Maui. Erosion caused a vertical escarpment to form along the shoreline fronting Kaanapali Beach Club. The shoreline retreated more than 10 feet in just a few months, as opposed to the historical average annual erosion rate of 1.0 foot/year. Approximately 5,700 square feet of land area was permanently lost to erosion. The erosion was severe and created a risk to public health, safety, and welfare.

In May 2018, an erosion control structure consisting of a sand mattress revetment with erosion protection skirt was installed along the shoreline fronting Kaanapali Beach Club. The structure was authorized by the Office of Conservation and Coastal Lands (OCCL) permit Emergency MA-17-30 (Exhibit D pages 12-17) in its regulatory capacity.¹ The structure is approximately 500 feet long, between 5 and 8 feet tall (depending on scarp height), and between 8 and 12 feet wide at the base, with a total area of approximately 9,800 square feet. There is also a backshore anchoring system located on private property.

The erosion skirt and some of the sand mattresses were damaged in August 2018, less than 3 months after construction. Additional damage occurred in December 2018, May 2019, and August 2020. The damaged portion of the erosion skirt is currently 140 feet long. The damage is concentrated along the southern portion of the erosion skirt, which is more exposed to wave action. Photographs of the current condition of the shoreline structures are shown in Exhibit E.

The emergency OCCL permit MA-17-30 expired on May 25, 2020. Applicant received a new OCCL permit, Emergency CDUP MA 21-06 dated February 3, 2021, to authorize the repair and maintenance of the erosion control skirt until a plan for beach restoration can be designed, approved, and implemented. This latest OCCL permit authorizes the temporary erosion control measures for three years from the date of the permit and will expire on February 2, 2024. The OCCL permits are attached as Exhibit D.

PROPOSED ACTION

The proposed action would be like-to-like repair of the damaged portion of the existing erosion skirt (140 feet). No expansion or additional improvements are proposed. The repairs will be implemented using similar means, methods, and materials as the original construction. The sand containers and erosion skirt will be constructed of Tencate Mirafi GT1000MB geotextile fabric and filled with sand that was dredged from Lahaina Harbor in 2017. These are the same materials that were used in the original construction.

¹ Land Division could not locate any record of a land disposition for the prior 2018 erosion control structure.

Due to the severe damage sustained by the sand-filled mattresses that were placed for the original construction, these damaged mattresses will be replaced with geotextile sand containers. The reason for the proposed change is that the sand-filled mattresses are not durable enough to withstand sustained wave action, whereas sand containers can be oriented and stacked to increase durability and stability, thereby withstanding higher wave energy than the mattresses. Placement of sand containers is also less impactful than sand-filled mattresses, which require excavation of the beach and construction of wooden forms. The geotextile sand containers can be constructed in a shorter time period and will have less impact to beach and shoreline access during construction because it takes less time to install them in the shoreline.

WORK DESCRIPTION

The construction process would consist of:

1. Mobilization
2. Sand Container Installation
3. Erosion Skirt Installation
4. Demobilization

1. Mobilization

Access to the property is available via a paved road along the northern boundary of the Kaanapali Beach Club property. The paved road provides perpendicular access to the shoreline and includes eight (8) parking stalls, and a public changing station. A staging area for equipment and materials would be established in the parking area adjacent to the changing station. The staging area would be 100 feet long and 35 feet wide (3,500 square feet) and will include a storage unit, solid waste containers, and a portable restroom. Equipment would include excavators, front-end loaders, a skid steer, and various hand tools. Best Management Practices (BMPs) would be deployed to contain all materials within the staging area. Signage will be installed to divert pedestrian traffic around the project site.

2. Sand Container Installation

The damaged sand-filled mattresses will be replaced with sand containers constructed of Tencate Mirafi GT1000MB geotextile fabric, the same material used to construct the original erosion skirt. Approximately 432 cubic yards of sand will be required to fill the sand containers. The sand will consist of offshore sand recovered during dredging of Lahaina Harbor in 2017, the same sand that was used in the original construction. The sand will be stockpiled at the staging area and BMPs will be deployed to mitigate erosion and runoff around the staging area. The sand containers will be filled and sewn at the staging area, then transported via skid steer to the shoreline for placement. A 238 Komatsu excavator would be used to place the sand containers along the erosion scarp in accordance with the design specifications. The damaged portions of the existing erosion skirt will be removed prior to installation of the sand containers.

All tracked vehicles will operate mauka of the shoreline and will not enter the beach.

3. Erosion Skirt Installation

Once the sand containers are installed, a skirt (drape) will be placed over the sand containers. The skirt will consist of a single layer of Tencate Mirafi GT1000MB geotextile fabric that will extend from the top of the erosion scarp to a shallow trench at the base of the sand containers. The anchoring system will be identical to that which was used during the original construction. Toe anchoring will consist of pre-sewn pockets filled with polypropylene sandbags. Backshore anchoring will consist of platypus earth anchors with approximately 8-foot spacing. The anchors will be connected to a 4-inch galvanized pipe that slides into a sleeve along the top of the structure. The anchors will be fastened to the pipe using stainless wire rope and clamps. The anchors will be buried to a shallow depth to avoid a potential tripping hazard.

4. Demobilization

Upon completion of construction, the backshore area will be restored to its previous condition. The existing rope fence will be reinstalled to prohibit guests and pedestrians from walking on the structure. The coastal walkway will continue to provide safe lateral access along the shoreline. All BMPs will be removed, and all waste materials and debris will be removed and transported to an upland disposal site. Equipment will be demobilized and the staging area will be restored to its previous condition.

The project is estimated to take 25 days to complete, depending on ocean conditions.

BEACH RESTORATION PLAN

Applicant has hired Sea Engineering, Inc. (SEI) to develop a plan for beach restoration at Kaanapali Beach Club. The objectives of the project are to restore and maintain a stable beach, and protect the backshore land and infrastructure. A key component to the success of this project is the availability of a suitable sand source to support beach restoration at Kaanapali Beach Club. SEI is proceeding with a coastal assessment, geotechnical investigations, structural engineering analysis, sand investigations, functional concept design, and environmental assessment to support planning for a longer-term solution to the beach erosion.

SEI's coastal assessment involves an analysis of ten different erosion control measures to determine if they would be suitable for the project site and capable of achieving the project objectives. The objectives are to restore and maintain a stable beach, protect the backshore land and infrastructure, increase resilience to sea level rise, reduce risks to public safety, reduce risks to adjacent properties, and maintain or improve lateral shoreline access. Of the different erosion control measures, the analysis indicated that beach nourishment with stabilizing groins appears to be the most beneficial option for achieving the objectives.

Emergency CDUA MA-17-30 required publication of a Draft Environmental Assessment (DEA) within one (1) year of the date of issuance. Applicant notes that publication of a DEA has been delayed primarily because a viable longer-term solution has yet to be identified. In addition, a suitable sand source needs to be identified and the potential environmental impacts associated with that sand source should be thoroughly evaluated before proceeding with the DEA. Applicant's consultant conducted a preliminary offshore sand investigation in October 2019 which identified several large sand deposits, with only one determined to be potentially compatible with the existing beach at the project site and is planning further offshore sand investigations. Applicant has demonstrated progress with the environmental assessment but has not met DLNR's deadline.

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

Agency	Comment
DLNR--DAR	No response received by suspense date.
DLNR--OCCL	No objections.
DLNR--SHPD	No response received by suspense date.
DLNR—Engineering	No comments.
OHA	No response received by suspense date.
County Planning Dept.	No objections.
County Dept. of Public Works	No response received by suspense date.

The County of Maui Planning Department provided a copy of their Special Management Area emergency permit for the repair of the subject erosion control structure. A copy is attached as Exhibit F.

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, 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 revocable permit to Applicant, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

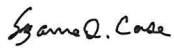
- A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Seiko Machida
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



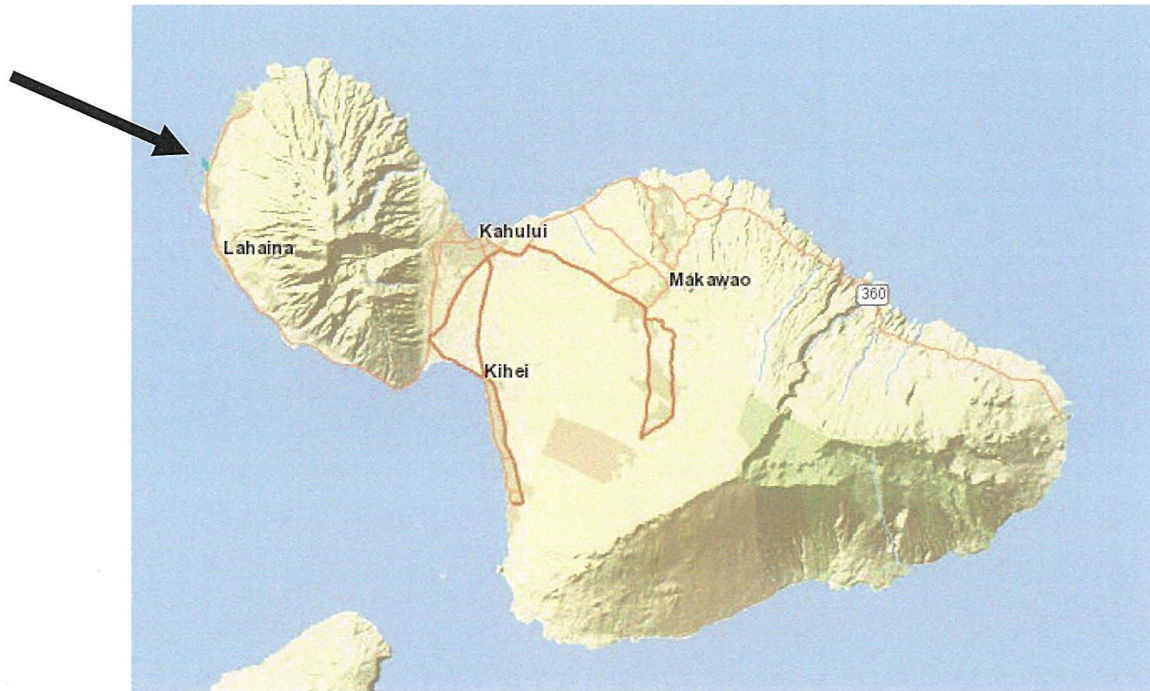


EXHIBIT A

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

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TO: Suzanne D. Case, Chairperson
Through: Russell Y. Tsuji, Administrator
From: Land Division, Appraisal Section
Date: September 16, 2021
Subject: Kaanapali Beach Club Shoreline Revocable Permit

A shoreline revocable permit valuation was prepared for the property below and is summarized as follows:

Reference:	PSF No. 21MD-048
Applicant:	Diamond Resorts International Club, Inc.
TMK:	(2) 4-4-001: Seaward of 098
Area:	9,800 square feet
Effective Date:	Upon Board Approval
Recommended Value:	\$1,906/month

The undersigned finds that the valuation was completed in accordance with the assignment.

Suzanne D. Case

Sep 16, 2021

RT

Suzanne D. Case, Chairperson

Date

TMK

Assessed Land Value (\$)	\$	25,657,300	
Land Area (sf)		329,880	7.573 acres
Unit Rate Land Value (\$/sf)	\$	77.78	
50% Off For Submerged Lands	\$	38.89	
Encroachment Area (sf)		9800	footprint of sandbags and erosion skirt
Encroachment Land Value (\$)	\$	381,110.62	
Annual Rent @ 4 to 8%	\$	22,866.64	0.06
Recommended Annual Value			
Monthly rent sandbags only	\$	1,905.55	



Parcel Information

Parcel Number 440010980000
 Location Address 104 KAA NAPALI SHORES PL UNIT C483
 LAHAINA HI 96761
 Neighborhood Code OFHOTEL
 Legal Information
 Land Area 7.573 Acres
 Parcel Note Non taxable

[View Map](#)

Owner Information

Owner Names
 KAA NAPALI BCH VAC RESORT - CONDO MASTER Fee Owner

Mailing Address
 KAA NAPALI BCH VAC RESORT - CONDO MASTER

Assessment Information

[Show Historical Assessments](#)

Year	Tax Class	Market Land Value	Agricultural Land Value	Assessed Land	Building Value	Total Assessed Value	Total Exemption Value	Total Net Taxable Value
2021	TIME SHARE	\$25,657,300	\$0	\$25,657,300	\$0	\$25,657,300	\$0	\$25,657,300

[How to calculate real property taxes](#)

Sales Information

Sale Date	Price	Instrument Number	Instrument Type	Valid Sale or Other Reason	Document Type	Record Date	Land Court #	Land Court Cert
4/3/2014	\$0		Route slip		Grant of easement	4/3/2014		
5/6/2009	\$0		Route slip		Correction	5/6/2009		
3/25/2003	\$0	03-54655	Recorded document		Declaration of/Restatement of CPR	3/25/2003	2907136	
2/26/1998	\$0	9800030558				3/9/1998	2442314	500746
11/14/1997	\$0	9700158281	Fee conveyance			11/14/1997	2417391	500746
11/14/1997	\$0	9700158283	Lease			11/14/1997	2417393	500746
11/14/1997	\$43,449,700	9700158282	Lease			11/14/1997	2417392	500746
1/25/1996	\$21,000,000	9600012206	Fee conveyance	Related individuals		1/30/1996	2286942	469607
3/1/1993	\$0	9300043327				3/18/1993	2007287	235729
7/15/1992	\$0	9200113613	Lease			7/15/1992		
7/15/1992	\$104,081,718	9200113606	Lease			7/15/1992	1931614	235729
2/28/1989	\$0	8900027232	Lease			2/28/1989	1616459	235729
2/22/1989	\$149,997,000	8900027234	Lease	Valid Sale		2/28/1989	1616460	235729
1/1/1900	\$0	0000000000				2/3/1994	115342	

Permit Information

Date	Permit Number	Reason	Permit Amount
11/7/2017	B20171417	Interior Improvement	\$270,000
5/17/2017	B20170602	Pool	\$210,000
5/17/2016	B20160533	Interior Improvement	\$0
12/10/2014	B20141602	Converted existing structure	\$125,000
10/10/2014	B20141311	Interior Improvement	\$25,000
7/2/2014	B20140882	Interior Improvement	\$0
4/15/2014	B20140510	Miscellaneous exterior improvement	\$4,005,680
5/6/2013	B20130466	Addition	\$10,000
1/20/1999	99 0098		\$47,000
8/10/1993	B931599		\$10,500
9/10/1988	82-1212		\$500,000
9/10/1982	82-1213		\$2,930,000
9/10/1982	82-1210		\$26,500,000

[KIVA Permit Site](#)

DAVID Y. IGE
GOVERNOR OF HAWAII



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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 Revocable Permit to Diamond Resorts International Club, Inc., to Repair Existing Erosion Protection Skirt, Honokowai, Lahaina, Maui, Tax Map Key: (2) 4-4-001: Seaward of 098.

Project / Reference No.: PSF 21MD-048

Project Location: Honokowai, Lahaina, Maui, Tax Map Key: (2) 4-4-001: Seaward of 098

Project Description: Diamond Resorts International Club, Inc. ("Applicant") is hiring a contractor to repair a damaged erosion protection skirt at Kaanapali Beach Club. Applicant needs a revocable permit at subject location because the existing erosion control system consisting of a skirt and sand-filled mattresses was damaged in 2018, less than three months after construction.

The sand-filled mattresses will be replaced by sand containers made of Tencate Mirafi GT1000MB geotextile fabric and filled with sand that was dredged from Lahaina Harbor in 2017. These are the same materials that were used in the existing erosion control system. The sand containers are expected to better withstand wave energy due to their cubical shape which enables them to be oriented and stacked to increase durability and stability. The damaged portions of the erosion control skirt will be removed prior to installation of the sand containers. The sand containers will be transported via skid steer to the shoreline for placement. A 238 Komatsu excavator will be used to place the sand containers along the erosion scarp. Once the sand containers are installed, a skirt will be placed over them. The total area that will be used for

EXHIBIT C

the project is about 9,800 square feet. The damaged section of the erosion protection skirt is about 140 to 300 feet long.

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

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 November 10 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to: General Exemption Type 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing", Part 1, Item No. 44 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

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

No, the request is a short-term revocable permit to repair an existing sandbag revetment fronting a condominium property.

The impact of this project will be to repair damaged sandbags and stabilize a compromised sandbag revetment and prevent possible property loss upland of the revetment. The proposed sandbag and erosion protection skirt repairs are a temporary measure to forestall loss of land mauka of the shoreline until a long-term solution, which is being currently being formulated by Applicant and their consultant, is implemented.

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 has been reviewed and approved by subject matter experts in the DLNR Office of Conservation and Coastal Lands. MDLO staff cites general exemption Type 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that

previously existing”, Part 1, Item No. 44 that states, “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.

Consulted Parties

Consulted with the DLNR Division of Aquatic Resources, DLNR Division of Engineering, OCCL, Office of Hawaiian Affairs, and the County of Maui Departments of Planning, and Public Works. OCCL and the Maui County Department of Planning responded with no objections, DLNR Engineering responded with no comments, and the other parties did not respond by the suspense date.

Recommendation:

That the Board finds 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.

DAVID Y. IGE
GOVERNOR OF HAWAII



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LAND
STATE PARKS

REF:OCCL:SS

Emergency CDUP MA 21-06

Diamond Resorts International
c/o Kā'anapali Beach Club
ATTN: Fred Mayo, General Manager
104 Kā'anapali Shores Place
Lāhainā, HI 96761

FEB - 3 2021

SUBJECT: Emergency Conservation District Use Permit Regarding a Request for Repairs to
Emergency Temporary Erosion Control Seaward of the Kā'anapali Beach Club at
104 Kā'anapali Shores Place, Lāhainā, Maui; TMK (2) 4-4-001:098, and seaward

Dear Landowner:

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is in receipt of your request to repair and maintain the erosion protection skirt that currently sits in the shoreline area makai of the subject property in Lāhainā, Maui. According to the information provided to our office, the existing subject erosion protection skirt was authorized by OCCL on May 25, 2017 as Emergency CDUP MA 17-30, attached as **Exhibit A**, but the erosion protection skirt was not placed until May of 2018. The approved structure in Emergency CDUP MA 17-30 consisted of geotextile fabric, sand-filled geotextile mattresses, and polypropylene sandbags along roughly 500 linear feet of shoreline fronting the subject property that had a total footprint of roughly 9,800 square feet.

Within a few months of its installation in 2018, the erosion protection skirt sustained damage due to heavy wave events. In the two years since its installation, this area has seen continued heavy wave events that has caused the damage to exacerbate even further. Your information packet sent to our office states that at the current time the damaged section of the erosion protection skirt is roughly 140 feet long (**Figures 1 & 2**, on next page).

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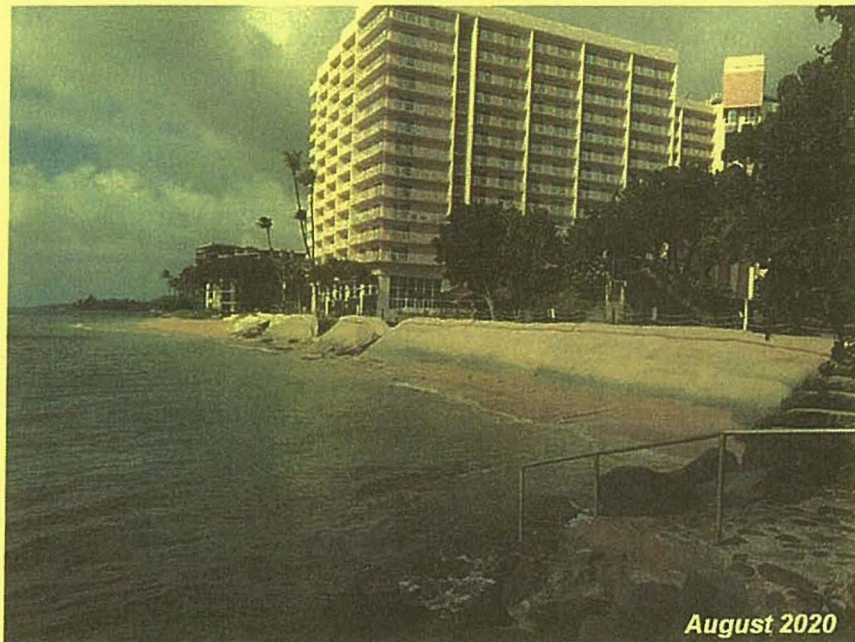


Figure 1 – Damaged Skirt as of August 2020, Provided by Applicant

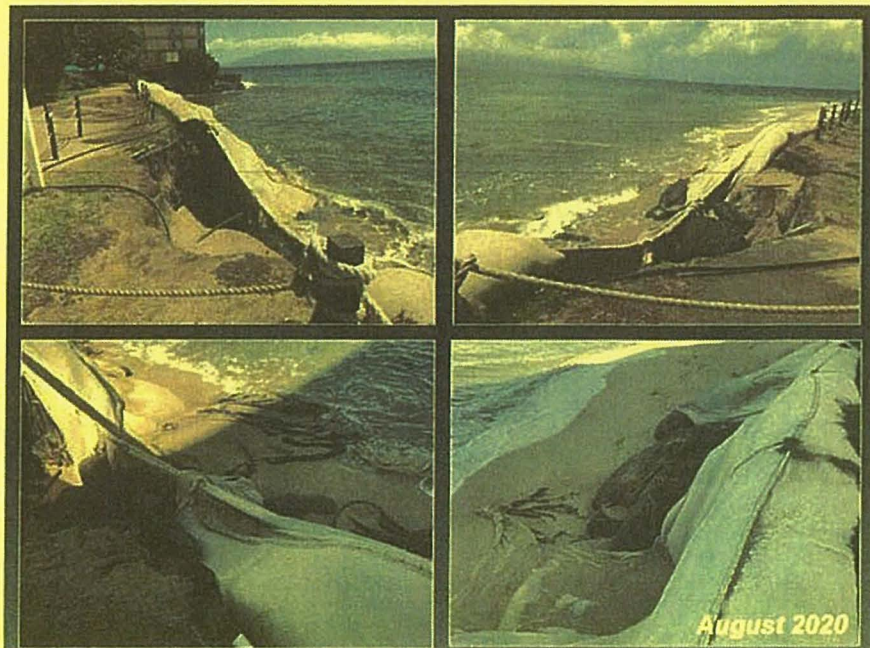


Figure 2 – Damaged Skirt as of August 2020, Provided by Applicant

The adjacent properties to both the north and south of the subject property are armored with revetments and/or seawalls.

The damage to the existing erosion protection skirt as shown above in *Figures 1 & 2* has prompted your client to request authorization to repair these damaged sections of the erosion control skirt while a long-term strategy to address the erosion problem at the subject property is formed. A long-term trend of beach erosion is accompanied by seasonal and episodic erosion from high waves events in this area of west Maui (*Figures 3 & 4*), prompting a need for action to address the erosion problem in the area.

Honokowai, Maui, Hawaii



Figure 3 – Erosion Map for Subject Area, Showing Subject Property



Figure 4 – Inset of Erosion Map for Subject Area, Showing Subject Property

The subject property is facing chronic erosion, as visible on *Figures 3 and 4*, with the information and graphs provided by the University of Hawai'i's Coastal Geology Group. According to this data, the shoreline in the subject area is moving inland at an annual rate of roughly one foot in some areas of the property. A screenshot of the Hawai'i Sea Level Rise Viewer, provided by the University of Hawai'i's Coastal Geology Group for the subject property as shown on the next page in *Figure 5*, reveal the serious threat that sea level rise and both chronic and episodic coastal erosion pose to the subject property and the surrounding area as a whole.

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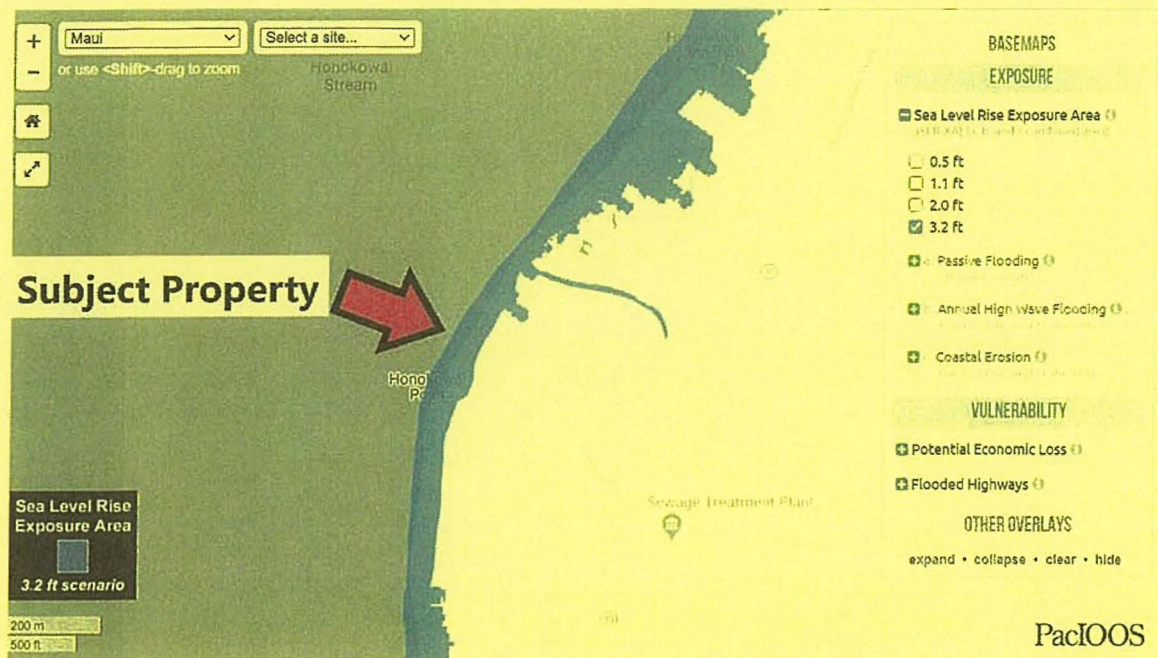


Figure 5 – Sea Level Rise Exposure Area Map for Subject Property

Based on Figures 3-5 above, the subject property is in serious danger of coastal erosion due to both accelerating sea level rise as well as seasonal high-energy wave events and will likely see significant adverse effects due to the combination of these occurrences in the future. In light of the subject property's significantly threatened status, actions will need to be taken in the near future to protect the structures on the property and to simultaneously ensure the protection of natural shoreline processes.

In the meantime, you are requesting authorization to repair a previously approved erosion protection skirt in the shoreline area fronting the subject property. The existing subject erosion protection skirt was authorized by OCCL on May 25, 2017 as Emergency CDUP MA 17-30, attached to this document as *Exhibit A*, but this authorization expired on May 25, 2020. Therefore, our office is processing this request as a new Emergency Conservation District Use Application (CDUA).

Proposed Action

The proposed action that is the subject of this request would consist of repairing the damaged section of the existing erosion protection skirt, the length of which is stated to be approximately 140 linear feet, but may be up to as much as 300 feet. Your application notes that this would be a like-to-like replacement, with no expansion or additional improvements to the existing erosion protection skirt proposed, and that the means, methods, and materials would be similar to (with an exception as explained below) that used in the construction of the existing erosion control skirt in 2018. These same materials would include Tencate Mirafi geotextile fabric that would be filled with sand dredged from Lāhainā Harbor in 2017. This is the same sand used in the original construction.

Due to the severe damage sustained by the sand-filled mattresses that were placed for the original construction, these damaged mattresses would be replaced with geotextile sand containers. The information provided notes that this change is proposed because the geotextile containers can be stacked and oriented to withstand higher wave energy than the mattresses, which have sustained heavy damage since their installation. The application also notes that the geotextile sand containers can be constructed in a shorter time period and are less labor intensive than the mattresses in addition to having reduced impact to the beach and shoreline during construction.

The paved road and parking lot of the Kā'anapali Beach Club would be used as access as well as a staging area for the project. The information provided states that this staging area would be roughly 3,500 square feet and that Best Management Practices (BMPs) would be used to store and maintain all equipment within the staging area throughout the duration of the project. The application states that the project is expected to take roughly 25 days to complete depending on ocean conditions.

The damaged sand-filled mattresses would first be removed from the area and subsequently be replaced by geotextile sand containers constructed of Tencate Mirafi geotextile fabric, which is the same material that was used for the existing erosion control skirt. Approximately 432 cubic yards of sand would be used to fill these containers, and the sand used for this project would be the same sand used in the original construction in 2018 (dredged from Lāhainā Harbor in 2017). The information provided states that the sand-filled containers will be constructed and sewn within the staging area and then transported to the shoreline for placement via skid steer. Upon placement in the shoreline area, a 238 Komatsu excavator would be used to place the sand containers along the erosion scarp according to design specifications.

Upon installation of the sand-filled containers, an erosion control skirt – consisting of a single layer of Tencate Mirafi geotextile fabric, the same material as the existing skirt – would be draped over the mattresses. The top of the skirt would be anchored to the top of the erosion scarp while the bottom would be anchored within a shallow trench at the base of the sand-filled containers. Materials used to anchor the skirt at the base of the containers would consist of pre-sewn pockets filled with sandbags, while the skirt's anchoring to the top of the scarp would consist of platypus earth anchors connected to a 4-inch galvanized pipe that slides into a sleeve at the top of the structure, fastened using wire ropes and clamps. The application notes that the backshore anchoring would be buried at a shallow depth to avoid potential tripping hazards for the general public. Upon completion of these actions, all materials, work equipment, and BMPs that were installed for the project would be removed, and the area would be restored to its pre-project state.

Both seasonal and long-term conditions have resulted in erosion of the shoreline fronting the subject property that has prompted repeated requests to address the situation. After much consideration on the potential impacts of the proposed structure, as well as the feasibility of other designs to adequately protect the area from its high erosion rates, our office has decided to approve the proposed design for emergency temporary erosion control while a long-term solution to the chronic erosion problem at the subject property is formed.

However, this authorization is temporary. The Kā'anapali Beach Club must develop a longer-term plan to address the situation. This emergency authorization will include a condition that requires them to do this.

The DLNR authorizes the temporary emergency erosion control measures as described above for three (3) years along the shoreline fronting the subject property while the applicant develops long-term options in an effort to protect public health, welfare, and safety on the subject property under Hawai'i Administrative Rules (HAR) §13-5-35, *Emergency Permits (a) "notwithstanding any provision of this chapter, the chairperson or deputy director of the department in the absence of the Chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department."*

In addition, the temporary structure may be considered an exempt action under State environmental laws under HAR §11-200.1-15(c), Exemption Class (4): *Minor alterations in the condition of land, water, or vegetation*, and DLNR Exemption List Class 4, Part 2 (1): *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*. The Office of Conservation and Coastal Lands consulted with the Maui County Planning Office, who concurred with this exemption for the proposed project.

The erosion control measures are intended to provide temporary mitigation of the erosion problem and reduce hazards to the subject property while you pursue a long-term strategy. The DLNR requests that you remove and properly dispose of any debris encountered on the beach during the installation of the erosion control measures. Any materials that come loose from the temporary erosion control measures shall be repaired or discarded as soon as possible so they do not end up in the beach or marine environment. The beach-compatible sand used to fill the geotextile containers must be pre-approved by OCCL before use. Additionally, a land disposition is required from the Maui District Land Office.

Please review the following Terms and Conditions carefully and return a signed copy to the DLNR.

Terms and Conditions

The DLNR has no objections to the emergency temporary erosion control as described above fronting the subject property at 104 Kā'anapali Shores Place, Lāhainā, Maui, Tax Map Key (2) 4-4-001:098, provided that you adhere to the following terms and conditions:

1. It is understood that the emergency temporary shoreline protection is a temporary response to address chronic beach erosion that is persistent in the subject area until a long-term solution is formed. **The material is authorized as a temporary erosion control measure for three (3) years** from the date of issuance of this letter. Subsequent

erosion control efforts that call for modification, other than routine maintenance of the proposed structure, will require a new application. At the end of the authorization period, the materials shall be removed;

2. Unless otherwise authorized, any work or construction to be done on the land shall be completed within 180 days of the approval of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
3. The permittee shall obtain a land disposition for the structure;
4. The permittee will submit a completion report for the project to the OCCL within ninety (90) days of completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans as well as provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;
5. The permittee shall obtain necessary county permits for proposed the use, as necessary;
6. The applicant shall implement standard Best Management Practices (BMPs) including the ability to contain and minimize silt in nearshore waters and clean up fuel, fluid, or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
7. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;
8. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;
9. Any materials that become liberated during construction activities must be immediately removed from the beach or ocean;
10. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
11. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access laterally along the beach and alongshore walkway;

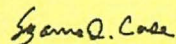
12. Obstruction of lateral shoreline access shall be avoided or minimized;
13. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
14. The activity shall not adversely affect a federally listed, threatened, or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
15. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species which normally migrate through the area;
16. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to HRS §205A-71. All exterior lighting shall be shielded to protect the night sky;
17. 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;
18. 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 the State Historic Preservation Division (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
19. 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;
20. For all landscaped and 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;
21. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
22. The permittee shall comply with all applicable Department of Health Administrative Rules;
23. The permittee, their 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, and 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;

24. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
25. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
26. In issuing the permit, the Department and the Chairperson have relied on the information and data that the permittees have provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;
27. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
28. **A long-term plan to address erosion at the subject property must be submitted to the OCCL within one (1) year of the date of issuance of this emergency permit. The plan must include timeframes for implementation;**
29. Other terms and conditions as prescribed by the Chairperson; and
30. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.

Please review these Terms and Conditions carefully and return a signed copy to the DLNR. Should you have any questions pertaining to this letter, please contact Salvatore Saluga of our office at (808) 798-6147 or salvatore.j.saluga@hawaii.gov.

Sincerely,



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

I concur with the conditions of this letter:

KA Wheeler
Signature of Applicant or Representative

Date: February 12, 2021

Kathy A. Wheeler Authorized Representative
Print Name & Title

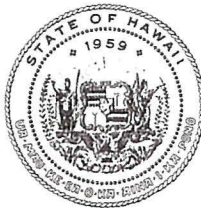
CC: Sea Engineering, Inc.
 c/o Andy Bohlander
 MDLO
 County of Maui, Planning Department

DAVID Y. IGE
GOVERNOR OF HAWAII



RECEIVED
MAUI DISTRICT
LAND DIVISION

2017 MAY 30 PM 3:08



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
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

DLNR:OCCL:SL

File : Emergency MA-17-30

Mr. Jim Hunsucker, General Manager
Ka'anapali Beach Vacation Resort
Association of Apartment Owners
104 Ka'anapali Shores Place, Unit C483
Lahaina, Maui 96761

MAY 25 2017

Dear Mr. Hunsucker,

Subject: Request for Emergency Temporary Shoreline Protection at Ka'anapali Beach Vacation Resort at 104 Ka'anapali Shores Place, Lahaina, Maui; TMK (2) 4-4-001:098; (Owner: Diamond Resorts International).

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) is responding to your May 8, 2017 request to place an "erosion protection skirt" as temporary erosion control along approximately 500 feet of the shoreline fronting the Ka'anapali Beach Vacation Resort ("Ka'anapali Beach Club") at 104 Ka'anapali Shores Place, Lahaina, Maui; TMK (2) 4-4-001:098. The proposed project is intended to protect the subject property and resort infrastructure from further coastal erosion and land loss and protect the safety of the public and resort guests while a longer-term solution is devised.

A long-term trend of beach erosion, accompanied by seasonal and episodic erosion from high waves has created an erosion scarp that, according to your letter, is now within approximately thirty feet of the twelve-story resort building in the northern half of the property and within several feet of a pool deck, water slide, waterfall, and pump house in the south of the property. A chronic trend of beach erosion and loss has been documented in this area of North Ka'anapali and Honokowai Point over the past century¹. Large waves and high tides over the past year have eroded and undercut a steep and concave scarp (eroded embankment). According to your letter, the shoreline retreated as much as 10 feet in just a few months over this past winter.

The shoreline to the north of the subject property is armored (seawalls, revetments) with an narrow, intermittent beach fronting the neighboring property and little or no beach remaining to the north. The adjoining property to the south is armored by a rock revetment, which extends out into the beach. Ka'anapali Beach extends to the south from Honokowai Point.

¹ Hawai'i Coastal Erosion Website: <http://www.soest.hawaii.edu/coasts/erosion/oahu/>

According to your letter and enclosed photos, the erosion has exposed and damaged an outdoor shower pad, concrete walkway, in-ground utilities, and drainage infrastructure. Continued erosion would impact the concrete pool deck and walkway and other resort infrastructure, and could affect the 12-story resort building if recent high rates of erosion continue.

The scarp was between four and eight feet high at the time of writing of your letter. The scarp and backshore appears to be comprised primarily of volcanic soil, clay, and rock, with little or no carbonate beach sand. The erosion has undercut the clay bank resulting in collapse of large sections of the upper bank and loss of several trees. This has created a safety hazard for the public and resort guests on the beach and in the grassy area above the scarp. The area is now cordoned off for safety reasons. Erosion of the volcanic soil and clay is also increasing turbidity in the nearshore waters during high waves.

The DLNR understands that most or all of the proposed activities will occur on State land, seaward of where the shoreline would likely be determined based on Hawaii Administrative Rules (HAR) §13-222 *Shoreline Certifications*. The proposed plan is to install a temporary erosion protection skirt over the face of the scarp (eroded embankment) along 500 feet of the Ka'anapali Beach Club property shoreline.

The proposed structure would be constructed from geotextile fabric, sand-filled coconut fiber (coir) mattresses, and polypropylene and geotextile sandbags. All sandbags and coir mattresses would be filled with clean, screened, "Class A" Maui carbonate inland dune sand. The face of the existing scarp would be cut or smoothed as needed to provide an approximately linear and vertical contour. Any excavated soil or materials would be removed from the shoreline and properly disposed of off-site. Sand would be temporarily pushed away from the toe of the scarp to form a protective berm while work is being completed. Silt and debris fences and other temporary barriers would be installed to prevent sand and sediment from reaching marine waters.

A geotextile cloth would be laid over the scarp and at the foot of the scarp to provide an underlayment for the sand-filled coir mattresses. Five sections of 100-foot long by 20-foot wide heavy geotextile fabric skirt would be sewn together and draped along the scarp over the stacked mattresses. The skirt would be anchored at the top by buried soil anchors installed in the yard and secured at the base by pre-sewn pockets filled with polypropylene sandbags buried in the beach at the toe of the structure. The seams joining the 100-foot sections of skirt would be held in place using additional anchors and cables and with additional weight from polypropylene sandbags within the overlapping seam. According to your letter, failure of the terminal ends of the skirt by wave action is a particular concern. For this reason, you are requesting to place 6 to 8 large ElcoRock sandbags along each end of the skirt to help anchor the ends of the structure.

The proposed structure would be approximately 500 feet long, between 5 and 8 feet tall (depending on height of the scarp), and between 8 and 12 feet wide at the base, over a total area of approximately 9,800 square feet of the public beach.

The DLNR authorizes the temporary emergency structure as described above for three (3) years along approximately 500 feet of the erosion scarp fronting the subject property while the applicant develops long-term options in an effort to protect public health, welfare, and safety on the subject property under Hawaii Administrative Rules (HAR) §13-5-35, *Emergency*

Permits (a) "Notwithstanding any provision of this chapter, the chairperson or deputy director of the department in the absence of the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department."

In addition, the structure may be considered an exempt action under State environmental laws under HAR §11-200-8 and as provided in the approved Exemption List for the DLNR, *Exemption Class 1: 1. Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources; and 2. Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features and biological resources.* The DLNR Department of Engineering has provided concurrence on this exemption.

The erosion skirt is intended to provide temporary mitigation of the erosion problem and reduce hazards while pursuing a longer-term strategy. Your letter indicates that you are committed to a long-term solution for erosion management at the property and are currently working with consultants, engineers, neighboring properties, and government agencies to assess short and long-term options. This temporary authorization is contingent on your continued progress toward a long-term erosion management strategy.

The DLNR is requiring that you complete a Draft Environmental Assessment for a long-term plan for erosion management at the subject property within one (1) year following the date of this emergency authorization. Please review the following terms and conditions carefully.

Terms and Conditions

The DLNR has no objections to the Emergency Temporary Shoreline Protection as described above fronting the subject property, at TMK (2) 4-4-001:098, provided that you adhere to the following Terms and Conditions:

1. It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address safety hazards at the subject property, which is threatened by both chronic and seasonal beach erosion. **The material is authorized as a temporary erosion control measure for three (3) years** from the date of issuance of this letter. Subsequent erosion control efforts that call for modification, other than maintenance of the proposed structure will require a new application. At the end of the authorization period, the materials shall be removed;
2. **The permittee shall complete a Draft Environmental Assessment (DEA) for a long-term plan for erosion management at the subject property within one (1) year from the date of the issuance of this letter.** The DEA should assess all reasonable

alternatives for long-term erosion management at the site, including but not limited to beach restoration. Failure to complete the DEA within one year will render this temporary authorization void;

3. The permittee shall contact the DLNR Maui Land Division and/or Division of Boating and Ocean Recreation and secure a Right of Entry Permit incorporating the most current terms and conditions for the use of State lands for this structure;
4. The permittee will submit a completion report for the project to the OCCL within ninety (90) days of completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans and provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;
5. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
6. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and 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;
7. Unless otherwise authorized, any work or construction to be done on the land shall be completed within 180 days of the approval of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
8. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
9. Authorization of the sand use and placement is contingent upon review and approval of the sand by the Department. The sand shall meet the following State quality standards:
 - a) The proposed fill sand shall not contain more than six (6) percent fines, defined as the #200 sieve (0.074 mm);
 - b) The proposed beach fill sand shall not contain more than ten (10) percent coarse sediment, defined as the #4 sieve (4.76 mm) and shall be screened to remove any non-beach compatible material and rubble;
 - c) No more than 50 (fifty) percent of the fill sand shall have a grain diameter less than 0.125 mm as measured by #120 Standard Sieve Mesh;
 - d) Beach fill shall be dominantly composed of naturally occurring carbonate beach or dune sand. Crushed limestone or other man made or non-carbonate sands are unacceptable;
10. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project. All

barriers shall be removed once the project is complete to allow full public access laterally along the beach and alongshore walkway;

11. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel; fluid or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
12. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;
13. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
14. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
15. In issuing the permit, the Department and the Chairperson have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;
16. 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;
17. 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;
18. For all landscaped 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 Hawaii Revised Statutes (HRS) §205A-1;
19. The activity shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
20. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
21. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;
22. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to HRS §205A-71. All exterior lighting shall be shielded to protect the night sky;

23. 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 Hawaii, and by Hawaii statutory and case law;
24. 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 the State Historic Preservation Division (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
25. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
26. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.

Should you have any questions pertaining to this letter, please contact Brad Romine, Hawaii Sea Grant Extension Agent in the OCCL at (808) 587-0049 or Bradley.M.Romine@Hawaii.gov.

Sincerely,



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

CC: Maui County Planning Department, Keith Scott
Maui Land Division Office
DOBOR Maui District Office, Paul Sensano
Thorne Abbott, Coastal Planners LLC

I concur with the conditions of this letter:

Applicant

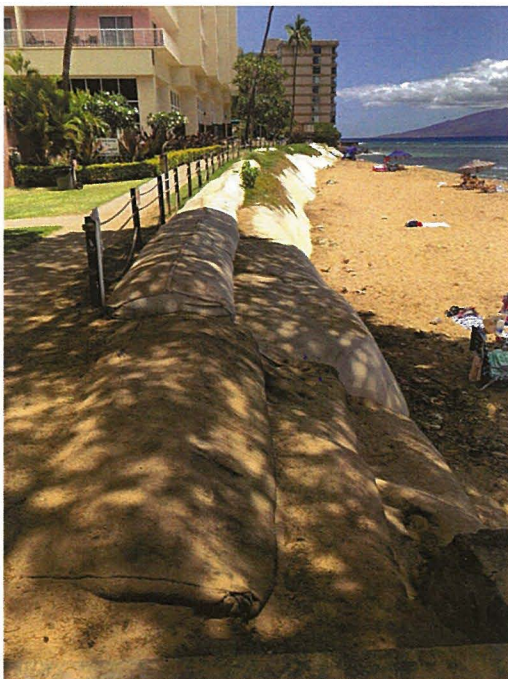
Date _____

View from the South looking North toward Kaanapali Beach Club Hotel

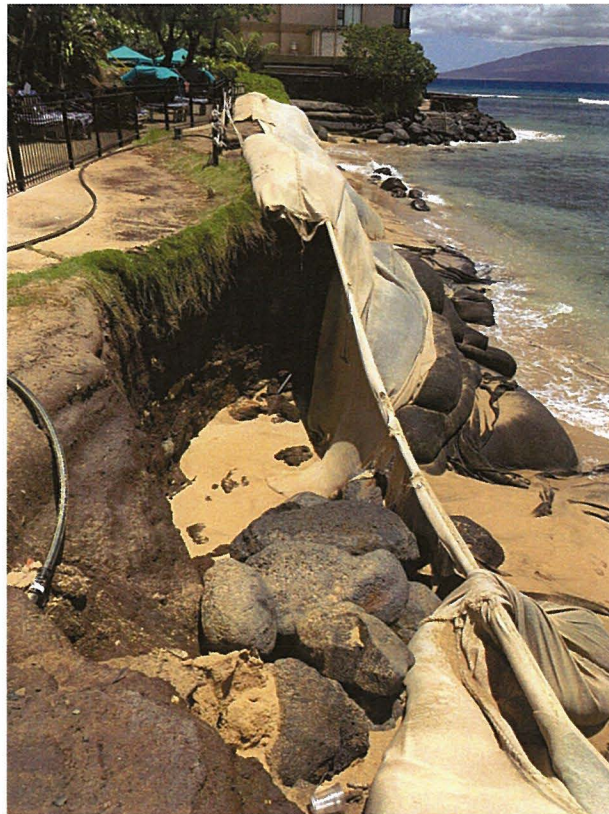
photos taken 6/29/21



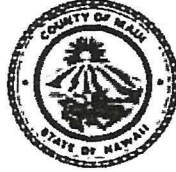
View from the North looking South. Maui Kai condo in the distance.



Damaged skirt, southern portion of beach



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

January 21, 2021

Mr. Bryan Esmeralda, AICP
Senior Associate
Munekiyo Hiraga
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Esmeralda:

SUBJECT: SPECIAL MANAGEMENT AREA (SMA) EMERGENCY PERMIT APPROVAL AND SHORELINE SETBACK APPROVAL (SSA) FOR REPAIR OF A TEMPORARY SHORELINE BANK STABILIZATION STRUCTURE AT THE KAA NAPALI BEACH VACATION RESORT (AKA KAA NAPALI BEACH CLUB), LOCATED AT 104 KAA NAPALI SHORES DRIVE, LAHAINA, MAUI, HAWAII; TMK: (2) 4-4-001:098 (POR.) (SM3 2020/0014) (SSA 2020/0062) (EAE 2021/0003)

The Department of Planning (Department) received your subject application on November 10, 2020 and has reviewed the application for a SMA Emergency Permit to complete emergency repairs to a failed section of temporary protective structure at the shoreline. The Department understands that you are the authorized representative for the West Maui Resort Partners, LP. From multiple site visits over the past five years, the Department understands the environmental setting of the parcel.

The Department confirms final required fines have been paid that are associated with the past Notice of Violation (NOV 2020/0089) dated August 10, 2020 in violation of SSA 2017/0027 conditions. The purpose of the subject SSA permit is to authorize the existing temporary structure that is to be repaired under this emergency permit.

Additionally, the Applicant has submitted, and the Department has reviewed, Exhibit A, *Coastal Assessment for Kaanapali Beach Club Coastal Erosion* (Coastal Assessment), dated April 2020, with important technical, scientific, and planning information to support shoreline management options for the future. This Coastal Assessment demonstrates substantial progress towards solving the emergency coastal erosion situation at the shoreline. The Coastal Assessment provides a summary of viable proposals and alternatives for near-, medium-, and long-term mitigation for the at-risk condominium building and pool area due to continued coastal erosion, projected sea level rise, and other factors. The Department acknowledges that the Applicant did reference a preferred solution for beach nourishment and restoration. The Department supports this beach restoration short-term solution and supports managed retreat as a longer-term solution in order to protect both the coastal ecosystem as well as the existing at-risk structures.

Plans for the emergency work are provided in Exhibit D, *Proposed Repair Work Plan*, of the application. According to plans reviewed by the Department, the scope of work is limited to repairs for at least 140 feet and up to 300 feet of the existing, temporary, protective structure that spans approximately 500 feet of shoreline. Additional repairs or relocation of appurtenant structures further mauka are described as part of this permit application. The valuation of the proposed work is stated at \$290,000. Work within the County jurisdiction is less than \$125,000.

The reason for the emergency permit request is the repairs must be conducted in a relatively short time window while the beach is wide and inflated so as to minimize impacts to the coastal zone. From Departmental observations and experience, this beach profile can become narrow at certain times of the year, eliminating the ability to repair the temporary shoreline protection structure in a like-for-like manner.

The Department acknowledges that the proposed repairs comply with the like-for-like repair instructions, and the repair methodology and materials presented in the subject application are acceptable, subject to conditions. Additionally, the General Manager for the subject parcel has been forwarding to the Department monthly pictures of the beach profile. From the recent profiles, the Department finds that an adequate beach profile exists to proceed with the planned repairs, with Best Management Practices (BMPs) in place, as part of this permit. The Department also conducted a site visit to the shoreline on December 10, 2020 and confirms the adequate beach profile to perform the work.

The request for the emergency repairs is for a three-year time period. Please note that the Department maximum allowable deployment timeline under emergency conditions is 180 days. Any time extension request beyond 180 days will require further continued evidence of progress towards a beach restoration solution.

The SMA Emergency Permit application is deemed complete. From the written information in the application along with the aforementioned site visit, the Planning Director (Director) has deemed the situation to be an emergency with imminent and substantial harm to the public health, safety, or welfare that threatens one habitable structure, situated at the north end of the subject parcel at the shoreline. The situation qualifies for a SMA Emergency Permit. The written statement of the emergency is summarized as follows:

- a) Due to sustained damage from waves and resultant land loss from coastal erosion, the health, safety and welfare of the occupants of the 12-story condominium structure at the north end of the parcel, as well as the structure itself, remain threatened by future coastal hazards. The temporary shoreline protection structure has failed in sections that potentially threaten the structure.
- b) The Applicant's proposed emergency action is to undertake needed like-for-like emergency repairs, as described above and as agreed to by the Department to a limited section of up to 300 feet of an existing temporary shoreline protection structure that had previously been constructed and fell out of compliance with County permits: SM2 2017/0057, SSA 2017/0027, and EAE 2017/0041.
- c) An updated Shoreline Survey with photographs, conducted by Ailana Survey and Geomatics and dated November 4, 2020, has been submitted as part of the SMA Emergency Application.
- d) The Coastal Assessment provides the basis and framework for completing a beach restoration project at the shoreline fronting the KBC parcel which, when implemented, will result in removing the temporary shoreline protection structure as soon as possible.
- e) Time is of the essence to conduct the subject repairs.

In consideration of the above findings and determination, you are hereby authorized a Special Management Area Emergency Permit (SM3 2020/0014) subject to the following conditions:

EXHIBIT F

1. That the repairs shall be limited to the damaged sections of the temporary bank stabilization structure, as determined by the contractor, and shall be according to plans titled, "Kahana Beach Club Emergency Erosion Control," prepared by Sea Engineering, dated September 15, 2020, with 5 sheets labeled T-001, G-001 (General Notes and Geotextile Container Placement) C-001, C-002 and C-003.
2. That since conditions at the shoreline may change due to winter storm events, any changes to the plans deemed necessary by the contractor must be communicated in advance to the Department for approval to the Scope of Work.
3. That parking for the public continue to be provided in order to access the shoreline.
4. That the term of this permit may be extended at the discretion of the Department, upon submission of an Amendment to Planning Permit Terms application, which must be filed within 30 days prior to permit expiration. With the permit extension application request, a summary progress report towards development of the beach restoration project shall be submitted to the Department.
5. That the scope of work must also be authorized by the Department of Land and Natural Resource-Office of Conservation and Coastal Lands (DLNR-OCCL) and comply with all stated conditions.

Furthermore, in accordance with the *Shoreline Rules for the Maui Planning Commission* (Shoreline Rules) a determination has been made relative to the above-referenced project that:

1. The site is a shoreline property and is subject to the Shoreline Rules;
2. An updated Shoreline Survey with pictures, conducted by Ailana Survey and Geomatics and dated November 4, 2020 has been submitted as part of the SMA Emergency Application;
3. The project is being coordinated with DLNR-OCCL;
4. The work will take place inside the shoreline setback area. The proposed work inside the shoreline setback area is a permissible activity, pursuant to Section 12-203(a)(10) which allows: *"Emergency protection of an imminently threatened legally habitable structure, or infrastructure at imminent risk of failure which would substantially affect public health and safety, provided that:*
 - a. *The protection is temporary and is removed within one hundred eighty (180) days of installation.*
 - b. *The protection receives approval in accordance with section 12-202-16, special management area rules of the Maui Planning Commission.*
 - c. *Given the significance of the emergency, the protection is the best management alternative in relation to the beach, shoreline, and coastal resource conservation".*

5. The proposed action may have an adverse impact on a flood zone or streamway. A concurrent Flood Development Permit (FDPT 2020/0106) application is under review by the Department, and Kaanapali Beach Club must comply with any project conditions imposed by this permit.

In consideration of the above findings and determination, you are hereby authorized a Shoreline Setback Approval (SSA 2020/0062) subject to the following conditions:

1. That the repairs shall be limited to the damaged sections of the temporary bank stabilization structure, as determined by the contractor, and shall be according to plans titled, "Kahana Beach Club Emergency Erosion Control," prepared by Sea Engineering, dated September 15, 2020, with 5 sheets labeled T-001, G-001 (General Notes and Geotextile Container Placement) C-001, C-002 and C-003 as submitted by the Applicant. Any non-substantial variations to these plans deemed necessary by the contractor due to shoreline conditions observed or further observed deterioration of the existing protective structure may be undertaken as part of this emergency permit. The Department requires advanced notice of changes via email to any changes in the submitted and referenced scope of work.
2. That the temporary bank stabilization structure shall be repaired in compliance with existing conditions required by the DLNR-OCCL permit Emergency MA-17-30 and any extension thereof.
3. That construction of the temporary bank stabilization structure shall be initiated by April 30, 2021, and shall be completed within three months of said initiation.
4. That the repairs to the temporary bank stabilization structure approved under this permit is authorized for 180 days as required under the Shoreline Rules. The terms of this permit may be extended at the discretion of the Department, upon submission of an Amendment to Planning Permit Terms application, which must be filed within 30 days prior to permit expiration. With the permit extension application request, please provide the Department with a summary progress report towards development of the beach restoration project.
5. That 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 shall be used. No vehicles or heavy machinery shall enter the high wash of the waves without prior approval by the Department in writing, to include appropriate additional conditions.
6. That work shall be conducted at low tide to the most practical extent possible, and work shall not occur during high surf or ocean conditions that will create unsafe work or beach conditions.

7. That at the start of every work day, the workers shall observe the beach area for basking sea turtles. Any sea turtles shall not be disturbed and must be allowed to leave the area under their own volition prior to the commencement of work for the day.
8. That any remedial trimming of vegetation at the shoreline that is not described in this scope of work but is designed to achieve continued life safety at the shoreline, may be conducted as part of this permit.
9. That additional reasonable fencing or post-and-rope guideposts, designed to guide the public out of construction harm's way, as well as to ensure public beach access, may be constructed at the shoreline as part of this permit.
10. That the Applicant post at the property entrance the subject permit numbers and issuance date in a visible location for the public and the residents to see for the entire construction time period.
11. That the Applicant provides hard copies of this subject permit to the construction crew for access at all times for viewing by the public, if necessary.
12. That a grading or building permit shall be obtained as applicable from the Department of Public Works Development Services Administration.
13. That in the event historic resources, including human skeletal remains, structural remains, cultural deposits, or lava tubes are identified during construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD), Maui Section, shall be contacted immediately at (808) 243-1285. Work shall not continue until cleared by DLNR-SHPD.
14. That Kaanapali Beach Club monitors shoreline conditions of its property and submit a report, consisting of dated photographs, documenting such conditions to the Department on the first day of the month, starting upon commencement of the work and then upon the first day of each month thereafter. Included shall be a site map showing from where and in what direction such pictures are taken. Of particular interest is the integrity of the temporary erosion control measure and sand levels in front of it.
15. That Kaanapali Beach Club shall submit to the Department, within 60 days of completion of construction, a detailed report addressing its compliance with the conditions established with this SSA Permit.
16. That Kaanapali Beach Club shall complete a Draft Environmental Assessment (DEA) for a long-term plan for erosion management at the subject property within one year from the date of the issuance of this permit. The DEA shall assess all reasonable alternatives for long-term erosion management at the site, including but not limited to beach restoration, and will include an assessment of feasible sand sources for beach restoration. Failure to complete the DEA within one year, without written notice to the Department describing delays, will render this permit void and the structure shall be removed.

17. That a separate permit shall be obtained for any other protection measures contemplated for this shoreline.
18. That full compliance with all other applicable governmental requirements shall be rendered.
19. That the Applicant coordinate all future shoreline work at the north end and the south end of the shoreline with your adjoining neighbor parcels to discuss, at minimum, mitigation options that can benefit each other's properties in a time effective and cost effective manner that also minimizes the impacts to each of the adjoining properties.

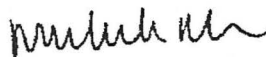
Moreover, the Department finds that the proposed action triggers compliance with environmental review because it includes the use of a shoreline area. However, the project qualifies for an exemption, specifically: "Minor alterations in the conditions of land, water, or vegetation."

In light of the above determination, you are granted an Environmental Assessment Exemption (EAE 2021/0003).

In summary, the Department grants a Special Management Area Emergency Permit (SM3 2020/0014), Shoreline Setback Approval (SSA 2020/0062) and Environmental Assessment Exemption (EAE 2021/0003) for the work described in your SMA Assessment Application (SM3 2020/0014). **PLEASE NOTE THAT OTHER PERMITS OR APPROVALS MAY BE REQUIRED.**

Thank you for your cooperation. If additional clarification is required, please contact Coastal Resource Planner James Buika, at james.buika@mauicounty.gov or at (808) 270-6271.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

xc: Jordan E. Hart, Deputy Director (PDF)
Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
James A. Buika, Coastal Resource Planner (PDF)
Development Services Administration (PDF)
Sam Lemmo, Department of Land and Natural Resources-Office of Conservation and Coastal Lands (PDF)
Fred Mayo, Kaanapali Beach Vacation Resorts
Project File

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EXHIBIT F