DEPARTMENT OF PLANNING
THE COUNTY OF KAUA'I
DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHILIG, MANAGING DIRECTOR

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KA'ĀINA S. HULL
DIRECTOR
JODI A. HIGUCHI SAYEGUSA
DEPUTY DIRECTOR

April 27, 2020

Interim Director
Office of Environmental Quality Control
Department of Health
State of Hawai'i
235 South Beretania Street, Room 702
Honolulu, Hawai'i 96813

Subject: **DEA and AFONSI**
Shoreline Setback Variance (Fencing)
AOAO Makahuena
Poipu, Koloa, Kauai
Kauai Tax Map Key No. (4) 2-8-020:003

Dear Interim Director:

The County of Kaua'i Department of Planning hereby transmits the Draft Environmental Assessment and Anticipated Finding of No Significant Impact (DEA-AFONSI) for the subject property at Kauai Tax Map Key No. (4) 3-6-005:005 on the Island of Kaua'i. As set forth in the revised DEA, the proposed installation of a safety fence within the shoreline setback area above the shoreline on the bluff of the southern (makai) portion of the property will not result in any significant environmental impacts.

Based on the significance criteria outlined in Title 11, Chapter 200, Hawaii Administrative Rules, our Department had determined that the preparation of an Environmental Impact Statement is not required, the reasons supporting the anticipated FONSI determination are as follows:

1. The Project would not result in substantial adverse impacts to natural, cultural or historic resources would be lost as the Project site is currently improved and the fence replacement within the shoreline setback area does not impact existing public access to the shoreline or known archeological resources.
2. The Project would not curtail the range of beneficial uses of the environment.
3. The Project aims to minimize disturbances to the existing landscape.
4. The Project does not result in substantial adverse impacts to the economic welfare, social welfare, or cultural practices of the community.
5. The Project does not substantially affect the public health and safety.
6. The small scale of the Project does not incur any secondary impacts.
7. The Project does not anticipate impacting existing vegetation and the environmental surroundings.
8. There are minimal impacts to the Project whereby construction of the replacement fence will generate temporary noise in the community, subject to the noise regulations of the State and County.

20-268

9. The Project will not be affected by sea level rise given the topography of the fence is elevated above future impacts of sea level rise.

Enclosed is a completed OEQC Publication Form, a copy of the DEA-AFONSI, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word.

Please publish the DEA-AFONSI on the next available publication of The Environmental Notice.

If there are any questions, please contact Mr. Ian K. Jung of Belles Graham LLP at (808) 245-2163.

Sincerely,

Jodi Higuchi Sayegusa

Jodi Higuchi Sayegusa
Deputy Director of Planning

APPLICANT
PUBLICATION FORM

Project Name:	Association of Apartment Owners of Makahuena
Project Short Name:	Perimeter Fencing Along Bluff
HRS §343-5 Trigger(s):	Improvements within Shoreline Setback Area
Island(s):	Kaua'i
Judicial District(s):	Koloa
TMK(s):	(4) 2-8-020:003
Permit(s)/Approval(s):	Shoreline Setback Variance (Bluff Fence)
Approving Agency:	County of Kauai, Planning Department 4444 Rice Street, Suite A473 Lihue, Kauai, Hawaii 96766
Contact Name, Email, Telephone, Address	Kaaina S. Hull, Planning Director 4444 Rice Street, Suite A473 Lihue, Kauai, Hawaii 96766 (808) 241-4050 khull@kauai.gov
Applicant:	Association of Apartment Owners of Makahuena
Contact Name, Email, Telephone, Address	AOAO Makahuena Attention: Ms. Judy Foss 4-1579 Kuhio Highway, Suite 102A Kapaa, Kauai, Hawaii 96746 judyfoss@comcast.net
Consultant:	Belles Graham LLP
Contact Name, Email, Telephone, Address	Ian K. Jung, Esq. 4334 Rice Street, Suite 202 Lihue, Kauai, Hawaii 96766 (808) 245-2163 ikj@kauai-law.com

Status (select one)	**Submittal Requirements**
__X__ DEA-AFNSI	Submit 1) the approving agency notice of determination/transmittal letter on agency letterhead, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the DEA, and 4) a searchable PDF of the DEA; a 30-day comment period follows from the date of publication in the Notice.
____ FEA-FONSI	Submit 1) the approving agency notice of determination/transmittal letter on agency letterhead, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the FEA, and 4) a searchable PDF of the FEA; no comment period follows from publication in the Notice.
____ FEA-EISPN	Submit 1) the approving agency notice of determination/transmittal letter on agency letterhead, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the FEA, and 4) a searchable PDF of the FEA; a 30-day comment period follows from the date of publication in the Notice.
____ Act 172-12 EISPN ("Direct to EIS")	Submit 1) the approving agency notice of determination letter on agency letterhead and 2) this completed OEQC publication form as a Word file; no EA is required and a 30-day comment period follows from the date of publication in the Notice.

____ DEIS	Submit 1) a transmittal letter to the OEQC and to the approving agency, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the DEIS, 4) a searchable PDF of the DEIS, and 5) a searchable PDF of the distribution list; a 45-day comment period follows from the date of publication in the Notice.
____ FEIS	Submit 1) a transmittal letter to the OEQC and to the approving agency, 2) this completed OEQC publication form as a Word file, 3) a hard copy of the FEIS, 4) a searchable PDF of the FEIS, and 5) a searchable PDF of the distribution list; no comment period follows from publication in the Notice.
____ FEIS Acceptance Determination	The approving agency simultaneously transmits to both the OEQC and the applicant a letter of its determination of acceptance or nonacceptance (pursuant to Section 11-200-23, HAR) of the FEIS; no comment period ensues upon publication in the Notice.
____ FEIS Statutory Acceptance	The approving agency simultaneously transmits to both the OEQC and the applicant a notice that it did not make a timely determination on the acceptance or nonacceptance of the applicant's FEIS under Section 343-5(c), HRS, and therefore the applicant's FEIS is deemed accepted as a matter of law.
____ Supplemental EIS Determination	The approving agency simultaneously transmits its notice to both the applicant and the OEQC that it has reviewed (pursuant to Section 11-200-27, HAR) the previously accepted FEIS and determines that a supplemental EIS is or is not required; no EA is required and no comment period ensues upon publication in the Notice.
____ Withdrawal	Identify the specific document(s) to withdraw and explain in the project summary section.
____ Other	Contact the OEQC if your action is not one of the above items.

Project Summary
Provide a description of the proposed action and purpose and need in 200 words or less.

The Applicant proposes to install a safety fence around the perimeter of the south (makai), east and west portions of the Suject Property. The purpose of the fencing is to protect guests, owners, and members of the public from possible dangers from the abrupt change in elevation at the southern (makai) side of the Subject Property.

A portion of the proposed fencing will be on the bluff edge above the certified shoreline at elevations of ten (10) to seventy-five (75) feet above mean sea level. The fencing is also proposed to be six (6) feet tall on the eastern and western portion of the Subject Property and four (4) feet on the southern (makai) portion of the Subject Property. The fencing is proposed to be constructed of colonial aluminum by manufacturer Master Halco, Inc.

DRAFT ENVIRONMENTAL ASSESSMENT
For
PARTIAL PERIMETER SAFETY FENCE

MAKAHUENA AOAO
1661 PE`E ROAD, PO`IPU, KAUA`I
TMK: 2-8-020:003

Prepared for
County of Kaua`i Department of Planning

Prepared by
Island Strategy LLC
2878 Pua Nani Street
Lihue HI 96766

January 2020

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LIST OF ACROYNMS

AOAO Association of Apartment Owners

BMP Best Management Practice

CZM Coastal Zone Management dBA Decibel (A-weighted)

DEA Draft Environmental Assessment

DOH Department of Health

FEA Final Environmental Assessment

FEMA Federal Emergency Management System

FONSI Finding of No Significant Impact

HAR Hawai'i Administrative Rules

HDOH State of Hawai'i Department of Health

HRS Hawai'i Revised Statues

SMA Special Management Area

SSD Shoreline Setback Determination

SHPD State of Hawai'i Historic Preservation Division

TMK Tax Map Key

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I. INTRODUCTION: PROJECT SUMMARY

Project Name:	Makahuena Partial Perimeter Safety Fence
Owner/Applicant:	Association of Apartment Owners of the Makahuena at Po'ipu, which holds a controlling interest in the property.
Approving Agency:	Kaua'i County Planning Department
Project Location:	1661 Pe'e Road Po'ipu, Kaua'i TMK: 2-8-020:003
State Land Use Classification:	Urban
County of Kaua'i Zoning:	Residential (R-20)
General Plan Designation:	Resort

Determination of Environmental Assessment:

A Finding of No Significant Impact (FONSI)

Agencies and Parties Consulted during Draft EA included:

State Department of Health,
Office of Environmental Quality Control
Kaua'i County Planning Department

Process Employed in Preparaation of Draft EA:

In anticipation of approval of updated Environmental Assessment regulations, this Environmental Assessment has been performed under the provisions of the Final Proposed Rules, Hawai`i Administrative Rules, Title 11, Department of Health, Chapter 200.1, Environmental Impact Statement Rules, Subchapter 9 Preparation of Environmental Assessments: http://oeqc2.doh.hawaii.gov/Laws/v2.0-Proposed-HAR-11-200.1-Rules-Standard_Final.pdf

II. SUMMARY OF PROPOSED ACTION

The Association of Apartment Owners (AOAO) of the Makahuena at Po'ipu proposes to construct perimeter fencing along the east and west sides of its property, and to construct sections of fences along cliff edges on the southern (makai) side of its property. The purpose of the fencing is to protect guests, owners and members of the public from possible danger from the abrupt change in elevation at the makai side of the property, which fronts a non-eroding basalt shoreline. The purpose is also to clearly define the east and western sides of the property, replacing a long-existing but apparently unpermitted chain link fence. See appendix for project map.

The proposed fencing would be 6 feet tall along the east (653 linear feet) and west (235 linear feet), and 4 feet tall in two sections (154 and 160 linear feet) along the southern (makai) portion of the property. Additionally, a 4-foot to 6-foot fence along three sides of an existing single-family home on the property, with a fence length of 176 feet. The fencing design would be Colonial Aluminum, a style by manufacturer Master Halco Inc., which includes narrow vertical members situated between one bottom rail and two top rails. See appendix for image.

Shoreline pedestrian easements flank the project and also run along the shore on the south side of the project, providing fishing and sightseeing access to the coast. At the coastline, the fence would be 14 to more than 30 feet from the certified shoreline. Along the east and west sides of the property the fence runs at the boundary between properties, where in some cases there are abrupt elevation changes. At its makai side, the fenceline is established at the edge of steep cliff dropoffs, and is designed to protect property users from fall hazards.

SMA (Shoreline Management Area) minor permit will be required as the project is within the shoreline setback area. The proposed project will require approval associated with the Special Management Area (SMA) and Shoreline Setback Variance (SSV) as required by the Planning Department of the County of Kaua'i (Planning Department). The project is fronted by a non-eroding basalt shoreline, as indicated by the coastal erosion map included in the appendix.

The proposed project will be constructed within the existing multi-family residential property. Any new structures and/or proposed activities located within the SMA boundary area require approval by the County of Kaua'i Planning Department and a SSV is also required indicating that the setback area is properly located. See appendix for Shoreline Certification Survey map, which was produced in April 2019.

In anticipation of approval of updated Environmental Assessment regulations, this Environmental Assessment has been performed under the provisions of the Final Proposed Rules, Hawai`i Administrative Rules, Title 11, Department of Health, Chapter 200.1, Environmental Impact Statement Rules, Subchapter 9 Preparation of Environmental Assessments: This DEA provides a framework to address the potential impacts of the proposed project on the designated SMA boundary.

The county Planning Department, in informal consultation with the applicant, has indicated that an Environmental Assessment is required for this project. This DEA evaluates the existing environmental

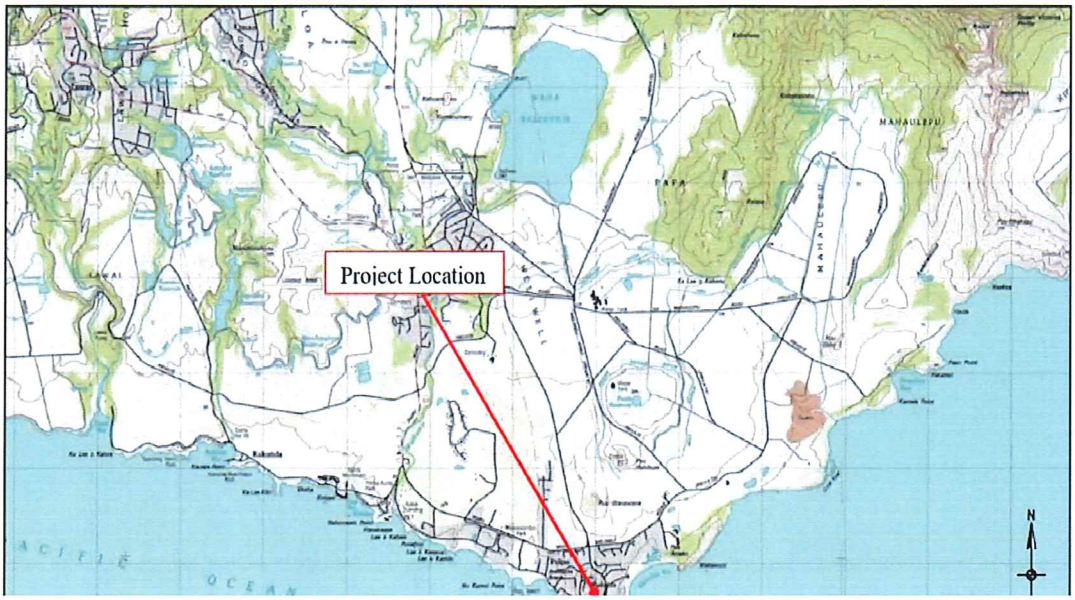
conditions and potential environmental impacts resulting from the proposed project, as well as the mitigation measures which would be implemented to minimize any adverse impacts.

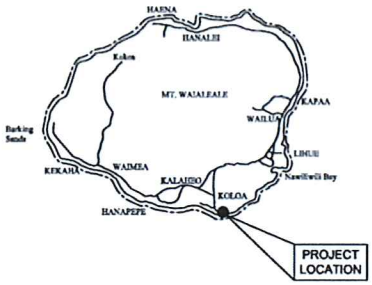
We anticipate that the County of Kaua'i Planning Department will issue a Finding of No Significant Impact (FONSI) determination for this proposed project.

CHART 1

LOCATION MAP FOR

MAKAHUENA AOAO PARTIAL PERIMETER SAFETY FENCE





USGS KAUAI QUADRANGLE
Hawaiian Islands – Island of Kauai
1:24000 Series 1968

III. PROJECT PURPOSE AND NEED

The Makahuena AOAO proposes to install partial perimeter fencing to address deteriorated chain link fencing segments to the east and west sides of its property, and to install new sections to form a safety guardrail along the ocean-facing south side. There is currently no fence at that location, which has a sharp 2-18-foot dropoff to a basalt coastal shelf and presents a hazard to AOAO members, their guests and the public. At the eastern side of the property, the fencing would border an existing mauka-makai public easement on the Makahuena Estates property, which leads in part to public lateral shoreline easement fronting (makai side) the Makahuea AOAO property and also leads to an existing lateral shoreline easement that runs eastward from the subject property toward and along the makai side of the Grand Hyatt Resort. Portions of this mauka-makai easement abut a sharp dropoff and constitute a safety hazard. The western side of the property borders another condominium project, Poipu Makai, and there are safety concerns about abrupt elevation changes between the properties. The southern (makai) side of the Makahuena at Po`ipu fronts a non-eroding coastal cliff that poses a fall hazard. Four gates are proposed to permit access through the fence to existing designated public coastal access paths and other public areas.

IV. DESCRIPTION OF THE AFFECTED ENVIRONMENT

The Makahuena at Po'ipu is located on Kaua'i's south shore, at 1661 Pe'e Road Po'ipu, Kaua'i. The Tax Map Key is 2-8-020:003. Seventy-seven (77) single family apartment units and one single family residential unit exist on the property. The area surrounding the vertical structures includes asphalt pavement driveways and parking areas providing parking for resident and visitor vehicles, as well as grassed lawn areas and landscaping of various kinds.

IV A. Topography

The elevation of the property ranges from approximately 10 to 75 feet above mean sea level. The land elevation of the proposed fences fall within upper portion of this range. The property's shoreline area makai of the project area includes sharp rock ledges, cliffs and other basalt formations. The topography of the site will not be significantly impacted within the footprint of the proposed project area. Due to the already flat topography of the project area, changes in topography are expected to be insignificant.

IV B. Flora and Fauna

The Makahuena at Po'ipu is a multi-family residential unit/resort that was constructed in 1979. The entire project area has been significantly altered through previous development activities, including clearing and grading. During the initial phase of construction, the entire property was cleared and

grubbed of all existing structures and vegetation. After building construction and miscellaneous site improvements were completed, the landscaping work installed grass and shrubbery in the large open areas. The site includes tamarix (aka tamarisk, salt cedar, *Tamarix ramosissima,*) bougainvillea (*Bougainvillea sp.,*) gardenia (*Gardenia sp.,*) carissa hedges (Natal plum, *Carissa macrocarpa,*) plumeria trees (frangipani, *Plumeria sp.,,* coconuts (niu, *Cocos nucifera*) and other palms and tropical shrubs. The landscaping is irrigated with an underground sprinkler system and maintained by full time resort staff.

The predominant mammalian fauna inhabiting the area include the introduced Hawaiian rat (*Rattus exulans,*) black rat (*Rattus rattus,*) Norwegian rat (*Rattus norvegicus,*) house mouse (*Mus musculus,*) feral and domestic cat (*Felis catus*) and feral and domestic dog (*Canis lupus familiaris.*)

Avifauna that transit or inhabit the area include common introduced species including spotted doves, (*Spilopelia chinensis,*) zebra or barred dove (*Geopelia striata,*) Japanese white-eye (*Zosterops japonicus,*) white-rumped shama (*Copsychus malabaricus,*) common mynahs (*Acridotheres tristis,*) Java sparrow (*Padda oryzivora,*) house sparrow (*Passer domesticus,*) northern cardinal (*Cardinalis cardinalis,*) red-crested cardinal (*Paroaria coronata,*) and occasionally others.

There are no threatened, rare or endangered animal species that are known to occur within the proposed project area. Non-endangered wedge-tailed shearwaters, (*Ardenna pacificus*), nest in coastal burrows makai of the project area and on an adjacent property, but not in the project area.

All plantings directly in the fenceline area are common landscape plants, some of them indigenous or Polynesian or later introductions, but none threatened, rare or endangered. During installation of the fence, native and other coastal plant species in the region may be pruned, as they would be during regular maintenance of the landscaping, and some may be removed if they fall directly in the area required for post installation. The irrigation system will remain in service during the construction. No direct long-term impacts to vegetation are anticipated, with the exception of the removal of small amounts of grass and plants that fall directly in the area of the fencing posts. Any other vegetation that is impacted will be temporarily removed and replanted on completion of work. Landscape maintenance will continue in all areas during the construction period.

Minimal noise is anticipated. Some birds and rodents may be temporarily displaced during construction, but are anticipated to be accommodated in neighboring vegetation, and should quickly re-establish themselves on and around fencing once construction is complete. No sensitive habitat areas have been identified within the project site.

IV C. Archeological and Historic Resources

The project site has a history of past development. It is assumed that any site features of historic or archaeological value have been recovered or displaced during these periods of development. No archaeological or historical resources are known to exist at the proposed project site. Under the proposed project, no impacts on historic, archaeological, or cultural resources are anticipated. Minimal excavation will be required for intermittent foundation posts, and all will be within areas that were previously disturbed.

In a 2010 Environmental Assessment for placement of an onsite wastewater treatment plant on the same project site, in response to a "Letter of Determination Request," the State Historic Preservation Division (SHPD) issued a determination that "no historic properties will be affected." As no new historic or archaeological resources are likely to have appeared on the property since then, a renewed assessment is superfluous. A copy the Letter of Determination is included in the Appendix. Should any unanticipated historic or archeological materials be discovered during project work, all activities on the site shall be halted immediately and the AOAO shall consult with SHPD and other appropriate agencies for further guidance and action.

IV D. Water Resources

IV D 1. Groundwater under this site is basal groundwater that is brackish due to its proximity to the ocean. No deep wells have been drilled at the site. No potable water wells exist on the property. The depth of groundwater below the project area surface is estimated to be 50 to 70 feet, based on site elevation above mean sea level. The construction of this fence project will not have an impact on the area's drinking water resources and no significant impact to the groundwater underlying the project site is anticipated during or after the construction of the proposed project.

IV D 2. Surface and Coastal Water

There are no streams or surface freshwater resources on the property, and this project should not impact surface waters.

Marine waters associated with the project area include the Pacific Ocean between Poipu Beach to the west of the project area and Makahū`ena Point to the east of the project area. As classified and regulated by the State of Hawai'i, Department of Health (DOH) under Title 11 Hawaii Administrative Rules, Chapter 54 Water Quality Standards, portions of area are designated as Class AA marine waters. The management objective of Class AA waters is to retain the waters in their natural pristine state as much as possible with an absolute minimum of pollution or alteration of water from any human-caused source or actions.

Coastal waters are regulated under Hawaii Revised Statutes Chapter 205A, Coastal Zone Management , which was promulgated in 1977 in response to the Federal Coastal Zone Management Act of 1972. The CZM area encompasses the entire state including all marine waters seaward to the extent of the state's police power and management authority, including the 12-mile U.S. territorial sea and all archipelagic waters.

This proposed project is consistent with the Hawai`i Coastal Zone Management Program objectives in the following areas:

• Recreational Resources: Access to these recreational facilities will not be impacted by the proposed project.

• Historic Resources: There is no identified historic resource within the project site.

• Scenic and Open Space Resources: This project will not impact scenic and open space. Side fences will replace existing fences with fencing that improves rather than impairs through-viewing. Longshore fencing is an open design with an elevation limited to four feet, which should not impair scenic views to the ocean, along the shore or mauka from the shoreline area looking mauka.

• Coastal ecosystems will be protected during construction and should not be impacted afterward. Small amounts of excavated soil for fencepost foundations will be stored on fabric or plastic sheeting and replaced in excavation, used nearby on the project site or removed from the site if the work uncovers debris or other materials inappropriate for reuse.

• Economic uses of the shoreline area are not impacted by this project. Coastal hazards from ocean wave, pollution and erosion should not be impacted by this project. Marine resources will not be impacted by the project.

• Public participation, recreational resources and beach protection: The public coastal access along the makai boundary of the property will not be negatively impacted by this project. The larger Makahuena AOAO site includes a rocky shoreline and does not have a sand beach. Primary use is for coastal fishing, whalewatching and sunset viewing, which will not be impacted during or after project development. It is a basalt, non-eroding shoreline.

The nature of the proposed project could have the potential to pose short-term impacts to erosion, sedimentation and impacts on local water quality, primarily related to storm water runoff from the near cliff-side during the construction phase of the project. However, the project will be managed in such a way as to avoid any such erosion to the degree possible. Land disturbing activities, primarily vegetation trimming and excavation of small post foundations, will be performed only to the extent necessary to facilitate the construction of the proposed project. Silt fences may be employed if there appears to be any risk of runoff. All appropriate and applicable best management practices will be implemented to help prevent or reduce and control discharge of runoff from the construction areas.

IV E. Sea Level Rise.

Global sea levels are anticipated to rise between 1 and 2 meters by 2100. This range is well supported in research locally and globally. The University of Hawai'i School of Ocean and Earth Science and Technology makes this assessment: "Research currently indicates that global mean sea level may reach approximately 1 ft by mid-century and 2.5 to 6.2 ft by the end of the century, but there are significant unknowns in predicting future sea level." (http://www.soest.hawaii.edu/coasts/sealevel/)

The most recent report of the International Panel on Climate Change asserts with high confidence that sea level rise has accelerated during the past decade, and estimates sea levels by 2100 comparable to those of the University of Hawai'i. (https://www.ipcc.ch/srocc/)

The Makahuena site features a non-eroding south-facing coastline with irregular basalt cliffs that rise to a minimum of 32 feet above mean sea level at the site of the foundation of the proposed fence project. It is thus out of reach of the mean sea levels for the anticipated future through 2100.

The coastal easement is in natural condition and extremely rugged. it is primarily used by shoreline anglers who navigate the unimproved access, generally to set surfcasting poles for fish that inhabit the

nearshore waters, such as ulua (*Caranx sp.).* During periods of high surf, portions of the easement may be within the surf spray zone. The entire south shore of Kaua`i can be impacted by periods with powerful south swells.

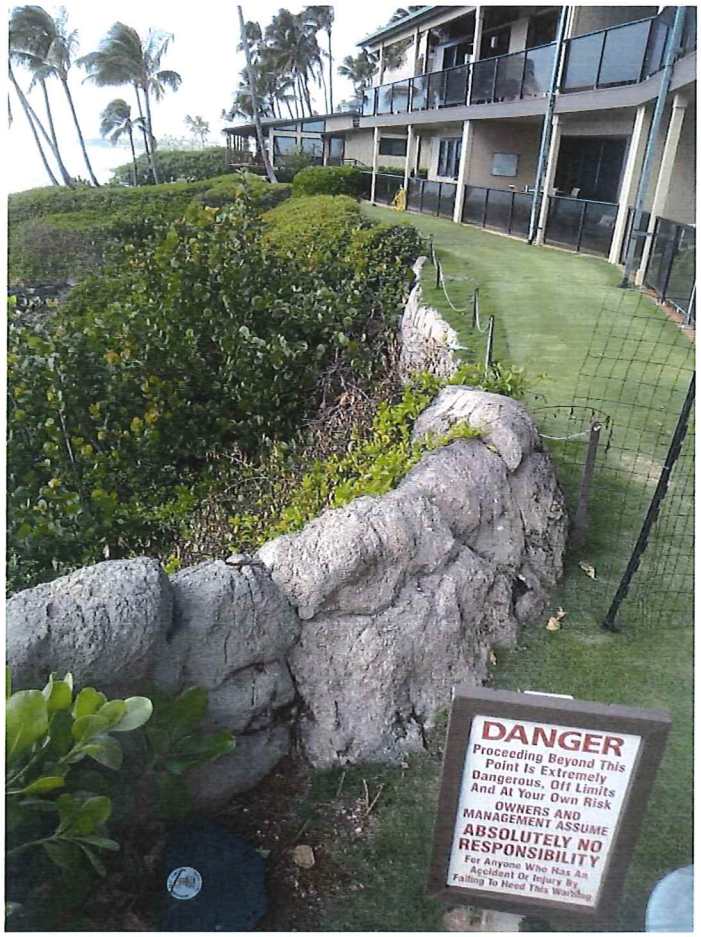


Figure 1 Unprotected cliff edge.

V. ALTERNATIVE ANALYSIS

Alternative # 1. : Installing vegetative hedging was eliminated as an alternative since children and other guests could easily fall through a hedge, and at the makai side of the property would be confronted by a fall of between 10 and 20 feet to a solid rock substrate. Additionally, in some locations there is insufficient space (see Figure 1) for a (naupaka, e.g.) hedge. The risk of injury is too great to rely on a vegetative barrier.

Alternative #2. A rock wall (moss rock commonly used in the region or blue rock, as used in neighboring Makahuena Estates) was considered and eliminated for several reasons. The site is already developed and the footprint of a sturdy wall (footings estimated 20-36 inches wide) would challenge the usability of portions of the property. The site is close to the ocean, and extensive excavation for the foundation would create a significant sedimentation hazard. Rock wall would block visibility both mauka-makai and makai-mauka. Rock wall would interfere with ventilation of lower units.

Alternative # 3 The No-Action Alternative is Alternative 3. The existing fence sections are severely rusted and run along a public access (Makahuena Estates property, east of Makahuena AOAO property, see image below), creating a potential liability concern. Existing fencing at the west side of the property is similarly problematic and has been penetrated by vandals. Currently, to protect guests, the makai sections are outfitted with temporary portable barriers and caution tape. This alternative would fail to protect the public and would create liability concerns.

Figure 2 Failing chain link fence, east side of property.

VI. GENERAL DESCRIPTION OF THE ACTION INCLUDING ENVIRONMENTAL AND SOCIOECONOMIC CHARACTERISTICS

The proposed project involves installing replacement fencing along the east and west boundaries of the Makahuena AOAO property, which is identified as TMK 2-8-20:003. And it includes two new safety fences along the makai or southern side of the property. More precise fencing lengths and locations are listed below.

The fence project includes 653 feet, more or less, of six-foot-tall fencing along the eastern boundary of the property, from the mauka corner of Building 4 to the edge of the cliff dropoff makai of Building 3. Two gates would be included within this section of fence.

Another 235-foot section, more or less, of six-foot-tall fencing runs along the western side of the property, from near Pe`e Road at the mauka (northwest) corner to an existing gate makai of Building 1.

A 176-foot fence varying from four to six feet in height would wrap the west, south and east sides of the single-family home on the property, with a gate at the mauka end of the eastern side of this fence to allow access between the single family home and the public areas of the apartment complex.

Two four-foot-tall sections of safety fencing would run along portions of the makai or southern end of the property, immediately mauka of the coastal cliff. The section fronting Building 5 is 154 feet long, more or less, and the section fronting Building 3 is 160 feet long, more or less.

The manufacturer of the fencing product to be used is Master Halco (www.masterhalco.com). The style is Colonial Aluminum. Details from the manufacturer's website: No screws – hidden picket fasteners; Routed post and rail system with no brackets for "good neighbor" look; Pre-assembled 6' sections for quick and easy installation; Durable polyester TGIC powder coat resists fading and scratches and is easy to maintain; Rackable panels (up to 20 inches over 6 feet) to follow the contour of the landscape; Gates are welded rail and picket for added strength and durability; Made in USA. Dimensions: 6' Length Panels; 5/8" SQ Pickets; 1" SQ Decorative Rails. Fencing rails are 4" apart.

The aluminum fencing material is anticipated to be better suited to the windy, salty, oceanfront site than chain link fencing, which has shown to be subject to severe rusting in this environment, regardless of galvanizing (see Figure 2.) It also provides improved visibility both mauka-makai and makai-mauka.

MAKAHUENA AOAO
FENCING PLAN

The Makahuena
at Poipu

1661 Pe'e Road • Koloa, HI 96756 • Phone: (808) 742-2482 • Fax: (808) 742-2379

Above: Map showing proposed fence improvements.

The project should have minimal to no significant environmental and social impacts. The portions of fencing that run mauka-makai along the east and west sides of the property, and the fencing surrounding the single-family residence, replace existing degraded chain-link fencing for which no previous permit has been identified. The 154-foot and 160-foot sections of fence along the coastal cliff represent new safety fencing that will protect individuals using the property from a fall hazard.

With regard to shoreline erosion, the shoreline erosion map for the Po`ipu area prepared by the University of Hawai`i Coastal Geology Group confirms that the coastal area fronting this property is a rocky non-eroding shoreline. See the coastal erosion map in appendices.

Figure 3 Sample coastline.

VII CULTURAL CONCERNS

This Environmental Assessment reached out to three cultural experts familiar with the area, in order to ensure the protection of traditional and customary rights to the property.

These rights are guaranteed by the Hawai`i State Constitution Article XII ("The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes.")

Those rights are further protected in the 1995 Hawai`i Supreme Court PASH Ruling: Public Access Shoreline Hawai`i v. Hawai`i County Planning Commission ("all government agencies undertaking or approving development of undeveloped land are required to determine if native Hawaiian gathering rights have been customarily and traditionally practiced on the land in question.")

Additional protection is provided under the 2000 Hawai`i Supreme Court ruling in Kapa`akai v. Land Use Commission, which requires the identification of traditional and cultural Hawaiian rights and an assessment of how they are impacted and how to protect them.

The dominant traditional cultural or gathering right exercised on this property is the collection of marine resources, due to the site's location on the rocky south Kaua`i coastline. This fencing project is on the bluff above and outside the traditional fishing area, which continues to be protected by a dedicated alongshore coastal easement.

This area once could have been an important site for collecting turtles, which are abundant along the shoreline, but turtles are now protected species and fishing for them is prohibited. The site is also home to various forms of limu (marine algae) as well as limpets like `opihi. However, the rough ocean conditions and the rugged basalt cliff terrain limits the collection of these resources. Use of nets is also of limited applicability here, due to the topography.

The primary cultural use is pole and line fishing, and although it does not seem to be as actively practiced as it was in earlier years, there are still anglers who go with their families to fish along the shoreline. It is also actively used by native Hawaiians and others during the winter months as a viewing area for humpback whales (*Megaptera novaeangliae*,) which frequent the coastline fronting this site.

There is dedicated public access all along the shore fronting the Makahū`ena property, including makai of the area proposed for this fence project. The fence will not intrude on the public access, nor interfere in any way with existing fishing access to the area. Portions of the fence may be visible from the shoreline access, but will be entirely below the ridgeline of existing structures on the property. The public can gain access to the coastal easement at several locations, including a mauka-to-makai easement immediately adjacent to this project, as well as from resort areas east of this property.

Three cultural practitioners were interviewed for this environmental assessment. They include: Theodore "Ted" Blake, executive director of the community advocacy group Mālama Kōloa, which protects cultural resources in the Kōloa area; Rupert Rowe, founder of Ke Kahua O Kāneiolouma, a

project to restore an ancient Hawaiian village site within a mile of the Makahū`ena site; and Sabra Kauka, educator and kumu hula.

None had objections to the construction of a safety and border fence at this location. Their specific comments follow.

Theodore Blake, executive director, Mālama Kōloa:

The only cultural or gathering practice I am aware of in this area is traditional fishing along the rocky coast. This is an area for pole fishing. I have never seen thrownets used from this area.

The interior of the project has been entirely developed. Any cultural or historic resources have long ago been destroyed. The interior of the site is not used for cultural, religious or gathering purposes.

As long as viewplanes are not impacted and they don't interfere with fishing access along the shoreline, I don't object to this project. They should be allowed to use a fence to demarcate their property line.

But they should not build a metal fence. The standard in that community is stone, and it should be a stone wall. That is what was built next door on the CIRI property, and that is what should be used here.

Rupert Rowe, Ke Kahua O Kāneiolouma:

The main traditional cultural practice down there is fishing. The fishermen are losing all their rights. As long as the fishing access is protected, I am okay with that. As long as the fence does not affect fishing access, it should be okay.

As for the fence, it should be brown, the same color as the rock wall.

Sabra Kauka, kumu hula, Hawaiian studies teacher:

That area is pretty steep, I don't have any issues with putting a protective fence there.

The only uses that I am aware of for that area along the shoreline are fishing and whale watching. As long as the fence does not interfere with those activities, I have no concerns about it. Not at all.

VIII. MITIGATION MEASURES

The applicant anticipates no specific major negative impacts from this fencing project. Contractor will be required to minimize even minor negative impact. This will include not exposing dry bare dirt during periods of high wind, and wetting dry soil that does become exposed during windy periods, or covering such soil to prevent wind erosion. Primary ground impact from this project will be the digging and subsequent filling of post holes. Any soil removed will be retained on impervious surfaces (tarps) and either returned to the holes or removed from the site for disposal. The handling protocols should prevent any possibility of sediment reaching the ocean. Construction activities will be limited to work between the hours of 8 a.m. and 5 p.m. The Contractor will be required to install sound reducing devices on any power equipment used if noise exceeds acceptable levels. The Contractor will be required to install erosion control measures such as silt fencing and storm drain protective devices where appropriate during the construction period. The Contractor shall prevent storm water from the open construction area from directly entering the ocean. The Contractor shall as necessary provide barricades and safety fencing to prevent pedestrians, animals and vehicles from entering the construction area. Open excavations shall be fenced off or covered when the Contractor has left the site.

The entire project is within the developed portion of the Makahuena condominium project, and does not intrude onto

IX. ANTICIPATED DETERMINATION

The applicant anticipates a Finding of No Significant Impact (FONSI).

X. FINDINGS AND REASONS SUPPORTING ANTICIPATED DETERMINATION

Portions of this project are within the Shoreline Setback Area. The County of Kaua`i Shoreline Study Erosion Map for this area (see appendix) shows that the shoreline fronting the Makahuena AOAO Partial Perimeter Fencing Project is a non-eroding shoreline.

There are no rare, endangered or threatened species that will be impacted by this project. There are no historical or cultural features that will be impacted by this project.

The project enhances public safety, as it provides a barrier to serious falls from a coastal cliff area that overlies a rugged basalt shelf.

This project does not impact public coastal access, which is guaranteed by a coastal accessway fronting this project area, and which is occasionally used by shoreline anglers. That coastal accessway is not within the work area and will not be impaired either during or after construction.

Construction of the project will ensure that any threat of dust or runoff is minimized. Best management practices will be employed.

This project meets the requirements of the state Coastal Zone Management Act and the county Special Management Area Rules and Regulations.

XI. LIST OF PERMITS REQUIRED FOR THIS PROJECT

Class I Zoning Permit, Planning Department

Building Permit, Public Works, Building Permit

Shoreline Setback Variance, Planning Department

Special Management Area Minor Permit, Planning Departmentd

XII. ENVIRONMENTAL ASSESSMENT PREPARATION INFORMATION

The following agencies received a copy of the Draft Environmental Assessment for the Makahuena Partial Perimeter Fence Project at Po'ipu. A total of XX of these entities formally replied with comment letters. All comment letters along with responses are reproduced herein. All of the comments that are received have been addressed in the appropriate sections of the Final Environmental Assessment.

STATE AGENCIES Office of Environmental Quality Control 235 S. Beretania Street, Room 702 Honolulu, Hawai'i 96814

Hawai'i State Library Hawai'i Documents Center 478 South King St. Honolulu, Hawai'i 96813

Kaua'i County Library 4344 Hardy Street Lihue, Hawai'i 96766

COUNTY OF KAUA'I AGENCIES

Department of Planning 4444 Rice Street Lihue, Hawai'i 96766

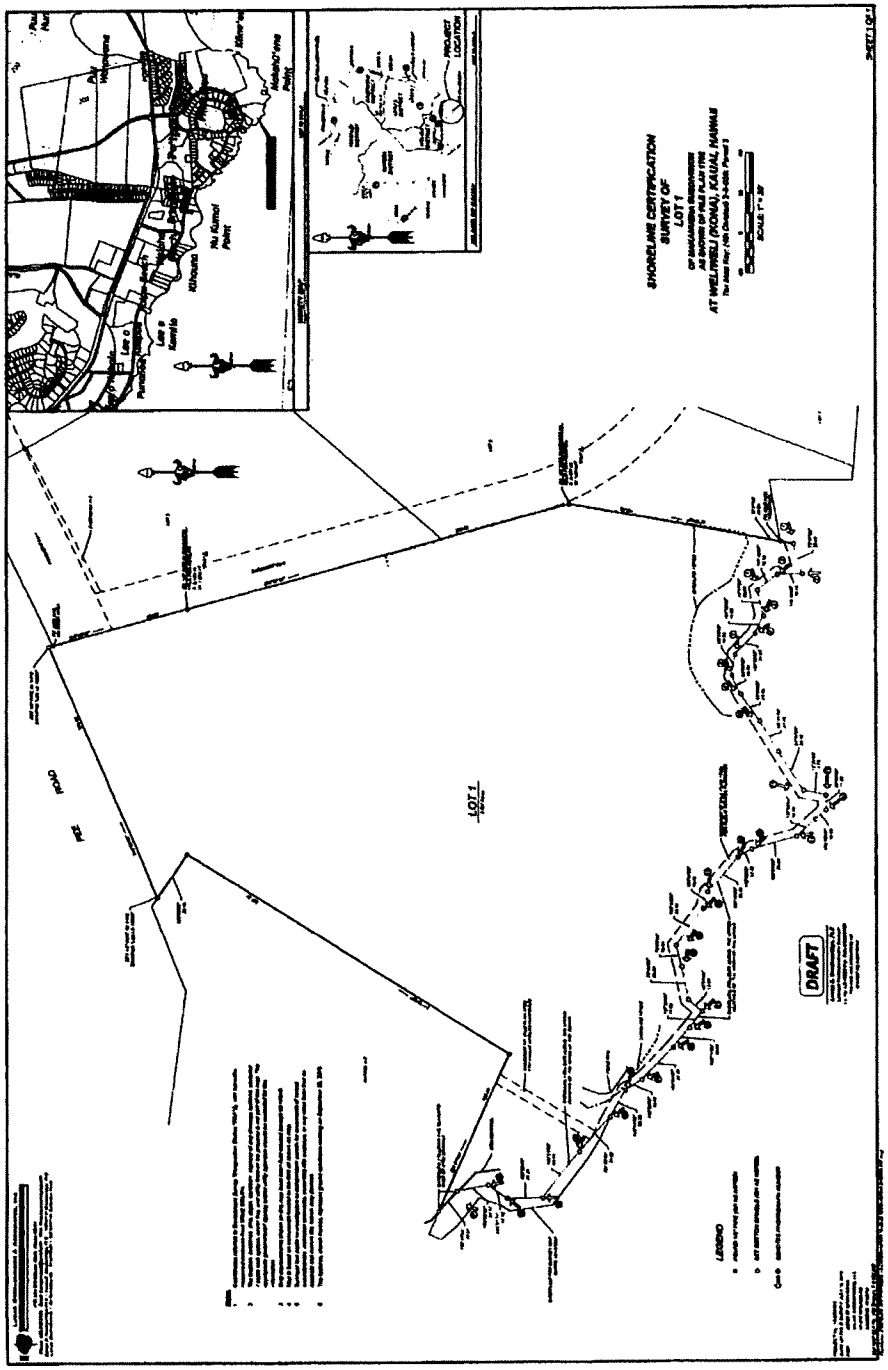
INDIVIDUALS/ORGANIZATIONS

AOAO Makahuena at Poipu 1616 Pe'e Road Koloa, Hawai'i 96756

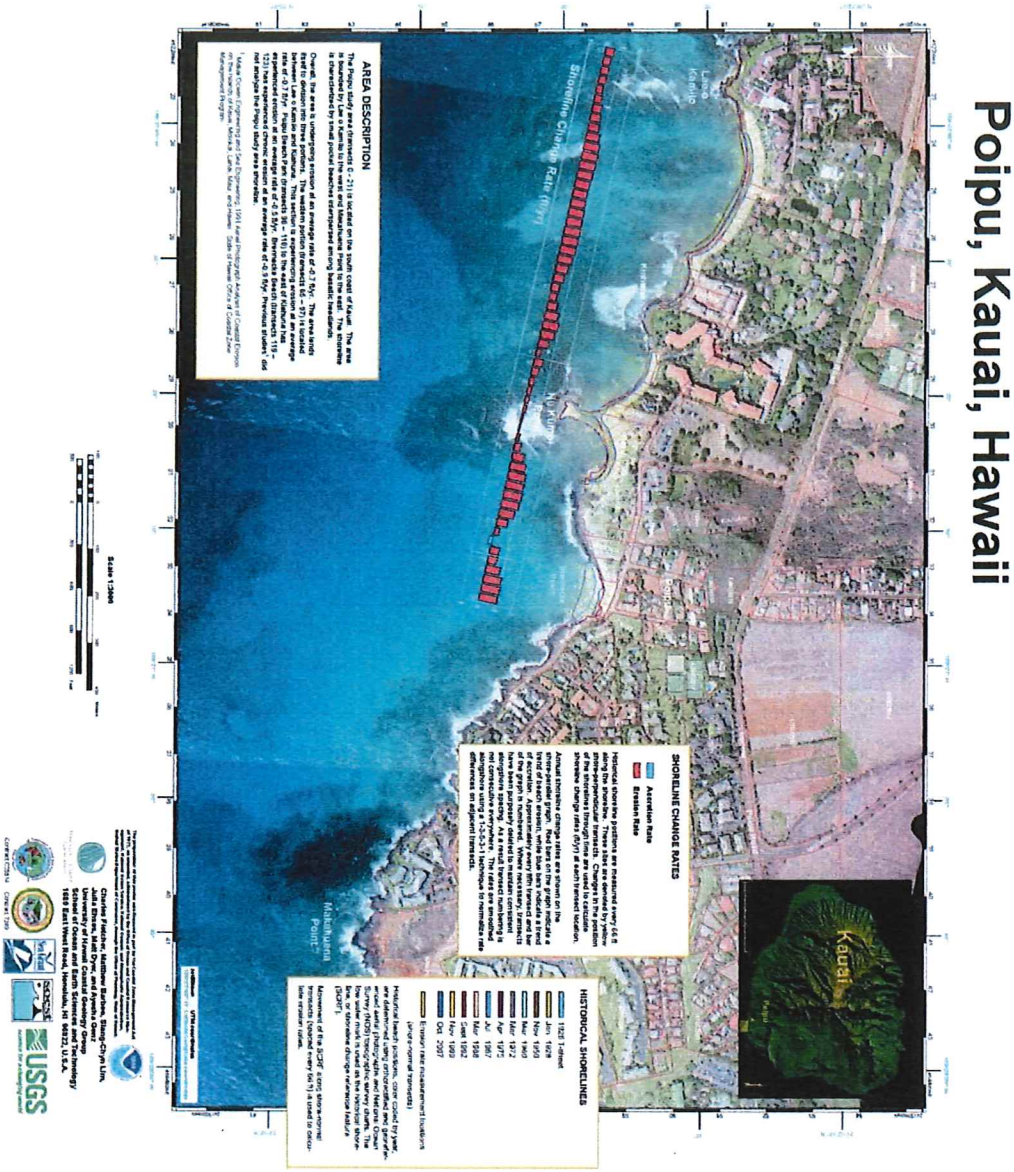
Cook Inlet Region, Inc., c/o Chad Nugent, vice president, real estate (via email)

XIII. APPENDICES

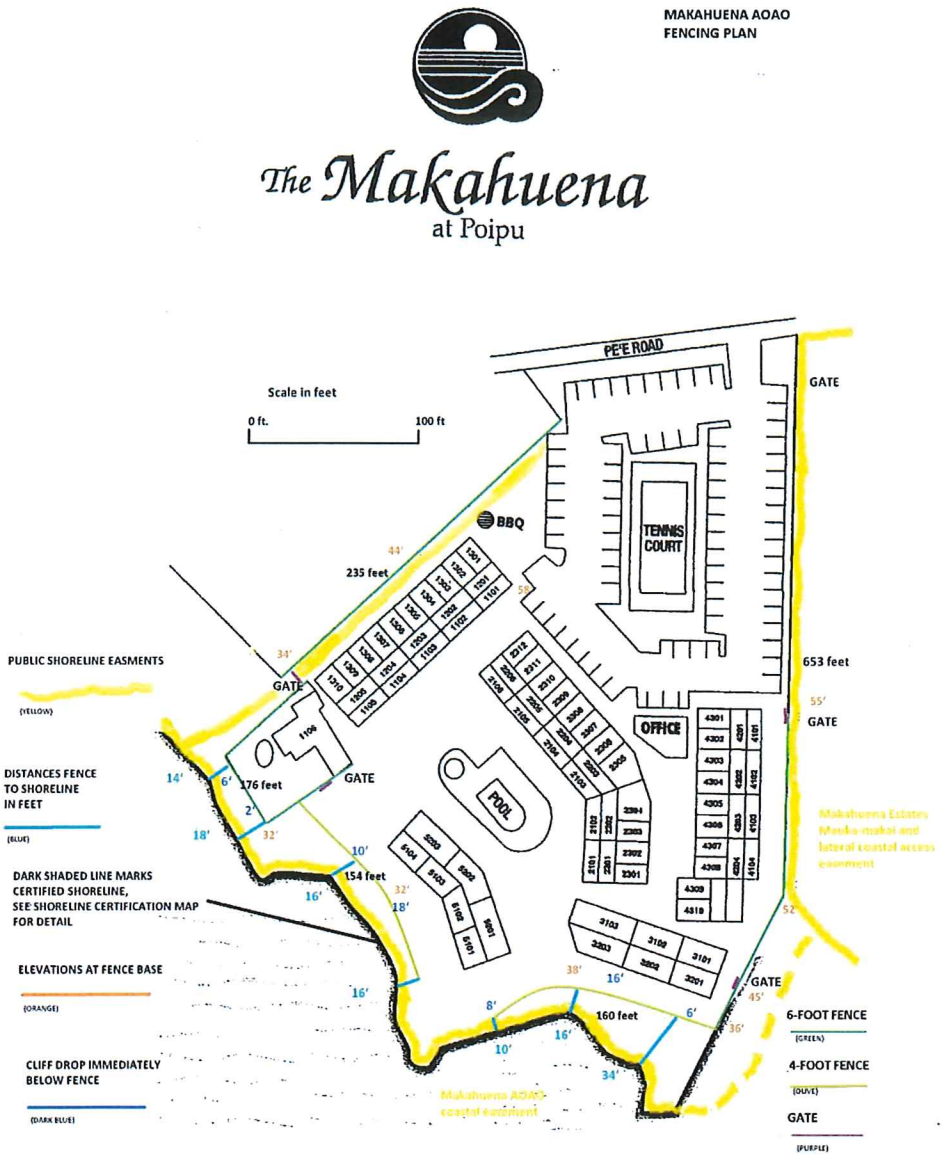
1. Shoreline Certification 04/17/19



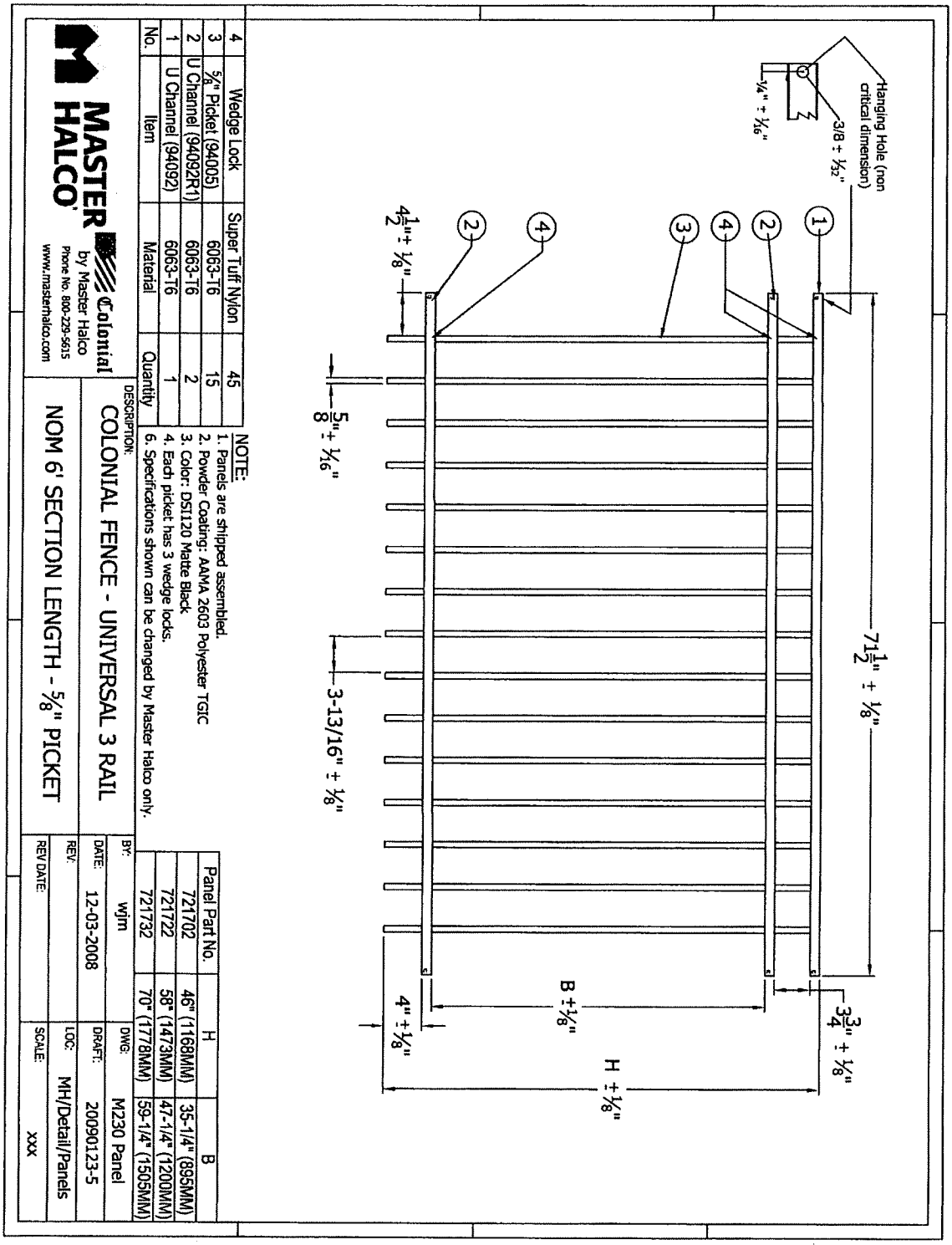
Shoreline erosion map



Fencing Plan



Fence Detail



SHPD letter of determination

LINDA LINGLE
GOVERNOR OF HAWAII

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

May 12, 2010

Christopher Jarrett, P.E.
Project Manager
GMP International
1100 Alakea Street, Suite 1800
Honolulu, Hawaii 967813-2833

LOG NO: 2010.1845
DOC NO: 1005NM35

Dear Mr. Jarrett

SUBJECT: Letter of Determination Replacement of On Site Wastewater Treatment Plant (Makahuena AOAO) Chapter 6e-42
Poipu, Koloa, Island of Kauai
TMK: (2) 2-8-20: 003

This project is to improve the WWTP. We concur that the area has been graded and the likelihood of finding archaeological sites is limited. We determined your project will have "no historic properties affected".

Thank you for the opportunity to comment. Should you have any questions regarding this review, please call me, at (808) 692-8015.

Sincerely,

Nancy A. McMahon

Nancy A. McMahon
Deputy State Historic Preservation Officer

XIII. WRITTEN COMMENTS AND RESPONSES