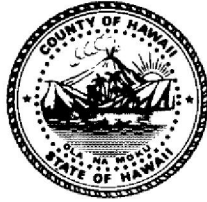


Mitchell D. Roth
Mayor

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County of Hawai'i

PLANNING DEPARTMENT

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Director

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November 10, 2022

Kenneth Cheng
455 E Lanikāula Street
Hilo, HI 96720

Dear Mr. Cheng:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application
(PL-SAA-2022-000074)**

**Special Management Area (SMA) Minor Permit
(PL-SMM-2022-000035)**

Applicant(s): DLNR Division of State Parks

Landowner(s): State of Hawai'i

Project: Repairs and Upgrades to Hulihe'e Palace

Tax Map Key(s): (3) 7-5-007:020

Location: Ali'i Drive, North Kona District, Hawai'i

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-00074), received by this office on April 25, 2022, with additional information provided on May 16, 2022, July 19, 2022, and August 4, 2022.

The 1.28-acre subject parcel is zoned Open (O) by the County and designated Urban District by the State Land Use Commission. The subject parcel is designated as Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map.

The entire project site is located within the Special Management Area (SMA) as well as located within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS). According to information provided by the applicant, the shoreline is located at the makai face of an existing seawall. Pursuant to HRS Chapter 13-222-11, if the location of the certified shoreline is fixed by an artificial structure that was appropriately permitted, no new certification is required. This project parcel has an existing permitted seawall that marks the shoreline location. Therefore, an updated shoreline certification is not required at this time.

Existing Land Uses:

The subject parcel currently houses the Hulihe'e Palace (Palace) which is utilized as a State Monument honoring the early Royal Monarchy of the Kingdom of Hawai'i. The Palace was built by the second Governor of the Island of Hawai'i, John Adams Kuakini and was completed in 1838. It is constructed from local lava rock, coral lime mortar, koa and 'ohi'a timbers. The Palace building has two floors, a basement and six rooms. The first floor consists of an entry hall, parlor, and dining room, with a large one room basement located beneath. The second floor consists of a sitting room, and two bedrooms. The building is approximately 62 feet in length and 32 feet wide. The basement measures 40 feet in length and 30 feet wide, excluding two cisterns.

Proposed Project:

The proposed project has both exempt actions and those defined as "development." Exempt actions are authorized by the issuance of the SMA determination, while the proposed uses deemed "development," in this case, require a SMA minor permit in accordance with SMA rules and regulations. The Division of State Parks is proposing the following activities:

Exempt Actions (not** "development"):**

- Conduct repairs to the architectural components of the existing Palace.
- Construct a new CRM wall along the southern property line bordering the Kona Inn Shopping Village.
- Install new fence on existing and proposed CRM walls.
- Repair existing sidewalks.
- Conduct repairs to the existing seawall and sidewalk along seawall to ensure safe shoreline access.
- Construction staging area.

Not Exempt Actions ("development"):

- Install a new underground drainage system to ensure proper mitigation of stormwater runoff.

Purpose of Project:

The repairs to the architectural components of the existing Hulihe'e Palace and the new drainage system will prolong the lifespan of the structure and its grounds. The construction of a new CRM wall will ensure the safety of Palace visitors and staff, as the wall had collapsed from deterioration. This wall section provides the south boundary of the Palace property and is adjacent to a driveway that the Kona Inn facility uses, and further deterioration may pose hazardous conditions for anyone traversing this area. The fencing improvements provides the

south sections of the Palace grounds with security measures to safeguard personnel and property of Palace visitors and staff. These areas are adjacent to the caretaker's residence which currently provides open access for anyone to enter the Palace grounds during hours that the Palace is closed. This may lead to criminal and inappropriate activities that may jeopardize Palace staff and visitors. The repairs to the sidewalk at the front entrance of the Palace and sidewalk along the sea wall will allow for safe pedestrian traffic for the Palace visitors and staff.

Shoreline Setback Area Determination:

While the majority of the proposed project is outside the Shoreline Setback Area (SSA), a portion of the project will occur within the SSA and therefore requires review against Planning Department Rule 11 relating to the Shoreline Setback.

Pursuant to County of Hawai'i Planning Department (PD) Rule 11-7(a): *The following structures or activities may be permitted within the shoreline setback area provided written clearance is secured from the Planning Department.*

- (4) *A minor structure or activity approved in accordance with section 11-8 and,*
- (6) *Structures which were completed by or activities which commenced prior to June 22, 1970.*

In accordance with PD Rule 11-8, the Director has determined that the portion of the proposed drainage improvements that will occur within the shoreline setback area, as well as repairs to the existing seawall and adjacent sidewalk are considered to be the repair of a minor structure.

The proposed work within the shoreline setback area is considered a repair of the existing seawall that will be conducted without the need to excavate, trench, or demolish the existing wall. Work will consist of installing a cap of concrete on the top of the wall, filling voids, and replacing lost rocks in the seawall. No expansion or enlargement of the existing seawall is proposed. Additionally, the proposed drainage improvements that will occur within the shoreline setback area are also considered a minor structure or activity in that the proposed action will not alter the existing grade of the shoreline setback area, it will not impede or impact shoreline access, and it will not artificially affix the shoreline. Staff notes that only a portion of the overall drainage system will be within the shoreline setback area; the majority will be located outside the setback area. Staging areas and equipment storage will all be held outside the shoreline setback area and Best Management Practices (BMPs) will be employed to ensure no loss of material or soil into the nearshore area.

Based on the preceding information, the Planning Department has determined the proposed activity is a permitted use within the Shoreline Setback Area.

Special Management Area Determination:

Pursuant to Hawai‘i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(2) relating to the Special Management Area, “Development” means *any of the [listed] uses, activities, or operations on land or in or under water within the special management area.*

According to the application, the following definition of “Development” can be applied to the proposed use:

- *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste.*
- *Construction, reconstruction, demolition, or alteration of the size of any structure, and*
- *Grading, removing, dredging, mining, or extraction of any materials.*

Pursuant to Planning Commission Rule 9-4(e)(3): *Any proposed use, activity, or operation listed in Section 9-4(e)(1) shall be deemed to be “Development” until the Director has determined it to be exempted from the definition of “Development.”* According to 9-4(e)(2) “Development” does not include the following uses, activities, or operations, and therefore, is determined to be exempt from the definition of “Development”:

- *Repair and maintenance of utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations.*
- *Repair, maintenance, or interior alterations to existing structures or relating to existing uses.*
- *Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors*

Pursuant to the above, the following activities are not considered “development” and may proceed with the issuance of this SMA exemption letter:

- Repairs to the Hulihe‘e Palace (architectural components).
- New CRM wall along southern property boundary.
- Installation of new fencing on top of existing and proposed CRM walls.
- Repairs to existing sidewalks.
- Repairs to existing seawall.
- Construction staging area.

The Planning Department finds that a portion of the proposed project (new drainage system for stormwater runoff control) is **not** exempt from the definition of “development,” therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. **PL-SMM-2022-000035**, is hereby issued for the new drainage system. It is the applicant’s

Kenneth Cheng
November 10, 2022
Page 5

responsibility to read and comply with the conditions listed in the enclosed permit, that cover both the SMA exemption determination and the SMA minor permit.

While further review of the proposed project against the Special Management Area rules and regulations will not be required, all other applicable Zoning Code and Building Code requirements must be satisfied. Additionally, any future development or activities not included in this approval shall require further review and approval as provided under Chapter 205A, HRS and Rule 9, Planning Commission Rules of Practice and Procedure.

If you have any questions, please contact Alex J. Roy of this office at (808) 961-8140 or via email at Alex.Roy@hawaiicounty.gov.

Sincerely,


Jeffrey W. Darrow (Nov 10, 2022 13:09 HST)

ZENDO KERN
Planning Director

AJR:mads
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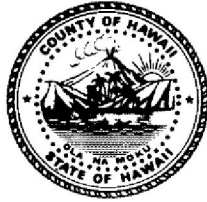
Enclosure: SMM Permit No. PL-SMM-2022-000035
Exhibit 1 – Site Plan

cc via e-mail: Director, Office of Planning and Sustainable Development, DBEDT
Shichao Li, State-OPSD
Lisa E. Webster, State-OPSD
GIS Section

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

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Special Management Area Minor Permit No. PL-SMM-2022-000035

Project: Repair and Upgrades to Hulihe'e Palace
Applicant(s): DLNR Division of State Parks
Landowner(s): State of Hawai'i
TMK(s): (3) 7-5-007:020
Location: Ali'i Drive, North Kona District, Hawai'i
Land Area: 1.28-acres

Applicant's Request

- 1. Project Description:** This Special Management Area (SMA) Minor Use Permit is being pursued as the proposed project includes both exempt actions and those defined as "development." Exempt actions are authorized by the issuance of the SMA determination, while the proposed uses deemed "development," in this case, require the SMA minor permit in accordance with SMA rules and regulations. The proposed project includes:

Exempt Actions (**not** "development"):

- Conduct repairs to the architectural components of the existing palace.
- Construct a new CRM wall along the southern property line bordering the Kona Inn Shopping Village.
- Install new fence on existing and proposed CRM walls.
- Repair existing sidewalks.
- Conduct repairs to the existing seawall and sidewalk along seawall to ensure safe shoreline access.

Not Exempt Actions ("development"):

- Install a new underground drainage system to ensure proper mitigation of stormwater runoff.

- 2. Purpose of Project:** The repairs to the architectural components of the existing Hulihe'e Palace (Palace) and the new drainage system will prolong the lifespan of the structure and its grounds. The construction of a new CRM wall will ensure the safety of Palace visitors and staff, as the wall had collapsed from deterioration. This wall section provides the

south boundary of the Palace property and is adjacent to a driveway that the Kona Inn Shopping Village facility uses, and further deterioration may pose hazardous conditions for anyone traversing this area. The fencing improvements provides the south sections of the Palace grounds with security measures to safeguard personnel and property of Palace visitors and staff. These areas are adjacent to the caretaker's residence which currently provides open access for anyone to enter the Palace grounds during hours that the Palace is closed. This may lead to criminal and inappropriate activities that may jeopardize Palace staff and visitors. The repairs to the sidewalk at the front entrance of the palace and sidewalk along the sea wall will allow for safe pedestrian traffic for the Palace visitors and staff.

3. **Project Valuation:** \$385,000 (exempt actions); \$100,000 (development) – total valuation \$485,000.
4. **Determination:** According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(1) relating to Special Management Area (SMA): "*Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste,*" "*Construction, reconstruction, demolition, or alteration of the size of any structure,*" and "*Grading, removing, dredging, mining, or extraction of any materials*" is defined as "development." Therefore, the proposed new drainage system for stormwater management is considered "development" and requires a SMA Minor Permit.

State and County Plans

5. **State Land Use (SLU) District:** The subject parcel is within the Urban District.
6. **General Plan:** The parcel is designated as Open (ope) by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
7. **County Zoning:** The parcel is currently zoned as Open (O).
8. **Special Management Area:** The project parcel is located within the Special Management Area (SMA) as well as within the "shoreline area" as defined by section 205A-41, Hawai'i Revised Statutes (HRS).
9. **Flood Zone:** Zone AE, and VE.

<p>Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area</p>
--

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Those adverse effect shall include but not be limited to the potential cumulative impact of individual developments, each of which taken by itself might not have a significant adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai'i County General Plan, community plan, and zoning; provided that a finding of consistency shall not preclude concurrent processing where a general plan, community plan, or zoning amendment may also be required.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS (as amended), to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems, including reefs, beaches, and coastal dunes, from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - ☒ Reduce hazard to life and property from coastal hazards.
 - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches and coastal dunes for: Public use and recreation; The benefit of coastal ecosystems; Use as natural buffers against coastal hazards; and coordinate and fund beach management and protection.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach and Coastal Dune Protection
 - ☒ Marine and Coastal Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

1. As discussed above, the proposed project will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. In accordance with PD Rule 11-8, the Director has determined that the portion of the proposed drainage improvements that will occur within the shoreline setback area, as well as repairs to the existing seawall and adjacent sidewalk are considered to be the repair of a minor structure and no Shoreline Setback Variance is required.
4. The estimated project cost of \$100,000 for the "development" portion of the Hulihe'e Palace Repair and Upgrade Project is not in excess of \$500,000.

Approved Uses, Activities and Operations

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. PL-SMM-2022-000035** is hereby approved for the following activities:

- Install a new underground drainage system to ensure proper mitigation of stormwater runoff.

Staff notes the following activities were covered under the SMA exemption determination; however, the conditions of PL-SMM-2022-000035 apply to all portions of the proposed project, including:

- Conduct repairs to the architectural components of the existing palace.
- Construct a new CRM wall along the southern property line bordering the Kona Inn Shopping Village.
- Install new fence on existing and proposed CRM walls.
- Repair existing sidewalks.
- Conduct repairs to the existing seawall and sidewalk along seawall to ensure safe shoreline access.
- Construction staging area.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. PL-SMM-2022-000035**, subject to the following conditions:

1. The applicant(s), its successor(s), or assign(s) (Applicant) shall be responsible for complying with all stated conditions of approval.

2. The Applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. Other than the proposed project as described in this permit, no further work is permitted under this approval.
4. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
5. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
6. The Applicant shall ensure that excessive siltation and turbidity of ocean waters are contained or otherwise minimized through the use of silt containment devices or barriers, or other approved Best Management Practices as shown on the approved plans. This includes, but not limited to, sediment wattles around staging area, silt fence placement, and equipment wash basin.
7. The Applicant shall provide adequate and safe pedestrian shoreline access throughout the project area and will not alter or block any shoreline or coastal access unless required for safety. If access is blocked during any construction phase, the Applicant shall provide signage and notice of closure and the re-opening schedule.
8. Prior to any land alteration on the property and until the time that the approved project is completed and has received final inspection by the Building Division, the Applicant shall have a licensed land surveyor place and maintain stakes and flags at the location of the shoreline setback line, as shown on Exhibit 1-Site Plan (enclosed). Stakes and flags shall be placed at intersections with the side yard boundaries and at appropriate intervals along the setback line; the stakes shall be clearly visible at all times. No vegetation removal, land alteration or construction shall occur between the shoreline and shoreline setback line unless approved by this permit.
9. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

Hulihe'e Palace

November 10, 2022

Page 7

10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

If you have any questions, please feel free to contact Alex J. Roy at (808) 961-8140 or via email at Alex.Roy@hawaiiicounty.gov.

APPROVED:

Jeffrey W. Darrow
Jeffrey W. Darrow (Nov 10, 2022 13:09 HST)

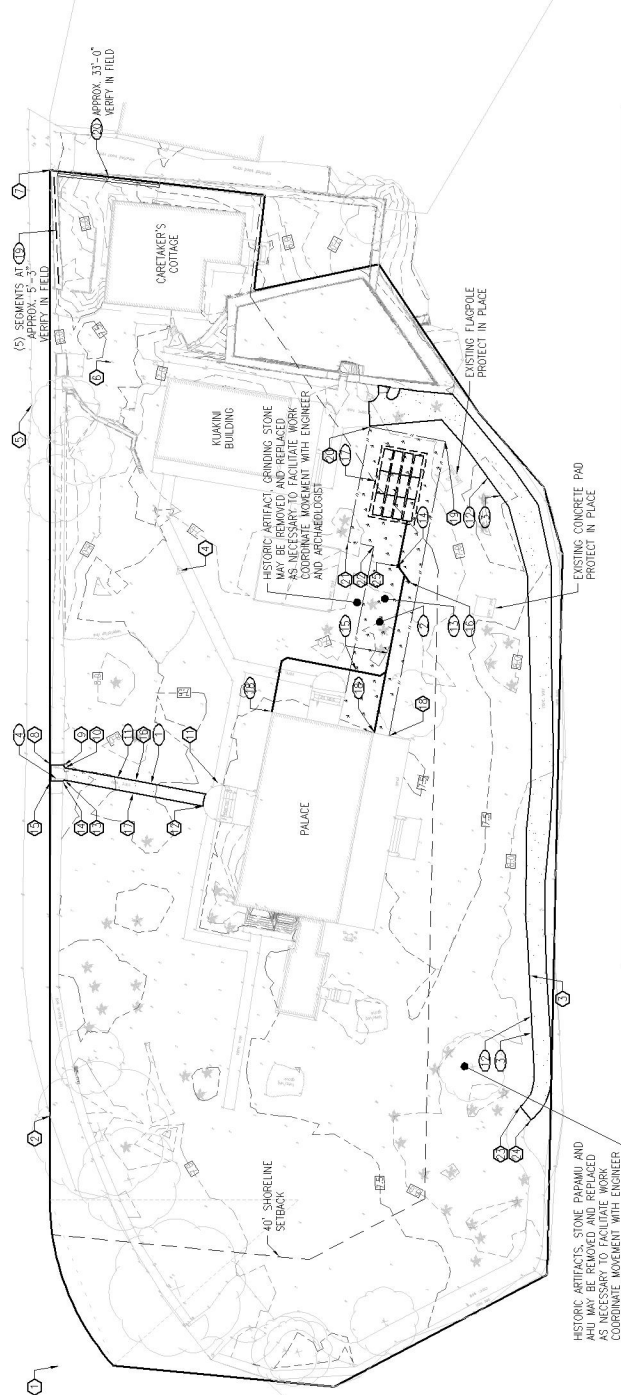
ZENDO KERN
Planning Director

November 10, 2022

Date



ALI'I DRIVE



HISTORIC ARTIFACTS, STONE PAPAMU AND AHU MAY BE REMOVED AND REPLACED AS NECESSARY TO FACILITATE WORK. COORDINATE MOVEMENT WITH ENGINEER AND ARCHAEOLOGIST

POINT TABLE

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93	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE
94	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE
95	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE
96	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE
97	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE
98	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE
99	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE
100	MC	-108.44	710.75	7.40 TC	CORNER CONCRETE

A SITE PLAN
SCALE 1" = 20'

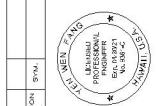
DEMOLITION NOTES

SEE ARCHAEOLOGICAL PROTECTION SPECIFICATION FOR SPECIFIC REQUIREMENTS DURING EXCAVATION ACTIVITIES
NO HEAVY EQUIPMENT IS ALLOWED WITHIN THE SHORELINE SETBACK
IRRIGATION LINES EXIST IN VARIOUS LOCATIONS THROUGHOUT THE SITE. CONTRACTOR IS RESPONSIBLE TO PROTECT IN PLACE OR REPAIR AS NECESSARY WHEN ENCOUNTERED
SAWCUT AND REMOVE EXISTING CONCRETE WALK

- CUT AND REMOVE EXISTING GRASS, STORING AS SOD WHEREVER POSSIBLE
- SAWCUT AND REMOVE EXISTING CONCRETE WALK. PRIOR TO REMOVAL, SUBMIT PHOTO DOCUMENTATION OF THE EXISTING CONDITIONS AND OBTAIN APPROVAL FROM THE ENGINEER.
- REMOVE AND REPLACE EXISTING GATE AS NECESSARY TO FACILITATE CONSTRUCTION OF NEW CONCRETE WALK

CONSTRUCTION NOTES

- NEW 4" THICK CONCRETE WALK, SET ARCHITECTURAL PLANS AND SPECS FOR FINISH
- NEW 4" THICK CONCRETE WALK, DIMENSIONS TO MATCH EXISTING. PROVIDE EXPANSION JOINTS PER DET. 6/S-404 AT 50' O.C. MAX.
- SMOOTH GRADE AND REPLACE OR PROVIDE SOD
- NEW 12" x 12" SQUARE YARD DRAIN, NOS 1221 AND 1215 OR EQUAL LOW PROFILE ADAPTER AND GRATE
- NEW 10" SCH. 40 PVC DRAIN PIPE
- NEW 2" LONG STUB OUT AND CLEANOUT TO GRADE FOR FUTURE CONNECTION
- NEW 12 CHAMBER DRAINAGE INFILTRATION BED, STORMWATER SC-310 OR EQUAL, 311 CU. FT.
- CONNECT DOWNSPOUTS TO NEW 10" SCH. 40 PVC DRAIN PIPE
- NEW FENCE ON EXISTING CRM WALL
- NEW FENCE ON NEW CRM WALL



STATE OF HAWAII
DEPARTMENT OF ENGINEERING DIVISION
REPAIR AND MAINTENANCE IMPROVEMENTS-PHASE 1
HULU'EHU PALACE STATE MONUMENT

ENGINEERING PARTNERS, INC.
DESIGNED: [Signature]
DRAWN: [Signature]
CHECKED: [Signature]
APPROVED: [Signature]